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11-20-80
Vol. 45 No. 226
Pages 76641-76936

Federal Register

Thursday
November 20, 1980

Highlights

Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.**, see announcement in the **Reader Aids** section at the end of this issue.

76785 **Energy Conservation** DOE/SOLAR solicits applications for financial assistance to initiate and further stimulate emergency conservation planning activities; apply by 12–15–80

76716 **Improving Government Regulations** NSF publishes semiannual agenda of significant regulations

76696 **Natural Gas** DOE/FERC proposes to amend regulations to govern the preservation of records of public utilities, licensees, and natural gas companies; comments by 12–15–80

76641 **Wage and Price Control** CWPS publishes regulations regarding questions and answers on the anti-inflationary price standards and procedural rules; effective 10–1–80

76705 **Highways and Roads** DOT/FHWA proposes use and disposition of property acquired by States for modified or terminated highway projects; comments by 1–19–81

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the Federal Register.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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76924 **Highway Construction** DOT/FHWA proposes to revise regulations that prescribe policies, procedures, and reimbursement provisions for the adjustment and relocation of utility facilities on Federal and federally assisted highway construction projects; comments by 2–18–81 (Part VI of this issue)

76676 **Natural Gas** DOE/RERC publishes final regulations for pricing natural gas sold under existing and successor intrastate contracts; effective 12–1–80

76710 **American Indians** Navajo and Hopi Indian Relocation Commission proposes regulations regarding "Life Estates"; comments by 12-22-80

76894 **Aircraft** DOT/FAA describes disposition of proposals discussed at the Operations Review Conference concerning aircraft maintenance and operating rules; comments by 2–18–81 (Part IV of this issue)

76932 **Surface Mining** Interior/SMO publishes regulations modifying the permanent regulatory program; effective 11–20–80 (Part VII of this issue)

76701 **Environmental Protection** WRC establishes procedures for protection and management of the Historic and Cultural Environment; comments by 1–12–81

76872 **Aircraft** DOT/FAA proposes to upgrade the airworthiness standards applicable to the type certification of aircraft with respect to engine installations; comments by 2–18–81 (Part III of this issue)

76718 **Railroads** ICC proposes preliminary certification of railroad cost accounting system compliance with the uniform system of accounts; comments by 1–5–81

76835 **Consumer Program** DOT/FRA gives notice of delay in publication date of consumer program from 11–13–80 to 11–30–80

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76840 **Sunshine Act Meetings**

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76872 **Part III, DOT/FAA**
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76835 Consumer program publication; Federal Railroad Administration; Notices.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Parts 705 and 706

Questions and Answers on the Anti-Inflationary Price Standards and Procedural Rules for the Third Year

AGENCY: Council on Wage and Price Stability.

ACTION: Questions and answers on the anti-inflationary price standards and procedural rules.

SUMMARY: This is a compilation of the Questions and Answers that relate to the Part 705 Price Standards, Part 706 Procedural Rules and Part 707 Data Requests for the third year, which have been published in interim final form (45 FR 63462, September 24, 1980, and 45 FR 65502, October 3, 1980). These Questions and Answers are intended to clarify or to amplify the standards and procedures, and those affected by the anti-inflation program can and should rely on them in interpreting the interim standards and regulations.

DATE: The effective date of these Questions and Answers is October 1, 1980.

ADDRESS: Written comments or suggested additional Questions and Answers should be submitted to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT:
Procedural Rules:
Jane Campana—(202) 456-6286.
Price Standards:
Metals, Machinery and Equipment: Eugene Roberts—(202) 456-7784.
Food, Agriculture and Trade: Stephen Hiemstra—(202) 456-7740.
Energy, Chemicals, and Rubber: Larry Forest—(202) 456-7747.
Construction and Building Materials: Joseph Lackey—(202) 456-7156.
Health, Services, and Regulated Industries: Arthur Corazzini—(202) 456-7730.
Exceptions: Walter Leibowitz, David Wagner—(202) 456-7733.

SUPPLEMENTARY ANALYSIS: During the first and second years of the anti-inflation program the Council published clarifications of the standards and procedures in the form of Questions and Answers (Q & A's). At the beginning of the third year, the standards and procedures were revised on an interim basis. Some materials previously appearing in Q & A's are now incorporated into the interim standards or regulations. Some of the Q & A's are no longer relevant; others are not applicable to the third-year standards. Second-year Q & A's that are applicable are published below in their original form or edited to reflect Council policy in the third year. The Council will continue to publish additional Q & A's as the questions of general applicability arise.

The Council has revised the Questions and Answers to reflect changes in Sections 705, 706 and 707, to answer new questions raised specifically about the third-year price standards, and to clarify Council policy on the standards. Questions and Answers I.B.7, I.B.8, I.D.9, I.D.14, I.D.15, I.D.16, I.G.5, II.B.4, III.B.12, III.B.13 are all new for the third year. Questions and Answers I.E.1, I.F.1, I.G.1, III.B.21 and III.C.5 have been sigificantly revised from their second-year forms to conform to changes in the standards. Other questions and answers have been re-numbered or updated for the third year.

(Council on Wage and Price Stability Act, 12 U.S.C. 1904 note; E.O. 12092, (November 1, 1978); E.O. 12161 (September 28, 1979))

Issued in Washington, D.C., November 14, 1980.

R. Robert Russell,
Director, Council on Wage and Price Stability.

Questions and Answers

I. THE PRICE STANDARD

A. Coverage of the Price Standard

Q1. Do the standards apply to companies in United States territories and possessions?

A. Yes. The standards apply to operations of domestic or foreign companies in Puerto Rico, Guam, American Samoa, and the Virgin Islands. They do not apply to companies in United Nations Trust Territories administered by the United States.

Q2. Are imports covered?

A. Goods sold to a domestic company by a foreign entity are not included in the program. Subsequent sales of imported goods by domestic companies are covered regardless of where the goods are when title changes.

Q3. Are taxes covered by the price standards?

A. No.

Q4. How are the price standards applied to an agricultural cooperative?

A. Agricultural cooperatives that provide only a marketing function for their farmer members are not covered by the price standards. An agricultural cooperative that is also a food processor is covered by the price standards. If the cooperative complies with the gross-margin standard in § 705.43 or the profit limitation in § 705.6(a), it should calculate costs using market prices of farm commodities obtained for processing.

Q5. Are U.S. operations of foreign companies included?

A. Yes. U.S. subsidiaries of foreign companies are covered.

Q6. Are foreign operations of U.S. companies included?

A. No. The standards apply only to domestic operations of these companies.

Q7. Does the program apply to tuition and fees?

A. Yes. Schools, colleges, and nonprofit organizations are expected to comply with the pay and price standards. Increases in tuition and fees, however, are averaged in with other charges such as room and board. Universities that receive government subsidies are subject to a modified price standard that takes into account changes in the subsidy (see § 705.47).

Q8. Are outside-director fees covered by the pay or the price standard?

A. Since outside directors are not employees, they are not covered by the pay standard. Although such directors formally do not come under the professional-fee standard, which covers only specified SIC groups, it would be consistent with the intent of the program to apply the professional-fee standard to director fees.

Q9. Are gas and petroleum (crude and refined product) pipelines and sewage treatment authorities covered by the price standards?

A. Yes.

B. Company Organization

Q1. One company has many operating portions of a company for purposes of complying with any of the price standards?

A. No.

C. Time Periods

Q1. During the first program year a company had the option of selecting the

transactions that occurred during a quarter?

A. No. A company may create a

weighted average fixed-percentage fee in the base quarter. If a compliance unit charges on a sliding-percentage-fee

products produced and sold, base-quarter sales weights may be unrepresentative of third-year product

A. Yes.

B. Company Organization

Q1. One company has many operating subsidiaries and divisions; another company is equally complex, but is not divided into subsidiaries and divisions. Can both of these companies disaggregate units for compliance purposes?

A. In both cases, at the option of the company, one or more of its operations may be treated as separate compliance units if each unit meets the four criteria for disaggregation in the definition of a compliance unit (§ 705.65). If a company historically has maintained separate accounting records for the entities it wants to disaggregate, it may continue to follow that practice for purposes of measuring compliance with the program. If a firm has maintained records that allow it to disaggregate historical accounting data, such data may be used for disaggregating its entities. Newly adopted accounting procedures, however, cannot be used to rework accounting data into new formats for the purpose of separating units.

Q2. May a firm aggregate an unconsolidated subsidiary?

A. No. Aggregation is allowed only for those entities that normally would be consolidated in accordance with SEC reporting requirements (17 CFR 210.4–01 to 09).

Q3. May a company comply with the standards by meeting the price limitation (or one of the modified standards) for some compliance units and the profit limitation for others?

A. Yes, if the separate compliance units for which the profit-limitation exception is sought are eligible.

Q4. May a compliance unit comply with the standards by meeting the price limitation for part of its activities and one of the modified standards for its other activities?

A. No, except for those activities subject to the professional A. fee standard. If a company wants to evaluate compliance of some of its activities under one or more of the modified standards (other than the professional-fee standard), it should establish one or more separate compliance units for that purpose, provided that each compliance unit is eligible for the selected modified price standard and meets the criteria of § 705.65.

Q5. How are joint ventures to be treated?

A. Joint ventures are to be treated as separate companies for compliance purposes.

Q6. May petroleum-refinery operations be combined with other portions of a company for purposes of complying with any of the price standards?

A. No.

Q7. Section 705.2(c) provides a one-year price limitation for a compliance unit that properly determined its compliance under the profit limitation in the second year. Consider a third-year compliance unit composed of part or all of one or more second-year compliance units that were subject to the profit limitation and one or more compliance units that were *not* subject to the profit limitation. May this compliance unit determine its third-year compliance under the one-year price limitation in § 705.2(c)?

A. It may do so only if the second-year compliance unit that was not subject to the profit limitation is acquired in the third year by the third-year compliance unit or its parent company. In all other cases, the new compliance unit should determine its third-year compliance under the basic three-year price limitation in § 705.2.

Q8. Section 707.36(a)(2) provides that a compliance unit that properly determined its compliance under the profit limitation in the second year should demonstrate eligibility for an uncontrollable cost-exception in the third year by showing (among other things) that costs per unit of output have risen since the fourth quarter of the second program year in excess of the one-year price limitation in § 705.2(c). Consider a new compliance unit composed of part or all of one or more second-year compliance units that were subject to the profit limitation, and one or more that were *not* subject to the profit limitation. Should this compliance unit demonstrate its eligibility for a third-year uncontrollable-cost exception using § 707.36(a)(2)?

A. Such a third-year compliance unit should demonstrate (among other things) both that costs per unit of output have risen since the fourth quarter of the second program year at an annual rate in excess of the one-year price limitation in § 705.2(c) *and* that costs per unit of output have risen since the base quarter at an annual rate in excess of the three-year price limitation in § 705.2. However, if one of the second-year compliance units that make up the third-year compliance unit is acquired in the third year by the third-year compliance unit or its parent company, the third-year compliance unit should demonstrate its eligibility for the exceptions using either § 707.36(a)(1) or § 707.36(a)(2), whichever was appropriate for the acquiring compliance unit.

C. Time Periods

Q1. During the first program year a company had the option of selecting the last fiscal or calendar quarter completed before October 2, 1978, for its base quarter. If it chose to use the last calendar quarter, may it now choose to use the last fiscal quarter, or vice versa?

A. No. During the third year a compliance unit should use the same base quarter that it used during the first and second years.

D. Price Calculations

Q1. Does the fact that the price standard applies to the *average* percentage price increase for all goods and services sold by a compliance unit mean that there is no constraint on individual product prices?

A. Price increases for individual products can exceed the price standard as long as these increases are offset by lower price increases for other products.

Q2. In computing the three-year price change, how should a price increase announced and effective before October 2, 1978, be treated?

A. The date a price increase is announced, or the date it is effective does not determine how it is treated. The benchmark for measuring price change in a program year is the *average* price level of the *last fiscal or calendar quarter* before October 2, 1978. Therefore, a price increase announced sometime during that quarter influences the base only to the extent that it affects average prices during the quarter. The new price schedule does not become the base just because it was announced, or made effective, before October 2, 1978.

Q3. In calculating the base-period and the three-year price changes, must a compliance unit use the prices of all of its products?

A. Some product prices may be omitted if the number of omitted products is small and they account for a small percentage of sales, and it would be extremely difficult to include the omitted products in the calculations. Second, if the compliance unit sells a very large number of products and if inclusion of prices of all of those products would create an onerous burden, the Council permits the use of a sample of those products in computing base-period and three-year price changes. The sample, however, must be based on standard, widely accepted statistical procedures that produce data that are representative of all of the compliance unit's sales.

Q4. Does the Council insist that a company base its calculations of product prices on the revenues and quantities associated with all of the

transactions that occurred during a quarter?

A. No. A company may create a sample of all of its records for transactions during a quarter and base its calculations of product prices on this smaller set of records. A company that does this should use a method of sampling that produces data that are representative of all of the company's transactions. Generally, the company should rely on standard, widely accepted statistical procedures in this regard.

Q5. Price changes over the base period and over the three program years compare prices in one quarter with prices in another quarter. How should these quarterly prices be computed?

A. The compliance unit should calculate average realized prices for the quarter by dividing total revenue from the sales of each product by the number of units sold during the quarter. If computing average quarterly prices for some products would be burdensome, then end-of-period prices for those products may be used, but only if they are representative of average prices realized for the entire quarter.

Q6. May a compliance unit use list prices in making price calculations?

A. Ordinarily, actual realized prices, net of discounts and other adjustments, should be used in price calculations. If discounts and other adjustments are uncommon for certain products, list prices for those products may be used if their use would provide representative measures of changes in actual prices charged.

Q7. If business is done on a contract basis, should prices be evaluated when the contract is signed, when payment is received, or when delivery is made?

A. Prices determined by contract should be evaluated when delivery is made.

Q8. How should a compliance unit value a cost-plus-fixed-fee contract for purposes of complying with the price standard?

A. The price for such a contract is defined as the cost plus the fixed fee. However, if the seller is acting only as a purchasing agency with a fixed dollar fee, the transaction can be defined to include only the fee since the seller is filling a role similar to that of a wholesaler or retailer.

Q9. How should compliance units that charge for their services on a percentage-fee basis determine their compliance under the price limitation?

A. If a compliance unit charges on a fixed-percentage-fee basis, it would be in compliance if its revenue-weighted average fixed percentage fee in the third year is no greater than its revenue-weighted average fixed-percentage fee in the base quarter. If a compliance unit charges on a sliding-percentage-fee basis, it would be in compliance if the revenue-weighted average of its percentage fees charges in the third year is no greater than the average of its percentage fees in the base quarter. Base-quarter revenue weights should be used in all calculations.

Q10. Prices determined by contracts entered into before October 2, 1978, were excluded from the two-year price limitation. Should prices determined by long-term contracts signed in the first or second program year for delivery in the third year be excluded from the three-year price computations?

A. No.

Q11. According to § 705.61, if seasonal factors are important, the revenue shares (S_i) used to compute the base-period price change may be calculated using the data for the entire base period. Must a compliance unit use data for both years of the base period?

A. Yes. However, if there is a compelling reason for not using data for the entire base period, the compliance unit should use data for the fiscal year ending in 1977.

Q12. Are new companies that cannot compute a base-period price change assigned a three-year price limitation of 15.5 percent?

A. Companies formed during the base period or before the base quarter are assigned a three-year price limitation of 15.5 percent (§ 705.2(b)). Companies formed during the base quarter or the first, second or third program years need not comply with either the price limitation (§ 705.2) or the profit limitation (§ 705.6(a)). They are, however, requested to comply with the spirit of the program.

Q13. Sales by U.S. companies to foreign subsidiaries are normally made at other than arms-length transactions. How should these prices be determined for purposes of price and profit calculations?

A. The transfer-price policy of the company must be consistent with past practices.

Q14. A compliance unit that was granted or properly self-administered an exception to use the profit limitation in the second program year determines its third-year compliance under the special one-year price limitation in § 705.2(c). Should it use sales weights from the base quarter or from the fourth quarter of the second program year in calculating its third-year price changes?

A. It should use the base-quarter sales weights.

Q15. Because of new or discontinued products or shifts in the mix or of products produced and sold, base-quarter sales weights may be unrepresentative of third-year product mixes. In such cases, must the compliance unit use the base-quarter weights?

A. If the weights are grossly unrepresentative, this may be the basis for a gross-inequity exception to permit the use of the sales weights from the fourth quarter of the second program year in calculating third-year price changes.

Q16. Section 705.76 states that "the method of establishing product groups must be applied consistently in all measurement periods." May a compliance unit during a program year change either the number of the definition of products used to calculate its base-period rate of price change or its program-period price changes?

A. No. Compliance units may not change either the number or the definition of products used to calculate price changes during a program year, except that the number of product groups may be changed as a result of acquisitions or devestitures affecting the compliance unit.

E. Intermediate Price Limitations

Q1. Price increases in excess of the intermediate price limitations can be justified on grounds of seasonal variations in busines operations, historical business practices, or unusual business conditions. What are examples of these conditions?

A. "Seasonal variations" in business operations refers to conditions such as once-a-year sales or time-of-year pricing (e.g., seasonal pricing by utilities). "Historical business practices" refers to phenomena such as price increases following the signing of labor contracts of regular duration. "Unusual business conditions" refers to changes in costs that cannot be attributed to seasonality or historical patterns and that are not expected to persist throughout the third year. Unusually strong demand does not constitute a justification for exceeding the intermediate limitations.

Q2. In documenting seasonality of price variations, may a compliance unit consider only a select set of product prices (for example, only those that it thinks may exhibit seasonal variations) or should it calculate seasonal factors for all its products?

A. The calculations should be made for all of the product prices covered by the standard.

Q3. Section 705.3(c) provides that a compliance unit may exceed the intermediate price limitations if it can demonstrate that its price increases are justified on grounds of seasonal

variations, historical business practices, or unusual business conditions. If a

periods for which computations are made.

proportion of the increase in total cost per unit of output is uncontrollable.

appropriate corrective action is initiated promptly.

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variations, historical business practices, or unusual business conditions. If a compliance unit exceeds the limitations on one of these bases, is there any limit on its allowable intermediate price increases?

A. Yes. If the price increase in excess of the basic intermediate limitations is based on seasonality or historical business practices, the increase should be consistent with normal seasonal patterns or historical practices. If the excess price increase is based on unusually large cost increases (unusual business conditions), the price increase should be limited to a simple dollar-for-dollar passthrough of the costs directly attributable to the unusual conditions.

F. Exclusions

Q1. If an agricultural product undergoes some processing before the first sale, is it excluded from price calculations under § 705.4(a)(1)?

A. No, unless the processed item is already specifically excluded under § 705.4(a)(1). In all other cases, it is not excluded from price calculations.

Q2. May a compliance unit exclude a processed product from its price calculations if the product's price is tied to quotes from a price reporting service, but the product is not traded on an organized exchange market?

A. No.

Q3. May a compliance unit exclude a processed product from its price calculations if that product's price is closely related to the price of a raw material that in turn is excluded because its price is determined by an organized exchange market?

A. No. To qualify for this exclusion, the processed product itself must be traded on an organized exchange market. Moreover, any product that is brand-name identified does not qualify for this exclusion.

Q4. Should producers of primary-copper shapes exclude the revenue from the sales of these products from their price calculations under § 705.4(a)(3)?

A. Copper (cathode, ingot, wirebar, rod, cake, and billet) should be excluded under § 705.4(a)(3) because major copper producers have adopted the practice of tying their prices to closing prices on the New York Commodity Exchange. As long as this linkage is maintained (particularly over periods of falling as well as rising prices), the exclusion will continue to apply. The exclusion does not apply to revenues from the sale of fabricated copper products.

Q5. Are air fares that U.S. citizens pay to foreign carriers covered?

A. As imports, they are excluded.

Q6. What freight rates and passenger fares should a U.S. air carrier exclude as exports in making its price calculations?

A. It should exclude all international fares and rates as reported to the Civil Aeronautics Board on CAB Form 41. International fares are excluded because an individual carrier has no practical way to distinguish exports from domestic sales in its international activities. Also, these prices are set in an international market and must have the approval of foreign governments with which we have bilateral agreements.

Q7. In making price-change calculations, what freight rates and passenger fares should be excluded by U.S.-operated ocean carriers engaged in international transport?

A. They should exclude all rates on international movements of goods and people. These rates are excluded because of the difficulty involved in distinguishing sales to foreign residents and firms from sales to domestic residents and firms. Also, international ocean-liner freight rates are set in conferences that include carriers of foreign countries.

Q8. Since export prices are excluded, are the prices of goods intended for export that are first sold to a domestic firm also excluded?

A. No. All domestic sales are included regardless of plans for resale.

Q9. Do engineering services performed in the United States (design, drafting, calculations) on behalf of a foreign client and for use in a foreign country qualify as "exports of services" under § 705.4(a)(5)?

A. Yes.

Q10. Is a product sold to the U.S. Government but delivered overseas considered an export and therefore excluded from price calculations?

A. No. All sales to the U.S. Government, regardless of place of delivery, are considered domestic transactions.

Q11. Does the term "contract" as used in § 705.4(b) include purchase orders of routine or normally recurring purchased items?

A. No.

Q12. If a compliance unit sells a product to the Department of Defense (DOD) based on DOD-generated and directed specifications that are subject to modification, may the compliance unit treat this item as a custom product?

A. If the compliance unit can net out the costs associated with the changes, it should net out the changes to make the product comparable to the products previously sold. If this approach is not feasible, the compliance unit may treat the item as a custom product.

Q13. May compliance units that *purchase* products excluded under § 705.4 deduct the costs of those products from prices in making their price calculations?

A. No. Compliance units may exclude from their price calculations only those products excluded under 705.4 that they *produce*.

Q14. How do custom products differ from new products in applying the price standards?

A. Customs products and new products are treated the same under the standards.

Q15. If all of a compliance unit's products are excluded during the three program years under 705.4(a)(1) through (6), is that compliance unit subject to the price standards?

A. No. Such a compliance unit is subject to *neither* the three-year price limitation nor the two-part profit limitation.

Q16. If all of a compliance unit's products are excluded during the three program years under § 705.4(a) (7) through (9) and/or § 705.4(b), is that compliance unit subject to the price standards?

A. Yes, such a compliance unit is subject under § 705.5(a)(2) to the two-part profit limitation.

G. Special Situations

Q1. How does a compliance unit that was excluded during the first program year under the "75-percent" rule (705A-5(a)) comply with the third-year standards?

A. If and only if the compliance unit is the same as in the first year, it should comply with a two-year price limitation for the second and third years equal to the lesser of (1) 17.8 percent, or (2) the base-period price change, as defined in the second-year price standard, plus 1.0 percentage point. However, if such a compliance unit has a rate of price change of 6 percent or less over the second and third years, it will be considered to be in compliance with the two-year price limitation regardless of its base-period price change. In addition, the compliance unit should not exceed three-fourths of its two-year price limitation in either the first or second quarter of the third year and it should not exceed seven-eighths of its two-year price limitation in the third quarter of the third year.

Q2. if acquired company is combined with the acquiring company into a single compliance unit, for what period(s) should data for the acquired company be included with the acquiring company data?

A. The acquired company data must be included on a consistent basis for all

periods for which computations are made.

Q3. Is a compliance unit that is newly formed for the third year eligible for the insufficient-product-coverage exemption in § 705.5(a)(1)?

A. No.

Q4. Is a divestitute treated differently from a discontinued product under the standards?

A. Divestiture is the sale of all or part of a business entity, normally with separate accounting records, that would be reported under the Securities and Exchange Commission regulations for a publicly held company. The operations of that entity should be excluded from all calculations made with respect to the price standards. Discontinued products are products that constitute a portion of an entity's operations and for which separate accounting records do not exist. Those products are excluded from price calculations only for the period during which they were discontinued.

Q5. How should discontinued operations be treated under the standards?

A. A compliance unit may treat a discontinued operation as a divestiture if it meets the criteria for "discontinued operations" that would be used in reports to the Securities and Exchange Commission. The discontinuance or shutdown of business operations that do not constitute "discontinued operations" in this strict sense may be treated as discontinued products.

H. Profit Limitation

Q1. One of the grounds for eligibility for an exception to the price standard is uncontrollable cost increases. How does a compliance unit demonstrate that it is eligible for the profit limitation, whether it self-administers or requests Council approval for that exception?

A. To qualify for an exception on the basis of uncontrollable cost increases, a compliance unit first must demonstrate that the three-year rate of increase in total cost per unit of output has exceeded and is expected to continue to exceed the compliance unit's three-year price limitation after allowing for normal gains in productivity. However, if a compliance unit properly determined its compliance under the profit limitation for the second program year, its increase in total cost per unit of output is measured from the fourth quarter of the second program year and the annual rate of increase must exceed the third-year price limitation in § 705.2(c) after allowing for normal gains in productivity.

Secondly, the compliance unit must demonstrate that a substantial proportion of the increase in total cost per unit of output is uncontrollable.

Lastly, the compliance unit must demonstrate that, if it were held to its price limitation, the increase in total unit costs would result in a significant erosion in its profit margin (i.e., its profit margin in the third year will be significantly below the base-year profit margin).

Total costs are equivalent to the difference between net sales and/or revenues and profit (as defined in §705.78). The cost-of-goods-sold component of total costs should be measured in a manner consistent with the compliance unit's customary inventory accounting methods. Total costs should be disaggregated to enumerate the uncontrollable components of the total-unit-cost increase and should include at least the costs of purchased materials and services, labor, and all other costs or any other level of disaggregation to the extent that it clearly documents that a substantial proportion of the increase in total cost per unit of output is uncontrollable.

To qualify for an exception based on uncontrollable cost increases, a compliance unit eligible for one of the gross-margin standards must demonstrate that total costs excluding those subtracted from revenues in computing gross margins have risen since the new base year at an annual rate in excess of that allowed by the respective standard and that those costs are expected to continue to do so by an amount that would result in a significant erosion of the profit margin if the compliance unit were held to the applicable gross-margin standard. In making its calculations, the compliance unit must adjust for normal gains in productivity. It must also demonstrate that a substantial proportion of the increase in total costs is uncontrollable.

Q2. Are pay-rate increases in excess of the pay standard considered uncontrollable?

A. No.

Q3. To monitor compliance with the profit limitation, compliance units will need to project their profit performance during the program year. Since even good estimates may be in error because of unforeseen circumstances, how will the Council determine compliance with the profit limitation?

A. Firms applying the profit limitation are expected to estimate prospective profits based on reasonable assumptions about economic and other conditions during the program year. If a compliance unit does not, in fact, satisfy the profit limitation, the Council will consider it noncompliant unless appropriate corrective action is initiated promptly.

Q4. The three-year price limitation allows carryover of unused allowable increases from the first and second program years to the third year. Is carryover of unused allowable increases in dollars of profits also allowable?

A. Carryover is implicit in the limitations on growth of dollar profits, just as it is implicit in the three-year price limitation. That is, the limitations on dollar-profit growth are also three-year limitations, since they limit growth from the base year to the third year to 20.9 percent (6.5 percent compounded for three years). Thus, if growth in the first and second years were 10 percent, the allowable increase in the third year would be 10 percent (since 10 percent and 10 percent compounded is 20.9 percent).

Q5. How does the profit limitation apply to nonprofit organizations?

A. A nonprofit organization that is eligible for this exception would be expected to comply with an operating surplus limitation, where operating surplus is defined as operating funds less total costs and expenses, including wages. The operating margin is operating surplus divided by operating funds.

Q6. How do cooperatives comply with the profit limitation?

A. As nonprofit organizations, cooperatives that are eligible for the exception should comply with the operating-surplus limitations. For these organizations, operating surplus includes patronage dividends and retained earnings.

Q7. How does the profit limitation apply to government enterprises?

A. Government entities that are covered by the price standards and that are eligible for the exception should use the operating-surplus limitation that applies to nonprofit organizations.

I. Profit Calculations

Q1. The second part of the profit limitation states that third-year profit should not exceed base-year profit by more than 20.9 percent plus any positive percentage growth in physical volumes from the base year to the third year. Should the volume adjustment be multiplicative or additive?

A. Either method is acceptable.

Q2. When computing profit according to the definition in 705.78, does interest include interest expense in carrying accounts receivable or discounts on receivables?

A. Interest expense includes all payments of interest regardless of purpose; discounts on receivables are defined as an interest expense for

purposes of determining compliance with the profit limitation.

Q3. Profit and net sales are defined in § 705.78 of the price standards in terms

measure of output (such as a sum across projects of square footage weighted by the fraction of each project completed during the measurement period) or a

disaggregate cost of food products from cost of other material inputs, how should it proceed?

A. The compliance unit should consult

Q7. In computing its gross margin, should a wholesaler include service fees?

A. Yes. All service fees, stop or order

inventory, that addition or withdrawal may be booked at the current-quarter average input cost, and the reverse movement out of or into inventory later

additions to net plant in service since the base year by (b) the rate of return expected to be realized in the program

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purposes of determining compliance with the profit limitation.

Q3. Profit and net sales are defined in § 705.78 of the price standards in terms of definitions contained in Securities and Exchange Commission regulations. Under these regulations and consistent with the adoption of Statement of Financial Accounting Standards No. 34 (effective December 15, 1979), companies are now required to treat a portion of interest expense for certain long-term activities as part of capital cost or as part of the cost of manufacturing or construction. This could result in different measurements of profit in base and program periods. Should a compliance unit follow these new S.E.C. requirements in reporting profit data to the Council?

A. No. In order for the Council to have comparable data, interest should not be treated as part of capital cost or as part of the cost of manufacturing or construction in any calculations of profit for compliance purposes. Compliance units may, however, follow the S.E.C. requirements for treatment of interest included in depreciation charges as part of asset values, because of the difficulties in determining the amounts of interest included in the amortized asset cost.

Q4. Should the profit limitation be applied to domestic operations only, or must it be applied to all operations, domestic and foreign?

A. Foreign *operations* should be excluded from profit calculations. However, foreign *sales* from domestic operations should be included in profit and cost calculations.

Q5. May a compliance unit exclude from profit calculations the profits earned on sales excluded from price calculations under § 705.4?

A. No.

Q6. How should a change in depreciation accounting methods that affects profits be treated?

A. If a compliance unit has changed depreciation accounting methods between the preceding period and the third year, it should compute its profits for the two periods using the same revised depreciation method.

Q7. Are the proceeds from the sale of a compliance unit's productive assets, such as plant and equipment, included as revenues in determining compliance with the profit limitation?

A. No.

Q8. How should a compliance unit that produces custom construction work (meeting the definition in § 705.4(a)(9)) measures changes in physical volume?

A. It should provide a measure of volume growth that is appropriate to its own operations. This could be a measure of output (such as a sum across projects of square footage weighted by the fraction of each project completed during the measurement period) or a measure of input usage (such as an index of labor and material inputs used over the period). Any measure used should reasonably reflect the physical volume of activity over the third year relative to the base year.

Q9. Should a nonprofit organization include depreciation as a cost in determining its operating surplus and operating margin?

A. It should do so only if it has historically included depreciation in its current expenses account.

J. Undue Hardship and Gross Inequity

[Reserved]

II. MODIFIED PRICE STANDARDS FOR SELECTED INDUSTRIES

A. Wholesale and Retail Trade and Food Manufacturing and Processing

Q1. Should all manufacturing or processing operations of wholesale and/or retail companies be disaggregated for compliance purposes?

A. No. Disaggregation is necessary only if the wholesale or retail entity elects to apply the percentage-gross-margin standard for its wholesale or retail operations and the manufacturing or processing operations account for $50 million or more of wholesale sales to other companies. If these conditions are met, a separate compliance unit should be established for the manufacturing and processing operations. The separate unit may elect to comply with the price limitation in 705A or a modified price standard in 705C, if appropriate.

Q2. Consider a company that owns and operates several manufacturing and/or processing operations, each of which accounted for less than $50 million in outside wholesale sales during the new base year, but taken together they account for $50 million or more. Furthermore, the company owns and operates wholesaling and retailing operations that will comply with the percentage-gross-margin standard (§ 705.42). Should any or all of the manufacturing and/or processing operations be disaggregated?

A. Yes. A compliance unit that elects to comply with the percentage-gross-margin standard should disaggregate all of its manufacturing and/or processing operations if those operations *collectively* account for $50 million or more in outside wholesale sales during the new base year.

Q3. If a food manufacturer or processor is unable to compute its gross margin because of inability to disaggregate cost of food products from cost of other material inputs, how should it proceed?

A. The compliance unit should consult with the Council for assistance in developing appropriate alternative computation procedures.

Q4. How does a food-manufacturing company that applies the gross-margin standard (§ 705.43) to its food operations treat its nonfood products?

A. The Council encourages such a company to disaggregate and to apply the price limitations to its nonfood sales. If it is unable to do so and it is eligible for the gross-margin standard, it may apply this standard to all of its operations, in which case the gross margin is calculated by deducting from sales the cost of food products used in the food-processing operations.

Q5. How is the cost food products (§ 705.43) defined for a vertically integrated company that produces both raw and processed products?

A. The company can use an estimate of the market price of raw agricultural products, based on price quotations from an organized market, to determine the cost of raw agricultural products for purposes of applying the margin standard. If such price quotations are not available, the cost of inputs at the farm level can be used instead of the cost of raw agricultural products.

Q6. Because of changes in the mix of product sales, improvement in loss experience ("shrinkage"), or changes in the rates of movement of merchandise at initial mark-ups versus marked-down prices, a retailer might fail to satisfy the percentage-gross-margin standard for reasons beyond its control. Will the compliance unit be judged to be out of compliance?

A. As long as a compliance unit makes a good-faith effort to comply with the standard, an inadvertent overshooting of the margin target will not result in a determination of noncompliance. A good-faith effort requires that retailers adopt a mark-up (and mark-down) policy that can be expected to generate percentage margins that comply with the standard. If there is no change in policy regarding markdowns, shrinkage, etc., the retailer can simply project past experience regarding these factors. However, a change in policy or practice regarding any of these factors should be reflected in the mark-up policy. Finally, if a company inadvertently exceeds the intermediate margin limitations in the third year, it should adjust its mark-up policy in the remaining quarters of the year to compensate for the earlier margin excesses.

Q7. In computing its gross margin, should a wholesaler include service fees?

A. Yes. All service fees, stop or order charges, adjustments to "sell price," etc., should be added to sales in computing the gross margin.

Q8. How do inventory changes of retailers and wholesalers affect the computation of gross margins?

A. Gross margins are adjusted for changes in finished-goods inventories. Any method of calculating inventory valuation is acceptable as long as generally accepted accounting principles and procedures are applied consistently for a given compliance unit.

Q9. Should the revenues or costs for goods and services excluded from price calculations under § 705.4 be excluded in the calculation of the gross margin?

A. No.

B. Petroleum Refiners

Q1. Are all of a company's petrochemical operations required to be aggregated with its petroleum-refining operations if the company elects to use the refiners' gross-margin standard?

A. No. Only the petroleum products, petrochemicals, and petrochemical feedstocks produced *in refining operations* shall be included, whether such products are sold to third parties or transferred to other compliance units.

Q2. In determining the gross margin or profit margin of a compliance unit, must the revenues or costs for all products delivered to or received from another compliance unit be included?

A. Yes, they should be included at arms-length transfer prices.

Q3. Should the revenues or costs for goods and services excluded from price calculations under § 705.4 be excluded in the calculation of the gross margin?

A. No.

Q4. How should refiners value transitory changes in finished-product inventory for computing the hydrocarbon costs of sales?

A. The value of inventory change should reflect only the hydrocarbon component of the costs of the products moved into or out of inventory. If this is impossible because of inadequate records, a refiner should value changes in inventories on the basis of its normal interim accounting conventions. If these conventions can be shown to contribute to erratic fluctuations in intermediate calculations of the gross margin, the Council will allow the refiner to value transitory increases or decreases in finished-product inventory on the basis of its weighted-average cost of hydrocarbon inputs. In other words, if a refiner makes a transitory addition to or withdrawal from its finished-product inventory, that addition or withdrawal may be booked at the current-quarter average input cost, and the reverse movement out of or into inventory later in the fiscal year must be accounted for by reversing the earlier entry.

Q5. How should a refiner value a change in inventory that is expected to persist to the close of the fiscal year?

A. If such changes in inventory are determined to be material, they should be valued on the basis of the refiner's normal accounting conventions.

C. Gas, Electric, and Water Utilities

Q1. The first-year utility standard included material about the role of State Utility Commissions. Does the omission of this material from the standard reflect a change in Council policy with respect to those matters?

A. No.

Q2. What is the Council's relationship with State Utility Commissions in the third year?

A. State Utility Commissions should continue to function in the third year as they did in the first and second years. The Council is again asking Commissions to determine compliance with the standards and to rule on the applicability of exceptions. The Council also wishes to receive quarterly reports from Commissions on their progress in implementing the standards. Finally, the Council asks that Commissions phase in rate increases to ease their inflationary impact.

Q3. May utility companies subject to § 705.45 combine their utility and nonutility operations (if any) into a single compliance unit?

A. No, notwithstanding the definition of compliance unit used in § 705.65, such aggregation is not permitted.

Q4. Does the utility standard apply to municipal, cooperative, and publicly owned utilities that meet the eligibility test, even though they are not regulated by a public utility commission?

A. Yes.

Q5. Under the gross-margin standard, how should utilities treat program-year revenues that are attributable to the inclusion in the rate base of additional construction work in progress (CWIP) and/or new facilities completed and transferred to plant-in-service since the base year?

A. A utility applying the gross-margin standard may, subject to approval by its PUC, adjust its program-year gross margin by excluding from program-year sales all of the revenues that can be expected, under the utility's usual and customary method of accounting to result from multiplying (a) an increase in rate base attributable to the inclusion of construction work in progress and additions to net plant in service since the base year by (b) the rate of return expected to be realized in the program year.

Q6. Under the gross-margin standard, how should utilities treat net reductions in the cost of purchased power and fuel that result from introducing more fuel-efficient plant since the base year?

A. The realized program-year gross margin may be adjusted downward by the amount of estimated savings in fuel or purchased power in the program year, up to the amount by which those savings exceed the additional costs of the new plant recognized in Q & A II.C.5 above.

Q7. If sales of steam by an electric utility produce only a small proportion of its revenues, may it include its steam operations with its electric operations in calculating its gross margin?

A. Yes.

Q8. Does the exclusion of CWIP-derived revenues from the Council's gross-margin standard obviate the need for the state PUCs to determine in the first instance the need for the proposed plant?

A. No. The state PUCs should follow their usual procedures and applicable laws to determine whether the utility's construction work is appropriate for inclusion in the rate base.

Q9. In determining the amount of revenue to be excluded from the gross margin under Q & A II.C.5, is the rate of return used as the multiplier in calculating the excluded amount a pre-tax or a post-tax rate of return, and should that amount be reduced by any tax savings the utility realizes from the construction program and/or the addition or transfer of new facilities to plant-in-service?

A. The rate of return to be used as the multiplier is a pre-tax rate, and the amount derived from that calculation should be reduced by any federal, state, or local tax savings the utility realizes as a result of the construction program and/or the new facilities.

D. Professional Fees

Q1. How is the professional-fee standard applied by firms that also sell products or services to which the basic price limitation applies?

A. These firms should comply separately with the standard appropriate for each segment of their business.

Q2. Are hospital-based physicians and other health professionals covered under the pay standard or under the professional-fee standard?

A. Physicians paid on a salary basis are included in one of the employee units identified by the hospital for purposes of the pay standard.

Physicians paid on a fee-for-service or proportion-of-department-revenue basis (e.g. radiologists, pathologist,

pattern of percentage direct-labor multipliers used during the third year is no higher than the pattern used before

III. PROCEDURES

A. General Provisions

unconsolidated subsidiaries *must* be treated as separate compliance units.

the company's last complete fiscal year before October 1, 1980, be included in

temporary part-time workers are not included.

Physicians paid on a fee-for-service or proportion-of-department-revenue basis (e.g. radiologists, pathologist, emergency-room physicians) should comply with the professional-fee standard. If billing for such services is done through the hospital, both the hospital and the physician are responsible for compliance with the professional-fee standard.

If professional earnings are based on some combination of salary and fee-for-service or proportion-of-department-revenue, the hospital and the physicians should comply with the respective standards for the respective portions of professional earnings.

Q3. How might a compliance unit comply with the professional-fee standard if the prices of its services are calculated by adding to the cost incurred an additional fee that is determined as a percentage of direct labor costs?

A. In this situation, a compliance unit could demonstrate compliance by showing (i) that the pattern of percentage multipliers used during the third year is no higher than the patterns used before October 2, 1978, and (ii) that the firm is in compliance with the pay standard.

Q4. How might a compliance unit comply with the professional-fee standard if its prices are based on cost-plus-fixed-fee arrangements (where contract prices are based on expenses—direct labor costs, a percentage markup over direct labor costs to cover overhead, and other direct expenses—plus a negotiated percentage fixed fee)?

A. In this situation, a compliance unit would be considered to be in compliance if (i) the pattern of percentage direct-labor multipliers used during the third year is no higher than the pattern used before October 2, 1978, (ii) the firm is in compliance with the pay standard, and (iii) the pattern of percentage fixed fees negotiated during the third year is no higher than the pattern negotiated before October 2, 1978.

Q5. Firms may negotiate lump-sum or firm fixed prices for particular services. These contract prices are often determined in a manner similar to cost-plus-fixed-fee arrangements. For example, the lump-sum fee may be set by adding to direct labor costs a percentage markup to cover overhead and other expenses, plus an amount to cover risk and pre-tax profit. How does the professional-fee standard apply to this kind of pricing arrangement?

A. Such compliance units are treated generally the same as a cost-plus-fixed-fee arrangement. They would be considered to be in compliance if (i) the pattern of percentage direct-labor multipliers used during the third year is no higher than the pattern used before October 2, 1978, (ii) the firm is in compliance with the pay standard, and (iii) the pattern of amounts negotiated during the third year to cover risk and pre-tax profit does not exceed the pattern negotiated prior to October 2, 1978, for similar classes of jobs by more than 6.5 percent.

E. State and Local Government Enterprises, Private Nonprofit Enterprises, and Government-Subsidized Private Companies

Q1. In computing subsidy-adjusted price changes, what payments should be included as subsidies?

A. Any direct government grant or payment that enables an enterprise to charge a lower price for its services is generally considered a subsidy. For example, payments to transit companies or universities to cover deficits in operating expenses would be subsidies. On the other hand, a student-aid grant that allows a student to pay tuition but does not result in a lower tuition level is not a subsidy. Similarly, a government contract for specific goods or services rendered to the government is not a subsidy.

Q2. Are any explicit provisions made for nonprofit organizations with operating deficits in the base period—such as allowing those compliance units to raise the prices of their goods and services so that they can attain a balanced budget or reduced deficit and still comply with the operating-margin limitation?

A. No such general provision has been provided, although compliance units in this situation may qualify for an undue-hardship exception. A blanket hardship exception would be inappropriate since, in spite of base-period and current deficit situations, many institutions are financially viable due to accumulated reserves or endowments that are not restricted legally from current operating use.

F. Insurance.

Q1. How is the insurance standard applied by firms that also sell products or services to which the basic price limitation applies?

A. These firms should comply separately with the standard appropriate for each segment of their business.

G. Financial Institutions

[Reserved]

III. PROCEDURES

A. General Provisions

Q1. What procedures apply to matters pending before the Council as of October 1, 1980, that relate to the first and second program years?

A. The third-year procedures apply to all matters pending as of October 1, 1980.

Q2. Are the first-year and second-year Q & A's still valid for evaluating a company's compliance during the first and second program years, respectively?

A. Yes.

Q3. Are "employee units" the same as "compliance units" under the pay standard?

A. No. "Compliance units" refers to the organizational structure of the company. Within a compliance unit, there may be one or more "employee units"—for management employees, employees subject to collective-bargaining agreements, and all others.

B. Reports and Notifications

Q1. Will a company's failure to file its organizational or periodic reports requested under Part 706, Subpart B, result in a determination of noncompliance?

A. No. A company will be determined to be out of compliance only if it fails to comply with the substantive price or pay standards. However, the Council may make public the fact that the company has failed to furnish the requested reports, initiate further investigation of the company's compliance, or use the compulsory processes provided by statute either to order submission of the requested reports or to subpoena the necessary information.

Q2. Do the reporting requirements of §§ 706.21 and 706.22 apply to private universities and other nonprofit institutions?

A. Yes. These entities satisfy the definition of company in § 705.64.

Q3. If a company was not required to file reports with the Council during the first or second program years but now meets the reporting thresholds under §§ 706.21 and 706.22, must it now compute and submit data for the first and second program years?

A. No, except to the extent that first-year and second-year data are necessarily part of the reports for the third year.

Q4. In computing its net sales or revenues for the reporting thresholds of §§ 706.21 and 706.22, should a company include the net sales or revenues of unconsolidated subsidiaries?

A. Yes. All subsidiaries are within the definition of "company" in § 705.64. Under § 705.65, however, unconsolidated subsidiaries *must* be treated as separate compliance units.

Q5. Are companies with at least $100 million in sales or revenues that intend to treat their entire organization as one unit for purposes of compliance requested to notify the Council of their organizational structure under § 706.21(b)?

A. Yes. Even if a company does not disaggregate into smaller compliance units, it is still requested to notify the Council of its organization, as well as to submit data on its major lines of business.

Q6. Are companies with at least $100 million in sales or revenues that do not intend to change their structure for compliance purposes for the third year requested to notify the Council of their organizational structure under § 706.21(b)?

A. Yes.

Q7. If a company meets the reporting threshold of §§ 706.21 and 706.22 but all of its products are excluded under § 705.4, should it report its company organization?

A. Yes.

Q8. Should a State or local government entity that meets the threshold reporting requirements of § 706.21 report its company organization?

A. Yes, if the entity is a government enterprise as defined in § 705.47(b).

Q9. Which sales or revenues should a company include in determining if the company meets the $100 million threshold of §§ 706.21 and 706.22?

A. U.S. and foreign companies should include all net sales or revenues from their U.S. (domestic) operations, including exports. Net sales or revenues from foreign operations should not be counted.

Q10. Should the sales and revenues of operations divested during the company's last complete fiscal year before October 1, 1980, be included in determining whether a company meets the $100 million threshold?

A. No.

Q11. Should the sales and revenues of operations divested after the close of the company's last complete fiscal year before October 1, 1980, be included in determining whether a company meets the $100 million threshold?

A. Yes.

Q12. Should the sales and revenues of operations acquired during the company's last complete fiscal year before October 1, 1980, be included in determining whether a company meets the $100 million threshold?

A. Yes.

Q13. Should the sales and revenues of operations acquired after the close of the company's last complete fiscal year before October 1, 1980, be included in determining whether a company meets the $100 million threshold?

A. No.

Q14. In its Form CO–1 (Price), a company should indicate with which standard each of its compliance units will comply. May a company that is eligible for a modified price standard change its choice of the standard (e.g., from the price limitation to a gross-margin standard, or from a gross-margin standard to the price limitation) after the filing of the Form CO–1 (Price)?

A. No, except as permitted in Q&A III, B.15 below.

Q15. If a compliance unit is granted an uncontrollable-cost exception, may that compliance unit subsequently choose to measure its compliance with either the price limitation or a modified price standard for which it is eligible rather than the profit limitation?

A. Yes.

Q16. If a compliance unit is denied an uncontrollable-cost exception, should it comply with the standard—price limitation or modified price standard—with which it elected to comply at the start of the third year?

A. Yes. However, if a unit that is eligible for a modified price standard is denied an uncontrollable-cost exception only because it failed to show that it cannot comply with the modified standard because of uncontrollable cost increases (i.e., it could qualify for the exception if it were not eligible for a modified standard and only had to demonstrate that it could not comply with the price limitation), it may comply with the modified standard notwithstanding its original election of the price limitation.

Q17. Are employees excluded under the low-wage exemption to be counted in meeting the 5,000-employee threshold for reporting company organization under § 706.21 or filing Form PAY–1's under § 706.22?

A. Yes. A compliance unit should count all permanent employees, including part-time workers and those earning less than the low-wage exemption (even though the latter are not included for pay-computation purposes). Seasonal or temporary employees, however, need not be counted.

Q18. Should colleges and universities count graduate assistants and part-time student help for purposes of the 5,000 employee threshold in §§ 706.21 and 706.22?

A. Only permanent part-time workers are included in determining the size of the unit for reporting purposes; temporary part-time workers are not included.

Q19. Should a company file Form PAY–1 if *at any time* during the last calendar quarter before October 1, 1980, it had 5,000 or more employees, or only if the *average* number of employees in the quarter was 5,000 or more?

A. Under § 706.22, a compliance unit should file Form PAY–1 if the average number of employees was 5,000 or more.

Q20. What forms should electric, gas, and water utilities file with the Council?

A. Those utilities that meet the reporting thresholds should file all requested reports except Form PM–1. If a utility has *non-utility operations, it should file Form PM–1 for those operations.*

Q21. Should gas or petroleum (crude and refined product) pipelines and sewage treatment authorities file reporting forms with the Council?

A. They should file if they meet the thresholds of §§ 706.21 and 706.22, and are not monitored by a public utility commission.

Q22. The Council no longer specifically requests the submission of Form 10–K's from companies required to file such reports with the Securities and Exchange Commission (SEC). Should companies continue to submit copies of these forms if they are readily available?

A. Yes. The Council would like to review copies of Form 10–K's when they are filed with the SEC, although submission is not required. If a company does not submit copies to the Council, the Council will obtain them directly from the SEC or other sources.

C. Requests for Approval of Exceptions

Q1. Should a company with net sales or revenues of $100 million or more in its last complete fiscal year before October 1, 1980, apply for approval of an exception if it exceeds an intermediate price, profit, or gross-margin limitation because of seasonal variations in business operations, historical business practices, or unusual business conditions?

A. No. Sections 705.3(c), 705.42(e), 705.43(e) and 705.44(f) do not treat exceeding intermediate price or gross-margin limitations as an exception. Under Subpart C of Part 707, however, a company should attach to its Form PM–1 documentation justifying the excess.

Q2. Should electric, gas, and water utilities whose rates are subject to State or Federal regulation seek approval of exceptions from the Council?

A. No. Such utilities should seek approval of exceptions to the price standards by the applicable regulatory agencies.

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Q3. What types of employees should be counted in the § 706.31(a) thresholds for numbers of employees in employee units or collective-bargaining units?

A. All permanent employees should be counted, including part-time workers and those earning less than the low-wage exempton (even though the latter are not included for pay computation purposes). Seasonal or temporary employees, however, need not be counted.

Q4. Does § 706.31(a)(2) mean that a company need not request approval of an exception to the pay standard if the affected collective-bargaining unit has fewer than 1,000 employees?

A. No. Since a collective-bargaining unit is an employee unit, approval of the exception should be requested if the collective-bargaining agreement covers a unit of 100 or more employees in a company with 1,000 or more employees. In addition, if a multi-employer collective-bargaining agreement covers more than 1,000 employees, approval of the exception should be requested regardless of the number of employees in an individual company's employee units.

Q5. A compliance unit did not meet the second-year threshold for advance approval of exceptions by the Council and self-administered an exception, but now meets the threshold of $250 million for uncontrollable-cost or inability-to-compute exceptions, or the $100 million threshold for all other types of exceptions. Should it apply to the Council for approval in order to continue using the exception in the third year?

A. Yes, compliance units that now meet or exceed the thresholds of § 706.31(c) should seek approval of an exception from the Council, even if they self-administered the exception in the second program year.

Q6. If a compliance unit submits a request for approval of an exception but does not provide sufficient supporting data, what action may the Council take?

A. The Council may deny the request or, at its option, ask for additional data. If the Council asks for additional data, it may specify a time certain for submission of that data.

Q7. Section 706.36 does not include any time limit on requests for conferences in regards to an exception. Does this mean that the request for a conference need not be made at the time the request for approval of an exception is submitted?

A. Yes.

Q8. Section 706.31(f) provides that if a compliance unit or employee unit was granted an exception for the second program year and wants to continue that exception for the third year, it should submit a new request for approval of the exception. Does this apply to a second-year exception covering a multi-year pay agreement?

A. The exception continues for the duration of the agreement reviewed by the Council, unless the pay exception decision expressly provides otherwise.

Q9. Does the Council process requests for exceptions to the pay standard for collective-bargaining units before a contract has been agreed to?

A. An exception request for a collective-bargaining unit will not be processed until the parties have reached an agreement. The Council will, however, meet at any time with a company or union to provide information or guidance about the applicability of the pay standard to collective-bargaining proposals.

Q10. Section 706:31(b) provides that the Council will entertain a request for exception if good cause is shown. Does the fact that a company must certify compliance for a government contract constitute good cause?

A. Yes.

D. Special Investigations

[Reserved]

E. Determination of Noncompliance

Q1. If a company self-administers an exception when it should have applied to the Council for approval, may it assert that it is entitled to that exception as a defense in a noncompliance proceeding?

A. Yes. If the company is entitled to the exception, the company may use the exception as a defense. If the company is not entitled to the exception, however, the fact that the company should have applied for approval and did not do so reflects on its good faith.

Q2. Is it a defense to a Notice of Inquiry that a company made a good-faith effort to comply with the standards?

A. Yes. Companies failing to comply despite a good-faith effort will not be determined to be out of compliance under § 706.52(b) if appropriate corrective actions are initiated promptly.

Q3. If a company chooses to treat one of its subsidiaries as a separate compliance unit and the subsidiary is found to be out of compliance, will that affect the compliance of the parent corporation?

A. No. However, the compliance unit may be identified as a subsidiary of the parent company.

F. The List of Noncompliers

Q1. Will a compliance unit that is determined to be out of compliance during the first or second program year, but will be in compliance on a three-year basis, be listed as a noncomplier?

A. Yes. Until the compliance unit takes corrective action that will compensate for its excess in the first or second years, it will be listed as noncompliant.

G. Reconsideration

[Reserved]

[FR Doc. 80-36148 Filed 11-19-80; 8:45 am]

BILLING CODE 3175-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine and Tangelo Reg. 4, Amdt. 1]

Oranges, Grapefruit, Tangerines and Tangelos Grown in Florida; Amendment of Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment lowers the minimum diameter (size) requirements for Dancy tangerines for domestic shipments from 2 9/16 inches to 2 1/16 inches for the period November 17 through November 23, 1980. This action recognizes current market demand for smaller sizes of Dancy tangerines and is consistent with the size composition of the available crop in the interest of growers and consumers.

EFFECTIVE DATE: November 17, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975. The Final Impact Analysis relative to this final rule is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." This regulation is issued under the marketing agreement and Order No. 905, (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendation and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that the

regulation of Florida Dancy tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

The minimum size requirement, herein specified, for domestic shipments of Dancy tangerines reflects the Department's appraisal of the need for the amendment of the current regulation to permit handling of smaller sizes based on current and prospective demand conditions. Relaxation of the minimum size requirement of Dancy tangerines will make additional supplies available to meet market needs and will tend to promote orderly marketing.

It is concluded that the amendment of the size requirement, hereinafter set forth, is necessary to establish and maintain orderly marketing conditions and to provide acceptable size fruit in the interest of producers and consumers pursuant to the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. Growers, handlers, and other interested persons were given an opportunity to submit information and views on the amendment at an open meeting, and the amendment relieves restrictions on the handling of Florida Dancy tangerines. It is necessary to effectuate the declared policy of the act to make the regulatory provisions effective as specified, and handlers have been apprised of such provisions and effective time.

Accordingly, it is found that the provisions of § 905.304 (Orange, Grapefruit, Tangerine, and Tangelo Regulation 4; 45 FR 67047) should be and are hereby amended by revising Table I, paragraph (a) applicable to domestic shipments, to read as follows:

§ 905.304 Orange, Grapefruit, Tangerine and Tangelo Regulation 4.

(a) * * *

Table I

Variety	Regulation period	Minimum grade	Minimum diameter (in.)
(1)	(2)	(3)	(4)
Tangerines:			
Dancy	11/17/80-11/23/80	U.S. No. 1...	2 9/16
	11/24/80-10/18/81	U.S. No. 1...	2 1/16

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 14, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-36233 Filed 11-19-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 907

[Navel Orange Regulation 496, Amdt. 1]

Navel Oranges Grown in Arizona and Designated Part of California; Minimum Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment lowers the minimum diameter requirement applicable to fresh California-Arizona navel oranges from District 1, 3, or 4 to 2.45 inches in diameter during the period November 21-27, 1980. In the absence of this amendment the minimum diameter requirement for such oranges would be 2.59 inches. This action is necessary to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: November 21 through November 27, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures in Secretary's Memorandum 1955 to implement Executive Order 12044 and classified as "not significant." This regulation is issued under the marketing agreement and Order No. 907 (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time. This amendment relieves restrictions on the handling of California-Arizona navel oranges.

The committee met on November 10, 1980, to consider current crop and market conditions and other factors affecting the need for amendment of the current regulation, and recommended relaxation of the minimum size requirement for shipments of navel oranges grown in District 1, 3, or 4. The amendment recognizes the current and prospective marketing situation for California-Arizona navel oranges and is consistent with the size composition of the crop.

Therefore, paragraph (b) of § 907.796 (Navel Orange Regulation 496, 45 FR 75163) is amended to read as follows (§ 907.796 expires January 1, 1981, and will not be published in the annual Code of Federal Regulations):

§ 907.796 Navel Orange Regulation 496.

* * * * *

(b) During the period November 21 through November 27, 1980, any handler may handle navel oranges grown in District 1, 3, or 4 which are of a size smaller than 2.59 inches in diameter: *Provided,* That such smaller oranges shall be not smaller than 2.45 inches in diameter, except not to exceed 5 percent, by count, of the oranges in any container of such oranges may measure smaller than 2.45 inches in diameter.

* * * * *

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 17, 1980 to become effective November 21, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-36289 Filed 11-19-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 907

[Navel Orange Reg. 497]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period November 21–27, 1980. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: November 21, 1980.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on October 14, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on November 18, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is improving.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. Section 907.797 is added as follows:

§ 907.797 Navel Orange Regulation 497.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period November 21 through November 27, 1980 are established as follows:

(1) District 1: 1,133,016 cartons;
(2) District 2: Unlimited cartons;
(3) District 3: 143,502 cartons;
(4) District 4: 6,001 cartons.

(b) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 19, 1980

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-36542 Filed 11-19-80; 1:40 pm]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 204

Petition To Classify Alien as Immediate Relative of a United States Citizen or as a Preference Immigrant; Revision of Requirements for Petitions Based on Adoptive Relationships

Correction

In FR Doc. 80–35400 appearing at page 75166 in the issue for Friday, November 14, 1980, make the following correction:

On page 75167, in the second column, in § 204.1(b)(2)(iii), the word "who" should be inserted at the beginning of the second line.

BILLING CODE 1505-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 563, 569a

[No. 80–703]

Technical Amendments Relating to Supervisory Action

November 10, 1980.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final regulations.

SUMMARY: The Federal Home Loan Bank Board has adopted technical amendments to Parts 563 and 569a of the Rules and Regulations of the Federal Savings and Loan Insurance Corporation. The amendment to Part 569a clarifies the applicability of the receivership provisions in that part, and the amendment to Part 563 states conditions for waiver by the Board of the provisions of § 563.43 in supervisory cases.

EFFECTIVE DATE: November 10, 1980.

FOR FURTHER INFORMATION CONTACT: Lawrence W. Hayes (202–377–6428), Associate General Counsel, or Michael D. Schley (202–377–6444), Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Section 563.43 of the Rules and Regulations of the Federal Savings and Loan Insurance Corporation (12 CFR 563.43) sets forth restrictions relating to loans and other investments involving affiliated and nonaffiliated persons. These restrictions are designed to prevent the appearance of a conflict-of-interest situation that may be detrimental to the safety and soundness of an institution. When an institution has become the subject of a supervisory action, however, the risk of such an appearance is greatly reduced due to the Federal Savings and Loan Insurance Corporation's close supervisory involvement with the institution. In order to facilitate rehabilitation or merger of an institution in an unsound condition, the restrictions of § 563.43 have been modified to allow a waiver by the Board if it determines that the terms of the transaction in question are fair to, and in the best interests of, the institution.

By this resolution the Board also has adopted an amendment to Part 569a, in the form of new 12 CFR 569a.13. This new section merely codifies an interpretive rule that has long been recognized as a matter of practice, by exempting purchase and assumption transactions in receivership from the requirements of 12 CFR 569a.5(a), 569a.6(c)(3), 569a.8, 569a.9 and 569a.10. Those requirements were intended to provide procedures for traditional liquidating receiverships accompanied by the payment of insurance of accounts and are inapplicable to the Corporation as a receiver participating in a purchase and assumption transaction because of the essentially different nature of such a transaction.

The Board finds that observance of the notice and comment period of 12 CFR 508.12 and 5 U.S.C. 553(b) and the 30-day delay of effective date of 12 CFR 508.14 and 5 U.S.C. 553(d) are unnecessary because these amendments are rules of Board procedure and practice (as described in 12 CFR 508.11), and that public policy reasons dictate an immediate effective date.

Accordingly, the Federal Home Loan Bank Board hereby amends Parts 563 and 569a, Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

1. Add a new paragraph (d) to § 563.43, to read as follows:

§ 563.43 Restrictions on loans and other investments involving affiliated and nonaffiliated persons.

* * * * *

(d) *Waiver.* The restrictions in paragraph (b) and (c) of this section may be waived by the Board in supervisory cases if the Board determines that the terms of the transaction in question are fair to, and in the best interests of, the insured institution or subsidiary. A supervisory case includes a merger instituted for supervisory reasons, and action taken pursuant to, or in order to obviate the necessity of, proceedings by the Board or the Corporation pursuant to paragraph (d) of section 5 of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(d)), or section 407 of the National Housing Act, as amended (12 U.S.C. 1730).

PART 569a—RECEIVERS FOR INSURED INSTITUTIONS OTHER THAN FEDERAL SAVINGS AND LOAN ASSOCIATIONS

2. Add a new § 569a.13, to read as follows:

§ 569a.13 Purchase and assumption transactions.

The requirements set forth in §§ 569a.5(a), 569a.6(c)(3), 569a.8, 569a.9 and 569a.10 shall not apply to the Corporation as receiver for an institution that becomes the subject of a purchase and assumption transaction.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Reorg. Plan No. 3 of 1947, 172 FR 4891, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-36001 Filed 11-19-80; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79–SO–75; Amdt. No. 39–3974]

Airworthiness Directives; Embraer Model EMB–110P1 and EMB–110P2 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing Airworthiness Directive (AD) applicable to EMBRAER Model EMB–110P1 and EMB–110P2 series airplanes by establishing new lubricating procedures for the wing flap actuators. This amendment is needed to correct a continuing problem with corrosion of the flap actuator jackscrew, which can result in the loss of the balls from the ballscrew mechanism.

DATES: Effective November 21, 1980.

Compliance schedule—Within the next 25 hours time in service after the effective date of this AD amendment, unless already accomplished in accordance with the original AD.

ADDRESSES: The applicable Alert Service Bulletin No. 110–27–A43, revised June 9, 1980, may be obtained from Empresa Brasileira de Aeronautica S/A (EMBRAER), P.O. Box 343–CEP 12.200, Sao Jose dos Campos-SP, Brasil.

A copy of the Alert Service Bulletin and the Brazilian Airworthiness Directive No. 80–08–02 are contained in the Rules Docket in Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Norman Berry Drive, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT: George Carver, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763–7781.

SUPPLEMENTARY INFORMATION: This action revises Amendment No. 39–3616 (44 FR 67101), AD 79–24–03, which currently requires the inspection of the wing flap actuators for excessive wear of the cover sealing rings and the ballscrew mechanism on EMBRAER Model EMB–110P1 and EMB–110P2 airplanes. After issuing Amendment No. 39–3616, the FAA determined that the corrosion occurring in the ballscrew mechanism results from lack of proper lubrication. Therefore, the FAA is amending Amendment No. 39–3616 by establishing a new lubricating procedure for the wing flap actuators on the subject airplanes.

Since this amendment provides an alternative means of compliance and imposes no additional burden on any person, notice and public procedure hereon are unnecessary. Additionally, due to the safety implications of a failure of the flap actuator, good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment No. 39–3616 (44 FR 67101), AD 79–24–03, as follows:

(1) By revising the second sentence in the paragraph outlining compliance time to read:

"To prevent failure of the wing flap actuators (EEMCO Part No. D2246–3, RH, Part No. D2246–4, LH), accomplish the following:"

(2) By revising paragraph (d) to read:

"(d) Slide the inner and outer covers towards the reduction gear box to expose the threaded shaft. Clean the shaft in accordance with good aircraft practices."

(3) By revising paragraph (e)(4) to read:

"(e)(4) That the transverse motion of the ballscrew/nut assembly, measured at the rod end of the shaft, does not exceed .20 inch (5 mm), when the shaft is fully extended."

(4) By revising paragraph (h) to read:

"(h) Lubricate the actuator and reduction gearbox:

(1) Remove safety wire and upper screw where actuator joins reduction gearbox.

(2) Manually extend jackscrew to the mechanical stop.

(3) Inject MIL–G–23827 grease into the gearbox through the screw hole to fill the gearbox and main actuator tube.

(4) Temporarily install the gearbox upper screw.

(5) Manually retract jackscrew until fresh grease appears between the ball nut and jackscrew.

(6) Remove gearbox upper screw again to remove the excess grease by continuing to manually retract jackscrew to the mechanical stop.

(7) Install upper screw in gearbox; safety screw with lockwire.

(8) Clean main actuator tube exterior by removing all grease to prevent dust deposits.

(9) Lubricate the extended jackscrew by brush—daubing it with MIL–G–23827 grease."

(5) By eliminating paragraph (i) and redesignating the following paragraphs as (i) through (l) in lieu of (j) through (m).

(6) By revising NOTE following paragraph (l), previously designated as (m), to read:

"EMBRAER Alert Service Bulletin 110–27–A43, revised June 9, 1980, covers the procedures and specifications incidental to this AD."

(7) By adding new paragraph following paragraph starting: Compliance with the provisions of this AD . . .:

"Recently designed flap actuators (EEMCO Part No. D2246–5, RH, and D2246–6, LH) have been approved to replace the Part No. D2246–3 and –4 actuators. If these replacement actuators are installed, the requirements of this AD are not applicable."

This amendment becomes effective November 21, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "For Further Information Contact."

Issued in East Point, Georgia, on November 6, 1980.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 80-38072 Filed 11-19-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 18605/80–AWA–6]

Alteration of Group II Terminal Control Area, Kansas City, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment reconfigures the Group II Terminal Control Area (TCA) at Kansas City, Mo., which first became effective on August 1, 1975. Experience has shown that the airspace being removed from the TCA is no longer essential to safety of flight operations. This action reduces the amount of airspace contained in the TCA, reduces the area in which the requirements for operating in a Group II TCA apply, and makes it easier and more economical for aircraft wishing to avoid flying in the TCA to do so.

EFFECTIVE DATE: December 25, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. B. Keith Potts, Airspace and Air Traffic Rules Division (AAT–200), Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3731.

History

As part of a comprehensive program announced on December 27, 1978, in the FAA Administrator's Plan for Enhanced Safety in the National Airspace System, Kansas City was a candidate for Group I TCA designation and possible expansion of the designated TCA airspace. Consequently, the Kansas City TCA was reviewed in depth. The goal was to provide the most safe and efficient configuration for all airspace users. Aspects that were considered included noise abatement, costs to users, safety for passengers and aircraft, and the safe and efficient use of airspace.

The review disclosed that Group I TCA designation would not be necessary. The analysis also disclosed that a high level of safety can be maintained in that area while at the same time reducing the amount of airspace in the TCA by reconfiguring parts of the TCA. The "floor" will be raised in those areas where instrument flight rules (IFR) and turbine powered aircraft operations are at high enough altitudes to permit reductions in TCA airspace. This reduction will provide greater accessiblity to aircraft using satellite airports and to aircraft wishing to avoid TCA airspace. Turbine powered aircraft and instrument flight operations will continue to be contained within TCA airspace and the high level of safety provided by the TCA will not be reduced.

The FAA considered raising the ceiling of the Kansas City TCA to 12,500 feet. That action would have made the TCA abut airspace where regulations require an operable transponder and altitude encoding equipment for operations above 12,500 feet. Analysis of Kansas City airspace showed no operational problems that justified an expansion of the TCA above 8,000 feet MSL at this time. In fact, the review indicated that the size of the TCA could be reduced.

After experience is gained with the revised TCA configuration, consideration will be given to proposing any modifications that appear necessary. Any future modifications that may be proposed would be thoroughly coordinated with airspace users.

The action contained in this rule was preceded with broad and helpful public participation with the FAA in considering the development of an airspace description for a TCA that is responsive to the need to increase safety and to the needs of both transient and local aircraft operators who might be affected. An extensive publicity effort was made to invite all interested persons to participate in a meeting held on June 18, 1979. Invitations were entended to all fixed-base operators and pilots in the local area. Notice of the meeting was also given through radio, telephone, mail, and posting announcements. On March 10, 1980, a final planning meeting, open to the public, was held in Kansas City to obtain public participation in the development of an airspace description responsive to the needs of both transient and local users who might be affected. Approximately 100 people attended the meeting. The majority of the attendees supported the proposal. As a result of the meeting, adjustments to the TCA configuration were developed and are reflected in this rule.

During the comment period for the proposal, the FAA held an additional, informal airspace meeting on October 15, 1980. Approximately 36 people attended. No significant opposition to the proposal was presented. Minutes of this meeting have been made part of the public docket.

The alterations to the Kansas City TCA will not change existing flight procedures, including those used for noise abatement purposes, or affect established minimum flight altitudes.

The elimination from the TCA of airspace for uncontrolled use provides better access to Kansas City Downtown Airport and Kansas City, Kans. (Fairfax) Airport. Additionally, two small private airports northwest of Kansas City International Airport are removed from the TCA inner core area that now extends down to the surface. The FAA has found through operational experience that the proposed small portion of airspace required for access to those airports without entering the TCA can be removed from the TCA without any decrease in safety since it is not used for departures or arrivals to Kansas City International Airport. By establishing a TCA base altitude of 2,400 feet in that area, safety will not be jeopardized. However, this change will allow for a less restricted flow of VFR traffic.

A minor change from that proposed is being made in the legal description of the boundaries between the 10- and 20-mile arcs near Sherman Army Air Field (Areas C, D, and E). This change has been agreed to by the Army Officials at Sherman Army Air Field. The Missouri River, a readily identifiable and highly

visual landmark, is used instead of a line based upon coordinates to describe the boundaires. The change also raises the base of the TCA from 2,400 feet to 3,000 feet over Sherman Army Air Field and the immediate vicinity instead of to 4,000 feet, as proposed. In order to use visual boundaries between TCA segments, it is necessary to only raise the TCA floor from 2,400 feet to 3,000 feet, instead of to 4,000 feet over Sherman Army Air Field. That still provides adequate airspace for VFR use by those aircraft, primarily military, that will operate over Sherman Army Air Field.

Discussion of Comments

The FAA received nineteen written comments from individuals, citizen groups, and aviation and trade industry associations in response to the proposed modification to the Kansas City TCA. The FAA also had the benefit of discussions with airspace users at user group meetings. The FAA appreciates the thoughtful and meaningful contributions and interest expressed by all those who took time to participate in this rulemaking action.

In reviewing the comments submitted verbally and in writing, the following categories of comments emerged:

A. Ten commenters expressed strong support for the TCA modification.

B. The Aircraft Owners and Pilots Association commended the FAA for its analysis of the Kansas City airspace and for proposing to retain in the TCA only that airspace necessary for safety. They concur with the proposal.

C. The Kansas City, Missouri, Aviation Department generally supports the proposed changes. They believe the airspace in the Kansas City area should be available to all users, consistent with safety and traffic flow requirements and that the proposed alteration appears to reflect this philosophy. However, they are concerned about raising the base altitude between the 15- and 20-mile arcs east of Kansas City International Airport, believing that this action will require a subsequent TCA change after the Runway 27 ILS is commissioned. The FAA has redefined the proposed Runway 27 ILS approach. The approach will be contained within the TCA as reconfigured by this action, and landing minimums will not be affected by the higher base east of the airport between the 15- and 20-mile arcs. Therefore, no additional revision to the TCA should be required in the near future because of commissioning the Runway 27 ILS approach.

D. The Air Transport Association of America responded with general support for the proposed alteration. However, they recommend raising the TCA ceiling to 12,500 feet.

Prior to publishing the proposed change to the Kansas City TCA, an indepth study was made of the Kansas City terminal area. Aspects that were considered included noise abatement, cost to users, safety for passengers and aircraft, and the safe and efficient use of the airspace. This review disclosed that a high level of safety can be maintained while keeping the present ceiling of 8,000 feet for the TCA. No hazardous incidents or traffic conflicts have been reported over the TCA at aititudes between 8,000 feet and 12,500 feet. Therefore, it is not justifiable at this time to raise the top of the TCA to 12,500 feet.

E. The Missouri/Kansas (MO–KAN) Professional Pilots Association recommended the use of Runway 9 DME and VOR radials to denote TCA boundaries.

Adoption of the suggestion is not practical since that facility will not be continuously on the air after the Runway 27 ILS is commissioned. It is not possible to describe to TCA segments utilizing a part-time navigation aid. Although the legal description is not based upon Runway 9 DME distances, nothing precludes pilot orientation based upon that facility when it is operational.

F. The MO–KAN Professional Pilots Association and one other person have reservations about raising the base altitude of the TCA in the southeast quadrant because they feel that a hazardous mix of traffic will exist. Raising the TCA's base altitude in that area will not create a hazardous mix of traffic. Under the revision, when Runway 18 is in use at Kansas City Downtown Airport, the amount of time arriving aircraft are within the TCA is essentially the same as prior to the TCA revision. When Runway 36 is in use, the difference in time when aircraft are within the TCA is insignificant for the old and new TCA configuration. This situation will be monitored and future changes may be made to the TCA if necessary.

G. The MO–KAN Professional Pilots Association stated that the FAA policy concerning IFR operations to and from TCA satellite airports should be changed. They recommend that IFR operations to and from satellite airports should be contained within the TCA.

The FAA attempts to permit the maximum amount of flexibility in flight planning and operations for non-users of TCAs. Thus, the TCA is not configured to contain all IFR flight paths to and from the satellite airports in the Kansas City area. That would require additional and unnecessary restraints on aircraft not wishing to use the TCA. Nevertheless, a high level of safety is provided for aircraft operations at the satellite airports in the Kansas City area without containing all IFR operations to and from those airports within TCA airspace.

H. The Professional Air Traffic Controller's Organization (PATCO) commented that unauthorized aircraft operations in the TCA are common because pilots are unfamiliar with TCA operations or with the Kansas City area, and that this action will further confuse pilots.

The revised segments of the TCA are adequately defined by visual or navigation aids and should cause less confusion than that caused by the previous TCA configuration. The number of pilots that enter TCA airspace without an appropriate Air Traffic Control (ATC) clearance is expected to decrease because of this change.

I. PATCO further commented that the radar video mapping does not depict the landmarks which help define the various TCA segments, thus making the application of ATC procedures more difficult. Those are matters which are not regulatory and, thus, are not addressed in this rulemaking proceeding. Other avenues are available to PATCO to solicit changes which may facilitate application of ATC procedures.

Local Benefits

The modifications of the Group II TCA will increase the capability of aircraft electing not to operate within the TCA to circumnavigate the TCA and provides additional non-TCA airspace beneath the floor of the TCA. Two private, uncontrolled airports, Elton Airport and Platte Valley Airport, are removed from the TCA allowing greater access to those satellite airports. All turbojet powered aircraft and IFR arrival and departure profiles continue to be contained within TCA airspace for air safety purposes, with the TCA having a minimum adverse impact on aircraft not required to be under ATC control due to this action.

Economic Impacts

The costs of modifying the Kansas City TCA were considered as part of the regulatory decisions being made. Since all turbine powered and IFR aircraft will continue to be contained in the TCA as reconfigured, there will be no change in economic effect for those flights. Uncontrolled aircraft have a larger amount of airspace in which to conduct their activities and therefore have an

increased degree of flexibility to plan their flights to use more economic routes or altitudes. Any adverse economic

bounded on the west by a line between lat. 39°27'35"N., long. 94°47'18"W.; and lat. 39°32'57"N., long. 94°47'10"W.; and on the

20-mile radius arc of the Kansas City International Airport, bounded on the southwest by the Missouri River; and

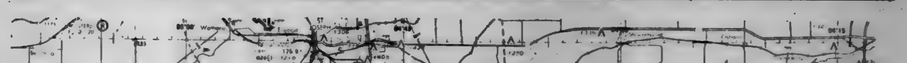

increased degree of flexibility to plan their flights to use more economic routes or altitudes. Any adverse economic impact that may now exist will be the same or reduced as available airspace is increased for traffic not operating within the TCA.

Environmental Impacts

An environmental assessment has been conducted and it was concluded that those impacts will not significantly affect the quality of the human environment.

Adoption of the Amendment

Accordingly, § 71.401(b) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 669) is amended, effective December 25, 1980, by amending the Kansas City, Mo., TCA to read as follows:

Subpart K—Terminal Control Areas

§ 71.401 Designation.

* * * * *

(b) Group II, Terminal Control Areas:

* * * * *

Kansas City, Mo., Terminal Control Area

Primary Airport

Kansas City International Airport (lat. 39°18′18″N., long. 94°42′40″W.).

Kansas City VORTAC (lat. 39°16′46″N., long. 94°35′28″W.).

Boundaries—Based on arcs/radius of Kansas City International Airport and radials of Kansas City VORTAC.

Area A. That airspace extending upward from the surface to and including 8,000 feet MSL within a 6-mile radius arc of the Kansas City International Airport, excluding that airspace within a 1-mile radius of Noah's Ark Airport (lat. 39°13′50″N., long. 94°46′15″W.); and that area between the 5-mile radius arc and 6-mile radius arc of Kansas City International Airport, bounded on the south by a line parallel to, and 2 miles north of, the Kansas City International Airport Runway 9 ILS localizer course and on the north by a line parallel to, and 2 miles west of, the Runway 19 ILS localizer.

Area B. That airspace extending upward from 2,400 feet MSL to and including 8,000 feet MSL within a 10-mile radius arc of the Kansas City International Airport, excluding that airspace within Area A, that airspace within a 1½-mile radius arc of Sherman Army Airfield (lat. 39°22′10″N., long. 94°54′45″W.); and that airspace in Area D.

Area C. That airspace extending upward from 3,000 feet MSL to and including 8,000 feet MSL within the following subareas—(1) The area between the 10-mile radius arc and 15-mile radius arc of Kansas City International Airport, bounded on the southeast by a line between lat. 39°08′15″N., long. 94°40′58″W.; and lat. 39°03′05″N, long. 94°41′02″W.; and bounded on the north by the Missouri River; (2) The area between the 10-mile radius arc and the 15-mile radius arc of the Kansas City International Airport, bounded on the west by a line between lat. 39°27′35″N., long. 94°47′18″W.; and lat. 39°32′57″N., long. 94°47′10″W.; and on the east by the 010°T radial of Kansas City VORTAC; and (3) The area between the 10-mile radius arc and the 15-mile radius arc of the Kansas City International Airport, bounded on the north by a line between lat. 39°22′00″N., long. 94°30′35″W.; and lat. 39°22′05″N., long. 94°23′57″W.; and on the south by a line between lat. 39°12′12″N., long. 94°32′01″W.; and lat. 39°13′02″N., long. 94°24′12″W.

Area D. That airspace extending upward from 4,000 feet MSL to and including 8,000 feet MSL within the following subareas—(1) The area bounded by the 15-mile radius arc of the Kansas City International Airport and lines between the points defined by the following coordinates: lat. 39°03′05″N., long. 94°41′02″W.; to lat. 39°08′15″N., long. 94°40′58″W.; to lat. 39°11′30″N., long. 94°37′00″W.; to lat. 39°12′12″N., long. 94°32′30″W.; to lat. 39°13′02″N., long. 94°24′12″W.; (2) The area between the 10-mile radius arc and the 15-mile radius arc of the Kansas City International Airport and including airspace within 1½ miles of Sherman Army Airfield which was excluded from Area B, bounded on the southwest by the Missouri River; and on the northeast by a line between lat. 39°27′35″N., long. 94°47′18″W.; and lat. 39°32′57″N., long. 94°47′10″W.; (3) The area between the 10-mile radius arc and the 15-mile radius arc of the Kansas City International Airport, bounded on the west by the 010°T radial of Kansas City VORTAC and bounded on the south by a line between lat. 39°22′00″N., long. 94°30′35″W.; and lat. 39°22′05″N., long. 94°23′57″W.; (4) The area between the 15-mile radius arc and the 20-mile radius arc of the Kansas City International Airport, bounded on the east by a line between lat. 39°03′05″N., long. 94°41′02″W.; and lat. 38°58′02″N., long. 94°43′32″W.; and bounded on the northwest by the 231°T radial of Kansas City VORTAC; (5) The area between the 15-mile radius arc and the 20-mile radius arc of the Kansas City International Airport, bounded on the south by the Kansas City VORTAC 259°T radial and on the north by the Missouri River; and (6) The area between the 15-mile radius arc and the 20-mile radius arc of the Kansas City International Airport, bounded on the west by a line between lat. 39°32′57″N., long. 94°47′10″W.; and lat. 39°38′10″N., long. 94°47′00″W.; and on the east by the Kansas City VORTAC 010°T radial.

Area E. That airspace extending upward from 5,000 feet MSL to and including 8,000 feet MSL within the following subareas—(1) The area between the 15-mile radius arc and the 20-mile radius arc of the Kansas City International Airport, bounded on the northwest by the 010°T radial of Kansas City VORTAC and on the southwest by a line between lat. 39°03′05″N., long. 94°41′02″W.; and lat. 38°58′02″N., long. 94°43′32″W.; (2) The area between the 15-mile radius arc and the 20-mile radius arc of the Kansas City International Airport, bounded on the southeast by the 231°T radial of Kansas City VORTAC and on the north by the 259°T radial of Kansas City VORTAC; and (3) The area between the 15-mile radius arc and the 20-mile radius arc of the Kansas City International Airport, bounded on the southwest by the Missouri River; and bounded on the northeast by a line between lat. 39°32′57″N., long. 94°47′10″W.; and lat. 39°38′10″N., long. 94°47′00″W.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the regulatory evaluation prepared for this action is contained in the Washington and Regional dockets. A copy of it may be obtained by contacting the person identified above under the caption "For Further Information Contact * * *."

Issued in Washington, D.C. on November 14, 1980.

Charles H. Newpol,

Acting Director, Air Traffic Service.

BILLING CODE 4910-13-M

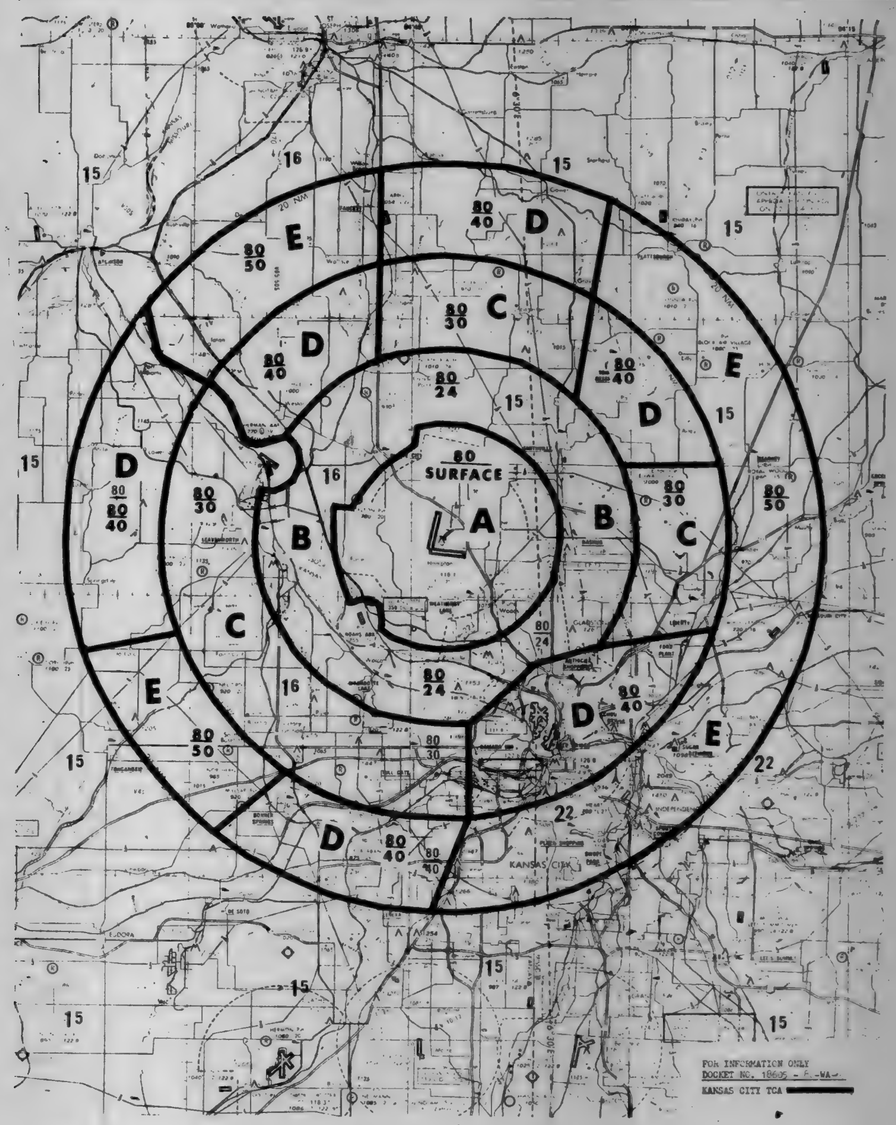

[FR Doc. 80-36146 Filed 11-19-80; 8:45 am]

BILLING CODE 4910-13-C

14 CFR Part 71

[Airspace Docket No. 80-SO-47]

Designation of Transition Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates a transition area at Winchester, VA, to provide controlled airspace for aircraft executing a new instrument approach procedure to Winchester Municipal Airport. This action is necessary to provide adequate airspace for aircraft executing the new instrument approach procedure.

EFFECTIVE DATE: January 22, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Jack Skelly, Airspace and Procedures Branch, ATO-240, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On August 29, 1980, a notice of proposed rulemaking was published in the Federal Register (45 FR 57966) to designate a transition area at Winchester, VA. Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received.

The Rule

This amendment designates a transition area at Winchester, VA, to provide controlled airspace for aircraft executing a new instrument approach procedure to Winchester Municipal Airport. This action is necessary to provide adequate airspace for aircraft executing the new instrument approach procedure.

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the regulatory evaluation prepared for this action is contained in the Washington and Regional dockets. A copy of it may be obtained by contacting the person identified above under the caption "For Further Information Contact * * *."

For Purchase—

Individual SIAP copies may be obtained from:

dates stated as effective dates based on related changes in the National Airspace System or the application of

Lihue, HI—Lihue, VOR/DME or TACAN-A, Amdt. 5
Lihue, HI—Lihue, VOR/DME or TACAN Rwy 21, Amdt. 1
Winchester, VA—Winchester Muni, VOR-A, Original
Winchester, VA—Winchester Muni, VOR-A, Amdt. 4 cancelled

14 CFR Part 71

[Airspace Docket No. 80-SO-47]

Designation of Transition Area, Wadesboro, N.C.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates the Wadesboro, North Carolina, Transition Area. A standard instrument approach procedure, VOR/DME-A, has been developed for the Anson County Airport. Additional controlled airspace is required to protect aircraft executing the approach procedure. The airspace must be designated before the approach procedure can become effective.

EFFECTIVE DATE: 0901 GMT, December 18, 1980.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** on Tuesday, September 2, 1980 (45 FR 58140), which proposed the designation of the Wadesboro, North Carolina, Transition Area. This action adopts the proposal and thereby provides controlled airspace protection for aircraft executing the new standard instrument approach procedure, VOR/DME-A, at the Anson County Airport. The airport operating status is hereby changed from VFR to IFR. No objections were received from the Notice.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (45 FR 445) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, December 18, 1980, by adding the following:

Wadesboro, North Carolina

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Anson County Airport (lat. 35°01'15" N., long. 80°04'45" W.); within 2.5 miles each side of the Sandhills, North Carolina, VORTAC 245° radial, extending from the 6.5-mile radius area to 20 miles southwest of the VORTAC.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on October 31, 1980.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 80-35863 Filed 11-19-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 21021; Amdt. No. 1177]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendant of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance

dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

** * * Effective December 25, 1980*

Huntsville, AL—Huntsville-Madison County Jetport Carl T. Jones Field, VOR-A, Amdt. 9
Montgomery, AL—Dannelly Field, VOR-A, Original
Montgomery, AL—Dannelly Field, VOR Rwy 33, Amdt. 18, cancelled
Galena, AK—Galena, VOR Rwy 25, Amdt. 7
Soldotna, AK—Soldotna, VOR-A, Amdt. 4
Placerville, CA—Placerville, VOR-A, Original
Washington, DC—Dulles Intl, VOR/DME or TACAN Rwy 12, Amdt. 4
Melbourne, FL—Melbourne Regional, VOR Rwy 9, Amdt. 14
Melbourne, FL—Melbourne Regional, VOR Rwy 27, Amdt. 8
Brunswick, GA—Glynco Jetport, VOR/DME-B, Amdt. 3
Honolulu, HI—Honolulu Intl, VOR or TACAN Rwy 8L, Amdt. 15
Honolulu, HI—Honolulu Intl, VOR or TACAN Rwy 8R, Amdt. 2
Lihue, HI—Lihue, VOR or TACAN-B, Amdt. 2
Lihue, HI—Lihue, VOR/DME or TACAN-A, Amdt. 5
Lihue, HI—Lihue, VOR/DME or TACAN Rwy 21, Amdt. 1
Canton, IL—Ingersoll, VOR-A, Amdt. 4
Vandalia, IL—Vandalia Muni, VOR Rwy 18, Amdt. 9
Atchison, KS—Amelia Earhart, VOR/DME-A, Original
Fort Leavenworth, KS—Sherman AAF, VOR-A, Original
Hays, KS—Hays Muni, VOR/DME Rwy 16, Amdt. 1
Detroit, MI—Detroit City, VOR Rwy 33, Amdt. 20
Gaylord, MI—Otsego County, VOR Rwy 9, Amdt. 1
Gaylord, MI—Otsego County, VOR Rwy 27, Amdt. 1
Lambertville, MI—Toledo Suburban, VOR-A, Amdt. 6
Marshall, MN—Marshall Muni-Ryan Field, VOR Rwy 12, Amdt. 4
Marshall, MN—Marshall Muni-Ryan Field, VOR/DME Rwy 30, Original
Columbia, MS—Columbia-Marion County, VOR/DME Rwy 23, Amdt. 2
Hattiesburg, MS—Hattiesburg Muni, VOR Rwy 13, Amdt. 8
Excelsior Springs, MO—Excelsior Springs Memorial, VOR Rwy 19, Original
St. Louis, MO—Lambert-St. Louis Intl, VOR or TACAN Rwy 12L, Amdt. 9
St. Louis, MO—Lambert-St. Louis Intl, VOR or TACAN Rwy 12R, Amdt. 19
Tom River, NJ—Robert J. Miller Air Park, VOR Rwy 24, Amdt. 1
Buffalo, NY—Buffalo Airpark, VOR Rwy 24, Amdt. 4
Endicott, NY—Tri-Cities, VOR-A, Amdt. 3
Sidney, NY—Sidney Muni, VOR Rwy 25, Original
Sidney, NY—Sidney Muni, VOR-A, Original, cancelled
Sidney, NY—Sidney Muni, VOR/DME-B, Amdt. 1
Grand Forks, ND—Grand Forks Intl, VOR Rwy 17, Amdt. 1
Grand Forks, ND—Grand Forks Intl, VOR Rwy 35, Amdt. 1
Grand Forks, ND—Grand Forks Intl, VOR/DME or TACAN Rwy 17, Amdt. 9
Grand Forks, ND—Grand Forks Intl, VOR/DME or TACAN Rwy 35, Amdt. 9
Minot, ND—Minot Intl, VOR Rwy 8, Amdt. 9
Minot, ND—Minot Intl, VOR Rwy 13, Amdt. 9
Minot, ND—Minot Intl, VOR Rwy 26, Amdt. 10
Minot, ND—Minot Intl, VOR Rwy 31, Amdt. 9
Annville, PA—Millard, VOR/DME-A, Original
Bradford, PA—Bradford Regional, VOR Rwy 32, Amdt. 3, cancelled
Rapid City, SD—Rapid City Regional, VOR or TACAN Rwy 32, Amdt. 20
Rapid City, SD—Rapid City Regional, VOR/DME or TACAN Rwy 14, Amdt. 11
Crossville, TN—Crossville Memorial, VOR/DME-A, Amdt. 6
Houston, TX—Houston Intercontinental, VOR/DME Rwy 14, Amdt. 9
Houston, TX—Houston Intercontinental, VOR/DME Rwy 32, Amdt. 8
Lubbock, TX—Lubbock Intl, VOR/DME or TACAN Rwy 26, Amdt. 7
Leesburg, VA—Leesburg Muni/Godfrey/ Field, VOR Rwy 35, Amdt. 4
Winchester, VA—Winchester Muni, VOR-A, Original
Winchester, VA—Winchester Muni, VOR-A, Amdt. 4, cancelled
Winchester, VA—Winchester Muni, VOR/DME-B, Amdt. 1, cancelled
Martinsburg, WV—Eastern WV Regional Airport/Shepherd Field, VOR-A, Amdt. 5

** * * Effective October 30, 1980*

Pembina, ND—Pembina Muni, VOR Rwy 33, Amdt. 1

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

** * * Effective December 25, 1980*

Watsonville, CA—Watsonville Muni, LOC Rwy 1, Amdt. 1
Melbourne, FL—Melbourne Regional, LOC BC Rwy 27, Amdt. 5
Ocala, FL—Ocala Muni (Jim Taylor Field), LOC Rwy 36, Amdt. 1
Honolulu, HI—Honolulu Intl, LDA/DME Rwy 26L, Amdt. 1
Somerset, KY—Somerset-Pulaski, SDF Rwy 4, Original
Patterson, LA—Harry P. Williams Memorial, LOC/DME Rwy 23, Original
Cumberland, MD—Cumberland Muni, LOC/DME Rwy 23, Amdt. 4
Jackson, MS—Hawkins Field, LOC Rwy 16, Original
St. Louis, MO—Lambert-St. Louis Intl, LOC BC Rwy 6, Amdt. 25
St. Louis, MO—Lambert-St. Louis Intl, LDA/DME-A, Original
Grand Forks, ND—Grand Forks Intl, LOC BC Rwy 17, Amdt. 6
Minot, ND—Minot Intl, LOC BC Rwy 13, Amdt. 5
San Juan, PR—Puerto Rico Intl, LOC BC Rwy 25, Amdt. 6, cancelled
Rapid City, SD—Rapid City Regional, LOC/DME BC Rwy 14, Amdt. 8, cancelled
Arcola, TX—Arcola-Houston, LOC/DME Rwy 10, Original, cancelled
Houston, TX—Arcola-Houston, LOC/DME Rwy 10, Original
Martinsburg, WV—Eastern WV Regional Airport/Shepherd Field, LOC BC Rwy 8, Amdt. 1

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

** * * Effective December 25, 1980*

Huntsville, AL—Huntsville-Madison County Jetport Carl T. Jones Field, NDB Rwy 18R, Amdt. 9
Dutch Harbor, AK—Dutch Harbor, NDB/DME-B, Original, cancelled
Unalaska, AK—Unalaska, NDB-A, Original
Unalaska, AK—Unalaska, NDB/DME-B, Original
Watsonville, CA—Watsonville Muni, NDB-B, Original
Melbourne, FL—Melbourne Regional, NDB Rwy 9, Amdt. 9
Sanford FL—Sanford, NDB Rwy 9, Amdt. 9
Brunswick, GA—Glynco Jetport, NDB Rwy 7, Amdt. 5
Honolulu, HI—Honolulu Intl, NDB Rwy 8L, Amdt. 14
Canton, IL—Ingersoll, NDB Rwy 36, Amdt. 1
Denison, IA—Denison Muni, NDB Rwy 30, Amdt. 2

Ida Grove, IA—Ida Grove Muni, NDB Rwy 29, Amdt. 2
Mapleton, IA—Mapleton Muni, NDB Rwy 20, Amdt. 1
Melbourne, FL—Melbourne Regional, ILS Rwy 9, Amdt. 5
Brunswick, GA—Glynco Jetport, ILS Rwy 7, Amdt. 3

** * * Effective December 25, 1980*

Washington, DC—Dulles Intl, RNAV Rwy 12, Amdt. 6

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

14th and Constitution Avenue, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

information contained in the notice of pre-enactment exploration by February 1, 1981. The present regulations:

Ida Grove, IA—Ida Grove Muni, NDB Rwy 29, Amdt. 2
Mapleton, IA—Mapleton Muni, NDB Rwy 20, Amdt. 1
Fort Leavenworth, KS—Sherman AAF, NDB Rwy 33, Original
Junction City, KS—Junction City Muni, NDB–B, Original
Topeka, KS—Forbes Field, NDB Rwy 13, Amdt. 2
Topeka, KS—Forbes Field, NDB Rwy 31, Amdt. 4,
Somerset, KY—Somerset-Pulaski County, NDB Rwy 4, Original
Cumberland, MD—Cumberland Muni, NDB–A, Amdt. 4
Gaylord, MI—Otsego County, NDB Rwy 9, Amdt. 2
Hattiesburg, MS—Hattiesburg Muni, NDB Rwy 13, Amdt. 7
Jackson, MS—Hawkins Field, NDB Rwy 16, Original
Jackson, MS—Hawkins Field, NDB–B Amdt. 12, cancelled
St. Louis, MO—Lambert-St. Louis Intl, NDB Rwy 12R, Amdt. 10
St. Louis, MO—Lambert-St. Louis Intl, NDB Rwy 24, Amdt. 33
Chappell, NE—Chappell Muni, NDB Rwy 30, Original
Imperial, NE—Imperial Muni, NDB Rwy 31, Original
Mocksville, NC—Twin Lakes, NDB Rwy 9, Original
Elk City, OK—Elk City Muni, NDB Rwy 17, Amdt. 2
Coatesville, PA—Chester County G. O. Carlson, NDB Rwy 11, Amdt. 6
Providence, RI—Theodore Francis Green State, NDB Rwy 5R, Amdt. 11
Greenville, SC—Greenville-Downtown, NDB Rwy 36, Amdt. 18
Sumter, SC—Sumter Muni, NDB Rwy 22, Amdt. 1
Sparta, TN—Sparta-White County, NDB Rwy 3, Original
Sparta, TN—Sparta-White County, NDB Rwy 3, Amdt. 2, cancelled
Brownsville, TX—Brownsville Intl, NDB Rwy 13R, Amdt. 10
Bridgewater, VA—Bridgewater Air Park, NDB–A, Amdt. 3
Luray, VA—Luray Caverns, NDB–A, Amdt. 3
Staunton-Waynesboro-Harrisonburg, VA—Shenandoah Valley, NDB Rwy 4, Amdt. 6
Petersburg, WV—Grant County, NDB–A, Amdt. 1
London, OH—Madison County, NDB Rwy 8, Original

** * * Effective October 30, 1980*

St. Paul Island, AK—St. Paul Island, NDB–3 Rwy 36, Amdt. 1

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

** * * Effective December 25, 1980*

Huntsville, AL—Huntsville-Madison County Jetport Carl T. Jones Field, ILS Rwy 18R, Amdt. 14
Huntsville, AL—Huntsville-Madison County Jetport Carl T. Jones Field, ILS Rwy 36L, Amdt. 1
Washington, DC—Dulles Intl, ILS Rwy 12, Amdt. 1
Melbourne, FL—Melbourne Regional, ILS Rwy 9, Amdt. 5
Brunswick, GA—Glynco Jetport, ILS Rwy 7, Amdt. 3
Honolulu, HI—Honolulu Intl, ILS Rwy 4R, Amdt. 7
Honolulu, HI—Honolulu Intl, ILS Rwy 8L, Amdt. 14
Kailua-Kona, HI—Ke-ahole, ILS/DME Rwy 17, Amdt. 5
Topeka, KS—Forbes Field, ILS Rwy 31, Amdt. 4
Detroit, MI—Detroit City, ILS Rwy 33, Amdt. 6
St. Louis, MO—Lambert-St. Louis Intl, ILS Rwy 12R, Amdt. 15
St. Louis, MO—Lambert-St. Louis Intl, ILS Rwy 24, Amdt. 38
St. Louis, MO—Lambert-St. Louis Intl, ILS Rwy 30L, Amdt. 5
Grand Forks, ND—Grand Forks Intl, ILS Rwy 35, Amdt. 5
Minot, ND—Minot Intl, ILS Rwy 31, Amdt. 5
Coatesville, PA—Chester County G. O. Carlson, ILS Rwy 29, Amdt. 1
Coatesville, PA—G. O. Carlson Chester County, MLS Rwy 11, (Interim), Amdt. 1, cancelled
Providence, RI—Theodore Francis Green State, ILS Rwy 5R, Amdt. 9
Greenville, SC—Greenville-Downtown, ILS Rwy 36, Amdt. 23
Rapid City, SD—Rapid City Regional, ILS Rwy 32, Amdt. 11
Brownsville, TX—Brownsville Intl, ILS Rwy 13R, Amdt. 7
Houston, TX—Houston Intercontinental, ILS Rwy 14, Amdt. 6
Houston, TX—Houston Intercontinental, ILS Rwy 32, Amdt. 2
Staunton-Waynesboro-Harrisonburg, VA—Shenandoah Valley, ILS Rwy 4, Amdt. 4
Martinsburg, WV—Eastern WV Regional/Shepherd Field, ILS Rwy 26, Amdt. 1

** * * Effective November 27, 1980*

Chino, CA—Chino, ILS Rwy 26, Original

** * * Effective October 25, 1980*

Covington, KY—Greater Cincinnati Intl, ILS Rwy 18, Amdt. 13
Covington, KY—Greater Cincinnati Intl, ILS Rwy 36, Amdt. 29

5. By Amending § 97.31 RADAR SIAPs identified as follows:

** * * Effective December 25, 1980*

Huntsville, AL—Huntsville-Madison County Jetport-Carl T. Jones Field, RADAR–1, Amdt. 4
Galena, AK—Galena, RADAR–1, Amdt. 5
Honolulu, HI—Honolulu Intl, RADAR–1, Amdt. 12, cancelled
St. Louis, MO—Lambert-St. Louis Intl, RADAR–1, Amdt. 25
Toledo, OH—Toledo Express, RADAR–1, Amdt. 11
Youngstown, OH—Youngstown Muni, RADAR–1, Amdt. 7
Greenville, SC—Greenville-Downtown, RADAR–1, Amdt. 12
Sumter, SC—Sumter Muni, RADAR–1, Amdt. 5

6. By amending § 97.33 RNAV SIAPs identified as follows:

** * * Effective December 25, 1980*

Washington, DC—Dulles Intl, RNAV Rwy 12, Amdt. 6
Washington, DC—Dulles Intl, RNAV Rwy 19R, Amdt. 4
Brunswick, GA—Glynco Jetport, RNAV Rwy 7, Amdt. 1
Brunswick, GA—Glynco Jetport, RNAV Rwy 25, Amdt. 1
Atchinson, KS—Amelia Earhart, RNAV Rwy 16, Original
St. Louis, MO—Lambert-St. Louis Intl, RNAV Rwy 30L, Amdt. 7
Waxhaw, NC—Jaars-Townsend, RNAV Rwy 4, Original
Elk City, OK—Elk City Muni, RNAV Rwy 17, Original
Pawtucket, RI—North Central State, RNAV Rwy 5, Amdt. 1
Arcola, TX—Arcola-Houston, RNAV Rwy 10, Original, cancelled
Arcola, TX—Arcola-Houston, RNAV Rwy 28, Original, cancelled
Dallas, TX—Addison, RNAV Rwy 33, Original
Houston, TX—Arcola-Houston, RNAV Rwy 10, Original
Houston, TX—Arcola-Houston, RNAV Rwy 28, Original
Houston, TX—Houston Intercontinental, RNAV Rwy 14, Amdt. 4, cancelled
Houston, TX—Houston Intercontinental, RNAV Rwy 26, Amdt. 3, cancelled
Houston, TX—Houston Intercontinental, RNAV Rwy 32, Amdt. 5, cancelled
Leesburg, VA—Leesburg Muni/Godfrey/Field, RNAV Rwy 17, Amdt. 6
Winchester VA—Winchester Muni, RNAV Rwy 14, Original, cancelled
Winchester VA—Winchester Muni, RNAV Rwy 14, Original, (FAC IDENT EEY)
Winchester VA—Winchester Muni, RNAV Rwy 32, Original, cancelled
Winchester VA—Winchester Muni, RNAV Rwy 32, Original, (FAC IDENT EEY)

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), §§ 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticpated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on November 7, 1980.

John S. Kern,
Chief, Aircraft Programs Division.

Notes.—The incorporation by reference in the preceding document was approved by the Director of the **Federal Register** on May 12, 1969.

[FR Doc. 80–35861 Filed 11–19–80; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 970

Deep Seabed Mining Regulations Affecting Pre-Enactment Explorers

AGENCY: National Oceanic and Atmospheric Administration, U.S. Department of Commerce.

ACTION: Interim regulations.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) issues regulations to assist the agency in implementing the provisions of the Deep Seabed Hard Mineral Resources Act, Pub. L. 96–283 (the Act), regarding exploration activities of United States citizens who commenced such activities prior to June 28, 1980. NOAA seeks public comment on the regulations.

The Act prohibits any United States citizen from engaging in exploration for deep seabed hard mineral resources without an exploration license. However, the Act exempts from this prohibition United States citizens who commenced exploration before its enactment and allows them to continue exploration without a license under certain circumstances until a final determination is made on their applications for licenses. Determinations on issuance of licenses probably would occur about twenty-seven months from the date of publication of these regulations.

These regulations seek information for NOAA to identify which United States citizens claim to be entitled to the exemption. They also will assist NOAA in carrying out its responsibility to issue emergency orders in the event that such orders are necessary to prevent a significant adverse effect on the environment. Filing notice under these regulations will neither constitute an application for an exploration license nor establish a priority of right to a site.

DATES: 1. The regulations are effective November 20, 1980.

2. Comments must be submitted in writing on or before January 19, 1981.

3. A public hearing concerning these regulations will be held at 9:00 a.m. on December 17, 1980.

ADDRESSES: Comments should be mailed to: Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Page Building 1, Suite 410, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235.

The public hearing will be held at Room 4830, Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Brian J. Hoyle, Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Page Building 1, Suite 410, 2001 Wisconsin Avenue, NW. Washington, D.C. 20235, Telephone: (202) 653–7696.

SUPPLEMENTARY INFORMATION: The regulations seek to provide NOAA with information necessary to implement the provisions of the Deep Seabed Hard Mineral Resources Act, Pub. L. 96–283 (the Act), pertaining to the exploration activities of United States citizens commenced prior to enactment of the Act. Section 101 of the Act prohibits United States citizens from engaging in exploration or commercial recovery for hard mineral resources of the deep seabed without an exploration license or commercial recovery permit. However, the Act exempts from this prohibition those United States citizens who engaged in exploration activities prior to enactment of the Act on June 28, 1980, and who intend to apply under the Act for a license. Such citizens are allowed to continue exploration activities until a final determination is made by NOAA on their license applications, which must be submitted within a reasonable time, as specified by NOAA, after the regulations implementing the application process are promulgated. Because those regulations are not expected to become final until after September 21, 1981, the first applications will not be accepted until sometime thereafter. The Act provides for an application review process that will require approximately fifteen months. This means that exploration activities may take place under the exemption of Section 101(b) of the Act for approximately two years following the date of publication of these regulations.

In the meantime, United States citizens who engaged in exploration prior to enactment of the Act seek a means to demonstrate entitlement to this exemption. Furthermore, NOAA must be prepared to issue emergency orders in the event that their exploration activities create a significant adverse effect on the environment. The information will also assist NOAA in preparing for the reciprocating states regime called for under Section 118 of the Act. In addition, the information attained through these regulations will assist NOAA in developing the general regulations pertaining to the provisions of the Act regarding applications of pre-enactment explorers. Because the draft general regulation must be published during March 1981, NOAA needs the information contained in the notice of pre-enactment exploration by February 1, 1981. The present regulations:

(a) encourage notice to NOAA by February 1, 1981, by United States citizens who engaged in exploration for deep seabed hard mineral resources prior to June 28, 1980, including a general description of those activities;

(b) require notice to NOAA of each future pre-license exploration voyage;

(c) require a report to NOAA of any environmental data acquired on a future exploration voyage;

(d) provide for issuance of emergency orders to implement the environmental protection provision of Section 101(b)(2) of the Act; and

(e) provide for the protection of proprietary information, trade secrets, and confidential commercial or financial information.

Notice under these regulations will not constitute an application for a license or permit and will not establish any priority of right to any site.

Environmental Impact Statement. NOAA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, no environmental impact statement has been prepared. A negative determination is on file with NOAA.

NOAA has considered the types of activities that will be carried out under the statutory exemption. Few have potential for significant adverse impact. The principal activities that will be conducted include exploration voyages using underwater television equipment, side scan sonar, grab-samplers and core-samplers. Other activities, such as at-sea testing of the mining collector, pipe string, and lift system, which may be undertaken before the end of the interim exemption period, have a greater potential for environmental impact. Accordingly, we will be requiring information from explorers which will alert us to any potentially significant adverse effects and also assist our supporting environmental research program. We do not expect, however, given the size and scope of the activities involved and information currently available from NOAA observations during the Deep Ocean Mining Environmental Study, that significant adverse effect is likely to occur.

Classification. NOAA has determined that these regulations are not significant within the meaning of E.O. 12044 and NOAA Directives Manual 21–24. NOAA has determined that a Regulatory Analysis is not needed for these regulations.

Regulatory Flexibility Analysis. NOAA has determined that these

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regulations will not have a significant economic impact on a substantial number of small entities within the meaning of Pub. L. 96–354. Because the persons subject to these regulations are known to be major multinational corporations or subsidaires and affiliates thereof, we do not anticipate any but incidental effects on small businesses. No regulatory flexibility analysis is required for these regulations.

Effective Date. Because NOAA has knowledge that United States citizens have conducted exploration activities in the past and knowledge that they may continue exploration activities under the statutory exemption within the next sixty days, it is in the public interest for these regulations to be made effective immediately to implement promptly NOAA's statutory responsibilities to prevent a significant adverse effect on the environment.

Accordingly, NOAA finds that good cause exists under 5 U.S.C. 553(b) and (d) to waive advance notice and public procedures and to make these regulations effective immediately upon publication in the **Federal Register**. NOAA will, however, afford an opportunity for interested persons to present views and comments as set forth in the "Dates" section of this preamble, before this rule is adopted in final form.

Accordingly, a new 15 CFR Part 970 is promulgated. The text of these regulations follows.

Dated: November 16, 1980.

James P. Walsh,

Acting Administrator, National Oceanic and Atmospheric Administration.

PART 970—DEEP SEABED MINING REGULATIONS AFFECTING PRE-ENACTMENT EXPLORERS

Subparts A—W [Reserved for general seabed mining regulations]

Subpart X—Pre-enactment Exploration

Secs.

970.2401 Definitions.
970.2402 Notice of Pre-enactment Exploration.

Subpart Y—Pre-license Exploration

970.2501 Notice of Pre-license Exploration Voyages.
970.2502 Post Voyage Report.
970.2503 Suspension of Exploration Activities.

Subpart Z—Miscellaneous

970.2601 Additional Information.
970.2602 Confidential Treatment of Information Submitted.

Authority: 30 U.S.C. 1411, 1466

Subpart X—Pre-enactment Exploration

§ 970.2401 Definitions.

As used in Subparts X, Y and Z of this Part, the following terms mean:

(a) "Act" means the Deep Seabed Hard Minerals Resources Act, [Pub. L. 96–283; 94 Stat. 553; 30 U.S.C. 1401 et seq.];

(b) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration, or a designee;

(c) "Controlling interest," for purposes of paragraph (g)(3) of this section, means a direct or indirect legal or beneficial interest in or influence over another person arising through ownership of capital stock, interlocking directorates or officers, contractual relations, or similar means, which substantially affect the independent business behavior of such person;

(d) "Engage in exploration" means:

(1) To cause or authorize exploration to occur, including but not limited to a person's actions as a sponsor, principal, or purchaser of exploration services; or

(2) To conduct exploration on behalf of a person described in paragraph (d)(1);

(e) "Exploration" means—

(1) Any at-sea observation and evaluation activity which has, as its objective, the establishment and documentation of—

(i) The nature, shape, concentration, location, and tenor of a hard mineral resource; and

(ii) The environmental, technical, and other appropriate factors which must be taken into account to achieve commercial recovery; and

(2) The taking from the deep seabed of such quantities of any hard mineral resource as are necessary for the design, fabrication, and testing of equipment which is intended to be used in the commercial recovery and processing of such resource;

(f) "Person" means any United States citizen, any individual, and any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any nation;

(g) "United States citizen" or "citizen" means:

(1) Any individual who is a citizen of the United States;

(2) Any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States; and

(3) Any corporation, partnership, joint venture, association, or other entity (whether organized or existing under the laws of any of the United States or a foreign nation) if the controlling interest in such entity is held by an individual or entity described in paragraph (g)(1) or (g)(2).

§ 970.2402 Notice of Pre-enactment Exploration.

(a) *General.* NOAA encourages any United States citizen who engaged in exploration for deep seabed hard mineral resources before June 28, 1980, to file not later than February 1, 1981, a written notice with the Administrator, in care of: The Director, Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Department of Commerce, Page Building 1, Suite 410, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235. Such notice shall not constitute an application for a license or permit and shall not confer or confirm any priority of right to any site.

(b) *Content of Pre-Enactment Exploration Notice.* If a notice of exploration commenced prior to June 28, 1980, is filed pursuant to paragraph (a) it should be in writing and include the following:

(1) Names, addresses, and telephone numbers of the United States citizens responsible for exploration operations to whom notices and orders are to be delivered;

(2) A description of the citizen or citizens engaging in such exploration including:

(i) Whether the citizen is a natural person, partnership, corporation, joint venture, or other form of association;

(ii) The state of incorporation of state in which the partnership or other business entity is registered;

(iii) The name of registered agent and places of business;

(iv) Certification of essential and non-proprietary provisions in articles of incorporation, charter, or articles of association; and

(v) Membership of the association, partnership, or joint venture, including information about the participation of partners and joint venturers, and/or ownership of stock.

(3) A general description of the exploration activities conducted prior to June 28, 1980, including:

(i) The approximate date that the citizen, or predecessor in interest, commenced exploration activities;

(ii) A general estimate of expenditures made on the exploration program prior to June 28, 1980;

(iii) A statement of whether the citizen intends to file an application for an exploration license pursuant to section 101(b)(1)(A) of the Act after NOAA issues regulations implementing section 103(a) of the Act; and

(iv) A statement of whether the citizen intends to continue to engage in exploration as allowed by section 101(b) of the Act, pending a final determination on his application for an exploration license.

(c) *Exclusion of location information.* The information submitted in the notice of pre-enactment exploration required by this section shall *not* include the location of past or future exploration or prospective mine sites.

Subpart Y—Pre-license Exploration

§ 970.2501 Notice of Pre-license Exploration Voyages.

(a) *General.* Any United States citizen who schedules an exploration voyage to begin after November 20, 1980 shall file written notice with the Administrator which sets out:

(1) The name, address and telephone number of the citizen;

(2) The anticipated date of commencement of the voyage and its planned duration;

(3) The exploration activities to be carried out on the voyage, including a general description of the equipment and methods to be used, and an estimate of the anticipated extent of seabed disturbance and effluent discharge; and

(4) If the U.S. citizen has not filed a notice of pre-enactment exploration in accordance with § 970.2402, the information specified in § 970.2402(b).

(b) *When and Where to File Notice of Future Exploration*

(1) *When.*

(i) Except as allowed in paragraph (b)(2) of this section, the notice required by paragraph (a) of this section must be filed not later than 45 days prior to the date on which the exploration voyage is scheduled to begin.

(ii) With respect to filing of the information referred to in paragraph (a)(4) of this section, the filing dates specified in paragraph (b) of this section shall prevail over the date specified in § 970.2402(a).

(2) *Exception.* If an exploration voyage is scheduled to begin before January 5, 1981, the notice required by paragraph (a) must be filed on or before December 22, 1980.

(3) *Where.* The notice required by paragraph (a) of this section must be filed in writing with the Administrator, at the address specified in § 970.2402(a) of this Part.

§ 970.2502 Post Voyage Report.

Within 30 days of the conclusion of each exploration voyage, the United States citizen engaging in the voyage shall submit to NOAA a report containing any environmental data or information obtained during that voyage.

§ 970.2503 Suspension of Exploration Activities.

(a) The Administrator may issue an emergency order, either in writing or orally with written confirmation, requiring the immediate suspension of exploration activities or any particular exploration activity when, in his judgment, immediate suspension of such activity or activities is necessary to prevent a significant adverse effect on the environment. Upon receipt of notice of the emergency order, the United States citizen engaged in the exploration shall immediately cease the activity that is the subject of the emergency order. During any suspension NOAA will consult with the citizen engaged in the activity suspended concerning appropriate measures to remove the cause of suspension. A suspension may be rescinded at any time by written notice from the Administrator upon presentation of satisfactory evidence by the citizen that the activity will no longer threaten a significant adverse effect on the environment.

Subpart Z—Miscellaneous

§ 970.2601 Additional Information.

Any United States citizen filing notice under § 970.2402 or § 970.2501 of this Part shall provide such additional information as the Administrator may require as necessary and appropriate to implement Section 101 of the Act.

§ 970.2602 Confidential Treatment of Information Submitted.

(a) *Purpose.* This section provides a procedure by which persons submitting information pursuant to this Part may request that certain information not be subject to public disclosure.

(b) *Written requests for confidential treatment.*

(1) Any person who submits any information pursuant to 15 CFR Part 970, which information is considered by him to be a trade secret, or commercial or financial information which is privileged or confidential, may request that the information be afforded confidential treatment.

(2) Requests for confidential treatment of information must be in writing and must be submitted at the time of submission of the information. Information subject to the request must be segregated from information for which confidential treatment is not being requested, and each page (or segregable portion of each page) subject to the request must be clearly marked with the legend "Confidential Treatment Requested." Where this marking proves impracticable, a cover sheet containing the legend must be securely attached to the compilation of information.

(c) *Substantiation of request for confidential treatment.*

(1) Any request for confidential treatment must include a statement of the basis for believing that the information is deserving of confidential treatment which addresses the issues relevant to a determination whether the information is a trade secret, or commercial or financial information which is privileged or confidential.

(2) Issues addressed should include:

(i) The commercial or financial nature of the information;

(ii) The nature of the competitive advantage enjoyed as a result of possession of the information;

(iii) The nature of the competitive harm which would result from public disclosure of the information;

(iv) The extent to which the information has been disseminated to employees and contractors of the person submitting the information;

(v) The extent to which persons other than the person submitting the information possess, or have access to, the same information; and

(vi) The nature of the measures taken to protect the information from disclosure.

(3) No determination as to whether confidential treatment is warranted will be made until a request for disclosure of the information is made pursuant to this section.

(d) *Requests for Disclosure.*

(1) Any request for disclosure of information submitted pursuant to this Part shall be made in accordance with the requirements of 15 CFR Part 903.

(2) Upon receipt of a request for disclosure, the Administrator will determine, in consultation with the NOAA Office of General Counsel, whether confidential treatment is warranted. If the Administrator determines that confidential treatment is not warranted, he will promptly notify the person requesting confidential treatment. Such notice shall be given by telephone, telegraph or express mail. No information subject to the request for confidential treatment will be released until the expiration of 10 calendar days from the date of issuance of such notice. In all other respects, requests for records containing information submitted pursuant to this Part will be handled in accordance with 15 CFR Part 903.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

NGPA and intrastate rollover contracts subject to section 106(b) of the NGPA may not collect State severance taxes in addition to the maximum lawful price

amount of any such taxes borne by him to the section 105 ceiling price under section 110 of the NGPA and under

8, 1976, exceeds the maximum lawful price specified for new natural gas (Subpart B of Part 271) in Table I of § 271.101(a).

Commission held a public hearing on these issues on April 10, 1980 at its offices in Washington, D.C. Eleven

respect to existing, successor and rollover intrastate contracts.

Generally, the sellers challenged the

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM80-21; Order No. 108]

Sales of Natural Gas Made Under the Natural Gas Policy Act of 1978 (Sections 110, 105 and 106(b)) That are Sales of Intrastate Gas

November 14, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: By this rule, the Commission amends its regulations to provide that, for sales of natural gas made under the Natural Gas Policy Act of 1978 that are sales of intrastate gas, the maximum lawful prices provided for under sections 105 and 106(b) of the Act are presumed to compensate sellers for all State severance taxes that were in effect by operation of State law as of November 9, 1978. The regulations are also amended to permit an add-on for increases of State severance taxes brought about by changes made in State law after November 9, 1978. Finally, the regulations have been amended as to the definitions of the terms "contract price" and "price under the terms of the existing contract." These changes are being made after comment on the Proposed Rule noticed January 18, 1980 (45 FR 5747 (Jan. 24, 1980)) under this docket.

EFFECTIVE DATE: The regulations are to apply for deliveries made on or after January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Koves, Office of the General Counsel, Federal Energy Regulatory Commission, Room 4016 G, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8317.

I. Introduction and Background.

On January 18, 1980, the Commission issued a Notice of Proposed Rulemaking in this docket (45 FR 5747, January 24, 1980) in which it gave notice of a proposal to amend the interim regulations under section 110 of the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3320) regarding the treatment of State severance taxes with respect to natural gas subject to section 105(b)(1) of the NGPA (15 U.S.C. 3315). This order amends § 271.1102 to provide that, except in the case of State severance taxes increased by State law enacted after November 9, 1978, sellers under existing and successor intrastate contracts subject to section 105 of the NGPA and intrastate rollover contracts subject to section 106(b) of the NGPA may not collect State severance taxes in addition to the maximum lawful price. These final rules also clarify the definitions of "contract price" and "price under the terms of the existing contract" at § 271.504 of the Commission's regulations.

Section 105 establishes ceiling prices for first sales under "existing intrastate contracts," and is implemented in Subpart E of Part 271 of the commission's regulations (18 CFR 271.501, *et seq.*).[1] Section 271.502(a) of the regulations, which implements section 105(b)(1) of the NGPA, provides that if the "contract price" that was paid on November 9, 1978, (or that would have been paid had deliveries occurred) was equal to or less than $2.06 per MMBtu, then the maximum lawful price is the lower of the section 102 maximum lawful or the "price under the terms of the existing contract" as those terms were in effect on November 9, 1978. Section 271.501(b) of the regulations, which implements section 105(b)(2) of the NGPA, provides that if the contract price that was paid or that would have been paid on November 9, 1978, exceeded $2.06 per MMBtu, the ceiling price is the higher of the contract price on that date escalated by an inflation factor or the section 102 ceiling price. Section 271.504 states that the terms "contract price" and "price under the terms of the existing contract" mean all proceeds paid by the purchaser inclusive of State severance taxes.

Section 110(a)(1) of the NGPA, which is implemented in Subpart K of Part 271 (18 CFR 271.1102), generally provides that the price for a first sale of natural gas shall not be considered to exceed the maximum lawful price applicable to the first sales of such natural gas if the first sale price exceeds the maximum lawful price to the extent necessary to recover State severance taxes attributable to the production of such natural gas and borne by the seller.

In Order No. 68 the Commission examined the question of whether State severance taxes should not be included in the section 105 "contract price" in view of the statement of the Joint Conference Report that "all ceiling prices under this Act are exclusive of State severance taxes borne by the seller." [2] It determined that they should not and stated that the further question "as to whether the seller may add the amount of any such taxes borne by him to the section 105 ceiling price under section 110 of the NGPA and under § 271.1102 of the Commission's regulations" would be addressed in this docket.

In the Notice of Proposed Rulemaking issued in this docket, the Commission tentatively took the view that in most cases it should not extend the provisions of § 271.1102 to section 105(b)(1) because of an essential difference that it perceived between the nature of the section 105(b)(1) ceiling price and other maximum lawful prices in Title I of the NGPA. The Commission noted that, unlike other ceiling rates that are tied to a specific price established by Congress, each ceiling price under section 105(b)(1) is established by referring to the negotiated price contained in the intrastate contract that existed on November 9, 1978. Noting that, "[s]everance taxes are among many costs of providing service that a producer will take into consideration when he negotiates price terms," the Commission then states:

> However, in all cases, we believe it is reasonable to presume that when the seller negotiated the contract, he took into consideration the amount of severance tax for which he was to be liable. The total proceeds to be received under the contract, therefore, are presumably sufficient to repay the seller for all severance taxes he may be obligated to pay. Because the section 105(b)(1) price is based on this consideration, it is our tentative view that no additional allowance under section 110 is necessary to allow the seller to "recover" severance taxes paid by him because the seller is already recovering all such taxes in the proceeds he receives.[3]

The Commission also expressed the tentative view that, to the extent a seller is constrained by section 105(b)(1) from collecting the full "price specified under the terms of his contract," the seller should be allowed to collect State severance taxes under the authority of section 110 in addition to the section 105(b)(1) ceiling price. However, with respect to first sales subject to section 105(b)(1)(A), the Commission proposed the following amendments to § 271.1102:

> (c) Under § 271.502(a) of Subpart E, the price under the terms of the contract (as those terms were in effect on November 8, 1978) is deemed to be sufficient to recover State severance taxes (whether borne by the seller or reimbursed by the buyer). State severance taxes may not be recovered under this section except to the extent the price under the terms were in effect on November 8, 1978, exceeds the maximum lawful price specified for new natural gas (Subpart B of Part 271) in Table I of § 271.101(a).

These amendments were proposed to prevent sellers from collecting any amount representing a recovery of State severance taxes which could be presumed to be recovered in the total proceeds received under the terms of the existing intrastate contract.

The Commission also explained that it viewed (again tentatively) section 105(b)(2) differently from 105(b)(1). Although both sections relate to sales under existing intrastate contracts, the Commission believed that the pricing mechanism of section 105(b)(2) more closely resembles that of other sections of the NGPA. The Commission therefore did not propose any restriction in § 271.1102 respecting the right of the seller to collect State severance taxes in addition to the section 105(b)(2) ceiling price.

The Commission requested specific comments on the proposed rule and any issues arising out of its proposal including whether the prohibition against the collection of State severance taxes should be expanded to include all gas subject to sections 105(b)(1), 105(b)(2), and 106(b) [4] of the NGPA. The Commission also requested comments respecting special treatment for increases in State severance taxes after November 9, 1978, and the general relationship between sections 105, 106(b), and 110.

Written comments were due on or before February 19, 1980. Twenty-four comments were filed.[5] In addition, the Commission held a public hearing on these issues on April 10, 1980 at its offices in Washington, D.C. Eleven persons appeared and presented their views at the hearing.[6]

The final rule provides that the maximum lawful prices prescribed in Subparts E and F are presumed to recover all State severance taxes borne by the seller and levied on the sale by State law enacted on or before November 9, 1978. State severance taxes increased after November 9, 1978, may be collected over and above the applicable maximum lawful price to the extent such reimbursement is necessary. In addition, the definitions of "contract price" and "price under the terms of the contract" have been clarified.

II Summary of Comments.

While the position taken in each comment generally could be categorized according to whether the commenter was a purchaser or a seller, none of the comments supported the Commission's proposed rule or the suggested rationale underlying the rule. Generally, sellers focused on and criticized the Commission's refusal to permit section 110 State severance tax allowances over and above the section 105(b)(1) maximum lawful prices.[7] Purchasers, on the other hand, focused on and criticized the extent to which the proposal would have required payment of State severance taxes even when the contract did not so provide.

A. *The application of section 110 State severance tax allowances with respect to existing, successor and rollover intrastate contracts.*

Generally, the sellers challenged the Commission's authority to preclude a seller from collecting State severance taxes over and above *any* ceiling price, including ceiling prices under section 105(b)(1). They interpreted section 110 to permit reimbursement of State severance taxes over the maximum lawful price, if contractually authorized, with respect to all categories of gas under the NGPA, including section 105 gas. In their view, nothing in the legislative history of the NGPA reveals a Congressional intent to carve out a special exception in the case of sales under section 105. In support of that view, they cited the words of the Joint Conference Report that: "*All* ceiling prices under this Act are exclusive of state severance taxes borne by the seller." [8]

Sellers also argued that equity demands that all intrastate sellers should be treated in the same fashion as interstate sellers and be allowed to collect State severance taxes in addition to the ceiling price. One commenter added that Congress recognized that tax payments detract from funds otherwise available to gas producers for the exploration and development of new reserves. Further, the commenter argued, Congress sought to ensure their recovery in all cases, including section 105 sales, by the addition of section 110(a)(1) allowances.

The qualification in section 110 that the costs must be "borne by the seller" was construed by some sellers as indicating that any time State severance taxes are levied on a sale, the seller has the authority to obtain reimbursement for such taxes over and above the applicable maximum lawful price. In addition, some sellers posited the theory that section 110(a)(1) operates to automatically increase the maximum lawful price itself by the amount of State severance taxes legally incident to the sale.

In summary, sellers held the view that section 110 permits sellers to obtain reimbursement for State severance taxes in any case in which such a tax is imposed over and above any maximum lawful price provided under section 105(b)(1), or any other maximum lawful price. Some insisted that once the maximum lawful price is determined, reimbursement for any State severance tax imposed on the sale is permitted by the NGPA and the contract may be amended to provide for such reimbursement.

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[1] Order No. 68, "Final Regulations Under Sections 105 and 106(b) of the Natural Gas Policy Act of 1978," Docket No. RM80-14 (issued Jan. 18, 1980) 45 FR 5678 (Jan. 24, 1980).

[2] S. Rep. No. 95-1126, 95th Cong., 2d Sess. at 90 (Aug. 16, 1978).

[3] Notice of Proposed Rulemaking, "Proposed Regulations Under Section 110 of the Natural Gas Policy Act of 1978," Docket No. RM80-21 (Jan. 16, 1980) at 4-5, 45 FR 5747, 5748 (Jan. 24, 1980) (footnote omitted).

[4] Section 106(b) deals with first sales under "intrastate rollover contracts." The maximum lawful price under that section is the higher of the maximum price paid under the expired contract in the month in which the rollover occurs as escalated by an inflation factor or $1.00 per MMBtu escalated by an inflation factor from April 20, 1977. Section 106(b) is implemented in Subpart F of Part 271 (18 CFR 271.601, *et seq.*).

[5] The following companies filed comments on or before the due date:

Corpus Christi Oil and Gas Company; Undersigned Producers, *et al.* (Shell Oil Co., *et al.*); Joint Undersigned Companies, *et al.* (Tenneco Oil Co., *et al.*); Champlin Petroleum Company; Northwest Arkansas Producers Group; Transcontinental Gas Pipe Line Corporation; United Texas Transmission Company; Valero Transmission Company; Houston Oil and Minerals Corporation; High Plains Gas Consumers Association; Mesa Petroleum Company; Sun Gas Company; Conecuh-Monroe Counties Gas District, Alabama; Corbin J. Robertson; D. Tongue and Associates, Inc.; Terra Resources, Inc.; Delhi Gas Pipeline Corporation; Southland Royalty Company; Undersigned Producers; and Lone Star Gas Company.

The following companies filed comments after the due date:

The State of Texas; Texas Independent Producers and Royalty Owners Association; The City Public Service Board of San Antonio; and Texaco, Inc.

The Commission considered the late-filed comments in addition to all other comments in view of the fact that the public hearing was not commenced until April 10, 1980.

[6] Texas Independent Producers and Royalty Owners Association; Corpus Christi Oil and Gas Association; Northwest Arkansas Producers Group; Delhi Gas Pipeline Corporation; Lone Star Gas Company; Shell Oil Company; Conecuh-Monroe Counties Gas District of Alabama; Sun Gas Company; Tenneco Oil Company, *et al.*; United Texas Transmission Company; and the Independent Petroleum Association of America. Notice of the hearing was issued February 21, 1980, and required notice of intent to participate to be filed by April 4, 1980. A notice of the list of participants in the hearing was issued April 9, 1980.

[7] Section 110(a)(1) provides:

Sec. 110. Treatment of State Severance Taxes and Certain Production-Related Costs.

(a) *Allowance for State Severance Taxes and Certain Production-Related Costs.* Except as provided in subsection (b), a price for the first sale of natural gas shall not be considered to exceed the maximum lawful price applicable to the first sale of such natural gas under this subtitle if such first sale price exceeds the maximum lawful price to the extent necessary to recover.

(1) State severance taxes attributable to the production of such natural gas and borne by the seller, but only to the extent the amount of such taxes does not exceed the limitation of subsection (b).

The exceptions of subsection (b), relating to certain types of State severance taxes enacted after December 1, 1977, do not concern this rulemaking.

[8] S. Rep. No. 95-1126, 95th Cong., 2d Sess. at 90 (Aug. 16, 1978) (emphasis supplied).

Purchasers also contested the Commission's interpretation of section 110; however, their comments on this issue were more divergent than the sellers. One asserted that there is clearly a distinction between section 105 and other sections of the NGPA that does not justify the application of the section 110 allowances to sections 105 and 106(b) gas. (However, this commenter stated during the public hearing that it had not focused on whether section 110 would permit amendment of contracts to collect State severance taxes, but, instead, on whether the proposed regulations permitted sellers to demand reimbursement for State severance taxes absent specific tax reimbursement authority under the terms of the existing contract.[9]) Another purchaser argued that section 110 applies to all categories of gas including section 105(b)(1) gas, and, therefore any contract may be amended to permit the collection of any State severance tax imposed on the sale. That commenter emphasized, however, that the Commission should not permit the collection of State severance taxes absent specific contractual authority respecting tax reimbursement.

All comments from purchasers concurred with the Commission's observation that, unlike other sections of the NGPA, section 105(b)(1) ceiling prices are based on negotiated prices. However, contrary to the Commission's proposal, they suggested that such difference applies in the case of sections 105(b)(2) and 106(b) as well as section 105(b)(1). Accordingly, they would extend any restrictions applicable to section 105(b)(1) sales relating to collection of State severance taxes to all sales subject to sections 105 and 106(b). Purchasers, therefore did not challenge the Commission's finding that section 110(a)(1) has special application with respect to section 105, but were concerned that the rules applicable to sections 105(b)(1), 105(b)(2) and 106(b) were inconsistent and that the Commission should not permit reimbursement for State severance taxes absent clear contractual authority.

Finally, a seller and a purchaser asserted that the proposed rule unreasonably discriminates against intrastate sellers who were selling at low prices prior to the NGPA. They did not believe there is a valid reason for treating such sellers more harshly than those who were selling at higher prices.

[9] See Transcript of Hearing, "Public Hearing of Proposed Regulations under Sections 110, 105 and 106(b) of the Natural Gas Policy Act of 1978," Docket No. RM80-21, held at Washington, D.C. at 106 (Apr. 10, 1980).

B. *Presumption of recovery of State severance taxes.*

Nearly all of the commenters took issue with the Commission's presumption that the section 105(b)(1)(A) ceiling price already provides for the recovery of all State severance taxes borne by the seller. Sellers asserted that these contract prices were negotiated in an entirely different environment than that created by the passage of the NGPA, in that the parties were free to amend their contracts to respond to changed circumstances. Accordingly, they argued, these contracts were not drafted in such a way as to provide for all possible contingencies. It was assumed that amendments to the contracts could be made if and when circumstances changed. Furthermore, they argued that many of these contracts were negotiated in depressed markets in times of oversupply. Sellers argued that it cannot be presumed that the seller had sufficient bargaining power to obtain a price sufficient to provide reimbursement for all expenses that might arise in the future.

One commenter stated that the Commission's presumption respecting the sufficiency of the contract price to recover taxes is tantamount to writing tax reimbursement provisions into these contracts to which the parties had never agreed. It argued that Congress never intended such a result. It added that, in its view, the Commission's proposal conflicts with the two Congressional goals of section 105: to preserve the sanctity of intrastate contracts, and to eliminate the distinctions between the inter- and intrastate markets.

Purchasers, except in one comment, also suggested that the Commission's presumption was in error. In some situations the proposal would have required a purchaser to pay for State severance taxes in contravention of the terms of the contract or the understandings reached by the parties to the contract. Purchasers criticized the Commission for not focusing on the tax reimbursement terms of the existing intrastate contracts and relying on a presumption concerning the sufficiency of the proceeds to recover taxes. In the opinion of most of these commenters, the question of whether and to what extent tax reimbursements are already included in the proceeds received under section 105 should be resolved by looking to the express terms of the contracts. In particular, purchasers contested the Commission's proposed regulation implementing section 105(b)(1), according to which a seller constrained from collecting his full price under the terms of the existing contract, would be allowed to add-on taxes to the extent so constrained. They argued that the Commission incorrectly applied cost-based reasoning in assuming that the last bit of proceeds received are taxes, and, therefore, should be collected over and above the maximum lawful price. Purchasers also criticized the Commission's failure to restrict tax reimbursement under Section 105(b)(2). They felt that, in cases in which tax reimbursement is not *specifically* authorized by the contract, allowing a tax add-on would cause the terms of the contract to be superseded. Therefore they interpreted the proposal as contravening section 101(b)(9) of the NGPA.[10]

C. *Application of section 110 in the context of specific contractual clauses.*

All commenters asserted that the Commission misperceived how section 110(a)(1) should be applied in the context of specific contractual situations.

The Commission has taken the view that when reimbursements are appropriate the collection of section 110 allowances may be permitted over and above the various ceiling prices under Title I of the NGPA. Some sellers took a different view. They asserted that section 110(a)(1) operates to automatically increase each ceiling price by the full amount of the State severance tax obligation rather than permitting reimbursements over the applicable maximum lawful price. Accordingly, they claimed that the existence of a State severance tax liability automatically increases the ceiling by an amount "equivalent" to the amount of State severance taxes imposed on each respective sale. They concluded two things: First, the Commission is without authority to prohibit collection of State severance tax in any case because each *ceiling price* is increased by the amount of State severance taxes imposed on the sale; and second contractual clauses providing for collection of the highest maximum lawful price and redetermination clauses constitute sufficient contractual authority for the

[10] Section 101(b)(9) provides:

(9) *Effect on Contract Price.* In the case of—

(A) Any price which is established under any contract for the first sale of natural gas and which does not exceed the applicable maximum lawful price under this title, or

(B) Any price which is established under any contract for the first sale of natural gas which is exempted under subtitle B of this title from the application of a maximum lawful price under this title, such maximum lawful price, or such exemption from such a maximum lawful price, shall not supersede or nullify the effectiveness of the price established under such contract.

seller to obtain reimbursement for any State severance tax imposed on the sale.

It is with respect to this latter point that the purchasers particularly differed with the sellers. The purchasers generally argued, contrary to both the seller's and the Commission's proposals, that section 101(b)(9) of the NGPA would not permit collection of reimbursement for taxes absent specific contractual authority. They do not view section 110 as effectively adjusting the maximum lawful price. They view section 110 as permitting, in certain situations, payments over and above the maximum lawful price. Accordingly, a "price" increase provision (such as a redetermination clause) would not be sufficient by itself to authorize the collection of a tax allowance. Purchasers believe that the contract must specifically permit collection of State severance taxes before the seller should be permitted to collect them.

In the case of section 105(b)(2), purchasers interpreted the Commission's proposal to ignore and even contradict the express terms of many contracts. For example, they interpreted the proposed regulation as allowing a full tax add-on to the section 105(b)(2) ceiling price even where, pursuant to an express tax reimbursement provision, the terms of the contract on November 9, 1978, specifically provided that the buyer would not be responsible for state severance taxes. Purchasers believe that such disparate treatment of section 105(b)(2) sales indicated that the Commission failed to apply the same presumption of tax recovery that was applied with respect to section 105(b)(1) gas. They contested the Commission's rationale for different treatment and asserted that all section 105 sales are alike insofar as they are all based on prices negotiated by the parties.

D. *Double and triple recovery of taxes.*

One of the key issues in the comments dealt with the issue of double recovery of taxes. One of the purchasers explained how the Commission's proposal permits a double and even triple recovery of taxes in some cases. For example, if a section 105(b)(2) contract price on November 9, 1978, included 10 cents of tax reimbursement, that 10 cents is a part of the "total proceeds" and, thus, is included in the section 105(b)(2)(A) base ceiling price. The terms of the contract, therefore, provide for the first recovery of tax. The proposal would not prohibit the parties from amending the contract under the authority of § 271.1102, to provide that the seller may collect another 10-cent tax allowance in addition to the section 105 ceiling price. If they amend the contract they have provided a second recovery of the tax. In the event the contract rolls over and becomes subject to section 106(b), the 20 cents of tax reimbursement would be included in the section 106(b)(1)(A)(i) base ceiling rate, and again nothing in the proposal indicates that collection of another 10-cent tax allowance would be prohibited. In all 30 cents would be collected with respect to a 10-cent tax liability.

However, comments from some of the sellers suggested that there should be no question raised as to whether there is a double (or triple) recovery of taxes. In their view, the Commission is without authority to scrutinize the composition of ceiling prices to ascertain if taxes are already being recovered. They argued that Congress mandated in section 110 that an amount equivalent to taxes imposed on the gas could be collected in addition to each ceiling price under Title I without restriction. They also argued that the Commission cannot therefore restrict the amount of taxes collected as an addition to the ceiling price.

E. *Definitions of "contract price" and "price under the terms of the contract."*

Section 271.504 of the Commission's regulations defines "contract price" and "price under the terms of the existing contract" as follows:

(a) *Contract price.* "Contract price," when used with respect to any specific date and contract, means:

(1) The price paid per MMBtu under a contract for deliveries of natural gas occurring on that date; including any State severance taxes which are levied on gas subject to the contract (whether such taxes are borne by the seller or reimbursed by the purchaser).

(2) If no deliveries of natural gas occurred under such contract on that date, the price per MMBtu that would have been paid had such deliveries occurred on that date, including any State severance taxes which would have been levied on gas subject to the contract (whether such taxes would have been borne by the seller or reimbursed by the purchaser).

(b) *Price under the terms of the existing contract.* "Price under the terms of the existing contract" when used with respect to any specific date and contract means the price under the terms of the existing contract, as such contract was in effect on November 9, 1978; including any State severance taxes which are levied on the sale of natural gas subject to the contract (whether such taxes are borne by the seller or reimbursed by the purchaser).

Several commenters argued that the Commission should not have defined the term "price under the terms of the existing contract" to include State severance taxes as part of the total proceeds paid for the gas.[11] In Order No. 68 the Commission determined that it would not define that term in a manner that would require the subtraction of such taxes from the proceeds received in order to establish section 105 ceiling prices. These commenters relied on the already-cited statement in the Joint Conference Report that "[a]ll ceiling prices under this act are exclusive of State severance taxes borne by the seller.[12]

The Commission also received numerous inquiries concerning the definition of these terms in § 271.504. Commenters suggested that, taken literally, these sections may require an amount representing tax reimbursement to be added to the proceeds paid out on date of enactment in all cases, even those in which the contract did not provide for tax reimbursement. Others have expressed confusion as to whether these definitions embody the Commission's "total proceeds" concept or whether they embody the view that the section 105 ceiling prices are deemed sufficient to recover all State severance taxes levied on the sale.

F. *Increased State severance taxes.*

There was little disagreement regarding how the Commission should treat increases in State severance taxes. Generally, the comments agreed that the Commission should permit collection of any increase in State severance taxes so long as the contract authorizes or is amended to authorize such collection. Some commenters did request that the Commission explain how it would treat amendments to contract reimbursement provisions for any increased State severance taxes. Others, mainly purchasers, also reiterated their view that specific "tax" reimbursement contractural authority must be present to collect such increased taxes.

Some questions were raised regarding how the Commission would treat increased State severance taxes when the contract contains increased tax provisions.

G. *Miscellaneous.*

[11] In a petition to rehear Order No. 68 (45 FR 5678, January 24, 1980) Undersigned Producers (Shell Oil Company, *et al.*) asserted this point. The order responding to the petitions for rehearing of Order No. 68, reserved resolution of State severance tax issues, including the one raised here, for consideration in this final rule. Objections to issues resolved in this rule may be raised in petitions to rehear this order.

[12] See text accompanying note 8 *supra*. However, they did agree that the total proceeds should be employed in the case of determining the "contract price" on November 9, 1978, because that term is defined in section 105(c) to be the price "paid" or that would have been paid. They note that "the price under the terms of the existing contract" is not so defined.

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1. *Effective date.* The proposal suggested that the final rule would have an effective date of April 1, 1980. One commenter suggested that the proposed rule would operate as a clarification or interpretation of the NGPA. Such a clarification, the commenter submits, should become effective retroactively as of the date the NGPA became effective.

2. *Price increases under the terms of the contract.* One commenter noted that the preamble to the proposal contained the statement that in the case of a section 105(b)(1) sale "the parties may not increase the price under the terms of the contract," and requested clarification.[13]

III. Discussion.

The Commission has carefully considered all comments received in this docket. It has also carefully reconsidered each of the views it tentatively advanced in the Notice of Proposed Rulemaking issued January 18, 1980, in this docket as well as the decision it made in Order No. 68 to decline to subtract taxes from the total proceeds paid to establish section 105 ceiling prices. For the reasons expressed below, the Commission now believes that, except for increased taxes, its presumption regarding section 105(b)(1) sales should be applied to all first sales subject to section 105 or 106(b).

A. *The Commission's authority under section 110.*

A threshold question raised in the comments concerns the Commission's authority to determine that, in some cases, section 110 does not permit the collection of State severance taxes in addition to the maximum lawful price. The Commission affirms its view that it does have that authority.

Section 110(a)(1) permits the seller to collect State severance taxes in addition to ceiling prices only "to the extent necessary (for the seller) to recover" such taxes. Congress must be presumed to have a purpose for including that qualifying language. Otherwise it could have simply provided that an amount equal to such taxes could be recovered in all cases. Thus, to the extent that taxes are included in a ceiling price, it is not "necessary" to recover such taxes again through an allowance under section 110.[14] Consequently, the Commission believes that this view is not only permitted, it is mandated to prevent double collection of such taxes.

Furthermore, the Commission is not persuaded that section 110 has already operated to automatically increase each individual ceiling rate by an amount "equivalent" to taxes. Section 110(a)(1) is plainly a State severance tax allowance section. It permits tax add-ons, but only once and only to the extent not already included in the applicable ceiling rate.

B. *The presumption of tax reimbursement respecting section 105.*

1. *The Basis of the Presumption.* In its Notice, the Commission expressed the view that, because of the negotiated origin of the section 105(b)(1) ceiling price, it could be presumed that the seller bargained for and obtained a price sufficient to recover State severance taxes the seller is obligated to pay. Accordingly, the Commission found that it was appropriate to generally deem the section 105(b)(1) ceiling price to be "sufficient" to recover all State severance taxes imposed on the sale and precluded a tax add-on in any such case under the authority of section 110.

The Commission affirms this view. However, because of the number of comments that contested the foregoing presumption, the Commission wishes to clarify and expand its rationale.

Unlike other ceiling price sections of the NGPA, the initial starting point of all section 105 ceiling prices is a contract price arrived at by negotiation of the parties. Prior to enactment of the NGPA, the intrastate seller would have had the opportunity to bargain for a rate that would, at a minimum, recoup his day-to-day operating expenses. Usually, a businessman would be in a position to use that opportunity to ensure that, for any sale made by him, all investment and operating expenses would be recouped. To assume for purposes of formulating the regulations that the seller would have accepted a rate *lower* than that required to recoup at least operating expenses, regardless of the specific terms of the contract, conflicts with our notions of how the business world operates.[15] Taxes are one such expense. Therefore, as a matter of practical business acumen, we must presume that total proceeds recoup operating expenses, including taxes, estimated by the seller to exist at the time the contract was executed.

To the extent such out-of-pocket expenses (indeed, any costs) increased after the contract was executed, commenters tell us that the seller always anticipated that he would have the opportunity to bargain for a rate increase to recover such increased outlays. This adds support to the presumption that, as a practical business matter, the seller would have done so rather than operate at a loss. The intrastate seller had the opportunity up to the date of enactment of the NGPA to bargain for, and receive, a rate that would recoup all out of pocket expenses, including State severance taxes. Accordingly, as of November 9, 1978 (the key date for purposes of determining the starting point of all section 105 ceiling rates), the total proceeds paid by the buyer can be presumed to include full reimbursement for taxes levied as of that point in time.

By utilizing the "contract price" as well as the "price under the terms of the existing contract" as of November 9, 1978 to establish section 105 ceiling prices, Congress created a mechanism by which taxes could be included in the section 105 ceiling rates. That mechanism was grounded on recognizing that the parties generated the initial ceiling rates through the process of negotiation. That mechanism for including tax reimbursement in a ceiling rate is not present in other sections such as sections 102 or 103. In those sections, Congress declined to provide a means to channel tax reimbursement into the ceiling rates. It was Congress that established those initial rate levels devoid of tax reimbursement and it was Congress that decided to allow tax reimbursement only under section 110.

2. *The scope of the presumption.* Having concluded that the initial starting point of all section 105 ceiling prices (the contract price on date of enactment) contains full tax reimbursement as of that date, it follows that such tax recovery becomes a permanent and continuing component of the section 105 ceiling rate. That level of tax recovery is frozen into the ceiling rate and can be deemed to be collected as long as the seller is permitted to collect at least that same level of total proceeds.

In all cases under section 105, the tax content of the ceiling rate is established on November 9, 1978 by reason of the negotiated origin of the ceiling rate—the freely negotiated contract price as of the day before that date. All section 105 ceiling rates commence at the level chosen by the parties, regardless of how high or low the starting rate happened to be. Section 105 only operates to temper further additions to that initial base price. It does not eliminate any remuneration already included in that

[13] Notice, note 3 *supra* at 11, 45 FR at 5749.

[14] For an example of the inclusion of taxes in a ceiling price, and the Commission's recognition of this, see § 271.1102(b) respecting the disallowance of taxes already included in the Permian Basin Area Rates.

[15] *See, e.g.,* Transcript of Hearing, note 9 *supra* at 132. The Commission also does not believe that the bargaining power of intrastate producers was so weak prior to enactment of the NGPA that they could not get the buyer to pay a rate at least equal to their out-of-pocket expenses.

base starting-point rate level. Like bricks added to an established foundation, the further rate increases permitted by the various alternative section 105 ceiling rate mechanisms only add to that which is included in the base rate established by the parties as of November 9, 1978. Section 105 accordingly permits the *continued* collection of such amount of State severance tax reimbursement as was included in that original base starting rate on November 9, 1978.

The fact that the full "price under the terms of the existing contract" may be subsequently constrained to the section 102 price level by reason of section 105(b)(1)(B) is not dispositive. The imposition of the alternative section 102 rate only acts to restrict *further* price increases. It cannot take away anything, including tax reimbursement, that was originally included in the base starting rate.

The question is *not* whether the seller is permitted to continue to collect the full price under the terms of the existing contract. Rather, the question is simply whether the seller is permitted to collect at least the same level of total proceeds per MMBtu as he collected on the day before enactment of the NGPA. As long as he continues to collect at least that level of proceeds, it can be presumed that he has recovered the same level of tax liability levied on that date.[16]

The same principle applies to section 105(b)(2). That section, like 105(b)(1), only restrains further increases in the ceiling price, which ceiling price commences at the "contract price" chosen by the parties and which necessarily recovers all existing taxes.

Section 106(b) also falls within the purview of the Commission's assumption. Section 106(b) does not "roll-back" prices to below what they were under the existing intrastate contract in the month of the rollover. That section, like section 105, only adds to the last ceiling rate collected under the expired contract; which rate necessarily included full reimbursement of all taxes imposed by State law in effect as of November 9, 1978.

However, the Commission recognizes that it is not enough to deem all section 105 or 106(b) ceiling rates to be merely "sufficient" to recoup State severance taxes as the Commission did in the case of section 105(b)(1) in its proposed amendment to § 271.1102. Given the level of NGPA rates, all ceiling rates under the NGPA are "sufficient" to recover such taxes. Sufficiency implies only the possibility that they may be actually recovered. Based on the foregoing analysis, the Commission wishes to clarify that, in its opinion, all section 105 and 106(b) ceiling rates are more than just "sufficient" to recover State severance taxes imposed by State law enacted as of November 9, 1978; they actually can be presumed to include a full recovery of such taxes. Accordingly, the Commission has revised proposed § 271.1102(c) to expand its scope to incorporate all section 105 and 106(b) sales and to clarify that such ceiling rates are presumed to include full tax reimbursement for all taxes imposed by State law enacted as of November 9, 1978.

C. *Definitions of "contract price" and "price under the terms of the contract".*

For the reasons discussed above, the Commission continues to rely on the total proceeds concept in defining both "contract price" and "price under the terms of the contract." The "price" under a section 105 contract, whether it is a section 105(b)(1) or (b)(2) contract, only has meaning when set in the context of all reimbursements provided by the purchaser. Therefore the Commission does not accept the distinction in the meaning of the term "price" asserted by commenters, as between "contract price" and "price under the terms of the contract."

In response to confusion regarding whether the definitions embody the total proceeds concept or whether they embody the view that section 105 ceiling prices are deemed sufficient to recover all State severance taxes levied on the sale, the Commission has clarified the definitions. The purpose of those definitions was that the "total proceeds" of the sale are to be used in establishing these prices even if the proceeds include amounts earmarked as "tax reimbursement." Therefore, the definitions have been changed to expressly include the total price paid for delivery of the gas, including any amounts paid which were received as reimbursement for State severance taxes paid by the seller.

D. *Increased taxes.*

The Commission recognizes that the level of tax reimbursement presumed to be contained in the section 105 and 106(b) ceiling rates is dependent on the particular tax rate that was effective as of November 9, 1978. However, in the event of an increase in the tax rate after that date, it cannot be presumed that such increased tax obligation will be recovered. As the commenters have noted, the NGPA altered the context of these sales and now, in many cases, prevents the free renegotiation or amendment of the price of these contracts. Accordingly, the Commission's amendment to § 271.1102(c) will provide that the applicable section 105 or 106(b) ceiling price will not be deemed exceeded if the ceiling price is exceeded by an amount necessary to recover the amount of increase in State severance taxes effected by State law enacted after November 9, 1978.[17]

Reference to the provisions of the contract after November 9, 1978, to establish the extent of recovery of "increased" taxes is not inconsistent with the policy of disregarding the terms of the contract to establish what "existing" taxes were being recovered as of November 9, 1978, and earlier. As discussed above, the November 9, 1978, contract price was the product of negotiations in an unregulated market and tax reimbursement can be presumed. Following enactment of the NGPA no such presumption can be made with respect to additional tax burdens newly imposed by a state.

Since the terms of the contract must be resorted to on and after December 1, 1978 to establish the ceiling rate, it follows that contract provisions may be referred to in order to establish the extent of increased tax reimbursement. Thus, to the extent the seller receives remuneration for increased taxes by the receipt of the section 105 or section 106(b) ceiling rate, then such increased taxes may not be recovered under § 271.1102. It is not "necessary" to recover such taxes again. However, to the extent that those ceiling rates do not include remuneration for the increased taxes, nothing should prevent the parties from amending the contract to provide for full reimbursement of an increased

[16] For example, assume that the contract price on November 8 and 9, 1978, was $1.00 per MMBtu. It is deemed to incorporate 7¢ tax recovery. That ceiling rate ($1.00) is collected until January of 1980 when the seller negotiates a rate increase pursuant to a term of the existing contract, which rate increase is constrained to the section 102 level ($2.358). If a $1.00 ceiling rate can be deemed to recover 7¢ tax liability, then a $2.358 ceiling rate can likewise be deemed to continue to recover that 7¢ liability. In other words, everytime the seller collected the $1.00 in total proceeds, he is deemed to have recovered 7¢ in taxes. Permitting him to collect *more* than $1.00 (in the example—$2.358) cannot remove the presumption that the ceiling rate continues to include 7¢ tax recovery.

[17] There may be specific contract provisions in a section 105 (b)(1)(A) contract that require a purchaser to reimburse the seller for all or a portion of increased taxes. Several commenters, for example, pointed out that their contracts provide that the buyer shall reimburse the seller for 85 percent of increased taxes. In such cases, an additional collection under § 271.1102 of the full increase in tax would not be "necessary" and therefore would not be allowed. In the example just cited, only the 15 percent of the increase not already recovered by the increase in the section 105 (b)(1)(A) ceiling rate would be recoverable and then only if the contract so provided.

tax obligation created by State law enacted after November 9, 1978.

E. *Contractual authorization.*

contract and insist upon contractual rights under state law.

2. *"Price under the terms of the*

Subpart E, Chapter I of Title 18, Code of Federal Regulations, are amended; and

law enacted on or before November 9, 1978.

(2) *Increased taxes.* The price for any

(Wyoming) submitted to the Commission a recommendation, in accordance with § 271.703 of the

recommends that the Frontier Formation be designated as a tight formation. Wyoming references this

tax obligation created by State law enacted after November 9, 1978.

F. *Contractual authorization.*

The Commission has considered the comments of those who argued that, pursuant to section 101(b)(9) of the NGPA, a specific tax reimbursement provision of a contract is required in order to collect a section 110 tax allowance. The Commission disagrees. Section 101(b)(9) only clarifies that ceiling prices do not supersede the rate level provided by a contract. What an intrastate contract provides, however, is in the first instance, up to the parties. In the event of a dispute as to the interpretation of such contracts, the dispute should be resolved in the state courts. Therefore, the rule (respecting new post-December 1, 1978, state severance taxes) is not written to require payments when no such payments are authorized by contract.

Thus, the rule permitting a section 110 add-on for increases in state severance tax rates enacted after November 9, 1978 does not override section 101(b)(9) which preserves existing contractual rights. The parties must agree to the collection of the increased taxes. If, in the view of the parties, the contract does not provide that authorization, then the contract must be amended to provide that authority prior to collection of the section 110 add-on. Nothing in this rule prevents such a consensual amendment.

Consequently, while section 101(b)(9) requires contractual authorization, the Commission shall leave the question of contractual authority to collect increased State severance taxes to the parties.

G. *Miscellaneous.*

1. Effective date. In the absence of Commission guidance prior to issuance of this rule, parties to contracts may have interpreted the regulations as authorizing collections of State severance taxes in circumstances in which this rule prohibits such collection. The Commission does not believe that it would be equitable to insist upon refunds when the seller relied on such interpretation and the contract permitted such collections. Therefore, the Commission will not require a seller to refund State severance taxes collected with respect to deliveries of gas which occurred prior to January 1, 1981, solely by virtue of the fact that the collections violate the regulations issued in this rule. The Commission notes, however, that this conclusion does not effect contractual rights parties may have under the contract. If State severance taxes were collected in violation of the terms of the contract a purchaser may rely on the terms of the contract and insist upon contractual rights under state law.

2. "Price under the terms of the contract". The statement in the preamble to the proposal that under section 105(b)(1) "the parties may not increase the price under the contract as those terms were in effect on November 9, 1978," was not intended to indicate that the price may not increase pursuant to the terms of the contract as they existed on November 9, 1978. Parties may not change the terms of the contract to affect a price increase not permitted by the terms that were in effect on November 9, 1978. Fixed and indefinite price escalator provisions which were in the contract on November 9, 1978, may operate to increase the price pursuant to such terms subject to the section 102 limitation of section 105(b)(1)(B) of the NGPA.

3. Adjustments. Nothing in the rules issued herein prevents any party from filing for an adjustment to the provisions of § 271.1102(c)(i) on the grounds that, by its application, it creates special hardship, inequity, or an unfair distribution of burdens. This may, for example, occur in the situation of a seller who is subject to the constraints of section 105(b)(1) (which contains a section 102 cap), and who cannot collect reimbursement for state severance taxes even though the sales contract so provides because such reimbursement would result in a price above the NGPA ceiling. Or it may occur in the situation of a seller who shows that the presumption of tax recovery contained in the rule does not or should not otherwise apply to his sales. In either case, or in other situations, relief from the provisions of § 271.1102(c)(i) may be required to the extent necessary to permit a seller to recoup state severance taxes borne by him.

IV. Summary of Amendments.

In § 271.504 the definitions of "contract price" and "price under the terms of the existing contract" have been clarified. They include the total price paid per MMBtu for delivery of the gas. The total price includes any amounts which were received as reimbursement from the purchaser for State severance taxes paid by the seller.

Section 271.1102 is amended to provide that the ceilings in Subparts E and F are presumed to recover all State severance taxes, except for any State severance tax increased by State law enacted after November 9, 1978.

(Natural Gas Policy Act of 1978 (15 U.S.C. 3301 *et seq*))

In consideration of the foregoing, §§ 271.504 and 271.1102 of Part 271, Subpart E, Chapter I of Title 18, Code of Federal Regulations, are amended; and issued as final rules, as set forth below to be effective for natural gas delivered on or after January 1, 1981.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 271.504 is amended by revising paragraphs (a) and (b) to read as follows:

§ 271.504 Determination of contract price.

For purposes of this subpart:

(a) *Contract price.* "Contract price," when used with respect to any specific date and contract, means:

(1) The total price paid per MMBtu for delivery of natural gas occurring on that date (including any amounts which were required to be paid as reimbursement from the purchaser for State severance taxes paid by the seller).

(2) If no deliveries of natural gas occurred under such contract on that date, the total price per MMBtu that would have been paid for delivery of natural gas on that date (including any amount which would have been required to be paid as reimbursement from the purchaser for State severance taxes which would have been paid by the seller).

(b) *Price under the terms of the existing contract.* "Price under the terms of the existing contract" when used with respect to any specific date and contract means the total price under the terms of the existing contract, as such contract was in effect on November 9, 1978 (including any amounts which are required to be paid as reimbursement from the purchaser for State severance taxes paid by the seller).

* * * * *

2. Section 271.1102 of the interim regulations is amended in paragraph (a) by changing the phrase "paragraph (b)" to read "paragraphs (b) and (c)," and by adding a new paragraph (c) to read as follows:

§ 271.1102 State severance taxes.

* * * * *

(c)(1) *Existing tax recovery under existing intrastate and intrastate rollover contracts.* Except as provided in paragraph (c)(2) of this section, the maximum lawful prices for first sales of natural gas subject to Subparts E and F of this part (relating to first sales under existing intrastate contracts and intrastate rollover contracts) are presumed to recover all State severance taxes borne by the seller, and attributable to the production of such natural gas, that were imposed by State

law enacted on or before November 9, 1978.

(2) *Increased taxes.* The price for any first sale of natural gas shall not be considered to have exceeded the maximum lawful prices established in Subparts E and F of this part if such price exceeds the maximum lawful price to the extent necessary to recover the amount of increased State severance taxes borne by the seller and attributable to the production of such gas which results from an increase in the severance tax rate by State law enacted after November 9, 1978.

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18 CFR Part 271

[Docket No. RM79-76 (Wyoming-1); Order No. 109]

Ceiling Prices

Issued: November 14, 1980.

AGENCY: The Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions that present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high cost gas subject to an incentive price (18 CFR 271.703). The rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Wyoming Oil and Gas Conservation Commission that the Frontier Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: November 14, 1980.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

On August 5, 1980, the Wyoming Oil and Gas Conservation Commission (Wyoming) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations, that the Frontier Formation in Wyoming be designated as a tight formation in the Commission's regulations. On September 23, 1980, a Notice of Proposed Rulemaking was issued by the Director of the Office of Pipeline and Producer Regulation (OPPR) in Docket RM79-76 (Wyoming-1) (45 FR 66813, October 8, 1980), to determine if Wyoming's recommendation that the Frontier Formation be designated as a tight formation should be adopted. The Director of OPPR issued the notice pursuant to the authority delegated to him by Order No. 97, Docket No. RM80-66, issued on August 1, 1980 (45 FR 53456, August 12, 1980).

Interested persons were given until October 23, 1980, to submit written comments and information concerning Wyoming's recommendation. No party requested a hearing in this matter, and no hearing was held.

II. Discussion

The Commission, on February 20, 1980, issued an Interim Rule in Docket No. RM79-76 establishing procedures for designating tight formations and for qualifying gas wells completed in those formations for the section 107 high-cost gas incentive price. The recommendation filed by Wyoming was submitted under the Interim Rule. The procedures and requirements delineated in the Interim Rule were not significantly changed in the Final Rule issued by the Commission in this docket on August 15, 1980 (Order No. 99). In this rule, the Commission delegated the initial responsibility for identifying potentially qualifying tight formations to each jurisdictional agency. The rule requires jurisdictional agencies to establish procedures and conduct their own investigations to identify tight formations within their jurisdictions that meet the guidelines established by the Commission. The jurisdictional agencies will then submit written recommendations to the Commission that particular formations or portions thereof be designated as tight formations.

On May 14, 1980, Wyoming held a public hearing, in Wyoming Docket No. 65-80, for the purpose of accepting data in support of a nomination designating the Frontier Formation as a tight formation. After study of the data submitted at the hearing, and collection of additional data, Wyoming, on August 5, 1980, filed in Docket No. RM79-76, the first of its tight formation recommendations. Wyoming recommends that the Frontier Formation be designated as a tight formation. Wyoming references this recommendation as a Cause No. 1, Order No. 1. The United States Geological Survey concurs with Wyoming's recommendation.

A. Summary of Wyoming's Recommendation. The Frontier Formation is located in the Moxa Arch area in portions of Sweetwater, Uinta and Lincoln Counties, Wyoming. It extends from Township 15 North through Township 24 North and roughly from Range 110 West to Range 115 West. The vertical limits of the formation are defined by the Hilliard Shale, above, and the Mowry Shale, also known locally as the Aspen Shale, below. It consists of interbedded sands, shales and thin coals and is approximately 500 feet in thickness. The depth to the top of the Frontier Formation ranges from about 11,100 feet to 11,140 feet.

Wyoming's geologic description of the formation is presented as expert testimony received at the May 14, 1980 hearing. It includes discussions of the stratigraphy, structure, lithology and the environment of deposition. Also included is an exhibit containing a series of three photographs taken with a scanning election microscope at various magnifications. It illustrates the pore pattern of the reservoir rock of the Frontier in the Moxa Arch area. Additionally, two exhibits were received containing a listing of 218 wells with brief production histories. They assess the current status of activity in the area.

Wyoming states in its recommendation that the surface casing requirements and cementing requirements of surface casing of wells drilled in the proposed area are in accordance with Wyoming Oil and Conservation Commission General Rule 320. There is no ground water report prepared by the State of Wyoming to indicate any fresh water aquifers in the recommended area. However, Rule 320 assures that the development of this formation will not adversely affect the quality of any undetected fresh water aquifer. The Commission has reviewed Wyoming's submission and has concluded that designation of the recommended formation is not a major Federal action significantly affecting the quality of the human environment because significant impact to potable or potentially potable underground water by development of the Frontier Formation will not occur.

B. Comments. Three parties submitted comments in response to the Notice of Proposed Rulemaking. All commenters

supported the recommendation that the Frontier Formation be designated as a tight formation.

developed by infill drilling prior to the date of recommendation be excluded from the recommendation, if the

IV. Effective Date

The Commission hereby makes the

18 CFR Part 271

[Docket No. RM79-76 (Wyoming-1); Order No. 109]

68, issued on August 1, 1980 (45 FR 53456, August 12, 1980).

varies from horizontal to approximately 35 degrees on the west flank of the

supported the recommendation that the Frontier Formation be designated as a tight formation.

C. Guidelines for Designation. In § 271.703(c)(2)(i) of its regulations, the Commission has established guidelines which a formation must meet to be designated as a tight formation. These are:

(1) The average *in situ* gas permeability throughout the pay section is expected to be 0.1 millidarcy or less;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production in the formation, without stimulation, is not expected to exceed production rates delineated in the table in § 271.703(c)(2)(i)(B) of the regulations,

(3) No well drilled into the recommended formation is expected to produce, without stimulation, more than five barrels of crude oil per day.

In addition, the final regulations require that any formation or portion thereof which has been authorized to be developed by infill drilling prior to the date of recommendation be excluded from the recommendation, if the jurisdictional agency has information which in its judgment indicates that such formation or portion thereof can be developed absent the incentive price for tight formation gas.

A summary of the data submitted by Wyoming confirming that wells completed in the Frontier Formation are expected to meet these guidelines is given below.

The permeability and flow rate data is derived from pressure transient tests performed on 37 wells. Eighty-six percent of the wells are operated by Amoco Production Company (Amoco). Marathon Oil Company (Marathon) is the operator for the remaining 14 percent.

A summary of average permeabilities, average flow rates for gas and oil and average depths is given below:

Data source	Number of data wells	Average			
		Permeability (millidarcy)	Depth (feet)	Gas rate (1,000 ft³/d)	Oil rate (barrels per day)
Amoco Production Co	32	0.0308	11,263	235	0
Marathon Oil Co	5	.0370	11,387	194	0
Weighted average		.0317	11,280	225	

[1] Prestimulation values.

1. Permeability. Testimony received by Wyoming at its public hearing attributes the low permeabilities encountered in the Frontier Formation to the very fine grain nature of the sands. This type of granular structure, coupled with clay diagenesis and cementation, serve to effectively block the pore throats constricting the flow of gas from the reservoir. Pressure transient test data provided by Amoco for 32 wells determined an average *in situ* gas permeability of 0.037 md. It is evident from the above results and the supporting evidence that wells drilled into the Frontier Formation are expected to show an average *in situ* gas permeability of less than 0.1 md.

2. Stabilized Production Rates. Stabilized production rates were calculated from absolute open flow calculations using a ratio of flow equations. The average pre-stimulation flow rate for wells in the Frontier Formation is 225 Mcf/day at an average depth of 11,280 feet. This rate is below the maximum rate of 927 Mcf per/day permitted by § 271.703(c)(2)(i)(B) of the regulations.

3. Oil Production. Wyoming briefly describes a laboratory phase determination study in which gas and liquid samples from two Frontier producing wells were collected. The laboratory test data confirmed that the hydrocarbon liquids in the combined well stream existed as a single phase at reservoir conditions. Thus, there is very little chance that a well completed in the Frontier Formation will produce in excess of 5 barrels of oil per day prior to stimulation.

4. Infill Drilling. No portion of the Frontier Formation was authorized to be developed by infill drilling prior to the date the recommendation was made by Wyoming.

III. Conclusion

The Commission has reviewed Wyoming's recommendation and the comments received in support thereof, and finds that the recommendation complies with the requirements of § 271.703(c)(3) of the regulations, concerning the contents of the recommendation. The Commission concurs with Wyoming's assertion, based on the consideration of the record which Wyoming submitted, that the Frontier Formation meets all the requirements for designation as a tight formation set forth in § 271.703(c)(2)(i), and should be designated as a tight formation.

IV. Effective Date

The Commission hereby makes the amendment to its regulations effective upon the date of issuance of this order. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and therefore, incentive prices should be made available as soon as possible. Therefore, good cause exists to waive the thirty day notice period preceding the effective date of the rule.

(Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301-3432; Administrative Procedure Act, 5 U.S.C. § 553)

For the reasons stated herein, Part 271 of Subchapter I, Title 18, Code of Federal Regulations, is amended as set forth below, and the amendment is issued as a final regulation effective November 14, 1980.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 271.703(d) is amended by adding a new subparagraph (3) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79-76, subindexed as indicated, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

(1) *The Cotton Valley Group in Texas.*

* * * * *

(2) *The Mancos "B" Formation in Colorado.*

* * * * *

(3) *The Frontier Formation in Wyoming.* RM79-76 (Wyoming-1).

(i) *Delineation of Formation.* The Frontier Formation is located in the Moxa Arch area in portions of Sweetwater, Uinta, and Lincoln Counties, Wyoming.

(ii) *Depth.* The top of the Frontier Formation is marked by the Hilliard Shale above, and the bottom of the formation is marked by the Mowry Shale, below. The average depth of the top of the Frontier Formation ranges from approximately 11,100 feet to 11,140 feet.

* * * * *

[FR Doc. 80-36189 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

18 CFR Part 271

[Docket No. RM79-76 (Wyoming-2); Order No. 110]

Ceiling Prices

Issued: Novembr 14, 1980.

AGENCY: The Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions that present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high cost gas subject to an incentive price (18 CFR 271.703). The rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Wyoming Oil and Gas Conservation Commission that the Mesaverde Formation be designated as a tight formation.

EFFECTIVE DATE: November 14, 1980.

FOR FURTHER INFORMATION CONTACT:
Leslie Lawner, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8299.
Victor Zabel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Wasington, D.C. 20426 (202) 357-8559.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1980, the Wyoming Oil and Gas Conservation Commission (Wyoming) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations, that the Mesaverde Formation in Wyoming be designated as a tight formation in the Commission's regulations. On September 23, 1980, a Notice of Proposed Rulemaking was issued by the Director of the Office of Pipeline and Producer Regulation (OPPR) in Docket No. RM79-76 (Wyoming-2) (45 FR 66813, October 8, 1980), to determine if Wyoming's recommendation that the Mesaverde Formation be designated as a tight formation should be adopted. The Director of OPPR issued the notice pursuant to the authority delegated to him by Order No. 97, Docket No. RM80-68, issued on August 1, 1980 (45 FR 53456, August 12, 1980).

Interested persons were given until October 23, 1980 to submit written comments and information concerning Wyoming's recommendation. No party requested a public hearing and no hearing was held.

II. Discussion

The Commission, on February 20, 1980, issued an Interim Rule in Docket No. RM79-76, establishing procedures for designating tight formations and for qualifying gas wells completed in those formations for the section 107 high-cost gas incentive price. The recommendation filed by Wyoming was submitted under the Interim Rule. The procedures and requirements delineated in the Interim Rule were not significantly changed in the Final Rule issued in this docket by the Commission on August 15, 1980 (Order No. 99). In this rule, the Commission delegated the initial responsibility for identifying potentially qualifying tight formations to each jurisdictional agency. The rule requires jurisdictional agencies to establish procedures and conduct their own investigations to identify tight formations within their jurisdictions that meet the guidelines established by the Commission. The jurisdictional agencies will then submit written recommendations to the Commission that particular formations or portions thereof be designated as tight formations.

On June 4, 1980, Wyoming held a public hearing, in Wyoming Docket No. 92-80, for the purpose of accepting data in support of a nomination designating the Mesaverde Formation as a tight formation. After study of the data submitted at the hearing, and collection of additional data, Wyoming, by Cause No. 1, Order No. 2, filed a recommendation on August 7, 1980, in Docket No. RM79-76 that the Mesaverde Formation be designated as a tight formation. The United States Geological Survey concurs with Wyoming's recommendation.

A. Summary of Wyoming's Recommendation. The Mesaverde Formation is located in the Wamsutter Area in portions of Sweetwater and Carbon Counties, Wyoming. It extends from Township 13 North through Township 26 North and roughly from Range 90 West to Range 110 West. It is bounded by the Rock Springs Uplift to the west, the Continental Fault to the north, the Rawlins Uplift to the east, and the Cherokee Ridge to the south. The vertical limits of the formation are defined by the Lewis Shale, above, and the Steele Shale, below. The formation varies from horizontal to approximately 35 degrees on the west flank of the Rawlins Uplift. The producing sandstones in the Mesaverde Formation, which consists of interbedded sands, shales, and coals, possess porosities of 8 to 15 percent, and water saturations of 40 to 60 percent as derived from log analysis. The formation ranges from 2000 to 2500 feet in thickness and the average depth to the top of the Mesaverde Formation is approximately 10,125 feet.

Wyoming's geologic description of the formation is presented as expert testimony received at the June 4, 1980 hearing. It includes discussions on the stratigraphy, structure, lithology and the environment of deposition. Also included is an exhibit containing four photographs taken with a scanning electron microscope at various magnifications, It illustrates the pore pattern of the reservoir rock of the Mesaverde Formation in the Wamsutter area. Additionally, two exhibits were received containing a listing of 528 wells with brief production histories. They assess the current status of activity in the area.

Wyoming states in its recommendation that the surface casing requirements and cementing requirements of surface casing of wells drilled in the proposed area are in accordance with Wyoming Oil and Gas Conservation Commission General Rule 320. There is no ground water report prepared by the State of Wyoming to indicate that there are fresh water aquifers in the recommended area. However, Rule 320 assures that the development of this formation will not affect the quality of any undetected fresh water aquifer. The Commission has reviewed Wyoming's submission and has concluded that the designation of the recommended formation is not a major Federal action significantly affecting the quality of the human environment because significant impact to potable or potentially potable underground water by development of the Mesaverde Formation will not occur.

B. Comments. Three parties submitted comments in response to the Notice of Proposed Rulemaking. The commenters supported the recommendation that the Mesaverde Formation be designated as a tight formation.

C. Guidelines for Designation. In § 271.703(c)(2)(i) of its regulations, the Commission has established guidelines which a formation must meet to be designated as a tight formation. These are:

(1) The average *in situ* gas permeability throughout the pay section is expected to be 0.1 millidarcy or less;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production in the formation, without stimulation, is not expected to exceed production rates delineated in the table in § 271.703(c)(2)(i)(B) of the regulations,

(3) No well drilled into the recommended formation is expected to produce, without stimulation, more than five barrels of crude oil per day.

In addition, the final regulations require that any formation or portion thereof which has been authorized to be developed by infill drilling prior to the date of recommendation be excluded from the recommendation, if the jurisdictional agency has information

IV. Effective Date

The Commission hereby makes the

average depth to the top of the formation is approximately 10,125 feet.

(45 FR 65607, October 3, 1980), to determine if Colorado's recommendation that the Mancos "B"

1980, that it concurs with Colorado's recommendation.

V 45 N020 80 UMI

(1) The average *in situ* gas permeability throughout the pay section is expected to be 0.1 millidarcy or less;

The stabilized production rate, against atmospheric pressure, of wells completed for production in the formation, without stimulation, is not expected to exceed production rates delineated in the table in § 271.703(c)(2)(i)(B) of the regulations; and

(3) No well drilled into the recommended formation is expected to produce, without stimulation, more than five barrels of crude oil per day.

In addition, the final regulations require that any formation or portion thereof which has been authorized to be developed by infill drilling prior to the date of recommendation be excluded from the recommendation, if the jurisdictional agency has information which in its judgment indicates that such formation or portion thereof can be developed absent the incentive price for tight formation gas.

A summary of the data submitted by Wyoming, confirming that wells completed in the Mesaverde Formation are expected to meet these guidelines is given below.

A summary of average permeabilities, average flow rates for gas and oil and average depths is given in the chart set out below:

Data source	Number of data wells	Average			
		Permeability (millidarcy)	Depth (feet)	Gas rate (1,000 ft³/d)	Oil rate (barrels per day)
Amoco Production Co	38	0.0410	10,170	214	
Marathon Oil Co	3	.0180	9,524	190	
Weighted average		.0393	10,125	212	

[1] Prestimulation values.

1. *Permeability.* Testimony received by Wyoming at its public hearing (Wyoming Docket No. 92–80) attributes the low permeabilities encountered in the Mesaverde Formation to the fine to medium grained nature of the sands as well as the presence of authigenic minerals. These minerals, mainly clays, quartz and some carbonates, crystalize, then grow and ultimately form bridges across the pore throats between the grains, reducing the formation permeability significantly. They also fill the pore cavities, effectively reducing the formation porosity. Pressure transient test data provided by Amoco for 38 wells demonstrate an average *in situ* gas permeability of 0.0410 md. Marathon's data from its three wells yielded an average *in situ* gas permeability of 0.018 md. It is evident from the above results and the supporting evidence that wells drilled into the Mesaverde Formation are expected to show average *in situ* gas permeabilities of less than 0.1 md.

2. *Stabilized Production Rate.* Stabilized production rates were calculated from absolute open flow calculations using a ratio of flow equations. Average prestimulation flow rate for the Mesaverde Formation is 212 Mcf/D at an average depth of 10,125 feet. This rate is below the maximum rate of 693 Mcf/day permitted by § 271.703(c)(2)(i)(B) of the regulations.

Wyoming reports that production data from wells completed in certain lands within the recommended area indicate stabilized production rates in excess of the maximum permitted rate. This "excess production" is purportedly due to native fracture systems which are sporadic and of limited areal extents. Wyoming has excluded these lands from its recommendation.

3. *Oil Production.* Wyoming briefly describes a laboratory phase determination study in which gas and liquid samples from five Mesaverde producing wells were collected. The laboratory test data confirmed that the hydrocarbon liquids in the combined well stream existed as a single phase at reservoir conditions. Thus, there is very little chance that a well completed in the Mesaverde Formation will produce in excess of 5 barrels of oil per day prior to stimulation.

4. *Infill Drilling.* No portion of the Mesaverde Formation was authorized to be developed by infill drilling prior to the date the recommendation was made by Wyoming.

III. Conclusion

The Commission has reviewed Wyoming's recommendation and the comments received in support thereof, and finds that the recommendation complies with the requirements of § 271.703(c)(3) of the regulations, concerning the contents of the recommendation. The Commission concurs with Wyoming's assertion, based on the consideration of the record which Wyoming submitted, that the Mesaverde Formation meets all the requirements for designation as a tight formation set forth in § 271.703(c)(2)(i), and should be designated as a tight formation.

IV. Effective Date

The Commission hereby makes the amendment to its regulations effective upon the date of issuance of this order. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and therefore, incentive prices should be made available as soon as possible. Therefore, good cause exists to waive the thirty day notice period preceding the effective date of rule.

(Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3101–3432; Administrative Procedure Act, 5 U.S.C. 553)

For the reasons stated herein, Part 271 of Subchapter I, Title 18, Code of Federal Regulations, is amended as set forth below, effective November 14, 1980.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 271.703(d) is amended by adding a new subparagraph (4) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79–76, subindexed as indicated, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

(1) *The Cotton Valley Group in Texas.*

* * * * *

(2) *Mancos "B" Formation in Colorado.*

* * * * *

(3) *The Frontier Formation in Wyoming.*

* * * * *

(4) *The Mesaverde Formation in Wyoming.* RM79–76 (Wyoming–2).

(i) *Delineation of formation.* The Mesaverde Formation is located in the Wamsutter Area in portions of Sweetwater, and Carbon Counties, Wyoming.

(ii) *Depth.* The top of the Frontier Formation is marked by the Lewis Shale above and the bottom of the formation is marked by the Steele Shale, below. The average depth to the top of the formation is approximately 10,125 feet.

[FR Doc. 80-36190 Filed 11-19-80; 8:45 am]
BILLING CODE 6450-85-M

18 CFR Part 271

[Docket No. RM79–76 (Colorado–2); Order No. 111]

Ceiling Prices

Issued: November 14, 1980.

AGENCY: The Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions that present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high cost gas subject to an incentive price (18 CFR 271.703). The rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Colorado Oil and Gas Conservation Commission that the Mancos "B" Formation be designated as a tight formation under § 271.703(d).

EFFECTIVE DATE: November 14, 1980.

FOR FURTHER INFORMATION CONTACT:

Leslie Lawner, Federal Energy Regulatory Commission, Room 4308B, 825 North Capitol Street, NE, Washington, D.C. 20426 (202) 357–8299.

Victor Zabel, Federal Energy Regulatory Commission, Room 6100C, 825 North Capitol Street, NE, Washington, D.C. 20426 (202) 357–8559.

SUPPLEMENTARY INFORMATION:

I. Background

On August 29, 1980, the Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations, that the Mancos "B" Formation underlying specified lands in Garfield and Rio Blanco Counties, Colorado, be designated as a tight formation in the Commission's regulations. On September 23, 1980, a Notice of Proposed Rulemaking was issued by the Director of the Office of Pipeline and Producer Regulation (OPPR) in Docket RM79–76 (Colorado–2) (45 FR 65607, October 3, 1980), to determine if Colorado's recommendation that the Mancos "B" Formation be designated as a tight formation should be adopted. The Director of OPPR issued the notice pursuant to the authority delegated to him by Order No. 97, Docket No. RM80–68, issued on August 1, 1980 (45 FR 53456, August 12, 1980).

Interested persons were given until October 23, 1980, to submit written comments and information concerning Colorado's recommendation. No party requested a hearing in this matter, and no hearing was held.

II. Discussion

The Commission, on February 20, 1980, issued an Interim Rule in Docket No. RM79–76 establishing a procedure for designating tight formations and for qualifying gas wells completed in those formations for the section 107 high-cost gas incentive price. The procedures and requirements delineated in the Interim Rule were not significantly changed in the Final Rule issued by the Commission in this docket on August 15, 1980 (Order No. 99). In this rule, the Commission delegated the initial responsibility for identifying potentially qualifying tight formations to each jurisdictional agency. The rule requires jurisdictional agencies to establish procedures and conduct their own investigations to identify tight formations within their own jurisdictions that meet the guidelines established by the Commission. The jurisdictional agencies will then submit written recommendations to the Commission that particular formations or portions thereof be designated as tight formations.

On August 29, 1980, Colorado submitted a recommendation that a portion of the Mancos "B" Formation in Colorado be designated as a tight formation, based upon the finding that the recommended formation meets the guidelines specified in § 271.703(c)(2)(i).

The portion of the Mancos "B" Formation which Colorado is recommending for designation as a tight formation is regionally located approximately midway between Grand Junction and Rangely, Colorado, and straddles the Rio Blanco-Garfield County line, from the Utah-Colorado state line east to the Douglas Pass and Baxter Pass Unit areas. The area consists of approximately 195,200 contiguous acres. Of the total acreage, approximately 95.9% of the land is federal land, 4% is fee and the remainder is state land. The United States Geological Survey, Central Region, advised in a letter dated August 28, 1980, that it concurs with Colorado's recommendation.

A. *Comments.* Comments on the proposed rule were received from two parties. The parties expressed support for the recommendation.

B. *Guidelines for Designation.* In § 271.703(c)(2)(i) of the regulations, the Commission has established guidelines which a formation must meet to be designated as a tight formation. These are:

(1) The average *in situ* gas permeability throughout the pay section is expected to be 0.1 millidarcy or less;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production in the formation, without stimulation is not expected to exceed production rates delineated in the table in § 271.703(c)(2)(i)(B) of the regulations;

(3) No well drilled into the recommended formation is expected to produce, without stimulation, more than five barrels of crude oil per day.

In addition, the final regulations require that any formation or portion thereof which has been authorized to be developed by infill drilling prior to the date of recommendation be excluded from the recommendation, if the jurisdictional agency has information which in its judgment indicates that such formation or portion thereof can be developed absent the incentive price for tight formation gas.

Colorado's submission is based on an analysis of geologic, engineering and production data generated from information concerning 56 wells which have penetrated the Mancos "B" Formation within the specified area. Pertinent data are arithmetic averages from the data base wells. These averages are as follows:

(1) The average *in situ* gas permeability throughout the pay section is expected to be .01 millidarcy;

(2) The expected stabilized production rate, against atmospheric pressure, of wells completed for production in the Mancos "B" Formation, without stimulation, is zero; and

(3) No wells drilled into the Mancos "B" Formation are expected to produce crude oil.

Colorado reports in its recommendation that no portion of the recommended formation was authorized to be developed by infill drilling prior to the date the recommendation was made by Colorado.

Colorado's submission also contained a description of the casing design of wells drilled in the specified area. Colorado concluded that the casing design is in conformance with State Rule No. 317, and is sufficient to protect all fresh water aquifers located above the Mancos "B" Formation. Colorado's conclusion is supported by

correspondence from the Colorado Office of the State Engineer, Water Resources Investigation Branch. This information is included in the recommendation to satisfy the requirement found in § 271.703(c)(3)(iv), that the recommendation contain a report of the extent to which existing State and Federal regulations will assure development of the recommended formation will not adversely affect any fresh water aquifers. The Commission has reviewed Colorado's submission and has concluded that the designation of the recommended formation is not a major Federal action significantly affecting the quality of the human environment because significant impact to potable or potentially potable underground water by development of the Mancos "B" Formation will not occur.

III. Conclusion

The Commission has reviewed Colorado's recommedation and the comments received in support thereof, and finds that the recommendation complies with the requirements of § 271.703(c)(3) of the regulations, concerning the contents of the recommendation. The Commission concurs with Colorado's assertion, based on the consideration of the record which Colorado submitted, that the Mancos "B" Formation meets all the requirements for designation as a tight formation set forth in § 271.703(c)(2)(i), and should be designated as a tight formation.

IV. Effective Date

The Commission hereby makes this amendment to its regulations effective upon the date of issuance of this order. The Commission has found that the public interest dictates that new natural gas supplies be developed on an expedited basis, and therefore, incentive prices should be made available as soon as possible. Therefore, good cause exists to waive the thirty day notice period preceding the effective date of the rule.

(Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301–3432 Administrative Procedure Act, 5 U.S.C. § 553)

For the reasons stated herein, Part 271 of Subchapter I, Title 18, Code of Federal Regulations, is amended as set forth below, and the amendment is issued as a final regulation, effective November 14, 1980.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 271.703(d) is amended by adding a new subparagraph (2) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's offical file for Docket No. RM79–76, subindexed as indicated, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

(1) *The Cotton Valley Group in Texas.*

* * * * *

(2) *The Mancos "B" Formation in Colorado.* RM79–76 (Colorado–2).

(i) *Delineation of formation.* The Mancos "B" Formation is located approximately midway between Grand Junction and Rangely, Colorado, and straddles the Rio Blanco-Garfield county line from the Utah-Colorado state line east to the Douglas Pass and Baxter Pass Unit Area, underlying appoximately 195,200 contiguous acres of land in Rio Blanco and Garfield Counties, Colorado.

I(ii) *Depth.* The average depth to the top of the Mancos "B" Formation is approximately 3,475 feet.

[FR Doc. 80–36191 Filed 11–19–80; 8:45 am]

BILLING CODE 6450–85–M

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18 CFR Part 271

[Docket No. RM80–14]

Ceiling Prices; Order Clarifying Order No. 68, Granting in Part and Denying in Part Rehearing of Order No. 68, and Amending Regulations in Subparts E, F, and K

Issued: November 10, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order on rehearing of final rules.

SUMMARY: On January 18, 1980, the Commission issued, as Order No. 68, final regulations for pricing natural gas sold under existing and successor intrastate contracts and intrastate rollover contracts. 45 FR 5678 (Jan. 24, 1980). Petitions to rehear this order were received which raised several issues. In Order 68–A, the Commission responds to most of the issues by amending its regulations to (1) permit a seller of intrastate gas to receive production-related cost add-ons under section 110 of the NGPA for costs not allocated to the seller under the terms of the sales contract as it existed on November 9, 1978 and (2) to remove the regulatory proscription that successor contracts may not provide for an earlier delivery date than provided for under the existing contract. Issues as to the role of State severance taxes on intrastate ceiling prices raised by the petitions are to be dealt with under final rules issued in Docket No. RM80–21.

EFFECTIVE DATE: The regulations are to be effective for deliveries made on or after December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Koves, Office of the General Counsel, Federal Energy Regulatory Commission, Room 4016 G, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8317.

SUPPLEMENTARY INFORMATION:

I. Introduction

On January 18, 1980, the Commission issued final regulations amending Subparts E and F of Part 271 relating to first sales under existing (and successor) intrastate contracts, and intrastate rollover contracts.[1] Several timely petitions for rehearing of those final regulations were filed.[2] Having considered the issues raised in those petitions, the Commission now amends its regulations in Subparts E and F, and in Subpart K (relating to section 110 allowances for certain production-related costs) to permit sellers subject to Subparts E and F to apply for allowances for production-related costs which were not allocated to the seller under the existing intrastate contract. In addition, provisions in the regulations barring modification of a delivery date are rescinded.

II. Specifications of Error and Discussion

A. Contract Modifications That Shift Costs Previously

Allocated to the Seller. The general rules in §§ 271.505(a)(1) and 271.604(a) preclude, after November 9, 1978, the modification of any contract subject to sections 105 or 106(b) of the Natural Gas Policy Act of 1978 (NGPA) that has the effect of shifting to the purchaser any production-related costs that were

[1] Order No. 68, "Final Regulations Under Sections 105 and 106(b) of the Natural Gas Policy Act of 1978", Docket No. RM80–14 (issued Jan. 18, 1980), 45 FR 5678 (Jan. 24, 1980).

[2] Undersigned Producers (Tenneco Oil Company, *et al.*); Union Oil Company of California, *et al.*; Phillips Petroleum Company; Railroad Commission of Texas; Undersigned Producers (Shell Oil Company, *et al.*); Cabot Corporation; and United Texas Transmission Company.

allocated to the seller under the existing intrastate contract. An exception is provided for new purchasers.

Shell, *et al.*, and other assert that the Commission is without authority under the NGPA to preclude modification of terms of intrastate contracts other than those that determine "price." They argue that Title I of the NGPA only restricts prices and, further, that the definitions of a "successor" or "rollover" contract (sections 2(14) and 2(12) of the NGPA) specifically permit changes in any terms of the prior contract. Finally, Tenneco, *et al.*, states that nothing in section 110(a)(2) prevents a purchaser from assuming production-related costs without reducing the price. Accordingly, they argue that the Commission has no authority to prohibit the shifting of production-related costs.

Further, Tenneco, *et al.*, and others contest § 271.505(a)(1) and § 271.604(a) because those sections preclude modifications in which no "shifting" of costs previously allocated to the seller occurs. They contend that nothing should prevent the purchaser from agreeing to pay for new production-related costs, such as compression, if no party to the existing intrastate contract was previously obligated to pay for such compression.

The Commission is still of the opinion that to give proper effect to sections 105 and 106(b), production-related costs that were allocated to the seller under the existing intrastate contract may generally not be shifted to the purchaser. However, the regulations were not intended to imply that a purchaser could not incur the financial burden of undertaking production-related activities that the seller had no obligation to bear under the existing contract.

Petitioners correctly note that the focus of Title I of the NGPA is on prices paid for gas. However, section 110 of that Act demonstrates that Congress recognized and was concerned that any production-related costs reimbursed by the purchaser are part of the price paid by the purchaser to obtain the gas. Rather than determine that all production-related costs must be reimbursed within the constraints of the maximum lawful prices, Congress gave the Commission in section 110 the discretion to determine that certain production-related costs, if borne by the seller, could be reimbursed without exceeding the maximum lawful price.

The section 105 and 106(b) maximum lawful prices may be distinguished from other maximum lawful prices because they are determined by the terms of contracts as they existed on November 9, 1978 (the date of enactment of NGPA), and therefore provide reimbursement for production-related costs borne by the seller according to the terms of contracts. Any production-related costs borne by a purchaser under the terms of a contract are part of the price paid to obtain the gas. No costs borne by the seller under the existing contract may be shifted to the purchaser without increasing the economic burden, or the total price, paid by the purchaser. Accordingly, the Commission believes that when Congress used the terms "contract price" and "price under the terms of the existing contract" in section 105, it did so with the understanding that each such negotiated "price" related to a specific set of obligations allocated between the parties as of November 9, 1978. The price ceilings established under section 105 only have meaning when set in the context of all terms of the existing contract in effect on November 9, 1978. Thus, production-related costs allocated to the seller under the existing intrastate contract may not be shifted to the purchaser, without exceeding the maximum lawful price under section 105.

The general rule that production-related costs allocated to the seller under the existing contract may not be shifted to the purchaser is retained in the regulations with some modification as discussed below. The same general rule respecting intrastate rollover contracts contained in Subpart F of the Commission's regulations has been modified to more closely parallel the rule contained in Subpart E.

The Commission is not convinced by petitioners' assertions that the statutory definitions of "successor" [3] and "rollover contract" [4] permit modifications which alter the distribution of economic burdens under the contract. Sections 2(14) and 2(12) only determine what may be considered a "successor" or "rollover" contract. They do not determine what rate may lawfully be charged under section 105.

[3] Section 2(14) of the NGPA defines "successor to an existing contract" to mean: "any contract, other than a rollover contract, entered into on or after the date of the enactment of this Act, for the first sale of natural gas which was previously subject to an existing contract, whether or not there is an identity of parties or terms with those of such existing contract."

[4] Section 2(12) of the NGPA defines the term "rollover contract" to mean "any contract, entered into on or after the date of the enactment of this Act, for the first sale of natural gas that was previously subject to an existing contract which expired at the end of a fixed term (not including any extension thereof taking effect on or after such date of enactment) specified by the provisions of such existing contract, as such contract was in effect on the date of the enactment of this Act, whether or not there is an identity of parties or terms with those of such existing contract."

B. The Allocation of New Costs. Given the rule that production-related costs allocated to the seller as of November 9, 1978 may not be shifted to the purchaser, the next question that arises (and one with which the petitioners were particularly concerned) is how to treat situations in which entirely new production-related costs are to be incurred. This could occur, for instance, when the gas needs to be processed to a higher quality standard, or subject to more compression before entering the pipeline. Under section 110(a)(2) a seller may recover certain production-related costs in addition to the maximum lawful price without being considered to have exceeded the maximum lawful price. Section 110(a)(2) of the NGPA provides, with exceptions not here relevant, that:

> [A] price for the first sale of natural gas shall not be considered to exceed the maximum lawful price applicable to the first sale of such natural gas under this subtitle if such first sale price exceeds the maximum lawful price to the extent necessary to recover * * * any costs of compressing, gathering, processing, treating, liquefying, or transporting such natural gas, or other similar costs, borne by the seller and allowed for, by rule or order, by the Commission.

In the interim rules of December 1, 1978, that implemented this portion of the NGPA, sales made under sections 105 and 106(b) of the NGPA were expressly excluded from any application procedure for section 110 add-ons.[5] As we expressed it then: "the existing contract provisions reflect the allocation of costs of production as they were contemplated by the parties at the time the contract was negotiated"; to permit an increase for production-related costs, "would have the effect of increasing the total costs borne by the purchaser for acquiring the very same commodity as he was acquiring for a lower price before [the] date of enactment." [6]

On July 25, 1980, the Commission issued Order No. 94 amending those provisions of its interim regulations that deal with the production-related costs of section 110(a)(2).[7] Among the provisions of those regulations not substantively amended was the exclusion of intrastate sales from applications under section 110.[8] In Order No. 94, the Commission stated that, because petitions to rehear

[5] "Natural Gas Policy Act of 1978: Interim Regulations" Docket No. RM79–3 (issued Dec. 1, 1978), 43 FR 56448 (Dec. 1, 1978).

[6] *Id.* at 77–78, 43 FR at 56469.

[7] Order No. 94, "Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act", Docket No. RM80–47 (issued July 25, 1980), 45 FR 53099 (Aug. 11, 1980).

[8] *Id.* at 82, 45 FR at 53115. The exclusion is at 18 CFR § 271.1104(b)(1); prior to Order No. 94, it was codified at 18 CFR 271.1105(b)(1) [1979].

Order No. 68 raised issues concerning the exclusion, and because there was a relationship between the exercise of the

agreements which, on an individualized basis, provide remuneration for the

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effect on November 9, 1978.[11] To the extent the terms of the contract that existed on November 9, 1978, do not

existing intrastate contract, may provide for an earlier date for deliveries than provided for under the existing contract.

type service obligations, the only other factor protecting continuity of intrastate service is the enforcement of the

Order No. 68 raised issues concerning the exclusion, and because there was a relationship between the exercise of the Commission's discretion under section 110 and the pricing of intrastate sales, the proper place to consider the prohibition against intrastate sales applications for section 110 add-ons would be in a Commission order granting or denying rehearing of Order No. 68.[9]

Comments to the interim regulations of December 1, 1978, and petitions to rehear Order No. 68, have asserted that the Commission's regulations excluding intrastate sales from the production-related cost application procedures, together with regulations under Subparts E and F that generally prohibit contract modifications to shift production-related costs to purchasers of intrastate gas, are discriminatory and provide disincentives for sellers to incur costs to upgrade services. According to these petitions, the consequences of both sets of rules would be either degradation in services or early abandonment of wells. To prevent these results, the petitioners suggested that we permit sellers to apply for section 110 add-ons (for production-related costs borne by them) or to eliminate §§ 271.505 and 271.604 and allow contract amendments to permit production-related costs allocated to sellers to be incurred by purchasers.

Other petitioners charged that the exclusion of intrastate gas sales from the section 110 provisions was arbitrary and, in light of existing contracts or allowances, prejudicial. These comments claimed that exclusions violated the intent of section 110 because that section was to apply to all ceiling prices and did not expressly exclude any type of first sale from its provisions. Finally, petitioners also raised the question of how production-related costs which neither party (purchaser or seller) has previously undertaken should be treated.

The key characteristic on which the Commission relied in Order No. 68 was the negotiated nature of section 105 ceiling prices. Unlike other sections under Title I of the NGPA, the section 105 ceiling prices have a direct relationship to individual circumstances of the particular sales transactions to which they apply. As we have found above, the section 105 maximum lawful price is inextricably tied to the production-related costs allocated between the parties to the existing intrastate contract. In section 105, we believe Congress sought to bind the parties to these freely negotiated agreements which, on an individualized basis, provide remuneration for the costs of whatever production-related expenditures the seller has bound himself to incur. Therefore, we believe that it would be inappropriate to permit sellers of natural gas under Subparts E and F of the regulations to apply for production-related costs as add-ons for these types of costs. However, to the extent this rule results in special hardship, inequity or an unfair distribution of burdens, application for an adjustment from its constraints may be made pursuant to section 502(c) of the NGPA under § 271.1106 of the Commission's regulations.

On the other hand, with respect to the incurrence of production-related costs that were not allocated to the seller under the terms of the existing contract, the Commission is convinced that section 110 production-related cost allowances would be appropriate. We reach this conclusion for two reasons. First, to the extent the costs are allowed, the purchaser may be paying more to obtain the gas but he is not obtaining gas of the same value. In other words, he is obtaining more than he bargained for under the existing intrastate contract. Under the production-related cost allowance the difference in the price would represent reimbursement only for the cost of the different service and would not represent reimbursement for any economic burdens allocated to the seller under the contract as it existed on November 9, 1978. To not permit an application for such an allowance would, in effect, prevent parties from responding to changed requirements.

This point raises the second reason for permiting applications for production-related cost allowances for new services. Nothing in the NGPA indicates that Congress intended to prevent, even in the case of section 105 gas, modification of terms of contracts so long as the section 105 maximum lawful price is not violated. In other words, so long as the purchaser pays the same price for the services to which he had a right under the existing intrastate contract, the contract may be amended to provide reimbursement for new services. To permit a seller to recover production-related costs not allocated to him under the existing intrastate contract, the regulations in Subparts E (relating to existing and successor intrastate contracts), F (relating to rollover intrastate contracts) and K (relating to section 110 allowances) have been amended.

In changing the regulations to permit a seller of intrastate gas to apply for new production-related costs, the Commission should be clearly understood as making this change prospective only. A seller will not be permitted to add on costs retroactively to December 1, 1978. There are two reasons for this. First, given the discretionary nature of section 110, the Commission is not required to grant the applied for add-on retroactively. Second, no strong policy exists to do so; rather, a countervailing policy exists not to permit retroactive collection. Since December 1, 1978, the Commission's regulations have permitted no section 110 add-ons for sellers of intrastate gas. Seller and purchaser alike have operated under those regulations. What we do today under this order marks an important change in these regulations, one which neither sellers nor purchasers expected. To permit the application of the new regulations respecting production-related cost add-ons to have retroactive effect would therefore be, in our view, unfair to purchasers and unwarranted.

The amendments in Subparts E and F (§§ 271.505 and 271.604 respectively) prohibit only the shifting of production-related costs that were allocated to the seller under the existing intrastate contract as it existed on November 9, 1978. The regulations never prohibited a purchaser from incurring any costs the seller had no obligation to bear under the existing contract, and they no longer prohibit the seller from applying for an allowance for production-related costs that were not allocated to the seller under the existing intrastate contract.[10] When the applicable maximum lawful price under section 106(b) is determined in reference to the price paid under the expired contract, reimbursement authorized and collected pursuant to Subpart K shall not be included.

To ascertain whether, and to what extent, production-related costs are reimbursed under the sections 105 and 106(b) maximum lawful price the Commission will refer to the terms of the intrastate contract as they existed on November 9, 1978. The Commission will defer to the parties, or when necessary State law, to interpret the contracts. While the matter of contract interpretation is to be left to the parties, the parties cannot ascribe an interpretation to their contract which contradicts or is inconsistent with the terms of the contract as they were in

[9] *Id.* at 39; 45 FR at 53107.

[10] In addition, the citations to the definition of "production-related costs" that appear in §§ 271.505(a) and 271.604(b) have been changed to conform to the modifications of Order No. 94 that place that definition under § 270.102(b)(17).

effect on November 9, 1978.[11] To the extent the terms of the contract that existed on November 9, 1978, do not explicitly or by implication allocate to the seller the burden of undertaking the service, the contract may be amended to provide for reimbursement of the expenses incurred in rendering such service.

To permit those who sell gas under the provisions of sections 105 and 106(b) to apply for production-related costs that were *not* allocated to the seller under the terms of the existing contract (which serves as a basis for the first sale ceiling price) several amendments are made to Subpart K of the Commission's regulations. First, § 271.1104(b)(1) is amended to permit those selling under Subpart E or F of Part 271 (sales made under existing intrastate contracts, and successors and rollovers of such contracts) to make application under Subpart K for production-related costs not allocated to the seller under the existing intrastate contract which was applicable to the gas on November 9, 1978. Because the section (§ 271.1104(b)) would no longer exclude intrastate gas sales from the application process of Subpart K, the title to paragraph (b) is changed.

Second, the provisions of § 271.1105(a) respecting information to be supplied in applications for the determination of production-related costs to be added on are amended. A requirement has been added that, for sales made under Subparts E and F for which an application is made, both seller and purchaser must agree that the production-related costs that are the objects of the application are costs that were not allocated to the seller under the terms of the intrastate contract which was applicable to such gas on November 9, 1978. An attestation to that mutual interpretation must be filed. In addition, a copy of the existing contract (or the expired contract if the sale is a rollover) must be supplied.

Finally, § 271.505(b) is amended by the addition of a new subclause to provide that the prohibitions on modifying contracts contained in § 271.505(a) does not preclude the seller from recovering production-related costs authorized under Subpart K.

C. *Delivery Date—§ 271.505(a)(2).* Section 271.505(a)(2) states that, as a general rule, no successor to an existing intrastate contract or modification executed after November 9, 1978, of an existing intrastate contract, may provide for an earlier date for deliveries than provided for under the existing contract.

Tenneco, *et al.*, asserts that this provision will impair the authority of state commissions to determine intrastate pipeline deliverability; that it would force an intrastate pipeline to curtail; and, that it could prohibit a producer from increasing deliveries from a competitive reservoir.

This was not our intent. The basic purpose of § 271.505(a)(2) was to prevent the back-dating of contracts or delivery schedules to obtain higher rates or otherwise circumvent the Act. It was not to prohibit the parties from prospectively modifying their schedule of deliveries as long as such modification would not otherwise effect a circumvention of the NGPA. However, the Commission believes that this is clear enough from the statute, and, accordingly has deleted paragraph (a)(2) from § 271.505.

D. *The Exception for New Purchasers—§§ 271.505(b) and 271.604(b).* Sections 271.505(b) and 271.604(b) create a limited exception to the general rule in paragraph (a) of each rule by providing that nothing in the general rule prohibits a contract modification to shift production-related costs to a new purchaser in order for that person to take delivery of the gas subject to the intrastate contract. In Order No. 68 we clarified the exception as being limited to only those additional costs necessary for initial hook-up with a new purchaser.[12]

The Railroad Commission of Texas (Railroad Commission) asserts that the Commission erred by limiting the application of §§ 271.505(b) and 271.604(b) to new purchasers and by failing to limit adequately the type of expenses which a new purchaser could agree to pay. The Railroad Commission argues that, in fact, the exception works a discrimination against intrastate purchasers because the existing intrastate market structure includes many fields served by only one intrastate line. In its view, the exception will permit interstate pipelines to displace existing intrastate purchasers which will ultimately increase the cost to consumers. United Texas Transmission Corporation also argued that there is no basis for discriminating between new and old purchasers.

The Commission disagrees. The fundamental purpose of these special rules is to expedite the transfer of deliveries from one purchaser to another with a minimum of disruption in service. With the absence of Natural Gas Act-type service obligations, the only other factor protecting continuity of intrastate service is the enforcement of the contract by the parties. Sections 271.505(b) and 271.604(b) endeavor to provide a mechanism to expedite the transition to a new purchaser so that such service is not interrupted or terminated.

Furthermore, in answer to the claim that these rules effect a discrimination, it is the Commission's view that there is no real discrimination effected against the existing purchaser. These rules only relate to new hook-up costs, costs that an existing purchaser would not be expected to experience. Indeed, these rules eliminate the discrimination against a new purchaser that is inherent in any rule that would proscribe amendments relative to new hook-up costs.

The Commission recognizes that the shifting of any cost arguably violates the ceiling price restrictions of sections 105 and 106(b), but believes that the nature of new hook-up costs in the context of sections 105 and 106(b) first sales permits them to be deemed "new costs" which do not involve the kind of cost "shifting" proscribed by the general rules of §§ 271.505(a) and 271.604(a).

The cost allocations between the seller and the buyer on date of enactment of the NGPA were established in the factual context of a sale to the existing purchaser. To the extent that purchaser remains the same, those existing cost allocations, having become embodied in the ceiling rate restrictions, may not be altered.

However, when a changeover to a new purchaser occurs, that existing factual context in which the original contract was negotiated may change in one important respect. The need for new investments not contemplated by the parties (and, indeed, not even relevant to the original transaction) may arise. These costs would not have been within the scope of the original negotiations. The original parties would be expected to have negotiated only with respect to costs relevant to their sale; not to a future sale involving a different purchaser. None of the subject costs would have been allocated to the seller on date of enactment. In that sense, these costs may be deemed "new" costs. A modification of the existing contract relative to these costs should not be considered to involve a proscribed cost "shift."

But, as we clarified in Order No. 68, these special exemptions in the case of new purchasers are only intended to cover the additional new costs required to effect an initial hook-up with a new purchaser. To the extent that a

[11] *See* Order No. 23, "Amendment and Clarification of the Commission's Interim Regulations, Implementing the Natural Gas Policy Act of 1978 and Regulations Under the Natural Gas Act", Docket No. RM79-22 at 53, (issued Mar. 13, 1979) 44 FR 16895, 16904-905 (Mar. 20, 1979).

[12] Order No. 68, note 4 *supra* at 13, 45 FR at 5680.

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particular aspect of the seller's service obligation is not required to change, then the cost of that unchanged service may not be shifted.[13] Furthermore, the Commission wishes to express a strong caveat that these special exemptive rules are not intended to allow a seller to circumvent section 105 or 106(b) by requiring the new purchaser to incur unnecessary, duplicative costs. Only such additional costs as are physically necessary to hook up to the new purchaser are contemplated by the special exemptions.

E. *Intrastate Rollover Contracts—the definition of a rollover contract in section 2(12).* Cabot Corporation apprehends a problem in Order No. 68 as to whether a new contract or amendment must be entered into to fulfill the requirements of an intrastate "rollover contract" or whether a rollover occurs simply upon the expiration of the prior contract. Cabot also asserts that the Commission, by its interpretation of a rollover, has preempted the possibility of any contract being deemed a "successor" contract.[14] Cabot suggests that the Commission provide that the parties may lengthen the term of the existing contract to prevent a rollover from occurring.

Cabot misapprehends Order No. 68. As we described in that Order, there are two prerequisites to a "rollover" in section 2(12): (a) the previous contract must have expired at the end of a fixed term according to the terms of the contract in effect on date of enactment, *and* (b) a new contract or amendment must be entered into on or after date of enactment.

Thus, a "successor" to an existing intrastate contract as defined in section 2(14) of the NGPA can, in fact, occur. A "successor" includes a contract that fails to meet the first of the two foregoing prerequisites. For example, if the primary term of an existing intrastate contract is due to expire January 1983, a new contract entered into in June of 1979 would be a "successor" contract. The first prerequisite was not met because the previous contract had not expired at the end of its fixed term.

Finally, section 2(12) of the NGPA expressly prohibits any term extension that takes effect on or after date of enactment from affecting the date the "fixed term" of the previous contract is deemed to have "expired." Accordingly, a term extension entered into on or after the date of enactment of the NGPA cannot serve to prevent a rollover from occurring, as Cabot suggests.

Union, *et al.*, seeks clarification of whether a rollover occurs only upon execution of the rollover contract or upon an earlier "effective date" agreed to by the parties. More specifically, Union, *et al.*, raises a case in which the existing intrastate contract expires and is apparently terminated but a "time gap" occurs before a rollover contract is executed. During the interim gap, sales may or may not continue. Union, *et al.*, asserts that the parties should be allowed to retroactively establish the effective date of the rollover contract so that the inflation adjustments provided for in section 106(b) of the NGPA may apply continuously during that gap in order that the income from the sale will not diminish in "real value" terms.

The language at section 106(b)(1)(A) established a maximum lawful price equivalent to "the maximum price paid under the expired contract * * * in the case of the month in which the *effective date* of such rollover contract occurs" (emphasis added), plus, for any month thereafter, an inflation adjustment factor. As argued by Union, section 106(b) does not preclude the possibility that a "rollover contract" may be made retroactively effective, and, therefore, "entered into" prior to the date a formal rollover contract is executed. As the Commission noted in Order No. 68, the date a rollover contract has been "entered into" depends upon various factors. Interpretations regarding individual cases such as that presented by Union may be requested of the General Counsel pursuant to § 1.42 of the Commission's regulations.

F. *The Definition of "Price Under the Terms of the Existing Contract"—§ 271.504(b).* Section 271.504(b) defines the "price under the terms of the existing contract" to include:

> Any State severance taxes which would have been levied on gas subject to the contract (whether such taxes would have been borne by the seller or reimbursed by the purchaser).

Shell, *et al.*, argue that this definition is in direct conflict with section 110(a)(1) insofar as it may prohibit the collection of the difference between the amount of tax reimbursed to the seller under a tax provision of the contract and the total amount of tax levied on the sale. Shell, *et al.*, contends, for various reasons, that the "price under the terms of the existing contract" should be redefined to refer only to the "price" and not the "tax" provisions of the contract. The Commission has also received numerous inquiries concerning the definitions of these terms.

Concurrently with Order No. 68, we issued a notice of proposed rulemaking in Docket No. RM80–21.[15] There we called for comments on the question of the treatment under section 110 of State severance taxes in the case of sales made under sections 105 and 106(b) of the NGPA. All issues raised by Shell, *et al.*, and other inquiries concerning State severance taxes shall be considered when the Commission issues final regulations in Docket No. RM80–21 and will not be resolved here. Upon issuance of the final rule in Docket No. RM80–21, any further objections to the treatment of State severance taxes may be raised in petitions for rehearing of that final rule.

III. Summary of Major Amendments

Sections 271.505 and 271.604 have been amended to prohibit the shifting of production-related costs allocated to the seller under the existing intrastate contract. An exception is provided in both sections for costs necessary for a new purchaser to take delivery of the gas. In addition, those sections and § 271.1104 have been amended to permit a seller to apply under Subpart K of the Commission's regulations for an allowance for production-related costs not allocated to the seller under the intrastate contract. And § 271.1105 has been amended to require that certain information and attestations be supplied when application is made for those costs. Finally, the provision of § 271.505(a)(1) barring successor contracts from providing for an earlier date for deliveries than provided for under the existing contract is removed.

IV. Effective Date

The amendments made by this order relieves restrictions that have been placed on sellers who price their gas under the provisions of sections 105 and 106(b) of the NGPA. Because of this, good cause exists to make these amendments effective at the earliest practicable date. Because the

[13] For example, if the new sale requires the connection of a lateral line to seller's existing gathering system the seller may not shift the cost of its entire gathering system to the new purchaser. The new purchaser may pick up only the additional costs necessitated by the hook-up, *i.e.*, the cost of the lateral line and necessary interconnection facilities.

[14] In doing so, Cabot apparently ignored the following words of Order No. 68: "a rollover can 'occur' even if a contract term extension *which took effect on or after November 9, 1978*, has not yet expired." Order No. 68, note 1 *supra* at 22, 45 FR at 5682 (emphasis supplied). When the italicized words are considered, it is clear that this statement does not eliminate either the requirement that pre-November 9, 1978, term extensions must expire before a rollover may "occur" or the requirement that a new contract or amendment must be entered into to cause a "rollover" to occur.

[15] Notice of Proposed Rulemaking, "Proposed Regulations Under Section 110 of the Natural Gas Policy Act of 1978," Docket No. RM80–21 (issued Jan. 18, 1980) 45 FR 5748 (Jan. 24, 1980).

amendments go to pricing of natural gas under the NGPA, and because such pricing is, as a general matter, adjusted monthly, that date is December 1, 1980. Therefore, the changes set out in this order shall be effective for deliveries of natural gas made on or after December 1, 1980.

(Administrative Procedure Act, 5 U.S.C. § 553, Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301–3432)

In consideration of the foregoing, Subparts E, F and K of Part 271 are amended as final regulations as set forth below, effective for deliveries made on or after December 1, 1980. Except insofar as we have amended the regulations, and reserved for further consideration the issues relating to the treatment of State severance taxes, all other issues raised in the petitions for rehearing are denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 271.505 is revised to read as follows:

§ 271.505 Contract modifications.

(a) *General rule.* Except as provided in paragraph (b) of this section, for purposes of this subpart, no successor to an existing intrastate contract or modification executed after November 9, 1978, of an existing intrastate contract may alter the terms of the existing intrastate contract in a manner which has the effect of requiring the purchaser to bear any production-related costs (as defined in § 270.102(b)(17)) which were allocated to the seller under the existing intrastate contract.

(b) *Exception.* Nothing in paragraph (a) of this section shall preclude a purchaser who was not a party to the existing intrastate contract on November 9, 1978, from agreeing, by modifications of the existing intrastate contract, or otherwise, to bear responsibility and pay for any increase (or portion thereof) in any production-related costs which were allocated to the seller under the existing intrastate contract and incurrence of which is necessary in order for such purchaser to take delivery of the natural gas subject to the existing intrastate contract.

(c) *Costs not allocated to the seller.* Nothing in paragraph (a) of this section shall preclude the seller from applying under the provisions of § 271.1104(b)(1) for the recovery of production-related costs which were not allocated to the seller under the existing intrastate contract if recovery of such costs is authorized by contract.

2. Section 271.604 is revised to read as follows:

§ 271.604 Special rules.

(a) *Maximum lawful price paid under the expired contract.* For purposes of this subpart, the maximum lawful price paid under the expired contract shall not include any costs authorized and collected under the provisions of Subpart K of this Part.

(b) *Production-related costs borne by the purchaser.*

(1) *General rule.* Except as provided in clause (2) of this paragraph, for purposes of this subpart, no intrastate rollover contract may require the purchaser to bear any production-related costs (as defined in § 270.102(b)(17)) which were allocated to the seller under the expired contract.

(2) *Exception.* Nothing in clause (1) of this paragraph shall preclude a purchaser who was not a party to the expired contract on November 9, 1978, from agreeing in the intrastate rollover contract to bear responsibility and pay for any increase (or portion thereof) in any production-related cost which was allocated to the seller under the expired contract, incurrence of which is necessary in order for such purchaser to take delivery of the natural gas subject to the intrastate rollover contract.

(c) *Costs not allocated to the seller.* Nothing in paragraph (b) of this section shall preclude the seller from applying under the provisions of § 271.1104(b)(1) for the recovery of production-related costs which were not allocated to the seller under the expired contract.

3. Section 271.1104 is amended by revising the title of paragraph (b) and the text of paragraph (b)(1) to read as follows:

§ 271.1104 Production-related costs.

* * * * *

(b) *Special rules for certain intrastate contract gas, intrastate rollover gas and certain Alaskan gas.* (1) *Certain intrastate contract gas and intrastate rollover gas.* If the only maximum lawful price applicable to a sale of natural gas is determined under Subpart E or F of this part (relating to sales made under existing intrastate contracts and successors and rollovers of such contracts), then production-related costs may not be recovered under this subpart unless such costs were not allocated to the seller under the existing intrastate contract which was applicable to such gas on November 9, 1978.

* * * * *

4. Section 271.1105 is amended in paragraph (a) by deleting the word "and" that occurs at the end of subparagraph (5); by deleting the period at the end of subparagraph (6) and inserting in lieu thereof "; and" and by adding a new subparagraph (7) after subparagraph (6) to read as follows:

§ 271.1105 Procedures for determinations and collections.

(a) *Applications.* * * *

(7) In the case of an application made under § 271.1104(b)(1), a copy of the existing intrastate contract which was applicable to such gas on November 9, 1978, and an attestation, signed by both seller and purchaser, that it is their mutual interpretation that the costs for which application is made were not allocated to the seller under the existing intrastate contract (if the sale to which the cost is to be added is made under Subpart E), or were not allocated to the seller under the expired contract (if the sale to which the cost is to be added is made under Subpart F), as of November 9, 1978.

[FR Doc. 80-36188 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

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18 CFR Part 282

[Docket No. RM80–75]

Interim Rule Amending § 282.202(a) of the Commission's Regulations Under the Natural Gas Policy Act of 1978; Order Granting Partial Stay

Issued October 23, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order granting rehearing for purposes of further consideration and granting partial stay.

SUMMARY: On October 6, 1980, (45 FR 67276, October 9, 1980) the Federal Energy Regulatory Commission (Commission) issued an interim rule in this docket providing that only those uses of natural gas certified by the Secretary of Agriculture as "essential agricultural uses" on or before October 15, 1979, shall be considered "agricultural uses" of natural gas for purposes of incremental pricing. On October 9, 1980, an application for immediate stay and an application for rehearing of the interim rule were filed. The Commission grants a partial stay of the rule and grants rehearing of the interim rule for purposes of further consideration.

DATE: The stay is granted to those users of natural gas who filed affidavits for exemptions as "agricultural uses" prior to October 6, 1980.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Office of the General Counsel, (202) 357–8033.

The Commission does not believe that any procedural or substantive argument raised by Petitioners compels a stay of

this rule. Nevertheless, in consideration of Petitioners' showing of regulatory

Executive Orders 11988. *Floodplain Management* and 11990, *Protection of*

Comments

On Thursday, July 17, 1980, the

Rule Promulgation

§ 725.2 Policy.

It is the policy of the Council to

These procedures apply to Level A and B regional or river basin planning

this rule. Nevertheless, in consideration of Petitioners' showing of regulatory reliance and possible irreparable harm, and in order to provide petitioners the fullest opportunity to demonstrate their claims to the Commission before they incur any irreparable liability, the Commission will grant a stay of the rule. Such stay will be applicable, however, only to those users of natural gas who filed affidavits for exemptions as "agricultural users" prior to the date the rule was issued, inasmuch as they are the only users for whom a showing of regulatory reliance has been made.

The Commission will also grant Petitioners' application for rehearing of the interim rule in this docket, solely for purposes of further consideration.

The Commission notes that an opportunity for an oral presentation on this matter has been made available to petitioners and other interested parties. This opportunity is scheduled for 10:00 a.m. on October 28, 1980, at the Commission's offices in Washington, D.C. Written comments are also sought and should be filed with the Secretary of the Commission by November 7, 1980.[3]

The Commission orders:

(1) Petitioners' application for stay is granted to the extent set forth above until such time as the Commission acts otherwise.

(2) Petitioners' application for rehearing is granted solely for purposes of further consideration.

(3) All written comments or oral hearings scheduled in this or any other docket as a result of issuance of the interim rule shall not be affected by the stay and shall take place as previously scheduled.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-35284 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[3] These dates have been previously noticed by the Interim Rule issued October 6, 1980 (45 FR 67276, October 9, 1980).

WATER RESOURCES COUNCIL

18 CFR Part 725

Implementation of Executive Orders 11988, Floodplain Management, and 11990, Protection of Wetlands; Water Resources Planning Assistance Activities

AGENCY: U.S. Water Resources Council.

ACTION: Final rules.

SUMMARY: The Water Resources Council publishes rules for implementation of Executive Orders 11988, *Floodplain Management* and 11990, *Protection of Wetlands*. These rules are applicable to the water resources planning assistance activities that the Council performs pursuant to the Water Resources Planning Act of 1965 (42 U.S.C. 1962 et seq.).

DATE: These regulations are effective December 22, 1980.

FOR FURTHER INFORMATION CONTACT: Timothy E. Maywalt, U.S. Water Resources Council, 2120 L Street, NW., Washington, D.C. 20037. Telephone 202/254-6453.

SUPPLEMENTARY INFORMATION:

Authority

Section 2(d) of E.O. 11988 and Section 6 of E.O. 11990 direct the Council to issue procedures implementing their provisions.

The Water Resources Planning Act of 1965 authorizes the Council to:

Make such rules and regulations as it may deem necessary or appropriate for carrying out those provisions of this Act which are administered by it (42 U.S.C. 1962d-1).

Section 102(2)(B) of the National Enviromental Policy Act of 1969 requires Federal agencies to "identify and develop methods and procedures * * * which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations." (42 U.S.C. 4332) This requirement for Federal agencies is also included in the Council on Environmental Quality's Regulations Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR 1507(b)).

Background

The Supplementary Information section of the proposed rules (45 FR 47866), includes detailed information on the manner in which these Executive Orders affect Council activities. Except for the following change, we refer you to the proposed rules' Supplementary Information section for additional background. In explaining the steps that the Council has previously taken to implement these Executive Orders for its Title III grants, the background to the proposed rule stated the intent to update initial guidance put into effect in October of 1977. Such updating has taken place in (1) proposed program guidelines for State Water Management Planning (45 FR 48800) and (2) Final Program Guidelines for State Water Management Planning (45 FR 72006).

Comments

On Thursday, July 17, 1980, the Council proposed rules for implementing E.O. 11988 and E.O. 11990 (45 FR 47866-47869). Comments were due by September 15, 1980. Four comments were received from outside the agency. All were generally or specifically in support of the procedures. Comments from the State of Nebraska Natural Resource Commission noted that the procedures reflect a "strong view of continuity between existing programs and the newer comprehensive considerations of floodplain management and wetlands protection." Comments from the State of California Department of Water Resources encourage definition of criteria for determining natural floodplain and wetland values, and definition of the scope and time frame for restoration of such values. Each of these issues is addressed in the Council's Floodplain Management Guidelines (43 FR 6030), which is made a part of the rule by reference at Section 725.7(b). Comments from the State of Missouri Department of Conservation raise the issue of the scope of WRC's activities that are covered under these Executive Orders. Their comments point out that activities such as direct construction, licensing and regulating are addressed in some of the plans prepared using Council financial assistance (Level C plans), but the Council's rules do not address them. Section 725.3 of the rule notes that they do not apply to site specific Level C planning carried out by individual agencies. Each federal agency must use its own procedures promulgated under these Orders for such Level C planning. Comments from the Great Lakes Basin Commission (GLBC) requested that the Council develop a single document or "roadmap" that might better integrate the processing requirements of NEPA, the Floodplain/Wetland Executive Orders, and cultural/historic preservation procedures. It was felt that integration would avoid confusion and result in better planning and compliance. Such procedures would encourage, wherever possible, that processing requirements be met concurrently, avoiding duplication and delay. In its final NEPA rule, WRC stated that the rule would probably need to be revised for similar reasons. WRC feels that integration can be best accomplished by modifying its NEPA procedures to incorporate the administrative (processing) requirements of various environmental mandates.

Rule Promulgation

Accordingly, Chapter VI of Title 18, Code of Federal Regulations, is amended by adding a new Part 725 to read as follows:

PART 725—IMPLEMENTATION OF EXECUTIVE ORDERS 11988, FLOODPLAIN MANAGEMENT AND 11990, PROTECTION OF WETLANDS

Subpart A—Introduction

Sec.
725.0 Purpose.
725.1 Authority.
725.2 Policy.
725.3 Applicability.
725.4 Definitions.

Subpart B—Responsibilities

725.5 Council studies.
725.6 Principles, standards and procedures.
725.7 Regional or river basin planning.
725.8 Report, plan and recommendation development and review.
725.9 Reviews of compliance.

Authority: The Water Resources Planning Act of 1965, Sec. 402, Pub. L. 89-80, 79 Stat. 245 (42 U.S.C. 1962d-1), the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et. seq.), the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001 et. seq.), the Flood Disaster Protection Act of 1973, as amended (87 Stat. 975), E.O. 11988 and E.O. 11990 (42 FR 26951).

Subpart A—Introduction

§ 725.0 Purpose.

This rule establishes the procedures to be followed by the U.S. Water Resources Council for applying Executive Order 11988, Floodplain Management, and Executive Order 11990, Wetlands Protection, to the water resources planning assistance activities that it performs.

§ 725.1 Authority.

This rule is being promulgated pursuant to the Water Resources Planning Act of 1965, Section 402, Pub. L. 89-90, 79 Stat. 245 (42 U.S.C. 1962d-1). In addition, Executive Order 11988, *Floodplain Management*, at Section 2(d); directs the preparation of procedures implementing its provisions, as does Executive Order 11990, *Protection of Wetlands*, at Section 6. Each of these Orders was prepared in furtherance of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 et seq.). The floodplain management Order is also based on the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4001 et. seq.), and the Flood Disaster Protection Act of 1977, as amended (87 Stat. 975).

§ 725.2 Policy.

It is the policy of the Council to provide leadership in floodplain management and the protection of wetlands. Further, the Council shall integrate the goals of the Orders to the greatest possible degree into its procedures for implementing the National Environmental Policy Act. The Council shall take action to:

(a) Avoid long- and short-term adverse impacts associated with the occupancy and modification of floodplains and the destruction or modification of wetlands;

(b) Avoid direct and indirect support of floodplain development and new construction in wetlands wherever there is a practicable alternative;

(c) Reduce the risk of flood loss;

(d) Promote the use of nonstructural loss reduction methods to reduce the risk of flood loss;

(e) Minimize the impact of floods on human health, safety and welfare;

(f) Minimize the destruction, loss or degradation of wetlands;

(g) Restore and preserve the natural and beneficial values served by floodplains;

(h) Preserve and enhance the natural and beneficial values served by wetlands;

(i) Involve the public throughout the floodplain management and wetlands protection decisionmaking process;

(j) Adhere to the objectives of the Unified National Program for Floodplain Management;

(k) Continually analyze existing and new policies of the Council to ensure consistency between them and the provisions of E.O. 11988 and E.O. 11990; and

(l) Improve and coordinate the Council's plans, programs, functions and resources so that the Nation may attain the widest range of beneficial uses of the environment without degradation or risk to health and safety.

§ 725.3 Applicability.

These regulations apply to all Council actions which have the potential to affect floodplains or wetlands or which would be subject to potential harm if they were located in floodplains or wetlands. The basic test of the potential of an action to affect floodplains or wetlands is the action's potential to result in the long- or short-term adverse impacts associated with:

(a) The occupancy or modification of floodplains, or the direct and indirect support of floodplain development; or

(b) The destruction or modification of wetlands or the direct or indirect support of new construction in wetlands.

These procedures apply to Level A and B regional or river basin planning activities carried out by regional planning sponsors including consideration of inclusion of site specific projects in Level A or B regional or river basin plans. These procedures do not apply to site specific Level C planning carried out by individual Federal agencies. Each Federal agency shall use its own procedures promulgated pursuant to these Orders for such Level C planning.

§ 725.4 Definitions.

The following definitions shall apply throughout this regulation:

(a) All definitions from Section 6 of E.O. 11988 (42 FR 26951); all definitions from Section 7 of E.O. 11990 (42 FR 26951); and all definitions listed in the Glossary of the Council's Floodplain Management Guidelines for Implementing E.O. 11988 (43 FR 6030) from the term "base flood" through the term "structures."

(b) "Action" means all Council activities including but not limited to plan review, study preparation, preparation and modifications to the Council's Principles, Standards and Procedures (P,S,&P), provision of financial assistance for State, regional, and river basin planning and reviews of compliance.

(c) "Council" means the U.S. Water Resources Council.

(d) "Enhance" means to increase, heighten, or improve the natural and beneficial values associated with wetlands.

(e) "Regional planning sponsors" means Federal agencies, states, groups of States, river basin commissions, interstate compact commissions and interagency committees.

Subpart B—Responsibilities

§ 725.5 Council studies.

All studies and appraisals performed by the Council pursuant to Section 102 of Pub. L. 89-80 and any recommendations based on these activities shall include specific analyses for reflection of and opportunities to meet the objectives of E.O. 11988 and E.O. 11990. The Council's Floodplain Management Guidelines (43 FR 6030), E.O. 11988 and E.O. 11990 provide the basic evaluation tools for these analyses.

§ 725.6 Principles, standards and procedures.

The Principles, Standards and Procedures established by the Council pursuant to Section 103 of Pub. L. 89-80 shall reflect the provisions of the Executive Orders. These Principles,

Standards and Procedures are found in 18 CFR Parts 710-717.

§ 725.9 Reviews of compliance.

Reviews of compliance performed pursuant to Section 304 of Pub. L. 89-80

due to its special construction and purpose, cannot comply fully with 72 COLREGS requirements.

Notice is also provided to the effect that USS SAN FRANCISCO (SSN 711)

Immigration and Naturalization, the Administrator of the Drug Enforcement Administration, the Director of the

impracticable, unnecessary, and contrary to public interest since it is

Standards and Procedures are found in 18 CFR Parts 710–717.

§ 725.7 Regional or river basin planning.

(a) In agreements between river basin commissions or other regional planning sponsors and the Council for the preparation and revision of regional and river basin Level B Studies and regional water resource management plans, the responsible official representing the river basin commission or regional planning sponsor shall certify to the Council that the following criteria have been or will be utilized as part of the planning process:

(1) Determination of whether proposed activities would be located in floodplains or wetlands, or, even if located outside of them, would have the potential to affect floodplains or wetlands;

(2) Avoidance of performing activities within floodplains or wetlands wherever there is a practicable alternative;

(3) Where avoidance of floodplains cannot be achieved, minimization of adverse impacts and support of floodplain development, and preservation and restoration of natural and beneficial floodplain values;

(4) Where avoidance of wetlands cannot be achieved, minimization of adverse impacts and support of new construction in wetlands, and preservation and enhancement of natural and beneficial wetlands values; and

(5) Involvement of the public in the floodplain management and wetlands protection decisionmaking process.

(b) The Council's Floodplain Management Guidelines (43 FR 6030) shall be used as the basis for implementing the criteria in § 725.7(a)(1)–(5).

(c) The responsible official representing the regional planning sponsor shall, to the fullest extent of his or her authority, ensure that any activities carried out under his or her plans and programs meet the criteria in § 725.7(a)(1)–(5), above.

§ 725.8 Report, plan and recommendation development and review.

All reports, plans and recommendations received under Section 104 of Pub. L. 89–80 shall be reviewed by the Council for reflection of and opportunities to meet the objectives of E.O. 11988 and E.O. 11990. This review shall be based on the criteria in § 725.7(a)(1)–(5), on E.O. 11988 and E.O. 11990, and on the Council's Floodplain Management Guidelines (43 FR 6030).

§ 725.9 Reviews of compliance.

Reviews of compliance performed pursuant to Section 304 of Pub. L. 89–80 shall include analysis of each program's treatment of floodplain management and wetland protection in accordance with the manner in which these concepts are expressed in E.O. 11988, E.O. 11990, and the Council's Floodplain Management Guidelines (43 FR 6030).

Dated: November 17, 1980.

Gerald D. Seinwill,

Acting Director.

[FR Doc. 80-36068 Filed 11-19-80; 8:45 am]

BILLING CODE 6410-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 917–80]

Per Diem and Travel Allowance

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: Under current published Department of Justice regulations, bureau heads and the Assistant Attorney General for Administration have authority to take final action in certain travel matters. The order by which that authority was delegated states specifically that it does not extend to the approval of first class air travel. Recent changes to the General Services Administration's Federal Travel Regulations permit the delegation of the approval of first class air travel. That authority is being delegated by an internal Department of Justice order. This order conforms the Department's published regulations by eliminating the language that restricts the bureau heads and the Assistant Attorney General for Administration from approving first class air travel.

EFFECTIVE DATE: November 12, 1980.

FOR FURTHER INFORMATION CALL: Robert L. Karas, Finance, Staff, Justice Mangement Division, Department of Justice, Washington, D.C. 20530 (202–633–4467).

By virtue of the authority vested in me by 28 U.S.C. 509 and 510 and 5 U.S.C. 301, the introductory paragraph of § 0.142 of Title 28, Code of Federal Regulations is revised to read as follows:

§ 0.142 Per diem and travel allowances.

The Director of the Federal Bureau of Investigation, the Director of the Bureau of Prisons, the Commissioner of Federal Prison Industries, the Commissioner of Immigration and Naturalization, the Administrator of the Drug Enforcement Administration, the Director of the United States Marshals Service, and the Director of the Office of Justice Assistance, Research, and Statistics as to their respective jurisdictions, and the Assistant Attorney General for Administration, as to all other organizational units of the Department (including U.S. Attorneys), are authorized to exercise the authority of the Attorney General to take final action in the following matters.

* * * * *

Dated: November 12, 1980.

Benjamin R. Civiletti

Attorney General.

[FR Doc. 80-36143 Filed 11-19-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) has determined that USS SAN FRANCISCO (SSN 711) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval submarine; and (2) has found that USS SAN FRANCISCO (SSN 711) is a member of the SSN 688 class of ships, exemptions for which have previously been granted under 72 COLREGS, Rule 38. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: October 24, 1980.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander CHARLES STANLEY PRENTACE, JAGC, USN Admiralty Division, Office of the Judge Advocate General, Navy Department, Alexandria, Virginia 22332, Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: This amendment to Part 706 provides notice that the Secretary of the Navy has certified that USS SAN FRANCISCO (SSN 711) is a vessel of the Navy which,

due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 2(a)(i) regarding the height of the masthead light; Annex I, section 2(k) regarding the height and relative positions of the anchor lights; and Annex I, section 3(b) regarding the location of the sidelights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special function of the ship. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS SAN FRANCISCO (SSN 711) is a member of the SSN 688 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to USS SAN FRANCISCO (SSN 711).

Moreover, it has been determined, in accordance with CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military function.

Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table Three of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by inserting the following entry:

Vessel	Number	Masthead light, arc of visibility; Rule 21(a)	Sidelights, arc of visibility; Rule 21(b)	Stern light, arc of visibility; Rule 21(c)	Sidelights, distance inboard of ship's sides in meters; § 3(b), Annex I	Stern light, distance forward of stern in meters; Rule 21(c)	Forward Anchor light, height above hull in meters; § 2(k), Annex I	Anchor lights, relationship of aft light to forward light in meters; § 2(k), Annex I
USS Dallas	SSN 700							
USS San Francisco	SSN 711				4.1	6.5	3.4	1.7 below.

2. Table One of § 706.2 is amended to indicate certifications issued by the Secretary of the Navy by insertion of the following entry:

Vessel	Number	Distance in meters of forward masthead light below minimum required height § 2(a)(i) Annex I
USS Dallas	SSN 700	
USS San Francisco	SSN 711	3.5

October 24, 1980.

Edward Hidalgo,

Secretary of the Navy.

[FR Doc. 80-36236 Filed 11-19-80; 8:45 am]

BILLING CODE 3810-71-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-6-FRL 1655-2]

Approval and Promulgation of State Implementation Plans; Final Rulemaking on Approval of Montana State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to conditionally approve the East Helena sulfur dioxide portion of the State Implementation Plan (SIP) revision for Montana which was received by EPA on April 24, 1979. On August 2, 1979 (44 FR 45420), EPA published a notice of proposed rulemaking which described the nature of the SIP revision, proposed conditions on EPA's final approval, and requested public comment on both the conditions and the deadlines for meeting the conditions. On December 28, 1979 (44 FR 72627), EPA included additional materials in the record and extended the public comment period. Two comments were received from a representative of the ASARCO Company which operates the largest SO_2 source in the East Helena area, the ASARCO lead smelter.

EPA has reviewed the comments and concluded that this portion of the SIP should be conditionally approved. This notice discusses the substance of the comments, the conditions which must be met and the basis for EPA's action.

EFFECTIVE DATE: Effective November 20, 1980.

FOR FURTHER INFORMATION CONTACT: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295 303–837–3711.

ADDRESSES: Comments received on EPA's proposal and EPA's evaluation of the comments are available for review at:

Environmental Protection Agency, Montana Office, FOB, Drawer 10096, 301 South Park, Helena, Montana 59601

Public Information Reference Unit, Room 2922, 401 M Street SW., Washington, DC 20460

Enivornmental Protection Agency, Region VIII, Regional Library, 1860 Lincoln Street, Denver, Colorado 80295

SUPPLEMENTARY INFORMATION:

Introduction

The Montana SIP revision was developed and submitted to EPA in response to the requirements of Part D of the Clean Air Act, as amended in 1977. In general, the SIP is required to provide for attainment and maintenance of the national ambient air quality standards (NAAQS) for all areas which have been designated "nonattainment" pursuant to Section 107 of the Clean Air Act. Specific requirements for an approvable SIP are discussed in detail in the April 4, 1979, **Federal Register** (44 FR 20372), as amended by 44 FR 38583, July 2, 1979, 44 FR 50371, August 28, 1979, 44 FR 53761, September 17, 1979, and 44 FR 67182, November 23, 1979.

On March 3, 1978 (43 FR 8962), pursuant to Section 107 of the Act, EPA designated certain areas as nonattainment for the criteria air pollutants. Among the designations for Montana was a nonattainment designation for East Helena with respect to sulfur dioxide.

The subject SIP revision was submitted by the Governor on April 24, 1979. The revision identified the cause of the SO_2 violations as low-level emissions from the ASARCO lead smelter. Nearly 80 percent of the SO_2 emissions from the smelter are emitted from existing stacks which are at least 400 feet tall. However, most of the remaining 20 percent (23 tons per day) of the emissions are emitted from the three 110 foot stacks serving the smelter's

blast furnace operation. The strategy chosen by the State was to limit

shows the need to raise the blast furnace stacks to avoid excessive

Although it was under no obligation to do so, the State chose to base its

Conclusion

As a result of the deliberations

lists in the subpart for each state the applicable deadlines for attaining

cannot be granted variances extending compliance dates beyond attainment

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blast furnace operation. The strategy chosen by the State was to limit emissions from the blast furnance to 23 tons per day and to permit the company to construct a new stack of 375 feet. The SIP included an analysis performed using an EPA-approved dispersion model which demonstrates that this strategy, when coupled with control measures on other portions of the smelter which were approved by EPA on September 19, 1975 (40 FR 43216), would provide attainment and maintenance of the national standards.

It should be noted that Section 123 of the Clean Air Act, as amended in 1977, places specific limitations on the reliance on stack height increases and other dispersion techniques as control strategy measures. Specifically, that section requires that the degree of emission limitation required by a source not be affected by so much of the stack height, for a stack constructed after 1970, which exceeds good engineering practice (GEP). The Act defines GEP as; "* * * the height necessary to insure that emissions from the stack do not result in excessive concentrations of any pollutant in the immediate vicinity of the source as a result of atmospheric downwash, eddies and wakes which may be created by the source itself, nearby structures or nearby terrain obstacles (as determined by the Administrator). For purposes of this section such height shall not exceed two and a half times the height of such source unless the owner or operator of the source demonstrates, after notice and opportunity for public hearing, to the satisfaction of the Administrator, that a greater height is necessary as provided under the preceding sentence. In no event may the Administrator prohibit any increase in any stack height or restrict in any manner the stack height of any source."

The SIP included a report on a field study which was conducted during the fall of 1978. The purposes of the study were to demonstrate that the existing 110 foot stacks were not GEP and to establish the stack height which would represent GEP. EPA's review of that report has resulted in the conclusion that excessive downwash does occur from the existing 110 foot stacks. However, the study did not provide a sufficient description of the effects of the smelter on the plume to conclude what height does represent GEP. The "2½ times" guideline suggested in the Act would result in a 175 foot stack.

Because the SIP relied upon a new 375 foot stack, but failed to demonstrate that a 375 foot stack represents GEP, EPA cannot unconditionally approve this strategy. However, since the SIP clearly shows the need to raise the blast furnace stacks to avoid excessive downwash, EPA proposed to approve the SO_2 strategy on the following conditions:

(1) A new study be performed which clearly demonstrates the stack height which represents GEP; and

(2) If the GEP height is less than 375 feet, a new dispersion modeling analysis be performed using the GEP stack height for the blast furnace stacks to demonstrate whether the State's emission limitations are sufficient to attain and maintain the national standards.

EPA invited comment on the adequacy of the field study submitted with the SIP and the proposed conditional approval. In addition, EPA invited comment on what deadline should be imposed for completion of the study.

Comments

ASARCO provided the only comments. Its comments can be summarized by the contention that EPA should not condition its approval of what it believes is an inadequate field study because ASARCO did the best field study it could without explicit EPA guidance. In neither of its comments, however, does ASARCO appear to contest, as a matter of technical or scientific fact, that EPA's record objections to the field study were unsound. Instead, ASARCO avers that the determination of GEP stack height is a mere technicality that good policy would require EPA to ignore. EPA, however, has no discretion to ignore its clear duty under sections 110 and 123 of the Clean Air Act to approve only those State plans with emission limitations adequate to attain and maintain the standards, which limitations are not reduced by "so much of the stack height of any source as exceeds good engineering practice."

As the U.S. Court of Appeals for the D.C. Circuit recognized in *Alabama Power Co. v. Costle*, 13 ERC 1993, 2033 (1979), the practice of complying with ambient air standards by building taller-than-necessary stacks deeply concerned Congress because of the severe health, welfare, and enforceability problems this behavior created. Congress responded by enacting section 123, quoted in part above, which, although not prohibiting tall stacks, removes all existing regulatory incentives for constructing them. In *Alabama Power* the court also recognized that EPA had not yet finalized regulations under section 123, but nevertheless was by statute required to determine GEP stack height. *Alabama Power*, supra at 2037.

Although it was under no obligation to do so, the State chose to base its strategy here on use of a tall stack the GEP stack height of which EPA has not approved. EPA, as the record shows, determined that the field study submitted to justify a GEP stack height of 375 feet was inadequate. The study did not show that ASARCO's buildings caused the disturbed flow used to justify the GEP stack height, and monitors used in the study were incorrectly located. In short, the data obtained was inconclusive. Although some regional EPA staff may have thought the study minimally acceptable under the circumstances, that view did not prevail and EPA's proposed action published in the **Federal Register** was, as noted, to approve the East Helena SO_2 portion of the SIP only on condition that a new field study be performed. There was nothing in ASARCO's comments or EPA's own review of the field study to persuade EPA that its proposed position was technically unsound. Therefore, it would be contrary to Congressional intent for EPA to approve unconditionally this part of the State Plan.

EPA is mindful that ASARCO, for its own planning purposes, needs to demonstrate GEP stack height as soon, and with as much certainty, as possible, even though the section 123 regulations are not yet final. Therefore, EPA personnel have met with ASARCO representatives and agreed, on an ad hoc basis, on the field study procedures for the required demonstration. This agreement, which is specific to the unique situation here presented and in no way is intended to be used as a precedent, is available for public inspection at the EPA offices listed above.

Because of this agreement, ASARCO's comment that the deadline for the new field study should be three months after the first October and November after EPA's section 123 regulations are promulgated and judicially sustained is not relevant. This comment was based on ASARCO's stated desire to achieve certainty on the methods for the new field study, which the agreement now provides. Accordingly, today's action requires that the conditions be met by May 1, 1981. This deadline allows ASARCO's consultant sufficient time to perform the field work during the fall of 1980, the season during which ASARCO has said that the meteorological conditions conducive to downwash occur most frequently, and time to analyze the results before the deadline expires.

Conclusion

As a result of the deliberations discussed above, EPA's final action in today's notice is a conditional approval. The approval is conditioned upon completion and submittal of the following actions by May 1, 1981:

1. A new study must be performed which clearly demonstrates the stack height which represents GEP; and

2. If the GEP stack height is less than 375 feet, a new dispersion analysis must be performed using the GEP stack height for the blast furnace to demonstrate whether the State's emission limitations are sufficient to attain and maintain the national standards, and the emission limitations must be revised if the demonstration shows that a revision is necessary.

Additional discussions of EPA's policy regarding conditional approvals and their practical effect appear in supplements to the General Preamble, 44 FR 38583 (July 2, 1979) and 44 FR 67182 (November 23, 1979). EPA will follow the procedures described below when determining if the conditions have been satisfied.

1. If the required additional documentation is submitted according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submission.

2. EPA will evaluate the submission to determine if the condition is fully met. After review is complete, a **Federal Register** notice will be published proposing or taking final action either to find the condition has been met and approve the affected elements of the plan, or to find the condition has not been met, withdraw the conditional approval, and disapprove the plan.

3. If the required materials needed to meet a condition are not submitted, EPA will publish a **Federal Register** notice shortly after the expiration of the time limit for submission. The notice will announce that the conditional approval is withdrawn and the SIP is disapproved.

Any petition for review of this action must be filed under section 307(b) of the Clean Air Act within 60 days from the date this notice appeared in the **Federal Register**.

Attainment dates

The 1978 edition of 40 CFR Part 52 lists in the subpart for each state the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines will be substituted on the attainment date chart. The earlier attainment dates under Section 110(a)(2)(A) will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements as well as with the new Section 172 plan requirements.

Congress established new deadlines under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. If these new deadlines were permitted to supersede the deadlines established prior to the 1977 Amendments, sources that failed to comply with pre 1977 plan requirements by the earlier deadlines would improperly receive more time to comply with those requirements. Congress, however, intended that the new deadlines apply only to new, additional control requirements and not to earlier requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable" but not later than three years after the approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear Congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D. (123 Cong. Rec. H 11958, daily ed. November 1, 1977).

To implement fully Congress intention that sources remain subject to preexisting plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. Such variances would impermissibly relax existing requirements beyond the applicable Section 110(a)(2)(A) attainment date under the plan. Therefore, for requirements adopted before the 1977 Amendments, EPA cannot approve a compliance date extension beyond preexisting 110(a)(2)(A) attainment dates, even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond the preexisting attainment date may be granted if it will not contribute to a violation of any ambient standard or a PSD increment.[1]

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and, therefore, subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

EPA finds that good cause exists for making this action immediately effective for the following reasons:

(1) Plan revisions are already in effect under State law and EPA approval imposes no additional regulatory burden.

(2) EPA has a responsibility under the Act to take final action on Part D plan revisions by July 1, 1979, or as soon thereafter as possible.

This rulemaking action is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: October 30, 1980.

Douglas M. Costle,

Administrator.

Title 40, Part 52, of the Code of Federal Regulations is amended as follows:

Subpart BB—Montana

1. Section 52.1375 is revised to read as follows:

§ 52.1375 Attainment dates for national standards.

The following table presents the latest dates by which the national standards are to be attained. These dates reflect the information presented in Montana's plan, except where noted.

[1] See General Preamble for Proposed Rulemaking 44 FR 20373–74 (April 4, 1979).

V 45 N 020 80 0 UMI

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
Billings Intrastate:							
a. Yellowstone County	c	c	a	c	b	b	f
b. Billings	e	e	a	c	b	b	f
c. Laurel	c	c	e	e	b	b	f
d. Remainder of AQCR	c	c	a	c	b	b	b
Great Falls Intrastate:							
a. Great Falls	e	e	c	c	b	b	b
b. Remainder of AQCR	b	b	c	c	b	b	b
Helena Intrastate:							
a. Anaconda	b	b	e	e	b	b	b
b. East Helena	e	e	e	e	b	b	b
c. Butte	e	g	b	b	b	b	b
d. Remainder of AQCR	b	b	b	b	b	b	b
Miles City Intrastate:							
a. Colstrip	e	g	b	b	b	b	b
b. Remainder of AQCR	b	b	b	b	b	b	b
Missoula Intrastate:							
a. Missoula	e	e	b	b	b	e	b
b. Columbia Falls	e	e	b	b	b	b	b
c. Remainder of AQCR	c	c	b	b	b	b	b

a. Air quality levels presently below primary standards or area is unclassifiable.
b. Air quality levels presently below secondary standards or area is unclassifiable.
c. July 1975.
d. May 31, 1977.
e. December 31, 1982.
f. Action on the SIP for this nonattainment area has been delayed.
g. Eighteen month extension granted.

NOTE.—Footnotes which are italic are prescribed by the Administrator because the plans do not provide a specific date, or the date provided is not acceptable.

NOTE.—Sources subject to plan requirements and attainment dates established under section 110(a)(2)(A) of the Act prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR 52.325 (1978).

2. Section 52.1373 is revised to read as follows:

§ 52.1373 Control strategy: Sulfur oxides.

(a) *Part D—Conditional Approval*—The East Helena plan is approved provided that the following conditions are met by May 1, 1981:

(1) A field study will be performed in the vicinity of the ASARCO smelter complex which clearly demonstrates the stack height for the blast furnace stack which represents good engineering practice; and

(2) The control strategy will be amended, if necessary, to demonstrate attainment of the national standards using the good engineering practice stack height determined through the field study.

[FR Doc. 80-36234 Filed 11-19-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-3-FRL 1662-3]

Approval of Revision of the State of West Virginia Implementation Plan

Correction

In FR Doc. 80-35060 appearing at page 74478 in the issue for Monday, November 10, 1980, make the following corrections:

1. On page 74480, in the first column, under the subpart heading "Subpart XX—West Virginia", in amendatory paragraph one, in the first line, "(c)(3)" should read "(c)(13)".

2. Also, on page 74480, in the first column, in § 52.2520, the paragraph designated "(c)(3)" should be numbered "(c)(13)".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 45, No. 226
Thursday, November 20, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

Importation of Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to provide additional grounds and revise the procedures for the withdrawal or denial of approval of a commercial bird quarantine station. The intended effect of this action would be to terminate the Department's approval or to refuse approval of such facility when certain persons that operate or are responsibly connected with the business of the facility are determined to be unfit to engage in such business. This action is being proposed because it is believed that the present procedures may not be adequate to insure the proper operation of quarantine facilities involved in the importation of certain birds.

DATE: Comments on or before January 19, 1981.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 815, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. S. S. Richeson, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, MD 20782, 301-436-8170. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available upon request from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8695.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to Section 2 of the Act of February 2, 1903, as amended; and sections 4 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134c, and 134f), the Animal and Plant Health Inspection Service is considering amending Part 92, Title 9, Code of Federal Regulations.

On Tuesday, October 30, 1973, there was published in the **Federal Register** (38 FR 29882-29885) an amendment of the regulations in 9 CFR Part 92 which would allow the importation of commercial birds under specified conditions, including a requirement of quarantine in facilities approved by the Deputy Administrator, Veterinary Services, and a requirement that the birds be handled during quarantine in accordance with procedures prescribed by the Deputy Administrator, Veterinary Services.

Presently, § 92.11(f)(6) of the regulations provides that before a decision is made with respect to the eligibility of any facility for initial approval, a personal inspection of the facility shall be made by a Veterinary Medical Officer of Veterinary Services, to determine whether it complies with the standards outlined in this section. Approval of any facility may be refused and approval of any approved quarantine facility may be withdrawn at any time by the Deputy Administrator, Veterinary Services, upon his determination that any requirement of this section is not being met. Before such action is taken, the operator of the facility will be notified of the proposed action and the reasons for it and upon request, be afforded opportunity to be heard thereon.

Recent events, including the misuse of approved quarantine facilities to import birds illegally into the United States by some operators of such facilities, have provided the Department with evidence that the administrative procedure of § 92.11(f)(6) may not be adequate to insure the proper operation of approved commercial bird quarantine facilities. This is particularly true when persons connected with the conduct of the business of the facility are convicted of a crime under any law concerning the importation or quarantine of any animal, including poultry or birds, or of any crime involving fraud, bribery, extortion or any other crime indicating a lack of integrity needed for the conduct of operations affecting the importation of commercial birds, research birds or zoological birds. The integrity of the individuals involved in the operation of an approved quarantine facility is of vital importance to insure the proper handling of quarantined birds. Such birds represent a potential to introduce communicable animal diseases into the United States if not properly handled. Consequently, it appears that if the operator, or a person responsibly connected with the business of an approved quarantine facility or a facility for which approval is being sought, commits or has committed the aforementioned crimes, such person demonstrates an unfitness to engage in the importation of birds through an approved quarantine facility.

Due to the Department's limited amount of resources to service approved quarantine facilities, it appears to the Department that it should not allocate services to a facility which has persons associated with it who have been determined to be unfit to engage in the bird importation business because of their conviction.

A person would be defined to include any individual, corporation, company, association, firm, partnership, society or joint stock company.

An operator would be defined as any person operating a quarantine facility.

A person "responsibly connected" would be defined as a partner, officer, director, or a holder of 10 per centum or more of voting stock, or an employee in a managerial or executive capacity of such facility. Such a person would be in a position to exercise direct control over the operations of an approved quarantine facility, and, therefore, such person's integrity would be critical to the proper operations of the facility.

Before withdrawal of approval or refusal to approve a facility, the operator of the facility or the applicant for approval would be notified of such action and the reasons for such action. The notification may be given orally or in writing; however, if it is oral, it would be confirmed in writing as soon as circumstances allow. An opportunity to answer the allegations and challenge such action would be afforded to the affected person, together with an opportunity for a hearing, when requested, with respect to the merits or validity of the action. Rules of practice

would be adopted for the particular proceeding. The withdrawal of approval would be effective immediately pending a final decision in the aforementioned proceeding when the Deputy Administrator determines that such action is necessary to protect the public health, interest or safety. The withdrawal would be effective immediately upon oral or written notification, whichever is earlier, to the operator of the facility. In the event of oral notification, written confirmation would be provided. The withdrawal of approval would remain in effect for the duration of any hearing and administrative and judicial review of the proceeding, unless otherwise ordered by the Deputy Administrator. As noted above, quarantined birds represent a potential to introduce communicable animal disease into the United States if not properly handled. Therefore, immediate termination of approval may be necessary if the risk is too significant to permit the birds to be entrusted to a person convicted of the types of crimes specified. Further, some crimes may involve violent crimes, and the Department does not believe its employees should have to be exposed to risks involved in working with persons who have committed violent acts. These procedures are believed adequate to insure due process of the affected persons.

The regulations would provide, however, that if a convicted person is "responsibly connected" with the business of the facility and his relationship with the facility is terminated after issuance of a complaint and receipt of notification, and the operator of the facility enters into and complies with a consent agreement in which it is agreed that the previously responsibly connected person is not and will never be associated with the approved quarantine facility, the conviction of such responsibly connected person would not by itself constitute grounds to withdraw approval of the quarantine facility. Additionally, violation of the consent agreement would constitute independent grounds to withdraw approval of an approved quarantine facility. These procedures respecting responsibly connected persons are proposed because it appears that there may be situations in which the operator of the facility is unaware of or not involved in the wrong doing of the responsibly connected person, and consequently, should be afforded an opportunity to receive or continue to receive services from the Department. However, the continuation of services would be contingent on the termination of the responsibly connected person with the quarantine facility. This exception has not been proposed for a convicted operator because the regulations presently require that the operator of the facility enter into a cooperative agreement with the Department and to the extent that the operator changes, the new operator would be required to enter into a cooperative agreement and seek approval if he/she wanted to operate an approved quarantine facility. As noted above, the Animal and Plant Health Inspection Service (APHIS) has a limited number of resources, including personnel, which may be allocated to servicing approved quarantine facilities. Consequently, it is believed undersirable from a policy standpoint to allocate services to such convicted operators of a facility who have demonstrated by their conviction their unfitness to engage in the bird importation business.

Accordingly, Part 92, Title 9, Code of Federal Regulations, would be amended in the following respects:

In § 92.1, new paragraphs (x) and (y) would be added to read:

§ 92.1 Definitions.

* * * * *

(x) *Persons.* Any individual, corporation, company, association, firm, partnership, society or joint stock company.

(y) *Operator.* For the purposes of section 92.11, any person operating a quarantine facility.

2. In § 92.11(f)(6), the first sentence would be moved to the end of subparagraph (f)(5) of this section, and paragraph (f)(6) would be amended to read:

§ 92.11 Quarantine requirements.

(f) * * *

(6)(i) Approval of any facility may be refused and approval of any approved quarantine facility may be withdrawn at any time by the Deputy Administrator, Veterinary Services, for any of the reasons provided in paragraph (f)(6)(ii) of this section. Before such action is taken, the operator of the facility will be informed of the reasons for the proposed action and, upon request, shall be afforded an opportunity for a hearing with respect to the merits or validity of such action, in accordance with rules of practice which shall be adopted for the proceeding. However, such withdrawal shall become effective pending final determination in the proceeding, when the Deputy Administrator determines that such action is necessary to protect the public health, interest or safety. Such withdrawal shall be effective upon oral or written notification, whichever is earlier, to the operator of the facility. In the event of oral notification, written confirmation shall be given to the operator of the facility as promptly as circumstances permit. This withdrawal shall continue in effect pending the completion of the proceeding and any judicial review thereof, unless otherwise ordered by the Deputy Administrator.

(ii) Except as provided in paragraph (f)(6)(iv) of this section, the approval of a commercial bird quarantine facility may be denied or withdrawn if:

(A) Any requirement of this section is not complied with, or

(B) The operator or a person responsibly connected with the business of the quarantine facility is or has been convicted of any crime under any law regarding the importation or quarantine of any animal or bird, or

(C) The operator or a person responsibly connected with the business of the quarantine facility is or has been convicted of any crime involving fraud, bribery, or extortion or any other crime involving a lack of integrity needed for the conduct of operations affecting the importation of commercial birds, research birds or zoological birds.

(iii) For the purposes of this section, a person shall be deemed to be responsibly connected with the business of the quarantine facility if a partner, officer, director, holder or owner of 10 per centum or more of its voting stock, or an employee in a managerial or, executive capacity.

(iv) The denial or withdrawal referenced in this paragraph (6), shall not be solely based upon the convictions of those persons responsibly connected with an approved commercial bird quarantine facility if, after issuance of a complaint and upon receipt of notification of such action from the Deputy Administrator, the operator of the approved quarantine facility enters into a consent agreement with the Deputy Administrator, Veterinary Services, in which it is agreed that the responsibly connected person identified in the notification shall not ever be assoicated with the approved quarantine facility and the operator complies with the provisions of the agreement. Violation of the consent agreement shall constitute independent grounds for withdrawal of approval of an approved quarantine facility.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 824, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 13th day of November 1980.

R. P. Jones,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-36232 Filed 11-19-80; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-80-17]

Petitions for Rule Making; Summary of Petitions Received and Dispositions of Petitions Denied

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rule making and of dispositions of petitions denied.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rule making (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rule making procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before: January 19, 1981.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No.———, 800 Independence Avenue, SW., Washington, D.C. 20591.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

FOR FURTHER INFORMATION CONTACT: Raymond Ramakis, (202) 755-8116. This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on November 10, 1980.

Edward P. Faberman,

Acting Assistant Chief Counsel, Regulations and Enforcement Division, Federal Aviation Administration.

Petitions for Rulemaking

Docket No.	Petitioner	Description of the rule requested
20569	Scott G. Beach	DESCRIPTION OF PETITION Petitions for amendment to establish the minimum altitude for aircraft operations at 1,000 feet above the surface, or 1,000 feet above the highest obstacle within a 2,000 foot horizontal radius of the aircraft, except for takeoff or landing and certain helicopter operations. REGULATIONS AFFECTED 14 CFR 91.79 PETITIONER'S REASONS FOR RULE Petitioner believes that the higher minimum safe altitude (over "other than congested areas") would prevent the kinds of fatal accident which occurred when an aircraft engaged a power transmission line during a low-level overwater operation. He believes that aircraft operations at less than 1,000 feet altitude do not allow pilots sufficient time to take appropriate actions in the event of engine failure.

[FR Doc. 80297 Filed 11-19-80; 8:45 am]

BILLING CODE 4910-13-M

taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments

Brake Assembly P/Ns: 2-1195-7, 2-1195-8, 2-1367, 2-1367-1, 2-1367-2, 2-1147, 2-1147-3 and 2-1190

14 CFR Part 71

[Airspace Docket No. 80-ARM-17]

Availability of NPRM

Any person may obtain a copy of the

Issued in Aurora, Colorado, on November 6, 1980.

aircraft to circumnavigate the area in order to comply with applicable visual

14 CFR Part 39

[Docket No. 80-GL-18-AD]

Airworthiness Directives; B. F. Goodrich Company Brake Assemblies P/Ns 2-1195-7, 2-1195-8, 2-1367, 2-1367-1, 2-1367-2, 2-1147, 2-1147-3, and 2-1190

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require the removal from service within the next 60 days any of the following brake assemblies with the following brake lining cups manufactured by B. F. Goodrich Company;

Brake Assembly P/Ns: 2-1195-7, 2-1195-8, 2-1367, 2-1367-1, 2-1367-2, 2-1147, 2-1147-3 and 2-1190.

Brake Lining Cups with part no./date codes as follows:

342-58: E12 80, E19 80, E20 80, G19 80, H9 80.
342-64: D18 80, D28 80, D17 80, G13 80, G19 80.
342-94: D10 80.
342-95: E7 80.

The proposed AD is needed since it was determined that these brake lining cups may have been defectively manufactured. This could result in separation of the cups from the stator during service and a possible brake lock-up.

DATES: Comments must be received on or before December 22, 1980.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, Attn: Rules Docket (AGL-7) Docket No. 80-GL-18-AD, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Fahr, Engineering and Manufacturing Branch, Flight Standards Division, AGL-212, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 424.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before

taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments in the rules docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

It has been determined that the above identified B. F. Goodrich lining cups may have become defective when the buttons were overloaded during manufacturing, causing a crack in the button. The button is located in the center of the lining cup and serves as the mount for the rivet which holds the lining cup on the stator. Failure of the button due to the overload during manufacturing and/or during riveting to the stator may cause separation of the lining cup from the stator. This may then result in a locked brake and possibly a blown tire. Due to the possibility of this condition existing, the proposed AD would require that the above mentioned B. F. Goodrich brake assemblies, assembled with the above mentioned B. F. Goodrich lining cups, shall be considered as not meeting the applicable TSO requirements unless the lining cups have been inspected.

The lining cups are to be permanently marked upon inspection. Please submit comments on a suitable method for marking those lining cups which have been inspected and found to be satisfactory.

The inspection procedure is outlined in B. F. Goodrich Service Bulletins No. 390 (for the Lockheed L–1011) and No. 391 (for the Boeing 727) dated October 9, 1980.

B. F. Goodrich testing and service experience indicates that lining cups which are in operation on aircraft and have not separated from the stator during the first several landings, can be expected to function properly for the life of the lining cups. Therefore, the above mentioned B. F. Goodrich brake assemblies containing the above mentioned B. F. Goodrich lining cups which have been installed on aircraft prior to the closing date, are not affected by this proposed AD.

The Proposed Amendment

Accordingly, the FAA proposes to amend § 39.13 of Part 39 of the FARs (14 CFR 39.13) by adding the following new airworthiness directive.

B. F. Goodrich. Applies to the following brake assemblies with the following brake lining cups:

Brake Assembly P/Ns: 2–1195–7, 2–1195–8, 2–1367, 2–1367–1, 2–1367–2, 2–1147, 2–1147–3 and 2–1190.

Brake Lining Cups with part no./date codes as follows:

342–56: E12 80, E19 80, E20 80, G19 80, H9 80.
342–64: D18 80, D28 80, D17 80, G13 80, G19 80.
342–94: D10 80.
342–95: E7 80.

These brake assemblies are installed on but not limited to Boeing 727 and Lockheed L–1011 aircraft.

Within 60 days from the effective date of this AD, the above identified lining cups shall not be used on TSO'd brake assemblies unless the following has been accomplished:

(a) For riveted cups installed onto assemblies (pressure plates, lining carriers and torque plates) which have been assembled from inventory containing suspected cups, visually inspect the riveted lining cup button cavity for cracks using 4X or greater magnification. Remove cups with visible cracks and replace with serviceable parts.

(b) Permanently mark all inspected assemblies in order to identify those which have been inspected.

(c) Brake assemblies installed on aircraft prior to the effective date of this AD do not require removal or inspection.

B. F. Goodrich Service Bulletins No. 390 (for the Lockheed L–1011) and No. 391 (for the Boeing 727) dated October 9, 1980 also apply to the subject matter of this AD.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Mr. Terry Fahr, Engineering and Manufacturing Branch, Flight Standards Division, AGL–212, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–4500, extension 424.

Issued in Des Plaines, Illinois on October 30, 1980.

Wm. S. Dalton,

Acting Director, Great Lakes Region.

[FR Doc. 80–35865 Filed 11–19–80; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 80–ARM–17]

Establishment of Transition Area; Holyoke, Colo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This Notice of Proposed Rulemaking (NPRM) proposes to establish a 700' transition area at Holyoke, Colorado to provide additional controlled airspace for aircraft executing the new nondirectional radio beacon (NDB) standard instrument approach procedure developed for the Holyoke Municipal Airport, Holyoke, Colorado.

DATES: Comments must be received on or before December 10, 1980.

ADDRESSES: Send comments on the proposal to: Chief, Air Traffic Division, Attn: ARM–500, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010.

FOR FURTHER INFORMATION CONTACT: Pruett B. Helm, Airspace and Procedures Specialist, Operations, Procedures and Airspace Branch (ARM–538), Air Traffic Division, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837–3937.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Division, Federal Aviation Administration, 10455 East 25th Avenue, Aurora, Colorado 80010. All communications received will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

Availability of NPRM

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The Federal Aviation Administration proposes to amend subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) as follows:

By amending subpart G, § 71.181 so as to establish the following transition area to read:

Holyoke, Colorado

That airspace extending upward from 700' above the surface within an 8.5 mile radius of the Holyoke Municipal Airport (latitude 40°34'40" N., longitude 102°16'30" W.) and within 3 miles each side of the 012° and 158° bearings from the Heginbotham NDB (latitude 40°34'53" N., longitude 102°16'40" W.) extending from the 8.5 mile radius area to 11.5 miles north-northwest and south-southeast of the Heginbotham NDB.

Drafting Information

The principal authors of this document are Pruett B. Helm, Air Traffic Division, and Daniel J. Peterson, office of the Regional Counsel, Rocky Mountain Region.

This amendment is proposed under authority of section 307(a) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation, and a comment period of less than 45 days is appropriate.

Issued in Aurora, Colorado, on November 6, 1980.

Arthur Varnado,

Director, Rocky Mountain Region.

[FR Doc. 80–35884 Filed 11–19–80; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 80–GL–32]

Proposed Designation of Transition Area; Gilead, Ohio

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The nature of this Federal action is to designate controlled airspace near Mt. Gilead, Ohio, in order to accommodate a new instrument approach into Morrow County Airport, Mt. Gilead, Ohio, which was established on the basis of a request from the local airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions from other aircraft operating under visual conditions.

DATES: Comments must be received on or before December 15, 1980.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL–7, Attention: Rules Docket Clerk, Docket No. 80–GL–32, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL–530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694–4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures requires that the FAA lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL–7, Great Lakes Region, Rules Docket No. 80–GL–32, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before December 15, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426–8056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700 foot controlled airspace transition area near Mt. Gilead, Ohio. Subpart G of Part 71 was republished in the Federal Register on January 2, 1980 (45 F.R. 445).

The Proposed Amendment

Accordingly, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (45 F.R. 445), the following transition area is added:

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Morrow County Airport (LAT 40°31'35"N, LONG 82°51'00"W) excluding that portion that overlaps the Marion, Ohio, transition area.

This amendment is proposed under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation

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Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Polices and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 80-GL-32, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on October 29, 1980.

Wm. S. Dalton,

Director, Great Lakes Region.

[FR Doc. 80-35862 Filed 11-19-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 73

[Airspace Docket No. 80-ASW-53]

Proposed Temporary Restricted Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish temporary restricted areas in the vicinity of McGregor, N. Mex., to contain a major joint military exercise. The area would be included in the Continental Control Area. Federal Airway V-280 would be excluded within the proposed restricted areas. This action would prohibit unauthorized flight operations by nonparticipating aircraft within the proposed restricted areas during the time the area is in use by the military.

DATES: Comments must be received on or before December 22, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southwest Region, Attention: Chief, Air Traffic Division, Docket No. 80-ASW-53, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, Airspace Regulations and Obstructions Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Tex. 76101. All communications received on or before December 22, 1980, will be considered before action is taken on the proposed amendments. The proposals contained in the notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering amendments to § 71.123 and § 71.151 of Part 71 and § 73.51 of Part 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) that would designate temporary restricted areas identified as R-5103D, R-5103E, R-5103F, R-5103G, R-5103H and R-5103I, McGregor, N. Mex., to contain a major joint military readiness exercise entitled BORDER STAR 81. The applicable proposed restricted areas would be included in the Continental Control Area. This exercise will provide training for several military commands operating under the sponsorship of the U.S. Air Force Readiness Command. The air activities associated with the exercise will be such that flight by nonparticipating aircraft cannot be safely conducted simultaneously within the proposed temporary restricted areas when they are in use by the military. These activities will consist of air operations such as close air support, interdiction, air defense/counter air, electronic warfare, reconnaissance, tactical airlift missions, and aerial refueling. It is estimated that approximately 150 aircraft would be utilized to conduct approximately 100 fixed wing and 200 helicopter sorties daily. The boundary abutments to the existing restricted areas are necessary to accommodate interarea transition into and out of R-5103A, B, and C which, along with existing Restricted Area R-5107, R-5109, and R-5111 will be used extensively during the exercise. Communications equipment would be installed and maintained between the appropriate military and FAA facilities to coordinate movement of nonparticipating aircraft through the exercise area (except R-5107B) when military activity permits. Additionally, a reverse charge telephone number and VHF radio communication frequencies would be established and published for pilots of nonparticipating aircraft to coordinate directly with the military if desired. The proposed temporary restricted areas would be designated as joint use to permit use by the controlling agency for nonparticipating VFR and IFR air traffic when the areas are not in use by the military. The military would provide aerial access to private or public use land within the proposed temporary areas. Federal Airway V-280 would be excluded within the proposed temporary R-5103D and R-5103E during their designated period to facilitate participating aircraft performing maneuvers which are not compatible with the existence of an airway. The Department of the Air Force will serve as lead agency for purposes of compliance with the National Environmental Policy Act (NEPA). Sections 71.123 and § 71.151 of Part 71 and § 73.51 of Part 73 were republished in the **Federal Register** on January 2, 1980, (45 FR 307, 346, and 711).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 and § 71.151 of Part 71 and § 73.51 of Part 73 (14 CFR Parts 71 and 73) as republished (45 FR 307, 346, and 711) as follows:

1. In § 71.123, under V-280 the following is added:

"The airspace within Temporay Restricted Area R-5103D and R-5103E is excluded from 0100 April 1 until 2400 local time April 7, 1981."

2. In § 71.151, between "R-5103C McGreagor, N. Mex." and "R-5104A Melrose, N. Mex.," the following is added:

"R-5103E McGregor, N. Mex.

R-5103F McGregor, N. Mex.
R-5103H McGregor, N. Mex.
R-5103I McGregor, N. Mex."

3. In § 73.51, between "R-5103C McGregor, N. Mex." and "R-5104A Melrose, N. Mex.," the following is added:

"R-5103D McGregor, N. Mex.
Boundaries. Beginning at Lat. 32°00'15"N., Long 105°56'40"W.; to Lat. 32°26'20"N., Long 105°30'00"W.; to Lat. 32°16'00"N., Long 105°30'00"W.; to Lat. 32°06'00"N., Long 105°39'00"W.; to point of beginning.
Designated altitudes. 100 feet AGL to 8,000 feet MSL.
Time of designation. Continuous 0100 April 1 until 2400 local time April 7, 1981.
Controlling agency. FAA Albuquerque ARTC Center.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, Va.
R-5103E McGregor, N. Mex.
Boundaries. Beginning at Lat. 32°00'15"N., Long. 105°56'40"W.; to Lat. 32°26'20"N., Long. 105°30'00"W.; to Lat. 32°16'00"N., Long. 105°30'00"W.; to Lat. 32°06'00"N., Long. 105°39'00"W.; to point of beginning.
Designated altitudes. 15,000 feet MSL to unlimited.
Time of designation. Continuous 0100 April 1 until 2400 local time April 7, 1981.
Controlling agency. FAA Albuquerque ARTC Center.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, Va.
R-5103F McGregor, N. Mex.
Boundaries. Beginning at Lat. 32°04'00"N., Long. 106°17'00"W.; to Lat. 32°06'00"N., Long. 106°15'30"W.; to Lat. 32°05'20"N., Long. 106°09'20"W.; to Lat. 32°00'30"N., Long. 106°10'25"W.; to point of beginning.
Designated altitudes. 100 feet AGL to unlimited.
Time of designation. Continuous 0100 April 1 until 2400 local time April 7, 1981.
Controlling agency. FAA Albuquerque ARTC Center.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, Va.
R-5103G McGregor, N. Mex.
Boundaries. Beginning at Lat. 32°05'00"N., Long. 106°18'20"W.; to Lat. 32°25'00"N., Long. 106°06'00"W.; to Lat. 32°38'00"N., Long. 106°06'00"W.; to Lat. 32°38'00"N., Long. 105°59'00"W.; to Lat. 32°27'40"N., Long. 106°00'00"W.; to Lat. 32°28'00"N., Long. 106°02'00"W.; then along the Southern Railroad to Lat. 32°04'00"N., Long. 106°17'00"W.; to point of beginning.
Designated altitudes. 12,000 feet MSL to unlimited.
Time of designation. Continuous 0100 April 1 until 2400 local time April 7, 1981.
Controlling agency. FAA Albuquerque ARTC Center.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, Va.
R-5103I McGregor, N. Mex.
Boundaries. Beginning at Lat. 32°45'00"N., Long. 105°52'20"W.; to Lat. 32°33'20"N., Long. 105°30'00"W.; to Lat. 32°45'00"N., Long. 105°27'00"W.; to point of beginning.
Designated altitudes. 24,000 feet MSL to unlimited.
Time of designation. Continuous 0100 April 1 until 2400 local time April 7, 1981.
Controlling agency. FAA Albuquerque ARTC Center.
Using agency. U.S. Air Force Tactical Air Command/USAF Readiness Command (TAC), Langley AFB, Va.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C 1655(c)); 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on Nov. 14, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-36147 Filed 11-19-80; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 231, 241, and 251

[Release Nos. 33-6259; 34-17290; 35-21783]

Withdrawal of Proposed Guidelines for Disclosure by Electric and Gas Utilities

AGENCY: Securities and Exchange Commission.

ACTION: Withdrawal of proposed guidelines for disclosure by electric and gas utilities.

SUMMARY: The Securities and Exchange Commission today withdrew proposed staff guidelines for disclosure in registration statements and periodic reports filed by electric and gas utility companies under the federal securities laws. Promulgation of the proposed guidelines is not necessary at this time for several reasons, such as the adequate disclosure currently provided in filings by the industry as a whole. Although the guidelines are being withdrawn, the Commission encourages utilities to consider the areas of disclosure addressed by the proposal in complying with the requirements of the federal securities laws.

EFFECTIVE DATE: December 22, 1980.

FOR FURTHER INFORMATION CONTACT: Until the effective date, contact William H. Carter (202) 272-2604, Steven C. Duvall (202) 272-2685 or Charles C. Leber (202) 272-2663, Securities and Exchange Commission, 500 N. Capitol St., Washington, D.C. 20549. Thereafter contact only Steven C. Duvall or Charles C. Leber.

SUPPLEMENTARY INFORMATION: The Commission today withdrew proposed Guides 63 and 6, "Guidelines for Disclosure by Electric and Gas Utility Companies," of the Guides for the Preparation and Filing of Registration Statements under the Securities Act of 1933 [1] and the Guides for the Preparation and Filing of Reports and Registration Statements under the Securities Exchange Act of 1934,[2] respectively.

The proposed rescision of Guide 30, "Disclosure of Principal Sources of Electric Revenues," of the Guides for the Preparation and Filing of Registration Statements under the Securities Act of 1933 [3] is similarly not being implemented at this time. Although Guide 30 remains in effect, it is presently being studied as part of a comprehensive re-evaluation of the Guides under the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a et seq.] and the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq.].[4]

I. General Background and Reasons for Withdrawal of Proposed Guidelines.

Publication of the proposed guidelines for electric and gas utilities in 1979 [5]

[1] Release No. 33-4936 (December 9, 1968) [33 FR 18617].
[2] Release No. 34-13639 (June 17, 1977) [42 FR 31780].
[3] Release No. 33-4936 (December 9, 1968) [33 FR 18617]. Release No. 33-5791 (December 20, 1976) [41 FR 56306].
[4] Release No. 33-6163 (December 5, 1979) [44 FR 72604].
[5] Release No. 33-6085 (June 25, 1979) [44 FR 38792].

resulted in part from a recommendation of the Advisory Committee on Corporate

commissions when in fact it only requested objective data derived from

disclosure which are most pertinent to its particular facts and circumstances.

regulations to include clarifications, changes in requirements resulting from

In order to aid the Commission in its determination of whether to implement

natural gas companies pursuant to the Commissions's Uniform System of

resulted in part from a recommendation of the Advisory Committee on Corporate Disclosure that the Commission develop industry guidelines with requirements which reflected the particular characteristics of specific industries.[6] As stated in prior releases, electric and gas utilities were chosen because of the substantial capital needs of the industry and the frequency with which utilities use public markets as a source of funds.[7]

Generally, the proposed guidelines reflected the areas of disclosure and levels of information contained in the filings by certain gas and electric utilities. Thus, with two exceptions,[8] the proposals would have standardized the current disclosure practices exemplified by the better filings with the Commission by public utilities.

Seventy-two letters of comment were received.[9] The commentators generally opposed the guidelines as proposed. Two primary issues appeared to be of concern. First, according to the commentators the proposals would have required excessive detail and voluminous disclosure. In the commentators' opinion, such disclosures are unnecessary, would result in marginal benefits to the average investor which benefits would be outweighed by the added burdens of compliance, and would hamper registrants' flexibility in making disclosure which adequately reflects the specific circumstances of a particular utility. Second, the majority of commentators objected to mandating any forward looking information, as well as to the length of the time periods for forward looking information and the resultant need to update such information.

Certain other commentators, however, apparently misunderstood the type of information requested in the proposed guidelines. For example, a number of commentators believed that the proposed guidelines required a subjective evaluation of regulatory commissions when in fact it only requested objective data derived from the latest regulatory action(s).

After analyzing the comments received an conducting a selective review of recent filings by certain utilities, the Commission continues to believe that the areas of disclosure in the proposal are generally appropriate in filings by electric and gas utilities. However, for the reasons enumerated below, the Commission does not believe that it is either necessary or appropriate to standardize these areas of disclosure in a formal guideline at this time.

First, while levels of disclosure vary among companies, utility industry filings generally provide adequate disclosure. With the two exceptions noted above,[10] the areas of disclosure in a large number of utility filings are substantially similar to those in the proposed guidelines. Promulgation of the guidelines would standardize these areas and increase the amount of detailed disclosure. Although this may benefit a few sophisticated investors, many other sophisticated investors, such as analysts, already have access to such information through utility filings with other governmental agencies.[11] Further, the additional disclosures would likely provide marginal benefits to the average investor. Moreover, the benefit may be outweighed by the increased burden of compliance by utilities. Therefore, the Commission believes that a standard guideline is not necessary at this time.

Second, because of the diversity of the registrants within the utility industry detailed, uniform disclosure requirements may not be appropriate for each registrant in every instance. Comprehensive industry guidelines, such as those proposed, may result in inflexibility when the required types of disclosure are not generally applicable throughout the industry. Such inflexibility may result in mechanical and lengthy disclosure documents which no not provide meaningful information to investors and prevent a registrant from concentrating on areas of disclosure which are most pertinent to its particular facts and circumstances.

Finally, the Commission is concerned that the volume of technical, statistical disclosure which would be required by the proposed guidelines might tend to discourage integration of formal Commission filings and informal security holder reports that the Commission is attempting to foster.[12]

Although the proposed guidelines are being withdrawn, the Commission encourages registrants in the electric and gas utility industry to consider the areas of disclosure in the proposal. In the Commission's view, sound disclosure policy involves consideration of these areas with respect to the individual circumstances of registrants within the industry. In addition, the Commission encourages such registrants to provide disclosure beyond that currently required by specific regulations, such as Regulation S–K [17 CFR 229.20]. In this regard, the Commission will continue to monitor filings to ensure that full and fair disclosure is made and where necessary and appropriate may issue interpretations or propose rules in the future which address disclosure issues in the electric and gas utility industry.

By the Commission.

George A. Fitzsimmons,

Secretary.

November 13, 1980.

[FR Doc. 80-36289 Filed 11-19-80; 8:45 am]

BILLING CODE 8010-01-M

[6] Report of the Advisory Committee on Corporate Disclosure to the Securities and Exchange Commission, Committee Print 95–29, House Committee on Interstate and Foreign Commerce, 95th Cong., 1st Sess., November 3, 1977 at 329.

[7] Release Nos. 33–5827 (May 19, 1977) [42 FR 27260]; 33–6085 (July 3, 1979) [44 FR 38792].

[8] See note 10 *infra*.

[9] Letters were received from the following categories of commentators: electric and gas institutes or associations (3); electric and gas utilities (61); other corporations (1); accounting firms (2); law firms (3); governmental agencies (1); other interested persons (1). Copies of the letters of comments, as well as a copy of the summary of comments prepared by the Commission staff, are available for public inspection in File S7–696 in the Commission's Public Reference Room located at 1100 L Street, NW, Washington, D.C.

[10] These two exceptions are mandatory forward looking information and expanded disclosure of the public utility regulatory environment. with regard to forward looking information the Commission has decided that more experience is needed in this area and that it would be premature to mandate such disclosure at this time. With regard to the regulatory environment, the Commission believes this disclosure can be better obtained through the voluntary action of registrants and the comment process on individual filings, rather than by means of a guideline.

[11] Registrants in this industry are highly regulated and are required to file publicly available reports with state and federal agencies for purposes of rate determinations and for approval of certain types of financing.

[12] *See, e.g.*, Securities Act Release No. 6231 (September 2, 1980) [45 FR 6370].

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 125 and 225

[Docket No. RM81–4]

Proposed Rulemaking To Amend Regulations To Govern the Preservation of Records of Public Utilities, Licensees, and Natural Gas Companies

November 13, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission is proposing to amend its regulations governing the Preservation of Records of Public Utilities and Licensees (18 CFR Part 125), and the Preservation of Records of Natural Gas Companies (18 CFR Part 225). The amendments would update the regulations to include clarifications, changes in requirements resulting from new legislation and certain other technical changes.

DATE: Comments are due December 15, 1980.

ADDRESS: Comments on this notice should be addressed to the Office of Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should reference Docket No. RM81–4.

FOR FURTHER INFORMATION CONTACT:

Elaine M. Dawson, Office of Chief Accountant, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 3405N, Washington, D.C. 20426, (202) 357–9190

Joseph M. Harkins, Office of Chief Accountant, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 3407N, Washington, D.C. 20426, (202) 357–9185

I. Background

Pursuant to its authority under sections 301, 304 and 309 of the Federal Power Act (16 U.S.C. 792–828c) and under sections 8, 10 and 16 of the Natural Gas Act (15 U.S.C. 717–717w) the Federal Energy Regulatory Commission (Commission) is proposing to revise its regulations concerning the Preservation of Records of Public Utilities and Licensees (18 CFR Part 125) and the Preservation of Records of Natural Gas Companies (18 CFR Part 225). These regulations apply to all books of account and other records prepared by, or on behalf of, public utilities or licensees (Part 125), or natural gas companies (Part 225).

Parts 125 and 225 were last revised on March 14, 1972 (Order No. 450, Docket No. R–429, 37 FR 6293, March 28, 1972). Since that time, the Commission has received a number of requests from companies required to file under these parts to make the following changes: (1) Clarify reporting instructions and record retention requirements; (2) change certain requirements and record retention periods as a result of advances in microfilm technology, or because the filing companies have found difficulty in complying with the present regulations; and (3) establish guidelines with respect to continuing plant inventory records. Certain additions are also proposed as a result of new reporting requirements under section 133 of the Public Utility Regulatory Policies Act (PURPA) (16 U.S.C. 2601–2645) and sections 105, 106(b) and 109 of the Natural Gas Policy Act (NGPA) (15 U.S.C. 3301–3432).

In order to aid the Commission in its determination of whether to implement the proposed changes, the Commission specifically invites comments on the following questions:

1. (a) Do the proposed revisions to the regulations governing preservation of records affect any Commission or State regulatory functions?

(b) Would State agencies now using current Parts 125 and 225 requirements in the exercise of their own regulatory responsibilities revise their regulations concurrently?

2. What is the estimated burden, in dollars, or hours, or both, associated with the current and the proposed Commission record retention requirements imposed upon companies which are subject to the requirements?

II. Summary of Proposed Revisions

The following is a brief summary of the Commission's proposed revisions to 18 C.F.R. Parts 125 and 225:

1. Amendments to the General Instructions (§§ 125.2 and 225.2): (a) Revise §§ 125.2(d)(3) and 225.2(d)(3), Figure 1, "Record Media" at Item No. 3.a., in "Record media/form", by identifying "COM" as Computer Output Microfilm, and in "Comments and Standards," by referencing the latest American National Standards Institute, Inc. (ANSI) standards: #PH 1.28–76 and #PH 1.41—1976 (Specifications for Photographic Film for Archival Records, Silver Gelatin Type on Polyester Base).

(b) Clarify instructions at §§ 125.2(e)(1) and 225.2(e)(1) with reference to microfilm certification by providing separate certification instructions for COM. A certification statement from the official validating or confirming the data could be retained separately from the microform series. Only the initials of the official and the date of the confirmation or validation would be required in the title or heading of each microfiche or record series jacket. A clear and standard microform notation which indicates the completion of the series and dates would be required at the close of each COM microform series.

Another change to the instructions at §§ 125.2(e)(1) and 225(e)(1) would be to add "series" after "record", in the first line.

(c) Add a sentence to §§ 125.2(e)(2)(ii) and 225.2(e)(ii) to provide for the attachment of microfilm retakes at the end of a reel, under certain conditions.

(d) Redesignate paragraph (j) in §§ 125.2 and 225.2 as subparagraph (j)(1), and add subparagraph (2) to provide guidelines for continuing plant inventory records. These records would be required of public utilities and natural gas companies pursuant to the Commissions's Uniform System of Accounts (see 18 C.F.R. Part 101 at Electric Plant Instructions, 11.C., and 18 C.F.R. Part 104 at Electric Plant Instructions, 13.A. (public utilities); and 18 C.F.R. Part 201, at Gas Plant Instructions, 11.C., and 18 C.F.R. Part 204 at Gas Plant Instructions (gas companies)). The records would be classified to show the quantity and costs of the various record or retirement units.

In order to provide an inventory of property units which can be "spot-checked" for proof of physical existence, a comparison of costs with such units to insure accurate accounting for retirements, and additional and retirement data for use in depreciation studies, the foillowing data would be required in the records: (1) The name of the item and the manufacturer's code number or, if built by the utility, engineering studies and details of the materials used; (2) the location of the unit and the department responsible for it; (3) the date an item was acquired or transferred to plant-in-service; (4) the cost of the item; (5) estimates of the item's service life and salvage value; (6) details of depreciation accounting for the item, such as monthly and yearly percentage rates and actual dollar deductions; all additions, modifications and retirements; accumulated depreciation amounts and information as to whether depreciation is calculated on a unit or group basis; and (7) the asset control account to which plant costs are charged.

2. Amendments to the Schedule of Records and Periods of Retention for Electric Utilities only (§ 125.3): (a) Amend Item No.22.1(e) for clarification purposes; by providing for the inclusion of "clearance logs with supporting data" with "Station and system generation reports." The clearance logs would indicate when equipment is in service and out of service.

(b) Amend Item Nos. 22.2(e) through (1) by changing the retention period for various records under the nuclear production section from "Life of corporation" to "10 years after plant is retired." The change would make the retention periods consistent with other commission records retention provisions.

3. Amendments to the Schedule of Records and Periods of Retention (§§ 125.3 and 225.3):

(a) Apply footnote No. 5 to Item No.. 39, "Records of accumulated provisions for depreciation and depletion of utility plant." Footnote no. 5 is a reference to paragraph (n)(5) in §§ 125.2 and 225.2. This paragraph provides that life and mortality study data for depreciation

purposes shall be retained for the life of the corporation. These plant and depreciation records would, therefore,

paragraph (e)(2) by adding a new sentence at the end of subdivision (ii); and by redesignating paragraph (j) as

(ii) * * * When a retrieval system (*e.g.*, image count indexing ("blipping")) is used, the supplemental or retaken film

Schedule of Records and Periods of Retention

(j) * * *

(1) * * *

purposes shall be retained for the life of the corporation. These plant and depreciation records would, therefore, be retained for the life of the corporation for use in company mortality studies.

(b) Amend Item 40(b) to clarify that *all* bids and proposals evidencing a procurement must be retained by the company (*i.e.*, those which are both "accepted and nonaccepted").

(c) Add to Item No. 65, "Reports to Federal and State Regulatory Commissions," a requirement to retain Cost of Service Reports, required under section 133 of PURPA (§ 125.3), and reports for first sales of natural gas under sections 105, 106(b) and 109 of the NGPA § 225.3).

III. Written Comment Procedures

Interested persons wishing to comment on this proposal should submit their comments to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426 and should refer to Docket No. RM81–4. An original and 14 copies should be filed. All comments received prior to 4:30 p.m., December 15, 1980, will be considered by the Commission prior to promulgation of final regulations.

All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection during regular business hours in the Commission's division of Public Information, Room 1000, 825 North Capitol Street, NE, Washington, D.C. 20426.

(Natural Gas Act, is amended, 15 U.S.C. 717–717w; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Federal Power Act, as amended, 16 U.S.C. 792–828c; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645; Department of Energy Organization Act, 42 U.S.C. 7107–7352; E.O. 12009 42 FR 46267)

In consideration of the foregoing, the Commission proposes to revise Part 125 of Subchapter C, and Part 225 of Subchapter F, Chapter I, Title 18 of the code of Federal Regulations as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 125—PRESERVATION OF RECORDS OF PUBLIC UTILITIES AND LICENSEES

1. Section 125.2 is amended in paragraph (d)(3), Figure 1, Item 3.a.; in paragraph (e)(1) by redesignating subdivision (ii) as subdivision (iii), and subdivision (iii) as subdivision (iv), and by adding a new subdivision (ii); in paragraph (e)(2) by adding a new sentence at the end of subdivision (ii); and by redesignating paragraph (j) as paragraph (j)(1) and adding a new subparagraph (2), to read as follows:

§ 125.2 General instructions.

* * * * *

(d) * * *
(3) * * *

Figure 1.—*Record Media*

Record media/form	Media expected life	Comments and standards
1. * * *		
2. * * *		
3. Microforms: a. Microfilm (including computer output microfilm (COM), microfiche, jackets, and aperture cards).	Archival permanency.	Assumes storage in a controlled environment with a temperature and humidity range of 60°80°F. and 40–50%, respectively. (Ref. American National Standard Institute (ANSI) standard #PH 1.28–1976, PH 1.41–1976 and PH 5.4–1970.)

* * *

(e) * * *
(1) * * *

(ii) When the microform record series is a product of Computer Output Microfilm (COM), the certification statement may be retained separetely; only the initials of the official validating or confirming the data and the date of such validation or confirmation must appear in the title or heading of each microfiche or record series jacket. Each COM microform record series must be closed with a clear and standard microform notation indicating the completion of the series and the date.

* * * * *

(ii) * * * When a retrieval system (*e.g.*, image count indexing ("blipping")) is used, the supplemental or retaken film may be attached at the end of the series, if provisions at the beginning of the series advise the viewer of the location of the problem frames and the supplemental or retaken images.

* * * * *

(j) * * *
(1) * * *

(2) Continuing plant inventory records for each plant account must be classified to show the quantity and costs of the various record or retirement units. These records must contain the following:

(i) Name of item and manufacturer's code number, or, if built by the utility, engineering studies and details of materials used;

(ii) Location of the unit and the department responsible for it;

(iii) Date acquired or transferred to plant-in-service;

(iv) Cost;

(v) Estimates of service life and salvage value;

(vi) Details of depreciation accounting, such as monthly and yearly percentage rates and actual dollar deductions; all additions, modifications and retirements; accumulated depreciation amounts and information as to whether depreciation is calculated on a unit or group basis; and

(vii) The asset control account to which costs are charged.

* * * * *

2. Section 125.3 is amended in Item 22.1(e); in Items 22.2 (e) through (l) by revising the periods of retention; in Item 39 by applying footnote No. 5 thereto; in Item 40(b); and in Item 65 by adding a new sub-item (d), to read as follows:

§ 125.3 Schedule of records and periods of retention.

Schedule of Records and Periods of Retention

Description	Retention period
22.1 Production—electric (less nuclear):	
(e) Station and system generation reports and clearance logs with supporting data	25 years. See § 125.2(j).
22.2 Production—nuclear:	
(e) Records and prints of changes made to the plant as described in the final safety analysis report.	10 years after plant is retired.
39. Records of accumulated provisions for depreciation and depletion of utility plant: (a) Detailed records or analysis sheets segregating the accumulated depreciation according to functional classification of plant.	25 years.[5]

Schedule of Records and Periods of Retention

Description	Retention period
40. Procurements:	
(b) Supporting documents including accepted and unaccepted bids or proposals evidencing all relevant elements of the procurement.	6 years. See § 125.2(j).
65. Reports to Federal and State regulatory commissions:	
(d) Cost of service reports filed under section 133 of the Public Utility Regulatory Policies Act (PURPA). (See 18 CFR Part 290.).	5 years.

* * * * *

PART 225—PRESERVATION OF RECORDS OF NATURAL GAS COMPANIES

3. Section 225.2 is amended in paragraph (d)(3) Figure 1, Item 3.a.; in paragraph (e)(1) by adding "series" after "record" in line 1 of subdivision (i), by redesignating subdivision (ii) as subdivision (iii), and subdivision (iii) as subdivision (iv), and by adding a new subdivision (ii); in paragraph (e)(2) by adding a new sentence at the end of subparagraph (ii); by redesignating paragraph (j) as paragraph (j)(1) and adding a new subparagraph (2), to read as follows:

§ 225.2 General instructions.

* * * * *

(d) * * *
(3) * * *

Figure 1.—*Record Media*

Record media/form	Media expected life	Comments and standards
1. * * *		
2. * * *		
3. Microforms: a. Microfilm (including Computer Output Microfilm (COM), Microfiche, jackets, and aperture cards).	....do....	Assumes storage in a controlled environment with a temperature and humidity range of 60°–80°F. and 40–50%, respectively. (Ref. American National Standard Institute (ANSI) standard #PH 1.28–1976, PH 1.41–1976 and PH 5.4–1970.)

* * * * *

(e) * * *
(1) * * *

(i) Each microform record series shall contain * * *

(ii) When the microform record series is a product of Computer Output Microfilm (COM), the certification statement may be retained separately; only the initials of the official validating or confirming the data and the date of such validation or confirmation must appear in the title or heading of each microfiche or record series jacket. Each COM microform record series must be closed with a clear and standard microform notation indicating the completion of the series and the date.

* * * * *

(2) * * *

(ii) * * * When a retrieval system (*e.g.*, image count indexing ("blipping") is used, the supplemental or retaken film may be attached at the end of the series, if provisions at the beginning of the series advise the viewer of the location of the problem frames and the supplemental or retaken images.

* * * * *

(j) * * *
(1) * * *

(2) Continuing plant inventory records for each account must be classified to show the quantity and costs of the various record or retirement units. These records must contain the following:

(i) Name of item and manufacturer's code number, or, if built by the company, engineering studies and details of materials used;

(ii) Location of the unit and the department responsible for it;

(iii) Date acquired or transferred to plant-in-service;

(iv) Cost;

(v) Estimates of service life and salvage value;

(vi) Details of depreciation accounting such as monthly and yearly percentage rates and actual dollar deductions; all additions, modifications and retirements; accumulated depreciation amounts and information as to whether depreciation is calculated on a unit or group basis; and

(vii) The asset control account to which costs are charged.

* * * * *

4. Section 225.3 is amended in Item 39 by applying footnote no. 5 thereto; in Item 40(b); and in Item 65 by adding a new sub-item (d), to read as follows:

§ 225.3 Schedule of records and periods of retention. * * * * *

Schedule of Records and Periods of Retention

Description	Retention period
39. Records of accumulated provisions for depreciation and depletion of utility plant: (a) Detailed records or analysis sheets segregating the accumulated depreciation according to functional classification of plant.	25 years.[5]
40. Procurements:	
(b) Supporting documents including accepted and nonaccepted bids or proposals evidencing all relevant elements of the procurement.	6 years. See § 225.2(j).
65. Report to Federal and State regulatory commission	
(d) Reports concerning first sales under sections 105, 106(b), and 109 of the Natural Gas Policy Act (NGPA). (*See* CFR Part 276.):	
(1) Books and records	3 years after filing date.
(2) Contracts	3 years after expiration.

* * * * *

[FR Doc. 80-36194 Filed 11-19-80; 8:45 am]
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18 CFR Part 271

[Docket No. RM79-76; Wyoming-3]

Ceiling Prices; High-Cost Gas Produced From Tight Formations

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions that present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas subject to an incentive price (18 CFR 271.703). The rule establishes procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Wyoming Oil and Gas Conservation Commission that the Fort Union Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on December 15, 1980.

PUBLIC HEARING: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on December 1, 1980.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8299 or Victor Zabel, (202) 357-8559.

I. Background

On November 7, 1980, the State of Wyoming Oil and Gas Conservation Commission (Wyoming) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's final regulations (45 FR 56034, August 22, 1980), that the Fort Union Formation located in the Pinedale Field, Sublette County, Wyoming be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Wyoming's recommendation that the Fort Union Formation be designated a tight formation should be adopted. The United States Geological Survey concurs with Wyoming's recommendation. Wyoming's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation lies entirely within Sublette County, Wyoming, under the Pinedale Anticline. The recommended area is approximately 45 miles long and 12 to 14 miles wide, trending in a northwesterly-southeasterly direction. The vertical limits of the Fort Union Formation are defined by the Wasatch Formation above and the Lance Formation below at an average measured depth interval of 7258 feet to 10,516 feet. The Fort Union Formation averages 3250 feet in thickness.

III. Discussion of Recommendation

Wyoming claims in its submission that evidence gathered through information and testimony presented at a public hearing in Docket No. 120-80-(A), Cause No. 2, convened by Wyoming on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Wyoming further asserts that Rule 320 of the Wyoming Oil and Gas Conservation Commission's Rules and Regulations assure that development of this formation will not adversely affect any fresh water aquifers that are or are expected to be used as a domestic or agricultural water supply.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80-68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Wyoming that the Fort Union Formation, as described and delineated in Wyoming's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before December 15, 1980. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76 (Wyoming—3), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than December 1, 1980.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3342)

Accordingly, the Commission proposes to amend the regulations in Part 271, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Wyoming's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703(d) is amended by adding a new subparagraph (19) to read as follow:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79-76, as subindexed below, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

* * * * *

(2) through (18) [Reserved].

(19) *Fort Union Formation in Wyoming.* (i) *Delineation of formation.* The Fort Union Formation is found in the Pinedale Field in Sublette County, Wyoming. RM79-76 (Wyoming—3)

(ii) *Depth.* The Fort Union Formation is defined as that formation occurring between the Wasatch Formation above and the Lance Formation below at an average measured depth interval of 7,258 feet to 10,516 feet.

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BILLING CODE 6450-85-M

WATER RESOURCES COUNCIL

18 CFR Part 726

Compliance With National Historic Preservation Act (NHPA); Protection and Management of the Historic and Cultural Environment

AGENCY: U.S. Water Resources Council.

ACTION: Proposed rule.

SUMMARY: These proposed regulations are issued in response to the President's Memorandum of July 12, 1978, titled, "Environmental Quality and Water Resources Management." The Presidential Memorandum required all agencies with consultative responsibilities under the National Historic Preservation Act (NHPA) to develop procedures to implement the Advisory Council's regulations (36 CFR 800). These proposed procedures establish the Water Resources Council's compliance with this Presidential directive and Section 800.10 of the Advisory Council's regulations.

DATES: Comments must be received by January 12, 1981, 4:30 p.m., EST.

ADDRESS: Submit comments to the Water Resources Council, 2120 L Street, NW., Washington, DC 20037. Oral or written comments should be sent to Michael Dorrington, (202) 254-6453.

FOR FURTHER INFORMATION CONTACT: Michael Dorrignton (202) 254-6453.

SUPPLEMENTARY INFORMATION:

Background

The national Environmental Policy Act (NEPA) is the Nation's basic charter for the protection of the environment. Section 101(b)(4) of NEPA declares that one objective of national environmental policy is to "preserve important historic, cultural, and natural aspects of our national heritage and maintain, whenever possible, an environment which supports diversity and variety of individual choice." Environment, as stated in NEPA, include both natural and cultural resources. The requirement emboided in Section 101(b)(4) of NEPA is, however, separate and distinct from the requirement embodied in Section 106 of the National Historic Preservation Act (NEPA).

Section 106 of the NEPA requires agencies to consult with the Advisory Council on Historic Preservation (Advisory Council) whenever an undertaking has the potential to affect historic and cultural properties which are listed in or determined by the Secretary of the Interior to be eligible for listing in the National Register of Historic Places. The purpose of Section 106 of the Act is to protect and enhance those properties listed in or eligible for listing in the National Register of Historic Places through the Heritage Conservation and Recreation Service (HCRS). As implemented through the Advisory Council regulations, "Protection of Historic and Cultural Properties," (36 CFR Part 800) consultation under Section 106 of the Act is a public interest process in which the agency proposing the undertaking, the State Historic Preservation Officer (SHPO), the Advisory Council, and other interested organizations and individuals participate. The processes established by the regulations of the Advisory Council (36 CFR Part 800) are designed to ensure that alternatives which could avoid affecting such properties are fully explored and, where alternatives to avoid adversely affecting historic and cultural properties are determined to not be in the public interest, that all practicable measures to mitigate the adverse effects are taken.

The Advisory Council's regulations, "Protection of Historic and Cultural Properties" became effective on March 1, 1979. Those regulations were issued in response to the President's Memorandum of July 12, 1978, titled, "Environmental Quality and Water Resources Management. The Presidential Memorandum required all agencies with consultative responsibilities under the NEPA to develop procedures to implement the Advisory Council's regulations. The Advisory Council's regulations require that such procedures be prepared in consultation with the Advisory Council. The President's Memorandum requires agency procedures to be reviewed and approved by the Chairman of the Advisory Council prior to their final adoption by the agency.

These proposed procedures establish WRC's compliance with this Presidential directive and § 800.10 of the Advisory Council's regulations. The processes set forth in these procedures should be integrated to the fullest extent possible with the NEPA review process established by WRC (18 CFR Part 707). Section 1502.25(g) of the Council on Environmental Quality's (CEQ) regulations implementing NEPA and § 800.9 of the Advisory Council's regulations specify processes to integrate the two requirements. Initiation of the environmental analyses, including those designed to identify and protect historic and cultural properties, must coincide with the initiation of other economic and technical analyses. Several commenters have requested that WRC develop a single document or "road map" that might better integrate the processing requirements of NEPA, the Floodplain/Wetland Executive Orders, and Cultural/Historic preservation procedures. The Great Lakes and Missouri River Basin Commissions and others felt that integration would avoid confusion and result in better planning and compliance. Such procedures would encourage, wherever possible, that processing requirements be met concurrently, avoiding duplication and delay. In its final NEPA rule, WRC stated that the rule would probably need to be revised for similar reasons. WRC feels that integration can be best accomplished by modifying its NEPA procedures to incorporate the administrative (processing) requirements of various environmental mandates.

The WRC does not fund or undertake any actions involving construction and is, therefore, not responsible for developing procedures to deal with historic and cultural properties discovered during construction as required by 36 CFR 800.7. WRC's constituent agencies are responsible for the promulgation of procedures to cover such activities. These procedures deal only with internal WRC activities.

It is proposed to amend 18 CFR by adding a new Part 726, "Compliance With The National Historic Preservation Act (NHPA)" to read as follows:

Subpart A—General

Sec.
726.50 Purpose.
726.51 Applicability.
726.52 Definitions.
726.53 Policy.

Subpart B—Water Resources Council's Implementing Procedures.

726.54 General.

Sec.
726.55 Identification of historic and cultural properties.

not the intent of these procedures to require that all documents prepared with WRC Title II and Title III planning

the criteria to determine if the effect on the property may be adverse.

(e) "National Register" means the

(WRC) is committed to the management—identification,

issuance, the results of historic and cultural surveys and management

effort would normally be subjected to only the requirements specified in

Sec.
726.55 Identification of historic and cultural properties.
726.56 Determination of eligibility.
726.57 Determination of effect.
726.58 Participation by interested parties.
726.59 Responsibility of the Water Resources Council.

Authority: National Environmental Policy Act (42 U.S.C. 4321 *et seq.*); National Historic Preservation Act (16 U.S.C. 470f *et seq.*); Archaeological Resources Protection Act of 1979 (Pub. L. 96-95, 93 Stat. 721); Executive Order 11593; 36 CFR Part 800; 36 CFR 60, 61, 63; 40 CFR Part 1500-1508; American Indian Religious Freedom Act (42 U.S.C. 1996); Water Resources Planning Act (42 U.S.C. 1962, *et seq.*).

Subpart A—General

§ 726.50 Purpose.

(a) The purpose of this rule is to fulfill the WRC's responsibilities under Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470f), Executive Order 11593, and the regulations issued by the Advisory Council on Historic Preservation (36 CFR Part 800). WRC is responsible for the identification and protection of historical, archeological, architectural, scientific, and paleontological resources, hereinafter referred to as historic and cultural properites, affected by its undertakings and the program it administers. These responsibilities shall be fully considered in the development of any planning activities taken directly by WRC or through the River Basin Commissions (RBCs) or similar entities (i.e., regional planning sponsor). To the fullest extent possible, it is WRC's policy to preserve historic and cultural properties *in situ* and total avoidance of adverse effects will always be attempted. However, when all factors related to the undertaking are evaluated from the overall public benefit standpoint, it is possible that some historic and cultural properties may be adversely affected. Whenever an undertaking would adversely affect an historic or cultural property, the WRC will attempt to minimize all adverse effects.

(b) This rule is not intended to relieve any other Federal agency of its responsibilities to comply with applicable laws and regulations related to the identification and protection of historic and cultural properties.

§ 726.51 Applicability.

These procedures apply to the WRC as an independent executive agency, to Title II river basin commissions (RBC's), and to other entities (i.e., regional planning sponsor) preparing studies and plans for WRC review or transmittal to the President. This rule applies to all undertakings as defined in § 726.52. It is not the intent of these procedures to require that all documents prepared with WRC Title II and Title III planning monies be subjected to the same coordination and review processes. For example, WRC's Title III (State Planning) planning funds are used to prepare baseline studies, water quality reports, and other narrowly focused documents which are not directly linked to any comprehensive plan. However, where Title II and Title III monies are used to prepare comprehensive regional or State plans, the plan shall be prepared according to the procedures described in Subpart B of this rule. Where Federal agencies have completed (Level C) detailed feasibility studies for proposals contained in a plan, those proposals will have already been processed according to the Agency's own "historic" procedures and that *aspect* of the plan will be assumed to be in compliance with this rule.

§ 726.52 Definitions.

(a) "Advisory Council" means the Advisory Council on Historic Preservation, an independent Federal agency which was created by the National Historic Preservation Act of 1966. Under the provisions of Section 106 of the National Historic Preservation Act and Executive Order 11593, the Advisory Council must be afforded a reasonable opportunity to comment on Federal, federally-assisted, or federally-licensed undertakings that may affect properties listed in or eligible for listing in the National Register of Historic Places. The procedures for consultation with the Advisory Council are contained in 36 CFR Part 800. The Advisory Council retains staff for review and compliance in Denver, Colorado, and Washington, D.C., to carry out its consultative roles.

(b) "Historic and cultural properties" include any building, site, district, structure, or object of potential significance due to its association with history, architecture, archeology, or culture.

(c) "Consultation" means the act of directly contacting and formally seeking the advice of the appropriate State Historic Preservation Officer and the Advisory Council on Historic Preservation.

(d) "Effect" is the extent and nature of an undertaking's impact on a National Register or eligible property as determined according to the Advisory Council's "Criteria of Effect" (36 CFR 800.3). Section 800.3(a) establishes the criteria for determining whether a property will be affected by an undertaking, while § 800.3(b) establishes the criteria to determine if the effect on the property may be adverse.

(e) "National Register" means the National Register of Historic Places maintained by the Department of the Interior. It is the official list of landmarks, districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture, maintained by the Secretary of the Interior under the authority of Section 2 of the National Historic Preservation Act. Addenda to the National Register are published in the **Federal Register** on the first Tuesday in each month.

(f) "State Historic Preservation Officer" (SHPO) means the official, designated pursuant to 36 CFR Part 61, responsible for liaison with Federal agencies for implementation of the National Historic Preservation Act of 1966 and Executive Order 11593, and for the coordination of the statewide survey of historic and cultural properties and the development of a comprehensive State historic preservation plan.

(g) "Comprehensive and Level B Plans" means (1) regional water resources management plans, (2) comprehensive, coordinated, joint plans (CCJP's), (3) Level B plans, and (4) State comprehensive water and related resource plans.

(h) "Undertaking" means all WRC and WRC-assisted activities and programs, including WRC approval and assistance of non-Federal actions, activities, and programs. The approval of any plan by a River Basin Commission is also an undertaking. See 36 CFR 800.2(c) for further clarification of the scope of "undertaking."

(i) "Undertaking's area of potential environmental impact" means that geographical area within which direct and indirect environmental effects could reasonably be expected to occur and thus create the potential to change the historical, architectural, archeological, or cultural qualities possessed by a historic and cultural property.

(j) "Responsible Federal Official" (RFO) is the official responsible for the implementation of these procedures for those actions, activities, and programs as specified by 18 CFR 707.4(a).

(k) "Regional Planning Sponsor" means Federal agencies, States, groups of States, river basin commissions, interstate compact commissions and interagency committees.

§ 726.53 Policy.

(a) The nonrenewable cultural environment of our country constitutes a valuable and treasured portion of the national heritage of the American people. The Water Resources Council (WRC) is committed to the management—identification, preservation, interpretation, as well as evaluation and nomination of identified historic and cultural properties to the National Register of Historic Places—of our prehistoric, historic, and cultural properties for the benefit of all people of this and future generations. In reaching decisions, the long-term needs of society and the irreversible nature of an action must be considered.

(b) WRC is fully committee to the consideration of the needs of Native Americans (i.e., American Indians, Eskimo, Aleut, and Native Hawaiians) in the practice of their traditional religions. To assure the protection of Native American religious practices, traditional religious leaders and other native leaders (or their representatives) shall be consulted concerning areas of potential conflict arising from impacts on the cultural environment and the means to reduce or eliminate such conflicts. The Bureau of Indian Affairs, Department of the Interior, may provide the RFO assistance in locating such individuals and officials and identifying properties in which Native Americans might have an interest.

(c) The RFO will initiate consultation with the appropriate State Historic Preservation Officer (SHPO) and, where required, the Advisory Council, at the earliest stages of plan formulation, *before* making any commitments concerning an undertaking, or taking of any action that would limit the formulation and consideration of alternatives. The RFO shall initiate consultation by directly contacting the appropriate SHPO(s) and by informing them of the nature and scope of the proposed undertaking. The RFO shall make every effort to involve the SHPO(s) at the earliest stages of any planning efforts and throughout the formulation and development of rules, procedures, and plans.

Subpart B—Water Resources Council's Implementing Procedures

§ 726.54 General.

(a) Whenever it is determined that an undertaking has the potential to affect a National Register or eligibile property (§ 726.56), the RFO shall initiate consultation with the Advisory Council in either of the following two ways:

(1) *Environmental Impact Statement Required.* Whenever an undertaking requires the preparation of an EIS, notification to the Advisory Council should be accomplished through the Draft EIS (see 36 CFR 800.9). The draft EIS and planning report should discuss, to the extent possible at the time of its issuance, the results of historic and cultural surveys and management reports concerning the undertaking's area of potential impact, the effect of the undertaking on all identified historic and cultural properties, and the appropriate documentation necessary to fulfill the requirements set forth in 36 CFR 800.13. When it is intended that the draft EIS constitutes notification to the Advisory Council, the transmittal letter must clearly state that the draft EIS is being submitted to request the comments of the Council pursuant to Section 106 of the NHPA and 36 CFR 800.6. The RFO shall invite all affected SHPO's to participate in any scoping meetings held pursuant to 40 CFR 1501.7 and 1508.25. Any final EIS prepared pursuant to Section 102(2)(C) of NEPA, in addition to identifying the adverse effects, shall describe the alternatives identified to avoid the adverse effects and any mitigation plans developed in consultation with the SHPO(s), affected Native American governments, and the Advisory Council, even though the consultation process set forth in 36 CFR 800.6 may not have been concluded.

(2) *Environmental Impact Statement Not Required.* Whenever an undertaking does not require the preparation of an EIS, but the undertaking could affect one or more National Register eligible or listed properties, notification shall be accomplished by providing the Advisory Council with documentation, in accordance with the procedures and instructions contained in 36 CFR 800.6.

(b) In accordance with 36 CFR 800.4(e), the RFO shall not take any action to implement an undertaking or approve a policy or plan which could result in the alteration, destruction, modification, or relocation of historic and cultural properties until the procedures established by this rule have been complied with. No action shall be taken which may result in the foreclosing of alternatives to a proposed undertaking having the potential to adversely affect National Register eligible or listed properties until the consultation process set forth in 36 CFR 800.6 has been concluded.

(c) All comprehensive and Level B planning efforts, and similar undertakings, hereinafter referred to as planning activities, shall include the information required in paragraphs (c) (1), (2), (7), and (8) of this section. Where the level of planning activity is sufficiently developed (i.e., specific or detailed), the planning activity document shall also include the information required in paragraphs (c) (3) through (6) of this section. For example, a very generalized planning effort would normally be subjected to only the requirements specified in paragraphs (c) (1), (2), (7), and (8) of this section, since that level of planning activity is unlikely to provide sufficient information to proceed much beyond the initial identification of properties. A detailed planning effort which recommends development at a specific site(s) would normally be expected to complete all of the requirements listed below:

(1) Identify the area of the undertaking's potential environmental impact. For planning activities, this is the area within which both direct and indirect environmental impacts would reasonably be expected to arise if the plan were to be implemented. The boundaries of this area shall be established in consultation with the SHPO(s) with jurisdiction over the area(s) included within the planning activity.

(2) Identify historic and cultural properties in accordance with § 726.54. The intensity of the studies conducted shall be commensurate with the level of planning activity. Overview studies (§ 726.55(a)) shall normally be conducted during the preparation of all plans. Inventory studies § 726.54(b)) shall normally be conducted for all plans which recommend the development of specific sites. Evaluative surveys (§ 726.55(c)) shall normally be accomplished for detailed feasibility studies.

(3) Determine the eligibility, using the process in § 726.55, of any historic and cultural properties identified for inclusion in the National Register of Historic Places.

(4) Determine the potential effect on each National Register listed eligible property by the action or activity being considered in the planning activity in accordance with § 726.56. In a generalized planning effort, especially in those areas where little information concerning the presence of historic and cultural properties is available, the results of an overview study may not provide sufficient information to enable the potential effect to be determined. In the case of more detailed planning activities or where considerable information exists concerning the presence of historic and cultural properties, the information may be sufficient only to indicate that the action or activity, if implemented, would affect National Register and eligible properties. The information in such cases may not be detailed enough to determine whether or not the effect is adverse.

(5) Where the potential effect of an action or activity under consideration in

a plan is determined to be adverse, the RFO shall in consultation with the SHPO, evaluate the feasibility of other properties in question. For example, mitigation for a property possessing architectural merit will necessarily properties within the area. Cursory field examinations may also be conducted. The overview study will be used to

within the undertaking's area of potential environmental impact to properties included within the undertaking's area of potential Policy will act as the contact between the Advisory Council and the WRC.

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a plan is determined to be adverse, the RFO shall in consultation with the SHPO, evaluate the feasibility of other alternative undertakings. Where the potentially adverse effect occurs to a property having significance because of Native American religious cultural rites and practices, the RFO shall confer with the affected (Native American) official to determine the appropriate measures to protect and preserve Native American religious cultural rites and practices. Alternatives that shall be considered during the planning process include:

(i) Carrying out the proposed undertaking at a location that will eliminate or substantially reduce the potential to adversely affect historic and cultural properties (alternative sites).

(ii) Conducting other undertakings, actions, activities, or programs with similar objectives which could avoid or substantially reduce the potential to adversely affect historic and cultural properties (alternative undertakings).

(iii) Implementing other plans, designs, schemes, or concepts with similar objectives which avoid or substantially reduce the potential to adversely affect historic and cultural properties (alternative designs).

(iv) Taking no action (no action alternative).

(6) The RFO shall determine potential mitigation measures to minimize any potential adverse effects (i.e., any adverse effects which could occur should the action or activity be implemented) in consultation with the SHPO and any designated Native American official where Native American religious cultural rites and practices would be adversely affected if the planning activity were to be realized. The mitigation measures to be studied shall include:

(i) Limiting the magnitude or extent of the proposed undertaking or identified alternatives;

(ii) Modification of the proposed undertaking through redesign, reorientation to the project site, and other similar changes;

(iii) Rectifying the potentially adverse effects by rehabilitating, repairing, or restoring the affected resources;

(iv) Minimizing the potentially adverse effects over time through preservation and maintenance activities throughout the life of an undertaking; and

(v) Compensating for the potentially adverse effects; for example, through the recovery and preservation of scientific, prehistoric, historic, and archeological data. The mitigation measures discussed shall be appropriate to the nature and importance of the historic and cultural properties in question. For example, mitigation for a property possessing architectural merit will necessarily differ from that for an archeological site important primarily for the information it may contain. In all cases, the recommendation in the planning activity document shall be for preservation of such physical features as may be practicable.

(7) All planning activity documents shall indicate which of the steps above were completed for the activity, the findings resulting from each step, and recommendations for future planning efforts.

(8) All draft planning activity documents with accompanying draft environmental documentation shall be submitted to the SHPO(s) and Advisory Council for their review and comment. The comments and recommendations of the SHPO(s) and the Advisory Council shall be incorporated within the planning activity documents and addressed in the final plan.

(d) All planning activities which meet the criteria and processing requirements set forth in § 726.53(f) shall be considered to have "no adverse effect" on National Register and eligible properties.

§ 726.55 Identification of historic and cultural properties.

Areas that may be affected by undertakings will be examined for historic and cultural properties prior to approval or implementation of such undertakings. Historic and cultural studies and reports shall be completed for those areas which may be affected by an undertaking. Consultation with the SHPO(s) and Indian tribe(s), if Indian lands could be affected, and other appropriate Native American leaders, is necessary before, during, and after such studies.

(a) *Overview Study.* An overview study is based primarily on documentary research. Overview studies are based on background research into the recorded history, prehistory, ethnography, geography, and ecology of the region. From these data, and effort is made to predict the kinds of historic and cultural properties that may exist within the undertaking's area of potential environmental impact as well as the distribution of such properties. The National Register, SHPO(s), Indian tribal official(s), and as appropriate, State and local registers, native traditional religious leaders, State Archeologist(s), State Historian(s), State Historical Societies, and other individuals, agencies, and institutions shall be contacted concerning the presence of historic and cultural properties within the area. Cursory field examinations may also be conducted. The overview study will be used to determine what additional information is necessary for an adequate inventory of historic and cultural properties in the area under consideration. An overview study is always required, even for the most general of planning activities.

(b) *Inventory Study.* An inventory study includes a systematic field examination of the undertaking's area of potential impact to determine or predict the presence or absence of historic and cultural properties. It may be combined with an overview study or follow and be based on the results of such a study. It includes background research (unless already accomplished in an overview study) and a planned systematic field inspection by a qualified cultural resource specialist. Field inspections may consist of an on-the-ground examination, or an evaluation covering an adequate sample of the total study area and may utilize remote sensing or subsurface sampling techniques. Inventory studies are generally required whenever a planning activity is detailed and recommends development at a specific site(s). Inventory studies shall be designed to document, or reliably predict, the presence or absence of historic and cultural properties, aid in determining the necessity for conducting an evaluative survey, and provide a basis for planning such surveys, where required.

(c) *Evaluative Survey.* An evaluative survey is normally required to obtain sufficient documentation to apply the National Register's "Criteria for Evaluation" (36 CFR 60.6) to previously unidentified historic and cultural properties. An evaluative survey is required where a plan is very detailed and involves a specific and limited area. Such surveys should accompany project feasibility (Level C) studies. Evaluative surveys include background research (unless already accomplished by an overview or inventory study), an intensive on-the-ground examination along with appropriate testing and analysis of the area under consideration. It shall be designed to provide sufficient information to make a professional evaluation of all historic and cultural properties within the area under consideration.

§ 726.56 Determination of eligibility.

(a) The RFO will evaluate the information obtained as a result of conducting an overview or inventory study in consultation with the appropriate SHPO(s) and with any official Native American representative with interests in properties included within the undertaking's area of potential environmental impact to determine if sufficient information exists to apply the National Register's "Criteria for Evaluation" (36 CFR 60.6). Where the intensity of the survey is commensurate with the level of planning activity and the survey did not provide sufficient information to apply the Criteria, the RFO shall ensure that the plan displays the information obtained from the survey and provides recommendations concerning additional surveys for future planning efforts or prior to any physical alteration of the study area.

(b) Except for those properties previously determined eligible or listed in the National Register, and those properties for which the information is insufficient to apply the Criteria, all historic and cultural properties shall be evaluated for their potential significance based on the "Criteria for Evaluation" (36 CFR 60.6). The RFO, SHPO(s), and any official representative of an Indian tribe with interest in properties included within the undertaking's area of potential environmental impact shall conduct the evaluation pursuant to 36 CFR 800.4(a). Other qualified professionals, such as a State Historian or State Archeologist, may assist the RFO in this assessment of the historic and cultural properties discovered as a result of the studies conducted.

(c) If, in the opinion of the RFO or the SHPO(s), the property appears to meet the criteria of eligibility for inclusion in the National Register, or if a question concerning the eligibility of an historic and cultural property is raised by any interested party, the RFO shall request a determination of eligibility from the Keeper of the National Register in accordance with 36 CFR Part 63. If the Keeper returns the documentation for more information and the undertaking is a planning activity, the RFO shall acknowledge the request of the Keeper in the planning activity document and ensure that recommendations are made for gathering the information in any future planning efforts or prior to physical alteration of the study area.

§ 726.57 Determination of effect.

National Register or Eligible Properties. For all properties listed in or determined eligible for listing in the National Register of Historic Places within an undertaking's area of potential impact, the RFO shall determine the effect on those properties in accordance with 36 CFR 800.4(b). Effect determinations shall be made in consultation with the SHPO(s) and with any official Native American representatives with interest in properties included within the undertaking's area of potential environmental impact. In planning activities, the RFO shall consider the hypothetical effect of the planned action or activity on National Register and eligible properties. Undertakings, other than those planning activities which meet the criteria established in § 726.53(g), which the RFO or SHPO(s) determine will affect a National Register or eligible property shall be transmitted to the Advisory Council by the RFO for review and consultation pursuant to 36 CFR 800.4 (c) and (d).

§ 726.58 Participation by interested parties.

The WRC encourages interested parties to participate in the processes established by this subpart. The WRC has three basic objectives in soliciting the participation of parties interested in proposed undertakings and possible effects on historic and cultural properties. The first goal is to obtain any information that individuals, organizations, universities, agencies, tribal governing bodies, etc., may have available to assist the RFO, SHPO(s), the Advisory Council, and the WRC in carrying out their responsibilities under historic and cultural preservation laws and regulations. The second objective is to make documents, materials, and other data available to the extent possible, concerning the undertaking and the nature of its effect on historic and cultural properties. The information made available to interested parties, however, need not include the specific location of certain properties if, by revealing the location, such properties could be subject to damage or degradation. The third goal is to increase the involvement of interested parties in the review processes established in this Subpart. The WRC will invite the participation of interested parties in accordance with the CEQ NEPA regulation (46 CFR 1506.6).

§ 726.59 Responsibility of the Water Resources Council.

(a) The Chairman is responsible for the compliance of WRC undertakings with the aforementioned historic preservation requirements. Among WRC staff, the responsibility for the protection of the historic and cultural environment is assigned to the Office of Policy. WRC shall ensure that the Advisory Council is invited to participate in all policy decisions having the potential to affect historic and cultural resources and will invite the Advisory Council to participate in the scoping of any EIS concerning such policy issues. The Assistant Director for Policy will act as the contact between the Advisory Council and the WRC.

(b) All studies, appraisals, and reviews performed by the Council pursuant to Sections 102, 104, and 303 of Pub. L. 89–80 shall include an evaluation of conformance with the policies and provisions of the NHPA, 36 CFR 800, and this rule.

(c) The Principles, Standards, and Procedures established by the Council pursuant to Section 103 of Pub. L. 89–80 shall reflect the policies and provisions of the NHPA, 36 CFR Part 800, and this rule.

(d) The Council shall ensure that its agreements with river basin commissions, regional planning sponsors, or State agencies for the preparation and revision of comprehensive and Level B plans will contain certification by the grant recipient that the criteria of Subpart B have been or will be utilized as part of the planning process.

Dated: November 17, 1980.

Gerald D. Seinwill,

Acting Director.

[FR Doc. 80-36196 Filed 11-19-80; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 480

[FHWA Docket No. 80-7]

Use and Disposition of Property Acquired by States for Modified or Terminated Highway Projects; Proposed Revisions

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA proposes to amend its regulations concerning the use and disposition of property acquired by States with the participation of Federal-aid highway funds in connection with highway projects which are subsequently modified or terminated. This proposed amendment would implement the provisions of Pub. L. 96–106, which amended the Surface Transportation Assistance Act of 1978, and would only affect property acquired in connection with Interstate highway segments withdrawn after November 6, 1978. This proposal would require payback with respect to property acquired on withdrawn Interstate segments if a final environmental impact statement has been approved or if the property was acquired on or after November 6, 1978. However, the amount

of payback could be reduced significantly if the State reuses the property for a transportation project.

DATE: Comments must be received on or before January 19, 1981.

ADDRESS: Comments should be sent (preferably in triplicate) to FHWA Docket No. 80–7, Federal Highway Administration, HCC–10, Room 4205, 400 Seventh Street, SW., Washington, D.C. 20590.

All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

FOR FURTHER INFORMATION CONTACT: Lawrence A. Staron, Chief, Interstate Reports Branch, Office of Engineering, 202–426–0404, or Reid Alsop, Office of the Chief Counsel, 202–426–0800, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA published its regulations on the use and disposition of highway property acquired by the States on November 17, 1978 (43 FR 54077). The regulations provided that a State need not make a credit to Federal funds ("payback") if it reuses real property acquired for highway purposes for another public interest purpose, regardless of when the highway project for which the property was acquired was modified or terminated.

Subsequently, in section 2 (§ 2) of Pub. L. 96–106 (93 Stat. 798), Congress amended section 103(e) of Title 23, United States Code, to clarify its intent, as previously set forth in section 107(f) of the Surface Transportation Assistance Act of 1978 (STAA) (Pub. L. 95–599, 92 Stat. 2689), with regard to repayment for Interstate segments that are withdrawn pursuant to 23 U.S.C. 103(e)(2) and 103(e)(4). Section 2(c) of Pub. L. 96–106 (section 2(c)) requires payback for the costs of construction items, materials, or rights-of-way (all of which are referred to herein as "property") acquired for highway projects on segments withdrawn from the Interstate system on or after November 6, 1978 (the effective date of the STAA), unless three conditions are satisfied. These conditions are: (1) the property was acquired before November 6, 1978; (2) the Secretary had not approved the environmental impact statement for the withdrawn segment prior to the date of withdrawal; and (3) the property is used for a public purpose within ten years after the date of withdrawal.

With respect to Interstate highway segments for which a request for withdrawal was approved by FHWA before the STAA was enacted, a final decision not to build an Interstate highway has already been made. The proposed amendment would continue to permit reuse of property acquired for such segments for public interest purposes without payback.

Section 2(c) and this proposed amendment would continue to allow reuse without payback with respect to property that was acquired before the effective date of the STAA, for projects withdrawn on or after that date provided that: (1) the project is withdrawn before a final environmental impact statement is approved; and (2) the property is used for a public purpose which the Federal Highway Administrator determines is in the public interest.

When payback is required for Interstate segments withdrawn on or after the STAA, the amount of payback could be reduced significantly where the State uses the property for certain other transportation projects. In these cases, the amount which must be repaid would be the difference between the amount actually received by the State (e.g., at a 90% Federal share) and the amount that would have been received based on the Federal share presently applicable to the project (or type of project) on which the property would be used (e.g., at an 85% Federal share).

The changes made by section 2(c) and the substantive changes proposed by this amendment apply only to Interstate highway segments that are withdrawn on or after November 6, 1978.

There is a close relationship between the FHWA's payback regulations, as they apply to withdrawn Interstate segments, and the joint Interstate withdrawal regulations issued by the FHWA and UMTA (23 CFR 476, Subpart D, Withdrawal of Interstate Segments and Substitution of Public Mass Transit or Highway Projects, or Both). Final amendments to the Interstate withdrawal regulations were recently issued by the FHWA and UMTA and published in the **Federal Register** on October 20, 1980 (45 FR 69390).

Section-by-Section Analysis

This analysis describes, and gives the rationale for, each of the proposed changes to the FHWA's payback rules, 23 CFR Part 480. Where there is no discussion of a given section or paragraph of the present Part 480, no change has been proposed.

§ 480.101 Purpose.

A sentence on credits to Federal funds has been added to the end of this section to more fully describe the purpose of this regulation.

§ 480.103 Applicability.

Deletion of the final sentence of paragraph (a) of this section is proposed. This sentence provides that, with exceptions stated in paragraphs (b) and (c), the regulations apply to any use or disposition of property acquired for a highway project, whenever the property was acquired. The language "except as provided in paragraphs (b) and (c) of this section" would be moved to the beginning of paragraph (a).

The reason for this change is that other portions of this proposed amendment treat property differently depending, among other things, on when the property was acquired. Therefore, the sentence proposed to be deleted could create confusion.

§ 480.105 Definitions.

A definition of "modification of termination" of a highway project has been added to this section. In administering the existing regulations there has been some confusion as to their applicability. The definition is intended to provide clarification. Only major system type actions such as Interstate System withdrawals and significant alignment revisions are provided for in these regulations. Lesser property dispositions are governed by the provisions of 23 CFR Parts 630, Subpart C, and 713, Subpart C.

Comments are specifically requested on another issue which could be reflected in this section of the final rule. Upon modification or termination of a project, FHWA's obligation with regard to further acquisition of property comes to an end. The intent is that these regulations should apply to expenditures which occurred when a State highway agency, acting in good faith, incurred costs to acquire property pursuant to a project agreement with FHWA and was reimbursed for a share of these costs. Comments are invited on whether a definition should be included which would more precisely establish, in the context of these regulations, what constitutes "acquisition" or real property and, on construction projects, what constitutes "acquisition" of construction items and materials.

§ 480.107 Use of property for other programs.

It is proposed that the title of this section be altered by changing the term "real property" to the more general term "property". The section would then encompass both real and tangible personal property. This change would reflect the provisions of section 2(c), which treats real and personal property the same for purposes of payback, and and would simplify existiang procedures.

The most important changes to this section is the addition of a new paragraph (a) identifying the property to which the section would apply. The section would, in keeping with the provisions of section 2(c), identify property which a State could reuse for public interest purposes (e.g., for a transportation project, a park, an urban renewal project) without making a credit to Federal funds.

This section would continue to apply to property acquired in connection with Interstate segments withdrawn before November 6, 1978 (paragraph (a)(1)). Property acquired before November 6, 1978, in connection with Interstate segments withdrawn on or after November 6, 1978, would continue to be covered by this section (paragraph (a)(2)), provided that the final environmental impact statement for the segment was not approved prior to the date of withdrawal. Finally, all property acquired in connection with non-Interstate projects and Interstate projects not on withdrawn segments, whenever modified or terminated, would be covered by paragraph (a)(3). This does not represent a change from the existing regulation.

Minor changes would be made in other parts of the section. In proposed paragraph (b) (paragraph (a) of the existing rule), the words "when real property" have been deleted as the section would no longer apply only to real property. This paragraph would begin with the words "When property to which this section applies * * *". For the same reason, the word "real" would be deleted from the first sentence of paragraph (c) of the existing rule) which could begin, "In order to reuse property without being required to make a credit to Federal funds * * *". Paragraph (c)(1) would begin, "With respect to non-Interstate highway projects and Interstate highway projects not on withdrawn Interstate segments * * *". Since the section would no longer apply to property acquired after November 6, 1978, in connection with withdrawn Interstate segments, it would be reasonable to narrow the coverage of this certification. Finally, paragraph (c)(6) would be changed to protect the rights of persons owning real property in the right-of-way. This change would not represent a substantive change from the existing rule. However, because the proposed section would now deal with both real and personal property, adding the word "real" would clarify the intent of this paragraph.

§ 480.109 Requirement of credit to Federal funds.

The title of this section would be changed to reflect its intent in the revised rules, i.e., to spell out the situations in which payback is required. Like § 480.107, this section would apply both to real and to tangible personal property.

New paragraph (a) would impose payback requirements with respect to three classes of property. Paragraph (a)(1) would not make a substantive change from the existing rule. If the Federal Highway Administrator does not approve a proposed reuse of property covered by § 480.107, then payback would be required.

Paragraph (a)(2) would provide that any property acquired in connection with a withdrawn Interstate segment on or after November 6, 1978, is subject to the section's payback requirements.

Paragraph (a)(3) would apply the section's payback requirements to property acquired before November 6, 1978, in connection with Interstate segments withdrawn after that date, in cases where the final environmental impact statement has been approved. Both paragraphs (a)(2) and (a)(3) would implement provisions contained in section 2(c).

Proposed paragraph (b) (paragraph (a) of the existing rule) would begin with the words, "With respect to property to which this section applies * * *." This phrase would replace language which referred to real property. In paragraph (b)(2) the language, "after deducting reasonable selling and fix-up expenses, if any, from the sale proceeds," would be deleted and shifted to a new paragraph (e). The mechanics of the payback procedure set forth in proposed paragraph (b) are otherwise unchanged from the existing rule.

This amendment would create new paragraphs (c), (d), and (e). Paragraph (c), which implements an important provision of section 2(c), provides an incentive for States, which are required to make a credit to Federal funds, to reuse property for transportation purposes. If the State makes assurances satisfactory to the Fedeal Highway Administrator that the property will be used for a transportation project permissible under Title 23, U.S. Code, including certain mass transportation projects as well as highways, then the amount of payback required would be reduced. The property must be so used within ten years of the date of withdrawal of the original highway project. Instead of the market value or sales proceeds from the property, the amount of payback required would be the difference between the amount of Federal funds received for the acquisition of the property and the amount that would have been received in accordance with the current Federal share applicable to the alternative transportation project. For example, if a parcel of real property cost the State $1 million to acquire for an Interstate project, the State received $900,000 (at the 90 percent Federal Interstate share) in Federal funds. Had the property been acquired at the 85 percent share now applicable to some mass transit and highway projects, the Federal contribution would have been $850,000. Therefore, the State would have to make a credit to Federal funds of $50,000 if the property was used for such a mass transit or highway project.

When it seeks to take advantage of this provision, a State would be required to provide the same assurances and information to the FHWA as are required by § 480.107 for other transportation projects (e.g., a certification that all necessary State and local review and concurrences have been made, a description of the proposed alternative transportation project) insofar as they apply to the alternative project.

Proposed paragraphs (d) and (e) would incorporate into this section provisions now exisitng in § 480.111 concerning exemptions and deductions from the payback requirements. States could sell or keep tangible personal property with a project cost of less than $1000 without making a credit to Federal funds. When tangible personal property is sold, the State could deduct $100 or 10 percent of the sales proceeds, whichever is larger.

§ 480.111 Disposition and use of tangible personal property

This section would be deleted from the rule for the reasons discussed in connection with § 480.107. Certain features of the section, such as the exemption and deduction provisions, would be incorporated in § 480.109.

Note.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. In addition, because this proposed amendment has no economic impact beyond that of Public Law 96–106, a full regulatory evaluation is not required.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and

(c) The provisions of § 480.107 and § 480.109(c) of this part for the reuse of property do not apply to property which

termination of the project, the State may, subject to the provisions of this section, reuse the property, without

property in the right-of-way immediately prior to such property being obtained by the State have been observed;

disposition instructions. The Administrator shall instruct the State to dispose of the property in one of the

expenses, if any, may be deducted from the sale proceeds.

§ 480.111 [Reserved]

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on November 12, 1980.

John S. Hassell, Jr.,

Federal Highway Administrator.

In consideration of the foregoing, Federal Highway Administration proposes to amend Chapter I to Title 23, Code of Federal Regulations, by revising Part 480 to read as follows:

PART 480—USE AND DISPOSITION OF PROPERTY ACQUIRED BY STATES FOR MODIFIED OR TERMINATED HIGHWAY PROJECTS

Sec.

480.101 Purpose.
480.103 Applicability.
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480.107 Use of property for other programs.
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480.111 [Reserved]
480.113 Use of credits to Federal funds.
480.115 Relocation assistance.
480.117 Property management.
480.119 Intangible items of cost.

Authority: Pub. L. 96–106, 93 Stat. 790 (23 U.S.C. 103(e)(6), (7)); Pub. L. 95–599, 92 Stat. 3689 (23 U.S.C. 103(e)(6), (9)); Pub. L. 85–767, 72 Stat. 915 (23 U.S.C. 315); 49 CFR 1.48(b); Office of Management and Budget Circular A–102, Attachment N (August 24, 1977).

§ 480.101 Purpose.

The purpose of this part is to prescribe standards for the use and disposition of property acquired by States with the participation of Federal-aid highway funds when the highway project for which the property was acquired is modified or terminated such that the property is no longer needed for the purposes of the highway project. This part also addresses the extent to which credits to Federal funds will be required for both Interstate and non-Interstate highway projects.

§ 480.103 Applicability

(a) Except as provided in paragraphs (b) and (c) of this section this part is applicable to the use and disposition of property acquired with the participation of Federal-aid highway funds for any project on any Federal-aid system which has not been closed by the payment of a final voucher as of December 18, 1978, when, because of the modification or termination of the project, the property is no longer needed for purposes of the highway project.

(b) This part does not apply to portions of highway rights-of-way covered by Subpart C of 23 CFR Part 713.

(c) The provisions of § 480.107 and § 480.109(c) of this part for the reuse of property do not apply to property which has not been applied to a reuse under this part within 10 years of the modification or termination of the highway project in connection with which it was acquired.

(d) Nothing in this part shall be construed to affect or conflict with the obligations of States with respect to advance acquisition of right-of-way pursuant to 23 U.S.C. 108(c).

§ 480.105 Definitions.

The following definitions apply for purposes of this part:

"Applied to a reuse under this part" means committed, as determined by the Administrator, to a reuse under § 480.107 of this part.

"Intangible items of cost" means items having no physical existence or recoverable value, such as preliminary engineering or overhead.

"Modification or termination" of a highway project means major system type actions such as Interstate System withdrawals, major alignment shifts, primary system deletions, etc.

"Real property" means land, and interests therein, including improvements, structures and appurtenances thereto, but excluding movable equipment and machinery.

"Tangible personal property" means any property, other than real property, having a physical existence, such as construction items, materials and equipment.

§ 480.107 Use of property for other programs.

(a) This section applies to the following real property and tangible personal property:

(1) All property acquired in connection with Interstate highway segments withdrawn before November 6, 1978;

(2) Property acquired before November 6, 1978, in connection with Interstate highway segments withdrawn on or after November 6, 1978, provided that the U.S. Department of Transportation has not approved the final environmental impact statement for any such project prior to the date of withdrawal;

(3) All property acquired in connection with non-Interstate highway projects and Interstate highway projects which are not on segments withdrawn from the Interstate system, whenever modified or terminated.

(b) When property to which this section applies is no longer needed for the highway project for which it was acquired because of the modification or termination of the project, the State may, subject to the provisions of this section, reuse the property, without being required to make a credit to Federal funds, for:

(1) A project under another Federal grant program, or

(2) A project under any State or local program the purposes of which are consistent with a program or programs authorized for support by the U.S. Department of Transportation (DOT). State and local transportation projects (except projects for toll roads), projects for public recreation or conservation purposes, programs for the restoration and revitalization of urban or rural areas, and other programs consistent with the public interest shall be deemed consistent with DOT programs for the purposes of this paragraph.

(c) In order to reuse property without being required to make a credit to Federal funds, the State shall submit to the Federal Highway Administrator the following information:

(1) With respect to non-Interstate highway projects and Interstate highway projects which are not on segments withdrawn from the Interstate system, a certification that any property acquired after December 18, 1978, was acquired with the intent, at the time of acquisition, of using it for highway purposes;

(2) A finding that the property is no longer needed for purposes of the highway project for which it was acquired;

(3) An explanation of the grounds for the finding;

(4) A description of the program for which the State proposes to use the property. In the case of a State or local program, the description shall include a justification of the program in terms of consistency with DOT programs. Each description shall also indicate whether any of the property involved will be transferred to any private party in connection with the proposed program. The State shall justify to the Administrator the necessity in the public interest for any transfer, without a requirement for a credit to Federal funds, to a private party;

(5) A certification that all reviews, approvals, or concurrences by State, regional, or local officials or planning organizations required under law for the proposal have been obtained, and that the State has consulted with and sought the comments of the State Historic Preservation Officer in the case of any proposed reuse which affects historic resources on, or eligible for inclusion in, the National Register of Historic Places;

(6) A certification that the rights under State law of persons owning real property in the right-of-way immediately prior to such property being obtained by the State have been observed;

(7) A certification that the methods to be used to dispose of the property and the proposed substitute use for the property are in all other respects consistent with State law;

(8) An assurance that the approved reuse will be made expeditiously and that no major alteration in the proposed reuse will be made without the consent of the Administrator; and

(9) Any additional information requested by the Administrator.

(d) Based on this submission, the Administrator shall determine whether or not the State is required to make a credit to Federal funds.

(e) The Administrator shall require a credit to Federal funds with respect to property the proposed reuse of which:

(1) Is inconsistent with any Federal statute;

(2) Involves property concerning which the certifications, findings and assurances required by paragraph (c) of this section are not made;

(3) Is to form, or its value is to form, part of the State or local matching share with respect to any Federal program; or

(4) Is to transfer the property to any private party, unless the Administrator determines that such transfer, without a requirement for a credit to Federal funds, is necessary in the public interest.

(f) If the Administrator determines that the assurances required by paragraph (c)(8) of this section have not been observed, the Administrator may revoke a determination not to require a credit to Federal funds and direct the State to dispose of the property as provided in § 480.109 of this part.

§ 480.109 Requirement of credit to Federal funds.

(a) This section applies to the following real property and tangible personal property:

(1) Property concerning which the Administrator, under § 480.107(d) of this part, has determined that a credit to Federal funds must be made;

(2) Property acquired on or after November 6, 1978, in connection with a segment withdrawn from the Interstate system; and

(3) Property acquired before November 6, 1978, in connection with a segment withdrawn from the Interstate system on or after November 6, 1978, if the final environmental impact statement for such project has been approved prior to the date of withdrawal.

(b) With respect to property to which this section applies, the State shall apply to the Administrator for disposition instructions. The Administrator shall instruct the State to dispose of the property in one of the following ways:

(1) Retain title to the property, and credit Federal funds in an amount computed by applying the Federal percentage of participation in the cost of the original acquisition to the current fair market value of the property; or

(2) Sell the property, and credit Federal funds in an amount computed by applying the Federal percentage of participation in the cost of the original acquisition to the sale proceeds (after making the deductions described in paragraph (e) of this section). The State shall employ proper sales procedures which, unless otherwise provided by the Administrator, provide for competition to the maximum extent practicable and result in the highest possible return. The Administrator may require sales under this provision to be conducted according to guidelines provided by the Administrator.

(c) In the case of Interstate properties described in paragraphs (a)(2) and (a)(3) of this section, if the State makes assurances satisfactory to the Administrator that the property to which this section applies has been, or will be, applied to a transportation project permissible under Title 23, United States Code, the repayment required under paragraph (b) of this section shall be the difference between the amount received and the amount that would have been received in accordance with the current Federal share applicable to the transportation project to which the property will be applied. In making the assurances required under this paragrpah, States shall provide to the Administrator the information required by § 480.107(c) of this part, insofar as it is applicable to the substitute transportation project or projects. When the amount that would have been received is greater, the difference shall be considered zero.

(d) Notwithstanding any other provision of this part, a State may use for any purpose, or sell, tangible personal property with a project cost of less than $1,000 without making a credit to Federal funds.

(e) When selling property under this section a State may make the following deductions in determining the credit to Federal funds:

(1) In the case of tangible personal property, ten percent of the proceeds or $100, whichever is larger, may be deducted from the required credit to Federal funds;

(2) In the case of real property, actual and reasonable selling and fix-up expenses, if any, may be deducted from the sale proceeds.

§ 480.111 [Reserved]

§ 480.113 Use of credits to Federal funds.

Credits made to Federal funds pursuant to § 480.109 of this part shall also be credited to the State's Federal-aid apportionment to which the original acquisition of the property was attributable in the manner set forth in 23 U.S.C. 118(b).

§ 480.115 Relocation assistance.

With respect to owner-occupants, tenants, businesses, and farm operations whose property has been acquired in connection with a federally assisted highway project, who are still in occupancy, and who could have qualified as displaced persons if they had moved prior to the date of modification or termination, the obligations of the Federal Highway Administration under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C 4601 et seq.) shall continue for that period of time after the date of modification or termination as is considered equitable by the Administrator, but in no event shall this period extend beyond the date the State sells or otherwise disposes of the property. If the Administrator determines under § 480.107 of this part that no credit to Federal funds is required, the State shall assure the Administrator that it or the Federal agency granting assistance to the substitute program will assume these obligations after the Administrator's approval with respect to any such persons, businesses, or farm operations displaced as a result of the original acquisition or reuse of the former highway property.

§ 480.117 Property management.

Rules or standards of property management normally applicable to property obtained with the participation of Federal-aid highway funds shall continue to apply to the management of property acquired by States in connection with a highway project after the modification or termination of the project. These rules or standards shall cease to apply to the property as of the date of a determination by the Administrator that no credit to Federal funds is necessary for a reuse of real property, upon the reuse of tangible personal property for another Federal program, or on the date the State sells or otherwise disposes of the property. The FHWA may at the discretion of the Administrator participate in the costs of

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property management and in other costs related to the acquisition of the property or the modification or termination of the highway project that are incurred before such dates.

§ 480.119 Intangible items of cost.

States are not required to make a credit to Federal funds with respect to any intangible items of cost upon which the State expended Federal-aid highway funds in connection with a project which was modified or terminated.

[FR Doc. 80-36088 Filed 11-19-80; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 51

[Docket No. R-80-889]

Siting of HUD-Assisted Projects in Designated Clear Zones and Accident Potential Zones of Civil Airports and Military Airfields; Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register**. This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review. This rule would establish HUD requirements and guidelines for siting of HUD supported projects in designated Clear Zones and Accident Potential Zones of civil airports and military airfields.

FOR FURTHER INFORMATION CONTACT:

Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION:

Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 51, Subpart D—Siting of HUD-Assisted Projects in Designated Clear Zones and Accident Potential Zones of Civil Airports and Military Airfields

(Sec. 7(o), Department of HUD Act (42 U.S.C. 3535(o)); sec. 324, Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., November 14, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-36270 Filed 11-19-80; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Parts 207, 213, 221, 232, 241, and 242

[Docket No. R-80-890]

Multifamily Projects Covered by HUD Mortgage Insurance; Assurance of Completion Requirements; Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register**. This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review. This proposed rule would increase the cost of construction limit from $500,000 to $1,000,000 on multifamily projects covered by HUD mortgage insurance for which the mortgagor has provided certain assurance of completion. It would also broaden the scope of the present assurance of completion requirements for multifamily projects which have (1) no elevator or an elevator and five stories or less or (2) an elevator and six stories or more.

FOR FURTHER INFORMATION CONTACT:

Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION:

Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

Proposed Rule—24 CFR Parts 207, 213, 221, 232, 241 and 242—Assurance of Completion Requirements

(Sec. 7(o), Department of HUD Act, (42 U.S.C. 3535(o)); sec. 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., November 14, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-36271 Filed 11-19-80; 8:45 am]

BILLING CODE 4210-01-M

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

25 CFR Part 700

Commission Operations and Relocation Procedures; Establishment of Additional Regulations Regarding "Life Estates"

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is issuing further proposed standards to govern the awarding of life estate leases to members of the Hopi and Navajo Tribes who will be displaced because of relocation. This rule sets forth procedures concerning the determination of disability, the grouping and granting of applications for life estate leases, the establishment of boundaries of life estate leases, residency of life estate leases, access to life estate leases, and the execution of life estate leases. These regulations are required under section 30 of the Navajo and Hopi Indian Relocation Amendments Act of 1980 (Pub. L. 96-305, 25 U.S.C. 640d-28), here inafter the Amendments Act.

DATES: Coments must be received on or before December 22, 1980. A public hearing is scheduled for December 8, 1980.

ADDRESSES: Send comments to Paul M. Tessler, CFR Liaison Officer, Navajo and Hopi Indian Relocation Commission, P.O. Box KK, Flagstaff, AZ 86002. The public hearing will be held at Rocky Ridge Boarding School, Rocky Ridge, Arizona, from 10:00 a.m. until 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Paul M. Tessler, (602) 779-3311, extension 1376, FTS: 261-1376.

SUPPLEMENTARY INFORMATION: On September 8, 1980, there was published in the **Federal Register** (45 FR No. 175, p. 59175) a notice of proposed standards and procedures to govern the granting of life estate leases to members of the Navajo and Hopi Tribes who are subject to relocation under Pub. L. 93-531, (25 U.S.C. 640-d.) The proposed rules set forth procedures concerning the filing of applications for Life Estate Leases, definition of the term "disability", determinations of disability, and the grouping and granting of life estate leases.

The Commission received a significant amount of comment, especially concerning the definition and rating of disability. Much of the comment indicated that the Commission's proposed use of the Veteran's Administration definition and rating of disability was inappropriate for those residents of the Former Joint Use Area. The comment also suggested that the Commission consult with the Indian Health Service concerning the definition and rating of disability. Accordingly, the Commission determined that it would be appropriate to await adoption of rules concerning disability until such time as further input and consultation could be had from the Indian Health Service. On October 10, 1980, final rules were published concerning applications for life estate leases only.

Prior to the adoption of these proposed rules, Commission staff met with staff of the Indian Health Service to discuss the definition of the term "disability" and the determination and rating of disability. The definitions and rating systems of disability used by the Veteran's Administration and the Social Security Administration were reviewed and discussed. The Commission determined that the standards set forth in Subpart I, "Determination of Disability or Blindness", of the Social Security Administration contained in Title 20, Code of Federal Regulations, §§ 416.901 through 416.985, including the Appendices, etc., are the most appropriate for the situation at hand. The Commission determined that the Indian Health Service is familiar with similar medical examinations and determinations required pursuant to the Social Security Act as amended. Therefore, the Commission has determined that the disability examinations will be performed by the Indian Health Service or by a physician selected by the applicant with the approval of the Commission. The physician performing the examination will submit a report to a rating physician selected by the Commission. The rating physician shall submit a report to the Commission stating his/her opinion as to whether or not the applicant is at least fifty percent (50%) disabled and, if so, the percent of the disability. The report of the rating physician will also state the condition or conditions of the applicant upon which the rating is based.

Section 700.17 (c) of the proposed rule is concerned with the definition, determination, and rating of disability. This section sets forth standards to be followed by examining and rating physicians and essentially adopts the definition and standards of the Social Security Administration as they are appropriate.

Section 700.17 (d) of the proposed rule is concerned with the grouping and granting of applications for life estate leases. This section adopts the language of the Amendments Act.

Section 700.17 (e) of the proposed rule is concerned with the establishment of boundaries of life estate leases. This section sets forth the factors which the Commission will consider in establishing the configuration, shape, and boundaries of life estate leases, after consultation with the tribe upon whose land the life estate lease will be located.

Section 700.17 (f) of the proposed rule is concerned with residency on life estate leases. This section adopts the language of the Amendments Act and sets forth criteria to be used by the Commission in determining who is necessarily present for the care of the life tenant. This section also sets forth procedures to be followed if it becomes necessary to change the identity or number of persons identified as necessarily present for the care of the life tenant.

Section 700.17 (g) of the proposed rule is concerned with access to life estate leases. This section sets forth limits for visitation on life estate lease premises by family members and other persons. This section also requires that visitors and residents shall use existing road systems and access rights of way when traveling to and from life estate leases.

Section 700.17 (h) of the proposed rule is concerned with the terms and conditions to be contained in the life estate lease document to be used by the Commssion in granting life estate leases.

The principal author is William G. Lavell, Field Solicitor, Valley Bank Center, Suite 2080, 201 North Central Avenue, Phoenix, AZ 85073.

Accordingly, 25 CFR 700.17 is proposed to be amended, by adding paragraphs (c)—(h) to read as follows:

§ 700.17 Life estate leases.

(c) Determination of Disability. The Commission shall determine disability pursuant to the following:

(1) An applicant shall be considered to be disabled if he/she is unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months. A physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(2) Each applicant who claims entitlement to a life estate lease by virtue of a disability shall be examined by a physician selected by the Commission or one selected by the applicant and approved by the Commission. The reasonable costs of such examinations shall be paid by the Commission. The examining physician shall submit a report of his/her examination to the rating physician who shall be a physician selected by the Commission. The rating physician shall submit to the Commission a report stating his/her opinion as to whether or not the applicant is at least 50% (fifty percent) disabled and, if so, the percent of disability. In addition, the rating physician shall state in his/her report the condition or conditions of the applicant upon which the rating is based.

(3) In performing examinations and in making ratings, the physician shall follow the procedures and adopt the standards set forth in Subpart I—Determination of Disability or Blindness, of the Social Security Administration, contained in Title 20, Code of Federal Regulations, §§ 416.901 through 416.985, including the Appendices, etc., to the extent that such procedures and standards are appropriate to this examination and rating.

(4) In making its determination as to the disability and the percentage thereof of an applicant who claims disability, the Commission shall consider the report of the rating physician and such other matters as the Commission deems relevant.

(d) *Grouping and Granting of Applications for Life Estate Leases.* Upon receipt of applications filed pursuant to this Section, the Commission shall group and award life estate leases in the following manner:

(1) Applicants who are determined to be at least 50 percent (50%) disabled as certified by a physician approved by the Commission. Such applicants shall be ranked in the order of the severity of their disability.

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(2) Applicants wo are not at least 50 percent (50%) disabled shall be ranked in order of their age with the oldest listed first and the youngest listed last: *Provided*, That, if any applicant physically resides in Quarter Quad Numbers 78 NW, 77 NE, 77 NW, 55 SW, or 54 SE, as designated on the Quarter Quad Maps of the Former Joint Use Area prepared by the Bureau of Indian Affairs Field Administrative Office, such applicant shall be given priority over another applicant of equal age.

(3) Applicants who did not, as of December 22, 1974, and continuously thereafter, maintain a separate place of abode and actually remain domiciled on Hopi partitioned lands, and who, but for this subsection would be required to relocate, shall be rejected by the Commission.

(4) Applicants who were not at least forty-nine (49) years of age on December 22, 1974, *or* are not at least 50 percent (50%) disabled shall also be rejected by the Commission.

(5) The Commission shall award life estate leases to not more than one-hundred and twenty (120) Navajo applicants with first priority being given to applicants listed pursuant to § 700.17(d)(1) and the next priority being given to applicants listed pursuant to § 700.17(d)(2), in order of such listing.

(6) The Commission shall award life estate leases to not more than ten (10) Hopi applicants with first priority being given to applicants listed pursuant to § 700.17(d)(1) and the next priority being given to applicants listed pursuant to § 700.17(d)(2) in order of such listing except that the portion of § 700.17(d)(2) concerning residency in Quarter Quad Number 78 NW, 77 NE, 77 NW, 55 SW, or 54 SE, etc., shall not apply to Hopi applicants.

(e) *Establishment of Boundaries of Life Estate Leases.* (1) Prior to the issuance of a life estate lease, the Commission shall, after consultation with the tribe upon whose land the life estate lease will be located, establish the actual configuration, shape, and boundaries of the land area of the life estate lease. The present residence of the life tenant shall be within the boundaries of the life estate lease and the area of the life estate lease shall not exceed ninety (90) acres.

(2) the following factors will be considered in establishing the configuration, shape, and boundaries of a life estate lease:

(i) The location of the present residence of the applicant and the traditional land use area associated with such residence.

(ii) The topography and soil conditions of the land in the immediate vicinity of the applicant's present residence.

(iii) The location of the nearest source of water.

(iv) The proximity of roads.

(v) Such other factors as may be necessary or appropriate.

(f) *Residency on Life Estate Leases.* (1) No person may reside on a life estate lease other than the life tenant, his or her spouse, and minor dependents and such persons who are necessarily present, as determined by the Commission, to provide for the care of the life tenant.

(2) In determining who is necessarily present for the care of the life tenant, the Commission shall consider the following criteria:

(i) The age of the life tenant.

(ii) The nature and extent of the life tenant's disability, if any.

(iii) The location of the life estate lease, including but not limited to, the following factors:

(A) Topography,

(B) Proximity to water,

(C) Proximity to fuel,

(D) proximity to shopping and medical services, and

(E) any other factors deemed relevant by the Commission.

(iv) The nature and extent of care to be provided to a disabled life tenant.

(v) any other factors deemed relevant by the Commission.

(3) In the event it becomes necessary to change the identity of the person(s) or number of persons identified as necessarily present for the care of the life tenant, the life tenant shall make such request for change to the Commission. The Commission, upon review of the request, may grant an amended life estate lease to reflect the requested change.

(g) *Access to Life Estate Leases.* (1) Family members and other persons may enter upon the life estate lease premises for the purpose of visiting the life estate lease residents so long as such visit does not exceed thirty (30) consecutive days in any one visit or ninety (90) days total of all visits within any lease year, except that family members who have not attained the age of 17 (seventeen) years may visit for 90 (ninety) consecutive days in any lease year, the first of which shall commence on the date of issuance of the life estate lease.

(2) Visitors and residents shall use the existing road systems and access rights of way when traveling to and from life estate lease premises.

(h) *Life Estate Leases.* The Commission shall execute a life estate lease to each applicant to whom a life estate lease is granted, which lease shall contain the following:

(1) The names of the persons entitled to reside on the life estate lease which shall be the life tenant, his or her spouse, and minor dependents and/or such persons who are necessarily present to provide for the care of the life tenant.

(2) A description of the exterior boundaries of the land included in said lease.

(3) The term of the life estate lease which shall end either upon voluntary relinquishment or upon the death of the life tenant or his/her spouse, whichever occurs last.

(4) That the life tenant may feed not to exceed 25 (twenty-five) sheep units per year or equivalent livestock on the life estate lease premises.

(5) That no person may reside on a life estate lease other than the life tenant, his or her spouse, and minor dependents, and/or such persons who are necessarily present to provide for the care of the life tenant.

(6) That the Secretary of the Interior shall pay, pursuant to 25 U.S.C. 640–d (28) (i), Pub. L. 96–305 § 30 (i), on an annual basis, the fair market rental value of such life estate lease to the tribe to whom the lands leased were partitioned. Rental payments shall be made within 30 (thirty) days of the execution date of the life estate lease.

(7) That the life tenant may make reasonable improvements on the life estate lease which are related to the residence and agricultural purposes of the life tenancy as determined by the Commission.

(8) That no person may visit on a life estate lease for more than 30 (thirty) consecutive days in any one visit or 90 (ninety) days total of all visits within any lease year the first of which shall commence on the date of issuance of the life estate lease, except that family members who have not attained the age of 17 (seventeen) years may visit for 90 (ninety) consecutive days in any lease year.

(9) That said life tenant may relinquish said life estate lease at any time and may receive relocation benefits from the Secretary of the Interior at the time of relinquishment as provided in 25 U.S.C. 640–d, (28) (h), Pub. L. 96–305, § 30 (h).

(10) The purposes for which the life estate lease may be used.

(11) Such other terms and conditions deemed necessary or appropriate by the Commission.

(Pub. L. 96–305, 94 Stat. 929, (25 U.S.C. 640–d)

Sandra L. Massetto,

Chairperson, Navajo & Hopi Indian Relocation Commission.

[FR Doc. 80–36147 Filed 11–19–80; 8:45 am]

BILLING CODE 4310–HB

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 701

[SECNAVINST 5211.5B]

Personal Privacy and Rights of Individuals Regarding Records Pertaining To Themselves; Exemptions

AGENCY: Department of the Navy, DOD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of the Navy is proposing to amend the exemption rules for one system of records and to delete the exemption rules for five systems of records subject to the Privacy Act of 1974. The rule for one exempted record system (i.e., N63285–01) is amended to delete a redundant exemption. The exemption rules for the following five records systems are being deleted since they no longer apply.

MMN00001, entitled Deserter Inquiry File (42 FR 51527—September 28, 1977).

MMN00019, entitled Drug/Alcohol Abuse Reporting Program (42 FR 51527—September 28, 1977).

MMN00022, entitled Vehicle Control System (42 FR 51527—September 28, 1977).

MMN00023, entitled Prisoner Records (42 FR 51527—September 28, 1977).

MMN00024, entitled Absentee Processing Files (42 FR 51527—September 28, 1977).

DATE: Comments must be received on or before December 22, 1980.

ADDRESS: Comments should be sent to the Office of the Chief of Naval Operations (OP–09B1P), Department of the Navy, The Pentagon, Washington, DC 20350.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Rhoads, telephone: 202–694–2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy exemption rules were published in the **Federal Register** of September 28, 1977 at 42 FR 51524.

Accordingly, § 701.123(e) of 32 CFR Part 701 would be revised to read as follows:

§ 701.123 Exemptions for specific Navy record systems.

* * * * *

(e) Naval Investigative Service

ID–N63285–01

Sysname:

NIS Investigative Files System

Exemption:

(1) Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (c)(4), (d), (e)(2), and (3), (e)(4)(G) through (I), (e)(5), (e)(8), (f) and (g).

Authority:

(1) 5 U.S.C. 552a(j)(2).

Reasons:

(1) Granting individuals access to information collected and maintained by this component relating to the enforcement of criminal laws could interfere with orderly investigations, with the orderly administration of justice, and possibly enable suspects to avoid detection or apprehension. Disclosure of this information could result in the concealment, destruction, or fabrication of evidence and jeopardize the safety and well being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component and could result in the invasion of the privacy of individuals only incidentally related to an investigation. The exemption of the individual's right of access to his/her records, and the reasons therefor, necessitate the exemption of this system of records from the requirements of the other cited provisions.

Exemption:

(2) Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G) through (I), and (f).

Authority:

(2) 5 U.S.C. 552a(k)(1), (k)(3), (k)(4), (k)(5) and (k)(6).

Reasons:

(2) The release of disclosure accountings would permit the subject of an investigation to obtain valuable information concerning the nature of that investigation, and the information contained, or the identity of witnesses or informants, and would therefore present a serious impediment to law enforcement. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record. Access to the records contained in this system would inform the subject of the existence of material compiled for law enforcement purposes, the premature release of which could prevent the successful completion of investigation, and lead to the improper influencing of witnesses, the destruction of records, or the fabrication of testimony.

Exempt portions of this system also contain information that has been properly classified under Executive Order 12065, and that is required to be kept secret in the interest of national defense or foreign policy.

Exempt portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal civilian employment, military service, Federal contracts, or access to classified information, and was obtained by providing an express or implied assurance to the source that his/her identify would not be revealed to the subject of the record. The notice for this system of records published in the **Federal Register** sets forth the basic statutory or related authority for maintenance of the system.

The categories of sources of records in this system have been published in the **Federal Register** in broad generic terms. The identity of specific sources, however, must be withheld in order to protect the confidentiality of the source, of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

This system of records is exempted from procedures for notice to an individual as to the existence of records pertaining to him/her dealing with an actual or potential civil or regulatory investigation, because such notice to an individual would be detrimental to the successful conduct and/or completion of an investigation, pending or future. Mere notice of the fact of an investigation could inform the subject or others that their activities are under, or may become the subject of, an investigation. This could enable the subjects to avoid detection, to influence witnesses improperly, to destroy records, or to fabricate testimony.

Exempt portions of this system contain screening board reports. Screening board reports set forth the results of oral examination of applicants for a position as a special agent with the Naval Investigative Service. Disclosure of these records would reveal the areas pursued in the course of the examination and thus adversly affect the result of the selection process. Equally important, the records contain the candid views of the members composing the board. Release

of the records could affect the willingness of the members to provide candid opinions and thus diminish the

from the requirements of other cited provisions.

submitted by the State of Connecticut which would allow a temporary variance to Federal Paperboard

manufacturing facility. The revision would limit this facility to burn fuel oil containing no more than 1.7% sulfur.

The entire state of Connecticut is designated attainment for SO_2 in accordance with Section 107 of the

transitional stage in which states would be granted interim program authorization. The interim authorization

of the records could affect the willingness of the members to provide candid opinions and thus diminish the effectiveness of a program which is essential to maintaining the high standard of the Special Agent Corps, i.e., those records constituting examination material used solely to determine individual qualifications for appointment in the Federal Service.

* * * * * * *

§ 701.124 of title 32 of the Code of Federal Regulations is revised by removing the exemptions for the following systems: (a) ID–MMN00001, (b) ID–MMN00024, (d) ID–MMN00019, (e) ID–MMN00022, and (f) ID–MMN00023. It is further amended by redesignating the letter designation of exemptions ID–MMN00018 from (c) to (a), ID–MIN0001 from (g) to (b), and revising the exemptions to read as follows:

§ 701.124 Exemptions for specific Marine Corps record systems.

(a) ID–MMN00018

Sysname:

Base Security Incident Reporting System

Exemption:

Portions if this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (c)(4), (d), (e)(2), and (3), (e)(4)(G) through (I), (e)(5), (e)(8), (f), and (g).

Authority:

5 U.S.C. 552a(j)(2).

Reasons:

Granting individuals access to information collected and maintained by these activities relating to the enforcement of criminal laws could interfere with orderly investigations, with the orderly administration of justice, and might enable suspects to avoid detection or apprehension Disclosure of this information could result in the concealment, destruction, or fabrication of evidence, and jeopardize the safety and well being of informants, witnesses and their families, and law enforcement personnel and their families. Disclosure of this information could also reveal and render ineffectual investigative techniques, sources, and methods used by this component, and could result in the invasion of the privacy of individuals only incidentally related to an investigation.

The exemption of the individual's right of access to his/her records, and the reasons therefore, necesitate the exemption of this system of records from the requirements of other cited provisions.

(b) ID–MIN00001

Sysname:

Personnel Security Eligibility and Access Information System.

Exemption:

Portions of this system of records are exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G) through (I), and (f).

Authority:

5 U.S.C. 552a(k)(2), (3), and (5) as applicable.

Reasons:

Exempt portions of this system contain information that has been properly classified under Executive Order 12065, and that is required to be kept secret in the interest of national defense or foreign policy.

Exempt portions of this system also contain information considered relevant and necessary to make a determination as to qualifications, eligibility, or suitability for Federal civilian employment, military service, Federal contracts, or access to classified, compartmented, or otherwise sensitive information, and was obtained by providing an expressed or implied assurance to the source that his/her identity would not be revealed to the subject of the record.

Exempted portions of this system further contain information that identifies sources whom confidentiality must be protected to ensure that the privacy and physical safety of these witnesses and informants are protected.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

November 13, 1980.

[FR Doc. 80-36077 Filed 11-19-80; 8:45 am]

BILLING CODE 3810-71-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-2-FRL 1675-8]

Approval and Promulgation of Implementation Plans, Connecticut; Proposed Rulemaking

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of a State Implementation Plan revison submitted by the State of Connecticut which would allow a temporary variance to Federal Paperboard Company, Inc. from Connecticut Regulation 19–508–19(a)(2)(i) concerning fuel sulfur content. This variance would allow, until March 27, 1983, the sale and delivery of fuel oil containing up to 2.2% sulfur by weight to the Company's manufacturing facility in Sprague, Connecticut, and would also allow burning by the facility of fuel oil containing up to 1.7% sulfur.

DATES: Comments must be received on or before December 22, 1980.

ADDRESSES: Copies of the Connecticut submittal and EPA's evaluation are available for public inspection during regular business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460; and the Connecticut Department of Environmental Protection, Air Compliance Unit, State Office Building, Hartford, Connecticut 06115.

Comments should be submitted to Harley F. Laing, Chief, Air Branch, Region I Environmental Protection Agency, Room 1903, JFK Federal Building, Boston, Massachusetts 02203.

FOR FURTHER INFORMATION CONTACT: Miriam R. Fastag, Air Branch, EPA Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223–4448.

SUPPLEMENTARY INFORMATION: On September 8, 1980, after proper notice and public hearing, the Connecticut Department of Environmental Protection (the Department) submitted to EPA a proposed revision to the Connecticut State Implementation Plan (SIP) for a variance, until March 27, 1983, to State Regulation 19–508–19(a)(2)(i) for Federal Paperboard Company, Inc. (the Company) regarding the purchase, storage, and burning of nonconforming fuel. The Company owns and operates a recycled paperboard mill in the Town of Sprague, Connecticut. Large quantities of electricity and steam are used in the mill's manufacturing operation, with a substantial portion produced by the Company in its own residual oil fired power plant located on site. The variance was requested to alleviate adverse economic impacts associated with the continued burning of low sulfur fuel oil. The revision, if approved, would allow the Company to purchase, store, otherwise take delivery of, and use (but not burn) fuel oil containing sulfur in excess of 0.5% by weight but not more than 2.2% at this paperboard manufacturing facility. The revision would limit this facility to burn fuel oil containing no more than 1.7% sulfur. Fuel merchants similarly would be granted a variance from the provisions of this regulation for the purpose of selling, storing and delivering for use to the facility fuel oil containing sulfur in excess of 0.5% by weight but not more than 2.2%.

In accordance with the State variance approval and the State compliance order issued on March 28, 1980, prior to initiating the use or burning of the higher sulfur content fuel, the Company was required to increase the stack height of the larger of the two boilers by 19 feet to a good engineering practice level of 139 feet, and to discontinue the use of the smaller boiler or convert it to natural gas or propane. EPA's proposed approval is also based on compliance with these two (2) conditions. (Current EPA policy permits a stack height increase, provided the stack height remains less that 65 meters). In addition, the Department also required that the Company maintain the facilities and equipment that are necessary to blend fuels at the manufacturing facility so as to comply at all times with the 1.7% sulfur limit specified above. The Company must also maintain accurate daily records of the amount and percent sulfur content of all fuel oil burned at this manufacturing facility and must make such records available to the Department upon request. The percent sulfur content of fuel oil actually burned by the Company may be determined based upon analysis of a sample taken at any time from the boiler feedline and the Company must make provision for such sampling.

The Department and EPA have performed extensive dispersion modeling analyses to determine the air quality impacts of the proposed relaxation for this facility. Conservative estimates of plant impacts coupled with conservative background estimates clearly indicate that there is a large margin of safety for maintenance of the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO_2). Following is a summary of EPA's results. Tabulated plant impacts were estimated by the EPA dispersion model CRSTER with terrain adjustments, using 5 years of meteorological data from Windsor Locks, Connecticut.

NAAQS Analysis for SO_2 ($\mu g/m^3$)

Plant impact	Background	Total	NAAQS
Annual 10	31	41	80
24-hour 141 (second high)	150	291	365
3-hour 410 (second high)	225	635	1300

The entire state of Connecticut is designated attainment for SO_2 in accordance with Section 107 of the Clean Air Act. No analysis to determine Prevention of Significant Deterioration (PSD) increment consumption was necessary because a baseline date has not been established anywhere in the state. (40 CFR 52.21 (b)(14), Federal Register, Vol. 45, No. 154, August 7, 1980).

Based on this information, EPA is proposing to approve the SIP revision as submitted by the State. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

The Administrator's decision to approve or disapprove the plan revision will be based on whether it meets the requirements of Sections 110(a)(2)(A)–(K) and 110(a)(3) of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51. This revision is being proposed pursuant to Section 110(a) and 301 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7601).

Dated: November 5, 1980.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 80-36235 Filed 11-19-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 123

[SWH-FRL 1677-7]

Oklahoma: Submission for Approval of Interim Authorization Plan, Phase I, Hazardous Waste Management Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period.

SUMMARY: In the May 19, 1980 Federal Register (45 FR 33063), the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. Included in these regulations, which become effective 6 months from the date of promulgation, were provisions for a transitional stage in which states would be granted interim program authorization. The interim authorization program will be implemented in two phases corresponding to the two stages in which an underlying Federal program will take effect.

As noted in the May 19, 1980 Federal Register, copies of state submittals for Phase I Interim Authorization are to be available for public inspection and comment. By publication in the Federal Register of October 23, 1980, the Environmental Protection Agency announced receipt of Oklahoma's Phase I Interim Authorization Application, the availability of the Application for review, a public comment period on the Application, and a public hearing thereon to be held on November 25, 1980.

This is to announce that the EPA has received additional information which will amend the Program Description and the State regulations included in the final application. The amendments to the Program Description are considered by the EPA to be sufficiently extensive as to justify notice thereof and to establish a separate comment period on the amendments.

DATE: Comments on this additional information must be received by December 22, 1980.

ADDRESSES: Accordingly, notice is hereby given that copies of the amended Program Description are available for inspection and copying at the following addresses:

Environmental Protection Agency, Region 6, Library, 28th floor, 1201 Elm Street, Dallas, Texas 75270, (214) 767–7341

Oklahoma State Department of Health, Industrial and Solid Waste Service, 1000 NE. 10th Street, Room 803, Oklahoma City, Oklahoma 73105

U.S. Environmental Protection Agency, Library, Room 2404, 401 M Street, SW., Washington, D.C. 20460

Written comments should be sent to: Environmental Protection Agency, Region 6, Air and Hazardous Materials Division, Attention: Don Walker, Solid Waste Branch, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2645.

FOR FURTHER INFORMATION CONTACT: Don Walker, Solid Waste Branch, U.S. EPA, Region 6, Dallas, Texas 75270, (214) 767–2645.

Dated: November 18, 1980.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 80-36405 Filed 11-19-80; 8:45 am]

BILLING CODE 6560-38-M

NATIONAL SCIENCE FOUNDATION

41 CFR Ch. 25

Name of Agency official: Francis G. Naughten, Division of Grants and Contracts, (202) 357–7880.

5. Availability of Records and Information (45 CFR Part 612)

These regulations are issued pursuant

Name of Agency official: Dr. Edward P. Todd, Division of Polar Programs,

Regulatory analysis: None required.

Donald N. Langenberg,

permit their engineers to provide a "meaningful input" to the Commission

NATIONAL SCIENCE FOUNDATION

41 CFR Ch. 25

45 CFR Ch. VI

Improving Government Regulations; Semiannual Regulations Agenda

AGENCY: National Science Foundation.

ACTION: Publication of semiannual regulations agenda.

SUMMARY: The National Science Foundation publishes its semiannual agenda of significant regulations under development or review as required by Executive Order 12044, Improving Government Regulations (43 FR 12661, March 24, 1978).

FOR FURTHER INFORMATION CONTACT: For additional information regarding any particular regulatory action contained in the agenda, contact the individual identified as the contact person in the agenda. Comments or inquiries of a general nature about the agenda should be directed to Terese Judkins, Division of Personnel and Management, National Science Foundation, Washington, D.C. 20550, (202) 357–9520.

A. Status of Regulations Previously Listed

1. Grant Policy Manual (NSF 77–47)

This document sets forth the basic policies and procedures in the award and administration of all Foundation grants. The manual is revised periodically as policies and procedures change. As such, the manual is undergoing continuous review. An updated edition of the manual was issued in October 1979. No significant changes in the manual were made in the October 1979 issue, although there were changes in format. NSF plans to issue GPM Transmittal Memorandum No. 2, in the first quarter of fiscal year 1981, to contain: *Attachment A*, a list of changes with a brief explanation; and *Attachment B*, containing looseleaf replacement pages for insertion in the GPM. Changes included are non-substantive, being mostly corrections, clarification of present NSF policy or procedure or insertion of sections inadvertently omitted from the October 1979 revision. GPM Transmittal Memorandum No. 2 will be available through subscription to the GPM through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Legal basis for issuance: Section 11 of the National Science Foundation Act of 1950, as amended, (42 U.S.C. 1870) (hereinafter referred to as the NSF Act).

Name of Agency official: Francis G. Naughten, Division of Grants and Contracts, (202) 357–7880.

Regulatory analysis: None required.

2. Conflict-of-Interest Regulations (45 CFR Part 600)

These regulations govern the conduct of NSF employees and officers and special Government employees. Since publication of the last agenda, amendments have continued under review and editing. Because of the sensitive issues involved, the policy questions under consideration, and the new Ethics in Government Act, progress on readying the regulations for public comment has been slower than anticipated. Proposed amendments may be published within the next six months.

Legal basis for issuance: Section 11 of the NSF Act; Executive Order 11225; 5 CFR Part 735.

Name of Agency official: Harriet E. Tucker, Esq., Office of the General Counsel, (202) 357–7483.

Regulatory analysis: None required.

3. Age Discrimination Regulations (45 CFR Proposed Part 605)

These regulations, which will prohibit discrimination on the basis of age in all Foundation-assisted programs, have been developed in coordination with the Department of Health and Human Services (HHS). HHS regulations were published on June 12, 1979, but NSF regulations have been delayed pending clearance by HHS. The regulations will be published, but the time is uncertain.

Legal basis for issuance: Section 11 of the NSF Act; The Age Discrimination Act of 1975 (42 U.S.C. 6101 et. seq.).

Name of Agency official: Jesse E. Lasken, Esq., Office of the General Counsel, (202) 357–9442.

Regulatory analysis: None required.

4. Handicapped Regulations (45 CFR Proposed Part 615)

These regulations, which will prohibit discrimination on the basis of physical handicap in all Foundation-assisted programs, were published for comment in the April 18, 1978 **Federal Register.** Draft final regulations were sent to HHS for review, as required by E.O. 11914. Final publication is expected within the next two months.

Legal basis for issuance: Section 11 of the NSF Act; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

Name of Agency official: Jesse E. Lasken, Esq., Office of the General Counsel, (202) 357–9442.

Regulatory analysis: None required.

5. Availability of Records and Information (45 CFR Part 612)

These regulations are issued pursuant to the Freedom of Information Act. The Foundation has been consolidating these regulations with various implementing memoranda and NSF bulletins issued since publication of the regulations, but the consolidation continues in the draft stage. No proposed regulations are anticipated for public comment within the next six months.

Name of Agency official: Arthur J. Kusinski, Esq., Office of the General Counsel, (202) 357–9445.

Regulatory analysis: None required.

6. Civil Rights—Title VI Regulations (45 CFR Part 611)

These regulations prohibit discrimination on the basis of race, color, or national origin in all NSF-assisted programs. The Foundation is considering technical changes recently suggested by the Department of Justice. If such changes are adopted, they will be proposed in the **Federal Register** for public comment. However, no decision has yet been made with respect to the changes and consequently any publication date.

Legal basis for issuance: Section 11 of the NSF Act and Title VI of the Civil Rights Act of 1964.

Name of Agency official: Jesse E. Lasken, Esq., Office of the General Counsel, (202) 357–9442.

Regulatory analysis: None required.

7. National Environmental Policy Act Regulations (45 CFR Part 640)

These regulations establish the policies and procedures of the Foundation in implementing the National Environmental Policy Act of 1969 and the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500–1508). The proposed regulations were published for public comment on August 9, 1979. Comments received were taken into consideration and the final regulations were published on January 2, 1980 (45 FR 39) after receiving approval by CEQ.

Name of Agency official: Ms. Adair F. Montgomery, ODAD/AAEO, (202) 357–9754.

Regulatory analysis: None required.

8. Conservation of Antarctic Animals and Plants (45 CFR Part 670)

These regulations establish permit procedures for the Foundation to ensure the conservation and protection of animals and plants native to Antarctica. These regulations were final as of June 7, 1979.

Name of Agency official: Dr. Edward P. Todd, Division of Polar Programs, (202) 357–7766.

Regulatory analysis: None required.

9. Procurement Regulations (41 CFR Part 25)

See item D.2.

B. Significant Existing Regulations Under Review

None.

C. Significant New Regulations Under Development

1. Regulations Designating Pollutants Harmful to the Antarctic Environment

The Foundation intends to designate as a pollutant any substance the Director finds likely, if introduced into Antarctica, to hazard human health, to harm living things, to damage amenities, or to interfere with legitimate uses of Antarctica.

Legal basis for issuance: Section 11 of the National Science Foundation Act of 1950 (Pub. L. 81–507); Antarctic Conservation Act of 1978 (Pub. L. 95–541).

Name of Agency official: Edward P. Todd, Division of Polar Programs, (202) 357–7766.

Regulatory analysis: None required.

2. Regulations to Prevent or Control Pollutants in Antarctica

The Foundation also intends to specify actions to prevent or control the discharge of pollutants in Antarctica.

The schedule for publication of these regulations has not been established.

Legal basis for issuance: Section 11 of the National Science Foundation Act of 1950 (Pub. L. 81–507); Antarctic Conservation Act of 1978 (Pub. L. 95–541).

Name of Agency official: Edward P. Todd, Division of Polar Programs, (202) 357–7766.

Regulatory analysis: None required.

D. Significant Existing Regulations Scheduled for Review Within the Next Six Months.

1. Grant Policy Manual

See item A.1.

2. Procurement Regulations (41 CFR Part 25)

The Foundation's procurement regulations will continue to be reviewed within the next six months for the purpose of implementing the new Federal Acquisition Regulations which as issued will replace the existing Federal procurement regulations.

Legal basis for issuance: Section 11 of the NSF Act.

Name of Agency official: William B. Cole, Division of Grants and Contracts, (202) 357–7880.

Regulatory analysis: None required.

Donald N. Langenberg,

Acting Director.

November 14, 1980.

[FR Doc. 80-36114 Filed 11-19-80; 8:45 am]

BILLING CODE 7555-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket No. 21310; RM–1847; RM–2742; RM–1984]

FM Quadraphonic Broadcasting; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rules; extension of comment and reply comment period.

SUMMARY: Action taken herein grants an additional 30 days of time to file comments and reply comments in a proceeding concering the transmission of quadraphonic programming on FM broadcast stations. The request is granted to permit preparation of new and meaningful information.

DATES: Comments must be filed on or before December 10, 1980, and reply comments must be filed on or before February 9, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Albert S. Jarratt, Sr. Broadcast Bureau (202) 653–7275.

SUPPLEMENTARY INFORMATION:

In the matter of FM Quadraphonic Broadcasting, Docket No. 21310, RM–1847 RM–2742, RM–1984. See 45 FR 55491, August 20, 1980.

Adopted: October 29, 1980.

Released: November 6, 1980.

1. MUZAK, by its attorneys, has submitted a request that the date for filing comments be extended from November 10, 1980, to January 12, 1981. National Research Development Corp. ("NRDC") has filed, through its attorneys, a "Motion for Extension of Time" seeking an extension of time for filing comments to December 10, 1980, and for filing reply comments from January 9, 1981, to February 9, 1981. The Association of Radio Reading Services, Inc. ("ARRS"), by the Administrator of the Minnesota Services for the Blind, also submitted a request for an unspecified extension of time.

2. MUZAK explains the importance of Subsidiary Communications Authorizations (SCA) to their operation. MUZAK requests the additional time to permit their engineers to provide a "meaningful input" to the Commission concerning the proposal to permit SCA use at 95 kHz along with an associated analysis of the cost involved in changing existing operations. NRDC seeks the extension of time since their location in England causes delays in coordinating comments. In addition, NRDC cities its desire to "reformulate its proposal." ARRS states that the *Memorandum Opinion and Order* portion of the quadraphonic document indicates a lack of understanding and/or interpretation of previous public response to Docket No. 21310 has occurred because the public "did not consider the 4–2–4 Quadraphonic technique to be at all relevant to this action, and those 4–2–4 references when made were intended to show the FCC a lack of desire for rule revision to allow descrete Quadraphonic FM transmissions." ARRS feels that the FCC has "severely underestimated" the cost of converting SCA receivers from 67 to 95 kHz and that "actual and/or probable effects on SCA operation at 95 kHz * * * must be the subject of further extensive engineering evaluations prior to further comment * * *."

3. The Commission has carefully reviewed each of the individual requests for extensions of time which are discussed above. Individually, it is felt that each request, standing alone, does not warrant being granted. However, because of the amount of interest evidenced by the three filings in furnishing the Commission with additional data, it is felt that it would be in the public interest to grant some additional time for the filing of comments and reply comments. Therefore, it is felt that a grant of an additional thirty (30) days would enable all parties to have sufficient time to furnish additional showings and that the short period of additional time would not unduly hamper the orderly progress of this proceeding.

4. Accordingly, it is ordered, that the dates for the filing of comments and reply comments is extended to and including December 10, 1980, and February 9, 1981, respectively.

5. This action is taken pursuant to authority contained in Sections 5(i), 5(d) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc 8.—36173 Filed 11–19–80; 8:45 am]

BILLING CODE 6712–01–M

V 45 N 0 2 0 0 8 0 UMI

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1003, 1005, 1056, 1310, 1322

[Ex Parte No. MC 19 (Sub-36)]

Practices of Motor Common Carriers of Household Goods; Revision of Operational Regulations

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to notice of proposed rulemaking.

SUMMARY: The Commission intends to cancel the operational regulations now appearing in 49 CFR Part 1056 applicable to motor common carriers of household goods and to adopt new regulations in conformity with the Household Goods Transportation Act of 1980. It is intended to eliminate all regulation of household goods transportation cost estimating which pertains to the procedure or form of estimates or which require the final charges for the transportation of a shipment to be determined by an estimate. Further changes to the regulations are also intended.

Public notice of this proceeding was served on October 16, 1980. In that notice it was provided that comments by interested persons were scheduled as due 30 days from the date of publication of the notice in the **Federal Register** which was October 27, 1980 at 45 FR 70923, and under the the terms of the notice as published comments will be due on or before November 26, 1980. A request for an extension of time for filing comments in this proceeding is being granted by this decision.

DATES: Comments in this proceeding are due on or before December 11, 1980.

ADDRESS: An original and 15 copies, if possible, of comments should be sent to: Ex Parte No. MC–19 (Sub No. 36), Room 7205, Office of Consumer Protection, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: W. F. Sibbald, Jr. (202) 275–7148.

SUPPLEMENTARY INFORMATION: The American Movers Conference (AMC) has requested a 30-day extension of the time for filing comments, stating that the extension is necessitated by the significance of the regulations proposed and the importance to the industry of being given sufficient time for full and informed consideration of the proposed revision of the regulations.

AMC supports the requested time extension with a statement that the unique organizational structure of the industry requires that responses to the rulemaking proposal be considered by carriers and agents widely scattered throughout the country before a unified industry response may be prepared.

While some extension of the time for filing comments appears warranted, the requested 60-day period is excessive. This is particularly so in consideration of the requirement in Section 6 of the "Household Goods Transportation Act of 1980" that the Commission conclude the rulemaking within 270 days after the date of enactment of the Act. The Act become effective on October 15, 1980.

The time for filing comments will be extended 15 days.

It is ordered:

The request of the American Movers Conference for an extension to 60 days of the time for filing comments as provided in the notice in this proceeding which was furnished on October 16, 1980, and will be published in the **Federal Register** on October 27, 1980, is denied. An extension of 15 days is granted.

The deadline for submitting comments in this proceeding is extended to December 11, 1980.

Decided: October 24, 1980.

By the Commission: Chairman Gaskins.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 36206 Filed 11–19–80; 8:45 am]

BILLING CODE 7035–01–M

49 CFR Parts 1201 and 1241

Request for Preliminary Certification of Railroad Cost Accounting System Compliance With the Uniform System of Accounts

AGENCY: Interstate Commerce Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Interstate Commerce Commission intends to implement Section 11164(a) of the Staggers Rail Act of 1980 (HR 7235) by requiring each Class I and Class II railroad to file a request for preliminary certification of its cost accounting system. The Commission will grant preliminary certification if it determines that the railroad's accounting system is in compliance with the Uniform System of Accounts for Railroads (USOA).

Upon filing their request for certification each railroad must certify that (1) the conversion system used to convert internal accounting data to Commission reports produces data in accordance with the USOA; (2) converted data is subjected to regular edits for compliance and reasonableness; and (3) all accounting exceptions taken by Commission auditors during their most recent compliance audit have been corrected or formally resolved with the Regional Auditor. The request for preliminary certification should be filed by March 30, 1981. The public and the railroads are requested to study this notice and submit their views and comments.

DATES: Railroads have until January 5, 1981, to comment on the requirements of this Notice.

ADDRESSES: Director, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., (202) 275–7448.

SUPPLEMENTARY INFORMATION: The objective of this Notice is to advise all Class I and Class II railroads of the Commission's intent to implement Section 11164(a) of the Staggers Railroad Act of 1980. To implement this section of the Act, each railroad will be required to file a request for preliminary certification of its cost accounting system. The Commission will issue this certification only after it has determined that the reporting railroad's accounting and reporting system is in compliance with the Uniform System of Accounts. Commission auditors will review the representations in each certification request. Certification will be withheld from railroads that have not properly implemented the revised Uniform System of Accounts or resolved Commission compliance audit exceptions.

Requests for certification must clearly describe the method used by the railroad to convert its internal accounting data into a format suitable for Commission reports. The request for certification should also indicate whether the railroad has adopted the Commission's account coding scheme for its internal accounting purposes, and the extent and frequency of edits performed on converted data. The completion date of the most recent Commission compliance audit and any unresolved accounting exceptions should also be identified and discussed. The format of the request for certification will be left to the discretion of each railroad.

In deciding that conformity with the USOA is all that will be required in granting preliminary certification, we do not mean to suggest that a costing system and an accounting system are the same. Accurate accounting data must, however, be generated for use in any costing system. Thus, the first step

toward assuring accurate cost information is to assure accurate accounting data.

Further, we note that the Conference Report states, with respect to this provision of the Act, that: "The Conferees do not envision the requirements for preliminary certification to be any more than a simple affirmation that the carrier is meeting * * * the existing requirements of the Commission" Since the only existing requirements of the Commission in this area are those concerning the USOA, we conclude that preliminary certification must be premised only on conformity with the USOA.

The public and the railroads are requested to study this notice and submit their views and comments. Because regulatory costs are a major concern, we are asking railroads to furnish specific estimates of any additional costs associated with this requirement. After comments are received and reviewed, the Commission will publish a notice if changes in format, information required, or filing date are necessary.

This Notice does not appear to significantly affect the quality of the human environment or energy conservation.

This Notice is issued under the authority of 49 U.S.C. 10321.

Decided: October 21, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners, Clapp, Trantum, and Alexis. Commissioner Gilliam was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc.80–36059 Filed 11–19–80; 8:45 am].

BILLING CODE 7035–01–M

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Notices

Federal Register
Vol. 45, No. 226
Thursday, November 20, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Rulemaking and Public Information; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Rulemaking and Public Information of the Administrative Conference of the United States, to be held at 2:45 p.m., December 10, 1980 in the Library of the Conference, 2120 L Street, NW., Suite 500, Washington, D.C.

The Committee will meet to discuss generally the following topics: (1) Professor Kenneth Culp Davis' proposal that the Conference study further and consider the desirability of requiring informal rulemaking procedures in addition to those required by a strict reading of section 553 of the Administrative Procedure Act; (2) procedures used in emergency rulemaking by Federal agencies; (3) ACUS projects which relate to agency rulemaking, namely the Verkuil study of intragovernmental communications in informal rulemaking proceedings and the Asimow study of separation of functions in agency proceedings, and (4) factors influencing the choice by agencies of rulemaking or adjudicative procedures.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this Committee meeting, contact Michael W. Bowers (202/254–7020). Minutes of the meeting will be available on request.

Richard K. Berg,
Executive Secretary.
November 14, 1980.
[FR Doc. 80-36209 Filed 11-19-80; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Alpine Lakes Area Land Management Plan; Extension of Review Period

The notice of availability for the Alpine Lakes Area Land Management Plan Draft Environmental Impact Statement on the Mt. Baker-Snoqualmie National Forest, Washington, that appeared in the **Federal Register** September 19, 1980, is corrected to extend the review period to December 10, 1980.

Dated: November 7, 1980.

Claude R. Elton,
Acting Regional Forester.
[FR Doc. 80-36123 Filed 11-19-80; 8:45 am]
BILLING CODE 3410-11-M

Bridger-Teton National Forest Grazing Advisory Board; Meeting

The Bridger-Teton National Forest Grazing Advisory Board will meet at 1:00 P.M., December 17, 1980, in the Conference Room of the Sublette County Library, Pinedale, Wyoming. The purpose of this meeting is to discuss utilization of range betterment funds and the development of allotment management plans.

The meeting will be open to the public. Persons who wish to attend should notify Forest Supervisor Reid Jackson, Box 1888, Jackson, Wyoming 83001, telephone (307) 733–2752. Written statements may be filed with the board before or after the meeting.

The board has established the following rules for public participation:

1. If a group wishes to be heard at the meeting, they are required to select a chairman to voice their ideas.

2. Persons or groups may send written statements to the Forest Supervisor for presentation at the meeting.

3. The Chairman of the Forest Grazing Advisory Board will set aside a time period on the agenda for public comment.

Reid Jackson,
Forest Supervisor.
November 10, 1980.
[FR Doc. 80-36219 Filed 11-19-80; 8:45 am]
BILLING CODE 3410-11-M

Wasatch-Cache National Forest; Forest Land and Resource Management Plan; Revised Notice of Intent to Prepare an Environmental Impact Statement

A Notice of Intent to Prepare an Environmental Impact Statement for the Wasatch-Cache National Forest Land and Resource Management Plan, Wasatch, Summit, Cache, Rich, Box Elder, Weber Morgan, Davis, and Salt Lake Counties, Utah and Uinta County, Wyoming, was published in the **Federal Register**, Volume 45, No. 18, p. 6129, January 25, 1980.

The estimated dates for filing the Draft and Final Environmental Impact Statements with the Environmental Protection Agency and release to the public have been postponed. The Draft Environmental Impact Statement is now expected in December 1982, and the Final Environmental Impact Statement is proposed for release in December 1983.

All other conditions of the original Notice of Intent remain the same.

Dated: November 13, 1980.

Jeff M. Sirmon,
Regional Forester.
[FR Doc. 80-36217 Filed 11-19-80; 8:45 am]
BILLING CODE 3410-11-M

Targhee National Forest Grazing Advisory Board; Meeting

The Targhee National Forest Grazing Advisory Board meeting will be held December 4, 1980, 1:00 p.m. at the Supervisor's Office, Targhee National Forest, 420 North Bridge Street, St. Anthony, Idaho.

The purpose of the meeting will be for the Board to make recommendations to the Forest Supervisor on range allotment planning and the use of range betterment funds scheduled for fiscal year 1980.

In accordance with the Federal Advisory Committee Act, (Pub. L. 92–463) this meeting is open to the public. Forest Supervisor John Burns requests that comments from non-board members be withheld until the conclusin of the business meeting.

For additional information, contact Phil Lee at the Targhee National Forest Supervisor's Office or telephone 208–624–3151.

John E. Burns,
Forest Supervisor.
[FR Doc. 80-36216 Filed 11-19-80; 8:45 am]
BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

Savannah River Laboratory et al.; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89–651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, within 20 calendar days after the date on which this notice of application is published in the **Federal Register**.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 80–00179. Applicant: Savannah River Laboratory, Operated by E.I. du Pont de Nemours & Co. for the U.S. Department of Commerce, Aiken, SC 29801. Article: Spark Source Mass Spectrometer System, Model JMS–01BM–2. Manufacturer: JOEL Ltd., Japan. Intended use of article: The article is intended to be used for the elemental analysis of a wide variety of solid and liquid materials. Most of the materials to be studied fall into three categories: Highly radioactive materials; materials that are only available in microgram quantities; and materials in which impurities are present in low part per million and part per billion concentrations. The objectives of the investigations to be conducted include: development of a satisfactory form for the permanent storage of highly radioactive nuclear waste; the development of improved nuclear electrical generators for medical, space and other applications; development of compatible materials systems for nuclear reactors, processing plants and weapons systems; and the development of adequate control systems to guarantee environmental safety. In addition, the scientific knowledge in nuclear technology and in materials technology as it applies to nuclear development work will be advanced. Application received by Commissioner of Customs: February 6, 1980.

Docket No. 80–00428. Applicant: California State University, Fullerton, 800 N. State College Blvd., Fullerton, CA 92634. Article: 501B Nanosecond Light Source with Observation PMT. Manufacturer: Photochemical Research Assoc., Inc., Canada. Intended use of article: The article is intended to be used to measure fluorescence (excited state) lifetimes of hydrocarbon (such as, benxo(a)pyrene) molecules interacting with the DNA. This information will be used to determine the reasons why some hydrocarbons cause cancer in mammals. The article will also be used in the course Physics 412, "Introduction to Molecular Biophysics". The content of the course includes using physical techniques to study biological systems. Application received by Commissioner of Customs: August 21, 1980.

Docket No. 80–00429. Applicant: Geophysical Institute, Fairbanks, AK 99701. Article: EM–16 VLF Electromagnetic Instrument and EM–16R Attachment for Electrical Resistivity. Manufacturer: Geonics, LTD., Canada. Intended use of article: The article is intended to be used for the study of VLF radio signals from which the ground resistivity can be deduced in search of geothermal areas. The objectives of this study are to determine if the Seward peninsula is a rift system and if geothermal resources other than existing hot springs can be located. Application received by Commissioner of Customs: August 21, 1980.

Docket No. 80–00430. Applicant: National Jewish Hospital and Research Center, National Asthma Center, 3800 E. Colfax Avenue, Denver, CO 80206. Article: LKB Cryokit for Ultrotome III Ultramicrotome. Manufacturer: LKB Produkter, Sweden. Intended use of article: The article is intended to be used for study of the localization of intracellular enzymes in normal and pathological tissues and cells. Frozen thin sections will be prepared of cells and tissues and specifically prepared tags will be reacted to these sections. The sections will then be examined in the transmission electron microscope. Application received by Commissioner of Customs: August 21, 1980.

Docket No. 80–00432. Applicant: University of California, Radiologic Imaging Laboratory, 400 Grandview Drive, South San Francisco, CA 94080. Article: Superconducting Magnet System. Manufacturer: Oxford Instruments, England. Intended use of article: The article is intended to be used for nuclear magnetic resonance (NMR) imaging of intact experimental animals and of normal and diseased humans. Experiments will consist of imaging in control animals, correlating with tissue properties measured by chemical analysis, imaging of healthy persons to establish human baselines, imaging of patients with known diseases to study the ability of NMR to diagnose these, and blind readings of human NMR images to assess diagnostic utility. In addition, the article will be used in an ongoing training program to teach research methods and NMR imaging to residents and fellows in the Department of Radiology. Application received by Commissioner of Customs: August 28, 1980.

Docket No.: 80–00433. Applicant: University of Washington, Interdis Research Center, Ophthalmology RJ–10, Seattle, WA 98195. Article: Electron Microscope, Model JEM 100S and Accessories. Manufactuer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of the ultrastructural characteristics of the retina and visual nuclei of the brain. Experiments to be conducted will involve obtaining material from a variety of human and animal ophthalmic diseases and correlating the ultrastructural appearance of the tissue with aspects of the disease. The main objective to be pursued in the course of these investigations will be to obtain knowledge about the mechanism of variety of ophthalmic diseases, by examining changes in the cellular ultrastructure, document the course of these diseases and elucidate the causes and possible treatments. The article will also be used extensively to instruct graduate students, post-doctoral fellows, resident physicians, and staff in the ultrastructure of ophthalmic diseases. Application received by Commissioner of Customs: August 22, 1980.

Docket No.: 80–00434. Applicant: Mount Sinai School of Medicine, One Gustave Levy Place, New York, New York 10029. Article: Mass Sectrometer System Model MM–ZAB–1F with

Integrated Liquid Chromatographic Interface. Manufacturer: VG Organic, United Kingdom. Intended use of article: The article is intended to be used for the qualitative and quantitative high resolution mass spectrometric analysis of a wide range of substances in connection with several varied interdisciplinary research programs on neoplastic diseases and environmental toxicology. The materials to be studied will include: 1. Antineoplastic drugs/agents and their metabolites. 2. Metabolic products of fungi and bacteria. 3. Glycoproteins and related substances. 4. Glycosaminoglycans and related substances. 5. Polycyclic aromatic compounds and their metabolites. Application received by Commissioner of Customs: August 22, 1980.

Docket No.: 80-00435. Applicant: U.S. Naval Research Laboratory, Washington, DC 20375. Article: Backscattered Electron Dector and Power Supply. Manufacturer: Japan Electron Optical Lab. Ltd., Japan. Intended use of article: The article is intended to be used with an existing electron miscroscope which is being used in the following projects: 1. Imaging of compositional variations in bulk specimens of alloys. 2. Imaging of surface topography oi bulk specimens. 3. Measurement of crystalline orientation of regionsof specimens 1 micron or less in diameter by electron channeling. Application received by Commissioner of Customs: August 28, 1980.

Docket No.: 80-00436. Applicant: University of California, Lawrence Livermore National Laboratroy, P.O. Box 5012, Livermore, CA 94550. Article: Laser Optical Glass Blanks. Manufacturer: Hoya Corporation, Japan. Intended use of article: The article is intended to be used in an effort to demonstrate the feasibility of the generation of usable power in a controlled thermonuclear fusion reaction. Experiments will be conducted using the NOVA 10-arm laser system to obtain isentropic compression of deuterium-tritium targets to greater than 10,000 times liquid density, thereby producing for the first time in any research facility thermonuclear reation of as many as 10 neutrons per microexplosion. Application received by Commissioner of Customs: August 18, 1980

Docket No.: 80-00437. Applicant: Oregon Graduate Center, 19600 NW Walker Road, Beaverton, Oregon 97006. Article: NMR Sectrometer, Model FX-900(I) and accessories. Manufacturer: JOEL Japan. Intended use of article: The article is intended to be used to obtain pulsed Fourier transform NMR spectra for ^{1}H, ^{13}C, ^{19}F, ^{31}P and ^{63}Cu. Specific interest will be in determining structure and dynamic information, using chemical shifts, coupling constants, and overhauser effects. Postdoctoral and graduate students of the faculty will be trained to use the NMR on an individual basis as needed in their research. Application received by Commissioner of Customs: August 28, 1980.

Docket No.: 80-00438. Applicant: The Hawkes Hospital of Mount Carmel, 793 West State Street, Columbus, Ohio 43222. Article: Linear Accelerator, Therac 6. Manufacturer: Atomic Energy of Canada, Ltd., Canada. Intended use of article: The article is intended to be used for educational purposes in the course in Radiation Biology to train radiological technicians who are capable of being certified as ARRT. The article will also be used in rotation of resident physicians. Application received by Commissioner of Customs: August 28, 1980.

Docket No.: 80-00439. Applicant: Children's Hospital of Pittsburgh, 125 DeSoto Street, pittsburgh, PA 15213. Article: Automatic Discrete Selective Chemistry Analyzer. Manufacturer: Greiner Electronics, Switzerland. Intended use of article: The article is intended to be used to conduct chemical analysis of blood/urine for patient diagnosis. Application received by Commissioner of Customs: August 28, 1980.

Docket No.: 80-00440. Applicant: State University of New York, University Hospital, Health Services Center, Stony Brook, NY 11794. Article: Electron Miscroscope, Model EM 10 CA and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for characterization of human tumors by cytologic differentiation and the clinical appearance and course correlated with this ultrastructural classification. Another usewill involve examination and characterization of human renal specimens according to generally accepted diagnostic criteria. The article will also be used in a course entitled "Electron Microscopy for Experimental Pathologists" to teach mechanisms and technology involved in electron microscopy and specific approaches to experimental pathology to graduate students and medical residents. Application received by Commissioner of Customs: August 28, 1980.

Docket No.: 80-00441. Applicant: Regents of the University of California, Department of Pathology, 501 HSW, San Francisco, CA 94143. Article: Electron Microscope, Model JEM 100S with Sheet Film Camera. Manufacturer: JEOL Ltd., Tokyo, Japan. Intended use of article: The article is intended to be used to examine tissues obtained from biopsies or autopsy. Studies will be conducted to provide qualitative assessment of structural changes in disease and quantitative measurement of these modifications, both for investigation and diagnostic use. The article will also be used as an educational tool for residents and research fellows. Application received by Commissioner of Customs: August 28, 1980.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-36145 Filed 11-19-80; 8:45 am]

BILLING CODE 3510-25-M

Imported Steel Mill Products Trigger Price Mechanism; First-Quarter 1981 Trigger Prices and Reviews of Requests for Changes in Product Coverage

AGENCY: Department of Commerce.

ACTION: Announcement of First-Quarter 1981 Trigger Price Levels.

SUMMARY: The Department of Commerce hereby announces that first-quarter 1981 trigger price bases and extras for most steel mill products covered by the steel trigger price mechanism (TPM) will be 0.9 percent higher. The Department uses trigger prices to monitor the prices of steel mill product imports for possible initiation of dumping investigations.

SUPPLEMENTARY INFORMATION: On October 8, 1980 (45 FR 66833), the Department of Commerce published its intention to reinstate the TPM. The Department began its monitoring of all imported basic steel mill products entering the United States on October 21, 1980.

First-quarter, 1981 trigger price bases and extras for those steel mill products manufactured principally by integrated steel producers will be 0.9 percent higher than their fourth-quarter 1980 trigger price levels. Trigger base prices and extras of those steel mill products manufactured principally by electric furnace producers will be 1.9 percent to 3.6 percent lower, depending on the product, than their fourth-quarter levels: trigger price bases and extras for Group A (Equal Angle) electric furnace products will be 3.4 percent lower than the fourth-quarter levels; Group B (Flat Bars), 3.6 percent lower; and Group C (Rebars), 1.9 percent lower. The trigger price bases and extras for stainless steel wire products will be 0.9 percent higher than the fourth-quarter 1980 levels. (See Table 1 for a list of first-quarter trigger prices).

For its calculation of trigger price levels, the dollar/yen exchange rate the Department uses to convert Japanese steel producer's yen production costs to dollars is the average of the 36 months preceding the calculation and publication of the next quarter's level. On this basis, the exchange rate used in the Department's first-quarter 1981 production cost estimate is 221 yen to the dollar (the yen/dollar exchange rate average for November 1977 through October 1980). The Department used a 223 yen/dollar exchange rate average (the average for September 1977 through August 1980) for the fourth-quarter 1980 trigger price calculation.

Table 1.—*Product Base Prices for Shipment Exported During First Quarter 1981*

[All figures in dollars per metric ton]

Page [1]	Product	1st quarter 1981 base prices
2-1	Wire rods commercial quality AISI 1006	$383
2-2	Wire rods welding quality AISI 1006	364
2-3	Wire rods high carbon AISI 1065	421
2-6	Wire rods cold heading quality AISI 1038	436
2-7	Wire rods cold finished bar quality	436
2-9	Spheroidized annealed Mo alloy steel wire rod AISI 4037	525
2-12	Spheroidized annealed Si-Mn-Cr high carbon steel wire rod AISI 9254	678
2-14	Spheroidized annealed high carbon Cr steel wire rod AISI 52100	606
3-1	Wide flange beams and bearing piling ASTM A-36 12"×12"	352
3-5	Standard carbon steel channels ASTM A-36 [2]	306
3-7	Unequal leg carbon steel angles ASTM A-36 [2]	322
3-9	Equal leg carbon steel angles ASTM A-36 [2]	339
3-11	Standard carbon steel "I" beams ASTM A-36 [2]	353
4-1	Sheet piling ASTM A-328 arch web PDA-27	390
5-1	Steel plates ASTM A-36 ½"×80"×240"	364
6-1	Heavy carbon steel rails AREA 115, 132 or 136 (40')	408
6-3	Light rails 60 lb/yd	399
6-5	Tie plates	406
8-1	Plain and deformed carbon steel concrete reinforcing bars ASTM A-615 [4]	290
9-1	Hot rolled carbon steel bar size channel ASTM A-36 [2]	412
10-1	Hot rolled carbon bars special quality AISI 1045	461
10-3	Merchant quality hot rolled carbon steel squares and round cornered squares ASTM-36 or AISI [3] 1020	344
10-5	Merchant quality hot rolled carbon steel round bar ASTM A-36 or AISI [3] 1020	344
10-7	Merchant quality carbon steel flat bars ASTM A-36 or AISI [3] 1020	312
11-1	Hot rolled Ni-Cr-Mo alloy steel round bar AISI 8620	536
11-6	Spheroidize annealed high carbon Cr steel round bar AISI 52100	595
12-1	Cold finished carbon steel round bar AISI 1008 through 1029	534
12-2	Cold finished round steel bar AISI 1212 through 1215	862
12-3	Cold finished round steel bar AISI 12L14 and 12L15	883
12-5	Cold finished, Ni-Cr-Mo alloy steel round bar AISI 8620	533
12-7	Cold finished spheroidized annealed, high carbon Cr steel round bar, AISI 52100, 50100, 51100	595
14-1	ERW carbon steel pressure tubing for use in boilers, heat exchangers, condensers, etc	595
14-9	Continuous butt welded standard pipe	452
14-8	ERW pipe, excluding oil well casing, without coupling	474
14-13	Submerged arc welded pipe	514
14-16	ERW structural tubing to ASTM A-500 Grades, A, B and C	443
14-22	ERW standard pipe	468
14-24	Piling pipe ASTM A-252	500
14-26	ERW merchanical tubing ASTM A-513	534
15-1	Seamless carbon steel oil well casing, not threaded, up to 7" in outside diameter	659
15-4	Seamless carbon steel oil well casing, not threaded 7 inches and over in outside diameter	625
15-7	Seamless carbon steel oil well casing, threaded and coupled, 7 inches and over in outside diameter	562
15-10	Seamless carbon steel oil well casing, threaded and coupled, up to 7 inches in outside diameter	566
15-13	Electric resistance welded carbon steel oil well casing, not threaded	496
15-16	Seamless carbon steel pressure tubing suitable for use in boilers, superheaters, heat exchangers, condensers, refining furnaces, feed water heaters, cold finish	955
15-42	Seamless carbon steel oil well tubing EUE with threading and coupling	749
15-44	Seamless carbon steel line pipe	511
15-48	Hot rolled high carbon Cr steel tube suitable for use in manufacture of ball or roller bearings AISI 52100	725
15-49	Cold rolled high carbon Cr steel tube suitable for use in manufacture of ball or roller bearings AISI 52100	1079
15-50	Seamless stainless steel round ornamental tube AISI TP 304, 1¼×0.049"	2447
15-52	Seamless stainless steel square ornamental tube AISI TP 304, 1½×1½×0.065"	2507
16-1	Cold heading round wire AISI 1018 killed 0.192" hard drawn	544
16-1	Cold heading drawn from annealed rods	518
16-1	Cold heading drawn from spheroidized annealed rods	533
16-1	Cold heading anneal in process	537
16-1	Cold heading spheroidize anneal in process	548
16-1	Cold heading anneal in process and drawn from annealed rods	566
16-1	Cold heading spheroidize anneal in process and drawn from annealed rods	606
16-1	Cold heading anneal at finish size	618
16-1	Cold heading spheroidize anneal at finish size	633
16-1	Cold heading anneal at finished size and drawn from annealed rods	667
16-1	Cold heading spheroidize anneal at finished size and drawn from annealed rods	682
16-4	Bright basic round wire AISI 1008 No. 8 gage rimmed	448

Table 1.—*Product Base Prices for Shipment Exported During First Quarter 1981—Continued*

[All figures in dollars per metric ton]

between the fourth-quarter 1980 and the first-quarter 1981 resulted from a cost increase is due entirely to the appreciation of the yen relative to the

Table 1.—*Product Base Prices for Shipment Exported During First Quarter 1981—Continued*

[All figures in dollars per metric ton]

Page [1]	Product	1st quarter 1981 basis prices
16–5	Galvanized iron round wire AISI type I coating No. 8 gage	563
16–8	Round baling wire 14.50	626
16–9	Cold finished spheroidized annealed, Si–Mn–Cr high carbon steel wire AISI 9254	608
16–11	Cold finished spheroidized annealed Mo alloy steel wire AISI 4037	625
16–13	High carbon Cr steel wire in coil AISI 52100, 50100, 51100, suitable for use in manufacture of ball or roller bearings	649
16–15	Upholstery spring wire automatic coiling and knotting type	520
16–16	Mechanical spring wire ASTM A–227 and A–648	590
16–17	Oil tempered steel spring wire ASTM A–229	594
16–18	Carbon steel valve spring quality ASTM A–230	565
16–19	Automobile tire bead wire	692
16–20	Galvanized core wire for A.C.S.R. ASTM B 498 class "A"	739
16–21	Stainless steel wire (see attached pages 16–22 through 16–36)	
19–1	Field fence	675
20–1	Wire nails bright common 20d No. 6 1⅝s × 4"	523
21–1	Barbed wire 2 ply, 12.50	710
22–1	Black plate ASTM A625–76 0.0083" × 34" × coil	467
23–1	Electrolytic tin plate SR–25/25 75L × 34" × C	634
25–1	Hot rolled steel sheets ASTM A–569 0.121" × 48" × coil	322
25–2	Hot rolled steel band ASTM 569 0.121" × 48" × coil	308
26–1	Electrical steel sheets grain oriented M–4 0.012" × 33" × C	1317
26–3	Electrical steel sheets non oriented M–45 0.018" × 36" × C	733
27–5	Cold rolled sheets ASTM A–366 1.0 m/2m × 48" × C	404
27–1	Electro galvanized sheets EGC 10g/M 1.0 m/m × 48" × C	477
27–4	Galvanized sheet ASTM A525G90	479
29–1	Hot rolled carbon steel strip produced on bar mills cut lengths [2]	348
29–3	Hot rolled carbon steel strip produced on sheet mills, coils only	315
32–1	Tin free steel sheets SR 75L × 34" × C	542

[1] Page references are to the Trigger Price Manual published by the Department of Commerce. The first figure of each page reference corresponds to the AISI product category of that product.
[2] Electric furnace, group A.
[3] Electric furnace, group B.
[4] Electric furnace, group C.

I. Production Costs

A. Integrated Producers

The $3.45 increase in the trigger prices and production costs resulted primarily from the appreciation of the yen/dollar exchange rate average and a reduction in the capacity utilization average. The change in the yen/dollar exchange rate average from 223 yen/dollar to 221 yen/dollar increased the production cost estimate by about $3. The remaining increase was caused by slight increases in material input prices and a slight decrease in the five-year average capacity utilization. (See Table 2 below for a comparison of fourth-quarter 1980 and first-quarter 1981 production costs by components.)

A suggestion has been made that the "other raw materials" and "other expenses" trigger price categories should be increased to reflect a rate of increase equal to the rate of increase in Japan's wholesale price index for industrial products for the year ending July 1980. The wholesale price index is inadequate as a guideline for changes in these costs elements. This index includes certain costs that are accounted for elsewhere, e.g., fuel and scrap and other costs that are not relevant to steel production costs, e.g., food prices.

The Department is aware of the need to keep current with regard to cost changes in both these categories. To this end we are seeking current data on major cost items included in these basket categories and are reviewing other more specific indices of producer cost changes.

Table 2—*Japanese Production Cost Estimate: Integrated Steel Producers*

[Fourth quarter 1980 and first quarter 1981 (U.S. dollars per metric ton of finished product)]

	4th quarter	1st quarter
Basic raw materials	$161.36	$161.94
Other raw materials	77.23	77.93
Labor	92.57	93.59
Other expenses	33.68	33.07
Depreciation	36.19	36.71
Interest	26.62	26.98
Profit [1]	29.11	29.33
Yield credit	(12.93)	(13.02)
Total cost (dollars per M.T.)	442.83	446.53
Total cost (dollars per N.T.)	401.73	405.18

[1] Profit = .06 (all raw materials + labor + other expenses)

B. Electric Furnace Producers

The decreases in electric furnace trigger prices and production costs between the fourth-quarter 1980 and the first-quarter 1981 resulted from a significant decrease in the price to these producers of purchased scrap offset slightly by the effect of the appreciation of the yen. (See Table 3 below for a comparison of fourth-quarter 1980 and first-quarter 1981 production cost by component for each of the three electric furnace producers).

C. Stainless Steel Wire Production Costs

Commerce's dollar-valued estimate of the current production costs of Japan's steel wire producers increased by 0.9 percent over the fourth-quarter 1980 level. The first-quarter 1981 production cost increase is due entirely to the appreciation of the yen relative to the dollar. (See Table 4.)

II. Freight Charges

TPM trigger prices are an estimate of the production costs of Japanese steel manufacturers plus the cost of transporting and landing the steel in the United States; hence, to the production costs described above and reflected in trigger price bases and extras must be added charges for freight, interest, handling and insurance. The only element of these charges that has changed from its fourth-quarter 1980 level is the freight charge for pipe and tube products. (See Table 4.)

Table 3.—*Japanese Steel Production Cost Estimates: Electric Furnace Products First Quarter 1981 and Fourth Quarter 1980*

	Group A [1]		Group B [2]		Group C [3]	
	4th quarter	1st quarter	4th quarter	1st quarter	4th quarter	1st quarter
Basic raw materials	$201.67	$190.28	$209.65	$197.59	$199.75	$192.12
Other raw materials	36.83	37.00	39.44	39.62	35.62	36.55
Labor	29.71	30.51	33.37	33.67	27.03	27.85
Other expenses	11.13	11.23	15.64	15.78	13.88	14.01
Depreciation	6.24	6.30	8.65	8.73	6.52	6.58
Interest	6.61	6.67	9.89	9.98	8.53	8.61
Profit [4]	22.35	21.52	23.85	22.93	22.10	21.64
Scrap credit	(3.44)	(3.14)	(3.14)	(2.98)	(2.97)	(2.85)
Total (dollars per M.T.)	311.10	300.37	337.35	325.32	310.46	304.51
Total (dollars per N.T.)	282.23	272.49	306.04	295.13	281.65	276.25

[1] Group A products are equal angles, unequal angles, channels, and I–beams.
[2] Group B products are hot rolled strip from bar mills; merchant quality flat bars, hot rolled round bars, squares, and round cornered squares; and bar size channels.
[3] Group C products are concrete reinforcing bars, plain and deformed.
[4] Profit = .06 (Raw materials + labor + other expenses).

III. Requests for Additions/Deletions In TPM Product Coverage

Commerce has received request to expand TPM coverage of the following products:

(1) Lightwall sprinkler pipe, sizes.
4" IPS (4½" O.D.)
5" IPS (5⅝" O.D.)
6" IPS (6⅝" O.D.)

(2) Large diameter pipe, including lengths of 40 feet and greater.

(3) SAE 52100 Drawn Wire.

(4) Railroad wheels and axles, also mounted wheels and axle sets.

(5) Cold finished bars, grades C–1030 through C–1060.

Additionally, Commerce has received requests to delete the following products from TPM coverage:

(1) SAE 52100 hot rolled rods.

(2) 52100 Bearing quality steel wire and bar (6–30 mm) for ball bearing production.

(3) AISI grade 9254 spheroidized annealed SI–MN–CR high carbon value spring quality wire rod.

Any party interested in commenting on these requests should submit written comments as soon as possible, and no later than December 22, 1980, to F. Lynn Holec, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. Comments should focus on the economic factors involved.

Public notice of and opportunity for comment on any additional requests for review of product coverage under TPM and for changes in the cost coefficients will be provided.

Commerce will maintain these requests in a public file. Anyone submitting business confidential information should clearly so label the confidential portion of their submissions.

IV. Fourth Quarter TPM Manual Errata

The following errata are applicable to the Fourth Quarter TPM Manual issued by the Department of Commerce and distributed by various trade associations. The base prices and galvanized sheet size chart were also a part of the October 21, 1980 **Federal Register** Notice.

Group I—Annealed

Annealed: The condition of soft wire

Page No.	Description	Incorrect 4th	Corrected 4th	1st quarter	Size [1]	1st quarter, 1981 dollar per metric ton size extras
16–5	Galvanized iron round wire AISI type I coating No. 8 gage	563	563	563		
16–8	Round baling wire 14.50	626	626	626		
16–9	Cold finished spheroidized annealed, Si–Mn–Cr high carbon steel wire AISI 9254	608	608	608		
16–11	Cold finished spheroidized annealed Mo alloy steel wire AISI 4037	625	625	625		
16–13	High carbon Cr steel wire in coil AISI 52100, 50100, 51100, suitable for use in manufacture of ball or roller bearings	649	649	649		
16–15	Upholstery spring wire automatic coiling and knotting type	520	520	520		
16–16	Mechanical spring wire ASTM A–227 and A–648	590	590	590		
16–17	Oil tempered steel spring wire ASTM A–229	594	594	594		
16–18	Carbon steel valve spring quality ASTM A–230	565	565	565		
16–19	Automobile tire bead wire	692	692	692		
16–20	Galvanized core wire for A.C.S.R. ASTM B 498 class "A"	739	739	739		
16–21	Stainless steel wire (see attached pages 16–22 through 16–36)					
19–1	Field fence	675	675	675		
20–1	Wire nails bright common 20d No. 6 1⅝s × 4"	523	523	523		
21–1	Barbed wire 2 ply, 12.50	710	710	710		
22–1	Black plate ASTM A625–76 0.0083" × 34" × coil	467	467	467		
23–1	Electrolytic tin plate SR–25/25 75L × 34" × C	634	634	634		
25–1	Hot rolled steel sheets ASTM A–569 0.121" × 48" × coil	322	322	322		
25–2	Hot rolled steel band ASTM 569 0.121" × 48" × coil	308	308	308		
26–1	Electrical steel sheets grain oriented M–4 0.012" × 33" × C	1317	1317	1317		
26–3	Electrical steel sheets non oriented M–45 0.018" × 36" × C	733	733	733		
27–5	Cold rolled sheets ASTM A–366 1.0 m/2m × 48" × C	404	404	404		
27–1	Electro galvanized sheets EGC 10g/M 1.0 m/m × 48" × C	477	477	477		
27–4	Galvanized sheet ASTM A525G90	479	479	479		
29–1	Hot rolled carbon steel strip produced on bar mills cut lengths [2]	348	348	348		
29–3	Hot rolled carbon steel strip produced on sheet mills, coils only	315	315	315		
32–1	Tin free steel sheets SR 75L × 34" × C	542	542	542		

Group II—Hard/Spring Wire—Continued

[Annealed: The condition of wire drawn several drafts as

Page No.	Description	Incorrect 4th	Corrected 4th	1st quarter	Size [1]	1st quarter, 1981 dollar per metric ton size extras
16–5	Galvanized iron round wire AISI type I coating No. 8 gage	563	563	563		
16–8	Round baling wire 14.50	626	626	626		
16–9	Cold finished spheroidized annealed, Si–Mn–Cr high carbon steel wire AISI 9254	608	608	608		
16–11	Cold finished spheroidized annealed Mo alloy steel wire AISI 4037	625	625	625		
16–13	High carbon Cr steel wire in coil AISI 52100, 50100, 51100, suitable for use in manufacture of ball or roller bearings	649	649	649		
16–15	Upholstery spring wire automatic coiling and knotting type	520	520	520		
16–16	Mechanical spring wire ASTM A–227 and A–648	590	590	590		
16–17	Oil tempered steel spring wire ASTM A–229	594	594	594		
16–18	Carbon steel valve spring quality ASTM A–230	565	565	565		
16–19	Automobile tire bead wire	692	692	692		
16–20	Galvanized core wire for A.C.S.R. ASTM B 498 class "A"	739	739	739		
16–21	Stainless steel wire (see attached pages 16–22 through 16–36)					
19–1	Field fence	675	675	675		
20–1	Wire nails bright common 20d No. 6 1⅝s × 4"	523	523	523		
21–1	Barbed wire 2 ply, 12.50	710	710	710		
22–1	Black plate ASTM A625–76 0.0083" × 34" × coil	467	467	467		
23–1	Electrolytic tin plate SR–25/25 75L × 34" × C	634	634	634		
25–1	Hot rolled steel sheets ASTM A–569 0.121" × 48" × coil	322	322	322		
25–2	Hot rolled steel band ASTM 569 0.121" × 48" × coil	308	308	308		
26–1	Electrical steel sheets grain oriented M–4 0.012" × 33" × C	1317	1317	1317		
26–3	Electrical steel sheets non oriented M–45 0.018" × 36" × C	733	733	733		
27–5	Cold rolled sheets ASTM A–366 1.0 m/2m × 48" × C	404	404	404		
27–1	Electro galvanized sheets EGC 10g/M 1.0 m/m × 48" × C	477	477	477		
27–4	Galvanized sheet ASTM A525G90	479	479	479		
29–1	Hot rolled carbon steel strip produced on bar mills cut lengths [2]	348	348	348		
29–3	Hot rolled carbon steel strip produced on sheet mills, coils only	315	315	315		
32–1	Tin free steel sheets SR 75L × 34" × C	542	542	542		

Page No.	Description	Incorrect 4th quarter price	Corrected 4th quarter price	1st quarter price
3-2	Size extra 10"×4"×15-19 lbs./ft.	$43	4341	$41
3-5	Base price—channels	318	317	308
3-7	Base price—unequal angles.	334	333	322
3-9	Base price—equal angles.	300	299	289
3-11	Base price—I beams	366	365	353
6-1	Base price—Re-bar	298	296	290
15-8	8¾" O.D., 264" W.T.	654	584	589
25-1	Atlantic Coast interest	14	12	12
27-5[1]	.020"-.019" thickness × 24"-36" width.	62	65	66
27-5[1]	.020"-.019" thickness × 30"-36" width.	62	65	66
27-5[1]	.020"-.019" thickness × 36"-42" width.	62	65	66

[1] Copies of Page 27-5 are attached for both Fourth Quarter and First Quarter.

Table 4—*Pages From the Trigger Price Manual First Quarter 1981*

AISI category and TPM manual page reference	Produce description	Revision
14-2	Pipe and tube products.	1st quarter freight rates.
16-22 to 16-36	Stainless steel [illegible]	1st quarter base prices and [illegible]
27-5, 27-6	Galvanized sheets	Revised thickness/width/coating extras.

Dated: November 14, 1980.

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

Freight Charges on Pipe and Tube Products

[Dollars per Metric Ton—Applies to all products in category 14 and 15]

Freight	Pacific	Gulf	Atlantic	Great Lakes
Pipe (up to 40') outside diameter up to:				
4"	40	50	54	69
5"	41	51	56	69
6"	42	51	56	71
8"	43	52	57	73
10"	43	53	59	75
12"	44	55	60	77
14"	45	56	62	78
16"	46	57	64	80
18"	47	59	65	82
20"	49	60	68	84
22"	51	63	70	87
24"	52	64	71	89
26"	53	65	72	91
28"	54	67	74	94
30"	56	69	76	96
32"	58	72	80	99
34"	61	74	82	100
36"	63	77	86	104
38"	66	81	90	106
40"	69	85	94	110
42"	72	88	98	114
44"	75	91	101	118
46"	78	95	106	123
48"	81	99	110	127

Group I—Annealed

Annealed: The condition of soft wire in which there is no further cold drawing after the last annealing treatment. Wire of this temper is made by annealing in open fired furnaces or molten salt followed by pickling, which produces a clean gray matte finish. It is also made with a bright finish by annealing wet, oil or grease drawn wire in a protective atmosphere, and is sometimes described as bright annealed wire.

Grades	1st quarter, 1981 dollar per metric ton wire base price
301	2,253
302	2,198
303	2,309
304	2,253
305	2,448
310	4,251
314	5,028
316	3,363
316-L	3,558
317	3,918
317-L	4,113
304-L	2,448
17-4PH[1]	2,614
308	2,420
308-L	2,614
309	3,030
309-L	3,225
321	2,614
312	NA
302 HQ (18-19LW)[2]	2,392
347	2,975
384	2,919
15-5PH[3]	NA
409	1,654
410	1,321
416	1,287
420	1,376
430	1,376
430-F	1,598
434	1,709
434-A	1,487
446	1,987

[1] May also be designated as type 630 or as UNS 17400.
[2] May also be designated as type 302 CU and as 306.
[3] May also be designated as types XM-12 and UNS 15500.
NA = Not available.

Size[1]	1st quarter, 1981 dollar per metric ton size extras		
	300 series and 17-7PH	400 series	17-4PH, 15-5PH
.574" to .703"	204	522	204
.501" to .573"	204	522	204
.500"	220	522	220
.375" to .499"	239	522	239
.3125" to .374"	255	522	255
.250" to .312"	342	522	342
.234" to .249"	388	522	388
.216" to .233"	441	561	441
.200" to .215"	608	608	608
.185" to .199"	627	638	627
.170" to .184"	642	666	642
.155" to .169"	654	695	654
.142" to .154"	672	823	672
.128" to .141"	700	950	700
.113" to .127"	781	1,049	694
.099" to .112"	902	1,139	727
.086" to .098"	990	1,205	759
.076" to .085"	1,048	1,270	794
.067" to .075"	1,104	1,330	958
.058" to .066"	1,205	1,372	1,117
.051" to .057"	1,254	1,413	1,168
.044" to .050"	1,302	1,455	1,217
.038" to .043"	1,414	1,497	1,328
.033" to .037"	1,532	1,666	1,446
.030" to .032"	1,589	1,779	1,589
.027" to .029"	1,743	NA	1,917
.024" to .026"	1,885	NA	1,885
.021" to .023"	2,029	NA	2,034
.019" to .020"	2,172	NA	2,172
.018"	2,314	NA	2,314
.017"	2,347	NA	2,347
.016"	2,387	NA	2,387
.015"	2,500	NA	2,500
.014"	2,629	NA	2,629
.013"	2,742	NA	2,742
.012"	2,862	NA	2,862
.011"	2,975	NA	2,975
.010"	3,246	NA	3,246
.009"	3,370	NA	3,370
.008"	3,523	NA	3,523
.0075"	3,682	NA	3,682
.007"	3,850	NA	3,850
.0065"	4,247	NA	4,247
.006"	4,699	NA	4,699
.00575"	5,151	NA	5,151
.0055"	5,604	NA	5,604
.00525"	6,509	NA	6,509
.005"	6,676	NA	6,676
.00475"	6,791	NA	6,791
.0045"	7,017	NA	7,017
.00425"	7,640	NA	7,640
.004"	8,205	NA	8,205
.00375"	17,252	NA	17,252
.0035"	20,589	NA	20,589
.00325"	23,528	NA	23,528
.003"	26,468	NA	26,468
.0027"	27,431	NA	27,431
.0025"	28,562	NA	28,562
.002"	37,042	NA	37,042

[1] All intermediate sizes to take next higher price.
NA = Not available.

Deduction to allow for absence of annealing and pickling (cold drawn "bar" in wire gauges):

Size range	Deduction (dollars per metric ton)
.703" through .375"	75
.374" through .216"	79
.215" through .187"	102

Group II—Hard/Spring Wire

[Annealed: The condition of wire drawn several drafts as required to produce the high tensile strengths required for such products as spring wire]

Grades	1st quarter, 1981 dollar per metric ton wire base price
301	2,253
302	2,198
303	2,309
304	2,253
305	2,448
310	4,251
314	5,028
316	3,363
316-L	3,558
317	3,918
317-L	4,113
321	2,614
17-4PH[1]	2,614
17-7PH[2]	3,363
330	(3)
308	2,420
308-L	2,614
309	3,030

Group II—Hard/Spring Wire—Continued

[Annealed: The condition of wire drawn several drafts as required to produce the high tensile strengths required for such products as spring wire]

Grades	1st quarter, 1981 dollar per metric ton wire base price
309-L	3,225
312	(3)
302 HQ (18-19LW)[4]	2,392
347	2,975
384	2,919
15-5PH[5]	(3)
409	1,654
410	1,321
416	1,287
420	1,376
430	1,376
430-F	1,598
434	1,709
434-A	1,487
446	1,987

[1] May also be designated as type 630 or as UNS 17400.
[2] May also be designated as type 631 and UNS 17400.
[3] Not available.
[4] May also be designated as type 320 CU and as 306.
[5] May also be designated as type XM-12 and UNS 15500.

Size[1]	1st quarter, 1981 dollar per metric ton size extras	
	300 series and 17-7PH	400 series
Over .375"	675	[2]
.3125"-.374"	675	[2]
.250"-.312"	675	[2]
.234"-.249"	675	[2]
.216"-.233"	705	[2]
.200"-.215"	705	[2]
.185"-.199"	675	[2]
.170"-.184"	675	[2]
.155"-.169"	675	[2]
.142"-.154"	652	[2]
.128"-.141"	652	[2]
.113"-.127"	652	[2]
.099"-.112"	587	[2]
.086"-.098"	759	[2]
.076"-.085"	814	[2]
.067"-.075"	881	[2]
.058"-.066"	976	[2]
.051"-.057"	1,172	[2]
.044"-.050"	1,344	[2]
.038"-.043"	1,414	[2]
.033"-.037"	1,550	[2]
.030"-.032"	1,621	[2]
.027"-.029"	1,952	[2]
.024"-.026"	2,131	[2]
.021"-.023"	2,343	[2]
.019"-.020"	2,621	[2]
.018"	3,170	[2]
.017"	3,449	[2]
.016"	3,534	[2]
.015"	3,618	[2]
.014"	3,788	[2]
.013"	3,928	[2]
.012"	4,258	[2]
.011"	5,386	[2]
.010"	5,527	[2]
.009"	5,751	[2]
.008"	5,942	[2]
.007"	[2]	[2]
.0065"	[2]	[2]
.006"	[2]	[2]
.00575"	[2]	[2]
.0055"	[2]	[2]
.00525"	[2]	[2]
.005"	[2]	[2]
.00475"	[2]	[2]
.0045"	[2]	[2]
.00425"	[2]	[2]
.004"	[2]	[2]
.00375"	[2]	[2]
.0035"	[2]	[2]
.00325"	[2]	[2]
.003"	[2]	[2]
.0027"	[2]	[2]
.0025"	[2]	[2]
.002"	[2]	[2]

[1] All intermediate sizes to take next higher price.
[2] Not available.
[3] Under review.

Group III—Soft/Intermediate Wire

[Soft/Intermediate: The condition of wire drawn one or more drafts after annealing as required to produce minimum strength or hardness. The properties of such wire can be varied between those of soft temper and those approaching spring temper wire. Wire in this temper is usually produced in a variety of dry drawn tempers. Cold heading wire, by example, belongs in this group]

Grades	1st quarter, 1981 dollar per metric ton wire base price
301	2,253
302	2,198
02 (302HQ, 18-9LW)	2,392
303	2,309
304	2,253
305	2,448
310	4,251
314	5,028
316	3,363
316-L	3,558
317	3,918
317-L	4,113
321	2,614
17-4PH[1]	2,614
330	[2]
308	2,420
308-L	2,614
309	3,030
309-L	3,225
312	[2]
347	2,975
384	2,919
15-5PH[3]	[2]
409	1,654
410	1,321
416	1,287
420	1,376
430	1,376
430-F	1,598
434	1,709
434-A	1,487
446	1,987

[1] May also be designated as type 630 or as UNS 17400.
[2] May also be designated as type XM-12 and UNS 15500.
[3] Not available.

Size[1]	1st quarter, 1981 dollar per metric ton size extras		
	300 series and 17-7PH	400 series	17-4PH, 15-5PH
Over .375"	452	317	452
.3125"-.374"	452	317	452
.250"-.312"	452	329	452
.234"-.249"	452	352	452
.216"-.233"	452	374	452
.200"-.215"	452	405	452
.185"-.199"	560	433	560
.170"-.184"	586	456	586
.155"-.169"	618	495	618
.142"-.154"	639	559	639
.128"-.141"	690	667	690
.113"-.127"	827	743	827
.099"-.112"	908	845	908
.086"-.098"	961	872	961
.076"-.085"	1,071	923	1,071
.067"-.075"	1,179	1,008	1,179
.058"-.066"	1,286	1,222	1,286
.051"-.057"	1,333	1,444	1,333
.044"-.050"	1,384	1,485	1,384
.038"-.043"	1,503	1,540	1,503
.033"-.037"	1,596	1,722	1,596
.030"-.032"	1,704	1,834	1,704
.027"-.029"	1,859	[2]	1,859
.024"-.026"	2,008	[2]	2,008
.021"-.023"	2,161	[2]	2,161
.019"-.020"	2,306	[2]	2,306

[1] All intermediate sizes to take next higher price.
[2] Not available.

Coating Extras ($/M.T.)—1st Quarter, 1981

[Material provided uncoated or coated with lime (or equivalent to lime) and/or soap will carry no extra. Other coatings require an appropriate extra where additional costs are involved. Metallic coatings include copper, nickel, and lead. Non-metallic coatings include plastics, molybdenum disulfide, etc.]

Size range	Type of coating			
	Oven	Metallic		Non-metallic
		Copper	Nickel	
Over .155"	None	114	35	34
.154"-.099"	None	172	35	34
.098"-.063"	None	228	47	32
.062"-.041"	None	[1]	74	49
.040"-.030"	None	[1]	101	64
.029"-.025"	None	[1]	101	64
.024"-.020"	None	[1]	136	83
.019"-.015"	None	[1]	173	122
.014"-.010"	None	[1]	215	146

[1] Not available.

Finish Extras—1st Quarter, 1981

Size range[1]	Centerless ground 300 series 17-7PH, 400 series, 17-4PH, 15-5PH	Centerless ground and polished 300 series, 17-7PH, 400 series, 17-7PH, 17-4PH, 15-5PH
.703"-.595"	491	516
.594"-.501"	491	619
.500"	543	667
.499"-.375"	555	709
.374"-.3125"	555	709
.3124"-.250"	555	709
.249"-.234"	854	1,309
.233"-.216"	854	1,309
.215"-.200"	943	1,151
.199"-.185"	1,103	1,334
.184"-.170"	1,300	1,545
.169"-.155"	1,557	1,820
.154"-.142"	1,813	2,076
.141"-.126"	2,126	2,387
.127"-.113"	2,873	3,058
.112"-.093"	5,443	5,691

[1] All intermediate sizes to take next higher price. 17-4PH to be included in 400 series. Straightening and cut to length extras are already included in the above finish extras in case of centerless ground and polished.

TOLERANCE EXTRAS—1st Quarter, 1981

[Standard: AISI or JIS Specification]

	Dollars per metric ton
Diameter Tolerance:	
Standard	0
Not less than ½ standard	$108
Closer than ½ to ¼ standard	25 percent of size extra.
Closer than ¼ standard	50 percent of size extra.
Straightening and Cut to Length Extras	
Size Range:	
.703"-.595"	103
.594"-.501"	103
.500"	103
.499"-.375"	129

TOLERANCE EXTRAS—1st Quarter, 1981—Continued

[Standard: AISI or JIS Specification]

	Dollars per metric ton
Straightening and Cut to Length Extras—Continued	
Size Range:	
.374"-.3125"	129
.3124"-.250"	129
.249"-.234"	129
.233"-.216"	129
.215"-.200"	129
.199"-.185"	129
.184"-.170"	129
.169"-.155"	129
.154"-.142"	129
.141"-.126"	129
.125"-.113"	129
.112"-.093"	129
Cut to Length Extras:	
.703"-.595"	103
.594"-.501"	103
.500"	103
.499"-.375"	129
.374"-.3125"	129
.3124"-.250"	129
.249"-.234"	129
.233"-.216"	129
.215"-.200"	129
.199"-.185"	129
.184"-.170"	129
.169"-.155"	129
.154"-.142"	129
.141"-.126"	129
.125"-.113"	129
.112"-.093"	129

Extras for Galvanized Steel Sheet

1. Price Base
Quality: Commercial.

application copies sold to avoid premature disclosure. Claims and other technical data will usually be made

Patent application 6,628,740: High Energy KrCl Electric Discharge Laser. Filed April 10, 1978.

Patent 4,169,280: Method for Making Glass Nonfogging. Filed July 13, 1978, patented September 25, 1979, Not available NTIS.

TOLERANCE EXTRAS—1st Quarter, 1981—
Continued

[Standard: AISI or JIS Specification]

	Dollars per metric ton
.374"–.3125"	129
.3124"–.170"	233
.169"–.099"	581
.098"–.051"	1,682
.050"–.032"	1,943
Length:	
Under 12"	91
12" to under 18"	59
18" to under 24"	59
24" to under 30"	38
30" to under 36"	38
36" to under 48"	38
48" to under 60"	38
60" to under 72"	38
72" to under 120"	32
120" to under 168"	32
168" to under 192"	32
192" to under 216"	32
216" to under 240"	32
240" to under 264"	25
264" to under 288"	25
288" to 316"	25
Packaging Extras	
Type:	
Bundle	28
Wooden Boxes	95
Fibre Drums	87
Coil Carriers	28
Spools: Sizes under .020"	169
Both Spools and Wooden Boxes:	
Sizes .020" and greater	95
Sizes under .020"	263

Extras for Galvanized Steel Sheet

1. Price Base
Quality: Commercial.
Size: GSG23 (under .032" through .029") × over 48" through 60" × COIL.
Coating: G90.
Weighing: Actual.
2. Extras for other than price based products (Unit: US$ per M/T).
[1] Thickness/width/coating.

Thickness (inches)	Width (inches) 24 W 30	30 W 36	36 W 42	42 W 48	48 W 60	Coating 0.6 oz/ft² G60
4th quarter						
0.130 and thicker	–92	–92	–92	–92		–2
0.129 to 0.116	–75	–75	–75	–75	–73	–2
0.115 to 0.101	–72	–72	–72	–72	–69	–2
0.100 to 0.086	–66	–66	–71	–71	–66	–2
0.085 to 0.075	–51	–51	–53	–53	–51	–3
0.074 to 0.067	–47	–47	–51	–51	–47	–3
0.066 to 0.061	–45	–45	–47	–47	–45	–6
0.060 to 0.055	–24	–24	–27	–27	–24	–6
0.054 to 0.049	–21	–21	–23	–23	–21	–15 –7
0.048 to 0.043	–18	–18	–21	–21	–18	–17 –7
0.042 to 0.038	–14	–14	–16	–16	–14	–21 –8
0.037 to 0.035	–9	–9	–12	–12	–5	–21 –8
0.034 to 0.032	–7	–7	–9	–9	–6	–22 –9
0.031 to 0.029	–3	–3	–6	–6	0	–22 –9
0.028 to 0.026	24	24	22	22	31	–25 –13
0.025 to 0.023	27	27	25	30	39	–25 –13
0.022 to 0.021	55	55	65	70	81	–27 –17
0.020 to 0.019	65	65	65	75		–27 –17
0.018 to 0.017	89	89	89	109		–28 –20
0.016	92	92	104	118		–28 –20
0.015	93	93	111	122		–30 –22
0.014	117	112	118	133		–30 –22
0.013	117	124	124	137		–30 –22
1st quarter						
0.013	116	123	123	136		–30 –22
0.130 and thicker	–93	–93	–93	–93		–2
0.129 to 0.116	–76	–76	–76	–76	–74	–2
0.115 to 0.101	–73	–73	–73	–73	–70	–2
0.100 to 0.086	–69	–67	–72	–72	–67	–2
0.085 to 0.075	51	–51	–53	–53	–51	–3
0.074 to 0.067	–47	–47	–51	–51	–47	–3
0.066 to 0.061	–45	–45	–47	–47	–45	–6
0.060 to 0.055	–24	–24	–27	–27	–24	–6
0.054 to 0.049	–21	–21	–23	–23	–21	–15 –7
0.048 to 0.043	–18	–18	–21	–21	–18	–17 –7
0.042 to 0.038	–14	–14	–16	–16	–14	–21 –8
0.037 to 0.035	–9	–9	–12	–12	–5	–21 –8
0.034 to 0.032	–7	–7	–9	–9	–6	–22 –9
0.031 to 0.029	–3	–3	–6	–6	0	–22 –9
0.028 to 0.026	24	24	22	22	31	–25 –13
0.025 to 0.023	27	27	25	30	39	–25 –13
0.022 to 0.021	55	55	65	70	81	–27 –17
0.020 to 0.019	65	65	65	75		–27 –17
0.018 to 0.017	89	89	89	109		–28 –20
0.016	92	92	104	118		–28 –20
0.015	93	93	111	122		–30 –22
0.014	117	112	118	133		–30 –22
0.013	117	124	124	137		–30 –22

Width under 24"—subject to negotiation.

Culvert stock coating extra use in conjunction with width/thickness extra from above chart.

0.159 and thicker	$16
0.158 to 0.129	17
0.128 to 0.101	22
0.100 to 0.072	29
0.071 to 0.057	35
0.056 to 0.046	43

[FR Doc. 80-36137 Filed 11-19-80; 8:45 am]
BILLING CODE 3510-25-M

National Technical Information Service

U.S. Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent

application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,
Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

U.S. Department of Agriculture Program Agreements & Pat. Branch Admin. Ser. Div. Federal Building Science & Education Admin. Hyattsville, Md 20782

Patent application 6,027,805: High-Performance, Lightweight Structural Particleboard. Filed April 6, 1979.
Patent application 6,037,242: Laboratory Pesticide Spray Chamber. Filed May 4, 1979.
Patent application 6,073,474: Slope Stability Warning Device for Articulated Tractors. Filed September 7, 1979.
Patent application 6,102,484: Running Skyline Intermediate Support and Multi-Span Carriage. Filed December 11, 1979.
Patent application 6,115,538: Intermediate Support for a Skyline Logging System. Filed January 25, 1980.
Patent application 6,152,874: Method and Apparatus for Edgewise Compression Testing of Flat Sheets. Filed May 23, 1980.
Patent application 6,156,434: Apparatus for Planting Seeds. Filed June 4, 1980.
Patent 4,201,210: Veterinary Ocular Ring Device for Sustained Drug Release. Filed November 28, 1977, patented May 6, 1980, Not available NTIS.
Patent 4,209,433: Method of Bonding Particle Board and the Like Using Polyisocyanate/Phenolic Adhesive. Filed December 19, 1978, patented June 24, 1980, Not available NTIS.
Patent 4,210,415: Shrinkproofing of Fabrics of Wool. Filed April 7, 1977, patented July 1, 1980, Not available NTIS.
Patent 4,212,800: Inhibition of Lanthionine Formation During Alkaline Treatment of Keratinous Fibers. Filed September 26, 1978, patented July 15, 1980, Not available NTIS.
Patent 4,214,330: Method for Treatment of Fibers With Ozone-Steam Mixtures. Filed February 23, 1979, patented July 29, 1980, Not available NTIS.

U.S. Department of Energy Assist. Gen. Couns. For Patents Washington, D.C. 20505

Patent application 6,011,018: Fiber Optics Welder. Filed February 9, 1979.
Patent application 6,016,036: Air Ejector Augmented Compressed Air Energy Storage System. Filed February 28, 1979.
Patent application 6,021,141: Method of Determining Interwell Oil Field Fluid Saturation Distribution. Filed March 16, 1979.
Patent application 6,022,895: Improved Tool Grinding Machine. Filed March 22, 1979.
Patent application 6,028,740: High Energy KrCl Electric Discharge Laser. Filed April 10, 1979.
Patent application 6,028,742: Shuttleless Toroid Winder. Filed April 10, 1979.
Patent application 6,028,778: High Energy XeBr Electric Discharge Laser. Filed April 10, 1979.
Patent application 6,031,806: Optical Device. Filed April 20, 1979.
Patent application 6,034,804: Improved Method for Enhanced Oil Recovery. Filed April 30, 1979.
Patent application 6,037,078: Long-Term Ice Storage for Cooling Application. Filed May 8, 1979.
Patent application 6,037,079: Free Piston Intertia Compressor. Filed May 8, 1979.
Patent application 6,037,982: Laser Beam Alignment Apparatus and Method. Filed May 10, 1979.
Patent application 6,039,412: Compressed Air Energy Storage System. Filed May 15, 1979.
Patent application 6,039,965: Small Diameter, Deep Bore Optical Inspection System. Filed May 17, 1979.
Patent application 6,041,364: Chromatographic Hydrogen Isotope Separation. Filed May 22, 1979.
Patent application 6,062,372: Method for Detecting Trace Impurities in Gases. Filed July 31, 1979.
Patent application 6,067,855: Improved Method and Apparatus for Chromatographic Quantitative Analysis. Filed August 20, 1979.
Patent application 6,069,151: Photolytic Separation of Isotopes In Cryogenic Solution. Filed August 23, 1979.
Patent application 6,069,152: Apparatus for Use in Rapid and Accurate Controlled-Potential Coulometric Analysis. Filed August 23, 1979.
Patent application 6,074,288: Method for Inhibiting Corrosion of Nickel-Containing Alloys. Filed September 11, 1979.
Patent application 6,076,527: Leak Test Fitting. Filed September 18, 1979.
Patent 3,344,928: Humic Acid as an Additive in A Process of Forming A Salt-Rejecting Membrane. Patented October 3, 1967.
Patent 3,431,201: Hyperfiltration Process Having Ion Exchange Pretreatment. Patented March 4, 1969.
Patent 3,449,245: Method of Separation Salts From Aqueous Solutions. Patented June 10, 1969.
Patent 3,503,789: Method of Making A Dynamic Solute-Rejecting Membrane. Patented March 31, 1970.
Patent 3,577,339: Filtration Method of Separating Liquids From Extraneous Materials. Patented May 4, 1971.
Patent 4,161,023: Up-and-down Chopper Circuit. Filed September 7, 1977, patented July 10, 1979, Not available NTIS.
Patent 4,162,227: Dielectric Gas Mixtures Containing Sulfur Hexafluoride. Filed February 24, 1976, patented July 24, 1979, Not available NTIS.
Patent 4,162,593: Tool Holder for Preparation and Inspection of a Radiused Edge Cutting Tool. Filed February 28, 1978, patented July 31, 1979, Not available NTIS.
Patent 4,167,619: Pressure Regulator. Filed December 5, 1977, patented September 18, 1979, Not available NTIS.
Patent 4,169,220: Method for Making Glass Nonfogging. Filed July 13, 1978, patented September 25, 1979, Not available NTIS.
Patent 4,171,464: High Specific Heat Superconducting Composite. Filed June 27, 1977, patented October 16, 1979, Not available NTIS.
Patent 4,172,224: Process for the Detection of Micro-Cracks. Filed October 24, 1978, patented October 23, 1979, Not available NTIS.
Patent 4,174,728: Sliding-Gate Valve. Filed November 14, 1977, patented November 20, 1979, Not available NTIS.
Patent 4,176,328: CF Sub 4 Laser. Filed October 20, 1977, patented November 27, 1979, Not available NTIS.

U.S. Department of Health & Human Services, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, MD 20205

Patent Application 6,142,745: Antineoplastic 1-Hydroxy-4-(Substituted Aminoalkylamino)-Anthraquinones; filed April 22, 1980.
Patent 4,188,378: Anticancer and Antiviral Activity of 9-beta-D-Arabinofuranosyl-2-Fluoroadenine; filed Jan. 4, 1978; patented Feb. 12, 1980; not available NTIS
Patent 4,189,583: Synthesis of 4A-Aryl-Decahydroisoquinolines; Filed Apr. 28, 1978, patented Feb. 19, 1980; not available NTIS
Patent 4,194,240: Precision Envelope Detector and Linear Rectifier Circuitry; filed May 2, 1978; patented Mar. 18, 1980; not available NTIS
Patent 4,194,877: Dye-Containing Polymer Composition; filed Nov. 28, 1977; patented Mar. 25, 1980; not available NTIS
Patent 4,206,307: Preparation of Tetrahydrofolic Acid from Folic Acid; filed Nov. 7, 1969; patented June 3, 1980; not available NTIS
Patent 4,217,496: Portable Instrument for Measuring Neutron Energy Spectra and Neutron Dose in a Mixed N-gamma Field; filed Mar. 14, 1978; patented Aug. 12, 1980; not available NTIS
Patent 4,217,497: Portable Instrument for Measuring Neutron Energy Spectra and Neutron dose in a Mixed N-gamma Field; filed June 16, 1978; patented Aug. 12, 1980; not available NTIS

U.S. Department of the Interior, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240

Patent Application 6,104,922: Portable Airborne Droplet impactor Sampler and Method; filed Dec. 18, 1979
Patent Application 6,108,208: Sample Mount for X-ray Diffraction; filed Dec. 27, 1979
Patent Application 6,114,536: Mounting Block for a Coal Bit Utilizing a Belleville-Type Spring; filed Jan. 23, 1980
Patent Application 6,114,546: Mounting Block for a Coal Bit Utilizing a Belleville-Type Spring; filed Jan. 23, 1980.
Patent Application 6,116,959: Method of and Apparatus for Minimizing Coal Dust Production in Longwall Mining Machine; Filed Feb. 6, 1980
Patent Application 6,136,128: Slideboard Device for Underground Mine Face Ventilation; filed Mar. 31, 1980

V 45 NO20 80 UMI

Patent Application 6,142,946: Flexible Continuous Grout Filled Packer For Use With a Water Infusion System; filed Apr. 23, 1980

Patent Application 954,026: Induced Air Flow Self-Cleaning Spray Nozzle; Filed Oct. 23, 1978; patented Apr. 29, 1980; not available NTIS

National Aeronautics & Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

Patent Application 6,145,210: Metric Half-Span Model Support System; filed Apr. 30, 1980

Patent Application 6,145,272: Photoelectric Detection System; filed Apr. 30, 1980

Patent Application 6,145,273: Biocentrifuge System Capable of Exchanging Specimen Cages While in Operational Mode; filed Apr. 30, 1980

Patent Application 6,150,115: Solar-Heated Fluidized Bed Gasification System; filed May 15, 1980

Patent 4,196,619: Geological Assessment Probe; filed Sept. 25, 1978; patented Apr. 8, 1980; not available NTIS

Patent 4,199,937: Heat Exchanger and Method of Making; filed Nov. 30, 1977; patented Apr. 29, 1980; not available NTIS

[FR Doc. 80-36124 Filed 11-19-80; 8:45 am]

BILLING CODE 3510-04-M

National Bureau of Standards

Federal Information Processing Standards Publication; Announcing the Standard for Optical Character Recognition (OCR) Inks

Correction

In FR Doc. 80-34754 appearing at page 74002 in the issue for Friday, November 7, 1980, make the following correction:

On page 74002, in the third column, in the fourth paragraph of the document, in the second line, the word "special" should read "spectral".

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Defense Intelligence Agency

Privacy Act of 1974; Notice of Systems of Records; Amendments

AGENCY: Defense Intelligence Agency, DOD.

ACTION: Notification of amendments to systems of records.

SUMMARY: The Defense Intelligence Agency proposes to amend 16 systems of records subject to the Privacy Act of 1974. Specific minor changes to the particular systems notices being amended are set forth below followed by the appropriate amendments to the systems notices.

DATES: These systems shall be amended as proposed without further notice on December 22, 1980, unless comments are received on or before December 22, 1980, which would result in a contrary determination and require republication for further comments.

ADDRESS: Privacy Act Officer, Defense Intelligence Agency, the Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Mrs. Helen E. Shuford, telephone (202) 695-1040.

SUPPLEMENTAL INFORMATION: The Defense Intelligence Agency (DIA) annual systems of records inventory as prescribed by the Privacy Act of 1974, 5 U.S.C. 552a(e)(4) (Pub. L. 93-579) has been published in the **Federal Register** (FR Doc. 79-37052) December 17, 1979, at 44 FR 74484. DIA is submitting a proposed periodic updating of its systems of records inventory consisting of changes and amendments. The proposed amendments are not within the purview of the provisions of the Office of Management and Budget (OMB) Circular A-108, Transmittal Memorandum No. 1 and No. 3, dated September 30, 1975 and May 17, 1976, respectively, which provide supplemental guidance to Federal agencies regarding the preparation and submission of reports of their intention to establish or alter systems of personal records as required by the Privacy Act. This OMB guidance was set forth in the **Federal Register** (40 FR 45877) on October 3, 1975.

November 13, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Service, Department of Defense.

L DIA 0010

System name:

Requests for Information

Changes

System manager(s) and address:

Delete the entry and insert: "Deputy Assistant Director for Technical Services and Support Defense Intelligence Agency, Washington, DC 20301"

Notification procedures:

In line three delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223".

Record access procedures:

In line six delete "Secretariat" and insert: CAO (PA 1974)" and in the last line delete "3E215" and insert: "3E223".

Contesting record procedures:

In line eight delete "Secretariat" and insert: "CAO (PA 1974)" and in the last line delete "3E215" and insert: "3E223".

L DIA 0011

System name:

Student Information File

Changes:

Retention and disposal:

In the first line delete "5" and insert: "2" and at the end of line two insert: "They are destroyed when 25 years old".

Notification procedures:

In line three delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223".

Record access procedures:

In line six delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Contesting record procedures:

In line eight delete "Secretariat" and insert: "CAO (PA 1974)" and in the last line delete "3E215" and insert: "3E223."

L DIA 0015

System name:

Biographic Sketch.

Changes:

Retention and disposal:

Delete the entry, and insert: "Records are destroyed when no longer required."

System manager(s) and address:

Delete the entry, and insert: "Deputy Assistant Director for Technical Services and Support, Defense Intelligence Agency, Washington, D.C. 20301."

Notification procedure:

In line three delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Record access procedures:

In line six delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Contesting record procedures:

In line eight delete "Secretariat" and insert: "CAO (PA 1974)" and in the last line delete "3E215" and insert: "3E223."

L DIA 0140

System name:

Passports and Visas.

Changes:

System manager(s) and address:

Delete the entry, and insert: "Deputy Assistant Director for Technical Services and Support, DEFENSE INTELLIGENCE AGENCY, Washington, D.C. 20301."

Notification procedure:

In line three delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Record access procedures:

In line six delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Contesting record procedures:

In line eight delete "Secretariat" and insert: "CAO (PA 1974)" and in the last line delete "3E215" and insert: "3E223."

L DIA 0209

System name:

Litigation and Disposition Documentation.

Changes:

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

In line four delete "Civil Service Commission" and insert: "Office of Personnel Management."

Notification procedure:

In line three delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Record access procedures:

In line six delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Contesting record procedures:

In line eight delete "Secretariat" and insert: "CAO (PA 1974)" and in the last line delete "3E215" and insert: "3E223."

L DIA 0271

System name:

Investigations and Complaints.

Changes:

Retention and disposal:

In the last line delete "and destroyed after 10 years" and insert: "Investigations will be offered to the National Archives and complaints destroyed when 20 years old."

Notification procedure:

In line three delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Record access procedures:

In line six delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Contesting record procedures:

In line eight delete "Secretariat" and insert: "CAO (PA 1974)" and in the last line delete "3E215" and insert: "3E223."

L DIA 0330

System name:

Civilian Payroll, Leave and Travel Disbursement.

Changes:

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

In line five delete "Civil Service Commission" and insert: "Office of Personnel Management."

Retention and Disposal:

In the first line delete "Permanent" and in the second line after "Center." add "They are destroyed when 10 years old."

System manager(s) and address:

In the first line delete "Deputy."

Notification procedure:

In line three delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Record access procedures:

In line six delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Contesting record procedures:

In line eight delete "Secretariat" and insert: "CAO (PA 1974)" and in the last line delete "3E215" and insert: "3E223."

L DIA 0435

System name:

DIA Awards Files

Changes:

Retention and Disposal:

In the line two after "Center." add "They are destroyed when 5 years old."

System manager(s) and address:

Delete the entry, and insert: "Deputy Assistant Director for Personnel, DEFENSE INTELLIGENCE AGENCY, Washington, D.C. 20301."

Notification procedure:

In line three delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Record access procedures:

In line six delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Contesting record procedures:

In line eight delete "Secretariat" and insert: "CAO (PA 1974)" and in the last line delete "3E215" and insert: "3E223."

L DIA 0480

System name:

Reserve Training Records.

Changes:

System manager(s) and address:

Delete the entry, and insert: "Deputy Assistant Director for Personnel, DEFENSE INTELLIGENCE AGENCY, Washington, D.C. 20301."

Notification procedure:

In line three delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Record access procedures:

In line six delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Contesting record procedures:

In line eight delete "Secretariat" and insert: "CAO (PA 1974)" and in the last line delete "3E215" and insert: "3E223."

L DIA 0590

System name:

Defense Intelligence Special Career Automated System (DISCAS).

Changes:

Authority for maintenance of the system:

In line three delete "of August 1, 1961, superseded by Department of Defense Directive 5105.21 of May 19, 1977."

System manager(s) and address:

Delete the entry, and insert: "Assistant Vice Director for Attaches

and Training, DEFENSE INTELLIGENCE AGENCY, Washington, D.C. 20301."

Notification procedure:

offered to the National Archives when they are 40 years old and the rest destroyed. Temporary records are

Changes:

Retention and disposal:

Changes:

System manager(s) and address:

writing and made within 30 days of the date of notification of the initial determination. The requester shall

Agency, Washington, D.C. 20301, or personal by delivered to room 3E223, Pentagon, Washington, D.C.

and Training, DEFENSE INTELLIGENCE AGENCY, Washington, D.C. 20301."

Notification procedure:

In line three delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Record access procedures:

In line six delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Contesting record procedures:

In line eight delete "Secretariat" and insert: "CAO (PA 1974)" and in last line delete "3E215" and insert: "3E223."

L DIA 0560

System name:

Security Files.

Changes:

Authority for maintenance of the system

In line three after "5105.21" delete "of August 1, 1961, superseded by Department of Defense Directive 5105.21 of May 19, 1977."

Retention and disposal:

In line four delete "SI/SAO" and insert: "SCI."

System manager(s) and address:

Delete the entry, and insert: "Deputy Assistant Director for Security Services, DEFENSE INTELLIGENCE AGENCY, Washington, D.C. 20301."

Notification procedure:

In line three delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Record access procedures:

In line six delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Contesting record procedures:

In line eight delete "Secretariat" and insert: "CAO (PA 1974)" and in the last line delete "3E215" and insert: "3E223."

L DIA 0500

System Name:

Operation Record System.

Changes:

Retention and disposal:

Delete the entry, and insert: "Records are retired to the WASHINGTON NATIONAL RECORDS CENTER upon completion of the project. Some will be offered to the National Archives when they are 40 years old and the rest destroyed. Temporary records are destroyed when no longer needed."

System manager(s) and address:

Delete the entry, and insert: "Assistant Vice Director for Collection Management, DEFENSE INTELLIGENCE AGENCY, Washington, D.C. 20301."

Notification procedure:

In line three delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Record access procedures:

In line six delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Contesting record procedures:

In line eight delete "Secretariat" and insert: "CAO (PA 1974)" and in the last line delete "3E215" and insert: "3E223."

L DIA 0801

System name:

Defense Attache System Personnel Information File.

Changes:

Retrievability:

Delete "name" and insert "social security account number."

System manager(s) and address:

Delete the entry, and insert: "Deputy Assistant Director for Personnel, DEFENSE INTELLIGENCE AGENCY, Washington, D.C. 20301."

Notification procedure:

In line three delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Record access procedures:

In line six delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Contesting record procedures:

In line eight delete "Secretariat" and insert: "CAO (PA 1974)" and in the last line delete "3E215" and insert: "3E223."

L DIA 0813

System name:

Bibliographic Data Index System.

Changes:

Retention and disposal:

In line three delete "permanent" and after "retention." add "They will be offered to the National Archives when they are 40 years old."

System manager(s) and address:

Delete the entry, and insert: "Deputy Assistant Director for Technical Services and Support, DEFENSE INTELLIGENCE AGENCY, Washington, D.C. 20301."

Notification procedure:

In line three delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Record access procedures:

In line six delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Contesting record procedures:

In line eight delete "Secretariat" and insert: "CAO (PA 1974)" and in the last line delete "3E215" and insert: "3E223."

L DIA 0819

System name:

DIA Financial Management.

Changes:

Retention and disposal:

In the first line delete "Permanent" and in line two after "Center." add "They are destroyed when 20 years old.

System manager(s) and address:

In the first line delete "Deputy."

Notification procedure:

In line three delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Record access procedures:

In line six delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Contesting record procedures:

In line eight delete "Secretariat" and insert: "CAO (PA 1974)" and in the last line delete "3E215" and insert: "3E223."

L DIA 1728

System name:

DIA Prisoner of War Intelligence Analysis Debriefing Files.

Changes:

System manager(s) and address:

In the first line after "for" add "Defense" and after "Intelligence" delete "Research."

Notification procedure:

In line three delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Record access procedures:

In line six delete "Secretariat" and insert: "CAO (PA 1974)" and in line seven delete "3E215" and insert: "3E223."

Contesting record procedures:

In line eight delete "Secretariat" and insert: "CAO (PA 1974)" and in the last line delete "3E215" and insert: "3E223."

L DIA 0010

SYSNAME:

Requests for Information.

SYSMANAGER:

Deputy Assistant Director for Technical Services and Support, Defense Intelligence Agency, Washington, D.C. 20301.

NOTIFICATION:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

CONTEST:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personal by delivered to room 3E223, Pentagon, Washington, D.C.

L DIA 0011

SYSNAME:

Information Files.

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RETENTION:

Registration cards are held 2 years and then retired to the Washington National Records Center. They are destroyed when 25 years old.

NOTIFICATION:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

CONTEST:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: CAO (PA 1974), Defense Intelligence

L DIA 0015

SYSNAME:

Biographic Sketch.

RETENTION:

Records are destroyed when no longer required.

SYSMANAGER:

Deputy Assistant Director for Technical Services and Support, Defense Intelligence Agency, Washington, D.C. 20301.

NOTIFICATION:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

CONTEST:

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V. 45 NO 226 1980 UMI

L DIA 0140

SYSNAME:

Passports and Visas.

SYSMANAGER:

Deputy Assistant Director for Technical Services and Support, Defense Intelligence Agency, Washington, D.C. 20301.

NOTIFICATION:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

CONTEST:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

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L DIA 0200

SYSNAME:

Litigation and disposition Documentation.

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ROUTINE USES:

Used in connection with litigation by, disciplinary and administrative action against or in the disposition of claims and benefits of individuals both civilian and military. Will be provided to the Department of Justice, the Office of Personnel Management and various branches of the military services as may be necessary or required in the disposition of an individual case.

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NOTIFICATION:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

CONTEST:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

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L DIA 0271

SYSNAME:

Investigations and Complaints.

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RETENTION:

Records are held in current files for 5 years after completion and adjudicated of all actions. Retired to the Washington National Records Center. Investigations will be offered to the National Archives and Complaints destroyed when 20 years old.

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NOTIFICATION:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

CONTEST:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

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L DIA 0330

SYSNAME:

Civilian Payroll, Leave and Travel Disbursement.

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ROUTINE-USES:

Records are used by Agency personnel and the U.S. Army Military District of Washington Finance and Accounting Office to: compute, make and record individual employee's payment transactions; determine leave entitlements; record and remit deductions for the Office of Personnel Management Retirement System and the Social Security Fund; determine entitlements for reimbursement of travel and other expenses for official business; report tax information to Federal, state and local taxing authorities as required by statute and to remit and record such transactions; record and remit deductions for life and health insurance and such other deductions as required or authorized by the individual; be used as a basis for the settlement of pay or debt disputes; provide such verification as required by statute or administrative directive.

* * * * *

RETENTION:

Records are cut off each fiscal year and held for 2 years and then retired to the Washington National Records Center. Temporary records are destroyed in 4 years or 2 years after a General Account Office audit. They are destroyed when 10 years old.

SYSMANAGER:

Comptroller, Defense Intelligence Agency, Washington, D.C. 20301.

NOTIFICATION:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

CONTEST:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

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L DIA 0330

SYSNAME:

Civilian Payroll, Leave and Travel Disbursement.

* * * * *

ROUTINE-USES:

Records are used by Agency personnel and the U.S. Army Military District of Washington Finance and Accounting Office to: compute, make and record individual employee's payment transactions; determine leave entitlements; record and remit deductions for the Office of Personnel Management Retirement System and the Social Security Fund; determine entitlements for reimbursement of travel and other expenses for official business; report tax information to federal, state and local taxing authorities as required by statute and to remit and record such transactions; record and remit deductions for life and health insurance and such other deductions as required or authorized by the individual; be used as a basis for the settlement of pay or debt disputes; provide such verification as required by statute or administrative directive.

* * * * *

RETENTION:

Records are cut off each fiscal year and held for 2 years and then retired to the Washington National Records Center. Temporary records are destroyed in 4 years or 2 years after a General Account Office audit. They are destroyed when 10 years old.

SYSMANAGER:

Comptroller, Defense Intelligence Agency, Washington, D.C. 20301.

NOTIFICATION:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

CONTEST:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

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L DIA 0435

SYSNAME:

DIA Awards Files.

RETENTION:

They are maintained for approximately 2 years within the Agency and then retired to the Washington National Records Center They are destroyed when 5 years old.

SYSMANAGER:

Deputy Assistant Director for Personnel, Defense Intelligence Agency, Washington, D.C. 20301.

NOTIFICATION:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency,

Washington, D.C. 20301. You must include in your request: your fill name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: (CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

CONTEST:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

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L DIA 0480

SYSNAME:

Reserve Training Records.

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SYSMANAGER:

Deputy Assistant Director for Personnel, Defense Intelligence Agency, Washington, D.C. 20301.

NOTIFICATION:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

CONTEST:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

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L DIA 0590

SYSNAME:

Defense Intelligence Special Career Automated System (DISCAS).

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AUTHORITY:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21, creating the Defense Intelligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

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SYSMANAGER:

Assistant Vice Director for Attachés and Training, Defense Intelligence Agency, Washington, D.C. 20301.

NOTIFICATION:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

CONTEST:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

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L DIA 0660

SYSNAME:

Security Files.

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AUTHORITY:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 creating the Defense Intelligence Agency as a spearate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

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RETENTION:

Files on military and civilian applicants who are not assigned or hired by DIA are maintained up to 1 year and then destroyed. Personnel security dossiers are retained until the individual association with DIA or access to SCI

information ceases and are then destroyed.

SYSMANAGER:

Deputy Assistant Director for Security Services, Defense Intelligence Agency, Washington, D.C. 20301.

NOTIFICATION:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

CONTEST:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

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L DIA 0800

SYSNAME:

Operation Record System.

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RETENTION:

Records are retired to the Washington National Records Center upon completion of the project. Temporary records are destroyed when no longer needed. Some will be offered to the National Archives when they are 40 years old and the rest destroyed.

SYSMANAGER:

Assistant Vice Director for Collection Management, Defense Intelligence Agency, Washington, D.C. 20301.

NOTIFICATION:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and soical security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

CONTEST:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personnally delivered to room 3E223, Pentagon, Washington, D.C.

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L DIA 0801

DYSNAME:

Defense Attache System Personnel Information File.

RETRIEVABILITY:

By social security account number.

SYSMANAGER:

Deputy Assistant Director for Personnel, Defense Intelligence Agency, Washington, D.C. 20301.

NOTIFICATION:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C.

CONTEST:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

L DIA 0813

SYSNAME:

Bibliographic Data Index System.

RETENTION:

Open source literature is destroyed once material is out dated. Intelligence reports are retained for 2 years and retired to the Washington National Records Center for retention. They will be offered to the National Archives when they are 40 years old.

SYSMANAGER:

Deputy Assistant Director for Technical Services and Support,

V 45 N 0 20 0 80 0 UMI

Defense Intelligence Agency, Washington, D.C. 20301.

NOTIFICATION:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

CONTEST:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

L DIA 0819

SYSNAME:

DIA Financial Management.

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RETENTION:

Records are cut off each fiscal year and held for 2 years and then retired to the Washington National Records Center. They are destroyed when 20 years old. Temporary records are destroyed in 4 years or 2 years after a General Accountant Office audit.

SYSMANAGER:

Comptroller, Defense Intelligence Agency, Washington, D.C. 20301.

NOTIFICATION:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

CONTEST:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

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L DIA 1728

SYSNAME:

DIA Prisoner of War Intelligence Analysis and Debriefing Files.

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SYSMANAGER:

Deputy Director for Defense Intelligence Research, Defense Intelligence Agency, Washington, D.C. 20301.

NOTIFICATION:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

CONTEST:

An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

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L DIA 0005

SYSNAME:

Personnel Management Information System (PMIS).

SECURITY:

Unclassified.

LOCATION:

Defense Intelligence Agency, Washington, D.C. 20301.

INDIVIDUAL-CATEGORY:

Current and former military and civilian employees of DIA.

RECORD-CATEGORY:

This system consists of a variety of personnel, security, education, training, financial, location, telephone and employment related records.

AUTHORITY:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133 d, the Secretary of Defense issued Department of Defense Directive 5105.21 creating the Defense Intelligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the reponsibility for the maintenance of necessary and appropriate records.

ROUTINE-USES:

Records are used by staff, administrative and operating officials to: prepare individual administrative transactions; make decisions on the rights, benefits, entitlements and the utilization of individuals; provide a data source for the productions of reports, statistical survey, rosters, documentation and studies required for the orderly personnel administration within DIA. Information will be disclosed to such other Federal agencies, State and local governments, as may have a legitimate use for such information and which agree to apply appropriate safeguards to protect data so provided and which is consistent with the conditions or reasonable expectations of use and disclosure under which the information was provided, collected or obtained. Information collected concerning home phone, address and emergency notification data is used to provide postal and locator service, to identify next-of-kin for emergency notification and as a source document to prepare recall and special rosters required for the Agency's day-to-day operation and emergency functions. At overseas locations information may be provided to host country, Department of State, Department of Treasury and the Central Intelligence Agency.

POLICY-PRACTICE:

STORAGE:

Automated, maintained on magnetic tape and manual in paper files and microfilms.

RETRIEVABILITY:

By name or social security account number.

SAFEGUARDS:

Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

RETENTION:

Paper files are destroyed when employment with the Agency ceases. Temporary microfilm records are destroyed when replaced with an undated film and magnetic tape files are retained indefinitely as a permanent record. Directory Service files are destroyed 1 year after the individual departs the Agency.

SYSMANAGER:

Deputy Assistant Director for Personnel, Defense Intelligence Agency, Washington, D.C. 20301.

NOTIFICATION:

To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:

All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

CONTEST:

An individual who disagrees with the Agency's determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

SOURCE:

Agency officials, employees, educational institutions and other government agencies.

EXEMPTION:

None.

L DIA 0014

SYSNAME:

Employee Grievance Files.

SECURITY:

Unclassified.

LOCATION:

Defense Intelligence Agency, Washington, D.C. 20301.

INDIVIDUAL-CATEGORY:

Current and former civilian employuees of DIA who have submitted grievances in accordance with DIAR 22-12.

RECORD-CATEGORY:

Files contain all records and documents relating to grievances filed by Agency employees to include statements of witnesses, reports of interviews and hearings and examiner's findings, recommendations, decisions and related correspondence or exhibits.

AUTHORITY:

Pursuant to the authority contained in the National Security Act of 1947, 10 U.S.C. 133d, the Secretary of Defense issued Department of Defense Directive 5105.21 creating the Defense Intelligence Agency as a separate Agency of the Department of Defense under his direction and herein charged the Agency's Director with the responsibility for the maintenance of necessary and appropriate records.

ROUTINE-USES:

These records and information in these records may be used: to disclose information to any source from which additional information is requested in the course of processing a grievance to the extent necessary to identify the individual, inform the source of the purpose(s) of the request and identify the type of information requested; to another Federal agency or to a court when the Government is party to a judicial proceeding before the court; by the Agency in the production of summary descriptive statistics, analytical studies and training in support of the function for which the records are collected and maintained or for related work force studies; to officials of the Merit Systems Protection Board including the Office of the Special Counsel, or the Equal Employment Opportunity Commission when requested in performance of their authorized duties; to disclose in response to a request for discovery or for appearance of a witness, information

that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

of No. 2 diesel fuel oil (0.4 percent sulfur) at the Hayden smelter and 4,781,700 gallons (113,850 barrels) of No.

Florida Gas Transmission Company and the Trunkline Gas Company. The original certificate expires December 4,

ERA determines that an oral presentation is necessary, further notice will be given to Florida Power and any

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that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICY-PRACTICE:

STORAGE:
Manual in paper files.

RETRIEVABILITY:
By name.

SAFEGUARDS:
Records are maintained in a building protected by security guards and are stored in vaults, safes or locked cabinets and are accessible only to authorized personnel who are properly screened, cleared and trained in the protection of privacy information.

RETENTION:
Record is destroyed 3 years after closing of the case.

SYSMANGER:
Deputy Assistant Director for Personnel, Defense Intelligence Agency, Washington, D.C. 20301.

NOTIFICATION:
To obtain information as to whether this system of records contains information pertaining to yourself, you must submit a written request to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301. You must include in your request: your full name, current address, telephone number and social security account number or date of birth. Requests can be mailed to address indicated above or personally delivered to room 3E223, Pentagon, Washington, D.C.

ACCESS:
All requests for copies of records pertaining to yourself must be in writing. You must include in your requests: your full name, current address, telephone number and social security account number or date of birth. Also, you should state that whatever cost is involved is acceptable or acceptable up to a specified limit. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

CONTEST:
An individual who disagrees with the Agency's initial determination, with respect to his or her request, may file a request for administrative review of that determination. Requests are to be in writing and made within 30 days of the date of notification of the initial determination. The requester shall provide a statement setting forth the reasons for his or her disagreement with the initial determination and provide such additional material to support his or her appeal. Requests can be mailed to: CAO (PA 1974), Defense Intelligence Agency, Washington, D.C. 20301, or personally delivered to room 3E223, Pentagon, Washington, D.C.

SOURCE:
By the individual, testimony of witnesses, Agency officials and from related correspondence from organizations or persons.

EXEMPTION:
None.

[7R Doc 80-33863 Filed 11-19-80; 8:45 am]
BILLING CODE 3810-70-M

Department of the Navy

Albert R. Dawe, Limited Exclusive Patent License Revoked

Pursuant to the provisions of Part 746 of Title 32, Code of Federal Regulations (41 FR 55711–55714, December 22, 1976), the Department of the Navy announces that on October 6, 1980, it revoked a revocable, nonassignable, limited exclusive license under United States Patent No. 3,998,223, issued December 21, 1976, entitled "Syringe Apparatus", inventor, Albert R. Dawe, which license had been granted to Albert R. Dawe of Deerfield, Illinois (42 FR 33791, July 1, 1977).

Copies of the patent may be obtained for fifty cents ($0.50) from the Commissioner of Patent and Trademarks, Washington, D.C. 20231.

For further information concerning this notice, contact: Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 302), Ballston Tower No. 1, 800 North Quincy Street, Arlington, VA 22217, Telephone No. 202, 696–4005.

Dated: November 13, 1980.

P. B. Walker,
Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 80-36228 Filed 11-19-80; 8:45 am]
BILLING CODE 3810-71-M

DEPARTMENT OF EDUCATION

National Advisory Council on Adult Education; Cancellation of Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Cancellation of Meeting.

Notice is hereby given of the cancellation of the meeting of the National Advisory Council on Adult Education, December 8–12, 1980, Nashville, Tennessee, as published in the **Federal Register** on November 6, 1980, volume 45, No. 217.

Signed at Washington, D.C. on November 14, 1980.

Gary A. Eyre,
Executive Director, National Advisory Council on Adult Education.

[FR Doc. 80-36140 Filed 11-19-80; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 80-CERT-040]

ASARCO Inc.; Application for Recertification of the Use of Natural Gas To Displace Fuel Oil

On November 14, 1979, ASARCO Incorporated (ASARCO), 120 Broadway, New York, New York 10271, was granted a certificate of eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (ERA Docket No. 79-CERT-096). The certification involved the purchase of natural gas from Esperanza Transmission Company for use by ASARCO at its smelters in Hayden, Arizona and El Paso, Texas. The gas was transported by the El Paso Natural Gas Company. The original certificate expires November 13, 1980. Due to the lateness in the applicant's filing for recertification and the necessity for providing the public with an opportunity to comment, the recertification will not be effective until after the November 13 expiration date. The applicant has informed ERA that it did not expect to use this gas during the interim period and, thus, any lack of continuity with the original certificate will not result in any reduction in the amount of fuel oil displaced.

On October 31, 1980, ASARCO filed an application for recertification of an eligible use of natural gas to displace fuel oil at its Hayden and El Paso smelters pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the ERA and available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, RG–55, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m. Monday through Friday, except Federal holidays.

In its application, ASARCO states that the volume of natural gas for which it requests recertification is 735,000 Mcf at the Hayden smelter and 630,000 Mcf at the El Paso smelter. The use of this natural gas is intended to displace the use of 5,578,650 gallons (132,825 barrels) of No. 2 diesel fuel oil (0.4 percent sulfur) at the Hayden smelter and 4,781,700 gallons (113,850 barrels) of No. 2 diesel fuel oil (0.4 percent sulfur) at the El Paso smelter. The eligible seller of the natural gas is the Esperanza Transmission Company, P.O. Box 1050, Corpus Christi, Texas 78403. The gas will be transported by the El Paso Natural Gas Company, P.O. Box 1492, El Paso, Texas 79978.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, RG–55, 2000 M Street, N.W., Washington, D.C. 20461 Attention: Albert F. Bass, on or before December 1, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to ASARCO and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on November 14, 1980.

F. Scott Bush,
Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-36279 Filed 11-19-80; 8:45 am]
BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT-039]

Florida Power & Light Co.; Application for Recertification of the Use of Natural Gas To Displace Fuel Oil

On December 5, 1979, Florida Power & Light Company (Florida Power), P.O. Box 529100, Miami, Florida 33152, was granted a certificate of eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 79-CERT-098). The certification involved the purchase of natural gas from Consumers Power Company for use by Florida Power at six of its power plants located in Florida. The gas was transported by the Florida Gas Transmission Company and the Trunkline Gas Company. The original certificate expires December 4, 1980.

On October 31, 1980, Florida Power filed an application for recertification of an eligible use of natural gas to displace fuel oil at the six power plants pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). More detailed information is contained in the application on file with the ERA and available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, RG–55, 2000 M Street, NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m. Monday through Friday, except Federal holidays.

In its application, Florida Power states that the volume of natural gas for which it requests certification is 75,000 Mcf of natural gas per day. This natural gas is estimated to displace the use of 1,818 barrels of No. 6 fuel oil (1.0 percent sulfur) per day at the Cape Canaveral Plant, 602 barrels of No. 2 fuel oil (0.3 percent sulfur) per day at the Lauderdale Plant, 2,705 barrels of No. 2 fuel oil (0.3 percent sulfur) per day at the Port Everglades Plant, 3,273 barrels of No. 6 fuel oil (1.0 percent sulfur) per day at the Riviera Plant, 124 barrels of No. 6 fuel oil (1.0 percent sulfur) per day at the Sanford Plant, and 2,840 barrels of No. 6 fuel oil (1.0 percent sulfur) per day at the Turkey Point Plant.

The eligible seller of the natural gas is the Consumers Power Company, 1945 West Parnall Road, Jackson, Michigan 49201. The gas will be transported by the Florida Gas Transmission Company, P.O. Box 44, Winter Park, Florida 32790; and the Trunkline Gas Company, P.O. Box 1642, Houston, Texas 77001.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this application to submit comments in writing to the Economic Regulatory Administration, Room 7108, RG–55, 2000 M Street, NW., Washington, D.C. 20461 Attention: Albert F. Bass, on or before December 1, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this application may be requested by any interested person in writing within the ten (10) day comment period. The request should state the person's interest, and if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to Florida Power and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on November 14, 1980.

F. Scott Bush,
Assistant Administrotor, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-36278 Filed 11-19-80; 8:45 am]
BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Peaceful Uses of Atomic Energy; Proposed Subsequent Arrangement Between U.S. and International Atomic Energy Agency

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given to a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of contractual arrangements for supply of the following materials:

Contract Number S–IA–111, to the IAEA, Vienna, Austria, 0.00045 grams of uranium, containing 0.00015 grams of uranium-233, 0.00015 grams of uranium-235, and 0.00015 grams of uranium-238, and 75 grams of uranium, containing 0.15 grams of uranium-235. These are to be used as standard reference materials.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 17, 1980.

Harold D. Bengelsdorf,
Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-36287 Filed 11-19-80; 8:45 am]
BILLING CODE 6450-01-M

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Peaceful Uses of Atomic Energy; Proposed Subsequent Arrangement Between U.S. and Japan and Between U.S. and European Atomic Energy Community

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the retransfer of 70 grams of uranium enriched to 8% in U–235 from Japan to the Federal Republic of Germany. The material is to be used for in-pile and out-of-pile examination of bonded and unbonded coated UO_2 particles.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of this retransfer, designated as RTD/EU(JA)–35 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 17, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-36282 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements Between Government of the United States and European Atomic Energy Community (EURATOM)

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Finland Concerning Civil Uses of Atomic Energy, and the Agreement for Cooperation Between the Goverment of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Application of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of contractual arrangements for the supply of the following materials:

Contract Number WC–EU–173, to Belgium, 173.9 grams of uranium, enriched to 2.35% in U-235, and 15.7 grams of uranium, enriched to 2.8% in U-235.

Contract Number WC–EU–174, to the Netherlands, 86.9 grams of uranium, enriched to 2.35% in U-235, and 39.9 grams of uranium, enriched to 2.8% in U-235.

Contract Number WC–EU–175, to AGIP Nucleare, Italy, 86.9 grams of uranium, enriched to 2.35% in U-235, and 20 grams of Uranium, enriched to 3.1% in U-235.

Contract Number WC–EU–176, to Fabbricazioni Nucleari SPA, Chemet Laboratory, Italy, 86.9 grams of uranium, enriched to 2.35% in U-235.

Contract Number WC–EU–177, to the Bundesanstalt fur Material-pruefund, Federal Republic of Germany, 86.9 grams of uranium, enriched to 2.35% in U-235.

Contract Number WC–EU–178, to the Alpha-Chemie und-Metallurgie GM.B H, Federal Republic of Germany, 86.9 grams of uranium, enriched to 2.35% in U-235, and 15.7 grams of uranium, enriched to 2.8% in U-235.

Contract Number WC–EU–179, to the Institute fur Radiochemie, Federal Republic of Germany, 15.7 grams of uranium, enriched to 2.8% in U-235.

Contract Number WC–EU–180, to the Institute fur Chemische Technologie, Federal Republic of Germany, 15.7 grams of uranium, enriched to 2.8% in U-235.

Contract Number WC–EU–181, to British Nuclear Fuels, Ltd., England, 86.9 grams of uranium, enriched to 2.35% in U-235, and 15.7 grams of uranium, enriched to 2.8% in U-235.

Contract Number WC–EU–182, to Ministry of Defense, England, 4 grams of uranium, enriched to 2.8% in U-235.

Contract Number WC–EU–183, to the Laboratorie Central d'Analyse et de Control, France, 86.9 grams of uranium, enriched to 2.35% in U-235, and 15.7 grams of uranium, enriched to 2.8% in U-235.

Contract Number WC–EU–184, to CEN/SACLAY, France, 4 grams of uranium, enriched to 2.8% in U-235.

Contract Number WC–JA–25, to Japan Nuclear Fuel Co., Ltd., Japan, 86.9 grams of uranium, enriched to 2.35% in U-235.

Contract Number WC–JA–26, to the Tokai Works, Japan, 86.9 grams of uranium, enriched to 2.35% in U-235, and 39.9 grams of uranium, enriched to 2.8% in U-235.

Contract Number WC–FI–6, to Finland, 86.9 grams of uranium, enriched to 2.35% in U-235, and 15.7 grams of uranium, enriched to 2.8% in U-235.

Contract Number WC–IA–116, to the IAEA Laboratory, Austria, 86.9 grams of uranium, enriched to 2.35% in U-235, and 15.7 grams of uranium, enriched to 2.8% in U-235.

The above materials are to be utilized in the Safeguards Analytical Laboratory Evaluation (SALE) Program. This program is designed to evaluate the capability of participating laboratories to analyze materials to be safeguarded in the nuclear fuel cycle, and to provide means by which measurement capability may be improved through interchange of measurement technology.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than December 5, 1980.

Dated: November 17, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-36284 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-01-M

Peaceful Uses of Atomic Energy; Proposed Subsequent Arrangements Between U.S. and European Atomic Energy Community

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreement involve approval of contractual arrangements for supply of the following materials:

Contract Number S–EU–667, to the Federal Republic of Germany, 100 milligrams of thorium enriched to 91.54% in Th-230, to be used for targets in the investigation of the total release of kinetic energy as a function of exitation energy of the nucleus and the distribution of fission fragments.

Contract Number S–EU–670, to England, 1 microgram of plutonium-244, to be used as a tracer in the study of environmental plutonium in biological materials.

Contract Number S–EU–672, to the Federal Republic of Germany, 10 miligrams of plutonium-244 to be used for safeguards analysis.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 17, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-36283 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Consumer Affairs

Consumer Affairs Advisory Committee; Open Meeting

Pusuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Title: Consumer Affairs Advisory Committee.

Date, Time, and Place: Monday, December 8, 1980 and Tuesday, December 9, 1980, Department of Energy, Room 4E–069, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, Room 8G–087, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: 202/252–5187.

Purpose of Committee: To provide the Secretary of Energy with diversified expert advice from qualified individuals relating to the identification and evaluation of the impact of proposed or existing energy policies and programs on consumers, the identification of areas where new policy initiatives or program change is needed, and planning, developing, and implementing equitable energy policies and programs.

Tentative Agenda

Monday, December 8, 1980

Full Committee Meeting—Room 4E–069
Forrestal Building 9:00 a.m.—5:00 p.m.
Summary of Consumer Affairs Advisory Committee Accomplishments
DOE Budget Briefing
Transition Status Report
Office of Consumer Affairs FY 82 Projected Program
—Public Participation
—Consumer Impact
—Education and Training
Report on Executive Order 12160
Energy Emergency Preparedness
Public Comment (10 minute rule)

Tuesday, December 9, 1980

Full Committee Meeting—Room 4E–069
Forrestal Building 9:00 a.m.—5:00 p.m.
Unresolved Committee Issues and Recommendations
Public Comment (10 minute rule)

Public participation: The meeting is open to the public. The Chairwomen of the Committee is empowered to conduct the meeting in a fashion that will, in her judgment, facilitate the orderly conduct business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to ageda items should contact the Advisory Committee Management Office at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting concerned and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Issued in Washington, D.C. on November 17, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-36280 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders Week of November 3 Through November 7, 1980

During the week of November 3 through November 7, 1980, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exceptions.

Under the procedural regulations that apply to exception proceedings (10 CFR part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice (November 20, 1980) or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decisions and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays.

George B. Breznay,

Acting Director, Office of Hearings and Appeals

November 14, 1980.

Proposed Decisions and Orders

Dollar-Wise, Ltd., Afton, Iowa, BEE–1212, testing procedures

Dollar-Wise Ltd. filed an Application for Exception from the provisions of 10 CFR, Part 430. The exception request, if granted, would release the applicant from the requirement that it test a new furnace developed by the firm in accordance with test procedures prescribed in Part 430. On November 5, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Energy Cooperative, Inc., East Chicago, Indiana, BEE–0508, BSG–0009, crude oil

On December 14, 1979, Energy Cooperative, Inc. (ECI) filed an Application for Exception and Petition for Special Redress from the provisions of § 211.65 (the Buy/Sell program) and § 211.67 (the Entitlements Program). The requests, if granted, would change ECI's base period for determining eligibility for emergency allocations of Buy/Sell crude oil, assign specific volumes of crude oil to ECI at average or below average prices, and issue ECI additional runs credits for purposes of the entitlements program. On November 3, 1980, the Department of Energy issued a Proposed Decision and Order tentatively granting in part ECI's requests.

Golden Gate Petroleum Company, San Francisco, California, BEE–1396, residual fuel oil

Golden Gate Petroleum Company filed an Application for Exception from the provisions of 10 CFR § 212.93. The exception request, if granted, would permit Golden Gate to retain the revenues it realized from November 1, 1973 through August 31, 1975 as a result of charging prices for residual fuel oil in excess of the maximum levels permitted under § 212.93. On November 5, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

McAlester Fuel Company, Houston, Texas, BEE–1355, crude oil

McAlester Fuel Company filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception

request, if granted, would permit the firm to sell a certain portion of the crude oil produced and sold for the benefit of the

Objection to Proposed Remedial Orders Filed Week of August 25 through August 29, 1980

Objection to Proposed Remedial Orders Filed Week of October 13 Through October 17, 1980

been transferred to the Central Regional Center of the Office of Hearings and Appeals for analysis.

According to the PRO the Shelter Ridge Arco violation resulted in $120,882.23 of overcharges.

Copies of the full text of these proposed decisions and orders are available in the Public Document Room

request, if granted, would permit the firm to sell a certain portion of the crude oil produced and sold for the benefit of the working interest owners from the Kelly Field Tyler Sand Unit located in Musselshell County, Montana, at market price levels. On November 7, 1980, the DOE issued a Proposed Decision and Order which tentatively determined that exception relief should be granted.

Raymond Oil Company, Tyler County, West Virginia, BEE–1192, crude oil

Raymond Oil Company filed an Application for Exception from the provisions of 10 CFR § 212.131(a)(1)(ii). The exception request, if granted, would permit Raymond to certify the crude oil it produced commencing January 1, 1978 as stripper well crude oil. On November 3, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Standard Oil Company (Indiana), Chicago, Illinois, BEE–1303, refined petroleum products

On November 16, 1979, the Standard Oil Company (Indiana) filed an Application for Exception from the provisions of § 212.83(c) (the refiner price rule). The exception request, if granted, would permit the firm to exclude certain costs associated with divested properties from its base period costs. On November 5, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

Echo Bay Resort, BXE–1315, Wash., D.C.
Energy Dev. Board of Mercer County, BEE–0724, BEE–1121, Hazen, ND

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocations of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

Barnacle II, DEE–7112, Warren, ME.

[FR Doc. 80-36274 Filed 11-19-80; 8:45 am]
BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed Week of August 25 through August 29, 1980

During the week of August 25 through August 29, 1980, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before December 10, 1980. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: November 14, 1980.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

Post Road Chevron, Inc., Marlboro, Massachusetts; BRO–1297, Motor Gasoline

On August 26, 1980, Post Road Chevron, Inc., 529 Boston Post Road, Marlboro, Massachusetts 01752, filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast Enforcement District of the Economic Regulatory Administration issued to the firm on August 12, 1980. In the Proposed Remedial Order, the Northeast District found that during the period August 17, 1979 through April 25, 1980, Post Road Chevron, Inc. committed pricing violations in its retail sales of motor gasoline. According to the Proposed Remedial Order, the firm's violations resulted in $771.15 of overcharges to its customers.

Grant's Arco, Mansfield, Ma; BRO–1296, Motor Gasoline

On August 25, 1980, Grant's Arco, 54 Chauncy Street, Mansfield, MA 02048 filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of Enforcement issued to the firm on July 21, 1980. In the PRO the Northeast District found that during August 1, 1979 to February 25, 1980, respondent could not justify the lawfulness of some or all of the prices charged. According to the PRO the Grant's Arco violation resulted in $1,436 of overcharges.

[FR Doc. 80-36277 Filed 11-19-80; 8:45 am]
BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed Week of October 13 Through October 17, 1980

During the week of October 13 through October 17, 1980, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR § 205.194 on or before December 10, 1980. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: November 14, 1980.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

Barry Ivers Chevron Service, Mill Valley, California; BRO–1325, Motor Gasoline

On October 16, 1980, Barry Ivers Chevron Service, 458 Miller Ave., Mill Valley, California 94941, filed a Notice of Objection to a Proposed Remedial Order the DOE San Francisco District Office of Enforcement issued to the firm on July 30, 1980. In the PRO the San Francisco Enforcement District found that during August 1, 1979 to November 13, 1979, Barry Ivers Chevron Service had been charging prices in excess of the maximum lawful selling price allowed by 10 CFR Part 212.

According to the PRO the Barry Ivers Chevron Service violation resulted in $4,375.80 of overcharges. This Notice of Objection has been transferred to the Western Regional Center of the Office of Hearings and Appeals for analysis.

Glen Elder Marina and Store, Beloit, Kansas; BRO–1323, motor gasoline

On October 15, 1980, Glen Elder Marina and Store, Beloit, Kansas, filed a Notice of Objection to a Proposed Remedial Order which the DOE Central District Office of Enforcement issued to the firm on September 18, 1980. In the PRO the Central Enforcement District found that during the period of March 17, 1980 to August 18, 1980, Glen Elder Marina charged in excess of the maximum lawful selling price for a blend of gasoline and oil sold for two-cycle boat engines.

According to the PRO the Glen Elder Marina violation resulted in $1,561.15 of overcharges. This Notice of Objection has been transferred to the Central Regional Center of the Office of Hearings and Appeals for analysis.

Jim Campbell Shell, Oakland, California; BRO–1328, motor gasoline

On October 15, 1980, Jim Campbell Shell, 3201 Lakeshore Ave., Oakland, California 94910, filed a Notice of Objection to a Proposed Remedial Order the DOE San Francisco District Office of Enforcement issued to the firm on May 28, 1980.

In the PRO the San Francisco Enforcement District found that during August 1, 1979 to November 13, 1979, Jim Campbell Shell had been charging prices in excess of the maximum lawful selling price allowed by 10 CFR Part 212.

According to the PRO the Jim Campbell Shell violation resulted in $551.88 of overcharges. This Notice of Objection has been transferred to the Western Regional Center of the Office of Hearings and Appeals for analysis.

Pester Derby Oil Co., Des Moines, Iowa; BRO–1329, covered products

On October 17, 1980, Pester Derby Oil Co., 303 Keosauqua Way, P.O. Box 10006, Des Moines, Iowa 50306, filed a Notice of Objection to a Proposed Remedial Order the DOE Central District Office of Enforcement issued to the firm on September 12, 1980.

In the PRO the Central Enforcement District found that during November 1, 1973 to May 6, 1974, Pester Derby Oil Co. overcharged its purchasers of petroleum products.

According to the PRO the Pester Derby violation resulted in $590,887.55 of overcharges.

Plaza Arco, Petaluma, California; BRO–1326, motor gasoline

On October 16, 1980, Plaza Arco, 101 N. McDowell, Petaluma, California 94952, filed a Notice of Objection to a Proposed Remedial Order which the DOE San Francisco District Office of Enforcement issued to the firm on July 30, 1980.

In the PRO the San Francisco Enforcement District found that during August 1, 1979 to November 12, 1979, Plaza Arco has been charging prices in excess of the maximum lawful selling price allowed by 10 CFR Part 212.

According to the PRO the Plaza Arco violation resulted in $15,655.98 of overcharges. This Notice of Objection has been transferred to the Western Regional Center of the Office of Hearings and Appeals for analysis.

Shelter Ridge Arco, San Rafael, California; BRO–1327, motor gasoline

On October 16, 1980, Shelter Ridge Arco, 440 Third Street, San Rafael, California 94901, filed a Notice of Objection to a Proposed Remedial Order which the DOE San Francisco District Office of Enforcement issued to the firm on July 30, 1980. In the PRO the San Francisco Enforcement District found that during August 1, 1979 to November 13, 1979, Shelter Ridge Arco had been charging prices in excess of the maximum lawful selling price allowed by 10 CFR Part 212.

According to the PRO the Shelter Ridge Arco violation resulted in $120,882.23 of overcharges.

This notice of Objection has been transferred to the Western Regional Center of the Office of Hearings and Appeals for analysis.

T.N.T., Inc., New Orleans, Louisiana; BRO–1324, crude oil

On October 15, 1980, George J. Domas, Esq. of Liskow & Lewis, One Shell Square, 50th floor, New Orleans, Louisiana 70139, filed a Notice of Objection on behalf of T.N.T., Inc. to a Proposed Remedial Order which the DOE Southwest Enforcement District issued on September 23, 1980. In the Proposed Remedial Order, the Enforcement District found that during the period December 1, 1973 through November 30, 1975, T.N.T. committed pricing violations in the State of Louisiana in connection with the production and sale of crude oil. According to the Proposed Remedial Order, T.N.T.'s violations resulted in overcharges to its customers of $05,305.89.

[FR Doc. 80-36274 Filed 11-19-80; 8:45 am]
BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders, Week of October 20 through October 24, 1980

During the week of October 20 through October 24, 1980, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice (November 20, 1980) or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Document Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

November 14, 1980.

Asamera Oil (U.S.) Inc., Golden, Colorado; crude oil, BXE–1160, BXE–1161, and BXE–1162

Asamera Oil (U.S.) Inc. filed three Applications for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception requests, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Carrell, Knight and Myrin Ranch Leases for the benefit of the working interest owners at market price levels. On October 20, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

Bird Oil Company, Hilton Head, South Carolina; gasohol, BEE–0509

Bird Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Bird to receive an increased allocation of unleaded gasoline for gasohol production. On October 22, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

City of Long Beach, California, Long Beach, California; crude oil, BXE–1410

City of Long Beach, California filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Fault Block III Unit for the benefit of the working interest owners at upper tier ceiling prices. On October 22, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

Chevron U.S.A., Inc. and Standard Oil Co. of Ohio, San Francisco, CA and Cleveland, OH; BEE–1378 and BEE–1414, motor gasoline

Chevron U.S.A. Inc. and the Standard Oil Company of Ohio filed an Application for Exception from the provisions of 10 CFR 212.83. The exception request, if granted, would permit the applicants to charge prices for premium unleaded gasoline above the price charged for regular unleaded gasoline without causing the firms to deem recovery of costs on their sales of regular unleaded gasoline. On October 20, 1980, the Department of Energy issued a Proposed

Decision and Order which determined that the exception request be granted.

Dean Oil Corporation, New Jersey; gasohol, BEE-0998

Dean Oil Corporation filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Dean to receive an increased allocation of unleaded gasoline for gasohol production. On October 22, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Navajo Refining Company, Dallas, Texas; crude oil, BXE-1356

Navajo Refining Company filed an Application for Exception from the provisions of 10 CFR 211.67 (Entitlements Program). The exception request, if granted, would relieve Navajo of a portion of its entitlement purchase obligations during the period October 1980 through March 1981 for crude oil receipts and runs to stills during the period August 1980 through January 1981. On October 23, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Pennzoil Company, Houston, Texas; crude oil, BEE-1166

Pennzoil Company filed an Application for Exception from the provisions of 10 CFR 211.67. The exception request, if granted, would permit Pennzoil to receive additional entitlements each month in order to substantially equalize the firm's post entitlements cost of Penn Grade crude oil with the national average cost of crude oil to all domestic refiners. On October 24, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Spain Oil Co., Mahopac, New York; gasohol, BEE-0512

Spain Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Spain to receive an increased allocation of unleaded gasoline for gasohol production. On October 20, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Swifty Distributors, Inc., Floydada, Texas; gasohol, BEE-0963

Swifty Distributors, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit the firm to receive an increased allocation of motor gasoline for the express purpose of blending and marketing gasohol. On October 24, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case Number, and Location

St. Louis County Police Department, DEE-0617, Clayton, MO.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case Number, and Location

Dunn Fuels, DEE-5842, Washington, DC.
New York State Police Department, BEE-0286, Albany, NY.
The Harvey Co., DEE-7413, Hartford, CT.

[FR Doc. 80-36276 Filed 11-19-80; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Advisory Committee on Revision of Rules of Practice and Procedure; Subcommittee on Review of Hearing Procedures; Change in Date of Meeting

November 13, 1980.

In FR Doc. 80-32826 appearing at page 70077 in the issue for Wednesday, October 22, 1980, the Commission announced a November 6 meeting of the Subcommittee on Review of Hearing Procedure. In FR Doc. 80-34223 appearing at page 72746 in the issue for Monday, November 3, 1980. The date of the meeting was changed to November 18, 1980. The date of the meeting has again been postponed, and is now scheduled for December 1, 1980. All other information appearing in the notice published October 22 is correct as appears.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36161 Filed 11-19-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER81-95-000]

Alabama Power Co.; Proposed Tariff Change

November 13, 1980.

The filing Company submits the following:

Take notice that Alabama Power Company on November 5, 1980, tendered for filing proposed changes in its FERC Electric Tariff, Original Volume No. 1. The proposed changes would increase revenues from jurisdictional sales and service by $23,434,137 based on the calendar year 1981.

The Company estimates its rate of return on its base from its sales to distribution cooperatives and municipalities in the calendar year 1981 to be (i) 5.37 percent from its sales to municipalities, and (ii) 5.98 percent from its sales to rural electric cooperatives under existing rates. The Company states that such rates of return are far below its embedded cost of debt and are inadequate to attract capital required by the Company.

Copies of the filing were served upon the affected distribution cooperatives and municipalities, Alabama Public Service Commission and Southeastern Power Administration.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 1, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36162 Filed 11-19-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER81-94-000]

Florida Power & Light Co.; Filing

November 13, 1980.

The filing company submits the following:

Take notice that Florida Power & Light Company (FPL) on November 4, 1980 tendered for filing three documents entitled "Exhibits I to Service Agreement For Interchange Transmission Service Implementing Specific Transactions Under Service Schedules A (Emergency Service), B (Short Term Firm Service), C (Economy Interchange Service) and D (Firm Service) of Contracts for Interchange Service."

FPL states that under the Exhibits, FPL will transmit power and energy for the City of Vero Beach (Vero Beach) as is required by Vero Beach in the implementation of its interchange agreements with the Sebring Utilities Commission, the City of Kissimmee and the Jacksonville Electric Authority.

FPL requests that waiver of Section 35.3 of the Commission's Regulations be granted and that the proposed Exhibits be made effective immediately. FPL states that copies of the filing were served on the City Manager of Vero Beach.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 1, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc 80-36163 Filed 11-19-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER81-85-000]

Georgia Power Co.; Filing

November 13, 1980.

The filing Company submits the following:

Take notice that on October 31, 1980, Georgia Power Company (Georgia) tendered for filing revised charges for emergency assistance and short-term capacity transactions for 1981 under its Interchange Contract with Crisp County Power Commission (Crisp), Georgia's Rate Schedule FERC No. 803). Georgia states that the filing complies with the Commission's Order of August 18, 1980, in this Docket concerning changes in demand charges pursuant to the formula rates contained in the Interchange Contract.

Georgia states that the revisions are necessitated by changes in installed capacity, costs and loads during 1981.

Georgia states that copies of the filing have been mailed to Crisp and to the Presiding Administrative Law Judge, Staff Counsel and all parties in this Docket.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practices and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36164 Filed 11-19-80; 8:45 am]
BILLING CODE 6450-85-M

[Volume 315]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: November 14, 1980.

BILLING CODE 6450-85-M

JO NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION							
•BAMBON RESOURCES COMPANY				RECEIVED: 10/20/80 JA: CA			
8103440	80-5-#002	0401900000	102	YOUNG F NO 1-15	RIVERDALE		20.0 PACIFIC LIGHTING SER
ILLINOIS DEPARTMENT OF MINES & MINERALS							
•DEVON CORPORATION				RECEIVED: 10/17/80 JA: IL			
8103431		1219100000	103	BECKEL #2	CLAY CITY CONSLD		0.0 CRYSTAL OIL CO
8103432		1219100000	103	BECKEL #3	CLAY CITY CONSLD		4.5 CRYSTAL OIL CO
•EGD LTD PTNSP EGD OIL CO INC GEN PT				RECEIVED: 10/17/80 JA: IL			
8103430		1211923901	102	J & J LEDEN #1	ST JACOB NORTHEAST		128.0 ILLINOIS POWER CO
LOUISIANA OFFICE OF CONSERVATION							
•ENTEX INC				RECEIVED: 10/17/80 JA: LA			
8103434	80-2806	1705721665	102	R C PLATER NO 1	THIBODEAUX		1500.0 TRANSCONTINENTAL GAS
•MCALESTER FUEL COMPANY				RECEIVED: 10/17/80 JA: LA			
8103435	80-2805	1705721650	102	LAFOURCHE PARISH SCH BOARD NO 1	CUT OFF FIELD		730.0 COLUMBIA GAS TRANSMI
•THE LOUISIANA LAND & EXPLORATION CO				RECEIVED: 10/17/80 JA: LA			
8103435	80-2807	1708920360	102	LL&E FEE NO 1 • 157466	LAKE DES ALLEMANDS		372.0 TRANSCONTINENTAL GAS
•WOODCO OIL & GAS CO OF TEXAS				RECEIVED: 10/17/80 JA: LA			
8103436	80-2808	1709520077	102	ROGERS LAND COMMITTEE NO 1	LAPLACE		275.0 DOW CHEMICAL CO USA
NEBRASKA OIL & GAS CONSERVATION COMMISSION							
•MARATHON OIL COMPANY				RECEIVED: 10/20/80 JA: NB			
8103439		26033219340	103	CRUISE A #8	HUNTSMAN		12.0 KANSAS NEBRASKA NATU
8103437		26033219350	103	PAML #4	HUNTSMAN		6.0 KANSAS NEBRASKA NATU
8103438		26033219820	103	H SPARKS #4	MANLOW FIELD		51.0 KANSAS NEBRASKA NATU
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS							
•ALLEN K TROBAUGH				RECEIVED: 10/23/80 JA: NM			
8103618		3002526432	102	EIDSON COM NO 1 #LG 1432-1	SHOEBAR ATOKA		30.5 TIPPERARY CORP
•AMOCO PRODUCTION CO				RECEIVED: 10/23/80 JA: NM			
8103616		3001523292	103	ALLEY UNIT #1	UND MORROW		377.2 GAS CO OF NEW MEXICO
8103607		3004524167	103	GALLEGUS CANYON UNIT #150E	BASIN DAKOTA		29.5 EL PASO NATURAL GAS
8103614		3004524168	103	GALLEGUS CANYON UNIT #154E	BASIN DAKOTA		29.5 EL PASO NATURAL GAS
8103613		3004524176	103	GALLEGUS CANYON UNIT #169E	BASIN DAKOTA		29.5 EL PASO NATURAL GAS
8103626		3004524171	103	GALLEGUS CANYON UNIT #188E	BASIN DAKOTA		29.5 EL PASO NATURAL GAS
8103624		3004524170	103	GALLEGUS CANYON UNIT #200E	BASIN DAKOTA		29.5 EL PASO NATURAL GAS
8103619		3004523097	108	GARDNER GAS COM #1	BLANCO		9.0 EL PASO NATURAL GAS

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JO NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
8103617		3004523859	103	MARE GAS COM D #1E	BASIN DAKOTA		29.5 EL PASO NATURAL GAS
8103610		3004524082	103	PEARCE GAS COM #1E	BASIN DAKOTA		29.5 EL PASO NATURAL GAS
•ALPORT OIL CORPORATION				RECEIVED: 10/23/80 JA: NM			
8103612		3002500000	108	E C WINTERS GAS UNIT NO 1	JALMAT TANSILL 7 RIVERS		16.0 EL PASO NATURAL GAS
•EL PASO NATURAL GAS COMPANY				RECEIVED: 10/23/80 JA: NM			
8103621		3004506175	108	CUCCIA STATE #2	BLANCO SOUTH-PICTURED CL		20.0 EL PASO NATURAL GAS
•8103622		3003922064	103	SAN JUAN 29-7 UNIT #32A	BLANCO MESAVERDE		350.0 EL PASO NATURAL GAS
•8103623		3003922064	103	SAN JUAN 29-7 UNIT #32A	BASIN DAKOTA		150.0 EL PASO NATURAL GAS
•ENDERCH EXPLORATION INC				RECEIVED: 10/23/80 JA: NM			
8103615		3004120331	103	AMOCO STATE NO 1	NORTH PETERSON PENN		40.0 TRANSWESTERN PIPELIN
8103603		3004120336	103	LAMBIRTH NO 10	S PETERSON		40.0 NATURAL GAS PIPELINE
•HARPER OIL COMPANY				RECEIVED: 10/23/80 JA: NM			
8103606		3002500000	103	SEAY #1	E HIGHTOWER		20.0 WARREN PETROLEUM CO
•PHILLIPS PETROLEUM COMPANY				RECEIVED: 10/23/80 JA: NM			
8103601		3002526575	103	E VAC GB/SA UNIT TR 2819 #006	VACUUM GB/SA		3.0 EL PASO NATURAL GAS
8103604		3002526578	103	E VAC GB/SA UNIT TR 2923 #002	VACUUM GB/SA		8.0 EL PASO NATURAL GAS
8103602		3004120543	103	LAMBIRTH B #1	PETERSON PENN SOUTH		0.0
8103625		3002503108	108	VACUUM ABO UNIT NO 15-01	VACUUM ABO REEF		8.0 EL PASO NATURAL GAS
•SOUTHLAND ROYALTY CO				RECEIVED: 10/23/80 JA: NM			
8103609		3001523133	103	JEB STUART 13 COM #1			95.0 EL PASO NATURAL GAS
•THREEMOLD DEVELOPMENT CO				RECEIVED: 10/23/80 JA: NM			
8103611		3001500000	103	CONOCO 10 STATE #1	TURKEY TRACK • ATOKA GAS		700.0 EL PASO NATURAL GAS
•UNION TEXAS PETROLEUM				RECEIVED: 10/24/80 JA: NM			
8103627		3004522366	103	MADDOX COM NO 1•A	BLANCO MESAVERDE		182.0 EL PASO NATURAL GAS
•W A MONCRIEF JR				RECEIVED: 10/23/80 JA: NM			
8103620		3001523120	102	MARATHON STATE COM NO 1	UNDESIGNATED SALDRIDGE C		6200.0 EL PASO NATURAL GAS
•YATES PETROLEUM CORPORATION				RECEIVED: 10/23/80 JA: NM			
8103605		3001523415	103	PENASCO IW SWALLOW NO 5	PENASCO DRAW SA YESO ABS		0.0 TRANSWESTERN PIPELIN
8103608		3001523294	103	PUBCO ND STATE COM #1	RICHARD KNOB ATOKA MORRO		0.0 TRANSWESTERN PIPELIN
OHIO DEPARTMENT OF NATURAL RESOURCES							
•APPALACHIAN PETROLEUM CORP				RECEIVED: 10/20/80 JA: OH			
8103524		3412120831	103	DELMER ADDLESBURGEN #1	JACKSON		3.5 COLUMBIA GAS TRANSMI
8103525		3412120831	103	DELMER ADDLESBURGEN #2	JACKSON		3.5 COLUMBIA GAS TRANSMI
8103526		3412120831	103	DELMER ADDLESBURGER #3	JACKSON		3.5 COLUMBIA GAS TRANSMI
8103562		3416725565	103	MICHAEL STENGEL #3	ADAMS		3.5 COLUMBIA GAS TRANSMI
8103563		3416725566	103	MICHAEL STENGEL #4	ADAMS		3.5 COLUMBIA GAS TRANSMI
•BARFLO OIL AND GAS COMPANY				RECEIVED: 10/20/80 JA: OH			
8103503		3410322342	103	J MARRONE #8	SHARON	30.0	
8103497		3410322256	103	JESSEE TUCKER #2	WADSWORTH	30.0	
8103502		3410322241	103	JOSEPH MARRONE #1	SHARON	30.0	
8103501		3410322333	103	RICHARD LAVERY #1	SHARON	30.0	
8103500		3410322319	103	BLABAUGH UNIT #1	SHARON	30.0	
8103499		3410322315	103	SNYDER UNIT #1	SHARON	30.0	
8103498		3410322310	103	STEIN #1	SHARON	30.0	
•BELL DRILLING & PRODUCING CO				RECEIVED: 10/20/80 JA: OH			
8103482		3407322283	103	DEBBIE TAYLOR #1	WARD		12.0 COLUMBIA GAS TRANSMI
•BERRESFORD ENTERPRISES INC				RECEIVED: 10/20/80 JA: OH			
8103470		3403123693	103	DARIE GERBER #1	TIVERTON	0.0	
8103471		3403123860	103	DARIE GERBER #2	TIVERTON	0.0	
•BILL BLAIR INC				RECEIVED: 10/20/80 JA: OH			

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8103469		3402920777	103		CAMPBELL #1	HOMEWORTH	20.0	COLUMBIA GAS TRANSMI
*DONOVAN LOWE					RECEIVED: 10/20/80 JAI OM			
8103320		3412121170	108		RALPH ANDERSON #1		9.0	EAST OHIO GAS CO
8103300		3411321174	108		RAWLEIGH LOWE #3		9.0	EAST OHIO GAS CO
*ENTERPRISE GAS & OIL INC					RECEIVED: 10/20/80 JAI OM			
8103467		3401921323	103		CLARK-MORRISON #9-E		19.2	EAST OHIO GAS CO
8103466		3401921322	103		GARTRELL #7-A	ORANGE	36.3	EAST OHIO GAS CO
8103468		3401921327	103		L SMITH #5	ORANGE	27.4	EAST OHIO GAS CO
8103469		3401920909	103		WEST #4	ORANGE	9.1	EAST OHIO GAS CO
*ESTATE OF BARTON A HOLL					RECEIVED: 10/20/80 JAI OM			
8103483		3407302342	103		HAROLD M MYSKIVER #2A	STARK	150.0	COLUMBIA GAS TRANSMI
*FLOYD E KIMBLE DBA RED MILL DEV					RECEIVED: 10/20/80 JAI OM			
8103837		3419723468	103		L GOEDEL #1	BUCKS	0.0	
*GEN ELEC CO HADDAD BROOKS INC(ASSMT					RECEIVED: 10/20/80 JAI OM			
8103534		3413322107	103		BEAL-BRECKENRIDGE UNIT #1	RAVENNA	73.0	EAST OHIO GAS CO
*HOPEWELL OIL AND GAS DEVELOPMENT CO					RECEIVED: 10/20/80 JAI OM			
8103509		3411121935	103		ALFRED DOUGHERTY #1	FRANKLIN	12.0	COLUMBIA GAS TRANSMI
8103527		3412724591	103		CANNON #1	HARRISON	12.0	COLUMBIA GAS TRANS
8103528		3412724620	103		CHARLES & VERNON SOMERS #1		12.0	NATIONAL GAS & OIL C
8103508		3411121948	103		FLOYD DENBON #1	WAYNE	12.0	COLUMBIA GAS TRANSMI
8103507		3411121947	103		JOHN DAVIS #1	WAYNE	10.0	COLUMBIA GAS TRANSMI
8103528		3412724593	103		KATHRYN IRENE COMBS #1	BEARFIELD	12.0	COLUMBIA GAS TRANS
8103511		3411925175	103		LARRY PAUL #1	WAYNE	12.0	NATIONAL GAS & OIL
8103506		3411121943	103		THOMAS ANDEARS #1	WAYNE	12.0	COLUMBIA GAS TRANSMI
*JEFFREY & MORAN					RECEIVED: 10/20/80 JAI OM			
8103491		3400322725	103		HOBART & A BLANCHE MAYS #1	CLAY	4.2	
*JONSU CORP					RECEIVED: 10/20/80 JAI OM			
8103472		3403123945	103		JOHNSON #1	PERRY	10.0	
8103493		3400923654	103		MORNINGSTAR #2	FALLSBURY	4.0	COLUMBIA GAS TRANSMI
*KENOIL					RECEIVED: 10/20/80 JAI OM			
8103866		3416922338	103		HOWARD GARRETT #1	PLAIN	4.5	COLUMBIA GAS TRANSMI
*LARRY M WRIGHT INC					RECEIVED: 10/20/80 JAI OM			
8103804		3410521976	103		ROBERT L JONES #1	BEDFORD	10.0	COLUMBIA GAS TRANSMI
*LEADER EQUITIES INC					RECEIVED: 10/20/80 JAI OM			
8103516		3411925378	103		LANE-ROSS UNIT #1	MONROE	15.0	
8103517		3411985364	103		ROSS-KLEIN UNIT #1	MONROE	15.0	
*MAMMOTH PRODUCING CORP					RECEIVED: 10/20/80 JAI OM			
8104479		3405922532	108		PATTERSON A2-86		20.0	EAST OHIO GAS CO
*MITCHELL ENERGY CORPORATION					RECEIVED: 10/20/80 JAI OM			
8103476		3405320680	103		CENNAMO-BLANKENSHIP #1-10	SALT SAND	10.0	
8103480		3406720376	103		ECKLEY #1-40	CLINTON SAND RUMLEY	25.0	
8103481		3406720377	103		MENARY B #1-39	CLINTON SAND RUMLEY	25.0	
8103478		3405320476	103		STOUT-BALLMAN #1-18	CLINTON SAND RACCOON	25.0	
*MUMMA OIL AND GAS CO					RECEIVED: 10/20/80 JAI OM			
8103498		3409920267	108		KIMMEL #1		18.6	EAST OHIO GAS CO
*OILTECH INC					RECEIVED: 10/20/80 JAI OM			
8103486		3407522383	103		CARLOS SMITH #1	MECHANIC	0.0	COLUMBIA GAS TRANSMI
8103485		3407522317	103		ERNEST PAPAY #1	MECHANIC	0.0	COLUMBIA GAS TRANSMI
8103484		3407522316	103		ERNEST PAPAY #2	MECHANIC	0.0	COLUMBIA GAS TRANSMI
8103487		3407522397	103		G R & N HIPP #1	HARDY	0.0	COLUMBIA GAS TRANSMI
8103490		3407522557	103		M MABEL BRUMME #1	MECHANIC	0.0	COLUMBIA GAS TRANSMI
8103488		3407522526	103		RAYMOND J MILLER #3	MECHANIC	0.0	COLUMBIA GAS TRANSMI

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8103489		3407522529	103		RAYMOND J MILLER #4	MECHANIC	0.0	COLUMBIA GAS TRANSMI
*OSCAR F DAVIDSON					RECEIVED: 10/20/80 JAI OM			
8103492		3408923758	103		FRED F & PAUL L MAY #1A	PERRY	0.0	COLUMBIA GAS TRANSMI
*PETROLEUM ENERGY DEVELOPMENT CORP					RECEIVED: 10/20/80 JAI OM			
8103519		3411925380	103		JOHN REVENNAUGH #1	RICH HILL	30.0	
*PETROLEUM SECURITIES FUND 79					RECEIVED: 10/20/80 JAI OM			
8103564		3416922293	103		GEIBER #3	WAYNE	24.0	COLUMBIA GAS TRANS C
8103563		3416922295	103		LESTER GEIBER #5	WAYNE	24.0	COLUMBIA GAS TRANS C
*QUADRANT EXPLORATION					RECEIVED: 10/20/80 JAI OM			
8103561		3416724771	103		CHARLES & JENNIE BOWERSOCK #3	LAWRENCE	40.0	
*R GENE BRABEL DBA BRABEL & BRABEL					RECEIVED: 10/20/80 JAI OM			
8103474		3405320391	103		JOSEPH W LEACH #4	CHESHIRE	1.0	COLUMBIA GAS TRANSMI
*ROBERT E AMERRY					RECEIVED: 10/20/80 JAI OM			
8103494		3406923664	103		B BRADLEY #1A	HANOVER	30.0	
8103532		3412724784	103		J COBLE 1A	HOPEWELL	30.0	
8103533		3412724785	103		R GIBSON #1A		8.4	
*SAMPA PETROLEUM CO INC					RECEIVED: 10/20/80 JAI OM			
8103523		3412122187	103		VON KEMP #2	ELK	90.0	
*THE GOODYEAR TIRE & RUBBER COMPANY					RECEIVED: 10/20/80 JAI OM			
8103535		3415320819	103		PIGLIA #1	STON	90.0	
*THE MIDWEST OIL AND GAS CO					RECEIVED: 10/20/80 JAI OM			
8103531		3412724726	103		THOMAS CONAWAY #1	HARRISON	3.6	COLUMBIA GAS TRANSMI
*THE OXFORD OIL CO					RECEIVED: 10/20/80 JAI OM			
8103530		3412724679	103		ANNA FORSYTHE #4	READING	10.0	
8103513		3411925243	103		EDGAR MINA #1	NEWTON	12.0	
8103512		3411925196	103		FRED HARDESTY #2	UNION	10.0	
8103514		3411925244	103		GLEN WATERS #1	SPRINGFIELD	10.0	
8103516		3411925280	103		HERBERT BEARDSLEY #1	UNION	12.0	
8103515		3411925276	103		PAUL JONES #1	HIGHLAND	12.0	
8103510		3411922130	103		RICHARD CHRISTIANSEN #1	BLOOM	12.0	
*TOWNER PETROLEUM CO					RECEIVED: 10/20/80 JAI OM			
8103522		3412121623	108		LORENZ #1		4.4 E D S C	
8103521		3412121624	108		LORENZ #2		4.4 E D S C	
8103478		3405921629	108		WENDELL LITT #1		2.6 J & L STEEL COMP	
8103477		3405921628	108		WENDELL LITT #2		2.6 J & L STEEL COMP	
*WATERCO INC					RECEIVED: 10/20/80 JAI OM			
8103496		3410322807	103		PAPIK #2	GRANGER	20.0	COLUMBIA GAS TRANSMI
*WELSH MILLER OIL & GAS CO					RECEIVED: 10/20/80 JAI OM			
8103473		3403123954	103		MABEL SELDERS #1	MONROE	8.0	COLUMBIA GAS TRANSMI
*WILLIAM M YIPKA					RECEIVED: 10/20/80 JAI OM			
8103536		3415320862	103		EDWARD A BAHAN #1	COPLEY	30.0	EAST OHIO GAS CO
*WINGTON OIL COMPANY					RECEIVED: 10/20/80 JAI OM			
8103539		3416723498	108		A ANDERSON #1		3.0	RIVER GAS CO
8103548		3416723761	108		A ANDERSON #2		3.0	RIVER GAS CO
8103552		3416724066	108		A ANDERSON #3		3.0	RIVER GAS CO
8103550		3416723948	108		A M REESE #3		3.0	RIVER GAS CO
8103556		3416724213	108		A M REESE #4		3.0	RIVER GAS CO
8103559		3416724336	108		A M REESE #5		3.0	RIVER GAS CO
8103560		3416724403	108		A M REESE #6		3.0	RIVER GAS CO
8103543		3416723607	108		A REESE #1		2.0	RIVER GAS CO
8103536		3416722663	108		A SARVER #1		6.0	RIVER GAS CO
8103553		3416724039	108		A SARVER #2		6.0	RIVER GAS CO

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JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
8103344		3416723703	108	C ANDERSON #2			
8103347		3416723656	108	C ANDERSON #3		4.0	RIVER GAS CO
8103346		3416723730	108	J CARPENTER #1		4.0	RIVER GAS CO
8103336		3416724193	108	J CARPENTER #2		4.0	RIVER GAS CO
8103345		3416723712	108	L STEPHENS #1		4.0	RIVER GAS CO
8103349		3416723883	108	L STEPHENS #2		5.0	RIVER GAS CO
8103335		3416724175	108	L STEPHENS #3		5.0	RIVER GAS CO
8103342		3416723596	108	P SCHMENDEMAN #1		5.0	RIVER GAS CO
8103341		3416723926	108	P STOCKWELL #1		3.0	RIVER GAS CO
8103351		3416724055	108	P STOCKWELL #2		3.0	RIVER GAS CO
8103337		3416724244	108	P STOCKWELL #3		3.0	RIVER GAS CO
8103338		3416724262	108	P STOCKWELL #4		3.0	RIVER GAS CO
8103340		3416723697	108	R MENTHORN #1		3.0	RIVER GAS CO
						5.0	RIVER GAS CO

OKLAHOMA CORPORATION COMMISSION

=CITIES SERVICE COMPANY				RECEIVED: 10/31/80 JAS OK			
8103418	05340	3503120711	102	SOUTHERLAND A #1	N W ALEX	364.0	
=ENERGY RESERVES GROUP INC				RECEIVED: 10/31/80 JAS OK			
8103420	05963	3502920170	103	BEY #1-7	CENTRAMONA	37.0	ARKANSAS LOUISIANA G
=GRACE PETROLEUM CORPORATION				RECEIVED: 10/31/80 JAS OK			
8103419	05679	3512920247	102	TRACY 1-31	WEST CHEYENNE	63.0	EL PASO NATURAL GAS
=JORDAN OIL & GAS COMPANY				RECEIVED: 10/31/80 JAS OK			
8103427	04330	3504520738	103	HENDERSON NO 1	SOUTH WIGGINS	360.0	NORTHERN NATURAL GAS
=MORAN EXPLORATION INC				RECEIVED: 10/31/80 JAS OK			
8103422	05930	3501721318	103	WARREN #2	NORTH YUKON	0.0	PHILLIPS PETROLEUM C
8103423	05949	3501721298	103	WILLIAMS L NO 1-A	YUKON AREA	0.0	PHILLIPS PETROLEUM C
=MURPHY PRODUCTION CO.				RECEIVED: 10/31/80 JAS OK			
8103421	05951	3504320986	102	ABERCROMBIE #1-36	N W FAY	150.0	ONG WESTERN INC
=SAMSON RESOURCES COMPANY				RECEIVED: 10/31/80 JAS OK			
=8103426	05774	3512920404	102	ABRAHAM NO 1	NORTH HEYDON	1000.0	NORTHERN NATURAL GAS
8103425	05775	3507720177	102	ROGERS ET AL UNIT NO 1	RED OAK	182.5	ARKANSAS LOUISIANA G
8103424	05778	3506120319	102	SLOAN UNIT NO 1	KINTA	785.0	ARKANSAS LOUISIANA G

WEST VIRGINIA DEPARTMENT OF MINES

=CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED: 10/21/80 JAS WV			
8103399		4700501063	108	CHARLESTON NATIONAL BANK 12348	PINEVILLE A39642	20.0	GENERAL SYSTEM PURCH
8103373		4704700323	108	MCDOWELL POCAHONTAS COAL CO 10802	PINEVILLE FIELD AREA A-5	20.0	GENERAL SYSTEM PURCH
=DAMSON OIL CORPORATION				RECEIVED: 10/17/80 JAS WV			
8103429		4701500905	108	D ELK RIVER #24		20.1	EQUITABLE GAS CO
8103428		4701500972	108	D ELK RIVER #724		17.6	EQUITABLE GAS CO
=DAMSON OIL CORPORATION				RECEIVED: 10/21/80 JAS WV			
8103368		4701500936	108	ELK RIVER #102			
8103367		4701500944	108	ELK RIVER #103	HENRY	1.8	EQUITABLE GAS CO
8103371		4701500945	108	ELK RIVER #107	HENRY	1.8	EQUITABLE GAS CO
8103370		4701500947	108	ELK RIVER #108	HENRY	3.5	EQUITABLE GAS CO
8103374		4701500953	108	ELK RIVER #2	HENRY	4.7	EQUITABLE GAS CO
8103372		4701500915	108	ELK RIVER #25	HENRY	1.3	EQUITABLE GAS CO
8103363		4701501123	108	ELK RIVER #27	HENRY	2.5	EQUITABLE GAS CO
8103378		4701500957	108	ELK RIVER #4	HENRY	7.3	EQUITABLE GAS CO
8103377		4701500996	108	ELK RIVER #5	HENRY	9.5	EQUITABLE GAS CO
8103376		4701500627	108	ELK RIVER #7	HENRY	1.7	EQUITABLE GAS CO
						19.0	EQUITABLE GAS CO

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JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
8103360		4701500967	108	ELK RIVER #721	HENRY	3.2	EQUITABLE GAS CO
8103366		4701500968	108	ELK RIVER #722	HENRY	3.6	EQUITABLE GAS CO
8103367		4701500969	108	ELK RIVER #725	HENRY	11.0	EQUITABLE GAS CO
8103390		4701501136	108	ELK RIVER #726	HENRY	3.6	EQUITABLE GAS CO
8103380		4701501072	108	ELK RIVER #731	HENRY	12.0	EQUITABLE GAS CO
8103381		4701501073	108	ELK RIVER #732	HENRY	2.5	EQUITABLE GAS CO
8103382		4701501082	108	ELK RIVER #733	HENRY	2.9	EQUITABLE GAS CO
8103386		4701501083	108	ELK RIVER #734	HENRY	10.9	EQUITABLE GAS CO
8103360		4701500969	108	S R NICHOLAS #1	HENRY	2.5	EQUITABLE GAS CO
8103385		4701501105	108	WARD #1	HENRY	9.5	EQUITABLE GAS CO
8103384		4701501106	108	WARD #2	HENRY	9.1	EQUITABLE GAS CO
=FRANCIS FRIESTAD				RECEIVED: 10/21/80 JAS WV			
8103393		4701701392	108	B GUY WHITEMAIR #1	DODDRIDGE	2.3	EQUITABLE GAS CO
8103392		4708503202	108	B GUY WHITEMAIR NO 2	UNION	2.3	EQUITABLE GAS CO
8103394		4708503153	108	HARVEY SHEPLER #1	UNION	1.8	EQUITABLE GAS CO
8103391		4708503278	108	HARVEY SHEPLER #2	UNION	1.9	EQUITABLE GAS CO
=GLEN CRAMER				RECEIVED: 10/21/80 JAS WV			
8103400		4705100673	108	CAROLINE V FRANCIS #1	LOUDENSVILLE	5.7	PENNZOIL CO
=J & J ENTERPRISES INC				RECEIVED: 10/21/80 JAS WV			
8103398		4709701080	108	A M SUDER #1	UNION	0.4	COLUMBIA GAS TRANSMI
8103397		4709701024	108	A M SUDER #2	UNION	0.4	COLUMBIA GAS TRANSMI
8103395		4709103190	108	RAY MARTIN #1	UNION	2.9	COLUMBIA GAS TRANSMI
=PENNZOIL COMPANY				RECEIVED: 10/21/80 JAS WV			
8103373		4708702744	108	DAVID SIMMONS #5	SMITHFIELD	0.0	CONSOLIDATED GAS SUP
=RAVENCLIFF OIL DEVELOPMENT COMPANY				RECEIVED: 10/21/80 JAS WV			
8103374		4710902744	108	Y & O COAL CO - 79	RAVENCLIFF	3.1	COLUMBIA GAS TRANSMI
=TRIAD PETROLEUM CORP				RECEIVED: 10/21/80 JAS WV			
8103396		4700701343	108	MUMPHREYS NO 4	HEATERS	20.8	CONSOLIDATED GAS SUP

** U.S. GEOLOGICAL SURVEY - CASPER,WY

=MIDLANDS GAS CORPORATION				RECEIVED: 10/20/80 JAS MT S			
=8103442	M-107-0	2907121819	108	0332 #1 FEDERAL	BOWDOIN	22.0	KANSAS-NEBRASKA NATU
=8103441	M-105-0	2907121437	108	0351 FEDERAL #1	BOWDOIN	20.0	KANSAS-NEBRASKA NATU
=8103443	M-108-0	2907121318	108	2742 FEDERAL 2742-1	BOWDOIN	20.0	KANSAS-NEBRASKA NATU
=MIDLANDS GAS CORPORATION				RECEIVED: 10/23/80 JAS MT S			
=8103430	M 53-0	2907121579	108	8961 1-29 SOC ET AL FEDERAL	BOWDOIN	19.0	KANSAS-NEBRASKA NATU
=EXETER EXPLORATION COMPANY				RECEIVED: 10/20/80 JAS ND S			
8103454	ND 174-0	3305300931	102	FEDERAL 9-22	MON DAK	30.0	MON[illegible]-DAKOTA UTILI
=JOSEPH J C PAINE AND ASSOCIATES				RECEIVED: 10/20/80 JAS ND S			
8103446	ND-90-0	3301100271	103	FEDERAL 81-15	LITTLE MISSOURI	13.7	MONTANA DAKOTA UTILI
8103445	ND 88-0	3301100241	103	FEDERAL 82-10	LITTLE MISSOURI	19.2	MONTANA DAKOTA UTILI
8103448	ND 91-0	3301100270	103	FEDERAL 82-15	LITTLE MISSOURI	33.3	MONTANA DAKOTA UTILI
8103444	ND 84-0	3301100269	103	FEDERAL 82-6	LITTLE MISSOURI	46.7	MONTANA DAKOTA UTILI
8103450	ND-86-0	3301100265	103	FEDERAL 83-23	LITTLE MISSOURI	60.3	MONTANA DAKOTA UTILI
8103447	ND 92-0	3301100081	103	FEDERAL 84-19	LITTLE MISSOURI	14.1	MONTANA DAKOTA UTILI
8103449	ND93-0	3301100288	103	FEDERAL 84-20	LITTLE MISSOURI	25.3	MONTANA DAKOTA UTILI
=JOSEPH J C PAINE AND ASSOCIATES				RECEIVED: 10/23/80 JAS ND S			
8103437	ND83-0	3301100299	103	FEDERAL 84-8	LITTLE MISSOURI	11.9	MONTANA DAKOTA UTILI
=PENNZOIL COMPANY				RECEIVED: 10/20/80 JAS ND S			
8103451	ND 110-0	3305399016	102	PENNZOIL-DEPCO FEDERAL 617-31	MONDAK	0.0	MONTANA DAKOTA UTILI
=TERRA RESOURCES INC				RECEIVED: 10/20/80 JAS ND S			

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JD NO	JX DKT	API NO	SEC D WELL NAME	FIELD NAME	PHDU	PURCHASER
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8103453	MD-135-D	3303300864	10E FEDERAL HALL 2-12	BICENTENNIAL	68.0	
*TEXACO INC						
8103452	MD 132-D	3303300901	10E RECEIVED! 10/20/80	CHARLSON	292.0	MONTANA DAKOTA UTILI
*APACHE CORPORATION			RILURIAN UNIT 6 HO			
8103457	W 131-D	#000821539	10E RECEIVED! 10/20/80	KOBE (DAKOTA)	365.0	MONTANA-DAKOTA UTILI
*BELCO PETROLEUM CORPORATION		#000821403	10E ANDERSON-FEDERAL NO 1	KOBE (DAKOTA)	0.0	MONTANA-DAKOTA UTILI
8103456	W 130-D		10E BELCO-FEDERAL NO 1-			
*CHEVRON U S A INC		#003520668	10E RECEIVED! 10/20/80	SADDLE RIDGE	17.0	NORTHWEST PIPELINE C
8103459	W 44-D	#001801358	10E RECEIVED! 10/23/80	PAINTER RESERVOIR	130.0	NORTHERN NATURAL GAS
8103436	W 45-D	#001801138	10E PAINTER RESERVOIR	PAINTER RESERVOIR	425.0	NORTHERN NATURAL GAS
8103433	W 46-D	#001801139	10E PAINTER RESERVOIR	PAINTER RESERVOIR	1300.0	NORTHERN NATURAL GAS
8103431	W 47-D	#001801140	10E PAINTER RESERVOIR	PAINTER RESERVOIR	200.0	NORTHERN NATURAL GAS
8103432	W 85-D	#001801135	10E PAINTER RESERVOIR	PAINTER RESERVOIR	350.0	NORTHERN NATURAL GAS
8103438	W 86-D	#001801199	10E PAINTER RESERVOIR	PAINTER RESERVOIR		
*PACIFIC TRANSMISSION SUPPLY COMPANY			RECEIVED! 10/20/80			
8103460	W-169-D	#003520900	10E PTS 24-19 BEAMERS	WILDCAT	100.0	
8103450	W-168-D	#003721382	10E PTS 3-24B	WILDCAT	30.0	
*PACIFIC TRANSMISSION SUPPLY COMPANY			RECEIVED! 10/23/80			
8103628	W-80-D	#000720693	10E PTS 3-22A FEDERAL	ECHO SPRINGS	200.0	PACIFIC GAS & ELECTR
8103629	W-81-D	#000720682	10E PTS 3-26A FEDERAL	ECHO SPRINGS	1000.0	PACIFIC GAS & ELECTR
*SHELL OIL CO			RECEIVED! 10/20/80			
8103441	W 170-D	#001320857	10E UNIT 11-15	PAVILLION	320.0	MONTANA DAKOTA UTILI
8103442	W 171-D	#001320858	10E UNIT 22-15	PAVILLION	300.0	MONTANA DAKOTA UTILI
8103445	W 172-D	#001320878	10E UNIT 44-15	PAVILLION	280.0	MONTANA DAKOTA UTILI
8103444	W 173-D	#001320879	10E RECEIVED! 10/20/80	PAVILLION	850.0	MONTANA DAKOTA UTILI
*W A MONCRIEF						
8103455	W 87-D	#001320836	10E STEPPEN MILL 17-1	WILDCAT	467.0	

JTHER PURCHASERS	VOLUME NO 1515

8103626	EL PASO NATURAL GAS CO
8103441	MONTANA DAKOTA UTILITIES CO
8103442	MONTANA DAKOTA UTILITIES CO
8103445	MONTANA DAKOTA UTILITIES CO
8103574	WAVENCLIFF FUEL & SUPPLY CO
8103622	NORTHWEST P L COMP
8103623	NORTHWEST P L COMP
8103630	MONTANA DAKOTA UTILITIES CO

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchases are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the estent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 5, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36153 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 316]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: November 14, 1980.

BILLING CODE 6450-85-M

V 45 N 020 80 UMI

JD NO	JA DAT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
********** MISSISSIPPI OIL & GAS BOARD **********								
*ANR PRODUCTION CO					RECEIVED: 10/27/80 JA: MB			
8103751	86=80=9	2306520163	102		GWINVILLE GAS UNIT #203	GWINVILLE	350,0	UNITED GAS PIPELINE
*GULF OIL CORPORATION					RECEIVED: 10/27/80 JA: MB			
8103749	87=80=11	2307320201	103		J M ANDREW NO 75	BAXTERVILLE	16,0	UNITED GAS PIPE LINE
*JOSEPH F FRITZ OPERATING CO					RECEIVED: 10/27/80 JA: MB			
8103750	71=80=62	2310900000	102		NO 2 SUU MINERAL CORP NO 1=A	PISTOL RIDGE FIELD	20,0	UNITED GAS PIPE LINE
*SHELL OIL CO					RECEIVED: 10/27/80 JA: MB			
8103752	91=80=386	2312720038	107		CLARK ET AL UNIT NO 1	S M PINEY WOODS	5000,0	
********** OHIO DEPARTMENT OF NATURAL RESOURCES **********								
*APPALACHIAN EXPLORATION INC					RECEIVED: 10/27/80 JA: DH			
8103756		3401320330	107		OHIO YEARLY MTG OF FRIENDS #1	BANNESVILLE	25,0	COLUMBIA GAS TRANSMI
*ATLAS ENERGY GROUP INC					RECEIVED: 10/24/80 JA: DH			
8103711		3415521167	102		J & G JONES NO 3 #0569	FOWLER	21,0	COLUMBIA GAS TRANSMI
*BELDEN & BLAKE CO L P NO 75					RECEIVED: 10/24/80 JA: DH			
8103667		3415123277	103		C & D FENNELL COMM #1=969	TUSCARAWAS	36,5	
8103715		3415123293	103		C & M LEVENGOOD COMM #2=985	SUGAR CREEK	36,5	
8103670		3415123117	103		C MILLER COMM #1=938	TUSCARAWAS	36,5	
*BEREA OIL AND GAS CORPORATION					RECEIVED: 10/24/80 JA: DH			
8103702		3415521461	102		BAXTER #1	MECCA	15,0	COLUMBIA GAS TRANSMI
8103713		3415520800	102		GOVERNOR #1	MECCA	14,8	COLUMBIA GAS TRANSMI
8103708		3415521360	102		LEONARD UNIT #1	BROOKFIELD	1,0	COLUMBIA GAS TRANSMI
8103700		3415521468	102		TSALONIS UNIT #1	MECCA	14,5	COLUMBIA GAS TRANSMI
*BILL BLAIR INCORPORATED					RECEIVED: 10/24/80 JA: DH			
8103661		3402920778	103		- CAMPBELL #2	HOMEWORTH FIELD	20,0	COLUMBIA GAS CUMMINS
*BKK PROSPECTING LTD					RECEIVED: 10/27/80 JA: DH			
8103791		3412122330	103		RALPH & RUTH BETTINGER #2	ELK	30,0	COLUMBIA GAS TRANSMI
*BOBBY ANDERSON					RECEIVED: 10/24/80 JA: DH			
8103687		3416725509	103		CARVER #1	WARREN	0,0	COLUMBIA GAS TRANSMI
*BUCKEYE CRUDE EXPLORATION INC					RECEIVED: 10/24/80 JA: DH			
8103686		3416725534	103		OLLIE WAGNER #1	ADAMS	21,9	
8103685		3416725535	103		OLLIE WAGNER #2	ADAMS	18,3	
*BUCKEYE OIL PRODUCING CO					RECEIVED: 10/27/80 JA: DH			
8103818		3416922428	103		W & V NEUENSCHWANDER #2	SUGAR CREEK	25,0	COLUMBIA GAS TRANSMI
*C E PETERSON					RECEIVED: 10/24/80 JA: DH			
8103662		3402920569	108		C E & F B PETERSON #1		3,3	EAST OHIO GAS CO
*C M RIGGS INC					RECEIVED: 10/24/80 JA: DH			
8103638		3411121907	107		DON HARMON #1	GRAYSVILLE	22,0	
8103640		3411121905	107		EDGAR CLINE ET AL #1	GRAYSVILLE	20,8	
8103639		3411121906	107		J F MCHUGH #1	GRAYSVILLE	20,0	

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JD NO	JA DAT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8103681		3411121904	107		J F MCHUGH #2	GRAYSVILLE	23,7	
*COLUMBIA GAS TRANSMISSION CORP					RECEIVED: 10/24/80 JA: DH			
8103680		3403122232	108		TCO=TAYLOR NO 1 720190	SOUTHERN DIST STE OF OH	5,0	
*DART OIL & GAS CORPORATION					RECEIVED: 10/24/80 JA: DH			
8103648		3408923839	103		BLUE #1 (3839)	FALLSBURY	18,0	
8103647		3408923841	103		CUMMONS #1 (3841)	MADISON	18,0	
8103650		3403123951	103		FOLK #1 (3951)	PIKE	18,0	
*DON MCKEE DRILLING CO INC					RECEIVED: 10/24/80 JA: DH			
8103677		3412724651	103		L EUGENE COOPENRIDER #1	MUPPELL SEC 34	5,0	NATIONAL GAS & OIL C
*EDCO DRILLING & PRODUCING INC					RECEIVED: 10/27/80 JA: DH			
8103760		3403123783	103		2=B HAMMON (BLANCO)	BETHLEHEM	18,0	
*ENERGY DEVELOPMENT CORP					RECEIVED: 10/27/80 JA: DH			
8103756		3400721367	103		M L BEER #1	ONWELL	0,0	EAST OHIO GAS CO
*FRANK A CSAPO JR					RECEIVED: 10/27/80 JA: DH			
8103781		3410322263	103		GLEN A TISHER #1	GUILFORD	40,0	COLUMBIA GAS TRANS C
*FREDERICK E SCHOENI					RECEIVED: 10/27/80 JA: DH			
8103759		3402920567	108		FREDERICK E SCHOENI #1	FREDERICK E SCHOENI	0,0	EAST OHIO GAS CO
*GABEARCH INC					RECEIVED: 10/24/80 JA: DH			
8103696		3415521535	103		MANKINS UNIT #1	WEATHERFIELD	20,0	
8103710		3415521181	103		SCOLICK UNIT #1	WEATHERSFIELD	20,0	
*GABEARCH INC					RECEIVED: 10/27/80 JA: DH			
8103797		3415521470	102		YOUNGSTOWN AIRPORT #10	VIENNA	20,0	COLUMBIA GAS TRANSMI
8103798		3415521484	102		YOUNGSTOWN AIRPORT #12	FOWLER	20,0	COLUMBIA GAS TRANSMI
*GUERNSEY PETROLEUM CORPORATION					RECEIVED: 10/27/80 JA: DH			
8103765		3405922383	108		HASCHAR #1ME		12,0	COLUMBIA GAS TRANSMI
8103764		3405922361	108		SMERBY #1 ME		12,0	COLUMBIA GAS TRANSMI
8103763		3405921964	108		WATSON #1=MB		1,0	COLUMBIA GAS TRANSMI
*HORTIN & HUFFMAN					RECEIVED: 10/24/80 JA: DH			
8103652		3407922313	103		DEZORT #1		2,0	EAST OHIO GAS
*IROQUOIS ASSOCIATES 1980=1					RECEIVED: 10/27/80 JA: DH			
8103774		3408923809	103		#2 P WATKINS	BOWLING GREEN	20,0	COLUMBIA GAS TRANSMI
*JACK ENTERPRISES					RECEIVED: 10/27/80 JA: DH			
8103790		3412122329	107		#1 A LEASURE M=62	STUCK	200,0	COLUMBIA GAS TRANSMI
8103789		3412122320	107		#1 M I MORTON M=53	STUCK	200,0	COLUMBIA GAS TRANSMI
8103782		3411122000	107		#1 P LADYGA M=2	SWITZERLAND	200,0	COLUMBIA GAS TRANSMI
8103783		3411122001	107		#4 F O WARNER M=4	SWITZERLAND	200,0	COLUMBIA GAS TRANSMI
*JACK MORAN DRILLING CO					RECEIVED: 10/27/80 JA: DH			
8103773		3408322729	103		OWEN FLACK #1	CLAY	5,0	
*JOHN C MASON					RECEIVED: 10/27/80 JA: DH			
8103812		3410921898	108		LOUIS GRUVER #3		18,0	COLUMBIA GAS TRANS C
*L & M PETROLEUM					RECEIVED: 10/24/80 JA: DH			
8103688		3416725242	103		ELWOOD J MUFFERT #1	ADAMS	12,8	GAS TRANSPORT INC
*L & M PETROLEUM					RECEIVED: 10/27/80 JA: DH			
8103809		3416725810	107		ERNEST MADISON UNIT #1	FEARING	12,8	COLUMBIA GAS TRANSMI
8103808		3416725023	107		HARVEY MCCAIN #1	LAWRENCE	12,8	COLUMBIA GAS TRANSMI
8103807		3416725209	107		JESSIE ROOKS #1	FEARING	12,8	COLUMBIA GAS TRANSMI
8103802		3416724977	107		KERMIT LANE #2	NEWPORT	12,8	COLUMBIA GAS TRANSMI
8103806		3416725153	107		LLOYD LANKFORD #3	NEWPORT	12,8	COLUMBIA GAS TRANSMI
8103794		3412724687	103		MARIE SNYDER #3	CLAYTON	7,0	PORAKER GAS CO INC
8103808		3416725400	107		PALMER DENNIS #1	LAWRENCE	12,8	COLUMBIA GAS TRANSMI
8103803		3416725019	107		RICHARD MANTLINE #1	FEARING	12,8	COLUMBIA GAS TRANSMI
8103800		3416724979	107		ROBERT BARTH #2	NEWPORT	12,8	COLUMBIA GAS TRANSMI

UMI 8080 0202 5454

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
*LAKE REGION OIL INC					RECEIVED: 10/27/80 JA: OH			
8103769		3407522422	103		RALPH & GEORGE STRAITS #3	*KILLBUCK	10.0	COLUMBIA GAS TRANSMI
*LEADER EQUITIES INC					RECEIVED: 10/24/80 JA: OH			
8103680		3411924972	103		ROBIN JANE MILSTEAD #1	CAMB	12.0	
*LEADER EQUITIES INC					RECEIVED: 10/27/80 JA: OH			
8103785		3411925221	103		GERALD FUSTER #1	ADAMS	17.0	
*LEO R EMMERT					RECEIVED: 10/24/80 JA: OH			
8103675		3412724796	103		MILLER #1	CLAYTON 18	10.0	
*LIBERTY OIL & GAS CORP					RECEIVED: 10/24/80 JA: OH			
8103663		3400922055	103		DONALD DAY #1	CANTHAGE	18.0	COLUMBIA GAS TRANSMI
*LIBERTY OIL&GAS CORP					RECEIVED: 10/24/80 JA: OH			
8103643		3410521959	103		GRANT NEWLAND #1	OLIVE	18.0	COLUMBIA GAS TRANSMI
8103645		3410521957	103		HARLEY E RICE #1	OLIVE SEC 30	18.0	COLUMBIA GAS TRANSMI
8103642		3410521960	103		PAUL E BROOKS #1	OLIVE	18.0	COLUMBIA GAS TRANSMI
8103644		3410521958	103		RICHARD SPENCER #1	OLIVE	18.0	COLUMBIA GAS TRANSMI
*MAURICE SCHMELZER					RECEIVED: 10/24/80 JA: OH			
8103678		3412724594	103		STERLING #1	JACKSON 31	0.0	NATIONAL GAS & OIL C
*MERIDIAN OIL & GAS ENT INC					RECEIVED: 10/24/80 JA: OH			
8103665		3400720830	103		CLIFFORD M STANLEY #1	DORSET	1.0	JONES & LAUGHLIN STE
*MORGAN*PENNINGTON INC					RECEIVED: 10/27/80 JA: OH			
8103772		3407522705	103		DRUSHAL NU 1	KNOX	6.0	COLUMBIA GAS TRANSMI
8103762		3403123912	103		JAMLAN INC NO 1	MONROE	7.5	COLUMBIA GAS TRANSMI
*M L ALTIER JR					RECEIVED: 10/27/80 JA: OH			
8103793		3412723539	108		CLINE TREADWAY #1		0.7	COLUMBIA GAS TRANSMI
*NEW FRONTIER EXPLORATION INC					RECEIVED: 10/24/80 JA: OH			
8103653		3405922759	103		FRED UMSTOTT #1	LIBERTY 6	38.0	
8103714		3415123204	103		JOSEPH MANNUN #1	PIKE	28.0	
*NEW FRONTIER EXPLORATION INC					RECEIVED: 10/27/80 JA: OH			
8103768		3405922760	103		FRED UMSTUTT #2	LIBERTY	35.0	
*OHIO OIL & GAS CO					RECEIVED: 10/24/80 JA: OH			
8103697		3415521506	102		ANDERSON #1	FOWLER	20.0	COLUMBIA GAS TRANSMI
8103707		3415521394	102		CHAPPELL #1	FOWLER	20.0	COLUMBIA GAS TRANSMI
8103703		3415521469	102		CLELAND #3	FOWLER	25.0	COLUMBIA GAS TRANSMI
8103706		3415521398	102		DAUM #1	FOWLER	20.0	COLUMBIA GAS TRANSMI
8103692		3415521565	102		DUFF #1	FOWLER	20.0	COLUMBIA GAS TRANSMI
8103701		3415521464	102		MOZA #1	FOWLER	20.0	COLUMBIA GAS TRANSMI
8103691		3415521458	102		LENNINGTON #1	JOHNSTON	20.0	COLUMBIA GAS TRANSMI
8103709		3415521519	102		HANSER #1	FOWLER	20.0	COLUMBIA GAS TRANSMI
8103699		3415521473	102		MIZICKU #1	VIENNA	20.0	COLUMBIA GAS TRANSMI
8103698		3415521474	102		MIZICKU #2	VIENNA	20.0	COLUMBIA GAS TRANSMI
8103696		3415521514	102		MT SAVAGE #1	FOWLER	20.0	COLUMBIA GAS TRANSMI
8103693		3415521548	102		PERIBA #1	FOWLER	20.0	COLUMBIA GAS TRANSMI
8103705		3415521400	102		ROCK #1	FOWLER	20.0	COLUMBIA GAS TRANSMI
8103704		3415521439	102		BIGLER #2	FOWLER	25.0	COLUMBIA GAS TRANSMI
8103695		3415521530	102		STEIN #2	FOWLER	20.0	COLUMBIA GAS TRANSMI
8103712		3415521100	102		WOOD #1	FOWLER	20.0	COLUMBIA GAS TRANSMI
*ORION ENERGY CORP					RECEIVED: 10/24/80 JA: OH			
8103689		3415723497	103		D FANFUSSEN #2	FRANKLIN SEC 20	20.0	
8103682		3411522090	103		DOAK UNIT #1	WINDSOR	25.0	
8103674		3413322294	103		FORDNEY UNIT #1	ATWATER	10.0	
8103673		3413322295	103		FORDNEY UNIT #2	ATWATER	10.0	
8103690		3415723494	103		SCHWARTZ #1	YORK	16.0	

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8103666		3411521940	102		STRAHLER #2	*WINDSOR	40.0	
*PAGE P BLAKEMORE					RECEIVED: 10/27/80 JA: OH			
8103805		3416725109	103		BLANEY LUMBER NO 1	GRANDVIEW	14.5	
*PATRICK T DONNELLY DBA LANDPROVEST					RECEIVED: 10/27/80 JA: OH			
8103767		3405927580	103		C HELLMAN #1=80	CAMBRIDGE	25.0	
8103788		3411925381	103		WARDEN WEST #wn4	PERRY TOWNSHIP	29.0	
*PENN=OHIO ENERGY CORP					RECEIVED: 10/24/80 JA: OH			
8103651		3407502458	103		ROY O & LIZZIE R REIM #1	MECHANIC	65.0	COLUMBIA GAS TRANSMI
*PENN=OHIO ENERGY CORP					RECEIVED: 10/27/80 JA: OH			
8103771		3407522697	103		JOHN M MILLER #1	MECHANIC	0.0	COLUMBIA GAS TRANSMI
*PETROLEUM ENERGY PRODUCING CORP					RECEIVED: 10/27/80 JA: OH			
8103753		3400720373	108		J POUTIU #1	LENOX	2.0	EAST OHIO GAS CO
*PETROLEUM SECURITIES FUND 79					RECEIVED: 10/27/80 JA: OH			
8103813		3416922294	103		GEIBER #6	WAYNE	24.0	COLUMBIA GAS TRANS C
8103814		3416922296	105		LESTER GEIBER #6	WAYNE	24.0	COLUMBIA GAS TRANS C
*POI ENERGY INC					RECEIVED: 10/24/80 JA: OH			
8103664		3400721210	103		STRINGFELLOW #6	NEW LYME	18.0	
*POMINEX INC					RECEIVED: 10/27/80 JA: OH			
8103776		3409921001	103		AUGUST C & ELSIE A RIGAS #2	CANFIELD PROSPECT	20.0	REPUBLIC STEEL CORP
8103777		3409921002	103		AUGUSTA C & E A RIGAS #1	CANFIELD	20.0	REPUBLIC STEEL CORP
8103778		3409921038	103		RAYMOND K & N P ANDERSON #1	CANFIELD PROSPECT	20.0	REPUBLIC STEEL CORP
8103779		3409921040	103		RAYMOND K & N P ANDERSON #2	CANFIELD PROSPECT	20.0	REPUBLIC STEEL CORP
8103780		3409921227	103		ROBERT C & G K MUFF #1	CANFIELD PROSPECT	20.0	REPUBLIC STEEL CORP
*PONDEROSA OIL COMPANY					RECEIVED: 10/27/80 JA: OH			
8103816		3416922398	103		ELVINA GEMBER UNIT #1	SUGAR CREEK	13.0	COLUMBIA GAS TRANSMI
8103817		3416922399	103		PAUL & BERTHA STEINER #1	SUGAR CREEK	0.0	COLUMBIA GAS TRANSMI
8103815		3416922359	103		SAMUEL STEINER #1	SUGAR CREEK	11.0	COLUMBIA GAS TRANSMI
*QUADRANT EXPLORATION					RECEIVED: 10/27/80 JA: OH			
8103801		3416724771	105		CHARLES & JENNIE BOWERSOCK #3	LAWRENCE	5.0	
*QUAKER STATE OIL REFINING CORP					RECEIVED: 10/24/80 JA: OH			
8103676		3412724720	103		W & G WHITE #1	PIKE	7.3	COLUMBIA GAS TRANSMI
*QUAKER STATE OIL REFINING CORP					RECEIVED: 10/27/80 JA: OH			
8103757		3400921977	103		R M JONES #1	TRIMBLE	109.5	COLUMBIA GAS TRANSMI
*R D MILLER					RECEIVED: 10/27/80 JA: OH			
8103787		3411925286	103		RUTH ANDREY #1	JACKSON	6.0	NATIONAL GAS & OIL C
*RALPH M HAMBLIN					RECEIVED: 10/27/80 JA: OH			
8103786		3411925269	103		MIDWEST EXPL INC #1 ARNOLD	WAYNE	10.0	NATIONAL GAS CO
*RELIANCE ENERGY					RECEIVED: 10/24/80 JA: OH			
8103654		3404520628	103		ROBERT HOPE #1	RICHLAND	10.0	COLUMBIA GAS TRANSMI
*RELIANCE MANAGEMENT EQ					RECEIVED: 10/24/80 JA: OH			
8103655		3404520585	108		A LOVE = F MITE #1		15.0	COLUMBIA GAS TRANSMI
*RESOURCE EXPLORATION INC					RECEIVED: 10/27/80 JA: OH			
8103799		3415721498	108		BALDWIN #1	NEWPORT	3.0	AMERICAN ENERGY CORP
*RICHARD C POLING					RECEIVED: 10/27/80 JA: OH			
8103792		3412723416	103		BUSSE #1	HOPE=ELL	10.0	
8103795		3412724772	103		MORRIS=WILSON #1	MADISON	5.0	
8103775		3406923680	103		SATTERFIELD #1	PERRY	100.0	
*RICHARD J SHAW					RECEIVED: 10/24/80 JA: OH			
8103672		3413322315	103		HURM #1	AURORA	20.0	EAST OHIO GAS CO
*RIMCO OPERATING INC					RECEIVED: 10/27/80 JA: OH			
8103811		3416921826	103		THOMAS MYKKANTZ #1	PLAIN	12.0	COLUMBIA GAS
*SANDMILL ENERGY CO					RECEIVED: 10/27/80 JA: OH			

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JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
8103810		3416725617	103	CLYDE & EDITH GUTWEILET #1	LAWRENCE	350,0	
				RECEIVED: 10/27/80 JA: OH			
*SHELTER FUNDS INC							
8103754		3400720383	108	DIMITRUFF #1		7,0	GASDIL INC
8103755		3400720384	108	DIMITRUFF #2		7,0	GASDIL INC
*SKY PETROLEUM CORP				RECEIVED: 10/28/80 JA: OH			
8103657		3403123701	103	SHAM SHAM & PATEL INVEST CORP #2	BEDFORD SEC 25	30,0	
8103658		3403123700	103	SHAM SHAM & PATEL INVEST CORP #1	BEDFORD 25	30,0	
*THE OXFORD OIL CO				RECEIVED: 10/28/80 JA: OH			
8103683		3611522074	103	KENNETH PUNTRN #6	DEERFIELD	10,0	
8103681		3611522094	103	ROBERT SMITH #1	DEERFIELD	10,0	
8103684		3611522061	103	[illegible] #1	DEERFIELD	10,0	
8103659		3403123680	103	[illegible] #1	JEFFERSON	12,0	
*THE OXFORD OIL CO				[illegible] 10/27/80 JA: OH			
8103761		3403123919	107	[illegible] CITY DOG CLUB #1			
8103788		3611928[illegible]		[illegible] #2	UNION	10,0	
*THOMAS W GEORGE				RECEIVED: 10/28/80 JA: OH		10,0	
8103679		3611[illegible]		[illegible] NUVARIA #1	BUSHCREEK	10,0	
*TOWER ENERGY CORP				RECEIVED: 10/27/80 JA: OH			
8103706				[illegible] ELLIOTT #1	NEWTON	0,0	
*TONNER PETROLEUM				RECEIVED: 10/27/80 JA: OH			
8103766		3405922445	108	SHOWALTER #2 PB=61		13,0	JONES & LAUGHLIN BTE
*TWINOAKS OIL & GAS				RECEIVED: 10/28/80 JA: OH			
8103649		3408321013	108	HAROLD W SMITH #1		5,0	COLUMBIA GAS TRANSMI
*VIKING RESOURCES CORP				RECEIVED: 10/28/80 JA: OH			
8103699		3415123269	103	BRYAN #2	PARIS	30,0	
8103671		3415122899	103	CALHOUN-CUNNINGHAM UNIT #2	PARIS	30,0	
8103668		3415123270	103	BLAGLE #2	PARIS	30,0	
*WILLIAM F MILL				RECEIVED: 10/28/80 JA: OH			
8103650		3607522556	103	FERNENDO MATA #1	KNOX	9,0	
*WILLIAM F MILL				RECEIVED: 10/27/80 JA: OH			
8103770		3607522681	103	R & M HAMILTON #1		8,0	
*WOA INC & WELLENCO INC				RECEIVED: 10/28/80 JA: OH			
8103666		3610322270	103	LEATHERMAN #2	GRANGER	28,0	

VIRGINIA DEPARTMENT OF LABOR & INDUSTRY

*PHILADELPHIA OIL COMPANY				RECEIVED: 10/30/80 JA: VA			
8103856		4519520317	103	P-#1 J A ODLE	NORA	109,6	KENTUCKY WEST VIRGIN
8103858		4519520319	103	P-#2-J A ODLE	NORA	232,7	KENTUCKY WEST VIRGIN
8103860		4519520320	103	P-#3-J A ODLE	NORA	175,9	KENTUCKY WEST VIRGIN
8103861		4519520321	103	P-#4-J A ODLE	NORA	284,3	KENTUCKY WEST VIRGIN

WEST VIRGINIA DEPARTMENT OF MINES

*APOLLO PETROLEUM CORP				RECEIVED: 10/27/80 JA: WV			
8103738		4708504572	108	MATHEW BOWDEN #350	MURPHY	2,2	CONSOLIDATED GAS SUP
*CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED: 10/27/80 JA: WV			
8103736		4703301021	108	FAIRMONT CUAL CO 11071	WEST VIRGINIA OTHER A=85	0,7	GENERAL SYSTEM PURCH
*DAMSON OIL CORPORATION				RECEIVED: 10/27/80 JA: WV			
8103733		4701500868	108	ELK RIVER #12-A	HENRY	1,7	EQUITABLE GAS CO
8103732		4701500758	108	ELK RIVER #15	HENRY	1,7	EQUITABLE GAS CO
8103731		4701500778	108	ELK RIVER #16	HENRY	14,9	EQUITABLE GAS CO

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JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
8103722		4701500858	108	ELK RIVER #18	HENRY	1,7	EQUITABLE GAS CO
8103730		4701500821	108	ELK RIVER #20	HENRY	1,7	EQUITABLE GAS CO
8103728		4701500886	108	ELK RIVER #22	HENRY	20,2	EQUITABLE GAS CO
8103727		4701500902	108	ELK RIVER #23	HENRY	15,7	EQUITABLE GAS CO
8103735		4701500628	108	ELK RIVER #6	HENRY	11,0	EQUITABLE GAS CO
8103734		4701500651	108	MACKNEY #1	HENRY	11,0	EQUITABLE GAS CO
8103729		4701500885	108	J W EMERY #2	BUFFALO	9,8	EQUITABLE GAS CO
*EDWARD C BINE				RECEIVED: 10/27/80 JA: WV			
8103741		4704900236	108	HOWARD RICE NO 1	MANNINGTON DIST	0,5	PENNZOIL CO
*EUGENE A MAPLE				RECEIVED: 10/27/80 JA: WV			
8103739		4708521972	108	GOFF #1	GOFF #1	0,9	CARNEGIE NATURAL GAS
8103740		4708523149	108	GOFF #2	GOFF #2	1,0	CARNEGIE GAS CO
*FORT COLLINS CONSOL ROY INC				RECEIVED: 09/18/80 JA: WV			
8099222		4704700303	108	JESSE VIARS #1	SANDY RIVER	1,9	CONSOLIDATED GAS SUP
*GULF OIL CORPORATION				RECEIVED: 10/27/80 JA: WV			
8103743		4702100149	108	HANDMAN #3	TANNER	1,8	PENNZOIL CO
*KEY OIL COMPANY				RECEIVED: 10/27/80 JA: WV			
8103719		4701702289	107	CLAUDE F SMITH #1	W UNION	4,1	COLUMBIA GAS TRANSMI
8103721		4701702283	107	J W MANKEY #1	W UNION	14,6	COLUMBIA GAS TRANSMI
8103720		4701702284	107	J W MANKEY #2	W UNION	14,6	COLUMBIA GAS TRANSMI
*MCINTOSH AND GRIMM				RECEIVED: 10/27/80 JA: WV			
8103744		4701303055	108	J I MCCUY NO 2	LEE	3,5	CONSOLIDATED GAS SUP
8103748		4701303053	108	W M SLIDER NO 1	LEE	6,5	CONSOLIDATED GAS SUP
8103745		4701303052	108	W M SLIDEN NO 3	LEE	6,5	CONSOLIDATED GAS SUP
*NASHVILLE ASSOCIATES INC				RECEIVED: 10/27/80 JA: WV			
8103742		4700701015	108	COCHRAN MURPHY NO 1	SALT LICK	11,1	CONSOLIDATED GAS SUP
*PALMER MILL				RECEIVED: 10/27/80 JA: WV			
8103746		4708504903	108	R B PRATT #1	HARRISVILLE AREA	3,9	CONSUMERS GAS UTILIT
*RESERVE OIL INC				RECEIVED: 10/27/80 JA: WV			
8103724		4702102285	108	MAYES #1	GLENVILLE SOUTH	9,0	EQUITABLE GAS CO
8103723		4702102426	108	WACO #2	GLENVILLE SOUTH	7,0	CARNEGIE NATURAL GAS
8103747		4702102427	108	WACO #3	GLENVILLE SOUTH	4,0	CARNEGIE NATURAL GAS
*ROY G MILDRETH				RECEIVED: 10/27/80 JA: WV			
8103726		4701501758	108	MARY D HANDMAN #2	HALLBACK	2,6	PENNZOIL CO
*ROY G MILDRETH ET AL				RECEIVED: 10/27/80 JA: WV			
8103725		4701300401	108	SLIDER GAS CO #2	LEE DISTRICT	0,6	CONSOLIDATED GAS SUP
*WASHINGTON NAT GAS CO				RECEIVED: 10/27/80 JA: WV			
8103737		4709700617	108	QUEEN #3	BUCKHANNON	0,5	CONSOLIDATED GAS SUP

** U.S. GEOLOGICAL SURVEY - DENVER, CO

*ARCO OIL AND GAS COMPANY				RECEIVED: 10/28/80 JA: CO 1			
8103822	COD=0004=80	0506706320	103	HERRERA #2	IGNACIO BLANCO (MV)	113,0	NORTHWEST PIPELINE C
*8103824	COA=939=80	0506706241	103	SOUTHERN UTE 1=4 32=9	IGNACIO BLANCO	618,0	EL PASO NATURAL GAS
8103821	COD=0803=80	0506707267	103	SOUTHERN UTE 26=1 32=9	IGNACIO BLANCO	91,0	WESTERN SLOPE GAS CO
8103823	COA 983 80	0506.06316	103	SOUTHERN UTE 23=2 33=10	IGNACIO BLANCO	333,0	NORTHWEST PIPELINE C
*GETTY OIL COMPANY				RECEIVED: 10/28/80 JA: CO 1			
8103827	COD=0802=80A	0506706276	103	UTE E NO 2 (MV)	BLANCO IGNACIO MESAVERDE	100,0	NORTHWEST PIPELINE C
8103826	COD=0802=80A	0506706276	103	UTE E NO 2 (PC)	BLANCO IGNACIO PC	50,0	NORTHWEST PIPELINE C
*LADD PETROLEUM CORPORATION				RECEIVED: 10/28/80 JA: CO 1			
8103828	COA=951=80	0506706280	103	ANIMAS #2=1	IGNACIO-BLANCO	508,0	NORTHWEST PIPE LINE
*NORTHWEST PIPELINE CORPORATION				RECEIVED: 10/28/80 JA: CO 1			
8103825	COA 3298=79	0506705145	108	NWCM 32=10 #14	IGNACIO BLANCO	11,0	NORTHWEST PIPELINE C

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JD NO	JA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
=NEXPRO COMPANY			RECEIVED: 10/28/80 JA: UT 1			
8103819	UA=1113=80	4303738563 102	MAY NO 2 BUG			
8103820	UA=0748=80	4303736510 102	PATTERSON UNIT 1	=ILDCAT	0,0	
				=ILDCAT	225,0	

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** U.S. GEOLOGICAL SURVEY = METAIRIE,LA

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=AMOCO PRODUCTION CO			RECEIVED: 10/20/80 JA: LA 3			
=8103839	G0=1563	1770240405 102	OCS=G=2231 NO A=58	WEST CAMERON 605	500,0	COLUMBIA GAS TRANSMI
=CHEVRON U S A INC			RECEIVED: 10/20/80 JA: LA 3			
8103834	G0=1490	1770440308 102	OCS=G=3136 #A=3	VERMILION 276	39,1	COLUMBIA GAS TRANSMI
8103832	G0=1486	1770440211 102	OCS=G=3137 #A=1	VERMILION 287	112,0	COLUMBIA GAS TRANSMI
8103833	G0 1488	1770440267 102	OCS=G=3137 #A=2=D	VERMILION 287	60,0	COLUMBIA GAS TRANSMI
8103835	G0 1491	1770440307 102	OCS=G=3137 #A=4	VERMILION 287	85,1	COLUMBIA GAS TRANSMI
=CNG PRODUCING COMPANY			RECEIVED: 10/20/80 JA: LA 3			
=8103852	G0 1637	1771240209 102	F=681	SHIP SHOAL 247	1168,0	CONSOLIDATED GAS SUP
=8103841	G0=1610	1771240221 102	F=681	SHIP SHOAL 247	1460,0	CONSOLIDATED GAS SUP
=CONOCO INC			RECEIVED: 10/20/80 JA: LA 3			
8103844	G0=1620	1770440382 102	=EST CAMERON 34 D=2	=EST CAMERON 34	1200,0	TENNESSEE GAS PIPELI
8103846	G0=1622	1770440429 102	=EST CAMERON 34 D=7	=EST CAMERON 34	650,0	TENNESSEE GAS PIPELI
8103845	G0=1621	1770440407 102	=EST CAMERON 67 D=6	=EST CAMERON 67	1700,0	TENNESSEE GAS PIPELI
=MOBIL OIL EXPLORATION & PROD S E			RECEIVED: 10/20/80 JA: LA 3			
8103848	G0=1630	1771040849 102	EUGENE ISLAND 354 #A=1A	EUGENE ISLAND 354	200,0	SEA ROBIN PIPELINE C
8103849	G0=1631	1771040849 102	EUGENE ISLAND 354 #A=1B/	EUGENE ISLAND 354	322,0	SEA ROBIN PIPELINE C
=OCEAN PRODUCTION CO			RECEIVED: 10/20/80 JA: LA 3			
8103842	G0=1614	1770940379 107	OCS=G 2893 NO 2A	EUGENE ISLAND 28	6900,0	MICHIGAN=WISCONSIN P
=SHELL OIL CO			RECEIVED: 10/20/80 JA: LA 3			
8103851	G0=1636	1770840173 102	OCS=G 2280 C=11	S MARSH IS 130	18,0	TRANSCONTINENTAL GAS
8103850	G0=1635	1770840348 102	OCS=G 2280 NO C=36	S MARSH IS 130	0,0	TRANSCONTINENTAL GAS
=TENNECO OIL COMPANY			RECEIVED: 10/20/80 JA: LA 3			
8103831	G0=1385	1770240547 102	OCS G=2266 #B=3	EAST CAMERON 370	3000,0	COLUMBIA GULF TRANSM
8103840	G0=1587	1771140312 102	SHIP SHOAL 198 W=9	SHIP SHOAL 198	900,0	TENNESSEE GAS PIPELI
8103829	G0=1358	1770540350 102	VERMILION 245 E=8	VERMILION 245	4320,0	TENNESSEE GAS PIPELI
=THE SUPERIOR OIL COMPANY			RECEIVED: 10/20/80 JA: LA 3			
8103830	G0=1382	1770940348 102	OCS 0797 NO F=1	EUGENE ISLAND 105	1825,0	TRANSCONTINENTAL GAS
=TRANSCU EXPLORATION COMPANY			RECEIVED: 10/20/80 JA: LA 3			
8103857	G0=1652	1770840439 102	A=12	S MARSH IS 114	275,0	TRANSCONTINENTAL GAS
=AMOCO PRODUCTION CO			RECEIVED: 10/29/80 JA: TX 3			
8103836	G0=1532	4270940401 102	OCS=G=2689 NO A=1	HIGH ISLAND 469	1542,0	MICHIGAN WISCONSIN P
8103837	G0=1533	4270940501 102	OCS=G=2689 NO A=5	HIGH ISLAND 469	608,0	MICHIGAN WISCONSIN P
8103838	G0=1535	4270940484 102	OCS=G=2689 NO A=8D	HIGH ISLAND 469	364,0	MICHIGAN WISCONSIN P
=EXXON CORPORATION			RECEIVED: 10/29/80 JA: TX 3			
8103843	G0=1617	4270840083 102	OCS=G 3237 NO A=4	HIGH ISLAND 193	4000,0	TRANSCONTINENTAL GAS
=TRANSCO EXPLORATION COMPANY			RECEIVED: 10/29/80 JA: TX 3			
8103847	G0=1625	4270940489 102	A=4	HIGH IS A=492	1500,0	TRANSCONTINENTAL GAS
=UNION OIL COMPANY OF CALIF			RECEIVED: 10/29/80 JA: TX 3			
8103853	G0=1642	4271140330 102	A=1	EAST HIGH IS A=285	1278,0	
8103855	G0 1644	4271140346 102	A=2	EAST HIGH IS A=285	5475,0	
8103854	G0 1643	4271140436 102	A=3	EAST HIGH IS A=285	5475,0	
8103856	G0=1646	4271140447 102	A=5	EAST HIGH IS A=285	5475,0	

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** BUREAU OF INDIAN AFFAIRS, OSAGE AGENCY, PAWHUSKA,OK

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=RESERVE ENERGY CORP		RECEIVED: 10/27/80 JA: OK 8	

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JD NO	JA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
8103716		3511300000 103	JONES NO 1=30	NORTHEAST BIGHORSE	20,0	CITIES SERVICE GAS C
8103717		3511300000 103	NESS NO 2=30	NORTHEAST BIGHORSE	5,0	CITIES SERVICE GAS C
=V N OIL CO			RECEIVED: 10/27/80 JA: OK 8			
8103716		3511300000 103	PHARDAM 3=A	QUAPAW	80,0	CITIES SERVICE GAS C

OTHER PURCHASERS VOLUME NO 1316

8103824	NORTHWEST P L CO
8103839	FLORIDA GAS TRANSMISSION CO
8103841	COLUMBIA GAS TRANSMISSION CORP
8103852	COLUMBIA GAS TRANSMISSION CORP

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative production (PROD) is in million cubic feet (MMcf). An (*) preceeding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, North Capitol Street, N.E., Washington, D.C. 20426..

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 5, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36154 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 317]

Determinations By Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: November 14, 1980.

BILLING CODE 6450-85-M

JD NU	JA DKT	API NU	SEC U WELL NAME	FIELD NAME	PROD	PURCHASER
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS						
*EL PASO NATURAL GAS COMPANY			RECEIVED: 10/23/80			
*0103895		3003906838	106 RINCON UNIT #25	SOUTH BLANCO=PICTURED CL	21.0	EL PASO NATURAL GAS
*0103896		3003920487	106 SAN JUAN UNIT #135	TAPACITO=PICTURED CLIFFS	21.0	EL PASO NATURAL GAS
OKLAHOMA CORPORATION COMMISSION						
*CHINOOK PIPELINE CO INC			RECEIVED: 10/31/80			
*0103934	01307	3501721207	103 MILTON BMEDECK #1	WEST YUKON	140.0	PHILLIPS PETROLEUM C
*GIG EXPLORATION INC			RECEIVED: 10/31/80			
*0103971	05803	3500020265	102 CLINE A #1	RED HILLS	791.0	COLORADO INTERSTATE
*CITIES SERVICE COMPANY			RECEIVED: 10/31/80			
*0103950	01307	3511302102	102 CLINE A #1	BE EVA	91.3	
*0103948	03908	3505130776	102 COX C #1	N M ALEX	400.0	
*0103949	03728	3505 [illegible]	102 POLK A-1	N M ALEX	365.0	
*0103952	03577	3 [illegible]	102 THURSTON A-1	S M ALEX	365.0	
*DEVON CORPORATION			RECEIVED: 10/31/80			
*0103965	03709	3501120900	103 FRED FACTORY #1	N M HATONDA	365.0	ARKANSAS LOUISIANA G
*EEC OIL CO			RECEIVED: 10/31/80			
*0103967	05962	3516721032	103 GREENWOOD #1-22 SW	OGLESBY GAS FIELD	180.7	OKAN GAS CO
*ALLEN PETROLEUM COMPANY			RECEIVED: 10/31/80			
*0103962	05815	3500721749	102 CATES NO 1	MILDCAT (SOUTH BALKO)	120.0	TRANSWESTERN PIPELIN
*0103961	05816	3500721732	102 CLENNEY A NO 1	MILDCAT (SOUTH BALKO)	120.0	TRANSWESTERN PIPELIN
*JET OIL COMPANY			RECEIVED: 10/31/80			
*0103968	05901	3500700000	103 BENNETT #1	N ELKHORN	84.0	AMINOIL USA INC
*0103969	05906	3500721902	103 BRANNON #1	N ELKHORN	0.0	AMINOIL USA INC
*0103963	05760	3500721904	103 CARTER #1	N ELKHORN	0.0	AMINOIL USA INC
*0103964	05760	3500722955	103 HOUSTON #1	N ELKHORN	200.0	EASON OIL CO
*0103966	05957	3500721904	103 TORTI #2	N NINGWOOD	20.0	AMINOIL USA INC
*0103960	05955	3500320644	103 TUCKLE #1	BRECKENRIDGE	50.0	CHAMPLIN PETROLEUM C
*0103954	05959	3500721071	103 VOGT #1	BOUNER TREND	50.0	CHAMPLIN PETROLEUM C
*KENT PHILLIPS EXPLORATION LTD			RECEIVED: 10/31/80			
*0103958	00020	3501721323	103 KOUBA #1-33	RICHLAND	120.0	CONOCO INC
*L G WILLIAMS OIL COMPANY INC			RECEIVED: 10/31/80			
*0103970	05915	3504320983	102 FERRELL #-1	PUTNAM	0.0	PHILLIPS PETROLEUM C
*0103969	05916	3504320983	102 GRAYBILL 9-1	PUTNAM	0.0	PHILLIPS PETROLEUM C
*MAY PETROLEUM INC			RECEIVED: 10/31/80			
*0103962	05948	3504520784	103 CHARLEY WILSON #1	S M ARNETT (MORROW)	907.0	PRODUCERS GAS CO
*0103960	06032	3501121026	103 DAMON #1 (OTC UNA	HATONDA TREND	365.0	DELPI GAS PIPELINE C
*MUSTANG PRODUCTION CO.			RECEIVED: 10/31/80			

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JD NO	JA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
8103983	05973	3501120815 103	WHACK #1-7	E FAY	80,0	OKLAHOMA GAS & ELECT
*NFC PETROLEUM CORP			RECEIVED: 10/31/80 JA: OK			
8103953	06031	3501721223 103	CUSTER 1-13	RICHLAND	200,0	CONTINENTAL OIL CO
8103959	06030	3501721063 103	NATIONAL LIVESTUCK COMM 1-13	RICHLAND	160,0	CONTINENTAL OIL CO
*NORTHWESTERN PRODUCTION INC			RECEIVED: 10/31/80 JA: OK			
8103973	05841	3507322246 103	SHANER 20 NO 1	SOUNER TREND	0,0	PHILLIPS PETROLEUM C
*P F BEELER			RECEIVED: 10/31/80 JA: OK			
8103972	05862	3500721750 102	BARBY #121	SEC 21-4N-26ECM	200,0	PANHANDLE EASTERN PI
*PAT III LTD			RECEIVED: 10/31/80 JA: OK			
8103946	04911	3504721915 103	MANKER #14-1	SOUNER TREND	146,0	WELLHEAD ENTERPRISES
*PERRY OIL CO			RECEIVED: 10/31/80 JA: OK			
8103975	06009	3504721398 103	RODENBERG #1	SOUNER TREND	72,0	OKLAHOMA GAS & ELECT
*PETROLEUM RESOURCES CO			RECEIVED: 10/31/80 JA: OK			
8103967	03667	3500300000 102	#1 MERRINGTON	SW CHEMOKEE	292,0	AMINOIL USA INC
8103968	03664	3500320552 102	#1 MABLE STEIN ESTATE	SW CHEMOKEE	225,0	AMINOIL USA INC
*PHILLIPS PETROLEUM COMPANY			RECEIVED: 10/31/80 JA: OK			
8103993	00387	3513900000 108	MELISSA NU 2	SOUTH GUYMON MORROW	8,6	PANHANDLE EASTERN PI
*RAINEY OIL CO			RECEIVED: 10/31/80 JA: OK			
8103951	05319	3510320912 103	BRADY - DEVORE #1	POLO	72,0	ARCO OIL & GAS CO
*RESOURCES INVESTMENT CORPORATION			RECEIVED: 10/31/80 JA: OK			
8103958	06023	3505900000 105	HAYES #1	LOVEDALE	160,0	MICHIGAN WISCONSIN P
*ROGA OIL CORP			RECEIVED: 10/31/80 JA: OK			
8103957	06024	3506300000 108	CRAWFORD #1 063-03225	GREASY CREEK	3,9	TRANSOK PIPE LINE CO
8103954	06027	3506300000 108	DIAMOND-VIERSEN #2 063-43054	GREASY CREEK	13,7	TRANSOK PIPE LINE CO
8103955	06025	3506300000 108	HULSMAN #1 063-24887	GREASY CREEK	11,0	TRANSOK PIPE LINE CO
8103956	06026	3506300000 108	HULSMAN #2 063-24887	GREASY CREEK	9,8	TRANSOK PIPE LINE CO
*SAMSON RESOURCES COMPANY			RECEIVED: 10/31/80 JA: OK			
8103974	05769	3507920340 103	EMMDARDT UNIT NO 1	SOUTH BOKOSHE	180,0	ARKANSAS LOUISIANA G
*SUN OIL COMPANY (DELAWARE)			RECEIVED: 10/31/80 JA: OK			
8103977	06007	3512300000 108	JESSE MUNTUN-VIOLA UNIT NO 11-10	FITTS	0,6	KOCH EXPLORATION CO
8103978	06001	3512300000 108	JESSE MUNTUN-VIOLA UNIT NO 6-4L	FITTS	0,1	KOCH EXPLORATION CO
8103979	05989	3501900000 108	RICKETTS NU 5	SHO-VEL-TUM	1,5	MOBIL OIL CORP
*SWAN PETROLEUM CORP			RECEIVED: 10/31/80 JA: OK			
8103980	05987	3515320891 103	CHENOWETH #1	S E FANGO	100,0	PRODUCERS GAS CO
*TENNECO OIL COMPANY			RECEIVED: 10/31/80 JA: OK			
8103945	02604	3506336604 108	E COLUMBIA OSWEGO LIME UNIT #14-1	COLUMBIA EAST	3,0	EASON OIL CO
*TEXINIA CORP			RECEIVED: 10/31/80 JA: OK			
8103963	05986	3508720091 108	HAYNES 33-1	S W NEWCASTLE	0,0	LONE STAR GAS CO
*THE GMK COMPANY			RECEIVED: 10/31/80 JA: OK			
8103965	05813	3500920206 103	BAKER-FOWLER 1-20	CARPENTER	0,0	ARKANSAS LOUISIANA G
*WALKER & WITHROW INC			RECEIVED: 10/31/80 JA: OK			
8103981	05982	3501721376 103	PANAZEK #4-1	NORTH YUKON	285,0	PHILLIPS PETROLEUM C
*WOODS PETROLEUM CORPORATION			RECEIVED: 10/31/80 JA: OK			
*8103964	05826	3505920833 102	STATE #1-16	LOVEDALE	365,0	DELHI GAS PIPELINE C
*ZIA PIPELINE INC			RECEIVED: 10/31/80 JA: OK			
8103982	05974	3507500000 108	JOHN DEMPSEY #1	NW GOTEBO	8,3	ARKANSAS LOUISIANA G

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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

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*FRED J RUSSELL DBA LOUDEN PROPERTIE			RECEIVED: 10/31/80 JA: PA			
8103890	5677	3712921638 102	D F O KEISTER 997-1	E HUNTINGTON	30,0	COLUMBIA GAS OF PENN
*KEYSTONE GAS CO			RECEIVED: 10/31/80 JA: PA			

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JD NO	JA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
8103919	5764	3712500000 108	ALLISON (065-3)	CHARTIERS	0,9	COLUMBIA GAS TRANSMI
8103920	5765	3712500000 108	ALLISON (1) (095)	CHARTIERS	0,7	COLUMBIA GAS TRANSMI
8103921	5766	3712500000 108	ALLISON (3) (098)	CHARTIERS	1,6	COLUMBIA GAS TRANSMI
8103917	5762	3712500000 108	ALLISON (4) (065-1)	CHARTIERS	1,0	COLUMBIA GAS TRANSMI
8103918	5763	3712500000 108	ALLISON (5) (065-2)	CHARTIERS	1,6	COLUMBIA GAS TRANSMI
8103915	5760	3712500000 108	ARTHUR (4) (064-1)	CHARTIERS	0,3	COLUMBIA GAS TRANSMI
8103916	5761	3712500000 108	ARTHUR (5) (064-2)	CHARTIERS	0,9	COLUMBIA GAS TRANSMI
8103913	5758	3712500000 108	ARTHUR #2 (044)	CHARTIERS	0,1	COLUMBIA GAS TRANSMI
8103914	5759	3712500000 108	ARTHUR #3 (046)	CHARTIERS	2,4	COLUMBIA GAS TRANSMI
8103924	5769	3712500000 108	BOYCE (089)	CHARTIERS	2,7	COLUMBIA GAS TRANSMI
8103893	5738	3712500000 108	COMAZZI 059	E BETHLEHEM	1,6	COLUMBIA GAS TRANSMI
8103928	5773	3712500000 108	CUMMINS (126)	MOUSTON	3,2	COLUMBIA GAS TRANSMI
8103905	5750	3712500000 108	DINSMORE #1 (020)	CHARTIERS	3,7	COLUMBIA GAS TRANSMI
8103926	5771	3712500000 108	EMBERT (092)	CHARTIERS	6,7	COLUMBIA GAS TRANSMI
8103935	5780	3712500000 108	GREER (133)	CHARTIERS	3,6	COLUMBIA GAS TRANSMI
8103925	5770	3712500000 108	HAGGERTY (090)	CHARTIERS	2,5	COLUMBIA GAS TRANSMI
8103923	5768	3712500000 108	HAMILTON (021)	CHARTIERS	1,7	COLUMBIA GAS TRANSMI
8103929	5774	3712500000 108	HENDERSON (129)	MOUSTON	2,5	COLUMBIA GAS TRANSMI
8103892	5737	3705100000 108	HILLMAN #1	LUZERNE	1,3	COLUMBIA GAS TRANSMI
8103891	5736	3705100000 108	HILLMAN #2	LUZERNE	1,0	COLUMBIA GAS TRANSMI
8103896	5741	3705100000 108	HOLCHIN (283)	MENALLEN	5,9	COLUMBIA GAS TRANSMI
8103927	5772	3712500000 108	HUNTER (121-1)	CHARTIERS	1,7	COLUMBIA GAS TRANSMI
8103895	5740	3712500000 108	KEYS #1	DEEMSTON	3,1	COLUMBIA GAS TRANSMI
8103894	5739	3712500000 108	KEYS #2	DEEMSTON	1,7	COLUMBIA GAS TRANSMI
8103930	5775	3712500000 108	KING (131-1)	CHARTIERS	3,0	COLUMBIA GAS TRANSMI
8103922	5767	3712500000 108	LITTLE (002)	CHARTIERS	2,7	COLUMBIA GAS TRANSMI
8103898	5743	3712500000 108	MCKEE (022)	CABTLE SHANNON	4,6	COLUMBIA GAS TRANSMI
8103931	5776	3712500000 108	MCKNIGHT (1) (131-3)	CHARTIERS	2,5	COLUMBIA GAS TRANSMI
8103932	5777	3712500000 108	MCKNIGHT (2) (132-1)	CHARTIERS	2,8	COLUMBIA GAS TRANSMI
8103933	5778	3712500000 108	MCNARY (1) (132-2)	CHARTIERS	4,7	COLUMBIA GAS TRANSMI
8103934	5779	3712500000 108	MCNARY (2) (133)	CHARTIERS	1,8	COLUMBIA GAS TRANSMI
8103906	5751	3712500000 108	MEDDINGS #1 (023)	CHARTIERS	1,7	COLUMBIA GAS TRANSMI
8103907	5752	3712500000 108	MEDDINGS #3 (023)	CHARTIERS	2,6	COLUMBIA GAS TRANSMI
8103909	5754	3712500000 108	PAXTON (026)	CHARTIERS	0,7	COLUMBIA GAS TRANSMI
8103936	5781	3712500000 108	PAXTON (1) (134-1)	CHARTIERS	5,0	COLUMBIA GAS TRANSMI
8103937	5782	3712500000 108	PAXTON (2) (134-2)	CHARTIERS	1,2	COLUMBIA GAS TRANSMI
8103940	5785	3712500000 108	PAXTON (3) (157)	CHARTIERS	1,5	COLUMBIA GAS TRANSMI
8103908	5753	3712500000 108	PAXTON #1 (025)	CHARTIERS	0,9	COLUMBIA GAS TRANSMI
8103910	5755	3712500000 108	PITTSBURGH COAL (FRYE-1) (040)	CHARTIERS	0,5	COLUMBIA GAS TRANSMI
8103911	5756	3712500000 108	PITTSBURGH COAL (FRYE-2) (040)	CHARTIERS	0,5	COLUMBIA GAS TRANSMI
8103912	5757	3712500000 108	PITTSBURGH COAL (FRYE-3) (040)	CHARTIERS	0,5	COLUMBIA GAS TRANSMI
8103900	5745	3712500000 108	PLUNKETT (004)	CHARTIERS	1,5	COLUMBIA GAS TRANSMI
8103904	5749	3712500000 108	REANY (015)	MT PLEASANT	3,6	COLUMBIA GAS TRANSMI
8103938	5783	3712500000 108	RUSS (154-1)	CHARTIERS	0,7	COLUMBIA GAS TRANSMI
8103939	5784	3712500000 108	RUSS (2) (154-2)	CHARTIERS	2,5	COLUMBIA GAS TRANSMI
8103941	5786	3712500000 108	TARR (1) (160-1)	CHARTIERS	3,4	COLUMBIA GAS TRANSMI
8103942	5787	3712500000 108	TARR (2) (160-2)	CHARTIERS	2,5	COLUMBIA GAS TRANSMI
8103944	5789	3712500000 108	TARR (4) (160-4)	CHARTIERS	3,3	COLUMBIA GAS TRANSMI
8103943	5788	3712500000 108	TARR #3 (160-3)	CHARTIERS	1,2	COLUMBIA GAS TRANSMI
8103897	5742	3712500000 108	VANKIRK (275)	SOUTH FRANKLIN	4,5	COLUMBIA GAS TRANSMI
8103899	5746	3712500000 108	WHERRY (256)	SOMERSET	4,0	COLUMBIA GAS TRANSMI
8103901	5748	3712500000 108	WILLISON #1 (005)	CHARTIERS	12,9	COLUMBIA GAS TRANSMI

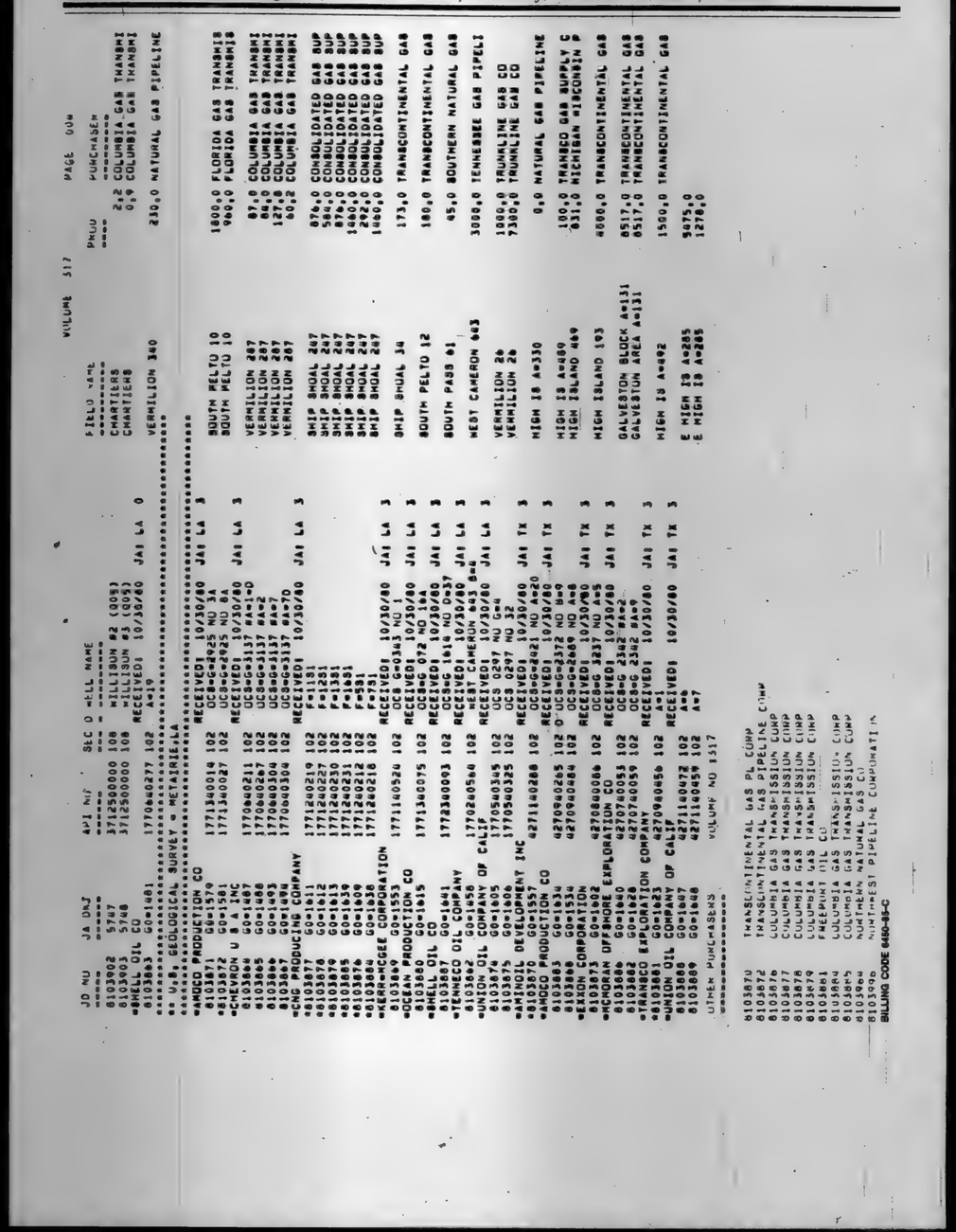

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 5, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36155 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-96-000]

Montana Power Co.; Filing

November 13, 1980.

Take notice that The Montana Power Company (Montana) on November 5, 1980, tendered for filing in accordance with Section 35 of the Commission's Regulations, a Letter Agreements with Portland General Electric Company (Portland). Montana states that these Letter Agreements provide for the sale of firm energy between Montana and Portland.

Montana indicates that the proposed Letter Agreements increased revenues from jurisdictional sales by $2,141,360.10, based upon energy delivered from February 28, 1980, through April 30, 1980. Montana states that the rate for firm energy under these Letter Agreements was negotiated.

An effective date of February 28, 1980, is proposed and waiver of the Commission's requirements is therefore requested.

Montana also tendered for filing a Notice of Cancellation of Rate Schedule and all its supplements, an agreement for the sale of firm energy between Montana and Portland General Electric Company (Portland). Montana states that the agreement has expired as of its own terms and has not been renewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 1, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36165 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-92-000]

Montana Power Co.; Filing

November 13, 1980.

The filing Company submits the following:

Take notice that The Montana Power Company (Montana) on November 4, tendered for filing in accordance with section 34 of the Commission's regulations a letter agreement between the City of Tacoma (Tacoma) and Montana. Montana states that this letter agreement is for storage of energy in Montana's reservoir with right of first refusal for Montana to acquire this energy if Tacoma elects not to have the storage energy returned.

Montana indicates that the proposed letter agreements would not increase its revenues since the transactions involve storage for other parties. Montana states that the right of first refusal to purchase energy not returned at the indicated rates under the letter agreements was negotiated.

The effective date of February 12, 1980, is proposed and waiver of the Commission's requirements is therefore requested.

Montana also tendered for filing a Notice of Cancellation of Rate Schedule —— and all its supplements, an agreement for the sale of firm energy between Montana and the Tacoma. Montana states that the agreement has expired as of its own terms and has not been renewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36166 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-97-000]

Montana Power Co.; Filing

November 13, 1980.

Take notice that The Montana Power Company (Montana) on November 5, 1980, tendered for filing in accordance with Section 35 of the Commission's Regulations, Letter Agreements with Southern California Edison Company (Edison). Montana states that these Letter Agreements provide for the sale of firm energy between Montana and Edison.

Montana indicates that the proposed Letter Agreements increased revenues from jurisdictional sales by $8,433,176.66, based upon energy delivered from April 15, 1980, through July 31, 1980. Montana states that the rate for firm energy under this Letter Agreement was negotiated.

An effective date of April 15, 1980, is proposed and waiver of the Commission's requirements is therefore requested.

Montana also tendered for filing a Notice of Cancellation of Rate Schedule — and all its supplements, an agreement for the sale of firm energy between Montana and Southern California Edison Company (Edison). Montana states that the agreement has expired as of its own terms and has not been renewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8,

1.10). All such petitions or protests should be filed on or before December 1, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36167 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-99-000]

Montana Power Co.; Filing

November 13, 1980.

Take notice that The Montana Power Company (Montana) on November 5, 1980, tendered for filing in accordance with Section 35 of the Commission's Regulations, a Letter Agreement with The Washington Water Power Company (Washington). Montana states that this Letter Agreement provides for the sale of firm energy between Montana and Washington.

Montana indicates that the proposed Letter Agreement increased revenues from jurisdictional sales by $535,360.10, based upon energy delivered from February 28, 1980, through April 30, 1980. Montana states that the rate for firm energy under this Letter Agreement was negotiated.

An effective date of February 28, 1980, is proposed and waiver of the Commission's requirements is therefore requested.

Montana also tendered for filing a Notice of Cancellation of Rate Schedule —— and all its supplements, and agreement for the sale of firm energy between Montana and The Washington Water Power Company (Washington). Montana states that the agreement has expired as of its own terms and has not been renewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 1, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36168 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-98-000]

Montana Power Co.; Filing

November 13, 1980.

Take notice that The Montana Power Company (Montana) on November 5, 1980, tendered for filing in accordance with Section 35 of the Commission's Regulations, a Letter Agreement with San Diego Gas & Electric Company (San Diego). Montana states that these Letter Agreements provide for the sale of firm energy between Montana and San Diego.

Montana indicates that the proposed Letter Agreements increased revenues from jurisdictional sales by $1,436,926.94, based upon energy delivered from April 15, 1980, through July 31, 1980. Montana states that the rate for firm energy under these Letter Agreements was negotiated.

An effective date of April 15, 1980, is proposed and waiver of the Commission's requirements is therefore requested.

Montana also tendered for filing a Notice of Cancellation of Rate Schedule and all its supplements, an agreement for the sale of firm energy between Montana and San Diego Gas & Electric Company (San Diego). Montana states that the agreement has expired as of its own terms and has not been renewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 1, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36169 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-83-000]

Southern Company Services, Inc.; Filing

November 13, 1980.

Take notice that Southern Company Services, Inc. on October 30, 1980, tendered for filing revised Informational Schedules A, B and C to an Interconnection Agreement dated May 5, 1980 between Alabama Power and Alabama Electric Cooperative, wnc. (AEC). The revised Informational Schedules show revised charges for transmission service under Schedule I, for emergency assistance, and for short-term power sales to AEC and result from operation and the formulary rate contained in the subject Interconnection Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36170 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-77-000]

Southern Company Services, Inc.; Filing

November 13, 1980.

Take notice that Southern Company Services, Inc. on October 30, 1980, tendered for filing revised Informational Schedule E to Service Schedule E of an Interchange Contract between Florida Power and Light Company (FP&L) and the Operating Companies. The revised Informational Schedule E shows revised charges for the long-term power sale to FP&L and results from operation of the formulary rate contained in Service Schedule E of the Interchange Contract.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8,

1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc 80-36156 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-76-000]

Southern Company Services, Inc.; Filing

November 13, 1980.

Take notice that Southern Company Services, Inc. on October 30, 1980, tendered for filing revised Informational Schedule E to Service Schedule E of an Interconnection Agreement between Mississippi Power and Light Company (MPL) and the Operating Companies. The revised Informational Schedule E shows revised charges for the long-term power sale to MPL and results from operation of the formulary rate contained in Service Schedule E of the Interconnection Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36157 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-72-000]

Southern Company Services, Inc.; Filing

November 13, 1980.

Take notice that Southern Company Services, Inc. (Southern Company) on October 30, 1980, tendered for filing revised Informational Schedules A and B to an Interchange Contract dated October 19, 1979 between the Operating Companies and Florida Power and Light Company (FP&L). The revised Informational Schedules show revised charges for emergency assistance and short-term power sales to FP&L and result from operation of the formulary rate contained in the subject Interchange Contract.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36158 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-75-000]

Southern Company Services, Inc.; Filing

November 13, 1980.

Take notice that Southern Company Services, Inc. (Southern Company) on October 30, 1980, tendered for filing a revised Informational Schedule to a Power Sale Agreement, dated April 14, 1980, between Savannah Electric and Power Company (Savannah) and the Operating Companies. The revised Informational Schedule shows revised charges for the long-term power sale to Savannah and results from operation of the formulary rate contained in the power Sale Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36159 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-74-000]

Southern Company Services, Inc.; Filing

November 13, 1980.

Take notice that Southern Company Services, Inc. (Southern Company) on October 30, 1980, tendered for filing revised Informational Schedule to a Power Sale Agreement, dated February 12, 1980, between Jacksonville Electric Authority (JEA) and the Operating Companies. The revised Informational Schedule shows revised changes for the long-term power sale to JEA and results from operation of the formulary rate contained in the Power Sale Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or requests should be filed on or before November 28, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36160 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 318]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued November 17, 1980.

BILLING CODE 6450-85-M

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION								
*AMARILLO OIL COMPANY					RECEIVED: 10/31/80 JAI TX			
8104236	23448	4217900000	108		ZUEB #13 (ID #26634)	PANHANDLE EAST	14.0	PIONEER NATURAL GAS
8104234	23442	4217900000	108		ZUEB #4 (26626)	PANHANDLE EAST	16.2	PIONEER NATURAL GAS
8104235		4217900000	108		ZUEB #6 (RRC ID 26628)	PANHANDLE EAST	14.5	PIONEER NATURAL GAS
*AMOCO PRODUCTION CO					RECEIVED: 10/31/80 JAI TX			
8104152	20103	4236530890	103		CANTHAGE GAS UNIT 13 NO 5	CANTHAGE (TRAVIS PEAK)	109.5	TENNESSEE GAS PIPELI
8104231	22927	4235700000	108		EARL HAIDE #1 (2ND FILING)	FARNSWORTH SE	18.0	NORTHERN NATURAL GAS
*8104080	19338	4203931367	103		FANNIE DRAKE #28	HASTINGS WEST	30.0	TEXAS EASTERN TRANSM
*8104082	15185	4203931419	103		FANNIE DRAKE #30	HASTINGS WEST	31.0	TEXAS EASTERN TRANSM
8104198	23461	4234730452	102		FULTON FULLER NO 1	NACOGDOCHES (TRAVIS PEAK	300.0	TEXAS EASTERN TRANSM
*8104087	19479	4203931329	103		GEO W SCHEFFIELD NO 3	HASTINGS WEST	6.0	TEXAS EASTERN TRANSM
*8104081	19339	4203931311	103		M A WAGNER NO 3	HASTINGS WEST	16.4	AMOCO GAS CO
8104292	23363	4229731717	103		M O DUTY GAS UNIT #4	MAXINE EAST/MASSIVE LIME	36.5	NATURAL GAS PIPELINE
8104209	22641	4220330709	102		J G CHAPMAN B GAS UNIT NO 2	WOODLAWN (TRAVIS PEAK)	600.0	EAST TEXAS INDUSTRIA
8104209	22641	4220330709	103		J G CHAPMAN B GAS UNIT NO 2	WOODLAWN (TRAVIS PEAK)	600.0	EAST TEXAS INDUSTRIA
*8104082	19340	4203931320	103		L B GIBBEE #4	HASTINGS WEST	2.6	TEXAS EASTERN TRANSM
8104151	21055	4217531028	103		L M OCONNOR A #66	LIVE OAK LAKE/5000/	8.0	AMOCO GAS CO
*8104088	19480	4203931337	103		NORMA E BARNETT #6	HASTINGS WEST	2.3	TEXAS EASTERN TRANSM
*8104091	19483	4203931312	103		S A PENNOCK #9	HASTINGS WEST	21.0	TEXAS EASTERN TRANSM
*8104092	19484	4203931331	103		STEVE PAUL #33	HASTINGS WEST	40.0	TEXAS EASTERN TRANSM
*8104089	19481	4203931407	103		STEVE PAUL #34	HASTINGS WEST	9.0	TEXAS EASTERN TRANS
*8104139	20701	4203900739	103		STEVE PAUL #36	HASTINGS WEST	20.8	TEXAS EASTERN TRANSM
8104209	19848	4203931433	103		STEVE PAUL UNIT #35	HASTINGS WEST	30.0	TEXAS EASTERN TRANSM
*8104090	19482	4203931334	103		T J RANDALL #3	HASTINGS WEST	72.0	TEXAS EASTERN TRANSM
8104132	20521	4240130307	102		WATSON GAS UNIT NO 1	DIMGIN (COTTON VALLEY)	436.0	MYONUCARBON TRANSFER
*AMOCO OIL AND GAS COMPANY					RECEIVED: 10/31/80 JAI TX			
8104200	22583	4239131361	103		J M OBRIEN J #5	GRETA	180.0	TRANSCONTINENTAL GAS
8103996	16303	4223930779	103		KETCHUM MOUNTAIN/CLFK/UNIT 50=1	KETCHUM MOUNTAIN (CLEARF	2.0	J L DAVIS
8104188	23339	4231732073	103		MABEE #1	BREEDLOVE SU (SPRABERRY)	21.9	PHILLIPS PETROLEUM C
8104187	23338	4231732125	103		MABEE #2	BREEDLOVE SU (SPRABERRY)	20.0	PHILLIPS PETROLEUM C
8104093	19375	4229530670	102		SHUTTERLY #2	KIOWA CREEK	365.0	NORTHERN NATURAL GAS
*ATAPCO					RECEIVED: 10/31/80 JAI TX			
8104003		4238930501	102		ADAM ESTATE #1 RRC 075931	ADAM (MORROW)	50.0	LOVACA GATHERING CO
8104003		4238930501	103		ADAM ESTATE #1 RRC 075931	ADAM (MORROW)	50.0	LOVACA GATHERING CO
8104270	23277	4247532048	103		F M SCOTT #5	SCOTT (DELAWARE)	61.5	TRANSWESTERN PIPELIN
*BASS ENTERPRISES PRODUCTION CO					RECEIVED: 10/31/80 JAI TX			
8104239	23036	4230120217	103		BASS STATE 2 NO 1	WHEAT (DELAWARE)	36.5	
*BILL J GRAHAM					RECEIVED: 10/31/80 JAI TX			
8104329	23481	4237100000	108		GERALDINE NO 1	ABELL (PERMIAN GENERAL)	0.0	PGP GAS PRODUCTS
*BOCK & BARAN					RECEIVED: 10/31/80 JAI TX			
8104153	21145	4219900000	103		PETTY BARBER #1	BEACH CREEK SW (Y-9)	122.4	ATLANTIC RICHFIELD C
*BRH OIL & GAS					RECEIVED: 10/31/80 JAI TX			
8104204	22633	4206530750	103		ACE #1	PANHANDLE CARSON	42.6	PANHANDLE EASTERN PI
8104203	22632	4206530751	103		ACE #2	PANHANDLE CARSON	49.2	PANHANDLE EASTERN PI
8104202	22631	4206530752	103		ACE #3	PANHANDLE CARSON	92.2	PANHANDLE EASTERN PI
8104208	22638	4206530742	103		BURNETT #1	PANHANDLE CARSON	54.9	PANHANDLE EASTERN PI
8104207	22637	4206530741	103		BURNETT #2	PANHANDLE CARSON	58.6	PANHANDLE EASTERN PI
8104206	22636	4206530740	103		BURNETT #3	PANHANDLE CARSON	61.2	PANHANDLE EASTERN PI
*CALTO OIL CO					RECEIVED: 10/31/80 JAI TX			
8104047	17955	4249700000	108		L D RATLIFF 28534	BOONSVILLE BEND	15.0	NATURAL GAS PIPELINE
*CARTER ENERGY CORP					RECEIVED: 10/31/80 JAI TX			
8104210	22645	4225732802	103		M J KIRK ET AL NO 1	WILDCAT	165.0	TEXAS UTILITIES CO
*CASHCO ENERGY CORPORATION					RECEIVED: 10/31/80 JAI TX			
8104166	21587	4218500000	102		TRANT NO 1	MARTIN PRAIRIE (EDWARDS	730.0	LONE STAR GAS CO
8104166	21587	4218500000	103		TRANT NO 1	MARTIN PRAIRIE (EDWARDS	730.0	LONE STAR GAS CO
*CAVALLA ENERGY EXPLORATION CO					RECEIVED: 10/31/80 JAI TX			
8104222	22815	4228531466	102		S A LOWRANCE NO 2	LOWRANCE (2900) FIELD	127.8	TEXAS EASTERN TRANSM
*CHAMPLIN PETROLEUM COMPANY					RECEIVED: 10/31/80 JAI TX			
8104320	23434	4236530989	103		CANTHAGE GAS UNIT 30 NO 3	CANTHAGE (COTTON VALLEY)	292.0	TENNESSEE GAS PIPELI
*CHARLES L WALKER					RECEIVED: 10/31/80 JAI TX			
*8104322	23438	4200332161	103		FISHER 3 #2	BLOCK A=34 SOUTH (YATES)	9.5	PHILLIPS PETROLEUM C
*8104256	23203	4200332154	103		UNDERWOOD B #1	BLOCK A=34 (SAN ANDRES)	16.2	PHILLIPS PETROLEUM C

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
*8104321	23435	4200331794	103		UNDERWOOD C #2	BLOCK A=34 (SAN ANDRES)	11.9	PHILLIPS PETROLEUM C
*8104257	23204	4200332163	103		UNDERWOOD C #3	BLOCK A=34 (SAN ANDRES)	8.6	PHILLIPS PETROLEUM C
*CICO OIL & GAS CO					RECEIVED: 10/31/80 JAI TX			
8104162	21543	4229732737	102		M HOUDMANN NO 3	CHRISTENSEN (WILCOX 9750	750.0	VALERO TRANSMISSION
*COLOGNE PRODUCTION CO					RECEIVED: 10/31/80 JAI TX			
8104206	23337	4248931576	103		REEVES-SCHMIDT GAS UNIT #1	COLOGNE 4300	120.0	HOUSTON PIPELINE CO
*COLUMBIA GAS DEVELOPMENT CORP					RECEIVED: 10/31/80 JAI TX			
8104237	22978	4205130668	102		MARCIE B PARKER ET AL UNIT NO 1	GIDDINGS (AUSTIN CHALK)	70.0	FERGUSON CRUSSING PI
*CONOCO INC					RECEIVED: 10/31/80 JAI TX			
8104034	16581	4250531061	102		B G GUTIERREZ NO 3 83182	MUNDIDO (9300)	110.0	HOUSTON PIPELINE CO
8104318	23426	4200332258	103		J M BONER B #32 ID #01668	FUHRMAN-MASCHO	36.5	PHILLIPS PETROLEUM C
8104036	16871	4213533105	103		K/UL B=5 #8	TXL (MCKEE)	65.3	SHELL OIL CO
8104030	16112	4242731261	102		T B SLICK EST A NO 156	RINCON (VICKSBURG 7700)	102.0	TENNESSEE GAS PIPELI
8104317	23425	4213533349	103		WIGHT UNIT #148 ID #20661	CONDEN NORTH	28.1	AMOCO PRODUCTION CO
*CORPENING ENTERPRISES					RECEIVED: 10/31/80 JAI TX			
8104002	07105	4248100000	102		A M BRUCKMAN #1 RRC 74522	ARRINGTON (MARG)	91.0	TENNESSEE GAS PIPELI
*COTTON PETROLEUM CORPORATION					RECEIVED: 10/31/80 JAI TX			
8104181	22158	4240130866	103		GANDY NO 1	OAK MILL	0.0	UNITED GAS PIPE LINE
*CRYSTAL OIL COMPANY					RECEIVED: 10/31/80 JAI TX			
8104302	23386	4236530309	108		CALDWELL #1	PANOLA FIELD	5.3	UNITED GAS PIPELINE
8104299	23383	4236530598	108		CALDWELL #2	PANOLA FIELD	5.3	UNITED GAS PIPELINE
8104300	23384	4236530599	108		CALDWELL #3	PANOLA FIELD	5.3	UNITED GAS PIPELINE
8104301	23385	4236530600	108		CALDWELL #4	PANOLA FIELD	5.3	UNITED GAS PIPELINE
8104332	23534	4236530832	108		CLINE #1	PANOLA FIELD	0.0	UNITED GAS PIPELINE
*DALLAS PRODUCTION INC					RECEIVED: 10/31/80 JAI TX			
8104333	23557	4241930065	108		NOVIE SPARKS NO 1 #72633	TENAHA SW (TRAVIS PEAK)	17.0	UNITED GAS PIPELINE
*DEETER IMPROVEMENT INC					RECEIVED: 10/31/80 JAI TX			
8104173	21702	4204730817	102		GARZA NO 1	GARZA (7300) SAND	580.0	HOUSTON PIPELINE CO
*DIAMOND SHAMROCK CORPORATION					RECEIVED: 10/31/80 JAI TX			
8104319	23429	4211900000	108		BRILLHART NO 1-32			
8104291	23353	4229530784	103		CHUBSLEY ESTATE NO 1	SHARE SE	2.0	
						LIPSCOMB	574.0	
8104010	14900	4239300000	108		L A MADDOX NO 10	QUINDUNO	12.0	NATURAL GAS PIPELINE
8104011	14887	4239300000	108		L A MADDOX NO 14	QUINDUNO	12.0	NATURAL GAS PIPELINE
8104012	14889	4239300000	108		L A MADDOX NO 16	QUINDUNO	12.0	NATURAL GAS PIPELINE
8104013	14891	4239300000	108		L A MADDOX NO 19	QUINDUNO	12.0	NATURAL GAS PIPELINE
8104014	14894	4239300000	108		L A MADDOX NO 23	QUINDUNO	12.0	NATURAL GAS PIPELINE
8104015	14896	4239300000	108		L A MADDOX NO 28	QUINDUNO	12.0	NATURAL GAS PIPELINE
8104016	14897	4239300000	108		L A MADDOX NO 29	QUINDUNO	12.0	NATURAL GAS PIPELINE
8104017	14898	4239300000	108		L A MADDOX NO 30	QUINDUNO	12.0	NATURAL GAS PIPELINE
8104315	23422	4235700000	108		R M HOLLAND NO 1	QUINDUNO	12.0	NATURAL GAS PIPELINE
8104314	23421	4235700000	108		W M DUTCHER C NO 1	NORTHRUP	6.0	
8104316	23423	4235700000	108		W L PLETCHER NO 1	NORTHRUP	0.1	
*DORCHESTER EXPLORATION INC					RECEIVED: 10/31/80 JAI TX	DUTCHER	2.0	
8104010	14651	4208931005	102		HEINBUHN NO 1 RRC ID #02370			
*EAGLE OIL & GAS CO					RECEIVED: 10/31/80 JAI TX	FRELSBURG (Z-20 A)	730.0	TEXAS EASTERN TRANSM
8104134	20655	4236731588	103		JOHN BRANDER UNIT #1	RENO CONGLOMERATE	175.0	NATURAL GAS PIPELINE
*EATON OPERATING CO					RECEIVED: 10/31/80 JAI TX			
8104049	18050	4248131709	102		SOUTH UNIT - DJ -INTERMAN #1	BONUS SOUTH (CONER MILCU	365.0	TRUNKLINE GAS CO
*EL PASO NATURAL GAS COMPANY					RECEIVED: 10/31/80 JAI TX			
8104213	22715	4221130555	108		CHANDLER #1			
8104217	22719	4243519201	108		DAVIS F #1	VIKING-MORROW UPPER GAS	20.0	EL PASO NATURAL GAS
8104214	22716	4248326208	108		MILTBRUNNER #1	SONORA CANYON UPPER	21.0	EL PASO NATURAL GAS
8104232	22932	4221131175	103		KELLY #1	PANHANDLE EAST-BROWN DUL	20.0	EL PASO NATURAL GAS
*8104218	22720	4217926062	108		MCKINNON #2	GLAZIER NR MORROW UPPER	90.0	EL PASO NATURAL GAS
8104215	22717	4208726200	108		NEELY #3	PANHANDLE EAST-BROWN DUL	19.0	EL PASO NATURAL GAS
8104216	22718	4217930096	108		WILLIAMS #20M	PANHANDLE EAST-BROWN DUL	17.0	EL PASO NATURAL GAS
*ENERGY DEVELOPMENT CORPORATION					RECEIVED: 10/31/80 JAI TX	PANHANDLE WEST-BROWN DUL	5.0	EL PASO NATURAL GAS
8104038	17451	4200730234	102		BAUER-MEILLY ETAL NO 1-ID#73202			
8104038	17451	4200730234	103		BAUER-MEILLY ETAL NO 1-ID#73202	NETTLE	182.5	NATURAL GAS PIPELINE
*ENBERCH EXPLORATION INC					RECEIVED: 10/31/80 JAI TX	NETTLE	182.5	NATURAL GAS PIPELINE
8104193	22368	4249731632	108		B A SMITH NO 3	BOONSVILLE	114.0	LONE STAR GAS

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JD NO	JA DAT	API NO	SEC D	WELL NAME	FIELD NAME	PHID	PURCHASER
8104126	19903	4223732870	103	DELLA CHRISTIAN NU 2	BOUNSVILLE	187,0	LONE STAR GAS CO
8104176	21982	4213300800	108	E A WHITESIDE ESTATE NU 1	SIPE SPRINGS	2,0	LONE STAR GAS CO
8104178	21984	4213300800	108	M F GREENWOOD NO 2	SIPE SPRINGS	13,0	LONE STAR GAS CO
8104177	21983	4213300800	108	M F GREENWOOD NO 3	SIPE SPRINGS	5,0	LONE STAR GAS CO
*EQUITABLE PETROLEUM CORP				RECEIVED: 10/31/80 JA: TX			
8104044	17776	4206931352	102	M E COULEY A NU 1 85170	MISSION VALLEY N (2300)	37,0	TRANSCONTINENTAL GAS
*EXXON CORPORATION				RECEIVED: 10/31/80 JA: TX			
8104244	23178	4226130539	103	C M ARMSTRONG 59-D (86806)	CANDELARIA (G-30)	128,0	NATURAL GAS PIPELINE
8104197	22544	4233930448	103	CONROE FIELD UNIT #3810	CONROE	300,0	MORAN UTILITIES
8104136	20713	4237132899	103	FORT STOCKTON UNIT #1124	FORT STOCKTON	1,0	NUECES CO
8104170	21645	4200130913	103	G W EATON ESTATE #26	NECHES (WOODBINE)	20,8	UNITED GAS PIPELINE
8104164	21567	4210332170	103	J B TUBB A/C 1 #209L	SAND HILLS (TUBB)	19,5	EL PASO NATURAL GAS
8104165	21568	4210332170	103	J B TUBB A/C 1 #209U	SAND HILLS (JUDKINS)	13,0	EL PASO NATURAL GAS
8104163	21566	4210332187	103	J B TUBB A/C 1 #212L	SAND HILLS (TUBB)	21,0	EL PASO NATURAL GAS
8104235	22935	4200300000	108	J E PARKER A/C 3 #51	THREE BAR (YATES)	9,0	EL PASO NATURAL GAS
8103997	01165	4205130210	103	JOE FUNK NU 15	MAJ (STRAWN)	11,0	LONE STAR GAS CO
8104175	21926	4228531252	102	KOERTH GAS UNIT I #1	KOERTH (WILCOX 10950)	800,0	
8104174	21923	4228531238	102	LEON BARNES GAS UNIT 1 #1	JANSKY (WILCOX 10700)	320,0	VALERO TRANSMISSION
8104101	21482	4204730773	103	MCGILL BROS 456 (85906)	KELSEY DEEP (ZONE 22-ME)	666,0	TRUNKLINE GAS CO
8104201	22630	4204730786	103	SANTA FE RANCH 55-D (87020)	SANTA FE EAST (1ST MASS	180,0	NATURAL GAS PIPELINE
8104171	21646	4207330362	103	T J CUNNINGHAM TR 1 #6	NECHES (WOODBINE)	32,1	UNITED GAS PIPELINE
*FISHER-WEBB INC				RECEIVED: 10/31/80 JA: TX			
8104328	23453	4235330813	103	MCLAUGHLIN NU 9	JMM (CANYON)	150,0	SUN GAS CO
*FOREST OIL CORPORATION				RECEIVED: 10/31/80 JA: TX			
8104023	15469	4204730727	102	MURPHY-BROOKS GAS UNIT 1	PITA NW (VICKSBURG 10350	800,0	CHANNEL INDUSTRIES G
*FROST OIL CO INC				RECEIVED: 10/31/80 JA: TX			
8104008	13612	4217530542	102	DESMOND R PEREIRA NU 2	MONDES CREEK SOUTH	9,0	UNITED GAS PIPE LINE
8104009	13612	4217530542	103	DESMOND R PEREIRA NO 2	MONDES CREEK SOUTH	9,0	UNITED GAS PIPE LINE
*GALAXY OIL COMPANY				RECEIVED: 10/31/80 JA: TX			
8104028	15914	4223300000	108	MUBER PRITCHARD #5-01590	PANHANDLE FIELD	1,0	J M MUBEN CORP
8104029	15922	4223300000	108	MUBER PRITCHARD A #3-01748	PANHANDLE FIELD	5,0	J M MUBEN CORP
8104167	21599	4205730940	102	STATE TRACT 131 #1 (85914)	SEADRIFT WEST (G)	750,0	
*GAS PRODUCING ENTERPRISES INC				RECEIVED: 10/31/80 JA: TX			
8104242	23156	4235530699	103	MASTERSON 83-4080	PANHANDLE (RED CAVE)	12,0	COLORADO INTERSTATE
*GENE POWELL				RECEIVED: 10/31/80 JA: TX			
8104052	18197	4236503097	103	JOHN W WALTON GAS UNIT #1	BETHANY (CUTTON VALLEY)	120,0	TENNESSEE GAS PIPELI
*GENERAL PRODUCTION CORP				RECEIVED: 10/31/80 JA: TX			
8104057	16548	4205130351	103	HENRY SHEPARD NU 1	NOACK CON HERD NE (3400)	55,0	FERGUSON CROSSING PI
8104056	16547	4205130446	103	JONES-LEWIS NU 1	INEZ JAMISON (NAVARRO 34	36,5	FERGUSON CROSSING PI
*GETTY OIL COMPANY				RECEIVED: 10/31/80 JA: TX			
8104336	23633	4235300000	108	BOYD B NU 15	DUMA NORTH	14,4	BIG MICHARDSON CARBO
8104278	23311	4241330382	103	E B ROACH NO 1	CODY BELL (CANYON)	27,0	CRA INC
8104303	23390	4243330967	103	FLOWERS CANYON SAND UNIT #168	FLOWERS (CANYON SAND)	3,0	CITIES SERVICE CO
8104305	23392	4243330968	103	FLOWERS CANYON SAND UNIT #169	FLOWERS (CANYON SAND)	1,5	CITIES SERVICE CO
8104304	23391	4243330969	103	FLOWERS CANYON SAND UNIT #170	FLOWERS (CANYON SAND)	8,5	CITIES SERVICE CO
8104306	23393	4243330970	103	FLOWERS CANYON SAND UNIT #171	FLOWERS (CANYON SAND)	1,0	CITIES SERVICE CO
8104307	23394	4243330971	103	FLOWERS CANYON SAND UNIT #172	FLOWERS (CANYON SAND)	1,0	CITIES SERVICE CO
8104308	23395	4243330972	103	FLOWERS CANYON SAND UNIT #173	FLOWERS (CANYON SAND)	5,0	CITIES SERVICE CO
*GOLDSTUN OIL CORP				RECEIVED: 10/31/80 JA: TX			
8104206	23261	4215731064	103	HELEN J FARMER NU 1 (87452)	NEEDVILLE (BLK 38 PHID &	275,0	PHILLIPS PETROLEUM C
*GULF OIL CORPORATION				RECEIVED: 10/31/80 JA: TX			
8104026	15748	4221131060	103	A A ROSS #5-71	HEMPHILL-GRANITE WASH	572,0	CITIES SERVICE GAS C
8104285	23334	4242900000	108	BRADSHAW HEIRS #1	NECESSITY (MARBLE FALLS)	15,0	NATURAL GAS PIPELINE
8104246	023186	4213500000	108	C A GOLDSMITH ET AL NO 1282	GOLDSMITH (5600)	7,4	PHILLIPS PETROLEUM C
8104119	19636	4223300000	108	C L DIAL ET AL NO 1	PANHANDLE MUTCHINSON	0,6	PHILLIPS PETROLEUM C
8104109	19614	4223300000	108	C L DIAL ET AL NO 112	PANHANDLE MUTCHINSON	0,6	PHILLIPS PETROLEUM C
8104108	19613	4223300000	108	C L DIAL ET AL NO 113	PANHANDLE MUTCHINSON	0,6	PHILLIPS PETROLEUM C
8104107	19612	4223300000	108	C L DIAL ET AL NO 114	PANHANDLE MUTCHINSON	0,6	PHILLIPS PETROLEUM C
8104106	19611	4223300000	108	C L DIAL ET AL NO 115	PANHANDLE MUTCHINSON	1,5	PHILLIPS PETROLEUM C
8104105	19610	4223300000	108	C L DIAL ET AL NO 116	PANHANDLE MUTCHINSON	1,5	PHILLIPS PETROLEUM C
8104104	19608	4223300000	108	C L DIAL ET AL NO 120	PANHANDLE MUTCHINSON	0,6	PHILLIPS PETROLEUM C

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JD NO	JA DAT	API NO	SEC D	WELL NAME	FIELD NAME	PHID	PURCHASER
8104117	19625	4223300000	108	C L DIAL ET AL NO 125	PANHANDLE MUTCHINSON	0,0	PHILLIPS PETROLEUM C
8104116	19623	4223300000	108	C L DIAL ET AL NO 129	PANHANDLE MUTCHINSON	0,0	PHILLIPS PETROLEUM C
8104115	19622	4223300000	108	C L DIAL ET AL NO 130	PANHANDLE MUTCHINSON	0,0	PHILLIPS PETROLEUM C
8104101	19605	4223300000	108	C L DIAL ET AL NO 157	PANHANDLE MUTCHINSON	0,0	PHILLIPS PETROLEUM C
8104100	19603	4223300000	108	C L DIAL ET AL NO 161	PANHANDLE MUTCHINSON	1,5	PHILLIPS PETROLEUM C
8104099	19602	4223300000	108	C L DIAL ET AL NO 162	PANHANDLE MUTCHINSON	0,1	PHILLIPS PETROLEUM C
8104098	19601	4223300000	108	C L DIAL ET AL NO 163	PANHANDLE MUTCHINSON	0,3	PHILLIPS PETROLEUM C
8104118		4223300000	108	C L DIAL ET AL NO 176	PANHANDLE MUTCHINSON	1,7	PHILLIPS PETROLEUM C
8104103	19607	4223300000	108	C L DIAL ET AL NO 218	PANHANDLE MUTCHINSON	2,0	PHILLIPS PETROLEUM C
8104102	19606	4223300000	108	C L DIAL ET AL NO 220	PANHANDLE MUTCHINSON	1,7	PHILLIPS PETROLEUM C
8104114	19620	4223300000	108	C L DIAL ET AL NO 55	PANHANDLE MUTCHINSON	0,6	PHILLIPS PETROLEUM C
8104113	19619	4223300000	108	C L DIAL ET AL NO 56	PANHANDLE MUTCHINSON	0,6	PHILLIPS PETROLEUM C
8104112	19618	4223300000	108	C L DIAL ET AL NO 57	PANHANDLE MUTCHINSON	0,6	PHILLIPS PETROLEUM C
8104111	19617	4223300000	108	C L DIAL ET AL NO 59	PANHANDLE MUTCHINSON	0,3	PHILLIPS PETROLEUM C
8104110	19616	4223300000	108	C L DIAL ET AL NO 60	PANHANDLE MUTCHINSON	0,3	PHILLIPS PETROLEUM C
8104121	19638	4223300000	108	C L DIAL ET AL NO 77	PANHANDLE MUTCHINSON	3,0	PHILLIPS PETROLEUM C
8104120	19637	4223300000	108	C L DIAL ET AL NO 78	PANHANDLE MUTCHINSON	0,0	PHILLIPS PETROLEUM C
8104007	12427	4217900000	108	CULLEN #6	PANHANDLE GRAY	8,0	GETTY OIL CO
8104224	22853	4236300000	108	DAVID M MCCLURE NU 1	GRAPEVINE SW (CONGL LOWER)	20,0	BRAZOS FUEL CO INC
8104060	18812	4223300000	108	MAILE /B/ #1	PANHANDLE MUTCHINSON	4,5	GETTY OIL CO
8104069	18831	4223300000	108	MAILE /B/ #10	PANHANDLE MUTCHINSON	4,5	GETTY OIL CO
8104070	18832	4223300000	108	MAILE /B/ #15	PANHANDLE MUTCHINSON	4,5	GETTY OIL CO
8104071	18833	4223300000	108	MAILE /B/ #16	PANHANDLE MUTCHINSON	4,5	GETTY OIL CO
8104061	18813	4223300000	108	MAILE /B/ #2	PANHANDLE MUTCHINSON	4,5	GETTY OIL CO
8104063	18815	4223300000	108	MAILE /B/ #3	PANHANDLE MUTCHINSON	4,5	GETTY OIL CO
8104066	18818	4223300000	108	MAILE /B/ #5	PANHANDLE MUTCHINSON	4,5	GETTY OIL CO
8104068	18820	4223300000	108	MAILE /B/ #6	PANHANDLE MUTCHINSON	4,5	GETTY OIL CO
8104062	18814	4223300000	108	MAILE /C/ #2	PANHANDLE MUTCHINSON	3,5	GETTY OIL CO
8104064	18816	4223300000	108	MAILE /C/ #3A	PANHANDLE MUTCHINSON	3,5	GETTY OIL CO
8104065	18817	4223300000	108	MAILE /C/ #4	PANHANDLE MUTCHINSON	3,5	GETTY OIL CO
8104067	18819	4223300000	108	MAILE /C/ #5	PANHANDLE MUTCHINSON	3,5	GETTY OIL CO
8104072	18835	4223300000	108	MAILE /E/ #6	PANHANDLE MUTCHINSON	3,5	GETTY OIL CO
8104073	18836	4223300000	108	MAILE /E/ #7	PANHANDLE MUTCHINSON	3,5	GETTY OIL CO
8104074	18837	4223300000	108	MAILE /E/ #8	PANHANDLE MUTCHINSON	3,5	GETTY OIL CO
8104075	18838	4223300000	108	MAILE /E/ #9	PANHANDLE MUTCHINSON	3,5	GETTY OIL CO
*8104335	23750	4248300000	108	MAHLAN R L F #1	PANHANDLE EAST	10,0	TRANSWESTERN PIPE LI
8104253	23195	4247531991	103	MUTCHINGS STUCK ABSN NU 1049	WAND-ESTES NORTH	13,0	CABOT CORP
8104252	23194	4247532016	103	MUTCHINGS STUCK ABSN NU 1058	WAND-ESTES NORTH	6,0	CABOT CORP
8104249	23191	4247532011	103	MUTCHINGS STUCK ABSN NU 1066	WAGON WHEEL (PENN)	189,0	CABOT CORP
8104251	23193	4247532044	103	MUTCHINGS STUCK ABSN NU 1070-P	WAGON WHEEL (PENN)	165,0	CABOT CORP
8104254	23196	4247532043	103	MUTCHINGS STUCK ABSN NU 1071	WAGON WHEEL (PENN)	185,0	CABOT CORP
8104250	23192	4247532042	103	MUTCHINGS STUCK ABSN NU 1072	WAGON WHEEL (PENN)	121,0	CABOT CORP
8104225	22854	4223700000	108	I G YATES NU 4	BOUNSVILLE (BEND CONGL G	10,0	NATURAL GAS PIPELINE
8104241	23155	4249531068	103	KEYSTONE CATTLE CO NU 348	KEYSTONE (COLBY)	155,0	CABOT CORP
8104227	22880	4223708000	108	NORTH RIGGS NO 1	BOUNSVILLE BEND (CONGL)	15,0	SOUTHWESTERN GAS PIP
8104226	22855	4223700000	108	NORTH RIGGS NO 3	RIGGS CONGL	15,0	SOUTHWESTERN GAS CO
8104272	23298	4210332117	103	W N WADDELL ET AL NO 1129	SAND HILLS (JUDKINS)	0,0	M & T GATHERING
8104280	23153	4210334109	103	W N WADDELL ET AL NU 1130	SAND HILLS (JUDKINS)	457,0	M & T GATHERING
8104273	23299	4210332197	103	W N WADDELL ET AL TR A NU 1162	SAND HILLS (JUDKINS)	875,0	M & T GATHERING
*GULF SANDS OIL CO				RECEIVED: 10/31/80 JA: TX			
8104150		4202531211	102	CLARISSA M WALLER NU 1-C	LITTLE JUNN (2900)	219,0	UNITED GAS PIPELINE
*GUNN OIL CO				RECEIVED: 10/31/80 JA: TX			
8104158	21301	4226930035	102	B B BUNNETT 1-16	TOM (B CUNGL) FIELD	30,0	LONE STAR GAS CO
8104159	21434	4226900000	102	T B MASTERSON NO 1	TOM (B CUNGL) FIELD	30,0	LONE STAR GAS CO
*H B HMUADB & ASSOCIATES				RECEIVED: 10/31/80 JA: TX			
8104076	19282	4218330474	103	MCAFEE NU 1 - 046989	LIBERTY OAK (BIG SALINE)	182,5	LONE STAR GAS CO
*H D ODEN INC				RECEIVED: 10/31/80 JA: TX			
8104267	23263	#2105000000	103	UNIVERSITY 11 #11-2	FARMER (SAN ANDRES)	8,1	BIG LAKE GASOLINE PL
8104266	23264	#2105000000	103	UNIVERSITY 12 12-3	FARMER (SAN ANDRES)	8,1	BIG LAKE GASOLINE PL
*H L BRUNN JR				RECEIVED: 10/31/80 JA: TX			
8104192	22356	4231732102	103	SLAUGHTER-HANCUCK NU 2	SULPHUR DRAW (DEAN 8790)	14,0	GETTY OIL CO

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JD NO	JA DAT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
=HAROLD D COURSON				RECEIVED: 10/31/80 JA: TX			
8104271	23278	42357309020	103	=AMBLE #2	HANSFORD (MORROW UPPER)	450.0	NORTHERN NATURAL GAS
=HI=PLAINS PRODUCTION INC				RECEIVED: 10/31/80 JA: TX=			
8104183	22218	42483000000	108	2 BELL	PANHANDLE WHEELER	2.2	HAEL GAS CO
8104184	22220	42483000000	108	3 BELL	PANHANDLE WHEELER	2.2	HAEL GAS CO
8104187	22223	42483000000	108	4 BELL	PANHANDLE WHEELER	2.2	HAEL GAS CO
8104188		42483000000	108	5 BELL	PANHANDLE WHEELER	2.2	HAEL GAS CO
8104186	22222	42483000000	108	6 BELL	PANHANDLE WHEELER	2.2	HAEL GAS CO
8104185	22221	42483000000	108	7 BELL	PANHANDLE WHEELER	2.2	HAEL GAS CO
=HILLIARD OIL & GAS INC				RECEIVED: 10/31/80 JA: TX			
8104156	21328	4221530923	102	BARBARA LIPS NO 2	MCALLEN RANCH N (YK886 1	365.0	SOUTHERN NATURAL GAS
=HNG OIL COMPANY				RECEIVED: 10/31/80 JA: TX			
8104298	23377	42475310827	103	BLACK 135 A=1 25384	RHODA WALKER (CANYON 590	7.0	CLAJON GAS CU
8104297	23376	42435310000	108	JONES 118 #4 02170	SAWYER (CANYON)	18.0	INTRATEX GAS CU
8104160	21448	42413303?1	108	MEADOR 189 #1 05780	SAWYER (CANYON)	19.0	INTRATEX GAS CU
8104140	20812	42475310903	103	PRICE 135 #1 25742	RHODA WALKER (CANYON 590	88.0	CLAJON GAS CU
8104295	23374	42435313?5	108	VANDERSTUCKEN 36 #1 69665	SAWYER (CANYON)	17.0	INTRATEX GAS CU
8104296	23375	42435302?1	108	VANDERSTUCKEN 40 #2 58035	SAWYER (CANYON)	19.0	INTRATEX GAS CU
=HOOVER & BRACKEN ENERGIES				RECEIVED: 10/31/80 JA: TX			
8104133	20577	4221131138	102	CAMPBELL #1=1L	CAMPBELL RANCH (MORROW U	365.0	NORTHERN NATURAL GAS
=HOWELL DRILLING INC				RECEIVED: 10/31/80 JA: TX			
8104189	22254	4212300000	102	FELIX KOENIG GAS UNIT NO 1	ANNA BARRE N	365.0	
=HUGHES & HUGHES				RECEIVED: 10/31/80 JA: TX			
8104191	22336	4202531050	102	BILL WILSON GAS UNIT NO 1	SINGLETON E (INGLE)	500.0	FERGUSON CROSSING PI
8104293	23372	4228730587	103	GEORGE TRUITT NO 1 ID #12659	GIDDINGS (AUSTIN CHALK)	117.0	CLAJON GAS CU
8104294	23373	4228730555	103	ORANGE #1	GIDDINGS (AUSTIN CHALK)	241.0	CLAJON GAS CO
=INCA EXPLORATION CO				RECEIVED: 10/31/80 JA: TX			
8104043	17655	4221103114	103	INCA #1 EDW ABRAHAM MEM HOME UNIT	CANADIAN EAST (DOUGLAS)	160.0	CORONADO TRANSMISSIO
=INTEGRAL ENERGY CORP				RECEIVED: 10/31/80 JA: TX			
8104228	22885	4232130935	102	STATE TRACT 309 #1=L 86112	OLIVER POINT S (6250)	365.0	DOW CHEMICAL CU
8104229	22886	4232130935	102	STATE TRACT 309 #1=U 86111	OLIVER POINT S (3500)	365.0	DOW CHEMICAL CU
=J M HUBER CORPORATION				RECEIVED: 10/31/80 JA: TX			
8104006	12153	4223330652	103	BLACKBURN NO 1A	PANHANDLE WEST	46.0	PANHANDLE EASTERN PI
8104005	12152	4234130534	103	OTIS PHILLIPS C NO 3A	PANHANDLE WEST	24.0	COLORADO INTERSTATE
=JOHN L COX				RECEIVED: 10/31/80 JA: TX			
8104274	23307	4248131554	103	CITIES=NEAL B NO 1	BENEDUM (FUSSELMAN)	20.0	UNION TEXAS PETROLEU
8104279	23312	4238331557	103	UNIVERSITY 19=10 NO 1 HRC 08283	SPRABERRY (TREND AREA)	10.0	PHILLIPS PETROLEUM C
=JOHN M CLARK				RECEIVED: 10/31/80 JA: TX			
8104094	19577	4232300000	108	BURR 4	M F JAKE LAWLESS	5.9	VALERO TRANSMISSION
8104095	19578	4232300000	108	BURR 6	M F JAKE LAWLESS	1.0	VALERO TRANSMISSION
8104096	19580	4232300000	108	MANGUM A 1	M F JAKE LAWLESS	1.8	VALERO TRANSMISSION
8104097	19581	4232300000	108	SANER A 1	M F JAKE LAWLESS	6.0	VALERO TRANSMISSION
=J3 OIL CO INC				RECEIVED: 10/31/80 JA: TX			
8104035	16592	4235531400	102	M S WATERS	=EST SHIELD (2900)	135.8	DELMI GAS PIPELINE C
8104035	16592	4235531400	103	M S WATERS	=EST SHIELD (2900)	135.8	DELMI GAS PIPELINE C
=KEN REEVES INC				RECEIVED: 10/31/80 JA: TX			
8104180	22100	4236731092	102	=OULSEY NO 1 85580	KUZELL (CONGLOMERATE)	150.0	ALEDO GAS CU LTD
=KILROY CO OF TEXAS				RECEIVED: 10/31/80 JA: TX			
8104169	21602	4228531411	102	GUY DANIELS NO 1	BORCHERS (YEGUA 5700)	730.0	VALERO TRANSMISSION
8104168	21601	4228531377	102	MCELROY NO 1	SPEARS SW (10000)	0.0	UNITED TEXAS TRANSMI
=L&M OIL CO				RECEIVED: 10/31/80 JA: TX			
8104150	20418	4249731475	103	C P SMITH #6 18245	ALVORD (ATOKA CONGL)	80.0	NATURAL GAS PIPELINE
=LAUREL FUEL CO				RECEIVED: 10/31/80 JA: TX			
8104048	18010	4248131709	102	SOUTH UNIT=D J =INTERMAN #1	BONUS SOUTH (LOWER =ILCO	365.0	TRUNKLINE GAS CU
=MARSHALL EXPLORATION INC				RECEIVED: 10/31/80 JA: TX			
8104086	19416	4220330630	103	= K FURRH #2	ELYSIAN N (COTTON VALLEY	140.0	NATURAL GAS PIPELINE
=MCCORMICK OIL & GAS CORP				RECEIVED: 10/31/80 JA: TX			
8104179	22055	4234931064	102	=ILLIGAN #1	CHENEYBORO (COTTON VALLE	150.0	LONE STAR GAS CO
=MGF OIL CORP				RECEIVED: 10/31/80 JA: TX			
8104245	23182	4232930853	103	STIMSON=BURLEY NO 3	SPRABERRY (TREND AREA)	19.5	NORTHERN NATURAL GAS

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JD NO	JA DAT	API NO	SEC	WELL NAME	FIELD NAME	PROD	PURCHASER
=MITCHELL ENERGY CORPORATION				RECEIVED: 10/31/80 JA: TX			
8104055	18356	4249731549	103	ALVORD SU (CADDO CONGL) UT #8=4	ALVORD SOUTH (CADDO CONG	40.0	NATURAL GAS PIPELINE
8104323	23400	4249731675	103	DAISY TAYLOR A #2	PARK SPRINGS (CONGL)	59.3	NATURAL GAS PIPELINE
8104037	17194	4229530469	103	T J MCCLANAN #1	FALLON (COTTON VALLEY)	800.0	SOUTHWESTERN GAS PIP
=MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED: 10/31/80 JA: TX			
8104331	23527	4235700080	108	A J GEORGE UNIT NO 1	PENRYTON	15.3	NORTHERN NATURAL GAS
8104220	22734	4203931280	102	ALLIGATOR POINT UNIT NO 8	ALLIGATOR POINT (MIOCENE	952.0	AMOCO PRODUCTION CO
8104221	22735	4203900000	102	STATE TRACT 32 NO 2	ALLIGATOR POINT (MIOCENE	302.0	AMOCO PRODUCTION CO
8104199	22562	4237100000	108	STATE=IVEY GAS UNIT A #1	COYANOSA (MISS 10475)	3.3	LONE STAR GAS CO
=NAPECU INC				RECEIVED: 10/31/80 JA: TX			
8104190	22329	4250300000	102	HALL #6 77035	NAPECU SW (CONGL)	109.0	NATURAL GAS PIPELINE
=NIGAB				RECEIVED: 10/31/80 JA: TX			
8104205	22634	4206530745	103	KEITH #8	PANHANDLE CARBON	82.8	PANHANDLE EASTERN PI
=NUCORP ENERGY INC				RECEIVED: 10/31/80 JA: TX			
8104327	23452	4228730594	102	ROHNER JACKSON #2	GIDDINGS (AUSTIN CHALK)	25.0	CLAJON GAS CU
8104281	23317	4228730553	102	JOYCE UNIT #12624	GIDDINGS (AUSTIN CHALK)	30.8	CLAJON GAS CU
8104283	23320	4210930465	102	SCHOENEMANN #1 #87484	GIDDINGS (AUSTIN CHALK G	0.0	CLAJON GAS CU
=ONG EXPLORATION INC				RECEIVED: 10/31/80 JA: TX			
8104127	20385	4229530694	103	KLIEWER NO 3	FOLLETT (MORROW UPPER)	40.0	NORTHERN NATURAL GAS
=PALO=PLACER				RECEIVED: 10/31/80 JA: TX			
8104137	20729	4248131474	103	UNIVERSITY 3=1	SPRABERRY (TREND AREA)	30.0	EL PASO NATURAL GAS
=PARAFFINE OIL CORP				RECEIVED: 10/31/80 JA: TX			
8104045	17900	4205730943	102	P H WELDER B NO 5U	KATIE WELDER (L=7)	365.0	FLORIDA GAS TRANSMIS
8104045	17900	4205730943	103	P H WELDER B NO 5U	KATIE WELDER (L=7)	365.0	FLORIDA GAS TRANSMIS
=PHILCON DEVELOPMENT CO				RECEIVED: 10/31/80 JA: TX			
8104182	22168	4221131163	103	DALE #1	GLAZIER NW (MORROW UPPER	55.0	DIAMOND SHAMROCK CUR
=PHILLIPS PETROLEUM COMPANY				RECEIVED: 10/31/80 JA: TX			
8104155	21285	4213533272	183	(01567) VINA BAGLEY NO 18	FOSTER	11.0	ODESSA NATURAL CORP
8104289	23351	4222702278	108	(02896) BELLAM NO 5	IATAN EAST (HOWARD)	1.0	GETTY OIL CO
8104053	18206	4200310351	108	(17015) BITLER NO 59	FULLERTON (SAN ANDRES)	0.1	EL PASO NATURAL GAS
8104290	23352	4213501896	108	(17341) KLUMA = B NO 1	COWDEN NORTH	1.0	AMOCO PRODUCTION CO
8104025	15727	4217900000	108	FINLEY DOLOMITE NO 8	PANHANDLE GRAY	17.5	COLTEXO CORP
8104031	16149	4242130218	103	LOUISE NO 5	TEXAS HUGOTON	264.0	MICHIGAN WISCONSIN P
8104032	16150	4223330585	103	MCMANN NO 3	W PANHANDLE	92.0	EL PASO NATURAL GAS
8104172	21668	4219500000	108	NORTHWEST #1	TEXAS HUGOTON	20.0	MICHIGAN WISCONSIN P
8104046	17951	4240100000	108	PENNY NO 1	EAST TEXAS	8.0	PARADE CO
8104024	15675	4217900000	108	PHIL=PAMPA UNIT 8=14	PANHANDLE GRAY	0.2	GETTY OIL CO
8104076	19188	4240100000	108	THRASH NO 12	E TEXAS	0.7	PARADE CO
8104077	19189	4240100000	108	THRASH NO 21	EAST TEXAS	0.8	PARADE CO
8104033	16153	4229530483	103	TRAVIS A NO 2	FOLLETT N	120.0	PANHANDLE EASTERN PI
8104223	22851	4242100000	108	=ITTER A NO 2	TEXAS HUGOTON	17.0	PANHANDLE EASTERN PI
=R E SMITH INTERESTS				RECEIVED: 10/31/80 JA: TX			
8104149	20903	4236500000	108	HUPPER UNIT #1 HRC NO 30222	CANTHAGE (PETIT LOWER G	9.2	TEXAS EASTERN TRANSM
=RALPH SPENCE				RECEIVED: 10/31/80 JA: TX			
8104255	23198	4229300000	108	TAYLOR = E #1 HRC #81655	PUKEY (RUDESSA) FIELD	3.0	TEXAS UTILITIES FUEL
=RAYBURN CHUKAB				RECEIVED: 10/31/80 JA: TX			
8104027	15869	4233700000	103	PAUL DUNALD & MONTAGUE CATTLE CO #3	CHUKAB/CADDO	5.8	J L DAVIS=HUMIE GASO
=RICHARD PHILLIPS				RECEIVED: 10/31/80 JA: TX			
=8104125	19979	4240931343	102	KIWK GAS UNIT NO A=1L	=HITE POINT E DEEP (CHUK	500.0	VALERO TRANSMISSION
=8104125	19979	4240931343	103	KIWK GAS UNIT NO A=1L	=HITE POINT E DEEP (CHUK	500.0	VALERO TRANSMISSION
=SEELY OIL CO				RECEIVED: 10/31/80 JA: TX			
8104211	22455	4236731613	103	HADDUX #1 ID #86414	BETHESDA (BIG SALINE)	36.5	SOUTHWESTERN GAS PIP
8104198	22559	4236731775	103	RAY CLARK #1 #86249	=EATHERFORD SW (STRAWN)	54.8	SOUTHWESTERN GAS PIP
=SHELL OIL CO				RECEIVED: 10/31/80 JA: TX			
8104157	21337	4250131656	103	DENVER UNIT #2232	=ASSON	65.0	SHELL OIL CO
=8104124	19767	4250131696	103	DENVER UNIT #3839	=ASSON	80.0	COLTEXO CORP
=8104122	19765	4250131663	103	DENVER UNIT #4437	=ASSON	27.0	COLTEXO CORP
=8104123	19766	4250131708	103	DENVER UNIT #4918	=ASSON	81.0	COLTEXO CORP
8104019	15022	4250131686	103	DENVER UNIT 3332	=ASSON	208.8	COLTEXO CORP
=8104020	15023	4210531504	103	DENVER UNIT 8535	=ASSON	690.0	COLTEXO CORP
8104326	23448	4247532000	103	SEALY SMITH FOUNDATION #160	MONAHANS (CLEAR FORK)	125.0	EL PASO NATURAL GAS
8104325	23443	4247531924	103	SEALY SMITH FOUNDATION #170	MONAHANS (CLEAR FORK)	49.0	EL PASO NATURAL GAS

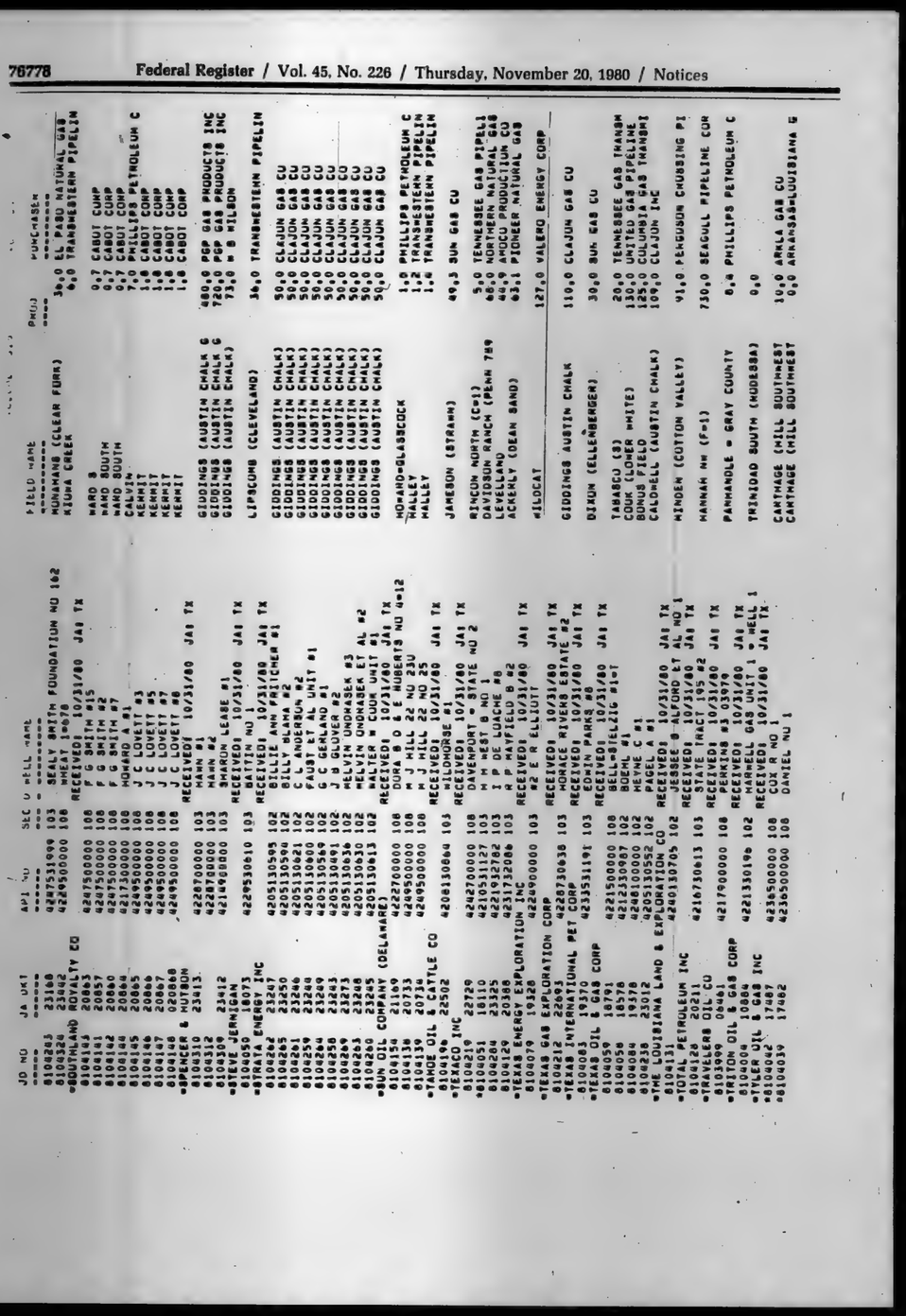

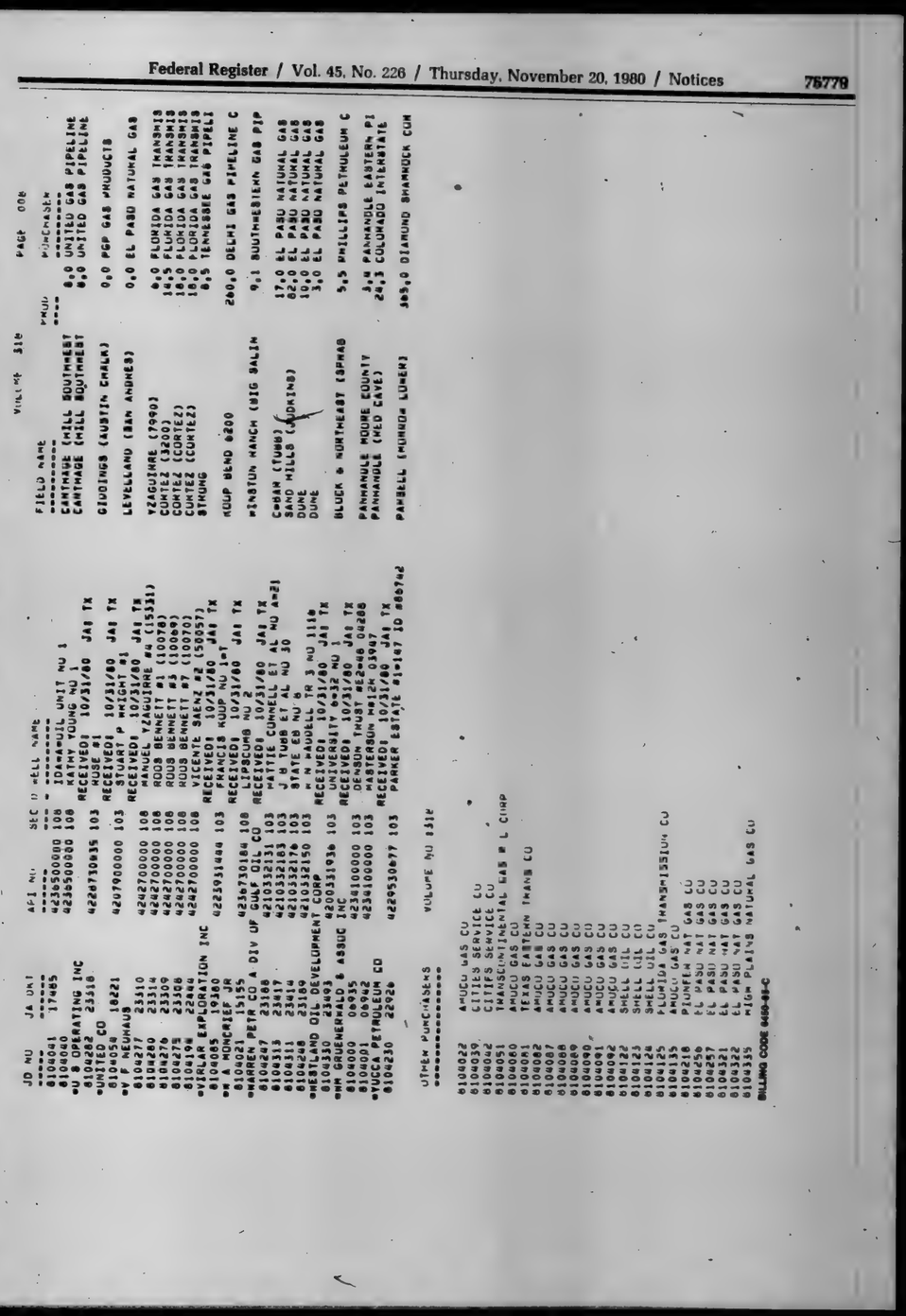

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant

[Docket Nos. G-11213-000, et al.]

Applications for Certificates,

taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
CI81-42-000, F, Nov. 4, 1980 [1]	Anadarko Production Company, (Partial Successor in Interest to Kirkpatrick Oil & Gas Company)	Panhandle Eastern Pipe Line Company, Zieber No. 1 Well in the S. Talpa Field, Roo. 20 T4N	([2])	14.730

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceeding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission by December 5, 1980.

Please reference the FERC Control Number (JD No.) in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36252 Filed 11-19-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket Nos. G-11213-000, et al.]

Applications for Certificates, Abandonment of Service and Petitions to Amend Certificates [1]

November 14, 1980.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 1, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-11213-000, D, Oct. 31, 1980	Texaco Inc. (Operator), P.O. Box 430, Bellaire, Texas 77401.	Florida Gas Transmission Company, South Clara Driscoll Field, Nueces County, Texas.	Release of lease.	
C177-8-001, C, Nov. 3, 1980	Conoco Inc., P.O. Box 2197, Houston, Texas 77001.	Tennessee Gas Pipeline Company, Grand Isle Block 48, W/2, of the Grand Isle Block 47 Field, Offshore Louisiana.	(1)	15.025
C181-29-000, A, Oct. 27, 1980	General American Oil Company of Texas, Meadows Building, Dallas, Texas 75206.	United Gas Pipe Line Company, West Cameron Area, South Addition, Block 537 (OCS-G-2551), Offshore Louisiana.	(2)	15.025
C181-30-000 (C177-419), B, Oct. 30, 1980.	Transco Exploration Company, P.O. Box 1396, Houston, Texas 77001.	Transcontinental Gas Pipe Line Corporation, West Mermentau Field, Acadia Parish, Louisiana.	(1)	
C181-31-000, A, Oct. 30, 1980	Cities Service Company, P.O. Box 300, Tulsa, Okla. 74102.	El Paso Natural Gas Company, Matagorda Island Block 528, Offshore Texas.	(1)	14.650
C181-32-000, B, Oct. 27, 1980	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77001.	The Nueces Company, Pitzer "A" Lease, Pitzer-6600, Field, Ward County, Texas.	(3)	
C181-33-000, B (G-10719), Oct. 31, 1980.	Shell Oil Company, One Shell Plaza, P.O. Box 2463, Houston, Texas 77001.	Tennessee Gas Pipeline Company, Mercy Field, San Jacinto, Texas.	(3)	
C181-34-000 (C167-703), B, Oct. 27, 1980.	David W. Law, Hays and Company Agent	Cumberland and Allegheny Gas Co., Freeman's Creek District, Lewis County, West Virginia.	(3)	
C181-35-000 (C167-697), B, Oct. 27, 1980.	do	do	(3)	
C181-36-000 (C167-702), B, Oct. 27, 1980.	do	do	(3)	
C181-37-000, A, Nov. 3, 1980	Amoco Production Company, P.O. Box 50879, New Orleans, La. 70150.	Tennessee Gas Pipeline Company, Eugene Island Blocks 301 and 322, Offshore Louisiana.	(4)	15.025
C181-38-000, A, Nov. 3, 1980	NT Corporation, P.O. Box 44, Winter Park, Florida 32790.	Transcontinental Gas Pipe Line Corporation, West Delta Block 35 Field Area, North Half of Block 34, Offshore Louisiana.	(5)	15.025
C181-39-000, B, Oct. 31, 1980	Hamilton Brothers Oil Company, 1600 Broadway, Denver, Colorado 80202.	Cities Service Gas Company, Sections 1 and 11, Range 21 West and Township 27 North, Harper County, Oklahoma.	No interest in said acreage and termination of lease.	
C181-40-000, A, Nov. 3, 1980	Union Oil Company of California, Union Oil Center, Room 901, P.O. Box 7600, Los Angeles, California 90051.	Mallard Resources, Inc., Vermilion Block 39 Field, Offshore Louisiana.	(10)	15.025
C181-41-000 (C175-548), B, Nov. 3, 1980.	Anadarko Production Company, P.O. Box 1330, Houston, Texas 77001.	Panhandle Eastern Pipe Line Company, Carthage Field, Texas County, Oklahoma.	Reservoir depletion, production has ceased from acreage and is no longer capable of producing in commercial quantities.	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
C181-42-000, F, Nov. 4, 1980 [11]	Anadarko Production Company, (Partial Successor in Interest to Kirkpatrick Oil & Gas Company), P.O. Box 1330, Houston, Texas 77001.	Panhandle Eastern Pipe Line Company, Zieber No. 1 Well in the S. Taloga Field, Sec. 20-T18N-R16W, Dewey County, Oklahoma.	(12)	14.730

[2] Applicant is filing under Gas Purchase and Sales Agreement dated Sept. 16, 1976, amended by Amendment dated Oct. 8, 1980.
[3] Applicant is filing under Gas Purchase Contract dated Oct. 7, 1980.
[4] Gas deliveries under Contract dated April 7, 1977 ceased in March, 1980. The gas reserves have been exhausted and the McMoRan Exploration Co. No. 1 A.S. Alston Fee Well was plugged and abandoned on June 30, 1980. Applicant does not contemplate any additional deliveries from the acreage dedicated under the Gas Purchase Contract.
[5] Applicant is filing under Gas Sales Agreement dated Aug. 1, 1980.
[6] Gulf's interest in the lease covered by the percentage-type contract dated June 6, 1963, as amended, has been terminated and the Contract expired by its own terms on Jan. 1, 1980.
[7] Effective 7:00 A.M., July 1, 1980, Shell Oil Company has sold all of its rights, title and interest in the Mercy Field by assignment in favor of Lancer Oil and Gas, Inc.
[8] Cumberland and Allegheny Co. no longer has lines in the area to take gas.
[9] Applicant is willing to accept a certificate conditioned as to price in accordance with the NGPA of 1978.
[10] Applicant is filing under Gas Sale and Purchase Contract dated July 28, 1980.
[11] Applicant is willing to accept a certificate as prescribed in subsection 104(b) of the NGPA of 1978.
[12] By assignment executed on Feb. 1, 1980, Applicant acquired Kirkpatrick Oil & Gas Company's 50% working interest in the Zieber No. 1 Well dedicated under the agreement dated 9-29-67, by and between Kirkpatrick and Panhandle Eastern Pipe Line Company.
[13] Applicant is filing under Amendment to Gas Purchase Agreement (dated Sept. 29, 1967), dated July 17, 1980 by and between Anadarko Production Company and Panhandle Eastern Pipe Line Company.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 80-36248 Filed 11-19-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket Nos. RP73-112, et al.]

Algonquin Gas Transmission Company, et al.; Filing of Pipeline Refund Reports and Refund Plans

November 14, 1980.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before November 28, 1980. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
10/30/80	Algonquin Gas Transmission Company.	RP73-112, *et al.*	Plan.
10/30/80	East Tennessee Natural Gas Company.	RP78-65	Report.
11/3/80	Consolidated Gas Supply Corporation.	RP72-157	Report.

[FR Doc. 80-36240 Filed 11-19-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. RP81-12-000]

Consolidated Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

November 14, 1980.

Take notice that Consolidated Gas Supply Corporation (Consolidated) on October 31, 1980, submitted for filing a revision to Section 12, Purchased Gas Cost Adjustment, of the General terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1. The revised sheets reflect the "unit of sales" methodology and were filed pursuant to Article VII of the proposed Stipulation and Agreement in Consolidated's general rate filing in Docket No. RP80-61. The tariff sheets submitted are:

First Revised Sheet Nos. 67-A and 70-A
Third Revised Sheet Nos. 67 and 71-A
Fourth Revised Sheet Nos. 69, 70 and 72
Seventh Revised Sheet No. 71

Consolidated proposes an effective date of December 1, 1980, as provided in the aforementioned Stipulation and Agreement.

Copies of this filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before November 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any persons wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36242 Filed 11-19-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. RP81-13-000]

Consolidated System LNG Co. and Columbia LNG Corp.; Request for Authorization

November 14, 1980.

Take notice that on October 31, 1980, Consolidated System LNG Company and Columbia LNG Corporation Filed a petition with the Federal Energy Regulatory Commission (Commission) pursuant to Sections 8, 9 and 16 of the Natural Gas Act and General Instruction 5 of Part 201 of the Commission's Uniform System of Accounts for an Order authorizing certain accounting treatment for a period of service interruption resulting from the suspension of certain liquefied natural gas (LNG) deliveries by the Algerian government. Consolidated LNG and Columbia LNG seek authority to capitalize an allowance for the equity investment in the Cove Point, Maryland, LNG terminal and related facilities during the period they are unable to deliver gas due to the current LNG supply interruption, as set forth in the petition which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All protests filed with the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing must file a petition to

intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36241 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES81-10-000]

Consumers Power Co.; Application

November 14, 1980.

Take notice that Consumers Power Company (Consumers), on November 10, 1980, tendered for filing its application for Authority to Issue Securities under Section 204 of the Federal Power Act. Consumers intends to enter into an Amendment to its Acceptance Facility Agreement (the Agreement) with certain banks (the Banks) for the purpose of financing Consumers' acquisition and storage of a portion of its coal, fuel oil and gas (the Fuel). The Amendment will extend the Termination date and alter the method of setting the Acceptance Fees. Pursuant to the Agreement as amended, the Banks will accept drafts of Consumers from time to time in aggregate amounts outstanding at any one time not to exceed the lesser of $150,000,000 (the Commitment) or the cost of the Fuel Stored at certain field warehouses, which Fuel will be subject to security interests granted by Consumers to the Banks. The Commitment will be available to Consumers until December 3, 1981, or the Termination Date (as defined in the Agreement as amended).

Consumers may also, upon the occurrence of certain events, cease issuing drafts for acceptance, but instead issue notes to the Banks pursuant to a revolving credit facility in an amount equal to the Commitment less the amounts of any outstanding, unmatured and unpaid drafts until the Termination Date or such earlier time as provided in the Agreement.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36243 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES80-77]

Gulf States Utilities Co.; Application

November 14, 1980.

Take notice that on November 12, 1980, Gulf States Utilities Company (Applicant) filed an amended application seeking authorization to increase the previously requested issuance of 2,000,000 shares of additional Common Stock to 3,000,000 shares of Common Stock.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 21, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36244 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES81-11-000]

Illinois Power Co.; Application

November 14, 1980.

Take notice that on November 10, 1980, Illinois Power Company (Applicant) filed an application with the Federal Energy Regulatory Commission seeking an order determining that the Commission's approval is not required under Section 204 of the Federal Power Act (the Act) for the Applicant to enter into a lease for nuclear fuel and a cash deficiency agreement with Applicant's subsidiary, or in the alternative, for an order pursuant to Section 204 of the Act authorizing the Applicant's entry into such lease and agreement.

Applicant is incorporated under the laws of the State of Illinois and operates as an electric and gas public utility therein.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 24, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36245 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. SA81-2-000]

J-3 Oil Co., Inc.; Application for Adjustment

November 10, 1980.

Take notice that on October 8, 1980, J-3 Oil Company, Inc., (Applicant), 1450 Bank and Trust Tower, B & T 211, Corpus Christi, Texas, 78477, filed with the Federal Energy Regulatory Commission (Commission) pursuant to section 502(c) of the Natural Gas Policy Act (NGPA) and section 1.41 of the Commission's Rules of Practice and Procedure and application for adjustment. Applicant seeks relief from § 273.204(a) of the Commission's regulations.

Specifically, Applicant states that it made NGPA determination filings for a single completion location in each, the Hynes Mineral Trust "A-1" and Hynes Mineral Trust "A-3" wells. Applicant states that an adjustment is necessary as the applications for the requisite jurisdictional agency determinations were not filed until after April 1, 1979, and after deliveries were commenced from subsequent completion locations from Hynes Mineral Trust "A-1" and Hynes Mineral Trust "A-3" wells and for Hynes Mineral Trust "B" well and the Hynes Mineral Trust "2" well. Applicant further states that United Gas Pipe Line is the purchaser of all the gas.

The procedures applicable to the conduct of this adjustment proceeding are found in section 1.41 of the Commission's Rules of Practice and Procedure, Order 24, issued March 22, 1979 (44 FR 19861, March 30, 1979).

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of section 1.41(e). All petitions to intervene must be filed on or before fifteen days after publication of this notice in the **Federal Register.**

Lois D. Cashell,

Acting Secretary.

[FR Doc. 80-36246 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TA81-1-55-002 (PGA 81-1)]

Mountain Fuel Resources, Inc.; Change in Rates Pursuant to Purchased Gas Cost Adjustment Provision

November 14, 1980.

Take notice that on November 3, 1980, Mountain Fuel Resources, Inc. (Resources) tendered for filing a proposed change in rates applicable to service rendered under Rate Schedule No. 1 affected by and subject to Resources' *Purchased Gas Cost Adjustment Provision* contained in its FERC Gas Tariff, Original Volume No. 1.

Resources tendered in this filing, three substitute tariff sheets which reflect a reduction in the Base Tariff Rate to correct an error which first occurred on December 1, 1979. Resources requests that the resulting overcollection be refunded through a reduction to the Account 191 surcharge.

The current adjustment to Resources Rates results in an increase of $.2701 per Mcf to be effective December 1, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Nov. 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36249 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-6-000]

Western Gas Interstate Co.; Tariff Filing

November 14, 1980.

Take notice that Western Gas Interstate Company ("Western"), on October 28, 1980, filed, pursuant to Section 4 of the Natural Gas Act and Part 154 of the Commission's Regulations Under the Natural Gas Act, First Revised Sheet No. 9 and Third Revised Sheet No. 22 to its FERC Gas Tariff, Original Volume No. 2.

Western states that the tendered tariff sheets have been modified to include certain additional delivery points for Western and Panhandle Eastern Pipeline Company in their November 21, 1969 Gas Purchase and Sales Agreement, reflected in Western's FERC Gas Tariff, Original Volume No. 2, as Rate Schedule X-1 as approved by the Commission in its order dated May 27, 1970 in Docket No. CP70-164. Western has requested an effective date of November 27, 1980, for the tendered tariff sheets.

Western filed on October 22, 1979, a petition to further amend the May 27, 1970 order to provide for the delivery of natural gas at additional points for exchange and the construction and operation of facilities therefor, all as more fully set forth in the petition. The Commission issued its Order Amending Order Issuing Certificate of Public Convenience and Necessity and Granting Petition to Intervene on March 20, 1980. Said order granted Western and Panhandle the authorization for certain additional delivery points and the construction and operation of facilities necessary therefor.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36249 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP80-20]

Tennessee Gas Pipeline Co.; Third Party Protest [1]

November 14, 1980.

Take notice that in accordance with the procedures established by the Federal Energy Regulatory Commission (Commission) in Order No. 23-B,[2] and "Order on Rehearing of Order No. 23-B," [3] Associated Gas Distributors (AGD) protested on October 14, 1980, the assertion by the Tennessee Gas Pipeline Company (Tennessee) and certain producers that the contracts identified in its protests constitute contractual authority for the producers to charge and collect any applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA).

AGD stated that the language of the following contracts does not constitute authority for the producer to increase prices to the extent claimed by Tennessee in its evidentiary submission:

Seller	Rate schedule number	Date
Getty Oil Co.	232	
Getty Oil Co.	220	
Santa Fe Energy	CS71-208	5/6/70
Norcen Petroleum, Inc.	CS76-215	
Union Oil Co. of Calif.	257	3/15/66
Exxon Corp.	[illegible]	5/1/58
		10/11/79
Exxon Corp.	164	5/15/58
		10/11/79
Exxon Corp.	165	5/15/58
		10/11/79
Louisiana Land Expl. Co.	44	8/15/58
		3/3/80
Union Oil of Calif.	[illegible]	8/6/59
		3/3/80
Northern Pump, *et al*	CS71-22	
Exxon Corp.	169	10/6/59
		10/11/79
Exxon Corp.	241	12/30/59
		10/11/79
Gulf Oil Corp.	349	8/5/60
Sklar Oil Co.	CS72-187	2/21/47
		7/3/72
Myron H. Dorfman, *et al*	CS72-[illegible]	2/21/47
		7/3/72
Arco Oil & Gas Co.	6	10/4/49
		2/14/73
		2/15/80
Robert Mosbacher	CS71-707	
Texaco Inc.	55	8/1/[illegible]
Amerada Hess Corp.	7	12/1/46
		7/1/52
		4/29/75
		8/29/80
Mitchell Energy Corp.	RIS 6	
Mitchell Energy Production Corp.	[illegible]	
Roger Lacy, Inc.	CS72-[illegible]	
Exxon Corp.	234	12/30/59
		10/11/79
Dew Oil & Gas	CS79-320	3/3/58
		10/1/58
		11/1/79
American Petrofina Co. of Texas	95	2/24/50
		10/15/70
		8/11/80
J & M Well Service, Inc.	CS71-405	
Delta Drilling Co.	CS72-852	12/4/79
Texas Pacific Oil Co. (U.K), Inc.		5/7/80
Superior Oil	[illegible]	[1] 4/27/60
Mesa Petroleum Co.	83	
Tenneco Exploration, Ltd.	22	5/18/77
Tenneco Exploration, Ltd	20	8/7/78

[1] Amended 10/25/79.

Any person, other than the pipeline and the seller, desiring to be heard or to make any response with respect to these protests should file with the Commission, on or before December 1, 1980, a petition to intervene in accordance with 18 CFR 1.8. The seller need not file for intervention because

[1] The term "third party protest" refers to a protest filed by a party who is not a party to the contract which is protested.

[2] "Order Adopting Final Regulations and Establishing Protest Procedure," Docket No. RM79-22, issued June 21, 1979.

[3] Docket No. RM79-22, issued August 6, 1979.

V 45 N 020 80 UMI

under 18 C.F.R. § 154.94(j)(4)(ii), the seller in the first sale is automatically joined as a party.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36250 Filed 11-19-80; 8:45am]
BILLING CODE 6450-85-M

[Docket No. RP81-10-000]

Western Gas Interstate Co.; Proposed Changes in FERC Gas Tariff

November 14, 1980.

Take notice that on October 31, 1980 Western Gas Interstate Company, ("Western") tendered for filing proposed changes in its FERC Gas Tariff to be effective on December 1, 1980, consisting of the following tariff sheets.

Sixteenth Revised Sheet No. 3A, Original Volume 1.

Fourth Revised Sheet No. 1A, Original Volume 2.

Western requested in its filing that the Commission suspend such change in rates for a period of one day rather than for a five month period as permitted under Section 4(e) of the Natural Gas Act.

The proposed changes would increase revenues from jurisdictional sales and transportation based upon the twelve-month period ending June 30, 1980, as adjusted. Such revenue increase is exclusive of increases in purchased gas costs which will occur prior to the rates involved becoming effecting and which would otherwise be recovered through the purchased gas adjustment clause provisions of Western's tariff.

Western states that the principal reasons for the proposed rate increase are: (1) increase in overall rate of return necessary to maintain its financial integrity; (2) increases in plant and related cost of service items; (3) increases in cost of materials, supplies, wages, services, and other operating expenses necessary to maintain and operate its pipeline system and appurtenances; (4) increases in taxes.

Western further states that in light of current uncertainties of the costs for transmission and compression by others, Western has included in the instant Notice of Rate Change "Alternative Tariff Sheets" which reflect the basic deficiency of $1,023,569 and included 38.41¢/Mcf average transmission and compression by others cost under its Rate Schedule G–R and 1.11¢/Mcf average transmission and compression by others cost under its Rate Schedule G–N in Original Volume No. 1 and under Rate Schedule T–2 and T–3 of Original Volume No. 2. Pro Forma Tariff Sheets are also included to reflect proposed Section 21, "Transmission and Compression of Gas by Others Adjustment Provision" under General Terms and Conditions contained in Original Volume No. 1. Western requests that the "Alternative Revised Tariff Sheets" be made effective subject to the express condition that, thereafter, Western be permitted to file revisions to such tariff sheets from time to time to reflect changes in the cost of transmission and compression of gas by others resulting from variations in the volume of gas transported and from changes in the tariff prices of other natural gas companies for transmission and compression of gas.

Western states that there are other changes in its tariff in the sheets tendered but that these changes are either minor word changes for clarification, updating of required information, or changes required to bring such sheets into conformity with the proposed rates.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 20, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36251 Filed 11-19-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. RM80-56]

Order Exempting Certain Jurisdictional Companies from Filing Requirements

Issued November 12, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order exempting certain jurisdictional companies from filing requirements.

SUMMARY: Companies that are required to file with the Commission both Form No. 1 (the basic electric utility annual report on financial and accounting data) and Form No. 2 (the basic natural gas company annual report on financial and accounting data) may file 1980 data on the current Form No. 2, regardless of whether Form No. 2 is revised as a result of the rulemaking procedure in Docket No. RM80–56 [45 FR 46075, July 9, 1980). (The rulemaking in Docket No. RM80–56 proposes to revise Form No. 2 so as to reduce reporting requirements for gas companies.) These companies may submit the current Form No. 2 for 1980 if filing the current Form No. 2 will ease their reporting burden.

DATE: Effective for Form Nos. 1 and 2 for the reporting year 1980.

FOR FURTHER INFORMATION CONTACT:
Cathy Ciaglo, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 8100K, Washington, D.C. 20426, (202) 357–8150.

Revision of Form No. 2, Annual Report for Natural Gas Companies (Class A and Class B).

Order Exempting Certain Jurisdictional Companies From Proposed Rulemaking

Issued November 12, 1980.

On July 1, 1980, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking to revise Form No. 2, "Annual Report for Natural Gas Companies (Class A and Class B)" (Docket No. RM80–56, 45 FR 46075, July 9, 1980). The period for public comment on that notice ended on October 14, 1980. A final rule is scheduled to be issued in the very near future. Any revisions to Form No. 2 resulting from issuance of the final rule are expected to be applicable to calendar year 1980 reports.

On July 10, 1980, the Commission issued a Notice of Proposed Rulemaking to revise Form No. 1, "Annual Report for Electric Utilities, Licensees and Others (Class A and Class B)" (Docket No. RM80–55, 45 FR 47705, July 16, 1980). In response to public comment, the Commission issued a Notice to Extend the Comment Period for Form No. 1 (issued September 11, 1980, 45 FR 63296, September 24, 1980). That Notice extended the comment period until November 20, 1980, and provided that any revisions to Form No. 1 resulting from issuance of a final rule in Docket No. RM80–55 would be effective for calendar year 1981 reports.

Comments submitted in Docket Nos. RM80–55 and RM80–56 requested that companies required to file both Form No. 1 and Form No. 2 with the Commission, be permitted to file 1980 data on the current Form No. 2. The comments stated that much of the information submitted on the current Form Nos. 1 and 2 is identical, including individual pages on which the information is reported. They argued that it would be impossible to interchange various pages in the forms if Form No. 2 were changed this year and Form No. 1 remained the same. They urged that the effective date of any Form No. 2 revisions be delayed until the reporting year 1981 in order to ease the transition to the new forms and avoid complications resulting from filing the *revised* Form No. 2 and the *unrevised* Form No. 1.

The Commission notes that the proposed revisions to Form Nos. 1 and 2 are a result of the Commission's effort to eliminate the reporting of information which is not needed to make decisions in the Commission's regulatory process. These reductions are also intended to result in a net decrease in reporting burden for jurisdictional gas and electric companies. However, for those companies which file *both* the Form Nos. 1 and 2 with the Commission, it appears that there may be a net increase in reporting burden for the 1980 calendar year, if only Form No. 2 is revised this year. Companies which file only Form No. 1 or Form No. 2 with the Commission are obviously not faced with this filing problem; the final rule to revise Form No. 2 shall, therefore, be effective as to these companies, for reports filed for calendar year 1980.

Accordingly, the Commission finds good cause whereby the following companies, which are presently the only companies required to file both Form Nos. 1 and 2 with the Commission, may submit current Form No. 2 for the reporting year 1980, if filing the current Form No. 2 will ease their reporting burden, regardless of any changes made to Form No. 2 as a result of a final rule in Docket No. RM80–56: Interstate Power Company; Iowa-Illinois Gas and Electric Company; Iowa Public Service Company; Montana-Dakota Utilities, Incorporated; Orange and Rockland Utilities, Incorporated; and Union Light, Heat and Power Company.

The Commission orders:

The following companies may file Form No. 2 in its current format with the Commission for the reporting year 1980, regardless of any revisions made to Form No. 2 by the final rule in Docket No. RM80–56: Interstate Power Company; Iowa-Illinois Gas and Electric Company; Iowa Public Service Company; Montana-Dakota Utilities, Incorporated; Orange and Rockland Utilities, Incorporated; and Union Light, Heat and Power Company.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36193 Filed 11-19-80; 8:45 am]
BILLING CODE 6450-85-M

Office of Conservation and Solar Energy

Emergency Energy Conservation Act; Soliciting Applications

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: Section 212 of the Emergency Energy Conservation Act of 1979, (EECA or the Act) P.L. 96–102, encourages each State to submit to the Secretary of Energy a State emergency energy conservation plan as soon as possible after enactment of the Act. These plans shall provide for emergency reductions in the public and private use of an energy source for which the President has established an emergency conservation target. By this notice, the Department of Energy (DOE) announces that it has solicited applications from the 57 jurisdictions which are subject to EECA for financial assistance to initiate and further stimulate emergency conservation planning activities. These jurisdictions, which include the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territories of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands are the only potential applicants eligible for this funding and are hereinafter referred to as the States or the eligible States.

EFFECTIVE DATE: The deadline for receipt of applications at the appropriate DOE Regional Office is December 15, 1980.

FOR FURTHER INFORMATION CONTACT:
W. Lorn Harvey or George Kerestes, Office of Emergency Programs, Conservation and Solar Energy, Department of Energy, Room GE–004A, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: (202) 252–4966.
Christopher T. Smith, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6B144, Mail Stop 6E067, Washington, D.C. 20585, telephone (202) 252–9510.

SUPPLEMENTARY INFORMATION: Title II of the Act provides the framework for a coordinated national response to a severe energy supply interruption. If the President finds that such an interruption exists or is imminent, or that actions to restrain domestic energy demand are necessary under the international energy program, he may establish monthly emergency energy conservation targets for each affected energy source (e.g., gasoline, home heating oil, electricity) for the Nation and for each State. Within 45 days after these targets are established, Governors must submit to the Secretary of Energy State emergency energy conservation plans containing measures they will enforce to reduce consumption of each targeted energy source to a level no greater than that set by the President.

The Act also encourages, but does not require, the States to submit their plans to DOE for tentative approval as soon as possible after enactment, and in advance of any energy emergency. For this emergency program to be successful, the States need to begin the contingency planning process as quickly as possible, in order to avoid having to develop such plans during the very limited 45 day period allowed by the Act. It is intended that the funds made available by this Program Solicitation will start the planning process.

The EECA financial assistance program for States in FY 1981 will be funded in two phases. Phase I (which is the subject of the Program Solicitation issued November 7, 1980) will provide a total of approximately $1.6 million. Of that amount up to $29,000 will be available to each eligible State whose application is determined to satisfy the requirements of the Solicitation to develop a management plan. The management plan should achieve two purposes: (1) to provide a framework for developing State energy energy conservation plans; and (2) to serve as the main element for the application for Phase II grant funding. From the date of award announcement the State will have 60 days to complete their management plan and provide it to the appropriate DOE Regional Office for review.

The outcome of Phase I is an internal planning document (i.e., the management plan) which describes how the States will go about developing the State emergency energy conservation plans. As such, the application in response to the Solicitation and the management plan will not be subject to the Office of Management and Budget Circular A–95 Procedures. The management plan developed by the designated State agency will be submitted directly to the DOE Regional Offices within 60 days after notice of grant award. At the same time a copy of the management plan must be forwarded by the designated State agency to the appropriate A–95 State and areawide clearinghouse(s) for their information.

In Phase II of this program, the subject of an upcoming Notice of Proposed Rulemaking, it is anticipated that additional funding in an amount to be determined (pending final action on Congressional appropriations for fiscal year 1981, probably not exceed $8.4 million) will be awarded to eligible States. In this phase, the States will be required to comply with the applicable provisions of OMB Circular A–95. Part III, Section D, of the Solicitation requires a discussion of how the State intends to comply with this circular.

The DOE Regional Offices will be responsible for the review and approval of applications which the States submit in response to the Solicitation. The appropriate Regional Office must receive an original, plus two (2) copies of each State's application, properly marked and identified, no later than 4:30 p.m. (local time of the Regional Office), December 15, 1980. The DOE Regional Offices plan to issue a notice of grant award, on the basis of an acceptable application, by December 31, 1980.

V 45 N 0 20 80 0 UMI

The Catalog of Federal Domestic Assistance Number for this grant program is 61.071.

For copies or answers to questions concerning the Program Solicitation, contact your appropriate DOE Regional Office at the address indicated.

Issued in Washington, D.C. November 17, 1980.

Berton J. Roth,

Deputy Director, Procurement and Assistance Management Directorate.

DOE Regional Representatives of the Secretary

Region I

Harold J. Keohane, U.S. Department of Energy, Room 700, 150 Causeway Street, Boston, Massachusetts 02114.

Region II

Robert A. Low, U.S. Department of Energy, Room 3400, 28 Federal Plaza, New York, New York 10007.

Region III

Obra S. Kernodle III, U.S. Department of Energy, 10th Floor, 1421 Cherry Street, Philadelphia, Pennsylvania 19102.

Region IV

Louis F. Centofanti, U.S. Department of Energy, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309.

Region V

Robert H. Bauer, U.S. Department of Energy, Room A–317, 175 West Jackson Boulevard, Chicago, Illinois 60604.

Region VI

G. Dan Rambo, U.S. Department of Energy, 2626 West Mockingbird Lane, P.O. Box 35228, Dallas, Texas 75235.

Region VII

Mary O'Halloran, U.S. Department of Energy, 24th Floor, 324 East 11th Street, Kansas City, Missouri 64106.

Region VIII

Charles Metzger, U.S. Department of Energy, 1075 S. Yukon, P.O. Box 26247, Belmar Branch, Lakewood, Colorado 80226.

Region IX

Martin Domagala (Acting), U.S. Department of Energy, 333 Market Street, San Francisco, California 94105.

Region X

Jack B. Robertson, U.S. Department of Energy, Room 1992, Federal Building, 915 2nd Avenue, Seattle, Washington 98174.

[FR Doc. 80-36809 Filed 11-19-80; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Public Law 95–621), signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate cost of gas to the industrial facility does not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA of 1978, Section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and a high cost gas incremental pricing threshold which are to be effective December 1, 1980. These prices are based on the prices of alternative fuels.

For further information contact: Leroy Brown, Jr., Energy Information Administration, Federal Building, 12th & Pa. Ave., NW., Rm 4121, Washington, D.C. 20461 (202) 633–9710.

Section I. Alternative Fuel Price Ceilings

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

State	Dollars per million Btu's
Alabama	3.58
Arizona	2.92
Arkansas	3.40
California	2.83
Colorado	2.60
Connecticut	3.90
Delaware	3.98
Florida	3.52
Georgia	3.69
Idaho	2.95
Illinois	2.47
Indiana	3.51
Iowa	2.94
Kansas	2.76
Kentucky	3.41
Louisiana	3.08
Maine	3.75
Maryland	3.83
Massachusetts	3.70
Michigan	3.06
Minnesota	2.97
Mississippi	3.25
Missouri	2.99
Montana	2.66
Nebraska	2.99
Nevada	2.92
New Hampshire	3.74
New Jersey	3.71
New Mexico	3.17
New York	3.65
North Carolina	3.64
North Dakota	3.12
Ohio	2.29
Oklahoma	3.60
Oregon	3.19
Pennsylvania	3.88
Rhode Island	3.75
South Carolina	3.74
South Dakota	3.08
Tennessee	3.63
Texas	3.35
Utah	2.78
Vermont	4.02
Virginia	3.84
Washington	3.03
West Virginia	2.97
Wisconsin	2.66
Wyoming	2.54

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during September 1980 was $33.80 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective December 1, 1980, is $7.58 per million BTU's.

Section III. Method Used to Compute Price Ceilings

The FERC, by Order No. 50, issued on September 28, 1979, in Docket No. RM79–21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 81, issued in the same docket on May 7, 1980, established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings until November 1, 1981.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1% sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of July 1980, August 1980 and September 1980. [1]

[1] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State or Local) and the military are excluded.

Footnotes continued on next page

Footnotes continued from last page

All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used to Determine Alternative Price Ceilings

(1) *Calculation of Volume-Weighted Average Price.* The prices which will become effective December 1, 1980, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, July 1980, August 1980, and September 1980. Reported prices for sales in July 1980 were adjusted by the percent change in the nationwide volume-weighted average price from July to September 1980. Prices for August 1980 were similarly adjusted by the percent change in the nationwide volume-weighted average price from August to September 1980. The volume-weighted 3-month average of the adjusted July 1980 and August 1980, and the reported September 1980 prices were then computed for each State.

(2) *Adjustment for Price Variation.* States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Prices.* The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section III.B.(1) above). The products of the adjusted low price for each month times the State's total reported sales-volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State's alternative fuel price ceiling base. The appropriate lag adjustment factor (as discussed in Section III.B.4.) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

(4) *Lag Adjustment.* The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 21 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending November 14, 1980, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of September 1980. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

C. Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A
Connecticut
Maine
Massachusetts
New Hampshire
Rhode Island
Vermont

Region B
Delaware
Maryland
New Jersey
New York
Pennsylvania

Region C
Alabama
Florida
Georgia
Mississippi
North Carolina
South Carolina
Tennessee

Region D
Illinois
Indiana
Kentucky
Michigan
Ohio
West Virginia
Wisconsin
Virginia

Region E
Iowa
Kansas
Missouri
Minnesota
Nebraska
North Dakota
South Dakota

Region F
Arkansas
Louisiana
New Mexico
Oklahoma
Texas

Region G
Colorado
Idaho
Montana
Utah
Wyoming

Region H
Arizona
California
Nevada
Oregon
Washington

Issued in Washington, D.C., on November 18, 1980.

Albert H. Linden, Jr.,

Acting Administrator, Energy Information Administration.

[FR Doc. 80-36800 Filed 11-19-80; 10:57 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER FRL 1675–7]

Agency Comments on Environmental Impact Statements and Other Actions Impacting the Environment

Purpose

Pursuant to the requirements of the section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment during the period of September 1, 1980 and September 30, 1980.

Summary of Notice

The information presented below describes the Federal agency responsible for the action, the type of document reviewed by EPA, the EPA review control number, and the title of the document reviewed. The classification of the nature of EPA's comments is listed for each draft EIS.

Availability of Information Contained in This Notice

Documents Reviewed by EPA. The documents identified below are prepared by the Federal agency identified in the listing. Copies may be obtained by requesting the document from the Federal agency responsible for its preparation. EPA does not maintain copies for distribution.

EPA Comments. Copies of EPA's comments identified below are available upon request from the appropriate EPA Regional Library or you may contact the Public Information Reference Unit, Environmental Protection Agency, Room

2922, Waterside Mall, SW., Washington, D.C. 20460.

EPA's Procedures for Commenting

Control No.: F–COE–D35013–PA. Copies of Comments: EPA, Philadelphia; Commercial Sand and Gravel

Control No.: F–NOA–B90004–RI. Copies of Comments: EPA, Boston; Nomeconsett Bay Estuaries

EPA, Washington, DC; Proposed 1981 Outer Continental Shelf (OCS) Oil and Gas Lease Sale No. 59; Offshore the

Tonopah Resource Area, Anaconda Nevada Molybdenum Project, Permit,

Control No.: D–FHW–L40061–OR. Copies of Comments: EPA, Seattle;

2922, Waterside Mall, SW., Washington, D.C. 20460.

EPA's Procedures for Commenting. Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the contact identified below for further information.

FOR FURTHER INFORMATION CONTACT:
Ms. Kathi L. Wilson, Office of Environmental Review (A–104), U.S. Environmental Protection Agency, Washington, D.C. 20460, Telephone: (202) 245–3006.

Period Covered: September 1, 1980 and September 30, 1980.

Civil Aeronautics Board

Control No.: F–CAB–A52145–00. Copies of Comments: EPA, Washington, DC; Multiple Permissive Entry Policy

Corps of Engineers

Control No.: DS–COE–A36140–PA. EPA Rating: LO1. Copies of Comments: EPA, Philadelphia; Tamaqua Local Flood Protection Project, Tamaqua, Schuylkill County, Pennsylvania

Control No.: DS–COE–A36399–PA. EPA Rating: 3. Copies of Comments: EPA, Philadelphia; Haycreek Flood Control, Schuylkill River Basin, Birdsboro, Berks County, Pennsylvania

Control No.: D–COE–E28034–NC. EPA Rating: ER2. Copies of Comments: EPA, Atlanta; Cane Creek Water Supply Reservoir, Orange County, North Carolina

Control No.: DS–COE–F34002–MN. EPA Rating: EU1. Copies of Comments: EPA, Chicago; Flood Control, Twin Valley Lake, Wild Rice River, Norman County, Minnesota

Control No.: DS–COE–G36043–LA. EPA Rating: 3. Copies of Comments: EPA, Dallas; Barataria Bay Waterway, GIWW, Gulf of Mexico, Jefferson County, Louisiana

Control No.: D–COE–H36041–00. EPA Rating: ER2. Copies of Comments: EPA, Kansas City; Brush Creek Flood Protection Plan, Jackson County, Missouri and Johnson County, Kansas

Control No.: DS–COE–K36014–CA. EPA Rating: 3. Copies of Comments: EPA, San Francisco; Santa Ana River Main Stem, Santiago Creek and Oak Street Drain, Orange, Riverside, and San Bernardino Counties, California

Control No.: D–COE–K36045–TT. EPA Rating: LO1. Copies of Comments: EPA, San Francisco; Garapan Flood Control Study, Saipan, Northern Marianas, Trust Territories

Control No.: D–COE–L36073–AK. EPA Rating: ER2. Copies of Comments: EPA, Seattle; Kake Harbor, Small Boat Harbor Navigation Improvements, Alaska

Control No.: F–COE–D35013–PA. Copies of Comments: EPA, Philadelphia; Commercial Sand and Gravel Dredging, Allegheny River, Pennsylvania

Control No.: F–COE–E32029–FL. Copies of Comments: EPA, Atlanta; Biscayne Bay, Port Expansion Program, Metropolitan Dade County Seaport, Dade County, Florida

Control No.: F–COE–E87000–FL. Copies of Comments: EPA, Atlanta; Hookers Prairie Phosphate Mining, Permit, Polk County, Florida

Control No.: F–COE–G36071–NM. Copies of Comments: EPA, Dallas; Middle Rio Grande Flood Protection, Bernalillo to Belen, New Mexico

Control No.: A–COE–D34003–MD. Copies of Comments: EPA, Philadelphia; Assessment, Little Seneca Creek Project, Montgomery County, Maryland

Control No.: A–COE–D36035–PA. Copies of Comments: EPA, Philadelphia; Feasibility Report, Study of the Water Resource Problems of the Schuylkill River Basin, Pennsylvania

Department of Agriculture

Control No.: D–AFS–L67004–ID. EPA Rating: LO1. Copies of Comments: EPA, Seattle; Thompson Creek Molybdenum Project, Cyprus Mines Corporation, Custer County, Idaho

Control No.: D–SCS–F36070–OH. EPA Rating: LO2. Copies of Comments: EPA, Chicago; Rattlesnake Creek Watershed, Greene and Madison Counties, Ohio

Control No.: F–REA–E02003–AL. Copies of Comments: EPA, Atlanta; Bear Creek, Wilson Bend and Hamilton Areas Lease, Marion, Franklin, Winston and Lamar Counties, Alabama

Control No.: FS–REA–J07002–WY. Copies of Comments: EPA, Denver; Wheatland Generating Station, Missouri Basin Power Project, Grayrocks Reservoir, Wyoming

Control No.: F–SCS–G36084–00. Copies of Comments: EPA, Dallas; Fourche Creek Watershed, Randolph County, Arkansas, and Ripley County, Texas

Department of Commerce

Control No.: F–NOA–L90016–00. Copies of Comments: EPA, Seattle; Interim Convention on Conservation of North Pacific Fur Seals

Control No.: F–EDA–G28005–AR. Copies of Comments: EPA, Dallas; Hope City Regional Water System, Hope, Hempstead County, Arkansas

Control No.: F–NOA–B90003–CT. Copies of Comments: EPA, Boston; Connecticut Coastal Zone Management Program, CZM, Connecticut

Control No.: F–NOA–B90004–RI. Copies of Comments: EPA, Boston; Narragansett Bay Estuarine Sanctuary, Grant, Newport County, Rhode Island

Control No.: F–NOA–C90004–NJ. Copies of Comments: EPA, New York; New Jersey Coastal Zone Management Program (CZM), New Jersey

Control No.: F–NOA–D86004–PA. Copies of Comments: EPA, Philadelphia; Pennsylvania Coastal Zone Management Program, CZM, Pennsylvania

Control No.: F–NOA–E30015–MS. Copies of Comments: EPA, Atlanta; Mississippi Coastal Program, CZM, Mississippi

Control No.: F–NOA–K86009–TT. Copies of Comments: EPA, San Francisco; Northern Marianas Coastal Resources Management Program, U.S. Trust Territories

Control No.: F–NOA–K86010–TT. Copies of Comments: EPA, San Francisco; American Samoa Coastal Management Program, (CZM) U.S. Trust Territories

Department of Defense

Control No.: DA–USN–D51011–VA. EPA Rating: LO1. Copies of Comments: EPA, Philadelphia; Aicuz, Restrictive Easement and Clear Zone Acquisition, Oceana and Fentress Landing Field, Virginia

Control No.: D–USN–K99001–CA. Copies of Comments: EPA, San Francisco; Feral Animal Removal Program, San Clemente Island, California

Control No.: F–UAF–K11018–CA. Copies of Comments: EPA, San Francisco; Operation of Pave Paws Radar System, Beale Air Force Base, California

Department of Energy

Control No.: F–DOE–J09001–WY. Copies of Comments: EPA, Denver; Great Plains Gasification Project, Mercer County, Wyoming (Adopted from DOI)

Control No.: R–DOE–A09088–00. Copies of Comments: EPA, Washington, DC; 10 CFR Part 430, Energy Conservation Program for Consumer Products, Proposed Rule (45 FR 43976)

Control No.: R–DOE–A09805–00. Copies of Comments: EPA, Washington, DC; 10 CFR Part 799, Loan Guarantees for Alcohol Fuels, Biomass Energy and Municipal Waste Energy Projects; Proposed Rulemaking, Written Comments, and Request for Voluntary Applications (45 FR 54264)

Department of Interior

Control No.: D–BLM–A02159–00. EPA Rating: ER2. Copies of Comments: EPA, Washington, DC; Proposed 1981 Outer Continental Shelf (OCS) Oil and Gas Lease Sale No. 56; Offshore the South Atlantic States North Carolina, South Carolina, Georgia and Florida

Control No.: D–BLM–A02160–00. EPA Rating: ER2. Copies of Comments: EPA, Washington, DC; Outer Continental Shelf (OCS) Oil and Gas Proposed 1981 Sales A66 and 66; Gulf of Mexico, Offshore the States of Texas, Louisiana, Mississippi, Alabama and Florida

Control No.: D–BLM–K61045–CA. EPA Rating: ER2. Copies of Comments: EPA, San Francisco; Johnson Valley to Parker Motorcycle Race, San Bernardino County, California

Control No.: D–BLM–K65040–CA. EPA Rating: LO1. Copies of Comments: EPA, San Francisco; Eastern San Diego County Planning Unit, Proposed Livestock Grazing and Wilderness Management, California

Control No.: D–BLM–L65060–ID. EPA Rating: LO2. Copies of Comments: EPA, Seattle; North Idaho 10-Year Timber Management Plan, Northern Idaho

Control No.: D–WPR–K39013–CA. EPA Rating: ER2. Copies of Comments: EPA, San Francisco; Reauthorization of Central Valley Project and Coordinated Operating Agreement CVP/SWP State Water Plan, Central Valley, California

Control No.: F–BLM–J99017–MT. Copies of Comments: EPA, Denver; Mountain Foothills Grazing Management Unit, Beaverhead, Deer Lodge, Madison and Silver Bow Counties, Montana

Control No.: F–BLM–J99020–UT. Copies of Comments: EPA, Denver; Mountain Valley Grazing Management, Sansete, Sevier, and Piute Counties, Utah

Control No.: F–BLM–L65058–00. Copies of Comments: EPA, Seattle; Owyhee Grazing Management Program, Owyhee County, Idaho and Malheur County, Oregon

Control No.: F–SFW–E64008–NC. Copies of Comments: EPA, Atlanta; Currituck Outer Banks National Wildlife Refuge, Currituck County, North Carolina

Control No.: RF–BLM–A01061–00. Copies of Comments: EPA, Washington, DC; 43 CFR 3809, Surface Management of Public Lands under the U.S. Mining Laws

Control No.: F–BLM–G61012–NM. Copies of Comments: EPA, Dallas; McGregor Range Grazing Management, Otero County, New Mexico

Control No.: F–BLM–K65036–NV. Copies of Comments: EPA, San Francisco; Proposed Domestic Livestock Grazing Management Program, Tonopah Resource Area, Nye County, Nevada

Control No.: F–BLM–K67001–NV. Copies of Comments: EPA, San Francisco; Tonopah Resource Area, Anaconda Nevada Molybdenum Project, Permit, Lander and Nye Counties, Nevada

Control No.: F–SFW–K64004–00. Copies of Comments: EPA, San Francisco; Sheldon National Wildlife Refuge Natural Renewable Resources Management Plan, Lake County, Oregon and Washoe and Humboldt Counties, Nevada

Department of Transportation

Control No.: D–FHW–D40101–VA. EPA Rating: LO2. Copies of Comments: EPA, Philadelphia; Bluefield Bypass, Tazewell County, Virginia

Control No.: D–FHW–D40104–PA. EPA Rating: LO2. Copies of Comments: EPA, Philadelphia; Montage Access Road, I–81 to Montage Recreation Area, Lackawanna County, Pennsylvania

Control No.: D–FHW–G40082–TX. EPA Rating: ER2. Copies of Comments: EPA, Dallas; Expansion of I–30, I–820 to Summit Avenue, Fort Worth, Tarrant County, Texas

Control No.: D–FHW–G40083–TX. EPA Rating: LO1. Copies of Comments: EPA, Dallas; U.S. 82, U.S. 75 To Loop 286, Fannin, Grayson and Lammar Counties, Texas

Control No.: D–FHW–J40054–ND. EPA Rating: LO2. Copies of Comments: EPA, Denver; 25th Street Corridor Improvement, Fargo, Cass County, North Dakota

Control No.: D–FHW–K40080–CA. EPA Rating: LO2. Copies of Comments: EPA, San Francisco; Route 101, Forsythe Creek, Mendocino County, California

Control No.: F–FHW–H40089–IA. Copies of Comments: EPA, Kansas City; IA–163 Improvements, Pella, Marion and Mahaska Counties, Iowa

Control No.: FS–FHW–L40042–ID. Copies of Comments: EPA, Seattle; I–86, Formerly I–15, American Falls Dam Project, Power County, Idaho (FHWA–ID–EIS–76–05–S)

Control No.: F–FAA–F51011–OH. Copies of Comments: EPA, Chicago; Akron and Canton Regional Airport, Improvements, North Canton, Summit and Stark Counties, Ohio

Control No.: F–FHW–F40091–IL. Copies of Comments: EPA, Chicago; Wheaton and Naperville Road Extension, Naper Boulevard, City of Naperville, Dupage and Will Counties, Illinois

Control No.: F–FHW–F40124–OH. Copies of Comments: EPA, Chicago; Relocation and Improvement, OH–2 Huron Bypass, Erie County, Ohio

Control No.: F–FHW–F40138–IN. Copies of Comments: EPA, Chicago; IN–66 Highway Improvement, Vanderburgh and Warrick County Line, Evansville, Vanderburgh County, Indiana

Control No.: D–FHW–L40061–OR. Copies of Comments: EPA, Seattle; Banfield Transitway Project, Light Rail Transit Line, Banfield Freeway Improvements, Multnomah County, Oregon (FHWA–OR–EIS–78–3–D)

Control No.: F–FHW–L40065–OR. Copies of Comments: EPA, Seattle; OR–213, Oregon City Bypass, Park Place—Clackamas Community College, Clackamas County, Oregon (FHWA–OR–EIS–79–08–D)

Control No.: F–FHW–L40087–OR. Copies of Comments: EPA, Seattle; Willamette River Bridges, Willamina and Salem Highway, OR–22, Marion and Polk Counties, Oregon (FHWA–OR–EIS–79–10–F)

Control No.: A–FHW–D40102–MD. Copies of Comments: EPA, Philadelphia; U.S. 50 and U.S. 301 Air Analysis, between MD–70 and Bridge Toll Plaza, Anne Arundel County, Maryland

Control No.: A–FHW–D40103–MD. Copies of Comments: EPA, Philadelphia; MD–30, Air Quality Analysis, South of Hampstead to North of Manchester, Carroll County, Maryland

Control No.: A–FHW–F40156–MN. Copies of Comments: EPA, Chicago; Environmental Assessment, TH 100 from TH 7 to Hennepin County, Road 3, St. Louis Park, Hennepin County, Minnesota

Control No.: A–FHW–F40157–MI. Copies of Comments: EPA, Chicago; Scoping, MI–32, Turtle Lake Road, Otsego and Montmorency Counties, Michigan

Control No.: A–FHW–F40158–MN. Copies of Comments: EPA, Chicago; Air Quality Report, North Crosstown Highway TH 610 and 252, Hennepin and Anoka Counties, Minnesota

Federal Energy Regulatory Commission

Control No.: F–FRC–E07008–SC. Copies of Comments: EPA, Atlanta; Cross Steamplant, Santee and Cooper Project No. 199, Berkeley County, South Carolina

Control No.: R–FRC–AQ5453–00. Copies of Comments: EPA, Washington, DC; 18 CFR Parts 4 and 375, Docket No. RM80–65, Exemption from all or Part of Part I of the Federal Power Act of Small Hydroelectric Power Projects With a Proposed Installed Capacity (45 FR 58368)

Department of Housing and Urban Development

Control No.: D–HUD–D85023–VA. EPA Rating: LO2. Copies of Comments: EPA, Philadelphia; Wayside Village Eastern, Mortgage Insurance, Prince William County, Virginia

Control No.: D–HUD–E85064–FL. EPA Rating: EU2. Copies of Comments:

EPA, Atlanta; Greenwood Lakes, Planned Unit Development, Seminole County, Florida

Water Resources Council

Control No.: R–WRC–A39130–00. Copies of Comments: EPA, Washington, DC; gave notice of a number of meetings to help further its preparation of a second external review draft of a revised air

hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the

Michigan Broadcasting Company, Hart, Michigan, Req: 105.3 MHz, Channel 287, 100 kW (H&V), 616 feet (BC Docket No.

Equipment down payment	$13,080
Equipment payments with interest (4 mo.)	17,440
Land	10,460

EPA, Atlanta; Greenwood Lakes, Planned Unit Development, Seminole County, Florida
Control No.: D-HUD-J80000-CO. EPA Rating: LO2. Copies of Comments: EPA, Denver; Pueblo Downtown Hotel Convention Center Project, UDAG, Pueblo County, Colorado
Control No.: D-HUD-J85038-CO. EPA Rating: ER2. Copies of Comments: EPA, Denver; Cheyenne Mountain Ranch Housing Development, El Paso County, Colorado
Control No.: D-HUD-K80011-CA. EPA Rating: LO2. Copies of Comments: EPA, San Francisco; San Buenaventura's Modification Downtown Redevelopment Plan and Mission Plaza Shopping Center, City of San Buenaventura, California
Control No.: D-HUD-K85030-AZ. EPA Rating: LO2. Copies of Comments: EPA, San Francisco; Ahwatukee Planned Community, Maricopa County, Arizona
Control No.: D-HUD-K85031-CA. EPA Rating: LO1. Copies of Comments: EPA, San Francisco; Rincon Point-South Beach Redevelopment Plan, San Francisco County, California
Control No.: F-HUD-D89025-PA. Copies of Comments: EPA, Philadelphia; Mid-Valley Industrial Park, Olyphant, Throop and Jessup, Lackawanna County, Pennsylvania
Control No.: F-HUD-F89005-OH. Copies of Comments: EPA, Chicago; Hamilton East Multipurpose Project, Butler County, Ohio
Control No.: F-HUD-G85125-TX. Copies of Comments: EPA, Dallas; Pinelake Subdivision, Harris County, Texas

International Boundary and Water Commission

Control No.: D-IBW-K24003-CA. EPA Rating: LO1. Copies of Comments: EPA, San Francisco; Solution of New River International Border Sanitation Problem, Proposed Recommendations, Mexicali BCN and Calexico, California

Nuclear Regulatory Commission

Control No.: F-NRC-D00003-VA. Copies of Comments: EPA, Philadelphia; Surry Power Station Unit No. 1, Steam Generator Repair, VEPCO, Virginia

Tennessee Valley Authority

Control No.: D-TVA-E09005-00 EPA Rating: LO1. Copies of Comments: EPA, Atlanta; Alternative Electric Power Rate Structures

Veterans Administration

Control No.: F-VAD-K86008-HI. Copies of Comments: EPA, San Francisco; Pacific National Memorial Cemetery, Master Plan, Honolulu, Hawaii

Water Resources Council

Control No.: R-WRC-A39130-00. Copies of Comments: EPA, Washington, DC; 18 CFR Parts 703, 740, State Water Management Planning Proposed Program Guidelines (45 FR 48800)

Dated: November 14, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review.

[FR Doc. 80-36185 Filed 11-19-80; 8:45 am]

BILLING CODE 6560-37-M

[SA-FRL 1675-6]

Science Advisory Board, Research Outlook Review Subcommittee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Research Outlook Review Subcommittee of the Science Advisory Board will be held on December 11 and 12, 1980, beginning at 9:00 a.m. in the Hall of States A, Skyline Inn, South Capitol and I Streets SW., Washington, D.C.

This is the first meeting of this Research Outlook Review Subcommittee. The Environmental Research, Development and Demonstration Authorization Act of 1978 requires the Science Advisory Board to review and comment on the Agency's five-year plan for environmental research, development, and demonstration. The agenda includes an up-date on the status of the plan and consideration of the revised draft, *Research Outlook 1981.*

The meeting is open to the public. Because of the limited seating capacity of the meeting room, all members of the public desiring to attend must preregister no later than December 8, 1980, and receive a confirmed reservation from Dr. J. Frances Allen, Staff Officer, Science Advisory Board, or Ms. Anita Najera, 202-472-9444.

Dated: November 14, 1980.

Richard M. Dowd,

Staff Director, Science Advisory Board.

[FR Doc. 80-36184 Filed 11-19-80; 8:45 am]

BILLING CODE 6560-34-M

[Docket No. ECAO-CD-79-1; RD-FRL 1677-3]

Air Quality Criteria for Particulate Matter and Sulfur Oxides; Public Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Meeting.

SUMMARY: In the Federal Register of November 7, 1980 (45 FR 74047), the U.S. Environmental Protection Agency (EPA) gave notice of a number of meetings to help further its preparation of a second external review draft of a revised air quality criteria document for particulate matter and sulfur oxides ($PM-SO_x$). The November 7, 1980 notice contains general information concerning the purpose and conduct of these meetings. This notice announces the second in that series of meetings, and invites public attendance at the second meeting.

DATES: The second meeting is scheduled to be held on December 1 and 2, 1980, beginning at 9 a.m., concerning chapters 5 and 6 (Environmental Concentrations and Exposure; and Atmospheric Transport, Transformation, and Deposition). Information concerning the subject matter and dates of additional meetings will be announced in subsequent **Federal Register** notices.

ADDRESS: The meeting of December 1 and 2, 1980, will be held in the auditorium of EPA's Office of Administration, Alexander Drive, Research Triangle Park, North Carolina. The location of additional meetings will be announced in subsequent **Federal Register** notices.

FOR FURTHER INFORMATION CONTACT: Robert Bauman, Deputy Director, Environmental Criteria and Assessment Office, (MD-12), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-4172.

November 17, 1980.

Stephen J. Gage,

Assistant Administrator, Office of Research and Development.

[FR Doc. 80-36410 Filed 11-19-80; 11:21 am]

BILLING CODE 6560-35-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-20]

TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Cut-Off Date: December 29, 1980; Released: November 18, 1980.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. They will be considered to be ready and available for processing after December 29, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on December 29, 1980, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C. no later than the close of business on December 29, 1980.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on December 29, 1980.

Applications for new stations may not be filed against any application on the attached list which is designated by an asterisk (*).

FEDERAL COMMUNICATIONS COMMISSION.

William J. Tricarico,

Secretary.

*BPCT-800929KN (WATU-TV); Augusta, Georgia, WATU Television, Inc. Channel 26. Increase ERP Vis. to 1700 kW; reduce HAAT to 1590 feet.
BPCT-801022KE (new), Anchorage, Alaska, Totem Broadcasting Corporation. Channel 4. ERP: Vis. 42.5 kW; HAAT: −17 feet.
BPCT-801023KE (new), Dickinson, North Dakota, Prairie Public Television, Inc. Channel 9. ERP: Vis. 265.5 kW; HAAT: 806 feet.
BPCT-801023KG (new), Irving, Texas, CELA, Inc. Channel 49. ERP: Vis. 1,277.6 kW; HAAT: 695 feet.
BPCT-801023KF (new), Lake Charles, Louisiana, Holt-Robinson Television of Louisiana, Inc. Channel 29. ERP: Vis. 710 kW; HAAT: 700 feet.
BPCT-801021KH (new), Arecibo, Puerto Rico, Arecibo Video Corporation. Channel 54. ERP: Vis. 1.178 kW; HAAT: −219 feet.
BPCT-801021KE (new), San Juan, Puerto Rico, JEM Communications, Inc. Channel 24. ERP: Vis. 4384 kW; HAAT: 1161 feet.
BPCT-801010KE (new), Orange Park, Florida, Clay Television, Inc., Channel 25. ERP: Vis. 2060.63 kW; HAAT: 496 feet.
BPET-801029KF (new), Bellingham, Washington, The University of Washington. Channel 34. ERP: Vis. 1,230 kW; HAAT: 2376 feet.
BPCT-801024KE (new), Bluefield, West Virginia, Channel 40, Inc. Channel 40. ERP: Vis. 1110 kW; HAAT: 2503.6 feet.

[FR Doc. 80-36135 Filed 11-19-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 80-687, 80-688, 80-689, and 80-690; File Nos. BPH-790625AE, BPH-791226CD, BPH-800318AI, and BPH-800516AA]

Alpine Broadcasting Co., et al.; Hearing Designation Order

In the matter of applications of Alpine Broadcasting Company, Hart, Michigan Req: 105.3 MHz, Channel 287, 53.25 kW (H&V), 626 feet (BC Docket No. 80-687, File No. BPH-790625AE); Waters Broadcasting Corporation, Hart, Michigan, Req: 105.3 MHz, Channel 287, 100 kW (H&V), 646 feet (BC Docket No. 80-688, File No. BPH-791226CD); West Michigan Broadcasting Company, Hart, Michigan, Req: 105.3 MHz, Channel 287, 100 kW (H&V), 616 feet (BC Docket No. 80-689, File No. BPH-800318AI), and HJR Communications, Inc., Hart, Michigan, Req: 105.3 MHz, Channel 287, 100 kW (H&V), 410 feet (BC Docket No. 80-690, File No. BPH-800616AA), for a construction permit for a new FM station.

Adopted: October 16, 1980.

Released: November 3, 1980.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications of Alpine Broadcasting Company (Alpine), Waters Broadcasting Corporation (Waters), West Michigan Broadcasting Company (West) and HJR Communications, Inc. (HJR) for a construction permit for a new FM station at Hart, Michigan.

2. *Alpine.* The applicant indicates that it plans to locate its main studio near the town of Shelby, Michigan. The applicant has failed, however, to formally request that we waive Section 73.1125 of the Commission's Rules nor has it demonstrated good cause for locating the main studio outside of the proposed city of license, Hart. An appropriate issue will, therefore, be specified.

3. *West.* Analysis of the financial data submitted by West reveals that $221,640 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment payments with interest (5 mo.)	$20,685
Land	5,000
Buildings	92,500
Loan payments with interest (5 mo.)	20,695
Miscellaneous	29,000
Operating costs (3 mo.)	53,760
Total	221,640

To meet this requirement, West intends to rely upon loans from its principals, John Hawley and John Shrauger, of $160,000 and $60,000, respectively. Since the applicant has shown only $220,000 available to meet a requirement of $221,640, a financial issue will be specified.

4. Since no determination has been reached that the antenna proposed by West would not constitute a menace to air navigation, an issue regarding this matter is required.

5. *HJR.* Analysis of the financial data submitted by HJR reveals that $132,165 will be required to construct the proposed station and operate for three months, itemized as follows:

Equipment down payment	$13,080
Equipment payments with interest (4 mo.)	17,440
Land	10,460
Buildings	7,000
Miscellaneous	39,500
Operating costs (3 mo.)	44,685
Total	132,165

To meet this requirement, HJR intends to rely upon stockholder subscriptions, totalling $120,100 and existing capital of $4,000. Since the applicant has shown only $124,100 available to meet a requirement of $132,165, a financial issue will be specified.

6. *Other issues.* Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purposes of determining whether a comparative preference should accrue to any of the applicants.

7. Except as indicated by the issues specified below, the applicants are qualfied to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, it is ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Alpine's proposal to locate its main studio outside the proposed community of license complies with Section 73.1125 of the Commission's Rules, and, if not, whether circumstances exist which warrant a waiver of the rule.

2. To determine with respect to West:

(a) the source and availability of additional funds over and above the $220,000 indicated; and

(b) in light of the evidence adduced pursuant to (a) above, whether the applicant is financially qualified to construct and operate the proposed station.

3. To determine whether there is a reasonable probability that the lower height and location proposed by West would constitute a hazard to air navigation.

4. To determine with respect to HJR:

(a) the source and availability of additional funds over and above the

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief,

proposed transmitter site through Ventura, as required by Paragraph

2. To determine with respect to Asian's financial showing:

K9APH and W3PZU, Amateur Advanced Class Radio Operator License (RR Docket

and W3BZU) and the Advanced Class

(a) the source and availability of additional funds over and above the $124,100 indicated; and

(b) in light of the evidence adduced pursuant to (a) above, whether the applicant is financially qualified to construct and operate the proposed station.

5. To determine which of the proposals would, on a comparative basis, best serve the public interest.

6. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications, if any, should be granted.

9. It is further ordered, That the Federal Aviation Administration is made a party to the proceeding.

10. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

11. It is further ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division.

[FR Doc. 80-36142 Filed 11-19-80; 8:45 am]

BILLING CODE 6712-01-M

[BC Docket Nos. 80-697, 80-698, and 80-699; File Nos. BPCT-790130LO, BPCT-790130LP, and BPCT-790130LQ]

Asian International Broadcasting Corp., etc.; Hearing Designation Order

In the matter of applications of Asian International Broadcasting Corp. Ventura, California (BC Docket No. 80-697, File No. BPCT-790130LO), California Broadcasting Corp., Ventura, California (BC Docket No. 80-698, File No. BPCT-790130LP), and Channel Islands Televison Corp., Ventura, California (BC Docket No. 80-699, File No. BPCT-790130LQ) for a construction permit.

Adopted: October 28, 2980.

Released: November 6, 1980.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Asian International Broadcasting Corp. (Asian), California Broadcasting Corporation (CBC), and Channel Islands Television Corporation (Channel) for a new commercial televison station to operate on Channel 16, Ventura, California.

2. Asian proposes to locate its transmitter on Saddle Peak in the Santa Monica Mountains, north of Malibu Beach. At that site Asian's transmitting facilities would be short-spaced to the site of KHOF-TV, Channel 30, San Bernardino, California.[1] Consequently, Asian has filed a request for waiver of Sections 73.610(d) and 73.698 of the Commission's Rules. Further analysis of Asian's proposed site indicates that, due to the intervention of a mountain ridge, operation from the proposed location would cause some shadowing of the northwest section of Ventura, contrary to the requirements of Section 73.685(b) of the Rules. Accordingly, appropriate issues will be specified.

3. Analysis of the financial data submitted by Asian indicates that approximately $700,000 will be required to construct and to operate its proposed station for three months, itemized as follows:

Equipment:	
Downpayment	$277,657
4 mo	75,314
Building	50,000
Other	96,000
Operating Costs (three mo)	201,750
Total	700,721

To meet these expenses, Asian intends to rely in part on a $300,000 loan from the California First Bank and a $125,000 loan from the Church of Perfect Liberty.[2] Asian intends to rely on $51,000 in existing capital and $299,000 in new capital for the additional approximately $300,000; however, Asian's balance sheet does not reflect the availability of this capital. Therefore, we cannot determine that Asian has the net liquid assets to provide such capital. Accordingly, appropriate financial issues will be specified.

4. Because CBC has not submitted at least one terrain profile from its proposed transmitter site through Ventura, as required by Paragraph 13(a)(4) of Section V-C of the Form 301, we are unable to complete a study as to the absence of obstructing terrain. From the profiles CBC has submitted, we note that Conejo Mountain would appear to obstruct line-of-sight coverage of Ventura. CBC argues that the mountain does not obstruct the signal of KNJO(FM), which is located in the same area as the proposed site; however, FM signals can be satisfactorily received in a shadow area where severe degradation of a television picture occurs. Accordingly, an appropriate issue will be specified.

5. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that grant of them will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues set out below.[3][4]

6. Accordingly, IT IS ORDERED, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications ARE DESIGNATED FOR HEARING IN A CONSOLIDATED PROCEEDING to be held before an Administrative Law Judge at a time and place specified in a subsequent Order, upon the following issues:

1. To determine with respect to Asian's technical showing:

(a) Whether Asian's proposal is consistent with the minimum mileage separation requirements of Sections 73.610 and 73.698 of the Commisison's Rules and, if not, whether circumstances exist which would warrant waiver of the Rules.

(b) Whether operation from Asian's proposed site would cause some shadowing over a portion of Ventura in violation of Section 73.685(b) of the Commission's Rules, and if so, whether there is a site available that would not cause shadowing.

(c) Whether, in light of the evidence adduced pursuant to (a) and (b) above, the applicant is technically qualified.

[1] Sections 73.610(d) and 73.698 of the Commission's Rules require a minimum of 60 miles between Asian's proposed transmitter site and KHOF-TV's existing transmitter site. Asian's proposal is 4.5 miles short-spaced to KHOF-TV.

[2] Asian, assuming a 13% interest rate, estimates the net amount available to be $280,125 from the California First Bank and $120,928 from the Church of Perfect Liberty.

[3] CBC is awaiting Federal Aviation Administration (FAA) clearance for its antenna proposal. If, during the course of the hearing, the FAA advises that this proposal would constitute an air hazard, the Administrative Law Judge is authorized to specify an air hazard issue with respect to CBC. In the unlikely event that the FAA study is not completed by the end of the hearing process, and should it be determined that CBC's application would best serve the public interest, the construction permit shall be conditioned to require FAA approval prior to construction.

[4] On October 9, 1980, CBC filed an opposition to Channel's September 24 petition for leave to amend; however, the amendment provides information required pursuant to Section 1.65 of the Rules.

2. To determine with respect to Asian's financial showing:

(a) Whether Asian has the net liquid assets to meet its construction and three month operation costs.

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is financially qualified.

3. To determine with respect to CBC's technical showing:

(a) Whether operation from CBC's proposed site would cause shadowing over a portion of Ventura in violation of Section 73.685(b) of the Commission's Rules, and, if so, whether there is a site available that would not cause shadowing.

(b) Whether, in light of the evidence adduced pursuant to (a) above, the applicant is technically qualified.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

6. IT IS FURTHER ORDERED, That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, shall, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

7. IT IS FURTHER ORDERED, that the applicants herein, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, shall give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Jerold L. Jacobs,

Chief, Broadcast Facilities Division
Broadcast Bureau.

[FR Doc. 80-36-138 Filed 11-19-80; 8:45am]

BILLING CODE 6712-01-01-M

[PR Dockets Nos. 80-669, et al.]

Amateur Radio Operators, Revocation, Suspension and Renewal of Licenses

In the Matters of Revocation of Amateur Radio Station Licenses and Suspension of Amateur Radio Operator Licenses of:

Robert W. Kirkham, 3233 E. 36th Street, Indianapolis, Indiana 46218

K9APH and W3PZU, Amateur Advanced Class Radio Operator License (PR Docket No. 80-669);

Carroll W. Everhart, 4110 Pasadena, Indianapolis, Indiana 46226

WB9AWN, Amateur Advanced Class Radio Operator License (PR Docket No. 80-670);

Richard L. Miller, 423 Stuart Drive, Brownsburg, Indiana 46112

WB9GRZ, Amateur Advanced Class Radio Operator License (PR Docket No. 80-671);

Gloria King, 88 North Dearborn Street, Indianapolis, Indiana 46201

WB9PCS, Amateur General Class Operator License (PR Docket No. 80-672);

Marlin L. Starling, 8810 Pendleton Pike, 228, Indianapolis, Indiana 46226

WB9LIM, Amateur Advanced Class Radio Operator License (PR Docket No. 80-673);

Stephen T. Garman, 6305 Lafayette Road, Indianapolis, Indiana 46278

WB9EOC Amateur General Class Radio Operator License (PR Docket No. 80-674);

Robert W. Lloyd, Rural Route 3, Box 68, Lebanon, Indiana 46052

WB9LTA, Amateur Advanced Class Radio Operator License (PR Docket No. 80-675);

W. Reed Everhart, Box 155, Wood, Pennsylvania 16694

W3HUM, Amateur Advanced Class Radio Operator License (PR Docket No. 80-676);

Hugh Kelly, 1414 Upland Avenue, Rhinelander, Wisconsin 54501

WB9NON and WB9TBR, Amateur Advanced Class Radio Operator License (PR Docket No. 80-677);

Glenn C. Mottern, Post Office Box 172, Newberry, Indiana 47449

WB9CWZ, Amateur Advanced Class Radio Operator License (PR Docket No. 80-678);

Keith E. Glascock, 108 Cranberry Drive, Greenfield, Indiana 46140

WB9OZG, Amateur Technician Class Radio Operator License (PR Docket No. 80-679);

James T. O'Rourke, RD #3, Box 77, Everett, Pennsylvania 15537

WA3YQC, Amateur Advanced Class Radio Operator License (PR Docket No. 80-680);

Harry R. White, 1255 South Kitley Avenue, Indianapolis, Indiana 46203

WA9CYV, Amateur Advanced Class Radio Operator License (PR Docket No. 80-681).

In the Matter of Application of:

Earl C. Larsen, 5223 North Pennsylvania Street, Indianapolis, Indiana 46220

For Renewal of Amateur Radio Station License W9CGF and Amateur Advanced Class Radio Operator License (PR Docket No. 80-682).

Order To Show Cause and Designation Order

Adopted: October 27, 1980.

Released: November 6, 1980.

1. The Chief, Private Radio Bureau, pursuant to the direction of the Commission (See *Report*, FCC 79-707, Docket No. 21418, released November 20, 1979), has under consideration the Amateur radio station licenses (K9APH and W3BZU) and the Advanced Class Amateur radio operator license of Robert W. Kirkham, which expire on March 11, 1982.

2. Information before the Commission indicates that in 1972 Kirkham fraudulently obtained an Advanced Class Amateur radio operator license without examination, in apparent violation of § 97.129 of the Commission's Rules.[1]

3. Information before the Commission also indicates that in the years 1972 through 1977 Kirkham actively participated with the licensees named in this Order and others [2] in an effort to fraudulently obtain or attempt to obtain new or upgraded licenses for them without examination. This conduct was also in apparent violation of § 97.129 of the Commission's Rules.

4. Section 312(a)(2) of the Communications Act of 1934, as amended, provides that radio station licenses may be revoked because of conditions coming to the attention of the Commission which would warrant it in refusing to grant a license. Section 312(a)(4) of the Act provides that radio station licenses may be revoked for wilful violation of the Act or the Commission's Rules. Section 303(M)(1)(A) of the Act provides that an operator's license may be suspended for wilful violation of the Act or the Commission's Rules. Section 303(M)(1)(F) of the Act provides that an operator's license may be suspended where an operator has obtained or attempted to obtain, or has assisted another to obtain or attempt to obtain, an operator's license by fraudulent means.

5. Accordingly, IT IS ORDERED, That Robert W. Kirkham SHOW CAUSE why the licenses for Amateur radio stations K9APH and W3BZU SHOULD NOT BE REVOKED. IT IS FURTHER ORDERED, That Kirkham's Advanced Class Amateur radio operator license IS SUSPENDED for the remainder of the license term.

6. IT IS FURTHER ORDERED, That the revocation and suspension of

[1] Section 97.129 of the Commission's Rules prohibits a licensed radio operator or any other person from obtaining or attempting to obtain, or assisting another in obtaining or attempting to obtain, an operator license by fraudulent means.

[2] Ronald Anderson, Bruce Bebee, John P. Bush, Howard Cornelius, Morris K. DeWitt, Jr., Morris K. DeWitt, Sr., Rene Haube, Russell Hawkins, Edward H. Hill, Robert Humbles, Phillip Irish, Darrell Johnson, Ralph W. Jones, Wilford E. King, Hiram E. Koonce, Florence Gail Koonce Mottern, Hershel McKenzie, Lewis Nugent, Joel Rogers, Ken Schaefer, George Taylor, Claire Van DeVender, and Harry Van DeVender. None of these cases is pending. The Commission has considered each case and taken appropriate action.

Kirkham's licenses will be resolved upon the following issues:

(a) To determine whether Kirkham

(l) Harry R. White (WA9CYV), Advanced Class Amateur radio operator license, granted November 5, 1976.

12. IT IS FURTHER ORDERED, That if a licensee waives the right to a hearing on the suspension matter and does not

Order. If Larsen fails to request a hearing within 30 days, his application will be dismissed with prejudice for

new station at Lafayette, Louisiana; Memorandum opinion and order designating application for hearing on

to compatability with co-channel use in nearby cities and adjacent channel use in the same city;

Kirkham's licenses will be resolved, upon the following issues:

(a) To determine whether Kirkham fraudulently obtained an Advanced Class Amateur radio operator license for himself and/or fraudulently obtained or attempted to obtain new or upgraded licenses for others without examination in wilful violation of § 97.129 of the Commission's Amateur Radio Rules.

(b) To determine whether Kirkham actively participated in an effort to fraudulently obtain for himself and/or others new or upgraded Amateur licenses without examination.

(c) To determine whether Kirkham has the requisite qualifications to remain a Commission licensee.

(d) To determine whether the licenses of Robert W. Kirkham for Amateur radio stations K9APH and W3BZU should be revoked.

(e) To determine whether this suspension should be affirmed, modified, or dismissed.

7. Also under consideration, pursuant to the direction of the Commission, are the following Amateur radio station and operator licenses.

(a) Carroll W. Everhart (WB9AWN), Advanced Class Amateur radio operator license, granted April 8, 1977.

(b) Richard L. Miller (WB9GR2), Advanced Class Amateur radio operator license, granted May 4, 1976.

(c) Gloria W. King (WB9PCS), General Class Amateur radio operator license, granted January 16, 1976.

(d) Marling L. Starling (WB9LIM), Advanced Class Amateur radio operator license, granted January 4, 1977.

(e) Stephen T. Garman (WB9EOC), General Class Amateur radio operator license, granted July 23, 1976.

(f) Robert W. Lloyd (WB9LTA), Advanced Class Amateur radio operator license, granted May 14, 1976.[1]

(g) W. Reed Everhart (W3HUM), Advanced Class Amateur radio operator license, granted January 26, 1976.

(h) Hugh R. Kelly (WB9NON) and WB9TBR), Advanced Class Amateur radio operator license, granted January 14, 1976.

(i) Glenn C. Mottern (WB9CWZ), Advanced Class Amateur radio operator license, granted March 14, 1976.

(j) Keith E. Glascock (WB90ZC), Technician Class Amateur radio operator license.

(k) James T. O'Rourke (WA3YQC), Advanced Class Amateur radio operator license, granted December 26, 1978.

(l) Harry R. White (WA9CYV), Advanced Class Amateur radio operator license, granted November 5, 1976.

8. Information before the Commission indicates that the above licensees actively participated with Robert W. Kirkham to fraudulently obtain or attempt to obtain their new or upgraded Amateur operator licenses as listed above. This conduct was also in apparent violation of § 97.129 of the Commission's Rules.

9. Pursuant to Section 312(a)(2) and (a)(4) of the Communications Act of 1934, as amended, IT IS ORDERED, That the above licensees SHOW CAUSE why their respective Amateur radio station licenses SHOULD NOT BE REVOKED. Pursuant to Section 303(M)(1)(A) and (M)(1)(F) of the Act, IT IS FURTHER ORDERED, that the above Amateur radio operator licenses are suspended for term.

10. IT IS FURTHER ORDERED, That the revocation and suspection of the above licenses will be resolved upon the following issues:

(a) To determine whether any or all of the above licensees fraudulently obtained or attempted to obtain new or upgraded Amateur operator licenses without examination, in wilful violation of Section 97.129 of the Commission's Amateur Radio Rules.

(b) To determine whether any or all of the above licensees actively participated with Robert W. Kirkham to fraudulently obtain or attempt to obtain a new or upgraded Amateur license without examination.

(c) To determine whether any or all of the above individuals has the requisite qualifications to remain a Commission licensee.

(d) To determine whether any or all of the above licenses for the captioned Amateur radio stations should be revoked.

(e) To determine whether the suspensions should be affirmed, modified or dismissed.

11. IT IS FURTHER ORDERED, That any suspension imposed by this Order will be held in abeyance if the licensee requests a hearing or submits a written statement.[1][2] IT IS FURTHER ORDERED, That if a licensee wants a hearing on the revocation and/or suspension matters, he or she must file a written request for a hearing within 30 days. If a hearing is requested, the time, place and Presiding Judge will be specified by subsequent Order.

12. IT IS FURTHER ORDERED, That if a licensee waives the right to a hearing on the suspension matter and does not submit a statement, the suspension will take effect 30 days after the licensee receives this Order.[3] If a licensee waives the right to a hearing and submits a written statement, the suspension matter will be certified to the Commission for administrative disposition. If a licensee waives the right to a hearing on the revocation matter, it will be certified to the Commission for administrative disposition pursuant to § 1.92(c) of the Rules.

13. The Chief, Private Radio Bureau, pursuant to the direction of the Commission, also has under consideration the application of Earl C. Larsen, dated March 1, 1979, for renewal of his Amateur radio station license (W9CGF) and his Advanced Class Amateur radio operator license. Both of these licenses were granted January 11, 1974, for five year terms.[1]

14. Information before the Commission indicates that Larsen also actively participated with Robert W. Kirkham to fraudulently obtain an Advanced Class Amateur radio operator license without examination. Larsen's conduct was also in apparent violation of § 97.129 of the Commission's Rules.

15. Section 309(e) of the Communications Act of 1934, as amended, requires the Commission to designate an application for hearing where it cannot find that grant of the application would serve the public interest, convenience and necessity. Larsen's apparent conduct precludes the Commission from determining that a grant of this application would serve the public interest, convenience and necessity.

16. Accordingly, IT IS ORDERED, That Larsen's application for renewal of his Amateur radio station license (W9CGF) and his Advanced Class operator license IS DESIGNATED FOR HEARING on the issues specified below.

17. IT IS FURTHER ORDERED, That if Larsen wants a hearing on the matter, he must file a written request for a hearing within 30 days.[2] If a hearing is requested, the time, place and Presiding Judge will be specified by subsequent Order. If Larsen fails to request a hearing within 30 days, his application will be dismissed with prejudice for faulure to prosecute.[3]

18. IT IS FURTHER ORDERED, That Larsen's application will be resolved upon the following issues:

(a) To determine whether Earl C. Larsen fraudulently obtained an Avanced Class Amateur radio operator license without examination, in willful violation of § 97.129 of the Commission's Amateur Radio Rules.

(b) To determine whether Earl C. Larsen actively participated with Robert W. Kirkham to fraudulently obtain an Advanced Class Amateur radio operator license without examination.

(c) To determine whether grant of the application would serve the public interest, convenience and necessity.

19. Pursuant to the direction of the Commission, IT IS FURTHER ORDERED, That if it is determined that a person received a new or upgraded Amateur license without examination, but did so in good faith and without fraudulent intent, the operaing privileges for which the licensee did not properly qualify will remain SUSPENDED and any application to renew those privileges will be DISMISSED. However, if such a licensee is qualified to hold a lower class operator license, the Commission will accept an application to renew the lower class license.

20. IT IS FURTHER ORDERED, That pursuant to § 1.227 of the Rules, the above captioned cases ARE CONSOLIDATED.

21. IT IS FURTHER ORDERED, That a copy of this Order shall be sent by Certified Mail—Return Receipt Requested and by Regular Mail to each licensee at his address or record (as shown in the caption).

Raymond A. Kowalski,
Acting Chief, Compliance Division.

[FR Doc. 80-36136 Filed 11-19-80; 8:45 am]
BILLING CODE 6712-01-M

[1] Lloyd's application dated March 1, 1978, to renew his operator license and modify his station license by changing his station location is being held by the Commission pending the outcome of this proceeding. Commission records have been changed to reflect Lloyd's new address.

[1] Any contrary provisions of § 1.85 of the Rules are waived.

[2] The licensee should use the attached form to request or waive hearing. It should be returned to the Federal Communications Commission, Washington, D.C. 20554.

[3] If a licensee waives hearing and does not submit a statement on the suspension matter, that licensee must submit the license to the Commission within 30 days to be retained during the suspension period.

[1] Pursuant to § 1.926(c) of the Commission's Rules, Larsen's licenses will not expire until his renewal application has been acted upon by the Commission.

[2] The attached form should be used to request or waive hearing. It should be mailed to Federal Communications Commission, Washington, D.C. 20554.

[CC Docket No. 80-707, File No. 144-CM-P-79, et al.]

Microband Corp. of America, et al.; Applications for Construction Permits

In re applications of Microband Corporation of America (CC Docket No. 80-707, File No. 144-CM-P-79), Telecable Associates, Inc. (CC Docket No. 80-708, File No. 2915-CM-P-79), and Sound Electronics, Inc. (CC Docket No. 80-709, File No. 3005-CM-P-79)

For construction permits in the Multipoint Distribution Service for a new station at Lafayette, Louisiana; Memorandum opinion and order designating application for hearing on stated issues.

Adopted: October 30, 1980.
Released: November 13, 1980.
By the Chief, Common Carrier Bureau:

1. The Commission has before it the above-referenced application of Microband Corporation of America, filed on October 20, 1978 (accepted on Public Notice November 6, 1978),[1] the application of Telecable Associates, Inc., filed on May 11, 1979 (accepted on Public Notice May 29, 1979) and the application of Sound Electronics, Inc., filed on May 18, 1979 (accepted on Public Notice June 11, 1979). These applications are for a construction permit in the Multipoint Distribution Service and they propose to operate on Channel 1 in Lafayette, Louisiana. The applications are therefore mutually exclusive and require comparative consideration. These applications have been amended as a result of informal requests by the Commission staff for additional information, and no petitions to deny or other objections to any of the applications have been filed.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, IT IS HEREBY ORDERED, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(e) and Section 0.291 of the Commission's Rules, 47 CFR § 0.291 the above-captioned applications ARE DESIGNATED FOR HEARING, in a CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [2]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatability with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. IT IS FURTHER ORDERED, That Microband Corporation of America, Telecable Associates, Inc., Sound Electronics, Inc. and the Chief, Common Carrier Bureau, ARE MADE PARTIES to this proceeding.

5. IT IS FURTHER ORDERED, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of Section 1.221 of the Commission's Rules.

Philip L. Verveer,
Chief, Common Carrier Bureau.

[FR Doc. 80-36139 Filed 11-19-80; 8:45 am]
BILLING CODE 6712-01-M

[1] The Microband Corporation of America application (File No. 144-CM-P-79) was placed on Public Notice Report No. 935, Mimeo No. 15956, November 6, 1978 as Lafayette, *Indiana*. A corrected listing of the application as Lafayette, *Louisiana* was made on April 2, 1979, Report No. 956.

[2] Consideration of these factors shall be in light of the Commission's discussion in *Application of Frank K. Spain*, 77 FCC 2d 20 (1980).

[3] Any contrary provisions of § 1.221 of the Rules are waived.

[CC Docket No. 80-702; File No. 426-CM-P-79; CC Docket No. 80-703; File No. 1212-CM-P-79]

Microband Corp. of America and Multipoint Network Corp.; Applications for Construction Permits in the Multipoint Distribution Service for a New Station at Charleston, West Virginia

Memorandum Opinion and Order Designating Application for Hearing on Stated Issues

Adopted: October 30, 1980.
Released November 10, 1980.
By the Chief, Common Carrier Bureau:

1. The Commission has before it the above-referenced application of Microband Corporation of America, filed on November 15, 1978 (accepted on Public Notice November 27, 1978) and the application of Multipoint Network Corporation, filed on January 24, 1979 (accepted on Public Notice February 5, 1979). Both applications are for a construction permit in the Multipoint Distribution Service and both propose to operate on Channel 1 in Charleston, West Virginia. The applications are therefore mutually exclusive and under present procedures require comparative consideration. Both applications have been amended as a result of informal requests by the Commission staff for additional information, and no petitions to deny or other objections to either of the applications have been filed.

2. Upon review of the captioned applications, we find that both

applicants are legally, technically, financially, and otherwise qualified to provide the services which they

Harriscope Broadcasting Corporation (CC Docket No. 80-706, File No. 1248-CM-P-76), for construction permits in

making such a determination, the following factors shall be considered: [2]

(a) The relative merits of each

Federal Emergency Management Agency's strategic storage centers and to transfer such excess property as

will be held on: Thursday, December 4, 1980; Thursday, December 11, 1980.

1900 E Street, NW., Washington, D.C. 20415 (202-632-9710).

applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, IT IS HEREBY ORDERED, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and Section 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications ARE DESIGNATED FOR HEARING, in a CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. It is further ordered, That Microband Corporation of America, Mulitpoint Network Corporation and the Chief, Common Carrier Bureau, ARE MADE PARTIES to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules.

Philip L. Verveer,

Chief, Common Carrier Bureau.

[FR Doc. 80-36141 Filed 11-19-80; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 80-704, File No. 1174-CM-P-76, et al.]

San Joaquin TV Services, Inc., et al.; Applications for Construction Permits

In re applications of San Joaquin TV Services, Inc. (CC Docket No. 80-704, File No. 1174-CM-P-76), Microband Corporation of America (CC Docket No. 80-705, File No. 1247-CM-P-76), and Harriscope Broadcasting Corporation (CC Docket No. 80-706, File No. 1248-CM-P-76), for construction permits in the Multipoint Distribution Service for a New Station at Fresno, California; Memorandum opinion and order designating application for hearing on stated issues.

By the Chief, Common Carrier Bureau:

Adopted: October 30, 1980.

Released: November 12, 1980.

1. The Commission has before it the above-referenced application of San Joaquin TV Services, Inc., filed October 14, 1975 [1] (accepted on Public Notice of October 28, 1975); the application of Microband Corporation of America, filed on November 11, 1975 (accepted on Public Notice of December 1, 1975) and the application of Harriscope Broadcasting Corporation, filed on November 12, 1975 (accepted on Public Notice December 1, 1975). These applications are for a construction permit in the Multipoint Distribution Service and they propose to operate on Channel 1 in Fresno, California. The applications are therefore mutually exclusive under present procedures and require comparative consideration. These applications have been amended as a result of informal requests by the Commission staff for additional information, and no petitions to deny or other objections to any of the applications have been filed.

2. Upon review of the captioned applications, we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 CFR 309(e) and Section 0.291 of the Commission's Rules, 47 CFR 0.291 the above-captioned applications ARE DESIGNATED FOR HEARING, in a CONSOLIDATED PROCEEDING, at a time and place to be specified in a subsequent order, to determine, on a comparative basis, which of the above-captioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered: [2]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth in issues (a) and (b).

4. IT IS FURTHER ORDERED, That San Joaquin TV Services, Inc., Microband Corporation of America, Harriscope Broadcasting Corporation and the Chief, Common Carrier Bureau, ARE MADE PARTIES to this proceeding.

5. IT IS FURTHER ORDERED, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules.

Philip L. Verveer,

Chief, Common Carrier Bureau.

[FR Doc. 80-36140 Filed 11-19-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Directors, Mobile Home Strategic Storage Centers; Delegation of Authority

The Director, Office of Individual Assistance, has been delegated the power and authority to issue determinations of excess property and to transfer such excess property as required. In this Delegation of Authority the Director, Office of Individual Assistance, redelegates to the Directors, Mobile Home Strategic Storage Centers, Disaster Response and Recovery, Federal Emergency Management Agency, his authority to issue determinations of excess property in the Federal Emergency Management Agency's strategic storage centers and to transfer such excess property as required.

Section A. Authority Delegated. The Directors, Mobile Home Strategic Storage Centers, Disaster Response and Recovery, are authorized to exercise the authority of the Director, Office of Individual Assistance, to issue determinations of excess property in the Federal Emergency Management Agency's strategic storage centers and to transfer such excess property as required.

Section B. Authority to Redelegate. The Directors, Mobile Home Strategic Storage Centers, are not authorized to redelegate to employees of the Federal Emergency Management Agency the authority delegated in this document.

Dated: October 21, 1980.

Jack W. McGraw,

Director, Office of Individual Assistance.

[FR Doc. 80-36152 Filed 11-19-80; 8:45 am]

BILLING CODE 6718-01-M

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[1] An amendment to application File No. 1174-CM-P-76 was filed on August 29, 1978 to change applicant's name from San Joaquin Cable TV, Inc. to San Joaquin TV Services, Inc., as a result in minor adjustments in the percentage of ownership. The same principals own San Joaquin Cable TV, Inc. and San Joaquin TV Services, Inc.

[1] Consideration of these factors shall be made in light of the Commission's discussion in *Applications of Frank K. Spain*, 77 FCC 2d 20 (1980).

[2] Consideration of these factors shall be in light of the Commission's discussion in *Applications of Frank K. Spain*, 77 FCC 2d 20 (1980).

Federal Emergency Management Agency's strategic storage centers and to transfer such excess property as required. Mobile homes will be excessed only in accord with Federal Emergency Management Agency mobile home disposition instructions.

Section B. Authority to Redelegate. The Directors, Mobile Home Strategic Storage Centers, are not authorized to redelegate to employees of the Federal Emergency Management Agency the authority delegated in this document.

Dated: October 21, 1980.

Jack W. McGraw,

Director, Office of Individual Assistance.

[FR Doc. 80-36152 Filed 11-19-80; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 80-79]

Tupperware Co. v. Compania Sud-Americana de Vapores (Chilean Line); Filing of Complaint and Assignment

Notice is given that a complaint filed by Tupperware Company against Compania Sud-Americana de Vapores (Chilean Line) was served November 12, 1980. Complainant alleges that it has been subjected to payment of rates for transportation in violation of section 18(b)(3) of the Shipping Act, 1916.

This proceeding has been assigned to Administrative Law Judge William Beasley Harris. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 80-36273 Filed 11-19-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Open Committee Meetings

Pursuant to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on: Thursday, December 4, 1980; Thursday, December 11, 1980.

The December 4 meeting will convene at 2 p.m. and the December 11 meeting at 10 a.m. These meetings will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW, Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives of five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives of five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the prevailing rate system and other matters pertinent to the establishment of prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management thereon.

These scheduled meetings will convene in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would impair to an unacceptable degree the ability of the Committee to reach a consensus on the matters being considered and disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public on the basis of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C., section 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations thereon, and related activities. These reports are also available to the public, upon written request to the Committee Secretary.

Members of the public are invited to submit material in writing to the Chairman concerning Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Committee Secretary, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW., Washington, D.C. 20415 (202-632-9710).

Jerome H. Ross,

Chairman, Federal Prevailing Rate, Advisory Committee.

November 14, 1980.

[FR Doc. 80-36228 Filed 11-19-80; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL RESERVE SYSTEM

First State Bancorporation of Childress, Inc.; Formation of Bank Holding Company

First State Bancorporation of Childress, Inc., Childress, Texas, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First State Bank, childress, Texas. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 15, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 13, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36171 Filed 11-19-80; 8:45 am]

BILLING CODE 6210-01-M

Mustang Financial Corp.; Proposed Acquisition of Mustang Life Insurance Company

Mustang Financial Corporation, Rio Vista, Texas, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Mustang Life Insurance Company, Rio Vista, Texas.

Applicant states that the proposed subsidiary would engage in credit life insurance and credit accident and health insurance underwriting directly related to extensions of credit by the Applicant or its subsidiaries. These activities would be performed from

offices of Applicant's subsidiary, First State Bank, in Rio Vista, Texas, and the

frequency with which the information is proposed to be collected.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Dated: November 10, 1980.

Howard R. Veit,

DEPARTMENT OF THE INTERIOR

contacted. Public meetings will also be held in January 1984 throughout the

offices of Applicant's subsidiary, First State Bank, in Rio Vista, Texas, and the geographic areas to be served are Johnson County, Texas and the area in which customers of the Bank are located. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 12, 1980.

Board of Governors of the Federal Reserve System, November 13, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36172 Filed 11-19-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were accepted by the Regulatory Reports Review Staff, GAO, on November 14, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the requests received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FTC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before December 8, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Federal Trade Commission

The FTC requests clearance of a new, single-time, voluntary questionnaire on Auto Leasing which will be sent to approximately 100 lessors of cars and light trucks. The questionnaire seeks information regarding the number of leases they consummate in each of three areas: (1) leases of individual vehicles, (2) leases of fleets of 2-10 vehicles, (3) leases of fleets of 10 or more vehicles. The questionnarie also requests the lessors to provide leasing contracts, termination procedures, and branch office locations. The FTC states that the information will be used to select not more that 20 respondents who will be sent a more comprehensive questionnaire. The FTC estimates approximately 2 hours will be the average time required to complete the questionnaire.

The FTC requests clearance of a new, single-time, voluntary questionnaire which will be sent to approximately 20 lessors of cars and light trucks. Recipients of the questionnaire will be selected by analysis of information obtained in response to an initial screening questionnaire and by using information already in the Commission's files. The questionnaire will seek information on leasing company activities, including number and dollar volume of lease obligations of various open-end and closed-end categories, termination policies, termination procedures, and lease adjustments. The FTC estimates that 40 hours will be the average time required to complete the questionnaire.

John M. Lovelady,

Senior Group Director, Regulatory Reports Review.

[FR Doc. 80-36208 Filed 11-19-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Health Maintenance Organizations; Determination of Noncompliance

AGENCY: Public Health Service, HHS.

ACTION: Notice, Continued Regulations of Health Maintenance Organizations: Determination of Noncompliance.

SUMMARY: On February 6, 1980, the Office of Health Maintenance Organizations determined that Community Health Care Center, Inc. (CHCP), 150 Sargent Drive, New Haven, Connecticut 06511, a federally qualified health maintenance organization (HMO), was not in compliance with the assurances it had provided to the Secretary that it would (1) maintain a fiscally sound operation and (2) have adequate provision against the risk of insolvency. The determination of noncompliance does not itself affect the status of CHCP as a federally qualified HMO. Rather, CHCP has been given the opportunity to and has, in fact, initiated corrective action to bring itself into compliance with the assurances it gave the Secretary.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building, 3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Under Section 1312(b)(1) of the Public Health Service Act (42 U.S.C. 300e-11(b)(1)) (the Act), if the Secretary makes a determination under section 1312(a) that a qualified HMO which provided assurances to the Secretary under section 1310(d)(1) is not organized or operated in the manner prescribed by section 1301(c), then she shall (1) notify the HMO in writing of the determination, (2) direct the HMO to initiate such action as may be necessary to bring it into compliance with the assurances, and (3) publish the determination in the **Federal Register.**

On February 6, 1980, OHMO notified CHCP that it was not in compliance with the assurance that it had given the Secretary that it would maintain a fiscally sound operation and that it would have adequate provision against the risk of insolvency, as required by Section 1301(c)(1)(A) of the Act. On September 16, 1980, OHMO approved a plan for CHCP to restore compliance with these requirements.

Dated: November 10, 1980.

Howard R. Veit,

Director, Office of Health Maintenance Organizations.

[FR Doc. 80-36122 Filed 11-19-80; 8:45 am]

BILLING CODE 4110-85-M

Public Health Service

Health Services Administration

Indian Health Service; Designation of Contract Appeals Boards

The purpose of this notice is to designate the membership of the five-member "Contract Proposal Declination Appeals Board" and the three-member "Contract Appeals Board" provided for in 42 CFR 36.214(e) and 36.233(d) respectively.

The Indian Self-Determination Act (Pub. L. 93-638) requires the Secretary of Health and Human Services to provide the opportunity to an Indian tribe for a hearing if he/she declines a request for a self-determination contract (Sec. 103(b)(3)). Also, if the Secretary, for cause, rescinds a self-determination contract or grant, "* * * he shall hold a hearing on such action within ten days thereof." (Sec. 109). The regulations at 42 CFR 36.214(e) and at 36.233(d) provide that the Director of the Indian Health Service (IHS) shall appoint a five-member "Contract Proposal Declination Appeals Board" and a three-member "Contract Appeals Board."

The Contract Proposal Declination Appeals Board members appointed by the Director, IHS, are:

Director, Office of Tribal Affairs, IHS, Chairman
Director, Office of Research and Development, IHS
Director, Division of Program Formulation, IHS
Director, Division of Resource Coordination, IHS
Chairman, Council of Area Directors, IHS
Alternate Member: Chief Medical Officer, IHS

The Contract Appeals Board members appointed by the Director, IHS, are:

Director, Office of Tribal Affairs, IHS, Chairman
Director, Division of Program Formulation, IHS
Director, Division of Resource Coordination, IHS
Alternate Member: Chief Medical Officer, IHS

Dated: November 12, 1980.

George I. Lythcott,

Assistant Surgeon General, Administrator.

[FR Doc. 80-36126 Filed 11-19-80; 8:45 am]

BILLING CODE 4110-84-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Lower Gila South Resource Management Plan, Arizona

Preparation of the Lower Gila South Resource Management Plan (RMP), Phoenix District, has begun. The plan will serve as a guide for the orderly use and development of approximately 2.1 million acres of public lands in southwest Arizona. Various land-use alternatives, ranging from resource production to resource preservation, will be identified and analyzed in the Resource Management Plan. The plan is scheduled for completion by September 30, 1984.

The planning area is located in portions of Yuma, Maricopa, Pinal, and Pima Counties. The area generally extends from Interstate 10 on the north to the Luke-Williams Air Force Range on the south, and from the Kofa Game Range on the west to the Gila River, Ak-Chin, and Papago Indian Reservations on the east. Public lands in the vicinity of Ajo, Arizona, that are bounded on the north by the Luke-Williams Air Force Range, on the east by the Papago Indian Reservation, on the south by Organ Pipe Cactus National Monument, and on the west by the Cabeza Prieta Game Range, are also included in the planning area.

The more significant issues expected to be addressed in the plan are: riparian wildlife habitat along the Gila River; vegetation allocations to domestic livestock, wildlife, burros, and watershed maintenance; agricultural expansion with accompanying withdrawal of groundwater; hazardous waste disposal; wilderness; off-road vehicle event areas; utility corridors; mineral/energy development, notably in the Ajo area; State In-lieu Selections; and the Ak-Chin water development project.

An interdisciplinary planning team will develop the Resource Management Plan. Disciplines represented will include: wildlife biology, hydrology, soils science, range management, geology, archeology recreation, economics, sociology, and land-use planning.

There will be extensive public participation throughout the planning process. The Arizona League of Women Voters will assist the BLM in obtaining and analyzing public input or comment received. The issue identification or scoping phase of the plan will begin in December 1980, at which time Federal, State and local governmental entities, and Indian Tribal Councils will be contacted. Public meetings will also be held in January 1984 throughout the planning area to obtain general public input.

Future opportunities for public involvement will be announced via appropriate news media, and by direct mailings to interested individuals.

For further information about the planning effort contact: Frank Splendoria or Dean Durfee at the Phoenix District Office, BLM, 2929 West Clarendon Avenue, Phoenix, Arizona 85017; (602)241-2501 or 241-2511.

W. K. Barker,

District Manager.

November 10, 1980.

[FR Doc 80-36121 Filed 11-19-80; 8:45 am]

BILLING CODE 4310-84-M

Alabama; Meeting of Southern Appalachian Regional Coal Team

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the responsibilities set forth in 43 CFR Part 3400, the regional coal team for the Southern Appalachian Federal Coal Production Region, Alabama Subregion, will meet on December 16, 1980, to review comments and recommendations on the Draft Environmental Impact Statement (EIS) for the Southern Appalachian Coal Region which analyzes the proposed leasing of coal tracts located in a three country area of north-central Alabama. The team will discuss the scheduling of the tracts for lease sale, and will review the ranking and selection of the coal lease tracts, the Small Business set aside tracts and the alternatives analyzed in the draft EIS, making any revisions they feel are necessary prior to the preparation of the final EIS. Public attendance is welcome. A one-hour time period, from 1:00 p.m. to 2:00 p.m., will be set aside to receive comments from anyone wishing to address the team.

DATE: The regional coal team will meet at 9:00 a.m. on December 16, 1980.

ADDRESS: The regional coal team will meet in the Sheraton University Inn, 4810 Skyland Boulevard East, Tuscaloosa, Alabama.

FOR FURTHER INFORMATION CONTACT: Bob Moore, Regional Coal Team Chairman, Bureau of Land Management (160), 18th and C Streets, N.W., Washington, D.C. 20240, (202) 343-4636.

Dated: November 17, 1980.

Ed Hastey,

[U-46492]

Utah; Notice of Application

the Regional Coal Team for the Uinta-Southwestern Utah Region will meet at

Manager, U.S. Geological Survey, Central Region, Denver, Colorado 80225.

Utah

Asphalt Ridge-Whiterocks and Vicinity

the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C. 351-

Dated: November 17, 1980.

Ed Hastey,

Associate Director.

[FR Doc. 80-36238 Filed 11-19-80; 8:45 am]

BILLING CODE 4310-84-M

California Desert: Temporary Closure in the Clark Mountain Area

Notice is hereby given that there will be a temporary restriction on 14 sections of public lands to all public use with certain exceptions, mentioned below. This order shall be effective on November 26, 1980 and shall be vacated on December 1, 1980.

The closure effects land in the Clark Mountain area in northeastern San Bernardino County. The 14 sections to be temporarily closed are:

San Bernardino Meridian, California

T. 17 N., R. 12 E.,
Secs. 11, 12, 14, 15, 21, 22, 23, 24, 27, and 28;
T. 17 N., R. 12½ E.,
Secs. 1 and 13; and
T. 17 N., R. 13 E.,
Secs. 6 and 18.

This closure does not apply to persons or entities holding claims, permits, leases, licenses or rights-of-way in the public lands within the described area. The order does not restrict private property owners from ingress or egress to or from their properties. Emergency vehicles, and vehicles owned by the United States, the State of California or San Bernardino County are not affected by this order. Vehicular traffic on Excelsior Mine Road and the Metropolitan Water District's transmission line road is also exempt from the closure.

This action is being taken to protect portions of the environmentally sensitive Clark Mountains repeatedly damaged by off-road vehicles on Thanksgiving weekends.

Maps showing the closed area are on file for public review at the Bureau of Land Management's California Desert District Office, 1695 Spruce Street, Riverside, California and the Barstow Way Station, 831 Barstow Road, Barstow, California.

Authority for this action is found in 43 CFR Part 8360, Subparts 8364.1, 8364.1–1; and Part 8340, Subpart 8341.2. Persons who violate this closure are subject to arrest, and upon conviction, may be fined not more than $1,000 or imprisoned for not more than 12 months, or both (43 CFR 8364.2).

Gerald E. Hillier,

California Desert District Manager.

[FR Doc. 80-36220 Filed 11-19-80; 8:45 am]

BILLING CODE 4310-84-M

[U-46492]

Utah; Notice of Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Gary Energy Corporation filed an application for a right-of-way to construct a 16 inch pipeline for the purpose of transporting crude oil across described Federal lands:

T. 22 S., R. 19 E., SLM, UT
T. 23 S., R. 19 E., SLM, UT
T. 22 S., R. 20 E., SLM, UT
T. 23 S., R. 20 E., SLM, UT
T. 24 S., R. 20 E., SLM, UT
T. 25 S., R. 20 E., SLM, UT
T. 21 S., R. 21 E., SLM, UT
T. 22 S., R. 21 E., SLM, UT
T. 25 S., R. 21 E., SLM, UT
T. 26 S., R. 21 E., SLM, UT
T. 21 S., R. 22 E., SLM, UT
T. 26 S., R. 22 E., SLM, UT
T. 27 S., R. 22 E., SLM, UT
T. 28 S., R. 22 E., SLM, UT
T. 20 S., R. 23 E., SLM, UT
T. 21 S., R. 23 E., SLM, UT
T. 27 S., R. 23 E., SLM, UT
T. 28 S., R. 23 E., SLM, UT
T. 29 S., R. 23 E., SLM, UT
T. 29½ S., R. 23 E., SLM, UT
T. 30 S., R. 23 E., SLM, UT
T. 19 S., R. 24 E., SLM, UT
T. 20 S., R. 24 E., SLM, UT
T. 30 S., R. 24 E., SLM, UT
T. 12 S., R. 25 E., SLM, UT
T. 18 S., R. 25 E., SLM, UT
T. 19 S., R. 25 E., SLM, UT
T. 18 S., R. 26 E., SLM, UT

The pipeline will transport crude oil from Lisbon Valley, Utah to Rangely, Colorado.

The purpose of this Notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views on this matter should do so promptly. Persons submitting comments should include their name and address and send them to the Project Management Staff, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

Dated: November 12, 1980.

Gary J. Wicks,

State Director.

[FR Doc. 80-36127 Filed 11-19-80; 8:45 am]

BILLING CODE 4310-84-M

Utah; Uinta-Southwestern Utah Regional Coal Team Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to Federal Coal Management regulations (43 CFR 3400) the Regional Coal Team for the Uinta-Southwestern Utah Region will meet at 9:00 a.m. on December 16, 1980, to discuss comments on the draft Environmental Impact Statement issued in October of 1980 which addresses coal leasing and other actions in the Uinta-Southwest Utah Region. In addition, the Regional Coal Team will discuss ranking and selection of tracts, the scheduling process, alternate lease sale schedules, and the potential impacts of leasing along with mitigating measures.

Written comments on the above subjects or other items of interest are invited. Comments should be submitted to the Regional Coal Team Chairperson at the address listed below. Comments must be received by December 12, 1980. Additionally, time will be provided at the meeting for any public comment.

DATE: The Regional Coal Team meeting will meet December 16, 1980, at 9:00 a.m.

ADDRESS: The meeting will be held in Room 128 at the Salt Palace, 100 S. West Temple, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Edward F. Spang, Regional Coal Team Chairperson, Federal Building, 300 Booth Street, Reno, Nevada 89509.

Dated: November 13, 1980.

Gary Wicks,

State Director.

[FR Doc. 80-36218 Filed 11-19-80; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Designated Tar Sand Area; P.R. Spring, Utah

Under authority contained in Sections 17, 21, and 32 of the Mineral Lands Leasing Act of February 25, 1920, as amended (30 U.S.C. 189, 226, 241), and the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C. 351–359), and delegations of authority in 220 Departmental Manual 2 and 7, and Geological Survey Manual 220.7, Federal lands within the State of Utah have been determined to be subject to the leasing provisions of the Mineral Lands Leasing Act of February 25, 1920, as amended (30 U.S.C. 226, 241). The name of the area, effective date, and total acreage involved are as follows:

Utah

P.R. Spring Designated Tar Sand Area; September 23, 1980; 273,950 acres.

A plat showing the boundary of the area designated for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the plat and the land description may be obtained from the Conservation Manager, U.S. Geological Survey, Central Region, Denver, Colorado 80225.

Dated: November 5, 1980.

Hillary A. Oden,

Acting Chief, Conservation Division.

[FR Doc. 80-36224 Filed 11-19-80; 8:45 am]

BILLING CODE 4310-31-M

Designated Tar Sand Area; Sunnyside and Vicinity, Utah

Under authority contained in Sections 17, 21, and 32 of the Mineral Lands Leasing Act of February 25, 1920, as amended (30 U.S.C. 189, 226, 241), and the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C. 351–359), and delegations of authority in 220 Departmental Manual 2 and 7, and Geological Survey Manual 220.7, Federal lands within the State of Utah have been determined to be subject to the leasing provisions of the Mineral Lands Leasing Act of February 25, 1920, as amended (30 U.S.C. 226, 241). The name of the area, effective date, and total acreage involved are as follows:

Utah

Sunnyside and Vicinity Designated Tar Sand Area; September 23, 1980; 157,445 acres.

A plat showing the boundary of the area designated for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the plat and the land description may be obtained from the Conservation Manager, U.S. Geological Survey, Central Region, Denver, Colorado 80225.

Dated: November 5, 1980.

Hillary A. Oden,

Acting Chief, Conservation Division.

[FR Doc. 80-36225 Filed 11-19-80; 8:45 am]

BILLING CODE 4310-31-M

Designated Tar Sand Area; Asphalt Ridge-Whiterocks and Vicinity, Utah

Under authority contained in Sections 17, 21, and 32 of the Mineral Lands Leasing Act of February 25, 1920, as amended (30 U.S.C. 189, 226, 241), and the Mineral Leasing Act for Acquired Lands of August 7, 1947, (30 U.S.C. 351–359), and delegations of authority in 220 Departmental Manual 2 and 7, and Geological Survey Manual 220.7, Federal lands within the State of Utah have been determined to be subject to the leasing provisions of the Mineral Lands Leasing Act of February 25, 1920, as amended (30 U.S.C. 226, 241). The name of the area, effective date, and total acreage involved are as follows:

Utah

Asphalt Ridge-Whiterocks and Vicinity Designated Tar Sand Area; September 23, 1980; 41,395 acres.

A plat showing the boundary of the area designated for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the plat and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Denver Federal Center, Denver, Colorado 80225.

Dated: November 5, 1980.

Hillary A. Oden,

Chief, Conservation Division.

[FR Doc. 80-36221 Filed 11-19-80; 8:45 am]

BILLING CODE 4310-31-M

Designated Tar Sand Area; Circle Cliffs East and West Flanks, Utah

Under authority contained in Sections 17, 21, and 32 of the Mineral Lands Leasing Act of February 25, 1920, as amended (30 U.S.C. 189, 226, 241), and the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C. 351–359), and delegations of authority in 220 Departmental Manual 2 and 7, and Geological Survey Manual 220.7, Federal lands within the State of Utah have been determined to be subject to the leasing provisions of the Mineral Lands Leasing Act of February 25, 1920, as amended (30 U.S.C. 226, 241). The name of the area, effective date, and total acreage involved are as follows:

Utah

Circle Cliffs East and West Flanks Designated Tar Sand Area; September 23, 1980; 91,080 acres.

A plat showing the boundary of the area designated for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the plat and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, box 25046, Denver Federal Center, Denver, CO 80225.

Dated: November 5, 1980.

Hillary A. Oden,

Acting Chief, Conservation Division.

[FR Doc. 80-36222 Filed 11-19-80; 8:45 am]

BILLING CODE 4310-31-M

Designated Tar Sand Area; Tar Sand Triangle, Utah

Under authority contained in Sections 17, 21, and 32 of the Mineral Lands Leasing Act of February 25, 1920, as amended (30 U.S.C. 189, 226, 241), and the Mineral Leasing Act for Acquired Lands of August 7, 1947 (30 U.S.C. 351–359), and delegations of authority in 220 Departmental Manual 2 and 7, and Geological Survey Manual 220.7, Federal lands within the State of Utah have been determined to be subject to the leasing provisions of the Mineral Lands Leasing Act of February 25, 1920, as amended (30 U.S.C. 226, 241). The name of the area, effective date, and total acreage involved are as follows:

Utah

Tar Sand Triangle Designated Tar Sand Area; September 23, 1980; 157,339 acres.

A plat showing the boundary of the area designated for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the plat and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Denver Federal Center, Denver, CO 80225.

Dated: November 5, 1980.

Hillary A. Oden,

Acting Chief, Conservation Division.

[FR Doc. 80-36223 Filed 11-19-80; 8:45 am]

BILLING CODE 4310-31-M

Office of the Secretary

[516 DM 6, Appendix 3]

National Environmental Policy Act; Revised Implementing Procedures

AGENCY: Department of the Interior.

ACTION: Notice of final revised instructions for the Heritage Conservation and Recreation Service.

SUMMARY: This notice announces a final appendix to the Department's NEPA procedures for the Heritage Conservation and Recreation Service. The final Departmental procedures were published in the **Federal Register** on April 23, 1980 (45 FR 27541).

DATE: The appendix was adopted November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Bruce Blanchard, Director, Office of Environmental Project Review, Office of the Secretary, Department of the Interior, Washington, D.C. Telephone: (202) 343–3891. FTS: 343–3891. For Heritage Conservation and Recreation Service, contact Harold Green, Telephone: (202) 343–7982. FTS 343–7982.

SUPPLEMENTARY INFORMATION: This appendix to the Departmental Manual (516 DM 6, appendix 3) provides more specific NEPA compliance guidance to the Heritage Conservation and Recreation Service. In particular it

provides information about HCRS organizational responsibilities for NEPA

Office of Surface Mining, February 14, 1980 (45 FR 10043)

(3) Copies of the grants manuals have been provided to all State Liaison

normally require the preparation of an EIS:

Example: Preliminary to developing an energy program pursuant to the

preservation to other Federal, State and local agencies and to the general public.

provides information about HCRS organizational responsibilities for NEPA compliance, advice to applicants, actions normally requiring the preparation of an EIS, and categorical exclusions. The appendix must be taken in conjunction with the Departmental procedures (516 DM 1–6) and the CEQ regulations (40 CFR Parts 1500–1508). In addition, the bureau will prepare a handbook(s) or other technical guidance on how to apply these procedures to its principal programs.

Response to Comments. The proposed appendix was published in the Federal Register on August 23, 1979 (44 FR 49523) and one comment was received. As a result of this comment and other internal input, several technical changes were made to improve the instructions. The following is the response to the substantive comments:

Categorical Exclusion. The commentor suggested that categorical exclusions be established for grants for fee simple acquisition of parcels of land within established park boundaries and for grants to local communities for generally small acquisition and development projects. While we feel that these types of actions would seldom require the preparation of an EIS, we do believe that these actions may have significant environmental effects and therefore, as a group, should not be categorically excluded.

Additions to the Appendix. Section 3.2B has been added to provide information to applicants about conversion of certain acquired recreation lands. Two types of actions have been identified in Section 3.3 which will normally require an EIS; and Section 3.4I concerning categorical exclusions for actions associated with the National Register of Historic Places has been revised and modified to include the Historic and Natural Landmark programs. Comments are welcome on these additions.

Format. Chapter 6 (516 DM 6) Managing the NEPA Process.

Appendix 3. Heritage Conservation and Recreation Service.

9.1 NEPA Responsibility
9.2 Guidance to Applicants
9.3 Major Actions Normally Requiring an EIS
9.4 Categorical Exclusions

Other Bureaus: Proposed appendices for other bureaus have been published in the Federal Register as follows:

Bureau of Indian Affairs, July 24, 1980 (45 FR 49368)
Bureau of Mines, February 14, 1980 (45 FR 10043)
National Park Service, May 15, 1980 (45 FR 32126)
Office of Surface Mining, February 14, 1980 (45 FR 10043)

Final appendices have been published for the following Bureaus:

Appendix 1—Fish and Wildlife Service (45 FR 47941)
Appendix 9—Water and Power Resources Service (45 FR 47944)

Dated: November 13, 1980.

James H. Rathlesberger,
Special Assistant to Assistant Secretary of the Interior.

516 DM 6 Appendix 3—Heritage Conservation and Recreation Service

3.1 NEPA Responsibility

A. The *Director* is responsible for NEPA compliance for Heritage Conservation and Recreation Service (HCRS) activities.

B. *Associate Directors* (Natural, Recreation, and Cultural Programs and Administration) are responsible for general environmental guidance and for NEPA compliance in their areas of responsibility.

C. *Regional and Area Directors* are responsible for overall management and guidance of HCRS environmental procedures within their areas of jurisdiction. Each is responsible for designating a chief environmental officer for the regional/area office.

D. The *Division of Environmental and Compliance Review* (Washington), which reports to the Associate Director for Administration, serves as the bureau focal point for all NEPA related environmental activities. It advises the Directorate, ensures bureau-wide compliance, approves all bureau EISs, and manages the review of all EISs referred to the bureau for comment. Information about HCRS NEPA documents or the NEPA process can be obtained by contacting this office.

3.2 Guidance to Applicants

A. *Federal Aid.*

(1) The HCRS administers grant funds to States, local governments, and private organizations/individuals for outdoor recreation acquisition, development, and planning (CFDA #15.400), historic preservation (CFDA #15.411) and urban park and recreation recovery (CFDA #15.417).

(2) The following program guidelines and regulations list environmental requirements which applicants must meet:

(a) Land and Water Conservation Fund grants manual—Part 650.

(b) Historic Preservation grants-in-aid manual (under preparation).

(c) Urban Park and Recovery Program—36 CFR Part 1226.

(3) Copies of the grants manuals have been provided to all State Liaison Officers for outdoor recreation and all State Historic Preservation Officers. Current copies are also available for inspection in each HCRS Regional Office as well as in Washington.

(4) Many State agencies with State-wide jurisdiction which seek HCRS funding may prepare related EISs pursuant to Section 102(2)(D) of NEPA. Such agencies should consult with the appropriate regional/area office.

B. *Conversion of Acquired Recreation Lands.*

(1) The HCRS must approve the conversion of certain acquired recreation lands. These include:

(a) All local and State lands, and interests therein, and certain Federal lands under lease to the States, acquired or developed in whole or in part with monies from the Land and Water Conservation Fund Act are subject to Section 6(f) of the Act requiring approval of conversion of use.

(b) All recreation areas and facilities (as defined in Section 1004) developed or improved, in whole or in part, with a grant under the Urban Park and Recreation Recovery Act of 1978 (Title 10 of Pub. L. 95–625) are subject to Section 1010 of the Act which requires approval for a conversion to other than public recreation uses.

(c) Most Federal surplus real property which has been deeded to State and local governments for use and management as park demonstration areas or recreation areas, and all historic monuments and properties so deeded, under the Recreation Demonstration Act of 1942, or the Federal Property and Administrative Services Act of 1949, as amended, are subject to approval of conversion of use.

(d) All abandoned railroad rights-of-way acquired by State and local governments for recreational and/or conservation uses with grants under Section 809(b) of the Railroad Revitalization and Regulatory Reform Act of 1976 are subject to approval of conversion of use.

(2) Applications for approval of conversion of the use of these lands must be submitted through the State Liaison Officer to the appropriate Regional Director of HCRS. Early consultation with the Regional Office is encouraged to insure that the application is accompanied with any required environmental documents.

3.3 Major Actions Normally Requiring an EIS

A. The following types of HCRS proposed actions and decisions will normally require the preparation of an EIS:

(1) Actions, including multi-year actions, whose size or scope will or may result in major natural or physical changes, including interrelated social and economic changes and residential and land use changes, within the project area or its immediate environs.

(2) Actions which foreclose other beneficial uses of mineral, agricultural, timber, water, energy, or transportation resources critical to the Nation's or a State's welfare.

B. If for any of these proposals it is initially decided not to prepare an EIS, an EA will be prepared and handled in accordance with Section 1501.4(e)(2). 3.4 *Categorical Exclusions.* In addition to the actions listed in the Departmental categorical exclusions outlined in Appendix 1 of 516 DM 2, many of which the Service also performs, the following HCRS actions are designated categorical exclusions unless the action qualifies as an exception under 516 DM 2.3A(3):

A. Routine internal management functions, including preparation of internal surveys, studies, reports, and similar documents used in evaluating effectiveness or extent of HCRS activities. Examples: Preparing regular Regional reports to the Director; maintaining grants-in-aid status reports; listing progress in promoting cooperative recreation management of areas under the jurisdiction of the Department of Defense.

B. Preparing routine reports required by law or regulation. Examples: Report on the Recreation Fee Program to the Congress; report on the status of properties disposed of for park and recreation purposes pursuant to the provisions of Federal Surplus Properties legislation.

C. Preparation or funding of surveys, studies, reports, and similar documents which do not recommend, propose, prescribe, or proscribe future actions. Examples: Statistical reports providing information on the types of professionals engaged in heritage conservation work; surveys to gather data on existing conditions, such as determining the number, acreage, and visitor volume at recreation or historic areas; analytical studies which try to develop rule-of-thumb formulae for estimating visitor carrying capacity of public areas; data collection for inventorying historic and archeological sites.

D. Preparation of internal reports, plans, studies, and other documents containing recommendations for action which HCRS develops preliminary to the process of preparing a specific proposal or set of alternatives for decision. Example: Preliminary to developing an energy program pursuant to the President's initiatives, HCRS asked each of its Divisions and its Regional and Area Offices to propose directions which the program should take. Such proposals, since they were prepared preliminary to actual program planning and development, qualify for categorical exclusion from environmental documentation requirements.

E. Funding of proposed non-Federal actions which replace, or renovate, facilities at their same location: *Provided,* That they do not alter the integrity of the setting or increase public use of the area to the extent of compromising the nature and character of the property or cause physical damage to it, introduce motorized recreation vehicles, introduce active recreation pursuits into a passive recreation area, or cause a nuisance to adjacent property owners or occupants. These actions use monies from the Land and Water Conservation Fund, the Historic Preservation Fund, or the Urban Park and Recreation Recovery Fund. Examples: Resurfacing tennis courts; restoring a historic building; replacing and upgrading playground equipment; removing an architecturally incompatible addition to a historic structure; improving the lighting system of an indoor recreation structure.

F. Funding for construction or rehabilitation work on existing non-Federal properties which is required to meet health, safety and handicapped regulations. Examples: Improving sanitary systems or bathhouses, adding ramps to provide wheelchair access.

G. Funding for construction of new facilities within an existing recreation, historic, archeological, or natural area: *Provided,* That the new facilities will not increase public use of the area to the extent of compromising the nature and character of the property or causing physical damage to it; institute non-compatible uses which might compromise the nature and characteristics of the property or cause physical damage to it; introduce motorized recreation vehicles; introduce active recreation pursuits into a passive recreation area; or cause a nuisance to adjacent property owners or occupants. Examples: Installing paths to public facilities; installing picnic shelters designed for single family use; planting hedgerows to screen out unsightly adjacent areas; installing underground lawn sprinkling systems; installing fencing to guide or redirect foot or vehicular traffic or to provide security.

H. Providing technical assistance in historic, architectural, and archeological preservation; recreation; or natural area preservation to other Federal, State and local agencies and to the general public.

I. Identifying, nominating, certifying, and determining the eligibility of properties for the National Register of Historic Places and the National Historic Landmark and National Natural Landmark programs.

[FR Doc. 80-36227 Filed 11-19-80; 8:45 am]
BILLING CODE 4310-03-M

Oil Shale Environmental Advisory Panel; Meeting

Notice is hereby given in accordance with Public Law 92–463 that a meeting of the Oil Shale Environmental Advisory Panel will be held on December 9, 1980, at the Holiday Inn, I–70 and Horizon Drive, in Grand Junction, Colorado. The meeting will begin at 8:30 a.m. on Tuesday, December 9, in the Mt. Garfield Room and conclude at 5:00 p.m. that afternoon.

The Panel was established to assist the Department of the Interior in the performance of its functions in connection with the supervision of oil shale leases issued under the Prototype Oil Shale Leasing Program.

The purpose of this meeting is to review the Final Draft of the 1980 White River Shale Project Detailed Development Plan for Oil Shale Lease Tracts U-a and U-b in Uintah County, Utah, to receive reports from Interior officials, discuss Panel operations and to consider any other matters which have come before the Panel. The Panel will also receive a status report on Interior's plans for additional oil shale leasing.

The meeting is open to the public. It is expected that space will permit at least 100 persons to attend the meeting in addition to the Panel members. Interested persons may make brief presentations to the Panel on Tuesday afternoon, December 9, or file written statements with the Chairman. Requests to speak to the Panel should be made to Mr. Henry O. Ash, Chairman, Office of the Oil Shale Environmental Advisory Panel, Department of the Interior, Room 690 Building 67, Denver Federal Center, Denver, Colorado 80225, telephone (303) 234–3275.

Further information concerning this meeting may be obtained from Mr. Ash's office. Minutes of the meeting will be available for public inspection 30 days after the meeting at the Panel office.

Dated: November 14, 1980.

Guy R. Martin,
Assistant Secretary for Land and Water Resources.

[FR Doc. 80-36150 Filed 11-19-80; 8:45 am]
BILLING CODE 4310-10-M

V 45 N 0 20 0 80 0 UMI

Outer Continental Shelf Advisory Board; Renewal

This notice is published in accordance with the provisions of section 7(a) of the Office of Management and Budget Circular A–63 (Revised). Pursuant to the authority contained in section 14(a) of the Federal Advisory Committee Act (Pub. L. 92–463), the Secretary of the Interior has determined that renewal of the Outer Continental Shelf Advisory Board is necessary and in the public interest.

The purpose of the Outer Continental Shelf Advisory Board is to provide advice to the Secretary of the Interior and other officers of the Department of the Interior in the performance of discretionary functions of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et. seq.), including all aspects of leasing, exploration, development and protection of the resources of the Outer Continental Shelf.

The General Services Administration concurred in the renewal of this Board on November 6, 1980.

Further information regarding this renewal may be obtained from Alan D. Powers, Director, Office of OCS Program Coordination, Department of the Interior, Washington, D.C. 20240, 202/343–9311.

Dated: November 13, 1980.

Alan D. Powers,

Director, Office of OCS Program Coordination.

[FR Doc. 80-36120 Filed 11–19–80; 8:45 am]

BILLING CODE 4310–10–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 11450 (Sub-No. 1)]

The Atchison, Topeka and Santa Fe Railway Co. and the Denver and Rio Grande Western Railroad Co.—Operation of Lines of Railroads Between South Denver and Bragdon, Co.

The Atchison, Topeka and Santa Fe Railway Company (Santa Fe), 80 East Jackson Boulevard, Chicago, IL 60604, represented by R. K. Knowlton, Vice President-Law, 80 East Jackson Boulevard, Chicago, IL 60604 and the Denver and Rio Grande Western Railroad Company (Rio Grande), 1515 Arapahoe Street, Denver, CO 80217, represented by John S. Walker, General Solicitor, P.O. Box 5482, Denver, CO 80217, hereby gives notice that on the 17th day of October, 1980, they filed with the Interstate Commerce Commission at Washington, DC, a joint application pursuant to 49 U.S.C. 11343 for approval of a plan whereby the agreement between Santa Fe and Rio Grande providing for joint operation of their lines between South Denver and Bragdon, CO, dated February 26, 1936, will be amended to permit Rio Grande to serve the R.D. Nixon Power Plant of the City of Colorado Springs, Department of Public Utilities, with unit coal trains.

Santa Fe presently operates main lines of railroad running generally between Chicago and California, Chicago and Texas and Colorado and Texas. Rio Grande presently operates main lines of railroad between Denver, Colorado Springs, Pueblo and Grand Junction, Colorado and Salt Lake City, Utah. Santa Fe and Rio Grande presently operate their respective lines of railroad from South Denver to Bragdon, CO jointly pursuant to the aforementioned ageement dated February 26, 1936. The portion of Santa Fe's line extending from the aforementioned Nixon Plant to Crews is part of the line subject to this agreement. The proposed amendment to this agreement will permit the applicants to serve the Nixon Plant in an economical and efficient manner. this amendment shall be placed in effect as soon as necessary approvals from regulatory bodies are obtained.

In the opinion of the applicants, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—Nat'l Environmental Policy Act, 1969,* 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—Nat'l Environmental Policy Act, 1969, supra,* at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 11450 (Sub-No. 1) and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20424, not later than January 5, 1981. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36254 Filed 11–19–80; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 29510]

The Atchison, Topeka and Santa Fe Railway Co., Trackage Rights over Missouri Pacific Railroad Co.

The Atchison, Topeka and Santa Fe Railway Company (Santa Fe), 80 East Jackson Boulevard, Chicago, IL 60604, represented by R. K. Knowlton, Vice President-Law, 80 East Jackson Boulevard, Chicago, IL 60604, hereby gives notice that on the 23rd day of October, 1980, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 11343 for authority to operate its trains over a line of railroad owned by the Missouri Pacific Railroad Company (MP) between MP milepost 487.10 at Newton, KS and MP milepost 516.52 at McPherson, KS, a distance of 29.42 miles, pursuant to a trackage rights agreement which has been execute by both Santa Fe and MP. The line over which authority to operate is sought lies in Harvey and McPherson Counties, KS.

In the opinion of the applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—Nat'l Environmental Policy Act, 1969,* 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—Nat'l Environmental Policy Act, 1969, supra,* at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submissions shall indicate the proceeding designation Finance Docket No. 29510 and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20424, not later than January 5, 1981. Such written comments shall include the following: the person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36255 Filed 11–19–80; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–6 (Sub 81F]

Burlington Northern Inc.; Abandonment Between Bushnell and Roseville, in Warren and McDonough Counties, IL; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided October 22, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Burlington Northern Inc. of a line of railroad known as the Bushnell to Roseville line extending from railroad milepost 161.10 near Bushnell, IL, to railroad milepost 176.97 at the end of the line near Roseville, IL, in Warren and McDonough Counties, IL, a distance of 15.87 miles. A certificate of public convenience and necessity permitting abandonment was issued to the Burlington Northern, Inc. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than December 1, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36262 Filed 11–19–80; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–3 (Sub-20F)]

Missouri Pacific Railroad Co.; Abandonment and Abandonment of Tracking Rights-over Southern Pacific Transportation Co. in St. Mary and Iberia Parishes, LA; Correction*; Findings

Notice if hereby given pursuant to 49 U.S.C. 10903 that by a decision decided September 15, 1980, a finding, which is administratively final, was made by the Commission, Division 2, acting as an Appellate Division, stating that, the public convenience and necessity permit the abandonment by the Missouri Pacific Railroad Company of the following portions of a line of railroad known as the New Iberia Subdivision: (a) that portion extending from milepost 47.6 at New Iberia to milepost 47.8 at New Iberia, a distance of .2 mile in Iberia Parish, LA; (b) that portion extending from milepost 52.9 at Olivier to milepost 56.5 at Loisel, a distance of 3.6 miles in Iberia Parish, LA, and (c) that portion extending from milepost 73.5 at Oaklawn to milepost 79.8 at Franklin, a distance of 6.3 miles in St. Mary Parish, LA. The total distance of the above segments is 10.1 miles, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979). A certificate of abandonment will be issued to the Missouri Pacific Railroad Company based on the above-described finding of abandonment, December 22, 1980, unless on or before December 5, 1980, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than December 1, 1980; and

(2) it is likely that such proffered assistance would:

(a) cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offer may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made on the Commission to set conditions or amount of compensation, a certificate of abandonment will be issued no later than 50 days after this notice is published. Upon notification to the Commission of the execution of an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96–448, effective October 1, 1980). All interested persons are advised to follow the instructions contained therein as well as

*Corrected to show that the administratively final decision is September 15, 1980, and not February 11, 1980. The notice was originally published at 45 FR 72307, October 31, 1980.

the instructions contained in the above-referenced decision.

The offer must be filed with the Commission and served concurrently on

publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final

at Sorrento, FL, a distance of 12.59 miles, in Seminole and Lake Counties, FL. A

market competition without use of such rates as factors in constructing

the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36284 Filed 11-19-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-36 (Sub-No. 10F)]

Oregon Short Line Railroad Co.—Abandonment and Discontinuance of Service by Union Pacific Railroad Co. Near Aberdeen, in Bingham County, Id.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided October 10, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979), and further that applicants shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from the decided date of the certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessary permit the abandonment by the Oregon Short Line Railroad Company and discontinuance of service by the Union Pacific Railroad Company over a portion of a line of railroad known as the Aberdeen Branch extending from railroad milepost 28.34 near Aberdeen to milepost 28.44 near Aberdeen, a distance of 0.10 miles in Bingham County, ID. A certificate of public convenience and necessity permitting abandonment was issued to the Oregon Short Line Railroad Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than December 1, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36283 Filed 11-19-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-19 (Sub-No. 48F)]

The Pittsburgh and Western Railroad Co. and the Baltimore and Ohio Railroad Co.; Abandonment in Butler, Armstrong, and Clarion Counties, Pa.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided October 6, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979), and further that applicants shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from the decided date of the certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permits the abandonment by P&W as owner and discontinuance of service over the line by B&O as operator of the Northern Branch, from railroad valuation station 1908+75 (milepost 62.19) at or near Dudley to railroad valuation station 3069+49 (milepost 84.17) at or near Knox, a total distance of 21.98 miles, all in Butler, Armstrong, and Clarion Counties, PA. A certificate of public convenience and necessity permitting abandonment and discontinuance of service was issued to the Pittsburgh and Western Railroad Company and the Baltimore and Ohio Railroad Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than December 1, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36280 Filed 11-19-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-72 (Sub-2F)]

Sacramento Northern Railway; Abandonment in Yolo County, CA; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided September 30, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Sacramento Northern Railway of a portion of its main line of railroad extending from railroad milepost 76.135, located on the Solano/Yolo County line near Libfarm, CA, to milepost 79.758, near Saxon, Yolo County, CA, a distance of 3.623 miles and a portion of its main line of railroad extending from railroad milepost 83.947, near Arcade, Yolo County, CA, to milepost 86.469, near Riverview, Yolo County, CA, a distance of 2.522 miles. A certificate of public convenience and necessity permitting abandonment was issued to the Sacramento Northern Railway. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that

publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than December 1, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36259 Filed 11-19-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 44F)]

Seaboard Coast Line Railroad Co.; Abandonment Between Sylvan Lake and Sorrento, Fl.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided October 6, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979), and further that SCL shall keep intact all of the right-of-way underlying the track, including all the bridges and colverts for a period of 120 days from the decided date of the certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of a portion of a line of railroad known as the Umatilla Subdivision, Tampa Division, extending from railroad milepost ATA 773.62 near Sylvan Lake, FL, to milepost ATA 786.21 at Sorrento, FL, a distance of 12.59 miles, in Seminole and Lake Counties, FL. A certificate of public convenience and necessity permitting abandonment was issued to the Seaboard Coast Line Railroad Company: Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than December 1, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36261 Filed 11-19-80; 8:45 am]

BILLING CODE 7035-01-M

Long- and Short-Haul Applications for Relief (Formerly Fourth Section Applications)

November 17, 1980.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. December 5, 1980.

Long- and Short-Haul

No. 43871, Southwestern Freight Bureau, Agent (No. B-93), reduced rates on Trichloroethylene, etc., in tank cars, carload, from Lake Charles, Plaquemine, Taft, West Lake Charles, LA; Freeport, Houston and Texas City, TX to Chrystal City, MO as published in Supplement 156 to Tariff ICC SWFB 3038-E and Supplement 478 to Tariff ICC SWFB 3354-C, scheduled to become effective December 13, 1980. Grounds for relief—Market Competition.

Aggregate-of-Intermediates

No. 43872, Southwestern Freight Bureau, Agent (No. B-94), reduced rates on Trichloroethylene, etc., in tank cars, carload, from Southwestern origins to Crystal City, MO, as pulished in Supplement 156 to tariff ICC SWFB 3038-E and Supplement 478 to tariff ICC SWFB-C, scheduled to become effective December 13, 1980. Grounds for relief—maintenance of depressed rates to meet market competition without use of such rates as factors in constructing combination rates.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36258 Filed 11-19-80; 8:45 am]

BILLING CODE 7035-01-M

Long- and Short-Haul Applications for Relief (Formerly Fourth Section Applications)

November 14, 1980.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before December 5, 1980.

No. 43870, Sea-Land Service, Inc. (No. 111), joint water-rail container rates on general commodities from Far East Origin ports of Japan, Korea, Hong Kong, Taiwan, Thailand, Republic of the Philippines and Singapore (via interchange at Long Beach and Oakland, CA and Seattle, WA), to Chattanooga, TN and Indianapolis, IN, as published in its Tariff ICC SEAU 350, FMC 203, published to become effective December 5, 1980. Grounds for relief—water competition.

No. 43873, Consolidated Rail Corporation, seeks permission to depart from the long- and short-haul provisions of 49 U.S.C. 10726(a)(1)(A) to the extent necessary to publish and maintain joint-line surcharge tariffs and related cancellations on various commodities, pursuant to Section 217 of the Staggers Rail Act of 1980 (49 U.S.C. 10705 as amended).

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36256 Filed 11-19-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An interim proposed final Rule 240 reflecting changes to comport with the

Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45

existing authority, the duplication shall not be construed as conferring more

latest available date showing the effect of consummation of the proposed

PACIFIC TANK LINES (Arizona) (P.O. Box 7240, Denver, CO 80207).

Counties, CA; (10) *soybean oil,* in bulk, in tank vehicles, from Wilmington, CA,

tank vehicles, and contaminated shipments in the reverse direction, from

Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49* U.S.C. 11344 and 11349. These rules provides among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.240(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.240(A)(h).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (January 5, 1981), (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requiremens which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: November 12, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor and Williams. (Board Member Krock did not participate in MCF–14494).

MC–F–14490F, filed October 29, 1980. CONVOY COMPANY (Convoy) (3900 N.W. Yeon Avenue, Portland, OR 97210)—MERGER—TAT, INC. (TAT) (800 Wyoming Street, Kansas City, MO 64101). Representative: Raymond A. Greene, Jr., 100 Pine Street, Suite 2550, San Francisco, CA 94111. Convoy seeks authority to merge the interstate operating rights and property of TAT into Convoy for ownership, management and operation. Thomas P. Youell, the majority stockholder of Convoy, seeks authority to continue in control of TAT through the transaction. Convoy was authorized to control TAT by decision served June 13, 1974, in MC–F–11998. TAT is authorized to operate as a motor common carrier pursuant to Certificates issued in MC–115357 and MC–115357 (Sub-No. 7), which authorize the transportation of (1) *new automobiles,* in secondary movements, in truckaway service, restricted against the transportation of traffic having a prior movement by connecting carriers, (2) *used automobiles,* in secondary movements, in truckaway service, and (3) *trucks,* in secondary movements, in truckaway service, between Kansas City, MO, on the one hand, and, on the other, points in CO, IA, KS, NE, OK, and TX. Convoy is authorized to operate as a motor common carrier, transporting motor vehicles throughout numerous States, pursuant to certificates issued in MC–52858 and sub-numbers thereunder. Convoy is affiliated with Canadian Auto Carriers, Ltd., a motor common carrier pursuant to certificates issued in MC–128080 and sub-numbers thereunder. Condition: Because applicants filed their application incorrectly on Form OP–F–45, the "giving effect" income statement and balance sheet were omitted. Our approval and authorization of this transaction and the issuance of the effective notice is conditioned upon the prior receipt by the Commission of Appendices C–5 and C–6 of Form OP–F–44, which require the following information: (1) A "giving effect" balance sheet for transferee as of the latest available date showing the effect of consummation of the proposed transaction. Each adjustment should be separately explained, and (2) A "giving effect" income statement for the current calendar year to date, for transferee, showing estimated adjustments and eliminations which would have resulted from consummation of the proposed transaction. Each adjustment should be separately explained and supported.

MC–F–14462F, filed October 28, 1980. T–W TRANSPORT, INC. (T–W) (P.O. Box 3347, Spokane, WA 99220)—CONTROL AND MERGER—P. F. HUNTLEY CO., INC. (Huntley) (E. 6222 Desmet, Spokane, VA 99206). Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. T–W seeks authority to acquire control of Huntley and for merger of the operating rights and property into T–W for ownership, management, and operation. James C. Williams, who controls T–W through ownership of 57 percent of T–W's capital stock, seeks to acquire control of Huntley through this transaction. The operating rights to be acquired by T–W are contained in Huntley's Certificates issued in MC–127991 and sub-numbers thereunder which authorize the transportation as follows: (1) *quarry tile,* from Spokane Industrial Park (Spokane County), WA, to points in CA, (2) *bananas,* from points in Long Beach and Wilmington, CA, to Pacific Fruit and Product warehouses at Pasco and Spokane, WA, (3)(a) *bananas* and (b) *agricultural commodities,* the transportation of which is otherwise exempt from economic regulation under the provisions of 49 U.S.C. 10526(a)(6), when moving in mixed loads with bananas, from the facilities of Del Monte Banana Co., at Port Heuneme, CA, to points in WA and ID, restricted to transportation of traffic having a prior movement by water. T–W operates as a contract carrier pursuant to permit No. MC–136992 (Sub-No. 1) which authorizes the transportation of *wine and beverages,* from points in CA, to Spokane, WA under a continuing contract with two shippers. James C. Williams who controls T–W also controls Interior Transport, Inc. Interior Transport, Inc., operates as a contract carrier pursuant to a permit in No. MC–138256 and sub-numbers thereunder, and as a common carrier pursuant to certificate No. MC–141548 and sub-numbers thereunder. Inland Empire is a wholly owned subsidiary of Interior Transport. (Hearing site: Spokane, WA.)

MC–F–14494F, filed October 22, 1980. WHITFIELD TANK LINES, INC. (Whitfield) (P.O. Box 7676, Phoenix, AZ 85011)—PURCHASE—ARIZONA-

PACIFIC TANK LINES (Arizona) (P.O. Box 7240, Denver, CO 80207). Representatives: William S. Richards, P.O. Box 2465, Salt Lake City, UT 84110, and J. W. Ringsby, P.O. Box 7240, Denver, CO 80207. Whitfield seeks authority to purchase the interstate operating rights and property of Arizona. Sundance Transportation, Inc., a non-carrier and sole stockholder of Whitfield, and in turn, Allan D. Musgrove, the majority stockholder of Sundance Transportation, Inc., seeks authority to acquire control of said rights and property through the transaction. Whitfield is purchasing the interstate operating rights contained in Arizona's certificates in MC–109584 and sub-numbers thereunder, which authorize the transportation, as a motor common carrier, over irregular routes, as follows: (1) *edible and inedible meat fats,* in bulk, in tank vehicles, (a) from points in UT to points in CA, and (b) from Denver, CO, and points in ID to points in Los Angeles County, CA; (2) *liquid shortening, cottonseed oil, soybean oil, and coconut oil,* in bulk, in tank vehicles, from Long Beach and Wilmington, CA, to points in OR, WA, ID, UT, and NV; (3) *returned and contaminated shipments of edible and inedible meat fats, liquid shortening, cottonseed oil, soybean oil, and coconut oil,* from points specified in the destinations in (1) and (2) above, to points in the respective origin points; (4) *cottonseed oil,* in bulk, in tank vehicles, (a) from points in Maricopa County, AZ, to Kingsburg, CA, (b) from Gilbert, Safford, Casa Grande, Phoenix, and Tovrea, AZ, to Wilmington, CA, and (c) from Wilmington, CA, to points in OR, WA, ID, UT, CO, and NV; (5) *molasses and molasses compounds,* in bulk, in tank vehicles, from points in the Los Angeles Harbor, CA, Commercial Zone, as defined by the Commission, to points in AZ; (6) *paint, lacquer and lacquer thinner, varnish, turpentine, liquid fertilizer, insecticides, vinegar, phosphoric acid, and vegetable oils,* in bulk, in tank vehicles, between points in AZ, on the one hand, and, on the other, points in CA; (7) *anhydrous ammonia,* in bulk, in tank vehicles, (a) from points in CA to points in Cochise County, AZ, (b) from Brea, CA, and points within 5 miles thereof, to points in UT (except hose in Iron, Washington, Kane, and Garfield Counties), and (c) from Brea, CA, to Uravan, CO; (8) *syrups and liquid sugar,* in bulk, in tank vehicles, from points in CA, to points in AZ; (9) *nitric acid,* in bulk, in tank vehicles, from Benson, AZ, and points within 20 miles of Benson, in Cochise County, to points in Los Angeles, Orange, and San Diego Counties, CA; (10) *soybean oil,* in bulk, in tank vehicles, from Wilmington, CA, to Las Vegas, NV, Salt Lake City, UT, Denver, CO, and points in OR and WA; (11) *glycol,* in bulk, in tank vehicles, from Torrance, CA, to points in CO and NM; (12) *liquid wax,* in bulk, in tank vehicles, from Richmond, CA, to Phoenix and Tucson, AZ; (13) *weed killers and defoliants,* in bulk, in tank vehicles, from Palo Alto, CA, to points in AZ; (14) *defoliants,* in bulk, in tank vehicles, from Wasco, Holtville, and Brawley, CA, to points in Maricopa, Yuma and Pinal Counties, AZ; (15) *weed killers,* in bulk, in tank vehicles, (a) from Los Angeles, CA, to points in Maricopa, Yuma and Pinal Counties, AZ, and (b) from Watson, CA, to points in Cochise, Pima, Pinal, Maricopa, Santa Cruz, and Yuma Counties, AZ; (16) *magnesium chloride,* in bulk, in tank vehicles, from Chula Vista, CA, to points in Pinal and Maricopa Counties, AZ; (17) *glycols and ethylene acetate,* in bulk, in tank vehicles, from Torrance, CA, to points in AZ; (18) *wine,* in bulk, in tank vehicles, from Fresno, CA, to Phoenix, AZ, and Gallup, NM; (19) *molasses and sulphuric acid,* in tank vehicles, from points in Los Angeles, CA, Commercial Zone, and the Los Angeles Harbor, CA, Commercial Zone, as defined by the Commission, to points in Maricopa County, AZ; (20) *tallow and soybean and cottonseed oils* in bulk, in tank vehicles, from points in Maricopa County, AZ, to points in the Los Angeles, CA, Commercial Zone, and the Los Angeles Harbor, CA, Commercial Zone as defined by the Commission; (21) *wine,* in bulk, in tank vehicles, with contaminated shipments of wine on return movements, (a) from points within 15 miles of Lodi, CA, not including Lodi, CA, to Phoenix, AZ, and (b) from Asti, Tarpey, and Clovis, CA, to Tucson, AZ; (22) *synthetic resins,* in bulk, in tank vehicles, from Anaheim, CA, to Denver, CO; (23) *liquid cleaning compounds,* in bulk, in tank vehicles, from Los Angeles and Oakland, CA, to Denver and Littleton, CO; (24) *mixtures or blends of vegetable oils and animal fats,* in bulk, in tank vehicles, from Long Beach, CA, to Phoenix and Tucson, AZ; (25) *meat fats,* in bulk, in tank vehicles, from Albuquerque, NM, to points in Los Angeles, CA, and Los Angeles Harbor, CA Commercial Zones, as defined in 3 M.C.C. 248; (26) *resins,* in bulk, in tank vehicles, from Los Angeles, CA, to Phoenix and Tucson, AZ; (27) *sulphuric acid,* in bulk, in tank vehicles, from Chandler, AZ, and points within 5 miles thereof, to points in NM and UT; (28) *sulphuric acid,* in bulk, in tank vehicles, from Miami and Hayden, AZ, to points in NM and UT; (29) *meat fats,* in bulk, in tank vehicles, and contaminated shipments in the reverse direction, from Tovrea, AZ, to San Ysdiro, San Diego, Los Angeles, and points in the Los Angeles Harbor, CA, Commercial Zone, as defined in 3 M.C.C. 248; (30) *meat fats, in bulk, in tank vehicles, from Denver, CO, to San Francisco, CA, and points in Alameda and Contra Costa Counties, CA; (31) vegetable oils and blends of vegetable oils,* in bulk, in tank vehicles, (a) from Fresno, CA, to points in ID, NV, OR, UT, and WA, and (b) from San Francisco, CA, and points in Alameda and Contra Costa Counties, CA, to points in ID, NV, and UT; (32) *liquid petroleum wax,* in bulk, in tank vehicles, from Richmond, CA, to Benson, AZ, and points in Cochise County, within 20 miles of Benson, AZ; (33) *tall oil,* in bulk, in tank vehicles, from Missoula, MT, and points within 10 miles thereof, to points in AZ; (34) *vegetable oils and liquid shortening,* in bulk, in tank vehicles, from Vernon, CA, to Burley, ID, Kaysville, UT, and Grandview, WA; (35) *syrups and liquid sugars,* in bulk, in tank vehicles, from West Jordan, UT, to points in AZ; (36) *vegetable oils and animal fats,* mixtures and blends thereof, in bulk, in tank vehicles, from Long Beach, CA, to points in AZ (except Phoenix and Tucson, AZ); (37) *syrups and liquid sugars,* in bulk, in tank vehicles, from Spreckels, Manteca, Woodland and Los Angeles, CA, to points in Clark County, NV; (38) *syrups and liquid sugars,* in bulk, in tank vehicles, from Manteca, Spreckels and Woodland, CA, to points in Douglas, Josephine, Klamath, and Lake Counties, OR, and on returned and contaminated shipments of syrups and liquid sugars, from points in the above named Oregon Counties, to Manteca, Spreckels and Woodland, CA; (39) *sodium chlorate,* in bulk, in tank vehicles, from Henderson, WV, to Phoenix, AZ, and Edison, CA; (40) *acids, chemicals and fertilizers,* in liquid or in dry form, in bulk, in tank or hopper vehicles, (except liquid petroleum and liquid petroleum products as defined in Appendix 13 of *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and except anhydrous ammonia), from points in AZ to points in AZ, restricted to the transportation of shipments having a prior movement in rail service from points outside of AZ; (41) *sodium chlorate,* dry, in bulk, in tank vehicles, from Henderson, NV, to points in Kern and Fresno Counties, CA, and AZ; (42) *vegetable oils and blends thereof,* in bulk, in tank vehicles, from Lindsay and Strathmore, CA, and points within a radius of 5 miles of each, to points in CO, ID, NV, NM, and UT; restricted

against the transportation of sesame seed oil from Lindsay and Stout, CA, to

blends of vegetable oils and animal fats, cooking and salad oils, and shortening,

chlorate, dry, in bulk, in tank vehicles, from Henderson, NV, to points in CA

liquid chocolate coating and liquid confectioners coating, in bulk, in tank

United States (except AK and HI), and the transportation of general

tariff and schedule publications, evidence of security for the protection of

against the transportation of sesame seed oil from Lindsay and Stout, CA, to Reno, NV; (43) *nitric acid,* in bulk, in tank vehicles, from the site of Collier Carbon and Chemical Corporation Plant about two miles from Brea, CA, to points in AZ (except points in Coconino County, AZ); (44) *sodium chlorate,* dry, in bulk, in tank vehicles, from Henderson, NV, to points in Tulare, Kings, Madera, and Merced Counties, CA; (45) *meat fats,* in bulk, in tank vehicles, from Seattle, Tacoma and Spokane, WA, to points in Los Angeles and San Diego Counties, CA; (46) *cottonseed oil, cottonseed oil foots, soybean oil, and soybean oil foots, and blends thereof,* from Fullerton, CA, to points in CO, ID, MT, NV, OR, UT, WA, and WY; (47) *cottonseed oil,* in bulk, in tank vehicles, from Calwa, CA, to points in CO, and returned or contaminated shipments of cottonseed oil, in bulk, in tank vehicles, from points in CO, to Calwa, CA; (48) *inedible meat fats,* in bulk, in tank vehicles, from Nampa, Idaho Falls and Twin Falls, ID, to points in Stanislaus, Merced, Fresno, Tulare and Kern Counties, CA; (49) *fruit juice and fruit juice concentrates,* in bulk, in tank vehicles, (a) from Grandview, WA, to San Leandro, Napa, Santa Clara, San Jose, and Vallejo, CA, and points in Los Angeles and Orange Counties, CA, and (b) from Fresno, Santa Clara and San Jose, CA, to Grandview, WA; (50) *meat fats,* in bulk, in tank vehicles, from Albuquerque, NM, to Phoenix, AZ; (51) *syrups and liquid sugars,* in bulk, in tank vehicles, from points in CA, to points in OR and WA (except that no service is authorized from Crockett, Richmond, San Jose, Manteca, Spreckels and Woodland, CA, to points in Douglas, Josephine, Klamath, Jackson, Curry, and Lake Counties, OR; (52) *contaminated syrups and liquid sugars,* in bulk, in tank vehicles, from points in OR and WA to points in CA except that no service is authorized from points in Douglas, Josephine, Klamath, Jackson, Curry and Lake Counties, OR, to Crockett, Richmond, San Jose, Manteca, Spreckels and Woodland, CA;

(53) *ammonium nitrate solution, and sodium nitrate solution, and inorganic nitrate solutions* not included in the above, in bulk, in tank vehicles, from Curtiss, AZ, to Eagle Mountain (Riverside County), CA; (54) *sodium chlorate,* in bulk, in tank vehicles, from Henderson, NV, to points in Imperial, Riverside, and Shasta Counties, CA; (55) *fertilizer and fertilizer solutions,* in bulk, in tank vehicles, from the plant site of Wycon Chemical Company near Cheyenne, WY, to points in CO, ID, MT, and UT; (56) *vegetable oils, animal fats, blends of vegetable oils and animal fats, cooking and salad oils, and shortening,* in bulk, in tank vehicles, from points in Fresno County, CA, to points in AZ, CO, ID, MT, NV, NM, OR, UT, and WA; (57) *animal fats,* in bulk, in tank vehicles, from points in AZ, CO, ID, MT, NV, NM, OR, and WA, to points in Fresno County, CA; (58) *cottonseed oil,* in bulk, in tank vehicles, (a) from points in El Paso County, TX, to the Drew Food Company facilities in the Los Angeles, CA, Commercial Zone, and Los Angeles Harbor, CA Commercial Zone, (b) from Blythe, CA, to the port of entry on the international boundary line between the United States and Mexico and at or near Calexico, CA, and (c) from points in Luna and Dona Ana counties, NM, to points in CA; (59) *cottonseed oil and soap stock,* in bulk, in tank vehicles, from Chowchilla, CA, to the port of entry on the international boundary line between the United States and Mexico at or near Calexico, CA; (60) *vinegar,* in bulk, in tank vehicles, (a) from Sumner, WA, to Salt Lake City, UT, and (b) from Oakland, CA, to the facilities of the C and S Packing Company of Albuquerque, NM, at or near Albuquerque; (61) *fruit juice and fruit juice concentrates,* in bulk, in tank vehicles, between points in AZ, on the one hand, and, on the other, points in CA; (62) *vinegar,* in bulk, in tank vehicles, from Montebello, CA, to the port of entry on the international boundary line between the United States and Mexico at Calexico, CA; (63) *syrups and liquid sugars,* from Manteca, Mendota, Spreckels and Woodland, CA, to points in Washoe County, NV; (64) *sugar,* in bulk, in tank or hopper type vehicles, *molasses,* in bulk, in tank vehicles, *dried beet pulp,* in hopper type vehicles, *dried beet pulp with molasses,* in bulk, in hopper type vehicles, from the facilities of Spreckels Sugar Company Division, American Sugar Company, located at or near Chandler and Phoenix, AZ, to points in CA, CO, NM, NV, and UT; (65) *petroleum and petroleum products,* in bulk, in tank vehicles, from Phoenix, AZ, to Las Vegas, NV; (66) *vinegar,* in bulk, in tank vehicles, from Oakland, CA, to Brighton, CO; (67) *liquid animal feed supplements,* in bulk, in tank vehicles, from Fresno and Tulare, CA, to points in CO; (68) *liquid animal feed supplements* (except those derived from inedible animal fats and blends of inedible animal and vegetable fats) in bulk, in tank vehicles, from Fresno and Tulare, CA, to points in AZ; (69) *liquid chemicals,* in bulk, in tank vehicles, from Aguila, AZ, to Eugene, OR, Laramie, WY, Springer, NM, The Dalles, OR; (70) *sodium chlorate,* dry, in bulk, in tank vehicles, from Henderson, NV, to points in CA (except points in Fresno, Imperial, Kern, Kings, Madera, Riverside, Merced, Shasta, and Tulare Counties, CA); (71) *tallow,* in bulk, in tank vehicles, from Everett, WA, to points in Stanislaus County, CA; (72) *liquid chocolate,* in bulk, in tank vehicles, from Salinas, CA, to Salt Lake City, UT; (73) *liquid fertilizer solution,* in bulk, in tank vehicles, from Phoenix, AZ, to Rio Grande County, CO; (74) *syrup,* in bulk, in tank vehicles, from Emeryville, CA, to Richmond, UT; (75) *cranberry juice,* from Markham, WA, to Visalia, CA; (76) *dry sugar,* in bulk, in tank vehicles, from Butte, Glenn and San Joaquin Counties, CA, to Richmond, UT; (77) *chocolate,* in bulk, in tank vehicles, from points in San Mateo County, CA, to Dallas and Fort Worth, TX; (78) *graphite,* water base, in bulk, in tank vehicles, from Buckeye, AZ, to Cucamonga, CA; (79) *graphite,* liquid, in bulk, in tank vehicles, from Buckeye, AZ, to Denver and Pueblo, CO, Provo, UT, and Houston, TX; (80) *liquid trace minerals,* in bulk, in tank vehicles, (a) from Bisbee, AZ, to Anaheim, CA; and (b) from Anaheim, CA, to Guymon, OK, Pasco, WA, and points in CO, NE, and TX; (81) *cottonseed oil,* in bulk, in tank vehicles, from Casa Grande, AZ, to Houston, TX; (82) *tallow, meat fats, and blends of tallow and meat fats,* in bulk, in tank vehicles, from Hyrum and West Jordan, UT, to Flagstaff, AZ, and Sparks, NV; (83) *inedible tallow* (feed fats), in bulk, in tank vehicles, from Phoenix, AZ, to Deming, NM; (84) *fish solubles,* in bulk, in tank vehicles, from San Diego, CA, to Denver, CO, Flagstaff, AZ, and Sparks, NV; (85) *wood sugar molasses,* in bulk, in tank vehicles, from Ukiah, CA, to Ogden, UT; (86) *inedible animal fats and vegetable oils,* in bulk, in tank vehicles, from Albuquerque and Clovis, NM, to points in AZ and CA; (87) *urea resin,* in bulk, in tank vehicles, from Ukiah, CA, to Navajo, NM; (88) *sodium hydrosulfide and ammonium sulfide,* in bulk, in tank vehicles, from Artesia, NM, and Big Lake, TX, to Sahuarita, AZ; (89) *liquid chocolate coating and liquid confectioners coating,* in bulk, in tank vehicles, from Burlingame, CA, to Seattle, WA; (90) *liquid trace minerals,* in bulk, in tank vehicles, from Anaheim, CA, to points in ID, OR, and WA; (91) *tallow,* in bulk, in tank vehicles, from the facilities of Iowa Beef Processors, Inc., at or near (a) Amarillo, TX, (b) Dakota City and West Point, NE, (c) Denison and Ft. Dodge, IA, (d) Luverne, MN, and (e) Emporia, KS, to points in AZ, CA, CO, NV, OR, UT, and WA, restricted to the transportation of traffic originating at the named origins; (92) *liquid chocolate coating and liquid confectioners coating,* in bulk, in tank vehicles, from Burlingame, CA, to Seattle, WA; (93) *animal fats and tallow,* in bulk, in tank vehicles, from San Angelo, TX, to points in AZ and CA; (94) *fertilizer,* in bulk, in tank vehicles, from points in Maricopa County, AZ, to points in Dona Ana and Luna Counties, NM; (95) *tallow,* in bulk, in tank vehicles, from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS, to points in AZ, CA, CO, NV, NM, OR, UT, and WA; and (96) *sodium hydrosulfite,* in bulk, in tank vehicles, from Los Angeles, CA, to Phoenix, AZ, and Sahaurita, AZ. Whitfield is authorized to operate as a motor common carrier pursuant to certificates issued in MC–114897 and sub numbers thereunder, in the States of CA, NV, UT, AZ, MT, WY, CO, NM, NE, KS, OK, TX, and LA. Condition: Sundance Transportation, Inc., a non-carrier and sole stockholder of Whitfield, has investments and functions primarily related to transportation. Accordingly, concurrently with consummation of the transaction authorized in this proceeding, Sundance Transportation, Inc., will be considered a motor carrier within the meaning of 49 U.S.C. 11348 of Subtitle IV. It will, therefore, be subject to the applicable provisions of 49 U.S.C. subchapter III of chapter 111 relating to reporting and accounting, and of 49 U.S.C. 11302 relating to the issuance of securities.

Note.—Application for temporary authority has been filed.

MC–F–14493F, filed October 23, 1980. DALLAS CARRIERS CORP. (Dallas)—MERGER—DELTA MOTOR FREIGHT, INC. (Delta) (both of 12661 Perimeter Drive, P.O. Box 38528, Dallas, TX 75238). Representative: Brian K. Ridenour, P.O. Box 82028, 1200 N Street, 500 The Atrium, Lincoln, NE 68501. Dallas seeks authority to merge the interstate operating rights and property of Delta into Dallas for ownership, management, and operation. Transport Associates, Inc., a non-carrier and sole stockholder of both Dallas and Delta, and in turn, J. H. Fleischer, Gary B. Bottoms, and Billy Hallum, equal stockholders of Transport Associates, Inc., seek authority to continue in control of Dallas and Delta through the transaction. The common control of Dallas and Delta by Transport Associates, Inc., was approved by the Commission in MC–F–13894F, served September 14, 1979. Delta is a motor common carrier pursuant to certificates issued in MC–144827 and sub-numbers thereunder, which authorize the transportation of specified commodities, over irregular routes, throughout the United States (except AK and HI), and the transportation of general commodities, over irregular routes, from specified points in CA, CT, MA, OH, and RI, to specified points in TX. Dallas is authorized to operate as a motor contract carrier throughout the United States (except AK and HI), pursuant to permits issued in MC–135891 and sub-numbers thereunder. Condition: Transport Associates, Inc., shall continue to be deemed a carrier within the meeting of 49 U.S.C. 11348 and as previously subjected in MC–F–13894F.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-36285 Filed 11-19-80; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. MC–64]

General Temporary Order No. 23

Decided November 14, 1980.

Confronted with the approach of unpredictable winter weather conditions and resulting possible interruptions and delays in transporting meats and related products to markets as experienced in prior years, representatives of the meat packing industry have again solicited assistance to forestall any such possibilities due mainly to the inadequacy of available refrigerator equipment to satisfy average demands.

In view of the cited conditions and the unique characteristics of the meat packing industry, the Commission is once again taking action to enable motor carriers to obtain immediate temporary authority in lieu of the normal practice in handling request for emergency temporary authority.

It is ordered: Pursuant to 49 U.S.C. 10928, all persons who shall apply to any regional director, assistant regional director, district supervisor, or their designee of the Commission's Office of Consumer Protection are granted temporary authority to transport the full range of meat packer commodities, i.e., meat, meat products, meat by-products, and related products distributed by meat packing houses, in interstate or foreign commerce, by motor vehicle for periods up to 30 days to the extent and scope that any of the designated officials certify that there is an immediate and urgent need for service.

In view of the unpredictable winter weather conditions and related chronic shortages of refrigerator equipment, the need is projected to continue during the period commencing November 17, 1980 and ending April 15, 1981.

This grant of temporary authority is coditioned upon compliance with applicable requirements concerning tariff and schedule publications, evidence of security for the protection of the public and designation of agents for service of process, and further conditioned upon such tariffs and schedules quoting rates, and charges no lower than those of existing rail, water, or motor carriers in the territory in which the operations are to be authorized.

Temporary authority granted pursuant to this order shall expire on April 15, 1981, except as to shipments of meat packing house commodities, the transportation of which began prior to that time.

This order shall become effective November 17, 1980.

Notice of this order shall be given to motor carriers, rail carriers, other parties of interest, and to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Division 2, Commissioners Alexis, Gaskins, and Gilliam.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-36257 Filed 11-19-80; 8:45 am]
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INTERNATIONAL TRADE COMMISSION

[731-TA-36 (Preliminary)]

Snow Grooming Vehicles, Parts Thereof and Accessories Therefor From the Federal Republic of Germany; Institution of Preliminary Antidumping Investigation and Scheduling of Conference

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary antidumping investigation to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by reason of imports from the Federal Republic of Germany of certain snow grooming vehicles, parts thereof and accessories therefor allegedly sold or likely to be sold at less than fair value. For the purposes of this investigation, the term "snow grooming vehicles, parts thereof and accessories therefor" means track-laying vehicles, having a tilting cab, specially designed for grooming snow, provided for in items 692.16 or 692.35 of the Tariff Schedules of the United States (TSUS) and parts thereof and accessories therefor chiefly used on

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such vehicles, wherever provided for in the TSUS.

EFFECTIVE DATE: November 6, 1980.

FOR FURTHER INFORMATION CONTACT: John MacHatton, Supervisory Investigator (202–523–0439).

SUPPLEMENTARY INFORMATION:

Background. This investigation is being instituted following receipt of a petition on November 6, 1980, filed by the Logan Division of DeLorean Manufacturing Company. The petition requested the imposition of additional duties in an amount equal to the amount by which the foreign market value exceeds the United States price of snow grooming vehicles imported from the Federal Republic of Germany.

Authority. Section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) requires the Commission to make a determination of whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports alleged to be, or likely to be, sold in the United States at less than fair value. Such a determination must be made within 45 days after the date on which a petition is filed under section 732(b) or on which notice is received from the Department of Commerce of an investigation commenced under section 732(a). Accordingly, the Commission, on November 17, 1980, instituted preliminary antidumping investigation No. 731–TA–36. This investigation will be subject to the provisions of Part 207 of the Commission's rules of practice and procedure (19 CFR 207, 44 FR 76457) and particularly, Subpart B thereof.

Written submissions. Any person may submit a written statement of information pertinent to the subject matter of this investigation to the Commission on or before December 5, 1980. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data". Confidential submissions must conform with the requirements of § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference. The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 10:00 a.m., e.s.t., on December 4, 1980, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisory investigator for the investigation, Mr. John MacHatton (202–523–0439). It is anticipated that parties in support of the petition for antidumping duties and parties opposed to such petition will each be collectively allocated one hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference will be provided by the supervisory investigator.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

Issued: November 17, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80–36134 Filed 11–19–80; 8:45 am]

BILLING CODE 7020–02–M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

November 17, 1980.

Pursuant to Sec. 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a 2 day meeting on Monday and Tuesday, December 1–2, 1980. The meetings will be held in Room 416, Page Building 1, 2001 Wisconsin Ave., NW., Washington, DC 20235. The meetings will commence at 9:00 a.m. on Monday and 9:30 a.m. on Tuesday.

The Committee, consisting of 18 non-Federal members, appointed by the President from academia, business and industry, State and local government, and public interest groups, was established by Congress by Public Law 95–63, on July 5, 1977. Its duties are to: (1) undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce on the carrying out of the programs of the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or Congress.

The tentative meeting schedule follows:

December 1, 1980

Plenary Session

9:00 a.m.–9:30 a.m.
- Opening Remarks—Chairman

9:30 a.m.–10:30 a.m.
- Federal Ocean Program

Speaker: Martin Belsky, Assistant Administrator for Policy and Planning, National Oceanic and Atmospheric Administration

10:30 a.m.–Noon
- Law of the Sea

Speaker: Ambassador Elliot Richardson

Noon–1:00 p.m.,
Lunch

1:00 p.m.–4:00 p.m.
Panel Meetings
- Support for Atmospheric Research Facilities, Louis J. Battan, Chairman

Topic: Computer Facilities

Invited Participants: Dr. Walter MacIntyre, National Center for Atmospheric Research; Dr. Fred Mosher, Space Science and Engineering Center, University of Wisconsin-Madison; Dr. James O'Brien, Florida State University; and Dr. Joseph Smagorinsky, Director, Geophysical Fluid Dynamics Laboratory, National Oceanic and Atmospheric Administration

1:00 p.m.–2:30 p.m.
- Fisheries—Activity Planning, Jay G. Lanzillo & George Tapper, Co-Chairmen, Room B–100

2:30 p.m.–3:30 p.m.
- Ocean Minerals—Activity Planning, Burt H. Keenan, Chairman, Room B–100

4:00 p.m.–5:00 p.m.
Steering Committee Meeting

5:00 p.m.
Adjourn

December 2, 1980

8:30 a.m.–9:30 a.m.
Closed Session (Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409)

Plenary Session

9:30 a.m.–10:30 a.m.
- National Oceanic Satellite System (NOSS)

10:30 a.m.–12:30 p.m.
Panel Meetings
- Waste Management Report—John Knauss, Chairman

12:30 p.m.–1:30 p.m.
Lunch

Plenary Session

1:30 p.m.–2:00 p.m.
- Hydrological Services Project Proposal—Paul Bock

2:00 p.m.–2:30 p.m.
- Underutilized Species—George Tapper

2:30 p.m.–3:30 p.m.
- Panel Reports

3:30 p.m.
Adjourn

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to impose limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., Room 436, Page Building #1, Washington, DC 20235. The telephone number is (202) 653–7818.

Steven N. Anastasion,

Executive Director.

[FR Doc. 80–36253 Filed 11–19–80; 8:45 am]

BILLING CODE 3510–12–M

NATIONAL CONSUMER COOPERATIVE BANK

Credit Policies for Bank's Self-Help Fund

AGENCY: National Consumer Cooperative Bank.

ACTION: Policy Amendment.

SUMMARY: This amendment to the Credit Policies for the Bank's Self-Help Fund reflects the action of the Bank's Board of Directors at its meeting on September 15, 1980. The Board passed Resolution No. 80–35 which requires recipients of a capital investment advance to own Class C stock in the Bank at the time they receive the advance.

EFFECTIVE DATE: September 15, 1980.

ADDRESS: National Consumer Cooperative Bank, 2001 S Street, NW., Washington, D.C. 20009.

FOR FURTHER INFORMATION CONTACT: Mitchell A. Rofsky, Secretary to the Board of Directors (202) 376–0957.

SUPPLEMENTARY INFORMATION: This confirms the publication in the **Federal Register** on August 8, 1980 (45 FR 52971) of the Credit, Interest Rate, Low Income Definition, and Technical Assistance Policies, and amends the Credit Policies to include the resolution adopted by the Board of Directors of the Bank on September 15, 1980. Recipients of capital investment advances are required by this amendment to own Class C Stock in the Bank in an amount of 1%–10% of the face amount of their advance. The exact percentage of stock to be owned shall be determined by the Office Advance Committee. This amendment to the Credit Policies of the Bank's Self-Help Fund is published in the **Federal Register** in compliance with the National Consumer Cooperative Bank Act, Pub. L. 95–351, as amended.

(National Consumer Cooperative Bank Act, as amended, 92 Stat. 499 (12 U.S.C. 3001–3150))

Dated: November 14, 1980.

Wayman Palmer,

Director of the Office of Self-Help Development and Technical Assistance.

At the direction of the Board of Directors.

Mitchell A. Rofsky,

Secretary.

Accordingly, the Credit Policies of the Bank's Self-Help Fund is amended by adding at the end of Section IV, Terms and Conditions, the following paragraph:

Recipients of capital investment advances shall be required to own the Bank's Class C stock in an amount not less than 1%, nor more than 10%, of the face amount of the advance. Specific stock purchase requirements for recipients of advances shall be determined by the Office Advance Committee.

[FR Doc. 80–36810 Filed 11–19–80; 8:45 am]

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NATIONAL TRANSPORTATION SAFETY BOARD

[N–AR 80–47]

Reports, Recommendations and Responses; Availability

Aircraft Accident Reports in Brief Format

U.S. Civil Aviation, Issue No. 10 of 1979 Accidents (NTSB–BA–80–7).—National Transportation Safety Board on November 10 released its 10th volume of abbreviated reports on selected U.S. General Aviation accidents occurring last year. The 300 accidents reported in Issue No. 10 represent a random selection. Highlighted in the Safety Board's press release No. SB 80–95 which accompanied the publication is one accident which involved a deadly combination of causal factors—alcoholic impairment, fatigue, and inadequate flying speed.

NOTE: The brief format reports in this publication present the facts, conditions, circumstances, and probable cause(s) for each accident. Additional statistical information is tabulated by injury index, injuries, and causal factors. While these brief reports contain essential information, more detailed data may be obtained from the original factual reports on file in the Washington office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 20 cents per page for printed matter, 65 cents per page for black-and-white photographs, and $4.37 per page for color photographs, plus postage. Requests concerning aircraft accident report briefs should include (1) date and place of occurrence, (2) type of aircraft and registration number, and (3) name, of pilot. Requests should be addressed to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Copies of the publication may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

Pipeline Special Study

An Analysis of Accident Data from Plastic Pipe Natural Gas Distribution Systems (NTSB–PSS–80–1).—The Safety Board's study, made available November 7, shows that the use of plastic materials for pipelines and fittings by the natural gas distribution industry has increased dramatically since 1965, with the major amount being a polyethylene polymer. Purpose of this study was to analyze accident data from both Safety Board accident investigations and industry leak reports during the years 1975 through 1978 to determine whether any significant safety trends could be identified.

In making the study, the Board found serious shortcomings with the U.S. Department of Transportation's Materials Transportation Bureau data collection program which limit the usefulness of the data for identifying present or potential safety problems. The data deficiencies identified generally prevent the application of normal analysis techniques to the point that only the determination of trends and inferences sufficient to focus attention on potential safety problems that require future investigation is possible. Also, the Board found that the main causes of leaks in plastic pipe were breakages from outside forces, exposure to highly localized heat sources, material failures, and construction defects. In every category, the rates of failure or damage in plastic pipe were several times greater than those of equivalent steel pipe failures. While finding no cause for alarm, the Safety Board said plastic pipe is more susceptible to leakage than the steel pipe which it is replacing rapidly in natural gas distribution systems. Cheaper both to purchase and install, plastic pipe was used in 73 percent of all new distribution system installations in 1978 as compared with 12 percent in 1966.

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The Safety Board concludes that continued or periodic review of leak report data by the Materials Transportation Bureau is necessary as experience is gained with these relatively new plastic pipeline installations, and it is only through review and analysis that trends can be detected and corrective actions developed. Further, the Board notes that the most important prerequisite to an effective trend analysis program is a useful and manageable data system. The deficiencies with MTB's existing data system identified in this study further support the Safety Board's previous recommendations dated August 20, 1980. These recommendations, Nos. P–80–61 through –65, were reported at 45 FR 58735, September 4, 1980.

Aviation Safety Recommendation Letter

A–80–111, to the Federal Aviation Administration, November 7, 1980.—The Safety Board's letter indicates that last December 27 a Hamilton Standard propeller blade (P/N 6353A–18) separated from the right engine of a Douglas DC–3C aircraft N100SD. The separated blade damaged the underside of the fuselage and one of the left propeller blades.

Metallurgical examination of the butt end of the separated blade (metallurgist's factual report No. 80–58) revealed that the fracture was caused by the presence of high cycle, low stress fatigue cracking which had progressed through a substantial part of the blade cross section. The primary fatigue crack initiated from an area of corrosion of the shank of the blade adjacent to the butt fillet blend. Additional areas of severe corrosive attack were found on the shank and fillet, and dried oil sludge and rusted rollers were found on the roller bearing from this area. The metallurgical examination indicated that the separated blade met engineering drawing requirements for the fillet radius, material hardness, microstructure, and chemical composition.

Aircraft logbook entries indicated the failed blade was previously installed on a propeller of a different aircraft which had accumulated less than 1,000 hours of service between 1971 and 1978. The Safety Board believes that the corrosive attack of the blade began within this time, most likely during an extended idle period when the corrosion protection provided by the oil in the hub may have been lost. In addition to this blade failure, FAA's service difficulty report file revealed that, in the last 5 years, at least six instances of corrosion-related damage to the shank or fillet of Hamilton Standard Hydromatic propeller blades have been reported.

The Safety Board notes that the aircraft industry has recognized the problem of corrosion damage to propeller components for many years. Hamilton Standard Service Bulletins No. 329, issued November 18, 1954, and No. 329A, issued September 15, 1960, recommended that blades be visually examined at least every 18 months. Currently, however, there are no Federal regulations that require blades to be inspected at any specific calendar interval. Hamilton Standard personnel have estimated that a visual examination would take 4 to 6 man-hours per propeller. Accordingly, the Safety Board recommends that FAA:

Make compliance with Hamilton Standard Service Bulletins Nos. 329 and 329A mandatory. (Class II, Priority Action) (A–80–111)

Responses to Safety Recommendations

Aviation

A–76–124 through –126, from the Federal Aviation Administration, November 4, 1980.—Letter is in response to the Safety Board's inquiry of August 19, 1980, as to status of FAA's actions being taken to resolve these three of seven recommendations, issued September 16, 1976, based on the Board's special study, "Flightcrew Coordination Procedures in Air Carrier Instrument Landing System Approach Accidents." The study was based on accidents and incidents associated with instrument approaches from 1970 through 1975. The Board's inquiry referred to FAA's response of July 16, 1979 (44 FR 43825, July 26, 1979) and to the Board's reply of August 14, 1979, to FAA's earlier response of December 29, 1978.

FAA's November 4 letter is accompanied by a copy of Change 3 to FAA's Air Carrier Operations Inspector's Handbook, 8430.6B. FAA believes that this document satisfies the intent of recommendations A–76–124 through –126, and notes that this material was previously forwarded to the Board's Bureau of Accident Investigation on April 10, 1980.

A–78–75, from the American Association of Airport Executives, November 3, 1980.—Letter responds to the Safety Board's inquiry of August 25, 1980, concerning implementation of a recommendation issued October 16, 1978, asking the Association and the Airport Operators Council International, Inc., to advise member airport operators of the importance of preserving and documenting the location of accident debris in accordance with provisions of 49 CFR 830.10 before debris is removed and before runways and taxiways are swept clean. The Safety Board on January 30, 1979, replied to the Association's earlier responses of November 1 and 15, 1978 (43 FR 56113, November 30, 1978) and provided the Association with a copy of the Board's December 14, 1978, letter to the Airport Director, Daytona Beach (Fla.) Regional Airport, who had sought clarification of recommendation A–78–75.

In its letter to the Airport Director, the Safety Board stated that it was fully cognizant of the necessity for the highest priority to be given to the immediate clearing of a runway or taxiway following an accident. The Board has no doubt that the first objective of any airport Director/Manager/Operator must be to ensure that one accident is not the cause of another and that all necessary precautions are immediately taken to prevent further loss to life or property caused by the disruption of normal operations. The Board stated that if its recommendation had created the impression that the preservation of wreckage, etc., on a runway or taxiway, should take precedence over regular air operations, this was certainly not intended. Bringing 49 CFR Part 830 to the attention of airport management has been prompted by a frequent failure to preserve evidence "* * * to the extent possible."

Further, the Board, with regard to the movement of air traffic at Daytona Beach Regional Airport, indicated to the Airport Director recognition of the magnitude of the operational problem and the Director's associated safety responsibilities. The Board said it certainly does not recommend preservation of wreckage in an area which will prove detrimental to safety, but does recommend that if time and circumstances permit, the wreckage and available evidence be expeditiously photographed, labeled, its location documented and, if possible, moved to an area to assist the investigator to determine the cause of the accident. This information is necessary to prevent the recurrence of similar type accidents, and it is of importance to parties interested in the accident.

The Association's November 3 letter reports that in several communications to Association members, as well as in airport management workshops, the importance of preserving and documenting the location of accident debris has been stressed both by Association airport safety committee members and by other aviation participants as airline operators and Safety Board personnel. The

Association also indicated that its only reticence to go "all out" on this was cleared up by the Board's December 14, 1978, letter to the Airport Director, Daytona Beach Regional Airport, and conversations with Safety Board staff regarding the necessity under certain circumstances of getting the runway back into operation; in such cases, the Association believes that the great majority of airport managers now are cognizant of the need to document location of any debris removed from on or near the runway that is reactivated.

A–79–9 and –10, from the Federal Aviation Administration, November 4, 1980.—Letter is in response to the Safety Board's July 21, 1980, request for an updated status report on these recommendations, issued March 16, 1979, following investigation of the National Airlines B–727 crash into Escambia Bay on May 8, 1978. Recommendation A–79–9 asked FAA to revise Air Traffic Control Handbook 7110.65, paragraph 1190, to require controllers to provide recommended altitudes to pilots on airport surveillance radar (ASR) approaches without pilot request; revise the Airman's Information Manual, Pilot/Controller Glossary, and other operating and training documents that describe ASR approaches to reflect the revised controller procedures. Recommendation A–79–10 called on FAA to develop, with industry, requirements for depicting final approach fixes and minimum altitudes for each mile on final approaches on ASR instrument approach procedures.

The Safety Board on August 14, 1979, acknowledged FAA's initial response of June 14 (44 FR 39320, July 5, 1979), noting that FAA's preliminary conclusion was that existing ASR procedures are safe and effective if followed by both the pilot and controller. The Board also noted, however, that FAA's final decision on these recommendations would be subject to further study, and arranged for NTSB/FA staff contacts to facilitate review.

FAA's November 4 letter reports that Safety Board recommendations for mandatory altitude callouts during ASR approaches have been studied by a panel of representatives from various technical disciplines within FAA, with background human factors analysis and research work performed by the Engineering and Development field office at NASA Ames. FAA states that a determination has been made that an insignificantly small number of accidents or incidents occurred during ASR approaches as opposed to all other data base reports (9 out of approximately 18,000 in the NASA ASRS data base). FAA states, "In the judgment of the panel, the inclusion of mandatory callouts probably would not have had a positive impact on the pilot error involved." The panel concluded that no change to the current procedures is warranted by recent accident data or the interviews of controllers and pilots conducted as part of this effort. FAA considers these tasks completed, and a final report is in preparation at the NASA Ames FAA field office.

A–79–25 and –26, from the Federal Aviation Administration, November 4, 1980.—Letter is in further response to recommendations issued April 19, 1979, following investigation of the New York Airways, Inc., Sikorsky S61L helicopter accident at Newark International Airport, on April 18, 1979. The Safety Board on May 29, 1979, replied to FAA's initial response of May 3 (44 FR 27511, May 10, 1979).

Recommendation A–79–25 asked FAA to withdraw the airworthiness certificates of Sikorsky S61 helicopters until a means of detecting potential tail rotor blade failures can be devised and implemented. In regard to FAA's initial response, the Safety Board said it is of the view that FAA's telegraphic airworthiness directive of April 20, 1979, provides a satisfactory inspection procedure for (1) establishing tail rotor gear box housing lug integrity and (2) locating cracks in the rotary rudder blade skins and/or identifying water entrapment inside the blades. However, only the results of fatigue striation count on the blade spar facture surface will determine whether the 6-hour ultrasonic inspection interval for blades having over 1,200 hours operating time is satisfactory. The Board finds that if results indicate less than 6 hours of propagation time to failure, a requirement to decrease the inspection interval will be necessary. The Board's May 29, 1979, letter asked to be apprised of the results of the fatigue striation count, being accomplished at the United Technology Research Laboratory, E. Hartford, Conn.

With reference to recommendation A–79–26, which asked that FAA notify foreign operators of Sikorsky S61 aircraft of the action recommended by A–79–25, the Safety Board expressed satisfaction that the notification procedures taken in accordance with ICAO, Annex 8, paragraph 4, as indicated in FAA's initial response, will fulfill the intent of recommendation A–79–26. The Board's May 29, 1979, letter classified that recommendation as "Closed—Acceptable Action."

FAA's November 4 response, with respect to recommendation A–79–25, notes that the most recent data submitted by Sikorsky to substantiate the Sikorsky S61 tail rotor inspections is a report on their fatigue test program to determine crack propagation time. FAA states that these full-scale fatigue tests were correlated with the detection of the crack initiation by the ultrasonic inspection methods of the Sikorsky Service Bulletin and the airworthiness directive now in effect for S61 helicopters in service. FAA considers this report to be a more accurate determination of the crack propagation time than the striation counting method.

Further, FAA states that, based on this full-scale fatigue testing and analysis, the crack propagation time is 31 hours. This is the time from detection of the crack with the ultrasonic inspection used in the field to spar separation. The present inspection interval of 6 hours, therefore, has a factor of safety slightly greater than 5, FAA states. This provides for five inspections before failure could occur based on the existing airworthiness directive. The results of these tests are documented in Sikorsky Report No. SER 61740, "S61 Honeycomb Tail Rotor Blade Crack Propagation Test Results," dated April 1, 1980.

A–80–78 and –79, from the Federal Aviation Administration, November 4, 1980.—Response is to recommendations issued August 19 as a result of investigation of an accident involving N6207N, a Bell 205A–1 helicopter. The aircraft crashed on July 18, 1980, en route from an offshore oil rig to the Arcola-Houston, Texas, airport. Recommendation A–80–78 asked FAA to issue a telegraphic airworthiness directive applicable to all Bell 205 and 212 helicopter models equipped with fixed float kits (PN 205–708–050–1 and –7), on which AD 76–14–03 has not been accomplished, to require an immediate one time X-ray or equivalent inspection of all cross tube inner diameters in the areas where the support saddle fittings are riveted for evidence of cracks. Recommendation A–80–79 asked FAA to issue an airworthiness directive to require the removal of forward and aft cross tubes (PN 205–050–114–1, –3, –5, –7) and cross tube assemblies (PN 205–708–050–5 and –9) from all Bell Model 205A–1 and 212 helicopters within the next 50 hours time in service and replacement with clamp-on saddle support fittings. (See 45 FR 57605, August 28, 1980.)

FAA does not concur in recommendation A–80–78. FAA's November 4 response notes that in the preamble to the subject recommendations, the operator reported that the aircraft had been operated approximately 440 hours since the float

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kit had been installed. FAA questions the validity of the operator's report of 440 hours, and concludes, after reviewing the records, that this float landing gear cross tube, P/N 205–706–050–9 on aircraft N6207N, had attained a total time-in-service of 640 hours. A similar review of records by Bell Helicopter Textron personnel revealed a total time-in-service of 607 hours. In either case, FAA states that the mandatory replacement time of 500 hours specified in airworthiness directive AD 76–14–03 was apparently exceeded. FAA notes that the float landing gear in question was originally delivered to the Peruvian Navy in 1973 by Bell Helicopter Textron as loose equipment for a Model 205A–1 helicopter. Subsequently, the helicopter was wrecked, sold, and returned to the United States with the float kit. The helicopter was repaired and sold without the float kit. The float kit was then sold separately to the present operator of N6207N.

FAA has no records of service difficulties over the past 6 years related to the fixed float landing gear cross tubes installed on Bell Model 205A–1 and 212 helicopters. Since FAA has no service difficulty reports and the time-in-service of the float landing gear installed on Bell Model 205A–1, N6207N, is questionable, FAA does not believe an immediate X-ray inspection of the cross tubes for cracks is warranted. FAA intends to take no further action in regard to safety recommendation A–80–78.

FAA concurs in recommendation A–80–79. FAA states that an "immediate adopted" airworthiness directive has been issued and will become effective upon publication in the **Federal Register**. This AD will require installation of flat landing gear forward and aft cross tubes having clamp-on saddle fittings within the next 50 hours time-in-service. FAA provided the Board with a copy of the AD and advised that additional pertinent information regarding the subject is contained in Bell Helicopter Textron Operation's Safety Notice, OSN 205/212–80–2, dated July 29, 1980, and Bell Service Bulletins 205–80–13 and 212–80–18, each dated August 20, 1980.

Railroad

R–71–46, R–74–25, R–76–4, R–76–27, R–76–50, and R–76–51, from the Federal Railroad Administration, November 4, 1980.—Letter supplies information relevant to Safety Board recommendations currently classified as "open" that pertain to railroad operating rules:

R–71–46, issued December 2, 1971, recommends that FRA develop operating rules complementary to the signal system, which are free of vagueness and which specify definitely the circumstances and action to be taken. FRA notes that on July 3, 1972, it stated, "We feel it is neither feasible nor necessary to attempt to formulate rules prescribing specific courses of action for all the operating conditions that can arise on the various railroads or on different districts of any one railroad."

R–74–25, issued July 24, 1974, recommends that FRA, during its consideration of the need for uniform operating rules, consider the inconsistencies demonstrated in the application of rules 27, 34, and 99 in this accident. On December 11, 1974, FRA stated, "Ad advisory committee on railroad operating rules has been established and notice published in the **Federal Register,** September 18, 1974. This committee will make recommendations to the FRA on matters of revision and standardization of operating rules." On May 17, 1975, FRA suggested in a letter to the President, Association of American Railroads, ". . . the Committee's recommended language be adopted by them on a voluntary basis. We believe this revised Rule 34 will help to relieve the confusion of crew members other than the engineer over the limits of their responsibility for ensuring the safety of the train, and thus contribute to the safety of railroad operations." FRA provided a copy of recommendation No. 1: Rule 34, and suggests, regarding Rule 99, see 49 CFR Part 218, Subpart C.

R–76–4, issued January 25, 1976, recommends that FRA expedite the final rulemaking procedures with respect to "Stop Proceed" procedures set forth in proposed Part 217.17, FRA Docket No. RSOR–2. These rules prescribe the aspect that must be displayed by each automatic block signal when the block is occupied by a train or when the signal circuit is interrupted by an open switch, broken rail or track obstruction, and the procedures which must be followed when the trains proceed into the block. On July 26, 1976, FRA stated, "The version of new signaling rules is being finalized by FRA. Presently, FRA is evaluating the many valuable comments and suggestions that were received as a result of the Notice of Proposed Rulemaking." On December 22, 1976, FRA terminated the rulemaking proceeding, stating, "Having analyzed the issues raised by interested parties and reviewed the pertinent train accident statistics, the FRA has determined that the need for uniform Federal regulations such as that proposed in this proceeding cannot be identified."

R–76–27, issued July 30, 1976, recommends that FRA establish regulations for the protection by flagging of the rear end of all stopped trains in passenger territory. On August 22, 1977, FRA stated, "The FRA, on January 27, 1977, published Part 218.37—Flag Protection in the **Federal Register.** This regulation prescribes the instances in which flag protection must be provided, as well as the types of flagman's signals to be used."

R–76–50, issued October 19, 1976, recommends that FRA promulgate rules to require engine crews to communicate fixed aspects to conductors while trains are en route on signalized track. On May 13, 1977, FRA stated, "The FRA believes that in keeping train crews alert, a diligent, carrier conducted rules instruction and testing program on operating rules would be a great deal more effective than would be Federally promulgated rules of the type recommended in R–76–50."

R–76–51, issued October 19, 1976, recommends that FRA promulgate rules to require the engine crew of a train to exchange signals with engine crews of passing trains and/or wayside employees; if passing crews do not acknowledge the signal, the responsive engine crew or wayside employee shall notify the dispatcher and/or conductor of the nonresponsive engine crew for corrective action. On February 15, 1978, FRA responded: "Historically, the exchange of signals between train and engine crews and wayside employees has been common practice in the railroad industry. It still is. However, to transform a common practice into a meaningful regulation, FRA must be able to monitor compliance with the provisions of the regulations. FRA believes this is an inappropriate area for Federal Regulation."

In conclusion, FRA expresses the belief that safe operations of trains can be accomplished through a continuous and vigorous training program in operating rules including effective proficiency testing. This approach recognizes unique and specific railroad operating conditions and thus affords the railroads a more flexible approach to achieve safe operating procedures. FRA recommends that these six recommendations advocating the promulgation of Federal Regulations for operating rules be "closed acceptable alternate action."

Note.—Single copies of Safety Board reports and special studies are available without charge, as long as limited supplies last. Copies of Board recommendation letters, responses and related correspondence are also provided free of charge. All requests for copies must be in writing, identified by recommendation or report number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Safety Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

November 14, 1980.

[FR Doc. 80–36174 Filed 11–19–80; 8:45 am]

BILLING CODE 4910–58–M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

November 17, 1980.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;

Whether small businesses or ogranizations are affected;

A description of the Federal budget functional category that covers the information collection;

An estimate of the number of responses;

An estimate of the total number of hours needed to fill out the form;

An estimate of the cost to the Federal Government;

The number of forms in the request for approval;

The name and telephone number of the person or office responsible for OMB review; and

An abstract describing the need for and uses of the information collection.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register,** but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202–447–6201

Revisions

•Science and Education Administration
Grant application kit
SEA 84, 666, 665, 664, 663, 662, 661, 55
On occasion, annually
Businesses or other institutions
Research Organization (universities and private)
SIC: 739 892
Agricultural research and services, 1,000 responses; 8,000 hours; $2,800 Federal cost; 8 forms
Charles A. Ellett, 202–395–7340
The grant application kit provides the forms, instructions, and related information to be used when applying for special and competitive research grants.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202–377–3627

New

• Bureau of the Census
Reinterview questionnaire (short form/long form) for the telephone followup of nonresponse experiment D–8072 (letter) DD–8073 (long form) D–8074 (short form)
Nonrecurring
Individuals or households
Sample of respondents from telephone followup of nonresponse, other advancement and regulation of commerce, 3,000 responses; 999 hours; $449,500 Federal cost; 2 forms
Office of Federal Statistical Policy and Standard, 202–673–7974
The reinterview study will be primarily designed to measure the relative effects on various non-sampling errors of the telephone and personal visit interviewing techniques. The data collection is expected to begin in mid-January and will conclude no later than the end of February.

Revisions

• Bureau of the Census
Computers and office and accounting machines (shipments) MA–35R
Annually
Businesses or other institutions
Manufacturers of computers and office machines
SIC: 357 367
Small businesses or organizations
Other advancement and regulation of commerce, 650 responses; 975 hours; $3,315,000 Federal cost; 1 form
Office of Federal Statistical Policy and Standard, 202–673–7974
This survey was begun in 1953 to provide quantity and value of

shipments data for computers, typewriters, and office and accounting machines. Government agencies use the data for trade analysis, measurement, and forecasting. Business firms and trade associations use the data for market share analysis and long-term planning.

• Bureau of the Census
Phosphatic fertilizer materials (production, shipments, and stocks)
M–28B.2
Monthly; annually
Businesses or other institutions
Fertilizer manufacturers
SIC: 287
Small businesses or organizations
Other advancement and regulation of commerce, 2,280 responses; 760 hours; $3,315,000 Federal cost; 1 form
Office of Federal Statistical Policy and Standard, 202–673–7974
This report is used by analysts at the U.S. Department of Agriculture and the Department of Commerce to monitor the supply and distribution of fertilizer materials in the United States and abroad. Industry analysts use these data to determine market share and geographic shifts in production and prices.

• National Oceanic and Atmospheric Administration
Weather modification activities reports on occasion
Businesses or other institutions
Civil, Staté, and Federal weather modifiers or sponsors
SIC: 899
Other natural resources, 150 responses; 75 hours; $100,000 Federal cost; 3 forms
William T. Adams, 202–395–4814
Information needed to ensure that Federal research projects are not contaminated by nearby activities that duplication is avoided, possibly dangerous activities are reviewed and that data are available to fulfill international obligations. Used to monitor activities to answer civil, State and congressional requests, and to publish periodic summaries.

DEPARTMENT OF ENERGY

Agency Clearance Officer—Irene Montie—202–633–9464

New

• Economic Regulatory Administration
Power system emergency report
ERA–417
On occasion
Businesses or other institutions
Public utilities and licensees
SIC: 491
Small businesses or organizations
Energy information, policy, and regulation, 410 responses; 2,008 hours; $20,400 Federal cost; 1 form
Jefferson B. Hill, 202–395–7340
The purpose of this form is to establish a procedure for the Economic Regulatory Administration to maintain a current information regarding the status of the electric energy supply systems in the U.S. so that appropriate Federal emergency response measures are implemented in a timely and effective manner.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

New

• National Institutes of Health
Study of lung, pancreas, and stomach cancers in southern Louisiana
Nonrecurring
Individuals or households
Next-of-kin of cancer patients and controls
Health, 500 responses; 458 hours; $98,000 Federal cost; 1 form
Richard Eisinger, 202–395–6880
Information from next-of kin is required to complete this study of cancers with high mortality rates in southern Louisiana. It is critical that information be collected for those who died soon after diagnosis, as this group may be different (in terms of occupation, lifestyle, etc.) from long-term survivors.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—202–755–5184

New

• Policy Development and Research
Client Enrollment: Home repair demonstration for the elderly
Nonrecurring
Individuals or households
Elderly homeowners in seven cities
Community development, 1,550 responses; 905 hours; $507,200 Federal cost; 1 form
Richard Sheppard, 202–395–6880
The data will be gathered by local service providers who are participating in HUD's elderly home maintenance demonstration. The data will be used to evaluate client eligibility and to identity home repair needs for those enrolled in the demonstration.

Revisions

• Community Planning and Development
Community development block grant small cities comprehensive application package, and community development block grant small cities proposed grant application
HUD–7065A 7065S
Annually; Other-see SF83
State or local governments
Communities under 50,000 non-urban counties, and States
SIC: 911
Community development, 12,700 responses; 438,700 hours; $1,401,180 Federal cost; 2 forms
Richard Sheppard, 202–395–6880
Pub. L. 930–383, Section 104 as amended by Pub. L. 95–128, Sections 104 and 105 require HUD to establish application forms for the community development block grant (CDBG) program. These application forms are used following the CDBG small cities preapplication form to determine the amount to fund, whether the proposed work items are eligible, whether the schedules are realistic, etc.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202–523–6341

Revisions

• Employment and Training Administration
Baseline household surveys for the employment opportunity pilot project
MI–300
On occasion
Individuals or households
Households in 11 EOPP pilot sites and 11 control sites
Training and employment, 114,700 responses; 80,375 hours; $8,672,168 Federal cost; 5 forms
Arnold Strasser, 202–395–6880
The purpose of this survey is to collect baseline and participant data to be used in evaluating the impact of the EOPP upon individuals and families in 11 pilot sites and 11 control sites. EOPP is a series of pilot projects designed to test various alternatives to welfare among the employable poor. The data will help to (1) measure the number and characteristics of potential eligible applicants (2) Develop methods of creating employment and training opportunites.
• Bureau of Labor Statistics
Directory of national unions and employee associations, 1981
BLS–2441, 2441–A, 2441–B, 2441–C
Biennially
Businesses or other institutions
Labor organizations
SIC: 863
Small businesses or organizations
Other labor services, 1,150 responses; 650 hours; $116,000 Federal cost; 4 forms
Office of Federal Statistical Policy and Standard, 202–673–7974
The Directory of National Unions and Employee Associations is the only

publication issued by the U.S. Government which deals with the growth and significance of that portion of the labor force that is represented by labor organizations.

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—Mr. Mel Kollander—202–287–0754

New

• Urban Environment Directory Questionnaire
Nonrecurring
State or local governments
Non-profit organizations
SIC: 892
Pollution control and abatement; 850 responses, 425 hours; $7,500 Federal cost; 1 form
Edward H. Clarke, 202–395–7340
Data will be incorporated into a publicly disseminated direotory for reference use by respondents, EPA and other organizations seeking information about urban environmental programs.
Extensions (No change)

• Application for an experimental use permit to ship and use a Pesticide for Experimental purposes only
8570–17
Nonrecurring
Businesses or other institutions
The Pesticide Industry
SIC: 286
Small businesses or organizations
Pollution control and abatement; 200 responses, 100 hours; $382,116 Federal cost; 1 form
Edward H. Clarke, 202–395–7340
This form is used to apply for a permit to ship and use an experimental or developmental pesticide chemical, generally for the purpose of testing effectiveness or developing the data necessary to support an application for registration.

COMMUNITY SERVICES ADMINISTRATION

Agency Clearance Officer—Jack Stoehr—202–254–5300

New

• Grantee Plan Summary Data and Certificate
CSA 509
Other—See SF83
Businesses or other institutions
All CSA grantees
SIC: 944
Small businesses or organizations
Multiple Functions; 225 responses, 56 hours; $2,500 Federal cost; 1 form
Diane Winberly, 202–395–6880
CSA form 509 is necessary to provide documentation that the CAA board as well as other low-income persons in the community have participated in the development of the four-year action plan. It will assure CAA's compliance with statutory requirements to ". . . provide a full opportunity as well as encourage residents of the areas and members of the groups serve to participate and assist in the CAA's responsibility to carry out systematic planning and development of programs."

• Grantee Work Program and Project Progress Report and Grantee Work Program and Project Progress Report (Exceptional Report)
CSA 512 (A & B)
Biennially
Businesses or other Institutions
All CSA grantees
SIC: 944
Small businesses or organizations
Multiple Functions; 450 responses, 900 hours; $3,500 Federal cost; 1 form
Diane Winberly, 202–395–6880
This form formerly CSA 514 (A, B, C, & D) is now CSA 512 (A & B). Form (A) will be used by CAA's to apply for CSA funds under Title II, Section 221 of the EOA of 1964, as amended and to periodically report project progress. Form 512 (B) is a continuation of form 512 (A).

• Grantee Work Program Summary and Application Certification
CSA 511
Biennially
Businesses or other Institutions
All CSA grantees
SIC: 944
Small businesses or organizations
Multiple Functions; 450 responses, 450 hours; $1,600 Federal cost; 1 form
Djane Winberly, 202–395–6880
This form will provide CSA with a relatively complete listing of the CAA's entire work program for a two-year period. All projects administered by the CAA and requiring any CSA money will be listed on the front side of the form. For each project listed the CAA will give information on project costs as well as list the standard effectiveness—through which the project is intended to achieve the purposes of a community action program.

• Grantee Budget Information (pages 1 & 2)
CSA 514
Biennially
Businesses or other Institutions
All CSA grantees
SIC: 944
Small businesses or organizations
Multiple Functions; 450 responses, 1,800 hours; $1,000 Federal cost; 1 form
Diane Winberly, 202–395–6880
CSA form 514 is an application form for financial assistance and provides in summary format a budget for implementing proposed projects over a two-year work program period. The two-year budget submission will encourage and enable grantees to assess and make determinations about long range budget needs, reduce paperwork for CSA and its grantes, and assist CSA in making determinations as to ways of providing more reliable information to establish program budget alloc.

• Budget and Work Program Changes
CSA 516
Annually
Businesses or other institutions
All CSA grantees
SIC: 944
Small businesses or organizations
Multiple Functions; 900 responses, 900 hours; $1,000 Federal cost; 1 form
Diane Winberly, 202–395–6880
The purpose of the form is to provide documentation of the grantee's request to CSA for approval for changes to the work program and budget. This form may be used alone or in conjunction with other forms depending on the nature of the amendment request. The form is designed to enable the grantee to briefly describe what the proposed change entails as well as include an explanation of why the change is necessary.

• Delegate Basic Information and Funding Estimate
CSA 515
Biennially
Businesses or other institutions
All CSA grantees
SIC: 944
Small businesses or organizations
Multiple Functions; 225 responses, 225 hours; $1,000 Federal cost; 1 form
Diane Winberly, 202–395–6880
The purpose of CSA form 515 is to provide information about delegate agency projects operated through contractual agreements and funding transferrals to operate the projects. Although the CAA's will maintain in their files detailed reports and evaluations about delegate agencies and their projects, the form 515 is the only source of information regarding delegate agencies to be maintained in CSA files.
• Grantee Board (Advisory Group), Participants, and Work Force Characteristics
CSA 513
Other-See SF83
Businesses or other institutions
All CSA grantees
SIC: 944
Small businesses or organizations
Multiple Functions; 675 responses, 1,350 hours; $1,800 Federal cost; 1 form

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Diane Winberly, 202–395–6880
CSA form 513 is designed to collect data on race, national origin, sex and age of the CAA board and staff and program participants and beneficiaries.

• Grantee Four-Year Plan Statement
CSA 510
Other—see SF83
Businesses or other institutions
All CSA grantees
SIC: 944
Small businesses or organizations
Multiple functions, 56 responses, 224 hours, $2,000 Federal cost, 1 form
Diane Wimberly, 202–395–6880
CSA Form 510 is necessary to document the CAA's compliance with the statutory requirements for program planning, implementation and evaluation under the EOA of 1964, as amended, title II, section 212 and section 221(D). "In carrying out its responsibility, the CAA must conduct systematic planning and evaluation for programs . . . including actions to develop information as to the problems and causes of poverty in the community and to determine how much and how effectively to assist.

NATIONAL CREDIT UNION ADMINISTRATION

Agency Clearance Officer—D. Lynn Gordon—202–357–1202

Revisions

Financial and Statistical Report
NCUA—5300
Semiannually
Businesses or other institutions, federally insured credit unions in USA
SIC: 612, 613
Small businesses or organizations
Mortgage credit and thrift insurance, 35,200 responses, 17,600 hours, $220,000 Federal cost, 1 form
Warren Topelius, 202–395–7340
The financial and statistical reports provide information necessary for supervisory purposes policy and regulatory decisions and research requirements. The information is also used to determine the impact fluctuating economic circumstances have on credit unions and for publication of semi-annual statistics and an annual report of condition.

Arnold Strasser,

Acting Deputy Assistant Director for Reports Management.

[FR Doc. 80–36272 Filed 11–19–80; 8:45 am]
BILLING CODE 3110–01–M

SECURITIES AND EXCHANGE COMMISSION

Boston Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

November 14, 1980.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stock of:

Imperial Oil Limited
Class A Common Convertible, No Par Value (File No. 7–5782)

This security is traded on the American Stock Exchange and the Philadelphia Stock Exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 8, 1980 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–36197 Filed 11–19–80; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 11441; 811–429]

Equity Underwriters, Inc.; Proposal To Terminate Registration

November 14, 1980.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion, that Equity Underwriters, Inc. ("Fund"), 1312½ Main Street, Columbia, South Carolina 29201 registered under the Act as a face amount certificate company, has ceased to be an investment company as defined in the Act.

Information in the files of the Commission indicates that the Fund was incorporated under the laws of the State of South Carolina in 1936 under the name of Palmetto Investment Company, and by an amendment to the charter its name was changed to Equity Underwriters, Inc. on October 9, 1936. It offered a plan intended to enable persons of small means to accumulate savings and invest in a legal reserve life insurance company. The Fund was authorized by the South Carolina Insurance Commission to sell 10,000 non-interest-bearing "bonds" of $500 face amount and having a 10-year maturity. Payments were to be made by purchasers over a five year period on an annual, semi-annual, quarterly or monthly basis. At the end of the ten-year period the "bond" holder would receive the face amount of the "bond" and ten shares of stocks in Equity Life Insurance Company. As of December 31, 1940, 898 bonds had been sold. The Fund filed a Notification of Registration pursuant to Section 8(a) of the Act on March 7, 1940. No "bonds" were sold after December 31, 1940. The Fund has not filed a registration statement pursuant to the Securities Act of 1933 to make a registered public offering of its securities. The Fund has never filed any of the annual and periodic reports required by Section 30 of the Act. Thus, it appears that the Fund is not currently engaged in the business of an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, which may be made upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 8, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of this matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–36198 Filed 11–19–80; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 11442; 811–88]

Foundation Investment Co.; Proposal To Terminate Registration

November 14, 1980.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion, that the Foundation Investment Company ("Fund"), 1714 First National Bank Building, Cincinnati, Ohio 45202, registered under the Act as a closed-end, diversified management investment company, has ceased to be an investment company as defined in the Act.

Information contained in the files of Commission indicates that the Fund was organized on November 27, 1928, under the laws of Ohio, and registered with the Commission as closed-end, diversified management investment company on November 1, 1940. The Fund did not file a registration statement pursuant to the Securities Act of 1933 to make a registered public offering of shares of its capital stock. On August 11, 1955, a special meeting of shareholders was held at which 95 per cent of the Fund's shares were represented. The Fund's shareholders at this meeting voted to liquidate the Fund. A certificate of dissolution was filed with the Secretary of State of the State of Ohio, and the Fund completed distribution of all of its assets to shareholders on April 30, 1956. The Fund has not filed any of the annual and periodic reports required by Section 30 of the Act since August 4, 1955. Thus, it appears that the fund is not currently engaged in the business of an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, which may be made upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 8, 1980, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of this matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–36199 Filed 11–19–80; 8:45 am]
BILLING CODE 8010–01–M

[Release No. 21789; 70–6362]

Indiana & Michigan Electric Co.; Proposed Changes in Short-Term Borrowing Authorization

November 14, 1980.

Notice is hereby given that Indiana & Michigan Electric Company ("I&M"), 2101 Spy Run Avenue, Fort Wayne, Indiana 46801, an electric utility subsidiary company of American Electric Power Company, Inc., a registered holding company, has filed with this Commission a post-effective amendment to its application previously filed and amended in this matter pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Section 6(b) of the Act and Rules 50(a)(2) and 50(a)(5) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

By prior orders in this proceeding (HCAR Nos. 21366, 21444, 21537, and 21595 dated December 28, 1979, February 21, 1980, April 24, 1980 and May 29, 1980, respectively), I&M has been authorized to issue and sell notes to banks and commercial paper to a dealer in an aggregate amount not to exceed $200,000,000 pursuant to lines of credit totalling $404,655,000 with 47 banks.

By post-effective amendment I&M proposes to issue and sell, from time to time prior to January 1, 1982, short-term notes to banks and commercial paper to a dealer in commercial paper maturing no later than June 30, 1982. I&M also proposes to increase its credit arrangements with 47 banks to total $429,375,000. This represents an increase of $25 million in lines of credit shared with affiliates, including Columbus and Southern Ohio Electric Company ("CSOE"). Fees and balances for shared lines of credit are borne by I&M and participating affiliates in proportion to their respective projected maximum need for such credit facilities. Although the shared lines of credit have been increased, the participation by CSOE will have the effect of reducing the fees and balances to be borne by I&M. The previously ordered limit of $200,000,000 on outstanding notes will remain the same. The presently estimated cost of I&M's consolidated construction program for 1981 is approximately $320 million.

The fees and expenses to be incurred in connection with the proposed transaction will not exceed $500. No state commission and no federal commission, other than this Commission, has jurisdiction over the propose transaction.

Notice is further given that any interested person may, not later than December 11, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application as amended by said post-effective amendment, which he desires to controvert; or he may request that he be

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notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated adddress, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended by said post-effective amendment, or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-36200 Filed 11-19-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 500-1]

Indy Raceways, Inc.; Order of Suspension of Trading

November 13, 1980.

It appearing to the Securities and Exchange Commission that Indy Raceways, Inc. ("Indy") has requested that the Commission suspend trading in its securities and there has been recent unusual and unexplained activity in the securities of Indy, the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Indy.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in Indy securities on a national securities exchange or otherwise is suspended, for the period from 2:00 p.m. on November 13, 1980 through midnight on November 22, 1980.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-36201 Filed 11-19-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21791; 70-5936]

Middle South Utilities, Inc. and Arkansas-Missouri Power Co.; Post-Effective Amendment Regarding Issuance and Sale of Short-Term Notes by Subsidiary Company and Acquisition Thereof by Holding Company

November 14, 1980.

In the matter of Middle South Utilities, Inc., 225 Baronne Street, New Orleans, Louisiana 70112, Arkansas-Missouri Power Company, 405 West Park Street, Blytheville, Arkansas 72315.

Notice is hereby given that Arkansas-Missouri Power Company ("Ark-Mo"), a subsidiary company of Middle South Utilities, Inc. ("Middle South"), a registered holding company, and Middle South have filed with this Commission a post-effective amendment to the application-declaration in this proceeding pursuant to Sections 6(b), 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By orders in this proceeding dated December 28, 1976, December 29, 1977, December 20, 1978, and December 28, 1979 (HCAR Nos. 19826, 20349, 20841, and 21370), Ark-Mo was authorized to issue and sell to Middle South from time to time through December 31, 1980, and Middle South was authorized to acquire up to $2,100,000 of Ark-Mo's unsecured short-term promissory notes of a maturity of not more than twelve months. Presently, $2,100,000 of such notes are outstanding, with a maturity of December 31, 1980.

Ark-Mo now proposes to extend such $2,100,000 of short-term borrowings for one year. The proposed notes will be in the form of unsecured promissory notes payable not more than twelve months from the date of issuance (and in any event to mature not later than December 31, 1981) and bearing interest at a rate per annum equivalent to the sum of ¾ of 1% and 105% of the commercial loan rate of Manufacturers Hanover Trust Company from time to time in effect on borrowings having a 90-day maturity by its most responsible and substantial domestic corporate borrowers. The notes will, at the option of Ark-Mo, be prepayable in whole or in part at any time without premium or penalty.

The net proceeds to be received by Ark-Mo from the issuance and sale of the proposed notes will be applied to the payment at maturity of Ark-Mo's presently outstanding borrowings from Middle South.

It is stated that later, in anticipation of the proposed consolidation of the electric properties of Arkansas Power & Light Company and Ark-Mo (File No. 70-6326), Ark-Mo intends to issue and sell to Middle South additional shares of its authorized but unissued common stock, $2.50 par value, in exchange for the surrender by Middle South to Ark-Mo for cancellation of the $2,100,000 principal amount of unsecured promissory notes presently proposed to be issued and sold by Ark-Mo and acquired by Middle South.

It is further stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. The fees and expenses expected to be incurred in connection with the proposed transactions are estimated not to exceed $2,000.

Notice is further given that any interested person may, not later than December 11, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission, may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-36202 Filed 11-19-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17302; SR-MSRB-80-4]

Municipal Securities Rulemaking Board; Order Approving Amended Proposed Rule Change.

November 14, 1980.

On April 7, 1980, the Municipal Securities Rulemaking Board (the "MSRB"), Suite 507, 1150 Connecticut Avenue, NW., Washington, D.C. 20036, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change to consolidate the MSRB's three advertising rules into a single rule, rule G-21. Rule G-21 would define the term "advertisement" for purposes of the proposed rule change to include any material, except listings of offerings, published or designed for use in the public media or for dissemination to the public. In addition, current requirements applicable to advertisements of new issue securities would be modified by permitting a syndicate or syndicate member to show initial offering terms even if securities of a particular maturity or maturities were no longer available: *Provided,* That the date of sale, as defined by the rule, was included and that, if the yield or price shown was different from the initial offering terms, the advertisement would reflect the actual prices or yields as of the time the advertisement was submitted for publication. Advertisements of new issue securities also would be required to include, if applicable, a statement that at the time of the publication the securities may no longer be available from the syndicate, or may be available at different prices or yields. Finally, the proposed rule change would extend to new issue advertisements the requirement, currently found in rules G-21 (Professional Advertisements) and G-34 (Product Advertising), that all advertisements be approved in writing by a municipal securities principal or general securities principal prior to first use and that records of such advertisements be separately maintained and kept current.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 16739 (April 11, 1980)) and by publication in the **Federal Register** (45 FR 26860 (1980)). On November 6, 1980, the MSRB made technical amendments to the filing to clarify that the term "advertisement" does not apply to documents prepared by issuers, but that it does apply to any documents prepared by municipal securities brokers or municipal securities dealers, including documents such as abstracts or summaries of official statements and to make minor changes in the wording of the rule.[1] No comments with respect to the amended proposed rule change have been received by the Commission.

The text of the amended proposed rule change is as follows:

Rule G-21 Advertising

(a) *Definition of "Advertisement."* For purposes of this rule, the term "advertisement" means any material (other than listings of offerings) published or designed for use in the public media, or any promotional literature designed for dissemination to the public, including any notice, circular, report, market letter, form letter or reprint or excerpt of the foregoing. The term does not apply to preliminary official statements or official statements, but does apply to abstracts or summaries of official statements, offering circulars and other such similar documents prepared by municipal securities brokers or municipal securities dealers.

(b) *Professional Advertisements.* No broker, dealer, or municipal securities dealer shall publish or cause to be published any advertisement concerning the facilities, services or skills with respect to municipal securities of such broker, dealer, or municipal securities dealer or of another broker, dealer, or municipal securities dealer, that is materially false or misleading.

(c) *Product Advertisements.* No broker, dealer, or municipal securities dealer shall publish or cause to be published any advertisement concerning municipal securities which such broker, dealer, or municipal securities dealer knows or has reason to know is materially false or misleading.

(d) *New Issue Advertisements.* In addition to the requirements of section (c) all advertisements for new issue municipal securities shall also be subject to the following requirements.

(i) *Accuracy at Time of Sale.* A syndicate or syndicate member which publishes or causes to be published any advertisement regarding the offering by the syndicate of a new issue of municipal securities, or any part thereof, may show the initial reoffering prices or yields for the securities, even if the price or yield for a maturity or maturities may have changed, provided that the advertisement contains the date of sale of the securities by the issuer to the syndicate. In the event that the prices or yields shown in a new issue advertisement are other than the initial reoffering prices or yields, such an advertisement must show the prices or yields of the securities as of the time the advertisement is submitted for publication. For purposes of this rule, the date of sale shall be deemed to be, in the case of competitive sales, the date on which bids are required to be submitted to an issuer and, in the case of negotiated sales, the date on which a contract to purchase securities from an issuer is executed.

(ii) *Accuracy at Time of Publication.* Each advertisement relating to a new issue of municipal securities shall also indicate, if applicable, that the securities shown as available from the syndicate may no longer be available from the syndicate at the time of publication or may be available from the syndicate at a price or yield different from that shown in the advertisement.

(e) *Approval by Principal.* Each advertisement subject to the requirements of this rule must be approved in writing by a municipal securities prinicipal or general securities principal prior to first use. Each broker, dealer, and municipal securities dealer shall make and keep current in a separate file records of all such advertisements.

* * * * *

The Commission finds that the amended proposed rule change is consistent with the requirements of the

[1] In a separate letter to the Commission staff, the MSRB staff advised that the term "listing of offerings" contained in paragraph (a) of proposed rule G-21 refers to a list of municipal securities which a municipal securities dealer distributes to customers and to other dealers from time to time (some dealers, however, provide such lists daily). The lists show the securities which the dealer is currently offering for sale * * *. The term also refers to offerings of securities which a municipal securities dealer furnishes for publication in an inter-dealer publication, such as *The Blue List* or for transmission to other dealers over an inter-dealer communications facility, such as the "Kenny Wire." Such listings ordinarily include for each municipal security being offered the par amount, coupon rate, date of maturity and yield to maturity or doller price, and may include other information about the security such as its rating. The term would not refer to a tombstone advertisement.

Letter to Anne E. Chafer, Chief, Municipal Securities Branch, Division of Market Regulation, from Richard B. Nesson, General Counsel, MSRB (Nov. 6, 1980).

Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

the positions in such securities resulting from such transactions. The prohibition of this Rule shall not apply to the

specialist's securities positions and the price of the security at the time of the transaction.

[Release No. 17299; SR-PSE-80-18]

Pacific Stock Exchange Inc.; Order

[Release No. 21790; 70-5648]

Public Service Company of Oklahoma and Transok Pipe Line Co.; Post-

Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned amended proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-36204 Filed 11-19-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17304; SR-NYSE-80-37]

New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

November 14, 1980.

On October 6, 1980, the New York Stock Exchange, Inc., 11 Wall Street, New York, New York 10005, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change which amends Exchange Rule 341 to delete the requirement that the registered address of every member who personally transacts business on its trading floor be within the vicinity of the Exchange.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 17186, October 2, 1980) and by publication in the Federal Register (45 FR 67494, October 10, 1980). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and in particular, the requirements of Section 6(b)(5) and the rules and regulations thereunder, insofar as it removes this geographical impediment, thus enhancing the ability to become an Exchange member and the development of the mechanism of a free and open market.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-36204 Filed 11-19-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17288; File No. SR-PSE-80-19]

Pacific Stock Exchange Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–24, 16 (June 4, 1975), notice is hereby given that on October 3, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE") proposes to amend Rule XI, Section 1(b) as follows: (Italics indicate new language.)

Rule XI Margin by Liquidation

Section 1(b)

(A) No member or firm registered on the Exchange shall permit a customer to make a practice of effecting transactions requiring initial or additional margin pursuant to rules of the Exchange or regulations of the Board of Governors of the Federal Reserve System and then furnishing such margin by the liquidation of the same or other commitments; except that the provisions of this section shall not apply to any account maintained for another broker or dealer in which are carried only the commitments of the customers of such other broker or dealer exclusive of his partners provided such other broker or dealer (i) is a member of the Exchange or firm registered thereon; or (ii) has agreed in good faith with the member or firm carrying the account that he will maintain a record equivalent to that referred to in Section 1 of this Rule; or (iii) is not subject to the regulations of the Board of Governors of the Federal Reserve System.

(B) No market-maker or specialist shall make a practice of furnishing the initial margin required under the provisions of Section 220.4(g) of Regulation T of the Federal Reserve Board for transactions effected in underlying securities in a market maker's account or overlying options in a specialist's account by liquidation of the positions in such securities resulting from such transactions. The prohibition of this Rule shall not apply to the acquisition or liquidation of a "permitted offset position" as defined in Section 220.4(g) of Regulation T, or of a position which was reasonably anticipated by the market-maker or specialist at the time it was acquired to constitute a "permitted offset position."

Commentary .01 A market-maker or specialist shall be deemed to be making a practice of furnishing the initial margin required under the provisions of Section 220.4(g) of Regulation T of the Federal Reserve Board for transactions effected in underlying securities in a market maker's account or overlying options in a specialist's account by liquidation of the positions in such securities resulting from such transactions whenever such market-maker or specialist furnishes such margin deposit by liquidation of such positions which are subject to the prohibition of Rule XI, Section 1(b)(B) more than three times in any calendar quarter.

Commentary .02 All references to Section 220.4(g) of Regulation T in Rule XI, Section 1(b)(B) shall mean Section 220.4(g) as amended on June 11, 1980, effective August 11, 1980.

The basis and purpose of the proposed rule change is as follows:

The purpose of the proposed rule change is to prohibit market-makers and specialists, with respect to certain transactions in underlying or overlying securities, from making a practice of "free-riding," *i.e.,* furnishing the initial margin required under the provisions of Regulation T of the Federal Reserve Board for transactions effected in underlying or overlying securities in a market maker's or specialist's account by liquidation of the positions in such securities resulting from such transactions.

The proposed rule change would prohibit the practice of "free-riding" in a market maker's or specialist's account with respect to positions in securities other than positions which are, or were reasonably anticipated to be, "permitted offset positions" as defined in Section 220.4(g) of Regulation T.

The proposed rule change would exempt the acquisition or liquidation of a position in a security which was reasonably anticipated by the market-maker or specialist at the time the position was acquired to constitute a "permitted offset position." This exemption would apply to a position only if (i) the market-maker or specialist in fact anticipated that the position was a "permitted offset position" and (ii) such anticipation was reasonable in view of the market-maker's or specialist's securities positions and the price of the security at the time of the transaction.

The proposed rule change would also add Interpretation .01 to Rule XI, Section 1(b) to define when a market-maker or specialist will be regarded as making a "practice" of "free-riding."

The basis under the Act for the proposed rule change is Section 6(b)(5), in that the rule change would enhance the ability of the PSE to promote just and equitable principles of trade and to protect investors and the public interest, and Section 11A(a)(1)(C), in that the rule change would aid the PSE in maintaining a fair and orderly market.

Comments have neither been solicited nor received from members, participants or others on the proposed rule changes.

On or before December 26, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 11, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 12, 1980.

[FR Doc. 80-36080 Filed 11-19-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17299; SR-PSE-80-18]

Pacific Stock Exchange Inc.; Order Approving Proposed Rule Change

November 14, 1980.

On September 29, 1980, the Pacific Stock Exchange Incorporated, 301 Pine Street, San Francisco, California 94104, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change which amends its schedule of fines that may be imposed on members for violation of exchange rules or floor procedures relating to conduct of business on the options floor.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 17187, October 2, 1980) and by publication in the Federal Register (45 FR 67180, October 9, 1980). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C 552) were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-36205 Filed 11-19-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21790; 70-5648]

Public Service Company of Oklahoma and Transok Pipe Line Co.; Post-Effective Amendment Regarding Issuance and Sale of Notes by Subsidiary Pipeline Company to Parent Electric Utility Company

November 14, 1980.

In the matter of Public Service Company of Oklahoma, 212 East 6th Street, Tulsa, Oklahoma 74119, Transok Pipe Line Company, 600 S. Main Street, Tulsa, Oklahoma 74101.

Notice is hereby given that Public Service Company of Oklahoma ("PSO"), an electric utility subsidiary of Central and South West Corporation, a registered holding company, and Transok Pipe Line Company ("Transok"), a subsidiary pipeline company of PSO, have filed with this Commission a further post-effective amendment to their application-declaration in this proceeding pursuant to Sections 6(a), 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

By supplemental order issued December 21, 1979 (HCAR No. 21351), Transok was authorized to issue and sell to PSO its short-term notes in an aggregate principal amount outstanding at any one time not to exceed $20,000,000, such notes to mature not later than December 31, 1980.

It is now proposed that the period for issuing such notes and the latest maturity date thereof be changed to December 31, 1981, and that the authorized amount of said notes issued and sold by Transok to PSO be decreased to $10,000,000. In all other respects the transactions remain unchanged. The notes will bear interest at the rate published in The Wall Street Journal for commercial paper placed directly by a major finance company and having terms most nearly equal to the terms of the loans.

The proceeds of the notes have been and will continue to be used to finance Transok's continuing construction program and for Transok's general working funds. It is stated that the fees and expenses to be incurred in connection with the proposed transactions are estimated at $300, including legal fees of $250. It is further stated that no state commission and no

federal commission, other than this Commission, has jurisdiction with respect to the proposed transactions.

Notice is further given that any interested person may not later than December 15, 1980, request in writing that a hearing be held in respect of such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application-declaration which he desires to controvert; or he may request that he be notified should the Commission order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-36206 Filed 11-19-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11443; 812-4757]

Scudder Cash Investment Trust, et al.; Filing of Application for an Order Exempting Proposed Transaction

November 14, 1980.

In the matter of Scudder Cash Investment Trust, Scudder Managed Reserves, Inc., Scudder, Stevens & Clark, Scudder Fund Distributors, Inc., Fiduciary Trust Company, Robert H. Gardiner, 175 Federal Street, Boston, Massachusetts 02110; and Worcester County National Bank, 446 Main Street, Worcester, Massachusetts 01608.

Notice is hereby given that Scudder Cash Investment Trust ("Trust") and Scudder Managed Reserves, Inc. ("Reserves") (hereinafter referred to as the "Funds"), each registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end management investment company; Scudder, Stevens & Clark ("Scudder") and Scudder Fund Distributors, Inc., ("Distributor"), the investment adviser and principal underwriter of the Funds, respectively; Fiduciary Trust Company ("Fiduciary"), Worcester County National Bank ("Worcester") and Robert H. Gardiner ("Mr. Gardiner") (Funds, Scudder, Distributor, Fiduciary, Worcester and Mr. Gardiner are referred to collectively as "Applicants") filed an application on October 29, 1980, and an amendment thereto on November 12, 1980, pursuant to Section 17(b) of the Act for an order of the Commission exempting from the provisions of Section 17(a) of the Act the proposed acquisition of the assets of Reserves by Trust, and for an order pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder permitting the Funds and affiliated persons of the Funds to participate in the proposed transaction. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Trust and Reserves are "money market" funds which were organized on December 12, 1975, and May 31, 1974, respectively. Trust seeks to maintain a stable net asset value of one dollar by utilizing the "penny rounding" method of valuation pursuant to an exemptive order of the Commission dated October 26, 1978 (Investment Company Act Release No. 10451). Reserves has a fluctuating net asset value based upon the impact of prevailing interest rates on the "money market" instruments which constitute Reserves' portfolio securities. As of June 30, 1980, Trust had net assets of approximately $205.5 million and approximately 8,481 shareholders. As of the same date, Reserves had net assets of approximately $486.2 million and approximately 29,455 shareholders. Scudder, a partnership registered under the Investment Advisers Act of 1940, acts as the investment adviser of both the Funds.

Fiduciary is a Massachusetts trust company with its principal office at 175 Federal Street, Boston, Massachusetts 02110. Fiduciary held in a fiduciary capacity in the aggregate as of October 23, 1980, 28,806,236 or 12.39%, of the outstanding shares of Trust and 3,391,361 or 7.72%, of the outstanding shares of Reserves.

Worcester is a national banking corporation with a principal place of business at 446 Main Street, Worcester, Massachusetts. Worcester held in a fiduciary capacity in the aggregate as of October 23, 1980, 7,000,610, or 3.01%, of the outstanding shares of Trust and 3,251,511, or 7.41%, of the outstanding shares of Reserves.

Distributor, a Massachusetts corporation, is a wholly-owned subsidiary of Scudder and a registered broker/dealer under the Securities Exchange Act of 1934. Distributor is principal underwriter for both Funds and distributes their shares on a "no-load" basis.

Mr. Gardiner is Chairman of the Board of Directors of Fiduciary, as well as a Trustee of Trust and a Director of Reserves. Mr. Gardiner has elected to be considered an interested person of the Funds, Scudder, and Distributor in light of the long standing business relationship between Fiduciary, of which he is Chairman of the Board of Directors, and Scudder.

The application states that the proposed transaction will be effected pursuant to an Agreement and Plan of Reorganization between the Funds dated as of October 31, 1980 ("Agreement"). According to the application, it is expected that the proposed acquisition will be submitted for approval to the shareholders of Reserves on December 9, 1980, and that the transaction would be consummated shortly thereafter ("Closing Date") upon the satisfaction of certain terms and conditions.

Under the terms of the Agreement, Trust will acquire all of the assets, subject to liabilities, of Reserves in exchange for shares of beneficial interest of Trust. Following the exchange of Reserves' assets for Trust's shares, Reserves will dissolve and liquidate. As part of the liquidation distribution, Reserves will distribute to its shareholders the Trust shares it receives upon the transfer of its assets to Trust. Each shareholder of Reserves will be entitled to receive that portion of the Trust shares to be received by Reserves that the number of Reserves shares owned by each shareholder bears to the number of Reserves shares outstanding on the Closing Date. The value of Reserves assets to be transferred to Trust and the net asset value of the shares of Trust will be computed by State Street Bank and Trust Company, the custodian of the Funds, subject to review by the independent certified public accountants for the Funds and will be determined in accordance with the procedures set forth in Trust's most recent Prospectus, which are the same procedures followed by Reserves. If the Closing Date of the proposed acquisition had been October 17, 1980, upon distribution to its shareholders of Trust's

shares received in exchange for Reserves assets, each share of Reserves Common Stock would have been entitled to be exchanged for 9.9709 shares of Trust.

The application states that for purposes of determining the numbers of shares of Trust to be exchanged for the net value of Reserves' assets, there will be no adjustment reflecting unrealized appreciation or depreciation. The amounts, in the judgement of the Directors of Reserves and the Trustees of Trust, are not expected to be significant, and realization of any benefit or detriment is uncertain. Thus, in the judgement of the respective Directors or Trustees of the Funds, the terms of the proposed acquisition are fair without such adjustment. Net realized gains, if any, will be distributed prior to the Closing Date.

The Agreement further provides that the expenses of the proposed acquisition which are in excess of normal expenses customarily incurred by Reserves in connection with the conduct of its annual meeting of shareholders shall be allocated to the Funds in proportion to their respective net assets as of the Closing Date, and will be included among the liabilities of the Funds for purposes of calculating the number of shares of Trust to be issued to Reserves' shareholders under the Agreement.

The application currently estimates the expenses in connection with the proposed reorganization in excess of those normally incurred in holding Reserves' annual meeting will be approximately $105,500 for Reserves and $44,500 for Trust. Based on present expense levels, the officers of the Funds estimate that the savings in operating costs anticipated as a result of the proposed reorganization will offset these additional expenses within less than one year.

Section 17(a) of the Act, in pertinent part, prohibits an affiliated person of a registered investment company or any affiliated person of such an affiliated person, acting as principal, from knowingly selling any security or other property to such registered company or knowingly purchasing any security or other property from such registered company subject to certain exceptions. Section 17(b) of the Act provides, however, that the Commission, upon application, may exempt a proposed transaction from the provisions of Section 17(a) of the Act if evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned, and with the general purposes of the Act.

Section 17(d) of the Act and Rule 17d-1 thereunder provide, in pertinent part, that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, to participate in or effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company, or company controlled by such registered company, is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and an order granting such application has been issued. In passing upon such application, the Commission will consider whether the participation of such registered or controlled company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from, or less advantageous than that of other participants. A joint enterprise or other joint arrangement is defined in Rule 17d-1 as any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company or a controlled company thereof, and any affiliated person of such person, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking.

According to the application, Trust and Reserves are not "affiliated persons" of each other on the basis of presumptive control within the meaning of Section 2(a)(9) of the Act. However, Scudder is the investment adviser of the Funds. In addition, the Directors of Reserves and Trustees of Trust are expected to be identical at the Closing Date of the proposed acquisition, and the principal officers of the Funds are identical. Accordingly, Trust and Reserves might be deemed to be "affiliated persons" of each other by virtue of being under common control within the meaning of Section 2(a)(3) of the Act and that any disposition of portfolio securities by Reserves to Trust, or any acquisition by Trust of the portfolio securities of Reserves for Trust shares pursuant to the Agreement might be deemed to be prohibited by Section 17(a). While the Funds do not necessarily agree with such an interpretation, they have deemed it advisable to resolve any uncertainty by requesting the Commission to exercise its exemptive authority under Section 17(b).

In addition, Fiduciary held, as of October 23, 1980, more than five percent of the outstanding voting securities of Trust and Reserves and, thus, is an "affiliated person" of the Funds. Each Fund also an affiliated person of Fiduciary, and each Fund is an affiliated person of an affiliated person (i.e., Fiduciary) of the other. Worcester is also an affiliated person of Reserves by virtue of owning, as of October 23, 1980, 7.41 percent of its outstanding shares. On the basis of the foregoing, the application further concludes that the proposed sale of assets by Reserves to Trust, the participation on the part of Fiduciary and Worcester which, as shareholders of Reserves, will receive Trust shares in the proposed merger, and the related allocations of expenses by the Funds might therefore be deemed to be a joint enterprise or arrangement prohibited by Section 17(d) of the Act and Rule 17d-1 thereunder.

Rule 17a-8 under the Act provides in pertinent part that a sale of substantially all of the assets involving registered investment companies which are affiliated persons of affiliated persons solely by reason of having a common investment adviser, common directors and/or officers is exempt from Section 17(a) provided the directors make certain findings, which together with their basis, are recorded in the minute books of the company. The requisite findings having been made by the Directors of Reserve and the Trustees of Trust, Rule 17a-8 would be available with respect to the sale of all the assets, subject to liabilities, of Reserves to Trust but for the shareholdings of each by Fiduciary.

The terms of the Agreement provide that the acquisition of Reserves' assets by Trust shall be accomplished on the basis of the net asset values of the Funds. The number of Trust shares to be issued to Reserves is determined by dividing the net value of the assets of Reserves to be transferred to Trust by the net asset per share of Trust. In this regard, the application contains an undertaking that for purposes of determining the number of Trust shares to be issued to Reserves in connection with the proposed reorganization, the net asset value per share of Trust computed on the basis of the "penny rounding" valuation method will not be used if the extended net asset value of Trust is less than $.9995 or more than $1.00045; and that in such cases, Trust's extended net asset value per share will be used. No adjustment is to be made in

the computation of each Fund's net asset value on account of the relative differences in unrealized appreciation or

seeks to maintain a constant net asset value of $1.00 per share. Among other differences between the investment

of Reserves and that the combination is deemed to be advantageous to each of the Funds as well as the other

exclusion order, permitting entry of the apparatus only under bond. The report of the USITC was referred, on

consumer informational materials, compliant-handling procedures, and consumer participation in the

other procedures that directly or indirectly affect passenger comfort and convenience.

the computation of each Fund's net asset value on account of the relative differences in unrealized appreciation or depreciation present on the portfolio securities of either Fund, it having been determined by the Directors of Reserves and the Trustees of Trust that the ultimate detriment or benefit to either Fund is too speculative and theoretical to justify any adjustment to the exchange ratio as a result of such relative differences. Both Funds are "money-market" funds and Trust normally holds portfolio securities to maturity. Accordingly, to the extent that Trust holds to maturity securities in the portfolio, and securities acquired from Reserves on the Closing Date, any unrealized appreciation or depreciation with respect to those securities on the Closing Date will have been eliminated when they are paid at maturity.

The provisions of the Agreement whereby the Funds are allocated a portion of the expense based on their relative net assets reflects an appraisal by both the Trustees of Trust and the Directors of Reserves as to the relative benefits of each Fund from the transaction. Both Funds, as well as their Directors and Trustees, were represented by separate counsel in connection with the approval of the proposed transaction.

Trust, after the acquisition of Reserves' net assets, may be able to achieve economies of scale not attainable by either Fund alone through elimination of certain duplicative expenses and spreading of certain fixed expenses over a larger asset base. In addition, the mangement fee payable to Scudder by Trust after the proposed acquisition would, at present asset levels, be at a lower effective rate than that paid by either Trust or Reserves, resulting in an annual saving of approximately $200,000 to the combined entity under such conditions. It is further concluded in the application that the proposed merger will also produce a significant state tax savings under present law.

According to the application, the proposed acquisition is consistent with the investment objectives of the Funds. The objectives of Reserves as stated in its prospectus are current income and preservation of capital. Trust's objectives as stated in its prospectus are to maintain the stability of capital and, consistent therewith, to maintain the liquidity of capital and to provide current income. Both Funds invest in portfolio obligations which are considered "money-market" instruments. Reserves has a fluctuating net asset value per share, while Trust seeks to maintain a constant net asset value of $1.00 per share. Among other differences between the investment policies of the Funds, the application states that Reserves may purchase securities with a stated maturity of from 1 day to 30 months, while Trust is required by the terms of the order of the Commission described above to limit its purchase of portfolio instruments to those having a stated maturity of not more than one year from the date of purchase and to maintain an average weighted maturity of its portfolio instruments of 120 days or less. In this regard, the application contains an undertaking that at the Closing Date of the proposed reorganization, all the portfolio holdings of Reserves will be suitable investments for Trust in terms of quality, maturity and type, and the portfolios of the Funds will be substantially similar.

The application further states that experience in recent years has suggested that short term markets have become much more volatile. In such a volatile environment the advantage of having the flexibility to purchase portfolio instruments with a stated maturity of as long as thirty monts is, the Directors of Reserves believe, significantly reduced because of the potential impact of an adverse shift in interest rates. This is particularly true in view of the fact that the Directors have also determined that most investors in "money-market" funds expect and want a constant net asset value per share. Accordingly, it has determined that the constant net asset value sought to be maintained by Trust, together with the concomitant limitations on the maturity of its portfolio instruments stated above, will be advantageous to Reserves' shareholders.

Accordingly, the Directors of Reserves and the Trustees of Trust, including a majority of the disinterested directors or trustees, have determined that participation in the proposed transaction is in the best interests of the Funds and that the respective interests of existing shareholders of the Funds will not be diluted.

On the basis of the foregoing, the application submits that the terms of the proposed reorganization are reasonable and fair to the Applicants and do not involve overreaching by any of the Applicants, and that the proposed reorganization is consistent with the investment policies of each Fund and consistent with the purposes of the Act. Moreover, the application states that Fiduciary and Worcester will participate in the proposed reorganization on the same basis as all the other shareholders of Reserves and that the combination is deemed to be advantageous to each of the Funds as well as the other Applicants for the reasons set forth above.

Notice is further given that any interested person may, not later than December 8, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80–36207 Filed 11–19–80; 8:45 am]
BILLING CODE 8010–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Section 337 Case on Certain Apparatus for the Continuous Production of Copper Rod: Solicitation of Public Views

Under the provisions of section 337(e) of the Tariff Act of 1930, the United States International Trade Commission (USITC) issued an order temporarily excluding from entry into the U.S. during the course of its investigation no. 337–TA–89, certain apparatus for the continuous production of copper rod.

The USITC found that there is reason to believe there is a violation of section 337 in the importation into the United States of apparatus for a copper rod rolling mill and issued the temporary exclusion order, permitting entry of the apparatus only under bond. The report of the USITC was referred, on November 7, 1980, to the USTR who receives it for the President, conducts an interagency review of the policy issues involved and advises the President whether to approve the order or to disapprove it for policy reasons.

The President, under section 337(g) (19 U.S.C. 1337(g)), has 60 days following receipt of the USITC report during which he may disapprove the order for policy reasons, approve the order making it final immediately or take no action allowing the order to become final following the 60 day period.

The Trade Policy Staff Committee welcomes the views and comments of interested parties concerning the policy issues, economic and political, which should be considered in relation to the exclusion of this product during the investigation. Written comments should be submitted in 20 copies to the Secretary, Trade Policy Staff Committee, Room 735, Office of the United States Trade Representative, 1800 G Street, N.W., Washington, D.C. 20506. Such submissions must be received by the close of business December 11, 1980. For further information, call Alice Zalik (202) 395–3432.

Ann H. Hughes,
Chairman, Trade Policy Staff Committee.

[FR Doc. 80–36214 Filed 11–19–80; 8:45 am]
BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FAA Consumer Program as Required by Executive Order 12160

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Adoption of FAA Consumer Program as Required by Executive Order 12160.

SUMMARY: The Federal Aviation Administration's final Consumer Program has been developed in response to Executive Order 12160 and addresses the five consumer functions identified in the Order.

EFFECTIVE DATE: December 1, 1980.

ADDRESS: Community and Consumer Liaison Division, APA–400, Federal Aviation Administration, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Fred Pelzman, Chief, Community and Consumer Liaison Division, telephone (202) 426–1960, at the above address.

Use above address and telephone number for inquiries about FAA consumer informational materials, compliant-handling procedures, and consumer participation in the decisionmaking process.

SUPPLEMENTARY INFORMATION: The FAA has long had good participation from Aviation consumers in its activities. Each and every FAA official represents all segments of aviation, including the consumer, and a Community and Consumer Liaison Division was established in 1973 to facilitate consumer access to and involvement in the agency's activities. In furtherance of its interest in the consumer segment of the aviation community and in response to Executive Order 12160, on June 9, 1980, the Federal Aviation Administration (FAA) published a draft consumer program for public review and comment. Executive Order 12160 requires Federal agencies to be responsible for five consumer functions: providing for a consumer perspective within the agency; providing for consumer participation; developing consumer information materials; educating and training agency staff about consumer policy; and establishing systematic procedures for complaint handling. In addition, each agency must provide oversight for its consumer programs.

FAA's final Consumer Program is presented here. It includes a summary of comments received in response to the June 9 publication of the FAA Draft Consumer Program, reflects changes recommended by several of these comments as well as suggestions received from the staff of the Office of Consumer Liaison, Department of Transportation. Implementation of this final program is planned for December 1, 1980.

Definition of Aviation Consumer. In following the definition of "consumer" published by the Department of Transportation (DOT), the FAA considers its consumers to be final users or purchasers of aviation goods and/or services as well as those who are directly affected by aviation. Under the Federal Aviation Act, the FAA is concerned with the safety of these consumers; the economic aspects of air transportation (overbooking, delayed and cancelled flights, misplaced baggage, etc.) come under the purview of the Civil Aeronautics Board. In addition to its primary concern with aviation safety, the FAA also affects consumers when it provides planning and construction grants for airports, establishes security requirements for airport and aircraft operators, certificates aircraft on the basis of noise and pollutants emitted and requires other procedures that directly or indirectly affect passenger comfort and convenience.

Summary of Public Comments

FAA received six written comments on its June 9 draft consumer program—one from a state aeronautics commission, two from public interest groups, and three from aviation trade associations. All comments received were fully analyzed and in some instances recommendations were incorporated in the final consumer program. The following responses are grouped under the general headings of the consumer program.

Consumer Affairs Perspective

The Airline Passenagers Association (APA) agreed it would be valuable to have an office in FAA dedicated to facilitating consumer access to the agency as many consumers lack the required technical information and knowledge to act effectively in matters concerning aviation safety. The Aviation Consumer Action Project (ACAP) generally supported the draft program because, it maintained, "consumer participation in and influence on the FAA's regulatory and non-regulatory activities is inadequate both absolutely and in comparison with the influence of the airplane manufacturers and commercial airline operators." ACAP argued that, given the activities outlined for the Community and Consumer Liaison Division (CCLD), the proposed staffing (two professionals and one secretary) be doubled, since "it would be better to have no CCLD than to have one that is inadequately staffed and cannot effectively do its job." As noted above, the FAA has a long history of consumer participation and believes its Community and Consumer Liaison Division is and will continue in the implementation of Executive Order 12160 to be an effective focal point for consumer information and involvement in the agency's regulatory and non-regulatory activities. To the extent that staffing should prove to be a problem, the FAA and DOT are also concerned inasmuch as under current staffing limitations, it is unlikely there will be any increase in the near future of the Community and Consumer Liaison Division Staffing.

The Aircraft Owners and Pilots Association (AOPA) wrote that the establishment of a Community and Consumer Liaison Division "would seriously retard meaningful dialogue between the FAA and the user public (as it would) serve as a barrier" between FAA and the aviation community. "The FAA," AOPA further

maintained, "has a very limited constituency * * * comprised of specialists. * * * Unlike other

to establish a network for local participation in aviation rulemaking, and to take steps to assure that public

agency state that it is agency policy to encourage consumer participation in both regulatory and non-regulatory

such need in the regulatory area which affects the airlines." * * * FAA has no intention, in this plan, of creating any

understanding of the development of FAA rules, policies and programs. The Division will assist in the development

in response to a proposal for the adoption of certain air traffic control regulations. Such participation is

maintained, "has a very limited constituency * * * comprised of specialists. * * * Unlike other government agencies which deal with the public at large, the FAA deals with the aviation community which is specialized." In following the DOT definition of "consumer," FAA considers its consumers to be final users or purchasers of aviation goods and/or services as well as those people who are directly affected by aviation. This definition includes AOPA's membership—generally comprised of pilots who own or lease and operate general aviation aircraft. This consumer group comprises a mere fraction, alebit an important component, of the American public that chooses to travel by air. While there were 815,000 airmen as of December 31, 1979, during that year there were more than 289 million domestic airline passenger enplanements. The Community and Consumer Liaison Division will assist members of both groups, but based on the past experience of this Division, it will probably be more involved with the overwhelming majority of aviation consumers who fly as passengers.

Consumer Participation

AOPA also stated:

"* * * unlike most other government agencies, the FAA deals in extremely technical subjects. To encourage discussion from the general public would cause confusion and result in decisions based on emotional concepts rather than technical expertise. These technical discussions are now carried on between the FAA technical personnel and the specialized members of the public who are directly affected. Establishment of a buffer "Consumer Office" would serve as a barrier between these two qualified participants. This would result in less direct consumer participation in FAA activities.

AOPA confuses its constituency as representing all aviation consumers. A basic principle of the consumer movement is that the general public should not be excluded from so-called "technical discussions" on the grounds that they lack "expertise" and may tend to be "emotional." The FAA has no intention of permitting the Community and Consumer Liaison Division to serve as either a "buffer" or "barrier" between its specialists and interested members of the public; rather, the Division will strive to expedite interaction between members of the public and agency personnel, facilities—and not impede—consumer participation in the development of FAA rules, policies and programs.

The National League of Cities supported FAA's "initiative to formalize the public input process." It urged FAA to establish a network for local participation in aviation rulemaking, and to take steps to assure that public interest groups be notified whenever the agency considers rulemaking affecting their constituencies. The League urged that local forums and symposiums be convened frequently on such subjects as airport noise abatement, general aviation and community development. The League further recommended that the Community and Consumer Liaison Division plan such symposiums in consultation with appropriate program offices within FAA, and with public interest groups and associations. In addition, the League suggested such symposiums might be coordinated with state, regional or national meetings or workshops of such public interest organizations.

Although the vast majority of FAA's local, state and regional meetings are generally planned and conducted by the appropriate FAA Regional office (more than 95% of FAA's personnel work outside of Washington, DC), the Community and Consumer Liaison will—in conjunction with the DOT's Office of Consumer Liaison—look into establishing additional methods of informing individuals and organizations interested in agency rulemaking. (See the section titled "Consumer Forums and Symposiums" under CONSUMER PARTICIPATION, below, for specific actions.) An informal survey of FAA's regional offices indicates that, during Fiscal Year 1981, the agency will convene or attend dozens of local meetings dealing with airport planning, noise abatement, and various aspects of general aviation community development. The Community and Consumer Liaison Division will consult with regional personnel, appropriate agency officials, and public interest organizations to determine how individual consumers can be informed of and involved in these meetings. Those interested in participating in such planning, or in the development of additional methods of dispensing regulatory information, should write: Community and Consumer Liaison Division, APA–400, Washington, DC 20591, requesting specific information concerning FAA Consumer Participation.

The Aviation Consumer Action Project (ACAP) noted that, while Congressional budget restrictions currently prohibited FAA from funding public participation, the agency should employ other methods to ensure that consumers are not at a disadvantage when participating in agency rulemaking. ACAP recommended the agency state that it is agency policy to encourage consumer participation in both regulatory and non-regulatory decisionmaking "by making such participation as inexpensive as possible." Specifically, ACAP recommended it should be FAA policy "to make information, publications, studies and rulemaking dockets available free of charge to consumers, and to encourage agency personnel, including the technical staff, to provide information and materials free of charge and to minimize the costs of phone communication by initiating return calls." ACAP also recommended FAA install a toll-free 800 telephone number to expedite requests for information.

FAA notes all Notices of Proposed Rulemaking are already available without charge, and the rulemaking dockets are open for public inspection during regular business hours. While literally hundreds of agency publications and studies are available free of charge and others are sold by the Superintendent of Documents (see INFORMATIONAL MATERIALS, below), FAA follows regulations promulgated under the Freedom of Information Act in charging for the cost of reproduction of documents and other materials. (For more information, write: Freedom of Information Coordinator, APA–320, Washington, DC 20591.)

While DOT has already found it would be prohibitively expensive to install toll-free 800 telephone numbers in the various modal administrations, FAA has no restrictions that would inhibit agency personnel from returning telephone calls involving official business, such as rulemaking.

One commenter said that the draft apparently limited FAA's rulemaking to issues concerning aviation safety, and overlooked the agency's involvement in such matters as providing planning and construction grants for airports, establishing security requirements for airport and aircraft operators, certificating aircraft on the basis of noise and air pollutants emitted, etc. "To state that the parties affected by these and other FAA initiatives are covered by the consumer program only insofar as the issued concern safety belies the true nature of the FAA-consumer interface." The point is well taken, and the paragraph "Definition of Aviation Consumer" has been accordingly revised.

The Air Transport Association (ATA) noted it would "like to see less emphasis placed on activities creating any government standard procedures and guidelines unless there has been shown a substantiated need for such service," * * * We are not aware of any such need in the regulatory area which affects the airlines." * * * FAA has no intention, in this plan, of creating any "standard procedures" in the "regulatory area." The CONSUMER PARTICIPATION section, to which ATA apparently refers, is intentionally divided into three areas, the first headed "Consumer/Citizen Participation in Rulemaking" refering only to DOT Regulatory Policies and Procedures published in the **Federal Register** on February 26, 1979. The second section, headed "Consumer Participation in Decisionmaking on Policies and Programs" does outline a series of six Standard Procedures for Consumer Citizen Participation, but these pertain only to policies and programs, not rulemaking or "the regulatory area."

The Director of a state aeronautics commission criticized the "lack of response we have received from members of the FAA hierarchy" on various problems pertaining to aviation. He commented that "in our review * * * we do not clearly see the vehicle that will enable a problem to be resolved and corrective action promptly taken" and recommended that, in the future, his state aeronautics commission "would screen the wheat from the chaff and forward the issues worthy of further consideration" to FAA Headquarters in Washington.

FAA's Community and Consumer Liaison Division, as described in the CONSUMER COMPLAINTS section of the Consumer Program (below), will forward all consumer complaints received to the FAA office of primary responsibility for direct response to the consumer. We feel that the respondent's recommendation would merely add another layer of bureaucracy at the state, local or regional level, and delay FAA's ability to respond to the consumer's complaint. Furthermore, what might appear as "chaff" to a state office could, in the national context, provide a valuable clue to an unsafe condition or procedure requiring immediate, corrective action.

I. Consumer Affairs Perspective

The Community and Consumer Liaison Division in the Office of Public Affairs will be the element within Federal Aviation Administration (FAA) Headquarters concerned with consumer needs and interests.

The Division will consist of at least two professional positions, and one secretarial position. The staff will have special expertise in aviation issues affecting consumers, citizen participation, and in the processing of public inquiries. It will facilitate consumer participation in and understanding of the development of FAA rules, policies and programs. The Division will assist in the development of training programs designed to make FAA employees more sensitive to consumer needs, and to facilitate the consideration of consumers' viewpoints in the development of FAA policies.

FAA rules, policies, programs and legislation with potentially significant consumer impact, as determined by the Assistant Administrator for Public Affairs, in conjunction with the Chief of the Community and Consumer Liaison Division, will be reviewed by the Division. An opportunity will be provided for the Assistant Administrator for Public Affairs to forward the Division's written comments to the office or service concerned and to the Administrator during the development of such rules, policies, programs and legislation. To facilitate such review and comment, the Community and Consumer Liaison Division will be placed on all distribution lists to receive and comment on all proposed rules, policies, programs and legislation.

II. Consumer Oversight

The Chief of the Community and Consumer Liaison Division reports to the Assistant Administrator for Public Affairs, a senior-level official who, in turn, reports directly to the Administrator.

The Division Chief, a Community Relations Officer, whose sole responsibility shall be for coordinating FAA's performance of the five consumer functions identified in Executive Order 12160, will serve as FAA's member on the DOT Consumer Affairs Policy Council.

III. Consumer Participation

It is FAA policy to encourage effective consumer participation early in and throughout the decisionmaking processes involving rules, policies and programs concerning consumers—whether they be pilots, aircraft owners, passengers, or other individuals directly affected by aviation. Such participation may be by individual consumers, or by consumer/citizen organizations.

Consumer/Citizen Participation in Rulemaking

The majority of the nation's civil aircraft are owned and operated by private pilots—who qualify as consumers in the fullest sense—and FAA encourages their participation in agency rulemaking. The extent of consumer participation in FAA rulemaking was clearly evident in the 40,000 plus comments received last year in response to a proposal for the adoption of certain air traffic control regulations. Such participation is presently facilitated through the use of Advance Notices of Proposed Rulemaking, Notices of Proposed Rulemaking, the publication of petitions for rulemaking and petitions for exemption from the Federal Aviation Regulations, the FAA regulatory legal intrepretative files which are open to the public, pilot listening sessions, public hearings, news releases, direct mail, and a variety of publications.

The extent of consumer participation in FAA rulemaking is governed by DOT's Regulatory Policies and Procedures, issued in compliance with Executive Order 12044. (These policies were published in the **Federal Register**, February 26, 1979.) These policies are designed to increase public awareness of planned regulatory activity and to enhance opportunities for public participation.

These policies also require the Department to provide the public with advance notice of planned regulatory activity through publication of its semi-annual Regulations Agenda, which includes decision dates and officials to contact for more information about specific rulemaking actions. Aviation consumers can receive the Regulations Agenda on a regular basis by contacting the DOT office of General Counsel, C–50, Washington, DC 20590. The Regulations Agenda also describes how consumers can be placed on special mailing lists to receive specific rulemaking proposals.

Under these DOT procedures, an FAA office initiating a significant rulemaking proposal must develop a work plan that includes a tentative plan for how and when the general public and interests groups—including consumer organizations—will have opportunities to participate in the regulatory process. By reviewing these work plans, FAA's Community and Consumer Liaison Division will have an opportunity to comment on their compliance with the Department's public participation requirements.

In those instances where a rule is not considered "significant" within the meaning of E.O. 12044, the Community and Consumer Liaison Division will, if appropriate, offer assistance to the initiating office to facilitate consumer participation in the rulemaking process.

In addition, when FAA publishes Notices and Advance Notices of Proposed Rulemaking in the **Federal Register**, the public can also comment on the adequacy of the opportunities for participation. They may request enhanced opportunities for participation

on specific rulemaking proposals (whether the rule is deemed "significant" or not under DOT's

consumers about the proposed policy or program and to elicit public comments:

a. polls and surveys

Commuter Air Carrier" during the "User/Government Panel Discussion on Concerns of the Consumer." FAA is now

media. More than a hundred news releases are issued each year by FAA's Office of Public Affairs, and those

and information available within FAA. Its Public Inquiry facility annually processes more than ten thousand

60018. Area: Illinois, Indiana, Minnesota, Michigan, Ohio, Wisconsin

New England Region, ANE–1, Director,

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on specific rulemaking proposals (whether the rule is deemed "significant" or not under DOT's Regulatory Policies and Procedures) by contacting the initiating office or FAA's Community and Consumer Liaison Division. A summary of each public contact during a rulemaking proceeding is recorded in the FAA public regulatory docket. The concurrence of the Chief Counsel is required prior to any ex-parte contact after the public comment period has expired in order to assure that the prohibitions and limitations established by statutes and court decisions on ex-parte contacts are not violated by the consumer or the FAA officials involved in the rulemaking.

Under DOT Regulatory Policies and Procedures, when a significant final rule is prepared, the initiating office must provide a summary of public comment received. This aids DOT decision-makers in determining how responsive the rule has been to public comment.

Consumer Participation in Decisionmaking on Policies and Programs

To help assure that consumers have early and continuing opportunities to learn about significant consumer-oriented policies and programs that do not involve rulemaking, FAA has developed a Standard Procedure for Consumer/Citizen Participation.

This will require that:

1. The head of each FAA Office and Service in FAA Headquarters will notify the Assistant Administrator for Public Affairs about emerging issues being developed in his/her office which may have a significant impact on consumers, which involve a matter of interest or potential controversy among aviation consumers or which otherwise directly affect final users or purchasers of transportation services.

2. The head of each FAA organizational element shall designate the key staff member responsible for developing the emerging issue to advise the Assistant Administrator for Public Affiars and the Community and Consumer Liaison Division as early as practicable in the development process.

3. Should the Assistant Administrator for Public Affairs, in consultation with the Chief of the Community and Consumer Liaison Division, concur that the issue is likely to have a significant impact on consumers, the Division will prepare a Consumer/Citizen Participation Plan and coordinate the plan with the designated staff member and organizational element head. This plan shall include at least one substantial outreach technique, such as those listed below, to inform citizens/consumers about the proposed policy or program and to elicit public comments:

a. polls and surveys

b. field trips and interviews

c. direct notification by telephone or use of mailing lists

d. consultations, briefing sessions, and open conferences

e. publication of appropriate Notices in the **Federal Register**

4. With the concurrence of the designated staff member, the Chief of the Community and Consumer Liaison Division will assist the initiating office in developing a timetable listing probable dates for initiating each consumer/citizen participation technique to be employed in the policy or program development process. The designated staff member in the initiating office will then be responsible for adhering to the timetable, and utilizing the appropriate outreach techniques.

5. Working with the designated staff member, the Community and Consumer Liaison Division will help assure that consumer/citizen comments received on nonregulatory issues are summarized and analyzed, as appropriate. The Division and the initiating Office will work together to ensure that the prepared analysis is given adequate consideration in the agency's decisionmaking process.

6. The Chief of the Community and Consumer Liaison Division will make every feasible effort to inform commenters of those non-regulatory decisions made concerning policies or programs subject to this standard procedure.

In those instances where an emerging issue is not deemed "significant" the Community and Consumer Liaison Division will, on request, provide guidance to initiating offices concerning ways to improve their contacts with consumer/citizen constituencies.

Consumer Forums and Symposiums

The FAA has a record of initiating open conferences and discussions with all segments of the aviation public at local, regional and national levels. Washington Headquarters has conducted dozens of meetings to which users of the aviation system are invited to comment on FAA policies, programs and future planning. In January, 1980, the Office of Aviation Safety initiated the first Commuter Air Carrier Safety Symposium, open to the public. For two days, more than 250 individuals—in addition to FAA representatives—attended in-depth discussions of commuter airlines and air taxi operations. Representatives from two consumer organizations attended, one presenting a paper "Consumer and the Commuter Air Carrier" during the "User/Government Panel Discussion on Concerns of the Consumer." FAA is now considering conducting a Symposium of this nature on an annual basis. If feasible, similar symposiums on consumer-related aviation issues will be considered.

In any case, the Chief of the Community and Consumer Liaison Division will advise and assist the cognizant offices and services in informing consumers of these proceedings, and of their opportunities to participate.

Dozens of pilot forums, listening sessions and other local meetings open to the public will be held during Fiscal Year 1981 (October 1, 1980—September 30, 1981). A wide variety of topics will be covered, such as airport planning, air traffic procedures, noise abatement, and flying safety. The Community and Consumer Liaison Division is now exploring various methods for informing consumers, in advance, concerning these meetings and opportunities of attending and/or participating. Consumers interested in obtaining additional information as to the topics, nature, dates and locations of such meetings may write the appropriate FAA Regional Director (see Applendix for listing); please specify your areas of interest.

IV. Informational Materials

FAA now produces publications pertaining to aviation safety. Most are of a highly technical nature, dealing with the design, maintenance and operation of aircraft or aviation facilities. A number are designed for the general public, however, and are devoted to such topics as the agency's mission, an explanation of air traffic control, how to become a pilot, and a series on aviation careers. [*A Guide to Federal Aviation Administration Publications* is available, free of charge, by writing to the Community and Consumer Liaison Division, APA-400, Federal Aviation Administration, Washington, D.C. 20591.) A Monthly Management Report provides useful information to state and local officials and organizations, including a summary of current FAA information relative to safety, air traffic activity, airmen information, and other administrative information such as the status of major regulatory projects. In complying with the DOT Consumer Publication Program for FY-81, and to identify additional consumer needs. FAA is assessing its current publications. Comments and suggestions from the public are welcome.

FAA's most widespread information program, of course, utilizes the mass media. More than a hundred news releases are issued each year by FAA's Office of Public Affairs, and those deemed of special interest to consumers are (1) conspicuously labeled—near the masthead—either CONSUMER ADVISORY or CONSUMER ADVISORY—REQUEST FOR PUBLIC COMMENT, and (2) mailed to a special, FAA Consumer Mailing list. (To get on this Consumer Mailing list, send name and address to Community and Consumer Liaison Division, APA-400, Federal Aviation Administration, Washington, D.C. 20591.)

The Community and Consumer Liaison Division will work with the DOT Consumer Policy Coordinating Council and appropriate FAA offices to identify, in advance, FAA meetings open to the public. A calendar of such meetings will be submitted to DOT's Office of Consumer Liaison for dissemination to the public. The FAA office responsible for conducting each public meeting will be required to provide, in an easy-to-understand and non-technical format, an advance agenda of the meeting, pertinent background data, and information concerning how the public can participate. The Community and Consumer Liaison Division will provide technical assistance to the FAA office preparing such materials.

V. Education and Training

In 1979, FAA's Office of Environment and Energy contracted for a series of 3½-day training workshops on "Community Involvement in Aviation Decisionmaking." Conducted in seven of the agency's nine continental regions, these workshops were developed to provide FAA staff members the best current information about how to design and conduct effective community programs. The agency is now reviewing this project, to determine if it can be repeated and whether it should be expanded and made available to non-Federal aviation officials, as well. The feasibility of making such training available to other DOT consumer officers, to members of consumer organizations and to individual consumers is being investigated.

Since 1976, the Office of Environment and Energy has also conducted a two-week training program, "Environmental Assessment and Procedures Requirements," which includes a one-day course on community involvement. Such training is available to other DOT consumer officers, to members of consumer organizations and to individual consumers, as well.

The Community and Consumer Liaison Division provides consumers ready access to technical publications and information available within FAA. Its Public Inquiry facility annually processes more than ten thousand written inquiries, referring those of a technical nature to the appropriate program specialist for reply. Consumers seeking information should write: FAA Public Inquiry Center, APA-430, Federal Aviation Administration, Washington, D.C. 20591. For an excellent introduction to available FAA publications, request a free copy of a *Guide to Federal Aviation Administration Publications*. The Public Inquiry Center annually receives more than twenty thousand telephone calls; the telephone number is (202) 426-8058.

Consumer Complaints

Consumer complaints received in Washington Headquarters, unless addressed to a specific FAA office or person, are forwarded to the Community and Consumer Liaison Division for processing. The Division is responsible for advising and assisting the monitoring of the FAA responses to these consumer complaints.

Each consumer complaint letter is logged in, evaluated, and forwarded to an Office of Primary Responsibility (OPR) for direct response. Simultaneously, the consumer is sent a form (1) acknowledging receipt of the letter and (2) providing the mailing address of the OPR and the date of anticipated answer.

FAA's Community and Consumer Liaison Divisions will work with DOT's Office of Consumer Liaison in assessing current complaint handling procedures, and the long-range program they have proposed to (1) study and improve the Department's complaint handling procedures, and (2) more effectively utilize complaint data in developing DOT policy.

Issued in Washington, D.C. on November 14, 1980.

Langhorne Bond,

Administrator.

Appendix

FAA Regional Offices

Alaskan Region, AAL-1, Director, Robert L. Faith, 701 C Street, P.O. Box 14, Anchorage, Alaska 99513

Central Region, ACE-1, Director, Paul J. Baker, 601 East 12th Street, Federal Building, Kansas City, Missouri 64106. Area: Iowa, Kansas, Missouri, Nebraska

Eastern Region, AEA-1, Director, Murray E. Smith, JFK International Airport, Federal Building, Jamaica, New York 11430. Area: Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Virginia, W. Virginia

Great Lakes Region, AGL-1, Director, Wayne J. Barlow, O'Hare Lake Office Center, 2300 East Devon Avenue, Des Plaines, Illinois 60018. Area: Illinois, Indiana, Minnesota, Michigan, Ohio, Wisconsin

New England Region, ANE-1, Director, Robert E., Whittington, 12 New England Executive Park, Builington, Massachusetts 01803. Area: Connecticut, Maine, New Hampshire, Rhode Island, Vermont

Northwest Region, ANW-1, Director, Charles R. Foster, 9010 East Marginal Way South, Seattle, Washington 98108. Area: Idaho, Oregon, Washington

Pacific-Asia Region, APC-1, Director, Robert O. Ziegler, 300 Ala Moana Blvd., P.O. Box 50109, Honolulu, Hawaii 96850. Area: Hawaii and the Pacific/Asia

Rocky Mountain Region, ARM-1, Director, Arthur Varnado, 10455 East 25th Avenue, Aurora, Colorado 80010. Area: Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Southern Region, ASO-1, Director, Louis J. Cardinali, 3400 Whipple Street, East Point, Georgia 30344, P.O. Box 20636, Atlanta, Georgia 30320. Area: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, Virgin Islands, Canal Zone

Southwest Region, ASW-1, Director, C. R. Melugin, Jr., 4400 Blue Mound Road, P.O. Box 1689, Fort Worth, Texas 76101. Area: Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Western Region, AWE-1, Director, John D. Mattson, P.O. Box 92007, Worldway, Postal Center, Los Angeles, California 90009. Area: Arizona, California, Nevada

[FR Doc. 80-36195 Filed 11-19-80; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-80-31]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: December 10, 1980.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral publication date for FRA's final consumer program was November 13, 1980. The publication date for the final consumer program is hereby changed to

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ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on November 7, 1980.

Edward P. Faberman,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
20862	Jose Facundo for PRINAIR	14 CFR § 91.50(a)	To permit petitioner to operate, after April 12, 1981, its 26 de Havilland Heron aircraft at 13,500 gross certificated takeoff weight without having an operable pitot heat indication system installed.
20863	United Air Lines	14 CFR § 121.351(a)	To permit UAL to conduct extended overwater operations over the Gulf of Mexico with only one Omega Navigation System and/or one hight frequency radio.
20876	Air Transport Association of America	14 CFR § 121.578	To permit petitioner's members to operate aircraft except B-747SP aircraft without compliance with cabin ozone concentration requirement for a period of one year.
20886	James E. Beasley	14 CFR § 91.42(a)(2)	To permit dual flight instruction in a P-51TF aircraft having an experimental category certificate for compensation or hire.

Dispositions for Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
12468	Petroleum Helicopters, Inc.	14 CFR § 43.3(h)	To renew Exemption No. 1821F which permits trained pilots to remove, inspect, and reinstall magnetic chip detector plugs in Allison 250 C series engines. *Granted 10/31/80.*
15194	Compania Mexicana de Aviacion	Portions of 14 CFR Parts 21, 61, 63, and 91.	To extend the termination date of Exemption No. 2195, with respect to aircraft N128NA and N120NA. The present exemption permits certain airmen to obtain U.S. certificates and maintenance of the aircraft in accordance with an MMEL. *Granted 10/31/80.*
19911	Aerovias Nacionales di Colombia, S.A. (AVIANCA)	Portions of 14 CFR Parts 21, 61, and 91.	Amendment to Exemption No. 2892, which presently allows petitioner to operate two U.S. registry aircraft, and to include three additional Boeing 727 series 259 aircraft of United States registry to be leased by AVIANCA. *Granted 10/31/80.*
19109	Pyramid Airlines	14 CFR Parts §§ 21.181, 91.27 91.29 and 91.165.	Amendment to Exemption No. 2948 which would add one aircraft to the two which Pyramid currently operates. Petitioner also requests that the amdt. extend the Exemption to April 1, 1982, or until termination of lease agreements. *Granted 10/31/80.*
20865	AZAIR	14 CFR Parts §§ 21.181, 91.27, 91.29, 91.165, & 91.169.	To permit petitioner to operate and maintain aircraft using a MMEL and a continuous airworthiness maintenance and inspection program. *Granted 10/31/80.*
13498	Aerolinee Itavia	14 CFR portions of Parts 21, 61, and 91.	Amendment to Exemption No. 1958M, to extend the expiration date with respect to DC-9 aircraft N634F from October 31, 1980, to November 30, 1980. *Granted 10/31/80.*
18236	Air Transport Association	CFR 14 § 121.441(e)	To extend the expiration date of exemption No. 2584 which permits ATA's member airlines to accomplish an entire pilot proficiency check in a visual simulator approved for the landing maneuver. *Denied 10/29/80.*
16292	Swift Aire Lines	14 CFR §§ 121.371 and	To allow the petitioner to contract for inspection, repair, and overhaul as it applies to Fokker F-27 aircraft. *Granted 10/31/80.*
20165	British Midland Airways, Ltd. (BMA)	14 CFR § 91.217(b)(5)	Amendment of Exemption No. 2931 to name Dan-Air Engineering, Ltd., as the facility responsible for maintenance support of B-707-312C aircraft, and also to provide that the aircraft be maintained under an FAA approved British Midland Airways Maintenance and Inspection Program. *Granted 10/31/80.*
20496	Rogers Helicopters	14 CFR § 91.39(b)	To permit the use of a Bell UH1B helicopter in emergency air ambulance service for compensation while the aircraft is certificated in the restricted category. *Denied 10/29/80.*
17145	United Airlines	14 CFR §§ 121.655 and 121.697(a) and (b).	An extension of the Oct. 13, 1980 expiration date of Exemption No. 2466A which provides relief from the requirement for a signature on an automated load manifest. *Granted 10/29/80.*
12227	National Business Aircraft Association Inc	14 CFR various sections	Extension of Exemption No. 1637G to allow petitioner to continue to operate small aircraft, but only under certain applicability and inspection parts of Part 91, Subpart D. *Granted 10/30/80.*

[FR Doc. 80-35855 Filed 11-19-80; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 136—Installation of Emergency Locator Transmitters (ELT) in Aircraft; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of Special Committee 136 on Installation of Emergency Locator Transmitters (ELT) in Aircraft to be held on December 9-10, 1980 in RTCA Conference Room 261, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Eighth Meeting Held on August 5-6, 1980; (3) Briefing on Automatic Deployable ELT; (4) Review Second Draft of Report on ELT Installation and Activation; and (5) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on November 7, 1980.

Karl F. Bierach,

Designated Officer.

[FR Doc. 80-35856 Filed 11-19-80; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

Consumer Program

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of delay.

SUMMARY: On June 9, 1980, FRA published in the Federal Register (45 FR 39171) its draft consumer program for public review and comment. On October 30, 1980, FRA published a notice (45 FR 71922) indicating that the anticipated publication date for FRA's final consumer program was November 13, 1980. The publication date for the final consumer program is hereby changed to November 30, 1980.

FOR FURTHER INFORMATION CONTACT: Michael T. Haley, Deputy Chief Counsel, Nassif Building, Federal Railroad Administration, Room 8211, 400 Seventh Street, S.W., Washington, D.C. 20590. Telephone (202) 472-9042.

SUPPLEMENTARY INFORMATION: FRA's consumer program is being developed to comply with the requirements of Executive Order 12160 directing Federal agencies to develop programs to ensure consumer involvement in agency policy and decision making.

Issued in Washington, D.C. on November 12, 1980.

John M. Sullivan,

Administrator.

[FR Doc. 80-35839 Filed 11-19-80; 8:45 am]

BILLING CODE 4910-06-M

Research and Special Programs Administration

Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATE: Comment period closes December 22, 1980.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, DC.

New Exemptions

Application	Applicant	Regulation(s) affected	Nature of Exemption Thereof
8504-N	Mississippi Tank Company, Hattiesburg, MS	49 CFR 173.315	To manufacture, mark and sell DOT specification MC-331 cargo tanks for shipment of ethane-propane mixtures, prepared and offered for transportation in accordance with notice No. 79-3, Docket HM-115. (Mode 1.)
8505-N	Tsuji Heavy Industries Co., Ltd., Nagusaki, Japan	49 CFR 173.119, 173.245, 173.346, 173.116(a).	To authorize shipment of various flammable liquids, combustible liquids, corrosive materials, poison B liquids and ORM-A materials in non DOT Specification IMCO Type I portable tanks. (Modes 1, 2, 3.)
8506-N	Dow Chemical Company, Midland, MI	49 CFR 178.102-2(c), 173 Subpart D,F & H.	To authorize use of a DOT Specification 6D cylindrical Steel overpack constructed with two holes below the top chime for shipment of those materials presently authorized in a DOT Specification 6D. (Modes 1, 2, 3.)
8507-N	Department of Energy, Washington, DC	49 CFR 173.302, 175.3	To authorize use of non DOT specification containment vessels (polarimeters) for shipment of helium, classed as a nonflammable gas. (Modes 1, 2, 4, 5.)
8508-N	Standard Corporation, Allentown, PA	49 CFR 173.269, 173.245, 173.268, 173.343, 178.150-3(a)(1).	To authorize use of a 6 compartment polystyrene case for shipment of those hazardous materials presently authorized in a DOT specification 33A not to exceed 6 five pint bottles per case. (Modes 1, 2, 3.)
8509-N	Dow Chemical Company, Midland, MI	49 CFR 173.263(a)(9)	To authorize use of a safety relief valve in lieu of a safety vent on DOT specification 111A100W5 tank car tanks for shipment of hydrochloric acid. (Mode 2.)
8510-N	Dow Chemical Company, Freeport, TX	49 CFR 173.154	To authorize shipment of salt-coated magnesium granules in non DOT specification wax-impregnated, waterproof bulk fiberboard box. (Modes 1, 2, 3.)
8511-N	Oxychem Company, Inc., New York, NY	49 CFR 173.266(f)	To authorize shipment of 70% hydrogen peroxide solution in water in DOT Specification MC-310 or MC-312 cargo tanks and 103CW or 111A60W7 tank cars constructed of stainless steel. (Modes 1, 2.)
8514-N	Gibson Cryogenics, Lakeside, CA	49 CFR 173.315	To manufacture, mark, and sell a non-DOT specification 2000 gallon capacity portable tank for shipment of liquid nitrogen. (Mode 3.)
8515-N	Fruehauf Corporation, Omaha, NE	49 CFR 173.119(c), 173.119(f), 46 CFR 98.35.	To manufacture, mark, and sell non-DOT specification IMCO Type 2 portable tank for shipment of various flammable liquids, n.o.s. and combustible liquids. (Modes 1, 3.)

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New Exemptions—Continued

Application	Applicant	Regulation(s) affected	Nature of Exemption Thereof
8516–N	Atlas Powder International Ltd., Miami, FL	49 CFR 176.83(b)	To authorize shipment of ammonium nitrate-fertilizer, classed as an oxidizer and ammonium nitrate-fuel oil, classed as a blasting agent to be stowed in the same hold or compartment aboard ship. (Mode 3.)
8517–N	Sohio Alaska Petroleum Company, Anchorage, AK	49 CFR 173.304, 175.3	To authorize shipment of a compressed gas, n.o.s. contained in a non-DOT specification oil well sampling device. (Modes 1, 4.)
8518–N	Pacific Tank and Manufacturing, Long Beach, CA	49 CFR 173.119(a)(17), 173.245(a)(30)(31), 178.340–7, 178.342–5, 178.343–5.	To manufacture, mark, and sell non-DOT specification cargo tanks complying generally with DOT specification MC–307/312 except for bottom outlet valve variations for transport of flammable or corrosive waste liquids or semi-solids. (Mode 1.)
8519–N	Atlantic Container Line, Elizabeth, NJ	49 CFR 176.905(k)(1)	To authorize stowage of motor vehicles containing gasoline in their fuel tanks, classed as a flammable liquid in the same cargo compartment with other hazardous materials on specially equipped roll-on/roll-off cargo vessels. (Mode 3.)
8520–N	Atlas Powder Company, Dallas, TX	49 CFR 173.114a (b)(6)	To authorize a "pipe test" in lieu of the required "fire test" for blasting agents packed in drums not to exceed 440 pounds. (Modes 1, 2, 3, 4.)
8521–N	Austin Powder Company, Cleveland, OH	49 CFR 172.101, 172.300, 172.304, 172.400, 172.411(c)(d), 173.114(a).	To authorize shipment of a limited number of packages of nitrocarbonitrate, after December 31, 1980, bearing the oxidizer label. (Mode 1.)
8522–N	Preferred Plastics, Inc., Sterling, VA	49 CFR 178.150, 173 Subpart F	To manufacture, mark and sell non-reusable molded expanded polystyrene cases similar to DOT specification 33A except they will incorporate 6 cavities to contain a total of six 5 pint bottles for shipment of those commodities presently authorized in DOT specification 33A. (Modes 1, 2, 3.)
8523–N	Fauvet-Girel, Paris, France	49 CFR 173.315(a)	To authorize shipment of various flammable and non-flammable compressed gases in non DOT specification IMCO Type 5 portable tanks. (Modes 1, 2, 3.)
8524–N	Kaiser Aluminum and Chemical Corporation, Oakland, CA.	49 CFR 173.265(b)(3)	To authorize shipment of hydrofluosilicic acid, classed as a corrosive material in DOT specification 111A100W5 tank cars, lined with vinyl ester resin. (Mode 2.)
8525–N	Associated Container Transportation (U.S.A.) New York, NY.	49 CFR 173.389(0)	To authorize shipment of monazite sand, classed as radioactive material, low specific activity, n.o.s. stowed under deck with other cargo. (Mode 3.)
8526–N	Economics Laboratory, Inc., St. Paul, MN	49 CFR 177.834(1)(2)(i)	To authorize the transportation of flammable liquids and flammable gases in trucks equipped with a combustion cargo heater (non-catalytic). (Mode 1.)
8528–N	Beech Aircraft Corporation, Boulder, CO	49 CFR 173.304	To authorize shipment of liquefied natural gas in DOT specification 4L cylinders. (Mode 1.)

This notice of recipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, D.C., on November 7, 1980.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau

[FR Doc. 80–36089 Filed 11–19–80; 8:45 am]

BILLING CODE 4910–60–M

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes December 5, 1980.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, DC.

Application number	Applicant	Renewal of exemption
1479–X	Allied Chemical Corporation, Morristown, NJ.	1479
1479–X	U.S. Department of Defense/MTMC, Washington, DC.	1479
2051–X	Virginia Chemicals, Portsmouth, VA.	2051
3187–X	PPG Industries, Inc., Pittsburgh, PA.	3187
3330–X	Teledyne Wah Chang Albany Corp., Albany, OR.	3330
4390–X	MCB Manufacturing Chemists, Inc., Cincinnati, OH.	4390
4390–X	Eastman Kodak Company, Rochester, NY.	4390
4575–X	Racon, Incorporated, Wichita, KS.	4575
4575–X	Kaiser Aluminum & Chemical Corporation, Oakland, CA.	4575
4717–X	Union Carbide Corporation, New York, NY.	4717
4717–X	Northern Petrochemical Company, Des Plaines, IL.	4717
4717–X	El Paso Products Co., Odessa, TX.	4717
4726–X	U.S. Department of Energy, Washington, DC.	4726
4760–X	Air Products and Chemicals, Inc., Allentown, PA.	4760
4884–X	Union Carbide Corporation, Linde Division, Tarrytown, NY.	4884
4990–X	Schenley Distillers, Inc., Cincinnati, OH.	4990
5526–X	MCB Manufacturing Chemists, Inc., Cincinnati, OH.	5526
5704–X	IMC Chemical Group, Incorporated, Allentown, PA.	5704
5704–X	U.S. Department of Defense/MTMC, Washington, DC.	5704
5704–X	Hercules, Incorporated, Wilmington, DE.	5704
5792–X	El Paso Products Company, Odessa, TX.	5792
5820–X	ICI Americas Inc., Wilmington, DE.	5820
5959–X	El Paso Products Co., Odessa, TX.	5959
6016–X	Acety-Arc, Inc., Paducah, KY.	6016
6016–X	Guttman Supply Co., Belle Vernon, PA.	6016
6016–X	O.E. Meyer & Sons, Inc., Sandusky, OH.	6016
6016–X	S.J. Smith Co., Inc., Davenport, IA.	6016
6016–X	Langdon Oxygen Co., Texarkana, TX.	6016
6016–X	Harvey Company, Greensburg, PA.	6016
6293–X	Hercules, Incorporated, Wilmington, DE.	6293
6349–X	Kansas Refined Helium Company, Otis, KS.	6349
6392–X	El Paso Products Company, Odessa, TX.	6392
6403–X	El Paso Products Company, TX.	6403
6466–X	Monsanto Company, St. Louis, MO.	6466
6543–X	Synthatron Corporation, Parsippany, NJ.	6543
6611–X	Air Products and Chemicals, Inc., Allentown, PA.	6611
6743–X	Atlas Powder Company, Dallas, TX (See Footnote 1).	6743
6802–X	Harvey Company, Greensburg, PA.	6802
6994–X	Apache Container Corporation, Chicago, IL.	6994
7005–X	Bignier Schmid-Laurent, Paris, France.	7005
7005–X	Hoyer S.A.G.L., Chiasso, Switzerland.	7005
7005–X	Trafpak Limited, Aylesbury, England.	7005
7005–X	Sea Containers Pacific Ltd., Central, Hong Kong (See Footnote 2).	7005
7005–X	Tankcargo Container Leasing, Inc., Geneva, Switzerland.	7005
7005–X	Compagnie des Containers Reservoirs, Neuilly-sur-Seine, France.	7005
7005–X	Eurotainer, Paris, France	7005
7206–X	Ruan Transport Corporation, Des Moines, IA.	7206
7247–X	Department of Defense, Washington, DC.	7247
7423–X	Reade Manufacturing Company, Inc., Lakehurst, NJ.	7423
7426–X	Martin Marietta Chemicals, Charlotte, NC.	7426
7543–X	Monsanto Company, St. Louis, MO.	7543
7546–X	Grumman Aerospace Corporation, Bethpage, L.I., NY.	7546
7549–X	Stauffer Chemical Company, Westport, CT (See Footnote 3).	7549
7600–X	Lubbock Manufacturing Company, Lubbock, TX (See Footnote 4).	7600
7617–X	White Pass & Transportation Ltd., North Vancouver, B.C.	7617
7650–X	ICI Americas, Inc., Wilmington, DE.	7650
7694–X	Borg Warner Corporation, Van Nuys, CA.	7694
7767–X	Hydraulic Research Textron, Pacoima, CA.	7767
7778–X	Schenley Distillers, Inc., New York, NY.	7778
7840–X	General Dynamics, Fort Worth, TX.	7840
7840–X	Douglas Aircraft Company, Long Beach, CA.	7840
7876–X	Allied Chemical Corporation, Morristown, NJ.	7876
7876–X	Ashland Chemical Company, Columbus, OH.	7876
7893–X	Orval Tank Containers, Paris, France.	7893
7893–X	L'Air Liquide, Paris, France	7893
7938–X	ABC Containerline N.V., Antwerp, Belgium.	7938
7938–X	Compagnie des Containers Reservoirs, Cedex, France.	7938
8055–X	Halstab Division Hammond Lead Products, Inc., Hammond, IN.	8055
8067–X	Container Corporation of America, Wilmington, DE.	8067
8079–X	Container Corportation of America, Wilmington, DE.	8079
8084–X	Inoco Chemicals, Salt Lake City, UT.	8084
8091–X	Western Electric Company, Incorporated, Greensboro, NC.	8091
8109–X	Lowaco, S.A., Geneva, Switzerland.	8109
8110–X	Lowaco, S.A., Geneva, Switzerland.	8110
8110–X	CATU Containers, S.A., Geneva, Switzerland.	8110
8119–X	BJ-Hughes, Incorporated Houston, TX.	8119
8125–X	Transport International Containers, S.A., Paris, France	8125
8125–X	Fauvet-Girel, Paris, France	8125
8126–X	Transport International Containers, SA, Paris, France.	8126
8126–X	SLEMI, Paris, France	8126
8126–X	Fauvet-Girel, Paris, France	8126
8192–X	Grief Bros. Corporation, Springfield, NJ (See Footnote 5).	8192
8196–X	ANF Industrie, Paris, France (See Footnote 6).	8196
8251–X	Sea Containers Inc., New York, NY (See Footnote 7).	8251
8347–X	Fabricated Metals, Incorporated, San Leandro, CA (See Footnote 8).	8347
8354–X	Fauvet-Girel, Paris, France (See Footnote 9).	8354
8355–X	Fauvet-Girel, Paris, France (See Footnote 10).	8355
8374–X	Sea Container Atlantic Ltd., Hamilton, Bermuda (See Footnote 11).	8374
8394–X	Tempset, Inc., St. Louis, MO (See Footnote 12).	8394
8417–X	Sea Containers Atlantic Ltd., Hamilton, Bermuda (See Footnote 13).	8417
8445–X	Dow Chemical Company, Midland, MI (See Footnote 14).	8445
8498–X	Hunter Drums Limited, Burlington, Ontario (See Footnote 15).	8498

[1] To authorize use of a DOT specification 57 portable tank for shipment of blasting agents.

[2] To renew and authorize t-Butyl Hydroperoxide, 70 per cent strength, classed as an organic peroxide, as an additional commodity.

[3] To authorize shipment of N-Propyl chlorothioformate, classed as a corrosive liquid, as an additional commodity

[4] To authorize liquified natural gas and methane as additional commodities.

[5] To authorize shipment of 98 percent sulfuric acid classed as corrosive material, as an additional material.

[6] To add a new portable tank design similar to the one presently authorized.

[7] To authorize t-Butyl Hydroperoxide, 70 percent strength, classed as an organic peroxide, as an additional commodity.

[8] To authorize shipment of acetone, isopropyl alcohol, and methyl ethyl ketone, classed as flammable liquids, as additional commodities.

[9] To authorize methyl chloride, classed as a flammable gas, as an additional commodity.

[10] To authorize methyl chloride, classed as a flammable gas, as an additional commodity.

[11] To authorize t-Butyl Hydroperoxide, 70 percent strength, classed as an organic peroxide, as an additional commodity.

[12] Request passenger-carrying aircraft as an additional mode of transportation.

[13] To authorize t-Butyl Hydroperoxide, 70 percent strength, classed as an organic peroxide, as an additional commodity.

[14] To authorize class B poison liquids and solids as additional commodities.

[15] To authorize hydrofluoric acid not over 52 percent strength, hydrozine sohiton, and fluoboric acid, classed as corrosive materials, as additional commodities.

Application No.	Applicant	Parties to exemption
6045–P	Stauffer Chemical Company, Westport, CT.	6045
6806–P	General Electric Company, Schenectady, NY.	6508
6984–P	Kentucky Powder Company, Lexington, KY.	6984
7423–P	Rossborough Manufacturing Company, Avon Lake, OH.	7423
7516–P	ABC Containerline, Antwerp, Belgium.	7516
7835–P	Matheson Gas Products, Lyndhurst, NJ.	7835
8129–P	Resource Technology Services, Inc., Devon, PA.	8129
8394–P	Whirlpool Corporation, La Porte, IN.	8394
8479–P	Liquor Control Board of Ontario, Toronto, Canada.	8479
8505–P	Sea Containers Atlantic Ltd., Hamilton, Bermuda.	8505

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

V 45 NO 226 UMI

Issued in Washington, DC, on November 7, 1980.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-36070 Filed 11-19-80; 8:45 am]

BILLING CODE 4910-60-M

State of Rhode Island Rules and Regulations Governing the Transportation of Liquefied Propane Gas Intended To Be Used by Public Utility, Inconsistency Ruling (IR-2); Decision on Appeal

Correction

In FR Doc. 80-33519 appearing on page 71881 in the issue for Thursday, October 30, 1980, on page 71883, first column, second paragraph from the bottom, fifth line, insert the following after "basis": "for MTB finding the Rules and Regulations Consistent. The MTB must base".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Granting of Relief

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF).

ACTION: Notice of Granting of Relief from Disabilities Incurred by Conviction.

SUMMARY: The persons named in this notice have been granted relief by the Director, Bureau of Alcohol, Tobacco and Firearms, from their disabilities imposed by Federal laws. As a result, these persons may lawfully acquire, transfer, receive, ship, and possess firearms if they are in compliance with applicable laws of the jurisdiction in which they live.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge Noel A. Haera, Firearms Enforcement Branch, Investigations Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20026, (202-566-7457).

SUPPLEMENTARY INFORMATION: In accordance with 18 U.S.C. 925(c), the persons named in this notice have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to the Director's satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

The following persons have been granted relief:

Compliance With Executive Order 12044

This notice of granting of relief does not meet the Department's criteria for significant regulations as set forth in the **Federal Register** of November 8, 1978.

Dated: November 14, 1980.

G. R. Dickerson,

Director.

Altricher, Wayne K., Rural Route 1, Box 201, Little Falls, Minnesota, convicted on May 23, 1977, in the District Court, 7th Judicial District, Morrison County, Little Falls, Minnesota.

Babcock, Orson E., 210 E. North, Cadillac, Michigan, convicted on December 14, 1956, in the Wexford County District Court, Michigan.

Baker, Larry E., 808 Main Street, Saxton, Pennsylvania, convicted on August 28, 1970, in the Commonwealth Court at Fulton County, Pennsylvania.

Barnes, Joseph K., 1817 Delwood Drive, Wilson, North Carolina, convicted on August 18, 1972, in the Wilson County Superior Court, North Carolina.

Batts, David, 11303 South Edbrooke, Chicago, Illinois, convicted on June 28, 1954, in the Cook County Criminal Court, Northern Judicial District of Illinois.

Beatty, Edward, 1913 Emerson Avenue South, Minneapolis, Minnesota, convicted on September 30, 1957, in the District Court of Hennepin County, Minnesota.

Bellamy, Sylvester, 2016 2nd Avenue West, Palmetto, Florida, convicted on December 5, 1975, in the 12th Judicial Circuit, Manatee County, Florida.

Blalock, Lewis M., 4136 Lindsey Drive, Decatur, Georgia, convicted on August 17, 1976, in the United States District Court, Atlanta, Georgia.

Bollinger, Terry L., 717 South Erie, Wichita, Kansas, convicted on January 9, 1974, in the District Court, Sedgwick County, Kansas.

Bragwell, Jerry W., 717 Peach Street, Russellville, Alabama, convicted on July 9, 1973, in the United States District Court, Birmingham, Alabama.

Brainard, Stephen P., 193 Buchanan Street, Coos Bay, Oregon, convicted on March 14, 1973, in the Circuit Court, State of Oregon, County of Coos.

Bryson, Thomas W., 3625 Lokai Place, Sarasota, Florida, convicted on September 10, 1945, in the United States District Court, Southern District of Ohio.

Burns, Oliver P., 303 Church Street, Doniphan, Nebraska, convicted October 29, 1958, in the Superior Court, Los Angeles County, California.

Caldwell, James D., 243 Spruce Lane, Indiana, Pennsylvania, convicted on February 5, 1976, in the Court of Common Pleas, Criminal Division, Armstrong County, Pennsylvania.

Chapman, Hoyte L., Route 1, Box 69, Stony Point, North Carolina, convicted on May 27, 1977, in the Superior Court, Iredell County, North Carolina.

Cobb, Billy R., Route 3, Box 460, Candler County, Meter, Georgia, convicted on October 27, 1970, United States District Court, Southern Judicial District of Georgia, Swainsboro Division.

Cockrell, Morris W., 507 South Foley, Seymour, Texas, convicted December 18, 1974, in the District Court of Baylor County, Texas, 50th Judicial District.

Cohen, David P., 558 Gray Court, Lakewood, Colorado, convicted on February 13, 1974, City of Brighton, County of Adams, Colorado.

Colson, Marvis A., Route 3, Box 31C, Old Town, Florida, convicted on September 23, 1953, in the Circuit Court of Gilchrist County, Trenton, Florida.

Conley, Larry D., 2415 11th Street, Everett, Washington, convicted on June 22, 1972, in the Snohomish County Superior Court, Everett, Washington.

Cowey, James E., 188 Fieldwood Drive, Rochester, New York, convicted on June 20, 1957, in the City Court of Rochester, New York; and on November 17, 1960, in the County Court of Rochester, New York.

Cox, Johnny D., 109 South Fourth Street, Sturgis, Michigan, convicted on April 26, 1976, in the Circuit Court, St. Joseph County, Michigan.

Crater, Ralph, Route 4, Box 314, Statesville, North Carolina, convicted on March 18, 1969, in the United States District, Western District of North Carolina.

Cravener, Clifford H., 2737 West 32nd Street, Erie, Pennsylvania, convicted on April 3, 1969, in the Armstrong County Court of Quarter Sessions, Kittanning, Pennsylvania.

Davis, Frank L., Route 5, Pine Lane Trailer Court, Lynchburg, Virginia, convicted on December 13, 1967, in the Campbell County Circuit Court, Virginia.

Davis, Gregory A., 2818 Seaman Avenue, El Monte, California, convicted on December 13, 1967, in the Circuit Court of Fairfax, Virginia.

Dreher, Alan C., 5338 Midvale Court, Pleasanton, California, convicted on May 23, 1975, in the Superior Court of Alameda County, California.

Dunn, Brady, 208 Willowbrook Trailer Park, Northport, Alabama, convicted on March 1, 1972, in the Fayette County Court, Alabama.

Evans, Michael S., 8943 Aylesford, Stockton, California, convicted on January 9, 1967, in the Superior Court of Orange County, California.

Fawcett, Robert S., 221 Skyport Drive, West Mifflin, Pennsylvania, convicted on December 2, 1977, in the United States District Court, Western Division, Pittsburgh, Pennsylvania.

Fine, John B., 401 South Howell Avenue, Chattanooga, Tennessee, convicted on February 19, 1962, in the Eastern District of Tennessee, Chattanooga, Tennessee.

Gable, Richard S., 1965 "A" Street, Gering, Nebraska, convicted on September 23, 1976, in the District Court, Scottsbluff County, Nebraska.

Gardner, Ray, 1325 12th Street, Clarkston, Washington, convicted on March 7, 1969, in the Superior Court, Walla Walla County, Washington.

Gibson, Mallory K., 1007 North "X" Street, Pensacola, Florida, convicted on February 26, 1958, in the Escambia County Court of Record, Pensacola, Florida.

Gleaton, Joseph T., Route 9, Box 1693, Brooksville, Florida, convicted on April 5, 1971, in the Hillsborough County Circuit Court, Tampa, Florida.

Gonzales, Apolonio B., Route 1, Box 353, Santa Fe, New Mexico, convicted on May 24, 1974, in the 205th Judicial District Court, El Paso, Texas.

Hall, John R., 1056 Grand Avenue, Long Beach, California, convicted on July 15, 1962, in the Outagamie County Court, Wisconsin.

Hall, William B., Route 1, Box 144N, Scottsville, Virginia, convicid on June 6, 1967, in the Albemarle County Circuit Court, Virginia.

Harville, Douglas M., Route 5, Savannah, Tennessee, convicted on March 22, 1965, and on January 1, 1971, in the United States District Court, Western District of Tennessee.

Haverner, Billy, 1000 Pennbrooke Street, Owensboro, Kentucky, convicted on November 16, 1970, in the Davies County Circuit Court, Owensboro, Kentucky.

Hoffpauir, Michael, Sr., P. O. Box 44035, University of Southern Louisiana, Lafayette, Louisiana, convicted on April 14, 1972, in the 15th Judicial District, Abbeville, Louisiana.

Johnson, Raymond H., Route 2, Box 465, Eagle River, Alaska, convicted October 18, 1971, in the Ramsey County District Court, Minnesota.

Kelly, Kim L., 618 Madison Avenue, Toppenish, Washington, convicted on March 29, 1974, in the Superior Court, State of Washington, Yakima County, Washington.

Laird, Bobby R., Route 5, Box 16, Alvin, Texas, convicted on January 5, 1976, in the District Court, Brazoria County, Texas

Leight, Norman R., 1607 South 89th Street, West Allis, Wisconsin, convicted on November 3, 1956, in the Municipal Court of Milwaukee County, Wisconsin.

Lindsey, Robert, 9913 123rd Avenue, NE, Lake Stevens, Washington, convicted on December 27, 1974, in the Superior Court, County of Snohoimish, Washington.

McCabe, Francis J., Box 1-A, Panama City, Florida, convicted on April 16, 1965, in the Bay County Circuit Court, Florida.

McFarlin, Robert C., 13135 Pine Island Drive, Sparta, Michigan, convicted on November 14, 1967, in the Ottawa County Circuit Court, Michigan.

Medina, Jerry G., 1631 N. Fairfield, Amarillo, Texas, convicted on December 1, 1958 and on October 30, 1962, in the 99th District Court of Lubbock County, Texas.

Miller, Bennie W., 865 Wall Street, St. Louis, Missouri, convicted on July 12, 1976, in the United States District Court, Eastern District, Missouri.

Mims, Thomas E., P. O. Box 425, Temple Road, Clanton, Alabama, convicted on October 2, 1961, in the United States District Court, Alabama.

Morton, Randy C., 1517 Tucker Street, Greensboro, North Carolina, convicted on March 11, 1974, in the Guilford County Superior Court, Greensboro, North Carolina.

Mullenax, Robert E., 818 West Chase Street, Springfield, Missouri, convicted on May 28, 1970, Federal Court, Eastern District of Missouri.

Nelms, Charles C., 3301 West Mount Drive, Rocky Mount, North Carolina, convicted on May 30, 1967, in the Nash County Superior Court, Nashville, North Carolina.

Oxley, Donald E., P. O. Box 96, Rhodes, Iowa, convicted on February 9, 1958, in the Story County District Court, Nevada, Iowa.

Othick, Roy L., 1511 West Nelson, Webb City, Missouri, convicted on October 23, 1961, in the District Court, Anderson County, Kansas.

Page, Joseph E., 140 East 8th Street, Trenton, Missouri, convicted on July 27, 1970, in the Grundy County Circuit Court, Missouri; and on August 7, 1970, in the Daviess County Circuit Court, Missouri.

Paine, Charles A., 2939 Solem Lane, Eau Claire, Wisconsin, convicted January 31, 1973, in the Eau Claire County Court, Wisconsin.

Paz, Louis A., 8517 Dorbandt, El Paso, Texas, convicted on January 17, 1964, in the Orange County Superior Court, California.

Pesina, Felix, Jr., Route 2, Box 23, Tallaluh, Louisiana, convicted on September 8, 1977, in the 6th Judilcial District Court, Parish of Madison, Louisiana.

Raney, Dana II, 2980 NW 79th Street Lot 320, Miami, Florida, convicted on November 20, 1951, in the Superior Court, Broward County, Florida; and on December 3, 1951, in the Hillsborough County Court, Florida.

Reicin, Edward E., 9102 Pottawattami, Skokie, Illinois, convicted on November 14, 1972, in the United Staates District Court, Northern District of Illinois.

Richards, George J., 325 Bay 10th Street, Brooklyn, New York, convicted on June 17, 1936, in the New York State Supreme Court, Brooklyn, New York.

Ryan, Robert J., 301 West Piute Avenue, Phoenix, Arizona, convicted on July 30, 1976, United States District Court, Western District of Virginia.

Schaffer, Robert, 571 Central Street, Nampa, Idaho, convicted on April 24, 1958, in the 7th judicial Court, Caldwell, Idaho.

Schettler, Dennis, S., 610 Barmore Avenue, Grove City, Pennsylvania, convicted in December 1962, in the Mercer County Criminal Court, Pennsylvania.

Shortt, Terry E., 245 Third Street, Bangor, Maine, convicted on October 25, 1973, in the Penobscot County Superior Court, Bangor, Maine.

Smiley, Randy L., 3603 East 31st, Amarillo, Texas, convicted on December 5, 1972, in the 47th Judicial District Court of Potter Country, Texas; and on December 11, 1972, in the 181st Judicial District of Randall County, Texas.

Smith, Charles E., 6750 SW 8th Street, Miami, Florida, convicted in 1960, in the United States District Court, Southern District of Miami, Florida.

Smith, Lester C. Jr., 120 Edwards Street, Cahokia, Illinois, convicted on May 8, 1975, in the United States District Court, Eastern Illinois.

Soulis, Jerry S. Sr., Route 5, Box 137 Puebla Street, St. Augustine, Florida, convicted on December 1, 1975, in the Superior Court, Wilcox County, Abbeville, Georgia.

Spanski, Van Gerald, 149 Bates Street, Jackson, Michigan, convicted on November 13, 1974, in Jackson County Circuit Court, Michigan.

Spatz, Richard M., 4002 Georgia Street, San Diego, California, convicted on April 11, 1957, in the San Diego Municipal Court, San Diego, California.

Stephens, John L., 1792 Glenwood Road, Milton, West Virginia, convicted on April 9, 1975, in the United States District Court, Charleston, West Virginia.

Taylor, James E., 421 Coats Street, Coatsville, Pennsylvania, convicted on February 15, 1962 and January 5, 1966, in the Criminal Court, Chester County, Pennsylvania.

Toftdahl, Robert P., Star Route 1481 Road 6 SW, Quincy, Washington, convicted on December 19, 1975, in the Grant County Superior Court, Ephrata, Washington.

Utz, Carl C., 2331 Central Avenue, McKinleyville, California, convicted on April 30, 1948, in the Superior Court, State of California.

Vig, Leroy T., Box 5, Pilger, Nebraska, convicted on February 24, 1967, in the Stanton County District Court, Nebraska.

Waits, James G., P.O. Box 937, Destin, Florida, convicted on December 19, 1947, in the 3rd Judicial Circuit Court, St. Clair County, Illinois.

Webb, Thomas P., RFD 1, Sharon, Vermont, convicted on January 30, 1974, in the Texas District Court, Amarillo, Texas.

White, Thomas L., 1011-B Mary Ann Drive, Lynchburg, Virginia, convicted on June 23, 1975, in the Amherst Circuit Court, Amherst, Virginia.

Whitehead, Gary J., 435 Elm Street, Milton, Wisconsin, convicted on March 4, 1974, in the Branch II, County of Rock, State of Wisconsin.

Wilson, Thomas T., 201 Barbara Way, Del Rio, Texas, convicted on July 23, 1970, in the District Court, Austin, Texas.

Wright, Linda L., 2113 East Marshal, Spokahe, Washington, convicted on November 19, 1973, in the Superior Court, Spokane, Washington.

Zimmerman, Seldon F., Route 1, Lake Ann Road, Interlochen, Michigan, convicted on January 22, 1963, in the Circuit Court of Benzie County, Michigan.

Ziolkowski, James P., Route 2, Box 42K, Mosinee, Wisconsin, convicted on April 2, 1975, in the Circuit Court of Marathon County, Wausau, Wisconsin.

Zurndorfer, Frederick W., 2614 N. Clark Street, Chicago, Illinois, convicted on March 26, 1970, in the United States Fifth District Court, Southern District of Texas, Laredo.

[FR Doc. 80-36239 Filed 11-19-80; 8:45 am]

BILLING CODE 4810-31-M

V45 N020 80 UMI

Sunshine Act Meetings

Federal Register
Vol. 45, No. 226
Thursday, November 20, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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National Labor Relations Board	10
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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10:00 a.m., November 25, 1980.

PLACE: 2033 K Street NW., Washington, D.C., Fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Foreign Brokers and Traders

The Commission will consider recommendations from the Office of the General Counsel to adopt final rules concerning requirements for obtaining necessary information from foreign brokers and traders and to publish these final rules in a Federal Register release.

Insurance of Commodity Accounts

The Commission will discuss the possibility of conducting a study to determine whether a commodity insurance program should be established to deal with insolvencies of futures commission merchants.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2112-80 Filed 11-17-80; 4:37 pm]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:45 a.m., Tuesday, November 25, 1980.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matter.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2117-80 Filed 11-18-80; 11:14 am]

BILLING CODE 6351-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of changes in subject matter of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, November 17, 1980, the Corporation's Board of Directors determined, on motion of Director William M. Isaac (Appointive), seconded by Acting Chairman of the Board of Directors H. Joe Selby, who was acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public of the following matters:

Application of Northeastern Bank of Pennsylvania, Mount Pocono, Pennsylvania, an insured State nonmember bank, for consent to purchase the assets of and assume the liability to pay deposits made in The First National Bank of Mocanaqua, Mocanaqua, Pennsylvania, and for consent to establish the sole office of The First National Bank of Mocanaqua as a branch of the resultant bank.

Recommendation regarding First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania, and First Pennsylvania Corporation, Philadelphia, Pennsylvania.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,506-L (amended)—Wilcox County Bank, Camden, Alabama.

Case No. 44,519-NR (amended)—United States National Bank, San Diego, California.

Case No. 44,564-L—The Mission State Bank & Trust Company, Mission, Kansas.

Case No. 44,573-L—State Bank of Clearing, Chicago, Illinois.

Memorandum and Resolution re: American Bank & Trust Company, New York, New York.

Memorandum and Resolution re: Centennial Bank, Philadelphia, Pennsylvania.

Memorandum and Resolution re: Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico.

Memorandum and Resolution re: North Point State Bank, Arlington Heights, Illinois.

Memorandums and Resolutions re: Tri-City Bank, Warren, Michigan (two memorandums).

Memorandum and Resolution re: Surety Bank & Trust Company, Wakefield, Massachusetts.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: November 17, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2118-80 Filed 11-18-80; 11:16 am]

BILLING CODE 6714-01-M

4

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 75837, November 17, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., November 19, 1980.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number, and Company

RR-9: EL 79-20, Buckeye Power, Inc. v. Cincinnati Gas & Electric Co.

Kenneth F. Plumb,

Secretary.

[S-2114-80 Filed 11-18-80; 9:19 am]

BILLING CODE 6450-85-M

5

FEDERAL ENERGY REGULATORY COMMISSION.

November 18, 1980.

TIME AND DATE: 10 a.m., November 25, 1980.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Power Agenda—470th Meeting, November 25, 1980, Regular Meeting

CAP-1. Project 906, Virginia Electric & Power Co.

CAP-2. Project No. 3046, Arkansas Valley Electric Cooperative and Arkansas Electric Cooperative; Project No. 3147, Arkansas Power & Light Co.; Project No. 3201, City of Conway, Arkansas.

CAP-3. Docket No. EL80-38 and Project No. 405, the Susquehanna Power Co., and Philadelphia Electric Power Co.; Project No. 1025, Safe Harbor Water Power Co.; Project No. 1881, Pennsylvania Power & Light Co.; Project No. 1888, York Haven Power Co.

CAP-4. Docket No. ER81-82-000, Southern California Edison Co.

CAP-5. Docket No. ER81-19-000, Tapoco, Inc.

CAP-6. Docket No. ER80-573, Southwestern Public Service Co.

CAP-7. Docket No. ER80-571, the Toledo Edison Co.

CAP-8. Docket No. ER80-363, Delmarva Power & Light Co.

CAP-9. Docket No. ER78-490, Ohio Edison Co.; Docket No. ER80-673, Ohio Power Co.

CAP-10. Docket No. ER79-121, Utah Power & Light Co.

CAP-11. Docket Nos. ER80-66, ER80-67, ER80-68, and ER80-220, New England Power Co.

CAP-12. Docket No. EL79-25, New England Power Co.

CAP-13. Docket No. EL80-22, General Public Utilities Corp.

CAP-14. Docket No. EF79-4051, Southwestern Power Administration.

CAP-15. Docket No. EC80-7, Central Kansas Power Co.

CAP-16. Docket No. ES80-77, Gulf States Utilities Co.

Miscellaneous Agenda—470th Meeting, November 25, 1980, Regular Meeting

CAM-1. Docket No. RM80-75, interim rule amending § 287.202(a) of the Commission's Regulations under the Natural Gas Policy Act of 1978.

CAM-2. Docket No. RM80-7, final rule governing the maximum lawful price for pipeline, distributor, or affiliate production Docket No. RM80-6, pricing of pipeline and affiliate production under the Natural Gas Act.

Gas Agenda—470th Meeting, November 25, 1980, Regular Meeting

CAG-1. Docket No. RP81-7-000, Florida Gas Transmission Co.

CAG-2. Docket No. RP81-8-000, Michigan Consolidated Gas Co. and Interstate Storage Division.

CAG-3. Docket No. RP81-0-000, MIGC, Inc.

CAG-4. Docket No. RP81-10-000, Western Gas Interstate Co.

CAG-5. Docket No. TA81-1-53 (PGA-1), Kansas Nebraska Natural Gas Co., Inc.

CAG-6. Docket Nos. RP75-73 (AP79-4), TA80-1-17 (PGA80-2, IPR80-2, PGA80-1, AP80-1, and LAFUT80-1), TABO-1-17 (AP80-2) and TABC-1-17 (PGA80-1, IPR80-2, DCA80-1, AP80-1 and LAFUT80-1), Texas Eastern Transmission Corp.

CAG-7. Docket Nos. RP78-51 and RP79-1, Colorado Interstate Gas Co.

CAG-8. Docket Nos. RP74-82 (remand) and RP76-95, et al., Columbia Gas Transmission Corp.; Docket No. RP74-81 (remand), Columbia Gulf Transmission Co.

CAG-9. Docket No. RI79-2, Logue & Patterson, Inc.

CAG-10. FERC gas rate schedule Nos. 318 and 457, Gulf Oil Corp.

CAG-11. Docket Nos. CI79-29, CI77-711, CI78-962, CI77-419 and CI78-1151, Transco Exploration Co.

CAG-12. Docket No. CP79-444, Tennessee Gas Pipeline Co., a division of Tenneco Inc. and Columbia Gulf Transmission Co.

CAG-13. Docket Nos. CP80-43, CP66-110, et al., CP70-19, et al., CP70-100, et al., CP71-222, et al., and CP71-299, et al., Great Lakes Gas Transmission Co.

CAG-14. Docket No. CP60-140, Transcontinental Gas Pipe Line Corp.

CAG-15. Docket No. CP80-252, Natural Gas Pipeline Co. of America.

CAG-16. Docket No. CP80-470, Arkansas Louisiana Gas Co.

CAG-17. Docket No. CP80-559, Columbia Gas Transmission Corp.

CAG-18. Docket No. CP80-391, Natural Gas Pipeline Co. of America and Columbia Gulf Transmission Co.

CAG-19. Docket No. CP80-516, Columbia Gas Transmission Corp.

CAG-20. Docket No. CP80-465, National Fuel Gas Distribution Corp.

Power Agenda—470th Meeting, November 25, 1980, Regular Meeting

I. Licensed Project Matters

P-1. Reserved.

II. Electric Rate Matters

ER-1. Docket No. ER80-793, Kansas Gas & Electric Co.

ER-2. Docket Nos. ER80-116 and ER80-511, Niagara Mohawk Power Corp.

ER-3. Docket No. ER77-533 (phase II), Louisiana Power & Light Corp.

ER-4. Docket No. EF79-1021, Alaska Power Administration (Snettisham project).

ER-5. Docket No. EL78-24 (phase I), Municipal Electric Utilities Association of the State of New York v. Power Authority of the State of New York; Docket No. EL 78-37 (phase I), Village of Ilion, New York v. Power Authority of the State of New York.

ER-6. Docket No. E-9563, Bonneville Power Administration (Wheeling rates).

Miscellaneous Agenda—470th Meeting, November 25, 1980, Regular Meeting

M-1. Reserved.

M-2. Reserved.

M-3. Docket No. RM80-33, final rules for part 270, subpart B, sections 270.201, 270.202, and 270.204.

M-4. Docket No. GP81- , NGPA well category determination, Dugan Production Corp., USGS Docket No. NM-0005-08-ER; Ferc No. JD81-1589.

M-5. Docket No. RA80-41, Eagle's Chevron Service.

M-6. Docket No. GP80-110, State of Ohio, section 108 NCPA determination, PSC Natural Resources Corp., Pallant No. 1 well et al., JD80-42000 through JD80-42003 and JD80-42008 through JD80-42013.

Gas Agenda—470th Meeting, November 25, 1980, Regular Meeting

I. Pipeline Rate Matters

RP-1. Docket Nos. RP77-98 and RP78-78, Natural Gas Pipeline Co. of America.

RP-2. Docket No. RP78-12, East Tennessee Natural Gas Co.

II. Producer Matters

CI-1. Reserved.

III. Pipeline Certificate Matters

CP-1. Docket No. RM78-4, proposal by the Federal Energy Regulatory Commission relating to the incorporation of compensation provisions in curtailment plans Docket Nos. RP71-130, RP72-58 and RP75-111, Texas Eastern Transmission Corp.; Docket No. RP72-89, Columbia Gas Transmission Corp.; Docket Nos. RP72-99 and TC79-6, Transcontinental Gas Pipe Line Corp.; Docket Nos. RP74-49 and RP76-34, Northwest Pipeline Corp.

CP-2. Docket No. TC81-15-000, Panhandle Eastern Pipe Line Co.

CP-3. Docket No. TC81-16-000, Kansas-Nebraska Natural Gas Co., Inc.

Kenneth F. Plumb,

Secretary.

[S-2120-80 Filed 11-18-80; 3:22 pm]

BILLING CODE 6450-85-M

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FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., November 26, 1980.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202-377-6677).

MATTERS TO BE CONSIDERED:

Limited Facility—Norfolk First Federal Savings & Loan Association, Norfolk, Nebraska.

Concurrently Submitted Branch Office Applications—Palmetto Federal Savings & Loan Association, Palmetto, Florida. AmeriFirst Federal Savings & Loan Association, Miami, Florida.

[S-2115-80 Filed 11-18-80; 10:22 am]

BILLING CODE 6720-01-M

V45 N0 2080 UMI

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FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 75414, November 14, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9 a.m., November 18, 1980.

CHANGES IN THE MEETING: Addition of the following items to the open session:

12. Docket No. 80–45: Agreement Nos. 10386, as Amended, 10388, 10382, as Amended, and 10389—Cargo Revenue Pooling/Equal Access Agreements in the United States/Argentine Trades—Consideration of revision to order instituting proceeding.

13. Agreement No. 10382–2: Modification to the Argentina/U.S. Gulf Pool to admit Transportacion Maritime Mexicana S.A. as a member and for other purposes.

Addition of the following item to the closed session:

1. Promotional Activities of Royal Hawaiian Cruises, Inc.

[S–2113–80 Filed 11–17–80; 3:07 pm]

BILLING CODE 6730–01–M

8

FEDERAL RESERVE SYSTEM.

Board of Governors.

TIME AND DATE: 10 a.m., Wednesday, November 26, 1980.

PLACE: Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20661.

STATUS: Open.

MATTERS TO BE CONSIDERED: Summary Agenda: Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be resolved with a single vote unless a member of the Board requests that the item be moved to the discussion agenda:

1. Proposed amendment to Regulation C (Home Mortgage Disclosure) to implement changes required by the Housing and Community Development Act of 1980.

Discussion Agenda:

1. Proposed revision of Regulation Z (Truth in Lending) in connection with the passage of the Truth in Lending Simplification and Reform Act. (Proposed earlier for public comment, Docket No. R–0288)

2. Proposed procedures for handling protested applications.

3. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: November 18, 1980.

Theodore E. Allison,
Secretary of the Board.

[S–2121–80 Filed 11–18–80; 3:53 pm]

BILLING CODE 6210–01–M

9

[Ex Parte No. 366]

INTERSTATE COMMERCE COMMISSION.

Legal Assistance Referral Service.

ACTION: Notice of Informal Conference.

SUMMARY: This notice invites members of the public to participate in an informal conference to discuss the development of regulations to facilitate the operation of a legal assistance referral program for parties otherwise financially unable to participate in Commission proceedings. This implements the Commission's decision of October 10, 1980 in this proceeding.

DATE: Wednesday, December 17, 1980, at 9:30 a.m.

ADDRESS LOCATION: Hearing room A, Interstate Commerce Commission, 12th Street and Constitution Avenue NW., Washington, DC 20423.

[S–2111–80 Filed 11–17–80; 4:15 pm]

BILLING CODE 7035–01–M

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NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 2:30 p.m., Monday, November 24, 1980.

PLACE: Board conference room, sixth floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: Consideration of applicants qualified for appointment to Administrative Law Judge.

CONTACT PERSON FOR MORE INFORMATION: Robert Volger, Acting Executive Secretary, Washington, D.C. 20570; telephone: (202) 254–9430.

Dated: Washington, D.C., November 17, 1980.

By direction of the Board.

Robert Volger,
Acting Executive Secretary, National Labor Relations Board.

[S–2116–80 Filed 11–18–80; 10:29 am]

BILLING CODE 7545–01–M

11

[NM–80–38]

NATIONAL TRANSPORTATION SAFETY BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 76314, November 18, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., Tuesday, November 25, 1980.

CHANGE IN MEETING: A majority of the Board has determined by recorded vote that the business of the Board requires revising the agenda of this meeting and that no earlier announcement was possible. The agenda as now revised is set forth below.

STATUS: The first three items will be open to the public; the last two items will be closed to the public under Exemptions 9B and 10, respectively, of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Kennedy Flite Center, Gates Learjet Model 23, Richmond, Virginia, May 6, 1980.

2. *Safety Effectiveness Evaluation* of Rail Rapid Transit Safety.

3. *Letter* to Semmes, Bowen, and Semmes re reconsideration of Marine Accident Report—Collision of U.S. Coast Guard Cutter *Blackthorn* and U.S. Tankship *Capricorn*, Tampa Bay, Florida, January 28, 1980.

4. *Aircraft Accident Report*—Air Canada McDonnell Douglas DC–9–32 (CF–TLU), East of Boston, Massachusetts, September 17, 1979.

5. *Opinion and Order*—Petition of Jensen. Docket SM–2523; disposition of Administrator's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

November 18, 1980.

[S–2119–80 Filed 11–18–80; 11:53 am]

BILLING CODE 4910–58–M

federal register

Thursday
November 20, 1980

Part II

Department of Transportation

Federal Aviation Administration

Export Airworthiness Approvals

V 45 N 0 20 0 80 0 UMI

V 45 NO 226 1980 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 17502; Notice No. 80-20]

Export Airworthiness Approvals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This nofice proposes to amend the aircraft certification procedural rules contained in the Federal Aviation Regulations (FAR), to provide for the issuance of special export certificates of airworthiness for restricted category aircraft. As proposed, the amended rule would permit an exporter to obtain such a certificate for a restricted category aircraft under the same procedures and with the same privileges now applicable in connection with aircraft having standard airworthiness certificates. The proposed rule will considerably reduce the time and paperwork involved in the export of restricted category aircraft, as it will eliminate the need for processing exemptions from the present rule. In this regard, the proposal is in accordance with Executive Order 12044, which requires that regulations achieve their goals effectively and efficiently, without imposing unnecessary burdens. The proposed rule is in response to the petition of a manufacturer who cites the burden imposed on it and persons similarly situated under the present rule.

DATES: Comments must be received on or before January 19, 1981.

ADDRESSES: Send all comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 17502, 800 Independence Avenue SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Ave. SW., Washington, D.C. 20591. Comments delivered must be marked "Docket No. 17502." Comments may be inspected in Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Eli S. Newberger, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, 800 Independence Ave. SW., Washington, D.C. 20591, telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. In addition, commenters are encouraged to address the environmental, energy, economic, or social impact that might result from adoption of the proposal contained in this notice. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 17502." The postcard will be date/time stamped and returned to the commenter.

Availability of Notice

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

Background

Current export airworthiness procedures were first proposed in Federal Aviation Agency Notice No. 63-15 (28 FR 3728), published on April 17, 1963, as an amendment to Part 1 of the Civil Air Regulations (CAR). By the time the final rule was issued, however, Part 1 of the CAR had been recodified as Part 21 of the Federal Aviation Regulations (FAR), and the new amendment was issued as Subpart L of Part 21 (30 FR 8464, July 2, 1965).

The FARs do not require an aircraft to have an Export Certificate of Airworthiness in order to be exported. In accordance with the bilateral agreements between the United States and other countries, the certificate serves as a certifying statement which will be given the same validity by the importing country as a certificate issued by its own aviation authority.

The regulations establish eligibility criteria for the issuance of Export Certificates of Airworthiness for aircraft in two situations: first, when an aircraft is to be exported to a particular foreign country; secondly, when an aircraft is to be flown to several foreign countries for the purpose of demonstration and eventual sale. In the first case, the exporter is eligible for an Export Certificate of Airworthiness under § 21.329 prior to the aircraft's departure from the United States. This Export Certificate of Airworthiness certifies to a particular importing country that the aircraft conforms to its type certificate and is in a condition for safe operation. However, this certificate is only valid in the particular country to which the aircraft is being exported.

In the second situation, under § 21.339, the exporter of an aircraft that has a standard airworthiness certificate may obtain, prior to departure from the United States, a special export airworthiness approval under § 21.339 for any number of countries in which a prospective purchaser is sought. Upon finding a buyer the exporter has, in effect, a valid Export Certificate of Airworthiness for the country in which the aircraft is to be sold, relieving the exporter of the need to return the aircraft to the United States for a certificate under § 21.329. However, § 21.339, which was adopted in 1965, does not make this procedure available for restricted category aircraft sales. A restricted category aircraft is one intended for certain "special purpose operations," such as agricultural uses, and which is type certificated in accordance with FAR § 21.25, i.e., meets the airworthiness requirements of an aircraft category except for those the Administrator finds inappropriate for the special purpose involved. Prior to 1965, export approvals were governed by the administrative procedures contained in FAA Manual of Procedures (MOP) 2-4. MOP 2-4, Part 1, paragraph 13, permitted issuance of "blanket" (equivalent to the current "special") export certificates of airworthiness for restricted category aircraft.
However, restricted category aircraft were inadvertently excluded when the administrative procedures were codified into § 21.339 (see Amendment 21-2 to Part 21 of the FAR). Since there was no intent to change the previous export airworthiness procedures on codification, this NPRM proposes to amend § 21.339 to include restricted category aircraft.

Discussion of Proposal

A petition for rule making, filed by the Grumman American Aviation Corporation of Elmira, New York, requests that § 21.339(a) be amended to permit issuance of special export airworthiness certificates for restricted category aircraft manufactured by it and for products of other exporters similarly situated. The petitioner specifically cites the situation in connection with its Grumman Model G-164 series agricultural aircraft (Ag-Cat). In support of its request, the petitioner makes three basic arguments.

First, the petitioner contends that aircraft such as the Ag-Cat are needed throughout the world for the production and protection of food supplies. In connection with this point, the petitioner notes that permitting the special certificate procedure would greatly facilitate exporting such aircraft and thereby help the U.S. balance of trade. Such an action would be in the U.S. public interest.

Second, the petitioner contends that excluding restricted category aircraft from the special certificate procedure places an unfair economic burden on the manufacturers.

Finally, the petitioner contends that permitting the procedure for restricted category aircraft would not compromise safety, since the aircraft are already eligible for an Export Certificate of Airworthiness under § 21.329(a).

With respect to the petitioner's first and second contentions, the FAA agrees the existing procedures cause an additionl financial expense and delay when compared to the procedures for exporting a standard category aircraft that is to be flown to several foreign countries for the purpose of sale. For example, additional expense and delay would be incurred when a newly manufactured restricted category aircraft that has been exported for demonstration to a particular country under § 21.329 is sold to a person in another foreign country for which the aircraft does not have an Export Certificate of Airworthiness. In this instance, the aircraft would have to be returned to the United States for the issuance of the Export Certificate of Airworthiness under § 21.329, for the country in which the buyer is located, and delivered again to the foreign purchaser. This is not the case with a standard category aircraft which has a special export airworthiness approval under § 21.339. Although an exporter of restricted category aircraft can petition for an exemption from § 21.339 each time a sales demonstration in foreign countries is required, the exemption process is a burden to both the exporter and the FAA. Moreover, repetitive exemptions indicate a need to amend the rule.

The FAA also agrees that amending this rule would not result in a reduction in safety. Under the proposed amendment, any restricted category aircraft that would be covered by the new procedure would have to meet the FAA requirements for a U.S. restricted category airworthiness certificate under § 21.185. The aircraft would also, under § 21.339(e), have to meet the importing country's special airworthiness requirements. Since these two requirements also appear in § 21.329 for export certificates, the aircraft would be held to the same high standards of airworthiness that have always been required for export of restricted category aircraft.

The FAA has analyzed the effect of the proposed rule under the bilateral agreements concerning certificates of airworthiness currently in effect between the United States and certain other countries. None of these bilateral agreements specifically exclude restricted category aircraft from aircraft eligible for importation. Thus, the proposed rule does not contravene any of these agreements. There are a number of countries which place limitations on the import of restricted category aircraft; such limitations appear in those countries' "special requirements" (as published in FAA Advisory Circular 21-2) and under § 21.339 must be met by any exporter. The proposal therefore does not interfere with any country's internal rules. Nevertheless, an operator of a restricted category aircraft must obtain permission from each country prior to flight in that country, in accordance with international agreements and § 21.335(d). Such permission need not be obtained as a condition of issuance of the special export airworthiness certificate, but must be obtained prior to flight in any foreign country. Further, any operating limitations must be made known to the civil air authority of each country in which the aircraft is to be flown at the time permission is sought for flight in the particular country, under § 21.335(a). Operating limitations are necessary because of the fact that, for type certification, restricted category aircraft are not required to comply with those airworthiness standards that the FAA finds inappropriate for the special purpose operation for which the aircraft is to be used. Accordingly, the FAA imposes stringent limitations on these aircraft when operating in the United States.

The regulatory evaluation prepared in connection with this notice indicates that the proposed rule would result in no costs to either the private sector consumers or the government sector. Environmental and energy impacts were also found to be minimal or nonexistent.

This proposed amendment will eliminate the financial burden that exporters now incur in certain circumstances when it is necessary to return aircraft to the United States for Export Certificates of Airworthiness. In addition, the proposal will eliminate procedural burdens and time delays associated with processing paperwork that would be required to avoid the unnecessary burdens of the present rule. For these reasons the proposed rule is fully compliant with the President's directive (E.O. 12044) that regulations impose no unnecessary burdens on the economy, on individuals, or on public or private organizations.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend 14 CFR Part 21 by revising § 21.339(a) to read as follows:

§ 21.339 Special export airworthiness approval for aircraft.

* * * * *

(a) The aircraft possesses either—

(1) A standard U.S. certificate of airworthiness; or

(2) A special U.S. certificate of airworthiness in the restricted category issued under § 21.185;

* * * * *

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.45)

The Federal Aviation Administration has determined that this document is not significant under the provision of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in Washington, D.C., on November 10, 1980.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 80-35880 Filed 11-19-80; 8:45 am]

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November 20, 1980

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federal register

Thursday
November 20, 1980

Part III

Department of Transportation

Federal Aviation Administration

Aircraft Engine Regulatory Review Program; Aircraft Engine and Related Powerplant Installation Proposals

DEPARTMENT OF TRANSPORTATION

14 CFR Parts 23, 25, 27, 29, and 33

[Docket No. 16919; Notice 80-21]

Aircraft Engine Regulatory Review Program; Aircraft Engine and Related Powerplant Installation Proposals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making (NPRM).

SUMMARY: This notice proposes to upgrade the airworthiness standards applicable to the type certification of aircraft engines and of aircraft with respect to engine installations. In general, the substance of the notice is based on proposals discussed at the Aircraft Engine Regulatory Review Conference held January 16–19, 1978. The proposed changes implement the President's regulatory reform program by simplifying a number of technical requirements, by eliminating unnecessary rules where appropriate, and by removing administrative burdens on regulated persons and the FAA through amendment of regulations from which exemptions have been granted. The proposals update and modernize technical requirements to reflect engineering advances in the state of the art, and take into account accumulated service experience and recommendations of the National Transportation Safety Board.

DATES: Comments must be received on or before February 18, 1981.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 16919, 800 Independence Avenue, SW., Washington, D.C. 20591 or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 16919. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Marvin J. Walker, Regulatory Review Branch (AVS-22), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Telephone: (202) 755-8714.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy or economic impact that might result from adoption of proposals contained in this notice are invited. Substantive comments should be accompanied by cost estimates. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before February 18, 1981, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact concerned with this proposal will be filed in the Rules Docket. Commenters wishing acknowledgement of mailed comments should enclose a stamped, self-addressed postcard.

Each proposal in this notice is numbered separately. Persons submitting comments should refer to proposals by these numbers, or by the sections of the regulations to which they relate. Reference to conference agenda proposal numbers (or agenda item numbers) should not be made without also referring to the corresponding proposal numbers used in this notice.

Availability of Additional Copies of Notice

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone: (202) 426-8058. Each communication must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11.2 which describes the application procedure.

Background

Part 33 of the Federal Aviation Regulations, which set forth airworthiness standards for aircraft engines, became effective February 1, 1965. As adopted, Part 33 was essentially a nonsubstantive recodification of previous Part 13 of the Civil Air Regulations.

The first significant revision of Part 33 occurred in Amendment 33-6, effective October 31, 1974. As to its substantive technical content, that amendment had a three-fold objective. First, Amendment 33-6 updated engine and related aircraft airworthiness standards in recognition of the changing interface between engine manufacturers and airframe designers. In this connection, the revised standards covered such areas as engine ratings and operating limitations, fire prevention, accessory attachments and instrument connection, and systems for hydraulics, bleed air, fuel, and lubrication. The revisions resulting from these changes have proved to be technically acceptable. Second, Amendment 33-6 incorporated a number of requirements applicable to engines intended for use in supersonic airplanes. Third, Amendment 33-6 imposed stricter type certification standards on new engines than had previously been in effect. These standards included requirements concerning, among other things, low cycle fatigue, engine mounting, rotor design and tests, foreign object ingestion, windmilling, and induction system icing.

An indication for need of a Review became evident from the duplicate requirements placed on airframe and engine manufacturers. Subsequent to the adoption of Amendment 33-6, aircraft and engine developments have indicated that a number of items formerly supplied by airframe manufacturers are now furnished by engine manufacturers as integral parts of the engines. Included in this class are items such as fuel strainers and filters, oil tanks, oil strainers and filters, engine controls, lines, fittings, and components, and shutoff means. From the regulatory standpoint, in many cases, it is desirable to relieve the airframe manufacturer from a particular requirement if the engine manufacturer has already complied. Because many similar standards currently apply to both airframe and engine manufacturers, the Review is intended to revise such regulations to allow compliance by either the engine or airframe manufacturer, but not to require compliance by both. The following table cross-references the rules which would be amended to eliminate overlapping requirements:

Aircraft certification section [1]	Subject	Engine certification section [2]
xx.997	Fuel strainer or filter	33.67
xx.1013	Oil tanks	33.71
xx.1015	Oil tank tests	33.71
xx.1019	Oil strainer or filter	33.71
xx.1143	Engine controls	33.67
xx.1183	Lines, fittings and components.	33.17

Aircraft certification section [1]	Subject	Engine certification section [2]
xx.1189	Shutoff means	33.71

[1] Parts 23, 25, 27 and 29.
[2] Part 33.

A further indication of the need for a review was a belief that many of these rules were unnecessarily restrictive and did not allow alternate methods that had previously been proved satisfactory through many hours of safe flight. Also, the need for an Engine Regulatory Review became evident from the number of exemptions issued in this area in which it was found that many of the rules could be broadened or eased without derogating safety.

A further objective in implementing a Review Program was to solicit proposals for change from all knowledgable interested persons. The FAA has welcomed and benefitted from the participation of a number of aviation trade associations, foreign airworthiness authorities, manufacturers labor unions, technical society committees, an aviation trade journal, individuals, and other U.S. Government agencies. This diverse group with its large fund of expertise has made significant worthwhile contributions to all phases of the Review Program to date.

On June 9, 1977, the FAA gave notice of an Aircraft Engine Regulatory Review Program and invited interested persons to submit proposals for consideration during a forthcoming conference (Notice 77-6; 42 FR 29688; June 9, 1977). In that notice the FAA announced that it would prepare a conference agenda containing a compilation of the proposals submitted and other information on the conference arrangements.

In response to Notice 77-6, the FAA received 210 proposals, of which 134 were placed on the conference agenda. The remaining 76 proposals were excluded because they fell outside the scope of the review program, or for other reasons outlined in Notice 77-6.

On October 17, 1977, the FAA announced that the Aircraft Engine Regulatory Review Conference would be held in Los Angeles, California, January 16-19, 1978, and that the conference agenda was available (Notice 77-6A; 42 FR 55474, October 17, 1977). The conference subsequently convened for four days and remained in session until each proposal on the agenda had been discussed. Over 100 individuals from outside the FAA attended the conference representing the full range of interest groups that had earlier submitted proposals. A transcript of the discussions has been placed in the docket.

Overview of Proposals

The conference agenda, the conference discussions, and additional written material submitted at the conference by attendees, which has been entered in the docket, have provided the basis for this notice of proposed rule making.

A number of proposals contained in the conference agenda are not included in this notice. These proposals fall into two general categories: (1) Those withdrawn by their proponent; and (2) those removed from further consideration by FAA under the Aircraft Engine Regulatory Review Program. Appendix I of this notice lists the proposals in the first category and Appendix II lists those in the second category. Reasons are given for the removal of each proposal listed in Appendix II.

To the extent, practicable, the airworthiness standards in the aircraft certification parts (Parts 23, 25, 27 and 29) should be consistent throughout those parts and should also be consistent with related standards in the engine certification part (Part 33). To achieve that consistency, the FAA has added several proposals which are considered necessary to parallel certain proposals in the conference agenda.

To avoid unnecessary repetition, a proposal developed to achieve consistency may not be set forth in its entirety if it is substantively identical to another proposal that is expressly set forth in this notice. In such an instance, a short-form proposal is used which refers to the express proposal. Where a short-form proposal is used, however, it may be necessary (if the proposal is adopted as a final rule) to change paragraph designations, cross-references, or aircraft terminology (e.g., "airplane" to "rotorcraft" or vice versa) that appear in the express proposal.

In addition to minor editorial and other nonsubstantive changes, this notice contains a number of proposals which were not on the conference agenda. Such proposals include the following: (1) A Part 23 requirement (§§ 23.903 (a) and (b)) that design precautions be taken to protect such aircraft in the same manner as transport category aircraft, because of the increased use of turbine engines in Part 23 aircraft and the persistent incidence of uncontained rotor failures; (2) An amendment to § 23.975 to specify that for all reciprocating engine fuel systems, including those with fuel injection, a vapor return line from the carburetor or fuel injection pump to the vapor space of the fuel tank be made mandatory; (3) Revisions to §§ 25.939 and 33.65 that were deferred from Notice 75-31 (40 FR 29410; July 11, 1975) calling for determination of surge and stall characteristics; (4) Amendments to §§ 23.903(a), 25.903(a), and 25.1091(e) to extend the foreign object ingestion criteria of § 33.77 to portions of aircraft induction systems such as splitters and liners which are vulnerable to impact damage and to amend and move the foreign object ingestion requirements for the engines to the appropriate sections on engines; (5) Expand the foreign object ingestion tests specified in § 33.77 to include acceleration and deceleration in rainfall conditions, and to set a time requirement on the maintenance of power or thrust limits after bird ingestion; and (6) An amendment to § 33.71 to require the engine manufacturer to design for the effect of negative acceleration on engine lubrication, with due regard to the anticipated service of the engine.

In addition to the foregoing, this notice contains one other set of proposals that were not included in the Conference Agenda. As a result of general aviation accidents caused by fuel starvation, the National Transportation Safety Board (NTSB) has recommended an amendment to Part 23 requiring that fuel tank selector valves incorporate devices to prevent movement to "off" positions without separate lever-release action by the pilot (Safety Recommendation A-79-72 issued September 7, 1979). The NTSB has not recommended any changes with respect to fuel selection valves on currently operating airplanes. The FAA concurs and is proposing changes to § 23.995 that would carry out the intent of the recommendation.

In addition, the NTSB, following its investigation of an accident involving bird ingestion, recommended that there be a requirement for engine tests with an increased number of ingested birds consistent with the numbers and sizes of birds encountered during service experience. The FAA has examined the available bird ingestion records of the NTSB, the FAA's own records, and information supplied by engine manufacturers. The records do not provide sufficient information on which to base stricter bird ingestion requirements at this time. The FAA is also informed by the Aerospace Industries Associates (AIA) that a committee established by that organization has independently reached the same conclusion. In view of the present lack of basis for a rule change, the FAA is considering studies to

ascertain the number and sizes of birds being ingested, and airport operators are implementing programs to reduce bird

efficiency through better performance, and make aircraft structures less

Commenters are requested also to identify those requirements that would have minimal cost impacts. Commenters

(d) Each turbine engine powerplant must be constructed, arranged and installed to provide continued safe

Although turbine engine manufacturers are making every effort to reduce the probability of uncontained

be provided. While some arrangements have been used that vent the vapor

ascertain the number and sizes of birds being ingested, and airport operators are implementing programs to reduce bird populations at airports.

While a great majority of the proposals being made are relieving in nature or provide clarification, there are a few that impose stricter requirements. In this category, in addition to the fuel tank selector valve discussed above, are the following, some of which have been mentioned previously in other categories: A new requirement, § 23.903(b), would be placed on Part 23 airplane manufacturers to take design precautions to protect the airplane from uncontained rotor and rotor blade failures. A parallel requirement in § 33.19 would require engine manufacturers to define the effects of high energy broken rotor blade fragments that could escape from the engine case.

In another area, a new provision for transport category airplanes, § 25.939(b) and a similar one for engines, § 33.65, would require tests or analyses to determine the effects of controlled variables such as air flow and fuel flow on surge and stall characteristics. These determinations will establish operating margins to enable flight crews to avoid surge and stall conditions that could cause engine malfunction or damage.

Section 33.67 would be revised to require demonstration of fuel filter protective capability and capacity.

A new § 33.71(f) would require that integral lubrication systems be designed to function in the negative acceleration portion of transport caregory airplane flight envelopes to help ensure positive lubrication during all flight regimes.

Finally, with respect to foreign object ingestion, § 33.77 would be amended to require the 4-pound bird test while a new § 33.94 would require tests for containment of critical broken compressor, fan, and turbine blades.

All of the foregoing proposals that impose stricter requirements are discussed in more detail under the separate section headings that follow.

In addition to the recommendations of the NTSB, the FAA has considered the service experience of operators in determining applicability of the proposed rules. Records of service experience available to the FAA through its Service Difficulty Reporting Program do not indicate a need for the proposed requirements be made retroactive to operating aircraft. As indicated above, those few proposals that would apply more stringent standards impose additional design or test requirements on newly developed products to show engine integrity, prove engine containment capability, improve efficiency through better performance, and make aircraft structures less susceptible to engine fire and rotor or rotor blade failure. Such test and design requirements are appropriate for new engines and aircraft to help ensure an adequate level of safety; however, these requirements are not applicable to the currently operating fleet. Unsafe conditions that infrequently appear in connection with engines and related parts of existing aircraft are adequately dealt with by airworthiness directives to correct specific defects. On the other hand, the more stringent proposals of those contained in this notice are in the nature of proving tests or design precautions to enhance the safety of future propulsion systems. Therefore, the proposals do not contain retrofit requirements.

Changes to §§ 23.901, 23.905, 23.1183, 25.901, 25.905, 25.1183, 27.1183, and 29.1183 are proposed which recognize the approved utilization in service of engines and propellers certificated under rules that preceded current Parts 33 and 35, respectively.

Economic Impact

A majority of the proposals yield cost benefits by eliminating unnecessarily stringent design requirements, by simplifying and clarifying existing rules, and by eliminating redundant tests without compromising safety. It is anticipated that the proposed amendment will result in savings to the private sector, to consumers, and to the governmental sector by lowering design, testing, and administrative costs incurred in the type certification of engines.

The foregoing cost savings are partially offset by a slight increase in design costs for new products resulting from the additional design, analysis, or test requirements identified above. One requirement in this category is proposed new § 33.94 which requires an engine test for blade containment, with the possibility of major damage to at least one engine and a consequent measurable cost increase. However, it is believed that this test for a typical engine for a transport category airplane would represent only a fraction of 1 percent of the total development cost of a new engine.

Since the FAA does not have access to information needed to prepare detailed cost impact estimates for these requirements, commenters are requested to provide such information where appropriate, particularly where the requirement will have sufficient impact on the overall cost of the development program of the cost of manufacture to appreciably affect unit price. Commenters are requested also to identify those requirements that would have minimal cost impacts. Commenters are encouraged to avoid generalities and to address specific changes such as the following:

(a) The design precautions on Part 23 airplanes taken to protect them from uncontained rotor and rotor blade failures.

(b) The requirement to define the energy levels and trajectories of blade fragments.

In addition to the total cost of each new requirement, the effect of this impact on unit price and consequently on the aircraft price, the FAA needs to learn—

(a) How the more stringent requirements can be demonstrated, and at what cost.

(b) Whether there are better methods for achieving the objectives of the rules and rule changes presented in this notice.

Information received from commenters will be valuable to the FAA in considering the proposals, and in preparing the regulatory evaluation required under Executive Order 12044 for any final rule based on this notice.

The preliminary impact assessment of these proposals is more fully set forth in the draft regulatory evaluation included in the docket for this rulemaking action. The FAA invites specific comments as to the economic aspects and costs benefit considerations of this proposal.

The proposals are part of the ongoing regulatory program of the FAA to upgrade type certification safety standards consistent with the advancing state of the art of aircraft and engine design. The rules proposed are fully compliant with the President's directive (Executive Order 12044) that existing regulations be evaluated periodically under criteria that consider the degree to which technology, economic conditions, and other factors have changed in the subject area affected by the regulations.

The Proposed Amendment

In consideration of the foregoing, it is proposed to amend Parts 23, 25, 27, 29, and 33 of the Federal Aviation Regulations (14 CFR Part 23, 25, 27, 29, and 33) as follows:

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

1. By revising § 23.901(d) to read as follows:

§ 23.901 Installation.

* * * * *

(d) Each turbine engine powerplant must be constructed, arranged and installed to provide continued safe operation without a sustained hazardous loss of power or thrust for a period of 3 minutes when being operated in rainfall with an ambient liquid water content of not less than 4 percent by weight.

* * * * *

Explanation: The proposed revision clarifies existing § 23.901(d), which requires a determination that installation effects do not result in any deterioration of powerplant rain ingestion tolerance demonstrated by the engine in compliance with proposed § 33.77(c).

2. By revising §§ 23.903 (a) and (b) to read as follows:

§ 23.903 Engines.

(a) *Engine type certificate.* (1) Each engine must have an approved type certificate.

(2) Each turbine engine must either—

(i) Comply with § 33.77 of this chapter, in effect on October 31, 1974, or as subsequently amended; or

(ii) Be shown to have a foreign object ingestion service history in similar installation locations which has not resulted in any unsafe conditions.

(b) *Turbine engine installations.* For turbine engine installations—

(1) Design precautions must be taken to minimize the hazards to the airplane in the event of an engine rotor failure or of a fire originating inside the engine which burns through the engine case.

(2) The powerplant systems associated with engine control devices, systems, and instrumentation must be designed to give reasonable assurance that those operating limitations that adversely affect turbine rotor structural integrity will not be exceeded in service.

* * * * *

Explanation: The language of § 23.903(a) would be modified to require an "approved type certificate" for an engine rather than a type certificate issued under Part 33 only. It is intended that the engine be considered "approved" if certificated under Part 13 of the Civil Air Regulations (CAR) or using the procedures of § 21.29 as well as Part 33 of the Federal Aviation Regulations (FAR). It also makes clear that in any of the above cases, a turbine engine must either meet the foreign object ingestion (F.O.I.) requirements of § 33.77, or be a previously certificated engine which has an acceptable F.O.I. service history. This requirement was moved from § 25.1091 since it pertains to engines but not aircraft induction systems. A substantively identical revision is proposed for § 25.903(a).

Although turbine engine manufacturers are making every effort to reduce the probability of uncontained rotor failures, service experience shows that uncontained rotor failures continue to occur. Since many different failure modes exist as indicated in Society of Automotive Engineers Airspace Information Report AIR 1537, "Aircraft Engine Containment," October 1977, it appears unlikely that uncontained rotor failure can be completely eliminated. Failures have resulted in high velocity fragment penetration of fuel tanks, adjacent structures, fuselage, and of other engines. Therefore, it is proposed that Part 23 require aircraft design precautions be taken to protect the aircraft from such events as is currently required by § 25.903(d).

Ref: Proposals 103 and 104; Agenda Item E–32.

3. By revising § 23.905(a) to read as follows:

§ 23.905 Propellers.

(a) Each propeller must have an approved type certificate.

* * * * *

Explanation: This clarification of § 23.905(a) recognizes that propellers may be utilized in service which were type certificated under CAR 14 or using the procedures of § 21.29 as well as those certificated under Part 35, which was recodified from CAR 14. A substantively identical revision is proposed for § 25.905(a).

4. By revising § 23.975(b) to read as follows:

§ 23.975 Fuel tank vents and carburetor vapor vents.

* * * * *

(b) Each carburetor with vapor elimination connections and each fuel injection engine employing vapor return provisions must have a separate vent line to lead vapors back to the vapor space of one of the fuel tanks. If there is more than one fuel tank, and it is necessary to use these tanks in a definite sequence for any reason, the vapor vent line must lead back to the fuel tank to be used first, unless the relative capacities of the tanks are such that return to another tank is preferable.

* * * * *

Explanation: The present rule has been interpreted as being applicable only to those engines using carburetors. The argument presented for not providing vents for fuel injection engines is that those engines do not employ carburetors. The FAA consider fuel injection "pumps" as a special form of carburetion and that separate venting of the fuel system for those engines must be provided. While some arrangements have been used that vent the vapor through a supply line into the fuel remaining in the tank, it is concluded that a separate vapor return to the vapor space of the fuel tank should be required. This revision would clarify the existing rule.

5. By revising § 23.994 to read as follows:

§ 23.994 Fuel system components.

Fuel system components in an engine nacelle or in the fuselage must be protected from damage which could result in spillage of enough fuel to constitute a fire hazard as a result of a wheels-up landing on a paved runway.

Explanation: See the explanation for proposed § 25.994.

Ref: Proposal 6; Agenda Item A–1.

6. By adding a new § 23.995(g) to read as follows:

§ 23.995 Fuel valves and controls.

* * * * *

(g) Fuel tank selector valves must—

(1) Require a separate and distinct action to place the selector in the "OFF" position; and

(2) Have the tank selector positions located in such a manner that it is impossible for the selector to pass through the "OFF" position when changing from one tank to another.

Explanation: Incidents and accidents have occurred as a result of fuel tank selector valves being moved to a position which was not intended, such as an intermediate position between tanks, between the "OFF" positions and a tank position, or in the "OFF" position when a tank selection position was intended. A new requirement for separate and distinct action, together with a specification that the "OFF" position of the fuel selector valve be put at the extremes of its movement, would prevent undesired positioning of the valve. This proposal is related to National Transportation Safety Board Recommendation No. A–79–72, which was received after the conference.

§ 23.997 [Amended]

7. By amending § 23.997 in a manner substsantively identical to that proposed for § 25.997.

Explanation: See the proposed explanation for § 25.997.

Ref: Proposals 8 and 84; Agenda items A–1 and E–26.

8. By adding a new lead-in, ahead of § 23.1013(a), to read as follows:

§ 23.1013 Oil tanks.

Except for oil tanks provided and approved as part of the engine, the

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applicant must show that each oil tank meets the following:

* * * * *

Explanation: See the explanation for proposed § 25.1013.

Ref: Proposal 9; Agenda Item A–1.

9. By revising the lead-in to § 23.1015 to read as follows:

§ 23.1015 Oil tank tests.

Each oil tank not provided and approved as part of the engine must be tested under § 23.965, except that—

* * * * *

Explanation: See the explanation for proposed § 25.1015.

Ref: Proposal 10; Agenda Item A–1.

§ 23.1019 [Amended]

10. By amending § 23.1019 in a manner substantively identical to that proposed for § 25.1019.

Explanation: See the explanation for proposed § 25.1019.

Ref: Proposals 12, 93 and 94; Agenda Items A–1 and E–29.

11. By revising § 23.1021 to read as follows:

§ 23.1021 Oil system drains.

A drain (or drains) must be provided to allow safe drainage of the oil system. Each drain must—

(a) Be accessible; and

(b) Have manual or automatic means for positive locking in the closed position.

Explanation: See the explanation for proposed § 33.71(d).

Ref: Proposal 98; Agenda Item E–30.

12. By revising § 23.1093(b)(2) to read as follows:

§ 23.1093 Induction system icing protection.

* * * * *

(b) * * *

(2) Each turbine engine must idle for 30 minutes on the ground, with the air bleed available for engine icing protection at its critical condition, without adverse effect, in an atmosphere that is at a temperature between 15° and 30° F (between −9° and −1° C) and has a liquid water content not less than 0.3 grams per cubic meter in the form of drops having a mean effective diameter not less than 20 microns, followed by a momentary operation at takeoff power or thrust. During the 30 minutes of idle operation, the engine may be run up periodically to a moderate power or thrust setting in a manner acceptable to the Administrator.

* * * * *

Explanation: See the explanation for proposed § 33.68(b).

Ref: Proposals 2, 3, and 4; Agenda Item E–27.

13. By redesignating present § 23.1143(e) as 23.1143(f), and be adding a new § 23.1143(e) to read as follows:

§ 23.1143 Engine controls.

* * * * *

(e) For each fluid injection (other than fuel) system and its controls not provided and approved as part of the engine, the applicant must show that—

(1) The flow of the injection fluid is automatically controlled with relation to the amount of power produced by the engine; and

(2) There is a separate control for the fluid injection pumps.

* * * * *

Explanation: See the explanation for proposed § 25.1143(d).

Ref: Proposal 17; Agenda item A–1.

§ 23.1163 [Amended]

14. By revising § 23.1163(a) in a manner substantively identical to that proposed for § 25.1163(a).

Explanation: See the explanation for proposed § 33.25.

Ref: Proposals 61 and 62; Agenda item B–15.

15. By substituting "25-quart" in place of "20-quart" in § 23.1183(a), and by revising the title and paragraph (b)(1) of § 23.1183 to read as follows:

§ 23.1183 Lines, fittings, and components.

* * * * *

(b) * * *

(1) Lines, fittings, and components already approved as part of a type certificated engine; and

* * * * *

Explanation: This revision exempts components, as well as lines and fittings that have been approved as part of a type certificated engine, from fireproofing and shielding requirements of this part. The basis of the referenced engine type certification is changed to include other valid standards in addition to Part 33. (See the proposal for § 23.903).

The maximum capacity for integral oil sumps on reciprocating engines which need not be fireproof under this part is raised from 20 quarts to 25 quarts to facilitate engine design without affecting safety. (See the proposal for § 33.17).

Ref: Proposals 26, 35, and 54; Agenda Items A–1 and B–11.

16. By adding the phrase "or located in areas not subject to engine fire conditions" to the present sentence of § 23.1189(b)(2) and by revising § 23.1189(a)(1) to read as follows:

§ 23.1189 Shutoff means.

(a) * * *

(1) Each engine must have means to shut off or otherwise prevent hazardous quantities of fuel, oil, deicing fluid, and other flammable liquids from flowing into, within, or through any engine compartment, except in lines, fittings, and components forming an integral part of an engine.

* * * * *

Explanation: Section § 23.1189 is revised to clarify the requirements for shutoff means in terms of the vulnerability of oil system components to engine fire sources, and to ensure that fittings and components are considered along with lines that form an integral part of an engine when determining the need for shutoff means, since they are in the same category when installed.

Ref: Proposals 26, 35, and 36; Agenda Item A–1.

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

17. By revising § 25.33(a)(2) to read as follows:

§ 25.33 Propeller speed and pitch limits.

(a) * * *

(2) Compliance with the performance requirements of §§ 25.101 through 25.125.

* * * * *

Explanation: Reference §§ 25.45 through 25.75 is incorrect in current § 25.33(a)(2). Those sections, which specified performance requirements for reciprocating engine powered airplanes only, were deleted by Amendment 25–38 (Airworthiness Review Program Amendment No. 3, Miscellaneous Amendments) The proposed revision corrects this error by applying the more modern performance standards to all transports category airplanes, as intended by Amendment 25–38.

§ 25.697 [Amended]

18. By revising § 25.697(a) by deleting the phrase "established under § 25.47" at the end of the first sentence and inserting in its place the phrase "established under §§ 25.101(a) and (f)."

Explanation: See the explanation for proposed § 25.33(a)(2).

§ 25.903 [Amended]

19. By revising § 25.903(a) in a manner substantively identical to § 23.903(a).

Explanation: See the explanation for proposed § 25.903(a).

Ref: Proposals 103 and 104; Agenda item E–32.

§ 25.905 [Amended]

20. By revising § 25.905(a) in a manner substantively identical to § 23.905(a).

Explanation: See the explanation for proposed § 23.905(a).

21. By adding a new § 25.939(b) in place of the reserved section to read as follows:

§ 25.939 Turbine engine operating characteristics.

* * * * *

(b) The automatic scheduling of controlled variables, such as fuel flow and those introduced by variable geometry systems, must be verified by quantitative test, analysis, or a combination of both, to show that the probability of engine surge and stall will be minimized, and that acceleration, deceleration, and flameout margins will be adequate within the operating limitations of the airplane.

* * * * *

Explanation: Current engine and airplane certification provisions are inadequate to indicate the susceptibility of modern turbine engine installations to in-service operating characteristic problems. This proposal and the proposal for § 33.65 call for additional investigations to provide information on engine stall and surge margins in quantitative terms, both before and after installation. The proposal also specifies that it be shown that the probability of surge and stall is minimized. An Advisory Circular will be issued to describe acceptable procedures for meeting these requirements.

22. By revising § 25.961(a)(4)(i) to read as follows:

§ 25.961 Fuel system hot weather operation.

(a) * * *

(4) The climb airspeed may not exceed—

(i) For reciprocating engine powered airplanes, the maximum airspeed established for climbing from takeoff to the maximum operating altitude with the airplane in the following configuration:

(A) Landing gear retracted.

(B) Wing flaps in the most favorable position.

(C) Cowl flaps (or other means of controlling the engine cooling supply) in the position that provides adequate cooling in the hot day condition.

(D) Most unfavorable center of gravity position.

(E) Engine operating within the maximum continuous power limitations.

(F) Maximum takeoff weight; and

* * * * *

Explanation: In view of the earlier deletion of the performance requirements for reciprocating engine powered transport category airplanes, including § 25.65, it is necessary that the climb conditions be specified. See the propsosal and explanation for § 25.33(a)(2).

23. By revising § 25.994 to read as follows:

§ 25.994 Fuel system components.

Fuel system components in an engine nacelle or in the fuselage must be protected from damage which could result in spillage of enough fuel to constitute a fire hazard as a result of a wheels-up landing on a paved runway.

Explanation: Present § 25.994 requires protection from "damage which could cause the release of fuel as a result of a wheels-up landing." This provision is restrictive and arbitrary in two respects: (1) Release of minute quantities of fuel would not represent a fire hazard; and (2) the landing terrain is not specified, making compliance difficult or impossible. The language in the proposal clarifies the intent and is consistent with § 25.721. A substantively identical revision is proposed for § 23.994.

Ref: Proposal 6; Agenda Item A–1.

24. By deleting the term "and the mesh" from § 25.997(d), and by revising § 25.997 lead-in and § 25.997(c) to read as follows:

§ 25.997 Fuel strainer or filter.

Unless a fuel strainer or filter is provided and approved as part of the engine, there must be a fuel strainer or filter between the fuel tank outlet and the inlet of either the fuel metering device or an engine driven positive displacement pump, whichever is nearer the fuel tank outlet. This fuel stainer or filter must—

* * * * *

(c) Be mounted so that its weight is not supported by the connecting lines or by the inlet or outlet connections of the strainer or filter itself, unless adequate strength margins under all loading conditions are provided in the lines and connections; and

* * * * *

Explanation: If a fuel strainer or filter is provided and approved as part of the engine, there is no need for the aircraft manufacturer to duplicate these items. The proposed revision of the first sentence of § 25.997 makes this clear.

For an explanation of the proposed revision of § 25.997(c), see the proposal and explanation for § 33.67(b)(3).

For an explanation of the deletion of the phrase "and the mesh" from § 25.997(d), see the discussion for proposed § 25.1019.

Substantively identical revisions are proposed for §§ 23.997, 27.997 and 29.997.

Ref: Proposals 8 and 84; Agenda Items A–1 and E–26.

25. By revising § 25.1001 by redesignating present §§ 25.1001(h) through (l) as §§ 25.1001(e) through (i), respectively, and by deleting present §§ 25.1001(a) through (g) and substituting in place thereof new §§ 25.1001(a) through (d) to read as follows:

§ 25.1001 Fuel jettisoning system.

(a) A fuel jettisoning system must be installed on each airplane unless it is shown that the airplane meets the climb requirements of §§ 25.119 and 25.121(d) at maximum takeoff weight, less the actual or computed weight of fuel necessary for a 15-minute flight comprised of a takeoff, go-around, and landing at the airport of departure with the airplane configuration, speed, power, and thrust the same as that used in meeting the applicable takeoff, approach, and landing climb performance requirements of this part.

(b) If a fuel jettisoning system is required it must be capable of jettisoning enough fuel within 15 minutes, starting with the weight given in paragraph (a) of this section, to enable the airplane to meet the climb requirements of §§ 25.119 and 25.121(d), assuming that the fuel is jettisoned under the conditions, except weight, found least favorable during the flight tests prescribed in paragraph (c) of this section.

(c) Fuel jettisoning must be demonstrated beginning at maximum takeoff weight with flaps and landing gear up and in—

(1) A power-off glide at 1.4 V_{S1};

(2) A climb at the one-engine inoperative best rate-of-climb speed, with the critical engine inoperative and the remaining engines at maximum continuous power; and

(3) Level flight at 1.4 V_{S1} if the results of the tests in the conditions specified in paragraphs (c) (1) and (2) of this section show that this condition could be critical.

(d) During the flight tests prescribed in paragraph (c) of this section, it must be shown that—

(1) The fuel jettisoning system and its operation are fee from fire hazard;

(2) The fuel discharges clear of any part of the airplane;

(3) Fuel or fumes do not enter any parts of the airplane; and

(4) The jettisoning operation does not adversely affect the controllability of the airplane.

* * * * *

Explanation: Proposed § 25.1001 eliminates specific references to reciprocating and turbine engine powered airplanes and to §§ 25.65 and 25.67, as explained for the proposed for § 25.33(a)(2). Other editorial changes are proposed which eliminate redundancies and clarify the text.

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28. By adding a new lead-in to § 25.1013, and by revising § 25.1013(a) to read as follows:

§ 25.1013 Oil tanks.

Except for oil tanks provided and approved as part of an engine, the applicant must show that each oil tank meets the following:

(a) *Installation.* Each oil tank installation must meet the requirements given for fuel tank installations in § 25.967. For a reciprocating engine having an integral oil sump of less than a 25-quart capacity, the oil sump need not be fireproof.

* * * * *

Explanation: If the oil tank is provided and approved as part of the engine, there is not need for the airplane manufacturer to show compliance with § 25.1013. The proposed new lead-in to §§ 23.1013 provides for this. Substantively identical revisions are proposed for §§ 23.1013, 27.1013, and 29.1013. The reference to § 25.967 is amplified to indicate the applicability of fuel tank installation standards to oil tanks. The proposed increase in the limiting oil sump capacity relative to firepoofing would facilitate design of oil systems without compromising safety. See also the proposal and explanation for § 33.17(c).

Ref: Proposal 9; Agenda Item A–1.

27. By revising the lead-in to § 25.1015 to read as follows:

§ 25.1015 Oil tank tests.

Each oil tank not provided and approved as part of an engine must be designed and installed so that—

* * * * *

Explanation: If the oil tank is provided and approved as part of an engine, there is no need for the airplane manufacturer to show compliance with § 25.1015. The proposed revision to the lead-in to § 25.1015 would provide for this. A substantively identical revision is proposed for §§ 23.1015, 27.1015, and 29.1015.

Ref: Proposal 10; Agenda Item A–1.

28. By deleting the phrases "and the mesh" and "of the screen" from §§ 25.1019(a)(2) and (3), respectively, and by revising the lead-in of § 25.1019(a) to read as follows:

§ 25.1019 Oil strainer or filter.

(a) Unless an oil strainer or filter is provided and approved as part of the engine, each turbine engine installation must incorporate an oil strainer or filter through which all of the engine oil flows and which meets the following requirements:

* * * * *

Explanation: If an oil strainer or filter is provided and approved as part of the engine, there is no need for the aircraft manufacturer to comply with present § 25.1019(a) as now required. The proposed revisions to § 25.1019(a) make this clear. Substantively identical revisions are proposed for §§ 23.1019(a), 27.1019(a) and 29.1019(a).

The terms "mesh" and "screen" used in current § 25.1019 are applicable to a fuel or oil strainer but not to a filter element. Deleting direct or indirect reference to a screen would correct the terminology without changing the meaning. Similar deletions are proposed for §§ 23.997(d), 25.997(d), 27.997(d), 29.997(d), 23.1019(a)(2) and (3), 27.1019(a)(2) and (3) 29.1019(a)(2) and (3), 33.67(b)(5) and 33.71(b)(3) and (4).

Ref: Proposals 12, 93, and 94; Agenda Items A–1 and E–29.

29. By revising § 25.1021 to read as follows:

§ 25.1021 Oil system drains.

A drain (or drains) must be provided to allow safe drainage of the oil system. Each drain must—

(a) Be accessible; and

(b) Have manual or automatic means for positive locking in the closed position.

Explanation: See the proposal and explanation for § 33.71(d).

Ref: Proposal 98; Agenda Item E–30.

§ 25.1045 [Amended]

30. By amending § 25.1045(d) by deleting the reference to § 25.67(d) and substituting § 25.121(c), and by adding the following to § 25.1045(d):

(d) * * * The airplane must be in the following configuration:

(1) Landing gear retracted.

(2) Wing flaps in the most favorable position.

(3) Cowl flaps (or other means of controlling the engine cooling supply) in the position that provides adequate cooling in the hot day condition.

(4) Most unfavorable center of gravity position.

(5) Critical engine inoperative and its propeller stopped.

(6) Remaining engines at the maximum continuous power available for the altitude.

Explanation: This change is necessitated by the earlier deletion of performance requirements for reciprocating engine powered airplanes. For further explanation see the proposal for § 25.33(a)(2).

31. By revising § 25.1091(e) to read as follows:

§ 25.1091 Air induction.

* * * * *

(e) If the engine air induction system contains parts or components that could be damaged by foreign objects entering the air inlet, it must be shown by tests or, if appropriate, by analysis that the induction system design can withstand the foreign object ingestion test conditions of § 33.77 of this chapter without failure of parts or components that could create a hazard.

Explanation: As presently worded, § 25.1091(e) requires compliance with § 33.77 unless compliance was shown during the engine certification tests. Since that requirement pertains to engines but not to aircraft induction systems, it has been moved to proposed § 25.903(a) and added to § 23.903(a). Section 25.1091(e) would be revised to require the foreign object ingestion criteria of § 33.77 be applied to portions of the induction system such as inlet splitters and acoustic liners to ensure that they withstand impact with birds, hailstones, ice, and water.

§ 25.1093 [Amended]

32. By revising § 25.1093(b)(2) in a manner substantively identical to that proposed for § 23.1093(b)(2).

Explanation: See the proposal and explanation for § 33.68(b).

Ref: Proposals 14, 15, and 16; Agenda Item E–27.

33. By revising § 25.1143(d) to read as follows:

§ 25.1143 Engine controls.

* * * * *

(d) For each fluid injection (other than fuel) system and its controls not provided and approved as part of an engine, the applicant must show that—

(1) The flow of the injected fluid is automatically controlled with relation to the amount of power produced by the engine; and

(2) There is a separate control for the fluid injection pumps.

* * * * *

Explanation: There proposal would revise § 25.1143(d) to: (1) State engine control requirements not only for antidetonant injection (ADI) systems but for other fluid injection systems (other than fuel) as well; and (2) provide that, if the fluid injection system and controls are provided and approved as part of the engine, the applicant need not show compliance with § 25.1143(d). It is proposed to revise §§ 23.1143 27.1143, 29.1143, 33.35 and 33.67 in a substantively identical manner.

Ref: Proposed 17; Agenda Item A–1.

34. By revising § 25.1163(a) to read as follows:

§ 25.1163 Powerplant accessories.

(a) Each engine mounted accessory must—

(1) Be approved for mounting on the engine involved;

(2) Use the provisions on the engine for mounting; and

(3) Be sealed to prevent contamination.

* * * * *

Explanation: In cases where the provisions for sealing of engine oil-lubricated accessories are provided in part by both the engine and accessory manufacturer, this proposal would place final responsibility for proper sealing on the aircraft manufacturer. See the proposal and explanation for § 33.25.

Ref: Proposals 61 and 62; Agenda Item B–15.

35. By substituting "25-quart" for "20 quart" in § 25.1183(a) and by revising § 25.1183(b)(1) to read as follows:

§ 25.1183 Flammable fluid-carrying components.

* * * * *

(b) * * *

(1) Lines, fittings, and components already approved as part of a type certificated engine; and

* * * * *

Explanation: See the proposals and explanations for §§ 23.903 and 33.17.

Ref: Proposals 26, 35, and 54; Agenda Item A–1.

36. By revising §§ 25.1189(a)(1) and (a)(2) to read as follows:

§ 25.1189 Shutoff means.

(a) * * *

(1) Lines, fittings, and components forming an integral part of an engine; and

(2) Oil systems for turbine engine installations in which all components of the system in a designated fire zone, including oil tanks, are fireproof.

* * * * *

Explanation: See the proposal and explanation for § 23.1189.

§ 25.1305 [Amended]

37. By deleting § 25.1305(d)(3) and marking it "[Reserved]."

Explanation: Notice No. 74–30 (39 FR 31913; September 3, 1974) proposed that Part 121 be amended to make the installation of rotor system unbalance indicators mandatory on various wide-body transport airplanes operated under that part. The notice was withdrawn (43 FR 36461; August 17, 1978).

The FAA agrees with the commenters who argued in response to Notice 74–30 that airborne vibration monitoring (AVM) systems are valuable only as a secondary maintenance aid; that AVM's have caused many unnecessary engine shutdowns due to faulty readings, resulting in fuel dumping, delayed flights, and increased costs to both the public and the airlines; and that operating experience has shown that the systems are incapable of giving advance warning on uncontained engine failures, which are sudden in nature.

Accordingly, it has been determined that requirements for rotor system unbalance indicators in §§ 25.1305(d)(3) and 33.29(b) impose a burden without providing a commensurate improvement in safety, and it is proposed to delete the requirement for AVM's.

Ref: Proposals 21 and 66; Agenda Items B–17 and G–45.

§ 27.1323 [Amended]

38. By deleting the phrase "§ 25.59 or" from § 25.1323(b)(2).

Explanation: See the explanation for proposed § 25.33(a).

PART 27—AIRWORTHINESS STANDARDS: NORMAL CATEGORY ROTORCRAFT

§ 27.997 [Amended]

39. By amending § 27.997 in a manner substantively identical to that proposed for § 25.997.

Explanation: See the proposal and explanation for § 25.997.

40. By revising the lead-in to § 27.1013 to read as follows:

§ 27.1013 Oil tanks.

Except for oil tanks provided and approved as part of an engine, the applicant must show that each oil tank is designed and installed so that—

* * * * *

Explanation: See the proposal and explanation for § 25.1013.

Ref: Proposal 9; Agenda Item A–1.

41. By revising § 27.1015 to read as follows:

§ 27.1015 Oil tank tests.

For oil tanks not provided and approved as part of an engine, the applicant must show that—

(a) Each oil tank is designed and installed so that it can withstand, without leakage, an internal pressure of 5 p.s.i.; and

(b) Each pressurized oil tank used with a turbine engine is designed and installed so that it can withstand, without leakage, an internal pressure of 5 p.s.i., plus the maximum operating pressure of the tank.

Explanation: See the proposal and explanation for § 25.1015.

Ref: Proposal 10; Agenda Item A–1.

§ 27.1019 [Amended]

42. By amended § 27.1019 in a manner substantively identical to that proposed for § 25.1019.

Explanation: See the proposal and explanation for § 25.1019.

Ref: Proposals 12, 93, and 94; Agenda Items A–1 and E–29.

43. By revising § 27.1021 to read as follows:

§ 27.1021 Oil system drains.

A drain (or drains) must be provided to allow safe drainage of the oil system. Each drain must—

(a) Be accessible; and

(b) Have manual or automatic means for positive locking in the closed position.

Explanation: See the proposal and explanation for § 33.71(d).

Ref: Proposal 98; Agenda Item E–30.

§ 27.1093 [Amended]

44. By deleting § 27.1093(b)(2) and marking it "[Reserved]".

Explanation: See the proposal and explanation for § 33.68(b).

Ref: Proposal 23; Agenda Item E–27.

45. By redesignating present § 27.1143(d) as § 27.1143(f), and by adding new §§ 27.1143(d) and (e) to read as follows:

§ 27.1143 Engine controls.

* * * * *

(d) Each fluid injection (other than fuel) sytem control must be in the throttle controls.

(e) For each fluid injection (other than fuel) system and its controls not provided and approved as part of the engine, the applicant must show that—

(1) The flow of the injected fluid is automatically controlled with relation to the amount of power produced by the engine; and

(2) There is a separate control for the fluid injection pumps.

* * * * *

Explanation: To cover all rotorcraft, proposed § 27.1143(d) is added to make the section consistent with § 29.1143(d). For an explanation of § 27.1143(e) see the proposal for § 25.1143(d).

Ref: Proposal 17; Agenda Item A–1.

§ 27.1163 [Amended]

46. By revising § 27.1163(a) in a manner substantively identical to that proposed for § 25.1163(a).

Explanation: See the proposal and explanation for § 33.25.

Ref: Proposals 61 and 62; Agenda Item B–15.

§ 27.1183 [Amended]

47. By revising § 27.1183 in a manner substantively identical to § 25.1183.

Explanation: See the proposals and explanations for §§ 23.903 and 33.17.

Ref: Proposals 26, 35, and 54; Agenda

§ 29.1021 Oil system drains.

A drain (or drains) must be provided to allow safe drainage of the oil system.

Explanation: See the proposal and explanation for § 23.1189.

Ref: Proposals 26, 35 and 36; Agenda

consists of a flight cycle profile or an equivalent representation of engine usage. It includes starting the engine,

§ 33.17 [Amended]

62. By amending § 33.17(c) by deleting the term "20-quart" and inserting the

Since the engine designs cannot provide protective containment for such failed blades or blade fragments, the

Explanation: See the proposals and explanations for §§ 23.903 and 33.17.

Ref: Proposals 26, 35, and 54; Agenda Items A–1 and B–11.

48. By redesignating § 27.1189(a)(2) as (a)(3) and by revising § 27.1189(a)(1) and adding a new § 27.1189(a)(2) to read as follows:

§ 27.1189 Shutoff means.

(a) * * *

(1) Lines, fittings, and components forming an integral part of an engine;

(2) For oil systems for turbine engine installations in which all components of the system, including oil tanks, are fireproof or located in areas not subject to engine fire conditions; and

* * * * *

Explanation: See the proposal and explanation for § 23.1189.

Ref: Proposals 26, 35, and 36; Agenda Item A–1.

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

§ 29.937 [Amended]

49. By amending § 29.997 in a manner substantively identical to that proposed for § 25.997.

Explanation: See the proposal and explanation for § 25.997.

Ref: Proposals 8 and 84; Agenda Items A–1 and E–26.

50. By adding a new lead-in before § 29.1013(a) to read as follows:

§ 29.1013 Oil tanks.

Except for oil tanks provided and approved as part of an engine, the applicant must show that each oil tank meets the following:

* * * * *

Explanation: See the proposal and explanation for § 25.1013.

Ref: Proposal 9; Agenda Item A–1.

51. By revising the lead-in to § 29.1015 to read as follows:

§ 29.1015 Oil tank tests.

Each oil tank not provided and approved as part of an engine must be designed and installed so that—

* * * * *

Explanation: See the proposal and explanation for § 25.1015.

Ref: Proposal 10; Agenda Item A–1.

§ 29.1019 [Amended]

52. By amending § 29.1019 in a manner substantively identical to that proposed for § 25.1019.

Explanation: See the proposal and explanation for § 25.1019.

Ref: Proposals 12, 93, and 94; Agenda Items A–1 and E–29.

53. By revising § 29.1021 to read as follows:

§ 29.1021 Oil system drains.

A drain (or drains) must be provided to allow safe drainage of the oil system. Each drain must—

(a) Be accessible; and

(b) Have manual or automatic means for positive locking in the closed position.

Explanation: See the proposal and explanation for § 33.71(d).

Ref: Proposal 98; Agenda Item E–30.

§ 29.1093 [Amended]

54. By deleting § 29.1093(b)(2) and Marking it "[Reserved]."

Explanation: See the proposal and explanation for § 33.66(b).

Ref: Proposal 32; Agenda Item E–27.

55. By deleting the second sentence of § 29.1143(d), by redesignating present § 29.1143(e) as § 29.1143(f), and by adding a new § 29.1143(e) to read as follows:

§ 29.1143 Engine controls.

* * * * *

(e) For each fluid injection (other than fuel) system and its controls not provided as part of an engine, the applicant must show that—

(1) The flow of the injected fluid is automatically controlled with relation to the amount of power produced by the engine; and

(2) There is a separate control for the fluid injection pumps.

* * * * *

Explanation: See the proposal and explanation for § 25.1143(d).

Ref: Proposal 17; Agenda Item A–1.

§ 29.1163 [Amended]

56. By revising § 29.1163(a) in a manner substantively identical to that proposed for § 25.1163(a).

Explanation: See the proposal and explanation for § 33.25.

Ref: Proposals 61 and 62; Agenda Item B–15.

§ 29.1183 [Amended]

57. By revising § 29.1183 in a manner substantively identical to § 25.1183.

Explanation: See the proposals and explanations for §§ 29.903 and 33.17.

Ref: Proposals 26, 35, and 54; Agenda Items A–1 and B–11.

58. By revising §§ 29.1189(a)(1) and (a)(2) to read as follows:

§ 29.1189 Shutoff means.

(a) * * *

(1) For lines, fittings, and components forming an integral part of an engine;

(2) For oil systems for turbine engine installations in which all components of the system in a designated fire zone, including oil tanks, are fireproof; or

* * * * *

Explanation: See the proposal and explanation for § 23.1189.

Ref: Proposals 26, 35 and 36; Agenda Item A–1.

PART 33—AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES

59. By deleting § 33.7(c)(17) and by revising §§ 33.7(c)(5)(i), (c)(5)(iv), (c)(6)(ii) and (c)(16) to read as follows:

§ 33.7 Engine ratings and operating limitations.

* * * * *

(c) * * *

(5) * * *

(i) Oil at a location specified by the applicant;

* * * * *

(iv) Fuel at a location specified by the applicant; and

* * * * *

(6) * * *

(ii) Oil at a location specified by the applicant;

* * * * *

(16) For engines to be used in supersonic aircraft, engine rotor windmilling rotational r.p.m.

Explanation: This proposal would allow oil pressure, oil temperature, and fuel temperature limitations to be specified by the applicant for the measurement location appropriate to a particular design, which is not necessarily the location specified in the current rules.

Current § 33.7(c)(5)(iv) requiring fuel temperature operating limitations applies only to supersonic turbine engines. However, it is necessary in the interest of safety to apply the requirement to all turbine engines to ensure proper functioning of the fuel control. The proposed revisions would have that effect.

For an explanation of the proposal to revise § 33.7(c)(16) see the proposal and explanation for § 33.92(a). For an explanation of the proposal to delete § 33.7(c)(17) see the proposal and explanation for § 33.90.

Ref: Proposals 41, 42, 43, 44, 45, and 46; Agenda Items A–5, A–6, and A–7.

60. By revising § 33.14 to read as follows:

§ 33.14 Start-stop cyclic stress (low-cycle fatigue).

An operating limitation must be established by an approved procedure which specifies the maximum allowable number of start-stop stress cycles for each rotor structural part (such as discs, spacers, hubs, and shafts of the compressors and turbines), the failure of which could produce a hazard to the aircraft. A start-stop stress cycle consists of a flight cycle profile or an equivalent representation of engine usage. It includes starting the engine, accelerating to maximum rated power or thrust, decelerating, and stopping. For each cycle, the rotor structural parts must reach stabilized temperature during engine operation at maximum rated power or thrust, and after engine shutdown, unless it is shown that the parts undergo the same stress range without temperature stabilization.

Explanation: Proposed § 33.14: (1) Revises the applicability of the current rule to cover all rotor structural parts, the failure of any one or more of which could produce a hazard to the aircraft; (2) redefines the term "start-stop stress cycle"; (3) allows an alternative to temperature stabilization during engine operation at maximum rated power or thrust; and (4) deletes current provisions dealing with procedures for establishing an "initial" operating limitation, and increasing that limitation after type certification. Service experience demonstrates that an operating limitation [specifying the maximum allowable number of start-stop stress cycles) must be established for each rotor structural part, the failure of which could produce a hazard to the aircraft. The current rule covers discs and spacers only. The proposed redefinition of the term "start-stop stress cycle," and the proposed alternative to temperature stabilization during engine operations at maximum rated power or thrust, allows the use of industry practices that have provided an adequate level of safety in the past. In addition, there are acceptable procedures, other than those currently prescribed, for establishing the required operating limitation and for increasing that limitation. Deletion of the currently prescribed procedures and insertion of the phrase "by an approved procedure" would enable the applicant to make use of other acceptable procedures.

Ref: Proposals 48, 49, and 50; Agenda Item B–9.

§ 33.15 [Amended]

61. By amending § 33.15(b) by deleting the phrase ", or Technical Standard Orders" inside the parentheses.

Explanation: The reference to Technical Standard Orders in current § 33.15(b) is misleading since existing FAA Technical Standard Orders do not contain standards for engine materials. The proposed revision of § 33.15(b) deletes that reference.

Ref: Proposal 52; Agenda Item B–10.

§ 33.17 [Amended]

62. By amending § 33.17(c) by deleting the term "20-quart" and inserting the term "25-quart" in its place, by deleting § 33.17(f), and by revising § 33.17(a) to read as follows:

§ 33.17 Fire prevention.

(a) The design and construction of the engine and the materials used must minimize the probability of the occurrence and spread of fire. In addition, the design and construction of turbine engines must minimize the probability of the occurrence of an internal fire that could result in structural failure, overheating, or other hazardous conditions.

* * * * *

Explanation: This proposal allows the type certification of a reciprocating engine having an integral oil sump with a capacity up to 25 quarts without requiring that the sump be fireproof or be enclosed by a fireproof shield. The proposed increase in the oil sump capacity limit from 20 to 25 quarts would not compromise safety and would facilitate design of oil systems. It is based upon usable engine oil required to ensure against the possibility of running out of oil on long flights.

Current § 33.17(a) applies only to reciprocating engines. Service experience shows that this requirement should be applied to all engines to provide adequate protection against fire. Accordingly, it is proposed to extend the applicability of § 33.17(a) to all engines. For clarity and consistency the substance of § 33.17(f) is transferred to § 33.17(a) without change.

Ref: Proposals 53 and 54; Agenda Items B–10 and B–11.

§ 33.19 [Amended]

63. By amending § 33.19 by adding after the last sentence the following new sentence: "Energy levels and trajectories of fragments resulting from rotor blade failure that lie outside the compressor and turbine rotor cases must be defined."

Explanation: Present § 33.19 requires that engine compressor and turbine rotor cases be designed to provide for the containment of damage from rotor blade failure. However, the rule is silent with respect to failed rotor blades for which it is not possible to provide containment within the engine itself. In this category are failed blades or blade fragments that can emerge through the engine air inlet or turbine exhaust. The present rule was recodified from Civil Air Regulation § 13.104 and has been in effect and substantively unchanged for 25 years.

Since the engine designs cannot provide protective containment for such failed blades or blade fragments, the burden is placed on the airplane developer to design airplane structure for the protection of persons aboard the airplane and for essential airplane systems. The problem has been recognized and dealt with in connection with type certification of those aircraft currently operating. For example, in connection with the DC–10 airplane, the FAA's critical design review team found that McDonnell-Douglas had considered incidents involving nacelle and aircraft secondary damage resulting from fan blade fragments ejected forward of the engine fan containment case and that the safety of the airplane would not be jeopardized.

In further recognition of the engine problem, a representative of the British CAA at the Engine Review Conference stated that it was well known that broken blades could be expelled forward from a turbine engine.

Data concerning the probability, size, and energy levels of blade fragments can best be determined by the engine developer, who has the basic knoweledge and necessary experience with a new engine design. Accordingly, the proposal will update the rule to require that the applicant for an engine type certificate define the energy levels and trajectories of rotor blade fragments that are outside the protective engine cases. This information will improve safety by assisting in the design and certification of aircraft using the engine.

Ref: Proposal 56; Agenda Item B–12.

64. By revising § 33.23 to read as follows:

§ 33.23 Engine mounting attachments and structure.

(a) The maximum allowable limit and ultimate loads for engine mounting attachments and related structure must be specified by the applicant.

(b) The engine mounting attachments and related structure must be able to withstand—

(1) The specified limit loads without permanent deformation; and

(2) The specified ultimate loads without failure, but may exhibit permanent deformation.

Explanation: Proposed § 33.23 revises the current rule by making a necessary distinction between limit and ultimate loads. The engine mounting attachments and related structure would be required to withstand the specified limit loads without permanent deformation, and to withstand the specified ultimate loads without failure, although permanent deformation would be allowed. The

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superfluous reference to "malfunction" in current § 33.23(b) would be deleted.

Ref: Proposals 59 and 60; Agenda Item B–14.

65. By revising § 33.25 to read as follows:

§ 33.25 Accessory attachments.

The engine must operate properly with the accesory drive and mounting attachments loaded. Each engine accessory drive and mounting attachment must include provisions for sealing to prevent contamination of, or excessive leakage from, the engine interior. A drive and mounting attachment requiring lubrication for external drive splines, or coupling by engine oil, must include provisions for sealing to prevent excessive loss of oil and to prevent contamination from sources outside the chamber enclosing the drive connection. The design of the engine must allow for the examination, adjustment, or removal of each accessory required for engine operation.

Explanation: The second sentence of the present rule is deleted as unnecessary, as adequate testing for accessory drives and mounting attachments is specified in § 33.49(a) for reciprocating engines, and in § 33.87(a)(6) for turbine engines.

Engine/accessory drive interface standards have been developed by the SAE and are in general use by the aircraft industry. Because of the nature of o-ring and similar seals used for accessory drive and mounting attachments, the engine manufacturer alone cannot always fulfill the requirements of the current regulations. Thus, provisions for sealing will be required, rather than making the engine manufacturer completely responsible. The ultimate responsibility for sealing will lie with the aircraft manufacturer, as proposed in §§ 23,1163, 27.1163 and 29.1163.

By insertion of the word "excessive" it is proposed to revise the section to accomodate "total loss oil mist" and other lubrication systems which might allow a minute amount of leakage from the engine interior.

Ref: Proposals 61 and 62; Agenda Item B–15.

66. By revising § 33.27 to read as follows:

§ 33.27 Turbine, compressor, fan, and turbosupercharger rotors.

(a) Turbine, compressor, fan, and turbosupercharger rotors must have sufficient strength to withstand the test conditions specified in paragraph (c) of this section.

(b) The design and functioning of engine control devices, systems, and instruments must give reasonable assurance that those engine operating limitations that affect turbine, compressor, fan, and turbosupercharger rotor structural integrity will not be exceeded in service.

(c) The most critically stressed rotor component (except blades) of each turbine, compressor, and fan, including integral drum rotors and centrifugal compressors in an engine or turbosupercharger, as determined by analysis or other acceptable means, must be tested for a period of 5 minutes—

(1) At its maximum operating temperature, except as provided in paragraph (c)(2)(iv) of this section; and

(2) At the highest speed of the following, as applicable:

(i) 120 percent of its maximum permissible r.p.m. if tested on a rig and equipped with blades or blade weights.

(ii) 115 percent of its maximum permissible r.p.m. if tested on an engine.

(iii) 115 percent of its maximum permissible r.p.m. if tested on a turbo-supercharger driven by a hot gas supply from a special burner rig.

(iv) 120 percent of the r.p.m. at which, while cold spinning, it is subject to operating stresses that are equivalent to these induced at the maximum operating temperature and maximum permissible r.p.m.

(v) 105 percent of the highest speed that would result from failure of the most critical component or system in a representative installation of the engine.

(vi) The highest speed that would result from the failure of any component or system in a representative installation of the engine, in combination with any failure of a component or system that would not normally be detected during a routine preflight check or during normal flight operation.

Following the test, each rotor must be within approved dimensional limits for an overspeed condition and may not be cracked.

Explanation: Proposed § 33.27(a) generalizes the reference to paragraph (c) without changing its meaning. The word "fan" would be added to the heading and, as applicable, throughout the section to include fan rotor strength requirements. Proposed § 33.27(c) incorporates the following changes:

A. The lead-in is revised as follows:

(1) The term "most critically stressed" replaces the phrase "sustaining the highest operating stress at the maximum limiting r.p.m. of all such rotors respectively," since the component subjected to the highest stress is not necessarily closest to failure, depending on material strength.

(2) Integrally constructed rotor elements such as centrifugal compressors and integral drum rotors are identified as rotor components to be considered for test under this section, in addition to discs, spools, etc. Such tests of the most critical components of each rotor have proven in the past to constitute effective type certification practice. The applicant would retain the option of testing complete rotor subassemblies.

(3) The means of determining the most critically stressed rotor components are defined.

(4) For clarification, the words "for a period of 5 minutes" are transferred to the lead-in paragraph and the current paragraph containing the phrase is deleted.

B. Current § 33.27(c)(3) is redesignated as § 33.27(c)(2) with the following changes:

(1) The term "maximum limiting r.p.m." is replaced by "maximum permissible r.p.m." wherever it appears. The former was adopted by Amendment 33–6 (39 FR 35464; October 1, 1974); however, numerous questions arose concerning its meaning. Moreover, both "maximum permissible" and "maximum rated" are used as engine speed performance criteria on various engine type certificate data sheets, while the latter term appears in Advisory Circular 33–3, as noted in Proposal 65. The intent of all three phrases is to define the highest r.p.m. at which an engine shaft is to rotate in service. In the context of a reference or datum r.p.m. from which test overspeed conditions are established during certification, "maximum permissible r.p.m." is less subject to misinterpretation than either "maximum limiting r.p.m." or "maximum rated r.p.m." by those concerned with type certification. It is therefore proposed to standardize the term "maximum permissible r.p.m." as the reference speed for § 33.27.

(2) Current § 33.27(c)(3)(iii) is deleted. This provision, which allows the testing of rotor disc sections that are thinner than specified in the type design, is not necessarily a valid test method, although it appears in Advisory Circular 33–3. If the test section is thinner than the type design disc section, the resultant change in weight distribution may alter the stress concentrations significantly, rendering the test invalid.

(3) The conditional wording "provided that disc temperature survey data from operating engines and data on hot strength properties of the disc material establish the effect of temperature on stress" appearing in current § 33.27(c)(3)(v) is deleted and the paragraph redesignated as

§ 33.27(c)(2)(iv). This phrase incorrectly implies that the applicant need not consider temperature distribution data or material properties in connection with the other overspeed test options in proposed § 33.27(c)(2).

(4) New §§ 33.27(c)(2) (v) and (vi) are added which require testing to a higher overspeed than that specified in §§ 33.27(c)(2) (i) through (iv) if such higher overspeed is possible as a result of probable failures of engine components, control systems, or installation elements.

(5) The final sentence of current § 33.27(c) is revised to specify that each rotor be within approved dimensional limits and must not be cracked following the test. The current requirement is unnecessarily restrictive in the light of service experience. Growth beyond installation limits may be acceptable from the safety standpoint and the proposed rule will provide that each case be judged on its merits.

Ref: Proposals 63, 64, 65, and 67; Agenda Item B–16.

§ 33.29 [Amended]

67. By deleting § 33.29(b) and marking it "[Reserved]".

Explanation: See the proposal and explanation for § 25.1305(d)(3).

Ref: Proposal 68; Agenda Item B–17.

68. By adding a new § 33.35(e) to read as follows:

§ 33.35 Fuel and induction system.

* * * * *

(e) If provided as part of the engine, the applicant must show for each fluid injection (other than fuel) system and its controls that—

(1) The flow of the injected fluid is automatically controlled with relation to the amount of power produced by the engine; and

(2) There is a separate control for the fluid injection pumps.

Explanation: See the proposal and explanation for § 25.1143(d).

Ref: Proposal 17; Agenda Item A–1.

69. By deleting the second sentence of § 33.43(a) and by adding a new § 33.43(d) to read as follows:

§ 33.43 Vibration test.

* * * * *

(d) The vibration survey described in paragraph (a) of this section must be repeated with that cylinder not firing which has the most adverse vibration effect, in order to establish the conditions under which the engine can be operated safely in that abnormal state. However, for this vibration survey, the speed range need only extend from idle to the maximum desired takeoff speed rating, and compliance with paragraph (b) of this section need not be shown.

Explanation: Present § 33.43 requires that crankshaft torsional and bending vibration stresses not exceed the endurance limit stress of the shaft material for both a normal engine as well as an engine operating abnormally due to one cylinder not firing. This abnormal condition may alter the vibration characteristics of the crankshaft system of certain engines so that stresses above the endurance limit can occur within the operating speed range of the engine. Since these high stresses usually occur over a narrow speed range, operation at these peak stresses can be avoided for the limited amount of time necessary until the abnormal engine condition can be corrected. It is therefore only necessary to identify these critical stress speeds to the flight crews so that operation within these areas can be avoided when a cylinder is not firing. Accordingly, this proposal transfers the cylinder-out vibration survey requirement in current § 33.43(a) to a new § 33.43(d) which modifies that requirement by (1) clarifying that its objective is to establish the conditions under which the engine can be operated safely with the critical cylinder not firing; and (2) making it clear that, for this purpose, compliance with § 33.43(b) need not be shown. The proposed new requirement covers testing necessary to provide operational information for flight manuals, placards, or markings that will assist flight crews in maintaining safe flight.

Ref: Proposal 72; Agenda Item D–21.

70. By revising §33.49(e)(1)(ii) to read as follows:

§ 33.49 Endurance test.

* * * * *

(e) * * *

(1) * * *

(ii) The portions of the runs specified in paragraphs (b)(2) through (7) of this section at rated maximum continous power must be made at critical altitude pressure, and the portions of the runs at other power must be made at 8,000 feet altitude pressure; and

* * * * *

Explanation: This proposal corrects a typographical error in current § 33.49(e)(1)(ii).

REF: Proposal 76; Agenda Item D–22.

§ 33.63 [Amended]

71. By deleting the word "normal" from § 33.63.

Explanation: The effect of the proposed deletion of the word "normal" requires that the engine function through the operating range of rotational speeds and engine power associated with the most critical ratings, whatever they might be. The word "normal" could be construed as referring to a narrower operating range.

Ref: Proposal 77; Agenda Item D–22.

72. By revising § 33.65 to read as follows:

§ 33.65 Surge and stall characteristics.

With the engine operated in accordance with operating instructions established under § 33.5(b), an investigation based on quantitative tests, analysis, or a combination of both, must be made to determine the effects of variation in rate of change of airflow or rotor speed and the acceleration and deceleration fuel flow schedules on—

(a) The susceptibility of the engine to surge and stall;

(b) The severity of the surge and stall if it occurs; and

(c) The acceleration, deceleration, and flameout characteristics of the engine.

Explanation: Under the proposed rule, quantitative operating margins are established to permit complete avoidance of surge and stall regions severe enough to cause engine malfunction or damage. The present rule attempts to set operating limitations in terms of the malfunction or damage itself, but without being able to clearly define an acceptable or rejectable degree of such damage.

A similar change proposed in Notice 75–31 (40 FR 29428; July 11, 1975) was deferred for consideration during the Engine Review. See also the proposal and explanation for §25.939.

73. By revising § 33.66 to read as follows:

§ 33.66 Bleed air system.

The engine must supply bleed air without adverse effect on the engine, excluding reduced thrust or power output, at all conditions up to the discharge flow conditions established as a limitation under § 33.7(c)(11). If bleed air used for engine anti-icing can be controlled, provision must be made for a means to indicate the functioning of the aircraft powerplant ice protection system.

Explanation: This proposal takes into account the possibility that the maximum bleed air condition established as a limitation may not be the most critical. In addition, the words "thrust or power" are inserted before the word "output" to make it clear that the engine output is being referred to. Finally, the proposal allows the use of provisions (for a means to indicate the functioning of the aircraft powerplant ice protection system) other than a

connection to the bleed air system as there are acceptable alternatives for this purpose.

Ref: Proposals 80 and 81; Agenda Item E–25.

§ 33.67 [Amended]

74. By amending § 33.67 by deleting all except the first sentence of § 33.67(a), by deleting § 33.67(b)(7), and by revising §§ 33.67 (b)(3), (b)(4), and (b)(5), and adding new §§ 33.67 (c) and (d) to read as follows:

§ 33.67 Fuel system.

* * * * *

(b) * * *

(3) It must be mounted so that its weight is not supported by the connecting lines or by the inlet or outlet connections of the strainer or filter, unless adequate strength margins under all loading conditions are provided in the lines and connections.

(4) It must have the type and degree of fuel filtering specified as necessary for protection of the engine fuel system against foreign particles in the fuel. The applicant must demonstrate—

(i) That foreign particles passing through the specified filtering means do not impair the engine fuel system functioning; and

(ii) That the fuel system is capable of sustained operation throughout its flow and pressure range with the fuel initially saturated with water at 80° F (27° C) and having 0.025 fluid ounces per gallon (0.20 milliliters per litre) of free water added and cooled to the most critical condition for icing likely to be encountered in operation. However, the applicant need not comply with this provision if approved fuel anti-icing additives are specified, or if a fuel heater is provided which is capable of maintaining the fuel temperature at the fuel strainer or fuel inlet about 32° F (0° C) under the most critical condition.

(5) The applicant must demonstrate that the specific filtering means has the capacity (with respect to operating limitations established for the engine) to ensure that, with fuel contaminated to the maximum degree (with respect to particle size and density) likely to be encountered in service, it will be possible for the engine to complete a typical flight from the point at which indication of impending filter blockage was first given either by—

(i) Existing engine instrumentation; or

(ii) Additional means incorporated into the engine fuel system.

* * * * *

(c) If provided as part of the engine, the applicant must show for each fluid injection (other than fuel) system and its controls that—

(1) The flow of the injected fluid is automatically controlled with relation to the amount of power produced by the engine, and

(2) There is a separate control for the fluid injection pumps.

(d) Each engine fuel control system must function properly under all conditions in which the engine is expected to operate. Each fuel control adjusting means that may not be manipulated while the fuel control device is mounted on the engine must be secured by a locking device and sealed, or otherwise made inaccessible. All other fuel control adjusting means must be accessible and marked to indicate the functioning of the adjustment unless the function is obvious. Each fuel control system requiring electrical or electronic inputs for proper engine operation must be designed to—

(1) Have an overall reliability level at least equivalent to that provided by a comparable hydro-mechanical control for that engine type. If the combined level of reliability is not at least equivalent, a secondary fuel control system must be provided to permit satisfactory control of the engine for continued flight;

(2) Provide a means to automatically monitor the operational status of each electronic control system to assure redundancy;

(3) Have primary power supplied directly from an independent power source on the engine. In the event the primary power supply fails, there must be provisions for automatic switching to an independent secondary power supply; and

(4) Provide for safe operation after exposure to electrical system transients and probable lightning strikes, unless adequate protection from such occurrences will be provided by the installation system design.

Explanation: The requirement stated in the last sentence of current § 33.67(a) ensures that the fuel filter or strainer is not blocked during operation with cold fuel. For clarity, this requirement would be placed in new § 33.67(b)(4)(ii) and combined with a provision to allow the use of anti-icing additives or fuel heaters (under specified conditions). Both methods to prevent ice formation have been used successfully in the past.

Revision of § 33.67(b)(3) would allow the use of an acceptable mounting alternative for fuel strainers or filters. The present rule is unnecessarily restrictive. A substantively identical change is proposed for §§ 23.997(c), 25.997(c), 27.997(c), and 29.997(c).

Proposed § 33.67(b)(5) combines the substance of present §§ 33.67 (b)(5) and (b)(7) with revisions aimed at allowing the manufacturer more design flexibility. This proposal states the safety objective more clearly—that in the event of fuel contamination, the pilot is warned in sufficient time to make a safe landing.

For an explanation of the proposal for § 33.67(c), which was initially applied in general to § 33.3, see the proposal and explanation for §§ 25.1143(d) and 33.74.

The provisions of new § 33.67(d) were initially proposed as § 33.64. However, it was considered that addition of special standards applicable to engine power or control systems that require electrical or electronic inputs would be more appropriate under § 33.67. Compliance with these standards will help to ensure that such systems have adequate reliability.

Ref: Proposals 17, 37, 77A, 83, 84 and 85; Agenda Items A–1, E–26, G–43, and G–46.

75. By revising § 33.68(b) to read as follows:

§ 33.68 Induction system icing.

* * * * *

(b) Idle for 30 minutes on the ground, with the available air bleed for engine icing protection at its critical condition, without adverse effect, in an atmosphere that is at a temperature between 15° and 30° F (between −9° and −1° C) and has a liquid water content not less than 0.3 grams per cubic meter in the form of drops having a mean effective diameter not less than 20 microns, followed by a momentary operation at takeoff power or thrust. During the 30 minutes of idle operation the engine may be run up periodically to a moderate power or thrust setting in a manner acceptable to the Administrator. This paragraph does not apply to rotorcraft engines.

Explanation: The test requirement in current § 33.68(b) is unnecessarily severe because it is outside the continuous maximum icing envelope of Appendix C of Part 25, and because no tolerances are permitted on the temperature and liquid water content. It is therefore proposed to revise this requirement by specifying a temperature range rather than a single temperature and by reducing the prescribed liquid water content and drop diameter to values that are more representative of actual ground fog conditions in that temperature range. It is also proposed to allow the engine to be run up periodically during the test to a moderate power or thrust setting in a manner acceptable to the Administrator, and noted in the operating limitations or instructions as appropriate. For consistency, it is proposed to revise the corresponding requirements in §§ 23.1093(b)(2) and 25.1093(b)(2) in the same manner. See the proposals for §§ 23.1093.(b)(2) and 25.1093(b)(2).

Since a rotorcraft is not required to queue up for takeoff, its engines are not operated at idle power or thrust settings for extended periods of time. If future rotorcraft manufacturers request certification for operation in icing conditions, § 33.68(a) plus the operating requirements are considered adequate to ensure airworthiness of the rotorcraft. Therefore, the 30-minute idle test need not be applied to rotorcraft engines and it is proposed to revise § 33.68(b) accordingly. Consistent with this revision, it is proposed to delete §§ 27.1093.(b)(2) and 29.1093(b)(2).

Ref: Proposals 86, 87, 88 and 89; Agenda Item E–27.

§ 33.71 [Amended]

76. By amending § 33.71 as follows:

1. By deleting the phrase "and the mesh" from § 33.71(b)(3).

2. By revising the lead-in of § 33.71(b), by revising §§ 33.71 (b)(4), (c)(5), (c)(11), and (d), and by adding new paragraphs 33.71(c)(12) and (f) to read as follows:

§ 33.71 Lubrication system.

* * * * *

(b) *Oil strainer or filter.* There must be an oil strainer or filter through which all of the engine oil flows. In addition:

* * * * *

(4) For each strainer or filter required by this paragraph, except the strainer or filter at the oil tank outlet, there must be means to indicate contamination before it reaches the capacity established in accordance with paragraph (b)(3) of this section.

* * * * *

(c) *Oil tanks.* * * *

(5) Each oil tank filler must be marked with the word "oil."

* * * * *

(11) Each oil tank must have an oil quantity indicator or provisions for one.

(12) If the propeller feathering system depends on engine oil—

(i) There must be means to trap an amount of oil in the tank if the supply becomes depleted due to failure of any part of the lubricating system other than the tank itself;

(ii) The amount of trapped oil must be enough to accomplish the feathering operation and must be available only to the feathering pump; and

(iii) Provision must be made to prevent sludge or other foreign matter from affecting the safe operation of the propeller feathering system.

(d) *Oil drains.* A drain (or drains) must be provided to allow safe drainage of the oil system. Each drain must—

(1) Be accessible; and

(2) Have manual or automatic means for positive locking in the closed position.

* * * * *

(f) Each lubrication system furnished with an engine must be designed to function satisfactorily when subjected to the negative maneuvering and gust load factors prescribed in § 25.333. This must be shown for the greatest duration expected for the acceleration.

Explanation: The proposed amendments to §§ 33.71(b) and (b)(4) delete the present requirements for scavenge oil strainers or filters. Service experience shows that scavenge oil strainers do not necessarily improve safety but do tend to restrict design of the oil system. For example, debris and bearing spall particles which can pass through the scavenge pump may clog the scavenge strainer, resulting in a flooded sump and loss of engine oil. The proposed revision does not prohibit the use of scavenge oil strainers or filters when they are necessary.

For an explanation of the proposed deletion of the phrases "and the mesh" and "of the screen" from §§ 33.71(b)(3) and (4), respectively, see the proposal and explanation for § 25.1019.

The proposed revision of § 33.71(c)(5) deletes the present requirement that each oil tank filler be marked with the tank capacity, making the requirement the same as corresponding requirements in Parts 23, 25, 27, and 29. There is no safety need to mark tank capacity on the oil tank filler.

The proposed revision of § 33.71(c)(11) allows the engine manufacturer to supply only provisions for an oil quantity indicator; the indicator itself would be installed by the aircraft manufacturer. There is no reason to specify the supplier of the indicator.

Proposed new § 33.71(c)(12) incorporates standards which apply when the oil tank is part of the engine and the propeller feathering system depends on the oil in that tank. The proposed standards are essentially the same as those in §§ 23.1027 and 25.1027, except that the requirement to demonstrate the system feathering capability is not appropriate to Part 33, since the complete system (e.g., propeller) is not furnished or certificated with the engine. The portion of the conference proposal calling for the system to be able to feather and unfeather under "all normal and agreed fault conditions" is omitted, as no common understanding of the terminology has been achieved.

The proposed revisions of § 33.71(d) allow the use of multiple drains, which could result in more efficient drainage. This change, as well as the corresponding revisions of §§ 23.1021, 25.1021, 27.1021, and 29.1021, endeavor to state more precisely the intent of the current language. In the case of § 27.1021(a) for normal category rotorcraft, the new terminology provides an equivalent level of safety while using more general language, and is consistent with the other parts. The words "entire" and "completely" were deleted, since their meanings are implicit in the new revisions.

The addition of new § 33.71(f) places additional responsibility for design for negative acceleration upon the engine manufacturer. It will ensure that these aircraft certification requirements are considered in the early engine design stages. This proposal was initially covered under the conference proposal for § 33.3.

Ref: Proposals 37, 92, 93, 96, 97, and 98; Agenda Items A–1, E–29, E–30 and G–43.

77. By adding a new § 33.74 to read as follows:

§ 33.74 Thrust or power augmentation system.

Each fluid injection system furnished with an engine that is intended for use on a transport category airplane to augment the engine thrust or power must be designed to meet the requirements of § 25.945 of this chapter.

Explanation: This proposal requires that fluid injection systems furnished with transport category airplane turbine engines to augment thrust or power be designed to meet the requirements of § 25.945; when such systems are furnished by the engine manufacturer they must be designed to enable the airplane manufacturer to show compliance with § 25.945. This proposal was initially covered under the conference proposal for § 33.3.

Ref: Proposal 37; Agenda Items A–1 and G–43.

78. By revising §§ 33.75 (b) and (c) to read as follows:

§ 33.75 Safety analysis.

* * * * *

(b) Burst (release hazardous uncontained fragments);

(c) Generate loads greater than those specified in § 33.23(b)(2); or

* * * * *

Explanation: This revision of § 33.75(b) would make it consistent with proposed § 33.77(a)(2). Reference to § 33.23(b)(2) in proposed § 33.75(c) correctly refers to that paragraph which specifies the ultimate loads. See the proposals and explanations for §§ 33.23 and 33.77.

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Ref: Proposals 99, 102, and 103; Agenda Items E–31 and E–32.

79. By adding a new § 33.76 to read as follows:

§ 33.76 Thrust reverser systems.

Each thrust reverser system furnished with an engine that is intended for use on an airplane must be designed to meet the requirements of §§ 25.933 (a) and (b) of this chapter.

Explanation: This proposal requires that thrust reverser systems furnished with airplane engines be designed to meet transport category airplane airworthiness standards; when such systems are furnished by the engine manufacturer they must be designed to enable the airplane manufacturer to show compliance with §§ 25.933 (a) and (b). The proposal was initially covered under the conference proposal for § 33.3.

Ref: Proposal 37; Agenda Items A–1 and C–43.

80. By revising § 33.77 to read as follows:

§ 33.77 Foreign object ingestion.

(a) Ingestion of a 4-pound bird, under the conditions prescribed in paragraph (e) of this section, may not cause the engine to—

(1) Catch fire;

(2) Burst (release hazardous uncontained fragments);

(3) Generate loads greater than those specified in § 33.23(b)(2); or

(4) Lose the capability of being shut down.

(b) Ingestion of 3-ounce birds or 1½-pound birds, under the conditions prescribed in paragraph (e) of this section, may not cause more than a sustained 25 percent power or thrust loss or require the engine to be shut down within 5 minutes from time of ingestion.

(c) Ingestion of water, ice, or hail, under the conditions prescribed in paragraph (e) of this section, may not cause a sustained power or thrust loss or require the engine to be shut down. It must be demonstrated that the engine can accelerate and decelerate safely while ingesting a mixture of 4 percent water by weight of engine airflow following stabilized operation at both flight idle and takeoff thrust settings with 4 percent water/air ratio.

(d) For an engine that incorporates a protective device, compliance with this section need not be demonstrated with respect to foreign objects to be ingested under the conditions prescribed in paragraph (e) of this section if it is shown that—

(1) Such foreign objects are of a size that will not pass through the protective device;

(2) The protective device will withstand the impact of the foreign objects; and

(3) The foreign object, or objects, stopped by the protective device will not obstruct the flow of induction air into the engine to the extent that a sustained reduction in power or thrust results.

(e) Compliance with paragraphs (a), (b), and (c) of this section must be shown by engine test under the following ingestion conditions:

Foreign object	Test quantity	Speed of foreign object	Engine operation	Ingestion
Birds:				
3-oz size	One for each 50 in² of inlet area or fraction thereof up to a maximum of 16 birds. 3-oz bird ingestion not required if a 1½ lb bird will pass the inlet guide vanes into the rotor blades.	Liftoff speed of typical aircraft	Takeoff	In rapid sequence to simulate a flock encounter and aimed at selected critical areas.
1½-lb size	One for the first 300 in² of inlet area, if it can enter the inlet, plus 1 for each additional 600 in² of inlet area or fraction thereof up to a maximum of 8 birds.	Initial climb speed of typical aircraft.	Takeoff	In rapid sequence to simulate a flock encounter and aimed at selected critical areas.
4-lb size	One if it can enter the inlet	Maximum climb speed of typical aircraft, if the engine has inlet guide vanes.	Maximum cruise	Aimed at critical area.
		Liftoff speed of typical aircraft, if the engine does not have inlet guide vanes.	Takeoff	Aimed at critical area.
Ice	Maximum accumulation on a typical inlet cowl and engine face resulting from a 2-min delay in actuating anti-icing system, or a slab of ice which is comparable in weight or thickness for that size engine.	Sucked in.	Maximum cruise	To simulate a continuous maximum icing encounter at 25°F.
Hail (0.8 to 0.9 specific gravity).	For all engines: With inlet area of not more than 100 in²: one 1-in hailstone. With inlet area of more than 100 in²: One 1-in and one 2-in hailstone for each 150 in² of inlet area or fraction thereof.	Rough air flight speed of typical aircraft.	Maximum cruise at 15,000 feet altitude.	In a volley to simulate a hailstone encounter. One half the number of hailstones aimed at random area over the face of the inlet and the other half aimed at the critical engine face area.
	For supersonic engines (in addition): 3 hailstones each having a diameter equal to that in a straight line variation from 1 in at 35,000 ft to 1/4 in at 60,000 ft, using diameter corresponding to the lowest supersonic cruise altitude expected.	Supersonic cruise velocity. Alternatively, use subsonic velocities with larger hailstones to give equivalent kinetic energy.	Maximum cruise	Aimed at critical engine face area.
Water	4 pct of engine airflow by weight.	Sucked in.	Flight idle, acceleration, takeoff, deceleration.	For 3 min each at idle and takeoff, and during acceleration and deceleration in spray to simulate rain.

NOTE.—The term "inlet area" as used in this section means the engine inlet projected area at the front face of the engine. It includes the projected area of any spinner or bullet nose that is provided.

Explanation: This proposal contains the following revisions of present § 33.77 (in addition to several nonsubstantive editorial revisions):

A. The ingestion test requirements for a piece of tire tread in present §§ 33.77(a) and (f) are deleted. Experience has shown that the hazardous consequences from ingestion of a piece of tire are no greater than those associated with ingestion of a 4-pound bird.

B. The ingestion test requirements for a broken rotor blade in present §§ 33.77 (a) and (f) are deleted in favor of proposed new § 33.94. See the explanation for proposed § 33.94.

C. The parenthetical phrase "(penetrate its case)" in present § 33.77(a)(2) is deleted and the phrase "(release hazardous uncontained fragments)" is inserted in its place. The proposed new language expresses the intent more precisely. Substantively identical changes are proposed for §§ 33.75(b) and 33.92(a)(2).

D. The reference to § 33.23 in present § 33.77(a)(3) is changed to § 33.23(b)(2), which refers specifically to the ultimate loads.

E. Ingestion test requirements for mixed gravel and sand in present § 33.77(b) are deleted. FAA service records do not show that sand and gravel ingestion of the type specified in the current rule has introduced a safety hazard or caused sudden or unexpected power loss or falure. Erosion and wear resulting from ingestion of these substances over periods of time are handled by normal maintenance procedures.

F. Section 33.77(b) is modified to include the requirement that the engine be capable of operation for a period of 5 minutes following ingestion of birds as specified. This test period is representative of the time required for an aircraft to return for landing following bird ingestion during takeoff or climbout.

G. The water ingestion test requirement in present § 33.77(f) is expanded to include acceleration and deceleration in order to more completely simulate actual service conditions.

H. The phrase "to the extent that a sustained reduction in power or thrusts results" is added at the end of present § 33.77(d)(3). The present rule is unnecessarily restrictive, as safety would not be adversely affected if the obstruction in the induction air flow did not reduce engine power or thrust.

I. In view of the proposed changes of §§ 33.77 (a) and (b) discussed above, and inclusion of the trest requirement in proosed paragraph (e), there is no longer a need for present § 33.77(e).

J. Present § 33.77(f) is redesignated (with the changes discussed in this proposal) as § 33.77(e) and includes in the lead-in phrase the requirement that an engine must be tested for each of the foreign object conditions specified in the table.

K. The ingestion test conditions for the 4-pound bird size in present § 33.77(f) are revised to specify foreign-object speeds and engine power settings for engines that have inlet guide vanes and for those that do not. An engine with inlet guide vanes does not have the same critical ingestion speed or critical ingestion power as an engine without inlet guide vanes.

L. The ingestion test conditons for ice in present § 33.77(f) are changed as follows:

(1) In the "Test quantity" column, the words "a typical" are inserted before "inlet cowl". These qualifying words are necessary because at the time of engine type certification the applicant may not know what the actual inlet cowl design will be.

(2) The words "30-second delay" in the "Test quantity" column and the words "intermittent maximum icing encounter" in the "Ingestion" column would be replaced by the words "2-minute delay" and "continuous maximum icing encounter," respectively. The purpose is to make the language consistent with that used in connection with anti-icing system approvals. The ice buildup is essentially the same for the presently worded and proposed conditions.

(3) In the "Test quantity" column, an option is added to permit the use of a slab of ice comparable to a 2-minute accumulation at the manufacturer's discretion. Certification tests using this alternative have demonstrated satisfactory engine resistance to damage from the ingestion of ice.

M. A new note is added at the end of proposed § 33.77(e) to define the term "inlet area" and to make it clear that the projected area of any spinner or bullet nose (if provided) is included.

Ref: Proposals 99, 102, 103, and 104; Agenda Items E–31 and E–32.

81. By revising §§ 33.83 (a) and (b) to read as follows:

§ 33.83 Vibration test.

(a) Each engine must undergo a vibration survey to establish the vibration characteristics of the rotor discs, rotor blades, rotor shafts, stator blades, and any other components that are subject to vibratory exciting forces which could induce failure at the maximum inlet distortion limit, over the range of rotor speeds and engine power or thrust, under steady state and transient conditions, from idling speed to 103 percent of the maximum permissible takeoff speed. The survey must be conducted using the same configuration of the loading device which is used for the endurance test, except that the Administrator may allow the use of a modifed configuration if that loading device type is incompatible with the necessary vibration instrumentation.

(b) The vibration stresses [or strains of rotor and stator components determined under paragraph (a) of this section must be less, by a margin acceptable to the Administrator, than the endurance limit of the material from which these parts are made, adjusted for the most severe operating conditons.

* * * * *

Explanation: Proposed § 33.83(a) requires that the vibration survey cover all engine components that are subject to substantial vibratory exciting forces, not merely those currently listed. The term "rotor discs" is used instead of "rotors" to avoid ambiguity. In addition, proposed § 33.83(a) allows the use of a modified version of the endurance test loading configuration for the required vibration survey under specific circumstances. This revision would provide needed flexibility without adversely affecting safety.

The requirement for an adequate margin of safety acceptable to the Administrator as proposed for § 33.83(b) is considered necessary to reduce the probability of high-cycle fatigue failures which service experience has shown to be the cause of a significant portion of uncontained rotor failures. The second and third sentences of current § 33.83(b) are deleted since their intent is covered by the proposed chages.

Ref: Proposals 110 and 111; Agenda Item F–33.

§ 33.87 [Amended]

82. By amending § 33.87 as follows:

1. By redesignating § 33.87(d)(2) as (d)(3).

2. By inserting a new § 33.87(d)(2) and by revising §§ 33.87(a) lead-in, (a)(3), (a)(5), (a)(6), and redesignated (d)(3) to read as follows:

§ 33.87 Endurance test.

(a) *General.* Each engine must be subjected to an endurance test that includes a total of 150 hours of operation and, depending upon the type and contemplated use of the engine, consists of one of the series of runs specified in paragraphs (b) through (e) of this section, as applicable. For engines tested under paragraph (b), (c), or (d) of this section, the prescribed 6-hour test sequence must be conducted 25 times to complete the required 150 hours of operation. The following test requirements apply:

* * * * *

(3) Except as provided in paragraph (a)(5) of this section, power or thrust, gas temperature, rotor shaft rotational speed, and if limited, temperature of external surfaces of the engine must be at least 100 percent of the value associated with the particular engine

operation being tested. More than one test may be run if all parameters cannot

accessory drives and mounting attachments be loaded when conducting

§ 33.89 Operation test.

* * * * *

(b) The operation test must include all

windmilling test is needed for engines for supersonic aircraft, however, because their rotor speeds during

Explanation: Current § 33.19 requires that the design of compressor and

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operation being tested. More than one test may be run if all parameters cannot be held at the 100 percent level simultaneously.

* * * * *

(5) Maximum air bleed for engine and aircraft services must be used during at least one-fifth of the runs. However, for these runs the power or thrust, or the rotor shaft rotational speed, may be less than 100 percent of the value associated with the particular operation being tested if the Administrator finds that the validity of the endurance test is not compromised.

(6) Each accessory drive and mounting attachment must be loaded. The load imposed by each accessory used only for aircraft service must be the limit load specified by the applicant for the engine drive and attachment point during rated maximum continuous power or thrust and higher output. The endurance test of any accessory drive and mounting attachment under load may be accomplished on a separate rig if the validity of the test is supported by an approved analysis.

* * * * *

(d) * * *

(2) *Rated 30-minute power.* In each 6-hour test sequence, 30 minutes must be run at rated 30-minute power and thrust except that at the end of one rated 30-minute power and thrust test period, 5 minutes must be run at 2½-minute power.

(3) The tests required in paragraphs (c)(3) through (c)(6) of this section.

* * * * *

Explanation: The new second sentence added to the lead-in paragraph of § 33.87(a) in this proposal makes it clear that the 6-hour test sequence prescribed in §§ 33.87 (b), (c), and (d) is to be conducted 25 times to complete the required 150 hours of operation. This conforms to the intent of the rule and its past administration.

Revision of §§ 33.87(a)(3) and (a)(5) will allow the applicant to reduce power or thrust or the rotor shaft rotational speed below the 100 percent value specified in present § 33.87(a)(3) during maximum air bleed runs, as it is not always possible to reach maximum permissible r.p.m. at takeoff and maximum continuous power without exceeding EGT limits under these conditions. However, the Administrator must find that such a reduction does not compromise the validity of the endurance test. This revision will not affect safety.

Revision of § 33.87(a)(6) will allow separate rig testing of accessory drives and mounting attachments. The current requirement, which specifies that accessory drives and mounting attachments be loaded when conducting endurance tests on the engine, is unnecessarily restrictive. Separate rig testing, substantiated by appropriate analysis, has been shown satisfactory for this purpose during past engine certification programs.

New § 33.87(d)(2) would adjust the current test schedule for the helicopter engine 2½-minute power rating by specifying that 2½-minute power must be applied for 5 minutes at the end of one rated 30-minute power run, thereby establishing a margin of safety and assuring that 2½-minute rated power is available when needed. Redesignated paragraph (d)(3) is modified accordingly.

A proposal to require all fluids for supersonic engines to be delivered under allowable limiting conditions during the endurance tests was made by FAA in response to a recommendation prior to the conference by an airline pilots' union. The proponent later decided that the requirement was premature and the proposal was withdrawn.

Ref: Proposals 112A, 113, 114, and 116; Agenda Item F–35.

83. By revising § 33.88, including the heading, to read as follows:

§ 33.88 Engine overtemperature test.

Each engine must be run for 5 minutes at maximum permissible r.p.m. with the gas temperature at least 75° F (42° C) higher than the maximum operating limit. Following this run, the turbine assembly must be within serviceable limits.

Explanation: The current rule requiring a 30-minute overtemperature test has been found unnecessarily severe. Service experience shows that none of the turbine engines subjected to 5-minute overtemperature tests during type certification have experienced in-service primary rotor disc failure due to overtemperature. Additionally, it is considered extremely improbable that a flight crew would allow a 75° F overtemperature condition to be sustained for more than 5 minutes in service. Therefore, this proposal reduces the duration of the overtemperature test in current § 33.88 from 30 minutes to 5 minutes, and clarifies the acceptance criteria. It is also proposed to replace the current heading "Rotor tests" with the more descriptive "Engine overtemperature test," and to use the term "maximum permissible r.p.m." for consistency.

Ref: Proposals 118 and 119; Agenda Item F–36.

84. By revising § 33.89(b) to read as follows:

§ 33.89 Operation test.

* * * * *

(b) The operation test must include all testing found necessary by the Administrator to demonstrate that the engine has safe operating characteristics throughout its specified operating envelope.

Explanation: This proposal revises § 33.89(b) to require testing, if necessary, throughout the specified operating envelope of the engine. The specified operating envelope must be investigated by test or by test and analysis to provide for safe engine operating characteristics. The second sentence, dealing with tests to fuel burning thrust augmentors, is deleted, as the subject is implicit in the new wording.

Ref: Proposal 121; Agenda Item F–37.

85. By revising the title and text of § 33.90 to read as follows:

§ 33.90 Initial maintenance inspection.

Each engine, except engines being type certificated through amendment of an existing type certificate, or through supplemental type certification procedures, must undergo an approved test run that simulates the conditions in which the engine is expected to operate in service, including typical start-stop cycles, to establish when the initial maintenance inspection is required. The test run must be accomplished on an engine which substantially conforms to the final type design.

Explanation: It is proposed to delete the word "overhaul" as it is not appropriate to many engine maintenance programs. The proposal also eliminates reference to any duration for the test run and allows an approved program to be formulated based on intended usage and service experience.

Ref: Proposals 45, 124 and 125; Agenda Items A–7 and F–38.

86. By inserting an initial phrase at the beginning of § 33.92(a), and by revising § 33.92(a)(2) to read as follows:

§ 33.4933.92 Windmilling tests.

(a) For engines to be used in supersonic aircraft, unless * * *

(1) * * *

(2) Bursting (releasing hazardous uncontained fragments); or

* * * * *

Explanation: The windmilling test specified in current § 33.92(a), insofar as it applies to turbine engines for subsonic aircraft, imposes an unnecessary burden on the engine manufacturer. After years of service with these engines, there have been no reported incidents involving windmilling hazards to the aircraft resulting from loss of engine oil. The windmilling test is needed for engines for supersonic aircraft, however, because their rotor speeds during windmilling are much higher than those characteristic of turbine engines for subsonic aircraft. It is therefore proposed to limit the applicability of § 33.92(a) to engines for supersonic aircraft. The proposals for §§ 33.7(c)(16) and 33.77(a)(2) are consistent with this proposal.

Ref: Proposal 126; Agenda Item F–39.

§ 33.93 [Amended].

87. By amending § 33.93(b) by striking the word "component" and inserting the word "part" in its place.

Explanation: The word "component" in current § 33.93(b) may be construed to cover only subassemblies (such as pumps and control valves) whereas the intent is to cover all engine parts. To clarify this point, it is proposed to substitute the word "part" for "component."

Ref: Proposal 128; Agenda Item F–40.

88. By adding a new § 33.94, to read as follows:

§ 33.94 Blade containment and rotor unbalance tests.

(a) Except as provided in paragraph (b) of this section, it must be demonstrated by engine tests that the engine is capable of containing damage without catching fire and without failure of its mounting attachments when operated for at least 15 seconds after each of the following events:

(1) Fairlure of the most critical compressor of fan blade while operating at maximum permissible r.p.m. The blade failure must occur at the outermost retention groove or, for integrally-bladed rotor discs, at least 80 percent of the blade must fail.

(2) Failure of the most critical turbine blade while operating at maximum permissible r.p.m. The blade failure must occur at the outermost retention groove or, for integrally-bladed rotor discs, at least 80 percent of the blade must fail. The most critical turbine blade must be determined by considering turbine blade weight and the strength of the adjacent turbine case at case temperatures and pressures associated with operation at maximum permissible r.p.m.

(b) Analysis based on rig testing, component testing, or service experience may be substituted for one of the engine tests prescribed in paragraphs (a)(1) and (a)(2) of this section if—

(1) That test, of the two prescribed, produces the least rotor unbalanced; and

(2) The analysis is shown to be equivalent to the test.

Explanation: Current § 33.19 requires that the design of compressor and turbine rotor cases provide for the containment of damage from rotor blade failure. A test for such containment is prescribed in current § 33.77 (which treats a failed rotor blade as a foreign object) but that test need not be performed if the consequences of ingesting a 4-pound bird or a piece of tire tread would be more severe. Recent service experience has indicated that compliance with these requirements may not ensure an adequate containment capability. Proposed § 33.94 requires blade-failure containment testing of an engine in addition to foreign-object ingestion testing under § 33.77. However, consistent with this change, the references to tire fragment ingestion and blade failure containment testing is deleted from current § 33.77. See the proposal and explanation for § 33.77.

It should be noted that analysis may be substituted for only one of the tests prescribed in proposed § 33.94(a) if that test, of the two prescribed, produces the least rotor unbalance and the analysis is shown to be equivalent to the test. At least one engine test would have to be conducted in every instance to ensure that the engine case can contain damage from rotor blade failure, and that engine structural integrity is maintained with the rotor unbalance associated with rotor blade failure.

Ref: Proposal 129; Agenda Item F–41.

Appendix I—Miscellaneous Proposals Withdrawn by Proponent

The proposals listed below were withdrawn by their proponents. Proponents or other interested persons may submit similar proposals in the future. The withdrawal of FAA proposals does not commit the FAA to any future course of action.

14 CFR (FAR sec.)	Proposal No.	Agenda item	Proponent
23.943	1	G–43	Federal Aviation Administration.
25.943	5	G–43	Do.
33.5	38	A–2	Do.
33.7	39	A–3	Do.
33.8	47	A–8	Do.
33.17	55	B–11	Do.
33.23	58	B–14	Do.
33.29	69	B–17	Do.
33.37	69A	C–18	Do.
33.39	70	C–19	Do.
33.49	75	D–22	Teledyne Continental Motors.
33.65	79	E–24	Federal Aviation Administration.
33.71	95	E–29	Teledyne Continental Motors.
33.77	107	E–32	Federal Aviation Administration.
33.83	108	F–33	Aerospace Industries Association.
33.85	112	F–34	Federal Aviation Administration.
33.87	115	F–35	Do.
33.88	122	F–37	Do.
33.89	123	F–37	Do.
33.93	127	F–40	Do.
33.99	130	F–42	Do.

Appendix II—Miscellaneous Proposals Removed From Further Consideration From the Aircraft Engine Regulatory Review Program

Based on the FAA's review of the discussion at the Aircraft Engine Regulatory Review Conference and of the information submitted by interested persons, the following proposals considered at the conference are removed from further consideration for the reasons listed below:

14 CFR (FAR sec.)	Proposal No.	Agenda item	Proponent
25.997	7	E–28	Air Line Pilots Association.
25.1019	11	E–29	Do.
25.1019	13	E–29	Air Transport Association.
25.1305	16	G–44	Joint Airworthiness Requirements Committee.
25.1305	18	E–26, E–29	Air Line Pilots Association.
25.1305	20	E–29	Air Transport Association.
27.1093	23	E–27	Association Europeene des Constructeurs de Materiel.
27.1093	24	E–27	Aerospace Industries Association.
27.1093	25	E–27	Do.
29.901	27	A–1	Do.
29.951	28	A–1	Do.
29.955	29	A–1	Do.
29.991	30	A–1	Do.
29.1093	31	E–27	Association Europeene des Constructeurs de Materiel.
29.1093	33	E–27	Aerospace Industries Association.
29.1093	34	E–27	Do.
33.7	40	A–3	Flight Line Times.
33.7	41	A–5	Army Department (ARDC)
33.7	43	A–5	Do.
33.15	51	B–10	C. Webber.
33.21	57	B–13	Do.
33.27	66	B–16	Joint Airworthiness Requirements Committee.
33.41	71	D–21	C. Webber.
33.43	73	D–21	Teledyne Continental Motors.
33.49	74	D–22	Do.
33.65	78	E–24	Air Line Pilots Association.
33.67	82	E–26	Do.
33.69	90	E–26	William E. Chamberlain.
33.71	91	E–29	Air Line Pilots Association.
33.71	94	E–29	Air Transport Association.
33.77	100	E–32	Air Line Pilots Association.
33.77	101	E–32	National Transportation Safety Board.
33.77	105	E–32	Aerospace Industries Association.
33.77	106	E–32	Do.
33.83	109	F–33	Joint Airworthiness Requirements Committee.
33.87	117	F–35	Aerospace Industries Association.
33.89	120	F–37	Joint Airworthiness Requirements Committee.
33.99	131	F–42	Aerospace Industries Association.

Proposals 7 and 82—The proponent suggested an amendment to §§ 25.997 and 33.67 that would require that each fuel strainer or filter on a turbine engine-powered airplane have a bypass, and that a means be provided to indicate to the flight crew the occurrence of fuel strainer or filter contamination before the bypass begins to open. Under present §§ 25.997 and 25.1305(c)(6), a bypass is not required, but an indicator must be provided to indicate the occurrence of contamination of fuel strainer or filter before it reaches its established capacity. The service record does not justify the need for the proposed rule change. Fuel systems with the proposed features (which are optional under present rules) have been approved in the past, but have not demonstrated a significant safety advantage over those without them.

Proposals 11 and 91—The proponent suggested an amendment to §§ 25.1019 and 33.71 that would require that each oil strainer or filter be fitted with a bypass. The service record does not justify the proposed rule change. Oil systems incorporating bypasses (which are optional under present rules) have been approved in the past but have not demonstrated a significant safety advantage over those without them.

Proposals 13, 20 and 94—The proposals to delete the requirement for warning means to indicate imminent critical contamination of oil strainers and filters is not considered valid in respect to the overall service record. Although premature or false indications may cause unnecessary precautions to be taken in a few cases, on balance retention of the feature mitigates in favor of safety.

Proposal 18—It was suggested that § 25.1305(a) be revised by amending the list of required powerplant instruments to include the phrase "any other intrumentation of warning means, as listed in the engine type certificate data sheet, which is necessary to ensure the safe operation of the airplane." There is no administrative need to include this general provision as it is adequately provided for in Part 21.

Proposal 19—The proposal would revise §§ 25.1305(c)(6) and (c)(7) to incorporate editorial changes consistent with Proposals 7 and 11. Since Proposals 7 and 11 are removed from consideration, there is no need to consider this related proposal.

Proposals 22, 24, 25, 31, 33, and 34—These proposals retain in some form the rotorcraft ground induction system icing tests proposed for airplanes. For an explanation of the reason for their removal, see the proposal for § 33.66.

Proposal 27—The proposal would revise § 29.901(c)(2) so that the applicant, in showing compliance with § 29.901(c), could disregard the failure of any component approved separately under another part of the CFR (presumably Part 33, 35, or 37). The FAA disagrees. Approval of a critical component under another part does not ensure in every case that it will meet § 29.901(c) in a powerplant or auxiliary power installation on a rotorcraft.

Proposal 28—The proponent would revise § 29.951(c) to limit its application to "airframe" fuel systems. The present part, in conjunction with the provisions of Part 33, is intended to ensure that the complete fuel system for the powerplant installation, which may or may not include engine fuel condition facilities or utilize anti-icing additives, meets the cold operation requirements stated therein. This intent would be unnecessarily restricted by the proposal and it is therefore removed from consideration.

Proposal 29—The proposal would amend § 29.955(a)(3) by exempting emergency or "main pumps" that are not part of the engine, if not required. Under the present rules, a main pump may be part of the engine or part of the airframe fuel system. The FAA sees no reason to restrict the definition of the term "main pump" in the manner proposed and considers the present rules adequate.

Proposal 30—The proposal would amend §§ 29.991 (a) and (b) in a manner similar to Proposal 29. For an explanation, see Proposal 29.

Proposal 40—The proposal would add language to current § 33.7(b)(2) to ensure that each reciprocating engine fuel approved by the Administrator has been demonstrated as safe by the engine manufacturer. The current rule already serves this purpose. The engine manufacturer is required to identify the fuel the engine is to use, to perform all type certification tests using that fuel, and to establish that fuel as an operating limitation on the engine. If an applicant wishes to obtain approval for the use of an alternate fuel, the applicant must demonstrate by test that the engine using that fuel meets the applicable type certification requirements.

Proposals 41 and 43 (in part)—Those portions of the proposals calling for deletion of the phrase "of a supersonic engine" from §§ 33.7 (c)(5)(ii) and (c)(6)(iii) are removed from consideration. Section 33.7 is the ratings and operating limitations section. The FAA has no record of problems which would necessitate a regulation requiring the applicant to specify a limiting induction air temperature and pressure for engines to be used in subsonic aircraft. The lack of a regulation, however, does not prevent an engine manufacturer from specifying such limits when a design requires them.

Proposal 51—The proposal would add language to current § 33.15 indicating several different methods by which an applicant could establish the suitability and durability of the materials used in the applicant's engine. The current rule is sufficiently broad to include these methods, and no change is necessary.

Proposal 57—The proposal would amend § 33.21 to require the engine manufacturer to provide comprehensive information on engine heat generation and dissipation, oil temperature measurement, and means for monitoring engine cooling in flight. The current rule ensures that the engine is designed and constructed to provide adequate cooling and to provide that oil temperature limits established under § 33.7 are fully justified by the engine manufacturer during the type certification program.

Proposal 66—The proposal would revise § 33.27(c) to require overspeed tests of discs having minimum material properties and most adverse dimensions. It also would increase the rotational speed for most of the tests, would require multiple tests, and would establish the acceptance criterion as the ability to survive without bursting, regardless of dimensions. In the light of past experience, these provisions are unnecessarily conservative and would impose unwarranted penalties on new designs without increasing safety.

Proposal 71—Section 33.41 would be amended to allow the substitution of engine service data accumulated on experimental aircraft for certain engine block tests prescribed in Part 33. Its intent would be to simplify the type certification of engines of less than 100 horsepower. A comprehensive proposal along these lines has been submitted to the FAA by the Experimental Aircraft Association (EAA). This proposal will be considered together with the EAA proposal as a separate regulatory project.

Proposal 73—The proposal would amend § 33.43(b) to allow (as an alternative to showing that the torsional and bending stresses of the output shaft do not exceed the endurance limit of the material from which it is made) the publication of operating instructions which set forth operating procedures to avoid possible damage to the engine. The proponent based the need for this proposal on the inability of certain engines to meet the requirement of § 33.43(b) for the one-cylinder-not-firing condition prescribed in present § 33.43(a). Under the proposal for

§§ 33.43 (a) and (d) contained in this notice, compliance with § 33.43(b) need not be shown for the one-cylinder-not-firing condition; instead, the new requirement would provide safe operating information for incorporation into placards, markings, and flight manual notes.

Proposal 74—The proposal would amend § 33.49(a) by allowing the order of the endurance test runs to be selected by the applicant. In current certification practice the applicant proposes the order of the runs, which is then accepted by the Administrator unless there are valid safety reasons for changing the order. The FAA must retain its authority to alter the applicant's proposed order of runs as necessary to ensure safety.

Proposal 78—Current § 33.65 as well as the proposed addition of the phrase "permanent deformation of any engine part" attempt to limit engine surge-stall in terms of physical effects on the engine. Since these end-effect criteria are difficult to quantify and administer, the proposal is withdrawn in favor of one which would establish operating margins by test or analysis, by which undesirable surge-stall operation could be avoided.

Proposal 90—The proponent would add the following sentence to present § 33.69: "Provision must be made for positive indication that the fuel burning augmentation system is operating when selected." Discussions at the Review Conference disclosed that the intent of this proposal was to provide an indication to the flight crew when the engine's continuous ignition system was operating satisfactorily. The need for the proposed requirement is not justified by the service record.

Proposal 100—Section 33.77 would be revised to increase the present ingestion test requirements of a 4-pound bird and 1½-pound birds of §§ 33.77 (a) and (b) to an 8-pound bird and 2-pound birds, respectively, and would increase the number of birds used in some tests. There is no known service experience or field data which would justify this increase in test requirements. In addition, the proposal to double the size of test hailstones for supersonic engine inlets is not considered realistic, since the size of hailstones is not a function of the type of aircraft which goes into them.

Proposal 101—The number and size of birds used in the ingestion test of § 33.77 would be increased in this proposal. See Proposal 100.

Proposal 105—The proposal would substitute the word "significant" for "sustained" in describing objectionable power or thrust loss in § 33.77(c). It is considered that a sustained loss of power or thrust under foreign object ingestion conditions is more indicative of serious problems from an operational standpoint; therefore, the proposal is removed from consideration.

Proposal 106—The proposal would allow substitution of analysis or past experience for tests of the effects of mixed gravel or sand ingestion as required under present § 33.77(e). It is proposed to delete sand and gravel tests altogether (see the proposal for § 33.77).

Proposal 109—The proposal would amend § 33.83(a) to require consideration of "likely appropriate failure conditions" during the prescribed vibration survey. The FAA disagrees. The service record does not justify the need for this provision. Further, the FAA believes that the analysis required by § 33.75(b) would reveal such conditions and lead to their correction before type certification.

Proposal 117—The proposal would delete § 33.87(d)(3). The proposal is removed from consideration since the proposed change is already in effect. (Amendment 33–6, 39 FR 35468; October 1, 1974).

Proposal 120—The proposal would amend § 33.89(a) by adding a requirement that the operation test include testing to demonstrate that rapid movement of the power control lever from flight idle to the extreme forward position does not prevent continued safe operation of the engine. The FAA disagrees. Traditionally, the FAA has relied on pilot monitoring of engine controls in all operating circumstances. No data has been presented which would warrant consideration of this proposal.

Proposal 131—The proposal would delete the requirement for service and maintenance instructions in accordance with § 33.5 to be provided for the block tests. The FAA considers that these minimal instructions are a necessary guide to the servicing and minor repairs which may be done during the block tests, and that it would impose no great hardship to have such instructions set down in preliminary form.

(Sections 313(a), 601, 603, and 604, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, 1424); section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.45)

Note.—The FAA has determined that this document involves proposed regulations which are not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11304; February 26, 1979). A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the person identified earlier in this document as contact for further information.

Issued in Washington, D.C., on November 10, 1980.

Melvin C. Beard,

Director of Airworthiness.

[FR Doc. 80-35859 Filed 11-19-80; 8:45 am]
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federal register

Thursday
November 20, 1980

Part IV

Department of Transportation

Federal Aviation Administration

Operations Review Program Notice No. 12; Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

14 CFR Parts 43 and 91

views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might

1975) was issued inviting all interested persons to submit proposals for consideration during the Operations

disassembled, cleaned, inspected, repaired as necessary, reassembled; and

(2) It has been tested in accordance

under a production certificate or under a currently approved production inspection system for such aircraft,

procedures in § 43.5. Hence this proposal also inserts the phrase "approve (approval) for return to

DEPARTMENT OF TRANSPORTATION

14 CFR Parts 43 and 91

[Docket No. 21071; Notice No. 80-22]

Operations Review Program Notice No. 12

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making (NPRM).

SUMMARY: This notice describes the FAA's disposition of proposals discussed at the Operations Review Conference concerning aircraft maintenance and aircraft operating rules. These proposals include: Rules to allow certain foreign nationals (Canadians) to perform aircraft inspections, except for annual inspections; consolidated inspection requirements to make them easier to use and more understandable to the public; and clarification of specific operations that can be performed under the terms "rebuilt" and "overhaul". These changes are proposed in order to update the regulations to reflect industry's rapid growth, technological advancement, and changes in the operating environment. In addition other proposals are withdrawn or are removed from further consideration after review by the FAA. The proposals, withdrawals, and removals are contained in this notice.

DATES: Comments must be received on or before February 18, 1981.

ADDRESS: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC-204), Docket No. 21071, 800 Independence Avenue SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue SW., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 21071. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Everett W. Pittman, Regulatory Review Branch (AVS-22), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; Telephone: (202) 755-8714.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All communications received on or before the date specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket. Commenters wishing to have FAA acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments on Docket No. 21071." The postcard will be dated, time stamped, and returned to the commenter.

For convenience, each proposal in this notice is numbered separately. The FAA requests that interested persons, when submitting comments, refer to proposals by these numbers or by the section to which they relate.

Availability of This Notice

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should request a copy of Advisory Circular No. 11-2 which describes the application procedures.

Background

The aviation industry in the United States and abroad has grown substantially during the last 10 years. Paralleling its rapid growth and numerous technological advances are significant changes in the operating environment in which airmen, air agencies and aircraft operators function. To enhance the FAA's responsiveness to the needs of the general public and the aviation community in fulfilling the agency's aviation safety responsibilities, Notice 75-9 (40 FR 8585; February 28, 1975) was issued inviting all interested persons to submit proposals for consideration during the Operations Review Program. The FAA received more than 5,000 individual comments contained in 123 submissions. Based on these comments and on the compilation of proposals, the FAA prepared a number of working documents for the Operations Review Conference. The FAA distributed those documents to each person who participated in the Operations Review Program and all other interested persons who requested them.

The Operations Review Conference was attended by more than 600 persons. Various committees discussed all the scheduled agenda items during the conference. Summaries were given by the FAA committee chairperson at the close of discussions on each agenda item. Persons present were given the opportunity to correct those oral summaries. Those summaries were edited, combined with an attendee list and transcripts of certain plenary session speeches, and distributed to all attendees and other interested persons.

The Proposals

This notice deals with selected proposals concerning Parts 43 and 91 contained in the Operations Review Committee No. 2 Workbook titled "Aircraft Maintenance." A number of the proposals contained in both the compilation and the working documents are not included in this notice. The proposals listed in Appendices I and II fall into two categories as follows:

Appendix I—Proposals Withdrawn by Proponent.

Appendix II—Proposals Removed from Further Consideration.

The Proposed Amendments

Accordingly, the Federal Aviation Administration proposes to amend Parts 43 and 91 of the Federal Aviation Regulations (14 CFR Parts 43 and 91) as follows:

PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

12-1. By adding a new § 43.2 to read as follows:

§ 43.2 Records of overhaul and rebuilding.

(a) No person may describe in any required maintenance entry or form an aircraft, airframe, aircraft engine, propeller, appliance, or component part as being overhauled unless—

(1) Using methods, techniques, and practices acceptable to the Administrator, it has been completely disassembled, cleaned, inspected, repaired as necessary, reassembled; and

(2) It has been tested in accordance with approved standards and technical data, or in accordance with current standards and technical data acceptable to the Administrator which have been developed and documented by the manufacturer holding the type certificate, or a material, part, process, or applicance approval under § 21.305 of this chapter.

(b) No person may describe in any required maintenance entry or form an aircraft, airframe, aircraft engine, propeller, appliance, or component part as being rebuilt unless it has been completely disassembled, inspected, repaired as necessary, reassembled, and tested to the same tolerances and limits as a new article using either new parts or used parts that conform to new part tolerances and limits or to approved oversized or undersized dimensions.

Explanation. This proposal would clarify what specific actions must be performed when the terms "rebuilt" and "overhauled" are used in maintenance records. The current rules do not provide definitions as to what constitutes an overhauled or rebuilt item and confusion often exists when these terms are used. This proposal would create maintenance standards by providing clear, concise information to the aircraft owner or operator concerning the specific work that must be accomplished when the terms are used.

Ref. Proposal 301; § 91.176; Committee 2; Agenda Item E.

12-2. By revising the first sentence of § 43.3(a), the last sentence of § 43.3(d) and § 43.3(i)(3) to read as follows:

§ 43.3 Persons authorized to perform maintenance, preventive maintenance, rebuilding, and alterations.

(a) Except as provided in this section and § 43.17, no person may maintain, rebuild, alter, or perform preventive maintenance on an aircraft, airframe, aircraft engine, propeller, appliance or component part to which this part applies. * * *

* * * * * *

(d) * * * However, this paragraph does not authorize the performance of any inspection required by this chapter nor any inspection performed after a major repair or alteration.

* * * * * *

(i) A manufacturer may—

* * * * * *

(3) Perform any inspection required by Part 91 or Part 125 of this chapter, on aircraft manufactured by the manufacturer, while currently operating under a production certificate or under a currently approved production inspection system for such aircraft.

Explanation. This proposal would add the provision "Except as provided in § 43.17" to § 43.3(a) to recognize that mechanical work may be performed on U.S.-registered aircraft by Canadians under § 43.17.

Additionally, the proposal would amend § 43.3(d) to prohibit noncertificated persons, working under the supervision of the holder of a mechanic or repairman certificate, from performing any inspections required by this chapter. Existing rules prohibit certificated personnel from supervising 100-hour inspections. Since any of the inspections required by proposed § 91.169 have an impact on safety equivalent to the 100-hour inspection, those inspections should also be performed only by certificated personnel.

Proposed § 43.3(i)(3) would allow a manufacturer to perform any inspection required by Part 91 of this chapter on aircraft manufactured by the manufacturer instead of only 100-hour, annual and progressive inspections. The FAA recognizes that the manufacturer as the builder (and often the designer) of the aircraft is intimately familiar with it and therefore has a unique capability to perform these inspections while operating under a production certificate or an approved production inspection system.

Ref. Proposals 10 and 14; § 43.3; Committee 2; Agenda Item B.

12-3. By amending § 43.5 by inserting the words "approve for" before the words "return to service" in § 43.5(a); by deleting §§43.5(a)(1) and 43.5(b); by redesignating § 43.5(a) as a lead-in paragraph; by redesignating §§ 43.5(a)(2), (3), and (4) as §§ 43.5(a), (b), and (c), respectively; and by revising the heading of § 43.5 to read as follows:

§ 43.5 Approval for return to service after maintenance, preventive maintenance, rebuilding, or alteration.

* * * * * *

Explanation. This proposal would insert the phrase "approve [approval] for return to service" in the heading and the first sentence of § 43.5(a). The present § 43.5 prescribes a prohibition against return to service of an aircraft after maintenance, unless several procedural steps have been completed. The prohibition relates to both maintenance personnel and the owner/operator who operates such aircraft. The proposal objective is to place the operations prohibition portion of the rule in § 91.167(a)(1) (proposal 12-15) and to retain the maintenance approval procedures in § 43.5. Hence this proposal also inserts the phrase "approve (approval) for return to service" in the heading and first sentence of § 43.5(a)

The FAA proposes to delete § 43.5(a)(1) which requires approval for return to service by a person authorized under § 43.7 since § 43.7 already requires such approval and lists those persons who are authorized to approve for return to service. Additionally, the provision of existing § 43.5(a)(1) is inserted in proposed § 91.167(a)(1) (Proposal 12-15) in order to place this prohibition in an operating rule.

It is proposed to delete § 43.5(b) which currently exempts certificated pilots from the recording requirements of § 43.5. All persons who accomplish preventive maintenance should be required to record it in the same manner. This will provide more complete aircraft records and permit quicker identification of the person approving the work.

Ref. Proposals 16, 17, and 20; § 43.5; Committee 2; Agenda Item C.

12-4. By amending the heading of § 43.7, by amending § 43.7(a), and by adding a new paragraph (g) to read as follows:

§ 43.7 Persons authorized to approve aircraft, airframes, aircraft engines, propellers, appliances, or component parts for return to service after maintenance, preventive maintenance, rebuilding, or alteration.

(a) Except as provided in this section and § 43.17, no person, other than the Administrator, may approve an aircraft, airframe, aircraft engine, propeller, appliance, or component part for return to service after it has undergone maintenance, preventive maintenance, rebuilding, or alteration.

* * * * * *

(g) A person holding at least a private pilot certificate may approve an aircraft for return to service after performing preventive maintenance under the provisions of § 43.3(h).

Explanation. This proposal would allow a person holding at least a private pilot certificate to approve an aircraft for return to service after performing preventive maintenance under the provisions of § 43.3(h). This would result in more complete maintenance records since present § 43.5(b) does not require pilots to record or approve for return to service work accomplished as preventive maintenance. The provision "Except as provided in § 43.17" is added to paragraph (a) of § 43.7 for the reasons discussed under the explanation for Proposal 12-2. For an explanation of the addition of "component parts" to the list

of items subject to approval for return to service, see the explanation for proposed § 43.9 (Proposal 12–5).

Ref. Proposal 17; § 43.5; Committee 2; Agenda Item C.

12–5. By revising § 43.9 to read as follows:

§ 43.9 Content, form, and disposition of maintenance, preventive maintenance, rebuilding, and alteration records (except inspections performed in accordance with Part 91, Part 123, and § 135.411(a)(1) of the this chapter).

(a) *Maintenance record entries.* Except as provided in paragraphs (b) and (c) of this section, each person who maintains, performs preventive maintenance, rebuilds, or alters an aircraft, airframe, aircraft engine, propeller, appliance, or component part shall make an entry in the maintenance record of that equipment containing the following information:

(1) A description (or reference to data acceptable to the Administrator) of the work performed.

(2) The date of completion of the work performed.

(3) The name of the person performing the work of other than the person specified in paragraph (a)(4) of this section.

(4) If the work performed on the aircraft, airframe, aircraft engine, propeller, appliance, or component part has been performed satisfactorily, the signature, certificate number, and kind of certificate held by the person approving the work. The signature constitutes the approval for return to service only for the work performed. In addition to the entry required by this paragraph, major repairs and major alterations shall be entered on a form, and the form disposed of, in the manner prescribed in Appendix B, by the person performing the work.

(b) Each holder of an air carrier operating certificate that is required by its approved operations specifications to provide for a continuous airworthiness maintenance program, shall make a record of the maintenance, preventive maintenance, rebuilding, and alteration, on aircraft, airframes, aircraft engines, propellers, appliances, or component parts, which it operates in accordance with the applicable provistons of Parts 121, 127, or 135 of this chapter, as appropriate.

(c) This section does not apply to persons performing inspections in accordance with Part 91, 123, and § 135.411(a)(1) of this chapter.

Explanation. This proposal would require that if the aircraft, airframe, aircraft engine, propeller, appliance or component part is approved for return to service, the maintenance record entry must contain the signature, kind of certificate, and certificate number of the person who approved it. The current regulation only requires that a certificated mechanic's number and signature be recorded. With this change in language, pilots performing preventive maintenance are required to record their approval for return to service in the maintenance records in the same manner as mechancis are required to record theirs. This proposal would require pilots, mechanics, and air agencies, in addition to the present requirements, to indicate the kind of certificate under which the actions were taken. That is, the person would indicate repair station, mechanic, private pilot, etc. Further, with the proposed change in language, all persons performing preventive maintenance would be required to record it and indicate approval for return to service since it is proposed to delete present § 43.5(b) which exempts pilots.

These two changes provide the owners or operators of aircraft with identification of the person who released the aircraft for return to service after maintenance, preventive maintenance, or alterations. This permits the owners or operators to determine that the person returning the aircraft to service is properly certificated and rated to do so.

In recognition of the fact that maintenance can be performed on component parts, these items would be added to the list in § 43.9(a) and in other related sections of this proposal.

A provision would also be added stating that the signature of the person approving the aircraft, airframe, aircraft engine, propeller, applicance, or component part for return to service signifies satisfactory performance of the work described. The current regulation has been interpreted as implying that when a person signs to show that the work was performed, this person certifies the entire aircraft as airworthy even though the person has only performed work on part of the aircraft. This proposed change clarifies that the person making the approval is only approving the maintenance performed.

Under Part 135, certain aircraft are maintained under continuous airworthiness maintenance programs that are similar to programs approved under Parts 121 and 127. Present § 43.9(b) provides recordkeeping requirements for aircraft maintained under continous airworthiness maintenance programs and operated under Part 121 or 127. Section 43.9(b) would be revised to require the same recordkeeping requirements of Part 135 operates as is required of Part 121 and Part 127 operators.

Finally, proposed § 43.9(c) excepts all aircraft inspections required by Part 91, Part 123, Part 125, and § 135.411(a)(1) from § 43.9, since they are now covered under proposed § 43.11.

Ref. Proposal 19; § 43.9; Committee 2; Agenda Item C.

12–6. By revising § 43.11 to read as follows:

§ 43.11 Content, form, and disposition of the records for inspections conducted under Part 91, Part 123, Part 125, § 135.411(a)(1), and § 135.419 of this chapter.

(a) *Maintenance record entries.* The person approving or disapproving for return to service an aircraft, airframe, aircraft engine, propeller, appliance, or component part after any inspection performed in accordance with Part 91, Part 123, Part 125, § 135.411(a)(1), or § 135.419 shall make an entry in the maintenance record of that equipment, containing the following information:

(1) The type of inspection (with a brief description of the extent of the inspection).

(2) The date of the inspection and aircraft total time in service.

(3) The signature, the certificate number, and kind of certificate held by the person approving or disapproving for return to service the aircraft, airframe, aircraft engine, propeller, appliance, component part, or portions thereof.

(4) Except for progressive inspections, if the aircraft is found to be airworthy and approved for return to service, the following or a similarly worded statement—"I certify that this aircraft has been inspected in accordance with (insert type) inspection and was determined to be in airworthy condition."

(5) Except for progressive inspections, if the aircraft is not approved for return to service because of needed maintenance, noncompliance with applicable specifications, airworthiness directives, or other approved data, the following or a similarly worded statement—"I certify that this aircraft has been inspected in accordance with (insert type) inspection and a list of discrepancies and unairworthy items dated (date) has been provided for the aircraft owner or operator."

(6) For progressive inspections, the following or a similarly worded statement—"I certify that in accordance with a progressive inspection program, a routine inspection of (identify whether aircraft or components) and a detailed inspection of (identify components) were performed in accordance with a progressive inspection and the (aircraft

or components) are (approved or disapproved) for return to service." If disapproved, the entry will further state "and a list of discrepancies and unairworthy items dated (date) has been provided to the aircraft owner or operator."

(7) If an inspection is conducted under an inspection program provided for in Part 91, Part 123, Part 125, or § 135.411(a)(1), the entry must identify the inspection program, that part of the inspection program accomplished, and contain a statement that the inspection was performed in accordance with the instructions and procedures for that particular program.

(b) *Listing of discrepancies.* If the person performing any inspection required by Part 91, Part 123, Part 125, or § 135.411(a)(1) of this chapter finds that the aircraft is unairworthy or does not meet the applicable type certificate data, airworthiness directives, or other approved data upon which airworthiness depends, that person must give the owner or lessee a signed and dated list of discrepancies and provide a copy of that list to the local FAA District Office within 48 hours after completing the inspection.

Explanation. This proposal would add the inspection recording requirements of current § 91.217 (proposed § 91.169(e)), Part 123 and § 135.411(a)(1) to § 43.11. (See last paragraph of explanation under § 43.9.) Additionally, this proposal would require the person approving an item for return to service after inspection, to include the applicable kind of certificate and certificate number held by the person who approved it. This would make entries made under § 43.11 consistent with those made under § 43.9.

Current §§ 43.9 and 43.11 provide that certificate numbers need only be included when the entry is made by a certificated mechanic. The inclusion of the kind of certificate in this entry under § 43.11(a)(3) is explained under the explanation for proposed § 43.9.

The proposal would also require that a list of discrepancies be provided to the owner or lessee and to the FAA when an aircraft is found unairworthy as a result of any inspection conducted under Part 91, Part 123, Part 125, or § 135.411(a)(1). Owners and lessees may use these lists to better evaluate previous inspections and to determine the cause of recurring discrepancies. Since owners and lessees inspecting their aircraft under the 100-hour inspection system should also have the advantage of being provided with such a list. These lists are also provided for in the 100-hour inspection. The list sent to the FAA fills a similar need.

Inspections required by § 135.419 are excluded since those approved inspection programs specify the means by which the operator will control the repair of defects found during inspections.

Except for inclusion of the 100-hour inspections under these provisions, the proposed rule is essentially unchanged.

For an explanation of the addition of "component parts" to the list of items set forth in proposed § 43.11(c), see the explanation for proposed § 43.9.

Ref. Proposals 27, 30 and 35; §§ 43.9 and 43.11; Committee 2; Agenda Item D and Agenda Supplement.

12–7. By amending § 43.12 by adding the words "air agency" after the word "airman" in § 43.12(b) and by revising § 43.12(a)(1) to read as follows:

§ 43.12 Maintenance records: Falsification, reproduction, or alteration.

(a) * * *

(1) Any fraudulent or intentionally false entry in any record or report that is required to be kept, made, or used to show compliance with any requirement under this part;

* * * * *

Explanation. This proposal would provide an additional prohibition against intentionally false entry in any record or report similar to that found in §§ 61.59 and 65.20. While fraudulent entries are presently prohibited, there is no prohibition against making an intentionally false entry in records or reports required by Part 43. Sections 61.59 and 65.20 contain such a prohibition and a similar prohibition is proposed in § 43.12 to provide a more uniform application of the regulations since fraud or proof of fraud may be absent. These records are important in themselves because they provide the owners and operators with a detailed record of maintenance performed on their aircraft. They are also important in assisting the FAA in conducting surveillance and therefore enhance safety. Title 18 U.S.C. Section 1001 provides severe sanctions in the form of a $10,000 fine or imprisonment for not more than five years, or both, for anyone who knowingly makes such fraudulent or false entries.

Ref. Proposals 33 and 36; §§ 43.9 and 43.11; Agenda Supplement.

§ 43.13 [Amended]

12–8. By deleting § 43.13(d).

Explanation. If inspection requirements of § 91.217 through § 92.219 are moved to § 91.169 and additional performance rules for inspections are consolidated in § 43.15 as proposed (Proposal 12–9), the need for § 43.13(d), which provides performance rules for inspections conducted under § 91.217, no longer exists. See the explanation for proposed § 43.15 (Proposal 12–9).

Ref. Proposal 39; § 43.13; Committee 2; Agenda Item E.

12–9. By revising §§ 43.15 (a) and (b) to read as follows:

§ 43.15 Additional performance rules for inspections.

(a) *General.* Each person performing an inspection required by Parts 91, 123, 125, or 135 of this chapter, shall perform the inspection so as to determine whether the aircraft, or portion(s) thereof under inspection, meets all applicable airworthiness requirements.

(b) *Rotorcraft.* Each person performing an inspection of a rotorcraft, except for rotorcraft inspected in accordance with Part 121 or 127 of this chapter, shall inspect the following systems in accordance with the maintenance manual or instructions for Continued Airworthiness of the manufacturer concerned:

* * * * *

Explanation. This proposal would extend the applicability of §§ 43.15 (a) and (b) to all inspections instead of only 100-hour, annual, and progressive inspections. It is important that all inspections performed determine whether the aircraft inspected meets all applicable airworthiness requirements. Proposed § 43.15(a) requires this.

It is also important that rotorcraft systems defined in §§ 43.15(b) (1) through (4) be inspected in accordance with the maintenance manual of the manufacturer concerned. Rotorcraft inspected in accordance with Part 121 or 127 are exempt from the requirements of § 43.15(b) since there are specific inspection requirements in Parts 121 and 127 which are equivalent to the requirements of § 43.15(b). The reference to inspections required by Part 135 would be added to § 43.15(a) for consistency with Part 135. Section 135.411(a)(1) requires aircraft that are type certificated for a passeenger seating configuration, exclusing any pilot seat, of nine seats or less, to be maintained under Part 91, Part 43, and certain sections of Part 135. Thus, it is important to reference Part 135 in the performance rules of § 43.15(a).

Ref. Proposal 41; §§ 43.15 and 91.217; Committee 2; Agenda Item E.

12–10. By revising § 43.17(a)(2) to read as follows:

§ 43.17 Mechanical work performed on U.S.-registered aircraft by certain Canadie persons.

(a) * * *

(2) Any person who performs maintenance, preventive maintenance, rebuilding, or alteration on a U.S.-registered aircraft shall comply with the applicable provisions of this part.

Explanation. This proposal would require that if the aircraft, airframe, aircraft engine, propeller, appliance or component part is approved for return to service, the maintenance record entry must contain the signature, kind of certificate, and certificate number of the person who approved it. The current regulation only requires that a certificated mechanic's number and signature be recorded. With this change in language, pilots performing preventive maintenance are required to record their approval for return to service in the maintenance records in the same manner as mechancis are required to record theirs. This proposal would require pilots, mechanics, and air agencies, in addition to the present requirements, to indicate the kind of certificate under which the actions were taken. That is, the person would indicate repair station, mechanic, private pilot, etc. Further, with the proposed change in language, all persons performing preventive maintenance would be required to record it and indicate approval for return to service since it is proposed to delete present § 43.5(b) which exempts pilots.

These two changes provide the owners or operators of aircraft with identification of the person who released the aircraft for return to service after maintenance, preventive maintenance, or alterations. This permits the owners or operators to determine that the person returning the aircraft to service is properly certificated and rated to do so.

In recognition of the fact that maintenance can be performed on component parts, these items would be added to the list in § 43.9(a) and in other related sections of this proposal.

A provision would also be added stating that the signature of the person approving the aircraft, airframe, aircraft engine, propeller, applicance, or component part for return to service signifies satisfactory performance of the work described. The current regulation has been interpreted as implying that when a person signs to show that the work was performed, this person certifies the entire aircraft as airworthy even though the person has only performed work on part of the aircraft. This proposed change clarifies that the person making the approval is only approving the maintenance performed.

Under Part 135, certain aircraft are maintained under continuous airworthiness maintenance programs that are similar to programs approved under Parts 121 and 127. Present § 43.9(b) provides recordkeeping requirements for aircraft maintained under continous airworthiness maintenance programs and operated under Part 121 or 127. Section 43.9(b) would be revised to require the same recordkeeping requirements of Part 135 operates as is required of Part 121 and Part 127 operators.

Finally, proposed § 43.9(c) excepts all aircraft inspections required by Part 91, Part 123, Part 125, and § 135.411(a)(1) from § 43.9, since they are now covered under proposed § 43.11.

Ref. Proposal 19; § 43.9; Committee 2; Agenda Item C.

12–6. By revising § 43.11 to read as follows:

§ 43.11 Content, form, and disposition of the records for inspections conducted under Part 91, Part 123, Part 125, § 135.411(a)(1), and § 135.419 of this chapter.

(a) *Maintenance record entries.* The person approving or disapproving for return to service an aircraft, airframe, aircraft engine, propeller, appliance, or component part after any inspection performed in accordance with Part 91, Part 123, Part 125, § 135.411(a)(1), or § 135.419 shall make an entry in the maintenance record of that equipment, containing the following information:

(1) The type of inspection (with a brief description of the extent of the inspection).

(2) The date of the inspection and aircraft total time in service.

(3) The signature, the certificate number, and kind of certificate held by the person approving or disapproving for return to service the aircraft, airframe, aircraft engine, propeller, appliance, component part, or portions thereof.

(4) Except for progressive inspections, if the aircraft is found to be airworthy and approved for return to service, the following or a similarly worded statement—"I certify that this aircraft has been inspected in accordance with (insert type) inspection and was determined to be in airworthy condition."

(5) Except for progressive inspections, if the aircraft is not approved for return to service because of needed maintenance, noncompliance with applicable specifications, airworthiness directives, or other approved data, the following or a similarly worded statement—"I certify that this aircraft has been inspected in accordance with (insert type) inspection and a list of discrepancies and unairworthy items dated (date) has been provided for the aircraft owner or operator."

(6) For progressive inspections, the following or a similarly worded statement—"I certify that in accordance with a progressive inspection program, a routine inspection of (identify whether aircraft or components) and a detailed inspection of (identify components) were performed in accordance with a progressive inspection and the (aircraft

16). Since the provisions of § 91.177 providing for ATC transponder tests and inspections are transferred to § 91.171, chapter and the maintenance record entries required by §§ 43.9 or 43.11 have been made. That is, the aircraft must be

(iv) Sample reports and records, and instructions for their use;

(3) Enough housing and equipment for

§ 43.17 Mechanical work performed on U.S.-registered aircraft by certain Canadia persons.

(a) * * *

(2) Perform any inspection required by § 91.169 of this chapter, except an annual inspection, if the inspection is done in accordance with § 43.15 and the maintenance record entries are made in accordance with § 43.11.

* * * * *

Explanation. This proposal would allow certain Canadians, as defined in § 43.17(a), to perform any inspection required by proposed § 91.169 of this chapter with the exception of an annual inspection. The current rule allows Canadians to perform the 100-inspection. These proposed changes would provide a level of safety equivalent to that provided in the United States.

Only certificated mechanics with inspection authorizations who comply with §§ 65.91 through 65.95 may perform annual inspections.

Ref. Proposals 44 and 45; § 43.17; Committee 2; Agenda Item F.

Appendix A [Amended]

12–11. By amending Appendix A of Part 43 to read as follows:

* * * * *

(c) *Preventive maintenance.* Preventive maintenance is limited to the following work, provided it does not involve complex assembly operations:

* * * * *

(7) Making simple fabric patches not requiring rib stitching or the removal of structural parts or control surfaces. In the case of balloons, the making of small fabric repairs to envelopes not requiring load tape repair or replacement.

(8) * * *

(9) Refinishing decorative coating of fuselage, balloon gondolas, wings, tail group surfaces (excluding balanced control surfaces), fairings, cowlings, landing gear, cabin, or cockpit interior when removal or disassembly or any primary structure or operating system is not required.

(10) * * *

(11) Repairing upholstery and decorative furnishings of the cabin, cockpit, or gondola interior when the repairing does not require disassembly of any primary structure or operating system or interfere with an operating system or affect the primary structure of the aircraft.

* * * * *

(25) Removing and installing glider wings and tail surfaces that are specifically designed for quick removal and installation and when such removal and installation can be accomplished by the pilot.

(26) Cleaning of balloon burner pilot and main nozzles.

(27) Replacement or adjustment of nonstructural standard fasteners incidental to operations.

(28) Removing and installing balloon gondolas that are specifically designed for quick removal and installations and when such removal and installation can be accomplished by the pilot provided that gondolas are not interchanged except as provided in the type certificate data sheet for that balloon.

Explanation. This proposal would change the paragraph on preventive maintenance to state more explicitly that preventive maintenance is limited to the work listed, provided it does not involve complex assembly operations. Three additional items have been included.

Ref. Proposal 48, Part 43, Appendix A; Committee 2; Agenda Item H.

12–12. By amending Appendix E of Part 43 by redesignating the existing paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

Appendix E—Altimeter System Test and Inspection

* * * * *

(c) Automatic Pressure Altitude Reporting Equipment: Test must be conducted by an appropriately rated person under the conditions specified in paragraph (b)(1)(i) of this appendix. Test and inspect the ATC transponder independently in accordance with Appendix F. Measure the automatic pressure altitude reporting on the integrated system at the output of an installed ATC transponder when interrogated on Mode C. At each of the test points in Table I and also at 1,100 feet (28.750 inches of mercury) and 1,800 feet (28.025 inches of mercury), the difference between the automatic pressure altitude reporting output and the value displayed on the altimeter must be within 125 feet.

* * * * *

Explanation. This proposal would add a new paragraph (c) to Appendix E of Part 43 to provide a total system installation test requirement that would insure that the altitude reporting equipment and ATC transponder perform their intended functions when integrated in an airplane. The proposal consists of a combination of existing test procedures for the individual pieces of equipment. Section 91.170 and present § 91.177 (proposed § 91.171) provide test and inspection requirements for the altimeter system and the ATC transponder. These sections provide criteria under which this equipment may individually be returned to service. However, there have been numerous instances where a properly serviced altimeter system and an ATC transponder have been accepted individually but did not operate properly when installed together as a system in an airplane. This proposal would require testing the integrated system after installation.

When the test and inspection requirements for altimeter systems and ATC transponders were adopted, the FAA considered requiring an integrated system test but test equipment was not available to easily perform the test. Such equipment is now available and since safety is directly affected, the FAA has determined that such tests are necessary. Testing the integrated system in accordance with Table I of Appendix E of Part 43 and at the transition points of 1,100 feet (28.750 inches of mercury) and 1,800 feet (28.025 inches of mercury) and determining that the difference between the automatic pressure altitude reporting output and the value displayed on the altimeter does not exceed 125 feet should ensure satisfactory performance of the integrated system.

Ref. Proposals 65 and 67; Part 43; Appendix E; Committee 2; Agenda Item J.

PART 91—GENERAL OPERATING AND FLIGHT RULES

12–13. By revising § 91.161(b) to read as follows:

§ 91.161 Applicability.

(a) * * *

(b) Sections 91.165, 91.169, 91.170, 91.173 and 91.174 of this subpart do not apply to an aircraft maintained in accordance with a continuous airworthiness maintenance program as provided in Part 121, Part 127, or § 135.411(a)(2) of this chapter.

Explanation. This proposal would delete the reference to § 91.171 since the progressive inspection provisions of that section are transferred to proposed § 91.169 (Proposal 12–16). It also is more specific with reference to the continuous airworthiness maintenance program of Part 135 by referencing the specific section that applies.

Ref. Proposal 278; § 91.169; Committee 2; Agenda Item I.

12–14. By revising § 91.165 to read as follows:

§ 91.165 Maintenance required.

Each owner or operator of an aircraft shall have that aircraft inspected as prescribed in §§ 91.169, 91.170, and 91.171 and shall, betwen required inspections, have discrepancies repaired as prescribed in Part 43 of this chapter. In addition, each owner or operator shall ensure that maintenance personnel make appropriate entries in the aircraft and maintenance records indicating that the aircraft has been approved for return to service.

Explanation. This proposal would remove the reference to aircraft inspected under Subpart D since those aircraft inspection requirements are transferred to § 91.169 (see proposal 12–16). Since the provisions of § 91.177 providing for ATC transponder tests and inspections are transferred to § 91.171, reference to § 91.171 would be added as an aircraft inspection procedure. Also, in order to conform this section to other sections in this part, "approved for return to service" would be substituted for "release to service."

Ref. Proposals 275 and 276; § 91.165; Committee 2; Agenda Item N.

12–15. By revising § 91.167 to read as follows:

§ 91.167 Operation after maintenance, preventive maintenance, rebuilding, or alteration.

(a) No person may operate any aircraft that has undergone maintenance, preventive maintenance, rebuilding, or alteration unless—

(1) It has been approved for return to service by a person authorized under § 43.7 of this chapter; and

(2) The maintenance record entry required by § 43.9 or § 43.11, as applicable, of this chapter has been made.

(b) No person may carry any person (other than crewmembers) in an aircraft that has been maintained, rebuilt, or altered in a manner that may have appreciably changed its flight characteristics or substantially affected its operation in flight, until an appropriately rated pilot, with at least a private pilot certificate, flies the aircraft, makes an operational check of the maintenance performed or alteration made, and logs the flight in the aircraft records.

(c) The aircraft does not have to be flown as required by paragraph (b) of this section, if ground tests or inspections, or both, prior to flight show conclusively that the maintenance, preventive maintenance, rebuilding, or alteration has not appreciably changed the flight characteristics, or substantially affected the flight operation of the aircraft.

Explanation. This proposal would change the heading and rule to set forth specific requirements that apply after maintenance, preventive maintenance rebuilding, or alterations have been performed. The word "repairs" would be deleted as unnecessary since the word "maintenance" includes repairs.

Because Proposal 12–3 would change § 43.5 to clarify that approval for return to service does not involve operation of the aircraft, § 91.167(a) would be changed to prohibit any person from operating an aircraft that has undergone maintenance, preventive maintenance, rebuilding, or alteration unless it has been approved for return to service by a person authorized under § 43.7 of this chapter and the maintenance record entries required by §§ 43.9 or 43.11 have been made. That is, the aircraft must be approved for return to service prior to any operation including a flight as provided in paragraph (b). See the explanation for proposed § 43.5 for further explanation.

Ref. Proposal 277; § 91.167; Committee 2; Agenda Item N.

12–16. By revising § 91.169(c) and by adding new §§ 91.169(d), (e), (f), (g), and (h) to read as follows:

§ 91.169 Inspections.

* * * * *

(c) Paragraphs (a) and (b) of this section do not apply to—

(1) An aircraft that carries a special flight permit, a current experimental certificate, or a provisional airworthiness certificate;

(2) An aircraft inspected in accordance with an approved aircraft inspection program under Parts 123 or 135 of this chapter and so identified by the registration number in the operations specifications of the certificate holder having the approved inspection program; or

(3) An aircraft subject to the requirements of paragraphs (d) or (e) of this section.

(d) *Progessive inspection.* Each registered owner or operator of an aircraft desiring to use a progressive inspection program must submit a written request to the FAA Flight Standards District Office having jurisdiction over the area in which the applicant is located, and shall provide—

(1) A certificated mechanic holding an inspection authorization, a certificated airframe repair station, or the manufacturer of the aircraft, to supervise or conduct the progressive inspection;

(2) A current inspection procedures manual available and readily understandable to pilot and maintenance personnel containing, in detail—

(i) An explanation of the progressive inspection, including the continuity of inspection responsibility, the making of reports, and the keeping of records and technical reference material;

(ii) An inspection schedule, specifying the intervals in hours or days when routine and detailed inspections will be performed and including instructions for exceeding an inspection interval by not more than 10 hours while en route and for changing an inspection interval because of service experience;

(iii) Sample routine and detailed inspection forms and instructions for their use; and

(iv) Sample reports and records, and instructions for their use;

(3) Enough housing and equipment for necessary disassembly and proper inspection of the aircraft; and

(4) Appropriate current technical information for the aircraft.

The frequency and detail of the progressive inspection shall provide for the complete inspection of the aircraft within each 12 calendar months and be consistent with the manufacturer's recommendations, field service experience, and the kind of operation in which the aircraft is engaged. The progressive inspection schedule must ensure that the aircraft at all times will be airworthy and will conform to all applicable FAA aircraft specifications, type certificate data sheets, airworthiness directives, and other approved data. If the progressive inspection is discontinued, the owner or operator shall immediately notify the local FAA Flight Standards District Office, in writing, of the discontinuance. After the discontinuance, the first annual inspection under § 91.169(a) is due within 12 calendar months after the last complete inspection of the aircraft under the progressive inspection. The 100-hour inspection under § 91.169(b) is due within 100 hours after that complete inspection. A complete inspection of the aircraft, for the purpose of determining when the annual and 100-hour inspections are due, requires a detailed inspection of the aircraft and all its components in accordance with the progressive inspection. A routine inspection of the aircraft and a detailed inspection of several components is not considered to be a complete inspection.

(e) *Large airplanes (to which Part 125 is not applicable), multiengine turbojet, and multiengine turbopropeller powered airplanes.* No person may operate a large airplane, turbojet multiengine airplane or turbopropeller powered multiengine airplane, unless the replacement times for life-limited parts specified in the aircraft specifications or type data sheets, or other documents approved by the Administrator, are complied with and the airplane including the airframe, engines, propellers, appliances, survival equipment, and emergency equipment is inspected in accordance with an inspection program selected under the provisions of paragraph (f) of this section.

(f) *Selection of inspection programs under paragraph (e) of this section.* The operator of each airplane described in paragraph (e) of this section must select, identify in the aircraft maintenance records, and use one of the following

programs for the inspection of that airplane:

(1) A continuous airworthiness

changes from one inspection program under paragraph (f) of this section to another, the time in service, calendar

calendar time, or cycles of operation accumulated under the old programs must be applied in determining

(d) No person may operate an airplane in controlled airspace under IFR at an altitude above the maximum altitude at which all altimeters and the

(1) A certificated repair station properly equipped to perform those functions and holding—

(i) A radio rating, Class III,

petition stays the notice pending a decision by the Administrator.

Explanation. Proposed § 91.172(a)

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programs for the inspection of that airplane:

(1) A continuous airworthiness inspection program that is part of a continuous airworthiness maintenance program currently in use by a person holding an air carrier operator certificate and operating that make and model aircraft under Part 121 of this chapter or operating that make and model under Part 135 and maintaining it under § 135.411(a)(2) of this chapter.

(2) An approved aircraft inspection program approved under § 135.419 of this chapter and currently in use by a person holding an ATCO certificate.

(3) An approved continuous inspection program currently in use by a person certificated under Part 123 of this chapter.

(4) A current inspection program recommended by the manufacturer.

(5) Any other inspection program established by the registered owner or operator of that aircraft and approved by the Administrator under paragraph (g) of this section. However, the Administrator may require revision to this inspection program in accordance with the provisions of § 91.172.

Each operator shall include in the selected program the name and address of the person responsible for scheduling the inspections required by the program, make a copy of that program available to the person performing inspections on the airplane and, upon request, to the Administrator.

(g) *Inspection program approval under paragraph (e) of this section.* Each operator of an airplane desiring to establish or change an approved inspection program under paragraph (f)(5) of this section must submit the program for approval to the local FAA Flight Standards District Office having jurisdiction over the area in which the airplane is based. The program must be in writing and include the following information:

(1) Instruction and procedures for the conduct of inspections for the particular make and model aircraft, including necessary tests and checks. The instruction and procedures must set forth in detail the parts and areas of the airframe, engines, propellers, and appliances, including survival and emergency equipment, required to be inspected.

(2) A schedule for the performance of the inspections that must be performed under the program expressed in terms of the time in service, calendar time, number of system operations, or any combination of these.

(h) *Changes from one inspection program to another.* When an operator changes from one inspection program under paragraph (f) of this section to another, the time in service, calendar times, or cycles of operation accumulated under the previous program must be applied in determining inspection due times under the new program.

Explanation. This proposal would transfer the inspection and maintenance requirements of §§ 91.171, 91.217, and 91.219 to § 91.169 in order to consolidate the inspection requirements of Part 91 in one section. By transferring the inspection requirements of § 91.217 to § 91.169, those provisions would no longer be governed by the applicability statement of § 91.181, which prohibits use of a § 91.217 inspection program when a U.S.-registered airplane is leased to a foreign operator other than a Part 129 operator engaged in common carriage. The FAA has issued several exemptions to such foreign operators engaged in common carriage to allow use of a § 91.217 inspection program. By transferring the inspection requirements of § 91.217 into Subpart C, the use of the continuous inspection program by these foreign operators leasing U.S.-registered aircraft would be allowed and such exemptions would no longer be required. This action is consistent with Executive Order 12044 and the FAA's continuing effort to reduce unnecessary administrative burdens on the public.

Additionally, a provision would be added stating that the Administrator may require a revision in accordance with the provisions of § 91.172 to any inspection program approved under proposed § 43.169(f)(5). This would provide a specific regulatory procedure for requiring any amendments needed to ensure an adequate level of safety.

The public reporting requirements of §§ 91.217(c) and (d) were established in 1972 with adoption of Subpart D of Part 91. These reporting requirements have proven cumbersome and ineffective and would be replaced by proposed new § 91.169(f) requiring a maintenance record entry identifying the selected inspection option and the name and address of the person responsible for scheduling the inspections required by the program. This proposal is consistent with the FAA's continuing effort to reduce reporting requirements and is in accordance with Executive Order 12044 and the Department of Transportation regulatory policies and procedures which are intended to reduce unnecessary administrative burdens on the public.

Proposed § 91.169(h) would provide that if an owner or operator changes inspection programs, the time in service, calendar time, or cycles of operation accumulated under the old programs must be applied in determining inspection due times under the new program. This would prevent operation under one program until the major inspection of an item is due and then changing programs and starting at zero inspection time on the item thereby avoiding a major inspection of the item.

Ref. Proposals 278, 288, 306, 307, 332, 333 and 334; § 91.169; Committee 2; Agenda Items, I, B, and M.

12–17. By revising § 91.170 to read as follows:

§ 91.170 Altimeter system and altitude reporting equipment tests and inspections.

(a) No person may operate an airplane in controlled airspace under IFR unless—

(1) Within the preceding 24 calendar months, each static pressure system, each altimeter instrument, and each automatic pressure altitude reporting system has been tested and inspected and found to comply with Appendices E and F of Part 43 of this chapter;

(2) Following any opening and closing of the static pressure system, that system has been tested and inspected and found to comply with Appendix E of Part 43 of this chapter; and

(3) Following maintenance on the automatic pressure altitude reporting system or the ATC transponder which may affect data correspondence, the integrated system has been tested and inspected and found to comply with Appendices E and F of Part 43 of this chapter.

(b) The tests required by paragraph (a) of this section must be conducted by—

(1) The manufacturer of the airplane on which the tests and inspections are to be performed;

(2) A certificated repair station properly equipped to perform those functions and holding—

(i) An instrument rating, Class I;

(ii) A limited instrument rating appropriate to the make and model of appliances to be tested;

(iii) A limited rating appropriate to the test to be performed;

(iv) An airframe rating appropriate to the airplane to be tested; or

(v) A limited rating for a manufacturer issued for the appliance in accordance with § 145.101(b)(4) of this chapter;

(3) A certificated mechanic with an airframe rating (static pressure system tests and inspections only).

(c) Altimeter and altitude reporting equipment approved under Technical Standard Orders are considered to be tested and inspected as of the date of their manufacture.

(d) No person may operate an airplane in controlled airspace under IFR at an altitude above the maximum altitude at which all altimeters and the automatic altitude reporting system of that airplane have been tested.

Explanation. This proposal would provide for tests and inspections, within the preceding 24 calendar months, of pressure altitude reporting equipment; tests and inspections whenever such systems are opened and closed; and would require data correspondence checks between altitude and reporting transponder each time the altimeter or the encoding function has been subjected to maintenance where data correspondence error could be introduced.

Accurate altitude reporting is essential to safety. Present regulations require accuracy checks upon initial installation of the system, but there is no provision for further checks following maintenance which could affect the integrity of the system. Calibration or other maintenance functions on the altimeter or the reporting equipment could lead to improper data correspondence. Therefore, this equipment should be checked for accuracy any time an error could be introduced.

Similarly, the static pressure system could be adversely affected following an opening of the system. Accordingly, this proposal would require test and inspection of the static pressure system after such an opening and closing. This proposal would also provide that altimeters and transponders approved under Technical Standard Orders are considered to be tested and inspected as of the date of their manufacture. However, the integrated system would require test and inspection at the time of installation and thereafter as specified in paragraph (a) of the proposed rule.

Ref. Proposals 42, 281, 282, 283, 285; § 91.170; Committee 2; Agenda Item J.

12–18. By deleting the subject matter of existing § 91.171 and creating a new §91.171 to read as follows:

§ 91.171 ATC transponder tests and inspections.

(a) No person may use an ATC transponder that is specified in §§ 91.24(a), 121.345(c), 125, 127.123(b) or 135.143(c) of this chapter unless, within the preceding 24 calendar months, that ATC transponder has been tested and inspected and found to comply with Appendix F of Part 43 of this chapter.

(b) The tests and inspections specified in paragraph (a) of this section must be conducted by—

(1) A certificated repair station properly equipped to perform those functions and holding—

(i) A radio rating, Class III;

(ii) A limited radio rating appropriate to the make and model transponder to be tested;

(iii) A limited rating appropriate to the test to be performed;

(iv) A limited rating for a manufacturer issued for the transponder in accordance with § 145.101(b)(4) of this chapter; or

(2) A certificate holder authorized to perform maintenance in accordance with § 121.379 or § 127.140 of this chapter; or

(3) The manufacturer of the aircraft on which the transponder to be tested is installed, if the transponder was installed by that manufacturer.

Explanation. The progressive inspection requirements of existing § 91.171 would be transferred to proposed § 91.169 (see the explanation for proposed § 91.169; Proposal 12–16). This proposal also would transfer the ATC transponder tests and inspection requirements of existing § 91,177 to a new § 91.171 in order to consolidate all of the inspection requirements of Part 91 into consecutively numbered sections. This would be consistent with Executive Order 12044. With the exception of the redundant lead-in date qualifier which has been removed, and the substitution of "must" for "may" in paragraph (b), proposed § 91.171 is substantively identical to existing § 91.177.

Ref. Proposal 278; New § 91.171; Committee 2; Agenda Item I.

12–19. By adding a new § 91.172 to read as follows:

§ 91.172 Changes to aircraft inspection programs.

(a) Whenever the Administrator finds that revisions to an approved aircraft inspection program under § 91.169(f)(5) are necessary for the continued adequacy of the program, the owner or operator shall, after notification by the Administrator, make any changes in the program found to be necessary by the Administrator.

(b) The owner or operator may petition the Administrator to reconsider the notice to make any changes in a program in accordance with paragraph (a) of this section.

(c) The petition must be filed with the FAA Flight Standards District Office which requested the change to the program within 30 days after the certificate holder received the notice.

(d) Except in the case of an emergency requiring immediate action in the interest of safety, the filing of the petition stays the notice pending a decision by the Administrator.

Explanation. Proposed § 91.172(a) would establish a procedure by which the Administrator may require revision of an inspection program approved under § 91.169(f)(5) as operational experience is gained. Inspection programs approved under §§ 91.169 (f)(1) through (f)(4) are continuous airworthiness programs under Part 121 and Part 123, inspections conducted under §§ 135.411(a)(2) and 135.419, or inspection programs recommended by the manufacturer. The FAA has significant experience with these programs which has not indicated a need to revise them on an individual basis. Section 91.169(f)(5), on the other hand, allows a registered owner or operator of an aircraft to have an individual inspection program approved. Since this is an individual program, revision may be necessary as operating experience is gained. This procedure would provide for this.

Proposed §§ 91.172 (b), (c), and (d) would provide procadures for seeking reconsideration of any notice by the Administrator requiring a revision to the aircraft inspection program. These procedures are the same as those provided in §§ 121.373 and 135.431 and are included to provide the same reconsideration in § 91.172.

Ref. Proposals 278, 334; §§ 91.169 and 91.219; Committee 2; Agenda Items I and M.

12–20. By revising § 91.173(a)(2)(vi) to read as follows:

§ 91.173 Maintenance records.

(a) * * *

(2) * * *

(vi) Copies of the forms prescribed by § 43.9(a) of this chapter for each major alteration to the airframe and currently installed engines, rotors, propellers, and appliances.

* * * * * *

Explanation. Current § 91.173(a) requires each registered owner or operator to keep a list of the major alterations made to each airframe, engine, propeller, rotor, and appliance. Since such a list does not contain sufficient details of the alteration to provide for maintenance and inspection subsequent to the alteration, this proposal would require that the forms prescribed by § 43.9 for these major alterations be retained since they contain the necessary details for subsequent maintenance and inspection, such as "time in service" of the item.

Ref. Proposals 293 and 295; §§ 91.173(a)(1), 91.173 (a)(2)(i) and (a)(2)(vi); Committee 2; Agenda Item D.

§ 91.177 [Reserved].

12–21. By deleting § 91.177 and marking it [Reserved].

Explanation. See the explanation for Proposal 12–18.

§ 91.181 [Amended]

12–22. By deleting the phrase "Sections 91.217 and 91.219 prescribe" in paragraph (a) and substituting the phrase "Section 91.169 prescribes" in its place; by deleting the phrase "and for small turbine-powered multiengine airplanes operated under Part 135 of this chapter" in the last sentence of paragraph (a); and by deleting the word "subpart" in the last sentence of paragpraph (a) and substituting the word "part" in its place.

Explanation. Since the FAA proposes to consolidate the requirements of §§ 91.217 and 91.219 in § 91.169, this proposal would change paragraph (a) to refer to § 91.169. Part 135 provides inspection program requirements for all aircraft operated thereunder and reference to Part 135 here is redundant and would be deleted.

This proposal would also replace the word "subpart," in the last sentence of paragraph (a) with the word "part." When issuing Amendment 91–101 (37 FR 14758; July 25, 1972) the FAA stated that there is no demonstrated need at this time to require small turbopropeller powered multiengine airplanes to be operated under the rules of Subpart D. The FAA further stated that the above decision does not apply to the inspection program requirements which should be required of all turbine powered multiengine airplanes (turbopropeller and turbojet powered airplanes) as proposed in the notice regardless of whether they are large or small. Section 91.181 of Subpart D provides that small turbopropeller powered multiengine airplanes do not have to be operated under that subpart. However, the regulation provides that these airplanes have to be inspected in accordance with §§ 91.217 and 91.219 of Subpart D, but qualifies it by adding "when they are operated under this subpart". This reference is incorrect since they must be inspected under this subpart regardless of whether they are operated under it or not. Therefore, the word "subpart" is changed to "part" to correct this error.

Ref. Proposals 278, 307, 308, and 334; § 91.169; Committee 2; Agenda Items I, B, and M.

§ 91.217 [Reserved].

12–23. By deleting § 91.217 and marking it [Reserved].

Explanation. The inspection provisions of § 91.217 would be transferred to § 91.169. See the explanation for proposed § 91.169.

Ref. Proposals 278, 308, and 334; § 91.169; Committee 2; Agenda Items I, B, and M.

§ 91.219 [Reserved].

12–24. By deleting § 91.219 and marking it [Reserved].

Explanation. The inspection provision of § 91.219 would be transferred to § 91.169. See the explanation for proposed § 91.169.

Ref. Proposals 278, 307, 308, and 334; § 91.169; Committee 2; Agenda Items I, B, and M.

Appendix I—Proposals Withdrawn by Proponent

The following proposals were withdrawn by the proponent during or after the conference. The withdrawal of the FAA proposals does not commit the FAA to any future course of action.

14 CFR (FAR)	Proposal No.	Committee No.	Agenda Item	Proponent
43.7	23	2	C	Federal Aviation Administration.
43.13	40	2	E	Do.
43.15	905	2	E	Do.
91.169	279	2	I	Do.
91.171	287	2	L	Do.
91.172 (new).	289	2	N	Do.
91.173	291	2	D	Do.

Appendix II—Proposals Removed From Further Consideration

Based on the FAA's review of the discussions at the Operations Review Conference and the information submitted by interested persons, the following proposals are removed from consideration for the reasons listed:

14 CFR (FAR)	Proposal No.	Committee No.	Agenda Item	Proponent
43.1	7	2	A	E-Systems, Inc.
43.1	8	2	A	Mr. Sam J. Corso.
43.3	9	2	B	Do.
43.3	11	2	B	Do.
43.3	12	2	B	Do.
43.3	13	2	B	Do.
43.3	15	2	B	Aircraft Owners and Pilots Association.
43.5	18	2	C	Sun Chemical Corporation.
43.7	24	2	C	Mr. Sam J. Corso.
43.7	25	2	C	Do.
43.7	26	2	C	Aircraft Owners and Pilots Association.
43.9	29	2	D	Mr. Sam J. Corso.
43.9	31	2	D	United Kingdom Civil Aviation Authority.
43.9	32	2	D	Mr. Sam J. Corso.
43.11	37	2	D	United Kingdom Civil Aviation Authority.
43.11	38	2	D	Mr. Sam J. Corso.
43.13	384	2	D	Do.
43.15	43	2	E	Do.
43 App. B	46	2	G	Do.
43 App. B	47	2	G	Do.
43 App. A	49	2	H	General Aviation Manufacturers Association.
43 App. A	50	2	H	Mr. Sam J. Corso.
43 App. B	51	2	H	Do.
43 App. D	52	2	I	E. C. Watson, Jr.
43 App. D	53	2	I	Do.
43 App. D	54	2	I	Do.
43 App. D	56	2	I	Do.
43 App. D	57	2	I	Do.
43 App. D	59	2	I	Do.
43 App. D	60	2	I	Do.
43 App. D	62	2	I	Do.
43 App. D	63	2	I	Do.
43 App. D	64	2	I	Mr. Sam J. Corso.
43 App. E	68	2	J	Do.
43 App. F	70	2	K	Do.
91.161	272	2	N	Sun Chemical Corporation.
91.161	273	2	N	Mr. Sam J. Corso.
91.170	295	2	J	Do.
91.173	298	2	D	Air Taxi and Commercial Pilots Association.
91.173	299	2	D	Aircraft Owners and Pilots Association.
91.175	300	2	D	Mr. Sam J. Corso.

Proposal 7. This proposal would have extended the provisions of § 43.1 from aircraft having a United States airworthiness certificate to all aircraft manufactured under a United States FAA approved type design. This change would afford alteration, maintenance,and rebuilding privileges of Part 43 to all aircraft so manufactured, regardless of the county of registration. The FAA has no jurisdiction over the continued airworthiness of non-U.S.-registered aircraft. Therefore, the proposal is withdrawn.

Proposal 8. This proposal would have revised § 43.1 by extending the applicability of Part 43 to aircraft located both within and outside of the United States. Except for certain experimental aircraft specified in § 43.1(b), Part 43 is applicable to any aircraft having a United States airworthiness certificates and does not place a geographic limitation on its applicability. Thus, the proposed rule is unnecessary.

Proposals 9, 50, 64, 68, and 70. These proposals would have relocated all appendices from Part 43 in the Advisory Circular System. This would require extensive rewrite of the regulations and would effectively remove these requirements, which the FAA considers essential to safety, from a regulatory status.

Proposals 11, 24, 25 and 32. These proposals would have amended § 43.3(f) to require an air travel club or an air taxi operator of large aircraft to meet the same requirements of Part 43 as air carriers and would have consolidated all maintenance performance requirements for such operations in Part 43. The current requirements are located in the sections of the rules utilized by the particular operators. Consolidation of these requirements would be confusing to the operators, costly to incorporate, and would not enhance compliance or safety.

Proposal 12. This proposal would have combined § 43.3(g) with § 43.3(f). Paragraph (f) presents requirements for air carriers and paragraph (g) presents requirements for holders of a commercial operator certificate. An air carrier and a commercial operator are distinct entities subject to different rules. This distinction should remain.

Proposal 13. This proposal would have included a requirement in § 43.3(h) prohibiting the holder of a pilot certificate from performing preventive maintenance on aircraft maintained under Parts 121, 123, or 135, in conjunction with the proposed consolidation of all maintenance rules into Part 43. Since the proposals to consolidate the maintenance rules were withdrawn (Proposals 11, 24, 25, and 32), this proposal is no longer appropriate.

Proposals 15 and 26. These proposals would have revised § 43.3 to support Proposals 133, 137, and 138 which proposed to establish a limited rating in Part 65 to accommodate maintenance performed by an owner/operator. Proposals 133, 137, and 138 were removed from consideration in Operations Review Notice No. 9 (43 FR 36464; August 17, 1978), since the rating would have imposed additional workload upon appropriately rated mechanics and the FAA with no commensurate gain in safety. Since Proposals 133, 137 and 138 were withdrawn, the associated proposals to amend Part 43 are also withdrawn.

Proposal 18. This proposal would have amended § 43.5 to assign responsibility to the person giving approval for return to service to determine that only FAA approved parts are used. This proposal would have placed an undue burden on such individuals, since these parts are frequently visually identical to approved parts and installing personnel do not normally have the sophisticated equipment needed to determine approval status of the parts.

Proposal 29. This proposal recommended that § 43.9(a)(3) be deleted as redundant to § 43.9(a)(4). The proposal assumed that all work performed culminates in an approval for return to service. In practice, a portion of the work is accomplished by a person identified under § 43.9(a)(3) and later, when other work is performed, another person approves the item for return to service. In recognition of this practice, when the person accomplishing the work and approving it for return to service are the same, § 43.9(a)(3) has been clarified in proposal 12–5 by the addition of the phrase "if other than the person specified in paragraph (a)(4) of this section."

Proposals 31 and 37. These proposals would have amended §§ 43.9 and 43.11 to require the person who maintains, rebuilds, alters or approves an item for return to service to record compliance with service bulletins in the aircraft records. The existing recording requirements provide an adequate maintenance and alteration record for the aircraft since compliance with service bulletins must be recorded under present and proposed § 43.9.

Proposal 38. This proposal would have deleted § 43.11 and relocated its provisions in § 43.9. The separation of the recordkeeping requirements for inspections from those for maintenance, rebuilding and alteration simplifies the recordkeeping requirements. Since there is no evidence that the proposal would enhance safety, these requirements should not be made more complex.

Proposal 39A. This proposal recommended, in the interest of simplification, that the performance rules for all inspections be governed by § 43.13 instead of the present performance standards found in each section dealing with the particular inspection. Since all inspection standards are consolidated in proposed §§ 43.15(a) and (b), the intent of this change has been accomplished.

Proposal 43. This proposal would have consolidated § 43.15 and § 43.13 for simplicity. Section 43.13 provides general performance requirements for all inspections while § 43.15 provides additional performance rules for annual, 100-hour, and progressive inspections. The content of the two sections are sufficiently different to warrant separation. Confusion, rather than simplification, might result from adoption of this proposal and no other benefit was presented by the proponent or identified by the FAA.

Proposals 46 and 47. These proposals would have consolidated the maintenance rules of Parts 121, 123, 127 and 135 into a new Subpart B of Part 43. The location of maintenance requirements throughout the operating rules makes identification of appropriate rules easier for the operator and this arrangement has not been identified as a problem. Consolidation of these requirements in a new subpart would be costly and not enhance either compliance or safety.

Proposal 48. This proposal would have extensively revised Appendix A of Part 43 by adding provisions to define major alterations and major repairs. However, after review the FAA concludes that this matter is far more complex than the proposals indicated and could result in major changes being required in other regulatory projects. Consequently, the proposed revision of Appendix A concerning major repairs and major alterations is withdrawn and will be handled as separate rulemaking action. The portions of Proposal 48 dealing with preventive maintenance appear as Proposal 12–11.

Proposal 49. This proposal would have deleted paragraph (a)(3)(vi) of Appendix A of Part 43. This paragraph identifies the installation of unapproved propeller parts as a major alteration and must be approved as such. The proponent did not present an alternative method to ensure control over the use of unapproved parts.

Proposal 51. This proposal would have deleted the recording requirements of Appendix B of Part 43 for major repairs and major alterations. These repairs and alterations should continue to be recorded because of their critical effect on airworthiness and subsequent repairs and modifications.

Proposals 52, 53, 54, 56, 57, 59, 60, 62 and 63. These proposals would have amended Appendix D of Part 43 by inserting clarifying words such as "apparent" and "obvious" so that responsibility for correct installation would revert back to the mechanic or repair agency who installed the system or component instead of the person performing the inspection. The purpose of inspection is to determine continued compliance with the airworthiness requirements. Therefore, to allow an inspector to rely upon only "apparent" of "obvious" defects is relaxatory and not in the interest of safety. Also, the words "apparent" and "obvious" are open to wide ranges of interpretation.

Proposal 272. This proposal would have deleted, in § 91.161(b), the exemption from specific inspection sections of Part 91 afforded to Part 121, Part 127, and Part 135 operators who use continuous airworthiness maintenance. The existing requirement allowing a certificate holder to maintain an aircraft in accordance with a continuous maintenance program, provides an equivalent level of safety to Part 91 and should be retained.

Proposal 273. This proposal would have deleted § 91.161(b) arguing that exceptions for aircraft maintained in accordance with a continuous

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airworthiness maintenance program are misunderstood by some operators. The proponent did not present any basis for the misunderstanding and the FAA is unaware of a problem with the present rule. It sould be noted that this method of exception is used throughout the FAR.

Proposal 286. This proposal would have incorporated the provisions of § 91.170 into § 91.169. Section 91.169 sets forth general requirements for aircraft inspections while § 91.170 provides specific requirements for altimeter system tests and inspections. To prevent confusion, they should remain separate.

Proposal 298. This proposal would have amended § 91.173 to require the owner or operator to make all maintenance records available to the pilot in command for his review to assist the pilot in making an airworthiness determination prior to flight. The review of all maintenance records prior to flight would be extremely cumbersome, even if the records were available, and it is unlikely that the pilot could readily determine the airworthiness status of the aircraft from these records. Sections 91.163(a) and 91.165 clearly place the responsibilities upon the owner or operator for maintaining an airworthy aircraft and having it properly inpsected and repaired.

Proposal 299. This proposal would have amended § 91.173 to require that all records made by the holder of an owner-limited repairman certificate be noted and brought to the attention of subsequent purchasers. This proposal parallels the establishment of a new type repairman certificate (proposals 133, 137, and 138) which would have amended Part 65 to provide for a certificate to extend the scope of maintenance which may be performed by an owner or pilot. Since the proposal recommending the established of this certificate was withdrawn in Operations Review Notice No. 9 (43 FR 36464; August 17, 1978), this associated proposal is also withdrawn.

Proposal 300. This proposal would have amended § 91.175 to allow the owner or operator to use a new maintenance record for any rebuilt product and would have defined the term "rebuilt." In proposed § 43.2 the new definition of rebuilt allows an item to be rebuilt by other than a manufacturer or approved agency. A need exists to maintain the operating history of the rebuilt item in order to determine total time in service for Airworthiness Directive compliance. An equivalent level of safety would not be provided if the proposed change was made, since much of the operating history of the item before rebuilding could be lost or destroyed.

(Secs. 313, 314, 601 through 610, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1355, and 1421 through 1430); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The reporting and recordkeeping requirements contained in this notice have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the individual named in the "for further information contact" paragraph.

Issued in Washington, D.C., on November 12, 1980.

M. C. Beard,

Director, Office of Airworthiness.

[FR Doc. 80-38005 Filed 11-19-80; 8:45 am]

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federal register

Thursday
November 20, 1980

Part V

Environmental Protection Agency

Guideline for Federal Procurement of Cement and Concrete Containing Fly Ash

ENVIRONMENTAL PROTECTION AGENCY

written copies of their complete comments for inclusion in the official record.

Public Docket: The public docket for

that reasonable levels of competition, cost, availability, and technical performance are maintained.

performance of the contract which is recovered materials."

"(d) Specifications.—(1) All Federal

—American-made products.

Other laws prohibit Federal purchases of products from firms which are in

statutory language of Section 6002 of the Resource Conservation and Recovery Act of 1976.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 249

[SWH-FRL 1567-8]

Guideline for Federal Procurement of Cement and Concrete Containing Fly Ash

AGENCY: Environmental Protection Agency.

ACTION: Proposed guideline.

SUMMARY: The Environmental Protection Agency (EPA) is today issuing proposed guidelines for the Federal procurement of cement and concrete containing fly ash implementing Section 6002(e) of the Resource Conservation and Recovery Act of 1976, as amended (RCRA). Section 6002 of RCRA requires procuring agencies using appropriated Federal funds to purchase items composed of the highest percentage of recovered materials practicable. Section 6002(e) instructs EPA to prepare guidelines to assist procuring agencies in complying with the requirements of Section 6002.

The preamble to the proposed guideline explains EPA's regulatory strategy for fulfilling its responsibilities under Section 6002 of RCRA.

DATES: Comments are due on January 15, 1981. A public hearing will be held on January 8, 1981 from 9:00 a.m. to 4:00 p.m.

ADDRESSES: Comments should be addressed to RCRA Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, Washington, D.C. 20460. Comments should identify the docket number, which is "Section 6002."

The public hearing will be held at EPA Waterside Mall, Room 3906, 401 M Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John Heffelfinger, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, Washington, D.C. 20460; (202) 755-9206.

SUPPLEMENTARY INFORMATION: *Public Hearing:* A public hearing will be held on January 8, 1981 at EPA Waterside Mall, Room 3906 from 9:00 a.m. to 4:00 p.m. Registration will begin at 8:30 a.m. Anyone wishing to make an oral statement at the hearing should notify, in writing: Ms. Geraldine Wyer, Public Participation Office, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, Washington, D.C. 20460. Oral and written comments may be submitted at the public hearing. Persons who wish to make oral presentations are encouraged to have written copies of their complete comments for inclusion in the official record.

Public Docket: The public docket for this guideline is located in: Room 2711B, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, and is available for viewing 9:00 a.m. to 4:00 p.m. Monday through Friday excluding holidays.

Introduction

Purpose and Scope

The Environmental Protection Agency is today proposing the first of a series of guidelines designed to encourage the use of products containing recovered materials. Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended ("RCRA" or "Act"), 42 U.S.C. 6962, requires Federal, State, and local procuring agencies using appropriated Federal funds to purchase items composed of the highest percentage of recovered materials practicable. EPA is required to prepare guidelines to assist procuring agencies in complying with the requirements of Section 6002.

This preamble explains EPA's regulatory strategy for fulfilling its responsibilities under Section 6002 of RCRA. Comments are requested on this regulatory strategy as well as on the specific guideline being proposed.

RCRA

The objectives of the Resource Conservation and Recovery Act are the protection of human health and the environment and conservation of valuable material and energy resources. The Act sets forth a national program to achieve these objectives by improving solid waste management practices. The provisions of the Act include (1) requirements for control of the generation, transportation, treatment, storage, and disposal of hazardous wastes, (2) establishment of environmentally sound disposal practices for all wastes, and (3) investigation and creation of incentives for resource recovery and conservation activities. These activities are to be carried out through a cooperative effort among Federal, State, and local governments, as well as private industry.

Requirements of Section 6002

Section 6002 of the Act, titled Federal Procurement, directs all procuring agencies which use appropriated Federal funds to procure items containing the highest percentage of recovered materials practicable, given that reasonable levels of competition, cost, availability, and technical performance are maintained.

Procuring agencies are also required to review and revise specifications for products in order to eliminate any discrimination against the use of recovered materials. They are to remove specifications requiring that items be manufactured from virgin materials, and remove prohibitions against the use of recovered materials.

Section 6002 gives the Environmental Protection Agency responsibility for promulgating guidelines to assist procuring agencies in carrying out these requirements and (in conjunction with the Office of Federal Procurement Policy in the Executive Office of the President) for implementing the policy and program at all levels of government.

Section 6002 is aimed at achieving the materials conservation goal. Its clear objective is to use the economic incentive of Federal procurement to increase the recovery of solid waste materials. Federal procurement of products made from recycled materials can demonstrate their technical and economic viability as they are used by Federal, State and local agencies.

The specific provisions of Section 6002 are:

"(a) * * * a procuring agency shall comply with the requirements set forth in this section * * * with respect to any purchase or acquisition of a procurement item where the purchase or acquisition of a procurement item where the purchase price of the item exceeds $10,000 or where the quantity of such items or of functionally equivalent items purchased or acquired in the course of the preceding fiscal year was $10,000 or more."

"(c)(1) * * * each procuring agency shall procure items composed of the highest percentage of recovered materials practicable consistent with maintaining a satisfactory level of competition. The decision not to procure such items shall be based on a determination that such procurement items—

"(A) Are not reasonably available within a reasonable period of time;

"(B) Fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the procuring agencies; or

"(C) Are only available at an unreasonable price."

"(c)(3) After the date specified in any applicable guidelines prepared pursuant to subsection (e) of this section, contracting officers shall require that vendors certify the percentage of the total material utilized for the performance of the contract which is recovered materials."

"(d) Specifications.—(1) All Federal agencies that have the responsibility for drafting or reviewing specifications for procurement item procured by Federal agencies shall, in reviewing those specifications, ascertain whether such specifications violate the prohibitions contained in subparagraphs (A) through (C) of paragraph (2). Such review shall be undertaken not later than eighteen months after the date of enactment of this section.

"(2) In drafting or revising such specifications, after the date of enactment of this section—

"(A) Any exclusion of recovered materials shall be eliminated;

"(B) Such specification shall not require the item to be manufactured from virgin materials; and

"(C) Such specifications shall require reclaimed materials to the maximum extent possible without jeopardizing the intended end use of the item."

"(e) Guidelines.—The Administrator, after consultation with the Administrator of General Services, the Secretary of Commerce (acting through the Bureau of Standards), and the Public Printer, shall prepare, and from time to time revise, guidelines for the use of procuring agencies in complying with the requirements of this section. Such guidelines shall set forth recommended practices with respect to the procurement of recovered materials and items containing such materials and with respect to certification by vendors of the percentage of recovered materials used, and shall provide information as to the availability, sources of supply, and potential uses of such materials and items."

"(g) The Office of Procurement Policy in the Executive Office of the President, in cooperation with the Administrator, shall implement the policy expressed in this section. It shall be the responsibility of the Office of Procurement Policy to coordinate this policy with other policies for Federal procurement, in such a way as to maximize the use of recovered resources, and to annually report to the Congress on actions taken by Federal agencies and the progress made in the implementation of such policy."

Background

The use of Federal procurement as a tool in accomplishing social, environmental, and economic goals is not new. Federal laws provide procurement preferences for:

—Small business concerns;
—Labor surplus area concerns;
—Low-noise-emission products;
—American-made products.

Other laws prohibit Federal purchases of products from firms which are in violation of pollution regulations.

In the case of the Buy American Act, regulatory provisions allow procuring agencies to pay a six, twelve, or fifty percent premium for domestically-manufactured products, by adding from six to fifty percent to the bid price of non-domestically produced items. Bids are then evaluated as if these were the actual bid quotations received and the award is made to the lowest responsible bidder. In the case of low-noise-emission products, up to a twenty-five percent premium may be paid for products which are certified as such.

The use of Federal leverage specifically to stimulate demand for recycled materials has been supported by several authoritative sources. Section 205 of the Solid Waste Disposal Act, as amended, mandated the Administrator to:

"* * * carry out an investigation and study to determine * * * the use of Federal procurement to develop market demand for recovered resources."

Chapter 4D.6 and 4D.7 of the final report of the National Commission on Materials Policy recommended that:

"* * * the Federal Government exercise leadership by using its purchasing power to provide a market for products made from recycled materials.

"* * * the Federal Government help reduce the flow of solid waste by establishing, within Federal purchasing departments, performance standards rather than composition standards that discriminate against secondary materials."

In 1971, the President's Environmental Message to Congress directed the General Services Administration to purchase paper which contained recycled material. The program instituted by GSA led to revisions in at least 86 purchase specifications, including those for building materials, office supplies, packaging, and tissue products. GSA now requires certain of these products to include percentages of recovered materials ranging from three up to one hundred.

On January 15, 1976, EPA promulgated Guidelines for Procurement of Products that Contain Recycled Material (40 CFR, Part 247) under the authority of the Resource Recovery Act of 1970 (Pub. L. 91-512). Those guidelines were advisory and were intended to increase the use of recycled materials in products purchased by Federal agencies. The general recommendations contained in those guidelines were reflected in the statutory language of Section 6002 of the Resource Conservation and Recovery Act of 1976.

Explanation of Current Regulatory Approach

General vs. Specific Guidelines

Soon after EPA undertook the effort to prepare procurement guidelines, it became clear that guidelines could not be developed for all 50,000 Federal product specifications and standards. It is impossible to review all 50,000 Federal product specifications and make decisions on that percentage of recoverable materials is technically and economically feasible, available in a reasonable amount of time, and produced by enough companies to guarantee that competition is maintained.

Two major alternatives for fulfilling the RCRA mandate were considered. They were:

(1) To issue a general guideline recommending procedures to be used by procuring agencies in amending product specifications and revising procurement practices so as to encourage the use of products containing recovered materials. This was the purpose of the January 1976 EPA guidelines for procurement of recycled products; or

(2) To issue specific guidelines on selected products containing detailed recommendations as to revisions in product specifications and procurement practices and information on availability, sources of supply and potential uses of the product.

The first alternative was rejected because it did not completely satisfy the intent of the Act. Section 6002 specifically states that EPA's guidelines are to provide information on availability, sources of supply, and potential uses of recovered material products. Procuring agencies in most cases do not have the resources available to obtain this information. Therefore, EPA chose the second alternative (i.e., selection of product areas where increased use of recoverd materials would be practical). EPA will provide recommendations for revisions in procurement practices and information on availability and potential uses for specific products made from recovered materials.

RCRA Amendments

The product-specific approach which EPA has selected reflects the proposed amendments to RCRA which have been passed by both the Senate (S. 1156) and the House of Representatives (H.R. 3994). The primary impact of these amendments would be to key all of the

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purchasing requirements of Section 6002(c) to the preparation by EPA of guidelines for particular products. Toward this end, EPA is directed to "designate those items which are or can be produced with recovered materials and whose procurement by procuring agencies will carry out the objectives of (Section 6002)."

In anticipation of passage by Congress of the proposed Section 6002 amendments, EPA has attempted to draft this guideline so that it conforms with the applicable provisions of both the existing Section 6002 and the Section 6002 amendments.

Criteria For Selection of Product Areas

Criteria were developed to aid in the selection of product areas for which guidelines would be prepared. These criteria are:

(1) The waste material must constitute a significant solid waste management problem due either to volume, degree of hazard or difficulties in disposal;

(2) Economic methods of separation and recovery must exist;

(3) The material must have technically proven uses; and

(4) Federal purchasing power for the final product must be substantial.

Comments are specifically requested on the Agency's choice of criteria for product selection, as these criteria are proposed to be used in the selection of products for inclusion under future guidelines.

Product Areas Currently Under Study

With these criteria in mind, EPA has initially chosen four major product categories for the issuance of guidelines under Section 6002. These categories are fly ash in cement and concrete, composted sewage sludge in soil amendments, recycled paper products, and highway construction products containing recovered materials. EPA expects additional candidate products to surface through its industry solid waste studies program. As guidelines are completed in these areas, additional product areas will be selected for issuance of guidleines.

Comments are specifically requested on the Agency's choice of product areas for issuance of guidelines. The Agency also requests suggestions for additional product areas for consideration, accompanied by documentation as to how any new products satisfy the criteria.

Rationale for Choosing to Issue Guideline Pertaining to Fly Ash

Fly ash used in cement and concrete was chosen as a product area were Federal purchasing power could significantly increase the use of a recovered material. The following discussion demonstrates that fly ash meets the product selection criteria.

(1) *Significant Solid Waste Problem.* Fly ash is the term used to describe an ash component of coal which results from the combustion of coal. The vast majority of fly ash is produced in electric power generating plants, where powdered coal is burned to produce steam to drive the turbines. Fly ash, which is a finely divided imcombustible mineral residue, is conveyed out of the boiler along with the stack gases. It is then collected from the gases by various means, including electrostatic precipitators, mechanical precipitators, cyclone separators, bag houses and scrubbers. It is stored in silos, awaiting reuse or disposal, or it may be conveyed directly to a disposal area. Fly ash typically represents about 70 percent of the ash generated by coal combustion, with coarser and heavier bottom ash accounting for the remaining 30 percent.

During 1978, 48.3 million tons of fly ash were generated, with over 82 percent disposed of as waste. The quantities of fly ash requiring disposal will increase dramatically during the 1980's with the construction of additional coal burning power plants. Estimates are for fly ash generation to be 70–80 million tons annually by 1985.

(2) *Feasible Methods of Recovery.* Economically feasible methods exist for recovery of fly ash from the waste stream. Electrostatic precipitators or mechanical collection devices separate fly ash from boiler stack gases. In fact, more than two-thirds of the coal-fired generating stations have collection and loading facilities for fly ash. However, the majority of fly ash currently is combined with bottom ash, boiler slag, and/or scrubber sludge for disposal, making future recovery for cement and concrete use impossible.

(3) *Technically Proven Uses.* Cement is a powder-like manufactured mineral product, usually gray in color. Cement is mixed with water and sand, gravel, crushed stone, or other aggregates to form the hard substance known as concrete. Cement is not used by itself for construction but is a component of concrete.

Cement is produced by first grinding a carefully proportioned mixture of raw materials such as limestone, silica, sand, clays, and iron ore. The mixture is heated in huge rotary kilns at temperatures approximating 1500° C (2700° F), where chemical reactions take place. The resulting marblesize pellets, or clinker, are ground with a small amount of gypsum (to control setting and hardening) to produce an extremely find powder, known as "portland" cement. Portland cement is a generic term used to describe a particular type of inorganic hydraulic cement. A hydraulic cement is a cement which will combine with water and harden.

Although not cement itself, fly ash has the property of cementation when combined with lime and water, and this can complement the cementing action of portland cement. Fly ash combines with the water-soluble lime generated during the reaction of portland cement with water, and forms insoluble cementitious compounds. This cementitious property gives fly ash two primary uses: As an ingredient in blended cements, and as a component of portland cement concrete. When used to produce blended cement, fly ash is either interground with the portland cement clinker, or blended with the finely ground portland cement powder (or both). When used directly in concrete, fly ash is added to the standard concrete ingredients at the concrete mixing site. Fly ash can be used either as a partial cement replacement in concrete, or as an added ingredient to obtain certain desired concrete characteristics.

a. *Blended Cement.* Several U.S. cement manufacturers produce a blended cement meeting the standards prescribed by the American Society for Testing and Materials (ASTM) for the use of fly ash in cement. Blended cement containing fly ash is included in ASTM specification C595 and is designated as "Type IP" or "Type I(PM)." Table 1 indicates the extent to which Type IP or Type I(PM) cement can be used as a substitute for ASTM cement Types I through V in general concrete construction.

Table 1

ASTM cement type	Purpose	Substitute fly ash
I	General purpose	Yes.
II	Moderate sulfate resistance and heat of hydration.	Yes.
III	High early strength	No.
IV	Low heat of hydration	Yes.
V	High sulfate resistance	Yes.

b. *Concrete Admixture.* Fly ash can also be used directly as an admixture in concrete, as a partial replacement for portland cement. ASTM specification C311 contains requirements for the sampling and testing of fly ash when used in this manner. ASTM C618 is the standard specification for the use of fly ash as an admixture in concrete. In addition, the General Services Administration maintains Federal Specification SS–C–1960, which references ASTM C618, with minor diferences for sulfur trioxide content.

loss on ignition, and the pozzolanic activity index.

On a national level, the U.S. Army Corps of Engineers has used fly ash in concrete in various projects, most notably dam construction, for many years. Some State Departments of Transportation have approved its use. For example, the Georgia Department of Transportation (DOT) revised its specifications in 1975 to allow fly ash to be used as a partial cement replacement. Since then, Georgia's DOT has placed over three million cubic yards of fly ash concrete pavement and road shoulders, and is now considering review of the specification to allow for a greater fly ash replacement rate.

Many ready mixed concrete producers and concrete product manufactuers have used fly ash for years, particularly in non-specification jobs where they are responsible for the performance of the product, but are able to choose the material content which will best suit their needs both technically and economically.

c. *Enhanced Performance.* The use of fly ash in cement and concrete may enhance the performance characteristics of the final products.* These advantages can be summarized as follows:

1. *Greater Ultimate Strength.* Proper mix design will achieve 28-day strength equal to or better than a typical Type I cement. Fifty-six day strength will be superior in almost all cases. In Chicago, the Sears Tower, John Hancock Center, and Standard Oil Building all incorporate fly ash. Use of fly ash was found to be the most practical and economical method of obtaining high strength mixes.

2. *Improved Workability.* Specification fly ash used in properly proportioned concrete mixes improves the pumpability, handling, placing, and finishing of fresh concrete, in part due to the glassy, spherical shape of fly ash particles which add to the "plasticity" of the mix.

3. *Reduced Water Requirement.* Due to improved workability, usually less water needs to be added to the mix, resulting in less drying shrinkage and less cracking.

4. *Lower Heat of Hydration.* Generally, less heat is generated during the chemical reactions between the cement and water, resulting in less thermal cracking; especially important in mass concrete applications such as dams, large beams, retaining walls, and foundations.

5. *Increased Sulfate Resistance.* A proper mix with certain classes of fly ash will reduce the chemical attacks in concrete from sulfates contained in adjacent soil and groundwater. These reactions cause cracking and eventual disintegration of the concrete. Fly ash forms stable cementitious compounds with certain cement constituents, thus reducing the ability of sulfates to combine with these same cement constituents.

6. *Reduced Alkali-Aggregate Reactions.* Certain aggregates react with the alkalis generated during cement hydration, resulting in disruptive expansion and cracking of concrete. Certain classes of fly ash react with these alkalis to form stable compounds, thus preventing or severely reducing the reaction with aggregates and the accompanying detrimental effects.

d. *Disadvantages.* Several disadvantages which are associated with the use of fly ash can be overcome through proper use.

1. *Variable Physical and Chemical Composition.* Fly ash can be highly variable in its physical and chemical composition. This variability can be due to several factors, such as coal source, combustion process, and collection method. This problem can be overcome through adequate testing and quality control of the ash. ASTM specifications C595, C311, and C618 should be used as minimum standards for acceptance of fly ash. However, these material standards by themselves will not guarantee satisfactory performance of a concrete mix. Therefore, EPA emphasizes the need for quality assurance procedures on the part of the concrete contractor. Some users of ash (e.g., Federal and State governments) require that those who wish to incorporate fly ash in concrete must obtain ash from approved sources.

2. *Unfamiliar Users.* Due to lack of widely publicized and sometimes inadequate data on mix designs (as compared to general purpose concrete), fly ash concrete may be improperly prepared by an unfamiliar user. Mix designs do exist to produce fly ash concrete, and in most cases fly ash brokers/companies will provide manufacturing assistance and engineering design aid. The "References" section of this guideline refers to information on fly ash and its use in cement and concrete. Potential users should familiarize themselves with the information in those publications.

3. *Special Storage and Transportation Equipment.* Due to its extreme fineness, fly ash requires the use of storage and conveying equipment with tight fittings. Equipment meeting these requirements is readily available.

4. *Extended Curing Time.* Mix proportions have been developed which will achieve equal or superior strength to general purpose concrete at all ages, particularly if 10%–30% fly ash is added to a concrete mix, or if a blended cement with up to 10% fly ash content is used. However, when used as a cement replacement, superior strength is usually not achieved until the age of 28 days.

5. *Increased Demand for Air Entraining Agent.* Fly ash used in blended cements and concrete will often cause an increased demand for air entraining agent. With proper testing and quality control, the need for entrained air can be satisfied. The cost of the additional air entraining agent and quality control is often balanced by the cost savings associated with fly ash use.

(4) *Federal Purchasing Power.* Almost one-half of total U.S. cement consumption is in public construction projects (public buildings, public works, transportation). Since Federal funds account for nearly two-thirds of the funding for public construction nationally, approximately 23 million tons of cement is purchased annually either directly or indirectly with Federal funds. These 23 million tons mark the theoretical universe to which this guideline applies.

The actual figure may be lower, however, as some of these cement applications may not be technically appropriate for the use of fly ash. In addition, some of these Federally-funded projects already incorporate fly ash. On the other hand, with the anticipated "ripple effect" of private purchases being influenced by these public purchases, the impact could be substantially increased.

Guideline for Federal Procurement of Cement and Concrete Containing Fly Ash

Purpose

The purpose of this guideline is to increase the use of fly ash in cement and concrete purchased with Federal funds. Fly ash is a by-product of coal combustion. Its increased use in cement and concrete will help reduce this source of solid waste. At the same time this will conserve both significant amounts of energy and natural resources used in making cement. Cost savings can be achieved while providing a product that can be equivalent or even superior to cement and concrete made using only virgin materials.

*The properties of cement and concrete which contain fly ash have been examined and documented. A report by the National Bureau of Standards entitled "The Utilization of Industrial By-Products in Blended Cements" summarizes these properties.

This guideline will increase the demand for recovered fly ash in Federally-funded construction. This increased demand should improve the

inappropriate. It suggests certification procedures which utilize the existing review and approval mechanisms

indicate that silica fume can be extremely beneficial in increasing the resistance of concrete to sulfate attack.

used by a person performing construction services for the Agency. For example, if the Department of

more than $10,000 worth of cement or concrete during the course of any fiscal year. The rule is complicated if a

the Hazardous Waste Management System regulations, promulgated by EPA on May 19, 1980. The statutory definition

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This guideline will increase the demand for recovered fly ash in Federally-funded construction. This increased demand should improve the marketability of fly ash and promote wider acceptance of it as a cement substitute and concrete additive. This together with the cost savings of fly ash in local markets may result in its more widespread use in non-Federally funded construction as well.

Contents of the Guideline

This guideline designates fly ash used in cement and concrete as a product area for which procuring agencies must exercise affirmative procurement under Section 6002 of RCRA and presents recommendations for carrying out the requirements of Section 6002 with respect to fly ash used in cement and concrete. RCRA defines procuring agencies to include not only Federal agencies, but also state and local agencies, grantees, and contractors which are using Federal funds to purchase cement and concrete.

Section 6002 of the Act sets forth certain requirements for procuring agencies. These requirements include (1) eliminating from specifications any discrimination against the use of recovered materials; (2) purchasing products which contain recovered material if reasonable levels of technical performance, cost, availability, and competition can be achieved; and (3) obtaining certification from suppliers of the actual percentage of recovered materials used in the performance of the contract. (The proposed amendments to RCRA change this last requirement so that suppliers would certify that they have met any minimum contractual requirements for including recovered materials.)

To assist procuring agencies achieve compliance with these requirements, this guideline recommends that procuring agencies who purchase cement or concrete adopt a dual bid approach and solicit bids for both portland cement alone and portland cement with fly ash (either as a blended cement or as an admixture) except where the use of fly ash would be technically inappropriate. This guideline further recommends that a procuring agency which knows cement or concrete containing fly ash is reasonably available, technically appropriate, and economically competitive with portland cement or concrete should only solicit bids for cement or concrete containing fly ash. In addition, this guideline recommends that procuring agencies revise their guide specifications and design guidelines to ensure that fly ash use is allowed, except where technically inappropriate. It suggests certification procedures which utilize the existing review and approval mechanisms already imposed by procuring agencies.

Phased-in implementation, with specification changes to be made in the first year after publication of this guideline and purchases to begin in the second year, is recommended.

Discussion of Proposed Guideline

This section of the preamble summarizes and explains the proposed guideline and its integration with the requirements of Section 6002 of the Act. The recommendations of this proposed guideline, with regard to specifications, purchasing, and certifications are nonmandatory and adherence to them is voluntary. These recommendations represent the best information available to EPA and provide suggested procedures for achieving compliance with Section 6002. EPA specifically requests comments on certain issues, although comments are invited on all issues contained in the proposed guideline, this preamble and the support documents.

Scope

The scope of this guideline is limited to the use of fly ash in cement and concrete.

Fly ash can also be used in many other construction applications, such as road base material, structural fill and embankment, and as lightweight aggregate. However, the technical and economic issues related to these uses of fly ash are sufficiently different to warrant separate consideration by procuring agencies. The Agency intends to prepare guidelines on a product-by-product basis. Guidelines on the use of fly ash in road bases and structural fill and embankment are currently under consideration.

The Agency considered expanding this guideline to include the use of granulated iron blast furnace slag in cement and concrete. However, granulated slag of the quality and quantity required is not currently available. In addition, iron blast furnace slag is already reused at a very high rate, as aggregate and as fill material. The Agency may amend this guideline or issue a separate guideline in the future as performance, cost, and availability of granulated blast furnace slag is established.

Similarly, silica fume, the by-product dust resulting from the manufacture of silicon metal and collected in the air pollution control devices, has been studied for its use in cement and concrete. The U.S. Army Corps of Engineers has developed results which indicate that silica fume can be extremely beneficial in increasing the resistance of concrete to sulfate attack, while generally maintaining early strength similar to that of portland cement concrete not containing the dust. However, additional technical information and standards need to be developed before this material is used on a national scale. Thus, a specific procurement guideline is not currently appropriate for silica fume.

In the meantime, agencies, should apply the general provisions of this guideline in those cases where suitable granulated slag, silica fume, and other recovered materials become available. This guideline should not be construed as preventing the procurement of other recovered materials suitable for use in cement and concrete.

Comment is requested on the Agency's decision to limit the scope of this guideline to the use of fly ash in cement and concrete.

Applicability

The requirements of Section 6002 apply to "procuring agencies." The term "procuring agency" is defined by the Act as "any Federal agency, or any State agency or agency of a political subdivision of a State which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract."

This guideline recommends that any purchases of cement or concrete made with Federal funds, either directly or indirectly, allow for fly ash to be bid as an alternate material, unless it can be shown that the use of fly ash is technically inappropriate for a particular construction application. This guideline further recommends that a procuring agency which knows that cement or concrete containing fly ash is reasonably available and cost competitive with portland cement or concrete should only solicit bids for cement or concrete containing fly ash, assuming the agency knows that a satisfactory level of competition will also be maintained.

With regard to direct purchases, there are several situations to which the Agency believes this guideline should apply. Although the language on applicability in Section 6002 leaves room for interpretation, the Agency believes the recommendations here best describe the intent and practical application of Section 6002.

The first is the case where a Federal agency purchases cement, either in bag or bulk form. The agency itself may use this cement or it may supply the cement to other persons or the cement may be used by a person performing construction services for the Agency. For example, if the Department of Defense, Navy, were to purchase cement for use on a construction job, or if a general contractor or subcontractor were to purchase cement for use on that job, all would be subject to the provisions of this guideline.

A second case is where ready-mixed concrete is purchased directly by a Federal agency. The same scenarios applied to direct purchases of cement apply here. If a Federal agency purchases ready-mixed concrete for its own use or, more likely, if a person under contract to or in support of a Federal agency purchases concrete, then the provisions of this guideline apply.

Indirect Federal purchases of cement and concrete are also subject to this guideline. This is where the coverage of the term "procuring agency" becomes critical. Foremost among indirect consumers of cement and concrete are the Department of Transportation (including the Federal Highway Administration, Federal Aviation Administration, Urban Mass Transit Administration); the Department of Health and Human Services; the Department of Housing and Urban Development; and the EPA itself (wastewater treatment works construction grants program). All these agencies are involved in the Federal funding of construction programs for or through state and local governmental authorities. Any purchase of at least $10,000 worth of cement and concrete by these groups—or by contractors, subcontractors, grantees or other persons using Federal funds resulting from grants, loans, funds or similar forms of disbursements of monies—is subject to the provisions of this guideline.

EPA recognizes that these cases of indirect Federal funding may present the most difficulty for implementation. For instance, while the Federal Procurement Regulations and Armed Services Procurement Regulations control all Federal agencies in the case of direct procurement, each individual agency establishes its own grant regulations. In addition, agency reviews appear to exert little influence over the composition of materials used in construction activities. An agency's primary interest is that the project performs as intended. EPA specifically requests comments on the guideline's applicability and practicality for these indirectly funded programs.

Another important issue here is the applicability of the $10,000 rule. The guideline would apply where a procuring agency directly purchases more than $10,000 worth of cement or concrete during the course of any fiscal year. The rule is complicated if a procuring agency purchases concrete "services," which would not only involve the supply of the product but also placement, finishing, etc. Even more complex is the case where a contractor is assigned all construction activities for a particular agency project, including subcontracting authority for concrete work. In such cases the actual cost of the cement or concrete may not be readily determinable. EPA is proposing that the $10,000 limitation include the cost of services related to purchase of the product as well as the cost of the product itself, at least in those cases where the separate cost of each cannot be practically determined. Comments are solicited on this issue.

This guideline should not apply to construction activities being performed which are only tangentially related to Federal funding. For example, a contractor may perform laboratory experiments and bench-scale tests for the Government under a contract. In order to carry out his responsibilities he may need to expand his existing physical facility or construct a new one. The cement and concrete used in that structure would not be subject to the requirements of Section 6002 or this guideline, even though some of the funds received from Federal contract payments might be used to finance the construction. We request comments on this issue.

Definitions

Of the definitions which are contained in this proposed guideline, most are self-explanatory and non-controversial and therefore need not be addressed in this preamble. In addition to the definition of "procuring agency" discussed above, the terms "recovered material" and "solid waste" deserve discussion.

The requirements of Section 6002 apply to products containing recovered materials. The definition of "recovered material" contained in this guideline is the same as that in RCRA. The term is defined as "material which has been collected or recovered from solid waste." Confusion exists regarding exactly what materials qualify as recovered materials. For example, can a material which has never been "thrown away" or "discarded," as is often the case with fly ash used in cement and concrete, be considered a recovered material? The answer to this lies in determining whether the material in question is in fact a solid waste, as discussed below.

The definition of "solid waste" used in this proposed guideline is that used in the Hazardous Waste Management System regulations, promulgated by EPA on May 19, 1980. The statutory definition of "solid waste" in RCRA makes unclear EPA's authority to regulate the use, reuse, recycling, or reclamation of wastes. Many commenters on the hazardous waste regulations argued that EPA could not regulate materials as solid wastes which were recovered and reused, because such materials were not "discarded," "thrown away," or "abandoned," (terms used in the preamble to the proposed regulations). Among other things such a position would preclude EPA's ability to write guidelines for Federal procurement of recycled products (including fly ash) under Section 6002 of RCRA unless the recycled material had at one time been completely abandoned and recovered from a solid waste stream.

EPA disagreed with these commenters' position in publishing the final regulations for hazardous waste management. Solid wastes do not cease to be solid wastes simply because they are being used, reused, recycled, or reclaimed. Rather use, reuse, recycling, resource recovery, and reclamation are ways of managing solid wastes which, if properly conducted, can avoid environmental hazards, protect scarce land supply, and reduce the nation's reliance on foreign energy and materials. Thus, according the the definition of "solid waste" now used in this proposed guideline, fly ash is clearly a solid waste, and fly ash used in cement and concrete is clearly a recovered material under Section 6002 of RCRA.

Specifications

Section 6002 of the Act requires revision of all specifications for cement and concrete for which Federal agencies have drafting and review responsibility so that they no longer exclude the use of fly ash—and so that they incorporate the use of fly ash to the maximum extent.

To assist agencies in achieving compliance with this requirement, the guideline makes several recommendations on specifications. It suggests alternatives to an otherwise strict interpretation of Section 6002. There are three major categories of specifications for which recommendations are made:

- Guide specifications—typically, model standards or specifications issued by a procuring agency, which are suggested or required for use in the design of all of the construction projects of an agency (these are often referred to as design standards or design guidelines).

• Contract specifications—a precise set of specifications prepared for a particular construction project, which contains such items as design, performance, and material requirements for that project.

• Material specification—a specification that stipulates the use of certain materials to meet the necessary performance requirements.

Guide Specifications

Procuring agencies will need to review and revise guide specifications to comply with the recommendations of this guideline. In doing this, the agencies will need to eliminate any discrimination, either direct or indirect, against the use of fly ash in cement and concrete. In addition they must ensure that guide specifications require that the use of fly ash be considered and incorporated, where appropriate, into contract specifications for individual construction projects. EPA recommends a period of six months after the date of final promulgation of the guideline to complete review and revision of guide specifications.

Contract Specifications

Ultimately this guideline will have its greatest effect on contract specifications which are prepared for each individual construction project. The guideline recommends that agencies make sure that specifications for individual construction contracts allow for the use of fly ash as an alternate material, unless it can be shown that this would be technically inappropriate. It also recommends that the agency document decisions to exclude fly ash from contract specifications, in order to respond to possible protests or inquiries. Placing the burden upon the procuring agency to assure that fly ash is allowed in contract specifications is particularly important where the design function is outside this agency, where construction projects are being performed as a result of grants, loans, funds, etc. Thus it is critical that the technical officer or engineer on a contract work closely with the contracting or grant officer to assure that fly ash is appropriately considered.

EPA recommends that procuring agencies take no more than twelve months from the date of final promulgation of the guideline to assure that contract specifications reflect the requirements of Section 6002. EPA requests comments on any issue related to revision of guide specifications and contract specification.

Material Specifications—Fly Ash Content

Both Federal specifications and national voluntary consensus standards exist for the use of fly ash in blended cement and in concrete. Rather than actually revise existing material specifications for portland cement, for instance, procuring agencies are expected to make maximum use of these existing material specifications.

This guideline suggests no minimum, maximum, or absolute level of fly ash content in blended cement or concrete which is subject to this guideline. Flexibility is necessary because of variation in fly ashes and cements, strength requirements, relative costs, and even local and regional construction practices and climatic conditions.

The provisions of ASTM specification C595 for blended hydraulic cement require that type IP cement contain 15%–40% fly ash and that Type I (PM) cement contain 0–15% fly ash by weight, thus allowing fly ash content to be specified in a range from zero to forty percent. A typical blending rate in the industry appears to be around 20%. However, the actual proportion to use needs to be determined on a job-by-job basis in accordance with established mix design procedures and performance needs.

When used directly in the manufacture of concrete, industry practice indicates that more fly ash should be used than the amount of cement replaced. This ratio should be at least 1.25–1.50 fly ash to 1.00 unit of cement. Typical replacement rates are around the 15% level, but the actual percentage needs to be determined on a job-by-job basis.

Allowing the use of low levels of fly ash in cement and concrete may encourage additional companies to experiment with the product and gain expertise. This could ultimately increase the number of companies using fly ash, and the amount of fly ash they use.

Information contained in the "References" can be used as guidance in determining proper fly ash content.

Performance Standards

It is often claimed that designs of construction projects are conservative and, as a safeguard, intentionally increase the strength requirements beyond what the design criteria actually requires. Setting concrete strengths which are higher than actually needed during the several days following concrete placement (i.e., "high early strength") can deter the use of fly ash. Although fly ash will generally enable a concrete to achieve a higher ultimate strength (e.g. at 28, 56, and 90 days), very high early strength can be achieved only by adding fly ash to the mixture without reducing the cement content. In this situation, the ecomomic and energy conservation advantages of using fly ash are sharply diminished.

EPA recommends revising certain performance standards where appropriate, primarily to extend the period for strength evaluation. EPA requests comment on this issue. Any suggested revision to the proposal should be supported by appropriate data and/or documentation.

Purchasing

EPA is designating fly ash used in cement and concrete as a product area for which procuring agencies must exercise affirmative procurement actions under Section 6002 of RCRA. As discussed in this Preamble under the section entitled "RCRA Amendments," when EPA "designates" a product area through the issuance of guidelines, RCRA requires that procuring agencies take positive steps to purchase that product. This section of the guideline contains recommendations for satisfying the affirmative procurement requirement.

Bidding Approach

EPA recommends that procuring agencies utilize a dual bid approach for cement and concrete purchases. All bid solicitations for cement and concrete should solicit bids for both portland cement or concrete and cement or concrete containing fly ash, where technically appropriate. Award would be made to the lowest priced responsible offeror.

EPA further recommends that where the application is technically appropriate and where a procuring agency is satisfied that cement or concrete containing fly ash is reasonably available and its bid price will be competitive with that of portland cement or concrete, only bids for cement or concrete containing fly ash should be solicited. Award would still be made to the lowest priced responsible offeror.

Allowing vs. Requiring Sole Use of Fly Ash

EPA considered recommending that procuring agencies require the use of cement or concrete containing fly ash in all cases where it is technically appropriate, even where procuring agencies did not know it to be reasonably available or cost competitive. EPA did not choose to take this step for several reasons:

(1) Assuming satisfactory technical performance, RCRA requires that a recovered material product be purchased only if the product is available in a reasonable period of time, the product can be obtained at a reasonable price, and the purchase is consistent with maintaining a satisfactory level of competition. If cement or concrete containing fly ash were always required where technically appropriate, the burden of determining reasonably levels of price, availability and competition would fall completely upon the contracting officers, most likely prior to issuance of a solicitation. Procuring agencies have indicated that in many cases, they do not have the expertise or resources to accomplish this. When the use of fly ash is merely solicited through a dual bid approach, however, market conditions will determine price and availability and whether a satisfactory level of competition exists. Procuring agencies can thus use this dual bid approach to ascertain availability, price, and competition for use in future solicitations.

(2) Many contractors still lack knowledge of the proper use of fly ash in concrete and of the means of ensuring quality control. Under a requirement that only bids for cement or concrete containing fly ash must be solicited, contractors inexperienced in the use of fly ash might submit a bid in order to secure award of a contract, but might be unable to provide a satisfactory product. Forcing the use of fly ash could also lead to the use of lower quality ashes which might have deleterious effects on concrete. While cement and concrete suppliers are clearly responsible both for the quality of the ingredients of their product and for meeting appropriate performance standards, simply recommending that a procuring agency solicit bids on cement or concrete containing fly ash only where it knows such cement or concrete to be reasonably available from responsible suppliers may, at least in the early stages of implementation of this program, create a more favorable atmosphere for acceptance of the product over the long term as more users gain experience with it.

(3) Requiring the use of fly ash as a partial cement replacement in cement and concrete would effectively preclude use of other recovered materials in cement and concrete. As discussed in this preamble under the section entitled "Scope," recovered materials such as iron blast furnace slag and silica fume may be used successfully in concrete, especially in the future. Although this guideline applies only to use of fly ash, the general provisions of it should be applied in those cases where other suitable recovered materials become available. Excluding such recovered materials could be a major setback to their development.

Bid Alternatives

Situations may occur where two or more low bids are received which offer different levels of fly ash content. While it generally would be desirable to make award to the bidder offering the highest fly ash content (assuming technical performance is maintained), there is a problem if that bid price is higher than that of other suppliers. To make award to the higher bidder would be contrary to certain fundamental government procurement principles.

To overcome this problem, the Agency considered establishing some type of "sliding scale" which would allow credits, and in effect additional payment for the supply of various ranges of fly ash in cement and concrete. This alternative was rejected because it seemed too cumbersome to develop and implement, because it lacked statutory authority, and because procurements made under such an approach would probably invite numerous protests from the losing bidders.

As another alternative, the Agency considered establishing a minimum level of fly ash content for those contractors wishing to supply fly ash. If the lowest costs responsible bidder offered fly ash, at least this minimum requirement of fly ash content would be necessary to be awarded the contract. The problem with this approach is that no one level of fly ash content, even a minimum level, should be established for use in all construction projects.

However, if procuring agencies desire to establish some minimum requirements, they may consider a modification of this alternative. On a project-by-project basis, a minimum level may be established based on technical performance needs, past experience, local construction practices, etc. Award would be made to the lowest priced responsible offeror, and if fly ash is used, the supplier must at least meet the minimum fly ash content established for that particular job. This minimum need not be established immediately, but may be set after sufficient experience is obtained.

Recommendations as to Price, Competition, Availability, and Performance

Prices

Section 6002 raises the issue of "reasonable" price. Congress did not say that a recovered material product need cost less than or the same as the virgin material product it replaces, but merely that its cost be reasonable. EPA feels that Congressional intent could mean that the recovered material product may in fact cost more, but not much more, than the virgin product. EPA considered setting a limit on how much more could be paid for a recovered material product, such as five percent. The Agency rejected this idea. The allowance for payment of a premium for recycled products is contrary to fundamental Federal procurement laws, which generally require that award be made to the lowest price responsible offeror. In addition, it is unnecessary since the use of fly ash in cement and concrete is itself cost competitive. No price premium should therefore be paid for cement or concrete containing fly ash. Indeed, to allow a premium may be unnecessarily inflationary.

This guideline leaves the determination of reasonable price to the discretion of the procuring agency, although the guideline does suggest general procedures for determining reasonable prices and price competition, based on procedures contained in the Federal Procurement Regulations applicable to certain types of procurements. The Agency cautions against determining reasonableness of price by comparing spot prices for relatively small quantities of cement or concrete containing fly ash with competitive bids for volume purchases of portland cement or concrete. Comments are requested on this issue of reasonable price.

Competition

The primary purpose of competition is to secure the lowest price for a given product. Federal procurement procedures state that adequate competition is usually presumed to exist if: (i) At least two responsible offerors (ii) who can satisfy the Government's requirements (iii) independently compete for a contract to be awarded (iv) by submitting priced offers responsive to the expressed requirements of a solicitation. In addition, the prices should be examined for reasonableness. Using the bid alternatives recommended by EPA, there should be no problem in achieving reasonable competition. Solicitation of fly ash bids alone is recommended only where the procuring agency is satisfied that the price of cement or concrete containing fly ash is reasonable and that the product is available. Solicitation of bids for both portland cement of concrete and cement or concrete containing fly ash is recommended in all other cases, thus enabling the procuring

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agency to better guarantee overall competition.

The existing Federal procurement procedures do not suggest comparing contracts with respect to numbers of bidders. They merely require that there be a sufficient number of bidders for adequate price competition for the particular contract at hand. EPA feels that as long as prices can be determined to be reasonable for cement and concrete which contain fly ash, then competition should be presumed to exist, no matter what the number of prospective offerors.

Availability and Delays

The Agency does not feel that procuring agencies should have to tolerate any unusual or unreasonable delays in obtaining cement or concrete which contain fly ash, other than delays which may be typically associated with portland cement and concrete, as specifications and purchasing practices are revised to allow for the use of fly ash, this material should become more widely available both geographically and in terms of the number of businesses willing and able to supply it.

Performance

The issue of reasonable performance is addressed in this preamble under the subsections on "Technically Proven Uses," "Specifications," and "Quality Control." Additional technical performance information is contained in the "References" section of this guideline.

In general, fly ash blended cement can be considered substitutable for all ASTM cement types except Type III, High Early Strength (and even these requirements can be met by adding, but not substituting, fly ash). However, from a practical standpoint, the use of fly ash should be determined on a job-by-job basis, as there may be specific technical applications which would preclude the use of fly ash. The purpose of comparison to "reasonable" performance standards is to eliminate those standards, specifications, procedures, and practices which are overly restrictive and which discriminate, either directly or indirectly, against the use of fly ash. The use of reasonable performance standards is also intended to assure that the necessary technical performance requirements are still maintained, and that product quality is not reduced below acceptable limits.

Time-Phasing

Although the requirements of Section 6002 and the recommendations of this guideline should be implemented as quickly as possible, the Agency recognizes that problems could occur—in both the marketplace and governmental procurement system—if implementation is pushed too rapidly. For example, the cost of fly ash suitable for use in cement and concrete could rise dramatically until the supply of suitable ash and storage capacity has a chance to increase. Construction contracts might include allowance for fly ash where it is technically inappropriate. Thus, this guideline recommends a phased-in-approach to implementation.

The first year after final publication of this guideline would be reserved for specification review and revision. Beginning in the second year, procuring agencies should conform their purchases of cement or concrete to the recommendations of this guideline, in the manner discussed above.

Certification

In accordance with Section 6002 of the Act, vendors are required to certify the percentage of fly ash being included in the cement or concrete being supplied under the contract. This certification requirement is to take effect after a date to be specified in the guideline.

The exact certification procedure and language to use is in part dependent upon the bid mechanism which is employed, as discussed in this preamble under the section titled "Purchasing—Bidding Approach." For example, if fly ash is allowed and the level of fly ash content is left to the discretion of the supplier, the content level should be presented in his bid. If a minimum level of fly ash content is required, a bidder should certify that the minimum is being met, and also what percentage will actually be used. This information is not only useful in establishing future contract requirements, but is most likely a necessity in evaluating the concrete mix design.

A simple certification clause is contained in the Code of Federal Regulations, 41 CFR Part 1–1, Subpart 1–1.2504, which states:

> The offeror/contractor certifies that recovered materials will be used as required by specifications referenced in the solicitation/contract.

The opinion of the Agency is that by signing the bid document/solicitation, the cement or concrete supplier is in effect agreeing to meet the fly ash content requirements. Thus, no separate form, signature, etc. is needed.

In addition to the inclusion of such a certification clause in all solicitations, the percentage of fly ash used should normally be certified on a per project or per shipment basis, as opposed to certification of the average amount to be used over the course of a year, for instance. Except for technical performance purposes in concrete mix design, a procuring agency may allow the percentage to be certified within a small range, rather than requiring an exact percentage. The purpose of this flexibility is to not discourage potential suppliers who may be fearful that if an exact percentage is certified for a government contract, *only* that exact percentage may be supplied. Weather conditions or material variations, for example, may require modification of the concrete mix design and therefore the fly ash content.

Comment is specifically requested on the issue of certification.

Quality Control

Nothing in this certification section should be construed to relieve the contractor of responsibility for providing a satisfactory product. Cement and concrete suppliers are already responsible both for the quality of the ingredients of their product and for meeting appropriate performance requirements.

The responsibility for insuring the quality of blended cement lies with the supplier. ASTM specification C595 specifies adequate requirements for quality control of fly ash used in blended hydraulic cements. Most blended cement manufacturers maintain quality control programs. No additional testing above that which would be required of any cement should be necessary on the part of the user/builder to insure compliance with this specification. However, the user must be conscious of any differences which may exist in the field application of blended cement containing fly ash vs. portland cement.

The responsibility for insuring the quality of fly ash used as an admixture in concrete is shared by the builder and the concrete or fly ash supplier. Although many suppliers of fly ash have their own quality control program, commenters have pointed out that ASTM specification C618 may not be sufficiently stringent to ensure all ashes which comply are really suitable for general use as mineral admixtures in concrete, particularly when chemical admixtures such as air entraining agents are to be used. ASTM C618 has recently been revised and the new specification should be available in the near future.

However, there is no assurance that all ashes which comply will be suitable for all uses. Fly ash and concrete suppliers should be expected to demonstrate (through reasonable testing programs or previous experience) the performance and reliability of their product. The judgment of the builder must be used in evaluating:

(1) Whether additional testing is necessary to insure the performance of the concrete, and

(2) Whether such testing is cost effective when compared with the cost of using other materials.

Fly ash which does not satisfy at least ASTM specifications should not be used in cement or concrete on Federal construction projects.

For those agencies desiring a testing or quality assurance program for cements, blended cements, or pozzolans, the U.S. Army Engineer Waterways Experiment Station (WES), P.O. Box 631, Vicksburg, Mississippi 39180, may be contacted. WES is the agency responsible for testing such materials for Federal agencies.

Comment is requested on the issue of quality control for fly ash.

Enforcement and Monitoring

EPA expects full cooperation from all Federal Agencies in implementation of this guideline. The Office of Federal Procurement Policy (OFPP) has the major responsibility for overseeing implementation of Section 6002 of RCRA. The enforcement powers of EPA and OFPP are limited mainly to jawboning. However, given the high level of public and Congressional interest in resource recovery and energy conservation, substantial pressure may be brought to bear on organizations which fail to comly with the intent of the guideline.

The OFPP is responsible for monitoring and reporting annually to Congress on the actions taken by procuring agencies in implementing Section 6002 of RCRA. OFPP has imposed a reporting requirement upon the procuring agencies to gather this information. EPA, in conjunction with the OFPP, will monitor the impact of this particular guideline on the procurement practices of Federal agencies and on fly ash use. Should it become apparent during the next several years that this guideline has not been effective in promoting the use of fly ash, EPA may promulgate a recommendation that the use of fly ash be required.

Procuring agencies should investigate recovered material certifications if there is a doubt about their validity. This doubt could arise based upon the expert knowledge of the contracting officer, or by inquiries made by competitors about the validity of certification. Procuring agencies should also investigate claims from those desiring to supply fly ash that they may still be precluded from bidding for reasons other than technical performance requirements.

Date

EPA is charged with designating a time after publication of this guideline at which certification requirements will take effect. Certification of fly ash content should be a part of any solicitation which allows or requires the use of fly ash in cement or concrete. This guideline recommends a twelve month period after publication for review and revision of all guide and continuing contract specifications. After this twelve month period any solicitations/contracts issued should either allow or require that fly ash be supplied, and thus should incorporate certification requirements.

Regulatory Analysis

In this and other sections, the preamble contains discussions of the four elements required in a Regulatory Analysis: (1) The program objectives, (2) our consideration of regulatory alternatives, (3) a general assessment of our choices and (4) the rationale for our decision. EPA believes it is complying with the intent of Executive Order 12044 because of this and other efforts, including the preparation of more detailed background documents to support the analyses below. These documents may be examined at the U.S. E.P.A. Headquarters, Room 2416, 401, M Street, SW., Washington, D.C. 20460 and at E.P.A. Regional Libraries. If there are apparent inconsistencies between these documents and the preamble, the latter shall represent the Agency's position.

Effects

(1) *Economic savings.* This guideline should help the cement industry by reducing both energy costs and capital investment requirements for capacity expansions. Adding capacity by using fly ash to produce blended cement is a viable alternative to new kiln construction. Adding capacity with fly ash involves about ten percent of the cost of a new plant ($5–$15 per ton added capacity using fly ash vs. $125–$185 per ton for a new cement plant).

The purchased energy cost associated with cement production represents one-third of the finished value of the cement—very high in relation to other building materials. At a typical blending rate of 20 percent, fly ash in cement can reduce total energy use about 15 percent. The portion of total cost represented by this energy savings—currently five percent—will grow as the cost of purchased energy increases.

For cement consumers, i.e. ready mixed concrete producers, concrete product manufacturers, and highway contractors, fly ash can reduce raw material costs. Cement prices range from $40–$80 per ton, while fly ash suitable for use in concrete may range from $15–$50 per ton. Depending on the replacement rate and relative price of the two materials, substituting fly ash can save 5 to 15 percent of the cost.

Procuring agencies may not be in a position to realize the savings described here. Because of the pricing structure and concentrated nature of the cement industry—and the fact that a properly blended cement containing fly ash performs as well or better than portland cement—blended cements containing fly ash (ASTM Types IP and I(PM)) may be priced at the same level as ASTM Type I portland cement. However, concrete producers are able to take direct advantage of decreased raw materials cost by purchasing fly ash as a partial cement replacement. Given the greater competition among the large number of firms in these industries, bid quotations for concrete may reflect part of these savings.

(2) *Energy Conservation.* In 1976, the portland cement industry accounted for two percent of total energy used by U.S. industry. Although the cement industry has steadily reduced its energy consumption per unit of product over the past several years, the use of fly ash in producing blended cements can still save a significant amount of energy.

Seventy to eighty percent of the energy used in cement production is consumed during the pyroprocessing stage, where raw materials are subjected to intense heat and chemically react to form cementitious compounds, or clinker. The clinker is ground into the fine powder known as cement. Replacing the cement clinker with fly ash (on a one-to-one ratio by weight) reduces the amount of clinker production required per ton of finished cement. Energy savings are proportioned to the percentage of fly ash used in the blend. Assuming a twenty percent replacement rate, the savings may range from about 13 to 19 percent of total energy used in production.

Concrete producers can save energy indirectly if fly ash is used as an admixture at their plant. Replacing a portion of cement with fly ash in the final product would reduce the production needed from the cement industry, and thus would reduce energy consumption. Each ton of cement replaced would save approximately 5,750,000 BTUs of energy.

(3) *Environmental Issues.* (a) *Benefits.* The use of fly ash in cement and concrete will have a positive effect on the environment, reducing pollution of

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the land, air, and water. It will do this by reducing (1) the quantities of fly ash requiring disposal, (2) the mining and processing of raw materials used in cement production, and (3) the cement plant emissions per ton of blended cement produced or per ton of cement replaced with fly ash.

If current usage rates continue, by 1985 60–65 million tons of fly ash annually will require disposal. Approximately 10–20 million tons of this fly ash are estimated to be suitable for use in concrete. This guideline can affect the practices of collecting fly ash, especially from new sources, and can reduce the quantities which require ultimate disposal. Thus, the use of fly ash in cement and concrete will provide a more environmentally acceptable way to manage these substances than would otherwise be available.

Current practices for cement manufacturing, and current disposal practices for fly ash, can have a negative effect on air quality (increased dust), water quality (surface and groundwater contamination), land use, noise, and aesthetic value. The use of fly ash in cement and concrete can reduce these effects in several ways. For example, it would reduce the need for such raw materials as limestone and clay, whose mining and processing can harm the environment.

Requiring less cement for the same quantity of "cementitious" end product may reduce the amount of cement kiln dust which requres disposal (currently 6–8 million tons per year). The disposal of cement kiln dust can have the same harmful effects as the disposal practices of fly ash. In addition, using fly ash to increase the capacity of a cement plant would most likely reduce the need for air pollution control since it would not require the air pollution control associated with new kiln construction. This approach to expanding capacity may be especially attractive in "nonattainment" areas, where new kiln construction is effectively precluded.

(b) *Impact of RCRA, Subtitle C.* In May 1980, EPA promulgated regulations for the control of hazardous waste pursuant to Subtitle C of RCRA. Little, if any, fly ash exhibits characteristics defined as hazardous in these regulations. Therefore, Subtitle C regulations will have no significant impact on the use of fly ash in cement and concrete. At the same time as the original proposal of the hazardous wastes regulations (December 18, 1978), EPA issued an advance notice of proposed rulemaking that it was considering establishing 5 pCi/g of radium-226 as a criterion for listing wastes as hazardous. The notice also requested comment on other criteria which might tend to affect the radiation hazard. Among these is the emanation rate of radon from the waste. The Agency has at this date taken no further action on this proposed rulemaking to establish general criteria for hazardous radioactivity levels in wastes.

Where resource recovery is practiced, another important consideration in assessing the hazard is the proposed use of the waste material. While a significant proportion of fly ash generated in the U.S. has more than 5 pCi/g of radium-226, the physical structure of fly ash is such that its contribution to radiation exposure is probably less than that of most normal constituents of concrete which generally fall below this level. This is explained in subparagraph (c).

(c) *Radioactivity Issues.* Several groups have expressed concern to EPA that fly ash used in the construction of habitable structures could pose a threat to public health due to radioactivity. The source of the radiation threat is due to radium-226, a radioactive isotope which occurs naturally in soil, sand, and mineral deposits as well as in fly ash. The radium-226 content of soil generally ranges from .2 to 3 picocuries per gram (pCi/g). Limited measurements of radioactivity in cement show that the radium-226 content of cement can be as high as 5 pCi/g, but typically averages close to 1 pCi/g. Limited measurements of fly ash presently generated in the U.S. show a radium-226 content ranging from 1 to 8 pCi/g with an average of roughly 4 pCi/g.

There are two pathways of radiation exposure from radium-226 in building materials. The pathway of primary concern is from inhalation of radon-222 and its short-lived decay products. Radon-222, an inert gas with a radioactive half-life of 3.8 days, is the first generation decay product of radium-226. Because it is an inert gas, it can readily migrate from the building material into the indoor air of a home. Although the rate at which radon is created within a building material is proportional to its radium content, the intrinsic structure of the material may, in some cases, prevent most of the radon from escaping. When air containing radon and its radioactive decay products is breathed for long periods of time, a person's risk of lung cancer is increased. Gamma radiation from radium-226 and its decay products is the other exposure pathway. The amount of gamma radiation emission from a building material is proportional to its radium content, but the total exposure a person receives will also depend on other factors such as shielding, distance from the material, and exposure time. Exposure to gamma radiation results in an increased risk of many types of cancer.

When fly ash is used as a patial cement replacement in concrete, the fly ash content of the final concrete product is between 2 and 3 percent (assuming a 15 to 25 percent cement replacement rate and an 8 to 1 ratio of aggregate and water to cementious material). Since the average radium-226 content of fly ash exceeds that of cement by a few pCi/g, the use of fly ash as a cement replacement in habitable structures will, on the average, result in a slight increase in the gamma radiation exposure to people (less than a milliroentgen per year). However, in some instances, where fly ash with a lower than average radium content replaces a cement with a higher than average radium content, the result would be less gamma radiation exposure.

The use of fly ash as a cement replacement will also affect the quantity of radon emitted by the building material. Although the rate at which radon is created is directly proportional to the radium content, other factors may inhibit radon emanation from a material. Because fly ash is produced at high temperatures, it has a glassy structure which keeps most of the radon from escaping. The fraction of radon which escapes from fly ash (emanation fraction) has been measured at no more than a few percentage points. In contrast, typical soil and soil like materials tend to have an emanation fraction in the neighborhood of 20%. Thus, although fly ash, on the average, has a greater radium content than the cement it replaces, the use of fly ash as a partial cement replacement is likely to reduce the radon gas contribution of the final concrete product. EPA is presently investigating this issue more thoroughly.

While fly ash use in cement would, on the average, result in a small increase in gamma radiation exposure, this small increase in gamma hazard is likely to be offset by a decreased radon hazard. In light of this, EPA believes that the use of typically-occurring fly ash in concrete does not constitute a significantly different radiation risk than the risk from the cement it replaces, and neither of these is significantly different from the radiation risk posed by common soil.

Institutional Issues

In spite of proven technical performance and favorable economics, the use of fly ash in cement and concrete has had only limited acceptance. This can be attributed in part to potential consumers' unfamiliarity with fly ash, and their resistance to the use of a new product where an existing product—in this case portland cement—has traditionally been accepted. In some cases there may be outright discrimination against this use of fly ash, because of attitudes, personalities, and political and economic pressure.

It is difficult to obtain quick approval for a new product or material specification in the construction field, given the requirements for experimentation, demonstration, field evaluation and finally specification changes. However, it should be recognized that fly ash has already gone through these steps. There are established specifications and standards for the testing and use of this material. Sources of ash must be acceptable and EPA emphasizes that only ash which meets established specifications should be used. However, a procuring agency need not "reinvent the wheel" by requiring extensive and expensive reevaluation of the basic feasibility which has already been proven. This applies to all government agencies, but especially to state and local entities which use such instruments as building codes, to regulate construction activities.

Design engineers generally have the final say on the materials to be specified for a particular construction job. Typically, until a majority of peer engineers accept a "new" material there is reluctance to use it. However, an engineer can meet his or her responsibility for the performance of a structure by conducting a thorough review of the concrete mix design before placing the concrete, and assuring that the materials and mix design meet, as a minimum, ASTM, Federal, and/or American Concrete Institute specifications. The intent of this guideline is to help overcome certain of these "institutional" barriers which may have no adequate foundation.

Resource Requirements

The cost to procuring agencies of compliance with this guideline with be minimal. The price of cement and concrete containing fly ash should be less than or equal to the price of portland cement and concrete. The start-up costs of revising specifications and assimilating fly ash into the procurement system should be relatively minor but are not readily measurable.

The Office of Federal Procurement Policy (OFPP) is responsible for submitting an annual report to Congress on actions taken by Federal agencies and the progress made in implementation of the resource recovery policy of Section 6002. As a result, OFPP already requires an annual report from each Federal agency on actions taken in the implementation of Section 6002. By working closely with OFPP, information relevant to the implementation of this guideline can be obtained. Although EPA and OFPP are responsible for implementing and monitoring compliance with this guideline, the Agency believes an extensive enforcement system is unwarranted, since the responsibility for compliance lies with Federal agencies subject to RCRA requirements. Therefore, the costs to OFPP and EPA of implementing this guideline are expected to be relatively minor.

A total of .3 man-years of effort per year will be required of EPA during the five years following promulgation of the final guideline (1.5 man-years total). This effort will focus on implementation of guideline recommendations at the Federal, State, and local level, monitoring the impact of the guideline, and making any necessary formal revisions to the guideline language.

Public Participation

An interagency work group, including representatives from most of the Federal agencies which will be directly impacted by this guideline, assisted in its development. In addition, a draft of the guideline package, including a summary development plan, preamble, rule, and background documents was circulated to well over 200 interested persons for comment.

The major issues of concern of the work group and commenters were: (a) Requiring vs. allowing for the use of fly ash, (b) responsibility for quality control and performance of fly ash, (c) the potential health effects of the use of fly ash as a building material. These issues, among others, are discussed in detail in this Preamble.

Evaluation Plan

Executive Order 12044 requires that each new significant regulation have a plan for evaluating its effectiveness with five years of implementation. Such evaluation could, for example, lead to modification and improvement of the regulation. An evaluation plan will be prepared for this guideline prior t its final promulgation.

Dated: November 13, 1980.

Douglas M. Costle,

Administrator.

Title 40 CFR is amended by adding a new Part 249 to read as follows:

PART 249—GUIDELINE FOR FEDERAL PROCUREMENT OF CEMENT AND CONCRETE CONTAINING FLY ASH

Subpart A—Purpose, Applicability, and Definitions

Sec.
249.01 Purpose.
249.02 Designation.
249.03 RCRA Requirements pertaining to fly ash.
249.04 Applicability.
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Subpart B—Specifications

249.10 Recommendations for material specifications.
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249.14 Recommendations for performance standards.

Subpart C—Purchasing

249.20 Recommendations for bidding approach.
249.21 Recommendations for reasonable price.
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249.24 Recommendations for time-phasing.

Subpart D—Certification

249.30 Recommendations for measurement.
249.31 Recommendations for documentation.
249.32 Quality control.
249.33 Enforcement.
249.34 Date recommendations.

Authority: 42 U.S.C. 6962.

Subpart A—Purpose, Applicability, and Definitions

§ 249.01 Purpose.

(a) The purpose of the guideline is to assist procuring agencies in the procurement of cement and concrete which contain fly ash, in accordance with Section 6002(e) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended ("RCRA" or "Act") (42 U.S.C. 6962).

(b) This guideline contains recommendations for use in implementing Section 6002 requirements, including revision of specifications, purchasing, phasing-in of requirements, and certification procedures.

§ 249.02 Designation.

Fly ash used in cement and concrete it hereby designated by EPA as a product area for which affirmative procurement actions are required on the part of procuring agencies under the requirements of Section 6002 of RCRA.

§ 249.03 RCRA requirements pertaining to fly ash.

RCRA requires action on the part of procuring agencies with regard to revising specifications and initiating an affirmative purchasing program for recovered materials.

(a) In accordance with the requirements Section 6002(d)(1) and (d)(2) of RCRA, all federal agencies which have responsibility for drafting or reviewing specifications for cement or concrete, or construction activities involving the use of cement or concrete, must:

(1) Eliminate from these specifications:

(i) Any exclusion of fly ash as a component in cement or concrete, and

(ii) Any requirements, either direct or indirect, that the items be manufactured from virgin materials.

(2) Assure that these specifications require the use of fly ash to the maximum extent practical, without jeopardizing the final cement or concrete product.

The requirements of paragraph (a)(1) of this section apply in all cases except those in which it can be demonstrated that performance standards would not be satisfied. However, if performance standards are so stringent that they effectively and arbitrarily exclude fly ash, the performance standards must be revised.

(b) In accordance with the requirements of Section 6002(c)(1) of RCRA, procuring agencies must purchase cement and concrete which contain fly ash unless a determination has been made that (1) cement or concrete containing fly ash will not be available within a reasonable period of time, or (2) this cement or concrete is only available at an unreasonable cost, or (3) the purchase will result in a level of competition which is less than satisfactory, or (4) the cement or concrete will not meet reasonable performance standards.

(c) In accordance with the requirements of Section 6002(c)(3) of RCRA, contracting officers must require that vendors certify the percentage of fly ash which is being incorporated in the cement or concrete which they supply. This requirement takes effect after the date specified in § 249.34.

§ 249.04 Applicability.

(a) This guideline applies to all procuring agencies and to all procurement actions involving cement or concrete where the procuring agency purchases in total $10,000 or more worth of cement or concrete (including related services such as placing and finishing) during the course of a fiscal year, or where the quantity of such items purchased during the preceding fiscal year was $10,000 or more.

(b) Procurement actions include all purchases for cement or concrete made directly by a procuring agency or by any person directly in support of work being performed for a procuring agnecy, as in the case of general construction contractors and/or subcontractors.

(c) This guideline also applies to any purchases of cement or concrete made "indirectly" by a procuring agency, as in the case of purchases resulting from grants, loans, funds, and similar forms of disbursements of monies which the procuring agency intended to be used for construction.

(d) The guideline does not apply tp purchases of cement and concrete which are not the direct result of a contract, grant, loan, funds disbursement, or agreement with a procuring agency.

§ 249.05 Definitions.

As used in this guideline:

(a) "Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. section 6901 et seq.

(b) "Construction" means the erection or building of new structures, or the replacement, expansion, remodeling, alteration, modernization, or extension of existing structures. It includes the engineering and architectural surveys, designs, plans, working drawings, specifications, and other actions necessary to complete the project.

(c) "Contract specifications" means the set of specifications prepared for an individual construction project, which contains design, performance, and material requirements for that project.

(d) "Federal agency" means any department, agency, or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation, and the Government Printing Office (Pub. L. 94–580, 90 Stat. 2799, 42 U.S.C. 6903).

(e) "Fly ash" means the component of coal which results from the combustion of coal, and is the finely divided incombustible mineral residue which is typically collected from boiler stack gases by electrostatic precipitator or mechnical collection devices.

(f) "Guide specification" means a general specification—often referred to as a design standard or design guideline—which is a model standard and is suggested or required for use in the design of all of the construction projects of an agency.

(g) "Implementation" means putting a plan into practice by carrying out planned activities, or ensuring that these activities are carried out.

(h) "Material specification" means a specification that stipulates the use of certain materials to meet the necessary performance requirements.

(i) "Person" means an individual, trust, firm, joint stock company, Federal agency, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body

(j) "Procurement item" means any device, good, substance, material, product, or other item whether real or personal property which is the subject of any purchase, barter, or other exchange made to procure such item (Pub. L. 94–580, 90 Stat. 2800, 42 U.S.C. 6903).

(k) "Procuring agency" means any Federal agency, or any State agency or agency of a political subdivision of a State which is using appropriated Federal funds for such procurement, or any person contracting with any such agency with respect to work performed under such contract (Pub. L. 94–580, 90 Stat. 2800, 42 U.S.C. 6903).

(l) "Recovered material" means material which has been collected or recovered from solid waste.

(m) "Sludge" means any solid, semisolid or liquid waste generated from municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

(n)(1) "Solid waste" means any garbage, refuse, sludge or any other waste material which is not excluded under paragraph (n)(6) of this section.

(2) An "other waste material" is any solid, liquid, semisolid or contained gaseous material, resulting from industrial, commercial, mining or agricultural operations, or from community activities which:

(i) Is discarded or is being accumulated, stored or physically, chemically or biologically treated prior to being discarded; or

(ii) Has served its original intended use and sometimes is discarded; or

(iii) Is a manufacturing or mining by-product and sometimes is discarded.

(3) A material is "discarded" if it is abandoned (and not used, reused, reclaimed or recycled) by being:

(i) Disposed of; or

(ii) Burned or incinerated, except where the material is being burned as a fuel for the purpose of recovering usable energy; or

(iii) Physically, chemically, or biologically treated (other than burned or incinerated) in lieu of or prior to being disposed of.

(4) A material is "disposed of" if it is discharged, deposited, injected, dumped, spilled, leaked or placed into or on any land or water so that such material or any constituent thereof may enter the environment or be emitted into the air or discharged into ground or surface waters.

(5) A "manufacturing or mining by-product" is a material that is not one of the primary products of a particular manufacturing or mining operation, is a secondary and incidental product of the particular operation and would not be solely and separately manufactured or mined by the particular manufacturing or mining operation. The term does not include an intermediate manufacturing or mining product which results from one of the steps in a manufacturing or mining process and is typically processed through the next step of the process within a short time.

(6) The following materials are not solid wastes for the purpose of this part:

(i) (A) Domestic sewage; and

(B) Any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly-owned treatment works for treatment. "Domestic sewage" means untreated sanitary wastes that pass through a sewer system

(ii) Industrial wastewater discharges that are point source discharges subject to regulation under Section 402 of the Clean Water Act, as amended.

(Comment: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment)

(iii) Irrigation return flows.

(iv) Source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 et seq.

(v) Materials subjected to in-situ mining techniques which are not removed from the ground as part of the extraction process.

(o) "Specification" means a clear and accurate description of the technical requirement for materials, products, or services, which specifies the minimum requirement for quality and construction of materials and equipment necessary for an acceptable product. In general, specifications are in the form of written descriptions, drawings, prints, commercial designations, industry standards, and other descriptive references.

Subpart B—Specifications

§ 249.10 Recommendations for material specifications.

(a) In material specifications, maximum use should be made of existing Federal specifications and voluntary consensus standards for cement and concrete which contain fly ash. These are:

(1) *Cement.* (i) ANSI/ASTM C595—"Standard Specification for Blended Hydraulic Cements."

(ii) Fed. Spec. SS–C–1960/4B—"Cement, Hydraulic, Blended."

(2) *Concrete.* (i) ANSI/ASTM C618—"Standard Specification for Fly Ash and Raw or Calcined Natural Pozzolan for Use as a Mineral Admixture in Portland Cement Concrete."

(ii) Fed. Spec. SS–C–1960/5A—"Pozzolan, For Use in Portland Cement Concrete."

(iii) ANSI/ASTM C311—"Standard Methods of Sampling and Testing Fly Ash and Natural Pozzolans for Use as a Mineral Admixture in Portland Cement Concrete."

(b) Concrete specifications which specify minimum cement content could potentially discriminate against the use of fly ash. Such specifications should be changed in order to allow the substitution of fly ash for cement in the concrete mixture.

§ 249.11 Recommendations for guide specifications.

(a) Each procuring agency should assure that its guide specifications do not discriminate against the use of fly ash in cement and concrete. Each procuring agency should:

(1) Revise specifications, standards, or procedures which currently require that cement and concrete contain virgin materials to eliminate this restriction.

(2) Revise specifications, standards, or procedures which prohibit using recovered materials (particularly fly ash) in cement and concrete to eliminate this restriction.

(b) Guide specifications should require that contract specifications for individual construction projects allow for the use of fly ash, unless fly ash use is technically inappropriate for a particular construction application.

(c) Referenced specifications which are maintained by national organizations, such as the American Association of State Highway and Transportation Officials (AASHTO) and the American Concrete Institute (ACI) should be modified, if necessary, to remove any discrimination against the use of fly ash in cement and concrete.

(d) Guide specifications should be revised, if necessary, within six months after the date of publication of this guideline, to incorporate the recommendations of paragraph (a) through (c) of this section.

§ 249.12 Recommendations for contract specifications.

(a) "Contract" specifications, which are prepared either by or for a procuring agency for each individual construction project, should allow the use of cement and concrete which contains fly ash as an alternate material for the project in accordance with § 249.10, except as noted in paragraph (b) of this section.

(b) Contract specifications should not allow the use of fly ash if it can be demonstrated that, for a particular project or application, reasonable performance requirements for the cement or concrete will not be met, or that the use of fly ash would be inappropriate for technical reasons. The demonstration under this paragraph should be documented by the procuring agency, design engineer/architect, or other responsible person, based on specific technical performance information.

(c) The procuring agency should assure that contract specifications reflect the provisions of paragraphs (a) and (b) of this section by reviewing the contract specification for any individual construction project before awarding the contract. These requirements apply to projects which are contracted for directly, as well as those projects directly performed under the provisions of grants, loans, funds, or similar forms of disbursement.

(d) All contract specifications issued after one year from the date of publication of this guideline should meet the provisions of this section.

§ 249.13 Recommendations for fly ash content and mix design.

(a) No minimum or maximum level of fly ash content is specified for all uses, due to variations in fly ash, cement, strength requirements, costs, etc. However, replacement rates of fly ash for cement in the production of blended cement generally do not exceed 20% to 30%, with 15% being a more accepted rate when fly ash is used as an admixture in concrete. Fly ash blended cements may range from 0%–40% fly ash by weight, according to ASTM C595, for Types IP and I(PM).

(b) Information on fly ash and concrete mix design are contained in the "References" section of this guideline. These sources should be consulted in the design and evaluation of the proper mix ratio for a specific project. In general, the concrete mix is adjusted by adding fly ash, while decreasing cement,

water, and fine aggregate. The fly ash should be checked for compliance with applicable ASTM standards/Federal

solicited, except as provided for in § 249.12(b).

(2) With this approach, award should

guideline, the Agency recommends the following timetable for implementation:

(a) The first year after publication of

Waterways Experiment Station, P.O. Box 631, Vicksburg, Mississippi 39180.

§ 249.33 Enforcement.

pozzolans. ACI Committee 211, "Proportioning Concrete Mixes," SP–46–8: pp. 109–140 (with 9 references).

12. Tennessee Valley Authority; Singleton

V 45 N 020 80 UMI

water, and fine aggregate. The fly ash should be checked for compliance with applicable ASTM standards/Federal specifications, and trial mixes should be made to verify compliance of such mixes with specified quality parameters. Only fly ash which, as a minimum, meets ASTM standards should be used.

§ 249.14 Recommendations for performance standards.

(a) Performance standards relating to cement or concrete construction projects should not restrict the use of fly ash, either directly or indirectly, unless this restriction is justified on a case-by-case basis.

(b) A performance standard which would restrict the use of fly ash is one which requires higher strengths in shorter periods of time than are actually necessary to comply with design criteria. Some alternatives which should be considered, on a project-by-project basis, include:

(1) Evaluating pavement strengths for roads on the basis of 28 day strengths instead of 14 days strengths.

(2) Evaluating airfield pavement strengths on the basis of 90 day strengths instead of 28 day strengths.

(3) Evaluating building structure strengths on the basis of the number of days until full-loading (typically 90–120 days).

Extension of strength evaluation periods can only be made where curing conditions are such that strength gaining reactions are still able to take place in the concrete over an extended period of time.

Subpart C—Purchasing

§ 249.20 Recommendations on bidding approach.

(a)(1) EPA recommends that a procuring agency solicit bids both for cement or concrete which contain fly ash and for portland cement or concrete, except as provided for in § 249.12(b).

(2) With this approach, award should be made to the lowest priced responsible bidder, regardless of whether fly ash is used. In the event that two or more low bids are received which offer different levels of fly ash content, award should be made to the lowest priced responsible offeror. In the case of identical low bids, award should be made to the offeror with the higher level of fly ash content.

(b)(1) Alternatively, when in the judgement of the procuring agency cement or concrete containing fly ash is reasonably available and its bid price will be competitive with that of portland cement or concrete, only bids for cement or concrete containing fly ash should be solicited, except as provided for in § 249.12(b).

(2) With this approach, award should be made to the lowest priced responsible offeror, provided that fly ash is used. In the case of identical low bids award should be made to the responsible offeror with the higher level of fly ash content.

§ 249.21 Recommendations for reasonable price.

(a) General procedures, such as those contained in the Federal Procurement Regulations, should be used in determining whether the prices offered are reasonable. This determination should consider the objectives of Section 6002 of RCRA.

(b) Techniques of price analysis (not cost analysis) should be used, as appropriate. (Price analysis is the process of examining and evaluating a prospective price without evaluating the separate cost elements and proposed profit of the individual prospective supplier.) Price analysis may be done in various ways, including:

(1) Comparison of the price quotations submitted.

(2) Comparison of prior quotations and contract prices with current quotations for the same or similar end items, making appropriate allowances for any differences in quantities, delivery time, inflation, etc.

(3) Comparison of prices set forth in published price lists or catalogs.

§ 249.22 Recommendations for reasonable competition.

(a) There is reasonable competition if there is adequate price competition.

(b) Adequate price competition is usually presumed to exist if:

(1) At least two responsible offerors,

(2) Who can satisfy the purchaser's (e.g., the Government's) requirements,

(3) Independently compete for a contract to be awarded,

(4) By submitting priced offers responsive to the expressed requirements of a solicitation.

In addition, the reasonableness of prices should be evaluated in accordance with § 249.12.

§ 249.23 Reasonable availability.

Cement or concrete which contain fly ash should be considered reasonably available if there are no unusual or unnecessary delays expected in its delivery compared to that for portland cement or concrete.

§ 249.24 Recommendations for time-phasing.

In order to minimize any adverse effects on the marketplace or on the procuring agency in implementing this guideline, the Agency recommends the following timetable for implementation:

(a) The first year after publication of the guideline should be used for review/revision of all applicable specifications and standards.

(b) Not later than the beginning of the second year, all contracts should allow for or require the use of fly ash, in accordance with the provisions of §§ 249.12 and 249.20.

Subpart D—Certification

§ 249.30 Recommendations for measurement.

(a) Measurement of fly ash content should be made in accordance with standard industry practice, normally on a weight basis, and stated as a percentage of the weight of total cementitious material: [fly ash weight ÷ (fly ash weight + cement weight)] = %. This will often be a reflection of either a typical cubic yard of concrete or ton of cement.

(b) The supplier should be required to certify:

(1) The percentage which will be used in a particular mix design, or

(2) The use of any minimum percentage requirement which may have been established for a particular contract.

§ 249.31 Recommendations for documentation.

(a) Certification of fly ash content by the cement or concrete supplier should not require separate reporting forms, but should use existing mechanisms, such as a statement contained in a signed bid document or a mix design proposal.

(b) In cases where the purchase of cement or concrete is made by a contractor or by any authority other than the procuring agency, the fly ash content of the cement or concrete purchased and quantity of fly ash used should be made available to the procuring agency.

§ 249.32 Quality control.

(a) Nothing in this guideline should be construed to relieve the contractor of responsibility for providing a satisfactory product. Suppliers of blended cement, fly ash, and concrete should be expected to demonstrate (through reasonable testing programs or previous experience) the performance and reliability of their product. Cement and concrete containing fly ash should not be subjected to any unreasonable testing requirements.

(b) Agencies desiring a testing or quality assurance program for cements, blended cements, or fly ash should contact the U.S. Army Engineer Waterways Experiment Station, P.O. Box 631, Vicksburg, Mississippi 39180.

§ 249.33 Enforcement.

Procuring agencies should consider and investigate inquiries received from a supplier's competitors which raise reasonable doubt about the legitimacy of fly ash certification.

§ 249.34 Date recommendations.

Certification of fly ash content should occur at the time of purchase of cement and concrete in accordance with the phasing in recommendations in § 249.24.

References

EPA recommends that these documents be used by procuring agencies and those persons wishing to familiarize themselves with issues related to fly ash use.

1. ASTM. Standard specification for fly ash and raw or calcined natural pozzolan for use as a mineral admixture in portland cement concrete. ASTM C618, latest edition. Annual book of ASTM standards, part 14. Philadelphia, PA.
2. ASTM. Standard methods on sampling and testing fly ash or natural pozzolans for use as a mineral admixture in portland cement concrete. ASTM C311, latest edition. Annual book of ASTM standards, part 14. Philadelphia, PA.
3. ASTM. Standard specification for blended hydraulic cements. ASTM C595, latest edition. Annual book of ASTM Standards, part 14. Philadelphia, PA.
4. Brown, P., U. Clifton, and G. Frohnsdorff. National Bureau of Standards. 1976. The utilization of industrial by-products in blended cements. Proceedings. Fifth Mineral Waste Utilization Symposium, pp. 278–284.
5. Department of the Army, Corps of Engineers, Office of the Chief of Engineers, Washington, D.C. Standard practice for concrete. EM–1110–2–2000, with latest changes.
6. Department of the Army, Corps of Engineers, Office of the Chief of Engineers, Washington, D.C. Guide Specification for concrete. CW–03305, with latest changes.
7. Department of the Army, Corps of Engineers, Office of the Chief of Engineers, Washington, D.C. Guide specification for cast-in-place structural concrete. CW–03301, with latest changes.
8. General Services Administration. Specification for pozzolan for use in portland cement concrete. Federal specification SS–C–1960/5A.
9. General Services Administration. Specification for blended hydraulic cement. Federal specification SS–C–1960/4B.
10. Gordian Associates, Inc. 1978. Potential for energy conservation through the use of slag and fly ash in concrete. DOE report SAN–1699–T1.
11. Lovewell, C. E., and E. J. Hyland. 1974. A method of proportioning structural concrete mixtures with fly ash and other pozzolans. ACI Committee 211, "Proportioning Concrete Mixes," SP–46–8: pp. 109–140 (with 9 references).
12. Tennessee Valley Authority; Singleton Materials Engineering Laboratory. 1979. Properties and use of fly ash in portland cement concrete. Technical report CR–78–2 (with 11 references).

[FR Doc. 80-36048 Filed 11-19-80; 8:45 am]

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Part VI

Department of Transportation

Federal Highway Administration

Utility Relocation, Adjustments, and Reimbursement

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 645

[FHWA Docket No.79–8, Notice 2]

Utility Relocations, Adjustments, and Reimbursement

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA proposes to revise its regulation that prescribe the policies, procedures, and reimbursement provisions for the adjstment and relocation of utility facilities on Federal and federally assisted highway construction projects, in order to simplify existing regulations and eliminate unnecessary requirements in accordance with the FHWA's emphasis on reducing red tape.

DATE: Comments must be received on or before February 18, 1981.

ADDRESS: Submit written comments, preferably in triplicate, to the Federal Highway Administration, FHWA Docket No. 79–8, Notice 2, Room 4205, HCC–10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. to 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: James A. Carney, Office of Engineering, 202–426–0104; Harvey C. Wood, Office of Fiscal Services, 202–426–0563; or William B. Clemmens, Jr., Office of the Chief Counsel, 202–426–0791; Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: On February 27, 1979, the FHWA issued an advance notice of proposed rulemaking (ANPRM) published as 44 FR 12209, FHWA Docket no. 79–8. The purpose of the ANPRM was to solicit comments in anticipation of a future revision of the FHWA's regulation prescribing the policies, procedures, and reimbursement provisions for the adjustment and relocation of utility facilities associated with Federal-aid and direct Federal highway construction.

A total of 25 commenters replied to the ANPRM, nine from utility companies or their representatives, 15 from State highway agencies (SHA's), and one from a county highway agency. Generally, the commenters supported some revision to the regulation, although three utility companies and one SHA felt the present regulation should remain unchanged.

Several specific changes to the existing regulation were suggested. Seven SHA's commented on the existing regulation dealing with expired service life (ESL) credit, ESL being a means of determining increases in value of new utility facilities. Two SHA's suggested elimination of all ESL credits, and one proposed elimination for electrical utilities ony. Four suggested modifications, generally with the intent of eliminating ESL credit for segments of a utility's service, distribution, or transmission lines greater than one mile in length. The FHWA proposes to change its regulation so that ESL credit would no longer be required for the replacement of segments of a utility's service, distribution, or transmission lines, regardless of length. However, the proposed regulation would require a credit for accrued depreciation where there is a replacement of major facilities used for the production, transfer, or storage of a utility's products. The FHWA believes that this latter category clearly represents an increase in value to the new facility for which a credit should be due.

Six SHA's felt that the existing $10,000 ceiling for lump-sum agreements should be raised. Under the lump-sum procedure, payment is made based upon a predetermined fixed amount in lieu of actual final costs. The proposed regulation would increase this ceiling to $25,000. Further, the proposed regulation would establish a procedure where lump-sum agreements in excess of $25,000 could be approved when the FHWA finds it would be in the best interest of the public.

Three commenters representing utility companies suggested that the regulation be changed to allow direct payment by the FHWA to utilities in those instances where the States do not pay for utility relocations and adjustments under State law. Section 123 of title 23, United States Code (23 U.S.C. 123) expressly limits Federal participation to the reimbursement of costs incurred by the State. Therefore, no change in the regulation has been proposed.

Three commenters, one representing a utility company and two representing SHA's, suggested that the Federal payment standard in the regulation be changed to allow reimbursement for interest, incurred prior to the reimbursement by the State, on funds borrowed by or expended by a utility to finance relocations and adjustments. Federal Management Circular 74–4, Cost Principles Applicable to Grants and Contracts with State and Local Governments, dated July 18, 1974, states that "Interest on borrowings (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fess paid in connection therewith, are unallowable costs for Federal reimbursement except when authorized by Federal legislation." As a consequence, the FHWA may not pay interest on borrowed funds.

Two SHA's suggested that when the regulation is revised all matters dealing with utility relocations, adjustments, and reimbursements appear together in one part or subpart of the Code of Federal Regulations (CFR) to facilitate use by State and utility company personnel. The FHWA agrees with this suggestion and is proposing to keep the regulation in one subpart of the CFR. Further, the FHWA anticipates that this regulation and other appropriate information will be issued under one directive in the FHWA's Federal-Aid Highway Program Manual (FHPM).

The proposed regulation clarifies and modifies eligibility requirements for the participation of Federal funds. The existing regulation does not permit Federal funds to participate in payments made by a political subdivision of a State for utility adjustments where State law prohibits the State from making such payment. Under the proposed regulation, Federal funds may participate in payments made by political subdivisions for utility adjustments, so long as payment by the political subdivision does not violate State law and the terms of any use of occupancy agreement or legal contract between the utility and political subdivision.

Interested persons are invited to comment on the possible effect of reimbursement restrictions in 23 U.S.C. 123(a) on safety corrective work. As written, that section provides that Federal funds shall not be used to reimburse a State for payments made to a utility where such payments violate State law or a legal contract between the utility and the State.

Note.—The FHWA has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. The anticipated economic impact of this proposal is so minimal as not to require preparation of a full regulatory evaluation at this time. Based on comments received in response to this notice of proposed rulemaking, the FHWA will review the need for regulatory evaluation in conjunction with the preparation of a final rule.

(Catalog of Federal Domestic Assistance Program Numbers 20.205, Highway Research, Planning, and Construction; 23.003, Appalachian Development Highway System; 23.006, Appalachian Local Access Roads. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to these programs)

In consideration of the foregoing, the FHWA proposes to amend Chapter 1 of Title 23, Code of Federal Regulations, Part 645, Subpart A, as set forth below.

Issued on: November 12, 1980.

John S. Hassell, Jr.,

Federal Highway Administrator.

PART 645—UTILITIES

Subpart A—Utility Relocations, Adjustments, and Reimbursement

Sec.

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645.107 Eligibility.
645.109 Preliminary engineering.
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645.113 Agreements and authorizations.
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645.117 Cost development and reimbursement.
645.119 Alternate procedure.

Authority: 23 U.S.C. 123 and 315; 49 CFR 1.48(b).

§ 645.101 Purpose.

To prescribe the policies, procedures, and reimbursement provisions for the adjustment and relocation of utility facilities on Federal-aid and direct Federal projects.

§ 645.103 Applicability.

(a) The provisions of this regulation apply to reimbursement claimed by a State highway agency (SHA) for costs incurred under an approved and properly executed highway agency (HA)/utility agreement and for payment of costs incurred under all Federal Highway Administration (FHWA) utility agreements.

(b) Procedures on the accommodation of utilities are set forth in 23 CFR 645, Subpart B, Accommodation of Utilities.

(c) Where the lines or facilities to be relocated or adjusted by reason of the highway construction are privately owned, located on the owner's land, devoted exclusively to private use and not directly or indirectly serving the public, the provisions of the FHWA's right-of-way procedures in 23 CFR, Chapter 1, Subchapter H, Right-of-Way and Environment, apply. Where applicable, under the foregoing conditions, the provisions of this regulation may be used as a guide to establish a cost-to-cure.

(d) The FHWA's reimbursement to the SHA will be governed by State law (or State regulation) or the provisions of this regulation, whichever is more restrictive. Where State law or regulation differs from this regulation, a determination shall be made by the SHA subject to the concurrence of the FHWA as to which standards will govern, and the record documented accordingly, for each relocation encountered.

(e) For direct Federal projects, all references herein to the SHA or HA are inapplicable, and it is intended that the FHWA be considered in the relative position of the SHA or HA.

§ 645.105 Definitions.

For the purposes of this regulation, the following definitions shall apply:

(a) *Authorization*—for Federal-aid projects authorization to the SHA by the FHWA, or for direct Federal projects authorization to the utility by the FHWA, to proceed with any phase of a project. The date of authorization establishes the date of eligibility for Federal funds to participate in the costs incurred on that phase of work.

(b) *Betterment*—any upgrading of the facility being relocated that is not attributable to the highway construction and is made solely for the benefit of and at the election of the utility.

(c) *Cost of relocation*—the entire amount paid by or on behalf of the utility properly attributable to the relocation after deducting from that amount any increase in value of the new facility, and any salvage derived from the old facility.

(d) *Cost of removal*—the amount expended to remove utility property including the cost of demolishing, dismantling, removing, transporting, or otherwise disposing of utility property and of cleaning up to leave the site in a neat and presentable condition.

(e) *Cost of salvage*—the amount expended to restore salvaged utility property to usable condition after its removal.

(f) *Direct Federal projects*—highway projects such as forest highways, public land highways, etc., which are under the direct administration of the FHWA.

(g) *Highway agency* (HA)—that department, commission, board, or official of any State, or political subdivision thereof, charged by its law with the responsibility for highway administration.

(h) *Indirect or overhead costs*—those costs which are not readily identifiable with one specific task, job, or work order. Such costs may include indirect labor, social security taxes, insurance, stores expense, and general office expenses. Costs of this nature generally are distributed or allocated to the applicable job or work orders, other accounts and other functions to which they relate. Distribution and allocation is made on a uniform basis which is reasonable, equitable, and in accordance with generally accepted cost accounting practices.

(i) *Relocation*—the adjustment of utility facilities required by the highway project. It includes removing and reinstalling the facility, acquiring necessary rights-of-way on the new location, moving, rearranging or changing the type of existing facilities and taking any necessary safety and protective measures. It shall also mean constructing a replacement facility that is both functionally equivalent to the existing facility and necessary for continuous operation of the utility service, the project economy, or sequence of highway construction.

(j) *Salvage value*—the amount received from the sale of utility property that has been removed or the amount at which the recovered material is charged to the utility's accounts, if retained for reuse.

(k) *State highway agency* (SHA)—the highway agency of one of the 50 States, the District of Columbia, or Puerto Rico.

(l) *Use and occupancy agreement*—the document (written agreement or permit) by which the HA approves the use and occupancy of highway rights-of-way by utility facilities or private lines.

(m) *Utility facility*—a privately, publicly, or cooperatively owned line, facility and system for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serve the public. The term utility shall also mean the utility company, inclusive of any wholly owned or controlled subsidiary.

(n) *Work order system*—a procedure for accumulating and recording into separate accounts of a utility all costs to the utility in connection with any change in its system or plant.

§ 645.107 Eligibility.

(a) When requested by the SHA, Federal funds may participate, at the pro rata share applicable, in an amount actually paid by a HA for the costs of utility relocations under one or more of the following conditions:

(1) Where the SHA certifies that the utility has the right of occupancy in its existing location because it holds the fee, an easement, or another real property interest, the damaging or taking of which is compensable in eminent domain.

(2) Where the utility occupies privately or publicly owned land, including public road or street right-of-

finding that such statement and conditions form a suitable basis for Federal fund participation under the

is regularly performed for the utility in its own work under such contracts at reasonable costs. Arrangements for

relocation work. Where Federal participation is requested, the agreement shall incorporate this regulation by

(1) The utility relocation work, or the right-of-way, or physical construction phase of the highway construction work

perform the work in a satisfactory manner. However, where the utility is

(2) Where the utility occupies privately or publicly owned land, including public road or street right-of-way, and the SHA certifies that the payment by the HA is made pursuant to State law authorizing such payment in conformance with the provisions of 23 U.S.C. 123.

(3) Where the utility occupies publicly owned land, including public road and street right-of-way and the SHA certifies that the payment by the HA does not violate State law and the terms of a use and occupancy agreement, or legal contract, between the utility and the HA.

(4) Where the utility occupies publicly owned land, including public road and street rights-of-way, and is owned by a public agency or political subdivision of the State, and is not required by law or agreement to move at its own expense, and the SHA certifies that the HA has the legal authority or obligation to make such payments.

(b) The test to be applied to determine whether the payment for utility relocations necessitated by a Federal-aid or direct Federal project forms a suitable basis for Federal fund participation is whether the HA has the legal authority to make such payments under the provisions of State law and/or the utility is not required by the terms of an existing and applicable use and occupancy agreement, permit, franchise agreement, easement conditions or any other legal contract to relocate or adjust its facilities at its own expense. If there is any question as to the HA's legal authority to pay for utility relocations or adjustments under the provisions of § 645.107(a), the SHA will be required to cite and establish the legal basis of such payments to demonstrate to the satisfaction of the FHWA that such payments form a suitable basis for Federal fund participation under the provisions of 23 U.S.C. 123.

(c) The rights of any public agency or political subdivision of a State under contract, franchise, or other instrument or agreement with the utility, pertaining to the utility's use and occupancy of public owned land, including public road and street rights-of-way, shall be considered the rights of the SHA in the absence of State law to the contrary.

(d) In lieu of the individual certifications required by § 645.107(a), the SHA may file a statement with the FHWA setting forth the conditions under which the SHA will make payments for the relocation of utility facilities. The FHWA may approve Federal fund participation in utility relocations proposed by the SHA under the conditions of the statement, where the FHWA has made an affirmative finding that such statement and conditions form a suitable basis for Federal fund participation under the provisions of 23 U.S.C. 123.

(e) Federal funds may not participate in the cost of relocations of utility facilities made solely for the benefit or convenience of a utility, its contractor, or a highway contractor.

(f) When the advance installation of new utility facilities crossing or otherwise occupying the proposed right-of-way of a future planned highway project is underway, or scheduled to be underway, prior to the time such right-of-way is purchased by or under control of the HA, arrangements should be made for such facilities to be installed in a manner that will meet the requirements of the future planned highway project. Federal funds are eligible to participate in the additional costs incurred by the utility that are attributable to and in accommodation of the highway project, provided such costs are incurred subsequent to authorization of the work by the FHWA. Subject to the other provisions of this regulation, Federal participation may be approved under the foregoing circumstances when it is demonstrated that the action taken is necessary to protect the public interest and the adjustment of the facility is necessary by reason of the actual construction of the highway project.

(g) Federal funds are eligible to participate in the costs of preliminary engineering and allied services for utilities, the acquisition of replacement rights-of-way for utilities, and the physical construction work associated with utility relocations, provided such costs are incurred by or on behalf of a utility after the date the work is included in an approved program and the FHWA has authorized the SHA to proceed.

§ 645.109 Preliminary engineering.

(a) Where a utility is not adequately staffed to pursue the necessary preliminary engineering and related work for the utility relocation, Federal funds may participate in the amount paid to engineers, architects, and others for required engineering and allied services, provided such amounts are not based on a percentage of the cost of relocation. Where Federal participation is requested by the SHA in the cost of such services, the utility and its consultant shall agree in writing as to the services to be provided and the fees and arrangements for the services. Federal funds may participate in the cost of such services performed under existing written continuing contracts where it is demonstrated that such work is regularly performed for the utility in its own work under such contracts at reasonable costs. Arrangements for consulting services are subject to prior approval by the FHWA, except that the FHWA may forego preaward review and/or approval of any proposed consultant contract which is not expected to exceed $10,000.

(b) The procedures in 23 CFR 172, Administration of Negotiated Contracts, may be used as a guide for reviewing proposed consultant contracts.

§ 645.111 Rights-of-way.

(a) Federal participation may be approved for the cost of replacement right-of-way, provided:

(1) The utility has the right of occupancy in its existing location because it holds the fee, an easement, or another real property interest, the damaging or taking of which is compensable in eminent domain, or the acquisition is made in the interest of project economy or is necessary to meet the requirements of the highway project, and

(2) There will be no charge to the project for that portion of the utility's existing right-of-way being transferred to the HA for highway purposes.

(b) The utility shall determine and record its valuation of the replacement rights-of-way that it acquires, prior to negotiation for its acquisition.

(c) Acquisition of replacement right-of-way by the HA on behalf of a utility or acquisition of nonoperating real property from a utility shall be in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 *et. seq.*) and applicable right-of-way procedures in 23 CFR, Chapter 1, Subchapter H, Right-of-Way and Environment.

(d) Where the utility has the right-of-occupancy in its existing location because it holds the fee, an easement, or another real property interest, and it is not necessary by reason of the highway construction to adjust or replace the facilities located thereon, the taking of and damage to the utility's real property, including the disposal or removal of such facilities, may be considered a right-of-way transaction in accordance with provisions of the applicable right-of-way procedures in 23 CFR, Chapter 1, Subchapter H, Right-of-Way and Environment.

§ 645.113 Agreements and authorizations.

(a) On Federal-aid and direct Federal projects involving utility relocations, the utility and the HA shall agree in writing on their separate responsibilities for financing and accomplishing the

relocation work. Where Federal participation is requested, the agreement shall incorporate this regulation by reference and designate the method to be used for performing the work (by contract or force account) and for developing relocation costs. The method proposed by the utility for developing relocation costs must be acceptable to both the HA and the FHWA. The preferred method for the development of relocation costs by a utility is on the basis of actual and related indirect costs accumulated in accordance with a work order accounting procedure prescribed by the applicable Federal or State regulatory body.

(b) Where applicable, the written agreement shall specify the terms and amounts of any contribution or repayments made or to be made by the utility to the HA in connection with payments by the HA to the utility under the provisions of § 645.107 of this regulation. Federal funds are not eligible to participate in any costs for which the utility repays a HA's pro rata share, or portions thereof, of the cost of relocation.

(c) The agreement shall be supported by plans, specifications where required, and itemized cost estimates of the work agreed upon, including appropriate credits to the project, and shall be sufficiently informative and complete to provide the HA and the FHWA with a clear description of the work required.

(d) Where the relocation involves both work to be done at the HA's expense and work to be done at the expense of the utility, the written agreement shall state the share to be borne by each party.

(e) In the event there are changes in the scope of work, extra work, or major changes in the planned work covered by the approved agreement, plans, and estimates, Federal participation shall be limited to costs covered by a modification of the agreement, a written change, or extra work order approved by the HA and the FHWA.

(f) Where the estimated cost to the HA of proposed utility relocation work is $25,000 or less, the FHWA may approve an agreement between the HA and the utility for a lump-sum payment without later confirmation by audit of actual costs. Lump-sum agreements in excess of $25,000 may be approved where the FHWA finds that this method of developing costs would be in the best interest of the public.

(g) Except as otherwise provided by § 645.113(h), authorization by the FHWA to the SHA to proceed with the physical relocation of a utility's facilities may be given after:

(1) The utility relocation work, or the right-of-way, or physical construction phase of the highway construction work is included in an approved program,

(2) The environmental approval requirements of 23 CFR 771, Environmental Impact and Related Statements, have been satisfied,

(3) The provisions of 23 CFR 795, Process Guidelines, relating to public involvement procedures contained in the State Action Plan, or where applicable, the provision of 23 CFR 790, Public Hearings and Location/Design Approval, have been accomplished, and,

(4) The FHWA has reviewed and approved the plans, estimates, and agreements for the utility work and is furnished a schedule for accomplishing the work.

(h) The FHWA may authorize the physical relocation of utility facilities before satisfying the requirements of § 645.113(g)(2) and (3) where the relocation or adjustment of utility facilities meets the requirements of § 645.107(f) of this regulation.

(i) Whenever the FHWA has authorized rights-of-way acquisition under the hardship and protective buying provisions of 23 CFR 712, the Acquisition Function, the FHWA may authorize the physical relocation of utility facilities located in whole or in part on such rights-of-way.

(j) When all efforts by the HA and utility fail to bring about written agreement of their separate responsibilities under the provisions of this regulation, the SHA shall submit its proposal and a full report of the circumstances to the FHWA. Conditional authorizations for the relocation work to proceed may be given with the understanding that Federal funds will not be paid for work done by the utility until the SHA proposal has been approved by the FHWA.

(k) The FHWA will consider for approval any special procedure under State law, or appropriate administrative or judicial order, or under blanket master agreements with the utilities, that will fully accomplish all of the foregoing objectives and accelerate the advancement of the construction and completion of projects.

§ 645.115 Construction.

(a) Part 635, Subpart B, of this title, Contract and Force Account (Justification Required for Force Account Work), states that it is in the public interest for utility relocation work to be performed by a utility with its own forces and equipment, provided the cost of such force account work is reasonable and the utility is qualified to perform the work in a satisfactory manner. However, where the utility is not adequately staffed and equipped to perform such work with its own forces and equipment at a time convenient to and in coordination with the associated highway construction, such work may be done by:

(1) A contract awarded by the HA or utility to the lowest qualified bidder based on appropriate solicitation,

(2) An existing continuing contract, provided the costs are reasonable,

(3) A contract for minor work awarded by the HA or utility without competitive bidding, provided the costs are reasonable, or

(4) Inclusion as part of the HA's highway construction contract let by the HA as agreed to by the utility.

(b) Costs for labor, materials, equipment, and other services furnished by the utility shall be billed by the utility directly to the HA. The special provisions of contracts let by the utility or the HA shall be explicit in this respect. The costs of force account work performed for the utility by the HA and of contract work performed for the utility under a contract let by the HA shall be reported separately from the costs of other force account and contract items on the highway project.

§ 645.117 Cost development and reimbursement.

(a) *Developing and recording costs.* (1) All utility relocation costs shall be recorded by means of work orders in accordance with an approved work order system, except where another method of developing and recording costs has been approved by the HA and the FHWA. Except for work done by contracts, the individual and total costs properly reported and recorded in the utility's accounts in accordance with the approved method for developing such costs, or the lump-sum agreement, shall constitute the maximum amount on which Federal participation may be based.

(2) Each utility shall keep its work order system or other approved accouting procedure in such manner as to show the nature of each addition to or retirement from a facility, the total costs thereof, and the source or souces of cost. Separate work orders may be issued for additions and retirements. Retirements, however, may be included with the construction work order, provided that all items relating to retirements shall be kept separate from those relating to construction.

(b) *Direct labor costs.* (1) Salaries and wages, at actual or average rates, and related expenses paid by the utility to individuals for the time worked on the

project are reimbursable when supported by adequate records. This

(3) The records supporting the entries for overhead costs should show the total

(3) Federal participation may be approved for the total cost of removal

being replaced. Such accrued depreciation is that amount based on the ratio between the period of acutal

§ 645.119 Alternate procedure.

(a) This alternate procedure is provided for simplifying the processing

provisions of this regulation, to be retained in SHA files.

(2) A statement signed by the chief

project are reimbursable when supported by adequate records. This includes labor associated with preliminary engineering, construction engineering, right-of-way, and force accout construction.

(2) Salaries and expenses paid to individuals who are normally part of the overhead organization of the utility may be reimbursed for the time worked directly on the project, such as for accounting and bill preparation, when supported by adequate records and when the work performed by such individuals is essential to the project and could not have been accomplished as economically by employees outside the overhead organization.

(3) Amounts paid to engineers, architects and others for services directly related to projects may be reimbursed.

(c) *Labor surcharges.* (1) Labor surcharges include worker compensation insurance, public liability and property damage insurance, and fringe benefits as the utility has established for the benefit of its employees. The cost of labor surcharges will be reimbursed at actual cost to the utility.

(2) When the utility is a self-insurer, there may be reimbursement at experience rates properly developed from actual costs. The rates cannot exceed the rates of a regular insurance company for the class of employment covered.

(d) *Overhead and indirect construction costs.* (1) Each relocation shall bear its equitable proportion of overhead and indirect construction costs. Therefore, all such costs not chargeable directly to work order or construction accounts shall be charged to the relocation on the basis of the amount of such overhead costs reasonably applicable thereto. This includes such costs as general engineering and supervision, general office salaries and expenses. Construction engineering and supervision by other than the accounting utility, legal expenses, insurance relief, pensions, and taxes. These provisions are not to be interpreted to permit the addition to utility accounts of arbitrary percentages or amounts to cover assumed overhead costs, but to accept assignments to the relocation of actual and reasonable overhead costs.

(2) The cost of advertising and sales promotion, interest on borrowed funds or charges for the utility's own funds when so used, resource planning and research programs, stock and stockholder's expenses and similar costs are not reimbursable.

(3) The records supporting the entries for overhead costs should show the total amount, rate, and allocation basis for each additive, and are subject to audit by representatives of the State and Federal Government.

(e) *Material and supply costs.* (1) Materials and supplies, if available, are to be furnished from company stock, except that they may be obtained from other sources near the project site when available at a lower cost. When not available from company stock, they may be purchased either under competitive bids or existing continuing contracts, under which the lowest available prices are developed. Minor quantities of materials and suppliers and proprietary products routinely used in the utility's operation and essential for the maintenance of system compatibility may be excluded from these requirements. The utility shall not be required to change its existing standards for materials used in permanent changes to its facilities. Costs shall be determined as follows:

(i) Materials and supplies furnished from company stock shall be billed at the current stock prices of such new or used materials at time of issue.

(ii) Materials and supplies not furnished from company stock shall be billed at actual costs to the utility delivered to the project site.

(iii) A reasonable cost for plant inspection and testing may be included in the costs of materials and supplies when such expense has been incurred. The computation of actual costs of materials and supplies shall include the deduction of all offered discounts, rebates, and allowances.

(iv) The cost of rehabilitating rather than replacing existing utility facilities to meet the requirements of a project is reimbursable.

(2) Materials recovered from temporary use and accepted for reuse by the utility shall be credited to the project at prices charged to the job, less a consideration for loss in service life at 10 percent. Materials recovered from the permanent facility of the utility that are accepted by the utility for return to stock shall be credited to the project at the current stock prices of such used materials. Materials recovered and not accepted for reuse by the utility, if determined to have a net sale value, shall be sold to the highest bidder by the HA or utility following an opportunity for HA inspection and appropriate solicitation for bids. If the utility practices a system of periodic disposal by sale, credit to the project shall be at the going prices supported by the records of the utility.

(3) Federal participation may be approved for the total cost of removal when either such removal is required by the highway construction or the existing facilities cannot be abandoned in place for aesthetic or safety reasons. When the utility facilities can be abandoned in place but the utility or highway contractor elects to remove and recover the materials, Federal fund participation in removal costs may not exceed the value of the materials recovered.

(4) The actual and direct costs of handling and loading materials and supplies at company stores or material yards, and of unloading and handling recovered materials accepted by the utility at its stores or material yards are reimbursable. At the option of the utility, 5 percent of the amounts billed for the materials and supplies issued from company stores and material yards will be reimbursed in lieu of actual costs for handling.

(f) *Equipment costs.* The average of actual costs of operation, minor maintenance, and depreciation of utility-owned equipment may be reimbursed. Reimbursement for utility-owned vehicles may be made at average or actual costs. Where utility-owned equipment is not available, reimbursement will be limited to the amount of rental paid (1) to the lowest qualified bidder, (2) under existing continuing contracts at reasonable costs, or (3) as an exception by negotiation where (1) and (2) are impractical due to project location or schedule.

(g) *Transportation costs.* (1) The utility's cost, consistent with its overall policy, of necessary employee transportation and subsistence directly attributable to the project is reimbursable.

(2) Reasonable cost for the movement of materials, supplies, and equipment to the project and necessary return to storage, including the associated cost of loading and unloading equipment, is reimbursable.

(h) *Credits.* (1) Credit to the highway project will be required for the cost of any betterments in the facility being replaced or adjusted, and for the salvage value of the materials removed.

(2) When the replacement facility is other than a segment of the utility's service, distribution, or transmission lines, such as a building, pumping station, filtration plant, power plant, substation or any other similar facilities used for the production, transfer, or storage of the utility's products, credit to the highway project will be required for the cost of any betterments and salvage of provided by § 645.117(h)(1) and for accrued depreciation of the facility being replaced. Such accrued depreciation is that amount based on the ratio between the period of acutal length of service and total life expectancy applied to the original cost.

(3) No beterment credit is required for additions or improvements which are:

(i) Required by the highway project;

(ii) Replacement devices or materials that are of equivalent standards although not identical,

(iii) Replacement of devices or materials no longer regularly manufactured with next highest grade or size,

(iv) Required by law under governmental and appropriate regulatory commission code, or

(v) Required by current design practices regularly followed by the company in its own work, and there is a direct benefit to the highway project.

(4) When the facilities, including equipment and operating facilities, described in § 645.117(h)(2) are not being replaced, but are being rehabilitated and/or moved, as necessitated by the highway project, no credit for accrued depreciation is needed.

(5) In no event will the total of all credits required under the provisions of this regulation exceed the total costs of adjustment, exclusive of the cost of additions or improvements necessitated by the highway construction.

(i) *Billings.* (1) After the executed HA/utility agreement has been approved by the FHWA, the utility may be reimbursed through the SHA on progress billings for costs incurred. Cost for materials stockpiled at the project site or specifically purchased and delivered to the utility for use on the project also may be reimbursed on progress billings following approval of the executed HA/utility agreement.

(2) The utility shall provide one final and complete billing of all costs incurred, or of the agreed-to lump sum, at the earliest practicable date. The final billing to the FHWA shall include a certification by the SHA that the work is complete, acceptable, and in accordance with the terms of the agreement.

(3) All utility cost records and accounts relating to the project are subject to audit by representatives of the State and Federal Government for a period of 3 years from the date final payment has been received by the utility.

(4) Reimbursement for a final utility billing shall not be approved until the HA furnishes evidence that it has paid the utility from its own funds, and except for lump sums, following an audit of the costs included in the final billing.

§ 645.119 Alternate procedure.

(a) This alternate procedure is provided for simplifying the processing of utility relocations or adjustments under the provisions of this regulation. Under this procedure, except as otherwise provided in paragraph (b) of this section, the SHA is to act in the relative position of the FHWA for reviewing and approving the arrangements, fees, estimates, plans, agreements, and other related matters required by this regulation as prerequisites for authorizing the utility to proceed with and complete the work.

(b) The scope of the SHA's approval authority under the alternate procedure includes all actions necessary to advance and complete all types of utility work under the provisions of this regulation except in the following instances:

(1) Utility relocations and adjustments involving major transfer, production, and storage facilities such as generating plants, power feed stations, pumping stations and reservoirs.

(2) Utility relocations falling within the scope of § 645.113 (h), (i), and (j), and § 645.107(f) of this regulation.

(c) Each SHA is encouraged to adopt the alternate procedure and file a formal application for approval by the FHWA. The application must include the following:

(1) The SHA's written policies and procedures for administering and processing Federal-aid utility adjustments. Those policies and procedures must make adequate provisions with respect to the following:

(i) Compliance with the requirements of this regulation, except as otherwise provided by § 645.119(b), and the provisions of 23 CFR 645, Subpart B, Accommodation of Utilities.

(ii) Advance utility liaison, planning, and coordination measures for providing adequate lead time and early scheduling of utility relocation to minimize interference with the planned highway construction.

(iii) Appropriate administrative, legal, and engineering review and coordination procedures as needed to establish the legal basis of the HA's payment; the extent of eligibility of the work under State and Federal laws and regulations; the more restrictive payment standards under § 645.103(d) of this regulation; the necessity of the proposed utility work and its compatibility with proposed highway improvements; and the uniform treatment of all utility matters and actions, consistent with sound management practices.

(iv) Documentation of actions taken in compliance with SHA policies and the provisions of this regulation, to be retained in SHA files.

(2) A statement signed by the chief administrative officer of the SHA certifying that:

(i) Federal-aid utility relocations will be processed in accordance with the applicable provisions of this regulation, and the SHA's utility policies and procedures submitted under § 645.119(c)(1).

(ii) Reimbursement will be requested only for those costs properly attributable to the proposed highway construction and eligible for participation under the provisions of this regulation as determined after appropriate unit by or for the SHA.

(d) The SHA's application and any changes to it will be submitted to the FHWA for review and approval.

(e) After the alternate procedure has been approved, the FHWA may authorize the SHA to proceed with utility relocation on a project in accordance with the certification, subject to the following conditions:

(1) The utility work must be included in an approved program.

(2) The SHA must submit a request in writing for such authorization. The request shall include a list of the utility relocations to be processed under the alternate procedure, along with the best available estimate of the total costs involved.

(f) The FHWA may suspend approval of the alternate procedure when any FHWA review discloses noncompliance with the certification. Federal funds will not participate in relocation costs incurred that do not comply with the requirements under § 645.119(c)(1).

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federal register

Thursday
November 20, 1980

Part VII

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Permanent Regulatory Program; Modifications

DEPARTMENT OF THE INTERIOR

Office of Surface Mining

30 CFR Parts 783, 816, 817

Permanent Regulatory Program Modifications

AGENCY: Office of Surface Mining (OSM), Interior.

ACTION: Final rules.

SUMMARY: Modifications of the permanent regulatory program are made to: (1) narrow the requirements for a geologic description of areas to be affected by surface operations or facilities to only those areas where overburden (the geologic materials overlying the coal seam) will be removed down to the level of a coal seam; (2) provide an exemption from the underdrain requirement for coal processing waste banks if the operator can demonstrate that an alternative system will ensure structural integrity of the waste bank and protect water quality; (3) delete the requirement that underground mining operations monitor ground water to determine the recharge capacity of reclaimed lands; and (4) allow underground mines having permit areas of 40 acres or less, in locations with an average annual precipitation of more than 26 inches, to measure revegetation success by using certain specified performance standards as alternatives to the use of reference areas.

EFFECTIVE DATE: These rules become effective November 20, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. David R. Maneval, Assistant Director, Technical Services and Research, Office of Surface Mining, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; (202) 343-4204.

SUPPLEMENTARY INFORMATION: These regulations amend OSM's permanent program regulations published at 44 FR 15312 *et seq.* (March 13, 1979). The proposed regulations were published at 45 FR 25990 (April 16, 1980). The rationale for the rule changes, the disposition of all comments received, and the amended rules are set forth below. The basis and purpose statement for the existing regulations now being amended is found at 44 FR 14901–15309 (March 13, 1979). That basis and purpose statement is incorporated herein by reference insofar as it is consistent with these amendments.

PUBLIC PARTICIPATION: A thirty-day public comment period began on April 16, 1980, and extended to May 16, 1980, at 5:00 p.m. All comments received were filed in the administrative record and considered in developing the final rules. A public hearing on the proposed rules was held in Washington, D.C. on May 6, 1980. A transcript of the hearing was placed in the administative record and processed in the same manner as other written comments.

STATE PROGRAMS: State programs must have provisions which are consistent with permanent program legislative rules in accordance with 30 CFR Part 732. However, at this time, numerous State programs are still under review by the Secretary and resubmission is pending for other State programs. The Secretary is also developing other new permanent program legislative rules at this time. Accordingly, the Secretary has determined that State programs need not contain provisions consistent with the new permanent program rules at this time. After review and final decision on all 24 State programs submitted before March 4, 1980, the States will be given the opportunity to amend their program as appropriate to make them consistent with the new rules.

In the meantime, State programs must have provisions consistent with the Surface Mining Control and Reclamation Act and those Federal regulations promulgated March 13, 1979, which have not been suspended.

30 CFR 783.14(a)(1)—Geology Description:

Sections 507(b)(14) and 508(a)(12) of the Act require each permit application to contain certain geologic information which will enable the regulatory authority to perform the assessments required by Section 507(b)(11), 508(a)(13) and 510(b)(3) of the Act. The information provided will enable the regulatory authority to determine whether the applicant can comply with the performance standards of Subchapter K (such as 816/817.41–57, 816/817.62–68, 816/817.101–105) which utilize information relating to hydrology and geology.

The present regulation requires that applicants for an underground mine permit submit in the permit application a geology description "of the strata down to and including the stratum immediately below any coal seam to be mined * * * for those areas to be affected by surface operations or facilities * * *" This description must include a statement of the results of analyses of test borings or core samplings.

The April 16, 1980, **Federal Register** notice proposed amending this Section to narrow the requirements for the geology description in a permit application for an underground mining operation to only those areas where overburden will be removed down to the level of the coal seam. For those areas where surface operations of facilities will not result in the removal of overburden down to the level of the coal seam to be mined, the geology description would be required only to the level of the stratum to be disturbed or affected. This change would be consistent with the requirements of Section 516(a) of the Act to consider the distinct difference between surface mining and underground mining in adopting regulations.

This change should provide sufficient flexibility for geological description for areas proposed to be affected by surface operations and facilities. Any sound and prudent engineering design always requires a geotechnical investigation which includes a geological description for areas of proposed surface operations and facilities. The information obtained is used to design structurally stable and environmentally acceptable operations and facilities. The extent or depth for which the information or description is required depends mainly on the design loads, height, weight, and other factors associated with the operations or the facilities proposed. This decision is generally made by the engineer in charge during the formulation of the subsurface or geotechnical investigation program. The method or rationale of determining how deep the geological or boring information should extend are described in most of the soil mechanics and foundation engineering or geotechnical engineering textbooks. (Terzahi and Peck, 1976, pp. 338–341) (NAVFAC DM–7, p. 7–2–12.) If, for instance, a haul road is to be constructed by making a cut through a hill, then depending upon the class of road or type of traffic to be served, 4 to 10 foot below the road base may be considered to be the affected depth and a geological description to that depth is needed. If, however, a haul road is to be constructed with an embankment, then depending upon the size and location of the embankment, the depth to which the geological information is needed may extend to a considerable depth below any undesirable material which may affect the stability of the roadway embankment.

The word "disturbed" in § 783.14(a) means the depth to which the cut will be made for a road, or the depth of the cut which is needed to build a relatively level area for surface facilities such as a coal processing plant or loadout area. The word "affected" means the depth below the surface facilities which will

be affected by the proposed operations or facilities, and which may impact the structural stability and environmental condition of the proposed operations or facilities. Depending upon the type of the proposed operations and facilities and subsurface conditions, the depth could vary from several feet for a loadout area or access road to more than a hundred feet for construction of a large structure such as a big coal storage silo or processing plant. This is especially true when a facility is to be constructed over an extensive underground mined out area or over poor subsurface material such that a proposed structure may induce subsidence of the surface and consequently threaten the integrity of the structure and its surrounding area. The proposed rule is flexible enough so that it can be applied on site by site basis for each proposed operation or facility.

This change does not affect specific requirements in other sections of the regulations which call for geotechnical investigation for significant surface operations or facilities although overburden will not be removed down to the level of the coal seam. For example, 30 CFR 784.16(e) requires that results of geotechnical investigations for coal processing waste dams and embankments be included in the reclamation plan. Similarly, 30 CFR 784.24(b) requires a geotechnical analysis for alternative specifications for steep cut slopes for transportation facilities.

One commentor asked for clarification of the affected area in connection with an underground shaft mine, where the surface disturbance is superficial and would relate only to the installation of loadout, preparation, and transporting facilities located several hundred feet above the coal seam being used. The change addresses only areas where removal of overburden down to the level of the coal seam is not contemplated. Those areas overlying the coal seams to be extracted, as was inquired by the commentor, are covered by 30 CFR 783.14(a)(2) which is not being amended. The same commentor also asked for clarification of the area where facilities are to be located above or below an area where coal seam is outcropped and a mine entry exists. If the facilities are to be located above the mine entry where the coal is to be mined, then it is governed by 30 CFR 783.14(a)(2), which is not being amended. However, if the facilities are to be constructed below the mine entry where no coal is to be extracted, then the extent of the geology description is dictated by the type and size of the proposed facilities and should be obvious from the preceding discussions.

Another commentor requested that the following language in the proposed rule be deleted:

"Geology of all the strata to be disturbed or affected by surface operations or facilities shall be described. The description shall include, at a minimum, the lithologic characteristics and physical and chemical properties of each stratum."

This commentor's justification is that the sworn affidavit submitted to the District Court on December 19, 1979, by the Director of OSM did not include this language. As explained in the affidavit, the final language of the amendments cannot be known until notice and an opportunity for comment have been provided. Besides, the proposed rule was written to amplify the intent of the language contained in the sworn affidavit which was submitted earlier. The justification to leave this language in the final rule should also be obvious from the preceding discussions. Consequently, the suggestion was not accepted.

30 CFR 816.83(a)/817.83(a)—Subdrainage System for Coal Processing Waste Banks:

The present regulation addresses required water control measures to ensure the structural integrity of coal processing waste banks and to prevent degradation of water quality. The Secretary believes that properly constructed subdrainage systems are essential to the stability and environmental soundness of a coal processing waste bank. Consequently, the Secretary chose to require adequately designed subdrainage systems to control the drainage beneath waste banks.

Inadequate consideration of water control measures can cause structural failure of a waste embankment. Increased water levels within a waste bank will adversely affect the physical properties of the waste materials. Water movement through waste piles may also create serious water quality problems such as acid drainage.

After careful review of the regulations, preamble and technical literature cited in support of the permanent regulations, the Secretary has concluded that a subdrainage system, although necessary as a general rule, may not be necessary in all cases. Accordingly, the revision to the regulation provides an exemption from the subdrainage requirement if the operator can demonstrate to the regulatory authority that a subdrainage system is not required to insure structural integrity and water quality. The operator granted an exemption is still responsible for constructing coal waste banks to assure structural integrity as required by 30 CFR 816.85 and 817.85, and to protect water quality and the public health and safety as required by 30 CFR 816.81–816.83 and 817.81–817.83.

Comments received on 30 CFR 816.83(a)/817.83(a) were supportive of the proposed amendment and indicated that the revisions were acceptable as published in the April 16, 1980, **Federal Register.**

30 CFR 817.52(a)(1)—Monitoring Recharge Capacity:

The amended regulation eliminates the requirement for underground mine operators to monitor the effects of underground mining activities on the recharge capacity of reclaimed lands. The requirement to monitor the effects of underground mining on ground water would be retained.

In promulgating the permanent regulations, the Secretary did not believe it appropriate to require a performance standard concerning restoration of recharge capacity of aquifers with respect to underground mining. This decision was reflected in the preamble to the proposed regulations (43 FR 41780, September 18, 1978) which stated that because the structural integrity of water-bearing formations should not be significantly affected by underground mining, the recharge capacity of such formations should be maintained without any special precautions.

Accordingly, the Secretary believes there is no justification in requiring monitoring of recharge capacity for underground mines where there is no related performance standard. The rule change retains the requirement to monitor the effects of underground mining on ground water. Protection of the ground water resource and the overall hydrologic balance is further assured through the stringent monitoring of aquifers, overburden and spoil required by 30 CFR 817.52(a)(2).

All comments received on 30 CFR 817.52(a)(1) supported the proposed revision as published in the April 16, 1980, **Federal Register.**

30 CFR 817.116(d)—Revegetation Success:

Authority for this regulation is contained in Sections 102, 201, 501, 503, 504, 507, 508, 510 and 516 of Pub. L. 95–87.

This subsection provides for the use of a fixed standard when determining success of revegetation on areas disturbed by surface coal mining operations of underground coal mines.

These fixed standards establish minimum criteria for determining success of ground cover and stocking of

sites not classified as steep slope sites, were adopted to recognize variances in regional stocking of woody species. As

on the quality of the human environment so as to require the preparation of an environmental impact statement. The

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These fixed standards establish minimum criteria for determining success of ground cover and stocking of woody plants (commercial and noncommercial tree species and shrubs and half-shrubs) when the total disturbed area of the permit area is 40 acres or less in size and the disturbed area receives more than 26 inches of average annual precipitation. Further, the regulatory authority must approve the use of this standard.

Section 515(b)(2) of Pub. L. 95–87 "requires the operations as a minimum to restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or to higher or better uses * * *" The stocking of woody plants is to ensure establishment of adequate numbers of live woody plants to control erosion, satisfy the post-mining land use and demonstrate premined capability. The Secretary believes that it is reasonable to expect the regulatory authority to require, as a minimum, woody plant stockings in accordance with the recommended stocking for a similar land use of an unmined site.

The minimum stocking standards of these regulations were adopted to recognize variances in proven stocking rates for woody species. Because of the variability in premined vegetative capability of sites, in plant species space requirements, and in spacing for tree and shrub seedlings (as determined by the intended land use), the regulatory authority should and will be expected to use accepted local and regional reforestation practices when establishing a minimum stocking rate for sites that are to be mined within the State. These local and regional reforestation practices are to be supportive of the minimum woody plant stocking rate that is adopted by the regulatory authority. Hence, the stocking rate adopted by the regulatory authority is to be based on local or regional reforestation practices including planting patterns, that are recommended for a site with similar premined characteristics (soils, topography, slope, etc.) and that has not been disturbed by mining.

In addition, this subsection requires that the operator maintain a minimum of 70% ground cover for five consecutive years on areas planted to herbaceous species as well as areas planted to herbaceous and wood species. The basis for the ground cover requirement is discussed in column 2, p. 15240, **Federal Register**, Vol. 44, No. 50, March 13, 1979. As stated above, minimum stocking standards, 600 woody plants per acre on steep slopes and 400 woody plants on sites not classified as steep slope sites, were adopted to recognize variances in regional stocking of woody species. As previously stated, the regulatory authority will be expected to use local and regional reforestation practices when making a judgment on the normality or fullness of stocking that will be considered adequate to demonstrate pre-mined capability. The operator will be required to meet the ground cover and approved stocking standard for a minimum of 5 full consecutive years.

One commentor supported the fixed standard as proposed and stated that the provisions were consistent with the intent of the Act. Two commentors suggested that the phrase "permit area" includes all affected areas, which, in turn, includes all land overlying underground workings. It was contended that very few underground mines will cover less than 40 acres when land overlying underground workings is included since, operationally, there are often large distances between an entry portal and the actual underground works, and that there are often significant distances between the mine works and refuse disposal areas. The commentors argued that the surface disturbance is the relevant factor in this regulation since underground mines will not be affecting the surface of the entire permit area when computing an acreage limit for imposition of use of a reference area. Hence, to require revegetation of the entire permit area would presume that the operator will disturb and subsequently revegetate the entire surface acreage of the permit area when in practice only a small portion of the permit area may be disturbed and require revegetation. The Secretary has accepted the commentors' rationale and the final regulation has been changed to provide for the use of the standard when the surface effects of an underground mining operation, disturbed area, does not exceed 40 acres in size. This change was necessary to make the 40 acre exemption for underground mines consistent with the exemption for surface mines.

OTHER INFORMATION: Pursuant to 43 CFR Part 14, the Department of the Interior has determined that the amended rules are not significant and do not require a regulatory analysis. The "Determination of Significance" document prepared by OSM is available for inspection in the Administrative Record for this rulemaking.

OSM has prepared an environmental assessment on these amendments. That assessment resulted in a finding that the rules will not have a significant impact on the quality of the human environment so as to require the preparation of an environmental impact statement. The environmental assessment is available for inspection in the Administrative Record for this rulemaking.

The principal authors of these rules are: Arlo Dalrymple and John Mosesso, Division of Research and C. Y. Chen and Ray Aufmuth, Division of Technical Services.

Dated: November 13, 1980.

Joan M. Davenport,

Assistant Secretary, Energy and Minerals.

Final Regulations

The following regulations in 30 CFR Chapter VII are amended as listed below:

PART 783—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

1. Revise paragraph (a)(1) of § 783.14.

§ 783.14 Geology description.

(a) * * *

(1) Geology of all the strata to be disturbed or affected by surface operations or facilities shall be described. The description shall include, at a minimum, the lithologic characteristics and physical and chemical properties of each stratum. For those areas to be affected by surface operations or facilities where removal of the overburden down to the level of the coal seam will occur, the geology of the strata down to an including the stratum immediately below any coal seam to be mined shall be described, including the following data resulting from analyses of test borings, core samplings, or outcrop samples—

* * * * *

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

2. Revise the introductory text of paragraph (a) of § 816.83.

§ 816.83 Coal processing waste banks: Water control measures.

(a) Unless the operator satisfactorily demonstrates to the regulatory authority that a subdrainage system is not required to ensure the structural integrity of a coal processing waste bank and the protection of the surface and ground water quality in the immediate vicinity of the disposal area, a properly designed subdrainage system shall be provided, which shall—

* * * * *

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

§ 817.52 [Amended].

3. The following language in § 817.52(a)(1) is deleted: "on the recharge capacity of reclaimed lands and."

4. Revise the introductory text of paragraph (a) of § 817.83.

§ 817.83 Coal processing waste banks: Water control measures.

(a) Unless the operator satisfactorily demonstrates to the regulatory authority that a subdrainage system is not required to ensure the structural integrity of a coal processing waste bank and the protection of the surface and ground water quality in the immediate vicinity of the disposal area, a properly designed subdrainage system shall be provided, which shall—

* * * * *

5. Add a new paragraph (d) to § 817.116.

§ 817.116 Revegetation: Standards for success.

* * * * *

(d) In locations with an average annual precipitation of more than 26 inches, where land to be affected by surface facilities is 40 acres or less in size, within a permit area, the following performance standards, if approved by the regulatory authority, may be used instead of reference areas to measure success of revegetation on sites that are disturbed:

(1) Areas planted only in herbaceous species shall sustain a vegetative ground cover of 70% for 5 full consecutive years;

(2) Areas planted with a mixture of herbaceous and woody species shall sustain a herbacesous vegetative ground cover of 70% for 5 full consecutive years and 400 woody plants per acre after 5 years; on steep slopes, the minimum number of woody plants shall be 600 per acre;

(3) For purposes of this Section, herbaceous species means grasses, legumes, and nonleguminous forbs; woody plants means woody shrubs, trees and vines; and ground cover means the area of ground covered by the combined aerial parts of vegetation and the litter that is produced naturally onsite, expressed as a percentage of the total area of measurement. These standards shall be met for a minimum of 5 full consecutive years.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

AGRICULTURE DEPARTMENT
Food Safety and Quality Service—
69422 10–21–80 / Standards for condition of food containers including on-line sampling procedures

CONSUMER PRODUCT SAFETY COMMISSION
69433 10–21–80 / Environmental review; final procedures

ENVIRONMENTAL PROTECTION AGENCY
61617 9–17–80 / Water programs; determination of reportable quantities for hazardous substances

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration—
69678 10–21–80 / General hospital and personal use devices; general provisions (95 documents)

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Federal Housing Commissioner—Office of Assistant Secretary for Housing—
62795 9–22–80 / Preference for displaced families; eligiblity of cooperative housing units and existing condominium units

INTERIOR DEPARTMENT
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69445 10–21–80 / General grazing regulations; livestock trespass

PERSONNEL MANAGEMENT OFFICE
69776 10–21–80 / Executive personnel financial disclosure requirements; employees responsibilities and conduct

STATE DEPARTMENT
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69437 10–21–80 / Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance

TRANSPORTATION DEPARTMENT
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34560 5–22–80 / Identification numbers, hazardous wastes, hazardous substances, international descriptions, improved descriptions, forbidden materials, and organic peroxides
49939 7–28–80 / Labeling requirements for radioactive materials packages
[Corrected at 45 FR 55734, 8–21–80]

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**. A complete cumulative listing through Public Law 96–483 was published in the Reader Aids section of the issue of Wednesday, November 5, 1980.

Last Current Listing October 24, 1980

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

V 45 NO 226 1980 UMI

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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WHEN: December 5, and 19, January 16 and 30; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call King Banks, Workshop Coordinator, 202–523–5235.

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federal register

Book 1 of 2 Books
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Highlights

77144 **Grant Programs—Social** HHS/Sec'y seeks applications from university-based agencies, organizations and institutions for a grant that would support a Poverty Research Center; apply by 1–30–81

76937 **School Breakfast and Lunch Programs** USDA/FNS amends national programs relating to competitive foods; effective 11–18–80

77258 **Food Stamps** USDA/FNS defines activities related to the Food Stamp Program for which State agencies will be held financially liable; effective 12–22–80; comments by 1–21–81 (Part II of this issue)

77043 **Nitrites in Bacon** HHS/FDA concludes that nitrites in bacon are not "color additives"; effective 12–22–80

77095 **Aged** USDA/FNS sets level of assistance in food commodities provided to recipients of grants or contracts for operation of nutrition services for the elderly; effective 10–1–80

77139 **Grant Programs—Social** HHS/HDSO announces the acceptance of applications for funds under the Research and Development Projects in Aging Program; apply by 1–23–81

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Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

77384 Recombinant DNA Research HHS/NIH releases guidelines (Part VII of this issue)

77372 Recombinant DNA Research HHS/NIH publishes actions under guidelines; effective 11–21–80 (Part VI of this issue)

77028 Veteran Housing VA has incorporated by reference the Minimum Property Standards for One and Two Family Dwellings; effective 8–7–79

77050 Veterans VA proposes requirement of at least 40 hours of agricultural employment for veterans pursuing farm cooperative courses; comments by 12–22–80

77112 Grant Programs—Education ED announces the acceptance of applications for new awards under the Minority Institutions Science Improvement Program; apply by 1–30–81 for Institutional, Design and Cooperative Project Awards; apply by 3–2–81 for Special Project Awards

77038 Energy Commerce/NOAA intends to provide licensing process to facilitate development of ocean thermal energy conversion (OTEC) facilities and plantships; comments by 1–16–81; hearing on 1–7–81

77332 Environmental Protection EPA proposes a portion of its standards for development of certain data on physical and chemical characteristics of substances and proposes good laboratory practice (GLP) standards for the development of data on physical, chemical, persistence and ecological effects of chemical substances; comments by 1–21–81; meetings on both proposed rules on 2–10–81 (2 documents) (Part IV of this issue)

76968 Nuclear Materials NRC establishes criteria and procedures for determining access to or control over special nuclear material; effective 2–4–81

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Rules and Regulations

Federal Register
Vol. 45, No. 227
Friday, November 21, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210 and 220

[Amdts. 42 and 34, respectively]

National School Lunch Program and School Breakfast Program; Competitive Foods

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: Food and Nutrition Service amends the National School Lunch Program and the School Breakfast Program regulations relating to competitive foods. The "competitive foods" regulations, when taken as a whole, prohibit the sale of categories of foods of minimal nutritional value during specific periods of the school day, in schools participating in the National School Lunch and School Breakfast Programs. These amendments implement the requirements of a court order, issued on June 27, 1980, in two consolidated cases, *Community Nutrition Institute v. Bergland* and *National Soft Drink Association v. Bergland*, (D.D.C.) to provide, that no food may be exempted from the restricted sale requirements by virtue of fortification with nutrients.

EFFECTIVE DATE: November 18, 1980.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, FNS, USDA, Washington, D.C. 20250, (202) 447–9069.

A copy of the final impact statement can be obtained from Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, FNS, USDA, Washington, D.C. 20250, (202) 447–9069.

SUPPLEMENTARY INFORMATION:

Administrative Procedures

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has not been classified as significant.

This action implements the order issued by the U.S. District Court in *Community Nutrition Institute v. Bergland and National Soft Drink Association v. Bergland* (D.D.C.).

The Court's order, which is discussed below, directs the Secretary to take certain actions with respect to the "competitive foods" regulation. Because these actions are mandated by court order rather than discretionary on the part of the Secretary, the Department has determined that solicitation of public comments would be impracticable and unnecessary.

Furthermore, because the petition submission schedule published in the **Federal Register** on October 31, 1980, (45 FR 72081) dictates that petitions for exceptions must be submitted by November 15, 1980, for the following school year, an emergency situation exists which warrants the immediate effectiveness of these amendments.

Background

The Food and Nutrition Service published a final rule in the **Federal Register** on January 29, 1980 (45 FR 6758), which amended 7 CFR Part 210, National School Lunch Program, and 7 CFR Part 220, School Breakfast Program, to implement Section 10 of the Child Nutrition Act of 1966, as amended by Section 17 of Pub. L. 95–166.

Sections 210.15(b)(1) and 220.12(b)(1) provide an exception procedure. Persons may request FNS to permit the unrestricted sale of an individual food in a category of foods of minimal nutritional value, if the food contains sufficient nutrients to satisfy the minimum nutritional value standard, §§ 210.2(h–1) and 220.2(i–1), used to determine the categories of foods which are of minimal nutritional value.

The petition procedure was developed to assure that no individual food which satisfies the standard is classified as a food of minimal value because of membership in a category of foods determined to be of minimal nutritional value.

On June 27, 1980, the U.S. District Court ordered that:

The petition procedure set forth at 21 CFR 210.15(b)(1) shall not be invoked to exempt particular foods from the four restricted categories on the basis of fortification.

To implement this order, §§ 210.15(b)(1) and 220.12(b)(1) are amended to indicate that for the purpose of determining whether a food should be exempted from a category of foods determined to be of minimal nutritional value, nutrients added to the food will not be considered.

Further, in order to implement the Court's order, the definition of soda water has been amended to preclude the removal of a product from the soda water category by adding nutrients to it.

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. Accordingly, Appendix B, paragraph (l) of Part 210, National School Lunch Program, and Part 220, School Breakfast Program, is amended by revising definition (l) as follows:

Appendix B—Categories of Foods of Minimal Nutrition Value

* * * * *

(l) Soda Water—As defined by 21 CFR 165.175 Food and Drug Administration Regulations, except no product shall be excluded from this definition because it contains artificial sweeteners or discrete nutrients added to the food such as vitamins, minerals, and proteins.

* * * * *

§ 210.15b [Amended]

2. Section 210.15(b)(1), is amended by adding at the end of that paragraph the following sentence: * * * In determining whether an individual food is a food of minimal nutritional value, discrete nutrients added to the food will not be taken into account.

PART 220—SCHOOL BREAKFAST PROGRAM

§ 220.12 [Amended]

3. Section 220.12(b)(1) is amended by adding at the end of that paragraph the following sentence: * * * In determining whether an individual food is a food of minimal nutritional value, discrete nutrients added to the food will not be taken into account.

(Sec. 10, Child Nutrition Act, (42 U.S.C. 1779))

(Catalog of Federal Domestic Assistance Programs Nos. 10.553 and 10.555)

Dated: November 12, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-36290 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-50-M

Agricultural Stabilization and Conservation Service

7 CFR Part 713

[Amendment 3]

Feed Grain, Upland Cotton and Wheat Programs for Crop Years 1978–1981

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule requires feed grain, upland cotton, and wheat producers who do not refund an overpayment within 30 days of the billing date to pay interest on the overpayment. It also changes the interest rate charged to producers who it is determined obtained an overpayment through misrepresentation. This rule is needed to improve the effectiveness of the program and will provide more equitable treatment to producers.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Charles J. Riley, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013 (202) 447–7633. The Final Impact Statement describing each option is available from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant." Program titles and numbers from the "Catalog of Federal Domestic Assistance" are Cotton Production Stabilization, 10.052; Feed Grain Stabilization, 10.055; and Wheat Production Stabilization, 10.058. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

On Friday, July 18, 1980, a proposed rule was published (45 FR 48151) outlining the changed requirements relating to interest and inviting public comment. No comment was received, nor has any event changed the desirability of the change outlined therein. The proposed rule included changes applicable to the rice program. These changes will be included in a separate final rule.

Under the current regulations, all payments made to producers under the feed grain, upland cotton, and wheat programs (7 CFR Part 713) which are not earned by the producer must be refunded to the Agricultural Stabilization and Conservation Service (ASCS). Interest is not charged on these overpayments where a producer actually earned a part of the same type of payment (i.e., deficiency and disaster, diversion) for any crop or where the payment was erroneously made to a producer through no fault of that particular producer. Interest is charged in all other cases from the date of payment to the date of refund.

This final rule amends and supplements the current rules as follows:

1. The current rules do not distinguish between the producer who deliberately misrepresents a fact involving program requirements and the producer who does not. For example, when advance payments are made under the programs, a producer can receive an advance payment based on an honest intention to comply with the program requirements, change his or her mind, and have to refund the payment. This producer would currently be charged the same rate of interest as one who received advance payments under the programs but never had any intention of complying with program requirements. Under this final rule, producers who are determined to have misrepresented a fact involving program requirements or who are determined to have engaged in a scheme or device to defeat the purpose of the program would be liable for payment of interest on the principal amount of the program payment at the rate of 18 percent per year from the date of the payment to the date of the refund.

2. The current rules do not provide adequate incentive for a producer to refund overpayments made under the programs. Under the regulations now in effect, a producer is not charged interest with respect to program overpayments when a producer earns part of the same type of payment for any crop. Thus, the producer, in effect, has an interest-free loan until the overpayment is refunded. Under this final rule, a producer who does not refund an overpayment within 30 days from the billing date (date of the issuance of the letter demanding refund of the program overpayment) will be charged interest from the billing date until such refund is made.

These changes are in general conformance with the overall policy for the Federal Government set by the Federal Claims Collection Standards (4 CFR Part 101).

Accordingly, the regulations appearing at 7 CFR Part 713 are amended as follows:

Final Rule

1. Section 713.15 is amended by revising paragraph (e) to read as follows:

§ 713.15 General payment provisions.

* * * * *

(e) *Unearned Payments and Overpayments.* The producer shall refund to Commodity Credit Corporation (CCC) any amounts representing payments that exceed the payments actually earned under the programs prescribed by this part. Such refunds are due and payable to CCC within 30 days from the date of billing.

(1) Effective with respect to determinations of overpayments made after enactment of this rule, refunds not made within 30 days from the date of billing are delinquent and shall accrue interest from the date billed until the date paid at the CCC commodity loan interest rate in effect on the billing date.

(i) An unearned payment received through no fault of the producer.

(ii) An overpayment involving deficiency or disaster payments, if the producer earns any deficiency or disaster payments for any crop for the farm under Parts 713 or 730 of this chapter.

(iii) An overpayment involving voluntary diversion payments, if the producer earns any voluntary diversion payment for any crop for the farm under Parts 713 or 730 of this chapter.

(iv) An overpayment involving wheat grazing and hay payments, if the producer earns any wheat grazing and hay payment for the farm.

(2) Refunds not covered by paragraph (e)(1) of this section shall accrue interest from the date of disbursement until the date paid, at the CCC commodity loan interest rate in effect on the billing date.

2. Section 713.22 is amended by redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

§ 713.22 Misrepresentation and scheme or device.

* * * * *

(c) Refunds determined to be due CCC after enactment of this rule under the provisions of this section shall bear interest at the rate of 18 percent per year. Such interest shall accrue from the date of disbursement to the date refunded.

(Secs. 103(f), 105A, 107A, 91 Stat. 934, 91 Stat. 928, 91 Stat. 921, 94 Stat. 119; (7 U.S.C. 1444(f), 7 U.S.C. 1444c, 7 U.S.C. 1445b, 7 U.S.C. 1421 note, 7 U.S.C. 1309))

Signed at Washington, D.C. on November 6, 1980.

Ray Fitzgerald,

Administrator, ASCS.

[FR Doc. 80-36061 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-05-M

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7 CFR Part 718

[Amendment 5]

Determination of Acreage and Compliance

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend the regulations at 7 CFR Part 718 which govern the determinations of acreage and compliance under the production adjustment and marketing quota programs administered by the Agricultural Stabilization and Conservation Service (ASCS). These changes in the regulations are required in order to conform with changes mandated by the enactment of the Agricultural Adjustment Act of 1980, (Pub. L. 96–213, 94 Stat. 119 approved March 18, 1980) and to improve the administration of the programs.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: H. Woodrow Jones, Production Adjustment Division, Agricultural Stabilization and Conservation Service, U.S.D.A., P.O. Box 2415, Washington, D.C. 20013, (202) 447–3472. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and has been classified "not significant."

This rule allows for an administrative variance between determined acreage and program requirements for marketing quota crops and a tolerance for error in planting and reporting normal crop acreage (NCA) crops (i.e. crops that are included in the NCA as provided for in 7 CFR Part 792).

The present regulations provide that the State ASC Committee could select one of two methods for determining compliance: (1) measure all farms or (2) measure selected farms. This final rule deletes the provisions allowing measurement of all farms in a county as a means of determining compliance with any NCA requirements applicable to NCA crops planted on farms in the county. Measurement of all farms in the county will be utilized as the means of determining compliance for most marketing quota crops. This final rule also provides other changes to clarify administrative procedures utilized in determining crop and land use acreages for 1980 and subsequent crop years for marketing quota crops, program crops, and other price-supported crops, and includes provisions for determining total NCA, set-aside, and voluntary diversion acreages.

Since producers are engaged in farming operations for the 1980 crop and are affected by the changes provided by this rule, the Deputy Administrator has determined in accordance with the public rulemaking requirements of 5 U.S.C. 553 and Executive Order 12044 that it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments and to engage in public rulemaking procedure prior to the rule becoming effective, and that good cause exists for the rule becoming effective immediately upon publication. However, a 60-day comment period will be in effect upon publication of these final rules in the **Federal Register.** Any comments which are offered during the public comment period on any of the regulations contained in 7 CFR Part 718, will be evaluated and considered for their applicability. In compliance with Secretary's Memorandum No. 1955 and final report issued by the Secretary with respect to Executive Order 12044 and entitled "Improving Government Regulations" (43 FR 50988), it is determined after review of these and related regulations contained in 7 CFR Part 718 for need, currency, clarity, and effectiveness, that no additional changes be made at this time; and review of these regulations contained in 7 CFR Part 718 for need, currency, clarity, and effectiveness, is planned to take place within the five years subsequent to publication of these rules.

Final Rule

Accordingly, the regulations at 7 CFR Part 718 are amended as follows:

1. Section 718.1 is amended to read as follows:

§ 718.1 Applicability.

The provisions of this part apply to compliance determinations for 1980 and subsequent years as authorized by the Agricultural Adjustment Act of 1938, as amended, and the Agricultural Act of 1949, as amended, with respect to the programs administered by the Agricultural Stabilization and Conservation Service (ASCS) through State and county committees.

2. Section 718.2 is amended by: (1) revising paragraph (b)(1); (2) revising paragraph (b)(3); (3) revising paragraph (b)(6); (4) deleting paragraph (b)(10); (5) redesignating paragraphs (b)(11) through (b)(19) as paragraphs (b)(10) through (b)(18); (6) adding a new paragraph (b)(19); and (7) adding a new paragraph (b)(21), to read as follows:

§ 718.2 Definitions.

* * * * *

(b) * * *

(1) *Administrative variance.* For marketing quota crops, a prescribed amount within which the determined acreage can differ from a program requirement and still be considered as having met the program requirement.

* * * * *

(3) *Determined acreage.* That acreage established by a representative of the Department of Agriculture by use of official acreage, planimetry of areas on the photograph or other photographic image or computations from scaled dimensions or ground measurements.

* * * * *

(6) *Field assistant.* Person employed to secure data necessary for ascertaining producer adherence to requirements for receiving program benefits as set forth in this chapter.

* * * * *

(19) *Tolerance.* For crops, other than sugar beets or sugar cane, which comprise the normal crop acreage (NCA), as provided for by 7 CFR 792.2, a prescribed amount within which the reported acreage can differ from the determined acreage or program requirements, and the reported acreage can still be considered as correctly reported. Also, the prescribed amount within which the determined acreage can vary from the program requirements and still be considered as having met the program requirements.

* * * * *

(21) *Variance.* Administrative variance as it applies to marketing quota crops and tolerance as it applies to crops, other than sugar beets or sugar cane, which comprise the normal crop acreage (NCA).

* * * * *

3. Section 718.4 is amended by revising paragraph (b)(1)(v) and by revising paragraph (c) to revise the provision for Georgia and add a provision for Vermont as follows:

§ 718.4 Committee responsibilities.

* * * * *

(b) * * *

---

(1) * * *

§ 718.6 Determining farm operator

determined were in excess of the farm

Division, Agricultural Stabilization and

but never had any intention of

(1) * * *

(v) Prescribe a method for use by each county committee to determine compliance by either ground measurement or aerial observation of all farms within a county on which marketing quota crops are grown and of selected farms on which crops are grown which comprise the normal crop acreage (NCA).

* * * * * *

(c) * * *

* * * * * *

Georgia

Remeasurement refund. One-tenth acre.

* * * * * *

Vermont

Minimum row width: Thirty inches for corn for silage.

* * * * * *

4. Section 718.5 is amended by revising paragraph (a)(3) and by revising paragraph (c) to read as follows:

§ 718.5 Producer services.

(a) * * *

* * * * * *

(3) When the request is made in connection with a late filed farm operator report of acreage and evidence of (i) the existence of the crop, (ii) the use made of the crop, (iii) the lack of crop, or (iv) a disaster condition affecting the crop, is not available for inspection and acreage determinations.

* * * * * *

(c) *Guaranteeing service.* When a producer requests, pays for, and receives written notice that producer services have been furnished, compliance with program requirements relating to the measured acreage shall be guaranteed for the current year even if an error in the producer services is discovered in the measurement, placement of field or subdivision lines, planimetry or computations, when the producer has taken action based on the service and the entire crop or land use acreage required for the farm was measured. If the producer has not taken action based on the producer services, the producer shall be notified in writing that an error was discovered and the nature and extent of such error. In such cases, the corrected acreage will be used for determining program compliance for the current year.

* * * * * *

5. Section 718.6 is amended by revising paragraphs (a)(1) and (a)(2), deleting paragraph (a)(3), and revising paragraphs (c)(1), (c)(2) and (g)(3) to read as follows:

§ 718.6 Determining farm operator adherence to program requirements.

(a) * * *

* * * * * *

(1) *Accepting a late filed report.* A farm operator's report may be accepted after the established date for reporting if evidence of (i) the existence of the crop, (ii) the use made of the crop, (iii) the lack of crop, or (iv) a disaster condition affecting the crop, is still evident for inspection and determination. The farm operator shall pay the cost of a farm visit by an authorized Agricultural Stabilization and Conservation Service employee unless the county committee determines that the producer's failure to file the farm operator's report was caused by a condition beyond the producer's control.

(2) *Revised report.* The farm operator may revise a report of acreage to alter the acreage reported. Revised reports shall be used in accordance with instructions issued by the Deputy Administrator and accepted: (i) for all crops and land uses at any time provided evidence of the crop, use of the crop, lack of crop, or disaster condition, is still apparent; and (ii) for cotton and rice, to reflect that the harvested acreage is less than the planted acreage any time up to furnishing production evidence to the county office.

* * * * * *

(c) * * *

(1) *Administrative variance.* Administrative variance is applicable to all marketing quota crop acreages. Marketing quota crop acreages as determined in accordance with this Section 718.6 shall be deemed in compliance with the effective farm allotment or program requirement (110 percent of the effective farm allotment for flue cured tobacco when agreement is made to leave four lower leaves unharvested) when determined acreage does not exceed the effective farm allotment by more than the larger of 0.1 acre or 2 percent of the allotment.

(2) *Tolerance.* Tolerance is applicable to those crops that comprise the normal crop acreage (NCA), except for sugar beets and sugar cane. For NCA crops for which price support is available, except sugar beets and sugar cane, program requirements shall be considered to have been met provided the reported acreage does not differ from the acreage determined in accordance with this part, or the reported or determined acreage does not differ from program requirements relating to NCA, set-aside or voluntary diversion by more than the larger of 1.0 acre or 5 percent of the reported acreage but not to exceed 40 acres. A reported acreage of an irrigated and nonirrigated crop on the same farm be considered separately in applying the tolerance.

* * * * * *

(g) * * *

(3) *Adjustment Credit.* Acreage may be adjusted for the purposes of program compliance as provided for in Section 718.11 of this part only when the areas on which the land use is altered are of reasonable shape and of reasonable number. In addition one of the following criteria must be met:

(i) The area must be at least four links (approximately 32 inches) in width and contain at least 0.03 acre for tobacco or 0.1 acre for all other crops and land uses. If an area was ineligible for deduction, it may be enlarged to meet these minimum requirements for adjustment credit.

(ii) An entire field or subdivision is adjusted.

(iii) The area being adjusted constitutes the total excess or deficient acreage of the crop or land uses for the farm.

(iv) The area being adjusted is the remaining area required for adjustment after adjusting entire fields or subdivisions.

* * * * * *

6. Section 718.11 is amended by revising paragraphs (b), (d), and (e) to read as follows:

§ 718.11 Adjustment of Acreages.

* * * * * *

(b) *Peanuts.* The farm operator may adjust an acreage of peanuts by disposing of the excess peanuts prior to combining, picking, or threshing any peanuts of the same type on the farm. Such disposition of excess peanuts must be accomplished by:

(1) Leaving the peanuts in the ground. Peanuts disposed of in this manner may be hogged off.

(2) Harvesting as green peanuts for boiling when the excess acreage is designated for disposal as green peanuts.

(3) Plowing peanuts under before any peanuts are dug from the ground. The disposition of peanuts in this manner shall be witnessed by a representative of the Agricultural Stabilization and Conservation Service when such peanuts could be harvested for nuts.

(4) Plowing under or shredding, under the supervision of a representative of the Agricultural Stabilization and Conservation Service, dug peanuts:

(i) Which are damaged to the extent that it would not be economically feasible to thresh the dug peanuts for nuts, or

(ii) Which the county committee, with the concurrence of the State committee,

determined were in excess of the farm allotment and were inadvertently dug from the ground.

(5) Any other method authorized by the Deputy Administrator and supervised by a representative of the Agricultural Stabilization and Conservation Service when unusual circumstances justify special handling.

* * * * * *

(d) *ELS Cotton.* The farm operator may adjust the acreage to the allotment before harvest begins.

(e) *NCA Crops and Set-Aside (including voluntary diversion).* The farm operator may adjust:

(i) NCA crop acreage anytime before harvest; however, adjusting the acreage may not result in producer eligibility for payments based on the higher established "target" price as provided for by the Agricultural Adjustment Act of 1980 unless adjustment is made: (A) before the final reporting date; and (B) provided the tolerance was not found to have been exceeded as a result of a farm inspection.

(ii) Set-aside (including voluntary diversion) by designating additional acreage as set-aside or diverted acreage, provided the land meets, and has throughout the crop year met, all eligibility requirements.

(Sec. 314, 373, 374, 375, 52 Stat. 48, as amended, 52 Stat. 65, as amended, 52 Stat. 66 as amended; (7 U.S.C. 1314, 1373, 1374, 1375))

Signed at Washington, D.C. on November 12, 1980.

Ray Fitzgerald,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-36113 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-05-M

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7 CFR Part 730

[Amendment 2]

Rice Programs for Crop Years 1978–1981

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule requires Rice Producers who do not refund an overpayment within 30 days of the billing date to pay interest on the overpayment. It also changes the interest rate charged to producers. This rule is needed to improve the effectiveness of the Rice program and will provide more equitable treatment to producers.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Charles J. Riley, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013 (202) 447–7633. The Final Impact Statement describing each option is available from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant." Program title and number from the "Catalog of Federal Domestic Assistance" is Rice Production Stabilization, 10.065. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

On Friday, July 18, 1980, a proposed rule was published (45 FR 48151) outlining the changed requirements relating to interest and inviting public comment. No comment was received, nor has any event changed the desirability of the change outlined therein. The proposed rule included changes applicable to the feed grain, upland cotton, and wheat programs. These changes will be included in a separate final rule.

Under the current regulations, all payments made to producers under the rice program which are not earned by the producer must be refunded to the Agricultural Stabilization and Conservation Service (ASCS). Interest is not charged on these overpayments where a producer actually earned a part of the same type of payment (i.e., deficiency and disaster, diversion) for any crop or where the payment was erroneously made to a producer through no fault of that particular producer. Interest is charged in all other cases from the date of payment to the date of refund. The rate of interest charged is 7 percent per year.

This final rule amends and supplements the current rules as follows:

1. The current rules do not distinguish between the producer who deliberately misrepresents a fact involving program requirements and the producer who does not. For example, when advance payments are made under the programs, a producer can receive an advance payment based on an honest intention to comply with the program requirements, change his or her mind, and have to refund the payment. This producer would currently be charged the same rate of interest as one who received advance payments under the programs but never had any intention of complying with program requirements. Under this final rule, producers who are determined to have misrepresented a fact involving program requirements or who are determined to have engaged in a scheme or device ot defeat the purpose of the program would be liable for payment of interest on the principal amount of the program payment at the rate of 18 percent per year from the date of the payment to the date of the refund.

2. The current rules do not provide adequate incentive for a producer to refund overpayments made under the programs. Under the regulations now in effect, a producer is not charged interest with respect to program overpayments when a producer earns part of the same type of payment for any crop. Thus, the producer, in effect, has an interest-free loan until the overpayment is refunded. Under this final rule, a producer who does not refund an overpayment within 30 days from the billing date (date of the issuance of the letter demanding refund of the program overpayment) will be charged interest from the billing date until such refund is made.

3. The interest rate charged for overpayments has been unrealistically low. This final rule provides for interest to be charged at the rate of interest charged by CCC with respect to price support loans. These changes are in general conformance with the overall policy for the Federal Government set by the Federal Claims Collection Standards (4 CFR Part 101).

Accordingly, the regulations appearing at 7 CFR Part 730 are amended as follows:

Final Rule

1. Section 730.24 is amended by revising paragraph (e) to read as follows:

§ 730.24 General payment provisions.

* * * * * *

(e) *Unearned Payments and Overpayments.* The producer shall refund to Commodity Credit Corporation (CCC) any amounts representing payments that exceed the payments actually earned under the programs prescribed by this part. Such refunds are due and payable to CCC with 30 days from the date of billing.

(1) Effective with respect to determinations of overpayments made after enactment of this rule, refunds not made within 30 days from the date of billing are delinquent and shall accrue interest from the date billed until the date paid at the CCC commodity loan interest rate in effect on the billing date.

(i) An unearned payment received through no fault of the producer.

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(ii) An overpayment involving deficiency or disaster payments, if the producer earns any deficiency or disaster payments for any crop for the farm under Parts 713 or 730 of this chapter.

(iii) An overpayment involving voluntary diversion payments, if the producer earns any voluntary diversion payment for any crop for the farm under Parts 713 or 730 of this chapter.

(iv) An overpayment involving wheat grazing and hay payments, if the producer earns any wheat grazing and hay payment for the farm.

(2) Refunds not covered by paragraph (e)(1) of this section and determined to be due CCC after enactment of this rule shall accrue interest from the date of disbursement until the date paid. Interest charged shall be at a rate of 7 percent per annum from the date of disbursement until (date of publication of this rule). Interest accrued after (the date of publication of this rule) shall be at the CCC commodity loan interest rate in effect on the billing date.

2. Section 730.30 is amended by redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

§ 730.30 Misrepresentation and scheme or device.

* * * * *

(c) Refunds determined to be due CCC after enactment of this rule under the provisions of this section shall bear interest at the rate of 18 percent per year. Such interest shall accrue from the date of disbursement to the date refunded.

(Secs. 101(h), 408(b), 1001, 91 Stat. 940, 91 Stat. 944, 94 Stat. 119 (7 U.S.C. 1441, 1428(b), 1421 note, 1308; Sec. 352, 52 Stat. 60, 91 Stat. 94D (7 U.S.C. 1352)))

Signed at Washington, D.C. November 6, 1980.

Ray Fitzgerald,

Administrator, ASCS.

[FR Doc. 80-36062 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 904

Grapefruit Grown in a Designated Area in California; Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action authorizes expenses and rate of assessment for the 1980–81 fiscal period, to be collected from handlers to support activities of the California Grapefruit Administrative Committee which locally administers the Federal marketing order covering grapefruit grown in southeastern California.

DATES: Effective September 1, 1980, through August 31, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant." This final rule is issued under Marketing Order No. 904 (7 CFR Part 904; 45 FR 20046), regulating the handling of grapefruit grown in a designated area in California. This marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon recommendations and information submitted by the California Grapefruit Administrative Committee, and other available information. It is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this final rule is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). The order requires that the rate of assessment for a particular fiscal period shall apply to all assessable fruit handled from the beginning of such period, which began September 1, 1980. To enable the committee to meet fiscal obligations which are now accruing, approval of the expenses and assessment rate is necessary without delay. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Therefore, a new § 904.200 is added to read as follows (this section is effective through August 31, 1981, and will not be published in the annual Code of Federal Regulations):

§ 904.200 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the California Grapefruit Administrative Committee during the period September 1, 1980, through August 31, 1981, will amount to $227,500.

(b) The rate of assessment for said period payable by each handler in accordance with § 904.35 is fixed at $0.065 per standard carton (32 pounds net weight) of grapefruit.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated: November 18, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-36449 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Reg. 279, Amdt. 1; Lemon Reg. 280]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period November 23–29, 1980, and increases the quantity of such lemons that may be so shipped during the period November 16–22. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective November 23, 1980, and the amendment is effective for the period November 16–22, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on November 18, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons has improved.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

1. Section 910.580 is added as follows:

§ 910.580 Lemon Regulation 280.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period November 23, 1980, through November 29, 1980, is established at 200,000 cartons.

(b) As used in this section, "handled" and "cartons" mean the same as defined in the marketing order.

2. Paragraph (a) of § 910.579 Lemon Regulation 279 (45 FR 75164) is amended to read as follows:

§ 910.579 Lemon Regulation 279.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period November 16, 1980, through November 22, 1980, is established at 240,000 cartons.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 19, 1980.

D.S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-36676 Filed 11-20-80; 11:48 am]

BILLING CODE 3410-02-M

7 CFR Part 959

Onions Grown in South Texas; Expenses and Rate of Assessment

AGENCY: Agriculture Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses for the functioning of the South Texas Onion Committee. It will enable the committee to colllect assessments from first handlers on all assessable onions and to use the resulting funds for its expenses.

EFFECTIVE DATE: During fiscal perid ending July 31, 1981.

FOR FURTHER INFORMATION CONTACT: C. W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–2615. The Impact Analysis relating to this final rule is available upon request from Mr. Porter.

SUPPLEMENTARY INFORMATION: *Findings.* This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant."

Pursuant to Marketing Order No. 959, as amended (7 CFR Part 959), regulating the handling of onions grown in South Texas, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the committee, established under the marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments, engage in public rulemaking procedure, and that good cause exists for not postponing the effective date until 30 days after publication (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal period shall apply to all assessable onions handled from the beginning of such period. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee. To effectuate the declared purposes of the act it is necessary to make these provisions effective as specified.

Section 959.220 (44 FR 63082, November 2, 1979; 65379, November 13, 1979) is hereby deleted and a new § 959.221 is added as follows:

§ 959.221 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1981, by the South Texas Onion Committee for its maintenance and functioning and for such other purposes as the Secretary may determine to be appropriate will amount to $183,861.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be three cents ($0.03) per 50-pound container or equivalent quantity, of onions handled by him as the first handler thereof during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 18, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-36448 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1701

Public Information; Appendix A—REA Bulletins

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: REA hereby issues revised Bulletin 385–4, Form 397b and c. This revision updates documents which are nine and seven years old, respectively, to reflect advances in technology thus permitting REA borrowers to provide the best, most cost-effective service possible.

EFFECTIVE DATE: November 14, 1980.

FOR FURTHER INFORMATION CONTACT: C. F. Buster, Jr., Chief, Transmission Branch, Telecommunications Engineering and Standard Division, Rural Electrification Administration, Room 1367, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3917.

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The Final Impact Analysis Statement describing the options considered in developing this rule and the impact of implementing each option is available from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et. seq.), REA hereby revises REA Forms 397b and c, Design Specifications for Trunk and Subscriber Carrier Systems. This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order No. 12044, and has been classified not significant.

REA, in an effort to aid REA borrowers in providing the best, most cost-effective telecommunications service to rural America is revising REA Forms 397b and c to reflect advances in technology.

This program is listed in the Catalog of Federal Domestic Assistance as 10.851–Rural Telephone Loans and Loan Guarantees.

A Notice of proposed rulemaking was published in the **Federal Register**, Vol. 45, No. 160, (45 FR 54354) Friday, August 15, 1980. No public comments were received as a result of that notification.

Dated: November 14, 1980.

John H. Arnesen,

Assistant Administrator—Telephone

[FR Doc. 80-36450 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-15-M

Food Safety and Quality Service

7 CFR Part 2851

United States Standards for Grades of Florida Grapefruit, Tangerines, Oranges, and Tangelos

Correction

In FR Doc. 80-33843, published at page 72089, on Friday, October 31, 1980, make the following corrections:

1. On page 72089, in the third column, the first pargraph under **"Background"**, the eighth line down "serveral changes" should be corrected to read "several changes".

2. On page 72090, in the second column, the fifth line down "8 1/16" should be correct to read "9 1/16".

3. Also on page 72090, the second column, the first paragraph, the last line "to 125" should be corrected to read "or 125".

4. On page 72092, the first column, sixth line down "(4) Growth crack; and," should be corrected to read "(4) Growth cracks; and,".

5. On pages 72093 and 72094 the following tables are reprinted as follows:

BILLING CODE 1505-01-M

TABLE I - SHIPPING POINT[1/]
FOR 1 THROUGH 20 SAMPLES

FACTOR	GRADES	AL[2/]	Number of 33-count samples[3/] (Florida Grapefruit)																	
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers[4/] (maximum permitted)																			
Decay	U.S. Fancy	1	0	0	0	0	1	5/1	1	2	2	2	5/2	2	3	3	3	5/3	3	4	4	4
	U.S. No. 1																					
	U.S. No. 2																					
	U.S. No. 3	1	0	1	5/1	1	2	1	2	2	3	5/2	2	3	3	4	5/4	5	5	5	5/5	5
Wormy fruit	All	1	0	0	0	1	5/1	1	2	2	2	5/2	2	3	3	4	5/3	3	4	4	4	4
Very serious damage including decay and wormy fruit.	U.S. Fancy																					
	U.S. No. 1	4	3	5	7	8	10	8	11	13	14	16	17	18	20	21	23	24	25	27	28	30	31
	U.S. No. 2																					
Total defects including decay, wormy fruit, and very serious damage.	All	5	5	9	12	16	19	16	19	22	25	28	31	34	37	40	44	46	49	52	55	58	61	64
Off-size		7	5	9	12	16	19	16	19	22	25	28	31	34	37	40	44	46	49	52	55	58	61	64
Discoloration	U.S. No. 1 Bright																					
	U.S. No. 2																					
	U.S. No. 2 Bright	7	5	9	12	16	19	16	19	22	25	28	31	34	37	40	44	46	49	52	55	58	61	64
	U.S. No. 1 Golden	16	13	23	34	44	54	44	56	68	81	93	105	118	130	142	155	168	180	193	206	218	231	244
			Acceptance numbers[4/] (minimum required)																			
	U.S. No. 1 Bronze	6	9	20	32	44	56	68	81	93	105	118	130	142	155	168	180	193	206	218	231	244		
	U.S. No. 1 Russet																					
	U.S. No. 2 Russet	0	2	4	8	11	14	11	14	18	21	25	28	32	36	39	43	47	50	53	57	61	64	68

See footnotes at end of table.

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6. On page 72094, the third column, the second line of paragraph § 2851.765

FOR 21 THROUGH 40 SAMPLES

FACTOR	GRADES	AL[2]	Number of 33-count samples[3] (Florida Grapefruit)																		
			21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
			Acceptance numbers[4] (maximum permitted)																			
Decay	U.S. Fancy U.S. No. 1 U.S. No. 2	1	4	4	5/4	4	4	5	5	5	5	5	5/5	5	5	6	6	6	6	6	5/6	6
	U.S. No. 3	1	5	6	6	6	5/6	6	7	7	7	5/7	7	8	8	8	5/8	8	9	9	9	9
Wormy fruit	All	1	4	4	5/4	4	4	5	5	5	5	5	5/5	5	5	6	6	6	6	6	5/6	6
Very serious damage including decay and wormy fruit.	U.S. Fancy U.S. No. 1 U.S. No. 2	4	32	34	35	36	38	39	40	42	43	44	45	47	48	49	51	52	53	54	55	57
Total defects including decay, wormy fruit, and very serious damage.	All	5	67	70	73	76	79	82	84	87	90	93	96	99	102	105	107	110	113	116	119	122
Off-size		7	67	70	73	76	79	82	84	87	90	93	96	99	102	105	107	110	113	116	119	122
Discoloration	U.S. No. 1 U.S. No. 1 Bright U.S. No. 2 U.S. No. 2 Bright	7	67	70	73	76	79	82	84	87	90	93	96	99	102	105	107	110	113	116	119	122
	U.S. No. 1 Golden	16	206	216	225	234	247	253	264	274	281	290	300	309	318	327	337	346	355	364	374	383
			Acceptance numbers[4] (minimum required)																			
	U.S. No. 1 Bronze U.S. No. 1 Russet	6	256	269	282	294	307	320	333	345	358	371	383	396	409	422	435	447	460	473	486	499
	U.S. No. 2 Russet	0	72	76	80	84	88	92	95	99	103	107	110	114	118	122	126	130	134	137	141	145

1/ Shipping point, as used in these standards, means the point of origin of the shipment in the production area or at port of loading for ship stores or overseas shipments, or in the case of shipments from outside the continental United States, the port of entry into the United States.
2/ AL-Absolute limit permitted in individual 33-count sample.
3/ Sample size--33 count.
4/ Acceptance number--Maximum or minimum number of defective or off-size fruit permitted.
5/ Preferred number of samples for this acceptance number.

TABLE II - EN ROUTE OR AT DESTINATION

FACTOR	GRADES	AL[1]	Number of 33-count samples[2] (Florida Grapefruit)																		
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers[3] (maximum permitted)																			
Decay	All	3	2	3	4	5	6	7	8	9	10	11	12	13	4/13	14	15	16	17	18	4/18	19
Wormy fruit	All	1	0	0	0	1	4/1	1	2	2	2	4/2	2	2	3	3	3	4/3	3	4	4	4
Very serious damage other than decay and wormy fruit.	U.S. Fancy U.S. No. 1 U.S. No. 2	4	3	5	7	8	10	11	13	14	16	17	18	20	21	23	24	25	27	28	30	31
Total defects including very serious damage other than decay and wormy fruit.	All	5	5	9	12	16	19	22	25	28	31	34	37	40	44	46	49	52	55	58	61	64
Off-size		7	5	9	12	16	19	22	25	28	31	34	37	40	44	46	49	52	55	58	61	64
Discoloration	U.S. No. 1 U.S. No. 1 Bright U.S. No. 2 U.S. No. 2 Bright	7	5	9	12	16	19	22	25	28	31	34	37	40	44	46	49	52	55	58	61	64
	U.S. No. 1 Golden	16	13	23	34	44	54	63	73	83	92	102	112	122	131	140	150	159	169	178	188	197
			Acceptance numbers[3] (minimum required)																			
	U.S. No. 1 Bronze U.S. No. 1 Russet	6	9	20	32	44	56	68	81	93	105	118	130	142	155	168	180	193	206	218	231	244
	U.S. No. 2 Russet	0	3	4	8	11	14	18	21	25	28	32	36	39	43	47	50	53	57	61	64	68

1/ AL--Absolute limit permitted in individual 33-count sample.
2/ Sample size--33 count.
3/ Acceptance number--Maximum or minimum number of defective or off-size fruit permitted.
4/ Preferred number of samples for this acceptance number.

BILLING CODE 1505-01-C

6. On page 72094, the third column, the second line of paragraph §#2851.765 "flaby" should be corrected to read "flabby".

7. On page 72096, the second column, paragraph (d)(3) of § 2851.1141 "Dryness on mushy condition;" should be corrected to read "Dryness or mushy condition;".

8. On pages 72098 and 72099 the following tables are reprinted as follows:

BILLING CODE 1505-01-M

TABLE I - SHIPPING POINT[1]
FOR 1 THROUGH 20 SAMPLES

FACTOR	GRADES	AL[2]	Number of 50-count samples[3] (Florida Oranges, Tangelos)																	
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers[4] (maximum permitted)																			
Decay	U.S. Fancy	1	0	1	5/1	1	2	5/2	2	3	3	3	5/3	3	4	4	5/4	4	5	5	5	5
	U.S. No. 1																					
	U.S. No. 2																					
	U.S. No. 3	2	0	1	2	5/2	2	5/3	3	4	4	4	5/4	5	5/5	6	6	5/6	6	7	7	5/7
Worny fruit	All	1	0	1	5/1	1	2	5/2	2	3	3	3	5/3	3	4	4	5/4	4	5	5	5	5
Very serious damage including decay and worny fruit.	U.S. Fancy																					
	U.S. No. 1	6	4	6	9	11	14	16	18	20	22	24	25	28	30	33	35	37	39	41	43	45
	U.S. No. 2																					
Total defects including decay, worny fruit, and very serious damage.	All	8	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
Off-size		10	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
Discoloration	U.S. No. 1																					
	U.S. No. 1 Bright	10	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
	U.S. No. 2																					
	U.S. No. 2 Bright																					
	U.S. No. 1 Golden	22	18	34	49	64	80	93	109	122	138	151	166	180	194	208	222	237	251	265	279	293
			Acceptance numbers[4] (minimum required)																			
	U.S. No. 1 Bronze	11	15	32	51	69	88	106	125	144	162	182	201	220	240	259	278	297	317	336	355	374
	U.S. No. 1 Russet																					
	U.S. No. 2 Russet	1	3	8	12	18	23	29	34	40	45	51	56	62	68	74	79	85	91	97	102	108

See footnotes at end of table.

V 45 N 021 80 UMI

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FOR 21 THROUGH 40 SAMPLES

FACTOR	GRADES	AL[2]	Number of 50-count samples[3] (Florida Oranges, Tangelos)																		
			21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
			Acceptance numbers[4] (maximum permitted)																		
Decay	U.S. Fancy U.S. No. 1 U.S. No. 2	1	[5]/5	6	6	6	6	[5]/6	6	7	7	7	7	[5]/7	7	8	8	8	[5]/8	8	9	9
	U.S. No. 3	2	8	8	[5]/8	8	9	9	[5]/9	9	10	10	[5]/10	11	11	[5]/11	11	12	12	[5]/12	12	13
Wormy fruit	All	1	[5]/5	6	6	6	6	[5]/6	6	7	7	7	7	[5]/7	7	8	8	8	[5]/8	8	9	9
Very serious damage including decay and wormy fruit.	U.S. Fancy U.S. No. 1 U.S. No. 2	6	47	49	51	53	54	56	58	60	62	64	66	68	70	72	74	76	78	80	81	83
Total defects including decay, wormy fruit, and very serious damage.	All	8	98	103	107	111	116	120	124	129	133	137	141	146	150	154	159	163	167	171	176	180
Off-size		10	98	103	107	111	116	120	124	129	133	137	141	146	150	154	159	163	167	171	176	180
Discoloration	U.S. No. 1 U.S. No. 1 Bright U.S. No. 2 U.S. No. 2 Bright	10	98	103	107	111	116	120	124	129	133	137	141	146	150	154	159	163	167	171	176	180
	U.S. No. 1 Golden	22	307	321	335	349	363	377	391	405	419	433	447	461	475	489	503	517	531	545	559	573
			Acceptance numbers[4] (minimum required)																		
	U.S. No. 1 Bronze																				
	U.S. No. 1 Russet	11	394	413	433	452	471	491	510	530	549	569	588	608	627	647	666	686	705	725	744	764
	U.S. No. 2 Russet	1	114	119	125	131	137	143	149	155	161	166	172	178	184	190	196	202	208	214	220	226

[1] Shipping point, as used in these standards, means the point of origin of the shipment in the production area or at port of loading for ship stores on overseas shipments, or in the case of shipments from outside the continental United States, the port of entry into the United States.
[2] AL--Absolute limit permitted in individual 50-count sample.
[3] Sample size--50 count.
[4] Acceptance number--Maximum or minimum number of defective or off-size fruit permitted.
[5] Preferred number of samples for this acceptance number.

TABLE II - EN ROUTE OR AT DESTINATION

FACTOR	GRADES	AL[1]	Number of 50-count samples[2] (Florida Oranges, Tangelos)																		
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers[3] (maximum permitted)																		
Decay	All	4	3	4	6	7	9	10	11	13	14	15	16	18	19	20	21	23	24	25	26	27
Wormy fruit	All	1	0	1	[4]/1	1	2	[4]/2	2	3	3	3	[4]/3	3	4	4	[4]/4	4	5	5	5	5
Very serious damage other than decay and wormy fruit.	U.S. Fancy U.S. No. 1 U.S. No. 2	6	4	6	9	11	14	16	18	20	22	24	26	28	30	33	35	37	39	41	43	45
Total defects including very serious damage other than decay and wormy fruit.	All	8	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
Off-size		10	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
Discoloration	U.S. No. 1 U.S. No. 1 Bright U.S. No. 2 U.S. No. 2 Bright	10	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
	U.S. No. 1 Golden	22	18	34	49	64	80	93	109	122	138	151	166	180	194	208	222	237	251	265	279	293
			Acceptance numbers[3] (minimum required)																		
	U.S. No. 1 Bronze U.S. No. 1 Russet	11	15	32	51	69	88	106	125	144	162	182	201	220	240	259	278	297	317	336	355	374
	U.S. No. 2 Russet	1	3	8	12	18	23	29	34	40	45	51	56	62	68	74	79	85	91	97	102	108

[1] AL--Absolute limit permitted in individual 50-count sample.
[2] Sample size--50 count.
[3] Acceptance number--Maximum or minimum number of defective or off-size fruit permitted.
[4] Preferred total number of samples for this acceptance number.

BILLING CODE 1505-01-C

9. On page 72100, the third column, the second line of § 2851.1170 "decidely" should be corrected to read "decidedly".

10. On page 72101 the following table is reprinted as follows:

BILLING CODE 1505-01-M

§ 2851.1174 Classification of defects.

TABLE V

Factor	Injury	Damage	Serious damage	Very serious damage
Ammoniation		Not occurring as light speck type.	Scars are cracked or dark and aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.
Buckskin		Aggregating more than a circle 1 inch (25.4 mm) in diameter.	Aggregating more than 25 percent of the surface.	Aggregating more than 50 percent of the surface.
Caked melanose		Aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.
Creasing		Materially weakens the skin, or extends over more than one-third of the surface.	Seriously weakens the skin, or extends over more than one-half of the surface.	Very seriously weakens the skin, or is distributed over practically the entire surface.
Dryness or mushy condition		Affecting all segments more than 1/4 inch (6.4 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than 1/2 inch (12.7 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than 3/4 inch (19.1 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.

Table V, continued

Table V, continued

V 45 N 0 21 1 80 0 UMI

V 45 NO 021 80 UMI

Table V, continued

Factor	Injury	Damage	Serious damage	Very serious damage
Green spots	More than slightly affecting appearance.	More than 10 spots caused by scale, each spot equivalent to the area of a circle 1/8 inch (3.2 mm) in diameter.	More than 25 spots caused by scale, each spot equivalent to the area of a circle 1/8 inch (3.2 mm) in diameter.	
Hail	Not well healed, or aggregating more than a circle 1/4 inch (6.4 mm) in diameter.	Not well healed, or aggregating more than a circle 3/8 inch (9.5 mm) in diameter.	Not well healed, or aggregating more than a circle 1/2 inch (12.7 mm) in diameter.	Not well healed, or aggregating more than a circle 3/4 inch (19.1 mm) in diameter.
Oil Spots	More than slightly affecting appearance.	More than 5 spots, or aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	More than 10 spots, or aggregating more than a circle 1 inch (25.4 mm) in diameter.	
Scab		Materially detracts from the shape or texture, or aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Seriously detracts from the shape or texture, or aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.
Scale	More than a few adjacent to the "button" at the stem end, or more than 6 scattered on other portions of the fruit.	Aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.

Table V, continued

Factor	Injury	Damage	Serious damage	Very serious damage
Scars	Depressed, not smooth, or detracts from appearance more than the amount of discoloration permitted in the grade.	Deep or rough aggregating more than a circle 1/4 inch (6.4 mm) in diameter; slightly rough with slight depth aggregating more than a circle 7/8 inch (22.2 mm) in diameter; smooth or fairly smooth with slight depth aggregating more than a circle 1¼ inches (31.8 mm) in diameter.	Deep or rough aggregating more than a circle ½ inch (12.7 mm) in diameter; slightly rough with slight depth aggregating more than a circle 1¼ inches (31.8 mm) in diameter; smooth or fairly smooth with slight depth aggregating more than 10% of fruit surface.	Deep or rough or unsightly that appearance is very seriously affected.
Skin breakdown		Aggregating more than a circle 1/4 inch (6.4 mm) in diameter.	Aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Aggregating more than 25 percent of the surface.
Sprayburn		Aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Hard and aggregating more than a circle 1½ inches (38.1 mm) in diameter.	Aggregating more than 25 percent of the surface.
Sunburn		Skin is flattened, dry, darkened, or hard and the affected area exceeds 25 percent of the surface.	Skin is hard and affects more than one-third of the surface.	Aggregating more than 50 percent of the surface.

Table V, continued

11. On pages 72103 and 72104 the

Table V, continued

Factor	Injury	Damage	Serious damage	Very serious damage
Split, Rough, Protruding Navels.	Split is unhealed, or more than 1/8 inch (3.2mm) in length, or navel protrudes beyond the general contour, and opening is so wide, folded and ridged that it detracts from appearance.	Split is unhealed, or more than ¼ inch (6.4 mm) in length, or more than three well healed splits, or navel protrudes beyond the general contour, and opening is so wide, folded and ridged that it detracts from appearance.	Split is unhealed, or more than ½ inch (12.7 mm) in length, or two or more splits aggregate more than 1 inch (25.4 mm) in length, or navel protrudes beyond general contour, and opening is so wide, folded and ridged that it detracts from appearance.	Split is unhealed or fruit is seriously weakened.
Thorn scratches	Not well healed, or more unsightly than discoloration permitted in the grade.	Not well healed, or hard concentrated thorn injury aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Not well healed, or hard concentrated thorn injury aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.

Note: References to area or aggregate area, or length are based on a 100 size orange or tangelo.

BILLING CODE 1505-01-C

11. On pages 72103 and 72104 the following tables are reprinted as follows:

BILLING CODE 1505-01-M

V 45 NO 221 80 UMI

UMI 0 8 1 2 0 N 5 4 V

TABLE I - SHIPPING POINT[1/]
FOR 1 THROUGH 20 SAMPLES

FACTOR	GRADES	AL[2/]	Number of 50-count samples[3/] (Florida Tangerines)																		
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers[4/] (maximum permitted)																		
Decay	U.S. Fancy U.S. No. 1 U.S. No. 2	1	0	1	[5/]1	1	2	[5/]2	2	3	3	3	[5/]3	3	4	4	[5/]4	4	5	5	5	5
	U.S. No. 3	2	0	1	2	[5/]2	2	[5/]3	3	4	4	[5/]4	5	5	[5/]5	6	6	[5/]6	6	7	7	[5/]7
Wormy fruit	All	1	0	1	[5/]1	1	2	[5/]2	2	3	3	3	[5/]3	3	4	4	[5/]4	4	5	5	5	5
Very serious damage including decay and wormy fruit.	U.S. Fancy U.S. No. 1 U.S. No. 2	6	4	6	9	11	14	16	18	20	22	24	26	28	30	33	35	37	39	41	43	45
Total defects including decay, wormy fruit, and very serious damage.	All	8	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
Off-size		10	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
Discoloration	U.S. Fancy U.S. No. 1 U.S. No. 2	10	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
	Serious damage by unsightly discoloration	2	1	2	2	[5/]3	4	[5/]4	5	[5/]5	6	[5/]6	7	[5/]7	8	[5/]8	8	[5/]9	9	10	[5/]10	11
			Acceptance numbers[4/] (minimum required)																		
	U.S. No. 1 Bronze	11	15	32	51	69	88	106	125	144	162	182	201	220	240	259	278	297	317	336	355	374
	U.S. No. 1 Russet																					
	U.S. No. 2 Russet	1	3	8	12	18	23	29	34	40	45	51	56	62	68	74	79	85	91	97	102	108

See footnotes at end of table.

FOR 21 THROUGH 40 SAMPLES

FACTOR	GRADES	AL[2/]	Number of 50-count samples[3/] (Florida Tangerines)																		
			21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
			Acceptance numbers[4/] (maximum permitted)																		
Decay	U.S. Fancy U.S. No. 1 U.S. No. 2	1	[5/]5	6	6	6	6	[5/]6	6	7	7	7	7	[5/]7	7	8	8	8	[5/]8	8	9	9
	U.S. No. 3	2	8	8	[5/]8	8	9	9	[5/]9	9	10	10	[5/]10	11	11	[5/]11	11	12	12	[5/]12	12	13
Wormy fruit	All	1	[5/]5	6	6	6	6	[5/]6	6	7	7	7	7	[5/]7	7	8	8	8	[5/]8	8	9	9
Very serious damage including decay and wormy fruit.	U.S. Fancy U.S. No. 1 U.S. No. 2	6	47	49	51	53	54	56	58	60	62	64	66	68	70	72	74	76	78	80	81	83
Total defects including decay, wormy fruit, and very serious damage.	All	8	98	103	107	111	116	120	124	129	133	137	141	146	150	154	159	163	167	171	176	180
Off-size		10	98	103	107	111	116	120	124	129	133	137	141	146	150	154	159	163	167	171	176	180
Discoloration	U.S. Fancy U.S. No. 1 U.S. No. 2	10	98	103	107	111	116	120	124	129	133	137	141	146	150	154	159	163	167	171	176	180
	Serious damage by unsightly discoloration	2	[5/]11	12	[5/]12	12	13	[5/]13	14	[5/]14	15	15	[5/]15	16	[5/]16	17	17	[5/]17	18	[5/]18	19	19
			Acceptance numbers[4/] (minimum required)																		
	U.S. No. 1 Bronze	11	394	413	433	452	471	491	510	530	549	569	588	608	627	647	666	686	705	725	744	764
	U.S. No. 1 Russet																					
	U.S. No. 2 Russet	1	114	119	125	131	137	143	149	155	161	166	172	178	184	190	196	202	208	214	220	226

1/ Shipping point, as used in these standards, means the point of origin of the shipment in the production area or at port of loading for ship stores or overseas shipments, or in the case of shipments from outside the continental United States, the port of entry into the United States.
2/ AL--Absolute limit permitted in individual 50-count sample.
3/ Sample size-50 count.
4/ Acceptance number--Maximum or minimum number of defective or off-size fruit permitted.
5/ Preferred number of samples for this acceptance number.

TABLE II - EN ROUTE OR AT DESTINATION

FACTOR	GRADE	AL[1]	Number of 50-count samples[2] (Florida Tangerines)																		
			1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
			Acceptance numbers[3] (maximum permitted)																		
Decay	All	4	3	4	6	7	9	10	11	13	14	15	16	18	19	20	21	23	24	25	26	27
Wormy fruit	All	1	0	1	[4]/1	1	2	[4]/2	2	3	3	3	[4]/3	3	4	4	[4]/4	4	5	5	5	5
Very serious damage other than decay and wormy fruit.	U.S. Fancy U.S. No. 1 U.S. No. 2	6	4	6	9	11	14	16	18	20	22	24	26	28	30	33	35	37	39	41	43	45
Total defects including very serious damage other than decay and wormy fruit.	All	8	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
Off-size		10	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
Discoloration	U.S. Fancy U.S. No. 1 U.S. No. 2	10	7	12	17	22	27	32	36	41	45	50	54	59	63	68	72	76	81	85	90	94
	Serious damage by unsightly discoloration	2	1	2	2	3	4	[4]/4	5	[4]/5	6	[4]/6	7	[4]/7	8	[4]/8	8	[4]/9	9	10	[4]/10	11
			Acceptance numbers[3] (minimum required)																		
	U.S. No. 1 Bronze U.S. No. 1 Russet	11	15	32	51	69	88	106	125	144	162	182	201	220	240	259	278	297	317	336	355	374
	U.S. No. 2 Russet	1	3	8	12	18	23	29	34	40	45	51	56	62	68	74	79	85	91	97	102	108

1/ AL--Absolute limit permitted in individual 50-count sample.
2/ Sample size--50 count.
3/ Acceptance number--Maximum or minimum number of defective or off-size fruit permitted.
4/ Preferred total number of samples for this acceptance number.

BILLING CODE 1505-01-C

12. On page 72106, the fifth line of § 2851.1831 "the aggretate" should be corrected to read "the aggregate".

13. Also on page 72106 the following table is reprinted as follows:

BILLING CODE 1505-01-M

TABLE V

Factor	Damage	Serious damage	Very serious damage
Ammoniation	Not occurring as light speck type, or detracts more than discoloration permitted in the grade.	Scars are cracked or dark and aggregating more than 5/8 inch (15.9 mm) in diameter.	Aggregating more than 25 percent of the surface.
Buckskin	Aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Aggregating more than 25 percent of the surface.	Aggregating more than 50 percent of the surface.
Caked melanose	Aggregating more than a circle 3/8 inch (9.5 mm) in diameter.	Aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Aggregating more than 25 percent of the surface.
Creasing	Materially weakens the skin, or extends over more than one-third of the surface.	Seriously weakens the skin, or extends over more than one-half of the surface.	Very seriously weakens the skin, or is distributed over practically the entire surface.
Dryness or mushy condition	Affecting all segments more than 1/8 inch (3.2 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than 1/4 inch (6.4 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.	Affecting all segments more than 1/2 inch (12.7 mm) at stem end, or the equivalent of this amount, by volume, when occurring in other portions of the fruit.
Green spots	More than 10 spots caused by scale, each spot equivalent to the area of a circle 1/8 inch (3.2 mm) in diameter.	More than 25 spots caused by scale, each spot equivalent to the area of a circle 1/8 inch (3.2 mm) in diameter.	

Factor	Damage	Serious damage	Very serious damage
Hail	Not well healed, or aggregating more than a circle 1/4 inch (6.4 mm) in diameter.	Not well healed, or aggregating more than a circle 3/8 inch (9.5 mm) in diameter.	Not well healed, or aggregating more than a circle 5/8 inch (15.9 mm) in diameter.
Oil spots	More than 5 spots, or aggregating more than a circle 1/2 inch (12.7 mm) in diameter.	More than 10 spots, or aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	
Scab	Materially detracts from the shape or texture, or aggregating more than a circle 3/8 inch (9.5 mm) in diameter.	Seriously detracts from the shape or texture, or aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Aggregating more than 25 percent of the surface.
Scale	Aggregating more than a circle 3/8 inch (9.5 mm) in diameter.	Aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Aggregating more than 25 percent of the surface.

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Factor	Damage	Serious damage	Very serious damage
Scars	Deep or rough aggregating more than a circle 1/4 inch (6.4 mm) in diameter; slightly rough with slight depth aggregating more than a circle 3/4 inch (19.1 mm) in diameter; smooth or fairly smooth with slight depth aggregating more than a circle 1-1/8 inches (28.6 mm) in diameter.	Deep or rough aggregating more than a circle ½ inch (12.7 mm) in diameter; slightly rough with slight depth aggregating more than a circle 1-1/8 inches (28.6 mm) in diameter; smooth or fairly smooth with slight depth aggregating more than 10% of fruit surface.	Deep or rough or unsightly that appearance is very seriously affected.
Skin breakdown	Aggregating more than a circle 1/4 inch (6.4 mm) in diameter.	Aggregating more than a circle 5/8 inch (15.9 mm) in diameter.	Aggregating more than 25 percent of the surface.
Sprayburn	Skin is hard and aggregating more than a circle 3/4 inch (19.1 mm) in diameter.	Skin is hard and aggregating more than a circle 1-1/4 inches (31.8 mm) in diameter.	Aggregating more than 25 percent of the surface.
Sunburn	Skin is flattened, dry, darkened, or hard and the affected area exceeds 25 percent of the surface.	Skin is hard and affects more than one-third of the surface.	Aggregating more than 50 percent of the surface.
Unsightly discoloration	Color and pattern causes an unattractive appearance.	Color and pattern causes a distinctly unattractive appearance.	Very objectionable appearance caused by any means.

Note: References to area or aggregate area, or length are based on a 176 size tangerine.

BILLING CODE 1505-01-C

7 CFR Part 2853

Increase in Fees for Federal Meat Grading and Certification Services

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: The rates for voluntary Federal meat grading and certification services are changed to reflect increased costs associated with these programs.

EFFECTIVE DATE: December 28, 1980.

FOR FURTHER INFORMATION CONTACT: David K. Hallett, Chief, Meat Grading and Certification Branch, Meat Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, First Floor Mezzanine, Annex Building, Washington, DC 20250, (202) 447-2210.

SUPPLEMENTARY INFORMATION:

Exemption from Executive Order 12044

This final rule has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been determined to be exempt from those requirements. Dr. Donald L. Houston made this determination because the Executive Order does not apply to matters relating to Agency management.

Background

The Agricultural Marketing Act of 1946 provides for the collection of fees approximately equal to the cost of providing Federal meat grading and certification services. Salaries paid to Federal employees have been increased under the provisions of Executive Order 12248. Therefore, it has been determined that in order to cover the increased costs of providing Federal meat grading and certification services, including salaries paid to Federal employees and other associated costs of administering the program, the hourly fee must be increased as provided herein.

Pursuant to the authority of sections 203 and 205 of the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1622, 1624) the provisions of 7 CFR 2853.27(a) prescribing fees for Federal meat grading and certification services are hereby amended by changing the phrases "$18.20 per hour," "$22.20 per hour," and "$36.40 per hour" to "$20.20 per hour," "$25.20 per hour," and "$40.40 per hour" respectively.

(Sec. 203, 205, 60 Stat. 1087, 1090, 7 U.S.C. 1622, 1624)

Therefore, pursuant to the authority in 5 U.S.C. 553 it is found that notice and other public procedure with respect to these amendments are impracticable and unnecessary and good cause is found for making these amendments effective December 28, 1980.

Done at Washington, D.C., on November 17, 1980.

Thomas P. Grumbly,
Acting Administrator, Food Safety and Quality Service.

[FR Doc. 80-36324 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-DM-M

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Multnomah County in Oregon, from areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the area quarantined.

EFFECTIVE DATE: November 17, 1980.

FOR FURTHER INFORMATION CONTACT: C. G. Mason, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, 6505 Belcrest Road, Federal Building, Room 751, Hyattsville, MD 20782, 301-436-8073.

SUPPLEMENTARY INFORMATION: This amendment excludes a portion of Multnomah County in Oregon, from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded area.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect.

In § 82.3(a)(17), relating to the State of Oregon, paragraph (iii) relating to the premises of Safari Pets and Supplies, Inc., 1420 Lloyd Center, Portland, Multnomah County is deleted.

* * * * *

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111-113, 115, 117, 120, 123-126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

This amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register**.

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by E. C. Sharman, Acting Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 17th day of November 1980.

J. K. Atwell,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-36323 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Quality Service

9 CFR Part 320

Change in Reporting Frequency From Weekly to Quarterly of Processing Operations at Official Establishments

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the Federal meat inspection regulations to require the operator of each official establishment to report quarterly the number of pounds of meat and meat

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food products produced. Currently, such information is submitted to the Food Safety and Quality Service (FSQS) each week. In its proposal, the Department had suggested an annual reporting period. Following a review of the comments submitted in response to the proposal, the Department has determined, however, that quarterly reporting of MP Form 404 data provides a more accurate reporting system and reflects seasonality in the data.

EFFECTIVE DATE: This action becomes effective January 1, 1981. The last weekly report will be submitted on Tuesday, December 30, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. John W. McCutcheon, Director, Policy and Program Planning, Food Safety and Quality Service, U.S. Department of Agriculture, Room 327–E, Agriculture Administration Building, Washington, D.C. 20250, (202) 447–6525. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION:

Significance

This final rule has been reviewed under the USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044 and has been classified "significant."

Background

The requirement that statistics on the production volume of processed meat and meat food products be compiled and regularly submitted to the U.S. Department of Agriculture dates back to the inception of the Federal Meat Inspection Act of 1907. Since then, FSQS and its predecessor agencies have received weekly reports from each official establishment indicating the amount, by category, of meat and meat food products produced.

The number of categories of products required to be reported on has increased over the years as the variety of products produced has increased. The number of products reported varied between 24 and 28 during 1917–1932 and 1935–1946. Sliced bacon production was incorporated into the processing report in 1937 and canning operations were specifically segregated and categorized in 1948.

Since that time the report has been continually expanded. It currently includes 110 product categories organized into nine major groups: Cured Products, Smoked or Dried or Cooked Products, Sausage, Sliced/Packaged Products, Fresh or Frozen Products, Convenience Foods, Fats and Oils, Miscellaneous Meat Products, and Canned Products.

The MP Form 404 serves some purposes in assisting the Food Safety and Quality Service to perform its regulatory function. The Meat and Poultry Inspection Program (MPI) management and field services occasionally use MP Form 404 data to supplement other information for inspection tasks and manpower planning. The Processed Products Inspection Division of MPI uses information from MP Form 404 as a tool to monitor processed products production. Processing production data are also used by the Food Ingredient Assessment Division in FSQS' Science Program and the Meat and Poultry Standards and Labeling Division in the Compliance Program. The data collected are used by FSQS for the President's Budget and Explanatory Notes and the Secretary's Report to Congress on the Meat and Poultry Inspection Program.

The data are also used by a number of other Federal agencies, the industry, and educational or research organizations. For a more detailed explanation of the uses of MP Form 404 data, see the Final Impact Statement.

Paperwork and Cost Reduction. The administration of MPI including the maintenance of the MP Form 404 requirement, was transferred to the Food Safety and Quality Service in March 1977. In an effort to carry out previous commitments made by its predecessor agencies, FSQS scheduled a reduction in the reporting frequency of MP Form 404 on January 1, 1978, from weekly to monthly. Uncertainty over the fate of the weekly sliced bacon report and associated impacts on pork belly futures, however, led to a postponement of the action and further review.

The interest of the Federal Government in reducing the paperwork burden on industry has been most apparent in the last 4–5 years. In March 1976, the Office of Management and Budget (OMB) directed all executive departments and agencies to institute a two-phase plan to reduce the Federal paperwork burden on the public. The first phase called for a 10 percent reduction in the number of Federal forms and reports by June 30, 1976. The second phase called for a 5 and a 15–20 percent reduction in the number of hours spent by the public in official recordkeeping by September 1977 and 1978, respectively. Discussions of the MP Form 404 surfaced in the latter phase.

At the time the Federal paperwork reduction campaign came into being, MPI was organizationally a part of the Animal and Plant Health Inspection Service. The MP Form 404 was one of the few recurring reports maintained by that Agency. At the time, the annual number of respondents to MP Form 404 was estimated at 5,800. Using 30 minutes as a preliminary estimate of the average time required to complete the form, the Department estimated its associated paperwork burden on the public to be 150,800 hours per year.[1]

Industry Viewpoints. Following the expansion of MP Form 404 in 1977 to encompass 110 product categories, the Department received strong criticism from the Pacific Coast Meat Association, Incorporated, which represents small meatpackers. This trade group maintained that it had been excluded from discussions concerning revisions of the form, and it questioned the continued use of the form by the Department as previously conceived. The group also stated that the addition of new product categories appeared to assist major meatpacking companies developing data for production and marketing needs. More generally, the requirement was characterized as an unnecessary intrusion in the marketplace which could jeopardize the confidential nature of some production data.

The Department also received correspondence from trade associations representing the large meatpackers—the National Independent Meat Packers Association and the American Meat Institute—which are in support of retaining MP Form 404 on a weekly basis. Similarly, the Commodity Futures Trading Commission (CFTC) has indicated its strong concern at the prospect of reducing this report to less than a weekly basis. It believes that the commodity trader, who uses the figures to assess the flow of meat through the marketplace, will be disadvantaged by any change in reporting frequency.

The issue of confidentiality and the release of slaughter and processing data has been under review within the Department for over a year. In 1978, a determination was made by the Department that data concerning slaughtering operations more than 1 year old, and data concerning processing operations more than 2 years old, did not appear to meet exemption requirements of the Freedom of Information Act (FOIA), which protect trade secrets and certain confidential, commercial information (5 U.S.C.

[1] Additional investigation found that it took approximately 15 minutes for plant personnel to complete MP Form 404 rather than the 30 minutes as preliminarily estimated.

552(b)(4)). Thereafter numerous representatives of meat processors, poultry processors, and trade associations objected to this requirement, contending such data were just as sensitive and confidential as more current data, and release of the data would injure competition. On December 15, 1978, the Department responded to the representatives' complaint by publishing a notice in the **Federal Register** (43 FR 58595) which stated that the Department's position was under review and requested interested persons to submit comments. That status remains unchanged.

Change to Quarterly Reporting on MP Form 404 Data

In its proposal, the Department recognized that significant cost savings could be realized if the reporting period for MP Form 404 were changed from a weekly basis. The Department considered four other alternatives. It appeared that annual reporting would produce the greatest cost savings, while meeting the Department's regulatory needs. After reviewing the comments on the proposal, the Department has determined to require the collection of data on MP Form 404 on a quarterly basis. Quarterly reporting will lead to cost savings to the Agency of approximately $160,000 per year, and to industry of approximately $385,000 per year. These cost savings are still significant and will permit the Department to obtain accurate statistics which provide an indication of seasonality.

Comments

The Department received 27 comments on the proposal which was published in the March 25, 1980, **Federal Register** (45 FR 19258–19263). Comments received represent the views of 16 individual inspected meat or poultry processors, 6 related trade associations, 2 government entities, a commodity exchange, an economic and management consultant to meat processors, and a consumer.

Twelve comments (8 from industry, 2 from related trade associations, 1 from government, and 1 from a consumer) favored the proposal, citing several reasons. Most pointed out that data from MP Form 404 is not necessary on a weekly basis. Furthermore, money and manpower saved by both industry and government will offset any advantages that may be obtained from a weekly report. The consumer comment stated that lower administrative costs to both industry and government may lower meat prices, which would be a welcomed result in these inflationary times. Finally, the Council of Economic Advisors supports the Department's view that regulatory agencies should only gather data directly related to their mission.

Fifteen commenters (8 from industry, 4 from related trade associations, 1 from government, 1 from a consultant to meat processors, and 1 from a commodity exchange) opposed the proposal, citing several reasons.[2] Most argued that information contained in the weekly, monthly, quarterly and annual reports that are published utilizing MP Form 404 data is important to industry in compiling short term demand-supply functions for the meat industry. These indicators are used by individual firms to gauge their operation with industry trends and to plan future production goals. The comments state that often data used to fill out MP Form 404 are collected by industry as part of in-house management systems. Therefore, very little burden is imposed upon industry in collecting this information. These comments also point out that yearly reporting of MP Form 404 data will cause the development of alternative, duplicative industry systems, at great expense, in order to provide management data necessary for the proper conduct of business. It is stated that these costs or the costs related to an added safety margin to guard against unduly wide price savings within the market will offset any potential consumer savings resulting from reducing the frequency of reporting on MP Form 404. Finally, a trade association comments that the Department failed to place a value on the guidance that plant management receives from the weekly MP Form 404 reports.

The Department recognizes that industry uses these statistics for inventory control, production scheduling and market planning. The Department also recognizes the uses of the report by the Commodity Futures Trading Commission and the Department of Labor in interpreting consumer price trends and realizes its responsibility to provide information on the industry it regulates. However, the principal role of a regulatory agency such as FSQS is to protect the public health and to provide needed information on its regulated industry at the lowest level required for decisionmaking, it should not use its regulatory authority to gather data on its regulated industry unless the utility of the data can be directly linked to its regulatory mission. As long as a regulatory need for data exists, having the data available for other uses is reasonable, so long as these uses do not interfere with the regulatory mission or cause harm to the firms that supply the information. The Department has determined that it does not need the information obtained from MP Form 404 on a weekly basis. As stated previously, quarterly reports will serve its needs.

Industry and trade association comments indicate concern that information on an annual MP Form 404 report will have less value to government officials because annual reporting may reduce accuracy and will fail to show weekly, monthly and seasonal variations. Furthermore, these comments state that the weekly reporting of production volume or processed meat products is directly linked to agency and departmental needs. Annual reporting, it is claimed, will leave unfilled agency needs that will have to be met by a new, undefined and untried system. Such a system will likely impose added, rather than fewer industry burdens and costs.

The Department has concluded that obtaining accurate data is necessary and the reflection of seasonality in the data is important. In particular, a reflection of seasonality provides the Department with data on which to base its assignment of inspectors where seasonal changes in production may affect inspection needs. Therefore, the Department has provided for the quarterly reporting of the MP Form 404 data in its final regulation.

The Virginia Department of Agriculture and Consumer Services expresses a concern that the collection of MP Form 404 data only once a year will affect the data gathering capabilities of State and Federal regulatory agencies. This comment further regrets the potential loss of an evaluation tool for inspection service administrators to estimate workloads and to develop employee assignment schedules.

The Department is aware that State inspection service administrators may use information from MP Form 404 reports to estimate workload and develop employee assignment schedules. As stated above, MPI management also uses this data to supplement other information for inspection and manpower planning where questions of seasonality exist. The reflection of seasonality in the reports, as provided by the final

[2] Approximately 2 weeks after the close of the comment period, a comment was received from an industry member who had previously commented in favor of reduced reporting of MP Form 404. This comment stated opposition to the Department's action on reduced reporting frequency of MP 404, indicating that the previous comment had been sent in error, through a misunderstanding of the full ramifications of the Department's action. This change has been reflected in the above analysis.

regulation, should ensure that the

willingness to work with FSQS to

Therefore, § 320.6 of the Federal meat

publishing these revised amendments in

Finally, facilities possessing formula

days of the effective date of the

regulation, should ensure that the effectiveness of both MPI and State program manpower management will not be reduced.

The Chicago Mercantile Exchange points out that the Federal Register notice stated that "Uncertainty over the fate of the weekly sliced bacon report and associated impacts on pork belly futures
* * * led to a postponement of (a previous) action (to reduce the reporting frequency of MP Form 404 to monthly) * * *" Yet, commented the Exchange, nothing in the impact statement addresses the impact on the Commodity Futures Trading Commission of reduced reporting on pork belly futures.

The Department recognizes the use of MP Form 404 data by the CFTC to develop price guiding supply indices to monitor pork belly futures and to * monitor daily market surveillance activities. This is addressed in the Final Impact Statement by a recognition that although CFTC officials would prefer weekly statistics, CFTC indices could be made based on monthly or quarterly data.

The Pacific Coast Meat Association mentions the need for confidentiality of MP Form 404 data on an individual company basis through FOIA requests. This commenter further requested that the Agency reduce industry burden and paperwork by reducing the number of products reported in MP Form 404 to pre-1976 levels.

As indicated previously, the Department is presently reviewing the issue of the protection of MP Form 404 data from FOIA requests and intends to address that issue separately at a later date.

Furthermore, as stated in the impact statement, although the number of products reported in the MP Form 404 has increased over the years, this has been done to reflect changing production patterns in the types of products processed. In 1978, the weekly average number of different product categories reported per establishment was seven out of 110 categories; the Department does not consider this to be an unreasonable burden.

Industry and trade associations suggest that thought should be given to reducing the collection of MP Form 404 data to a monthly basis, at least for a trial period. After that trial period, if further reduction in reporting frequency appears appropriate, then quarterly collection, then biannually, and finally collection annually of data should be considered. For the reasons previously discussed, the Department has considered this approach to be inappropriate. Comments also express a willingness to work with FSQS to simplify MP Form 404 and to investigate other ways to reduce industry burden and paperwork.

Impact of Proposal. The greatest impact will be on the 6,300 official establishments which now submit a weekly report of production figures. The total annual reporting burden for these establishments is estimated to be 70,000 persons/hours based on time estimates of 15 minutes per form. It is also likely that there would be a secondary impact on nongovernmental users of the statistical data. The full effect of the proposed regulation on these parties, however, cannot now be assessed by the Department.

In formulating the proposal, the Department considered three other options in addition to the proposed annual requirement and the adopted quarterly requirement. These were:

1. Retention of the weekly report;
2. Monthly reporting; and
3. Elimination of the requirement entirely.[2]

The Department has concluded that the option selected should be the one that provides the necessary regulatory information in the least burdensome manner, with the greatest cost savings possible.

In view of the concerns expressed by some segments of the regulated industry, balanced against the need to reduce the paperwork burden on the meat industry and the Federal Government, which will result in cost savings to both, the Department has changed its original proposal to collect MP Form 404 data annually and now has decided that a quarterly collection of this data is more appropriate.

Need for Amendment to the Code of Federal Regulations. The authority to require reports is contained in section 407 of the Federal Meat Inspection Act (21 U.S.C. 677), which incorporates by reference provisions of the Federal Trade Commission Act (15 U.S.C. 46, 48, 49 and 50). Under this authority, the failure to file a required report could result in a penalty of $100 a day each day the report is overdue (21 U.S.C. 677). General rulemaking authority is contained in section 21 of the Act (21 U.S.C. 621). Currently, the regulations do not specifically require reporting of production figures. In order to assure proper enforcement, § 320.6 of the Federal meat inspection regulations (9 CFR 320.6) is amended to require that production reports be filed on a quarterly basis.

[2] These options are discussed and analyzed in greater detail in the Agency's approved Final Impact Statement.

Therefore, § 320.6 of the Federal meat inspection regulations (9 CFR 320.6) is amended by redesignating the present paragraph (b) as paragraph (c), and adding a new paragraph (b) as follows:

§ 320.6 Information and reports required from official establishment operators.

* * * * * *

(b) The operator of each official establishment shall report quarterly the number of pounds of meat and meat food product produced at that establishment. The report shall be made on a form furnished by the Administrator and shall be submitted to an inspector at the establishment. Each report shall cover a calendar quarter and shall be filed within 15 days after the end of each quarter.

(c) * * *

(Secs. 21 and 407, 34 Stat. 1260, as amended, (21 U.S.C. 621, 677; 42 FR 35625, 35626, 35631))

The reporting and recordkeeping requirements prescribed herein have been approved by OMB.

Done at Washington, D.C., on November 19, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-36524 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 11, 50, 70

Criteria and Procedures for Determining Eligibility for Access to or Control Over Special Nuclear Material

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: In March 1977, the Commission published for public comment proposed amendments to establish criteria and procedures for determining eligibility for access to or control over special nuclear material. As a result of public and staff comments, the record of an informal Hearing, and the recommendations of the Hearing Board, the scope of the proposed amendments has been narrowed to include only those fuel cycle facilities and transportation activities that use, process, or store formula quantities of special nuclear material. Light water reactors, non-power reactors, and facilities possessing only irradiated special nuclear material subject to the exemption of § 73.6(b) are not covered by these revised amendments. The Nuclear Regulatory commission is now publishing these revised amendments in final form.

EFFECTIVE DATE: February 4, 1981.

FOR FURTHER INFORMATION CONTACT: Frank Gillespie or Jim Prell, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Phone: 301-443-5907.

SUPPLEMENTARY INFORMATION: Section 161i of the Atomic Energy Act of 1954, as amended, permits the Nuclear Regulatory Commission to prescribe regulations instituting a clearance program for those individuals who have access to or control over special nuclear material. Specifically, the section provides that the Commission may issue regulations "* * * designating activities involving quantities of special nuclear material which in the opinion of the Commission are important to the common defense and security, that may be conducted only by persons whose character, associations and loyalty shall have been investigated under standards and specifications established by the commission and as to whom the commission shall have determined that permitting each such person to conduct the activity will not be inimical to the common defense and security * * *."

Pursuant to this statutory authority and after consideration of the results of public comments, the record developed in an informal hearing, and the recommendations of the hearing board, the Commission is issuing regulations which would require certain individuals involved in the operation of licensed fuel reprocessing plants, in the licensed use, processing, or storage of certain quantities of special nuclear materials, and in the transportation by the private sector of certain quantities of special nuclear material, to receive authorization from the Commission for access to or control over special nuclear material. Nuclear power reactors licensed pursuant to 10 CFR Part 50[1] are not covered by these amendments. They will be the subject of a separate rulemaking to include a notice and comment period. Additionally, non-power reactors and storage of fuel incident thereto, have been excluded from the requirements of these amendments pending completion of a separate ongoing review of total safeguards requirements adequacy at such facilities. When that assessment is complete, considerations of access authorization requirements will be included in the evaluation of overall safeguards upgrading which may be considered necessary for these facilities.

[1] Except for the Fort St. Vrain facility.

Finally, facilities possessing formula quantities of special nuclear material only in the form of irradiated special nuclear material subject to the exemption of § 73.6(b) are also excluded from these requirments as the Commission concludes that the risk of theft or diversion of such material is minimal. This is consistent with other safeguards requirements for irradiated special nuclear material.

These regulations utilize a personnel security program as a measure to protect against those employed in the affected nuclear acitivities who might conspire to steal or divert special nuclear material or conduct sabotage which would endanger the public by exposure to radiation. Of course, a clearance program itself does not entirely solve the problem of the "insider," but, in the opinion of the commission, experience has shown that such programs do substantially reduce the risk. Moreover, the proposed program is one of several elements in the commission's overall safeguards program which together protect against threats, both internal and external.

Two levels of special nuclear material access authorization are established. The higher level, NRC–U, is based upon a full-field background investigation and will apply to (i) all individuals who require unescorted access to special nuclear material or within vital areas, (ii) those jobs in which an individual alone or in conspiracy with another individual who does not possess an NRC–U special nuclear material access authorization could act to steal or divert special nuclear material or to commit sabotage, and (iii) drivers of motor vehicles and pilots of aircraft transporting certain quantities of special nuclear material and those who escort road, rail, air or sea shipments of special nuclear material. The lower level, NRC–R, is based upon a National Agency Check and will apply to all individuals who require unescorted access to protected areas and who are not required to possess an NRC–U special nuclear material access authorization. An implementation schedule has been established to account for changed estimates of the time required to process access authorization applications (190 days for an NRC "U" and 130 days for an NRC "R") and for the initial flow of applications. Jobs at fixed sites requiring access authorization will be identified by licensee submittal of an amendment to the security plan. For jobs not requiring an amended security plan, affected individuals must have the required access authorization within 365 days of the effective date of the amendments. All others must have authorization 365 days after having the amended security plan approved designating those jobs which require access authorization. Excepted from the 365-day implementation in all cases are those who initially apply but have not received notification due to Commission processing time.

Both the National Agency Check and the full-field background investigation are conducted by the Office of Personnel Management. The National Agency check consists of a check of files of the FBI (fingerprint and central files), Office of Personnel Management (Security-Investigative index), and a check of military records and records of other government agencies, as appropriate. The full-field background investigation consists of interviews of references, conducted by investigative agents of the Office of Personnel Management, in addition to the records check. Sources of information developed in the course of the investigation are also interviewed. The full-field background investigation conducted by the Office of Personnel Management generally covers the 5-year period of the individual's adult life prior to the investigation.

Licensees and license applicants will be required to amend their security plans by identifying and describing jobs at their facilities which require authorization. Affected individuals will be required to obtain authorization according to the schedules set forth in the proposed rule. Individuals who are newly hired or who change jobs where the new job will require a material access authorization must obtain an authorization before beginning the job. Authorization will be renewed every 5 years.

The establishment of a material access authorization program in the licensed nuclear industry will affect individuals who are not employed by any licensee or contractor of the Commission as well as licensee employees. It is the Commission's intent to minimize both the impact on the rights of privacy and association of individuals affected, and the number of individuals affected, while providing an effective measure of protection against those who would seek employment with, or use their position in, the nuclear industry for purposes of theft or sabotage. In preparing these regulations, among the matters considered were the scope of investigations (e.g., whether a full-field background investigation should be required for all individuals), which job functions should require

V45N0218 0 UMI

material access authorization (e.g., require authorization only for "key" positions or adopt a graded system with level of clearance determined by job), whether psychological assessment should be required, and the relation of the proposed program to current NRC and DOE personnel security programs.

The Commission also considered the question of whether new criteria should be developed against which a decision for authorization would be made. The present NRC security clearance criteria (10 CFR Part 10) were developed for access to classified information and, as such, not all criteria may be equally significant for questions of access to special nuclear material, and some may not be perceived as relevant in specific cases. Also, there may be cases in which additional criteria, not now included in 10 CFR Part 10, would be more to the point. However, these criteria do correspond to the Federal Government's general approach to personnel security, and specifically, they are presently used for DOE access authorization programs. Furthermore, the criteria are in the nature of guidelines to be used in a decision process characterized by common sense judgments, rather than quantitative criteria. Moreover, the Commission is reluctant to devise a new set of criteria without evidence that such new criteria would significantly improve upon those which presently exist. The Commission notes, however, that the Department of Energy is currently reviewing the criteria applicable to access to Restricted Data and Material and the Commission will review its own criteria in 10 CFR Part 10 in light of any revision made by the Department of Energy in 10 CFR Part 710. Hence, in light of the above, the Commission is relying on the considerable expertise residing in the broad experience of the Federal Government in the area of personnel security programs by proposing the use of the criteria contained in 10 CFR Part 10 as guidelines in deciding questions of access to or control over special nuclear material.

Pursuant to the Atomic Energy Act of 1954, as amended, by the Energy Reorganization Act of 1974, and section 553 of title 5 of the United States Code, notice is hereby given that a new 10 CFR Chapter I, Part 11, and the following conforming amendments to 10 CFR Chapter I, Parts 50 and 70 are published as a document subject to codification.

1. A new Part 11 is added to read as follows:

PART 11—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

General Provisions

Sec.
11.1 Purpose.
11.3 Scope.
11.5 Policy.
11.7 Definitions.
11.9 Specific exemptions.

Requirements for Special Nuclear Material Access Authorization

11.11 Requirements at fixed sites.
11.13 Requirements in transportation.
11.15 Application for special nuclear material access authorization.

Criteria for Determining Eligibility for Access to, or Control Over, Special Nuclear Material

11.21 Application of the criteria.

Authority: Sec. 7, Pub. L. 93–377, 88 Stat. 475; sec. 161i, Pub. L. 83–703, 68 Stat. 948 (42 U.S.C. 2201).

General Provisions

§ 11.1 Purpose.

This part establishes the requirements for special nuclear material access authorization, and the criteria and procedures for resolving questions concerning the eligibility of individuals to receive special nuclear material access authorization for conduct of certain activities, licensed or otherwise, which involve access to or control over special nuclear material.

§ 11.3 Scope.

(a) The requirements, criteria, and procedures of this part apply to the establishment of and eligibility for special nuclear material access authorization for employees, contractors, consultants of, and applicants for employment with, licensees or contractors of the Nuclear Regulatory Commission where such employment, contract, service, or consultation involves any job falling within the criteria of § 11.11 or § 11.13.

(b) The requirements, criteria, and procedures of this part are in addition to and not in lieu of any requirements, criteria, or procedures for access to or control over classified special nuclear material.

§ 11.5 Policy.

It is the policy of the Nuclear Regulatory Commission to carry out its authority to establish and administer, in a manner consistent with traditional American concepts of justice, a personnel security program in the interests of the common defense and security for the purpose of safeguarding special nuclear material and preventing sabotage which would endanger the public by exposure to radiation. To this end, the Commission has established criteria for determining eligibility for special nuclear material access authorization and will afford affected individuals the opportunity for administrative review of questions concerning their eligibility for special nuclear material access authorization.

§ 11.7 Definitions.

As used in this part:

(a) Terms defined in Parts 10, 25, 50, 70, 73, and 95 of this chapter have the same meaning when used in this part.

(b) "Special nuclear material access authorization" means an administrative determination that an individual (including a contractor or consultant) who is employed by or is an applicant for employment with an affected Commission contractor, licensee of the Commission, or contractor of a licensee of the Commission may work at a job which affords access to or control over special nuclear material and that permitting the individual to work at that job would not be inimical to the common defense and security.

(c) "NRC–'U' special nuclear material access authorization" means an administrative determination based upon a national agency check and a full-field background investigation conducted by the Office of Personnel Management that an individual in the course of employment is eligible to work at a job falling within the criteria of § 11.11(a)(1) or § 11.13.

(d) "NRC–'R' special nuclear material access authorization" means an administrative determination based upon a national agency check that an individual in the course of employment is eligible to work at a job falling within the criterion of § 11.11(a)(2).

§ 11.9 Specific exemptions.

The Commission may, upon application of any interested party, grant an exemption from the requirements of this Part. Exemptions will be granted only if they are authorized by law and will not constitute an undue risk to the common defense and security. Documentation related to the request, notification and processing of an exemption shall be maintained for two years beyond the period covered by the exemption.

Requirements for Special Nuclear Material Access Authorization

§ 11.11 Requirements at fixed sites.

(a) Each licensee who after February 19, 1981, uses, processes, or stores formula quantities of special nuclear material (as defined in Part 73 of this chapter) subject to the physical protection requirements of §§ 73.20, 73.45, and 73.46 of Part 73 of this chapter shall identify at his facility or plant (excluding however all non-power reactor facilities and storage of fuel incident thereto and facilities and plants in which the licensee possesses or uses only irradiated special nuclear material subject to the exemption of § 73.6(b) of Part 73 of this chapter and describe to the Commission, by amendment to his security plan:

(1) All jobs in which an individual could steal or divert special nuclear material, or commit sabotage which would endanger the public by exposure to radiation, by working alone or in cooperation with an individual who does not possess an NRC–U special nuclear material access authorization, or by directing or coercing any individual to assist in the theft, diversion, or sabotage. Such jobs include but are not limited to:

(i) All positions in the licensee's security force,

(ii) Management positions with the authority to:

(A) Direct the actions of members of the security force or alter security procedures, or

(B) Direct routine movements of special nuclear material, or

(C) Direct the routine status of vital equipment.

(iii) All jobs which require unescorted access within onsite alarm stations.

(iv) All jobs which require unescorted access [2] to special nuclear material or within vital areas.

(2) All jobs which require unescorted access within protected areas and which do not fall within the criterion of paragraph (a)(1) of this section.

(b) After (365 days following Commission approval of the amended security plan submitted in accordance with paragraph (a) of this section) no individual may be permitted to work at any job determined by the Commission to fall within the criterion of paragraph (a)(1) of this section without an NRC–U special nuclear material access authorization, and no individual may be permitted unescorted access to any protected area at any site subject to this part without either an NRC–U or NRC–R special nuclear material access authorization. An exception is provided for any individual employed on the effective date of these amendments, and not yet in receipt of an approved access authorization from the Commission, provided that a complete application was submitted for that employee in accordance with § 11.15 and the application has not been disapproved.

§ 11.13 Requirements in transportation.

(a) All individuals who after November 23, 1981, transport, arrange for transport, drive motor vehicles in road shipments of special nuclear material, pilot aircraft in air shipments of special nuclear material, act as monitors at transfer points, or escort road, rail, sea, or air shipments of special nuclear material subject to the appropriate physical protection requirements of §§ 73.20, 73.25, 73.26, or 73.27 of this chapter shall have NRC–U special nuclear material access authorization. An exception is provided for any individual employed on the effective date of these amendments, and not yet in receipt of an approved access authorization from the Commission, provided that a complete application was submitted for that employee in accordance with § 11.15 and the application has not been disapproved.

(b) Licensees who after November 23, 1981 transport or who deliver to a carrier for transport special nuclear material subject to the physical protection requirements of §§ 73.20, 73.25, 73.26, 73.27 of this chapter shall confirm and record prior to shipment the name and special nuclear material access authorization number of all drivers, escorts, and monitors assigned to the shipment. An exception to the requirement to confirm and record the SSNM access authorization number is provided for any individual employed on the effective date these amendments and not yet in receipt of an approved access authorization from the Commission, provided that a complete application was submitted for that employee in accordance with § 11.15 and the application has not been disapproved.

§ 11.15 Application for special nuclear material access authorization.

(a) Application for special nuclear material access authorization, renewal, or change in level shall be filed by the employer on behalf of the applicant with the Director, Division of Security, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.[3] Applications for affected individuals employed on the effective date of these amendments shall be submitted within 60 days of the effective date or within 60 days of notification of Commission approval of the amended security plan.

(b) Applications for special nuclear material access authorization shall be made on forms supplied by the Commission including:

(1) A Personnel Security Questionnaire (PSQ) completed by the individual.

(2) Two standard fingerprint cards with the individual's fingerprints (fingerprints may be taken by a local police authority).

(3) Authority to release information.

(4) Security acknowledgment form.

(5) Other related forms where specified in accompanying NRC instructions.

(6) A statement by the employer, prospective employer, or contractor, identifying the job to be assigned to or assumed by the individual and the level of authorization needed, justified by appropriate reference to the licensee's security plan.

(c) Special nuclear material access authorization shall expire 5 years following the date of issue. If continued special nuclear material access authorization is required, an application for renewal shall be submitted at least 120 days prior to expiration date. Failure to make a timely application will result in expiration of special nuclear material access authorization. Special nuclear material access authorization for which a timely application for renewal has been made may be continued beyond the expiration date pending final action on the application. An application for renewal will consist of the following:

(1) A Personnel Security Questionnaire, completed by the applicant.

(2) Two standard fingerprint cards with the individual's fingerprints.

(3) Authority to release information.

(4) Other related forms where specified in accompanying NRC instructions.

(5) A statement by the employer or contractor that at the time of application for renewal the individual's assigned or assumed job requires the level of special nuclear material access authorization which he or she holds, justified by appropriate reference to the licensee's security plan.

(d) If at any time, due to new assignment or assumption of duties, a

[2] This does not alter the requirement for methods to observe individuals within material access areas as stated in § 73.46(e)(9) of this chapter.

[3] Process times for special nuclear material access authorizations can be expected to be about 190 days for NRC–U and 130 days for NRC–R.

change in special nuclear material access authorization level from NRC "R"

information. These criteria are not

PART 50—DOMESTIC LICENSING OF

Dated at Washington, D.C. this 17th day of November 1980.

637, 26 FR 5989 (49 U.S.C. 1324 (note)); 81 Stat. 54 (5 U.S.C. 552); unless otherwise

SUMMARY: This rule amends the CAB's

change in special nuclear material access authorization level from NRC "R" to "U" is required, the individual shall apply for a change of level of special nuclear material access authorization. Such an application shall include a description of the new duties to be assigned or assumed, justified by appropriate reference to the licensee's security plan.

(e) Each application for special nuclear material access authorization, renewal, or change in level shall be accompanied by the employer's remittance payable to the U.S. Nuclear Regulatory Commission according to the following schedule:

(1) New application, "U"	$1,095
(2) New application, "R"	15
(3) Renewal "U" or "R"	15
(4) Change of level "R" to "U" (full fee charged only if an investigation is required)	1,095
(5) Convert existing NRC or DOE "Q" or "Q(X)" to U or R	(1)
(6) Convert existing NRC or DOE "L" or "L(X)" to U (full fee charged only if an investigation is required)	1,095
(7) Convert existing NRC or DOE "Q", "Q(X)", "L", or "L(X)" to R	(1)

[1] No charge.

Material access authorization fees will be published in December of each year and will be applicable to each access authorization request received during the following calendar year.

Applications from individuals having current Federal access authorizations may be processed expeditiously at less cost, since the Commission may accept the investigations and reports of other Federal Government agencies which conduct personnel security investigations. The use of such investigations and reports is contingent upon their serving as the basis for a previous clearance approval.

Criteria for Determining Eligibility for Access to or Control Over, Special Nuclear Material

§ 11.21 Application of the criteria.

(a) The decision to grant or deny special nuclear material access authorization is a comprehensive, common-sense judgment, made after consideration of all the relevant information, favorable or unfavorable, that to grant or deny special nuclear material access authorization is or is not inimical to the common defense and security and is or is not clearly consistent with the national interest.

(b) To assist in making these determinations, on the basis of all the information in a particular case, there are set forth in § 10.11 of this chapter a number of specific types of derogatory information. These criteria are not exhaustive but contain the principal types of derogatory information which in the opinion of the Commission create a question as to the individual's eligibility for special nuclear material access authorization. These criteria are subject to continuing review and may be revised from time to time as experience and circumstances may make desirable.

(c) When the reports of investigation of an individual contain information reasonably falling within one or more of the classes of derogatory information listed in § 10.11, it shall create a question as to the individual's eligibility for special nuclear material access authorization. In such cases, the application of the criteria shall be made in light of and with specific regard to whether the existence of such information supports a reasonable belief that the granting of a special nuclear material access authorization would be inimical to the common defense and security. The Director, Division of Security may authorize the granting of special nuclear material access authorization on the basis of the information in the case or may authorize the conduct of an interview with the individual and, on the basis of such interview and such other investigation as he deems appropriate, may authorize the granting of special nuclear material access authorization. Otherwise, a question concerning the eligibility of an individual for special nuclear material access authorization shall be resolved in accordance with the procedures set forth in §§ 10.20 through 10.37 of this chapter.

(d) In resolving a question concerning the eligibility or continued eligibility of an individual for special nuclear material access authorization by action of the Personnel Security Board,[4] the following principle shall be applied by the Board: Where there are grounds sufficient to establish a reasonable belief as to the truth of the information regarded as substantially derogatory and when the existence of such information supports a reasonable belief that granting access would be inimical to the common defense and security, this shall be the basis for a recommendation for denying or revoking special nuclear material access authorization if not satisfactorily rebutted by the individual or shown to be mitigated by circumstance.

[4] The function of the Personnel Security Board is described in Part 10 of this chapter.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

2. Paragraph (c) of § 50.34 of Part 50 of this chapter is amended to read as follows:

§ 50.34 Content of applications: technical information.

* * * * *

(c) *Physical security plan.* Each application for a license to operate a production or utilization facility shall include a physical security plan. The plan shall consist of two parts. Part I shall address vital equipment, vital areas, and isolation zones, and shall demonstrate how the applicant plans to comply with the requirements of Part 73 (and Part 11 of this chapter, if applicable, including the identification and description of jobs as required by § 11.11(a) of Part 11, at the proposed facility). Part II shall list tests, inspections, and other means to be used to demonstrate compliance with such requirements, if applicable.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

3. Paragraph (h) of § 70.22 of Part 70 of this chapter is amended to read as follows:

§ 70.22 Contents of applications.

* * * * *

(h) Each application for a license to possess or use at any site or contiguous sites subject to control by the licensee uranium-235 (contained in uranium enriched to 20 percent or more in the uranium-235 isotope), uranium-233, or plutonium alone or in any combination in a quantity of 5,000 grams or more computed by the formula, grams = (grams contained U-235) + 2.5 (grams U-233 + grams plutonium), other than a license for possession or use of such material in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, shall include a physical security plan, consisting of two parts. Part I shall address vital equipment, vital areas, and isolation zones, and shall demonstrate how the applicant plans to meet the requirements of §§ 73.20, 73.40, 73.45, 73.46, 73.50, 73.60, 73.70, and 73.71 of this chapter in the conduct of the activity to be licensed including the identification and description of jobs as required by § 11.11(a) of Part 11 this chapter. Part II shall list tests, inspections, and other means to demonstrate compliance with such requirements.

(Sec. 7, Pub. L. 93-377, 88 Stat. 475; Section 161i, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201))

Dated at Washington, D.C. this 17th day of November 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-36442 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 384

[Reg. OR-173; Amdt. No. 15 to Part 384]

Transfer of Function From Office of Economic Analysis to Office of the Comptroller

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB amends it statement of organization to reflect a transfer of the functions and staff of the Data Requirements Division from the Office of Economic Analysis to the Office of the Comptroller.

DATES: Adopted: November 17, 1980. Effective: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of the Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION: In the *Summary Report, Regulatory Information Planning Project*, the Board approved the transfer of the function of establishing economic, financial, and statistical information needs, and prescribing the Board's reporting requirements, from the Office of Economic Analysis (OEA) to the Office of the Comptroller (OC). The transfer was made to align this function with other information activities within OC, and to improve the Board's information management. This rule amends the organization statement of each office, 14 CFR Part 384, to reflect the transfer.

Since this amendment is administrative in nature, affecting rules of agency organization and procedure, we find that notice and public procedure are unnecessary and that the rule may be effective immediately.

Accordingly, the Civil Aeronautics Board amends Part 384 of its Organization Regulations, *Statement of Organization, Delegation of Authority, and Availability of Records and Information* (14 CFR Part 384) as follows:

1. The authority for Part 384 is:

Authority: Sec. 204(a), Pub. L. 85-726, as amended, 72 Stat. 743 (49 U.S.C. 1324(a); Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989 (49 U.S.C. 1324 (note)); 81 Stat. 54 (5 U.S.C. 552); unless otherwise noted.

2. Paragraphs (a)(3) and (j) of § 384.7 are amended to read:

§ 384.7 Organization and delegation of authority.

* * * * *

(a) *The Office of the Managing Director.* * * *

(3) The Office of the Comptroller, which administers the Board's financial management system, including participation in the fundamental aspects of program development, execution, review and evaluation; performs fiscal and administrative accounting activities, including those relating to the budget and the payroll, administers subsidy payment functions, administers and operates the Board's automatic data processing facilities, controls the receipt of data submitted to the Board; designs, develops, implements, and evaluates the Board's information processing and resource management systems; establishes the need for economic, financial, and statistical information in support of regulatory analysis and decision-making; and prescribes the Board's reporting requirements.

* * * * *

(j) The Office of Economic Analysis, which is reponsible for studying demands for air transportation under various conditions of price and service, and forecasting future demand; advising the Board and staff on the economic impact of Board actions, and on the financial structure and conditions of individual air carriers and the industry in general; providing economic counsel, analysis and testimony in Board proceeding; assisting in the development of economic recommendations about U.S. international aviation relations and general regulatory policy; and working with other agencies and departments on economic matters related to airline deregulation.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-36474 Filed 11-20-80; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 385

[Reg. OR-174; Amdt. No. 105 to Part 385]

Delegations of Authority to the Comptroller

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule amends the CAB's delegations of authority to reflect a transfer of the functions and staff of the Data Requirements Division from the Office of Economic Analysis to the Office of the Comptroller.

DATES: Adopted: November 17, 1980. Effective: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of the Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION: For the reasons discussed in OR-173, which is being issued simultaneously with this rule, we are amending the delegations of authority that appear in 14 CFR Part 385 to reflect the transfer of the function of establishing economic, financial, and statistical information needs, and for prescribing the Board's reporting requirements, from the Office of Economic Analysis (OEA) to the Office of the Comptroller (OC).

This amendment also transfers the delegated authority for the release of international service segment data, international origin and destination statistics, and data reported by commuter air carriers on Schedule T-1 of Form 298-C from OEA to OC. This transfer is made to place the release function, which has become routine, with the staff that receives and processes the data requests.

Certain authority previously delegated to the Comptroller under 14 CFR 385.28 is being delegated to the Chief, Data Systems Management Division within OC. Part of this authority had been previously delegated to the Comptroller, and the rest had been delegated to the Director, OEA, before transfer of the data requirements function to the Comptroller. Also, certain other authority transferred from OEA to OC is being delegated to the Chief, Data Requirements Division.

Throughout this rearrangement of the Board's data requirements function, there has been no deletion or addition to the delegations.

Since this amendment is administrative in nature, affecting rules of agency organization and procedure, we find that notice and public procedure are unnecessary and that the rule may be effective immediately.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 385, *Delegations and Review of Actions Under Delegation, Nonhearing Matters*, as follows:

1. The authority for Part 385 is:

Authority: Secs. 204(a), 1001 Pub. L. 85-726, as amended, 72 Stat. 743, 788; (49 U.S.C.

1324(a) and 1481). Reorganization Plan No. 3

Division of Corporation Finance and

meet special needs where Board

SUMMARY: The Commission announces

Similarly, the adoption of standard

In the adoption of recent amendments

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1324(a) and 1481). Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5969, (49 U.S.C. 1324 (note)); unless otherwise noted.

2. The Table of Contents, Subpart B, is amended by retitling §§ 385.27 and 385.28 and adding new § 385.29, to read:

Subpart B—Delegation of Functions to Staff Members

Sec.

* * * * *

385.27 Delegation to the Comptroller.
385.28 Delegation to the Chief, Data Systems Management Division, Office of the Comptroller.
385.29 Delegation to the Chief, Data Requirements Division, Office of the Comptroller.

3. Sections 385.27 and 385.28 are retitled and amended to read:

§ 385.27 Delegation to the Comptroller.

The Board delegates to the Comptroller the authority to:

(a) Propose and issue amendments to the Board's reporting requirements, with the concurrence of the General Counsel and any concerned bureaus, when no person having a substantial interest expresses an objection to the change.

(b) Interpret the Board's reporting requirements. This authority may not be redelegated.

(c) Except as authority is otherwise specifically delegated, waive any of the reporting requirements upon a showing of the existence of such facts, circumstances or other grounds, and subject to such limitations or conditions, as may be prescribed for waivers in the applicable regulations.

(d) Require special reports or documentation from any air carrier under circumstances where he finds that such reports or documentation are necessary to meet temporary information needs, assist in an evaluation of continued financial fitness, or comply with special information requests by Congress, the Board, or another agency or component of the Federal Government.

(e) Dismiss petitions for Board action with respect to reporting matters when such dismissal is requested or consented to by the petitioner.

(f) Grant or deny requests by air carriers for extension of filing dates for reports as specified in the Economic Regulations.

§ 385.28 Delegation to the Chief, Data Systems Management Division, Office of the Comptroller.

The Board delegates to the Chief, Data Systems Management Division, Office of the Comptroller, the authority to:

(a) Grant or deny requests by air carriers for substitution of their own forms or adaptation of Board forms to meet special needs where Board approval of such form is required by the Economic Regulations.

(b) Grant or deny requests for confidential treatment of preliminary year-end financial reports.

(c) Grant or deny requests for data reported by commuter air carriers on Schedule T–1 of CAB Form 298–C in accordance with the limitations on the availability of these data contained in § 298.62 of this chapter.

(d) Grant or deny requests for use of international service segment data in accordance with the limitations on the availability of these data contained in section 19–6 of Part 241 of this chapter.

(e) Grant or deny requests for use of international origin and destination statistics in accordance with Board policy as set forth in § 399.100 of this chapter.

4. New § 385.29 is added to read:

§ 385.29 Delegation to the Chief, Data Requirements Division, Office of the Comptroller.

The Board delegates to the Chief, Data Requirements Division, Office of the Comptroller, the authority to:

(a) Prescribe, in specific instances, different passenger weight standards to approximate variations in actual experience, for reporting passenger ton-miles and available ton-miles.

(b) Establish record-retention practices required to achieve conformance with regulations promulgated by the Board.

(c) Interpret the Board's record-retention requirements.

(d) Waive any of the record-retention requirements as warranted, consistent with the provisions of Part 249 of this chapter.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-36473 Filed 11-20-80; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 210, 229, 239, 240 and 249

[Release Nos. 33-6260; 34-17291; 35-21784; IC-11439; AS-284]

Technical Amendments to Rules, Forms and Schedules; Delegation of Authority to the Director of the Division of Corporation Finance

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission announces the adoption of technical amendments to rules, forms and schedules under the Securities Act of 1933 and the Securities Exchange Act of 1934 and amendments to the Commission's general organization rule relating to delegation of authority to the Director of the Division of Corporation Finance. The technical amendments correct certain outdated references, inadvertent omissions and typographical errors and clarify certain terminology and instructions; the amendments to the rule delegating authority to the Director of the Division of Corporation Finance reconcile the provisions of that rule to the provisions of recently revised Rule 12b–25.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Prior to the effective date of the amendments, Mary Margaret Hammond at (202) 272–3059 or Elizabeth K. Norsworthy at (202) 272–2589. Thereafter, William E. Toomey at (202) 272–2573.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced certain technical amendments to rules, forms and schedules under the Securities Act of 1933 ("Securities Act") (15 U.S.C. 77a et seq.) and the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq.) and to the Commission's general organization rule which delegates authority to the Director of the Division of Corporation Finance (17 CFR 200.30–1). The following rules, forms, and schedules are affected by these amendments: Rule 30–1; Rules 3–09 and 5–03 of Regulation S–X (17 CFR 210.3–09); Items 3, 5, 6, 7 and 9 of Regulation S–K (17 CFR 229.20); Form S–1 (17 CFR 239.11); Form S–8 (17 CFR 239.16b); Form S–11 (17 CFR 239.18); Form S–7 (17 CFR 239.26); Form S–16 (17 CFR 239.27); Form S–18 (17 CFR 239.28); Rule 12b–25 (17 CFR 240.12b–25); Rule 14a–4 (17 CFR 240.14a–4); Rule 14a–6 (17 CFR 240.14a–6); Rule 14c–5 (17 CFR 240.14c–5); Schedule 14A (17 CFR 240.14a–101); Schedule 14B (17 CFR 240.14a–102); Appendix A to Schedule 14A (17 CFR 240.14a–103); Schedule 14d–1 (17 CFR 240.14d–100); Form 8–K (17 CFR 249.308) and Form 10–K (17 CFR 249.310).

The first part of this release describes the general nature of the technical changes and the reasons therefor in order to provide a framework for understanding the text of the technical amendments set forth below. The second part of this release summarizes the amendments to the Commission's general organization rule which delegates authority to the Director of the Division of Corporation Finance and explains the reasons for such amendments.

(I) Technical Changes

The technical amendments announced today are adopted in order (i) to amend certain rules, forms, and schedules under the Securities Act and the Exchange Act to reflect the recent adoption or amendment of certain other rules and forms under those Acts, (ii) to revise certain cross-references in the rules, forms and schedules under the Securities Act and the Exchange Act which have become outdated by reason of the adoption of uniform disclosure items in Regulation S–K; (iii) to correct certain inadvertent omissions and typographical errors made in connection with the recent adoption and amendment of Regulation S–X, Regulation S–K, and certain rules and forms under the Securities Act and the Exchange Act; and (iv) to clarify certain terminology and instructions used in certain rules and forms under the Exchange Act.

The recent adoption and amendment of certain rules and forms under the Securities Act and the Exchange Act have necessitated the amendment of certain other rules and forms in minor respects. For example, Instruction 3 to Item 6 of Regulation S–K, providing for standard disclosure of the security ownership of certain beneficial owners and management, states that the registrant shall be deemed to know the contents of any statements filed with the Commission pursuant to Section 13(d) of the Exchange Act. In order to reflect recent amendments to Rule 13d–1(b) (17 CFR 240.13d–1(b)) [1] which provide that after December 31, 1978, certain beneficial owners must file a Schedule 13G, the first sentence of Instruction 3 is changed to read: "The registrant shall be deemed to know the contents of any statements filed with the Commission pursuant to Section 13(d) or 13(g) of the Exchange Act." [2]

Similarly, the adoption of standard disclosure items in Regulation S–K required change in a number of cross-references in the rules, forms and schedules under the Securities Act and the Exchange Act. For example, Instruction 3 to Item 1 of Form S–11 (17 CFR 239.18), providing for disclosure of the distribution spread of the securities being registered, instructs the registrant, if any of the securities being registered are to be offered for the account of security holders, to set forth following the distribution table a reference to the information called for by Instruction 4 to Item 18. To reflect the revision of Item 18 of Form S–11 to incorporate by reference the requirements of Item 6 of Regulation S–K (Security Ownership of Certain Beneficial Owners and Management), Instruction 3 to Item 1 of Form S–11 is amended to refer to the applicable instruction in Item 6 of Regulation S–K.[3]

In the adoption of recent amendments to the rules and forms, inadvertent omissions and typographical errors were made which require correction as soon as possible. For example, when Item 11 (Management Discussion and Analysis of Financial Condition and Results of Operations) was recently added to Regulation S–K, Guides 1 and 22 to the Preparation and Filing of Registration Statements and Periodic Reports (17 CFR 231.4936) requiring similar information in Securities Act and Exchange Act filings were withdrawn. However, when the forms, rules and schedules under the Securities Act and the Exchange Act were amended to incorporate by reference new Item 11,[4] amendment of Item 14 of Schedule 14A was inadvertently omitted. Item 14 of Schedule 14A, therefore, is revised by these technical amendments to incorporate by reference the information

[1] See Exchange Act Release No. 34–14692 (April 21, 1978) (43 FR 18484).

[2] Comparable changes are as follows: The reference to General Instruction H of Form 10–K in Instruction 4 to Item 3(b) of Regulation S–K is changed to refer to General Instruction G of Form 10–K in order to reflect recent amendments to Form 10–K (*See* Securities Act Release No. 6231 (September 2, 1980) (45 FR 63630)); the reference to "dividends paid" in paragraph (c) of Item 9 of Regulation S–K is changed to "dividends declared" in order to reconcile the language used in Item 9 with the language used in Item 10 of Regulation S–K (*See* Securities Act Release No. 6231 (September 2, 1980) (45 FR 63630)); the reference to Items 26, 27, 28 and 30 of Form S–1 in paragraph (b) of General Instruction G to Form S–1 is changed to refer to Items 25, 26, 27 and 29 of Form S–1 in order to reflect the renumbering of S–1 items (*See* Securities Act Release No. 5949 (July 28, 1978) (45 FR 34402) and Securities Act Release No. 6019 (January 30, 1979) (44 FR 7864)); Instruction 2 to Item 14 of Form S–1 which refers to Form S–9 is deleted to reflect the rescission of Form S–9 (*See* Securities Act Release No. 5791 (December 20, 1976) (41 FR 56301)); the reference to Item 21 of Form S–1 in Instruction (b) for Summary Prospectuses in Form S–1 is changed to refer to Item 19 of Form S–1 in order to reflect the renumbering of S–1 items (*See* Securities Act Release No. 5949 (July 28, 1978) (43 FR 34402)); the requirement that a registrant submit two marked copies of a registration statement on Form S–8 found in General Instruction F to Form S–8 is changed to require the submission of one marked copy in order to reflect the recent amendment of Form S–8 and Rule 484 (17 CFR 230.484) to provide for automatic effectiveness (*See* Securities Act Release No. 6190 (February 22, 1980) (45 FR 13438)); the reference to Item 22(b) of Form S–11 in paragraph (d) of Supplemental Information Required by Form S–11 is changed to refer to Item 21(b) of Form S–11 in order to reflect the renumbering of S–11 items (*See* Securities Act Release No. 5949 (July 28, 1978) (43 FR 34402)); the reference to Instruction 3(b) of Instructions as to Financial Statements of Form 10–K in Rule 12b–25(f)(1) is changed to refer to Rule 3–09(a) of Regulation S–X in order to reflect the relocation of that Instruction from Form 10–K to Regulation S–X (*See* technical amendment to Rule 3.09(a) of Regulation S–X described in note 7 infra); the reference to Form 20 in Instruction 1 to Item 9 of Schedule 14d–1 is changed to refer to Form 20–F in order to reflect the recent substitution of Form 20–F (17 CFR 240.220f) for Form 20 (*See* Exchange Act Release No. 16371 (November 29, 1979) (44 FR 70132)).

[3] Comparable changes occasioned by the adoption of Regulation S–K are as follows: The cross-reference to Item 19(a) in General Instruction F of Form S–1 is changed to refer to Item 6(a) of Regulation S–K; the cross-reference to Item 19(a) in Item 21 of Form S–1 is changed to refer to Item 6(a) of Regulation S–K; the cross-reference to Item 18(b) of Form S–1 in Instruction (a) for Summary Prospectuses in Form S–1 is changed to refer to Item 4(d) of Regulation S–K; the cross-reference to Item 18(a) of Form S–11 in paragraph (a) of Supplemental Information Required by Form S–11 is changed to refer to Item 6(a) of Regulation S–K; the cross-reference to Part II of Form 10–K in paragraph (b) of General Instruction A to Form S–7 are changed to refer to Items 3, 4 and 6 of Regulation S–K; the cross-reference to Items 16, 17, 19 and 20 of Form S–1 in paragraph (a) of General Instruction G to Form S–7 is changed to refer to Items 3, 4, and 6 of Regulation S–K; the cross-reference to Item 19(a) of Form S–1 in paragraph (a) of General Instruction G to Form S–7 is changed to refer to Item 6(a) of Regulation S–K; the cross-reference to Items 16–20 of Form S–1 in Item 10 of Form S–7 is changed to refer to Items 3, 4 and 6 of Regulation S–K; the cross-reference to Part II of Form 10–K in Undertaking D of Form S–7 is changed to refer to Items 3, 4 and 6 of Regulation S–K; the cross-reference to Items 16–20 of Form S–1 in Item 8(b) of Form S–16 is changed to refer to Items 3, 4 and 6 of Regulation S–K; the cross-references to Item 7(a) of Schedule 14A in Item 9 of Schedule 14A are changed to refer to Item 4(a) of Regulation S–K; the cross-reference to Item 7 of Schedule 14A in Item 9 of Schedule 14A is changed to refer to Item 4 of Regulation S–K; the cross-reference to Instruction 1 to Item 7(b) of Schedule 14A in Instruction 1 to Item 9 of Schedule 14A is changed to refer to Instruction 6 of Item 4(a) of Regulation S–K; the cross-references to Items 7(d) (1) and (2) of Schedule 14A in Instruction 3(c) to Item 9 of Schedule 14A are changed to refer to Item 4(d) (1) and (2) of Regulation S–K; the cross-reference to Instruction 1 of Item 7(d) of Schedule 14A in Instruction 3(c) to Item 9 of Schedule 14A is changed to refer to Instruction 1 of Item 4(d) of Regulation S–K; the cross-reference to Item 7 of Schedule 14A in Item 10(d) of Schedule 14A is changed to refer to Item 4 of Regulation S–K; the cross-references to Item 7(a) of Schedule 14A in Item 10 (c) and (d) of Schedule 14A are changed to refer to Item 4(a) of Regulation S–K; the cross-reference to Instruction 1 to Item 7(b) of Schedule 14A in Instruction 1 to Item 10 of Schedule 14A is changed to refer to Instruction 6 of Item 4(a) of Regulation S–K; the cross-references to Item 7(a) of Schedule 14A in Item 11 (b) and (c) of Schedule 14A are changed to refer to Item 4(a) of Regulation S–K; the cross-reference to Item 7 of Schedule 14A in Item 11(c) of Schedule 14A is changed to refer to Item 4 of Regulation S–K; the cross-reference to Instruction 1 to Item 7(b) of Schedule 14A in Instruction 1 to Item 11 of Schedule 14A is changed to refer to Instruction 6 to Item 4(a) of Regulation S–K; the cross-reference to Item 7(f) of Schedule 14A in Item 4(b) of Schedule 14B is changed to refer to Item 4(f) of Regulation S–K; the cross-references to Item 7(d) of Schedule 14A in Appendix A to Schedule 14A is changed to refer to Item 4(d) of Regulation S–K; the cross-reference to Instruction 4 to Item 7(d) of Schedule 14A in Appendix A to Schedule 14A is changed to refer to Instruction 5 to Item 4(d) of Regulation S–K.

[4] *See* Securities Act Release No. 6231 (September 2, 1980) (45 FR 63630).

required by Item 11 of Regulation S–K,

Finally, certain technical amendments

Form 8–K. At present, however, Rule 30–

PART 210—FORM AND CONTENT OF

income deductions shall be separately stated

Item 5. Legal proceedings.

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required by Item 11 of Regulation S–K, i.e. management discussion and analysis of financial condition and results of operations.

Similarly, when Item 7 [Exhibits] was recently added to Regulation S–K,[5] a typographical error was made in paragraph (b)(10)(b)(3) which describes certain material contracts which must be filed as exhibits. As proposed, that paragraph was drafted to require the filing of "[a]ny contract calling for the acquisition or sale of any property, plant or equipment for a consideration exceeding 10% of all such assets of the registrant and its subsidiaries."[6] At the time of adoption, however, the phrase "of all such assets" was mistakenly typed as "of the assets," thereby inadvertently changing the materiality test from a percentage of fixed assets to a percentage of all assets. Paragraph (b)(10)(b)(3) of Item 7 is, therefore, changed by these technical amendments to substitute the phrase "of such fixed assets" for "of the assets."[7]

Finally, certain technical amendments are adopted in order to clarify the meaning of certain rules and forms under the Exchange Act. For example, Rule 14a–4 requires that the form of proxy indicate "the identity of the persons on whose behalf the solicitation is made" if the solicitation is made other than by a majority of the board of directors. In order to make clear that a group soliciting proxies in opposition to the board of directors need not identify every individual member of the group, the above phrase has been deleted.

Similarly, the note to Rule 14a–6 ((Proxy) Material Required to be Filed) and Rule 14c–5 (Filing of Information Statement), stating that the printing of definitive copies for distribution should be deferred until staff comments are received and considered, is eliminated in view of confusion expressed as to whether the note modifies the provisions of Rule 14a–6 and 14c–5, which specify the time periods during which proxy material and information statements must be on file with the Commission. In order to make clear that the provisions of Rule 14a–6 and Rule 14c–5 should not be modified, the note is eliminated.

Instruction 4 to Form 8–K, requiring that a request for relief from financial statement requirements be separately submitted, is also clarified by stating that such requests should be addressed to the Chief Accountant of the Division of Corporation Finance.

(II) Delegated Authority

The amendments to the Commission's rule of general organization delegating authority to the Director of the Division of Corporation Finance reconcile the provisions of that rule to the provisions of recently revised Rule 12b–25.

Recent amendments to Rule 12b–25[8] eliminated applications for extensions of time to file information, documents or reports under the Exchange Act, except with respect to certain audited financial statements required by Items 2 and 7 of Form 8–K. At present, however, Rule 30–1 delegates authority to the Director of the Division of Corporation Finance to grant or deny applications filed pursuant to Rule 12b–25 for extensions of time to file information, documents or reports under the Exchange Act. Accordingly, in order to make the provisions of Rule 30–1 consistent with amended Rule 12b–25, paragraph (d)(2)(i) of Rule 30–1 is amended to grant the Director authority to extend the time for filing financial statements required by Exchange Act forms and paragraph (d)(5) is amended to delete reference to the Director's authority to grant or deny applications filed pursuant to Rule 12b–25.

Request for Comment

In connection with the Commission's continuing review of the rules, regulations, schedules and forms under the Securities Act and the Exchange Act[9], interested persons are specifically invited to submit comments identifying any additional inconsistencies, out-of-date references or confusing terminology which have not been corrected by the instant release.

Text of Amendments

17 CFR Chapter II is amended as follows:

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

1. In § 200.30–1 paragraphs (d)(2)(i) and (d)(5) are amended to read as follows:

§ 200.30–1 Delegation of authority to Director of Division of Corporation Finance.

* * * * * *

(d) * * *

(2) * * *

(i) To extend the time for filing or to permit the omission of one or more financial statements therein required or the filing in substitution therefor of appropriate statements of comparable character;

* * * * * *

(5) To grant or deny applications filed pursuant to section 12(g)(1) of the Act (15 U.S.C. 78/(g)(1)) for extensions of time within which to file registration statements pursuant to that section, provided the applicant is advised of his right to have any such denial reviewed by the Commission.

* * * * * *

[5] *See* Securities Act Release No. 6230 (August 27, 1980) (45 FR 58822).

[6] *See* Securities Act Release No. 6149 (November 16, 1979) (44 FR 67143).

[7] *See also* paragraph 9(b)(3) of the Instructions as to Exhibits in Form S–18 which is revised by these amendments to substitute the phrase "of such fixed assets" for "of the assets" to correct the same typographical error. Comparable changes are as follows: Rule 3–09(a) of Regulation S–X is changed to include former Instruction 3(b) to Financial Statements required by Form 10–K which was inadvertently omitted when the instructions to financial statements were centralized in Regulation S–X (*See* Securities Act Release No. 6234 (September 2, 1980) (45 FR 63682)); Paragraphs (b)(7) and (b)(9) of Rule 5–03 of Regulation S–X are changed to include the phrase "in the income statement or in a note thereto" which was inadvertently omitted when Regulation S–X was recently revised (*See* Securities Act Release No. 6233 (September 2, 1980) (45 FR 63660)); Item 3(e)(1) of Regulation S–K is changed to include a reference to "executive officer" in the first sentence which was inadvertently omitted at the time Item 3 of Regulation S–K was adopted (*See* Securities Act Release No. 5949 (July 28, 1978) (43 FR 34402)); Instruction 4 to Item 5 of Regulation S–K is changed to include a reference to "affiliate of the registrant" which was inadvertently omitted at the time Item 5 of Regulation S–K was adopted (*See* Securities Act Release No. 5949 (July 28, 1978) (43 FR 34402)); Column (2) requiring the name of the beneficial owner is added to Item 6(b) of Regulation S–K to correct its inadvertent omission at the time Item 6 of Regulation S–K was adopted (*See* Securities Act Release No. 5949 (July 28, 1978) (43 FR 34402)); Table I of Item 7 of Regulation S–K is revised to delete the "x" from the S–8 column with respect to tax opinion exhibits to correct a typographical error made at the time Item 7 of Regulation S–K was adopted (*See* Securities Act Release No. 6230 (August 27, 1980) (45 FR 58822)); Table I of Item 7 of Regulation S–K is revised to delete the "x" from the S–2 column with respect to letters regarding unaudited financial information to correct a typographical error made at the time Item 7 of Regulation S–K was adopted (*See* Securities Act Release No. 6230 (August 27, 1980) (45 FR 58822)); the reference to "Section 410" of the Internal Revenue Code in paragraph (b)(5)(b) of Item 7 of Regulation S–K is changed to "Section 401" to correct a typographical error made at the time Item 7 of Regulation S–K was adopted (*See* Securities Act Release No. 6230 (August 27, 1980) (45 FR 58822)); paragraph (b)(22) of Item 7 of Regulation S–K is amended to include former Instruction 5 to Item 4 of Form 10–K which was inadvertently omitted at the time of recent amendments to Form 10–K (*See* Securities Act Release No. 6231 (September 2, 1980) (45 FR 63630)); the first paragraph of Item 15 of Schedule 14A is revised to add the last sentence of former Item 15(c) of Schedule 14A which was inadvertently omitted when the instructions to financial statements were centralized in Regulation S–X (*See* Securities Act Release No. 6234 (September 2, 1980) (45 FR 63682)); the second paragraph of General Instruction D of Form 10–K is revised to add two sentences which were inadvertently omitted at the time of recent amendments to Form 10–K (*See* Securities Act Release No. 6231 (September 2, 1980) (45 FR 63630)).

[8] *See* Exchange Act Release No. 16718 (April 2, 1980) (45 FR 23651).

[9] *See* Securities Act Release No. 6163 (December 5, 1979) (44 FR 72804).

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

2. In § 210.3–09 paragraph (a) is amended to read as follows:

§ 210.3–09 Financial statements of subsidiaries not consolidated and 50 percent or less owned persons.

(a) Subject to § 210.3A–03 regarding group financial statements and paragraphs (b) and (c) of this section, there shall be filed for each majority-owned subidiary not consolidated and each 50 percent or less owned person for which the investment is accounted for by the equity method by the registrant or a consolidated subsidiary of the registrant the financial statements which would be required if each such subsidiary or other person were a registrant and were required to file financial statements. Insofar as practicable, these financial statements shall be as of the same dates or for the same periods as those of the registrant. For purposes of a filing on form 10–K, if the fiscal year of any subsidiary not consolidated or 50 percent or less owned person ends within 90 days before the date of filing, or after the date of filing, the financial statements required by this paragraph may be filed as an amendment to the report within 90 days after the end of such subsidiary's or other person's fiscal year.

* * * * * *

3. In § 210.5–03 paragraphs (b)7 and (b)9 are amended to read as follows:

§ 210.5–03 Income statements.

* * * * * *

(b) * * *

7. *Non-operating income.*

State separately in the income statement or in a note thereto amounts earned from (a) dividends, (b) interest on securities, (c) profits on securities (net of losses), and (d) miscellaneous other income. Amounts earned from transactions in securities of related parties shall be disclosed as required under § 210.4–08(k). Material amounts included under miscellaneous other income shall be separately stated in the income statement or in a note thereto, indicating clearly the nature of the transactions out of which the items arose.

* * * * * *

9. *Non-operating expenses.*

State separately in the income statement or in a note thereto amounts of (a) losses on securities (net of profits) and (b) miscellaneous income deductions. Material amounts included under miscellaneous income deductions shall be separately stated in the income statement or in a note thereto, indicating clearly the nature of the transactions out of which the items arose.

* * * * * *

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S–K

4. In § 229.20 Items 3, 5, 6, 7 and 9 are amended as follows:

§ 229.20 Information required in document.

* * * * * *

Item 3. Directors and executive officers.

* * * * * *

(b) * * *

* * * * * *

Instructions. * * *

4. The information regarding executive officers called for by item 3 need not be furnished in proxy or information statements prepared in accordance with schedule 14A by those registrants relying on general instruction G of form 10–K: *Provided,* That such information is furnished in a separate item captioned Executive officers of the registrant, and included in part I of the registrant's annual report on form 10–K.

* * * * * *

(e) *Business experience.* (1) Give a brief account of the business experience during the past five years of each director, executive officer, person nominated or chosen to become a director or executive officer, and each person named in answer to paragraph (c), including his principal occupations and employment during that period and the name and principal business of any corporation or other organization in which such occupations and employment were carried on. When an executive officer or person named in response to paragraph (c) has been employed by the registrant or a subsidiary of the registrant for less than five years, a brief explanation should be included as to the nature of the responsibilities undertaken by the individual in prior positions to provide adequate disclosure of his prior business experience. What is required is information relating to the level of his professional competence which may include, depending upon the circumstances, such specific information as the size of the operation supervised.

* * * * * *

Item 5. Legal proceedings.

* * * * * *

Instructions. * * *

4. Any material proceedings to which any director, officer or affiliate of the registrant, any owner of record or beneficially of more than 5 percent of any class of voting securities of the registrant, or any associate of any such director, officer, affiliate of the registrant or security holder is a party adverse to the registrant or any of its subsidiaries or has a material interest adverse to the registrant or any of its subsidiaries, also shall be described.

* * * * * *

Item 6. Security ownership of certain beneficial owners and management.

* * * * * *

(b) *Security ownership of management.* Furnish the following information, as of the most recent practicable date, in substantially the tabular form indicated, as to each class of equity securities of the registrant or any of its parents or subsidiaries other than directors' qualifying shares, beneficially owned by all directors and nominees, naming them and directors and officers of the registrant as a group, without naming them. Show in column (3) the total number of shares beneficially owned and in column (4) the percent of class so owned. Of the number of shares shown in column (3), indicate, by footnote or otherwise, the amount of shares with respect to which such persons have the right to acquire beneficial ownership as specified in rule 13d–3(d)(1) under the Exchange Act.

(1)	(2)	(3)	(4)
Title of class	Name of beneficial owner	Amount and nature of beneficial ownership	Percent of class

(c) *Changes in control.*

* * * * * *

Instructions. * * *

3. The registrant shall be deemed to know the contents of any statements filed with the Commission pursuant to sections 13(d) or 13(g) of the Exchange Act. When applicable, a registrant may rely upon information set forth in such statements unless the registrant knows or has reason to believe that such information is not complete or accurate or that a statement or amendment should have been filed and was not.

* * * * * *

Item 7. Exhibits.

* * * * * *

Table I.—*Securities Act of 1933—Frequently Used Forms*

	S–1	S–2	S–7	S–8	S–11	S–14	S–15	S–16
(8) Opinion re tax matters	X	X	X	.....	X	X	X	X
(16) Letter re unaudited financial information	X	.....	X	.....	X	.....	X	X

(b) * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

230.472) shall be filed with the Commission: *Provided, however,* That the number of

Exchange Act of 1934 with respect to a report that report has actually been filed

8. Section 239.27 is amended to read

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(b) * * *
(5) *Opinion re legality*—
(a) * * *
(b) If the securities being registered are issued under a plan and the plan is subject to the requirements of ERISA either (i) an opinion of counsel which confirms compliance with the provisions of the written documents constituting the plan with the requirements of that Act pertaining to such provisions; or (ii) a copy of the Internal Revenue Service determination letter that the plan is qualified under Section 401 of the Internal Revenue Code; or (iii) an opinion of counsel attaching a copy of the determination letter, that any amended provisions of the plan adopted subsequent to such determination comply with the requirements of the Act pertaining to such provisions.
* * * * * *

(10) *Material contracts*—
(a) * * *
(b) * * *
(3) Any contract calling for the acquisition or sale of any property, plant or equipment for a consideration exceeding 15% of such fixed assets of the registrant on a consolidated basis; or
* * * * * *

(22) *Subsidiaries*—
(a) List all subsidiaries of the registrant, the state or other jurisdiction of incorporation or organization of each, and the names under which such subsidiaries do business. This list should be repeated in each annual filing or an express reference made to the most recent filing containing a complete and accurate list.
(b) The names of particular subsidiaries may be omitted if the unnamed subsidiaries, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary as of the end of the year covered by this report. (See the definition of "significant subsidiary" in rule 1.02(v) (17 CFR 210.1–02(v) of Regulation S–X.) The names of consolidated wholly-owned multiple subsidiaries carrying on the same line of business, such as chain stores or small loan companies, may be omitted: *Provided,* The name of the immediate parent, the line of business, the number of omitted subsidiaries operating in the United States and the number operating in foreign countries are given. This instruction shall not apply, however, to banks, insurance companies, savings and loan associations or to any subsidiary subject to regulation by another federal agency.
* * * * * *

Item 9. Market price of the registrant's common stock and related security holder matters.
* * * * * *

(c) State the frequency and amount of any dividends declared during the past two years with respect to such common stock and briefly describe any restriction on the issuer's present or future ability to pay such dividends.
* * * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

5. Section 239.11 is amended to read as follows:

§ 239.11 Form S–1, registration statement under the Securities Act of 1933.

* * * * * *

General Instructions

* * * * * *

F. *Exchange Offers.*

If any of the securities being registered are to be offered in exchange for securities of any other issuer, the prospectus shall also include the information which would be required by Items 6 to 10 inclusive and Item 12 if the securities of such other issuer were registered on this form. Item 11 should be included if any promoter of such other issuer is a promoter, officer or director of the registrant or a security holder named in answer to Item 6(a) of Regulation S–K (17 CFR 229.20). There shall also be included the information concerning such securities of such other issuer which would be called for by Items 13, 14 or 15 if such securities were being registered. In connection with this instruction, reference is made to Role 409.
* * * * * *

G. *Preparation of Part II.*
(a) * * *
(b) If the information required by Items 25, 26, 27, or 29 has been given in a registration statement, application for registration or annual report filed with the Commission pursuant to any act administered by the Commission and no additional information is needed to make the information previously filed accurate, complete and up to date, the required information may be incorporated by a specific reference to the page or pages of the previous filing which contains such information.
* * * * * *

Item 14 *Long-Term Debt Being Registered.*
(f) * * *
Instruction. The instructions to Item 13 shall also apply to this item. Section 305(a)(2) of the Trust Indenture Act of 1939 shall not be deemed to require the inclusion in the registration statement or in the prospectus of any information not required by this form.
* * * * * *

Item 21. *Marketing Arrangements.*
Briefly describe any arrangement known to the registrant or to any person named in answer to Item 2 or Item 6(a) of Regulation S–K (17 CFR 229.20) made for any of the following purposes:
* * * * * *

Instructions as to Summary Prospectuses

* * * * * *

(a) As to Item 1, the aggregate offering price to the public, the aggregate underwriting discounts and commissions and the offering price per unit to the public; as to Item 2(a), the name of the managing underwriter or underwriters and a brief statement as to the nature of the underwriter's obligation to take the securities; as to Item 2(c), a brief statement as to the manner of distribution; as to Item 3, a brief statement of the principal purposes for which the proceeds are to be used; Item 4; Item 5; as to Item 6, only the selected financial data (Item 10 of Regulation S–K, 17 CFR 229.20) and the ratio of earnings to fixed charges (sub items 6a–6c) need be provided; Item 7, if the registrant was organized within 5 years; as to Item 9, a brief statement of the general character of the business done and included to be done; Item 11(a); as to Item 12, a brief statement of the nature and present status of any material pending legal proceedings; as to Item 13, only 13(a)(1) and (2); as to Item 14(a), a brief statement as to interest and maturity provisions; as to Item 15, information corresponding to the foregoing; and as to Item 17 only the information required by Item 4(a) of Regulation S–K (17 CFR 229.20) with respect to outstanding options to purchase securities of any class being registered.
(b) The summary prospectus shall not contain a summary or condensation of the information required by Item 9.

5. Section 239.16b is amended to read as follows:

§ 239.16b Form S–8, for registration under the Securities Act of 1933 of securities to be offered to employees pursuant to certain plans.

* * * * * *

General Instructions

* * * * * *

F. Filing and Effectiveness of Registration Statement; Requests for Confidential Treatment; Number of Copies.

Original registration statements on this Form S–8 will become effective automatically on the twentieth day after the date of filing (Rule 456, 17 CFR 230.456), pursuant to the provisions of Section 8(a) of the Act (Rule 459, 17 CFR 230.459). Pre-effective amendments may be filed prior to effectiveness, and such amendments will be deemed to have been filed with the consent of the Commission (Rule 475a, 17 CFR 230.475a). Accordingly, the filing of a pre-effective amendment will not commence a new twenty-day period. Post-effective amendments on this form shall become effective upon the date of filing (Rule 464, 17 CFR 230.464). Delaying amendments are not permitted in connection with either original filings or amendments (Rule 473(d), 17 CFR 239.473(d)), and any attempt to interpose a delaying amendment of any kind will be ineffective. All filings made on or in connection with this form become public upon filing with the Commission. As a result, requests for confidential treatment made under Rule 485 (17 CFR 230.485) must be processed with the Commission staff prior to the filing of the registration statement. The number of copies of the registration statement and of each amendment required by Rules 402 and 472 (17 CFR 230.402, 230.472) shall be filed with the Commission: *Provided, however,* That the number of additional copies referred to in Rule 402(a)(2) may be reduced from ten to two and the number of additional copies referred to in Rule 472(a) may be reduced from eight to two, one of which shall be marked to clearly and precisely indicate changes.
* * * * * *

6. Section 239.18 is amended to read as follows:

§ 239.18 Form S–11, for registration under the Securities Act of 1933 of securities of certain real estate companies.

* * * * * *

Item 1. *Distribution Spread.*
(a) * * *
Instructions. * * *
3. If any of the securities being registered are to be offered for the account of security holders, set forth following the above table a reference to the information called for by Instruction 8 to Item 6 of Regulation S–K (17 CFR 229.20).
* * * * * *

Supplemental Information

* * * * * *

(a) If within the past twelve months any report pertaining to broad aspects of the registrant's present or proposed operations, or to any substantial properties owned or to be acquired by the registrant, has been prepared for the registrant, any security holder named in answer to Item 6(a) of Regulation S–K (17 CFR 229.20) or any principal underwriter of the securities being registered, a copy of each such report shall be furnished as supplemental information. A brief statement of the use and any distribution of such report shall be furnished also. Any report submitted as supplemental information will be returned upon request.
* * * * * *

(d) A brief description of any bankruptcy, receivership, assignment for the benefit of creditors or similar proceedings within the past five years with respect to any director, officer or parent of the registrant or any person named in answer to Item 21(b).
* * * * * *

7. Section 239.26 is amended to read as follows:

§ 239.26 Form S–7, for registration under the Securities Act of 1933 of securities of certain issuers.

General Instructions

A. *Rule as to Use of Form S–7.*
* * * * * *

(b) The registrant (1) has been subject to the requirements of section 12 or 15(d) of the Securities Exchange Act of 1934 and has filed all the material required to be filed pursuant to sections 13, 14 or 15(d), as applicable, for a period of at least thirty-six calendar months immediately preceding the filing of the registration statement on this form; (2) has filed in a timely manner all reports required to be filed during the twelve calendar months preceding the filing and if the registrant has utilized Rule 12b–25(b) of the Securities Exchange Act of 1934 with respect to a report, that report has actually been filed within the time period prescribed by that rule; and (3) if subject only to the requirements of section 15(d) of the Securities Exchange Act of 1934, has sent to all security holders of each class of securities to which the registration statements declared effective pursuant to the Securities Act of 1933 relate a report containing the information called for by Rule 14a–3(b) under the Securities Exchange Act of 1934 and Items 3, 4 and 6 of Regulation S–K (17 CFR 229.20) within the twelve calendar months preceding the filing of the registration statement, except that the information required by Items 3, 4 and 6 of Regulation S–K (17 CFR 229.20) need only be provided to common stockholders and holders of securities convertible into common stock.
* * * * * *

G. *Exchange offers.*
(a) If any of the securities being registered are offered in exchange for assets or securities of any other person, the prospectus shall include, in addition to the other information called for by this form, the information concerning the registrant called for by Items 3, 4 and 6 of Regulation S–K (17 CFR 229.20). Describe any substantial interest in the other person, direct or indirect, by security holdings or otherwise, held within the past three years by the registrant or by each affiliate of the registrant or by any officer, director or security holder of the registrant named in answer to Item 6(a) of Regulation S–K (17 CFR 229.20) or by each associate of such person.
* * * * * *

Item 10. *Management and Others.*
If there has been a change in control of the registrant within the past thirty-six calendar months, describe the change in control and provide any information called for by Items 3, 4 and 6 of Regulation S–K (17 CFR 229.20) which has not been "previously reported" as defined in Rule 12b–2 (17 CFR 240.12b–2) under the Securities Exchange Act of 1934.
* * * * * *

Undertakings

* * * * * *

D. The following undertaking shall be included in the registration statement if the registrant is subject only to the requirements of Section 15(d) of the Securities Exchange Act of 1934:
"The undersigned registrant hereby undertakes, so long as it remains subject to a duty to file under Section 15(d) of the Securities Exchange Act of 1934, to send to all security holders of each class of securities to which the registration statements declared effective pursuant to the Securities Act of 1933 relate a report containing the information called for by Rule 14a–3(b) under the Securities Exchange Act of 1934, and Items 3, 4 and 6 of Regulation S–K (17 CFR 229.20) except that the information required by Items 3, 4 and 6 of Regulation S–K need only be provided to common stockholders and holders of securities convertible into common stock."
* * * * * *

8. Section 239.27 is amended to read as follows:

§ 239.27 Form S–16, for registration under the Securities Act of 1933 of securities of certain issuers offered pursuant to certain types of transactions.

* * * * * *

Item 8. *Additional Information.*
* * * * * *

(b) If there has been a change in control of the issuer within the past thirty-six calendar months which has not been "previously reported" as defined in Rule 12b–2 under the Securities Exchange Act of 1934, describe the change in control and provide any information called for by Items 3, 4 and 6 of Regulation S–K (17 CFR 229.20) which has not been "previously reported."
* * * * * *

9. Section 239.28 is amended as follows:

§ 239.28 Form S–18, optional form for the registration of securities to be sold to the public by the issuer for an aggregate cash price not to exceed $5,000,000.

* * * * * *

Instructions as to Exhibits

* * * * * *

(9) *Material contracts*—* * *
(b) * * *
(3) Any contract calling for the acquisition or sale of any property, plant or equipment for a consideration exceeding 15% of such fixed assets of the registrant on a consolidated basis; or
* * * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

10. In § 240.12b–25 paragraph (f)(1) is amended to read as follows:

§ 240.12b–25 Notification of inability to timely file all or any required portion of a Form 10–K, 20–F, 11–K or 10–Q.

* * * * * *

(f) * * *
(1) Financial statements to be filed by amendment to a form 10–K as provided for by paragraph (a) of § 210.3–09 or schedules to be filed by amendment in accordance with general instruction A to form 10–K; or
* * * * * *

11. In § 240.14a–4 paragraph (a) is amended to read as follows:

§ 240.14a–4 Requirements as to proxy.

(a) The form of proxy (1) shall indicate in bold-face type whether or not the proxy is solicited on behalf of the issuer's board of directors or, if provided other than by a majority of the board of directors, shall indicate in bold-face type on whose behalf the solicitation is made; (2) shall provide a specifically designated blank space for dating the

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proxy card; and (3) shall identify clearly and impartially each matter or group of related matters intended to be acted upon, whether proposed by the issuer or by security holders. No reference need be made, however, to proposals as to which discretionary authority is conferred pursuant to paragraph (c) of this section.

* * * * *

§ 240.14a–6 [Amended]

12. Section 240.14a–6 is amended by eliminating the note which follows paragraph (f).

§ 240.14c–5 [Amended]

13. Section 240.14c–5 is amended by eliminating the note which follows paragraph (d).

14. In § 240.14a–101 Items 9, 10, 11, 14 and 15 are amended to read as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statement.

* * * * *

Item 9. Bonus, profit sharing and other remuneration plans.

* * * * *

(c) State the name and position with the issuer of each person specified in item 4(a) of Regulation S–K (17 CFR 229.20) who will participate in the plan and the amount which each such person would have received under the plan for the last fiscal year of the issuer if the plan had been in effect.

(d) Furnish such information, in addition to that required by this item and item 4 of Regulation S–K (17 CFR 229.20), as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation, or other remuneration or incentive plans, now in effect or in effect within the past five years, for (i) each director or officer named in answer to item 4(a) of Regulation S–K (17 CFR 229.20) who may participate in the plan to be acted upon; (ii) all present directors and officers of the issuer as a group, if any director or officer may participate in the plan, and (iii) all employees, if employees may participate in the plan.

* * * * *

Instructions. 1. The term "plan" as used in this item means any plan as defined in instruction 6 to item 4(a) of Regulation S–K (17 CFR 229.20).

* * * * *

(c) If action is to be taken with respect to any plan in which directors or officers may participate, the information called for by item 4(d)(1) and (2) of Regulation S–K (17 CFR 229.20) shall be furnished for the last five fiscal years of the issuer and any period subsequent to the end of the latest such fiscal year, in aggregate amounts for the entire period for each such person and group. If any named person, or any other director or officer, purchased securities through the exercise of options during such period, state the aggregate amount of securities of that class sold during the period by such named person and by such named person and such other directors and officers as a group. The information called for by this instruction 3(c) is in lieu of the information since the beginning of the issuer's last fiscal year called for by item 4(d)(1) and (2) of Regulation S–K (17 CFR 229.20). If employees may participate in the plan to be acted upon, state the aggregate amount of securities called for by all options granted to employees during the five-year period and, if the options were other than "restricted" or "qualified" stock options or options granted pursuant to an "employee stock purchase plan," as the quoted terms are defined in sections 422 through 424 of the Internal Revenue Code, state that fact and the weighted average option price per share. The information called for by this instruction may be furnished in the form of the table illustrated in Appendix A (§ 240.14a–103). See instruction 1 to item 4(d) of Regulation S–K (17 CFR 229.20).

* * * * *

Item 10. Pension and retirement plans.

* * * * *

(c) State (1) the name and position with the issuer of each person specified in item 4(a) of Regulation S–K (17 CFR 229.20) who will be entitled to participate in the plan, (2) the amount which would have been paid or set aside by the issuer and its subsidiaries for the benefit of such person for the last fiscal year of the issuer if the plan has been in effect, and (3) the amount of the annual benefits estimated to be payable to such person in the event of retirement at normal retirement date.

(d) Furnish such information, in addition to that required by this item and item 4 of Regulation S–K (17 CFR 229.20), as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation or other remuneration or incentive plans, now in effect or in effect within the past five years, for (i) each director or officer named in answer to item 4(a) of Regulation S–K (17 CFR 229.20) who may participate in the plan to be acted upon; (ii) all present directors and officers of the issuer as a group, if any director or officer may participate in the plan, and (iii) all employees, if employees may participate in the plan.

* * * * *

Instructions. 1. The term "plan" as used in this item means any plan as defined in instruction 6 to item 4(a) of Regulation S–K (17 CFR 229.20). Instruction 2 to item 9 shall apply to this item.

* * * * *

Item 11. Options, warrants or rights.

* * * * *

(b) State separately the amount of options, warrants or rights received or to be received by the following persons, naming each such person: (i) Each director or officer named in answer to item 4(a) of Regulation S–K (17 CFR 229.20); (ii) each nominee for election as a director of the issuer; (iii) each associate of such directors, officers or nominees; and (iv) each other person who received or is to receive 5% or more of such options, warrants or rights. State also the total amount of such options, warrants or rights received or to be received by all directors and officers of the issuer as a group, without naming them.

(c) Furnish such information, in addition to that required by this item and Item 4 of Regulation S–K, as may be necessary to describe adequately the provisions already made pursuant to all bonus, profit sharing, pension, retirement, stock option, stock purchase, deferred compensation, or other remuneration or incentive plans, now in effect or in effect within the past five years, for (i) each director or officer named in answer to Item 4(a) of Regulation S–K (17 CFR 229.20) who may participate in the plan to be acted upon; (ii) all present directors and officers of the issuer as a group, if any director or officer may participate in the plan, and (iii) all employees, if employees may participate in the plan.

Instructions. 1. The term "plan" as used in this item means any plan as defined in instruction 6 to item 4(a) of Regulation S–K (17 CFR 229.20).

* * * * *

Item 14. Mergers, consolidations, acquisitions and similar matters.

* * * * *

(b) * * *

(9) Furnish the information required by item 11 of Regulation S–K (17 CFR 229.20)

* * * * *

Item 15. Financial statements and supplementary data.

If action is to be taken with respect to any matter specified in items 12, 13 or 14 above, furnish the financial statements required by Regulation S–X and the supplementary financial information requested by item 12 of Regulation S–K. One copy of the definitive proxy statement filed with the Commission shall include a manually signed copy of the accountant's certificate. In the usual case, financial statements are deemed material to the exercise of prudent judgment where the matter to be acted upon is the authorization or issuance of a material amount of senior securities, but are not deemed material where the matter to be acted upon is the authorization or issuance of common stock, otherwise than in an exchange, merger, consolidation, acquisition or similar transaction.

* * * * *

15. In § 240.14a–102 Item 4 is amended as follows:

§ 240.14a–102 Schedule 14B. Information to be included in statements filed by or on behalf of a participant (other than the issuer) pursuant to § 240.14a–11(c)(Rule 14a–11(c)).

* * * * *

Item 4. Further matters.

* * * * *

(b) Furnish for yourself and your associates the information required by item 4(f) of Regulation S–K (17 CFR 229.20).

* * * * *

16. Section 240.14a–103 is amended to read as follows:

§ 240.14a–103 Appendix A to Schedule 14A (§ 240.14a–101).

The table set forth below is an illustration of the presentation in tabular form of the information required by item 4(d) of Regulation S–K (17 CFR 229.20) and instruction 3(c) to item 9(d), which also applies to items 10(d) and 11(c). If only item 4(d) of Regulation S–K (17 CFR 229.20) applies and items 9, 10, and 11 are inapplicable, information need only be furnished for the period specified in item 4(d) of Regulation S–K (17 CFR 229.20), information as to shares sold may be omitted, and the reference at the foot of the table to options granted to employees may be omitted. See instruction 5 to item 4(d) of Regulation S–K. Other tabular presentations are, of course, acceptable if they include the necessary data. Tabular presentation may not be needed if only a very few options have been granted.

* * * * *

17. In § 240.14d–100 Instruction 1 to Item 9 is amended to read as follows:

§ 240.14d–100 Schedule 14D–1. Tender offer statement pursuant to section 14(d)(1) of the Securities Exchange Act of 1934.

* * * * *

Item 9. Financial Statements of Certain Bidders.

* * * * *

Instructions. 1. The facts and circumstances concerning the tender offer, particularly the terms of the tender offer, may influence a determination as to whether disclosure of financial information is material. However, once the materiality requirement is applicable, the adequacy of the financial information will depend primarily on the nature of the bidder.

In order to provide guidance in making this determination, the following types of financial information will be deemed adequate for purposes of this item for the type of bidder specified: (a) Financial statements prepared in compliance with form 10 as amended (§ 249.210 of this chapter) for a domestic bidder which is otherwise eligible to use such form; and (b) financial statements prepared in compliance with form 20–F (§ 249.220f of this chapter) for a foreign bidder which is otherwise eligible to use such form.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

18. Section 249.308 is amended to read as follows:

§ 249.308 Form 8–K, for current reports.

* * * * *

4. Filing of other financial information in certain cases.

The Commission may, upon the written request of the registrant and where consistent with the protection of investors, extend the time for filing the financial statements herein required or permit the omission of one or more of such financial statements or the filing in substitution therefor of appropriate statements of comparable character, if the required audited financial statements are not reasonably available to the registrant, because the obtaining thereof would involve unreasonable effort, expense or practical difficulties. A written request for such relief should be submitted, separately from the subject report or the cover letter to the report, to the Chief Accountant of the Division of Corporation Finance. The request, other than a request for an extension of time to file (except where necessary for a determination of the request), shall set forth the following information:

* * * * *

19. In § 249.310 General Instruction D is amended to read as follows:

§ 249.310 Form 10–K, annual report pursuant to sections 13 or 15(d) of the Securities Exchange Act of 1934.

* * * * *

D. Signature and Filing of Report. * * *

The report shall be signed by the registrant, and on behalf of the registrant by its principal executive officer or officers, its principal financial officer, its controller or principal accounting officer, and by at least the majority of the board of directors or persons performing similar functions. The name of each person who signs the report shall be typed or printed beneath his signature. Any person who occupies more than one of the specified positions shall indicate each capacity in which he signs the report.

* * * * *

Statutory Authority

The technical amendments set forth herein are adopted pursuant to authority in Sections 7, 10 and 19(a) of the Securities Act (15 U.S.C. 77g, 77j, 77s(a)); Sections 13, 14, 15(d) and 23(a) of the Exchange Act (15 U.S.C. 78m, 78n, 78o(d), 78w(a)); Sections 5(b), 14 and 20(a) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79e(b), 79n, 79t(a)); and Sections 8, 30, 31(c) and 38(a) of The Investment Company Act of 1940 (15 U.S.C. 80a–8, 80a–29, 80a–30(c) and 80a–37(a)). The amendments to the Commission's general organization rule delegating authority to the Director of the Division of Corporation Finance are adopted pursuant to Section 1(a) of the Delegation of Functions Act (15 U.S.C. 78d–1(a)).

(Secs. 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685; sec. 308(a)(2), 90 Stat. 57; secs. 13, 14, 15(d), 23(a), 48 Stat. 894, 895, 901; secs. 3, 8, 49, Stat. 1377, 1379; sec. 203(a), 49 Stat. 704; secs. 4, 5, 6, 78 Stat. 569, 570–574; secs. 2, 3, 82 Stat. 454, 455; secs. 1, 2, 3–5, 84 Stat. 1497; secs. 10, 18, 89 Stat. 119, 155; sec. 308(b), 90 Stat. 57; secs. 202, 203, 204, 91 Stat. 1494, 1498, 1499, 1500; secs. 5(b), 14, 20(a), 49 Stat. 812, 827, 833; secs. 8, 30, 31(c), 38(a), 54 Stat. 803, 836, 838, 841; 74 Stat. 201; 84 Stat. 1415; sec. 1(a), 76 Stat. 394; 89 Stat. 163; (15 U.S.C. 77g, 77j, 77s(a), 78m, 78n, 78o(d), 78w(a), 79e(b), 79n, 79t(a), 80a–8, 80a–29, 80a–30(c), 80a–37(a), 78d–1(a)))

Procedural Matters

With respect to the technical amendments to the rules, forms and schedules under the Exchange Act, as required by Section 23(a) of the Exchange Act (15 U.S.C. 78w(a)), the Commission has considered the impact that such technical amendments would have on competition and has concluded that such amendments would not impose any burden on competition.

With respect to the technical amendments to Regulation S–X, Regulation S–K, and the rules, forms and schedules under the Securities Act and the Exchange Act, the Commission believes that it is appropriate to adopt these technical amendments effective immediately in order to clarify rule changes adopted by the Commission on August 27, 1980 [10] and September 2, 1980 [11] and to eliminate as soon as possible potential confusion resulting from inconsistencies, inadvertent omissions and typographical errors described above. Accordingly, the Commission, pursuant to Section 553(b) of the Administrative Procedure Act ("APA") (5 U.S.C. 553(b)) for good cause finds that notice and opportunity for public comment are not required and that to provide for such notice and comment at this time is impracticable, unnecessary and contrary to the public interest. In addition, the Commission, pursuant to Section 553(d) of the APA (5 U.S.C. 553(d)) finds good cause to adopt the foregoing technical amendments effective immediately in order to clarify existing provisions of Regulations S–X and S–K and the rules, forms and schedules under the Securities Act and the Exchange Act.

With respect to the amendments to the Commission's general organization rule delegating authority to the Director of the Division of Corporation Finance, the Commission finds that such amendments relate solely to agency management and personnel and, accordingly, are excepted pursuant to Section 553(a)(2) of the APA (5 U.S.C. 553(a)(1)) from the provisions of the APA which require prior notice and comment (5 U.S.C. 553(b)) and postponement of the effective date for at least 30 days after publication in the Federal Register (5 U.S.C. 553(d)).

[10] *See* Securities Act Release No. 6230 (August 27, 1980) [45 FR 58022].

[11] *See* Securities Act Release No. 6231 (September 2, 1980) (45 FR 6360) and Securities Act Release No. 6234 (September 2, 1980) (45 FR 63662).

By the Commission.

that remuneration resulting from stock

measurement of benefits or the

parenthetical note was inconsistent with

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By the Commission.

George A. Fitzsimmons,

Secretary.

November 13, 1980.

[FR Doc. 80-36386 Filed 11-20-80; 8:45 am]

BILLING CODE 8010-01-M

17 CFR Parts 229, 240

[Release Nos. 33-6261, 34-17301, 35-21792, IC-11440]

Uniform and Integrated Reporting Requirements: Management Remuneration Final Amendments to Item 4 of Regulation S-K

AGENCY: Securities and Exchange Commission.

ACTION: Final rulemaking.

SUMMARY: The Commission is amending Item 4 of Regulation S-K (17 CFR 229.20). In general, the amendments pertain to various aspects of remuneration disclosure including: Pension, option and stock appreciation right plans; the definition of an executive officer; compensation relating to the termination of employment; and indebtedness of management. In addition, certain technical amendments are made and certain staff interpretations are codified in the amendments. These amendments are intended to clarify disclosure requirements, to correct major distortions in the remuneration table and to provide meaningful information to investors with respect to management remuneration.

EFFECTIVE DATE: For documents filed after January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Prior to the effective date contact Joseph G. Connolly, Jr., (202) 272-3097, Chief, Office of Tender Offers, or Bruce S. Mendelsohn (202) 272-2091, Office of Disclosure Policy; thereafter contact Ann Glickman, Office of Chief Counsel, (202) 272-2573, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today adopted amendments to Item 4 of Regulation S-K pursuant to Sections 6, 7, 8, and 19 of the Securities Act of 1933 (15 U.S.C. 77a et seq.) (the "Securities Act") and Section 12, 13, 14, 15(d) and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) (the "Exchange Act"). These amendments involve the disclosure of management remuneration and specifically address pension, option and stock appreciation right (including phantom stock) plans, the definition of an executive officer, compensation relating to the termination of employment, indebtedness of management, transactions with management, and certain other technical amendments.

On May 6, 1980, the Commission published Release No. 33-6210 (May 6, 1980) (45 FR 31733) which proposed for comment revisions to Item 4 of Regulation S-K (the "May 1980 proposals"). While the adopted amendments adhere to the concepts represented by the proposals, certain revisions were made in response to further study and to the comment letters received.

The Commission believes that information about management remuneration is important to both stockholders and investors, because it is necessary and appropriate in evaluating the goals and policies of the company, the governance of the company, the cost of management, and the integrity of management. Accordingly, the Commission has devoted significant efforts in recent years to expand and improve disclosure in this area. However, the Commission is also aware that its rules on disclosure of management remuneration are detailed, that the costs of generating the necessary data are substantial, and that compliance would be aided by minimizing unnecessary changes in the rules. The Commission believes that these amendments correct significant distortions arising under prior rules, and therefore is not inclined to make further modifications to the basic rules, except in certain limited areas or unless further problems arise. The public is requested to continue to communicate with the Commission staff on any difficulties or further suggestions relating to remuneration disclosure, and the staff will continue to be available to provide interpretive guidance.

The following portions of this release contain a background discussion and a synopsis of the amendments which includes a discussion of certain issues raised by the commentators. However, attention is directed to the text of the amendments for a more complete understanding.

I. Background

In Release No. 33-6003 (December 4, 1978) (43 FR 58151), the Commission adopted amendments to Item 4 of Regulation S-K, substantially revising the disclosure requirements relating to management remuneration (the "1978 amendments"). The revised Item 4 required tabular and other forms of disclosure as to all remuneration from the registrant and its subsidiaries for services during the latest fiscal year by certain specified persons and officers and directors as a group.[1] The 1978 amendments resulted in part from the Commission's recognition that remuneration packages had become more diverse and complex and, as a result, disclosure had become less uniform.[2] Many forms of remuneration were not being included in the then required table[3] but instead were being disclosed through narrative discussions set forth in text, footnotes or paragraphs which, in many cases, obscured the total remuneration received. Therefore, it was the Commission's intention that the Item 4(a) remuneration table reflect all remuneration which can be quantified and related to services performed by specified members of management during the fiscal year.

The May 1980 proposals were the result of continuous monitoring and interpretation of the remuneration requirements after the 1978 amendment. While the Commission found that the remuneration table generally worked well,[4] it also recognized that certain modifications were necessary. In this regard, it became apparent that there are forms of remuneration that are difficult to quantify and relate to a particular year's services. The May 1980 proposals and the amendments adopted today reflect the Commission's belief

[1] Item 4(a) of Regulation S-K requires tabular disclosure (the "remuneration table") of total remuneration for each of the five most highly compensated executive officers and directors and for all officers and directors as a group. The remuneration table consists of four main columns. Columns A and B call for the name of the individual or the number of persons in the group and the capacities in which such persons served during the year. Column C reports cash and cash-equivalent forms of remuneration ("current remuneration") and is separated into 2 subcolumns. Instruction 2 to Item 4(a) provides for the inclusion in Column C1 of all salaries and fees paid with respect to services rendered during the registrants's last fiscal year and the inclusion in Column C2 of other cash or cash-equivalent amounts. Column D includes remuneration for which amounts are expensed for financial reporting purposes and the measurement of benefits or the distribution or unconditional vesting thereof is subject to future events ("contingent remuneration").

[2] *See* Release No. 33-5950 (July 28, 1978) [43 FR 34415], which proposed the 1978 Item 4 amendments for comment.

[3] Required by former Item 7(a) of Schedule 14A.

[4] The Commission is of the view that management should be permitted a measure of flexibility in determining the placement of remuneration disclosure in its proxy or information statements and, accordingly, has not adopted specific requirements in this area. In this regard, the Commission notes that since the adoption of the 1978 amendments to Item 4, registrants have generally presented all remuneration disclosure together in their materials. The revisions adopted today envision that this practice will continue and that all tables relating to the various components of remuneration will remain concentrated in one section of the proxy or information statement.

that remuneration resulting from stock option, pension and stock appreciation right plans is better suited to uniform disclosure outside the parameters of the Item 4(a) table. As will be discussed below, since Column D entries are keyed to amounts expensed for financial reporting purposes, most of the Commission's concerns result from distortions caused by accounting treatment of certain economic benefits.[5]

The Commission's efforts to review, modify, and simplify the reporting requirements received support from almost all of the more than 90 commentators.[6] Most commentators believed that the proposals were a positive step forward in creating more comprehensible disclosure in this area and complimented the Commission for undertaking to review its rules. In light of the generally favorable response by the commentators and the resolution of the distortions, the Commission has determined to adopt these amendments for the 1981 proxy season.

II. Synopsis of Amendments

A. Clarification of Remuneration Included in Column C

Allocation of amounts to the proper tabular columns has created some confusion among registrants and their advisors during the past two years.[7] In particular, Instructions 3(a), 3(b) and 3(c) to Item 4(a), which list forms of compensation that may require reporting in Column D, have been the subject of many interpretive questions. For example, the Commission found that some registrants have had the misconception that amounts attributable to the remuneration plans specified in these instructions should always be reported in Column D, rather than Column C. However, Column D is to be used for remuneration amounts that have been expensed for financial reporting purposes but as to which the measurement of benefits or the distribution or unconditional vesting thereof is subject to future events. Therefore, if an amount under a specified plan is not subject to a future contingency, a Column C entry may be proper.

In order to clarify the proper allocation of amounts between Column C and D, the Commission proposed in Release No. 33-6210 to add a parenthetical note in Instruction 2 to Item 4(a) which would have stated that the specific forms of remuneration referred to in Instruction 3 to Item 4(a) are properly reported in Column C if the distribution of such remuneration or the unconditional vesting or measurement of benefits thereunder is not subject to future events. The commentators who addressed the issue generally endorsed the proposal and recognized it as merely a codification of a staff interpretation contained in Release No. 33-6166 [8] and as consistent with past staff administrative practice.

In response to comments, the Commission has decided that a new Instruction 2(e) to Item 4(a) would be preferable to the proposed parenthetical note; the language of the note has been included substantially as proposed, but with additional clarification. Instruction 2(e) requires, consistently with the Commission's past interpretations, the inclusion in Column C of remuneration attributable to plans of the type described in Instruction 3 to Item 4(a) if at the end of the fiscal year such remuneration was distributed to or for the account of the specified individuals or group, or was accrued and the measurement and the distribution or unconditional vesting thereof were not subject to future events. The instruction has also been expanded to indicate that, if remuneration as conditioned on substantial future service, or if the amount or value of or entitlement to remuneration is dependent on future earnings performance or market values, the remuneration is "subject to future events" under this standard. Where part of an award is subject to future events, that part would properly be included in Column D, while the portion not subject to future events would be included in Column C.

Furthermore, several commentators noted that the language in the proposed parenthetical note was inconsistent with existing Instruction 2 to Item 4(a) (relating to Column C disclosures). It was pointed out that the proposed clarification and Instruction 3 to Item 4(a) (relating to Column D disclosures) provides that remuneration should be reported in Column C whenever not subject to future events, although current Instruction 2 to Item 4(a) includes in Column C amounts which with "reasonable certainty" will be distributed or unconditionally vested in the future. The commentators requested that the language of the instructions be made consistent so as to clarify the appropriate test for Column C amounts. To resolve the inconsistency, the Commission has revised Instruction 2 to Item 4(a) to delete the reference to "reasonable certainty" and substitute the term "not subject to future events," and has made other minor changes to conform Instructions 2, 2(e) and 3 to Item 4(a). The Commission believes that the objective test based on "future events" is more meaningful and preferable under the circumstances. These technical language changes do not, however, affect the meaning of the standard nor alter present or past staff interpretations.

B. Instruction 1(b) to Item 4(a)—Definition of Executive Officer

In Release No. 33-6210, the Commission proposed to amend the definition of the term "executive officer" appearing in Instruction 1(b) to Item 4(a)[9] by adding the following sentence:

> "Executive officers" of subsidiaries may be deemed "executive officers" of the registrant if they perform policy-making functions for the registrant.

The Commission stated that this proposal reflected the initial intention of the instruction. Indeed, in Release No. 33-6003, the Commission advised registrants that they should give careful consideration to the question of who are the appropriate individuals to be included in the table, and to whether certain highly compensated directors or employees of subsidiaries are in fact "executive officers" of the registrant. Additionally, the Commission stated that it would monitor the disclosure practices in this area to determine whether further actions were appropriate. The Commission's proposal in this area was the result of the perceived continuance of

[5] It should be emphasized that only certain market-based plans such as options (which ordinarily are never reflected in compensation expense), and stock appreciation right and certain phantom stock plans (where changes in the market value of securities immediately affect compensation expense) are reported separately under these amendments.

[6] The commentators may be categorized as follows: management and compensation consulting firms (2); accounting associations (1); law firms and bar associations (9); banks, bank holding companies and banking associations (3); industry or trade associations (5); corporations (71); and individuals (1). Copies of the comment letters are available for public inspection and copying at the Commission's Public Reference Room (File No. S7-835). For the convenience of the public, a copy of the summary of comments prepared by the staff of the Commission has been placed in File No. S7-835 and is also available for public inspection and copying.

[7] Indeed, this was an important subject of Release No. 33-6166.

[8] In Interpretive Response 17 of Release No. 33-6166, the Division of Corporation Finance stated that with regard to deferred compensation plans (a type of plan enumerated under Instruction 3(a) to Item 4(a) with respect to Column D) for which amounts are expensed, Column D is to be used only if the distribution of remuneration under the plan or the unconditional vesting or measurement of benefits under the plan is subject to future events which represent a true contingency.

[9] Prior to the proposals, Instruction 1(b) stated that: "An 'executive officer' of a person includes its president, secretary, treasurer, any vice president in charge of a principal business unit division, or function (such as sales, administration or finance), and any other person who performs similar policy-making function."

misconceptions as to the intent of the

future events.[10] However, with respect

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misconceptions as to the intent of the definition and was designed to provide clarity to registrants.

Certain commentators believed that without modifications the proposal would expand the definition of executive officer unnecessarily. Pursuant to these comments the language of the proposal was reconsidered, since the intent of the proposals was to provide clarification rather than to expand the category of individuals for whom disclosure would be necessary under Item 4(a)(1). In light of the concerns expressed by the commentators, the Commission has revised the proposal by inserting the word "such" to modify the term "policy-making functions for the registrant," to indicate that the executive officer of a subsidiary must perform the same types of functions as other persons constituting executive officers of the registrant. In this regard, the Commission is providing additional guidance in response to certain comments by codifying the Division of Corporation Finance's published interpretation regarding the determination of the individuals to be named in the remuneration table.[10] New Instruction 1(c) to Item 4(a) states, in pertinent part, that "[r]egistrants should exercise a measure of flexibility in determining which individuals should be named in the remuneration table in order to avoid anomalous results and to assure that disclosure documents contain information on key policy-making members of management." The Commission recognizes that under certain circumstances an individual who is nominally one of the five most highly compensated executive officers or directors may not be one of the key policy makers. Compensation may be inflated in a given year because of a non-recurring event, such as a large bonus or commission, and to include such an executive in the persons named in the table would be inappropriate.[11] If a registrant determines not to name an executive officer in the table pursuant to the new instruction, that individual's compensation would still be included under the disclosure for the group of all officers and directors.

C. Item 4(b)—Proposed Remuneration [12]

Item 4(b) currently requires a brief description of all remuneration payments proposed to be made in the future pursuant to any plan or arrangement to the person and the group specified in the remuneration table.[13] Because of numerous public inquiries, the Commission proposed, and has adopted substantially as proposed, a new Instruction 1 to Item 4(b) to make clear that disclosure is necessary for any remunerative plan or arrangement which is operable for more than the latest fiscal year, whether or not amounts attributable to such plan or arrangement are included in the tabular or textual disclosures of remuneration pursuant to Items 4(a), 4(c) or 4(d). Although one commentator believed that inclusion of amounts in the remuneration table would provide stockholders with sufficient information, the Commission believes that the instruction is necessary to assure that stockholders are provided with a full appreciation of remuneration to be paid in the future.

The operation of the new instruction may be illustrated by the situation where amounts attributable to an ongoing bonus plan have been disclosed in Column C1 of the table. Because the bonus plan will be operable in future years, a description of the plan is necessary and, in this case, should include, among other things, brief disclosure with regard to the payment formulas and general payment schedules.

Because the disclosure of remunerative plans which will continue to operate in subsequent fiscal years has not been as complete as necessary, and in response to certain commentators, the Commission has included in Item 4(b)(1) explicit requirements as to the composition of the necessary disclosure. The Commission is concerned that many companies have responded to the Item 4(b) requirement by describing the operation of a formal, highly-structured plan [14] in terms so general that as a result there is little understanding by stockholders of the level of performance and the period of time needed to generate payments under the plan. Furthermore, there has been a failure to make clear whether the compensation measurements relate to short-term or long-term objectives or performance.

The Item 4(b)(1) description should include a summary of how each plan operates, any performance formula or measure in effect, the time periods over which the measurement of benefits will be determined, payment schedules, and any recent material amendments to the plan. For the most part, this represents a codification of the position taken by the staff in Interpretive Response 40 in Release No. 33–6166, and will make the disclosure more meaningful to stockholders.

Disclosure as to operations of future incentive plans is essential to a shareholder's comprehension of remuneration policies. The goals explicitly or implicitly set by such plans may affect, and indeed are often specifically designed to affect, management's conduct of company affairs. The Commission expects more complete disclosure of future incentive programs as a result of the clarification of Item 4(b), and encourages companies to provide explanations of the relationship of incentive compensation programs to short-term and long-term corporate objectives.

D. Pension Plan Disclosure

As noted in the May 1980 release, many questions have arisen with regard to the disclosure of amounts relating to defined benefit and actuarial plans. In Release No. 33–6166, the staff discussed this area in detail and offered an alternate format of disclosure by way of interpretation. The purpose of the May 1980 proposals, which have been adopted substantially as proposed, was to codify the staff's suggested alternative as a mandatory requirement.

The treatment of pension and retirement plans under the 1978 amendments, set forth in Instruction 3(a)(i) to Item 4(a), required that the amount expensed for financial reporting purposes by a registrant or its subsidiaries for the year representing the contribution, payment or accrual for the account of the specified individuals or group be included in Column D if the distribution of such remuneration or the unconditional vesting or measurement of benefits thereunder was subject to

[10] In Release No. 33–6027, the Division of Corporation Finance issued its interpretive views regarding certain aspects of the management remuneration disclosure requirements of Item 4, including the Division's view on the determination of which members of management comprise the five most highly compensated executive officers and directors to be named in the table.

[11] New Instruction 1(c) to Item 4(a) sets forth certain standards to be applied in making the necessary determination to exclude an executive's name in the remuneration table. However, the instruction further states that "a registrant should not apply the above standards mechanically; consideration should be given to the question of whether a person's level of remuneration would give rise to a conclusion that the person may be among the five most highly compensated, key policy-making executive officers or directors."

[12] The disclosure required by this provision is parallel to that which had been required for some time by former Item 7 of Schedule 14A [17 CFR 240.14a–101].

[13] Item 4(b) has also been separated into two sub-items and reworded. Item 4(b)(1) relates to proposed remuneration in general and Item 4(b)(2) addresses pension disclosure and is discussed below.

[14] It should be noted that Instruction 6 to Item 4(a) describes the term "plan" as used in Item 4 as including "all plans, contract, authorizations, or arrangements, whether or not set forth in any formal documents."

future events.[15] However, with respect to the overwhelming majority of defined benefit or acturial plans; the same Instruction 3(a)(i) provided that if the "amount of the contribution, payment or accrual (with) respect (to) a specified person is not and cannot readily be separately or individually calculated by the regular actuaries of the plan," then such amounts could be omitted from the remuneration table provided a footnote was included.[16] The footnote required disclosure of the excluded amounts, indicating the percentage which the aggregate contributions to the plan bore to the total covered remuneration of the plan participants, and a brief description of the remuneration covered by the plan. In turn, Item 4(b) required that, with respect to amounts so excluded under Instructions 3(a)(i) and (ii), a separate table be included to show estimated annual benefits payable upon retirement to persons in specified remuneration and year-of-service classifications.

Because of the apparent difficulty in calculating the amount of contribution attributable to each participant under most subject plans, the footnote disclosure required by former Instruction 3(a)(ii) and the Item 4(b) pension table has been extensively utilized. When this has not been the case, the Commission has reason to believe that there has been an inconsistency regarding the inclusion of amounts relating to these plans in the remuneration table. In any event, the Commission perceives little reason to continue requiring different disclosure for the same form of remuneration.

Accordingly, the adopted amendments, like the proposals, deal with all defined benefit and actuarial pension plans. The amendments adopted today will exclude all amounts relating to defined benefit or actuarial plans from the remuneration table by amending Instruction 3(a)(i) and deleting the footnote requirement of Instruction 3(a)(ii).

New Item 4(b)(2), which contains the disclosure requirements concerning such plans, has been adopted substantially as proposed. The overwhelming majority of the commentators indicated approval of the Commission's attempt to improve the nature of the disclosure in this area and considered the proposal to be an improvement over the existing format. As a result of certain views expressed by the commentators and to assist stockholders in understanding the type of pension plan maintained by the registrant, certain revisions have been incorporated into the pension disclosure requirements as adopted.

As revised, Item 4(b)(2) will require a pension table [17] showing estimated annual benefits payable upon retirement to individuals is specified remuneration and years of service classifications. In response to a number of questions that have arisen with regard to the disclosure of amounts in response to Item 4(b)(2) as proposed and to provide for uniform disclosure, this item has been revised to require that: (1) The estimated annual benefits disclosed in the pension table include any amounts attributable to any supplementary or excess pension award plans; (2) the registrant describe the remuneration covered by the plan, and indicate its relationship to remuneration reported in Column C1 of the Item 4(a) remuneration table; (3) the registrant indicate whether the benefits listed in the pension table are subject to any deduction for Social Security benefits or other offset amounts; and (4) the amount presented in the pension table be on a straight life annuity basis notwithstanding the availability of joint survivorship provisions.

The proposed definition of "normal retirement" was not adopted because of the commentators' concerns that the term is unclear. Mandatory retirement ages, if any, vary, and the proposed disclosure for years of service at normal retirement of the individuals named in the Item(a) table would provide little meaningful information. As adopted, Item 4(b)(2) will require that registrants state the credited years of service under the plan for each of the Item 4(a) individuals so that shareholders will be able to relate the pension benefits described with the executive officers identified in the remuneration table.

The May 1980 Release contained a proposed Note following the pension table which would have provided that the table reflect reasonable increases in existing compensation levels. Most commentators considered this information to be speculative and potentially confusing to stockholders. The Note has been redrafted as Instruction 2 to Item 4(b)(2) and, at the suggestion of one commentator, registrants will be permitted to use an upper limit for the disclosure of increases in the existing compensation levels. Specifically, to provide registrants some certainty as to the amounts which should be reflected in the table, Instruction 2 to Item 4(b) provides that registrants may present, as the highest remuneration level reported, an amount equal to 120 percent of the highest amount of covered compensation which is reported in the table required by Item 4(a).

An alternative format is allowed by Instruction 3 to Item 4(b) where pension or actuarial plans are not based upon the final year's (or years') remuneration. For such plans, a registrant must provide a description of the plan (including benefit formula) and indicate the estimated annual benefits upon normal retirement [18] for individuals named in the Item 4(a) remuneration table. However, this alternative is available only for plans not suitable for disclosure in the regular pension table. All final year (or final average years) type plans must continue to be disclosed in the required pension table format.

E. Options and Stock Appreciation Rights

In the May 1980 Release, the Commission proposed certain revisions to the instructions to Item 4(a) of Regulation S–K which were designed to remove option and stock appreciation right ("SAR") plans, including certain phantom stock plans, from the remuneration table. Under the proposals, all disclosures of remuneration under such plans, previously included in the remuneration table, would be set forth in an expanded option table pursuant to Item 4(d) of the Regulation.

With few exceptions, the response of the commentators was overwhelmingly supportive of the thrust of the proposals to remove from the Item 4(a) remuneration table disclosure respecting stock option and SAR plans. Commentators who supported the proposal uniformly agreed with the Commission's position that such remuneration disclosure may bear little or no relationship to the services rendered to the registrant during the fiscal year and, consequently, may tend to distort the remuneration table and confuse the shareholder. Many of these commentators, however, advanced criticisms and suggestions with regard to the proposals, and the adopted rules are responsive to many of these concerns.

[15] Under unusual circumstances, a plan may involve arrangements to which this condition would not apply and, instead, there would in a specific fiscal year be accrued or distributed for the account of the participant a cash or cash-equivalent amount. In this situation, reporting would occur in Column C with respect to the contribution for that year. *See* Release No. 33–6027.

[16] Current Instruction 3(a)(ii) to Item 4(a).

[17] Item 4(b) currently requires a pension table only when amounts are excluded from the remuneration table.

[18] For plans not reported in the regular pension table, normal retirement age is defined (in accordance with a commentator's suggestion) as provided in the plan, or if the plan has no definition, the earliest age at which the individual may retire without benefit reduction on account of age.

1. *Option Disclosure.* Under the 1978 be in the remuneration table.[21] In on the granting dates exceeds $50,000.

disclosure in the remuneration table of than prices.[20] Moreover, by using these phantom stock plans may have tended

1. *Option Disclosure.* Under the 1978 amendments, Instruction 2(b) to Item 4(a) specified with regard to any stock option that the spread, if any, between the acquisition price and the fair market price of the underlying security on the date of exercise be reported in Column C2 (less any amount that may have been previously reported with respect to such option).[19] This method of option disclosure may not be meaningful and may tend to distort the compensation reported in Column C2 of the remuneration table for a particular officer or director, especially for the reporting period during which an option is exercised. While option plans may represent a significant element in many compensation packages, the calculation of remuneration thereunder may not be easily attributable to a given year of service. As stated in Release No. 33–6210, there have been instances where an officer, because of market conditions or other factors, has exercised during the latest fiscal year, options received over a number of years which resulted in the inclusion in Column C2 of the entire spread between the exercise price and the fair market value of the securities received in the year of such exercise.

Because of the disclosure problems presented by option plans, the Commission proposed to exclude the "spread" resulting from the exercise of stock options from disclosure in the remuneration table, and today the Commission adopted the basic concepts and methodology of the proposal. Instruction 2(b) to Item 4(a) has been amended to exclude the fair market value of the securities (less the exercise price) received pursuant to the exercise of stock options. All option information (other than the Item 4(b)(1) description of the plan) will be disclosed pursuant to modified Item 4(d) requirements.[20]

The May 1980 Release also proposed the deletion of the *de minimis* exception in Instruction 3 to Item 4(d). Of the twelve commentators who responded to the Commission's specific inquiry in this area, only one supported the proposed deletion. However, after further study the Commission still believes that the *de minimis* exclusion is inappropriate in light of the fact that the spread relating to the exercise of options will no longer be in the remuneration table.[21] In addition, the Commission believes that no significant burden is placed on registrants because of the deletion since information on employee options and market prices of securities is readily available to the registrant.

While the proposals would have followed the current rules in requiring option disclosure to be presented for the period since the beginning of the registrant's last fiscal year,[22] a specific inquiry was made in the May 1980 release on the time period issue. The commentators were overwhelmingly in favor of a fiscal year reporting requirement. The most frequently stated reason for deleting the reporting of option transactions occurring after the close of the last fiscal year was that this deletion would eliminate the duplicative reporting of such transactions in two consecutive years. Another often expressed view was that the reporting period for option transactions should be consistent with the fiscal year reporting period for the remuneration table. In light of these comments, the Commission has determined that the fiscal year period is appropriate in most cases,[23] will better facilitate year-to-year comparisons and will create more understandable disclosure. Moreover, a fiscal year period will allow for the reporting of SARs in tandem with options along with the options to which they relate.[24]

A related new Instruction 7 to Item 4(d) was added to require disclosure of the granting of options or SARs since the end of the last fiscal year if the total market value of the underlying securities on the granting dates exceeds $50,000. Since the new options and SAR reporting provisions will already require disclosure of potential (unrealized) value at the end of the year, there appears no reason to require further information for the interim period as to exercise or realization of options or rights by which an individual obtains a portion of that potential value. Exercise or realization, and changes in potential value, will be reflected in the following year's remuneration disclosure. New grants are the only changes over which the company has control, and, accordingly, interim disclosure will be required only as to significant new grants. The Commission believes that this requirement is appropriate in light of the new fiscal year reporting period, is consistent with the more complete disclosure of future remuneration plans under Item 4(b), and will allow stockholders to appreciate more fully the operation of such plans. [25]

Proposed Item 4(d)(3) would have mandated option disclosure [26] for "all other employees" of the registrant in addition to the disclosure required for only officers and directors. The response of the commentators who specifically addressed this proposal was overwhelmingly negative. Most commentators believed that information concerning all other employees would not be material in most cases. The Commission has reconsidered its position and has decided not to require option or SAR information as to "all other employees" except where currently required. [27] Registrants are urged, however, to consider such disclosure where it would facilitate integration of Exchange Act and Securities Act disclosure such as in the Form S–8 (17 CFR 239.16b) which permits the incorporation by reference of option information appearing in an issuer's proxy statement.[28]

Under former Item 4(d), the average option price was required to be disclosed both for options exercised and options outstanding at the end of the period, but there was no actual

[19] This is one of the few instances where Item 4 does not follow generally accepted accounting principles. In most cases, there is no accounting expense for the grant or exercise of a stock option.

[20] Instruction 5 to Item 4(d), which remains unchanged, states in pertinent part that the information called for by the Item 4(d) may be furnished in the form of the table set forth in Appendix A to Schedule 14A. Appendix A has been revised to reflect today's amendments to Item 4(d).

[21] The correlative new provisions in Item 4(d) relating to SARs not in tandem with options, which are described below, also have no *de minimis* exception.

[22] In addition, proposed Instruction 3 to Item 4(d) would have allowed option information to be reported separately for (1) option transactions during the past fiscal year; and (2) option transactions since the close of the fiscal year to the latest practicable date. Since a fiscal year period has been adopted, this proposal was not necessary and was not adopted.

[23] However, with regard to a registration statement filed under the Securities Act of 1933 by a company not subject to Exchange Act reporting requirements, new Instruction 5 to Item 4(d) requires information regarding options and SARs for the period since the beginning of the last fiscal year through a date not more than 30 days prior to the date of filing the registration statement. Further, with regard to any company, Instruction 6 to Item 4(d) has been retained and requires that information with regard to unexercised options (and SARs in tandem therewith) be presented as of a date not more than 30 days prior to the date of filing of the registration statement. It should be noted that these requirements relate only to situations where Item 4(d) information must be presented in a prospectus, rather than incorporated by reference therein.

[24] *See* discussion regarding SARs in tandem with options, *infra*.

[25] The requirement in Instruction 7 does not apply if information called for by Item 4(d) is incorporated by reference, rather than presented, in a registration statement filed pursuant to the Securities Act.

[26] Likewise, proposed Item 4(d)(vi) would have required SAR information for all other employees.

[27] *See* Items 9(d)(iii), 10(d)(iii) and 11(c)(iii) of Schedule 14A.

[28] As stated in Instruction 4 to Item 3 of Form S–8, ("Purchase of Securities Pursuant to Plan"), the information regarding options required under Item 3 of Form S–8 is more extensive than presently called for by Item 4(d) of Regulation S–K. Of course, registrants may include the balance of the Item 3 information in their proxy statements and incorporate by reference such data into a Form S–8.

disclosure in the remuneration table of amounts realized on exercise of options or of the potential value of unexercised options. The May 1980 proposals sought disclosure of amounts realized and unrealized gain as to SARs. The amendments on disclosure of potential value apply to options as well as SARs. New Item 4(d)(ii) not only requires disclosure of amounts realized from SARs held in tandem with options, but also requires disclosure of the value realized upon exercise of an option, generally the "spread" between the market price of securities received less any option price. Similarly, Item 4(d)(iii) will require disclosure of the potential (unrealized) value of all options and tandem SARs outstanding at the end of the period. (Item 4(d)(iv) requires similar disclosure for SARs not in tandem with options.)

Most commentators voiced some degree of disapproval of the concept of unrealized gain in the context of proposed stock appreciation rights table. The Commission believes, however, that the disclosure of potential (unrealized) value of outstanding options and SARs, as well as value realized upon exercise, is necessary and appropriate to a more complete understanding of the operation of such remuneration packages.[29] By moving the options and SAR disclosure out of the remuneration table, the Commission recognizes that amounts realized in connection with such remuneration are not precisely allocable to specific periods. Nevertheless, there should be some disclosure of the events which actually result in value being received by the officer or director—exercise or realization—and of the total of the individual's potential benefits. Disclosure of an average option exercise price or the SAR base price, while helpful, does not directly indicate either value realized or potential value—it is also necessary to compare the option or base price to the current market price. The Commission believes it is appropriate for registrants to make this comparison and disclose values, rather than prices.[30] Moreover, by using these value concepts, the disclosure of options and SARs will be consistent and, therefore, information concerning SARs and options can easily be integrated in the table relating to options and tandem SARs (or even in a single table relating to all options and SARs if the registrant so chooses). More generally, since option and SAR information will no longer be in the remuneration table, the Commission believes that the Item 4(d) data should be as complete and understandable as possible.

Other than the disclosure of value received upon exercise and potential (unrealized) value of outstanding options at the end of the period, Item 4(d) will require data similar to that of the former item. Item 4(d)(i) [31] requires information as to options granted during the period including (1) the title and aggregate amount of securities subject to options; (2) the average option price per share; and (3) if the option price was less than 100 percent of the market value of the security on the date of grant, such fact and the market price on such date. Item 4(d)(ii) requires as to options exercised during the period disclosure of the value of securities received less any exercise price paid. Item 4(d)(iii) requires as to unexercised options information concerning (1) the amount of underlying securities involved; and (2) the aggregate potential (unrealized) value (market value of such securities less the aggregate exercise price).

2. *Stock Appreciation Rights and Phantom Stock Not in Tandem with Options.* At the time of the May 1980 proposals, the Commission was concerned that the inclusion in the remuneration table of amounts expensed for financial reporting purposes for SARs and interests in phantom stock plans may have tended to confuse shareholders as to the nature of the registrant's compensation arrangements for the fiscal year. It had become apparent that this was particularly true for unexercised rights under such market-based award plans, since these rights are subject to the unpredictable fluctuations of the market-place. Where value changes are taken into account in determining financial reporting expense for the year in which the market value changes occur, the amount reported in the remuneration table (the amount expensed) may have no relation to services rendered during the fiscal year.

Under the 1978 amendments, Instruction 3(b)(i) to Item 4(a) required that Column D of the remuneration table reflect the annual market change that is expensed for financial reporting purposes with regard to SARs and certain phantom stock plans.[32] In addition, former Instruction 3(b)(i) to Item 4(a) permitted a credit to be taken against any amounts previously reported in Column D, if in a subsequent fiscal year the registrant, in connection with the same plan or arrangement, credited its remuneration expense for financial reporting purposes. As a result of these provisions, the reporting of SARs may have consisted of positive entries in one year followed by a series of negative entries in subsequent years depending on the movement of the market price of the underlying security.

In the May 1980 Release, the Commission stated that because of the above mentioned concerns, as well as the fact that SARs and similar phantom stock plans contribute a significant percentage of the negative amounts reflected in Column D, prior Item 4(d) requirements may not have been serving the purpose of the remuneration table, which is to reflect remuneration attributable to services rendered in the latest year. In response to these considerations, the Commission proposed certain revisions to Instructions 2(b) and 3(b) to Item 4(a) and to Item 4(d) of Regulation S–K.

Generally, the May 1980 proposals were designed to exclude amounts relating to SARs and interests in certain phantom stock plans from the remuneration table, while requiring certain disclosure concerning such plans pursuant to an expanded Item 4(d) requirement. In this regard, Item 4(d) was proposed to be amended by adding two new subparts which would have required separate disclosure with

[29] It should be noted that the proposed Instruction 7 to Item 4(d) has been adopted as Instruction 8. Instruction 8 states that in calculating potential (unrealized) value of outstanding options and SARs, issuers should report the realizable value as though it had been realized at the valuation date. All outstanding rights or options with exercise prices above the market price as of the valuation date should be disregarded in determining this calculation. Therefore, potential value for options, SARs and similar rights will not be a net figure, but rather would be calculated only as to those options or rights with respect to which option or base prices were below the current market price. In this manner, the amounts realizable if exercise occurred on the reporting date will be disclosed.

[30] Of course, values realized may be subject to conditions. For example, an officer purchasing stock on exercise of an option may be obligated to hold for at least six months because of Section 16(b) of the Exchange Act (15 U.S.C. 78p(b)), and the market price may change before a sale is possible. Likewise, potential (unrealized) value may include amounts which are not currently available for an officer or director because the option or right is not yet vested or exercisable; and potential value may change after the valuation date if the market price fluctuates. A registrant is free to make appropriate disclosure of additional facts, such as vesting provisions, performance or other contingencies and market and exercise prices, which may bear on the value or potential value of remuneration. New Instruction 10 to Item 4(d) specifically allows registrants, if they choose, to set forth separately the potential value attributable to exercisable options or SARs and the potential value attributable to rights which are not currently exercisable.

[31] Items 4(d)(i), 4(d)(ii) and 4(d)(iii) also relate to stock appreciation rights granted in tandem with options. The subject of tandem SARs will be discussed below.

[32] For a further discussion of this subject, see Interpretive Responses 8 through 11 in Release No. 33–6180.

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the remuneration table was to address

be reported in the Item 4(a)

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included that the loans to such persons:

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respect to SARs and interests in phantom stock plans. With regard to all such plans, proposed Item 4(d)(iv) would have called for the following information: (1) The number of SARs granted during the last fiscal year; (2) the number of SARs exercised during the last fiscal year; and (3) the number of SARs outstanding as of the end of the fiscal year. Likewise, proposed Item 4(d)(v) would have required disclosure of: (1) The unrealized gain relating to all SARs held under these plans as of the beginning of the last fiscal year; (2) the unrealized gain with respect to SARs granted during the year; (3) the value of cash or securities received upon exercise during the last fiscal year; and (4) the unrealized gain relating to all SARs held at the end of the last fiscal year. A proposed amendment to Instruction 1 to Item 4(d) would have defined the term "stock appreciation right" as including interests in phantom stock plans. However, this proposed Instruction did not otherwise define SAR or phantom stock plans. Appendix A of Schedule 14A was proposed to be expanded to accommodate the above information in a table separate from the option disclosure. As with options, use of the Appendix A format was not to be mandatory.

The Commission continues to believe that the proposed removal from the remuneration table of disclosure relating to SARs (including phantom stock), when coupled with stock options, is appropriate and that the new table will provide meaningful information to stockholders in a more easily understandable manner. For this reason, the Commission has determined to adopt the May 1980 proposals with certain modifications in response to further review and to the commentators. The following first discusses the disclosure of SARs not in tandem with options, and then discusses tandem SARs.

With few exceptions, the response of the commentators was overwhelmingly in support of the proposals to remove disclosure regarding SARs and certain phantom stock plans from the remuneration table. The commentators believed that major changes in annual remuneration created by price swings in the market have produced tabular data which is not meaningful. While supporting the concept of the proposals, some commentators criticized its methodology and suggested changes.

A common suggestion was that the Commission should define the term "phantom stock" as used in proposed Instruction 1 to Item 4(d). Since the primary reason for removing SARs from the remuneration table was to address the distortive effects of reporting market fluctuations in Column D, the Commission has decided to adopt a definition of SARs which includes interests in phantom stock plans and which is applicable only to Item 4 of Regulation S–K. This definition is consistent with the salient characteristics of SARs. Specifically, new Instruction 1 to Item 4(d) defines a SAR (including an interest in a phantom stock plan) as a compensation right or unit under which the measurement of benefits to be received is a function of the market price of the underlying security, and a change in such market value is taken into account in determining expenses for financial reporting purposes for the year in which the market value change occurs.[33]

The definition of SARs does not cover all compensation programs which may be called "stock appreciation" or "market based" plans, under which compensation is based on market value or market appreciation; nor does the definition cover performance-based plans where the measurement of compensation is unrelated to market prices of securities. For example, if a share unit (or restricted share) is expensed solely on the basis of the value of the share at the time of grant with no subsequent charge or credit to earnings reflecting market value changes, the unit (or restricted share) would not be a SAR under the above definition.[34] Also, certain commentators suggested that all contingent or future value incentive plans should be treated similarly whether market-based or performance-based. While sympathetic to such views, the Commission has not been able to develop an appropriate format which is brief and easily comprehensible and which comports with the current framework of remuneration disclosure. Therefore, performance compensation, the measurement of which is based on earnings, increases in book value or similar standards, will also continue to be reported in the Item 4(a) remuneration table. If earnings go up and, as a result, additional compensation is expensed for a period, it is appropriate to associate that expense with that period by continuing to report the expense in the remuneration table.

The rules adopted today are designed only to remove from the remuneration table those options and SARs which, if left in the table, would cause compensation expenses and remuneration to fluctuate based on market value change through the period from grant to exercise or realization. The Commission believes that this change is responsive to the most serious distortions which have arisen.

In adopting these amendments, the Commission has made the disclosure of options and SARs consistent. As to SARs not in tandem with options, Item 4(d)(iv) requires the following: (1) The number of rights granted during the period and the average base price [35] thereof; (2) the number of rights outstanding at the end of the period; (3) the value of the cash or securities received upon exercise or realization of rights during the period; (4) the number of rights outstanding at the end of the period; and (5) the potential (unrealized) value of all rights outstanding at the end of the period. Unlike the proposals, the amendments do not call for unrealized gain for all rights outstanding at the beginning of the period and unrealized gain for rights granted during the period. The Commission agrees with the commentators who stated that such disclosure was unnecessary.[36] Registrants are encouraged to combine the Item 4(d) disclosure of options and SARs wherever practicable under the circumstances. The consistency of the requirements will facilitate such integration.

3. *Stock Appreciation Rights In Tandem With Options.* In the May 1980 Release, the Commission solicited comments as to whether an instruction should be included in Item 4(d) which would address possible double-reporting of SARs that are granted in tandem with options. In the past, many questions have arisen concerning the reporting of tandem grants under Item 4(d). In most cases, the holder may exercise either the SAR or the option, but not both. That is, the market appreciation on the underlying securities may be received in the form of cash or securities in lieu of receiving securities by paying the option price upon exercise of the tandem option. Commission filings indicate that a significant portion of all SARs are in tandem with options.

The proposals would have required the separate reporting of SARs whether or not they were in tandem with options. Most commentators suggested that this would constitute double reporting of the same potential benefit and would cause confusing disclosure. Two major alternatives were advanced: (1) Disclosure of the tandem units in a combined table; and (2) separate disclosure of tandem grants coupled with an explanatory footnote. Several commentators suggested alternative tabular formats.

The amendments require a combined presentation for tandem rights within the Item 4(d) option information. In the Commission's view, this is the most feasible and logical approach. Item 4(d)(i) will require the separate identification of the amount of securities subject to options granted during the period which are in tandem with SARs. Similarly, Item 4(d)(iii) will require the separate identification of the amount of securities subject to options outstanding at the end of the period which are in tandem with SARs. All other information concerning tandem SARs will be included in the data concerning options.[37]

A definition of the term "tandem" has been added as new Instruction 11 to Item 4(d) which states, in pertinent part, "[f]or purposes of this Item 4(d), an option shall be deemed in tandem with a stock appreciation right * * * if the benefits under one represent an alternative to or reduce the benefits available under the other." This definition was considered appropriate since it includes only those SARs for which double-reporting was a problem under the proposals.

4. *Performance Unit Rights In Tandem With Options and/or SARs.* During the comment process, it came to the Commission's attention that there are some companies that are granting performance unit rights ("PURs") in tandem with options and/or SARs. Typically, such plans allow the holder the alternative of exercising a PUR and receiving either cash or shares of stock, to the extent that predetermined objectives are achieved, in lieu of exercising the related option or SAR.[38] When both a SAR and a PUR are granted in tandem with an option, accounting practice requires the expensing of an amount relating to the PUR in a given year if that is the most likely employee alternatives based on the facts available. Two commentators suggested that by failing to exclude amounts expensed for such PURs from the remuneration table the proposals would result in the double-reporting of compensation.

The Commission agrees that the appropriate location of tandem PUR information is with the related option and SAR data. In this regard, new Instruction 3(b)(3) to Item 4(a) will exclude from Column D the financial reporting expense for any form of performance or other contingent compensation unit granted in tandem with an option or SAR. Instruction 12 to Item 4(d) will require that the existence of a tandem PUR be disclosed in reference to the related option or SAR and that any value realized from such unit shall be included under the value realized from the exercise of the related option or SAR. Likewise, any accrual balance at the end of the period with regard to such PUR will be reported under potential (unrealized) value for the related option or right.

The formulation of the term "tandem" in instruction 13 to Item 4(d) applies in the same manner with regard to PURs as it does with options and SARs. That is, a PUR will be deemed in tandem with an option and/or a SAR if the realization of value under the PUR will reduce or be an alternative to the realizable value under the option or SAR.

F. Item 4(e)—Indebtedness of Management

The Commission has adopted as proposed an amendment to Item 4(e) which expands the exception relating to indebtedness incurred in the ordinary course of business to savings and loan associations and to broker-dealers extending credit under Federal Reserve Regulation T. This proposal was generally supported by the commentators.

Under the amendment, the specified entities will not have to furnish detailed disclosure with regard to loans extended to management if a statement is included that the loans to such persons: (1) Were made in the ordinary course of business; (2) were made on substantially the same terms, including interest and collateral, as those prevailing at the time for comparable transactions with unaffiliated persons; and (3) did not involve more than the normal risk of collectibility or present other unfavorable features.[39] In the Commission's view, the same policy considerations regarding bank loans to management should apply to these other regulated industries.[40]

The Commission has also increased the *de minimis* exception in Instruction 2 to Item 4(e) from $10,000 to $25,000 to account for inflation.

G. Item 4(f)—Transactions With Management

In order to be consistent with the Item 4(a)(1) requirements, the *de minimis* exclusion in Item 4(f) has been increased from $40,000 to $50,000.

H. Item 4(h)—Termination of Employment

Proposed Item 4(h) would have required a description of any remunerative plan or arrangement, not previously disclosed, that results or would result from the termination of employment of any individual named in the remuneration table in any of the last three fiscal years. Although a number of commentators suggested that information regarding termination arrangements may be required by other sections of the proxy rules, the Commission's experience in administering the remuneration disclosure requirements has indicated a lack of disclosure of such arrangements. The Commission continues to believe that such arrangements are significant to an assessment of the registrant's compensation policy and should be disclosed. Accordingly, the proposed

[33] Registrants are directed to Accounting Principles Board Opinion No. 25 and appropriate interpretations thereunder.

[34] The aggregate of the change in market value from grant until issuance of the share (or lapse of restrictions) would be reflected in the remuneration table upon such issuance (or lapse); appreciation would appear in Column C2, depreciation in Column D. *See* Question and Response 12 of Release No. 33–6166. However, in the case of a deferred of bonus arrangement of the type described in Question and Response 14 of Release No. 33–6166, where the bonus amount is expensed at time of deferral and phantom stock is credited to the employee's account, Column C1 would still be used to report the bonus amount, but the right to market appreciation of the phantom stock would be reported in effect as a SAR or phantom stock under Item 4(d).

[35] New Instruction 12 to Item 4(d) defines "base price" as the amount used to define benefits which are available only to the extent that the market price of the underlying security exceeds such amount. For example, a SAR with a base price of $10 (the market price at time of grant) provides for payment of a benefit equal to the amount by which the market price at time of exercise or realization exceeds $10.

[36] *See* the discussion of option disclosure, *supra*, for the commentators' views regarding unrealized value at the end of the period.

[37] *See* Table I of revised Appendix A to Schedule 14A in the Text of the Amendments for a possible presentation of such information.

[38] In many cases the performance units granted under this method serve as a "safety net" for the stock options or SARs, such that, if the stock market does not adequately reflect improved company performance, the units will generate payments based on company financial results equal to a portion of a predetermined expected stock option or SAR value.

[39] One commentator suggested that the exception be expanded to include finance companies. The Commission is not convinced that the same sort of regulation as to insider loans exists for finance companies and therefore has not expanded upon the proposal.

[40] The Commission for some time has had under consideration the possible modification of the scope of the exception for management indebtedness to regulated lending entities. In addition, the Commission staff is currently considering recommending to the Commission modifications of Item 6(b) of Schedule 14A (17 CFR 240.14a–101), which requires certain disclosure as to relationships involving directors, and related aspects of Item 4(f) of Regulation S–K, which requires disclosure of transactions with officers and directors. *See* Division of Corporation Finance, Securities and Exchange Commission, Staff Report on Corporate Accountability 96th Cong., 2nd Sess. 66–92 (Comm. Print 1980) (Senate Comm. on Banking, Housing and Urban Affairs).

disclosure requirements are being

provided that the registrant had

exceptions,[43] the interpretive positions

Item 4. Management remuneration.

certain prior fiscal years:

Instruction 2 to Item 4(a), Column C

disclosure requirements are being adopted with revisions.

To address certain of the concerns of the commentators and to provide meaningful disclosure to stockholders, a number of revisions have been incorporated into the Item. The first revision relates to the period of time covered by the Item. As adopted, the operative period of time for disclosure of separation payments for Item 4(a) individuals has been reduced so as to require information with respect to individuals named in the Item 4(a) remuneration table either in the latest fiscal year or the preceding fiscal year.[41] The commentators' suggestion that the period of time be limited to the latest fiscal year has not been adopted. Such a period would not require disclosure of separation payments made to an Item 4(a) executive identified in the registrant's proxy statement for one year, but who terminated early in the next year and whose remuneration for that next year, as a result of the termination in mid-year, is not sufficiently high to require naming that individual in the proxy material for that year. The Commission believes that such payments should be disclosed to stockholders and accordingly has adopted the Item to include executives identified in the preceding year's proxy statements.

To eliminate the need to report immaterial termination payments, however, a $50,000 *de minimis* exclusion has been incorporated into the instructions. Although one commentator suggested that the Commission adopt a *de minimis* exemption based upon the level of remuneration reported in the Item 4(a) table, the Commission has adopted the $50,000 exemption since a specific dollar exclusion is consistent with the other *de minimis* levels set forth throughout the proxy rules, particularly Item 4(f) relating to transactions with management.

Instruction 3 has been included to define the term "previously disclosed" for the purposes of Item 4(h). The term includes situations where the arrangements have been generally disclosed in prior proxy or information statements filed with the Commission pursuant to Section 14 of the Exchange Act, notwithstanding the fact that the precise amount to be received by a given individual has not been disclosed. For example, a lump sum payment permissible under the terms of the registrant's pension plan would not be a disclosable event under the Item 4(h) provided that the registrant had included in prior year's proxy statements full disclosure with regard to the registrant's pension plan pursuant to Item 4(b).

I. Incorporation of Prior Interpretations and Technical Changes

In the May 1980 Release, the Commission reaffirmed the prior interpretive releases [42] in the area of management remuneration and noted that certain portions of those releases remain in effect to the extent consistent with or not superseded by Item 4 as amended. In response to a number of requests to reflect as many of these interpretations as possible in the clarifying amendments of Item 4, the Commission has incorporated into the text of the item those interpretive responses which have generic applications. For example, the first four basic disclosure concepts underlying the remuneration disclosure requirements set forth in Securities Act Release 6166 have been incorporated into Item 4. Similarly, the staff interpretive positions expressed in Securities Act Release 6027 and interpretive responses 13, 20, 21, 22, 23, 30, 32 and 52 of Securities Act Release 6166 have also been incorporated into the item as amended. The Commission believes that the incorporation of these interpretations will assist registrants and their advisors in preparing the remuneration portions of their disclosure documents.

The Commission, however, has not incorporated into Item 4 all the interpretive responses previously rendered by the staff, since such inclusion would needlessly expand Item 4 with unnecessary detail and interpretations not having general applicability. Accordingly, with certain exceptions,[43] the interpretive positions expressed in those releases and not incorporated into Item 4 of Regulation S-K are still in effect and may be relied upon by the registrant in responding to the requirements of Item 4.

As proposed, the Commission has renumbered certain paragraphs of Item 4 to conform these paragraphs and their subparts to the other section of the Item. The elimination of the inconsistent numbering scheme as well as new underlining (or italicizing) and indentation techniques are intended to improve the readability of the Item.

The Commission has also adopted certain technical language changes which are designed to clarify the requirements and are not substantive in nature.

Certain Findings

As required by Section 23(a)(2) of the Exchange Act, the Commission has specifically considered the impact which the amendments adopted herein would have on competition and has concluded that they would impose no significant burden on competition. In any event, the Commission has determined that any possible burden will be outweighed by, and is necessary and appropriate to achieve, the benefit of these amendments to investors and registrants.

Text of Amendments

The text of Item 4, as amended is set forth below:

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933 AND SECURITIES EXCHANGE ACT OF 1934—REGULATION S-K

1. 17 CFR 229.20 is amended by revising Item 4 as follows:

229.20 Information required in document.

* * * * *

[41] The proposal would have required information for persons named in the Item 4(a) table in any of the last three fiscal years.

[42] In Release No. 33-5856 (August 18, 1977) (42 FR 43056), the Commission expressed the view that the existing remuneration reporting provisions required registrants to report as remuneration certain personal benefits or "perquisites." These views were codified in Instruction 2(d) to Item 4(a) of Regulation S-K with the adoption of the amendments to Item 4 in December 1978 (Release No. 33-6003 (43 FR 58151)). In Release No. 33-5904 (February 6, 1978) (43 FR 6060), the Commission's Division of Corporation Finance was authorized to publish its interpretive views regarding specific aspects of personal benefits disclosure. Although the 1978 amendments did not alter the majority of the interpretive responses expressed in the latter release, several interpretations were modified or superseded by certain provisions of the amended Item and by subsequent staff interpretation. *See* Release 33-6166 (December 12, 1979) (44 FR 74808), Part V, "Personal Benefits." In Release Nos. 33-6027 (February 22, 1979) (44 FR 16368) and 33-6166 (December 12, 1979), the Commission authorized the Division of Corporation Finance to publish its views with regard to certain interpretations of Item 4. *See also*, letter to Clark Hutton, Esq., regarding Manufacturers Hanover Corporation, dated January 24, 1980.

[43] As a result of the amendments to Item 4 adopted today the following interpretive positions expressed in Release Nos. 33-6166 and 33-5904 are no longer applicable.

In Release No. 33-6166 interpretive responses 4, 5, 8, 9, 10 and 11 relating to the reporting in the remuneration table of amounts attributable to stock options, stock appreciation rights and phantom stock plans are no longer applicable in light of the removal of amounts attributable to such plans from the Item 4(a) remuneration table. In Release No. 33-5904, interpretive responses 1, 3 and 4 have been rendered inapplicable by the nature and scope of new Item 4; interpretive responses 8 (other than the last sentence), 10, 11, 12 and 19 of that Release have been revised by Instruction 2(d) to Item 4(a); interpretive response 27 has been superseded by interpretive response 33 in Release No. 33-6166 and subparts (d) and (e) of interpretive response 7 and subpart (b) of interpretive response 35 regarding evaluation of personal benefits are no longer acceptable valuation standards.

Item 4. Management remuneration.

Item 4(a). Current remuneration.

Furnish the information required in the table below, in substantially the tabular form specified, concerning all remuneration (except remuneration for which disclosure is required by Item 4(b)(2) or Item 4(d)) paid or distributed through the latest practicable date to, or accrued through such date for the account of, the following persons and group for services in all capacities to the registrant and its subsidiaries during the registrant's last fiscal year, or in specified instances, certain prior fiscal years:

Item 4(a)(1). Five executive officers or directors. Each of the five most highly compensated executive officers or directors of the registrant as to whom the total remuneration required to be disclosed in Columns C1 and C2, below, would exceed $50,000, naming each such person; and

Item 4(a)(2). All officers and directors. All officers and directors of the registrant as a group, stating the number of persons in the group without naming them.

Item 4(a)(3). Specified Tabular Format.

Remuneration Table

(A)	(B)	(C) Cash and cash-equivalent forms of remuneration		(D)
Name of individual or number of persons in group	Capacities in which served	(C1) Salaries, fees, directors' fees, commissions, bonuses	(C2) Securities or property, insurance benefits or reimbursement personal benefits	Aggregate of contingent forms of remuneration

Instructions to Item 4(a)

Instruction 1. Columns A and B: persons subject to this item.

Instruction 1(a) to Item 4(a). This Item 4(a) applies to any individual who was an executive officer, officer, or director of the registrant at any time during the fiscal year. However, subject to the last sentence of Instruction 2(b) to Item 4(a), information need not be given for any portion of the period during which such individual was not an executive officer, officer, or director of the registrant, provided a statement to that effect is made. With respect to an individual who becomes for the first time an individual whose remuneration is to be reported in the table, it is not necessary to report remuneration which would have been reported in the table had the individual been included in prior years. For example, if a bonus was accrued for an individual and expensed for financial reporting purposes prior to the individual becoming an officer, the payment subsequent to the individual becoming an officer of the amount accrued and expensed for such bonus need not be reported. Item 4(a)(1) applies to executive officers and directors. Item 4(a)(2) applies to executive officers, other officers, and directors.

Instruction 1(b) to Item 4(a). An "executive officer" of the registrant means its president, secretary, or treasurer, any vice president of the registrant in charge of a principal business unit, division, or function (such as sales, administration or finance), and any other individual who performs similar policy-making functions for the registrant. Executive officers of subsidiaries may be deemed executive officers of the registrant if they perform such policy-making functions for the registrant.

Instruction 1(c) to Item 4(a). Registrants should exercise a measure of flexibility in determining which individuals should be named in the remuneration table in order to avoid anomalous results and to assure that disclosure documents contain information on key policy-making members of management. Specifically, registrants may determine not to name a particular individual in the remuneration table when such individual otherwise might nominally be one of the five most highly remunerated executive officers or directors. The types of matters a registrant should consider in exercising its discretion not to name an individual include: (i) The distribution or accrual of an unusually large amount (such as a bonus or commission), otherwise required to be reflected in Column C1 or Column C2, which is not part of a recurring arrangement and is unlikely to continue under the terms of the plan or any similar plan; and (ii) the distribution or accrual of amounts relating to overseas assignments which may be attributed predominantly to such assignments. However, a registrant should not apply the above standards mechanically; consideration should be given to the question of whether an individual's level of executive responsibilities, viewed in conjunction with the individual's actual level of remuneration, would give rise to a conclusion that the individual may be among the five most highly compensated, key policy-making executive officers or directors. While the criteria set forth above may be used to determine which of the executive officers or directors shall be named in the table, the same standards should not be used as a basis for deleting such amounts from the remuneration table in response to Item 4(a)(2). Thus, while the above standards might allow a particular individual not to be one of those individually named, all relevant amounts should be reflected in the table's group totals with no exclusions based on the above standards. Moreover, if an individual is named in the table, the full amount of that individual's remuneration should be included in the remuneration table in accordance with the instructions to Item 4(a).

Instruction 2 to Item 4(a). Column C information. Column C shall include remuneration for services rendered during the fiscal year distributed to or for the account of the specified individual or group, or which is accrued and the measurement of benefits thereunder and the distribution or unconditional vesting thereof are not subject to future events. See Instruction 2(e) to Item 4(a). Column C shall also include any amount actually distributed in the latest fiscal year which relates to services rendered in a prior fiscal year, less any amount relating to the same contract, agreement, plan, or arrangement previously included in the remuneration table for a prior fiscal year, and less any amount which would have been so included but for the fact that the individual was not, in the earlier period, reflected in the remuneration table either as a named individual or a member of the group. However, if this calculation results in a credit, any such credit should be reflected in Column D and not Column C. See Instruction 3(b)(2) to Item 4(a). Column C shall include cash or cash-equivalent amounts distributed or accrued and should be segregated into two subcolumns; the first, C1, should include the forms of remuneration described in Instruction 2(a) to Item 4(a); the second, C2, should include the forms of remuneration described in Instructions 2(b), (c) and (d) to Item 4(a).

Instruction 2(a) to Item 4(a). Salaries. All cash remuneration distributed or accrued in the form of salaries, fees, directors' fees, commissions and bonuses should be included in Column C1. Where the total amount of a bonus pool for the latest fiscal year under a bonus plan is known at the time remuneration information is filed with the Commission, but the amounts allocated to each participant will not be determined until after the information is filed, the registrant should include a footnote indicating (A) that a bonus plan exists for the latest fiscal year, (B) the individuals named in the table who are participants in the plan, and (C) that amounts have not been allocated from the bonus plan to the individuals and thus are not included in the remuneration table. If the bonus pool participants are all officers and directors, the aggregate amount of the bonus accrual shall be reported in the group disclosure. In addition, registrants are required to disclose amounts subsequently allocated to the individuals named in the remuneration table for the next fiscal year.

Instruction 2(b) to Item 4(a). Securities or property. The spread between the acquisition price, if any, and the fair market price of all securities or property acquired, under any contract, agreement, plan or arrangement (excluding remuneration for which disclosure is called for by Item 4(d)) for the benefit of any of the specified individuals or group, less any amount previously reported in the remuneration table for a prior fiscal year with respect to the same contract, agreement, plan or arrangement. The fair market price of any such securities or property shall be determined as of the date during the fiscal

year that either of the following events occurs, or if the plan or arrangement

the registrant has concluded that the aggregate amounts of such personal benefits

payments, or accruals for the account of any such individual or group under any existing

profit sharing, thrift, or similar plans which has been expensed during the fiscal year by

relationship of such covered remuneration to remuneration reported in the table as

amount of such remuneration earned by each should be indicated. Cross-references to the

year that either of the following events occurs, or if the plan or arrangement contemplates that both such events may occur, the fair market price shall be determined as of the date during the fiscal year that the later event occurs:

(1) The recipient exercises an election (similar to the exercise of an option or right) in connection with the contract, agreement, plan or arrangement; or

(2) The recipient becomes entitled without further contingencies to retain the securities or property.

The foregoing disclosure is required with respect to an exercise or entitlement realized within the last fiscal year, even though, as permitted by a plan, the exercise or entitlement occurs shortly after termination, in the same year, of employment of the participant who is otherwise subject to remuneration disclosure for that year.

Instruction 2(c) to Item 4(a). Life or health insurance; medical reimbursement plans. The cost of premiums paid by the registrant or any of its subsidiaries on life or health insurance policies insuring any such individual or group (unless the sole beneficiary under the policy is the registrant or its subsidiaries), and the costs of any medical reimbursement plans (which may be the benefits paid under any such plans) for the benefit of the specified individuals and the group shall be allocated to such individual and group and reflected in Column C2. Information need not be furnished pursuant to this Instruction 2(c) to Item 4(a) for any costs under group life, health, hospitalization, or medical reimbursement plans which do not discriminate, in scope, terms or operation, in favor of officers or directors of the registrant and which are available generally to all salaried employees.

Instruction 2(d) to Item 4(a). Personal benefits. The value of personal benefits which are not directly related to job performance, other than those provided to broad categories of employees and which do not discriminate in scope, terms or operation in favor of officers or directors, furnished by the registrant or its subsidiaries directly or through third parties to each of the specified individuals and the group, or benefits furnished by the registrant or its subsidiaries to other persons which indirectly benefit the specified individuals.

(1) *Valuation.* Such benefits shall be valued on the basis of the registrant's and subsidiaries' aggregate actual incremental costs; however, if such aggregate costs are significantly less than the aggregate amounts the recipient would have had to pay to obtain the benefits, appropriate disclosure, including the aggregate value to the recipient, should be made in a footnote to the table. The registrant may choose to disclose such aggregate value, rather than aggregate incremental costs, in the table in which event such footnote disclosure is not required.

(2) *Conditional exclusion of personal benefits.* If the registrant cannot determine without unreasonable effort or expense the specific amount of certain personal benefits, or the extent to which benefits are personal rather than business, the amount of such personal benefits may be omitted from the table provided that, after reasonable inquiry, the registrant has concluded that the aggregate amounts of such personal benefits which cannot be specifically or precisely ascertained do not in any event exceed $10,000 as to each individual or, in the case of a group, $10,000 for each individual in the group and has concluded that the information set forth in the table is not rendered materially misleading by virtue of the omission of the value of such personal benefits.

(3) *Footnote disclosure.* If as to an individual named in the table an amount representing personal benefits included in Column C2 exceeds 10 percent of the aggregate amount disclosed in Columns C1 and C2 or $25,000, whichever is less, include a footnote to the table stating the dollar amount or percentage of Column C2 represented by such personal benefits and briefly describing the kinds of such benefits.

Instruction 2(e) to Item 4(a). Certain remuneration which is subject to future events. Remuneration for a fiscal year under plans of the types described in Instruction 3 to Item 4(a) (excluding remuneration for which disclosure is called for by Item 4(d) or Item 4(b)(2)) shall be included in Column C for such fiscal year if as of the end of such fiscal year such remuneration was distributed to or for the account of the specified individuals or group, or was accrued and the measurement and the distribution or unconditional vesting thereof were not subject to future events. If a plan provides for remuneration, some of which is and some of which is not subject to future events, the former is reportable in Column D and the latter is reportable in Column C. Remuneration conditioned on substantial future service is subject to future events under this standard. Similarly, if the amount or value of, or entitlement to, remuneration is dependent on future earnings performance or market values, such remuneration is subject to future events under this standard. However, if dependence on future events does not represent a true contingency, remuneration should be reported in Column C.

Instruction 3 to Item 4(a). Column D. Column D shall include remuneration of the specified individuals and group in whole or in part for services rendered during the fiscal year, including but not limited to the forms of remuneration described in paragraphs (a) through (c) below, if such remuneration is properly expensed for financial reporting purposes, and the measurement of benefits thereunder or the distribution or unconditional vesting thereof is subject to future events, so that the remuneration is therefore not reportable in Column C. See Instruction 2(e) to Item 4(a). Registrants need only report remuneration in Column D as it relates to the latest fiscal year and need not report amounts expensed in previous fiscal years.

Instruction 3(a) to Item 4(a). Pension or retirement plans; annuities; employment contracts; deferred compensation plans. As to each of the specified individuals and group, include as remuneration any amount expensed for financial reporting purposes by the registrant and its subsidiaries for the fiscal year with respect to contributions, payments, or accruals for the account of any such individual or group under any existing pension or retirement plans (except remuneration for which disclosure is required by Item 4(b)(2)), annuity contracts, deferred compensation plans, or any other similar arrangements. Such remuneration should be reflected in the amounts and for the fiscal year in which they are expensed under all such plans or arrangements, including plans qualified under the Internal Revenue Code.

Instruction 3(b) to Item 4(a). Incentive and compensation plans and arrangements.

(1) With respect to remuneration under incentive or compensation plans or arrangements (other than remuneration for which disclosure is called for by Item 4(d)), pursuant to which the measure of benefits is based on objective standards or on securities (or an amount or value of securities) of the registrant or another person, granted, awarded or entered into at any time in connection with services to the registrant or its subsidiaries, include as remuneration as to each of the specified individuals and group any amount expensed for financial reporting purposes by the registrant and its subsidiaries for the fiscal year with respect to any such specified individual or group attributable to an interest in any such plan or arrangement.

(2) If the registrant has expensed amounts for financial reporting purposes and reported such amounts in the remuneration table and, in a subsequent year, in connection with the same plan or arrangement, credits its remuneration expense for financial reporting purposes, for any proper reason, such credit may be reflected as a reduction of the remuneration reported in Column D. If amounts credited pursuant to this instruction are so reflected in the table, include a footnote briefly stating the amount of such credit and describing such treatment. In situations in which there are several plans and virtually everyone in the remuneration table is a participant in each plan, to the extent that negative entries in Column D for individuals and for the group are attributable to the same factors, the footnote disclosure required by this Instruction 3(b)(2) to Item 4(a) may be generic in nature. If negative entries reflect changes in several types of plans or other factors not common to all individuals and the group, and separate disclosure would result in lengthy narrative, it is sufficient to provide a general explanation of the circumstances giving rise to negative entries without a separate explanation of the components of each negative entry for individuals or the group. Excessive detail should be avoided.

(3) The financial reporting expense (or credit) for any form of performance or other contingent compensation granted in tandem with options or rights under plans for which disclosure is called for by Item 4(d) shall be excluded from Column D, and the information required by Instruction 12 to Item 4(d) shall be presented.

Instruction 3(c) to Item 4(a). Stock purchase plans; profit sharing and thrift plans. Include the amount of any contribution, payment or accrual for the account of each of the specified individuals and the group under any stock purchase, profit sharing, thrift, or similar plans which has been expensed during the fiscal year by the registrant and its subsidiaries for financial reporting purposes. Amounts reflecting contributions under plans qualified under the Internal Revenue Code may not be excluded.

Instruction 4 to Item 4(a). Transactions with third parties. Item 4(a), among other things, includes transactions between the registrant and a third party when the primary purpose of the transaction is to furnish remuneration to the individuals or group specified in Item 4(a). Other transactions between the registrant and third parties in which persons specified in Item 4(a) have an interest, or may realize a benefit, generally are addressed by other disclosure requirements concerning the interest of management and others in certain transactions, particularly Item 4(f). Item 4(a) does not require disclosure of remuneration paid to a partnership in which any officer or director was a partner; any such transactions should be disclosed pursuant to these other disclosure requirements, and not as a note to the remuneration table presented pursuant to Item 4(a).

Instruction 5 to Item 4(a). Other permitted disclosure. The registrant may provide additional disclosure through one or more footnotes to the table, through additional lines or columns, or otherwise, describing the components of aggregate remuneration in such greater detail as is appropriate.

Instruction 6 to Item 4(a). Definition of "plan". The term "plan" as used in this Item 4 includes all plans, contracts, authorizations, or arrangements, whether or not set forth in any formal documents.

Item 4(b). Proposed remuneration.

Item 4(b)(1). Briefly describe all remuneration payments proposed to be made in the future pursuant to any ongoing plan or arrangement to the individuals and group specified in Item 4(a). The description should include a summary of how each plan operates, any performance formula or measure in effect (or the criteria used to determine payment amounts), the time periods over which the measurement of benefits will be determined, payment schedules, and any recent material amendments to the plan. Information need not be furnished with respect to any group life, health, hospitalization, or medical reimbursement plans which do not discriminate in scope, terms or operation in favor of officers or directors of the registrant and which are available generally to all salaried employees.

Item 4(b)(2). As to defined benefit and actuarial plans, include (in addition to describing such plans pursuant to paragraph (1) above) a separate table showing estimated annual benefits payable upon retirement (including amounts attributable to any supplementary or excess pension award plans or arrangements) to persons in specified remuneration and years-of-service classifications. Amounts presented in the pension table should be straight life annuity amounts notwithstanding the availability of joint survivorship provisions. In addition, the registrant shall (i) describe the remuneration covered by the plan, including the relationship of such covered remuneration to remuneration reported in the table as required by Item 4(a); (ii) state the credited years of service under the plan for each of the individuals named in the table required by Item 4(a), and also their current remuneration covered by the plan if it differs substantially (by more than 10% for each individual) from that set forth in Column C1 of the Item 4(a) table; and (iii) indicate whether the benefit amounts listed in the table are subject to any deduction for Social Security benefits or other offset amounts.

Example of Pension Table

Remuneration	Years of service				
	15	20	25	30	35
125,000					
150,000					
175,000					
200,000					
225,000					

Instructions to Item 4(b)

Instruction 1 to Item 4(b). Item 4(b)(1) requires a brief description of any remuneration plan or arrangement which is operable for more than the latest fiscal year, whether or not remuneration under such plan has been reported or is reportable pursuant to Items 4(a), 4(c) or Item 4(d) of this regulation.

Instruction 2 to Item 4(b). Remuneration levels set forth in the Item 4(b)(2) pension table should allow for reasonable increases in existing compensation levels; alternatively, registrants may present as the highest remuneration level in the pension table an amount equal to 120% of the highest amount of covered remuneration of any individual named in the table required by Item 4(a) for the fiscal year.

Instruction 3 to Item 4(b). If the registrant has a defined benefit or acturarial pension plan or plans which are such that the use of the Item 4(b)(2) pension table is inappropriate to inform stockholders of the pension benefits that the Item 4(a) individuals may receive, because the pension benefits are not determined primarily by final compensation (or average final compensation) and years of service (such as a plan where the annual benefit is determined by a summation of a certain amount or certain percentage of compensation for each year of the individual's entire career), the registrant should describe the plan as required by Item 4(b)(2) together with the formula by which benefits are determined, and indicate the estimated annual benefits payable upon retirement at normal retirement age for the individuals specified in Item 4(a). For purposes of this Instruction 3 to Item 4(b), normal retirement age shall mean normal retirement age as defined under the plan or, if not so defined, the earliest time at which a participant may retire without any benefit reduction because of age.

Instruction 4 to Item 4(b). Under Item 4(b), a plan of deferred compensation for services as a director must be disclosed. In addition, if such arrangement is not standard for all directors, the name of each director participating in such arrangement and the amount of such remuneration earned by each should be indicated. Cross-references to the remuneration table required ty Item 4(a) may be used for this purpose. See also Item 4(c)(2).

Item 4(c). Remuneration of directors

Item 4(c)(1). Standard arrangements. Describe any standard arrangement, stating amounts, by which directors of the registrant are compensated for all services as a director, including any additional amounts payable for committee participation or special assignments.

Item 4(c)(2). Other arrangements. If a director of the registrant received remuneration for services as a director during the fiscal year in addition to or in lieu of that specified by any standard arrangement, state the name of the director and the amount of such remuneration earned by each; if this information is given as to an individual named in the table required by Item 4(a), a cross-reference may be used.

Item 4 (d). Options, warrants, or rights.

Furnish the following information as to all stock appreciation rights and options to purchase securities from the registrant or any of its subsidiaries which were granted to or exercised or realized by the following persons during the registrant's last fiscal year (or, if applicable, the alternate period specified in either Instruction 5 or Instruction 6 to Item 4(d)) and as to all options and stock appreciation rights held by such persons at the end of the last fiscal year (or of such alternate period): (1) each director or executive officer named in answer to Item 4(a) (1), naming each such individual; and (2) all directors and officers of the registrant as a group, without naming them.

(i) As to options granted during the specified period, state (A) the title and aggregate amount of securities subject to options; (B) the average per share option exercise price; and (C) if the option exercise price was less than 100 percent of the market value of the security on the date of grant, such fact and the market price on such date shall be disclosed. The title and aggregate amount of such securities subject to options, if any, which are in tandem with stock appreciation rights should be separately set forth.

(ii) As to the exercise or realization of options or stock appreciation rights held in tandem with options granted during the specified period or prior thereto, state the net value of securities (market value less any exercise price) or cash realized during the specified period.

(iii) As to all unexercised options or stock appreciation rights in tandem therewith held as of the end of the specified period, state (A) the title and aggregate amount of underlying securities; and (B) the aggregate potential (unrealized) value of such options or rights, as of the end of the specified period (market value less any exercise or base price). The title and aggregate amount of securities subject to options which are in tandem with stock appreciation rights, if any, should be separately set forth.

(iv) As to stock appreciation rights not in tandem with options, state (A) the number of rights granted during the specified period; (B)

the average per share base price thereof; (C) appreciation rights held shall be given as of reduction by or payment of any amount, the

for other transactions in the ordinary course *Instruction 2 to Item 4(f).* No information to the purchaser and, if acquired by the seller

the average per share base price thereof; (C) the number of rights outstanding at the end of specified period; (D) the net value of the shares (market value) or cash realized during the specifed period upon exercise or realization of any such rights, granted during the specified period or prior thereto; (E) the number of rights outstanding as of the end of the specified period; and (F) the potential (unrealized) value of all such rights outstanding as of the end of the specified period (market value less any base price).

Instructions to Item 4(d)

Instruction 1 to Item 4(d). The term "options" as used in this Item 4(d) includes all options, warrants or rights, other than those issued to security holders as such on a pro rata basis. Where the average option price per share is called for, the weighted average price per share shall be given. The term "stock appreciation right" means a right representing a share of the registrant or another person under which right the holder may in the future realize compensation measurable by reference to the future market price of such share and payable in cash, securities, or other property, where a change in the market value of the share is properly taken into account in the expensing of such compensation for financial reporting purposes for the fiscal year in which the change in market value occurs. Thus, this definition may include interests in certain plans, such as some phantom stock plans, which are not denominated as stock appreciation right plans. For the purposes of this Item 4(d), if reference is made to a number of options or stock appreciation rights, such number should correspond to the number of securities to which the options or rights relate.

Instruction 2 to Item 4(d). The extension, regranting or material amendment of options or stock appreciation rights shall be deemed the granting of options and stock appreciation rights within the meaning of Item 4(d).

Instruction 3 to Item 4(d). If the options or rights relate to more than one class of securities, the information shall be given separately for each such class.

Instruction 4 to Item 4(d). The information called for by Item 4(d) may be furnished in the form of the table set forth in Appendix A to Schedule 14A.

Instruction 5 to Item 4(d). If the information called for by Item 4(d) is required to be presented in a registration statement filed pursuant to the Securities Act of 1933 on behalf of a registrant which is not then subject to the reporting requirements of section 13(a) or section 15(d) of the Securities Exchange Act of 1934, such information regarding options and stock appreciation rights shall be given for the period since the beginning of the registrant's last fiscal year through a date not more than 30 days prior to the date of filing the registration statement, specifying such date. Such information may, but need not, be reported separately for option and stock appreciation right transactions during the past fiscal year and such transactions since the close of the last fiscal year through such specified date, and such information regarding options and stock appreciation rights held shall be given as of the specified date.

Instruction 6 to Item 4(d). With regard to any registrant, if the information called for by Item 4(d)(iii) is required to be presented, rather than incorporated by reference, in a registration statement filed pursuant to the Securities Act of 1933, the information required by Item 4(d)(iii) shall be reported for all options and stock appreciation rights in tandem therewith (regardless of who holds them) as of a date 30 days prior to the date of filing of the registration statement. Instructions 1 through 5 do apply.

Instruction 7 to Item 4(d). Except where the information called for by Item 4(d) is incorporated by reference, rather than presented, in a registration statement filed pursuant to the Securities Act of 1933, a registrant reporting option and stock appreciation right information on a fiscal year basis shall, if the total market value on the granting dates of securities underlying all options or stock appreciation rights granted since the end of the last fiscal year exceeds $50,000 for any executive officer or director named pursuant to Item 4(a), also present the following information as to such options and rights as of the most recent practicable date: (A) The title and aggregate amount of underlying securities, (B) the exercise or base price of such options or rights, and (C) if the exercise or base price was less than 100% of market price the underlying security on the date of grant, such fact and the market price of the underlying security.

Instruction 8 to Item 4(d). In calculating the potential (unrealized) value of outstanding rights or options, the value of an option or right shall be determined as though it had been exercised or realized on the valuation date, and without regard to the fact that actual realization of any of or all benefits under the option or right may be subject to unsatisfied contingencies or conditions. All outstanding rights or options with exercise or base prices above the market price on the valuation date shall be disregarded in making this calculation; the total should reflect only options or rights with positive unrealized values and should not be reduced by negative unrealized values.

Instruction 9 to Item 4(D). If securities rather than cash are received upon the exercise or realization of a stock appreciation right, the fair market value of said securities on the date of exercise or realization should be reported pursuant to this Item 4(d).

Instruction 10 to Item 4(d). With regard to Items 4(d)(iii) and 4(d)(iv), registrants may also state, at their option, that portion of the potential (unrealized) value reported which relates to options and/or rights that are not currently vested, exercisable or realizable.

Instruction 11 to Item 4(d). The base price of a stock appreciation right is the amount used to define benefits which are available only to the extent that the market price of the underlying security exceeds such amount. For example, a stock appreciation right with a base price of $10 (the market price on date of grant) provides for payment of a benefit equal to the amount by which the market price at time of exercise exceeds $10. In the case of a phantom stock right providing for payment of the full value of a share, without reduction by or payment of any amount, the base price is zero.

Instruction 12 to Item 4(d). If a performance unit or other contingent compensation right (other than an option or stock appreciation right) is in tandem with an option or stock appreciation right, the existence of such right shall be disclosed either with information about options pursuant to Item 4(d)(i)-(iii) (if such right is in tandem with an option or with a stock appreciation right which is itself in tandem with an option) or with information about stock appreciation rights pursuant to Item 4(d)(iv) (if such right is in tandem only with a stock appreciation right with is not itself in tandem with an option). The value realized from such rights shall be included as value realized upon exercise or realization of options or stock appreciation rights, as the case may be, and shall not be reported pursuant to Item 4(a) or Item 4(c); and the potential (unrealized) value of such rights shall be taken into account in determining the potential (unrealized) value of options or stock appreciation rights, as the case may be. See Instructions 8 and 13 to Item 4(d).

Instruction 13 to Item 4(d). For purposes of this Item 4(d), an option shall be deemed in tandem with a stock appreciation right, and a performance unit or other contigent compensation right will be deemed in tandem with an option or stock appreciation right, and vice versa in each instance, if the benefits under one represent an alternative to or reduce the benefits available under the other. Where rights or options are in tandem with one another, a registrant shall present, as potential (unrealized) value, the maximum amount which may be realized under such rights and/or options if all were exercised and/or realized on the valuation date in the manner most beneficial to the holder (without counting more than one of any benefits which are alternative to one another).

Item 4(e). Indebtedness of management. State as to each of the following persons who was indebted to the registrant or its subsidiaries at any time since the beginning of the last fiscal year of the registrant, (1) the largest aggregate amount of indebtedness outstanding at any time during such period, (2) the nature of the indebtedness and of the transaction in which it was incurred, (3) the amount thereof outstanding as of the latest practicable date, and (4) the rate of interest paid or charged thereon: (i) each director or officer of the registrant; (ii) each nominee for election as a director; and (iii) each associate of any such director, officer or nominee.

Instructions to Item 4(e)

Instruction 1 to Item 4(e). Include the name of each person whose indebtedness is described and the nature of the relationship by reason of which the information is required to be given.

Instruction 2 to Item 4(e). This Item 4(e) does not apply to any person whose aggregate indebtedness did not exceed $25,000 or 1 percent of the registrant's total assets, whichever is less, at any time during the period specified. Exclude in the determination of the amount of indebtedness all amounts due from the particular person for purchases subject to usual trade terms, for ordinary travel and expense advances and

for other transactions in the ordinary course to business.

Instruction 3 to Item 4(e). Notwithstanding Instruction 2 of Item 4(e), if the registrant or any of its subsidiaries is engaged primarily in the business of making loans and loans to any of the specified persons in excess of $25,000 or one percent of its total assets, whichever is less, were outstanding at any time during the period specified, such loans shall be disclosed. However, if the lender is a bank, savings and loan association, or a broker-dealer extending credit under Federal Reserve Regulation T (12 CFR Part 220), such disclosure may consist of a statement, if such is the case, that the loans to such persons (a) were made in the ordinary course of business, (b) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons, and (c) did not involve more than normal risk of collectibiljty or present other unfavorable features.

Instruction 4 to Item 4(e). If any indebtedness required to be described arose under section 16(b) of the Act and has not been discharged by payment, state the amount of any profit realized, that such profit will inure to the benefit of the issuer or its subsidiaries and whether suit will be brought or other steps taken to recover such profit. If in the opinion of counsel a question reasonably exists as to the recoverability of such profit, it will suffice to state all facts necessary to describe the transaction, including the prices and number of shares involved.

Instruction 5 to Item 4(e). If the information called for by Item 4(e) is being presented in a registration statement filed pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934, the information called for by Item 4(e) shall be presented for the last three fiscal years.

Item 4(f). Transactions with management. Describe briefly any transaction since the beginning of the registrant's last fiscal year or any presently proposed transactions, to which the registrant or any of its subsidiaries was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating the person's relationship to the registrant, the nature of the person's interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the registrant;

(2) Any nominee for election as a director;

(3) Any security holder who is known to the registrant to own of record or beneficially more than five percent of any class of registrant's voting securities; and

(4) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director or officer of any parent or subsidiary of the registrant.

Instructions 1 to Item 4(f)

Instruction 1 to Item 4(f). No information need be given in response to this Item 4(f) as to any remuneration or other transaction reported in response to any other subitems of this Item 4 or as to any remuneration or transaction with respect to which information may be omitted pursuant to any other paragraphs of this Item 4.

Instruction 2 to Item 4(f). No information need be given in answer to this Item 4(f) as to any transaction where:

(a) The rates or charges involved in the transaction are determined by competitive bids, or the transaction involves the rendering of services as a common or contract carrier, or public utility, at rates or charges fixed in conformity with law or governmental authority;

(b) The transaction involves services as a bank depositary of funds, transfer agent, registrar, trustee under a trust indenture, or similar services;

(c) The amount involved in the transaction or series of similar transactions, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, does not exceed $50,000; or

(d) The interest of the specified person arises solely from the ownership of securities of the registrant and the specified person receives no extra or special benefit not shared on a pro rata basis.

Instruction 3 to Item 4(f). It should be noted that this Item 4(f) calls for disclosure of indirect, as well as direct, material interests in transactions. A person who has a position or relationship with a firm, corporation, or other entity, which engages in a transaction with the registrant or its subsidiaries may have an indirect interest in such transaction by reason of such position or relationship. However, a person shall be deemed not to have a material indirect interest in a transaction within the meaning of this Item 4(f) where:

(a) The interest arises only (1) from such person's position as a director of another corporation or organization (other than a partnership) which is a party to the transaction, or (2) from the direct or indirect ownership by such person and all other persons specified in Item 4(f)(1)–(4), in the aggregate, of less than a 10-percent equity interest in another person (other than a partnership) which is a party to the transaction, or (3) from both such position and ownership;

(b) The interest arises only from such person's position as a limited partner in a partnership in which the person and all other persons specified in (1) through (4) above had an interest of less than 10 percent; or

(c) The interest of such person arises solely from the holding of an equity interest (including a limited partnership interest but excluding a general partnership interest) or a creditor interest in another person which is a party to the transaction with the registrant or any of its subsidiaries and the transaction is not material to such other person.

Instruction 4 to Item 4(f). The amount of the interest of any specified person shall be computed without regard to the amount of the profit or loss involved in the transaction. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

Instruction 5 to Item 4(f). In describing any transaction involving the purchase or sale of assets by or to the registrant or any of its subsidiaries, otherwise than in the ordinary course of business, state the cost of the assets to the purchaser and, if acquired by the seller within two years prior to the transaction, the cost thereof to the seller. If the information prescribed by this instruction is to be included in a registration statement filed on Form S–11, disclose the aggregate depreciation claimed by the seller for federal income tax purposes, if acquired by the seller within five years prior to the transaction. Indicate the principle followed in determining the registrant's purchase or sale price and the name of the person making such determination.

Instruction 6 to Item 4(f). If the information called for by Item 4(f) is being presented in a registration statement filed pursuant to the Securities Act of 1933 or the Securities Exchange Act of 1934, the period for which the information called for shall be reported is the previous three years.

Instruction 7 to Item 4(f). Include the name of each person whose interest in any transaction is described and the nature of the relationship by reason of which such interest is required to be described. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

Instruction 8 to Item 4(f). Information shall be furnished in answer to this Item 4(f) with respect to transactions not excluded above which involve remuneration from the registrant or its subsidiaries, directly or indirectly, to any of the specified persons for services in any capacity unless the interest of such persons arises solely from the ownership individually and in the aggregate of less than 10% of any class of equity securities of another corporation furnishing the services to the registrant or its subsidiaries.

Instruction 9 to Item 4(f). If the filing to which this Item 4(f) relates is a registration statement under the Securities Act of 1933, information should be included as to any material underwriting discounts and commissions upon the sale of securities by the registrant where any of the specified persons was or is to be a principal underwriter or is a controlling person, or member, of a firm which was or is to be a principal underwriter. Information need not be given concerning ordinary management fees paid by underwriters to a managing underwriter pursuant to an agreement among underwriters the parties to which do not include the registrant or its subsidiaries.

Instruction 10 to Item 4(f). The foregoing instructions specify certain transactions and interests as to which information may be omitted in answering this Item 4(f). There may be situations where, although the foregoing instructions do not expressly authorize nondisclosure, the interest of a specified person in the particular transaction or series of transactions is not a material interest. In that case, information regarding such interest and transaction is not required to be disclosed in response to this item. The materiality of any interest or transaction is to be determined on the basis of the significance of the information to investors in light of all of the circumstances of the particular case. The importance of the interest to the person having the interest, the relationship of the parties to the transaction to each other and the amount involved in the transaction are

among the factors to be considered in determining the significance of the

any plan or arrangement where the amount involved in the transaction including all

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among the factors to be considered in determining the significance of the information to investors.

Item 4(g). Transactions with pension or similar plans. Described briefly any transactions since the beginning of the registrant's last fiscal year or any currently proposed transactions, to which any pension, retirement, savings or similar plan provided by the registrant, or any of its parents or subsidiaries was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating his relationship to the registrant, the nature of his interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the registrant;

(2) Any nominee for election as a director;

(3) Any security holder who is known to the registrant to own of record or beneficially more than 5 percent of the outstanding voting securities of the registrant;

(4) Any relative or spouse of any of the foregoing persons, or any relative or such spouse, who has the same home as such person or who is a director or officer of any parent or subsidiary of the registrant; or

(5) The registrant or any of its subsidiaries.

Instructions to Item 4(g)

Instruction 1 to Item 4(g). Instructions 2, 3, 4 and 5 to Item 4(f) shall apply to this Item 4(g).

Instruction 2 to Item 4(g). Without limiting the general meaning of the term "transaction" there shall be included in answer to this Item 4(g) any remuneration received or any loans received or outstanding during the period, or proposed to be received.

Instruction 3 to Item 4(g). No information need be given in answer to Item 4(g) with respect to:

(a) Payments to the plan, or payments to beneficiaries, pursuant to the terms of the plan;

(b) Payment of remuneration for services not in excess of 5 percent of the aggregate remuneration received by the specified person during the registrant's last fiscal year from the registrant and its subsidiaries; or

(c) Any interest of the registrant or any of its subsidiaries which arises solely from its general interest in the success of the plan.

Item 4(h). Termination of employment. Describe, unless previously disclosed by the registrant in a proxy or information statement filed pursuant to section 14 of the Securities Exchange Act of 1934, any remunerative plan or arrangement, including payments to be received from the registrant, with any individual named in the Item 4(a) remuneration table for the latest or the next preceding fiscal year, if such a plan or arrangement results or will result from the resignation, retirement or any other termination by such individual of employment with the registrant and its subsidiaries.

Instructions to Item 4(h)

Instructions to Item 4(h). No information need be given in response to this Item 4(h) as to any remuneration or other transactions reported in response to any other subitems of this Item 4.

Instruction 2 to Item 4(h). No information need be given in answer to Item 4(h) as to any plan or arrangement where the amount involved in the transaction including all periodic payments or installments does not exceed $50,000.

Instruction 3 to Item 4(h). The term "previously disclosed" as used in this Item 4(h) includes situations where the arrangements have been generally disclosed in prior proxy or information statements filed with the Commission, notwithstanding the fact that the precise amount to be received by a given individual has not been precisely indicated.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

2. Section 240.14a–103 is amended by revising Appendix A as follows:

§ 240.14a–103 Appendix A (to Schedule 14A (§ 240.14a–101)).

The tables set forth below are illustrations of the presentation in tabular form of the information required by Item 4(d) of Regulation S–K (17 CFR 229.20.4(d)) and Instruction 3(c) to Item 9(d) of Schedule 14A, which also applies to Items 10(d) and 11(c) of Schedule 14A. If only Item 4(d) of Regulation S–K applies and Items 9, 10 and 11 of Schedule 14A are inapplicable, information need only be furnished for the period specified in Item 4(d), information called for in Table *I* as to shares sold may be omitted, and the reference at the foot of the table to options granted to employees may be omitted. See Instruction 4 to Item 4 (d) of Regulation S–K.

Other tabular presentations, including combination of the Tables into one, are of course acceptable if they include the necessary data. Tabular presentation may not be appropriate if only a very few options or stock appreciation rights have been granted.

Table I—Stock Options and Tandem Rights

The following tabulation shows, as to certain directors and officers of the registrant and as to all directors and officers of the registrant as a group, the following information with respect to stock options and stock appreciation rights in tandem therewith (if any): (i) The title and aggregate amount of securities subject to options granted during the specified period, (ii) the average per share option exercise price thereof, (iii) the net value of shares (market value less any exercise price) or cash realized during the specified period upon the exercise or realization of such options or rights granted during the specified period or prior thereto, (iv) the numbers of shares sold during the specified period of the same class as those so acquired, and (v) the title and aggregate amount of securities subject to all such options or rights outstanding as of the end of the specified period, and (vi) the potential (unrealized) value of such outstanding options and rights as of the end of the specified period (market value less any exercise or base price). The title and aggregate amount of securities subject to tandem options granted during the specified period and outstanding at the end thereof are separately shown.

	John Jones	James Smith	Richard Roe	All directors and officers as a group
Granted —— to ——:				
Number of options without tandem rights				
Number of options with tandem rights				
Average per share exercise price [1]	$	$	$	$
Exercised —— to ——: Net value realized in shares (market value less any exercise price) or cash	$	$	$	$
Sales —— to ——: Number of shares				[2]
Outstanding at ——:				
Number of options[4] without tandem rights				
Number of options[4] with tandem rights				
Potential (unrealized) value (market value less exercise or base price) [3]	$	$	$	$

In addition, during the period employees were granted options and tandem rights for a total of —— shares at an average option or base price per share of $——.

[1] If the option price was less than 100 percent of the market value of the security on the date of grant, such fact and the market price on such date must be disclosed.

[2] Sales by directors and officers who exercised options during the period from —— to ——.

[3] Of the potential (unrealized) value at the end of the period, —— pct relates to exercisable options and/or tandem rights, and —— pct relates to unexercisable options and/or tandem rights.

[4] The numbers of options or rights set forth above correspond to the numbers of shares to which they relate. All share figures have been adjusted in accordance with the terms of the options or rights to reflect the stock split in 19— and, where applicable, to give effect to share dividends.

Table II.—Stock Appreciation Rights not in Tandem With Options

The following tabulation shows, as to certain directors and officers of the registrant and as to all directors and officers of the registrant as a group, the following information with respect to stock appreciation rights (including interests in certain phantom stock plans): (i) The number of such rights granted during the specified period, (ii) the average per share base price thereof, (iii) the net value of shares (market value) or cash realized during the specified period upon exercise or realization of any such rights granted during the specified period or prior thereto, (iv) the number of such rights outstanding as of the end of the specified period, and (v) the potential (unrealized) value of all such rights outstanding as of the end of the specified period (market price less any base price).

	John Jones	James Smith	Richard Roe	All directors and officers as a group
Granted —— to ——:				
Number of rights[2]				
Average base price	$	$	$	$
Exercised or realized —— to ——: Net value realized in shares (market value) or cash	$	$	$	$
Outstanding at ——:				
Number of rights[2]				
Potential (unrealized) value (market value less any base price) [1]	$	$	$	$

In addition, during the period employees were granted rights relating to a total of —— shares at an average base price of $—— per share.

[1] Of the potential (unrealized) value at the end of period, —— pct relates to exercisable rights, and ——% relates to unexercisable rights.

[2] The numbers of rights set forth above correspond to the numbers of shares to which they relate. All stock appreciation right figures have been adjusted in accordance with the terms of the rights to reflect the stock split in 19— and, where applicable, to give effect to share dividends.

Authority

The amendments are adopted pursuant to the authority in sections 6, 7, 8, 10 and 19(a) of the Securities Act of 1933 and sections 12, 13, 14, 15(d) and 23(a) of the Securities Exchange Act of 1934.

The Commission finds that any changes in the amended provisions form those published in Release No. 33–6210 have already been generally subject to comment and are technical in nature or less burdensome than previous rules so that further notice and rulemaking procedures pursuant to the Administrative Procedures Act (5 U.S.C. 553) are not necessary.

By the Commission.

George A. Fitzsimmons,

Secretary.

November 14, 1980.

[FR Doc. 80–38392 Filed 11–20–80; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 175

[Docket No. 80F–0210]

Indirect Food Additives: Adhesive Coatings and Components Vinylidene; Chloride Copolymer Coatings for Nylon Film

AGENCY: The Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of methyl methacrylate and 2-sulfoethyl methacrylate as optional comonomers in vinylidene chloride copolymer coatings for nylon film used in articles intended for food contact. This action is based on a food additive petition filed by the Dow Chemical Co.

DATES: Effective November 21, 1980; objections by December 22, 1980.

ADDRESS: Written objections to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of June 27, 1980 (45 FR 43474) announced that a food additive petition (FAP 9B3468) had been filed by the Dow Chemical Co., 2040 Dow Center, Midland, MI 48640, proposing that § 175.360 *Vinylidene chloride copolymer coatings for nylon film* (21 CFR 175.360) be amended to provide for the safe use of methyl methacrylate and 2-sulfoethyl methacrylate as optional comonomers in vinylidene chloride copolymer coatings for nylon film used in articles intended for food contact.

FDA has evaluated data in the petition and other relevant material and finds that § 175.360 should be amended as set forth below to include the petitioned additives.

V 45 N 0 21 80 UMI

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 175 is amended in § 175.360 by revising paragraph (b), to read as follows:

§ 175.360 Vinylidene chloride copolymer coatings for nylon film.

* * * * *

(b) The coatings are prepared from vinylidene chloride copolymers produced by copolymerzing vinylidene chloride with one or more of the monomers acrylic acid, acrylonitrile, ethyl acrylate, methacrylic acid, methyl acrylate, methyl methacrylate (CAS Reg. No. 80–62–6; maximum use level 2 weight percent) and 2-sulfoethyl methacrylate (CAS Reg. No. 10595–80–9; maximum use level 1 weight percent). The finished copolymers contain at least 50 weight percent of polymer units derived from vinlyidene chloride. The finished coating produced from vinylidene chloride copolymers produced by copolymerzing vinylidene chloride with methyl methacrylate and/or 2-sulfoethyl methacrylate or with methacrylate and/or 2-sulfoethyl methacrylate together with one or more of the other monomers from this section, is restricted to use at or below room temperature.

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before December 22, 1980, submit to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective November 21, 1980.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: November 13, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-36230 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 175

[Docket No. 80F–0223]

Indirect Food Additives: Adhesive Coatings and Components; 5-Ethyl-1,3-Diglycidyl-5-Methylhydantoin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the food additive regulations to provide for the safe use of 5-ethyl-1,3-diglycidyl-5-methylhydantoin as a component of adhesive formulations employed in the manufacture of food-packaging materials, as requested in a petition filed by Ciba-Geigy Corp.

DATES: Effective November 21, 1980; objections by December 22, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Garnett R. Higginbotham, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Notice was published in the **Federal Register** of June 27, 1980 (45 FR 43473) that a food additive petition (FAP 0B3491) had been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of 5-ethyl-1,3-diglycidyl-5-methylhydantoin as a component of adhesive formulations employed in the manufacture of food-packaging materials.

Having evaluated data in the petition and other relevant materials, FDA concludes that the food additive regulations should be amended to provide for the safe use of 5-ethyl-1,3-diglycidyl-5-methylhydantoin as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 175 is amended in § 175.105(c)(5) by inserting alphabetically a new item in the list of substances to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * * * *	
5-Ethyl-1,3-diglycidyl-5-methylhydantoin (CAS Reg. No. 15336–82–0)	
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before December 22, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective November 21, 1980.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: November 13, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-36231 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 178

[Docket No. 79F–0480]

Octadecyl 3,5-Di-Tert-Butyl-4-Hydroxy-Hydrocinnamate; Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate as an antioxidant and/or stabilizer for polymers in food-contact applications. This action responds to a food additive petition filed by Ciba-Geigy Corp., Ardsley, NY 10502.

DATES: Effective November 21, 1980; objections by December 22, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Norman C. Chang, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of February 22, 1980 (45 FR 11908) announced that a food additive petition (FAP 9B3472) had been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate as an antioxidant and/or stabilizer for rigid polyvinyl chloride intended for food-contact use.

Having evaluated data in the petition and other relevant material, FDA concludes that § 178.2010 should be amended to include the petitioned additive as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 178 is amended in § 178.2010(b) by inserting a new limitation for octadecyl 3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* * * * *	
Octadecyl 3,5-di-*tert*-butyl-4-hydroxy-hydrocinnamate.	For use only: * * * 7. At levels not exceeding 0.2 percent by weight of rigid polyvinyl chloride.
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before December 22, 1980 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on the objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective November 21, 1980.

(Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348))

Dated: November 12, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-36071 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug administration (FDA) amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Cadco, Inc., providing for safe and effective use of a 4-gram-per-pound tylosin premix for making complete swine feeds.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Cadco, Inc., P.O. Box 3599, Des Moines, IA 50322, is the sponsor of supplemental NADA 91–783 providing for use of a premix containing 4 grams of tylosin (as tylosin phosphate) per pound, in addition to an existing approval for use of a 10-gram-per-pound premix, for making complete swine feeds used to increase rate of weight gain and improve feed efficiency.

Approval of this application is based on safety and effectiveness data contained in Elanco Products Co.'s approved NADA 12–491. Use of the data in NADA 12–491 to support this supplement has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977), approval of this supplemental NADA did not require reevaluation of safety and effectiveness data in NADA 12–491.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen at the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347, 321 U.S.C. (60b(i))) and under

authority delegated to the Commissioner

by the Assistant Secretary for Occupational Safety and Health

applicable laws. The Assistant Secretary finds that the Arizona plan

Marjorie N. Sauber, Project Officer,

representatives, and changes in

the Assistant Secretary on November 13,

V 45 N 0 21 80 UMI

authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 558 is amended in § 558.625 by revising paragraph (b)(4) to read as follows:

§ 558.625 Tylosin

* * * * *

(b) * * *

(4) To 011490: 4 and 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

* * * * *

Effective date. This regulation is effective November 21, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: November 13, 1980.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 80-36416 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1952

Approval of Supplements to Arizona State Plan

AGENCY: Occupational Safety and Health Administration.

ACTION: Final rule.

SUMMARY: The State of Arizona has submitted plan supplements describing changes in its occupational safety and health program. These are: adoption of regulations concerning variances and discrimination; revision of recordkeeping regulations; and revision of the Field Operations Manual and other operating procedures. This document announces the approval of the Arizona plan supplements.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Marjorie N. Sauber, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Washington, D.C. 20210, (202) 523–6021.

SUPPLEMENTARY INFORMATION:

Background

The Arizona Occupational Safety and Health Plan was approved under Section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter called the Act) and Part 1902 of this Chapter on October 29, 1974 (39 FR 39037). Part 1953 of this Chapter provides procedures for the review and approval of State change supplements by the Assistant Secretary for Occupational Safety and Health (hereinafter called the Assistant Secretary).

Description of Supplements

A. *Variance regulations.* The State has adopted regulations for the granting of variances to occupational safety and health standards which are comparable to the Federal regulations in Part 1905 of this Chapter.

B. *Discrimination regulations.* The State has adopted regulations concerning the filing and processing of complaints alleging discrimination for exercising one's rights under the law. These regulations, which were adopted on September 22, 1977, are comparable to the Federal regulations in Part 1977 of this chapter.

C. *Recordkeeping regulations.* The State has revised its recordkeeping regulations to conform to Federal changes in form number and employee access to records and to add definitions for public sector coverage. The State has also published a booklet containing both its recordkeeping regulations and the portion of its law concerning recordkeeping.

D. *Changes to Field Operations Manual and other operating procedures.* The State has revised its Field Operations Manual and has adopted directives in response to changes in the Federal program. These changes include: revision of the classification and penalty system; procedures for processing employee complaints; procedures for investigating criminal willful violations; and procedures for scheduling of follow-up inspections.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3613, Washington, D.C. 20210; Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 11321, San Francisco, California 94102; and Division of Occupational Safety and Health, Industrial Commission of Arizona, 1601 West Jefferson St., Phoenix, Arizona 85005.

Public Participation

Under § 1953.2 of this Chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any good cause which may be consistent with applicable laws. The Assistant Secretary finds that the Arizona plan supplements described above are consistent with commitments contained in the approved plan, which were previously made available for public comment. Good cause is therefore found for approval of the supplements without public comment and notice.

Decision

After careful consideration, the Arizona plan supplements described above are hereby approved under Part 1953 of this Chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

Accordingly, § 1952.350 of Part 1952 of this Chapter is amended by adding new paragraphs (i) and (j).

§ 1952.350 Description of plan.

* * * * *

(i) Regulations concerning variances were promulgated on November 16, 1977, and were approved by the Assistant Secretary on November 13, 1980.

(j) Regulations concerning discrimination complaints were promulgated on September 22, 1977, and were approved by the Assistant Secretary on November 13, 1980.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 13th day of November 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-36484 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-26-M

29 CFR Part 1952

Approval of Supplements to Hawaii State Plan

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: The State of Hawaii has submitted plan supplements describing changes in its occupational safety and health program. The supplements are amendments to recordkeeping regulations and amendments to variance regulations. This notice publishes OSHA's decision that the Hawaii plan supplements are consistent with commitments in the State occupational safety and health plan and are therefore approved.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Marjorie N. Sauber, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 523–6021.

SUPPLEMENTARY INFORMATION:

Background

The Hawaii Occupational Safety and Health plan was approved under Section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter called the Act) and Part 1902 of this Chapter on January 4, 1974 (39 FR 1010). Part 1953 of the Chapter provides procedures for the review and approval of State change supplements by the Assistant Secretary for Occupational Safety and Health (hereinafter called the Assistant Secretary).

Hawaii's change supplement regarding variance regulations was submitted in response to Federal review of Hawaii's previous temporary variance submission. Federal OSHA objected to the previous regulation, which was comparable to neither the Federal temporary nor permanent variance regulations.

Federal regulations allow for temporary variances only before the effective date of a standard, and require the applicant to state when he will comply with the standard. Federal regulations allow for permanent variances only if the employer provides equivalent protection. The previous Hawaii regulation appeared to allow for variances after the effective date of a standard without requiring the employer to provide equivalent protection. To address this Federal concern, Hawaii offered an assurance that a temporary variance would be granted only under specified conditions when it would provide employee protection equivalent or superior to that afforded by the standard, and when it woud be the safest feasible solution after all relevant factors had been considered. This change supplement amends the Hawaii variance regulations to incorporate this assurance.

Description of Supplements

A. *Recordkeeping Regulation.* In August 1977, January 1978, August 1978 and August 1979, Hawaii amended its regulations on recording and reporting occupational injuries and illnesses (chapter 103 of the Hawaii occupational safety and health standards, rules and regulations). These amendments, which reflect changes to the comparable Federal regulations (29 CFR Part 1904), include access to records by employees, former employees and their representatives, and changes in recordkeeping forms.

B. *Variance Regulations.* In August 1979, the State amended its rules of practice for variances (chapter 104 of the Hawaii occupational safety and health standards, rules and regulations) to clarify the criteria for granting short-term variances. These variances will only be granted under specified conditions, where they will provide protection equivalent or superior to that afforded by the standard, and when approved procedure will be the safest feasible solution after all relevant factors have been considered.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, 3rd and Constitution Avenues NW., Room N–3613, Washington, D.C. 20210; Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 11321, San Francisco, California 94102; and the Department of Labor and Industrial Relations, 825 Mililani Street, Room 308, Honolulu, Hawaii 96813.

Public Participation

Under § 1953.2(c) of this Chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any good cause which may be consistent with applicable laws. The Assistant Secretary finds that the Hawaii plan supplements described above are consistent with State plan regulations generally, and with 29 CFR Part 1902 Subpart B, particularly. Good cause is therefore found for approval of the supplements without public comment and notice.

Decision

After careful consideration, the Hawaii plan supplements described above are hereby approved under Part 1953 of this chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

In accordance with this decision, Subpart Y of 29 CFR 1952 is amended by adding a new section and paragraph as follows:

§ 1952.315 Changes to approved plans.

(a) In accordance with Subparts C and E of Part 1953 of this Chapter, the following plan change supplements, effective August 1979, were approved by the Assistant Secretary on November 13, 1980.

(1) Hawaii amended its regulations on recordkeeping and reporting of occupational injuries and illnesses to allow access to records by employees, former employees and their representatives, and also to change its recordkeeping forms.

(2) Hawaii amended its variance rules to clarify the fact that temporary variances will only be granted under specified conditions, where equivalent or superior protection is assured and where the variance is the safest feasible solution.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C. this 13th day of November 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-36462 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-26-M

29 CFR Part 1952

Approval of Supplements to Virginia State Plans

AGENCY: Occupational Safety and Health Administration.

ACTION: Final rule.

SUMMARY: Various supplements to the Virginia State Plan are approved. Supplements representing completion of developmental steps include: posters for private and public sector workplaces; initiation of a voluntary compliance program which includes on-site consultation services for the public sector; full staffing of the on-site consultation program; the enforcement of fire standards by the Virginia Department of Labor and Industry; the institution of an automated Management Information System; and the inclusion of the Directors of Industry and Construction Safety Divisions under the State merit system.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Peter Schultze, Project Officer, Office of State Programs, Occupational Safety and Health Administration, Room N–3613, 200 Constitution Ave. NW., Washington, D.C. 20210, (202) 523–8085.

SUPPLEMENTARY INFORMATION:

Background

Part 1953 of Title 29, Code of Federal Regulations, provides procedures under Section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) for review of changes and progress in the

development and implementation of State plans which have been approved

workplaces. A poster for public employees was submitted on September

System within 6 months of plan approval. By a letter dated January 4

Decision

Signed at Washington, D.C., this 13th day

permanent regulatory program under the

development and implementation of State plans which have been approved in accordance with Section 18(c) of the Act and 29 CFR Part 1902. On September 28, 1976, notice was published in the Federal Register (41 FR 42655) of the approval of the Virginia Plan and the adoption of Subpart EE containing the decision and describing the Plan. By letters dated February 18, 1977, and March 31, 1977, from Edmond M. Boggs, Commissioner of the Virginia Department of Labor and Industry, and by letters dated May 4, 1977, September 12, 1977, January 4, 1978, March 1, 1978, and August 15, 1978, from Robert F. Beard Jr., Commissioner of the Virginia Department of Labor and Industry, to David H. Rhone, Regional Administrator, the State of Virginia submitted State-initiated and developmental change supplements. Following regional review, the supplements were forwarded to the Assistant Secretary for Occupational Safety and Health (hereinafter called the Assistant Secretary) for determination as to whether they should be approved. The supplements are described below.

Description of the Supplements

1. *Enforcement of Fire Standards.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.373(b), the State of Virginia was to develop a plan for delegation of authority to the State Fire Marshal for fire standards development and enforcement, to be completed by December 31, 1976, with necessary legislative action and program implementation by July 1, 1978. By a letter dated February 18, 1977, the State requested an extended deadline of April 1, 1978, for completion of an agreement with the State Fire Marshal's Office. In the interim, the Department of Labor and Industry would conduct inspections and enforcement of fire standards. By an additional letter dated August 15, 1978, the State announced that it was unable to arrive at an agreement with the State Fire Marshal acceptable to OSHA and therefore asked that the State Fire Marshal Agreement be deleted from the State Plan. The responsibility for enforcing fire standards would remain with the Department of Labor and Industry.

2. *State Posters.* In accordance with the requirements of the developmental step set forth in 29 CFR 1952.373(c), the State was to have developed and distributed posters informing public and private employees of their rights and responsibilities. On May 4, 1977, the State submitted a poster which is required to be posted in all private workplaces. A poster for public employees was submitted on September 12, 1977. The posters contain, among other things, provisions notifying employees of their obligations and rights under the Virginia Occupational Safety and Health Law, their right to request workplace inspections and their right to remain anonymous, their protection against discharge and discrimination for the exercise of their rights under Federal and/or State laws, and their right to file complaints concerning the administration of the State program with the Occupational Safety and Health Administration.

3. *Voluntary Compliance Program.* In accordance with the requirement of the development step set forth in 29 CFR 1952.373(d), the State was to have developed and initiated a program to encourage voluntary compliance by employers and employees, including provision for on-site consultation services, which program will not detract from its enforcement program. By a letter dated March 31, 1977, the State announced that a voluntary compliance program, which included on-site consultation, had become operative on March 15, 1977. On October 1, 1977 the State entered into an agreement under Section 7(c)(1) of the Act with the U.S. Department of Labor for on-site consultation services in the private sector. By a letter dated March 1, 1978, the State announced that on-site consultation services for the private sector were no longer provided for by the voluntary compliance program of the State Plan. Safety and health education and training activities, as well as on-site consultation for the public sector, were retained under the voluntary compliance program of the State Plan.

4. *On-Site Consultation Program Staffing.* In accordance with the requirement of the development step set forth in 29 CFR 1953.373(f), both safety and health consultation programs were to be fully staffed by Fiscal Year 1979. As mentioned above, on-site consultation in the private sector was covered by a Section 7(c)(1) agreement between the State and the U.S. Department of Labor as of October 1, 1977. The State plan did retain, however, provisions for on-site consultation in the public sector. Monitoring by OSHA has verified that the State's public sector on-site consultation program is fully staffed.

5. *Management Information System.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.373(g), the designee was to have developed and implemented an automated Management Information System within 6 months of plan approval. By a letter dated January 4, 1978, the State announced that its Management Information System had become fully operational on July 1, 1977. Monitoring activities conducted by OSHA have verified the system's completion. The Court reporting system, also included in 29 CFR 1952.373(g), is not approved by this notice.

6. *Merit System Coverage.* In accordance with the requirement of the developmental step set forth in 29 CFR 1952.373(1), Virginia was to bring the positions of Director of the Industry Safety Division and Director of the Construction Safety Division in the Department of Labor and Industry under the State merit system. By a letter dated February 18, 1977, the State announced that the two positions had been under the State merit system as of September 1, 1976. The U.S. Civil Service Commission, by a letter dated March 23, 1977, verified that the State had fulfilled this commitment.

Location of the Plan and Its Supplements for Inspection and Copying

Copies of the supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Director of Federal Compliance and State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3613, 3rd and Constitution Avenue, NW., Washington, D.C. 20210; Technical Data Center, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–2439, 3rd and Constitution Avenue, NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, Room 2100, Gateway Center, Philadelphia, Pennsylvania 19104; and, the Office of the Commissioner, Department of Labor and Industry, 205 North Fourth Street, Richmond, Virginia 23241.

Public Participation

Under § 1952.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the Virginia Plan supplements described above are consistent with commitments contained in the approved plan, which was previously made availble for public comment. Accordingly, it is found that further public comment and notice is unnecessary.

Decision

After careful consideration, the Virginia plan supplements outlined above are approved under 29 CFR Part 1953. This decision incorporates the requirements of the Act and implementing regulations applicable to State Plans generally. In addition, Subpart EE of 29 CFR Part 1952 is amended to reflect the completion of six developmental steps by adding a new section as follows:

§ 1952.374 Completed developmental steps.

(a) In accordance with 29 CFR 1952.373(b), Virginia was to develop a plan for delegation of authority to the State Fire Marshal for fire standards enforcement. The State has since announced that the authority for fire standards enforcement will rest with the Department of Labor and Industry, which has been enforcing fire standards since plan approval. This action is judged to have sufficiently fulfilled the commitments of this step.

(b) In accordance with 29 CFR 1952.373(c) and 1952.10. Virginia's safety and health posters for public and private employers were approved by the Assistant Secretary on November 13, 1980.

(c) In accordance with 29 CFR 1952.373(d), Virginia initiated a voluntary compliance program which includes on-site consultation services on March 15, 1977. (The State subsequently arranged for on-site consultation activities for the private sector to be covered by an agreement with the U.S. Department of Labor under Section 7(c)(1) of the Act).

(d) In accordance with 29 CFR 1952.373(f), the State had met its developmental commitment for the staffing of its on-site consultation program in the public sector by fiscal year 1979. On-site consultation in the private sector is covered by a Section 7(c)(1) agreement with the U.S. Department of Labor.

(e) In accordance with the relevant part of 29 CFR 1952.373(g), Virginia met its developmental commitment of developing and implementing an automated Management Information System on July 1, 1977.

(f) In accordance with 29 CFR 1952.373(1), the Directors of the Industry and the Construction Safety Divisions have been placed under the State merit system as of September 1, 1976.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Washington, D.C., this 13th day of November 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80–36463 Filed 11–20–80; 8:45 am]

BILLING CODE 4510–26–M

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29 CFR Part 1960

[Docket No. F–002]

Basic Program Elements for Federal Employee Occupational Safety and Health Programs; Final Rule

Correction

In FR Doc. 80–32769, appearing at page 69796, in the issue of Tuesday, October 21, 1980, make the following corrections:

1. On page 69804, § 1960.26(c)(2), first column, in the thirteenth line from the bottom of the page, the reference not reading "paragraph (c)(1)(iii) of this section" should read "paragraph (c)(2)(iii) of this section".

2. On page 69808, second column, the section now reading **"§ 1960.37 Committee formation"** should read, **"§ 1960.38 Committee formation."**

3. On page 69811, § 1960.71, in the second column, paragraph (e), the third line, the word "of" at the end of the line should be removed.

4. On page 69812, § 1960.80, first column, paragraph (a), third line the last word now reading "evaluation" should read "evaluating".

5. In that same section, second column, paragraph (c), second line, the word "and" should read "the".

6. On page 69816, the FR Doc. number in the next to the last line now reading "FR Doc. 80–22769" should read "FR Doc. 80–32769".

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

Conditional Approval of the Permanent Program Submission From the State of Arkansas Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: On February 19, 1980, the State of Arkansas submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of the submission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII.

After providing opportunities for public comment and a thorough review of the program submission, the Secretary of the Interior has determined that the Arkansas program meets the minimum requirements of SMCRA and the federal permanent program regulations, except for minor deficiencies discussed below under "Secretary's Findings." Accordingly, the Secretary of the Interior has conditionally approved the Arkansas program.

A new Part 30 CFR 904 is being added to 30 CFR Chapter VII to codify this decision.

EFFECTIVE DATE: This conditional approval is effective November 21, 1980. This conditional approval will terminate as specified in 30 CFR 904.11, adopted below, unless the deficienies identified below have been corrected in accordance with 30 CFR 904.11.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240; telephone: (202) 343–4225.

ADDRESSES: Copies of the Arkansas program and the administrative record on the Arkansas program are available for public inspection and copying during business hours at:

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106.

Arkansas Department of Pollution Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72219.

Office of Surface Mining Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240; telephone: (202) 343–4728.

SUPPLEMENTARY INFORMATION:

General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501–503 of SMCRA, 30 U.S.C. 1251–1253. The initial program became effective on February

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3, 1978, for new coal mining operations on non-federal and non-Indian lands which received state permits on or after that date, and was effectuated on May 3, 1978, for all coal mines existing on that date. The initial program rules were promulgated by the Secretary on December 13, 1977, under 30 CFR Parts 710–725, 42 FR 62639, *et seq.*

The permanent program will become effective in each state upon the approval of a state program by the Secretary of the Interior or implementation of a federal program within the state. If a state program is approved, the state, rather than the federal government, will be the primary regulator of activities subject to SMCRA.

The federal regulations for the permanent program, including procedures for states to follow in submitting state programs and minimum standards and procedures for approval, are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064), and Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published March 13, 1979 (44 FR 15312–15463). Errata Notices were published March 14, 1979 (44 FR 15485), August 24, 1979 (44 FR 49673–49687), September 14, 1979 (44 FR 53507–53509, November 19, 1979 (44 FR 66195), April 16, 1980 (45 FR 26001), June 5, 1980 (45 FR 37818), and July 15, 1980 (45 FR 47424). Amendments to the regulations were published October 22, 1979 (44 FR 60969), and September 4, 1980 (45 FR 58780–58786) as corrected December 19, 1979 (44 FR 75143), December 19, 1979 (44 FR 75303), December 31, 1979 (44 FR 77440–77447), January 11, 1980 (45 FR 2626–2629), April 16, 1980 (45 FR 25998–26001), May 20, 1980 (45 FR 33926–33927), June 10, 1980 (45 FR 39446–39447), August 6, 1980 (45 FR 52306–52324) and August 7, 1980 (45 FR 52375). Portions of these regulations have been suspended, pending further rulemaking. *See* 44 FR 67942 (November 27, 1979), 44 FR 77447–77454 (December 31, 1979), 45 FR 6913 (January 30, 1980) and 45 FR 51547–51550 (August 4, 1980).

General Background on State Program Approval Process

Any state wishing to assume primary jurisdiction for the regulation of coal mining under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission.

The federal regulations governing state program submissions are found at 30 CFR Parts 730–732. After review of the submission by OSM and other agencies, as well as an opportunity for the state to make additions or modifications to the program, and an opportunity for public comment, the Secretary may either approve the program; approve it conditioned upon the correction of minor deficiencies in accordance with a specified timetable; or disapprove the program in whole or in part. If the program is disapproved, the state may submit revisions to correct the items that need to be changed to meet the requirements of SMCRA and the applicable federal regulations. If the revised program is also disapproved, SMCRA requires the Secretary of the Interior to establish a federal program in that state. The state may again request approval to assume primary jurisdiction after the federal program has been implemented.

As a result of litigation in the U.S. District Court for the District of Columbia, in which the deadline for states to submit proposed programs was extended from August 3, 1979, to March 3, 1980, 30 CFR 732.11(d) was amended to provide that program submissions that do not contain all required and fully enacted laws and regulations by the 104th day following program submission be disapproved pursuant to the procedures for the Secretary's initial decision in Section 732.13 (45 FR 33927, May 20, 1980). The 104th day following Arkansas' submission was June 2, 1980.

The Secretary's rules for the review of State programs implement his policy that industry, the public, and other agencies of government should have a meaningful opportunity to participate in his decisions. The Secretary also has a policy that a State should be afforded the maximum opportunity possible to change its program, when necessary, to correct any deficiencies in it.

The Secretary, in reviewing state programs, is utilizing the criteria of Section 503 of SMCRA (30 U.S.C. 1253) and 30 CFR 732.15. In reviewing the Arkansas program, the Secretary has followed the federal rules as cited above under "General Background on the Permanent Program," and as affected by decisions of the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation.*

Because of that litigation, the court issued its initial decision in two "rounds." The Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but resulted in suspension or remanding of all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, denied additional generic attacks on the regulations, but remanded some 40 additional parts, sections or subsections of the regulations. The court also ordered the Secretary to "affirmatively disapprove, under Section 503 (of SMCRA), those segments of a state program that incorporate a suspended or remanded regulation" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the court stayed this portion of its judgment. The effect of this stay is to allow the Secretary to approve state program provisions equivalent to remanded or suspended federal provisions in the three circumstances described in paragraph 1, below. Therefore, the Secretary is applying the following standards to the review of state program submissions.

1. The Secretary need not affirmatively disapprove state provisions similar to those federal regulations which have been suspended or remanded by the district court where the state has adopted such provisions in a rulemaking or legislative proceeding which occurred either (a) before the enactment of SMCRA or (2) after the date of the Round II District Court decision, since such state regulations clearly are not based solely upon the suspended or remanded federal regulations. (3) The Secretary need not affirmatively disapprove provisions based upon suspended or remanded federal rules if a responsible state official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove, to the extent required by the court's judgements, all provisions of a state program which incorporate suspended or remanded federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the State's regulations is that the requirements of that section are not enforceable in the permanent program at the federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the federal courts, and no federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under state law and in state courts. Accordingly, these provisions are not being pre-empted or suspended, although the Secretary may have the power to do so under Section 504(g) of SMCRA and 30 CFR 730.11.

3. A state program need not contain provisions to implement a suspended regulation and no state program will be disapproved for failure to contain a suspended or remanded regulation.

4. A state must have authority to implement all permanent program provisions of SMCRA, including those provisions of SMCRA upon which the Secretary based remanded or suspended regulations.

5. A state program may not contain any provision which is inconsistent with a provision of SMCRA.

6. Programs will be evaluated only on those provisions other than the provisions that must be disapproved because of the court's order. The remaining provisions will be approved, conditionally approved or disapproved, in whole or part, in accordance with 30 CFR 732.13.

7. Upon promulgation of new regulations to replace those that have been suspended or remanded, the Secretary will afford states that have approved or conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process.

A list of the regulations suspended or remanded as the result of the Round I and Round II litigation was published in a previous **Federal Register** notice (45 FR 45604, July 7, 1980). A proposed list of Arkansas provisions incorporating the suspended or remanded federal regulations was published at 45 FR 50820–50823 (July 31, 1980).

To codify decisions on state programs, federal programs, and other matters affecting individual states, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Arkansas will be found in 30 CFR Part 904.

Background on the Arkansas Program Submission

On February 19, 1980, OSM received a proposed regulatory program from the State of Arkansas. The program was submitted by the Arkansas Department of Pollution Control and Ecology (DPCE), the agency designated as the primary regulatory authority under the proposed Arkansas permanent program. Notice of receipt of the submission initiating the program review was published in the February 27, 1980, **Federal Register** (45 FR 12918–12919) and in newspapers of general circulation in Arkansas. The announcement invited public participation in the initial phase of the review process as it related to the regional director's determination of whether the submission was complete.

On March 31, 1980, the regional director held a public review meeting in Little Rock, Arkansas, on the program submission and its completeness. The public comment period on completeness began on February 27, 1980, and closed March 31, 1980.

On April 9, 1980, the regional director published notice in the **Federal Register** announcing that the Arkansas program submission had been determined to be complete (45 FR 24210–24211).

On May 30, 1980, the Arkansas DPCE submitted to OSM numerous revisions to the Arkansas permanent program submission. A number of the revisions were minor in nature such as corrections of typographical errors, incorrect references to section numbers in the Arkansas Act and proposed regulations, dropped lines and other items of clarification. These minor modifications will not be discussed or summarized in this notice. However, the significant modifications to the February 19, 1980, Arkansas program submission are listed below:

Regulations

1. Arkansas modified Section 705.21(b) to provide that the Director of the Arkansas DPCE file his or her appeal in conflict of interest proceedings, in writing, with the OSM Director.

2. Arkansas added language at Section 764.17(a) prohibiting cross-examination of witnesses at hearings on petitions to designate lands unsuitable and required that a transcript be made of all such hearings.

3. Arkansas modified Section 780.15 making mandatory the inclusion of a fugitive dust control plan in a mine permit application.

4. Arkansas revised Sections 784.13 and 784.23 to include references to require specific information for underground mine operation plans.

5. Arkansas added language to Section 784.14 to provide that reclamation plans for underground mining include a description of measures to insure the protection of water quality.

6. Arkansas deleted a provision found at Section 785.17(e) that allowed exceptions based on the size of prime farmland acreage.

7. Arkansas revised the definition of "willful violation" in Section 786.5(b) to include violations of federal laws.

8. Arkansas modified Section 786.11(c) to require that written notification of the filing of a permit application be sent to the United States Environmental Protection Agency and other federal and local governmental agencies as identified by the permit applicant.

9. Arkansas deleted language in Section 786.11(d) regarding the approval of specific portions of a permit application within sixty days.

10. Arkansas added the words "Secretary or the" to Section 786.27(b) requiring a permit applicant, as a condition of the permit, to allow federal inspectors on the applicant's premises.

11. Arkansas modified Section 788.12(a)(1) to specify parameters for determining what changes constitute significant departures in the revision of a mining permit.

12. Arkansas modified Section 807.11 so that objectors to a bond release are not required to seek an adjudicatory hearing until after a decision by the Director.

13. Arkansas modified Section 842.14 to require a response to inspection complaints within fifteen days of receipt.

14. Arkansas modified Section 845.12(a) to provide specific authority to the Director to suspend underground coal mining, without civil penalty, upon a finding of imminent danger to the inhabitants of urbanized areas.

15. Arkansas submitted a new part, "Part 1000 Effective Date," which addresses (a) the effective date of the regulations, (b) the status of Part 850 (Blaster Certification), (c) the status of the Abandoned Mine Reclamation Program and (d) the identification of regulations that have been suspended or remanded as a result of litigation involving OSM's permanent program regulations, together with a statement of the status of such regulations in the Arkansas program.

16. Arkansas added provisions at Part 900 establishing administrative hearing procedures including filing of pleadings, discovery, intervention, award of costs and expenses, including attorneys' fees, and the appointment of presiding officers.

Program Narrative

1. Section 731.14(b). Arkansas added specific provisions of the Arkansas Rules of Civil Procedure (ARCP).

2. Section 731.14(c). Arkansas revised the section-by-section comparison to include Ark. Stat. Ann. Sections 41–2801, 41–2807, 41–901, and 41–1101 that provide for the protection of state employees. Also submitted for inclusion in the section-by-section comparison was information to (a) show that Section 23 of the Arkansas Act is as stringent as Section 516(c) of SMCRA as it pertains to the issuance of cessation orders under conditions of imminent danger to the public, and (b) explain how 761.11(c) and 761.12(f) are consistent with Section 522(e)(3) of SMCRA and 30 CFR Part 761

regarding approval to mine on certain federal, public and private lands.

3. Section 731.14(g)(4). Arkansas provided that the State will notify the regional director whenever a citizen initiates civil action under Section 29 of the Arkansas Act.

4. Section 731.14(i). Arkansas submitted additional position descriptions covering fish and wildlife ecology, hydrology, and civil engineering.

5. Section 731.14(j). Arkansas submitted additional information to document further the adequacy of staff to administer the program.

6. Section 731.14(l). Arkansas submitted a revised budget and indicated that permit fees will be used in funding the permanent program.

Additional Amendments

On July 2, 1980, the Arkansas DPCE submitted to OSM some additional material to its permanent program submission. The material included some minor modifications which will not be summarized in this notice. The significant revisions to the program, as submitted July 2, 1980, are listed below:

1. Section 807.11 (f) and (g). Procedures for public participation in the release of a performance bond.

2. Section 786.11(c). Public notice of filing of permit applications, specifically, the written notification to government agencies.

3. Part 1000 that had been submitted on May 30, 1980 was further revised as follows:

(a) Part 1000 (10)—Section 785.17(a). This regulation is suspended to the extent that it limits the prime farmland exemption from reconstruction requirements to persons with permits issued on mining plans approved prior to August 3, 1977.

(b) Part 1000 (22)—Section 816.103(a)(1). This regulation is suspended to the extent that it does not allow treatment as an alternative to covering coal and acid- or toxic-forming materials.

(c) Part 1000 (30)—Part 779. The term "mine plan area" as it appears in this Part is suspended. The Pollution Control Commission suggested that the term "permit area" be substituted, with the exception of the determination of probable hydrologic consequences that must be measured both on and off the mine site.

4. Section 816.65(e)(2). 100 Hz was revised to 200 Hz for the measurement of frequency responses of airblasts.

5. Section 940.1(a)(2). Criteria for granting temporary relief were added.

6. Section 940.3(b). A procedure was added for expedited review of temporary relief proceedings.

In addition to these program modifications, OSM received on July 2, 1980, a letter from Arkansas DPCE Director Jarrell Southall requesting that the Secretary consider and evaluate the Arkansas regulations which would be fully enacted on July 25, 1980. This letter is discussed below under "Elements Upon Which the Arkansas Program is Being Evaluated for This Decision."

On June 6, 1980, the regional director published notice in the **Federal Register** (45 FR 38088–38090) and in newspapers of general circulation within the State that the revisions to the Arkansas permanent program were available for public review and comment. The notice also set forth procedures for the public hearing and comment period on the substance of the Arkansas program.

On July 8, 1980, the regional director of OSM and the Director of the Arkansas OPCE held a joint public hearing on the Arkansas submission in Fort Smith, Arkansas. The public comment period on the Arkansas permanent regulatory program ended on July 16, 1980.

On July 18, 1980, the regional director submitted to the Director of OSM his recommendation that the Arkansas program be approved in part and disapproved in part, together with copies of the transcripts of the public meeting and public hearing, written presentations, exhibits, copies of all public comments received and other documents comprising the administrative record.

On July 30, 1980, the Director published notice in the **Federal Register** (45 FR 50616) that the views of federal agencies concerned with or having a special interest in the Arkansas program were available for public review.

On July 31, 1980, the Director announced in the **Federal Register** (50820–50823) the reopening of the public review period on the Arkansas regulatory program to allow public comment on the following: (1) program revisions submitted to OSM on July 2, 1980; (2) DPCE Director Southall's July 2, 1980, letter to OSM requesting that regulations enacted on July 25, 1980 be considered as part of the program submission (discussed below under "Elements Upon Which the Arkansas Program is Being Evaluated For This Decision"); (3) the accuracy of a proposed list of Arkansas' regulations to be affirmatively disapproved pursuant to the U.S. District Court opinion on state provisions comparable to suspended or remanded federal regulations (*See* "General Background on the Permanent Program").

On August 14, 1980, Arkansas also submitted a letter:

(1) requesting that the Secretary approve the civil penalty system described in Section 845.13 of the Arkansas regulations;

(2) explaining that Arkansas Stat. Ann. Section 52–612, which prohibits women from working in underground mines, appears unconstitutional; and

(3) describing a proposed amendment to Section 786.19(h) of the Arkansas Code concerning payment of reclamation fees prior to approval of a permit application.

On August 22, 1980, the Director of OSM, by telegram, asked Arkansas if there were provisions in its program based on suspended or remanded federal rules which the State does *not* want the Secretary to affirmatively disapprove in accordance with the court order. Arkansas has not yet replied, although, as noted above, on August 14, 1980 Arkansas asked that the civil penalty provisions be approved (Administrative Record No. AR–110).

On October 1, 1980, the Administrator of the EPA concurred in the Secretary's approval of those provisions of the Arkansas program relating to air and water quality standards being approved today.

On September 8, 1980, the Director of OSM submitted his recommendation to the Secretary that the Arkansas program be conditionally approved.

Elements Upon Which the Arkansas Program Is Being Evaluated for This Decision

In this section, the Secretary discusses the elements of the proposed Arkansas program upon which the findings and decisions below are being made.

(a) The statutes and program narrative received on February 19, 1980, and the revisions to the program narrative submitted on May 30, 1980, have been evaluated. The revisions were announced to the public on June 6, 1980, prior to the required public hearing, held July 8, 1980, and could have been commented on up to a week after the public hearing as well as at the public hearing.

(b) The regulations fully enacted on July 25, 1980.

On July 2, 1980, Arkansas DPCE Director Jarrell Southall requested that the Arkansas regulations, which would become enacted on July 25, 1980, be evaluated as a part of the program although they had not been enacted by the 104th day after the program was submitted. Director Southall stated he made this request because the public had full opportunity to comment on the proposed regulations throughout the review process and public comment periods. The Secretary grants the request by Director Southall because:

1. The State of Arkansas did enact its proposed regulations on July 25, 1980. The regulations as fully enacted are identical to the regulations as proposed and submitted to the public for review, with two minor differences.

2. The Secretary solicited public comment regarding Arkansas' request for a waiver of the 104 day rule (FR 50820–50823, July 31, 1980). Therefore, the public was given notice that the proposed, but not fully enacted, regulations may be considered as elements upon which the dicision-making would be based.

3. No public comments were received as a result of the **Federal Register** notice of July 31, 1980, and the Secretary intepreta this to mean that no members of the public object to the waiver being granted.

4. Adequate time has been provided to the public to comment on the fully enacted regulations of the proposed program. Thus, the Secretary believes that the purpose of the 104 day rule has been fulfilled.

Secretary's Findings

1. In accordance with Section 503(a) of SMCRA, the Secretary finds that Arkansas has, subject to the exceptions in Finding 1(b), 4(c), 4(h) and 4(p), the capability to carry out the provisions of SMCRA under the Arkansas Surface Coal Mining and Reclamation Act (ASCMRA) and to meet its purposes in the following ways:

(a) The Arkansas Surface Coal Mining and Reclamation Act (ASCMRA) provides for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal land in Arkansas in accordance with SMCRA;

(b) The ASCMRA provides sanctions for violations of Arkansas laws, regulations or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, withholding of permits, and the issuance of cessation orders by the Arkansas DPCE or its inspectors with the following exception: A substantial difference in the penalties exists between those provided in Section 704 of SMCRA and those provided in Arkansas Stat. Ann. 41–2801, 41–901 and 41–1101. Section 704 of SMCRA establishes a fine of not more than $5,000, or imprisonment for not more than one year, or both, for persons interfering with government employees in the performance of duties pursuant to SMCRA. The Arkansas statutes provide for a maximum fine of $100 or $1,000 and a maximum imprisonment of 30 days or one year depending on whether force is used or threatened in the obstruction of governmental functions. The Secretary finds that this deficiency is minor because the history of state and coal industry relations in Arkansas indicates that state employees will not likely be either significantly deterred in performing their duties or subject to violence or harassment during the time this deficiency is being corrected.

(c) The Arkansas DPCE has sufficient administrative and technical personnel and sufficient funds to enable Arkansas to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA;

(d) The ASCMRA provides for the effective implementation, maintenance, and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands within Arkansas;

(e) Arkansas has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA, 30 U.S.C. 1272;

(f) Arkansas has established, for the purpose of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other federal and state permit processes applicable to the proposed operation;

(g) Arkansas has regulations consistent with regulations issued pursuant to SMCRA, as required by Section 503(a)(7) of SMCRA, 30 U.S.C. 1253, subject to the exceptions discussed in findings 4(c), 4(h) and 4(p).

2. As required by Section 503(b)(1)–(3) of SMCRA, 30 U.S.C. 1253(b)(1)–(3), and 30 CFR 732.11–732.13, the Secretary has, through OSM:

(a) Solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise pertinent to the proposed Arkansas program;

(b) Obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Arkansas program being approved today that relate to air or water quality standards promulgated under the authority of the Federal Clean Water Act as amended, (33 U.S.C. 1151–1175), and the Clean Air Act as amended, (42 U.S.C. 7401 *et seq.*), and;

(c) Held a public review meeting in Little Rock, Arkansas, on March 31, 1980, to discuss the completeness of the Arkansas program submission and subsequently held a public hearing in Fort Smith, Arkansas, on July 8, 1980, on the substance of the program submission.

3. In accordance with Section 503(b)(4) of SMCRA, 30 U.S.C. 1253(b)(4), the Secretary finds that the State of Arkansas has the statutory authority and qualified personnel necessary for enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII.

(4) In accordance with 30 CFR 732.15, the Secretary finds, on the basis of information in the Arkansas program submission, including the section-by-section comparison of the Arkansas law with SMCRA, public comments, testimony and written presentations at the public meeting and hearing, and other relevant information, that:

(a) The Arkansas program provides for Arkansas to carry out the provisions and meet the purposes of SMCRA and 30 CFR Chapter VII with the exceptions noted in findings 1(b), 4(c), 4(h) and 4(p), and that Arkansas has not proposed any alternative approaches to the requirements of 30 CFR Chapter VII pursuant to 30 CFR 731.13. This finding is made under 30 CFR 732.15(a).

(b) The Arkansas DPCE has the authority under its laws and regulations to implement, administer and enforce all applicable requirements consistent with 30 CFR Chapter VII, Subchapter K, and the Arkansas program includes provisions to do so. This finding is made under 30 CFR 732.15(b)(1).

(c) The Arkansas DPCE has, except as noted below, the authority under Arkansas laws and regulations and the Arkansas program includes provisions to implement, administer and enforce a permit system consistent with 30 CFR Chapter VII, Subchapter G and to prohibit surface coal mining and reclamation operations that do not have a permit issued by the regulatory authority, except that, in order to comply with 30 CFR 786.19(h), Arkansas must revise its regulation Section 786.19(h) to reference federal law rather than state law regarding proof of payment of all reclamation fees before permit approval. The failure of Arkansas regulation 786.19(h) to accurately require proof of payment of past due federal reclamation fees as a criterion for granting a permit is a minor problem because the language used is identical to 30 CFR 786.19(h), and, by letter of August 8, 1980 (A.R. 170) the ADPCE's

chief counsel committed Arkansas to an interpretation of its Section 786.19(h) consistent with the interest of 30 CFR 786.19(h) until the rule can be formally amended. These provisions are contained in Parts 770–795 of the Arkansas regulations and in Section 13 of the ASCMRA. This finding is made under 30 CFR 732.15(b)(2).

(d) The Arkansas DPCE has authority under Arkansas laws and regulations to regulate coal exploration consistent with 30 CFR Part 776 and 30 CFR Part 815 and to prohibit coal exploration that does not comply with 30 CFR Part 776 and Part 815. This finding is made under 30 CFR 732.15(b)(3).

(e) The Arkansas DPCE has authority under Arkansas laws and regulations to require that persons extracting coal incidental to government-financed construction maintain information on-site consistent with 30 CFR Part 707. This finding is made under 30 CFR 732.15(b)(4).

(f) The Arkansas DPCE has the authority under Arkansas laws and regulations to enter, inspect and monitor all coal exploration and surface coal mining and reclamation operations on non-Indian and non-federal lands within Arkansas consistent with Section 517 of SMCRA and 30 CFR Chapter VII, Subchapter L. This finding is made under 30 CFR 732.15(b)(5). The Arkansas counterparts to the above provisions are contained in Sections 10, 16, and 17 of ASCMRA and Subchapter L of Arkansas' regulations.

(g) The Arkansas DPCE has the authority under Arkansas laws and regulations to implement, administer, and enforce a system for performance bonds and liability insurance, or other equivalent guarantees, consistent with 30 CFR Chapter VII, Subchapter J. This finding is made under 30 CFR 732.15(b)(6). The above provisions are at Subchapter J, Parts 800–809 of the Arkansas regulations.

(h) In accordance with 30 CFR 732.15(b)(7), the Secretary finds that the Arkansas DPCE has authority under the ASCMRA and ADPCE's regulations to provide for civil and criminal sanctions for violations of the Arkansas law, regulations and conditions of permits and exploration approvals including civil and criminal penalties in accordance with Section 518 of SMCRA (30 U.S.C. 1268) and consistent with 30 CFR Part 845 including the same or similar procedural requirements, except as noted below. The provisions are contained in Sections 18, 19, 20, 21, 29, and 30 of the ASCMRA and Part 845 of the Arkansas regulations.

The exception is that there is no constraint on the length of time that will be taken in the process of administrative adjudication of proposed civil penalties under Section 29 of ASCMRA and regulation Section 845.19. Although an operator seeking a hearing must make his request within 30 days of receiving the proposed assessment (Section 845.19(a)) and the hearing officer must render his decision within thirty days after holding a hearing (Section 29(1) of ASCMRA), there is no limit on the time in which a hearing must be held. It is important to both operators and the public that the adjudication process not be unreasonably delayed. Under the OSM assessment conference procedure (30 CFR 845.18) no more than 150 days will normally elapse between the initial proposal of a penalty and the conclusion of this first level of administrative review. At that time, an operator wishing further review must request a formal adjudicatory hearing and place the full amount of the proposed penalty in escrow. The escrow provision is required by Section 518(c) of SMCRA.

Arkansas has chosen to omit an assessment conference procedure in favor of a formal administrative hearing as its first step in review of a proposed assessment. Because this hearing is sequentially similar to the OSM assessment conference, the Secretary agrees that the escrow requirement can be deferred to the second level of review as it is under OSM procedure. In Arkansas the second level of review is judicial review, and Arkansas has a functional equivalent to the escrow requirement in the nature of a required penalty bond plus ten percent per annum interest that must be posted at the time judicial review is requested (Section 30(b) of ASCMRA). The problem is that under its present provisions the second level of review may be unreasonably delayed.

Therefore, the Secretary will require, as a condition of the approval announced today, that Arkansas, by regulation or policy commitment in an amendment to the program submission, place a reasonable limit on the amount of time a hearing officer may take to hold a hearing under Section § 45.19 after one is requested.

The failure by Arkansas to place a limit on the time within which administrative hearings on proposed civil penalties must be held is a minor problem because Arkansas has agreed to promulgate such a limitation by January 1, 1981, which will be accomplished before any unreasonable delay could possibly occur even if a civil penalty hearing were requested very early in the permanent regulatory program.

On August 14, 1980, Arkansas submitted a letter requesting that the Secretary approve the civil penalty point system described in Section 843.13 of the Arkansas regulations. (See Administrative Record No. AR–110). Because of this request, the Secretary does not have to affirmatively disapprove Arkansas' point system in accordance with the district court's August 15, 1980 order. The Secretary finds that the Arkansas point system is consistent with Section 518 of SMCRA and is therefore approved.

(i) The Arkansas DPCE has the authority under Sections 22, 23, 24, and 25 of the ASCMRA and regulations to issue, modify, terminate and enforce notices of violation, cessation orders and show cause orders in accordance with Section 521 of SMCRA (30 U.S.C. 1271) and with 30 CFR Chapter VII, Subchapter L including the same or similar procedural requirements. This finding is made under 30 CFR 732.15(b)(8). These provisions are at Parts 842 and 843 of the Arkansas regulations.

(j) The Arkansas DPCE has the statutory authority under the ASCMRA in Section 26 and regulations to provide for designation of areas as unsuitable for surface coal mining consistent with 30 CFR Chapter VII, Subchapter F. This finding is made under 30 CFR 732.15(b)(9). The above provisions are contained in Parts 760–764 of the Arkansas regulations.

(k) The Arkansas DPCE has authority under the ASCMRA and regulations to provide for public participation in the development, revision and enforcement of Arkansas regulations and its program consistent with the public participation requirements of SMCRA and 30 CFR Chapter VII. This finding is made under 30 CFR 732.15(b)(10). The Secretary further finds that the public has had a meaningful opportunity to participate in the development of the State's program submitted to OSM based on the information in the Administrative Record and the public hearings Arkansas held on the adoption of regulations pursuant to the ASCMRA on April 30, 1979 in Fort Smith, Arkansas; on July 25, 1979 in Fort Smith, Arkansas; on July 26, 1979, in Little Rock, Arkansas; on July 26, 1979, in Camden, Arkansas; and on July 8, 1980, in Fort Smith, Arkansas.

(l) The Arkansas DPCE has authority under the ASCMRA and regulations, and the Arkansas program includes provisions to monitor, review, and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Arkansas DPCE consistent with 30 CFR Part 705. This finding is made under 30 CFR 732.15(b)(11). The above provisions are contained in Part 705 of the Arkansas regulations.

(m) The Arkansas DPCE has authority under the ASCMRA and regulations to require the training, examination, and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with Section 719 of SMCRA. Arkansas has proposed regulations in Part 850 on training programs for blasters and members of blasting crews and certification programs for blasters. This finding is made under 30 CFR 732.15(b)(12). The Secretary finds that the State is not required to implement regulations governing such training, examination and certification until six months after federal regulations for these provisions have been promulgated. Federal regulations have not been promulgated as of this time. However, when OSM issues final rules on this subject, Arkansas will be required to have regulations consistent with them.

(n) The Arkansas DPCE has authority under Section 5 of ASCMRA and regulations to operate a small operator assistance program consistent with 30 CFR Part 795. This finding is made under 30 CFR 732.15(b)(13). The Arkansas regulations on this subject are at Part 795.

(o) The Arkansas DPCE does not have statutory provisions to protect its employees consistent with Section 704 of SMCRA. *See* finding 1(b).

(p) The Arkansas DPCE has authority under Sections 30 and 31 of the ASCMRA and regulations to provide for administrative and judicial review of state program actions in accordance with Sections 525 and 526 of SMCRA and 30 CFR Chapter VII, Subchapter L with one exception. This finding is made under 30 CFR 732.15(b)(15). The exception is that Section 940.1(a)(2), as presented to the public during the extended comment period, failed to list one of the three criteria for temporary administrative relief required by Section 525(c) of SMCRA. The requirement that temporary relief can be granted only after a hearing in the locality of the permit area in which all parties were given an opportunity to be heard, was in fact enacted by the Arkansas commission on July 25, 1980, but the program before the public did not reflect that rule. The letter of August 8, 1980, to the Regional Director (AR 170) submitted the correct version of Section 940.1(a)(2) for the first time.

Therefore, the Secretary finds that the program submitted for his review did not comply with Section 525(c)(1) of SMCRA. As a condition of the approval granted today, Arkansas will have to resubmit Section 940.1(a) of its regulations for further public comment and review by the Secretary.

The failure of Arkansas rule 940.1(a) to include as a criterion for temporary relief in enforcement proceedings that a hearing be held in the locality of the permit area and that all parties be given an opportunity to be heard is a minor problem because temporary relief proceedings are not probable within the time it will take to correct the rule and ADPCE's chief legal counsel has committed ADPCE to instructing its hearing officers not to grant or deny temporary relief without having had such a hearing. *See* telephone memo of September 25, 1980 (Administrative Record No. AK–199).

(q) In accordance with 30 CFR 732.15(b)(16), the Secretary finds that the Arkansas DPCE has authority under Arkansas laws and the Arkansas program contains provisions to cooperate and coordinate with and provide documents and other information to the Office of Surface Mining under the provisions of 30 CFR Chapter VII. This authority is contained in Section 5(b) of ASCMRA.

(r) In accordance with 30 CFR 732.15(c), the Secretary finds that the ASCMRA and the ADPCE's regulations and the other laws and regulations of Arkansas do not contain provisions that would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII. *See* Response to Comments, No. 19.

(s) In accordance with 30 CFR 732.15(d), the Secretary finds that the Arkansas DPCE and other state agencies having a role in the program have sufficient legal, technical and administrative personnel and sufficient funding to implement, administer and enforce the provisions of the program, the requirements of 30 CFR 732.15(b), and other applicable state and federal laws.

Disposition of Comments

1. The Mine Safety and Health Administration (MSHA) noted that Arkansas has adopted the language of the Secretary's regulation in Section 816.92(b) of its regulations, allowing drainage diversions to be designed to the 100-year, 24-hour precipitation event while MSHA guidelines recommend design to a 100-year, 6-hour precipitation event. The Secretary will not require the State to adopt the MSHA guideline. Since the State's regulation is in compliance with 30 CFR 816.92(b), which is more stringent than the MSHA recommendation and since the Secretary of Labor concurred in the adoption of that rule, adoption of the recommended change is not required.

2. The U.S. Geological Survey (USGS) recommended that Arkansas be made aware of the existing Bureau of Land Management (BLM), USGS, and Office of Surface Mining (OSM) Memorandum of Understanding (MOU) on the management of Federal coal. Arkansas has been provided a copy of the joint MOU.

3. The USGS recommended that Arkansas include in its program procedures for processing proposed mine plans or permits that include Federal lands. Such processing procedures need not be included in the state plan because: (1) in States without a cooperative agreement with the Department of the Interior, the Secretary has sole responsibility for review and approval of permit applications on Federal lands, and (2) in States with a cooperative agreement, the Secretary has joint responsibility with the state. Arkansas' procedures for processing mine plans or permits would be identified in the cooperative agreement if the State chooses to execute such an agreement. Therefore, no change is required.

4. The USGS recommended that Arkansas be apprised of exploration requirements on Federal lands and that a reference to those requirements be included in the permanent program. Exploration responsibilities are explained in the BLM, USGS, and OSM Memorandum of Understanding provided to Arkansas. They do not need to be restated in the program submission because Arkansas will have no jurisdiction on Federal lands unless a cooperative agreement is approved by the Secretary. Therefore, no change is required.

5. The Fish and Wildlife Service (FWS) requested involvement in all pre-application conferences where there are known or potential conflicts with FWS statutory responsibilities. The Secretary believes that Section 786.10(c)(4) of the Arkansas rules adequately provides for FWS involvement in pre-application conferences. (*See* also Sections 731.14(g)(1), (9), and (10) of Arkansas' program narrative.) The FWS and other Federal agencies have additional opportunity to comment on proposed operations once an application is filed under Sections 786.12 and 786.13.

6. The FWS recommended modifications to several forms Arkansas included in the narrative of its program. The modifications were forwarded to Arkansas for consideration; however, the Secretary is not basing his decision on any forms submitted as part of the State program package. Forms will be

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discussed with the State as part of the Secretary's monitoring function.

7. The FWS suggested that Section 731.14(g)(3) of the program narrative be modified to include a provision for notifying the FWS of bond releases on areas for which the FWS has statutory responsibilities. The FWS also requested it be invited to participate in the inspection and evaluation of the reclamation work. The Secretary believes that the program narrative complies with the Federal regulations and contains adequate provisions for Federal agencies to be informed of, and to participate in, bond release proceedings. Furthermore, in the circumstance envisioned, FWS would get direct notice under the provisions of Section 807.11 (a) and (d) of the ADPCE regulations.

8. The FWS requested that Section 731.14(g)(4) of the program narrative be revised to include procedures for handling inspection requests from the FWS and other Federal agencies. Neither SMCRA nor the regulations adopted thereunder require that the regulatory authority conduct inspections at the request of Federal agencies other than OSM. The Secretary assumes that if information provided to Arkansas by a Federal agency other than OSM alleges a violation, Arkansas will conduct an inspection, on the same basis as it would for any citizen making such an allegation. If a Federal agency is not satisfied with the State's response, it can inform the Secretary, who can initiate an inspection under Section 521(a)(1) of SMCRA; therefore, no change is required.

9. The FWS and the National Park Service requested that Section 731.14(g)(10) of the program narrative be revised to include language providing for the notification of a permit application to all Federal agencies having statutory responsibilities. The Secretary agreed with this comment and OSM advised the State to revise Section 786.11(c) of the proposed regulations to require the Arkansas DPCE to notify Federal agencies having jurisdiction over or an interest in the area of the proposed operations. The program amendments received on July 2, 1980, revised Section 786.11(c) accordingly. The Secretary believes that the revisions to Section 786.11(c) now fully enacted, make revising the narrative unnecessary because because the regulations have the force of law and are binding on the ADPCE.

10. The FWS recommended that a formal agreement be developed to specify coordination and consultation responsibilities between the Arkansas DPCE and the Arkansas Game and Fish Commission. The FWS is concerned that it may be impracticable for the Game and Fish Commission to respond satisfactorily to demands from the surface mining program for certain services. Arkansas Stat. Ann. 82–1903(c) requires other agencies to assist the Arkansas DPCE only when assistance is "practicable." The Secretary agrees that if the Arkansas DPCE intends to rely upon assistance from other agencies, formal agreements would be appropriate. However, with the possible exception of assistance with the blaster certification program, Arkansas does not plan to rely on assistance from other agencies for the administration of its program. The Secretary cannot require formal agreements unless other state agencies have been identified as having mandatory duties in the state program.

11. The FWS, in its biological opinion pursuant to Section 7 of the Endangered Species Act, found the Arkansas surface mining program, as proposed, unlikely to jeopardize the continued existence of endangered or threatened species, or result in adverse modification or the destruction of critical habitats. In addition to the non-jeopardy opinion, the FWS also commented on the following concerns: (1) the need for revising 30 CFR Chapter VII to provide for consultation between federal agencies pertinent to the protection of species proposed for listing and/or being proposed for critical habitat, (2) a current inability to assess FWS manpower requirements for its participation in the permit reviewing process, and (3) the direction to be taken by OSM to comply with the requirements of 30 CFR Part 733, "Maintenance of State Programs and Procedures for Substituting Federal Enforcement of State Programs and Withdrawing Approval of State Programs." The Secretary finds that while these concerns are important, and has taken them under advisement, they are not comments on whether the Arkansas program complies with the existing standards for the Secretary's approval of state programs. Therefore, they require no response in this rulemaking.

12. The FWS suggested that Arkansas be required to reword Section 786.11 of the proposed state regulations, as amended, to delete the reference to Section 783.20. The FWS contended that Arkansas Section 783.20 is analogous to 30 CFR 779.20 which was remanded by the U.S. District Court for the District of Columbia and which, therefore, would have to be disapproved by the Secretary (*See* court opinion, February 26, 1980, pp. 38–39). The FWS suggested that deletion of the reference to Arkansas Section 783.20 would avoid a possible reference to a disapproved rule. While this comment may have merit, the Secretary is not requiring states to delete references to suspended or remanded regulations. The decision to make such revisions will be left to the State's discretion.

13. The National Park Service (NPS) requested that Sections 731.14(g)(9) and (10) of the program narrative be revised to include a procedure for the Arkansas DPCE to notify the appropriate NPS regional director before a decision is made to approve or deny exploration or mining and reclamation permits in areas that may have the potential to affect the resources of national park units in Arkansas. The Secretary's regulations do not require notice of exploration operations that will remove less than 250 tons of coal. However, 30 CFR 776.12(b) requires a general public notice of exploration proposals that would remove more than 250 tons, and any person with an interest that might be adversely affected, including the NPS, is free to comment. Therefore, while the Secretary urges Arkansas to cooperate with the NPS by directly notifying it of exploration activities near NPS jurisdictional units, he will not require the Arkansas DPCE to do so under the federal regulations.

14. The NPS requested the opportunity to (1) be involved in setting bond amounts for surface mining and reclamation activities that may have an impact on NPS units, (2) be allowed to participate in inspections prior to the release of those bonds, and (3) be allowed to participate in inspections conducted in response to a petition or notice of violation that may affect an NPS unit. The Secretary believes that Arkansas' regulations are consistent with 30 CFR 780.18(b)(2), 800.13 and 805.11 and with Section 509 of SMCRA concerning the determination of the performance bond amount. The NPS and other federal agencies, like private citizens, have the right to comment on proposed mining operations including the proper amount of bond. (*See* Arkansas Sections 786.12, 786.13, and 786.14.) Under the Secretary's regulations in 30 CFR Parts 805 and 806, which have been adopted by Arkansas, the State will have authority to set the terms and amounts of the performance bond on non-federal and non-Indian lands. Federal agencies also have an opportunity to comment on proposed bond releases for areas for which they may have a concern under Part 807 of the Arkansas regulations. However, OSM advised the Arkansas DPCE to amend proposed Section 807.11 to clarify the rights of those who object to bond releases (*See* letter of April 18, 1980, Administrative Record No. AK–92). Program revisions received May 30 and July 2, 1980, have revised Part 807 to accommodate NPS's concerns about bond releases.

15. The NPS requested the opportunity to participate in developing criteria for designating lands unsuitable for surface coal mining near NPS units and to be allowed to participate in the protection of all resources on lands under its jurisdiction from mining in adjacent areas. Arkansas' regulation Section 762.11 identifying the criteria for developing lands as unsuitable, is consistent with 30 CFR 762.11. The petition process included in Arkansas' regulation 764.13 would provide the opportunity for any person having an interest that is or may be adversely affected to petition to have an area designated as unsuitable for mining. This approach provides the NPS with the opportunity it seeks to protect lands in the National Park System. The Secretary has instructed the Park Service not to seek criteria in State programs which would establish "buffer zones" adjacent to National parks as automatically unsuitable for coal mining, unless these lands meet one or more of the other specific criteria for designation. On June 4, 1979, the Secretary made final decisions on the Federal Coal Mangement Program. Included in those decisions were numerous changes in the proposed unsuitability criteria for federal lands. The Secretary chose to delete the automatic "buffer zone" language for national parks and certain other federal lands from the first criterion (43 CFR 3461.1(a)). Instead, he stated lands adjacent to a national park should only be found unsuitable if they are covered by one of the other specific criteria (43 CFR 3461.1(b)–(t)). This instruction to the Park Service assures that that Agency's approach to State unsuitability criteria will be compatible with the Secretary's policy on federal unsuitability criteria.

16. The NPS and the Bureau of Mines commented that the Arkansas regulations did not include a section comparable to 30 CFR Part 740—General Requirements for Surface Coal Mining and Reclamation Operations on Federal Lands. 30 CFR Part 740 provides rules for OSM to administer a federal lands program for federal lands, and does not directly apply to a state. Section 5(c)(15) of the Arkansas Surface Coal Mining and Reclamation Act of 1979 contains authority for the State to enter into a cooperative agreement with the Secretary enabling the State to regulate surface coal mining on federal lands. Arkansas has not enacted regulations for a federal lands cooperative agreement because it does not anticipate that surface mining operations will be conducted on federal lands within Arkansas in the near future.

17. The NPS commented that the environmental information should be consolidated into a special section of the final program document emphasizing Arkansas' environmental requirements and documentation procedures. The Secretary's regulations do not require this revision. Therefore, no change is necessary.

18. The NPS noted that the applicable air quality portions of the Arkansas Water and Air Pollution Control Act should be included in the program. The air quality portion of the Arkansas Water and Air Pollution Control Act is included in Section 731.14(b) of the program narrative.

19. The Bureau of Mines (BOM) commented that Sections 52–612 and 52–625 of the Arkansas statutes are discriminatory and in violation of federal law. Section 52–612 prohibits females from working in coal mines and Section 52–625 requires separate bath houses for blacks and whites. The Secretary agrees that such laws probably violate the federal constitution. On August 14, 1980, OSM received an opinion of the chief legal counsel of the ADPCE explaining that Section 52–625 of the Arkansas statutes was repealed by 1973 Arkansas Acts No. 253 Section 5, and that Arkansas Section 52–612 is unconstitutional (*see* Administrative Record Document No. AK–170). The Secretary believes that the opinion received from Arkansas satisfactorily resolves these issues and that no change is necessary to the proposed program. Even if Section 52–612 were enforced, it would not directly interfere with the implementation of SMCRA. Although it was submitted with other laws in the program package to comply with 30 CFR 731.14(b), the Secretary believes that it is not a law "directly affecting the regulation of coal exploration and surface coal mining and reclamation operations" and that it is not part of the program upon which today's decision is based.

20. The BOM requested clarification of a time schedule of permit reviews as shown on a flowchart on page 204 of Volume 1. The Secretary finds that the review process will require a minimum of 90 days and a maximum of 270 days, based on the regulations in Part 786. The Secretary's decision today is not based on the accuracy of the diagram on p. 204 of the program narrative.

21. The BOM and the Department of Energy commented that Section 731.14(g)(13) of the program narrative pertaining to the content of the proposed training criteria for use in training, examining, and certifying blasters was incomplete. These comments pertain to a part of the Arkansas program that is not required until six months after the federal regulations on training, examining, and certifying blasters are promulgated. The federal regulations have not yet been promulgated (*See* 30 CFR 732.15(b)(12)). The narrative provided by the Arkansas Department of Pollution Control and Ecology is used only as a guideline for inspectors and course development and does not impose training or safety requirements on operators. Upon adoption of federal regulations Arkansas will be required to adopt regulations consistent with those regulations.

22. The BOM expressed concern that there is no requirement to allow exploration or underground mines in Arkansas. Arkansas' proposed regulations governing such activities have been included in the program submission at Parts 782–784 for underground mining and Part 776 for exploration activities. The Secretary finds that those regulations comply with SMCRA and 30 CFR Chapter VII.

23. The BOM made several comments on the statistical information presented in Section 731.14(h) of the program narrative, specifically information related to projections and trends in mining production and a possible discrepancy in tonnage when compared to past mining production. Inasmuch as the tonnage identified in Section 731.14(h)(8) is a projection only, the Secretary is satisfied that the statistical information as presented is adequate to meet the requirements of 30 CFR 731.14(h).

24. The BOM commented that Arkansas did not include regulations equivalent to 30 CFR 760.3, 760.4, 764.11, 765 and 769. The Secretary has determined that state programs do not need provisions comparable to 30 CFR parts 760, 765 and 769 because these parts are not applicable to a state program submission. 30 CFR 764.11 requires a state to establish a process for designating lands unsuitable for mining. Arkansas' regulations Part 764 establish such a process, which is further described in Section 731.14(g)(11) of the program narrative.

25. The BOM commented that Arkansas did not include regulations comparable to 30 CFR 810.3, 820, 822 and

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825, and that Arkansas combined 30 CFR Parts 816 and 817 of the federal rules into Part 816 of its rules and added Sections 816.121, 816.122, 816.124, and 816.126 addressing underground mining. The Secretary finds that the Arkansas program does not need to include regulations equivalent to 30 CFR 810.3, 820, 822 and 825, because 30 CFR 810.3 applies to the Secretary and 30 CFR Parts 820, 822 and 825 cover special performance standards not necessary in Arkansas (anthracite mines in Pennsylvania, alluvial valley floors west of the 100th meridian and special bituminous coal mines in Wyoming, respectively). The Secretary finds that in its regulations, Arkansas has acceptably combined those regulations that apply to both surface and underground mining. It was, however, necessary to add Sections 816.121–816.126 to cover standards unique to underground mining. Therefore, no changes are necessary.

26. The BOM commented that Section 816.74 refers to a safety factor of 1.1 for earthquake conditions and suggested that the factor may be low for fill embankments. The Secretary finds the Arkansas regulation is equivalent to 30 CFR 816.74 and the State cannot be required to adopt a more stringent regulation.

27. The BOM noted that the Arkansas Statute (ASCMRA) does not have provisions comparable to Sections 502(e), 502(f), 503, 504, 505, 507(b)(7)–(17), 507(c)–(g), 508(a)(6)–(14), 508(b), 510(b)(5), 510(c), 510(d), 515(b)(3) (a portion of), 515(b)(4)–(25), 515(c), 515(d), 515(e), 516(b)(5)–(10), 516(c), 516(d), and 529 of SMCRA. The Secretary finds that Arkansas is not required to include provisions equivalent to those Sections of SMCRA for the following reasons: (1) Section 502(e) provides the authority for a federal enforcement program during the interim period, not a permanent program which is the subject here; (2) Section 502(f) addresses the interim period between the disapproval of a state program and the implementation of a federal program or a federal lands program and is inapplicable once a state program is approved; (3) Section 503 describes the submission of state programs, an activity which occurs at the federal level only; (4) Section 504 provides the authority for implementing a federal program which applies only to the Secretary; (5) Section 505 prohibits state laws or regulations that are inconsistent with the provisions of SMCRA or regulations issued pursuant thereto; that law will be implemented by the Secretary's decision today; (6) the provisions of Sections 507(b)(7)–(17) and 507(c)–(g) are adequately covered by Arkansas' regulations in Sections 778.13, 778.14, 778.21, 780.11, 778.15, 778.17, 779.16, 779.18, 779.25, 779.14, 786.15 and 779.27(d); (7) the provisions of Section 508(a)(6)–(14) and 508(b) concerning reclamation plan requirements are covered by Arkansas' regulations in Sections 779.22, 780.23, 780.18, 780.21, 780.13, 780.14 and 786.16; (8) Section 510(b)(5) is applicable only to areas west of the 100th meridian west longitude, whereas Arkansas is east of the 100th meridian; (9) Sections 510(c) and 510(d) are covered by Section 28 of the Arkansas Act; (10) the Secretary finds that it is not necessary for the Arkansas statute to have provisions comparable to the omitted portions of Section 515 of SMCRA as long as the performance standards are covered by enforceable regulations promulgated pursuant to general statutory authority; (11) similarly, the provisions of Section 516 are covered by Arkansas' regulations Part 816; and (12) the Secretary finds that Arkansas does not need a provision comparable to Section 529 because it did not have a law in existence prior to August 3, 1977, that established environmental protection standards for anthracite surface coal mining.

28. The Advisory Council on Historic Preservation (ACHP) sought additional information to determine the extent that Arkansas' proposed regulatory program is in compliance with Section 106 of the National Historic Preservation Act (NHPA). The information requested concerns the requirement of NHPA for written comments from the State Historic Preservation Officer (SHPO) and an independent determination by OSM's regional director as to the likelihood that the state program will adversely affect properties included, or eligible for inclusion, on the National Register of Historic Places. The Secretary believes that the proposed Programmatic Memorandum of Agreement between OSM and ACHP (*See* 45 FR 41988, June 23, 1980) when signed and implemented will satisfy compliance with Section 106 of NHPA.

29. The ACHP and the Heritage Conservation and Recreation Service (HCRS) expressed concern that historic, archaeological, and other cultural resources could be destroyed or lost unless steps in the permitting process are taken to ensure adequately the identification of such resources. The Secretary believes that the Arkansas rules provide all the consideration of historic, archaeological and other cultural resources currently required by the federal rules in 30 CFR Chapter VII.

30. The Environmental Protection Agency (EPA) suggested that surface mining control programs, including the Arkansas program, should require all mines to quantify all emissions, including fugitive dust particulates, that are associated with their operations and to make the information readily accessible for input into Prevention of Significant Deterioration (PSD) air quality models. To avoid conflict with the Clean Air Act program for prevention of significant deterioration and protection of non-attainment areas, the Secretary has decided not to require separate demonstrations of compliance with those clean air programs beyond the requirements of Sections 508(a)(9) and 515(b)(4) of SMCRA. Arkansas' proposed regulations were not originally consistent with 30 CFR 780.15 because the fugitive dust control plan was not made mandatory. That problem has been corrected under the revisions received from the Arkansas DPCE on May 30, 1980. The regulations, now fully enacted, are also consistent with 30 CFR 816.95, but Section 816.95 must be affirmatively disapproved to the extent indicated below under "Arkansas Regulations That Must Be Disapproved" to comply with the May 16, 1980, opinion of the U.S. District Court for the District of Columbia (pp. 27–29).

31. The EPA commented on the lack of enforceable conditions in the sample permit in Section 731.14(g)(1) of the program narrative to ensure that the conditions of the permit are met, particularly with respect to the control of discharge to surface waters. The comment was forwarded to Arkansas for consideration. However, the Secretary is not basing any part of his approval decision on forms submitted with a state program document. Forms will be discussed with Arkansas as part of the Secretary's monitoring function during the permanent program.

32. The EPA and the Department of Energy commented that the narrative description of the means of administering and enforcing the permanent program performance standards required by 30 CFR 731.14(g)(6) had been omitted. Arkansas addresses the various aspects of administering and enforcing the permanent program performance standards in Sections 731.14(g)(1), 731.14(g)(4), and 731.14(g)(5) of the program narrative. The Secretary has determined that inclusion of the same material in Section 731.14(g)(6) is not necessary.

33. The EPA and the Soil Conservation Service (SCS) suggested that in developing criteria for

designating lands unsuitable for surface mining, consideration be given to the President's Executive Orders 11900 (Wetland Protection) and 11988 (Flood Plain Management). Arkansas' regulation Section 762.11(b)(2), which is consistent with 30 CFR 762.11(b)(2), states that upon petition an area may be designated as unsuitable for certain types of surface coal mining operations if the operation will affect fragile lands and could result in significant damage to important natural systems. The Secretary believes the State is not obligated to comply with E.O. 11900 and 11988, but encourages Arkansas and other states to consider applying the criteria of those orders when reviewing operations that may affect wetlands or floodplains.

34. The EPA commented that the Arkansas scheme for determining the amount of the civil penalty to be assessed would potentially result in more lenient penalties than the federal regulations. The U.S. District Court for the District of Columbia in its decision of February 26, 1980, and in its subsequent clarification of May 26, 1980, found that the Secretary may not require the state to impose penalties as stringent as those in 30 CFR 845.15. Therefore, the Secretary cannot require changes to the Arkansas civil penalty system as long as the state scheme uses the four criteria in Section 518(a) of SMCRA. The Arkansas regulations use those criteria.

35. The Department of Energy (DOE) commented that the cost of reviewing permit applications should be specifically addressed in the submission. Arkansas' regulation Section 771.25 requires a $500 fee for a permit review. Section 507(a) of SMCRA and 30 CFR 771.25 require a permit review fee that can be less than, but may not exceed, the actual cost of reviewing a permit application. The Secretary finds that a $500 fee will be less than the actual cost for adequately reviewing a permit. Therefore, no change is required.

36. The DOE commented that Section 731.14(g)(11) of the program narrative concerning the designation of lands as unsuitable for mining should be addressed in more detail. The Secretary believes that the program narrative, although brief, is sufficient to comply with 30 CFR 731.14(g)(11).

37. The DOE commented that the submission should make explicit the penalties associated with the willful violation of the conflict of interest provision. The Secretary finds that specific criminal penalties are authorized under Section 17(a) of the Arkansas Act and that specific regulatory penalties are imposed under authority of Section 705.6(b) of Arkansas' regulations.

38. The DOE commented on Section 731.14(h)(8) of the program narrative regarding the absence in the coal production data of a distinction between surface and underground mining activities. Arkansas projects in Section 731.14(h)(8) of its program narrative that, unless there is an increase in underground operations, the trend of surface mining activities, as currently established, will hold true for some time into the future. Arkansas does provide a map, referenced in Section 731.14(h)(8) and found at 731.14(h)(4) of the program narrative, that identifies existing surface and underground mining activities. The Secretary believes that the information contained in the narrative is sufficient and does not require change.

39. The DOE commented on Sections 731.14 (i) and (j) of the program narrative pertaining to staffing requirements. The commenter suggested that a biologist, ecologist, hydrologist, and a wildlife management specialist be added to the staff and that the State explain how calculations determining adequate staffing and allocation of staff time were made. In revisions to the program submitted May 30, 1980, the Department of Pollution Control and Ecology revised Section 731.14(j) of the program narrative to demonstrate that the Arkansas DPCE will have adequate staff to administer the program, including the staff identified by the commeter.

40. The DOE commented on Section 731.14(l) of the program narrative relative to the budget. The commenter felt that the information submitted did not adequately explain the cost of administering the permanent program, not did it include sufficient fiscal information relating to the Department of Pollution Control and Ecology. On May 30, 1980, the Department of Pollution Control and Ecology revised this part of the program narrative and submitted new budget information. The Secretary believes that the budget information submitted is consistent with the requirement of 30 CFR 731.14(l).

41. The DOE commented on Section 731.14(m) of the program narrative regarding physical reources, suggesting that additional detail be incorporated into the section. On May 30, 1980, the Department of Pollution Control and Ecology submitted revisions to this part of the program narrative including additional information pertinent to physical resources. The Secretary believes that the physical resources information is consistent with the requirement of 30 CFR 731.14(m).

42. The Soil Conservation Service (SCS) suggested that Arkansas provide other government agencies the opportunity to review notices of intent to explore on Federal lands in the same manner as permit applications are reviewed. The commenter stated that the Forest Service would need this information before permits could be issued on national Forest lands. Arkansas has not made provisions for a Federal lands cooperative agreement in its permanent program submission because it does not anticipate that surface mining operations will be conducted on Federal lands within Arkansas in the near future, and thus will not be processing notices to explore within the boundaries of a national forest. Arkansas does have authority under its Act to administer a Federal lands program in the State if such a program becomes necessary in the future. Therefore, no change is required.

43. The SCS suggested the addition of designated wilderness areas to either Section 779.24(i) or Section 779.24(k) of Arkansas' proposed regulations. The additions would require that maps included with permit applications identify wilderness areas. Arkansas' regulations 779.24(i) and 779.24(k), are consistent with 30 CFR 779.24 (i) and (k) and the Secretary cannot require the State to adopt additional criteria.

44. The SCS suggested additional language be added to Arkansas' proposed regulation Section 780.15 to require an air quality monitoring program if the map required under proposed Section 779.24(k) shows an area with Class I air quality. Such a regulation is not mandatory for States east of the 100th meridian, such as Arkansas, under 30 CFR 780.15. If there is a need for more specific air quality data, the Director of the DPCE can require it under Section 779.18. Therefore, no change is required.

45. The SCS suggested that Arkansas' proposed regulation Section 780.18(b)(5) be revised to require measures, such as fencing, be taken to protect newly revegetated areas. The Secretary believes that Sections 816.111 through 816.117 would provide adequate controls to assure the prompt establishment of an effective and permanent vegetation cover. A permittee is not relieved of the responsibility to use whatever methods are necessary, including fencing, to achieve successful revegetation of the disturbed area.

46. The SCS suggested that the Forest Service will need to review and approve a completed application before it can issue a special use permit for surface use on national forest land. Arkansas has not made provisions for a Federal

lands cooperative agreement in its program submission. Therefore

States to test new ideas and for OSM to

might otherwise be anticipated. While

The use of a conditional approval is

protection performance standards at

Note.—The Secretary has determined that this document is not a significant rule under

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lands cooperative agreement in its program submission. Therefore Arkansas will not be processing any applications for surface coal mining on Federal land within a national forest boundary. *See* response to comment number 42 above.

47. The SCS suggested that Arkansas should add requirements to give detailed descriptions of post mining use or obliteration of transportation facilities. Arkansas' regulations Sections 816.156, .166, and .176 track the language of 30 CFR 816.156, .166, and .176. Therefore, Arkansas' rules are consistent with the Secretary's regulations.

48. The SCS felt that Class I road grade in excess of eight percent will result in excessive erosion and surface stability problems unless the road surface and ditches are paved. Arkansas' regulation Section 816.152(a) is consistent with the Secretary's regulations. It should be noted, however, that as a result of the district court's May 16, 1980 decision, 30 CFR 816.152 has been remanded. The parallel Arkansas regulation will have to be affirmatively disapproved.

49. The SCS proposed amending 30 CFR Chapter VII to include a new Section 30 CFR 780.28 entitled "Reclamation Plan: Reclamation Research and Demonstration of Reclamation Technology." The Director of OSM could consider the proposed rule change if it is submitted pursuant to 30 CFR 700.12. No change is required now, nor does this comment affect the Secretary's decision on the Arkansas program at this time.

Background on Conditional Approval

The Secretary is fully committed to two key aims which underlie SMCRA. The Act calls for comprehensive regulation of the effects of surface coal mining on the environment and public health and safety and for the secretary to assist the States in becoming the primary regulators under the Act. To enable the States to acheive that primacy, the Secretary has undertaken many activities of which several are particularly noteworthy.

The Secretary has worked closely with several State organizations such as the Interstate Mining Compact Commission, the Council of State Governments, the National Governors association and the western Interstate Energy Board. Through these groups OSM has frequently met with State regulatory authority personnel to discuss informally how the Act should be administered, with particular reference to unique circumstances in individual States. Often these meetings have been a way for OSM and the States to test new ideas and for OSM to explain portions of the Federal requirements and how the States might meet them. Alternative State regulatory options, the "State window" concept, for example, were discussed at several meetings of the Interstate Mining Compact Commission and the National Governors Association.

The Secretary has dispensed over $6.9 million in program development grants and over $37.6 million in initial program grants to help the States to develop their programs, to administer their initial programs, to train their personnel in the new requirements, and to purchase new equipment. In several instances OSM detailed its personnel to States to assist in the preparation of their permanent program submissions. OSM has also met with individual States to determine how best to meet the Act's environmental protection goals.

Equally important, the Secretary structured the state program approval process to assist the states in achieving primacy. He voluntarily provided his preliminary views on the adequacy of each state program to identify needed changes and to allow them to be made without penalty to the state. The Secretary adopted a special policy to insure that communication between him and the states remained open and uninhibited at all times. This policy was critical to avoiding a period of enforced silence with a state after the close of the public comment period on its program and has been a vital part of the program review process (*see* 44 FR 54444, September 19, 1979).

The Secretary has also developed in his regulations the critical ability to approve conditionally a state program. Under the Secretary's regulations, conditional approval gives full primacy to a state even though there are minor deficiencies in a program. This power is not expressly authorized by the Act; it was adopted through the Secretary's rulemaking authority under 30 U.S.C. 201(c), 502(b), and 503(a)(7).

The Act expressly gives the Secretary only two options—to approve or disapprove a state program. Read literally, the Secretary would have no flexibility; he would have to approve those programs that are letter-perfect and disapprove all others. To avoid that result and in recognition of the difficulty of developing an acceptable program, the Secretary adopted the regulation providing the authority to approve conditionally a program.

Conditional approval has a vital effect for programs approved in the Secretary's initial decision: it results in the implementation of the permanent program in a state months earlier than might otherwise be anticipated. While this may not be significant in states that already have comprehensive surface coal mining regulatory programs, in many states that earlier implementation will initiate a much higher degree of environmental protection. It also implements the rights SMCRA provides to citizens to participate in the regulation of surface coal mining through soliciting their views at hearings and meetings and enabling them to file requests to designate lands as unsuitable for mining if they are fragile, historic, critical to agriculture, or simply cannot be reclaimed to their prior productive capability.

The Secretary considers three factors in deciding whether a program qualifies for conditional approval. First is the state's willingness to make good faith efforts to effect the necessary changes. Without the state's commitment, the option of conditional approval may not be used.

Second, no part of the program can be incomplete. As the preamble to the regulations says, the program, even with deficiencies, must "provide for implementation and administration for all processes, procedures, and systems required by the Act and these regulations" (44 FR 14961). That is, a state must be able to operate the basic components of the permanent program: the designation process; the permit and coal exploration systems; the bond and insurance requirements; the performance standards; and the inspection and enforcement systems. In addition there must be a functional regulatory authority to implement the other parts of the program. If some fundamental component is missing, conditional approval may not be used.

Third, the deficiencies must be minor. For each deficiency or group of deficiencies, the Secretary considers the significance of the deficiency in light of the particular state in question. Examples of deficiencies that would be minor in virtually all circumstances are correction of clerical errors and resolution of ambiguities through attorney general's opinions, revised regulations, policy statements, changes in the narrative or the side-by-side.

Other deficiencies require individual consideration. An example of a deficiency that would most likely be major would be a failure to allow meaningful public participation in the permitting process. Although this would not render the permit system incomplete because permits could still be issued, the lack of any public participation could be such a departure from a fundamental purpose of the Act that the deficiency would most likely be major.

The use of a conditional approval is not and cannot be a substitute for the adoption of an adequate program. Section 732.13(i) of Title 30 of the regulations gives the Secretary little discretion in terminating programs where the state, in the Secretary's view, fails to fulfill the conditions. The purpose of the conditional authority power is to assist, not excuse, states from achieving compliance with SMCRA.

Conditional Approval

As indicated above under Secretary's findings 1(b), 4(c), 4(h) and 4(p), there are four minor deficiencies in the Arkansas program which the Secretary requires to be corrected. In all other respects, the Arkansas program (excluding those provisions that must be disapproved to comply with the order of the U.S. District Court for the District of Columbia, May 16, 1980) meets the criteria for approval.

The deficiencies are:

1. As indicated in finding 1(b), the substantial difference in penalties for persons interfering with ADPCE employees in the performance of duties as provided in Arkansas Stat. Ann. 41–2801, 41–901 and 41–1101, compared to the penalties of Section 704 of SMCRA.

2. As indicated in finding 4(c) the need for Arkansas to revise regulation Section 786.19(h) to reference federal law rather than state law regarding proof of payment of all reclamation fees before permit approval pursuant to 30 CFR 786.19(h).

3. As indicated in finding 4(h), the need for Arkansas, by regulation or policy commitment in a program amendment, to place a limit on the time within which adjudicatory hearings on proposed civil penalties will be held.

4. As indicated in finding 4(p), the need for the Arkansas regulations, Section 940.1(a), to provide all the criteria for temporary relief during administrative review consistent with Section 525(c) of SMCRA.

Given the nature of these deficiencies and their magnitude in relation to all the other provisions of the Arkansas program, the Secretary has concluded they are minor deficiencies. Accordingly, the program is eligible for conditional approval under 30 CFR 732.13(i), because:

1. The deficiencies are of such a size and nature as to render no part of the Arkansas program incomplete since all other aspects of the program meet the requirements of SMCRA and 30 CFR Chapter VII and these deficiencies, which will be promptly corrected, will not directly affect environmental protection performance standards at coal mining operations;

2. Arkansas has initiated and is actively proceeding with steps to correct the deficiencies; and

3. Arkansas has agreed, by letters dated October 2, 1980 and October 23, 1980, to correct deficiency number 1 by April 15, 1981, and deficiencies 2, 3 and 4 by January 1, 1981.

Accordingly, the Secretary is conditionally approving the Arkansas program. This approval shall terminate if regulations or policy commitments correcting deficiencies 2, 3 and 4 are not enacted and submitted by January 1, 1981 and if state legislation correcting deficiency number 1 is not enacted and submitted by April 15, 1981.

This conditional approval is effective November 21, 1980. Beginning on that date, the Arkansas Department of Pollution Control and Ecology shall be deemed the regulatory authority in Arkansas and all Arkansas surface coal mining and reclamation operations on non-federal lands and all coal exploration on non-federal lands in Arkansas shall be subject to the permanent regulatory program.

On non-federal lands in Arkansas, the permanent regulatory program consists of the state program conditionally approved by the Secretary.

On federal lands, the permanent regulatory program consists of the federal rules made applicable under 30 CFR Chapter VII, Subchapter D, Parts 740–745. Arkansas and the Department of Interior may enter into a cooperative agreement to apply the requirements of the approved Arkansas permanent regulatory program to federal lands under 30 CFR Part 745.

The Secretary's approval of the Arkansas program relates at this time only to the permanent regulatory program under Title V of SMCRA.

The approval does not constitute approval of any provisions related to implementation of Title IV under SMCRA, the abandoned mine lands reclamation program. In accordance with 30 CFR Part 884, Arkansas may submit a State Reclamation Plan now that its permanent program has been conditionally approved. At the time of such a submission, all provisions relating to abandoned mined lands reclamation will be reviewed by officials of the Department of the Interior.

Additional Findings

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 USC 1292(d), no environmental impact statement need be prepared on this conditional approval.

Note.—The Secretary has determined that this document is not a significant rule under E.O. 12044 or 43 CFR part 14, and no regulatory analysis is being prepared on this approval.

Dated: November 14, 1980.

Joan M. Davenport,

Assistant Secretary of the Interior.

Part 904 is added to Title 30 of the Code of Federal Regulations to read as follows:

PART 904—ARKANSAS

Sec.
904.1 Scope.
904.10 State regulatory program approval.
904.11 Conditions of State program approval.

Authority: Pub. L. 95–87, 30 U.S.C. 1253.

§ 904.1 Scope.

This part contains all rules applicable only within Arkansas which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

§ 904.10 State regulatory program approval.

(a) The Arkansas program as submitted on February 18, 1980 and amended on May 29, 1980 and July 2, 1980 and clarified on July 29, 1980, August 8, 1980, August 14, 1980 and August 29, 1980, is conditionally approved, effective November 21, 1980. Copies of the approved program together with copies of the letter from the Arkansas Department of Pollution Control and Ecology agreeing to the conditions of 30 CFR 904.11 are available at:

1. Office of Surface Mining Reclamation and Enforcement, Region IV, Fifth Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106; telephone: (816) 374–2193.
2. Arkansas Department of Pollution Control and Ecology, Mining Reclamation Division, 8001 National Drive, Little Rock, Arkansas 72219; telephone: (501) 371–2130.
3. Office of Surface Mining Reclamation and Enforcement, Room 153, Interior Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; telephone: (202) 343–4728.

(b) *Arkansas Regulations That Must Be Disapproved:* In accordance with the May 16 and August 15, 1980 decisions of the U.S. District Court for the District of Columbia *In Re:* Permanent Surface Mining Regulation Litigation, Civil Action No. 79–1144, the Secretary hereby affirmatively disapproves the following Arkansas regulations to the extent indicated:

(1) Section 701.5. The definition of "mine plan area," and the use of the term in sections 779, 780, 783 and 784.

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regarding requirements of information outside the permit area.

(2) Section 701.11(c) (i) and (ii), relating to exemptions for existing structures to the extent that the exemptions are not mandatory after the appropriate findings are made.

(3) Section 761.5. The definition of "public road."

(4) Section 761.5(a)(2)(i). The definition of "valid existing rights" to the extent it does not allow recognition of such rights an operator may claim by having made a good faith effort to obtain all permits before August 31, 1977.

(5) Sections 761.11(c) and 761.12(f)(1) to the extent that they prohibit or restrict mining near places eligible for listing on the National Register of Historic Places, and the words "or a statutory or regulatory responsibility for" in § 761.12(f)(1). Further, both rules to the extent that they apply to privately owned places listed on the National Register of Historic Places in addition to publicly owned places.

(6) Sections 776.11(b) (3) and (5), relating to the requirements for maps of proposed exploration areas and a showing of the legal basis for entering exploration areas when the surface is owned by a person other than the operator, for lack of statutory authority.

(7) Sections 779.20 and 780.16, requiring a permit application to contain a study of fish and wildlife and to include a fish and wildlife reclamation plan.

(8) Section 779.21 to the extent it requires a soil survey for lands other than those which a reconnaissance inspection suggests may be prime farmland.

(9) Section 783.14(a)(1) insofar as it requires a geologic description of the strata down to and immediately below any coal seam for areas to be affected only by "surface operations and facilities" and where no removal of overburden down to the level of the coal seam will occur.

(10) Section 779.25 (c), (h) and (i) to the extent applicable to underground mining permit applications concerning coal seam and overburden description, location of existing and previously mined areas, and location of waste disposal and impoundments.

(11) Section 785.17(a) concerning the prime farmland grandfather clause, pending OSM's promulgation of new requirements.

(12) Sections 785.17(b)(3) and 823.14(c) concerning excessive soil compaction, pending OSM's promulgation of a standard for soil compaction.

(13) Section 785.17(b)(8) to the extent that it requires prime farmland reclamation target yields to be based on estimated yields under a high level of management rather than a level of management equivalent to that used on prime farmlands in the surrounding area.

(14) Section 786.5(b) to the extent that "or has not been" is part of the definition of "irreparable damage to the environment."

(15) Section 805.13(d) to the extent that the regulatory authority could grant an exception from the revegetation requirements of Part 816.

(16) Sections 806.12(e)(6)(iii) and 806.12(g)(7)(iii) to the extent they require cessation of operations upon the insolvency of a surety.

(17) Section 808.12(c) to the extent that it limits bond liability to protection of the hydrologic balance.

(18) Section 808.14(b) to the extent it allows the regulatory authority to forfeit and keep the entire amount of a bond where the entire amount is not needed to complete the reclamation.

(19) Sections 816.42(a)(1) and (7) to the extent they apply effluent standards to the reclamation phase of a surface coal mining operation.

(20) Section 816.42(b) relating to effluent standard exemptions during major storm periods, pending OSM's promulgation of new storm exemption regulations.

(21) Section 816.46(b) concerning sediment storage volume in sediment ponds.

(22) Section 816.46(c) concerning detention time for water in sediment ponds.

(23) Section 816.46(d) to the extent it requires dewatering devices to have a discharge rate to achieve and maintain the theoretical detention time for sediment ponds.

(24) Section 816.46(h) concerning sediment removal from sediment ponds.

(25) Section 816.65(f) requiring special approval prior to blasting within 1,000 feet of certain buildings and 500 feet of other facilities to the extent it restricts blasting at distances greater than 300 feet.

(26) Section 816.83(a) concerning coal processing waste banks, to the extent it precludes a possible exemption from the underdrain requirement where the operator can demonstrate that an alternative would ensure structural integrity of the waste bank and protection of water quality.

(27) Section 816.95 concerning air resources protection to the extent it applies to air pollution not caused by erosion.

(28) Section 816.103(a)(1) to the extent it does not provide operators the option of treating acid-forming and toxic-forming material in lieu of covering such materials.

(29) Section 816.115 to the extent it requires an operator who proposes range or pasture as the post-mining land use to actually use the land for grazing for the last two years of bond liability.

(30) Sections 823.11(c), 823.15(b) and 823.15(c) to the extent they require an operator on prime farmland to actually return the land to crop production.

(31) Section 816.116(b), to the extent it states that the period of responsibility for successful revegetation is not commenced until the vegetation reaches 90 percent of the natural cover in the area.

(32) Section 816.133(b)(1) to the extent it does not allow restoration of lands to the conditions they were capable of supporting prior to any mining.

(33) Sections 816.133 (c)(4) and (c)(9) to the extent they require an operator to provide "letters of commitment" for proposed land use changes or for proposed cropland use.

(34) Section 701.5. The definition of "roads" and its use in Sections 816.150–176.

(35) Sections 816.150–176 concerning performance standards for three classes of roads.

(36) Section 816.52(a)(1), as it applies to underground mining, to the extent that it requires monitoring to determine the effects of underground mining activities on the recharge capacity of reclaimed lands.

(37) Section 816.54, to the extent it applies to underground mining.

(38) Sections 816.101(b)(1) and 816.102, as they apply to underground mining, to the extent that there is no provision for some flexibility from AOC requirements for settled, stablized, and revegetated fills at underground mines.

(39) Part 823 concerning underground mining operations on prime farmland to the extent it does not have an exemption for surface facilities actively used over extended periods, but which affect minimal amounts of land.

§ 904.11 Conditions of State program approval.

The approval of the State program is subject to the following conditions:

(a) The approval found in § 904.10 will terminate on April 15, 1981 unless Arkansas submits to the Secretary, by that date, copies of fully enacted program provisions that are as stringent as those in Section 704 of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), relative to providing protection to employees of the Department of Pollution Control and Ecology performing their duties, or otherwise amends its program to accomplish the same result;

(b) The approval found in § 904.10 will terminate on January 1, 1981 unless Arkansas submits to the Secretary, by that date, program provisions that are the same or similar to those in 30 CFR 786.19(h) relating to proof of payment of all reclamation fees prior to permit approval;

(c) The approval found in § 904.10 will terminate on January 1, 1981 unless Arkansas submits to the Secretary, by that date, program provisions that are the same or similar to those in 30 CFR 845.18 relative to the time limitations placed on conducting adjudicatory hearings on proposed civil penalties, or otherwise amends its program to accomplish the same result;

(d) The approval found in § 904.10 will terminate on January 1, 1981 unless Arkansas submits to the Secretary, by that date, program provisions that are the same or similar to those in Section 525(c) of SMCRA, relative to identifying the criteria for temporary relief during administrative review.

[FR Doc. 80-36549 Filed 11-20-80; 8:45]
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30 CFR Part 925

Conditional Approval of the Permanent Program Submission From the State of Missouri Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: On February 1, 1980, the State of Missouri submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of the submission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the government regulatory program regulations, 30 CFR Chapter VII.

After providing opportunities for public comment and a thorough review of the program submission, the Secretary of the Interior has determined that the Missouri program meets the minimum requirements of SMCRA and the federal permanent program regulations, except for the deficiencies discussed below under "Secretary's Findings." Accordingly, the Secretary of the Interior has conditionally approved the Missouri program. A new Part 30 CFR 925 is being added to 30 CFR Chapter VII to codify this decision.

EFFECTIVE DATE: This conditional approval is effective November 21, 1980. This conditional approval will terminate as specified in 30 CFR 925.11, adopted below, unless the deficiencies identified below have been corrected in accordance with 30 CFR 925.11.

FOR FURTHER INFORMATION CONTACT:
Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Interior Building, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone: (202) 343–4225

ADDRESSES: Copies of the Missouri program and the administrative record on the Missouri program are available for public inspection and copying during business hours at:

Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106
Missouri Land Reclamation Commission, 1026–D, NE., Drive, Jefferson City, Missouri 65101
Office of Surface Mining Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue NW., Washington, DC 20240 Telephone: (202) 343–4728

SUPPLEMENTARY INFORMATION:

General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501–503 of SMCRA, 30 U.S.C. 1251–1253. The initial program became effective on February 3, 1978, for new coal mining operations on non-federal and non-Indian lands that received state permits on or after that date, and on May 3, 1978, for all coal mines existing on that date. The initial program rules were promulgated by the Secretary on December 13, 1977, under 30 CFR Parts 710–725 and 795, 42 FR 62639, *et seq.*

The permanent program will become effective in each state upon the approval of a state program by the Secretary of the Interior or implementation of a federal program within the state. If a state program is approved, the state, rather than the federal government, will be the primary regulator of activities subject to SMCRA. The federal regulations for the permanent program, including procedures for states to follow in submitting state programs and minimum standards and procedures the state programs must include to be eligible for approval, are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064), and Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published March 13, 1979 (44 FR 15312–15463). Errata notices were published March 14, 1979 (44 FR 15485), August 24, 1979 (44 FR 49673–49687), September 14, 1979 (44 FR 53507–53509), November 19, 1979 (44 FR 66195), April 16, 1980 (45 FR 26001), June 5, 1980 (45 FR 37818) and July 15, 1980 (45 FR 47424). Amendments to the regulations were published October 22, 1979 (44 FR 60969) and September 4, 1980 (45 FR 58780–58786), as corrected December 19, 1979 (44 FR 75143), December 19, 1979 (44 FR 75302–75303), December 31, 1979 (44 FR 77440–77447), January 11, 1980 (45 FR 2626–2629), April 16, 1980 (45 FR 25998–26001), May 20, 1980 (45 FR 33926–33927), June 10, 1980 (45 FR 39446–39447), August 6, 1980 (45 FR 52306–52324) and August 7, 1980 (45 FR 52375). Portions of these regulations have been suspended pending further rulemaking. *See* 44 FR 67942 (November 27, 1979), 44 FR 77447–77454 (December 31, 1979), 45 FR 6913 (January 30, 1980), and 45 FR 51547–51550 (August 4, 1980).

General Background on State Program Approval Process

Any state wishing to assume primary jurisdiction for the regulation of coal mining under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission. The federal regulations governing state program submissions are found at 30 CFR Parts 730–732. After review of the submission by OSM and other agencies, an opportunity for the state to make additions or modifications to the program, and an opportunity for public comment, the Secretary may either approve the program unconditionally; approve it conditioned upon minor deficiencies being corrected in accordance with a specified timetable; or disapprove the program in whole or in part. If any part of the program is disapproved, the state may submit revisions to correct the items that need change to meet the requirements of SMCRA and the applicable federal regulations. If the revised program is also disapproved, SMCRA requires the Secretary of the Interior to establish a federal program in that state. The state may again request approval to assume primary jurisdiction after the federal program has been implemented.

The procedure and timetable for the Secretary's review of state programs

was initially published March 13, 1979

Section 503 of SMCRA (30 U.S.C. 1253),

the requirements of that section are not

submitted by the Missouri Land

affirmatively disapproved pursuant to

in proposed and pre-proposed form on

was initially published March 13, 1979 (44 FR 15326), to be codified at 30 CFR Part 732.

As a result of litigation in the U.S. District Court for the District of Columbia, the deadline for states to submit proposed programs was extended from August 3, 1979, to March 3, 1980.

Section 30 CFR 732.11(d) required that if all required and fully enacted laws and regulations were not part of the program by November 15, 1979, the program would be disapproved. Because the submission deadline had been changed to March 3, 1980, 30 CFR 732.11(d) was amended to provide that program submissions that do not contain all required and fully enacted laws and regulations by the 104th day following program submission will be disapproved pursuant to the procedures for the Secretary's initial decision in Section 732.13 (45 FR 33927, May 20, 1980).

The Missouri program was submitted to OSM on February 1, 1980. The 104th day after February 1 was May 15, 1980.

The Secretary's rules for the review of state programs implement his policy that industry, the public, and other agencies of government should have a meaningful opportunity to participate in his decisions. The Secretary also has a policy that a state should be afforded the maximum opportunity possible to change its program, when necessary, to cure any deficiencies in it.

To accomplish both of these policy objectives the Secretary determined that the laws and rules upon which the state bases its program must be finalized at the beginning of the public comment period. By identifying the laws and rules in effect on the 104th day as the basis of his program approval decision, the Secretary assists commenters by informing them of program elements which should be reviewed. Meaningful public comment would be undermined if the program elements were constantly changing up until the day before the Secretary's decision.

The 104 day rule affords the state 3½ months following submission within which it may modify its laws and rules. In addition, after the Secretary's initial program decision, the states have additional opportunities to revise their laws and regulations.

All program elements other than laws and rules, including Attorney General's opinions, program narratives, descriptions and other information, may be revised by the state at any time prior to program approval. The Secretary will provide opportunity for public comment on those changes, as appropriate.

The Secretary, in reviewing state programs, is utilizing the criteria of Section 503 of SMCRA (30 U.S.C. 1253), and 30 CFR 732.15. In reviewing the Missouri program, the Secretary has followed the federal rules as cited above under "General Background on the Permanent Program" and as affected by three recent decisions of the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation.*

Because of that litigation, the court issued its initial decision in two "rounds." The Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but resulted in suspension or remanding of all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, denied additional generic attacks on the regulations, but remanded some 40 additional parts, sections or subsections of the regulations. The court also ordered the Secretary to "affirmatively disapprove, under Section 503 (of SMCRA), those segments of a state program that incorporate a suspended or remanded regulation" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the court stayed this portion of its opinion. The effect of this stay is to allow the Secretary to approve state program provisions equivalent to remanded or suspended federal provisions in the three circumstances described in paragraph 1 below. Therefore, the Secretary is applying the following standard to the review of state program submissions:

1. The Secretary need not affirmatively disapprove state provisions similar to those federal regulations which have been suspended or remanded by the district court where the state has adopted such provisions in a rulemaking or legislative proceeding which occurred either (1) before the enactment of SMCRA or (2) after the date of the Round II district court decision, since such state regulations clearly are not based solely upon the suspended or remanded federal regulations. (3) The Secretary need not affirmatively disapprove provisions based upon suspended or remanded federal rules if a responsible state official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove, to the extent required by the court's judgments, all provisions of a state program which incorporate suspended or remanded federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the state's regulations is that the requirements of that section are not enforceable in the permanent program at the federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the federal courts, and no federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under state law and in state courts. Accordingly, these provisions are not being pre-empted or suspended, although the Secretary may have the power to do so under Section 504(g) of SMCRA and 30 CFR 730.11.

3. A state program need not contain provisions to implement a suspended regulation and no state program will be disapproved for failure to contain a suspended regulation.

4. A state must have authority to implement all permanent program provisions of SMCRA, including those provisions of SMCRA upon which the remanded or suspended regulations were based.

5. A state program may not contain any provision that is inconsistent with a provision of SMCRA.

6. Programs will be evaluated only on those provisions other than the provisions that must be disapproved because of the court's order. The remaining provisions will be approved unconditionally, approved conditionally, or disapproved, in whole or in part, in accordance with 30 CFR 732.13.

7. Upon promulgation of new regulations to replace those that have been suspended or remanded, the Secretary will afford states that have approved or conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process. A list of the regulations suspended or remanded as the result of the Round I and Round II litigation was published in the **Federal Register** on July 7, 1980 (45 FR 45604).

To codify decisions on state programs, federal programs, and other matters affecting individual states, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Missouri will be found in 30 CFR Part 925.

Background on the Missouri Program Submission

On February 1, 1980, OSM received a proposed regulatory program from the State of Missouri. The program was submitted by the Missouri Land Reclamation Commission, the agency designated as the primary regulatory authority under the Missouri permanent program. Notice of receipt of the submission initiating the program review was published in the February 11, 1980, **Federal Register** (45 FR 9123–9124) and in newspapers of general circulation in Missouri. The announcement invited public participation in the initial phase of the review process as it related to the Regional Director's determination of whether the submission was complete.

On March 13, 1980, the Regional Director held a public review meeting in Jefferson City, Missouri, on the program submission and its completeness. The public comment period on completeness began on February 11, 1980, and closed March 13, 1980.

On March 24, 1980, the Regional Director published notice in the **Federal Register** announcing that the program submission had been determined to be complete (45 FR 18987).

Amendments to the Missouri Program

On May 14, 1980, the Missouri Land Reclamation Commission submitted to OSM numerous revisions to the Missouri permanent program submission.

On May 23, 1980, the Regional Director published notice in the **Federal Register** (45 FR 34907–34909), and in newspapers of general circulation within the State, that the revisions to the Missouri program submission were available for public review and comment. The notice also set forth procedures for the public hearing and comment period on the substance of the Missouri program.

On June 23, 1980, the Regional Director held a public hearing on the Missouri submission in Kansas City, Missouri. The public comment period on the Missouri permanent regulatory program ended on July 1, 1980.

On July 1, 1980, OSM received a letter dated June 30, 1980, from the Director of the Missouri Land Reclamation Commission indicating that Missouri could not adequately implement and administer the permanent program until October 1, 1980. Missouri cited the need to train staff and prepare for implementation of the permitting process. The letter indicated that Missouri woud be prepared to administer the permanent program by October 1, 1980.

On July 7, 1980, OSM received a document dated July 3, 1980, from the Director of the Missouri Land Reclamation Commission requesting that the Secretary approve certain program provisions proposed to be affirmatively disapproved pursuant to the U.S. District Court opinion on state program provisions comparable to remanded or suspended federal regulations discussed above under "General Background on the State Program Approval Process." *See* Administrative record number MO–146. This request was subsequently withdrawn as discussed in the fourth paragraph below.

On July 16, 1980 (45 FR 47713–47715), the Director published in the **Federal Register** a proposed list of the Missouri regulations to be affirmatively disapproved because they are comparable to federal rules suspended or remanded by the district court. The public was invited to comment on the completeness of the list. Comment was also invited on both the June 30th and July 3rd letters received from the Missouri Land Reclamation Commission, described above.

On July 7, 1980, the Regional Director submitted his recommendation to the Director of OSM that the Missouri program be approved in part and disapproved in part, together with copies of the transcripts of the public meeting and public hearing, written presentations, exhibits, copies of all public comments received and other documents comprising the administrative record.

On July 16, 1980, the Secretary published a notice formally disclosing to the public the comments received on the Missouri program from the Environmental Protection Agency, the Secretary of Agriculture, and other federal agencies (45 FR 47712).

On September 2, 1980, the Director of the Missouri Land Reclamation Commission withdrew the State's July 3, 1980, request that the Secretary not affirmatively disapprove certain state program provisions analogous to remanded or suspended federal regulations. *See* administrative record number MO–186. Also, see the paragraph entitled "Other Secretarial Considerations" below for a discussion of how the Secretary is proceeding on this issue.

On September 17, 1980, the Director of OSM recommended to the Secretary that he approve with conditions the Missouri program.

On August 7, 1980, the Administrator of the Environmental Protection Agency concurred in the Secretary's approval of those provisions of the Missouri program relating to air and water quality standards being approved today. *See* administrative record number MO–184.

On August 11, 1980 and September 12, 1980, Missouri promulgated those regulations that were submitted to OSM in proposed and pre-proposed form on May 14, 1980. Those regulations corrected most of the deficiencies that OSM identified earlier to the State (*See* Administrative Record No. MO–98).

Elements Upon Which the Secretary Evaluates the Program for This Decision

In consideration of the matters discussed above under "General Background on State Program Approval Process," the Secretary hereby sets forth the elements of the proposed Missouri program upon which the findings and decisions below are being made.

(a)(1) Because of the 104 day rule promulgated May 20, 1980, 30 CFR 732.11(d) (45 FR 33927), only those statutory provisions and rules that were fully enacted on or before May 15, 1980, are being considered as a basis for this decision.

(a)(2) All provisions not fully enacted on the 104th day, including those presently enacted and proposed amendments and revisions to the Missouri permanent program, are being considered and discussed in this notice, but cannot be approved now by the Secretary.

Other Secretarial Considerations

Provisions of the Missouri program analogous to those federal rules suspended or remanded by the court were previously proposed for disapproval. A public comment period was held to determine the completeness of the list of provisions to be disapproved and the extent to which each of the provisions would be disapproved. *See* 45 FR 47713, July 16, 1980. No comments were received as a result of that notice. However, OSM has determined that the proposed list was incomplete in that Section 10 CSR 40–8.040, Penalty Assessment, which is analogous to 30 CFR Part 845, was not included. Accordingly, those regulations identified at 45 FR 47713 (July 16, 1980) and Missouri regulation 10 CSR 40–8.040 (insofa: as it establishes a point system for assessing civil penalties) are being affirmatively disapproved by the Secretary in this decision.

Secretary's Findings

1. In accordance with Section 503(a) of SMCRA, the Secretary finds that Missouri has, subject to the exceptions in findings 1(a), 1(g), 4(b), 4(c), 4(f), 4(g), 4(i), 4(j), 4(k), and 4(o) the capability to carry out the provisions of SMCRA and to meet its purposes in the following ways:

(a) The Missouri Surface Coal Mining Act (MSCMA) and the regulations adopted thereunder provide for the regulation of surface coal mining and

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reclamation operations on non-Indian and non-federal lands in Missouri in accordance with SMCRA, except that Missouri omits provisions for protection of Missouri Land Reclamation Commission employees performing their duties in accordance with Section 704 of SMCRA. The general criminal provisions do not provide the same degree of protection for state employees as Section 704 of SMCRA does for federal employees. The Secretary finds that this deficiency is minor because the history of state and coal industry relations in Missouri indicates that state employees will not likely be either significantly deterred in performing their duties or subject to violence or harassment during the time this deficiency is being corrected;

(b) The MSCMA provides sanctions for violations of Missouri laws, regulations or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, withholding of permits, and the issuance of cessation orders by the Missouri Land Reclamation Commission or its inspectors;

(c) The Missouri Land Reclamation Commission has sufficient administrative and technical personnel to enable Missouri to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA;

(d) Missouri law provides for the effective implementation, maintenance, and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands within Missouri;

(e) The MSCMA has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA, 30 U.S.C. 1272;

(f) Missouri has established, for the purpose of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other federal and state permit processes applicable to the proposed operations;

(g) Missouri has fully enacted regulations consistent with regulations issued pursuant to SMCRA, with the following exceptions:

(1) The Missouri regulations omit enforcement authority provisions comparable to 30 CFR Part 843 including enforcement of cessation orders (843.11), enforcement of notices of violation (843.12), suspension or revocation of permits (843.13), service of notices of violation and cessation orders, formal review of citations (843.16), inability to comply (843.18) and injunctive relief (843.19). The Secretary finds that this deficiency is minor because the State has basic enforcement authority and procedures in the Missouri Surface Coal Mining Act adequate to enforce the permanent program until said time as the deficiency is corrected.

(2) Missouri omits regulations providing for citizen suits comparable to 30 CFR 700.13. The Secretary finds that this deficiency is minor because the MSCMA contains authority adequate to allow citizen suits as required by Section 520 of SMCRA. The absence of the procedural provision contained in 30 CFR 700.13 should not adversely affect a citizen's rights during the time the deficiency is being corrected.

(3) Missouri omits regulations allowing for the public participation aspects of 43 CFR Part 4, as required by 30 CFR 840.15, including the award of costs and attorneys' fees found in 43 CFR 4.1290. The Secretary finds that this deficiency is minor because the award of costs and attorneys' fees is authorized by the MSCMA. The absence of implementing regulations should not adversely affect public participation during the time this deficiency is being corrected.

(4) Missouri omits regulations to provide procedures for petitioning the Director of the Land Reclamation Commission to initiate rulemaking consistent with 30 CFR 700.12. Public participation in rulemaking under a state program is required by 30 CFR 732.15(b)(10). The Secretary finds that this deficiency is minor because the absence of petition procedures in the Missouri regulations should not adversely affect public participation in rulemaking during the time this deficiency is being corrected.

(5) Missouri omits permitting requirements and performance standards for underground mining in accordance with 30 CFR Parts 782, 783, 784 and 817, and failed to prohibit underground mining until after state regulations are promulgated. The Secretary finds that this deficiency is minor because the State has basic authority in the MSMCA to regulate underground mining until such time as the permitting and performance standards apply to underground mining. Further, no underground mining is being conducted or is proposed to be conducted in the state.

(6) Missouri omits permitting requirements and performance standards for concurrent surface and underground mining operations in accordance with 30 CFR 785.18 and 30 CFR Part 818, and failed to prohibit such operations until after state regulations are promulgated. The Secretary finds that this deficiency is minor because no concurrent surface and underground mining operations are being conducted in the state and no such operations are proposed to be conducted during the time this deficiency is being corrected.

(7) Missouri omits permitting requirements and performance standards for in situ processing activities in accordance with 30 CFR 785.22 and 30 CFR Part 828 and failed to prohibit such operations until after state regulations are promulgated. The Secretary finds that this deficiency is minor because no in situ processing activities are being conducted in the state and no such activities are proposed to be conducted during the time this deficiency is being corrected.

(8) Section 10 CSR 40–3.040(4)(D)(4) provides for a broad variance for restoration of stream channels and construction of permanent diversions after temporary diversions have been constructed. This variance is not allowed under SMCRA or 30 CFR 816.44(d). The Secretary finds that this deficiency is minor because the restoration of stream channels and construction of permanent diversions should not be adversely affected during the time that this deficiency is being corrected.

(9) Section 10 CSR 40–3.050(4)(A)2B is inconsistent with 30 CFR 816.65(a)(2)(ii) in that it does not require "persons" to be notified prior to night blasting. The Secretary finds that this deficiency is minor because the state has agreed during the time this deficiency is being corrected not to grant the special variance for night blasting unless the applicant agrees to notify all persons consistent with 30 CFR 816.65(a)(2)(ii).

(10) Section 10 CSR 40–3.120(7)(B)4 omits specific performance standards for the revegetation of commercial forest land and is, therefore, inconsistent with 30 CFR 816.117(b)(4). The Secretary finds that this deficiency is minor because revegetation of forest land should not be adversely affected during the time that this deficiency is being corrected.

(11) Section 10 CSR 40–5.020(5)(B)2 is inconsistent with 30 CFR 764.15(b)(2) because of the omission of requirements that the Land Reclamation Commission notify the public whenever a lands-unsuitable petition is received. The Secretary finds that this deficiency is minor because the state has agreed to notify the public whenever a lands-unsuitable petition is received during the time that this deficiency is being corrected.

(12) Missouri regulations omit a provision requiring that all persons engaged in surface coal mining and reclamation operations comply with the terms and conditions of their permits and the state's permanent regulatory program. This omission is inconsistent with 30 CFR 771.19. The Secretary finds that this deficiency is minor because the state has the authority in the MSCMA to require persons engaged in mining and reclamation operations to comply with the terms and conditions of their permits and the state's permanent regulatory program. Further, this deficiency will be corrected prior to issuance of any permanent program permits.

(13) Section 10 CSR 40–6.050(8)(B)7 omits a requirement for a description in an operations and reclamation plan of how toxic-forming materials will be disposed. This omission is inconsistent with 30 CFR 780.18(b)(7). The Secretary finds that this deficiency is minor because operation and reclamation plans are not required during the time this deficiency is being corrected.

(14) Section 10 CSR 40–6.070(12)(B) does not require permittees to grant right of entry to authorized representatives of the Secretary of the Interior for inspection and enforcement purposes, making it inconsistent with 30 CFR 786.27(b). The Secretary finds that this deficiency is minor because during the time this deficiency is being corrected, authorized representatives have the right of entry as provided in 30 CFR 842.13.

(15) Section 10 CSR 40–6.090(4)(A)1 does not specify the parameters that will be used to determine what changes constitute significant departures from a mining permit. This is inconsistent with 30 CFR 788.12(a)(1). The Secretary finds that this deficiency is minor because during the time this deficiency is being corrected the state will not be required to determine what changes constitute significant departures.

(16) Section 10 CSR 40–7.010(7)(D) grants an exception from revegetation requirements for a long term intensive agricultural land use. This is inconsistent with 30 CFR 805.13(d) as suspended by court order. No exemptions from those requirements of 30 CFR Part 816 derived from Section 515(b)(20) of SMCRA are presently allowed. The Secretary finds that this deficiency is minor because the state will not have an opportunity to grant an exception to these revegetation requirements during the time this deficiency is being corrected.

(17) Section 10 CSR 40–7.030(1) is inconsistent with 30 CFR 807.11(g) because it does not expressly state that a permittee or any affected person may request a hearing on bond release decisions. The Secretary finds that this deficiency is minor because bond release decisions will not be made during the time this deficiency is being corrected.

(18) Section 40–7.040(2) omits a procedure for bond forfeiture where the permittee failed to comply with a compliance schedule. This is inconsistent with 30 CFR 808.13(a)(4). The Secretary finds that this deficiency is minor because bonds will not be forfeited during the time this deficiency is being corrected.

(19) Section 40–8.010(1)(A)60, definition of permittee, omits the phrase "persons required to hold a permit," thus failing to include wildcat operators. This is inconsistent with the definition in the federal rules under 30 CFR 701.5. The Secretary finds that this deficiency is minor because wildcat operators will not be required under the permanent program to have a permit during the time this deficiency is being corrected.

(20) Section 40–8.010(1)(A)87, definition of surface coal mining operations contain additional definitions of affected land and "disturbed land" which are defined and used differently in the federal regulations in 30 CFR 701.5. Missouri also includes separate definitions of "affected area" and "disturbed area." The Secretary finds that this deficiency is minor because the state will not need to make determinations based on these definitions during the time this deficiency is being corrected.

(21) Missouri regulations omit a definition of "underground development waste," thereby being inconsistent with 30 CFR 701.5. The Secretary finds that this deficiency is minor because the state will not need to make determinations based on this definition during the time this deficiency is being corrected.

(22) Section 10 CSR 40–8.040(1) omits a time frame for the Land Reclamation Commission to notify an operator of a penalty assessment. This is inconsistent with the thirty day maximum specified by 30 CFR 845.17(b). The Secretary finds that this deficiency is minor because the state agrees to give the operator notice within thirty days of a penalty assessment during the time this deficiency is being corrected.

2. As required by Sections 503(b)(1)–(3) of SMCRA, 30 U.S.C. 1253(b)(1)–(3), and 30 CFR 732.11–732.13, the Secretary has through OSM:

(a) Solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise pertinent to the proposed Missouri program;

(b) Obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Missouri program that relate to air or water quality standards promulgated under the authority of the Clean Water Act as amended, (33 U.S.C. 1151–1175), and the Clean Air Act as amended, (42 U.S.C. 7401 *et seq.*). (*See* administrative record number MO–184) and;

(c) Held a public review meeting in Jefferson City, Missouri, on March 13, 1980, to discuss the completeness of the Missouri program submission and subsequently held a public hearing in Kansas City, Missouri, on June 23, 1980, on the substance of the program submission.

3. In accordance with Section 503(b)(4) of SMCRA, 30 U.S.C. 1253(b)(4), the Secretary finds the State of Missouri has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII, as noted more specifically in these findings.

4. In accordance with 30 CFR 732.15, and on the basis of information in the Missouri program submission, including the section-by-section comparison of the Missouri law and regulations with SMCRA and 30 CFR Chapter VII, public comments, testimony and written presentations at the public meeting and hearing, and other relevant information, the Secretary finds that

(a) the proposed Missouri program provides for the state to carry out the provisions and meet the purposes of SMCRA and 30 CFR Chapter VII within its borders, and that Missouri has not proposed any alternative approaches to the requirements of 30 CFR Chapter VII pursuant to 30 CFR 731.13. This finding is made pursuant to 30 CFR 732.15(a).

(b) Pursuant to 30 CFR 732.15(b)(1), the Secretary finds that the Missouri Land Reclamation Commission has the authority under Missouri laws and regulations to implement, administer, and enforce all applicable requirements consistent with 30 CFR Chapter VII, Subchapter K, and the Missouri program includes provisions to do so, with the exceptions noted in Findings 1(g)5, 1(g)6, 1(g)7, 1(g)8, 1(g)9, 1(g)10, 1(g)20, and 1(g)21.

(c) Pursuant to 30 CFR 732.15(b)(2) the Secretary finds that the Missouri Land Reclamation Commisson has the authority under Missouri laws and regulations and the Missouri program includes provisions to implement,

administer and enforce a permit system consistent with 30 CFR Chapter VII, provides in Part 10 CSR 40–8.040 of the Missouri regulations, to provide for civil prohibition against indirect or direct financial interests in coal mining

(r) Pursuant to 30 CFR 732.15(c), the Secretary finds that the MSCMA and of Surface Mining (OSM) Memorandum of Understanding (MOU) on the no longer in effect. Therefore, no change is necessary

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administer and enforce a permit system consistent with 30 CFR Chapter VII, Subchapter C, and prohibit surface coal mining and reclamation operations without a permit issued by Missouri, with the exceptions noted in Findings 1(g)5, 1(g)6, 1(g)7, 1(g)12, 1(g)13, 1(g)14, 1(g)15, and 1(g)19.

(d) Pursuant to 30 CFR 732.15(b)(3), the Secretary finds that the Missouri Land Reclamation Commission has the authority under Missouri laws and the Missouri program includes provisions to regulate coal exploration consistent with 30 CFR Parts 776 and 815 and to prohibit coal exploration that does not comply with 30 CFR Parts 776 and 815.

(e) Pursuant to 30 CFR 732.15(b)(4), the Secretary finds that the Missouri Land Reclamation Commission has the authority under Missouri laws and the Missouri program includes provisions to require that persons extracting coal incidental to government-financed construction maintain information on-site consistent with 30 CFR Part 707. These provisions are at 10 CSR 40-8.020 of the Missouri regulations.

(f) Pursuant to 30 CFR 732.15(b)(5), the Secretary finds that the Missouri Land Reclamation Commission has the authority under Section 444.810 of the MSCMA and in Part 10 CSR 40–8.030 of the Missouri regulations, and the Missouri program includes provisions to enter, inspect and monitor all coal exploration and surface coal mining and reclamation operations on non-indian and non-federal lands within Missouri consistent with the requirements of Section 517 of SMCRA and 30 CFR Chapter VII, Subchapter L with the exception noted in Finding 1(g)14.

(g) Pursuant to 30 CFR 732.15(b)(6), the Secretary finds that the Missouri Land Reclamation Commission has the authority under Missouri laws and the Missouri program includes provisions to implement, administer and enforce a system of performance bonds and liability insurance, or other equivalent guarantees, consistent with SMCRA and 30 CFR Chapter VII, Subchapter J (as promulgated March 13, 1979 44 FR 15312) with the exceptions noted in Findings 1(g)(16), 1(g)(17), and 1(g)(18).

The performance bond and liability insurance provisions of Section 507(f), 509, 510, and 519 of SMCRA and 30 CFR Chapter VII, Subchapter J are incorporated in Sections 444.820(7), 444.830, 444.835, and 444.875 of MSCMA and in Chapter 7 of the Missouri regulations.

(h) Pursuant to 30 CFR 732.15(b)(7), the Secretary has determined that the Missouri Land Reclamation Commission has the authority under Section 444.870 of the MSCMA, and the program provides in Part 10 CSR 40–8.040 of the Missouri regulations, to provide for civil and criminal sanctions for violation of Missouri law, regulations and conditions of permits and exploration approvals including civil and criminal penalties, in accordance with Section 518 of SMCRA (30 U.S.C. 1268) and consistent with 30 CFR Part 845, as remanded by the district court, including the same or similar procedural requirements.

(i) Pursuant to 30 CFR 732.15(b)(8), the Secretary finds that the Missouri Land Reclamation Commisson has the authority under Section 444.885 of the MSCMA, and the program contains in Parts 10 CSR 40–8.030 and 10 CSR 40–8.040 of the Missouri regulations, provisions to issue, modify, terminate and enforce notices of violation, cessation orders and show-cause orders in accordance with Section 521 of SMCRA (30 U.S.C. 1271) and consistent with 30 CFR Chapter VII, Subchapter L including the same or similar procedural requirements, with the exceptions noted in Findings 1(g)1 and 1(g)22.

(j) Pursuant to 30 CFR 732.15(b)(9), the Secretary finds that the Missouri Land Reclamation Commission has authority under Section 444.890 of MSCMA and Parts 10 CSR 40–5.010 and 10 CSR 40–5.020 of the Missouri regulations, and the Missouri program contains provisions for the designation of areas as unsuitable for surface coal mining consistent with 30 CFR Chapter VII, Subchapter F, with the exception noted in Finding 1(g)11.

(k) Pursuant to 30 CFR 732.15(b)(10), the Secretary finds that the Missouri Land Reclamation Commission has the authority and the Missouri program provides for public participation in the development, revision and enforcement of Missouri regulations consistent with the public participation requirements of SMCRA and 30 CFR Chapter VII with the following exceptions noted in Findings 1(g)2, 1(g)3 and 1(g)4. The Secretary further finds that the public has had a meaningful opportunity to participate in the development of the state program submitted to OSM based on the information in the administrative record, the public hearings Missouri held on the adoption of regulations pursuant to the MSCMA in Jefferson City, Missouri on December 4, 1979, June 3, 1980, and July 2, 1980, and the public comment periods provided pursuant to the Missouri Administrative Procedures Act.

(l) Pursuant to 30 CFR 732.15(b)(11), the Secretary finds that the Missouri Land Reclamation Commission has the authority under Missouri laws and the Missouri program includes provisions to monitor, review, and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Missouri Land Reclamation Commission consistent with 30 CFR Part 705. These provisions are contained in Section 444.885(8) of the MSCMA and in Part 10 CSR 40–8.060 of the Missouri regulations.

(m) Pursuant to 30 CFR 732.15(b)(12), the Secretary finds that the Missouri Land Reclamation Commission has the authority under Section 444.905(4) of the MSCMA to require the training, examination, and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with Section 719 of SMCRA. Missouri has no regulations on the training, examination, and certification of persons engaged in blasting, but 30 CFR 732.15(b)(12) does not require a state to implement regulations governing such training, examination and certification until six months after federal regulations for these provisions have been promulgated. These federal regulations have not been promulgated at this time.

(n) Pursuant to 30 CFR 732.15(b)(13), the Secretary finds that the Missouri Land Reclamation Commission has the authority under Section 444.820(4) of the MSCMA and Part 10 CSR 40–8.050 of the regulations, and the program contains provisions to provide for a small operator assistance program consistent with 30 CFR Part 795.

(o) Pursuant to 30 CFR 732.15(b)(14), the Secretary finds that the Missouri program does not contain authority to provide for protection of employees of the Missouri Land Reclamation Commission in accordance with the protection afforded federam employees under Section 704 of SMCRA. *See* Finding 1(a).

(p) Pursuant to 30 CFR 732.15(b)(15), the Secretary finds that the Missouri Land Reclamation Commission has the authority under Sections 444.895 and 444.900 of MSCMA and parts 10 CSR 40–8.030 and 10 CSR 40–8.040 of the Missouri regulations to provide for administrative and judicial review of Missouri program actions in accordance with Sections 525 and 526 of SMCRA and 30 CFR Chapter VII, Subchapter L.

(q) Pursuant to 30 CFR 732.15(b)(16), the Secretary finds that the Missouri Land Reclamation Commission has authority under Missouri laws and the Missouri program contains provisions to cooperate and coordinate with and provide documents and other information to the Office of Surface Mining under the provisions of 30 CFR Chapter VII.

(r) Pursuant to 30 CFR 732.15(c), the Secretary finds that the MSCMA and regulations adopted thereunder and the other laws and regulations of Missouri do not contain provisions that would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII.

(s) Pursuant to 30 CFR 732.15(d), the Secretary finds that the Missouri Land Reclamation Commission and other agencies having a role in the program have sufficient legal, technical, and administrative personnel and sufficient funds to implement, administer, and enforce the provisions of the program, the requirements of 30 CFR 732.15(b), and other applicable state and federal laws.

Disposition of Comments

1. The National Park Service (NPS) identified six counties in Missouri that contain NPS units and requested that they be: 1) consulted on any surface coal mine application that may have an impact on units under their jurisdiction; 2) allowed to participate in inspections of operations that may have an effect on an NPS unit; and 3) able to participate in the development of criteria for designating lands unsuitable for surface mining near NPS units. The Secretary has determined that there are no coal deposits located in or within close proximity to the six counties identified by the National Park Service, thereby alleviating NPS's concerns. No charge, therefore, is required.

2. The Fish and Wildlife Service (FWS) requested that narrative Section VII 9–10, submitted pursuant to 30 CFR 731.14(g)(9) and (10), be revised to include coordination and consultation between the Missouri Department of Natural Resources and the FWS. Missouri Sections VII 9–11 were amended to include coordination and consultation with the U.S. Fish and Wildlife Service. (See Administrative Record No. MO–114).

3. The Regional Office of the FWS submitted a statement, in accordance with the Section 7 Interagency Cooperation Regulations (50 CFR 402, 43 FR 870) and the Endangered Species Act, as amended, preliminarily indicating that the Missouri program would jeopardize some endangered species and their habitat. However, the Director of FWS has subsequently submitted a non-jeopardy opinion concerning the Missouri program submission. *See* Administrative Record No. MO–188.

4. The U.S. Geological Survey (USGS) recommended that Missouri be notified of the existing Bureau of Land Management (BLM), USGS, and Office of Surface Mining (OSM) Memorandum of Understanding (MOU) on the management of federal coal. Missouri has been provided a copy of the joint MOU.

5. The USGS recommended that Missouri include procedures for processing any proposed mine plans or permits that include federal lands. Such processing procedures need not be included in the state plan because: 1) in states without a cooperative agreement with the Interior Department, the Secretary has sole responsibility for review and approval of permit applications on federal lands, and 2) in states with an approved cooperative agreement, the Secretary has joint responsibility with the state, and the procedure for processing mine plans or permits will be identified in the cooperative agreement.

6. The Department of Agriculture (USDA) suggested language be added to the narrative discussion on bonding to insure that surface owners are notified of the decision of the Director of the Missouri Land Reclamation Commission on bond releases. The provisions of Section 10 CSR 40–7.030(1)(E)2 of the Missouri regulations insure that surface owners will be notified of decisions concerning bond releases made by the Director of the Missouri Land Reclamation Commission.

7. The USDA suggested language be added to the narrative discussion on exploration permits to insure that federal, state, and local agencies will be notified when lands they administer are affected by an exploration application. The provisions of the Missouri program apply only to operations on non-Indian and non-federal lands. Although Section 10 CSR 40–6.020 of the Missouri regulations does not require that such agencies be specifically notified of an exploration application, it does provide for general public notice. Furthermore, local governmental entities will be advised of decisions on exploration applications (10 CSR 40–6.020(4)(A)). This notification procedure is the same as prescribed in 30 CFR Part 776.

8. The USDA suggested adding "or the surface owner" after "public" in item I.E.2. on page 4.6 of chapter VII. This is unnecessary because the term "public" includes surface owners; therefore, surface owners already have the right to request inspections.

9. The USDA commented that provisions found at RSM 444.774(1) on page 2.33 of Chapter IV do not allow enough flexibility for grading when timber production is the intended postmining land use. The provisions that the USDA is concerned with are from the 1975 Missouri Strip Mine law that is no longer in effect. Therefore, no change is necessary.

10. The USDA indicated that the regulations do not adequately address ecological succession when timber production is the postmining land use, and largely ignore past research on reforestation of mined lands. The Secretary recognizes that complex ecological relationships characterize forest ecosystems; however, the revegetation standards found at 10 CSR 40–3.120 in the Missouri regulations adequately insure that a diverse, effective and permanent vegetative cover of the same seasonal variety native to the area will be established.

11. The USDA commented that the definition of "Rangeland" found at 10 CSR 40–2.030 should not include the word "forest" as the two are not compatible. The interim regulation referred to by the commenter has been revised and the word "Rangeland" is no longer defined in amended regulation 10 CSR 40–8.010.

12. The USDA suggestd that funds received from the payment of fees or bond forfeitures be made available to the state nursery to guarantee tree seedling orders from mine operators for reclamation purposes. The Secretary has no authority under SMCRA to require such a procedure be included in a state program.

13. The USDA suggested that experimental mining should be permitted separately and therefore have no effect on the bond release on other parts of the permit area. The commenter also suggested that operators be able to amend existing permits to include experimental practices. Finally, the USDA commented that it would be helpful if exploration permits were issued directly to research agencies. The Secretary has determined that all of the aforementioned options are possible under 10 CSR 40–6.060 of the Missouri regulations.

14. The USDA suggested that Missouri enter into a cooperative agreement or sign a memorandum of understanding with the U.S. Forest Service to regulate mining in the Mark Twain National Forest. The commenter also suggested that timber cleared from mining sites on Forest Service land be utilized rather than buried or burned. Under Section 523 of SMCRA, it is optional for a state to enter into a cooperative agreement with the Secretary to regulate mining on federal lands. However, 30 CFR 741.20 and 741.21(a)(1) require that the Regional Director of OSM consult with the authorized officer of the surface managing agency prior to taking any action on a mine application on federal lands. Also, 30 CFR 740.4(d) requires the

consent or concurrence of the surface

closely related field as one of the

Section 10 CSR 40–3.060(11)(A), "Dams

primacy, the Secretary has undertaken

The Act expressly gives the Secretary

correction of clerical errors and

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consent or concurrence of the surface management agency concerning special requirements relative to the protection of non-mineral resources, including timber, on areas affected by surface coal mining.

15. The USDA suggested adding surface owners to the list of people who receive notification of decisions made on exploration permit applications by the Land Reclamation Commission. The provisions for who must be notified of such decisions in the Missouri program are the same as those in the Secretary's regulations at 30 CFR 776.14(a). Under these provisions, the public must be notified of these decisions by publication in a local newspaper. No change is required.

16. The Environmental Protection Agency (EPA) suggested that Missouri's submission contain regulations for performance standards consistent with 30 CFR Parts 817 and 828 covering underground mining activities and in situ processing respectively. The Secretary agrees that Missouri be required to promulgate regulations concerning underground mining and in situ processing consistent with 30 CFR Parts 817 and 828. *See* findings 1(g)5 and 1(g)7.

17. The EPA expressed concern that coordination with other agencies could be a problem, particularly coordination with the agency charged with water quality responsibilities under Sections 208 and 303 of the Clean Water Act. The Missouri program specifically provides for coordination with the Missouri Clean Water Commission with respect to the Clean Water Act. Also Section 10 CSR 40–6.010(3)(B) specifically requires coordination on Sections 208 and 303 matters.

18. The EPA suggested that Missouri inspectors be "cross-trained" in air and water quality monitoring to improve the effectiveness of the program. The Secretary does not have the authority to require such "cross-training".

19. The EPA recommended that performance standards for coal exploration be included in the Missouri program if exploration activities are permitted. Regulations consistent with 30 CFR 815.15 regarding such standards are included in the Missouri program at 10 CSR 40–4.010.

20. The Department of Energy (DOE) suggested that a hydrologist, geologist, and a mining engineer be added to the staff of the Land Reclamation Commission. Missouri has amended its organizational structure in 731.14(e) to include a hydrologist and an engineer. The position of reclamation specialist lists a background in geology or a closely related field as one of the requirements.

21. The DOE suggested that the narrative for 30 CFR 731.14(g)(4) be expanded to explain in greater detail the provisions for public participation in the inspection and monitoring of coal exploration, mining and reclamation operations. Public participation in these matters is discussed in detail in the narrative portion of the Missouri program for Section 731.14(g)(14).

22. The DOE commented that Missouri did not include a regulation consistent with 30 CFR 771.19, Compliance with Permits. The Secretary agrees that Missouri should promulgate a regulation consistent with 30 CFR 771.19. *See* Finding 1(g)12. Further, the Secretary preliminarily determined that proposed regulation 10 CSR 40–6.010(1)(c) appears consistent with 30 CFR 771.19.

23. The DOE commented that Missouri did not include a regulation consistent with 30 CFR 827.11 regarding the applicability of special performance standards to certain coal processing plants and support facilities. The Secretary finds that Missouri regulation 10 CSR 40–4.050(1) providing for requirements for coal processing plants and support facilities is consistent with 30 CFR 827.11.

24. The DOE commented that the Missouri program should include regulations comparable to 30 CFR Parts 782, 783, and 784 concerning Underground Mining Permit Applications. The Secretary agrees that the Missouri program must include regulations consistent with 30 CFR Parts 782, 783, and 784. *See* finding 1(g)5.

25. The DOE asked that provisions comparable to 30 CFR Part 824 be included in the Missouri program to assure protection of the environment from mining in areas of "hilly terrain". The Secretary disagrees. Under Sections 515 (c) and (e) of SMCRA, these provisions are optional. Not including this Part, which is an exemption from the requirement to return land to its approximate original contour for mining on steep slopes and mountains, makes the Missouri program more stringent, i.e., the exemption is not available under the Missouri program. Therefore, no change is required.

26. The Mine Safety and Health Administration (MSHA) commented that Section 10 CSR 40–2.070(2)(1) did not specify the design storm duration in regard to dams constructed with waste material. Section 10 CSR 40–2.070(2)(1) is an interim program regulation and will not be a part of the regulations contained in Missouri's permanent program. Furthermore, Missouri's permanent regulation on this subject, Section 10 CSR 40–3.080(11)(A), "Dams and Embankments: Design and Construction," is consistent with 30 CFR 816.93.

27. MSHA commented that Section 10 CSR 40–2.070(4) did not require that an abandonment plan be approved by the regulatory authority prior to the removal of dams. Again, this section was an interim regulation and will not be a part of the permanent program. Missouri's permanent program regulation on this subject, 10 CSR 40–3.040(16), "Postmining rehabilitation of sedimentation ponds, diversions, impoundments, and treatment facilities," is consistent with 30 CFR 816.56.

28. MSHA commented that the 100-year, 24-hour design requirement found at Section 10 CSR 40–3.080(10)(B) of the Missouri regulations was less stringent than MSHA's 100-year, 6-hour requirement. The Secretary will not require the state to adopt a more stringent requirement than his rules and since the state regulation is consistent with 30 CFR 816.92(b), the recommended change is not required.

29. MSHA commented that Missouri's definitions of "explosives" and "blasting agent", found in Section 8 CSR 30–2.010(6) of the Missouri Division of Labor and Industrial Relations, regulations differ from MSHA's definitions in 30 CFR 77.2. The regulations of the Division of Labor and Industrial Relations are not a part of the proposed state program and are, therefore, not being evaluated by the Secretary except that he has determined that they are not inconsistent with SMCRA.

30. One commenter stated that the Missouri program provides for only two types of performance bonds, surety and certificate of deposit, and requested that OSM require the state to allow all forms of bonding allowed under the federal regulations. The Secretary has determined that the bonding provisions found at 10 CSR 40 Chapter 7 of the Missouri regulations are consistent with 30 CFR Subchapter J. Any decision by a state to allow fewer bonding alternatives than the federal rules provide would not render the state program less stringent than the minimum federal requirements.

Background on Conditional Approval

The Secretary is fully committed to two key aims which underlie SMCRA. The Act calls for comprehensive regulation of the effects of surface coal mining on the environment and public health and safety and for the Secretary to assist the states in becoming the primary regulators under the Act. To enable the states to achieve that

primacy, the Secretary has undertaken many activities of which several are particularly noteworthy.

The Secretary has worked closely with several state organizations such as the Interstate Mining Compact Commission, the Council of State Governments, the National Governors Association and the Western Interstate Energy Board. Through these groups OSM has frequently met with state regulatory authority personnel to discuss informally how the Act should be administered, with particular reference to unique circumstances in individual states. Often these meetings have been a way for OSM and the states to test new ideas and for OSM to explain portions of the federal requirements and how the states might meet them. Alternative state regulatory options, the "state window" concept, for example, were discussed at several meetings of the Interstate Mining Compact Commission and the National Governors Association.

The Secretary has dispensed over $6.9 million in program development grants and over $37.6 million in initial program grants to help the states to develop their programs to administer their initial programs, to train their personnel in the new requirements, and to purchase new equipment. In several instances OSM detailed its personnel to states to assist in the preparation of their permanent program submissions. OSM has also met with individual states to determine how best to meet the Act's environmental protection goals.

Equally important, the Secretary structured the state program approval process to assist the states in achieving primacy. He voluntarily provided his preliminary views on the adequacy of each state program to identify needed changes and to allow them to be made without penalty to the state. The Secretary adopted a special policy to insure that communication between him and the states remained open and uninhibited at all times. This policy was critical to avoiding a period of enforced silence with a state after the close of the public comment period on its program and has been a vital part of the program review process (*See* 44 FR 54444, September 19, 1979).

The Secretary has also developed in his regulations the critical ability to approve conditionally a state program. Under the Secretary's regulations, conditional approval gives full primacy to a state even though there are minor deficiencies in a program. This power is not expressly authorized by the Act; it was adopted through the Secretary's rulemaking authority under 30 USC 201(c), 502(b), and 503(a)(7).

The Act expressly gives the Secretary only two options—to approve or disapprove a state program. Read literally, the Secretary would have no flexibility; he would have to approve those programs that are letter-perfect and disapprove all others. To avoid that result and in recognition of the difficulty of developing an acceptable program, the Secretary adopted the regulation providing the authority to approve conditionally a program.

Conditional approval has a vital effect for programs approved in the Secretary's initial decision: it results in the implementation of the permanent program in a state months earlier than might otherwise be anticipated. While this may not be significant in states that already have comprehensive surface mining regulatory programs, in many states that earlier implementation will initiate a much higher degree of environmental protection. It also implements the rights SMCRA provides to citizens to participate in the regulation of surface coal mining through soliciting their views at hearings and meetings and enabling them to file requests to designate lands as unsuitable for mining if they are fragile, historic, critical to agriculture, or simply cannot be reclaimed to their prior productive capability.

The Secretary considers three factors in deciding whether a program qualifies for conditional approval. First is the state's willingness to make good faith efforts to effect the necessary changes. Without the state's commitment, the option of conditional approval may not be used.

Second, no part of the program can be incomplete. As the preamble to the regulations says, the program, even with deficiencies, must "provide for implementation and administration for all processes, procedures, and systems required by the Act and these regulations" (44 FR 14961). That is, a state must be able to operate the basic components of the permanent program: the designation process; the permit and coal exploration systems; the bond and insurance requirements; the performance standards; and the inspection and enforcement systems. In addition there must be a functional regulatory authority to implement the other parts of the program. If some fundamental component is missing, conditional approval may not be used.

Third, the deficiencies must be minor. For each deficiency or group of deficiencies, the Secretary considers the significance of the deficiency in light of the particular state in question. Examples of deficiencies that would be minor in virtually all circumstances are correction of clerical errors and resolution of ambiguities through attorney general's opinions, revised regulations, policy statements, changes in the narrative or the side-by-side.

Other deficiencies require individual consideration. An example of a deficiency that would most likely be major would be a failure to allow meaningful public participation in the permitting process. Although this would not render the permit system incomplete because permits could still be issued, the lack of any public participation could be such a departure from a fundamental purpose of the Act that the deficiency would most likely be major.

The use of a conditional approval is not and cannot be a substitute for the adoption of an adequate program. Section 732.13(i) of Title 30 of the regulations gives the Secretary little discretion in terminating programs where the state, in the Secretary's view, fails to fulfill the conditions. The purpose of the conditional authority power is to assist, not excuse, states from achieving compliance with SMCRA.

Conditional Approval

As indicated above under Secretary's Findings 1(a) and 1(g), there are twenty-three minor deficiencies that the Secretary requires be corrected. In all other respects, the Missouri program (excluding provisions that must be disapproved to comply with the order of the U.S. District Court for the District of Columbia, May 16, 1980) meets the criteria for approval.

The first deficiency, as indicated in Finding 1(a), is the absence of provisions for protection of Missouri Land Reclamation Commission employees performing their duties in accordance with Section 704 of SMCRA.

The second deficiency, as indicated in Finding 1(g)(1), is the absence of regulatory provisions providing for enforcement authority in accordance with 30 CFR Part 843.

The third deficiency, as indicated in Finding 1(g)(2), is the absence of regulations providing for citizen suits in accordance with 30 CFR 700.13.

The fourth deficiency, as indicated in Finding 1(g)(3), is the absence of regulatory provisions providing for recovery of costs and expenses, including attorneys' fees, in accordance with 43 CFR 4.1290–4.1296.

The fifth deficiency, as indicated in Finding 1(g)(4), is the absence of regulatory provisions providing for procedures for petitioning the Director of the Land Reclamation Commission to initiate rulemaking in accordance with 30 CFR 732.15(b)(10).

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The sixth deficiency, as indicated in Finding 1(g)(5), is the absence of permitting requirements and performance standards for underground mining operations in accordance with 30 CFR Parts 782, 783, 784 and 817.

The seventh deficiency, as indicated in Finding 1(g)(6), is the absence of permitting requirements and performance standards for concurrent surface and underground mining operations in accordance with 30 CFR 785.18 and 30 CFR Part 818.

The eighth deficiency, as indicated in Finding 1(g)(7), is the absence of permitting requirements and performance standards for in situ processing activities in accordance with 30 CFR 785.22 and 30 CFR Part 828.

The ninth deficiency, as indicated in Finding 1(g)(8), concerns the inclusion in the Missouri regulations of a broad variance for restoration of stream channels and construction of permanent diversions after temporary diversions were constructed. This variance is not in accordance with SMCRA of 30 CFR 816.44(d).

The tenth deficiency, as indicated in Finding 1(g)(9), concerns the inconsistency between the Missouri regulations and 30 CFR 816.65(a)(2)(ii) concerning who is to be notified prior to blasting at night time.

The eleventh deficiency, as indicated in Finding 1(g)(10), is the absence of specific performance standards for the regulation of commercial forest land in accordance with 30 CFR 816.117(b)(4).

The twelth deficiency, as indicated in Finding 1(g)(11), concerns the inconsistency between the Missouri regulations and 30 CFR 764.15(b)(2) relative to the public notification procedures upon receipt of land unsuitable petitions.

The thirteenth deficiency, as indicated in Finding 1(g)(12), is the absence of a provision requiring that all persons engaged in surface coal mining and reclamation operations comply with the terms and conditions of their permits and the state's permanent regulatory program in accordance with 30 CFR 771.19.

The fourteenth deficiency, as indicated in Finding 1(g)(13), is the absence of a provision requiring a description in the reclamation and operation plan of how toxic materials will be disposed of in accordance with 30 CFR 780.18(b)(7).

The fifteenth deficiency, as indicated in Finding 1(g)(14), is the absence of a provision grantinig the right of entry to mine sites to authorized representatives of the Secretary in accordance with 30 CFR 786.27(b).

The sixteenth deficiency, as indicated in Finding 1(g)(15), is the absence of specific parameters that will be used to determine significant departures from mining permits in accordance with 30 CFR 788.12(a)(1).

The seventeenth deficiency, as indicated in Finding 1(g)(16), concerns the inclusion in the Missouri regulations of an exception from revegetation requirements for long term intensive agricultural land uses. This exception is not in accordance with 30 CFR 805.13(d) as suspended by court order.

The eighteenth deficiency, as indicated in Findidng 1(g)(17), concerns the inconsistency of the Missouri regulations with 30 CFR 807.11(g) as it relates to requests for hearings on bond release decisions.

The nineteenth deficiency, as indicated in Finding 1(g)(18), is the absence of a procedure for bond forfeiture where the permittee fails to comply with a compliance schedule in accordance with 30 CFR 808.13(a)(4).

The twentieth deficiency, as indicated in Finding 1(g)(19), is the inconsistency of Missouri's definition of "permittee" and OSM's definition found at 30 CFR 701.5.

The twenty-first deficiency, as indicated in Finding 1(g)(20), concerns the inconsistency of Missiouri's definition of "surface coal mining operation" and OSM's definition found at 30 CFR 701.5.

The twenty-second deficiency, as indicated in Finding 1(g)(21), is the absence of a definition of "underground development waste" in the Missouri regulations.

The twenty-third deficiency, as indicated in Finding 1(g)(22), is the absence of a provision requiring the Land Reclamation Commission to notify operators of a penalty assessment within thirty days as specified by 30 CFR 845.17(b).

Given the nature of these deficiencies and their magnitude in relation to all the other provisions of the Missouri program, the Secretary of the Interior has concluded that they are minor deficiencies. Accordingly, the program is eligible for conditional approval under 30 CFR 732.13(i) because:

1. The deficiencies are of a size and nature as to render no part of the Missouri program incomplete since all other aspects of the program meet the requirements of SMCRA and 30 CFR Chapter VII and these deficiencies, which will be promptly corrected, will not directly affect environmental performance at coal mines;

2. Missouri has initiated and is actively proceeding with steps to correct the deficiencies; and

3. Missouri has agreed, by letter dated October 28, 1980, from Governor Teasdale, to correct the regulation deficiencies by April 1, 1981, and the Statutory deficiency by October 1, 1981.

Accordingly, the Secretary is conditionally approving the Missouri program. The approval shall terminate if regulations correcting the twenty-two deficiencies are not enacted by April 1, 1981, or if the one statutory deficiency is not corrected by October 1, 1981.

This conditional approval is effective November 21, 1980. Beginning on that date, the Missouri Land Reclamation Commission shall be deemed the regulatory authority in Missouri and all Missouri surface coal mining and reclamation operations on non-Federal and non-Indian lands and all coal explorations on non-Federal and non-Indian lands in Missouri shall be subject to the permanent regulatory program.

In compliance with the order of the U.S. District Court for the District of Columbia, May 16, 1980, the Secretary affirmatively disapproves the regulations as listed below in 30 CFR Section 925.10(b).

On non-Federal and non-Indian lands in Missouri, the permanent regulatory program consists of the State program approved by the Secretary.

On Federal lands, the permanent regulatory program consists of the Federal rules made applicable under 30 CFR Chapter VII, Subchapter D—Parts 740–745. Missouri and the Department of the Interior will have the opportunity to enter into a State/Federal Cooperative Agreement to include the requirements of the approved Missouri permanent regulatory program on Federal lands.

The Secretary's approval of the Missouri program relates at this time only to the permanent regulatory program under Title V of SMCRA.

The approval does not constitute approval of any provisions related to implementation of Title IV under SMCRA, the abandoned mine lands reclamation program. In accordance with 30 CFR Part 884, Missouri may submit a State Reclamation Plan now that its permanent program has been approved. At the time of such a submission, all provisions relating to abandoned mined lands reclamation will be reviewed by officials of the Department of the Interior.

Additional Findings

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this conditional approval.

The Secretary has determined that this document is not a significant rule under E.O. 12004 or 43 CFR Part 14, and no regulatory analysis is being prepared on this conditional approval.

Dated: November 17, 1980.

Joan M. Davenport,

Assistant Secretary of the Interior.

A new part, 30 CFR Part 925, is adopted to read as follows:

PART 925—MISSOURI

Sec.
925.1 Scope.
925.10 State program approval.
925.11 Conditions of State program approval.

Authority: Pub. L. 95–87, Sec. 102, 201 and 503; 30 U.S.C. 1202, 1211, and 1253.

§ 925.1 Scope.

This part contains all rules applicable only within Missouri that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

§ 925.10 State program approval.

(a) The Missouri permanent regulatory program as submitted on February 1, 1980 and amended and clarified on May 14, 1980 is conditionally approved, effective November 21, 1980. Copies of the approved program together with copies of the letter from the Missouri Department of Natural Resources agreeing to the conditions set forth in 30 CFR 925.11 are available at:

(1) Office of the Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, MO 64106, Telephone: (816) 374–2193.

(2) Missouri Land Reclamation Commission 1026–D N.E. Drive, Jefferson City, MO 65101, Telephone: (314) 751–3241.

(3) Office of Surface Mining Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343–4728.

(b) In accordance with the May 16, 1980 opinion of the U.S. District Court for the District of Columbia, the Secretary affirmatively disapproves the following list of provisions contained in the Missouri program. These regulations are affirmatively disapproved to the extent indicated or, if no limitation is indicated, in their entirety.

(1) Section 10 CSR 40–5.010(1)(A) 1 B(I), the definition of "valid existing rights," to the extent it does not allow recognition of such rights an operator may claim by having made a good faith effort to obtain all permits before 8/3/77 as stipulated by the court's decision.

(2) Section 10 CSR 40–8.010 No. 47, the definition of "mine plan area," and the use of the term in Section 10 CSR 40–6.040 and 10 CSR 40–6.050 to the extent of the court's order regarding requirements of information outside the permit area.

(3) Sections 10 CSR 40–6.040(11) and 10 CSR 40–6.050(7) requiring a permit application to contain a study of fish and wildlife and to include a fish and wildlife reclamation plan.

(4) Section 10 CSR 40–6.040(12) to the extent it requires a soil survey for lands other than those which a reconnaissance inspection suggests may be prime farmland.

(5) Section 10 CSR 40–7.040(4)(B) to the extent it allows the regulatory authority to forfeit and keep the entire amount of a bond where the entire amount is not needed to complete the reclamation.

(6) Section 10 CSR 40–3.120(5) to the extent it requires an operator who proposes range or pasture as the post-mining land use to actually use the land for grazing for the last two years of bond liability.

(7) Sections 10 CSR 40–4.030(1)(C), 10 CSR 40–4.030(5)(B), and 10 CSR 40–4.030(5)(C) to the extent they require an operator on prime farmland to actually return the land to crop production.

(8) Section 10 CSR 40–3.120(6)(B) to the extent that it states that an operator's responsibility for successful revegetation is not commenced until the vegetation reaches 90 percent of the natural cover in the area.

(9) Section 10 CSR 40–3.130 (3)(D) and (3)(I) to the extent it requires an operator to provide "letters of commitment" for proposed land use changes or for proposed cropland use.

(10) Sections 10 CSR 40–6.060(4)(B)3 and 10 CSR 40–4.030(4)(C) concerning excessive soil compaction.

(11) Sections 10 CSR 40–3.040(2)(A)1 and 7 to the extent they apply effluent standards to the reclamation phase of a surface coal mining operation.

(12) Section 10 CSR 40–3.040(2)(B) relating to effluent standard exemptions during major storm periods.

(13) Section 10 CSR 40–3.040(6)(B) concerning sediment storage volume in sediment ponds.

(14) Section 10 CSR 40–3.040(6)(C) concerning detention time for water in sediment ponds.

(15) Section 10 CSR 40–3.040(6)(D) to the extent it requires dewatering devices to have a discharge rate to achieve and maintain the theoretical detention time for sediment ponds.

(16) Section 10 CSR 40–3.040(6)(H) concerning sediment removal from sediment ponds.

(17) Section 10 CSR 40–3.050(4)(F) requiring special approval prior to blasting within 1,000 feet of certain buildings and 500 feet of other facilities and which restricts blasting at distances greater than 300 feet.

(18) Section 10 CSR 40–3.08(3)(A) concerning coal processing waste banks, to the extent it precludes a possible exemption from the underdrain requirement where the operator can demonstrate that an alternative would ensure structural integrity of the waste bank and protection of water quality.

(19) Section 10 CSR 40–3.090 concerning air resources protection, to the extent it applies to air pollution not caused by erosion.

(20) Section 10 CSR 40–3.140(1)–(21) concerning performance standards for three classes of roads.

(21) Section 10 CSR 40–8.010–75 the definition of "roads" that is used in Sections 10 CSR 40–3.140(1)–(21).

(22) Section 10 CSR 40–6.060(4)(A)8 to the extent that it requires prime farmland reclamation target yields to be based on estimated yields under a high level of management rather than a level of management equivalent to that used on prime farmlands in the surrounding area.

(23) Section 10 CSR 40–8.070(2)(E) 1A and 1B relating to exemptions for existing structures to the extent that the exemptions are not mandatory after the appropriate findings are made.

(24) Section 10 CSR 40–3.130(2)(A) to the extent it does not allow restoration of lands to the conditions they were capable of supporting prior to any mining.

(25) Sections 10 CSR 40–5.101(2)(c) and 10 CSR 40–5.010(1)(F) to the extent that they prohibit or restrict mining near places only eligible for listing on the National Register of Historic Places, and the words "or a statutory or regulatory responsibility for" in Section 10 CSR 40–5.010(1)(F) are disapproved. Both rules are disapproved to the extent that they apply to privately-owned places listed on the National Register of Historic Places in addition to publicly-owned places.

(26) Section 10 CSR 40–7.020(2)(E)5C to the extent it requires cessation of operations upon the insolvency of a surety.

(27) Section 10 CSR 40–7.040(2)(C) to the extent that it limits bond liability to protection of the hydrologic balance.

(28) Section 10 CSR 40–3.110(3)(A)1 to the extent it does not provide operators the option of treating acid-forming and toxic-forming material in lieu of covering such materials.

(29) Section 10 CSR 40–7.010(7)(D) to the extent that the exception the requiring authority may grant might be from all of Section 216.

(30) Section 10 CSR 40–8.070(2)(B)

petition to designate lands as unsuitable

amends its program to accomplish the

it had been sent through the Postal

SUMMARY: This rule establishes a

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(30) Section 10 CSR 40–8.070(2)(B) concerning the two-acre exemption, insofar as it applies to any operation by the person who affects or intends to affect more than two acres of physically unrelated sites within one year when the area affected at each site does not exceed two acres.

(31) Section 10 CSR 40–5.010(1)(J) the definition of "public road."

(32) Section 10 CSR 40–6.060(4)(A) concerning the prime farmland grandfather clause.

(33) Section 10 CSR 40–6.060(1)(B) to the extent that "or has not been" is no longer part of the definition of "irreparable damage to the environment."

(34) Section 10 CSR 40–8.040 to the extent it imposes a civil penalty point system.

§ 925.11 Conditions of State program approval.

The approval of the State program is subject to the following conditions:

(a) The approval found in 30 CFR 925.10 will terminate on April 1, 1981, unless Missouri submits to the Secretary by that date copies of program provisions that are the same or similar to those found in:

(1) 30 CFR Part 843, relating to enforcement of cessation orders (Sec. 843.11), enforcement of notices of violation (Sec. 843.12), suspension or revocation of permits (Sec. 843.13), service of notices of violation and cessation orders, formal review of citations (Sec. 843.16), inability to comply (Sec. 843.18) and injunctive relief (Sec. 843.19).

(2) 30 CFR 700.13, relating to citizen suits;

(3) 43 CFR Part 4, relating to award of costs, including attorneys' fees, in administrative proceedings;

(4) 30 CFR 700.12 relative to petitioning the Director of the Missouri Land Reclamation Commission to indicate rulemaking;

(5) 30 CFR 785.18 and 30 CFR Part 818, relating to permitting requirements and performance standards for concurrent surface and underground mining operations.

(6) 30 CFR 785.22 and 30 CFR Part 828, relating to permitting requirements and performance standards for in situ processing activities.

(7) 30 CFR 816.65(a)(2)(ii), relating to notification procedures prior to detonating explosives at night;

(8) 30 CFR 816.117(b)(4), relative to identifying specific performance standards for revegetation of commercial forest land;

(9) 30 CFR 764.15(b)(2), relating to notification procedures upon receipt of a petition to designate lands as unsuitable for mining;

(10) 30 CFR 771.19, relative to requiring all persons engaged in surface coal mining and reclamation operations to comply with the terms and conditions of their permits and the State's permanent regulatory program;

(11) 30 CFR 780.18(b)(7), relative to requiring operators to describe the procedures to be used in disposing of toxic-forming materials;

(12) 30 CFR 786.27(b), relative to granting representatives of the Secretary of the Interior right of entry on operations for inspection and enforcement purposes;

(13) 30 CFR 788.12(a)(1), relative to specifying what parameters constitute significant departures from an approved mining permit;

(14) 30 CFR 807.11(g), relative to requiring notification of a permittee or any other affected person that they have the right to request a hearing on a bond release decision;

(15) 30 CFR 808.13(a)(4), relative to procedures for forfeiting a performance bond where the permittee has failed to comply with a compliance schedule;

(16) 30 CFR 701.5, relating to the definition of permittee;

(17) 30 CFR 701.5, relating to the definition of surface coal mining operations;

(18) 30 CFR 701.5, relating to the definition of underground development waste;

(19) 30 CFR 845.17(b), relative to a time frame in which the Missouri Land Reclamation Commission will notify an operator of a penalty assessment;

(20) 30 CFR 816.44(d), relating to the restoration of stream channels and the construction of permanent diversions;

(21) 30 CFR 805.13(d), relative to revegetation requirements for a long term intensive agricultural use.

(b) The approval found in § 925.10 will terminate on April 1, 1981, unless Missouri submits to the Secretary by that date copies of program provisions that are the same or similar to those in 30 CFR Parts 782, 783, 784 and 817, relating to permitting requirements and performance standards for underground mining, or otherwise amends its program to accomplish the same results;

(c) The approval found in § 925.10 will terminate on October 1, 1981, unless Missouri submits to the Secretary by that date copies of fully enacted provisions that are as stringent as those in Section 704 of the Surface Mining Control and Reclamation Act of 1977, relative to protection of Missouri Land Reclamation Commission employees performing their duties, or otherwise amends its program to accomplish the same results.

[FR Doc. 80-36420 Filed 11-20-80; 8:45 am]

BILLING CODE 4310-05-M

VETERANS ADMINISTRATION

38 CFR Part 36

Minimum Property Standards for One and Two Family Dwellings; Incorporation by Reference

AGENCY: Veterans Administration.

ACTION: Final rule; amendment to material incorporated by reference.

SUMMARY: The Veterans Administration has incorporated by reference the Minimum Property Standards for One and Two Family Dwellings, Department of Housing and Urban Development, 4900.1 at § 36.4360a. The Department of Housing and Urban Development has revised the Standard by issuing revision Nos. 8 and 8a, and notice is hereby given that the Standard as revised by revision Nos. 8 and 8a is incorporated.

Revision No. 8 to the Minimum Property Standards, 4900.1, clarified established criteria, eliminated inconsistencies, and brought criteria in line with recognized codes. Also, general updating of reference material, deletion of redundant material, and corrections in format were made. No substantive changes in the Standards were effected. Revision No. 8a to the Minimum Property Standards, 4900.1, corrected pagination errors caused by delays in processing Revisions 8a and 8.

EFFECTIVE DATE: Revisions No. 8 and 8a were effective August 7, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Lyman T. Miller, Assistant Director for Construction and Valuation (262), Loan Guaranty Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202–389–2691).

Approved: November 17, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

[FR Doc. 80-36373 Filed 11-20-80; 8:45 am]

BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 310

Alternative Methods of Paying Postage; Privately Shipped Letters

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends the Private Express regulations to permit payment of postage on privately shipped letters by means other than those which are presently required, provided that the alternative means are set out in a written agreement with the Postal Service. This new rule is intended to permit the development of alternative payment procedures that can be tailored to the needs of the individual shippers while also ensuring that the Postal Service receives the revenue to which it is entitled.

EFFECTIVE DATE: December 22, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry Belenker, (202) 245–4616.

SUPPLEMENTARY INFORMATION: On September 12, 1980, the Postal Service proposed (45 FR 60453) a rule which would permit persons who ship or carry letters outside the mails, under circumstances requiring payment of postage, to enter into agreements specifying methods of payment which differ from those contained in 39 U.S.C. 601(a) (1)–(6) and 39 CFR 310.2(b) (1)–(6). The existing rule requires that:

(1) The letter be enclosed in an envelope or other suitable cover; (2) the postage be paid by stamps, or postage meter stamps, on the cover or by other methods approved by the Postal Service; (3) a name and address appear on the cover; (4) the cover be sealed; (5) stamps be canceled in ink by the sender; and (6) the date of the letter, or of its transmission or receipt by the carrier, be endorsed by the sender or carrier.

The proposal was intended to authorize payment of postage in ways (which may differ from one firm to another) that are more convenient than the existing procedures, while ensuring that the Postal Service receives the revenue to which it is entitled under the Private Express Statutes. No comments on the proposal were received.

Accordingly, the Postal Service hereby adopts, without change, the following revision of Title 39, Code of Federal Regulations:

In § 310.2 revise paragraph (b) to read as follows:

PART 310—ENFORCEMENT OF THE PRIVATE EXPRESS STATUTES

* * * * *

§ 310.2 Unlawful carriage of letters

* * * * *

(b) activity described in paragraph (a) of this section is lawful with respect to a letter if—

(1) (i) The letter is enclosed in an envelope or other suitable cover;

(ii) The amount of postage which would have been charged on the letter if it had been sent through the Postal Service is paid by stamps, or postage meter stamps, on the cover or by other methods approved by the Postal Service;

(iii) The name and address of the person for whom the letter is intended appear on the cover;

(iv) The cover is so sealed that the letter cannot be taken from it without defacing the cover;

(v) Any stamps on the cover are canceled in ink by the sender; and

(vi) The date of the letter, or of its transmission or receipt by the carrier, is endorsed on the cover in ink by the sender or carrier, as appropriate; or

(2) (i) The activity is in accordance with the terms of a written agreement between the shipper or the carrier of the letter and the Postal Service. Such an agreement may include some or all of the provisions of paragraph (b)(1) of this section, or it may change them, but it must—

(A) Adequately ensure payment of an amount equal to the postage to which the Postal Service would have been entitled had the letters been carried in the mail;

(B) Remain in effect for a specified period (subject to renewals); and

(C) Provide for periodic review, audit and inspection.

(ii) Possible alternative arrangements may include but are not limited to—

(A) Payment of a fixed sum at specified intervals based on the shipper's projected shipment of letters for a given period, as verified by the Postal Service; or

(B) Utilization of a computer record to determine the volume of letters shipped during an interval and the applicable postage to be remitted to the Postal Service.

[39 U.S.C. 401, 404, 601–606; 18 U.S.C. 1693–1699, 1724]

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 80-36457 Filed 11-20-80; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 8F2119/R293; PH–FRL 1677–6]

Hexazinone; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide hexazinone [3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4,(1*H*,3*H*)-dione] and its metabolites (calculated as the parent compound) in or on sugarcane at 0.2 part per million (ppm). The regulation was requested by E. I. du Pont de Nemours & Co. This regulation establishes the maximum permissible level for residues of hexazinone in or on sugarcane.

EFFECTIVE DATE: Effective on November 21, 1980.

ADDRESSES: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. M–3708 (A–110), 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Richard F. Mountfort, Product Manager (PM) 23, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–351, 401 M St. SW., Washington, D.C. 20460, (202–755–1397).

SUPPLEMENTARY INFORMATION: EPA issued a notice that was published in the Federal Register on December 5, 1978 (43 FR 56935) that E. I. du Pont de Nemours & Co., Wilmington, DE 19898, had submitted a pesticide petition (PP 8F2119) which proposed that 40 CFR Part 180 be amended by establishing a tolerance for residues of the herbicide hexazinone [3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4,(1*H*,3*H*)-dione] and its metabolites (calculated as the parent compound) in or on sugarcane with a tolerance limitation of 0.2 ppm. No comments were received in response to this notice of filing.

The data submitted in this petition and other relevant material have been evaluated. The data included metabolism studies in plants and lactating goats; plant residue studies; a rat acute oral LD_{50} study with a LD_{50} of 1,690 milligrams (mg)/kilogram (kg); a guinea pig acute oral LD_{50} study a LD_{50} of 860 mg/kg; a 90-day rat feeding study with a no-observable-effect-level (NOEL) of 1,000 ppm; a 90-day dog feeding study with a NOEL of 1,000 ppm; a rat teratology study which showed that the compound was not teratogenic at 5,000 ppm (highest level tested) a rabbit teratology study with a NOEL of 125 mg/kg (highest level tested) for teratology; a two-year rat chronic feeding/oncogenicity study with a NOEL of 200 ppm and no oncogenic effects; a rat 3-generation reproduction study with a NOEL of 2,500 ppm for adverse reproductive effects; and an Ames test negative for mutagenic activity.

An oncogenicity study in a second species and a 6-month (or longer) non-rodent feeding study are lacking. Further clarification of the metabolism of hexazinone in animals is also required in order to reinforce the present findings. E. I. du Pont de Nemours & Co. has agreed to submit a mouse oncogenicity study by February 1981, and to conduct and submit a non-rodent feeding study and a metabolism study by January 1982, and agreed to withdraw this tolerance if these studies indicate a potentially significant adverse finding.

There are no permanent tolerances for hexazinone. Based on the 90-day dog subchronic feeding study with a NOEL of 1.000 ppm and a safety factor of 2,000, the acceptable daily intake (ADI) is 0.0125 mg/kg/day and the maximal permitted intake (MPI) is 0.75 mg/day per 60 kg person. The requested tolerance will utilize 1.46 percent of the ADI.

There are no regulatory actions pending against registration of this chemical. The metabolism of hexazinone in plants is adequately understood and an analytical method (nitrogen selective gas chromatography) is available for enforcement purposes. There is a label restriction against the feeding of sugarcane forage to livestock, and since no detectable residues are expected in other sugarcane byproduct feed items, there is no reasonable expectation of residues in meat, fat, meat byproducts, eggs, and milk.

The pesticide is considered useful for the purpose for which the tolerance is being sought, and it is concluded that the tolerance of 0.2 ppm in or on sugarcane will protect the public health. It is concluded, therefore, that the tolerance be established as set forth below.

Any person adversely affected by this regulation may, by December 22, 1980, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St. SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed and has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on: November 21, 1980.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346(e)))

Dated: November 14, 1980.

Edwin L. Johnson,

Deputy Assistance Administrotor for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by establishing § 180.396 to read as follows:

§ 180.396 Hexazinone; tolerances for residues.

A tolerance is established for residues of the herbicide hexazinone [3-cyclohexyl-6-(dimethylamino)-1-methyl-1,3,5-triazine-2,4,(1*H*,3*H*)-dione] and its metabolities (calculated as the parent compound) in or on the following raw agricultural commodity:

Commodity and Part per million
Sugarcane—0.2.

[FR Doc. 80-36408 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-32-M

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40 CFR Part 180

[PH-FRL-1678-3; PP OE2380/R292]

3-(3,5-Dichlorophenyl)-5-Ethenyl-5-Methyl-2,4 Oxazolidinedione; Tolerances and Exemptions from Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione and its metabolites containing the 3,5-dichloroaniline moiety in or on kiwifruit at 10 parts per million (ppm). The regulation was requested by BASF Wyandotte Corporation. This rule establishes a maximum permissible level for residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione and its metabolites containing the 3,5-dichloroaniline moiety in or on kiwifruit.

EFFECTIVE DATE: Effective on November 21, 1980.

ADDRESSES: Written objections may be filed with the Hearing Clerk, Environmental Protection Agency, Rm. M-3708, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Eugene M. Wilson, Acting Product Manager (PM) 21, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-359, 401 M St. SW., Washington, D.C. 20460, (202-755-1806).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the Federal Register of September 2, 1980 (45 FR 58193) that BASF Wyandotte Corporation, 100 Cherry Hill Road, Parsippany, New Jersey 07054 had submitted a pesticide petition (PPOE2380). This petition proposed that 40 CFR 180 be amended by the establishment of a tolerance for combined residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4 oxazolidinedione and its metabolites containing the 3,5-dichloroaniline moiety resulting from preharvest application in or on the raw agricultural commodity kiwifruit at 10 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of filing.

The data submitted in the petition and other relevant materials have been evaluated. The toxicological data considered in support of the tolerance included a mouse teratology study, a three-generation rat reproduction study, a chronic feeding oncogenic study in rats, a chronic feeding oncogenic study in mice, a dominant lethal assay in mice, a repeated oral dosing metabolism study in rats, a 90-day rat study, and a 90-day dog study. Based on a 90-day dog study, the no-observed-effect level (NOEL) is 300 ppm, or 7.5 mg/kg of body weight (bw) per day. Using a 2,000-fold safety factor, an acceptable daily intake (ADI) is 0.0038 mg/kg of bw/day and a maximum permissible intake (MPI) is 0.2550 mg/day for a 60 kg person. The tolerance results in a maximum theoretical exposure of 0.0045 mg/day for a 1.5 kg diet. The tolerance utilizes 2.0 percent of the ADI. No tolerances have previously been established for residues of 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione. An adequate analytical method (gas chromatolgraphy using an electron capture detector) is available for enforcement purposes.

Assurance has been given that 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione) for use on kiwifruit will be regulated by the country of origin in accordance with use patterns used in developing the supporting residue data. The proposed tolerance is adequate to cover residues in or on kiwifruit. Currently pending with the agency are requests for tolerances in or on apricots and peaches (25 ppm), lettuce and strawberries (10 ppm), cherries (5 ppm), nectarines (2.5 ppm), plums and prunes (1.0 ppm). There is no reasonable expectation of residues in eggs, milk, meat, or poultry from this use. The agency has determined that amending 40 CFR Part 180 by establishing the tolerance will protect the public health.

Any person adversely affected by this regulation may, on or before December 22, 1980 file written objections with the Hearing Clerk, EPA, 401 M St. SW., Rm. M-3708 (A-110), Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: November 21, 1981.

(Sec. 408(e), 68 Stat. 512, (21 U.S.C. 346a(e))

Dated: November 15, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by establishing § 180.380 to read as follows:

§ 180.380 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione; tolerances for residues.

A tolerance is established for residues of the fungicide, 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4 oxazolidinedione, and its metabolites containing the 3,5-dichloroaniline moiety, in or on the following raw agricultural commodity:

Commodity, and parts per million
Kiwifruit—10

[FR Doc. 80-36457 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-32-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 110

Health Maintenance Organizations; Requirements for a Health Maintenance Organization

Correction

In FR Doc. 80-33964 appearing at page 72524 as the Part VIII of the issue of Friday, October 31, 1980, in the third column on page 72531, the first line of paragraph (b) should read as follows:

"(b) After the expiration of the first four."

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5945]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034; phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance." This program is subject to procedures set out in OMB Circular A-95.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
New Mexico	Lea	Tatum, town of	350032A	Oct. 16, 1980, emergency	June 21, 1974 and Jan. 16, 1976
Kentucky	Kenton	Fort Wright, city of	210249B	Oct. 21, 1980 emergency, Oct. 21, 1980, regular.	Jan. 17, 1975.
Montana	Flathead	Kalispell, city of	300025B	July 27, 1976, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended, Oct. 22, 1980 reinstated.	Feb. 15, 1974 and May 21, 1976
Oklahoma	Bryan	Bennington, town of	400260	Oct. 23, 1980, emergency	Aug. 13, 1976.
Colorado	Douglas	Unincorporated areas	080049B	Aug. 28, 1974, emergency, Sept. 3, 1980, regular, Sept. 3, 1980, suspended, Oct. 22, 1980, reinstated.	Feb. 7, 1975 and Sept. 6, 1977

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State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Illinois	Tazewell	do	170815B	Aug. 16, 1974, emergency, Aug. 1, 1980, regular, Aug. 1, 1980, suspended, Oct. 22, 1980, reinstated.	June 2, 1978.
Idaho	Lemhi	do	160092	Oct. 23, 1980, emergency	
Florida	Osceola	St. Cloud, city of	120191B	Apr. 23, 1975, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended, Oct. 22, 1980, reinstated.	June 28, 1974 and Feb. 20, 1976.
West Virginia	Jefferson	do	540065B	Dec. 15, 1980, emergency, Oct. 15, 1980, regular, Oct. 15, 1980, suspended, Oct. 24, 1980, reinstated.	Dec. 20, 1974 and Jan. 9, 1976.
Texas	Callahan	Baird, city of	480722	Oct. 29, 1980, emergency	June 11, 1976.
California	Amador	Unincorporated areas	060015A	Oct. 29, 1980, emergency	June 7, 1977.
Massachusetts	Worcester	Paxton, town of	250326A	do	July 26, 1974 and July 30, 1976.
New York	Steuben	Campbell, town of	360788B	Apr. 19, 1973, emergency, Sept. 17, 1980, regular, Sept. 17, 1980, suspended, Oct. 30, 1980, reinstated.	May 31, 1974 and Mar. 26, 1976.
Do	St. Lawrence	Parishville, town of	361425	Oct. 30, 1980, emergency	Jan. 17, 1975.
Georgia	White	Helen, city of	130192A	Oct. 31, 1980, emergency	Sept. 6, 1974 and Oct. 17, 1975.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 4, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-36177 Filed 11-20-80; 8:45 am]

BILLING CODE 6718-03-M

DEPARTMENT OF EDUCATION

Office of the Secretary

45 CFR Part 121q

Instructional Media for the Handicapped; Correction

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: In the regulations on instructional media for the handicapped, published in the **Federal Register** on August 5, 1980, pages 52130–52134, a substantive correction needs to be made.

FOR FURTHER INFORMATION CONTACT: Malcolm J. Norwood, Department of Education, 400 Maryland Avenue, SW. (Room 4821, Donohoe Building), Washington, D.C. 20202. Telephone (202) 472–4640.

SUPPLEMENTARY INFORMATION: In FR Doc. 80–23510 (45 FR 52130–52134, Tuesday, August 5, 1980), on page 52132, second column, correct § 121q.2 now reading:

§ 121q.2 Who is eligible to apply under the educational media research, production, distribution, and training program?

Parties eligible for grants under this subpart are nonprofit public and private agencies, organizations, and institutions.

(20 U.S.C. 1451, 1452)

To read:

§ 121q.2 Who is eligible to apply under the educational media research, production, distribution, and training program?

Parties eligible for grants under this subpart are profit and nonprofit public and private agencies, organizations, and institutions.

(20 U.S.C. 1451, 1452)

Dated: November 14, 1980.

(Catalog of Federal Domestic Assistance No. 84.026, Instructional Media for the Handicapped)

Stuart S. Baber,

Deputy General Counsel for Legislation and Regulations.

[FR Doc. 80-36311 Filed 11-20-80; 8:45 am]

BILLING CODE 4000-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1111

[Ex Parte No. 282 (Sub-No. 7)]

Special Intermodal Authority

Decided: October 30, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of interim rules and request for comments.

SUMMARY: The Staggers Rail Act of 1980, Pub. L. 96–448 (October 14, 1980) created a new section, 49 U.S.C. 11344 (e) which permits under certain circumstances an application to be filed for motor carrier transportation prior or subsequent to rail transportation. We are adopting interim rules under this section which indicate (1) the type of application which must be filed with the Commission to receive special intermodal authority, (2) who must file the application, (3) upon whom the application must be served, (4) how the application can be protested, (5) the action the Commission will take on such applications, and (6) the means by which interested parties can show that the special intermodal authority should be revoked.

DATES: These interim rules shall be effective on November 18, 1980.

Comments upon these rules are due on or before December 22, 1980.

ADDRESSES: An original and 15 copies of comments, if possible, should be sent to Ex Parte No. 282 (Sub-No. 7), Room 5414, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Ellen Hanson, (202) 275–7245 or Wayne Michel, (202) 275–7966.

SUPPLEMENTARY INFORMATION: The addition of 49 U.S.C. 11344(e) by the Staggers Rail Act of 1980 permits a rail carrier, or a person controlled by or affiliated with a rail carrier, together with one or more affected shippers, to apply for special intermodal authority. This authority would allow applicants to provide motor carrier transportation prior or subsequent to rail transportation to serve inadequately served shippers located on a rail line other than that of the applicant carrier. The special intermodal authority would be for an indefinite duration and would apply to anyone located on the inadequately served line. The rules contained in the appendix adopt procedures for the Commission to handle these proceedings.

There are five basic sections in these rules. They cover: (1) The contents of the application, (2) notification of the public of the application through service on designated interested parties and concurrent newspaper publication of a notice, (3) protests to the application, (4) the Commission's action on an application, and (5) petitions by interested parties to show that the circumstances requiring special intermodal authority no longer exist.

The rules provide that an original and five copies of the application must be filed on the Commission. The application must contain certain information identifying the applicants and the carrier which will be providing the service. In addition, applicants must file verified statements demonstrating presently impaired rail service and inadequate motor common carrier service which results in the serious failure of the rail carrier serving the shippers to meet the rail equipment or transportation schedules of shippers or which otherwise seriously fail to provide adequate normal rail service required by shippers which shippers would reasonably expect the rail carrier to provide. These statements should specifically detail: (1) The nature, duration and extent of the impaired rail service, (2) the reasons why motor common carrier service to shippers is inadequate, and (3) the rail equipment and transportation schedule needs of the shipper(s). Shipper certification that existing rail and motor common carrier service is inadequate will create a rebuttable presumption that special intermodal authority is necessary and should be granted. Applications may only be filed by a rail carrier, or a person controlled by or affiliated with a rail carrier, together with one or more affected shippers.

At the same time as the application is filed with the Commission a copy must be served on the carrier(s) providing the allegedly impaired rail service and the designated State agency(s) in which the property is located. In addition, on or before the filing date, a notice must be published in a local newspaper of general circulation setting forth (1) the names and addresses of the applicants, and, if different, the person(s) providing the special intermodal service, (2) the location of the rail line with impaired service, and (3) the procedure for filing protest with the Commission.

The original and five copies of protests in the form of sworn statements must be filed with the Commission within 10 days of the filing of the application.

The Commission is required by the statute to act on these applications within 30 days. If no protest is filed, the Commission shall approve the application. If the application for special intermodal authority is protested, the Commission shall either approve or disapprove it by the 30th day after its filing.

The Commission's grant of the application for special intermodal authority will take effect immediately, and will run until revoked by request of the applicants. If any other party believes that the special authority is no longer warranted it should petition the Commission to revoke the authority. Petitioner(s) will have the burden of proving that the original circumstances warranting the special authority no longer exist. An original and five copies of the petition must be filed with the Commission and copies must be served concurrently on applicants. Applicants will have 30 days to respond to the petition to revoke the special authority. After reviewing the petition(s) and response(s), the Commission will issue an order either revoking the special intermodal authority or denying the petition.

These rules will be used by the Commission on an interim basis. The Commission is faced with an impractical situation in which the due and required execution of the agency functions would be prevented by undertaking a rulemaking prior to the adoption of any rules. Thus, notice and comment for these interim rules are not required under 5 U.S.C. 553(b)(B). Public comments are invited on these interim rules as a basis for final rules. The original and 15 copies of written facts, views, and arguments concerning the proposal detailed in this notice shall be submitted. The proposal may be modified by the comments we receive. We shall act as quickly as possible in formulating final rules.

The rules in the appendix are proposed pursuant to 49 U.S.C. 11344(e) and 5 U.S.C. 553.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix

49 CFR 1111.11 is added to read as follows:

§ 1111.11 Special intermodal authority.

(a) *Application*—(1) *Who may file.* An application under this section must be filed by a rail carrier, or a person controlled by or affiliated with a rail carrier, together with one or more affected shippers.

(2) *Contents.* An application will consist of two elements: identification of the applicants and verified statements presenting the case for special intermodal authority.

(i) *Identification of the applicants.* (A) Each applicant must give its full and correct name and its business address.

(B) Each applicant must indicate whether it is an individual, firm, partnership, corporation, company, association, joint stock company, trustee, receiver, assignee, or other personal representative, and the trade name or style, if any, under which applicant is doing business.

(C) Each applicant must indicate whether it is a rail carrier subject to Title 49, United States Code.

(D) Each applicant must give the name, title and business address of the persons to whom correspondence with respect to the application should be addressed.

(E) Each applicant must indicate whether it, or any of its subsidiaries, is affiliated with a motor carrier subject to Title 49, United States Code. If so, applicant must provide information regarding the nature and scope of its authority.

(F) The rail carrier must indicate the State or States in which any part of its property is located and provide a map of its rail system.

(G) The shipper applicant(s) must indicate the type and duration of business conducted on the allegedly impaired rail line and particulars of its present and prospective activities which have or may have a relation to transportation subject to Title 49, United States Code.

(H) Applicants must indicate the name of the entity which will exercise the special intermodal authority, and all of the above identifying information for that entity.

(I) Applicants must specify the location of the allegedly impaired rail line by giving the endpoints and listing all towns along the line. Applicant shall

also indicate where on its rail line it intends to interline the traffic.

(ii) *Verified statements.* Applicants must demonstrate both presently impaired rail service and inadequate motor common carrier service which results in the serious failure of the rail carrier serving the shippers to meet the rail equipment or transportation schedules of shippers or which otherwise seriously fail to provide adequate normal rail service required by shippers and which shippers would reasonably expect the rail carrier to provide. In making their case applicants can offer evidence as to: (A) The nature, duration, and extent of the impaired rail service, (B) the reasons why motor common carrier service to shippers is inadequate, and (C) the rail equipment and transportation schedule needs of the shippers. Shippers certification that there is presently impaired rail service and inadequate motor common carrier service will create a rebuttable presumption that special intermodal authority is necessary.

(3) *Filing requirements.* The original and five copies must be filed with the Commission.

(b) *Service and Notice.* (1) A copy of the application shall at the time the application is filed be served on:

(i) The rail carrier providing the allegedly impaired rail service, and

(ii) The designated State agency(s) in which the allegedly impaired rail line is located.

(2) A notice shall be published in a local newspaper of general circulation on or before the application's filing date setting forth:

(i) The full and correct names and addresses of the applicants,

(ii) The location of the allegedly impaired rail line by giving the endpoints and listing all towns along the line,

(iii) The identification of the person(s) who will be exercising the special intermodal authority,

(iv) The identification of the date on which the application will be filed with the Commission and

(v) An explanation that protests in the form of an original and five copies of verified statements, must be filed with the Commission within 10 days of the filing of the application.

(3) The application shall contain a certificate indicating that the above parties were served and a notice complying with the listed provisions was published.

(c) *Protest.* The original and five copies of a protest to an application filed under 49 CFR 1111.11(a) shall be filed with the Commission within 10 days of the filing of the application. The protest shall be in the form of verified statements and shall demonstrate why there is no presently impaired rail service and/or inadequate motor common carrier service which results in the serious failure of the rail carrier serving the shippers to meet the rail equipment or transportation schedules of shippers or which otherwise seriously fail to provide adequate normal rail services required by shippers and which shippers would reasonably expect a rail carrier to provide.

(d) *Commission action.* The Commission shall issue a decision approving or disapproving the application within 30 days of its filing.

(e) *Revocation of the special intermodal authority*—(1) *Who may file.* A rail carrier or motor carrier which has existing authority within the area covered by the special intermodal authority and which believes that the circumstances requiring the special authority no longer exist may petition the Commission for an order revoking the authority.

(2) *Contents.* The petition must specifically show what circumstances have changed and how those changes alleviate the need for the authority.

(3) *Filing.* An original and five copies of the petition must be filed with the Commission.

(4) *Service.* A copy of the petition must be served concurrently on the original applicants.

(5) *Replies.* Applicants will have 30 days to respond to the petition. An original and five copies of any replies must be filed with the Commission. A copy must also be served on petitioner(s).

(6) *Commission action.* After consideration of the petition(s) and reply(s) the Commission shall issue an order either.

(i) Denying the petition, or

(ii) Revoking the special intermodal authority.

[FR Doc. 80-36488 Filed 11-20-80; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 45, No. 227
Friday, November 21, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 726

Burley Tobacco; 1981 National Marketing Quotas for Burley Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture must announce by February 1, 1981, the national marketing quotas for burley tobacco for the 1981–82 marketing year. The public is invited to comment on the amount of the national marketing quota and other factors set forth in this proposed rule.

DATE: Written comments must be received by January 21, 1981 in order to be sure of consideration.

ADDRESSES: Send comments to the Director, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Program Specialist, Price Support and Loan Division, ASCS, Room 3754 South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–6733. The draft impact analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Robert L. Tarczy.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established to implement Executive Order 12044 and has been classified "significant." In compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988) it is determined after review of these and related regulations contained in 7 CFR 726.2 for need, currency, clarity, and effectiveness that no additional changes be proposed at this time. Any comments which are offered during the public comment period on any of these regulations, however, will be evaluated in development of the final rule.

The title and number of the Federal Assistance Program that this Proposed Rule applies to is: Title—Commodity Loan and Purchases; Number—10.051. This action will not have significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local Government are informed of this action.

The Agricultural Adjustment Act of 1938, as amended (referred to herein as the "Act") requires the Secretary to determine and announce the amount of the national marketing quota for the 1981–82 marketing year. Section 319(b) of the Act provides that this action shall be taken on or before February 1, 1981.

Section 319(c) of the Act provides that the national marketing quota determined under this section for burley tobacco for any marketing year shall be the amount produced in the United States which the Secretay estimates will be utilized in the United States and will be exported during such marketing year, adjusted upward or downward in such amount as the Secretary, in his discretion, determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. Any such downward adjustment shall not exceed 5 per centum of such estimated utilization and exports. For each marketing year for which marketing quotas are in effect under this section, the Secretary in his discretion may establish a reserve (hereinafter referred to as the "national reserve") from the national marketing quota in an amount not in excess of 1 per centum of the national marketing quota to be available for making corrections and adjusting inequities in farm marketing quotas, and for establishing marketing quotas for new farms (that is, farms for which farm marketing quotas are not otherwise established). A reserve of 800,000 pounds was established for the 1980–81 marketing year (45 FR 8578).

Section 301(b) of the Act defines "Reserve supply level" as normal supply plus 5 percent. "Normal supply" is defined as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's domestic consumption" is defined as the yearly average quantity produced in the United States during the ten marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption. A "Normal year's exports" is defined as the yearly average quantity produced in the United States which was exported from the United States during the ten marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports. The reserve supply level used in determining the national marketing quota for the 1980–81 marketing year was 1,640 million pounds, calculated from a normal year's domestic consumption of 490 million pounds and a normal year's exports of 130 million pounds (45 FR 8578). The proposed reserve supply level for use in determining the national marketing quota for the 1981–82 marketing year is 1,678 million pounds, calculated from a normal year's domestic consumption of 500 million pounds and a normal year's exports of 135 million pounds.

Section 301(b) of the Act defines "total supply" as the carryover at the beginning of the marketing year (October 1) plus the estimated production in the United States during the calendar year in which the marketing year begins. The total supply for the 1980–81 marketing year is 555 million pounds based on carryover of 1,028 million pounds and estimated production of 1,583 million pounds.

The amount of the national marketing quota for the 1980–81 marketing year is 615 million pounds based upon total utilization of 615 million pounds with no adjustments necessary to maintain or reduce supplies (45 FR 8578). For the 1981–82 marketing year, utilization in the United States is estimated to be about 490 million pounds and exports are estimated to be about 140 million pounds. The total supply for the 1980–81 marketing year is 95 million pounds less than the proposed reserve supply level. Accordingly a downward adjustment in estimated disappearance in the 1981 quota is determined unlikely.

Section 319(e) of the Act provides, in part, that each farm marketing quota shall be determined by multiplying the

previous year's farm marketing quota by a national factor obtained by dividing

Signed at Washington, D.C. on: November 13, 1980.

FmHA Instruction 1901–H. However, applications from Federally recognized

processed to the maximum extent

Food Safety and Quality Service

reference to the date and page number

previous year's farm marketing quota by a national factor obtained by dividing the national marketing quota determined under subsection 319(c) (less the national reserve) by the sum of the farm marketing quotas for the immediately preceding year for all farms for which burley tobacco marketing quotas will be determined: *Provided,* that such national factor shall not be less than 95 per centum. Section 319(i) of the Act provides, in part, that if the Secretary, in his discretion, determines it is desirable to encourage additional marketings of any grades of burley tobacco during any marketing year to insure traditional marketing patterns to meet the normal demands of export and domestic markets, he may authorize the marketing of such grades without the payment of penalty or deduction from subsequent quotas to the extent of 5 per centum of the farm marketing quota for the farm on which the tobacco was produced, and such marketings shall be eligible for price support.

Section 319(h) of the Act provides that effective with the marketing year beginning October 1, 1976, no marketing quota, other than a new farm marketing quota, shall be established for a farm on which no burley tobacco was planted or considered planted in any of the five years immediately preceding the year for which farm marketing quotas are being established.

Proposed Rule

The subjects and issues involved in the proposed determinations with respect to burley tobacco for the 1981–82 marketing year are:

1. The amount of national marketing quota.
2. The amount of the reserve supply level.
3. The amount of the national reserve.
4. Whether the Secretary should implement the provision in section 319(i) of the Act to encourage additional marketings of any grades to insure traditional marketing patterns.

The national factor is not considered an issue in these determinations because it results from a mathematical computation under section 319(e) of the Act.

All written submissions will be made available for public inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 3741-South Building, 14th and Independence Avenue, S.W., Washington, D.C.

Signed at Washington, D.C. on: November 13, 1980.

Donald L. Gillis,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-36125 Filed 11-17-80; 10:01 am]

BILLING CODE 3410-05-M

Farmers Home Administration

7 CFR Part 1942

Community Facility Loans and Development Grants for Community Domestic Water and Waste Disposal Systems

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration amends it regulations regarding Community Facility Loans and Development Grants for Community Domestic Water and Waste Disposal Systems to recognize that certain Indian tribes might not be subject to State and local laws. The intended effect of this action is to remove a possible barrier to greater Indian participation in these programs. This action is taken as a result of an administrative review.

DATES: Comments must be received on or before January 21, 1981.

ADDRESS: Submit written comments, in duplicate, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, South Agriculture Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: John W. Slusser, Loan Specialist, Room 5318, South Agriculture Building, Washington, D.C. 20250, Phone: (202) 447–5717. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6346, South Agriculture Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant." The FmHA programs and projects which are affected by this instruction are subject to state and local clearinghouse review in the manner delineated in FmHA Instruction 1901–H. However, applications from Federally recognized Indian Tribes are not subject to the requirements of FmHA Instruction 1901–H, "A–95 Review, Evaluation, and Coordination of Projects." Not all Indian tribes are subject to State and local law. FmHA proposes to amend § 1942.1 of Subpart A of Part 1942 and § 1942.351 of Subpart H of Part 1942, Chapter XVIII, Title 7, Code of Federal Regulations.

[FCDA No. 10.418, Water and Waste Disposal Systems for Rural Communities]

Therefore, as proposed, Part 1942 is amended as follows:

PART 1942—ASSOCIATIONS

Subpart A—Community Facility Loans

1. As proposed, § 1942.1 is revised to read:

§ 1942.1 General.

(a) This subpart outlines policies and procedures for making and processing insured loans for community facilities. The Farmers Home Administration (FmHA) shall cooperate fully with appropriate State and local agencies in the making of loans in a manner which will assure maximum support to the State strategy for rural development. FmHA State Directors and their staffs shall maintain coordination and liaison with State agency and substate planning districts. Funds allocated for use as prescribed in this Subpart are to be considered for the use of Indian tribes within the State, regardless of whether State development strategies include Indian reservations within the State's boundaries. Indians residing on such reservations must have equal opportunity to participate in the benefits of these programs as compared with other residents of the State. The policy of FmHA is to extend its financial programs without regard to race, color, religion, sex, marital status, age, or national origin.

(b) Indian tribes on Federal and State reservations and other federally recognized Indian tribes are eligible to apply for and are encouraged to participate in this program. Such tribes might not be subject to State and local laws or jurisdiction. However, any requirements of this regulation that affect applicant eligibility, the adequacy of FmHA's security or the adequacy of service to users of the facility and all other requirements of this regulation must be met.

(c) The County Office will normally be the entry point for preapplications and serve as a local contact point. However, applications will be filed with the District Office and loans will be processed to the maximum extent possible by the District Office staff. The applicant's governing body should designate one person to coordinate the activities of its engineer, architect, attorney, and any other professional employees and to act as contact person during loan processing. FmHA personnel should make every effort to involve the applicant's contact person when meeting with the applicant's professional consultants and/or agents. The State Office staff will monitor community programs loan making and servicing, and will provide assistance to District Office personnel to the extent necessary to assure that the activities are being accomplished in an orderly manner consistent with FmHA regulations. The District Director will supply information on community program loan activity within the County Office service area to the County Supervisor at key points throughout the loan making process as described herein.

Subpart H—Development Grants for Community Domestic Water and Waste Disposal Systems

2. As proposed, § 1942.351(b) and (c) are redesignated to (c) and (d), respectively, without change and a new § 1942.351(b) is added to read as follows:

§ 1942.351 General.

* * * * *

(b) Indian tribes on Federal and State reservations and other Federally recognized indian tribes are eligible to apply for and are encouraged to participate in this program. Such tribes might not be subject to State and local laws or jurisdiction. However, any requirements of this regulation that affect applicant eligibility, the adequacy of service to users of the facility and all other requirements of this regulation must be met.

* * * * *

Note.—This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

(7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70)

Dated: November 5, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 80-36322 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-07-M

Food Safety and Quality Service

7 CFR Ch. XXVIII

Grading of Shell Eggs, Rabbits, and Poultry, and Inspection of Eggs and Egg Products

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Prenotice: Review of existing regulations under Executive Order 12044.

SUMMARY: The Food Safety and Quality Service (FSQS) plans to review its existing regulations concerning the voluntary grading of shell eggs, poultry and rabbits, the voluntary inspection of egg products, and the mandatory inspection of eggs and egg products. The review will examine the effectiveness of the regulations in meeting the following goals: (1) Addressing consumer concerns regarding health and food safety, (2) eliminating unnecessary burdens on consumers and industry, (3) achieving consistency with legislative goals, (4) creating an efficient structure for achieving intended results, (5) minimizing overlapping jurisdiction with other Federal agencies, (6) providing a presentation of material in clear, understandable language, and (7) improving methods in light of new scientific and technological innovations. In order to conduct a thorough and meaningful review, the Department is soliciting the views of consumers, the industry, Federal, State, and local agencies, and other interested parties on such regulations, as well as recommendations for improvements in these areas.

DATE: Comments must be received on or before January 21, 1981.

ADDRESS: Written comments to: Regulations Coordination Division, Attn: Annie Johnson, Food Safety and Quality Service, Room 2637, South Agriculture Building, U.S. Department of Agriculture, Washington, DC 20250. (See also comments under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. Ashley R. Gulich, Chief, Poultry Standardization Branch, Poultry and Dairy Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 447–3506.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit written comments concerning this notice. Comments must be sent in duplicate to the office of the Regulations Coordination Division and should bear a reference to the date and page number of this issue of the **Federal Register.** Any person desiring opportunity for oral presentation of views concerning the proposed amendments to the poultry products inspection regulations must make such request to Mr. Ashley R. Gulich so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this notice will be made available for public inspection in the office of the Regulations Coordination Division during regular business hours.

Background

Executive Order 12044, "Improving Government Regulations," (43 FR 12661) in part directs each Executive Agency to adopt procedures to improve and periodically review its existing regulations. In response, the Department of Agriculture issued Secretary's Memorandum 1955, "Improving USDA Decisions and Regulations." This departmental memorandum implemented the President's prescribed measures for improving the Federal Government's rules and regulations by establishing procedures designed to minimize unnecessary burdens on the public while achieving maximum effectiveness in all decisions including rulemaking and regulatory review processes. Public participation was noted to be an important source for obtaining ideas and information to better serve the public in this undertaking. All agencies were, therefore, directed to solicit actively public comment and to obtain the greatest possible public input. Furthermore, each USDA agency was to develop a plan to assure that regulations which have existed more than 5 years would be reviewed.

Pursuant to these directives, the Administrator, FSQS, has adopted a plan for the review of existing regulations and has appointed a Regulatory Review Task Force to conduct such review. The FSQS plan covers the entire review process and includes a detailed discussion of the following categories: (1) Background and Requirements for the Review, (2) Regulations Subject to the Review, (3) Review Criteria and Priorities, (4) Public Comment and Organization, and (5) Schedule for Review of Existing Regulations. A copy of the plan is available for public inspection in the office of the Regulations Coordination Division during regular hours of business.

The Regulatory Review Task Force is responsible for:

V 45 N 0 2 1 8 0 UMI

1. Coordinating the overall review.
2. Establishing the final criteria to be used in reviewing each regulation.
3. Selecting FSQS personnel to participate in the review.
4. Setting a schedule and monitoring operations within this schedule.
5. Establishing the priority for reviewing all Agency regulations.
6. Certifying to the Administrator and Assistant Secretary that each regulation has been thoroughly reviewed within the guidelines of Executive Order 12044 and Secretary's Memorandum 1955.
7. Recommending a "Significant" or "Not determined to be Significant" designation.
8. Establishing a date for the next review of the regulation.
9. Other related duties.

As the FSQS Task Force commences its review of specific sections of Agency regulations, the Department will publish a notice in the **Federal Register** inviting public comments on those particular regulations to be reviewed.

This Prenotice

The Task Force is reviewing the regulations for the voluntary inspection of egg products and grading, the voluntary grading of shell eggs and U.S. standards, grades and weight classes for shell eggs, the mandatory inspection of eggs and egg products and the voluntary grading of poultry products and rabbit products (7 CFR Parts 2855, 2856, 2859, and 2870).

The Department is inviting comments from consumers, the industry, Federal, State, and local agencies, and other interested parties to assist the Task Force in identifying and reconsidering those portions of the aforementioned regulations which:

1. Present consumer concerns with respect to health and food safety.
2. Impose unnecessary burdens on the public or industry.
3. Are not consistent with legislative goals.
4. Are difficult to enforce, i.e., those found inefficient in achieving the intended results.
5. Indicate unnecessary overlapping jurisdiction with other Government agencies.
6. Are unclear, difficult to understand, or are duplicative of, or inconsistent with, other regulations.
7. May be improved by use of new scientific and technological innovations.

All comments received will be carefully considered by the FSQS Regulations Review Task Force. In the event that it appears changes in the existing regulations are necessary, amendments will be proposed in the **Federal Register** in conformance with established rulemaking procedures.

Done at Washington, D.C., on: November 17, 1980.

Thomas P. Grumbly,

Acting Administrator, Food Safety and Quality Service.

[FR Doc. 80-36325 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-DM-M

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7 CFR Part 2852

United States Standards for Grades of Canned Fruits; Extension of Comment Period

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On March 21, 1980, the Food Safety and Quality Service (FSQS) published in the **Federal Register** a document proposing to amend the United States standards for grades of major canned fruits. The proposal was published at the request of the Canners League of California. Its effect would be to improve the current standards and add a new standard for canned fruit mix. In response to a request for additional time to study the proposal and gather data, the Department is extending the comment period to December 12, 1981.

DATE: Comments must be received by December 12, 1981.

ADDRESSES: Written comments to: Regulations Coordination Division, Attn: Annie Johnson, Food Safety and Quality Service, Compliance Program, U.S. Department of Agriculture, Room 2637, South Agriculture Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT:
Leon R. Cary, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6193.

SUPPLEMENTARY INFORMATION:

Significance

The proposal was reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and has been classified "significant."

Background

On March 21, 1980, the Food Safety and Quality Service published a proposal to amend the United States Standards for Grades of Major Canned Fruits. The proposed amendment included standards for canned sweet cherries, canned fruit cocktail, canned pears, canned apricots, and canned grapes; all major canned fruits packed in California. Also included is a proposal for a new United States Standards for Grades of Canned Fruit Mix. Interested persons were given until December 12, 1980, to comment.

The Agency has been requested by the Canners League of California to extend the period of time within which data, views, or arguments may be submitted to December 12, 1981. The request stated that additional time was needed to develop comments which will accurately reflect the manufacturing practices of the industry.

Since the Agency is interested in receiving meaningful data, the Agency has determined that these circumstances are considered sufficient justification for extending the comment period to December 12, 1981.

Done at Washington, DC, on November 17, 1980.

Thomas P. Grumbly,

Acting Administrator, Food Safety and Quality Service.

[FR Doc. 80-36287 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 1001

Advance Notice of Proposed Rulemaking for the Licensing of Ocean Thermal Energy Conversion Facilities and Plantships

AGENCY: National Oceanic and Atmospheric Administration/ Department of Commerce.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Pub. L. 96-320, the Ocean Thermal Energy Conversion Act of 1980 ("the Act") is intended to provide a stable legal system and streamlined licensing process to facilitate development of ocean thermal energy conversion (OTEC) facilities and plantships. Among other things, the Act requires the Administrator of the National Oceanic and Atmospheric Administration (NOAA) to issue regulations setting out the details of the simplified licensing system for construction, location, ownership and operation of OTEC facilities and plantships which are associated with the United States or U.S. citizens.

This advance notice of proposed rulemaking (ANPR) pertaining to NOAA's responsibilities under the Act is issued to provide interested persons with an early opportunity to contribute to the development of regulations. Interested persons are invited to submit written data, views, and comments concerning the issues identified in this ANPR, and concerning any other aspects of NOAA's implementation of the Act.

DATES:

(1) Comments should be received by NOAA on or before Friday, January 16, 1981.

(2) NOAA will hold a public hearing on Wednesday, January 7, 1981, between 9 a.m. and 12 noon, to promote public discussion of the issues identified in this ANPR, and any other issues interested persons may raise.

ADDRESSES:

(1) Submit written comments to Robert W. Knecht, Director, Office of Ocean Minerals and Energy, NOAA, Page 1 Building, Room 410, 2001 Wisconsin Avenue, NW, Washington, D.C. 20235.

(2) The hearing will be held in Room 6802, Department of Commerce Building, 14th Street between Pennsylvania and Constitution Avenue, NW, Washington, D.C.

(3) All comments that are submitted will be available for public examination and copying at the time and place shown in Section II of Supplementary Information.

FOR FURTHER INFORMATION CONTACT:
Richard Norling or Lowell Martin, Office of Ocean Minerals and Energy, NOAA, Telephone: (202) 653-8257.

SUPPLEMENTARY INFORMATION:

I. Mailing List

Any person who wishes to receive regulatory documents as they become available during this OTEC rulemaking should furnish name, address, affiliation, and telephone number to the Director, NOAA Office of Ocean Minerals and Energy (see the "ADDRESS" section of this ANPR) in order to be placed on the mailing list.

II. Availability of Comments

All comments received in response to this ANPR will be available for public examination and copying during normal business hours in Room 410, Page 1 Building, 2001 Wisconsin Avenue, NW, Washington, D.C.

Any person submitting comments containing information which that person considers to be a trade secret, or commercial or financial information that is privileged or confidential, may request that such information be given confidential treatment.

Requests for confidential treatment of information must be in writing and must be submitted together with the information. Information subject to the request for confidential treatment must be segregated from information for which confidential treatment is not being requested and each page (or segregable portion of each page) subject to the request must be clearly marketed with the legend "Confidential Treatment Requested". Where this marking proves impracticable, a cover sheet containing the legend must be securely attached to the compiliation of information.

Any request for confidential treatment must include a statement of the basis for believing that the information is deserving of confidential treatment which addresses the issues relevant to a determination whether the information is a trade secret, or commercial or financial information which is privileged or confidential. Issues addressed should include:

(1) The commercial or financial nature of the information;

(2) The nature of the competitive advantage enjoyed as a result of possession of the information;

(3) The nature of the competitive harm which would result from public disclosure of the information;

(4) The extent to which the information has been disseminated to employees and contractors of the submittor, or to other persons;

(5) The extent to which persons other than the submittor possess, or have access to, the same information; and

(6) The nature of the measures taken to protect the information from disclosure.

NOAA will establish appropriate safeguards against unwarranted disclosure of confidential information.

III. Proposed and Final Rules

NOAA will issue proposed rules to implement the Act after comments received in response to this ANPR have been evaluated. NOAA plans to issue the proposed rules in March 1981, and final rules in July 1981. NOAA plans to hold public hearings on the proposed rules, and on a draft environmental impact statement concerning this rulemaking, in April 1981.

IV. Regulatory Issues, and Possible Alternative Approaches

A. General Background

OTEC facilities and plantships (a plantship is basically an OTEC facility that floats unmoored or moves through the water) will produce electric power, or energy-intensive products, by using the thermal differential between warm ocean surface waters and cold, deep (approximately 1,000 meters) waters. The OTEC principle can be applied most economically in areas where the thermal differential between surface and deep waters in about 20° C or more. This makes the most probable U.S. locations for OTEC facilities or plantships in the Gulf of Mexico area and the southeastern continental United States and the island areas under U.S. jurisdiction, such as the State of Hawaii, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands and American Samoa. The electricity generated could be transmitted to shore by cable and then distributed via normal electric distribution grids. The energy also could be used at sea to produce ammonia, aluminum, or other products which would be transported to shore by conventional marine transportation methods. U.S. plantships could operate in a number of areas on the high seas.

The industry is in a formative stage at present because, although the basic principles of OTEC power generation have been tested, the hardware, engineering, and operational requirements of commercial-scale OTEC operations have not yet been fully developed and will require substantial capital investments of tens or hundreds of millions of dollars.

The Act is intended, among other things, to: (1) Establish a stable legal structure to encourage private industry to develop OTEC as a commercial energy technology; (2) protect the marine and coastal environment and the interests of other users of the territorial sea, continental shelf and high seas, and foreign nations that may be affected by discharges from an OTEC facility or plantship; and (3) ensure that Federal OTEC-related actions are consistent with approved State coastal zone management plans.

The Act authorizes the Administrator of NOAA to license (and requires persons to obtain licenses prior to) the construction, location, ownership and operation of:

(1) OTEC facilities connected to the United States by pipeline or cable;

(2) OTEC facilities located in the territorial sea of the United States;

(3) OTEC plantships documented under the laws of the United States; and

(4) OTEC plantships that are constructed, owned or operated by United States citizens.

The Act requires NOAA to issue regulations for the licensing of these OTEC facilities and plantships. NOAA has a major responsibility for enforcing the Act and its implementing regulations. The Coast Guard is

responsible for enforcement of measures for safety of life and property at sea.

B. Alternative Regulatory Approaches Under Consideration

NOAA is just beginning its rulemaking process to implement the Act. In developing OTEC licensing and enforcement regulations, NOAA will address a wide variety of issues, including, for example: (1) The amount and type of financial, technical, environmental and other information that an applicant must submit with an application; (2) criteria for selecting a "winning" OTEC facility (or combination of facilities) when there are multiple applicants for the same geographic area; (3) environmental safeguards, including environmental monitoring requirements; and (4) the prevention of interference by one OTEC facility or plantship with another, with other users of the territorial sea, Continental Shelf and high seas, and with foreign nations.

In identifying and evaluating alternatives for the development of OTEC regulations for each of these general areas, NOAA first would define the basic objective for each, and then evaluate alternative approaches. For example, three general approaches would be for NOAA to:

(1) Address these areas in substantial detail in its regulations, providing specific terms that would apply to all OTEC operations. If experience later revealed that detailed and extensive requirements were unnecessary, NOAA could reduce them on a case-by-case basis.

(2) Address an area in more general terms in its regulations, and then develop individualized license terms, conditions, and restrictions based on the specific OTEC facility or plantship design and site characteristics associated with each license application.

(3) Employ less detailed requirements in both the regulations and the terms, conditions, and restrictions for each OTEC license, and rely on the subsequent monitoring specified in the Act to ascertain whether additional requirements are needed in the future.

In considering alternative approaches to these regulations, NOAA will assess the feasibility of relying on techniques which may allow more flexibility for OTEC builders, owners, and operators while still accomplishing the purposes and meeting the requirements of the Act and providing adequate guidance to prospective OTEC designers and users. For instance, NOAA may be able to rely on general environmental performance standards or parameters, rather than specifying detailed requirements concerning use of specified types of equipment or specified operating procedures. NOAA also may provide generalized guidance in its regulations for meeting the requirements of the Act, but then allow the applicant to identify in detail in its application how it will meet these requirements. Once NOAA issued a license under this approach, NOAA would expect the OTEC builder, owner or operator to conduct its activities according to the terms of its application.

NOAA will consider impacts on small business from the regulations.

C. Issues

NOAA invites comment on the merits of applying the above alternative regulatory approaches (and any other approaches that commenters may suggest) to the issues discussed below and to any other regulatory issues arising under the Act.

Several of the issues upon which NOAA seeks comment raise questions concerning potential overlaps in the roles and areas of jurisdiction of different Federal agencies. Although the Act gives NOAA the lead role in licensing OTEC facilities and plantships and in enforcing applicable legal requirements, there is potential overlapping jurisdiction among NOAA, the Environmental Protection Agency (EPA), and the Coast Guard. (See, for example, the following Issues: No. 1, No. 3, No. 10, No. 14, No. 15, No. 16, and No. 17.) NOAA welcomes suggestions on how potential overlaps may best be avoided in administering the Act.

NOAA's initial views on how to approach certain issues are provided below. These initial views should not be interpreted to be NOAA's final decision on how to address particular issues.

Unless otherwise noted, section numbers refer to the Act.

The Application and License Process

Issue No. 1: Information to be Submitted with an Application

What types and detail of financial, technical and other information should NOAA's regulations require an applicant to include in an application for a license? (See section 102(d)(2).)

For example:

(1) What information is necessary or appropriate to the findings the Attorney General must make under § 104 concerning creation of situations inconsistent with the antitrust laws?

(2) What information pertinent to granting of financial assistance under Title XI of the Merchant Marine Act of 1936 should be submitted along with an application for a NOAA license, and what pertinent information should not be submitted until the time an applicant actually applies to the Maritime Administration for Title XI assistance? (See Title II of the Act.)

(3) What information is necessary or appropriate to the exercise of NOAA's environmental protection responsibilities under the Act?

Initial NOAA View

NOAA intends, as a general policy, to minimize the information required in a license application, consistent with the requirements of the Act.

Issue No. 2: Amount of Application Fees

(a) What application fee should NOAA charge persons applying for *initial issuance* of an OTEC license? (See section 102(h).)

(b) What application fee should NOAA charge persons applying for *transfer or renewal* of an OTEC license?

Initial NOAA View

(a) NOAA has not formulated an initial view regarding the appropriate application fee to cover administrative costs of reviewing and processing an application for initial issuance of a license. NOAA notes that the fee charged by the Coast Guard for a Deepwater Port license application under a similar statute is $100,000, plus reimbursement to the government for processing costs above that amount (See 33 CFR 148.107).

(b) NOAA has not formulated an initial view regarding the appropriate fee for the transfer or renewal of an OTEC license.

Issue No. 3: "One-Stop" Application and Licensing Process

What role should NOAA play with respect to facilitating the appropriate, timely review by other Federal (and, if appropriate, State and local) agencies of an application for licensing of an OTEC facility or plantship? (See section 101(c)(1), section 101(c)(4), section 101(d)(1), and section 102(f).)

Initial NOAA View

The Act states that an application filed with NOAA shall constitute an application for all Federal authorizations required for ownership, construction, and operation of an OTEC facility or plantship, except for authorizations administered by the Coast Guard. However, the Act does not explicitly state the role which NOAA is to play with respect to other agencies after it has sent copies of an application to them. NOAA has not formulated an initial view on the degree of facilitation or coordination which is appropriate.

Issue No. 4: "Land-based" OTEC Facilities

What special regulatory provisions, or exceptions from the general licensing and enforcement regulations, are appropriate for OTEC facilities which are located, in part, on land?

Initial NOAA View

NOAA has not formulated an initial view on this issue.

Review of Applications

Issue No. 5: Adjacent Coastal States

Should additional, or more detailed, criteria be established to guide the determination of "adjacent coastal states" under section 105(a)(2) of the Act, or are the criteria specified in section 105(a)(2) appropriately comprehensive and specific?

Initial NOAA View

NOAA has not formulated an initial view on this issue.

Issue No.6: Opportunities for Public Participation

Should additional opportunities for public review of OTEC license applications be established in NOAA's licensing procedures, or are the statutory requirements for public hearings and an environmental impact statement on each application sufficient means for public participation? (See section 102, especially section 102(g), and section 107(e).)

Initial NOAA View

NOAA believes the public review provisions in the Act provide ample opportunity for public participation in the consideration of each application for an OTEC license. However, NOAA will consider additional means of enhancing the public's role in review of applications if commenters can suggest a way to accomplish this objective without incurring significant additional expense or delay in the application review process.

Approval or Disapproval of an Application

Issue No. 7: "The National Interest"

What criteria and procedures should NOAA use to determine whether a license application is or is not "in the national interest and consistent with national security, and other national policy goals and objectives, including energy self-sufficiency and environmental quality", a determination required by section 101(c)(2)?

Initial NOAA View

NOAA believes that any regulations on this issue ultimately must provide some flexibility for the Administrator of NOAA to judge the merits of each license application. Some additional guidance regarding illustrative factors to consider when making this "national interest" determination may be derived from: (1) Section 2 of the Act, entitled "Declaration of Policy"; (2) section 102(i)(3) of the Act, relating to decision criteria when multiple applications are received for the same site; and (3) from section 2 of Pub. L. 96-310 (the Ocean Thermal Energy Conversion Research, Development, and Demonstration Act), which states the findings and purposes of the Congress in enacting Pub. L. 96-310.

Issue No. 8: Multiple Applications for Same Site

Should NOAA's licensing regulations elaborate on the Act's criteria for choosing between two or more applications to locate an OTEC facility at the same site? (See section 102(i)(3).) What criteria or factors should NOAA use in specifying the geographic bounds of the "application area" encompassing the site proposed in an application for an OTEC facility? (See section 102(e)(1) and section 3(17).)

Initial NOAA View

NOAA has not formulated initial views on these issues.

General Requirements Applicable to Licensees

Issue No. 9: Diligence

What standards would be appropriate regarding the duty of a licensee to pursue diligently the construction and operation of an OTEC facility or plantship for which he has received a license? For example, should NOAA require applicants to specify construction and operation schedules in their application, which would become conditions of the license? (See section 106.)

Initial NOAA View

NOAA believes that diligence standards should apply to all licenses issued (for example, to preclude efforts by speculators to secure rights to highly desirable OTEC sites if the speculators do not plan promptly to use the site's thermal resource). NOAA has not formulated an initial view regarding the specific content of such diligence standards.

Issue No. 10: Reports and Records

What type of reports and records should NOAA require a licensee to maintain and submit? (See section 112.)

Initial NOAA View

NOAA believes that although such requirements should be minimized, licensees should be required to maintain records regarding environmental quality, the electricity or other product production on the OTEC facility or plantship, any significant changes in the composition of ownership of the OTEC facility or plantship, and other subjects to be determined during this rulemaking.

Issue No. 11: Removal of Components

What bonding requirements should NOAA establish to assure the appropriate disposal or removal of OTEC facility or plantship components upon the termination, revocation, relinquishment, or surrender of a license? (See § 101(d)(3).)

Initial NOAA View

NOAA has not formulated an initial view on this issue.

Issue No. 12: Confidentiality

Should NOAA establish special criteria or procedures concerning confidentiality of certain types of trade secrets or commercial or financial information reported to or collected by the NOAA Administrator under the Act? Alternatively, are the Act's restrictions upon the Administrator's release of information that is exempt from disclosure under 5 U.S.C. 552(b)(4) sufficiently clear that NOAA need not issue regulations to detail the Act's protections against disclosure? (See section 112(b), and 15 CFR Part 903, NOAA's "Public Information" and Freedom of Information Act regulations.)

Initial NOAA View

NOAA has not formulated an initial view on this issue.

Environmental Safeguards; Avoidance of Use Conflicts

Issue No. 13: Site Evaluation and Preconstruction Testing

Should NOAA issue regulations governing site evaluation and pre-construction testing activities at potential OTEC facility or plantship locations? If the commenter believes NOAA should issue such regulations, should the regulations be issued before, contemporaneously with, or after NOAA's general licensing regulations? (See section 102(b).)

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Initial NOAA View

NOAA believes that some information that might be gathered from OTEC industry participants conducting site evaluation and other at-sea activities could be useful in augmenting the information currently available for use in preparing the environmental impact statement on NOAA's general licensing regulations. However, the agency's issuance of site evaluation and preconstruction testing regulations would achieve this objective only if industry actually will be conducting such activities during the next year or so.

Issue No. 14: Environmental Protection Measures

What types of environmental protection measures should be applied, as license conditions or by regulation, to the operation of OTEC facilities and plantships? (See section 101(d)(1) and 101(g).) How should they relate to EPA's requirements under the National Pollutant Discharge Elimination System (NPDES)?

Initial NOAA View

NOAA could consider certain types of environmental protection measures for inclusion in its licensing regulations as "generic" or "across the board" requirements applicable to all OTEC facilities and plantships. Such measures might include requirements that: (1) Any submarine electrical transmission cable or product pipeline be buried; (2) the discharge waters be mixed and discharged through a single outfall structure; (3) the discharge structure(s) be located at a specified depth below the surface (e.g., at the thermocline or pycnocline); or (4) specified anti-biofouling chemicals or procedures be used. Such requirements would be established only if supported by appropriate evidence. Such requirements probably would require site-specific and design-specific "fine-tuning" through attachment of precise conditions to each license issued for an OTEC facility or plantship.

Issue No. 15: Environmental Monitoring

What specific types of environmental monitoring should NOAA require of each licensee, and how frequently should NOAA require submission of such monitoring reports? (See section 110(3).) How should NOAA's requirements relate to EPA's monitoring requirements under the NPDES program?

Initial NOAA View

NOAA's initial view is that a licensee should be required to implement an oceanographic and environmental monitoring program to meet at least the following objectives: (1) Demonstration of compliance with applicable State, Federal, or other pertinent water quality standards; (2) early detection of potential releases from the OTEC facility or plantship of toxic or hazardous substances; and (3) monitoring of the effects of the discharge plume.

Issue No. 16: Criteria for Immediate Suspension

What criteria should NOAA apply in determining whether to suspend construction or operation of an OTEC facility or plantship immediately in order to protect public health and safety or to eliminate an imminent and substantial danger to the environment? (See section 111(b).) Alternatively, what advantages or disadvantages may accrue in administering NOAA's enforcement responsibilities under the Act if NOAA chooses not to elaborate in regulations upon the standards provided in section 111(b)?

Initial NOAA View

NOAA has not formulated an initial view on this issue.

Issue No. 17: Prevention of Interference with Other Ocean Users, and Other Nations

(a) What types of OTEC-related interference with other legitimate users of the ocean and with other nations' territorial seas or natural resource jurisidiction zones should NOAA seek to prevent? (For example, interference could arise from the thermal characteristics of the plume affecting the local ocean environment, or interference with a "downstream" OTEC facility could result due to increased biomass induced by the presence of nutrients upwelled and discharged by an "upstream" OTEC).

(b) What types or categories of non-OTEC ocean uses or user groups should be specifically recognized in NOAA's regulations on non-interference?

(c) What standards or criteria should NOAA use to determine whether significant interference with other ocean uses would in fact occur? For example, how should NOAA define the phrase "significant difference in temperature" under section 3(17)?

(d) What methods and/or standards should NOAA use to reduce or prevent OTEC-related interference with other ocean uses and users? (For example, NOAA could use license conditions; efforts to mediate or arbitrate disputes; and criteria elaborating on the "reasonable regard" principle of international law.) (Relevant sections of the Act: See section 109(a); section 109(b); section 101(c)(3); section 101(c)(9); section 101(c)(11)–(13); section 3(17).)

Initial NOAA View

NOAA has not formulated initial views on these issues.

Issue No. 18: Upper Limit on Number of OTEC Facilities and Plantships

Should NOAA specify an upper limit on the number or total capacity of OTEC facilities and plantships, either overall or in a specific geographic area, after conducting studies under section 107(b) of the Act? (See section 101(c)(14).)

Initial NOAA View

Although the cumulative environmental effects or the potential for depleting the thermal resource by operation of a number of OTEC facilities and plantships is certainly worthy of substantial attention, NOAA believes that we do not now possess (nor are we likely to possess within the next few years) sufficient information to support a regulation limiting numbers of OTEC facilities and plantships. In lieu of such a regulation, the environmental and use-conflict implications of multiple OTEC operations in the same geographic areas could be addressed during the application review process for later-filed applications (see section 101(c)(11) and 101(c)(13)). NOAA probably will defer any decision on this issue until the studies required under section 107 have been conducted.

Enforcement Criteria

Issue No. 19: Compliance Orders

What criteria should NOAA apply to issuance of compliance orders? (See section 302(a)(2).)

Initial NOAA View

NOAA has not formulated an initial view on this issue.

Issue No. 20: Suspension, Revocation, or Termination of a License

Should NOAA establish special criteria or procedures for the suspension, revocation, or termination of an OTEC license under certain circumstances? (See section 102(a) and section 111(a).)

Initial NOAA View

NOAA has not formulated an initial view on this issue.

V. Public Participation

A. *Public Hearing.* See the "Dates and Addresses" section of this ANPR for information on the hearing will hold concerning this ANPR.

B. *Public Participation Funds Available.* Because public participation in this rulemaking can reasonably be expected to promote a full and fair determination of the issues involved, NOAA has made available $5,000 to compensate participants in the rulemaking who meet the eligibility criteria of NOAA regulations governing "Financial Compensation of Participants in Administrative Proceedings" (15 CFR Part 904). For further information concerning the availability of these public participation funds, see NOAA's announcement at 45 FR 70475 (Friday, October 24, 1980). As specified in that earlier announcement, applications to receive part or all of this public participation fund must be received by NOAA on or before November 24, 1980.

VI. Rulemaking by Other Federal Agencies

NOAA advises interested persons that other Federal agencies also may be issuing regulations to carry out new responsibilities under the Act. Agencies that may be conducting OTEC-related rulemaking may include: the Coast Guard (see section 108, section 109(c), and section 303(a)); the Environmental Protection Agency (see section 101(c)(4), and section 107(f)); and the Maritime Administration (see Title II of the Act).

VII. Authority

This advance notice of proposed rulemaking is issued under authority of section 102 of the Act.

Signed this 16th day of November 1980.

Samuel A. Lawrence,

Assistant Administrator for Management and Budget.

[FR Doc. 80-36336 Filed 11-20-80; 8:45 am]

BILLING CODE 3510-12-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Contract Market Rules and Practices Governing the Imposition and Maintenance of Price Limits; Extension of Comment Period

AGENCY: Commodity Futures Trading Commission.

ACTION: Advance notice of proposed rulemaking; extension of comment period.

SUMMARY: On August 20, 1980, the Commission's advance notice of proposed rulemaking regarding the imposition and maintenance of price limits by contract markets was published in the **Federal Register** (45 FR 55469). The comment period thereon expires on November 18, 1980.

The Commission has received requests for an extension of the comment period. Because the Commission wishes to be certain that all parties have an adequate opportunity to finalize and submit their comments, it is allowing an additional thirty days for comment.

DATES: Notice is hereby given that all comments must be submitted by December 18, 1980.

ADDRESS: Interested persons should submit comments to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, Attn: Office of the Secretariat, (202) 254-6314.

FOR FURTHER INFORMATION CONTACT: Christine A. Rock, Attorney Advisor, Division of Trading and Markets, (202) 254-8955.

Issued in Washington, D.C., on November 18, 1980.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-36466 Filed 11-20-80; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 260

[Docket No. RM80-69]

Revision of Annual Report of Gas Supply For Certain Natural Gas Pipelines: Form No. 15; Meetings

Issued November 17, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of public meetings.

SUMMARY: On November 6, 1980, the Federal Energy Regulatory Commission (Commission) issued an Interim Rule amending Form No. 15, "Annual Report of Gas Supply for Certain Natural Gas Pipelines," to eliminate reporting requirements which the Commission no longer needs to carry out its regulatory functions (Docket No. RM80-69, 45 FR 75192, November 14, 1980). In that rule the Commission stated that a series of informal meetings with Commission staff would be held to discuss the proposed revisions to the format, instructions and definitions of Form No. 15. The meetings will be held December 2, 9, and 16 in Washington, D.C.

DATES: December 2, 1980 at 10:00 a.m., December 9, 1980 at 10:00 a.m., and December 16, 1980 at 10:00 a.m.

ADDRESS: Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 9306, Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Wayne Thompson, Chief, Gas Supply Branch, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 4402B, Washington, D.C. 20426, (202) 357-9077.

SUPPLEMENTARY INFORMATION: Among items for discussion at these meetings are: (1) redesigning the form to better facilitate human (non-computer) use; (2) standardizing the definitions to conform with those used in other Commission reporting requirements; (3) revising the instructions to comply with changes resulting from passage of the Natural Gas Policy Act of 1978 (15 U.S.C. §§ 3301-3432); (4) examining the need for, and alternatives to, individual reservoir reports; and (5) discussing the possibility of additional supply reporting in the form.

A general discussion of Form No. 15 revisions is scheduled for the December 2nd meeting. The definitions, instructions and redesign of the form will be analyzed at the December 9th meeting. Data automation for the form will be examined at the December 16th meeting. Other relevant questions concerning revisions to Form No. 15 will also be entertained.

If subsequent meetings are necessary, they would take place in January, 1981, in Washington, D.C. Notice of such meetings would be published after the December 16th meeting. Transcripts of the meetings will be placed in the public record, and will be available from the Commission's Office of Public Information.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36321 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 70

[Docket No. 79P-0077]

Nitrites in Bacon; Proposed Exception From the Color Additive Definition and Request for Information on Other Meat Products That May Qualify for the Exception to the Color Additive Definition

AGENCY: Food and Drug Administration.

ACTION: Withdrawal of proposed rule.

response to the citizen petition stated FDA's intention to initiate rulemaking to

(t)(1) The term "color additive" means a material which—

recodified as 21 CFR 172.170 and 172.175

imparting pigment in meat is myoglobin,

color turns on how the chemical

ACTION: Withdrawal of proposed rule.

SUMMARY: The Food and Drug Administration (FDA) concludes that nitrites in bacon are not "color additives" under the Federal Food, Drug, and Cosmetic Act because nitrites do not "impart" color to bacon within the meaning of the statutory definition of "color additive." Based on this conclusion, it no longer is necessary for FDA to consider whether nitrites qualify for the exception to the "color additive" definition for substances used solely for noncoloring purposes. FDA's conclusion constitutes final agency action on issues raised in a citizen's petition that asked FDA to regulate nitrites in bacon as "color additives."

EFFECTIVE DATE:
December 22, 1980.

FOR FURTHER INFORMATION CONTACT:
John L. Herrman, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of December 21, 1979 (44 FR 75659), FDA issued a notice of proposed rulemaking in which it proposed to adopt certain new positions relating to the status of nitrites in bacon and other red meats under the color additive provisions of the Federal Food, Drug, and Cosmetic Act (the act). As used in that proposal and in this document, the term "nitrites" includes sodium and potassium nitrate and sodium and potassium nitrite.

The question of nitrites' status as "color additives" was presented initially to FDA on March 12, 1979, in a citizen petition filed jointly by Public Citizen, Inc., and four others (Ref. 1—44 FR 75662; December 21, 1979). The citizen petition asked FDA to declare that nitrites in bacon are "color additives" within the meaning of section 201(t)(1) of the act (21 U.S.C. 321(t)(1)) that may not be used until approved by FDA under the color additive provisions of the act (21 U.S.C. 376).

FDA responded to the citizen petition by letter on June 29, 1979 (Ref. 2—44 FR 75662; December 21, 1979). In that letter, FDA stated its tentative conclusions that: (1) nitrites in bacon are capable of "imparting color" within the meaning of section 201(t)(1) of the act, but (2) nitrites are not properly regulated as "color additives" because they qualify for the exception in section 201(t)(1) of the act for substances determined by FDA to be "* * * used (or intended to be used) solely for a purpose or purposes other than coloring." The response to the citizen petition stated FDA's intention to initiate rulemaking to reach final conclusions on these questions.

As noted, FDA initiated the necessary rulemaking by publishing a proposal in the **Federal Register** on December 21, 1979 (44 FR 75659). The proposal explained that FDA's tentative conclusion that nitrites are capable of imparting color to bacon would, if made final, also apply to nitrites used in other red meat products. Thus, FDA included in the proposal a request for information on whether red meat products other than bacon also might qualify for the exception to the "color additive" definition. FDA allowed a 60-day comment period on the proposal and request for information. At the request of several industry groups and firms, FDA extended the comment period on the request for information to May 19, 1980 (see 45 FR 11841; February 22, 1980) and then indefinitely (45 FR 32324; May 16, 1980). FDA based the indefinite extension of the deadline on the request for information on the fact that information concerning possible exceptions to the "color additive" definition for nitrites in meats other than bacon would be needed only if FDA concludes finally that nitrites meet the threshold requirement for "color additive" status (i.e., are capable of imparting color). Because the expense required to collect the information would be wasted if FDA were to conclude that nitrites do not "impart" color, the agency agreed to defer the exception issue until after a final decision is reached on whether nitrites "impart" color. Although the comment period on the request for information was deferred, the comment period on whether nitrites "impart" color to bacon and other red meats and whether nitrites in bacon qualify for the exception to the "color additive" definition closed on February 19, 1980.

FDA received more than 150 comments on the proposal. The vast majority of the comments focused on whether nitrites are capable of "imparting" color and argued on scientific, legal, and policy grounds that FDA's tentative conclusion on this point was incorrect. FDA agrees that its tentative conclusion was incorrect and now concludes that nitrites do not "impart" color to bacon within the meaning of section 201(t)(1) of the act. The reasons for this conclusion are discussed below.

II. Discussion

The act defines the term "color additive" in section 201(t)(1), as follows:

(t)(1) The term "color additive" means a material which—

(A) is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source, and

(B) when added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable (alone or through reaction with other substances) of imparting color thereto; except that such term does not include any material which the Secretary, by regulation, determines is used (or intended to be used) solely for a purpose or purposes other than coloring.

Under this definition, a substance added to food is a "color additive" if it is "capable * * * of imparting color" to the food, but color-imparting substances can be excepted from the definition if FDA (by delegation of authority from the Secretary) makes certain determinations about the purpose for which the substance is used. The threshold question of whether a substance is capable of "imparting color" obviously is of paramount importance; only if a substance "imparts" color must FDA consider whether it qualifies for the exception to the "color additive" definition.

The "color additive" definition was enacted by Congress as part of the Color Additive Amendments of 1960, which established a separate premarket approval system for color additives. A similar system had been in effect for food additives since the enactment of the Food Additives Amendment of 1958. Before enactment of the Color Additive Amendments, non-coal-tar colors added to food were regulated as "food additives," but the Color Additive Amendments amended the definition of the term "food additive" to exclude "color additives." Thus, in the months and years following enactment of the Color Additive Amendments, it was necessary for FDA to determine whether particular substances previously regulated under the "food additive" provisions of the act should be regulated instead as "color additives."

As many comments correctly point out, FDA's original determination with respect to nitrites was that they should continue under the "food additive" provisions of the act because the effect of nitrites in meat was merely to "fix" the color of the meat, not "impart" color. This original determination is reflected in FDA regulations promulgated as far back as 1962 in which sodium nitrite and sodium nitrate are specifically identified as "food additives" and are approved for use as preservatives and color fixatives (21 CFR 121.1063 and 121.1064 (27 FR 2090; March 3, 1962), since

recodified as 21 CFR 172.170 and 172.175 (recodification in the **Federal Register** of March 15, 1977; 42 FR 14302)). FDA has consistently throughout the years maintained its position that nitrites merely "fix" rather than "impart" color. The position is reflected in current FDA regulations (21 CFR 172.170 and 172.175) and has been asserted publicly by FDA in judicial proceedings. See *Public Citizen v. Foreman*, 471 F. Supp. 586, 593 (D.D.C. 1979). In addition, U.S. Department of Agriculture (USDA) regulations governing the use of nitrites describe the color effect of nitrites as a color "fixing" effect (see 9 CFR 318.7(c)(4)).

In response to the Public Citizen petition asking FDA to regulate nitrites in bacon as "color additives," FDA reconsidered its longstanding position that nitrites merely "fix" color. The citizen petition argued that nitrites "impart" color to bacon because when nitrites are added to bacon they combine with the myoglobin naturally present in red meat to form a substance that, when heated during the curing process, yields nitrosohemochrome (or nitrosylhemochrome), which is similar in color to fresh pork (pink) but makes the color last longer. The petition contended that no pork without nitrosohemochrome has the exact color of meat with it, but the petition also argued that it is irrelevant for purposes of the "color additive" definition whether a substance changes the color of food in a noticeable way.

By focusing almost exclusively on the details of the chemical reaction that occurs when nitrites are added to bacon, the Public Citizen petition appears to provide a plausible basis for concluding that nitrites "impart" color, and FDA tentatively adopted Public Citizen's position in its response to the citizen petition. In explaining its tentative conclusion that nitrites "impart" color, FDA described in its proposal the chemical reaction that occurs when nitrites are used in the curing of bacon (see 44 FR 75660; December 21, 1979). The agency noted that the color resulting from the use of nitrites in bacon is "* * * similar to, and sometimes nearly indistinguishable from, * * *" the color of the freshly slaughtered meat. The agency tentatively concluded that nitrites "impart" color, however, because, after heating, meat without nitrites turns brown while meat with nitrites retains its pink color.

The majority of comments attack FDA's tentative conclusion on several grounds. On technical grounds, the comments argue that the true color-imparting pigment in meat is myoglobin, which can be various shades of purple, red, pink, or brown depending on the compounds with which it interacts. They argue that the effect of nitrites is to maintain the myoglobin in a stable form that is red in color, noting correctly that the intensity of the red color in nitrite-treated meat is related directly to the concentration of the pigment, not the amount of nitrites added to the meat—once the pigment is stabilized by nitrites, the addition of more nitrites does not increase the intensity of the red color. Thus, these comments seem to argue, color is "imparted" to meat by a naturally occurring pigment; nitrites merely "fix" the pigment in a form that produces a stable, red color.

One comment included photographic evidence intended to show that there is no difference visible to the naked eye between the color of bacon cured with nitrites and the color of uncured pork belly (the portion of the hog from which bacon is produced) 1 day after slaughter. This comment cited a letter in the legislative history of the Color Additive Amendments from then Secretary of Health, Education, and Welfare (HEW) Flemming, which states that the HEW-drafted bill that became the Color Additive Amendments of 1960 was intended to cover substances whose coloring effect is "apparent to the naked eye" (H.R. Rep. No. 1761 at 79; 1960 U.S. Code, Cong. and Adm. News 2929). According to the comment, the comparison of the color of nitrite-cured bacon with that of uncured pork belly 1 day after slaughter is the critical comparison for the purpose of considering whether nitrites "impart" color because it is about 1 day after slaughter that the uncured pork belly would be displayed to consumers on the supermarket shelf. The comment argues that, because there is no visible difference at this point between the color of nitrite-cured bacon and uncured pork belly, nitrites do not "impart" color.

In addition to making these technical arguments, the comments point out that if FDA finally adopts its tentative conclusion that nitrites "impart" color, it will be changing a 20-year-old interpretation of the act without there being any new facts to justify a change. The comments are correct that the relevant scientific facts, i.e., the nature of the chemical reactions that occur when nitrites are added to meat, have not changed since the Color Additive Amendments were enacted in 1960, and there is no genuine dispute over what those reactions are. Thus, the issue of whether nitrites "impart" or merely "fix" color turns on how the chemical reactions are characterized for the purpose of applying the "color additive" definition. This is largely a matter of statutory interpretation; and, the comments argue, the interpretation given the statute by FDA officials immediately following its enactment is entitled to substantial deference. The comments argue further that, because the industry has relied on FDA's original interpretation for nearly 20 years, that interpretation should not be changed, especially in the absence of any significant new facts justifying a change.

Based on the comments it received, FDA concludes that its reconsideration of whether nitrites "impart" or merely "fix" color, which the agency undertook in response to the Public Citizen petition, focused too narrowly on the chemical reactions that occur when nitrites are added to bacon and other red meats and failed to give adequate weight to the practical meaning of the "color additive" definition and FDA's past interpretation of it. FDA concludes that its original and long-held position that nitrites in bacon merely "fix" rather than "impart" color reflects a sound and reasonable interpretation of the "color additive" definition. Nothing contained in Public Citizen's petition or in the comments on FDA's proposal justify a change in that interpretation.

FDA's original position that nitrites are not "color additives" is consistent with the practical approach Congress intended FDA to take in distinguishing "color additives" from other categories of substances added to food by food manufacturers and processors. As noted above, just 2 years before the enactment of the Color Additive Amendments, Congress had enacted the Food Additives Amendment of 1958, which established a premarket approval system for all substances (including colors) that are added to food by food processors and manufacturers, excepting only those substances that are generally recognized as safe, had already been approved by FDA or USDA, or were subject to an existing, adequate regulatory scheme, e.g., pesticide residues under the Pesticide Residue Amendment of 1954. Congress and HEW (the Department that drafted the bill) thus were aware when the Color Additive Amendments were under consideration that all substances intentionally added to food would be subject to acceptably rigorous regulatory standards whether regarded as "color additives" or not and that it was therefore unnecessary to make fine distinctions among substances based on such refined considerations as the

precise nature of the chemical reaction that occurs when a substance is added to food.

Illustrative of the practical approach Congress adopted for distinguishing "color additives" from other substances added to food is Secretary Flemming's explanation, noted briefly above, for why coloring materials used in food packaging would not ordinarily be "color additives," even if they migrate to the food:

> [I]t is our view that the bill is intended to regulate substances that color or are capable of coloring food *to a degree apparent to the naked eye.* Thus, a component of food packaging that migrated into food but did not *change its color in the ordinary sense of the term* would continue to be regulated, if necesssary, under the food additives amendment and would not become subject to the proposed color additives bill.

H.R. Report No. 1761, P. 79; 1960 U.S. Code, Cong. and Adm. News 2929 (emphasis added).

It also is clear from the legislative history that even substances that affect the color of food in readily apparent ways are not all considered "color additives." In responding to a concern expressed by the pesticide industry that certain pesticides might arguably fall within the proposed "color additive" definition, Secretary Flemming wrote the following to Congressman Oren Harris:

> The second question relates to pesticide chemicals as defined in section 201(q) of the Federal Food, Drug, and Cosmetic Act. We are advised that certain fungicides used in fruit production have the effect not only of protecting the tree against plant diseases but also of affecting or supporting natural plant processes so the plant produces better color and finish in the fruit; and some plant growth regulators, when applied to plants, likewise *enhance the development of normal color* in produce derided from them.
>
> It is our view that pesticide chemicals used in this way are not color additives within the meaning of the proposed legislation and *do not impart an artificial color* to the raw agricultural commodities. Rather, they *promote the development of the natural color* of produce as a result of the normal physiological processes of the plant. The legislation which we drafted was not intended to apply to pesticide chemicals which enhance color by affecting or supporting natural plant processes * * *.

Hearings on H.R. 7624 and S. 2197 Before the House Comm. On Interstate and Foreign Commerce, 86th Cong., 2nd Sess. 188–189 (1960) (letter from Arthur S. Flemming to Rep. Oren Harris). (emphasis added).

It is likely that one could trace the chain of chemical reactions that causally connect the pesticides discussed by Secretary Flemming and the resulting color of the fruit, but that obviously is not what Congress intended FDA to do in applying the "color additive" definition. The legislative history, coupled with the use of the terms "dye" and "pigment" in the definition itself, suggest instead that Congress intended the term "color additive" to cover dyes, pigments, and similar substances that are ordinarily thought of as coloring agents.

Against this background, it is clear why the FDA officials responsible for the initial implementation of the Color Additive Amendments did not regard nitrites to be "color additivies." Nitrites have been used as curing agents in modern meat processing since early in the century for their preservative, flavor, and color-fixative effects. During those years, the USDA regulations approving the use of nitrites have consistently described the coloring effect of nitrites as a color "fixative" effect and have explicitly distinguished between coloring agents per se (such as coal tar dyes) and curing agents, whose purposes include, inter alia, "fixation" of color. This distinction is maintained in USDA's current regulation (see 9 CFR 318.7(c)(4)).

When the Color Additive Amendments were enacted in 1960, FDA officials presumably did not scrutinize the chemical reactions that occur when nitrites are added to meat in order to determine whether nitrites were to be regarded as "color additives." They apparently relied instead on the traditioinal conception of nitrites not as "coloring agents" but as "curing agents" that accomplish a variety of processing purposes and that affect the color of meat in a way quite different from dyes, pigments, and other "coloring agents." As the comments on FDA's proposal demonstrate, nitrites do not add a new color to bacon, but instead react with the naturally occurring pigment in meat (myoglobin) to produce during the curing process a form of the pigment that is more stable. The color of the nitrite-cured bacon is not readily distinguishable, however, from the color of the uncured pork belly at or shortly after slaughter. On these grounds, it was reasonable for FDA officials not to regard nitrites to be "color additives" and to continue to regulate them under the more logically applicable Food Additives Amendment.

The grounds that apparently underlie FDA's original position that nitrites are not "color additives" remain sound. In the ordinary sense of the term, nitrites do not "impart" color; they merely "fix" the color naturally present in meat. It is a well-founded principle of statutory construction that the agency's interpretation of its own statutes should be given great weight. *Public Citizen* v. *Foreman* [D.C. Cir. No. 79–1690, July 31, 1980). In this case, FDA hereby reaffirms the agency's longstanding interpretation.

In reaching its tentative conclusion that nitrites "impart" color, FDA relied in part on the fact that meat without nitrites turns brown after heating, while meat with nitrites retains its pink color. However, as a matter of common sense, preserving or "fixing" an existing color so that it does not change during heating is clearly not the same as "imparting" a new color. As shown by the legislative history discussed earlier, it is the addition of a visibly different, new color that makes a substance fall within the "color additive" definition. Substances that affect the color of food in other ways are regulated under other provisions of the act.

If, in applying the "color additive" definition, FDA were to take into account routinely the effects of heating (or cooking) on the color of processed foods, the task of determining whether substances are "food additives" or "color additives" would become extraordinarily complex and would produce surprising results. The heat to which foods are exposed during processing or cooking is sufficient to change the chemical composition, and thus possibly the color, of many substances both naturally present in and added to food. For example, sugar added to bakery products before cooking causes the finished products to have darker crusts than they otherwise would have. However, regardless of how one might describe the chemical reactions that occur, sugar and other substances that only affect the color of finished food articles as a result of changes in color that occur after exposure to heat during processing or home cooking are not the kind of substances Congress intended to regulate as "color additives." By taking a practical, common sense approach to distinguishing between "color additives" and other substances, FDA has been able to avoid wasteful disputes about the proper regulatory category for such substances and to implement the Color Additive Amendments and other food safety provisions of the law in a way that is consistent with both the intent of Congress and the protection of the public health.

As discussed earlier the majority of comments received argue in favor of FDA's final decision to consider nitrites as color fixatives and therefore not color additives. Comments also were received that argue that nitrites do in fact impart color as originally proposed by the agency. FDA has considered these comments and rejects them for the reasons stated in this document. Still other comments state that while nitrites do indeed impart color, they qualify for the exception to the color additive law since they are used solely for purposes other than coloring. Since the agency rejects the premise of these comments that nitrites impart color, further consideration of their status under the color additive law is irrelevant and therefore has not been considered by the agency in reaching this decision. Lastly, there were several comments that did not substantively address the issue of whether nitrites "fix" or "impart" color. Rather they generally argued that the risks and benefits of nitrites should be considered in deciding their status. All but one of these comments urged the continued availability of nitrites in meat products. The purpose of this rulemaking is to determine whether nitrites used in meat products are color additives within the meaning of 21 U.S.C. 321(t). A risk/benefit analysis is not relevant to this consideration and, therefore, FDA has not considered these comments in reaching the decision that nitrites "fix" rather than "impart" color.

Based on its conclusion that nitrites do not "impart" color to bacon, FDA will not adopt as final regulations proposed § 70.70 *Capacity of nitrites in meat products to impart color* and § 70.100 *Nitrites in bacon*, which incorporated, respectively, FDA's tentative conclusions that nitrites "impart" color but that nitrites in bacon qualify for the statutory exception to the "color additive" definition (see 44 FR 75662). Those proposed regulations are hereby withdrawn. It also is unnecessary for FDA to consider further whether nitrites in meats other than bacon qualify for the exception to the "color additive" definition. FDA thus withdraws its request for information on that issue.

FDA's conclusion that nitrites "fix" rather than "impart" color to bacon constitutes final agency action in response to the Public Citizen petition asking FDA to regulate nitrites in bacon as "color additives."

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), (t)(1), 402(a), 701(a), 706, 52 Stat. 1046 as amended, 1055, 72 Stat. 1784 as amended, 74 Stat. 397–407 as amended (21 U.S.C. 321(s), (t)(1), 342(a), 371(a), 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the proposed regulations (44 FR 75659; December 21, 1979) are hereby withdrawn.

Dated: November 17, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80-36415 filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 2

General Provisions; Rule Making

AGENCY: Office of the Secretary, Labor.

ACTION: Proposed rule.

SUMMARY: It is proposed to rescind the regulation waiving the exemption to the Administrative Procedure Act (5 U.S.C. 553) for rules relating to public property, loans, grants, benefits or contracts. The rescission is necessary due to confusion that has arisen concerning applicability of APA requirements to matters which have not heretofore been regarded by the Department as "rules." The effect will be to allow the Department to use the exemption provided by Congress for information-gathering procedures.

DATES: Comments must be received on or before December 22, 1980.

ADDRESS: Comments must be in writing and should be sent to Sofia Petters, Counsel for Administrative Legal Services, Office of the Solicitor, U.S. Department of Labor, Room N2464, 200 Constitution Avenue NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Sofia Petters, Counsel for Administrative Legal Services, Office of the Solicitor, U.S. Department of Labor, Room N2464, 200 Constitution Avenue NW., Washington, D.C. 20210, Telephone 202–523–6807.

SUPPLEMENTARY INFORMATION: Pursuant to a recommendation of the Administrative Conference of the United States, the Secretary of Labor waived his entitlement to the exemption from rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 553) for matters relating to public property, loans, grants, benefits, or contracts. Before the regulation went into effect, most agencies under the Secretary of Labor had already informally adopted APA rulemaking procedures. Therefore, the regulation merely reaffirmed existing policy.

However, it has become advisable to revoke in part the waiver of the exemption in order to assure that information-gathering procedures like those used by BLS are not subject to APA rulemaking requirements. The U.S. Court of Appeals for the D.C. Circuit has recently held that methodology developed by the Bureau of Labor Statistics to establish unemployment figures used for allotment of funds under Title VI of the Comprehensive Employment and Training Act are "rules" which must be promulgated pursuant to APA notice and comment procedures. *Batterton* v. *Marshall*, No. 78–1414 [Aug. 28, 1980]. The Court of Appeals' decision makes clear, however, that such methodology would ordinarily be exempt from APA procedures as a matter relating to public benefits, under 5 U.S.C. 553(a)(2). Had the Department not waived the exemption, these BLS procedures would not be subject to APA informal rulemaking requirements.

The Department's position has been that information-gathering procedures are not rules within the meaning of the APA, but rather investigatory functions not subject to APA requirements. Had the Department anticipated that such procedures could be deemed "rules" subject to APA notice and comment requirements, it would not have waived its right to invoke the exemption for information gathering relating to "public property, loans, grants, benefits, or contracts." The Department's concern is for the Bureau of Labor Statistics. The Bureau's statutory role is to accumulate information on labor-related subjects for use of the Congress, other government agencies, and the public. The Bureau's information-gathering activities are statistical in nature and are conducted on the basis of scientific principles. To subject purely statistical decision making to procedures required for review of policy decisions under the Administrative Procedure Act might subject BLS methodology to nonstatistical policy influences. It is essential to avoid equating statistical and policy decisions.

The Secretary has therefore determined that it is necessary to amend the existing regulation and reclaim the right to invoke the 5 U.S.C. 553(a)(2) exemption insofar as it covers the Bureau's information-gathering procedures. The Department does not intend to invoke the exemption for any other matters "relating to public property, loans, grants, benefits, or contracts," but will continue its practice of using APA notice and comment procedures for any such matters other than data collection procedures.

The original waiver of the exemption was not promulgated pursuant to APA notice and comment procedures because it was a general statement of policy and a rule of agency procedure within the meaning of 5 U.S.C. 553(b)(A). (See 36 FR 12976 (July 10, 1971)). For the same

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reason, it is not necessary to revoke the waiver pursuant to APA requirements for advance notice, public participation, and delay in the effective date. However, in furtherance of the public interest, the Department will voluntarily comply with the APA's comment period in revoking this agency procedural rule.

In any event, the Department of Labor has determined that the proposal in this document is not a "major regulation" that requires preparation of a regulatory analysis and extension of the comment period to 60 days under Executive Order 12044 and the Department's guidelines published at 44 FR 5570 (Jan. 26, 1979).

Accordingly, the Department proposes to amend Part 2, Subtitle A of Title 29, Code of Federal Regulations as set forth below.

PART 2—GENERAL PROVISIONS

1. The authority citation for Part 2 reads as follows:

Authority.—5 U.S.C. 301 and 5 U.S.C. 552–556, unless otherwise noted.

2. Section 2.7 is revised to read as follows:

§ 2.7 Rule making.

It is the policy of the Secretary of Labor, that in applying the rule making provisions of the Administrative Procedure Act (5 U.S.C. section 553), the exemption therein for matters relating to public property, loans, grants, benefits or contracts shall not be relied upon as a reason for not complying with the notice and public participation requirements thereof except for all information-gathering procedures adopted by the Bureau of Labor Statistics.

Signed at Washington, D.C. this 12th day of November, 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-36405 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-23-M

Occupational Safety and Health Administration

29 CFR Part 1952

Proposed Supplement to Arizona State Plan

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The State of Arizona has submitted a plan supplement describing a change in its occupational safety and health program concerning amendments to the Arizona Occupational Safety and Health Act of 1972. The amendments are based on commitments made to the Occupational Safety and Health Administration before plan approval. This document provides an opportunity for interested persons to comment on the change.

DATES: Comments must be submitted on or before December 22, 1980.

ADDRESS: Submit written data to the Director, Federal Compliance and State Programs, Occupational Health and Safety Administration, 200 Constitution Avenue N.W., Room N3613, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Marjorie N. Sauber, Project Officer, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue N.W., Washington, D.C. 20210 (202) 532–6021.

SUPPLEMENTARY INFORMATION:

Background

The Arizona Occupational Safety and Health Plan was approved under Section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter called the Act) and Part 1902 of this Chapter on October 29, 1974 (39 FR 39037). Part 1953 of this chapter provides procedures for the review and approval of State change supplements by the Assistant Secretary for Occupational Safety and Health (hereinafter called the Assistant Secretary).

Description of Supplements

1. The State passed several amendments to its Occupational Safety and Health Act on August 27, 1977. The amendments are based on commitments made to the Occupational Safety and Health Administration before plan approval and include:

a. A clarification that sanctions shall apply to violations of any provision of the Act, not only to violations of standards (A.R.S. 23–418).

b. A provision that standards or regulations shall assure, as far as possible, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life (A.R.S. 23–410).

c. A clarification that notice of an intended inspection shall not be given prior to the time of actual entry upon the worksite (A.R.S. 23–408).

d. Expanded provisions for the granting of extended abatement periods, including an opportunity for employees to participate in hearings concerning petitions for modification of abatement (A.R.S. 23–417).

e. Clarifications of the definition of "interested party" to include employees (A.R.S. 23–401).

f. Addition of information concerning the Review Board, including personnel and funding (A.R.S. 23–421, 422, 423, 433).

2. The State had also intended to submit an amendment deleting the requirement that a non-serious violation exists "unless the employer did not, and could not with the exercise of reasonable diligence, know of the presence of such condition or practice." (A.R.S. 23–401(9)). However, this legislation was not enacted, and the State is proposing that this amendment not be required. By letter of July 31, 1979, Larry Etchechury, Director of the Arizona Division of Occupational Safety and Health, indicated that the State has had no trouble proving employer knowledge and has not withheld any citations because of lack of employer knowledge. In addition , the State has promised to litigate if a citation for a non-serious violation is challenged on the basis of lack of employer knowledge. The State also promised to seek a legislative change to its Act if monitoring reveals any problems with this provision.

Location of the Plan and Its Supplements for Inspection and Copying

A copy of the supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, N.W., Room N3613, Washington, D.C. 20210; Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 11321, San Francisco, California 94102; and Division of Occupational Safety and Health, Industrial Commission of Arizona, 1601 West Jefferson St., Phoenix, Arizona 85005.

Public Participation

Interested persons are hereby given until December 22, 1980 to submit written data, views and arguments concerning whether the supplement should be approved. Such submissions should be addressed to the Director, Federal Compliance and State Programs, at the above address, where they will be available for inspection and copying.

Any interested person may request an informal hearing concerning the proposed supplement by filing particularized written objections within the time allowed for comments specified above. If, in the opinion of the Assistant Secretary, substantial objections are filed which warrant further public discussion, a formal or informal hearing on the subjects and issues involved may be held.

The Assistant Secretary shall consider all relevant comments, arguments, and requests submitted in accordance with this notice and shall then issue her decision on approval or disapproval of the supplement, make appropriate changes to Subpart CC or Part 1952, and initiate further appropriate proceedings if necessary.

(Sec. 18, Pub. L. 91–596, 84 Stat. 1608 (29 U.S.C 667))

Signed at Washington, D.C., this 13th day of November 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-36444 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Buffalo National River, Ark.; Motor Boat Regulations; Restricted Access to Cave Systems

AGENCY: National Park Service.

ACTION: Proposed rule.

SUMMARY: The first proposed rule will regulate motorboat usage on the Buffalo River. This is necessary because the narrow stream channel, character of river flow, and visitor use patterns will not allow for unregulated use of motorboats at Buffalo National River. The result will be a reduction in conflict among users and the maintenance of the pristine quality of the Buffalo River.

The second proposed regulation will close most of the caves in Buffalo National River and institute a permit system for entry into those which remain open. This will protect the natural resources of the wild cave system and promote the safety of park visitors who may enter them.

DATES: Writtem comments, suggestions, or objections will be accepted until December 22, 1980.

ADDRESS: Comments should be directed to: Superintendent, Buffalo National River, Post Office Box 1173, Harrison, Arkansas 72601.

FOR FURTHER INFORMATION CONTACT: John Welch, Acting Superintendent, Buffalo National River, Telephone: (501) 741–5443.

SUPPLEMENTARY INFORMATION:

Background

The proposed motorboat regulation is being promulgated by the National Park Service to protect visitors and resources within Buffalo National River. This action is also a part of the final master plan and the proposed regulation has undergone public review within the master plan process. As proposed, it will provide for a reduction in visitor use conflict on the rocky, shallower upstream portions of the river where powerboat and hand powered crafts are in conflict. It will reduce the impact of petro chemical pollutants from motorboats on the aquatic fauna and flora of the river and on water quality. It will also enhance the prestine experience of river users by reducing the manmade noise common to motor driven boats.

These same factors are present, but to a lesser degree, for the lower reaches of the Buffalo. On the lower one-third, from approximately U.S. Highway 14 to the mouth at the White River, the flow of the Buffalo increases and the river channel widens. Because of this increased flow and widening of the river canyon, the character of the river allows for limited powerboat usage if motors are restricted in size, i.e., horsepower ratings.

The determination to regulate entry into the wild cave systems at Buffalo National River was based on the following considerations:

1. The recognized responsibility of the National Park Service for visitor safety; and

2. The legislative mandate that the National Park Service conserve and preserve the natural resources of Buffalo National River for future generations.

In developing this regulation, it was recognized that the speleological environment is an exceedingly delicate one and very responsive to human intrusion. The conditions of caves over time and the value of the cave systems are directly affected by human traffic and the actions of these people as they visit these underground resources. Speleothemes removed or destroyed, marks made on the wall, canisters of carbide dumped on the floor—all acts incompatible with protection of the cave resources—are directly related to visitor use. These and other acts of vandalism will persist, if not indefinitely, at least for many years and will detract from the cave's value in every sense.

Protection of the park visitor was another factor considered in establishing this proposed regulation. Visitors often enter these cave systems unprepared to handle the special situations and hazards inherent to wild caves. They may encounter deep pits, mud slides, water traps, interconnected passageways and cold damp environments which increase the potential for hypothermia.

In developing the proposed regulation to protect the caves and visitors, the following specific areas were considered:

1. Protection of the endangered species of Indiana and Gray Bats that use the caves at Buffalo National River for hibernaculums, maternity and swarming purposes;

2. Protection of fragile cave features and rare formations from damage caused by souvenir collectors, vandalism, carelessness and overuse;

3. Protection of visitors from dangerous hazards found in wild cave systems that they may be unprepared or untrained to handle;

4. Maintaining some unique and little used caves as research study areas where research in cave systems can be conducted; and

5. Protection of the archeological and historical resources found in cave systems at Buffalo National River from damage by vandals, artifact collectors, and careless users.

Continuation of unregulated cave entry at Buffalo National River will lead to several adverse impacts:

1. A reduction or elimination of the endangered species of bats and other cave fauna;

2. A reduction in the fragile and rare cave formations; and

3. An increase in visitor accidents associated with cave systems.

In preparing this regulation, the Superintendent has developed a list of caves open to public entry on government lands within the exterior boundaries of Buffalo National River. The caves which are listed as open to the public have been assessed and rated for content and hazards. All caves on the list are rated in classes that permit them to remain open to the public providing certain requirements are met. Persons who plan to explore the cave resources at Buffalo National River are urged to request from the Superintendent copies of free informational materials that describe the caves open to public use and other requirements.

An environmental assesament on this proposed regulation on cave access has been prepared as required by the National Environmental Policy Act of 1969 (83 Stat. 852, 42 U.S.C. 4321 *et seq.*) This assessment is on file at the park headquarters at the address listed above.

Public Participation

expected source of earning the student's livelihood before a veteran or eligible

or objections regarding the proposal to the Administrator of Veterans Affairs

courses. (38 U.S.C. 1682, 1732)

(d) *Application.* (1) Any school

Public Participation

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections regarding the proposed regulation to the address noted at the beginning of the rulemaking. In the interest of brevity and efficiency, the National Park Service is publishing both of these proposed rules together. However, the Service reserves the right to publish either rule separately as a final regulation.

Impact Analysis

The National Park Service has determined that this document is not a significant rule requiring preparation of a regulatory analysis under Executive Order 12044 and Part 14 of Title 43 of the Code of Federal Regulations; nor is it a major Federal action significantly affecting the quality of the environment, which would require preparation of an environmental impact statement.

Drafting Information

The following persons participated in the writing of this regulation; John Turney, former Superintendent, and John Welch, Buffalo National River, Harrison, Arkansas.

Authority: Sec. 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3); 245 DM 1 (44 FR 23384); and National Park Service Order No. 77 (38 FR 7478), as amended.

F. R. Holland Jr.,
Acting Associate Director, Management and Operations.

In consideration of the foregoing, it is proposed to amend Part 7 of Title 36 of the Code of Federal Regulations by the addition of a new § 7.35 (a) and (b) as follows:

§ 7.35 Buffalo National River.

(a) Gasoline, diesel, or other internal combustion engines with a rating of 10 h.p. or less may be used to propel water craft on Buffalo National River from Highway 14 access point to the White River. In all other river locations internal combustion engines are prohibited. The provisions of this paragraph shall not apply to vessels operated for official use by any agency of the United States, the National Park Service and its permittees, the State of Arkansas or its political subdivisions.

(b) (1) All caves located on Federally owned lands within the exterior boundaries of Buffalo National River, Arkansas, except those which are listed as being open, are closed to public entry. This list of open caves is available for public inspection at Park Headquarters at Harrison, Arkansas.

(2) The Superintendent may issue permits for entry into caves or parts of caves for scientific purposes and recreational use.

(3) Entering into any cave system, except as provided for in this section, is prohibited.

[FR Doc. 80-36419 Filed 11-20-80; 8:45 am]
BILLING CODE 4310-70-M

VETERANS ADMINISTRATION

38 CFR Part 1

Privacy Act Exemptions

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: The Veterans Administration is proposing to amend its regulation to permit the implementation of general and specific exemptions of the Privacy Act of 1974. Currently, for example, investigations conducted by the Office of the Inspector General are seriously hampered when the subject of an investigation requests, under the Privacy Act, access to any and all information that the Inspector General has regarding him or her. Amendment of the regulation would allow the Veterans Administration to implement the exemptions for specified Privacy Act systems of records, thereby preventing subjects of an investigation from interfering with or frustrating the investigatory process, preventing disclosure of investigative techniques, and maintaining the Veterans Administrations ability to obtain necessary information from third-party sources by protecting the confidentiality of a source's identity.

DATES: Comments must be received on or before January 21, 1981. It is proposed to make this amendment effective the date of final approval.

ADDRESSES: Send written comments to Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420. All Written comments received will be available for public inspection only at the Veterans Administration Central Office, Veterans Services Unit in room 132 of the above address between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until February 5, 1981.

FOR FURTHER INFORMATION CONTACT: Gina Y. Abate (202-389-3431 or 389-3928).

SUPPLEMENTARY INFORMATION: Sections 552a(j) and (k), Title 5, United States Code, provide that the head of an agency may exempt any system of records from specific provisions of the Privacy Act of 1974. The Veterans Administration has several law enforcement systems of records which warrant the protection afforded by §§ 552a (j) and (k). However, the current VA Regulation 582 does not permit the Veterans Administration to utilize either exemption. Specifically, under § 552a(j)(2), the agency would be exempt from disclosing identification information, criminal investigative materials, and reports compiled between the stages of arrest and release from the agency's supervision. Under § 552a(k), the agency could refuse individual access to the accounting of its routine use disclosures, and under an express promise of confidentiality withhold the identity of a source. The agency would also be exempt from the requirements for publication of procedures for individual access and amendment, records source categories and the maintenance requirement for accuracy and relevancy of files. In order that the Veterans Administration may implement §§ 552a (j) and (k) of Title 5, U.S.C. for specific systems of records, VA Regulation 582 is being amended.

APPROVED: November 17, 1980.

By direction of the Administrator:
Rufus H. Wilson,
Deputy Administrator.

In 38 CFR Part 1, § 1.582 is revised to read as follows:

§ 1.582 Exemptions.

Certain systems of records maintained by the Veterans Administration are exempted from the provisions of the Privacy Act in accordance with exemptions (j) and (k). (5 U.S.C. § 552a(j) and (k)). The system of records which are in the (j) and (k) exemptions are identified in the VA Privacy Act system of records notice.

(38 U.S.C. 210(c))

[FR Doc. 80-36390 Filed 11-20-80; 8:45 am]
BILLING CODE 8320-01-M

38 CFR Part 21

Veterans Education; Farm Cooperative Courses

AGENCY: Veterans Administration.

ACTION: Proposed regulation.

SUMMARY: The proposed regulation states that a veteran pursuing a farm cooperative course must be engaged in relevant agricultural employment requiring an average of at least 40 hours of activity per week. Previously Veterans Administration policy required that agriculture be the principal expected source of earning the student's livelihood before a veteran or eligible person could receive educational assistance allowance for enrolling in a farm cooperative course. This policy has been criticized by some who state that it is possible for a farmer to work full time on his or her farm and still have an off-farm income greater than his or her farm income. This proposal responds to this criticism by basing the determination on whether an individual is a farmer solely on the individual's weekly agricultural efforts.

DATES: Comments must be received on or before December 22, 1980. It is proposed to make this proposal effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until January 2, 1981.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, 202-389-2092.

SUPPLEMENTARY INFORMATION: Section 21.4264 is amended to eliminate references to the principal source of earning a livelihood for a veteran or eligible person in a farm cooperative course and to substitute a reference to the student's average weekly agricultural effort.

This proposal does not meet the Veterans Administration's established criteria for significant regulations. They will have little effect on schools. The proposal will not require schools to make additional reports. The proposal will have no effect, either direct or indirect, on businesses, the general public, the environment, or State and local governments. There will be no costs to businesses or to educational institutions caused by this proposal. The proposal will have no effect on other programs or agencies. The proposal will affect some veterans, but the effect will be beneficial since it will allow them to receive educational assistance allowance for which they may not have qualified otherwise.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until January 2, 1981. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: November 17, 1980.

By direction of the Administrator.
Rufus H. Wilson,
Deputy Administrator.

Therefore, the Veterans Administration proposes to amend 38 CFR Part 21 by revising § 21.4264 to read as follows:

§ 21.4264 Farm cooperative courses.

(a) *Description of a farm cooperative course.* A farm cooperative course is an institutional agricultural course. It provides training on a reduced basis to those engaged in farming, compared to other types of training. Part-time benefits are provided for students whose farming operation will not permit them to attend class at least 10 hours per week. (38 U.S.C. 1682; 1732)

(b) *Farm cooperative students must be farmers.* In order to receive educational assistance allowance a veteran or eligible person must be engaged concurrently in agricultural employment for an average of at least 40 hours per week. This agricultural employment must be relevant to the farm cooperative course. (38 U.S.C. 1682; 1732)

(c) *Acceptable class schedules.* (1) The institutional portion of a farm cooperative course—

(i) May be on a term, quarter or semester basis, or

(ii) May consist of courses which—

(A) Are offered during at least 44 weeks of the year, and

(B) Require a minimum of 5 clock hours per week.

(2) The time involved in field trips and individual and group instruction, sponsored and conducted by the educational institution offering farm cooperative courses may be counted toward meeting the clock-hour requirements. See § 21.4270(b) for measurement of farm cooperative courses. (38 U.S.C. 1682, 1732)

(d) *Application.* (1) Any school desiring to enroll veterans, spouses or children in farm cooperative courses—

(i) Will submit to the appropriate State approving agency a written application for approval in accordance with § 21.4253 or § 21.4254 as appropriate; and

(ii) Must submit statements of fact showing at least the following:

(A) That the course is set up in the school catalog or other literature of the school;

(B) That the agricultural course is offered concurrently with agricultural employment; and

(C) That the school itself verifies on a continuing basis that students are engaged for an average of at least 40 hours per week in suitable agricultural employment which is relevant to the institutional agricultural course offered by the school and is in an area consistent with their institutional training program.

(2) For the purposes of this paragraph suitable agricultural employment must include employment on a farm or other agricultural establishment where the basic activity is either—

(i) The cultivation of the ground such as the raising and harvesting of crops including fruits, vegetables and pastures, or

(ii) The feeding, breeding and managing of livestock, including poultry and other specialized farming.

(3) The Veterans Administration does not consider employment in training establishments which are engaged primarily in the processing, distribution or sale of agricultural products or combinations thereof, such as dairy processing plants, grain elevators, packing plants, hatcheries, stockyards or florists shops to be suitable agricultural employment. (38 US.C. 1682, 1732)

(e) *Approval criteria.* The appropriate State approving agency may approve the school's application when the agency finds upon investigation that the school and its courses have met the following conditions:

(1) The criteria specified in § 21.4253 or § 21.4254, as appropriate; and

(2) The requirements of paragraph (d) of this section. (38 U.S.C. 1682; 1732)

[FR Doc. 80-36391 Filed 11-20-80; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

months after promulgation of a NAAQS each state shall submit a SIP revision

EPA's Proposed Actions

revise its lead monitoring system to

of that order, or whether it may follow,

the state submission and the EPA

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-7-FRL 1676-3]

Approval and Promulgation of Implementation Plans: State of Iowa; State Implementation Plan for Lead

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the Iowa State Implementation Plan (SIP) have been submitted to the Environmental Protection Agency (EPA) by the Governor's designee. The intended effect of these revisions is to provide for the attainment and maintenance of the National Ambient Air Quality Standard (NAAQS) for lead in Iowa. EPA is proposing to approve the revisions with exceptions. These minor deficiencies are discussed in the "Proposed Actions" section. EPA will work with the Iowa Department of Environmental Quality to correct these deficiencies.

The EPA invites public comments on these revisions, the identified deficiencies, and the consistency of the revisions with respect to the attainment of the lead NAAQS and other requirements of the Clean Air Act.

DATES: Comments must be received by January 21, 1981.

ADDRESSES: Comments should be sent to: Ken Greer, Air Support Branch, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

Copies of the proposed revisions are available for public inspection during normal business hours at the above address and at the following locations:

Public Information Reference Unit, Environmental Protection Agency, Room 2922, 401 M Street SW., Washington, D.C. 20460.

Iowa Department of Environmental Quality, Henry A. Wallace Building, 900 East Grand, Des Moines, Iowa 50316.

FOR FURTHER INFORMATION CONTACT: Ken Greer at (816) 374-3791 (FTS) 758-3791.

SUPPLEMENTARY INFORMATION:

Background

On October 5, 1978, a NAAQS for lead was promulgated by the EPA. The standard was set at a level of 1.5 micrograms of lead per cubic meter of air ($\mu g\ Pb/m^3$), averaged over a calendar quarter. As required by section 110(a)(1) of the Clean Air Act Amendments of 1977, within nine months after promulgation of a NAAQS each state shall submit a SIP revision which provides for attainment and maintenance of the NAAQS within the state. The state of Iowa has developed and submitted a SIP for the attainment of the lead NAAQS. The basic requirements of a lead SIP are outlined in 40 CFR Part 51, Subpart E (43 FR 46264, October 5, 1978). These provisions require the submission of air quality data, emission data, air quality modeling, a control strategy, and a demonstration that the lead NAAQS will be attained within the time frame specified by EPA according to the Clean Air Act. The deadline for attainment, as stated in the lead standard final rulemaking (43 FR 46246, October 5, 1978), is no later than October 31, 1982.

Description of Proposed SIP Revision

On August 19, 1980, the Iowa Department of Environmental Quality submitted, on behalf of the Governor, the state SIP for attainment of the NAAQS for lead. The SIP includes the following.

(1) A summary of air quality data measured since 1974, a description of the methods used to collect the data, and an evaluation of the reliability of the data. No monitored exceedences of the lead NAAQS has been observed in Iowa since 1974.

(2) A baseline emission inventory for all point sources emitting five or more tons of lead per year in Iowa, including a mobile source inventory.

(3) A summary of projected lead emissions for point and area sources to 1983.

(4) Air quality modeling around the two major point sources of lead within Iowa, two lead-acid battery plants. The modeling shows no exceedences of the lead NAAQS through late 1982 and early 1983.

(5) A demonstration that the lead NAAQS will be attained and maintained around the two lead-acid battery plants.

(6) A demonstration that mobile sources will not cause an exceedence of the lead NAAQS within the state.

(7) A description of the control strategy for attaining and monitoring the lead NAAQS throughout Iowa.

(8) A description of the Iowa regulations for new source review.

(9) A description of the Iowa regulations for insuring maintenance of the lead NAAQS.

(10) A commitment to do long-term monitoring around the lead-acid battery plants.

(11) A description of the opportunities that the public had to comment on the lead SIP.

EPA's Proposed Actions

After evaluating the Iowa lead SIP as to whether it meets all requirements for an approvable lead SIP, EPA proposes to approve the plan. Minor deficiencies do exist in the SIP, and EPA requests the Iowa Department of Environmental Quality to correct these deficiencies.

One deficiency of the SIP submittal is the date of attainment of the lead NAAQS. The SIP provides for an attainment date in 1983. This date is erroneously based on the assumption that the attainment date should be three years from actual EPA approval/disapproval of the SIP. The attainment date should be October 31, 1982, three years from the statutory approval/disapproval date of October 31, 1979. this time frame was set forth in the October 5, 1978 **Federal Register** notice promulgating the NAAQS for lead (43 FR 46246). Since the SIP demonstrates that the State is presently in attainment and projects attainment through 1983, the difference in attainment dates (October 1982 vs. 1983) in this situation is not grounds for disapproval of the SIP. EPA requests Iowa to correct the attainment date in the lead SIP to read October 31, 1982 and submit the correction to EPA before EPA's final action on the Iowa lead SIP.

A second deficiency of the SIP concerns review of new sources of lead. This deficiency, which applies to all criteria pollutants, was noted in a previous rulemaking published on March 6, 1980 at 45 FR 14565. the State of Iowa has committed to revising their new source review regulations by December 31, 1980. These regulations must provide for review prior to construction or modification of new sources with an estimated emission rate of 5 tons of lead or more per year. The procedure must also provide for 30 days notice for the public to review the State's proposed actions before the final approval/disapproval of new source permits. EPA requests that the State submit information showing these deficiencies have been corrected before final acton is taken on the Iowa lead SIP.

Other deficiencies of the SIP submittal concern the monitoring sites used for lead monitoring, and part of the modeling done for the lead-acid battery plants. The SIP reports that most of the State sampling sites do not meet the currently proposed EPA siting criteria for lead monitoring, since the State's sites were selected before the criteria was formulated. Any future lead monitoring should be conducted at sites which conform to the EPA criteria for lead sites. EPA requests that the State revise its lead monitoring system to conform to the EPA guidelines for long-term monitoring for lead. The State should submit the revisions to EPA in writing within nine months of the date that the final guidelines for lead monitoring are published.

The State mentions that problems were encountered in the modeling of the lead-acid battery plants. Discrepancies were encountered between the EPA emission factors and stack test information obtained by the State at one of the lead-acid battery plants. Also, there is a question as to the proper method to extrapolate modeled 24 hour averages for lead to quarterly averages. The modeling done by Iowa does not show any exceedances of the lead NAAQS around the lead-acid battery plants. Since the State has committed to further modeling and additional monitoring around the two lead-acid battery plants, EPA considers these deficiencies as resolvable through continued work between the State and EPA. If, after additional modeling and monitoring, exceedances of the standard are predicted or observed, revisions to the Iowa SIP for control measures will be requested by EPA.

Public Comments

Under Section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region VII Office. Comments received on or before February 19, 1981, will be considered. Comments received will be available for public inspection at the EPA Region VII Office and at the locations listed in the Addresses Section of this notice.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of State Implementation Plans.

The Iowa Department of Environmental Quality has certified, and EPA has confirmed that the public hearing requirements of 40 CFR 51.4 have been met.

Under the Executive Order 12044, EPA is required to judge whether or not a regulation is "significant" and therefore subject to the procedural requirements of that order, or whether it may follow, other specialized development procedures. EPA labels these other regulations "specialized." EPA has determined that this regulation is a specialized regulation and not subject to the procedural requirements of Executive Order 12044.

(Sec. 110, 301(a) Clean Air Act as amended (42 U.S.C. 410 and 7610(a)))

Dated: November 3, 1980.

Kathleen Camin,

Regional Administrator.

[FR Doc. 80-36374 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-26-M

40 CFR Part 52

[A-7-FRL-1676-8]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: In order to satisfy the requirements of Part D of the Clean Air Act, as amended, the State of Missouri revised its State Implementation Plan (SIP) in 1979. On April 9 and on May 9, 1980, EPA conditionally approved certain elements of Missouri's plan. On September 9, 1980, the State submitted documentation that two of these conditions have been fulfilled. These conditions involve a schedule for implementing an inspection and maintenance (I/M) program for vehicle emissions control and a commitment involving the adoption of difficult transportation control measures (TCMs). On August 7, 1980, EPA published regulatory changes affecting new source review in nonattainment areas. A third condition, involving the definition of potential emissions, has been addressed by EPA's new source permit regulations.

On September 24, 1980, EPA published a Notice of Receipt to advise the public that the State of Missouri has made a submission involving these conditions. The conditional approval of the SIP was continued in that action.

This notice advises the public that EPA proposes to approve the Missouri submission. Interested persons are invited to submit comments on this proposal.

DATES: Comments must be received before December 22, 1980.

ADDRESS: Comments should be sent to Mr. Wayne G. Leidwanger, Air Support Branch, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106. Copies of the state submission and the EPA prepared rationale document are available at the above address. They are also available at the following locations:

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65102

FOR FURTHER INFORMATION: Contact Wayne G. Leidwanger at 816-374-3791 (FTS 758-3791).

SUPPLEMENTARY INFORMATION:

On April 9, 1980, EPA conditionally approved certain elements of Missouri's SIP with regard to the requirements of Part D of the Clean Air Act, as amended. A detailed discussion of that action can be found in the **Federal Register** notice published on that date (45 FR 24140).

A. Inspection/Maintenance Program

Section 172(b)(11) of the Act is applicable only in the case of ozone and carbon monoxide nonattainment areas which have been granted an extension beyond December 31, 1982, to attain the standards. The St. Louis area was granted an extension by EPA until December 31, 1987, as discussed in the April 9 notice. Section 172(b)(11)(B) of the Act requires that the SIP establish a specific schedule for implementation of a vehicle emission control inspection and maintenance (I/M) program. I/M refers to a program whereby motor vehicles receive periodic inspections to assess the funtioning of their exhaust emission control systems. Vehicles which have excess emissions must then undergo mandatory maintenance.

EPA has issued guidance on the general criteria for SIP approval including specific criteria for I/M programs. This includes a July 17, 1978, memorandum specifying interim milestones in accordance with the general requirement of 40 CFR 51.15(c) requiring increments of progress for compliance schedules over one year in length. (For additional references regarding SIP approvability the reader should consult the April 9 rulemaking.) Among other items, a specific schedule for implementing and I/M program, including interim milestones, must be included in the SIP. The Missouri SIP did not establish such a schedule. As a result, one of the conditions promulgated by EPA on April 9 required the State to develop by August 31, 1980, a schedule which will be followed to lead to a mandatory I/M program. On September 9, 1980, the State submitted an I/M program schedule.

EPA believes the schedule submitted

calculating annual emissions. At the

Part D and Section 110(a)(2) of the Clean

5. Criteria and procedures for making changes to transportation studies

summarized in an EPA notice of proposed rulemaking which was

(i) Freight Transportation,
(ii) Express Bus and Carpool Lanes,

EPA believes the schedule submitted by Missouri for the I/M program in the St. Louis area complies with EPA policy. The schedule includes the major milestones which will lead to a mandatory I/M program.

Proposed Action

EPA proposes to approve the I/M schedule as part of the Missouri SIP and to revoke the applicable condition.

B. Transportation Control Measures

Section 172(b)(11)(C) of the Act requires the SIP to identify other measures necessary for attainment of the air quality standards. This includes transportation control measures (TCM's) as referenced in Section 110(a)(3)(D). The Missouri SIP includes emission reductions for TCM's in the St. Louis area. The East-West Gateway Coordinating Council (EWGCC) is the designated lead planning agency for the St. Louis region and has the required legal authority to develop transportation plans. Although EWGCC is committed to an analysis of alternative TCM's, the SIP did not provide a commitment to justify any decision not to adopt difficult control measures. Section 108(f) lists measures which EPA believes are reasonably available. Consequently, in the April 9 rulemaking, EPA promulgated a condition requiring that EWGCC provide by August 31, 1980, a commitment to justify any decision not to adopt difficult control measures.

On June 25, 1980, the EWGCC Board of Directors adopted a resolution to comply with the above condition. The state submitted it as a SIP revision on September 9, 1980. EPA believes the resolution provides the necessary commitment regarding difficult TCM's.

Proposed Action

EPA proposes to approve the commitment by EWGCC as part of the Missouri SIP and to revoke the applicable condition.

C. New Source Review in Nonattainment Areas

On May 9, 1980 (45 FR 30626), EPA promulgated final rulemaking on Missouri's regulations for the review and permitting of new of modified sources of air pollutant emissions in nonattainment areas. One of the conditions for approving these regulations was that the state change the definition of potential emissions to be consistent with EPA's definition by March 1, 1981. The state definition allows sources to include enforceable permit conditions on operating rates and hours of operation and to include air pollution control equipment in calculating annual emissions. At the time of the May 9 rulemaking, EPA had both an existing and a newly proposed definition of the term and the state definition was not consistent with either. (A detailed explanation is given in the May 9 Federal Register notice.)

On August 7, 1980, EPA published regulatory changes affecting new source review in nonattainment areas (45 FR 52676). A final definition of potential emissions was promulgated (amended § 51.18(j)(1)(iv). That definition included the provisions similar to those previously adopted by the State of Missouri. However, EPA's definition states that any physical or operational limitation taken into consideration in determining potential emissions must be Federally enforceable. The Missouri regulation states only that "enforceable permit conditons" may be considered. The Missouri regulation might allow consideration of physical or operational limitations, such as operating permit conditions, which would not be Federally enforceable. EPA believes that the Missouri definition of potential emissions is consistent with EPA's definition and that the condition promulgated on May 9 has been met. However, EPA is soliciting comments regarding the above issue, specifically, whether the regulation is approvable as written, or whether some remedial action by EPA is appropriate.

Proposed action

EPA proposes to revoke the condition concerning Missouri's definition of potential emissions.

D. Conclusion

There are other conditions promulgated by EPA which must be addressed by the State before the Missouri SIP can be fully approved. Until all conditions are met, conditional approval of the SIP will continue.

The public is invited to submit comments on whether the Missouri submission should be approved as a revision to the SIP and whether the applicable conditions have been met. A notice of receipt was published in the Federal Register on September 24, 1980 (45 FR 46826), at which time the public was advised of the submission. With the publication of the notice of receipt and the 30-day comment period allowed on this proposed rulemaking, 60 days will have been allowed for public inspection and comment on the Missouri SIP revision.

The Administrator's decision to approve or disapprove will be based on comments received and on a determination of whether the amendments meet the requirements of Part D and Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and, therefore, subject to the procedural requirements of the Order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized."

I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act as amended.

Dated: October 20, 1980.

Kathleen Camin,

Regional Administrator.

[FR Doc. 80-36460 Filed 11-20-80; 8:45 am]

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40 CFR Part 52

[A-2-FRL 1676-5]

Proposed Revision to the New York State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On May 21, 1980 (45 FR 33981) the Environmental Protection Agency (EPA) promulgated partial conditional approval of the New York State Implementation Plan (SIP) for the New York City metropolitan area (New York City and Nassau, Suffolk, Westchester, and Rockland Counties) with regard to its ability to meet the requirements of Part D of the Clean Air Act. Today's notice discusses six of the conditions of EPA's approval and announces EPA's intent to find the provisions of the conditions met. These conditions required the State to submit to EPA on or before August 1, 1980:

1. Key milestones associated with projects relating to transportation control measures which are part of the SIP;
2. An improved program of study for the broader application of certain transportation control measures, and supplemental information on existing studies;
3. Additional documentation necessary to determine the reasonableness of the measure, "Controls on Extended Vehicle Idling;"
4. Criteria and procedures for making changes to transportation projects contained in the SIP;

5. Criteria and procedures for making changes to transportation studies contained in the SIP; and

6. The identification of the resources necessary to carry out the transportation planning process and certain transportation elements of the SIP.

The State made its submission in response to these requirements on July 28, 1980.

DATES: Comments must be received by January 21, 1981.

ADDRESSES: Written comments should be submitted to:

Charles S. Warren, Regional Administrator, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278

Copies of the submittal are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Air Programs Branch, Room 1005, Region II Office, 26 Federal Plaza, New York, New York 10278

U.S. Environmental Protection Agency, Central Docket Section, Waterside Mall, Room 2903B, 401 M Street, S.W., Washington, D.C. 20460

New York State Department of Environmental Conservation, Region 1, SUNY, Building 40, Stony Brook, New York 11790

New York State Department of Environmental Conservation, Region 2, 2 World Trade Center, 61st Floor, New York, New York 10047.

New York State Department of Environmental Conservation, Region 3, 211 South Putt Corners Road, New Paltz, New York 12561.

New York State Department of Environmental Conservation, Region 3, 202 Mamaroneck Avenue, White Plains, New York 10601.

New York State Department of Transportation, 1220 Washington Avenue, Building 5, Room 115, State Campus, Albany, New York 12232.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION:

I. Introduction

On May 21, 1980 (45 FR 33981) the Environmental Protection Agency (EPA) promulgated conditional approval of parts of the New York State Implementation Plan (SIP) with regard to their ability to meet requirements of Part D of the Clean Air Act. The contents of these parts of the SIP and the history of their development are summarized in an EPA notice of proposed rulemaking which was published in the Federal Register on December 10, 1979 (44 FR 70754). In addition, with regard to other parts of the plan concerning public transportation improvement measures, the reader is referred to an EPA notice of proposed rulemaking published on June 30, 1980 (45 FR 43794). Generally, the SIP contains regulations and other control measures aimed at attainment of the ozone and carbon monoxide national ambient air quality standards and public transportation improvement measures necessary to meet basic transportation needs. These measures were to be supported by plans, programs, projects, studies and other actions needed to ensure the development, and implementation of various measures to reduce motor vehicle emissions.

In its review of the SIP, EPA found that the plan did not provide adequate administrative and technical procedures and other documentation necessary to ensure its further development and implementation. These shortcomings were identified in EPA's December 10, 1979 Federal Register proposal; the additional information necessary to correct them was identified in the following conditions on SIP approval promulgated by EPA in its May 21, 1980 Federal Register notice at 40 CFR 52.1674(e)(1), (2), (3), (5), (6), and (7):

(e)(1). On or before August 1, 1980 the State must submit to EPA key milestones (actions and dates) associated with projects relating to the transportation control measures which are a part of its SIP. Measures which have a particular need for the identification of additional milestones with regard to their proposed actions include:

(i) Parking Restrictions,
(ii) Freight Transportation,
(iii) Limitation on Authorized Parking,
(iv) Bike Lanes (Demonstration Project),
(v) Express Bus and Carpool Lanes,
(vi) Pedestrian Priority Zones,
(vii) Traffic Flow Improvements for Arterials,
(viii) Traffic Flow Improvements for Limited Access Highways,
(ix) Employer Based Programs,
(x) Private Car Restrictions,
(xi) Alternate Work Schedules,
(xii) Bicycle Lanes and Storage Facilities, and
(xiii) Park and Ride and Fringe Parking.

(e)(2). On or before August 1, 1980 the State must submit to EPA an improved program of study for the broader application of the following measures:

(i) Freight Transportation,
(ii) Express Bus and Carpool Lanes,
(iii) Pedestrian Priority Zones,
(iv) Employer Based Programs,
(v) Private Car Restrictions,
(vi) Alternate Work Schedules,
(vii) Bicycle Lanes and Storage Facilities.

In addition, each new and existing study's schedule, its funding source, its anticipated products, its relationship to measures, projects and other studies, and procedures for tracking its progress and reporting on its findings must be submitted to EPA.

(e)(3). On or before August 1, 1980, the State must submit to EPA additional documentation to support its determination that the measure, "Controls on Extended Vehicle Idling," is not reasonably available. If such additional documentation cannot be provided, this measure must be recategorized.

(e)(5). On or before August 1, 1980 the State must submit to EPA SIP revision criteria and procedures for making changes to transportation projects contained in the SIP. Criteria for "significant" change to a project should consider the degree of change in a project's scope, cost, schedule for implementation and status as to its "reasonableness." SIP revision procedures should provide for changes to a measure's categorization and the failure to include a project in the Transportation Improvement Program.

(e)(6). On or before August 1, 1980 the State must submit to EPA SIP revision criteria and procedures for making changes to transportation studies contained in the SIP.

(e)(7). On or before August 1, 1980 the State must submit to EPA identification of the resources necessary to carry out the transportation planning process and the following transportation elements of the SIP:

(i) Parking Restrictions,
(ii) Freight Transportation,
(iii) Heavy Duty Gasoline Truck Retrofit,
(iv) Express Bus and Carpool Lanes,
(v) Pedestrian Priority Zones,
(vi) Traffic Flow Improvements for Arterials,
(vii) Employer Based Programs,
(viii) Park-and-Ride and Fringe Parking,
(ix) Alternate Work Schedules.

On July 28, 1980, the Commissioner of the New York State Department of Environmental Conservation (NYSDEC) responded to these conditions.

II. State Submittal

The State's July 28, 1980 submittal provides information related to

transportation control measures contained in the SIP for the New York City metropolitan area. The submittal consists of: A transmittal letter to EPA; a July 29, 1980 letter with attachments from the Tri-State Regional Planning Commission (Tri-State) to the NYSDEC containing information in response to conditions (e)(1), (2), (3), (6) and (7); an August 1, 1980 document prepared by the New York State Department of Transportation (NYSDOT) entitled, "Item #1 SIP Commitments: Status of Projects" which addresses condition (e)(1), a document prepared by the NYSDOT in response to condition (e)(5) regarding SIP revision criteria and procedures for changing projects; and an August 5, 1980 memorandum from the NYSDEC containing a page inadvertantly excluded from the July 28, 1980 submittal. The following sections summarize the information presented in these documents and provide EPA proposed findings as to their adequacy with regard to each condition:

A. *Key milestones associated with projects relating to transportation control measures which are part of the SIP* (condition (e)(1)).

1. Content

The State submittal with regard to this condition consists of a document prepared by the NYSDOT entitled "Item #1 SIP Commitments: Status of Projects" and a letter from Tri-State. The NYSDOT document consists of a brief discussion of the transportation project development process and the milestones that have been selected to implement and measure progress of the various projects contained in the SIP. Estimated milestone completion dates for each project in the SIP for which the NYSDOT is responsible are also provided. The NYSDOT notes that it is committed to implementing SIP projects, but it asserts that, due to unforseen circustances, it might not be possible to meet all completion dates. The criteria and procedures that will be followed if a date is not met are described in the discussion of condition (e)(5) relating to SIP revision.

The NYSDOT uses a slightly different set of milestones for projects than the milestones suggested by EPA in its December 10, 1979 **Federal Register** notice. Those projects for which NYSDOT has responsibility do not include the EPA suggested financial milestone concerning the date that the project would be included in the State's Section 105 grant submission to the Federal Highway Administration. The State claims that, while the Section 105 program generally is a more accurate means of tracking projects than the region's Transportation Improvement Program, it is not as good a means of tracking most of the SIP projects. Various reasons are given to support this claim.

The NYSDOT projects also do not include the financial milestone calling for the date of inclusion of a project in State and local budgets. The NYSDOT document notes that, with the exception of some park-and-ride projects and the Westchester County vanpool project, SIP projects do not necessarily require local matching funds. Therefore, the State contends that the appearance of these projects in a local budget is not necessary for implementation. Regarding the State budget, highway projects are not listed individually but are included as lump sum amounts for different types of projects. For highway projects it is State policy to match all federal money available with State funds.

The information relating to this condition contained in the Tri-State letter relates to SIP projects for which agencies other than NYSDOT have responsibility. The material does not provide any discussion concerning the development, selection, and planned utilization of the milestones. Project milestones are provided but some EPA suggested milestones are not used for all transportation control measures.

Table 1 presents milestones and completion dates as contained in the submittal for permanent and demonstration projects.

2. Adequacy

EPA's review focused on whether or not suitable milestones were provided for SIP projects. Generally, the milestones submitted by the State are adequate for use as a guide in implementing projects and for tracking their implementaion progress. However, milestones for some projects were missing from the State submittal. This information should be provided to EPA during the public comment period. The State should also be aware that as work towards project implementation proceeds, milestones might need to be refined or created.

B. *An improved program of study for the broader application of certain transportation control measures and other improvements to the study program* (condition (e)(2)).

1. Content

The State submittal with regard to this condition consists of:

- A brief description outlining the process by which the improved program of study was developed;
- A brief description of how the existing program of study will be used to develop additional studies for the broader application of control measures;
- A summary of new studies or previously proposed studies for which EPA Section 175 or Urban Mass Transportation Administration Section 8 funds have been allocated; and
- The New York State air quality program schedule for development of the required July 1, 1982 SIP revision. The new studies included in the SIP for each measure are listed in Table 2.

In addition to developing a program of study for the broader application of control measures, the condition required the submittal of additional information on studies contained in the 1979 SIP revision. The State submittal provides some additional information about the existing studies.

2. Adequacy

A program of study for the broader application of certain transportation control measures is critical for developing the 1982 SIP revision. Studies also are essential for determining a measure's "reasonableness" and opportunities for its application beyond those contained in the 1979 SIP revision. Based on review of the State submittal, EPA proposes to find the program of study for the broader application of measures to be adequate.

The State's improved program of study is not a final program but, in part, calls for the utilization of results of studies which are underway or proposed in order to determine where further study is needed. Although this approach is acceptable, the State submittal could have been more comprehensive. For example, the State could have added to the SIP several existing and proposed transportation studies contained in the area's Unified Planning Work Program because of their ability to lead to the broader application of control measures. Also, most of the studies included in the submittal are not really "new" but were previously included in the SIP. Thus, EPA questions their inclusion in this table of "new" studies. In addition, several of the studies have completion dates in 1982. EPA questions how these studies will be used for preparation of a timely 1982 SIP revision.

Except for information on how some existing studies will be used to identify new study needs, the State's submittal does not provide information on their anticipated products and their relationship to control measures, projects and other studies. Moreover, some studies have progressed since the 1979 SIP revision was prepared. This should have enabled the State to develop supplemental study milestones for determining the reasonableness of application of control measures. For example, as part of a capacity management study being performed by the New York City Department of Transportation a demonstration project is soon to be implemented on the East River Crossings. The milestones related to this demonstration project and follow-up activities should be developed. EPA understands that work is being performed to obtain additional information on this and other studies and encourages the State to submit this information to EPA during the public comment period so that it may be incorporated into the SIP.

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Table 1. Project Milestones and Implementation Dates

Measure	Milestone	Implementation Date
A. Land Use and Development Controls		
Permanent Projects (New York City):		
1. Zoning revision for off-street parking restrictions in Manhattan central business district	Amend and implement zoning ordinance. Comment: During the last quarter, numerous meetings have been held to negotiate the proposed zoning text amendment for off-street parking with all interested parties. The amendment is being revised in accordance with the federal district court order requirements. Parties to the lawsuit have agreed to an extension of the deadline for implementation in order to finalize the zoning amendment on off-street parking.	Estimated implementation date to be available shortly.
2. Repeal all parking restrictions under 6 NYCRR Part 203 (in Manhattan after zoning revision)	(i) Prepare revision to Part 203. (ii) Prepare hearing notice for (iii) State Bulletin and newspapers. (iv) Publish hearing notice in State Bulletin and newspapers. (v) Hold public hearing. (vi) Hearing Officer prepare report and revised rule for submittal to Environmental Board. (vii) Environmental Board approval File with Secretary of State and Legislature. (viii) Submit to EPA.	Elapsed time after zoning amendment is made (measure A.1): (i) 1 month (ii) 1 month (iii) 2 months (iv) 3 months (v) 4 months (vi) 5 months (vii) 6 months (viii) 6 months
Demonstration Projects: None		

Measure	Milestone	Implementation Date
B. Parking Restrictions		
Permanent Projects (New York City):		
1. Reduction of legal on-street parking space in Midtown core	Reduction of parking space	Implemented
2. Referral procedures for out of state violators	Not provided	Not provided
3. Seek scofflaw vehicle transfer restriction	Not provided	Not provided
4. Seek legislation to control scofflaw vehicles	The City of New York has sought sponsors for and actively supported several pieces of legislation to fulfill this requirement during the 1979 and 1980 State legislative sessions. If unsuccessful this year, the City will again seek passage of the necessary legislation next year.	1980, 1981
Demonstration Projects (New York City):		
1. Reduction of parking in Downtown and Midtown Manhattan	(i) Removal of authorized parking from 5th Avenue. (ii) Removal of authorized parking from Madison Avenue. (iii) Removal of authorized parking in Lower (Downtown) Manhattan in conjunction with the Lower Manhattan Transportation Management Study.	(i) Implemented (ii) October 1980 (iii) Planning underway, no implementation date provided

Measure	Milestone	Implementation Date
C. Freight Transportation		
Permanent Projects (New York City):		
1. Trailer on Flat Car (TOFC) terminal at Hidge Bridge with increased clearances to the north		
a. TOFC Terminal	(i) Completion of Draft Environmental Impact Statement	(i) June 1981
	(ii) Preparation of Final Environmental Impact Statement and Design Approval	(ii) December 1981
	(iii) Completion of Right of Way Acquisition	(iii) December 1982
	(iv) Completion of Plans, Specifications and Estimates	(iv) June, 1983
	(v) Beginning of Construction	(v) January 1983
	(vi) End of Construction	(vi) June 1985
	Comment:	
	The Oak Point Link is estimated to cost between $40 and $65 million in 1980 dollars depending upon the specific routing selected. Funds already committed to the project include $37.25 million budgeted by the Port Authority of New York and New Jersey and $12 million authorized by the New York State Legislature under the 1979 Energy Conservation through Improved Transportation Bond Act. If the existing funds committed are insufficient to complete this project, the New York State Department of Transportation will seek the funds needed from a variety of additional sources such as Conrail, and the Federal Railroad Administration.	
b. increased clearances	Milestones to provide adequate clearances for the 18 bridges provided.	All clearances will be completed by 1982.
2. Rail link to Brooklyn Waterfront	Establish rail link	Implemented
3. Designation of truck routes	Not provided	Not provided
Demonstration Projects: None		
D. Express Bus and Carpool Lanes		
Permanent Projects (New York City):		
1. Fulton Street transitway	(i) Inclusion in Transportation Improvement Program	(i) 1980
	(ii) Inclusion in state and local budgets	(ii) 1980
	(iii) Endorsement by principal elected officials:	(iii) 1980
	(iv) Endorsement by Transportation Coordinating Committee(s):	(iv) 1980
	(v) Presentation to community or borough boards:	(v) 1980
	(vi) Completion of preliminary engineering studies:	(vi) Not available
	(vii) Initiation of construction:	(vii) 1980-1981,
	(viii) Completion of construction or implementation	(viii) Not available

Measure	Milestone	Implementation Date
2. Continue Increased Level of Enforcement of Express Bus Lanes on Manhattan CBD Streets	Increased enforcement	Implemented
3. Improve bus lane signing on Manhattan Streets	Improved signing	Implemented
4. Rehabilitate FDR Drive	Completion of construction for all improvements	December 1982
5. Rehabilitate upper level of Queensboro Bridge	Comment:	February 1981
	Rehabilitation of the Upper Level of the Queensboro Bridge would allow its use by buses which are currently restricted to the lower level where traffic often moves more slowly. The May, 1979 SIP called for the rehabilitation of the upper level of the Queensboro Bridge to begin but gave no date by when this project would be completed.	
	In late 1979 when the control measures were evaluated it was believed that the upper level could be rehabilitated for $18,000,000 and that it might be possible to begin work on this project during 1980. However, an April 1980 review by NYSDOT and its engineering consultant has indicated that the Queensboro Bridge is in a far more deteriorated condition than has been believed previously. As a result	

Measure	Milestone	Implementation Date
	of this review, the cost estimate for rehabilitation of the bridge has increased from $30,000,000 to $120,000,000. Given the need to undertake other major structural work on the Queensboro Bridge and given the anticipated amounts of available federal discretionary bridge rehabilitation funds, the April 1980 estimate anticipated that the strengthening of the upper level to allow bus use would not begin until 1990 and would not be completed until 1995. Because of the importance of the upper level deck rehabilitation as a SIP project, NYSDOT is currently re-examining the proposed phasing of the Queensboro Bridge rehabilitation projects to determine whether it would be practical to advance the rehabilitation of the upper deck ahead of some of the other work. Upon completion of this review, the NYSDOT will provide EPA with an estimated schedule for the Queensboro Bridge rehabilitation.	
Demonstration Projects (New York City):		
1. Additional bus priority lanes on 59th - 60th Street corridor and another site to be identified on the east side of Manhattan.	(i) Extension of 2nd Ave. Bus lane (ii) Milestones not provided for 59th - 60th St. corridor	(i) Implemented 1979 (ii) Not provided

Measure	Milestone	Implementation Date
N. Pedestrian Priority Zones		
Permanent Projects (New York City):		
1. Broadway Plaza	(i) Inclusion in State and local budgets	(i) Completed
	(ii) Endorsement by principal elected officials.	(ii) Completed
	(iii) Endorsement by New York City Transportation Coordinating Committee	(iii) Completed
	(iv) Public Involvement	(iv) Completed
	(v) Completion of Preliminary Engineering	(v) December 1980
	(vi) Initiation of of construction	(vi) Spring 1981
	(vii) Completion of construction	(vii) December 1982
2. 165th Street Mall	Complete mall	Implemented
3. Fulton Mall	(i) Inclusion in State and local budgets	(i) Completed
	(ii) Endorsement by principal elected officials	(ii) Completed
	(iii) Endorsement by New York City Transportation Coordinating Committee - Phase I	(iii) Completed
	(iv) Endorsement - Phase II	(iv) 1980-1981
	(v) Public Involvement	(v) Completed
	(vi) Completion of Preliminary Engineering	(vi) Completed
	(vii) Initiation of construction	(vii) Completed
	(viii) Completion of construction	(viii) May 1981
4. Nassau Street Mall	(i) Inclusion in State and local budgets	(i) Completed
	(ii) Endorsement by principal elected officials	(ii) Not Available
	(iii) Endorsement by New York City Transportation Coordinating Committee	(iii) Completed

Measure	Milestone	Implementation Date
	(iv) Public Involvement	(iv) Completed
	(v) Completion of Preliminary Engineering	(v) Completed
	(vi) Initiation of construction	(vi) December 1980
Permanent Projects (Nassau County):		
1. Freeport Mall	Complete Mall	Implemented
2. Hempstead Semi-Mall	Complete Mall	Implemented
Permanent Projects (Westchester County):		
1. White Plains Street Mall	Complete Mall	Implementation begun
2. New Rochelle Main Street Mall	Complete Mall	Implemented
3. Peekskill Division Street Semi-Mall	Complete Mall	Implemented
F. Traffic Flow Improvements		
Permanent Projects (New York City):		
1. Computerization of signal system	(i) Inclusion in State and local budgets	(i) 1980-1981
	(ii) Endorsement by principal elected officials	(ii) 1980-1981
	(iii) Endorsement by New York City Transportation Coordinating Committee	(iii) 1980-1981
	(iv) Initiation of construction	(iv) 1980-1981
	(v) Completion of construction	(v) 1982-1983

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Measure	Milestone	Implementation Date
Permanent Projects (Suburban Counties):		
2. Continued advancement in suburban areas of computer signalization and spot Transportation System Management and Traffic Operations Program to increase Capacity and Safety (TOPICS) improvements.	Most milestones presented, others will be provided shortly.	Implementation begun
Demonstration Projects (New York City):		
1. Van Wyck Expressway traffic management	Project Approval Completion of Installation	Completed February 1981
Permanent Projects (Nassau County):		
1. Northern Long Island corridor Integrated Motorist Information System on Long Island Expressway, Northern State Parkway, and Grand Central Parkway	(i) Inclusion in annual element of Transportation Improvement Program (ii) Completion of plans (iii) Completion of installation	(i) March 1981 (ii) March 1981 (iii) December 1982
G. Alternate Work Schedules		
Permanent Projects (New York City):		
1. Port Authority Program in Manhattan	Implemented Program	Implemented

Measure	Milestone	Implementation Date
Permanent Projects (Westchester County):		
1. Westchester County Government Employees Staggered Work Hours Program	Implement program	Implemented
H. Bicycle lanes and Storage Facilities		
Permanent Projects: None		
Demonstration Projects (New York City):		
1. Implement 4 bikelanes in New York City in commuter corridors of Brooklyn, Staten Island, Queens, and Manhattan	(i) Completion of all bike lanes except Lower Manhattan. (ii) Completion of Lower Manhattan bikelane.	(i) Implemented (ii) Will be implemented shortly
2. North Bronx Bikeway	Completion of bikeway	Implemented
Permanent Projects (Westchester County):		
1. Putnam Division Railroad Right of Way	(i) Inclusion in Transportation Improvement Program (ii) Inclusion in State and local budgets (iii) Endorsement by principal elected officials (iv) Endorsement by Mid-Hudson South Transportation Coordinating Committee (v) Presentation to public	(i) Completed (ii) Completed (iii) Completed (iv) Completed (v) Completed

Measure	Milestone	Implementation Date
2. Bronx River Parkway	(i) Inclusion in Transportation Improvement Program	(i) 1982
	(ii) Endorsement by principal elected officials	(ii) Completed
	(iii) Endorsement by Transportation Coordinating Committee	(iii) Completed
	(iv) Presentation to public	(iv) Completed
	(v) Initiation of construction	(v) 1982
	(vi) Completion of construction	(vi) 1982-83
3. Route 117	Completion of bikeway	Implemented
I. Employer Based Programs		
Permanent Projects:		
None		
Demonstration Projects (Nassau County):		
1. County-wide major employers university program	Not provided	Not provided
Demonstration Projects (Westchester County):		
1. Westchester County Commuter Vanpool Program	(i) Project placed on transportation Improvement Program/Annual Element	(i) Completed
	(ii) Agreement reached on contract between NYSDOT and Westchester Vanpool group	(ii) December 1980
	(iii) Purchase and delivery of vans	(iii) March 1980

Measure	Milestone	Implementation Date
J. Private Car Restrictions	Not applicable	Not applicable
Permanent Projects:		
None		
Demonstration Projects:		
None		
K. Park-and-ride and Fringe Parking		
Permanent Projects (Suburban Areas):		
1. Construct expand or upgrade at least 14 park-and-ride lots providing at least 3000 new spaces by 1981		
a. lots completed since 1977	Completion of 1202 spaces.	Implemented
b. lots under construction	Completion of 2499 spaces.	June 1981
Demonstration Projects (New York City):		
1. Implement at least one parking facility with feeder transit near Manhattan Central Business District	Implementation is dependent on the findings of the CBD Periphery Parking Study.	Not Available
2. Implement park-and-ride lots at 5 locations in outer boroughs of New York City:		
a. Shea Stadium	Implementation	Implemented
b. South Beach, Staten Island	Implementation	Implemented
c. Rosedale, Queens	Implementation	Implemented

Measure	Milestone	Implementation Date
d. Staten Island Mall	Implementation	Fall 1980
e. Fifth site	A fifth site will be selected as part of the CBD Periphery Parking Study. Implementation, with City funds, is dependent on the results of this study.	Not Available

Table 2. New Studies

Measure	Study	Schedule	
		Start Date	Completion Date
Freight transportation	New York City		
	1. Manhattan Goods Movement	July 1980	October 1981
	2. Truck Route Study (Phase II)	October 1980	April 1981
Express bus and carpool lanes	New York City		
	1. Crosstown Transit Improvements	October 1980	April 1980
	Nassau County		
	1. RACM Analysis	October 1980	September 1981
Pedestrian priority zones	New York City		
	1. 53rd St. Transitway	October 1980	September 1981
Alternate work schedules	Nassau County		
	1. Work Schedules and Bike Studies	July 1980	June 1981
	2. Staggered Work Hours Feasibility	August 1980	July 1981
Bicycle lanes	Nassau County		
	1. Work Schedules and Bike Studies	July 1980	June 1981
Employer based programs	New York City		
	1. Transit Employer Incentives	March 1980	April 1981
	Nassau County		
	1. Data Base for Employer Programs Transportation Brokerage	July 1980	July 1981
	Regional		
	1. Transportation Brokerage	July 1980	July 1981

Measure	Study	Schedule Start Date	Schedule Completion Date
Private car restrictions	New York City 1. Private Car Restrictions Policies (Phase II) 2. Institutionalizing/Integrating Air Quality 3. Private Car Restriction Policy (Phase I)	October 1980 October 1980 July 1980	April 1982 September 1982 January 1982

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C. *Additional documentation necessary to determine the reasonableness of the measure, "Controls on Extended Vehicle Idling"* (condition (e)(3)).

1. Content

The State submittal with regard to this condition consists of a brief description of how this measure was classified in the SIP as being "not reasonably available." This discussion mentions that the measure was classified as "not reasonably available" even though the SIP contained narrative material describing it as "reasonable" in certain counties of the New York City metropolitan area. Upon further evaluation the State has proposed to recategorize this measure on a geographical basis in the following manner as was done in the SIP:

New York City—not reasonably available
Nassau County—reasonably available
Suffolk County—not reasonably available
Rockland County—reasonably available
Westchester County—reasonably available

The Tri-State Regional Planning Commission, which has a lead role in the SIP revision process, will coordinate the reevaluation of these determinations with each county and transportation coordinating committee. This activity will be performed through the use of a detailed set of criteria developed by the NYSDEC to determine reasonableness of the measure. Tri-State, in conjunction with NYSDEC, has requested that counties and principal cities in the area review their classification of this strategy and provide adequate justification if the strategy is found to be not reasonably available. Copies of these letters are included in the submittal. Based on the responses received, the NYSDEC will submit a revision to the SIP to reclassify this measure, as appropriate.

2. Adequacy

EPA's review of this condition focused upon the adequacy of the additional documentation necessary to determine the reasonableness of the measure, "Controls on Extended Vehicle Idling." The State submittal gives little in the form of additional documentation in this regard. What has been provided is the basis upon which the necessary evaluation will proceed. The criteria to determine reasonableness concentrates on regulatory controls; EPA suggests that consideration also should be given to voluntary controls. Otherwise, the criteria and procedures to be utilized appear to be adequate. If a final finding of unreasonableness is made, the State should submit a formal SIP revision offering sufficient evidence for making this determination. If the measure is found to be reasonably available, commitments to study or implement it should be incorporated in the SIP. In addition, specific studies of the measure should be incorporated into the area's Unified Planning Work Program. Any finding should be reviewed and endorsed by the appropriate elected officials, transportation coordinating committee and Tri-State.

D. *Criteria and procedures for revising and making changes to transportation projects contained in the SIP* (Condition (e)(5)).

The State submittal with regard to this condition focuses on developing criteria and procedures for revising and making changes to transportation projects contained in the SIP. This condition was promulgated primarily because the SIP did not fully describe a process for determining when and how to change projects contained therein. Criteria to determine what constitutes a "significant change" to a SIP project, which in turn necessitates the development of justification for a SIP revision, were not adequately described in the 1979 SIP revision. Also, the procedures for changing a project's status from "reasonably available" to "not reasonably available" were not fully developed. In addition, the State's proposed procedure to delete a SIP project from the Transportation Improvement Program if no claim of emission reduction credit was made for that project was found to be unacceptable by EPA.

In its submittal, the State stresses that the SIP revision process must not be so cumbersome as to delay development of the 1982 SIP revision. The procedures described utilize the ongoing transportation—air quality planning process, including review by the appropriate citizen advisory committee. Any change to a project's milestones or classification of reasonableness will be subject to the procedures. The State submittal includes a commitment to develop for inclusion in the SIP substitute actions sufficient to offset any adverse air quality impact of a change to a project that results in the inability of the State to continue making reasonable further progress towards attainment of standards. Where a change to a project does not jeopardize reasonable further progress and adequate justification for the change is provided, it also will be proposed to EPA as a SIP revision.

Only "significant" changes to a project will be subject to a full justification and air quality analysis. A change will be considered "significant" if any of the following criteria are met:

- The schedule for final implementation (not intermediate steps) has to be postponed by more than 15 months from the date specified in the SIP;
- A change of greater than 10 percent is made in a specific characteristic of a project that is likely to change the project's impact on air quality. Such characteristics could be the cost for implementing a program commitment, the miles of a bikeway or the square footage of a pedestrian mall; or
- The State or responsible implementing agency does not intend to, or cannot, carry out a SIP project.

An increase in cost will not necessitate a SIP revision so long as the action is still expected to meet the commitment and schedule defined. If a change in cost requires a project modification that exceeds any of the aforementioned criteria, then cost will be cited as the justification called for in the procedure.

2. Adequacy

EPA's review of this condition examined the adequacy of the criteria and procedures for making changes to transportation projects contained in the SIP. A primary objective of EPA in establishing this condition was to keep the SIP development process dynamic and flexible, yet at the same time honoring previous commitments and ensuring that measures necessary to ensure attainment of air quality standards as expeditiously as possible are contained in the SIP. Generally, EPA found the State submittal with regard to this condition to be acceptable. However, the criteria could be improved.

The criterion for defining when a delay in project implementation is "significant" appears to be unduly lenient and could jeopardize the achievement of reasonable further progress towards attainment of air quality standards. EPA suggests that consideration be given to changing the threshold time period for this criterion from 15 months to 6 months. This time period is within the annual time period used by the State to determine if reasonable further progress is achieved. Using a 6-month delay as the threshold for assessing whether a change is "significant" will help ensure against the possibility that project delays will jeopardize achievement of reasonable further progress.

EPA also suggests that the State establish time periods for implementing the procedures. For example, a suggested period of four months appears

to be reasonable for the time period from when a SIP revision is found to be

of what is a significant effect on reasonable further progress. Before the

shortcoming is the lack of identification of the manpower resources being

United States Code. EPA particularly

Copies of the revision are available

This notice of proposed rulemaking is

to be reasonable for the time period from when a SIP revision is found to be necessary because of a change in a project and when the revision is submitted to EPA. Other time periods which should be defined include those for determining whether a change to a project is "significant." Such schedules should consider the time requirements needed to work within the integrated transportation—air quality planning process.

E. *Criteria and procedures for revising and making changes to transportation studies contained in the SIP* (condition (e)(6)).

1. Content

The State submittal with regard to this condition does not present any formal criteria and procedures for revising and making changes to transportation studies contained in the SIP. The State asserts that, since each study is unique and has a particular objective, scope, cost, schedule, and status, little benefit would be dervied from developing general criteria. Instead, the State proposes that a SIP Study Committee be established consisting of representatives of EPA, the Urban Mass Transportation Administration, the Federal Highway Administration, NYSDEC, NYSDOT, Tri-State and study sponsors. Any proposed change to a study would be presented to the Committee by the sponsoring agency along with a demonstration that the proposed change would not significantly affect reasonable further progress toward attainment of air quality standards.

The Committee would act within 60 days of receiving a proposed study change and provide the sponsor with a determination on whether or not the change was acceptable as submitted or acceptable with conditions. The sponsor would have 30 days to respond to the conditions. Once a study change has been approved by the Committee, it would be submitted to the appropriate transportation coordinating committee, citizen advisory committee, and to the Tri-State Standing Committee on Transportation for review and approval. All approved changes will be incorporated into the Unified Planning Work Program as that document is updated.

2. Adequacy

Generally, EPA finds the State's proposal to establish a SIP Study Committee instead of developing general criteria for changing studies in the SIP to be adequate. This procedure should ensure that the SIP program of study will remain viable. However, EPA is concerned that there is no definition of what is a significant effect on reasonable further progress. Before the Committee could act on a change, this term would have to be fully defined and agreed to by the membes of the Committee. EPA suggests that criteria and procedures similar to those which will be used by the State for evaluating changes to SIP projects also be applied to studies. In addition, when determing whether a change to a study is acceptable, the Committee must consider its impact on the ability of the State to prepare the 1982 SIP revision and any other future revisions.

F. *Identification of the resources necessary to carry out the transportation planning process and certain transportation elements of the SIP* (e)(7)).

1. Content

The State submittal with regard to this condition identifies three primary transportation related elements of the SIP and the resources necessary to carry them out:

- Implementation and demonstration actions

The submittal provides three tables which list the cost and funding source for various SIP projects. Some information on resources was unavailable to the State and thus not provided. No cost information was provided for projects which already have been implemented.

- Special SIP and relate studies

The submittal provides a table which summarizes the resources available, according to funding source, for studies listed as "committed" or "underway" in the 1979 SIP. This table includes all studies that were initiated before July 1980. Studies that are not underway, but which have committed funding, are presented in the table. The submittal also provides another table which summarizes, by funding source, costs for SIP and related studies scheduled to start July 1, 1980 or later. These studies are to be primarily composed of the Section 175 Phase II and Urban Mass Transportation Administration Section 8 grants contained in the 1980–1981 Unified Planning Work Program.

- Transportation planning process

The submittal provides a table which summarizes the necessary funding available for the transportation planning process. This funding is also identified in the 1980–1981 Unified Planning Work Program.

2. Adequacy

Generally, EPA finds the identification of resources to be adequate. However, a major shortcoming is the lack of identification of the manpower resources being committed to by agencies responsible for SIP development and implementation. Since some agencies have a large degree of responsibility and limited staff available, an assessment of resource adequacy would be beneficial and should be submitted by the State during the public comment period.

A major problem is that the submittal identifies only the total dollar amounts available for the study program. Funding available for individual studies is not identified. However, the State's May 21, 1980 proposed revision to the SIP did provide most of this detailed financial information relating to studies (see 45 FR 56369, August 25, 1980). The submittal does not provide any information related to the heavy duty gasoline truck retrofit measure. However, EPA is providing the State with $300,000 in Clean Air Act Section 105 funds to determine the reasonableness of this measure. These funds should be sufficient to accomplish this effort. If the study finds this measure to be reasonable, the State will then have to identify the necessary resources for its implementation.

III. EPA Proposal

EPA proposes to find that the State's August 2, 1980 submittal adequately meets the conditions on approval of the New York SIP promulgated at 40 CFR 52.1674 (e) (1), (2), (3), (5), (6) and (7). The purpose of requiring the submittal was to improve the existing SIP by identifying and commiting to a control program adequate to prepare an acceptable 1982 SIP revision and to implement the 1979 SIP revision.

IV. Public Comment

This notice is issued as required by Section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted as to whether the proposed revision to the New York State Implementation Plan for the New York City metropolitan area should be approved or disapproved. The Administrator's decision regarding approval or disapproval of this proposed plan revision will be based on whether it meets the requirements of Sections 110 and 172 of the Clean Air Act and applicable EPA requirements in 40 CFR Part 51. This current SIP revision request was submitted to EPA in accordance with the appropriate CFR requirements.

Section 174(b) of the Clean Air Act requires that SIP revisions be coordinated with the continuing, cooperative, and comprehensive transportation planning process required under Section 134 of Title 23 of the United States Code. EPA particularly invites comments from the Tri-State Regional Planning Commission (the Metropolitan Planning Organization for the New York City metropolitan area), its committees, and any other transportation planning agencies or organizations which have SIP-related responsibilities.

Comments received on or before January 21, 1981, will be considered in EPA's final decision. All comments received will be available for inspection at the Region II Office of EPA at 26 Federal Plaza, Room 1005, New York, New York 10278.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed this package and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 172, 301, Clean Air Act, as amended (42 U.S.C. 7410, 7502, 7601))

Charles S. Warren,

Regional Administrator, Environmental Protection Agency.

Dated: October 15, 1980.

[FR Doc. 80-36446 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-8-FRL 1676-4]

Approval and Promulgation of State Implementation Plans; Revision to Wyoming Regulations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: On July 18, 1980, the State of Wyoming submitted a revision to the Wyoming Air Quality Standards and Regulations which provides for the establishment of source specific opacity limits for large fuel burning units. The State's mass emission limit remains unchanged. EPA proposes to approve the State's revision and solicits comments on whether this revision meets the requirements of 40 CFR Part 51 and the Clean Air Act.

DATE: Written comments should be submitted on or before December 22, 1980.

ADDRESSES: Written comments should be sent to: Robert R. DeSpain, Chief, Air Programs Branch, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837–3471.

Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency,
Region VIII, Air Programs Branch,
1860 Lincoln Street, Denver, Colorado, 80295.

Environmental Protection Agency,
Public Information Reference Unit,
Waterside Mall, 401 M Street, SW.,
Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: David S. Kircher, Chief, Planning and Operations Section, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80295 (303) 837–3711.

SUPPLEMENTARY INFORMATION: On July 18, 1980, the State of Wyoming submitted a revision to the Wyoming Air Quality Standards and Regulations which provides for the establishment of source specific opacity limits for large fuel burning units upon petition from the operator that the unit is unable to meet the otherwise applicable opacity limit (20 percent) but is meeting the applicable mass emission limit. This provision applies to fuel burning units with heat input of greater than 2500×10^6 Btu per hour, and the newly established opacity limit may not exceed 40 percent.

Since the proposed exemption requires that the mass emission limit be met by the source, this provision will not result in increased emissions and will not jeopardize attainment and maintenance of the national ambient air quality standards in Wyoming.

Interested persons are invited to comment on the revision and whether it was adopted and submitted in accordance with the requirements of Section 110 of the Clean Air Act and 40 CFR Part 51 (Requirements for the Preparation, Adoption, and Submission of State Implementation Plans). Comments submitted on or before December 22, 1980 will be considered. EPA finds good cause for limiting the comment period to 30 days because the revision is administrative in nature and would not result in a change in emissions from any source.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act (42 U.S.C. 7410.)

Dated: October 22, 1980.

Roger L. Williams,

Regional Administrator.

[FR Doc. 80-36451 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 60

[AD-FRL-1551-7]

Review of Standards of Performance for New Stationary Sources: Phosphate Fertilizer Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Review of Standards.

SUMMARY: EPA has reviewed the standards of performance for control of total fluoride emissions from phosphate fertilizer plants (40 FR 33152). The review is required under the Clean Air Act, as amended August 1977. The purpose of this notice is to announce EPA's intent not to undertake revision of the standards at this time.

DATES: Comments must be received on or before December 22, 1980.

ADDRESSES: *Comments.* Send comments to the Central Docket Section (A–130), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Attention: Docket No. A–80–10.

Docket: Docket No. A–80–10, containing supporting information used in reviewing the standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

Background Information Document. The document "Review of New Source Performance Standards for Phosphate Fertilizer Industry" (EPA report number EPA–450/3–79–038) is available upon request from the U.S. EPA Library (MD–35), Research Triangle Park, N.C. 27711, telephone (919) 541–2777.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley T. Cuffe, (MD–13) U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711; telephone (919) 541–5295.

SUPPLEMENTARY INFORMATION:

Background

Fluoride was the only pollutant other than the criteria pollutants, specifically named as requiring Federal action in the March 1970 "Report of the Secretary of Health, Education, and Welfare to the

United States (91st) Congress." The report concluded that "inorganic fluorides are highly irritant and toxic gases" which, even in low ambient concentrations, have adverse effects on plants and animals. The United States Senate Committee on Public Works in its report on the Clean Air Amendments of 1970 (Senate Report No. 91–1196, September 17, 1970, page 9) included fluorides on a list of contaminants that have broad national impact and require Federal Action.

The "Engineering and Cost Effectiveness Study of Fluoride Emissions Control" (contract EHSD 71–14), published in January 1972, listed the phosphate fertilizer industry among the largest fluoride emitters in the United States, accounting for nearly 14 percent of the total soluble fluorides emitted annually at that time.

On October 22, 1974 (39 FR 37602), under section 111 of the Clean Air Act, and amended, the Administrator proposed standards of performance for five new affected facilities within the phosphate fertilizer industry as follows: Wet-process phosphoric acid plants, superphosphoric acid plants, diammonium phosphate plants, triple superphosphate plants, and granular triple superphosphate storage facilities.

The regulation, promulgated on August 6, 1975 (40 FR 33152), limits total fluoride emissions to the following weights per unit of P_2O_5 input: Wet process phosphoric acid, 0.01 g/kg (0.02 lb/ton); superphosphoric acid, 0.005 g/kg (0.01 lb/T); diammonium phosphate, 0.03 g/kg (0.06 lb/T); triple superphosphate and granular triple superphosphate, 0.1 g/kg (0.20 lb/T). Emission limits for granular triple superphosphate storage facilities are 2.5×10^{-4} g/hr per kilogram stored (5×10^{-4} lb/hr ton). There is no opacity regulation

The Clean Air Act Amendments of 1977 require that the Administrator of EPA review and, if appropriate, revise established standards of performance for new stationary sources at least every 4 years (Section 111(b)(1)(B)). This notice announces that EPA has completed a review of the standard of performance for phosphate fertilizer plants and invites comment on the results of this review.

Findings

Industry Growth Rate

During the years 1974 through 1979, the production capacity of the domestic fertilizer industry increased as follows: For wet process phosphoric acid, 46 percent; superphosphoric acid, 66 percent; diammonium phosphate, 25 percent; and triple superphosphate, 15 percent. Superphosphoric acid contains much less water per unit of P_2O_5 than does wet process phosphoric acid; therefore, the resulting saving in weight and shipping costs has encouraged increasing the capacity for manufacturing superphosphoric acid. Also, superphosphoric acid is less corrosive than wet process phosphoric acid and can be stored with less deposition of impurities. Additions to triple superphosphate capacity have decreased because of the recent trends toward liquid fertilizers, which are easier for the farmer to apply.

The estimated growth from 1980 to 1985 in domestic phosphate fertilizer plants is limited, for the following reasons. Facilities for the manufacture of phosphate fertilizer from phosphate rock were overbuilt in the 1970's and are only now approaching full utilization of production capacity. The use of phosphate fertilizer in the United States decreased about 9 percent in 1978, partly because of alleged overfertilization of some soils. Potential production increases outside the United States may reduce exports.

Control Technology

Current Control Technology

There have been no notable improvements in the design of aqueous scrubbers since the present standards were promulgated. Some improvement has been reported in the operation of the scrubber with less plugging and with reduced downtime when plugging occurs.

Emerging Control Technology

The gypsum pond is considered to be one of the major fluoride emission sources in a phosphate fertilizer plant. However, the pond emits a relatively large weight of fluoride from an area that is very great compared with that of the other sources. Nevertheless, pond contribution to ground level concentration of fluorides is evidently small, as indicated by the effectiveness of scrubber controls in reducing high ground level concentrations.

An interesting recent development is claimed to permit eliminating about half of the pond area with a resulting pond fluoride emission reduction of about 50 percent. This reduction is made by shifting the plant cooling load from the pond to a closed-circuit cooling tower. The cooling tower in turn supplies a fluoride scrubbing system with water. Fluoride evolution from this scrubbing system has been reduced at one of two plants by partial recovery of fluoride as salable 25 percent fluosilisic acid and by liming to further prevent or reduce fluoride emissions. It is not practical to depend on liming alone, however, because of the costs of the large tonnage of lime that would be required. These processes that combine pond area reduction with closed cooling tower, scrubber, and liming systems now appear to be in their development stage. More experience is needed to determine their costs and performances.

The hemihydrate process, an old process revived by the Japanese, makes wet process phosphoric acid by crystallizing calcium sulfate twice in different forms. The final crystal is the familiar dihydrate, but this product contains very little phosphate in the crystal. This decrease in the phosphate content of the gypsum crystals increases the yield of phosphoric acid and also produces a purer and more salable gypsum. In addition, 30 percent or more of the fluoride originally present in the phosphate rock is said to be recoverable in salable form. The hemihydrate process has not been demonstrated in the United States. Domestic rock causes difficulties in this process, and the hemihydrate process would have to be investigated fully to determine whether these difficulties can be overcome.

One plant makes triple superphosphate directly from wet process phosphoric acid and calcium carbonate. The only potential for fluoride emissions arises from the fluoride content of the wet process phosphoric acid. This might be advantageous in a local situation; but the balance of the potential fluoride evolution would only be transferred elsewhere to wherever the wet process acid was made from phosphate rock.

One fertilizer plant has added a dry absorption process that is due to come on line in 1980. In this process a dry absorbent is continuously injected into the plant tailgas stream. The dry solid adsorbs gaseous fluorides, and both the original and the added particulates are then removed in a following baghouse. Operating data will be needed to assess this new process.

Results Achievable With Demonstrated Control Technology

Emission source test results were available for one of the emerging control technologies. Source tests for the plant that manufactures triple superphosphate directly by reacting calcium carbonate and wet process phosphoric acid showed fluoride emissions just under the new source performance standard of 0.1 g/kg P_2O_5 input (0.20 lb/T).

Conclusions

Based on the above findings, EPA concludes that the existing standards of performance for fluorides are still appropriate. There have been no notable improvements in aqueous scrubber control technology. Further significant fluoride reductions by scrubbing are unlikely if ordinary gypsum pond water is used. Emerging technologies or their variants may later permit further reductions in fluoride emissions.

EPA is studying radioactive particulate emissions from the phosphate fertilizer industry. If control is found advisable, emission regulations will be developed by the Office of Radiation Programs for this source under Section 112 of the Clean Air Act.

Public Participation

All interested persons are invited to comment on this review. Comments should be submitted to the Central Docket Section as stated under "Addresses" above.

Dated: November 17, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-36452 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-26-M

40 CFR Part 162

[OPP-00133; PH-FRL 1677-4]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: There will be a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel to present decision options being considered by the agency to conclude the rebuttable presumption against registration (RPAR) on strychnine. The meeting will be open to the public.

DATES: Thursday and Friday, December 11 and 12, 1980, from 9:00 a.m. to 5:00 p.m. daily.

ADDRESS: The meeting will be held at the: Crystal City Marriott Hotel, 1999 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Philip H. Gray, Jr., Acting Executive Secretary, FIFRA Scientific Advisory Panel (TS–766), Office of Pesticide Programs, Rm. 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7560).

SUPPLEMENTARY INFORMATION: The agenda for this meeting is:

1. Presentation of the decision options being considered by the agency to conclude the RPAR on strychnine.
2. Completion of any unfinished business from previous Panel meetings.
3. In addition, the agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Copies of draft documents concerning item 1 may be obtained by contacting: Homer Hall, Special Pesticides Review Division (TS–791), Rm. 724J, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7438).

Any member of the public wishing to attend or submit a paper should contact Philip H. Gray, Jr., at the address or phone listed above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. All statements will be made part of the record and will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit the required number of copies of a summary no later than December 9, 1980.

Individuals who wish to file written statements are advised to contact the Executive Secretary in a timely manner to be instructed on the format and the number of copies fo submit to ensure appropriate consideration by the panel.

(Sec. 25(d), as amended. 92 Stat. 819; (7n U.S.C. 136); sec. 10(a)(2), 86 Stat. 770 (5 U.S.C. App.))

Dated: November 15, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-36453 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PP 9E2241/P161; PH-FRL 1677-5]

Calcium Hypochlorite; Exemption from Requirement of Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that an exemption from the requirement of a tolerance be established for residues of the chemical calcium hypochlorite. This proposal was submitted by Interregional Research Project No. 4 (IR–4).

DATE: Written comments must be received on or before December 22, 1980.

ADDRESS: Written comments to: Clinton Fletcher, Emergency Response Section, Process Coordination Branch, Registration Division (TS–767), Environmental Protection Agency, Rm. E–124, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher (202–426–0223).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 9E2241 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Idaho, Maine, Michigan, and New York.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, amend 40 CFR Part 180 by the establishment of an exemption from the requirement of a tolerance for residues of the chemical calcium hypochlorite in or on the raw agricultural commodity potatoes.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicology and other scientific data considered in support of the proposed exemption were a rat acute oral LD_{50} study of 0.85 gram (g) (0.64–1.3 g)/kilogram (kg). Calcium hypochlorite is currently exempted from a tolerance requirement under 40 CFR 180.1001(c) as a sanitizing and bleaching agent when used in accordance with good agricultural practices as an inert (or occasionally active) ingredient in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest.

No actions are currently pending against continued registration of this chemical.

There is no reasonable expectation of residues in eggs, meat, milk, or poultry as delineated in 40 CFR 180.6(a)(3). The Agency has determined that the proposed exemption from the requirement of a tolerance will protect the public health. Therefore, it is proposed that 40 CFR Part 180 be amended as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein, may request by December 22, 1980 that this

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rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition and document control number "PP 9E2241/P161". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of Clinton Fletcher, from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e) 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: November 14, 1980.

Douglas D. Campt,

Director, Registration Division Office of Pesticide Programs.

Therefore, it is proposed that Subpart D of 40 CFR Part 180 be amended by establishing an exemption from the requirement of a tolerance for calcium hypochlorite to read as follows:

§ 180.1054 Calcium hypochlorite; exemption from requirement of a tolerance.

Calcium hypochlorite is exempted from the requirement of a tolerance when used after harvest on the raw agricultural commodity potatoes.

[FR Doc. 80-36408 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-32-M

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40 CFR Part 180

[OPP-300038; PH-FRL 678-2]

Certain Inert Ingredients; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This amendment proposes that the exempt inert ingredient alpha-alkyl (C_{10}–C_{18})-omega-hydroxypoly(oxyethylene): The poly(oxyethylene) content averages 3–20 moles which now appears in 40 CFR 180.1001(c) and (e) be revised (broadened) to read "alpha-alkyl (C_8–C_{18})-omega-hydroxypoly(oxyethylene): the poly(oxyethylene) content averages 2–20 moles." This amendment was requested by Shell Oil Co.

DATE: Written comments must be received on or before December 22, 1980.

ADDRESS: Written comments to: John A. Shaughnessy, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–229, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: John A. Shaughnessy (202–426–9425).

SUPPLEMENTARY INFORMATION: At the request of Shell Oil Co., 1025 Connecticut Ave., NW., Washington, D.C. 20036, the Administrator is proposing to amend 40 CFR 180.1001 (c) and (e) by broadening the range of alkyl groups from (C_{10}–C_{18}) to (C_8–C_{18}), and the range of poly(oxyethylene) groups from 3–20 moles to 2–20 moles in this inert ingredient. The present entry in 180.1001 (c) and (e) reads: "alpha-alkyl (C_{10}–C_{18})-omega-hydroxypoly(oxyethylene): The poly(oxyethylene) contact averages 3–20 moles * * *."

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have pesticidal efficacy of their own): Solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient	Name and address of requestor	Basis for approval
Alpha-alkyl (C_8–C_{18})-omega-hydroxypoly (oxyethylene): the poly(oxyethylene) content averages 2-30 moles.	Shell Oil Co., 1025 Connecticut Ave., NW., Washington, D.C. 20036.	This minor change is not expected to be toxicologically significant.

Based on the above information, the chemistry of this substance, and review of its use, it has been found that, when used in accordance with good agricultural practice, this ingredient is useful and does not pose a hazard to the environment. It is concluded, therefore, that the proposed amendment to 40 CFR 180.1001 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, which contain "alpha-alkyl (C_8–C_{18})-omega-hydroxypoly(oxyethylene); the poly(oxyethylene) content averages 2–20 moles" may request, on or before December 22, 1980 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear notation indicating both the subject and the petition and the document control number "OPP–300038." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Process Coordination Branch (TS–767), Room E–229, EPA, 401 M St., SW., Washington, D.C. 20460 from 8:00 a.m. to 4:00 p.m. Monday through Friday, except holidays.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e), 68 Stat. 514, (21 U.S.C. 346a(e))

Dated: November 14, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that Subpart D of 40 CFR Part 180 be amended by revising the entry "alpha-alkyl (C_{10}–C_{18})-omega-hydroxypoly(oxyethylene): the poly(oxyethylene) content averages 3–20 moles" under § 180.1001 paragraphs (c) and (e) to read as follows:

§ 180.1001 Exemption from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * * * *		
Alpha-alkyl (C_8–C_{18})-omega-hydroxypoly (oxyethylene): the poly(oxyethylene) content averages 2-20 moles.	.....	Solvent, cosolvent, surfactant, and related adjuvants of surfactants.
* * * * *		

(e) * * *

Inert ingredients	Limits	Uses
* * * * *		
Alpha-alkyl (C_8–C_{18})-omega-hydroxy poly-(oxyethylene): the poly(oxyethylene) content averages 2-20 moles.	.....	Solvent, cosolvent, surfactant, and related adjuvants of surfactants.
* * * * *		

[FR Doc. 80-36455 Filed 11-20-80; 8:45 am]

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Inert ingedients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have pesticidal efficacy of their own): Solvents such as water, baits such as sugar, starches, and meat scraps, dust carriers such as talc and clay, fillers, wetting and spreading agents, propellants in aerosol dispensers, and emulsifiers. The term inert is not intended to imply toxicological inertness or lack of toxicity; the ingredient may or may not be chemically or toxicologically active.

The preambles to proposed rulemaking documents of this nature include the common or chemical name under consideration, the name and address of the requestor of the exemption, and the toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Inert ingredient	Requestor	Bases for approval
Isophorone	IR-4	Isophorone has been exempted as solvent and cosolvent for formulations used before crop emerges from the soil, for postemergence herbicide use on rice and wheat before crop begins to head, and for postemergence use on sugar beets and table beets. Toxicology data supporting this request include 90-day dog and rat feeding studies with a no-observable-effect level (NOEL) of greater than 150 mg/kg/day and greater than 300 mg/kg/day, respectively.

Based on the available information on the chemistry of these substances, and a review of the use, it has been found that, when used in accordance with good agricultural practice, this substance is useful and does not pose a hazard to the environment. It is concluded, therefore, that the proposed amendment to 40 CFR 180.1001 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any ingredient listed herein, may request on or before December 22, 1980, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition/document control number "PP OE2334/P162." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of Clinton Fletcher, Rm. E–124, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

Under Executive Order 12044, EPA is required to judge whether a regulation is significant and therefore subject to the procedural requirements of the Order or whether it may follow other "specialized" development procedures. EPA labels these other regulations "specialized.". This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e), 68 Stat. 514, (21 U.S.C. 346a(e)))

Dated: November 14, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that Subpart D of 40 CFR Part 180 be amended by revising the item "Isophorone" under § 180.1001(d) to read as follows:

§ 180.1001 Exemption from requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Isophorone		Solvent and cosolvent for formulations used before crop emerges from soil, for postemergence herbicide use on rice and wheat before crop begins to head, and for postemergence herbicide use on beets (sugar beets and table beets) and spinach.
* * * * *		

[FR Doc. 80-36456 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-32-M

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40 CFR Part 180

[PP 8E2083/P160; PH–FRL1678–4]

5-Ethoxy-3-Trichloroethyl-1,2,4-Thiadiazole; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that a tolerance be established for the fungicide 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole and its mono-acid metabolite 3-carboxy-5-ethoxy-1,2,4-thiadiazole in or on the raw agricultural commodity strawberries at 0.2 part per

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million (ppm). This proposal was submitted by the California Department of Food and Agriculture. This amendment will establish a maximum permissible level for residues of 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole and its metabolite in or on the raw agricultural commodity strawberries.

DATE: Comments must be received on or before December 22, 1980.

ADDRESS: Written comments to: Clinton Fletcher, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–124, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher (202–426–0223).

SUPPLEMENTARY INFORMATION: The California Department of Food and Agriculture, 1220 N St., Sacramento, CA 95814, has submitted pesticide petition 8E2083 to EPA. This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the fungicide 5-ethoxy-3-trichloromethyl-1,2,4-thiadiazole and its mono-acid metabolite 3-carboxy-5-ethoxy-1,2,4-thiadiazole in or on the raw agricultural commodity strawberries.

The data submitted in the petition and all other available material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicology data considered in support of the proposed tolerance of 0.2 ppm in or on strawberries were an acute oral LD_{50} of 1,077 milligrams (mg)/kilogram (kg) for rats; a two year rat oral feeding study with a no-observable-effect-level (NOEL) of 80 ppm; a two-year dog oral feeding study with a NOEL of 100 ppm; a rabbit study negative at 15 mg/kg for teratology and fetotoxicity; a rat reproduction study with a NOEL equal to, or greater than, 80 ppm but less than 640 ppm.

Data currently lacking and considered desirable include an oncogenic evaluation in a second species. However, a two-year oncogenicity (feeding) study in mice is currently being conducted.

The acceptable daily intake (ADI) has been calculated to be 0.025 mg/kg/day, based on the dog two-year chronic feeding study NOEL and using a 100 fold safety factor. The maximum permissible intake (MPI) for the subject fungicide is calculated to be 1.5 mg/day/60 kg. Present published tolerances include those for avocados at 0.15 ppm and an interim tolerance for cottonseed at 0.3 ppm.

The percentage of the ADI currently utilized by published tolerances is 0.05 percent. The requested tolerance would increase the percentage of the ADI utilized from 0.05 to 0.09 percent. The total theoretical maximum residue contribution (TMRC) would be increased from 0.0007 to 0.0013 mg/day/1.5 kg.

The metabolism of the subject fungicide is adequately understood and an adequate analytical method (electron capture gas chromatography) is available for enforcement purposes. Since strawberries are not a feed item, there is no expectation for residues of the fungicide in meat, milk, poultry, and eggs. There are presently no actions pending against the continued registration of this chemical.

Thus, based on the above information considered by the Agency, the tolerance of 0.2 ppm in or on strawberries established by amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before December 22, 1980 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the document control number "PP 8E2083/P160." All written comments filed in response to this proposal will be available for public inspection in the office of Clinton Fletcher from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This proposed regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e), 68 Stat. 514, (21 U.S.C. 346a(e)))

Dated: November 14, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that Subpart C of 40 CFR Part 180 be amended by alphabetically inserting "strawberries" in the table under § 180.370 to read as follows:

§ 180.370 5-Ethoxy-3-trichloromethyl-1,2,4-thiadiazole; tolerances for residues.

* * * * *

Commodity	*Part per million*
* * * * *	
Strawberries	0.2.

[FR Doc. 80–36458 Filed 11–20–80; 8:45 am]

BILLING CODE 6560–33–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR Parts 51–4 and 51–5

Workshop Responsibilities and Specification Changes

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed rule.

SUMMARY: The Committee proposes to amend its regulations on the preparation of reports workshops must maintain on blind persons and on the procedures relating to changes in specifications or other descriptions of commodities or services on the Procurement List. The proposed changes regarding blind persons limit the reporting requirements to those required by law. The methods used by the Government in describing commodities have changed substantially since the current provisions of § 51–5.11 were established in 1973. The proposed changes provide guidance regarding the actions to be taken when there is a change in the specification, description or designation of a commodity on the Procurement List or the scope of work or other conditions in the provision of a service on the Procurement List.

DATES: Comments must be received on or before January 20, 1981.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street, North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION:

Section 51–4.3 assigns certain responsibilities to workshops participating in the Committee's program.

a. Currently the provisions of subparagraphs a(6) require that the report on visual acuity and field of vision for blind persons be signed only by a licensed physician. This requirement has been found to be unduly restrictive since States license

persons other than physicians to measure visual acuity and field of vision. This subparagraph is being changed to permit any person licensed to evaluate visual acuity and field of vision to sign the reports maintained by workshops on blind persons.

b. Subparagraph a(7) regarding the maintenance of reports of evaluations on the capability for competitive employment now applies to both the blind and the other severely handicapped. Blindness is defined specifically in Section 5(1) of Pub. L. 92–28 (41 U.S.C. 46b(1)). An evaluation of a blind person's capability for competitive employment and an annual reevaluation is not required for that person to qualify as blind. However, such evaluations and reevaluations are required as one element in establishing the qualification of a person to be classified as "other severely handicapped." Subparagraph a(7) has been rewritten to cause this requirement to apply to the other severely handicapped only and has been incorporated in the revised paragraph (b) which now covers the requirements for the maintenance of records on other severely handicapped individuals.

c. In a number of instances State or other public agencies assist workshops in placing clients in competitive employment. Subparagraph a(8) has been revised to indicate that a workshop placement program may be operated by or for the workshop.

Section 51–5.11 covers the responsibilities of procuring agencies regarding notification of central nonprofit agencies and the Committee on specification changes affecting comodities on the Procurement List.

a. The section has been revised to expand the scope to cover services and has been updated to reflect the various types of documentation currently used by the Government in its purchasing actions. Several procuring agencies have misinterpreted the intent of the current notification requirement. The section has also been rewritten to ensure timely coordination and notification of contemplated changes which would affect commodities and services on the Procurement List.

b. A new § 51–5.12 has been added to cover replacement items for commodities that are already on the Procurement List.

It is proposed to amend 41 CFR 51 as follows:

1. Revise paragraph 51–4.3(a)(6)(7) to read:

§ 51–43 Responsibilities.

(a) * * *

(6) Maintain a file on each blind individual which includes a written report reflecting visual acuity and field of vision of each eye, with and without glasses, prepared by a person licensed to make such an evaluation.

(7) Maintain an ongoing placement program operated by or for the workshop to include liaison with appropriate community services such as the State employment service, employer groups and others; and list with one or more of these services those individuals capable of normal competitive employment.

* * * * *

2. Delete paragraph 51–4.3(a)(8).

3. Revise paragraph 51–4.3(b) to read:

* * * * *

(b) Each workshop for other severely handicapped participating under the Act shall, in addition to the requirements of paragraph (a) of this section, maintain a file for each other severely handicapped individual which includes:

(1) A written report prepared by a licensed physician, psychiatrist, or qualified psychologist reflecting the nature and extent of the disability or disabilities that cause such person to qualify as other severly handicapped.

(2) Reports on the individual's capability for normal competitive employment, prepared at least annually by a person or persons qualified by training and experience to evaluate the work potential, interests, aptitudes and abilities of handicapped persons. The file on individuals who have been in the workshop for less than two years shall contain the report of the initial or readmission evaluation and, where appropriate, the next annual reevaluation. The file on individuals who have been in the workshop for two or more years shall, as a minimum, contain reports of the two most recent annual reevaluations.

4. Revise § 51–5.11 to read as follows:

§ 5.11 Specification changes and similar actions.

(a) Specifications or other descriptions for commodities on the procurement list may undergo a series of changes to keep current with industry changes and agency needs. Since it is not feasible to show the latest revision current on the publication date, only the basic specification or description is referenced in the procurement list. Procurement agencies shall notify the workshop and the central nonprofit agency concerned of the latest applicable specification or description.

(b) When a government department or agency is changing the specification or description of a commodity on the Procurement List, including a change that involves the assignment of a new national stock number or item designation, the office assigned responsibility for the action shall obtain the comments of the Committee and the central nonprofit agency concerned on the proposed change and shall notify the workshop and the central nonprofit agency concerned at least 90 days prior to the date for its implementation.

(c) Similarly for services, the procuring activity shall notify the workshop and central nonprofit agency concerned at least 90 days prior to date that any changes in the scope of work or other conditions will be required.

5. Add a new § 51–5.12 to read as follows:

§ 51–5.12 Replacement Commodities.

When a commodity on the Procurement List is replaced by another commodity which has not been previously procured, the replacement commodity is automatically on the Procurement List and shall be procured from the workshop designated by the Committee. The commodity being replaced shall continue to be included on the Procurement List until there is no longer a requirement for that commodity.

(Pub. L. 92–28, 41 U.S.C. 46–48c, 85 Stat. 77)

C. W. Fletcher,

Executive Director.

[FR Doc. 80–36669 Filed 11–20–80; 8:45 am]

BILLING CODE 6820–33–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 5947]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base flood elevations for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080) Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 and Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 67.4(a) (presently appearing at its former Title 24, Chapter 10, Part 1917.4(a)).

These elevations, together with the flood plain management measures required by section 60.3 (formerly Section 1910.3) of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
California	Palm Springs (City), Riverside County.	Arenas Canyon Creek	800 feet southeast of intersection of Camino Real and Murray Canyon Drive.	*523
		Chino Canyon Creek	Intersection of San Rafel Drive and Lynette Drive	*528
			100 feet downstream of intersection of creek and Indian Avenue	*619
		Palm Canyon Wash	200 feet upstream of intersection of Wash and Golf Club Drive	*333
			100 feet upstream of intersection of Wash and Bogert Trail	*545
		Tahquitz Creek	50 feet upstream of intersection of creek and Farrell Drive	*388
			75 feet downstream of intersection of creek and Palm Canyon Drive	*444
			Intersection of Camino Real and San Lorenzo Road	#2
		Tramview Wash	Area enclosed by Club Circle Drive	#3
		Tramview Wash Tributary	Intersection of Siminole Road and Linden Way	#2
		Whitewater River	Intersection of Vista Chino and Bogie Road	*457
			Intersection of Montecito Circle and Montecito Drive	#3
		West Cathedral Channel	150 feet upstream of intersection of channel and Dunn Road (upstream crossing).	*715
	Maps available for inspection at Department of Community Development, City Hall, 3200 E. Tahquitz, Palm Springs, California			
	Send comments to Honorable John Doyle, P.O. Box 1786, Palm Springs, California 92263.			
Florida	City of LaBelle, Hendry County	Caloosahatchee River	At Western Corporate Limits	*9
		Stream A	Just upstream of Gulf Atlantic Gladeway (County Road 731)	*14
			Just downstream of Devil Gardens Avenue (County Road 80A)	*19
		Stream B	Just downstream of Main Street (State Highway 29)	*15
			Just upstream of Bridge Street	*16
		Stream C	Just upstream of Bridge Street	*17
		Stream D	Just downstream of Main Street (State Highway 29)	*17
		Stream E	Just upstream of Fort Thompson Avenue	*14
		Stream F	Just upstream of Hickpochee Avenue	*11
			Just downstream of Devil Gardens Avenue (County Road 80A)	*19
	Maps available for inspection at City Hall, Highway 80, LaBelle, Florida 33935.			
	Send comments to Mayor Thomas A. Smith or Mr. H. L. Bennett, Supervisor of Public Works, City Hall, P.O. Drawer 458, LaBelle, Florida 33935.			
Florida	Port St. Lucie (City), St. Lucie County.	Indian River	250 feet south along Canby Road from its intersection with Bevingt Avenue.	*7
		North Fork St. Lucie River	At the intersection of Bywood Avenue and Crowberry Street	*9
		Shallow Flooding	The vicinity of Mile Lake within corporate limits	*12
			700 feet west along Walton Road from its intersection with the Florida East Coast Railroad.	*17
	Maps available for inspection at City Hall Plaza, Port St. Lucie, Florida			
	Send comments to Honorable William B. McChesney, City Hall Plaza, Port St. Lucie, Florida 33452.			
Florida	St. Lucie County (Unincorporated Areas).	Atlantic Ocean	50 feet east from the intersection of Banyan Road and North Ocean Drive.	*8
		Indian River	At the intersection of Bermuda Drive and North Coral Drive	*7
		North Fork St. Lucie River	At the intersection of Sunrise Boulevard and Weatherbee Road	*11
		Fivemile Creek	At center of Florida East Coast Railroad crossing of Fivemile Creek	*11
			30 feet upstream from the Okeechobee Road crossing	*14
		Tenmile Creek	At center of Selvitz Road crossing of Tenmile Creek	*12
		Taylor Creek Canal	At center of St. Lucie Boulevard crossing of Taylor Creek Canal	*12
		Shallow Flooding	At the intersection of Cortez Boulevard and South 25th Street	*17
	Maps available for inspection at County Administration Building, Ft. Pierce, Florida.			
	Send comments to Honorable Edward Enns, 2300 Virginia Avenue, Ft. Pierce, Florida 33450.			
Georgia	Gwinnett County (Unincorporated Areas).	Beaver Ruin Creek	100 feet upstream of intersection of Beaver Ruin Creek and Pleasant Hill Road.	*[illegible]
			Intersection of Beaver Ruin Creek and Mitchell Road	*925
		Beaver Ruin Creek Tributary No. 1	300 feet downstream of intersection of Beaver Ruin Creek Tributary No. 1 and Pirkle Road.	*936

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Beaver Ruin Creek Tributary No. 2	1000 feet downstream of intersection of Beaver Ruin Creek Tributary No. 2 and Norcross Tucker Road.	*952
		Big Haynes Creek	170 feet downstream of intersection of Big Haynes Creek and Snellville-Loganville Road.	*883
		Bromolow Creek	50 feet upstream of intersection of Bromolow Creek and West Lidell Road.	*902
		Bromolow Crek Tributary No. 1	150 feet upstream of intersection of Bromolow Creek Tributary No. 1 and Davidson Industrial Boulevard.	*900
		Bromolow Creek Tributary No. 1.1	130 feet upstream of intersection of Bromolow Creek Tributary No. 1.1 and Bailey Drive.	*980
		Camp Creek	120 feet upstream of intersection of Camp Creek and Harmony Grove Church Road.	*918
		Chattahoochee River	200 feet upstream of intersection of Chattahoochee River and McGinnis Ferry Road.	*911
		Crooked Creek	120 feet upstream of intersection of Crooked Creek and Spalding Drive.	*886
		Crooked Creek Tributary No. 1	200 feet downstream of intersection of Crooked Creek Tributary No. 1 and Holcomb Bridge Road.	*920
		Crooked Creek Tributary No. 2	100 feet downstream of intersection of Crooked Creek Tributary No. 2 and Holcomb Bridge Road.	*925
		Crooked Creek Tributary No. 2.1	40 feet ustream of intersection of Crooked Creek Tributary No. 2.1 and Atlantic Boulevard.	*938
		Crooked Creek Tributary No. 2.1.1.	40 feet upstream of confluence with Crooked Creek Tributary No.2.1	*942
		Garner Creek	200 feet upstream of intersection of Garner Creek and Five Forks Trickum Road.	*845
			50 feet downstream of intersection of Garner Creek and Garner Drive	*929
		Garner Creek Tributary	100 feet downstream of intersection of Garner Creek Tributary and Lilburn Corinth Church Road.	*979
		Hale Creek	120 feet downstream of intersection of Hale Creek and Cole road	*890
		Hale Creek Tributary	150 feet upstream of intersection of Hale Creek Tributary and Warnor Trail.	*882
		Ivy Creek	200 feet upstream of intersection of Ivy Creek and Old Suwanee Road.	*956
		Jacks Creek	70 feet upstream of intersection of Jacks Creek and Ross Road	*792
		Jackson Creek	Intersection of Jackson Creek and center of Lester Road	*853
			180 feet downstream of intersection of Jackson Creek and Jimmy Carter Boulevard.	*920
		Jackson Creek Tributary No. 1	100 feet downstream of intersection of Jackson Creek Tributary No. 1 and Williams Road.	*903
		Jackson Creek Tributary No. 2	150 feet upstream of intersection of Jackson Creek Tributary No. 2 and Williams Road.	*931
		Lee Daniel Creek	200 feet upstream of intersection of Lee Daniel Creek and Boggs Road.	*877
		Lee Daniel Creek Tributary No. 1	50 feet upstream of intersection of Lee Daniel Creek Tributary No. 1 and State Highway 316.	*901
		Lee Daniel Creek Tributary No. 1.1.	50 feet downstream of intersection of Lee Daniel Creek Tributary No. 1.1 and State Highway 120.	*935
		Lee Daniel Creek Tributary No. 2	120 feet downstream of intersection of Lee Daniel Creek Tributary No. 2 and State Highway 316.	*886
		Little Suwanee Creek	150 feet upstream of intersection of Suwanee Creek and Russell Road.	*947
		No Business Creek	100 feet downstream of intersection of No Business Creek and Lake Road.	*740
			50 feet downstream of intersection of No Business Creek and Springdale Drive.	*897
		No Business Creek Tributary No. 1.	50 feet downstream of intersection of No Business Creek Tributary No. 1 and Green Valley Road.	*922
		North Fork Peachtree Creek	80 feet upstream of intersection of North Fork Peachtree Creek and Graves Road.	*845
		Pew Creek	120 feet upstream of intersection of Pew Creek and Huston Road	*900
		Pounds Creek	100 feet upstream of intersection of Pounds Creek and Lake Lucerne Road.	*816
			100 feet upstream of intersection of Pounds Creek and Pounds Drive	*901
		Redland Creek	200 feet upstream of intersection of Redland Creek and U.S. Highway 29.	*906
		Shetley Creek	420 feet downstream of intersection of Shetley Creek and Old Norcross Lawrenceville Road.	*898
		Shoal Creek	Intersection of Shoal Creek and Paper Mill Road	*931
		Singleton Creek	Intersection of Singleton Creek and center of State Highway 120	*901
		Suwanee Creek	100 feet upstream of intersection of Suwanee Creek and Old Suwanee Road.	*951
		Suwanee Creek Tributary No. 1	Area adjacent to the City of Buford corporate limits upstream of U.S. Highway 23.	*1003
		Sweetwater Creek	50 feet donstream of intersection of Sweetwater Creek and Cruse Road.	*859
			25 feet upstream of intersection of Sweetwater Creek and McDaniel Road.	*914
		Turkey Creek	50 feet upstream of intersection of Turkey Creek and Oak Road	*895
		Watson Creek	50 feet upstream of intersection of Watson Creek and Hewett Road	*900
		Wildcat Creek	20 feet downstream of intersection of Wildcat Creek and Russell Road.	*972
		Wolf Creek	180 feet upstream of intersection of Wolf Creek and State Highway 120.	*908
		Yellow River	200 feet upstream of intersection of Yellow River and U.S. Highway 78.	*813
			100 feet upstream of intersection of Yellow River and Collins Hill Road.	*935
			200 feet downstream of intersection of Yellow River and State Highway 20.	*976

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Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Yellow River Tributary No. 1	100 feet upstream of intersection of Yellow River Tributary No. 1 and Creekview Drive.	*917
		Yellow River Tributary No. 2	100 feet upstream of intersection of Yellow River Tributary No. 2 and Five Forks Trickum Road.	*879
		Yellow River Tributary No. 3	50 feet upstream of intersection of Yellow River Tributary No. 3 and Five Forks Trickum Road.	*886

Maps available for inspection at Planning Department, County Administration Building, Lawrenceville, Georgia.

Send comments to Honorable Wayne Mason, 240 Oak Street, Lawrenceville, Georgia 30245.

Illinois	(V) Carpentersville, Kane County	Fox River	At the downstream corporate limit	*721
			Just downstream of Carpentersville Dam	*723
			Approximately 800 feet upstream of Carpentersville Dam	*725
			Approximately 1.8 miles upstream of Carpentersville Dam	*729
		Carpentersville Creek	Just downstream of the Chicago and Northwestern railroad	*721
			Just downstream of Washington Street	*726
			Approximately 350 feet upstream of Washington Street	*727
			Approximately 425 feet downstream of Spring Street	*733
			Just upstream of Spring Street	*739
		Four Winds Way Creek	At mouth	*725
			About 75 feet upstream of Fox River Drive	*738
			Approximately 65 feet upstream of State Route 31	*769

Maps available for inspection at the Village Manager's Office, Village Hall, 1200 Meadowdale Road, Carpentersville, Illinois.

Send comments to Honorable Herbert Radtke, Village President, Village of Carpentersville, Village Hall, 1200 Meadowdale Road, Carpentersville, Illinois 60110

Indiana	(T) Edinburg Johnson and Bartholomew Counties	Driftwood River	About 2.75 miles downstream Hendricks Ford Road	*651
			About 0.2 mile upstream Hendricks Ford Road	*656
		Sugar Creek	At confluence of Big Blue River and Sugar Creek	*660
			About 0.92 mile downstream State Route 79	*661
			About 0.3 mile upstream State Route 79	*668
			About 1.57 miles upstream State Route 79	*670
		Big Blue River	About 0.1 mile upstream State Route 79	*665
			About 2.1 miles upstream State Route 79	*670
		East Side Swale	About 800 feet downstream County Line Road	*668
			Just downstream State Route 252	*674

Maps available for inspection at the Administrator's Office, Town Hall, 107 South Holland, Edinburg, Indiana.

Send comments to Honorable Larry Whitlock, President of the Town Board, Town of Edinburg, Town Hall, 107 South Holland, Edinburg, Indiana 46124.

Indiana	(C) Mishawaka, St. Joseph County.	St. Joseph River	Downstream corporate limits, (about 11,500 feet downstream of Conrail.	*689
			Just downstream from Conrail	*693
			Just upstream from Uniroyal Dam	*700
			Just downstream from Twin Branch Dam	*704
			Just upstream from Twin Branch Dam	*718
			Upstream corporate limits, (about 8500 feet upstream of Twin Branch Dam).	*718
		Woodward Ditch	Confluence with St. Joseph River	*718
			Approximately 100 feet downstream from Lincoln Way	*719
			Just upstream from Lincoln Way	*723
			Upstream corporate limits, (about 800 feet upstream of Conrail)	*725
		Elder Ditch	Confluence with St. Joseph River	*704
			450 feet upstream from Lincoln Way	*705
			Approximately 300 feet downstream from 3rd Street	*708
			Approximately 1500 feet downstream from Harrison Road	*720
			Just upstream from Harrison Road	*728
			Just downstream from corporate limits, approximately 700 feet downstream from Blackberry Road	*736
		Judy Creek	Downstream corporate limits, (about 3800 feet downstream from Grape Road).	*735
			Just downstream from Grape Road	*739

Maps available for inspection at the City Hall, Mishawaka, Indiana

Send comments to Honorable Robert Kovach, Mayor, City of Mishawaka, City Hall, Mishawaka, Indiana 46544.

Kentucky	City of Pikeville, Pike County	Levisa Fork	Approximately 1100 feet upstream of Airport Road (Pauley Bridge)	*671
			Just downstream of U.S. Highways 23 and 460 (Cline Street)	*673
			Just upstream of U.S. Highways 23 and 460 (Hibbard Street)	*677

Maps available for inspection at Building Inspector's Office, City Hall, 304 Auxier Avenue, Pikeville, Kentucky 41501.

Send comments to Mayor William Hambley or Mr. Tom Charles, Building Inspector, City Hall, 304 Auxier Avenue, Pikeville, Kentucky 41501.

Louisiana	City of Opelousas, St. Landry Parish.	Bayou Tesson	Just upstream of U.S. Highway 167	*38
			Approximately 1100 feet downstream of Dunbar Avenue	*49
			Just downstream of Bertheaud Avenue	*51
			Just upstream of Church Street	*64
		Bayou Tesson Tributary 2	Just upstream of West Joseph Street extended	*71
		Bayou Yarbor	Just upstream of McCarthy Avenue	*49
			Just downstream of Hulphen Street	*54
		Bayou Davey	Just downstream of Mouton Street	*54
		Bayou Rawles	Just downstream of West Linwood Street	*38
			Just upstream of Heather Drive	*44
		East Bayou Rawles	Just downstream of Prescott Street	*50
		Bayou Del Puent (South Branch)	Just upstream of Bellevue	*55

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Bayou Del Puent (North Branch)	Just downstream of Sandoz Street	*50
		East Fork Bayou Plaquemine Brule.	Just upstream of Missouri Pacific Railroad	*71

Maps available for inspection at City Hall, North Court Street, Opelousas, Louisiana 70570.

Send comments to Mayor Tom Edwards or Mr. Harold Lestrostes, Chief Administrator, City Hall, North Court Street, Opelousas, Louisiana 70570.

Louisiana	Unincorporated Areas of St. Landry Parish.	Bayou Carencro	Just upstream of State Highway 182	*28
			Just upstream of South Pacific Railroad	*31
		Tributary to Bayou Carencro	Just upstream of U.S. Highway 167	*35
		Bayou Sylvain	Just upstream of confluence of Magnolia Ridge	*30
		Magnolia Ridge	Just upstream of confluence with Bayou Sylvain	*30
		Bayou Petite Prairie	Just upstream of Unnamed Road	*32
		Dry Bayou	Just upstream of Texas and Pacific Railroad Bridge	*45
		Bayou Courtableau	At confluence of Little Darbonne Bayou	*25
		East Bayou Mallet	At approximately 500 feet downstream of Route 104	*62
		Bayou Teche	Just upstream of Missouri Pacific Railroad	*28
		Bayou Fusilier	Just upstream of State Highway 93	*23
		Bayou Little Teche	Just upstream of Missouri Pacific Railroad	*29

Maps available for inspection at St. Landry Parish Courthouse, Opelousas, Louisiana 70570.

Send comments to Honorable Ivan Ryder, President, St. Landry Police Jury or Mr. Terry Doucet, Community Development Director, Parish Courthouse, P.O. Box 551, Opelousas, Louisiana 70570.

Louisiana	Unincorporated Areas of St. Martin Parish.	WABPL Borrow Pit	Just downstream of Parish Road	*12
			Just upstream of Parish Road	*12
		Bayou Portage	Just downstream of Parish Road	*14
			Just upstream of Parish Road	*14
		Coulee Datidier	At extended Route 354	*14
			Approximately 1200 feet from Route 341	*20
		Bayou Capucine	Just downstream of Parish Road	*17
			Just upstream of Parish Road	*17
		Bayou Berard	Just downstream of Parish Road	*12
			Just upstream of Parish Road	*12
		Catahoula Coulee	Just downstream of Parish Road	*13
			Just upstream of Parish Road	*14
		Coulee Coteau, Holmes	Just upstream of confluence with Bayon Du Portage	*9
		Bay on Fusilier	Just downstream of State Highway 93	*23
			Just upstream of State Highway 93	*23

Maps available for inspection at St. Martin Parish Police Jury, St. Martin Parish Courthouse, St. Martinville, Louisiana 70582.

Send comments to Mr. M. G. Greig, President, St. Martin Parish Police Jury, P.O. Box 9, St. Martinville, Louisiana 70582.

Maine	Buxton, Town, York County	Saco River	Downstream Corporate Limits	*73
			Directly downstream of Skeleton Station Dam	*76
			Upstream of Skeleton Station Dam	*128
			3,300' upstream of State Route 4A	*137
			Upstream of State Route 4	*144
			Upstream of Bar Mills Dam	*152
			Approximately 1,000' upstream of abandoned railroad bridge	*158
			Directly downstream of West Buxton Dam	*160
			Directly upstream of West Buxton Dam	*161
			Approximately 1,050' downstream of Corporate Limits (Upstream crossing).	*192
			Upstream Corporate Limits	*204
		Saco River, Right Channel	Confluence with Saco River	*182
			Upstream Corporate Limits	*183

Maps available at the Buxton Town Offices, West Buxton, Maine.

Send comments to Honorable Wilmot E. Lewis, Chairman of the Buxton Board of Selectmen, Town Offices, West Buxton, Maine 04093.

Maine	Gorham, Town, Cumberland County.	Presumpscot River	Downstream Corporate Limits	*77
			Downstream of South Windham Dam	*88
			Upstream of Mallison Street	*95
			Downstream of Little Falls Dam	*97
			Upstream of U.S. Route 202	*115
			Downstream of Newhall Dam	*119
			Upstream of Newhall Bridge	*140
			Downstream of Dundee Dam	*144
			Upstream of Dundee Dam	*190
			Downstream of Great Falls Bridge	*193
			Upstream of North Gorham Dam	*225
			Upstream Corporate Limits	*226

Maps available at the Gorham Town Offices, 270 Main Street, Gorham, Maine.

Send comments to Honorable Donald Ferris, Town Manager of Gorham, Gorham Town Offices, 270 Main Street, Gorham, Maine.

Missouri	(C) Marston, New Madrid County	Shallow Flooding	Intersection Toney Street and Elm Street	#1
			Intersection De Mint Street and Main Street	#2
			Intersection Lewis Street and Elm Street	#2

Maps available for inspection at the City Hall, P.O. Box F, Marston, Missouri.

Send comments to Honorable Gene Pikey, Mayor, City of Marston, City Hall, P.O. Box F, Marston, Missouri 63866.

Missouri	(C) Parma, New Madrid County	Shallow Flooding (Overflow from Ditch No. 8).	Just north of Main Street along the norwest corporate limits	*281

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Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Shallow Flooding (Overflow from Caney Slough and Ditch No. 44).	Intersection of Caney Street and St. Louis Southwestern Railway	*280
			Approximately 1000 feet south of Elm Street and just east of Dixie Avenue.	*280

Maps available for inspection at the Collector's Office, Community Building, Parma, Missouri.

Send comments to Honorable Doyle Crow, Mayor, City of Parma, City Hall, Parma, Missouri 63870.

New Jersey	Allentown, Borough, Monmouth County.	Doctors Creek	Downstream Corporate Limits	*61
			Downstream of Main Street	*64
			Approximately 2,000' upstream of Main Street	*73
		Indian Run	Downstream Corporate Limits	*58
			Downstream of Church Street (Route 526)	*71
			Approximately 2,800' upstream of Church Street (Upstream Corporate Limits).	*84

Maps available at the office of the Borough Clerk, 8 North Main Street, Allentown.

Send comments to Honorable Robert O'Hare, Mayor of Allentown, 8 North Main Street, Allentown, New Jersey 08501.

New Jersey	Eatontown (Borough), Monmouth County.	Whale Pond Brook	Upstream side of Whale Pond Road	*36
			600' downstream of State Route 35	*39
			Upstream side of State Route 35	*49
			3,200' downstream of Hope Road	*62
			Downstream side of Hope Road	*74
		Parkers Creek	Upstream side of State Route 35	*12
			Conrail Crossing	*16
		Wampum Brook	Western Boundary of Fort Monmouth	*14
			Upstream side of Main Street	*15
			Upstream side of Dam	*18
			Upstream side of Conrail (the downstream crossing)	*20
			Lewis Street	*26
			Upstream boundary of Camp Charleswood	*26

Maps available at the office of the Borough Administration, Municipal Building, 42 Broad Street, Eatontown.

Send comments to Honorable J. Joseph Frankel, Mayor of Eatontown, 42 Broad Street, Eatontown, New Jersey 07724

New Jersey	Harding (Township), Morris County.	Passaic River	50 feet west of the intersection of Madisonville Road and Pleasant Plains Road.	*245
			At the intersection of upstream corporate limit and Passaic River	*340
		Great Brook	At the center of Woodland Avenue crossing of Great Brook	*245
			40 feet upstream from center of Van Beuren Road crossing	*272
		Tributary of Great Brook	At the center of James Street crossing of Tributary of Great Brook	*279
		Silver Brook	50 feet upstream from center of James Street crossing	*276
		Primrose Brook	20 feet upstream from center of Lees Hill Road crossing	*238
			50 feet downstream from center of Mount Kemble Avenue crossing	*316

Maps available for inspection at Office of Township Clerk, Township Hall, Township of Harding, P.O. Box 23, Madison, New Jersey.

Send comments to Honorable W. Thomas Margetts, Mayor, Township of Harding, P.O. Box 23, Madison, New Jersey 07940.

New Jersey	Matawan (Borough), Monmouth County.	Matawan Creek	Downstream Corporate Limits	*12
			Upstream Corporate Limits at New Brunswick Avenue	*18
		Gravelly Run	Upstream Main Street	*22
			Upstream Conrail at Upstream Corporate Limits	*23

Maps available at the office of the Borough Clerk, 150 Main Street, Matawan, New Jersey.

Send comments to Honorable Michael Piperno, Borough Administrator of Matawan, 150 Main Street, Matawan, New Jersey 07747.

New York	Haverstraw (Village), Rockland County.	Hudson River	Entire shoreline within community	*8
		Minisceongo Creek	Approximately 600' downstream of first downstream crossing of corporate limits.	*11
			Upstream of Samsondale Avenue	*19
			Approximately 1,250' upstream of Samsondale Avenue	*30
			Upstream of Conrail	*42
			Approximately 300' downstream of U.S. Routes 9W and 202	*49
			At upstream corporate limits	*62

Maps available at the Village Hall, Fairmont Avenue, Haverstraw, New York.

Send comments to Honorable Anthony J. Bosico, Mayor, Village Hall, Fairmont Avenue, Haverstraw, New York 10927.

New York	Huron (Town), Wayne County	Lake Ontario	Entire shoreline within community	*249
			At Sodus Bay shoreline within community	*249
			At East Bay shoreline within community	*249
			At Port Bay shoreline within community	*249

Maps available at the Town Hall, 10880 Lummisville Road, Wolcott, New York.

Send comments to Honorable Donald Stevens, Town Supervisor, Town Hall, 10880 Lummisville Road, Wolcott, New York 14590.

New York	Ithaca (City), Tompkins County	Cayuga Lake	Entire Shoreline within City of Ithaca	*386
		Cayuga Inlet	Confluence with Cayuga Lake	*386
			Confluence of Cascadilla Creek	*387
			Downstream confluence of Old Inlet	*387
			State Routes 78, 89, and 96	*388
			Upstream confluence of Old Inlet	*388
			Upstream Corporate Limits	*455
		Cascadilla Creek	Confluence with Cayuga Inlet	*387

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream North Cayuga Street	*390
			Upstream North Tioga Street	*403
			350' upstream Linn Street	*416
		Fall Creek	Confluence with Cayuga Lake	*386
			110' downstream Lake Street	*386
		Old Inlet	Downstream confluence with Cayuga Inlet	*387
			Confluence with Sixmile Creek and Relief Channel	*388
			Upstream confluence with Cayuga Inlet	*388
		Relief Channel	Confluence with Old Inlet	*388
			Approximately 4,000' upstream of confluence with Old Inlet	*388
		Sixmile Creek	Confluence with Old Inlet	*388
			100' downstream West Clinton Street	*388
			Approximately 60' upstream North Aurora Street	*388
			900' upstream North Aurora Street	*418
			60' downstream Footbridge	*429
			980' upstream Footbridge	*439
			1,320' upstream Footbridge	*442

Maps available at the City Clerk's Office, 108 E. Green Street, Ithaca, New York.

Send comments to Honorable Raymond Bordoni, Mayor, City Hall, 108 East Green Street, Ithaca, New York 14850.

New York	Lockport (Town), Niagara County	Donner Creek	Upstream Transit Road	*606
			Upstream Robinson Road	*608
			Upstream Locust Street	*613
			Upstream Hamen Road	*616
			Downstream Beattie Road	*617
		Mud Creek	Upstream Transit Road	*582
			Downstream Minnick Road	*584
			Upstream Rapids Road	*586
			Upstream Westerman Road	*588
			At Upstream Corporate Limits	*591

Maps available at the Town Hall, 6560 Dysinger Road, Lockport.

Send comments to Honorable Floyd Snyder, Town Supervisor of Lockport, Town Hall, 6560 Dysinger Road, Lockport, New York 14094

New York	Lyndonville (Village), Orleans County.	Johnson Creek	45Downstream Corporate Limits.	*315
			Upstream State Route 63	*320
			Upstream Corporate Limits	*324

Maps available at the Lyndonville Village Hall, 2 South Main Street, Lyndonville

Send comments to Honorable Fred Large, Mayor, Village Hall, 2 South Main Street, Lyndonville, New York 14098.

New York	Skaneateles, Village, Onondaga County.	Skaneateles Lake	Entire shoreline within the community	*867
		Skaneateles Creek	Upstream of downstream corporate limits	*854
			Downstream of West Elizabeth Street	*856
			Downstream of State Dam	*860

Maps available at the Village Office, 46 Genesee Street, Skaneateles, New York.

Send comments to the Honorable Carl Fisher, Mayor, Village Hall, 46 Genesee Street, Skaneateles, New York 13152.

Ohio	(C) Euclid, Cuyahoga County	Lake Erie	Shoreline	*576
		Euclid Creek	About 1050 feet downstream of Norfolk and Western Railway	*620
			Just upstream of Norfolk and Western Railway	*626
			About 250 feet upstream of Norfolk and Western Railway	*628
			About 200 feet downstream Euclid Avenue	*630
			Just downstream Euclid Avenue	*632

Maps available for inspection at the Office of the City Clerk, City Hall, 585 East 222nd Street, Euclid, Ohio.

Send comments to Honorable Tony Giunta, Mayor, City of Euclid, City Hall, 585 East 222nd Street, Euclid, Ohio 44123.

Ohio	(V) Kelleys Island, Erie County	Lake Erie	Shoreline	*576

Maps available for inspection at the Office of the Village Clerk, Village Hall, P.O. Box 187, Kelleys Island, Ohio.

Send comments to Honorable Michael McCune, Mayor, Village of Kelleys Island, Village Hall, P.O. Box 187, Kelleys Island, Ohio 43438

Ohio	(C) Middleburg Heights, Cuyahoga County	Baldwin Creek	At Lucerne Drive	*817
			Just upstream Bagley Road	*834
			About 600 feet upstream Bagley Road	*837
			Just upstream private drive	*847
			At West 130th Street	*849

Maps available for inspection at the Office of the City Engineer, City Hall, 15700 East Bagley Road, Middlesburg Heights, Ohio.

Comments to Honorable Steven Tymico, Mayor, City of Middleburg Heights, City Hall, 15700 East Bagley Road, Middleburg Heights, Ohio 44130.

Ohio	(C) Parma, Cuyahoga County	West Creek	Just upstream of Snow Road	*803
			About 1750 feet upstream of Snow Road	*848
			Just upstream of Grantwood Drive	*872
			Approximately 1860 feet upstream of Ridgewood Drive	*908
		Baldwin Creek	Just downstream of West 130th Street	*849
			Just upstream of East Linden Lane	*896
			Just downstream of Sprague Road	*876

Maps available for inspection at the Office of the City Engineer, City Hall, 6611 Ridge Road, Parma, Ohio. Send comments to Honorable John Petrushka, Mayor, City of Parma, City Hall, 6611 Ridge Road, Parma, Ohio 44129.

Ohio	(C) Pepper Pike, Cuyahoga County.	Pepper Creek	About 2560 feet downstream of Shaker Boulevard	*861
			Just downstream of Shaker Boulevard	*868

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Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			About 600 feet upstream of dam located 150 feet upstream of Shaker Boulevard	*973
			About 350 feet upstream of Chatham Road	*977
			About 150 feet downstream of dam located 1100 feet upstream of Chatham Road.	*978
			Just upstream of dam located 1100 feet upstream of Chatham Road	[illegible]
			About 100 feet upstream of golf bridge	*987
			About 150 feet upstream of Lander Road	*1006
			About 1850 feet upstream of Lander Road	*1028

Maps available for inspection at the Office of the City Clerk, City Hall, 28000 Shaker Boulevard, Pepper Pike, Ohio.

Send comments to Honorable John Avery, Mayor, City of Pepper Pike, City Hall, 28000 Shaker Boulevard, Pepper Pike, Ohio 44124.

Ohio	(C) Warrensville Heights, Cuyahoga County.	Hawthorne Creek	Downstream corporate limits	*1081
			Just upstream of Low Head Dam	*1085
			About 120 feet upstream of Emery Road	*1092
			Upstream corporate limits	*1125
		Mill Creek	About 720 feet downstream of South Miles Road	*939
			Just upstream of South Miles Road	*952
			About 400 feet upstream of Conrail	*972
			About 400 feet upstream of Emery Road	*978
			About 500 feet downstream of Longbrook Road	*1004
			About 1150 feet upstream of Longbrook Road	*1013
			Just downstream of Warrensville Center Road	*1019

Maps available for inspection at the Office of the City Clerk, City Hall, 4301 Warrensville Center Road, Warensville Heights, Ohio.

Send comments to Honorable Raymond J. Grabow, Mayor, City of Warrensville Heights, City Hall, 4301 Warrensville Center Road, Warrensville Heights, Ohio 44128.

Pennsylvania	Abbottstown, Borough, Adams County.	Beaver Creek	Downstream Corporate Limits	*487
			Upstream side U.S. Route 30	*495
			Confluence of Spring Run	*498
			410 feet below upstream corporate limits	*508
			Upstream corporate limits	*514
		Spring Run	Confluence with Beaver Creek	*498
			Upstream side State Route 194 (S. Queen St.)	*507
			Upstream Corporate Limits	*509

Maps available at the Municipal Building, Abbottstown, Pennsylvania.

Send comments to Honorable John Ebaugh, Council President of Abbottstown, 169 East King Street, Abbottstown, Pennsylvania 17301.

Pennsylvania	Paradise, Township, York County.	Conewago Creek	Downstream Corporate Limits	*389
			Downstream Eisenhower Dam	*397
			Confluence of Beaver Creek	*400
		Beaver Creek	Confluence with Conewago Creek	*400
			Downstream side of downstream crossing of Beaver Creek Road	*413
			Upstream Jacobs Mill Road	*424
			Confluence of Tributary A	*434
			Downstream Home Road	*447
			Downstream Protectory Road	*461
			Downstream First footbridge	*478
			Upstream U.S. Route 30	*496
			Downstream crossing Country Club Road	*520
			Footbridge approximately 3,150 feet upstream of the downstream crossing of Country Club Road.	*551
			Upstream crossing Country Club Road	*568
			Downstream Maple Grove Road	*613
		Tributary A	Confluence with Beaver Creek	*434
			Upstream Canal Road	*456
			Upstream side of Dam approximately 1,000 feet upstream of Canal Road.	*467
			Downstream Protectory Road	*486
			Downstream U.S. Route 30	*511
			Upstream U.S. Route 30	*519
			Downstream Private Drive approximately 2,500 feet upstream of U.S. Route 30.	*541
			Approximately 580 feet downstream of Maple Grove Road	*583
			Downstream Maple Grove Road	*597
			Downstream Dam approximately 80 feet upstream of Maple Grove Road.	*605

Maps available at the Paradise Township Building, Beaver Creek Road.

Send comments to Honorable Dean Bentzel, Chairman of the Paradise Board of Supervisors, R.D.1, Thomasville, Pennsylvania 17364.

Pennsylvania	Reading (City), Berks County	Schuylkill River	Confluence with Angelica Creek	*199
			Centerline of Buttonwood Street	*212
			200 feet upstream from centerline of Schuylkill Street	*215
			100 feet downstream from centerline of Warren Street Bypass	*224
		Angelica Creek	250 feet downstream from centerline of Morgantown Road	*200
			100 feet upstream from centerline of Morgantown Road	*222
		Wyomissing Creek	Centerline of Museum Road	*211
			Centerline of West Shore Bypass	*209
		Tulpehocken Creek	500 feet downstream from centerline of Conrail	*214
			Centerline of Warren Street	*215

Maps available for inspection at City Hall, Eighth and Washington Streets, Reading, Pennsylvania.

Send comments to Honorable Karen Miller, Eighth and Washington Streets, Reading, Pennsylvania 19601.

Texas	City of Austin, Travis County	Boggy Creek (South)	Just downstream of Circles Drive	*617
			Just upstream of West Boggy Creek Road	*635

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Bull Creek	Approximately 300 feet downstream of Loop 360	*551
		Bull Creek, Tributary 1	Just upstream of Farm-to-Market Road	*505
		Carson Creek	Approximately 300 feet downstream of Dalton Lane	*440
			Just upstream of East Bound Highway 71	*478
		Colorado River	Just downstream of Pleasant Valley Road	*439
			Just upstream of the confluence of Bull Creek	*496
			Just upstream of the confluence of Bear Creek	*512
		Dry Creek	Just downstream of Walsh Tarleton Drive	*[illegible]
		Dry Creek North	Just upstream of Mt. Bonnell Road	*517
			Just upstream of Farm-to-Market 2222	*586
		Onion Creek	Just upstream of Knockles Crossing	*534
		Walnut creek	Just upstream of Layola Lane	*475
			Just downstream of Interstate 35	*601
			Just upstream of North Lamar Road	*622
			Just downstream of Farm-to-Market 1325	*[illegible]
			Just upstream of Oak Creek Drive	*751
		Walnut Creek Tributary G	Approximately 90 feet downstream of Duval Road	*705
		Wells Branch	Approximately 2500 feet downstream of Ceder Bend Drive	*625
		Williamson Creek Part I	Just upstream of Nuckles Crossing Road	*543
			Just downstream of the downstream crossing of South First Street	*[illegible]
		Williamson Creek Part II	Approximately 4000 feet downstream of Joe Tanner Lane	*775
		Williamson Creek Tributary 2	Just upstream of William Cannon Blvd	*711
			Just upstream of Latta Drive	*749

Maps available for inspection at City Hall, 124 West 8th Street, Austin, Texas 78767

Send comments to Mayor Carol McClellan or Mr. Ramone F. Miquez, Engineer, City Hall, 124 West 8th Street, Austin, Texas 78767

Texas	City of Brenham, Washington County.	Little Sandy Creek	Just downstream of Independence St	*238
			Just upstream of Independence St	*240
			Just downstream of FM 2935	*249
			Just upstream of FM 2935	*252
			Just downstream of Loop 293	*261
			Just upstream of Loop 293	*263
			Just downstream of Burleson Street	*275
			Just upstream of Burleson Street	*278
		Higgins Branch	Just downstream of FM 2935	*255
			Just upstream of FM 2935	*258
			Just downstream of Horton Street	*[illegible]
			Just upstream of Horton Street	*[illegible]
			Just downstrream of Burleson Street	*279
			Just upstream of Burleson Street	*[illegible]
			Just downstream of Jefferson Street	*[illegible]
			Just upstream of Jefferson Street	*301
		Higgins Tributary	Just downstream of Saeger Street	*314
			Just upstream of Saeger Street	*316
		Hog Branch	Just downstream of Horton Street	*253
			Just upstream of Horton Street	*255
			Just downstream of the Southern Pacific Railroad	*264
			Just upstream of the Southern Pacific Railroad	*[illegible]
			Just downstream of Chappell Hill St.	*281
			Just upstream of Chappell Hill St.	*284
		Ralston Creek	Just downstream of Horton Street	*261
			Just upstream of Horton Street	*[illegible]
			Just downstream of Gun and Rod Road	*274
			Just upstream of Gun and Rod Road	*277
			Just downstream of Chappell Hill St.	*303
			Just upstream of Chappell Hill St.	*305
		South Fork of Ralston Creek	Approximately 140 feet upstream of the confluence point with Ralston Creek.	*284
		Unnamed Tributary of Woodward Creek	Just upstream of Trinity Street extended	*329

Maps available for inspection at City Utility Building, 210 North Park Street, Brenham, Texas 77833.

Send comments to Mayor Leslie D. Clayton or Mr. Johnny Smith, City Manager, City Hall, 210 North Park Street, Brenham, Texas 77833

Texas	City of Cuero, Dewitt County	Gohlke Creek	At Alonzo Street	*167
			At Heaton Street	*167
			Approximately 160 feet at upstream of Main Street	*175
			Approximately 120 feet at upstream of Broadway St.	*177
		Gohlke Creek Tributary	At McArthur Street extended	*169
			Approximately 120 feet at downstream of Morgan Avenue	*172
			Just upstream of South Railroad St.	*176
		SCS Channel	At downstream corporate limits, approximately 150 feet downstream of Paine Street	*182

Maps available for inspection at City Hall, 201 East Main Street, Cuero, Texas 77954.

Send comments to Mayor Ben E. Prause, City Hall, 201 East Main Street, Cuero, Texas 77954.

Texas	City of Danbury, Brazoria County	Flores Bayou	Intersection of Avenue K and Ninth Street	*22
			Intersection of Avenue J and Eleven Street	*22
		Austin Bayou	County Road 602 (extended)	*19
			Fourth Street (extended)	*20

Maps available for inspection at City Hall, 6102 Fifth Street, Danbury, Texas 77534.

Send comments to Mayor Larry Menard, or Ms. Marilyn Lampe, City Secretary, City Hall, 6102 Fifth Street, Danbury, Texas 77534.

Texas	City of Falfurrias, Brook County	Rio Blanco Creek	Just downsteam of E. Rice Street (U.S. Highway 285)	*113
		Cibolo Creek	Just downstream of E. Rice Street (U.S. Highway 285	*113

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Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Shallow Flooding Area	At the intersection of St. Mary Street (U.S. Highway 281) and Taylor Street.	#1
			At the intersection of N. St. Mary Street (U.S. Highway 281) and Huisache Street.	#2
			At the intersection of N. St. Mary Street (U.S. Highway 281) and Travis Street.	#3

Maps available for inspection at City Hall, 205 East Allen Street, Falfurrias, Texas 78355.

Send comment to Mayor Ernesto Villarreal or Ms. Aurora Rodriguez, City Clerk, City Hall, 205 East Allen Street, Falfurrias, Texas 78355.

Texas	City of Harker Heights, Bell County.	Nolan Creek	Just downstream of Buffalo Trail	*720
			Just upstream of North Ann Boulevard	*735
		Harker Heights Tributary 1	Just upstream U.S. Highway 190 (Business)	*723
			Just upsteam of Indian Trail	*768
		Harker Heights Tributary 2	Just downstream U.S. Highway 190 (Business)	*732
			Just upsteam Clore Road	*763
			Just downstream of South Amy Lane	*779
		Overland Flow, Harker Heights Tributary 2.	Just upstream of Bluebird Drive	*795
		Harker Heights Tributary 3	Just upstream of Ball Road	*739
			Just upstream of North Ann Boulevard	*769
		Harker Heights Tributary 4	At Jamie Road Extended	*744

Maps available for inspection at City Hall, 120 Harley Drive, Harker Heights, Texas 76541.

Send Comments to Mayor Keith S. Lain or Mr. Fred Coley, City Manager, City Hall, 120 Harley Drive, Harker Heights, Texas 76541.

Texas	City of Harlingen, Cameron County.	Arroyo Colorado	Just downstream of Loop 449	*21
			Just downstream of U.S. Routes 77/83 & Access Roads	*26
		Tributary #1 Arroyo Colorado	Approximately 600 feet upstream of Treasure Lake Rd.	*33
		Tributary #2 to Arroyo Colorado	Just upstream of U.S. Routes 77/83	*33
		Tributary #3 to Arroyo Colorado	Just downstream of Garret Road	*35
			Just downstream of Lincoln Avenue	*39

Maps available for inspection at City Hall, 118 East Tyler Street, Harlingen, Texas 78550.

Send comments to Mayor Bob Youker, or Mr. Harry Savio, City Manager, City Hall, 118 East Tyler Street, Harlingen, Texas 78550.

Texas	City of Holland, Bell County	Darrs Creek	Just downstream of State Highway 95	*502
			Just downstream of Missouri-Kansas Texas Railroad	*505
			Just upstream of Missouri-Kansas Texas Railroad	*511
			Just downstream of Hackberry Street	*511
		Cathey Creek	Approximately 180 feet at upstream of the north corporate limits which is located approximately 1270 feet at upstream of FM 1123.	*544

Maps available for inspection at City Hall, 104 West Travis, Holland, Texas 76534.

Send comments to Mayor Roger Houston or Ms. Janet Nelson, City Secretary, City Hall, 104 West Travis, Holland, Texas 76534.

Texas	City of Killeen, Bell County	Nolan Creek	Approximately 30 feet at upstream of Roy Reynolds Drive	*745
			At 54th Street extended	*767
			Approximately 120 feet at upstream of 38th Street	*777
			Approximately 130 feet at upstream of W. S. Young Drive	*791
			Just downstream of Highway 190 (Business)	*802
			Approximately 60 feet at downstream of Sixth Street (Gray Street)	*813
			Approximately 30 feet at downstream of Dimple Street	*827
		Little Nolan Creek	Approximately 50 feet at downstream of Highway 190 (Business)	*773
			Approximately 30 feet at downstream of F.M. 2410	*782
			Approximately 20 feet at downstream of North Frontage Road of U.S. Highway 190.	*801
		Little Nolan Creek Tributary 1	Approximately 20 feet at downstream of Little Nolan Road	*819
			Approximately 40 feet downstream of W. S. Young Drive	*835
			Approximately 100 feet downstream of West Trimmer Road	*862
			Approximately 110 feet at upstream of old F.M. 440	*940
		Little Nolan Creek Tributary 2	Approximately 20 feet at upstream of East Trimmer Road	*822
		Long Branch	Approximately 20 feet at upstream of F.M. 439	*781
			Approximately 40 feet at upstream of Lake Road	*793
			At Laurel Lane extended	*799
			Approximately 20 feet at downstream of Hillard Avenue	*824
		Harker Heights Tributary 4	At Spring Brook Drive Extended	*766
		Nolan Creek Tributary 3	Approximately 50 feet of upstream at Atchison Avenue	*794
			Approximately 70 feet at upstream of Liberty Street	*804
			Approximately 40 feet at upstream of Davis Drive	*824
		Nolan Creek Tributary 4	Approximately 100 feet at upstream of Greenwood Avenue	*809
			Approximately 70 feet at downstream of Harris Avenue	*823
			Approximately 90 feet at downstream of Gray Avenue	*839
		Site Tributary No. 7	Just downstream of Roy Reynolds Drive	*763

Maps available for inspection at City Hall, 400 North Second St., Killeen, Texas 76541.

Send comments to Mayor E. Blair, City Hall, 400 N. Second St., Killeen, Texas 76541.

Texas	City of Kingsville, Kleberg County.	Escondido Creek	Just upstream of FM 1355E	*48
			Just downstream of Missouri Pacific Railroad	*46
			Just downstream of Southern corporate limits	*41
			Just downstream of U.S. Highway 77 Bypass	*39
		Santa Gertrudis Creek	Just downstream of U.S Highway 77 Bypass	*40
			Just downstream of U.S. Highway 77 Business	*50
			Kingsville corporate limits	*52

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
		Tranquitas Creek	U.S. Highway 77 Bypass	*45
			Just upstream of 17th Street	[illegible]
			Just upstream of 5th Street	[illegible]
			Just upstream of 1st Street	*65

Maps available for inspection at City Hall, 200 East Kleberg Street, Kingsville, Texas 78363.

Send comments to Mayor Mary C. Hill, or Mr. Mike Tanner, Director of Planning and Urban Development, City Hall, 200 East Kleberg Street, Kingsville, Texas 78363

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 4, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-36176 Filed 11-20-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5841]

Revision of Proposed Flood Elevation Determinations for Borough of Roseland, Essex County, New Jersey, Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Borough of Roseland, New Jersey.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 45 FR 42711 on June 25, 1980 and in the *Caldwell Progress*, published on or about May 29, 1980, and June 5, 1980, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at 140 Eagle Rock Avenue, Roseland, New Jersey.

Send comments to: Honorable Richard Leonard, 140 Eagle Rock Avenue, Roseland, New Jersey 07068.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program (202) 426–1460 or Toll Free Line (800) 424–8872; In Alaska or Hawaii, call Toll Free Line (800–424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Borough or Roseland, New Jersey, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Canoe Brook	Intersection of Canoe Brook and center of Thackery Drive	*450
	Intersection of Canoe Brook and center of Evelyn Road	*468

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended: 42 U.S.C. 4001–4128: Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 4, 1980.

Gloria M. Jiminez,

Federal Insurance Administrator.

[FR Doc. 80-36178 Filed 11-20-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FI-5528]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Marshall, Allegheny County, Pennsylvania.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in the *North Hills News Record* on June 1, 1979, and June 5, 1979, and in the **Federal Register** at 44 FR 33898 on June 13, 1979, and hence

Source of flooding	Location	#Depth in feet above ground *Elevation in feet (NGVD)
Passaic River	Intersection of Passaic River and center of Morristown and Erie Railroad.	*174
Foulertons Brook	Confluence of Foulertons Brook and North Branch Foulertons Brook.	*173
	20 feet upstream from center of Locust Avenue.	*250
North Branch Foulertons Brook.	160 feet upstream from center of Eisenhower Parkway.	*186
	70 feet upstream from center of Morristown and Erie Railroad.	*241
	115 feet upstream from center of ADP Boulevard.	[illegible]

supersedes those previously published

FOR FURTHER INFORMATION CONTACT:

90–448)), 42 U.S.C. 4001–4128, and 44

Creek bounded on the west by Chestnut

Creek; and in portions of the area west

DATES: Comments must be submitted on

supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed flood elevations are available for review by contacting Ms. Maxine Douthett, Marshall Township Secretary at (412) 935–2911.

Send comments to: Honorable Thomas W. Frank, Chairman of the Marshall Board of Supervisors, Box 94, Warrendale, Pennsylvania 15086.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Federal Emergency Management Agency, Federal Insurance Administration, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Township of Marshall, Allegheny County, Pennsylvania, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Marshall, Township Allegheny County.	Brush Creek	Downstream Corporate Limits	*1,024
			Thorn Hill Road Upstream	*1,035
			Perry Highway Upstream	*1,058
			Northgate Drive Upstream	*1,064
			Upstream Corporate Limits	*1,072

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 4, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-36179 Filed 11-20-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-5946]

National Flood Insurance Program Proposed Base Flood Elevations and Zone Designations for the City of Galax, Independent City, Virginia

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations and zone designations described below.

The proposed base flood elevations and zone designations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety-days following the second publication of this proposed rule in the newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations and zone designations are available for review at 123 North Main Street, Galax, Virginia.

SEND COMMENTS TO: Mr. W. Harold Snead, City Manager, City of Galax, Galax, Virginia 24333.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation & Engineering Office, National Flood Insurance Program, 451 Seventh Street, S.W., Washington, D.C. 20410; (202) 755–6570 or toll free line (800) 424–8872).

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed base flood elevations and zone designations for the City of Galax, Virginia, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a).

Zone designations and base (100-year) flood elevations, together with the flood plain management measures requried by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base flood elevations along Chestnut Creek range from 2364 feet MSL at the point where Route 89 crosses Chestnut Creek south of Pipers Gap Road to 2339 feet MSL at a point approximately 450 feet downstream of the point where U.S. Routes 58 and 221 cross Chestnut Creek.

The proposed zone designations are:

Zone A7 in portions of the area west of Chestnut Creek bounded on the north by a line perpendicular to Chestnut Creek and approximately 450 feet downstream from U.S. Routes 58 and 221, on the west by the railroad tracks, and on the south by a line parallel to and 500 feet north of Oldtown Street; in portions of the area west of Chestnut Creek bounded on the west by Chestnut Drive and on the north and south by lines perpendicular to Chestnut Creek and approximately 150 feet and 400 feet respectively south of the junction of Chestnut Drive and Branch Street; in portions of the area east of Chestnut Creek bounded on the north by Webster Street, on the east by a line parallel to an approximately 125 feet east of Givens Street, and on the south by a line parallel to an approximately 400 feet south of Webster Street; and in portions of the area west of Chestnut Creek bounded on the north by a line parallel to and approximately 400 feet south of Bartlett Street, on the south by a line parallel to and approximately 900 feet south of Bartlett Street, and on the west by a line parallel to and approximately 200 feet east of Railroad Avenue.

Zone B in portions of the area west of Chestnut Creek bounded on the north by a line perpendicular to Chestnut Creek and approximately 450 feet downstream from U.S. Routes 58 and 221, on the west by Madison Street, a straight line connecting the south end point of Madison Street to the north end point of Edwards Street. Edwards Street, a straight line connecting the south end point of Edwards Street to a point on the railroad adjacent to River Side Drive, the railroad south of River Side Drive, a straight line connecting the south end point of the railroad to the junction of Chestnut Drive and Branch Street, and a line connecting the junction of Chestnut Drive and branch Street to a point on Chestnut Drive approximately 475 feet south of the junction of Chestnut Drive and Branch Street, and on the south by a line parallel to and 475 feet south of Branch Street; also in portions of the area east of Chestnut Creek bounded on the north by U.S. Routes 58 and 221 and Shaw Road, on the east by Caldwell Street, a straight line connecting the junction of Caldwell Street and Mary Street to the junction of Knob Road and Givens Street, a straight line connecting the junction of Knob Road and Givens Street to a point on Brickyard Road approximately 300 feet east of Route 89 Truck Bypass, a straight line connecting the point on Brickyard Road approximately 300 feet east of Route 89 Truck Bypass to a point on Bedsaul road approximately 50 feet east of Lineberry Road, a locus of points parallel to and approximately 50 feet east of Lineberry Road from Bedsaul Road to Route 89, and the west side of Route 89 between Lineberry Road and the point where Route 89 crosses Chestnut Creek south of Pipers Gap Road.

Zone C along both of the two northernmost tributaries of Chestnut Creek; and in portions of the area west of Chestnut Drive on either side of Branch Street within a radius of approximately 300 feet of the junction of Chestnut Drive and Branch Street; in portions of the area bounded on the north by Shaw Street, on the south by Mary Street on the east by Caldwell Street, and on the west by Meadow Street, in portions of the area east of Chestnut Creek bounded on the north by Oldtown Street, on the east by Oak Street, on the south by Brickyard Road, and on the west by Meadow Street; also in portions of the area west of Chestnut Creek bounded on the north by a straight line parallel to and approximately 250 feet south of River Side Drive, on the west by Route 89 and a line parallel to an 50 feet north of Chestnut Drive, and on the south by the extended centerline of Branch Street.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: October 10, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-36180 Filed 11-20-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 80-605; RM-3569]

Amendment To Permit the Use of 12.5 kHz Offset Assignments in the 450–470 MHz Band in the Private Land Mobile Radio Services; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment and reply comment.

SUMMARY: The Notice of Proposed Rule Making proposes making the 12.5 kHz offset frequencies lying between regularly assigned channels in the 450–470 MHz band available to all private land mobile services as is already being done in the Business Radio Service. Adoption of this proposal could make over 300 additional interstitial channels available for systems requiring limited coverage. The date for filing comments and reply comments is extended because parties desiring to comment requested more time to prepare comments.

DATES: Comments must be submitted on or before November 30, 1980, and reply comments on or before December 15, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Emmett Haines Pritchard, Private Radio Bureau, (202) 632–6497.

SUPPLEMENTARY INFORMATION:

Adopted: November 5, 1980.

Released: November 7, 1980.

By the Chief, Private Radio Bureau:

1. On October 20, 1980, the Commission released a Notice of Proposed Rule Making (45 FR 69504) in the above-styled matter (FCC 80–566). The date for filing comments in the document is on or before November 5, 1980, and reply comments on or before November 15, 1980.

2. Several of the interested parties have requested that this time period be extended because the present time periods do not allow adequate time to prepare comments.

3. We believe that the requested additional time is warranted, and will enable a more thorough exploration of the issues before the Commission.

4. Accordingly, it is ordered, that the time for filing comments in RM–3569 is extended to and including November 30, 1980, and reply comments to and including December 15, 1980.

5. This action is taken pursuant to authority found in Section 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.331 of the Commission's Rules.

Federal Communications Commission.

Carlos V. Roberts,

Chief, Private Radio Bureau.

[FR Doc. 80-36340 Filed 11-20-80; 8:45 am]

BILLING CODE 6712-01-M

Notices

Notices

Federal Register
Vol. 45, No. 227
Friday, November 21, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Cornelius Livestock Co., Phoenix, Arizona; Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

Facility number, name, and location of stockyard	Date of posting
AZ-101 Cornelius Livestock Co., Phoenix, Arizona.	Oct. 16, 1957.
AZ-106 Snowflake Livestock Auction, Snowflake, Arizona.	Nov. 8, 1973.
AZ-107 Vande Voorde Livestock Auction, Show Low, Arizona.	Apr. 1, 1974.
AZ-108 West Chandler Livestock Auction, Chandler, Arizona.	Dec. 5, 1974
AZ-110 Sun Valley Livestock Auction Co., Sun Valley, Arizona.	Oct. 28, 1977
CA-101 Chas. Adams' Dairy Auction Yards, Artesia, California.	Jan. 6, 1947.
CA-105 Beaumont Horse Market, Beaumont, California.	Oct. 6, 1969.
CA-110 Chowchilla Livestock Auction Yards, Chowchilla, California.	Nov 20, 1959.
CA-111 Maclm-Caldwell Auction Co., Colton, California.	Oct. 1, 1959
CA-116 Schene Sheep Auction, Dixon, California.	Nov 6, 1959.
CA-133 California Auction & Liquidators, Riverdale, California.	Nov. 10, 1959.
CA-136 Modesto Horse Sale, Modesto, California.	Nov. 4, 1969.
CA-143 Orland Auction Yard, Inc., Orland, California.	Oct. 10, 1969.
CA-148 Red Bluff Livestock Auction, Red Bluff, California.	Oct. 6, 1959.
CA-149 Riverbank Livestock Auction, Riverbank, California.	May 10, 1961.
CA-169 Williams Livestock Auction Co., Inc., Wilhams, California.	Oct 12, 1969.
CA-165 Yuba City Auction Yard, Yuba City, California.	Nov. 9, 1959.
CA-170 Bangor Auction, Bangor, California.	Apr. 2, 1976.
CO-104 Burlington Livestock Market Center, Burlington, Colorado.	Aug. 30, 1950.
CO-111 A. A. Blakley Livestock Commission Co., Inc., Stockyards, Denver, Colorado.	Oct. 28, 1966.
CO-114 Elizabeth Livestock Auction, Colorado.	Oct. 3, 1959.
IL-100 Hilltop Sales Barn, Alton, Illinois.	Nov. 17, 1959.
IL-108 Byron Livestock Commission Company, Byron, Illinois.	Nov. 20, 1959.
IL-109 Estes Livestock Auction, Canton, Illinois.	Sept. 16, 1960.
IL-121 Forrest Livestock Sales, Forrest, Illinois.	Nov. 19, 1959.
IL-132 Jefferson County Livestock Auction, Mt. Vernon, Illinois.	Sept. 19, 1961.
IL-138 Palmyra Sales Company, Palmyra, Illinois.	May 31, 1961.
IL-144 Peinfield Livestock Commission Co., Penfield, Illinois.	Nov. 20, 1959.
IL-148 Princeton Livestock Auction, Princeton, Illinois.	Sept. 13, 1960.
IL-149 Princeville Livestock Sale, Princeville, Illinois.	Nov. 25, 1959.
IL-156 Stoutenborough Auction, Springfield, Illinois.	Nov. 18, 1959.
IL-165 Phillips Sale Company, Good Hope, Illinois.	Sept. 23, 1971.
IL-166 Benton Livestock Sale, Benton, Illinois.	Aug. 4, 1975.
IA-104 Atterton Sale Co., Allerton, Iowa.	May 16, 1959.
IA-116 Belmond Livestock Sales, Belmond, Iowa.	May 19, 1959.
IA-118 Boone Sales Co., Boone, Iowa.	May 18, 1959.
IA-126 Clear Lake Auction Company, Clear Lake, Iowa.	Mar. 12, 1957.
IA-150 Fonda Livestock Sales, Fonda, Iowa.	June 4, 1959.
IA-162 Mcintosh Livestock Auction Co., Ida Grove, Iowa.	Mar. 14, 1958.
IA-187 Montezuma Sale Company, Montezuma, Iowa.	June 9, 1959.
IA-221 Stuart Horse Sale, Stuart, Iowa.	Sept. 2, 1967.
IA-223 Lynch Enterprizes Auction, Sumner, Iowa.	May 22, 1959.
IA-227 Interstate Producers Livestock Association, Wadena, Iowa.	May 18, 1959.
IA-239 Peterson's Place, Webster City, Iowa.	Dec. 10, 1971.
IA-253 Woodbury County Livestock Auction Co., Inc., Lawton, Iowa.	Dec. 27, 1976.
KS-114 Concordia Sales Company, Concordia, Kansas.	May 30, 1959.
KS-120 Douglass Livestock Commission Company, Douglass, Kansas.	May 27, 1959
KS-127 Flint Hills Livestock Auction, Eskridge, Kansas.	June 15, 1965
KS-136 Goodland Livestock Commission Co., Goodland, Kansas.	Apr 21, 1950.
KS-138 Harper Livestock Sales Company, Harper, Kansas.	June 8, 1950
KS-152 Larned Livestock Market Center, Larned, Kansas.	Apr. 18, 1950.
KS-163 Natoma Livestock Company, Natoma, Kansas.	May 25, 1959.
KS-166 Norton Livestock Commission Company, Norton, Kansas.	Apr. 22, 1950.
KS-193 Waverly Livestock Sales Barn, Waverly, Kansas.	Sept. 28, 1959.
KS-194 Wichita Union Stock Yards, Wichita, Kansas.	Nov. 1, 1921T.
KS-201 Hesston Sales, Hesston, Kansas.	Mar. 15, 1976.
KY-104 Burkesville Stockyard, Burkesville, Kentucky.	Dec. 10, 1959.
LA-110 W. H. Hodges & Company, Inc., Crowley, Louisiana.	June 12, 1957.
LA-136 Zachary Stock Yards, Zachary, Louisana.	Nov. 19, 1958.
MI-135 Thumb Auction Markets, Inc., Sandusky, Michigan.	Apr. 22, 1958.
MS-101 Booneville Commission Company, Booneville, Mississippi.	Feb. 11, 1959.
MS-104 Knight Stockyard, Carthage, Mississippi.	Feb. 9, 1959.
MS-141 Fairchild Livestock Sales, Inc., Summit, Mississippi.	Feb. 17, 1959.
MS-158 Lucedale Livestock Auction Sales, Inc., Lucedale, Mississippi.	June 26, 1979.
MO-112 Butler Community Sale, Butler, Missouri.	June 5, 1959.
MO-117 Charleston Auction Company, Charleston, Missouri.	July 16, 1957.
MO-123 Doniphan Auction Sales Co., Doniphan, Missouri.	May 11, 1959.
MO-133 Goodman Livestock Auction, Inc., Goodman, Missouri.	May 11, 1959.
MO-141 Griffin Horse & Mule Auction, Kansas City, Missouri.	Dec. 16, 1960.
MO-166 Monett Sale co., Monett, Missouri.	June 4, 1959.
MO-170 Neosho Livestock Auction Company, Neosho, Missouri.	June 4, 1959.
MO-178 Noel Cox Livestock Auction, Ozark, Missouri.	May 15, 1959.
MO-187 Horsemans Paradise Barn, Raymondville, Missouri.	Nov. 18, 1968.
MO-198 Seneca Community Sales, Inc., Seneca, Missouri.	May 22, 1959.
MO-209 Lincoln County Livestock Market, Troy, Missouri.	May 26, 1959.
MO-229 West Plains Livestock Auction, West Plains, Missouri.	Jan. 31, 1973.
MO-233 McDonald County Sales Co., Jane, Missouri.	Aug. 28, 1973.
NE-140 Grant Sales Company, Grant, Nebraska.	Apr. 27, 1959
NE-158 Newman Grove Livestock Market, Newman Grove, Nebraska.	May 6, 1959.
NE-175 Sidney Livestock Market, Inc., Sidney, Nebraska.	Jan. 29, 1963
NE-176 Lockwood Livestock Auction, So. Sioux City, Nebraska.	Apr. 30, 1959.
NV-100 Gallagher Livestock, Inc., Fallon, Nevada.	Oct. 1, 1959.
NM-107 Ranchers and Farmers Livestock Auction Co., Inc., Clovis, New Mexico.	Jan. 17, 1947.
OH-107 Scioto Livestock Association, Chillicothe, Ohio.	Mar. 12, 1954.
OH-109 Producers Livestock Association, Circleville, Ohio.	June 2, 1959.
OH-145 Muskingum Livestock Sales Co., Zanesville, Ohio.	June 8, 1959.
OK-101 Stockyards of Altus, Inc., Altus, Oklahoma.	Oct. 24, 1949.
OK-113 Carnegie Livestock Auction, Carnegie, Oklahoma.	Aug. 22, 1968.
OR-125 Ontario Livestock Commission, Inc., Ontario, Oregon.	Dec. 6, 1977.
TN-105 Chattanooga Farmers Stockyards, Chattanooga, Tennessee.	May 5, 1959.
TN-111 Cookeville Livestock Company, Inc., Cookeville, Tennessee.	Dec. 8, 1966.
TN-126 Hohenwald Livestock Market, Hohenwald, Tennessee.	May 27, 1959.
TX-111 Baycity Livestock Commission Company, Bay City, Texas.	May 1,.1957.
TX-112 Beaumont Livestock Commission Company, Beaumont, Texas.	Jan. 15, 1957.
TX-128 Burk Horse Auction, Burkburnett, Texas.	Apr. 4, 1958.
TX-155 Denton Livestock Exchange, Denton, Texas.	Jan. 21, 1959.
TX-199 Kennedale Auction Barn, Kennedale, Texas.	Oct. 20, 1971.
TX-251 Round Mountain Livestock Auction Company, Round Mountain, Texas.	Oct. 15, 1968.
TX-254 Matthews Livestock Commission Co., San Saba, Texas.	Feb. 13, 1959.
TX-266 Temple Livestock Auction, Temple, Texas.	Feb. 26, 1957.
TX-290 Menard County Commission Company, Inc., Menard, Texas.	Dec. 4, 1971.
TX-301 Tri-County Stockyard, Rio Grande City, Texas.	Feb. 8, 1973.
WA-101 Burlington Sales Pavilion, Inc., Burlington, Washington.	Oct. 8, 1959.
WA-116 Britton Bros. Snohomish Auction Market-West Barn, Snohomish, Washington.	Dec. 1, 1966.
WI-112 Wisconsin Feeder Pig Marketing Cooperative, Lancaster, Wisconsin.	Apr. 12, 1971.
WI-119 South Central Livestock Sales, Portage, Wisconsin.	Sept. 18, 1969.
WI-130 Kettle Moraine Auctions, Inc., Waukesha, Wisconsin.	Feb. 23, 1973.
WI-131 Wisconsin Feeder Pig Marketing Cooperative, Coltonville, Wisconsin.	Feb. 25, 1974.

Notice or other public procedure has not proceeded promulgation of the foregoing rule. There is no legal justification for not promptly deposting a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a change relieving a restriction and may be made effective in less than 30 days after publication in the Federal Register. This notice shall become effective November 21, 1980.

(42 Stat. 159, as amended and supplemented: 7 U.S.C. 181 *et seq.*)

Done at Washington, D.C., this 14th day of November 1980.

Jack W. Brinckmeyer,

Chief, Rates and Registrations Branch, Livestock Marketing Division.

[FR Doc. 80-36327 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-02-M

Food and Nutrition Service

Donated Foods to Nutrition Programs for the Elderly; Level of Assistance—Fiscal Year 1981

Notice is hereby given that pursuant to section 311(a)(4) of the Older Americans Act of 1965, as amended (42 U.S.C. 3045f), the level of assistance in food commodities or, where applicable, cash in lieu thereof, to be provided by the Secretary of Agriculture to recipients of grants of contracts for the operation of nutrition services under Titles III and VI of the Act for the period October 1, 1980 through September 30, 1981 will be 47.25 cents per meal. Title II provides for congregate and home-delivered nutrition services to persons aged 60 and older and their spouses; Title VI provides for nutrition services that are comparable to those provided under Title III for older Indians represented by tribal organizations of Indian Tribes. The legislation requires the Secretary, in donating foods or providing cash in lieu thereof to nutrition programs for the elderly funded under the Act, to maintain a minimum level of assistance during Fiscal Years 1979 through 1981 of not less than 30 cents per meal. That amount shall be adjusted on an annual basis for each fiscal year to reflect changes in the series for food away from home of the Consumer Price Index published by the Bureau of Labor Statistics (BLS) of the Department of Labor. The minimum level of assistance at 47.25 cents per meal includes such an adjustment and reflects an increase in that series of 9.87 percent as reported by BLS for the period September 1979 through August 1980.

Effective Date: This notice is effective as of October 1, 1980.

Dated: November 17, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-36326 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-30-M

Forest Service

Forest Land and Resource Management Plan, Dixie National Forest, Washington, Iron, Kane, Garfield, Piute and Wayne Counties, Utah; Revised Notice of Intent to Prepare an Environmental Impact Statement

A Notice of Intent to Prepare an Environmental Impact Statement for the Dixie National Forest Land and Resource Management Plan was published in the Federal Register, Volume 45, No. 140, P. 48175, July 18, 1980.

The estimated dates for filing the Draft and Final Environmental Impact Statements with the Environmental Protection Agency and release to the public have been postponed. The Draft Environmental Impact Statement is now expected in June 1982, and the Final Environmental Impact Statement is proposed for release in September 1982.

All other conditions of the original Notice of Intent remain the same.

Dated: November 13, 1980.

Jeff M. Sirmon,

Regional Forester.

[FR Doc. 80-36328 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-11-M

Office of the Secretary

1981 Corn, Sorghum, Barley, Oats, Rye and Soybean Program Determinations.

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final Notice of Determination of 1981 Crop National Program Acreages, Set-Aside Levels and Other Progam Provisions for Corn, Sorghum, Barley, Oats, Rye and Soybeans.

SUMMARY: This notice is for the purpose of proclaiming national program acreages, announcing that there will be no required set-aside of cropland and setting forth other program provisions for the 1981 crops of corn, sorghum and barley in accordance with provisions in section 105A of the Agricultural Act of 1949, as amended. Provisions of the 1949 Act, as amended, require that a determination of national program acreage, national recommended reduction and set-aside requirements be announced for feed grains not later than November 15 prior to the year in which the crop is harvested. Section 201(e) of the Agricultural Act of 1949, as amended, provides authority for a price support program for soybeans. Section 1001 of the Food and Agriculture Act of 1977, as amended, provides that the Secretary may require, as a condition of eligibility for loans, purchases and payments under the Agricultural Act of 1949, that producers not exceed the normal corp acreage (NCA) established for their farms.

EFFECTIVE DATE: November 14, 1980.

ADDRESS: Director, Production Adjustment Division, ASCS–USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Orville I. Overboe or Lois Moe, Agricultural Program Specialists, Production Adjustment Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447–7967. The Final Impact Statement describing the options considered in developing this Notice of Determination and the impact of implementing each option is available on request from the above-named individuals.

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SUPPLEMENTARY INFORMATION: This Notice of Determinations has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "significant."

The title and number of the federal assistance program that this notice applies to are: TITLE-Feed Grain Production Stabilization; Number 10.055; as found in the Catalog of Federal Domestic Assistance.

The need for this notice is to satisfy the statutory requirements as provided for in Sections 105A(a)(1), 105A(a)(2), 105A(b)(1)(B), 105A(b)(1)(D), 105A(d)(1), 105A(d)(3), 105A(f)(1), 105A(f)(2), and 201(e) of the Agricultural Act of 1949, as amended, and Section 1001(a) and 1001(b) of the Food and Agriculture Act of 1977, as amended. A notice that the Secretary was preparing to make determinations with respect to the 1981 Feed Grains and Soybean Programs was published in the Federal Register on September 9, 1980 (45 FR 59363) in accordance with 5 U.S.C. 553 and provided for a 30-day comment period. The press release dated September 12 requesting Comments on the 1981 Feed Grain and Soybean Programs extended the comment period to October 27, 1980. One hundred forty-five responses, coming from 28 States and the District of Columbia, were received. Those responding included 92 farmers, 18 State and County ASC Committees, 2 Soil and Water Conservation District Chairmen, 10 national farm organizations, 6 State farm organizations, 7 national agribusinesses, 2 Congressmen, 2 national organizations, and 6 representing consumer and consultant interests. In addition, a survey was received from a producer association representing 314 larger scale producer views. A summary of the responses with respect to the 1981 crop of feed grains and soybeans is as follows:

1. *National Program Acreages (NPA's):* Eight commented. All recommended that the 1981 NPA's be equal to or less than those announced for the 1980 feed grain crops.

2. *Set-Aside:* Ninety commented, with 37 preferring some level of set-aside requirement for feed grains. Four recommended a 10-percent set-aside while 3 recommended 20 percent. The rest favored some level of set-aside. Fifty-three comments were received suggesting a zero set-aside. Sixty-seven percent of the producer association's survey responses favored no set-aside.

3. *Land Diversion:* Sixty-four commented with 37 recommending some type of land diversion program for feed grains. These comments suggested levels of land diversion ranging from 10 to 25 percent; however, there was little consensus on the specific percentage of land to be diverted. Fifty-seven percent of those surveyed by the producer association do not want land diversion.

4. *National Recommended Reduction Percentage:* Seven commented. All requested no percentage reduction in the acreage planted to feed grains from the previous year.

5. *Target Prices:* Sixty-eight commented, with 36 referring specifically to corn and 28 to sorghum. Target price levels preferred for corn ranged from $2.35 to $4.00 per bushel. Recommended sorghum target prices ranged from $2.55 to $8.00 per bushel. Seventeen suggested adjusting target prices for NCA and set-aside compliance. Thirteen wanted target prices tied to inflation and the cost of production.

Of those responding to the producer association survey, 45 percent favored a corn target price of $2.70 with no set-aside. Fifty percent favored a target of $2.85 with set-aside.

6. *National Average Loan and Purchase Rates:* Sixty-one commented. There was little consensus on recommended loan and purchase rates with respect to the 1981 crop of feed grains and soybeans, but the majority preferred some type of increase. Corn loan rates varied from $2.25 per bushel to 100 percent of parity. Soybean loan rates varied from $5.02 per bushel to 90 to 100 percent of parity. Eighty-three percent of the responses to the producer association survey favored increases in the corn loan levels ranging from $2.35 to $5.00 per bushel.

7. *Barley and Oats in the Program:* There were 73 comments on this provision with 5 favoring just barley in the program, 3 favoring just oats, and 42 suggested that both barley and oats be included. Twenty-three did not want barley or oats in the progam.

8. *Compliance with the Normal Crop Acreage (NCA):* Seventy-two commented with 67 percent favoring required compliance with the farm NCA as a condition of eligibility for program benefits. Thirty-seven percent of those surveyed by the producer association favor required compliance with the NCA.

9. *Limitation on Planted Acreage:* Forty-nine commented, with 20 favoring a limitation; 7 are in favor if there is set-aside and 22 are not in favor of a limitation on planted acreage.

10. *Rye:* Two comments were received. One favored a $2.00 loan rate for rye, while the other favored a $3.00 loan rate.

Eleven comments favored no feed grain program. Eight comments were received on offsetting compliance, with seven opposed and one in favor of offsetting compliance.

All comments received were duly considered by the Secretary. Accordingly, the Secretary made determinations petaining to the 1981 crops of corn, sorghum, barley, oats, rye, and soybeans. These determinations were announced in a press release on November 14, 1980. The purpose of this notice is to affirm the determinations as previously announced.

Notice of Determinations

1. National program Acreages (NPA's) for the 1981 Crops of Corn, Sorghum, and Barley.

In accordance with section 105A(d)(1) of the Agricultural Act of 1949, as amended, it is hereby proclaimed that NPA's for the 1981 crop of corn shall be 90.1 million acres sorghum, 15.4 million acres; and barley, 9.7 million acres. The national program acreages are based on the following data:

	Corn	Sorghum	Barley
	Million bushels		
(a) Estimated domestic use, 1981–82	5,030	507	375
(b) Estimated silage use, 1981–82	635	50	.....
(c) Plus estimated exports, 1981–82	2,650	100	90
(d) Minus estimated imports, 1981–82	1	0	10
(e) Plus stock adjustment[1]	880	119	118
(f) Divided by estimated national weighted average farm program yield (bu./ac.)	102	61	50
	Million acres		
(g) Equals preliminary 1981 NPA	90.1	15.4	9.7
[1] a. 6.7 percent of 1980/81 world consumption of coarse grains	1,488	195	180
b. Minus estimated 1981/82 beginning stocks	600	71	122
c. Equals stocks adjustment	+880	+119	+168

Section 105A(d)(1) of the 1949 Act provides that the Secretary may revise the national program acreage as proclaimed for the purpose of determining the allocation factor if he determines it is necessary based upon the latest information. The national allocation factors will be determined prior to December 1981 for barely and April 1982 for corn and sorghum.

2. No Set-Aside for 1981 Crop Feed Grains.

Section 105A(f)(1) of the 1949 Act provides that the Secretary shall provide for a set-aside of cropland if the Secretary determines that the total supply of feed grains is, in the absence of such a set-aside, likely to be excessive taking into account the need for and adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. Accordingly, it is hereby determined and proclaimed that no set-aside of cropland will be required for the 1981 crops of feed grains. In making the determinations as to set-aside in accordance with the statutory authority set forth above, the Secretary utilized the following economic data.

The 1980/81 world feed grain production is forecast at 716 million metric tons (MMT), down about 2-percent from the 1979/80 level. Combining production with beginning stocks results in total supply forecast at 805 MMT—about 1 percent below the 1979–80 level. Total utilization, estimated at 746 MMT, is 2.5 percent above the previous year. This leaves 59 MMT ending stocks, which are less than 8 percent of utilization and a third below the 1979/80 level.

Total U.S. feed grain supplies (corn, sorghum, barley, and oats) for the 1980/81 marketing year (MY) are estimated at 245 MMT with utilization estimated at 223 MMT. This results in a 22 MMT carryover, compared with 52 MMT for 1979/80. With a season average price for corn estimated to range from $3.30 to $3.75 a bushel, gross farm income from feed grain production, including program payments, is estimated at a record $26 billion—an increase of $2.8 billion over the 1979/80 previous record.

In 1981/82, more land is expected to be planted to feed grains, and with average weather, a significant annual increase in world production should occur. Assuming continued expansion in world livestock and poultry production, utilization will also rise, leaving 1981/82 world ending stocks near this year's level.

U.S. feed grain acreage in 1981 with no set-aside program is expected to be 3 to 4 percent larger than 1980 feed grains planted acreage. Larger plantings are expected for corn, sorghum, and barley, with oats acreage about equaling the 1980 level. Yields will likely exceed the drought reduced levels of 1980 but may not match the record level of 1979. With the increased acreage, production may be near the record 1979 level. Feed use during 1981/82 could show a slight increase over 1980/81 depending on the response of the livestock and poultry sectors to higher grain prices and narrower feeding margins during 1981. U.S. feed grain exports in 1981/82 will likely continue to increase. Ending stocks are projected to remain at relatively low levels and will be well below what is considered an excessive stocks position. As a result, prices should continue strong for the 1981 crop year.

In 1980/81, world soybean production is expected to be lower, but due to larger beginning stocks, total supply should decrease only about 5-percent to 99 MMT.

Total U.S. soybean supplies for the 1980/81 MY are estimated at 58 MMT with utilization at 53 MMT. Carryover stocks are estimated at 4.5 MMT, 55 percent below the 1979/80 level. With a season average price for soybeans estimated to range from $7.35 to $9.85 a bushel, gross farm income from soybean production is estimated at a record $15.0 billion—a 6-percent increase over the 1979/80 previous record.

Given this outlook for feed grains and the corn-soybean relationship, it is determined that no set-aside is needed for the 1981 crop of feed grains. Such a determination will allow farmers the flexibility to expand production to meet requirements.

A set-aside program to reduce feed grain production could aggravate an already tight supply-demand situation. Should supplies exceed current expectations, the farmer owned reserve program will be available to producers as a viable alternative to remove excess grain from the market.

3. 1981 Land Diversion.

In view of the decision not to require a set-aside of cropland as a condition of eligibility for loans, purchases, and payments and in view of the fact that land diverson payments are not necessary to assist in adjusting the total national acreage of feed grains to desirable goals, no land diversion program as provided for by section 105A(f)(2) of the Agricultural Act of 1949, as amended, will be implemented for the 1981 crop of feed grains.

4. Exceeding Reduction from 1980 Planting for 1981 Crops of Corn, Sorghum, and Barley.

In accordance with section 105A(d)(3) of the Agricultural Act of 1949, as amended, it is hereby determined and proclaimed that a zero percent reduction in acreage from that planted to corn, sorghum or barley on a farm for harvest in 1980 shall be applicable to the acreage of such crops planted for harvest in 1981 on such farm. The 1980 acreage planted for harvest to such crops will include the acreage actually harvested plus any approved prevented planted acreage. With a zero percent reduction, producers who plant no more corn, sorghum or barley for 1981 harvest than was planted for harvest for each of those commodities in 1980 will be eligible for deficiency payments on the entire 1981 planted acreage of such crops, if in compliance with other program provisions.

This determination is based on the following data:

[In millions of acreas]

	Corn	Sorghum	Barley
a. 1980 Est. Nat'l Harv. Ac.	81.5	12.9	7.4
b. Plus Ac. Credited as Harv.	(*)	(*)	(*)
c. Equals 1980 Considered Harv. Ac.	81.5	12.9	7.4
d. Minus 1981 Preliminary NPA	90.1	15.4	9.7
e. Equals Ac. Reduction Needed from Prev. Year's Harv. Ac.	0	0	0
f. Divided by 1980 Considered Harv. Ac.	81.5	12.9	7.4
g. Equals 1981 Recommended Reduction Percentage	0	0	0

* Less than 50,000 Acres.

5. 1981 Established "Target" Price.

The Agricultural Adjustment Act of 1980 (Pub. L. 96–213, approved March 18, 1980) amends section 105A(b)(1)(B) of the Agricultural Act of 1949, as amended, and provides that the 1981 corn target price be not less than the 1980 target ($2.35), adjusted upward to reflect changes in the costs of producing corn as the Secretary finds necessary and appropriate for the purpose of establishing and maintaining a fair and equitable relationship between loan rates, established prices, and production costs for corn and competing commodities.

Target prices per bushel for the 1981 crops will not be less than $2.35 for corn; $2.50 for sorghum; and $2.55 for barley. Final target prices for these commodities will be announced by April 1, 1982. It is hereby determined that the 1981-crop established "target" prices for corn, sorghum and barley will not be further increased pursuant to section 1001(b) of the Food and Agriculture Act of 1977, as amended by the Agricultural Act of 1980, to compensate producers for not exceeding the established farm normal crop acreage (NCA).

6. 1981 Loan and Purchase Levels (Feed grains and Soybeans).

In accordance with section 105A(a)(1) of the Agricultural Act of 1949, as amended, it is hereby determined that the 1981 crop feed grain loan and purchase levels per bushel will be not less than $2.25 for corn, $2.14 ($3.82 per cwt.) for sorghum, $1.83 for barley, $1.16 for oats, and $1.91 for rye. The loan and purchase level for soybeans, as provided for by section 201(e) of the Agricultural Act of 1949, as amended, will be not less than $5.02. Final determination will be made when supply prospects are clearer and with a further review of the farmer-owned reserve program objectives for the 1981 crop of feed grains.

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7. Inclusion of Barley and Oats in the Feed Grain Program.

It is hereby determined that the 1981 crop barley will be included in the feed grain program and, therefore, a producer will be eligible for target price protection, price support loans and for participation in the farmer-owned reserve with respect to the 1981 crop of barley. It is also determined that 1981 crop oats will not be included in the feed grain program. However, oats will be eligible for the 1981 loan and purchase program and the farmer-owned reserve program.

8. Compliance with Farm Normal Crop Acreage (NCA) for Program Benefit Eligibility.

Pursuant to section 1001(a) of the Food and Agriculture Act of 1977, as amended, it is hereby determined for the 1981 crop of feed grains that corn, sorghum and barley producers shall be required to plant within the established farm NCA as a condition of eligibility for loans, purchases and payments under the Agricultural Act of 1949, as amended.

Signed at Washington D.C. on November 14, 1980.

Jim Williams,

Acting Secretary.

[FR Doc. 80-36094 Filed 11-14-80; 4:34 pm]

BILLING CODE 3410-05-M

Rural Electrification Administration

New Hampshire Electric Cooperative, Inc., Plymouth, New Hampshire; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 STAT. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $75,250,000 to New Hampshire Electric Cooperative, Inc., of Plymouth, New Hampshire, and (b) supplementing such a loan with an insured REA loan at 5 percent interest in the approximate amount of $500,000 to this cooperative.

These loan funds will be used to finance approximately 2.17 percent interest in the Seabrook Nuclear Generating Station, Units 1 and 2, having a nameplate rating of 1,150,000 kW each and associated transmission facilities.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. John Pillsbury, Manager, New Hampshire Electric Cooperative, Inc., Plymouth, New Hampshire 03264.

In order to be considered, proposals must be submitted on or before December 22, 1980., to Mr. Pillsbury. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as New Hampshire Electric Cooperative, Inc., and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated at Washington, D.C., this 10th day of November, 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-36183 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-15-M

Western Farmers Electric Cooperative, Anadarko, Oklahoma; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedrues as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $41,360,000 to Western Farmers Electric Coopeative of Anadarko, Oklahoma, and (b) supplementing such a loan with an insured REA loan at 5 percent interest in the approximate amount of $10,000,000 to this cooperative. These loan funds will be used to finance the construction of approximately 375 miles of 138 kV transmisson line, substations, and other system improvements.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed construction, including the engineering and economic feasbility studies and the proposed schedule of advances to the borrower of the guaranteed loan funds from Mr. Maynard Human, Manager, Western Farmers Electric Cooperative, P.O. Box 429, Anadarko, Oklahoma 73005.

In order to be considered, proposals must be submitted on or before December 22, 1980, to Mr. Human. The right is reserved to give such consideration and make such evalution or other disposition of all proposals received, as Western Farmers Electric Cooperative and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrifcation Loans and Loan Guarantees.

Dated at Washington, D.C., this 10th day of November 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-36182 Filed 11-20-80; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Docket 38866]

Air International Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on December 2, 1980, at 10:00 a.m. (local time), in Room 1003, Hearing Room A, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned Administrative Law Judge.

Dated at Washington, D.C., November 17, 1980.

William A. Pope II,

Administrative Law Judge.

[FR Doc. 80-36475 Filed 11-20-80; 8:45 am]

BILLING CODE 6320-01-M

[Dockets 33362, 33681, 38682, 38683]

Former Large Irregular Air Service Investigation; Applications of Key Airlines, Inc.; Assignment of Proceeding

This proceeding, insofar as it involves the applications of Key Airlines, Inc., Dockets 38681, 38682, and 38683, has been assigned to Administrative Law Judge William A. Pope, II. Future communications should be addressed to Judge Pope.

Dated at Washington, D.C., November 14, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-36478 Filed 11-20-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38955]

Global International Airways Corp., Fitness Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Chief Administrative Law Judge Joseph J. Saunders.

Dated at Washington, D.C., November 17, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-36477 Filed 11-20-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38948]

Muse Air Corporation; Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-titled matter is assigned to be held on December 1, 1980, at 10:00 a.m. (local time), in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned.

The issues in the proceeding will be those prescribed by the Board in Order 80-11-51. Pursuant to that order and to facilitate the conduct of the conference, parties are instructed to submit on or before November 24, 1980, (1) requests for any evidence in addition to that submitted with the application, and (2) proposed procedural dates. One copy of such material should be sent to each party and three copies to the judge.

Dated at Washington, D.C., November 17, 1980.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 80-36476 Filed 11-20-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Semiconductor Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on August 29, 1980 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) tehnical specifications and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to semiconductors, or technology, and (D) exports of the aforementioned commodities subject to unilaterial and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

Time and place: December 9, 1980, at 9:30 a.m. The meeting will take place at the Institute of Defense Analyses, the Gallery Room, 400 Army-Navy Drive, Arlington, Va.

Agenda: General Session.

(1) Opening remarks by the Chairman.

(2) Presentation of papers or comments by the public.

(3) Committee preparation for the next list review.

(4) Subcommittee reports: a. Discrete Semiconductor Device, b. Microcircuits and c. Semiconductor Manufacturing Materials and Equipment.

Executive Session.

(5) Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

Public participation: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 11652 or 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, telephone: 202-377-4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT: Mrs. Margaret Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583.

Dated: November 18, 1980.

Saul Padwo,

Director of Licensing.

[FR Doc. 80-36345 Filed 11-20-80; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

[Docket S-678]

United States Lines Inc.; Application

Notice is hereby given that in an letter applications dated November 4, and 18 1980, United States Lines, Inc. (U.S. Lines) has requested authority to acquire from Farrell Lines Incorporated (Farrell). (1) the long-term charters on two C6-S-85a container vessels chartered from Continental Illinois Bank and Trust Company and related interests, and (2) such subsidized service rights on Trade Route Nos. (TRs) 5-7-8-9 (U.S. North Atlantic/United Kingdom and Continent) and 12 (U.S. Atlantic/Far East) as Farrell (a) may have under Contract No. MA/MSB-462 or (b) may be accorded in connection with Farrell's application for a 20-year operating-differential subsidy agreement in Docket No. S-610 and related proceedings.

U.S. Lines currently provides approximately weekly service on an unsubsidized basis on TRs 5-7-8-9 and approximately weekly service on an unsubsidized basis on a combined service on TRs 5-7-8-9 and TR 11 (U.S. South Atlantic/United Kingdom and Continent) with eight C6-S-1wc

container vessels. U.S. Lines currently provides approximately weekly service on an unsubsidized basis on TR 12 (U.S. East Coast/Far East) and TR 29 (U.S. Pacific, Hawaii/Far East) with three C7–S–68e, two C7–S–68c, three C7–S–68d and one C8–S–81e container vessels.

U.S. Lines proposes to continue its existing service on TRs 5–7–8–9 and combination service on TRs 5–7–8–9 and 11 with the same vessels and for the same number of voyages. U.S. Lines proposes to operate with subsidy on five such vessels up to a maximum of 55 sailings annually. Any of the 55 sailings which could not be made by vessels serving Trade Route No. 5–7–8–9 exclusively, would be made by vessels operating on the combined TR 5–7–8–9 service described above, with service to South Atlantic ports being provided on an unsubsidized basis.

U.S. Lines proposes to add the two C8–S–85a container vessels AUSTRAL ENSIGN and AUSTRAL ENDURANCE acquired from Farrell and to continue. U.S. Lines' existing service on TR 12 with 11 vessels but with the same number of voyages as at present with subsidy on eight such vessels up to a maximum of 30 sailings annually. U.S. Lines would continue to operate on TR 12 between the United States East Coast and the Far East including calls at ports in Panama, California, Guam, and the State of Hawaii, with service to U.S ports on TR 29 on an unsubsidized basis.

U.S. Lines has requested permission under section 805(a) to continue to own, operate, or charter vessels engaged in domestic intercoastal or coastwise service as a common carrier by water with its existing vessels and the two vessels to be acquired from Farrell:

1. To continue to engage in intercoastal service as part of its subsidized or unsubsidized service on a round voyage from the Atlantic Coast of the United States to the Orient between the U.S. East Coast and the U.S. West Coast on a weekly service via the Panama Canal. U.S. Lines claims it was in a bona fide operation as a common carrier by water in the intercoastal trade in 1935 over the route or routes, or portions thereof, and the service for which permission is sought and has so operated since that time.

2. To continue the operation between the U.S. East Coast and the State of Hawaii as a part of its subsidized or unsubsidized service on a voyage in foreign trade on a weekly service westbound only.

3. To continue the operation between the U.S. West Coast (California) ports and the State of Hawaii as a part of its subsidized or unsubsidized service on a voyage in foreign trade on a weekly service westbound only.

U.S. Lines has requested transfer and interchange (substitution) privileges at U.S. Atlantic ports for all its vessells, both subsidized and unsubsidized, among all of its services, both subsidized and unsubsidized.

U.S. Lines has indicated that it is now and plans to continue (1) chartering and operating the German-flag vessel MARGRET, of approximately 142 TEUs capacity, between certain ports in the United Kingdom, France, the Netherlands and West Germany, as a feeder vessel transshipping cargo to and from its vessels operating on TRs 5–7–8–9 and 11, (2) owning an interest in, chartering and sub-chartering out the Liberian-flag vessel AMERICAN MOHAWK for operation between the Mediterranean and Africa, and (3) owning and chartering out to a Taiwan corporation the Liberian-flag vessels FORMOSA CONTAINER and STRAIT CONTAINER for operation between Hong Kong and Taiwan. U.S. Lines has indicated that none of these vessels compete with any American-flag service determined to be essential pursuant to section 211 of the Act, and that consequently a waiver of section 804(a) is not required for U.S. Lines to continue to own and/or charter out these vessels.

Interested parties may inspect the foregoing letter applications in the Office of the Secretary, Maritime Subsidy Board/Maritime Administration, Room 3099–B, Department of Commerce Building, Fourteenth and E Streets NW., Washington, DC 20230.

Any person, firm, or corporation having any interest in such letter applications and desiring to submit comments thereon must file comments in triplicate with the Secretary, Maritime Subsidy Board/Maritime Administration by close of business five working days after the publication of this Notice. The Maritime Subsidy Board/Maritime Administration will consider such comments and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Maritime Subsidy Board/ Assistant Secretary for Maritime Affairs.

Dated: November 18, 1980.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 80-36317 Filed 11-20-80; 8:45 am]

BILLING CODE 3510-15-M

Vessel Retrofitting to Comply with the Port and Tanker Safety Act of 1978; Applications for Construction-Differential Subsidy (CDS); Determination that Supplemental Environmental Impact Statement Not Required

A Tanker Construction Program was started by the Maritime Administration (MarAd) in 1970 to provide construction-differential subsidy (CDS) for the construction of oil-carrying vessels. An Environmental Impact Statement (EIS) for the Program was published on May 30, 1973, discussing each class of oil-carrying vessel on which construction had started or which was likely to be constructed with the aid of CDS during the Tanker Construction Program. Vessel classes included in the EIS ranged from approximately 35,000 DWT to 400,000 DWT. Pollution abatement specifications developed by MarAd were also discussed.

The Maritime Subsidy Board/ Maritime Administration adopted the EIS in Docket No. A–75, issued on August 30, 1973, and determined that the Tanker Construction Program would continue. Strict compliance with the pollution abatement provisions of the MarAd Standard Specifications for Merchant Ship Construction, as revised, were required on all tankers built with CDS. It also held that CDS assistance would be considered for retrofitting tankers which were constructed under the Program to incorporate anti-pollution features that are developed by the U.S. Coast Guard, MarAd, or the Intergovernmental Maritime Consultative Organization (IMCO).

The Maritime Subsidy Board has recently received several applications for construction-differential subsidy to aid in the retrofitting of oil-carrying vessels in compliance with the requirements for pollution prevention established by the Port and Tanker Safety Act of 1978 (PTSA) and regulated by the U.S. Coast Guard. These applications are:

AERON MARINE SHIPPING, for two tankers
AQUARIUS MARINE, for one tanker
ARIES MARINE SHIPPING, for two OBO's
NORTHWEST SHIPPING, for one tanker
WORTH OIL TRANSPORT, for one tanker
YEON SHIPPING, for one tanker

These vessels are all of the "SAN CLEMENTE CLASS" and were constructed with the assistance of CDS. The tankers have been designated as MarAd Design T8–S–100b, with a deadweight of about 92,000 long tons, and the OBO's have been designated as MarAd Design OB8–S–90a, with a deadweight of about 82,000 long tons. All the vessels were constructed in compliance with the pollution abatement provisions of the MarAd Standard Specifications for Merchant Ship Construction (MarAd standard specifications) and with the plans and specifications of the National Steel and Shipbuilding Company (NASSCO), which included provisions for special pollution controls. This class of vessel is described in the EIS as an example of an "Intermediate Tanker" and an "Ore/ Bulk/Oil Carrier" (OBO) in Section II, and the environmental impact of constructing such ships is covered throughout the EIS in various sections.

Since the environmental impact of offering CDS assistance for the construction of these vessels has already been discussed fully in the EIS, and Docket A–75 provides for the use of CDS funds for retrofitting tankers with anti-pollution devices, the Board has decided that neither a new EIS nor a Supplement to the EIS is required with respect to these applications. The retrofitting, which is required by the PTSA and will be regulated by the U.S. Coast Guard, is expected to augment the pollution features already incorporated in the construction of the vessel and to reduce the potential for pollution of the marine environment.

The basis for the Board's determination is available for public inspection in the Office of the Secretary, Room 3099–B, Maritime Administration, Department of Commerce Building, 14th & E Streets NW., Washington, D.C. 20230.

(Catalog of Federal Domestic Assistance Program 11,500)

Dated: October 31, 1980.

By Order of the Maritime Subsidy Board/ Maritime Administration.

Georgia P. Stamas,

Acting Secretary.

[FR Doc. 80-36318 Filed 11-20-80; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Environmental Impact Statement; Incidental Take of Dall Porpoise

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The National Marine Fisheries Service (NMFS) is issuing this notice to advise the public that an environmental impact statement will be prepared on the incidental take of Dall porpoise in the Japanese salmon fishery, and to invite participation in the scoping process on this issue.

DATE: Comments are requested by December 5, 1980.

ADDRESS: Please address the individual identified below.

FOR FURTHER INFORMATION CONTACT: Mr. Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: (202) 634–7461.

SUPPLEMENTARY INFORMATION: A three-year exemption from the incidental take permit requirements of the Marine Mammal Protection Act of 1972 (MMPA) granted the Japanese salmon fishery in the North Pacific Ocean, and implemented by 1978 amendments to the North Pacific Fisheries Act of 1954 (NPFA), will expire in June 1981. Marine mammals, primarily the Dall porpoise, are taken in the course of commercial gillnet operations by Japanese fishing vessels within and outside the United States fishery conservation zone (FCZ) in the North Pacific and Bering Sea. An October 1980 report to the International North Pacific Fisheries Commission (INPFC) indicates that the incidental take of Dall porpoise (*Phocoenoides dalli*) in the Japanese mothership fishery in 1980 was approximately 7,234. Approximately 4,452 of these animals were estimated to have been taken with the FCZ, and 2,782 outside our waters. The Dall porpoise population in the North Pacific and Bering Sea area is estimated at between 840,000 and 2.3 million animals. these estimates have a large variance because of small sample size and the limited amount of area that we were able to survey.

A decision on whether to allow the Japanese fishery to take marine mammals within our waters should be communicated to the Japanese by April 1981, before they begin preparations for the 1981 fishing season. To ensure that our decision is made in accordance with the purposes and policies of the National Environmental Policy Act of 1969 (NEPA), NMFS will prepare a draft environmental impact statement (EIS) which contains a discussion of the environmental impacts of the following three alternative actions: (1) Issue a permit to the Japanese salmon fishery which allows the take of marine mammals incidental to commercial fishing operations, according to the provisions of Section 103 of the MMPA (proposed action); (2) recommend legislative action to extend the permit exemption; and (3) no action (including impacts on Japanese participation in the INPFC).

This notice of intent to prepare an EIS is being sent to appropriate Federal, State and local agencies and private organizations and individuals who may have an interest in this proposal. No formal scoping meeting is planned at this time. To ensure that the full range of actions, alternatives and impacts and all significant issues relating to a decision on this matter have been identified, we invite the participation of all interested parties in this scoping process, through comments and suggestions directed to the individual identified above.

Dated: November 18, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-36467 Filed 11-20-80; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Hearings

The South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will hold public hearings for the purpose of public input on the Draft Fishery Management Plan for Atlantic Billfish.

Dates: Written comments on the Billfish Fishery Management Plan from members of the public may be submitted no later than March 20, 1981. Individuals or organizations wishing to comment may do so at public hearings to be held as follows:

December 9, 1980; Raleigh, North Carolina.
December 10, 1980; Atlantic Beach, North Carolina.
December 11, 1980; Kill Devil Hills, North Carolina.

All of the above hearings will start at 7:30 p.m. and adjourn at 10:00 p.m. The hearings will be tape recorded and the tapes will be filed as an official transcript of the proceedings. A written summary will be prepared.

Address: Send comments to: Chairman, South Atlantic Fishery Management Council, 1 Southpart Circle, Suite 306, Charleston, South Carolina 29407.

Hearings locations:

December 9, 1980; Best Western-Royal Villa, 6339 Glenwood Avenue, Meeting Room E, Raleigh, North Carolina.
December 10, 1980; Marine Resources Center, Bogue Banks Auditorium, Atlantic Beach, North Carolina.
December 11, 1980; Holiday Inn, Vintage and Century Rooms (combined), Highway 158

Business, Box 308, Kill Devel Hills, North Carolina.

Additional hearings will be held in other locations under the jurisdiction of the South Atlantic Council at some future time.

For further information contact: David H. G. Gould, Executive Director, South Atlantic Fishery Management Council, Suite 306, Charleston, North Carolina 29407, (803) 571–6366.

Dated: November 18, 1980.

Robert K. Crowell,

Deputy Executive Diretor, National Marine Fisheries Service.

[FR Doc. 80-36443 Filed 11-20-80; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Economic Advisory Board; Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act as amended, 5 U.S.C. App. 1976, notice is hereby given that the meeting of the Department of Commerce Economic Advisory Board will be held on Tuesday, December 16, 1980, from 9:30 a.m. to 4:00 p.m. in Room 4830 Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C.

The Board was established by the Secretary of Commerce on January 12, 1967. The purpose of the Board is to advise the Secretary of Commerce on economic policy issues. The intended agenda for this meeting is as follows:

- A review of the economic outlook by major sector.
- A discussion of the outlook for prices and employment and of strategies for sustaining economic growth and dealing with inflation.

A limited number of seats will be available to the public on a first-come, first-serve basis. Public participation will be limited to request for clarification of items under discussion. Additional statements or inquiries may be submitted to the chair before or after the meeting. Copies of the minutes will be available on request 30 days after the meeting.

Additional information concerning this meeting may be obtained by contacting Ms. Virginia R. Marketti, Office of the Chief Economist for the Department of Commerce, Room 4846, Department of Commerce, Washington, D.C. 20230, Telephone (202) 377–3523.

Dated: November 18, 1980.

Courtenay M. Slater,

Chief Economist for the Department of Commerce.

[FR Doc. 80-36344 Filed 11-20-80; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting Import Restraint Levels for Certain Cotton and Wool Textile Products From Macau

November 18, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Granting increases for partial carryforward for the following categories of cotton and wool textile products, produced or manufactured in Macau and exported during the agreement year which began on January 1, 1980: 338 (men's and boys' cotton knit shirts), 339 (women's, girls' and infants' cotton knit shirts and blouses), 340 (men's and boys' woven cotton shirts), 347/348 (cotton trousers), and 445/446 (wool sweaters).

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), and August 12, 1980 (45 FR 53506)).

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, as amended, between the Governments of the United States and Macau provides for the borrowing of yardage from the succeeding year's level (carryforward) with the amount used deducted from the level in the succeeding year. At the request of the Government of Macau partial carryforward is being applied to cotton and wool textile products in Categories 338, 339, 340, 347/348 and 445/446 during the agreement year which began on January 1, 1980.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230. (202/377–5423).

SUPPLEMENTARY INFORMATION: On January 30, 1980, there was published in the **Federal Register** (45 FR 6826) a letter dated January 25, 1980 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Macau, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, under the terms of the bilateral agreement, to increase the levels of restraint established for cotton and wool textile products in Categories 338, 339, 340, 347/348 and 445/446 during the twelve-month period which began on January 1, 1980.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

United States Department of Commerce, International Trade Administration

November 18, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: On January 25, 1980, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, of cotton, wool and man-made fiber textile products, produced or manufactured in Macau, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 29, and December 18, 1979, between the Governments of the United States and Macau; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 24, 1980, and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, between the Governments of the United States and Macau, which provide, in part, that: (1) within the aggregate and group limits, specific levels of restraint may be exceeded by designated percentages; (2) these levels may also be increased for carryover and carryforward up to 11 percent of the applicable category limits; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

withdrawal from warehouse for consumption of cotton and wool textile products in Categories 338, 339, 340, 347/348 and 445/446, produced or manufactured in Macau, in excess of the following levels of restraint:

Category	Adjusted 12-mo level of restraint [1] (doz)
338	127,035
339	509,186
340	121,711
347/348	289,595
445/446	72,238

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1979.

The actions taken with respect to the Government of Macau and with respect to imports of cotton and wool textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-36412 Filed 11-20-80; 8:45 am]

BILLING CODE 3510-25-M

Amending the Definition Applicable to Certain Exempt Apparel Items Exported From Taiwan

November 7, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Further amending the definition for traditional Chinese Garments which are exempt, when properly certified by the authorities in Taiwan, from the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978 as amended.

SUMMARY: On April 23, 1976, a letter dated April 19, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the **Federal Register** (41 FR 17009), which designated three additional items for exemption from the bilateral textile agreement. One of those items was traditional Chinese padded jackets. On November 2, 1978, a letter dated October 30, 1978 was published in the **Federal Register** (43 FR 51125) amending the definition for traditional Chinese padded jackets. The definition for these jackets is being further amended to accommodate the following:

Traditional Chinese Garments:

1. *Jackets,* three-quarter length or shorter, of woven fabric, usually with Chinese figures in the weave but may be plain/woven otherwise figured or printed. They have a low mandarin collar, long sleeves and full frontal openings, with "frog" type closures (looped fastenings made of braid, cording, etc., used with a matching knot or toggle of the same material).

2. *Fur or imitation fur-lined jackets,* which may or may not be reversible and are otherwise identical in appearance and construction with the jackets described above.

3. *Vests,* sleeveless garments extending from the neck area to waist with or without pockets at the waist. They are otherwise identical in appearance and construction with the jackets described above.

EFFECTIVE DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

United States Department of Commerce, International Trade Administration

November 7, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of October 30, 1978, which amended the definition for traditional Chinese padded jackets from Taiwan.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products exported from Taiwan, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on December 1, 1980, to further amend the definition for traditional Chinese padded jackets in the directive of October 30, 1978 to include the following:

Traditional Chinese Garments:

1. *Jackets,* three-quarter length or shorter, of woven fabric, usually with Chinese figures in the weave but may be plain/woven otherwise figured or printed. They have a low mandarin collar, long sleeves and full frontal openings, with "frog" type closures (looped fastenings made of braid, cording, etc., used with a matching knot or toggle of the same material).

2. *Fur or imitation fur-lined jackets,* which may or may not be reversible and are otherwise identical in appearance and construction with the jackets described above.

3. *Vest,* sleeveless garments extending from the neck area to waist with or without pockets at the waist. They are otherwise identical in appearance and construction with the jackets described above.

The actions taken with respect to the Government of Taiwan and with respect to imports of cotton, wool and man-made fiber textile products from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-36413 Filed 11-20-80; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1981; Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition to procurement list.

SUMMARY: This action adds to Procurement List 1981 commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: November 21, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On August 29, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (45 FR 57755) of proposed addition to Procurement List 1981, November 12, 1980 (45 FR 74836).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1981:

Class 7920

Sponge, Plastic
7920-00-633-9906
7920-00-633-9911
7920-00-633-9915

V 45 N 0 21 80 UMI

7920-00-885-4152

C. W. Fletcher,

Executive Director.

[FR Doc. 80-36370 Filed 11-20-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1981; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1981 commodities to be produced by and a service to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 24, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1981, November 12, 1980 (45 FR 74836):

U.S. Postal Service Item

Seat Cover
P.S. Item No. 054-B

Class 4240

Bag, Waterproofing
4240-00-377-9401

Class 5510

Lath, Wood
5510-00-NSH-0002 (⅜ x 1½ x 36")
5510-00-NSH-0003 (⅜ x 1½ x 48")
(Requirements for Bureau of Land Management in the States of Washington and Oregon)

Class 7210

Pillowcase, Disposable, Non-Woven Fabric
7210-00-852-3417
Pillowcase, Flame-proof, Disposable
7210-00-883-8494

SIC 7542

Carwash Service
Bureau of Land Management
Medford District Office
Medford, Oregon

C. W. Fletcher,

Executive Director.

[FR Doc. 80-36372 Filed 11-20-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1981; Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletions from Procurement list.

SUMMARY: This action deletes from Procurement List 1981 services provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: November 21, 1980.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On September 19, 1980 and September 26, 1980, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (45 FR 62520 and 45 FR 63898) of proposed deletions from Procurement List 1981, November 12, 1980 (45 FR 74836).

After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following services are hereby deleted from Procurement List 1981:

SIC 7349

Campground Cleanup and Trash Removal
Pole Mountain and Centennial Areas
Forest Service
Laramie, Wyoming
Janitorial/Custodial
Department of Energy
Offices at Rogers Hotel and
Offices at First Street Building
Idaho Falls, Idaho

C. W. Fletcher,

Executive Director.

[FR Doc. 80-36370 Filed 11-20-80; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1981; Establishment Correction

In FR Doc. 80-35153 appearing at page 74836 in the issue for Wednesday, November 12, 1980, make the following corrections:

1. On page 74836, second column, under Class 1560, third line, the second four-digit number now reading "4209" should read "0409".

2. On page 74837, second column, under Class 6532, Gown, Hospital, Patient's Bedshirt, the third four-digit number now reading "6530" should read "6532"; under Gown, Hospital Personnel, the third four-digit number now reading "6530" should read "6532"; under Gown, Operating, Surgical, the third four-digit number now reading "6530" should read "6532"; under Rove, Dressing, Nomex, the third four-digit number now reading "6530" should read "6532"; under Smock, Man's Dental Operating, the third and seventh four-digit numbers now reading "6530" should read "6532".

3. In the third column on page 74837, under Trousers, Operating, Surgical, the third and seventh four-digit numbers now reading "6530" should read "6532"; under Class 6830, Tube, Bleeding, now reading (ICB) should read (IB) and the four-digit number now reading "6639" should read "6630"; under Class 6695, the first line should read: Kit, Spectro Oil Analysis (IB).

The following items were inadvertently omitted:

Class 7110

Tables, Steel (SH)
7110-00-149-2046
7110-00-149-2047

Class 7195

Bulletin Board (IB)
7195-00-989-2370
7195-00-989-2371
7195-00-989-2372
7195-00-990-0615
7195-00-844-9036
7195-00-844-9037
7195-00-844-9038
7195-00-843-7938
Costumer, Wood (SH)
7195-00-132-6642

Class 7210

Bedspread (IB)
7210-00-728-0186
7210-00-728-0188
7210-00-728-0190
7210-00-728-0173
7210-00-728-0176
7210-00-728-0178
7210-00-408-2800
7210-00-728-0187
7210-00-728-0189
7210-00-728-0191
7210-00-728-0175
7210-00-728-0177
7210-00-728-0179
Bedspring (IB)
7210-00-528-7540
7210-00-110-8104
7210-00-110-8105
7210-00-528-0984
7210-00-528-7541

4. On page 74838, the fourth line under Pillow, Bed, the second two-digit number now reading "00" should read "01"; in the second line under Class 7340, after the second two-digit number, insert "022".

5. In the second column on page 74838, under Pencil, Woodcased, with Imprinting, delete the two-digit number "00".

6. In the third column, on page 74838, in the seventh line from the bottom of the page, the first three-digit number now reading "989" should read "988".

7. In the first column on page 74839, in the first and second lines, the "p" should be a "-"; in the last line under Folder, File, the second four-digit number now reading "4043" should read "043"; in the first line under Paper, Teletypewriter, Roll, the second two-digit number now reading "00" should read "01" and in the second line, the first two-digit number now reading "01" should read "00".

8. In the second column on page 74839, third line from the top of the page, the Code now reading "600" should read "607"; in the last line under Decalcomania Max Speed, the second four-digit number now reading "9504" should read "9507"; in the line now reading "Decalcomania TS" the "TS" should read "TP"; under Class 7920, Broom, Push, the second three-digit number now reading "297" should read "2967"; in the second line under Brush, Floor Sweeping, the second three-digit number now reading "292" should read "264".

9. On page 74840, third column, under Class 8415, the second line under Apron, Food Handling, the last three-digit number now reading "567" should read "0587"; under Class 8430, Footwear Cover, the third four-digit number now reading "8415" should read "8430" and in the second line, the second two-digit number now reading "84" should read "8430"; under Class 8460, the first word in the first line now reading "Ket" should read "Kit".

10. In the second column on page 74841, in the twentieth and thirty-second lines from the top of the page, the word now reading "Market" should read "Marker"; under Pocket, Leather, the last letter now reading "D" should read "G".

11. In the third column on page 74841, Military Resale Stock No. 731, the word now reading "serfaces" should read "surfaces".

12. In the second column on page 74842, second line from the top, the Village Bldg. now reading "310D-4" should read "301D-4"; under SIC 7218, the first word now reading "Launday" should read "Laundry"; under SIC 7331, Mailing, should be included: Merit System Protection Board, Office of Special Counsel, 1717 H Street, N.W., Washington, D.C. (SH).

13. In the third column on page 74842, thirteenth line from the top of the page, the word now reading "Instutites" should read "Institutes" and the following office should be included under HEW: Health Services Administration, Rockville, Maryland (SH).

14. On page 74843, second column, under SIC 7389, the word in the first line now reading "Department" should read "Attendant".

C. W. Fletcher,

Executive Director.

[FR Doc. 80-36369 Filed 11-20-80; 8:45 am]

BILLING CODE 6820-33-M

CONSUMER PRODUCT SAFETY COMMISSION

[Petition No. CP 80-5]

Gas-Fired Furnaces; Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: The Commission denies a petition requesting it to issue a consumer product safety standard requiring gas-fired heating furnaces to be equipped with a sealed combustion system and an automatic shut-off when hazardous conditions, such as release of carbon monoxide, occur. The Commission is taking this action because it does not believe that the mandatory standard requested by the petitioner is necessary or appropriate at this time to address any risk of injury presented by gas furnaces. The Commission notes that the problem of indoor air pollution is a broad one, involving combustion products from fuel-fired appliances in general. Commission staff has two research and evaluation projects scheduled on indoor air pollution. The Commission believes it is premature to mandate petitioner's remedy until other remedies in the context of the larger issue can be studied.

ADDRESS: Copies of the petition and the staff's briefing materials on the petition may be obtained from the Office of the Secretary, Consumer Product Safety Commission, 1111 18th St. NW, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT: Douglas L. Noble, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207 (301) 492-6453.

SUPPLEMENTARY INFORMATION:

1. Background

Section 10 of the Consumer Product Safety Act (CPSA) provides that any interested person pay petition the Consumer Product Safety Commission to commence a proceeding for the issuance of a consumer product safety rule. Section 10 also provides that if the Commission denies such a petition, it shall publish its reasons for denial in the **Federal Register.**

Buy letter dated January 8, 1980, Albert Montague through this attorney, Robert Kaplan, petitioned the Commission to issue a consumer product safety standard requiring gas-fired heating furnaces to be equipped with a sealed combustion system and an automatic thermal shut-off. (Petition CP80-5)

The petitioner contends that this standard is necessary because of the high incidence of carbon monoxide poisonings related to the use of gas-fired furnaces. The petitioner states that he has developed a sealed combustion system (the "Bi-Loop") which also contains an automatic thermal switch which operates to shut down the furnace when a hazardous condition arises. The letter from the petitioner's attorney also states that recent efforts to make residences air that because of energy concerns is leading to internal pollution problems necessitating the use of sealed combustion furnaces in all homes.*

The Commission notes that a sealed combustion system such as that suggested by the petitioner has two vents to the exterior of a dwelling, one of which provides intake air for combustion. Conventional gas furnaces, by contrast, have only one vent and draw air for combustion from the environment immediate to the furnace.

2. Commission Decision on the Petition

Based on all available information, including information submitted by the petitioner and information gathered by Commission staff, the Commission has decided to deny this petition. The reasons for the Commission's decision are discussed below.

Information from the National Center for Health Statistics mortality files, the Commission's death certificate files, and the 1977 Housing Census indicates that during 1977 an estimated 80 deaths occurred as a result of carbon monoxide poisoning from furnaces. The Commission staff estimates that 56 of

*An earlier letter dated October 25, 1979 from Mr. Kaplan on behalf of this client was not filed as a petition because it concerned the same risk and product as earlier petitions (CP 77-9; CP 76-14) which were denied, and failed to provide new information justifying reconsideration by the Commission. (See 43 FR 1636 and 42 FR 1682 for notices of denial on these petitions.) The January 8, 1980 letter from Mr. Kaplan was determined to contain new information, specifically, the recent efforts to make residences air tight and the development of the sealed combustion "Bi-Loop" system.

V 45 NO 21 80 UMI

these deaths may be attributed to gas furnaces based on the fact that 70 percent of all fuel-fired furnaces in use in 1977 were gas-fired. The staff notes, however, that gas furnace carbon monoxide deaths may actually be greater than the proportion of gas furnances in to all furnaces in use. This is because combustion products from gas-fired equipment, unlike those of oil-fired furnance, do not usually exhibit an odor which would warn of equipment malfunctions.

From a review of the Commission's death certificate files for the 5 year period 1974–78, the staff concludes that there is no trend of increased carbon monoxide poisoning deaths which would support the petitioner's contention that recent efforts to make homes air tight have greatly increased the dangers of carbon monoxide poisoning. Along similar lines, the Commission's engineering staff believes that with conventional techniques, it would not be possible to weatherize a home to the point where a properly functioning conventional gas-fired furnace would become hazardous.

Despite the lack of any trends showing an increasing numer of carbon monoxide poisonings associated with gas furnaces, the Commission notes that the injury data in absolute terms appears to indicate that there is a problem with carbon monoxide poisoning from gas furnaces. In addition, the Commission points out that a staff analysis of in-depth investigations indicates that a sealed combustion system could be effective in preventing some carbon monoxide poisonings and deaths associated with gas furnaces, namely those incidents involving inadequate venting of flue products, including blocked vents and chimneys that are too low to provide a proper draft and air flow.

The Commission believes, however, that any problem of carbon monoxide poisoning and gas furnaces should be addressed in the larger context of risks from combustion products from fuel-fired appliances in general. The Commission notes that it has scheduled a project (the "Tighter Thermal Envelope" project) to begin in Fiscal Year 1981 that, in cooperation with the Department of Energy (D.O.E.), the Environmental Protection Agency (EPA), and other federal agencies, will examine the health effects of reduced air infiltration in homes. In addition, Commission staff plans to continue an ongoing study of consumer exposure to low levels of certain combustion products. The Commission plans to test fuel-fired appliances under conditions of actual use to accurately measure the levels of carbon monoxide produced. The first product to be studied by the Commission will be the unvented gas-fired space heater. The Commission believes it would be premature at this time to mandate sealed combustion systems for gas-fired furnaces until other remedies such as carbon monoxide detectors or oxygen depletion sensors can be evaluated in the context of the larger issue of indoor air pollution and residential weatherization and the problems that may flow therefrom.

Accordingly, the Commission has concluded that the mandatory standard suggested by the petitioner is not necessary or appropriate at this time address any risk of injury presented by gas furnaces and has denied the petition.

Dated: November 18, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 80-36385 Filed 11-20-80; 8:45 am]

BILLING CODE 6355-01-M

COUNCIL ON ENVIRONMENTAL QUALITY

Sixth Progress Report On Agency Procedures Implementing Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions" (January 4, 1979)

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information only: Publication of Sixth Progress Report on Agency Procedures Implementing Executive Order 12114, "Environmental Effects Abroad of Major Federal Actions."

SUMMARY: On January 4, 1979, President Carter issued Executive Order 12114 entitled "Environmental Effects Abroad of Major Federal Actions." Executive Order 12114 requires all federal agencies taking major federal actions outside the U.S. which are encompassed by and not exempted from the Order, to have in effect procedures implementing the Order within 8 months after January 4, 1979 (i.e., by September 4, 1979). The Order requires agencies to consult with the Council on Environmental Quality and the Department of State before putting their implementing procedures in effect. The Council has previously published certain explanatory documents concerning implementation of E.O. 12114 (44 FR 18722, March 29, 1979). On September 26, 1979 the Council published its first progress report on agency procedures implementing the Executive Order (44 FR 55410), on November 6, 1979 a second progress report (44 FR 64101), on January 29, 1980 a third progress report (45 FR 6638), on March 25, 1980 a fourth progress report (45 FR 19293), and on June 25, 1980 a fifth progress report. The purpose of this sixth progress report is to provide an update on where affected agencies stand in this process.

FOR FURTHER INFORMATION CONTACT:

C. Foster Knight, Acting General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, D.C. 20006; (202) 395–5750.

Sixth Progress Report on Agency Procedures Implementing E.O. 12114

The progress report lists federal agencies in two categories. In Category 1 are agencies that have published proposed or final procedures implementing Executive Order 12114. Category 2 lists agencies that have prepared draft procedures or are in the process of developing such procedures, and contains an estimated time such procedures will be published in the **Federal Register.**

Category 1—Federal agencies that have published proposed or final procedures implementing E.O. 12114

Agency for International Development: Final Procedures issued Oct. 23, 1980 (44 FR 70239).

Arms Control and Disarmament Agency: Proposed procedures contained in NEPA Procedures issued Oct. 21, 1980 (45 FR 69510).

Department of Agriculture: Final Procedures issued June 19, 1980 (44 FR 41583).

Department of Commerce: Proposed Procedures issued Feb. 12, 1980. (45 FR 9307).

National Oceanic and Atmospheric Administration: Final Procedures contained in NEPA procedures paragraphs 10 and 12, issued July 24, 1980 (45 FR 49312).

Department of Defense: Final Procedures issued April 12, 1979 (44 FR 21786).

Army Corps of Engineers: Final Procedures contained in NEPA procedures, paragraphs 25(b)(3), issued Aug. 25, 1980 (45 FR 56760).

Department of the Army: Final Procedures contained in Subpart H 32 CFR 651.34 *et seq.*, issued Oct. 20, 1980 (45 FR 69215).

Department of Energy: Proposed Guidelines issued Sept. 6, 1979 (44 FR 52146).

Department of State: (1) Foreign Affairs Manual Circular No. 807A, Procedures Implementing E.O. 12114, (except nuclear actions) Nov. 21, 1979 (44 FR 67004). (2) "Unified Procedures Applicable To Major Federal Actions Relating To Nuclear Activities Subject To Executive Order 12114," Nov. 13, 1979 (44 FR 65560).

Department of Transportation: Contained in NEPA procedures (DOT Order 5610.1C) issued Oct. 1, 1979 (44 FR 58420), Paragraph 16.

Department of the Treasury: Final Procedures issued July 15, 1980 (45 FR 47825).

Environmental Protection Agency: Proposed Procedures implementing E.O. 12114, Nov. 29, 1979 (44 FR 68776).

Export-Import Bank of the United States: Final Procedures issued Aug. 20, 1979 (44 FR 50813).

Federal Maritime Commission: Final Procedures contained in NEPA procedures issued May 21, 1980 (45 FR 33996).

National Aeronautics and Space Administration: Contained in NEPA procedures, Section 1216.321 issued July 30, 1979 (44 FR 44490–44491).

Category 2—Federal agencies scheduled to publish procedures implementing E.O. 12114

Department of the Interior: Draft procedures implementing E.O. 12114 are under preparation. These procedures are expected to be published by Dec. 31, 1980.

Dated: November 18, 1980.

C. Foster Knight,

Acting General Counsel.

[FR Doc. 80-36484 Filed 11-20-80; 8:45 am]

BILLING CODE 3125-01-M

Ninth Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information Only: Publication of Ninth Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act.

SUMMARY: In response to President Carter's Executive Order 11991, on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). 43 FR 55978–56007; 40 CFR 1500–08). Section 1507.3 of the regulations provides that each agency of the Federal Government shall have adopted procedures to supplement the regulations by July 30, 1979. The Council has indicated to Federal agencies its intention to publish progress reports on agency efforts to develop implementing procedures under the NEPA regulations. The purpose of these progress reports, the ninth of which appears below, is to provide an update on where agencies stand in this process and to inform interested persons of when to expect the publication of proposed procedures for their review and comment.

FOR FURTHER INFORMATION CONTACT:

C. Foster Knight, Acting General Counsel, Council on Environmental Quality, 722 Jackson Place, NW, Washington, D.C. 20006; 202–395–5750.

Ninth Progress Report on Agency Implementing Procedures Under the National Environmental Policy Act

At the direction of President Carter (Executive Order 11991), on November 29, 1978, the Council on Environmental Quality issued regulations implementing the procedural provisions of the National Environmental Policy Act ("NEPA"). These regulations appear at Volume 43 of the **Federal Register**, pages 55978–56007 and in volume 40 of the Code of Federal Regulations, parts 1500–1508. Their purpose is to reduce paperwork and delay associated with the environmental review process and to foster environmental quality through better decisions under NEPA.

Section 1507.3 of the NEPA regulations provides that each agency of the Federal government shall adopt procedures to supplement the regulations. The purpose of agency "implementing procedures," as they are called, is to translate the broad standards of the Council's regulations into practical action in Federal planning and decisionmaking. Agency procedures will provide government personnel with additional, more specific direction for implementing the procedural provisions of NEPA, and will inform the public and State and local officials of how the NEPA regulations will be applied to individual Federal programs and activities.

In the course of developing implementing procedures, agencies are required to consult with the Council and to publish proposed procedures in the **Federal Register** for public review and comment. Proposed procedures must be revised as necessary to respond to the ideas and suggestions made during the comment period. Thereafter, agencies are required to submit the proposed final version of their procedures for 30 day review by the Council for conformity with the Act and the NEPA regulations. After making such changes as are indicated by the Council's review, agencies are required to promulgate their final procedures. Although CEQ's regulations required agencies to publish their procedures by July 30, 1979 a number of Federal agencies did not meet this deadline. We stress, however, that the CEQ regulations are in effect now and are binding on all agencies of the Federal government now, whether or not the agencies are on time or late with their own procedures.

The Council published its first progress report on agency implementing procedures on May 7, 1979, its second report on July 23, 1979, its third report on September 26, 1979, its fourth report on November 2, 1979, its fifth report on December 14, 1979, its sixth report on January 29, 1980, its seventh report on March 25, 1980, and its eight report on June 25, 1980 (44 FR 26781–82; 44 FR 43037–38; 44 FR 55408–55410; 44 FR 63132–63133; 44 FR 72622–72623; 45 FR 6638–6640; 45 FR 19294; 45 FR 42786). The ninth progress report appears below. The Council hopes that concerned members of the public will review and comment upon agency procedures to insure that the reforms required by President Carter and by the Council's regulations are implemented. Agencies preparing implementing procedures are listed under one of the following four categories:

Category #1: Final Procedures Have Been Published

This category includes agencies whose final procedures have appeared in the **Federal Register.**

Advisory Council on Historic Preservation, 45 FR 4353 (Jan. 22, 1980).

Agency for International Development, 45 FR 70239 (Oct. 23, 1980).

Central Intelligence Agency, 44 FR 45431 (Aug. 2, 1979).

Consumer Product Safety Commission, 45 FR 69433 (Oct. 21, 1980).

Department of Agriculture, 44 FR 44802 (July 30, 1979).

- Animal and Plant Health Inspection Service, 44 FR 50381 (Aug. 28, 1979) [correction: 44 FR 51272 (Aug. 31, 1979)].
- Forest Service, 44 FR 44718 (July 30, 1979).
- Soil Conservation Service, 44 FR 50576 (Aug. 29, 1979).
- Rural Electrification Adminstration, 45 FR 6592 (Jan. 29, 1980).

Department of Commerce, 45 FR 47898 (July 17, 1980).

- Economic Development Administration, 45 FR 63310 (Sept. 24, 1980).
- National Oceanic and Atmospheric Administration, 45 FR 49312 (July 24, 1980).

Department of Defense, 44 FR 46841 (Aug. 9, 1979).

procedures implementing Executive Order 12114 cited above.]

Service, 44 FR 49523 (Aug. 23, 1979).*

Federal Deposit Insurance Corporation.
Federal Home Loan Bank Board.

and supplement the NEPA regulations once they are published in final form in the Federal

DEFENSE COMMUNICATIONS AGENCY

Department of Defense, 44 FR 46841 (Aug. 9, 1979).
Army Corps of Engineers, 45 FR 56790 (Aug. 25, 1980).
Department of the Army, 45 FR 69215 (Oct. 20, 1980).
Department of Energy, 45 FR 20694 (Mar. 28, 1980); proposed amendments for categorical exclusions for Fuel Use Act, 45 FR 53199 (Aug. 11, 1980).
Department of the Interior (revised), 45 FR 27541 (April 23, 1980).
Fish and Wildlife Service, 45 FR 47941 (July 17, 1980).
Water and Power Resources Services, 45 FR 47944 (July 17, 1980).
Department of State, 45 FR 59553 (Sept. 10, 1980).
Department of Transportation, 44 FR 56420 (Oct. 1, 1979).
Coast Guard, 45 FR 32816 (May 19, 1980).
Federal Aviation Administration, 45 FR 2244 (Jan. 10, 1980).
Federal Highway Administration, issued jointly with UMTA, 45 FR 71968 (Oct. 30, 1980).
Federal Railroad Administration, 45 FR 40854 (June 16, 1980).
Urban Mass Transportation Administration, issued jointly with FHWA, 45 FR 71968 (Oct. 30, 1980).
Department of the Treasury, 45 FR 1828 (Jan. 8, 1980).
Environmental Protection Agency, 44 FR 64174 (Nov. 6, 1979).
Export-Import Bank, 44 FR 50810 (Aug. 30, 1979).
Federal Emergency Management Agency, 45 FR 41141 (June 18, 1980); proposed amendments for categorical exclusions, 45 FR 67886 (Oct. 14, 1980).
Federal Maritime Commission, 45 FR 33996 (May 21, 1980).
Federal Railroad Administration, 45 FR 40854 (June 16, 1980).
General Services Administration, 45 FR 83 (Jan. 2, 1980).
Public Buildings Service (see 44 FR 65675, Nov. 14, 1979).
International Communications Agency, 44 FR 45489 (Aug. 2, 1979).
Marine Mammal Commission, 44 FR 52837 (Sept. 11, 1979).
National Aeronautics and Space Administration, 44 FR 44485 (July 30, 1979) [corrections: 44 FR 49650 (Aug. 24, 1979); 44 FR 60920 (Dec. 5, 1979)].
National Capitol Planning Commission, 44 FR 64923 (Nov. 8, 1979)
National Science Foundation, 45 FR 39 (Jan. 2, 1980).
Overseas Private Investment Corporation, 44 FR 51385 (Aug. 31, 1979). [NEPA Procedures are contained in this agency's procedures implementing Executive Order 12114 cited above.]
Postal Service, 44 FR 63524 (Nov. 5, 1979).
Small Business Administration, 45 FR 7358 (Feb. 1, 1980).
Tennessee Valley Authority, 45 FR 54511 (Aug. 15, 1980).
Veteran's Administration, 45 FR 62800 (Sept. 22, 1980).
Water Resources Council, 44 FR 69921 (Dec. 5, 1979).

Category #2: Proposed Procedures Have Been Published

This category includes agencies whose proposed procedures have appeared in the **Federal Register**. Those agencies whose final procedures are expected within 30 days are marked with a single asterisk (*); those expected within 60 days by a double asterisk (**).
ACTION, 44 FR 60110 (Oct. 18, 1979).
Arms Control and Disarmament Agency, 45 FR 69510 (Oct. 21, 1980).
Civil Aeronautics Board, 44 FR 45637 (Aug. 3, 1979)
[Reissuance of part: 45 FR 16132 (Mar. 12, 1980)].
Department of Agriculture agencies
Agriculture Stabilization and Conservation Service, 44 FR 44167 (July 27, 1979) [correction: 44 FR 45631 (Aug. 3, 1979)]; procedures published as final without CEQ approval, 45 FR 32312 (May 16, 1980).
Food Safety and Quality Service, 45 FR 60460 (Sept. 12, 1980).
Science and Education Administration, 45 FR 11147 (Feb. 20, 1980).
Notice of proposed categorical exclusion of certain Department of Agriculture agency programs, 45 FR 38092 (June 6, 1980).
Department of Defense agencies
Department of the Air Force, 44 FR 44118 (July 26, 1979)*
Farm Credit Administration, 45 FR 55213 (Aug. 19, 1980).
Federal Energy Regulatory Commission, 44 FR 50052 (Aug. 27, 1979).
Department of Health and Human Services (formerly HEW), 45 Fr 14651 (Mar. 6, 1980)*.
Food and Drug Administration, 44 FR 71742 (Dec. 11, 1979).
Department of Housing and Urban Development (agency wide procedures), 44 FR 67906 (Nov. 27, 1979).
Title I Programs under Housing and Community Development Act, see Appendix I.
Department of the Interior agencies
Bureau of Indian Affairs, 45 FR 49368 (July 24, 1980).**
Heritage Conservation and Recreation Service, 44 FR 49523 (Aug. 23, 1979).*
Lowell Historic Preservation Commission, 45 FR 57556 (Aug. 28, 1980).*
Bureau of Mines, 45 FR 10043 (Feb. 14, 1980).*
Office of Surface Mining Reclamation and Control, 45 FR 10043 (Feb. 14, 1980).**
National Park Service, 45 FR 32126 (May 15, 1980).*
Department of Labor, 44 FR 69675 (Dec. 4, 1979); published as final without CEQ approval, 45 FR 51184 (Aug. 1, 1980).
Department of Justice, 44 FR 43751 (July 26, 1979).*
Drug Enforcement Agency, 44 FR 43754 (July 26, 1979).*
Immigration and Naturalization Service, 44 FR 43754 (July 26, 1979).*
Bureau of Prisons, 44 FR 43753 (July 26, 1979).*
Office of Justice, Assistance, Research and Statistics (formerly LEAA), 45 FR 45311 (July 3, 1980).*
Federal Communications Commission, 44 FR 38913 (July 3, 1979).
Federal trade Commission, 44 FR 42712 (July 20, 1979).
International Boundary and Water Commission (U.S. Section), 44 FR 61665 (Oct. 26, 1979).*
Interstate Commerce Commission, 45 FR 15236 (Mar. 10, 1980).
National Credit Union Administration, 45 FR 12211 (Feb. 25, 1980).
Nuclear Regulatory Commission, 45 FR 13739 (Mar. 3, 1980).
Pennsylvania Avenue Development Corporation, 44 FR 45925 (Aug. 6, 1979).
Saint Lawrence Seaway Development Corp., 45 FR 46601 (July 10, 1980).

Category #3: Anticipate Publication of Proposed Procedures by Dec. 31, 1980

This category includes agencies that are expected to publish proposed procedures in the **Federal Register** by Dec. 31, 1980.
Bureau of Land Management.
Defense Logistics Agency.
Department of the Navy.
Farmers Home Administration.
Federal Reserve System.
Geological Survey.

Category #4: Publication of Proposed Procedures Delayed Beyond Dec. 31, 1980

This category includes agencies that are *not* expected to publish proposed procedures in the **Federal Register** by Dec. 31, 1980.

Appalachian Regional Commission.
Community Services Administration.
Federal Deposit Insurance Corporation.
Federal Home Loan Bank Board.
Federal Savings and Loan Insurance Corporation.
METRO.
National Highway Traffic Safety Administration.
Securities and Exchange Commission.

The development of agency implementing procedures is a critical stage in Federal efforts to reform the NEPA process. These procedures must, of course, be consistent with the Council's regulations and provide the means for reducing paperwork and delay and producing better decisions in agency planning and decisionmaking.

Interested persons will have the opportunity to make their suggestions for improving agency procedures when they are published in the **Federal Register** in proposed form. Broad public participation at this crucial juncture could go a long way toward ensuring that the goals of the NEPA regulations are widely implemented in the day-to-day activities of government.

Prior to promulgation of final procedures, agencies are required to submit the proposed final version of their procedures to the Council for review. When the Council finds that an agency's procedures conform with NEPA and the NEPA regulations, the Council sends a letter of approval to the agency after which the agency may adopt and publish its procedures in final form.

The following is an example of the approval letter:

Honorable R. Max Peterson,
Chief, Forest Service,
Department of Agriculture, Washington, D.C.

Dear Mr. Peterson: Section 1507.3 of the Regulations for Implementating The Procedural Provisions of the National Environmental Policy Act, 40 CFR 1500, *et seq.* provides that each agency shall as necessary adopt procedures to supplement the regulations. Section 1507.3 also provides that final agency procedures shall be adopted only after review by the Council on Environmental Quality.

On June 12, 1979 your predecessor, Mr. John McGuire, transmitted for Council review final procedures developed by the Forest Service under Section 1507.3 of the NEPA regulations. These procedures were published in the **Federal Register** for public review and comment on April 29, 1979. The comment period on the procedures concluded May 31, 1979. The preamble to the procedures contains a point-by-point response to the major comments received on the procedures.

The Council has completed its review of the procedures developed by the Forest Service. Based on that review, the Council has determined that the procedures address all of the sections of the regulations required to be addressed by Section 1507.3(b) of the regulations. The procedures will take effect and supplement the NEPA regulations once they are published in final form in the **Federal Register**.

Yours truly,
Nicholas C. Yost,
General Counsel.

Approved

Advisory Council on Historic Preservation
Agency for International Development
Central Intelligence Agency
Consumer Product Safety Commission
Department of Agriculture
Animal & Plant Health Inspection Service
Forest Service
Soil Conservation Service
Rural Electrification Administration
Department of Commerce
Economic Development Administration
National Oceanic & Atmospheric Administration
Department of Defense
Army Corps of Engineers
Department of the Army
Department of Energy
Department of the Interior
Fish and Wildlife Service
Water and Power Resources Service
Department of State
Department of Transportation
Coast Guard
Federal Aviation Administration
Federal Highway Administration & Urban Mass Transit Administration
Federal Railroad Administration
Department of the Treasury
Environmental Protection Agency
Export-Import Bank
Federal Emergency Management Agency
Federal Maritime Commission
Federal Railroad Administration
General Services Administration
Public Buildings Service
International Communications Agency
Marine Mammal Commission
National Aeronautics & Space Administration
National Capitol Planning Commission
National Science Foundation
Overseas Private Investment Corporation
Postal Service
Small Business Administration
Tennessee Valley Authority
Veteran's Administration
Water Resources Council

Disapproved

Department of Housing and Urban Development; proposed procedures implementing NEPA for the Urban Development Action Grant (UDAG) Program under Title I programs under Housing and Community Development Act.

Dated: November 18, 1980.

C. Foster Knight,
Acting General Counsel.

[FR Doc. 80-36479 Filed 11-20-80; 8:45 am]
BILLING CODE 3125-01-M

DEFENSE COMMUNICATIONS AGENCY

Scientific Advisory Group; Closed Meeting

The DCA Scientific Advisory Group will hold closed meetings on December 4 and 5, 1980. The December 4 and 5, meetings will be at the Defense Communications Agency, Director's Management Information Center at Headquarters, Defense Communications Agency, 8th Street and South Courthouse Road, Arlington, Virginia.

The subject of the meetings will be AUTODIN II.

Any person desiring information about the Advisory Group may telephone (Area Code 202-692-1765) or write Chief Scientist—Associate Director, Technology, Headquarters, Defense Communications Agency, 8th Street and South Courthouse Road, Arlington, Virginia 22204.

These meetings are closed because the material to be discussed is classified requiring protection in the interest of National Defense.

B. R. Warren,
Chief, Management Engineering Division.

[FR Doc. 80-36481 Filed 11-20-80; 8:45 am]
BILLING CODE 3810-25-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army; Notice of Intent; Albuquerque District Corps of Engineers is in the Process of Preparing an Environmental Impact Statement for Proposed Flood Control Measures Along the Arkansas River, Oak Creek, and Coal Creek Near the Town of Florence, Colo.

AGENCY: U.S. Army Corps of Engineers, Albuquerque District.

ACTION: Preparation of an Environmental Impact Statement (EIS).

SUMMARY: 1. *Proposed Action and Alternatives:* The authorized action considered by the EIS is the construction of setback levees on the west bank of a six mile stretch of the Arkansas River near Florence. Other authorized measures included dams on Coal and Oak Creeks and the diversion of Chandler Creek to the Oak Creek watershed. Along with the authorized project certain other measures were considered for Coal and Oak Creeks and the Arkansas River. These included various channel modifications to increase the capacities of Coal and Oak Creeks using concrete and gabion lined channels and non-structural measures in the Oak and Coal Creeks and Arkansas

River floodplains. During Stage II

Department of the Navy

complete refresher and off-crew

base operations. Additional

Dated: November 17, 1980.
R. B. Walker,

annual report, and the Council's Task Force on NCES Priorities and the Task

River floodplains. During Stage II studies, the authorized plan as well as many of the other plans being considered were eliminated from further study due to economic, engineering and social infeasibility. Stage III studies and the EIS will concentrate on various channel improvements on Oak Creek, various channel improvements on Coal Creek and non-structural measures within the 25 year floodplain of the Arkansas River.

2. *Public Involvement Process:* Public involvement in the planning process has, to date, involved one formal public meeting in May 1980 and numerous meetings with Florence city officials, Fremont County officials, local citizens, and state and Federal agencies. Another public meeting is currently scheduled for August 1981 and active coordination will continue with local citizens as well as state, county and local officials. As presently scheduled, the draft Phase I General Design Memorandum and draft EIS will be circulated for public review in September 1981. Affected federal, state and local agencies and other interested or affected private organizations and parties and individuals are invited to submit comments on what they consider to be the important environmental questions or issues which should be addressed in the Environmental Impact Statement. Interested parties are also invited to submit comments on the draft EIS when it is circulated for field level review.

3. *Significant Issues Analyzed:* Significant issues to be analyzed in the EIS include the impacts of the proposed work on the faunal and floral resources of the Arkansas River and adjacent lands, impacts on cultural and historic resources, and the potential impacts on water quality in the Arkansas River. Additionally, a comparison will be made of the current and projected future conditions with and without the project and the various alternatives and means of mitigating environmental losses which would result from implementation of the recommended project.

4. *Public Review:* The draft EIS should be circulated for public review in September 1981.

5. *Further Information:* Questions about the study and the draft EIS may be answered by: Mr. William Tully, USAED, Albuquerque, P.O. Box 1580, Albuquerque, NM 87103, Phone: Comm (505) 766–2657, FTS 474–2657.

Bernard J. Roth,

Colonel, CE, District Engineer.

[FR Doc. 80-36295 Filed 11-20-80; 8:45 am]

BILLING CODE 3710-KK-M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Force Enhancement Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on December 10 and 11, from 8 a.m. to 5 p.m. each day, at 2000 North Beauregard Street, Alexandria, Virginia. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of cover and deception systems and procedures and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Commander Catherine Z. Becker, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 North Beauregard Street, Room 392, Alexandria, Virginia 22311. Telephone number (703) 756–1205.

Dated: November 17, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 80-36305 Filed 11-20-80; 8:45 am]

BILLING CODE 3810-71-M

Decision To Construct and Operate an Atlantic Coast Strategic Submarine Base at the Naval Submarine Support Base, Kings Bay, Georgia

Pursuant to the provisions of the regulations implementing the procedural provisions of the National Environmental Policy Act (Part 1505.2 of Title 40, Code of Federal Regulations), the Department of the Navy announces its decision to construct and operate a Strategic Submarine Base (SSB) at the Naval Submarine Support Base, Kings Bay, Georgia.

The decision will provide for the basing of one TRIDENT (or TRIDENT successor) submarine squadron, including strategic and defensive weapons storage and transfer, TRIDENT II missile production (if missile is approved), refit industrial support, complete refresher and off-crew training, waterfront support, possible administrative and personnel support, and on-base housing. Torpedo maintenance and TRIDENT I missile production will remain in Charleston, South Carolina.

Alternatives originally considered to Kings Bay as a potential Strategic Base were no action and four other candidate sites. The no-action alternative was considered unacceptable because of strategic defense needs. The four other candidate siting alternatives as discussed in the Environmental Impact Statement (EIS) were Narragansett Bay, Rhode Island; Cheatham Annex, Virginia; Charleston, South Carolina; and Mosquito Lagoon, Florida. The previously noted option for Kings Bay was selected as the site of the base to best satisfy operational requirements and minimize environmental impacts for the ashore-based TRIDENT facility. Additional alternative basing studies for training, strategic weapons, defensive weapons and certain support facilities were conducted and Kings Bay was selected as the site of training, strategic and defensive weapons storage, and other related support functions and facilities while TRIDENT I missile production and torpedo maintenance will remain in Charleston, South Carolina. Alternatives were examined at Kings Bay with regard to placement of waterfront facilities, ashore facilities, and dredge disposal sites. The selected configurations and facility sites were chosen to minimize environmental impact within operational guidelines. Of the waterfront configurations considered, the form selected minimizes dredging and loss of bay bottom area. Potential development beyond the existing and proposed facilities was also considered for an additional squadron of POSEIDON and/or TRIDENT submarines.

Based on comments received from the public and from Federal, state, and local agencies concerning the proposed action and the Draft Supplement EIS, the major environmental effects of, or reservations expressed concerning, the proposed action are loss of habitat, both aquatic and terrestrial, potential effects upon the Manatee and Indigo snake (as protected species), loss and/or alteration of wetlands and wooded swamps, potential fiscal consequences to local governments, and alterations to the rural nature of the immediate geographical area.

Considerable effort has gone into reducing and minimizing the potential loss of significant habitat during the master planning for facilities and on-base operations. Additional commitments to mitigative measures have been included to offset the identified physical and socio-economic effects.

Mitigating actions by the Navy to offset the results of dredging include construction of inshore reefs for oyster and aquatic feeding habitat, monitoring of dredging operations to manage potential effects upon water quality, seasonal restrictions on blasting for construction dredging, establishment of a manatee alert/watch program as well as education and information programs for both contractor personnel and base-employed personnel. A positive result of the deeper bay habitat will be expected greater over-wintering protection of the white shrimp.

Mitigating actions by the Navy to offset the effects of dredge material disposal include creation of waterfowl and nesting bird habitats within the disposal areas, funding of a survey to be conducted by the United States Fish and Wildlife Service using the Habitat Evaluation Procedure (HEP) (and the development of a management plan based on the results of the HEP survey), use of an Indigo snake sighting program prior to construction in possible snake areas and excavation and/or preservation of eligible archeological sites in accordance with Federal procedures.

Mitigating actions by the Navy to offset the effects of facility construction include construction of retention ponds to reduce flow rates, and broad, flat drainage swales to offset the loss of on-site storage and existing vegetative buffer. Water quality monitoring will be expanded to include areas of A–1 development. The above mentioned HEP survey will also include the facility development areas. Wetlands and wooded swamps within proposed developed areas will be avoided and preserved to the extent practicable. Additionally, the Indigo snake survey program noted previously will be conducted prior to construction in snake areas.

Along with the stated monitoring, survey and management programs, the Navy will maintain established contact with cognizant state and Federal agencies to assure enforcement of the mitigation commitments defined in the Final Supplement to the Environmental Impact Statement.

Dated: November 17, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Alternate Federal Register, Liaison Officer.

[FR Doc. 80-36308 Filed 11-20-80; 8:45 am]

BILLING CODE 3810-71-M

DEPARTMENT OF EDUCATION

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics.

ACTION: Notice of meeting.

SUMMARY: This notice set forth the schedule and agenda of the forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: December 11–12, 1980.

ADDRESS: Room 205, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782.

FOR FURTHER INFORMATION CONTACT: Iris Silverman, Executive Director Advisory Council on Education Statistics, National Center for Education Statistics, 400 Maryland Avenue, SW (Presidential Building) Washington, DC 20202, telephone number 301–436–7885.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics is mandated by section 406(c) of the General Education Provisions Act as added by Section 501(a) of the Education Amendments of 1974, P.L. 93–380, (20 USC 122e–1(c)), to advise the Secretary of the Department of Education, and the Assistant Secretary for Educational Research and Improvement and the Administrator of the National Center for Education Statistics; and "shall review general policies for the operation of the Center and shall be responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence."

The meeting of the Council is open to the public. The tentative agenda includes the Administrator's report on recent developments of the National Center for Education Statistics, and formulation of recommendations with regard to the Council's mandate to review annually the development of needs for qualified educational personnel. Council will work on its annual report, and the Council's Task Force on NCES Priorities and the Task Force on NCES Outputs will meet.

Records are kept of all Council proceedings. The records are available for public inspection between the hours of 8:00 AM and 4:30 PM, Monday through Friday, at the office of the Advisory Council on Education Statistics, 205 Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland.

Signed at Hyattsville, Maryland, November 17, 1980.

Marie D. Eldridge,

Administrator, National Center for Education Statistics.

[FR Doc. 80-36289 Filed 11-20-80; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Vocational Education; Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Advisory Council on Vocational Education. This notice also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATE: December 8, 1980 in conjunction with the American Vocational Association.

ADDRESS: The New Orleans Marriott Hotel, Canal and Chartres Streets, New Orleans, Louisiana, the Le Galerie 2 Room.

FOR FURTHER INFORMATION CONTACT: Virginia Solt, NACVE Staff, 425 13th Street NW., Suite 412, Washington, DC (Tel: 202/376–8873).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Vocational Education is established under Section 104 of the Vocational Education Amendments of 1968, Pub. L. 90–576. The Council is established to:

(A) Advise the President, the Congress, and the Secretary concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto,

V 45 N0 21 80 UMI

and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

The meeting of the Council is open to the public, and the proposed agenda includes:

Call to Order at 1:00 P.M.

Comments on the Distribution of Federal Funds in Vocational Education
Student Vocational Organizations
Position on Reauthorization Issue
Review of Council Work Plan for FY 1981–82
Status Reports on NACVE Projects and Studies

Records shall be kept of all Council proceedings, and will be available for public inspection at the office of the National Advisory Council on Vocational Education, 425 13th Street NW., Suite 412, Washington, D.C. 20004, from 9:00 A.M. to 5:00 P.M.

Signed at Washington, D.C., on November 18, 1980.

Raymond C. Parrott,

Executive Director.

[FR Doc. 80-36328 Filed 11-20-80; 8:45 am]

BILLING CODE 4000-01-M

Minority Institutions Science Improvement Program (MISIP); Applications for New Awards for Fiscal Year 1981

AGENCY: Department of Education.

ACTION: Application notice for receipt of applications for new awards for fiscal year 1981.

Applications are invited for new awards under the Minority Institutions Science Improvement Program which is administratively part of the Fund for the Improvement of Postsecondary Education in the Department of Education.

Authority for this program is contained in the Department of Education Organization Act (20 U.S.C. 344) which provides for the transfer of the Minority Institutions Science Improvement Program, established under the National Science Foundation Act (42 U.S.C. 1862), from the National Science Foundation (NSF) to the Education Department.

Closing Date for Transmittal of Applications

Applications for Institutional, Design and cooperative Project Awards must be mailed or hand-delivered by January 30, 1981. Applications for Special Project Awards must be mailed or hand-delivered by March 2, 1981.

Applications Delivered by Mail

An application sent by mail must be addressed to the Minority Institutions Science Improvement Program, Attention: 84.120, Fund for the Improvement of Postsecondary Education, Department of Education, 400 Maryland Avenue SW., Room 3123, Washington, D.C. 20202.

To establish proof of mailing, an applicant must show one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a mail receipt that is not dated by the U.S. Postal Service as proof of mailing.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should specifically request that a dated postmark be affixed by its local post office.

An applicant is encourged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand

An application that is hand-delivered must be taken to the Minority Institutions Science Improvement Program, Attention: 84.120, Fund for the Improvement of Postsecondary Education, Department of Education, 400 Maryland Avenue SW., Room 3123, Washington, D.C.

The Secretary will accept hand-delivered applications betwen 8:00 a.m., and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications for Institutional Design or Cooperative Project Awards that are hand-delivered will not be accepted after 4:30 p.m. on January 30, 1981. Applications for Special Project Awards that are hand-delivered will not be accepted after 4:30 p.m. on March 2, 1981.

Program Information

The Secretary solicits applications from predominantly minority institutions and certain other eligible institutions which propose to enhance a minority institution's capacity for developing and maintaining a quality science education program for all of its students and to augment the institution's capability for increasing the flow of underrepresented ethnic minorities into scientific careers.

Support under this program is provided to eligible institutions in four ways: (1) Design grants to minority institutions without formal planning capabilities to provide assistance in developing long-range science improvement plans; (2) grants to individual minority institutions to support the implmentation of comprehensive science improvement plans; (3) grants to nonprofit, accredited colleges and universities to support cooperative efforts designed to strengthen their science and engineering programs; and (4) grants to eligible institutions or organizations in support of special projects designed to implement Program goals.

The Secretary considers making a grant to an eligible institution only if an application has been prepared and submitted according to—

(a) The regulations in Part 34 CFR 735;

(b) The applicable provisions in EDGAR; and

(c) The instructions and forms included in the *Guide for Preparation of Proposals for the Minority Institutions Science Improvement Program.* Publication No. ED 0007.

Available Funds

Approximately $4.0 million is estimated to be available for Institutional and Cooperative Project Awards in fiscal year 1981. It is estimated that these funds will support approximately 20 awards. The maximum amount for an Institutional or Cooperative Project Award is $300,000 for a 36-month period. Approximately $1.0 million is estimated to be available for Special Project and Design Awards in fiscal year 1981. It is estimated that these funds will support approximately 20 Special Project and Design Project Awards. The maximum amount for a Special Project Award is $150,000 for a 24-month project period. The maximum amount for a Design Project Award is $20,000 for a 12-month period.

However, these estimates do not bind the Secretary to a specific number of grants or to the amount of any grant unless the amount is otherwise specified by statute and regulations.

Application Forms

Application forms and program information packages may be obtained from Minority Institutions Science Improvement Program, Attention: 84.120, Fund for the Improvement of Postsecondary Education, Department of Education, 400 Maryland Avenue, SW., Room 123, Washington, D.C. 20202. Telephone: Dr. Argelia Velez-Rodriguez (202) 282–7760.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Secretary strongly urges that the narrative portion of the application not exceed 20 double-spaced pages. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations

Regulations applicable to this program include the following:

(a) Proposed regulations governing the Minority Institutions Science Improvement Program published in the November 5, 1980 issue of the **Federal Register** (Vol. 45, No. 216, p. 73514) as proposed 34 CFR Part 735; and,

(b) Education Division General Administrative Regulations (EDGAR), (45 CFR Part 100a and 45 CFR Part 100c).

If substantive changes are made in the final regulations, applicants will be given an opportunity to amend their applications.

Further Information

For further information, contact Dr. Argelia Velez-Rodriguez, the Minority Institutions Science Improvement Program, Attention: 84.120, Fund for the Improvement of Postsecondary Education, Department of Education, 400 Maryland Avenue, SW., Room 3123, Washington, D.C. 20202. Telephone: (202) 282–7760.

(Catalog of Federal Domestic Assistance No. 84.120, Minority Institutions Science Improvement Program)

F. James Rutherford,

Assistant Secretary, OERI.

[FR Doc. 80-36343 Filed 11-20-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Finality of 1978 Oil Pipeline Valuation Reports

November 18, 1980.

Jurisdiction over oil pipelines, as it relates to the establishment of valuations for pipelines, was transferred from the Interstate Commerce Commission (ICC) to the Federal Energy Regulatory Commission (FERC), pursuant to Sections 306 and 402 of the Department of Energy Organization Act, 42 U.S.C. §§ 7155 and 7172, and Executive Order No. 12009, 42 Fed. Reg. 46267 (September 15, 1977).

The FERC, by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to Section 19a of the Interstate Commerce Act.

The Board has issued the tentative 1978 annual valuation reports for the following common carriers by oil pipelines:

Acorn Pipe Line Company, Docket No. PV–1364
Allegheny Pipeline Company, Docket No. PV–1414
Amdel Pipeline Inc., Docket No. PV–1439
American Petrofina Pipe Line Company, Docket No. PV–1440
Amoco Pipeline Company, Docket No. PV–1302
Arapahoe Pipe Line Company, Docket No. PV–1378
ARCO Pipe Line Company, Docket No. PV–1329
Ashland Pipe Line Company, Docket No. PV–1291
Badger Pipe Line Company, Docket No. PV–1381
Belle Fourche Pipeline Company, Docket No. PV–1430
Black Lake Pipe Line Company, Docket No. PV–1425
Buckeye Pipe Line Company, Docket No. PV–1322
Butte Pipe Line Company, Docket No. PV–1382
Calnev Pipe Line Company, Docket No. PV–1404
Chevron Pipe Line Company, Docket No. PV–1416
Cheyenne Pipeline Company, Docket No. PV–1368
Chicap Pipe Line Company, Docket No. PV–1427
Cities Service Pipe Line Company, Docket No. PV–1312
Collins Pipeline Company, Docket No. PV–1433
Colonial Pipeline Company, Docket No. PV–1422
Continental Pipe Line Company, Docket No. PV–1316
Cook Inlet Pipe Line Company, Docket No. PV–1426
CRA, Inc., Docket No. PV–1341
Crown-Rancho Pipe Line Corporation, Docket No. PV–1365
Diamond Shamrock Corporation, Docket No. PV–1349
Dixie Pipeline Company, Docket No. PV–1411
Emerald Pipe Line Corporation, Docket No. PV–1385
The Eureka Pipe Line Company, Docket No. PV–1338
Explorer Pipeline Company, Docket No. PV–1441
Exxon Pipeline Company, Docket No. PV–1394
Four Corners Pipe Line Company, Docket No. PV–1389
Getty Pipeline, Inc., Docket No. PV–1402
Gulf Central Pipeline Company, Docket No. PV–1436
Gulf Refining Company, Docket No. PV–1333
Hess Pipeline Company, Docket No. PV–1409
Hydrocarbon Transportation, Inc., Docket No. PV–1431
Jayhawk Pipeline Corporation, Docket No. PV–1406
Jet Lines, Inc., Docket No. PV–1413
Kaneb Pipe Line Company, Docket No. PV–1375
Kaw Pipe Line Company, Docket No. PV–1299
Kenai Pipe Line Company, Docket No. PV–1399
Kerr-McGee Pipeline Corporation, Docket No. PV–1429
Kiantone Pipeline Corporation, Docket No. PV–1435
Lake Charles Pipe Line Company, Docket No. PV–1419
Lakehead Pipe Line Company, Inc., Docket No. PV–1354
Laurel Pipe Line Company, Docket No. PV–1403
Marathon Pipe Line Company, Docket No. PV–1392
Michigan-Ohio Pipeline Corporation, Docket No. PV–1357
Mid-America Pipeline System, Docket No. PV–1395
Mid-Valley Pipeline Company, Docket No. PV–1353
Minnesota Pipe Line Company, Docket No. PV–1384
Mobil Pipe Line Company, Docket No. PV–1311
National Transit Company, Docket No. PV–1332
Ohio River Pipe Line Company, Docket No. PV–1292
Olympic Pipe Line Company, Docket No. PV–1417
Paloma Pipe Line Company, Docket No. PV–1420
Phillips Pipe Line Company, Docket No. PV–1320
Pioneer Pipe Line Company, Docket No. PV–1372
Plantation Pipe Line Company, Docket No. PV–1343
Platte Pipe Line Company, Docket No. PV–1367
Portal Pipe Line Company, Docket No. PV–1410
Portland Pipe Line Corporation, Docket No. PV–1347
Powder River Corporation, Docket No. PV–1347
Pure Transportation Company, Docket No. PV–1327
Santa Fe Pipeline Company, Docket No. PV–1428

The Shamrock Pipe Line Corporation,

Commission in determining the

(Applicant) filed with the Federal

issuance of a preliminary permit for a

on or before December 2, 1980, with the

protest or comments does not become a

The Shamrock Pipe Line Corporation, Docket No. PV–1369
Shell Pipe Line Corporation, Docket No. PV–1326
Sohio Pipe Line Company, Docket No. PV–1335
Southcap Pipe Line Company, Docket No. PV–1424
Southern Pacific Pipe Lines, Inc., Docket No. PV–1393
Sun Oil Line Company of Michigan, Docket No. PV–1370
Sun Pipe Line Company, Docket No. PV–1315
Tecumseh Pipe LIne Company, Docket No. PV–1386
Texaco-Cities Service Pipe Line Company, Docket No. PV–1300
Texas Eastern Transmission Corporation, (Little Big Inch Division), Docket No. PV–1408
Texas-New Mexico Pipe Line Company, Docket No. PV–1293
The Texas Pipe Line Company, Docket No. PV–1330
Texoma Pipe Line Company, Docket No. PV–1449 (1976 Report)
Trans Mountain Oil Pipeline Corporation, Docket No. PV–1379
Trans-Ohio Pipeline Company, Docket No. PV–1412
West Emerald Pipe Line Corporation, Docket No. PV–1388
West Shore Pipe Line Company, Docket No. PV–1396
West Texas Gulf Pipe Line Company, Docket No. PV–1362
White Shoal Pipeline Corporation, Docket No. PV–1421
Williams Pipe Line Company, Docket No. PV–1423
Wolverine Pipe Line Company, Docket No. PV–1377
Wyco Pipe Line Company, Docket No. PV–1355
Yellowstone Pipe Line Company, Docket No. PV–1373

Section 19a(h) of the Interstate Commerce Act provides that if no protest is filed within thirty days, the valuation shall become final as of the date thereof. Notice is hereby given that no protest to the valuation reports for any of these carriers has been received and that each valuation report is final as of the date it was issued by the Board.

Francis J. Connor,

Adminstrative Officer, Oil Pipeline Board.

[FR Doc. 80-36320 Filed 11-20-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. SA80-61]

Bird & Son, Inc.; Application for Exemption From Incremental Pricing

Issued November 17, 1980.

Take notice that on December 11, 1979, Bird & Son, Incorporated (Applicant) filed with the Federal Energy Regulatory Commission (Commission) an application for an exemption from incremental pricing under Title II of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301 *et. seq.* (Supp. II 1978). Applicant's petition for exemption which was filed under section 206(d) of the NGPA, was concurrently filed with a request for an adjustment under section 502(c) of the NGPA.[1]

Specifically, Applicant seeks small boiler fuel exemption from incremental pricing of natural gas used at its Franklin, Ohio, manufacturing plant. Applicant states that subjecting this facility to incremental pricing would result in special hardship, inequity, and unfair distribution of burdens because October 1977 was the only month in 1977 during which daily average consumption of boiler fuel exceeded the 300 Mcf per day cut-off for small boiler fuel users. *See,* 18 CFR 282.202(g) and 203(a).

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, 44 FR 18961, March 30, 1979. Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed by December 8, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36433 Filed 11-20-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. RA80-81]

Chuck & Jim's Mobil; Filing of Petition for Review

Issued November 17, 1980.

Take notice that Chuck & Jim's Mobil on April 17, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977) (Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before December 2, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before December 2, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36430 Filed 11-20-80; 8:45 am]
BILLING CODE 6455-85-M

[Docket No. ID–1846]

William G. Counsil; Filing

November 17, 1980.

The filing party submits the following:

Take notice that on August 19, 1980, William G. Counsil, pursuant to section 305(b) of the Federal Power Act, submitted for filing an application for authority to hold the following positions:

Senior Vice President, Connecticut Light and Power Company, Public Utility.
Senior Vice President, Hartford Electric Light Company, Public Utility.
Senior Vice President, Western Massachusetts Electric Company, Public Utility.
Senior Vice President, Holyoke Water Power Company, Public Utility.
Senior Vice President, Holyoke Power and Electric Company, Public Utility.
Senior Vice President, Connecticut Yankee Atomic Power Co., Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before December 1, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36423 Filed 11-20-80; 8:45 am]
BILLING CODE 6450-85-M

[1] Public notice of Bird and Son's filing for an adjustment was issued on January 7, 1980 and on May 9, 1980 an Order Denying Exemption From Incremental Pricing was issued.

[Project No. 3283]

City of Holyoke, Mass.; Application for Preliminary Permit

November 17, 1980.

Take notice that the City of Holyoke, Massachusetts (Applicant) filed on July 31, 1980, and revised on October 8, 1980, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for proposed Project No. 3283 to be known as the Hadley Falls Unit Three Project located on the Connecticut River in Hampden County, Massachusetts. The project would utilize the facilities of the Hadley Falls Project FERC No. 2004, which is licensed to the Holyoke Water Power Company. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. George Leary, Holyoke Gas and Electric Department, 70 Suffolk Street, Holyoke, Massachusetts 01040, and Atty. Francis E. Francis, Spiegel and McDiarmid, 2600 Virginia Avenue, N.W., Washington, D.C. 20037. Any person who wishes to file a response to this notice shoud read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description.—As described in the application, the proposed project would consist of a new powerhouse located at the south end of the Hadley Falls Dam, and appurtenant facilities.

The licensed Hadley Falls Project No. 2004 currently includes two 15 MW generating units, one constructed and the other unconstructed. The proposed Hadley Falls Unit Three Project No. 3283 would include a third 15 MW generating unit, to be located adjacent to the other two units.

The Applicant estimates that the average annual energy output would be between 19,000 and 30,000 MWh.

Purpose of Project.—Energy generated by Project No. 3283 would be used by the Applicant for public utility purposes.

Proposed Scope and Cost of Studies Under Permit.—Applicant seeks issuance of a preliminary permit for a period of three years, during which time Applicant would investigate project feasibility and prepare preliminary designs and environmental assessments. Depending upon the outcome of the studies, the Applicant would decide how to proceed with further environmental studies, project designs, and an application for an FERC license.

Purpose of Preliminary Permit.—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments.—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications.—Anyone desiring to file a competing application must submit to the Commission, on or before December 30, 1980, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 2, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980).

Comments, Protests, or Petitions to Intervene.—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before December 30, 1980.

Filing and Service of Responsive Documents.—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3283. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36434 Filed 11-20-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. RA81-15-000]

Raymond Lally, T/A, Lally's Chevron, Inc.; Filing of Petition for Review

November 17, 1980.

Take notice that Raymond Lally, T/A. Lally's Chevron, Inc. on October 23, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is

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requested to file a notice of participation on or before December 2, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before December 2, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Avenue, S.W. Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36425 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-13-000]

Les Francis Auto Rental; Filing of Petition for Review

Issued November 17, 1980.

Take notice that Les Francis Auto Rental on October 23, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977) Supp. from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedinga before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before December 2, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before December 2, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36424 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST81-31-000]

Louisiana Intrastate Gas Co.; Application for Approval of Rates

November 17, 1980.

Take notice that on October 30, 1980, Louisiana Intrastate Gas Company (Applicant), P.O. Box 1352, Alexandria, Louisiana 71301, filed in Docket No. ST81–31–000 an application pursuant to § 284.123(b)(2) of the Commission's Regulations for approval of rates charged for transporting natural gas for Texas Gas Transmission Corporation (Texas Gas), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that it and Texas Gas have entered into an agreement dated September 2, 1980, whereby Applicant is to provide a transportation service for Texas Gas for a two-year period. It is further stated that under the agreement, Applicant is to accept gas from Texas Gas for its account at specified points of interconnection between the parties and redeliver thermally equivalent volumes to Texas Gas for resale.

Applicant proposes a base transportation charge of 20.0 cents per million Btu of gas redelivered as a fair and equitable charge for the service rendered.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36427 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST81-32-000]

Louisiana Intrastate Gas Co.; Application for Approval of Rates

November 17, 1980.

Take notice that on October 30, 1980, Louisiana Intrastate Gas Company (Applicant), P.O. Box 1352, Alexandria, Louisiana 71301, filed in Docket No. ST81–32–000 an application pursuant to § 284.123(b)(2) of the Commission's Regulations for approval of rates charged for transporting natural gas for The Gas Division of Central Louisiana Electric Company (Central Louisiana), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that it and Central Louisiana have entered into an agreement dated October 1, 1980, whereby Applicant is to provide a transportation service for Central Louisiana for a period of two years. It is further stated that under the agreement, Applicant is to accept gas from Southern Natural Gas Company and Trunkline Gas Company for the account of Central Louisiana and redeliver such gas to Central Louisiana at specified points of interconnection between the parties. It is indicated that the subject gas is being sold to Central Louisiana by Consumers Power Company (Consumers) pursuant to blanket certificate authorization granted to Consumers by the Commission.

Applicant proposes a base transportation charge of 20.0 cents per million Btu of gas redelivered as a fair and equitable charge for the service rendered.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36428 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ID-1752]

Leon E. Maglathlin, Jr.; Filing

November 17, 1980.

The filing party submits the following:

Take notice that on August 5, 1980, Leon E. Maglathlin, Jr., pursuant to section 305(b) of the Federal Power Act, submitted for filing an application for authority to hold the following positions:

Vice President and Director, Connecticut Light and Power Co., Public Utility.
Vice President and Director, Hartford Electric Light Co., Public Utility.
Vice President and Director, Western Massachusetts Electric Company, Public Utility.
Vice President and Director, Holyoke Water Power Company, Public Utility.
Vice President and Director, Holyoke Power and Electric Company, Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before December 1, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36426 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RP81-11-000]

Michigan Wisconsin Pipe Line Co.; Petition for Issuance of an Order

November 17, 1980.

Take notice that on October 31, 1980, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) filed a Petition For Issuance of An Order pursuant to Section 16 of the Natural Gas Act as amended and § 1.7 of the Commission's Rules of Practice and Procedure (18 CFR 1.7) thereunder, to authorize it to continue rate base treatment of certain advance payments which it made to various producers during 1975 and 1976, all as more fully set forth in the petition which is on file with the Commission and available for public inspection.

The petition indicates that Michigan Wisconsin advanced an aggregate of $11,683,267 to various producers to obtain the dedication of gas reserves underlying Eugene Island Block 24, Garden Banks Area Blocks 236 and 237, Ship Shoal Area Block 135, South March Island Area Block 265, Vermilion Area Block 397 and West Cameron Area Blocks 115 and 552, all in offshore Louisiana, and High Island Area Blocks A–499, A–542, A–560, A–561 and A–571 and Mustang Island Area Block A–85, all in offshore Texas. The petition further indicates that commencement of production for the aforementioned blocks has been delayed beyond the expiration of a five year period, and that absent the order requested by the instant petition, Michigan Wisconsin will be required to transfer the advances from Account No. 166 and cease rate base treatment thereof.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 8, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36429 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-547]

NGPL-Canyon Compression Co.; Request for Determination

November 17, 1980.

Take notice that on October 20, 1980, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP80–547 a request for determination that CIG's costs incurred in conjunction with the service to be rendered by NGPL-Canyon Compression Company in said docket either would not be subject to Section 2.102 of the Commission's General Policy and Interpretations or that while subject to § 2.102, such cost's incurrence would be deemed prudent, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is asserted that it would be appropriate in considering the application in the instant docket for the Commission to determine whether it would be prudent for CIG to agree to and pay for such service. CIG states that economy of regulation and fundamental fairness necessitate that the proceeding be used to help determine the true cost of said service to CIG, its customers and shareholders. It is asserted that the granting of CIG's request would not harm any other party.

Any person desiring to be heard or to make any protest with reference to said request should on or before December 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36431 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3493]

Noah Corp.; Application for Preliminary Permit

November 17, 1980.

Take notice that Noah Corp. (Applicant) filed on September 22, 1980, an application for preliminary permit (pursuant to the Federal Power Act, 16

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U.S.C. 791(a)–825(r)) for proposed Project No. 3493 to be known as the Summersville Project located on the Gauley River in Nicholas County, West Virginia. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: James B. Price, Ph. D., President, Noah Corp., P.O. Drawer 640, Aiken, South Carolina 29801.

Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers Summersville Dam and would consist of: (1) Penstocks which would utilize the existing outlet works in the right abutment of the dam; (2) a powerhouse containing generating units having a rated capacity of 28,000 kW; (3) a tailrace; (4) a new transmission line and switchyard; and (5) appurtenant facilities. Applicant estimates the annual generation would average about 147,000,000 kWh.

Propose of Project—Project energy would be sold to a public or private utility.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant will prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $150,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 19, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 20, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 and 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 19, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3493. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36435 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3579-000]

Noah Corp.; Application for Preliminary Permit

November 17, 1980.

Take notice that Noah Corp. (Applicant) filed on October 16, 1980, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for the proposed Mississenewa Dam Project No. 3579 to be located at the U.S. Army Corps of Engineers' Mississinewa Dam and Lake, a flood control project, on the Mississinewa River near Peoria and Peru, in Miami County, Indiana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. James B. Price, Ph.D., President, Noah Corp., P.O. Drawer 640, Aiken, South Carolina 29801. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 3579 would consist of: (1) a proposed penstock extending from the outlet conduit; (2) a proposed powerhouse located on the west bank of the river; (3) transmission lines; and (4) appurtenant facilities. Applicant estimates the capacity of the project would be 7 MW, and the annual energy output would be 20 GWh.

Purpose of Project—Energy produced at the proposed project would be sold to Public Service Company of Indiana.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, along with obtaining agreements with Federal, State, and local agencies is estimated to be $100,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Continental Hydro Corp. Project No. 3365 on Mississinewa Dam Project in Peru and Peoria, Indiana under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 19, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3579. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36436 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 2752]

Northern Lights, Inc.; Notice Granting Interventions

November 17, 1980.

On November 30, 1978, Northern Lights, Inc., filed an application for a major license for the proposed Kootenai River Hydroelectric Project No. 2752. On May 9, 1980, notice of the availability of staff's draft environmental impact statement was given. An opportunity to file a protest or a petition to intervene was also provided by the notice. Petitions to intervene have been filed by: (1) The Confederated Salish and Kootenai Tribes of the Flathead Reservation of Montana (Confederated Tribes); (2) the Kootenai Tribe of Idaho (Kootenai Tribe); (3) the League of Women Voters of Montana; (4) the Montana Wildlife Federation and the National Wildlife Federation; and (5) the Lower Kootenai Band of Canada and Lucy Caye.

The Confederated Tribes' petition to intervene was filed on March 14, 1980. The Tribes stated that the construction of the proposed project would directly affect the rights and interests of the Kootenai and other Indians in the site. The Confederated Tribes state that they are opposed to the project. Their opposition is based on their belief that the project as proposed would destroy a site which is of great religious significance to the Indians. While the petition to intervene was filed after notice of the application had been given, it was filed shortly before notice was published of staff's draft EIS. The Confederated Tribes state that they did not have an opportunity to review the application until several months subsequent to the initial June 25, 1979, deadline for intervention.

The Kootenai Tribe supports the Confederated Tribes in their assertion that the entire area of the proposed project "is a vision quest site of deep religious significance to the Kootenai people." The Kootenai Tribes oppose the licensing of the project on the ground that it would desecrate the sanctity of the Kootenai River and surrounding area.

The League of Women Voters of Montana state that they are interested in addressing energy development in alternatives to the proposed project. The League also expressed an interest in other matters.

The Montana Wildlife Federation and the National Wildlife Federation (Federation) jointly petitioned to intervene and seek to maintain the Kootenai River in its free-flowing condition.

Northern Lights filed separate pleadings opposing the intervention of the Confederated Tribes and the Kootenai Tribe. The applicant states that the area where the project would be located has considerable development already in place. The applicant also states that the proposed project should in no way interfere with the rights and interests of the Kootenai and other Indians at this site. The applicant also states that the interventions should be denied because they were filed late, particularly since the Tribes were aware of the proposed project as early as May 16, 1978.

No opposition to the petitions to intervene filed by the League and the Federation was received.

Subsequent to Northern Lights' answer to the petitions to intervene filed by the Confederated Tribes and the Kootenai Tribe, the Lower Kootenai Band of Canada and Lucy Caye (Lower Kootenai Band) petitioned to intervene. The Lower Kootenai Band assert that the proposed project would have adverse environmental impacts in Canada and would affect their subsistence rights, aboriginal fishing, hunting and gathering rights, religious practices, and farming efforts. No opposition to the Lower Kootenai Band's petition was filed.

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In addition, the Confederated Tribes and the Kootenai Tribe amended their petitions to intervene. The Confederated Tribes state that after reviewing Staff's draft environmental impact statement, they are now opposed to the project on environmental grounds, its need, and economic viability. The Kootenai Tribe also expanded its opposition to the project. The Kootenai Tribe now questions the need for the power and the project's economic feasibility. No opposition to the amended petitions was received.

Participation by the above-named petitioners may be in the public interest.

Pursuant to § 375.302, of the Commission's regulations, 45 FR 21216 (1980), amending 18 CFR 3.5(a) (1979), the above-named petitioners are permitted to intervene in this proceeding subject to the Commission's Rules and Regulations under the Federal Power Act, 16 U.S.C. 791(a)–825(r). Participation of the Intervenors shall be limited to matters affecting rights and interests specifically set forth in their petition to intervene. The admission of the Intervenors shall not be construed as recognition by the Commission that they might be aggrieved by any order entered in this proceeding.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36437 Filed 11-20-80; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 3479]

Oroville-Wyandotte Irrigation District; Application for Preliminary Permit

November 17, 1980.

Take notice that Oroville-Wyandotte Irrigation District (Applicant) filed on September 16, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3479 to be known as Rock Creek #2 Power Project located on the North Valley and Rock Creeks in Plumas County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Milton Emerson, General Manager—Chief Engineer, Oroville-Wyandotte Irrigation District, P.O. Box 229, Oroville, California 95965. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (a) A 700-foot long, 135-foot high earth and rockfill dam across the North Valley Creek, approximately 10,000 feet upstream of the North Valley and Rock Creeks confluence; (b) a reservoir with gross storage capacity of 6,000 acre-feet at elevation 4,165 feet (m.s.l.); (c) a 15-foot high concrete diversion dam across the Rock Creek, approximately 750 feet downstream of the North Valley and Rock Creeks confluence; (d) a 13,000-foot long penstock; (e) a powerhouse containing a single generating unit with a rated capacity of 12 MW; and (f) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 65 million kWh.

Purpose of Project—Project energy would be sold to a public or private utility in the northern California area.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36-month permit to prepare a definitive project report including preliminary designs, results of geological, environmental, and economic feasibility studies. Applicant has indicated that: (a) the existing unimproved road to the proposed North Valley Creek Reservoir site would be used to facilitate geological investigations; and (b) boring holes would be backfilled and the ground surface reconditioned to the extent possible. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $100,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 5, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 6, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 5, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3479. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36438 Filed 11-20-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ES81-8-000]

Pacific Power & Light Co.; Application

November 17, 1980.

Take notice that on November 5, 1980, Pacific Power & Light Company (Applicant), a Maine corporation, qualified to transact business in the states of Oregon, Wyoming, Washington, California, Montana and Idaho, with its principal business office at Portland, Oregon, filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking authorization to engage in negotiations to issue up to $100 million of First Mortgage Bonds and exempting the issuance thereof from the competitive bidding requirements of § 34.1a of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 2, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36439 Filed 11-20-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ID-1844]

Walter F. Torrance, Jr.; Filing

November 17, 1980.

The filing party submits the following:

Take notice that on August 5, 1980, Walter F. Torrance, Jr., pursuant to section 305(b) of the Federal Power Act, submitted for filing an application for authority to hold the following positions.

Senior Vice President, Connecticut Light and Power Co., Public Utility.
Senior Vice President, Hartford Electric Light Company, Public Utility.
Senior Vice President, Western Massachusetts Electric Company, Public Utility.
Senior Vice President, Holyoke Water Power Company, Public Utility.
Senior Vice President, Holyoke Power and Electric Company, Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before December 1, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36432 Filed 11-20-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP81-37-000]

Trunkline Gas Co.; Application

November 17, 1980.

Take notice that on October 28, 1980, Trunkline Gas Company, (Applicant) P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81-37-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to an eight-year transportation agreement dated October 15, 1980, Applicant proposes to transport on a firm basis up to 5,000 Mcf of natural gas per day purchased by Panhandle in East Cameron Block 104, offshore Louisiana, from Pan Eastern Exploration Company to an existing point of redelivery in Douglas County, Illinois.

Panhandle, it is stated, would pay Applicant $44,950 per month for the transportation service. This rate, it is asserted, would be increased or decreased by 29.55 cents per Mcf of gas above or below the contracted quantity of 5,000 Mcf per day. Applicant asserts it would retain 5 percent of the subject gas for fuel usage and losses.

Applicant asserts it would utilize a portion of its capacity in the offshore lateral connecting East Cameron Block 104 to the pipeline system owned by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee) at East Cameron Block 97 and has arranged with Tennessee to transport up to 10,000 Mcf per day from East Cameron Block 97 to Applicant's onshore facilities near Kinder, Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36440 Filed 11-20-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP81-36-000]

United Gas Pipe Line Co.; Application

November 17, 1980.

Take notice that on October 28, 1980, United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP81-36-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public

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convenience and necessity authorizing the construction and operation of pipeline and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes herein to construct and operate approximately 115 miles of 30-inch diameter pipeline and related facilities which would commence at its Needville Compressor Station in Forth Bent County, Texas, extend in a northerly direction through Waller, Harris, Polk and Montgomery Counties, Texas, ending at Applicant's Goodrich Compressor Station in San Jacinto County, Texas.

The estimated cost of $81,088,240 would be financed by Applicant's general corporate funds and existing lines of credit with commercial lending institutions, it is stated.

It is asserted the proposed pipeline would enable Applicant to recover needed lost capacity due to the U.S. Department of Transportation's requirement to reduce the maximum allowable operation of pressure on a portion of Applicant's West Leg pipeline which extends from Refugio County, Texas, to Sterlington, Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds tht a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36441 Filed 11-20-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[A-6-FRL 1676-2]

Applicability Determination for New Source Performance Standards; Vickers Petroleum Corp. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of applicability.

SUMMARY: Applicability of New Source Performance Standards (NSPS) under the Clean Air Act has been determined as indicated below.

Vickers Petroleum Corporation

Vickers Petroleum proposes to construct, at their Ardmore, Oklahoma, refinery, two new floating roof storage tanks. The proposed tanks No. 131 and 132 will store 125,000 barrels and 80,000 barrels of gasoline respectively. New Source Performance Standards (40 CFR Part 60, Subpart Ka) have been promulgated to regulate the emission of volatile organic compounds (VOC) into the atmosphere from petroleum storage vessels. Under these regulations petroleum storage vessels with a capacity of 151,412 liters (40,000 gallons) or greater storing VOC, except fuel oils numbers 2–6, must meet the control requirements. Since these tanks will store VOC other than number 2–6 fuel oil and have capacities exceeding 151,412 liters, they are subject to the requirements of 40 CFR Part 60 Subpart Ka.

Houston Industries, Inc./ARCO Petroleum Products Company, Houston Ship Channel Cogeneration Project

Houston Industries and ARCO Petroleum Products, in a cooperative effort, propose to develop a major cogeneration project to generate power and steam at a single site located on the Houston Ship Channel using solid alternate fuel(s) as defined in the Power Plant and Industrial Fuel Use Act of 1978. High pressure steam will be expanded to generate approximately 170 megawattas of electrical capacity for the Houston Lighting and Power Company grid. The expanded low pressure process steam, approximately 3.5 million pounds per hour, will be sold to industrial consumers. The project will make use of three 3,000 million B.T.U. per hour fossil fuel-fired steam generators. The primary fuel will be petroleum coke combined with heavy fuel oil as necessary to sustain combustion of the coke. New Source Performance Standards (40 CFR Part 60, Subpart Da) have been promulgated to regulate the emission of particulate matter (PM), sulfur dioxide (SO_2), and nitrogen oxides (NO_x) into the atmosphere from electric utility steam generating units. Under these regulations, electric utility steam generating units capable of combusting more than 73 megawatts (250 million BTU/hr) heat input of fossil fuel which commenced construction or modification after September 18, 1978, must meet the requirements of 40 CFR Part 60, Subpart Da. Since this project will have electric utility steam generators with a heat input exceeding 73 megawatts, they must meet the requirements of 40 CFR Part 60, Subpart Da.

County of Saline

Saline County has installed a new asphalt concrete plant at Benton, Arkansas. The plant will produce approximately 48,000 tons per year of asphaltic paving materials. New Source Performance Standards (40 CFR Part 60, Subpart I) have been promulgated to regulate the emission of particulate matter into the atmosphere from Asphalt Concrete plants constructed or modified after June 11, 1973. Such plants must meet the requirements of this subpart. Since this plant was put into operation after this date it is subject to the requirements of 40 CFR Part 60, Subpart I.

Texas Refining Company

Texas Refining Company proposes to construct a petroleum topping unit at Midland, Texas. The facility will consist of a crude oil heater unit and four 420,000 gallon storage tanks. New Source Performance Standards (40 CFR Part 60, Subpart Ka), have been promulgated to regulate the emissions of volatile organic compounds (VOC) into the atmosphere from petroleum storage vessels. Under these regulations petroleum storage vessels with a capacity of 151,412 liters (40,000 gallons) or greater storing VOC, except fuel oils number 2–6, must meet the requirements of 40 CFR Part 60, Subpart Ka. Since these tanks will store VOC other than number 2–6 fuel oil and have capacities exceeding 151,512 liters, they are subject to the requirements of 40 CFR Part 60, Subpart Ka.

Cities Service Company

Cities Service Company proposes to construct a hydrocarbon fractionation facility near Mont Belvieu, Texas. The facility will consist of two 150 million B.T.U. per hour heat input process heaters, eight 1,000 horsepower gas turbines, eight 105,000 gallon pressurized storage vessels, and an emergency plant flare. New Source Performance Standards (40 CFR Part 60, Subpart GG), have been promulgated to regulate the emission of nitrogen oxides (NO_x) and sulfur dioxide (SO_2) into the atmosphere from stationary gas turbines. Under these regulations stationary gas turbines constructed after September 10, 1979, with a heat input at peak load equal to or greater than 10.7 gigajoules per hour (which is approximately equal to 1,000 hp output), based on the lower heating value of the fuel fired, must meet the requirements of this subpart. Since the eight turbines are rated at 1,000 hp each they are subject to the requirements of 40 CFR Part 60, Subpart GG.

DATES: Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of this notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: Copies of the background material and determination are available for public inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, First International Building, 1201 Elm Street, Dallas, Texas 75270.

Environmental Protection Agency, Public Information Reference Unit, EPA Library Room 2922, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Carl Edlund, Chief, Air Enforcement Branch, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767–2755.

Dated: October 29, 1980.

Frances E. Phillips,

Deputy Regional Administrator.

[FR Doc. 80-36333 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-38-M

[OPP-50507; PH-FRL 1677-8]

American Cyanamide Co. and Pennwalt Corp.; Renewal of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has issued renewals of experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: George T. LaRocca, Product Manager (PM) 15, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–329, 401 M St., SW., Washington, D.C. 20460, (202–426–9490).

241–EUP–93. American Cyanamide Co., P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of remaining quantity of the insecticide tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone (3-[4-(trifluoromethyl) phenyl]-1-(2,[4-(trifluoromethyl) phenyl] ethenyl)-2-propenylidene hydrazone on pasture and noncropland to evaluate control of imported fire ants. A total of 110,000 acres are involved. The program is authorized only in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas. This experimental use permit is effective from October 15, 1980 to November 15, 1980.

4581–EUP–28. Pennwalt Corp., 900 First Ave., King of Prussia, PA 19406. This experimental use permit allows the use of 1.878 pounds of the insecticide mixture *0,0*-diethyl-*0*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosporothioate and aromatic petroleum solvent to evaluate control of a variety of insects in residential, industrial food processing, and business sites, and on ornamental trees, shrubs, and turf; this use was authorized in a previous experiment use permit. This program is authorized in 50 States and the District of Columbia. The experimental use permit is effective from October 14, 1980 to October 14, 1982.

Interested persons wishing to review the experimental use permits are referred to the product manager. It is suggested that persons call before visiting the EPA Headquarters office so that the appropriate file may be made available for inspection purposes. These files will be available for public inspection in the office of the product manager from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136))

Dated: November 12, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-36454 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-32-M

[PP 9G2271/T275; PH-FRL 1678-6]

American Cyanamid Co.; Extension of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: A temporary tolerance has been extended for use of the insecticide tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone (3-[4-(trifluoromethyl)phenyl)-1-(2-[4-trifluoromethyl)phenyl)-ethyl)-2-propenylidene)hydrazone in or on the raw agricultural commodity forage grass at 0.05 part per million (ppm).

FOR FURTHER INFORMATION CONTACT: George T. LaRocca, Product Manager (PM) 15, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–329, 401 M St. SW., Washington, D.C. 20460 (202–426–9490).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of December 4, 1979 (44 FR 69726) that a temporary tolerance had been established for residues of the insecticide tetrahydro-5,5-dimethyl-2(1*H*)-pyrimidinone (3-[4-(trifluoromethyl)phenyl)-1-(2-[4-trifluoromethyl)phenyl)-ethyl)-2-propenylidene)hydrazone in or on the raw agricultural commodity forage grass at 0.05 part per million (ppm).

This temporary tolerance will permit the grazing of the agricultural commodity when treated in accordance with the experimental use permit 241–EUP–93, that has been extended under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material have been evaluated and it has been determined that the temporary tolerance will protect the public health. The temporary tolerance has been extended under the following provisions.

1. The total amount of the pesticide to be used must not exceed the quantity authorized in the experimental use permit.

2. American Cyanamid Co., will immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production.

distribution, and performance and on request make the records available for any authorized officer or employee of the EPA or the Food and Drug Administration.

This temporary tolerance expires November 15, 1980. Residues not in excess of 0.05 ppm in or on forage grass after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This temporary tolerance may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice should be directed to the product manager.

(Sec. 408(j) 68 Stat. 561 (21 U.S.C. 136(j))

Dated: November 14, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-36480 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-32-M

[ER-FRL-1679-1]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A-104), U.S. Environmental Protection Agency.

PURPOSE: This notice lists the environmental impact statements (EISs) which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of November 10, 1980 to November 14, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from November 21, 1980 and will end on January 5, 1981. The 30-day review period for final EIS's as calculated from November 21, 1980 will end on December 22, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. This notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following source:

Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209, (703) 558-8270.

SUMMARY OF NOTICE: This notice sets forth a list of EIS's filed with EPA during the week of November 10, 1980 to November 14, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the state(s) and county(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this notice. Commenting entities on draft EIS's are listed for final EIS's. All additional information relating to EIS's such as time extensions or reductions of prescribed review periods, withdrawals, retractions, corrections or supplemental reports is also noticed under the appropriate agency.

FOR FURTHER INFORMATION CONTACT:
Kathi L. Wilson, Office of Environmental Review, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 245-3006.

Dated: November 18, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of the Chief of Engineers, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

Draft

Lake Erie Natural Gas Resource Development, several counties in New York, Pennsylvania, and Ohio, Nov. 12: Proposed is the issuance of permits for natural gas resource development in Lake Erie offshore of New York, Pennsylvania, and Ohio. This statement is a programmatic EIS which examines the regional effects of gas development. The alternatives consider various supplies of natural gas, the extension of natural gas supplies, conservation, and modification of the reference program. The cooperating agency is the Environmental Protection Agency which will also issue permits in conjunction with this project and this EIS (Buffalo District). (EIS Order No. 800863.)

Extension: The review period for the above EIS has been extended until January 12, 1981 (No. 800863).

DEPARTMENT OF COMMERCE

Contact: Dr. Robert T. Miki, Acting Deputy Assistant Secretary for Regulatory Policy, Room 7614, Department of Commerce, Washington, D.C. 20230, (202) 377-2462.

Extension: Spiny Lobster Fishery Mgmt. Plan, Pacific, published FR November 17, 1980—review period extended from December 31, 1980 to January 7, 1981.

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G-064, Forrestal Bldg., Washington, D.C. 20585, (202) 252-4600.

Final

Management of Commercially Generated Radioactive Waste, Programmatic, Nov. 14: This is a generic statement concerning the management of commercially generated radioactive waste. The action involves the selection of an appropriate programmatic strategy leading to the permanent isolation of commercial radioactive wastes in a fashion that provides reasonable assurance of safe, permanent isolation of this material (DOE/EIS-0046F). Comments made by: DOC, HEW, DOI, EPA, FERC, NRC, State and local agencies, groups, individuals and businesses. (EIS Order No. 800867.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: RTP Library, Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Draft

Publication Rotogravure Printing, Standards, Regulatory, Nov. 10: Proposed are performance standards to limit emissions of volatile organic compounds (VOC) from new, modified, and reconstructed publication rotogravure printing presses. The source of the VOC emissions are the solvent components in the inks, extenders, and varnishes used at the printing presses, as well as solvent added for printing and cleaning. The alternatives call for an overall reduction of VOC emissions at 75, 80 and 85 percent levels. All three regulatory control levels can be achieved with the installation of add-on control equipment (EPA-450/3-80-031A). (EIS Order No. 800860.)

Contact: Mr. Kenneth Bigos, Region IX, Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94105, (415) 556-8030.

Draft

Reno-Sparks WWT Facilities Expansion, Washoe and Sparks Counties, Nev., Nov. 12: Proposed is the expansion of the Reno-Sparks joint water pollutionn control plant in Washoe and Sparks Counties, Nevada. Expansion would increase plant capacity from 30 MGD to 40 MGD. The alternatives include six advanced wastewater treatment options with continuation of discharge to the Truckee River, two secondary treatment alternatives involving land discharge at Dodge Flat; and one alternative involving discharge to the Truckee Canal (EPA 9-CA-C-32-0114). (EIS Order No. 800861.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Carl W. Penland, Acting Director, Environmental Affairs Division, General Services Administration, 18th and F Streets, N.W., Washington, D.C. 20405, (202) 566-1416.

Final

Frankford Arsenal Disposal, Philadelphia, Philadelphia County, Pa., Nov. 10: Proposed is the disposal of surplus Federal real property at the Frankfort Arsenal in the city of and county of Philadelphia, Pennsylvania. Several uses for the property are being considered which include: (1) conveyance to a Federal agency, (2) public sale for unrestricted use, (3) use by the State as a waterfront park and marina, and (4) others. Comments made by: DOI, DOT, EPA, State agencies, businesses. (EIS Order No. 800858).

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6300.

Final

Countrywood South Subdivision, Memphis, Shelby County, Tenn., Nov. 12: The proposed action is the issuance of mortgage insurance for the Countrywood South subdivision located in Shelby County, Tennessee. Countrywood South is a residential development on an approximate 1,153 acre tract of land located northeast of Memphis. The Development plan includes approxmately 2,511 single family lots, 85 acres of open space which includes a county school and park, and a greenbelt system which will allow unrestricted access to the park and school from various sections of the development. Also included are sites for multi-family and commercial development (HUD-R04-E15-79-03F). Comments made by: HEW, AHP, DOC, EPA, DOI, GSA, USDA, TVA, State and local agencies. (EIS Order No. 800884.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

Bureau of Land Management

Final

Allen-Warner Valley Energy System, Washington and Kane Counties, Utah; Clark County, Nev., Nov. 14: Proposed is the utilization of public rights-of-way for the development of the Allen-Warner Valley energy system in Kane and Washington Counties, Utah and Clark County, Nevada. The system would involve a 500 MW powerplant in Warner Valley, Utah and 2,000 MW plant in Dry Lake, Nevada. The preferred coal source is the Alton coal lease area, from which approximately 11 million tons of coal would be mined annually and transported to the powerplants through two coal slurry pipelines. An electrical transmission system and supporting communication system would deliver power to market areas (FES-80-49). Comments made by: AHP, DOT, COE, DOI, EPA, USAF, USDA, State and local agencies, groups, individuals and businesses. (EIS Order No. 800880).

National Park Service

Draft

Santa Monica Mountains National Recreation Area, Los Angeles and Ventura Counties, Nov. 14: Proposed is a general management plan for the Santa Monica Mountains National Recreation Area in Los Angeles and Ventura Counties, California. The plan addresses many alternatives for each of the following areas: (1) Land classification indicating management emphasis; (2) land acquisition; (3) management of resources in conjunction with agencies and landowners; (4) management of natural, scenic and cultural resources; (5) a related series of possible actions in conjunction with recreational activities and sites, and management of facilities, and (6) future planning. (EIS Order No. 800885.)

Extension: The review period for the above EIS has been extended until February 28, 1981 (No. 800885).

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environment and Safety, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.

Federal Highway Administration

Draft

US 7, S. Burlington City Line to I-189, Chittenden County, Vt., Nov. 12: Proposed is the construction of US 7/Shelburne Road from the Shelburne town/South Burlington city line to I-189 in the city of South Burlington, Chittenden County, Vermont. The highway will be four lanes with limited access and partial control if built on relocation. If constructed on existing location the facility would have seven lanes and uncontrolled access. The alternatives considered are: (1) No action, (2) alternate modes of transportation, (3) rebuild on existing location, and (4) build in new location. The cooperating agency is the State of Vermont (FHWA-VT-EIS-80-02-D). (EIS Order No. 800862.)

Extension: The review period for the above EIS has been extended until January 14, 1981 (No. 800862).

Final

I-270, I-55/I-70 to I-270/I-870, Madison County, Ill., Nov. 10: Proposed is the extension of I-270 from I-55/I-70 west of Collinsville to I-270/I-870 near Edwardville in Madison County, Illinois. The facility would extend for 5.5 miles on a new alignment and would complete the I-270 loop around the city of St. Louis. The project also includes reconstruction of the existing interchange of I-270/I-870 and IL-157 and the improvement of existing I-270/I-870 from four lanes to six lanes between IL-111 and IL-157. The alternatives consider: (1) Location and design, (2) improvement of existing fcilities, and (3) no action. The cooperating agency is the State of Illinois (FHWA-IL-EIS-79-03-F). Comments made by: USDA, DOI, DOT, EPA, State and local agencies, businesses. (EIS Order No. 800859.)

Report

US 7, VT-125 to Middlebury Town Line (Report), Addison County, Vt., Nov. 14: This report provides supplemental information to draft EIS, No. 800703, filed 9-17-80, concerning US 7 in Addison County, Vermont. The report more fully explains the purpose of the project and presents additional information regarding anticipated traffic reductions in Middlebury Village resulting from a bypass (FHWA-VT-EIS-80-01-D). (EIS Order No. 800869.)

Extension: US 7, Happy Valley Rd. to Exchange St., VT, published FR September 26, 1980—review extended from November 14, 1980 to January 14, 1981. Please note that the above noticed Report (No. 800869) should be reviewed in conjunction with this EIS (No. 800703).

Urban Mass Transportation Administration

Final

City of Miami Downtown People Mover, Dade County, Fla., Nov. 14: Proposed is the construction of the city of Miami downtown people mover in Dade County, Florida. The people mover is an automated transit system that would operate on a double guideway approximately 1.9 miles long in a fully elevated loop configuration around the central business district. The DPM and its complementary surface transit elements (buses and open air tram) would distribute riders from the rapid transit line to the major activity centers in downtown Miami in addition to providing internal downtown distribution. Comments made by: DOC, HHS, HUD, DOI, DOT, EPA, GSA, State and local agencies, individuals and businesses. (EIS Order No. 800868.)

[FR Doc. 80-36468 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-37-M

[TSH-FRL 1678-5; OPTS-51170]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATES: Written comments by December 20, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793).

V 4 5 N 0 2 1 8 0 UMI

Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St. SW., Washington, D.C. 20460 (202–755–8050).

FOR FURTHER INFORMATION CONTACT: Rick Green, Chemical Control Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–221, 401 M St. SW., Washington, D.C. 20460 (202–426–3980).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 505444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before December 20, 1980 submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51170]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: November 17, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

Physical/Chemical Properties

Viscosity Z6 HY.
Non-volatile 80 ± 1.
Acid number 10 maximum.
Weight/gallon 9.10 pounds.
Color 6 maximum.
Solvent, butyl acetate 100 percent.

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (ppm)	
			Hours/day	Days/year	Average	Peak
Manufacture	Inhalation	2	1	251		1–10
Processing	Inhalation	10	4	251		1–10
Use	Inhalation	3	4	251		1–10
Disposal	Inhalation	2	2	251		1–10

PMN 80–287

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 19, 1981.

Manufacturer's Identity. Claimed confidential business information.

Generic information provided:

Annual sales—Between $10 million and $99,999,999.

Manufacturing site—West North central U.S.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Tall oil fatty acid, isophthalic acid, terephthalic acid, pentaerythritol, benzoic acid, and trimethylol propane.

Use. Air dry and baking enamels.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
First year	900,000	1,500,000
Second year	1,000,000	2,000,000
Third year	1,000,000	2,000,000

Environmental Release/Disposal. The manufacturer states that: Manufacture of the substance is carried out in a closed system; less than 30 kg of the substance may be released to the environment per year, 1 hour a day, 251 days a year, the only release point is water of esterification which is disposed through a sanitary sewer from a settling basin.

PMN 80–288

The following summary is taken from data submitted by the manufacturer in the PMN.

Closed of Review Period. January 19, 1980.

Manufacturer's Identity. Claimed confidential business information.

Generic information provided:

Annual sales—Between $10 million and $99,999,999.

Manufacturing site—West-north central U.S.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Soybean oil, pentaerythritol, isophthalic acid, benzoic acid, terephthalic acid.

Use. Air dry enamel.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
First year	9,000,000	1,500,000
Second year	1,000,000	2,000,000
Third year	1,000,000	2,000,000

Physical/Chemical Properties.

Non-volatile—80±1.

Viscosity—Z6 Hy.

Acid number—13 Max.

Color—6 Max.

Weight/gallon—8.80 lb.

Reduce viscosity at 60 N.V. in butyl acetate—T.

Solvent—Butyl acetate.

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (ppm)	
			Hours/day	Days/year	Average	Peak
Manufacture	Inhalation	2	1	251		1–10
Processing	Inhalation	10	4	251		1–10
Use	Inhalation	3	4	251		1–10
Disposal	Inhalation	2	2	251		1–10

Environmental Release/Disposal. The manufacturer states that: Manufacture of the substance is carried out in a closed system; less than 30 kg of the substance may be released to the environment per year, 1 hour a day, 251 days a year, the only release point is water of esterification which is disposed through a sanitary sewer from a settling basin.

[FR Doc. 80-36469 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP–180519; PH–FRL 1678–8]

Maryland, Oregon, and Pennsylvania; Issuance of Specific Exemptions To Use Mesurol on Grapes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions to the Maryland, Oregon, and Pennsylvania Departments of Agriculture [hereafter referred to as "Maryland", "Pennsylvania", "Oregon", or the "Applicants"] to use Mesurol to control depredating birds on 300 acres of grapes in Maryland, 800 acres in Oregon, and 1,500 acres in Pennsylvania. The specific exemptions are issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: Maryland's exemption expires on October 30, 1980; Oregon's and Pennsylvania's expire on November 30, 1980.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–124, 401 M St., SW., Washington, D.C. 20460. (202–426–0223).

SUPPLEMENTARY INFORMATION: According to the Applicants, birds can seriously reduce the crop of marketable grapes. The amount of injury varies from year to year, reflecting bird populations and availability of alternative food sources. Grapes are generally harvested after other berry crops and thus can become a major food source for birds. Grapes are subject to feeding at all times after the fruit has begun to ripen. Bird species observed in grape fields include robins, finches, starlings, sparrows, mourning doves, orioles, cedar waxwings, and blackbirds.

There are currently no pesticides registered for bird control in grapes. There are two types of alternative control available: (a) scare devices, and (b) exclusion devices. According to the Applicants, scare devices do not prevent, but only reduce, feeding injury; some birds quickly adapt to these devices. The Applicants claim that exclusion devices are prohibitively expensive. Mesurol is currently registered as a bird repellent on cherries.

The Applicants propose to apply from 2.67 to 5.33 pounds of Mesurol, which contains the active ingredient (a.i.) 3,5-dimethyl-4-(methylthio) phenyl methylcarbamate, per acre with up to three applications. The Applicants anticipate that grape growers in Maryland may lose up to $48,000, those

in Oregon up to $100,000, and those in Pennsylvania from $150 to $300 per ton on wine grapes, and $250 to $350 per ton on table grapes, if Mesurol is not available.

EPA has determined that residues of the a.i. and its cholinesterase-inhibiting metabolites would not exceed 10 parts per million (ppm) in or on grapes, 20 PPM in or on raisins, and 50 ppm in or on grape pomace and raisin waste, from the proposed use. These residue levels have been judged adequate by EPA to protect the public health. EPA has also determined that the proposed use should not present an undue hazard to the environment.

After reviewing the applications and other available information, EPA has determined that the criteria for exemptions have been met. Accordingly, Oregon and Pennsylvania have been granted specific exemptions to use the pesticide noted above until November 30, 1980, and Maryland until October 30, 1980, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The product Mesurol 75% WP insecticide-bird repellent, EPA Reg. No. 3125–288, may be used.

2. Maryland may apply Mesurol by ground equipment at a rate of 2.67 pounds (2.0 pounds a.i.) per acre; Oregon may apply Mesurol at a rate of 2.67 to 5.33 pounds of product (2.0 to 4.0 pounds a.i.) per acre using air or ground equipment; and Pennsylvania may apply Mesurol at a rate of 2.67 to 5.33 pounds of product (2.0 to 4.0 a.i.) per acre using ground equipment. No more that three applications may be made per season.

3. Application of Mesurol is restricted to those grape fields where damage from bird depredation will cause significant economic losses, as determined by Cooperative Extension or authorized State personnel.

4. Application is to begin at the first sign of major bird damage. A one-day pre-harvest interval is imposed.

5. In Maryland, a total of 1,200 pounds a.i. are authorized to treat up to 300 acres. In Oregon, a total of 9,600 pounds a.i. are authorized to treat up to 800 acres. In Pennsylvania, a total of 18,000 pounds a.i. are authorized to treat up to 1,500 acres.

6. Mesurol is toxic to fish and other aquatic organisms. Precautions must be taken to avoid or minimize spray drift to aquatic areas.

7. Mesurol is highly toxic to bees exposed to direct treatment or residues on crops or blooming weeds. It may not be applied or allowed to drift to crops or weeds when bees are actively visiting the area.

8. All applicable directions, restrictions, and precautions on the registered label must be followed.

9. Residues of the a.i. and its cholinesterase-inhibiting metabolites not exceeding the following levels may enter into interstate commerce: grapes—10 ppm; raisins—20 ppm; raisin waste—50 ppm; grape pomace—50 ppm. The Food and Drug Administration, U.S. Department of Health and Human Services, has been notified of these actions.

10. Each of the Applicants is responsible for assuring that all of the provisions of that State's specific exemption are met and must submit a final report summarizing the results of this program by February 28, 1981.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: November 5, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-36461 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-30000/35B; PH-FRL 1678-7]

Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Carbon Tetrachloride: Extension of Period for Submission of Rebuttal Evidence and Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended the period for submittal of rebuttal evidence and other comments in regard to the rebuttable presumption against registration (RPAR) of pesticide products containing carbon tetrachloride (CCl_4).

DATE: The comment period now closes on January 23, 1981.

ADDRESS MATERIAL TO: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jeff Kempter, Special Pesticide Review Division (TS–791), Office of Pesticide Programs, Environmental Protection Agency, Rm. 711B, Crystal Mall #2, 401 M St., SW., Washington, D.C. 20460, (703–557–7460).

SUPPLEMENTARY INFORMATION: On September 30, 1980, EPA issued an RPAR against carbon tetrachloride. This notice was published in the Federal Register of October 15, 1980 (45 FR 68551). The regulations governing RPAR's provide that the applicant or registrant of these pesticide products shall have forty-five days from the date this notice is sent to submit evidence in rebuttal of the presumption. If good cause is shown, however, an additional sixty days may be granted in which to submit evidence (40 CFR 162.11(a)(1)(i)).

The deadline for submitting rebuttal evidence in the RPAR notice was November 24, 1980. A request for an additional sixty days in which to submit evidence to EPA has been received from Hope Consulting, Inc. This company specified a need for additional time to obtain data necessary to respond to the notice of presumption.

The agency concludes that additional time would be beneficial to ensure the submission of complete and accurate responses to this notice of presumption. Therefore, all registrants, applicants for registration, and other interested persons shall have until January 23, 1981, to submit rebuttal evidence and other comments or information. These submissions should be sent to the Document Control Officer at the address given above. All comments should bear the identifying notation "OPP–30000/35." Comments received on or before January 23, 1981, will be considered before the agency decides whether a notice shall be issued under 40 CFR 162.11(a)(5)(ii) and 7 U.S.C. 136(d)(B)(1). Comments received after January 23, 1981, shall be considered only to the extent feasible, consistent with the limits imposed by 40 CFR 162.11(a)(5)(ii). All written comments filed will be available for public inspection in the office of the Document Control Officer at the above address from 8:00 a.m. to 4:00 p.m. daily except legal holidays.

Dated: November 14, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-36445 Filed 11-20-80; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL HOME LOAN BANK BOARD

[No. AC–113]

Dated: November 18, 1980.

First Federal Savings and Loan Association of Shelby, Shelby, N.C., Final Action Approval of Conversion Application

Notice is hereby given that on October 27, 1980, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation"), by Resolution No. 80–668, approved the application of First Federal Savings, and Loan Association of Shelby, Shelby, North Carolina, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, NW., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, Coastal States Building, 260 Peachtree Street, NW., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-36417 Filed 11-20-80; 8:45 am]

BILLING CODE 6720-01-M

[No. AC–112]

Home Federal Savings and Loan Association of Meridian, Meridian, Miss.; Approval of Post-Approval Amendment of Conversion Application (Notice of Final Action)

Dated: November 10, 1980.

Notice is hereby given that on October 1, 1980, the Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), through the exercise of delegated authority, approved an amendment to the application of Home Federal Savings and Loan Association of Meridian, Meridian, Mississippi ("Association"), providing that the aggregate price of the stock to be sold in the conversion of the Association shall be not less than $3,060,000 nor more than $4,140,000. The conversion application of the Association was approved on June 19, 1980, by Board Resolution 80–390. Copies of the application and amendments thereto are available for inspection at the Office of the Secretary of FSLIC, 1700 G Street, NW., Washington, D.C. 20552, and at the Office of the Supervisory Agent of FSLIC at the Federal Home Loan Bank of Little Rock, 1400 Tower Building, Little Rock, Arkansas 72201.

By the Federal Home Loan Bank Board.

Robert D. Linder,

Acting Secretary.

[FR Doc. 80-36418 Filed 11-20-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W. Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, by December 1, 1980. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 10247–3.

Filing Party: Neal M. Mayer, Esquire, Coles & Goertner, 1000 Connecticut Avenue, N.W., Washington, D.C. 20036.

Summary: Agreement No. 10247–3, between Farrell Lines Incorporated, Columbus Line, Associated Container Transportation (Australia) Ltd., The Australian National Line and Atlanttrafik Express Service, amends the Australian Meat Loading Agreement. The purpose of Agreement No. 10247–3 is as follows: (1) amend paragraph 1 by changing "Australian Meat Board" to "Australian Meat and Live-Stock Corporation"; (2) amend paragraph 2 by deleting the amount of the premium for each ton of covered cargo loaded and revise the date; (3) remove outdated language by deleting paragraph 3; (4) amend paragraph 5 by removing irrelevant language; and, (5) amend paragraph 8 by extending the term of the agreement to December 31, 1981.

By Order of the Federal Maritime Commission.

Dated: November 18, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-36421 Filed 11-20-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for the application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than December 15, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President), 33 Liberty Street, New York, New York 10045:

1. Manufacturers Hanover Corporation, New York, New York (commerical finance; North Carolina, South Carolina, Virginia, and West Virginia): to engage through its subsidiary Manufacturers Hanover Commerical Corporation (Delaware) in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commerical finance company; and arranging or servicing such loans and other extensions of credit for any person. These activities would be conducted from the *de novo* office of Manufacturers Hanover

Commercial Corporation (Delaware) to

Company Act (12 U.S.C. 1842(a)(1)) to

Board of Governors of the Federal Reserve

Act (12 U.S.C. 1843(c)(8)) and

Commercial Corporation (Delaware) to be located in Charlotte, North Carolina and servicing the states of North Carolina, South Carolina, Virginia and West Virginia.

2. Manufacturers Hanover Corporation, New York, New York (commercial finance; Ohio, Indiana, Michigan, New York and Pennsylvania): to engage through its subsidiary Manufacturers Hanover Commerical Corporation (Delaware) in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial finance company; and arranging or servicing such loans and other extensions of credit for any person. These activities would be conducted from the *de novo* office of Manufacturers Hanover Commercial Corporation (Delaware) to be located in Independence, Ohio, and servicing the states of Indiana, Michigan, New York, Ohio and Pennsylvania.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, November 14, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36383 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than December 12, 1980.

A. *Federal Reserve Bank of Cleveland* (Harry W. Hunning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

Pittsburgh National Corporation, Pittsburgh, Pennsylvania (mortgage banking activities; Virginia): to engage, through its subsidiary, The Kissell Company, in making or acquiring and servicing loans and other extensions of credit for its own account and the account of others. These activities would be conducted from an office in the metropolitan area of Virginia Beach, Virginia, serving the metropolitan area of Virginia Beach, Virginia.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. U.S. Bancorp, Portland, Oregon (financing and insurance activities; Washington): to engage, through its subsidiary U.S. Creditcorp Industrial Loan Company ("CLIC"), in making or acquiring and servicing loans and other extensions of credit, secured and unsecured, for its own account or for the account of others including consumer and commercial loans; installment sales contracts and other forms of receivables making investments as permitted by State law; and acting as agent for the sale of life and disability insurance, and property and casualty insurance directly related to extensions of credit by CLIC. These activities would be conducted from an office in Bellevue, Washington, serving the Seattle SMSA.

2. Wells Fargo & Company, San Francisco, California (finance, leasing, and insurance activities; Eastern United States): proposes to engage through its subsidiary, Wells Fargo Credit Corporation ("WFCC") in making or acquiring loans and other extensions of credit, including consumer installment loans originated by others and commercial loans secured by a borrower's or a guarantor's assets; servicing loans for the account of others; making full pay-out leases of personal property in accordance with the Board's Regulation Y; acting as agent for credit life or accident and health insurance related to its extensions of credit; and in acting as agent for credit property and casualty insurance and associated liability insurance related to WFCC's extensions of credit, to the extent permissible under applicable state insurance laws or regulations. These activities would be conducted from offices in Wheaton, Maryland and Tyson's Corner, Virginia serving Maryland, Virginia, North Carolina, the District of Columbia, Delaware, Tennessee, Kentucky and West Virginia.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, November 13, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36384 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

Bantex Bancshares, Inc.; Formation of Bank Holding Company

Bantex Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring at least 80 per cent of the voting shares of Greater Houston Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 15, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 17, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36375 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

G.W.B. Holding Co., N.V., G.W.B. Co., B.V., GWB HOLDING CO.; Formation of Bank Holding Company

G.W.B. Holding Company, N.V., Netherlands Antilles, G.W.B. Company, B.V., Netherlands, and GWB Holding Company, Dover, Delaware, have applied for the Board's approval under section 3(a) (1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring 100 per cent (less director's qualifying shares) of the voting shares of Great Western Bank & Trust, Phoenix, Arizona. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)). The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the applications should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 15, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 14, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36376 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

Green Lake Bancorporation, Inc.; Formation of Bank Holding Company

Green Lake Bancorporation, Inc., Spicer, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Green Lake State Bank, Spicer, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 12, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 13, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36377 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

Ida Grove Bancshares, Inc., Formation of Bank Holding Company

Ida Grove Bancshares, Inc., Ida Grove, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 95 percent or more of the voting shares of Ida County State Bank, Ida Grove, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 15, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 14, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36378 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

Keystone, Inc.; Formation of Bank Holding Company

Keystone, Inc., Rock Rapids, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Ashton Investment Company, Rock Rapids, Iowa, and Midwest Agricultural Credit Corporation, Rock Rapids, Iowa; 80 per cent or more of the voting shares of Sioux County State Bank, Orange City, Iowa; and the indirect acquisition of 80 per cent or more of the voting shares of Ashton State Bank, Ashton, Iowa, and Peoples Bank and Trust Company, Rock Valley, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Keystone, Inc., Rock Rapids, Iowa, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in general insurance agency activities in towns of less than 5,000, through its proposed subsidiaries, State Bank Agency, Ashton, Iowa, and Lester Insurance Agency, Lester, Iowa; the insurance activities would be performed from offices of Applicant in Lester and Ashton, Iowa, and the leasing activities from offices in Rock Rapids, Iowa. The geographic areas to be served for the insurance activities are principally within a five mile radius of Ashton and Rock Rapids. Such activities have been specified by the board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 12, 1980.

Board of Governors of the Federal Reserve System, November 13, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36379 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

Mellon International Co.; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as Mellon International Company, Miami, Florida. Mellon International Company

Board of Governors of the Federal Reserve System, November 17, 1980.

GAO has to review the proposed requests, comments (in triplicate) must

The NRC requests clearance of

and Drug Administration, Rm. 4-62, 5600

advised that whenever FDA publishes a

Mellon International Company, Miami, Florida. Mellon International Company would operate as a subsidiary of Mellon Bank, N.A., Pittsburgh, Pennsylvania. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR section 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 15, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 14, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36360 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

Republic of Texas Corp.; Acquisition of Bank

Republic of Texas Corporation, Dallas, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares (less directors' qualifying shares) of The First National Bank of Richmond, Richmond, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 17, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 17, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36382 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

Southwest Florida Bank, Inc.; Acquisition of Bank

Southwest Florida Bank, Inc., Fort Myers, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire up to 100 percent of the voting shares of Bank of Riverview, Riverview, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 17, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 17, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36382 Filed 11-20-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal (NRC)

The following request for clearance of reports intended for use in collecting information from the public was accepted by the Regulatory Reports Review Staff, GAO, on November 14, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before December 9, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Nuclear Regulatory Commission

The NRC requests clearance of revisions to 10 CFR 40, Domestic Licensing of Source Material, to implement new Appendix A "Criteria Relating to the Operation of Uranium Mills and Deposition of Tailings or Waste Produced by the Extraction or Concentration of Source Material from Ores Possessed Primarily for Their Source Material Content." The additional impact of this requirement on applicants for an NRC license and on current licensees will result in the submittal of information perataining to proposed health and safety procedures at mills, including plans for the control, management, and long-term disposition of mill tailings. The NRC estimates that the initial submission of detailed programs to meet the criteria established in Appendix A will range from 80 to 640 hours for Category A licensees and from 10 to 80 hours for Catrgory B licensees. Criterion 5 of Appendix A will affect only Category A respondents and the burden will range from 25 to 200 hours per year. Criterion 7 will affect all Category A licensees with a burden averaging 50 hours for each Category A licensee and 20 hours for each Category B licensee. Criterion 8 will affect 50 NRC licensees and 50 Agreement State licensees and require an average burden of 33 hours per year for each respondent for the section pertaining to yellowcake stack emission control equipment.The section of Criterion 8 on cessations, corrective actions and restarts will require approximately 25 licensees an average burden of 2 hours per incident. Criterion 8A requires a daily documentation of inspections of tailings or waste retention systems. Recordkeeping for this requirement will affect 50 licensees and burden will average 6 hours per year. Criterion 8A also requires NRC to be immediately notified of any malfunction and NRC estimates that reporting such occurrence will require one hour per occurrence. Criterion 9 will require approximately 40 hours burden for each Category A licensee and 10 hours per Category B licensee.

The NRC requests clearance of revisions to 10 CFR 150, Exemptions and Continued Regulatory Authority in Agreement States Under Section 274, to implement new sections 150.15a, 150.31 and 150.32. Section 150.31 will require Agreement State licensees to comply with the requirements contained in Appendix A of 10 CFR 40 to the maximum extent practicable. The additional impact of this requirement on applicants for an NRC license and on current licensees will result in the submittal of information pertaining to proposed health and safety procedures at mills, including plans for the control, management, and long-term disposition of mill tailings. The burdens as estimated by NRC for complying with these requirements are set out above in the paragraph on 10 CFR 40.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-36483 Filed 11-20-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80M-0442]

Allergan Pharmaceuticals, Inc.; Premarket Approval of Allergan Soflens™ Cleaning and Soaking Solution for Polymacon Hydrophilic Contact Lenses

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Allergan Soflens™ Cleaning and Soaking Solution of polymacon hydrophilic contact lenses sponsored by Allergan Pharmaceuticals, Inc., Irvine, CA. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device has been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by December 22, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry Goldstein, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8162.

SUPPLEMENTARY INFORMATION: The sponsor, Allergan Pharmaceuticals, Inc., Irvine, CA, submitted an application for premarket approval of the Allergan Soflens™ Cleaning and Soaking Solution for polymacon hydrophilic contact lenses to FDA on September 11, 1975. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On October 3, 1980, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295, 90 Stat. 539-583), soft contact lens solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lens solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the Federal Register of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly considered new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of the Soflens™ Cleaning and Soaking Solution states that the solution is designed for daily use to clean, hydrate, and disinfect polymacon contact lenses. Sponsors of any soft (hydrophlic) contact lenses that have been approved for marketing are advised that whenever FDA publishes a notice in the Federal Register of the agency's approval of a new solution for use with an approved soft contact lens, the sponsor of each lens shall correct its labeling to refer to the new solution, at the next printing or at such other time as FDA prescribes by letter to the sponsor. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41-58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93-637). Furthermore, failure to update the restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide to grant or deny the petition and will publish notice of its decision in the Federal Register if FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 22, 1980, file with the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be

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seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 12, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-36005 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

Norwich-Eaton Pharmaceuticals; Furadantin Suspension; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The agency withdraws approval of a new animal drug application (NADA) providing for use of Furadantin (nitrofurantoin) Suspension for treating canine tracheobronchitis and bacterial infections of the urinary tract of small animals. The sponsor, Norwich-Eaton Pharmaceuticals, requested this action.

EFFECTIVE DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Leonard D. Krinsky, Bureau of Veterinary Medicine (HFV-216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4093.

SUPPLEMENTARY INFORMATION: Norwich-Eaton Pharmaceuticals, Division of Morton-Norwich Products, Inc., P.O. Box 191, Norwich, NY 13815, is the sponsor of NADA 10-914 which provides for use of Furadantin Suspension for treating canine tracheobronchitis and bacterial infections of the urinary tract of small animals. The application was originally approved December 4, 1957 for use of the suspension containing 5 milligrams of nitrofurantoin per milliliter. By letter of January 12, 1978, the sponsor requested withdrawal of approval of the application because the product has never been marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 10-914 and all supplements for Norwich-Eaton Pharmaceuticals' Furadantin Suspension is hereby withdrawn, effective December 1, 1980.

Dated: November 12, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-36006 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80M-0366]

Abbott Laboratories; Premarket Approval of HAVAB-M ™ Diagnostic Kit

AGENCY: Food and Drug Administration

ACTION: Notice

SUMMARY: The Food and Drug Administation (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the HAVAB-M ™ Diagnostic Kit sponsored by Abbott laboratories, north Chicago, IL. After reviewing the recommendation of the Microbiology Device Section of the Immunology and Microbiology Devices Panel, FDA notified the sponsor that the application was approved because the device has been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by December 22, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Doickets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry Goldstein, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20912, 301-427-8162

SUPPLEMENTARY INFORMATION: The sponsor, Abbott Laboratories, North Chicago, IL, submitted an application for premarket approval of the HAVAB-M™ Diagnostic Kit (radioimmunoassay for IgM antibody to hepatitis A virus) to FDA on August 27, 1979. The application was reviewed by the Microbiology Device Section of the Immunology and Microbiology Devices Panel, an FDA advisory committee, which recommended approval of the application. On June 10, 1980 FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and the FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 22, 1980, file with the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated November 5, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-36212 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80N-0451]

Bacterial Vaccines and Toxoids; Blood and Blood Derivatives; Availability of Final Reports of Advisory Review Panels

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of the final report of the Panel on Review of Bacterial Vaccines and Toxoids and the final report of the Panel on Review of Blood and Blood Derivatives.

ADDRESS: Requests for a copy of the final reports may be sent to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Steven F. Falter, Bureau of Biologics (HFB-620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability to the public of the final reports of the Panel on Review of Bacterial Vaccines and Toxoids and the Panel on Review of Blood and Blood Derivatives, as submitted to the Commissioner of Food and Drugs in accordance with § 601.25(e) (21 CFR 601.25(e)) of the biologics regulations. FDA has released these two panel reports to the Public Citizen Health Research Group (HRG), a consumer research and advocacy organization. So that other interested persons may have an equal opportunuty for the review of these reports, FDA is announcing their availability to the public.

These final reports are currently under review within the agency, and the release of these reports to the public should not be considered as representing FDA's endorsement or approval of the respective panels' findings and recommendations. FDA's response to each panel report, including any proposed actions or disagreements with, or variances from, specific panel recommendations will be published in the **Federal Register** at a later date in a "Proposed Implementation of Efficacy Review" for each panel report. FDA requests that comments on the panels' reports be withheld until requested in the respective implementation proposal.

Persons interested in obtaining a copy of the panels' reports may write the Dockets Management Branch, Food and Drug Administration, at the address above. Requests should include the docket number found in brackets in the heading of this document and the title of the report being requested; either "Panel on Review of Bacterial Vaccines and Toxoids; Final Report" or "Panel on Review of Blood and Blood Derivatives; Final Report." Appended to each report is a notification that the document is subject to format and editorial changes prior to publication in the **Federal Register**. These changes are designed to assure that the document is free of incidental errors and conforms to the stylistic requirements established for documents published in the **Federal Register**. The reports may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 13, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-36210 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by James A. Adamson, District Director, Kansas City District Office, Kansas City, MO.

DATE: The meeting will be held at 1 p.m., Wednesday, December 3, 1980.

ADDRESS: The meeting will be held at 1009 Cherry St., Kansas City, MO 64106.

FOR FURTHER INFORMATION CONTACT: Lorena A. Meyers, Consumer Affairs Officer, Food and Drug Administration, 1009 Cherry St., Kansas City, MO 64106, 816-374-3817.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Kansas City District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: November 13, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-36211 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80M-0289]

Minnesota Mining and Manufacturing Co.; Premarket Approval of Microbial Profile System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Microbial Profile System (MPS) sponsored by Minnesota Mining and Manufacturing Co. (3M), St. Paul, MN. After reviewing the recommendation of the Immunology and Microbiology Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by December 22, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry A. Goldstein, Bureau of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8162.

SUPPLEMENTARY INFORMATION: The sponsor, 3M, St. Paul, MN, submitted an application for premarket approval of the Microbial Profile System (MPS) (an antimicrobial susceptibility test system) to FDA on September 14, 1979. The application was reviewed by the Microbiology Device Section of the Immunology and Microbiology Devices Panel, and FDA advisory committee, which recommended approval of the application. On July 15, 1980, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of

review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 22, 1980, file with the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 13, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–36213 Filed 11–20–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 80N–0456]

Infant Formula Reporting Requirements; Notice To Manufacturers

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) in accordance with the Infant Formula Act of 1980 (Pub. L. 96–359) is establishing the content of and the format by which all reports by manufacturers of infant formulas are to be submitted to FDA. This notice designates the types of information required to be submitted, the time when such information is to be submitted, and the offices in FDA where such reports are to be sent. The purpose of the reporting requirements is to ensure compliance with the 1980 Infant Formula Act.

ADDRESS: Manufacturers of infant formulas are to submit the required reports to Chief, Regulatory Affairs Staff (HFF–204), Bureau of Foods, Food and Drug Administration, 200 C St. SW., Washington, DC 20204.

FOR FURTHER INFORMATION CONTACT: F. Edward Scarbrough, Bureau of Foods (HFF–204), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–3117.

SUPPLEMENTARY INFORMATION: In 1978 a major manufacturer of soy protein-based infant formulas reformulated its soy product line. This reformulation resulted in products containing an inadequate amount of the essential nutrient, chloride. By mid-1979 substantial numbers of cases of hypochloremic metabolic alkalosis in infants, characterized by a failure to thrive, were diagnosed. Most of these cases were associated with prolonged exclusive uses of these brands of infant formulas. Thus, it became apparent that greater control over the formulation and production of infant formulas was necessary. Accordingly, Congress passed and the President signed into law on September 26, 1980, the Infant Formula Act of 1980 (Pub. L. 96–359, 94 Stat. 1190). This amendment to the Federal Food, Drug, and Cosmetic Act (the act) establishes a new section 412 (21 U.S.C. 350a) which specifies more stringent control over infant formula manufacturing and processing. It also provides for certain notification to the FDA from infant formula manufacturers. This notice addresses the reporting requirements of section 412 (b) and (c) of the act and reporting exemptions under section 412(f) for certain formulas.

Section 412(b)(1) of the act requires manufacturers to notify FDA within 90 days following the date of its enactment (December 26, 1980) and on each 90th day thereafter, that each infant formula produced by the manufacturer for commercial or charitable distribution for human consumption provides the nutrients required by section 412(g) of the act. This notification requirement will expire upon the effective date of the quality control and assurance procedural regulations which FDA will be proposing in the Federal Register in the near future. Infant formulas falling into this category are deemed to be "existing" formulations if they are identical to those in commercial use on or before December 26, 1980 and are still being manufactured after December 26, 1980.

Section 412(b)(2) of the act requires manufacturers to notify FDA, not later than the 90th day before the first processing of any infant formula for commercial or charitable distribution for human consumption that any "new" infant formula provides the nutrients required by section 412(g) of the act. "New" infant formulas are those newly developed formulations placed in commercial use after December 26, 1980 and which are not reformulations within the meaning of section 412(b)(3).

Section 412(b)(3) of the act requires manufacturers, before the first processing of any infant formula for commercial or charitable distribution for human consumption, when the manufacturer determines that a change in its formulation or a change in its processing may affect whether the formula is adulterated under section 412(a)(1), to notify FDA of such changes and that the new formulation provides the nutrients required by section 412(g) of the act. "Reformulated" infant formulas are those in which a change in processing or a change in formulation occurred with respect to infant formulas in commercial use after December 26, 1980.

Section 412(c) of the act requires manufacturers to promptly notify FDA when they have knowlede, as defined in section 412(c)(2) of the act, that an infant formula which has been processed by the manufacturer and which is in the marketplace may not provide the required nutrients or is otherwise adulterated or misbranded and, if so adulterated or misbranded, presents a health risk.

Section 412(f) of the act provides an exemption from the adulteration provisions of section 412(a) for any infant formula which is represented and labeled for use by an infant who has an inborn error of metabolism or a low birth weight, or who otherwise has an unusual medical or dietary problem. Such unusual medical conditions include, but are not limited to, infants suffering from phenylketonuria or severe kidney diseases. These conditions require formulas specifically tailored to the infants' medical needs. See S. Rept. No. 96–916, 96th Cong., 2d Sess., p. 10 (1980). Such formulas are also exempt from the notification requirements of section 412 (b) and (c)(1)(A) of the act. However, these formulas are not exempt from the other requirements of section 412, or the other applicable sections of the act.

For the purpose of this notice FDA believes that infant formulas, unless limited to a specific population because of a special dietary or medical need, are not exempted from the reporting requirements of section 412. These nonexempt formulas are readily available to the general public, and include those for infants with conditions such as milk or other food allergies, digestive enzyme deficiencies which cause intolerances to food components such as carbohydrates, and malabsorption problems such as those related to the intestinal absorption of some food fats. Thus, FDA expects that all the required reports covered by this notice will be submitted for these types of infant formula products. FDA will be proposing regulations defining the precise terms and conditions of the exemption for formulas in the near future. In the meantime, questions concerning this exemption should be sent to Chief, Regulatory Affairs Staff, at the address above.

A. The reports described above are to be submitted to FDA in the following format:

Please Type or Print All Entries

1. Enter the name of the product:

_____.

2. Check whether the identified infant formula is an "existing formulation" ——,

a "new formulation" ——, or a "reformulation" ——.

3. Enter establishment name and address.

Name:_____
Address: _____
(City) _____
(State) _____
(Zip Code)_____

4. If establishment has a parent company, enter parent company name and address. If not applicable, check N/A.

Name:_____
Address: _____
(City) _____
(State) _____
(Zip Code)_____
N/A _____

5. Notification Statement of the Quality of Infant Formula being produced as of December 26, 1980. "I hereby notify FDA that the infant formula identified in 2 above meets the nutritional requirements of section 412 of the Federal Food, Drug, and Cosmetic Act and is not adulterated or misbranded within the meaning of said act."

Signed: _____
Dated:_____

(This notification shall be signed and dated by a responsible official.)

B. The report required by "A" above shall be submitted to Chief, Regulatory Affairs Staff (HFF–204), Bureau of Foods, Food and Drug Administration, 200 C St. SW., Washington, DC 20204, within the following time frames:

1. *"Existing formulations"*—The manufacturer shall notify FDA by letter postmarked on or before December 26, 1980, and on each 90th day thereafter, that each infant formula produced by the manufacturer for commercial or charitable distribution for human consumption provides the nutrients required by section 412(g) of the act. This notification requirement will expire upon the effective date of the quality control and assurance procedures regulations, to be promulgated by FDA.

2. *"New formulations"*—The manufacturer shall notify FDA, not later than the 90th day before the first processing of any new infant formula for commercial or charitable distribution for human consumption, that the new infant formula provides the nutrients required by section 412(g) of the act.

3. *"Reformulations"*—The manufacturer, before the first processing of any infant formula produced for commercial or charitable distribution for human consumption, when the manufacturer determines that a change in its formulation or a change in its processing (as described in section 412(b)(3) of the act) may affect whether the formula is adulterated, shall notify FDA of such changes and that the reformulated formula provides that nutrients required by section 412(g) of the act.

C. 1. The manufacturer also should submit to FDA one label for each infant formula produced for commercial or charitable distribution for human consumption with its initial submission for existing formulations and with each submission for new formulations or reformulations.

2. All labels are to be submitted to Chief, Regulatory Affairs Staff (HFF–204), and in accordance with the due dates established in B. above.

D. The manufacturer shall promptly notify FDA when there is an infant formula in the marketplace which may not provide the nutrients required by section 412(g) of the Federal Food, Drug, and Cosmetic Act or when there is an infant formula otherwise adulterated or misbranded within the meaning of the act and presents a risk to human health. Descriptions of the known or suspected adulteration or misbranding must be provided. This notification shall be made to FDA's Emergency and Epidemiological Operations Branch by telephone at 301–443–4667 during normal business hours (8 a.m. to 4:30 p.m.) or at 202–737–0448 after normal business hours. This telephone notification shall be followed promptly by written confirmation which is to be sent to the Division of Regulatory Guidance (HFF–310), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, and to the appropriate FDA district office specified in 21 CFR 5.115.

FDA advises that some of the reporting requirements set forth by this notice may be superseded by the quality control and assurance procedural regulations which will be proposed in the Federal Register in the near future.

The reporting requirements contained in this notice has been determined by the Office of Management and Budget (OMB) to be a certification and that it is not subject to OMB approval under the Federal Reports Act.

Dated: November 17, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80–36330 Filed 11–20–80; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 80M–0387]

Medicornea, Inc.; Premarket Approval of Softflow (Deltafilcon A) Hydrophilic Contact Lens

Correction

In FR Doc. 80–30915 appearing at page 66514 in the issue of Tuesday, October 7, 1980, third column, paragraph beginning "Before", line 7, "section 301(h)" should be corrected to read "section 201(h)".

BILLING CODE 1505–01–M

[Docket No. 80M–0426]

Syntex Ophthalmics, Inc.; Premarket Approval of CSI™ (Crofilcon A) Hydrophilic Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the CSI™ (Crofilcon A) Hydrophilic Contact Lens, sponsored by Syntex Ophthalmics, Inc., Palo Alto, CA. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device has been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by December 22, 1980.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Henry Goldstein, Bureau of Medical Devices (HFK–402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–8162.

SUPPLEMENTARY INFORMATION: The sponsor, Syntex Ophthalmics, Inc., Palo

Alto, CA, submitted an application for premarket approval of CSI™ (Crofilcon A) Hydrophilic Contact Lens to FDA on June 15, 1979. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On September 19, 1980, FDA approved the application by a letter to the sponsor from the Acting Director of the Bureau of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), soft contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lenses and solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Part 310 (21 CFR Part 310), Subpart D, until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of an approved contact lens states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses. However, the restrictive labeling needs to be updated periodically to refer to new lens solutions that FDA approves for use with an approved contact lens. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update the restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens, under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 22, 1980, file with the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, four copies of each petition and supporting data and information, identified with the name of the device and the Dockets Management Branch docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 14, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–36307 Filed 11–20–80; 8:45 am]

BILLING CODE 4110–03–M

Health Care Financing Administration

Statewide Professional Standards Review Council of Virginia; Request for Nominations for Public Member Positions on the Council

There are four public representatives on the Statewide Council. Membership terms for two of those representatives will expire on April 30, 1981.

Professional Standards Review Organizations (PSROs) review medical care services paid for under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs, in order to assure that those services are medically necessary, of acceptable quality, and provided at the appropriate level of care.

Statewide Councils are established in States that have three or more PSROs to: (1) help coordinate PSRO activities and disseminate information among them; (2) assist the Secretary in the development of uniform data gathering and operating procedures; (3) review certain determinations and recommendations made by PSROs as a result of their reviews of medical care; (4) work with doctors, other practitioners, and medical facilities to assure that medical care provided is necessary, appropriate, and of acceptance quality; and (5) assist the Secretary to carry out several of his responsibilities, including the evaluation of PSROs' review activities and the designation of replacement PSROs when necessary.

Nominees for public representatives are considered on the basis of whether they are:

(1) Knowledgeable about health care provided in Virginia under the Medicare, Medicaid, and Maternal and Child Health and Crippled Children Services programs;

(2) Willing and able to represent the interests of the public; and

(3) Willing and able to discharge the responsibilities of membership in the Statewide Council.

Special consideration will be given to qualified individuals who are not affiliated with:

(1) Organizations and groups that must, under law, be represented on the Council (PSROs and physician groups); or

(2) Organizations and groups that must, under law, be represented on the Council's advisory group (hospitals and other health care facilities and health care practitioners other than physicians).

Please include biographical data which demonstrate each nominee's qualifications, particularly their knowledge of health care in the State and their willingness and ability to represent the interests of the public. Persons or organizations may submit nominations to:

Everett F. Bryant, Regional Administrator, Health Care Financing Administration, Post Office Box 7760, Philadelphia, Pennsylvania 19101.

After consideration of all nominations received within 60 days of this notice, the Secretary will appoint two new public representatives.

For further information about the nature and functions of the Council and the role of public members in Council activities, please call the Office of the Regional Administrator, HCFA, (215) 596–1351.

Dated: November 7, 1980.

Everett F. Bryant,

Regional Administrator, Health Care Financing Administration.

[FR Doc. 80–36301 Filed 11–20–80; 8:45 am]

BILLING CODE 4110–35–M

National Institutes of Health

Bladder and Prostatic Cancer Review Committee (Bladder Subcommittee); Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Bladder and Prostatic Cancer Review Committee (Bladder Subcommittee), National Cancer Institute, December 11–12, 1980, the Holiday Inn Airport, 1489 Jefferson Davis Highway, Arlington, Virginia. This meeting will be open to the public on December 11, from 8:30 a.m. to 12:00 noon, to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on December 11, from 1:00 p.m. to 5:00 p.m., and on December 12, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and a roster of committee members, upon request.

Dr. William E. Straile, Executive Secretary, National Cancer Institute, Blair Building, Room 314, National Institutes of Health, Bethesda, Maryland 20205 (301/427–8800) will furnish substantive program information.

(CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBERS 13.393, 13.394, 13.395, Project grants in cancer cause and prevention research, cancer detection research, and cancer treatment research, NATIONAL INSTITUTES OF HEALTH)

(NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular).

Dated: November 17, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–36313 Filed 11–20–80; 8:45 am]

BILLING CODE 4110–08–M

Transplantation Biology and Immunology Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Transplantation Biology and Immunology Committee, National Institute of Allergy and Infectious Diseases, December 8, 1980 at the National Institutes of Health, Westwood Building, Conference Room 740, Bethesda, Maryland.

The meeting will be open to the public from 8:30 a.m. to approximately 5:00 p.m. Program initiated advisory issues that were not covered at the October 31, 1980 meeting and items presented for concept clearance that require further discussion will be on the agenda.

Attendance by the public will be limited to space available.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Committee members as requested.

Dr. Harley G. Sheffield, Executive Secretary, Transplantation Biology and Immunology Committee, NIAID, NIH, Westwood Building, Room 706, telephone (301) 496–7966, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.855, Pharamological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health.) NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: November 17, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80–36314 Filed 11–20–80; 8:45 am]

BILLING CODE 4110–08–M

Office of Human Development Services

[Program Announcement No. 13636–811]

Aging Program, Research and Development Projects

AGENCY: Office of Human Development Services, DHHS.

SUBJECT: Announcement of Availability of Funds for the Research and Development Projects in Aging Program.

SUMMARY: The Administration on Aging (AoA) announces that applications are being accepted for the Research and Development Projects in Aging Program authorized by Title IV, Part B of the Older Americans Act of 1965, as amended (42 USC Sec. 3001, et. seq.)

DATES: Closing date for receipt of applications is: Janaury 23, 1981.

Scope of This Announcement

This announcement relates only to the discretionary grants program conducted by the Administration on Aging under the Research and Development Projects in Aging Program, Title IV, Part B of the Older Americans Act. The Administration on Aging also administers discretionary grant programs in education and training, long-term care and model projects on aging. The announcement covers funding priorities for the Fiscal Year 1981. For further information, consult the Research and Development Guidelines, Division of Research, Administration on Aging, Room 3280 HHS North Building, 330 Independence Avenue, SW, Washington, D.C. 20201.

Program Purpose

The Research and Development Projects in Aging Program is the foundation of AoA knowledge building efforts. The purpose of this program is to award grants which will contribute to the well-being of the elderly by: (1) identifying and studying current

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patterns and factors that affect the lives of older persons; and (2) developing, demonstrating, and evaluating approaches and methods for improving the life circumstances of older persons. This program gives particular attention to the needs of the very old and impaired whose problems are aggravated by social isolation, low income, rural residence, and minority status.

Programs Goals and Objectives

The goal of the Research and Development Program authorized in Title IV–B of the Older Americans Act is to build policy and program relevant knowledge in support of three (3) objectives:

1. Understanding the needs and conditions of older persons;
2. Developing or modifying public and private policies to improve the life circumstances of older persons;
3. Developing and implementing comprehensive and coordinated community based service systems for older persons.

Special Considerations

The Fiscal Year 1981 research program will be limited to research projects in the following two categories:

Concept and Option Papers—which analyze existing information in the light of current and future policy and practice, and identify alternative strategies for addressing major social problems. Proposals for a *series* of such papers from one researcher, or from a group of researchers, which show promise of analyzing a particular issue from differing theoretical perspectives, will also be considered for funding, providing that the total budget is not in excess of $75,000.

Small-Scale Data Collection or Data Analysis Products—which may extend an existing research project or further analyze existing data; policy relevant case studies, pilot studies, or other exploratory research designs in pursuit of specific research objectives relevant to the AoA policy issues and concerns.

The amounts indicated as available and the number of awards anticipated should be considered as suggestive, not restrictive, although AoA expects awards generally to reflect these projections.

Proposals are expected to address to the fullest extent possible the major social issues of the Department including: strengthening the place of the aged person in the family; assisting recent immigrants who are aged in their adjustment to American society; and targeting public resources toward the efficient management of social service systems, and the specific needs of sub-populations among the aged. These priority sub-populations include: low-income and minority aged; the aged in rural areas; physically and mentally impaired aged; aged with special social needs, including recent immigrants, migrants and seasonal farmworkers; aged women living alone; and other low-income or underserved older persons.

In addition, the 1978 Amendments to the Older Americans Act place emphasis on meeting the unique needs of the elderly living in rural settings and assuring that the needs of minority aged are addressed. Therefore, applications in response to any policy issue identified below which are limited in scope to the rural elderly or the minority elderly will receive consideration for funding, when such limitation is judged to be appropriate.

AoA particularly encourages and the Commissioner on Aging will give special consideration to applications submitted by eligible applicants for projects to be conducted by minority researchers within the framework of the priorities for research identified herein. This preference applies with reference to the following four minority groups: Black, Hispanic, Asian-American, and American Indian.

Areas for Which Proposals Are Solicited

In Fiscal Year 1981 the program is focused on policy concerns organized around the following three themes, or broad issue areas:

1. Impact of Aging on Society
2. The Elderly as a Resource
3. Services to Facilitate Well-Being of the Elderly

In each of the three themes, AoA has identified the following policy issues which applicants are expected to address in their proposals. Applicants may address more than one policy issue. However, each application should be limited to issues within one theme.

A researcher may submit an application which deals with policy issues not specified by AoA, or offers a rephrased or redirected version of a specified policy issue. Such applications will compete against all other applications submitted.

Theme 1. Impact of Aging on Society

1–A. Effects upon the aged family member of increased numbers of women in the workforce, from the perspective of availability and capacity of informal supports; and implications for changing demands on the formal service system.

1–B. Projected needs for, and supply of, acute and chronic care services including availability of manpower.

1–C. Effects of current and projected changes in family patterns on living arrangements (e.g. increased single-person households; mobility and access to social and community services), and implications for the delivery of social services for the aged.

1–D. Effects of changing demographic characteristics and needs of the aged on health and social service priorities and delivery; ability of communities to respond to those needs (with attention to implications for new or modified Federal legislation and program design).

1–E. Impact of specific technological advances on the aged in regard to one or more basic priorities (e.g. health care; alternatives to institutionalization; ability to remain in the workforce).

1–F. Implications of higher educational levels of the aged in the future in regard to their changing needs and demands for health and social service design and delivery.

1–G. Effects of demographic changes on community, area, and regional planning and delivery of health and social services for the aged (e.g. migratory trends toward the sunbelt states; increase in sub-populations of the aged in particular geographic areas including minorities, low-income aged, immigrants, women living alone; growth or decline in rural areas).

1–H. Implications for health and social service development and delivery by the private sector, as aged consumers constitute a growing market (with attention to needed incentives at the Federal level to stimulate market development of social services).

1–I. Effects of differential rates of growth, changing values and experiences within minority sub-populations (Asian, Black, Hispanic, and American Indian) on their future needs, interests, and demands for social services (with attention to contrasts among these sub-groups, and between minority and non-minority populations).

1–J. Economic implications of an aging population, with respect to employment and retirement patterns.

1–K. Impact of an aging population on pension systems.

Theme 2. The Elderly as a Resource

2–A. Need for reform in Federal and State programs and policies to increase opportunities for the aged in serving as providers of both formal and informal supports for their own peers, and younger persons.

2–B. Analysis of cost savings in public expenditures and effects of reimbursement or tax credits on providing more opportunities for the aged is social service provision.

2–C. Extent to which the aged are currently being used in service provider roles under larger Federally supported social service programs, such as Title III of the Older Americans Act, and Title XX.

2–D. Barriers and disincentives for using the aged in service provider roles (e.g. insurance problems, negative attitudes, need for specialized training, and job restructuring) with emphasis on ways in which these barriers are being overcome in exemplary programs.

2–E. Need for changes in national policies related to maintaining older persons in the workforce, while minimizing conflicts with youth employment programs.

2–F. Identification and analysis of exemplary industries which provide opportunities to the aged for continuing employment.

2–G. Analysis of successful advocacy efforts related to assisting aged litigants in taking cases under the Age Discrimination in Employment Act.

2–H. Identification and analysis of existing innovative activity at the community level which provide meaningful social and cultural roles for the aged, particularly those which involve the use of highly developed skills of retired persons.

2–I. Identification of ethnic, cultural and racial differences in the ways in which aged persons are perceived as resources in their communities (as well as providers of informal support for younger family members).

2–J. Effects of geographical differences (e.g. urban-suburban-rural) on opportunities for the aged to contribute their skills to the benefit of the community.

2–K. The adequacy of current Adult Basic Education Systems, policies and practices in meeting the needs of the aged.

Theme 3. Services to Facilities Well-Being of the Aged

3–A. The adequacy of age—or some combination of age and need—as a criterion for eligibility under the Older Americans Act and other Federal programs.

3–B. Development of operational definitions, procedures, and State and Area Agency on Aging reporting requirements to assure that services are reaching those aged with the "greatest social and economic need."

3–C. Methods for assessing unit of service costs for services in rural areas in comparison with services in urban areas; and/or research designs and methods to evaluate cost-efficient techniques for service provision to the rural elderly.

3–D. Identification of the five *most* critical services which should be supported under Title III of the Older Americans Act, taking into account:

(a) Clearly identified client needs;

(b) Proven effectiveness of the service(s) in meeting those needs;

(c) The maximum benefit for the greatest number of aged persons across all sub-populations;

(d) Availability of appropriate service and administrative personnel.

3–E. The viability of nationally mandated or categorical Title III services, as opposed to other methods of directing Title III resources to community-determined social service priorities.

3–F. Options for minimizing overlap and duplication between the Older Americans Act and Title XX in regard to both target groups and services provided; and maximizing resources for all client groups.

3–G. Assessment of the most efficient and cost effective methods used by Area Agencies in providing or arranging for social services (with emphasis on needed Federal legislative and/or regulatory changes or Federally provided technical assistance to promote efficient service management).

3–H. Identification of, and distinction between, services which should be provided with Title III resources, and services which should be promoted through advocacy and cooperative arrangements with other agencies (at the Federal, State and sub-State levels).

3–I. Feasibility of formulating Title III resource allocation and infra-structural community change (advocacy; interagency cooperative arrangements) as two separate and distinct programmatic strategies.

3–J. Options for planning congregate-based aging services (e.g. nutrition projects; senior centers) as a "one-stop" delivery center and entry point for access to a total community service system (with emphasis on specific Federal legislative and regulatory requirements for achieving this end).

3–K. Definition, in practical terms, of the *minimal* requirements of a "comprehensive service system" for the aged, with emphasis on documented community experiences and models and findings regarding client outcomes over the past ten years. (Identification of *specific* Federal programs and policies which both enhance and impede the development of such systems).

3–L. The major societal implications of developing age-segregated vs. age-integrated social service systems, with attention to:

(a) The relative benefits and disadvantages for the aged constituency under both service system approaches;

(b) The relative benefits and disadvantages of both approaches for specific sub-populations among the aged (the low-income, minorities, the aged living alone, and the rural aged);

(c) The development of quality care for physically and mentally handicapped persons of all ages;

(d) The relative advantages and disadvantages of both approaches in promoting efficient management and accountability in the expenditure of public funds.

3–M. For any social service designed for the aged, or group of services (such as in-home services), determination of the adequacy of existing standards, performance objectives and performance measurment (with recommendations for improving performance assessment).

3–N. Identification of appropriate measures of *quality* of services provided to the aged. For specific services, appropriateness of inferring quality from: utilization rates; client satisfaction; appropriateness of the service relative to client need; and technical analysis (such as nutritional composition of food served and resultant dietary improvements).

Eligible Applicants

Any public or private, nonprofit agency, organization, or institution is eligible to receive a grant under this program.

Available Funds

For the two types of research products desired, the following budget ranges and anticipated duration of the grant period are:

Concept and Option Papers—$5,000 to $15,000; three to six months duration

Small-Scale Data Collection or Data Analysis—$25,000 to $75,000; six to twelve months duration

Approximately $600,000 will be available in Fiscal Year 1981 to support grants under the terms of this announcement. It is anticipated that three to five projects will be supported under each of the three themes, for a total of nine to fifteen awards. However, AoA reserves the discretion to fund less than three and more than five projects for any of the themes, depending on recommendations made to the Commissioner as a result of the review process, and the availability of funds.

Grantee Share of Project

Grantees are expected to provide at least 5 percent of the total project cost. The grantee share must be project

related and allowable under the

State, and sub-State policymakers

B. The application contains a suitable

Approved: November 17, 1980

related and allowable under the Department's applicable cost principles in 45 CFR Part 74 (see 45 FR 26264, September 19, 1973).

The Application Process

Availability of Forms. All applications must be on standard form 424 and other forms provided for this purpose. Application kits which include the Guidelines, prescribed forms and instructions may be obtained by writing:

Division of Research (Guidelines), Administration on Aging, Office of Human Development Services, Room 3280 DHHS North Building, 330 Independence Avenue, SW, Washington, D.C. 20201.

Application Submission. One signed original and eight copies of the grant application, including all attachments, are requested to expedite the review applications. All application copies must be submitted to the addresses indicated in the application kit.

A–95 Notification Process. A–95 Clearinghouse procedures are *not* required for AoA Title IV–B Research and Development applications.

Application Consideration. The Commissioner on Aging will make the final decision on each grant application for this program. Applications which are complete and conform to the requirements of this program announcement will be considered. All conforming grant applications are subject to a comprehensive review and evaluation by qualified reviewers who are not employees of the Administration on Aging.

For purposes of the review process, proposals are classified into two categories: (1) data collection and data analysis projects; (2) concept or option papers. Both categories of proposals will be reviewed by two separate review panels. The first panel (technical review panel) will judge the technical merits of proposals using two different sets of criteria, one set for data collection and analysis projects and one set for concept and option papers, as described below. Proposals recommended for funding by the technical review panel will be submitted to the second review panel (program and policy relevance review panel) for an assessment of their program and policy relevance. This second review panel will rate all proposals using an additional set of criteria for this purpose, as described below. The outcome of this second review will be a final set of recommendations which the Commissioner on Aging will use in making funding decisions.

The Commissioner will take into account the recommendations of the reviewers, the comments of the State Agencies on Aging and the Regional AoA Offices, and the recommendations of AoA staff. Comments on the application may also be requested from appropriate specialists and consultants inside and outside of government. The Commissioner will endeavor to balance awards among the three theme areas.

Unsuccessful applicants will be notified in writing. Successful applicants will be notified through the issuance of a Notice of Grant Awarded. This notice sets forth the amount of funds granted, the purpose of the grant, the terms and conditions of the grant award, the total grantee participation for the budget period, the effective date of the award, and the budget period for which support is given.

Criteria for Review and Evaluation of Applications

Criteria for Technical Review of Data Collection and Data Analysis Projects: First Review Panel

Criterion I: Program and Policy Relevance (10 Points).

The proposed project will provide measurable results that can be used to significantly increase the effectiveness of a program for the aged, or results that can be used by aging network staff and other Federal, State, or sub-State policymakers in the formulation and implementation of major policies affecting the aged.

Criterion II: Conceptual Framework (15 Points).

A. The problems to be addressed by the project are clearly delineated.

B. The proposal adequately reviews the literature in the subject area of the project.

C. Research questions are conceptually linked to policy issues.

D. The conceptual framework is adequately translated into an operational statement. The objectives of the proposed project are clearly stated in operational terms.

Criterion III: Methodology (50 Points).

A. The design of the research project is capable of achieving the proposed objectives.

B. The data to be utilized in the proposed project are fully described. Convincing evidence is presented that the data exist in the form described and can be collected or accessed in an efficient and timely manner. The data to be collected are adequate for the type of analysis and level of abstraction proposed.

C. The proposal contains a clearly delineated plan for analysis and level of abstraction proposed.

Criterion IV: Project Implementation Plan (10 Points).

A. The application describes a sound plan for task accomplishment over the proposed project period and staff loadings by task.

B. The application contains suitable statement of the expected utilization value of the results of the project, which specifies who the proposed audience is and how the results will benefit this audience.

Criterion V: Staffing and Management (10 Points).

A. The proposed project staff are well qualified to carry out the project.

B. The assignment of responsibilities is appropriate for carrying out project tasks, including sufficient time of senior staff to assure adequate management of the project.

C. The applicant organization has adequate facilities, resources, and experience to carry out the tasks of the proposed project.

Criterion VI: Budget Appropriateness and Reasonableness (5 Points).

The proposed budget is commensurate with the level of effort needed to accomplish the project objectives, and the cost of the project is reasonable in relation to the value of the anticipated results.

In addition to assigning numerical scores in applying the above six criteria, the technical review panel will classify the overall merit of the proposal using the following categories:

1. Not Recommended
2. Recommended
3. Highly Recommended

Criteria for Review of Program and Policy Relevance: Second Review Panel

Criterion I: Approach (20 Points).

The application presents an approach that is appropriate, and if followed as proposed, will achieve the objectives of the project.

Criterion II: Program and Policy Relevance (60 Points).

A. The project addresses timely public policy issues that affect a considerable number of aged persons.

B. The proposed project will provide measurable results that can be used to formulate major policies affecting the aged; or results that can be used by policymakers, administrators, or service providers to significantly increase the effectiveness of an existing program for the aged.

C. The proposed research will make a significant contribution to knowledge in the field of aging.

D. The intended audiences for the results are clearly specified, including the aging network and other Federal,

State, and sub-State policymakers, administrators, or service providers.

Criterion III: Priority Sub-Populations (20 Points).

The proposed project will provide *significant* results regarding program and policy priorities affecting one or more of the following subpopulations:

1. minority aged
2. rural aged
3. physically and mentally impaired aged
4. the old-old (persons 75 years of age and older)
5. recent immigrants 60 years of age and older
6. aged migrants and seasonal farmworkers
7. aged women living alone
8. other low-income or underserved elderly

Final recommendations to the Commissioner will be made by the program and policy relevance review panel through rank ordering of all proposals reviewed based on numerical scores received under the above three criteria, and classification of proposals using the following categories:

1. Not Recommended
2. Recommended
3. Highly Recommended

Criteria for Technical Review of Concept and Option Papers: First Review Panel

Criterion I: Program and Policy Relevance (15 Points).

The proposed project will provide measurable results that will significantly contribute to the effectiveness or development of a program for the aged, or results that can be used by aging network staff and other Federal, State, or sub-State policymakers in the formulation and implementation of major policies affecting the aged.

Criterion II: Conceptual Framework (60 Points).

A. The problems to be addressed by the project are clearly delineated.

B. The proposal adequately reviews the literature in the subject area of the project.

C. Research questions and theoretical propositions are conceptually linked to policy issues.

D. The conceptual framework and objectives of the inquiry are clearly stated and are designed in such a way as to propose program or policy options and alternatives.

Criterion III: Project Implementation Plan (10 Points).

A. The application describes a sound plan for task accomplishment over the proposed project period and staff loadings by task.

B. The application contains a suitable statement of the expected utilization value of the results of the project, which specifies who the proposed audience is and how the results will benefit this audience.

Criterion IV: Staffing and Management (10 Points).

A. The proposed project staff are well qualified to carry out the project.

B. The assignment of responsibilities is appropriate for carrying out project tasks, including sufficient time of senior staff to assure adequate management of the project.

C. The applicant organization has adequate facilities, resources, and experience to carry out the tasks of the proposed project.

Criterion V: Budget Appropriateness and Reasonobleness (5 Points).

The proposed budget is commensurate with the level of effort needed to accomplish the project objectives, and the cost of the project is reasonable in relation to the value of the anticipated results.

In addition to assigning numerical scores in applying the above five criteria, the technical review panel will classify the over-all merit of these proposals using the following categories:

1. Not Recommended
2. Recommended
3. Highly Recommended

Recommend proposals for concept and option papers will be submitted to the program and policy relevance review panel (second review panel) following the same procedures as those used in forwarding recommended data collection and analysis projects. The same criteria will be used in judging the program and policy relevance merits of proposals for concept and option papers as will be used in judging the program and policy relevance of data collection and data analysis projects (see *Criteria for Review of Program and Policy Relevance: Second Review Panel*, listed above).

Closing Date for Receipt of Applications

The closing date for receipt of applications under this program announcement is January 23, 1981. Applications may be mailed or hand delivered. Hand delivered applications are accepted during normal working hours of 9:00 a.m. to 5:00 p.m.

(Catalog of Federal Domestic Assistance Number 13.636, Research and Development Projects in Aging)

Dated: November 12, 1980

Approved: November 17, 1980

Robert Benedict,

Commissioner on Aging.

Katie Morrison,

Acting Assistant Secretary for Human Development Services.

Regional Offices, Administration on Aging, Office of Human Development Services, Department of Health and Human Services

Region I

John F. Kennedy Federal Building, Room 2007, Boston, Massachusetts 02203 (R.I., Vt., Conn., Maine, Mass., N.H.), Telephone: 617–223–6885

Region II

26 Federal Plaza, Room 4106, Broadway and Worth Streets, New York, New York 10007 (N.J., N.Y., P.R., Virgin Islands), Telephone: 212–264–4502

Region III

P.O. Box 13716, Philadelphia, Pennsylvania 19101 (D.C., Md., Va., W.Va., Del., Pa.), Telephone: 215–596–6892

Region IV

101 Marietta Towers, Suite 901, Atlanta, Georgia 30323 (Ala., Fla., Miss., S.C., Tenn., N.C., Ky., Ga.), Telephone: 404–221–5900

Region V

300 South Wacker Drive—15th Floor, Chicago, Illinois 60606 (Ill., Ind., Mich., Minn., Ohio, Wisc.), Telephone: 312–353–0141

Region VI

Fidelity Union Tower Bldg., Rm. 500, 1507 Pacific Avenue, Dallas, Texas 75201 (Ark., La., Okla., N. Mexico, Texas), Telephone: 214–767–2971

Region VII

601 East 12th Street, Kansas City, Missouri 64106 (Iowa, Kansas, Missouri, Nebraska), Telephone: 816–374–2955

Region VIII

Federal Office Building, Rm. 7430, 19th and Stout Streets, Denver, Colorado 80202, Telephone: 303–837–2951

Region IX

50 United Nations Plaza, Room. 206, San Francisco, California 94102 (Cal., Nev., Ariz., Guam, Hawaii, Samoa), Trust Territories and No. Marianas, Telephone: 414–556–6000

[FR Doc. 80-36331 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-92-M

White House Conference for Children and Youth Technical Advisory Committee; Establishment

AGENCY: Office of Human Development Services, DHHS.

ACTION: Notice of Advisory Committee

In accordance with Pub. L. 92–463,

A. Type of Application Requested

To assure the quality of the research

and the effects of these developments

research program. Full resumes of

V45N0211980 UMI

ACTION: Notice of Advisory Committee Establishment.

PURPOSE: The White House Conference for Children and Youth Technical Advisory Committee will be convened in order to provide expert guidance in development of issues to be considered and technical documents to be used by the Conference.

DATES: The charter for this Committee was signed by the Secretary of Health and Human Services on October 16, 1980. The Committee will terminate no later than 180 days following the date of adjournment of the Conference or when its work has been completed, whichever is sooner.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Potter, Special Assistant to the National Advisory Committee, White House Conference for Children and Youth, 730 Jackson Place, N.W., Washington, DC 20006, 202–456–6440.

SUPPLEMENTARY INFORMATION: This Committee is being formed to assist in the definition of issues to be developed at the Conference, and shall assist in the development of scientific and technical documents related to issues under consideration by the Conference by providing advice and recommendations to the 1981 White House Conference for Children and Youth.

Dated: November 17, 1980.

Mamie J. Welborne,

Human Development Services, Committee Management Officer.

[FR Doc. 80-36332 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-92-M

Office of the Secretary

National Advisory Committee on the White House Conference on Families, Special Subcommittee on Implementation; Meeting

The National Advisory Committee on the White House Conference on Families was established to advise the Secretary, the Chair of the Conference, and the Conference staff on matters pertaining to the Conference, including the development, implementation, and execution of overall plans and procedures for the Conference. The Special Subcommittee on Implementation was appointed by the National Advisory Committee to monitor and advise the full National Advisory Committee on the implementation period of the White House Conference on Families. This ad hoc subcommittee is composed exclusively of members of the committee of the whole.

In accordance with Pub. L. 92–463, notice is hereby given of a meeting of the subcommittee to be held on Sunday, December 7, 1980 from 2:00 p.m. to 8:00 p.m. in Room 629 of the Reporters Building, located at 300 7th Street, SW., Washington, D.C. 20201.

Deliberations of the subcommittee will concern activities as an ongoing monitoring and advocacy body, assistance from the White House, and relations with the Office for Families. This meeting will be open for public observation.

On December 8, 1980 from 9:30 a.m. to approximately 5:00 p.m., the committee of the whole will meet in Room 1132—Horace Mann Learning Center of the Dept. of Education Building, located at 400 Maryland Ave., Washington, D.C. 20021. The agenda will include a review of events since the Task Force Meeting, continuing implementation activity, and discussion of outside monitoring and advocacy body.

This meetings will also be open to the public, but seating space will be limited.

Further information on the meetings may be obtained from the White House Conference on Families at 330 Independence Avenue, SW., Washington, D.C. 20201; telephone number 202–245–6073.

John L. Carr,

Executive Director.

Dated: November 17, 1980.

[FR Doc. 80-36411 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-12-M

Office of the Secretary

Office of the Assistant Secretary for Planning and Evaluation

Poverty Research Center; Grant Applications

Pursuant to Section 232 of the Community Services Act of 1974 and Title 45, Part 63 of the Code of Federal Regulations, the Assistant Secretary for Planning and Evaluation (hereafter the Assistant Secretary) is seeking applications from university-based agencies, organizations and institutions for a grant that would support a Poverty Research Center. The Center would be expected to plan and conduct a broad program of basic and policy research on the nature, causes and effects of poverty. This grant will replace the core grant which has been made non-competitively to the Institute for Research on Poverty by the Department of Health, Education and Welfare (now Health and Human Services) for the past seven years.

A. Type of Application Requested

This announcement seeks applications for a grant to develop and conduct an inter-disciplinary program of quantitative and qualitative research on the determinants of economic inequality and related social problems. The program will include basic research into the nature, causes, and effects of changes in the distribution of income, mobility patterns, and the incidence of poverty. The program will also include policy research into the effects of specific government programs on the income distribution, economic mobility, and the incidence of poverty, and the ability of alternative approaches to reduce the amount of poverty, encourage mobility, or alleviate the effects of low income.

1. *Research Program.* The Center will be expected to plan, initiate and maintain a poverty research program of high caliber. This should include supporting the work of members of the Center staff, as well as providing intellectual leadership in the research community by establishing links with a broad range of other scholars studying poverty issues, through visiting and postdoctoral appointments, research agendas, conferences and seminars, publications, and a limited program of nonresident grants, for example. The research program should include the approaches of several disciplines to increase the understanding of the issues beyond what is possible from analysis within the framework of a single discipline. At a minimum, the staff should include competency in economics and sociology, along with at least two other disciplines.

The research program should also include a mixture of quantitative and qualitative research projects. Quantitative research that involves the collection of data and its statistical analysis must be complemented by qualitative research that involves case studies and analyses of the structure of institutions and markets, theoretical analyses (based on both quantitative research findings and case studies) of the economic, social, and political processes and institutions that together generate economic inequality, and discussions of the policy implications of research findings. It is expected that the research program will support work that produces major advances at the frontiers of knowledge in the poverty field. It is, for example, appropriate to consider use of the grant to make advances in research techniques, where they are needed for or related to poverty research.

To assure the quality of the research and a careful examination of the output of the Center within the academic community, the Center must establish and maintain a formal tie with a university, including links with relevant departments within that university. The applications should discuss how those links will be assured. It is also important that the continuity of the poverty research program supported by Community Service Act funds be maintained; hence the application should specify in detail how administrative arrangements will be made to minimize start-up and transition delays. In general, the work of the Center will be self-initiated and self-directed. However, the Assistant Secretary (or his or her designee) must approve the plans for the year's research before expenditures from the grant for that year can be made; and the Center and its staff members may from time to time be asked to comment on research plans, serve on panels to evaluate research proposals, and provide critical commentary on research products.

2. *Content and Organization of Application.* The application must begin with the required application forms and a three to five page overview and summary of the application. Staff resumes should be included in a separate appendix. The central core of the application must contain four sections, presented in the following order:

(a) An *analysis* of the nature, causes, and effects of recent changes in the income distribution, individual mobility within the overall distribution, and the incidence of poverty. The analysis should discuss both the factual evidence on changes and research on the causes and effects of the changes. The discussion should emphasize (but not necessarily be limited to) the past twenty years. It should in no way be limited to a discussion of the contributions that have been made by the Institute for Research on Poverty although it should not, of course, ignore those contributions. Examples of the kinds of issues that should be discussed include the effects of demographic trends (changes in fertility, marital stability, and migration, for example), the effects of inflation, the effects of changing rates of aggregate and sectoral economic growth and related shifts in the location and types of jobs available, the effects of the growth of fringe benefits as part of total compensation, the effects of alterations in government transfer, tax, employment, and macroeconomic stabilization policies, and the effects of these developments and the resulting changes in economic inequality on existing government programs and the demand for new or revised programs.

(b) A *prospectus* for poverty research, outlining the major poverty research themes to be articulated over the next seven years. The prospectus should discuss the kind of poverty research activities that are needed to anticipate future policy debates and the role of the proposed Poverty Research Center in promoting those activities. The prospectus should not assume continued effort by the Institute for Research on Poverty at the same level as over the past fourteen years, since, as indicated earlier, this grant is proposed to replace the core grant of the Institute. The prospectus should follow from the historical analysis section. It may, of course, also discuss research areas and issues that were not mentioned in that analysis if the author or authors of the application feel there have been gaps in past research, or that new factors have or soon will begin to affect income distribution, mobility patterns, and the incidence of poverty. The prospectus may discuss research issues from a government program or social problem perspective as long as these perspectives are clearly connected in the application to the announcement's central concern with economic inequality.

While this prospectus will not include the kind of detailed descriptions of individual research projects that will be expected in the Center's annual research plans, it should be specific about long-term research themes. The lines of research described in the prospectus should be concrete enough that project descriptions in subsequent annual research plans can be viewed as articulating a research theme discussed in the prospectus. An application that simply contains an *ad hoc* categorization of an unstructured set of research projects will be judged unacceptable.

(c) A staffing and organizational *proposal* for the Poverty Research Center, including an analysis of the types of background needed among staff members, the Center's organizational structure, and linkages with the host university and other organizations. It is in this third section that the application should specify how it will assure a genuinely interdisciplinary approach to poverty research where appropriate, the necessary links to university departments, other organizations and scholars engaged in poverty research, and the continuity of the present poverty research program. Full resumes of proposed staff members should be included as a separate appendix to the application. The time commitment to Center for each proposed staff member should be indicated. The kinds of administrative and tenure arrangements the Center proposes to make should also be discussed in this section. In addition, the author(s) of the application and the role which he or she (they) will play in the proposed Poverty Research Center must be specified.

(d) A *summary* of past work at the university and at the existing institution proposed as the location of the new Poverty Research Center that relates directly or indirectly to the nature, causes, and effects of changes in the distribution of income, mobility patterns, and the incidence of poverty. Where specific individuals are proposed for the staff of the Center, it is legitimate to discuss their past research, whether or not it took place in either the institution proposed to be the location of the new Poverty Research Center or the host university.

B. Applicable Regulation

1. "Grant Programs Administered by the Office of the Assistant Secretary for Planning and Evaluation" (45 CFR Part 63), which was published in the *Code of Federal Regulations* on October 1, 1979.

2. "Administration of Grants" (45 CFR Part 74), which was published in the *Code of Federal Regulations* on August 2, 1978, and amendments thereto published in the **Federal Register** May 22, 1980, May 27, 1980 (with correction May 30, 1980) and June 3, 1980.

3. Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouse under the procedures in OMB Circular A–95.

C. Effective Date and Duration

1. The grant award pursuant to this announcement will be made on or about April 1, 1981. However, only a limited amount of the grant award (the exact amount will be determined by the grant Project Officer) will be available immediately to ensure the continuity of the poverty research program. The remainder of the grant award is intended for use during the year July 1, 1982 through June 30, 1983, following the approval by the Assistant Secretary (or his or her designee) of a detailed one-year research plan submitted by the Center no later than April 15, 1982.

2. In order to avoid unnecessary delays in the preparation and receipt of applications, this notice is effective immediately. Application will be accepted no later than January 30, 1981.

D. Statement of Funds Availability

(a) Quality of the historical analysis of economic inequality. (See Part A, Type

applicants of the disposition of their

a.m. and Wednesday, December 10,

National Environmental Policy Act of

Public Library, 104 North Main Street,

V 45 N 0 2 1 8 0 UMI

D. Statement of Funds Availability

1. The Assistant Secretary has available about $1,450,000 for the Fiscal Year ending September 30, 1981 for the award of a grant pursuant to this announcement.

2. The amount of funds available for the grant in future years has not been established. Legislative support for continued funding of the Center cannot be guaranteed. The tentative expectation is that the Center will be supported during future Fiscal Years at a level of effort that is at least as high as that during the initial period.

3. Applications are requested for an initial grant award for the period ending June 30, 1983. It is expected, however, that subsequent grant awards for up to six additional years may be made non-competitively, assuming the winner of the initial award plans and carries forth a research program that is judged to be of high caliber in the opinion of the Assistant Secretary. Future funding is in no way guaranteed.

E. Applications Processing

1. Applications will be reviewed by an intergovernmental review panel, possibly augmented by outside experts. Two (2) copies of each application are required.

2. Applicants will be judged as to eligibility according to the criteria set forth below in item 6. Priority will be given to applicants who, in the judgment of the Assistant Secretary, best meet these criteria.

3. An unacceptable rating on any individual criterion may render the application unacceptable. Consequently, applicants should take care to ensure that all criteria are fully addressed in the applications.

4. Applications should be as brief and concise as is consistent with communication with the reviewers. In no case should an application (excluding the resume appendix) be longer than 150–200 pages; it should neither be unduly elaborate nor contain voluminous supporting documentation.

5. The limited amount of funds available for this grant may indicate the desirability of using these funds as partial, core support for the proposed Center and of seeking additional support from other sources. The availability, potential availability or hope for other funds, and the uses to which they would be put, should be documented in the application.

6. *Criteria for Evaluation.* Evaluation of applications will employ the following criteria. The relative weights are shown in parenthesis.

(a) Quality of the historical analysis of economic inequality. (See Part A, Type of Application Requested, Section 2, subsection (a).) (15 points)

(b) Quality of the prospectus for poverty research. (See Part A, Section 2, subsection (b).) (35 points)

(c) Quality of the staffing proposal and proposed organizational arrangements. Staff will be judged on both poverty research experience and demonstrated research skills. Staff time commitments to the Center will also be a factor in the evaluation. (See Part A, Section 2, subsection (c).) (30 points)

(d) Quality of the summarized research and publications. This will include evaluation of work done at the university and proposed institution that will contain the Center, as well as work done by proposed staff members, wherever performed. (See Part A, Section 2, subsection (d).) (20 points)

7. Nothing in this announcement should be construed as committing the Assistant Secretary to dividing available funds among all qualified applicants.

F. Applications Sent by Mail

Applications sent by mail will be considered to be received on time by the Grants Officer if the application was sent by registered or certified mail and mailed not later than January 30, 1981, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service.

G. Hand-Delivered Applications

An application to be hand-delivered must be taken to the Grants Officer at the address listed at the end of this announcement. Hand-delivered applications will be accepted daily during normal business hours (between the hours of 9:00 a.m. and 5:30 p.m., Washington, D.C. time), except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after the close of business on January 30, 1981.

H. Disposition of Applications

1. *Approval, disapproval, or deferral.* On the basis of the review of application, the Assistant Secretary will either (a) approve the application in whole or in part, for such amount of funds and subject to such conditions as are deemed necessary or desirable for the initiation and operation of the Poverty Research Center; (b) disapprove the application; or (c) defer action on the application for such reasons as lack of funds or a need for further review.

2. *Notification of disposition.* The Assistant Secretary will notify the applicants of the disposition of their application. A signed notification of grant award will be issued to notify the applicant of the approved application.

I. Application Instructions and Forms

Copies of application forms and applicable regulations shall be obtained from, and applications submitted to: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, S.W., Room 457F, Hubert H. Humphrey Building, Washington, D.C. 20201. Questions concerning the preceding information should be submitted to the Grants Officer at the same address.

Dated: October 14, 1980.

John L. Palmer,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 80-36471 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-12-M

Office of the Secretary

Consumer Affairs Council Meeting

SUMMARY: This notice announces the date and time of the next regular HHS Consumer Affairs Council meeting. All are welcome to attend as observers and participate in an open discussion period that would be held during the last half hour of the meeting. If you would like an agenda, please contact Susan L. Randolph. A hearing interpretor will be provided for the deaf.

DATE: Wednesday, December 3, 1980, 10 to 12 noon.

ADDRESS: 200 Independence Ave., S.W., Room 800, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Susan L. Randolph, Assistant—Consumer Affairs Office, 200 Independence Avenue, S.W.—Rm. 622E, Washington, D.C. 20201, (202) 245-0409.

Dated: November 17, 1980.

Belle B. O'Brien,

Assistant to the Secretary for Consumer Affairs.

[FR Doc. 80-36470 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-12-M

Public Health Service

National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92-463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS), established pursuant to 42 USC 242K, section 306(K)(2) of the Public Health Service Act, as amended, will convene on Tuesday, December 9, 1980, at 9:15 a.m. and Wednesday, December 10, 1980, at 8:45 a.m., in the Auditorium of the Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

Agenda items for discussion will include Subcommittee and Committee plan development; Environmental Health Statistics Activities; Cooperative Health Statistics System update; HCFA Issues and Activities; Long-Term Care Statistical Activities. Agenda items are subject to change as priorities dictate. These meetings are open for public observation and participation.

Further information regarding the Committee may be obtained by contacting Samuel P. Korper, Ph.D., M.P.H., Executive Secretary, National Committee on Vital and Health Statistics, Room 17A-55, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: 301-443-2660.

Dated: November 13, 1980.

Wayne C. Richey, Jr.,

Associate Director for Program Support, Office of Health Research, Statistics, and Technology.

[FR Doc. 80-36308 Filed 11-20-80; 8:45 am]

BILLING CODE 4110-85-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-80-1038]

Acting Secretary of Housing and Urban Development; Order of Succession

Correction

In FR Doc. 80-34367 appearing at page 73141 in the issue of Tuesday, November 4, 1980, make the following changes:

(1) On page 73141, third column, sixth line from bottom of page, "Management," should be corrected to read "Manager,".

(2) On page 73142, first column, line 13, "Region VII" should be corrected to read "Region VIII".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Proposed Outer Continental Shelf Oil and Gas Lease Sale; Availability of Draft Environmental Impact Statement and of Location and Dates of Public Hearing Regarding Proposed Oil and Gas Lease Sale No. 59

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental impact statement relating to a proposed Outer Continental Shelf oil and gas lease sale of 253 tracts of submerged Federal lands off the coasts of New York, Delaware, New Jersey, Maryland, and Virginia.

Single copies of the draft environmental impact statement can be obtained from the Office of the Manager, New York OCS Office, Bureau of Land Management, Federal Building, Suite 32-120, 26 Federal Plaza, New York, New York 10278 and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the draft environmental impact statement will also be available for reviewing in the following libraries: New York Public Library, 5th Avenue and 42nd Street, New York, NY 10018; Nassau Library System, Lower Concourse, Roosevelt Field, Garden, NY 11530; Suffolk Cooperative Library System, 627 North Sunrise Service Road, P.O. Box 1872, Bellport, NY 11713; Trenton Free Public Library, 120 Academy Street, Trenton, NJ 08608; Atlantic City Free Public Library, Illinois and Pacific Avenue, Atlantic City, NJ 08401; Providence Public Library, 150 Empire Street, Providence, RI 02903; Newport Public Library, Aquidneck Park, Newport, RI 02840; Free Library of Philadephia, Logan Circle, Philadelphia, PA 19141; Rehoboth Beach Public Library, Municipal Center, Rehoboth Avenue, Rehoboth Beach, DE 19971; Wilmington Institute Free Library and Newcastle County Free Library, 10th and Market Streets, Wilmington, DE 19801; Eastern Shore Area Library, 122-126 South Division, Salisbury, MD 21801; Enoch Pratt Free Library, 400 Cathedral Street, Baltimore, MD 21201; Norfolk Public Library System, 301 South City Hall Avenue, Norfolk, VA 23510; Atlantic County Library, Surrogate Building, Mays Landing, NJ 08330; Ocean County Library, 15 Hooper Avenue, Toms River, NJ 08753; Cumberland County Library, 800 E. Commerce Street, Bridgeton, NJ 08302; Monmouth County Library, 25 Broad Street, Freehold, NJ 07728; Sea Isle City Public Library, 105 45th Street, Sea Isle City, NJ 08243; Cape May City Public Library, 639 Washington Street, Cape May, NJ 08204; Boston Public Library, Copley Square, Boston, MA 02117; Provincetown Public Library, 33 Commercial Street, Provincetown, MA 02657; Falmouth Public Library, Main Street, Falmouth, MA 02540; Fall River Public Library, 104 North Main Street, Fall River, MA 02720; Christian Science Monitor, 1 Norway Street, Boston, MA 02115.

In accordance with 43 CFR 3314.1, public hearings on the draft environmental impact statement are scheduled to be held on January 20, 1981, in the Garden State Ballroom of the Hilton Gateway Hotel, Raymond Boulevard, Newark, New Jersey and on January 22, 1981, in the Main Ballroom of the Omni International Hotel, 777 Waterfront Drive, Norfolk, Virginia. The hearings will begin at 9:00 a.m., and will conclude at 5:00 p.m. or earlier, if all scheduled witnesses have testified.

The hearing will provide the Secretary of the Interior with information from government agencies, public and private groups to help evaluate the potential effects of the proposed offering. Comments are solicited concerning effects of exploration, development and production resulting from the proposed sale on marine, cultural, recreational and other resources of the Mid-Atlantic region.

Interested individuals, representatives or organizations, and public officials wishing to testify at the public hearing are requested to contact the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, at the above address by 4:30 p.m., January 16, 1981. Written comments from those unable to attend the hearing also should be addressed to the Manager, New York Outer Continental Shelf Office, Bureau of Land Management, at the above address. The Bureau will accept written testimony and comments on the draft environmental impact statement until January 28, 1981. This will allow those unable to testify at the hearing to make their views known, and those presenting oral testimony to submit supplemental materials. Time limitations make it necessary to limit the length of oral presentations to ten (10) minutes. An oral statement may be supplemented, however, by a more complete written statement which may be submitted to a hearing official at the time of presentation. To the extent that time is available after presentation of oral statements by those who had given advance notice, others present will be given an opportunity to be heard.

After all testimony and comments have been received and considered, a

final environmental impact statement

Street, P.O. Box 670, Rawlins, Wyoming

from appropriation under the public land

[A-11811]

the total value of the lands to be

the village pursuant to Sec. 12(a) of

final environmental impact statement will be prepared.

George D. Lea,
Deputy Director, Bureau of Land Management.
Approved:
Larry E. Meierotto,
Assistant Secretary of the Interior.
[FR Doc. 80-36319 Filed 11-20-80; 8:45 am]
BILLING CODE 4310-84-M

[W-72613]

Michigan Wisconsin Pipe Line Co. of Detroit, Mich.; Notice of Application

November 13, 1980.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Michigan Wisconsin Pipe Line Company of Detroit, Michigan, filed an application for a right-of-way to construct one 8-inch pipeline and two 6-inch O.D. pipelines, and two 100-foot x 150-foot well head metering facilities sites for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 39 N., R. 91 W.,
Sec. 17, SE¼SW¼;
Sec. 19, N½SE¼;
Sec. 20, E½W½, NW¼SW¼;
Sec. 21, E½SW¼;
Sec. 28, E½NW¼, NE¼SW¼;
Sec. 29, NE¼NW¼, S½NW¼, NW¼SW¼;
Sec. 30, E½SE¼.

The proposed pipelines will connect with the Steffin Hill #17–1 well in section 17, Steffin Hill #19–1 well in section 19, and Steffin Hill #21–1 well in section 21. The pipelines will supply additional quantities of natural gas to their customers, and will tie into Colorado Interstate Gas Company's gathering system. The metering facilities will be constructed at the well sites as outlined above.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,
Chief, Branch of Lands and Minerals Operations.
[FR Doc. 80-36292 Filed 11-20-80; 8:45 am]
BILLING CODE 4310-84-M

[Nev-044897 and Nev-044898]

Nevada; Proposed Continuation of Withdrawal

November 12, 1980.

The Bureau of Land Management, U.S. Department of the Interior, proposes that the two existing land withdrawals made by Public Land Order 2013 on October 22, 1959, be continued for a 20-year period, pursuant to section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714. The purpose of the withdrawals is to protect the U.S. Army flood control dam projects at Mathews and Pine Canyon Dams.

The withdrawn land proposed for continuation is described as follows:

Mount Diablo Meridian

T. 5 S., R. 69 E.,
Sec. 24, E½SE¼SW¼;
Sec. 25, SE¼NE¼;
Sec. 29, W½SW¼SW¼;
Sec. 30, E½SE¼SW¼ and SE¼SE¼;
Sec. 31, NE¼NE¼, NE¼NW¼NE¼, and N½SE¼NE¼;
Sec. 32, NW¼NW¼NW¼, S½NW¼NW¼, and SW¼NW¼.
T. 5 S., R. 70 E.,
Sec. 19, SW¼SE¼SE¼;
Sec. 30, Lot 2, W½E½NE¼, SE¼NW¼, N½NE¼SW¼, and N½N½SE¼.

The area described aggregates approximately 466.29 acres in Lincoln County Nevada. This land is segregated from appropriation under the public land laws, including the mining, mineral leasing and disposal of materials laws.

Mount Diablo Merdidan

T. 5 S., R. 69 E.,
Sec. 32, SW¼SW¼NE¼, NW¼NW¼SE¼, NW¼NE¼SE¼, S½N½SE¼, S½SE¼, E½SE¼SW¼, NE½SW¼, NE¼NW¼SW¼, SE¼NW¼, and SW¼NE¼NW¼;
Sec. 33, SW¼NW¼SW¼, NW¼SW¼SW¼, S½SW¼SW¼, and SW¼SE¼SW¼.
T. 6 S., R. 69 E., (Unsurveyed),
Sec. 4, W½NE¼NW½, NW¼NW¼, NE¼SW¼NW¼, and W½SE¼NW¼;
Sec. 5, E½NE¼NE¼, NW¼NE¼, NW¼SW¼NE¼, E½NE¼NW¼, and NE¼SE¼NW¼.

The area described aggregates approximately 510 acres in Lincoln County, Nevada. This land is segregated from appropriation under the public land laws, including the mining laws, but not the mineral leasing nor disposal of materials laws.

For a period of 30 days, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned within 30 days. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings are scheduled and conducted in accordance with BLM Manual Sec. 2351.16B.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, Department of the Interior, P.O. Box 12000, Reno, Nevada 89520.

William J. Malencik,
Chief, Division of Technical Services.
[FR Doc. 80-36293 Filed 11-20-80; 8:45 am]
BILLING CODE 4310-84-M

[A-11811]

Public Lands in Greenlee County, Arizona; Exchange

The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Township 6 South, Range 30 East, G&SRM,
Section 1: A portion of the N½ Lot 4 lying west of the highway right-of-way.
Containing 8.94 acres more or less.

In exchange for these lands, the federal government will acquire non-federal land in the Apache-Sitgreaves National Forest from Ronald C. and Catherine M. Waldorf. This non-federal land is also in Greenlee County. The description of the non-federal land is as follows:

Township 4 South, Range 32 East, G&SRM,
Sections 19 and 20: A portion of Homestead Entry Survey 509
Beginning at a point South 8°56' East 792.22 feet from Corner No 1, H.E.S. No. 509 thence due East for a distance of 424.52 feet, thence South 6°
44' West for a distance of 178.67 feet, thence South 5°
34' West for a distance of 128.36 feet, thence South 13°
59'30" West for a distance of 212.64 feet, thence South 33°
41' West for a distance of 88.50 feet, thence South 43°
25' West for a distance of 126.21 feet, thence South 27°
46' West for a distance of 128.53 feet, thence South 11°
42' West for a distance of 55.32 feet, thence North 8°
56' West for a distance of 855.07 feet, to the point of beginning.
Beginning at corner No. 1 H.E.S. 509 thence South 79° East for a distance of 360.14 feet, thence due South for a distance of 713.88 feet, thence due West for a distance of 230.50 feet, thence North 8° 56' West for a distance of 792.22 feet to the point of beginning, less one acre in the NW corner. Containing 8.94 acres more or less.

The purpose of the exchange is to acquire non-federal lands within the forest for federal programs and better land management. The exchange will allow the acquisition of land for commercial development in the Three Way Junction area. the exchange is consistent with the Bureau's planning for the lands involved. The exchange has been discussed with Greenlee County officials. The public interest will be well served by making the exchange.

The value of the lands to be exchanged are approximately equal; full equalization of values will be achieved by payment to the United States of funds in an amount not to exceed 25% of the total value of the lands to be transferred out of federal ownership.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions: There will be reserved to the United States rights-of-way for ditches and canals pursuant to the Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945. Reservations concerning the mineral estate will be made following the completion of a mineral survey of the public lands. There are no reservations for the offered lands.

Detailed information concerning the exchange, including the environmental assessment and the record of public input, is available for review at the Safford District Office, 425 East 4th Street, Safford, Arizona 85546.

Up until January 21, 1981, interested parties may submit comments to the Secretary of the Interior, LLM–320, Washington, D.C. 20240. Any adverse comments will be evaluated by the Secretary, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary, this realty action will become the final determination of the Department.

Vernon L. Saline,
Acting District Manager.
November 13, 1980.
[FR Doc. 80-36294 Filed 11-20-80; 8:45 am]
BILLING CODE 4310-84-M

[F-14832-A and F-14832-B]

Alaska Native Claims Selections

On November 11, 1974, Central Native Corporation, for the Native village of Anvik, filed selection application F–14832–A and on December 12, 1974, filed selection application F–14832–B under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Anvik, withdrawn prusuant to Sec. 11(a)(1).

On October 30, 1979, pursuant to the provisions of the Alaska Business Corporation Act, the Native village of Anvik (Central Native Corporation) amended its Articles of Incorporation changing the corporate name to Ingalik, Incorporated.

Ingalik, Incorporated, in its application, excluded unnamed lake in Secs. 13 and 14, T. 28 N., R. 60 W., Seward Meridian. Because this body of water has been determined to be nonnavigable, it is considered to be public lands withdrawn under Sec. 11(a)(1) and available for selection by the village pursuant to Sec. 12(a) of ANCSA.

Section 12(a) and 43 CFR 2651.4(b) and (c) provide that the village corporation shall select all available lands within the township or townships within which the village is located, and that additional lands selected shall be compact and in whole sections. The regulations also provide that the area selected will not be considered to be reasonably compact if it excludes other lands available for selection within its exterior boundaries.

For these reasons, the water body which was improperly excluded in the application of Ingalik, Incorporated, is considered selected.

On April 1, 1977, the State of Alaska filed general purposes selection application AA–12880, as amended, for all unpatented land in T. 28 N., R. 59 W., Seward Meridian, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b)).

Section 6(b) of the Alaska Statehood Act states that general purposes selections shall be made from the public lands of the United States in Alaska which are vacant, unappropriated and unreserved at the time of their selection.

At the time of filing of the State's selection application, the following lands were withdrawn by Sec. 11 of ANCSA, and properly selected pursuant to Sec. 12 of ANCSA by Ingalik, Incorporated, for the Native village of Anvik. Therefore, these lands were unavailable for selection by the State. Accordingly, State selection application AA–12880 must be and hereby is rejected as to the following described lands:

Seward Meridian, Alaska

T. 28 N., R. 59 W.,
Sec. 1, lots 1 and 3;
Sec. 2, lots 2 and 3;
Sec. 3, lots 1 and 3;
Sec. 4, lots 2 to 6, inclusive;
Sec. 5, lots 1 and 3;
Sec. 6, lot 1 excluding unnamed slough connecting the Bonasila River and Deadman's Slough, and lot 3;
Sec. 7, lots 1, 3, and 5;
Sec. 8, lots 1, 3, and 5;
Sec. 9, lots 1, 3, 4, and 5;
Sec. 10, lots 1, 3, 4, and 6;
Sec. 16, lots 1, and 3;
Sec. 17, lots 1, 3, and 5;
Sec. 18, lots 1, 3, and 5;
Sec. 24, lot 1.
Containing approximately 7,089 acres.

The State-selected lands rejected above were not valid selections and will not be charged against the village corporation as State-selected lands. Further action on the subject State selection application, as to those lands

not rejected herein, will be taken at a later date.

As to the lands described below, the applications are properly filed and meet the requirements of ANCSA and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 83,174 acres, is considerd proper for acquisition by Ingalik, Incorporated and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska

T. 30 N., R. 57 W.,
Secs. 6 and 7.
Containing 1,238.93 acres.
T. 31 N., R. 57 W.,
Sec. 5;
Sec. 6, lot 1;
Secs. 8, 17, and 20;
Secs. 29 to 32, inclusive.
Containing 5,575.90 acres.
T. 28 N., R. 58 W.,
Sec. 6;
Sec. 7, lots 1 and 3;
Sec. 18, lot 1 excluding Native allotment F–13848, lots 3 and 4;
Sec. 19, lots 1 and 3.
Containing approximately 2,080 acres.
T. 29 N., R. 58 W.,
Sec. 2;
Sec. 3, lots 1, 3, and 4;
Sec. 4, lots 1, 3, and 4;
Sec. 6;
Sec. 7, lot 1 excluding Deadman's Slough;
Sec. 9, lots 2 and 3;
Sec. 10, lot 1 excluding Native allotment F–13883, and lot 4;
Sec. 11;
Sec. 14, excluding Native allotment F–16277;
Sec. 15, lot 1 excluding Native allotment F–16277, lots 2 and 3, and lot 4 excluding Native allotment F–14798;
Sec. 19, lots 1 and 3;
Sec. 22, lots 1, 3, 4, and 5;
Secs. 23 and 26;
Sec. 27, lots 1 and 3;
Sec. 28, lot 1;
Sec. 30, lots 1, 2, and 3;
Sec. 31, lots 1, 2, 3, 5, and 6;
Sec. 32, lots 2 and 3;
Sec. 33, lots 1 and 3;
Sec. 34, lots 1 and 3;
Sec. 35.
Containing approximately 10,588 acres.
T. 30 N., R. 58 W.,
Sec. 1;
Sec. 2, lot 1;
Sec. 3, lot 2;
Secs. 4 to 7, inclusive;
Sec. 8, lot 1 excluding Native allotment F–13889, and lot 3;
Sec. 9, lot 2 excluding Native allotment F–13856, and lot 3;
Sec. 10, lots 2 and 3;
Sec. 11, lots 1, 3, 4, and 6;
Sec. 12;
Sec. 13, lots 1 and 2;
Sec. 14, lots 1, 3, 5, and 6;
Sec. 15, lot 2 excluding Native allotment F–13886, lots 4 and 5;
Sec. 16, lots 2, 3, and 4;
Sec. 17, lot 1, and lot 3 excluding Native allotment F–13889;
Sec. 18, lots 1 and 3 excluding Native allotment F–13853;
Sec. 19, lots 2 and 3, lot 4 excluding Native allotments F–13887 and F–15244 Parcel B, lots 5, 7, 8, and 9;
Sec. 20, lots 2 to 8, inclusive;
Sec. 21, lots 1, 3, and 4;
Sec. 22, lots 2 and 3;
Sec. 23, lots 1 and 3;
Sec. 24, lots 1, 2, and 3;
Sec. 25, lots 1 and 2;
Sec. 26, lots 1 and 3;
Sec. 27, lots 1, 3, and 4;
Sec. 28, lots 1 and 3;
Sec. 29, lots 2, 3, 4, and 5;
Sec. 30, lots 1, 2, and 4, lot 5 excluding Native allotments F–8855 Parcel A and F–13887, lots 7, 8, and 9;
Sec. 31, lot 1;
Sec. 32, lot 1;
Sec. 33, lots 1 and 3;
Sec. 34, lots 1, 3, 5, and 6;
Sec. 35, lots 1 and 3;
Sec. 36.
Containing approximately 17,057 acres.
T. 31 N., R. 58 W.,
Sec. 1, lot 2 excluding Native allotment F–13799;
Sec. 2, excluding Native allotment F–13799;
Sec. 12, lot 2 excluding Native allotment F–14292 Parcel B;
Secs. 15, 16, 21, and 22;
Sec. 25, lots 1 and 3;
Sec. 26, lots 2 and 3;
Sec. 27, lot 1;
Secs. 28, 29, and 32;
Sec. 33, excluding Native allotment F–15279 Parcel A;
Sec. 34, lot 2;
Sec. 35, lot 2;
Sec. 36, lot 1.
Containing approximately 7,994 acres.
T. 28 N., R. 59 W.,
Sec. 1, lots 1 and 3;
Sec. 2, lots 2 and 3;
Sec. 3, lots 1 and 3;
Sec. 4, lots 2 to 6, inclusive;
Sec. 5, lots 1 and 3;
Sec. 6, lot 1 excluding unnamed slough connecting the Bonasila River and Deadman's Slough, and lot 3;
Sec. 7, lots 1, 3, and 5;
Sec. 8, lots 1, 3, and 5;
Sec. 9, lots 1, 3, 4, and 5;
Sec. 10, lots 1, 3, 4, and 6;
Sec. 16, lots 1 and 3;
Sec. 17, lots 1, 3, and 5;
Sec. 18, lots 1, 3, and 5;
Sec. 24, lot 1.
Containing approximately 7,069 acres.
T. 29 N., R. 59 W.,
Secs. 1, 2, 3, and 4;
Sec. 5, lots 1 and 3;
Sec. 6, lots 1 and 3.
Containing 3,805.73 acres.
T. 30 N., R. 59 W.,
Sec. 13, lot 1 excluding Native allotment F–13890;
Secs. 14 to 22, inclusive;
Sec. 23, lots 1, 3, and 5;
Sec. 24, lots 2 to 8, inclusive;
Sec. 25, lots 1, 3, and 4;
Sec. 26, lots 1, 3, 4, and 5;
Sec. 27, lots 1, 3, 4, and 5;
Sec. 28, lot 1, and that portion left of the left bank of the Anvik River;
Sec. 29, lots 1 and 3;
Sec. 30, lot 1;
Sec. 31, lots 2, 3, and 4;
Sec. 32, lots 1, 3, and 4;
Sec. 33, lots 1 and 3;
Sec. 34, lot 1;
Secs. 35 and 36.
Containing approximately 14,542 acres.
T. 28 N., R. 60 W.,
Sec. 1, lot 1 excluding unnamed slough connecting the Bonasila Slough and Deadman's Slough, and lot 3;
Sec. 12, lots 1 and 3;
Sec. 13, lots 1 and 3;
Sec. 14, lot 1
Containing approximately 2,318 acres.
T. 30 N., R. 60 W.,
Sec. 9, lots 1 and 3;
Secs. 13, 14, and 15;
Sec. 16, lots 1 and 3;
Sec. 17, lot 1, and lot 3 excluding Native allotment F–14993 Parcel B;
Sec. 21, lots 1 and 3;
Sec. 22, lot 1 excluding Native allotment F–13892, lots 3 and 4;
Secs. 23 and 24;
Sec. 25, lots 1 and 3;
Sec. 26, lots 1 and 3;
Sec. 27, lot 1 excluding Native allotment F–13892, and lots 3, 4, and 5;
Sec. 28, lots 1, 3, and 4;
Sec. 33, lots 1 and 3;
Sec. 34, lots 2 and 3;
Sec. 35, lots 1, 3, 4, and 5;
Sec. 36, lots 1, 3, 5, and 6.
Containing approximately 10,905 acres.
Aggregating approximately 83,174 acres.

The lands excluded in the above description are not being approved for conveyance at this time and have been excluded for one or more of the following reasons: Lands are no longer under Federal jurisdiction; lands are under applications pending further adjudication; lands are underlying water bodies determined to be navigable and/or tidally influenced; lands are pending a determination under Section 3(e) of ANCSA, or lands were previously rejected by decision. Lands within U.S. Surveys which which are excluded are described separately in this decision if they are available for conveyance. These exclusions *do not* constitute a rejection of the selection application, unless specifically so stated.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F–14832–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs Gross Vehicle Weight (GVW)).

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheeled vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles, automobiles, and trucks.

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

(a) (EIN 2 D9) A one (1) acre site easement, upland of the ordinary high-water mark, in Sec. 3, T. 29 N., R. 58 W., Seward Meridian, on an island in the Yukon River. The uses allowed are those listed above for a one (1) acre site.

(b) (EIN 3 C3, D1, D9) An easement for an existing access trail, twenty-five (25) feet in width, from the village of Anvik in Sec. 32, T. 30 N., R. 58 W., Seward Meridian, easterly towards the village of Shageluk. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

(c) (EIN 6 C3, C5) An easement, thirty-six (36) feet in width, for an existing road from Anvik in Sec. 29, T. 30 N., R. 58 W., Seward Meridian, to the airport. The uses allowed are those listed above for a sixty (60) foot wide road easement.

(d) (EIN 16 C5) An easement for a proposed access trail, twenty-five (25) feet in width, from the right bank of the Yukon River in Sec. 3, T. 30 N., R. 58 W., Seward Meridian, westerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Public airport lease F–030761, containing approximately 130.96 acres, located in Secs. 29 and 32, T. 30 N., R. 58 W., Seward Meridian, issued to State of Alaska, Division of Aviation, under the provisions of the act of May 24, 1928 (45 Stat. 728; 49 U.S.C. 211–214), as amended; and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Ingalik, Incorporated is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a)(1) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 83,174 acres. The remaining entitlement of approximately 8,986 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Doyon, Limited, when the surface estate is conveyed to Ingalik, Incorporated, and shall be subject to the same conditions as the surface conveyance.

Within the above described lands, only the following inland water bodies are considered to be navigable:

The Yukon River and its interconnecting sloughs;
the Anvik River;
the Bonasila River;
Bonasila Slough;
Peter Hamilton's Slough from its mouth in Sec. 18, T. 28 N., R. 58 W., Seward Meridian to the northerly boundary of Sec. 22, T. 29 N., R. 58 W., Seward Meridian;

Deadman's Slough from Sec. 20, T. 29 N., R. 58 W., Seward Meridian, to the west boundary of Sec. 7, T. 29 N., R. 58 W., Seward Meridian; and

The unnamed slough connecting the Bonasila River and Deadman's Slough, which begins in Sec. 1, T. 28 N., R. 60 W., Seward Meridian and flows northerly to Deadman's Slough in Sec. 18, T. 29 N., R. 58 W., Seward Meridian.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Tundra Times. Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until December 22, 1980, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501
Ingalik, Incorporated, Anvik, Alaska 99558

V 45 N 0 2 1 8 0 UMI

Doyon, Limited, 201 First Avenue, Fairbanks, Alaska 99701

Ann Johnson,
Chief, Branch of Adjudication.

[FR Doc. 80-36339 Filed 11-20-80; 8:45 am]
BILLING CODE 4310-84-M

Intent To Revise Willow Creek Land Use Plan

AGENCY: Bureau of Land Management. (California)

ACTION: Notice.

SUMMARY: The Susanville California District of the Bureau of Land Management is beginning the revision of the Land Use Plan for the Willow Creek Planning Unit.

The Willow Creek Planning Unit is located in Northeastern California north of Susanville, west of U.S. Highway 395, east of the western edge of Eagle Lake and south of the 7th Standard parallel.

The anticipated issues to be addressed in the planning process include: wilderness, competition for forage between livestock, wildlife, and other uses, range suitability economics, and future plans for the development and protection of Eagle Lake.

The technical arm of the planning process will be composed of an interdisciplinary team with expertise in: geology, soils, threatened and endangered plants, water resources, wildlife, fire management, wilderness, lands, forestry, range, wild horses, recreation, archaeology, and social-economic factors.

Public participation activities will be intense throughout the planning process. An information and education effort will be ongoing to inform the various publics of the procedures, scope, and significance of the land use planning process. Meetings with individual permittees and other interested groups will be used extensively along with the media and public meetings, to stimulate meaningful public input. The Susanville District Advisory Council will be used to help assess public attitudes and needs.

More specific information as well as copies of public comments, resources data, and other documents relative to the planning effort will be available during normal business hours from: The Bureau of Land Management, 705 Hall Street, P.O. Box 1090, Susanville, CA 96130, Att: Mark Morse.

C. Rex Cleary,
District Manager.

[FR Doc. 80-36422 Filed 11-20-80; 8:45 am]
BILLING CODE 4310-84-M

National Park Service

Concession Permit; Mammoth Cave National Park; Reissuance of Notice of Intention To Negotiate a Contract

On June 6, 1980, pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice was given that the Department of the Interior, through the Regional Director, Southeast Region, National Park Service, proposed to negotiate a concession contract with Miss Green River Boat Concession, Inc., authorizing it to continue to provide sightseeing tour boat services for the public at Mammoth Cave National Park for a period of five (5) years from January 1, 1980. Following the issuance of this public notice, the Department of the Interior found it necessary to revise certain requirements of the proposed contract. Therefore, pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on December 22, 1980, the Department of the Interior, through the Regional Director, Southeast Region, National Park Service, proposes to negotiate a concession contract with Miss Green River Boat Concession, Inc., authorizing it to continue to provide sightseeing tour boat facilities and services for the public at Mammoth Cave National Park, Kentucky, for a period of five (5) years from January 1, 1981, through December 31, 1985.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment and finding of no significant impact may be reviewed in the Office of the Superintendent, Mammoth Cave National Park, Mammoth Cave, Kentucky 42259.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under a contract which was to expire by its original terms on December 31, 1979; however, the contract has been extended and is currently in force. Therefore, pursuant to the Act of October 9, 1965, as cited above, the concessioner is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Miss Green River Boat Concession, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the contract, if, thereafter, the proposal of Miss Green River Boat Concession, Inc., is substantially equal to others received. In the event a responsive proposal superior to that of Miss Green River Boat Concession, Inc., (as determined by the Secretary) is submitted, Miss Green River Boat Concession, Inc., will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new contract will be negotiated with Miss Green River Boat Concession, Inc. The Secretary will consider and evaluate all proposals received as a result of this notice.

Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before December 22, 1980 to be considered and evaluated.

Interested parties should contact the Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW., Atlanta, Georgia 30303, for information as to the requirements of the proposed contract.

Dated: November 12, 1980.

Joe Brown,
Regional Director, Southeast Region.

[FR Doc. 80-36329 Filed 11-20-80; 8:45 am]
BILLING CODE 4310-70-M

Office of the Secretary

[INT FEIS 80-49]

Availability of Final Environmental Impact Statement on Allen-Warner Valley Energy System

AGENCY: Bureau of Land Management, Interior.

ACTION: Publication of Final Environmental Impact Statement on the Allen-Warner Valley Energy System proposal.

SUMMARY: The Department of the Interior's Bureau of Land Management has prepared and published a Final Environmental Impact Statement covering a proposal by Nevada Power Company, Southern California Edison Company, Pacific Gas & Electric Company, City of St. George, Utah, and Washington County (Utah) Water Conservancy District to construct and operate the Allen-Warner Valley Energy System, a coal-fired electrical generating system in Utah, Arizona, Nevada, and California to meet local and Southern California energy supply needs. Copies are available from the District Manager, Cedar City District Office, Bureau of Land Management, P.O. Box 724, Cedar City, Utah 84720. Written comments

should be submitted to the same address no later than December 22, 1980, for consideration in the decision of the Secretary of the Interior.

EFFECTIVE DATE:

(1) November 14, 1980—publication of the FEIS.

(2) December 22, 1980—End of comment period on the FEIS.

Note.—This is a five-day Extension of the Comment Period Specified in the FEIS.

ADDRESS: District Manager, Cedar City District Office, Bureau of Land Management P.O. Box 754, 1579 North Main Street, Cedar City, Utah 84720.

FOR FURTHER INFORMATION CONTACT: Dave Everett, Cedar City District Office, Bureau of Land Management, P.O. Box 724, Cedar City, Utah 84720. Telephone Number: (801) 586-2401.

SUPPLEMENTARY INFORMATION: In addition to the description and analysis of the proposed action, the FEIS analyzes five alternatives and identifies the agency preferred alternative, which includes portions of the proposal and alternatives. The FEIS also includes testimony from five public hearings on the DEIS, 130 letters of comment, and appropriate responses.

As described in the FEIS, the applicants' proposed action is to construct and operate a 500-MW powerplant and a 55,000-acre-foot reservoir in Warner Valley, Utah, and a 2,000-MW powerplant at Dry Lake, Nevada, with coal slurried to the plants from the Alton coal field in southern Utah. Analyzed alternatives to the proposed action include: (1) construct a 2,000-MW powerplant at Dry Lake, Nevada, with coal slurried from the Alton coal field; (2) construct a 250-MW powerplant and a 55,000-acre-foot reservoir at Warner Valley, Utah, with coal trucked from the Alton coal field and a 1,000-MW powerplant at Dry Lake, Nevada, with coal railed from central Utah or southwestern Wyoming; (3) construct a 2,000-MW powerplant at Dry Lake, Nevada, with coal railed from central Utah or southwestern Wyoming; (4) energy conservation and the development of alternative energy sources; and (5) no action.

In developing and analyzing the alternative for energy conservation and alternative sources, the California Public Utilities Commission developed and provided data which presented the projected energy needs and energy conservation results for California, a major recipient of the proposed energy production and transmission.

The agency preferred alternative in the FEIS is the development of the Harry Allen powerplant at Dry Lake, Nevada and associated transmission lines, at a capacity to meet State and Federal regulatory requirements, in combination with energy conservation and alternative energy resources. Under this alternative, action would be deferred on the Alton coal field and associated coal slurry pipelines until the Utah State Engineer decides on the proponents' water rights applications and the Secretary of the Interior has rendered a decision on the unsuitability petition for the Alton coal field. This alternative does not include development of the proposed powerplant at Warner Valley, Utah; associated transmission lines and proposed coal slurry pipeline; or the proposed Warner Valley reservior, as currently designed.

A limited number of copies of the FEIS are available at the Cedar City District Office, Bureau of Land Management, 1579 North Main Street, Cedar City, Utah 84720, Telephone: (801) 586-2401. Public reading copies are available for review at this address; at public libraries in Cedar City; and St. George, Utah; Las Vegas, Nevada; Victorville, California; and the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Street, NW., Washington, D.C. 20240, Telephone: (202) 343-5717

Riverside District Office, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92504, Telephone: (714) 787-1462

Las Vegas District Office, Bureau of Land Management, 4765 Vegas Drive, Las Vegas, Nevada 89102, Telephone: (701) 385-6403

Utah State Office, Bureau of Land Management, University Club Building, 136 E. South Temple, Salt Lake City, Utah 84111, Telephone: (803) 524-4227

Arizona Strip District Office, Bureau of Land Management, 196 East Tabernacle, St. George, Utah 84770, Telephone: (801) 673-3545

Written comments on the FEIS should be provided to the District Manager, Cedar City District Office, Bureau of Land Management, P.O. Box 724, Cedar City, Utah by December 22, 1980.

Dated: November 18, 1980.

Larry E. Meierotto,
Assistant Secretary of the Interior.

[FR Doc. 80-36341 Filed 11-20-80; 8:45 am]
BILLING CODE 4310-84-M

[INT FES 80-48]

Availability of Final Environmental Statement

Pursuant to Section 101(2)(C) of the National Environmental Policy Act of 1969, the Department of Interior has prepared a Final Environmental Statement for PNM's Proposed Four Corners-Ambrosia-Parjarito 500 kV Transmission Project in Northwestern New Mexico.

The statement supplements the Final Environmental Statement for the Proposed Expansion of the San Juan Power Plant (INT FES 77-29).

The draft statement considers the human, economic and physical environmental affects associated with the Federal approvals of right-of-way for the construction of a 500 kV transmission line. Right-of-way for this project will require approximately 2,655 acres of Federally administered lands in Northwestern New Mexico.

Copies of the final statement are available for inspection at the following locations.

Bureau of Indian Affairs, Environmental Quality Services, Room 4554, Department of the Interior, Washington, D.C. 20245. Telephone: (202) 343-8248.

Bureau of Indian Affairs, Environmental Quality Services Office, Window Rock, Arizona 86515. Telephone: (602) 871-5151 Extension 5314.

U.S. Department of the Interior, Office of the Secretary, Southwest Region, Room 1400, First National Bank Building, 5301 Central Avenue, NE, Albuquerque, New Mexico 87108. Telephone (505) 766-3565.

Single copies of the Final Environmental Statement may be obtained from the Navajo Area Office, Bureau of Indian Affairs, Window Rock, Arizona 86515.

Dated: November 14, 1980.

James H. Rathlesberger,
Special Assistant to Assistant Secretary of the Interior.

[FR Doc. 80-36304 Filed 11-20-80; 8:45 am]
BILLING CODE 4310-02-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. MC-43]

Lease and Interchange of Vehicles by Motor Carriers

Decided: July 1, 1980.

Allied Van Lines, Inc. (MC 15735 and various subs) and Eleveld Chicago Furniture Service, Inc., (MC 87966 and

various subs) have filed a petition for

Petitions seeking reconsideration must

beginning at the Pennsylvania-New

bulk, and commodities requiring special

and the transfer rules at 49 CFR Part

to junction Tarrant County Road 2078

various subs) have filed a petition for waiver of Subpart B, (§§ 1057.11 and 1057.12) of the Lease and Interchange of Vehicles regulations (49 CFR Part 1057), with respect to equipment augmented between them.

Findings

1. Petitioners are commonly controlled and jointly administer a common safety program.

2. Petitioners have acceptable fitness records.

3. Greater economy and efficiency would result if the waiver were granted in part.

It is Ordered:

1. That the petition of Allied Van Lines, Inc., and Eleveld Chicago Furniture Service, Inc. for waiver of Subpart B (§§ 1057.11 and 1057.12) is granted, except for paragraph (b) of Section 1057.11, with respect to equipment augmented between them, provided petitioners or their authorized representatives agree in writing that control and responsibility for operating the equipment shall be that of the lessee from the time lessee acquires the equipment, and a receipt as required by paragraph (b) of § 1057.11 is furnished to the lessor, until possession is returned to the lessor or the equipment is interchanged with another authorized carrier, and that a copy of the agreement is carried on the vehicle while in lessee's possession.

2. The waiver granted in this decision does not affect the application of the leasing regulations in a lease between an owner-operator and the lessor carrier.

By the Commission, Motor Carrier Leasing Board, Board Members Joel E. Burns, Robert S. Turkington, and John H. O'Brien.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-36346 Filed 11-20-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Finance Application; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed on or before December 11, 1980. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

MC–FC–78728. By decision of October 14, 1980, on appeal issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 granted applicants' petition for reconsideration and approved the transfer to Transportation Enterprising, Inc., of Austin, TX, of Certificate MC–56810 (Sub-1) issued to Texas Motor Coaches, Inc., at Grand Praire, TX, authorizing the transportation of Passengers and their baggage, and express, newspapers, and mail in the same vehicle with passengers, over regular routes, Between Fort Worth, TX and Dallas, TX: From Fort Worth, TX over US 80 to Dallas and return over the same route. Between Fort Worth, TX and Arlington, TX: From Fort Worth over Tarrant County Road 2076 to junction TX Hwy 1, thence over TX Hwy 1 to junction Tarrant County Road 2050, thence over Tarrant County Road 2050 to junction Tarrant County Road 2013, thence over Tarrant County Road 2013 to junction Tarrant County Road 2078, thence over Tarrant County Road 2078 to junction of an undesignated road leading to Tarrant County Road 2014, thence over said undesignated road and over Tarrant County Road 2014 to junction Tarrant County Road 2013, thence over Tarrant County Road 2013 to junction Tarrant County Road 2050, thence over Tarrant County Road 2050 to junction Tarrant County Road 2009 (Arlington-Mansfield Highway), thence over Tarrant County Road 2009 to junction Tarrant County Road 2049, thence over Tarrant County Road 2049, to junction Tarrant County Road 2075, thence over Tarrant County Road 2075 and its extension (Center Street) in Arlington to Abram Street, and return over the same route. Application has been filed for temporary authority under 49 U.S.C. 11349. Applicant's representative: Mert Starnes, P.O. Box 2207, Austin, TX 78768. Transferee holds no authority.

MC–FC–78750. By decision of October 24, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to E.L.&R. Trucking Co., Inc., of Certificate MC–116882 (Sub-No. 7) issued April 26, 1979 to Joe L. Lambert authorizing the transportation of *Precast concrete products* (1) from the facilities of Centurial Products Corporation at Zanesville, OH and from the facilities of the Marietta Concrete Company at Marietta, OH to points in Indiana, Kentucky, Maryland, Michigan, North Carolina, Pennsylvania, Tennessee, Virginia, and West Virginia; and (2) from the facilities of Centurial Products Corporation at New Martinsville, Parkersburg and Waverly, WV to points in Indiana, Kentucky, Maryland, Michigan, North Carolina, Ohio, Pennsylvania, Tennessee, and Virginia. Restriction: The authority in (1) and (2) to the transportation of traffic originating at the named origins. Applicant's representative is: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526.

MC–FC–78756. By decision of October 8, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to J. F. Lomma, Inc., of South Kearney, NJ, of Certificate MC–43381, issued April 28, 1970, to Supor & Son Trucking & Rigging, Inc., authorizing the transportation over irregular routes, of (1) *Machinery*, which because of size or weight requires special equipment, between points in Essex, Bergen, Passaci, and Hudson Counties, NJ, on the one hand, and, on the other, points in New York on and south of a line beginning at the Pennsylvania-New York State line at Hancock, NY, then over New York Highway 30 to intersection New York Highway 23, then over New York Highway 23 to the New York-Connecticut State line, and (2) *Household goods*, between New York, NY, on the one hand, and, on the other, points in New Jersey. Applicants' representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transferee holds no authority. TA lease is not sought.

MC–FC–78757. By decision of October 24, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to J. SUPOR & SON TRUCKING & RIGGING CO., INC., Harrison, New Jersey of Certificate MC–5728 issued August 21, 1980 to EDWARD F. CLARK TRUCKING CORPORATION, Harrison, New Jersey authorizing common carrier transportation over *irregular* routes: *Machinery* and *articles* requiring special handling or rigging because of size or weight.

From Bayonne, N.J., and points in New Jersey within 25 miles of Bayonne, to points in New Jersey, Pennsylvania, New York, Connecticut, Massachusetts, and Rhode Island within 200 miles of Bayonne, with no transportation for compensation on return except as otherwise authorized. Applicant's representative is: George A. Olsen, Atty., P.O. Box 357, Gladstone, N.J. 07934.

MC–FC–78758. By decision of September 16, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Boyd F. Powers and Michael J. Powers d.b.a. Powers Trucking Co. of Lock Haven, PA of Certificate MC–78687 (Sub-No. 31) issued 2/28/72 to Lott Motor Lines, Inc. of Moravia, NY authorizing the transportation of coal from points in Centre County, PA, to points in NY. Applicant's representative is: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. TA application has not been filed.

MC–FC–78776. By decision of October 15, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to BETHANY EXPRESS, INC., of Kansas City, MO, of Certificate MC–129802 (Sub-No. 5), issued July, 1974, to ABC CARTAGE, of Des Moines, IA, authorizing the transportation as a motor common carrier, over regular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) between Des Moines and Lamoni, IA: (a) from Des Moines over Interstate Hwy 35 to junction US Hwy 69, then over US Hwy 69 to Lamoni and return over the same route, serving no intermediate points and serving Murray, IA, as an off-route point, and (b) over US Hwy 69, serving no intermediate points, and serving Murray, IA, as an off-route point; and (2) between Des Moines and Moravia, IA, serving no intermediate points: (a) from Des Moines over US Hwy 65 to junction US Hwy 34, then over US Hwy 34 to junction IA Hwy 5, then over IA Hwy 5 to Moravia and return over the same route, and (b) over IA Hwy 5. Applicants' representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Application for temporary authority has been filed in Docket MC–F–14419F.

MC–FC–78779. By decision of October 8, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to New Haven Bus Service, Inc. of New Haven, CT of Certificate No. MC–115025 (Sub-No. 4) issued August 29, 1960 to The Short Line of Connecticut, Incorporated d/b/a/ The Short Line of Milford, CT authorizing the transportation of passengers and their baggage, and express and newspapers in the same vehicle with passengers, and baggage of passengers in separate vehicles, between New Haven, CT, and Hartford, CT, serving all intermediate points: from New Haven over Alternate U.S. Highway 5 to North Haven, CT (also from New Haven over U.S. Hwy 5 to North Haven), thence over U.S. Hwy 5 via Wallingford, CT, to junction Alternate U.S. Hwy 5, thence over Alternate U.S. Hwy 5 via Yalesville, Tracy and Meriden, CT, to junction U.S. Hwy 5, thence over U.S. Hwy 5 to junction Alternate U.S. Hwy 5, thence over Alternate U.S. Hwy 5 via Berlin, CT, to junction U.S. Hwy 5 (also from junction U.S. Hwy 5 and Alternate U.S. Hwy 5, at Yalesville, CT, over U.S. Hwy 5 to junction Alternate U.S. Hwy 5 (Berlin-Hartford Turnpike) at Berlin, CT), thence over U.S. Hwy 5 via the Town of Newington and the Town of Wethersfield, CT, to Hartford (also from junction U.S. Hwy 5 and Alternate U.S. Hwy 5 over Alternate U.S. Hwy 5 to Hartford, and return over the same route. Applicant's representative is: Donald C. Lunt, 86 North Main Street, Wallingford, CT 06492. TA application has been filed. Transferor hold no authority.

MC–FC–78781. By decision of October 24, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Tennessee Western Corporation, doing business as Tennessee Western Express, of Certificate Nos. MC–142948, (Sub-Nos. 1, 2, 4, 6, 7F, 12F, and 13F), and Permit Nos. MC–138336 (Sub-Nos. 2, 3, 4, 5, 9, 11, and 12). The following transportation is authorized under the certificates: MC 142948 (Sub-No. 1). Irregular Routes: *New wooden furniture*, From the facilities of Davis Cabinet Company, at Nashville, Tenn., to points in Arizona, California, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, and Washington, with no transportation for compensation on return except as otherwise authorized. Restriction: The service authorized herein is subject to the following conditions: The authority granted herein is restricted to the transportation of shipments originating at the named facilities. The authority granted herein shall be subject to the right of the Commission, which is hereby expressly reserved, to impose such terms, conditions or limitations in the future as it may find necessary in order to insure that carrier's operations shall conform to the provisions of Section 210 of the Act. This certificate is issued pursuant to an application filed after November 23, 1973, and in accordance with 49 CFR Part 1065 may not be tacked or joined with the carrier's other irregular-route authority unless specifically authorized herein. MC 142948 (Sub-No. 2). Irregular routes: *Gum solvents, aluminum plate and sheet, plastic powder, photo-offset printing plates, and cellulose and plastic dry sponges*, From the facilities of Sumner Williams, Inc., a Division of Citiplate, Inc., at Jackson, TN, to points in Arizona, California, Colorado, Nevada, New Mexico, Utah, and Texas. Restriction: The authority granted herein is subject to the following conditions: This authority is restricted to the transportation of traffic originating at the named origin facilities and destined to points in the named destination States. The Commission reserves the right to impose such terms, conditions, or limitations in the future as it may find necessary to insure that carrier's operations conform to the provisions of section 210 of the Act. This certificate may not be joined or tacked with the carrier's other irregular-route authority. MC–142948 (Sub-No. 4). Irregular Routes: *Wooden ladders*, From the facilities of the Davidson Mfg., Corp., at Nashville, TN, to points in Kentucky, Georgia, Florida, Mississippi, Louisiana, Indiana, Ohio, Illinois, Alabama, South Carolina, North Carolina, Virginia, and West

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Virginia. Restriction: The operations authorized herein are subject to the following conditions: Said operations are restricted to the transportation of traffic originating at the named facilities and destined to the named destination States. The Commission reserves the right to impose such terms, conditions, or limitations in the future as it may find necessary to insure carrier's operations conform to the provisions of Section 210 of the Act. This certificate may not be joined or tacked with the carrier's other irregular-route authority. Irregular Routes: *Industrial and residential electrical heating and air conditioning equipment,* From the facilities of T. P. I. Corporation, at Johnson City, Tenn., to points in California, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming. Restriction: The authority granted herein is subject to the following conditions: This authority is restricted to the transportation of shipments originating at the indicated origin. The Commission reserves the right to impose such terms, conditions, or limitations in the future as it may find necessary to insure that carrier's operations shall conform to the provisions of Section 210 of the Act. MC–142948 (Sub-No. 7F). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *electroleless hickel plating solution* (except in bulk) from the facilities of Elnic of Tennessee, Inc., at Nashville, TN, to points in the United States (except Tennessee, Alaska, and Hawaii). MC–142948 (Sub-No. 12F). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cosmetics, hair and body care products,* and (2) *supplies,* used in the distribution of the commodities in (1) above, from the facilities of W. H. Feronce Co., at Philadelphia, PA, to points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic originating at the named origins and destined to the named destinations. MC 142948 (Sub-No. 13F). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *shoes,* (2) *supplies,* used in the manufacture and distribution of shoes, and (3) *clothing,* from the facilities of Genesco, Inc., at (a) Nashville, TN, and (b) Huntsville, AL, to points in Arizona, California, and Utah, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. The following transportation is authorized under the permits: MC 138336 (Sub-No. 3). Irregular Routes: *Automotive parts, accessories,* and *supplies,* from Nashville, Tenn., and Bowling Green, Ky., to points in Arizona, California, Colorado, Nevada, New Mexico, Oklahoma, Texas, Utah, Washington, and Oregon, with no transportation for compensation on return except as otherwise authorized. From Eugene, Oreg., and Los Angeles, Calif., to Nashville, Tenn., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Holley Carburetor Division, Colt Industries Operating Corporation of Nashville, Tenn. MC 138336 (Sub-No. 4). Irregular Routes: *Fiberglass rovings, crushed or powdered glass, synthetic fiber wastes,* and *liquid plastic* (except commodities in bulk), from Nashville, Tenn., to Arlington, Tex., and Huntington Beach, Calif., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Reichhold Chemicals, Inc., of Cleveland, Ohio. MC 138336 (Sub-No. 5). Irregular Routes: *Dry cleaning and laundry equipment, materials and supplies* (except commodities in bulk, and those which by reason of their size or weight require the use of special equipment); and (2) *parts* for the commodities in (1) above (except commodities which by reason of their size or weight require the use of special equipment), from Louisville, Ky., and Cincinnati, Ohio, to points in Arizona, California, Florida, Georgia, Nevada, New Mexico, Oregon, Texas, Utah, and Washington, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with W. M. Gissell Manufacturing Co., of Louisville, Ky. MC 138336 (Sub-No. 9). Irregular Routes: *Games, toys,* and *plastic articles* (except in bulk), from Henderson, Ky., to Los Angeles, San Francisco, and Oakland, Calif., with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a tranpsortation service to be performed, under a continuing contract, or contracts with Kusan, Inc., of Nashville, Tenn. MC 138336 (Sub-No.11). Irregular Routes: *Glass traffic safety reflectors, traffic safety reflector spray,* and *glass sanders and buffers, from Jackson, Miss., to points in Washington, Oregon, California, Nevada, Arizona, Utah, Colorado, New Mexico, and Texas, with no transportation for compensation on return except as otherwise authorized. Graphite crucibles and plus therefor, kiln fire bricks, kiln bonding cement,* and *crude silicon carbide,* from Blasdell, N.Y., to East Liverpool, Ohio, Tyler, Tex., and points in California, Kentucky, Louisiana, Mississippi, Nevada, Oregon, Tennessee, and Washington, with no transportation for compensation on return except as otherwise authorized. *Fiberglass rovings, fiberglass cloth, crushed and powdered glass, synthetic fiber wastes,* and *liquid plastics,* From Nashville, Tenn., to points in Oregon and Washington, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to the following conditions: Said operations are restricted against the transportation of commodities in bulk, in tank vehicles. Said operations are further restricted to the transportation of service to be performed under a continuing contract, or contracts, with Ferro Corporation, of Cleveland, Ohio. MC 138336 (Sub-No. 12). Irregular Routes: *Iron and steel storage and warehouse racks and shelving,* from Springfield, Tenn., to points in Arizona, California, Nevada, Oregon, Utah, and Washington, with no transportation for compensation on return except as otherwise authorized. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts, with Unarco Industries, Inc.

MC–FC–78782. By decision of October 23, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to Progressive Transfer Co. of Permit No. MC–74311 issued April 13, 1980 to Olsen Roe Transfer Co. authorizing the transportation of general commodities (except those of unusual value, dangerous explosives, and household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, and those injurious or contaminating to other lading), between Portland, OR and East Mill Plain, WA, with service authorized from the intermediate point of Vancouver, WA; also general commodities over irregular routes (with some exceptions mentioned above), between points and places within 3 miles of Portland, OR; including Portland; and milk from East Mill Plain, WA, and points and places within 10 miles thereof, to Portland, OR; and empty milk cans from Portland, OR to East Mill Plain, WA and points and places within 10 miles thereof, subject to the following conditions: Applicant's representative is: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210.

MC–FC–78785. By decision of October 22, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to Beach Van & Storage of Seaside, CA, of Certificate No. MC–126768 (Sub-No. 1) and MC–126768 (Sub-No. 3) issued October 9, 1980, and May 18, 1970, respectively, to Wiley Transfer & Storage Co., of Seaside, CA, authorizing the transportation in MC–126768 (Sub-No. 1) of *Used household goods,* between points in Monterey and Santa Cruz Counties, Calif. RESTRICTION: The operations authorized herein are subject to the following conditions: Said operations are restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized. Said Operations are restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic. In MC–126768 (Sub-No. 3) of *processed fish and fish products,* from Monterey, Calif., to San Francisco, Oakland, Richmond, Alameda, Berkeley, Emeryville, Hayward, and San Jose, Calif.; and *Cannery machinery, cannery supplies, and fish livers,* from San Francisco, Oakland, Richmond, Alameda, Berkeley, Emeryville, Hayward, and San Jose, Calif., to Monterey, Calif. *Chrome ore and chrome ore concentrates,* from the mill site of Palo Alto Mining Corporation, about 7 miles southwest of San Jose, Calif., and from the mill site of J. R. Holman, about 30 miles northwest of Coalinga, Calif., to Grants Pass, Oreg., with no transportation for compensation on return except as otherwise authorized. From the mill site of Bonnell Mining Co., approximately 14 miles northwest of Coalinga, Calif., to Grants Pass, Oreg., with no transportation for compensation on return except as otherwise authorized. Applicant's representative is: Michael S. Rubin, Attorney, 256 Montgomery Street, Fifth Floor, San Francisco, CA 94104. TA application has not been filed. Transferee presently holds no authority from the Commission.

MC–FC–78786. By decision of October 23, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to Jayco Corp., Inc., of Shrewsbury, MA, of Permit No. MC–147035 (Sub-No. 2F) issued July 22, 1980 to Howard Leasing Inc., of Uxbridge, MA, authorizing the transportation for compensation of *meats, meat products, and meat byproducts,* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, and (2) materials and supplies used in the packaging of the commodities named in (a) above, between the facilities of Snider Bros. Inc., and Portion Control Meat Processing Co., Inc., at Wilkinsonville, MA, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KY, KS, LA, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, ND, OH, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC. If transferee desires to become an applicant in the transferor's pending proceedings, Docket Nos. 147035 (Sub-No. 3) and MC–147035 (Sub-No. 5), upon consummation of the transfer, an appropriate request for substitution of transferee as applicant in those proceedings may be filed. Applicant's representative is: James F. Martin, Jr., 8 W. Morse Road, Bellingham, MA 02019, (617) 966–2093. TA application has not been filed. Tranferee presently holds no authority from the Commission.

MC–FC–78789. By decision of October 22, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Schmidt Brothers Transport, Inc., of Augusta, WI, of Permit No. MC–125140 issued May 30, 1979, to Richard B. Brunzlick, Inc., of Augusta, WI, authorizing a portion of the transportation of *dairy products* from Chippewa Falls and Westby, WI to points in Minnesota; *cheese, cottage cheese, cheese dip, butter, powdered milk* and *cream* from Chippewa Falls, Deerfield, and Westby, WI to points in Illinois; (except points in the Chicago, IL commercial zone as defined by the Commission), Indiana, Missouri and Iowa; *cottage cheese,* from Holy Cross and Bettendorf, IA to Chippewa Falls and Westby, WI; *new empty containers,* used in retail sales of cottage cheese and cheese dip, from points in Illinois (except points in the Chicago, IL commercial zone, as defined by the Commission), Indiana, Missouri and Iowa, to Chippewa Falls and Westby, WI; *orange juice,* from Chippewa Falls and Westby, WI and Columbia, MO, to points in Indiana, Missouri, Iowa and Illinois (except points in the Chicago, IL commercial zone as defined by the Commission), and from Columbia, MO to Chippewa Falls and Westby, WI; *dairy products, fruit juices,* and *fruit drinks,* from Rockford, IL to points in Illinois, Iowa, Indiana, Missouri, Wisconsin, Minnesota and points in Michigan on and south of U.S. Hwy 10; *dairy products* and *fruit juices,* from Chippewa Falls and Westby, WI to points in that part of Michigan on and south of U.S. Hwy 10. The transferee is not an ICC motor carrier and is not affiliated with any motor, rail or water carrier, express company, freight forwarder or broker. Application for temporary authority has been filed under 49 U.S.C 11349. Applicant's representative: James E. Ballenthin, Attorney, 630 Osborn Building, St. Paul, MN 55102.

MC–FC–78793. By decision of October 24, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Mary M. Lochmiller of Denver, CO of Certificate No. MC–146416 Sub-Nos. 4F, 6F, 7, 13F, 14F, and 15F issued July 11, 1980, August 15, 1980, July 1, 1980, and August 6, 1980 to Heritage Transportation Company of Torrance, CA, authorizing the transportation of transporting such commodities as are dealt in or used by manufacturers or distributors of sound recordings, (except commodities in bulk), (1) from Danbury, CT, New York, NY, and points in New Jersey, to Terre Haute, IN, and points in California, (2) from Terre Haute, IN, to Danbury, New York, NY, and points in New Jersey and California, and (3) from points in California, to Danbury, CT, Terre Haute, IN, New York, NY, and points in New Jersey, restricted, in (1) through (3) inclusive, to the transportation of traffic originating at or destined to the facilities of CBS, Inc.; chemicals, cleaning, scouring and washing compounds, plastic liquids and sheeting, ink, defoaming compounds, laminating machinery, parts, solvents, pallets, and containers, in vehicles equipped with mechanical refrigeration, between the facilities of Thiokol/Dynachem Corporation at or near Tustin, CA, points in Los Angeles, Orange, Riverside and San Bernardino Counties, CA, on the one hand, and, on the other, points in Massachusetts, New Jersey, Virginia, North Carolina, Florida, Michigan, Indiana and Texas; drugs and toilet preparations, from Union and Kenilworth, NJ, to points in California; toilet preparations, from East Hills, NY to Los Angeles and San Francisco, CA; such merchandise, materials, equipment and supplies as are used, manufactured or dealt in by manufacturers and distributors of paper and film products, photographic materials, reproduction

and duplicating products and supplies, (1) from South Hadley and Holyoke, MA, to Chicago, IL and Oklahoma City and Tulsa, OK, to points in California, and (2) between South Hadley, Holyoke, and Woburn, MA, on the one hand, and, on the other, Tustin, CA; and dressed hogs, from La Junta, CO, and York, NE, to points in California. Applicant's representative is: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. TA application has been filed. Transferee holds no authority.

MC–FC–78794. By decision of October 22, 1980, issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Carpenter Trucking Company, Inc. of Charlotte, NC of Certificate of Registration No. MC-96825 (Sub-No. 1) issued June 19, 1984, to Lucy W. Carpenter, Executrix of the Estate of Zeb Vance Carpenter, d/b/a Carpenter Trucking Company of Charlotte, NC evidencing a right to engage in transportation in interstate commerce corresponding in scope to Motor Common Carrier Certificate No. C–508 dated October 19, 1953 issued by North Carolina Utilities Commission. The operating rights are as follows: special equipment except unmanufactured tobacco and accessories, over irregular routes from Charlotte to all points and places within a 100-mile radius thereof, and from Charlotte to Raleigh and electric transformers, electric motors, parts materials and equipment for use with the same, from Charlotte to points and places within a radius of 200 miles of Charlotte, and use motors, transformers, parts and materials from points and places in said destination territory to Charlotte. Applicant's representative is: Robert B. Blythe, 3250 NCNB Plaza, Charlotte, NC 28280. TA application has not been filed. Transferee holds no authority.

MC–FC–78795. By decision of October 16, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to J and R Towing, Inc. of Certificate No. MC–116906 (Sub-No. 1) issued October 27, 1978 to Lonnie Bramlette, Jr. d/b/a J and R Towing authorizing the transportation of (1) Automobiles, trucks, truck tractors, and buses for replacement purposes only, in wrecker-type service only, from Chicago, IL to points in IN, MI, MO, and WI; (2) Disabled or wrecked automobiles, buses, trucks, tractors and semitrailers from points in IN, MI, MO, and WI to Chicago, IL; and (3) Tractors and trailers, and disabled tractors, trucks, automobiles, buses and trailers in a wrecker-type service, between points in IL, IA, IN, MI and WI (except points in Milwaukee County, WI). Applicant's representative: Richard A. Kerwin, 180 North La Salle Street, Chicago, IL 60601.

MC–FC–78796. By decision of October 14, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Murty Bros. Agency, Inc. of Certificate No. MC–107947 issued April 12, 1977 to Murty Van, Inc. authorizing the transportation over irregular routes of *show horses and race horses and equipment and supplies* used in the care and display between points in Massachusetts, New Hampshire, Vermont, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, North Carolina, South Carolina and the District of Columbia. *Livestock,* other than ordinary livestock, and in the same vehicle with such livestock, *mascots, gaun animals, personal effects of attendants,* trainers and exhibits and supplies and equipment used in the care and exhibition between points in the above specified states on the one hand, and on the other, points in Alabama, Arkansas Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Ohio and Tennessee. Between points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Ohio and Tennessee. Applicant's representative: Eugene T. Liipfert, Esquire, Attorney at Law, 1660 L Street N.W., Washington, D.C. 20036.

MC–FC–78800. By decision of October 14, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to Transportation & Consolidated Centers, Inc., of Harrisburg, PA, of Certificate No. MC–35377 (Sub-No. 1 issued to Merchants Delivery, Inc., of Harrisburg, PA, authorizing the transportation of general commodities (usual exceptions), from Harrisburg, PA, to points in a defined portion of PA, restricted to a small package delivery service. Applicant's representative is: John E. Fullerton, 407 N. Front St., Harrisburg, PA 17101. Transferee holds no authority. TA lease is not sought.

MC–FC–78802. By decision of October 24, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to ARTHUR W. HUPPERT, d/b/a/ ACTION REFRIGERATED TRUCKING, an individual, of Bloomington, IL, of Certificate No. MC–123361 (Sub-No. 4) issued July 11, 1977 to CANTWELL MOTOR SERVICE, INC., of Fairview Heights, IL, authorizing the transportation by irregular routes of *meats, meat products and meat by-products,* and *articles distributed by meat packinghouses,* as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk). Between Bloomington, IL, on the one hand, and, on the other, points in Vigo County, IN, and points in that part of Illinois on and south of U.S. Highway 30, and on and north of Interstate Highway 70. Applicants' representative is: Ernest A. Brooks, II, 1301 Ambassador Building, St. Louis, MO 63101. Transferee presently holds no authority from the Commission.

MC–FC–78803. By decision of November 6, 1980 issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the lease to Bandera Trucking, Inc., for a period of 20 years of Certificate of Registration No. MC–96801 (Sub-No. 1) issued December 7, 1979, to Bandera Drilling Co., Inc., doing business as Bandera Trucking Co. evidencing a right to engage in transportation in interstate commerce corresponding in scope to Certificate No. 5383 dated August 14, 1978 issued by The Railroad Commission of Texas. Applicant's representative is: Albert G. Walker, Jr., 401 Republic National Bank Building, 3301 Northland Drive, Austin, TX 78731.

MC–FC–78808. By decision of October 24, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to Big Wheels Transport and Leasing Ltd. Kensington, P.E.I., Canada COB 1 MO of Certificate No. MC–136270 and (Subs-Nos. 1, 3 and 4) issued March 12, 1974, November 19, 1976, and July 9, 1976 respectively to Donald B. Hirtle Transport, Limited Blockhouse, Lunnenburg County, Nova Scotia, Canada authorizing the transportation of Irregular Routes: (1) *Processed fish* when moving in mixed loads with the commodities in (2) below, (2) *fish* otherwise exempt from economic regulation under the provisions of section 203(b)(6) of the Interstate Commerce Act, in mixed loads with processed fish, From ports of entry on the United States-Canada Boundary line located at Calais and Houlton, Maine, and from Bar Harbor and Portland, Maine, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. (3) *Materials, supplies and equipment* used in the operation and maintenance of fishing boats and fish processing plants (except commodities in bulk and lumber), From points in Massachusetts, to ports of entry on the United States-Canada Boundary line located at Calais and Houlton, Maine, and to Bar Harbor and Portland, Maine, with no transportation for compensation on return except as otherwise authorized. Restriction: Service at Bar Harbor and Portland, Maine, is restricted to the transportation of traffic having a prior or subsequent movement by water. Irregular Routes: (1) *Bananas,* and (2) *commodities* otherwise exempt from economic regulation pursuant to section 203(a)(6) of the Interstate Commerce Act, in mixed loads with bananas, From Chelsea, Mass., to ports of entry on the United States-Canada Boundary line located at or near Calais and Houlton, Maine, and to Bar Harbor and Portland, Maine. Applicant's representative is: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043 (617) 749–6500.

MC–FC–78813. By decision of October 20, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to G.W. Bigham, L.C. for compensation on return except as otherwise authorized. (3) *Bananas,* From Albany, N.Y., to ports of entry on the United States-Canada Boundary line located at Calais and Houlton, Maine, and to Bar Harbor and Portland, Maine, with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted herein is restricted to the transportation of shipments moving in foreign commerce. Irregular Routes: (1) *Processed fish* (except in bulk), when moving in mixed loads with the commodities in (2) below, (2) *fish,* the transportation of which is otherwise exempt from economic regulation under the provision of section 203(b)(6) of the Interstate Commerce Act, in mixed loads with processed fish, From ports of entry on the United States-Canada Boundary located at Calais and Houlton, Maine, and from Bar Harbor and Portland, Maine, to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia and the District of Columbia, with no transportation for compensation on return except as otherwise authorized. (3) *Materials, supplies and equipment* used in the operation and maintenance of fishing boats and fish processing plants (except commodities in bulk and lumber), From points in Massachusetts, to ports of entry on the United States-Canada Boundary line located at Calais and Houlton, Maine, and to Bar Harbor and Portland, Maine, with no transportation for compensation on return except as otherwise authorized. Restriction: Service at Bar Harbor and Portland, Maine, is restricted to the transportation of traffic having a prior or subsequent movement by water. Irregular Routes: (1) *Bananas,* and (2) *commodities* otherwise exempt from economic regulation pursuant to section 203(a)(6) of the Interstate Commerce Act, in mixed loads with bananas, From Chelsea, Mass., to ports of entry on the United States-Canada Boundary line located at or near Calais and Houlton, Maine, and to Bar Harbor and Portland, Maine. Applicant's representative is: Francis E. Barrett, Jr., 10 Industrial Park Road, Hingham, MA 02043 (617) 749–6500.

MC–FC–78813. By decision of October 20, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to G.W. Bigham, L.C. Bigham, and Melvin Bigham, a partnership d/b/a W.K. Bigham and Sons, of Lubbock, TX, of Certificate No. MC–109006 and all subs thereunder issued to the above partners and C.L. Bigham (deceased) authorizing the transportation of wood buildings, complete, between points in Arizona, Arkansas, Colorado, Kansas, Louisiana, New Mexico, Oklahoma, Texas, Utah, and Nebraska on and south of Interstate Hwy 80. G.W. Bigham and Melvin Bigham must sign a statement adopting the application and submit it to the Commission, and a representative of the estate of C.L. Bigham must adopt the application in the name of transferor. This condition must be complied with prior to the issuance of the effective notice. Applicant's representative is: James M. Gerdeman, 2321 50th St., Lubbock, TX 79412. TA lease is not sought.

MC–FC–78814. By decision of Oct. 20, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to The Fortune Corporation of Seattle, WA, of (1) Certificate No. MC–136798 (Sub-No. 1) issued October 20, 1980, authorizing the transportation, over irregular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment); between Seattle, WA, and Skykomish, WA, serving the intermediate point of Woodinville, and those between Seattle and Woodinville, restricted to traffic moving to or from points beyond Woodinville; Monroe, Wa, restricted to traffic moving to or from points other than Seattle; and all other intermediate points unrestricted; and the off-route points of Scenic, Index, Roosevelt, Woodruff, Maltby, Cathcart, Murphy's Corner, Wintermute's Corner, and those within 3 miles of the above-specified routes: from Seattle over WA Hwy 2 to Woodinville, WA, then over WA Hwy 1A to Snohomish, WA, and then over Alternate U.S. Hwy 10 to Grotto, WA, then over unnumbered highway to Skykomish and return over the same route: Between Everett, WA, and Snohomish, WA: from Everett over Alternate U.S. Hwy 10 to Snohomish, and return over the same route; RESTRICTION: Direct service is not authorized between Everett and Seattle. Between Woodinville, WA, and Monroe, WA, Serving the intermediate points of Duvall, WA, from Woodinville over WA Hwy 2–C to Duvall, WA, and then over WA Hwy 15–B to Monroe, and return over the same route. Between Skykomish, WA, and a ski lodge located at the summit of Stevens Pass, 12 miles east of Scenic, WA, serving no intermediate points: from Skykomish over WA Hwy 15 to the ski lodge, and return over the same route. Serving those points in Snohomish County, WA, within 15 miles of WA Hwy 15 (U.S. Hwy 2) between Snohomish, WA, and the summit of Stevens Pass, 12 miles east of Scenic, WA, as off-route points in connection with carrier's authorized regular route operations to and from Snohomish, WA; and (3) the authority transferred by decision served April 4, 1980 in MC–F–14257F which authorized the transportation, over regular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and those injurious or contaminating to other lading) between Seattle, WA, and Tacoma, WA, serving no intermediate points; from Seattle over WA Hwy 99 (formerly U.S. Hwy 99) to Tacoma and return over the same route. The above authority is currently held by Maust Transfer Company of Seattle, WA. Applicants' representative is: Jack R. Davis; 1100 IBM Building, Seattle, WA 98101.

MC–FC–78817. By decision of October 22, 1980 issued under 49 CFR Part 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to E. STIEWING, INC. of Certificate No. MC–94040 issued August 14, 1958 to ALBERT C. STIEWING dba E. STIEWING & SON authorizing the transportation of *Household Goods,* as defined by the Commission, between Milford, CT, and points within 15 miles thereof, on the one hand, and, on the other, points in New Hampshire, New Jersey, New York, Massachusetts, and Rhode Island. Applicant's representative is: William J. Meuser, Esq., 86 Cherry St., P.O. Box 507, Milford, CT 06460.

MC–FC–78819. By decision of October 24, 1980, issued under 49 U.S.C. 10926, 10931 or 10932 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to The George Rimes Trucking Company, Inc. of Chardon, OH of Certificate No. MC–5914 and a portion of Certificate of Registration No. MC–5914 (Sub-No. 9) issued May 22, 1959 and June 10, 1985, to William G. Rimes, Mildred Gaylor, Florence Davis, Dorothy C. Orient and Leota Hildinger, A Partnership, d/b/a/ George Rimes of Chardon, OH evidencing a right to engage in transportation in interstate commerce corresponding in scope to Motor Common Carrier Certificates Nos. 384–

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R, 365–I and 1933–I dated May 18, 1962, July 31, 1962 and February 10, 1959 issued by the Public Utilities Commission of Ohio authorizing livestock, household goods between Cleveland, OH, and Thompson, OH, serving all intermediate points and the off-route points of Highland Heights, Mayfield, and Richmond Heights, OH, and points in Chester, Munson, Chardon, Hambden, and Thompson Townships, Geauga County, OH; from Cleveland over U.S. Hwy 322 to junction OH Hwy 44, thence over OH Hwy 44 to Chardon, OH, thence over U.S. Hwy 6 to Hambden, OH, thence over OH Hwy 166 to junction OH Hwy 528, and thence over OH Hwy 528 to Thomp, and return over the same route; between the junction of U.S. Hwy 322 and OH Hwy 44 and the junction of OH Hwys 528 and 166, serving all intermediate points and the off-route points of Highland Heights, Mayfield, and Richmond Heights, OH, and points in Chester, Munson, Chardon, Hambden, and Thompson Townships, Geauga County, OH; from the junction of U.S. Highway 322 and OH Hwy 44 over U.S. Hwy 322 to Huntsburg, OH, and thence over OH Hwy 528 to the junction of OH Hwy 523 and 166, and return over the same route; between the junction of U.S. Hwy 322 and OH Hwy 44 and Burton, OH, serving all intermediate points and the off-route points of Highland Heights, Mayfield, and Richmond Heights, OH, and points in Chester, Munson, Chardon, Hambden, and Thompson Townships, Geauga County, OH; from the junction of U.S. Hwy 322 and OH Hwy 44 over OH Hwy 44 to junction OH Hwy 87, and thence over OH Hwy 87 to Burton, and return over the same route. Property over irregular routes, from and to points and places in Chardon, Hambden, Thompson, Montville, Huntsburg, Claridon, Munson, Chester, Newbury and Burton Townships, Geauga County, OH; also from and to Gates Mills Village, Cuyahoga County, OH. Also transportation of household goods, office furniture and fixtures, uncrated, and fertilizer and feed, upon and over irregular routes from and to points and places in Middlefield Township, Geauga County, OH. Applicant's representative is: David A. Turano, 100 East Broad St., Columbus, OH 43215. TA Application has not been filed. Transferee holds no authority.

MC–FC–78820. By decision of October 22, 1980, issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to G&W Cartage, Inc., of Chardon, OH, of a portion of Certificate of Registration No. MC–5014 (Sub-No. 9) issued June 10, 1965, to William G. Rimes, Mildred Gaylord, Florence Davis, Dorothy C. Orient, and Leota Hildinger, d/b/a George Rimes Trucking Company, of Chardon, OH, evidencing a right to engage in transportation in interstate commerce corresponding in scope to certificate No. 1933–I dated February 10, 1959 issued by the Public Utilities Commission of Ohio, as follows: property, from and to points in Chardon, Hambden, Thompson, Montville, Huntsburg, Claridon, Munson, Chester, Newbury and Burton Townships, Geauga County, OH; also from and to Gates Mills Village, Cuyahoga County, OH; household goods, office furniture and fixtures, uncrated, and fertilizer and feed, from and to points in Middlefield Township, Geauga County, OH. Applicant's representative is: David A. Turano, 100 E. Broad St., Columbus, OH 43215. TA lease is not sought. Transferee is not a carrier.

MC–FC–78821. By decision of October 24, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to ILLINANA DISTRIBUTION SERVICE, INC., of Crete, IL, of Certificates Nos. MC–44932 and MC–44932 (Sub-Nos. 5, 11, 13, 14, 15, and 18), issued to W. W. YOUNG & SON, INC., of Lynwood, IL, authorizing the transportation of the following: (a) MC–44932—Irregular routes: *General commodities,* (except those of unusual value, Class A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the Chicago, IL, Commercial Zone, as defined by the Commission in 1 M.C.C. 673; *Brick, stone, terra-cotta, marble and slate haydite, cement and haydite blocks, glazed tile,* and *forms* used or useful in the manufacture of these products, between points in Cook, Lake, DuPage, and Will Counties, IL, on the one hand, and, on the other, points in Wisconsin within 100 miles of State and Madison Streets, Chicago, IL; *Brick, stone, terra-cotta, tile, cement, marble, cinders, haydite, plywood, debries, excavating, cement and haydite machinery,* and *materials* use in the erection thereof, (i) between points in IL within 150 miles of Chicago, IL, including Chicago, and (ii) between points in Lake, and Porter Counties, IN. (b) Sub. No. 5—Irregular Routes: *Pig iron* and *ferrous metals,* loose and not in containers, in dump vehicles, from Chicago, IL, to points in Lake, Porter, LaPorte, St. Joseph, Elkhart, Kosciusko, Marshall, Fulton, Starke, Pulaski, Jasper, Newton, Benton, Warren, Tippecanoe, White, Cass, Carroll, Miami, and Wabash Counties, IN, Ottawa, Allegan, Van Buren, Kalamazoo, Berrien, Cass, and St. Joseph Counties, MI, and Dodge, Washington, Ozaukee, Milwaukee, Wakesha, Jefferson, Dane, Green, Rock, Walworth, Racine, and Kenosha Counties, WI; *Coal,* in bulk, in dump vehicles, from Chicago, IL, to points in Berrien County, MI, and Lake, Porter, LaPorte, and St. Joseph Counties, IN; *Meat and bone scraps, tankage, dried blood,* and *salt,* in bulk, in dump vehicles, from Chicago, IL, to points in Lake, Porte, LaPorter, St. Joseph, Elkhart, Kosciusko, Marshall, Fulton, Starke, Pulaski, Jasper, Newton, Benton, Warren, Tippecanoe, White, Cass, Carroll, Miami and Wabash Counties, IN, and Dodge, Washington, Ozaukee, Milwaukee, Waukesha, Jefferson, Dane, Green, Rock, Walworth, Racine, and Kenosha Counties, WI; *Dry, synthetic resins,* in bulk, in vehicles equipped with loading or unloading devices, from Whiting, IN, to Ottawa, IL; *Animal and poultry feed,* in bulk, in bump vehicles, from Hammond, IN, to points in Dodge, Washington, Ozaukee, Milwaukee, Waukesha, Jefferson, Dane, Green, Rock, Walworth, Racine, and Kenosha Counties, WI, and Ottawa, Allegan, Van Buren, Kalamazoo, Berrien, Cass, and St. Joseph Counties, MI; *Salt,* in bulk, in dump vehicles, from Milwaukee, WI, to Chicago, IL. (c) Sub. No. 11—Irregular Routes; *Dry fertilizer,* in bulk, in dump, hopper or tank vehicles, from the site of the Calumet Industrial District Terminal at Riverdale, IL, to points in Indiana north of Vermillion, Parke, Putnam, Hendricks, Marion, Hancock, Henry and Wayne Counties including points in the counties named other than Vermillion, and points in Berrien, Cass, St. Joseph, Branch, Calhoun, Kalamazoo, Van Buren, Allegan, Ottawa, Kent and Muskegan Counties, MI, restricted against joining or tacking with carrier's other operating authority to provide a through service to or from points other than those above; *Pig iron* and *ferrous metals,* loose, in dump vehicles, from Chicago, IL, to points in Muskegon, Kent, Branch and Calhoun Counties, MI, and points in La Grange, Steuben, Noble, De Kalb, Whitley, Allen, Adams, Wells, Huntington, Jay, Blackford, Grant, Howard, Clinton, Tipton, Fountain, Montgomery, Boone, Hamilton, Madison, Delaware, Randolph, Parke, Putnam, Hendricks, Marion, Hancock, Henry, and Wayne Counties, IN; *Pig iron,* loose, in dump vehicles, from Joliet, IL, to points in Lake, Porter, LaPorte, St. Joseph, Elkhart, Kosciuski, Marshall, Fulton, Starke, Pulaski, Jasper, Newton, Benton, Warren Tippecanoe, White, Cass, Carroll, Miami, Wabash, Huntington, Wells, Adams, Whitley, Allen, De Kalb, Noble and La Grange Counties, IN, and Berrien, Cass, St. Joseph, Branch, Calhoun, Kalamazoo, Van Buren, Allegan, Ottawa, Kent and Muskegon Counties, MI; *Scrap iron, scrap steel* and *non-ferrous scrap,* loose, in dump vehicles, between Chicago and Lemont, IL, on the one hand, and, on the other, points in Indiana north of Vermillion, Parke, Putnam, Hendricks, Marion, Hancock, Henry and Wayne Counties including points in the counties named other than Vermillion, and points in Berrien, Cass, St. Joseph, Branch, Calhoun, Kalamazoo, Van Buren, Allegan, Ottawa, Kent and Muskegon Counties, MI; *Animal and poultry feed,* in bulk, in dump vehicles, from Riverdale, IL, to points in Lake, Porter, LaPorte, Newton, Jasper, Benton, Warren, Fountain, Parke, Putnam, Montgomery, Tippecanoe, White, Carroll, Clinton, Boone, Hendricks, Marion, Hamilton, Tipton, Howard, Grant, Madison, Hancock, Henry, Delaware, Blackford, Wells, Adams, Jay, Randolph and Wayne Counties, IN. (d) Sub. No. 13—Irregular Routes: *General commodities,* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in hopper or tank type vehicles, and those requiring special equipment), between the plant site of the Bethlehem Steel Corporation location at Burns Harbor, Porter County, IN, and Chicago, IL, restricted to the transportation of shipments originating at, or destined to the plant site of the Bethlehem Steel Corporation, located at Burns Harbor, Porter County, IN. (e) Sub. No. 14—Irregular Routes: *Steel articles* and *such materials* as are used or useful on highway construction projects (except cement, rock, sand, and gravel), from Chicago, IL, to points in Boone, Cook, Dekalb, DuPage, Grundy, Kane, Kankakee, Kendall, Dale, LaSalle, McHenry, and Will Counties, IL; *Iron and steel articles,* as described by the Commission in Appendix V to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, from Portage, IN, to points in Boone, Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, LaSalle, McHenry, and Will Counties, IL. (f) Sub. No. 15—Irregular Routes: *Iron and steel articles,* from the plant site of Jones & Laughlin Steel Corporation, located in Putnam County, IL, to points in WI, and Materials, equipment, and supplies used in the manufacture and processing of iron and steel articles, from points in

Starke, Pulaski, Jasper, Newton, Benton, Warren Tippecanoe, White, Cass, Carroll, Miami, Wabash, Huntington, Wells, Adams, Whitley, Allen, De Kalb, Noble and La Grange Counties, IN, and Berrien, Cass, St. Joseph, Branch, Calhoun, Kalamazoo, Van Buren, Allegan, Ottawa, Kent and Muskegon Counties, MI; *Scrap iron, scrap steel* and *non-ferrous scrap,* loose, in dump vehicles, between Chicago and Lemont, IL, on the one hand, and, on the other, points in Indiana north of Vermillion, Parke, Putnam, Hendricks, Marion, Hancock, Henry and Wayne Counties including points in the counties named other than Vermillion, and points in Berrien, Cass, St. Joseph, Branch, Calhoun, Kalamazoo, Van Buren, Allegan, Ottawa, Kent and Muskegon Counties, MI; *Animal and poultry feed,* in bulk, in dump vehicles, from Riverdale, IL, to points in Lake, Porter, LaPorte, Newton, Jasper, Benton, Warren, Fountain, Parke, Putnam, Montgomery, Tippecanoe, White, Carroll, Clinton, Boone, Hendricks, Marion, Hamilton, Tipton, Howard, Grant, Madison, Hancock, Henry, Delaware, Blackford, Wells, Adams, Jay, Randolph and Wayne Counties, IN. (d) Sub. No. 13—Irregular Routes: *General commodities,* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in hopper or tank type vehicles, and those requiring special equipment), between the plant site of the Bethlehem Steel Corporation location at Burns Harbor, Porter County, IN, and Chicago, IL, restricted to the transportation of shipments originating at, or destined to the plant site of the Bethlehem Steel Corporation, located at Burns Harbor, Porter County, IN. (e) Sub. No. 14—Irregular Routes: *Steel articles* and *such materials* as are used or useful on highway construction projects (except cement, rock, sand, and gravel), from Chicago, IL, to points in Boone, Cook, Dekalb, DuPage, Grundy, Kane, Kankakee, Kendall, Dale, LaSalle, McHenry, and Will Counties, IL; *Iron and steel articles,* as described by the Commission in Appendix V to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, from Portage, IN, to points in Boone, Cook, DeKalb, DuPage, Grundy, Kane, Kankakee, Kendall, Lake, LaSalle, McHenry, and Will Counties, IL. (f) Sub. No. 15—Irregular Routes: *Iron and steel articles,* from the plant site of Jones & Laughlin Steel Corporation, located in Putnam County, IL, to points in WI, and Materials, equipment, and supplies used in the manufacture and processing of iron and steel articles, from points in WI, to the plant site of Jones & Laughlin Steel Corporation, located in Putnam County, IL, restricted to the transporation of traffic originating at or destined to the named origins and destinations, and said operations are restricted against the transportation of commodities in bulk. (g) Sub. No. 18—Irregular routes: *Scrap iron and steel,* in bulk, in dump vehicles, between points in Kenosha, Brown, Fond du Lac, Eau Claire, Waupaca, Racine, Walworth, Rock, Green, Dane, and Dodge Counties, WI, on the one hand, and, on the other, Chicago, Peoria, and Danville, IL. Applicants' representative: William H. Shawn, Suite 501, 1730 M Street, N.W. Washington, DC 20036. Transferee holds no permanent ICC authority. A temporary authority application has been filed.

MC–FC–78824. By decision of October 24, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. Part 1132, Review Board Number 5 approved the transfer to Paul Wantye, of Louisville, KY, of Certificate No. MC–109106 (Sub-No. 1) issued April 30, 1965 to A. O. Fenwick, of Sellersburg, IN, authorizing the transportation of *plumbing fixtures* and *supplies* and *fittings* used in connection therewith, from Kohler, Wis., to points in Florida, except Jacksonville, *bathtubs, lavatories, sinks, closet combinations,* and *faucets and fittings* used in connection therewith, from Kohler, Wis., to Fort Lauderdale, Miami, and West Palm Beach, Fla., *fresh fruits and vegetables,* from points in Florida to points in Illinois, Indiana, Missouri, Ohio, Wisconsin, and Michigan. Applicant's representative is: Rudy Yessin, 113 W. Main St., Frankfort, KY 40601. Transferee holds no authority. TA lease is not sought.

MC–FC–78826. By decision of October 30, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to C & L Trucking, Inc., of Cedar Rapids, IA, of a portion of Certificate No. MC–136646 (Sub-No. 1), issued July 18, 1975, to Le Mars Transport, Inc., of Le Mars, IA, authorizing the transportation of *anhydrous ammonia,* in bulk, in tank vehicles, from Algona, and Garner, Iowa, to points in Minnesota, from the facilities of Apple River Chemical Company, Division of St. Paul Ammonia Products, Inc., near East Dubuque, IL, to points in Iowa, Minnesota, and Wisconsin. Applicant's representative is: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. TA lease is not sought. Transferee hold authority under MC–142716.

MC–FC–78829. By decision of October 24, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to AQUA GULF CORPORTION, of Bayonne, NJ, of Certificate No. MC–44324 issued October 30, 1967 to F&F TRUCKING CO., INC., of Brooklyn, NY, authorizing the transportation of *general commodities,* except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment between points in Union, Passaic, Essex, Hudson, and Bergen Counties, NJ, on the one hand, and, on the other, New York, NY. Applicant's representative is: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528.

MC–FC–78830. By decision of November 6, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to GENERAL FREIGHTS, INC., of Hagerstown, Maryland of Certificate 123710 and MC–123710 (Sub-1) issued 10/14/80 to Alexandria Trucking Co., Inc., of Winchester, VA authorizing the transportation of:

MC 123710. Regular routes: *General commodities,* except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities requiring special equipment, and those injurious or contaminating to other lading. Between Front Royal, VA, and Washington, DC, serving the intermediate and off-route points within two miles of Front Royal, VA, and the off-route points of Sperryville, Washington, Flint Hill, and Riverton, VA: From Front Royal over VA Highway 55 to junction U.S. Highway 211, near Gainesville, VA, thence over U.S. Highway 211 to Washington, DC, and return over the same route. Irregular routes: *General commodities,* except those of unusual value, Classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading. Between Front Royal, VA, on the one hand, and, on the other, points in that part of Virginia within 25 miles of Front Royal.

MC 123710 (Sub-1). Irregular routes: *Building materials, coal, coke, wood, pitch, tar, paint, machinery, contractors' tools and equipment,* between Alexandria, VA, and points in VA within 10 miles of Alexandria, on the one hand, and, on the other, Washington, DC, and points in MD

within 40 miles of Washington, DC

authorized, also from Philadelphia, PA,

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within 40 miles of Washington, DC. *Cement,* From Washington, DC, to points in MD and VA within 25 miles of Washington, with no transportation for compensation on return except as otherwise authorized. *Structural steel,* from Phoenixville, PA, to Alexandria, VA with no transportation for compensation on return except as otherwise authorized. Applicant's representatives: Charles E. Creager and Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740.

MC–FC–78842. By decision of November 6, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132 Review Board Number 5 approved the transfer to STEWART COOK, JR., d.b.a. FRANK SALERNO of Permit MC 134545 issued 1/5/71, to Frank Salerno authorizing the transportation over irregular routes of *fiber drums, wooden kegs,* and *wooden reels,* from Hampton and Phillipsburg, NJ, to Claymont and Wilmington, DE, Baltimore and Elkton, MD, New Rochelle and New York, NY, and Denver, Elizabethtown, Lancaster, Middletown, Pottsville, Reading, and York, PA, with no transportation for compensation on return except as otherwise authorized, subject to the following conditions: limited to a transportation service to be performed under a continuing contract, or contracts with Greif Bros. Corporation of Hampton, NJ. Applicants' representative is: Chester A. Reybitz, Esquire, 429 E. Broad Street, P.O. Box 1445, Bethlehem, PA 18018.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36351 Filed 11-20-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Finance Application; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed on or before December 11, 1980. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

By decision of October 1, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to RICHARD D. DiFRISCHIA doing business as RICHARDS TRUCKING LINE of Permit MC 128735 (lead and Sub-4) issued September 28, 1967 to Alvin E. Golnick authorizing the transportation of: (1) *fabricated metal products,* from the facilities of Ellwood City Iron & Wire Co., at Ellwood City, PA to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Ohio, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and District of Columbia; (2) *materials used in the manufacture of fabricated metal products,* from points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Ohio, Rhode Island, Tennessee, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia to the facilities of Ellwood City Iron & Wire Co., at Ellwood City, PA: (3) *Fabricated metal products* from the facilities of Ellwood City Iron & Wire Co., at Ellwood City, PA to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Louisiana, Arkansas, Missouri, Mississippi, Alabama, South Carolina, Georgia, and Florida; and (4) *Materials used in the manufacture of fabricated metal products,* from points in the destination states named in (3) above the facilities of Ellwood City Iron & Wire Co., at Ellwood City, PA. Restriction: The operations authorized are limited to transportation performed under continuing contract or contracts, with Ellwood City Iron & Wire Co., of Ellwood City, PA. Applicant's representative is: William M. Ponella, Attorney at Law, NC Professional Building, Suite 205, New Castle, PA 16101.

MC–FC–78766. By decision of October 2, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1132, Review Board Number 5 approved the transfer to LACY'S EXPRESS, INC. of Pedricktown, NJ, of Certificate MC 1769 issued December 4, 1961, to Ruhl Transportation Co., of Pedricktown, NJ, authorizing the transportation over irregular routes of *felt base carpeting,* from Wilmington, DE, to Baltimore, MD, with no transportation for compensation on return except as otherwise authorized, also from Salem, NJ, to points in CT, DE, MD, MA, NJ, NY, PA, and RI; and *materials and supplies* used or useful in the manufacture of felt base carpeting, from points in CT, DE, MD, ME, NJ, NY, PA, and RI, to Salem, NJ; *linoleum paste,* from Wilmington, DE, to points in CT, RI, and ME, and points in that part of NY on and east of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 36 (formerly New York Highway 21) to Hornell, NY, thence along New York Highway 21 to Lake Ontario, except points in the New York, NY, Commercial Zone, as defined by the Commission, with no transportation for compensation on return except as otherwise authorized; also from Salem, NJ, to points in NC, SC, VA, and DC and *such of the immediately above-specified commodities as are refused or damaged,* from points in NC, SC, VA, and the District of Columbia, to Salem, NJ; *lumber* and *piling,* from Newport and Wilmington, DE, Baltimore and Elkton, MD, and Philadelphia, PA, to Salem, NJ, with no transportation for compensation on return except as otherwise authorized; *fire clay* and *fire brick,* from Philadelphia, PA, to Salem, NJ, with no transportation for compensation on return except as otherwise authorized; *fertilizer,* from Baltimore, MD, to points in Cumberland and Salem Counties, NJ, with no transportation for compensation on return except as otherwise

authorized, also from Philadelphia, PA, to Salem, NJ, with no transportation for compensation on return except as otherwise authorized; *oil and grease,* in containers, from Claymount, DE, to Salem, NJ; and *empty oil containers* from Salem, NJ, to Claymont, DE; *blue slate powder,* from Whiteford, MD, to Gloucester City, NJ, with no transportation for compensation on return except as otherwise authorized, and from Baltimore, MD, to Salem, NJ, with no transportation for compensation on return except as otherwise authorized; *machinery* and *machine parts,* from Baltimore, MD, to Salem, NJ, with no transportation for compensation on return except as otherwise authorized; *glass containers,* from Salem, NJ, to Baltimore, MD, Chester, Marcus Hook, and Philadelphia, PA, and New York, NY, with no transportation for compensation on return except as otherwise authorized; *composition wall covering,* from Wilmington, DE, to Baltimore, MD, and points in CT, RI, MA, points in that part of NY and east of a line beginning at the Pennsylvania-New York State line and extending along New York Highway 36 (formerly New York Highway 21) to Hornell, NY, thence along New York Highway 21 to Lake Ontario, except points in the New York, NY, Commercial Zone, as defined by the Commission, with no transportation for compensation on return except as otherwise authorized. Applicant's representative is: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36352 Filed 11-20-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after November 21, 1980.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifiying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions of limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act.)

In the absence of legally sufficient petitions for intervention, filed on or before December 22, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the followng decision-notices within 30 days after publication, or the application shall stand denied.

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Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 373

Decided: November 10, 1980.

By the Commission Review Board Number 2, Members Chandler, Eaton and Liberman. Member Liberman not participating.

MC 106674 (Sub-484), filed May 8, 1980, previously noticed in the **Federal Register** of July 31, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting (1) *particle board, fiber board, and wood,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between Towanda, PA, on the one hand, and, on the other, points in ME, NH, VT, MA, CT, RI, NY, PA, NJ, MI, IL, IN, OH, KY, TN, WV, MD, DE, VA, NC, SC, GA, and DC.

Note.—This republication corrects the territorial description.

Volume No 374

Decided: November 10, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 111594 (Sub-99F), filed June 23, 1980, previously published in the **Federal Register** of July 31, 1980. Applicant: CW TRANSPORT, INC., 610 High St., Wisconsin Rapids, WI 54494. Representative: Donald B. Levine, 39 South LaSalle St., Chicago, IL 60603. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Portage, WI and St. Paul, MN: from Portage over U.S. Hwy 16 to junction U.S. Hwy 12, then over U.S. Hwy 12 to junction U.S. Hwy 10, then over U.S. Hwy 10 to St. Paul and return over the same routes; (2) between La Crosse and Gordon, WI over U.S. Hwy 53. (3) between Ellsworth and Cable, WI, over U.S. Hwy 63; (4) between Marshfield and Prentice, WI, over WI Hwy 13; (5) between Prentice, WI and St. Paul, MN: over U.S. Hwy 8; (6) between Tomah and La Crosse, WI, over U.S. Hwy 16; and (7) between Wausau, WI, and junction U.S. Hwy 12 and WI Hwy 29, over WI Hwy 29, serving all intermediate points in WI and all points in Burnett, Washburn, Sawyer, Polk, Barron, Rusk, St. Croix, Dunn, Chippewa, Taylor, Pierce, Pepin, Eau Claire, Clark, Buffalo, Trempealeau, Jackson, La Crosse, and Monroe Counties, WI as off-route points; (8) between Atlanta, GA, and North August, SC: From Atlanta over Int. Hwy 20 to junction SC Hwy 230, then over SC Hwy 230 to North Augusta and return over the same routes, serving no intermediate points, for operating convenience only. NOTE: Applicant proposes to tack the sought authority with its existing regular and irregular routes. The purpose of this republication is to correctly state the territorial description.

MC 143154 (Sub-8F), filed April 28, 1980, previously noticed in the **Federal Register** of July 10, 1980. Applicant: ARTHUR E. PAMIN, JR. and STEVEN V. BIDLAKE, a partnership, d.b.a. A & S TRUCKING 1455 N. Reserve, Missoula, MT 59801. Representative: Charles A. Murray, Jr., 207A Behner Bldg., 2822 Third Ave., North Billings, MT 59101. Transporting *malt beverages,* in containers, from points in OR, to points in WA, ID, NV, CA, AZ, UT, CO, WY, MT, NM, and those points in OR requiring movement across the WA State line.

Note.—This republication corrects the territorial description.

Volume No 375

Decided: November 10, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 121142 (Sub-20F), filed August 17, 1979, published in the **Federal Register**, issue of October 1, 1980, republished as corrected, this issue. Applicant: J & G EXPRESS, INC., 489 Julienne St., P.O. Box 1637, Jackson, MS 39205. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Over *regular routes,* transporting * * * (2) *general commodities* (except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) between Memphis, TN, and Jackson, MS, from Memphis over Interstate Hwy 55, and U.S. Hwy 51 to Jackson, MS, and return over the same route, serving all points in MS, on, west and north of a line beginning at the AR–TN State line, and extending along the TN–MS State line to Interstate Hwy 55, then along Interstate Hwy 55 to junction MS Hwy 8, then along MS Hwy 8 to the MS–AR State line as off-route points, (b) between Memphis, TN, and Leland MS, over U.S. Hwy 61, and return over the same route, serving all intermediate points, (c) between Jackson and Canton, MS, from Jackson, over U.S. Hwy 52 and Interstate Hwy 55 to Canton, and return over the same route, serving all intermediate points, and serving points in Madison County, MS, as off-route points * * *. The purpose of this republication is to correct the territorial description in part (2)(a) and (2)(c). The remainder of this publication remains as previously published.

Volume No. 376

Decided: November 13, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 66143 (Sub-3F), filed July 13, 1979, published in the **Federal Register**, issue of September 23, 1980, and republished, as corrected, this issue. Applicant: JJL DISTRIBUTION SYSTEMS, INC., 557 Brook Street, Garden City, NY 11530. Representative: Arthur J. Piken, 95–25 Queens Boulevard, Rego Park, NY 11374. Transporting *sound recordings, sound recording jackets,* and *disc and tapes,* between points in Burlington County, NJ, on the one hand, and, on the other, New York, NY, and points in Suffolk County, NY. The purpose of this republication is to correct the commodity and territorial description.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36358 Filed 11-20-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before January 5, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1–071

Decided: November 10, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 115931 (Sub-187F), filed October 27, 1980. Applicant: BEE LINE TRANSPORTATION, P.O. Box 3987, Missoula, MT 59806. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Transporting *general commodities,* between Saint Maries, Elk River, and Spirit Lake, ID, Clearwater, Ringling, Roundup, Melstone, Grassrange, Winifred, and Agawam, MT, Faith, Isabel, Timber Lake, Trail City, Murdo, Mackenzie, Presho, Chamberlain, Kimball, White Lake, Plankinton, Mount Vernon, Platte, Geddes, Lake Andes, Wagner, Avon, Tyndall, Napa, Scotland, Tripp, Parkston, Woonsocket, Wessington Springs, Alpena, Mellette, Frederick, Pollock, Herreid, Madra, Ureka, Hosmer, Britton, Sisseton, Wilmot, Colman, Flandreau, Sioux Falls Junction, Dell Rapids, Renner, Madison, Alexandria, Emery, Bridgewater, Marion Junction, Freeman, Menno, Canton, Hudson and Vermillion, SD, and Othello, Royal City, Beverly, Park Junction, National, Port Angeles, Discovery Junction, Port Townsend, Hanford, Malden, Metaline Falls, Marcellus, Tiflis and Morton, WA, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 150080 (Sub-1F), filed October 31, 1980. Applicant: CONTROLLED CARRIERS, INC., P.O. Box 367, Exton, PA 19341. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 151040 (Sub-1F), filed October 31, 1980. Applicant: RTL HOLDINGS, INC., 2050 Kings Road, Jacksonville, FL 32209. Representative: S. E. Somers, Jr. (same address as applicant). Transporting *general commodities* (except used hold goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 152561F, filed November 4, 1980. Applicant: MAIL DISPATCH, INC., P.O. Box 12616, Seattle, WA 98111. Representative: Boyd Hartman, P.O. Box 3641, Bellevue, WA 98009. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 152590F, filed November 7, 1980. Applicant: N.D.S., INC., 666 Summer Street, Boston, MA 02210. Representative: Robert J. Gallagher, 100 Connecticut Ave., NW., Suite 1200, Washington, DC 20036. As a *broker* to arrange for the transportation of *general commodities,* (except household goods), between points in the U.S.

Volume No. OP1–074

Decided: November 10, 1980

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 11220 (Sub-224F), filed October 28, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP3–074

Decided: November 10, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman. Member Liberman not participating.

MC 152304 (Sub-1F), filed October 22, 1980. Applicant: MARK MARGOLIS, d.b.a. ROAD MARK, Suite 600, 612 North Michigan Avenue, Chicago, IL 60611. Representative: Rick A. Rude, Suite 611, 1730 Rhode Island Ave., NW., Washington, DC 20036. As a *broker* in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 152234F, filed October 15, 1980. Applicant: BANCROFT & SONS TRANSPORTATION, INC., 306 Nunez, Grand Prairie, TX 75051. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 145905 (Sub-3F), filed October 28, 1980. Applicant: Z. H. HURT ENTERPRISES, INC., d.b.a. MEX–CAL TRUCKLINE, 5070 Glenview Place, Bonita, CA 92002. Representative: William H. Shawn, Suite 501, 1780 M. St., NW., Washington, DC 20036. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36354 Filed 11-20-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions, Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the

V45 NO 227 80 UMI

Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before January 5, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1–070

Decided: November 10, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 200 (Sub-506F), filed October 28, 1980. Applicant RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Rd., Kansas City, MO 64141. Representative H. Lynn Davis (same address as applicant). Transporting *empty steel shipping cylinders for oxygen and gases*, between points in Garfield County, OK, on the one hand, and, on the other, points in CA, restricted to traffic originating at or destined to the facilities used by Chesterfield Cylinder Co., its affiliates, suppliers, or vendors.

MC 200 (Sub-508F), filed October 27, 1980. Applicant RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 Pershing Road, Kansas City, MO 64141. Representative H. Lynn Davis (same address as applicant). Transporting *insulated copper wire*, between points in Los Angeles and San Bernardino Counties, CA, on the one hand, and, on the other, points in Denver County, CO, and Providence County, RI, restricted to traffic originating at the named origins and destined to the indicated destinations.

MC 200 (Sub-509F), filed October 27, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Rd., Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting (1) *foodstuffs*, and (2) *materials and supplies* used in the manufacture of foodstuffs, between Fresno, CA, Jacksonville, IL, Sherman, TX, Mayville, WI, and Humboldt, TN, on the one hand, and, on the other, points in the U.S., restricted to traffic originating at or destined to the facilities used by Anderson Clayton Foods, its affiliates, suppliers, or vendors.

MC 730 (Sub-517F), filed October 31, 1980. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Corporation, 25 North Via Monte, Walnut Creek, CA 94598. Representative: Roland Rice, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S.

MC 29910 (Sub-301F), filed October 27, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber, P.O. Box 48, Fort Smith, AR 72902. Transporting *building materials*, between Austin, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 35320 (Sub-620F), filed October 27, 1980. Applicant: T.I.M.E.–DC, INC., 2598 74th St., PO Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), serving Wichita Falls, TX, as an off-route point in connection with carrier's otherwise authorized regular-route operations.

MC 38170 (Sub-32F), filed October 28, 1980. Applicant: WHITE STAR TRUCKING, INC., 1750 Southfield, Lincoln Park, MI 48146. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. Transporting *general commodities* (except those of unusual value, classes A and B explosives, and those requiring special equipment), between Detroit, MI, on the one hand, and, on the other, points in IN, OH, those in MI south of MI Hwy 46, and those in PA, on and west of U.S. Hwy 19. Condition: Issuance of a certificate in this proceeding is subject to the coincidental cancellation, at applicant's written request of Certificate MC 38170 Sub-30F.

MC 57880 (Sub-24F), filed October 31, 1980. Applicant: ASHTON TRUCKING CO., 1245 North Highway 285, Monte Vista, CO 81144. Representative: Leslie R. Kehl, Suite 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264. Transporting *fabricated metal products* and *primary metal products*, as described in Items (34) and (33) of the Standard Transportation Commodity Code Tariff, between points in CO, on the one hand, and, on the other, AZ, NM, UT, and WY.

MC 106920 (Sub-114F), filed October 28, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe St., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transportation *foodstuffs, and materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk), between the facilities used by Gebhart Mexican Foods, Co., at San Antonio, TX., on the one hand, and, on the other, those points in the U.S., in and east of MT, WY, CO, and NM.

MC 115311 (Sub-403F), filed October 27, 1980. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. Transportation *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between those points in the U.S., in and east of MN, SD, NE, KS, OK and TX, restricted to traffic originating at or destined to the facilities used by Johns-Manville Sales Corporation.

MC 115651 (Sub-93F), filed November 3, 1980. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, P.O. Box 39, Rockford, IL 71105. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of paint, in bulk, in tank vehicles, between those points in the U.S., in an

east of MT, WY, CO, and NM, restricted to traffic originating at or destined to the facilites of Valspar Corp.

MC 115730 (Sub-86F), filed October 20, 1980. Applicant: THE MICKOW CORP., 531 S.W. Sixth St., P.O. Box 1774, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50307. Transporting *metal products*, between points in Poweshiek and Page Counties, IA, Navarro County, TX, Laurens County, GA, Yolo County, CA, and Crawford and Ford Counties, KS, on the one hand, and, on the other, points in the U.S.

MC 115730 (Sub-87E), filed October 31, 1980. Applicant: THE MICKOW CORP., 531 S.W. Sixth St., P.O. Box 1774, Des Moines, IA 50306. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50307. Transporting (1) *rubber products, plastic products, clay products, concrete products, glass products, stone products, metal products (except ordnance, and machinery)*, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between points in Jefferson and Talladega Counties, AL, Riverside County, CA, Wyandotte County, KS, Boone County, MO, Mahaska County, IA, Cook and DuPage Counties, IL, Boone County, KY, Coshocton and Tuscarawas Counties, OH, and Upshur County, WV, on the one hand, and, on the other, points in the U.S.

MC 119441 (Sub-54F), filed October 27, 1980. Applicant: BAKER HI-WAY EXPRESS, INC., Box 506, 555 Commercial Pkwy., Dover, OH 446. Representative: Richard H. Brandon, Box 97, 220 W. Bridge St., Dublin, OH 43017. Transporting *lumber*, between those points in the U.S. in and east of MN, IA, KS, OK, and TX.

MC 119741 (Sub-283F), filed October 20, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., NW., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting (1) *washers and dryers*, and (2) *parts and attachments* for the commodities in (1), and (3) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) and (2), between points in Greene and Hamilton Counties, IA, on the one hand, and, on the other, points in the U.S.

MC 121081 (Sub-6F), filed October 31, 1980. Applicant: COLUMBUS MOTOR LINES, INC., P.O. Box 26741, Charlotte, NC 28313. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, PA 24168. Transporting (1) *textile mill products* as described in Item 22 of the Standard Transportation Commodity Code Tariff, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Lenoir County, NC, on the one hand, and, on the other, points in Fairfield County, SC, and Jackson and Morgan Counties, AL.

MC 135760 (Sub-23F), filed October 27, 1980. Applicant: COAST REFRIGERATED TRUCKING CO., INC., P.O. Box 188, Holly Ridge, NC 28445. Representative: Herbert Alan Dubin, 818 Connecticut Ave., NW., Washington, DC 20006. Transporting *foodstuffs* between points in the U.S., under continuing contract(s) with Globe Products Company, Inc., of Clifton, NJ.

MC 139330 (Sub-7F), filed October 31, 1980. Applicant: F.V.T., INC., 106 Howard Dr., Williamstown Junction, NJ 08094. Representative: Lawrence E. Lindeman, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW., Washington, DC 20004. Transporting (1) *insulation*, and (2) *materials, and equipment and supplies* used in the manufacture and distribution of insulation, between points in Fairfax County, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 144910 (Sub-18F) filed, October 29, 1980. Applicant: TY PRUITT TRUCKING, INC., 6717 Quad Ave., Baltimore, MD 21237. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., NW, Washington, DC 20005. Transporting (1) *such commodities* as are dealt in by grocery stores and food business houses, (except commodities in bulk), and (2) *materials and supplies* used in the manufacture and distribution of commodities in (1) above, between those points in the U.S., in and east of NM, IA, MO, AR, and LA, restricted to traffic originating at or destined to the facilities of Maryland Cup Corporation.

MC 149111 (Sub-1F) filed, October 27, 1980. Applicant: GENERAL COMMODITIES WAREHOUSE & DISTRIBUTING CO., INC., 39th St., Pittsburgh, PA 15201. Representative: Thomas M. Mulroy, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting (1) *agricultural chemicals and fertilizer* (except commodities in bulk), and (2) *applicators* for the commodities in (1), between points in the U.S., under continuing contract(s) with Chevron Chemical Company of Perth Amboy, NJ.

MC 149210 (Sub-2F) filed, October 27, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, (same address as applicant). Transporting *meats, meat products, meat byproducts and articles* distributed by meat-packing houses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), between points in the U.S., under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE.

MC 152020 (Sub-1F) filed, October 28, 1980. Applicant: ALBERT G. DRIEBE, R.D. No. 1, Box 1229, Stroudsburg, PA 18360. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Transporting (1)(a) *foodstuffs* from points in Cumberland County, NJ, to points in CA, CO, FL, GA, ID, KS, MO, OK, OR, TX, UT, and WA, and (b) *materials and supplies* used in the manufacture and distribution of foodstuffs, in the reverse direction, and (2)(a) *cartons, boxes, fillers, dividers and sheets* from points in Philadelphia and Montgomery Counties, PA, to points in the U.S. (except AK and HI), and (b) *materials and supplies* used in the manufacture and distribution of the commodities in (a), in the reverse direction.

MC 150800 (Sub-1F) filed, October 30, 1980. Applicant: BAY'S TEXACO SERVICE & SUPPLY CO., INC., 116 E. Osage St., Pacific, MO 63069. Representative: Miles E. Bay (same address as applicant). Transporting (1) *hardboard, particle board, plywood, and pulpboard*, and (2) *materials and supplies* used in the manufacture of commodities in (1) above, from points in MO, to points in AR, IL, IA, KY, MS, LA, GA, and TN, and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction.

MC 151801 (Sub-1F), filed October 27, 1980., Applicant: VEEN CARTAGE, INC., 9146 S. Kolmar Ave., Oak Lawn, IL 60453. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle St., Chicago, IL 60602. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission) between points in the U.S., under continuing contract(s) with Ogden Steel Company of Chicago, IL.

MC 1521160 (Sub-1F), filed October 27, 1980. Applicant: SERVICE CO. OF MASS., INC., 116 Mount Vernon St., Lawrence, MA 01843. Representative: Kathleen Curtin (same address as applicant). Transporting *general commodities* (except classes A and B explosives, commodities in bulk, those requiring special equipment and household goods as defined by the

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Commission), between points in AL, AR, CA, CO, CT, DE, FL, GA, IL, IN, KS, KY, ME, LA, MA, MD, MI, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VA, VT, WI and WV.

MC 152241 (Sub-1F), filed October 21, 1980. Applicant: LANCASTER EXPRESS, INC., 2314 Norman Rd., P.O. Box 4771, Lancaster, PA 17604. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), Cleveland, OH, Lugoff, SC, McConnelsville and Gansevoort, NY, Port Elizabeth and Dorchester, NJ, and points in Allegheny, Cumberland, Berks, Lancaster, Lebanon and York Counties, PA, on the one hand, and, on the other, points in the U.S.

MC 152510F, filed October 21, 1980. Applicant: HENRY PRITCHARD, INC., R. R. #5, Geneseo, IL 61254. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL. Transporting *petroleum products, residual oil, solvents, thinners, and caustics,* between points in Henry County, IL, on the one hand, and, on the other, points in IN, IA, KY, MO, MN, and WI.

MC 152530 (Sub-1F), filed October 27, 1980. Applicant: GALAXY TRANSPORT, INC., P.O. Box 613, Belleville, MI 48111. Representative: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, MI 48080. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and used motor vehicles), between points in Lenawee, Macomb, Monroe, Oakland, Washtenaw, and Wayne Counties, MI, on the one hand, and, on the other, Louisville, KY, St. Louis, MO, and points in IL, IN, OH, and PA, restricted to traffic originating at or destined to the facilities of the Ford Motor Company.

Volume No. OP1-072

Decided: November 12, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 200 (Sub-505F), filed October 21, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: Lynn Davis (same address as applicant). Transporting *corrugated bracing, bulkheads, blocks, and panels,* between the facilities of Down River Forest Products, at or near Waco, TX, on the one hand, and, on the other, points in AR, CO, KS, LA, MO, NM, and OK.

MC 200 (Sub-507F), filed October 27, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *nonhousehold synthetic organic detergents, fatty acids, triglycerides, metallic stearates, and wax,* between points in Tarrant County, TX, on the one hand, and, on the other, points in Washington County, KY, Vermillion County, IL, Poweshiek County, IA, Aiken County, SC, and Harris, Brazoria, and Galveston Counties, TX.

MC 11220 (Sub-223F), filed October 22, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLenmore Ave., Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Transporting *such commodities* as are dealt in by food business houses, between points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, OH, OK, PA, TN, TX, WV, and WI.

MC 52460 (Sub-290F), filed October 26, 1980. Applicant: ELLEX TRANSPORTATION, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, OK 74107. Representative: Don E. Kruizinga (same address as applicant). Transporting *pneumatic tires* and *accessories* for pneumatic tires, from points in AR, LA, and TX, to points in OK.

MC 106920 (Sub-113F), filed October 23, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe Street, P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transporting *dairy products and egg nog,* from Adell, Fond du Lac, and Milwaukee, WI, to those points in the U.S. in and east of MI, IN, IL, MO, AR and TX.

MC 108340 (Sub-37F), filed October 27, 1980. Applicant: HANEY TRUCK LINE, A Corporation, P.O. Box 485, Cornelius, OR 97113. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in OR, WA, ID, CA, and MT.

MC 111231 (Sub-319F), filed October 20, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting (1) *plastic pipe and fittings,* and (2) *accessories* for the commodities in (1) above, between the facilities of Marathon Plastics, Inc., at or near Litchfield, IL, on the one hand, and, on the other, points in the U.S. (except AK, AL, AR, FL, GA, HI, IN, IA, KS, KY, MS, MI, MN, MO, NE, NC, ND, OH, OK, SC, SD, TN, VA, and WI).

MC 116300 (Sub-85F), filed October 27, 1980. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting *steel,* between points in AL, LA, MS, and TN, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MI, MS, OK, TN, TX, and VA.

MC 116810 (Sub-10F), filed October 21, 1980. Applicant: BAIR TRANSPORT, INC., P.O. Box 6, Riverside, NJ 08075. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Transporting *general commodities* (except household goods as defined by the Commission and Classes A and B explosives), between Downingtown and Philadelphia, PA, New York, NY, and points in CT, DE, MD, MA, NJ, and RI, and DC.

MC 119741 (Sub-284F), filed October 21, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *pneumatic rubber tires, molded and extruded rubber parts, reinforced rubber hose, tread rubber,* and *tubes,* from the facilities of Cooper Tire & Rubber Company, in Hancock and Wood Counties, OH, to points in IA, KS, MN, MO, NE, ND, SD, and WI.

MC 128290 (Sub-13F), filed October 27, 1980. Applicant: EARL HINES, INC., P.O. Box 2557, Winchester, VA 22601. Representative: Bill R. Davis, Suite 101—Emerson Center, 2814 New Spring Road, Atlanta, GA 30339. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in MD, on the one hand, and, on the other, points in PA, DE, MD, NJ, MA, and VA.

MC 140060 (Sub-3F), filed October 27, 1980. Applicant: JOE REI, d.b.a. JOE REI TRUCKING CO. P.O. Box 57, Blue Mound, KS 66010. Representative: Clyde N. Christey, KS Credit Union Bldg. 1010 Tyler, Suite 110L Topeka, KS 66612. Transporting (1) *furniture parts,* and *accessories for furniture parts, and* (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in the U.S., under continuing contract(s)

with Leggett & Platt, Incorporated, of Carthage, MO.

MC 143531 (Sub-5F), filed October 28, 1980. Applicant: POWDER RIVER MOTOR TRANSPORT CORPORATION, P.O. Box 300, Provo, UT 84601. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *pipe,* and *materials and supplies* used in the manufacture of pipe, between points in the U.S., under continuing contract(s) with Powder River Enterprises, Inc., of Provo, UT.

MC 151291 (Sub-1F), filed October 21, 1980. Applicant: J. M. WILLIAMS, 800 West 28th St. Long Beach, CA 90806. Representative: J. M. Williams (same address as applicant). Transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) *machinery, materials, equipment and supplies* used in, or in connection with the construction, operations, repair, servicing, maintenance and dismantling of pipe lines, including the stringing and picking up thereof, between Wilmington, Williams, Bakersfield, and Port Hueneme, CA, Houston and Galena Park, TX, Oklahoma City and Tulsa, OK, Garden City, LA, Casper, Rock Springs, Lovell, and Greenriver, WY, and Invite and Battle Mountain, NV, on the one hand, and, on the other, points in CA, TX, OR, OK, LA, UT, CO, and WY.

MC 151551 (Sub-1F), filed October 27, 1980. Applicant: GARDNER TRUCKING COMPANY, INC. 820 Avenue E, Pratt City, AL 35214. Representative: Alvin D. Gardner (same address as applicant). Transporting (1) *forest products, lumber product, wood products, clay products, concrete products, glass products, stone products, metal products, machinery, and building materials,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (a) between points in AL, GA, FL, SC, NC, TN, AR, MS, LA, and TX, and (b) between points in AL, GA, FL, SC, NC, TN, AR, MS, LA, and TX, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

Volume No. OP1-073

Decided: November 13, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 200 (Sub-510F), filed November 7, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *chemicals* (except in bulk), between Ashtabula, OH, and Hopkinton, MA.

MC 14781 (Sub-13F), filed November 4, 1980. Applicant: GOTTRY CORPORATION, P.O. Box H—Westgate Branch, Rochester, NY 14624. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Transporting *commodities, the transportation of which, because of size or weight, require the use of special equipment, self-propelled articles each weighing 15,000 pounds or more, construction equipment, materials and supplies, building materials, machinery, machine parts and machine tools,* between points in the U.S., under continuing contract(s) with Higgins Erectors & Haulers, Inc., of Buffalo, N.Y.

MC 42011 (Sub-68F), filed October 24, 1980. Applicant: D. Q. WISE & CO., INC., P.O. Drawer L, Tulsa, OK 74112. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and byproducts, (2) *machinery, materials, equipment, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up thereof, (3) *earth drilling machinery and equipment, and machinery, equipment, materials, supplies, and pipe* incidental to, used in, or in connection with, (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production storage, and transmission of commodities resulting from drilling operations at well or hole sites, and (d) the injection or removal of commodities into or from holes or wells, (4)(a) *commodities,* the transportation of which because of size or weight requires the use of special equipment, and (b) *related parts, materials and supplies* when their transportation is incidental to the transportation of commodities which because of size or weight require special equipment, (5) *self-propelled articles* each weighing 15,000 pounds or more, restricted to commodities which are transported on trailers, (6) *metal articles,* and (7) *construction materials, equipment, and supplies,* between points in AR, CO, IA, IL, IN, KS, LA, MN, MO, MS, MT, ND, NE, NM, OK, SD, TX, UT, WI, and WY.

MC 59120 (Sub-43F), filed November 3, 1980. Applicant: EAZOR EXPRESS, INC., Eazor Square, Pittsburgh, PA 15201. Representative: Ted Kanoza (same address as applicant). Transporting (1) *glass containers,* and (2) *materials and supplies* used in the manufacture of glass containers, between Mt. Vernon and Shelby, OH, on the one hand, and, on the other, E. Hartford, CT, Northampton, MA, Roanoke, VA, Niles, IL, Elwood, IN, Holland, MI, Lexington, KY, Maryland Heights, MO, and Racine, WI.

MC 59150 (Sub-184F), filed October 31, 1980. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 203 Marine National Bank Bldg., 311 W. Duval St., Jacksonville, FL 32202. Transporting (1) *building materials, gypsum and gypsum products, paper and paper products, plastic products, and chemicals,* and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) between points in the U.S., restricted to traffic originating at or destined to the facilities or Georgia-Pacific Corporation.

MC 106920 (Sub-115F), filed November 6, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe St., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transporting *frozen foods,* from Bedford Heights, OH, to those points in the U.S. in and east of WI, IA, NE, KS, OK, AR, and LA.

MC 115181 (Sub-45F), filed November 3, 1980. Applicant: HAROLD M. FELTY, INC., R.D. #1, Box 148, Pine Grove, PA 17963. Representative: Lee E. High, 541 Penn Street, Reading, PA 19601. Transporting *metallic waste material,* in bulk, in dump vehicles, from points in Decatur Township, Mifflin County, PA, to Old Bridge, NJ.

MC 121821 (Sub-11F), filed October 31, 1980. Applicant: TENNESSEE MOTOR LINES, INC., 402 Maple Ave., Nashville, TN 37210. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Atlanta, GA and Loudon, TN, from Atlanta over Interstate Hwy 75 to junction TN Hwy 72, then over TN Hwy 72 to Loudon, TN, and return over the same route, serving all intermediate points between Cleveland and Loudon, TN, and serving points in Bradley,

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McMinn, and Monroe Counties, TN, as off-route points.

Note.—Applicant intends to tack this authority with its existing authority.

MC 127651 (Sub-66F), filed October 31, 1980. Applicant: EVERETT G. ROEHL, INC., East 29th St., Box 7, Marshfield, WI 54449. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *lumber products, wood products, and building materials,* between points in AL, AR, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NY, ND, OH, OK, OR, PA, SD, TN, TX, UT, WA, WI and WY.

MC 135070 (Sub-172F), filed November 6, 1980. Applicant: JAY LINES, INC., Box 61467, DFW Airport, TX 75261. Representative: Gailyn L. Larsen, P.O. Box 82818, Lincoln, NE 68501. Transporting *metal articles,* between points in Denver County, CO, Polk County, FL, Jasper County, MO, and Washington County, TX, on the one hand, and, on the other, points in AZ, CA, CO, CT, FL, IA, IL, IN, KS, MA, MD, MO, NC, NE, NJ, NY, OH, OR, PA, TX, UT, VA, WA, and WI.

MC 138741 (Sub-116F), filed November 3, 1980. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting (1) *gypsum, gypsum products and building materials,* (except commodities in bulk) and (2) *materials, equipment and supplies* used in the manufacture, installation and distribution of the commodities in (1) (except commodities in bulk), between points in AL, AR, CO, DE, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NJ, NY, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WV, WI and DC, restricted to traffic originating at or destined to the facilities of Georgia-Pacific Corporation. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of its certificate in MC–138741 Sub-106.

MC 139360 (Sub-13F), filed October 27, 1980. Applicant: RAEMARC, INC., 1903 Chicory Road, Racine, WI 53403. Representative: William D. Brejcha, 10 S. LaSalle St., Suite 1600, Chicago, IL 60603. Transporting *such commodities* as are dealt in or used by manufacturers and distrubutors of processed foods, between points in the U.S., under continuing contract(s) with Fremont draut, Inc., of Freemont, OH, Frank Pure Food Company, of Franksville, WI, Sharp Canning, Inc., of Bluffton, IN, and Milford Canning of Milford, IL.

MC 142181 (Sub-20F), filed October 27, 1980. Applicant: LIBERTY CONTRACT CARRIER, INC., 214 Hermitage Ave., Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *such commodities* as are dealt in or used by catalogue showroom stores, between points in the U.S., under continuing contract(s) with Service Merchandise Company, Inc., of Nashville, TN.

MC 143471 (Sub-30F), filed October 31, 1980. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 308 W. Blvd., Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701. Transporting *gypsum, gypsum products, and building materials,* between points in the U.S., under continuing contract(s) with Gold Bond Building Products, Division of National Gypsum Company of Charlotte, NC.

MC 143511 (Sub-6F), filed November 6, 1980. Applicant: HARDINGER TRANSFER CO., INC., 1314 West Eighteenth St., P.O. Box 521, Erie, PA 16512. Representative: Paul F. Sullivan, 711 Washington, Bldg., Washington, DC 20005. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Chautauqua County, NY, and Erie, Crawford, Warren, Venango, Mercer, and Lawrence Counties, PA, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 145610 (Sub-8F), filed October 28, 1980. Applicant: TRUCK AIR OF GEORGIA, INC., 765 Lake Mirror Road, College Park, GA 30349. Representative: Robert E. Born, Suite 508, 1447 Peachtree St. NE., Atlanta, GA 30309. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in AL, GA, NC, and SC.

MC 148370 (Sub-13F), filed October 31, 1980. Applicant: TRAFIK SERVICES, INC., 11 Newark Street, Providence, RI 02908. Representative: A. Joseph Mega (same address as applicant). Transporting *rubber thread,* and *materials and supplies* used in the manufacture of rubber thread, between points in the U.S., under continuing contract(s) with the Globe Manufacturing Corporation, of Fall River, MA.

MC 148370 (Sub-14F), filed October 31, 1980. Applicant: TRAFIK SERVICES, INC., 11 Newark St., Providence, RI 02908. Representative: A. Joseph Mega (same address as applicant). Transporting (1) *plastic articles and iron and steel articles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) between points in the U.S., under continuing contract(s) with ITT Grinnell Corporation of Providence, RI.

MC 148370 (Sub-19F), filed October 21, 1980. Applicant: TRAFIK SERVICES, INC., 11 Newark St., Providence, RI 02908. Representative: A. Joseph Mega (same address as applicant). Transporting (1) *paper and paper products,* and (2) *materials* and *supplies* used in the manufacture of the commodities in (1), between points in the U.S., under continuing contract(s) with Preco Corporation of West Springfield, MA.

MC 148930 (Sub-3F), filed November 5, 1980. Applicant: AERO DELIVERIES, INC., 529 Gidley Dr., Grand Haven, MI 49417. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49403. Transporting *such commodities* as are dealt in by home products distrubutors (except commodities in bulk), between points in the U.S., under continuing contract(s) with Shaklee Corporation, of Emeryville, CA.

MC 150221 (Sub-6F), filed November 3, 1980. Applicant: CENTRAL SOUTHERN, INC., P.O. Box 375, Drayton, SC 29333. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. Transporting (1) *textiles and textile products,* and *materials, equipment, and supplies* used in the manufacture and distribution of textiles and textile products (except commodities in bulk), and (2) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) in (1) with Hoechst Fibers Industries, Division of American Hoechst Corporation, of Spartanburg, SC, and (2) with American Hoescht Corporation, Industrial Chemical Division, of Charlotte, NC.

MC 150400 (Sub-1F), filed November 3, 1980. Applicant: AZTEC TRUCKING, INC., 9555 South Baltimore, Chicago, IL 60617. Representative: Richard A. Kerwin, 180 North LaSalle St., Chicago, IL 60601. Transporting (1) *iron and steel articles* and (2) *materials, equipment and supplies* used in the manufacture and distribution of iron and steel articles, between Lake County, IN, on the one hand, and, on the other, points in IA, IL, KY, MI, MO, OH, and WI.

MC 151641 (Sub-1F), filed October 15, 1980. Applicant: WILLIAM E. JOHNSON, d.b.a., WILLIAM E. JOHNSON TRUCKING COMPANY, 11211 Sherman Ave., Dallas, TX 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting (1) *meats, cheese and bananas,* between points in Dallas County, TX, on the one hand, and, on the other, points in NM, and OK, and (2) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between points in Dallas County, TX, on the one hand, and, on the other Liberal and Arkansas City, KS, Lincoln, NE, and Pueblo, CO.

MC 151751 (Sub-1F), filed October 20, 1980. Applicant: DOYAL W. BRUNSON, d.b.a. BRUNSON, P.O. Box 489, Fort Dodge Rd., Dodge City, KS 67801. Representative: Bruce C. Harrington, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Hyplains Dressed Beef, Inc. at or near Dodge City, KS, to points in the U.S. (except AK, HI, and KS).

MC 152070 (Sub-1F), filed November 6, 1980. Applicant: RICKY SHAW & SONS TRANSPORTATION COMPANY, INC., 500 Bennington Ave., Kansas City, MO 64125. Representative: Arthur J. Cerra, 2100 Ten Main Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *waste or scrap material; viz. scrap or waste materials not identified by industry producing,* and *hazardous materials,* as described in Items 40 and 49 of the Standard Transportation Commodity Code Tariff, respectively, between points in the U.S., under continuing contract(s) with Shaw & Sons Enviro Pro Ecology Unit VII, Inc., of Kansas City, MO.

MC 152511F, filed October 28, 1980. Applicant: PATRICIA WENGLIKOWSKI d.b.a. W. RENTAL COMPANY, 5404 Hilltop Dr., Bay City, MI 48706. Representative: Mark Wenglikowski, 621 14th St., Bay City, MI 48706. Transporting (1) *chemicals* between points in Bay, Saginaw, and Midland Counties, MI, on the one hand, and, on the other, points in Will and Cook Counties, IL, (2) *frozen foods and vegetables* between points in Bay and Saginaw Counties, MI, on the one hand, and, on the other points in DE, MD, NY, and points in Cook County, IL and Lake and Porter Counties, IN, (3) *metal products* between points in Bay and Tuscola Counties, MI, on the one hand, and, on the other, points in AL, KY, OH, and TN, and points in Cook County, IL, and Lake and Porter Counties, IN, and (4)(a) *flour* (except in bulk), and (b) *bakery goods,* and (c) *supplies* used in the manufacture of flour and bakery goods, between points in Lake and Cook Counties, IL, on the one hand, and, on the other, points in MI (except the Upper Peninsula of MI).

Volume No. OP2–093

Decided, November 6, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 1403(Sub-6F) (Correction) filed October 2, 1980, published in the **Federal Register,** issue of October 2, 1980, and republished, as corrected, this issue. Applicant: CENTRAL TRANSFER COMPANY, a CORPORATION, 100 Kellog St., Jersey City, NJ. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123. Transporting general commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in NY, NJ, and PA, on the one hand, and, on the other, points in NY, NJ, PA, DE, MD, VA, CT, and DC. Note: The purpose of this republication is to correct the territory description.

MC 89723 (Sub-73F) (Correction) filed October 1, 1980, published in the **Federal Register,** issue of October 20, 1980, and republished, as corrected, this issue. Applicant: MISSOURI PACIFIC TRUCK LINES, INC., 210 N. 13th St., St. Louis, MO 63103. Representative: Michael Thompson, (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in AR, MO, KS, CO, OK, NE, LA, TX, IL, TN, MS, and NM, on the one hand, and, on the other, points in AR, KS, MO, CO, TX, NE, IA, IL, IN, KY, TN, AL, MS, OK, NM, AZ, OH, and LA, restricted to traffic having a prior or subsequent movement by rail. The purpose of the republication is to correct the territorial description.

Volume No. OP2–094

Decided November 10, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 121742 (Sub-2F), filed October 9, 1980. Applicant: MISTLETOE TEX-PACK EXPRESS, INC., 702 E. 40th St., Lubbock, TX 79404. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Dallas, TX, and junction U.S. Hwy 82 and TX Farm Road 143, east of Guthrie: from Dallas over TX Hwy 183 to junction TX Hwy 121, then over TX Hwy 121 to junction TX Hwy 199, then over TX Hwy 199 to junction U.S. Hwy 82, and return over the same route, (2) between Dallas, TX, and junction TX Hwys 121 and 183: from Dallas over TX Hwy 114 to junction TX Hwy 121, then over TX Hwy 121 to junction TX Hwy 183, and return over the same route, (3) between Fort Worth, TX, and junction U.S. Hwys 283 and 82: from Fort Worth over U.S. Hwy 80, to junction U.S. Hwy 180, then over U.S. Hwy 180 to junction U.S. Hwy 183, then over U.S. Hwy 183, and junction U.S. Hwy 283, then over U.S. Hwy 283, to junction U.S. Hwy 82, and return over the same route, (4) between Dallas, TX, and junction Interstate Hwy 20 and U.S. Hwy 80, over Interstate Hwy 20, (5) between Dallas and Spur, TX: from Dallas over U.S. Hwy 80 to junction TX Hwy 6, then over TX Hwy 6 to junction U.S. Hwy 380, then over U.S. Hwy 380 to junction TX Hwy 70, then over TX Hwy 70 to Spur, and return over the same route, (6) between Quanah and Crowell, TX, over TX Hwy 6, (7) between Spur and Turkey, TX, over TX Hwy 70, (8) between Vernon and Earth, TX, over U.S. Hwy 70, (9) between Dickens and Lubbock, TX, over U.S. Hwy 82, (10) between Turkey and Tulia, TX, over TX Hwy 86, (11) between Lubbock and Amarillo, TX, over U.S. Hwy 87, (12) between Springlake and Hereford, TX, over U.S. Hwy 385, (13) between Floydada and Ralls, TX, over U.S. Hwy 62, (14) between junction TX Farm Road 54 and U.S. Hwy 62, and, junction TX Farm Road 54 and U.S. Hwy 87, over TX Farm Road 54, (15) between Childress and Paducah, TX, over U.S. Hwy 83, serving all intermediate points, restricted against (1) traffic originating at and destined to Amarillo, Childress, Vernon, Quanah, Fort Worth, and Dallas, and (2) service to intermediate points between Fort Worth and Dallas, TX, (16) between junction TX Hwy 222, and U.S. Hwy 82 and Dickens, TX, over U.S. Hwy 82, (17) between Silverton and Floydada, TX, over TX Hwy 207, (18) between junction U.S. Hwy 70 and TX Farm Road 179, and, junction TX Farm Road 37 and U.S. Hwy 87: from junction

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U.S. Hwy 70 and TX Farm Road 179 over TX Farm Road 179 to junction TX Farm Road 37, then over TX Farm Road 37 to junction U.S. Hwy 87, and return over the same route, (19) between junction TX Hwy 70 and TX Farm Road 97, and, junction TX Farm Roads 97 and 599, over TX Farm Road 97, (20) between junction U.S. Hwy 82 and TX Farm Road 651, and, junction TX Farm Road 261 and TX Hwy 70: from junction U.S. Hwy 82 and TX Farm Road 651 over TX Farm Road 651 to junction TX Farm Roads 651 and 261, then over TX Farm Road 261 to junction TX Hwy 70, and return over the same route, (21) between Spade and Olton, TX, over TX Farm Road 168, (22) between Spade, TX and junction TX Farm Road 54 and U.S. Hwy 87, over TX Farm Road 54, (23) between junction TX Farm Roads 168 and 37 and Fieldton, TX, over TX Farm Road 37, (24) between junction U.S. Hwy 70 and TX Farm Road 28, and, junction TX Farm Road 28 and U.S. Hwy 82, over TX Farm Road 28, (25) serving no intermediate points in routes (1) through (5) above except for purposes of joinder and interline only, and (26) serving all intermediate points in routes (6) through (24) above, restricted against articles weighing in the aggregate more than 100 pounds, moving in shipments weighing in the aggregate more than 500 pounds from one consignor at one location to one consignee at one location in any one day. Condition: Prior or coincidental cancellation, at applicant's written request, of Certificate of Registration No. MC 121742, issued July 17, 1975.

MC 124692 (Sub-344F), filed October 27, 1980. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59801. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *refractories, refractory products, insulation, insulating materials,* and (2) *materials, equipment and supplies* used in the manufacture, distribution and installation of the commodities in (1) above, between points in Grundy County, IL, Calloway and Audrain Counties, MO, Darke and Jackson Counties, OH, Pueblo County, CO, Mayes County, OK, Hopkins County, TX, and Perry County, ID, on the one hand, and, on the other, points in the U.S.

MC 125952 (Sub-49F), filed October 28, 1980. Applicant: INTERSTATE DISTRIBUTOR CO., a corporation, 6311 Durango, S. W., P.O. Box 99307, Tacoma, WA 98499. Representative: Daniel W. Baker, 100 Pine St. #2550, San Francisco, CA 94111. Transporting (1) *paper, paper articles, packaging materials,* (2) *such commodities* as are dealt in by manufacturers, distributors or convertors of cellulose materials and cellulose products, and (3) *equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above (except commodities in bulk), between points in the U.S., under continuing contract(s) with Crown Zellerbach Corporation, of Portland, OR.

MC 128652 (Sub-20F), filed October 28, 1980. Applicant: LARSON TRANSFER AND STORAGE CO., INC., 10700 Lyndale Ave., South, P.O. Box 877, Minneapolis, MN 55440. Representative: George L. Hirschbach, 920 West 21st St., P.O. Box 155, South Sioux City, NE 68776. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives) as described in Item 51 of the Standard Transportation Commodity Code Tariff between points in the U.S. under continuing contract(s) with (1) The Toro Company of Minneapolis, MN, (2) American Excelsior Company of Minneapolis, MN, (3) Munsingwear, Inc., of Minneapolis, MN, (4) Branch Manufacturing Company of North Branch, MN, (5) Capp Homes Company of Minneapolis, MN, and (6) King Foods Company of South St. Paul, MN.

MC 150363 (Sub-1F), filed October 21, 1980. Applicant: ROBERT HARDESTY AND MICHAEL HARDESTY, a partnership, d.b.a. HARDESTY EXCAVATING, R.R. 1, Chana, IL 61015. Representative: Mary Hardesty (same as applicant). Transporting lumber, *railroad ties, slab wood and sawdust* between points in IL, WI, IA and IN.

MC 152473F, filed October 20, 1980. Applicant: JAMES CHANCEY, R.R. #3, Carbondale, IL 62901. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Transporting *lumber or wood products,* except furniture, as described in Item 24 to the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with Koppers Company, Inc.

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Decided: November 12, 1980

By the Commission Review Board Number 1, Members Carleton, Joyce and Jones.

MC 2153 (Sub-50F) filed November 3, 1980. Applicant: MIDWEST MOTOR EXPRESS, INC., 5015 E. Main Street, Bismarck, ND 58501. Representative: James L. Nelson, 1241 Pierce Butler Route, St. Paul, MN 55104. Over *regular routes,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Williston, ND, and Glendive, MT, serving all immediate points, from Williston over U.S. Hwy 85 to junction ND Hwy 200, then over ND Hwy 200 to the MT–ND State line, then over MT Hwy 200 to junction MT Hwy 16, then over MT Hwy 16 to Glendive, and return over the same route.

Note.—Applicant intends to tack this authority with its existing regular route authority.

MC 58672 (Sub-4F) filed October 28, 1980. Applicant: DUGAS EXPRESS COMPANY, a corporation, 102 Knox St., Lewiston, ME 04240. Representative: Normand F. Doyon (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in ME, NH, and MA.

MC 84212 (Sub-41F) filed October 20, 1980. Applicant: DORN'S TRANSPORTATION, INC., Railroad Ave. Extension, Albany, NY 12205. Representative: Irving Klein, 371–Seventh Ave., New York, NY 10001. Transporting *industrial oils and greases, hydraulic fluids, and metal cutting compounds,* between points in Lehigh County, PA, on the one hand, and on the other, points in Essex, Warren, St. Lawrence, Clinton, Washington, and Saratoga Counties, NY

MC 107012 (Sub-599F) filed October 23, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same address as applicant). Transporting *general commodities,* from Seattle, WA to points in the U.S. (except AK and HI). Condition: To the extent any certificate issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issuance.

MC 128343 (Sub-84F) filed November 3, 1980. Applicant: C-LINE, INC., 340 Jefferson Boulevard, Warwick, RI 02888. Representative: Ronald N. Cobert, 1730 M Street, N.W., Suite 501, Washington, D.C. 20036. Transporting *general commodities (except household goods as defined by the Commission, and classes A and B explosives),* between points in U.S., under continuing contract(s) with The Okonite Company of Ramsey, N.J.

MC 128343 (Sub-85F), filed November 3, 1980. Applicant: C–LINE, INC., 340 Jefferson Boulevard, Warwick, RI 02888. Representative: Ronald N. Cobert, 1730 M St., N.W., Suite 501, Washington, D.C. 20036. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S. under continuing contract(s) with Victor Electric Wire & Cable Corp. of West Warwick, RI.

MC 134183 (Sub-14F), filed October 31, 1980. Applicant: C & E TRANSPORT, INC., d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, OH 45338. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street, NW., Wasington, DC 20001. Transporting (1) *such commodities* as is dealt in or used by grocery and food business houses, and (2) *materials, equipment and supplies* used in manufacture and sale of the commodities in (1) above, between points in the U.S., under a continuing contract(s) with Lever Brothers Company, of New York, NY.

MC 139193 (Sub-119F), filed October 27, 1980. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Kansas City, MO 64133. Representative: Terrance D. Jones, 2033 K St., NW, Washington, DC 20006. Transporting *petroleum and petroleum products* in packages, vehicle body sealer, sound deadening products, and synthetic luburicant, between points in the U.S., under continuing contract(s) with Pennzoil Products Company of Houston, TX.

MC 145332 (Sub-4F), filed October 26, 1980. Applicant: STEPHEN HROBUCHNAK, d.b.a. TRANS-CONTINENTAL REFRIGERATED LINES, Route 502, P.O.B. 1456, Scranton, PA 18501. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. Transporting *food or kindred products,* as described in Item 20 of the Standard Transportation Commodity Code Tariff (except commodities in bulk), between Milton, PA, on the one hand, and, on the other, Los Angeles, Oakland, San Francisco, and Vacaville, CA, Portland, OR, and Seattle, WA.

MC 147323 (Sub-11F), filed October 26, 1980. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440. Transporting (1) *primary metal products;* inc. galvanized; except coating or other allied processing, (2) *fabricated metal products;* except ordnance, and (3) *machinery;* except electrical, as described in Items 33, 34, and 35, respectively, in the Standard Transportation Commodity Code Tariff, between points in Wayne and Oakland Counties, MI, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR, and LA.

MC 151132 (Sub-1F), filed October 24, 1980. Applicant: AMERICAN WESTERN TRANSPORT, INC., 805 West 2400 South, Salt Lake City, UT 84119. Representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth St., NW., Washington, DC 20005. Transporting *such commodities* as are dealt in or used by drug stores, discount houses, and grocery stores and food business houses between the facilities of Forest City Products, Inc., at (a) Clearfield, UT, and (b) Cleveland OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 151672 (Sub-1F), filed October 21, 1980. Applicant: RIGHT–WAY TRANSPORT, INC., 1133 A Avenue, Freeman Field, Seymour, IN 47274. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *petroleum and petroleum products,* between points in Jefferson County, KY, on the one hand, and, on the other, points in IN.

MC 151673 (Sub-1F), filed October 20, 1980. Applicant: J & R CARRIERS, INC., Route 6, Box 17, Vicksburg, MS 39180. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting (1) *trailers* designed to be drawn by passenger automobiles (except travel trailers and camping trailers), and (2) *buildings,* mounted on wheeled undercarriages, between points in AL, LA, GA, MS, TN, TX, and FL.

MC 151822 (Sub-1F), filed October 27, 1980. Applicant: FREIGHT DIRECT, INC., P.O. Box 10707, Atlanta, GA 30310. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Transporting (1) *display fixtures, counters, showcases* and (2) *windows, barrels, crates or boxes,* between Atlanta, GA, and points in the U.S., (except AK and HI).

MC 152283 (Sub-1F), filed October 22, 1980. Applicant: P. H. TRUCKING, INC., 6003 Guion Road, Indianapolis, IN 46268. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *such commodities* as are dealt in or used by retail department stores, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Paul Harris Stores, Inc., of Indianapolis, IN.

MC 152492F, filed October 16, 1980. Applicant: ALEXANDER'S TRAVEL SERVICE, INC., d.b.a. CAMINO TOURS, 31 West 34th Street, New York, NY 10001. Representative: Joel I. Papernik, 330 Madison Avenue, New York, NY 10017. As a *broker,* at Bronx, Queens, Kings, New York, Westchester and Nassau Counties, NY, Bergen, Monmouth and Sussex Counties, NJ, and New Haven County, CT, in arranging for the transportation, by motor vehicle, of passengers and their baggage in special, charter and round-trip operations, between points in NY, NJ, and CT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152493F, filed October 28, 1980. Applicant: WALTER S. DRZEWIECKI, d.b.a. GAYLORD FEED & GRAIN COMPANY, 403 West Mitchell St., Gaylord, MI 49735. Representative: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, MI 48080. Transporting *general commodities,* between points in the U.S., under continuing contract(s) with H & H Tube and Manufacturing Co., of Southfield, MI. Condition: To the extent any permit issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited to a period expiring 5 years from its date of issuance.

Volume No. OP3-071

Decided: November 10, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones—Member Carleton not participating.

MC 2095 (Sub-33F), filed October 20, 1980. Applicant: KEIM TRANSPORTATION, INC., P.O. Box 226, Sabetha, KS 66534. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting (1) *gypsum and gypsum products,* (2) *building materials* (except those in (1) and (4)), (3) *paper and paper products,* (4) *chemicals and plastic products,* and (5) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of the commodities in (1) through (4) above, between all points in the U.S. (except AK and HI).

MC 123334 (Sub-7F), filed September 29, 1980. Applicant: KENNETH HUDSON, INC., d.b.a. HUDSON BUS LINES, 280 Bartlett St., Lewiston, ME 04240. Representative: Mary E. Kelley, 22 Stearns Ave., Medford, MA 02155. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, beginning and ending at points in Androscoggin, Franklin, and Oxford Counties, ME, and extending to points in the U.S. (except HI).

Note.—Applicant also filed concurrently an application for control approval under Ex Parte No. 55 (Sub-No. 46) which has been

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determined as unnecessary and will not be processed.

MC 128905 (Sub-6F), filed October 27, 1980. Applicant: ZERKLE TRUCKING COMPANY, a corporation, 2400 Eighth Ave., P.O. Box 5628, Huntington, WV 25703. Representative: N. W. Bowen, Jr. (same address as applicant). Transporting *general commodities* (except commodities in bulk, household goods as defined by the Commission, classes A and B explosives, and those requiring special equipment), between points in the U.S., under a continuing contract(s) with Heck's, Incorporated, of Nitro, WV.

MC 133384 (Sub-4F), filed October 22, 1980. Applicant: BARBERTON RECON CENTER, INC., 5075 Wooster Rd., Barberton, OH 44203. Representative: E. H. van Deusen, P.O. Box 97, Dublin, OH 43017. Transporting *motor vehicles*, in truckaway service, from the facilities of the Ford Motor Company, at or near Dearborn, MI, to points in the U.S.

MC 133805 (Sub-62F), filed October 21, 1980. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. Transporting (1) *meats, meat products and meat by-products*, and *articles distributed by meat-packinghouses*, (2) *foodstuffs* (except those embraced in (1) above), and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between points in the U.S., under contiuing contract(s) with Swift Indpendent Packing Co., a division of Swift & Company, of Chicago, IL.

MC 134105 (Sub-547F), filed October 20, 1980. Applicant: CELERYVALE TRANSPORT, INC., 1706 Rossdille Ave., Chattanooga, TN 37408. Representative: Jack H. Blanshan, Suite 200, 205 W. Toughy Ave., Park Ridge, IL 60068. Transporting (1) *lighting fixtures*, (2) *parts and accessories* for lighting fixtures, and (3) *equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between the facilities of Lithonia Lighting Company, at (a) Cochran and Conyers, GA, and (b) Crawfordsville, IN, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 140635 (Sub-30F), filed September 19, 1980. Applicant: ADAMS LINES, INC., 1619 N Street, Omaha, NE 68107. Representative: John L. Hornung (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, clases A and B explosives, and commodities in bulk), between points in the U.S. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation of certifiates issued under Docket No. MC-140635 and the subs thereunder, at applicant's written request.

Note.—Applicant has no shipper support but relies on traffic studies to support a grant of authority.

MC 152464 (Sub-1F), filed September 30, 1980. Applicant: PYRAMID T.O.F.C. SERVICES, INC., Rural Route 2, Box 235A, Carterville, IL 62918. Representative: Grant M. Davis, 2217 Juneway Terrace, Fayetteville, AR 72701. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), Between points in Alexander, Bond, Calhoun, Champaign, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Logan, Macon, Macoupin, Madison, Marion, Massac, Monroe, Montgomery, Morgan, Moultrie, Perry, Piatt, Pike, Pope, Pulaski, Randolph, Richland, St. Clair, Sangamon, Saline, Scott, Shelby, Union, Wabash, Washington, Wayne, White, and Williamson Counties, IL; Butler, Bollinger, Cape Girardeau, Carter, Crawford, Dent, Dunklin, Franklin, Gasconade, Howell, Iron, Jefferson, Lincoln, Madison, Maries, Mississippi, Montgomery, New Madrid, Oregon, Osage, Pemiscot, Perry, Pike, Phelps, Reynolds, Ripley, St. Charles, St. Francois, St. Louis, Ste. Genevieve, Scott, Shannon, Stoddard, Texas, Warren, Washington, and Wayne Counties, MO; Clay, Craighead, Greene, Lawrence, Mississippi, and Randolph Counties, AR; Benton, Carroll, Cheatham, Chester, Crockette, Davidson, Decatur, Dickson, Dyer, Gibson, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Lake, Lauderdale, Madison, Montgomery, Obion, Perry, Robertson, Stewart, Tipton, and Weakley Counties, TN; Ballard, Breckinridge, Butler, Calloway, Carlisle, Christian, Caldwell, Crittenden, Daviess, Edmonson, Fulton, Graves, Grayson, Hardin, Hancock, Henderson, Hickman, Hopkins, Livingston, Logan, Lyon, Marshall, McCracken, McLean, Meade, Muhlenberg, Ohio, Simpson, Todd, Trigg, Union, Warren, and Webster Counties, KY; and Clay, Crawford, Daviess, Dubois, Gibson, Greene, Harrison, Knox, Lawrence, Martin, Orange, Owen, Perry, Pike, Posey, Spencer, Sullivan, Vanderburgh, Vigo, and Warrick Counties, IN, restricted to traffic having a prior or subsequent movement by rail.

Volume No. OP3-075

Decided: November 12, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 109124 (Sub-111F), filed October 23, 1980. Applicant: SENTLE TRUCKING CORPORATION P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *metal articles*, (2) *rubber and rubber products*, (3) *plastic and plastic products*, (4) *forest, lumber or wood products*, (5) *clay, concrete, glass, refractory and stone products*, (6) *pulp, paper and paper products*, (7) *building, insulating and contractors' materials, equipment and supplies*, (8) *chemicals and allied products*, as described in Item 28 of the Standard Transportation Commodity Code, (9)(a) *agricultural and industrial machinery*, and (b) *equipment, implements and parts* for the commodities in (9) (a), (10) *alloys, minerals, ores, salt, sand, carbon, graphite and stone*, (11) *dry bulk commodities*, (12) *waste or scrap materials*, (13) *fiberglass, fibrous glass, urethane, calcium silicate, polyester resins*, (14) *fiberglass fibrous glass, urethane, calcium silicate*, and *polyester resin products*, and (15) *materials, equipment and supplies* used in the manufacture or distribution of the commodities in (1) through (14) above, (a) between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, and (b) between the points in (a) above on the one hand, and, on the other, those points in the U.S. west of ND, SD, NE, KS, OK and TX (except AK and HI).

Note.—Issuance of a certificate in this proceeding is conditioned upon prior or coincidental cancellation of Certificates Nos MC-109124 and sub-numbers.

MC 134404 (Sub-67F), filed November 5, 1980. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S. (except AK and HI), under continuing contracts with (1) Thomas & Betts Corporation, of Raritan, NJ; (2) AMF Wheel Goods Division, AMF, Inc., of Oleny, IL; and (3) Chevron Chemical Company of Dallas, TX.

MC 142995 (Sub-1F), filed October 15, 1980. Applicant: AIRLIN TRUCKING CO., INC., Foot of Cutters Dock Road, Woodbridge, NJ 07095. Representative: George V. D'Agostino (same address as applicant). Transporting (1) *limestone*, (2) *liquid limestone slurry*, in bulk, in tank vehicles, (3) *marble chips*, in bags, (4) *sand*, in bags, (5) *talc and talc tailings*, between points in the U.S., under continuing contract(s) with Omya, Inc., and Protexulate, Inc. (Pluess Staufer Industries), of Proctor, VT.

MC 149475 (Sub-1F), filed November 5, 1980. Applicant: JOHN M. HELFRICH, Glen Ullin, ND 58531. Representative: John B. Van De North, Jr., 2200 First National Bank Bldg., St. Paul, MN, 55101. Transporting *forest products*, between points in the U.S., under continuing contract(s) with Lavelle Lumber Co., of Fargo, ND.

MC 149575 (Sub-2F), filed October 30, 1980. Applicant: ADAMS CARTAGE COMPANY, INC., P.O. Box 3043 Macon, GA 31205. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting *lumber and forest products*, between points in AL, FL, GA, MS, NC, and SC.

MC 152125 (Sub-2F), filed November 7, 1980. Applicant: MIDWEST CONTAINER SERVICES, INC., 5717 Hamlet Ave., Cleveland, OH 44115. Representative: Douglas R. Denny, 1050 Union Commerce Bldg., Cleveland, OH 44115. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives and commodities in bulk), between points in MI, OH, and KY, on the one hand, and, on the other, points in MD, NJ, NY, PA, and VA, restricted to traffic having a prior or subsequent movement by water.

MC 152264 (Sub-1F), filed October 28, 1980. Applicant: WHITE AND BLUE TAXI OF SCHENECTADY, INC., 1743 State St., Schenectady, NY 12304. Representative: Nick Solomakos, 1330 State St., Schenectady, NY 12304. Transporting *passengers and their baggage*, in the same vehicle with passengers, beytween points in the U.S., under continuing contract(s) with Consolidated Rail Corporation, of Phildelphia, PA. Condition: Applicant must submit a statement indicating how it proposes to satisfy the statutory criteria of contract carriage by furnishing transportation services designed to meet the distinct need of each person served. In a particular applicant must describe briefly the distinct need for which transportation services have been designed. The statement will be examined by a review board prior to issuance of any permit.

MC 152284 (Sub-1F), filed October 27, 1980. Applicant: INDIANA HEAVY & SPECIALIZED CARRIER, INC., Route 1, Wilson Ave., Madison, IN 47250. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. Transporting (1) *leather, and leather products*, and (2) *materials* used in the manufacture of leather products, between points in the U.S., under continuing contract(s) with Robus Products Corporation, of Madison, IN.

MC 152474 (Sub-1F), filed October 21, 1980. Applicant: KBS, Inc., RD1, Box 7, Thomasville, PA 17364. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Transporting *scrap metal*, between points in York, Adams, Dauphin, Lancaster, Chester, Berks, Lebanon, Cumberland, Franklin and Fulton Counties, PA, on the one hand, and, on the other, points in MD, VA, NJ, DE, and DC.

Volume No. OP5-052

Decided: November 5, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 8958 (Sub-46F), filed October 16, 1980. Applicant: THE YOUNGSTOWN CARTAGE CO., INC., 825 W. Federal St., Youngstown, OH 44501. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *aluminum articles* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk), between points in Berkeley County, SC, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, MA, MD, MI, NO, NJ, NY, OH, PA, RI, WV, WI, and DC. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidvit indicating why such approval is unnecessary.

MC 78118 (Sub-58F), filed October 21, 1980. Applicant: WM H. JOHNS, INC., 35 Witmer Road, Lancaster, PA 17602. Representative: Christian V. Graf, 402 N. Front St., Harrisburg, PA 17101. Transporting *such commodities* as are manufactured, dealt in, or used by a manufacturer or distributor of glass containers (except commodities in bulk), between points in the U.S. in and east of WI, IL, KY, TN, and MS, restricted to traffic originating at or destined to the facilities of Glass Containers Corporation. Condition: prior or coincidental cancellation, at applicant's written request, of Certificates No. MC 78118 Sub Nos. 34, 36 and 47-F.

MC 106398 (Sub-1084F), filed October 23, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). Transporting *primary metal products*, including galvanized, as described in Item 33 and *fabricated metal products* (except ordnance), as described in Item 34 of the Standard Transportation Commodity Code Tariff, between points in Marion and Clackamas Counties, OR and Green County, AR, on the one hand, and, on the other, points in the U.S.

MC 109689 (Sub-379F), filed October 21, 1980. Applicant: W. S. HATCH COMPANY, P.O. Box 1825, Salt Lake City, UT 84110. Representative: Mark K. Boyle, Suite 400, 10 Broadway Bldg., Salt Lake City, UT 84101. Transporting *commodities in bulk*, between points in the U.S.

MC 117119 (Sub-833F), filed October 21, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean, (same address as applicant). Transporting (1) *such commodities*, as are dealt in or used by food business houses, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in the U.S. (except AK and HI).

MC 119689 (Sub-32F), filed October 20, 1980. Applicant: PEERLESS TRANSPORT CORP., 2701 Railroad Street, Pittsburgh, PA 15222. Representative: Robert T. Hefferin (same address as applicant). Transporting *adhesives and liquid plastics*, from Columbus, OH, to Marshall, MI.

MC 129908 (Sub-60F), filed October 16, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th, Oklahoma City, OK 73107. Representative: John S. Odell, P.O. Box 75410, Oklahoma City, OK 73107. Transporting *food or kindred products, and fabricated metal products*, between points in CA, on the one hand, and, on the other, points in AL, AR, AZ, CO, FL, GA, ID, IL, IN, IA, KS, KY, MO, NC, NY, OH, OR, PA, TN, TX, WA, and WI.

MC 140389 (Sub-92F), filed October 28, 1980. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conleys GA 30027. Transporting *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. (except AL and HI), restricted to

traffic originating at or destined to facilities used by Ralston Purina Company.

MC 141108 (Sub-12F), filed October 20, 1980. Applicant: D & C EXPRESS, INC., P.O. Box 746, Wilton, IA 52778. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *materials, equipment and supplies* used in the manufacture and distribution of office equipment, from points in IL, IN, MO, OH, PA, and WV to Muscatine, IA.

MC 144888 (Sub-19F), filed October 20, 1980. Applicant: BIL-RIC TRANSPORT SYSTEMS, INC., 130 Somerset Street, Somerville, New Jersey 08876. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, New Jersey 07006. Transporting *new furniture and plastic articles,* and *materials, equipment, and supplies* used in the manufacture, sale, and distribution of furniture and plastic articles, between points in NJ, on the one hand, and, on the other, points in and east of MN, IA, MO, AR, and LA.

MC 144969 (Sub-24F), filed October 28, 1980. Applicant: WHEATON CARTAGE CO., 3rd and "C" Streets, Millville, NJ 08332. Representative: Lawrence J. DiStefano, Jr., 1101 Wheaton Ave., Millville, NJ 08332. Transporting *such commodities* as are dealt in by manufacturers of shipping containers, pulpwood, paper products, foodstuffs and syrups (except those of unsual value, classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between Philadelphia and Bala-Cynwyd, PA, and Vineland, NJ, on the one hand, and on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Connelly Container, Inc.

MC 145018 (Sub-16F), filed October 20, 1980. Applicant: NORTHEAST DELIVERY, INC., P.O. Box 127, Taylor, PA 18517. Representative: Daniel W. Krane, Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Transporting (1) *food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, and (2) *materials and supplies* used in the sale and distribution of the commodities in (1), between points in OH, on the one hand, and, on the other, North East and Erie, PA, and Westfield, NY.

MC 145219 (Sub-16F), filed October 23, 1980. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 500, Camden, SC 29020. Representative: William P. Sullivan, 818 Connecticut Ave. NW., Washington, DC 20006. Transporting (1) *compounds and roof coatings,* and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1), between points in Jefferson and Harris Counties, TX and Jefferson Parish, LA, on the one hand, and, on the other, points in AL, AR, AZ, CO, DE, FL, GA, IL, KY, LA, MD, MN, MS, NC, ND, NE, NJ, NM, NY, OH, PA, SC, SD, TN, TX, VA, WI, WV, and DC.

MC 145529 (Sub-3F), filed October 15, 1980. Applicant: ROBERT STEEN, d.b.a. STEEN'S FEEDS, East Elkhorn, Belle Fourche, SD 57717. Representative: Claude Stewart, P.O. Box 480, Sioux Falls, SD 57101. Transporting (a) *lumber,* (b) *building materials and supplies,* and (c) *bentonite,* between points in MN, MT, ME, SD, and WY, on the one hand, and, on the other, points in CO, IA, IL, IN, KS, LA, MI, MN, MO, MT, NE, ND, NM, OH, OK, PA, TX, WI, and WY.

MC 146078 (Sub-31F), filed October 22, 1980. Applicant: CAL-ARK, INC., 854 Moline, P.O. Box 610, Malvern, AR 72104. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. Transporting (1) *Dockboard, iron and steel, dock levelers, and rubber bump blocks,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between the facilities of DLM, Inc., at Malvern, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146148 (Sub-14F), filed October 27, 1980. Applicant: B-RIGHT TRUCKING CO., a corporation, 492 Old St. Rt. 7, Pottery Addition, Steubenville, OH 43952. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *fabricated and primary metal articles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in IL, IN, KY, MI, OH, PA, and WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP5-053

Decided: November 15, 1980.

By the Commission, Review Board Numbers 3, Members Parker, Fortier and Hill.

MC 146589 (Sub-4F), filed October 21, 1980. Applicant: REGIONAL TRANSPORTATION COMPANY, INC., 600 Secaucus Rd., Secaucus, NJ 07094. Representative: Herbert S. Zischkau, III, 277 Park Ave., New York, NY 10172. Transporting *such commodities* as are dealt in or used by toy and variety stores, between points in the U.S., under continuing contract(s) with Lash Tameron Distributors, a division of Toys "R" Us, Inc., of Rochelle Park, NJ.

MC 147348 (Sub-10F), filed October 21, 1980. Applicant: SOUTHWEST FREIGHT DISTRIBUTORS, INC., 1320 Henderson, North Little Rock, AR 72114. Representative: James M. Duckett, 411 Pyramid Life Bldg., Little Rock, AR 72201. Transporting (1) *household appliances,* (2) *television sets and recorders,* and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above (except commodities in bulk) between the facilities of General Electric Company, at Little Rock, AR, and points in LA, MS, NM, TX, and OK.

MC 147949 (Sub-5F), filed October 23, 1980. Applicant: ROEDER CARTAGE COMPANY, INCORPORATED, 15 175 Mumaugh Rd., Lima, OH 45804. Representative: Richard H. Brandon, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. Transporting *pulverized rubber and materials, equipment, and supplies* used in the manufacture and distribution of pulverized rubber, between points in the U.S. under continuing contract(s) with Midwest Elastomers, Inc., of Wapakoneta, OH.

MC 148548 (Sub-2F), filed October 20, 1980. Applicant: KEIM TRANSPORTATION, INC., P.O. Box 226, Sabetha, KS 66534. Representative: Clyde N. Christey, Ks. Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting *lumber and plywood,* between points in the U.S. under continuing contract(s) with Hardman Lumber Co., of Osborn, KS.

MC 148698 (Sub-2F), filed October 20, 1980. Applicant: LEISURE TIME DISTRIBUTORS, INC., 2318 Deepwater Terminal Road, Richmond, VA 23234. Representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. Transporting (1) *boats, boat trailers and marine accessories,* and (2) *materials, equipment and supplies* used in the manufacture, and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Galaxy Boat Manufacturing Company, Inc., of Columbia, SC.

MC 148789 (Sub-4F), filed October 20, 1980. Applicant: SHELDON J. GOLDFIN, d.b.a. NEVADA PRODUCE, 50 Freeport Blvd., Unit No. 17, Sparks, NV 89431. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting (1) *non-exempt food and kindred products,* (2) *adhesives, and wallboard,* and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2), betwen points in the U.S., under continuing contract(s) with Prause Milling Company, of Milwaukee, WI.

MC 149078 (Sub-7F), filed October 27, 1980. Applicant: ROAD WEST, INC., 1315 E. Holt Blvd., P.O. Box 3637, Ontario, CA 91761. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. Transporting *foodstuffs,* between points in Los Angeles County, CA, and Allegheny and Erie Counties, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 149218 (Sub-10F), filed October 20, 1980. Applicant: SUNBELT EXPRESS, INC., U.S. Hwy 78 West, Bremen, GA 30110. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *malt beverages,* between points in GA and OH, on the one hand, and, on the other, points in AL, AR, GA, IL, TN, KY, LA, MS, MO, NC, OH, SC, TN, VA, and WV.

MC 149218 (Sub-11F), filed October 21, 1980. Applicant: SUNBELT EXPRESS, INC., Highway 78 West, P.O. Box 604, Bremen, GA 30110. Representative: Pat H. Carden (same address as applicant). Transporting (1) *plastic and plastic articles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of plastic and plastic articles, between points in GA, on the one hand, and, on the other, points in AL, AR, FL, IL, IN, KY, LA, MO, MS, NC, OH, SC, TN, VA, and WV.

MC 150088 (Sub-1F), filed October 27, 1980. Applicant: STERLING TRANSPORT DIVISION, INC., 801 Heinz Way, Grand Prairie, TX 75071. Representative: Robert K. Frisch, 2711 Valley View Lane, Suite 101, Dallas, TX 75234. Transporting *household appliances, television receiving sets,* and *television receiving set stands,* between Pulaski County, AR, on the one hand, and, on the other, points in TX and OK.

MC 150088 (Sub-2F), filed October 27, 1980. Applicant: STERLING TRANSPORT DIVISION, INC., 801 Heinz Way, Grand Prairie, TX 75071. Representative: Robert K. Frisch, 2711 Valley View Lane, Suite 101, Dallas, TX 75243. Transporting (1) *such commodities* as are dealt in or used by retail, variety or department stores, and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1), between points in Dallas and Tarrant Counties, TX, on the one hand, and, on the other, points in Carter, Comanche, Canadian, Cleveland, McClain, Oklahoma and Pottawatomie Counties, OK, Pulaski County, AR, Bossier, Caddo and Ouachita Parishes, LA, and points in CO, KS, and MO.

MC 150088 (Sub-3F), filed October 27, 1980. Applicant: STERLING TRANSPORT DIVISION, INC., 801 Heinz Way, Grand Prairie, TX 75071. Representative: Robert K. Frisch, 2711 Valley View Lane, Suite 101, Dallas, TX 75234. Transporting (1)(a) *such commodities* as are dealt in or used by retail, chain, grocery, and food business houses, (b) *soy products, paste, flour products, and dairy-based products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) between the facilities of Ralston-Purina Company at points in Canadian, Cleveland, Caddo, Pottawatomie, and Oklahoma Counties, OK, on the one hand, and, on the other, points in Dallas and Tarrant Counties, TX.

MC 150159 (Sub-1F), filed October 21, 1980. Applicant: WILNER'S LIVERY SERVICE, INC., 1421 Witherspoon Street, Rahway, NJ 07065. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special operations, limited to the transportation of not more than 6 passengers (not including the driver) in one vehicle at one time, in non-scheduled door-to-door service, between points in Middlesex, Somerset and Union Counties, NJ, on the one hand, and, on the other, John F. Kennedy International and LaGuardia Airports, NY, and Philadelphia International Airport, Philadelphia, Pa.

MC 150339 (Sub-8F), filed October 20, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with B. F. Goodrich Company, of Akron, OH.

Note.—The person or persons who appear to be engaged in common control with applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 150339 (Sub-9F), filed October 20, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Zurn Industries, Inc., of Erie, PA.

Note.—The person or persons who appear to be engaged in commom control of applicant and another regulated carrier, must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 150339 (Sub-10F), filed October 16, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Sullair Corporation, of Michigan City, IN.

MC 150559 (Sub-2F), filed October 24, 1980. Applicant: EMERSON EXPRESS CO., INC., 545 Lyell Ave., Rochester, NY 14606. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. Transporting *antifreeze, charcoal, charcoal briquets, charcoal lighter fluid, paper bags, fireplace logs, ground clay,* in bags, *lubricants, and motor oil,* between points in OK and points in and east of MN, IA, MO, AR, and LA.

Volume No. OP5-054

Decided November 5, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 150939 (Sub-2F), filed October 28, 1980. Applicant: GEMINI TRUCKING, INC., 1533 Broad St., Greensburg, PA 15601. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., continuing contract(s) with PPG Industries, Inc., of Pittsburgh, PA.

MC 150949 (Sub-3F), filed October 27, 1980. Applicant: NFI, INC., P.O. Box 664, Waxahachie, TX 75165. Representative: Thomas F. Sedberry P.O. Box 2165, Austin, TX 78768. Transporting (1) *bicycles, bicycle parts and accessories for bicycles,* and (2) *materials and supplies* used in the manufacture and distribution of bicycles, from Ponca City, OK, to points in AR, KS, LA, NM, and TX.

MC 150949 (Sub-4F), filed October 28, 1980. Applicant: NFI, INC., P.O. Box 664, So. Interstate No. 35, Waxahachie, TX 75165. Representative: Gerald S. Duzinski, 71 West Park Ave., Vineland, NJ 08360. Transporting *plumbing goods and plumbing fixtures,* and *materials, equipment, and supplies* used in the manufacture and distribution of plumbing goods and plumbing fixtures, between points in Lee County, MS, on the one hand, and, on the other, points in AR, LA, and TX, restricted to traffic

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originating at or destined to the facilities of Eljer Plumingware.

MC 150978 (Sub-1F), filed October 16, 1980. Applicant: TLC LINES, INC., P.O. Box 1090, Fenton, MO 63026. Representative: Jack H. Blanshan, 205 W. Touhy Ave.—Suite 200, Park Ridge, IL 60068. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the United States, under continuing contract(s) with Transportation Manufacturing Corporation and Romax, Inc., of Roswell, NM.

MC 150988 (Sub-1F), filed October 29, 1980. Applicant: A & B CARTAGE, INC., 2411 Robeson St., Fayetteville, NC 28305. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. Transporting *paper products*, between points in Columbus, Robeson, and Cumberland Counties, NC, on the one hand, and, on the other, points in SC, VA, MD, DE, PA, NJ, IN, and OH.

MC 150988 (Sub-2F), filed October 29, 1980. Applicant: A & B CARTAGE, INC., 2411 Robeson St., Fayetteville, NC 28305. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. Transporting *new furniture* and *new furniture parts*, between points in Cumberland County, NC on the one hand, and, on the other, points in GA, FL, SC, VA, MD, DE, NY, NJ, PA, OH, and DC.

MC 151059 (Sub-1F), filed October 28, 1980. Applicant: COWBOY OIL COMPANY, Box 47, Woods Cross, UT 84087. Representative: F. Robert Reeder, P.O. Box 11898, Salt Lake City, UT 84147. Transporting *crude petroleum* between points in the U.S., under continuing contract(s) with Listro Petroleum Incorporated of Houston, TX.

MC 151078 (Sub-1F), filed October 22, 1980. Applicant: COASTAL FAST FREIGHT, INC., 346 Claremont Ave., Jersey City, NJ 07305. Representative: Charles A. Webb, 1828 L. Street, NW., Suite 1111, Washington, DC 20036. Transporting *automobile air conditioners and parts and accessories for automobile air conditioners*, between points in the U.S., under continuing contract(s) with Nippondenso of Los Angeles, Inc., of Carson, CA.

MC 151119 (Sub-1F), filed October 20, 1980. Applicant: OVERLAND CONTRACT CARRIERS CORP., 2025 English Ave., Indianapolis, IN 46203. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., 320 North Meridian St., Indianapolis, IN 46204. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in IN.

MC 151768 (Sub-2F), filed October 20, 1980. Applicant: ARM TRANSPORTATION CORPORATION, P.O. Drawer 9480, Amarillo, TX 79105. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. restricted to traffic originating at or destined to the facilities of Ardan, Inc.

MC 151768 (Sub-3F), filed October 20, 1980. Applicant: ARM TRANSPORTATION CORPORATION, P.O. Drawer 9480, Amarillo, TX 79105. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. Transporting *foodstuffs* (1) from Imlay City, Bridgeport and Memphis, MI, to points in Washington County, MS, and (2) from points in Washington County, MS, to points in AL, AR, CO, FL, GA, IL, IN, KS, KY, MO, NE, OK, TN, and TX.

MC 152119 (Sub-1F), filed October 15, 1980. Applicant: SCHLAGER'S AUTO BODY REPAIR, INC., 101 Willard St., West Quincy, MA 02169. Representative: Robert G. Parks, 20 Walnut St.—Suite 101, Wellesley Hills, MA 02181. Transporting *disabled, wrecked, repossessed, and replacement motor vehicles*, between Boston and Quincy, MA, on the one hand, and, on the other, points in ME, NH, VT, RI, CT, and NY.

MC 152169 (Sub-1F), filed October 21, 1980. Applicant: PACIFIC BASIN INDUSTRIES, INC., Pier 91, Bldg. 50, Seattle, WA 98119. Representative: William D. Redhead (same address as applicant). Transporting (1) *prefabricated alumium curtain walls* and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) between points in King County, WA, and points in AZ, CA, CO, ID, NM, NV, MT, OR, TX, WA, and WY. Condition: The person or persons which appear to be in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 152229 (Sub-1F), filed October 15, 1980. Applicant: SALINAS TRUCK BROKERS, INC., 730 Airport Blvd., Salinas, CA 93202. Representative: Ben Ryburn (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between the facilities of Griffin Corporation, at Valdosta and Bainbridge, GA, and Mexico, MO, on the one hand, and, on the other, points in the U.S.

MC 152299F, filed October 21, 1980. Applicant: FLORIDA DISTRIBUTION SERVICE, INC., 1212 North 39th St., Tampa, FL 33605. Representative: James E. Wharton, Suite 811, Metcalf Bldg., 100 South Orange Ave., Orlando, FL 32801. Transporting *such commodities* as are dealt in or used by grocery, drug, hardware, and retail chain stores, between points in FL, restricted to traffic having a prior or subsequent movement in interstate or foreign commerce.

MC 152358F, filed October 22, 1980. Applicant: CREEK TRUCKING CO., INC., P.O. Box 84, Woodburn, KY 40170. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Transporting (1) *syrup, cans, and bottles*, and (2) *materials and supplies* used in the manufacture and distribution of soft drinks, (except commodities in bulk), between points in Warren County, KY, on the one hand, and, on the other, points in LA, AL, OK, WV, MO, TN, OH, IL, MS, AR, GA, IN, and NC.

MC 152399F, filed October 27, 1980. Applicant: GENERAL TRANSPORT, INC., 3601 N.W. Yeon Ave., Portland, OR 97210. Representative: R. J. Kathrens (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, petroleum in bulk and cement in bulk), between points in OR, WA, ID, and CA. Condition: Any certificate issued in this proceeding to the extent it authorizes transportation of Classes A and B explosives shall be limited in point of time to a period expiring 5 years from the date of issuance of the certificate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-36355 Filed 11-20-80; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 36]

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications will be *rejected*.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonabale compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 77721 (M1F) (Republication of notice of filing of petition to modify certificate), filed May 27, 1980. Petitioner: JERRY M. BARNER & SONS, 1211 Spruce St., Roselle, NJ 07203. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904. Petitioner holds a motor *common carrier* certificate in MC 77721, issued October 10, 1962 authorizing transportaion over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between New York, NY, on the one hand, and, on the other, points in Bergen, Essex, Hudson, Middlesex, Morris, Passaic, and Union Counties, NJ. By the instant petition petitioner seeks to modify the above authority by adding Suffolk County, NY to the base territorial description and Camden, NJ to the radial portion of the territorial description.

Note.—The purpose of this republication is to indicate that petitioner is adding Camden, NJ to the territorial description.

MC 108313 (Sub-14(M1F)) (correction), filed April 25, 1980, published in the **Federal Register**, issue of October 8, 1980, and republished, as corrected, this issue, (Notice of Filing of Petition to Modify Permit). Petitioner: CALEDONIA LINES, INC., 100 Sunny Sol Blvd., P.O. Box 8, Caledonia, NY 14423. Representative: Stephen J. Habash (same as applicant). Petitioner holds a motor *contract carrier* Permit in MC 108313 Sub 14, issued September 17, 1980, authorizing transportation in interstate or foreign commerce, over irregular routes, transporting (1) *compressed gases and liquid chemicals*, in bulk (except liquified petroleum gases), (a) from Houston, TX; Moundsville, Charleston and Natrium, WV; Lake Charles, Geismar and Gramercy, and Tampa, FL; Charlestown, TN; and Edgemoor, DE, to Charlotte, NC; Festus, MO; Reserve, LA; Milford, VA; Mobile, AL; St. Petersburg, Jacksonville, and Ft. Lauderdale, FL: and (b) from Edgemoor, DE, to Beech Grove and Hammond, IN; Orrington, ME; Wyandotte, Montague, Midland and Ludington, MI; Merrimack, NH; Newark, Bayonne, and Linden, NJ; Niagara Falls, Syracuse, Buffalo, Warwick, Caledonia, Utica, Friendship, and Vestal, NY; Ashtabula, South Point, Barberton, and Columbiana, OH; and Erie, PA, and (2) *chemicals, cleaners, detergents, waxes*, in containers, and *empty containers for those commodities*, between Mobile and Evans City, AL; Denver, CO; Edgemoor, DE; St. Petersburg, Fort Lauderdale, Jacksonville, and Tampa, FL; Augusta and Brunswick, GA; Danville, IL; Beechgrove and Hammond, IN; Calvert City and Louisville, KY; Lake Charles, Plaquemine, Gramercy, Geismar, Baton Rouge, Taft, and Reserve, LA; Orrington, ME; Curtis Bay, MD; Wyandotte, Montague, Midland, and Ludington, MI; Festus, MO; Merrimack, NH; Newark, Bayonne, and Linden, NJ; Niagara Falls, Syracuse, Buffalo, Warwick, Caledonia, Utica, Friendship, and Vestal, NY; Charlotte and Acme, NC; Ashtabula, South Point, Barberton and Columbiana, OH; Erie, PA; Charleston, TN; Houston, TX; Milford, Hopewell, and Norfolk, VA; Natrium, Moundsville, and Charleston, WV; Hudson, Milwaukee, and Port Edwards, WI, under a continuing contract or contract(s) with Jones Chemicals, Inc., of Caledonia, NY. By the instant petition, petitioner seeks to modify the above authority as follows: (1) *Compressed gases and liquid chemicals*, in bulk (except liquified petroleum gases) (a) from points in AL, DE, FL, GA, KY, LA, NC, TN, TX, and WV, to points in AL, FL, LA, MO, NC, and VA; and (b) from points in DE, to points in IN, ME, MI, NH, NJ, NY, OH and PA; (2) *chemicals, cleaners, detergents and waxes*, in containers and *empty containers for those commodities* between points in AL, CO, DE, FL, GA, IN, IL, KY, LA, ME, MD, MI, MO, NH, NJ, NY, NC, OH, PA, TN, TX, VA, WV, WI; under continuing contract(s) with Jones Chemicals, Inc. of Caledonia, NY.

Note.—The purpose of this republication is to add the state of NY in part (2), inadvertently omitted.

MC 143607 (Sub-16F) (M–1)F (Notice of Filing of Petition to Add Additional Contracting Shipper), filed November 6, 1980. Petitioner: BAYWOOD TRANSPORT, INC., 2611 University Parks Drive, Waco, TX 76706. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. Petitioner holds motor *contract carrier* permits in MC–143607 (Sub-No. 16F), issued August 26, 1980. MC–143607 (Sub-No. 16F) authorizes transportation over irregular routes, transporting (1) *foodstuffs, and meats, meat products and meat by-products, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of or used by Swift & Company, all under continuing contract(s) with Swift & Company, of Chicago, IL. By the instant petition, the petitioner seeks to modify the above permit by adding Bunge Edible Oil Corporation, of Bradley, IL, as an additional contracting shipper.

Republications of Grants of Operating Rights Authority Prior to Certification Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before December 22, 1980. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 7698 (MIF) (Republication of Notice of Filing Petition For Modification of Certificates), filed November 20, 1978, published in the FR issue of March 15, 1979. Applicant: FOWLER & WILLIAMS, INC., 1300 Meylert Avenue, Scranton, PA 18509. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. A Decision of the Commission, Division 2, decided June 16, 1980, and served June 26, 1980, finds that the present and future public convenience and necessity require modification of the last two paragraphs on sheet 3 and the first two lines on sheet 4 of Certificate MC 7698, issued March 28, 1956, authorizing the transportation of *General commodities,* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), between points in New Jersey, on the one hand, and, on the other, points in Pennsylvania in Bradford, Bucks, Carbon, Lackawanna, Lehigh, Luzerne, Lycoming, Monroe, Montgomery, Philadelphia, Pike, Northampton, Sullivan, Susquehanna, Wayne, and Wyoming Counties, and those portions of Columbia, Montour, and Northumberland Counties lying on the north bank and north of the Susquehanna River, all within 150 miles of Belleville, NJ.

MC 121060 (Sub-81F), (Republication), filed May 15, 1978, previously noticed in the FR issue of February 20, 1979. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. A decision by the Commission, Division I, acting as an Appellate Division, decided October 27, 1980, and served November 4, 1980, finds that the present and future public convenience and necessity requires operation by applicant in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, transporting, (1) *pipe, hydrants, valves, and iron and steel articles,* from points in Jefferson and Shelby Counties, AL, to points in the U.S. (except AK and HI); and (2) *materials, equipment, and supplies* used in (1) (except commodities in bulk), from points in the U.S. (except AK and HI), to points in Jefferson and Shelby Counties, AL. Applicant is fit, willing, and able properly to perform such service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations.

Note.—The purpose of this republication is to indicate the addition of hydrants and valves in the commodity description.

Permanent Authority Decisions Volume Decision-Notice

Decided: October 30, 1980.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedure of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after November 21, 1980.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed on or before December 22, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Member Chandler, Liberman, and Eaton. Member Eaton not participating.

FF-129 (Sub-2F), filed March 3, 1980, previously noticed in FR issue of September 29, 1980. Applicant: UNITED FREIGHT FORWARDERS, INC., 170 Main Street, Holyoke, MA 01040. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Freight forwarder,* in interstate commerce, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), through the use of the facilities of rail and motor common carriers, from points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT, to points in AZ, CA, CO, FL, ID, IA, LA, MO, MT, NV, NM, OK, OR, TX, UT, WA, and WY.

Note.—This republication changes VT to UT in the destination territory.

W-381 (Sub-20F), filed June 23, 1980. Applicant: FEDERAL BARGE LINES, INC., 7501 South Broadway, St. Louis, MO 63111. Representative: Richard J. Hardy, 425 Thirteenth St., N.W., Suite 1212, Washington, DC 20004. To operate as a *common carrier,* by water, (1) by non-self propelled vessels with the use of separate towing vessels, and (2) in the performance of general towage by towing vessels, in interstate or foreign commerce, transporting *general commodities* (a) between ports and points along the Monongehela River, from Pittsburgh, PA, to Fairmont, WV, and (b) between ports and points along the Allegheny River from Pittsburgh, PA, to Monterey, PA. Condition: This is a major regulatory action and requires preparation of a statement of energy impact under the provisions of 49 CFR 1106.5(a)(8). Accordingly, applicant must submit the information required by 49 CFR 1106.7(a). Upon submission of such information, an appropriate statement of energy impact will be prepared.

Permanent Authority Decisions Volume Decision-Notice

Decided: November 11, 1980.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after November 21, 1980.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed on or before December 22, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 130868F, filed April 15, 1980. Applicant: NAZIH W. SAYAH d.b.a. BEST TOURS AND TRAVEL, 2609 East McKinley, Suite #N, Fresno, CA 93703. Representative: Nazih W. Sayah, 189 West Santa-Ana #J, Clovis, CA 93612. To engage in operations as a *broker,* at Fresno, CA, in arranging for the transportation of *passengers and their baggage,* beginning and ending at Fresno, CA, and extending to points in CA and NV.

MC 130309F, filed June 5, 1980. Applicant: PAUL WAKEFIELD, d.b.a. GREAT AMERICAN TRAVEL AGENCY, INC., 5315 Brainerd Road, Chattanooga, TN 37411. Representative: Paul Wakefield (same address as applicant). To engage in operations as a *broker,* at Chattanooga, TN, in arranging for the transportation of passengers and their baggage, beginning and ending at points in Fulton County, GA, and Logan, Caldwell, Lyon, and Graves Counties, KY, and extending to points in the US (including AK and HI).

MC 130769F, filed December 28, 1979. Applicant's name and address are L & R TRAFFIC SERVICE, INC., 1701 North

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Delaware Avenue, Philadelphia, PA 19125. The name under which operations will be performed is L & R TRAFFIC SERVICE, INC. Applicant is represented by Thomas F. X. Foley in this proceeding whose address is P.O. Box F, Colts Neck, NJ 07722. Following are the names and business addresses for all persons who are officers and directors, partners (including limited or "silent" partners), and first five principal shareholders, with their appropriate titles: Louis R. Ricci, President, Director, Secretary-Treasurer (same address as applicant). The daily operations will be managed by Louis Ricci whose business address is same as applicant. Applicant is affiliated with the following shipper or warehouse: None.

Motor Carrier Alternate Route Deviations Notice

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before December 22, 1980.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC 74761 (Deviation No. 18), TRAILWAYS, INC., 315 Continental Ave., Dallas, TX 75207, filed November 3, 1980. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Thomaston, GA over GA Hwy 36 to junction US Hwy 27A, then over US Hwy 27A to Columbus, GA and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Thomaston, GA over US Hwy 19 to junction US Hwy 80, then over US Hwy 80 to Columbus, GA and return over the same route.

Motor Carrier Intrastate Application(s) Notice

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

New York Docket No. T–514, filed October 30, 1980. Applicant: I–88 EXPRESS LINES, INC., Route 7, Box 148, Cobleskill, NY 12043. Representative: Neil D. Breslin, Esq., 600 Broadway, Albany, NY 12207. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities as follows: Between all points in the Counties of Albany, Schoharie, Schenectady, Otsego and Rensselaer. To convert regular to irregular route authority. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Ave., State Campus, Bldg. #4, Room G–21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T–9806, filed October 22, 1980. Applicant: TEE PEE TRUCKING INC., P.O. Box 71, Cross River, NY 10518. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities as follows: Between New York City on the one hand, and, on the other, all points in the State. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Ave., State Campus, Bldg. #4, Room G–21, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

South Carolina Docket No. 80–285–T, filed September 5, 1980. Applicant: A–1 PUMPING SERVICE, INC., Route 1, Patch Drive, Spartanburg, SC 29302. Representative: David G. Ingalls, P.O. Box 631, Spartanburg, SC. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Hazardous wastes, consisting of any waste or combinations of waste of a solid, liquid, contained gaseous, or semisolid form, which because of its quantity, concentration, or physical, chemical, or infectious characteristics, is defined by Section 44–56–20 (6) of the 1979 Cum. Supp. 1976 code of laws of S.C., and amended, and is identified by Rule 61–79.1B promulgated by the S.C. Department of Health and Environmental Control, effective March 31, 1980, and amended: Between points and places in S.C. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Public Service Commission of South Carolina, 6th Floor, Owen Building, P.O. Drawer 11649, Columbia, SC 29211, and should not be directed to the Interstate Commerce Commission.

Permanent Authority Decisions; Decision-Notice; Substitution Applications: Single-Line Service for Existing Joint-Line Service

Decided: November 3, 1980.

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission on or before December 22, 1980.

Petitions for intervention without leave (i.e.) automatic intervention) may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occurred within the one-year period immediately preceding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition, however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e., applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after November 21, 1980.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed on or before December 22, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 4, Members Fitzpatrick, Fisher, and Dowell. Member Dowell not participating.

MC 4963 (Sub-125F), filed July 1, 1980. Applicant: JONES MOTOR CO., INC., Bridge St. & Schuylkill Rd., Spring City, PA 19475. Representative: Roland Rice, Perpetual Bldg., Suite 501, 1111 E St. NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), serving Louisville, KY, Owensboro, KY, and points in IN as off-route points in connection with applicant's regular routes authority. Applicant states that it intends to tack the authority sought with its existing authority.

Note.—The sole purpose of this application is to substitute single-line for joint-line operations.

MC 120181 (Sub-20F), filed June 27, 1980. Applicant: MAIN LINE HAULING CO., INC., Box C, St. Clair, Mo 63077. Representative: William H. Shawn, 1730 M Street, NW., Suite 501, Washington, DC 20036. Authority sought to operate, as a *common carrier*, by motor vehicle in interstate or foreign commerce, over (A) *regular routes*, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Meadville and Springfield, MO, from Meadville over US Hwy 36 to junction US Hwy 65 at Chillicothe, and then over US Hwy 65 to Springfield, and return over the same route, serving Chillicothe, MO, as an intermediate point for purposes of joinder only; (2) between Kansas City, MO, and Quincy, IL, from Kansas City, MO over US Hwy 69 to junction US Hwy 36, then over US Hwy 36 to junction US Hwy 24, then over US Hwy 24 to Quincy, IL, and return over the same route, serving the intermediate and off-route points of Cameron, Hamilton, Nettleton, Mooresville, Laclede, Brookfield, Calla, Macon, Kidder, Breckenridge, Utica, Chillicothe, Wheeling, Meadville, Marceline, Bucklin, New Cambria, and Bevier, MO; (3) between Laclede and Unionville, MO, over MO Hwy 5, serving the intermediate and off-route points of Linneus, Purdin, Browning, Milan, Lemona, Cora, Green City, Greencastle, Boynton, and Pollock, MO, and return from Unionville over US Hwy 136 to junction MO Hwy 139 near Lucerne, MO, then over MO Hwy 139 to junction MO Hwy 6, then over MO Hwy 6 to junction MO Hwy 5, then over MO Hwy 5 to Laclede, serving the intermediate and off-route points of Lucerne, Newtown, Harris, Humphreys, Reger, Browning, Linneus, Purdin, Powersville, Galt, Dunlap, Laredo, and Cora, MO; (4) between Chillicothe and Princeton, MO, over US Hwy 65, serving the intermediate points of Farmersville, Trenton, Tindall, Spickard, and Mill Gove, MO; (5) between St. Joseph and Cameron, MO, over US Hwy 36, serving no intermediate points but serving the off-route point of Osborn, MO; (6) serving all intermediate points on US Hwy 36 between St. Joseph and Cameron, MO, in connection with carrier's regular route operations authorized herein; (7) between Kansas City and Chillicothe, MO, from Kansas City over US Hwy 24 to Waverly, then over US Hwy 65 to Chillicothe, and return over the same route, serving all intermediate points; (8) between junction US Hwys 36 and 61 and Chicago, IL, from junction US Hwys 36 and 61 over US Hwy 36 to Springfield, IL, then over Interstate Hwy 55 via its junction with US Hwy 24 to Chicago, IL and return over the same route, serving no intermediate points, and serving junction US Hwy 24 and Interstate Hwy 55 for purposes of joinder only; (9) between junction IL Hwy 96 and US Hwy 24 and junction US Hwy 24 and Interstate Hwy 55, over US Hwy 24, serving no intermediate points and serving junction IL Hwy 96 and US Hwy 24 and junction US Hwy 24 and Interstate Hwy 55 for purposes of joinder only; (10) between Monmouth and Good Hope, IL, over US Hwy 67, serving all intermediate points; (11) between junction IA Hwy 22 and US

Hwy 61 and Dubuque, IA, over US Hwy 61, serving all intermediate points; (12) between Davenport, IA, and junction US Hwys 6 and 63, over US Hwy 6, serving all intermediate points; (13) between junction MO Hwy 6 and US Hwy 63 and Princeton, MO, from junction MO Hwy 6 and US Hwy 63 over MO Hwy 6 to junction US Hwy 65, then over US Hwy 65 to Princeton, and return over the same route, serving no intermediate points, and serving junction MO Hwy 6 and US Hwy 63 and Princeton for purposes of joinder only; (14) between Donnelson and Cedar Rapids, IA, over US Hwy 218, serving all intermediate points; (15) between Ottumwa and Waterloo, IA, over US Hwy 63, serving all intermediate points; (16) between junction US Hwy 63 and IA Hwy 149 and Iowa City, IA, from junction US Hwy 63 and IA Hwy 149 over IA Hwy 149 to Sigourney, IA, then over IA Hwy 92 to junction IA Hwy 1, then over IA Hwy 1 to Iowa City, and return over the same route, serving all intermediate points; (17) between Bloomfield, IA, and Kirksville, MO, over US Hwy 63, serving all intermediate points; (18) serving all intermediate points on US Hwy 36 between St. Joseph, MO and Cameron, MO in connection with carrier's regular route operations authorized herein; (19) between St. Joseph and Kansas City, MO, over Interstate Hwy 29, serving no intermediate points and serving the termini for purposes of joinder only; serving points in that part of IA on and east of US Hwy 63, those in that part of MO on and north of US Hwy 40; those in that part of IL north of a line beginning at a point on US Hwy 24 at the IL-MO state line and extending along US Hwy 24 to junction Interstate Hwy 55, then along US Hwy 55 to Chicago, IL, (including points in the Chicago, IL commercial zone as defined by the Commission), as off-route points in connection with carrier's otherwise authorized regular-route operation; (20) between Memphis, MO, and Quincy, IL, from Memphis, MO over US Hwy 136 to junction US Hwy 61, then over US Hwy 61 to Taylor, MO, and then over US Hwy 24 to Quincy, IL, and return over the same route, serving no intermediate points, but serving the off-route points of Gorin and Granger, MO; (21) between Memphis and Lancaster, MO, over US Hwy 136, serving the intermediate point of Downing, MO; (22) between Memphis, MO, and National Stock Yards, IL, from Memphis over US Hwy 136 to junction US Hwy 61, then over US Hwy 61 to Wentzille, MO, then over US Hwy 40 to East St. Louis, IL, then over city streets to National Stock Yards, and return over the same route, serving the intermediate points of St. Louis, MO, and East St. Louis, IL; (23) between Kirksville, MO, and Quincy, IL, from Kirksville, MO over MO Hwy 6 to junction US Hwy 24, then over US Hwy 24 to Quincy, IL, and return over the same route, serving all intermediate points; (24) between Kirksville, MO, and Kansas City, KS, from Kirksville, MO, over US Hwy 63 to Macon, MO, then over US Hwy 36 to Cameron, MO, then over US Hwy 69 to Kansas City, and return over the same route, serving all intermediate points, and serving the off-route point of Marceline, MO; (25) between Kirksville and Milan, MO, (a) over US Hwy 6, serving all intermediate points, and (b) from Kirksville over US Hwy 63 to Lancaster, then over US Hwy 136 to Unionville, then over MO Hwy 5 to Milan, and return over the same route, serving all intermediate points; (26) between Lancaster and Edina, MO, from Lancaster over US Hwy 136 to Memphis, then over MO Hwy 15 to Edina, and return over the same route, serving all intermediate points; (27) between Princeton, MO, and Des Moines, IA, over US Hwy 65, serving no intermediate points, and serving points in that part of MO on and bounded by a line beginning at West Quincy, MO, and extending along US Hwy 24 to Carrollton, MO, then along US Hwy 65 to the MO-IA state line, as off-route points; (28) between Centerville and Des Moines, IA, (a) over IA Hwy 5, (b) from Centerville over IA Hwy 2 to junction US Hwy 65, then over US Hwy 65 to Des Moines, (c) from Centerville over IA Hwy 5 to junction US Hwy 34, then over US Hwy 34 to junction US Hwy 65 and then over US Hwy 65 to Des Moines, serving Centerville as a point of joinder only, and return over the same routes, serving no intermediate points, and serving points in that part of MO on and bounded by a line beginning at West Quincy, MO, and extending along US Hwy 24 to Carrollton, MO, then along US Hwy 65 to the MO-IA state line, as off-route points; (29) between Ottumwa and Des Moines, IA, (a) from Ottumwa over US Hwy 63 to junction IA Hwy 163, then over IA Hwy 163 to Des Moines, (b) from Ottumwa over US Hwy 63 to junction US Hwy 6, then over US Hwy 6 to Des Moines, serving the junction of US Hwy 6 and 63 for purposes of joinder only, (c) from Ottumwa over US Hwy 63 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Des Moines, serving the junction of US Hwy 63 and Interstate Hwy 80 for purposes of joinder only, (d) from Ottumwa over US Hwy 63 to junction IA Hwy 92, then over IA Hwy 92 to junction IA Hwy 5, then over IA Hwy 5 to Des Moines, (e) from Ottumwa over US Hwy 34 to junction US Hwys 5 and 65, then over US Hwy 65 to Des Moines, and return over the same routes, serving no intermediate points, and serving points in that part of MO on and bounded by a line beginning at West Quincy, MO, and extending along US Hwy 24 to Carrollton, MO, then along US Hwy 65 to the MO-IA state line, as off-route points; (30) between junction US Hwy 218 and IA Hwy 92, and Des Moines, IA, from junction US Hwy 218 and IA Hwy 92 over IA Hwy 92 to junction IA Hwy 163, and then over IA Hwy 163 to Des Moines, and return over the same route, serving no intermediate points, and serving points in that part of MO on and bounded by a line beginning at West Quincy, MO, and extending along US Hwy 24 to Carrollton, MO, than along US Hwy 24 to Carrollton, MO, then along US Hwy 65 to the MO-IA State line, as off-route points. RESTRICTION: The authority granted in routes (28) to (30) above is restricted to the transportation of traffic between Des Moines, Ottumwa, and Keokuk, IA, and points in St. Clair County, IL, on the one hand, and, on the other, points in that part of MO on and bounded by a line beginning at West Quincy, MO, and extending along US Hwy 65 to the MO-IA state line, (31) between Canton, MO and points within 20 miles of Canton, and National Stock Yards, IL, from Canton over US Hwy 61 to Wentzille, MO, then over US Hwy 40 to East St. Louis, IL, and then over city streets to National Stock Yards, and return over the same route, serving the intermediate points of Wintzille, LaGrange, and St. Louis, MO., and East St. Louis, IL; (32) between Chicago, IL, and Ottumwa, IA, over US Hwy 34; (33) between Chicago, IL and Keokuk, IA, (a) from Chicago over US Hwy 34 to Princeton, IL, then over US Hwy 6 to Davenport, IA, then over IA Hwy 22 (formerly portion US Hwy 61), to junction US Hwy 61, then over US Hwy 61 to Keokuk, (b) from Chicago over unnumbered hwy (formerly US Hwy 330) to junction US Hwy 6, near Calumet City, IL, then over US Hwy 6 to Rock Island, IL, then over US Hwy 67 to junction US Hwy 34, then over US Hwy 34 to Burlington, IA, then over US Hwy 61 to Keokuk, (d) from Chicago over the above-specified route to Milan, IL, then over IL Hwy 94 (portion formerly IL Hwy 92) to junction IL Hwy 164, then over IL Hwy 164 to junction US Hwy 34, then over US Hwy 34 to Burlington, IA, then over the above-specified route to Keokuk, (e) from Chicago over the above-specified route to Moline, IL, then over US Hwy 150 to junction IL Hwy 17, then over IL Hwy to Viola, IL, then over US Hwy 67 to Monmouth, IL, then over IL Hwy 164 to junction US Hwy 34, then over US Hwy 34 to Burlington, IA, then over the above-specified route to Keokuk, (e) from Chicago over US Hwy 20 to Rockford, IL, then over IL Hwy 2 to junction unnumbered hwy (formerly portion IL Hwy 2), at or near Dixon, IL, then over unnumbered hwy via Palmyra, IL, to junction IL Hwy 2, near Sterling, IL, then over IL Hwy 2 to Silvis, IL, then over IL Hwy 92 (formerly portion US Hwy 6), to junction US Hwy 6, then over US Hwy 6 to Davenport, IL, then over the above-specified route to Keokuk, and return over the same route, serving all intermediate points, and the off-route points of Osklaloose, Bettendorf, Kingston, Oakville, and Morning Sun, IA, and Alexis, Aurora, Blue Island, Gerlaw, Sherrard, Gilchrist, Hopewell, Little York, Seaton, Arpee, Joy, New Boston, Keithsburg, Millersburg, Edington, Lomax, Stronghurst, Raritan, Media, and Carman, IL, in connection with routes (32) and (33) above; (34) between Keokuk and Ft. Madison, and Ottumwa, IA, (a) from Keokuk over US Hwy 61 to junction US Hwy 218, then over US Hwy 218 to Donnellson, IA, then over IA Hwy 2 to Bloomfield, IA, then over US Hwy 63 to Ottumwa, and (b) from Ft. Madison over IA Hwy 2 to Donnellson, IA, then over the above-specified route to Ottumwa, and return over the same route; (35) between Burlington, IA, and Bushnell, IL, (a) from Burlington over US Hwy 61 to Ft. Madison, IA, then across the Mississippi River to Niota, IL, then over IL Hwy 9 to Bushnell, and (b) from Bushnell over IL Hwy 9 to Good Hope, IL, then over US Hwy 67 to Macomb, IL, then over US Hwy 136 to Hamilton, IL, then across the Mississippi River to Keokuk IA, then over US Hwy 61 to Burlington, and return over the same route, serving all intermediate points, and the off-route points of Warsaw, Ferris, Adrian, and Mauvoo, IL; (36) between Rockford, IL, and junction US Hwys 51 and 34, in connection with carrier's presently authorized regular-route operations, over US Hwy 51, serving no intermediate points; (37) between Donnellson, and Mt. Pleasant, IA, in connection with carrier's presently authorized regular-route operations, over US Hwy 218, serving no intermediate points; (38) between Kansas City, MO, and Hutchinson, KS, from Kansas City over city streets to Kansas City, KS, then over KS Hwy 32 to junction US Hwy 40, then over US Hwy 40 to Topeka, KS, then over unnumbered hwy to junction US Hwy 24, then over US Hwy 24 to Manhattan, KS, then over US Hwy 61 to McPherson, KS, then over unnumbered hwy (formerly KS Hwy 17), to junction KS Hwy 61, then over KS Hwy 61 to Hutchinson, and return over the same route, serving no intermediate points but serving the off-route points of Hillsboro, and South Hutchinson, MO; (39) between St. Joseph, MO, and Newton, KS, from St. Joseph over US Hwy 59 to Lawrence, KS, then over 40 to Topeka, KS, then over unnumbered hwy to junction US Hwy 24, then over US Hwy 24 to Manhattan, KS, then over KS Hwy 18 to Junction City, KS, then over US Hwy 40 to Salina, KS, then over US Hwy 81 to Newton, and return over the same route; (40) between Kansas City, MO, and Lawrence, KS, (a) over US Hwy 40, and (b) from Kansas City over US Hwy 50 to junction KS Hwy 10, then over KS Hwy 10 to junction U.S. Hwy 59, then over US Hwy 59 to Lawrence, and (c) from Kansas City over KS Hwy 32 to junction U.S. Hwy 40, then over US Hwy 40 to Lawrence, and return over the same route, serving the intermediate points of Kansas City, Victory Junction, Shawnee, Merriam, Zarah, DeSoto, Eudora, Muncie, Bonner Springs, and Linwood, KS; and the off-route points of Basehor, Leecompton, Tonganoxie, Stull, and Big Springs, KS; (41) between Wichita, and Clay Center, KS, over KS Hwy 15, serving all intermediate points, and the off-route points of Canton, Hillsboro, Tampa, Roxbury, Hope, Ramona, and Navarre, KS; (42) between Hillsboro and Hope, KS, from Hillsboro over US Hwy 56 to junction US Hwy 77, then over US Hwy 77 to junction KS Hwy 4, then over KS Hwy 4 to Hope, and return over the same route, serving all intermediate points, and the off-route points of Delavan, KS; (43) between Hope and Abilene, KS, from Hope over KS Hwy 43 to junction unnumbered county road (2 miles north of Enterprise, KS), then over unnumbered county road to Abilene, and return over the same route, serving all intermediate points; (44) between Council Grove, KS, and Kansas City, MO, (a) from Council Grove over US Hwy 56 to junction US Hwy 50, then over US Hwy 50 to Kansas City, (b) from Council Grove over US Hwy 56 to junction US Hwy 75, then over US Hwy 75 to Topeka, KS, then over US Hwy 24 to Kansas City, and (c) from Council Grove over an unnumbered Hwy via Chalk, KS to Eskridge, KS, then over KS Hwy 4 to Topeka, KS, then over US Hwy 24 to Kansas City, and return over the same route, serving the intermediate and off-route points of Skiddy, Wilsey, Delavan, Allen, and Kansas City, KS, and off-route points of North Kansas City and Sugar Creek, MO; (45) between Hutchinson, KS, and Kansas City, MO, as an alternate route for operating convenience only, in connection with carrier's regular-route operations authorized herein, from Hutchinson over US Hwy 50 to junction Interstate Hwy 35, then over Interstate Hwy 35 to Kansas City, and return over the same route, serving no intermediate points; (46) between Hutchinson, KS, and Hutchinson Air Base Industrial Tract, from Hutchinson over KS Hwy 17 to junction unnumbered road (Yoder Road), then over Yoder Road to junction unnumbered road, then over unnumbered road to Hutchinson Air Force Base Industrial Tract, and return over the same route, serving no intermediate points; (47) serving the facilities of Minnesota Mining and Manufacturing Company, at or near Knoxville, IA as an off-route point in connection with carrier's authorized regular-route operations; (48) between Milwaukee, WI, and Rockford, IL, from Milwaukee, WI, over WI Hwy 15 to the WI–IL state line near Beloit, WI, then over IL Hwy 2 to Rockford, IL, and return over the same route; (49) between Vinita, OK, and Kansas City, MO, (a) from Vinita, OK over US Hwy 69 to junction US Hwy 166, then over US Hwy 166 to Baxter Springs, KS, then over US Hwy 66 to junction KS Hwy 26 (near Riverton, KS), then over KS Hwy 26 to Crestline, KS, then over US Hwy 69 via Godfrey, KS to Kansas City, KS, and then over city streets to Kansas City, MO, (b) from Vinita, OK over OK Hwy 2 to junction US Hwy 59, then over US Hwy 59 to Chetopa, KS, then over US Hwy 166 to junction US Hwy 69 then over US Hwy 69 to Kansas City, KS, and then over city streets to Kansas City, MO, and (c) from Vinita as specified in (b) immediately above to junction US Hwy 166 and US Hwy 69, then over US Hwy 69 to junction KS Hwy 7 (near Columbus, KS), then over KS Hwy 7 to Godfrey, KS, then over US Hwy 69 to Kansas City, KS, and then over city streets to Kansas City, MO, and return over the same route, serving the intermediate points of Kansas City, KS, and those in OK and the off-route points of North Kansas City, MO; (50) between Dallas, TX, and Vinita, OK, from Dallas over US Hwy 75 to Denison, TX, then over US Hwy 69 to junction unnumbered hwy, then over unnumbered hwy via McAlester, OK, to junction US Hwy 69, then over US Hwy 69 to junction unnumbered hwy, then over unnumbered hwy via Okay, OK to junction US Hwy 69, then over US Hwy 69 to Vinita, and return over the same route, serving all intermediate points;

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(51) between Dallas and Ft. Worth, TX, from Dallas over TX Hwy 114 to Grapevine, TX, then over TX Hwy 212 to Ft. Worth, and return over the same route, serving all intermediate points; and (B) *Alternate routes for operating convenience only,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between St. Louis, MO, and Miami, OK, from St. Louis over Interstate Hwy 44 to junction OK Hwy 10, then over OK Hwy 10 to Miami, and return over the same route; (2) between St. Louis, MO, and Afton, OK, over Interstate Hwy 44; (3) between Springfield, MO, and Miami, OK, from Springfield over Interstate Hwy 44 to junction OK Hwy 10 then over OK Hwy 10 to Miami, and return over the same route; (4) between Springfield, MO, and Afton, MO, over Interstate Hwy 44; (5) between Wichita, KS, and Dallas, TX, from Wichita over Interstate Hwy 35 to junction Interstate Hwy 35E, then over Interstate Hwy 35E to Dallas, and return over the same route; (6) between Wichita, KS, and Ft. Worth, TX, from Wichita over Interstate Hwy 35 to junction Interstate Hwy 35W, then over Interstate Hwy 35W to Ft. Worth, and return over the same route; (7) between Topeka, KS, and McAlester, OK, from Topeka over US Hwy 75 to its junction with Indian Nation Turnpike, then over Indian Nation Turnpike to junction US Hwy 270, then over US Hwy 270 to McAlester, and return over the same route; (8) between Topeka, KS, and Muskogee, OK, from Topeka over US Hwy 75 to Tulsa, OK, then over Muskogee Turnpike to Muskogee, and return over the same route; (9) between Wichita, KS, and Muskogee, OK, from Wichita over Interstate Hwy 35 to junction US Hwy 64, then over US Hwy 64 to Muskogee, and return over the same route, and (b) from Wichita over Interstate US Hwy 35 to junction with Cimarron Turnpike, then over Cimarron Turnpike to Tulsa, OK, then over Muskogee Turnpike to Muskogee, and return over the same route; (10) between Wichita, KS, and McAlester, OK, from Wichita over Interstate Hwy 35 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction with Indian National Turnpike, then over Indian Nation Turnpike, to junction US Hwy 270, then over US Hwy 270 to McAlester, and return over the same route; (11) between Good Hope, and Monmouth, IL, over US Hwy 67; and (C) *irregular routes,* transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Kansas City and St. Joseph, MO, on the one hand, and, on the other, those points in IL on and north of US Hwy 40 (Interstate Hwy 70) (except those in St. Louis, MO, commercial zone); (2) from Minneapolis, MN, to points in IA, and (3) between Minneaplis, MN, on the one hand, and, on the other, those points in IL on and north of US Hwy 40 (Interstate Hwy 70) (except those in St. Louis, MO, commercial zone).

Note.—Parts (A) and (B) of the authority granted herein shall not be severable by sale or otherwise. Applicant intends to tack the rights sought to its existing authority. The purpose of this application is to substitute single-line for joint line operations.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36348 Filed 11-20-80; 8:45 am]

BILLING CODE 7035-01-M

Proposed Construction—Tongue River Railroad

AGENCY: Interstate Commerce Commission (ICC), Office of Policy and Analysis, Energy and Environment Branch.

ACTION: Request for suggestion from the public on alternative rail alignments which might be considered in the Tongue River Railroad Draft Environmental Impact Statement (DEIS).

SUMMARY: The Interstate Commerce Commission's Energy and Environment Branch (EEB) is supervising preparation of the DEIS for the proposed Tongue River rail line. Preparation of the DEIS involves indentification of alternative alignments to that proposed by the applicant for comparative analysis in the DEIS. As part of this process, suggestions on alternative alignments are being solicited from members of the public and interested organizations. The EEB will consider all alignments suggested and will determine which of the suggested alignments appear most feasible for consideration in the DEIS.

Interested persons or organizations are invited to place alignments on maps available at: (1) The City-County Planning Board at 516 Main Street in Miles City, MT; and (2) the Northern Cheyenne Tribal Planning Office at the Tribal Building in Lame Deer, MT. The maps should be returned to either location by December 1, 1980. Maps returned to either location after this date will not be accepted. Instructions for drawing the alignment will be available with the maps. Previously submitted alignment suggestions utilizing other types of maps will also be considered.

FOR FURTHER INFORMATION CONTACT: Carole Dawkins, Room 5380, Energy and Environment Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone (202) 275–7916.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36350 Filed 11-20-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-9 (Sub-No. 14F)]

St. Louis-San Francisco Railway Co.—Abandonment—In Ottawa County, OK, and Cherokee County, KS; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided November 18, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.-Abandonment Goshen,* 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the St. Louis-San Francisco Railway Company of the industrial lead track extending from railroad milepost LB–175.23 near Miami, OK, to railroad milepost LB–183.87 near Treece, KS, a distance of approximately 8.64 miles, in Ottawa County, OK, and Cherokee County, KS. A certificate of public convenience and necessity permitting abandonment was issued to the St. Louis-San Francisco Railway Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than December 1, 1980. The offer, as filed, shall contain information required pursuant to

§ 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36347 Filed 11-20-80; 8:45am]

BILLING CODE 7035-01-M

[Finance Docket No. 29409]

Wolfeboro Railroad Associates—Petition for Exemption From Filing an Application To Acquire and Operate a Railroad Line and From Filing an Application To Issue Securities

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: In Docket No. AB–208F, *Wolfeboro Rail Road Co., Inc.—Entire Line Abandonment Near Sanbornville At Wolfeboro, in Carroll County, NH* (not printed), decided September 24, 1979, the Commission issued a certificate and decision authorizing abandonment of the entire 12-mile line. In November, 1979, a limited partnership, Wolfeboro Railroad Associates (Associates) purchased the stock of Wolfeboro Rail Road Co., Inc. (Wolfeboro) intending to reinstitute the tourist and freight services which Wolfeboro had previously provided. On July 3, 1980, Associates filed a petition for exemption from: (1) 49 U.S.C. 10901, which requires prior Commission approval for the acquisition and operation of the railroad line; and (2) 49 U.S.C. 11301, which requires Commission approval of all issuances of securities and assumptions of obligations by railroads.

DATES: Comments must be received on or before December 22, 1980.

ADDRESS: Send an original and 12 copies of all comments to: Section of Finance, Room 5414, Interstate Commerce Commission, 12th St. and Constitution Ave., NW., Washington, DC 20423. All written statements will be available for public inspection during regular business hours at the same address. Comments should refer to Finance Docket No. 29409.

FOR FURTHER INFORMATION CONTACT: Ellen Hanson, (202) 275–7245.

SUPPLEMENTARY INFORMATION: By petition filed July 3, 1980, Associates requests exemption under 49 U.S.C. 10505: (1) From the provisions of 49 U.S.C. 10901, with respect to acquisition and operation of railroads; and (2) from 49 U.S.C. 11301, with respect to issuing securities and assumption of liabilities by railroads.

In 1973, Wolfeboro acquired the 12-mile line between Wolfeboro and Sanbornville, NH, intending to attract primarily tourist patronage. The attempt failed and the Commission authorized abandonment of the entire line in Docket No. AB–208F. *Wolfeboro Rail Road Co., Inc.—Entire Line Abandonment Near Sanbornville at Wolfeboro, In Carroll County, NH* (not printed), decided September 24, 1979. No steps have been taken to effect abandonment.

In November 1979, Associates purchased all of the stock of Wolfeboro, acquired certain related lands, assumed certain liabilities, and subsequently leased all of the railroad's real estate and operating equipment in order to resume operations.

Associates is a limited partnership with two general partners (WMC, Inc. and Wolfeboro Railroad Management Corp.) and 20 individual limited partners. Associates believes that the limited partnership form of association enhances its ability to build the railroad into a profitable operation. It further believes that the timetable and cost of filing applications under §§ 10901 and 11301 to accomplish the change in legal form (from the existing corporation to a limited partnership) are too long and too burdensome for it to bear as a small business attempting to get started.

Associates maintains that the circumstances surrounding its activities meet the criteria for exemption under § 10505. It argues that the two matters sought to be exempted are very limited in scope. No public offering is involved and the shares will be sold only to 2 general and 20 limited partners for a total consideration of $660,000. The railroad itself is only 12 miles long and has only one connection, with the Boston & Maine Corporation at Sanbornville. The nature and volume of service to be provided is allegedly such that it will have little, if any, impact on national transportation. The public interest in this proceeding, according to Associates, will extend no further than the local communities (which hoipe to benefit from tourism) and two local businesses (which hope to use the railroad for freight service). The public, according to petitioner, would actually benefit from speedy Commission action through granting the exemptions.

These circumstances present a situation of limited impact which appears to be appropriate for exemption from Commission regulation. Operationally, the area served and services provided by petitioners are quite limited. The legal ramifications of the proposal are also relatively minor because Associates essentially proposes to step into Wolfeboro's shoes. The only real change is to the limited partnership form of doing business.

We can exempt a matter related to a rail carrier under 49 U.S.C. 10505 if it: (1) Is of limited scope; (2) is not necessary to carry out the transportation policy of 49 U.S.C. 10101; (3) would be an unreasonable burden; and (4) would serve little or no useful public purpose.

Before considering an exemption we are required to provide the opportunity for a proceeding. This request for comments on the proposed exemptions of the involved transaction is that opportunity. All comments filed, along with petitioner's application, will be used to determine whether either of the exemptions should be granted, in whole or in part.

All persons filing comments in this proceeding are required to serve one copy on petitioner's representatives: John Cunningham, Michael Joseph, Kominers, Fort, Schlefer & Boyer, 1776 F Street NW., Washington, DC 20006.

This proceeding is instituted under the authority of 49 U.S.C. 10505 and pursuant to 5 U.S.C. 553 and 559.

This proceeding is not a major federal action significantly affecting the quality of the human environment or energy consumption.

Dated: November 6, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36349 Filed 11-20-80; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Acme-Cleveland Corporation, 802 Bond Court Building, P.O. Box 5617, Cleveland, OH 44101.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective prinicipal offices:

(a) Acme-Cleveland Transportation Company, 6900 Lake Abram Road, Middleburg Heights, OH 44140.

(b) The Cleveland Twist Drill Company, 1242 East 49th Street, P.O. Box 6656, Cleveland, OH 44101.

V 45 N 021 80 UMI

(c) LaSalle Machine Tool, Inc., 999 West Big Beaver Road, Troy, MI 48084.
(d) Hillyer Corporation, 244 Sheffield Street, Mountainside, NJ 07092.
1. Parent corporation and address of principal office: Ashland Coal, Inc., P.O. Box 6300, Huntington, West Virginia 25771.
2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices:
(a) Appalachian Transport, Inc., P.O. Box 6100, Huntington, West Virginia 25771.
(b) Addington Brothers Mining, Inc., P.O. Box 6100, Huntington, West Virginia 25771.
(c) Kentucky King Coal, Inc., P.O. Box 6100, Huntington, West Virginia 25771.
(d) Paula Coal Company, Inc., P.O. Box 6100, Huntington, West Virginia 25771.
1. Parent corporation and address of principal office: Atlantic Richfield Company, 515 Flower Street, Los Angeles, CA 90071.
2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:
(a) ARCO Performance Chemicals Company, Inc., 1500 Market Street, Philadelphia, PA 19101.
(b) ARCO Polymers, Inc., 1500 Market Street, Philadelphia, PA 19101.
(c) The Anaconda Company, 555 17th Street, Denver, Colorado 80202.
1. The parent company address is: Federated Department Stores, Inc., 7 West Seventh Street, Cincinnati, OH 45202.
2. The wholly owned divisions which are participating in this operation are as follows:
Abraham and Straus, 420 Fulton Street, Brooklyn, NY 11201.
Bloomingdale's, 1000 Third Avenue, New York City, NY 10022.
Boston Store, 331 West Wisconsin Avenue, Milwaukee, WI 53203.
Bullock's, Broadway, 7th & Hill, Los Angeles, CA 90014.
Bullock's Northern California, Executve & Administrative Offices, Administration Service Center, 135 Constitution Drive, P.O. Box 2007, Menlo Park, CA 94025.
Burdines, 22 East Flagler, Miami, FL 33131.
Filene's, 426 Washington Street, Boston, MA 02101.
Foley's, 1110 Main Street, P.O. Box 1971, Houston, TX 77001.
Gold Circle Stores, P.O. Box 63, 6121 Huntley Road, Worthington, OH 43085.
Goldsmith's, 123 South Main, P.O. Box 449, Memphis, TN 38143.
Gold Triangle Stores, 4600 West 18 Court, Hialeah, FL 33012.
Lazarus, Town and High Streets, Columbus, OH 43216.
Levy's, El Con, P.O. Box 27447, Tucson, AZ 85726.
I. Magnin, 135 Stockton St. at Union Square, San Franciso, CA 94108.
Ralph's Grocery Company, P.O. Box 54143, Los Angeles, CA 90054.
Rich's, 45 Broad Street, S.W., P.O. Box 4539, Atlanta, GA 30302.
Richway Stores, 45 Broad Street, P.O. Box 50359, Atlanta, GA 30302.
Rike's, Second and Main Streets, Dayton, OH 45401.
Sanger Harris, 303 North Akard and Pacific, Dallas, TX 75222.
Shillito's, Seventh and Race Streets, Cincinnati, OH 45202.
1. Parent corporation and address of principal office: Giddings & Lewis, Inc., 142 Doty Street, Fond du Lac, WI 54935.
2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:
a. The Osborn Manufacturing Corporation, 5401 Hamilton Avenue, Cleveland, OH 44114.
b. Pressed Steel Tank Co., Inc., 1445 S. 66th Street, Milwaukee, WI 53214.
c. Jackson Buff Corporation, Conover, North Carolina 28613.
d. Lee Cylinders, Inc., 610 E. Church Street, Cambridge City, Indiana 47327.
e. Cego, Inc., 610 E. Church Street, Cambridge City, Indiana 47327.
1. Parent corporation: Kaiser Aluminum & Chemical Corporation, 300 Lakeside Drive, Oakland, California 94643.
2. Wholly-owned subsidiary company which will participate in intercorporate compensated hauling:
Far Best Corporation, 6715 McKinley, Los Angeles, California 90007.
Far Best Corporation, Plum Street, Verona, PA 15147.
Far Best Corporation, 1401 Greenleaf Street, Elk Grove Village, IL 60007.
1. Parent Corporation: Kelley Industries, Inc., 4520 First International Plaza, 1100 Louisiana, Houston, Texas 77002.
2. Wholly Owned Subsidiaries:
(1) Kelley Manufacturing Company, 4800 Clinton Drive, Houston, Texas 77020; 10745 Marina Drive, Olive Branch, Mississippi 38654; 5100 Santa Fe Avenue, Los Angeles, California 90058.
(2) Shoreline Supply Company, 9111 Glesby, Houston, Texas 77029; 3900 W. Loop 338, Odessa, Texas 79760; 1100 W. Marland, Hobbs, New Mexico; 1803 W. Cotton, Longview, Texas 75607; 1100 Commercial Drive, Port Allen, Louisiana 70767; 3721 S. Prospect, Oklahoma City, Oklahoma 73143.
1. Parent corporation and address of principal office: Orgill Brothers Corporation, P.O. Box 140, Memphis, Tennessee 38101.
2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:
(a) Orgill Brothers & Co., Inc., P.O. Box 140, Memphis, Tennessee 38101.
(b) The Jordan Companies, P.O. Box 18377, Memphis, Tennessee 38118.
(c) Ben Edwards Furniture Co., Inc., P.O. Box 88, Memphis, Tennessee 38101.
Parent corporation and address of principal office: Philip Morris Incorporated, 100 Park Avenue, New York, New York 10017.
Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:
(a) Philip Morris Industrial Incorporated, P.O. Box 294, 422 North Holton Street, Milwaukee, Wisconsin 53201.
(b) Plainwell Paper Co., Inc., 200 Allegan, Plainwell, Michigan 49080.
(c) Wisconsin Tissue Mills Inc., P.O. Box 499, Third Street, Menasha, Wisconsin 54952.
(d) Miller Brewing Company, 3939 West Highland Boulevard, Milwaukee, Wisconsin 53208.
(e) Crescent Distributing Company, 201 Evans Road, Harahan, Louisiana 70123.
(f) Miller Brands, Inc., 450 North Oak Street, Inglewood, California 90302.
(g) River Distributing Company, Inc., R.D. 2, Noxon Road, Poughkeepsie, New York 12603.
(h) Star Distributing Company, Inc., P.O. Box 26247, Salt Lake City, Utah 84126.
(i) Waterloo Malting Company, P.O. Box 67, Waterloo, Wisconsin 53594.
(j) The Seven-Up Company, 121 South Meramec, St. Louis, Missouri 63105.
(k) Seven-Up Bottling Company of Houston, Texas, 3310 Alice Street, Houston, Texas 77021.
(l) Seven-Up Bottling Company of Norfolk, Incorporated, 1012 West 26th Street, Norfolk, Virginia 23517.
(m) Seven-Up Bottling of Phoenix, Inc., 3830 East Weir, Phoenix, Arizona 85040.
(n) Seven-Up Bottling Company of Albuquerque, 2101 Claremont Avenue, N.E., Albuquerque, New Mexico 87107.
(o) The Taylor Group, Inc., 555 Brown Road, Hazelwood, Missouri 63042.
(p) Seven-Up Canada Inc., No. 12 Cranfield Road, Toronto, Ontario, Canada M4B3G8.
1. Parent corporation: Revere Copper and Brass Incorporated, P.O. Box 191, Rome, NY 13440.

2. Divisions and wholly owned subsidiaries which will participate in the operations are as follows:
Brooklyn Foil Division, 196 Diamond St., Brooklyn, NY 11222.
Clinton Division, P.O. Box 250, Clinton, IL 61727.
Oneonta Plant—P.O. Box 340, Oneonta, AL 35121.
Edes Manufacturing Division, P.O. Box 477, Plymouth, MA 02360.
Newport Foil Division, Highway 67 North, Newport, AR 72112.
Rome Manufacturing Company Division, P.O. Box 111, Rome, NY 13440.
Revere Copper and Brass Inc., Omal, OH.
Scottsboro Aluminum Reduction Division, P.O. Box 1050, Scottsboro, AL 35768.
Scottsboro Aluminum Sheet Division, P.O. Box 788, Scottsboro, AL 35768.
Revere Copper Products, Inc., P.O. Box 300, Rome, NY 13440.
Revere Research, Inc., P.O. Box 151, Rome, NY 13440.
Revere Extruders, Inc., P.O. Box 731, Pomona Blvd., Pomona, CA 91766.
Revere Foil Containers, Inc., P.O. Box 168, Industrial Pk., Shelbyville, KY 40065.
Revere Solar & Architechtural Products, Inc., P.O. Box 967, Kenly, NC 27542.
John I. Paulding, Inc., P.O. Box B–952, Kings Highway, New Bedford, MA 02741.
North American Aluminum Corp., 5575 N. Riverview Dr., Kalamazoo, MI 49004.
Wells Aluminum Corp., P.O. Box 1496, 400 S. Main St., North Liberty, IN 46554.
Wells Aluminum, Inc., 808 County Road, Monett, MO 65708.
Wells Aluminum Moultrie, Inc., Route 2, Industrial Pk., Moultrie, GA 31768.
Wells Aluminum Southeast, Inc., P.O. Box 627, Blake Dairy Rd., Belton, SC 29627.
The proposed participating corporations are:
1. Parent Corporation: Peter J. Schmitt Co., Inc., 678 Bailey Avenue, Buffalo, New York 14206.
2. Wholly-owned subsidiary: Z & W Foods, Inc., 755 Bailey Avenue, Buffalo, New York 14206.
1. Parent Corporation: Southwest Distributing Company, 229 Lomas Blvd., N.E., Albuquerque, N.M. 87102.
2. Wholly-owned subsidiary: Thunderhead Oil & Gas Company (MC–134032), 2030 Second Street, S.W., Albuquerque, N.M. 87103.
1. Parent Corporation and address of principal office: Stanadyne, Inc., 100 Deerfield Road, Windsor, Connecticut 06145.
2. Wholly-owned subsidiary which will participate in the operations, and address of its respective principal office: Zeigler Harris Inc., Road #1, Pine Grove, Pennsylvania 17963.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-36482 Filed 11-20-80; 8:45 am]
BILLING CODE 7035-01-M

AGENCY FOR INTERNATIONAL DEVELOPMENT

International Development Cooperation Agency

Advisory Committee on Voluntary Foreign Aid; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Advisory Committee on Voluntary Foreign Aid which will be held on December 9 (from 9:00 a.m. to 6:00 p.m.) and December 10 (from 9:00 a.m. to 1:00 p.m.), 1980, at the Sheraton Washington, 2660 Woodley Road, N.W., Washington, D.C. 20008.

The agenda will deal primarily with development education: what it is, who does it, what should it be, what is an appropriate role for government agencies and voluntary agencies in development education. The Committee will also begin to make plans for its meetings in 1981.

The meeting will be open to the public. Any interested person may attend, appear before, or file statements with the Committee in accordance with procedures established by the Committee. Written statements should be filed prior to the meeting and should be available in twenty copies.

Mr. John A. Ulinski will be the A.I.D. representative at the meeting. It is suggested that those desiring further information contact Mr. Ulinski at 202–632–0108, or by mail c/o the Advisory Committee on Voluntary Foreign Aid, Agency for International Development, Washington, D.C. 20523.

Dated: November 14, 1980.

Calvin H. Raullerson,
Assistant Administrator, Bureau for Private and Development Cooperation.

[FR Doc. 80-36303 Filed 11-20-80; 8:45 am]
BILLING CODE 4710-02-M

[Redelegation of Authority No. 99.1.65, Amendment No. 3]

Mission Director, USAID/Bangladesh; Redelegation of Authority Regarding Contracting Functions

Pursuant to the authority delegated to me under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby further amend Redelegation of Authority No. 99.1.65 dated January 2, 1975 (40 FR 2596) as follows:

The first paragraph subhead 1 is revised to read as follows:

"1. U.S. Government contracts, grants (other than grants to foreign Governments or Agencies thereof), and amendments thereto provided that the aggregate amount of each individual contract or grant does not exceed $100,000 or local currency equivalent."

Except as provided herein, the Redelegation of Authority remains unchanged and continues in full force and effect.

This amendment is effective on November 10, 1980.

Dated: November 13, 1980.

Francis J. Moncada,
Acting Director, Office of Contract Management.

[FR Doc. 80-36302 Filed 11-20-80; 8:45 am]
BILLING CODE 4710-02-M

Joint Committee on Agricultural Development of the Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the Meeting of the Joint Committee on Agricultural Development (JCAD) of the Board for International Food and Agricultural Development (BIFAD) on December 8 and 9, 1980.

The purpose of the meeting is to receive reports from the following working groups: Regional, JCAD Guidelines, Registry of Institutional Resources, Professional Personnel Roster, Women in Development; to discuss revision of JCAD guidelines and formation of working group on training.

The meeting on December 8, 1980 will convene from 9:00 a.m. to 12:00 Noon in the form of Regional Work Groups—three work groups will be meeting: Latin America RWG in Room 2242 New State Department Building (Mr. Albert L. Brown, A.I.D. Federal Designee for this meeting can be contacted at (202/632–8126); Near East RWG in Room 6484 New State Department Building (Mr. Keith Sherper, A.I.D. Federal Designee for this meeting can be contacted at (202/632–9256); and the Asia RWG in Room 609 Rosslyn Plaza "C" Building, 1601 North Kent Street, Rosslyn, Virginia (Mr. David Lundberg, A.I.D. Federal Designee for this meeting can be

contacted at (703/235–8870). The Full JCAD Committee will convene on December 8 from 1:00 to 4:30 p.m. at the Holiday Inn, Dynasty Room, 1850 N. Fort Myer Drive, Arlington, Virginia 22209. The Full JCAD Committee will meet also on December 9 from 9:00 to 12:30 p.m. at the Holiday Inn, Dynasty Room, 1850 N. Fort Myer Drive, Arlington, Virginia 22209. The meetings are open to the public. Any interested person may attend, may file written statements with the Committee before or after the meetings, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meetings permits.

Mr. John C. Rothberg, BIFAD Support Staff, is designated A.I.D. Advisory Committee Representative at the December 8 and 9 meetings. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (202) 632–7937.

Dated: November 17, 1980.

John C. Rothberg,

A.I.D Advisory Committee Representative, Joint Committee on Agricultural Development Board for International Food and Agricultural Development.

[FR Doc. 80–36386 Filed 11–20–80; 8:45 am]

BILLING CODE 4710–02–M

Joint Research Committee of the Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Sections 10(a), (2), Pub. L. 92–463, Federal Advisory committee Act, notice is hereby given of the thirty-sixth meeting of the Joint Research Committee (JRC) of the Board for International Food and Agricultural Development (BIFAD) on December 9 and 10, 1980.

The purpose of the meeting is to: review the Sorghum/Millet CRSP and the Integrated Crop Protection Planning CRSP; review Proceedings of JRC Workshop on CRSP experience; consider specific issues in planning and implementing CRSP's; consider needs for exploratory studies for identification of research needs; consider research needs on animal health; consider types of possible research involvement with international centers in Title XII research; discuss education/training needs in LDC's in agriculture, nutrition, and rural development; discuss seminar recommendations on Women in Development; discuss research recommendations of the Research Advisory Committee; consider recommendations for research to alleviate food deficits in Africa; discuss ways to identify education and training needs in LDC's; and discuss JRC's projected mode of operation.

The meeting will convene at 9:00 a.m. and adjourn at 5:00 p.m. on December 9 and 10, 1980. The meeting will be held at the Holiday Inn, Dynasty Room, 1850 N. Fort Meyer Drive, Rosslyn, Virginia 22209. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Mr. William F. Johnson, BIFAD Support Staff is the designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, BIFAD Support Staff, Department of State, Washington, D.C. 20523 or telephone him at (202) 632–7935.

Dated: November 17, 1980

William F. Johnson,

A.I.D. Advisory Committee Representative, Joint Research Committee Board for International Food and Agricultural Development.

[FR Doc. 80–36387 Filed 11–20–80; 8:45 am]

BILLING CODE 4710–02–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–90]

Certain Airless Paint Spray Pumps and Components Thereof; Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 8, 1980, and amended October 22, 1980, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Wagner Spray Tech Corp., 1770 Fernbrook Lane, Minneapolis, Minn. 55440. The amended complaint (hereinafter referred to as the complaint) alleges unfair methods of competition and unfair acts in the importation into the United States of certain airless paint spray pumps and components thereof, or in their sale, because such pumps are allegedly covered by claims 1, 22, and 23 of U.S. Letters Patent 3,254,845, claims 12 and 19 of U.S. Letters Patent 3,367,270, and claims 40, 41, and 42 of U.S. Letters Patent Re 29,055. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation; conduct an expedited hearing for the purpose of determining whether there is reason to believe that there is a violation of section 337; upon the conclusion of said expedited hearing, issue both a temporary exclusion order prohibiting importation of the articles in question into the United States, except under bond, during the investigation and a temporary cease and desist order with respect to domestic sales and promotion of stockpiled imports; and, after a full investigation, issue an order permanently forbidding entry of the articles in question into the United States.

Having considered the complaint, the Commission, on November 6, 1980, Ordered That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), an investigation be instituted to determine whether there is reason to believe that there is a violation and whether there is a violation of subsection (a) of section 337 in the unauthorized importation of certain airless paint spray pumps, components thereof, and airless paint spray equipment containing said pumps into the United States, or in their sale, by reason of the alleged coverage of such pumps by claims 1, 22 and 23 of U.S. Letters Patent 3,254,845, claims 12 and 19 of U.S. Letters Patent 3,367,270, and claims 40, 41, and 42 of U.S. Letters Patent Re 29,055, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Wagner Spray Tech Corp., 1770 Fernbrook Lane, Minneapolis, Minn. 55440.

(b) The respondents are the following companies alleged to be engaged in the unauthorized importation of such articles into the United States, or in their sale, and are parties upon which the complaint is to be served:

Larius DiCastagna and C., S.N.C., Ltd., Via Perviotti 11, Lecco, Italy.

Imperial Paint Applicators, Ltd., 4 Station Road, Irvington, N.Y. 10533.

Karmichael Industries, Ltd., 4 Station Road, Irvington, N.Y. 10533.

Simco Bush Tool Corp., 4 Station Road, Irvington, N.Y. 10533.

c. Talbot S. Lindstrom, Chief, Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall name the Commission investigative attorney, a party to this investigation;

3. For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer; and

4. With respect to the complainant's request for expedition of the temporary relief hearing, action on such request is deferred to the presiding officer.

The phrase "and airless paint spray equipment containing said pumps" has been added to paragraph (1) above on the basis of informal investigatory activities by the Commission which revealed that the pumps of the type alleged to infringe the aforesaid claims of said respective letters patents can be imported as airless paint spray pumps, components thereof, and as a part of airless paint spray equipment.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than twenty (20) days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

Issued: November 17, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80–36312 Filed 11–20–80; 8:45 am]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Bureau of Justice Statistics

Advisory Board; Meeting

The Bureau of Justice Statistics Advisory Board will meet on December 12 and 13, 1980 at the Sheraton National Hotel in Arlington, Virginia. Friday's session will be from 8:30 a.m. until 5:45 p.m. Saturday's session will be from 8:30 a.m. until 12:30 p.m.

This will be the Board's initial meeting. It will elect a Chairman and Vice-Chairman and will adopt rules and procedures to govern its organization and functions. The agenda will also include briefing the Board on the mandate, current programs and program plans of the Bureau and presentation of the major issues which the Bureau faces.

The meeting will be open to the public. The meeting room will be accessible to the handicapped.

Minutes of the proceedings will be available upon request 30 days after the meeting.

Inquiries may be addressed to Sally G. Willis, Bureau of Justice Statistics, Washington, D.C. 20531. Telephone: (301) 492–9045.

Harry A. Scarr,

Director, Bureau of Justice Statistics.

November 13, 1980.

[FR Doc. 80–36291 Filed 11–20–80; 8:45 am]

BILLING CODE 4410–18–M

Drug Enforcement Administration

Quotas for Controlled Substances in Schedules I and II

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of established 1980 aggregate production quota.

SUMMARY: This notice establishes a 1980 aggregate production quota for tetrahydrocannabinols, a Schedule I substance, as required under the Controlled Substances Act of 1970.

EFFECTIVE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Regulatory Control Division, Drug Enforcement Administration, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration in accordance with § 0.100 of Title 28 of the Code of Federal Regulations.

On October 2, 1980, a notice of the proposed 1980 aggregate production quota for tetrahydrocannabinols was published in the **Federal Register** (45 FR 65368). All interested parties were invited to comment on or object to this proposed aggregate production quota on or before November 4, 1980. No comments or objections were received.

Therefore, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826), and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations, the Administrator of the Drug Enforcement Administration hereby orders that the 1980 aggregate production quota for tetrahydrocannabinols be established at 5,000 grams.

Dated: November 17, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80–36414 Filed 11–20–80; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

Correction

In FR Doc. 80–34496, appearing at page 74310 in the issue of Friday, November 7, 1980, the following pages were partially unreadable due to a technical problem and are reprinted without change below:

BILLING CODE 1505–01–M

V 45 N 0 21 80 UMI

Modification Page 1

DECISION # AK80-5130 Mod. # 1
(45 FR 64040 September 26, 1980)

STATEWIDE, ALASKA	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Asbestos Workers	$22.67	.78	1.45		.10
Carpenters					
Areas 2 and 3					
Piledriverman	17.99	.90	3.00		.20
Electricians:					
Electricians, Technicians	21.15	1.65	3%+3.00		.25
Cable Splicers	22.90	1.65	3%+3.00		.25
Residential Electricians	11.25	1.30			.10
Elevator Constructors	22.445	1.195		a	.35
Ironworkers	20.25	1.35	3.00		.30
Lathers	21.14	1.10			.04
Line Construction:					
Groundman, Powderman	19.15	1.65	3%+3.00		.25
Equipment Operators,					
Lineman, and Technicians	21.15	1.65	3%+3.00		.25
Cable Splicers	22.90	1.65	3%+3.00		.25
Material Handlers	14.55	1.65	3%+3.00		.25
Power Equipment Operators:					
Group 1	18.30	1.20	3.00		.15
Group 1A	19.43	1.20	3.00		.15
Group 2	17.81	1.20	3.00		.15
Group 3	17.35	1.20	3.00		.15
Group 4	16.33	1.20	3.00		.15
Power Equipment Operators-Dredging:					
Group 1	16.33	1.20	3.00		
Group 2	17.35	1.20	3.00		
Group 3	17.81	1.20	3.00		
Group 4	18.30	1.20	3.00		
Group 5	19.43	1.20	3.00		
Survey Crews:					
Instrumentman	16.35	1.99	3.00		.20
Head Chainman	15.80	1.99	3.00		.20
Stakehop	15.80	1.99	3.00		.20
Rear Chainman	15.12	1.99	3.00		.20

...eprint of... a Notice of the General Wage Determination of Friday, October 7, ...

Modification Page 2

DECISION #AR80-4080-Mod.#1 45 FR October 31, 1980 Jefferson County, Arkansas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Bricklayers-Stonemasons	$11.00	.85	.55		.04
Ironworkers	11.55	.60	1.05		.06
LABORERS:					
Group I	7.60	.38	.62		
Group II	7.85	.38	.62		
Group III	8.00	.38	.62		
Group IV	8.10	.38	.62		
Group V	8.20	.38	.62		
Group VI	8.50	.38	.62		
Group VII	8.40	.38	.62		
Plumbers-Pipefitters	13.25	.90	.60		.10
Roofers	10.71		.30		
POWER EQUIPMENT OPERATORS:					
Group I	12.20	.45	.45		.05
Group II	11.07	.45	.45		.05
Group III	10.54	.45	.45		.05
Group IV	8.70	.45	.45		.05

DECISION #AR80-4083-Mod.#1 45 FR Oct. 31, 1980 Pulaski County, Arkansas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Bricklayers-Stonemasons	$11.00	.85	.55		.04
Ironworkers	11.55	.60	1.05		.06
LABORERS:					
Group I	7.60	.38	.62		
Group II	7.85	.38	.62		
Group III	8.00	.38	.62		
Group IV	8.10	.38	.62		
Group V	8.20	.38	.62		
Group VI	8.50	.38	.62		
Group VII	8.40	.38	.62		
PLUMBERS-PIPEFITTERS:					
Within 10 mile radius of Pulaski Co. Courthouse	13.20	.85	.85		.08
Over 10 miles of Pulaski County Courthouse	13.50	.85	.85		.08
POWER EQUIPMENT OPERATORS					
Group I	12.20	.45	.45		.05
Group II	11.07	.45	.45		.05
Group III	10.54	.45	.45		.05
Group IV	8.70	.45	.45		.05
Roofers	10.71		.30		

Modification Page 3

DECISION NO. CO80-5137 - Mod. #1 (45 FR 70577 - Oct. 24, 1980) Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit and Weld Counties, Colorado	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Bricklayers, Stonemasons:					
Boulder and Grand Counties	$ 12.15	.85	1.10		.06
Lathers	13.44				.01
Millwrights	12.66	1.00	.85		.14
Plasterers	13.44				
Plumbers, Steamfitters:					
Southern portions of Douglas, Elbert and Park Counties	12.90	.85	1.15	1.60	.10
Roofers:					
Remaining Counties, including northern portions of Lake, Park, Jefferson, Douglas and Elbert Counties	12.57	.80	.25		.08
Soft floor layers	12.39	.80	1.05	.75	.10
Tile, Marble and Terrazzo Finishers:					
Finishers	9.55	1.10	1.15	.50	
Floor Grinders	9.70	1.10	1.15	.50	
Base Grinders	10.25	1.10	1.15	.50	

DECISION NO. CO80-5138 - Mod. #1 (45 FR 70682 - Oct. 24, 1980) El Paso County, Colorado	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Cement Masons:					
Cement masons	$12.04	.59	1.13		.13
Working with composition materials and color	12.54	.59	1.13		.13
Working on temporary platform over 25'	12.29	.59	1.15		.13
Electricians	13.90	.75	3% + .65		.015
Millwrights	12.66	1.00	.85		.14
Plasterers	13.44				.01
Soft floor layers	12.39	.80	1.05		.10

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Modification Page 4

DECISION NO. CO80-5139 - Mod. #1 (45 FR 70686 - Oct. 24, 1980) Delta, Garfield, Gunnison, Mesa, Montrose and Pitkin Counties, Colorado	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Bricklayers and Stonemasons:					
Remaining Counties	$11.90	.85	.85		.05
Cement Masons:					
Cement masons	12.04	.59	1.15		.13
Working with composition material and color	12.54	.59	1.15		.13
Working on scaffold, swing stage or temporary platform over 25'	12.29	.59	1.15		.13
Lathers:					
Garfield, Mesa and Pitkin Counties	13.44				
Millwrights	12.66	1.00	.85		.14
Plasterers	13.44				.01

DECISION NO. CO80-5140 - Mod. #1 (45 FR 70691 - October 24, 1980) Las Animas, Otero and Pueblo Counties, Colorado	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
CHANGE:					
Millwrights	$12.66	1.00	.85		.14
Plasterers	13.44				
Soft Floor Layers:					
Las Animas & Otero Counties	12.39	.80	1.05	.75	.10

SUPERSEDEAS DECISION

STATE: Louisiana
PARISHES: Bossier, Caddo & Calcasieu
DECISION NO. LA80-4080
DATE: Date of Publication
Supersedes Decision No. LA80-4039, dated May 23, 1980 in 45 FR 35136
DESCRIPTION OF WORK: Residential Projects consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Bossier & Caddo Parishes	$12.99	.70	1.00		.03
Calcasieu Parish	13.32	.775	1.18		.04
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS:					
Bossier & Caddo Parishes	11.30	.55	.65		
Calcasieu Parish	13.50	.63	.85		.05
CARPENTERS:					
Bossier & Caddo Parishes:					
Carpenters	11.10	.55	.50		.04
Millwrights	11.85	.55	.50		.04
Piledrivermen	11.35	.55	.50		.04
Calcasieu Parish:					
Carpenters and Piledrivermen	12.51	.80	.33		.07
Millwrights	14.41				.07
CEMENT MASONS:					
Bossier & Caddo Parishes	10.50	.45			
Calcasieu Parish	12.53				
ELECTRICIANS:					
Bossier & Caddo Parishes:					
Electricians	13.25	1.75	3%		1%
Cable Splicers	13.75	1.75	3%		1%
Calcasieu Parish:					
Electricians	14.75	.55	3%+.40		1/10%
Cable Splicers	15.00	.55	3%+.40		1/10%
ELEVATOR CONSTRUCTORS:					
Bossier & Caddo Parishes:					
Mechanics	11.66	1.105	.82	a+b	.035
Helpers	70%JR	1.105	.82	a+b	.035
Calcasieu Parish:					
Mechanics	10.575	.745	.56	a+b	.025
Helpers	70%JR	.745	.56	a+b	.025
GLAZIERS:					
Bossier & Caddo Parishes	9.88		.30		.04
Calcasieu Parish	12.25			c+d	.02
IRONWORKERS:					
Bossier & Caddo Parishes	12.45	.45	.90		.06
Calcasieu Parish	12.88	.60	.65		.05

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DECISION NO: LA80-4080 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Bossier & Caddo Parishes:					
GROUP 1					
Laborers	$ 7.53	.25	.27		.05
GROUP 2					
Mason tenders, plasterer tenders; asphalt rakers, asphalt smoothers	7.63	.25	.27		.05
GROUP 3					
Mortar mixers	7.68	.25	.27		.05
GROUP 4					
Air jacks, vibrators; sewer pipe layers and wipers	7.73	.25	.27		.05
Calcasieu Parish:					
GROUP 1					
Building & general laborers; tenders (carpenter, plaster, cement finisher, mason); tank & vessel cleaners	8.88	.25	.27		.05
GROUP 2					
Air tool op.(except jackhammer); interior of closed tanks & vessels power equipment	8.98	.25	.27		.05
GROUP 3					
Mortar mixers	9.03	.25	.27		.05
GROUP 4					
Jackhammer operators	9.13	.25	.27		.05
GROUP 5					
Blasterers	9.84	.25	.27		.05
GROUP 6					
Blaster tenders; concrete cutters behind paving machines & pudders; form setters & lines asphalt worker	9.40	.25	.27		.05
GROUP 7					
Wipe joints, laying pipe & tile from pumpcrete	9.24	.25	.27		.05
GROUP 8					
Interior or closed tanks & vessels manually	8.93	.25	.27		.05

SUPERSEDEAS DECISION

STATE: Texas
COUNTY: Harrison
DECISION NO.: TX80-4088
DATE: Date of Publication
Supersedes Decision No. TX79-4032, dated March 16, 1979. in 44 FR 16325.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.99	.70	1.00		.03
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS	11.75		.50		
CARPENTERS	6.59				
CEMENT MASONS	8.00				
ELECTRICIANS:					
Electricians	11.70	.60	3%		1/4%
Cable splicers	12.05	.60	3%		1/4%
GLAZIERS	5.15				
IRONWORKERS	6.88				
LABORERS:					
Laborers	3.21				
Mason tenders	4.15				
Plasterers' tenders	4.75				
LATHERS	8.95	.40	.20		
PAINTERS:					
GROUP 1 - Journeymen painters, paperhangers, hand rollers & tools used for cleaning	5.185				
GROUP 2 - Window jack or window sill; sand tape & floating	5.275				
GROUP 3 - Swing stage; spray & sandblasting; sign painting; steel swing stage, boatswain's chair brush	5.65				
GROUP 4 - Steam cleaning, buffing, burners & torch	6.90				
GROUP 5 - Steel brush	5.40				
GROUP 6 - Steel swing stage, boatswain's chair, spray & sandblasting	7.65				
PLASTERERS	8.075				
PLUMBERS & PIPEFITTERS	7.60				
ROOFERS	8.10				
SHEET METAL WORKERS	10.425	.50	.66		.105
SPRINKLER FITTERS	13.71	.85	1.20		.08
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

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DECISION NO. TX80-4088 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	$ 7.765	.65	1.00		.15
GROUP 2	11.53	.65	1.00		.15
GROUP 3	11.93	.65	1.00		.15

GROUP 1 - Oiler-Fireman
GROUP 2 - Air compressor (1); Pump (1); Pulsometer; Conveyor; Throttle valves; Wagon drill; Elevators building; Form graders; Hoist, single drum; Mixers, less than 14 cu. ft.; Screening plants; Welding machine gas & diesel (2 or more); Crushing plants; Fork lifts (short, under 25 feet); Concrete pumps (all types); Bobcat type equipment
GROUP 3 - Ford tractor or like with any attachments (except backhoe); Drilling machines (all types); Scoopmobile; Hoist, two drums or more; Forklifts (over 25 feet); Winch trucks; Six wheel truck, when used continuously for 5 days; Mixer-mobile; Locomotives; Mixer, 14 cu. ft. or over; Blade graders, self-propelled; Cableways; Cranes - power operated to 100 feet; Fordson type backhoe; Derrick, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving mixer (all types); Pile drivers; Mobile concrete mixers over 14 cu. ft.; Bulldozers, loaders, tractovators; Scrapers and pulls ; Welders; Trenching machines; Rollers, ten tons or over; Air compressors, three; Air compressors & one pump; Pump, three or more; Air commissor & air tugger; Boilers, two or more fired by one man; Heavy duty mechanic

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 C. 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: TX80-4087
COUNTY: Gregg
DATE: Date of Publication
Supersedes Decision No. TX79-4035, dated September 28, 1979, in 44 FR 56108.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ASBESTOS WORKERS	$12.99	.70	1.00		.03
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS	12.10		.45		.05
CARPENTERS:					
Carpenters	10.60				.015
Millwrights	13.25				.015
Piledrivermen	11.10				.015
CEMENT MASONS	6.50				
ELECTRICIANS:					
Electricians	11.70	.60	3%		1/4%
Cable splicers	12.05	.60	3%		1/4%
GLAZIERS	5.80				
IRONWORKERS	8.95	.35	.35		.04
LABORERS:					
Laborers	3.40				
Mason tenders	3.80				
Plasterers' tenders	4.40				
LATHERS	6.875	.20	.10		.01
PAINTERS, BRUSH	6.75				
PLASTERERS	7.68				
PLUMBERS & PIPEFITTERS	7.79	.43	.90		.10
ROOFERS	6.40				
SHEET METAL WORKERS	8.455	3%+.35	.50		.055
TILE SETTERS	6.90				
TILE SETTERS' FINISHERS	3.65				
TRUCK DRIVERS	3.50				
POWER EQUIPMENT OPERATORS:					
Backhoes	4.50				
Blade graders	4.50				
Bulldozers	4.75				
Cherry pickers	4.50				
Drilling machine opns.	3.75				
Loaders	4.50				
Motor graders	5.00				
Rollers	4.87				
Scrapers	4.28				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

[illegible] 74386 of the Federal Register of Friday, November 7, 1980.

SUPERSEDEAS DECISION:

STATE: Texas
COUNTIES: Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler
DECISION NO. TX 80-4085
DATE: Date of publication
Supersedes Decision No. TX80-4001, dated Jan. 4, 1980 in 45 FR 1376
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories). (Use current heavy & highway general wage determination for paving and Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
ASBESTOS WORKERS	$11.95	.80	1.25		.02
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS	12.60		.80		
CARPENTERS:					
Zone 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher and Wheeler Counties:					
Carpenters	12.20		.50		.01
Millwrights	12.55		.50		.01
Zone 2 - Childress Co.:					
Carpenters	11.85	.40	.60		.10
Millwrights	12.35	.40	.60		.10
CEMENT MASONS	11.40				
ELECTRICIANS:					
Zone 1 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher and Wheeler Counties:					
Electricians	11.58	.60	3%+.50		1/2%
Cable Splicers	12.74	.60	3%+.50		1/2%
Zone 2 - Childress Co.:					
Electricians	12.10	.60	3%		1/10%
Cable Splicers	12.35	.60	3%		1/10%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
GLAZIERS	$ 7.90			a	
IRONWORKERS:					
Zone 1: Armstrong, Carson, Castro, Childress (excluding southeastern 1/4) Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher and Wheeler Counties	12.10	.55	1.40		.10
Zone 2: Childress County (southeastern 1/4)	10.825	.55	1.40		.10
LABORERS:					
Group 1: General or Construction Laborers	6.87	.63	.40		
Group 2: Air or electric tool operators, jackhammers, vibrator tampers chipping hammers, pipe wrappers, kettleman, asphalt rakers, sand blasterers, pot-tenders, riprap stone pavers, cutting torch operators (demolition), mortar mixer (hand or machine), mason tenders, plasterer tenders, hod carriers, loader and placer, chuck tenders, timberman, collapsible form setters, concrete power buggy operators; carpenter tenders, pipe layers: main, sewer and drainage; makeup man, powderman and blasters; gunite ops. or concrete operators	6.97	.63	.40		
LATHERS	12.15				.01

[illegible] 74386 of the Federal Register of Friday, November 7, [illegible]

BILLING CODE 1505-01-C

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
LINE CONSTRUCTION:					
Zone 1 - Childress County:					
Lineman; Operators	$12.10	.60	3%		1/2%
Cable Splicers	12.35	.60	3%		1/2%
Groundman	70%JR	.60	3%		1/2%
Zone 2 - Armstrong, Carson, Castro, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher and Wheeler Counties:					
Lineman	11.58	.60	3%+.50		1/2%
Cable Splicers	12.74	.60	3%+.50		1/2%
Groundman	7.66	.60	3%+.50		1/2%
Operator - Holm digger, line truck	8.91	.60	3%+.50		1/2%
Flat bed truck driver	6.72	.60	3%+.50		1/2%
MARBLE MASONS (EXTERIOR)	12.60		.80		
PAINTERS:					
Group 1 - Brush and Roller; Paperhangers; Perfa-tapers	9.95		.50		
Group 2 - Structural steel; Swinging stage or chair below 50 ft.	10.07		.50		
Group 3 - Spray and Sandblasters	10.78		.50		
Group 4 - Perfa-tape machine operator	10.70		.50		
PLASTERERS	12.15				.01
PLUMBERS & PIPEFITTERS	11.90	.50	.65	1.06	

Mine Safety and Health Administration

[Docket No. M-80-141-C]

BRT Collieries, Inc.; Petition for Modification of Application of Mandatory Safety Standard

BRT Collieries, Inc., Virgie, Kentucky 41572, has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its No. 1 Mine located in Floyd County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the installation of lighting fixtures on the mine's roof bolting machines.

2. Petitioner states that installation of lighting fixtures on the mine's roof bolting machines would result in a diminution of safety to the miners affected because the lights:

a. Cause eye strain for the miners as they travel from dark to lighted areas of the mine;

b. Limit the vision of the machine operator past the glow of the lights; and

c. Reduce the effectiveness of the miners' cap lamps.

3. For these reasons, the petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 22, 1980. Copies of the petition are available for inspection at that address.

Dated: November 13, 1980.

Frank A. White,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 80-36407 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Appointment of Members

This is to announce the appointment of members to the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

The membership of the Committee and the categories represented are as follows:

Employee

Joe A. Adam, Director, Department of Safety and Health, United Association of Journeymen & Apprentices of the Plumbing and Pipe Fitting Industry, 901 Massachusetts Avenue, NW., Washington, D.C. 20001.

Robert E. P. Cooney, General Vice President, International Assoc. of Bridge Structural and Ornamental Iron Workers, 400 First Street, NW., Washington, D.C. 20001.

Robert Farrell, Safety Director, International Union of Operating Engineers, 6200 Joliet Road, Countryside, IL 60525.

Roy Steinfurth, Administrator, Health Hazard Programs, International Association of Heat & Frost Insulators & Asbestos Workers, 1300 Connecticut Avenue NW., Washington, D.C. 20036.

Charles H. Tupper, Director, Safety Dept., International Brotherhood of Electrical Workers, 1125 Fifteenth Street, NW., Washington, D.C. 20005.

Employer

Harry Carr, President—Chief Executive, H. Carr & Sons, Inc., 85 Aldrich Street, Providence, RI 02905.

Alan Hollingsworth, Safety Supervisor, S. J. Groves & Sons Inc., Box 2009, Springfield, IL 62705.

George Goldberg, Vice President, Industrial Relations, Stanley Structures, Three Park Central, 1515 Arapahoe Street, Denver, CO 80202.

Carl Melin, Vice President, Industrial Relations, Chicago Bridge & Iron Company, 800 Jorie Boulevard, Oakbrook, IL 60521.

James Pakenham, Safety Manager, Ebasco Services, Inc., 2 Rector Street, New York, NY 10006.

State

Mark R. Melchiori, Acting Chief of the Safety and Standards Division, Bureau of Michigan Department of Labor, 7150 Harris Drive, Lansing, MI 48909.

Michael M. Schneider, Deputy Chief for Safety, California's Division of Occupational Safety and Health, 455 Golden Gate Avenue, San Francisco, CA.

Federal

Stanley J. Reno, Regional Consultant for Occupational Safety & Health—National Institute for Occupational Safety & Health, 1961 Stout Street, Denver, CO 80294.

Public

H. Edgar Lore, Labor Relations Consultant, Sycamore Road, R.D. #5, Sevickley, PA 15143.

Dr. Jack L. Mickle, Professor of Civil Engineering, Iowa State University, Ames, IA 50015.

The members were selected on the basis of their experience and competence in the field of construction safety and health and will serve until June 30, 1982. Mr. Stanley J. Reno will serve as Committee Chairman.

Signed at Washington, D.C. this 13th day of November 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-36408 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-28-M

Office of the Secretary

[TA-W-9051]

Bethlehem Steel Corp., Sparrows Point, Maryland; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act mut be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely.

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The investigation was initiated on June 30, 1980 in response to a petition received on June 11, 1980 which was filed by the United Steelworkers of America on behalf of workers and former workers at Bethlehem Steel Corporation, Sparrows Point, Maryland.

Workers at the Sparrows Point plant produce steel and steel products.

With respect to the production of plate, cold rolled sheet, galvanized sheet and rods, the investigation revealed that criterion (3) has not been met.

A Department of Labor survey revealed that none of the surveyed customers reduced purchases of plate from the Sparrows Point plant while increasing purchases of imported plate in 1979 compared to 1978 or in the first eight months of 1980 compared to the same period in 1979.

A Department of Labor survey revealed that none of Sparrow Points's customer increased their purchases of imported cold rolled sheet in 1979 compared to 1978 or in the first eight months of 1980 compared to the same period in 1979.

A Department of Labor survey revealed that none of Sparrow Points's customers increase their purchases of imported galvanized sheet in 1979 compared to 1978 or in there first eight months of 1980 compared to the same period in 1979.

A Department of Labor survey revealed that Sparrow Point's customers reduced their overall demand for rods from both domestic and foreign sources in 1979 compared to 1978 and in the first eight months of 1980 compared to the same period in 1979. Most of the surveyed customers did not purchase imported rods. In 1979 compared to 1978, none of the surveyed costomers reduced purchases from the Sparrows Point plant while increasing purchases of imported rods. In the first eight months of 1980 compared to the same period in 1979, the customers that increased purchases of imported rods did so by an amount that accounted for an insignificant portion of Sparrow Points's rod sales decline over those periods.

With respect to the production of pipe, all the criteria have been met.

U.S. imports of carbon steel pipe and tube increased both absolutely and relative to domestic shipments in the first half of 1980 compared to the first half of 1979.

A Department of Labor survey revealed that some customers reduced purchases of pipe from the Sparrows Point plant and increased purchases of imported pipe in the first eight months of 1980 compared to the same period in 1979.

The Department is in the process of obtaining additional information on Sparrow Point's production and sales of hot rolled sheet, wire and wire products and tin plate products. The findings for these products and for basic steelmaking at Sparrows Point will be issued in a separate determination.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the pipe produced at the Sparrows Point, Maryland plant of Bethlehem Steel Corporation contributed importantly to the decline in sales or production and to the total or partial separation of workers of that plant. In accordance with the provisions of the Act, I make the following certification:

"All workers of Bethlehem Steel Corporation, Sparrows Point, Maryland, engaged in employment related to the production of pipe, who became totally or partially separated from employment on or after January 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 12th day of November 1980.

James F. Taylor,

Director, Office of Management Administration and Planning.

[FR Doc. 80-36403 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7444]

Firestone Tire and Rubber Co., Decatur, Ill.; Negative Determination on Reconsideration

On July 30, 1980, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers producing passenger car and truck tires at Firestone's Decatur, Illinois plant. This determination was published in the **Federal Register** on August 8, 1980, (45 FR 52968).

The union claimed in its application for reconsideration that the Department placed excessive reliance on its customer survey and made no mention in its denial of increased U.S. imports of passenger car and truck tires in 1979. The union further claimed that other workers at other URW-represented plants including workers at a Firestone plant in Salinas, California were certified for trade adjustment assistance within the last two years.

The Department's review of the investigative file showed that passenger car tire and truck tire workers at the Decatur, Illinois plant did not meet the "contributed importantly" test of the Trade Act of 1974. The review also showed that truck tire production at Decatur increased, in quantity, in 1979 compared to 1978 and in the first two months of 1980 compared to the same period in 1979. The Department's survey of Firestone's passenger car tire customers showed that the respondents' reliance on imports of passenger car tires was not significant and was substantially below the industry-wide levels of imports in 1978 and 1979. The Department's survey of Firestone's truck tire customers showed that they either did not import or decreased their imports of truck tires in 1979 compared to 1978 and in the first four months of 1980 compared to the same period in 1979. Customers who decreased purchases of truck tires from Firestone and increased imports represented an insignificant proportion of Firestone's truck tire sales and an insignificant proportion of Firestone's decline in sales in 1979 compared to 1978 and in the first four months of 1980 compared to the same period in 1979. In order for a worker group to become certified it must meet all three statutory criteria under Section 222 of the Trade Act including the "contributed importantly" test. The "contributed importantly" test is determined through a survey of the firm's customers. Truck tire workers at Decatur did not meet the decreased production or sales criterion nor the "contributed importantly" test while passenger car tire workers did not meet the "contributed importantly" test. Increased imports of passenger car and truck tires by themselves are not enough for the Department to grant certification.

The Department does not agree with the claim that its investigation of the Decatur worker group was conducted differently from other adjustment assistance investigations by the Department. The Department's certifications of Salinas and South Gate were based on three elements: the trend in company imports; the trend in aggregate imports; and the results of the survey of the plants' customers. On all three points the data indicated contrary results in the Decatur case.

The Department notes that the certifications for the Salinas and South Gate worker groups were based on data available at the time of the investigation. The petition dates for the Salinas and South Gate worker groups are November 16, 1979 and August 21, 1979, respectively, while the petition date for the Decatur worker group is March 5, 1980. Company import data for passenger car tires in the Salinas and South Gate cases ran to November 1979 and July 1979, respectively; however the downward trend in company imports which began in the third quarter of 1979 was not yet ovvious at the time of these investigations. In the Decatur investigation the Department had company import data on passenger car tires through March 1980, which showed

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clearly a significant decrease in company import activity.

U.S. aggregate import data at the time of the Salinas and South Gate investigations ran only through September and June 1979, respectively. These data showed that U.S. imports of passenger car tires increased both absolutely and relative to domestic production in the first six months and the first nine months of 1979 compared to the respective periods in 1978. However, U.S. aggregate import data for passenger car tires at the time of the Decatur investigation was showing an absolute decrease in the first six months of 1980 compared to the same period in 1979. Further, the downward trend in company imports of passenger car tires beginning in the second half of 1979 runs in tandem with the decline in U.S. aggregate imports of passenger car tires for that period and the first six months of 1980.

In its reconsideration, the Department updated its earlier Firestone surveys and conducted another large random survey of Firestone's customers. The Department's updated survey showed that the import reliance in passenger car tires in the first six months of 1980 was not significant. The random survey showed that import reliance in the first six months of 1980 was below that for the same period in 1979. The few responding customers with declining purchases from Firestone and increasing imports represented less than one-half of one percent of Firestone's total sales decline in 1979 and 1980. Although a two-part survey on Firestone's customers was conducted in the Salinas investigation, one including national accounts and the other local Western accounts the Department did not see fit to do this for the Decatur plant since it is the Department's understanding that Decatur's output is marketed nationally.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for adjustment assistance to workers and former workers of the Decatur, Illinois plant of the Firestone Tire and Rubber Company.

Signed at Washington, D.C., this 13th day of November 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-36400 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7452]

Firestone Tire & Rubber Co., Des Moines, Iowa; Negative Determination on Reconsideration

On August 28, 1980, the Department made an Affirmative Determination regarding Application for Reconsideration for workers and former workers producing passenger car tires at the Des Moines, Iowa plant of the Firestone Tire and Rubber Company. This determination was published in the **Federal Register** on July 11, 1980, (45 FR 46932).

The union claimed in its application for reconsideration that the Department's investigation was not consistent with others conducted by the Department and that their private brand tire customers were not included in the Department's survey. The union did not seek reconsideration with respect to tractor-tire workers at Des Moines.

The Department's review of the investigative file showed that passenger car tire workers at the Des Moines, Iowa plant did not meet the "contributed importantly" test of the Trade Act of 1974. Only workers producing earthmover tires at Des Moines met all the statutory criteria for certification. The Department's survey of Firestone's passenger car tire customers showed that the respondent's reliance on imports of passenger car tires was not significant and was substantially below the industry-wide levels of imports in 1978 and 1979.

The Department does not agree with the claim that its investigation of the Des Moines worker group is inconsistent with others, especially the Salinas and South Gate, California investigations conducted by the Department. The Department's certifications of Salinas and South Gate were based on three elements: the trend in company imports; the trend in aggregate imports; and the results of the survey of the plants' customers. On all three points the data indicated contrary results in the Des Moines case.

The Department notes that the certifications for the Salinas and South Gate worker groups were based on data available at the time of the investigation. The petition dates for the Salinas and South Gate worker groups are November 16, 1979 and August 21, 1979, respectively, while the petition date for the Des Moines worker group is March 3, 1980. Company import data for passenger car tires in the Salinas and South Gate cases ran to November 1979 and July 1979, respectively; however the downward trend in company imports which began in the third quarter of 1979 was not yet obvious at the time of these investigations. In the Des Moines investigation the Department had company import data on passenger car tires through March 1980, which showed clearly a significant decrease in company import activity.

U.S. aggregate import data at the time of the Salinas and South Gate investigations ran only through September and June 1979, respectively. These data showed that U.S. imports of passenger car tires increased both absolutely and relative to domestic production in the first six months and the first nine months of 1979 compared to the respective periods in 1978. However, U.S. aggregate import data for passenger car tires at the time of the Des Moines investigation was showing an absolute decrease in the first six months of 1980 compared to the same period in 1979. Further, the downward trend in company imports of passenger car tires beginning in the second half of 1979 runs in tandem with the decline in U.S. aggregate imports of passenger car tires for that period and the first six months of 1980.

In its reconsideration, the Department updated its earlier Firestone surveys and conducted another large random survey of Firestone's customers. The Department's updated survey showed that the import reliance for passenger car tires in the first six months of 1980 was not significant. The random survey showed that import reliance in the first six months of 1980 was below that for the same period in 1979. The few responding customers with declining purchases from Firestone and increasing imports represented less than one-half of one percent of Firestone's total sales decline in 1979 and 1980. Although a two-part survey on Firestone's customers was conducted in the Salinas investigation, one including national accounts and the other local Western accounts, the Department did not see fit to do this for the Des Moines plant since it is the Department's understanding that Des Moines' output is marketed nationally.

Further, the Department found on reconsideration that a substantial amount of the production at Des Moines in 1979 was private brands; however, only a negligible amount consisted of Seiberling or Zenith tires—the primary house brands at the Barberton, Ohio facility of a Firestone subsidiary. The Department found that of the 20 private brands listed in the application, nine were included in the Department's survey among which were several of Firestone's largest private label customers.

Conclusion

After reconsideration, I reaffirm the original Notice of Negative Determinations Regarding Eligibility to Apply for Worker Adjustment-Assistance to workers and former workers of the Des Moines, Iowa plant of the Firestone Tire and Rubber Company.

Signed at Washington, D.C., this 13th day of November 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-36402 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8072]

Firestone Tire & Rubber Co., La Vergne, Tenn.; Negative Determination on Reconsideration

On September 22, 1980, the Department made an Affirmative Determination Regarding Application for Reconsideration for workers and former workers producing truck tires at the La Vergne, Tennessee plant of the Firestone Tire and Rubber Company. This determination was published in the **Federal Register** on September 30, 1980, (45 FR 64763).

The union claimed in its application for reconsideration that the Department's investigation was not consistent with others conducted by the Department especially the Firestone investigations concerning the Salinas, and South Gate, California plants. The union also claimed that their private brand truck tire customers were not included in the Department's survey.

The Department's review of the investigative file showed that the truck tire workers at the La Vergne, Tennessee plant did not meet the "contributed importantly" test of the Trade Act of 1974. The Department surveyed major customers and a random sample of the smaller customers of Firestone who purchased truck tires. Most customers from both groups indicated that they either did not import or decreased their imports of truck tires. Customers who decreased purchases of truck tires from Firestone and increased their import purchases represented an insignificant proportion of truck tire sales for Firestone and an insignificant proportion of Firestone's decline in sales in 1979 compared with 1978 and in the first four months of 1980 compared with the same period in 1979.

The Department does not agree with the claim that its investigation of the La Vergne plant is inconsistent with others conducted by the Department, especially the Salinas and South Gate, California investigations. The Department notes that it conducted its investigation of the Salinas and South Gate plants in an earlier time frame, based on their earlier petitions. The Department's certification of Salinas and South Gate were based on three elements: the trend in company imports; the trend in aggregate imports; and the results of the survey of the plants' customers. On all three points the data indicated contrary results in the La Vergne case. First, with respect to company imports, Firestone's imports of truck tires in 1980 were negligible when compared to La Vergne's production of truck tires in 1980. Secondly, at the time of the Salinas and South Gate investigations, the Department had U.S. aggregate import data through September and June of 1979, respectively. These data showed that U.S. imports of truck tires increased both absolutely and relative to domestic production in the first six and nine months of 1979 compared to their respective periods in 1978. However, at the time of the La Vergne investigation, U.S. aggregate import data for truck tires was declining. U.S. imports of truck tires decreased absolutely in the first six months of 1980 compared to the same period in 1979. Layoffs at La Vergne began in March 1980.

Further, the Department found on reconsideration that only a minor amount of the truck tire production at La Vergne in 1979 and 1980 was private brands and that many of these private brands were included in the Department's survey among which were several of Firestone's largest private label customers. In its reconsideration the Department had available a new survey of Firestone's truck tire customers. Through the first six months of 1980, this survey was consistent with the earlier truck tire customer survey.

Conclusion

After reconsideration, I reaffirm the original denial of eligibility to apply for worker adjustment assistance to workers and former workers of the La Vergne, Tennessee plant of the Firestone Tire and Rubber Company.

Signed at Washington, D.C. this 13th day of November 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-36401 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6953 and 6998]

Ford Motor Co., Lorain Assembly, Lorain, Ohio, and Dearborn Steel, Dearborn, Mich.; Amended Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued Certifications of Eligibility to Apply for Worker Adjustment Assistance on April 17, 1980 and April 25, 1980, published in the **Federal Register** on April 25, 1980, (45 FR 28009) and May 2, 1980, (45 FR 29433), respectively, applicable to all workers covered under the following petitions: TA-W-6946 through 6948, TA-W-6950 through 6958 and TA-W-6669, TA-W-6916, TA-W-6959 through 6966, TA-W-6968 through 6991, TA-W-6993, TA-W-6995 through 6998, TA-W-7170, respectively. The Department also issued an Amended Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance on July 16, 1980. The Notice of Amended Determinations was published in the **Federal Register** on July 25, 1980, (45 FR 49703).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the certifications and amended determinations. The additional information revealed that substantial layoffs occurred several weeks prior to the impact dates for both plants cited above. These layoffs were not covered by the original impact dates set in the certifications for workers at the Lorain Assembly plant, Lorain, Ohio and the Dearborn Steel plant, Dearborn, Michigan. Both plants had an impact date of August 1, 1979.

The intent of the certification is to cover workers of the Ford Motor Company who were affected by the decline in the sales or production of passenger cars, pick-up trucks, light trucks, utility vehicles and component parts for passenger cars, trucks, vans and general utility vehicles at certain plants of the Ford Motor Company, Dearborn, Michigan related to increased import competition. The Notice of Amended Determinations of July 16, 1980, therefore, is amended to include a new impact date of June 1, 1979 for the Lorain Assembly plant in Lorain, Ohio and a new impact date of July 1, 1979 for the Dearborn Steel plant of the Ford Motor Company.

The certifications applicable to TA-W-6953 and TA-W-6998 are hereby amended a second time and issued as follows:

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All workers of the Ford Motor Company's Lorain Assembly plant, Lorain, Ohio who became totally or partially separated from employment on or after June 1, 1979 and all workers of Ford Motor Company's Dearborn Steel plant, Dearborn, Michigan who became totally or partially separated from employment on or after July 1, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 13th day of November 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-36405 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8141]

General Electric Co., Tube Products Division, Ninth Street Plant, Owensboro, Ky.; Negative Determiqation Regarding Application for Reconsideration

By an application dated October 8, 1980, the petitioner, the Allied Industrial Workers of America, requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing electronic receiving tubes at General Electric's Owensboro, Kentucky plant. The determination was published in the **Federal Register** on September 19, 1980, (45 FR 62589).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The union claims that even though imports of receiving tubes have decreased, the potential for worker separations has increased. The union also claims that their workers should have been certified since millions of receiving tubes, tube mounts and T.V. sets are being imported.

The Department's review showed that the petition for workers producing receiving tubes at General Electric Tube Products' plant in Owensboro, Kentucky did not meet the increased import criterion in 1979 and the first half of 1980. U.S. imports of electronic receiving tubes decreased both absolutely and relative to domestic shipments in 1979 compared to 1978 and in the first half of 1980 compared to the same period in 1979. Company imports of the tube mounts decreased in 1979 compared to 1978 and in the first five months of 1980 compared to the same period in 1979. The domestic receiving tube industry faces a receding market because of the advances of solid state technology. The displacement of tubes in new T.V. equipment has caused a decline in original equipment tube sales to nearly zero. Additionally, the quality and popularity of solid state television has been a factor in the decline in replacement sales of receiving tubes in recent years.

The Department does not consider that the union's claim that the potential for worker separations at the Owensboro plant has increased provides a basis for certification under the Trade Act of 1974. Actual layoffs at Owensboro were attributed to the declining domestic market for electronic receiving tubes.

The Department does not agree for the following reasons with the union's claim that the Owensboro workers should have been certified since T.V. sets, receiving tubes, and tube mounts are being imported. Firstly, imported T.V. sets incorporating receiving tubes cannot be considered as imported receiving tubes. The Department has previously determined that a finished article is not like or directly competitive with its component parts. This position is supported by the courts. Secondly, one of the criteria for group certification under the Trade Act is that imports of products directly competitive with the product produced at the workers' firm or appropriate subdivision must have increased. This is not the case with the workers at Owensboro since imports of receiving tubes decreased in the period under investigation. Thirdly, the mounts produced at Owensboro are only used for Owensboro tube production. Company imports of mounts were found to be decreasing.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 13th day of November 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-36404 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-28-M

Office of the secretary

Certification of States to the Secretary of the Treasury Pursuant to Section 3304 of the Internal Revenue Code of 1954

Correction

In FR Doc. 80-34881 appearing on page 74115 in the issue of Friday, November 7, 1980, in the list of states, insert "Puerto Rico" and the "Virgin Islands" in alphabetical order.

BILLING CODE 1505-01-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Meeting

Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770), the National Commission for Employment Policy is giving notice that its twenty-first meeting will be held December 4-5, 1980. The meeting will take place at the Sheraton-Carlton Hotel in the Chandelier Room, 923 16th Street, NW., Washington, D.C. 20006, from 1:00 until 5:00 on the 4th and from 8:30 to 5:00 on the 5th.

The National Commission for Employment Policy was established as Title V of the Comprehensive Employment and Training Act Amendments of 1978 (Pub. L. 95-524). The Act gives the Commission the broad responsibility of advising the President and the Congress on national employment issues. Specifically, the Commission is charged with reporting annually to the President and the Congress on its findings and recommendations.

The agenda on the 4th and 5th will be devoted to final consideration of the Commission's recommendations on economic development policies to reduce structural unemployment. Commission members will also begin initial consideration of recommendations on the effect of education and of employment and training programs on women.

Business meetings are open to the public. People desiring to submit written statements to the Commission that are germane to the agenda may do so, provided that such statements are in reproducible form and are submitted to the Director at least two days before the meeting and not more than seven days after the meeting.

In addition, members of the general public may request to make oral presentations to the Commission, time permitting. Such statements must be applicable to the announced agenda and written application must be submitted to the Director at least three days before the meeting. This application should include: the name and address of the applicant, subject of presentation, relation to the agenda, amount of time needed, the individual's qualifications to speak on the subject and a statement justifying the reason a written statement would not suffice.

The Commission Chairman has the right to decide to what extent public oral presentations will be permitted at the meeting. Oral presentations will be limited to statements of facts and views and shall not include any questioning of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting and materials prepared for the meeting will be available for public inspection at the Commission's headquarters, 1522 K Street, NW., Suite 300, Washington, D.C.

Signed in Washington, D.C., this 14th day of October, 1980.

Daniel H. Saks,

Director National Commission for Employment Policy.

[FR Doc. 80-36399 Filed 11-20-80; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel: Meeting

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at 806 15th Street, NW., Washington, DC 20506.

DATE: December 8-9, 1980.

TIME:
9:00 a.m. to 5:00 p.m. on December 8.
9:00 a.m. to 12:00 noon on December 9.

ROOM: 807.

PROGRAM: During the past year the National Endowment for the Humanities has received a number of requests from tribes concerning projects related to tribal archives. The requests ranged from ones to establish archives to requests for projects which will supplement already existing collections. In an attempt to understand and meet most appropriately and fairly as many of the current needs of Indian archival projects as possible this meeting is being held to discuss these requests with representatives of various Federal agencies, tribes, and a number of other organizations involved in our archival projects.

This meeting will be open to the public. Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call (202) 724-0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 80-36342 Filed 11-20-80; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[NUREG-0619]

BWR Feedwater Nozzle and Control Rod Drive Return Line Nozzle Cracking; Report Issuance and Availability

A task group with members from the Nuclear Regulatory Commission (NRC) staff has prepared a report entitled "BWR Feedwater Nozzle and Control Rod Drive Return Line Nozzle Cracking" (NUREG-0619), dated October, 1980. The report provides the staff's resolution of the NRC's Generic Technical Activity A-10, which was an "Unresolved Safety Issue" pursuant to Section 210 of the Energy Reorganization Act of 1974.

The generic study resulted from the inservice discovery of cracking in feedwater nozzles and control rod drive return line nozzles.

NUREG-0619 describes the technical issues, the technical studies and analyses performed by the General Electric Company and the NRC staff, the staff's technical positions based on these studies, and the staff's plans for requiring licensee and applicant continued implementation of its technical postions.

The NRC staff has concluded, in the case of the feedwater nozzles, that the combination of nozzle clad removal, installation of General Electric-designed triple sleeve spargers (or others with satisfactory characteristics), procedural changes, and systems changes where deemed necessary, will assure the goal of long term operation without significant crack growth. However, no operating reactor currently satisfies all requirements, and plant specific implementation will be necessary. The staff has established inservice inspection intervals based upon its evaluation of the combined proposed solutions.

With regard to the control rod drive return line nozzle, the staff has concluded that certain control rod drive hydraulic system modifications will be necessary on all operating reactors. The staff's principal considerations were the need to prevent cracking of the nozzle and the need to assure high pressure control rod drive system flow to the reactor vessel sufficient to cover the core when other other sources of water are unavailable. This was the case at some times during the fire at Brown's Ferry Unit No. 1. The staff report requires that each operating plant prove this capability, which may require the simultaneous operation of the two control rod drive pumps, and also requires that plants currently under licensing review conform to the criteria developed for operating reactors for both the feedwater nozzle and control rod drive return line nozzle issues. This requirement, plus others contained in Part II of NUREG-0619, represents a conservative departure from current licensing criteria.

Public comments on the report, including the proposed new requirements and implemenation schedules, were solicited from interested organizations, groups and individuals. The staff has evaluated the comments received and has incorporated the applicable comments in this revision of NUREG-0619. Appendix E of the NUREG addresses the staff's consideration and disposition of the comments received.

Implementation of the staff's requirements is being accomplished in the same manner as items from the Three Mile Island Action Plan. Letters to licensees include a request for commitment to implement the staff's requirements, pursuant to Title 10 CFR 50.54(f). Confirmatory or Show-Cause Orders may be issued, if necessary. In the case of license applicants, the NUREG is specific with regard to requirements to be completed prior to licensing.

Copies of the report will be available after November 28th. Copies will be sent directly to utilities, utility industry groups and associations and environmental and public interest groups. Other copies will be available for review at the NRC Public Document Room, 1717 H Street NW., Washington, D.C., and the Commission's local public document rooms located in the vicinity

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of existing nuclear power plants. Addresses of these local public document rooms can be obtained by contacting the Chief, Local Public Document Rooms Branch, Mail Stop 309, Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301/492/7536.

Dated at Bethesda, Maryland, this 12th day of November 1980.

For the Nuclear Regulatory Commission.

Frank Schroeder,

Assistant Director for Generic Projects, Division of Safety Technology, Office of Nuclear Reactor Regulation.

[FR Doc. 80-36385 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-293]

Boston Edison Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 44 to Facility Operating License No. DPR-35, issued to Boston Edison Company (the licensee), which revised the Technical Specifications for operation of the Pilgrim Nuclear Power Station, Unit 1 (the facility) located near Plymouth, Massachusetts. The amendment was effective from October 31, 1980 through November 7, 1980.

This amendment changes the Technical Specifications to make provisions for temporary relief from the Limiting Condition of Operation in Technical Specification Section 3.5.B concerning operability of the Salt Service Water System. This relief is granted from October 31, 1980 through November 7, 1980.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4), an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated October 31, 1980, (2) Amendment No. 44 to License No. DPR-35, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Plymouth Public Library on North Street in Plymouth, Massachusetts 02360. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 17th day of November, 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 80-36356 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-237, 50-254 and 50-265]

Commonwealth Edison Co. and Iowa-Illinois Gas and Electric Co.; Issuance of Amendments to Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 50 to Provisional Operating License No. DPR-19, issued to Commonwealth Edison Company, which revised the Technical Specifications for operation of the Dresden Nuclear Power Station, Unit No. 2, located in Grundy County, Illinois. The Commission has also issued Amendment No. 59 to Facility Operating License No. DPR-29, and Amendment No. 54 to Facility Operting License No. DPR-30, issued to Commonwealth Edison Company and Iowa-Illinois Gas and Electric Company, which revised the Technical Specifications for operations of the Quad-Cities Nuclear Power Station, Unit Nos. 1 and 2, located in Rock Island County, Illinois. The amendments are effective as of the date of issuance.

The amendments revise the technical specifications to establish MAPLHGR limits for standard 8x8 (8D250 and 8D262) fuel types for exposure values beyond those currently given in the technical specifications. This is appropriate for extended operating cycle operation and results in more effective use of fuel and reduced spent fuel generation.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated March 19, 1980, (2) Amendment No. 50 to License No. DPR-19, Amendment No. 59 to License No. DPR-29, and Amendment No. 54 to License No. DPR-30, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Morris Public Library, 604 Liberty Street, Morris, Illinois, for Dresden 2 and at the Moline Public Library, 504 17th Street, Moline, Illinois, for Quad Cities 1 and 2. A copy of items (2) and (3) may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 12th day of November, 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 80-36360 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket 50-389]

Florida Power and Light Co.; Orlando Utilities Commission of the City of Orlando, Fla., St. Lucie Plant, Unit No. 2; Issuance of Amendment to Construction Permit

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to Construction Permit No. CPPR-144 issued to The Florida Power and Light Company. This amendment reflects the transfer of an undivided 6.08951 percent ownership share in the St. Lucie Plant, Unit No. 2 facility to the Orlando Utilities Commission of the City of Orlando, Florida. The Orlando Utilities Commission of the City of Orlando, Florida is financially qualified to participate in the design, construction and operation of the St. Lucie Plant, Unit No. 2 pursuant to the requirements of 10 CFR Part 50.

The St. Lucie Plant, Unit 2 is located on Hutchinson Island in St. Lucie County, Florida.

The Nuclear Regulatory Commission has found that the provisions of the amendment comply with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations published in 10 CFR Chapter I and has concluded that the issuance of the amendment will not be inimical to the common defense and security of the health and safety of the public.

The Commission has determined that the issuance of this amendment will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the amendment is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this action, see (1) the application for transfer of ownership and request for an amendment to the construction permit, dated June 13, 1980, and (2) Amendment No. 2 to Construction Permit No. CPPR-144 and associated documents. Both of these items are available for public inspection at the Commission's Public Document Room located at 1717 H Street NW., Washington, D.C. 20555 and at the Indian River Community College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

Item 2 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention, Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of November, 1980.

For the Nuclear Regulatory Commission.

Anthony Bournia,

Acting Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 80-36363 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320OLA]

Metropolitan Edison Company, et al., (Three Mile Island Nuclear Station, Unit 2); Amendment of Order

I

Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (collectively, the Licensee) are the holders of Facility Operating License No. DPR-73, which had authorized operation of the Three Mile Island Nuclear Station, Unit 2 (TMI-2 at power levels up to 2772 megawatts thermal. The facility, which is located in Londonderry Township, Dauphin County, Pennsylvania, is a pressured water reactor previously used for the commercial generation of electricity.

By Order for Modification of License, dated July 20, 1979, the Licensee's authority to operate the facility was suspended and the Licensee's authority was limited to maintenance of the facility in the present shutdown cooling mode (44 FR 45271). By further Order of the Director, Office of Nuclear Reactor Regulation, dated February 11, 1980, a new set of formal license requirements was imposed to reflect the post-accident condition of the facility and to assure the continued maintenance of the current safe, stable, long-term cooling condition of the facility (45 FR 11282). These requirements, in the form of proposed Technical Specifications, would modify the facility operating license so as to:

(1) define operating parameters for the current safe, stable, long-term cooling mode for the facility (defined as the recovery mode), and delete all other permissible operating modes so as to assure that operation of the facility in other than the stable shutdown condition of the recovery mode is precluded;

(2) impose functional, operability, redundancy and surveillance requirements as well as safety limits and limiting conditions with regard to those structures, systems, equipment and components necessary to maintain the facility in the current safe, stable shutdown condition and to cope with foreseeable off-normal conditions;

(3) prohibit venting or purging or other treatment of [the approximately 57,000 curies of krypton-85 in] the reactor building atmosphere, the discharge of water decontaminated by EPICOR-II system, and the treatment and disposal of high-level radioactively contaminated water in the reactor building, until each of these activities has been approved by the NRC,[1] consistent with the Commission's Statement of Policy and Notice of Intent to Prepare a Programmatic Environmental Impact Statement (44 FR 67738).

On the basis of the public health, safety, and interest, the requirements of the proposed Technical Specifications, attached to the February 11, 1980 Order, were made effective immediately. Under the terms of the Order, since requests for a hearing are pending before an Atomic Safety and Licensing Board, the proposed formal license amendment incorporating these proposed Technical Specifications will become effective, in the event a hearing is granted, on the date specified in an order made following the hearing or, upon other final dispositiion of such proceeding.

[1] By Memorandum and Order, dated June 12, 1980, the Commission gave the approval contemplated by this restriction insofar as necessary for the Licensee to conduct a purging of the TMI-2 containment in accordance with procedures approved by the NRC. CLI-80-25. This activity was completed on July 11, 1980.

II

Following the March 28, 1979 accident at TMI-2, it became necessary in late April 1979 to alter the preferred cooling mode for the reactor by a transition from use of forced circulation by the reactor coolant system pumps to natural convection circulation.

By letters dated July 31, 1980 (Reference 1) and August 5, 1980 (Reference 2), the Metropolitan Edison Company (licensee) proposed changes to the Recovery Mode technical specifications for Three Mile Island Unit 2 (TMI-2) providing for the implementation of the Mini Decay Heat Removal System (MDHRS) for long-term core cooling. Although several modes for removing decay heat would be available, the MDHRS would provide a forced flow system for removing decay heat from the TMI-2 reactor fuel. Accordingly, the proposed changes would impose operability requirements for the MDHRS and would also delete the operability requirements for certain Balance of Plant (BOP) systems which have been used since the March 28, 1979, accident, but would no longer be required, for removing the decay heat. The operability requirements for these BOP systems had been imposed by the Order of the Director of the Office of Nuclear Reactor Regulation on February 11, 1980, (45 FR 11282) in the form of proposed Technical Specifications.

The proposed change would make available a newly installed MDHRS to remove decay heat rather than the present method which accomplishes this function by using the "A" steam generator in a steaming mode to the condenser. The licensee's proposal required certain modifications to meet our requirements. With the incorporation of these staff required modifications, we have found the proposal to be an acceptable method for removing the decay heat and have therefore granted the licensee's request to modify the method used for long term core cooling.

The TMI-2 Reactor Coolant System (RCS) is currently operating in a natural circulation heat removal mode with heat rejection from it being accomplished by both loss to ambient (reactor atmosphere and sump water) and through the "A" steam generator. The reactor building is in turn being cooled by the reactor building fan coolers while the "A" steam generator is steaming to the condenser through the turbine

bypass valve. This mode of core cooling

requirements, there is no assurance of

amounts nor an increase in power level

Station (the facility), located in Nemaha

bypass valve. This mode of core cooling has been in effect since late April 1979. With passage of time and the associated reduction of decay heat generation rate (presently approximately 75 kw), the natural circulation flow has changed from continuous to cyclic with increasing intervals between the cyclic flow "burps".

Heat rejection through the "A" steam generator by steaming to the condenser requires the operation of several major BOP systems including: circulating water system, main steam system and the "A" steam generator, condensate and feedwater systems, main condenser and package boiler. Conversion to and use of the MDHRS for core cooling would simplify the plant operations since use of the MDHRS would eliminate the need for operating the previously noted BOP systems.

The MDHRS is classified as a nonsafety grade system but it is designed and installed to seismic Category I requirements up to and including the second isolation valve in its supply and discharge lines. The balance of the system is designed and installed to Operating Basis Earthquake requirements. The MDHRS takes suction from the "B" loop of the Decay Heat System (DH) outlet from the reactor vessel via a connection to the Alternate Decay Heat Removal System (ADH). After passing through one of the MDHR's parallel heat exchangers and pumps, the reactor coolant is returned to the reactor coolant system through the "B" Core Flooding injection nozzle via a connection to the ADH and DH systems. Connection of the ADH to the DH was evaluated and approved in NUREG–0557. The MDHRS is sized such that one pump and one heat exchanger (two of each are installed) could remove up to approximately 1 MW of decay heat. Therefore the MDHRS has more than adequate cooling capacity for removing the present and future decay heat loads. The MDHRS would be cooled by the Nuclear Services Closed Cycle Cooling System which is required to be operable by proposed Technical Specification 3.7.3.1. The power supply for the MDHRS pumps and motor operated valves is from redundant Class 1E busses which would be manually loaded on the Class 1E diesel generators in the event of a loss of off-site power.

In the event the MDHRS is not used or becomes inoperable, backup cooling modes are available for removing the decay heat from the RCS. These backup cooling modes include the long term "B" steam generator cooling system and "Loss to Ambient." The long term "B" steam generator cooling system has been previously evaluated and its operability would continue to be required by proposed Technical Specification 3.7.1. The NRC staff has reviewed the licensee's results of the "Loss to Ambient" cooling mode and has performed an independent analysis, the results of which are in agreement with the licensee's conclusion. Therefore, we have concluded that any one of these cooling methods provides an acceptable means for long term cooling of the reactor core. The staff's overall evaluation of the MDHRS is presented in the concurrently issued Safety Evaluation Report (SER).

The MDHRS has a design pressure of 235 psig. Therefore, consideration was given to possible sources of overpressurization of the MDHRS. Three potential sources of MDHRS overpressurization were identified. These sources were: (1) Makeup pump operation with MDHRS in operation, (2) Pressurizer heater operation and (3) Malfunction of the Standby Pressure Control (SPC) System.

To preclude operation of a makeup pump during operation of the MDHRS, the licensee proposed to delete the requirement for an operable makeup pump from the proposed Technical Specifications but to retain the option to operate the pump for certain operations (e.g., degassing). The licensee further stated that the electrical power supply circuit breakers for the makeup pumps would be "racked out" when valve DH–V1 or DH.V171 is open. Since operation of a makeup pump may be required in one or more of the backup cooling modes or for degasssing operations, we will retain a requirement for its operability in proposed Technical Specification 3.1.1.1. However, to provide assurance that the MDHRS will not be overpressurized due to operation of a makeup pump, we propose to add a requirement to proposed Techncial Specifications 3.1.1.1 that all makeup pumps be made inoperable when valve DH–V1 or DH–V171 is open by "racking out" their electrical power supply circuit breakers. We would also add a surveillance requirement to the Recovery Operations Plan to periodically verify that these breakers are "racked out." These actions provide assurance that the MDHRS would not be overpressurized due to operation of the makeup pumps.

Operation of the pressurizer heaters while operating the RCS in a water solid mode with the MDHRS in operation creates the potential for overpressurization of the MDHRS due to volumetric expansion of the ractor coolant as a result of heat input to the reactor coolant. The licensee has calcualted that the electrical energization of all the pressurizer heaters (1638 kw) would result in a volumetric expansion on the reactor coolant which would require a compensating relief capacity of 8.6 gpm. The MDHRS has an installed relief valve capacity of 53.5 gpm. The NRC staff has reviewed the licensee's result of this potential overpressurization event and has performed an independent check, the results of which are in agreement with the licensee's conclusion. Therefore, we agree that operation of the pressurizer heaters while operating the MDHRS with a water solid RCS would not result in overpressurization of the MDHRS.

Overpressurization of the MDHRS due to a malfunction of the SPC system has been precluded by reducing the SPC in-service nitrogen bank pressure to a new operating range of 225 to 400 psig and by the installation of a SPC system pressure relief valve (SPC–R14) which has been set to provide overpressure relief if the SPC system pressure exceeds 125 psig which is substantially below the MDHRS design pressure of 235 psig. The change in the nitrogen bank pressure was approved on july 25, 1980 (Reference 3).

The licensee also proposed deleting from proposed Techncial Specification 3.1.1.1 the requirements for a boric acid storage system and an associated flow path to the RCS. We have reviewed this proposed change and since redundant boron injection flow paths from the BWST to the RCS via the makeup pump and decay heat removal pump exist, we find the proposed change acceptable.

The licensee's proposed Technical Specification for the MDHRS would require only one operable MDHRS pump and heat exchanger with an action statement providing instructions to be taken in the event of their inoperability. Our position is that this Technical Specification should require the operability of both MDHRS pumps and heat exchangers and the associated flow path and that applicable action statements should be supplied dealing with the inoperability of the various components in the MDHRS. The staff's position is consistent with the operability requirements for similar systems (e.g., proposed Technical Specifications 3.7.2.1, 3.7.3.1 and 3.7.4.1) in which the redundant systems are required operable and action statements are provided for when one or both systems are inoperable. Unless both MDHRS pumps are required operable and periodically demonstrated so in accordance with applicable surveillance requirements, there is no assurance of the operability of the redundant pump should its use be required for any reason. We have therefore modified the Technical Specification proposed for the MDHRS to be in accordance with our position. The licensee has agreed with our position on this matter. We have also added appropriate surveillance requirements to the Operations Recovery Plan to periodically demonstrate the operability of the MDHRS.

The licensee also proposed to delete from proposed Technical Specification 3.8.2.1, the operability requirements for several electrical power busses. Its basis for proposing to delete these requirements was that they supplied electrical power to the various BOP systems which were proposed for deletion from the proposed Technical Specifications upon incorporation of the DMHRS. However, in our review of these proposed changes, we determined that four of the busses proposed for deletion (480 volt Busses 2–35, 2–36, 2–45 and 2–46) also supplied electrical power to the auxiliary building and the fuel handling building air cleanup systems which are in turn required operable per proposed Technical Specification 3.9.12. Therefore, to ensure the electrical power supply for these air cleanup systems, we have retained the operability requirements for these four busses in proposed Technical Specification 3.8.2.1. The licensee has agreed that the operability requirements for these four busses should be retained in proposed Technical Specification 3.8.2.1. We agree that the operability requirements for the other busses can be deleted from the proposed Technical Specifications as proposed by the licensee since the other busses proposed for deletion do not supply electrical power to any systems required for maintaining the plant in its safe shutdown condition.

Based on the staff's review of accident considerations, as presented in the SER, the staff has concluded that use of the MDHRS does not increase the probability or consequences of an accident or malfunction previously considered or reduce a margin of safety, and, thus, does not involve a significant hazards consideration. Indeed, as described above, the staff considers that the use and availability of the MDHRS will enhance the licensee's ability to maintain the reactor in a safe shutdown cooling mode by providing a simplified and appropriately sized decay heat removal system.

We have also determined that the modification does not authorize a change in effluent types or total amounts nor an increase in power level and will not result in any significant environmental impact. Having made this determination, we have further concluded that the modification involves an action which is insignificant from the standpoint of environmetnal impact and, pursuant to 10 CFR 51.5(d)(4), that an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the modification.

III

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, the Director's Order of Feburary 11, 1980 is hereby revised to incorporate the deletions, additions and modifications set forth in Attachment A hereto.

For further details with respect to this actin, see (1) Letter to B. Snyder, USNRC, from R. C. Arnold, Met. Ed/GPU, Technical Specification Change Request No. 24, dated July 31, 1980, (TLL 372); (2) Letter to B. Snyder, USNRC, from R. C. Arnold, Met. Ed/GPU, Technical Specification Change Request No. 24, dated August 5, 1980 (TLL 382); (3) Letter to R. C. Arnold, Met. Ed/GPU, from John T. Collins, USNRC, TMI–2 Recovery Operations Plan Change Request No. 4, dated July 25, 1980 (NRC/TMI–80–115); and (4) the Director's Order of February 11, 1980.

All of the above documents are available for inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Commission's Local Public Document Room at the State Library of Pennsylvania, Government Publications Section, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Effective date: November 14, 1980.

Dated at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 80-36359 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 64 to Facility Operating License No. DPR–46, issued to Nebraska Public Power District (the licensee), which revised the license for operation of the Cooper Nuclear Power Station (the facility), located in Nemaha County, Nebraska. The amendment is effective as of the date of issuance and is to be fully implemented within 30 days of Commission approval in accordance with the provisions of 10 CFR 73.40(b).

The amendment adds a license condition to include the Commission-approved Safeguards Contingency Plan as part of the license.

The licensee's filings comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendment.

The licensee's filings dated July 29, 1979, revised by letter dated May 30, 1980, transmitting revision dated May 14, 1980, are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR § 9.12.

For further details with respect to this action, see (1) Amendment No. 64 to License No. DPR–46 and (2) the Commission's related letter to the licensee dated November 13, 1980. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Auburn Public Library, 118—15th Street, Auburn, Nebraska. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 13th day of November, 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 80-36361 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

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[Docket No. 50-298]

Nebraska Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 65 to Facility Operating License No. DPR-46, issued to Nebraska Public Power District, which revised the Technical Specifications for operation of the Cooper Nuclear Station, located in Nemaha County, Nebraska. The amendment is effective as of the date of its issuance.

This amendment modifies Appendix B of the Technical Specifications to delete Section 2.1.2/3.1.2 regarding maximum discharge temperature.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment is a ministerial action and an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 16, 1980, (2) Amendment No. 65 to License No. DPR-46, and (3) the Commission's letter to the licensee dated ———. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Auburn Public Library, 118—15th Street, Auburn, Nebraska 67305. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 13th day of November, 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 80-36362 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-260]

Tennessee Valley Authority; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 58 to Facility Operating License No. DPR-52 issued to Tennessee Valley Authority (the licensee), which revised the Technical Specifications for operation of the Browns Ferry Nuclear Plant, Unit No. 2 (the facility) located in Limestone County, Alabama. The amendment is effective as of the date of issuance.

This amendment permits operation of Browns Ferry Unit No. 2 with prepressurized 8 by 8 retrofit fuel in the fourth fuel cycle following the third refueling outage.

The application for this amendment complies with the standards and requirements for the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental, impact and the pursuant to 10 CFR 51.5(d)(4) an environmental. impact statememt, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 14, 1980, as supplemented by letters dated August 29, 1980 and October 7, 1980, (2) Amendment No. 58 to License No. DPR-52, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 12th day of November, 1980.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief Operating Reactors Branch No. 2, Division of Licensing.

[FR Doc. 80-36364 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50-483 and STN 50-486]

Union Electric Company; Clarification of Notice of Receipt of Application for Facility Operating Licenses: Consideration of Issuance of Facility Operating License and Notice of Opportunity for Hearing

On August 26, 1980 the Nuclear Regulatory Commission (the Commission) published in the **Federal Register** a notice of "Receipt of Application for Facility Operating Licenses; Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing with respect to Units 1 and 2 of the Callaway Plant." 45 FR 56956. This Notice clarifies and supersedes that Notice concerning Union Electric Company (the Applicant).

Notice is hereby given that the Commission, by letter dated October 1, 1980, was advised by the Applicant that it is only seeking the issuance at this time of an operating license for Callaway Plant, Unit 1. The Environmental Report was filed on October 19, 1979, and includes information on the environmental effects of the operation of Callaway Units 1 and 2. However, the Applicant states that it is not now seeking an operating license for Callaway Plant, Unit 2. The Applicant does not anticipate that construction of Callaway, Unit 2, will be completed before late 1987. Upon receipt of an application for Unit 2, a separate notice of receipt will be published by the Commission including an appropriate notice of opportunity to request a hearing with respect to the Operating License application for that Unit. Accordingly, the Commission is re-issuing and superseding its August 26, 1980 **Federal Register** notice to reflect this fact.

Notice is hereby given that the Commission has received from the applicant an application for a facility operating license to possess, use and operate the Callaway Plant, Unit 1. The Callaway Plant, Unit 1 is a pressurized water nuclear reactor to be located on the applicant's site in Callaway County, Missouri. The reactor is designed to operate at a core power level of 3411 megawatts thermal, with an equivalent net electrial output of approximately 1150 megawatts. Construction of the unit was authorized by Construction Permit No. CPPR-139 issued by the Commission on April 6, 1976. The NRC Staff presently anticipates that construction of Unit 1 will be completed by February of 1983.

The application filed with the Commission for its review on October 19, 1979, includes a Final Safety Analysis Report for Callaway Plant, Unit 1 (which references the Standardized Nuclear Unit Power Plant System (SNUPPS) Final Safety Analysis Report), and the forementioned Environmental Report for Callaway Plant, Unit 1.

The Commission will consider the issuance of a facility operating license to Union Electric Company which would authorize the applicant to possess, use and operate the Callaway Plant, Unit 1, in accordance with the provisions of the license and the technical epecifications appended thereto, upon (1) the completion of a favorable safety evaluation of the application by the Commission staff; (2) the completion of the environmental review required by the Commission's regulations in 10 CFR Part 51 including a consideration of the impact of the facility on the floodplain inasmuch as the proposed project will have structures located on the floodplain; (3) the receipt of a record on the applicant's application for a facility operating license by the Advisory Committee on Reactor Safeguards; and (4) a finding by the Commission that the application for the facility license as amended complies with the requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations in 10 CFR Chapter I.

Prior to issuance of any operating license for the Callaway Plant, Unit 1, the Commission will inspect the facility to determine whether it has been constructed in accordance with the application, as amended, and the provisions of the construction permit. In addition, the license will not be issued until the Commission has made the findings reflecting its review of the application under the Act, which will be set forth in the proposed license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. Upon issuance of the license, the applicant will be required to execute an indemnity agreement as required by Section 170 of the Act and 10 CFR Part 140 of the Commission's regulations.

By December 11, 1980, the applicant may file a request for a hearing with respect to issuance of the facility operating license for the Callaway Plant, Unit 1. By December 22, 1980, any person whose interest may be affected by this proceeding may file a petition for leave to intervene.

Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules and Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Atomic Safety and Licensing Board, previously designated by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order. Any person who previously filed a petition for leave to intervene or request for a hearing in response to the August 26, 1980 **Federal Register** notice need not refile pursuant to this Notice. However, as stated in the second paragraph of this Notice, the notice of opportunity for the hearing applies to Callaway Plant Unit 1 only.

Dated at Bethesda, Maryland this 14th day of November 1980.

For the Nuclear Regulatory Commission.

Anthony Bournia,

Acting Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 80-36368 Filed 11-20-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Privacy Act; Notice of New Systems

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effects on such proposals on the privacy and other personal or property rights of individuals . . ."

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, 60 days before entering any personal information into the new or altered systems, or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between October 28, 1980 and November 10, 1980. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice periods begin on the report date indicated.

General Services Administration

Name of System: Ridesharing System
Report Date: November 3, 1980
Point of Contact: Privacy Act Officer, General Services Administration (HR), Washington, D.C. 20405

Summary: The General Services Administration proposes to amend an existing system of records to increase the number of individuals in the system. The present system contains applicants for carpools from the Washington, D.C. area. The expanded system will contain applicants from five other GSA regions.

Department of Justice

Name of System: Civil Division Case File System
Report Date: October 22, 1980
Point of Contact: Administrative Counsel, Justice Management Division, Department of Justice, Washington, D.C. 20530

Summary: The Department of Justice proposes to amend an existing system of records to alter the manner in which case docketing information is stored. The alteration involves computerizing existing and future records and storing this information on magnetic diskettes. The system contains case-related information prepared by staff attorneys and docket staff.

Department of Housing and Urban Development

Name of System: Intergovernmental Personnel Act Assignment Records
Report Date: November 3, 1980
Point of Contact: Mr. Robert English, Departmental Privacy Officer, Office of the Assistant Secretary for Administration, Department of Housing and Urban Development, Washington, D.C. 20410

Summary: The Department of Housing and Urban Development proposes to establish a new system of records containing information about current or former employees of State and local governments or of other eligible organizations who are undergoing or have completed an Intergovernmental Personnel Act (IPA) assignment with the Department. This information is used to

formally document the temporary assignment of an employee between two

Plaza Building, 1735 North Lynn Street, Arlington, VA 22209.

certain published works and public documents on arms control matters. It

disclose to an individual from whose

library not accessible to unauthorized

Exchange's Summary Statement of

formally document the temporary assignment of an employee between two agencies under the Intergovernmental Personnel Act. The records establish the legal basis for personnel and financial transactions which facilitate these temporary assignments, and assure proper adminstration of the program within HUD.

Department of Defense

Name of System: Historical Research and Retrieval System
Report Date: October 22, 1980
Point of Contact: Mr. William Cavaney, The Executive Secretary, The Defense Privacy Board, Room 818, Pomponio Plaza Building, 1735 North Lynn Street, Arlington, Va. 22209
Summary: The Department of the Air Force porposes to establish a new system of records to provide an automated retrieval system that will support the extensive research requirements of historical programs and serve as a primary source for answering requests for historical information from throughout the U.S. Government on all facets of Air Force Special Intelligence activities. Further, it will provide extensive research services for the preparation of historical studies on a variety of subjects. Included in the system will be records on military and civilian members of the Electronic Command, including active, retired and deceased personnel.
Name of System: International Legal Hold Files
Report Date: October 23, 1980
Point of Contact: Mr. William Cavaney, The Executive Secretary, The Defense Privacy Board, Room 818, Pomponio Plaza Building, 1735 North Lynn Street, Arlington, VA 22209
Summary: The Department of the Navy proposes to automate an existing system of records to provide more efficient management and control of foreign criminal jurisdiction cases in which servicemen, civilian employees, and dependent are charged with offenses. Routine uses for the system include disclosures to foreign civilian attorneys representing the accused; the accused's military advisor in seeking an expeditious settlement of the case; supervisory personnel in performance of their official duties in monitoring the legal hold status of individuals involved; and authorized officials in the Department of Defense for required reports.
Name of System: Car Pool Program Participants File
Report Date: October 22, 1980
Point of Contact: Mr. William Cavaney, The Executive Secretary, The Defense Privacy Board, Room 818, Pomponio Plaza Building, 1735 North Lynn Street, Arlington, VA 22209
Summary: The Defense Logistics Agency proposes to establish a new system of records to collect and maintain data to operate an automated car pool locator program.
Name of System: NASA/CSS Archival Records File
Report Date: October 8, 1980
Point of Contact: Mr. William Cavaney, The Executive Secretary, The Defense Privacy Board, Room 818, Pomponio Plaza Building, 1735 North Lynn Street, Arlington, VA 22209
Summary: The National Security Agency proposes to establish a new system of records to support a cryptologic archives. Records include organizational files, correspondence, tape recorded interviews, forms, documents, reports, films, magnetic tapes, microfiche, and other related items of cryptologic interest, most of which are 20 or more years old and which have been determined to be permanent U.S. Government records not yet declassified. Although most records maintained in this system are subject matter retrievable, certain records have been donated by individuals, some are about individuals significant to the history of cryptology, and some are recorded interviews of individuals who have contributed to this archival process. For these latter categories, there is a name retrieval capability requiring the establishment of a system of records. The records will be used to enable historians to locate source materials; to permit systematic review of classified records; to facilitate access to retired records; and to provide a source for response to public requests for NSA/CCS records. This system is exempt from certain provisions of the Privacy Act under 5 U.S.C. 552a(k)(1) and (k)(4).

United States Arms Control and Disarmament Agency

Name of System: ACDA Integrated Retrieval System (AIRS)
Report Date: October 6, 1980
Point of Contact:
Mr. Raymond O. Waters,
Office of the General Counsel,
U.S. Arms Control and Disarmament Agency,
Washington, D.C. 20451
Summary: The United States Arms Control and Disarmament Agency proposes to establish a new system of records to provide a quick, agency-wide automated system to identify, locate and retrieve important documents in each of the agency's bureaus and offices. It will consist of an index of important documents of all ACDA elements of certain published works and public documents on arms control matters. It will enable ACDA employees and a limited number of other individuals with a need for access to the index to identify, locate and retrieve documents.

Pension Benefit Guaranty Corporation

Name of System: Plan Participant and Beneficiary Address Identification File
Report Date: October 8, 1980
Point of Contact:
Mr. Henry Rose,
General counsel,
Office of the General Counsel,
Pension Benefit Guaranty Corporation,
2020 K Street, NW.,
Washington, D.C. 20006
Summary: The Pension Benefit Guaranty Corporation proposes to establish a new system of records to contain current addresses of pension plan participants and beneficiaries who are eligible for a pension benefit under a terminated pension plan, but for whom the Pension Benefit Guaranty Corporation or the plan administrator does not have a current address on file. The address information will be provided by request from the files of the Internal Revenue Service and will be safeguarded as "tax information" as required by section 6103 of the Internal Revenue Code. The purpose of this system is to enable the Pension Benefit Guaranty Corporation to locate individuals covered by the system so that they can receive pension benefits to which they are entitled.

Railroad Retirement Board

Name of Systems: Railroad Retirement, Survivor and Pensioner Benefit System, Milwaukee Railroad Restructuring Act Benefit System
Report Date: October 15, 1980
Point of Contact:
Mr. Kenneth P. Boehne,
Railroad Retirement Board,
844 Rush Street,
Chicago, IL 60611
Summary: The Railroad Retirement Board proposes to amend two existing systems of records by adding an automated capability in which personal data from the systems will be transmitted via telecommunications lines to four field offices where authorized individuals will have immediate access through video display terminals. This will be a one year pilot study to evaluate the feasibility of establishing such a system nationwide. In addition, the Board proposes to add a new routine use and alter an existing one in the Railroad Retirement, Survivor and Pensioner Benefit System. The new routine use will permit the Board to disclose to an individual from whose annuity a benefit overpayment is being recovered, information regarding the determination and recovery of the overpayment when that overpayment was made to another individual. The revision to an existing routine use would allow the Board to furnish to an organization under contract to a railroad employer information about the Board's payment of retirement benefits. Presently, the Board can disclose this information only to the railroad employer directly.

Waiver Requests

OMB procedures permit a waiver of the advance notice requirement when the agency can show that the delay caused by the 60 day advance notice would not be in the public interest. It should be noted that a waiver of the 60 day advance notice period does not relieve an agency of the obligation to publish notice describing the system and to allow 30 days for public comment on the proposed routine uses of the personal information to be collected. A waiver of the 60 day advance notice provision was requested by agencies for the following reports. Public inquiries or comments on the proposed new or altered systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. Comments on the operation of the waiver procedure should be direct to OMB.

Department of Transportation

Name of System: Office of Inspector General Management Information System
Report Date: October 22, 1980
Point of Contact:
Mr. Frank S. Sato
The Inspector General,
Department of Transportation,
Room 9210,
400 7th Street SW.,
Washington, D.C. 20590
Summary: The Department of Transportation proposes to amend an existing system of records to decentralize input and retrieval of selected information to the regional office level. Also decentralized will be the responsibility for maintaining appropriate project, time and travel related manual records. Information in the system includes selected personnel information on all Office of Inspector General personnel, information on audits and investigations relating to Departmental programs, travel and time changes by Office of Inspector General personnel and follow-up data on audit reports and investigative results. The records are maintained in a private library not accessible to unauthorized users. Each region will be assigned a separate identification code for which specific authorization and related limits will be defined. No use will be made of the personal records outside the Department.
Status: Pending

Veterans Administration

Name of System: Vietnam Veterans Readjustment Counseling Program
Report Date: October 24, 1980
Point of Contact:
The Administrator of Veterans Affairs,
Veterans Administration (116A4),
810 Vermont Avenue NW.,
Washington, D.C. 20420
Summary: The Veterans Administration proposes to establish a new partially automated system of records to support a Vietnam Veterans Readjustment Counselling Program. The System will be used to provide management reports and to measure the impact and effectiveness of this program. The data will also be used to make administrative and legislative recommendations necessary to ensure that all Vietnam veterans receive the readjustment counselling and mental health services they need. There are no routine uses providing for disclosures outside the Veterans Administration associated with the system. The only individuals covered by the system are individuals who request Vietnam veterans readjustment counselling, and/or receive such counselling, including veterans, family members, or other counselees who are eligible.
Status: Pending

Brenda A. Mayberry,
Acting Budget and Management Officer.

[FR Doc. 80-36300 Filed 11-20-80; 8:45 am]
BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-17308; File No. SR-Amex-80-29]

American Stock Exchange, Inc.; Proposed Rule Change by Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 3, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Exchange's Summary Statement of Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("Exchange") proposed to increase transaction charges, eliminate the floor facilities fee offset and amend Section 153 of the American Stock Exchange Company Guide ("Company Guide") to increase supplemental equity listing fees.

Equity Transaction Charges

The current charge for agency trades of 28¢ per 100 shares plus 7¢ per $1,000 transaction value will be raised to 30¢ per 100 shares plus 10¢ per $1,000 value.

Option Transaction Charges

The charge for proprietary trades will be increased from 5¢ to 6¢ per contract. The current change for agency trades of 15¢ per contract if the contract value is below $100 and above will remain unchanged.

Floor Facilities Fee

At present, a $700 annual floor facilities fee is levied on all active floor members, but is offset against other floor charges, such as booth, wire and clerk fees. The amount of the facilities fee will remain unchanged, but it will not be subject to offset against other floor fees.

Equity Listing Fees

The current fee for supplemental equity listings of 1¢ per share, subject to a $1,000 minimum and a $10,000 maximum charge, will be raised to 1½¢ per share with a maximum charge of $12,000. The $1,000 minimum charge will remain unchanged.

Exchange's Statement of Basis and Purpose

Over the past five years, the Exchange's fee structure has remained unchanged with the exception of modest increases for communication data and listing fees. The proposed fee increases are necessary to offset the rising costs of operations and to provide funds for future expansion of the Exchange's facilities.

The proposed fee increases and the elimination of the floor facilities fee credit are consistent with Section 6(b) of the Act in general and further the objectives of Section 6(b)(4) in particular in that they provide for an equitable allocation of reasonable fees and other charges among Exchange members, listed companies, and other persons using Exchange facilities.

Comments Received From Members,

1. *The Exchange's Statement of the*

Persons desiring the make written

Part II, Paragraphs B.3.m. and B.3.n.

procedures for collecting, distributing

For the Commission by the Division of

Comments Received From Members, Participants, or Others on Proposed Rule Change

No comments were solicited or received with respect to the proposed fee increases.

Burden on Competition

The Exchange has determined that no burden on competition will be imposed by the proposed fee increases.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 12, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 17, 1980.

[FR Doc. 80-36334 Filed 11-20-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17309; File No. SR-BSE-80-7]

Boston Stock Exchange, Inc.; Proposed Rule Change by Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 3, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

1. *The Exchange's Statement of the Terms of Substance of the Proposed Rule Change*

The proposed rule change would amend Chapter II, Section 23 of the Exchange Rules to conform with Commission Rule 19c-3, which amends rules of national securities exchanges that limit or condition the ability of members to effect transactions over-the-counter in exchange traded securities ("off-board trading restrictions"), to preclude the application of those restrictions to certain securities which were not exchange traded on April 26, 1979, or which were exchange traded on April 26, 1979, but which fail to remain continuously traded thereafter.

2. *Procedures of Self-Regulatory Organization*

The Board of Governors approved the proposed amendments on August 28, 1980.

3. *The Exchange's Statement of Purpose of the Proposed Changes*

To incorporate into the Rules the recently adopted SEC Rule 19c-3 concerning off-board trading of issues which become listed on Exchanges after April 26, 1979.

4. *The Exchange's Statement of Bases of the Proposed Change*

The basis under the Act for the proposed Rules changes is Section 6(b)(5) and 11(a)(1) since it expands the market in which a public order may be executed, thereby protecting investors and the public interests.

5. *Comments Received from Members, Participants or Others on Proposed Rule Changes*

No comments were solicited or received. The proposed amendment incorporates into the Rules the provisions of SEC Rule 19c-3.

6. *Burden on Competition*

No burden on competition is perceived by adoption of the proposed amendment. The Exchange believes the proposed Rule will benefit the investors and the public by the expansion of the markets in 19c-3 eligible securities.

On or before December 26, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date, if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule changes should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring the make written submissions should file six copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW, Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 12, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 17, 1980.

[FR Doc. 80-36335 Filed 11-20-80; 8:45 am]

BILLING CODE 8010-01-M

[Release 34-17306; File No. SR-NASD-80-18]

National Association of Securities Dealers, Inc.; Proposed Rule Change by Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 10, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The NASD's Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

The following is the ful text of proposed amendments to Section B.3. of Part II of Schedule D of the Association's By-Laws (language to be deleted is bracketed, new language is italicized).

Part II, Paragraph B.3.h.

h. in the case of stock the total number of shares publicly held shall be less than 100,000 (shares held directly or indirectly by any officer or director of the issuer and by any person who is the beneficial owner of more than ten percent of the class shall ordinarily not be considered as being publicly held); *in the case of rights or warrants, the total number of rights or warrants initially issued shall be less than 100,000;*

Part II, Paragraphs B.3.m. and B.3.n.

m. in the case of rights or warrants, the underlying security [shall] *is* not [be] an authorized security unless such underlying security is listed on a registered national securities exchange (if the underlying security is authorized, or if it is listed on a national securities exchange, the number of [warrants publicly held] *rights or warrants initially issued* shall be considered only in conjunction with initial authorization); or

n. in the case of units not yet authorized, one of the component parts of the unit fails to comply with the requirements for eligible securities not yet authorized; in the case of units already authorized, one of the component parts of the unit fails to comply with the requirements for authorized securities or no market maker is registered in the unit. [(The number of units publicly held shall be considered only in conjunction with initial authorization.)]

Part II, Paragraph C.2.j.

j. in the case of rights or warrants, the underlying security [shall] *is* not [be] an authorized security. [(If the underlying security is authorized the number of warrants publicly held shall be considered only in conjunction with initial authorization.)]

The NASD's Purpose of Proposed Rule Change

The purpose of the proposed rule change is to provide, in the case of rights or warrants of domestic issuers, a minimum standard of 100,000 rights or warrants initially issued. In addition, it eliminates reference to such a standard in the case of domestic units as well as rights and warrants of foreign issuers.

The NASD's Basis Under the Act for the Proposed Rule Change

Section 15A(b)(11) provides that an association of brokers and dealers shall not be registered as a national securities association unless the Commission determines that the rules of the association contain provisions governing the form and content of quotations relating to securities sold otherwise than on a national securities exchange, which may be distributed or published by any member or other persons associated with a member, and the persons to whom such quotations may be supplied. Such rules relating to quotations shall be designed to produce fair and informative quotations to prevent fictitious or misleading quotations and to promote orderly procedures for collecting, distributing and publishing quotations.

Comments Received From Members, Participants or Others on the Proposed Rule Change

Comments were neither solicited nor received.

The NASD's Statement on Burden on Competition

The proposed rule change will clearly provide that a minimum number of rights or warrants must have been issued for inclusion in NASDAQ. The Association believes that the requirement that 100,000 rights or warrants must have been initially issued provides sufficient depth to the market to prevent any potential manipulation. A similar requirement is not necessary in the case of units because of the close relationship between the prices of units and the underlying securities, each of which have to qualify independently.

The Association believes, therefore, that any burdens on competition are incidential and the proposed rule change is in furtherance of the purposes of the Act.

On or before December 26, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filings with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 12, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 17, 1980.

[FR Doc. 80-36336 Filed 11-20-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11447; 812-4715]

Rowe Price Prime Reserve Fund, Inc.; Filing of Application

November 17, 1980.

Notice is hereby given that Rowe Price Prime Reserve Fund, Inc. ("Applicant"), 100 East Pratt Street, Baltimore, Maryland 21202, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on August 22, 1980, and an amendment thereto on November 6, 1980, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share, for purposes of effecting sales, redemptions and repurchases of its shares, to the nearest one cent on a share value of one dollar. Applicant represents that in all other respects its portfolio securities will be valued in accordance with the views of the Commission set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("IC-9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund, the investment objectives of which are to seek preservation of capital, liquidity, and the highest possible current income consistent with these objectives. According to the application, Applicant's investment program permits it to invest in a diversified portfolio of "money market" securities, including: U.S. Government obligations; U.S. Government agency securities; bank obligations; commercial paper; short-term corporate debt securities; Canadian Government securities; repurchase agreements; and savings and loan obligations. Applicant has determined to amend its investment program as may be required in any order by the Commission granting the exemptive relief requested to permit Applicant to "round off" its net asset value to the nearest one cent on a share value of one dollar. Applicant's shareholders will be advised of the proposed changes in Applicant's

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investment program in connection with the solicitation of shareholder approval of the proposed increase in the number of Applicant's authorized shares to 10,000,000,000, a reduction of the par value of its authorized capital stock (including outstanding shares) to $.10 per share, and the subdivision of Applicant's issued and outstanding shares on a ten for one basis. Applicant further represents that its Prospectus will be appropriately revised to reflect the proposed changes in the investment program and capitalization of Applicant described above.

According to the application, securities for which representative market quotations are readily available are valued at the most recent bid price or yield equivalent as quoted by one or more dealers who make markets in such securities. Securities originally purchased with remaining maturities of 60 days or less are valued at their amortized cost value. Under this method of valuation, a security is initially valued at cost on the date of purchase (or, in the case of a security purchased with more than 60 days remaining to maturity, the market value on the 61st day prior to maturity); and thereafter Applicant assumes a constant proportionate amortization in value until maturity of any discount or premium. Other securities are appraised at values deemed best to reflect their fair value as determined in good faith by or under the supervision of officers of the Applicant in a manner specifically authorized by the Board of Directors. Applicant proposes to effect sales, redemptions and repurchases of its shares at net asset value calculated to the nearest one cent on a share having a value of one dollar.

Rule 22c–1 under the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 under the Act provides, as here relevant, that "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for purposes of distribution, redemption and repurchase shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets, fair value as determined in good faith by the board of directors of the registered company. In Release No. 9786 the Commission issued an interpretation of Rule 2a–4 expressing its view that (1) it is inconsistent with the provisions of Rule 2a–4 for money market funds to value their assets on an amortized cost basis except with respect to portfolio securities with remaining maturities of 60 days or less and provided that such valuation method is determined to be appropriate by each respective fund's board of directors, and (2) it is inconsistent with the provisions of Rule 2a–4 for money market funds to "round off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" such funds' proper portfolio valuation as required by Rule 2a–4.

Section 6(c) of the Act provides, in part, that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security or transaction, or any class or classes or persons, securities or transactions, from any provision or provisions of the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant represents that in the view of its management, a stable $1.00 net asset value would benefit Applicant and its shareholders because: (i) shareholders would have the convenience of being able to determine the value of their holdings simply by knowing the number of shares they own and, consequently, maintenance of investment records would be simplified; (ii) Applicant could be more competitive with the increasing number of money market mutual funds that attempt to maintain a $1.00 net asset value per share; (iii) shareholders and potential shareholders generally are not concerned with the minor differences which might occur between yield achieved through "market" pricing and the yield computed by using the "penny rounding" valuation method described herein; and (iv) if the net asset value of Applicant were, in fact, maintained at a constant price, there would be no realization of nominal capital gains and losses that might otherwise occur with a "floating" net asset value. Applicant further represents that many shareholders, including both financial institutions and individuals, have indicate that they strongly favor a stable $1.00 net asset value per share.

The Board of Directors of Applicant further believes that computing its net asset value per share to the nearest one cent on a share value of one dollar as described above will allow Applicant to maintain a constant net asset value per share under most circumstances and, thereby, permit Applicant to serve the interests and requirements of its shareholders notwithstanding its use of pricing methods other than amortized cost for valuing its portfolio instruments having remaining maturities in excess of 60 days. The application further represents that the Board of Directors has determined in good faith that this method of calculating the net asset value per share of Applicant, under such circumstances, is appropriate.

Applicant further states that the following conditions may be imposed in any order granting the exemptions it has requested:

1. That Applicant's Board of Directors, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to the Applicant's investment adviser, underakes (as a particular responsibility within the Board's overall duty of care owed to Applicant's shareholders) to assure, to the extent reasonably practical, taking into account current market conditions affecting the Applicant's investment objective, that Applicant's net asset value per share as computed for purposes of effecting sales, redemptions and repurchases of its shares, rounded to the nearest one cent, will not deviate from $1.00.

2. That Applicant will seek to maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share, and that Applicant will not (i) purchase an instrument with a remaining maturity greater than one year, or (ii) maintain a dollar-weighted average portfolio maturity in excess of 120 days.

3. That Applicant's purchases of portfolio instruments, including repurchase agreements, will be limited to those U.S. dollar denominated instruments which the Board of Directors determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board.

For the foregoing reasons, Applicant submits that the exemptions from the provisions of Rule 2a–4 and 22c–1 under the Act which it has requested are

appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 12, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–36337 Filed 11–20–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 11445; 812–4706]

Rowe Price New Horizons Fund, Inc.; Filing of Application

November 17, 1980.

Notice is hereby given that Rowe Price New Horizons Fund, Inc. ("Applicant"), 100 East Pratt Street, Baltimore, MD 21202, a no-load, open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application for an order of the Commission on July 28, 1980, and an amendment thereto on November 12, 1980, pursuant to Section 6(c) of the Act declaring that Paul M. Wythes shall not be considered an "interested person" of the Applicant or its investment adviser, T. Rowe Price Associates, Inc. ("Price Associates"), as defined in Section 2(a)(19) of the Act by reason of his status as a limited partner of Hambrecht & Quist, a California limited partnership registered as a broker-dealer under the Securities Exchange Act of 1934. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Applicant is a Maryland corporation. The investment objective of the Applicant is long-term growth of capital through investment primarily in stock of small growth companies in which mangement believes have the potential to become major companies in the future. The board of directors of Applicant has determined to consider Mr. Wythes for election as a director of the Applicant on condition that the order requested in the subject application is granted by the Commission.

Mr. Wythes was a founding director on the National Venture Capital Association in Washington, D.C. (1972–75). Mr. Wythes was a director and president of the Western Association of Venture Capitalists of San Francisco, California from 1970 through 1974. Between 1954 and 1963, Mr. Wythes was Senior Marketing Engineer for the Industrial Products Group of Honeywell, Inc., selling scientific and industrial instrumentation throughout northern California. From 1963 to 1964, Mr. Wythes was employed by Beckman Instruments, Inc., as an associate on their corporate staff involved in long-range planning, mergers, acquisitions, market and product studies worldwide.

Applicant states that Mr. Wythes is presently and since 1979 has been a limited partner in the firm of Hambrecht & Quist, a California limited partnership which is registered as a broker-dealer with the Commission. Mr. Wythes is not otherwise employed or compensated by the firm, and he does not participate in the management of the firm. Mr. Wythes has also advised the Applicant that for the year 1979 his share of the profits of Hambrecht & Quist was less than 15 percent of his total income.

The application indicates that Mr. Wythes is also and since 1970 has been, one of four general partners of Sutter Hill Ventures ("Sutter Hill"), a California limited partnership which makes venture capital investments. Mr. Wythes is also a director of various portfolio companies of Sutter Hill. One other general partner of Sutter Hill is also a limited partner of Hambrecht & Quist, with an interest in its profits and losses identical to that of Mr. Wythes. The total of their combined interest in the profits and losses of Hambrecht & Quist is substntially less than 5 percent. Mr. Wythes has advised the Applicant that his salary as a general partner of Sutter Hill and his income from investments provide the major portion of his total income.

Applicant states that decisions with respect to the purchase and sale of portfolio securities on behalf of the Fund are made by officers of the Applicant pursuant to recommendations of Price Associates. All of such officers are also officers of Price Associates. In selecting broker-dealers, consideration is given to such factors as the price of the security, the rate of the commission, the size and difficulty of the order, the reliability, integrity, financial condition and general execution and operational capability of competing broker-dealers, and the brokerage and research service which they provide to Price Associates or to the Applicant.

The board of directors does not participate in the allocation of the Applicant's brokerage, but reviews such allocations on the basis of quarterly and other periodic reports furnished to it by Price Associates. In the years 1979, 1978 and 1977, the Applicant paid Hambrecht & Quist brokerage commissions (including discounts received in connection with underwritings) of $17,296, $31,031 and $23,659, respectively. The Applicant states that it has been advised that Price Associates anticipates that in the future Applicant's brokerage will be allocated in the same manner and approximately to the same extent as in the past without regard to whether or not Mr. Wythes is elected to the Applicant's board, subject in each case to compliance with the applicable rules of the Commission under the Act. In the opinion of Price Associates, Hambrecht & Quist is one of the most knowledeable firms in the United States in terms of its ability to find and evaluate small, high technology companies of the type that might be suitable for investment by the Applicant, and is, in addition, an active market maker in the securities of such companies. Applicant asserts that if it were not able to continue to deal through or with Hambrecht & Quist, the Applicant might be deprived of (i) the opportunity to purchase or sell securities for which Hambrecht & Quist is considered the most able broker-dealer to effectuate such transactions, and (ii) an important source of investment information.

The application states that at the present time Applicant owns securities of one company which is also owned by Sutter Hill, and the securities of one

other company which was previously but is not now owned by Sutter Hill. The

of affiliated person in Section 2(a)(3) of the Act. The Applicant states that, in the

but not limited to, Sections 15(c) and 17(g) of the Act.

first-in, first-out procedure will still

SMALL BUSINESS ADMINISTRATION

other company which was previously but is not now owned by Sutter Hill. The Applicant presently holds one additional security which was formerly (but is not now) held by Sutter Hill. The board of directors of the Applicant has determined that if Mr. Wythes becomes a director of the Applicant it will not acquire securities of any company in which Sutter Hill holds an investment unless and until the desirability of such investment has been approved by a majority of the non-interested directors of the Applicant at the time of such acquisition other than Mr. Wythes. Any such investment will in any event be subject to an investment restriction of the Applicant which prohibits the Applicant from purchasing the securities of any issuer if any officer or director of the Applicant owns more than ½ of 1%, or if all officers and directors of the Applicant together, own more than 5% of the securities of such issuer. The Applicant has represented that in applying such restriction it will treat all securities owned by Sutter Hill as if they were owned individually by Mr. Wythes to the extent of his interest in the profits and losses of Sutter Hill.

Section 2(a)(19) of the Act, in pertinent part, defines an interested person of an investment company or an investment adviser as any broker or dealer registered under the Securities Exchange Act of 1934 or any affiliated person of such broker or dealer. Section 2(a)(3) of the Act defines an "affiliated person" of another person to include any partner of such other person.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Application states that in the opinion of the board of directors of the Applicant, Mr. Wythes is a man of recognized integrity, intelligence, judgment, independence and standing who would contribute greatly to the perspective of the board in evaluating the performance of the Applicant and Price Associates in investing in smaller public companies because of his experience in venture capital investing. The Applicant states that its board of directors has noted that, if Hambrecht & Quist were a corporation, the interest of Mr. Wythes in its profits and losses would be less than the minimum amount necessary to constitute him an affiliated person of that firm under the definition of affiliated person in Section 2(a)(3) of the Act. The Applicant states that, in the opinion of the board of the Applicant, a person whose sole relationship to a broker-dealer is the ownership of a limited partnership interest of substantially less than 5%, is necessarily further removed from management than he would be if he held voting stock of a corporation and was in a position to participate in the selection of management. Further, Applicant states that since Mr. Wythes would not be deemed to be an interested person of Hambrecht & Quist if he held voting stock with a commensurate interest in profits and losses which put him in a position to participate in the selection of management, the relationship of Mr. Wythes to Hambrecht & Quist is not the type of relationship intended to be subsumed within the statutory definition of interested person.

Accordingly, the Applicant has requested that the Commission issue an order pursuant to Section 6(c) declaring that Mr. Wythes shall not be deemed to an interested director of the Applicant solely by reason of his status as a limited partner of Hambrecht & Quist. As a condition to the granting of the order requested by the application, the Fund has agreed to an undertaking that: (i) Mr. Wythes will not be counted as a non-interested director in the determination of the number of non-interested directors of the Applicant for the purposes of Section 10(a) of the Act, although he will be counted as a director for the purposes of determining the total number of directors to whom the Seotion 10(a) ratio test applies, and (ii) Mr. Wythes will not vote on any matters relating to the allocation of any portfolio brokerage by the Applicant or the selection of dealers with which the Applicant effects portfolio transactions as principal (including, but not limited to, transactions to which sections 10(f) or 17(a) of the Act or Rules 10f–3 or 17e–1 thereunder are applicable), or to any other matter involving any relationship between the Applicant and Hambrecht & Quist; provided, however, that for the purposes of determining the number of votes of interested as well as non-interested directors required to take action on any such matter, Mr. Wythes will be counted as a director in determining the total number of directors and will be counted as a non-interested director in determining the total number of non-interested directors. Mr. Wythes shall be treated as a non-interested director for all other purposes under the Act (except Section 10(a) as explained under (i) above), including, but not limited to, Sections 15(c) and 17(g) of the Act.

Notice is further given that any interested person may, not later than December 9, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 80-36838 Filed 11-20-80; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-17310; File No. SR-MCC-80-2]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Clearing Corp.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on November 10, 1980 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of Terms of Substance of the Proposed Rule Change

Rule 5, Section 5,of the Rules of the Midwest Clearing Corporation is hereby amended as follows:

Additions Italicized—[Deletions Bracketed]

Rule 5

Security Positions Under CNS

Security Loans

Sec. 5. In the event the amount of a security subject to pending Security Withdrawal Requests shall exceed the available amount of the security delivered to the Corporation against short value positions, the Corporation shall fill such Request to the extent possible out of existing loan free positions, and such positions shall be changed to loan value positions as a result thereof in accordance with the following: The loan free position of the Participant *In the class of Participants with the highest stock loan priority* who has had a loan free position in such security for the longest number of consecutive days preceding the delivery without moving any part thereof to a loan value position shall be change to a loan value position.

In the event that both long value positions and loan free positions remain with respect to any security on any business day after the procedures described in Section 4 and the preceding paragraph of this Section 5 have been completed, the long value positions shall be changed to clearing free positions, and the loan free positions shall be changed to loan value position, until all long value positions of all loan free positions have been eliminated, whichever occus first. Long value positions shall be changed into clearing free positons in accordance with the system of priorities set forth in the second paragraph of Section 4, and loan free positions shall be changed into loan value positions in accordance with the system of priorities set forth in the preceding paragraph of this Section 5. Securities held in a Participant's loan free and loan value positions shall not be offset against the Participant's short value positions unless the Member shall specifically instruct the Corporation to do so.

Statement of Basis and Purpose

The basis and purpose of the foregoing rule change is as follows:

The proposed rule change basically clarifies MCC's Automatic Stock Loan Program which is designed to satisfy priority needs for stock that are not filled via normal deliveries from participants. The present system takes stock out of loan free positions on a first-in, first-out basis,. The rule change will allow MCC to establish prioritized classes of Participants to which this first-in, first-out procedure will still apply within each class.

The proposed rule change promotes the prompt and accurate clearance and settlement of securities transactions by providing a more equitable use of the clearing agency among participants. It is also designed to help perfect the mechanism of a national system for the prompt and acurate clearance and settlement of securities transaction by making MCC more competitive in providing services to its Participants.

The Midwest Clearing Corporation believes that no burdens have been placed on competition. The proposed rule change would, in fact, enhance competition in that it will provide a more equitable means of allocating stock loan priority to participants.

By December 26, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of all such filings with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by December 12, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

November 17, 1980.

[FR Doc. 80-36472 Filed 11-20-80; 8:45am]
BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5378]

Korean Capital Corp.; Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Korean Capital Corporation (Korean), 222–48 Birmington Parkway, Bayside, New York 11364, a Federal Licensee under the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has filed an application with the Small Business Administration pursuant to Section 312 of the Act and covered by §§ 107.3(g) and 107.1004(b)(1) of the Regulations governing small business investment companies (SBIC) (13 CFR 107.1004 (1980)), for approval of a conflict of interest transaction falling within the scope of the above Sections of the Act and Regulations.

Korean proposes to provide financing to Seoul Cosmetics, Inc. (Seoul), 36 West 35th Street, New York, New York 10001.

The proposed financing is brought within the purview of § 107.1004(b)(1), in that Seoul is owned by Mr. and Mrs. Jae Hoon Hwang. Mrs. Hwang is a director of Korean, and Seoul therefore is an associate of Korean as defined by § 107.3(g) of the Regulations.

Notice is hereby given that any interested person may, not later than ten (10) days from the date of this Notice, submit written comments on the proposed transaction to the Acting Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Peter F. McNeish,
Acting Associate Administrator for Investment.

[FR Doc. 80-36397 Filed 11-20-80; 8:45 am]
BILLING CODE 8025-01-M

[License No. 10/10-0159]

Northwest Capital Investment Corp.; Filing of Application for Transfer of Control and Ownership of Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration pursuant to § 107.701 of the Regulations governing small business investment companies (13 CFR 107.701 (1980)) for the transfer of control and ownership of Northwest Capital Investment Corp., 1940–116th Avenue, NE, Bellevue, Washington

98009, a Federal Licensee under the

[License No. 02/02-0415]

Dated: November 17, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

tuna products from Ecuador is prohibited until the Department of State

Secretary of State certified the seizure of these three vessels as meeting the

98009, a Federal Licensee under the Small Business Investment Act of 1958, as amended (Act).

Northwest was licensed on June 1, 1972. Its present combined paid-in capital and paid-in surplus (private capital) is $747,050. The proposed transfer of control and ownership is subject to and contingent upon approval by SBA.

All of the outstanding common stock of Northwest is presently owned by 30 shareholders, non owning ten or more percent. The sale of additional shares will increase Northwest's private capital from $747,050 to $5,000,000.

The proposed officers, directors, and stockholders are:

Mathew D. Griffin, 6369 S. Wilson Pl., Clinton, Washington 98236; Chairman, Vice-President, Treasurer.*
Dale H. Zeigler, 13611 SE 56th Pl. Bellevue, Washington 98004; President, Director.
Norman Smedes, 7415 Crowfood Rd., Trail, Oregon 97541; Secretary, Director.
Cheri Marsh, 13601 98th NE., Kirkland, Washington 98033; Assistant Secretary, Assistant Treasurer.
*Continental Oil and Mineral Inc., 3101 Oaks Avenue, Everett, Washington 98201; 100 percent.

*Mathew D. Griffin owns 100 percent of the stock of Continental Oil & Mineral, Inc.

Matters involved in SBA's consideration of the application include the general business reputation and character of the new owner and the probability of successful operation of Northwest under the new control and ownership arrangement (including adequate profitability and financial soundness) in accordance with the Act and Regulations.

Notice is hereby given that any interested person may, not later than December 8, 1980, submit to SBA, in writing, any relevant comments on the transfer of control and ownership. Any such comments should be addressed to the acting Associate Administrator for Investment, 1441 L Street, NW, Washington, D.C. 20416.

A copy of this Notice shall be published by the transferee in a newspaper of general circulation in Seattle, Washington.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 17, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-36398 Filed 11-20-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0415]

Questech Capital Corp.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)), under the name of Questech Capital Corporation (Applicant), for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended, and the Rules and Regulations promulgated thereunder.

The Applicant is incorporated under the laws of the State of Delaware, and it will commence operations with a capitalization of $3,500,000.

The Applicant will have its place of business at 11 Hanover Square, New York, New York 10005, and it intends to conduct operations primarily in the State of New York. Applicant plans to grant loans in start-up and emerging companies with a special emphasis on scientific and technological companies.

The officers, directors and ten percent (10%) or more stockholders of the Applicant will be:

*Earl W. Brian, 425 E. 51st St., New York, NY 10022; Chairman, President, and Director.
Dominic A. Laiti, 12525 Knollbrook Dr., Clifton, VA 22024; Treasurer, Secretary, and Director.
Richard C. Vivian, 1381 Rahway Rd., Plainfield, NJ 07060; Assistant Secretary and Director.
John H. Abeles, 3 Otter Trial, Westport, CT 06880; Consultant and Director.
Donald C. Carter, 200 E. 62nd St., New York, NY 10021; Director.
Biotech Capital Corp., 11 Hanover Square, New York, NY 10005; Parent—100%.

*Earl W. Brian is an owner of 73% of the parent (Biotech Capital Corporation) and following a public offering of the parent's stock will own 33% of the parent.

Matters involved in SBA's consideration of the application include the general business reputation of the owner and management, and the probability of successful operation of the new company, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than December 8, 1980, submit to SBA, in writing, relevant comments on the proposed licensing of this company. Any such communication should be addressed to: Acting Associate Administrator for Investment, Small Busniss Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 17, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-36396 Filed 11-20-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1947]

California; Declaration of Disaster Loan Area

San Joaquin County and adjacent counties within the State of California constitued a disaster area as a result of damage caused by levee failed, flooding, runoff and wave action which occurred on September 26, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on January 15, 1981, and for economic injury until the close of business on August 14, 1981, at:

Small Business Administration, District Office, 211 Main Street, 4th Floor, San Francisco, California 94105;

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 14, 1980.

Paul D. Sullivan,

Acting Administrator.

[FR Doc. 80-36395 Filed 11-20-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1926; Amendment No. 1]

Florida; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 65377), is amended by adding the following counties:

County	Natural disaster(s)	Date(s)
Columbia	Drought and excessive heat.	5/18/80–6/30/80.
Jackson	Drought and excessive heat.	5/1/80–9/30/80.
Okaloosa	Drought and excessive heat.	6/30/80–8/27/80.
Santa Rosa	Drought and excessive heat.	5/15/80–7/20/80.
Suwannee	Drought and excessive heat.	5/1/80–6/30/80.
Washington	Drought and excessive heat.	6/1/80–7/23/80.

and adjacent counties within the State of Florida as a result of natural disasters as indicated. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on March 23, 1981, and for economic injury until the close of business on June 22, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 23, 1980.

Paul D. Sullivan,

Acting Administrator.

[FR Doc. 80-36393 Filed 11-20-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1903; Amendment No. 2]

Texas; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 59467) and Amendment No. 1 (See 45 FR 62599) are amended in accordance with the President's Declaration of August 11, 1980, to include Duval, Jim Hogg and Kenedy Counties in the State of Texas. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above named counties only. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on October 10, 1980, and for economic injury until the close of business on May 11, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 4, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-36394 Filed 11-20-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF THE TREASURY

Customs Service

Importation of Tuna and Tuna Products From Ecuador Prohibited

AGENCY: U.S Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice is to advise that under the Fishery Conservation and Management Act of 1976 ("the Act"), the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs has certified to the Secretary of the Treasury that three United States fishing vessels, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, were seized by Ecuador as a consequence of a claim of jurisdiction which is not recongized by the United States. Pursuant to section 205(b) of the Act, the Secretary of the Treasury has determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Ecuador is prohibited until the Department of State notifies the Secretary of the Treasury that the reasons for this prohibition no longer prevail.

EFFECTIVE DATE: This prohibition is effective as to tuna and tuna products from Ecuador imported on or after November 21, 1980. Such importations shall not be entered for consumption or withdrawn from warehouse for consumption on or after that date.

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Entry, Examination, and Liquidation Branch, Duty Assessment Division, Office of Trade Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8651).

SUPPLEMENTARY INFORMATION:

Background

Section 205(a)(4)(C) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), provides that the Secretary of State shall certify to the Secretary of the Treasury any determination that a fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, has been seized by a foreign nation as a consequence of a claim of jurisdiction not recognized by the United States. The responsibility for this certification was delegated to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs by Department of State Delegation of Authority No. 138 of April 29, 1977.

Pursuant to section 205(b) of the Act, upon receiving this certification, the Secretary of the Treasury is required to take such action as may be necessary and appropriate to prohibit the importation of all fish and fish products from the fishery involved.

Section 205(c) of the Act provides that if the Secretary of State finds that the reasons for the import prohibition under section 205 no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove the import prohibition.

On October 21, 1980, the CAROL LINDA, CINDY ANN, and MARY S., fishing vessels of the United States, were seized by authorities of the government of Ecuador, respectively, 114, 165, and 112.5 miles off the shore of Ecuador for fishing for tuna without Ecuadorean authorization. Ecuador claims jurisdiction over tuna within 200 miles of its coast. The United States does not recognize this jurisdiction.

Pursuant to section 205(a) of the Act, on November 4, 1980, the Assistant Secretary of State certified the seizure of these three vessels as meeting the requirements of section 205(a)(4)(C) of the Act.

Determination

Under the authority of sections 205(b) and (c) of the Fishery Conservation and Management Act of 1976, on November 5, 1980, the Secretary of the Treasury determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Ecuador (the "country of origin") is prohibited until the Department of State notifies the Secretary of the Treasury that the reasons for this prohibition no longer prevail. Tuna and tuna products processed in Ecuador to any extent, including packing in ice, will be considered tuna or tuna products from Ecuador. At this time, this prohibition does not extend to in-bond shipments to and through the United States.

Drafting Information

The principal author of this document was Barbara E. Whiting, Regulations and Information Division, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Treasury Department participated in its development.

Dated: November 14, 1980.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 80-36525 Filed 11-20-80; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

Awarding of Senior Executive Service (SES) Bonuses

AGENCY: Treasury Department.

ACTION: Notice of schedule for awarding SES bonuses.

SUMMARY: This notice announces the schedule for awarding SES bonuses (performance awards) in the Department of the Treasury.

FOR FURTHER INFORMATION CONTACT: Henry C. DeSeguirant, Director of Personnel, Room 2426, 1500 Pennsylvania Avenue, N.W., Washington D.C. 20220; Telephone > 566–2701.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to guidance from the Director of the Office of Personnel Management, dated July 21, 1980. The Department of the Treasury is scheduled to award bonuses to eligible career senior executives in the Bureaus of Government Financial Operations, Mint and Public Debt and in the Office

of the Comptroller of the Currency between November 21 and December 31, 1980. Such bonuses are authorized by section 407(a) of the Civil Service Reform Act of 1978 (PL 95–454), codified in 5 U.S.C. 5384, and by section 303 of the Supplemental Appropriations and Rescission Act, 1980 (PL 96–304).

This notice does not meet the Department's criteria for significant regulations.

W. J. McDonald,

Assistant Secretary (Administration).

November 12, 1980.

[FR Doc. 80-36447 Filed 11-20-80; 8:45 am]

BILLING CODE 6116-25-M

VETERANS ADMINISTRATION

Privacy Act of 1974; Amendment of Systems Notices; Revised Routine Use Statement

1. Notice is hereby given that the Veterans Administration is revising a routine use statement that appears in four systems of VA records. The system names, routine use number, and date and page number of last publication in the **Federal Register** are as follows:

24VA136 Patient Medical Records—VA, #17, September 27, 1977, p. 49739.

38VA28 Veterans and Beneficiary Identification and Records Locator System—VA, #11, September 28, 1978, p. 44739.

49VA21 Veterans, Dependents and Beneficiaries Compensation and Pension Records—VA, #21, September 28, 1978, p. 44740.

58VA21/22 TARGET—Compensation, Pension, Education and Rehabilitation Records—VA, #29, September 28, 1978, p. 44743.

The routine use statement in the above mentioned systems of VA records permits the disclosure of information in connection with administrative tort claims filed under the Federal Tort Claims Act to the Department of Justice and United States Attorneys, only. However, the Veterans Administration has determined that other Federal agencies may also require information from these systems of VA records to defend themselves against and prevent unmerited suits involving the United States Government. Accordingly, the routine use statement is being revised to permit disclosure of information to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claim Act, 28 U.S.C. section 2672. Release of information for this purpose is considered a necessary and proper use of data in these systems of records.

2. Notice is hereby given that the Veterans Administration is revising a routine use statement in four systems of VA records. The system names, routine use number, and date and page number of last publication in the **Federal Register** are as follows:

24VA136 Patient Medical Records—VA, #16, September 27, 1977, p. 49739.

49VA21 Veterans, Dependents and Beneficiaries Compensation and Pension Records—VA, #24, September 28, 1978, p. 44740.

50VA22 Veterans, Dependents, Beneficiaries and Armed Forces Personnel Education and Rehabilitation Records—VA, #31, September 28, 1978, p. 44741.

58VA21/22 TARGET—Compensation, Pension, Education and Rehabilitation Records—VA, #32, September 28, 1978, p. 44743.

The current routine use statement that is being revised permits the disclosure of name(s) and address(es) from the above mentioned systems of VA records to Federal agencies, at the written request of the head of the agency or designee of the head of that agency, for the purpose of conducting government research necessary in order to accomplish a statutory purpose of that agency. In certain cases the government research is performed by a contractor(s) of the requesting Federal agency. The contractural procedures may make it strongly preferable that disclosure of VA records goes directly to the contractor(s), not via the Federal agency. Therefore, it has been determined that, the Veterans Administration can disclose name(s) and address(es) of present or former personnel of the Armed Services and/or their dependents directly to contractor(s) of Federal agencies for the purpose of conducting government research, provided certain applicable conditions are met. These conditions include: (1) independent determination by the Veterans Administration as to whether disclosures should be made to a particular contractor, including consideration of the quality of need for the disclosure, the degree of invasion into personal privacy, and the purpose of the disclosure, and the integrity of the contractor for confidentiality purposes; (2) Brief Explanation of the contract, including identifying who the contractor is, the information to be disclosed to the contractor, and a copy of the contract if further clarification is needed; and (3) a statement that the contractor(s) and its subcontractor(s) are required to treat the information as confidential under their contract. Accordingly, the routine use statements in the above named systems of records are being changed to permit release of information for the purpose identified above. Release of information for this purpose is considered a necessary and proper use of data in these systems of VA records.

Interested persons are invited to submit written comments, suggestions, or objections regarding the revised routine use statements to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. All relevant material received before Dec. 22, 1980, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), until Jan. 2, 1981. Any person visiting the above address for the purpose of inspecting any such comments will be received by the VA Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in VA Central Office and will be furnished the above address and room number.

If no public comment is received during the 30-day review period allowed for public comment, or unless otherwise published in the **Federal Register** by the Veterans Administration, the revised routine use statements are effective November 13, 1980.

Approved: November 13, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

1. In the system identified as 24VA136, "Patient Medical Records—VA", appearing at 42 FR 49739, routine use statement numbers 16 and 17 are revised as follows:

24VA136

SYSTEM NAME:

Patient Medical Records—VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

16. In order to conduct Federal research necessary to accomplish a statutory purpose of an agency, at the written request of the head of the agency, or designee of the head of that agency, the name(s) and address(s) of present or former personnel of the Armed Services and/or their dependents may be disclosed (a) to a Federal department or agency or (b) directly to a contractor of a Federal department or agency. When a disclosure of this information is to be made directly to the contractor, the VA may impose applicable conditions on the department, agency and/or contractor to insure the appropriateness of the disclosure to the contractor.

17. Any relevant information may be disclosed to the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States, and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

* * * * *

2. In the system identified as 38VA28, "Veterans and Beneficiary Identification and Records Locator System—VA", appearing at 43 FR 44739, routine use statement number 11 is revised as follows:

38VA28

SYSTEM NAME:

Veterans and Beneficiary Identification and Records Locator System—VA

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

11. Any relevant information may be disclosed to the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States, and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

* * * * *

3. In the system identified as 49VA21, "Veterans, Dependents and Beneficiaries Compensation and Pension Records—VA", appearing at 43 FR 44740, routine use statement numbers 21 and 24 are revised as follows:

49VA21

SYSTEM NAME:

Veterans, Dependents and Beneficiaries Compensation and Pension Records—VA

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

21. Any relevant information may be disclosed to the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States, and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

* * * * *

24. In order to conduct Federal research necessary to accomplish a statutory purpose of an agency, at the written request of the head of the agency, or designee of the head of that agency, the name(s) and address(es) of present or former personnel of the Armed Services and/or their dependents may be disclosed (a) to a Federal department or agency or (b) directly to a contractor of a Federal department or agency. When a disclosure of this information is to be made directly to the contractor, the VA may impose applicable conditions on the department, agency and/or contractor to insure the appropriateness of the disclosure to the contractor.

* * * * *

4. In the system identified as 50VA22, "Veterans, Dependents and Beneficiaries Compensation and Pension Records—VA", appearing at 43 FR 44741, routine use statement number 31 is revised as follows:

50VA22

SYSTEM NAME:

Veterans, Dependents, Beneficiaries and Armed Forces Personnel Education and Rehabilitation Record—VA

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

31. In order to conduct Federal research necessary to accomplish a statutory purpose of an agency, at the written request of the head of the agency, or designee of the head of that agency, the name(s) and address(es) of present or former personnel of the Armed Services and/or their dependents may be disclosed (a) to a Federal department or agency or (b) directly to a contractor of a Federal department or agency. When a disclosure of this information is to be made directly to the contractor, the VA may impose applicable conditions on the department, agency and/or contractor to insure the appropriateness of the disclosure to the contractor.

* * * * *

5. In the system identified as 58VA21/22, "TARGET—Compensation, Pension, Education and Rehabilitation Records—VA", appearing at 43 FR 44743, routine use statement numbers 29 and 32 are revised as follows:

58VA21/22

SYSTEM NAME:

TARGET—Compensation, Pension, Education and Rehabilitation Records—VA

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

29. Any relevant information may be disclosed to the Department of Justice and United States Attorneys in defense or prosecution of litigation involving the United States, and to Federal agencies upon their request in connection with review of administrative tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672.

* * * * *

32. In order to conduct Federal research necessary to accomplish a statutory purpose of an agency, at the written request of the head of the agency, or designee of the head of that agency, the name(s) and address(s) of present or former personnel of the Armed Services and/or their dependents may be disclosed (a) to a Federal department or agency or (b) directly to a contractor of a Federal department or agency. When a disclosure of this information is to be made directly to the contractor, the VA may impose applicable conditions on the department, agency and/or contractor to insure the appropriateness of the disclosure to the contractor.

* * * * *

[FR Doc. 80-36357 Filed 11-20-80; 8:45 am]

BILLING CODE 8320-01-M

77222-77254

Sunshine Act Meetings

Federal Register

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Sunshine Act Meetings

Federal Register
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This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, November 25, 1980.

PLACE: Commission conference room, 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Proposed Field Structure for Office of Government Employment.
2. Proposed Amendment to a Litigation Support Contract.
3. Amendment to Statement Concerning Processing of Charges Against State and Local Agencies.
4. Report on Commission Operations by the Executive Director.

Closed to the public:

Litigation Authorization; General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634-6748.

This Notice Issued November 18, 1980.

[S-2126-80 Filed 11-19-80; 3:31 pm]

BILLING CODE 6570-06-M

2

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 2 p.m., November 25, 1980.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement No. 10380: Medafrica-Nigeria America Shipping Line Limited Joint Service.
2. Agreement No. 10399: Settlement Agreement among Moore McCormack Lines, Inc., Empresa Lineas Maritimas Argentinas, S.A., and A/S Ivarans Rederi in the Argentina/U.S. Atlantic trade.
3. Proposed Revocation of Commission General Order No. 44—Exemption of Collective Bargaining Agreements.
4. Special Docket No. 683: Application of Flomerca Line for the Benefit of U.S. Department of Agriculture, A.S.C.S. Commodity Office—Consideration of the Record.
5. Docket No. 80-48: Appeals of Denials of Requests for Information—Consideration of Proposed Final Rule.
6. Commission Order 87: Internal Procedures for Review, Discussion and Final Decision in Formal Proceedings and Disposition of Petitions, Motions and Appeals—Consideration of Proposed Revisions.
7. Docket No. 80-45: Agreement Nos. 10386, As Amended, 10388, 10382, As Amended, and 10389—Cargo Revenue Pooling/Equal Access Agreements in the United States/Argentine Trades—Consideration of Revision to Order Instituting Proceeding.

Portions closed to the public:

1. Promotional Activities of Royal Hawaiian Cruises, Inc.
2. Docket No. 80-3: Continental Forwarding, Inc., Independent Ocean Freight Forwarder License Application and Possible Violations of Section 44, Shipping Act, 1916—Consideration of the Record.
3. Contract Marine Carriers, Inc.—Possible Violation of Sections 16, Second, and 18(b)(3), Shipping Act, 1916.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-2123-80 Filed 11-18-80; 4:20 pm]

BILLING CODE 6730-01-M

3

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Monday, November 24, 1980.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED: Portions Open to Public:

(1) Oral Argument in Borg-Warner Corporation, et al., Docket 9120.

Portions closed to the Public:

(2) Executive session to discuss oral argument in Borg-Warner Corporation, et al., Docket 9120.

CONTACT PERSON FOR MORE INFORMATION: Pamela F. Richard, Office of Public Information: (202) 523-3830; Recorded Message: (202) 523-3806.

[S-2124-80 Filed 11-19-80; 9:59 am]

BILLING CODE 6750-01-M

4

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, December 3, 1980.

PLACE: Room 432, Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Consideration of proposed final clearance rules.

CONTACT PERSON FOR MORE INFORMATION: Pamela F. Richard, Office of Public Information: (202) 523-3830; Recorded Message: (202) 523-3806.

[S-2125-80 Filed 11-19-80; 10:00 am]

BILLING CODE 6750-01-M

5

NATIONAL COUNCIL ON THE HANDICAPPED.

TIME AND DATE: 9 a.m.-5 p.m., Monday, December 15, 1980, and 9 a.m.-5 p.m., Tuesday, December 16, 1980.

PLACE: Sheraton National Hotel, (703) 521-1980, Washington Boulevard and Columbia Pike, Arlington, Virginia 22204.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Orientation to the National Institute of Handicapped Research (NIHR) programs, policies and activities.
2. Discussion of NIHR Plan.

CONTACT PERSON FOR MORE INFORMATION: Carol Berman, National Council on the Handicapped, (202) 245-3498.

Carol Berman,
Executive Secretary.

[S-2122-80 Filed 11-18-80; 4:04 pm]

BILLING CODE 4000-01-M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
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DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

69888 10–22–80 / Ambient air quality surveillance; Fla.; air quality surveillance plan

FEDERAL COMMUNICATIONS COMMISSION

69460 10–21–80 / FM broadcast stations in De Soto and Potosi, MO; changes made in table of assignments

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Housing Commissioner—Office of Assistant Secretary for Housing—

62797 9–22–80 / Housing assistance for new construction and substantial rehabilitation; tax exemption

INTERIOR DEPARTMENT

Land Management Bureau—

70204 10–22–80 / Federal installations; implementation of section 3(e) of the Alaska Native Claims Settlement Act

NUCLEAR REGULATORY COMMISSION

69877 10–22–80 / Changes in rules of practice governing discipline in adjudicatory proceedings

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.** A complete cumulative listing through Public Law 96–483 was published in the **Reader Aids** section of the issue of Wednesday, November 5, 1980.

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Advance Orders are now Being Accepted for Delivery in About 6 Weeks

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Revised as of July 1, 1980

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_____	Title 30—Mineral Resources (Parts 0 to 199)	7.50	_____
_____	Title 30—Mineral Resources (Part 200 to End)	8.00	_____
		Total Order	$_____

A Cumulative checklist of CFR issuances for 1980 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

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77332 **Part IV—EPA:**
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77368 **Part V—ED:**
Transfer and Redesignation of ED Regulations

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77384 **Part VII—HHS/NIH:**
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Part II

Department of Agriculture

Food and Nutrition Service

Food Stamp Program; Federal Sanctions and State Agency Liabilities; Final Rule

DEPARTMENT OF AGRICULTURE

and the impact of implementing each option is available on request for the

comments concerning both rulemakings were taken into consideration in

Act Amendments of 1980 (Pub. L. 96-249) states:

rules offered specific suggestions for change. Those adopted were aimed at

The major change in this section is the result of the Department's changes in

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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 276

[Amdt. No. 168]

Food Stamp Program; Final Rule—Federal Sanctions and State Agency Liabilities

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final and emergency final rules.

SUMMARY: These final regulations define the activities related to the Food Stamp Program for which State agencies will be held financially liable. They also set forth the types of sanctions the Food and Nutrition Service (FNS) may impose in order to collect financial losses and enforce compliance with the Food Stamp Act, regulations and FNS approved State Plans of Operation. In addition, this rulemaking establishes an administrative review process through which State agencies can appeal claims filed against them by FNS.

All of the provisions of these regulations are being issued as final rules except the provisions pertaining to the administrative review process. Due to the extensive changes that have been made in the administrative review provisions, they are being issued as interim final. They will be effective along with the other provisions. However, comments will be accepted for sixty days and final administrative review rules will be issued in the future.

DATES: These rules are effective on December 22, 1980.

Comment period: Comments on the administrative review provisions (§276.7) of this rulemaking must be received on or before January 21, 1981, to be assured of consideration.

ADDRESS: Comments should be sent to: Alberta Frost, Deputy Administrator for Family Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250. All written comments will be open to public inspection at the offices of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 500 12th Street SW., Washington, D.C., Room 698.

FOR FURTHER INFORMATION, CONTACT: Larry R. Carnes, Chief, Policy and Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, Washington, D.C. 20250, 202–447–9075. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request for the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Background

In the June 8, 1979 **Federal Register** (44 FR 33380, et seq.), the Department issued an emergency rulemaking implementing several miscellaneous amendments and interpretations of the food stamp regulations that had been issued in the October 17, 1978 **Federal Register** (43 FR 47846, et seq.). Two of those amendments pertained to State agency liabilities and Federal sanctions. The first implemented Section 11(h) of the Food Stamp Act of 1977 (7 U.S.C. 2020) giving the Secretary the authority to demand payment from State agencies of Federal monies lost as the result of negligence or fraud on the part of the State agencies in the certification of applicant households. The second amendment implemented the provisions of Section 14 of the Act (7 U.S.C. 2023) which required that State agencies aggrieved by claims issued by FNS be given opportunities to have the claims reviewed through an administrative review process. These two provisions of the overall State agency liability and Federal sanction process were issued as emergency rules because of the imminent implementation of other regulations implementing the Act.

In the November 9, 1979 **Federal Register** (44 FR 65318), the Department proposed a set of rules to implement all of the State agency liability and Federal sanction provisions of the Act. That proposed rulemaking included, almost verbatim, the negligence and administrative review rules that were issued on June 8, 1979. The Department did this so that readers would be able to comment on the entire package of sanction and liability rules being issued pursuant to the Act. In addition to the negligence and administrative review regulations, the proposed rules contained provisions pertaining to absolute State agency liabilities, injunctive relief, and the suspension and disallowance of State agency administrative funds.

The Department received two sets of comments on the sanctions and liabilities regulations. The first set came in response to the June 8, 1979 emergency rulemaking, the second set in response to the November 9, 1979 proposed rulemaking. All pertinent comments concerning both rulemakings were taken into consideration in developing these final rules.

General

The Food Stamp Act of 1977, as amended, provides for injunctive relief and the suspension and disallowance of administrative funds to enforce compliance with the Act, the regulations issued pursuant to the Act, and the FNS-approved State Plans of Operation, which includes the FNS-approved State Operating Guidelines. The Act also established two categories of State agency liability with respect to agency operation of the Program. Section 7(f) (7 U.S.C. 2016(f)) of the Act makes State agencies liable for issuance losses, while Section 11(h) makes State agencies liable for certification losses due to negligence or fraud in the State agencies' operations.

In developing these final rules, the Department tried to delineate, as clearly as possible, the liability of the State agencies, the use of sanctions available to FNS, and the procedures State agencies must follow to obtain an administrative review of claims filed against them.

Since issuance of the proposed regulations on November 9, 1979, Congress has enacted new legislation (Pub. L. 96–249, Sec. 120, 94 Stat. 362, May 26, 1980) which clarifies the tools available to the Department to enforce compliance with the Act. Section 11(g) of the 1977 Act, as amended, now makes clear that the Secretary has authority to seek injunctive relief and/or withhold administrative funds from a State if he finds a State agency failed to comply with any provisions of the Food Stamp Act, the regulations issued pursuant to the Act, or the State Plan of Operation. In fact, Section 11(g) contains a requirement that the Secretary withhold administrative funds, in an amount he deems appropriate, if he determines that a State agency has failed to comply with any provisions of the Act, regulations, State Plan, or standards for efficient and effective administration. The standards for efficient and effective Program administration were defined in the Performance Reporting System rules (45 FR 15884 et. seq.) as the provisions of the Act, regulations and FNS-approved State Plan of Operation.

In devising the proposed regulations, the Department assumed it had the authority to sanction State agencies, whether or not it chose to seek injunctive relief through referral to the Attorney General. Pub. L. 96–249 confirms this authority. The House Committee Report on the Food Stamp

Act Amendments of 1980 (Pub. L. 96–249) states:

> "The Department's proposed and disputed regulations of November 9, 1979, are consistent with the Committee's approach and the language of the section and legislative history as well * * * (T)he Committee has decided to revise and clarify the sanctions provisions of the 1977 Act, essentially collapsing the liability provisions of section 16(b) and 11(g) in order to make the Secretary's options as clear as they already should be." House Rpt. No. 96–788 (House Report) 96th Cong., 2nd Sess., p. 140.

The final regulations retain the broad authority described in the proposed regulations for the Department to enforce State agency compliance with the Act, regulations, and State plans. The final regulations also retain the flexibility allowing the Secretary to seek injunctive relief and/or withhold administrative funds from a State agency, simultaneously or in sequence, to assure proper State agency performance.

The Department recognizes that the law and these regulations provide broad, sweeping authority for the Secretary to sanction State agencies for failure to comply with innumerable Program requirements. The Department agrees with State agency comment that a primary method for achieving State agency compliance with the law should be informal discussion and conciliation. The Department has no intention of utilizing the sanction process to enforce absolute compliance with every Program requirement no matter how minor it may be.

It is the intention of the Department to utilize its authority to sanction State agencies in a reasonable manner. While the use of this authority may vary from situation to situation, the use of sanctions will not ordinarily be the first approach employed by the Department to achieve satisfactory State agency performance in the administration of the Program. The Department fully understands that a heavy-handed use of sanctions can be, in the long run, antithetical to the Program's best interests.

State Agency Liabilities

Section 7(f) of the Act states that: "Notwithstanding any other provision of this Act, the State agency shall be responsible to the Secretary for any financial losses involved in the acceptance, storage and issuance of coupons." (7 U.S.C. 2016(f) (Supp. I 1977)). This section of the final rules sets forth the types of financial losses for which State agencies will be held liable.

Only a few of the comments addressing this section of the proposed rules offered specific suggestions for change. Those adopted were aimed at the overall goal of clarifying the rules. For example, the proposed rules specified that State agencies would be held liable for "duplicate ATP transactions caused by State agency error." At the suggestion of FNS' Mountain Plains Regional Office, this has been changed to "the duplicate issuance of benefits caused by State agency error." The Department made this change recognizing that it did not intend to absolve State agencies with HIR card issuance systems of liability for duplicate issuances due to State agency error. However, we have added a caveat that State agencies will not be held liable for the duplicate transaction of ATP cards if the duplicate transactions occurred as a result of events beyond the State agency's control. This is necessary because duplicate transactions, by their very nature, do not lend themselves to a strict liability approach. Some duplicate transactions may occur, for example, if ATP cards are stolen and cashed. As a result, duplicate issuances that are beyond the practical preventive ability of the State are not considered a State agency liability by these regulations. At the same time, State failure to install proper issuance controls can increase duplicate transactions beyond a "non-preventable" level. States would be liable for such duplicate transactions.

Two comments recommended that the Department delete the provision holding State agencies liable for coupons lost in disasters, to the extent that the State agency could not show that the coupons were destroyed and not redeemed. This suggestion was not adopted since the Department reasoned that the occurrence of disasters did not relieve State agencies of their responsibility to account for coupons in their possession. However, the wording of the provision in the proposed rules did appear to be more stringent than the Department intended. Therefore, the Department reworded the provision so that it now reads that State agencies will be held liable for coupons lost in disasters unless they can provide reasonable evidence that the coupons were destroyed and therefore not redeemed. The Department does not anticipate that this provision will be invoked very often. In the past, the same provision was used very infrequently and only when a situation arose in which it was clear that coupons missing after a disaster had not been destroyed in the disaster. No change in the frequency of use is envisioned.

The major change in this section is the result of the Department's changes in the definition of negligence. The definition of negligence included in the June 8, 1979 emergency rulemaking and in the November 9, 1979 proposed rulemaking gave the Secretary authority to bill State agencies for financial losses resulting from State agency negligence in certification and issuance activities. Several commenters objected to this definition, noting that Section 11(h) of the Act gave the Secretary the authority to bill State agencies only for losses due to negligent certification actions. These commenters believed that the emergency and proposed regulations exceeded statutory authority in that they applied the authority to bill for losses due to negligence in activities other than certification. This viewpoint was buttressed by legislative history in the House Committee on Agriculture's Report accompanying the 1980 Amendments to the Food Stamp Act (Pub. L. 96–249). It was noted in that Report that the Secretary could respond to State agency noncompliance with Program requirements by making "* * * a negligence claim (but only if the program failure related to household certification)" or by holding "* * * States strictly liable for financial losses (but only if losses occurred in the issuance functions) * * *" (House *Report*, p. 139).

Acting on the arguments raised from these two sources, the Department has narrowed the definition of negligence. The definition now clearly subjects certification functions to the negligence provisions, while clearly identifying issuance functions as being subject to the absolute liability provisions. Consequently, there are several differences between the proposed and final rules in this section. Liability for overissuances to households who received benefits after their certification periods expired, overissuances caused by State agency failure to process promptly public assistance changes, and overissuances assessed due to missing documentation such as casefiles, has been deleted from the strict liability section.

A second major change in this section was made in the provisions applicable to court suit liabilities. The changes are due to the reorganization and clarification of the rules. The State agencies' responsibilities for acting and reporting on court suits that they become involved in have been deleted from § 276.2 of the rules and included in § 272.4(f). Thus, Part 276 does not contain any rules other than rules

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directly related to State agency liabilities and Federal sanctions.

A final issue bearing discussion is the objection raised by several commenters to the idea of "absolute" or "strict" liability for financial losses involved in issuance. The Texas State agency recommended that a tolerance limit be established which would have to be exceeded by a State agency before assessment of liability.

The South Carolina State agency suggested that liability be limited to instances in which a State agency was found guilty of gross negligence, while the Kentucky State agency suggested it be limited to instances in which State agency mismanagement was involved. The California State agency asked that a good cause provision be included in the rules.

The Department considered these suggestions but did not adopt them because neither the statute nor the related legislative history support the inclusion of a tolerance limit or good cause provision in the issuance sanction rules. A close examination of the law reveals that it is the lack of a tolerance level or good cause provision in the issuance sanction rules that separates those rules from the certification sanction rules. There is an implicit good cause provision inherent in the certification sanction rules, since those rules require that the Secretary make a determination of negligence prior to assessing liability to a State agency. There is no absolute or strict liability applied to certification operations and there is no good cause provision in the issuance sanction rules. Rather, Congress intended that State agencies be held liable for "* * * any financial losses involved in acceptance, storage, and issuance of coupons." (Section 7(f), Food Stamp Act of 1977, as amended). This intent was echoed in the House Committee Report on the 1980 Amendments to the Food Stamp Act of 1977 where it is noted that the Secretary can "* * * hold States *strictly liable* for financial losses * * *" that occur in issuance functions (Emphasis added, House Report, p. 139). Therefore, absolute or strict liability has been retained with regard to issuance operations.

Negligence or Fraud

Many of the comments submitted on the negligence and fraud section of the proposed and emergency regulations contained objections to the definition of negligence. Most of these comments stated that the definition was too broad and/or imprecise. In response, the Department narrowed the definition of negligence by deleting all references to issuance. As explained above, issuance activities will be subject to the absolute liability provisions of the rules while certification activities will be subject to the negligence provisions. This narrows the scope of the definition. As set forth in these final rules, a State agency can be found negligent if there is a loss of Federal funds due to the State agency's disregard of Federal requirements contained in the Act, the regulations, or the FNS-approved State Plan of Operation. Additionally, a State agency may be found negligent if it implements, without first obtaining FNS approval, procedures that deviate from procedures required in these sources and result in a loss of Federal funds. Thus, if a State agency fails to implement a regulatory change and that failure results in a loss of Federal funds, the State agency may be charged with negligence and a claim for the lost funds may be filed. Likewise, if a State agency, without first obtaining FNS approval, implements new verification procedures that are different from the verification procedures prescribed by the Department and the new procedures result in a loss of Federal funds, the State agency may be found negligent and a claim for the lost funds may be filed.

Deleted from the definition is the provision that authorized FNS to determine a State agency to be negligent if the State agency failed to maintain proper controls over certification functions and the failure resulted in a loss of Federal funds. This latter provision was deleted primarily due to the Department's concern that it duplicated the Quality Control Sanction System. (Rules to establish this system, which was mandated by Section 126 the 1980 Amendments to the Food Stamp Act (94 Stat. 364), were proposed in the October 3, 1980 **Federal Register**). The Department does not intend to establish sanctions requiring that State agencies be held liable and billed twice for the same deficiencies. The deletion of this particular provision should make this clear. However, if situations arise where there are overlaps in liability provisions, the Department will not double-bill State agencies.

Several commenters objected to the provision that authorized FNS to use statistically valid projections in determining the amount of loss caused by a State agency's negligence. Most of these commenters requested that the provision be eliminated; some suggested that it be expanded to explain the techniques that would be used. The Department decided to retain the provision. (It should be noted, however, that a similar provision in the proposed State agency liabilities section was deleted when certification losses were deleted from that section.) It is the Department's position, supported by its Office of the Inspector General, that statistically valid projections provide an accurate view of the extent of deficiencies in a State agency's operations and that they also present accurate projections of the amounts of loss resulting from the deficiencies. The Department did include a basic description in the rules of the techniques that will be used in making statistical projections. Whenever a statistical projection is made it will be made using a 95 percent, one-sided confidence level. In other words, after a sample is completed a range of loss will be established such that it can be predicted, with 90 percent certainty, that the actual loss is within the range. If a billing is made, the billing will be for the lowest amount in the range. Thus, it can be predicted, with 95 percent certainty, that the actual loss is either the billed amount or higher.

Some commenters suggested that the Department include a tolerance limit in the negligence definition. Others suggested that a good cause provision be included. Still others requested that the Department describe in the regulations the procedures that would be used in determining whether a State agency had been negligent. The common theme underlying all of these comments was a concern that the Department would use negligence sanctions on a frequent basis in response to very minor certification deficiencies.

It was pointed out in the preamble to the proposed regulations that "(w)hile the regulations reflect the legislative change from gross negligence to negligence, the Department does not intend to establish a negligence billing for all losses of Federal funds. Consideration would be given to the circumstances causing the loss and the steps the State agency took to prevent the loss from recurring before determining negligence." (44 FR 65323). The Department has no plans to initiate or follow a different course of action. Thus, readers should be assured that minor certification deficiencies discovered by the Department will not result in negligence billings. Additionally, it should be noted that, given the policy stated above, the Department cannot issue a negligence charge where there is good cause for overissuances; good cause is an implicit but inherent aspect of negligence.

Collection of Claims

The proposed rulemaking contained provisions that specified procedures for

payment of absolute liability and negligence claims. In both provisions it was noted that State agencies would be billed for appropriate amounts and asked to remit payment of the losses. If payment was not made, the provisions allowed FNS to recover the amount of the claims through offsets to the State agencies' Letters of Credit. Several commenters objected to this recovery method. They noted that if offsets were used, services to participants and applicants could suffer from the decrease in administrative funds. Some commenters contended that the offset method of recovering absolute liability claims and negligence claims was not provided for in the Food Stamp Act and, therefore, legally could not be used.

The Department carefully considered these comments but decided to retain the provisions as proposed. The Department realizes that the offset method of collecting claims could have detrimental effects on a State agency's administration of the Program. Therefore, it is hoped that State agencies that receive claims will remit payments for them and avoid offsets. If an offset is required, however, FNS has the authority to recover the claim in a single offset or in a series of offsets spread over a period of up to three years. This ability to spread out the offsets, thereby reducing the size of each one, minimizes the negative impact the offsets would have on State agency operations.

The Department disagrees with the contention that it lacks the authority to offset absolute liability and negligence claims. While no authority to offset is specifically mentioned in the Food Stamp Act, the Department believes it extends from the Secretary's authority to issue regulations necessary for the efficient and effective operation of the program (Section 4(c) of the Act) and from the Federal Claim Collection Act of 1966. This view is supported by the House Committee Report which states, in part, that: "* * * the Secretary could send a billing or collect funds *through offset* under the strict liability or negligence provisions in accordance with the Federal Claims Collection Act of 1966, which is applicable to all Federal claims whether or not specifically referred to in a particular statute." Emphasis added, House Report, p. 142.

Suspensions and Disallowances

This section of the regulation describes the types of sanctions that may be used if the Department determines that a State agency is operating the Program in an inefficient or ineffective manner, i.e., is out of compliance with any provisions of the Act, regulations, or FNS-approved State Plan of Operation. This section also explains the procedures that the Department will follow should it be necessary to use these sanctions.

In general, the comments which addressed the provisions of this section supported the proposed rules. However, there were some concerns raised and suggestions made with regard to the warning procedures of the rules.

The previous warning process was a two step process that included informal and formal warnings, each followed by periods of at least 30 days in which State agencies could take corrective action to eliminate the deficiency and avoid a suspension or disallowance of administrative funds. The Department's experience with this process demonstrated that it often resulted in long delays before corrective action was taken, and thus was not always responsive to problem situations.

The Department tried to design a warning process that could be more responsive to problem situations. Thus, the previous informal warning with its automatic 30 day corrective action period was replaced by an advance notification with a corrective action period of unspecified length. The length of time would be decided by FNS at the time of issuance of the advance notification and determined by the circumstances at hand. Further, the proposal would have allowed the Department to dispense with the advance notification and immediately issue a formal warning if the problem involved a State agency's failure to meet the commitments made in an approved corrective action plan. (Since the State agency already knew of problems in these instances and had formulated corrective action, it was reasoned that an advance notification was not necessary.)

Several commenters objected to these changes, recommending that advance notifications always be issued before formal warnings, and that the Department establish a specified period of time which must elapse between the issuance of an advance notification and a formal warning. One commenter suggested that this time period be 30 days. Since the adoption of these suggestions would essentially result in the retention of the previous warning process, one which had proven to be unresponsive in some cases, the Department rejected the suggestions.

Other commenters recommended that advance notifications and formal warnings specify what action needed to be taken to correct the noted deficiency and, thus, avoid the suspension or disallowance of funds. State agencies are in the best position to determine what actions will be most effective to correct a deficiency in their administration of the Program. Therefore, State agencies remain responsible for formulating such action.

Injunctive Relief

The injunctive relief provisions of the proposed regulations have been retained in the final rules. Very few comments were received suggesting changes in these provisions. Two commenters suggested that the Department rely on injunctive relief as the primary tool for enforcement of compliance with Program requirements. The Department did not incorporate this suggestion into the regulations. As was pointed out earlier, it was Congress' intent in providing several compliance tools to give the Secretary flexibility in deciding how best to bring a State agency into compliance with Program requirements. See House Report, pp. 138–139. Therefore, no change was made in the rules that would limit this flexibility.

Good Cause

The proposed rulemaking did not contain a specific definition of "good cause" as it would be applied to sanctions. This did not mean that the Department would not consider good cause in the application of sanctions. Rather, the Department determined that the mechanism used in asserting claims, the warning process, allowed State agencies to show good cause. As the preamble to the proposed rulemaking noted: "* * * the Department is proposing to retain a warning process * * * to ensure that States have the opportunity to correct problems prior to losing the Federal share of administrative funds through a sanction process." (44 FR 65323)

Several commenters acknowledged this position but requested that the Department go further and actually define good cause as it would apply to the sanction process. As these commenters pointed out, the opportunity for State agencies to show good faith efforts to correct noncompliance was not adequate to allow all good cause conditions to be taken into account.

The House Report to the 1980 Food Stamp Amendments, Pub. L. 96–249, contains legislative history supporting the commenters. In a description of how the sanction process is to work, the Report states that: "The State would be given an adequate opportunity in an appropriate administrative setting to make a showing of good cause for failure to comply * * *. "Good cause" would be defined by regulations

promulgated by the Secretary but would not encompass a lack of resources that the State has the ability to remedy and

fails to use correct procedures during a disaster, the Department might seek to

are appealed. The Department accepted this suggestion. As proposed, State agencies had the right to a personal

had. The final rules alter these time frames. State agencies still must file a

shall be applicable to all claims that are filed after the effective date of this

PART 276—STATE AGENCY LIABILITIES AND FEDERAL

promulgated by the Secretary but would not encompass a lack of resources that the State has the ability to remedy and would include external impossibility or programmatic inconsistency." House Report, p. 142.

In light of the comments received and the legislative history of Pub. L. 96–249, the Department developed a good cause provision that will apply to the use of injunctive relief and the withholding of administrative funds for failure to meet efficiency and effectiveness standards. The good cause provision is not applicable to the absolute liability rules nor to the negligence rules. The Department determined that Congress did not intend to have the good cause provision applied to absolute liability situations and that, as explained above, it is the lack of a good cause provision that sets these liabilities apart. The Department is not applying the good cause provisions to negligence claims since, as explained above, a lack of good cause is inherent in the use of the negligence sanction.

As developed, the Department will determine good cause on a case-by-case basis; i.e., each case will be evaluated against the good cause criteria in the definition of good cause before seeking injunctive relief or suspending or disallowing funds. By applying the good cause criteria in this manner, the Department retains the flexibility it needs to make honest and accurate determinations as to whether or not good cause exists. This should work to the advantage of both State agencies and the Department.

The good cause definition included in the rules is general. It is intended to be general so that the flexibility needed for its equitable use will be enhanced. Readers should not assume however, that the general nature of the definition will lead to nearly automatic findings of good cause. As stated above, the Department fully intends to evaluate each case against the criteria before determining whether good cause exists.

Generally, the criteria in the good cause provision follow the reasoning of the language in the House *Report*. Thus, good cause will include things outside State control, such as natural disasters and strikes, and will not include things within State control, such as lack of resources. In the application of the criteria, the mere existence of a situation specified in the good cause provision will not result in a finding of good cause. For example, the occurrence of a natural disaster does not necessarily mean that a State agency had good cause for failing to comply with food stamp administrative requirements. Thus, if a State agency fails to use correct procedures during a disaster, the Department might seek to sanction the State agency.

Administrative Review Process

Many commenters offered suggestions for changes in the administrative review process. Most of these commenters were concerned that rights and responsibilities were not clear. Taking these comments into account, the Department revised the rules establishing the administrative review process. Since these provisions were extensively rewritten, this portion of the rulemaking is being issued as interim final. It will go into effect with the other provisions. The Department is accepting comments on these provisions and will publish final administrative review rules in the future.

One particular aspect of the review process, which seven commenters addressed, involved the impartiality of the review official. The commenters recommended that the final rules guarantee that the review authority be an impartial third party. The proposed administrative review rules did not specify whether the official designated by the Secretary would be an impartial third party. In the preamble to those rules, however, the Department stated that the review authority designated by the Secretary could be someone with a prior knowledge of the case being reviewed. The Department accepted this recommendation and these final rules require that the review authority be a "neutral third party" (§ 276.6(h)(i)). This does not mean that the reviewing officials may not be employees of the Department of Agriculture. Secretary's Memorandum No. 2003, Revised, dated January 3, 1980, which establishes the State Food Stamp Appeals Board, provides that "Persons who are officers or employees of the Department of Agriculture or any of its constituent agencies, except FNS, as well as other Federal officers or employees, may serve on the Appeals Board. Persons who are not employed by the Federal Government may also be asked to serve on the Appeals Board. However, no person who has been associated with the case being appealed shall serve as an Appeals Board member." The rules prohibit anyone involved in the original decision to file a claim from reviewing the appeal of the claim. This will ensure that impartiality is maintained so that reviews of claims are conducted in as equitable a manner as possible.

Many of the comments received suggested specific changes in the processing of appeals. One of these was that State agencies be given the right to an in-person hearing on all claims that are appealed. The Department accepted this suggestion. As proposed, State agencies had the right to a personal hearing if they appealed negligence claims or disallowances of funds. Thus, the suggestion was that they be given the right to an in-person hearing of appeals of issuance claims. Since these claims will generally be disputes of records such as accountability and inventory reports, the Department does not foresee that in-person hearings will be necessary to reach equitable decisions. The Department believes that in these cases a review of the disputed records along with any other information provided by the State agency will be adequate. However, to ensure that the appeals process is as equitable as possible, the Department will grant State agencies the option of having in-person hearings or reviews of records on all appeals. The rules provide for two types of hearings: hearings before the full Appeals Board and hearings before single hearing officials. Generally, appeals of negligence claims and disallowances of administrative funds will be heard by the full Appeals Board while appeals of other claims, those that would not have had hearings, will be heard by single hearing officials. The rules will allow, however, full Appeals Board hearings of issuance claims and single hearing official hearings of negligence claims and disallowances.

Other commenters recommended that suspension of administrative funds be included as claims that are "appealable." The Department did not accept this recommendation. A suspension is not a claim in any way that billings for issuance losses, negligence charges or disallowances are claims. Since State agencies can have their suspended administrative funds restored by correcting the deficiencies that led to the suspension the Department decided not to include suspensions in the administrative review process. Should a State agency fail to take action to correct a deficiency thereby causing a suspension to become a disallowance the State agency can appeal the disallowance.

Several commenters requested that the Department revise the time limits included in the rules for requesting reviews and submitting supportive information. The proposed procedures gave State agencies 10 days from the filing of a claim by the Department to request a claim. These rules also proposed giving State agencies 10 days from the date the request for appeal was acknowledged for State agencies to submit any additional information they had. The final rules alter these time frames. State agencies still must file a request for an appeal within 10 days of receiving a claim. This 10 day limit is set in section 14 of the statute (7 U.S.C. 2023 (Supp. I 1977)) and cannot be changed. Requests for appeals filed later than 10 days after receipt of a claim cannot be granted. However, State agencies that request appeals in a timely manner shall have 30 days from the date they submit their request for appeal in which to submit any additional information they want to submit. This should give State agencies time to assemble any data and other supportive information they may have.

Other changes in these timeliness requirements were also included in the rules. For instance, the rules now require that State agencies be notified of hearings at least 10 days prior to their occurrence. They also allow State agencies to postpone hearings, provided there is good cause.

The Department made other changes in the rules, all designed to clarify the procedures and specify State agencies' rights and responsibilities. These are all self-explanatory.

Implementation

These rules are effective on December 22, 1980. From that date forward, incidents resulting in claims or injunctive relief shall be subject to the sanctions and liabilities provisions presented here. As of that date the changes made in the administrative review process will be in effect as well.

Accordingly, Parts 272 and 276 are amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

Subparagraph (18) is added to § 272.1 (g) and paragraph (f) is added to § 272.4. Both read as follows:

§ 272.1 General terms and conditions.

* * * * * *

(g) *Implementation.* * * *

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(18) *Amendment 168.* The provisions of amendment 168 shall be effective on the thirtieth day following their publication. Any claims filed against State agencies for incidents that occur after the publication of this amendment shall be filed in accordance with the provisions of this amendment. Any claims filed against State agencies for incidents that occurred prior to the publication of this amendment shall be filed in accordance with the rules in effect at the time they occurred. However, the administrative review procedures contained in this amendment shall be applicable to all claims that are filed after the effective date of this amendment.

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§ 272.4 Program administration and personnel requirements.

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(f) *Court suit reporting.* (1) State agency responsibility.

(i) In the event that a State agency is sued by any person(s) in a State or Federal Court in any matter which involves the State agency's administration of the Food Stamp Program, the State agency shall immediately notify FNS that suit has been brought and shall furnish FNS with copies of the original pleadings. State agencies involved in suits shall, upon request of FNS, take such action as is necessary to join the United States and/or appropriate officials of the Federal Government, such as the Secretary of USDA or the Administrator of FNS, as parties to the suit. FNS may request to join the following types of suits:

(A) Class action suits;

(B) A suit in which an adverse decision could have a national impact;

(C) A suit challenging Federal policy such as a provision of the Act or regulations or an interpretation of the regulations; or,

(D) A suit based on an empirical situation that is likely to recur.

(ii) FNS may advise a State agency to seek a settlement agreement of a court suit if the State agency is being sued because it misapplied Federal policy in administering the Program.

(iii) State agencies shall notify FNS when court cases have been dismissed or otherwise settled. State agencies shall also provide FNS with information that is requested regarding the State agency's compliance with the requirements of court orders or settlement agreements.

(2) FNS shall notify all State agencies of any suits brought in Federal court that involve FNS' administration of the Program and which have the potential of affecting many State agencies' Progam operations. (State agencies need not be notified of suits brought in Federal Court involving FNS' administration of the Program which may only affect Program operations in one or two States.) The notification provided to State agencies shall contain a description of the Federal policy that is involved in the litigation.

[91 Stat. 958 (7 U.S.C. 2011–2027)]

PART 276—STATE AGENCY LIABILITIES AND FEDERAL SANCTIONS

In Part 276, §§ 276.1, 276.2, 276.4 and 276.5 are added; § 276.3 is revised; § 276.6 is revised and renumbered § 276.7; and a new § 276.6 is added. With these additions and revisions Part 276 is revised to read as follows:

Sec.

276.1 Responsibilities and rights.
276.2 State agency liabilities.
276.3 Negligence or fraud.
276.4 Suspension/disallowance of administrative funds.
276.5 Injunctive relief.
276.6 Good cause.
276.7 Administrative review process.

Authority: 91 Stat. 958, (7 U.S.C. 2011–2027).

§ 276.1 Responsibilities and rights.

(a) *Responsibilities.* (1) State agencies shall be responsible for establishing and maintaining secure control over coupons and cash for which the regulations designate them accountable. Except as set forth in § 276.2(c)(iv), any shortages or losses of coupons or cash shall be a strict State agency liability and the State agency shall pay to FNS, upon demand, the amount of the missing coupons or cash regardless of the circumstances of the loss.

(2) State agencies shall be responsible for preventing losses of Federal funds in the certification of households for participation in the Food Stamp Program. If FNS makes a determination that there has been negligence or fraud on the part of a State agency in the certification of households for participation in the Food Stamp Program, FNS is authorized to bill the State agency for an amount equal to the amount of coupons issued as a result of the negligence or fraud.

(3) State agencies shall be responsible for efficiently and effectively administering the Program by complying with the provisions of the Act, the regulations issued pursuant to the Act, and the FNS-approved State Plan of Operation. A determination by FNS that a State agency has failed to comply with any of these provisions may result in FNS seeking injunctive relief to compel compliance and/or a suspension or disallowance of the Federal share of the State agency's administrative funds. FNS has the discretion to determine in each instance of noncompliance, whether to seek injunctive relief, to suspend or disallow administrative funds, to do both together, or to do each in sequence.

(b) *Rights.* State agencies have the right to appeal all claims brought against them by FNS and be afforded an

administrative review by a designee of

(iii) Overissuances resulting from a

projection is used, the methodology will

actions in sequence, depending on the statement in the warning.

(2) *Formal warning.* FNS shall issue a formal warning to a State agency if the

accordance with the procedures specified in § 276.7.

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administrative review by a designee of the secretary. State agencies also have the right to seek judicial review of any final administrative determination made by the secretary's designee.

§ 276.2 State agency liabilities.

(a) *General Provisions.* Notwithstanding any other provision of this subchapter, State agencies shall be responsible to FNS for any financial losses involved in the acceptance, storage and issuance of coupons. State agencies shall pay to FNS, upon demand, the amount of any such losses.

(b) *Coupon shortages, losses, unauthorized issuances and overissuances.* (1) State agencies shall be liable for coupon shortages and losses that occur after coupons have been accepted by receiving points within the State and that occur during the movement of coupons between bulk storage points and issuers within the State. State agencies shall also be liable for certain unauthorized issuances.

(2) Coupon shortages and/or losses for which State agencies shall be liable include, but are not limited to, shortages and losses due to the following:

(i) Thefts;

(ii) Embezzlements;

(iii) Cashier errors (e.g., errors by the personnel of issuance offices in the counting of coupon books);

(iv) Coupons lost in natural disasters if a State agency can not provide reasonable evidence that the coupons were destroyed and not redeemed; and,

(v) Unexplained causes.

(3) State agencies shall be liable for the following unauthorized issuances:

(i) The acceptance of expired ATP cards;

(ii) The acceptance of out-of-State ATP cards;

(iii) The acceptance of ATP cards lost by, stolen or embezzled from the State agency or from any point under agreement or contract with the State agency; and,

(iv) The duplicate issuance of benefits caused by State agency error in those circumstances where the duplicate issuances could have been prevented by the State agency.

(4) State agencies shall be liable for the following overissuances of coupons:

(i) Overissuances that occur due to State agency failure to comply with a directive, issued by FNS in accordance with the provisions of § 271.7, to reduce, suspend or cancel allotments;

(ii) Overissuances that occur as a result of a court order or settlement agreement of a courtsuit that was not reported to FNS in accordance with the provisions of § 272.4(f), and,

(iii) Overissuances resulting from a State agency entering into an out-of-court settlement of a courtsuit which violates Federal law or regulations.

(5) Coupon shortages and losses shall be determined from the Food Coupon Accountability Report (Form–250) and its supporting documents, and from the Reconcilation Report (Form FNS–46). Losses of Federal monies resulting from overissuances shall be determined from sources such as audits, Performance Reporting System reviews, Federal reviews and investigations.

(c) *Cash losses.* State agencies are liable to FNS for cash losses when money collected by State agencies from participant claims has been lost, stolen, or otherwise not remitted to FNS by the State agency in accordance with the provisions of § 273.18(f). The amount of such losses shall be determined from sources such as audits, Performance Reporting System reviews, Federal reviews and investigations.

(d) *State agency payment to FNS.* State agencies shall be billed for the exact amounts of losses specified in this section. If a State agency fails to pay the billing FNS may offset the amount of loss from the State agency's Letter of Credit in accordance with § 277.16(c).

§ 276.3 Negligence or fraud.

(a) *General.* If FNS determines that there has been negligence or fraud on the part of the State agency in the certification of applicant households, the State agency shall, upon demand, pay to FNS a sum equal to the amount of coupons issued as a result of such negligence or fraud.

(b) *Negligence provisions.* (1) FNS may determine that a State agency has been negligent in the certification of applicant households if a State agency disregards Food Stamp Program requirements contained in the Food Stamp Act, the regulations issued pursuant to the Act, the FNS-approved State Plan of Operation or the FNS-approved State Operating Guidelines and a loss of Federal funds results or a State agency implements procedures which deviate from food stamp requirements contained in the Food Stamp Act, the food stamp regulations, the FNS-approved State Plan of Operation or the FNS-approved State Operating Guidelines without first obtaining FNS approval, and the implementation of the procedures results in a loss Federal funds.

(2) In computing amounts of losses of Federal funds due to negligence, FNS may use actual, documented amounts or amounts which have been determined through the use of statistically valid projections. When a statistically valid projection is used, the methodology will include a 95 percent, one-sided confidence level.

(3) FNS will base it determinations of negligence on information drawn from any of a number of sources. These information sources include, but are not limited to, State and Federal Performance Reporting reviews, State and Federal audits and investigations, State corrective action plans and any required reports.

(4) Failure by the State agency to remit payment upon demand, within the specified time period, may result in FNS recovering the lost funds through offsets to the State agency's Letter of Credit, in accordance with § 277.16(c).

(c) *Fraud provisions.* For purposes of this subsection, the term fraud shall mean the wrongful acquisition or issuance of food coupons by the State agency or its officers, employees or agents, including issuance agents, through false representation or concealment of material facts. State agencies shall be liable to FNS for the amount of loss of Federal funds as a result of fraud. Failure by the State agency to remit payment on demand by FNS, within the time period specified, may result in offsets to the Letter of Credit in accordance with § 277.16(c).

§ 276.4 Suspension/disallowance of administrative funds.

(a) *General provisions.* (1) FNS shall make determinations of the efficiency and effectiveness of State agencies' administration of the Food Stamp Program in accordance with the provisions of § 275.25. When making such determinations, FNS shall use all information that is available relating to State agencies' administration of the Program. This information includes, but is not limited to, information received from Performance Reporting System reviews, Federal reviews, audits, investigations, corrective action plans, financial management reviews, and the public.

(2) FNS may determine a State agency's administration of the Program to be inefficient or ineffective if the State agency fails to comply with the food stamp requirements established by the Food Stamp Act, the regulations issued pursuant to the Act, or the FNS-approved State Plan of Operation.

(3) If FNS determines that a State agency's administration of the Program is inefficient or ineffective, FNS may warn the State agency that a suspension and/or disallowance of administrative funds is being considered. After a State agency receives a warning, FNS may either suspend or disallow administrative funds or take both

actions in sequence, depending on the statement in the warning.

(b) *Suspension.* A suspension of funds is an action by FNS to temporarily withhold all or a portion of the Federal share of one or more of the cost categories of a State agency's budget for administration of the Food Stamp Program. Suspensions of funds shall remain in effect until FNS determines that a State agency has taken adequate corrective action to correct the problem causing the suspension, in which event the suspension will be rescinded, or until FNS decides to disallow the suspended funds. FNS shall suspend funds in accordance with § 277.16.

(c) *Disallowance.* (1) A disallowance of funds is an action by FNS in which reimbursement is denied for otherwise reimbursable administrative costs claimed by a State agency in one or more of the cost categories of a State agency's budget for Program administration.

(2) In accordance with § 277.16, FNS has the option of disallowing funds in another cost category, or all or a portion of the entire Letter of Credit if the disallowance is based on a finding that the State agency failed to take a required action. FNS may disallow funds after previously suspending such funds or may disallow funds immediately following the expiration of the formal warning under the conditions specified in paragraph (e) of this section.

(d) *Warning process.* Prior to taking action to suspend or disallow Federal funds, except those funds which are disallowed when a State agency fails to adhere to the cost principles of Part 277 and Appendix "A", FNS shall provide State agencies with written advance notification that such action is being considered. If a State agency does not respond to such an advance notification to the satisfaction of FNS, FNS shall provide the State agency with a formal warning of the possibility of suspension or disallowance action. However, when a State agency fails to meet the objectives in an FNS-approved corrective action plan, FNS may omit the advance notification and immediately issue a formal warning.

(1) *Advance notification.* Immediately upon becoming aware that a deficiency or deficiencies in a State agency's administration of the Program may warrant the suspension and/or disallowance of Federal funds, FNS shall advise the State agency in writing of the deficiency and shall provide a specific period of time for correction of such deficiency or deficiencies. The time period allowed the State agency for corrective action will vary according to the nature of the deficiency.

(2) *Formal warning.* FNS shall issue a formal warning to a State agency if the State fails to correct to the satisfaction of FNS the deficiencies noted in an advance notification within the time specified in the advance notification. FNS may also issue a formal warning to a State agency without first issuing an advance notification if a State agency fails to comply with an FNS-approved corrective action plan.

(i) Formal warnings shall include the following information:

(A) Specific descriptions of the deficiencies, explaining how the State agency is out of compliance with Program requirements;

(B) A Statement as to whether Federal funds will be suspended, disallowed or both, if appropriate;

(C) The amount of Federal funds that will be suspended and/or disallowed or an estimate of the amount if actual cost are unavailable; and

(D) A statement of FNS' willingness to assist State agencies is resolving the deficiencies.

(ii) A State agency shall have 30 days from receipt of a formal warning to submit evidence that it is in compliance or to submit a corrective action proposal, including the date the State agency will be in compliance.

(iii) When the deficiency cannot be corrected within 30 dyas of receipt of a formal warning but the State agency submits an acceptable plan for correcting the deficiency, FNS shall hold the formal warning in abeyance pending completion of the actions contained in the plan within the time specified in the plan.

(iv) FNS shall cancel a formal warning when the State agency submits evidence that shows, to the satisfaction of FNS, that the deficiency has been eliminated.

(e) *Suspension/disallowance of funds.* The Administrator of FNS shall notify State agencies in writing by certified mail or through personal service that administrative funds are being suspended or disallowed. Such action may occur when any of the following situations arise:

(1) A State agency fails to respond to the deficiencies cited in a formal warning within 30 days of receiving the warning;

(2) The response by a State agency to the deficiencies cited in a formal warning is unsatisfactory to FNS; or

(3) A State agency fails to meet the commitments it made in its corrective action proposal and a formal warning had been held in abeyance pending completion of that corrective action.

(f) *Appeals.* After FNS has taken action to disallow Federal funds the State agency may request an appeal in accordance with the procedures specified in § 276.7.

§ 276.5 Injunctive relief.

(a) *General.* If FNS determines that a State agency has failed to comply with the Food Stamp Act, the regulations issued pursuant to the Act, or the FNS-approved State Plan of Operations, the Secretary may seek injunctive relief against the State agency to require compliance. The Secretary may request injunctive relief concurrently with negligence billings and sanctions against State agencies affecting administrative funds.

(b) *Requesting injunctive relief.* Prior to seeking injunctive relief to require compliance, FNS shall notify the State agency of the determination of noncompliance and provide the State agency with a specific period of time to correct the deficiency. The Secretary shall have the discretion to determine the time periods State agencies will have to correct deficiencies. If the State agency does not correct the failure within the specified time period and the Department decides to seek injunctive relief, the Secretary shall refer the matter to the Attorney General with a request that injunctive relief be sought to require compliance.

§ 276.6 Good cause.

(a) When a State agency has failed to comply with provisions of the Act, the regulations issued pursuant to the Act, or the FNS-approved State Plan of Operation, and, thus, is subject to the suspension/disallowance and injunctive relief provisions in §§ 276.4 and 276.5, FNS may determine that the State had good cause for the noncompliance. FNS shall evaluate good cause in these situations on a case-by-case basis, based on any one of the following criteria:

(1) Natural disasters or civil disorders that adversely affect Program operations;

(2) Strikes by State agency staff;

(3) Change in the Food Stamp Program or other Federal or State programs that result in a substantial adverse impact upon a State agency's management of the Program; and

(4) Any other circumstances in which FNS determines good cause to exist.

(b) If FNS determines that food cause existed for a State agency's failure to comply with required provisions and standards, FNS shall not suspend or disallow administrative funds nor seek injunctive relief to compel compliance with the provisions and standards.

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§ 276.7 Administrative review process.

(a) *General.* (1) Whenever FNS asserts a claim against a State agency, the State agency may appeal the claim by requesting an administrative review. FNS claims that may be appealed are billings resulting from financial losses involved in the acceptance, storage, and issuance of coupons (§ 276.2), billings based on charges of negligence or fraud (§ 276.3), and disallowances of Federal funds for State agency failures to comply with the Food Stamp Act, regulations, or the FNS-approved State Plan of Operations (§ 276.4).

(2) A State agency aggrieved by a claim shall have the option of requesting a hearing to present its position in addition to a review of the record and any written submission presented by the State agency. Unless circumstances warrant differently, hearings of appeals of negligence claims and disallowances of Federal funds shall be before an Appeals Board and hearings of appeals of other claims shall be before a single hearing official. In any case, the people reviewing the claim shall be people who were not involved in the decision to file the claim.

(b) *Notice of claim.* FNS shall provide a notice by certified mail or personal service when asserting claims against State agencies.

(c) *Filing an appeal.* A State agency aggrieved by claims asserted against it may file written appeals with the Secretary, U.S. Department of Agriculture, c/o the Executive Secretary, State Food Stamp Appeals Board, Food and Nutrition Service, USDA, Washington, D.C. 20250, requesting an opportunity to present information in support of its position. The State agency shall attach a copy of the FNS claim to its appeal. Appeals must be filed with the Executive Secretary or postmarked within 10 days of the date of delivery of the notice of claim. If the State agency does not appeal within the prescribed 10-day period, the FNS decision on the claim shall be final. No extension shall be granted in the time allowed for filing an appeal.

(d) *Computation of time.* In computing any period of time prescribed or allowed under these procedures, the day of delivery of any notice of action, acknowledgment, or reply shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or Federal or State holiday. In that case, the period runs until the end of the next day which is not a Saturday, Sunday or Federal or State holiday.

(e) *Stay of administrative action.* With one exception, the filing of a timely appeal and request for administrative review shall automatically stay the action of FNS to collect the claim asserted against the State agency until a decision is reached on the acceptability of the appeal, and in the case of an acceptable appeal, until a final determination has been issued. The exceptions to this provision are those claims that are asserted against State agencies due to State agency failure to comply with an order to reduce, suspend or cancel benefits in accordance with § 271.7. In situations where a State agency does not reduce, suspend or cancel benefits as directed and FNS takes action to disallow administrative funds or bill the State agency, the disallowance and/or billing shall remain in effect during the review process. Should the Appeals Board uphold the State agency, all disallowed funds and/or funds collected as a result of the billing shall be restored to the State agency promptly.

(f) *Acknowledging an appeal.* Upon receipt of an appeal and request for administrative review, the Executive Secretary shall provide the State agency with a written acknowledgment of the appeal, including a statement of whether or not the appeal is timely and can be accepted. A copy of each acknowledgment shall be provided to FNS. The acknowledgment of a timely and acceptable appeal and request for administrative review shall also include a copy of Secretary's Memorandum No. 2003, Revised, "State Food Stamp Appeals Board," and the identity of the Appeals Board member(s) designated by the Secretary to review the claim.

(g) *Submitting additional information.* (1) State agencies shall have 30 days from their request for an appeal to submit five sets of the following information to the Executive Secretary of the Appeals Board:

(i) A clear, concise identification of the issue or issues in dispute;

(ii) The State agency's position with respect to the issue or issues in dispute;

(iii) The pertinent facts and reasons in support of the State agency's position with respect to the issue or issues in dispute;

(iv) All pertinent documents, correspondence and records which the State agency believes are relevant and helpful toward a more thorough understanding of the issue or issues in dispute;

(v) The relief sought by the State agency;

(vi) The identity of the person(s) presenting the State agency's position when a hearing is involved; and

(vii) A list of prospective State agency witnesses when a hearing is involved.

(2) At the request of the Executive Secretary, FNS shall promptly submit five complete sets of all documents, correspondence and records compiled by FNS in support of its claim.

(3) The Executive Secretary shall provide each person hearing an appeal and FNS with a complete set of the State agency information when it is received. The Executive Secretary shall also provide each person hearing an appeal and the State agency with a complete set of the information supplied by FNS when it is received.

(h) *Scheduling and conducting hearings.* When a hearing is afforded, the Appeals Board or hearing official has up to 60 days from receipt of the State agency's information, outlined in § 276.7(g), to schedule and conduct the hearing. The Executive Secretary shall advise the State agency of the time, date and location of the hearing at least 10 days in advance of the hearing. The State agency is solely responsible for ensuring the attendance of all State agency witnesses at the hearing.

(1) A hearing is an informal proceeding designed to permit the State agency an opportunity to present its position before a neutral third party. Because the final determination is subject to judicial review and trial *de novo,* the Appeals Board and hearing official shall not be bound by the rules of civil procedure applicable in the court or by the adjudicatory requirements of the Administrative Procedures Act.

(2) The Appeals Board Chairman, his designee or the hearing official is the presiding officer at the hearing. The presiding officer shall have full authority to ensure a fair and impartial proceeding, avoid delays, maintain order and decorum, receive evidence, examine witnesses, and otherwise regulate the course of the hearing. The State agency may represent itself at the hearing or be represented by counsel.

(3) The Appeals Board or hearing official shall receive into evidence the oral testimony of State agency witnesses and any documents which are relevant and material. Neither the Department nor FNS is required to present witnesses at the hearing. However, the Department and FNS shall make staff available to provide any information or clarification requested by the Appeals Board or hearing official. Under no circumstances shall the Department or FNS introduce new evidence at the hearing. Departmental and FNS staff, as well as State agency witnesses, shall be subject to examination by the Appeals Board or hearing official. Departmental and FNS staff shall not be subject to cross-examination by State agency representative or counsel. Likewise, State agency witnesses shall not be subject to cross-examination by Departmental or FNS staff. Each side shall be permitted to make a closing statement to the Appeals Board or hearing official upon completion of the taking of evidence and testimony.

(4) FNS and the State agency shall have the opportunity to submit additional written information to the Appeals Board or hearing official within 10 days after the close of the hearing. No new factual material may be introduced except as it directly relates to evidence or testimony presented at the hearing. Five complete sets of such information must be filed with the Executive Secretary or postmarked prior of the expiration of the 10-day deadline for it to be considered.

(5) An official verbatim transcript of each hearing shall be kept on file in the Office of the Executive Secretary for public inspection. A copy shall be furnished to FNS and the State agency. Anyone wishing to purchase a copy may make arrangements to do so with the commercial reporting service involved.

(i) *Final determination.* (1) When a hearing is afforded, a final determination shall be made within 30 days of the hearing, and the final determination shall take effect 30 days after delivery of the notice of this final decision to the State agency. When a hearing is not held, a final determination shall be made within 30 days after receipt of the State agency's information. The final determination shall take effect 30 days after delivery of the notice of the final decision to the State agency.

(2) The Appeals Board or hearing official shall either uphold the claim, deny the claim, or adjust the claim downward in such amounts and for such reasons as the Appeals Board or hearing official shall determine and declare. The final determination is not subject to reconsideration.

(j) *Judicial review.* State agencies aggrieved by the final determination may obtain judicial review and trial *de novo* by filing a complaint against the United States within 30 days after the date of delivery of the final determination, requesting the court to set aside the final determination. The final determination shall remain in effect during the period the judicial review is pending unless the court temporarily stays such administrative action pending disposition of the complaint.

(k) *Extension of time.* (1) No extension of time shall be permitted a State agency in which to file an initial request for an administrative review. All other requests from the State agency or from FNS for the extension of any deadline contained in § 276.7 of the Regulations or imposed by the Appeals Board or hearing official shall be granted only for good cause shown and only when received by the Executive Secretary before the expiration of the particular deadline involved. All requests for an extension shall be in writing. Filing a request for an extension stops the running of the prescribed period of time. When a request for an extension is granted, the requester shall be notified in writing of the amount of additional time granted. When a request is denied for being untimely or for cause, the requester shall be notified and the prescribed period of time shall resume from the date of denial.

(2) The Appeals Board or hearing official may grant itself such additional time as it may reasonably require to complete any of its assigned responsibilities. If the Appeals Board or hearing official does find it necessary to grant itself an extension of time, the Executive Secretary shall notify all parties in writing.

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance Program No. 10551 Food Stamp)

Dated: November 17, 1980.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 80-36181 Filed 11-20-80; 8:45 am]

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federal register

Friday
November 21, 1980

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards

subsequent to its publication date shall be made a part of every contract for performance of the described work

Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Minimum Wages for Federal and Federally-Assisted Construction; General Wage Determination Decisions, Modifications, and Supersedeas Decisions

Arizona, California, Florida, Kansas, Maryland, Mississippi, Missouri, Montana, Oregon, Texas, Virginia and Wisconsin.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arizona: AZ80–5116 ..... June 13, 1980.
California:
CA80–5135 ..... Oct. 3, 1980.
CA80–5110 ..... Mar. 14, 1980.
Mississippi: MS80–1079 ..... June 27, 1980.
Texas:
TX80–4018 ..... Mar. 14, 1980.
TX80–4032 ..... June 6, 1980.
TX80–4033 ..... May 16, 1980.
TX80–4034 ..... June 6, 1980.
TX80–4037 ..... May 16, 1980.
TX80–4077 ..... Oct. 10, 1980.
TX80–4078 ..... Do.
Virginia: VA78–3073 ..... Oct. 13, 1978.
Wisconsin: WI80–2079 ..... Sept. 5, 1980.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Florida: FL79–1069 (FL80–1061) ..... Apr. 20, 1979.
Kansas:
MO80–4030 (MO80–4091) ..... May 16, 1980.
MO80–4071 (MO80–4092) ..... Sept. 19, 1980.
Missouri:
MO80–4030 (MO80–4091) ..... May 16, 1980.
MO80–4071 (MO80–4092) ..... Sept. 19, 1980.
Montana:
MT80–5120 (MT80–5141) ..... June 27, 1980.
MT80–5121 (MT80–5142) ..... Do.
MT80–5122 (MT80–5143) ..... Do.
Oregon: OR80–5106 (OR–80–5145). ..... Feb. 8, 1980.

Cancellation of General Wage Determination Decision

This is to advise all interested parties that the Department of Labor intends to withdraw 14 days from the date of this notice the following general wage determination.

MD77–3036—Wicomico County, Maryland, dated March 4, 1977 in 42 FR 12613—Residential Construction

Signed at Washington, D.C. this 14th day of November 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

Modification Page 2

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #CA80-5110 - Mod. #6 (45 FR 16796 - March 14, 1980) Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California					
Change:					
POWER EQUIPMENT OPERATORS:					
Group 1:					
Area 1	$12.08	1.65*	3.00	1.55	.34
Area 2	14.08	1.65*	3.00	1.55	.34
Group 2:					
Area 1	12.49	1.65*	3.00	1.55	.34
Area 2	14.49	1.65*	3.00	1.55	.34
Group 3:					
Area 1	12.74	1.65*	3.00	1.55	.34
Area 2	14.74	1.65*	3.00	1.55	.34
Group 4:					
Area 1	13.39	1.65*	3.00	1.55	.34
Area 2	15.39	1.65*	3.00	1.55	.34
Group 5:					
Area 1	13.64	1.65*	3.00	1.55	.34
Area 2	15.64	1.65*	3.00	1.55	.34
Group 6:					
Area 1	13.02	1.65*	3.00	1.55	.34
Area 2	15.02	1.65*	3.00	1.55	.34
Group 7:					
Area 1	14.00	1.65*	3.00	1.55	.34
Area 2	16.00	1.65*	3.00	1.55	.34
Group 8:					
Area 1	14.52	1.65*	3.00	1.55	.34
Area 2	16.52	1.65*	3.00	1.55	.34

Modification Page 1

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. AZ80-5116 - Mod. #3 (45 FR 40424 - June 13, 1980) STATEWIDE ARIZONA					
CHANGE:					
Mason Tenders	$10.44	1.02	1.20		.06
Laborers:					
Northern, Central & Southern Areas - Tunnel & Shift Work:		1.02	1.20		.10
Fringe Benefits					
DECISION NO. CA80-5135 - Mod. # 1 (45 FR 65867 - October 3, 1980) Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California					
Change:					
PAINTERS:					
Area 3:					
Brush	$11.03	.80	1.00	1.10	.03
Brush or Roller (Swing Stage); Paperhangers; Spray (except rock)	11.28	.80	1.00	1.10	.03
Sandblasters	11.53	.80	1.00	1.10	.03
Steeplejack	12.53	.80	1.00	1.10	.03
SOFT FLOOR LAYERS:					
Area 3:	13.40	.90	.90	1.25	.09

Modification Page 3

DECISION NO. CA80-5110 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 9:					
Area 1	$14.78	1.65*	3.00	1.55	.34
Area 2	16.78	1.65*	3.00	1.55	.34
Group 10:					
Area 1	15.04	1.65*	3.00	1.55	.34
Area 2	17.04	1.65*	3.00	1.55	.34
Group 10A:					
Area 1	15.18	1.65*	3.00	1.55	.34
Area 2	17.18	1.65*	3.00	1.55	.34
Group 11:					
Area 1	15.39	1.65*	3.00	1.55	.34
Area 2	17.39	1.65*	3.00	1.55	.34
Group 11A:					
Area 1	16.75	1.65*	3.00	1.55	.34
Area 2	18.75	1.65*	3.00	1.55	.34
Group 11B:					
Area 1	17.09	1.65*	3.00	1.55	.34
Area 2	19.09	1.65*	3.00	1.55	.34
Group 11C:					
Area 1	17.46	1.65*	3.00	1.55	.34
Area 2	19.46	1.65*	3.00	1.55	.34

*Includes $.44 per hour to Pensioned Health and Welfare Fund.

Modification Page 4

DECISION NO. MS80-1079, Mod. #4
(45 FR 43594, June 27, 1980)

Bolivar, Forrest, Jones, Hancock, Harrison, Jackson, Pearle River, Issaquena, Sharkey, Sunflower, Washington, LeFlore, Lowndes, Yalobusha, and Warren counties, MS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Issaquena, Sharkey, Sunflower, and Washington counties					
Air conditioning/Heating mechanic	$6.63				
Bricklayer	8.00				
Carpenter	6.18				
Cement Masons	6.00				
Electricians	10.20				
Glaziers	5.41				
Ironworkers	7.21				
Laborers	3.84				
Painters: Brush	4.00				
Plasterers	6.00				
Plumbers & Pipefitters	8.39				
Power Equipment Operators:					
Bulldozer	5.00				
Crane	9.35				
Grader	5.50				
Roofers	6.00				
Sheet metal workers	6.31				
Soft floor layers	7.00				
Tile setters	7.00				
Truck drivers	3.84				

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

Modification Page 5

DECISION NO. TX80-4018 - MOD. #4 (45 FR 16828 - March 14, 1980) Cameron, Hidalgo, Starr & Willacy Counties, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Plumbers & pipefitters	$ 9.80	.57	.30		.07
DECISION NO. TX80-4032 - MOD. #8 (45 FR 38254 - June 6,1980) Bexar County, Texas					
CHANGE:					
Sheet metal workers	13.67	3%+.45	1.20		.09
DECISION NO. TX80-4033 - MOD. #7 (45 FR 32544 - May 16,1980) Bowie County, Texas					
CHANGE:					
Plumbers & pipefitters:					
Within a 25 mile radius of Texarkana	13.85	.68	.70		.05
Outside a 25 mile radius of Texarkana	14.25	.68	.70		.05
DECISION NO. TX80-4034 - MOD. #5 (45 FR 38255 - June 6,1980) Brazos County, Texas					
CHANGE:					
Plumbers	15.12	.75	.80		.10

Modification Page 6

DECISION NO. TX80-4037 - MOD. #5 (45 FR 32545 - May 16,1980) Lubbock County, Texas	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Painters:					
Brush	$ 9.55				
Spray; sandblasters	10.30				
DECISION NO. TX80-4077 - MOD. #1 (45 FR 67538 - October 10, 1980) Galveston & Harris Cos., Texas					
CHANGE:					
Painters:					
East Harris County:					
Group 1	14.58				
Group 2	14.935				
Group 3	14.675				
Group 4	14.83				
Group 5	14.975				
Group 6	15.24				
Plumbers	15.12	.75	.80		.10
DECISION NO. TX80-4078 - MOD. #2 (45 FR 67537 - October 10, 1980) Travis County, Texas					
CHANGE:					
Sheet metal workers	13.67	3%+.45	1.20		.09
Power equipment operators:					
Group 1	12.29		.55		.05
Group 2	11.22		.55		.05
Group 3	10.00		.55		.05
Group 4	9.89		.55		.05

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Modification Page 7

DECISION NO. TX80-4078 (CONT'D)

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - Heavy duty mechanic; Blade grader - self-propelled; Crawler dozers or loaders; Derricks, power operated (all types); Dragline; Cableway; Backhoe; Crane, power operated (all types); Elevating grader, self-propelled; Hoist, motor driven, two drums or more; Mix mobile; High-lifts and loaders, over 1/3 cu. yd. capacity; Winch truck; Locomotive; Mixer, 14 cu. ft. or over; Paving mixer (all sizes); Scraper; Trenching machine (all sizes); Gradall; Foundation boring machine; Scoopmobile; Shovel, power operated; Pump crete machine; Rock crusher operated on job; Well points including installations; Riding compactor; Forklift over 1500 lb. capacity; Flat wheel rollers (60" & over); Pneumatic rollers (10 tons & above)
GROUP 2 - Blade grader, towed; Flex plane; Form grader; Mixer, less than 14 cu. ft.; Pulsometer; Conventional truck crane driver and oiler; Combination man; Hoist, single drum; Pneumatic roller; High-lifts and loaders, 1/3 cu. yd. or less; Forklift, 1500 lb. capacity or less
GROUP 3 - Fireman
GROUP 4 - Oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision No. VA78-3073-Mod. #8 (43 FR 47445-October 13, 1978) Radford Army Ammunition Plant, Virginia					
CHANGE:					
ASBESTOS WORKERS	$10.88	.80	.80		.01
DECISION NO. WI80-2079 - MOD. #3 (45 FR 59112 - September 5, 1980) Kenosha County, Wisconsin					
Change:					
Electricians	$ 14.50	.51	3%	.45	3/4%

SUPERSEDEAS DECISION

STATE: Florida COUNTY: Leon
DECISION NUMBER: FL80-1083 DATE: Date of Publication
Supersedes Decision No. FL79-1069 dated April 20, 1979 in 44 FR 23735
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
A/C HEATING MECHANICS	$6.49				
BRICKLAYERS/BLOCKMASONS	8.50				
CARPENTERS	8.05	.30	.25		.03
ELECTRICIANS	10.05	.55	3%		.5%
GLAZIERS	6.50				
LABORERS	4.25	.20			
PAINTERS	4.82				
PLUMBERS/PIPEFITTERS	7.00				
ROOFERS	5.25				
SHEET METAL WORKERS	8.30	.90	.60	.25	.10
SPRINKLER FITTERS	11.36	.75	1.05		.10
WELDERS - Rate for Craft					
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).					

SUPERSEDEAS DECISION

STATE: Missouri & Kansas COUNTIES: Cass, Clay, Jackson, Platte, Ray, Henry, Johnson & Lafayette Counties, Missouri; Johnson & Wyandotte Counties, Kansas
DECISION NO: MO80-4091 DATE: Date of Publication
Supersedes Decision No. MO80-4030 dated May 16, 1980 in 45 FR 32537
DESCRIPTION OF WORK: Building Projects, (excluding single family homes and apartments up to and including 4 stories) and heavy and highway construction in Johnson and Wyandotte Counties, Kansas only.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.27	.60	1.55		.05
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS AND STONEMASONS	12.59	.95	.35	1.50	
CARPENTERS:					
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte and Ray Counties, Missouri Johnson and Wyandotte Counties, Kansas					
Carpenter, Millwrights and Piledrivermen	12.80	.50	.50		.07
Zone 2 - Henry County, Missouri					
Carpenters	12.05	.50	.50		.07
Millwrights and Pile-drivermen	12.80	.50	.50		.07
Zone 3 - Johnson County, Missouri					
Carpenters	12.425	.60	.50		.07
Millwrights & Pile-drivermen	12.80				
CEMENT MASONS (Building Construction)					
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte and Ray Counties, Missmuri Johnson and Wyandotte Counties, Kansas					
Cement Masons	13.675	.80	.70		
Zone 2 - Henry and Johnson Counties, Missouri	11.68				
CEMENT MASONS (Heavy and Highway Construction:					
Johnson & Wyandotte Counties, Kansas	13.17	.80	.70		

DECISION NO. MO80-4091 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Zone 1 - Western half of Clay and Jackson Counties, Missouri not including Blue Springs; Northern half of Platte County, Missouri; Northwestern portion of Cass County, Missouri not including Pleasant Hill:					
Electricians	14.68	.69	3%+.90	7%	.12
Zone 2 - Henry, Johnson and Lafayette Counties, Missouri and remainder of Clay, Jackson, Platte and Cass Counties, Missouri					
Electricians (contracts exceeding 2000 man hours	14.68	.69	3%+.90	7%	.12
Electricians (contracts not exceeding 2000 man hours	13.68	.69	3%+.90	7%	.12
Zone 3 - Ray County, Missouri:					
Electricians (contracts exceeding 2000 man hours	14.68	.69	3%+.90	7%	.12
Electricians (contracts not exceeding 2000 man hours	13.08	.69	3%+.90	7%	.12
Zone 4 - Johnson and Wyandotte Counties, Kansas	14.68	.69	3%+.90	7%	.12
ELEVATOR CONSTRUCTORS	14.135	1.195	.95	8%+a	
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.195	.95	8%+a	

FOOTNOTES: - a-Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 7 paid holidays.

DECISION NO. MO80-4091 Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS	11.18	.61	1.04	19.7%	.04
IRONWORKERS	12.35	.80	1.50	1.00	.05
LABORERS:					
Building Construction					
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte and Ray Counties, Missouri; Johnson and Wyandotte Counties, Kansas					
Group 1	11.25	.45	.40		.10
Group 2	11.40	.45	.40		.10
Group 3	11.55	.45	.40		.10

CLASSIFICATION DEFINITIONS

LABORERS
Group 1 - General labor; wiremesh handlers or setters; carpenter tender; track men; flagmen; signalmen; salamander tenders; window cleaners; floor cleaners; landscape man; sod layers; wrecker (for alterations or entire projects)
Group 2 - Plumber laborers (conduit pipe, sewer work, drain tile and duct lines, digging and power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer, and chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch winch operators; swinging scaffolds cutting torch or burner man; goergia buggies (self-propelled) fork lift; hoseman; insulation man
Group 3 - Fork lift (masonry); brick tender; plasterer tender; stonemasons tender (includes all hod carriers classifications previously shown as mortar men and scaffolding) Barco, Jackson or similar tamp operators; asphalt rakers; powder men; mastic hot kettle men; sandblasting and gunnite nozzlemen; wagon and churn drill operators

DECISION NO. MO80-4091 Page 4

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone 3 - Henry and Johnson Counties, Missouri					
Group 1	$8.725	.60	.60		.10
Group 2	8.825	.60	.60		.10
Group 3	9.05	.60	.60		.10

CLASSIFICATION DEFINITIONS

LABORERS:
Group 1 - Carpenter tenders, track men, wreckers (alteration or entire projects); reinforcing rod carriers; flagmen; signal men; all other general laborers
Group 2 - Plumber laborers; stonemason tenders; air tool operators, sewer work, water lines, conduit pipe, drain tile and duct lines; batter board man or pipe & ditch work; pier hole men working below ground; vibrator man; jackhammer & chipping hammer operators; material batch hopper man; scaleman; spreader or screed man on asphalt machine; chain or concrete sawman; brush feeders on pulverizers; swinging scaffold; cement handlers (buck or sack); laser beam man
Group 3 - Plasterer tenders; hod carriers; brick tender; cutting torch & burner men; asphalt rakers; barco tamper; jackson or any similar tamps; power buggy operator; powderman; mastic kettlemen; sandblasting & gunnite nozzlemen; head pipe layer on sewer work; men working in tunnels; head form setters & stringline men; hot tar applicator

LABORERS:					
Site preparation and grading, Heavy and Highway Construction					
Zone 4 - Johnson and Wyandotte Counties, Kansas					
Group 1	10.50	.60	.60	1.00	.10
Group 2	10.65	.60	.60	1.00	.10
Group 3	10.80	.60	.60	1.00	.10
Group 4	11.00	.60	.60	1.00	.10
Group 5	11.30	.60	.60	1.00	.10

DECISION NO. MO80-4091 Page 5

CLASSIFICATION DEFINITIONS

LABORERS:
Group 1 - Carpenter tenders; salamander tenders; dump man and ticket takers on stock piles; flagman; loading trucks under bins, hoppers and conveyors track men and all other general laborers
Group 2 - Air tool operators; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checkers cuts and fills; georgie buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pier hole men working below ground); riprap pavers rock, block or brick; signalman; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gas gasoline, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter helpers; puddlers (paving only)
Group 3 - Crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working underground tunnels where compressed air is not used
Group 4 - Spreader or screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any similar tamp wagon driller; churn drills; air track drills and all other similar drills; form setters; cutting torch man; liners and stringline man on concrete paving, curbs, gutters and etc.; hot mastic kettleman; hot tar applicator; hand blade operator; manhole builders helpers and mortar men on brick or block manholes; sandblasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels
Group 5 - Manhole builder (brick or block); dynamite and powder man

DECISION No. MO80-4091 Page 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	$12.55	.40			
LINE CONSTRUCTION:					
Zone 1 - Cass, Clay, Jackson, Platte, and Ray Counties, Missouri; Wyandotte and remainder of Johnson Counties, Kansas					
Linemen	15.75	.45	3%+.25		1%
Lineman Operator	14.66	.45	3%+.25		1%
Groundman	10.38	.45	3%+.25		1%
Zone 2 - Western 3/4 of Johnson County, Kansas					
Linemen	13.07	.45	3%		1%
Cable Splicers	13.72	.45	3%		1%
Groundman	8.13	.45	3%		1%
Powderman	10.83	.45	3%		1%
Line Truck and equipment operators	10.83	.45	3%		1%
MARBLE AND TILE SETTERS	13.45	5%	5%		
Marble & tile setters' finishers	10.85				
PAINTERS:					
Zone 1 - Cass, Clay, Henry, Jackson, Johnson (excluding Whiteman Air Force Base), Lafayette, Platte and Ray Counties, Missouri; Johnson and Wyandotte Counties, Kansas					
Brush and tapers	12.19	.55	.70		.08
Spray	13.19	.55	.70		.08
Zone 2 - Johnson Co., Missouri (Whiteman Air Force Base only)					
Brush	11.25				
Spray	12.25				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Zone 1 - Cass, Clay, Jackson, Lafayette, Platte and Ray Counties, Missouri, Johnson and Wyandotte Counties, Kansas	$14.45				
Zone 2 - Henry and Johnson Counties, Missouri	9.00				
PIPEFITTERS	14.54	.72	1.60		.10
PLUMBERS	14.52	1.12	1.20		.12
POWER EQUIPMENT OPERATORS:					
Building Construction					
Group I	13.10	.85	1.00	1.05	.15
Group II	12.75	.85	1.00	1.05	.15
Group III:					
(a)	9.75	.85	1.00	1.05	.15
(b)	10.85	.85	1.00	1.05	.15
(c)	10.35	.85	1.00	1.05	.15
(d)	11.10	.85	1.00	1.05	.15
Group IV	13.35	.85	1.00	1.05	.15
Group V	13.00	.85	1.00	1.05	.15
Group VI	13.60	.85	1.00	1.05	.15
Group VII:					
(a)	12.85	.85	1.00	1.05	.15
(b)	12.60	.85	1.00	1.05	.15
(c)	10.60	.85	1.00	1.05	.15
Group VIII	14.10	.85	1.00	1.05	.15
Group IX	13.60	.85	1.00	1.05	.15

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

Group I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe; barber-greene loader; blade-power; boats-power; boilers (2); boring machines; cableways; cherry pickers; chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist, endless chain-power operated with power travel; loaders; mechanic and welder; mucking machine; orange peels; pumps - material; push cats; scoops; self-propelled rotary drill; shovel, power; side boom; skimmer scoop; testhole machine; throttle man

GROUP II Boilers (1); Brooms - power operated; chip spreader (front man); clef plane operator; corpressors (1) 125' or over; concrete saws, self-propelled; crab - power operated; curb finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser; hoist, endless chain - power operated; hopper - power operated; hydra hammer; lad-a-vator - similar type; rollers; siphons, jets, and jennies, sub-grader; tractors over 50 h.p.; compressors (2) 125' ft. or over not more than 20' apart; compressors-tandem; compressors sigle, truck mounted; elevator; finishing machine

Group III -
(a) Oilers
(b) Fork lift-masonry
(c) Oiler driver
(d) A-frame trucks; fork lift-all types (except masonry); mixers (w/side loaders); purps (w/well points) dewatering systems, test or pressure pumps; tractors (except when hauling material)less than 50 h.p.

Group IV -
Clamshells, 80 ft. of boom or over (incl. jib); crane or rigs, 80 ft. of boom or over (incl.jib); draglines, 80 ft. of boom or over (incl. jib); pile drivers, 80 ft, of boom or over (incl. jib)

Group V
Hoists-each additional drum over 1 drum

Group VI
Crane or rigs, over 200 ft. of boom

Group VII
Ready Mixed Concrete Plants;
(a) Crane operator
(b) Loader operator & plant man
(c) Conveyor Operator

Group VIII
Master Mechanic

Group IX
Crane-tower or climbing

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS (Cont'd):					
Site preparation and grading, Heavy and Highway Construction					
Zone 1 - Johnson and Wyandotte Counties, Kansas					
Group I	12.45	.85	1.00	1.05	.15
Group II	12.20	.85	1.00	1.05	.15
Group III	11.50	.85	1.00	1.05	.15
Group IV					
(a)	9.03	.85	1.00	1.05	.15
(b)	10.50	.85	1.00	1.05	.15
Group V	12.70	.85	1.00	1.05	.15
Group VI	12.45	.85	1.00	1.05	.15

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

Group I - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, all types; boilers - 2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator - 2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drillcat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader - fork lift; hoistline engine - 2 active drums; locomotive operator, standard gauge; mechanics and welders; maintenance operator; mucking machine; pile driver operator; pitman crane operator; pump - 2; push cat op.; quad-track; scoop operator - all types; scoops in tandem; self-propelled rotary drill (leroy or equal - not mir trac); shovel operator; side discharge spreader; sideboom cats; skimmer scoop operator; slip - form paver (CMI, REX, or equal); throttle man; truck crane; welding machine maintenance operator - 2

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS - (CONT'D)

Group II - A-frame truck, asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; back filler operator; chip spreader; concrete batch plant, dry-power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator; elevating grader; greaser; hoisting engine - 1 drum; latourneau rooter; multiple compactor; pavement breaker, self-propelled, of the hydra-hammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator tractor operator over 50 h.p.

Group III - Boilers - 1; chip spreader (front man); churn drill operator; compressor maintenance operator - 1; concrete saws, self-propelled; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator - combination boiler and booster; tractor, 50 h.p. or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator -1

Group IV
(a) Oilers
(b) Oiler driver, all types

Group V - Clamshells, 3 yds. capacity or over; crane or rigs, 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; piledrivers, 80 ft. of boom or over (including jib); shovels & backhoes, 3 yds. capacity or over

Group VI - Hoists (each additional drum over 1 drum)

Men working in tunnels or shafts (not air shafts or coffer dams) of twenty-five (25) ft or more in length or depth will be paid fifty cents (50¢) per hour above the regular classification.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers	$13.05	.75	.75		.14
SHEET METAL WORKERS	12.73	.75	1.20		.10
SOFT FLOOR LAYERS	10.53	.60	.85	1.00	1%
SOUND AND SIGNAL INSTALLER	9.69	.54	.27	.78	.02
SPRINKLER FITTERS	14.83	.85	1.20		.06
SPRINKLER FITTERS (Henry, Johnson and Lafayette Counties, Missouri)	14.20	.85	1.20		.08
TERRAZZO WORKERS	12.31	5%	4.25%		
TRUCK DRIVERS:					
Building Construction:					
Group I	10.925	.75	1.00		
Group II	10.975	.75	1.00		
Group III	11.05	.75	1.00		
Group IV	11.175	.75	1.00		
Group V	11.075	.75	1.00		
Group VI	11.275	.75	1.00		
Group VII	11.125	.75	1.00		
Group VIII	11.025	.75	1.00		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS
Group I - Warehousemen and stock man
Group II - Flat beds; pick-ups; drum trucks, under 10 yds.
Group III - Dump trucks, 10 yds. and over; steel trucks; semi truck drivers
Group IV - Straddle trucks, steel tractors (when used for towing); hydro lift trucks, hydraulically operated serial lifts; heavy hauling, a-frame winch and fork lifts; heavy excavating (dumpter, euclid, etc.); double bottom units (20 tons capacity and over)
Group V - Distributor truck drivers and operators; oilers, greasers and mechanics' helpers
Group VI - Mechanics
Group VII - Transit mix, 5 yds. and over
Group VIII - Transit mix, under 5 yds.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Site preparation and grading, Heavy and Highway Construction					
Zone 1 - Johnson and Wyandotte Counties, Kansas					
Group I	10.91	1.00	1.25	.75	
Group II	11.11	1.00	1.25	.75	
Group III	11.42	1.00	1.25	.75	
Group IV	11.57	1.00	1.25	.75	
Group V	10.69	1.00	1.25	.75	

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS
Group I - One team; station wagons; pickup trucks; material trucks, single axle; tank wagon drivers, single axle
Group II - Material trucks, tandem; two teams; semi-trailers; winch trucks - fork trucks; distributor drivers and operators; agitator and transit mix; tank wagon drivers, single axle; tank wagon drivers tandem or semi-trailers; insley wagons; dump trucks, excavating, 5 cu. yds. and over; dumpsters; half-tracks; speedace; euclids and other similar excavating equipment
Group III - A-frame, lowboy, and boom truck driver
Group IV - Mechanics and welders
Group V - Mechanics' helpers, oilers and greasers

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Missouri & Kansas
COUNTIES: Cass, Clay, Jackson Platte & Ray Missouri; Johnson & Wyandotte, Kansas
DECISION No. MO80-4092
DATE: Date of Publication
Supersedes Decision No. MO80-4071 dated September 19, 1980 in 45 FR 62667
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	13.27	.60	1.55		.05
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS & STONEMASONS	12.59	.95	.35	1.50	
CARPENTERS, MILLWRIGHTS, PILEDRIVERMEN	12.30	.60	.50		.07
CEMENT MASONS	12.675	.80	.70		
ELECTRICIANS:					
Up to and including 3 stories:					
ZONE 1 - Johnson County, Kansas (that portion of Johnson County west of Aubry, Oxford & Shawnee Twps.)	9.70	.45	3%+.50		.05
ZONE 2 - Cass, Clay, Jackson, Platte & Ray Counties, Missouri; & Wyandotte County, Kansas; & remainder of Johnson County, Kansas	10.32	.69	3%+.70	7%	.12
ELECTRICIANS (4 stories):					
ZONE 1 - Western half of Clay & Jackson Counties, Missouri not including Blue Springs; Northern half of Platte County; Northwestern portion of Cass County, Missouri, not including Pleasant Hill	14.68	.69	3%+.90	7%	.12
ZONE 2 - Remainder of Cass Clay, Jackson & Platte Counties, Missouri: Electricians (contracts exceeding 2000 man hours)	14.68	.69	3%+.90	7%	.12

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS (4 stories): (Cont'd)					
ZONE 3 - Electricians (contracts not exceeding 2000 man hours	13.58	.69	3%+.90	7%	.12
ZONE 4 - Ray County, Missouri; Electricians (contracts exceeding 2000 man hours	14.68	.69	3%+.90	7%	.12
Electricians (contracts not exceeding 2000 man hours	13.08	.69	3%+.90	7%	.12
ELEVATOR CONSTRUCTORS	14.135	1.195	.95	8%+a	.035
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	1.195	.95	8%+a	.035

FOOTNOTES: - a-Employer contributes 8% of basic hourly rate for over 5 years of service and 6% of basic hourly rate for 6 months to 5 years service as Vacation Pay Credit. Also 7 paid holidays.

GLAZIERS	11.18	.61	1.04	19.7%	.04
IRONWORKERS	12.35	.80	1.50	1.00	.05
LABORERS:					
Building Construction:					
ZONE 1 - Cass, Clay, Jackson & Platte Counties, Missouri; Johnson & Wyandotte Counties, Kansas					
GROUP I	11.25	.45	.40		.10
GROUP II	11.40	.45	.40		.10
GROUP III	11.55	.45	.40		.10
ZONE 2 - Ray County, Missouri					
GROUP I	10.55	.45	.40		.10
GROUP II	10.70	.45	.40		.10
GROUP III	10.85	.45	.40		.10

DECISION NO. MO80-4092

CLASSIFICATION DEFINITIONS

LABORERS
GROUP I - General labor; wiremesh handlers or setters; carpenter tender; track men; flagmen; signalmen; salamander tenders; window cleaners; floor cleaners; landscape man; sod layers; wrecker (for alterations or entire projects).
GROUP II - Plumber laborers (conduit pipe, sewer work, drain tile and duck lines, digging and backfilling), power tool operators; pier hole diggers (over 10 ft.); vibrator, jackhammer, and chipping hammer operators; chain saw operators; concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch winch operators; swinging scaffolds cutting torch or burner men; georgie buggies (self-propelled) fork lift; hosemen; insulation man.
GROUP III - Fork lift (masonry); brick tender; plaster tender; stonemasons tender (includes all hod carriers classifications previously shown as mortar men and scaffolding) Barco, Jackson or similar tamp operators; asphalt rakers; power men; mastic hot kettle men; sandblasting and gunnite nozzlemen; wagon and churn drill operators.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Site Preparation & Grading ZONE 3 - Johnson & Wyandotte Counties, Kansas; Site preparation, Incidental paving & utilities Clay, Jackson, Platte & Ray Counties, Missouri					
GROUP I	10.50	.60	.60	1.00	.10
GROUP II	10.65	.60	.60	1.00	.10
GROUP III	10.80	.60	.60	1.00	.10
GROUP IV	11.00	.60	.60	1.00	.10
GROUP V	11.30	.60	.60	1.00	.10

DECISION NO. MO80-4092

CLASSIFICATION DEFINITIONS

LABORERS:
GROUP I - Carpenter tenders; salamander tenders; dump man and ticket takers on stock piles; flagman; loading trucks under bins, hoppers and conveyors track men and all other general laborers.
GROUP II - Air tool operators; cement handler (bulk or sack); chain or concrete saw; deck hands; dump man on earth fill; grade checker on cuts and fills; georgie buggies man; material batch hopper man; scale man; material mixer man (except on manholes, coffer dams, abutments and pier hole men working below ground); riprap pavers rock, block or brick; signalman; scaffolds over 10 ft. not self-supported from ground up; skipman on concrete paving; vibrator man; wire mesh setters on concrete paving; all work in connection with sewer, water, gasoline, oil, drainage pipe, conduit pipe, tile and duct lines and all other pipe lines; power tool operator; all work in connection with hydraulic or general dredging operations; form setter helpers; puddlers (paving only).
GROUP III - Crusher feeder; men handling creosote ties or creosote materials; men working with and handling epoxy material or materials (where special protection is required); head pipe layer on sewer work; topper of standing trees; batter board man on pipe and ditch work; feeder man on wood pulverizers; board and willow mat weavers and cable tiers on river work; all laborers working underground tunnels where compressed air is not used.
GROUP IV - Spreader or screed man on asphalt machine; asphalt raker; laser beam man; barco tamper; jackson or any similar tamp wagon driller; churn drills; air track drills and all other similar drills; form setters; cutting torch man; liners and stringline man on concrete paving, curbs, gutters and etc.; hot mastic kettleman; hot tar application; hand blade operator; manhole builders-tenders and mortar men on brick or block manholes; sandblasting and gunnite nozzlemen; rubbing concrete; air tool operator in tunnels.
GROUP V - Manhole builder (brick or block); dynamite and powder man.

DECISION NO. MO80-4092

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS	12.55	.40			
MARBLE & TILE SETTERS	13.45	5%	5%		
MARBLE & TILE SETTERS FINISHERS	10.85				
PAINTERS:					
Brush & roller	11.69	.55	.70		.08
Spray	12.69	.55	.70		.08
PLASTERERS	14.45				
PIPEFITTERS	14.54	.72	1.60		.10
PLUMBERS	14.52	1.12	1.20		.12
POWER EQUIPMENT OPERATORS:					
Building Construction (Zone 1)					
GROUP I	13.10	.85	1.00	1.05	.15
GROUP II	12.75	.85	1.00	1.05	.15
GROUP III					
(a)	9.75	.85	1.00	1.05	.15
(b)	10.85	.85	1.00	1.05	.15
(c)	10.35	.85	1.00	1.05	.15
(d)	11.10	.85	1.00	1.05	.15
GROUP IV	13.35	.85	1.00	1.05	.15
GROUP V	13.00	.85	1.00	1.05	.15
GROUP VI	13.60	.85	1.00	1.05	.15
GROUP VII:					
(a)	12.85	.85	1.00	1.05	.15
(b)	12.60	.85	1.00	1.05	.15
(c)	10.60	.85	1.00	1.05	.15
GROUP VIII	14.10	.85	1.00	1.05	.15
GROUP IX	13.60	.85	1.00	1.05	.15

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS
Group I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe; barber-greene loader; blade-power; boats-power; boilers (2); boring machines; cableways; cherry pickers; chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist, endless chain-power operated with power travel; loaders; mechanic and welder; mucking machine; orange peels; pumps - material; push cats; scoops; self-propelled rotary drill; shovel, power; side boom; skimer scoop; testhole machine; throttle man
Group II Boilers (1); Brooms - power operated; chip spreader (front man); clef plane operator; compressors (1) 125' or over; concrete saws, self-propelled; crab - power operated; curb finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser; hoist, endless chain - power operated; hopper - power operated; hydra hammer; lad-a-vator - similar type; rollers; siphons, jets, and jennies; sub-grader; tractors over 50 h.p.; compressors (2) 125' ft. or over not more than 20' apart; compressors-tandem; compressors sigle, truck mounted; elevator; finishing machine
Group III -
(a) Oilers
(b) Fork lift-masonry
(c) Oiler driver
(d) A-frame trucks; fork lift-all types (except masonry); mixers (w/side loaders); pumps (w/well points) dewatering systems, test or pressure pumps; tractors (except when hauling material)less than 50 h.p.
Group IV -
Clamshells, 80 ft. of boom or over (incl. jib); crane or rigs, 80 ft. of boom or over (incl.jib); draglines, 80 ft. of boom or over (incl. jib); pile drivers, 80 ft, of boom or over (incl. jib)
Group V
Hoists-each additional drum over 1 drum
Group VI
Crane or rigs, over 200 ft. of boom
Group VII
Ready Mixed Concrete Plants:
(a) Crane operator
(b) Loader operator & plant man
(c) Conveyor Operator
Group VIII
Master Mechanic
Group IX
Crane-tower or climbing

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DECISION NO. MO80-4092

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Site preparation & grading Johnson & Wyandotte Counties, Kansas; Site preparation, Incidental paving & utilities Clay, Jackson, Platte & Ray Counties, Missouri					
(Zone 2)					
GROUP I	12.45	.85	1.00	1.05	.15
GROUP II	12.20	.85	1.00	1.05	.15
GROUP III	11.50	.85	1.00	1.05	.15
GROUP IV					
(a)	9.03	.85	1.00	1.05	.15
(b)	10.50	.85	1.00	1.05	.15
GROUP V	12.70	.85	1.00	1.05	.15
GROUP VI	12.45	.85	1.00	1.05	.15

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS:
GROUP I - Asphalt paver and spreader; asphalt plant console operator; auto grader; backhoe; blade operator, all types; boilers-2; booster pump on dredge; boring machine (truck or crane mounted); bulldozer operator; clamshell operator; compressor maintenance operator-2; concrete plant operator, central mix; concrete mixer paver; crane operator; derrick or derrick trucks; ditching machine; dragline operator; dredge engineman; dredge operator; drill-cat with compressor mounted on cat; drilling or boring machine, rotary, self-propelled; high loader-fork lift; hoistline engine-2 active drums; locomotive operator, standard gauge; mechanics and welders; maintenance operator; mucking machine; pile driver operator; pitman crane operator; pump-2; push cat operator; quad-track; scoop operator-all types; scoops in tandem; self-propelled rotary drill (leroy or equal-not air trac); shovel operator; side discharge spreader; sideboom cats; skimmer scoop operater; slip-form paver (CMI, REX, or equal); throttle man; truck crane; welding machine maintenance operator-2.

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CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS-Zone 2 Cont'd
GROUP II - A-frame truck; asphalt hot mix silo; asphalt plant fireman, drum or boiler; asphalt plant mixer operator; asphalt plant man; asphalt roller operator; back filler operator; chip spreader; concrete batch plant, dry-power operated; concrete mixer operator, skip loader; concrete pump operator; crusher operator elevating grader; gresser; hoisting engine-1 drum; latourneau rooter; multiple compactor; pavement breaker, self propelled, of the hydra-hammer or similar type; power shield; pug mill operator; stump cutting machine; towboat operator tractor operator over 50 h.p..
GROUP III - Boilers-1; chip spreader (front man); churn drill operator; compressor maintenance operator-1; concrete saws, self-propelled; conveyor operator; distributor operator; finishing machine operator; fireman, rig; float operator; form grader operator; pump; pump maintenance operator, other than dredge; roller operator, other than high type asphalt; screening and washing plant operator; self-propelled street broom or sweeper; siphons and jets; sub-grading machine operator; tank car heater operator-combination boiler and booster; tractor, 50 h.p. or less, without attachments; vibrating machine operator, not hand; welding machine maintenance operator-1.
GROUP IV
(a) Oiler
(b) Oiler drivers, all types
GROUP V - Clamshells, 3 yds. capacity or over; crane or rigs, 80 ft. of boom or over (including jib); draglines, 3 yds. capacity or over; piledrivers, 80 ft. of boom or over (including jib); shovels & backhoes, 3 yds. capacity or over
GROUP VI - Hoists (each additional drum over 1 drum)

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DECISION NO. MO80-4092

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers	$13.05	.75	.75		.14
SHEET METAL WORKERS	12.73	.75	1.20		.10
SOFT FLOOR LAYERS	10.53	.60	.85	1.00	1%
SPRINKLER FITTERS	14.83	.85	1.20		.06
TERRAZZO WORKERS	12.31	5%	4.25%		
TRUCK DRIVERS:					
Building Construction:					
Zone 1					
GROUP I	10.925	.75	1.00		
GROUP II	10.975	.75	1.00		
GROUP III	11.05	.75	1.00		
GROUP IV	11.175	.75	1.00		
GROUP V	11.075	.75	1.00		
GROUP VI	11.275	.75	1.00		
GROUP VII	11.125	.75	1.00		
GROUP VIII	11.025	.75	1.00		

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS - Zone 1
GROUP I - Warehousemen and stock man.
GROUP II - Flat beds; pick-ups; dump trucks, under 10 yds..
GROUP III - Dump trucks, 10 yds. and over; steel trucks; semi truck drivers.
GROUP IV - Straddle trucks, steel tractors (when used for towing); hydro lift trucks, hydraulically operated serial lifts; heavy hauling, A-frame winch and fork lifts; heavy excavating (dumpster, euclid, etc.); double bottom units (20 tons capacity and over).
GROUP V - Distributor truck drivers and operators; oilers, greasers and mechanics' tenders.
GROUP VI - Mechanics.
GROUP VII - Transit mix, 5 yds. and over.
GROUP VIII - Transit mix, under 5 yds..

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DECISION NO. MO80-4092

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Site preparation & grading Johnson & Wyandotte Counties, Kansas; Site preparation, Incidental paving & Utilities Clay, Jackson, Platte & Ray Counties, Missouri					
Zone 2					
GROUP I	10.91	1.00	1.25	.75	
GROUP II	11.11	1.00	1.25	.75	
GROUP III	11.42	1.00	1.25	.75	
GROUP IV	11.57	1.00	1.25	.75	
GROUP V	10.69	1.00	1.25	.75	

CLASSIFICATION DEFINITIONS

TRUCK DRIVERS - Zone 2
GROUP I - One team; station wagons; pickup trucks; material trucks, single axle; tank wagon drivers, single axle.
GROUP II - Material trucks, tandem; two teams; semi-trailers; winch trucks-fork trucks; distributor drivers and operators; agitator and transit mix; tank wagon drivers; single axle; tank wagon drivers tandem or semi-trailers; insley wagons; dump trucks, excavating, 5 cu. yds. and over; dumpsters; half-tracks; speedace; euclids and other similar excavating equipment.
GROUP III - A-frame, lowboy, and boom truck driver.
GROUP IV - Mechanics and welders.
GROUP V - Mechanics tender, oilers and greasers.

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)."

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SUPERSEDEAS DECISION

STATE: Montana COUNTIES: Statewide
DECISION NUMBER: MT80-5141 DATE: Date of Publication
Supersedes Decisinn No. MT80-5120 dated June 27, 1980, in 45 FR 43598
DESCRIPTION OF WORK: Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BOILERMAKERS	$13.87	$1.375	$1.10		.05
CARPENTERS:*					
Area 1:					
Carpenters	11.13	.85	1.00		.04
Millwrights	12.13	.85	1.00		.04
Piledrivermen	11.38	.85	1.00		.04
CEMENT MASONS:					
Cement Masons	10.88	.85	.40		
Grinder, Bush Hammer and Clipping Fan preparing finished surface; Epoxy	11.03	.85	.40		
ELECTRICIANS:					
Area 1	14.35	.70	3%+.50		1/2%
Area 2:					
Electricians	14.22	.70	3%+.50		1/2%
Cable Splicers	14.67	.70	3%+.50		1/2%
Area 3:					
Contracts under $75,000:					
Electricians	13.20	.70	3%+.50		1/2%
Cable Splicers	13.86	.70	3%+.50		1/2%
Contracts over $75,000:					
Electricians	14.35	.70	3%+.50		1/2%
Cable Splicers	15.06	.70	3%+.50		1/2%
Area 4	13.20	.70	3%+.50		1/2%
Area 5:					
Electricians	14.35	.70	3%+.50		1/2%
Cable Splicers	15.06	.70	3%+.50		1/2%
Area 6	11.47		3%		1/2%
Area 7:					
Electricians	15.65	.70	3%+.50		1/2%
Cable Splicers	16.43	.70	3%+.50		1/2%
Area 8	12.70	.55	3%+.50		1/2%
Area 9	12.35	.50	3%+.50		1/2%
IRONWORKERS:					
Area 1	13.21	.90	1.45		.15
Area 2	15.36	.90	1.90		.10
Area 3	13.21	.90	1.45		.15

*See AREA Descriptions - following Page

AREA DESCRIPTIONS

CARPENTERS:
Area 1: Statewide excluding Beaverhead and Silver Bow Counties

ELECTRICIANS:
Area 1: Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Silver Bow and Power Counties

Area 2: Big Horn, Carbon, Carter, Dawson, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Treasure, Wibaux, and Yellowstone Counties

Area 3: Blaine, Chouteau, Daniels, Fergus, Glacier, Hill, Judith-Basin, Liberty, McCone, Petroleum, Pondera, Phillips, Richland, Roosevelt, Sheridan, Teton, Toole, Valley, and Wheatland Counties

Area 4: Broadwater, Lewis and Clark, and Meagher Counties

Area 5: Cascade County

Area 6: Custer and Garfield Counties

Area 7: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties

Area 8: Gallatin County

Area 9: Park and Sweet Grass Counties

IRONWORKERS:
Area 1: Beaverhead County, Broadwater County, Deer Lodge County, Gallatin County, Granite County, Jefferson County, Lewis and Clark County (southern half including Wolf Creek), Madison County, Park County, Powell County, Ravalli County, and Silver Bow County

Area 2: Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, and Sanders Counties

Area 3: Remaining Counties (including northern half of Lewis and Clark County)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:*					
Area 1:					
Brush or Roller, prep work, Pot Tender	$11.08	.59	.50		.03
Wet Sandblasting, Brush or Roller application of cold tar, epoxies and acid resistant materials	13.08	.59	.50		.03
Spray application of cold tar, epoxies and acid resistant materials	16.08	.59	.50		.03
Paper or Vinyl Hanger	11.08	.59	.50		.03
Structural Steel: Brush or Roller	13.08	.59	.50		.03
Perfa-taping	11.58	.59	.50		.03
Structural Steel: Spraying	14.08	.59	.50		.03
Airless Spraying	12.08	.59	.50		.03
Area 2:					
Brush; Roller; Floor Layers	10.66	.63	.50		.10
Brush, Roller on steel and roofs, Pot Tender, and Paperhanger	10.91	.63	.50		.10
Perfataper (hand tools)	10.76	.63	.50		.10
Spray (not steel)	11.64	.63	.50		.10
Sandblaster, commercial and steel; Spray on structural steel and tanks	11.89	.63	.50		.10
Perfataper (machine tools)	11.16	.63	.50		.10
Area 3:					
Painter	10.02				
Paint Mitts	10.52				
Perfa-taping	10.27				

*See AREA Descriptions - Page 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:* (Cont'd)					
Area 3: (Cont'd)					
Application of cold tar products, epoxies, polyurethanes and acid resistant paints; Water Sandblasting and Steam cleaning; Stacks and steeples; Brushing of steel; Spraying and airless spraying; Work over 30 ft.	$12.80				
Area 4:					
Painter, Brush, Preparatory work, Pot Tender, Roller up to 9 inches	11.52	.69	.40		1%
Paperhanger, Brush on steel	12.02	.69	.40		1%
Water and Sandblasting; Application of cold tar products, epoxies, polyurethanes and acid resistant paints; Spraying and airless spray	13.77	.69	.40		1%
Roller over 9" long	11.52	.69	.40		1%
Signwriter	11.88	.69	.40		1%
Spray and Roller (in shop)	11.88	.69	.40		1%
Spray and Roller (out shop)	12.75	.69	.40		1%
Hand Taper	11.92	.69	.40		1%
Machine Taper	13.17	.69	.40		1%
Area 5:	10.90				
Area 6	12.17	.69	.50		.04
Area 7:					
Highway parking and marking traffic surface applicator Operator; Material Mixer; Sandblaster; Striper	10.60	.56	.40		
The installation of plastic, metal or composition button, or lines used instead of paint.					

*See AREA Descriptions - Page 5

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AREA DESCRIPTIONS

PAINTERS:

Area 1: Beaverhead, Broadwater, Gallatin, and Jefferson Counties; Lewis and Clark County (southern portion from a line running east and west through the southern limits of Craig); Madison, Meagher, and Park Counties; Powell County (northern area from a line running east and west through the southern City limits of Helmsville); Silver Bow County

Area 2: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, and Treasure Counties; Wheatland County (south of the City of Harlowton); Wibaux and Yellowstone Counties

Area 3: Deer Lodge County and the southern part of Granite County from a line east-west through the southern limits of Phillipsburg

Area 4: Cascade County; Chouteau County (south of a line running east and west through the southern limits of Big Sandy); Daniels and Fergus Counties; Glacier County (including Glacier National Park); Garfield and Judith-Basin Counties; Lewis and Clark County (northern portion from a line running east and west through the northern limits of Craig), McCone, Phillips, Pondera, Petroleum, Richland, Roosevelt, Sheridan, Teton, Toole, and Valley Counties; Wheatland County (northern area from a line running east and through the southern limits of Harlowtown)

Area 5: Blaine, Hill, and Liberty Counties; Chouteau County (north of the southern limits of the City of Big Sandy)

Area 6: Flathead County; Granite County (northern area north of City limits of Phillipsburg); Lake County (southern area including the City of Ronan); Lincoln, Mineral, and Missoula Counties; Powell County (northern area through south limits of Helmsville); Ravalli and Sanders Counties

Area 7: Statewide

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS:*					
Area 1	$15.78	.75	.70		.15
Area 2	15.10	1.05	1.10		.17
Area 3	15.35	.70	.85		.10
Area 4	14.20	1.00	.90		.10
SHEET METAL WORKERS:*					
Area 1	14.32	.73	.66		.24
Area 2	14.71	.73	.50		.24
Area 3	14.25	1.205	.805		.24
Area 4	14.04	.73	.75		.24
Area 5	14.09	.73	.73		.24

AREA DESCRIPTIONS

PLUMBERS:

Area 1: Flathead, Lake, Lincoln, Mineral, Missoula, and Sanders Counties

Area 2: Blaine, Cascade, Chouteau, Fergus, Glacier, Hill, Judith-Basin, Liberty, McCone, Meagher, Phillips, Pondera, Roosevelt, Teton, Toole, and Valley Counties

Area 3: Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark, Madison, Park, Powell, Silver Bow and Sweet Grass Counties

Area 4: Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, Golden Valley, Musselshell, Petroleum, Powder River, Prairie, Richland, Rosebud, Sheridan, Stillwater, Treasure, Wheatland, Wibaux and Yellowstone Counties

SHEET METAL WORKERS:

Area 1: Broadwater County, Jefferson County (including the north half of the City of Boulder), Lewis and Clark County, and Meagher County

Area 2: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties

Area 3: Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Fergus, Gallatin, Garfield, Golden Valley, McCone, Musselshell, Petroleum, Phillips, Powder River, Park, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, Wibaux, Treasure, and Yellowstone Counties

Area 4: Blaine, Cascade, Chouteau, Glacier, Hill, Judith-Basin, Liberty, Pondera, Teton, and Toole Counties

Area 5: Beaverhead County, Deer Lodge County, Granite County, Jefferson County (southern half), Madison County, Powell County, and Silver Bow Counties

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 9.80	.70	.60	.20	.05
Group 2	9.96	.70	.60	.20	.05
Group 3	10.10	.70	.60	.20	.05
Group 4	10.80	.70	.60	.20	.05

Group 1: Axeman; Carpenter Tender; Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Cosmolene applying and removing; Dumpman (Spotter); Fence Erector and Installer (includes the installation and erection of fences, guard rails, median rails, reference posts, right-of-way markers and guide posts); Form Stripper; General Laborer - Heavy Highway, Highway Bridge and Structure, Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision - such as radiant type of butane five, without blowers or fans - General Laborers scale); Landcape Laborer; Riprap Tender; Stake Jumper for Equipment; Sandblaster Tail Hoseman, Pot Tender; Sod Cutter; hand operated (General Laborers); Tool Checker; Tool Houseman; Flagman and Scaleman

Group 2: Burning Bar; Cement Mason Tender; Caisson Workers (free air); Cement Handlers; Choker Setter; Concrete Laborers (wet or dry); Bucketmen and Signalmen; Curb Machine; Dumpman (Grade Man); Form Setter; Hand Faller; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper Vibrating Roller, hand steered and other power tools; Nozzleman - air water, Gunite and Placo Machine; Concrete or Asphalt Saws; Pipelayer (all types); Laser equipment Operator; Pipewrapper; Posthole Digger (power auger); Power Saw (bucking); Powderman Tender; Power driven wheelbarrow; Rigger; Riprapper; Spiker Driver, single or dual or hand; Switchman; Tar Pot Operator

Group 3: Asphalt Raker; Concrete Vibrator (5" and over); Drills, Air Track, self-propelled, Cat and Truck mounted air operated Drills; Drills, Air Track with dual masts; Drills, Air Tract, self-propelled Mustang type and similar; Equipment Handler; High Scaler; High Pressure Machine Nozzleman; Power Saw (falling); Sandblaster

Group 4: Core Drill Operator; Grade Setter; Powderman; Welder, cutting torch and air arc

POWER EQUIPMENT OPERATORS: STATEWIDE	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
A-Frame Truck Crane, Winch Truck and similar	$12.03	.87	.75	.50	.07
Air Compressor, single	11.72	.87	.75	.50	.07
Air compressor, two or more	11.89	.87	.75	.50	.07
Air Doctor	12.19	.87	.75	.50	.07
Asphalt Paving Machine Operator	12.19	.87	.75	.50	.07
Asphalt Paving Machine Screed Operator	12.19	.87	.75	.50	.07
Automatic Finegrader, Gurries and other similar types	12.32	.87	.75	.50	.07
Belt Finish Machine Operator	11.89	.87	.75	.50	.07
Bit Grinder	12.19	.87	.75	.50	.07
Bituminous Mixer Paving, Travel Plant	12.19	.87	.75	.50	.07
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	11.78	.87	.75	.50	.07
Boring Machine (large)	12.19	.87	.75	.50	.07
Broom, self-propelled	11.86	.87	.75	.50	.07
Cableway Highline Operator	12.70	.87	.75	.50	.07
Cement Silo Operator	11.98	.87	.75	.50	.07
Central Mixing Plants, Concrete dam and stationary	12.44	.87	.75	.50	.07
Chain Bucket Loader	11.91	.87	.75	.50	.07
Chip or Gravel Spreader, self-propelled	11.91	.87	.75	.50	.07
Concrete Batch Plant, one and two Mixers	12.19	.87	.75	.50	.07
Concrete Batch Plant, three and four Mixers	12.39	.87	.75	.50	.07
Concrete Batch Plant, five Mixers and over	12.59	.87	.75	.50	.07
Concrete Batch Plant Oiler, up to and including two Mixers	11.71	.87	.75	.50	.07
Concrete Batch Plant Oiler, three Mixers and over	12.02	.87	.75	.50	.07
Concrete Bucket Dispatcher	12.19	.87	.75	.50	.07
Concrete Curing Machine	12.19	.87	.75	.50	.07

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POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete Finish Machine Paving	$12.19	.87	.75	.50	.07
Concrete Float-Spreader	12.19	.87	.75	.50	.07
Concrete Mixer, three bags and under	11.78	.87	.75	.50	.07
Concrete Mixer, four bags and over	11.95	.87	.75	.50	.07
Concrete Power Saw, self-propelled	12.19	.87	.75	.50	.07
Concrete Travel Batcher	12.19	.87	.75	.50	.07
Concrete Conveyor under 40 feet	11.77	.87	.75	.50	.07
Concrete Conveyor over 40 feet	12.52	.87	.75	.50	.07
Concrete Pump	12.52	.87	.75	.50	.07
Conveyor Loader Operator, up to and including 42' belt	11.77	.87	.75	.50	.07
Conveyor Loader Operator over 42" belt	11.89	.87	.75	.50	.07
Crane, to and including 80' boom	12.35	.87	.75	.50	.07
Crane, 81' to 130' boom	12.50	.87	.75	.50	.07
Crane, 131' to 150' boom	12.55	.87	.75	.50	.07
Crane, 151' boom and over	12.60	.87	.75	.50	.07
Crane Oiler	11.76	.87	.75	.50	.07
Crane with jibs an additional $.15 per hour					
Crusher Operator	12.19	.87	.75	.50	.07
Crusher Oiler	11.68	.87	.75	.50	.07
Crusher Conveyor, when required	11.65	.87	.75	.50	.07
Distributor Operator DW 10, 15, or 20 tractor pulling Roller	12.19	.87	.75	.50	.07
Electric Overhead Cranes	11.91	.87	.75	.50	.07
Elevating Grader	12.37	.87	.75	.50	.07
Farm type tractor up to and including 50 HP engine	12.19	.87	.75	.50	.07
	11.65	.87	.75	.50	.07

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Farm Type tractor, over 50 HP engine	$11.73	.87	.75	.50	.07
Field Equipment Servicemen	12.11	.87	.75	.50	.07
Fireman	11.78	.87	.75	.50	.07
Forklift, on construction job site	12.00	.87	.75	.50	.07
Form Grader Operator	11.96	.87	.75	.50	.07
Gradall Operator	12.19	.87	.75	.50	.07
Grade Setter	11.65	.87	.75	.50	.07
Heavy Duty Drills, all types	12.19	.87	.75	.50	.07
Herman-Nelson Heaters and similar type	11.73	.87	.75	.50	.07
Hoist Operator, single drum	11.96	.87	.75	.50	.07
Hoist, two or more drums	12.19	.87	.75	.50	.07
Helicopter Hoist	12.69	.87	.75	.50	.07
Hot Plant Operator	12.19	.87	.75	.50	.07
Hot Plant Fireman, when in operation	12.19	.87	.75	.50	.07
Hot Plant Oiler, 100 ton per hour or over	11.68	.87	.75	.50	.07
Hydra Lift and similar types	12.09	.87	.75	.50	.07
Industrial Locomotive all classes	12.19	.87	.75	.50	.07
Mechanic and/or Welder on job	12.29	.87	.75	.50	.07
Mechanic Shop (Dec. April 1)	11.89	.87	.75	.50	.07
Mixermobile	12.27	.87	.75	.50	.07
Motor Patrol Operator	12.32	.87	.75	.50	.07
Mountain Logger or similar type	12.19	.87	.75	.50	.07
Mucking Machine Operator	12.19	.87	.75	.50	.07
Oiler-Driver, Rubber tired Cranes	11.76	.87	.75	.50	.07
Oilers, other than Shovels and Cranes	11.68	.87	.75	.50	.07
Oiler, Hoist House, dams	12.09	.87	.75	.50	.07
Pavement Breakers, Emsco and similar	12.19	.87	.75	.50	.07
Paving and Mixing Machine	12.32	.87	.75	.50	.07

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Auger, large truck or tractor mounted and Punch	$12.19	.87	.75	.50	.07
Power Mixer, single or double drum	12.19	.87	.75	.50	.07
Power Saw, multiple cut, self-propelled	12.19	.87	.75	.50	.07
Pumpcrete or Grout Machine	12.19	.87	.75	.50	.07
Pumpman	11.72	.87	.75	.50	.07
Push Tractor	12.19	.87	.75	.50	.07
Quad Cat	12.49	.87	.75	.50	.07
Quad Loader and similar type	12.77	.87	.75	.50	.07
Radiator Repairman	12.00	.87	.75	.50	.07
Raygo Gaint	12.77	.87	.75	.50	.07
Refrigeration Plant Operator	12.19	.87	.75	.50	.07
Retort Operator	11.78	.87	.75	.50	.07
Roller, on blade or hot mix oil paving	12.19	.87	.75	.50	.07
Roller, on other blade or hot mix paving	11.89	.87	.75	.50	.07
Roller, 25 ton or over	12.19	.87	.75	.50	.07
Ross and similar type Carriers, on construction site	12.19	.87	.75	.50	.07
Rubber-tired Dozer	12.19	.87	.75	.50	.07
Rubber-tired Front End Loader, 1 yard and under	11.90	.87	.75	.50	.07
Rubber-tired Front End Loader, 1 yard to and including 3 yards	12.19	.87	.75	.50	.07
Rubber-tired Front End Loader, over 3 yards to and including 5 yards	12.31	.87	.75	.50	.07
Rubber-tired Front End Loader, over 5 yards to					

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Rubber-tired Front End Loader, over 10 yards to and including 15 yards	$12.51	.87	.75	.50	.07
Rubber-tired Front End Loader, over 15 yards	12.61	.87	.75	.50	.07
Scraper, DW 15, 20, 21 and similar type if power unit is not used	12.19	.87	.75	.50	.07
Scraper, single or twin engine pulling Belly Dump Trailer	12.57	.87	.75	.50	.07
Scraper, single engine	12.32	.87	.75	.50	.07
Scraper, twin engine	12.42	.87	.75	.50	.07
Scraper, tandem engine or 3 engine	12.68	.87	.75	.50	.07
Self-propelled Sheepfoot and similar type	12.19	.87	.75	.50	.07
Shovels, including all attachments, under 1 cu. yd.	12.19	.87	.75	.50	.07
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	12.37	.87	.75	.50	.07
Shovels, including all attachments, over 3 cu.yds. to and including 5 cu. yds.	12.64	.87	.75	.50	.07
Shovels, including all attachments over 5 cu. yds.	12.77	.87	.75	.50	.07
Shovel Oiler, 3 yds. and under	11.68	.87	.75	.50	.07
Shovel Oiler, over 3 cu. yds.	12.09	.87	.75	.50	.07
Slip Form Paver Operator	12.32	.87	.75	.50	.07
Stiff Leg Derrick and Guy Derrick	12.64	.87	.75	.50	.07
Track-type Front End Loaders, up to and including 5 cu. yds.	12.19	.87	.50	.50	.07

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POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Track-type Front End Loaders, over 5 cu. yds. to and including 10 cu. yds.	$12.42	.87	.75	.50	.07
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	12.52	.87	.75	.50	.07
Track-type Front End Loaders, over 15 cu. yds.	12.62	.87	.75	.50	.07
Track-type Tractor w/wo attachments	12.19	.87	.75	.50	.07
Track-type Tractor, on Euclid Loader	12.37	.87	.75	.50	.07
Trenching Machine	12.19	.87	.75	.50	.07
Turnhead Conveyor, or Head Tower on Batch Plant	12.19	.87	.75	.50	.07
Wagner Roller and similar type	12.19	.87	.75	.50	.07
Whirley Crane Operator	12.72	.87	.75	.50	.07
Whirley Crane Oiler	12.09	.87	.75	.50	.07
Water Pull when used for compaction	12.19	.87	.75	.50	.07
Washing and Screening Plant Operator	12.19	.87	.75	.50	.07
Washing and Screening Plant Oiler	11.68	.87	.75	.50	.07
Yo-Yo Cat, both ends	12.39	.87	.75	.50	.07

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TRUCK DRIVERS: STATEWIDE	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COMBINATION TRUCK; Concrete Mixer and Transit Mixer: To & including 4 cu. yds.	$11.10	.82	.84		
Over 4 cu. yds. to and including 6 cu. yds.	11.18	.82	.84		
Over 6 cu .yds. to and including 8 cu. yds.	11.26	.82	.84		
Over 8 cu. yds. to and including 10 cu. yds.	11.34	.82	.84		
Over 10 cu. yds.-additional $.08 per hour each additional 2 cu. yds. increment					
DISTRIBUTOR DRIVER	11.08	.82	.84		
DRY BATCH TRUCKS: 3 Batch or under	10.85	.82	.84		
Over 3 Batch to and including 5 Batch	11.98	.82	.84		
Over 5 Batch to and including 10 Batch	11.14	.82	.84		
Over 10 Batch to and including 15 Batch	11.30	.82	.84		
Over 15 Batch-additional $.15 per hour each additional 5 Batch increment					
PICKUP DRIVER, HAULING MATERIALS	10.95	.82	.84		
DUMPMAN, GRAVEL SPREADER BOX OPERATOR; Pilot Car Driver, Teamsters	10.85	.82	.84		

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TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS And SIMILAR EQUIPMENT, DW 20, DW 21, or EUCLID TRACTORS, Pulling P.R. 21 or similar Dump Wagons: Water Level Capacity, including Sideboards: 7 cu. yds. or less	$10.85	.82	.84		
Over 7 cu. yds. to and including 10 cu. yds.	10.98	.82	.84		
Over 10 cu. yds. to and including 15 cu. yds.	11.14	.82	.84		
Over 15 cu. yds. to and including 20 cu. yds.	11.28	.82	.84		
Over 20 cu. yds. to and including 25 cu. yds.	11.34	.82	.84		
Over 25 cu. yds. to and including 30 cu. yds.	11.40	.82	.84		
Over 30 cu. yds. to and including 35 cu. yds.	11.46	.82	.84		
over 35 cu. yds. to and including 40 cu. yds.	11.52	.82	.84		
Over 40 cu. yds. to and including 45 cu. yds.	11.58	.82	.84		
Over 45 cu. yds.-additional $.10 per hour each additional 5 cu. yds. increment					
DUMPSTERS	10.98	.82	.84		
POWER TRUCK DRIVER (bulk unloader type)	11.03	.82	.84		
FLAT TRUCKS: To and including 3 tons	11.00	.82	.84		
Over 3 tons factory rating	11.20	.82	.84		

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TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
FUEL TRUCK DRIVERS; TIREMEN	$11.44	.82	.84		
LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER	11.44	.82	.84		
LUMBER CARRIERS, LIFT TRUCK and FORK LIFTS	11.20	.82	.84		
POWER BROOM	10.94	.82	.84		
WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS: 2,500 gallons and under	10.85	.82	.84		
Over 2,500 gallons to and including 4,500 gallons	11.14	.82	.84		
Over 4,500 gallons to and including 6,000 gallons	11.34	.82	.84		
Over 6,000 gallons to and including 8,000 gallons	11.40	.82	.84		
Over 8,000 gallons to and including 10,000 gallons	11.48	.82	.84		
Over 10,000 gallons - additinal $.10 per hour each additinal 2,000 gallons increment					
TRUCK MECHANIC	11.84	.82	.84		

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: Flathead, Lake, and Lincoln Counties:					
All work for power utilities, all highway lighting, street lighting and motor traffic controlling.					
Lineman	$13.92	.45	3%+.50		1/2%
Cable Splicers	15.49	.45	3%+.50		1/2%
Pole Sprayer	12.37	.45	3%+.50		1/2%
Line Equipment Operators Powderman, Jackhammer, Compressorman	11.87	.45	3%+.50		1/2%
	10.29	.45	3%+.50		1/2%
Groundman "A"	9.65	.45	3%+.50		1/2%
Tree Trimmer	12.83	.45	3%+.50		12/%
Head Groundman and Groundman "B" are not applicable					
Statewide, except Flathead, Lake, and Lincoln Counties:					
Lineman, Pole Sprayer	12.90	.45	3%+.50		1/4%
Cable Splicers	13.80	.45	3%+.50		1/4%
Line Equipment Operators' Powderman	11.40	.45	3%+.50		1/4%
Groundman	9.23	.45	3%+.50		1/4%

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	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DREDGING: STATEWIDE					
Assistant Mate (Deckhand)	$12.02	.85	$ 1.00		.11
Fireman	12.12	.85	1.00		.11
Oiler	12.12	.85	1.00		.11
Assistant Engineer (electric, diesel, steam or booster Pump)	12.46	.85	1.00		.11
Mates and Boatman	12.46	.85	1.00		.11
Engineer Welder	12.51	.85	1.00		.11
Craneman	12.51	.85	1.00		.11
Assistant Engineer (electric, generator Operator for Primary Pump, power barge or dredge)	12.56	.85	1.00		.11
Leverman, Dipper: (a) 5 yards and under	13.27	.85	1.00		.11
(b) over 5 yards	13.82	.85	1.00		.11
Leverman, Hydraulic	12.88	.85	1.00		.11

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Montana COUNTIES: Statewide
DECISION NUMBER: MT80-5142 DATE: Date of Publication
Supersedes Decision No. MT80-5121 dated June 27, 1980, in 45 FR 43608
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.64	.72	$1.30		.04
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS; MARBLE MASONS:*					
Area 1	14.20		.55		
Area 2	12.85	.90	.55		
Area 3	15.00		.75		
Area 4	12.55	.70	.60		
Area 5	14.15		.55		
Area 6	13.80	.85	.90		.035
Area 7	12.75	.75	.75		
Area 8	11.55	.60	.55		.05
Area 9	11.00				
CARPENTERS:*					
Area 1:					
Carpenters	11.25	.85	1.00		.04
Piledrivermen	11.50	.85	1.00		.04
Millwrights	12.25	.85	1.00		.04
Area 2:					
Carpenters	11.13	.85	1.00		.04
Piledrivermen	11.63	.85	1.00		.04
Millwrights	12.13	.85	1.00		.04
Area 3:					
Carpenters	11.13	.85	1.00		.04
Piledrivermen	11.38	.85	1.00		.04
Millwrights	12.13	.85	1.00		.04
Area 4:					
Carpenters	11.67	.85	1.00		.04
Piledrivermen; Millwrights	11.92	.85	1.00		.04
Area 5:					
Carpenters	11.13	.85	1.00		.04
Piledrivermen	11.43	.85	1.00		.04
Millwrights	12.27	.85	1.00		.04
Area 6:					
Carpenters	10.69	.85	1.00		.04
Piledrivermen	10.94	.85	1.00		.04
Millwrights	11.69	.85	1.00		.04
Area 7:					
Carpenters	11.13	.85	1.00		.04
Piledrivermen	11.38	.85	1.00		.04
Millwrights	12.13	.85	1.00		.04

*See AREA Descriptions - following Page

DECISION NO. MT80-5142 Page 2

AREA DESCRIPTIONS

BRICKLAYERS; MARBLE MASONS:
Area 1: Beaverhead County; Jefferson County (except northern tip of County); Madison County, and Silver Bow Counties

Area 2: Gallatin and Park Counties

Area 3: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Sweet Grass, Stillwater, Treasure, Wibaux, and Yellowstone Counties

Area 4: Broadwater, Lewis & Clark, and Meagher Counties

Area 5: Deer Lodge, Powell, and Granite Counties

Area 6: Cascade, Chouteau, Glacier, Pondera, and Teton Counties

Area 7: Blaine, Daniels, Hill, Liberty, Phillips, Roosevelt, Sheridan, Toole, and Valley Counties

Area 8: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties

Area 9: Fergus, Garfield, Golden Valley, Judith-Basin, Musselshell, Petroleum, and Wheatland Counties

CARPENTERS:
Area 1: Cascade, Chouteau, Fergus, Glacier, Judith-Basin, Liberty, Meagher, Pondera, Teton, and Toole Counties

Area 2: Blaine and Hill Counties

Area 3: Broadwater, Lewis & Clark, and Jefferson Counties

Area 4: Deer Lodge County; Granite County (all area lying south of a line running due east from the N.W. corner of Granite County to the N.E. corner of Granite County); Powell County (area lying south of the N.E. corner of Granite County)

Area 5: Granite County (area lying north of a line running due east from the N.W. corner of Granite County to the N.E. corner of Granite County); Lake County (southern area, south of and including the Town of Ravalli); Mineral County (area southeast of southeast city limits of the Town of Superior); Missoula County; Powell County (area lying north of the N.E. corner of Granite County); Ravalli County; Sanders County (southeastern portion)

Area 6: Carter, Custer, Daniels, Dawson, Fallon, McCone, Phillips, Powder River, Prairie, Richland, Roosevelt, Sheridan, Valley, and Wibaux Counties; and Fort Peck Project

Area 7: Flathead and Lincoln Counties; Lake County (northern area including Town of Ravalli from a point where Highway #10A and Highway #93 intersect); Mineral County (northern area including the Town of Superior); Sanders County (except S.E. corner portion)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:* (Cont'd)					
Area 8:					
Carpenters	$11.28	.85	$1.00		.06
Floor Sander; Sawmen	11.43	.85	1.00		.06
Piledrivermen	11.43	.85	1.00		.06
Millwrights	12.28	.85	1.00		.06
Area 9:					
Carpenters	11.38	.85	1.00		.04
Piledrivermen; Millwrights	11.88	.85	1.00		.04
Area 10:					
Carpenters	11.13	.85	1.00		.04
Piledrivermen	11.38	.85	1.00		.04
Millwrights	12.13	.85	1.00		.04
CEMENT MASONS:*					
Area 1	12.00	1.00	.50	1.00	
Area 2	10.95	.85	.40		
Area 3	11.35				
Area 4	10.00				
ELECTRICIANS:*					
Area 1	14.35	.70	3%+.50		1/2%
Area 2:					
Electricians	14.22	.70	3%+.75		1/2%
Cable Splicers	14.67	.70	3%+.75		1/2%
Area 3	11.45		3%		1/2%
Area 4:					
Contracts under $75,000:					
Electricians	13.20	.70	3%+.75		1/2%
Cable Splicers	13.86	.70	3%+.75		1/2%
Contracts over $75,000:					
Electricians	14.35	.70	3%+.75		1/2%
Cable Splicers	15.06	.70	3%+.75		1/2%
Area 5:					
Electricians	13.25	.65	3%+.50		1/2%
Area 6:					
Electricians	14.35	.70	3%+.75		1/2%
Cable Splicers	15.06	.70	3%+.75		1/2%
Area 7:					
Electricians	15.65	.70	3%+.50		1/2%
Cable Splicers	16.43	.70	3%+.50		1/2%
Area 8:					
Electricians	12.70	.55	3%+.50		1/2%
Area 9:					
Electricians	12.35	.50	3%+.75		1/2%

*See AREA Descriptions - following Page

AREA DESCRIPTIONS

CARPENTERS: (Cont'd)
Area 8: Big Horn, Carbon, Garfield, Golden Valley, Musselshell, Petroleum, Rosebud, Stillwater, Treasure, Wheatland, and Yellowstone Counties

Area 9: Beaverhead and Silver Bow Counties

Area 10: Gallatin, Madison, Park, and Sweet Grass Counties

CEMENT MASONS:
Area 1: Beaverhead and Deer Lodge Counties; Granite County (southern half); Jefferson County (southern area including Town of Wickes); Madison County; Powell County (south portion including the Town of Deer Lodge); Silver Bow County

Area 2: Big Horn, Carbon, Golden Valley, Stillwater, Treasure, Wheatland, and Yellowstone Counties

Area 3: Blaine, Cascade, Chouteau, Hill, Liberty, Pondera, Teton, and Toole Counties

Area 4: Carter, Custer, Dawson, Fallon, Powder River, Prairie, Rosebud, Richland, and Wibaux Counties

ELECTRICIANS:
Area 1: Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Silver Bow, and Powell Counties

Area 2: Big Horn, Carbon, Carter, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Treasure, Wibaux, and Yellowstone Counties

Area 3: Custer and Garfield Counties

Area 4: Blaine, Chouteau, Daniels, Fergus, Glacier, Hill Judith-Basin, Liberty, McCone, Petroleum, Pondera, Phillips, Richland, Roosevelt, Sheridan, Teton, Toole, Valley, and Wheatland Counties

Area 5: Broadwater, Lewis & Clark, and Meagher Counties

Area 6: Cascade County

Area 7: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties

Area 8: Gallatin County

Area 9: Park and Sweet Grass Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS	$13.635	$1.195	.95	a	.035
IRONWORKERS:					
Area 1	13.21	.90	1.45		.15
Area 2	15.36	.90	1.90		.10
Area 3	13.21	.90	1.45		.15
PAINTERS:*					
Area 1:					
Brush, Roller; Floor Layers	10.66	.63	.50		.10
Brush, Roller on steel and roofs, Pot Tender; Paperhanger	10.91	.63	.50		.10
Perfataper (hand tools)	10.76	.63	.50		.10
Spray (not steel)	11.64	.63	.50		.10
Sandblaster, commercial and steel; Spray on structural steel and tanks	11.89	.63	.50		.10
Pertataper (machine tools)	11.16	.63	.50		.10
Area 2:					
Brush; Preparatory work; Pot Tender; Parking Lot Striping and related work; Roller up to 9"	11.52	.69	.40		1%
Paperhanger, Brush on Steel	12.02	.69	.40		1%
Water and Sandblasting; Application of cold tar products, epoxies and polyurethanes and acid resistant paints; Spraying and airless spray	13.77	.69	.40		1%
Roller over 9" long	11.52	.69	.40		1%
Signwritter	11.88	.69	.40		1%
Spray and Roller (in shop)	11.88	.69	.40		1%
Spray and Roller (out shop)	13.78	.69	.40		1%

See AREA Descriptions - Page 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:* (Cont'd)					
Area 3:					
Painters	$10.02				
Perfataper	10.27				
Paint Mitts	10.52				
Application of cold tar products, epoxies, polyurethanes and acid resistant paints; Water sandblasting and steam cleaning; Stacks and Steeples; Brushing of steel; Spraying and airless spraying; Work over 30 feet	12.80				
Area 4:					
Wet sandblasting, brush or roller; Application of cold tar epoxies, and acid resistant materials	13.08	.59	.50		.03
Brush or Roller; Prep work; Pot Tender	11.08	.59	.50		.03
Spray application of cold tar epoxies, and acid resistant materials	16.08	.59	.50		.03
Paper or Vinyl Hanger	11.08	.59	.50		.03
Structural steel; Brush or Roller	13.08	.59	.50		.03
Perfataping	11.58	.59	.50		.03
Structural Steel; Spraying	14.08	.59	.50		.03
Airless Spraying	12.08	.59	.50		.03
Area 5	10.90				
Area 6	12.17	.69	.50		.04

*See AREA Descriptions - following Page

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AREA DESCRIPTIONS

IRONWORKERS:
Area 1: Beaverhead, Broadwater, Dear Lodge, Gallatin, Granite, and Jefferson Counties; Lewis & Clark County (southern half including Wolf Creek); Madison, Park, Powell, Ravalli, and Silver Bow Counties

Area 2: Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, and Sanders Counties

Area 3: Remaining Counties (including northern half of Lewis & Clark County)

PAINTERS:
Area 1: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, Wibaux, and Yellowstone Counties

Area 2: Cascade County; Chouteau County (south of a line running east and west through the southern limits of Big Sandy); Daniels, and Fergus Counties; Glacier County (excluding Glacier National Park); Garfield and Judith-Basin Counties; Lewis & Clark County (northern portion from a line running east and west through the northern limits of Craig); McCone, Phillips, Pondera, Petroleum, Richland, Roosevelt, Sheridan, Teton, Toole, and Valley Counties; Wheatland County (northern area from a line running east and west through the southern limits of Harlowtown)

Area 3: Deer Lodge County and the southern part of Granite County from a line east-west through the southern limits of Phillipsburg

Area 4: Broadwater and Gallatin Counties; Jefferson County (northern area from a line running east and west five(5) miles south of the southern city limits of Boulder); Lewis & Clark County (southern portion from a line running east and west through the southern limits of Craig); Park County; Powell County (southern area from a line running east and west through the southern City limits of Helmsville); Silver Bow County; Jefferson County (south part, from a line running due west from the south limits of Tosten); Broadwater County (south part, from a line running east and west through the north limits of Tosten); Madison County (west part, from a line running north and south through the west limits of Harrison in Beaverhead County)

Area 5: Blaine, Hill, and Liberty Counties; Chouteau County (north of the southern limits of the City of Big Sandy)

Area 6: Flathead County; Granite County (northern area north limits of Phillipsburg); Lake County (southern area including the City of Ronan); Lincoln, Mineral, and Missoula Counties; Powell County (northern area through south limits of Helmsville); Ravalli and Sanders Counties

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:*					
Area 1	$10.50	.75	.35		
Area 2	12.00	1.00	.50	1.00	
Area 3	10.95	.85	.40		
Area 4	10.00				
PLUMBERS:*					
Area 1	15.78	.75	.70		.15
Area 2	15.10	1.05	1.10		.17
Area 3	15.35	.70	.85		.10
Area 4	14.20	1.00	.90		.10
ROOFERS; Waterproofers:*					
Area 1	11.69		.25		
Area 2:					
Roofers	10.75	.85	.25		
Irritable bituminous Roofer, Waterproofer, Kettleman	12.25	.85	.25		
Area 3	9.75	.62	.60	.75	
Area 4:					
Roofers	12.52	.85	.50		.10
Irritable bituminous Roofer, Waterproofer, Kettleman	14.52	.85	.50		.10
Area 5:					
Roofers	11.50	.85	.50		.10
Irritable bituminous Roofer, Waterproofer, Kettleman	13.50	.85	.50		.10
Area 6	12.00	.55			
SHEET METAL WORKERS:*					
Area 1	14.32	.73	.66		.24
Area 2	14.71	.73	.50		.24
Area 3	14.25	1.205	.805		.24
Area 4	14.04	.73	.75		.24
Area 5	14.09	.73	.73		.24

*See AREA Descriptions - Page 10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:*					
Area 1	$12.50				
SPRINKLER FITTERS	13.83	.85	1.20		
TERRAZZO WORKERS and TILE SETTERS:*					
Area 1	12.55	.70	.60		
Area 2	15.00		.75		
Area 3	12.70	.90	.55		
Area 4	12.75	.75	.75		
Area 5	11.70	.85	.90		
WELDERS: Receive rate for craft					

*See AREA Descriptions - following Page

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

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AREA DESCRIPTIONS

PLASTERERS:
Area 1: Granite County; Lake County (southern area, including the City of Pablo); Mineral and Missoula Counties; Powell County (northern area including the City of Helmsville); Ravalli County; Sanders County (south portion, including the City of Paradise)

Area 2: Beaverhead and Deer Lodge Counties; Jefferson County (southern area, including the Town of Wickes); Madison County; Powell County (south of a line running east-west north of the Town of Deer Lodge); Silver County

Area 3: Big Horn, Carbon, Golden Valley, Stillwater, Treasure, and Wheatland Counties

Area 4: Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland, Rosebud, and Wibaux Counties

PLUMBERS:
Area 1: Flathead, Lake, Lincoln, Mineral, Missoula, and Sanders Counties

Area 2: Blaine, Cascade, Chouteau, Fergus, Glacier, Hill, Judith-Basin, Liberty, McCone, Meagher, Phillips, Pondera, Roosevelt, Teton, Toole, and Valley Counties

Area 3: Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis & Clark, Madison, Park, Powell, Silver Bow, and Sweet Grass Counties

Area 4: Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, Golden valley, McCone, Musselshell, Petroleum, Powder River, Prairie, Richland, Rosebud, Sheridan, Stillwater, Treasure, Wheatland, Wibaux, and Yellowstone Counties

ROOFERS; Waterproofers:
Area 1: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Richland, Rosebud, Stillwater, Treasure, Wibaux, and Yellowstone Counties

Area 2: Blaine, Cascade, Chouteau, Daniels, Fergus, Garfield, Glacier, Hill, Judith-Basin, Liberty, McCone, Petroleum, Phillips, Pondera, Roosevelt, Sheridan, Teton, Toole, and Valley Counties

Area 3: Deer Lodge, Powell, and Silver Bow Counties

Area 4: Flathead, Lake, Lincoln, Mineral, Missoula, and Sanders Counties

Area 5: Lewis and Clark Counties

Area 6: Beaverhead, Broadwater, Gallatin, Jefferson, Madison, Meagher, Park, Sweet Grass, and Wheatland Counties

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AREA DESCRIPTIONS (CONT'D)

SHEET METAL WORKERS:
Area 1: Broadwater County; Jefferson County (including north half of the City of Boulder); Lewis & Clark and Meagher Counties

Area 2: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders

Area 3: Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Fergus, Gallatin, Garfield, Golden Valley, McCone, Musselshell, Park, Petroleum, Phillips, Powder River, Prairie, Richland, Rosebud, Roosevelt, Sheridan, Stillwater, Sweet Grass, Treasure, Valley, Wibaux, Wheatland, and Yellowstone Counties

Area 4: Blaine, Cascade, Chouteau, Glacier, Hill, Judith-Basin, Liberty, Pondera, Teton, and Toole Counties

Area 5: Beaverhead, Deer Lodge, and Granite Counties; Jefferson County (southern half); Madison, Powell, and Silver Bow Counties

SOFT FLOOR LAYERS:
Area 1: Cascade County; Chouteau County (south of a line running east and west through the southern limits of Big Sandy); Daniels, and Fergus Counties; Glacier County (excluding Glacier National Park); Garfield and Judith-Basin Counties; Lewis & Clark County (northern portion from a line running east and west through the northern limits of Craig); McCone, Phillips, Pondera, Petroleum, Richland, Roosevelt, Sheridan, Teton, Toole, and Valley Counties; Wheatland County (northern area from a line running east and west through the southern limits of Harlowtown)

TERRAZZO WORKERS and TILE SETTERS:
Area 1: Broadwater, Lewis & Clark, and Meagher Counties; Jefferson County (northern area north of Boulder Hill)

Area 2: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Sweet Grass, Stillwater, Treasure, Wibaux, and Yellowstone Counties

Area 3: Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders

Area 4: Blaine, Daniels, Hill, Liberty, Phillips, Roosevelt, Sheridan, Toole, and Valley Counties

Area 5: Cascade, Chouteau, Glacier, Pondera, and Teton Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Beaverhead, Deer Lodge, Madison, Powell, Silver Bow and that portion of Jefferson County within the territorial limits of District No. 2					
Group 1	9.36	.70	.60	.20	.05
Group 2	9.56	.70	.60	.20	.05
Group 3	9.61	.70	.60	.20	.05
Group 4	9.86	.70	.60	.20	.05
Group 5	9.96	.70	.60	.20	.05
Broadwater, Lewis and Clark Meagher, north half of Jefferson County including the City of Boulder; that portion of Powell County lying east of a north-south line at west edge of the Town of Elliston					
Group 1	9.59	.70	.60	.20	.05
Group 2	9.75	.70	.60	.20	.05
Group 3	9.84	.70	.60	.20	.05
Group 4	10.09	.70	.60	.20	.05
Group 5	10.19	.70	.60	.20	.05
Broadwater (that portion lying south of an east-west line north of the City of Tosten), Gallatin, Madison (that portion lying east of the Gravely Mountain Range), Park, Sweet Grass and Wheatland Counties:					
Group 1	9.33	.70	.60	.20	.05
Group 2	9.49	.70	.60	.20	.05
Group 3	9.59	.70	.60	.20	.05
Group 4	9.83	.70	.60	.20	.05
Group 5	9.93	.70	.60	.20	.05

LABORERS
Beaverhead, Deer Lodge, Madison, Powell, Silver Bow and that portion of Jefferson County within the Territorial limits of District No. 2

Group 1: Axeman; Caisson Workers (free air); Carpenter Tender; Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Cosmoline, applying and removing; Dumpman (Spotter); Fence Erector and Installer (includes the installation and erection of fences, guard rails, median rails, reference posts, right-of-way markers and guide posts); Form Setter; Form Stripper; General Laborer - Building and structure, Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision - such as radiant type or butane fire, without blowers or fans - General Laborers Scale); Landscape Laborer; Riprap Tender; Stake Jumper for equipment; Sandblasting Tail Hoseman, Pot Tender; Sod Cutter, hand operated (General Laborers); Tool Houseman; Tool Checker; Flagman and Scaleman

Group 2: Burning Bar; Cement Handlers; Choker Setter; Concrete or Asphalt Saws; Curb Machine; Dumpman (Grade Man); Grout, Concrete Pump and Nozzleman; Hand Faller; Nozzleman - air, water, Gunite and Placo Machine; Pipelayer (all types) Laser Equipment Operator; Pipewrapper; Posthole Digger (power Auger); Power Saw (bucking); Powderman Tender; Rigger; Riprapper; Spike Driver, single or dual or hand; Switchman; Tar Pot Operator

Group 3: Asphalt Raker; Concrete Laborer (wet or dry); Bucketmen and Signalmen; Concrete Vibrator (3" and over); Drills, Air Track (all types); Equipment Handler; Grade Setter; High Scaler; High pressure Machine Nozzleman; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper, Vibrating Roller, hand steered and other power tools; Power Saw (falling); Sandblaster

Group 4: Cement Mason Tender and Hod Carriers; Powderman

Group 5: Core Drill Operator; Welder, Cutting Torch and Air Arc

LABORERS (Cont'd)
Broadwater, Lewis and Clark, Meagher, north half of Jefferson County including the City of Boulder; that portion of Powell County lying east of a north-south line at west edge of the Town of Elliston

Group 1: Axeman; Caisson Workers (free air); Carpenter Tender; Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Concrete Laborer (wet or dry); Bucketman and Signalmen; Cosmolene, applying and removing; Dumpman (Spotter); Fence Erector and Installer (includes the installation and erection of fences, guard rails, median rails, reference posts, right-of-way markers and guide posts); Form Setter; Form Stripper; General Laborer, building and structure; Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision, such as radiant type or butane fire, without blowers or fans, General Laborers Scale); Landscape Laborer; Riprap Tender; Stake Jumper for equipment; Sandblaster Tail Hoseman, Pot Tender; Sod Cutter, hand operated (General Laborers); Tool Checker; Tool Housemen; Flagman and Scaleman

Group 2: Burning Bar; Cement Handlers; Concrete or Asphalt Saws; Curb Machine; Dumpman (Grade Man); Hand Faller; Nozzleman - Air, water, Gunite and Placo Machine; Pipelayer (all types); Laser Equipment Operator; Pipewrapper; Posthole Digger (power auger); Powderman Tender; Riprapper; Spike Driver, single or dual or hand; Switchmen

Group 3: Asphalt Raker; Choker Setter; Concrete Vibrator (3" and over); Drills, Air Tract (all types); Equipment Handler; Grade Setter; Grout, Concrete Pump and Nozzlemen; High Scaler; High Pressure Machine Nozzleman; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper, Vibrating Roller, hand steered and other power tools; Power driven Wheelbarrow; Power Saw (bucking); Power Saw (falling); Rigger; Sandblaster; Tar Pot Operator

Group 4: Cement Mason Tender and Hod Carriers; Powdermen

Group 5: Core Drill Operator; Welder, Cutting Torch and Air Arc

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LABORERS (Cont'd)
Broadwater (that portion lying south of an east-west line north of the City of Toston), Gallatin, Madison (that portion lying east of the Gravely Mountain Range), Park and Wheatland Counties

Group 1: Axeman; Caisson Workers (free air); Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Concrete Laborers (wet or dry); Bucketmen and Signalmen; Cosmolene, applying and removing; Dumpman (Spotter); Fence Erector and Installer (includes the installation and erection fences, guard rails, median rails, reference posts, right-of-way markers and guide posts); Form Setter; Form Stripper; General Laborers, building and structure, Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision - such as radiant type or butane fire, without blowers or fans - General Laborers Scale); Landscape Laborer; Riprap Tender; Stake Jumper for equipment; Sandblaster Tail Hoseman, Pot Tender; Sod Cutter, hand operated (General Laborers); Tool Checker; Tool Housemen; Flagman and Scaleman

Group 2: Burning Bar; Cement Handlers; Concrete or Asphalt Saws; Curb Machine; Dumpman (Grade Man); Hand Faller; Nozzleman - air, water, Gunite and Placo Machine; Pipelayer (all types); Laser equipment Operator; Pipewrapper; Posthole Digger (power Auger); Powderman Tender; Riprapper; Spike Driver, single or dual or hand; Switchmen;

Group 3: Asphalt Raker; Choker Setter; Concrete Vibrator (3" and over); Drills, Air Tract (all types); Equipment Handler; Grade Setter; Grout, Concrete Pump and Nozzleman; High Scaler; High Pressure Machine Nozzleman; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper; Vibrating Roller, hand steered and other power tools; Power driven Wheelbarrow; Power Saw (bucking); Power Saw (falling); Rigger; Sandblaster; Tar Pot Operator

Group 4: Cement Mason Tender and Hod Carriers; Powderman

Group 5: Core Drill Operator; Welder, Cutting Torch and Air Arc

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd)					
Flathead, Glacier National Park, Lincoln and that area of Lake and Sanders Counties lying 5 miles north of the 5th Parallel:					
Group 1	$ 9.35	.62	.53		.05
Group 2	9.50	.62	.53		.05
Group 3	9.65	.62	.53		.05
Carter, Custer, Dawson, Fallon, Powder River, Prairie and Wibaux Cos.:					
Group 1	9.45	.70	.60	.20	.05
Group 2	9.67	.70	.60	.20	.05
Group 3	9.70	.70	.60	.20	.05
Big Horn, Carbon, Golden Valley, Musselshell, Rosebud, Stillwater, Treasure and Yellowstone Counties:					
Group 1	9.60	.70	.60	.20	.05
Group 2	9.82	.70	.60	.20	.05
Group 3	9.85	.70	.60	.20	.05
Granite, Lake (southern area), Mineral, Missoula, Ravalli and Sanders (southern area) Counties:					
Group 1	9.32	.62	.53		.05
Group 2	9.57	.62	.53		.05
Group 3	9.72	.62	.53		.05

LABORERS (Cont'd)
Flathead, Glacier National Park, Lincoln, and that portion of Lake and Sanders Counties lying 5 miles north of the 5th Parallel

Group 1: General Laborers; Scaleman; Form Strippers; Car and Truck Loaders; Flagman

Group 2: Concrete Handlers, conveying and handling concrete; Nozzlemen (air or water); Sand Blast Tail Hose Man; Power driven Wheelbarrow; Rodder and Spreader; Form Setters (paving); Bucketman; Small air tool Operators, including Blow Pipe and small power power tool Operators; Chuck Tenders; Asphalt Rakers; Dumpman; Rip Rapping; Pipe Wrapper; Pot Tender; Conorete Pumper Hoseman; Jackhammer; Pavement Breaker; Vibrator; Mechanical Tamper and other air tools; Cement Handlers (sack or bulk); Burning Bar

Group 3: Pipe Layers (non-metallic); Metal Culvert Pipe Layer; Mason and Plaster Tenders; Cement Finisher Tender; Small Concrete Mixer Operator; Shoring and Lagging open ditches; Powderman; Drills, Air-trac, Wagon Drill, cat or truck mounted air operated Drills, Sand Blaster (wet or dry); Gunite Nozzleman; Barco Tamper

Carter, Custer, Dawson, Fallon, Powder River, Prairie and Wibaux Counties

Group 1: Axeman; Car and Truck Loaders (weighing loaded trucks); Cosmoline, applying and removing; Concrete Laborer; Chucktenders and Nippers; Crusher Laborer; Equipment Handlers (truck, bobcats); Flagman, watchman; Form Stripper; General Laborer; Hand Faller; Landscape Laborer; Riprap Tender; Rodman; Scaleman; Scissorman; Stake Jumper; Tool Checker; Toolhouse Man

Group 2: Applicator, hand or nozzle (applying hot protective material or oil or asphalt base); Asphalt Raker; Barco Tamper; Caulker, Collarman, Jointer, Mortarman, Cement Handler (sack or bulk); Choker Setter; Concrete and Asphalt Saws; Concrete Bucketman; Creosote Material Handler; Curb Machine; Dumpman, Gradorman; Dumpman, Spotter; Form Setters; Gunite, Pumpcrete and Placo Machine Operator; Machine Operator; Jackhammer Operator; Mechanical Tampers; Laser Beam Operator; Pipelayers (all types); Plastic Pipe Layer; Pavement Breaker Operator; Pneumatic and electric tool Operator; Pipe Wrapper; Powderman Tender, Primerhouseman; Power driven Wheelbarrow; Power Saw (bucking and falling); Rip Wrapper (hand placed); Rodder and Spreader; Signal Man; Shoring and Lagging (open ditch); Tar Pot Operator

Group 3: Tenders, Trowl Trades (scaffolding, staging, forklifts for Masons and Plasterers)

LABORERS (Cont'd)
Big Horn, Carbon, Golden Valley, Musselshell, Rosebud, Stillwater, Treasure and Yellowstone Counties

Group 1: Axeman; Car and Truck Loaders (weighing loaded trucks); Cosmoline, applying and removing; Concrete Laborer; Chucktenders and Nippers; Crusher Laborer; Equipment Handler (trucks, bobcats); Flagman, Watchman; Form Stripper; General Laborer; Hand Faller; Landscape Laborer; Riprap Tender; Rodman; Scaleman Scissorman; Stake Jumper; Tool Checker; Toolhouseman

Group 2: Applicator, hand or nozzle (applying hot protective material of oil or asphalt base); Asphalt Raker; Barco Tamper; Caulker, Colarman, Jointer, Mortarman; Cement Handler (sack or bulk); Choker Setter; Concrete and Asphalt Saws; Concrete Bucketman; Creosote material Handler; Curb Machine; Dumpman, Grademan, Dumpman, Spotter; Form Setters; Gunite, Pumpcrete and Placo Machine Operator; Machine Operator; Jackhammer Operator; Mechanical Tampers; Laser Beam Operator; Pipelayers (all types); Plastic Pipe Layer; Pavement Breaker Operator; Pneumatic and electric tool Operator; Pipe Wrapper; Powderman Tender, Primerhouseman; Power driven Wheelbarrow; Power Saw (bucking and falling); Rip Wrapper (hand placed); Rodder and Spreader; Signal Man; Shoring and Lagging (open ditch); Tar Pot Operator

Group 3: Tenders, Trowl Trades (scaffolding, staging, forklifts, for Masons and Plasterers)

Granite, Lake (southern area), Mineral, Missoula, Ravalli and Sanders (southern area) Counties

Group 1: General Building and Contruction Labor, Scaleman, Watchman, Flagman, Form Strippers, Car and Truck Loaders, Carpenters Tenders

Group 2: Nozzleman (air or water); Sand Blast; Tailhoseman, Powderman Tender, Power driven wheelbarrow; Rodder and Spreader; Form Setters (paving); Bucketman; Signlaman; Riggor; Small Air Tool Operators, including Blow Pipes, Small power tool Operators, Chuck Tenders, Asphalt Rakers, Dumpman, Rip Rapping, Pipe Wrapper, Pot Tenders; Concrete Pumper Hoseman, Cutting Torch; Jackhammer, Pavement Breaker; Vibrator; Mechanical Tamper and other air tools; Cement Handlers (sack or bulk); Burning Bar

Group 3: Pipelayers (non-metallic); Metal Culvert; Pipelayers, Mason and Plaster Tenders; Cement Finisher Tender; Small Concrete Mixer Operator; Shoring and Lagging Open Ditches; Concrete Saw; Powderman; Drills, Air-trac, Wagon Drill, Cat or Truck mounted air operated drills; Laser Equipment and Tool; Welders; Sand Blaster (wet or dry); Gunnitemen; Barco Tamper

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd) Cascade, Chouteau, Fergus, Glacier, Judith-Basin, Pondera, Teton and Toole Counties:					
Group 1	$ 9.80	.70	.60	.20	.05
Group 2	9.96	.70	.60	.20	.05
Group 3	10.05	.70	.60	.20	.05
Group 4	10.30	.70	.60	.20	.05
Group 5	10.40	.70	.60	.20	.05
Blaine, Daniels, Garfield, Hill, Liberty, McCone, Petroleum, Phillips, Richland, Roosevelt, Sheridan and Valley Counties:					
Group 1	9.30	.62	.53		.05
Group 2	9.40	.62	.53		.05
Group 3	9.55	.62	.53		.05
Group 4	9.70	.62	.53		.05
Group 5	9.80	.62	.53		.05
Group 6	10.05	.62	.53		.05

LABORERS (Cont'd)
Cascade, Chouteau, Fergus, Glacier, Judith-Basin, Pondera, Teton and Toole Counties

Group 1: Axeman; Caisson Workers (free air); Carpenter Tender; Car and Truck Loaders, Scissorsman; Chuck Tender and Nipper (above ground); Concrete Laborers (wet or dry); Buckatmen and Signalmen; Cosmolene, applying and removing; Dumpman (Spotter); Fence Erector and Installer (includes the installation and erection of fences, guard rails, median rails, reference posts, right-of-way markers and guide posts); Form Setter; Form Stripper; General Laborer, building and structure; Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision, such as radiant type or butane fire, without blowers or fans, General Laborers Scale); Landscape Laborer; Riprap Tender; Stake Jumper for equipment; Sandblaster Tail Hoseman, Pot Tender; Sod Cutter, hand operated (General Laborers); Tool Checker; Tool Houseman; Flagman and Scaleman

Group 2: Burning Bar; Cement Handlers; Choker Setter; Concrete or Asphalt Saws; Curb Machine; Dumpman (Grade Man); Hand Faller; Nozzleman (air, water), Gunite and Placo Machine; Pipelayer (all types) Laser Equipment Operator; Pipewrapper; Spike Driver, single or dual or hand; Switchman; Tar Pot Operator

Group 3: Asphalt Raker; Concrete Vibrator (3" and over); Drills, Air Track (all types); Equipment Handler; Grade Setter; Grout, Concrete Pump and Nozzleman; High Scaler; High Pressure Machine Nozzleman; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper, Power Saw (falling); Sandblaster

Group 4: Cement Mason Tender and Hod Carriers; Powderman

Group 5: Core Drill Operator; Welder, Cutting Torch and Air Arc

LABORERS (Cont'd)
Blaine, Daniels, Garfield, Hill, Liberty, McCone, Petroleum, Phillips, Richland, Roosevelt, Sheridan and Valley Counties

Group 1: General and Building Laborers and Scale Man; Form Stripper and Carpenter Tender; Car and Truck Loaders; Concrete Laborers (wet or dry breaking of concrete requiring sledge hammer); Dumpmen (Spotter and Flagman); Small power tools, Chippers, Clay Spaders, Pogo Stick, etc.; Fence Erectors and Installers includes installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers

Group 2: Dumpmen (Grade)

Group 3: Power Driven Concrete Buggies or power driven Wheelbarrows; Pipe Layers (non-metallic); Sandblaster, Concrete Nozzleman, Placo Operator, Jackhammer, Pavement Breaker, Vibrator (2½" and over) Barco Tamper, Vibrator Turtle; Small Concrete Mixers, Concrete Saw; Nozzleman (air and water); Sandblaster, Tailhoseman, Pot Tender, Tar Pot Tender; Gunite Nozzleman; Caisson Workers (free air); Tunnels and Shafts (free air); Bull Gang, Pot Tender; Chuck Tender, Muckers and Nippers, Primerhouseman

Group 4: Brick Tenders handling bricks and blocks only

Group 5: Hod Carriers and Plaster Tenders (men carrying motor either by hod, pail or barrow); High Scaler; Wagon Driller, cat or truck mounted air operated Drills; Asphalt Rakers and Tampers, Gunite, Form setter (Slab steel forms); Stake Setter, Stake Jumper, Rodder and Spreader, Grademan; Concrete Nozzleman; Miners

Group 6: Powderman; Laser Tools and Equipment; Small Concrete Mixers; Concrete Saw

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: Broadwater, Flathead, Lake, Lewis & Clark, Lincoln, Mineral, Missoula, Northern half of Powell, Ravalli and Sanders Counties:					
A-Frame Truck Crane, Winch Truck and similar	$12.03	.87	.75	.50	.07
Air Compressor, single	11.72	.87	.75	.50	.07
Air compressor, two or more	11.89	.87	.75	.50	.07
Air Doctor	12.19	.87	.75	.50	.07
Asphalt Paving Machine Operator	12.19	.87	.75	.50	.07
Asphalt Paving Machine Screed Operator	12.19	.87	.75	.50	.07
Automatic Finegrader, Gurries and other similar types	12.32	.87	.75	.50	.07
Belt Finish Machine Operator	11.89	.87	.75	.50	.07
Bit Grinder	12.19	.87	.75	.50	.07
Bituminous Mixer Paving, Travel Plant	12.19	.87	.75	.50	.07
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	11.78	.87	.75	.50	.07
Boring Machine (large)	12.19	.87	.75	.50	.07
Broom, self-propelled	11.86	.87	.75	.50	.07
Cableway Highline Operator	12.70	.87	.75	.50	.07
Cement Silo Operator	11.98	.87	.75	.50	.07
Central Mixing Plants, Concrete dam and stationary	12.44	.87	.75	.50	.07
Chain Ducket Loader	11.91	.87	.75	.50	.07
Chip or Gravel Spreader, self-propelled	11.91	.87	.75	.50	.07
Concrete Batch Plant, one and two Mixers	12.19	.87	.75	.50	.07
Concrete Batch Plant, three and four Mixers	12.39	.87	.75	.50	.07
Concrete Batch Plant, five Mixers and over	12.59	.87	.75	.50	.07

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete Batch Plant Oiler, up to and including two Mixers	$11.71	.87	.75	.50	.07
Concrete Batch Plant Oiler, three Mixers and over	12.02	.87	.75	.50	.07
Concrete Bucket Dispatcher	12.19	.87	.75	.50	.07
Concrete Curing Machine	12.19	.87	.75	.50	.07
Concrete Finish Machine Paving	12.19	.87	.75	.50	.07
Concrete Float-Spreader	12.19	.87	.75	.50	.07
Concrete Mixer, three bags and under	11.78	.87	.75	.50	.07
Concrete Mixer, four bags and over	11.95	.87	.75	.50	.07
Concrete Power Saw, self-propelled	12.19	.87	.75	.50	.07
Concrete Travel Batcher	12.19	.87	.75	.50	.07
Concrete Conveyor under 40 feet	11.77	.87	.75	.50	.07
Concrete Conveyor over 40 feet	12.52	.87	.75	.50	.07
Concrete Pump	12.52	.87	.75	.50	.07
Conveyor Loader Operator, up to and including 42' belt	11.77	.87	.75	.50	.07
Conveyor Loader Operator, over 42' belt	11.89	.87	.75	.50	.07
Crane, to and including 80' boom	12.35	.87	.75	.50	.07
Crane, 81' to 130' boom	12.50	.87	.75	.50	.07
Crane, 131' to 150' boom	12.55	.87	.75	.50	.07
Crane, 151' boom and over	12.60	.87	.75	.50	.07
Crane Oiler	11.76	.87	.75	.50	.07
Crane with jibs an additional $.15 per hour					
Crusher Operator	12.19	.87	.75	.50	.07
Crusher Oiler	11.68	.87	.75	.50	.07
Crusher Conveynr, when required	11.65	.87	.75	.50	.07

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Distributor Operator	$12.19	.87	.75	.50	.07
DW 10, 15, or 20 tractor pulling Roller	11.91	.87	.75	.50	.07
Electric Overhead Cranes	12.37	.87	.75	.50	.07
Elevating Grader	12.19	.87	.75	.50	.07
Farm type tractor up to and including 50 HP engine	11.55	.87	.75	.50	.07
Farm type tractor, over 50 HP engine	11.73	.87	.75	.50	.07
Field Equipment Servicemen	12.11	.87	.75	.50	.07
Fireman	11.78	.87	.75	.50	.07
Forklift, on construction job site	12.00	.87	.75	.50	.07
Form Grader Operator	11.96	.87	.75	.50	.07
Gradall Operator	12.19	.87	.75	.50	.07
Grade Setter	11.65	.87	.75	.50	.07
Heavy Duty Drill, all types	12.19	.87	.75	.50	.07
Herman-Nelson Heaters and similar types	11.73	.87	.75	.50	.07
Hoist Operator, single drum	11.96	.87	.75	.50	.07
Hoist, two or more drums	12.19	.87	.75	.50	.07
Helicopter Hoist	12.69	.87	.75	.50	.07
Hot Plant Operator	12.19	.87	.75	.50	.07
Hot Plant Fireman, when in operation	12.19	.87	.75	.50	.07
Hot Plant Oiler, 100 ton per hour or over	11.68	.87	.75	.50	.07
Hydra Lift and similar types	12.09	.87	.75	.50	.07
Industrial Locomotive all classes	12.19	.87	.75	.50	.07
Mechanic Shop, (Dec. 1 to April 1)	11.89	.87	.75	.50	.07
Mechanic and/or Welder on job	12.29	.87	.75	.50	.07
Mixermobile	12.27	.87	.75	.50	.07
Motor Patrol Operator	12.32	.87	.75	.50	.07
Mountain Logger or similar type	12.19	.87	.75	.50	.07
Mucking Machine Operator	12.19	.87	.75	.50	.07

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Oiler-Driver, Rubber tired Cranes	$11.76	.87	.75	.50	.07
Oilers, other than Shovels and Cranes	11.68	.87	.75	.50	.07
Oiler, Hoist House, dams	12.09	.87	.75	.50	.07
Pavement Breakers, Emsco and similar	12.19	.87	.75	.50	.07
Paving and Mixing Machine	12.32	.87	.75	.50	.07
Power Auger, large truck or tractor mounted and Punch	12.19	.87	.75	.50	.07
Power Mixer, single or double drum	12.19	.87	.75	.50	.07
Power Saw, multiple cut, self-propelled	12.19	.87	.75	.50	.07
Pumpcrete or Grout Machine	12.19	.87	.75	.50	.07
Pumpman	11.72	.87	.75	.50	.07
Push Tractor	12.19	.87	.75	.50	.07
Quad Cat	12.49	.87	.75	.50	.07
Quad Loader and similar type	12.77	.87	.75	.50	.07
Radiator Repairman	12.00	.87	.75	.50	.07
Reygo Gaint	12.77	.87	.75	.50	.07
Refrigeration Plant Operator	12.19	.87	.75	.50	.07
Retort Operator	11.78	.87	.75	.50	.07
Roller, on blade or hot mix oil paving	12.19	.87	.75	.50	.07
Roller, on othrer blade or hot mix paving	11.89	.87	.75	.50	.07
Roller, 25 ton or over	12.19	.87	.75	.50	.07
Rops and similar type Carriers, on construction site	12.19	.87	.75	.50	.07
Rubber-tired Dozer	12.19	.87	.75	.50	.07
Rubber-tired Front End Loader, 1 yard and under	11.90	.87	.75	.50	.07

POWER EQUIPMENT OPERATORS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Rubber-tired Front End Loader, 1 yard to and including 3 yards	$12.19	.87	.75	.50	.07
Rubber-tired Front End Loader, over 3 yards to and including 5 yards	12.31	.87	.75	.50	.07
Rubber-tired Front End Loader, over 5 yards to and including 10 yards	12.41	.87	.75	.50	.07
Rubber-tired Front End Loader, over 10 yards to and including 15 yards	12.51	.87	.75	.50	.07
Rubber-tired Front End Loader, over 15 yards	12.61	.87	.75	.50	.07
Scraper, DW 15, 20, 21, and similar type if power unit is not used	12.19	.87	.75	.50	.07
Scraper, single or twin engine pulling Belly Dump Trailer	12.57	.87	.75	.50	.07
Scraper, single engine	12.32	.87	.75	.50	.07
Scraper, twin engine	12.42	.87	.75	.50	.07
Scraper, tandem engine or 3 engine	12.68	.87	.75	.50	.07
Self-propelled Sheepfoot and similar type	12.19	.87	.75	.50	.07
Shovels, including all attachments, under 1 cu. yd.	12.19	.87	.75	.50	.07
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	12.37	.87	.75	.50	.07
Shovels, including all attachments, over 3 cu. yds. to and including 5 cu. yds.	12.64	.87	.75	.50	.07
Shovels, including all attachment over 5 cu. yds.	12.77	.87	.75	.50	.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Shovel Oiler, 3 yards and under	$11.68	.87	.75	.50	.07
Shovel Oiler, over 3 cu. yds.	12.09	.87	.75	.50	.07
Slip Form Paver Operator	12.32	.87	.75	.50	.07
Stiff Leg Derrick and Guy Derrick	12.64	.87	.75	.50	.07
Track-type Front End Loaders, up to and including 5 cu. yds.	12.19	.87	.75	.50	.07
Track-type Front End Loaders, over 5 cu. yds. to and including 10 cu. yds.	12.42	.87	.75	.50	.07
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	12.52	.87	.75	.50	.07
Track-tpye Front End Loaders, over 15 cu. yds.	12.62	.87	.75	.50	.07
Track-type Tractor w/wo attachments	12.19	.87	.75	.50	.07
Track-type Tractor, on Euclid Loader	12.37	.87	.75	.50	.07
Trenching Machine	12.19	.87	.75	.50	.07
Turnhead Conveyor, or Head Tower on Batch Plant	12.19	.87	.75	.50	.07
Wagner Roller and similar type	12.19	.87	.75	.50	.07
Whirley Crane Operator	12.72	.87	.75	.50	.07
Whirley Crane Oiler	12.09	.87	.75	.50	.07
Water Pull when used for compaction	12.19	.87	.75	.50	.07
Washing and Screening Plant Operator	12.19	.87	.75	.50	.07
Washing and Screening Plant Oiler	11.68	.87	.75	.50	.07
Yo-Yo Cat, both ends	12.39	.87	.75	.50	.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: Statewide, except Gallatin, Park, Sweet Grass, Broadwater (south of U.S. Highway #12) Counties:					
COMBINATION TRUCK; Concrete Mixer and Transit Mixer:					
To & including 4 cu. yds.	$11.10	.82	.84		
Over 4 cu. yds. to and including 6 cu. yds.	11.18	.82	.84		
Over 6 cu .yds. to and including 8 cu. yds.	11.26	.82	.84		
Over 8 cu. yds. to and including 10 cu. yds.	11.34	.82	.84		
Over 10 cu. yds.-additional $.08 per hour each additional 2 cu. yds. increment					
DISTRIDUTON DRIVER	11.08	.82	.84		
DRY BATCH TRUCKS:					
3 Batch or under	10.85	.82	.84		
Over 3 Batch to and including 5 Batch	11.98	.82	.84		
Over 5 Batch to and including 10 Batch	11.14	.82	.84		
Over 10 Batch to and including 15 Batch	11.30	.82	.84		
Over 15 Batch-additional $.15 per hour each additional 5 Batch increment					
PICKUP DRIVER, HAULING MATERIALS	10.95	.82	.84		
DUMPMAN, GRAVEL SPREADER BOX OPERATOR; Pilot Car Driver, Teamsters	10.85	.82	.84		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: (Cont'd)					
DUMP TRUCKS And SIMILAR EQUIPMENT, DW 20, DW 21, or EUCLID TRACTORS, Pulling P.R. 21 or similar Dump Wagons:					
Water Level Capacity, including Sideboards:					
7 cu. yds. or less	$10.85	.82	.84		
Over 7 cu. yds. to and including 10 cu. yds.	10.98	.82	.84		
Over 10 cu. yds. to and including 15 cu. yds.	11.14	.82	.84		
Over 15 cu. yds. to and including 20 cu. yds.	11.28	.82	.84		
Over 20 cu. yds. to and including 25 cu. yds.	11.34	.82	.84		
Over 25 cu. yds. to and including 30 cu. yds.	11.40	.82	.84		
Over 30 cu. yds. to and including 35 cu. yds.	11.46	.82	.84		
Over 35 cu. yds. to and including 40 cu. yds.	11.52	.82	.84		
Over 40 cu. yds. to and including 45 cu. yds.	11.58	.82	.84		
Over 45 cu. yds.-additional $.10 per hour each additional 5 cu. yds. increment					
DUMPSTERS	10.98	.82	.84		
POWER TRUCK DRIVER (bulk unloader type)	11.03	.82	.84		
FLAT TRUCKS:					
To and including 3 tons	11.00	.82	.84		
Over 3 tons factory rating	11.20	.82	.84		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: (Cont'd)					
FUEL TRUCK DRIVERS; TIREMEN	$11.44	.82	.84		
LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER	11.44	.82	.84		
LUMBER CARRIERS, LIFT TRUCK and FORK LIFTS	11.20	.82	.84		
POWER BROOM	10.94	.82	.84		
WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS:					
2,500 gallons and under	10.85	.82	.84		
Over 2,500 gallons to and including 4,500 gallons	11.14	.82	.84		
Over 4,500 gallons to and including 6,000 gallons	11.34	.82	.84		
Over 6,000 gallons to and including 8,000 gallons	11.40	.82	.84		
Over 8,000 gallons to and including 10,000 gallons	11.48	.82	.84		
Over 10,000 gallons - additinal $.10 per hour each additinal 2,000 gallons increment					
TRUCK MECHANIC	11.84	.82	.84		

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TRUCK DRIVERS:* (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS:					
7 yards or less	$ 9.73	.82	.84		
Over 7 yards to and including 10 yards	9.98	.82	.84		
Over 10 yards to and including 15 yards	10.14	.82	.84		
Over 15 yards to and including 20 yards	10.28	.82	.84		
PICKUP DRIVER, hauling materials	9.73	.82	.84		
FLAT TRUCKS:					
Less than 2 ton factory rating	9.73	.82	.84		
2 - 5 tons	9.88	.82	.84		
5 - 8 tons	9.88	.82	.84		
SEMI and 4-WHEEL TRAILERS	9.98	.82	.84		
SERVICE TRUCKS and A-FRAME TRAILERS	9.73	.82	.84		
HOUSE MOVERS	9.82	.82	.84		
*See Jurisdictional Areas - following Page					

JURISDICTIONAL AREAS

All of Gallatin, Park, and Sweet Grass Counties; that portion of Madison County east of Montana Highway #287; that portion of Broadwater County south of U. S. Highway #12; in full detail starting with Montana #287 at the Idaho Line, then north following highway to where it meets U.S. Highway #10; then north to connect with the Broadwater County Line and continues until it meets a straight line drawn between Boulder, Montana and Townsend, Montana. Follow this line to Townsend and then follow U. S. Highway #12 east until you meet the Wheatland County Line, follow the Wheatland County Line and then follow this County Line south to the State Line, follow the State Line west to where it meets Montana Highway #287.

LINE CONSTRUCTION:	Basic Hourly Rates	*Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Flathead, Lake, and Lincoln Counties:					
Lineman	$13.92	.45	3%+.50		1/2%
Cable Splicer	15.49	.45	3%+.50		1/2%
Pole Sprayer	12.37	.45	3%+.50		1/2%
Line Equipment Operators Powderman, Jackhammerman, Compressorman	11.87	.45	3%+.50		1/2%
Groundman "A	10.29	.45	3%+.50		1/2%
Tree Trimmer	9.65	.45	3%+.50		1/2%
	12.83	.45	3%+.50		1/2%
Statewide, except Flathead, Lake, Lincoln Counties:					
Lineman, Pole Sprayer	12.90	.45	3%+.50		1/2%
Cable Splicer	13.80	.45	3%+.50		1/2%
Line Equipment Operator; Powderman	11.40	.45	3%+.50		1/2%
Groundman	9.23	.45	3%+.50		1/2%

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Montana

COUNTIES: Cascade, Deer Lodge, Gallatin, Glacier, Hill, Missoula, Silver Bow and Valley

DECISION NUMBER: MT80-5143 DATE: Date of Publication

Supersedes Decision No. MT80-5122 dated June 27, 1980, in 45 FR 43624

DESCRIPTION OF WORK: Residential Projects (consisting of single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$14.64	.72	$1.30		.02
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS; MARBLE MASONS:*					
Area 1	13.80	.85	.90		
Area 2	14.15		.55		
Area 3	11.55	.60	.55		.05
Area 4	12.85	.90	.55		
Area 5	12.75	.75	.75		
Area 6	14.20		.55		
CARPENTERS:*					
Area 1:					
Carpenters	11.25	.80	.75		.04
Piledrivermen; Saw Filers; Sawmen	11.50	.80	.75		.04
Millwrights	12.25	.80	.75		.04
Area 2:					
Carpenters	11.67	.80	.75		.04
Piledrivermen; Millwrights	11.92	.80	.75		.04
Area 3:					
Carpenters	11.13	.80	.75		.04
Millwrights	12.27	.80	.75		.04
Piledrivermen	11.43	.80	.75		.04
Area 4	11.13	.80	.75		.04
Area 5	11.13	.80	.75		.04
Area 6:					
Carpenters	11.43			.75	
Millwrights; Piledrivermen	11.93			.75	
Area 7:					
Carpenters	11.38	.85	1.00		.04
Millwrights	11.88	.85	1.00		.04
Piledrivermen	11.88	.85	1.00		.04
Area 8:					
Carpenters	10.69	.85	1.00		.04
Millwrights	11.69	.85	1.00		.04
Piledrivermen	10.94	.85	1.00		.04
CEMENT MASONS:*					
Area 1	10.60				
Area 2	12.00	1.00	.50	1.00	
Area 3	10.50	.75	.35		
*See AREA Descriptions - following Page					

AREA DESCRIPTIONS

BRICKLAYERS; MARBLE MASONS:
Area 1: Cascade and Glacier Counties
Area 2: Deer Lodge County
Area 3: Missoula County
Area 4: Gallatin County
Area 5: Hill and Valley Counties
Area 6: Silver Bow County

CARPENTERS:
Area 1: Cascade and Glacier Counties
Area 2: Deer Lodge County
Area 4: Missoula County
Area 5: Gallatin County
Area 6: Hill County
Area 7: Silver Bow County
Area 8: Valley County

CEMENT MASONS:
Area 1: Cascade, Hill, and Valley Counties
Area 2: Deer Lodge and Silver Bow Counties
Area 3: Missoula County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Area 1:					
Electricians	$14.35	.70	3%+.75		1/2%
Cable Splicers	15.06	.70	3%+.75		1/2%
Area 2	14.35	.70	3%+.50		1/2%
Area 3:					
Contracts under $75,000:					
Electricians	13.20	.70	3%+.75		1/2%
Cable Splicers	13.86	.70	3%+.75		1/2%
Contracts over $75,000:					
Electricians	14.35	.70	3%+.75		1/2%
Cable Splicers	15.06	.70	3%+.75		1/2%
Area 4:					
Electricians	15.65	.70	3%+.50		1/2%
Cable Splicers	16.43	.70	3%+.50		1/2%
Area 5:					
Electricians	12.70	.55	3%+.50		1%
ELEVATOR CONSTRUCTORS	12.38	1.045	.82	a	
IRONWORKERS:*					
Structural; Ornamental and Reinforcing:					
Area 1	15.36	.90	1.90		.10
Area 2	12.00	.75	1.35		.15
PAINTERS:*					
Area 1:					
Brush	11.52	.69	.40		1%
Paperhanger	12.02	.69	.40		1%
Brush on Steel	12.02	.69	.40		1%
Spraying; Sandblasting	13.77	.69	.40		1%
Area 2:					
Brush or Roller, Prep Work; Pot Tender; Paper or Vinyl Hanger	11.08	.52	.50		.03
Wet Sandblasting, Brush or Roller application of cold tar epoxies, and acid resistant materials	13.08	.52	.50		.03
Spray application of cold tar epoxies, and acid resistant materials	16.08	.59	.50		.03
Perfataping	11.58	.59	.50		.03
Airless Spraying	12.08	.59	.50		.03

*See AREA Descriptions - Page 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:* (Cont'd)					
Area 2: (Cont'd)					
Structural Steel: Brush or Roller	$13.08	.59	.50		.03
Structural Steel: Spraying	14.08	.59	.50		.03
Area 3	9.73	.69	.50		.04
Area 4	10.90				
Area 5	8.65				
PLASTERERS:					
Area 1	12.00	1.00	.50	1.00	
Area 2	10.50	.75	.35		
PLUMBERS:*					
Area 1	15.10	.75	1.10		.16
Area 2	15.78	.75	.70		.15
Area 3	15.35	.70	.85		.10
ROOFERS:					
Area 1	11.52	.85	.50		.10
Area 2	10.75	.85	.25		
Area 3	9.75	.62	.60	.75	
Area 4	12.00	.55			
SHEET METAL WORKERS:*					
Area 1	14.04	.73	.75		.24
Area 2	14.09	.73	.73		.24
Area 3	14.71	.73	.50		.24
Area 4	14.25	1.205	.805		.24
SOFT FLOOR LAYERS:					
Area 1	12.50				
SPRINKLER FITTERS	13.83	.85	1.20		.08
TERRAZZO and TILE SETTERS:*					
Area 1	12.70	.90	.55		
Area 2	11.70	.85	.90		
Area 3	12.75	.75	.75		
WELDERS: Receive rate for Craft					

*See AREA Descriptions - following Page

FOOTNOTE:
a. Employer contibutes 8% of basic hourly rate for 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

AREA DESCRIPTIONS

ELECTRICIANS:
Area 1: Cascade County
Area 2: Deer Lodge and Silver Bow Counties
Area 3: Glacier, Hill, and Valley Counties
Area 4: Missoula County
Area 5: Gallatin County

IRONWORKERS:
Area 1: Glacier and Missoula Counties
Area 2: Remaining Counties

PAINTERS:
Area 1: Cascade, Glacier, and Valley Counties
Area 2: Gallatin and Silver Bow Counties
Area 3: Missoula County
Area 4: Hill County
Area 5: Deer Lodge County

PLASTERERS:
Area 1: Deer Lodge and Silver Bow Counties
Area 2: Missoula County

PLUMBERS:
Area 1: Cascade, Glacier, Hill, and Valley Counties
Area 2: Missoula County
Area 3: Remaining Counties

ROOFERS:
Area 1: Missoula County
Area 2: Cascade, Glacier, Hill, and Valley Counties
Area 3: Deer Lodge and Silver Bow Counties
Area 4: Gallatin County

SOFT FLOOR LAYERS:
Area 1: Cascade, Glacier, and Valley Counties

SHEET METAL WORKERS:
Area 1: Cascade, Glacier, and Hill Counties
Area 2: Deer Lodge and Silver Bow Counties
Area 3: Missoula County
Area 4: Gallatin and Valley Counties

TERRAZZO and TILE SETTERS:
Area 1: Missoula County
Area 2: Cascade and Glacier Counties
Area 3: Hill and Valley Counties

DECISION NO. MT80-5143 Page 6

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: Hill and Valley Counties:					
Group 1	$ 9.30	.62	.53		.05
Group 2	9.40	.62	.53		.05
Group 3	9.55	.62	.53		.05
Group 4	9.70	.62	.53		.05
Group 5	9.80	.62	.53		.05
Group 6	10.05	.62	.53		.05

Group 1: General and Building Laborers' and Scale Men; Form Stripper and Carpenter Tender; Car and Truck Loaders; Concrete Laborers (wet or dry breaking or concrete requiring sledge hammer); Dumpmen (Spotter and Flagman); Small Power tools, Chippers, Clay Spaders, Pogo Stick, etc.; Fence Erectors and Installers, installation and erection of fences, guard rails, median rails, reference posts, guide post and right-of-way markers

Group 2: Dumpman (Grade)

Group 3: Power Driven Concrete Buggies or Power Driven Wheelbarrows; Pipe Layers (non-metallic); Sandblaster; Concrete Nozzleman, Placo Operator, Jackhammerman, Pavement Breaker; Vibrator (2½ inches and over); Nozzleman (air and water); Sandblaster, Tailhoseman, Pot Tender, Tar Pot Tender, Gunite Nozzleman; Caisson Workers (free air); Tunnels and Shafts (free air); Bull Gang; Pot Tender, Muckers and Nippers, Primerhouseman

Group 4: Brick Tenders (handling brick and block only)

Group 5: Hod Carriers and Plaster Tenders (men carrying mortor either by hod pail or barrow); High Scaler; Wagon Driller, cat or truck mounted air operated Drills; Asphalt Rakers and Tampers, Gunite, Form Setter (Slab Steel Forms); Stake Setter, Stake Jumper, Rodder and Spreader, Grademan; Concrete Nozzleman; Miners

Group 6: Powdermen; Lazer Tools and Equipment; Small Concrete Mixers and Concrete Saws

DECISION NO. MT80-5143 Page 7

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd) Missoula County:					
Group 1	$ 9.32	.62	.53		.05
Group 2	9.57	.62	.53		.05
Group 3	9.72	.62	.53		.05

Group 1: General Building and Construction Labor; Scaleman; Watchman; Flagman; Form Strippers; Car and Truck Loaders; Carpenters Tenders; Concrete Handler, conveying and handling concrete, other than concrete classifications listed below

Group 2: Nozzleman (air or water); Sand Blast Tail, Hose Man; Powderman Tender; Power driven Wheelbarrow; Rodder and Spreader; Form setters (paving); Bucketman; Signalman; Rigger; Small Air Tool Operators, including Blow Pipes, small power tool Operators; Chuck Tenders; Asphalt Rakers; Dumpman; Rip Rapping, Pipe Wrapper; Pot Tenders; Concrete Pumper Hoseman; Cutting Torch; Jack Hammer; Pavement Breaker; Vibrator; Mechanical Tamper and other air tools; Cement Handlers (sack or bulk); Burning Bar

Group 3: Pipelayers (non-metallic); Metal Culvert Pipelayers; Mason and Plaster Tenders; Cement Finisher Tender; Small Concrete Saw; Powderman; Drills, Air-trac, Wagon Drill, Cat or Ttuck mounted Air operated Drills; Laser Equipment and Tools; Welders; Sandblaster (wet or dry); Gunnitemen; Barco Tamper

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd) Cascade and Glacier Counties					
Group 1	$ 9.80	.70	.60	.20	.05
Group 2	9.96	.70	.60	.20	.05
Group 3	10.05	.70	.60	.20	.05
Group 4	10.30	.70	.60	.20	.05
Group 5	10.40	.70	.60	.20	.05

Group 1: Axeman; Caisson Workers (free air); Carpenter Tender; Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Concrete Laborers (wet or dry); Bucketmen and Signalmen; Cosmolene, applying and removing; Dumpman (Spotter); Fence Erector and Installer (includes the installation and erection of fences, guard rials, median rails, reference posts, right-of-way markers and guide posts); Form Setter; Form Stripper; General Laborer, building and structure; Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision, General Laborers scale); Landscape Laborer; Riprap Tender; Stake Jumper for equipment; Sandblast Tail Hoseman, Pot Tender; Sod Cutter, hand operated (general Laborers); Tool Checker; Tool Houseman; Flagman and Scaleman

Group 2: Burning Bar; Cement Handlers; Choker Setter; Concrete or Asphalt Saws; Curb Machine; Dumpman (Grade Man); Hand Faller; Nozzleman (air, water); Gunite and Placo Machine; Pipelayer (all types) Laser Equipment Operator; Pipewrapper; Spike Driver, single or dual or hand; Switchman; Tar Pot Operator

Group 3: Asphalt Raker; Concrete Vibrator (3" and over); Drills, Air Track (all types); Equipment Handler; Grade Setter; Grout, Concrete Pump and Nozzleman; High Scaler; High Pressure Machine Nozzleman; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper, Power Saw (falling); Sandblaster

Group 4: Cement Mason Tender and Hod Carriers; Powderman

Group 5: Core Drill Operator; Welder; Cutting Torch and Air Arc

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (Cont'd) Gallatin County:					
Group 1	$ 9.33	.70	.60	.20	.05
Group 2	9.49	.70	.60	.20	.05
Group 3	9.59	.70	.60	.20	.05
Group 4	9.83	.70	.60	.20	.05
Group 5	9.93	.70	.60	.20	.05

Group 1: Axeman; Caisson Workers (free air); Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Concrete Laborers (wet or dry); Bucketmen and Signalmen; Cosmolene, applying and removing; Dumpman (Spotter); Fence Erector and Installer (includes the installation and erection fences, guard rails, median rails, reference posts, right-of-way markers and guide posts); Form Setter; Form Stripper; General Laborers, building and structure, Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision - such as radiant type or butane fire, without blowers or fans - General Laborers Scale); Landscape Laborer; Riprap Tender; Stake Jumper for equipment; Sandblaster Tail Hoseman, Pot Tender; Sod Cutter, hand operated (General Laborers); Tool Checker; Tool Houseman; Flagman and Scaleman

Group 2: Burning Bar; Cement Handlers; Concrete or Asphalt Saws; Curb Machine; Dumpman (Grade Man); Hand Faller; Nozzleman - air, water, Gunite and Placo Machine; Pipelayer (all types); Laser equipment Operator; Pipewrapper; Posthole Digger (power Auger); Powderman Tender; Riprapper; Spike Driver, single or dual or hand; Switchmen;

Group 3: Asphalt Raker; Choker Setter; Concrete Vibrator (3" and over); Drills, Air Tract (all types); Equipment Handler; Grade Setter; Grout, Concrete Pump and Nozzleman; High Scaler; High Pressure Machine Nozzleman; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper; Vibrating Roller, hand steered and other power tools; Power driven Wheelbarrow; Power Saw (bucking); Power Saw (falling); Rigger; Sandblaster; Tar Pot Operator

Group 4: Cement Mason Tender and Hod Carriers; Powderman

Group 5: Core Drill Operator; Welder, Cutting Torch and Air Arc

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Cont'd)					
Deer Lodge and Silver Bow Counties:					
Group 1	$ 9.36	.70	.60	.20	.05
Group 2	9.56	.70	.60	.20	.05
Group 3	9.61	.70	.60	.20	.05
Group 4	9.86	.70	.60	.20	.05
Group 5	9.96	.70	.60	.20	.05

Group 1: Axeman; Caisson Workers (free air); Carpenter Tender; Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Cosmoline, applying and removing; Dumpman (Spotter); Fence Erector and Installer (includes the installation and erection of fences, guard rails, median rails, reference posts, right-of-way markers and guide posts); Form Setter; Form Stripper; General Laborer - Building and structure, Crusher and Batch Plant Laborers; Heater Tender (not covered by joint board decision - such as radiant type or butane fire, without blowers or fans - General Laborers Scale); Landscape Laborer; Riprap Tender; Stake Jumper for equipment; Sandblasting Tail Hoseman, Pot Tender; Sod Cutter, hand operated (General Laborers); Tool Houseman; Tool Checker; Flagman and Scaleman

Group 2: Burning Bar; Cement Handlers; Choker Setter; Concrete or Asphalt Saws; Curb Machine; Dumpman (Grade Man); Grout, Concrete Pump and Nozzleman; Hand Faller; Nozzleman - air, water, Gunite and Placo Machine; Pipelayer (all types) Laser Equipment Operator; Pipewrapper; Posthole Digger (power Auger); Power Saw (bucking); Powderman Tender; Rigger; Riprapper; Spike Driver, single or dual or hand; Switchman; Tat Pot Operator;

Group 3: Asphalt Raker; Concrete Laborers (wet or dry); Bucketmen and Signalmen; Concrete Vibrator (3" and over); Drills, Air Tract (all types); Equipment Handler; Grade Setter; High Scaler; High pressure Machine Nozzleman; Jackhammer, Pavement Breaker, Wagon Driller, Concrete Vibrator, Mechanical Tamper, Vibrating Roller, hand steered and other power tools; Power Saw (falling); Sandblaster

Group 4: Cement Mason Tender and Hod Carriers; Powderman

Group 5: Core Drill Operator; Welder, Cutting Torch and Air Arc

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Missoula County					
A-Frame Truck Crane, Winch Truck and similar	$12.03	.87	.75	.50	.07
Air Compressor, single	11.72	.87	.75	.50	.07
Air compressor, two or more	11.89	.87	.75	.50	.07
Air Doctor	12.19	.87	.75	.50	.07
Asphalt Paving Machine Operator	12.19	.87	.75	.50	.07
Asphalt Paving Machine Screed Operator	12.19	.87	.75	.50	.07
Automatic Finegrader, Gurries and other similar types	12.32	.87	.75	.50	.07
Belt Finish Machine Operator	11.89	.87	.75	.50	.07
Bit Grinder	12.19	.87	.75	.50	.07
Bituminous Mixer Paving, Travel Plant	12.19	.87	.75	.50	.07
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	11.78	.87	.75	.50	.07
Boring Machine (large)	12.19	.87	.75	.50	.07
Broom, self-propelled	11.86	.87	.75	.50	.07
Cableway Highline Operator	12.70	.87	.75	.50	.07
Cement Silo Operator	11.98	.87	.75	.50	.07
Central Mixing Plants, Concrete dam and stationary	12.44	.87	.75	.50	.07
Chain Bucket Loader	11.91	.87	.75	.50	.07
Chip or Gravel Spreader, self-propelled	11.91	.87	.75	.50	.07
Concrete Batch Plant, one and two Mixers	12.19	.87	.75	.50	.07
Concrete Batch Plant, three and four Mixers	12.39	.87	.75	.50	.07
Concrete Batch Plant, five Mixers and over	12.59	.87	.75	.50	.07

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Concrete Batch Plant Oiler, up to and including two Mixers	$11.71	.87	.75	.50	.07
Concrete Batch Plant Oiler, three Mixers and over	12.02	.87	.75	.50	.07
Concrete Bucket Dispatcher	12.19	.87	.75	.50	.07
Concrete Curing Machine	12.19	.87	.75	.50	.07
Concrete Finish Machine Paving	12.19	.87	.75	.50	.07
Concrete Float-Spreader	12.19	.87	.75	.50	.07
Concrete Mixer, three bags and under	11.78	.87	.75	.50	.07
Concrete Mixer, four bags and over	11.95	.87	.75	.50	.07
Concrete Power Saw, self-propelled	12.19	.87	.75	.50	.07
Concrete Travel Batcher	12.19	.87	.75	.50	.07
Concrete Conveyor under 40 feet	11.77	.87	.75	.50	.07
Concrete Conveyor over 40 feet	12.52	.87	.75	.50	.07
Concrete Pump	12.52	.87	.75	.50	.07
Conveyor Loader Operator, up to and including 42' belt	11.77	.87	.75	.50	.07
Conveyor Loader Operator, over 42' belt	11.89	.87	.75	.50	.07
Crane, to and including 80' boom	12.35	.87	.75	.50	.07
Crane, 81' to 130' boom	12.50	.87	.75	.50	.07
Crane, 131' to 150' boom	12.55	.87	.75	.50	.07
Crane, 151' boom and over	12.60	.87	.75	.50	.07
Crane Oiler	11.76	.87	.75	.50	.07
Crane with jibs an additional $.15 per hour					
Crusher Operator	12.19	.87	.75	.50	.07
Crusher Oiler	11.68	.87	.75	.50	.07
Crusher Conveyor, when required	11.65	.87	.75	.50	.07

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Distributor Operator	$12.19	.87	.75	.50	.07
DW 10, 15, or 20 tractor pulling Roller	11.91	.87	.75	.50	.07
Electric Overhead Cranes	12.37	.87	.75	.50	.07
Elevating Grader	12.19	.87	.75	.50	.07
Farm type tractor up to and including 50 HP engine	11.65	.87	.75	.50	.07
Farm type tractor, over 50 HP engine	11.73	.87	.75	.50	.07
Field Equipment Servicemen	12.11	.87	.75	.50	.07
Fireman	11.78	.87	.75	.50	.07
Forklift, on construction job site	12.00	.87	.75	.50	.07
Form Grader Operator	11.96	.87	.75	.50	.07
Gradall Operator	12.19	.87	.75	.50	.07
Grade Setter	11.65	.87	.75	.50	.07
Heavy Duty Drill, all types	12.19	.87	.75	.50	.07
Herman-Nelson Heaters and similar types	11.73	.87	.75	.50	.07
Hoist, two or more drums	12.19	.87	.75	.50	.07
Helicopter Hoist	12.69	.87	.75	.50	.07
Hot Plant Operator	12.19	.87	.75	.50	.07
Hot Plant Fireman, when in operation	12.19	.87	.75	.50	.07
Hot Plant Oiler, 100 ton per hour or over	11.68	.87	.75	.50	.07
Hydra Lift and similar types	12.09	.87	.75	.50	.07
Industrial Locomotive all classes	12.19	.87	.75	.50	.07
Mechanic and/or Welder on job	12.29	.87	.75	.50	.07
Mixermobile	12.27	.87	.75	.50	.07
Motor Patrol Operator	12.32	.87	.75	.50	.07
Mountain Logger or similar type	12.19	.87	.75	.50	.07
Mucking Machine Operator	12.19	.87	.75	.50	.07

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Oiler-Driver, Rubber tired Cranes	$11.76	.87	.75	.50	.07
Oilers, other than Shovels and Cranes	11.68	.87	.75	.50	.07
Oiler, Hoist House, dams	12.09	.87	.75	.50	.07
Pavement Breakers, Emsco and similar	12.19	.87	.75	.50	.07
Paving and Mixing Machine	12.32	.87	.75	.50	.07
Power Auger, large truck or tractor mounted and Punch	12.19	.87	.75	.50	.07
Power Mixer, single or double drum	12.19	.87	.75	.50	.07
Power Saw, multiple cut, self-propelled	12.19	.87	.75	.50	.07
Pumpcrete or Grout Machine	12.19	.87	.75	.50	.07
Pumpman	11.72	.87	.75	.50	.07
Push Tractor	12.19	.87	.75	.50	.07
Quad Cat	12.49	.87	.75	.50	.07
Quad Loader and similar type	12.77	.87	.75	.50	.07
Radiator Repairman	12.00	.87	.75	.50	.07
Raygo Gaint	12.77	.87	.75	.50	.07
Refrigeration Plant Operator	12.19	.87	.75	.50	.07
Retort Operator	11.78	.87	.75	.50	.07
Roller, on blade or hot mix oil paving	12.19	.87	.75	.50	.07
Roller, on othrer blade or hot mix paving	11.89	.87	.75	.50	.07
Roller, 25 ton or over	12.19	.87	.75	.50	.07
Ross and similar type Carriers, on construction site	12.19	.87	.75	.50	.07
Rubber-tired Dozer	12.19	.87	.75	.50	.07
Rubber-tired Front End Loader, 1 yard and under	11.90	.87	.75	.50	.07

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Rubber-tired Front End Loader, 1 yard to and including 3 yards	$12.19	.87	.75	.50	.07
Rubber-tired Front End Loader, over 3 yards to and including 5 yards	12.31	.87	.75	.50	.07
Rubber-tired Front End Loader, over 5 yards to and including 10 yards	12.41	.87	.75	.50	.07
Rubber-tired Front End Loader, over 10 yards to and including 15 yards	12.51	.87	.75	.50	.07
Rubber-tired Front End Loader, over 15 yards	12.61	.87	.75	.50	.07
Scraper, DW 15, 20, 21, and similar type if power unit is not used	12.19	.87	.75	.50	.07
Scraper, single or twin engine pulling Belly Dump Trailer	12.57	.87	.75	.50	.07
Scraper, single engine	12.32	.87	.75	.50	.07
Scraper, twin engine	12.42	.87	.75	.50	.07
Scraper, tandem engine or 3 engine	12.68	.87	.75	.50	.07
Self-propelled Sheepfoot and similar type	12.19	.87	.75	.50	.07
Shovels, including all attachments, under 1 cu. yd.	12.19	.87	.75	.50	.07
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	12.37	.87	.75	.50	.07
Shovels, including all attachments, over 3 cu. yds. and including 5 cu. yds.	12.64	.87	.75	.50	.07
Shovels, including all attachment over 5 cu. yds.	12.77	.87	.75	.50	.07

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (Cont'd)					
Shovel Oiler, 3 yards and under	$11.68	.87	.75	.50	.07
Shovel Oiler, over 3 cu. yds.	12.09	.87	.75	.50	.07
Slip Form Paver Operator	12.32	.87	.75	.50	.07
Stiff Leg Derrick and Guy Derrick	12.64	.87	.75	.50	.07
Track-type Front End Loaders, up to and including 5 cu. yds.	12.19	.87	.75	.50	.07
Track-type Front End Loaders, over 5 cu. yds. to and including 10 cu. yds.	12.42	.87	.75	.50	.07
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	12.52	.87	.75	.50	.07
Track-tpye Front End Loaders, over 15 cu. yds.	12.62	.87	.75	.50	.07
Track-type Tractor w/wo attachments	12.19	.87	.75	.50	.07
Track-type Tractor, on Euclid Loader	12.37	.87	.75	.50	.07
Trenching Machine	12.19	.87	.75	.50	.07
Turnhead Conveyor, or Head Tower on Batch Plant	12.19	.87	.75	.50	.07
Wagner Roller and similar type	12.19	.87	.75	.50	.07
Whirley Crane Operator	12.72	.87	.75	.50	.07
Whirley Crane Oiler	12.09	.87	.75	.50	.07
Water Pull when used for compaction	12.19	.87	.75	.50	.07
Washing and Screening Plant Operator	12.19	.87	.75	.50	.07
Washing and Screening Plant Oiler	11.68	.87	.75	.50	.07
Yo-Yo Cat, both ends	12.39	.87	.75	.50	.07

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS: Statewide, except Gallatin County:					
COMBINATION TRUCK; Concrete Mixer and Transit Mixer:					
To & including 4 cu. yds.	$11.10	.82	.84		
Over 4 cu. yds. to and including 6 cu. yds.	11.18	.82	.84		
Over 6 cu .yds. to and including 8 cu. yds.	11.26	.82	.84		
Over 8 cu. yds. to and including 10 cu. yds.	11.34	.82	.84		
Over 10 cu. yds.-additional $.08 per hour each additional 2 cu. yds. increment					
DISTRIBUTOR DRIVER	11.08	.82	.84		
DRY BATCH TRUCKS:					
3 Batch or under	10.85	.82	.84		
Over 3 Batch to and including 5 Batch	11.98	.82	.84		
Over 5 Batch to and including 10 Batch	11.14	.82	.84		
Over 10 Batch to and including 15 Batch	11.30	.82	.84		
Over 15 Batch-additional $.15 per hour each additional 5 Batch increment					
PICKUP DRIVER, HAULING MATERIALS	10.95	.82	.84		
DUMPMAN, GRAVEL SPREADER BOX OPERATOR; Pilot Car Driver, Teamsters	10.85	.82	.84		

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TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS And SIMILAR EQUIPMENT, DW 20, DW 21, or EUCLID TRACTORS, Pulling P.R. 21 or similar Dump Wagons:					
Water Level Capacity, including Sideboards:					
7 cu. yds. or less	$10.85	.82	.84		
Over 7 cu. yds. to and including 10 cu. yds.	10.98	.82	.84		
Over 10 cu. yds. to and including 15 cu. yds.	11.14	.82	.84		
Over 15 cu. yds. to and including 20 cu. yds.	11.28	.82	.84		
Over 20 cu. yds. to and including 25 cu. yds.	11.34	.82	.84		
Over 25 cu. yds. to and including 30 cu. yds.	11.40	.82	.84		
Over 30 cu. yds. to and including 35 cu. yds.	11.46	.82	.84		
over 35 cu. yds. to and including 40 cu. yds.	11.52	.82	.84		
Over 40 cu. yds. to and including 45 cu. yds.	11.58	.82	.84		
Over 45 cu. yds.-additional $.10 per hour each additional 5 cu. yds. increment					
DUMPSTERS	10.98	.82	.84		
POWER TRUCK DRIVER (bulk unloader type)	11.03	.82	.84		
FLAT TRUCKS:					
To and including 3 tons	11.00	.82	.84		
Over 3 tons factory rating	11.20	.82	.84		

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TRUCK DRIVERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
FUEL TRUCK DRIVERS; TIREMEN	$11.44	.82	.84		
LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER	11.44	.82	.84		
LUMBER CARRIERS, LIFT TRUCK and FORK LIFTS	11.20	.82	.84		
POWER BROOM	10.94	.82	.84		
WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS:					
2,500 gallons and under	10.85	.82	.84		
Over 2,500 gallons to and including 4,500 gallons	11.14	.82	.84		
Over 4,500 gallons to and including 6,000 gallons	11.34	.82	.84		
Over 6,000 gallons to and including 8,000 gallons	11.40	.82	.84		
Over 8,000 gallons to and including 10,000 gallons	11.48	.82	.84		
Over 10,000 gallons - additinal $.10 per hour each additinal 2,000 gallons increment					
TRUCK MECHANIC	11.84	.82	.84		
TRUCKS with power equipment if under Teamster jurisdiction, such as: Winch, A-Frame Trucks, Swedish Crane, Hydralift, Groutcrete Truck and Combination Mulching, Seeding and Fertilizing Truck	10.34	.82	.84		

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TRUCK DRIVERS: (Cont'd) Gallatin County	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS:					
7 yards or less	$ 9.73	.82	.84		
Over 7 yards to and including 10 yards	9.98	.82	.84		
Over 10 yards to and including 15 yards	10.14	.82	.84		
Over 15 yards to and including 20 yards	10.28	.82	.84		
PICKUP DRIVER, hauling materials	9.73	.82	.84		
FLAT TRUCKS:					
Less than 2 ton factory rating	9.73	.82	.84		
2 - 5 tons	9.88	.82	.84		
5 - 8 tons	9.88	.82	.84		
SEMI and 4-WHEEL TRAILERS	9.98	.82	.84		
SERVICE TRUCKS and A-FRAME TRAILERS	9.73	.82	.84		
HOUSE MOVERS	9.82	.82	.84		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Oregon COUNTIES: Statewide
DECISION NUMBER: OR80-5145 DATE: Date of Publication
Supersedes Decision No. OR80-5106 dated February 9, 1980, in 45 FR 8856
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects and Dredging.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$18.34	.82	$ 1.45		.18
BOILERMAKERS	13.51	1.275	1.25	1.00	.04
BRICKLAYERS; Stonemasons:*					
Area 1	15.66	1.05	1.40		.22
Area 2	15.35	.95	1.00		.12
CARPENTERS:					
Acoustical and Drywall Applicator; Automatic Nailing Machine; Carpenters; Form Strippers; Manhole Builders	13.80	1.00	1.00	.65	.07
Floor Layers and Finishers; Stationary Power Saw Operators	13.95	1.00	1.00	.65	.07
Millwrights and Machine Erectors	14.05	1.00	1.00	.65	.07
Certified Welders, Instrument Men	14.20	1.00	1.00	.65	.07
Piledrivermen; Bridge, Dock and Wharf Builders	13.90	1.00	1.00	.65	.07
Boom Men	14.00	1.00	1.00	.65	.07
CEMENT MASONS:					
Cement Masons	13.10	1.05	1.17	1.00	.20
Composition Workers; Power Machinery Operator	13.36	1.05	1.17	1.00	.20
ELECTRICIANS:*					
Area 1:					
Electricians	13.90	.75	3%+1.00		1%
Cable Splicers	15.29	.75	3%+1.00		1%
Area 2:					
Electricians	16.65	.95	3%+1.30		.05
Lead Cable Splicers	17.52	.95	3%+1.30		.05
Area 3:					
Electricians	17.05	.90	3%+2.50		.04
Cable Splicers	18.75	.90	3%+2.50		.04
Area 4:					
Electricians	18.55	.90	3%+1.00		.07
Lead Cable Splicers	20.41	.90	3%+1.00		.07

*See AREA Descriptions - Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:* (Cont'd)					
Area 5:					
Electricians	$17.75	.90	3%+1.80		.10
Cable Splicers	10.50	.90	3%+1.80		.10
Area 6:					
Electricians	16.13	.90	3%+2.00		.08
Cable Splicers	17.74	.90	3%+2.00		.08
ELEVATOR CONSTRUCTORS	16.07	1.195	.82	a	.035
GLAZIERS	11.81	.61	.65		.01
IRONWORKERS:					
Structural; Reinforcing; Ornamental; Riggers; Fence Erectors; Signal Men	15.66	.93	1.90		.10
LATHERS:*					
Area 1	14.17	.75	1.55		.06
MARBLE SETTERS:*					
Area 1	15.66	1.05	1.40		.22
MASON TENDERS: (including tenders of plasterers, bricklayers, tile setters, marble setters and terrazzo worker; Topping for cement finishers and mortar mixer)	12.95	.95	1.30		.10
PAINTERS:*					
Area 1:					
Painters and Tapers	11.37	.63	.50		.07
Area 2:					
Brush; Glazier; Sign Painter	5.50				
Spray; Sandblasting; Swing Stage; Taping and Paperhanging	5.57				
Area 3:					
Brush	12.42	.90	1.00	.50	.09
Spray	12.97	.90	1.00	.50	.09
Bridges, High work over 50' (brush)	13.32	.90	1.00	.50	.09
Bridges, High work over 50' (spray)	13.87	.90	1.00	.50	.09
Drywall Tapers	14.23	.80	.80		.06

*See AREA Descriptions - following page

AREA DESCRIPTIONS

BRICKLAYERS; Stonemasons:
Area 1: Baker, Clackamas, Clatsop, Columbia, Gilliam, and Hood River; Malheur County (north half); Marion, Morrow, Multnomah, Polk, Sherman, and Tillamook Counties; Umatilla, Union, Wallowa, and Wasco Counties (north of the City of Maupin); Washington and Yamhill Counties
Area 2: Benton, Crook, Coos, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, Lincoln, and Linn Counties; Malheur County (south half); Wasco County (including the City of Maupin and south thereof); Wheeler County

ELECTRICIANS:
Area 1: Malheur County
Area 2: Baker, Gilliam, Grant, Morrow, Umatilla and Wheeler Counties
Area 3: Coos, Curry, and Lincoln Counties; Douglas and Lane Counties (those portions lying west of a line north and south, from the NW corner of Coos County to the SE corner of Lincoln County)
Area 4: Benton, Crook, Deschutes, and Jefferson Counties; Lane County (eastern portion); Linn, Marion, and Polk Counties; Yamhill County (south half)
Area 5: Clackamas, Clatsop, Columbia, Hood River, Multnomah, Sherman, Tillamook, Wasco, and Washington Counties; Yamhill County (north half)
Area 6: Harney, Jackson, Josephine, Klamath, and Lake Counties; Douglas County (that portion lying east of a line running north and south from the NE corner of Coos County to the SE corner of Lincoln County)

LATHERS:
Area 1: Clackamas, Clatsop, Columbia, Gilliam, Harney, Hood River, Morrow, Multnomah, Sherman, and Yamhill Counties

MARBLE SETTERS:
Area 1: Baker, Clackamas, Clatsop, Columbia, Gilliam, and Hood River Counties; Malheur County (north half); Multnomah, Morrow, Sherman, and Tillamook Counties; Union, Umatilla, and Wallowa Counties; Wasco County (north of the City of Maupin); Washington County; Yamhill County (north half)

PAINTERS:
Area 1: Malheur County:
Area 2: Umatilla County (Township of Pendleton ONLY)
Area 3: Remaining Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:*					
Area 1	$15.04	$1.00	$ 1.00		.01
Area 2	14.72	.75	1.00		.01
PLUMBERS:*					
Area 1	12.32	.79	1.10		.10
Area 2	14.64	.87	1.70	2.00	.12
Area 3	16.96	1.25	1.90	1.75	.12
Area 4	17.77	1.50	1.85		.13
Area 5	16.33	.81	1.65		.10
Area 6	19.07	1.21	1.90		.19
Area 7	14.06	.90	1.55		.10
Area 8	16.51	1.00	1.80	1.20	.05
ROOFERS:*					
Area 1	12.44	.45	.15		
Area 2:					
Roofers	13.55	.80	1.30		.10
Handling of irritating material (coal, tar or epoxy)	13.80	.80	1.30		.10
Handling of irritating material (coal, tar or epoxy) in confined area	14.05	.80	1.30		.10
Area 3:					
Roofers	13.25	.96	.50		
Spray and/or application of irritating materials in a confined area	12.60	.96	.50		
Area 4	12.45	.85	.30		
Area 5	13.06	.85	1.45		.10
SHEET METAL WORKERS:*					
Area 1	15.89	3%+1.03	1.81	1.00	.10
Area 2	14.00	.68	.72		.21
Area 3	16.74	3%+.73	1.50		.20
Area 4	15.705	.73	1.28		.10
SOFT FLOOR LAYERS:*					
Area 1	12.415	.60	1.05	b	.12
Area 2	8.26	.49	.10		.10
SPRINKLER FITTERS	15.34	.85	1.20		.08

*See AREA Descriptions - following Page

AREA DESCRIPTIONS

PLASTERERS:
Area 1: Benton, Coos, Crook, Curry, Douglas, Deschutes, Harney, and Jefferson Counties; Klamath County (northern one-third); Lane County; Lincoln, Linn, Wasco, and Wheeler Counties (south half)
Area 2: Remaining Counties

PLUMBERS:
Area 1: Baker County; Harney (except NW portion); Malheur County
Area 2: Grant County (except SW corner); Morrow, Umatilla, Wallowa, and Union Counties
Area 3: Benton, Lincoln, and Linn Counties (north half); Marion and Polk Counties; Tillamook and Yamhill Counties (south half)
Area 4: Clackamas, Clatsop, Columbia, Gilliam, Hood River, Jefferson, Multnomah, Sherman, Wasco, Wheeler, and Washington Counties; Tillamook and Yamhill Counties (north half)
Area 5: Coos and Curry Counties; Douglas County (West Coast portion); Lane County (including the City of Florence)
Area 6: Benton County (south half); Crook and Deschutes Counties; Douglas County (except Coast portion); Grant County (SW corner); Harney County (NW portion); Jefferson County (south half); Klamath and Lake Counties (northern portion); Lane County (except the City of Florence); Lincoln and Linn Counties (south half)
Area 7: Remainder of Klamath and Lake Counties
Area 8: Jackson and Josephine Counties

ROOFERS:
Area 1: Benton, Lincoln, Linn, Marion, Polk, and Yamhill Counties
Area 2: Baker, Clackamas, Clatsop, Columbia, Grant, Gilliam, Hood River, Morrow, Multnomah, Sherman, Tillamook, Umatilla, Union, Wasco, Washington and Wheeler Counties
Area 3: Coos, Crook, Curry, Deschutes, Douglas, Harney, Jackson, Josephine, Klamath, Lake, and Lane Counties
Area 4: Malheur County
Area 5: Wallowa County

SHEET METAL WORKERS:
Area 1: Benton, Clackamas, Clatsop, Columbia, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Lincoln, Linn, Marion, Multnomah, Polk, Sherman, Tillamook, Wasco, Washington, Wheeler, and Yamhill Counties
Area 2: Baker and Malheur Counties
Area 3: Morrow, Umatilla, Union, and Wallowa Counties
Area 4: Coos, Curry, Douglas, Klamath, Lake, Lane, Jackson, and Josephine Counties

SOFT FLOOR LAYERS:
Area 1: All Counties except Malheur County
Area 2: Malheur County

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TILE SETTERS:*					
Area 1	$15.66	.90	$ 1.20		.28
Area 2	14.60	.95	.95		.10
*See AREA Descriptions - below					

WELDERS; RIGGERS: Receive rate prescribed for craft performing operation to which welding and rigging are incidental

FOOTNOTES:
a. Employer credits 8% of basic hourly rate for employees with more than 5 years' service; 6% basic hourly rate for 6 months' to 5 years' service to Vacation Plan. Six Paid Holidays: A through F
b. 4% of all gross wages to be placed to the credit of employees with less than one year's service. 6% of all gross wages to be placed to the credit of employees with more than one year of service.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

AREA DESCRIPTIONS

TILE SETTERS:
Area 1: Baker, Clackamas, Clatsop, Columbia, Gilliam, and Hood River Counties, Malheur County (north half); Morrow, Multnomah, Sherman, Tillamook, Umatilla, Union, and Wallow Counties; Wasco County (north of Maupin); Washington County; Yamhill County (north half)

Area 2: Benton, Coos, Crook, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Josephine, Klamath, Lake, Lane, Lincoln, and Linn Counties; Malheur County (south half); Wasco County (Maupin and south thereof); Wheeler County (south half)

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LINE CONSTRUCTION
(All Counties Except Malheur)

	BASE ZONE	ZONE 1	ZONE 2	ZONE 3	ZONE 4
Group 1: Cable Splicer, Leadman Pole Sprayer	$16.15	$17.40	$18.15	$18.90	$20.15
Group 2: Lineman, Pole Sprayer, Heavy Line Equipment Man, Certified Lineman Welder	14.59	15.84	16.59	17.34	18.59
Group 3: Tree Trimmer	13.17	14.42	15.17	15.92	17.17
Group 4: Line Equipment Man	12.57	13.82	14.57	15.32	16.57
Group 5: Head Groundman (Chipper), Head Groundman, Powderman, Jackhammer Man	10.99	12.24	12.99	13.74	14.99
Group 6: Groundman	10.32	11.57	12.32	13.07	14.30

FRINGE BENEFITS PAYMENTS:	Groups 1 to 3	Groups 4 to 6
Health and Welfare	$.45	$.45
Pension	3%+1.70	3%+1.10
Vacation	.10	.10
Apprenticeship Training	1/2%	1/2%

ZONE DESCRIPTIONS:
*BASE ZONE 0 to 3 miles radius from the geographical center of the the Cities listed below:
ZONE 1 3 to 20 miles radius
ZONE 2 20 to 35 miles radius
ZONE 3 35 to 50 miles radius
ZONE 4 Over 50 miles radius

Spokane	Ellensburg	Asotria	Medford
Tacoma	Ephrata	Baker	Portland
Walla Walla	Everett	Burns	Pendleton
Wenatchee	Kennewick	Bend	Salem
Yakima	Longview	Eugene	Roseburg
Wilbur	Olympia	Umatilla	Lakeview
Klamath Falls	Bellingham	Kellog	Sand Point
Corvallis	Coeur d'Alene	Lewiston	
Orofino	The Dallas		

*BASE ZONE Rate is paid when working out of employer's permanent Shop.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: (Cont'd) Malheur County:					
Cable Splicer	$11.83	.45	3%+.35		1/2%
Journeyman Lineman	10.72	.45	3%+.35		1/2%
Line Equipment Mechanic (right of way)	10.14	.45	3%+.35		1/2%
Line Equipment Mechanic (base shop)	9.47	.45	3%+.35		1/2%
Line Equipment Serviceman	9.47	.45	3%+.35		1/2%
Line Equipment Operator	9.63	.45	3%+.35		1/2%
Groundman	7.89	.45	3%+.35		1/2%
DREDGING:					
Leverman:					
Dipper	12.79	1.00	1.47	.50	.05
Hydraulic	13.44	1.00	1.47	.50	.05
Assistant Engineer (including Watch Engineer, Welder, Mechanic and Machinist); Mate	12.42	1.00	1.47	.50	.05
Tenderman (Boatman, attending Dredge Plant); Fireman	12.18	1.00	1.47	.50	.05
Assistant Mate (Deckhand); Oiler	11.92	1.00	1.47	.50	.05
TIMBER SALES ROADS:					
Operating Engineer	10.50	1.25	1.47	.50	.05
Operating Engineer Assistant (Oiler)	9.50	1.25	1.47	.50	.05
Teamster	10.54	.93	1.19		.08
Laborer	9.04	1.20	1.40		.10
Power Saw, Drillers, Powderman	9.53	1.20	1.40		.10

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LABORERS*

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$10.83	$11.33	$11.73	$12.23	$13.13	$13.83
2	11.18	11.68	12.08	12.58	13.48	14.18
3	11.48	11.98	12.38	12.88	13.78	14.48
4	11.73	12.23	12.63	13.13	14.03	14.73

FRINGE BENEFITS:	
Health and Welfare	$ 1.20
Pension	1.40
Vacation	1.00
Apprenticeship Tr.	.10

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

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LABORERS

Group 1: Asphalt Plant Laborers; Asphalt Spreaders; Batch Weighman; Broomers; Brush Burners and Cutters; Car and Truck Loaders; Carpenter Tender; Change-house Man or Dry Shack Man; Choke Setter; Clean-up Laborers; Concrete Laborers; Culvert, hand labor; Curing, concrete; Demolition, wrecking, and moving Laborers; Driller Tenders; Dumpers, road oiling crew; Dumpmen (for grading crew); Elevator Feeders; Fence Builder (including Guard Rail, Median Rail, Reference Post, Right-of-way Marker); Fine Graders; Form Strippers (not swinging stages); General Laborers; Landscaping or Planting Laborers; Leverman or Aggregate Spreader (Flaherty and Loading Spotters and similar types); Material Yard Man (including electrical); Powderman Tender; Pittsburgh Chipper Operator or similar types; Ribbon Setters (including Steel Forms); Rip Rap Man (hand placed); Road Pump Tender; Sewer Labor; Signalman; Skipman; Slopers; Spraymen; Stake Chaser; Stockpiler; Timber Faller and Bucker (hand labor); Toolroom Man (at job site); Tunnel Bullgang (above ground); Weightman, Crusher (aggregate when used)

Group 2: Applicator (including Pot Tender for same), applying protective material by hand or nozzle on utility lines or storage tanks on project; Brush Cutters (power saw); Burners; Choker Splicer; Clary Power Spreader and similar types; Clean-up Nozzleman, Green Cutter (concrete, rock, etc.); Concrete Power Buggyman; Crusher Feeder; Demolition and wrecking Charred materials; Grade Checker; Granite Nozzleman Tender; Gunite or Sand Blasting Pot Tender; Handlers or Mixers of all materials of an irritating nature (including cement and lime); Power Tool Operators, includes but not limited to: Dry Pack Machine; Jackhammer; Chipping Guns; Paving Breakers; Vibrators (less than 4" in diameter); Post Hole Digger, air, gas or electric; Vibrating Screed; Tampers; Sand Blasting (wet); Stake-setter; Tunnel - Muckers, Brakemen, Concrete Crew, Bull Gang (underground)

Group 3: Asphalt Rakers; Bit Grinder; Drill Doctor; Drill Operators, Air Tracks, Cat Drills, Wagon Drills, Rubber-mounted Drills, and other similar types; Concrete Saw Operator; Gunite Nozzleman; High Scalers, Strippers and Drillers (covers work in swinging stages, chairs or belts, under extreme conditions unusual to normal drilling, blasting, barring-down, or sloping and stripping); Laser Beam (pipe laying)(applicable when employee assigned to move, set up, align Laser Beam); Manhole Builder; Powdermen; Power Saw Operators (bucking and falling); Pumpcrete Nozzlemen; Sand Blasting (dry); Sewer Pipe Layers; Sewer Timberman; Track Liners, Anchor Machines, Ballast Regulators, Multiple Tampers, Power Jacks; Tugger Operator; Tunnel - Chuck Tenders, Nippers, and Timbermen; Vibrators (4" and larger); Water Blaster; Welder

Group 4 Laser Beam (tunnel) - applicable when employee assigned to move, set up, align Laser Beam; Tunnel Miners; Tunnel Powderman

POWER EQUIPMENT OPERATORS*

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$13.12	$13.62	$14.02	$14.52	$15.42	$16.12
2	13.28	13.78	14.18	14.68	15.58	16.28
3	13.40	13.90	14.30	14.80	15.70	16.40
4	13.58	14.08	14.48	14.98	15.88	16.58
5	13.60	14.10	14.50	15.00	15.90	16.60
6	13.69	14.19	14.59	15.09	15.99	16.69
7	13.76	14.26	14.66	15.16	16.06	16.76
8	13.87	14.37	14.77	15.27	16.17	16.87
9	13.94	14.44	14.84	15.34	16.24	16.94
10	14.01	14.51	14.91	15.41	16.31	17.01
11	14.03	14.53	14.93	15.43	16.33	17.03
12	14.10	14.60	15.00	15.50	16.40	17.10
13	14.19	14.69	15.09	15.59	16.49	17.19
14	14.37	14.87	15.27	15.77	16.67	17.37
15	14.55	15.05	15.45	15.95	16.85	17.55
16	14.76	15.26	15.66	16.16	17.06	17.76
17	14.92	15.42	15.82	16.32	17.22	17.92
18	15.12	15.62	16.02	16.52	17.42	18.12
19	15.28	15.78	16.18	16.68	17.58	18.28

FRINGE BENEFITS:

Health and Welfare	$1.25
Pension	1.47
Vacation	.50
Apprenticeship Training	.05

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications.

POWER EQUIPMENT OPERATORS

Group 1: Oiler, including Plant, Crane, Crusher, Guardrail equipment, and Trenching Machine; Assistant Conveyor Operator; Crusher Feederman; Deckhand; Self-propelled Scaffolding Operator; Guardrail Punch Oiler; Pump Operator, under 4"; Brakeman; Switchman; Parts Man (tool room)

Group 2: Blade Operator, pulled type; Truck Crane Oiler - Driver, 25 ton capacity or over; Crane Fireman (all equipment except floating); A-Frame Truck Operator, single drum; Tugger or Coffin type Hoist Operator; Driller Tender; Auger; Oiler; Boatman; Fork Lift or Lumber Stacker Operator(on job site); Oiler, combination Guardrail Machines; Temporary Heating Plant Operator; Grade Oiler, required to check grade; Grade Checker; Tar Pot Fireman; Tar Pot Fireman (power agitated); H.D. Repairman Tender; Welder's Tender; Helicopter Radioman (ground); Roller Operator, grading of base rock (not asphalt)

Group 3: Aspahlt Plant Fireman; Pugmill Operator (any type); Truck mounted Asphalt Spreader, with Screed; Compressor Operator (any power), under 2,250 cu. ft. total capacity; Conveyor Operator; Mixer Box Operator (C.T.B., Dry Batch, etc.); Cement Hog; Concrete Saw; Concrete Curing Machine (riding type); Wire Mat or Brooming Machine; Ross Carrier Operator (on job site); Bucket Elevator Loader, Barber Greene and similar types; Hydraulic Pipe Press; Pump Operator (any power), 4" and over; Hydrostatic Pump; Motorman; Ballast Jack Tamper; Bell Boy, phones, etc; Tamping Machine, mechanical self-propelled; Hydrographic Seeder Machine, straw, pulp or seed; Broom Operator, self-propelled (on job site); Air Filtration Equipment; Welding Machine Operator

Group 4: Screed Operator; Compactor, including Vibratory; Compressor (any power) over 1,250 cu. ft. total capacity; Combination Mixer and Compressor, Gunnite Work; Concrete Mixer Operator, single drum, under five bag capacity; Helicopter Hoist Operator; Floating Equipment Fireman; Lull Hi-lift Operator or similar type; Fork Lift, over 5 ton; Service Oiler (Greaser); Hydra Hammer or similar types; Pavement Breaker; Pump Operator, more than 5 (any size); Locomotive, under 40 tons; Roller Operator, Oiling, C.T.B.

Group 5: Extrusion Machine; Wagner Pactor or similar type (without blade); Concrete Batch Plant Quality Control Operator; Power Jumbo, Setting Slip Forms, etc. in tunnels; Slip Form Pumps, Power driven Hydraulic Lifting Device for concrete forms; Hoist, single drum; Elevator Operator; Pulva-mixer or similar types; Chip Spreading Machine Operator; Lime Spreading (on job site); Sweeper (Wayne type) Self-propelled (on job site); Tractor, rubber-tired 50 H.P. flywheel and under; Trenching Machine, maximum digging capacity 3 ft. depth

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt Burner and Reconditioner; Pavement Grinder and/or Grooving Machine (riding type); Cast-in-place Pipe Laying Machine; Maginnis Internal Full Slab Vibrator; Concrete Finishing Machine, Clary, Johnson, Bidwell, Burgess Bridge Deck or similar type; Curb Machine, Mechanical Berm, Curb and/or Curb and Gutter; Concrete Joint Machine; Concrete Planer; Concrete Paving Machine; Concrete Spreader; Loaders, rubber-tired type, 2½ cu. yds. and under; Rock Spreaders, self-propelled

Group 7: Roller (any asphalt mix); Beltcrete; Pumpcrete Operator (any type); Fuller-Kenyon and similar; Concrete Pump; Grouting machine; Concrete Mixer, single drum, five bag capacity and over; Tower Mobile Operator; A-Frame Truck, double drum; Boom Truck; Churn Drill and Earth Boring Machine; Hydraulic Backhoe, wheel type 3/8 cu. yds. and under with or without Front End attachments 2½ cu. yds. and under (Ford, John Deer, Case type); Elevating Grader, Tractor towed requiring Operator or Grader; Pot Rammer; Ballast Regulator; Ballast Tamper, Multiple-purpose; Track Liner; Tie Spacer; Shuttle Car; Locomotive, 40 tons and over

Group 8: Diesel-electric Engineer, Plant, Crusher, Generator, Floating; Batch Plant and/or wet mix, one and two drum; Generator Operator; Belt Loader, Kolman and Ko Cal types; Asphalt Paver Operator

Group 9: Bulldozer; Drill Cat Operator; Side-boom Cat; Compactor, with blade; Concrete Cooling Machine; Chicago Boom and similar types; Lift Slab Machine; Boom type lifting device, 5 ton capacity or less; Cherry Picker or similar type Crane-hoist, 5 ton capacity or less; Grizzley Crusher; Crusher Plant; Drill Doctor; Boring Machine; Guardrail Punch and Auger (all types); Surface Heater and Planer; Hydraulic Backhoe, track type 3/8 cu. yds.; Loader, Front End and Overhead, 2½ cu. yds. and under 4 cu. yds.; Hammer Operator; Pipe Cleaning, Doping, Bending and Wrapping Machines; Bolt-threading Machine; Drill Doctor (Bit Grinder); H.D. Mechanic and Welder; Machine Tool Operator; Stationary Drag Scraper; Tractor, rubber-tired over 50 H.P. flywheel; Tractor with boom attachment; Trench Machine, maximum digging capacity over 3 ft. depth; Aspahlt Plant Operator

Group 10: Bulldozer, twin engine (TC 12 and similar); Cable Plow (any type); Compactor, multi-engine; Jack Operator, Elevating Barges; Barge Operator, self-unloading; Combination H.D. Mechanic - Welder, with dispatcher and/or when required to do both; Rubber-tired Dozers and Pushers (Michigan, Cat, Hough type); Driller - Percussion, Diamond, Core, Cable, Rotary and similar type

Group 11: Mixer Mobile; Concrete Breaker; Crane Operator, 25 tons and under; Combination Guardrail Machines, i.e., Punch, Auger, etc.; Shovel; Dragline; Clamshell, Hoe, etc., under 1 cu. yd.; Grade-alls, under 1 cu. yd.; Mucking Machine (tunnel)

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POWER EQUIPMENT OPERATORS (Cont'd)

Group 12: Blade Operator; Batch Plant and/or Wet Mix, 3 units or more; Reinforced Tank Banding Machine (K-17 or similar); Hoist, two or more drums; Elevating Loader, Athey and similar; Piledriver (not crane type); Rubber-tired Scraper, single and twin engine; Single Scraper, with Push-pull attachments, self-loader; Paddle Wheel, auger type; Blade mounted Spreaders, Ulrich and similar types; Shield Operator

Group 13: Blade Operator, finish; Blade, externally controlled by electronic, mechanical hydraulic means; Blade, multi-engine; Concrete Paving Road Mixer; Derrick, under 100 tons; Hoist, Stiff Leg, Guy Derrick or similar, 50 tons and over; Cableway Operator 25 ton and over; Crane, over 25 ton and including 50 tons; Piledriver Operator; Floating Clamshell, etc., under 3 cu .yds.; Floating Crane (Derrick Barge), less than 30 ton; Elevating Grader, operated by Tractor Operator, Sierra, Euclid, or similar; Back Filling Machine; Shovel, etc. 1 cu. yd. and less than 3 cu. yds.; Grade-all, 1 cu. yd. and over; Bridge Crane Operator, Locomotive Crane, Gantry and Overhead

Group 14: Tower Crane Operator; Rubber-tired Scraper, with Tandem Scrapers, self-loading, Paddle Wheel, auger type, finish and/or 2 or more units

Group 15: Rock Hound Operator; Loader, 4 cu. yds., but less than 6 cu. yds.

Group 16: Autograder or "Trimmer"; Tandem Bulldozer, Quad-nine and similar; Automatic Concrete Slip Form Paver; Concrete Canal Line; Cableway, 25 ton and over; Crane, over 40 ton and including 100 ton; Whirley, 80 ton and under; Floating Clamshell, etc., 3 cu. yds. and over; Floating Crane (Derrick Barge) 30 ton but less than 80 ton; Loader, 6 cu. yds., but less than 12 cu. yds.; Rubber-tired Scraper, with Tandem Scrapers, multi-engine; Shovel, etc., 3 cu. yds. but less than 5 cu. yds.; Wheel Excavator, under 750 cu. yds. per hour

Group 17: Crane over 100 ton and including 200 ton; Whirley, over 80 ton and including 150 ton; Floating Crane (Derrick Barge), 80 ton, but less than 150 ton; Loader, 12 cu. yds. and over; Shovel, etc., 5 cu. yds. and over; Canal Trimmer

Group 18: Crane, over 200 ton; Whirley, 150 ton and over; Floating Crane, 150 ton but less than 250 ton; Wheel Excavator, over 750 cu. yds. per hour; Band Wagons, in conjunction with Wheel Excavator

Group 19: Helicopter, when used in erecting work; Floating Crane, 250 ton and over; Remote controlled earth moving equipment; Underwater equipment, remote or otherwise

TRUCK DRIVERS*

GROUPS	ZONE 1	ZONE 2	ZONE 3	ZONE 4	ZONE 5	ZONE 6
1	$12.53	$13.03	$13.43	$13.93	$14.83	$15.53
2	12.58	13.08	13.48	13.98	14.88	15.58
3	12.63	13.13	13.53	14.03	14.93	15.63
4	12.68	13.18	13.58	14.08	14.98	15.68
5	12.73	13.23	13.63	14.13	15.03	15.73
6	12.83	13.33	13.73	14.23	15.13	15.83
7	12.93	13.43	13.83	14.33	15.23	15.93
8	13.03	13.53	13.93	14.43	15.33	16.03
9	13.13	13.63	14.03	14.53	15.43	16.13
10	13.30	13.80	14.20	14.70	15.60	16.30
11	13.40	13.90	14.30	14.80	15.70	16.40
12	13.50	14.00	14.40	14.90	15.80	16.50
13	13.60	14.10	14.50	15.00	15.90	16.60
14	13.70	14.20	14.60	15.10	16.00	16.70

FRINGE BENEFITS:

Health and Welfare	$0.93
Pension	1.19
Vacation	1.00
Apprenticeship Training	0.08

*See ZONE DESCRIPTIONS - following TRUCK DRIVERS' Classifications

TRUCK DRIVERS

Group 1: Battery Rebuilders; Bus or Manhaul Driver; Concrete Buggies (power operated); Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: 6 cu. yds. and under; Lift Jitneys, Fork Lifts (all sizes in loading, unloading and transporting material on job site); Loader and/or Leverman on Concrete Dry Batch Plant (manually operated); Pilot Car; Solo Flat Bed and misc. Body Trucks, 0-10 tons; Truck Tender; Truck Mechanic Tender; Water Wagons (rated capacity) - up to 1,600 gallons

Group 2: "A" Frame or Hydra-lift Truck with load bearing surface; Lubrication Man, Fuel Truck Driver, Tireman, Wash Rack, Steam Cleaner or combinations; Team Drivers

Group 3: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 6 cu. yds. and including 10 cu. yds.; Slurry Truck Driver or Leverman; Transit Mix, and Wet or Dry Mix Trucks: 5 cu. yds. and under; Tireman Water Wagons (rated capacity) - 1,600 to 3,000 gallons

Group 4: Flaherty Spreader Driver or Leverman; Lowbed Equipment, Flat Bed Semi-trailer, Truck and Trailers or doubles transporting equipment or wet or dry materials; Lumber Carrier Driver - Stadddle Carrier (used in loading, unloading and transporting of materials on job site); Oil Distributor Driver or Leverman; Water Wagons (rated capacity) - 3,000 to 5,000 gallons

Group 5: Dumpsters or similar equipment, all sizes; Transit Mix and Wet or Dry Trucks, over 5 cu. yds. and including 7 cu. yds.

Group 6: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 10 cu. yds. and including 20 cu. yds.; Transit Mix and Wet or Dry Mix Truck, over 7 cu. yds. and including 9 cu. yds.; Truck Mechanic - Welder - Body Repairman; Water Wagons (rated capacity) -5,000 to 7,000 gallons

TRUCK DRIVERS (Cont'd)

Group 7: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 20 cu. yds. and including 30 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 9 cu. yds. and including 11 cu. yds.; Water Wagons (rated capacity) over 7,000 gallons to 10,000 gallons

Group 8: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 30 cu. yds. and including 40 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 11 cu. yds. and including 15 cu. yds.; Water Wagon (rated capacity) over 10,000 gallons to 15,000 gallons

Group 9: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: Over 40 cu. yds. and including 50 cu. yds.; Transit Mix and Wet or Dry Mix Trucks, over 13 cu. yds. and including 15 cu. yds.

Group 10: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 50 cu. yds. and including 60 cu. yds.

Group 11: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 60 cu. yds. and including 70 cu. yds.

Group 12: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 70 cu. yds. and including 80 cu. yds.

Group 13: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 80 cu. yds. and including 90 cu. yds.

Group 14: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof: over 90 cu. yds. and including 100 cu. yds.

Drivers and Tenders (handling Sacked cement - add $0.15 per hour)

Winch Truck - Takes classification of Truck on which Winch is mounted.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses 29 CFR, 5.5 (a)(1)(ii))

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ZONE DESCRIPTIONS
for
LABORERS
POWER EQUIPMENT OPERATORS
and
TRUCK DRIVERS

CITIES:

Albany	Hood River	Newport
Astoria	Klamath Falls	Ontario
Baker	La Grande	Pendleton
Bend	Lakeview	Port Orford
Brookings	Longview	Reedsport
Burns	Madras	Roseburg
Coos Bay	Medford	The Dalles
Corvallis	McMinnville	Tillamook
Goldendale	Vancouver	
Grants Pass		

ZONE 1 - All jobs or projects located within 10 miles of the respective City Hall

ZONE 2 - More than 10 miles but less than 25 miles form the respective City Hall

ZONE 3 - More than 25 miles but less than 35 miles from the respective City Hall

ZONE 4 - More than 35 miles but less than 45 miles from the respective City Hall

ZONE 5 - More than 45 miles but less than 75 miles from the respective City Hall

ZONE 6 - More than 75 miles from the respective City Hall

Portland, Eugene and Salem ONLY

ZONE 1 - All jobs or projects located within 20 miles of the respective City Hall

ZONE 2 - More than 20 miles but less than 25 miles from the respective City Hall

ZONE 3 - More than 25 miles but less than 35 miles from the respective City Hall

ZONE 4 - More than 35 miles but less than 45 miles from the respective City Hall

ZONE 5 - More than 45 miles but less than 75 miles from the respective City Hall

ZONE 6 - More than 75 miles from the respective City Hall

[FR Doc. 80-36107 Filed 11-20-80; 8:45 am]
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federal register

Friday
November 21, 1980

Part IV

Environmental Protection Agency

Proposed Environmental Standards; and Proposed Good Laboratory Practice Standards for Physical, Chemicals, Persistence, and Ecological Effects Testing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 772

[OPTS 46007; TSH FRL 1594-3]

Environmental Test Standards; Proposed Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes a portion of the Agency's standards for development of certain data on physical and chemical characteristics of substances for which EPA will require testing under section 4(a) of the Toxic Substances Control Act (TSCA) (Pub. L. 94-469; 90 Stat. 2006; 15 U.S.C. 2603). These standards will be incorporated into future TSCA section 4 rules that will designate particular chemicals for testing. When EPA requires testing on specific chemicals, the person performing the test will be required to conform to the methods and conditions in these standards with such modifications as may be appropriate for the specific chemical. The Agency will use the data generated by such testing to aid in assessing whether chemicals present unreasonable risks. EPA is proposing here preliminary standards for testing density/relative density, melting temperature, vapor pressure, octanol/water partition coefficient, and soil thin layer chromatography.

DATES: Written comments should be submitted on or before January 21, 1981. Oral comments will be received on February 10, 1981. See Supplementary Information for public meeting information.

ADDRESSES: Written views and comments should bear the EPA document control number [OPTS-46007] and should be submitted to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances (OPTS), Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, D.C. 20460, (202-755-8050).

See SUPPLEMENTARY INFORMATION, PUBLIC MEETINGS; for location of public meeting.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Industry Assistance Office (TS-799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-427, 401 M St., SW., Washington, D.C. 20460, Toll Free: (800-424-9065), In Washington, D.C.: (554-1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

Support documents which provide the scientific and technical bases for the test standards proposed in this package are available upon request from the Industry Assistance Office (TS-799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-427, 401 M Street, SW., Washington, D.C. 20460. The support documents, when read together with this preamble, will provide an explanation of the bases for these standards.

EPA proposed under section 4 of the Toxic Substances Control Act (TSCA)(Pub. L. 94-469; 90 Stat. 2006; 15 U.S.C. 2603) standards for the development of data on chronic health effects published in the **Federal Register** of May 9, 1979 (44 FR 27334 et seq.). With the proposal, EPA began the process of codifying health effects standards for incorporation into future TSCA section 4 test rules. EPA proposed standards for testing chemicals for acute and subchronic toxicity, mutagenic effects, teratogenic effects, reproductive effects, and standards for metabolism studies published in the **Federal Register** on July 26, 1979 (44 FR 44054). Today EPA is continuing the process of codifying test standards by proposing the first environmental testing standards.

In the future, the Agency will propose chemicals to be tested in accordance with section 4 test standards. In the present rulemaking to codify test standards, the issues center on the suitability of the proposed generic standards for testing chemicals under these future section 4 test rules. In rulemakings to require the testing of specific chemicals or categories of chemicals, the issues will center on the need to test the identified chemicals, and the appropriateness of any needed modifications to those generic standards when applied to particular chemicals.

In the future EPA will be proposing additional test standards for neurobehavioral toxicity, other physical, chemical, and environmental persistence characteristics, and various ecological effects. In addition, EPA has proposed a set of Good Laboratory Practices (GLP) for use with test standards on human health effects (44 FR 27334), and in a separate proposal in this issue of the **Federal Register** EPA is proposing a GLP for use with test standards on ecological effects and on chemical, physical, and environmental persistence characteristics.

The Agency's goal is to promulgate test standards for every important environmental effect and for the physical, chemical, and persistence characteristics which can be used in judging the environmental fate of a chemical. The Agency does not intend to require the use of all or even necessarily a significant fraction of the available test standards in a given test rule that requires testing of a specific chemical. Testing requirements will only be applied to a specific chemical if the Agency finds such testing is necessary in accordance with section 4 of the Act.

When EPA determines that chemical substances satisfy the testing prerequisites in section 4(a), these chemical substances will be joined in section 4(a) test rules with standards finalized as a result of today's proposal, or with revisions or modifications of these standards, as necessary and appropriate.

EPA's legal authority to require testing of chemical substances in accordance with test standards and the use of test data for assessing the risk potential of toxic substances are set forth in the document proposing Chronic Health Effects Standards published in the **Federal Register** of May 9, 1979 (44 FR 27335).

II. Major Issues

Several informal comments received by EPA in response to earlier drafts of these standards and some written and oral comments on published proposed standards for testing for health effects have raised two major questions:

(1) Why is EPA issuing "generic" test standards rather than preparing and proposing test standards as part of each rule?

(2) Why are TSCA proposed test standards generally more detailed and specific than standards or guidelines used by other agencies or used by EPA in other programs?

The following discussion explains EPA's reason for the use of generic standards and for preparing test standards with a relatively high degree of specificity.

"Generic" Standards

As explained in other places in this proposal, EPA is developing test standards for application in section 4 testing rules. Steps in the process are:

1. EPA prepares proposed test standards and publishes them for public comment.

2. EPA revises the standards, considering comments received, and issues the standards as rules published in the Code of Federal Regulations.

3. When the Agency proposes rules that require testing of individual chemicals, the proposed rule will incorporate test standards as appropriate. In the proposed rule, the

Agency may modify the standards as needed because of characteristics peculiar to the chemicals addressed by the rule. During the public comment period on each test rule, the issues for comment will focus on the appropriateness of testing the chemical and the need to modify the standards based on specific chemical characteristics.

4. In chemical-specific test rules, the Agency normally will not modify the basic standards except as applied to individual chemicals. At regular intervals, but at least once each year as required by TSCA, EPA reviews all test standards and proposes modifications as necessary.

The alternative would be for EPA to create new standards for testing in each test rule. Thereby, as each proposed testing rule is issued, all details of the testing standards for each prescribed test would be included with the proposed rule. Each aspect of each test standard also would be open for detailed comment as part of the commenting on the proposed rule.

EPA's reasons for developing standards separately are:

(1) Section 4 of TSCA requires that EPA assure that testing of chemicals produces data that are "reliable and adequate". This means, for example, that the methods prescribed must be reviewed and validated. Since testing conditions may be chemical specific, it simply is neither practical nor efficient for EPA to validate testing methods for each rule; it is necessary to have a basic set of validated and accepted generic standards which have received reviews and acceptance that can be applied as the rules demand, with modifications as necessary for particular chemicals.

(2) EPA must have an orderly process for annual review of standards. Section 4(b)(2)(B) of TSCA mandates that standards for testing be reviewed at least every 12 months. EPA plans to conduct these reviews through two processes:

(a) A review of existing standards by its own scientists and invited scientists from outside the Agency.

(b) Solicitation of comments from all interested parties through public announcement of an open period of consideration of review.

In order for such an orderly review process to work, it is necessary for EPA to have specific objects of review in the form of uniform standards for testing that are used in the many different rules. Again, it is not practical and would be extremely difficult to review a set of standards if the standards were scattered among a host of differing rules, with differences in the standards from rule to rule.

(3) EPA is obligated to develop testing standards that are, to the extent practicable, consistent with standards of other agencies, with standards of other EPA programs, and with accepted international standards for testing of chemicals. In most cases these are generic standards and do not apply to specific chemicals or chemical groups. Standards for TSCA testing will of course differ in many ways in order to meet the specific requirements of the Agency for assessing risk of chemicals under TSCA. So-called "generic" standards allow EPA a practical basis for examining the standards of other organizations and programs, judging their suitability for application to TSCA testing, making modifications as necessary, securing comment, conducting regular reviews of the changes in the state-of-the-art and the standards developed by others, and incorporating the changes in TSCA standards.

(4) EPA wants to encourage manufacturers to test chemicals on their own initiative. EPA feels that a set of acceptable standards for conducting tests provides manufacturers with a good set of guidance as to the standards of data that they should seek to achieve in their own testing programs.

Specificity

Section 3(12)(B) of TSCA states that "standards for the development of test data" means, to the extent necessary, a prescription to assure that data respecting such effects and characteristics are reliable and adequate:

(i) The manner in which such data are to be developed.

(ii) The specification of any test protocol or methodology to be employed in the development of such data.

(iii) Such other requirements as are necessary to provide such assurance.

There are many aspects to EPA's requirements for reliable and adequate data:

(1) EPA must be able to judge the accuracy and precision of the data. By use of a relatively small number of methods that have been validated and standardized, EPA is able to compile information on the accuracy and precision of prescribed tests. If EPA were to allow great freedom in the selection or alteration of testing methods, it would be necessary to require each tester to submit data on validation, precision, and accuracy with each set of data.

(2) EPA must be able to prescribe that certain data fall within specified levels of accuracy. Examples are data that EPA uses in certain models predicting environmental fate, exposure, or toxicity to certain parts of the environment. The most practical way to prescribe accuracy is to specify standardized techniques which have been validated as being capable of meeting the accuracy requirements which the Agency needs.

(3) Certain types of testing data are used in risk analyses which require data that are highly comparable to use in interpolation, extrapolation, or evaluation of surrogates. EPA, for example, uses toxicity or reproductive tests on a few species of aquatic plants and animals to judge whether or not chemicals have effects on the overall aquatic environment. The test species have been carefully selected and the testing schemes have been made highly specific in order for EPA to make broad analyses of environmental impact based on the results of a few tests. Without the strict standards on the few types of tests which EPA uses as surrogates, it would be necessary for the Agency to require a much larger group of tests.

(4) It is necessary to prepare testing standards for dealing with the least experienced laboratories. Although many laboratories have highly experienced scientific staffs and facilities and normally conduct chemical tests in professional, reliable manners, there are others who do not. In the cases of the best laboratories it would probably be possible to expect adequate and reliable data based only on general guidance for testing methodology. But with the less experienced laboratories, the staff are not able to make adequate judgments as to which specific testing standard to apply and where the standards may or may not be altered without adversely affecting the results. EPA, therefore, feels that it must write standards that are specific so as to provide adequate guidance to the least experienced testing laboratories as to which specific techniques must be used and which portions of the testing protocols may or may not be modified.

In order to meet the four requirements stated above, and others, and to assure comparability of data among chemicals and laboratories it is necessary to limit many of the discretionary variations which are often permitted in testing protocols. For these reasons, the standards for TSCA section 4 testing specify detailed instructions to assure that reliable data are developed to satisfy the needs of EPA for good information to conduct chemical risk assessments.

In spite of the specificity, these standards are general in several

respects, and where necessary, more specific requirements or modifications

variety of subtypes. For example, water can be fresh, saline, estuarine,

steady-state concentration that a chemical may attain in a particular

the hybrids themselves. Where

Proposed test standards to meet

of schemes for standardized reporting

respects, and where necessary, more specific requirements or modifications related to the chemical substance(s) to be tested may be proposed in specific chemical test rules.

See Good Laboratory Practice Standards for Health Effects (44 FR 27362) for a discussion of the problem of unreliable test data.

III. Basis and Purpose of Physical, Chemical, and Environmental Persistence Test Standards

General

Testing of physical, chemical, and environmental persistence characteristics will be required as part of a test rule in those cases were the Agency determines that data from such testing are necessary to evaluate the environmental fate or other pertinent characteristics of a chemical.

Assessment of the fate of a chemical substance after its release into the environment often is essential for the evaluation of exposure and risks posed by that chemical. Fate, in this sense, is defined as the transport and transformation of a chemical by natural means after it is released to the environment from a point source, e.g., a manufacturing plant or waste treatment plant, a disposal site such as a landfill, or a dispersive use. Determination of the fate of a chemical substance in the environment may involve investigation of the nature of dispersal and ultimate distribution, and of the types and rates of reactions in which the chemical participates during transport. Fate determinations help to identify the chemical form(s), the environmental compartments or concentration ranges to which the environment will be exposed, and the organisms exposed to the chemical.

Chemical Transport

Chemicals discharged into the environment are generally released into one or more of four media: air, water, soil, and sediment. Discharged materials often do not reside long in one medium but are transported to other media by processes that depend upon the characteristics of the region into which they are released, e.g, meterological conditions, the flow of surface waters, the location and flow of groundwaters, tidal action, topographic characteristics, and the characteristics of soils, sediments, and suspended particulates, and on certain physical and chemical characteristics of the substance itself. An analysis of the transport of discharged chemicals is further complicated because receiving and transporting media can be divided into a variety of subtypes. For example, water can be fresh, saline, estuarine, undergound, or free-flowing in streams, or ponded in lakes. Similarly, soils may vary in structure, composition, and chemical properties.

Several methods are available for helping to determine the tendency of a chemical to become distributed into one or more environmental media following its release, i.e., its partitioning potential. One of these methods is direct field measurement or monitoring. A very small portion of all chemicals, however, has been the object of field study or monitoring programs and, therefore, existing monitoring data usually are not available for adequately determining partitioning potential. In addition, monitoring is expensive and generally requires a considerable amount of time to accomplish. Most determinations of chemical transport must therefore depend, at least in part, on analyses of several important chemical and physical characteristics, such as: (1) density; (2) melting and boiling temperatures; (3) octanol/water partition coefficients; (4) solubility in water; (5) vapor pressure; (6) adsorption/desorption on particulate surfaces; (7) particle size distribution for insoluble solids; (8) dissociation constants in water for substances which dissociate in water; and (9) ultraviolet and visible absorption spectra.

The test standards proposed in this **Federal Register** notice are detailed descriptions of methods for measuring several of the characteristics mentioned above. They have been evaluated by EPA and have been found suitable for developing good and reliable data as required under section of TSCA. Some of the methods have been selected from those adopted by standardizing organizations; but others have been developed by or for EPA, or adopted from other sources as the needs of EPA dictated.

Chemical Persistence

Chemical persistence can be defined as the ability of a chemical to retain its molecular integrity, and its physical, chemical, and functional characteristics in the environment through which it is transported and distributed following its environmental release. The inverse of chemical persistence is chemical degradability or transformation, which can be brought about through physical, biological, chemical, and photochemical mechanisms.

The susceptibility or resistance of a chemical to degradation will determine, to a large extent, its residence time in a particular medium, environmental compartment, or ecosystem. Persistence is a major factor in determining the steady-state concentration that a chemical may attain in a particular medium or in a compartment thereof, i.e., its residence time. Thus, if the rate of degradation in a medium or environmental compartment exceeds its rate of entry, there is less likelihood of its achieving significant environmental concentration levels in that medium or compartment. However, there could still be cause for concern if the rate of uptake by biota in those areas exceeded the rate of chemical degradation, or if dispersion or transport were poor so that the chemical tended to concentrate in small "hot spots," areas of relatively high concentrations of a chemical.

Data on chemical persistence and on chemical transport can assist in making pretesting decisions such as the selection of species to test for chemical effects. Thus, if data on persistence and transport showed that it is likely that a chemical will concentrate or persist in a particular environment, it might be logical to test for effects on a wide variety of species residing in that environment.

As stated above, degradation of chemical substances can take place by physical, biological, chemical, and photochemical mechanisms. The test standards found in Subpart L describe what EPA believes are some of the best "screening" tests for assessing potential degradability by each mechanism. As EPA and the scientific community develop more sophisticated test mechanisms, EPA's test standards for measuring chemical persistence will address the following: (1) biodegradation—aerobic and anaerobic, (2) photochemical degradation—aquatic and atmospheric, and (3) chemical degradation—hydrolytic, reductive, and oxidative.

General Criteria for Test Selection

Test methods described in Subpart L are selected on the basis of several criteria. First, the selected methods must be capable of providing information precise enough for use in risk assessments. Selected methods also must be cost effective and be recognized by the scientific community as part of the state-of-the-art technology. Exceptions may be made when intensive surveys of the literature indicate that there are deficiencies in the state-of-the-art, such as with tests that do not answer the important questions, are poorly validated, or are inadequately described. When this occurs, hybrid tests incorporating the best features of several methods will be constructed for interim use pending the development of better methodologies and validation of

the hybrids themselves. Where problems of this type have been identified, EPA is vigorously seeking solutions through development of new tests or validation of recently developed tests that are not yet widely accepted.

IV. Scientific Policy Considerations

General

The major question which applies to all types of tests which generate data to be used in predicting environmental effects and the fate of chemical substances is the validity of using laboratory results to make predictions of chemical behavior in the "real world". Extrapolation of the results of controlled laboratory tests to predictions of the environmental behavior of chemicals is accepted practice. The alternative of testing in the environment itself is often impractical for a number of reasons. The environment is a heterogeneous entity with endless variations. Therefore, direct testing in the environment is usually limited to cases in which the specific area of chemical release is known and there is adequate assurance that the chemical would be fully contained within the proscribed area. In the absence of these conditions, field testing is often economically prohibitive and could be hazardous if chemicals of unknown toxicity were to be applied to the environment.

Since it is impossible to simulate all environments, generic testing standards must address a representative set of relevant environmental variables, chosen to be economically and technically practical. The Agency specifically solicits comment from interested parties on the adequacy with which this objective would be met by the proposed standards.

Relationship to EPA Pesticide Registration Guidelines

EPA's Office of Pesticide Programs has proposed testing guidelines under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136 et seq.) which contain data requirements comparable to those proposed by these standards published in the **Federal Register** of August 22, 1978 (43 FR 37336). In addition, EPA and other Federal agencies may issue regulations under other statutory authorities which would impose requirements similar to those in these standards. The Agency's policy is to reduce the burden on the regulated public which might arise from conflicting requirements under these different sets of regulations and guidelines.

Proposed test standards to meet TSCA and FIFRA requirements differ to some extent because of the Agency's need to evaluate a greater variety of chemicals and exposure situations under TSCA, and the continuing evolution of technology. For example, chemicals registered under FIFRA are known biocides and have been developed for their intentional release and destructive effects on various types of organisms. On the other hand, under TSCA, the Agency must evaluate the effects of a variety of chemicals whose harmful effects and exposure routes may or may not be known. It is logical, therefore, that EPA may take different approaches to testing these two classes of materials.

The final TSCA test standards and final FIFRA guidelines will be consistent to the extent practical. In this proposal, the major differences are that TSCA test standards include broader ranges of testing techniques within each test standard as a result of the greater variety of chemicals which may be subjected to testing under TSCA. Also, the TSCA test standards provide instructions to the tester on the selection of an appropriate technique from among those cited in the standard whereas the FIFRA guidelines do not.

A more specific discussion of the differences between individual TSCA and FIFRA standards appears in the support document of each proposed TSCA test standard.

Relationship to Interagency and International Test Guidelines

EPA is participating in two major efforts to develop multiagency agreement on test methods—one interagency and one international. EPA has joined with the Food and Drug Administration (FDA of DHHS), the Consumer Product Safety Commission (CPSC), and the Occupational Safety and Health Administration (OSHA of DOL) and the Food Quality and Safety Service (FQSS of USDA), to form the Interagency Regulatory Liaison Group (IRLG). The general purpose of the IRLG is to coordinate the regulatory activities of the five member agencies. One IRLG committee, in which EPA participates, is developing testing guidelines for human health and environmental effects. The guidelines so developed are intended to yield data acceptable to all five agencies. When proposed IRLG testing guidelines are completed, EPA will review and revise its test standards to be consistent with IRLG guidelines, to the extent that EPA's statutory responsibilities will permit.

EPA also is working with the IRLG and other agencies in the development of schemes for standardized reporting formats and improved recordkeeping and reporting. The present plan is for IRLG to announce the availability of its reporting formats as it announces the availability of its standards. To the extent practical, EPA will adopt the same reporting formats for use in reporting data from the tests outlined in these standards.

In developing chemical testing and other activities under TSCA, EPA has been a full and regular partner in extensive international consultations and activities, especially through the Organization for Economic Cooperation and Development (OECD). The Agency places high priority on these international activities and will attempt to achieve an international harmonizing of chemical testing requirements. A principal objective is to reduce the burden on the international chemical industry which might be caused by unnecessarily vague or inconsistent requirements. To the extent practical under laws of the several countries, the objective is to provide that data developed to meet one country's requirements are acceptable to another.

Comments from other countries and international organizations will be solicited and given serious consideration as the Agency develops these and other regulations. Agreement reached through the international activities in which the EPA is engaged will be considered in EPA development of regulations subject to the strictures of the Agency rulemaking process.

Future Environmental Test Standards

The Agency intends to promulgate test standards which can be applied selectively, as necessary, to obtain data on all factors which need to be known to assess a chemical's environmental effects and fate. The standards proposed here are only part of a group of tests needed to characterize chemicals and that group, in turn, is a subset of a broader category of test standards on physical, chemical, and environmental persistence characteristics.

Over the next several months the Agency also will be proposing a full range of test standards for ecological effects, ranging from simple, short-term acute toxicity tests to more complex life-cycle testing, and covering organisms found in the major compartments of both the aquatic and terrestrial environments.

The Agency currently is involved in a major research effort to develop and validate additional testing methodologies at both ends of the spectrum of complexity. A number of protocols designed to provide rapid,

inexpensive screening of chemicals for ecological effects are being investigated

of these test rules on the parties subject to the rules. This analysis will consider

to the public yields more productive exchanges for both commentators and

additions they believe should be made

Melting temperature is the

techniques), evaporation from an open

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inexpensive screening of chemicals for ecological effects are being investigated currently. The Agency also is pursuing complex testing systems which enable quantification of effects above the population level of ecological organization.

V. Economic Analysis

The economic analysis of test standards has two major parts. The first part involves analyzing the cost of the individual tests outlined in the standards, or the cost of the protocols associated with these standards. The second part will occur when these test standards are referenced in test rules for specific chemicals and chemical groups. The second analysis will consider the potential economic impact of these costs on the parties involved, e.g., manufacturers and/or processors.

Economic analyses for the standards proposed here are included in the support documents and in a report by Enviro Control, Inc., which is part of the public record for this rulemaking. The analyses cover only the costs of the procedures associated with these standards. The estimates were prepared from a survey of commercial laboratories, and by separating the protocol into components and estimating the cost of each component, including direct labor cost, overhead cost, other direct costs, general and administrative costs, and profit or fee. Estimates of the costs of the five tests proposed here are:

1. For density/relative density the range is $13 to $109 per test.
2. For melting temperature the range is $25 to $125 per test.
3. For vapor pressure the range is $64 to $595 per test, depending on the characteristics of the chemical and the protocol used. There may be additional costs of up to approximately $1,000 for chemical analyses, again depending on the type of material being tested.
4. For octanol/water partition coefficient the range is $100 to $1,400 per test, which may be reduced significantly if several tests are run at once. There may be additional costs of chemical analyses which will not exceed $1,000 per sample for most materials.
5. For soil thin-layer chromatography the range is $172 to $850 per test. For some chemicals there may be additional costs of chemical analyses which will not exceed $1,000 per sample for most materials. All of the above cost estimates assume that the proposed Good Laboratory Practice Standards apply to the testing.

When the Agency applies these test standards to test rules for specific chemicals and chemical groups, it will analyze the potential economic impact of these test rules on the parties subject to the rules. This analysis will consider the market, financial, and economic conditions of the chemicals involved, either as individual chemicals or as members of a group. It will consider the impact of the test costs on production, by considering such items as price changes, demand elasticities, and the availability of substitutes, and it will consider the ability of the income from a chemical to support testing required. The economic impact analysis of the combination of tests will be presented in support documents when the test rules are proposed; they will be subjected to public comment, and revised if needed. Economic factors relating to individual tests will be considered in developing all test rules.

VI. Public Meetings

EPA personnel responsible for developing these proposed Environmental Test Standards will be available to meet with interested persons from companies, trade associations, organized labor and citizen organizations on February 10, 1981 at: Skyline Inn, South Capitol & I Streets, SW., Washington, D.C.

The meeting will be from 1 p.m. to 5 p.m. This location is three blocks east of the EPA Headquarters, Waterside Mall, 401 M St., SW., Washington, D.C. Persons who wish to make presentations should request time by contacting the Industry Assistance Office by telephone, either toll free (800–424–9065) or on 554–1404 in Washington. Time will be scheduled between 1 p.m. and 5 p.m. The Agency will make a transcript of the sessions for inclusion in the official public record. Participation in a session will be limited to those who have requested that time to make oral comment.

One purpose of providing this opportunity for oral comment is to provide EPA with information on costs and approaches to compliance for impacted companies, especially small ones. The other purpose of this public meeting is to allow EPA to digest the scope and nature of written comments on scientific and technical points before hearing oral argument or comment on them. The Agency's general criterion for alloting time will be that a person has an interpretation, data or experience that is best presented orally with the opportunity for cross-checking communication with the Agency. In this case, an additional criterion will be that a person has a review of the written commentary already submitted to share with the Agency. EPA's experience has shown that this roundtable format for public meetings by request that are open to the public yields more productive exchanges for both commentators and the Agency. EPA encourages commentators to use the toll free telephone to ask questions of clarification early in the written comment period to aid their formulating their comments.

VII. Public Record

EPA has established a public record for this rulemaking docket number [OPTS 46007] which along with a complete index is available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m. (Rm. E–447, 401 M St., SW., Washington, D.C. 20460). This record includes basic information considered by the Agency in developing this proposal. The Agency will supplement the record with additional information as it is received. The record includes the following information:

1. USEPA–OPTS. "Proposed Environmental Effects Test Standards for Toxic Substance Control Act Test Rules."
2. USEPA–OPTS. "Proposed Environmental Effects Test Standards for Toxic Substance Control Act Test Rules." Support Documents.
3. USEPA–OPTS. "Toxic Substances Control Act Premanufacture Testing of New Chemical Substances" (44 FR 16240) and all public comments received on this discussion document.
4. Drafts of the proposed rules, the preamble, and the support documents which were available for public comment.
5. Correspondence pertaining to the development of the standards, the preamble, or the support document. This does not include inter- or intra-agency correspondence, unless specifically noted in the index to the rulemaking record.
6. Minutes, summaries, or transcripts relating to public meetings held to develop the standards.
7. Scientific papers relevant to issues relating to these tests which were used by the Agency in developing this proposal.
8. Contractor's report, "Cost Analysis Methodology and Protocol Estimates: Environmental Standards," by Enviro Control, Inc., April 28, 1980, p. 26.

Published documents cited in this preamble are incorporated in the record by reference. EPA will accept additional and relevant material for the record at any time between this proposal and the final designation of the rulemaking record, on or before the date of promulgation of these requirements as prescribed by TSCA section 19(a)(3). During the rulemaking proceeding, interested persons should notify EPA of additions they believe should be made to the record. EPA particularly encourages this notification during the early part of the comment period.

VIII. Proposed Test Standards

The following introductory material applies to the five specific test standards included in this proposal:

Density/Relative Density

The density of a substance influences movement of a chemical in the environment. Solids and liquids will float or sink in water depending on their density, and lightweight granular materials will be more easily transported in the air than will heavy materials. Tests for determining density are inexpensive and most testing laboratories will be able to run the tests with at least the accuracy required by EPA.

The test standard requires sponsors to determine density or density relative to water or air (relative density) at ambient temperature. It is written in a general way, to permit the selection of a technique appropriate to the particular chemical from a variety of available techniques. These techniques were selected on the basis of their relatively low cost and acceptability by the scientific community as outlined in the support document. A theoretical calculation of density is specified for gaseous materials, but the measurement of real gas density is permitted as an option.

Factors that influence the selection of a technique for a liquid test material include volatility and viscosity. Factors that influence the selection of a technique for a solid test material include particle size, wetability by possible immersion liquids, and solubility in possible immersion liquids. The test is to be performed at standard reference temperatures.

Melting Temperature

The melting temperature describes whether a chemical substance or mixture will be solid or fluid under ambient pressure. This information will allow the Agency to determine the form in which the chemical will be found when in the environment. The form is important because it determines whether the chemical will stand in place or flow away from spills, stockpiles, or places of use or disposal. When combined with density information and solubility information it determines how the chemical will move in a waterway; when combined with other information such as volatility and particle size, it determines the distribution and dispersal of the material.

Melting temperature is the temperature at which the change from solid to liquid takes place. In practice many materials, particularly those that are mixtures or form glasses, do not melt sharply at a well defined temperature, but rather soften and liquify over a range of temperatures. For these materials other terms are used, including pour point, congealing temperature, initial and final melting temperature, or melting range. In addition, impurities influence the melting temperature, sometimes by many degrees.

The proposed test standard would require sponsors to determine melting temperature of the test chemical or the range of temperature over which it melts, within the range from −30°C to +250°C. Ambient temperatures in the United States rarely go below −30°C in the winter and above 43°C in the summer. Higher temperatures, such as are caused by the sun shining on dark surfaces or by heated apparatus, give an upper limit of interest of 250°C. Most environmental surfaces are below this temperature at all times and even heated apparatus cools below this temperature within minutes after being turned off. The standard is written to permit selection of an appropriate technique from a spectrum of techniques selected on the basis of their relatively low cost and acceptability to the scientific community as outlined in the support document.

Vapor Pressure

The vapor pressure of a chemical affects the tendency of a substance to volatilize, and therefore is important in determining the environmental fate of the chemical.

Volatilization is the loss of a substance from a surface or from solution by evaporation, and volatilization from land and water surfaces is the most important source of material for airborne transport. Volatilization is probably the single largest means by which pesticides are lost and transported over wide areas and into bodies of water far from the application location. The airborne vapors of a hazardous chemical may present a threat to humans and other life exposed to those vapors, not only in the areas of chemical release but also at sites remote from the volatilization site. This occurs when vapors are removed from the air, primarily by precipitation with rain or snow.

There are several procedures for the measurement of vapor pressure. These include static procedures, boiling point procedures, methods of vapor transfer by a current of inert gas ("gas saturation" or "transpiration" techniques), evaporation from an open surface, and effusion procedures. There are also many specialized techniques that have been used for very precise vapor pressure determinations of specific kinds of materials or for micro and semimicro determinations.

A procedure for measuring the vapor pressure of materials released to the environment ideally would cover a wide range of vapor pressure values, at ambient temperatures. No single procedure can cover this range, so two different procedures are described in this test standard, each suited for a different part of the range. The isoteniscope procedure is for pure liquids with vapor pressures from 0.1 to 100 kPa. For vapor pressure of 10^{-5} to 10^{3} Pa, a gas saturation procedure is to be used.

The isoteniscope procedure uses a standardized technique that was developed to measure the vapor pressure of certain liquid hydrocarbons. The sample is purified within the equipment by removing dissolved and entrained gases until the measured vapor pressure is constant, a process called "degassing." Impurities more volatile than the sample will tend to increase the observed vapor pressure. Results are subject to only slight error for samples containing non-volatile impurities.

The gas saturation procedures described utilize relatively simple equipment. Results are easy to obtain and can be quite precise. The same procedures also can be used to study volatilization from laboratory-scale environmental simulations.

Octanol/Water Partition Coefficient

The tendency of an organic chemical to bioconcentrate in living cells can be inferred from the value of the octanol/water partition coefficient, K_{ow}. Chemicals with K_{ow} less than 10 will not significantly partition into, or tend to accumulate in, living cells. Chemicals with K_{ow} greater than 10^{6} will tend to accumulate. Chemicals that exist in the environment at subtoxic levels may bioconcentrate to toxic levels once inside organisms.

This test standard describes a detailed and commonly used procedure for determination of the octanol/water partition coefficient K_{ow} for organic chemicals. The method determines the distribution of the chemical between octanol and water after equilibration. Values of K_{ow} can then be calculated from the resulting data. The test standard is designed to determine the octanol/water partition coefficient of the test chemical in the range 10 to 10^{6}. For chemicals whose values lie outside

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this range, K_{ow} should be characterized as less than 10 or greater than 10^6 with no further quantification.

Other methods for determining or estimating partition coefficients such as reverse phase-high pressure liquid chromatography were rejected for reasons presented in the support document.

Soil Thin-Layer Chromatography

Soil thin-layer chromatography (TLC) is a qualitative screening method for estimating a chemical's leaching potential. Leaching of chemicals through soil is an important process which determines if a chemical will reach the ground water or remain at or near the soil surface. If a chemical reaches groundwater or remains at the soil surface, deleterious environmental and human health effects may arise due to plant and animal uptake and through the contamination of food and water supply.

This test was selected over the soil isotherm and soil column methods since it is the least expensive and most widely used technique for the screening of a chemical's leaching potential.

General Statement on Hazardous Solvents

Several of the tests contained in this standard require the use of solvents which are known or suspected to be hazardous. In a few cases the solvents are specified, e.g., benzene, and in other cases, where the tests specify a "solvent of choice," it is expected that benzene, or toluene, or other similar materials may be selected.

The Good Laboratory Practice Standards and other procedural specifications warn testing laboratories that such known or suspected hazardous materials should be used in these tests only in strict accordance with protective measures that will safeguard the laboratory personnel performing the tests.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 4, Toxic Substances Control (TSCA), (90 Stat. 2006 (15 U.S.C. 2603)))

Dated: September 25, 1980.

Douglas M. Costle,

Administrator.

Therefore, it is proposed that 40 CFR Part 772 be amended by adding a new **Subpart L to read as follows:**

Subpart L—Physical, Chemical, and Environmental Persistence Characteristics

Sec.

772.122–1 Density/relative density.
772.122–2 Melting temperature.
772.122–3 Vapor pressure.
772.122–4 Octanol/water partition coefficient.
772.122–5 Soil thin-layer chromatography.

§ 772.122–1 Density/relative density.

(a) *Purpose.* This standard will develop data on density and relative density (specific gravity) of chemical substances and mixtures. EPA will use the data on density to evaluate the manner and extent that chemicals will be transported in the environment and the places where they will be deposited.

(b) *Definitions.* (1) "Apparent density" is the weight in air of a unit volume of a material. It differs from the density in that the buoyancy correction has not been applied, and normal gravity is assumed.

(2) "Apparent relative density" differs from the relative density in that the buoyancy corrections for the materials and the reference material have not been applied. For this test apparent relative density will be accepted as relative density.

(3) "Bulk density" of a material is the mass of material in a container divided by the volume of the container. In a loosely packed granular or powdery solid, a substantial fraction of the total space is occupied by gas that fills the interstices, and therefore bulk density is substantially less than the particle density. This test standard does not determine bulk density, it determines the particle which is the true density of the material.

(4) "Density" is the mass of a unit volume of a material. It is a function of temperature, hence the temperature at which it is measured should be specified. For a solid, it is the density of the impermeable portion rather than the bulk density.

(5) "Relative density" ("specific gravity") is the ratio of the density of a material to that of a reference material, each measured under specified conditions of temperature and pressure. For liquids the reference material is gas-free distilled water; for gases, it is dry air of normal carbon dioxide content.

(c) *Good laboratory practice.* The Good Laboratory Practice Standards for Physical, Chemical, Persistence, and Ecological Effects Testing in § 772.110–2 must be followed in performing this standard.

(d) *Conditions*—(1) *Apparatus.* The apparatus used for experimental tests must be of a type appropriate for the measurement technique being used, and must meet the following specific standards: Thermometers must conform to specifications as specified in the standard density measurement technique selected, and shall have a calibration traceable to the National Bureau of Standards. Other apparatus must conform to specifications of the protocol selected according to paragraph (e) of this section.

(2) *Materials.* The following materials must be available:

(i) Density reference substances as required by the technique, for calibrating the density-measurement apparatus and for comparative density measurements, selected from or in addition to the following list, and prepared according to the recommendation of the technique used in Table 1 under paragraph (e)(1)(i) of this section: gas-free distilled or demineralized water, mercury, standardized glass, cyclohexane, or toluene.

(ii) Comparison gases, as required by the technique, for relative density measurements of gases, or for displacement by solids. Suggested comparison gases are helium or dry air.

(iii) Immersion liquids as required by the technique and by the substance to be tested. Suggested immersion liquids are: water, kerosine, glycerine, ethylene glycol, tetrahydronaphthalene alpha-bromonaphthalene, sym-tetra-bromoethane, methylene iodide, benzene, toluene, ethyl-benzene, *o*-, *m*-, *p*-xylene, styrene, cyclohexane, or isopropyl salicylate.

(3) *Temperature of test.* (i) The density or relative density of the material must be determined at 25°C (298.15 K), except as allowed in paragraph (d)(3)(ii) or (iii), of this section.

(ii) If the material is an industrial material of a class for which engineering standards for measurement have been set at 15°C, the density may be measured at 15°C (288.15 K).

(iii) If the material belongs to a class of chemicals for which international measurement standards have been set at 20°C, the density may be determined at 20°C (293.15 K).

(e) *Procedures*—(1) *Selection of technique.* (i) Determine density or relative density using the appropriate technique, as specified below, selected from the techniques listed in Table 1 in this paragraph (e)(1)(i) and using the detailed techniques standardized for that procedure by one of the standardizing bodies identified in the following Table 1:

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TABLE 1-STANDARD DENSITY—MEASUREMENT TECHNIQUES REFERENCED IN THIS STANDARD

TECHNIQUE		CLASS OF SUBSTANCE			STANDARDIZING BODY AND IDENTIFICATION NUMBER		
		GAS	LIQUID	SOLID	ANSI/ASTM[1,2]	BSI	CIPAC
Ideal Gas Calculation		X					
Gas Density Balance		X			D 1070-73 (1979) [26]		
Hydrometer[6]			X		D 1298-67 (1977) [40][3] D 1657-64 (1976) [23] D 891-59 (1976) [29]	4714	MT3
Hydrostatic[7] Displacement			X	Chunks	D 792-66 (1979) [35] C 830-79 [17] D 891-59 (1976) [29] C 693-74[4] [17]		
Sink-Float Comparator				Chunks	C 729-75 [17]		
Pycnometer-Narrow-Mouth	Sprengel-Ostwald[6]		X				
	Lipkin Bicapillary[6]		X		D 941-55 (1978) [23][5] D 1481-62 (1976) [23, 40] D 3505-78 [29]	4699	MT3
	Bingham		X		D 891-59 (1976) [29] D 1217-54 (1976) [23] D 1480-62 (1976) [23]		
Pycnometer-Wide-Mouth	Volumetric Flask		X	Powder Crystals Chunks	D 153-54 (1975) [28] D 1076-79 [37]		
	Thermometer Stoppered		X	Powder Crystals Chunks	C 135-66 (1976) [17] D 792-66 (1979) [35]		
	Capillary Stopper[6]		X	Powder Crystals Chunks	D 1076-79 [37] D 153-54 (1975) [28] D 1817-66 (1972) [37] D 792-66 (1979) [35] D 891-59 (1976) [29]	5093	MT3
	Johnson and Adams		X	Powder Crystals Chunks			
Gas Comparison Pycnometer				Powder	C 604-79 [17]		

1 Unless otherwise specified, these are joint standards.
2 In brackets by ASTM Test Standard number is the volume number in which the standard appeared in the 1979 or 1980 Annual Book of ASTM Standards. Numbers in parentheses indicate the year of last reapproval.
3 Adopted by American Petroleum Institute as API Standard No. 2547 and by the Institute of Petroleum as IP Standard No. 160.
4 ASTM only
5 Adopted by the General Services Administration as Method 402, Federal Test Method Standard 791b.
6 DIN standard 51757 is acceptable.
7 ISO Recommendation R 1183 is acceptable for plastics.

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Code to Standardizing Bodies in Table 1

(C) For a high volatility liquid by the

displacement technique, or by the wide-

(2) *Calibration.* For any technique

Identify the reference substance

must be followed in performing this

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Code to Standardizing Bodies in Table 1

ANSI—American National Standards Institute.
ASTM—American Society for Testing and Materials.
BSI—British Standards Institution.
IP—Institute of Petroleum.
CIPAC—Collaborative International Pesticides Analytical Council.
DIN—Das Ist Norm (earlier Deutsche Industrienormen).
API—American Petroleum Institute.
ISO—International Organization for Standardization.

The test standards in Table 1 of paragraph (e)(i)(i) of this section are incorporated by reference. Standards are available for purchase as follows:

ANSI, BSI, ISO, and DIN standards are available from: Sales Department, American National Standards Institute, 1430 Broadway, New York, NY 10018.

ASTM standards are available from: American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

API standards are available from: American Petroleum Institute, 2101 L Street NW., Washington, DC 20037.

IP standards are found in "Methods for Analysis and Testing" 38th Annual Edition, 1979. IP Standards for Petroleum and its Products. Part 1, Volume 1, which is available from Hayden and Son, Ltd., Spectrum House, Alderton Cres., London NW4 3XX U.K.

CIPAC standards are found in Raw GR, edition 1970, CIPAC Handbook, Volume 1. Analysis of Technical and Formulated Pesticides, published by the Collaborative International Pesticides Analytical Council Ltd., which is available for purchase from National Agricultural Chemicals Association, 1155 Fifteenth Street, NW., Washington, DC 20005.

The test standards are also available for inspection at the Office of the Federal Register, Information Center, Room 8301, 1100 L St., NW., Washington, DC 20408.

(ii) The technique to be used shall be selected on the basis of physical characteristics of the material to be tested as outlined in paragraphs (e)(1)(ii)(A) through (G) of this section and in Table 2 under paragraph (e)(1)(ii)(G) of this section.

(A) For a gas or a high volatility liquid, by the criterion in Table 2 in paragraph (e)(1)(ii)(G) of this section, the density and the relative density of the gas phase must be calculated by the ideal gas law as described in paragraph (e)(4)(ii) of this section, or

(B) At the option of the sponsor, the real gas density and relative density may be determined by the gas-density-balance technique in Table 1 under paragraph (e)(1)(i) of this section.

(C) For a high volatility liquid by the criterion in Table 2 under paragraph (e)(1)(ii)(G) of this section, the density or relative density must be determined by the hydrometer technique, or by the narrow-mouth pycnometer technique. For this class of liquid, the pycnometer capillary openings must have a cover to prevent evaporation.

(D) For a low volatility liquid of low viscosity by the criteria in Table 2 under paragraph (e)(1)(ii)(G) of this section, the density or relative density must be determined by the hydrometer technique, by the hydrostatic displacement technique, by the narrow-mouth pycnometer technique, or by the wide-mouth pycnometer technique. If the vapor pressure of liquid exceeds 15 kPa (0.15 atm), precautions must be taken to prevent excessive vaporization in carrying out these techniques.

(E) For a low volatility liquid of high viscosity, the density or relative density must be determined by the hydrometer technique, by the hydrostatic displacement technique, or by the wide-mouth pycnometer technique.

(F) For a solid in chunks or pieces the density or relative density must be determined by the hydrostatic displacement technique, by the sink-float comparator technique, or by the wide-mouth pycnometer technique. If the material is soluble in water or is not wetted by water, the immersion liquid must not be water, but must be another appropriate liquid in which the material is not soluble; in paragraph (d)(2)(iii) of this section.

(G) For a solid powder or small crystals, the density or relative density must be determined by the wide-mouth pycnometer technique or by the gas-comparison pycnometer technique. If the material is soluble in water or is not wetted by the water the immersion liquid used in the wide-mouth pycnometer technique must not be water but must be another appropriate liquid in which the material is not soluble; in paragraph (d)(2)(iii) of this section.

TABLE 2-PHYSICAL CHARACTERISTICS OF THE TEST MATERIAL FOR USE IN SELECTION OF MEASUREMENT TECHNIQUE

PHYSICAL STATE	CHARACTERIZING PARAMETER	DESCRIPTION AND APPROXIMATE LIMITS
Gas	Ideality	Ideal Gas
		Non-Ideal Gas
Liquid	Volatility[1]	Low Volatility p^o (25°C) < 80 kPa (0.8 atm)
		High Volatility p^o (25°C) > 15 kPa (0.15 atm)
	Viscosity[2]	Low Viscosity η (25°C) < 400 $cm^2 s^{-1}$
		High Viscosity η (25°C) > 15 $cm^2 s^{-1}$
Solid	Particle Size	Powder
		Small Crystals
		Chunks or Pieces
	Interfacial Tension	Wetted by Water
		Not Wetted by Water
	Solubility in Water	Soluble (> 1 Percent)
		Insoluble (< 1 Percent)

[1] p^o is the vapor pressure of the liquid. There is a range of vapor pressures, 0.15 to 80 kPa, in which a liquid may be treated as either a low volatility liquid or a high volatility liquid.

[2] η is the kinematic viscosity. There is a range of viscosities, 15 to 400 $cm^2 s^{-1}$, in which a liquid may be treated as either a low viscosity liquid or a high viscosity liquid.

(2) *Calibration.* For any technique other than the calculation of ideal gas density, the instrument used must be calibrated using a reference substance of known density as recommended in paragraph (d)(2)(i) or (g)(2)(ii) of this section.

(3) *Conduct.* Replicate measurements shall be made and averaged as prescribed in the description of the technique as referenced in Table 1 in paragraph (e)(1)(i) of this section.

(4) *Calculation.* (i) Except for the calculation of ideal-gas density, calculate density or relative density as prescribed in the description of the technique.

(ii) For calculation of ideal gas density and relative density, use the procedure given in paragraph (e)(4)(ii) (A) through (C) of this section.

(A) Calculate the molecular weight M, from the molecular formula and the relative atomic weights of the elements.

(B) Calculate the ideal gas density, ρ, in kg m^{-3}, at a temperature of 25°C (T=298.15 K) and a pressure of 101.325 kPa (p=1 atm) using the formula:

Equation 1

$$\rho\ (25°C, 1\ atm)/\ kg\ m^{-3} = 101.325M/(8.3143 \times 298.15) = 0.040875M,$$

for which M was determined in paragraph (e)(4)(ii)(A) of this section.

(C) Calculate the relative density $d_{25/25C}$ with respect to air from the formula:

Equation 2

$$d_{25/25C} = M/28.964,$$

in which M was determined in paragraph (e)(4)(ii)(A) of this section.

(f) *Reporting.* (1) Report information required in the Good Laboratory Practice Standards under § 772.110–2(h).

(2) Report the physical characteristics of the material using descriptors from Table 2 in paragraph (e)(1)(ii)(G) of this section.

(3) Report measurement of density or relative density at a single temperature, and in the case of gases at a single pressure. The measurement must be at one of the temperatures specified in paragraph (d)(3) of this section.

(i) Report the density ρ of gases in kg m^{-3} and of liquids and solids in kg m^{-3} and report the temperature at which it was determined, or

(ii) Report the relative density, $d_t{}^\circ{}_C$ in which t refers to the temperature of the material and of the reference substance (water or air) in °C. Report only relative densities in which the temperatures of the two materials are the same.

Identify the reference substance

(4) Report the technique used and identify the standard description of the technique from Table 1 under paragraph (e)(1)(i) of this section.

(5) Report the calibration substance used and, if relevant, the immersion substance used.

(6) Report the range of replicate measurements on the samples tested.

(7) If the material is variable in composition or has a variable density because of processing procedures, state the range of densities that conform to the specification of the material.

§ 772.122–2 Melting temperature.

(a) *Purpose.* This standard is to determine values of (normal) melting temperature of chemical substances and mixtures. EPA will use the data obtained to assess the potential for movement of materials in the environment and in evaluation of possible health and environmental effects.

(b) *Definitions.* (1) "Cooling curve melting temperature" is the temperature at which a melted material first shows a minimum rate of temperature change as it solidifies when allowed to cool under prescribed conditions.

(2) "Congealing temperature" is the temperature at which a wax ceases to flow when allowed to cool under prescribed conditions.

(3) "Drop melting temperature" is the temperature at which a wax becomes sufficiently fluid to drop from the thermometer used in making the determination under prescribed conditions.

(4) "Final melting temperature" is the temperature at which the last sample crystal disappears into the melt.

(5) "Initial melting temperature" is the temperature at which positive evidence of formation of liquid occurs; it is not a preliminary contraction, sintering, or darkening but occurs well before the formation of a meniscus.

(6) "Normal melting temperature" is the temperature at which the solid and liquid forms of a chemical substance are in equilibrium under an external pressure of one atmosphere. Normal melting temperature is commonly called "melting point."

(7) "Pour point" is the lowest temperature at which an oil is observed to flow when cooled under prescribed conditions.

(c) *Good laboratory practice.* The Good Laboratory Practice Standards for Physical, Chemical, Persistence, and Ecological Effects Testing in § 772.110–2 must be followed in performing this standard.

(d) *Conditions.*—(1) *Laboratory apparatus.* (i) Thermometers used for this test must be of appropriate temperature range and meet specifications cited in the selected standard technique referenced in Table 1 under paragraph (e)(3)(iv) of this section with subdivisions of 1°C or smaller, and be capable of being read to 0.25°C. The thermometer must have a calibration traceable to the National Bureau of Standards.

(ii) The melting temperature apparatus must be of the type specified for use with the appropriate standard technique referenced in Table 1 under paragraph (e)(3)(iv) of this section or other acceptable technique. Equipment must meet the specifications in that technique, together with specified auxiliary instruments referenced in the same technique.

(2) Reference materials of known melting temperatures must be available for calibration of apparatus and verification of procedures. These are to be of a purified grade with melting temperature certified by the supplier. Reference materials include but are not limited to:

Benzene, 6°C.
L-Menthol, (42–43)°C.
Azobenzene, (68±1)°C.
Hydroxyquinoline, (75–76)°C.
Naphthalene, (80±0.5)°C.
Acetanilide, (113–114)°C.
Benzoic Acid, (122±1)°C.
Succinic Acid, (189–190)°C.
Phenolphthalein, (261–262)°C.

A list of substances for which the melting temperature is recommended as a thermometric fixed point is given by IUPAC (1979) in the 1979, International Union of Pure and Applied Chemistry Catalog of Reference Materials from National Laboratories. It is in the 1976 International Union of Pure and Applied Chemistry "Physicochemical Measurements: Catalog of reference Materials from National Laboratories" which is incorporated by reference. This list appeared in 1976 in Pure and Applied Chemistry, Vol. *48*, pages 503–515. It is for sale from Pergamon Press Inc., Maxwell House, Fairview Park, Elmsford, NY 10523. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L St., NW., Washington, DC 20408. Many of these substances can be obtained from a standardizing laboratory with a certified value of melting and freezing temperature.

(e) *Procedures.* (1) The test must be performed by a visual technique, in

which the transition between solid and liquid is observed.

which the transition between solid and liquid is observed.

(2) A preliminary examination of the material must be made to determine:

(i) Whether the material is sharply melting or passes through an extended softening interval.

(ii) Whether the material decomposes on melting.

(iii) Whether the material oxidizes or undergoes other reactions in air at or below the melting temperature.

(iv) Whether the material volatilizes rapidly so as to require special handling.

(v) Whether the material melts below −20°C or above +250°C.

(3) Since chemicals vary in their physical form and properties, several techniques, have to be available to accommodate these differences. Therefore, the test shall be performed by one of the standard techniques listed below and (or) in Table 1 under paragraph (e)(3)(iv) of this section, as provided below, except as provided in paragraph (e)(4) of this section.

(i) If the sample passes through an extended softening interval, use the drop melting point technique, the pour point technique, or the cooling curve technique.

(ii) If the material decomposes on melting use the Fisher-Johns technique, the microscope hot stage technique, or the Kofler hot bench technique.

(iii) If the material reacts or volatilizes use a suitable sealed tube technique.

(iv) For materials not exhibiting special properties listed in paragraph (e)(3) (i), (ii), or (iii) of this section, use the Thiele tube, cooling curve, Fisher-Johns, microscope hot stage, or Kofler hot bench technique as specified in this Table 1.

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TABLE 1-STANDARD MELTING TEMPERATURE TECHNIQUES REFERENCED IN THIS STANDARD

TECHNIQUE	STANDARDIZING BODY[1]					
	ANSI/ASTM[2,3]		BSI	IP	CIPAC	
		TAPPI	FTS[4]			
Thiele Tube	E 324-79 [30] D 1519-68[5] (1974) [37]				MT2	
Cooling Curve	D 87-77 [23] [20]	T630-os-71	791B#1402.5	4695	55	MT1
Fisher-Johns	D 789-78a [36] D 1457-78 [36] D 2116-79 [36] D 2133-78 [36]					
Microscope Hot Stage	D 2117-64 (1978) [35]					
Kofler Hot Bench	D 3451-76 [27]					
Drop Melting Point	D 127-63 (1977) [23] [20]	T634-os-70	791B#1401.4	5090	133	
Pour Point	D 97-66 (1978) [23] [40]		791B#201.9	4452	15	
Congealing Point	D 938-71 (1976) [23]			5088	76	

[1] Names of standardizing bodies are given in text.
[2] Joint standard unless otherwise specified.
[3] In brackets by ASTM Test Standard number is the volume number in which the standard appeared in the 1979 or 1980 Annual Book of ASTM Standards. Numbers in parentheses indicate the year of last reapproval.
[4] Identical to ANSI/ASTM standard.
[5] ASTM only.

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Code to Standardizing Bodies in Table 1
ANSI—American National Standards

Ecological Effects Testing, report the following:

(iii) If no plateau is observed within the stipulated temperature limitations

conforms to the specification of the material under test.

(4) The "vapor pressure" is the pressure at which a liquid or solid is in

0.5°C and at any other temperatures (± 0.5°) specified in a Test Rule. Additional

Code to Standardizing Bodies in Table 1

ANSI—American National Standards Institute.
ASTM—American Society for Testing and Materials.
TAPPI—Technical Association for the Pulp and Paper Industry.
FTS—Federal Test Standards.
BSI—British Standards Institution.
IP—Institute of Petroleum.
CIPAC—Collaborative International Pesticides Analytical Council.

The test standards in this Table 1 are incorporated by reference. Standards are available for purchase as follows:

ANSI and BSI standards are available for puchase from: Sales Department, American National Standards Institute, 1430 Broadway, New York, NY 10018.

ASTM standards are available for purchase from : American Society for Testing and Materials, 1916 Race St., Philadelphia, PA 19103.

TAPPI standards are available for purchase from: TAPPI Press, Technical Association of the Pulp and Paper Industry, One Dunwoody Park, Atlanta GA 30338.

FTS Standards are identical to the corresponding ASTM standards and should be obtained from the same source as ASTM standards.

IP standards are found in "Methods for Analysis and Testing," 38th Annual Edition, IP Standards for Petroleum and its Products, Part 1, Volume 1, which is available for purchase from: Hayden and Son, Ltd., Spectrum House, Alberton Cres., London NW4 3XX, United Kingdom.

CIPAC standards are found in Raw, GR, editor. 1970. CIPAC Handbook, Volume 1. Analysis of Technical and Formulated Pesticides, published by the Collaborative International Pesticides, Analytical Council Ltd., which is available for purchase from: National Agricultural Chemical Association, 1155 Fifteenth Street, NW., Washington, DC 20005.

The test standards are also available for inspection at the Office of the Federal Register, Information Center, Room 8301, 1100 L St. NW., Washington, DC 20408.

(4) If the material is subjected to a study of its melting temperature by a more accurate procedure than those listed in Table 1, the procedure used will be accepted in lieu of the procedure of paragraph (e)(3) of this section, provided that the preliminary examination given in paragraph (e)(2) of this section has been completed and does not contraindicate the substitute procedure.

(f) *Reporting.* In addition to reporting required in § 772.110–2(h) of Good Laboratory Practice Standards for Physical, Chemical, Persistence, and Ecological Effects Testing, report the following:

(1) Report the results of the preliminary examination by giving the temperature range, where applicable, at which the sample:

(i) Decomposes before melting.

(ii) Decomposes on melting.

(iii) Oxidizes (or other reaction) in air on melting.

(iv) Softens over a range of temperatures.

(v) Melts sharply.

(vi) Was examined and did not melt. If the chemical decomposes as a solid or if it sublimes, melting temperature data will not be required. If decomposition occurs, report the temperature at which it occurs. If sublimation occurs, report the maximum temperature to which it was tested.

(2) Report the technique used in the melting temperature determination and the reference material used.

(3) If the technique is selected in accordance with paragraph (e)(3)(iii) or (4) of this section and is different from any listed in Table 1 under paragraph (e)(3)(iv) of this section:

(i) Briefly, describe it, cite a reference to the technique, and provide justification that it is more accurate than techniques listed in Table 1 under paragraph (e)(3)(iv) of this section.

(ii) Report the initial melting tempera ture, the final melting temperature, and the limits of uncertainty at the 95 percent confidence level.

(4) If the Thiele tube technique is used report:

(i) The initial melting temperature and the final melting temperature to the nearest 0.1°C and the range of replicate measurements made, adjusted for any errors in the melting temperature of the reference material.

(ii) The identity, the initial melting temperature, and the final melting temperature found for the standard reference material used to verify the performance of the instrument.

(iii) The amount of any adjustment made to correct for errors in the melting temperature of the standard.

(5) If the cooling curve technique is used:

(i) Record the melting temperature thermometer reading every 15 seconds to the nearest estimated 0.05°C and identify and report the plateau at which the first five consecutive readings agree within 0.1°C. Report the average of the first five consecutive readings of the identified plateau, which agree within 0.1°C. Correct this average for error in the thermometer scale.

(ii) Report the result to the nearest 0.05°C as "cooling curve melting temperature."

(iii) If no plateau is observed within the stipulated temperature limitations below a temperature at which the material has solidified, the test is discontinued and the method is judged not applicable to the material.

(iv) Report the range of cooling curve melting temperatures that conforms to the specification of the material under test.

(6) If the pour point technique is used:

(i) Record the reading of the thermometer when a point is reached at which the material in the test jar shows no movement when the jar is held in a horizontal position for 5.0 seconds. Add 3°C to this temperature to obtain the pour point temperature.

(ii) For those samples (e.g., nondistillate fuel oil) where the prescribed procedure gives the upper (maximum) pour point, report the lower pour point obtained after heating the sample to 104°C as prescribed.

(iii) Record all pour points to the nearest 1°C.

(iv) Report the limits of pour point or of upper pour point and lower pour point that conform to the specification of the material under test.

(7) If the drop melting temperature technique is used:

(i) Report the average of the two determinations of the temperature at which the first drop falls from the thermometer as the drop melting temperature of the sample of material under test, and also report the range of the two determinations.

(ii) Report the limits of drop melting temperature that conform to the specification of the material under test.

(8) If the Fisher-Johns technique is used for ANSI/ASTM Standards D 789 and D 2133 as listed in Table 1 under paragraph (e)(3)(iv) of this section:

(i) Report the melting temperature to the nearest 0.5°C observed as the temperature at which the material no longer supports the cover glass and the glass begins to sink into the oil, as observed by watching for movement of the oil meniscus. The thermometer with its bulb imbedded immediately below hot stage indicates the melting temperature.

(ii) Report the range of melting temperature that conforms to the specification of the material under test.

(9) If the microscope hot stage technique is used:

(i) Report as the normal melting temperature the average of the results of two determinations and range of values observed when all double refraction disappears, leaving a totally dark microscope field.

(ii) If the material is a polymer report the range of melting temperature that conforms to the specification of the material under test.

(10) If the Kofler hot bench technique is used:

(i) For sharply melting materials, record the placement of the temperature-indication pointer at the point of division between solid and liquid on the heating bar.

(ii) For polymeric materials record the placement of the temperature-indicating pointer at the location at which particles adhere to the heating bar when lightly brushed.

(iii) Report the average of duplicate determinations to the nearest 1°C as the normal melting temperature of the sample tested, and report the range of the duplicate determinations.

(iv) If the material is a polymer, report the range of melting temperatures that conforms to the specification for the material under test.

(11) If the congealing point technique is used:

(i) Report to the nearest 0.25°C as the congealing temperature the average of two determinations that agree within 1°C or the average of three determinations for which the range exceeds 1°C.

(ii) Report the range of congealing temperatures that conforms to the specification of the material under test.

§ 772.122–3 Vapor pressure.

(a) *Purpose.* The standard in this subpart is designed to develop values of vapor pressure, at environmentally relevant temperatures, of chemical substances. The EPA will use the data to evaluate transport in the environment.

(b) *Definitions.* (1) "Desorption efficiency" of a particular compound applied to a sorbent and subsequently extracted with a solvent is the weight of the compound which can be recovered from the sorbent divided by the weight of the compound originally sorbed.

(2) "Pascal" (Pa) is an international unit of vapor pressure and is defined as newtons per square meter (N/m^2). A Newton is the force necessary to give acceleration of one meter per second squared to one kilogram of mass.

(3) The "torr" is a unit of pressure defined as equal to 133.3 pascals or 1 mm Hg at 0°C.

(4) The "vapor pressure" is the pressure at which a liquid or solid is in equilibrium with its vapor at a given temperature.

(5) "Volatilization" is the loss of a substance to the air from a surface or from solution by evaporation.

(c) *Good laboratory practice.* The Good Laboratory Practice Standards for Physical, Chemical, Persistence, and Ecological Effects Testing, in § 772.110–2, must be followed in performing this standard.

(d) *Conditions.* (1) The apparatus used for the test procedures must be of a type appropriate for the measurements described in paragraphs (e) and (g) of this section.

(2) The tests must be performed under conditions of normal laboratory room temperatures.

(e) *Procedures.* The vapor pressure of compounds must be determined by one of the following procedures.

(1) *Isoteniscope procedure.* The isoteniscope procedure described as ANSI/ASTM Method D 2879–75 is applicable for the measurement of vapor pressures of liquids with vapor pressures of 0.1 to 100 kilopascals (kPa) (0.75 to 750 torr). ANSI/ASTM D 2879–75, "Standard Test Method for Vapor Pressure-Temperature Relationships And Initial Decomposition Temperature of Liquids by Isoteniscope", is incorporated by reference. It is for sale from the American Society for Testing and Materials, 1916 Race Street, Philadelphia Pa. 19103. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street NW, Washington, D.C. 20408. The isoteniscope method involves placing a liquid sample in a thermostated bulb (the isoteniscope) connected to a manometer and a vacuum pump. Dissolved and entrained gases are removed from the sample in the isoteniscope by heating the sample at reduced pressure. The vapor pressure of the sample at selected temperatures is determined by balancing the pressure due to the vapor of the sample against a known pressure of an inert gas. The vapor pressure of the test compound must be determined in triplicate at 25 ± 0.5°C and at any other temperatures (± 0.5°) specified in a Test Rule. Additional vapor pressure measurements must be made at appropriate temperatures, as necessary, to assure that there is no need for further degassing, as described in the ASTM method.

(2) *Gas saturation procedure.* The gas saturation procedure, described in paragraph (g) of this section, is applicable for solids and liquids with vapor pressures at ambient temperatures of 10^{-5} Pa to 1 kPa (7.5×10^{-8} torr to 7.5 torr).

(f) *Reporting.* (1) Report information required in § 772.110–2 (h) of Good Laboratory Practice Standards.

(2) The triplicate calculated vapor pressures for the test material at each test temperature and the average calculated vapor pressure at each temperature must be reported.

(3) A description of analytical methods used to analyze for the test material and all analytical results must be reported.

(4) For the isoteniscope procedure, the plot of log p vs the reciprocal of the temperature in K, developed during the degassing step and showing linearity in the region of 298.15 K (25°C) and any other required test temperatures, must be included.

(5) For the gas saturation procedure, the data must include calculations of vapor pressure at three or more gas flow rates at each test temperature, showing no dependence on flow rate. The data also must include a description of sorbents and solvents employed and the desorption efficiency calculations.

(6) The average calculated vapor pressure at each temperature must include the calculated standard deviation.

(7) A description of any difficulties experienced or any other pertinent information should be provided.

(g) *Gas saturation procedure for vapor pressure.* The gas saturation procedure is based on methodology currently being developed by SRI International under contract to the Environmental Protection Agency (EPA Contract No. 68–01–5117).

(1) The test procedures require the use of a constant-temperature box as in the following Figure 1.

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FIGURE 1 - SCHEMATIC DIAGRAM OF VAPOR SATURATION APPARATUS

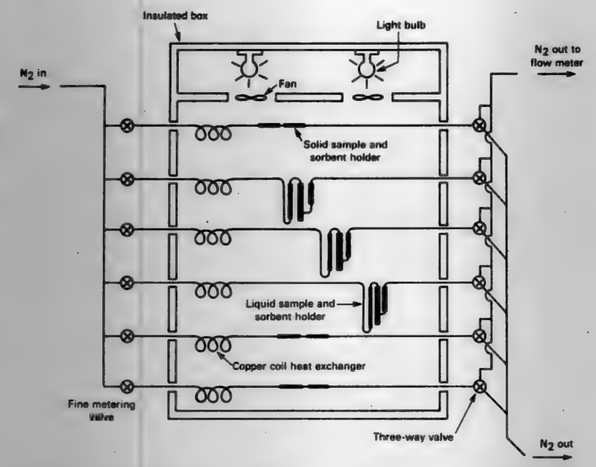

The insulated box, containing sample holders, may be of any suitable size and shape. The sketch in Figure 1 shows a box containing three solid sample holders and three liquid sample holders, which allows for the triplicate analysis of either a solid or liquid sample. Temperatures within the box must be controllable to ±0.5° or better. Nitrogen gas, split into six streams and controlled by fine needle valves (approximately 0.79 mm orifice), flows into the box via 3.8 mm (0.125 in.) i.d. copper tubing. After temperature equilibration, the gas flows through the sample and the sorbent trap and exits from the box. The flow rate of the effluent carrier gas is measured at room temperature with a bubble meter or other suitable device. The flow rate must be checked frequently during the experiment to assure that there is an accurate value for the total volume of carrier gas. The flow rate is used to calculate the total volume (at room temperature) of gas that has passed through the sample and sorbent (vol/time x time= volume). The vapor pressure of the test substance can be calculated from the total gas volume and the mass of sample vaporized. If v is the volume of gas that transported mass w of the vaporized test material having a molecular weight M, and if p is the equilibrium vapor pressure of the sample at temperature T, then p is calculated by the equation:

$$p = (w/M)(RT/v)$$

In the equation, R is the gas constant (8.31 Pa $m^3 mol^{-1} K^{-1}$). The pressure is expressed in pascals (Pa), the volume in cubic meters (m^3), mass in grams and T in kelvins (K). $T = 273.15 + t$, if t is measured in degrees Celsius (°C).

(2) Solid samples are loaded into 5-mm i.d. glass tubing between glass wool plugs. The following Figure 2 is a drawing of a sample holder and absorber system.

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FIGURE 2 - SOLID COMPOUND SAMPLING SYSTEM

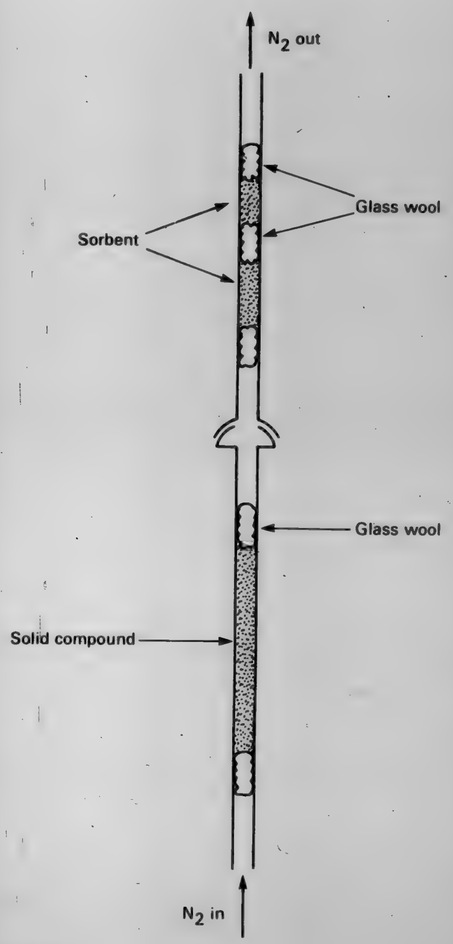

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Sample length is about 50 mm. The sample tube is connected by a ground-glass ball-and-socket joint to a similar tube containing the sorbent. The sorbent tube contains two sections of sorbent material (front and backup) separated by glass wool. The sections are approximately 15 mm and 10 mm long, respectively. The backup section is used to check for compound release from the front section.

(3) Liquid samples are contained in a holder as shown in the following Figure 3:

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FIGURE 3 — LIQUID COMPOUND SAMPLING SYSTEM

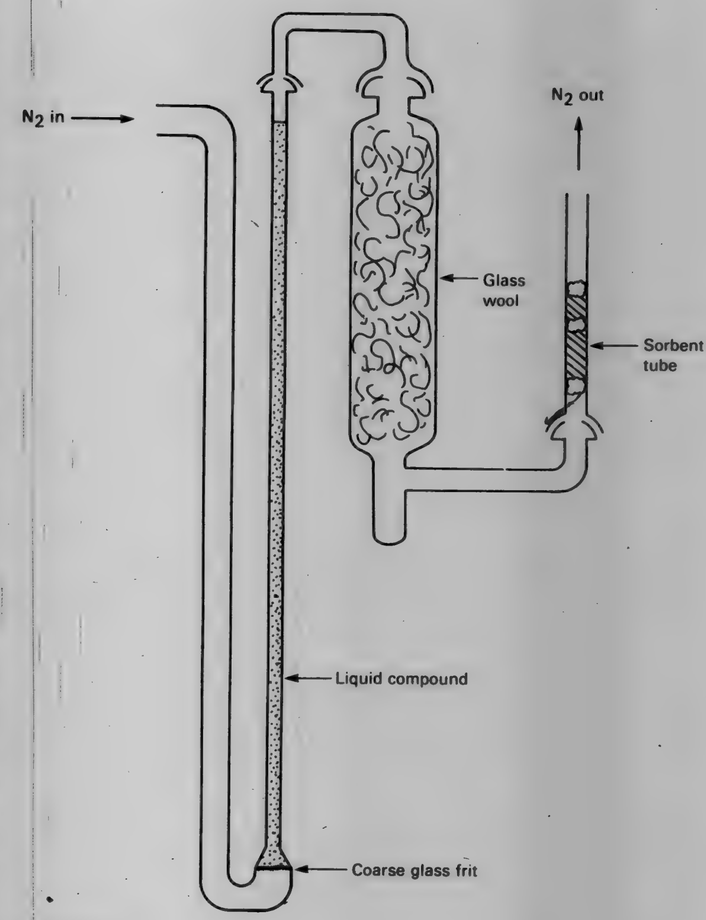

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Incoming nitrogen gas (containing no interfering impurities) passes through a coarse frit and bubbles through a 38 cm column of liquid sample. The stream passes through a glass wool column to trap aerosols and then through a sorbent tube, as described above. The pressure drops across the glass wool column and the sorbent tube are negligible.

(4) With both solid and liquid samples, at the end of the sampling time, the front and backup sorbent sections are analyzed separately. The compound on each section is desorbed by adding the sorbent from that section to 1.0 ml of desorption solvent in a small vial and allowing the mixture to stand at a suitable temperature until no more test compound desorbs. The desorption solvent must contain no impurities which would interfere with the analytical method of choice. The resulting solutions are analyzed quantitatively by a suitable analytical method to determine the weight of sample desorbed from each section. The choice of the analytical method, sorbent, and desorption solvent is dictated by the nature of the test material. Commonly used sorbents include charcoal, Tenax GC, and XAD–2. The sorbent, desorption solvent, and analytical methods employed must be described in detail.

(5) The desorption efficiency must be measured for every combination of sample, sorbent, and solvent used. The desorption efficiency is determined by injecting a known mass of sample onto a sorbent and later desorbing it and analyzing for the mass recovered. For each combination of sample, sorbent, and solvent used, the determination must be made in triplicate at each of three concentrations. Desorption efficiency may vary with the concentration of the actual sample and it is important to measure the efficiency at or near the concentration of sample under gas saturation test procedure conditions.

(6) To assure that the gas is indeed saturated with test compound vapor, each compound must be sampled at three differing gas flow rates. Appropriate flow rates will depend on the test compound and test temperature. If the calculated vapor pressure shows no dependence on flow rate, then the gas is assumed to be saturated.

§ 772.122–4 Octanol/water partition coefficient

(a) *Purpose.* This standard is designed to develop values of octanol/water partition coefficient of chemical substances and mixtures. The EPA will use the numerical values of the octanol/water partition coefficient obtained to help assess environmental fate, health, and environmental effects of chemical substances.

(b) *Definition.* "Octanol/water partition coefficient" (K_{ow}) is defined as the equilibrium ratio of the molar concentrations of a chemical in n-octanol and water, in dilute solution. K_{ow} is a constant for a given chemical at a given temperature.

(c) *Good laboratory practice.* The Good Laboratory Practices Standards for Physical, Chemical, Persistence, and Ecological Effects Testing, in § 772.110–2, must be followed in performing this standard.

(d) *Conditions.*—(1) *Special laboratory equipment.*

(i) A thermostatic bath, or chamber, or room with a shaker and temperature control as specified in paragraph (d)(2) of this section.

(ii) An ultracentrifuge with temperature control as specified in paragraph (d)(2) of this section.

(iii) Stainless steel or glass centrifuge tubes with sealable caps. Special glass centrifuge tubes can be used up to approximately 12,000G, and stainless steel tubes can be used at higher G values.

(iv) A mechanical shaker.

(v) A Hach 2100 Turbidimeter (or an equivalent instrument).

(vi) A pH meter capable of resolving differences of 0.1 pH unit or less.

(2) *Temperature control.* The temperature of the water bath, or chamber, or room, and the ultracentrifuge must be controlled to (25 ± 1) °C.

(3) *Purity of solvents. n*-Octanol, purified as described in the test procedures under paragraph (g)(1)(i) of this section, and distilled or reagent grade water, i.e. ASTM Type II water or an equivalent grade must be used. ASTM Type II water is described in ASTM D 1193–77, "Standard Specification for Reagent Water", which Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW, Washington, D.C. 20408.

(4) *Concentration of solute.* All experiments must be carried out at a concentration $C < 0.01M$ (Molar) in octanol and water and well below the solubility in either phase.

(5) *Equilibration time.* In general, 1 hour of gentle agitation is sufficient to reach equilibrium. For surfactants, at least 16 hours is required to reach equilibrium.

(6) *Octanol/water volume ratio.* The ratio of the volumes of the two liquids must be adjusted as appropriate for the relative solubility of the chemical in octanol and water. By adjusting the volumes, concentration errors (resulting from analytical errors) are minimized and errors resulting from dividing large numbers by small numbers are kept to a minimum.

(7) *Chemical analysis of the octanol and water phases.* In determining the K_{ow} value for any given solute, the octanol and water phases must be analyzed for the chemical. An analytical method should be selected which is most applicable to the analysis of the specific chemical. Chromatographic methods are preferable because of their compound specificity in analyzing the parent chemical without interference from impurities. Whenever practicable, the chosen analytical method should have a precision within ±5 percent.

(8) *Emulsification and ultracentrifugation.* Gentle shaking must be used to minimize the formation of emulsions. Ultracentrifugation is necessary to separate troublesome emulsions and to separate the octanol and water phases. Therefore, ultracentrifugation must be carried out at 25°C for 20 minutes in a temperature controlled ultracentrifuge. The acceleration (G) value required to break the emulsion and to achieve complete separation of the octanol and water phases can be determined by trial-and-error experimentation.

(9) *Equilibration vessel.* (i) If feasible, equilibration should be carried out in a centrifuge tube (stainless steel or glass) with a sealable cap. The centrifuge tubes must be almost completely full. In this way, partitioning with air will be minimized, especially for volatile chemicals, and the mixture will be completely mixed.

(ii) Very hydrophobic chemicals, with K_{ow} in the order of 10^4 to 10^6, require relatively large volumes of the aqueous phase. Hence, for these chemicals, equilibration must be carried out in a large ground-glass stoppered flask.

(10) *Speciation effects.* The octanol/water partition coefficient, K_{ow}, has been defined in paragraph (b) of this section. The mathematical statement of K_{ow} is:

Equation 1

$$K_{ow} = \frac{C_{octanol}}{C_{water}}$$

where C is the molar concentration of the solute in octanol and water at equilibrium at a given temperature.

(i) If the chemical does not associate or dissociate in octanol and water, then equation (1) must be used and K_{ow} must be determined at molar concentrations $C < 0.01M$ and $C_1 = 0.01C$.

(ii) If the chemical associates in octanol or water or in both liquids, then equation (1) must be used and K_{ow} must be determined at molar concentrations $C < 0.01M$, $C_1 = 0.1C$, $C_2 = 0.01C$, $C_3 = 0.001C$. . . . . When K_{ow} is constant at two molar concentrations differing by a factor of 10, then the effect of association has been minimized or eliminated.

(iii) If a molecule dissociates or associates in octanol and water, then equation (1) must be modified to take into account such speciation changes as ionization, aggregation, and hydration. For the special case where no association takes place in octanol and only dissociation takes place in water, equation (1) becomes:

Equation 2

$$K_{ow} = \frac{C_{octanol}}{(1 - \alpha_{water})(C_{water})}$$

where α represents the degree of dissociation in water. For chemicals which reversibly ionize or protonate (e.g., carboxylic acids, phenols, or anilines), equation (2) must be used with water buffered at pH 5.0, 7.0, and 9.0. Buffers described in the test procedures under paragraph (g)(1)(ii) of this section must be used.

(11) *Prerinsing of all transfer vessels.* All transfer vessels must be prerinsed with a portion of the equilorium aqueous phase prior to transfer for analysis.

(e) *Procedures.* The test conditions outlined in paragraph (d) of this section must be followed in carrying out all octanol/water partition coefficient experiments. Recommended procedures are given in the test procedures under paragraph (g) of this section.

(f) *Reporting.* In addition to the following requirements, information specified in § 772.110–2(h) of Good Laboratory Practice Standards must be reported. This test standard is designed to determine the octanol/water partition coefficient of the test chemical in the range 10 to 10^6. For chemicals outside this range, the octanol/water partition coefficient should be reported as $K_{ow} < 10$ or $K_{ow} > 10^6$ with no further quantification.

(1) *Specific analytical and recovery procedures.* (i) Provide a detailed description or reference for the analytical procedure used, including the calibration data and precision.

(ii) If extraction methods were used to separate the solute from the octanol and aqueous phases, provide a description of the extraction method and recovery data.

(iii) Report the experimental (G) value required to break the emulsion and to achieve complete separation of the octanol and water phases.

(2) *Test data.* For each individual determination, report the octanol/water partition coefficient at each concentration of the test substance, including the molar concentration of chemical in each phase [C_{oct} and C_{water}]. In addition, report the mean value of K_{ow}, and the standard deviation.

(g) *Test procedures*—(1) *Reagents and solutions.* (i) *Octanol and water.* Very pure *n*-Octanol can be obtained as follows: Wash pure *n*-octanol (minimum 98 percent pure) sequentially with 0.1N H_2SO_4, with 0.1N NaOH, then with distilled water until neutral. Dry the *n*-octanol with magnesium sulfate and distill twice in a good distillation column under reduced pressure [b.p. about 80°C at 0.27 kPa (2 torr)]. The octanol produced must be at least 99.9 percent pure, e.g., a grade equivalent to Fisher Scientific Co. No. A–402 "Certified Octanol-1". Distilled or reagent grade (ASTM Type II) water must be used.

(ii) *Buffer solutions.* Prepare buffer solutions using reagent grade chemicals in distilled or reagent grade water as follows:

pH 5.0—250 mL of 0.1M potassium hydrogen phthalate; 113 mL of 0.1M sodium hydroxide. Adjust final volume to 500 mL with reagent grade water.

pH 7.0—250 mL of 0.1M potassium dihydrogen phosphate; 145 mL of 0.1M sodium hydroxide. Adjust final volume to 500 mL with reagent grade water.

pH 9.0—250 mL of 0.075M borax; 69 mL of 0.1M HCl. Adjust final volume to 500 mL with reagent grade water.

Check the pH of each buffer solution with a pH meter at 25°C and adjust to pH 5.0, 7.0, or 9.0, if necessary.

(iii) *Presaturation of the solvents.* Before a partitioning experiment is carried out, prepare octanol saturated with water and water saturated with octanol. Add purified *n*-octanol to a large stock bottle and sufficient distilled water to saturate it. Shake the flask for 24 hours on a mechanical shaker. Then allow sufficient time for the mixture to stand so that the two phases separate. Repeat this procedure using another large stock bottle containing distilled water and sufficient octanol to saturate it. The desired quantities of the presaturated solvents can be taken from these stock bottles for each partition experiment.

(iv) *Preparation of test solution.* Prepare a solution of the test material in octranol at a molar concentration of 10^{-2} to 10^{-3}M.

(2) *Procedure.* (i) Add a small volume of the octanol test solution (1 to 5 mL) to a centrifuge tube with a sealable cap as described under paragraph (d)(9) of this section.

(ii) The volume of water required is variable, depending upon the amount of chemical required for chemical analysis. Generally, 20–40 mL of water should be sufficient. Add the required volume of water to the centrifuge tube as described under paragraph (d)(6) of this section. Make sure that the centrifuge tube is almost completely full. In this way, partitioning with air will be minimized. This is important, especially when determining K_{ow} for volatile chemicals.

(iii) Equilibrate the samples at 25°C in a constant temperature bath, or chamber, or room by gently shaking the centrifuge tube for 1 hour. Avoid vigorous shaking which may cause troublesome emulsions to form. For surfactants, a minimum of 16 hours of shaking is required as described in paragraph (d)(5) of this section.

(iv) Centrifuge the samples at 25°C for 20 minutes to break any emulsion and to separate the octanol and water phases. Evidence for breaking the emulsion and separation of the water and octanol phases can be obtained using a turbidimeter. The acceleration (G) value required to break the emulsion and to achieve complete separation of the octanol and water phases can be determined by trial-and-error experimentation.

(v) Sample the octanol and water phases as follows:

(A) Withdraw by pipet a known volume of the octanol phase (approximately 1/2 or less of the total octanol phase) and transfer to an analysis cell or diluting solvent. Before transferring the aliquot of the octanol phase, wipe the outside of the pipet with a paper tissue.

(B) Remove by pipet the remainder of the octanol phase including the interfacial layer and discard.

(C) Insert another clean pipet close to the bottom of the centrifuge tube and carefully withdraw a known volume of the aqueous phase. Wipe the bottom exterior part of the pipet with a tissue and discharge the aqueous sample directly into an analysis cell or extraction solvent. Do not allow the extraction solvent to contact the pipet stem.

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(vi) Select an analytical method which is most applicable to the analysis of the specific chemical as described in paragraph (d)(7) of this section. Determine the concentration in the octanol and water phases. Express the concentration of the chemical in octanol and water in moles/liter (M).

(vii) Determine the partition coefficient in triplicate (Steps i through vii) at two concentrations of the test material $C < 0.01M$ and $C_1 = 0.1C$ as described in paragraph (d)(10)(i) of this section. If K_{ow} is not constant at C and C_1 then association effects should be considered. Therefore, follow steps i through vii at lower concentrations until K_{ow} is constant at two concentrations differing by a factor of 10 as described in paragraph (d)(10)(ii) of this section.

(viii) Very hydrophobic chemicals (with K_{ow} on the order of 10^4 to 10^6) require relatively large volumes of the aqueous phase as described in paragraph (d)(6) and (9)(ii) of this section. Hence, for very hydrophobic materials, equilibrate the octanol and water phases in a large ground-glass stoppered flask as described in step iii. For the final phase separation, transfer the two phase mixture to centrifuge tubes that have been prerinsed with some of the aqueous phase, centrifuge as described in step iv, withdraw aliquots from each centrifuge tube as described in step v, and recombine for analysis. Note: Prerinse all transfer tubes with the water phase. Complete steps vi and vii to determine K_{ow}

(ix) For materials which reversibly ionize or protonate, determine K_{ow} at pH 5.0, 7.0, and 9.0 as described in paragraph (d)(10) (ii) of this section. Follow steps i through vii using the buffered aqueous solutions described in paragraph (g)(1)(ii) of this section. Using the acid dissociation constant and the concentration of the chemical in the aqueous phase [C_{water}], the term α can be calculated. The concentration of undissociated chemical can be determined from α and C_{water}.

§ 772.122–5 Soil thin-layer chromatography.

(a) *Purpose.* This standard is designed to develop soil leaching data on chemical substances at an environmentally relevant temperature. The EPA will use these data to evaluate adsorption and desorption of chemicals in the environment.

(b) *Definitions.* (1) "Cation exchange capacity" (CEC) is the sum total of exchangeable cations that a soil can adsorb; expressed in milliequivalents per 100 grams or milliequivalents per gram of soil.

(2) "Particle size analysis" is the determination of the various amounts of the different particle sizes in a soil sample (i.e., sand, silt, clay) usually by sedimentation, sieving, micrometry or combinations of these methods. The names and size limits of these particles as widely used in the United States are:

Very coarse sand—2.0 to 1.0 mm dia
Coarse sand—1.0 to 0.5 mm
Medium sand—0.5 to 0.25 mm
Fine sand—0.25 to 0.125 mm
Very fine sand—0.125 to 0.062 mm
Silt—0.062 to 0.002 mm
Clay—<0.002 mm

(3) "R_f" is the furthest distance traveled by a test material on a thin-layer chromatography plate divided by the distance traveled by a solvent front (arbitrarily) set at 10.0 cm in soil TLC studies).

(4) "Soil" is the unconsolidated mineral material on the immediate surface of the earth that serves as a natural medium for the growth of land plants, and has been subjected to and influenced by various factors such as parent material, climate, macro- and microorganisms, topography, and time.

(5) "Soil aggregate" is the combination or arrangement of soil separates (sand, silt, clay) into secondary units. These units may be arranged in the profile in a distinctive characteristic pattern and can be classified on the basis of size, shape, and degree of distinctness into classes, types, and grades.

(6) "Soil classification" is the systematic arrangement of soils into groups or categories on the basis of their characteristics; broad groupings are made on the basis of general characteristics and subdivisions on the basis of more detailed differences in specific properties. The soil classification system used today in the United Stats is the 7th Approximation-Comprehensive System.

(7) "Soil horizon" is a layer of soil or soil material approximately parallel to the land surface and differing from adjacent layers in physical, chemical, and biological properties or characteristics such as color, structure, texture, consistency, kinds, and numbers of organisms present, degree of acidity or alkalinity, and various other properties.

(8) "Soil order" is the broadest category of soil classification based on general similarities of physical/chemical properties resulting from formation by similar general genetic processes.

(9) "Soil organic matter" is the organic fraction of the soil; it includes plant and animal residues at various stages of decomposition, cells and tissues of soil organisms, and substances synthesized by the soil population.

(10) "Soil pH" is the negative logarithm to the base 10 of the hydrogen ion activity of a soil as determined by means of a suitable sensing electrode coupled with a suitable reference electrode at a 1 : 1 soil : water ratio.

(11) "Soil series" is the basic unit of soil classification. It is a subdivision of a family, and it consists of soils which are essentially alike in all major profile characteristics except the texture of the "A" horizon.

(12) "Soil texture" refers to the classification of soils based on the relative proportions of the various soil separates present (i.e., clay, sandy clay, silty clay, clay loam, silty clay loam, sandy clay loam, loam, silt loam, silt, sandy loam, loamy sand, sand).

(c) *Good laboratory practice.* The Good Laboratory Practice Standards for Physical, Chemical, Persistence, and Ecological Effects Testing, in § 772.110–2, must be followed in performing this standard.

(d) *Conditions.* (1) The number and type of soils to be used will be specified in the Test Rule.

(2) Equipment required: Distilled-deionized water adjusted to pH 7 by boiling to remove CO_2; clean glass plates (TLC); glass rods or a variable thickness plate spreader; masking tape; closed chromatographic chambers; analytical instrumentation necessary and appropriate for the detection and quantitative analysis of the test chemical.

(3) The test procedure may be run at 23 ± 5°C.

(4) Only gentle crushing and grinding of the air dried soil must be employed to reduce aggregate size before or during sieving.

(e) *Procedures.* (1) First, air dried soils must be sieved at 250 micrometers.

(2) Water must be added to the sieved soil until a smooth, moderately fluid slurry is attained (approximately ¾ ml H_2O added for each gram of soil).

(3) The soil slurry must be evenly and quickly spread across the clean glass plate by use of a variable thickness plate spreader, use of a glass rod, or other available methods. If a glass rod is used, layer thickness must be controlled by affixing multiple layers of masking tape along the plate edges. Soil layer thickness must be 500–750 micrometers.

(4) The plates must be air dried at 25°C for a minimum of 24 hours after uniform slurry application is achieved.

(5) A horizontal line must be scribed 11.5 cm above the base through the soil layer down to the glass so as to stop solvent movement.

(6) The test chemical must then be spotted at 1.5 cm above the base. For radiolabeled materials 0.5–5 μg containing 0.01–0.03 μCi of 14_C labeled compound may be used.

(7) At least three replicate plates must be used for each soil.

(8) If the compound is volatile, a clean plate must be placed over the soil TLC plate to impede volatilization.

(9) The plate must be immersed base down at some angle from the vertical in a closed chromatographic chamber containing H_2O at a height of 0.5 cm.

(10) The solvent front must migrate to the 11.5 cm line before the plates are removed from the chamber.

(11) R_f values must be determined. Zonal extraction, plate scanning, or any other method or combination of methods suitable for detection of the parent test chemical may be used.

(12) A mass balance for the parent test chemical must be performed by determining the amount of the parent test chemical on the entire soil TLC plate after test chemical migration. Any method or combination of methods suitable for the extraction and quantitative detection of the parent test chemical may be used.

(f) *Reporting.* Information specified in § 772.110–2(h) of the Good Laboratory Practice Standards must be reported. Also, the following information must be reported using the following Figures 1 and 2:

FIGURE 1 - SOIL TLC DATA FORMAT

SOIL:

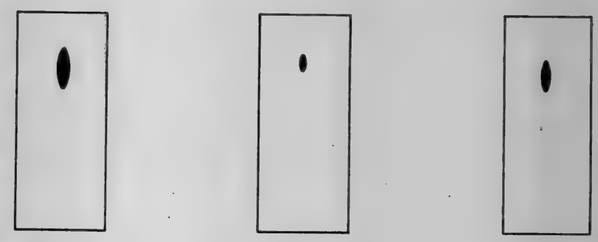

QUANTITY	PLATE 1	PLATE 2	PLATE 3
R_f			
Amount Applied			
Amount Recovered			
% Recovered			
Mean R_f			
Standard Deviation			

Figure 2.—*Soil physical, chemical, and classification data format*

	Soil 1	Soil 2
Soil order	Alfisol	
Soil series	Crider	
Soil texture	Silt loam	
Location	Gallatin County, IL	
Horizon	A	
Percent sand	1.2	
Percent silt	86.6	
Percent clay	12.2	
Percent organic matter	1.74	
pH (1:1 H_2O)	7.20	
CEC (MEQ/100GMS)	13.5	
Clay fraction mineralogy	75 percent montmorillonite; 5 to 20 percent, mica, 5 percent, kaolinite (36 to 120 cm depth).	

(1) temperature at which the test was conducted, (2) amount of the test chemical applied and amount recovered from the plates, (3) detailed description of the analytical technique used in the R_f determination, the chemical extraction, and the quantitative recovery and analysis of the parent chemical; (4) the mean frontal R_f value with the standard deviation for each soil tested; (5) a photograph or diagram of the TLC plate which shows the entire leaching pattern (from 1.5 to 11.5 cm); (6) soil information: soil order, series, texture, sampling location, horizon, general clay fraction mineralogy; and (7) soil physical-chemical properties: percent sand, percent silt and percent clay (particle size analysis); percent organic matter; pH (1:1 H_2O); and cation exchange capacity.

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BILLING CODE 6560-31-M

40 CFR Part 772

[OPTS–46004A; TSH FRL 1594–4]

Physical, Chemical, Persistence, and Ecological Effects Testing; Proposed Good Laboratory Practice Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes good laboratory practice (GLP) standards for the development of data on physical, chemical, persistence, and ecological effects fo chemical substances for which EPA will require testing under section 4 of the Toxic Substances Control Act (TSCA) (Pub. L. 94–469, 90 Stat. 2003, 15 U.S.C., 2601, et seq.). These proposed standards supplement "Good Laboratory Practice Standards and Health Effects," proposed on May 9, 1979 (44 FR 27362). The good laboratory practice standards include general standards that apply to all laboratory testing for physical, chemical,

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persistence, and ecological effects under section 4 of TSCA. When these proposed good laboratory practice standards are made final, they will be included as requirements, where appropriate, in testing rules promulgated for specific chemicals. Compliance with these standards will assure the reliability and adequacy of data submitted pursuant to testing rules promulgatged under section 4.

DATES: Written comments should be submitted on or before January 21, 1981. Oral comment will be received on February 10, 1981. See Supplementary Information for public meeting information.

ADDRESS: Written views and comments should bear the EPA document control number OPTS–46004A and should be submitted to: Document Control Officer, (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, D.C. 20460, (202–755–8050).

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Industry Assistance Office, (TS–799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–427, 401 M St., SW., Washington, D.C. 20460, (800–424–9065), In Washington, D.C.: (554–1404).

SUPPLEMENTARY INFORMATION:

I. Introduction

Under section 4(b) of TSCA (90 Stat. 2003, et seq., 15 U.S.C., 2601 et seq.), EPA is preparing proposals for standards for the development of test data. These data are to be used to determine if particular chemicals present, or do not present, unreasonable risks to health or the environment. The proposal consists of this notice, a separate notice titled, "Proposed environmental effects test standards for Toxic Substances Act test rules—Physical, chemical, and environmental persistence characteristics," which appears elsewhere in this copy of the **Federal Register**, and previously proposed test standards published in the **Federal Register** of May 9, 1979 (44 FR 27334), and July 26, 1979 (44 FR 44054).

In this notice, EPA is proposing general Good Laboratory Practice (GLP) Standards for Physical, Chemical, Persistence, and Ecological Effects Testing. These GLP Standards are designed to assure the reliability and adequacy of data submitted, and are issued to supplement previously proposed GLP Standards for Health Effects (44 FR 27362) issued on May 9, 1979. These practices are proposed to apply generally to all testing for physical, chemical, persistence, and ecological effects conducted under section 4 of TSCA, by or on behalf of manufacturers or processors of chemical substances or mixtures.

Separate GLP standards for health effects testing and physical, chemical, persistence, and ecological effects testing are necessary for a number of reasons. Testing to be conducted in accordance with proposed health effects standards is primarily concerned with effects on a limited number of animal species. It does not address the analytical problems associated with physical, chemical, and persistence testing nor does it address the special problems associated with the wide variety of vertebrates, invertebrates, and plant species covered in ecological effects testing.

While these GLP Standards will apply generally to all prescribed tests for physical, chemical, persistence, and ecological effects, individual tests may contain specific GLP instructions that apply to that particular test.

II. Previously Proposed Good Laboratory Practice Standards for Health Effects

EPA proposed new Parts 770, 771, and 772 to be added to Chapter I of Title 40 of the Code of Federal Regulations, published in the **Federal Register** of May 9, 1979 (44 FR 27335). The preamble to proposed test standards for physical, chemical, and environmental persistence characteristics, which appear elsewhere in this issue of the **Federal Register**, outlines the content of the several parts and subparts.

Part of the proposal of May 9, 1979, included proposed Good Laboratory Practice Standards for Health Effects (frequently cited simply as "Health GLP") (44 FR 27362) for inclusion in 40 CFR 772.110–1. Proposed GLP Standards for Physical, Chemical, and Environmental Persistence Characteristics and Ecological Effects Testing presented here are for inclusion as § 772.110–2, in the same part and subpart identified for the Health GLP.

Preamble discussions of the authority and need for GLP Standards as they apply to testing for health effects are, in general, equally applicable to these proposed standards. Problems with the adequacy of testing data were identified by the Food and Drug Administration (FDA) in the mid 1970's and were reported to the Senate Subcommittee on Health (Committee on Labor and Public Welfare). FDA's inspections of several pharmaceutical houses and contract laboratories found unacceptable laboratory practices that, in turn, called into question the validity of test data submitted. Unacceptable practices included selective reporting and underreporting of results, lack of adherence to specified protocols, inadequate qualification and supervision of personnel, poor animal care procedures, poor recordkeeping techniques, and the general failure of sponsors to monitor studies. Later inspections and audits done jointly by FDA and EPA also indicated that testing facilities do not always follow good laboratory practices.

III. Proposed Good Laboratory Practice Standards

These proposed GLP Standards prescribe methodology for the selection, handling, and storage of the test substance; personnel qualifications, and the organization of the testing laboratory; minimal facilities; equipment specifications; operation of the testing facilities; requirements for a study plan and the conduct of a study; requirements for recordkeeping and reports; and specific appendices applicable to testing for physical, chemical, and persistence characteristics and to testing for ecological effects. Proposed GLP Standards for Physical, Chemical, and Persistence Characteristics and Ecological Effects Testing have been harmonized as much as possible with the proposed GLP Standards for Health Effects Testing. The Health GLP Standards have, in turn, been harmonized to the extent practicable with the GLP issued by the FDA. A detailed comparison is included in the preamble to the GLP Standards for Health Effects Testing.

Additional general discussion and comparisons with the Health GLP are presented in the following paragraphs and concentrate on differences between the Health and Environmental GLP Standards.

(a) *Introduction.* Statements of the authority, purpose, and scope of GLP Standards proposed here are similar to the authority and purpose stated for GLP Standards for Health. These GLP Standards for Physical, Chemical, and Persistence, and Ecological Effects Testing are consistent with the guidance for GLP issued by several professional societies and EPA program offices.

Definitions incorporated in these GLP Standards include several terms not included in the GLP Standards for Health, mainly because environmental testing covers different types of testing. Also, a few of the definitions are made broader, such as "testing facility," which will cover laboratories which perform a wider variety of testing, with different methods and test species, than do laboratories that do health testing.

(b) *Testing and control substances.* Requirements for documenting the purity of the test substance and for minimizing contamination or alteration during storage and handling are intended to assure consistency of testing results. The language of these proposed Standards differ slightly from the language in the Health GLP, but essentially the requirements on the testing laboratory are the same.

(c) *Organization and personnel.* This section of the standard is to assure that laboratories doing testing are staffed by personnel who are competent to do the testing, that the staff and laboratory are organized in a manner that is likely to lead to proper conduct of the tests, and that the laboratory has a suitable organization, staff, and procedures to implement good quality assurance. There are several small differences between requirements in this section and requirements in the Health GLP Standards. These GLP Standards, for example, require that the quality assurance unit monitor all work but it only recommends, not requires, that the unit be separate and independent from those conducting the work. This was made a recommendation in order to allow small laboratories with limited staffs some flexibility in conforming with this provision of the GLP Standards. These GLP Standards also require development of a quality assurance plan prior to starting of testing, not as testing proceeds, in order to make the plan available for Agency review at any time. These Standards also require maintaining a master schedule of all testing in order to provide an indication of total work load and allow evaluation of whether testing was done under overloaded conditions.

(d) *Facilities.* Requirements for facilities in this GLP Standard are considerably shorter than the requirements in the GLP Standards for Health because the Health GLP includes detailed standards for facilities for animals. This would be impractical to include in these Standards since such a wide variety of species are included in ecological effects testing standards. Therefore, specific requirements for facilities for testing for environmental effects using animals are proposed in § 772.110–4 of these proposed GLP Standards and in specific GLP sections of some individual test standards.

(e) *Equipment.* Standards are proposd in this section to assure that equipment in testing laboratories is properly designed and adequately maintained so that reliable data can be collected. In addition, the standards require that records be maintained of equipment inspection, maintenance, testing, calibration, standardization, failure, malfunction, and repair.

(f) *Testing facilities operation.* To assure consistent, high-quality data, testing laboratories are to have written standard operating procedures and adequate manuals and records also are to be maintained. The language of standards proposed in this section differs slightly from language in the health GLP in order to allow for different types of facilities needed for physical, chemical, persistence, and ecological testing. In addition to the GLP requirements for facilities in § 772.110–2(f), there also are requirements for special facilities for ecological effects testing outlined in § 772.110–4 of these proposed GLP Standards. Additional requirements for facilities also many be outlined in standards for individual tests because they are test specific.

(g) *Study plan and conduct of a study.* This section of the GLP Standard is to assure that tests of chemical substances are planned carefully, and then are carried out in accordance with the plan, or otherwise that deviations are documented. The wording of this section differs only slightly from that in the corresponding section of the Health GLP in order to allow for differences in the types of tests to which they apply. In addition, this GLP requires information on chemical stability which EPA regards as important in planning long-term tests or other types of test in which transformation of the chemical may affect results.

(h) *Records and reports.* Final reports from the testing of chemicals must be complete in order to permit EPA and the test sponsor to judge adequacy and reliability of data to be used in assessing the potential fate of or environmental hazard from a substance. Differences from the Health GLP are minor; one difference is that this Environmental GLP requires reporting of quality-assurance methods used in testing–a factor which EPA counts as important in judging acceptability of testing.

(i) *Physical, chemical, and persistence testing.* Testing for physical, chemical, and persistence characteristics has several specific GLP requirements above and beyond the requirements proposed in the main portion of these GLP Standards. These special requirements are detailed in § 772.110–3, and deal with special qualifications and training for personnel, and with special requirements for the testing laboratory. Persons who perform tests for physical, chemical, and persistence characteristics of chemicals need to have training and/or experience in chemistry, biology, microbiology, or closely related areas. Laboratories must have adequate space for a variety of specialized equipment. Special requirements are proposed to protect laboratory personnel from potentially dangerous exposure to sewage during certain microbiological tests.

(j) *Ecological effects testing.* Testing for ecological effects of chemical substances generally involves the exposure of a wide variety of plants and animals of chemical substances and mixtures. Consequently, there are many special GLP requirements that apply to the personnel, facilities, operation, planning and conduct, and reporting of ecological effects testing. These special GLP requirements are detailed in § 772.110–4 of this GLP Standard.

(1) *Personnel.* Several diseases and infections that affect people also may present a threat to the organisms involved in testing for ecological effects of chemical substances. Consequently, all illnesses of laboratory personnel are to be reported and infected persons who may affect the testing are to be excluded from contacting the test organisms.

Most testing of chemicals using fish, birds, other animals, or plants requires first the availability of organisms, and then their maintenance in often delicate cultures. It also may involve sophisticated analytical chemistry techniques as well as pathological examination. EPA, therefore, in these GLP Standards requires that the tests be conducted by personnel with sufficient training and/or experience in appropriate specialty areas such as biology, veterinary science, pathology, analytical chemistry, fisheries biology, and other specialty areas. In addition to the special requirements contained in § 772.110–4, some of the test standards for ecological testing also contain additional personnel requirements.

(2) *Facilities.* Testing of chemicals for ecological effects is likely to involve work with a large number of different types of plants and animals. Laboratories doing the testing must, therefore, have adequate facilities to care for the different test species, to avoid mixup, and to provide that the several different types of tests do not interfere with each other. Proposed GLP Standards in § 772.110–4, applicable to ecological effects testing, are intended to guard against such types of problems. Reference is made to general provisions to the Animal Welfare Act and to other general standards for the care and testing of animals (including fish). The standards require adequate rooms for separation of species and tests where interferences may result, but they do not require categorical separation of all

species or of all different types of tests. Separate spaces are required for certain

EPA program offices and several professional societies such as the

adequacy, maintenance, and calibration of equipment; and the adequacy,

(10) Scientific papers relevant to issues relating to these tests which were

the Agency. EPA encourages commentators to use the toll free

laboratory, contractor, or grantee to perform an analysis or other service, the

species or of all different types of tests. Separate spaces are required for certain aseptic procedures, for cleaning and maintenance of equipment, and for facilities for personnel such as lockers, showers, toilets, and washing areas.

(3) *Testing facilities operation.* Section 772.110–4 outlines the requirements for standard operating procedures for the handling of organisms, and includes specific paragraphs on special aspects of care for and handling of organisms. These special GLP provisions are intended to assure that testing is done with strong, healthy organisms, and that the test results are not affected by mix-up or by damage from poor handling or extraneous factors

(4) *Study plan and conduct of a study.* In addition to general requirements for a study plan and conduct of testing outlined in § 772.110–2(g) of these GLP Standards, § 772.110–4(e) provides for specific requirements for testing for ecological effects. The study plan needs to consider how test organisms are selected, as well as their indentification, feeding, and methods of dosing with the test chemical. This § 772.110–4(e) also requires specific indentification of test organisms and identification of gross findings by a pathologist doing a histopathological examination.

(5) *Reporting of the study results.* Reports of ecological effects testing are to include specific details on the numbers and types of test organisms, and on the chemical dosages adminsitered and the manner in which they were administered.

(k) *Inspection of testing facility.* The Agency will conduct inspections of testing facilities and audits of data developed by those facilities if the testing was, or is being done in support of TSCA regulations according to Part 772, Subparts L, M, or N.

IV. Economic Analysis

These GLP standards are very similar to FDA's Good Laboratory Practice Regulations for Nonclinical Laboratory Studies which became law on June 20, 1979. By now, after several years of industry-wide discussion and development of the FDA GLP's and after one year of actual enforcement, regulations have already impacted the cost of performing animal toxicity studies. Thus, it is conceivable that the proposed EPA GLP environmental standards will have little or no further impact on testing costs in laboratories which conduct both health effects and environmental effects testing. In addition, many of the laboratories that do environmental testing already adhere to similar GLP requirements issued by EPA program offices and several professional societies such as the American Public Health Association (APHA), American Water Works Association (AWWA), the American Society for Testing and Materials (ASTM), and the EPA program offices for water and pesticides.

Due to the fact that Good Laboratory Practice standards are not specific protocols, it is impossible to provide an itemized component cost breakdown. In fact, GLP's represent operational procedures which are designed to affect all methods and tests. Thus, the economic impact of GLP standards can only be measured in terms of their relative impact, e.g., percentage increase, upon the cost of performing any and all tests.

Private estimates from industrial and independent contract testing laboratories secured by EPA contractors have ranged from 10 to 80 percent increase in the cost of testing; the general consensus being that GOP regulations have increased testing costs by an average of 50 percent over pre-GLP prices. Unfortunately, it is impossible at this time to obtain a more accurate estimate of the economic impact of GLP regulations

The following examples demonstrate how GLP standards are actually operational procedures and why it is impossible to calculate an itemized component cost breakdown:

(1) Most laboratories did not have a Quality Assurance Unit (QAU) in early pre-GLP times. Much of the time spent by QAU personnel can be charged as a Direct Labor Cost on a study, but quite often the QA Unit is partially supported by overhead. The impact of this overhead expense depends on the size of the unit, the salaries paid, the size of the laboratory, the relative magnitude of the overhead burden, and the efficiency with which the QAU performs its job.

(2) The preparation of Standard Operating Procedures (SOP) is entirely an overhead expense. It takes management, technical (both senior and junior), and clerical time to write SOP's initially and to continually update them. The use of SOP's does probably increase technical efficiency and minimize training time. The magnitude of these effects depends upon whether or not a laboratory previously had SOP'S.

(3) Other procedures regarding test articles, protocols, record keeping, etc. undoubtedly add additional labor costs to each test. The magnitude of the impact depends upon procedures which were followed before GLP's came into effect.

(4) Other requirements concerning the adequacy and design of facilities; the adequacy, maintenance, and calibration of equipment; and the adequacy, supervision, training, and experience of available technical and management personnel are impossible to describe in terms of economic impact on test costs due to variations in the availability of these resources at each laboratory, both before and after GLP's became law.

EPA will do an economic analysis to estimate the cost of testing for each environmental test standard proposed in Subparts L and M. Each estimate will be made on the assumption that these GLP standards apply, and therefore will include GLP incremental costs in the total cost estimated for each test.

V. Public Record

EPA has established a public record for this rulemaking (document number OPTS–46004A) which along with a complete index is available for inspection in the OPTS Reading Room from 8:00 a.m. to 4:00 p.m. (Rm E–447, 401 M St., SW., Washington, D.C. 20460). This record includes basic information considered by the Agency in developing this proposal. The Agency will supplement the record with additional information as it is received. The record includes the following information:

(1) USEPA–OPTS. "Proposed Physical, Chemical, Persistence and Ecological Effects Test Standards for Toxic Substance Control Act Test Rules."

(2) USEPA–OPTS. "Proposed Physical, Chemical, Persistence and Ecological Effects Test Standards for Toxic Substance Control Act Test Rules Support Document."

(3) USEPA–OPTS. "Toxic Substances Control Act Premanufacture Testing of New Chemical Substances" (44 FR 16240) and all public comments received on this discussion document.

(4) USEPA–OPTS. "Proposed Good Laboratory Practice Standards for Health Effects" (44 FR 27369 et seq.).

(5) USEPA–OPP. "Proposed Guidelines for Registering Pesticides in the United States" (43 FR 29696–740).

(6) USEPA–OPP. "Guidelines for Registering Pesticides in the United States" (40 FR 26802–928).

(7) Drafts of the proposed rules, the preamble, and the support document which were available for public comment.

(8) Correspondence pertaining to the development of the standards, the preamble, or the support document. (This does not include inter- or intra-agency correspondence, unless specifically noted in the index to the rulemaking record).

(9) Minutes, summaries, or transcripts relating to public meetings held to develop the standards.

(10) Scientific papers relevant to issues relating to these tests which were used by the agency in developing this proposal.

(11) Contractor's report, "Cost Analysis Methodology and Protocol Estimates: Environmental Standards," by Enviro Control, Inc., April 28, 1980, 26 p.

Published documents cited in this preamble are incorporated in the record by reference. EPA will accept additional and relevant material for the record at any time between this proposal and the final designation of the rulemaking record, on or before the date of promulgation of these requirements as prescribed by TSCA section 19(a)(3).

VI. Public Meetings

EPA personnel responsible for developing these proposed Environmental Test Standards will be available to meet with interested persons from companies, trade associations, organized labor and citizen organizations on February 10, 1981 at: Skyline Inn, South Capitol & I Streets, SW., Washington, D.C.

The meeting will be from 1 p.m. to 5 p.m. This location is three blocks east of the EPA Headquarters, Waterside Mall, 401 M St., SW., Washington, D.C. Persons who wish to make presentations should request time by contacting the Industry Assistance Office by telephone, either toll free (800–424–9065) or on 554–1404 in Washington. Time will be scheduled between 1 p.m. and 5 p.m. The Agency will make a transcript of the sessions for inclusion in the official public record. Participation in a session will be limited to those who have requested that time to make oral comment.

One purpose of providing this opportunity for oral comment is to provide EPA with information on costs and approaches to compliance for impacted companies, especially small ones. The other purpose of this public meeting is to allow EPA to digest the scope and nature of written comments on scientific and technical points before hearing oral argument or comment on them. The Agency's general criterion for allotting time will be that a person has an interpretation, data or experience that is best presented orally with the opportunity for cross-checking communication with the Agency. In this case, an additional criterion will be that a person has a review of the written commentary already submitted to share with the Agency. EPA's experience has shown that this roundtable format for public meetings by request that are open to the public yields more productive exchanges for both commentators and the Agency. EPA encourages commentators to use the toll free telephone to ask questions of clarification early in the written comment period to aid their formulating their comments.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 4, TSCA, 90 Stat. 2006; 15 U.S.C. 2603)

Dated: September 25, 1980.

Douglas M. Costle,
Administrator.

Therefore, EPA proposes to add new §§ 772.110–2, 772.110–3, and 772.110–4 to Subpart B of Part 772 to read as follows:

§ 772.110–2 Good laboratory practice standards for physical, chemical, persistence, and ecological effects testing.

(a) *Introduction*—(1) *Scope and purpose.* The requirements contained in these standards apply to all testing for chemical, physical, and environmental persistence characteristics, and for ecological effects. Compliance with the standards is intended to assure the quality and integrity of data filed pursuant to section 4 of the Toxic Substances Control Act (TSCA) (Pub. L. 94–469, 90 Stat. 2003, 15 U.S.C. 2601 et seq.). When interpreting specific requirements, the differences between laboratories conducting physical, chemical, and persistence tests and those conducting biological tests should be recognized. Section 772.110–3 of these standards contains special material applicable to physical, chemical, and persistence testing, and § 772.110–4 has material applicable to ecological testing.

(2) *Applicability*—(i) *General.* Requirements set forth in these standards apply to the development of all data on chemical, physical, and environmental persistence characteristics, and on ecological effects submitted to the Environmental Protection Agency (EPA) by chemical manufacturers and processors in compliance with section 4 test rules promulgated under TSCA. Where more specific or detailed GLP requirements are required by the EPA, these exceptions will be incorporated into the specific test standards or test rules.

(ii) *Applicability to studies performed under grants and contracts.* When a sponsor conducting a study intended to be submitted to or reviewed by the EPA uses the services of a consulting laboratory, contractor, or grantee to perform an analysis or other service, the sponsor must notify the consulting laboratory, contractor or grantee that the service is part of a study that must be conducted in compliance with the provisions of these standards.

(3) *Definitions.* (i) "Batch" means a specific quantity or lot of a test or control substance.

(ii) "Biohazardous" means toxic to organisms or biological systems.

(iii) "Chemical fate testing" means activities relating to or performed for the characterization of physical, chemical, and persistence factors that determine the fate of test substances and their transformation products in soil, water, and air.

(iv) "Control substance" means any chemical substance or mixture administered to the test system in the course of a study for establishing a basis for comparison with the test substance.

(v) "Ecological effects testing" means activities relating to or performed for the generation of information on non-human toxicity and potential ecological impact of test substances and their degradation products.

(vi) "Impurity" means any ingredient present in a batch or preparation, other than a specified active ingredient or intentionally added inert ingredient, and includes impurities, contaminants, reaction products, and degradation products.

(vii) "Intentionally added inert ingredient" means any inert ingredient which is intentionally added to the technical active ingredient, or to the manufacturing-use product.

(viii) "Pathobiology" includes the study of abnormal tissue formed as a result of treatment of organisms with, or exposure to, toxic substances.

(ix) "Person" means an individual, partnership, corporation, association, scientific or academic establishment, government agency, or organizational unit thereof, and any other legal entity.

(x) "Quality assurance unit" means any person or organizational element of the testing facility, except the study director, designated by the testing facility management to perform the duties relating to the quality assurance unit specified herein.

(xi) "Raw data" means all data recorded in laboratory worksheets, notebooks, records, memoranda, notes, or recording devices, or exact copies thereof resulting from original observations and activities of a study and necessary for the reconstruction and evaluation of the report of the study. In the event that exact transcripts of raw data have been prepared (e.g., tapes which have been transcribed

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verbatim, dated, and verified accurate by signature of the originator), the exact copy or exact transcript may substitute for the original source as raw data. "Raw data" may include photographs, microfilm or microfiche copies, computer printouts, magnetic media including dictated observations, recorded data from automated instruments, and correspondence relating to the planning, conduct, and interpretation of the study.

(xii) "Specimen" means any material derived from a test system for examination or analysis.

(xiii) "Sponsor" means a person who is required by a test rule under section 4 of TSCA to submit to the EPA data developed pursuant to such test rule. The test sponsor is the manufacturer, processor, or person who intends to manufacture or process chemical substances and mixtures subject to said rule and who conducts, commissions, or otherwise develops or has developed the data required by said rule.

(xiv) "Study" means a careful analysis or examination of knowledge used to measure a parameter or parameters.

(xv) "Study director" means the individual responsible for the overall conduct of a study.

(xvi) "Testing facility" means a person as defined above who actually conducts a study, i.e., actually uses the test substance or mixture in a test system. "Testing facility" encompasses any establishment that conducts laboratory studies required under TSCA. It includes:

(A) The buildings, laboratories, laboratory equipment, animal quarters, aquatic holding areas, greenhouses, insectory, growth chambers, testing units (including artificial and natural streams and ponds, fields, or enclosures), storerooms, refrigeration room, preparation rooms, and other premises in which experimental studies and activities pertaining to experimental studies are conducted.

(B) The corporate or other legal entity which owns, operates, or otherwise controls the physical premises and research operations described in paragraph (a)(1)(xvi)(A) of this section.

(C) The owners, managers, scientists, technicians, animal caretakers, and other persons who plan and conduct experiments, analyze data, and otherwise develop the data required by said rule.

(xvii) "Test standard" means a method promulgated or approved by the Agency to measure certain chemical fate and ecological effects parameters under TSCA.

(xviii) "Test substance" means the specific chemical substance or mixture that is used to develop data to meet the requirements of a TSCA section 4 test rule.

(xix) "Test system" means any apparatus, environment, ecosystem, animal, plant, microorganism, or subparts thereof to which the test or control substance is administered or added for study. "Test system" also includes appropriate groups or components of the system not treated with the test or control substances or mixtures.

(4) *Quality control.* Quality control procedures which form the basis for quality assurance are found in study plans, as described under paragraph (g)(1) of this section. Quality control procedures include instrument calibration and standardization, purity checks on reagents and reference standards, statistical design, and other actions to maintain the standards of the test being performed. Quality assurance procedures provide oversight to test performance in general.

(b) *Test and control substances*—(1) *Characterization.* (i) The identity, purity, and composition or other characteristics which appropriately define the test or control substances must be determined for each batch to be studied and documented before the study begins. Impurities must be defined to the extent required by regulations promulgated under TSCA.

(ii) The batch of the substance tested must be as specified in test rules promulgated by EPA and, unless otherwise specified, must be the same throughout the entire study. If the same batch is required but cannot be used throughout the study because of chemical instability or other relevant factors, other batches of the test substance as nearly identical to the original batch as feasible must be used. Appropriate qualitative and quantitative chemical tests must be performed to verify this identity, and any deviation in identity must be documented and reported.

(iii) If the source characteristics of the test and control substances may impact on the test results, they must be documented by the sponsor or the testing facility by identifying information such as method of derivation, synthesis, fabrication, and purification.

(iv) Since proper evaluation of test results is dependent upon the integrity of the material being tested, the stability of each test or control substance must be ascertained under the conditions of storage and use or application as relevant to any study or part thereof by the testing facility or by the sponsor before initiation of the study. When the test or control substance has deteriorated beyond a limit specified in the study plan, the substance must not be used for tests.

(v) Each storage container for a test or control substance must be labeled by name of the substance, chemical abstract number (CAS) or code number, batch number, expiration date and, where appropriate storage conditions necessary to maintain the identity, purity, and composition of the test or control substance. Storage containers must be assigned to one particular test substance only for the duration of the study. No container may be used which will contaminate the test or control substance in such a way as to invalidate test results.

(vi) When samples of test and control substances are required to be retained, those samples must be retained for the period of time provided by paragraph (h)(3)(ii) of this section and must be stored and maintained as specified in paragraph (h) (2) and (3) (iii) of this section.

(2) *Handling.* (i) Procedures must be established for the handling of test and control substances to ensure that:

(A) There is proper storage in an area with restricted access under conditions that will ensure stability and integrity of the test and control substances.

(B) Distribution is made in a manner designed to preclude the possibility of contamination, deterioration, or damage.

(C) The substances are properly identified throughout the distribution process.

(D) The receipt and distribution of each batch is documented. Such documentation must include the date and quantity of each batch distributed or returned.

(ii) To assure that any potentially adverse effect on testing facility personnel due to toxic substances being evaluated be minimized, appropriate recommendations of the Department of Health and Human Services on the handling of carcinogens should be followed. For other toxic, but noncarcinogenic substances, methods for safe handling and disposal in general use, e.g., as described in appropriate section 29 CFR Part 1910, OSHA Standards or applicable regulations in other countries, and published manuals for laboratory safety, should apply.

(iii) If radioactive materials are used, special facilities or areas and licensing of persons to possess and use radioactive materials should be in accordance with regulations set forth by the Nuclear Regulatory Commission.

(iv) Substances that may react violently, explode, or spontaneously burn must be handled and protected in

such a way that possible undesirable events will not occur.

(3) *Mixtures of substances with carriers.* (i) For each test or control substance that is mixed with or dissolved in a carrier, tests by appropriate analytical methods must be conducted to:

(A) Determine the uniformity of the mixture and, periodically, the concentration of the test or control substance in the mixture. When the mixture has deteriorated beyond a limit specified in the study plan, the mixture may not be used for tests.

(B) Determine the stability of the test and control substance when they are part of the mixture.

(ii) A record must be kept of the preparation and usage of each treatment mixture, including the dates, quantities prepared or used and the names of the responsible individuals.

(iii) When samples of test-carrier or control-carrier mixtures are required to be retained those samples must be taken and retained for the period of time provided by paragraph (h)(3)(ii) of this section.

(iv) Where any of the components of the test-carrier or control-carrier mixture has an expiration date, that date must be clearly shown on the container. If more than one component has an expiration date, the earliest date must be shown.

(c) *Organization and personnel*—(1) *Personnel.* (1) Each individual engaged in the conduct of or responsible for the supervision of a study must have adequate education, training, and/or experience to perform the assigned functions. Each individual supervising tests must have an educational level equal to or exceeding a professional degree, or equivalent experience, in the relevant subject matter.

(ii) Each testing facility must maintain a current summary of training and experience and a job description for each individual engaged in or supervising the conduct of a study. The Environmental Protection Agency may, at any time, request such summaries from the test sponsor.

(iii) There must be sufficient personnel available for the timely and proper conduct of the study according to the study plan.

(iv) Personnel must take necessary personal sanitation and health precautions to avoid contamination of test and control substances and test systems and to minimize exposure of personnel to toxic substances.

(v) Personnel engaged in a study must wear clothing appropriate for the duties they perform. Such clothing must be changed as often as necessary to prevent microbiological, radiological, or chemical contamination of test systems and test and control substances and to minimize exposure of personnel to such materials.

(2) *Testing facility management.* For each study, the testing facility management must:

(i) Designate a study director as described in paragraph (c)(3) of this section before the study is initiated.

(ii) Replace the study director promptly if it becomes necessary to do so during the conduct of a study, and document and maintain such action as raw data.

(iii) Assure that there is a quality assurance unit as described in paragrpah (c)(4) of this section.

(iv) Assure that personnel, resources, facilities, equipment, materiel and study plans required for the study are available as scheduled.

(v) Assure that personnel are qualified for and clearly understand the functions they will perform.

(vi) Assure any deviations from these regulations reported by the quality assurance unit are communicated to the study director and corrective actions are taken and documented.

(vii) Assure that the test facility operation conforms with OSHA standards and guidelines for health and safety of the personnel.

(3) *Study Director.* For each study, a scientist or other professional of appropriate education, training, and experience must be identified as the study director. The study director is responsible for the overall conduct and reporting of the study and for implementation of the approved study plan. The study director must assure that:

(i) The study plan, including any change, is approved as provided by paragraph (g)(1)(i) of this section and followed.

(ii) Test and control substances or mixtures have been appropriately tested for identity, purity, composition, stability, and uniformity as applicable.

(iii) All experimental data, including observations of unanticipated responses to the test system, are accurately recorded and verified.

(iv) Unforeseen circumstances that may require deviation from approved methods and study plans and may affect the quality and integrity of the study are noted when they occur, and corrective action is taken and documented. The study director is responsible for proper documentation of such events and for the evaluation of their effects on the overall study objectives.

(v) Test systems are as specified in the study plan.

(vi) All applicable good laboratory practice standards are followed.

(vii) All raw data, documents, study plans, specimens, and final reports are transferred to the archives during, or at the close of, the study.

(4) *Quality assurance unit.* (i) A testing facility must have a quality assurance unit composed of one or more individuals responsible for monitoring each study to assure management that the facilities, equipment, personnel, methods, practices, records, and controls conform to these standards. Each facility's quality assurance unit must also monitor each study performed by contractors or grantees. It is recommended that the quality assurance functions be separate and independent of personnel engaged in the direction and conduct of a study. In all cases, a quality assurance plan must be prepared by the testing organization prior to initiation of the study and be available for Agency review upon request.

(ii) The quality assurance unit must:

(A) Maintain and make available for examination a copy of a master schedule sheet of all TSCA-related studies conducted at the testing facility, indexed by test substance and describing the test system, nature of the study, date the study was initiated, current status of each study, name of the sponsor, name of the study director, and status of the final report.

(B) Maintain copies of all study plans pertaining to all TSCA-related studies for which the unit is responsible.

(C) Review and approve the quality assurance section of each study plan.

(D) Periodically inspect each phase of each type of study performed or, in the case of routine chemical or physical determinations, the conduct of each kind of analysis, and maintain written and properly signed records of each periodic inspection showing the date of the inspection, the study inspected, the phase or segment of the study inspected, the person performing the inspection, findings and problems, action recommended and taken to resolve existing problems, and any scheduled date for reinspection. Inspections must be conducted at least every three months to assure the integrity of the study. Any significant problems found during the course of an inspection and likely to affect study integrity must be brought to the attention of the study director and management immediately.

(E) Submit to management and the study director periodic written status reports on each study, noting any problems and the corrective actions taken.

(F) Ascertain that all deviations from sponsor-approved study plans or

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standard operating procedures and the pertaining authorizations are properly documented.

(G) Review the final study report to assure that such report accurately describes the methods and standard operating procedures and that the reported results accurately reflect the raw data of the study.

(H) Prepare and sign a statement, to be included with the final study report, which specifies the dates inspections were made and findings reported to management and to the study director.

(iii) Written notices of the responsibilities and procedures applicable to the quality assurance unit, a list of the records maintained by the quality assurance unit, and the method of indexing such records must be maintained. These items, including inspection dates, the study inspected, the phase or segment of the study inspected, and the name(s) of the individual(s) performing the inspection, must be made available to authorized employees of the EPA.

(iv) A designated representative of the EPA must have access to the written procedures established for the inspection and may request testing facility management to certify that inspections are being implemented, performed, documented, and followed up in accordance with this paragraph.

(v) All records maintained by the quality assurance unit must be kept in one location at the testing facility.

(d) *Facilities*—(1) *General.* (i) Each testing facility must be of suitable size, construction and location to allow the proper conduct of studies. It must be designed to prevent any function or activity from adversely affecting the study.

(ii) The testing facility and test system, as defined in paragraph (a)(3) of this section, must conform to OSHA standards and guidelines for health and safety of personnel.

(iii) The facilities must have provisions to regulate temperature and humidity, as and when specified in the protocol.

(2) *Facilities for handling test and control substances.*

(i) As necessary to prevent contamination or mix-ups, the following areas must be physically separated from any area used for testing the test substances:

(A) Areas used for receipt and storage of the test and control substances.

(B) Areas used for mixing of the test and control substances with a carrier, e.g., feed or water, and preparation of stock solutions of the test substances.

(C) Areas used for storage of the test and control substance mixtures.

(ii) Storage areas for the test and control substances and for mixtures containing test and control substances must be separate from areas housing the test systems and be adequate to preserve the identity, concentration, purity, and stability of the substances and mixtures.

(3) *Specimen and data storage facilities.* Space must be provided for archives, limited to access by authorized personnel only, for the storage and retrieval of all raw data and specimens from completed studies, as detailed in paragraph (h)(2) and (3) of this section.

(4) *Administrative and personnel facilities.* Space must be provided for the administration, supervision, and direction of the testing facility.

(e) *Equipment*—(1) *Equipment design.* Automatic, mechanical, or electronic equipment used in the generation, measurement, or assessment of data and equipment used for facility environmental control must be of appropriate design and adequate sensitivity and capacity to function according to the study plan and must be suitably located for operation, inspection, cleaning, and maintenance.

(2) *Maintenance and calibration of equipment.* (i) The written standard operating procedures required under paragraph (f)(1) of this section must show in sufficient detail the methods, materials and schedules used in the routine inspection, cleaning, maintenance, testing, calibration, and/or standardization of equipment. They must also specify remedial action to be taken if failure or malfunction of equipment occurs. The written standard operating procedures must designate the person responsible for the performance of each operation, and copies of the standard operating procedures must be made available to laboratory personnel.

(ii) Written records must be maintained of all inspection, maintenance, testing, calibrating, and/or standardizing operations. These records must contain the date of the operation and describe whether the maintenance operations were routine and followed the written standard operating procedures. Written records must be kept of nonroutine repairs performed on equipment as a result of failure and malfunction. Such records must document the nature of the defect, how and when the defect was discovered, and any remedial action taken in response to the defect.

(f) *Testing facilities operation*—(1) *Standard operating procedures.* (i) A testing facility must have written standard operating procedures that describe study methods that satisfy management as being adequate to ensure the quality and integrity of the data generated during the study. The study director must authorize all deviations in a study from standard operating procedures and document them in the raw data.

(ii) Standard operating procedures must be established for, but not limited to, the following:

(A) Recipt, identification, storage, handling, mixing, and method of sampling of the test and control substances and mixtures.

(B) Description and method of operation of test system.

(C) Data handling, storage, and retrieval.

(D) Maintenance and calibration of equipment.

(E) Disposal of toxic and hazardous wastes in accordance with regulations.

(F) Quality control procedures used in tests and test system observations, data management, and organism maintenance.

(iii) Each laboratory area must have have immediately available laboratory procedures being performed, e.g., pertaining to toxicology, histology, physical chemistry, analytical chemistry, hematology, morphology, teratology, necropsy, or microbial culturing. Published literature may supplement standard operating procedures.

(iv) An historical file of standard operating procedures and all revisions thereof, including the dates of such revisions, must be maintained.

(2) *Reagents and solutions.* All reagents and solutions in the laboratory must be labeled to indicate identity, titer or concentration, storage requirements, and expiration date. Deteriorated or outdated reagents and solutions must not be used.

(g) *Study plan and conduct of a study*—(1) *Study plan.* (i) Each study must follow a written study plan approved by the sponsor that clearly indicates the objectives and all methods for the conduct of the study. The study plan must contain, but not be limited to, the following information:

(A) A descriptive title and statement of the purpose of the study.

(B) Identification of the test and control substance or mixture by name, chemical abstract (CAS) number, or referenced code number.

(C) Stability, shelf life, and expiration date, where applicable, of the test and control substance or mixture.

(D) The name of the sponsor and the name and address of the testing facility conducting the study.

(E) The proposed starting and completion dates.

(F) A description of the experimental design, including, where applicable, the test standard to be used, as promulgated or approved by the Agency, the methods for control of bias, statistical considerations concerning the experimental design, the number of blind, blank, spiked, split, and recycled samples, and precision and accuracy statements.

(G) Where applicable, the type and frequency of test, analyses, and measurements to be made.

(H) A statement of the proposed statistical methods to be used for the evaluation of the test results.

(I) The records to be maintained.

(J) The date of approval of the protocol by the sponsor and the signature of the study director.

(ii) The following information need not be included in the study plan but must be available for audit:

(A) A description of the testing equipment and instrumentation, where applicable, including maintenance and calibration procedures and frequencies.

(B) A quality assurance plan that described in detail all quality assurance aspects pertaining to the study. This quality assurance plan must be reviewed and approved by the quality assurance unit.

(C) The names and resumes of the study director and principal investigators, including a list by position and function of personnel planned to be allocated to the study.

(iii) All changes in or revisions of the sponsor-approved study plan and the reasons therefor must be documented, signed by the study director, dated and maintained with the study plan.

(iv) In addition to the study plan requirements as described in paragraph (g) (i), (ii) and (iii) of this section, additional requirements may be specified in appropriate test standards or test rules.

(2) *Conduct of a study.* (i) The study must be conducted in accordance with the study plan.

(ii) Each phase of the study must be supervised and conducted by trained and informed individuals.

(iii) The test system must be monitored in conformity with the study plan.

(iv) All data generated during the conduct of a study, except those that are generated as direct computer input, must be recorded directly, promptly, legibly, and indelibly. All data entries must be dated on the day of entry and signed or initialed by the person entering the data. Any change in entries must be made so as to avoid obscuring the original entry, must indicate the reasons for such change and be dated and signed or identified at the time of the change. In computer-driven data collection systems, the individual reponsible for direct data input must be identified at the time of data input. Any change in computer entries must be recorded in a separate log which must include the original data entry, indicate the reason for change, be dated, and identify the individual responsible for making the change.

(h) *Records and reports*—(1) *Reporting of study results.* (i) A final report must be prepared for each study and include, but not be limited to, the following:

(A) Name and address of the facility performing the study and the dates on which the study was started and completed.

(B) Objectives and procedures stated in the approved study plan, including any changes in the original study plan.

(C) The name of the study director, the names of other scientists or professionals, and the names of all supervisory personnel involved in the study.

(D) The test and control substances identified by name, chemical abstract (CAS) number or referenced code number, purity and composition, or other appropriate characteristics.

(E) Information regarding the stability of the test and control substances under all conditions of the study.

(F) A description of the methods and test standards used or a reference thereto.

(G) A description of the test system used or a reference thereto.

(H) A description of the quality assurance methods used to insure the quality of the data.

(J) A description of all circumstances that may have affected the quality or integrity of the data.

(J) A description of statistical methods employed for analyzing the data.

(K) A description, where applicable, of the transformation, calculations, or operations performed on the data, a summary and analysis of the data, and a statement of the conclusions drawn from the analysis. The analysis of the data must include a report of suitable statistical parameters, e.g., number of data points, standard deviation, coefficient of variation, regression coefficients, and confidence intervals, as appropriate.

(L) The locations where all specimens, raw data, and final report are stored.

(M) The statement prepared and signed by the quality assurance unit as described in paragraph (c)(4)(ii)(H) of this section.

(ii) The study director must sign the final report.

(iii) Corrections or additions to a final report must be written as an amendment by the study director. The amendment must clearly identify the part of the final report that is being amended or corrected and the reasons for the changes, and must be signed and dated by the person responsible. Alternatively, the final report may be reissued with references to the report it replaces so that no part of the record is lost.

(iv) In addition to the reporting requirements as described in paragraph (h)(1) (i) to (iii) of this section, additional reporting requirements, including the report format, may be specified in appropriate test standards and rules.

(2) *Storage and retrieval of records and data.* (i) All raw data, documentation, study plans, specimens and final reports generated as a result of a study must be retained as specified in paragraph (h)(3) of this section.

(ii) Archives must be used for orderly storage and expedient retrieval of all raw data, documentation, study plans, specimens, and interim and final reports. Conditions of storage must minimize deterioration of the documents or specimens in accordance with the requirements for the time period of their retention and the nature of the documents or specimens. A testing facility may contract with commercial archives to provide a repository for all material to be retained. Raw data and specimens may be retained elsewhere provided the archives have specific reference to those other laboratories.

(iii) An individual must be identified as responsible for the archives.

(iv) Only authorized personnel may enter the archives.

(v) Material retained or referred to in the archives must be indexed by test substance or mixture, sponsor, date of study, test system, and nature of study.

(vi) In addition to the requirements for the storage and retrieval of records and data as described in paragraph (h)(2)(i) through (v) of this section, other requirements may be specified in appropriate standards and rules.

(3) *Retention of records.* (i) Record retention requirements set forth in these standards do not supersede the record retention requirements of any other pertinent regulation.

(ii) Except as provided in paragraph (h)(3)(iii) of this section, raw data, documentation, records and specimens pertaining to a study and required to be stored must be retained in the archives by the testing facility for at least 10 years from the date the final study report is submitted to the EPA.

(iii) Wet specimens, samples of test or control substances, samples of test or control substance carrier mixtures, and

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specially prepared materials which are relatively fragile and change markedly during storage, must be retained only as long as the quality of the preparation affords evaluation. In no case will retention of such materials be required for more than 10 years after the conclusion of the study.

(iv) The master schedule sheet, copies of study plans, and records of quality assurance inspections, as required by paragraph (c)(4)(iii) of this section, must be maintained by the quality assurance unit as an easily accessible system of records for at least 10 years after the conclusion of the study.

(v) Summaries of personnel training and experience and job description required to be maintained by paragraph (c)(1)(iii) of this section must be retained along with all other testing facility employment records for at least 10 years after the conclusion of the study.

(vi) Records and reports of the maintenance, calibration, and inspection of equipment, as required by paragraph (e)(2)(ii) and (iii) of this section, must be retained for at least 10 years after the conclusion of the study.

(vii) If a facility conducting testing goes out of business, all raw data, documentation, and other materials specified in this section must be transferred to the archives of the sponsor of the study. The EPA must be notified in writing of such a transfer.

(i) *Inspection of a testing facility.* A testing facility must permit an authorized employee of the EPA to conduct inspections and audits.

§ 772.110–3 Physical, chemical, and persistence testing.

(a) *Scope and purpose.* The provisions contained in this section are in addition to the general provisions set forth in § 772.110–2. They address items that are specific to physical, chemical, and persistence testing.

(b) *Personnel*—(1) *General requirements.* (i) The physical, chemical, and persistence test procedures must be performed and supervised by chemists, microbiologists, and soil scientists with demonstrated competence in performing the types of test procedures specified.

(ii) The analyst must perform, with minimal supervision, in those specialties for which the analyst is qualified by education, training, and experience.

(iii) The supervisor must direct technical personnel in the proper performance of laboratory procedures and the reporting of results.

(2) *Specific requirements*—(i) *Analyst*—(A) *Academic training.* An analyst must have a minimum of a high school diploma or its equivalent.

(B) *Experience.* An analyst must have a minimum of one year of experience in laboratory testing plus a minimum of 3 months on-the-job experience in performing the measurements being considered.

(C) *Supervision.* An analyst must be supervised by an experienced professional scientist.

(ii) *Supervisor*—(A) *Academic training.* A supervisor must have a minimum of a Bachelors degree in chemistry, microbiology, biology, or closely related fields as appropriate to the assigned area of responsibility.

(B) *Experience.* A supervisor must have a minimum of 2 years on-the-job experience with the general types of measurements being considered.

(C) *Laboratory requirements.* (1) Laboratory space must be adequate to accomodate the periods of peak workload. Working space requirements must include sufficient bench-top area for processing samples; storage space for chemicals, glassware and portable equipment items; floor space for stationary equipment (refrigerators, centrifuges, shakers, etc.); and associated areas for cleaning glassware and sterilizing materials or media.

(2) The microbiological studies involved the use of sewage from domestic wastewater treatment plants. Consequently, individuals performing these tests may be exposed to microbial agents that are hazardous to human health. All individuals working with those tests or in the vicinity of those sewage samples must be made aware of the potential hazard and take appropriate steps to minimize the hazard. It is recommended that all individuals who conduct biodegradation tests be immunized against typhoid and tetanus within the five year period preceding the starting date of the test. The sparging of test flasks shall be conducted in a laboratory hood that is vented to the atmosphere.

(3) The study director must take appropriate measures for the protection of all individuals who will handle or may be exposed to the test material.

§ 772.110–4 Ecological effects testing.

(a) *Scope and purpose.* The provisions contained in this section are in addition to the general provisions set forth in § 772.110–2. They address items that are specific to ecological effects testing.

(b) *Personnel*—(1) *General requirement.* Any individual found at any time to have an illness that may adversely affect the quality and integrity of the study must be excluded from direct contact with test systems, test and control substances, and any other operation or function that may adversely affect the study, until the condition is corrected. All personnel must be instructed to report to their immediate supervisors any health or medical conditions that may reasonably be considered to adversely affect a study.

(2) *Specific requirements.* (i) A biologist (or other professional) with adequate training and experience in a pertinent discipline must perform or directly supervise all studies conducted with test animals or plants. Important qualifications for laboratory personnel performing such studies include, but are not limited to, education, experience in growing and testing the organisms being selected or their taxonomically close reltives, and adequate knowledge of culture methods, life cycles, and environmental requirements of the test organisms.

(ii) A microbiologist, or other professional, with adequate training and experience must perform or directly supervise all microbiological tests.

(iii) A Board-certified or Board-eligible veterinarian (or other professional) with adequate training and experience in the pertinent disciplines shall ascertain health status of all terrestrial vertebrate test animals prior to the study and be responsible for the general health and care of all such test animals during the experiment. This individual must supervise all laboratory animal care technicians. An experienced aquatic or fisheries biologist must ascertain the health status of all aquatic test animals and be responsible for the general health and care of all aquatic test animals.

(iv) A Board-certified or Board-eligible pathologist (or other professional) with appropriate experience in pathobiology must perform or directly supervise all necropsies, approve the methods and procedures used in the preparation of all histopathologic material, and assist in the final analysis of all pathology data. In addition, such an individual must conduct all microscopic analyses and render all histopathologic diagnoses.

(v) The chemist who provides analytical services must have the education, training, and experience for performing accurate chemical analyses of organic and inorganic compounds that may be found in water, soil, air, and biological samples taken during the tests and must be skilled in separation and instrumental techniques required in such analyses. Instruments that may be required for these analyses include, but are not limited to, gas and liquid chromatographs with various detectors and ultraviolet, infrared, nuclear magnetic resonance, mass, and atomic absorption spectrometry.

(vi) A technician with adequate training, experience, and capability must be responsible for the preparation of all histological material. The technician may, under direct supervision of the pathologist, perform the animal necropsies. Certification of the technician by the American Society of Clinical Pathology (ASCP) is acceptable as proof of adequate training in all cases.

(vii) A technician with adequate training, experience, and capability must be responsible for all general laboratory animal observation, handling, care, and feeding. In addition, the technician must be responsible for sanitation, observation of climate control, and the recording of routine data. The technician may also perform other tasks under the supervision of the veterinarian. The technican may, under the direct supervision of the pathologist, perform the animal necropsies. Certification of the technician by the American Association of Laboratory Animal Science (AALAS) is acceptable as proof of adequate training in all cases.

(viii) For aquatic animal studies, a technician with the training, experience, and capability to successfully maintain aquatic vertebrates and invertebrates must be responsible for the general laboratory animal observation, handling, care, and feeding. The technician must also handle the sanitation duties, observe environmental controls (e.g., water flow rate, temperature, salinity, dissolved oxygen, etc.), and record routine data. The technician may perform, under the supervision of a professional such as a biologist or veterinarian trained in fishery management, fish disease, pathology, and physiology, and other pertinent fields, other tasks for which the technician is qualified, e.g., preparation of test mixtures, administration of test chemicals, obtaining samples for chemical analyses, making growth measurements, etc. The technician may, under the direct supervision of the pathobiologist, or other professional serving in lieu of a pathologist, perform the animal necropsies.

(ix) In addition to the specific personnel requirements as described above, further personnel requirements may be specified in appropriate test standards and test rules.

(c) *Facilities*—(1) *Test organism care facilities.* (i) General provisions to be followed are outlined in the Animal Welfare Act of 1970 (Pub. L. 91–579) as set forth in 9 CFR Part 3, and in "Guide for The Care And Use of Laboratory Animals" which is incorporated by reference. It is DHEW Publication No. (NIH) 78–23 and is for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. When ordering use GPO Stock No. 017–040–00427–3. It is also available for inspection at the Office of the Federal Register Information Center, Room 8391, 1100 L Street, NW., Washington, DC 20408. Additional provisions may be found in the report "Long-Term Holding of Laboratory Rodents" which is incorporated by reference. It is a report of the Committee on Long-Term Holding Of Laboratory Rodents of the Institute of Laboratory Animal Resources, Assembly of Life Sciences, National Research Council and was published in ILAR News, volume XIX, Number 4, 1976. Copies may be obtained from the Document Control Officer, Management Support Division (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room 447, 401 M Street SW., Washington, DC 20460. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, DC 20408. For avian species, the requirements as described in the proposed regulations of 40 CFR 163.71–2 and 163.71–4 apply. Further guidance is given in "Quality Assurance Guidelines for Biological Testing" which is incorporated by reference. It is EPA Publication No. EPA–600/4–78–043 and is for sale by the National Technical Information Service (NTIS), Springfield, VA 22161. When ordering use NTIS Stock No. PB–285 369. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, DC 20408. Additional guidance is in "Bioassay Procedures for the Ocean Disposal Permit Program" which is incorporated by reference. It is EPA Publication No. EPA–600/9–78–010 and is available from EPA, Office of Research and Development, Technical Information Staff, Cincinnati, OH 45268. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street NW., Washington, DC 20408. Further guidance may be found in "Methods for Acute Toxicity Tests with Fish, Macroinvertebrates, and Amphibians" which is incorporated by reference. It is EPA Publication No. EPA–660/3–75–009 and is for sale from the National Technical Information Service (NTIS), Springfield, VA 22161. When ordering use NTIS Stock No. PB–242 105. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street NW., Washington, DC 20408.

(ii) A testing facility must have a sufficient number of rooms or areas for test organisms, to assure compliance with the study plan specifications in:

(A) Separation of species or test systems.

(B) Isolation of individual projects.

(C) Quarantine of animals and plants.

(D) Routine and specialized housing of test organisms. Plants, microorganisms, or aquatic animals of different species need not be housed in separate rooms, provided they are adequately segregated to avoid mix-up and cross contamination. Stocks of animals from which test animals are drawn must be housed separately from those undergoing testing.

(iii) A testing facility must have a number of rooms or areas for test organisms separate from those described in paragraph (c)(1)(i) of this section to ensure isolation of studies being done with test systems or test and control substances known to be biohazardous. Such rooms or areas must be maintained in compliance with OSHA regulations to ensure the health and safety of personnel.

(iv) Separate areas must be provided for the diagnosis, treatment, and control of laboratory plant and animal diseases. These areas must provide effective isolation for the housing of test organisms either known or suspected of being diseased or of being disease carriers.

(v) Facilities must exist for the collection and disposal of all waste from test organisms and for safe sanitary storage of waste before removal from the testing facility. Disposal facilities must be so provided and operated as to minimize vermin infestation, odors, disease hazards, and environmental contamination.

(2) *Supply and support facilities*—(i) *Animal supply facilities.* There must be storage areas for feed, bedding, supplies, and equipment. Feed and bedding storage areas must be protected against infestation or contamination. Refrigeration must be provided for perishable supplies and perishable feed.

(ii) *Plant supply and support facilities.* (A) There must be storage areas for equipment and supplies, and there must be receiving and holding areas for samples and plant material.

(B) There must be support facilities suitable for culturing and maintaining algae or aquatic plants, as specified in the study plan.

(C) There must be support facilities, as specified in the study plan, for plant growth (greenhouse, growth chamber, light banks) to maintain sanitary growth

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conditions (insect-and weed-free) with provisions for sterilized media.

(D) Refrigeration must be provided for supplies and for holding plant material.

(3) *Laboratory operation areas.* (i) Separate laboratory space must be provided for the performance of the routine procedures required by studies, including specialized areas for activities such as aseptic procedures, intensive care, necropsy, histology, radiography, and handling of biohazardous materials, as specified in the study plans.

(ii) Separate space must be provided for cleaning, sterilizing, and maintaining equipment and supplies used during the study.

(iii) For the health and safety of personnel, separate space must be provided for locker, shower, toilet, and washing facilities, as required in regulations set forth by OSHA under Title 29 of the Code of Federal Regulations.

(d) *Testing facilities operation*—(1) *Standard operating procedures.* (i) Standard operating procedures must be established in conformance with the requirements of appropriate test standards. These should include, but not be limited to, the following:

(A) Test facility, animal room, greenhouse, incubators, preparation for study plan execution.

(B) Organism care.

(C) Laboratory tests, e.g., extraction of residues from tissue samples, extract cleanups, quantitation of residues, and identification of metabolites.

(D) Handling of organisms found moribund or dead.

(E) Postmortem examination of test organisms, necropsy of animals, plant pathology work-up.

(F) Collection and identification of specimens.

(G) Histopathology.

(H) Transfer, proper placement, and identification of test organisms.

(2) *Test organism care.* (i) There must be standard operating procedures for the housing, feeding, handling, and care of test organisms.

(ii) General provisions to be followed are outlined in the Animal Welfare Act of 1970 under 9 CFR Part 3, and in "Guide for The Care And Use of Laboratory Animals" which is incorporated by reference. It is DHEW Publication No. (NIH) 78–23 and is for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. When ordering use GPO Stock No. 017–040–00427–3. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, DC 20408. Additional provisions may be found in the report "Long-Term Holding of Laboratory Rodents" which is incorporated by reference. It is a report of the Committee on Long-Term Holding of Laboratory Rodents of the Institute of Laboratory Animal Resources, Assembly of Life Sciences, National Research Council and was published in ILAR News, Volume XIX, Number 4, 1976. Copies may be obtained from the Document Control Officer, Management Support Division (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room 447, 401 M Street SW., Washington, DC 20460. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street, NW., Washington, DC 20408. All animals for which there are no specific regulations should be housed, fed, and handled in compliance with Subpart E of 9 CFR Part 3. Avian care rcommendations for bobwhite quail and mallard ducks (40 CFR 163.71–2 and 163.71–4) should be followed as appropriate for other species. Aquatic macroinvertebrates, fish, and other aquatic animals should be handled and maintained according to the guidance given in "Quality Assurance Guidelines for Biological Testing" which is incorporated by reference. It is EPA Publication No. EPA–600/4–78–043 and is for sale by the National Technical Information Service (NTIS), Springfield, VA 22161. When ordering use NTIS Stock No. PB–285 369. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street NW., Washington, DC 20408. Additional provisions may be found in "Bioassay Procedures for the Ocean Disposal Permit Program" which is incorporated by reference. It is EPA Publication No. EPA–600/9–78–010 and is available from EPA, Office of Research and Development, Technical Information Staff, Cincinnati, OH 45268. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street NW, Washington, DC 20408. Further guidance may be found in "Methods for Acute Toxicity Tests with Fish, Macroinvertebrates, and Amphibians," which is incorporated by reference. It is EPA Publication No. EPA–660/3–75–009 and is for sale from the National Technical Information Services (NTIS), Springfield, VA 22161. When ordering use NTIS Stock No. PB–242 105. It is also available for inspection at the Office of the Federal Register Information Center, Room 8301, 1100 L Street NW., Washington, DC 20408. Aquatic and terrestial plants are to be cultured according to the test standards cited in the applicable test rule. If the study so requires, deviation from the standard, e.g., use of restraining devices, is acceptable, provided there is adequate documented justification of the need for such deviation. Such documentation shall be retained as part of the records of the study.

(iii) All newly received test organisms from outside sources must be placed in quarantine until their health status (including disease or parasitism) has been evaluated. The evaluation of animals (including mammals and birds) must be done in accordance with acceptable scientific practice. The test organism source, date of arrival, and the health status of the test organisms must be recorded as a part of the raw data.

(iv) At the initiation of a study, test organisms must be free of any disease or condition (such as residual therapeutic agents) that might interfere with the purpose or conduct of the study. If, during the course of the study, the test organisms contract such a disease or condition, the diseased test organisms must be isolated. If necessary, such test organisms may be treated for disease or signs of disease provided such treatment does not interfere with the study and all test organisms in the study receive the same treatment. However, unless a strong rationale, approved by the sponsor and the Environmental Protection Agency, can be set forth, the study should be terminated and begun again with new test organisms. The diagnosis, authorizations of treatment, description of treatment, and dates of treatment must be documented and the documents retained.

(v) Organisms must be treated in accordance with specific study plans, which will include provisions for identification of individuals or groups at all stages of handling. Warm-blooded animals, terrestrial reptiles, and amphibians used in laboratory procedures that require manipulations and observations over an extended period of time or in studies that require the animals to be removed from and return to their home cages for any reason (e.g., cage cleaning, treatment, etc.) must be unequivocally identified via tattoo, toe clip, color code, ear tag, ear punch, etc. All information needed to identify each animal within an animal-housing unit must be placed on the outside of that unit.

(vi) Different species, or organisms of the same species but used in different studies, should not ordinarily be housed in the same room when inadvertent exposure to control or test substances or test organism mix-up could affect the outcome of either study. If such mixed

housing is necessary, adequate differentiation by space and identification must be made.

(vii) Cages, racks and accessory equipment, pens and enclosures, aquaria, holding tanks and ponds, and other equipment and support areas must be cleaned and sanitized at appropriate intervals. Other test organism holding, rearing, breeding, and housing areas and equipment must be cleaned and, as appropriate, sanitized to an equivalent extent.

(viii) Feed and water used for the test organisms must be analyzed periodically to ensure that contaminants capable of interfering with the study and reasonably expected to be present in such feed or water do not exceed levels specified in the study plans. Documentation of such analyses must be kept as raw data.

(ix) Bedding used in animal cages or pens must not interfere with the purpose or conduct of the study and must be changed as often as necessary to keep the animals dry and clean.

(x) For marine aquatic tests, an adequate supply of clean sea water or artificial sea water (prepared from deionized or distilled water and sea-salt mixture) is required. The ranges of composition will be as specified in the test standards. For fresh-water tests, an adequate supply of clean water of the proper hardness, pH, and temperture, and devoid of contaminants, is mandatory.

(xi) The use of any pest control materials must be documented. Use of cleaning materials and pest control materials that interfere with the study must be avoided.

(e) *Study plan and conduct of a study*—(1) *Study plan.* (i) The approved written study must include, but not be limited to, the following:

(A) Where applicable, the justification for selection of the test organisms, the number of test organisms used, their sex, age, body weight range, source of supply, species, strain, and substrain.

(B) Where applicable, the procedure for identification of individuals or groups of the test organisms.

(C) Where applicable, a description and/or identification of the diet used in the study as well as kinds and concentrations of solvents, emulsifiers, and/or other materials used to solubilize or suspend the test or control substances before mixing with the carrier. The description must include specification for acceptable levels of contaminants reasonably expected to be present in the dietary materials and known to be capable of interfering with the purpose or conduct of the study if levels exceed those established by the specifications.

(D) Where applicable, the route of administration and the reason for its choice.

(E) Where applicable, each dosage level, expressed in milligrams per kilogram of body weight or other appropriate units, of the test or control substance to be administered, and the method and frequency of administration.

(F) Where applicable, the method by which the degree of absorption of the test and control substances by the test system will be determined to achieve the objectives of the study.

(2) *Conduct of a study.* (i) Where applicable, specimens must be identified by test system, study, nature, and date of collection. This information must be located on the specimen container or accompany the specimen in a manner that avoids error in the recording and storage of data.

(ii) Where applicable, records of gross findings for a specimen from postmortem observations must be available to the pathologist examining that specimen histopathologically.

(f) *Reporting of study results.* (1) The final report must include, but not be limited to the following:

(i) Where applicable, the number of test organisms used, sex, age, body weight range, source of supply, species, strain, substrain, and procedure used for identification of groups or individuals.

(ii) Where applicable a description of the dosage, dosage regimen, route of administration and duration.

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federal register

Friday
November 21, 1980

Part V

Department of Education

Transfer and Redesignation of ED Regulations; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Ch. II

34 CFR Subtitles A and B

45 CFR Chs. I, XIV, and XV

Transfer and Redesignation of ED Regulations

AGENCY: Department of Education.

ACTION: Final rule.

SUMMARY: The Department of Education Organization Act (Pub. L. 96–88, enacted October 17, 1979) established the Department of Education (ED) as a new executive department. Certain ED regulations were recodified in Title 34 of the Code of Federal Regulations (CFR) effective May 4, 1980, concurrently with the formal organization of ED.

This publication transfers to Title 34 and redesignates certain regulations of the former Department of Health, Education, and Welfare and one regulation of the Department of Housing and Urban Development. These regulations apply to ED and will be published in Title 34 after the effective date of this document.

EFFECTIVE DATE: This regulation is effective November 21, 1980.

ADDRESS: Department of Education, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth C. Depew, Department of Education, 400 Maryland Ave. S.W. (Room 2134, FOB–6), Washington, D.C. 20202, Telephone: (202) 245–7091.

SUPPLEMENTARY INFORMATION: The organization of Title 34 was published on May 9, 1980 (45 FR 30802) as follows:

Title 34—Education

Subtitle A—Office of the Secretary, Department of Education (Parts 1–99).

Subtitle B—Regulations of the Offices of the Department of Education.

Chapter I—Office for Civil Rights (Parts 100–199).

Chapter II—Office of Elementary and Secondary Education (Parts 200–299).

Chapter III—Office of Special Education and Rehabilitative Services (Parts 300–399).

Chapter IV—Office of Vocational and Adult Education (Parts 400–499).

Chapter V—Office of Bilingual Education and Minority Languages Affairs (Parts 500–599).

Chapter VI—Office of Postsecondary Education (Parts 600–699).

Chapter VII—Office of Educational Research and Improvement (Parts 700–799).

Chapter VIII—Office of Education for Overseas Dependents (Parts 800–899).

Regulations redesignated in this document have been placed within this organizational structure. As an aid to the reader, the part numbers that have been redesignated in this document and those that were republished on May 9, 1980 at 45 FR 30802 are listed sequentially by Title 34 chapter in an appendix following the redesignation.

It has been determined that publication of this rule as a proposal for public comment is unnecessary since it is solely a redesignation of existing regulations. These regulations apply to ED as a matter of law under Section 505(a) of the Department of Education Organization Act.

Nomenclature changes in these regulations are necessary and will be published separately from this redesignation and transfer.

Regulations Not To Be Redesignated

ED has provided certain administrative services for the Health Education Assistance Loan (HEAL) program, 45 CFR Part 126, under an interim interdepartmental agreement between ED and the Department of Health and Human Services. The HEAL regulations are not transferred and redesignated in this document.

(Department of Education Organization Act, Pub. L. 96–88, Oct. 17, 1979, 93 Stat. 668 (20 U.S.C. 3401 *et seq.*))

Dated: November 14, 1980.

Shirley M. Hufstedler,

Secretary of Education.

Redesignation of Regulations

Accordingly, existing regulations of the Department of Education in 45 CFR and 24 CFR are redesignated and transferred to Title 34 of the CFR as follows:

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136 Strengthening research library resources	778
137 Educational information centers program	606
146 Modern foreign language and area studies	655
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148 Higher education programs in modern foreign language training and area studies	662
149 Commissioner's recognition procedures for national accrediting bodies and State agencies	603
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154 Educational opportunity centers	644
155 Upward bound program	645
157 Special services for disadvantaged students program	646
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Appendix A—Title 34 Part Numbers in Consecutive Order

Editorial Note.—The following appendix will not appear in the Code of Federal Regulations.

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5 Availability of information to the public pursuant to Public Law 90–23	5
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November 21, 1980

Part VI

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Research, Actions Under Guidelines

DEPARTMENT OF HEALTH AND HUMAN SERVICES

I. Proposal To Introduce Genes Cloned in E. Coli K-12 into Arabidopsis Plants Through the Use of Agrobacterium

abstentions. Then, by a vote of 12 in favor, 2 opposed, with 3 abstentions, the RAC recommended approval of the

reviewer said the working group was satisfied with the data presented, and said the single issue not addressed by

be desirable to have a member with expertise in fermentation technology appointed to RAC, language specifying

V. Request to Clone Schizosaccharomyces Pombe DNA in Schizosaccharomyces Pombe Using

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Research; Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, HHS.

ACTION: Notice of Actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth actions taken by the Director, NIH, under the January 1980 NIH Guidelines for Research Involving Recombinant DNA Molecules (45 FR 6724).

EFFECTIVE DATE: November 21, 1981.

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained from Dr. William J. Gartland, Office of Recombinant DNA Activities (ORDA), National Institutes of Health, Bethesda, Maryland 20205. (301) 496–6051.

SUPPLEMENTARY INFORMATION: I am promulgating today several actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules. These were reviewed and recommended for approval by the Recombinant DNA Advisory Committee (RAC) at its meeting on September 25–26, 1980. In accordance with Section IV–E–1–b of the NIH Guidelines, I find that these actions comply with the Guidelines and present no significant risk to health or the environment.

This announcement provides background information on the actions including an analysis of correspondence concerning these actions received up to October 31, 1980.

Immediately following this announcement, there appears in the **Federal Register** a copy of revised NIH Guidelines for Research Involving Recombinant DNA Molecules. These revised Guidelines differ from the previous version of the Guidelines promulgated on January 29, 1980 (45 FR 6724) by incorporating within them: changes in the Guidelines which were recommended at the RAC meeting of March 6–7, 1980, and promulgated on April 14, 1980 (45 FR 25366); changes in the Guidelines which were recommended at the RAC meeting of June 5–6, 1980, and promulgated on July 29, 1980 (45 FR 50524); and changes in the Guidelines which were recommended at the RAC meeting of September 25–26, 1980 and which are discussed in this announcement.

I. Proposal To Introduce Genes Cloned in E. Coli K–12 into Arabidopsis Plants Through the Use of Agrobacterium Tumefaciens Carrying an E. Coli/Ti Hybrid Plasmid Vector

In a letter dated March 21, 1980, Dr. Donald J. Merlo of the University of Missouri-Columbia, requested an evaluation of the containment appropriate for the following protocol:

A. A hybrid vector, constructed from the *E. coli* plasmid pBR325 and the origin of replication and transfer genes of *Agrobacterium tumefaciens* plasmid Ti, will be cloned in *E. coli* K–12.

B. *Arabidopsis* DNA will be introduced into the *E. coli*/Ti hybrid plasmid and clone in *E. coli* K–12.

C. The thiamine gene of *E. coli* will bed introduced into the *E. coli*/Ti vector carrying *Arabidopsis* DNA and cloned in *E. coli* K–12.

D. The hybrid plasmid into which *Arabidopsis* DNA and the thiamine gene have been ligated will be transformed into *Agrobacterium tumefaciens.*

E. *Agrobacterium tumefaciens* will be used to introduce the *E. coli*/Ti plasmid vector carrying the *E. coli* Thiamine gene and *Arabidopsis* DNA into *Arabidopsis* plants.

The RAC discussed Dr. Merlo's proposed protocol at the June 5–6, 1980 meeting. The RAC stated that the first three steps of the proposed experiment are covered by Section III–O of the Guidelines. It was agreed that steps D and E are covered by Appendix E and that P3 containment is indicated. However, as the proposed inserted sequences were well characterized, and as *Arabidopsis* DNA will be returned to *Arabidopsis,* the RAC suggested that containment for steps D and E could be lowered to P2.

Since this had not been published in the **Federal Register** for comment prior to the June 5–6, 1980, RAC meeting, this proposed lowering would, however, have to be published in the **Federal Register** for thirty days of comment and re-considered at the September 25–26, 1980 meeting.

In a letter dated July 22, 1980, Dr. Merlo described the proposed experiments in greater detail and requested that the containment conditions for steps D and E be lowered at least to P2 and preferably to P1.

Dr. Merlo's proposal was published in the August 21, 1980, **Federal Register** (45 FR 55924). No comments were received during the thirty day comment period. The RAC, at its September 25–26, 1980 meeting, once again discussed this issue. A motion to approve the experiments at the P2 level of containment failed by a vote of 4 in favor, 9 opposed, with 3 abstentions. Then, by a vote of 12 in favor, 2 opposed, with 3 abstentions, the RAC recommended approval of the proposed experiments under P1 containment.

I accept this recommendation, and text has been added to Appendix E of the Guidelines indicating this.

II. Request for Certification of a Bacillus Stearothermophilus Derived Plasmid as the Vector Component of an HV1 Bacillus Subtilis Host-Vector System

Dr. David B. Wilson of Cornell University, in a letter dated May 12, 1980, requested certification of a *Bacillus stearothermophilus* derived plasmid, pAB124, as the vector component of an HV1 *Bacillus subtilis* host-vector system. The HV1-certified *Bacillus subtilis* strain RUB331 would be used as the host component.

The RAC discussed this proposal at the June 5–6, 1980 meeting. It was noted that *Bacillus stearothermophilus* is a non-pathogenic thermophile found in soil near hot springs, on compost, etc. In addition, plasmid pAB124 can be transformed into and maintained in *Bacillus subtilis* by natural physiological methods; pAB124 might, therefore, be considered a plasmid indigenous to *Bacillus subtilis.* The committee agreed that this proposal should be published in the **Federal Register** for comment and acted upon at the September 25–26, 1980 meeting.

Dr. Wilson's proposal was published for thirty days of comment in the August 21, 1980, **Federal Register** (45 FR 55925). No comments were received during this period. The RAC once again discussed the proposal at the September 25–26, 1980 meeting. The RAC recommended approval of the proposal by a vote of 18 in favor, none opposed.

I accept this recommendation, and text has been added to Appendix D of the Guidelines indicating this.

III. Request for Certification of a Bacillus Subtilis Strain as the Host Component of an HV2 Host-Vector System

On March 28, 1980, Dr. William Burke, Jr., of Arizona State University, requested certification of *Bacillus subtilis* strain ASB298 as the host component of an HV2 host-vector system. Dr. Burke's request appeared in the **Federal Register** of April 30, 1980 (45 FR 28907). No comments were received during this period. Additional information was submitted by Dr. Burke in a letter dated May 13, 1980.

Dr. Burke's proposal was evaluated by an *ad hoc* working group and subsequently presented to the RAC at the June 5–6, 1980 meeting. One RAC reviewer said the working group was satisfied with the data presented, and said the single issue not addressed by Dr. Burke concerned the possibility of transfer of genetic information from ASB298 to other *Bacilli* by transformation. After some discussion of this point, the RAC deferred consideration of the proposal pending the submission of additional information on transformation frequencies in soil.

In an addendum dated September 8, 1980, Dr. Burke supplied information on the persistence of ASB298 in sterile soil, and on the frequency of genetic exchange in both soil and under optimized laboratory conditions between strain ASB298 and highly transformable *B. subtilis* strains.

A second notice concerning Dr. Burke's request subsequently appeared in the **Federal Register** of August 21, 1980 (45 FR 55925). No comments on this request were received by the NIH.

The RAC reconsidered this request at its September 25–26, 1980 meeting. On the basis of the strain's characteristics and the frequency of transformation in soil, the RAC recommended, by a vote of 14 in favor, none opposed, and 2 abstentions, that strain ASB298 be certified as the host component of a *B. subtilis* HV2 host-vector system. The RAC specified that ASB898 be used with plasmids certified as the vector components of HV1 *Bacillus subtilis* host-vector systems.

I accept this recommendation, and text has been added to Appendix D of the Guidelines indicating this.

IV. Proposed Amendments Of Section IV–E–2.

In a letter dated April 10, 1980, Dr. Irving Johnson of Eli Lilly and Company, submitted several proposals to amend the Guidelines. One of these proposals would have amended Section IV–E–2 to include the following language:

"Appropriate representatives of industry shall also be chosen to provide expertise in fermentation technology, engineering, and other aspects of large-scale production."

This proposal appeared in the **Federal Register** of April 30, 1980 (45 FR 28908). Two comments were received during the thirty day comment period. One commentator stated that:

"Any attempt to add industrial expertise to the committee * * * is to convert the committee to a self-appointed consensus standards organization."

Another commentator said, "We strongly object to (this) proposal * * *"

The RAC considered this proposal at the June 5–6, 1980 meeting. The committee agreed that, while it would be desirable to have a member with expertise in fermentation technology appointed to RAC, language specifying "representatives of industry" was inappropriate. The RAC agreed that the following amended language should be published for comment and considered at the September 1980 meeting:

"Members should be chosen to provide expertise in fermentation technology, engineering, and other aspects of large-scale production."

In a letter dated July 25, 1980, Dr. Johnson requested that his original language amending Section IV–E–2 be reconsidered at the September 1980 meeting. Dr. Johnson's proposed language and the language constructed by the RAC both appeared for public comment in the **Federal Register** of August 21, 1980 (45 FR 55928). One comment was received during the thirty day comment period:

"We have long held the view that the RAC membership should include persons versed in scientific aspects of industrial microbiology. As with the rest of the Committee, they should be selected for the excellence of their qualifications. Such persons would complement the present technical expertise of RAC by providing knowledge in areas of fermentation technology and large-scale industrial applications. This expertise differs from that of safety engineers and is concerned with basic biological problems of large-scale technology * * *"

The proposals to amend the language of Section IV–E–2 were discussed by the RAC at the September 25–26, 1980 meeting. At that time, the RAC again felt that appointing fermentation technology expertise to RAC was desirable, but that the proposal language specifying appointment of "representatives of industry" was inappropriate. By a vote of 13 in favor, 2 opposed, and 2 absentions, the RAC recommended approval of the following language:

"Members should be chosen to provide expertise in fermentation technology, engineering, and other aspects of large-scale production."

I accept the intent of the RAC recommendation that RAC "members should be chosen to provide expertise in fermentation technology, engineering, and other aspects of large-scale production." I do not believe that it is necessary to change the NIH Guidelines or the RAC Charter in order to assure that the intent of the RAC be honored. This can be accomplished through appointment of one or more individuals with appropriate expertise to fill vacancies that periodically occur in RAC membership.

V. Request to Clone Schizosaccharomyces Pombe DNA in Schizosaccharomyces Pombe Using Hybrid Plasmid Vectors

Dr. Benjamin Hall of the University of Washington requested permission to clone *Schizosaccharomyces pombe* DNA in *Schizosaccharomyces pombe* using approved HV1 *Saccharomyces cerevisiae/E. coli* hybrid plasmids as vectors. Dr. Hall pointed out that *Schizosaccharomyces pombe* has been the subject of intense genetic studies in the laboratory and has been used to ferment beverages for human consumption. He requested that P1 be established as the level of physical containment.

This proposal appeared in the August 21, 1980, **Federal Register** (45 FR 55929). No comments were received during the thirty day comment period.

The RAC discussed this proposal at its September 25–26, 1980 meeting, and recommended approval by a vote of 17 in favor, none opposed.

I accept this recommendation, and text has been added to Appendix E of the Guidelines indicating this.

VI. Proposed Amendment of Appendix E of the Guidelines

In a letter dated July 28, 1980, Dr. Fritz Reusser of The Upjohn Company requested that two sections of Appendix E be amended. These sections currently read as follows:

- "*Bacillus subtilis* strains that do not carry an asporogenic mutation can be used as hosts specifically for the cloning of DNA derived from *E. coli* K–12 and *Streptomyces coelicolor* using NIH-approved *Staphylococcus aureus* plasmids as vectors under P2 conditions.
- "*Streptomyces coelicolor* can be used as a host for the cloning of DNA derived from *subtilis, E. coli* K–12, or from *S. aureus* vectors that have been approved for use in *B. subtilis* under P2 conditions, using as a vector any plasmid indigenous to *Streptomyces coeficolor* or able to replicate in that host by natural biological mechanisms."

The proposed revision would permit additional *Streptomyces* species to be utilized in these experiments. The species to be added are already included in Appendix A, Sublists C and D, as two groups of *Streptomycetes* known to exchange DNA by physiological means. Dr. Reusser noted that these species are not pathogenic for humans, animals or plants. The proposed revised sections of Appendix E would read as follows:

- "*Bacillus subtilis* strains that do not carry an asporogenic mutation can be used as hosts specifically for the cloning

of DNA derived from *E. coli* K–12 and *Streptomyces coelicolor, S.*

One commentator wrote that the proposal:

considerable), P2 containment is more than sufficient protection regardless of the vectors

if an HV2 *B. subtilis* host-vector system

individuals but does not produce a

XII. Request For Permission To

of DNA derived from *E. coli* K–12 and *Streptomyces coelicolor, S. aureofaciens, S. rimosus, S. griseus, S. cyaneus,* and *S. venezuelae* using NIH-approved *Staphylococcus aureus* plasmids as vectors under P2 conditions.

• "*Streptomyces coelicolor, S. aureofaciens, S. rimosus, S. griseus, S. cyaneus,* and *S. venezuelae* can be used as hosts for the cloning of DNA derived from *B. subtilis, E. coli* K–12, or from *S. aureus* vectors that have been approved for use in *B. subtilis,* under P2 conditions, using as vectors any plasmids indigenous to these *Streptomyces* species or able to replicate in these hosts by natural biological mechanisms."

The proposed appeared in the **Federal Register** of August 21, 1980 (45 FR 55928). No comments were received concerning the proposal during the thirty day comment period. The RAC evaluated the proposal at the September 25–26, 1980 meeting, considering and voting separately on each of the two sections proposed to be amended.

With regard to the first section, by a vote of 14 in favor, none opposed, and 3 abstentions, the RAC recommended that the proposed amended language be adopted, i.e.:

• "*Bacillus subtilis* strains that do not carry an asporogenic mutation can be used as hosts specifically for the cloning of DNA derived from *E. coli* K–12 and *Streptomyces coelicolor S. aureofaciens, S. rimosus, S. griseus, S. cyaneus, and S. venezuelae* using NIH-approved *Staphylococcus aureus* plasmids as vectors under P2 conditions."

I accept this recommendation, and this section of Appendix E has been so amended.

The RAC then considered the second section proposed to be amended. During the discussion it was suggested that the language be modified to specify the use of "nonconjugative" plasmid vectors. By a vote of 15 in favor, none opposed, and 2 abstentions, the RAC recommended approval of the following modified language:

• "*Streptomyces coelicolor S. aureofaciens, S. rimosus, S. griseus, S. cyaneus, and S. venezuelae* can be used as hosts for the cloning of DNA derived from *B. subtilis, E. coli* K–12, or from *S. aureus* vectors that have been approved for use in *B. subtilis,* under P2 conditions, using as vectors any nonconjugative plasmids indigenous to these *Streptomyces* species or able to replicate in these hosts by natural biological mechanisms."

Subsequent to the RAC meeting, two comments on this amended language were received by the NIH.

One commentator wrote that the proposal:

"• • •would have the effect of reversing a previous decision by the RAC and increasing the level of containment required for experiments that have been permitted under P2 conditions for some time. Thus, the amendment is a 'major action'; it does not seem appropriate that it be made part of the Guidelines in the absence of a 30-day period providing an opportunity for workers in the field and others to offer comments on it.

"It should also be noted that the concept of 'conjugative' versus 'non-conjugative' plasmids has been derived from enteric bacteria and may not apply to a wide variety of other bacterial species. For example, the mechanism for genetic exchange in *Streptomyces* species is not fully understood; it may be a consequence of hyphal fusion that permits transfer of plasmid and chromosomal genes. If this is true, it may never be possible to isolate a 'non-conjugative' plasmid *per se*• • •"

"Since all of the *Streptomyces* species that exchange genetic information with *S. coelicolor* are free-living non-pathogenic soil organisms—and since the change in the Guidelines originally proposed under Action 916 involved genes from only non-pathogenic, well-characterized donor bacteria, I urge your approval of the original proposal without the amendment."

The other commentator wrote:

"I would like to see this amended proposal published for public comment and put to a second vote at the next RAC meeting before you approve this action. The amended proposal failed to receive sufficient consideration of the following points. First of all, in no previous actions regarding *Streptomyces* species was any consideration given during the deliberations to establish levels of physical containment as to whether the vectors were capable of mediating exchange of genetic information. Therefore, this action by the RAC is more restrictive than previous actions and, in my opinion, is inconsistent with the intent of the RAC. In fact, experiments can be carried out at P2 levels of containment in which *B. subtilis, E. coli* K–12, or *S. aureus* vector DNA is cloned into *S. coelicolor* hosts using vectors capable of self-mediated exchange in accordance with Appendix E of the current NIH Guidelines.

"Second of all, the use of the term 'non-conjugative' is inappropriate because the actinomycetes do not exchange genetic information by the process of conjugation as it is known for eubacteria. Rather actinomycetes exchange genetic information by heterokaryosis. In some experiments, the frequency of genetic exchange can be altered by the presence of plasmids and some plasmids can mediate their own transfer to new hosts.

"I feel that to restrict cloning in the actinomycetes to using 'non-conjugative' or non-self-transmissible vectors would be unduly harsh and would severely restrict research with this valuable group of organisms. Considering the level of potential hazard (which I consider minimal) and the potential benefit (which I view as considerable), P2 containment is more than sufficient protection regardless of the vectors employed."

Taking into consideration these comments, I am deleting the requirement for use of nonconjugative plasmids in these systems. If anyone wishes to propose a requirement for use of nonconjugative plasmids in these systems, it will be published for comment in the **Federal Register** as a proposed major action for consideration at a future RAC meeting.

Accordingly, the relevant section of Appendix E has been amended to read as follows:

• "*Streptomyces coelicolor, S. aureofaciens, S. rimosus, S. griseus, S. cyaneus,* and *S. venezuelae* can be used as hosts for the cloning of DNA derived from *B. subtilis, E. coli* K–12, or from *S. aureus* vectors that have been approved for use in *B. subtilis,* under P2 conditions, using as vectors any plasmids indigenous to these *Streptomyces* species or able to replicate in these hosts by natural biological mechanisms."

VII. Request for Consideration of a Proposal to Clone the Tox A Gene of Staphylococcus Aureus

In a memorandum dated July 29, 1980, Drs. Alan G. Barbour and Leonard W. Mayer of the Laboratory of Molecular Structure and Functions, Rocky Mountain Laboratory, National Institute of Allergy and Infectious Dieases, requested an assessment of the containment levels appropriate for cloning the *Staphylococcus aureus* pyrogenic exotoxin type A (Tox A). Drs. Barbour and Mayer indicated that they would prefer to clone the Tox A gene in an HV2 *Bacillus subtilis* host-vector system (since one of the activities of Tox A is enhancement of the toxicity of *E. coli* endotoxin) but, if no HV2 *B. subtilis* host-vector system were available, they requested permission to clone the Tox A gene in an EK2 *E. coli* K–12 host-vector system.

The RAC took this request under consideration at the September 25–26, 1980 meeting. The major determination for the RAC to make was whether Tox A is a "potent toxin" under Section I–D–2 of the Guidelines. It was noted that the lethality of Tox A for animals is not great. The RAC by a vote of 17 in favor, none opposed, recommended that the cloning of the Tox A gene be permitted under P3 containment with either an HV2 *B. subtilis* or an EK2 *E. coli* K–12 host-vector system.

The scientists who submitted this request, noting that one of the activities of Tox A is enhancement of the toxicity of *E. coli* endotoxin, said they preferred to work in *B. subtilis* rather than *E. coli* if an HV2 *B. subtilis* host-vector system were available. Since an HV2 *B. subtilis* system is in fact now certified (see item III of this announcement) I am approving the cloning of the *Staphylococcus aureus* Tox A gene in an HV2 *Bacillus subtilis* host-vector system at P3 containment. Text has been added to Appendix E indicating this.

VIII. Request for Permission to Transform Chlamydomonas Reinhardi With E. Coli/Saccraromyces Cerevisiae Plasmids.

The RAC at its September 25–26, 1980 meeting considered similar requests from Dr. John Carbon of the University of California, Santa Barbara, and Dr. Stephen Howell of the University of California, San Diego, to introduce *E. coli-Saccharomyces cerevisiae* hybrid plasmids containing defined DNA segments into *Chlamydomonas reinhardi* under P2 conditions. The host is a eukaryotic, unicellular photosynthetic green algae. *C. reinhardi* is non-pathogenic, produces no known toxin, and is not known to exchange genetic information with other organisms.

This proposal was published for comment in the **Federal Register** of August 21, 1980. No comments were received during the thirty day period for comment.

A motion to approve these experiments at the P2 level of containment was passed by a vote of 16 in favor, none opposed, and one absention.

I accept this recommendation, and text has been added to Appendix E of the Guidelines indicating this.

IX. Request For Permission To Transform Candida Albicans With E. Coli-S. Cerevisiae Plasmid.

The following notice appeared in the **Federal Register** of August 21, 1980:

Request for permission to transform Candida albicans with E. coli-S. cerevisiae plasimids. Dr. P. T. Magee of Michigan State University, and Dr. W. LaJean Chaffin of Texas Tech University, have requested consideration of the appropriate containment level for the return of *Candida albicans* DNA to the host of origin. The *Candida albicans* DNA will be cloned in *E. coli* K–12 or in *Saccharomyces cerevisiae* employing a hybrid plasmid vector derived from *E. coli* K–12–S. *cerevisiae* or the yeast 2 micron plasmid.

During the thirty day comment period, no responses were received.

The RAC discussed this proposal at its September 25–26, 1980 meeting. It was noted that *Candida albicans* is a normal inhabitant of the flora of man. It can be a pathogen in compromised individuals but does not produce a toxin. This is basically a return of DNA to host of origin type of experiment, with the intermediate host being either *E. coli* K–12 or *Saccharomyces cerevisiae.*

The RAC by a vote of 14 in favor, 1 opposed, and 3 absentions recommeded approval of this proposal at the P2 level of containment.

I accept this recommendation, and text has been added to Appendix E of the Guidelines indicating this.

X. Proposal To Transform Haemophilus Influenzae With E. Coli/H. Influenzae Hybrid Plasmid

The RAC at its September 25–26, 1980 meeting considered a proposal from Dr. Hamilton Smith of the John Hopkins University to insert an *E. coli* Tn10 tet^R gene into a naturally-occurring *Haemophilus* plasmid and to use the hybrid plasmid to transform *H. influenzae* Rd, a nonpathogenic strain. It was noted that a tetracycline resistance gene found naturally in *Haemophilus* is genetically related to the Tn10 tet^R gene of *E. coli.* A motion to approve these experiments at the P1 level of containment was passed by a vote of 12 in favor, none opposed, with 7 abstentions.

I accept this recommendation, and text has been added to Appendix E of the Guidelines indicating this.

XI. Proposed Exemption For Streptococcus Sanguis And Streptococcus Pneumoniae

A request submitted by Dr. Walter Guild of Duke University Medical Center that *Streptococcus sanguis* and *Streptococcus pneumoniae* be considered as natural exchangers of DNA under the exemption category of Section I–E–4 and Appendix A of the Guidelines was considered by the RAC. This proposal was published for comment in the **Federal Register** of August 21, 1980. No comments were received during the 30 day period for comment prior to the September 25–26, 1980 meeting.

The evidence presented by the investigator demonstrated that these organisms exhange genetic material in both directions by the natural process of transformation. The RAC recommended by a vote of 16 in favor, none opposed, and 1 absention that a new sublist be added to Appendix A of the Guidelines exempting recombinant DNA experiments between *Streptococcus sanguis* and *Streptococcus pneumoniae.*

I accept this recommendation and these two organisms have been added as sublist F of Appendix A.

XII. Request For Permission To Incorporate Recombinant DNA In Zymomonas Mobilis

The RAC considered a request from Drs. B. Montenecourt and D. Eveleigh of Rutgers University to permit the cloning of DNA derived from *Pseudomonas* strains that are non-pathogenic to animals or plants in an *E. coli* K–12 host, followed by transfer of the recombinant DNA into *Zymomonas mobilis.*

This proposal was published for comment in the **Federal Register** of August 21, 1980. No comments were received during the 30 day comment period.

The RAC by a vote of 17 in favor, none opposed and with no abstentions recommended approval at the P2 level of containment for the proposed experiments.

I accept this recommendation, and text has been added to Appendix E of the Guidelines indicating this.

XIII. Request To Transform Protoplasts of Streptosporangium With Recombinant DNA

The RAC at its September 26, 1980 meeting considered a proposal to transform protoplasts of *Streptosporangium* with a hybrid plasmid containing pBR322 plus a *Streptosporangium* plasmid into which have been incorporated specified DNA segments from *Streptomyces* species or an HV1 approved *Bacillus subtilis* cloning vector.

It was noted that members of the *Streptosporangium* genera are soil bacteria and have never been implicated in any human, animal, or plant diseases. Further, these nutritionally fastidious organisms have not been reported to produce toxins harmful to humans.

The motion to approve these experiments at the P2 level of containment was passed by a vote of 17 in favor, none opposed, and 1 abstention.

I accept this recommendation, and text has been added to Appendix E of the Guidelines indicating this.

XIV. Proposed Revision of Subsections of Section III–C–1–e

A notice appeared in the **Federal Register** of January 31, 1980 concerning proposed revision of Section III–C–1–e, and its subsections. It was recommended that Section III–C–1–e, III–C–1–e–(1), III–C–1–e–(1)–(a), and III–C–1–e–(1)–(b), of the Guidelines be changed and that a new Section III–C–1–e–(1)–(c) be added. Section III–C–1–e–(2) would remain unchanged. The RAC, at its March 6–7, 1980 meeting, recommended adoption of Section III–C–

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1–e, III–C–1–e–(1), and III–C–1–e–(1)–(a) as published in the **Federal Register** of January 31, 1980, with certain modifications in Section III–C–1–e–(1)–(a).

The Director, NIH, accepted this recommendation and promulgated the following sections in the **Federal Register** of April 14, 1980:

"III–C–1–e. All Viral Vectors.

"III–C–1–e–(1). Other experiments involving eukaryotic virus vectors can be done as follows:

"III–C–1–e–(1)–(a). Recombinant DNA molecules containing no more than two-thirds of the genome of any eukaryotic virus [all viruses form a single Family (36) being considered identical (50)] may be propagated and maintained in cells in tissue culture using P1 containment. For such experiments, it must be shown that the cells lack helper virus for the specific Families of defective viruses being used. The DNA may contain fragments of the genomes of viruses from more than one Family but each fragment must be less than two-thirds of the genome."

At its March 6–7, 1980 meeting, the RAC voted to defer consideration until the June 5–6, 1980 meeting of the new Sections III–C–1–e–(1)–(b) and III–C–1–e–(1)–(c) as proposed in the **Federal Register** of January 31, 1980, and requested that a working group develop additional information. Accordingly, a working group met on May 13, 1980, during the annual meeting of the American Society for Microbiology in Miami Beach, Florida. The report of the working group was considered briefly at the June 5–6, 1980 RAC meeting when it was decided that it would be considered again by the RAC at its September 25–26, 1980 meeting.

The Working Group discussed the question of the appropriate containment conditions for experiments involving recombinant DNA molecules containing less than two-thirds of the genome of any eukaryotic virus which may be rescued with helper virus. On the basis of the consensus of the virologists, the following recommendation was proposed, as a revision of Section III–C–1–e–(1)–(b) of the Guidelines:

"III–C–1–e–(1)–(b). Recombinants with less than two-thirds of the genome of any eukaryotic virus may be rescued with helper virus using P2 containment if wild type strains of the virus are CDC Class 1 or 2 agents, or using P3 containment if wild type strains of the virus are CDC Class 3 agents (1)."

This proposal was published for comment in the **Federal Register** of August 21, 1980. During the thirty day comment period no responses were received.

At the September 25–26, 1980 meeting, the RAC discussed this proposal again. Some members of the committee expressed concern whether the rescue of a defective recombinant virus with helper virus could result in the formation of a virus with an altered host specificity or increased pathogenicity. It was noted that the working group of virologists previously discussed this point, and reached the conclusion that the recombinant virus would pose no greater biohazard than the wild type virus used as a helper. The consensus of the working group was that the level of containment required for rescue of the recombinant virus should correspond to the same level of biohazard as the helper virus as determined by the CDC classification.

The motion to accept the proposed revision of subsection III–C–1–e–(1)–(b) was passed by a vote of 10 in favor, 5 opposed, and 1 abstention.

I accept this recommendation, and Section III–C–1–e–(1)–(b) has been so modified. This modification justifies two further changes in the Guidelines. First, new text has been added to Section III–C–1 to advise the reader of the relationship of the subsections of Sections III–C–1–a, III–C–1–b, III–C–1–c, and III–C–1–d of the Guidelines to the subsections of Section III–C–1–e. Also, Table IV of the Guidelines has been eliminated.

XV. Proposed Containment For Cloning Between Members of the Actinomycetes Group

Dr. Dean Taylor of the Smith Kline and French Laboratories, proposed that the third entry in Appendix E of the Guidelines be modified to read:

P2 physical containment shall be used for DNA recombinants produced between members of the *Actinomycetes* group except for those species which are known to be pathogenic for man, animals, or plants.

This proposal was made previously by the RAC Working Group on Prokaryotic Host-Vectors Other Than *E. coli* and appeared in the **Federal Register**, April 13, 1979 (44 FR 22316). The RAC considered the proposal at its May 21–23, 1979 meeting and recommended to restrict this so that it did not include the entire *Actinomycetes* group but rather only the genera *Streptomyces* and *Micromonospora*. The Director, NIH, accepted this recommendation and the action was published in the **Federal Register**, July 20, 1979 (44 FR 42916), and appears as the third entry in Appendix E of the Guidelines.

This proposal was published for comment in the **Federal Register** of August 21, 1980. During the 30 day comment period, no comments were received.

During the RAC discussion of this proposal it was noted that the family of *Actinomycetes* include many genera that are not pathogenic for man, animals, or plants. The microorganisms in this group are mainly found in soil, and are of medical and industrial importance. They produce ninety percent of the antibiotics used in medicine. Although some members of the group are parasitic, most do not cause disease, or are marginal pathogens.

A motion to restrict the proposal to members of the *Actinomycetes* group which are known not to be pathogenic for man, animals, or plants, failed by a vote of 3 in favor, 11 opposed, with 3 abstentions.

A motion to accept the proposal as published in the **Federal Register** on August 21, 1980, passed by a vote of 16 in favor, 1 opposed, with 1 abstention.

I accept this recommendation, and the third entry in Appendix E of the Guidelines has been so amended.

XVI. Changes in Registration Requirements

Dr. Maxine Singer, National Cancer institute, National Institutes of Health, proposed a series of changes in the administrative requirements specified by the Guidelines. The proposal would elimnate NIH review, registration, and approval for all experiments assigned containment conditions in the Guidelines.

In submitting the proposal, Dr. Singer stated:

When the Guidelines were first promulgated, many arguments appeared to dictate a complex system of review and approval prior to the initiation of experiments. Regardless of how one views the wisdom of the earlier decisions, the multi-level system with its emphasis on central review at the NIH is now clearly unnecessary, inhibitory, expensive, and conterproductive in relation to the respect accorded the containment recommendations. By now, Institutional Biosafety Committees have accumulated sufficient expeience with and knowledge of the Guidelines to operate as independent review groups. Safety Officers now function in many research institutions. Furthermore, the good laboratory practices mandated by the Guidelines have become routine practice in many laboratories. Indeed, confidence in the efficiacy of Guidelines has been based primarily on compliance by individual investiators within their own laboratories. The administrative changes that accompanied the revised containment levels for experiments with *E. coli* K–12 and *S. cerevisiae* earlier this year recognized that central review and approval were no longer necessaryily desirable or useful. The present proposal is an extension of that idea.

In brief, the proposal eliminates central review, registration, and approval for all experiments assigned containment conditions in the Guidelines. Investigators would be required to notify their Institutional Biosafety Committees prior to the initiation of experiments and those committees would be responsible for reviewing the registration documents for consistency with the provisions of the Guidelines and advising the investigators of necessary changes. No Memoranda of Understanding would be required. IBCs and investigators would still be expected to petition the ORDA regarding experiments not explicitly covered by the Guidelines, experiments requiring case-by-case review and experiments involving exceptions to the provisions (or prohibitions). The NIH and the RAC would function as policy making elements with responsibility to change the Guidelines as required, to evaluate containment requirements for experiments not explicitly covered by the Guidelines, and for consideration of exceptions.

Seven years have passed since the scientific community first raised questions regarding recombinant DNA experiments. The ignorance of those early years has been supplanted with a wealth of experience and information. Just as the early stringent Guidelines were promptly adopted in response to the ignorance, we must now respond just as promptly to the current more realistic appraisals.

The proposed revisions were published in the **Federal Register** of August 21, 1980, for comment, as Item 8 of the notice. Specific changes were proposed in many different places in the Guidelines, specified under subheadings "A" through "X" within Item 8.

Seventeen letters were received commenting on the proposal. Sixteen commentators supported its adoption. One commentator stated:

Maxine Singer's initiative (**Federal Register**, August 21, 1980) to have the NIH Guidelines fall primarily under local control is both wise and timely. Decisions about scientific research are best left to the investigtors both for efficiency and as a matter of fundamental principle. Only in exigency, should this ideal be violated. Perhaps we've passed through such an occasion with R–DNA research. However, it is now the time to return to the more normal situation. Since work with recombinant DNA has proven to be very safe and very important, dual review at the national and local levels serves no good purpose.

As one involved from the beginning in the R–DNA issue, I've always felt that the 'Guidelines' should be guidelines; they turned into regulations. With the proposed change, they will revert and also the unfortunate quasi-regulatory role that the NIH has had to play will begin to disappear.

Another commentator said:

I think the IBC mechanism has proven its effectiveness in interpreting and enforcing the letter and intent of the Guidelines governing recombinant DNA research. I do not see how the practices of submission, obtaining and recording, etc., of MUA's particularly the requirements for annual submissions of MUA's for each continuing NIH grant or for applications for new grants, contributes to the safety of research. An updated statement of work in progress from each investigator to the IBC's would be significantly simpler to administer and would ensure as much real safety as the present system.

Another observed:

I agree with her that the function of review, registration, and monitoring of research workers falling into categories explicitly mentioned in the Guidelines can be effectively administered by the local Institutional Biosafety Committees. This would reduce the workload for ORDA allowing it to spend more time determining policy and revising the Guidelines according to requests or to new data. It would simultaneously ease the bureaucratic workload for the researcher without jeopardizing the effectiveness of the Guidelines. Not only are the procedures described in the Guidelines now standard practice among most laboratories, as pointed out by Dr. Singer, but I feel that the local Institutional Biosafety Committees are in much better position to evaluate compliance with the Guidelines. Because of their past experience with the Guidelines, I feel that these committees are ideally suited to take over this important administrative role.

One commentator made the following observation about Institutional Biosafety Committees:

Institutional Biosafety Committees clearly seem able to operate as independent review groups, and the laboratory practices set forth in the Guidelines have now become part of the standard operating procedures of laboratories working in the field. In other fields of biological research, safety procedures are implemented entirely at the local level, even when known biohazards are involved. It is no longer necessary to have a unique multi-level system in an area where seven years of extensive experience has shown the absence of a unique hazard.

Another commentator said the following about central review:

Elimination of central review at NIH for experiments classified in the Guidelines will save a great deal of time for both the investigator and the reviewers at NIH. I believe the experience of the past six years justifies a change toward an administrative arrangement long successfully practiced in the handling of proven microbial pathogens, namely national guidelines enforced by local biosafety committees.

One commentator made the following observation about the current system of NIH review:

The present complex system of review on both local and Federal levels is no longer necessary. It is wasteful of time, effort, and money. It is, in fact, counterproductive because bureaucratic requirements seen by investigators to be clearly unnecessary lead to disrespect for regulations that should be respected. Institutional Biosafety Committees should, in my opinion, be fully capable of monitoring laboratory practices and containment levels specified by the Guidelines.

Another letter included the following remark:

I strongly endorse the proposed changes because I believe that the risks of this research are now clearly minimal and because the bureaucracy and consequent wasted time are truly detrimental to progress in an area that promises to be of great benefit to mankind.

The Chairman of one IBC reporting the unanimous endorsement of his committee stated:

We feel strongly that safety is solely a function of the effectiveness of the local institutional practices, on the part of the PI's and the IBC, in complying with and enforcing the Guidelines. The submission of MUAs adds nothing but expensive and time-consuming paperwork.

The one letter against the proposal stated the following:

At present, we do not believe that there are good reasons for changing the registration requirements. Although present procedures demand some extra paperwork, they permit centralized keeping of files which could be of significant use in reviewing the extent of work on recombinant DNA and its possible hazards. Somebody should know what is going on.

The RAC discussed the proposal at length at its September 25–26, 1980 meeting. Dr. Singer, who attended this portion of the meeting, summarized the proposal and presented her arguments for adopting it. It was noted that the proposal has two major aspects, which could be acted upon separately. The first aspect is that it would eliminate NIH review of protocols for which containment levels are specified by the Guidelines. The second aspect is that the proposal would eliminate the requirement for pre-review by the local IBC prior to initiation of all experiments for which containment levels are specified by the Guidelines (Prior review is already not required for most experiments). Some members of the RAC felt that adoption of the proposal should be delayed until a broad-based survey of the functioning of IBCs is completed. Some members of the RAC felt that pre-review of all experiments by the IBC should not be eliminated at the present time. The RAC then voted separately on a four-part motion proposed by Dr. Gottesman.

The RAC voted 15 in favor, 3 opposed, with no abstentions, to eliminate the requirement for NIH review of IBC decisions on any experiments for which containment levels are specified in the Guidelines.

The RAC voted 12 in favor, 5 opposed, with 1 abstention, to defer consideration

of eliminating pre-review of experiments by the IBCs until the frequency of

Sections IV–D–1–C and IV–D–1–C–(1) through IV–D–1–C(5); "G"—Deletion of

NIH for consideration of such proposed experiments. NIH will follow existing

"f. Evidence of the applicant's or applicant institution's previous

would have the effect of changing the application procedures to read as

appropriate and that its present constitution, representing scientific and public interests, is

of eliminating pre-review of experiments by the IBCs until the frequency of principal investigator error in selecting the appropriate containment levels has been determined.

The RAC voted 17 in favor, none opposed, with 1 abstention, that IBCs keep records of recombinant DNA research done in their institution, including a record of the frequency of errors in classificaion of experiments by the principal investigator.

The RAC voted 15 in favor, 3 opposed, with no abstentions, that IBCs no longer need register with NIH recombinant DNA experiments for which containment levels are specified in the Guidelines.

I accept these recommendations.

The four-part motion passed by the RAC indicated the intent of the RAC to recomment acceptance of certain concepts in the proposal by Maxine Singer (i.e., elimination of the requirement for IBC registration with, and NIH review of, experiments for which the containment levels are specified in the Guidelines), but to defer recommendation of other concepts (i.e., the proposal to eliminate pre-review by the IBC for these experiments).

As noted earlier, the proposal by Maxine Singer published as Item 8 in the **Federal Register** of August 21, 1980, consisted of proposed changes in many different places of the Guidelines, specified under subheadings "A" to "X". Following the RAC meeting, I asked a four-person group to revise these proposed changes in order to translate the four-part general motion of the RAC into specific Guideline changes. The group (consisting of Dr. Bernard Talbot, my Special Assistant, Dr. William Gartland, Director of the Office of Recombinant DNA Activities, Dr. Maxine Singer, originator of the proposal, and Dr. Susan Gotteman, RAC member and originator of the four-part motion passed by the RAC) unanimously agreed on wording which translates the intent of the RAC into specific changes in the Guidelines. I have accepted their recommendations.

The result is that some of the changes "A" through "X" originally proposed by Dr. Singer have been accepted as proposed; some have been rejected, thereby leaving the relevant portions of the Guidelines unchanged; and some have been further modified so that particular sections now are different from both the Guidelines prior to the Singer proposal and from the Singer proposal.

Specifically, the sections where the changes proposed by Dr. Singer have been accepted are: "E"—Deletion of Section IV–C–3; "F"—Deletion of Sections IV–D–1–C and IV–D–1–C–(1) through IV–D–1–C(5); "G"—Deletion of Section IV–D–1–d; "H"—Amendment of Section IV–D–2–f; "I"—Amendment of Section IV–D–2–h; "K"—Amendment of Section IV–D–3–b; "L"—Amendment of Section IV–D–3–f; "P"—Amendment of Section IV–D–5–c–(3); "U"—Deletion of Section IV–E–3–b, IV–E–3–c–(1), IV–E–3–c–(2), and IV–E–3–c–(3); "V"—Deletion of Section IV–E–4–a; and "W"—Deletion of Sections IV–F–1 and IV–F–2.

The proposed changes which have been rejected thus leaving the Guidelines as they were previous to the Singer proposal are: "Q"—Heading of Section IV–D–5–d; "R"—Heading of Section IV–D–5–e; and "T"—Proposed deletion of Section IV–E–1–b–(3)–(e).

The proposed changes which have been further modified so that the sections now read differently from the Guidelines prior to the Singer proposal and from the Singer proposal are: "A"—Section III; "B"—Section III–0; "C"—Last sentence of Section III–A–3–a; "D"—Last sentence of Section III–A–3–b; "J"—Section IV–D–3–a; "M"—Section IV–D–5–a–(1); "N"—Section IV–D–5–b–(4); and "O"—Section IV–E–5–b–(5).

In addition, Sections IV–F–3, IV–F–4, and VI–C, dealing with registration, have been eliminated, as has the proposed Section IV–D–5–e–(6).

One consequence of these changes is that MUAs need no longer be filed with NIH and the term "MUA" has been deleted from the Guidelines.

One part of the RAC four-part motion called for IBCs to keep records of recombinant DNA research done in their institution, including a record of the frequency of errors in classification of experiments by the principal investigator. This requirement for record keeping will be specified in the revision of the Administrative Practice Supplement to the NIH Guidelines to be issued in November 1980.

During the RAC discussion, the concept of requiring the IBCs to report annually to NIH on all recombinant DNA research being done at the institution was rejected. NIH is sponsoring a meeting of IBC Chairmen on November 24–25, 1980. The issue of possibly reporting annually to NIH will be discussed at that meeting. Following that discussion, I will again review this issue.

It should be emphasized that NIH remains responsible for specifying containment conditions for all experiments not explicitly covered by the Guidelines. This includes experiments requiring case-by-case review and exceptions to the provisions or prohibitions of the Guidelines. Principal investigators must petition NIH for consideration of such proposed experiments. NIH will follow existing procedures in such cases and will notify the principal investigators as before. No such experiments are to be approved by the IBCs until containment conditions have been set by the NIH. No such experiments are to be initiated by PIs until appropriate registration documents have been submitted to and approved by the IBC. The registration documents should include the NIH statement of containment conditions.

XVII. Procedures For Review of Large-Scale Experiments

Section I–D–6 of the Guidelines prohibits "large-scale experiments (e.g., more than 10 liters of culture) with organisms containing recombinant DNA's, unless the recombinant DNAs are rigorously characterized and the absence of harmful sequences established."

Section IV–E–1–b–(3)–(d) of the Guidelines states that the Director, NIH, is responsible for "authorizing under procedures specified by the RAC, large-scale experiments (i.e., more than 10 liters of culture) for recombinant DNAs that are rigorously characterized and free of harmful sequences."

Part VI of the Guidelines, "Voluntary Compliance," encourages institutions not otherwise covered by the Guidelines to follow the standards and procedures set forth in the Guidelines.

At its September 1979 meeting, the RAC adopted the following procedures to be followed by applicants proposing to exceed the 10-liter limit:

"Application Procedures for Large-Scale Recombinant DNA Experiments

"1. For each research project proposing to exceed the 10-liter limit, the applicant shall file a request with the NIH Office of Recombinant DNA Activities (ORDA). The request should include the following information:

"a. The Memorandum of Understanding and Agreement (MUA) submitted to the local Institutional Biosafety Committee. The MUA should include, or have appended to it, a summary paragraph which describes the proposed project in language that is comprehensible to non-specialists.

"b. A statement of the rationale for wishing to exceed the 10-liter limit.

"c. A specification of the total volume of the fermenter to be used.

"d. Evidence that the recombinant DNAs to be employed in the research have been rigorously characterized and are free of harmful sequences.

"e. A description of the applicant's laboratory practices, containment equipment, and facilities relevant to the containment of large volumes of culture.

"f. Evidence of the applicant's or applicant institution's previous experience in handling large volumes of culture. Applicants should exhibit knowledge of state-of-the-art procedures for working with large volumes of microorganisms.

"g. A description of procedures to be employed for the inactivation and disposal of large volumes of culture.

"h. A description of procedures for containing and inactivating accidental spills, should they occur.

"2. Each request submitted to ORDA shall be referred to a working group of the NIH Recombinant DNA Advisory Committee for review.

"3. Following review and approval by the working group, each request shall be submitted to the entire Recombinant DNA Advisory Committee for review.

"4. Following review and approval by the RAC, each request shall be submitted to the Director, NIH, for final review.

"5. Applications for large-scale experiments which are submitted by institutions not receiving NIH funds for recombinant DNA research shall be kept confidential (provided the institutions so desire) in accordance with the provisions of the NIH Guidelines for Research Involving Recombinant DNA Molecules.

"These procedures may be refined or revised on the basis of discussion and action by the NIH Recombinant DNA Advisory Committee."

At recent RAC meetings, there have been extensive discussions of the role of the RAC and NIH in the review of large-scale proposals submitted by industry. (Minutes of RAC meetings are available from ORDA.) At the June 1980 meeting, the RAC passed a motion by a vote of seventeen to zero with one abstention that the following proposal be published in the **Federal Register** for consideration at the September 1980 meeting:

"The following procedures should be adopted for approval of requests to grow greater than 10 liters of organisms containing recombinant DNA. The RAC will determine if a given recombinant DNA-containing strain is rigorously characterized and the absence of harmful sequences established. Such a determination shall include specification of the containment level (P–LS). These determinations should not in any way be construed as RAC certification of safe laboratory procedures for industry scale-up. Adherence to the specified containment conditions is the responsibility of the local IBC."

This proposal was published for comment in the **Federal Register** of August 21, 1980. There it was pointed out that if the proposal were accepted, it would have the effect of changing the application procedures to read as follows:

"Application Procedures for Large-Scale Recombinant DNA Experiments

"1. For each research project proposing to exceed the 10-liter limit, the applicant shall file a request with the NIH Office of Recombinant DNA Activities (ORDA). The request should include the following information:

"a. The Memorandum of Understanding and Agreement (MUA) submitted to the local Institutional Biosafety Committee. The MUA should include, or have appended to it, a summary paragraph which describes the proposed project in language that is comprehensible to non-specialists.

"b. A statement of the rationale for wishing to exceed the 10-liter limit.

"c. Evidence that the recombinant DNAs to be employed in the research have been rigorously characterized and are free of harmful sequences.

"d. Specification of the P–LS level proposed to be used as defined in the NIH *Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules.* (**Federal Register**, April 11, 1980).

"2. Each request submitted to ORDA shall be referred to a working group of the NIH Recombinant DNA Advisory Committee for review.

"3. Following review and approval by the working group, each request shall be submitted to the entire Recombinant DNA Advisory Committee for review.

"4. Following review and approval by the RAC, each request shall be submitted to the Director, NIH, for final review.

"5. Applications for large-scale experiments which are submitted by institutions not receiving NIH funds for recombinant DNA research shall be kept confidential (provided the institutions so desire) in accordance with the provisions of the NIH Guidelines for Research Involving Recombinant DNA Molecules.

"These procedures may be refined or revised on the basis of discussion and action by the NIH Recombinant DNA Advisory Committee."

During the comment period, two comments were received.

One commentator stated:

I regret that the RAC wishes to terminate its reviews of engineering plans for proposed private-sector DNA operations.

Another letter stated:

We agree with the RAC proposal passed in June 1980, to exclude regulatory functions dealing with industrial scale-up. We believe that the current mission of the RAC is appropriate and that its present constitution, representing scientific and public interests, is not well suited for a regulatory role. Other bodies of the federal government already have the mandate to carry out regulatory functions and should acquire necessary resources and expertise.

The proposal was discussed at length at the September 25–26, 1980 RAC meeting.

Dr. Krimsky said that although at previous RAC meetings he had argued strongly for proposals like this, he had now changed his mind, because he had come to realize that such pre-review as the RAC has been performing is unique, and that no other agency would conduct such a review. He proposed, as an alternative proposal, that there be established a subcommittee of the RAC made up of some members of the RAC and some members of NIH staff with expertise in facilities and technologies, and that the subcommittee request representation from the Occupational Safety and Health Administration (OSHA), the National Institute for Occupational Safety and Health (NIOSH), the Center for Disease Control (CDC), and the Environmental Protection Agency (EPA). In this proposal, the subcommittee would review engineering and technology, and its review would be transmitted directly to the Director, NIH. After discussion, this alternative motion was withdrawn from consideration for the time being, with the understanding that it would be reconsidered later in the meeting.

During further discussion of the proposal as published in the **Federal Register** of August 21, 1980, Dr. Fedoroff indicated her support for eliminating RAC review of the details of physical containment for individual large-scle proposals, as is already the case for small-scale research. Dr. King indicated her support of the proposal as an acceptable compromise.

Following further discussion, the RAC voted 12 in favor, 5 opposed, with one abstention, to adopt the proposal as published in the **Federal Register** of August 21, 1980. I accept this recommendation and procedures for its implementation are published at the end of this section.

Later in the meeting, Dr. Krimsky introduced the following motion to establish a large-scale review subcommittee:

"An industrial review subcommittee of the RAC shall be established with the responsibility for advising the Director on procedures and facilities design pertaining to applications for large-scale operations.

"After the full RAC has reviewed the biological containment requirements for

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a large-scale proposal, the subcommittee shall examine the applicant's plans for large-scale operations and issue recommendations to the Director on plant design, health surveillance and environmental monitoring. The Director shall advise institutions of recommended design parameters and operational procedures. The determination shall not be construed as NIH certification of industrial operations.

"The subcommittee shall invite participation from NIH's biosafety staff plus OSHA, NIOSH, CDC, FDA, EPA, and USDA."

Dr. Fedoroff expressed concern about delays if first the full RAC and then subsequently a subcommittee were to be involved in the review process. Others agreed. Dr. Gottesman said that she was opposed to continuation of review of equipment design in individual applications by either the full RAC or subcommittee. Dr. Logan of OSHA, speaking in behalf of the proposal, said that the delays need not be serious and that such subcommittee review would be beneficial. He said that OSHA does not have the legal authority to conduct pre-review of applications. Dr. Campbell said that while he opposed a subcommittee doing pre-review of individual applications, he favored a subcommittee to prepare future revisions of the Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules (i.e., the definitions of P1-LS, etc.) and to monitor how well the system is working. Dr. Gottesman proposed an amendment to Dr. Krimsky's motion to establish the subcommittee with these functions, but to do no pre-review of individual applications. An amendment to this amendment proposed by Dr. Krimsky to include subcommittee pre-review of individual applications failed by a vote of 3 in favor, 15 opposed, with no abstentions. After further amendments were adopted, the RAC passed the following motion by a vote of 15 in favor, 2 opposed, with 1 abstention:

"A large-scale review subcommittee of the RAC shall be established with the responsibility for advising the RAC on procedures and facilities design pertaining to large-scale operations, and on the performance of local IBCs in reviewing physical containment facilities.

"The subcommittee shall invite participation from NIH's biosafety staff plus OSHA, NIOSH, CDC, FDA, EPA, and USDA."

I agree with the establishment of a group to report to the RAC on recommendations for future revisions of the Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules (i.e., the definitions of P1-LS, etc.) and on the performance of local IBCs in reviewing large-scale physical containment facilities. A Working Group of the RAC was established at the May 1979 meeting to develop the Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules. These recommendations were reviewed at the December 1979 and March 1980 RAC Meetings before being published in the **Federal Register** on April 11, 1980. Establishing a new "subcommittee" of the RAC to deal with this issue would require a formal change in the RAC Charter. Therefore, I favor reconstitution of the current RAC "Working Group" for this purpose. As noted above (see item IV of this announcement), the RAC has recommended that RAC "members should be chosen to provide expertise in fermentation technology, engineering, and other aspects of large-scale production." I expect that an individual with these qualifications will shortly be appointed. When this happens, I will ask that the appointee consult with the RAC Chairman and that together they decide on which additional RAC members should be appointed to the reconstituted Large-Scale Review Working Group. The RAC recommended that participation be invited from "NIH's biosafety staff plus OSHA, NIOSH, CDC, FDA, EPA, and USDA." Ideally, all Federal agencies with representatives on the RAC should be invited to participate in the deliberations of the Working Group.

In accordance with the recommendation of the RAC, the Working Group will not be involved in pre-review of individual applications. To assist in its function of advising the RAC on the performance of local IBCs in reviewing physical containment facilities and on future revisions of the Large-Scale Physical Containment Recommendations, the Working Group may request information from individual companies. Since NIH is not a regulatory agency, the intent of any such information collection will be fact-finding, to help in development of general recommendations from the Working Group to the RAC, and not for purposes of regulatory actions directed at individual companies.

In response to recommendations of the RAC, the revised application procedures for large-scale proposals are now promulgated as final, i.e.:

"Application Procedures for Large-Scale Recombinant DNA Experiments.

"1. For each research project proposing to exceed the 10-liter limit, the applicant shall file a request with the NIH Office of Recombinant DNA Activities (ORDA). The request should include the following information:

"a. The registration document submitted to the local Institutional Biosafety Committee. This should include, or have appended to it, a summary paragraph which describes the proposed project in language that is comprehensible to non-specialists.

"b. A statement of the rationale for wishing to exceed the 10-liter limit.

"c. Evidence that the recombinant DNAs to be employed in the research have been rigorously characterized and are free of harmful sequences.

"d. Specification of the P–LS level proposed to be used as defined in the NIH *Physical Containment Recommendations for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules. (Federal Register,* April 11, 1980).

"2. Each request submitted to ORDA shall be referred to a working group of the NIH Recombinant DNA Advisory Committee for review.

"3. Following review and approval by the working group, each request shall be submitted to the entire Recombinant DNA Advisory Committee for review.

"4. Following review and approval by the RAC, each request shall be submitted to the Director, NIH, for final review.

"5. Applications for large-scale experiments which are submitted by institutions not receiving NIH funds for recombinant DNA research shall be kept confidential (provided the institutions so desire) in accordance with the provisions of the NIH Guidelines for Research Involving Recombinant DNA Molecules and to the extent permitted by law.

"These procedures may be refined or revised on the basis of discussion and action by the NIH Recombinant DNA Advisory Committee."

These application procedures are identical to those published for comment on August 21, 1980, except for the elimination of the term "Memorandum of Understanding and Agreement," its replacement by the term "registration document," and addition of the clause "and to the extent permitted by law" in paragraph 5. As discussed above (in item XVI of this announcement), the term "Memorandum of Understanding and Agreement" has been eliminated from the Guidelines. The revised Guidelines, in Section III, describe the required contents of a registration document.

The revised "Application Procedures for Large-Scale Recombinant DNA Experiments" differ from the previous version (adopted at the September 1979 RAC meeting) in requiring that the application specify a "P–LS" level at which the work will be done, rather than requiring individual details of physcial containment. In other respects the Application Procedures adopted at the September 1979 RAC meeting remain identical in the revised Application Procedures promulgated today. As noted in the minutes of the September 6–7, 1979 RAC meeting, review of each large-scale proposal by the RAC, "might be at a meeting, but it also might be through mail ballot." This option will be retained.

Additional Announcements of the Director, NIH

Section IV-E-1-b-(3)-(d) of the Guidelines gives responsibility to the Director, NIH, for "authorizing, under procedures specified by the RAC, large-scale experiments (i.e., involving more than 10 liters of culture) for recombinant DNAs that are rigorously characterized and free of harmful sequences."

Accordingly, several requests for authorization to culture, on a large-scale, recombinant DNA host-vector systems have been received and reviewed by the NIH.

I. Genentech, Inc.

On November 4, 1980, the Director, NIH, on the recommendation of the RAC, approved a request from Genentech, Inc., for the large-scale culture up to 750 liters of EK1 host-vector systems containing plasmids into which have been ligated cDNA coding for human leukocyte interferons.

This request was approved with the understanding that Genentech, Inc., has agreed to permit an observer, designated by NIH, to visit the facilities if NIH should choose to inspect the site.

The principal investigators are Drs. Michael Ross and Norm S. C. Lin. The work is to be done at the Pl–LS level of containment at the research and development facility at 460 Point San Bruno Boulevard, South San Francisco, California 94080.

II. Burns-Biotec Laboratories, Inc.

On November 4, 1980, the Director, NIH, approved requests from Burns-Biotec Laboratories, Inc., a wholly-owned subsidiary of Schering Corporation, for large-scale culture of EK1 host-vector systems containing plasmids coding for human leukocyte interferon, and certain derivatives thereof, in a 1000 liter fermentor (up to 750 liter working volume) at the Pl–LS level of containment.

The request was approved with the understanding that Burns-Biotec Laboratories, Inc., has agreed to permit an observer, designated by NIH, to visit the facilities if NIH should choose to inspect the site. The principal investigator for this project is Dr. Donald E. Baldwin. The large-scale growth of the organisms is to be carried out at plant facilities located in Elkhorn, Nebraska.

Dated: November 14, 1980.

Donald S. Fredrickson,

Director, National Institutes of Health.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because of the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8–(b)–(4) and (5) of that Circular.

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Part VII

Department of Health and Human Services

National Institutes of Health

Guidelines for Research Involving Recombinant DNA Molecules, November 1980

HEALTH AND HUMAN SERVICES DEPARTMENT

National Institutes of Health

Guidelines for Research Involving Recombinant DNA Molecules, November 1980

These NIH Guidelines supersede those of January 1980, and will be in effect until further notice.

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I. Scope of the Guidelines

I–A. *Purpose.* The purpose of these Guidelines is to specify practices for constructing and handling (i) recombinant DNA molecules and (ii) organisms and viruses containing recombinant DNA molecules.

I–B. *Definition of Recombinant DNA Molecules.* In the context of these Guidelines, recombinant DNA molecules are defined as either (i) molecules which are constructed outside living cells by joining natural or synthetic DNA segments to DNA molecules that can replicate in a living cell, or (ii) DNA molecules that result from the republication of those described in (i) above.

I–C. *General Applicability.* See Section IV–B.

I–D. *Prohibitions.* The following experiments are not to be initiated at the present time:

I–D–1. Formation of recombinant DNAs derived from the pathogenic organisms classified (*1*) as Class 4 or 5 (*2*) or from cells known (*2A*) to be infected with such agents, regardless of the host-vector system used.

I–D–2. Deliberate formation of recombinant DNAs containing genes for the biosynthesis of toxins potent for vertebrates (*2A*) (e.g., botulinum or diphtheria toxins; venoms from insects, snakes, etc.).

I–D–3. (Deleted).

I–D–4. Deliberate release into the environment of any organism containing recombinant DNA.

I–D–5. Deliberate transfer of a drug resistance trait to microorganisms that are not known to acquire it naturally, if such acquisition could compromise the use of a drug to control disease agents in human or veterinary medicine or agriculture. (*2A*)

I–D–6. Large-scale experiments (e.g., more than 10 liters of culture) with organisms containing recombinant DNAs, unless the recombinant DNAs are rigorously characterized and the absence of harmful sequences established (*a*). (See Section IV–E–1–b–(3)–(d).)

I–D (1–6). Experiments in Categories I–D–1 to I–D–6 may be expected (*4*) from the prohibitions (and will at that time be assigned appropriate levels of physical and biological containment) provided that these experiments are expressly approved by the Director, National Institutes of Health (NIH), with advice of the Recombinant DNA Advisory Committee (RAC), after appropriate notice and opportunity for public comment. (See Section IV–E–1–b–(1)–(e).)

Experiments in Categories I–D–1, I–D–2, I–D–5, and experiments involving "wild type" host-vector systems are excepted from the prohibitions, provided that these experiments are designed for risk-assessment purposes and are conducted within the NIH high-containment facilities located in Building 41–T on the Bethesda campus and in Building 550 located at the Frederick Cancer Research Center. The selection of laboratory practices and containment equipment for such experiments shall be approved by the Office of Recombinant DNA Activities (ORDA) following consultation with the RAC Risk Assessment Subcommittee and the NIH Biosafety Committee. ORDA shall inform RAC members of the proposed risk-assessment projects at the same time it seeks consultation from the RAC Risk Assessment Subcommittee and the NIH Biosafety Committee. If a major biohazard is determined, the clones will be destroyed after the completion of the experiment rather than retaining them in the high containment facility. Other clones that are non-hazardous or not of major hazard will be retained in the high containment.

I–E. *Exemptions.* It must be emphasized that the following exemptions (*4*) are not meant to apply to experiments described in the Sections I–D–1 to I–D–5 as being prohibited. In addition, any recombinant DNA molecules involving DNA from Class 3 organisms (*1*) or cells known to be infected with these agents, or any recombinant DNA molecules which increase the virulence and host-range of a plant pathogen beyond that which occurs by natural genetic exchange, are not exempt unless specifically so designated by NIH under Section I–E–5.

The following recombinant DNA molecules are exempt from these Guidelines, and no registration with NIH is necessary:

I–E–1. Those that are not in organisms or viruses. (*5*)

I–E–2. Those that consist entriely of DNA segments from a single nonchromosomal or viral DNA source, though one or more of the segments may be a synthetic equivalent.

I–E–3. Those that consist entirely of DNA from a prokaryotic host, including its indigenous plasmids or viruses, when propagated only in that host (or a closely related strain of the same species) or when transferred to another host by well established physiological means; also those that consist entirely of DNA from a eukaryotic host, including its chloroplasts, mitochondria, or plasmids (but excluding viruses), when propagated only in that host (or a closely related strain of the same species).

I–E–4. Ceratin specified recombinant DNA molecules that consist entirely of DNA segments from different species that exchange DNA by known physiological processes, though one or more of the segments may be a synthetic equivalent. A list of such exchangers will be prepared and periodically revised by the Director, NIH, with advice of the RAC, after appropriate notice and opportunity for public comment. (See Section IV–E–1–b–(1)–(d).) Certain classes are exempt as of publication of these Revised Guidelines. The list is in Appendix A. An updated list may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205.

I–E–5. Other classes of recombinant DNA molecules, if the Director, NIH, with advice of the RAC, after appropriate notice and opportunity for public comment, finds that they do not present a significant risk to health or the environment. (See Section IV–E–1–b–(1)–(d).) Certain classes are exempt as of publication of these Revised Guidelines. The list is in Appendix C. An updated list may be obtained from the Office of Recombinant DNA Activities; National Institutes of Health, Bethesda, Maryland, 20205.

I–F. *General Definitions.* See section IV–C.

II. Containment

Effective biological safety programs have been operative in a variety of laboratories for many years. Considerable information, therefore, already exists for the design of physical containment facilities and the selection of laboratory procedures applicable to organisms carrying recombinant DNAs. (*6–19*) The existing programs rely upon mechanisms that, for convenience, can be divided into two categories: (i) a set of standard practices that are generally used in microbiological laboratories, and (ii) special procedures, equipment, and laboratory installations that provide physical barriers which are applied in varying degrees according to the estimated biohazard.

Experiments on recombinant DNAs, by their very nature, lend themselves to a third containment mechanism—namely, the application of highly specific biological barriers. In fact, natural barriers do exist which limit either (i) the infectivity of a *vector*, or *vehicle*, (plasmid or virus) for specific hosts or (ii) its dissemination and survival in the environment. The vectors that provide the means for replication of the recombinant DNAs and/or the host cells in which they replicate can be genetically designed to decrease by many orders of magnitude the probability of dissemination of recombinant DNAs outside the laboratory.

As these three means of containment are complementary, different levels of containment appropriate for experiments with different recombinants can be established by applying various combinations of the physical and biological barriers along with a constant use of the standard practices. We consider these categories of containment separately here in order that such combinations can be conveniently expressed in the Guidelines.

In constructing these Guidelines, it was necessary to define boundary conditions for the different levels of physical and biological containment and for the classes of experiments to which they apply. We recognize that these definitions do not take into account all existing and anticipated information on special procedures that will allow particular experiments to be carried out under different conditions than indicated here without affecting risk. Indeed, we urge that individual investigators devise simple and more effective containment procedures and that investigators and institutuional biosafety committees recommend changes in the Guidelines to permit their use.

II–A. *Standard Practices and Training.* The first principle of containment is a strict adherence to good microbiological practices. (*6–15*) Consequently, all personnel directly or indirectly involved in experiments on recombinant DNAs must receive adequate instruction. (see Sections IV–D–1–g, IV–D–5–d and IV–D–8–b.). This shall, as a minimum, include instructions in aseptic techniques and in the biology of the organisms used in the experiments, so that the potential biohazards can be understood and appreciated.

Any research group working with agents with a known or potential biohazard shall have an emergency plan which describes the procedures to be followed if an accident contaminates personnel or the environment. The principal investigator must ensure that everyone in the laboratory is familiar with both the potential hazards of the

work and the emergency plan. (See Sections IV–D–5–e and IV–D–3–d.) If a research group is working with a known biohazard, the group shall be under the direction of a principal investigator who has the training and experience to direct the laboratory in containment practices and techniques appropriate to the biohazard. (See Section IV–D–5–a.)

II–B. *Physical Containment Levels.* Four levels of containment, designated P1, P2, P3, and P4, are specified in these Guidelines. Each level is characterized by a combination of laboratory practices and techniques, safety equipment, and laboratory facilities. Each combination is specifically appropriate for the operations to be performed, the documented or suspected biohazard, and the containment required by the agent(s).

II–B–1. *P1 Level.* P1 containment is appropriate for experiments involving well-characterized agents not known to consistently cause disease in healthy adult humans, and of minimal potential hazard to laboratory personnel and the environment. The laboratory is not necessarily separated from general traffic patterns in the building. Work is conducted on open bench tops using standard microbiological practices. Special containment equipment is not required or generally used. Laboratory personnel have specific training in the procedures conducted in the laboratory and are supervised by a scientist with training and experience in the handling of microorganisms. Access to the laboratory is limited by the laboratory supervisor when experiments are in progress.

II–B–1–a. *Laboratory Practices.* (1) Persons wash their hands after handling cultures and animals, before eating, after using the toilet, and before leaving the laboratory.

(2) Eating, drinking, smoking, storage of food for human consumption, and application of cosmetics are not permitted in the laboratory.

(3) Mechanical pipetting devices are provided.

(4) Decontamination of all infectious wastes and of all plasmid- and virus-containing cultures before disposal.

(5) Use of disinfectants approved by the laboratory supervisor.

(6) Prompt cleaning of all spills of infectious materials by personnel wearing protective clothing and gloves. Decontamination of the work surfaces after spills and after completion of procedures.

(7) Protective clothing, such as laboratory coats, gowns, or uniforms, is worn while in the laboratory. Decontamination of protective clothing before laundering.

(8) Careful confinement of all animals used in conjunction with recombinant DNA or recombinant DNA-containing materials. Disposal of animal wastes or their decontamination before disposal.

(9) Decontamination of all wastes from animals used in conjunction with recombinant DNA or recombinant DNA-containing materials before disposal.

(10) Use of physical containment equipment, such as biological safety cabinets, when aerosols or splashes may be created.

(11) Use of precautions to prevent accidental contamination of sterile solutions and cultures.

(12) Use of screw-capped containers or other containers with closures that prevent leakage and aerosols during transport.

(13) Use of sealed containers for shipping recombinant DNA or recombinant DNA-containing materials between laboratories.

(14) Use of mechanical devices for manipulating recombinant DNA or recombinant DNA-containing materials in large quantities or concentrations.

(15) Use of sharps with extreme caution.

(16) Experiments of lesser biohazard potential can be carried out concurrently in rooms where more hazardous experiments are in progress, provided that the activities are separated by a door which is closed before removal from the laboratory.

(17) Use of a room separate from living quarters or a sufficient distance from living quarters to prevent contamination.

(18) Use of effective procedures and schedules for vector control (insects, rodents, birds, etc.).

(19) The laboratory shall be kept neat and clean.

II–B–2–a–(1). Access to the laboratory is limited by the laboratory supervisor when experiments are in progress.

II–B–2–a–(2). Work surfaces shall be decontaminated daily, and immediately following spills of organisms containing recombinant DNA.

work and the emergency plan. (See Sections IV–D–5–e and IV–D–3–d.) If a research group is working with a known pathogen where there is an effective vaccine it should be made available to all workers. Where serological monitoring is clearly appropriate it shall be provide. (See Sections IV–D–1–h and IV–D–8–c.)

II–B. *Physical Containment Levels.* The objective of physical containment is to confine organisms containing recombinant DNA molecules, and thus to reduce the potential for exposure of the laboratory worker, persons outside of the laboratory, and the environment to organisms containing recombinant DNA molecules. Physical containment is achieved through the use of laboratory practices, containment equipment, and special laboratory design. Emphasis is placed on primary means of physical containment which are provided by laboratory practices and containment equipment. Special laboratory design provides a secondary means of protection against the accidental release of organisms outside the laboratory or to the environment. Special laboratory design is used primarily in facilities in which experiments of moderate to high potential hazards are performed.

Combinations of laboratory practices, containment equipment, and special laboratory design can be made to achieve different levels of physical containment. Four levels of physical containment, which are designated as P1, P2, P3, and P4, are described. It should be emphasized that the descriptions and assignments of physical containment detailed below are based on existing approaches to containment of pathogenic organisms. For example, the "Classification of Etiologic Agents on the Basis of Hazard,"(*7*) prepared by the Centers for Disease Control, describes four general levels which roughly correspond to our descriptions for P1, P2, P3, and P4; and the National Cancer Institute describes three levels for research on oncogenic viruses which roughly correspond to our P2, P3, and P4 levels.(*8*)

It is recognized that several different combinations of laboratory practices, containment equipment, and special laboratory design may be appropriate for containment of specific research activities. The Guidelines, therefore, allow alternative selections of primary containment equipment within facilities that have been designed to provide P3 and P4 levels of physical containment. The selection of alternative methods of primary containment is dependent, however, on the level of biological containment provided by the host-vector system used in the experiment. Consideration will also be given by the Director, NIH, with the advice of the Recombinant DNA Advisory Committee to other combinations which achieve an equivalent level of containment. (See Section IV–E–1–b–(2)–(b).) Additional material on physical containment for plant host-vector systems is found in Sections III–C–3 and III–C–4.

II–B–1. *P1 Level.*

II–B–1–a. *Laboratory Practices.*

II–B–1–a–(1). Laboratory doors shall be kept closed while experiments are in progress.

II–B–1–a–(2). Work surfaces shall be decontaminated daily, and immediately following spills of organisms containing recombinant DNA molecules.

II–B–1–a–(3). All biological wastes shall be decontaminated before disposal. Other contaminated materials, such as glassware, animal cages, and laboratory equipment, shall be decomtaminated before washing, reuse, or disposal.

II–B–1–a–(4). Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

II–B–1–a–(5). Eating, drinking, smoking, and storage of foods are not permitted in the laboratory area in which recombinant DNA materials are handled.

II–B–1–a–(6). Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

II–B–1–a–(7). Care shall be taken in the conduct of all procedures to minimize the creation of aerosols.

II–B–1–a–(8). Contaminated materials that are to be decontaminated at a site away from the laboratory shall be placed in a durable leak-proof container, which is closed before removal from the laboratory.

II–B–1–a–(9). An insect and rodent control program shall be instituted.

II–B–1–a–(10). The use of laboratory gowns, coats, or uniforms is discretionary with the laboratory supervisor.

II–B–1–a–(11). Use of the hypodermic needle and syringe shall be avoided when alternative methods are available.

II–B–1–a–(12). The laboratory shall be kept neat and clean.

II–B–1–b. *Containment Equipment.* Special containment equipment is not required at the P1 level.

II–B–1–c. *Special Laboratory design.* Special laboratory design is not required at the P1 level.

II–B–2. *P2 Level.*

II–B–2–a. *Laboratory Practices.*

II–B–2–a–(1). Laboratory doors shall be kept closed while experiments are in progress.

II–B–2–a–(2). Work surfaces shall be decontaminated daily, and immediately following spills of organisms containing recombinant DNA molecules.

II–B–2–a–(3). All laboratory wastes shall be steam-sterilized (autoclaved) before disposal. Other contaminated materials such as glassware, animal cages, laboratory equipment, and radioactive wastes shall be decontaminated by a means demonstrated to be effective before washing, reuse, or disposal.

II–B–2–a–(4). Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

II–B–2–a–(5). Eating, drinking, smoking, and storage of food are not permitted in the laboratory area in which recombinant DNA materials are handled.

II–B–2–a–(6). Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

II–B–2–a–(7). Care shall be exercised to minimize the creation of aerosols. For example, manipulations such as, inserting a hot inoculating loop or needle into a culture, flaming an inoculation loop or needle so that it splatters, and forceful ejection of fluids from pipettes or syringes shall be avoided.

II–B–2–a–(8). Contaminated materials that are to be steam sterilized (autoclaved) or decontaminated at a site away from the laboratory shall be placed in a durable leak-proof container, which is closed before removal from the laboratory.

II–B–2–a–(9). Only persons who have been advised of the nature of the research being conducted shall enter the laboratory.

II–B–2–a–(10). The universal biohazard sign shall be posted on all laboratory access doors when experiments requiring P2 containment are in progress. Freezers and refrigerators or other units used to store organisms containing recombinant DNA molecules shall also be posted with the universal biohazard sign.

II–B–2–a–(11). An insect and rodent control program shall be instituted.

II–B–2–a–(12). The use of laboratory gowns, coats, or uniforms is required. Laboratory clothing shall not be worn to the lunch room or outside of the building in which the laboratory is located.

II–B–2–a–(13). Animals not related to the experiment shall not be permitted in the laboratory.

II–B–2–a–(14). Use of the hypodermic needle and syringe shall be avoided when alternative methods are available.

II–B–2–a–(15). The laboratory shall be kept neat and clean.

II–B–2–a–(16). Experiments of lesser biohazard potential can be carried out concurrently in carefully demarcated areas of the same laboratory.

II–B–2–b. *Containment Equipment.* Biological safety cabinets (*20*) shall be used to contain aerosol-producing equipment, such as blenders, lyophilizers, sonicators, and centrifuges, when used to process organisms containing recombinant DNA molecules, except where equipment design provides for containment of the potential aerosol. For example, a centrifuge may be operated in the open if a sealed head or safety centrifuge cups are used.

II–B–2–c. *Special Laboratory Design.* An autoclave for sterilization of wastes and contaminated materials shall be available in the same building in which organisms containing recombinant DNA molecules are used.

II–B–3. *P3 Level.*

II–B–3–a. *Laboratory Practices.*

II–B–3–a–(1). Laboratory doors shall be kept closed while experiments are in progress.

II–B–3–a–(2). Work surfaces shall be decontaminated following the completion of the experimental activity, and immediately following spills of organisms containing recombinant DNA molecules.

II–B–3–a–(3). All laboratory wastes shall be steam-sterilized (autoclaved) before disposal. Other contaminated materials, such as glassware, animal cages, laboratory equipment, and radioactive wastes, shall be decontaminated by a method demonstrated to be effective before washing, reuse, or disposal.

II–B–3–a–(4). Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

II–B–3–a–(5). Eating, drinking, smoking, and storage of food are not permitted in the laboratory area in which recombinant DNA materials are handled.

II–B–3–a–(6). Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

II–B–3–a–(7). Care shall be exercised to minimize the creation of aerosols. For example, manipulations such as inserting a hot inoculating loop or needle into a culture, flaming an inoculation loop or needle so that it splatters, and forceful ejection of fluids from pipettes or syringes shall be avoided.

II–B–3–a–(8). Contaminated materials that are to be steam-sterilized (autoclaved) or decontaminated at a site away from the laboratory shall be placed in a durable leak-proof container, which is closed before removal from the laboratory.

II–B–3–a–(9). Entry into the laboratory shall be through a controlled access area. Only persons who have been advised of the nature of the research being conducted shall enter the controlled access area. Only persons required on the basis of program or support needs shall be authorized to enter the laboratory. Such persons shall be advised of the nature of the research being conducted before entry, and shall comply with all required entry and exit procedures.

II–B–3–a–(10). Persons under 16 years of age shall not enter the laboratory.

II–B–3–a–(11). The universal biohazard sign shall be posted on the controlled access area door and on all laboratory doors when experiments requiring P3-level containment are in progress. Freezers and refrigerators or other units used to store organisms containing recombinant DNA molecules shall also be posted with the universal biohazard sign.

II–B–3–a–(12). An insect and rodent control program shall be instituted.

II–B–3–a–(13). Laboratory clothing that protects street clothing (e.g., long-sleeve solid-front or wrap-around gowns, no-button or slipover jackets) shall be worn in the laboratory. Front-button laboratory coats are unsuitable. Laboratory clothing shall not be worn outside the laboratory and shall be decontaminated before it is sent to the laundry.

II–B–3–a–(14). Raincoats, overcoats, topcoats, coats, hats, caps, and such street outer-wear shall not be kept in the laboratory.

II–B–3–a–(15). Gloves shall be worn when handling materials requiring P3 containment. They shall be removed aseptically immediately after the handling procedure and decontaminated.

II–B–3–a–(16). Animals and plants not related to the experiment shall not be permitted in the laboratory.

II–B–3–a–(17). Vacuum outlets shall be protected by filter and liquid disinfectant traps.

II–B–3–a–(18). Use of hypodermic needle and syringe shall be avoided when alternative methods are available.

II–B–3–a–(19). The laboratory shall be kept neat and clean.

II–B–3–a–(20). If experiments involving other organisms which require lower levels of containment are to be conducted in the same laboratory concurrently with experiments requiring P3-level physical containment, they shall be conducted in accordance with all P3-level laboratory practices.

II–B–3–b. *Containment Equipment.*

II–B–3–b–(1) Biological safety cabinets (*20*) shall be used for all equipment and manipulations that produce aerosols—e.g., pipetting, dilutions, transfer operations, plating, flaming, grinding, blending, drying, sonicating, shaking, centrifuging—where these procedures involve organisms containing recombinant DNA molecules, except where equipment design provides for containment of the potential aerosol.

II–B–3–b–(2). Laboratory animals held in a P3 area shall be housed in partial-containment caging systems, such as Horsfall units (19A), open cages placed in ventilated enclosures, solid-wall and bottom cages covered by filter bonnets, or solid-wall and -bottom cages placed on holding racks equipped with ultraviolet radiation lamps and reflectors. (Note: Conventional caging systems may be used, provided that all personnel wear appropriate personal protective devices. These shall include, at a minimum, wrap-around gowns, head covers, gloves, shoe covers, and respirators. All personnel shall shower on exit from areas where these devices are required.)

II–B–3–b–(3). *Alternative Selection of Containment Equipment.*

Experimental procedures involving a host-vector system that provides a one-step higher level of biological containment than that specified in Part III can be conducted in the P3 laboratory using containment equipment specified for the P2 level of physical containment. Experimental procedures involving a host-vector system that provides a one-step lower level of biological containment than that specified in Part III can be conducted in the P3 laboratory using containment equipment specified for the P4 level of physical containment. Alternative combinations of containment safeguards are shown in Table I.

Table I.—*Combinations of Containment Safeguards*

Classification of experiment According to guidelines:		Alternate combinations of physical and biological containment			
		Physical containment			
Physical containment	Biological containment	Laboratory design specified for—	Laboratory practices specified for—	Containment equipment specified for—	Biological containment
P3	HV3	P3	P3	P3	HV2
P3	HV3	P3	P2	P4	HV2
P3	HV2	P3	P3	P3	HV2
P3	HV2	P3	P3	P2	HV3

Table I.—*Combinations of Containment Safeguards*

Classification of experiment According to guidelines		Alternate combinations of physical and biological containment			
		Physical containment			
Physical containment	Biological [1] containment	Laboratory design specified for—	Laboratory practices specified for—	Containment equipment specified for—	Biological containment
P4	HV2	P3	P3	P4	HV1
P3	HV1	P3	P3	P3	HV1
-P3	HV1	P3	P3	P2	HV2

[1] See Section II–D for decription of biological containment.

II–B–3–c. *Special Laboratory Design.*

II–B–3–c–(1). The laboratory shall be separated by a controlled access area from areas that are open to unrestricted traffic flow. A controlled access area is an anteroom, a change room, an air lock or any other double-door arrangement that separates the laboratory from areas open to unrestricted traffic flow.

II–B–3–c–(2). The surfaces of walls, floors, and ceilings shall be readily cleanable. Penetrations through these surfaces shall be sealed or capable of being sealed to facilitate space decontamination.

II–B–3–c–(3). A foot-, elbow-, or automatically-operated hand-washing facility shall be provided near each primary laboratory exit area.

II–B–3–c–(4). Windows in the laboratory shall be sealed.

II–B–3–c–(5). An autoclave for sterilization of wastes and contaminated materials shall be available in the same building (and preferably within the controlled laboratory area) in which organisms containing recombinant DNA molecules are used.

II–B–3–c–(6). The laboratory shall have a ventilation system that is capable of controlling air movement. The movement of air shall be from areas of lower contamination potential to areas of higher contamination potential (i.e., from the controlled access area to the laboratory area). If the ventilation system provides positive pressure supply air, the system shall operate in a manner that prevents the reversal of the direction of air movement or shall be equipped with an alarm that would be actuated in the event that reversal in the direction of air movement were to occur. The exhaust air from the laboratory area shall not be recirculated to other areas of the building unless the exhaust air is filtered by HEPA filters or equivalent. The exhaust air from the laboratory area can be discharged to the outdoors without filtration or other means for effectively reducing an accidental aerosol burden provided that it can be dispersed clear of occupied buildings and air intakes.

II–B–3–c–(7). The treated exhaust-air from Class I and Class II biological safety cabinets [*20*]may be discharged either to the laboratory or to the outdoors. The treated exhaust-air from a Class III cabinet shall be discharged directly to the outdoors. If the treated exhaust-air from these cabinets is to be discharged to the outdoors through a building exhaust air system, it shall be connected to this system so as to avoid any interference with the air balance of the cabinet and the building ventilation system.

II–B–4. *P4 Level.*

II–B–4–a. *Laboratory Practices.*

II–B–4–a–(1). Laboratory doors shall be kept closed while experiments are in progress.

II–B–4–a–(2). Work surfaces shall be decontaminated following the completion of the experimental activity and immediately following spills of organisms containing recombinant DNA molecules.

II–B–4–a–(3). All laboratory wastes shall be steam-sterilized (autoclaved) before disposal. Other contaminated materials such as glassware, animal cages, laboratory equipment, and radioactive wastes shall be decontaminated by a method demonstrated to be effective before washing, reuse, or disposal.

II–B–4–a–(4). Mechanical pipetting devices shall be used; pipetting by mouth is prohibited.

II–B–4–a–(5). Eating, drinking, smoking, and storage of food are not permitted in the P4 facility.

II–B–4–a–(6). Persons shall wash their hands after handling organisms containing recombinant DNA molecules and when they leave the laboratory.

II–B–4–a–(7). Care shall be exercised to minimize the creation of aerosols. For example, manipulations such as inserting a hot inoculating loop or needle into a culture, flaming an inoculation loop or needle so that it splatters, and forceful ejection of fluids from pipettes or syringes shall be avoided.

II–B–4–a–(8). Biological materials to be removed from the P4 facility in a viable or intact state shall be transferred to a nonbreakable sealed container, which is then removed from the P4 facility through a pass-through disinfectant dunk tank or fumigation chamber.

II–B–4–a–(9). No materials, except for biological materials that are to remain in a viable or intact state, shall be removed from the P4 facility unless they have been steam-sterilized (autoclaved) or decontaminated by a means demonstrated to be effective as they pass out of the P4 facility. All wastes and other materials as well as equipment not damaged by high temperature or steam shall be steam sterilized in the double-door autoclave of the P4 facility. Other materials which may be damaged by temperature or steam shall be removed from the P4 facility through a pass-through fumigation chamber.

II–B–4–a–(10). Materials within the Class III cabinets shall be removed from the cabinet system only after being steam-sterilized in an attached double-door autoclave or after being contained in a nonbreakable sealed container, which is then passed through a disinfectant dunk tank or a fumigation chamber.

II–B–4–a–(11). Only persons whose entry into the P4 facility is required to meet program or support needs shall be authorized to enter. Before entering, such persons shall be advised of the nature of the research being conducted and shall be instructed as to the appropriate safeguards to ensure their safety. They shall comply with instructions and all other required procedures.

II–B–4–a–(12). Persons under 18 years of age shall not enter the P4 facility.

II–B–4–a–(13). Personnel shall enter into and exit from the P4 facility only through the clothing change and shower rooms. Personnel shall shower at each egress from the P4 facility. Air locks shall not be used for personnel entry or exit except for emergencies.

II–B–4–a–(14). Street clothing shall be removed in the outer side of the clothing-change area and kept there. Complete laboratory clothing, including undergarments, head cover, shoes, and either pants and shirts or jumpsuits, shall be used by all persons who enter the P4 facility. Upon exit, personnel shall store this clothing in lockers provided for this purpose or discard it into collection hampers before entering the shower area.

II–B–4–a–(15). the universal biohazard sign is required on the P4 facility access doors and on all interior doors to individual laboratory rooms where experiments are conducted. The sign shall also be posted on freezers, refrigerators, or other units used to store organisms containing recombinant DNA molecules.

II–B–4–a–(16). An insect and rodent control program shall be instituted.

II–B–4–a–(17). Animals and plants not related to the experiment shall not be permitted in the laboratory in which the experiment is being conducted.

II–B–4–a–(18). Vacuum outlets shall be protected by filter and liquid disinfectant traps.

II–B–4–a–(19). Use of the hypodermic needle and syringe shall be avoided when alternate methods are available.

II–B–4–a–(20). The laboratory shall be kept neat and clean.

II–B–4–a–(21) If experiments involving other organisms which require lower levels of containment are to be conducted in the P4 facility concurrently with experiments requiring P4–level containment, they shall be conducted in accordance with all P4–level laboratory practices specified in this section.

II–B–4–b. *Containment Equipment.*

II–B–4–b–(1). Experimental procedures involvong organisms that require P4-level physical containment shall be conducted either in (i) a Class III cabinet system or in (ii) Class I or Class II cabinets that are located in a specially designed area in which all personnel are required to wear one-piece positive-pressure isolation suits.

II–B–4–b–(2). Laboratory animals involved in experiments requiring P4-level physical containment shall be housed either in cages contained in Class III cabinets or in partial containment caging systems (such as Horsfall units [19A], open cages placed in ventilated enclosures, or solid-wall and -bottom cages covered by filter bonnets, or solid-well and -bottom cages placed on holding racks equipped with ultraviolet irradiation lamps and reflectors) that are located in a specially designed area in which all personnel are required to wear one-piece positive-pressure suits.

II–B–4–b–(3). *Alternative Selection of Containment Equipment.* Experimental procedures involving a host-vector system that provides a one-step higher level of biological containment than that specified in Part III can be conducted in the P4 facility using containment equipment requirements specified for the P3 level of physical containment. Alternative combinations of containment safeguards are shown in Table II

Table II.—*Combinations of Containment Safeguards*

Classification of experiment according to guidelines		Alternate combinations of physical and biological containment			
		Physical containment			
Physical containment	Biological [1] containment	Laboratory design specified for—	Laboratory practices specified for—	Containment equipment specified for—	Biological containment
P4	HV1	P4	P4	P4	HV1
P4	HV1	P4	[2]P4	P3	HV2

[1] See Section II–D for description of biological containment.
[2] In this case gloves shall be worn, in addition to the clothing requirements specified in II–B–4–a–(14).

II–B–4–c. *Special Laboratory Design.*

II–B–4–c–(1). The laboratory shall be located in a restricted-access facility which is either a separate building or a clearly demarcated and isolated zone within a building. Clothing-change areas and shower rooms shall be provided for personnel entry and egress. These rooms shall be arranged so that personnel leave through the shower area to the change room. A double-door ventilated vestibule or ultraviolet air lock shall be provided for passage of materials, supplies, and equipment which are not brought into the P4 facility through the change room area.

II–B–4–c–(2). Walls, floors, and ceilings of the P4 facility are constructed to form an internal shell which readily allows vapor-phase decontamination and is animal- and insect-proof. All penetrations through these structures and surfaces ar sealed. (The integrity of the walls, floors, ceilings, and penetration seals should ensure adequate containment of a vapor-phase decontaminant under static pressure conditions. This requirement does not imply that these surfaces must be airtight.)

II–B–4–c–(3). A foot-, elbow-, or automatically-operated handwashing facility shall be provided near the door within each laboratory in which experiments involving recombinant DNA are conducted in openface biological safety cabinets.

II–B–4–c–(4). Central vacuum systems are permitted. The system, if provided, shall not serve areas outside the P4 facility. The vacuum system shall include in-line HEPA filters near each use point or service cock. The filters shall be installed so as to permit in-place decontamination and replacement. Water supply, liquid and gaseous services provided to the P4 facility shall be protected by devices that prevent backflow.)

II–B–4–c–(5). Drinking water fountains shall not be installed in laboratory or animal rooms of the P4 facility. Foot-operated water fountains are permitted in the corridors of the P4 facility. The water service provided to such fountains shall be protected from the water services to the laboratory areas of the P4 facility.

II–B–4–c–(6). Laboratory doors shall be self-closing.

II–B–4–c–(7). A double-door autoclave shall be provided for sterilization of material passing out of the P4 facility. The autoclave doors shall be interlocked so that both doors will not be open at the same time.

II–B–4–c–(8). A pass-through dunk tank or fumigation chamber shall be provided for removal from the P4 facility of material and equipment that cannot be heat-sterilized.

II–B–4–c–(9). All liquid effluents from the P4 facility shall be collected and decontaminated before disposal. Liquid effluents from biological safety cabinets and laboratory sinks shall be sterilized by heat. Liquid effluents from the shower and hand washing facilities may be activated by chemical treatment. HEPA filters shall be installed in all vents from effluent drains.

II–B–4–c–(10). An individual supply and exhaust-air ventilation system shall be provided. The system shall maintain pressure differentials and directional air flow as required to ensure inflow from areas outside the facility toward areas of highest potential risk within the facility. The system shall be designed to prevent the reversal of air flow. The system shall sound an alarm in the event of system malfunction.

II–B–4–c–(11). Air within individual laboratories of the P4 facility may be recirculated if HEPA filtered.

II–B–4–c–(12). The exhaust air from the P4 facility shall be HEPA filtered and discharged to the outdoors so that it is dispersed clear of occupied buildings and air intakes. The filter chambers shall be designed to allow *in situ* decontamination before removal and to facilitate certification testing after replacement.

II–B–4–c–(13). The treated exhaust-air from Class I and Class II biological safety cabinets[*20*] may be discharged directly to the laboratory room environment or to the outdoors. The treated exhaust-air from Class III cabinets shall be discharged to the outdoors. If the treated exhaust-air from these cabinets is to be discharged to the outdoors through the P4 facility exhaust

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air system, it shall be connected to this system so as to avoid any interference with the air balance of the cabinets of the facility exhaust air system.

II–B–4–c–(14). As noted in Section II–B–4–b–(1), the P4 facility may contain specially designed areas in which all personnel are required to wear one-piece positive-pressure isolation suits. Such areas shall be airtight. The exhaust-air from the suit area shall be filtered by two sets of HEPA filters installed in series, and a duplicate filtration unit and exhaust fan shall be provided. The air pressure within the suit area shall be less than that in any adjacent area. An emergency lighting system, communication systems, and power source shall be provided. A double-door autoclave shall be provided for sterilization of all waste materials to be removed from the suit area.

Personnel who enter this area shall wear a one-piece positive-pressure suit that is ventilated by a life-support system. The life-support system shall be provided with alarms and emergency backup air. Entry to this area is through an airlock fitted with airtight doors. A chemical shower area shall be provided to decontaminate the surfaces of the suit before removal.

II–C. *Shipment.* Recombinant DNA molecules contained in an organism or virus shall be shipped only as an etiologic agent under requirements of the U.S. Public Health Service, and the U.S. Department of Transportation (§ 72.25, Part 72, Title 42, and §§ 173.386–.388, Part 173, Title 49, U.S. Code of Federal Regulations (CFR)) as specified below:

II–C–1. Recombinant DNA molecules contained in an organism or virus requiring P1, P2, or P3 physical containment, when offered for transportation or transported, are subject to all requirements of § 72.25(c)(1—(5), Part 72, Title 42 CFR, and §§ 173.386–.388, Part 173, Title 49 CFR.

II–C–2. Recombinant DNA molecules contained in an organism or virus requiring P4 physical containment, when offered for transportation or transported, are subject to the requirements listed above under II–C–1 and are also subject to § 72.25(c)(6), Part 72, Title 42 CFR.

II–C–3. Additional information on packaging and shipment is given in the "Laboratory Safety Monograph—A Supplement to the NIH Guidelines for Recombinant DNA Research."

II–D. *Biological Containment.*

II–D–1. *Levels of Biological Containment.* In consideration of biological containment, the vector (plasmid, organelle, or virus) for the recombinant DNA and the host (bacterial, plant, or animal cell) in which the vector is propagated in the laboratory will be considered together. Any combination of vector and host which is to provide biological containment must be chosen or constructed so that the following types of "escape" are minimized: (i) survival of the vector in its host outside the laboratory and (ii) transmission of the vector from the propagation host to other nonlaboratory hosts.

The following levels of biological containment (HV, or *Host-Vector*, systems) for prokaryotes will be established; specific criteria will depend on the organisms to be used. Eukaryotic host-vector systems are considered in Part III.

II–D–1–a. *HV1.* A host-vector system which provides a moderate level of containment. *Specific systems:*

II–D–1–a–(1). *EK1.* The host is always *E. coli* K–12 or a derivative thereof, and the vectors include nonconjugative plasmids (e.g., pSC101, ColE1, or derivatives thereof [*21–27*]) and variants of bacteriophage, such as lambda (*28–33*). The *E. coli* K–12 hosts shall not contain conjugation-proficient plasmids, whether autonomous or integrated, or generalized transducing phages, except as specified in Section III–D.

II–D–1–a–(2). *Other Prokaryotes.* Hosts and vectors shall be, at a minimum, comparable in containment to *E. coli* K–12 with a non conjugative plasmid or bacteriophage vector. The data to be considered and a mechanism for approval of such HV1 systems are described below (Section II—D–2).

II–D–1–b. *HV2.* These are host-vector systems shown to provide a high level of biological containment as demonstrated by data from suitable tests performed in the laboratory. Escape of the recombinant DNA either via survival of the organisms or via transmission of recombinant DNA to other organisms should be less than $1/10^8$ under specified conditions. *Specific systems:*

II–D–1–b–(1). For EK2 host-vector systems in which the vector is a plasmid, no more than one in 10^8 host cells should be able to perpetuate a cloned DNA fragment under the specified nonpermissive laboratory conditions designed to represent the natural environment, either by survival of the original host or as a consequence of transmission of the cloned DNA fragment.

II–D–1–b–(2). For EK2 host-vector systems in which the vector is a phage, no more than one in 10^8 phage particles should be able to perpetuate a cloned DNA fragment under the specified nonpermissive laboratory conditions designed to represent the natural environment either (i) as a prophage (in the inserted or plasmid form) in the laboratory host used for phage propagation or (ii) by surviving in natural environments and transferring a cloned DNA fragment to other hosts (or their resident prophages).

II–D–1–c. *HV3.* These are host-vector systems in which:

II–D–1–c–(1). All HV2 criteria are met.

II–D–1–c–(2). The vector is dependent on its propagation host or is highly defective in mobilizability. Reversion to host-independence must be less than $1/10^8$ per vector genome per generation.

II–D–1–c–(3). No markers conferring resistance to antibiotics commonly used clinically or in agriculture are carried by the vector, unless expression of such markers is dependent on the propagating host or on unique laboratory-controlled conditions or is blocked by the inserted DNA.

II–D–1–c–(4). The specified containment shown by laboratory tests has been independently confirmed by specified tests in animals, including primates, and in other relevant environments.

II–D–1–c–(5). The relevant genotypic and phenotypic traits have been independently confirmed.

II–D–2. *Certification of Host-Vector Systems.*

II–D–2–a. *Responsibility.* HV1 systems other than *E. coli* K–12, and HV2 and HV3 host-vector systems, may not be designated as such until they have been certified by the director, NIH. Application for certification of a host-vector system is made by written application to the Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205.

Host-vector systems that are proposed for certification will be reviewed by the National Institutes of Health (NIH) Recombinant DNA Advisory Committee (RAC). (See Section IV–E–1–b–(1)–(c).) This will first involve review of the data on construction, properties, and testing of the proposed host-vector system by a Working Group composed of one or more members of the RAC and other persons chosen because of their expertise in evaluating such data. The Committee will then evaluate the report of the Working Group and any other available information at a regular meeting. The Director, NIH, is responsible for certification after receiving the advice of the RAC. Minor modifications of existing certified host-vector systems, where the modifications are of minimal or no consequence to the properties relevant to containment may be certified by the Director, NIH, without review by the RAC. (See Section IV–E–1–b–(3)–(f).)

When new host-vector systems are certified, notice of the certification will be sent by the Office of Recombinant DNA Activities (ORDA) to the applicant and to all Institutional Biosafety Committees (IBCs) and will be published in the *Recombinant DNA Technical Bulletin.* Copies of a list of all currently certified host-vector systems may be obtained from ORDA at any time.

The Director, NIH, may at any time rescind the certification of any host-vector system. (See Section IV–E–1–b–(3)–(i).) If certification of a host-vector system is rescinded, NIH will instruct investigators to transfer cloned DNA into a different system, or use the clones at a higher physical containment level unless NIH determines that the already constructed clones incorporate adequate biological containment.

Certification of a given system does not extend to modifications of either the host or vector component of that system. Such modified systems must be independently certified by the Director, NIH. If modifications are minor, it may only be necessary for the investigator to submit data showing that the modifications have either improved or not impaired the major phenotypic traits on which the containment of the system depends. Substantial modifications of a certified system require the submission of complete testing data.

II–D–2–b. *Data To Be Submitted for Certification.*

II–D–2–b–(1). *HV1 Systems Other than E. Coli K–12.* The following types of data shall be submitted, modified as appropriate for the particular system under consideration: (i) A description of the organism and vector; the strain's natural habitat and growth requirements; its physiological properties, particularly those related to its reproduction and survival and the mechanisms by which it exchanges genetic information; the range of organisms with which this organism normally exchanges genetic information and what sort of information is exchanged; and any relevant information on its pathogenicity or toxicity. (ii) A description of the history of the particular strains and vectors to be used, including data on any mutations which render this organism less able to survive or transmit genetic information. (iii) A general description of the range of experiments contemplated, with emphasis on the need for developing such an HV1 system.

II–D–2–b–(2). *HV2 Systems.* Investigators planning to request HV2 certification for host-vector systems can obtain instructions from ORDA concerning data to be submitted (*33A, 33B*). In general, the following types of data are required: (i) Description of construction steps, with indication of source, properties, and manner of introduction of genetic traits. (ii) Quantitative data on the stability of genetic traits that contribute to the containment of the system. (iii) Data on the survival of the host-vector system under nonpermissive laboratory conditions designed to represent the relevant natural environment. (iv) Data on transmissibility of the vector and/or a cloned DNA fragment under both permissive and nonpermissive conditions. (v) Data on all other properties of the system which affect containment and utility, including information on yields of phage or plasmid molecules, ease of DNA isolation, and ease of transfection or transformation. (vi) In some cases, the investigator may be asked to submit data on survival and vector transmissibility from experiments in which the host-vector is fed to laboratory animals (e.g., rodents). Such *in vivo* data may be required to confirm the validity of predicting *in vivo* survival on the basis of *in vitro* experiments.

Data must be submitted in writing to ORDA. Ten to twelve weeks are normally required for review and circulation of the data prior to the meeting at which such data can be considered by the RAC. Investigators are encouraged to publish their data on the construction, properties, and testing of proposed HV2 systems prior to consideration of the system by the RAC and its subcommittee. More specific instructions concerning the type of data to be submitted to NIH for proposed EK2 systems involving either plasmids or bacteriophage λ in *E. coli* K–12 are available from ORDA.

II–D–2–b–(3). *HV3 Systems.* Putative HV3 systems must, as the first step in certification, be certified as HV2 systems. Systems which meet the criteria given above under II–D–1–(c)–1, II–D–1–(c)–2, and II–D–1–(c)–3 will then be recommended for HV3 testing. Tests to evaluate various HV2 host-vector systems for HV3 certification will be performed by contractors selected by NIH. These contractors will repeat tests performed by individuals proposing the HV2 system and, in addition, will conduct more extensive tests on conditions likely to be encountered in nature. The genotypic and phenotypic traits of HV2 systems will be evaluated. Tests on survival and transmissibility in and on animals, including primates, will be performed, as well as tests on survival in certain specified natural environments.

II–D–3. *Distribution of Certified Host-Vectors.* Certified HV2 and HV3 host-vector systems (plus appropriate control strains) must be obtained from the NIH or its designees, one of whom will be the investigator who developed the system. NIH shall announce the availability of the system by publication of notices in appropriate journals.

Plasmid vectors will be provided in a suitable host strain, and phage vectors will be distributed as small-volume lysates. If NIH propagates any of the host strains or phage, a sample will be sent to the investigator who developed the system or to an appropriate contractor, prior to distribution, for verification that the material is free from contamination and unchanged in phenotypic properties.

In distributing the certified HV2 and HV3 host-vector systems, NIH or its designee will (i) send out a complete description of the system; (ii) enumerate and describe the tests to be performed by the user in order to verify important phenotypic traits; (iii) remind the user that any modification of the system necessitates independent approval of the system by the NIH; and (iv) remind the user of responsibility for notifying ORDA of any discrepancies with the reported properties or any problems in the safe use of the system.

NIH may also distribute certified HV1 host-vector systems.

III. Containment Guidelines for Covered Experiments

Part III discusses experiments covered by the Guidelines. The reader must first consult Part I, where listings are given of prohibited and exempt experiments.

Containment guidelines for permissible experiments are given in Part III. For these experiments no registration with the National Institutes of Health (NIH) is necessary. However, for these experiments, prior to their initiation, investigators must submit to their Institutional Biosafety Committee (IBC) a registration document that contains a description of (a) the source(s) of DNA, (b) the nature of the inserted DNA sequences, (c) the hosts and vectors to be used, (d) whether a deliberate attempt will be made to obtain expression of a foreign gene in the cloning vehicle and if so, what protein, and (e) the containment conditions specified by these Guidelines. This registration document must be dated and signed by the investigator and filed only with the local IBC. The IBC shall review all such proposals: IBC review prior to initiation

of the experiment is not required for most experiments described in Section

carried in any gene derived from a eukaryotic organism or from any virus

III–A–1–a–(3). *Birds.* P2 physical containment + an HV2 host-vector, or

with phages, plasmids and DNA from Class 2 agents. (*1*)

III–A–2–a–(1)–(b)–(*1*)–(*c*). P3 physical containment + an HV1 host-vector, or

subgenomic segments that have not been purified to the extent required in

of the experiment is not required for most experiments described in Section III–O. Prior IBC review is required for all other experiments described in the subsections of Part III.

Changes from the levels specified in Part III for specific experiments (or the assignment of levels to experiments not explicitly considered here) may not be instituted without the express approval of the Director, NIH. (See Sections IV–E–1–b–(1)–(a), IV–E–1–b–(1)–(b), IV–E–1–b–(2)–(b), IV–E–1–b–(2)–(c), and IV–E–1–b–(3)–(b).)

In the classification of containment criteria for different kinds of recombinant DNAs, the stated levels of physical and biological containment are minimal for the experiments designated. The use of higher levels of biological containment (HV3<HV2<HV1) is encouraged if they are available and equally appropriate for the purposes of the experiment.

III–O. *Classification of Experiments Using E. coli K–12 and Saccharomyces cerevisiae Host-Vector Systems.* Most recombinant DNA experiments currently being done employ *E. coli* K–12 host-vector systems; others employ the *S. cerevisiae* host-vector systems. These are the systems for which we have the most experience and knowledge.

Some experiments using *E. coli* K–12 and *S. cerevisiae* host-vector systems and prohibited (see Section I–D).

Some experiments using *E. coli* K–12 and *S. cerevisiae* host-vector systems are exempt from the Guidelines (see Section I–E).

Experiments using *E. coli* K–12 host-vector systems and DNA from Class 3 organisms [1] or from cells known to be infected with these agents will be conducted at P3 containment or at a lower level as specified by NIH (See Section IV–E–1–b–2–(e)).

Other experiments using *E. coli* K–12 or laboratory strains of *S. cerevisiae* shall use P1 physical containment and, except as specified in the last paragraph of this section, an HV1 host-vector system [i.e., for experiments using *E. coli* K–12 (a) the *E. coli* host shall not contain conjugation-proficient plasmids or generalized transducing phages, and (b) lambda or lambdoid or Ff bacteriophages or non-conjugative plasmids [49] shall be used as vectors. For experiments in *S. cerevisiae*, laboratory strains shall be used]. For these experiments review by the IBC prior to the initiation of the experiment is not required. An exception, however, which does require prior review and approval by the IBC is any experiment in which there is a deliberate attempt to have the *E. coli* K–12 efficiently express as a protein product the information carried in any gene derived from a eukaryotic organism or from any virus or viroid which infects a eukaryotic organism.

Experiments involving the insertion into *E. coli* K–12 of DNA from prokaryotes that exchange genetic information with *E. coli* by known physiological processes will be exempted from these Guidelines if they appear on the "list of exchangers" set forth in Appendix A (see Section I–E–4).

For those not on the Appendix A list but which exchange genetic information (*35*) with *E. coli*, experiments may be performed with any *E. coli* K–12 vector (e.g., conjugative plasmid). When a non-conjugative vector is used, the *E. coli* K–12 host may contain conjugation-proficient plasmids, either autonomous or integrated, or generalized transducing phages.

III–O–1. *Experiments Involving Class 3 Organisms.* Experiments involving recombinant DNA from Class 3 organisms (*1*) or from cells known to be infected with these agents may be conducted at P3 containment in *E. coli* K–12 EK1 hosts (see Section III–O). Containment levels for all other experiments with Class 3 organisms or with recombinant DNA which increases the virulence and host range of a plant pathogen beyond that which occurs by natural genetic exchange will be determined by NIH. (See Section (IV–E–1–b–2–(e)).

III–A. *Classification of Experiments Using Certain HV1 and HV2 Host-Vector Systems.* Certain HV1 and HV2 host-vector systems are assigned containment levels as specified in the subsections of this Section III–A. Those so classified as of publication of these revised Guidelines are listed in Appendix D. An updated list may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205.

III–A–1. *Shotgun Experiments.* These experiments involve the production of recombinant DNAs between the vector and portions of the specified cellular source, preferably a partially purified fraction. Care should be taken either to preclude or eliminate contaminating microoganisms before isolating the DNA.

III–A–1–a. *Eukaryotic DNA Recombinants.*

III–A–1–a–(1). *Primates.* P2 physical containment + an HV2 host-vector or P3 + HV1.

III–A–1–a–(2). *Other Mammals.* P2 physical containment + an HV2 host-vector or P3 + HV1.

III–A–1–a–(3). *Birds.* P2 physical containment + an HV2 host-vector, or P3 + HV1.

III–A–1–a–(4). *Cold-Blooded Vertebrates.* P2 physical containment + an HV1 host-vector or P1 + HV2. If the eukaryote is known to produce a potent polypeptide toxin, (*34*) the containment shall be increased to P3 + HV2.

III–A–1–a–(5). *Other Cold-Blooded Animals and Lower Eukaryotes.* This large class of eukaryotes is divided into two groups:

III–A–1–a–(5)–a. Species that are known to produce a potent polypeptide toxin (*34*) that acts in vertebrates, or are known pathogens listed in Class 2, (*1*) or are known to carry such pathogens must use P3 physical containment + an HV2 host-vector. When the potent toxin is not a polypeptide and is likely not to be the product of closely linked eukaryote genes, containment may be reduced to P3+HV1 or P2+HV2. Species that produce potent toxins that affect invertebrates or plants but not vertebrates require P2+HV2 or P3+HV1. Any species that has a demonstrated capacity for carrying particular pathogenic microorganisms is included in this group, unless the organisms used as the source of DNA have been shown not to contain those agents, in which case they may be placed in the following group. (*2A*)

III–A–1–a–(5)–(b). The remainder of the species in this class including plant pathogenic or symbiotic fungi that do not produce potent toxins: P2+HV1 or P1+HV2. However, any insect in this group must be either (i) grown under laboratory conditions for at least 10 generations prior to its use as a source of DNA, or (ii) if caught in the wild, must be shown to be free of disease-causing microorganisms or must belong to a species that does not carry microorganisms causing disease in vertebrates or plants. (*2A*) If these conditions cannot be met, experiments must be done under P3+HV1 or P2+HV2 containment.

III–A–1–a–(6). *Plants.* P2 physical containment + an HV1 host-vector, or P1+HV2. If the plant source makes a potent polypeptide toxin, (*34*) the containment must be raised to P3 physical containment + HV2 host-vector. When the potent toxin is not a polypeptide and is likely not to be the product of closely linked plant genes, containment may be reduced to P3+HV1 or P2+HV2. (*2A*)

III–A–1–b. *Prokaryotic DNA Recombinants.* P2+HV1 or P1+HV2 for experiments with phages, plasmids and DNA from nonpathogenic prokaryotes which do not produce polypeptide toxins. (*34*) P3+HV2 for experiments

with phages, plasmids and DNA from Class 2 agents. (*1*)

III–A–2–a. *Viruses of Eukaryotes* (summary given in Table III; see also exception given at asterisk at end of Appendix D).

III–A–2–a–(1). *DNA Viruses.*

III–A–2–a–(1)–(a). *Nontransforming viruses.*

III–A–2–a–(1)–(a)–(*1*). *Adeno-Associated Viruses, Minute Virus of Mice, Mouse Adenovirus (Strain FL, and Plant Viruses. (48)* P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with (i) the whole viral genome, (ii) subgenomic DNA segments, or (iii) purified cDNA copies of viral mRNA. (*37*)

III–A–2–a–(1)–(a)–(*2*). *Hepatitis B.*

III–A–2–a–(1)–(a)–(*2*)–(*a*). P1 physical containment + an HV1 host-vector shall be used for purified subgenomic DNA segments. (*38*)

III–A–2–a–(1)–(a)–(*2*)–(*b*). P2 physical containment + an HV2 host-vector, or P3 + HV1, shall be used for DNA recombinants produced with the whole viral genome or with subgenomic segments that have not been purified to the extent required in footnote 38.

III–A–2–a–(1)–(a)–(*2*)–(c). P2 physical containment + an HV1 host-vector shall be used for DNA recombinants derived from purified cDNA copies of viral mRNA.(*37*)

III–A–2–a–(1)–(a)–(*3*). *Other Nontransforming Member of Presently Classified Viral Families.(36)*

III–A–2–a–(1)–(a)–(*3*)–(*a*). P1 physical containment + an HV1 host-vector shall be used for (i) DNA recombinants produced with purified subgenomic DNA(*38*) segments or (ii) purified cDNA copies of viral mRNA.(*37*)

III–A–2–a–(1)–(a)–(*3*)–(*b*). P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with the whole viral genome or with subgenomic segments that have not been purified to the extent required in footnote 38.

III–A–2–a–(1)–(b). *Transforming Viruses.(37A)*

III–A–2–a–(1)–(b)–(*1*). *Herpes Saimiri, Herpes Ateles, and Epstein Barr Virus.(39)*

III–A–2–a–(1)–(b)–(*1*)–(*a*). P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with purified nontransforming subgenomic DNA segments.(*38*)

III–A–2–a–(1)–(b)–(*1*)–(*b*). P2 physical containment + an HV1 host-vector shall be used for (i) DNA recombinants produced with purified subgenomic DNA segments containing an entire transforming gene(*38*) or (ii) purified cDNA copies of viral mRNA.(*37*)

III–A–2–a–(1)–(b)–(*1*)–(*c*). P3 physical containment + an HV1 host-vector, or P2 + HV2, shall be used for DNA recombinants produced with the whole viral genome or with subgenomic segments that have not been purified to the extent required in footnote 38.

III–A–2–a–(1)–(b)–(*2*). *Other Transforming Members of Presently Classified Viral Families.(36)*

III–A–2–a–(1)–(b)–(*2*)–(*a*). P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with purified nontransforming subgenomic DNA segments(*38*)

III–A–2–a–(1)–(b)–(*2*)–(*b*). P2 physical containment + an HV1 host-vector shall be used for (i) DNA recombinants produced with the whole viral genome, (ii) subgenomic DNA segments containing an entire transforming gene, (iii) purified cDNA copies of viral mRNA.(*37*) or (iv) subgenomic segments that have not been purified to the extent required in footnote 38.

III–A–2–a–(2). *DNA Transcripts of RNA Viruses.*

III–A–2–a–(2)–(a). *Retroviruses.*

III–A–2–a–(2)–(a)–(*1*). *Gibbon Ape, Woolly Monkey, Feline Leukemia and Feline Sarcoma Viruses.(39)*

III–A–2–a–(2)–(a)–(*1*)–(*a*). P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with purified nontransforming subgenomic DNA segments.(*38*)

III–A–2–a–(2)–(a)–(*1*)–(*b*). P2 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with purified subgenomic DNA segments.(*38*) containing an entire transforming gene.

III–A–2–a–(2)–(a)–(*1*)–(*c*). P2 physical containment + an HV2 host-vector, or P3 + HV1, shall be used for DNA recombinants produced with (i) the whole viral genome, (ii) purified cDNA copies of viral mRNA.(*37*) or (iii) subgenomic segments that have not been purified to the extent required in footnote 38.

III–A–2–a–(2)–(b). *Negative Strand RNA Viruses.* Pl physical containment + an HV1 host-vector shall be used for DNA recombinants produced with (i) cDNA copies of the whole genome, (ii) subgenomic cDNA segments, or (iii) purified cDNA copies of viral mRNA. (*37*)

III–A–2–a–(2)–(c). *Plus-Strand RNA Viruses.*

III–A–2–a–(2)–(c)–(*1*). *Types 1 and 2 Sabin Poliovirus Vaccine Strains and Strain 17D (Theiler) of Yellow Fever Virus.* P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with (i) cDNA copies of the whole viral genome, (ii) subgenomic cDNA segments, or (iii) purified cDNA copies of viral mRNA. (*37*)

III–A–2–a–(2)–(c)–(*2*). *Other Plus-Strand RNA Viruses Belonging to Presently Classified Viral Families. (36)*

III–A–2–a–(2)–(c)–(*2*)–(*a*). P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with purified subgenomic cDNA segments. (*38*)

Table III.—*Recommended Containment for Cloning of Viral DNA or cDNA in Certain HV1 and HV2 Systems Specified in Appendix D*

[See text for full details]

Virus class	Type of viral DNA segment to be cloned				
	Subgenomic [38]		Genomic[1]		cDNA from viral mRNA [37]
	Non-transforming segment	Segment containing an entire transforming gene	Nonsegmented genome	Segmented genome	
DNA:					
Nontransforming viruses:					
AAV, MVM, mouse adeno (strain FL)	P1+HV1	.....	P1+HV1	.....	P1+HV1
Plant viruses	P1+HV1	.....	P1+HV1	.....	P1+HV1
Hepatitis B	P1+HV1[38]	.....	P2+HV2 or P3+HV1	.....	P2+HV1
Other	P1+HV1[38]	.....	P1+HV1	.....	P1+HV1
Transforming viruses:					
Herpes Saimiri, H. Ateles and EBV [39]	P1+HV1[38]	P2+HV1	P2+HV2 or P3+HV1	.....	P2+HV1

Table III.—*Recommended Containment for Cloning of Viral DNA or cDNA in Certain HV1 and HV2 Systems Specified in Appendix D*—Continued

Virus class	Type of viral DNA segment to be cloned				
	Subgenomic [38]		Genomic[1]		cDNA from viral mRNA [37]
	Non-transforming segment	Segment containing an entire transforming gene	Nonsegmented genome	Segmented genome	
Plus-strand RNA:					
Poliovirus Sabin strains, Yellow Fever 17D (Theiler)	P1+HV1	.....	P1+HV1	.....	P1+HV1
Other	P2+HV2 or P3+HV1	.....	P2+HV2 or P3+HV1	.....	P2+HV1
Negative-strand RNA	P1+HV1	.....	P1+HV1	.....	P1+HV1
Retroviruses:					
Gibbon Ape, Woolly Monkey, Feline Leukemia and Feline Sarcoma	P1+HV1	P2+HV1	P1+HV1	.....	P1+HV1
Other	P2+HV2 or P3+HV1	.....	P2+HV2 or P3+HV1	.....	P2+HV1

[1] Segmented genomes are those that are packaged in separate virions. Nonsegmented genomes are those that are packaged in a single virion.

[2] Segmented genomes are those that are packaged in separate virions. Nonsegmented genomes are those that are packaged in a single virion.

III–A–3–b. *Characterized Clones of DNA Recombinants.* When a cloned

III–B–3. *Non-HV1 Systems.* Containment levels for other classes of organisms that do not produce potent polypeptide toxins.(*34*).

absence of helper), provided the inserted DNS sequences are not derived

Table III.—*Recommended Containment for Cloning of Viral DNA or cDNA in Certain HV1 and HV2 Systems Specified in Appendix D*—Continued

[See text for full details]

Virus class	Type of viral DNA segment to be cloned				
	Subgenomic [38]		Genomic[1]		cDNA from viral mRNA [37]
	Non-transforming segment	Segment containing an entire transforming gene	Nonsegmented genome	Segmented genome	
Other	P1+HV1[38]	P2+HV1	P2+HV1	.....	P2+HV1
RNA:					
Retroviruses:					
Gibbon ape, woolly monkey FeLV and FeLIV [39].	P1+HV1[38]	P2+HV1	P2+HV2 or P3+HV1	.....	P2+HV2 or P3+HV1
Other	P1+HV1[38]	P2+HV1	P2+HV1	.....	P2+HV1
Negative-Strand RNA	P1+HV1	.....	P1+HV1	P1+HV1	P1+HV1
Plus-Strand RNA:					
Types 1 and 2 Sabin polio, 17D yellow fever vaccine strains.	P1+HV1	.....	P1+HV1	.....	P1+HV1
Other	P1+HV1[38]	.....	P2+HV1	.....	P2+HV1
Double-stranded RNA	P1+HV1	.....	.....	P1+HV1	P1+HV1
Plant viruses + viroids	P1+HV1	.....	P1+HV1	P1+HV1	P1+HV1
Intracellular viral DNA	[2]	[2]	[2]	.....	

[1] See exception given at asterisk at end of appendix D.
[2] See text.

III–A–2–a–(2)–(c)–(*2*)–(*b*). P2 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with (i) cDNA copies of the whole genome, or (ii) purified cDNA copies of viral mRNA.*(37)*

III–A–2–a–(2)–(d). *Double-Stranded Segmented RNA Viruses.* P1 physical containment + an HV1 host-vector shall be used for DNA recombinants produced with (i) mixtures of subgenomic cDNA segments, (ii) a specific subgenomic cDNA segment, or (iii) purified cDNA copies of viral mRNA.*(37)*

III–A–2–a–(2)–(e). *RNA Plant Viruses and Plant Viroids.* (*46*) P1l physical containment + an HV1 host-vector shall be used for DNA recombinants produced with (i) cDNA copies of the whole viral genome, (ii) subgenomic cDNA segments, or (iii) purified cDNA copies of viral mRNA.*(37)*

III–A–2–a–(3). *Intracellular Viral DNA.* Physical and biological containment specified for shotgun experiments with eukaryotic cellular DNA [see Section III–A–(1)–(a)] shall be used for DNA recombinants produced with integrated viral DNA or viral genomes present in infected cells.

III–A–2–b. *Eukaryotic Organelle DNAs.* P2 phycial containment + an HV1 host-vector, or P1l + HV2, for mitochondrial or chloroplast DNA from eukaryotes when the organelle DNA has been obtained from isolated organelles. Otherwise, the conditions given for shotgun experiments apply.

III–A–2–c. *Prokaryotic Plasmid and Phage DNAs.* The containment levels required for shotgun experiments with DNA from prokaryotes apply to their plasmids or phages (See Section III–A–1–b.)

III–A–3. *Lowering of Containment Levels for Characterized or Purified DNA Preparations and Clones.* Many of the risks which might conceivably arise from some types of recombinant DNA experiments, particularly shotgun experiments, would result from the inadvertent cloning of a harmful sequence. Therefore, in cases where the risk of inadvertently cloning the "wrong" DNA is reduced by prior enrichment for the desired piece, or in which a clone made from a random assortment of DNAs has been purified and the absence of harmful sequences established, the containment conditions for further work may be reduced. The following section outlines the mechanisms for such reductions.

III–A–3–a. *Purified DNA Other than Plasmids, Bacteriophages, and Other Viruses.* The formation of DNA recombinants from cellular DNAs that have been purified (*41*) and in which the absence of harmful sequences has been established (*3*) can be carried out under lower containment conditions than used for the corresponding shotgun experiment.(*42*). The containment may be decreased one step in physical containment (P4+P3; P3+P2; P2+P1) while maintaining the biological containment specified for the shotgun experiment, or one step in biological containment (HV3+HV2; HV2+HV1) while maintaining the specified physical containment. The Institutional Biosafety Committee (IBC) must review such a reduction and the approval of the IBC and of the NIH must be secured before such a reduction may be put into effect. IBC approval is sufficient for such a reduction except for any lowering of containment under Section III–A–3–a to levels below P1+HV1, which requires prior NIH approval. (See Section IV–E–1–b–(3)–(e).)

III–A–3–b. *Characterized Clones of DNA Recombinants.* When a cloned DNA recombinant has been rigorously characterized and the absence of harmful sequences has been established (*3*) experiments involving this recombinant DNA may be carried out under lower containment conditions. Institutional Biosafety Committees (IBCs) may give approval for a single-step reduction in physical or biological containment on receipt of evidence of characterization of a clone derived from a shotgun experiment and its probable freedom from harmful genes. IBC approval is sufficient for such a reduction except for any lowering of containment under Section III–A–3–b to levels below P1+HV1, or reduction of containment levels by more than one step, which also requires prior NIH approval. (See Section IV–E–1–b–3–(e).)

III–B. *Experiments with Prokaryotic Host-Vectors Other Than E. coli K–12*

III–B–1. *HV1 and HV2 Systems.* Certain certified HV1 and HV2 host-vector systems appear in Appendix D. The containment levels for these systems are given in the subsections of Section III–A. Other systems in the future may be certified as HV1 and HV2. At the time of certification, the classification of containment levels for experiments using them will be assigned by NIH.

III–B–2. *Return of DNA Segments to Prokaryotic Non-HV1 Host of Origin.* Certain experiments involving those prokaryotes that echange genetic information with *E. coli* by known physiological processes will be exempt from these Guidelines if they appear on the "list of exchangers" set forth in Appendix A (see Section I–E–4). For a prokaryote which can exchange genetic information(*35*) with *E. coli* under laboratory conditions but which is not on the list (Host A), the following type of experiment may be carried out under P1 conditions without Host A having been approved as an HV1 host: DNA from Host A may be inserted into a vector and propagated in *E. coli* K–12 under P1 conditions. Subsequently, this recombinant DNA may be returned to Host A by mobilization, transformation, or transduction and may then be propagated in Host A in any desired vector under P1 conditions.

For a prokaryote which does not exchange genetic information with *E. coli* (Host B), the following type of experiment may be carried out without Host B having been approved as an HV1 host: DNA from Host B may be inserted into a vector and propagated in *E. coli* K–12 under P1 conditions. Subsequently, this recombinant DNA may be returned to Host B and progagated in Host B under P1 conditions.(*43*)

III–B–3. *Non-HV1 Systems.* Containment levels for other classes of experiments involving non-HV1 systems may be approved by the Director, NIH. (See Sections IV–E–1–b–(1)–(b), IV–E–1–b–(2)–(c), and IV–E–1–b–(3)–(b).)

In those cases where genetic exchange has not been demonstrated between two bacterial species A and B, neither of which is known to be pathogenic for man, animals, or plants, recombinant DNA experiments involving only A and B can be conducted under P3 containment.(*2A*) Lower levels of physical containment may be assigned by NIH for specific donor-recipient combinations (See Section IV–E–1–b–2–(f)).

III–C. *Experiments with Eukaryotic Host-Vectors.*

III–C–1. *Vertebrate Host-Vector System.* (*44*) The subsections of Sections III–C–1–a, –b, –c and –d involve the use of specific viral vectors, namely polyoma, SV40, human adenoviruese 2 and 5, and mouse adenovirus strain FL, respectively. The subsections of Section III–C–1–e involve the use of all viral vectors including the specific viral vectors considered in the subsections of Sections III–C–1–a, –b, –c and –d, as well as any other viral vector. When the reader finds that the containment level given for specific experiment in a subsection of Section III–C–1–e is different from the containment level given in a subsection of Section III–C–1–a, –b, –c or –d, he may choose which of the two containment levels he wishes to use for the experiment.

III–C–1–a. *Polyoma Virus.*

III–C–1–a–(1). *Productive Virus-Cell Interactions.*

III–C–1–a–(1)–(a). Defective or whole polyoma virus genomes, with appropriate helper, if necessary, can be used in P2 conditions to propagate DNA sequences:

III–C–1–a–(1)–(a)–(*1*). from bacteria of Class 1 or Class 2 (*1*) or their phages or plasmids, except for those that produce potent polypeptide toxins; (*34*)

III–C–1–a–(1)–(a)–(*2*). from mice;

III–C–1–a–(1)–(a)–(*3*). from eukaryotic organisms that do not produce potent polypeptide toxins, (*34*) provided that the DNA segment is > 99% pure.

III–C–1–a–(1)–(b). Defective polyoma genomes with appropriate helper, if necessary, can be used in P2 conditions for shotgun experiments to propagate DNA sequences from eukaryotic organisms that do not produce potent polypeptide toxins.(*34*)

III–C–1–a–(1)–(C). Whole virus genomes with appropriate helper, if necessary, can be used in P3 conditions for shotgun experiments to propagate DNA sequences from eukaryotic organisms that do not produce potent polypeptide toxins.(*34*).

III–C–1–a–(1)–(d). Experiments involving the use of defective polyoma virus genomes to propagate DNA sequences from eukaryotic viruses will be evaluated by NIH on a case-by-case basis(*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–a–(2). *Nonproductive Virus-Cell Interactions.* Defective or whole polyoma virus genomes can be used as vectors in P2 conditions when production of viral particles cannot occur (e.g., transformation of nonpermissive cells or propagation of an unconditionally defective recombinant genome in the absence of helper), provided the inserted DNA sequences are not derived from eukaryotic viruses. In the latter case, such experiments will be evaluated by NIH on a case-by-case basis(*45*) and will be conducted under the prescribed physical and biological containment conditions (See Section IV–E–1–b–(3)–(c).)

III–C–1–b. *Simian Virus 40.*

III–C–1–b–(1). *Productive Virus-Cell Interactions.*

III–C–1–b–(1)–(a). SV40 DNA, rendered unconditionally defective by a deletion in an essential gene, with appropriate helper, can be used in P2 conditions to propagate DNA sequences from:

III–C–1–b–(1)–(a)–(*1*). bacteria of Class 1 or Class 2,(*1*) or their phages or plasmids, except for those that produce potent polypeptide toxins;(*34*)

III–C–1–b–(1)–(a)–(*2*). unifected African green monkey kidney cell cultures.

III–C–1–b–(1)–(b). SV40 DNA, rendered unconditionally defective by a deletion in an essential gene with an appropriate helper, can be used in P3 conditions to propagate DNA sequences from eukaryotic organisms that do not produce potent polypeptide toxins(*34*) (Shotgun experiments or purified DNA).

III–C–1–b–(1)–(c). Experiments involving the use of defective SV40 genomes to progagate DNA sequences from eukaryotic viruses will be evaluated by NIH on a case-by-case basis(*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–b–(2). *Nonproductive Virus-Cell Interactions.* Defective or whole SV40 genomes can be used as vectors in P2 conditions when production of viral particles cannot occur (e.g., transformation of nonpermissive cells or propagation of an unconditionally defective recombinant genome in the absence of helper), provided the inserted DNA sequences are not derived from eukaryotic viruses. In the latter case, such experiments will be evaluated by NIH on a case-by-case basis(*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–c. *Human Adenoviruses 2 and 5.*

III–C–1–c–(1). *Productive Virus-Cell Interactions.*

III–C–1–c–(1)–(a). Human adenoviruses 2 and 5, rendered unconditionally defective by deletion of at least two essential genes, with appropriate helper, can be used in P3 conditions to propagate DNA sequences from:

III–C–1–c–(1)–(a)–(*1*). Bacteria of Class 1 or Class 2 (*1*) or their phages or plasmids except for those that produce potent ploypeptide toxins; (*34*).

III–C–1–c–(1)–(a)–(2). Eukaryotic organisms that do not produce potent polypeptide toxins (*34*) (shotgun experiments or purified DNA).

III–C–1–c–(1)–(b). Experiments involving the use of unconditionally defective human adenovirus 2 and 5 genomes to propagate DNA sequences from eukaryotic viruses will be evaluated by NIH on a case-by-case basis (*45*) and will be conducted under the prescribed physical and biological containment conditions. [See Section IV–E–1–b–(3)–(c).)

III–C–1–c–(2). *Nonproductive Virus-Cell Interactions.* Defective or whole human adenovirus 2 and 5 genomes can be used as vectors in P2 conditions when production of viral particles cannot occur (e.g., transformation of nonpermissive cells or propagation of an unconditionally defective recombinant genome in the absence of helper), provided the inserted DNA sequences are not derived from eukaryotic viruses. In the latter case, such experiments will be evaluated by NIH on a case-by-case basis (*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–d. *Murine Adenovirus Strain FL.*

III–C–1–d–(1). *Productive Virus-Cell Interactions.*

III–C–1–d–(1)–(a). Unconditionally defective murine adenovirus strain FL genomes, with appropriate helper, can be used in P2 conditions to propagate DNA sequences from:

III–C–1–d–(1)–(a)–(*1*). Bacteria of Class 1 or Class 2 (*1*) or their phages or plasmids except for those that produce potent polypeptide toxins; (*34*).

III–C–1–d–(1)–(a)–(*2*). Eukaryotic organisms that do not produce potent polypeptide toxins (*34*) (shotgun

III–C–1–e–(2). Experiments involving the use of other whole or defective virus genomes to propagate DNA sequences

evaluated by NIH on a case-by-case basis. (*45*)

Experiments involving the use of plant genomes to propagate DNA sequences from eukaryotic viruses will

Containment levels for other classes of experiments involving non-HV1

cellular RNAs that are not purified and characterized are included under III–A–

III–C–1–d–(1)–(a)–(2). Eukaryotic organisms that do not produce potent polypeptide toxins (*34*) (shotgun experiments or purified DNA).

III–C–1–d–(1)–(b). Experiments involving the use of whole murine adenovirus strain FL genomes to propagate DNA sequences from prokaryotic or eukaryotic organisms will be evaluated by NIH on a case-by-case basis (*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–d–(1)–(c). Experiments involving the use of unconditionally defective murine adenovirus strain FL genomes to propagate DNA sequences from eukaryotic viruses will be evaluated by NIH on a case-by-case basis (*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–d–(2). *Nonproductive Virus-Cell Interactions.* Defective or whole murine adenovirus strain FL genomes can be used as vectors in P2 conditions when production of viral particles cannot occur (e.g., transformation of nonpermissive cells or propagation of an unconditionally defective recombinant genome in the absence of helper), provided the inserted DNA sequences are not derived from eukaryotic viruses. In the latter case, such experiments will be evaluated by NIH on a case-by-case basis (*45*) and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–1–e. All Viral Vectors.

III–C–1–e–(1). Other experiments involving eukaryotic virus vectors can be done as follows:

III–C–1–e–(1)–(a). Recombinant DNA molecules containing no more that two-thirds of the genome of any eukaryotic virus [all viruses from a single Family (*36*) being considered identical (*50*)] may be propagated and maintained in cells in tissue culture using P1 containment. For such experiments, it must be shown that the cells lack helper virus for the specific Families of defective viruses being used. The DNA may contain fragments of the genomes of viruses from more than one Family but each fragment must be less than two-thirds of a genome.

III–C–1–e–(1)–(b). Recombinants with less than two-thirds of the genome of any eukaryotic virus may be rescued with a helper virus using P2 containment if wild type strains of the virus are CDC Class 1 or 2 agents, or using P3 containment if wild type strains of the virus are CDC Class 3 agents *(1)*.

III–C–1–e–(2). Experiments involving the use of other whole or defective virus genomes to propagate DNA sequences from prokaryotic or eukaryotic organisms (and viruses), or as vectors to transform nonpermissive cells, will be evaluated by NIH on a case-by-case basis *(45)* and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

NIH will also review on a case-by-case basis *(45)* all experiments involving the use of virus vectors in animals and will prescribe the physical and biological containment conditions appropriate for such studies. (See Section IV–E–1–b–(3)–(c).)

III–C–1–f. *Nonviral Vectors.* Organelle, plasmid, and chromosomal DNAs may be used as vectors. DNA recombinants formed between such vectors and host DNA, when propagated only in that hose (or a closely related strain of the same species), are exempt from these Guidelines (see Section I–E). DNA recombinants formed between such vectors and nonviral DNA from cells other than the host species require only P1 physical containment for cells in culture since vertebrate cells in tissue culture inherently exhibit a very high level of containment. Recombinants involving viral DNA or experiments which require the use of the whole animals will be evaluated by NIH on a case-by-case basis. *(45)*

III–C–2. *Invertebrate Host-Vector Systems.*

III–C–2–a. *Insect Viral Vectors.* As soon as information becomes available on the host range restrictions and on the infectivity, persistence, and integration of the viral DNA in vertebrate and invertebrate cells, experiments involving the use of insect viruses to propagate DNA sequences will be evaluated by NIH on a case-by-case basis *(45)* and will be conducted under the recommended physical containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–2–b. *Nonviral Vectors.* Organelle, plasmid, and chromosomal DNAs may be used as vectors. DNA recombinants formed between such vectors and host DNA, when propagated only in that host (or a closely related strain of the same species), are exempt from these Guidelines (See Section I–E). DNA recombinants formed between such vectors and DNA from cells other than the host species require P1 physical containment for invertebrate cells in culture since invertebrate cells in culture inherently exhibit a very high level of containment. Experiments which require the use of whole animals will be evaluated by NIH on a case-by-case basis. *(45)*

III–C–3. *Plant Viral Host-Vector Systems. (48)* The DNA plant viruses which could currently serve as vectors for cloning genes in plants and plant cell protoplasts are Cauliflower Mosiac Virus (CaMV) and its close relatives *(2A)* which have relaxed circular double-stranded DNA genomes with a molecular weight of 4.5×10^6, and Bean Golden Mosaic Virus (BGMV) and related viruses with small ($<10^6$ daltons) single-stranded DNA genomes. CaMV is spread in nature by aphids, in which it survives for a few hours. Spontaneous mutants of CaMV which lack a factor essential for aphid transmission arise frequently. BGMV is spread in nature by whiteflies, and certain other single-stranded DNA plant viruses are transmitted by leafhoppers.

The DNA plant viruses have narrow host ranges and are relatively difficult to transmit mechanically to plants. For this reason, they are most unlikely to be accidentally transmitted from spillage of purified virus preparations.

When these viruses are used as vectors in intact plants, or propagative plant parts, the plants shall be grown under P1 conditions—that is, in either a limited access greenhouse or plant growth cabinet which is insect-restrictive, preferably with positive air pressure, *(2A)* and in which an insect fumigation regime is maintained. Soil, plant pots, and unwanted infected materials shall be removed from the greenhouse or cabinet in sealed insect-proof containers and sterilized. It is not necessary to sterilize run-off water from the infected plants, as this is not a plausible route for secondary infection. When the viruses are used as vectors in tissue cultures or in small plants in axenic cultures, no special containment is necessary.

Infected plant materials which have to be removed from the greenhouse or cabinet for further research shall be maintained under insect-restrictive conditions. These measures provide an entirely adequate degree of containment. They are similar to those required in many countries for licensed handling of "exotic" plant viruses.

The viruses or their DNA may also be useful as vectors to introduce genes into plant protoplasts. The fragility of plant protoplasts combined with the properties of the viruses provides adequate safety. Since no risk to the environment from the use of the DNA plant virus/protoplast system is envisaged, no special containment is necessary, except as described in the following paragraph.

Experiments involving the use of plant genomes to propagate DNA sequences from eukaryotic viruses will be evaluated by NIH on a case-by-case basis *(45)* and will be conducted under the prescribed physical and biological containment conditions. (See Section IV–E–1–b–(3)–(c).)

III–C–4. *Plant Host-Vector Systems Other than Viruses. (48)* Organelle, plasmid, and chromosomal DNAs may be used as vectors. DNA recombinants formed between such vectors and host DNA, when propagated only in that host (or a closely related strain of the same species), are exempt from these guidelines (see Section I–E). DNA recombinants formed between such vectors and DNA from cells other than the host species require P2 physical containment. The development of host-vector systems that exhibit a high level of biological containment, such as those using protoplasts or undifferentiated cells in culture, permit *(2A)* a decrease in the physical containment to P1.

Intact plants or propagative plant parts which cannot be grown in a standard P2 laboratory because of their large size may be grown under the P1 conditions described above in Section III–C–3, except that (i) sterilization of run-off water is required where this is a plausible route for secondary infection and (ii) the standard P2 practices are adopted for microbiological work, and (iii) negative air pressure should be employed in the greenhouse or growth chamber when infectious agents are used which generate airborne propagules.

III–C–5. *Fungal or Similar Lower Eukaryotic Host-Vector Systems.*

Certain certified HV1 and HV2 host-vector system appear in Appendix D. The containment levels for these systems are given in the subsections of Section III–A. Other systems in the future may be certified as HV1 and HV2. At the time of certification, they may be added to Appendix D (and thus the containment levels for their use will be those of the subsections of Section III–A). Alternatively, at the time of their certification, another classification of containment levels for experiments using them may be assigned by NIH.

In addition to the experiments described above, the following experiments may be carried out without the eukaryotic host (Host C) having been approved as an HV1 host: DNA from Host C may be inserted into a vector and propagated in *E. coli* K–12 under P1 conditions. Subsequently, this recombinant DNA may be returned to Host C and propagated there under P1 conditions. *(43)*

Containment levels for other classes of experiments involving non-HV1 systems may be expressly approved by the Director, NIH. (See Sections IV–E–1–b–(1)–(b), IV–E–1–b–(2)–(c), and IV–E–1–b–(3)–(b).)

III–C–6. *Return of DNA Segments to a Higher Eukaryotic Host of Origin.* DNA from a higher eukaryote (Host D) may be inserted into a vector and propagated in *E. coli* K–12 under P1 containment conditions. Subsequently, this recombinant DNA may be returned to Host D and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study. *(2A)*

III–C–7. *Transfer of cloned DNA Segments to Eukaryotic Organisms.*

III–C–7–a. *Transfer to Non-human Vertebrates.* DNA from any nonprohibited source [Section I–D], except for greater than one quarter of a eukaryotic viral genome, which has been cloned and propagated in *E. coli* under P1 conditions, may be transferred with the *E. coli* vector used for cloning to any eukaryotic cells in culture or to any non-human vertebrate organism and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study. *(2A)*. Transfers to any other host will be considered by the RAC on a case-by-case basis *(45)*.

III–C–7–b. *Transfer to Higher Plants.* DNA from any nonprohibited source [Section I–D] which has been cloned and propagated in *E. coli* or *S. cerevisiae* under P1 conditions, may be transferred with the *E. coli* or *S. cerevisiae* vector used for cloning to any higher plant organisms (Angiosperms and Gymnosperms) and propagated under conditions of physical containment comparable to P1 and appropriate to the organism under study (*2A*). Intact plants or propagative plant parts may be grown undr P1 conditions described undr Section III–C–3. Containment must be modified to ensure that the spread of pollen, seed or other propagules is prevented. This can be accomplished by conversion to negative pressure in the growth cabinet or greenhouse or by physical entrapment by "bagging" of reproductive structures. Transfers to any other plant organisms will be considered on a case-by-case basis (*45*).

III–D. *Complementary DNAs.* Specific containment levels are given in Section III–A–2–a (see also last column of Table III) for complementary DNA (cDNA) of viral mRNA. For the other Sections of the Guidelines, where applicable, cDNAs synthesized *in vitro* are included within each of the above classifications. For example, cDNAs formed from cellular RNAs that are not purified and characterized are included under III–A–1, shotgun experiments; cDN's formed from purified and characterized RNAs are included under III–A–3; etc.

Due to the possibility of nucleic acid contamination of enzyme preparations used in the preparation of cDNAs, the investigator must employ purified enzyme preparations that are free of viral nucleic acid.

III–E. *Synthetic DNAs.* If the synthetic DNA segment is likely to (*2A*) yield a potentially harmful polynucleotide or polypeptide (e.g., a toxin or a pharmacologically active agent), the containment conditions must be as stringent as would be used for propagating the natural DNA counterpart.

If the synthetic DNA sequence codes for a harmless product,(2A) it may be propagated at the same containment level as its purified natural DNA counterpart. For example, a synthetic DNA segment which corresponds to a nonharmful gene of birds, to be propagated in *Saccharomyces cerevisiae*, would require P2 physical containment plus an HVI host-vector, or P1+ HV2.

If the synthetic DNA segment is not expressed *in vivo* as a polynucleotide or polypeptide product, the organisms containing the recombinant DNA molecule are exempt (*4*) from the Guidelines.

IV. Roles and Responsibilities

IV–A. *Policy.* Safety in activities involving recombinant DNA depends on the individual conducting them. The Guidelines cannot anticipate every possible situation. Motivation and good judgement are the key essentials to protection of health and the environment.

The Guidelines are intended to help the Institution, the Institutional Biosafety Committee (IBC), the Biological Safety Officer, and the Principal Investigator determine the safeguards that should be implemented. These Guidelines will never be complete or final, since all conceivable experiments involving recombinant DNA cannot be foreseen. Therefore, it is the responsibility of the Institution and those associated with it to adhere to the *purpose* of the Guidelines as well as to their speifics.

Each Institution (and the IBC acting on its behalf) is responsible for ensuring that recombinant DNA activities comply with the Guidelines. General recognition of institutional authority and responsibility properly establishes accountability for safe conduct of the research at the local level.

The following roles and

(i) reviewing and coordinating all

D–2 and carries out the functions

IV–D–2–a. The IBC shall comprise no

comply with instructions and procedures

accident that appears to be a hazard to the

The following roles and responsibilities constitute an administrative framework in which safety is an essential and integral part of research involving recombinant DNA molecules. Further clarifications and interpretations of roles and responsibilities will be issued by NIH as necessary.

IV–B. *General Applicability.* The Guidelines are applicable to all recombinant DNA research within the United States or its territories which is conducted at or sponsored by an Institution that receives any support for recombinant DNA research from NIH. This includes research performed by NIH directly.

An individual receiving support for research involving recombinant DNA must be associated with or sponsored by an Institution that can and does assume the responsibilities assigned in these Guidelines.

The Guidelines are also applicable to projects done abroad if they are supported by NIH funds. If the host country, however, has established rules for the conduct of recombinant DNA projects, then a certificate of compliance with those rules may be submitted to NIH in lieu of compliance with the NIH Guidelines. NIH reserves the right to withhold funding if the safety practices to be employed abroad are not reasonably consistent with the NIH Guidelines.

IV–C. *General Definitions.* The following terms, which are used throughout the Guidelines, are defined as follows:

IV–C–1. "DNA" means deoxyribonucleic acid.

IV–C–2. "Recombinant DNA" or "recombinant DNA molecules" means either (i) molecules which are constructed outside living cells by joining natural or synthetic DNA segments to DNA molecules that can replicate in a living cell, or (ii) DNA molecules which result from the replication of a molecule described in (i) above.

IV–C–3. (Deleted)

IV–C–4. "Institution" means any public or private entity (including Federal, State, and local government agencies).

IV–C–5. "Institutional Biosafety Committee" or "IBC" means a committee that (i) meets the requirements for membership specified in Section IV–D–2, and (ii) reviews, approves, and oversees projects in accordance with the responsibilities defined in Sections IV–D–2 and –3.

IV–C–6. "NIH Office of Recombinant DNA Activities" or "ORDA" means the office within NIH with responsibility for (i) reviewing and coordinating all activities of NIH related to the Guidelines, and (ii) performing other duties as defined in Section IV–E–3.

IV–C–7. "Recombinant DNA Advisory Committee" or "RAC" means the public advisory committee that advises the Secretary, the Assistant Secretary for Health, and the Director of the National Institutes of Health concerning recombinant DNA research. The RAC shall be constituted as specific in Section IV–E–2.

IV–C–8. "Director, NIH" or "Director" means the Director of the National Institutes of Health and any other officer or employee of NIH to whom authority has been delegated.

IV–C–9. "Federal Interagency Advisory Committee on Recombinant DNA Research" means the committee established in October 1976 to advise the Secretary, HEW, the Assistant Secretary for Health, and the Director, NIH, on the coordination of those aspects of all Federal programs and activities which relate to recombinant DNA research.

IV–C–10. "Administrative Practices Supplement" or "APS" means a publication to accompany the NIH Guidelines specifying administrative procedures for use at NIH and at Institutions.

IV–C–11. "Laboratory Safety Monograph" or "LSM" means a publication to accompany the NIH Guidelines describing practices, equipment, and facilities in detail.

IV–D. *Responsibilities of the Institution.*

IV–D–1. Each Institution conducting or sponsoring recombinant DNA research covered by these Guidelines is responsible for ensuring that the research is carried out in full conformity with the provisions of the Guidelines. In order to fulfill this responsibility, the Institution shall:

IV–D–1–a. Establish and implement policies that provide for the safe conduct of recombinant DNA research and that ensure compliance with the Guidelines. The Institution, as part of its general responsibilities for implementing the Guidelines, may establish additional procedures, as deemed necessary, to govern the Institution and its components in the discharge of its responsibilities under the Guidelines. This may include (i) statements formulated by the Institution for general implementation of the Guidelines and (ii) whatever additional precautionary steps the Institution may deem appropriate.

IV–D–1–b. Establish an Institutional Biosafety Committee (IBC) that meets the requirements set forth in Section IV–D–2 and carries out the functions detailed in Section IV–D–3.

IV–D–1–c. (Deleted)

IV–D–1–d. (Deleted)

IV–D–1–e. If the Institution is engaged in recombinant DNA research at the P3 or P4 containment level, appoint a Biological Safety Officer (BSO), who shall be a member of the IBC and carry out the duties specified in Section> IV–D–4.

IV–D–1–f. Require that investigators responsible for research covered by these Guidelines comply with the provisions of Section IV–D–5, and assist investigators to do so.

IV–D–1–g. Ensure appropriate training for the IBC chairperson and members, the BSO, Principal Investigators (PIs), and laboratory staff regarding the Guidelines, their implementation, and laboratory safety. Responsibility for training IBC members may be carried out through the IBC chairperson. Responsibility for training laboratory staff may be carried out through the PI. The Institution is responsible for seeing that the PI has sufficient training, but may delegate this responsibility to the IBC.

IV–D–1–h. Determine the necessity, in connection with each project, for health surveillance of recombinant DNA research personnel, and conduct, if found appropriate, a health surveillance program for the project. [The Laboratory Safety Monograph (LSM) discusses various possible components of such a program—for example, records of agents handled, active investigation of relevant illnesses, and the maintenance of serial serum samples for monitoring serologic changes that may result from the employees' work experience. Certain medical conditions may place a laboratory worker at increased risk in any endeavor where infectious agents are handled. Examples given in the LSM include gastrointestinal disorders and treatment with steroids, immunosuppressive drugs, or antibiotics. Workers with such disorders or treatment should be evaluated to determine whether they should be engaged in research with potentially hazardous organisms during their treatment or illness.]

IV–D–1–i. Report within 30days to ORDA any significant problems with and violations of the Guidelines and significant research-related accidents and illnesses, unless the institution determines that the PI or IBC has done so.

IV–D–2. *Membership and Procedures of the IBC.* The Institution shall establish an Institutional Biosafety Committee (IBC) meeting the following requirements:

IV–D–2–a. The IBC shall comprise no fewer than five members so selected that they collectively have experience and expertise in recombinant DNA technology and the capability to assess the safety of recombinant DNA research experiments and any poitential risk to public health or the environment. At least two members (but not less than 20 percent of the membership of the committee) shall not be affiliated with the Institution (apart from their membership on the IBC) and shall represent the interest of the surrounding community with respect to health and protection of the environment. Members meet this requirement if, for example, they are officials of State or local public health or environmental protection agencies, members of other local governmental bodies, or persons active in medical, occupational health, or environmental concerns in the community The Biological Safety Officer (BSO), mandatory when research is being conducted at the P3 and P4 levels, shall be a member (see Section IV–D–4).

IV–D–2–b. In order to ensure the professional competence necessary to review recombinant DNA activities, it is recommended that (i) the IBC include persons from disciplines relevant to recombinant DNA technology, biological safety, and engineering; (ii) the IBC include, or have available as consultants, persons knowledgeable in institution commitments and policies, applicable law, standards of professional conduct and practice, community attitudes, and the environment; and (iii) at least one member be a nondoctoral person from a laboratory technical staff.

IV–D–2–c. The Institution shall identify the committee members by name in a report to the NIH Office of Recombinant DNA Activities (ORDA) and shall include relevant background information on each member in such form and at such times as ORDA may require. (See the Administrative Practice Supplement for further guidance.)

IV–D–2–d. No member of an IBC may be involved (except to provide information requested by the IBC) in the review or approval of a project in which he or she has been, or expects to be, engaged or has a direct financial interest.

IV–D–2–e. The Institution may establish procedures that the IBC will follow in its initial and continuing review of applications, proposals, and activities. (IBC review procedures are specified in Section IV–D–3–a.)

IV–D–2–f. Central to implementation of the Guidelines is the review of experiments by the IBC. In carrying out this responsibility, the Institution shall comply with instructions and procedures specified in the Administrative Practices Supplement.

IV–D–2–g. Institutions are encouraged to open IBC meetings to the public whenever possible, consistent with protection of privacy and proprietary interests.

IV–D–2–h. Upon request, the Institution shall make available to the public all minutes of IBC meetings and any documents submitted to or received from funding agencies which the latter are required to make available to the public (e.g., reports of Guideline violations and significant research-related accidents, and agency directives to modify projects). If comments are made by members of the public on IBC actions, the Institution shall forward to NIH both the comments and the IBC's response.

IV–D–3. *Functions of the IBC.* On behalf of the Institution, the IBC is responsible for:

IV–D–3–a. Reviewing for compliance with the NIH Guidelines all recombinant DNA research conducted at or sponsored by the Institution, and approving those research projects that it finds are in conformity with the Guidelines. This review shall include:

IV–D–3–a–(1). An independent assessment of the containment levels required by these Guidelines for the proposed research, and

IV–D–3–a–(2). An assessment of the facilities, procedures, and practices, and of the training and expertise of recombinant DNA personnel.

Note.—See Laboratory Safety Monograph (pages 187–190) for suggested guidance in conducting this review.

IV–D–3–b. Notifying the Principal Investigator (PI) of the results of their review.

IV–D–3–c. Reviewing periodically recombinant DNA research being conducted at the Institution, to ensure that the requirements of the Guidelines are being fulfilled.

IV–D–3–d. Adopting emergency plans covering accidental spills and personnel contamination resulting from such research.

Note.—Basic elements in developing specific procedures for dealing with major spills of potentially hazardous materials in the laboratory are detailed in the Laboratory Safety Monograph. Included are information and references on decontamination and emergency plans. NIH and the Centers for Disease Control are available to provide consultation, and direct assistance if necessary, as posted in the LSM. The Institution shall cooperate with the State and local public health departments, reporting any significant reseach-related illness or accident that appears to be a hazard to the public health.

IV–D–3–e. Reporting within 30 days to the appropriate institutional official and to the NIH Office of Recombinant DNA Activities (ORDA) any significant problems with or violations of the Gidelines, and any significant research-related accidents or illnesses, unless the IBC determines that the PI has done so.

IV–D–3–f. The IBC may not authorize initiation of experiments not explicitly covered by the Guidelines until NIH, (with the advice of the RAC when required) establishes the containment requirement.

IV–D–3–g. Performing such other functions as may be delegated to the IBC under Section IV–D–1.

IV–D–4. *Biological Safety Officer.* The Institution shall appoint a BSO if it engages in recombinant DNA research at the P3 or P4 containment level. The officer shall be a member of the Institutional Biosafety Committee (IBC), and his or her duties shall include (but need not be limited to):

IV–D–4–a. Ensuring through periodic inspections that laboratory standards are rigorously followed;

IV–D–4–b. Reporting to the IBC and the Institution all significant problems with and violations of the Guidelines and all significant research-related accidents and illnesses of which the BSO becomes aware, unless the BSO determines that the Principal Investigator (PI) has done so;

IV–D–4–c. Developing emergency plans for dealing with accidental spills and personnel contamination, and investigating recombinant DNA research laboratory accidents;

IV–D–4–d. Providing advice on laboratory security;

IV–D–4–e. Providing technical advice to the PI and the IBC on research safety procedures.

Note.—See Laboratory Safety Monograph for additional information on the duties of the BSO.

IV–D–5. *Principal Investigator.* On behalf of the Institution, the PI is responsible for complying fully with the Guidelines in conducting any recombinant DNA research.

IV–D–5–a. *PI—General.* As part of this general responsibility, the PI shall:

IV–D–5–a–(1). Initiate or modify no recombinant DNA research subject to the Guidelines until that research, or the proposed modification thereof, has been approved by the Institutional Biosafety Committee (IBC) and has met all other requirements of the Guidelines and the Administrative Practices Supplement (APS).

(Note.—No prior approval by the IBC is required for most experiments described in Section III–O. Modify containment and experimental protocol according to recommendations of the IBC.)

IV–D–5–a–(2). Report within 30 days to the IBC and NIH (ORDA) all significant problems with and violations of the Guidelines and all significant research-related accidents and illnesses;

IV–D–5–a–(3). Report to the IBC and to NIH (ORDA) new information bearing on the Guidelines;

IV–D–5–a–(4). Be adequately trained in good microbiological techniques;

IV–D–5–a–(5). Adhere to IBC-approved emergency plans for dealing with accidental spills and personnel contamination; and

IV–D–5–a–(6). Comply with shipping requirements for recombinant DNA molecules. (See Section II–C for shipping requirements, Laboratory Safety Monograph for technical recommendations, and the APS for administrative instructions and procedures. The requesting laboratory must be in compliance with the NIH Guidelines and under appropriate review by its IBC, and the sending investigator must maintain a record of all shipments of recombinant DNA materials.)

IV–D–5–b. *Submissions by the PI to NIH.* The PI shall:

IV–D–5–b–(1). Submit information to NIH (ORDA) in order to have new host-vector systems certified;

IV–D–5–b–(2). Petition NIH, with notice to the IBC, for exemptions to these Guidelines (see Sections I–E–4 and I–E–5 and, for additional information on procedures, the APS); and

IV–D–5–b–(3). Petition NIH, with concurrence of the IBC, for exceptions to the prohibitions under these Guidelines (see Section I–D and, for additional information on procedures, the APS).

IV–D–5–b–(4). Petition NIH for determination of containment for experiments requiring case-by-case review.

IV–D–5–b–(5). Petition NIH for determination of containment for experiments not covered by the Guidelines.

IV–D–5–c. *Submissions by the PI to the IBC.* The PI shall:

IV–D–5–c–(1). Make the initial determination of the required levels of physical and biological containment in accordance with the Guidelines;

IV–D–5–c–(2). Select appropriate microbiological practices and laboratory techniques to be used in the research;

IV–D–5–c–(3). Submit the initial research protocol (and also subsequent changes—e.g., changes in the source of DNA or host-vector system) to the IBC for review and approval or disapproval, and

IV–D–5–c–(4). Remain in communication with the IBC throughout the conduct of the project.

IV–D–5–d. *PI Responsibilities After Approval but Prior to Initiating the Research.* The PI is responsible for:

IV–D–5–d–(1). Making available to the laboratory staff copies of the approved protocols that describe the potential biohazards and the precautions to be taken;

IV–D–5–d–(2). Instructing and training staff in the practices and techniques required to ensure safety and in the procedures for dealing with accidents; and

IV–D–5–d–(3). Informing the staff of the reasons and provisions for any precautionary medical practices advised or requested, such as vaccinations or serum collection.

IV–D–5–e. *PI Responsibilities During the Conduct of the Approved Research.* The PI is responsible for:

IV–D–5–e–(1). Supervising the safety performance of the staff to ensure that the required safety practices and techniques are employed;

IV–D–5–e–(2). Investigating and reporting in writing to ORDA, the Biological Safety Officer (where applicable), and the IBC any significant problems pertaining to the operation and implementation of containment practices and procedures;

IV–D–5–e–(3). Correcting work errors and conditions that may result in the release of recombinant DNA materials;

IV–D–5–e–(4). Ensuring the integrity of the physical containment (e.g., biological safety cabinets) and the biological containment (e.g., purity, and genotypic and phenotypic characteristics); and

IV–D–5–e–(5). *Publications.* PIs are urged to include, in all publications reporting on recombinant DNA research, a description of the physical and biological containment procedures employed.

IV–E. *Responsibilities of NIH.*

IV–E–1. *Director.* The Director, NIH, is responsible for (i) establishing the NIH Guidelines on recombinant DNA research, (ii) overseeing their implementation, and (iii) their final interpretation.

The Director has a number of responsibilities under the Guidelines that involve the NIH Office of Recombinant DNA Activities (ORDA) and the Recombinant DNA Advisory Committee (RAC). ORDA's responsibilities under the Guidelines are administrative. Advice from the RAC is primarily scientific and technical. In certain circumstances, there is specific opportunity for public comment, with published response, before final action.

IV–E–1–a. *General Responsibilities of the Director, NIH.* The responsibilities of the Director shall include the following:

IV–E–1–a–(1). Promulgating requirements as necessary to implement the Guidelines;

IV–E–1–a–(2). Establishing and maintaining the RAC to carry out the responsibilities set forth in Section IV–E–2. The RAC's membership is specified in its charter and in Section IV–E–2;

IV–E–1–a–(3). Establishing and maintaining ORDA to carry out the responsibilities defined in Section IV–E–3; and

IV–E–1–a–(4). Maintaining the Federal Interagency Advisory Committee on Recombinant DNA Research established by the Secretary, HEW, for advice on the coordination of all Federal programs and activities relating to recombinant DNA, including activities of the RAC.

IV–E–1–b. *Specific Responsibilities of the Director, NIH.* In carrying out the responsibilities set forth in this Section, the Director shall weigh each proposed action, through appropriate analysis and consultation, to determine that it complies with the Guidelines and presents no significant risk to health or the environment.

IV–E–1–b–(1). *The Director is responsible for the following major actions* (For these, the Director must seek the advice of the RAC and provide an opportunity for public and Federal agency comment. Specifically, the agenda of the RAC meeting citing the major actions will be published in the **Federal Register** at least 30 days before the meeting, and the Director will also publish the proposed actions in the **Federal Register** for comment at least 30 days before the meeting. In addition, the Director's proposed decision, at his discretion, may be published in the **Federal Register** for 30 days of comment before final action is taken. The Director's final decision, along with response to the comments, will be published in the **Federal Register** and the *Recombinant DNA Technical Bulletin.* The RAC and IBC chairpersons will be notified of this decision):

IV–E–1–b–(1)–(a). Changing containment levels for types of experiments that are specified in the Guidelines when a major action is involved;

IV–E–1–b–(1)–(b). Assigning containment levels for types of experiments that are not explicitly considered in the Guidelines when a major action is involved;

IV–E–1–b–(1)–(c). Certifying new host-vector systems, with the exception of minor modifications of already certified systems. [The standards and procedures for certification are described in Section II–D–2–a. Minor modifications constitute, for example, those of minimal or no consequence to the properties relevant to containment. See the Administrative Practices Supplement (APS) for further information];

IV–E–1–b–(1)–(d). Promulgating and amending a list of classes of recombinant DNA molecules to be exempt from these because they consist entirely of DNA segments from species that exchange DNA by known physiological processes, or otherwise do not present a significant risk to health or the environment (see Sections I–E–4 and –5 and the APS for further information);

IV–E–1–b–(1)–(e). Permitting exceptions to the prohibited experiments in the Guidelines, in order, for example, to allow risk-assessment studies; and

IV–E–1–b–(1)–(f). Adopting other changes in the Guidelines.

IV–E–1–b–(2). *The Director is also responsible for the following lesser actions* (For these, the Director must seek the advice of the RAC. The Director's decision will be transmitted to the RAC and IBC chairpersons and published in the Recombinant DNA Technical Bulletin):

IV–E–1–b–(2)–(a). Interpreting and determining containment levels, upon request by ORDA;

IV–E–1–b–(2)–(b). Changing containment levels for experiments that are specified in the Guidelines (see Section III);

IV–E–1–b–(2)–(c). Assigning containment levels for experiments not explicitly considered in the Guidelines (see Section III);

IV–E–1–b–(2)–(d). Designating certain class 2 agents as class 1 for the purpose of these Guidelines (see Footnote 1 and Appendix B);

IV–E–1–b–(2)–(e). Assigning containment levels for experiments with recombinant DNA from Class 3 organisms(*1*) and assigning containment levels for experiments which increase the host-range and virulence of plant pathogens beyond that which occurs by natural genetic exchange; and

IV–E–1–b–(2)–(f). Assigning containment levels for experiments in which both donor and recipient are non-pathogenic prokaryotes (see Section III–B–3).

IV–E–1–b–(3). *The Director is also responsible for the following actions.* (The Director's decision will be transmitted to the RAC and IBC chairpersons and published in the *Recombinant DNA Technical Bulletin*):

IV–E–1–b–(3)–(a). Interpreting the Guidelines for experiments to which the Guidelines specifically assign containment levels;

IV–E–1–b–(3)–(b). Determining appropriate containment conditions for experiments according to case precedents developed under Section IV–E–1–b–(2)–(a).

IV–E–1–b–(3)–(c). Determining appropriate containment conditions upon case-by-case analysis of experiments explicity considered in the Guidelines but for which no containment levels have been set (see Footnote 45 in Part V; Sections III–C–1–a through –e; and Sections III–C–2 and –3);

IV–E–1–b–(3)–(d). Authorizing, under procedures specified by the RAC, large-scale experiments (i.e., involving more than 10 liters of culture) for recombinat DNAs that are rigorously characterized and free of harmful sequences (see Footnote 3 and Section I–D–6);

IV–E–1–b–(3)–(e). Lowering containment levels for characterized clones or purified DNA (see Sections III–A–3–a and –b, and Footnotes 3 and 41);

IV–E–1–b–(3)–(f). Approving minor modifications of already certified host-vector systems. [The standards and procedures for such modifications are described in Section II–D–2]; and

IV–E–1–b–(3)–(g). Decertifying already certified host-vector systems.

IV–E–1–b–(4). The Director shall conduct, support, and assist training programs in laboratory safety for Institutional Biosafety Committee members, Biological Safety Officers, Principal Investigators, and laboratory staff.

IV–E–1–b–(5). The Director, at the end of 36 months from the time these Guidelines are promulgated, will report on the Guidelines, their administration, and the potential risks and benefits of this research. In doing so, the Director will consult with the RAC and the Federal Interagency Committee. Public comment will be solicited on the draft report and taken into account in transmitting the final report to the Assistant Secretary for Health and the Secretary, HEW.

IV–E–2. *Recombinant Advisory Committee.* The NIH Recombinant DNA Advisory Committee (RAC) is responsible for carrying out specified functions cited below as well as others assigned under its charter or by the Secretary, HEW, the Assistant Secretary for Health, and the Director, NIH.

The members of the committee shall be chosen to provide, collectively, expertise in scientific fields relevant to recombinant DNA technology and biological safety—e.g., microbiology, molecular biology, virology, genetics, epidemiology, infectious diseases, the biology of enteric organisms, botany, plant pathology, ecology, and tissue culture. At least 20 percent of the members shall be persons knowledgeable in applicable law, standards of professional conduct and practice, public attitudes, the environment, public health, occupational health, or related fields. Representatives from Federal agencies shall serve as nonvoting members. Nominations for the RAC may be submitted to the NIH Office of Recombinant DNA Activities, Bethesda, Md. 20205.

All meetings of the RAC will be announced in the **Federal Register,** including tentative agenda items, 30 days in advance of the meeting, with final agendas (if modified) available at least 72 hours before the meeting. No item defined as a major action under Section IV–E–1–b–(1) may be added to an agenda after it appears in the **Federal Register.**

IV–E–2–a. *The RAC shall be responsible for advising the Director, NIH, on the actions listed in Section IV–E–1–b–(1)* and *–(2).*

IV–E–3. *The Office of Recombinant DNA Activities.* ORDA shall serve as a focal point for information on recombinant DNA activities and provide advice to all within and outside NIH, including Institutions, Biological Safety Committee, Principal Investigators, Federal agencies, State and local governments, and institutions in the private sector. ORDA shall carry out such other functions as may be delegated to it by the Director, NIH, including those authorities described in Section IV–E–1–b–(3). In addition, ORDA shall be responsible for the following:

IV–E–3–a. Review and approval of Institutional Biosafety Committee (IBC) membership;

IV–E–3–b through IV–E–3–c–(3). (Deleted)

IV–E–3–c–(4). Publish in the **Federal Register:**

IV–E–3–c–(4)–(a). Announcements of Recombinant DNA Advisory Committee (RAC) meetings and agenda 30 days in advance, with publication of the Director's proposed decision for 30 days of public and Federal agency comment followed by a published response, on any action listed in Section IV–E–1–(b)–(1); and

IV–E–3–c–(4)–(b). Announcements of RAC meetings and agendas 30 days in advance on any action listed in Section IV–E–1–b–(2).

Note.—If the agenda for an RAC meeting is modified, ORDA shall make the revised agenda available to anyone, upon request, at least 72 hours in advance of the meeting.

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IV–E–3–c–(5). Publish the *Recombinant DNA Technical Bulletin;* and

IV–E–3–c–(6). Serve as executive secretary to the RAC.

IV–E–4. *Other NIH Components.* Other NIH components shall be responsible for:

IV–E–4–a. (Deleted)

IV–E–4–b. Certifying P4 facilities, inspecting them periodically, and inspecting other recombinant DNA facilities as deemed necessary; and

IV–E–4–c. Announcing and distributing certified HV2 and HV3 host-vector systems (see Section II–E–3).

(See Administrative Practices Suplement for additional information on the administrative procedures of ORDA and other NIH components.)

IV–F. (Deleted)

IV–G. *Compliance.* As a condition for NIH funding of recombinant DNA research, institutions must ensure that such research conducted at or sponsored by the Institution, irrespective of the source of funding, shall comply with these Guidelines. The policies on noncompliance are as follows:

IV–G–1. All NIH-funded projects involving recombinant DNA techniques must comply with the NIH Guidelines. Noncompliance may result in (i) suspension, limitation, or termination of financial assistance for such projects and of NIH funds for other recombinant DNA research at the Institution, or (ii) a requirement for prior NIH approval of any or all recombinant DNA projects at the Institution.

IV–G–2. All non-NIH funded projects involving recombinant DNA techniques conducted at or sponsored by an Institution that receives NIH funds for projects involving such techniques must comply with the NIH Guidelines. Noncompliance may result in (i) suspension, limitation, or termination of NIH funds for recombinant DNA research at the Institution, or (ii) a requirement for prior NIH approval of any or all recombinant DNA projects at the Institution.

IV–G–3. Information concerning noncompliance with the Guidelines may be brought foward by any person. It should be delivered to both NIH (ORDA) and the relevant Institution. The Institution, generally through the IBC, shall take appropriate action. The Institution shall forward a complete report of the incident to ORDA, recommending any further action indicated.

IV–G–4. In cases where NIH proposes to suspend, limit, or terminate financial assistance because of noncompliance with the Guidelines, applicable DHEW and Public Health Service procedures shall govern.

IV–G–5. *Voluntary Compliance.* Any individual, corporation, or institution that is not otherwise covered by the Guidelines is encouraged to conduct recombinant DNA research activities in accordance with the Guidelines, through the procedures set forth in Part VI.

V. Footnotes And References

1. The reference to organisms as Class 1, 2, 3, 4, or 5 refers to the classification in the publication *Classification of Etiologic Agents on the Basis of Hazard,* 4th Edition, July 1974; U.S. Department of Health, Education, and Welfare, Public Health Service, Centers for Disease Control, Office of Biosafety, Atlanta, Georgia 30333. The list of organisms in each class, as given in this publication, is reprinted in Appendix B to these Guidelines.

The Director, NIH, with advice of the Recombinant DNA Advisory Committee, may designate certain of the agents which are listed as Class 2 in the *Classification of Etiologic Agents on the Basis of Hazard,* 4th Edition, July 1974, as Class 1 agents for the Purposes of these Guidelines (See section IV–E–1–b–(2)–(d)). An updated list of such agents may be obtained from the Office of Recombinant DNA Activities (ORDA), National Institutes of Health, Bethesda, Maryland 20205.

The entire *Classification of Etiologic Agents on the Basis of Hazard* is in the process of revision.

For experiments using Vesicular Stomatitis virus (VSV), contact the NIH Office of Recombinant DNA Activities.

2A. In Parts I and III of the Guidelines, there are a number of places where Judgments are to be made. These include: "cells known to be infected with such agents" (Section I–D–1) "toxins potent for vertebrates" (Section I–D–2); "known to acquire it naturally" (Section I–D–5); "known to produce a potent polypeptide toxin * * * or known to carry such pathogens * * * not likely to be a product of closely linked eukaryote genes * * * shown not to contain such agents" (Section III–A–1–a–(5)–(a)); "shown to be free of disease causing microorganisms" (Section III–A–1–a–(5)–(b)); "close relatives" (Section III–C–3); and "procduce a potent polypeptide toxin" (Footnote 34).

In all these cases the principal investigator is to make the initial judgment on these matters as part of his responsibility to "make the initial determination of the required levels of physical and biological containment in accordance with the Guidelines" (Section IV–D–7–a). In all these cases, this judgment is to be reviewed and approved by the Institutional Biosafety Committee as part of its responsibility to make "an independent assessment of the containment levels required by these Guidelines for the proposed research" (Section IV–D–3–a–(1)). If the IBC wishes, any specific cases may be referred to the NIH Office of Recombinant DNA Activities as part of ORDA's functions to "provide advice to all within and outside NIH" (Section IV–E–3), and ORDA may request advice from the Recombinant DNA Advisory Committee as part of the RAC's responsibility for "interpreting and determining containment levels upon request by ORDA" (Section IV–E–1–b–(2)–(a)).

3. The following types of data should be considered in determining whether DNA recombinants are "characterize" and the absence of harmful sequences has been established: (a) the absence of potentially harmful genes (e.g., sequences contained in indigenous tumor viruses or sequences that code for toxins, invasins, virulence factors, etc., that might potentiate the pathogenicity or communicability of the vector and/or the host or be detrimental to humans, animals, or plants); (b) the type(s) of genetic information on the cloned sedment and the nature of transcriptional and translation gene products specified; (c) the relationship between the recovered and desired segment (e.g., hybridization and restriction endonuckease fragmentation analysis where applicable); (d) the genetic stabillity of the cloned fragment; and (e) any alterations in the biological properties of the vector and host.

4. In Section I–E, "exemptions" from the Guidelines are discussed. Such experiments are not covered by the Guidelines and need not be registered with NIH. In Section I–D on "prohibitions," the possibility of "exceptions" is discussed. An "exception" means that any experiment may be expressly released from a prohibition. At that time it will be assigned an appropriate level of physical and biological containment.

5. Care should be taken to inactivate recombinant DNA before disposal. Procedures for inactivating DNA can be found in the "Laboratory Safety Monograph: A Supplement to the NIH Guidelines for Recombinant DNA Research."

6. *Laboratory Safety at the Center for Disease Control* (Sept. 1974). U.S. Department of Health, Education, and Welfare Publication No. CDC 75–8118.

1. *Classification of Etiologic Agents on the Basis of Hazard.* (4th Edition, July 1974). U.S. Department of Health, Education and Welfare. Public Health Service. Centers for Disease Control. Office of Biosafety, Atlanta, Georgia 30333.

8. *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (Oct. 1974). U.S. Department of Health, Education and Welfare Publication No. (NIH) 75–790.

9. *National Institutes of Health Biohazards Safety Guide* (1974). U.S. Department of Health, Education, and Welfare, Public Health.

10. *Biohazards in Biological Research* (1973). A. Hellman, M. N Oxman, and R. Pollack (ed.) Cold Spring Harbor Laboratory.

11. *Handbook of Laboratory Safety* (1971). Second Edition. N. V. Steere (ed.). The Chemical Rubber Co., Cleveland.

12. Bodily, J. L. (1970). *General Administration of the Laboratory,* H. L. Bodily, E. L. Updyke, and J. O. Mason (eds.), Diagnostic Procedures for Bacterial, Mycotic and Parasitic Infections. American Public Health Association, New York, pp. 11–28.

13. Darlow, H. M. (1969). *Safety in the Microbiological Laboratory.* In J. R. Norris and D. W. Robbins (ed.), Methods in Microbiology. Academic Press, Inc. New York. pp. 169–204.

14. *The Prevention of Laboratory Acquired Infection* (1974). C. H. Collins, E. G. Hartley, and R. Pilsworth. Public Health Laboratory Service Monograph Series No. 6.

15. Chatigny, M. A. (1961). *Protection Against Infection in the Microbiological Laboratory: Devices and Procedures.* In W. W. Umbreit (ed.). Advances in Applied Microbiology. Academic Press, New York, N.Y. 3:131–192.

16. *Design Criteria for Viral Oncology Research Facilities* (1975). U.S. Department of Health, Education and Welfare, Public Health Service, National Institutes of Health, DHEW Publication No. (NIH) 75–891.

17. Kuehne, R. W. (1973). *Biological Containment Facility for Studying Infectious Disease.* Appl. Microbiol. 26–239–243.

18. Runkle, R. S., and G. B. Phillips (1969). *Microbial Containment Control Facilities.* Van Nostrand Reinhold, New York.

19. Chatigny, M. A., and D. I. Clinger (1969). *Contamination Control in Aerobiology.* In R. L. Dimmick and A. B. Akers (eds.). An Introduction to Experimental Aerobiology. John Wiley & Sons, New York, pp. 194–283.

19A. Horsfall, F. L., Jr., and J. H. Baner (1940). *Individual Isolation of Infected Animals in a Single Room* J. Bact. 40, 569–580.

20. Biological safety cabinets referred to in this section are classified as *Class I, Class II,* or *Class III* cabinets. A *Class I* is a ventilated cabinet for personnel protection having an inward flow of air away from the operator. The exhaust air from this cabinet is filtered through a high-efficiency particulate air (HEPA) filter. This cabinet is used in three operational modes: (1) with a full-width open front, (2) with an installed front closure panel (having four 8-inch diameter openings) without gloves, and (3) with an installed front closure panel equipped with arm-length rubber gloves. The face velocity of the inward flow of air through the full-width open front is 75 feet per minute or greater. A *Class II* cabinet is a ventilated cabinet for personnel and product protection having an open front with inward air flow for personnel protection, and HEPA filtered mass recirculated air flow for product protection. The cabinet exhaust air is filtered through a HEPA filter. The face velocity of the inward flow of air through the full-width open front is 75 feet per minute or greater. Design and performance specifications for *Class II* cabinets have been adopted by the National Sanitation Foundation, Ann Arbor, Michigan. A *Class III* cabinet is a closed-front ventilated cabinet of gas-tight construction which provides the highest level of personnel protection of all biohazard safety cabinets. The interior of the cabinet is protected from contaminants exterior to the cabinet. The cabinet is fitted with arm-length rubber gloves and is operated under a negative pressure of at least 0.5 inches water gauge. All supply air is filtered through HEPA filters. Exhaust air is filtered through two HEPA filters or one HEPA filter and incinerator before being discharged to the outside environment.

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22. Wensink, P. C., D. J. Finnegan, J. E. Donelson, and D. S. Hogness (1974). *A System for Mapping DNA Sequences in the Chromosomes of Drosophilo Melanogaster.* Cell 3, 315–335.

23. Tanaka, T., and B. Weisblum (1975). *Construction of a Colicin El-R Factor Composite Plasmid In Vitro: Means for Amplification of Deoxyribonucleic Acid.* J. Bacteriol. 121, 354–362.

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26. Cohen, S. N., A. C. W. Chang, H. Boyer, and R. Helling (1973). *Construction of Biologically Functional Bacterial Plasmids in Vitro.* Proc. Natl. Acad. Sci. USA 70, 3240–3244.

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28. Thomas, M., J. R. Cameron, and R. W. Davis (1974). *Viable Molecular Hybrids of Bacteriophage Lambda and Eukaryotic DNA.* Proc. Nat. Acad. Sci. USA 71, 4579–4583.

29. Murray, N. E., and K. Murray (1974). *Manipulation of Restriction Targets in Phage Lambda to Form Receptor Chromosomes for DNA Fragments.* Nature 251, 476–481.

30. Rambach, A., and P. Tiollais (1974). *Bacteriophage Having EcoRI Endonucleuse Sites Only in the Non-Essential Region of the Genome.* Proc. Nat. Acad. Sci., USA 71, 3926–3030.

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32. Donoghue, D. J., and P. A. Sharp (1977). *An Improved Lambda Vector: Construction of Model Recombinants Coding for Kanamycin Resistance,* Gene 1, 209–227.

33. Leder, P., D. Tiemeier and L. Enquist (1977). *EK2 Derivatives of Bacteriophage Lambda Useful in the Cloning of DNA from Higher Organisms: The gt WES System.* Science 196. 175–177.

33A. Skalka, A. (1976). *Current Status of Coliphage EK2 Vectors.* Gene 3, 29–35.

33B. Szybalski, W., A. Skalka, S. Gottesman, A. Campbell, and D. Botstein (1976). *Standardized Laboratory Tests for EK2 Certification.* Gene 3, 36–38.

34. We are specifically concerned with the remote possibility that potent toxins could be produced by acquiring a single gene or cluster of genes. See also footnote 2A.

35. Defined as observable under optimal laboratory conditions by transformation, transduction, phage infection, and/or conjugation with transfer of phage, plasmid, and/or chromosomal genetic information. Note that this definition of exchange may be less stringent than that applied to exempt organisms under Section I–E–4.

36. As classified in the Third Report of the International Committee on Taxonomy of Viruses: Classification and Nomenclature of Viruses, R. E. F. Matthews, Ed. Intervirology 12 (129–296) 1979. (As noted in the Prohibition Section, the use of viruses classified [1] as Class 4 or 5 is prohibited.)

37. The cDNA copy of the viral mRNA must be >99% pure; otherwise as for shotgun experiments with eukaryotic cellular DNA.

37A. For the purpose of these Guidelines, viruses of the families *Papovaviridu, Adenoviridae,* and *Herpetoviridae* (36) should be considered as "transforming" viruses. While only certain of these viruses have been associated with cell transformation *in vivo* or *in vitro,* it seems prudent to consider all members to be potentially capable of transformation. In addition, those viruses of the family *Paxviridae* that produce proliferative responses—i.e., myxoma, rabbit and squirrel fibroma, and Yaba viruses-should be considered as "transforming."

38. ≥99% pure (i.e., less than 1% of the DNA consists of intact viral genomes); otherwise as for whole genomes.

39. The viruses have been classified by NCI as "moderate-risk oncogenic viruses." See "Laboratory Safety Monograph—A Supplement to the NIH Guidelines for Recombinant DNA Research" for recommendations on handling the viruses themselves.

40. (Deleted)

41. The DNA preparation is defined as "purified" if the desired DNA represents at least 99% (w/w) of the total DNA in the preparation, provided that it was verified by more than one procedure.

42. The lowering of the containment level when this degree of purification has been obtained is based on the fact that the total number of clones that must be examined to obtain the desired clone is markedly reduced. Thus, the probability of cloning a harmful gene could, for example, be reduced by more than 10^5-fold when a nonrepetitive gene from mammals was being sought. Furthermore, the level of purity specified here makes it easier to establish that the desired DNA does not contain harmful genes.

43. This is not permitted, of course, if it falls under any of the Prohibitions of Section I–D. Of particular concern here is prohibition I–D–5, i.e., "Deliberate transfer of a drug resistance trait to micro-organisms that are not known to acquire it naturally if such acquisition could compromise the use of a drug to control disease agents in human or veterinary medicine or agriculture."

44. Because this work will be done almost exclusively in tissue culture cells, which have no capacity for propagation outside the laboratory, the primary focus for containment is the vector. It should be pointed out that risk of laboratory-acquired infection as a consequence of tissue culture manipulation is very low. Given good microbiological practices, the most likely mode of escape of recombinant DNAs from a physically contained laboratory is carriage by an infected human. Thus the vector with an inserted DNA segment should have little or no ability to replicate or spread in humans.

For use as a vector in a vertebrate host cell system, an animal viral DNA molecule should display the following properties:

50. i.e., the total of all genomes within a Family shall not exceed two-thirds of the genome.

institution as to the content of the notice.

VI–E. *Requests for Exceptions,*

be advised; and the actual release will not be made until the expiration of 15

whether the records involved (or some portion) would be exempt from

Sublist E

One way transfer of *Streptococcus mutans*

For use as a vector in a vertebrate host cell system, an animal viral DNA molecule should display the following properties:

(i) It should not consist of the whole genome of any agent that is infectious for humans or that replicates to a significant extent in human cells in tissue culture. If the recombinant molecule is used to transform nonpermissive cells (i.e., cells which do not produce infectious virus particles), this is not a requirement.

(ii) It should be derived from a virus whose epidemiological behavior and host range are well understood.

(iii) In permissive cells, it should be defective when carrying an inserted DNA segment (i.e., propagation of the recombinant DNA as a virus must be dependent upon the presence of a complementing helper genome). In almost all cases this condition would be achieved automatically by the manipulations used to construct and propagate the recombinants. In addition, the amount of DNA encapsidated in the particles of most animal viruses is defined within fairly close limits. The insertion of sizable foreign DNA sequences, therefore, generally demands a compensatory deletion of viral sequences. It may be possible to introduce very short insertions (50–100 base pairs) without rendering the viral vector defective. In such a situation, the requirement that the viral vector be defective is not necessary, except in those cases in which the inserted DNA encodes a biologically active polypeptide.

It is desired but not required that the functional anatomy of the vector be known—that is, fL-re sLogld be a clear idea of the location within the molecule of:

(i) the sites at which DNA synthesis originates and terminates,

(ii) the sites that are cleaved by restriction endonucleases, and

(iii) the template regions for the major gene product.

If possible the helper virus genome should:

(i) be integrated into the genome of a stable line of host cells (a situation that would effectively limit the growth of the vector recombinant to such cell lines) or

(ii) consist of a defective genome, or an appropriate conditional lethal mutant virus, making vector and helper dependent upon each other for propagation.

However, neither of these stipulations is a requirement.

45. Review of NIH on a case-by-case basis means that NIH must review and set appropriate containment conditions before the work may be undertaken. NIH actions in such case-by-case reviews will be published in the *Recombinant DNA Technical Bulletin.*

46. Provided the inserted DNA sequences are not derived from eukaryotic viruses. In the latter case, such experiments will be evaluated on a case-by-case basis.

47. >99% pure; otherwise as for shotgun experiments.

48. A USDA permit, required for import and interstate transport of pathogens, may be obtained from the Animal and Plant Health Inspection Service, USDA, Federal Building, Hyattsville, MD 20782.

49. A subset of non-conjugative plasmid vectors are also poorly mobilizable (e.g., pBR322, pBR313). Where practical, these vectors should be employed.

50. i.e., the total of all genomes within a Family shall not exceed two-thirds of the genome.

VI. Voluntary Compliance

VI–A. *Basic Policy.* Individuals, corporations, and institutions not otherwise covered by the Guidelines are encouraged to do so by following the standards and procedures set forth in Parts I–IV of the Guidelines. In order to simplify discussion, references hereafter to "institutions" are intended to encompass corporations, and individuals who have no organizational affiliation. For purposes of complying with the Guidelines, an individual intending to carry out research involving recombinant DNA is encouraged to affiliate with an institution that has an Institutional Biosafety Committee approved under the Guidelines.

Since commercial organizations have special concerns, such as protection of proprietary data, some modifications and explanations of the procedures in Parts I–IV are provided below, in order to address these concerns.

VI–B. *IBC Approval.* The NIH Office of Recombinant DNA Activities (ORDA) will review the membership of an institution's Institutional Biosafety Committee (IBC) and, where it finds the IBC meets the requirements set forth in Section IV–D–2, will give its approval to the IBC membership.

It should be emphasized that employment of an IBC member solely for purposes of membership on the IBC does not itself make the member an institutionally affiliated member for purposes of Section IV–D–2–a.

Except for the unaffiliated members, a member of an IBC for an institution not otherwise covered by the Guidelines may participate in the review and approval of a project in which the member has a direct financial interest, so long as the member has not been and does not expect to be engaged in the project. Section IV–D–2–d is modified to that extent for purposes of these institutions.

VI–C. (Deleted)

VI–D. *Certification of Host-Vector Systems.* A host-vector system may be proposed for certification by the Director, NIH, in accordance with the procedures set forth in Section II–D–2–a.

Institutions not otherwise covered by the Guidelines will not be subject to Section II–D–3 by complying with these procedures.

In order to ensure protection for proprietary data, any public notice regarding a host-vector system which is designated by the institution as proprietary under Section VI–F–1 will be issued only after consultation with the institution as to the content of the notice.

VI–E. *Requests for Exceptions, Exemptions, Approvals.* Requests for exceptions from prohibitions, exemptions, or other approvals required by the Guidelines should be requested by following the procedures set forth in the appropriate sections in Parts I–IV of the Guidelines.

In order to ensure protection for proprietary data, any public notice regarding a request for an exception, exemption, or other approval which is designated by the institution as proprietary under Section VI–F–1 will be issued only after consultation with the institution as to the content of the notice.

VI–F. *Protection of Proprietary Data.* In general, the Freedom of Information Act requires Federal agencies to make their records available to the public upon request. However, this requirement does not apply to, among other things, "trade secrets and commercial and financial information obtained from a person and privileged or confidential." 18 U.S.C. 1905, in turn makes it a crime for an officer or employee of the United States or any Federal department or agency to publish, divulge, disclose, or make known "in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, [or processes * * * of any person, firm, partnership, corporation, or association." This provision applies to all employees of the Federal Government, including special Government employees. Members of the Recombinant DNA Advisory Committee are "special Government employees."

VI–F–1. In submitting information to NIH for purposes of complying voluntarily with the Guidelines, an institution may designate those items of information which the institution believes constitute trade secrets or privileged or confidential commercial or financial information.

VI–F–2. If NIH receives a request under the Freedom of Information Act for information so designated, NIH will promptly contact the institution to secure its views as to whether the information (or some portion) should be released.

VI–F–3. If the NIH decides to release this information (or some portion) in response to a Freedom of Information request or otherwise, the institution will be advised; and the actual release will not be made until the expiration of 15 days after the institution is so advised, except to the extent that earlier release, in the judgement of the Director, NIH, is necessary to protect against an imminent hazard to the public or the environment.

VI–F–4. Projects should be registered in accordance with procedures specified in the *Administrative Practices Supplement.* The following information will usually be considered publicly available information, consistent with the need to protect proprietary data:

a. The names of the institution and principal investigator.

b. The location where the experiments will be performed.

c. The host-vector syatem.

d. The source of the DNA.

e. The level of physical containment.

VI–F–5–a. Any institution not otherwise covered by the Guidelines, which is considering submission of data or information voluntarily to NIH, may request presubmission review of the records involved to determine whether, if the records are submitted, NIH will or will not make part or all of the records available upon request under the Freedom of Information Act.

VI–F–5–b. A request for presubmission review should be submitted to ORDA, along with the records involved. These records must be clearly marked as being the property of the institution, on loan to NIH solely for the purpose of making a determination under the Freedom of Information Act. ORDA will then seek a determination from the HEW Freedom of Information Officer, the responsible official under HEW regulations (45 CFR Part 5), as to whether the records involved (or some portion) are or are not available to members of the public under the Freedom of Information Act. Pending such a determination, the records will be kept separate from ORDA files, will be considered records of the institution and not ORDA, and will not be received as part of ORDA files. No copies will be made of the records.

VI–F–5–c. ORDA will inform the institution of the HEW Freedom of Information Officer's determination and follow the institution's instructions as to whether some or all of the records involved are to be returned to the institution or to become a part of ORDA files. If the institution instructs ORDA to return the records, no copies or summaries of the records will be made or retained by HEW, NIH, or ORDA.

VI–F–5–d. The HEW Freedom of Information Officer's determination will represent that official's judgement, as of the time of the determination, as to whether the records involved (or some portion) would be exempt from disclosure under the Freedom of Information Act, if at the time of the determination the records were in ORDA files and a request was received from them under the Act.

Appendix A—Exemptions Under I–E–4

Section I–E–4 states that exempt from these Guidelines are "certain specified recombinant DNA molecules that consist entirely of DNA segments from different species that exchange DNA by known physiological processes, though one or more of the segments may be a synthetic equivalent. A list of such exchangers will be prepared and periodically revised by the Director, NIH, with advice of the Recombinant DNA Advisory Committee, after appropriate notice and opportunity for public comment (see Section IV–E–1–b–(1)–(d).) Certain classes are exempt as of publication of these Revised Guidelines. The list is in Appendix A."

Under exemption I–E–4 of these revised Guidelines are recombinant DNA molecules that are (1) composed entirely of DNA segments from one or more of the organisms within a sublist and (2) to be propagated in any of the organisms within a sublist. (Classification of *Bergey's Manual of Determinative Bacteriology,* eighth edition. R. E. Buchanan and N. E. Gibbons, editors. Williams and Wilkins Company: Baltimore, 1974.)

Sublist A

1. Genus *Escherichia*
2. Genus *Shigella*
3. Genus *Salmonella* (including *Arizona*)
4. Genus *Enterobacter*
5. Genus *Citrobacter* (including *Levinea*)
6. Genus *Klebsiella*
7. Genus *Erwinia*
8. *Pseudomonas aeruginosa, Pseudomonas putida* and *Pseudomonas fluorescens*
9. *Serratia marcescens*

Sublist B

1. *Bacillus subtilis*
2. *Bacillus licheniformis*
3. *Bacillus pumilus*
4. *Bacillus globigii*
5. *Bacillus niger*
6. *Bacillus nato*
7. *Bacillus amyloliquefaciens*
8. *Bacillus aterrimus*

Sublist C

1. *Streptomyces aureofaciens*
2. *Streptomyces rimosus*
3. *Streptomyces coelicolor*

Sublist D

1. *Streptomyces griseus*
2. *Streptomyces cyaneus*
3. *Streptomyces venezuelae*

Sublist E

One way transfer of *Streptococcus mutans* DNA into *Streptococcus sanguis.*

Sublist F

1. *Streptococcus sanguis*
2. *Streptococcus pneumoniae*

Appendix B—Classification of Micro-Organisms on the Basis of Hazard

I. Classification of Etiologic Agents on the Basis of Hazard (*1*)

A. Class 1 Agents

All bacterial, parasitic, fungal, viral, rickettsial, and chlamydial agents not included in higher classes.

B. Class 2 Agents

1. Bacterial Agents

Actinobacillus—all species except *A. mallei,* which is in Class 3

Arizona hinshawii—all serotypes

Bacillus anthracis

Bordetella—all species

Borrelia recurrentis, B. vincenti

Clostridium botulinum, Cl. chauvoei, Cl. haemolyticum, Cl. histolyticum, Cl. novyi, Cl. septicum, Cl. tetani

Corynebacterium diptheriae, C. equi, C. haemolyticum, C. pseudotuberculosis C. pyogenes, C. renale

Diplococcus (Streptococcus) pneumoniae

Erysipelothrix insidiosa

Escherichia coli—all enteropathogenic serotypes

Haemophilus ducreyi, H. influenzae

Herellae vaginicola

Klebsiella—all species and all serotypes

Leptospira interrogans—all serotypes

Listeria—all species

Mima polymorpha

Moraxella—all species

Mycobacteria—all species except those listed in Class 3

Mycoplasma—all species except *Mycoplasma mycoides* and *Mycoplasma agalactiae,* which are in Class 5

Neisseria gonorrhoeae, N. meningitidis

Pasteurella—all species except those listed in Class 3

Salmonella—all species and all serotypes

Shigella—all species and all serotypes

Sphaerophorus necrophorus

Staphylococcus aureus

Streptobacillus moniliformis

Streptococcus pyogenes

Treponema carateum, T. pallidum, and T. pertenue

Vibrio fetus, V. comma, including biotype El Tor, and *V. parahemolyticus*

2. Fungal Agents

**Actinomycetes (*including *Nocardia* species and *Actinomyces species*

and Arachnia propionica)
Blastomyces dermatitidis
Cryptococcus neoformans
Paracoccidioides brasiliensis
3. Parasitic Agents
Endamoeba histolytica
Leishmania sp.
Naegleria gruberi
Toxoplasma gondii
Toxocara canis
Trichinella spiralis
Trypanosoma cruzi
4. Viral, Rickettsial, and Chlamydial Agents
Adenoviruses—human—all types
Cache Valley virus
Coxsackie A and B viruses
Cytomegaloviruses
Echoviruses—all types
Encephalomyocarditis virus (EMC)
Flanders virus
Hart Park virus
Hepatitis-associated antigen material
Herpes viruses—except *Herpesvirus simiae* (Monkey B virus) which is in Class 4
Corona viruses
Influenza viruses—all types except A/PR8/34, which is in Class 1
Langat virus
Lymphogranuloma venereum agent
Measles virus
Mumps virus
Parainfluenza virus—all types except Parainfluenza virus 3, SF4 strain, which is in Class 1
Polioviruses—all types, wild and attenuated
Poxviruses—all types except *Alastrim, Smallpox, Monkey pox, and Whitepox*, which depending on experiments, are in Class 3 or Class 4
Rabies virus—all strains except *Rabies street virus*, which should be classified in Class 3 when inoculated into carnivores
Reoviruses—all types
Respiratory syncytial virus
Rhinoviruses—all types
Rubella virus
Simian viruses—all types except *Herpesvirus simiae (Monkey B virus) and Marburg virus*, which are in Class 4
Sindbis virus
Tensaw virus
Turlock virus
Vaccinia virus
Varicella virus
Vole rickettsia
Yellow fever virus, 17D vaccine strain
C. Class 3 Agents
1. Bacterial Agents
Actinobacillus mallei *
Bartonella—all species
Brucella—all species
Francisella tularensis
Mycobacterium avium, M. bovis, M. tuberculosis
Pasteurella multocide type B ("buffalo" and other foreign virulent strains *)
Pseudomonas pseudomallei *
Yersenia pestis
2. Fungal Agents
Coccidioides immitis
Histoplasma capsulatum
Histoplasma capsulatum var. *duboisii*
3. Parasitic Agents
Schistosoma mansoni
4. Viral, Rickettsial, and Chlamydial Agents
***Alastrim, Smallpox, Monkey pox, and Whitepox*, when used *in vitro*
Arboviruses—all strains except those in Class 2 and 4 (Arboviruses indigenous to the United States are in Class 3, except those listed in Class 2. *West Nile* and *Semliki Forest* viruses may be classified up or down, depending on the conditions of use and geographical location of the laboratory.)
Dengue virus, when used for transmission or animal inoculation experiments
Lymphocytic choriomeningitis virus (LCM)
Psittacosis-Ornithosis-Trachoma group of agents
Rabies street virus, when used in inoculations of carnivores (See Class 2)
Rickettsia—all species except *Vole rickettsia* when used for transmission or animal inoculation experiments
Vesicular stomatitis virus *
Yellow fever virus—wild, when used *in vitro*
D. Class 4 Agents
1. Bacterial Agents: None
2. Fungal Agents: None
3. Parasitic Agents: None
4. Viral, Rickettsial, and Chlamydial Agents
***Alastrim, Smallpox, Monkey pox, and Whitepox*, when used for transmission or animal inoculation experiments
Hemorrhagic fever agents, including *Crimean hemorrhagic fever, (Congo), Junin*, and *Machupo* viruses, and others as yet undefined
Herpesvirus simiae (Monkey B virus)
Lassa virus
Marburg virus
Tick-borne encephalitis virus complex, including *Russian spring-summer encephalitis, Kyasanur forest disease, Omsk hemorrhagic fever*, and *Central European encephalitis viruses*
Venezuelan equine encephalitis virus, epidemic strains, when used for transmission or animal inoculation experiments
Yellow fever virus—wild, when used for transmission or animal inoculation experiments

II. Classification of Oncogenic Viruses on the Basis of Potential Hazard (*2*)

A. Low-Risk Oncogenic Viruses
Rous Sarcoma
SV–40
CELO
Ad7–SV40
Polyoma
Bovine papilloma
Rat mammary tumor
Avian Leukosis
Murine Leukemia
Murine Sarcoma
Mouse mammary tumor
Rat Leukemia
Hamster Leukemia
Bovine Leukemia
Dog Sarcoma
Mason-Pfizer Monkey Virus
Marek's
Guinea Pig Herpes
Lueke (Frog)
Adenovirus
Shope Fibroma
Shope Papilloma
B. Moderate-Risk Oncogenic Viruses
Ad2–SV40
FeLV
HV Saimiri
EBV
SSV–1
GaLV
HV ateles
Yaba
FeSV

III. Animal Pathogens (*3*)

A. Animal disease organisms which are forbidden entry into the United States by Law (CDC Class 5 agents)
1. Foot and mouth disease virus
B. Animal disease organisms and vectors which are forbidden entry into the United States by USDA Policy (CDC Class 5 Agents)
African horse sickness virus
African swine fever virus
Besnoitia besnoiti
Borna disease virus
Bovine infectious petechial fever
Camel pox virus
Ephemeral fever virus
Fowl plague virus
Goat pox virus
Hog cholera virus
Louping ill virus
Lumpy skin disease virus
Nairobi sheep disease virus
Newcastle disease virus (Asiatic strains)
Mycoplasma mycoides (contagious bovine pleuropneumonia)
Mycoplasma agalactiae (contagious agalactia of sheep)
Rickettsia ruminatium (heart water)
Rift valley fever virus
Rhinderpest virus
Sheep pox virus
Swine vesicular disease virus
Teschen disease virus
Trypanosoma vivax (Nagana)
Trypanosoma evansi
Theileria parva (East Coast fever)
Theileria annulata
Theileria lawrencei
Theileria bovis
Theileria hirci
Vesicular exanthema virus
Wesselsbron disease virus
Zyonema

Footnotes and References of Appendix B

*A USDA permit, required for import and interstate commerce of pathogens, may be obtained from the Animal and Plant Health Inspection Service, USDA, Federal Building, Hyattsville, MD. 20782.
**Since the publication of the classification in 1974 (*1*), the *Actinomycetes* have been reclassified as bacterial rather than fungal agents.
***All activities, including storage of variola and whitepox, are restricted to the single national facility (World Health Organization (WHO) Collaborating Center for Smallpox Research, Center for Disease Control, in Atlanta).

1. *Classification of Etiologic Agents on the Basis of Hazard.* (4th Edition, July 1974). U.S. Department of Health, Education and Welfare, Public Health Service, Center for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.
2. *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (October 1974). U.S. Department of Health, Education, and Welfare Publication No. (NIH) 75–790.
3. U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

Appendix C—Exemptions Under I–E–5

Section I–E–5 states that exempt from these Guidelines are "Other classes of recombinant DNA molecules, if the Director, NIH, with advice of the Recombinant DNA Advisory Committee, after appropriate notice and opportunity for public comment, finds that they do not present a significant risk to health or the environment. (See Section IV–E–1–b–(1)–(d).) Certain classes are exempt as of publication of these Revised Guidelines."

Under exemption I–E–5 of these Revised Guidelines are those recombinant DNA molecules that are propagated and maintained in cells in tissue culture and that are derived entirely from non-viral components (that is, no component is derived from a eukaryotic virus).

Appendix D—HV1 and HV2 Host-Vector Systems Assigned Containment Levels as Specified in the Subsections of Section III–A

As noted above at the beginning of Section III–A, certain HV1 and HV2 host-vector systems are assigned containment levels as specified in the subsections of Section III–A. Those so classified as of publication of these Revised Guidelines are listed below.

* HV1—The following specified strains of *Neurospora crassa* which have been modified to prevent aerial dispersion:
(1) inl (inositolless) strains 37102, 37401, 46316, 64001 and 89601.
(2) csp–1 strain UCLA37 and csp–2 strains FS 590, UCLA101 (these are conidial separation mutants).
(3) eas strain UCLA191 (an "easily wettable" mutant).

HV1—Asporogenic mutant derivatives of *B. subtilis*. These derivatives must not revert to sporeformers with a frequency greater than 10^{-7}; data confirming this requirement must be presented to NIH for certification. The following plasmids are accepted as the vector components of certified *B. subtilis* HV1 systems: pUB110, pC194, pS194, pSA2100, pE194, pT127, pUB112, pC221, pC223, and pAB124. *B. subtilis* strains RUB 331 and BGSC 1S53 have been certified as the host component of HV1 systems based on these plasmids.

HV2—The asporogenic mutant derivative of *Bacillus subtilis*, ASB298, with the following plasmids as the vector component: pUB110, pC194, pSA2100, pE194, pT127, pUB112, pC221, pC223, and pAB124.

Appendix E—Actions Taken Under the Guidelines

As noted in the subsections of Sections IV–E–l–b–(1) and IV–E–l–b–(2), the Director, NIH, may take certain actions with regard to the Guidelines after consideration by the RAC.

Some of the actions taken to date include the following:

1. The following experiment has been approved: The cloning in *B. subtilis*, under P2 conditions, of DNA derived from *Saccharomyces cerevisiae* using EK2 plasmid vectors provided that an HV1 *B. subtilis* host is used.

2. Unmodified laboratory strains of *Neurospora crassa* can be used in all experiments for which HV1 *N. crassa* systems are approved provided that these are carried out at physical containment one level higher than required for HV1. However, if P3 containment is specified for HV1 *N. crassa*, this level is considered adequate for unmodified *N. crassa*. For P2 physical containment, special care must be exercised to prevent aerial dispersal of macroconidia, including the use of a biological safety cabinet.

3. P2 physical containment shall be used for DNA recombinants produced between members of the *Actinamycetes* group except for the species which are known to be pathogenic for man, animals, or plants.

4. Cloned desired fragments from any non-prohibited source may be transferred into *Agrobacterium tumefaciens* containing a Ti plasmid (or derivatives thereof), using a nonconjugative *E. coli* plasmid vector coupled to a fragment of the Ti plasmid and/or the origin of replication of an *Agrobacterium* plasmid, under containment conditions one step higher than would be required for the desired DNA in HV1 systems (i.e. one step higher physical containment than that specified in the subsections of Section III–A). Transfer into plant parts or cells in culture would be permitted at the same containment level (one step higher).

5. *Bacillus subtilis* strains that do not carry an asporogenic mutation can be used as hosts specifically for the cloning of DNA derived from *E. coli* K–12 and *Streptomyces coelicolor, S. aureofaciens, S. rimosus, S. griseus, S. cyaneus*, and *S. venezuelae*, using NIH-approved *Staphylococcus aureus* plasmids as vectors under P2 conditions.

6. *Streptomyces coelicolor, S. aureofaciens, S. rimosus, S. griseus, S. cyaneus, and S. venezuelae* can be used as hosts for the cloning of DNA derived from *B. subtilis, E. coli* K–12 or from *S. aureus* vectors that have been approved for use in *B. subtilis* under P2 conditions, using as vectors any plasmid indigenous to *Streptomyces* species or able to replicate in these hosts by natural biological mechanisms.

7. Certain cloned segments of *Anabena* DNA may be transferred into *Klebsiella* under P2 physical containment.

8. Permission is granted to clone foot-and-mouth disease virus in the EKICV host-vector system consisting of *E. coli* K–12 and the vector pBR322, all work to be done at the Plum Island Animal Disease Center.

9. Permission is granted to clone the Exotoxin A gene of *Pseudomonas aeruginosa* under P1 + EK1 conditions

* These follow the assigned containment levels as specified in the subsections of Section III–A with one exception. This exception is that experiments involving complete genomes of eukaryotic viruses will require P3 + HV1 or P2 + HV2 rather than the levels given in the subsections of Section III–A.

in *Escherichia coli* K–12 and under P1 conditions in *Pseudomonas aeruginosa*.

granted to transform *Mucor racemosus* with *S. cerevisiae* vectors with or

Streptosporangium **plasmid into which have been incorporated specified DNA**

of the public. Because the guidance in this notice covers not only virtually every NIH

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in *Escherichia coli* K–12 and under P1 conditions in *Pseudomonas aeruginosa*.

10. Permission is granted to return to the host of origin *Helminthosporanium maydis* (race O) DNA which has been cloned in yeast strain SHY2 using the hybrid *E. coli*—yeast plasmid Y1p5. The cloned DNA may be returned to, and propagated in, *Helminthosporanium maydis* at the P2 level of physical containment.

11. Permission is granted to return *Schizophyllum commune* DNA (or yeast DNA) cloned in *Saccharomyces cerevisiae* with YR or 2 mu circle vectors to *Schizophyllum commune*. The cloned DNA may be returned to, and propagated in, *Schizophyllum commune* at the P2 level of physical containment.

12. Permission is granted to return *Wangiella dermatitidis* DNA to *Wangiella dermatitidis* using an HV2 certified *Saccharomyces/E. coli* hybrid vector. The *Wangiella dermatitidis* may be propagated at the P3 level of physical containment.

13. Certain specified clones derived from segments of the Foot-and-Mouth Disease Virus may be transferred from Plum Island Animal Disease Center to the facilities of Genentech, Inc., of South San Fransico, California. Further development of the clones at Genentech has been approved under P1 + EK1 conditions.

14. *Saccharomycopsis lipolytica* may be used as a host for tranformation with defined *Escherichia coli/Saccharomyces cerevisiae* hybrid plasmids and the hybrid plasmids may be used for cloning *S. lipolytica* DNA in *E. coli* and returning the cloned DNA to *S. lipolytica*.

15. Conjugative plasmids or transducing phages may be employed in recombinant DNA experiments when employing *E. coli* as host when a small defined segment of Adenovirus 2 DNA is employed as linker DNA.

16. Permission is granted to introduce DNA segments from aphid transmissible strains into non-aphid transmissible strains of Cauliflower mosaic virus in order to study the factors determining aphid transmissibility.

17. Permission is granted to return *Mucor racemosus* DNA which has been cloned in *Saccharomyces cerevisiae* host-vector systems to *Mucor racemosus*. In addition, permission is granted to transform *Mucor racemosus* with *S. cerevisiae* vectors with or without cloned *S. cerevisiae sequences*. These manipulations may be performed under P2 conditions.

18. *Schizosaccharomyces pombe* DNA may be cloned in *Schizosaccharomyces pombe* using approved HV1 *Saccharomyces cerevisiae/E. coli* hybrid plasmids as vectors under P1 containment conditions.

19. The pyrogenic endotoxin type A (Tox A) gene of *Staphylococcus aureus* may be cloned in an HV2 *Bacillus subtilis* host-vector system under P3 containment conditions.

20. A hybrid plasmid composed of, (1) *E. coli* plasmid pBR325, (2) the origin of replication and transfer genes of *Agrobacterium tumefaciens* plasmid Ti, (3) the thiamine gene of *E. coli*, and (4) *Arabidopsis* DNA, may be transformed into *Agrubacterium tumefaciens* under P1 conditions. The *Agrobacterium tumefaciens* may subsequently be used to introduce the composite plasmid carrying *Arabidopsis* DNA and the *E. coli* thiamine gene into *Arabidopsis* plants under P1 containment conditions.

21. *Chlamydomonas reinhardi* can be used as a host for cloning defined DNA segments derived from *E. coli* and *Saccharomyces cerevisiae* using *E. coli/S. cerevisiae* hybrid vectors under P2 physical containment.

22. *Candida albicans* can be used as a host for cloning *Candida albicans* DNA following propagation of the DNA in *E. coli* K–12 or in *Saccharomyces cerevisiae* employing an *E. coli-S. cerevisiae* hybrid plasmid vector or the yeast 2 micron plasmid.

23. The Rd strain of *Hemophilus influenzae* can be used as a host for the propagation of the cloned Tn 10 tet R gene derived from *E. coli* K–12 employing the non-conjugative *Haemophilus* plasmid, pRSF0885, under P1 conditions.

24. *Zymomonas mobilis* may be used as a host under P2 conditions for transformation by recombinant DNA derived from *Pseudomonas* strains that are non-pathogenic for animals or plants, and that has been cloned in an *E. coli* K–12 host.

25. Protoplasts of *Streptosporangium brasiliense* may be transformed with a hybrid plasmid containing pBR322 plus a *Streptosporangium* plasmid into which have been incorporated specified DNA segments from *Streptomyces* species or an HV1 approved *Bacillus subtilis* cloning vector.

Appendix F—Certified HV2 Host-Vector Systems

While the Guidelines no longer specify the use of *E. coli* K–12 EK2 or *Saccharomyces cerevisiae* HV2 systems, investigators may wish to employ these systems in specific instances. The currently certified EK2 and HV2 systems are:

HV2—The following sterile strains of *Saccharomyces cerevisiae*, all of which have the ste–VC9 mutation, SHY1, SHY2, SHY3, and SHY4. The following plasmids are certified for use: YIp1, YEp2, YEp4, YIp5, YEp6, YRp7, YEp20, YEp21, YEp24, YIp25, YIp26, YIp27, YIp28, YIp29, YIp30, YIp31, YIp32, and YIp33.

EK2 Plasmid Systems. The *E. coli* K–12 strain chi–1776. The following plasmids are certified for use: pSC101, pMB9, pBR313, pBR322, pDH24, pBR327. The following *E. coli/S. cerevisiae* hybrid plasmids are certified as EK2 vectors when used in *E. coli* chi–1776 or in the sterile yeast strains, SHY1, SHY2, SHY3 and SHY4: YIp1, YEp2, YEp4, YIp5, YEp6, YRp7, YEp20, YEp21, YEp24, YIp25, YIp26, YIp27, YIp28, YIp29, YIp30, YIp31, YIp32, YIp33.

EK2 Bacteriophage Systems. The following are certified EK2 systems based on bacteriophage lambda:

Vector	*Host*
–g*tWES.–B'*	DP50*supF*
–g*tWES.–B'*	DP50*supF*
–g*tZ*[*vir.–B'*	*E. coli* K–12
–gtALO.–B	DP50*supF*
Charon 3A	DP50 or DP50*supF*
Charon 4A	DP50 or DP50*supF*
Charon 16A	DP50 or DP50*supF*
Charon 21A	DP50*supF*
Charon 23A	DP50 or DP50*supF*
Charon 24A	DP50 or DP50*supF*

Dated: November 14, 1980.

Donald S. Fredrickson,

Director, National Institutes of Health.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government program contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its annoucements the number and title of affected individual programs for the guidance

of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

NIH programs are not covered by OMB Circular A–95 because they fit the description of "program not considered appropriate" in Section 8–(b)–(4) and (5) of that Circular.

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77520 **Family Median Income** HHS/HDSO publishes notice determining extent of Federal financial participation in state expenditures under Title XX for the period 10–1–81 through 9–30–82

77421 **Natural Gas** DOE/FERC establishes final rule regarding an incentive maximum lawful price for certain intrastate gas produced from wells on which production enhancement work has been performed; effective 12–15–80

77455 **Highways** DOT/FHWA revises proposed regulation requiring the use of domestic steel construction materials on most federally-assisted highway projects; comments by 1–23–81

77466 **Highway Safety** DOT/FHWA proposes to revise rules prohibiting the use of drugs and other substances by interstate truck and bus drivers; comments by 3–24–81

77459 **Nondiscrimination** EPA gives notice of intent to publish proposed consolidated regulations on or about 12–6–80

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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77438 **Mineral Materials** Interior/BLM publishes emergency final regulation removing dollar limitations on negotiated sales of mineral materials that will be used on Trans-Alaska Pipeline System and Alaska Natural Gas Transportation System; effective 11–24–80

77434 **Environmental Protection** EPA designates fish cannery waste site in Pacific Ocean as approved interim ocean dumping site; effective 11–24–80

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 336

Employee Responsibilities and Conduct

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Final rule.

SUMMARY: The FDIC is amending its regulations governing employee responsibilities and conduct, Part 336 of the FDIC Rules and Regulations. The essence of the changes is to allow FDIC bank examiners to maintain credit cards with banks affiliated with banks supervised by the FDIC. The amendments are deemed necessary in order to provide for the legitimate credit needs of examiners, without affecting the objectivity of their work.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Joseph A. DiNuzzo, Attorney, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, D.C. 20429, telephone (202) 389–4384.

SUPPLEMENTARY INFORMATION: The FDIC regulates or supervises all insured State-chartered banks that are not members of the Federal Reserve System ("insured State nonmember banks"). To accomplish its regulatory function, the FDIC sends bank examiners and assistant examiners ("examiners") to examine banks subject to its regulatory jurisdiction. The examiner reviews records maintained by the bank and interviews bank officers and employees concerning its operations. The examiner is instructed to assess the bank's financial condition, to determine whether it is engaged in unsafe or unsound banking practices, and to determine whether it is in compliance with applicable laws and regulations. The findings of the examiner are written up in a report of examination. The FDIC takes supervisory actions—such as the issuance of a cease-and-desist order or the termination of deposit insurance—on the basis of the examiner's findings.

Section 212 of title 18, United States Code, prohibits any officer, director, or employee of a bank the deposits of which are insured by the Federal Deposit Insurance Corporation from making a loan to any examiner "who examines or has authority to examine" such bank. Section 213 of title 18, United States Code, in turn, prohibits an examiner from accepting a loan from "any bank, corporation, association or organization examined by him or from any person connected therewith." Executive Order 11222 prohibits Federal employees from having direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with their official duties and responsibilities. To implement the two Federal criminal statutes, and to guard against conflicts of interest or the appearance of conflicts of interest, the FDIC currently prohibits examiners from becoming obligated on any extension of credit (including credit extended through the use of a credit card) by: 1) an insured State nonmember bank (a bank examined by the FDIC) or 2) a national bank (a bank examined by the Office of the Comptroller of the Currency) or a State bank which is a member of the Federal Reserve System (a bank examined by the Federal Reserve Board) that is an affiliate of an insured State nonmember bank. If a merger, acquisition, or other transaction results in an extension of credit to an examiner from an insured State nonmember bank or its affiliate, the obligation has to be removed unless the FDIC Ethics Counselor determines that removal would be an undue hardship on the employee. When retention is permitted, the obligation must be paid according to its existing terms, without any renegotiation, and the employee is disqualified from examining and participating in decisions having an economic impact on the lender or an affiliate of the lender.

On September 5, 1980, the FDIC published in the **Federal Register** (45 FR 58876) notice of a proposal to amend its policies relating to examiner loans. These amendments relax current policy in four major ways:

1. They permit examiners to obtain credit through the use of a credit card from national banks and State banks which are members of the Federal Reserve System ("member banks") affiliated with an insured State nonmember bank, provided the total extension of credit at no time exceeds $5,000 and is on terms no more favorable than those available to other bank customers. This is a marked departure from the current blanket prohibition against taking out a credit card from an affiliate of an insured State nonmember bank.

2. They provide that when a member bank becomes affiliated with an insured State nonmember bank after an extension of credit is made, the examiner is not precluded from continuing to liquidate the extension of credit pursuant to its terms, without any renegotiation. In the case of credit extended through the use of a credit card where the total extension of credit exceeds $5,000 at the time of affiliation, however, the credit card may not be used again until the existing indebtedness on the card is, under the terms agreed to when the card was issued, reduced to below $5,000. The examiner with an extension of credit over $5,000 extended through the use of a credit card or the examiner with any extension of credit not extended through the use of a credit card is disqualified from examining the insured State nonmember bank affiliated with the lender or from participating in any decision having an impact on it. As it stands now, an examiner has to divest himself/herself of all extensions of credit which, after their making, become extensions of credit from affiliates of insured State nonmember banks *unless* the Ethics Counselor decides this would cause undue hardship.

3. They provide that when a member bank converts to or merges into a State nonmember bank, any extension of credit made by such bank to an examiner prior to the conversion or merger may be retained and liquidated in accordance with the original terms of the extension of credit. In the case of credit extended through the use of a credit card, however, the credit card must be returned to the issuer. The existing indebtedness on the card, though, may be liquidated under the

terms agreed to when the card was issued. The examiner is disqualified from examining the resultant insured State nonmember bank or from participating in any decision having an impact on it. This revision departs from present policy since it allows, *in all cases*, retention of an extension of credit from a member bank which becomes an insured State nonmember bank.

4. Finally, the revision permits a newly appointed examiner to retain any outstanding extension of credit from an insured State nonmember bank and liquidate it in accordance with its original terms. In the case of credit extended through the use of a credit card, however, the credit card must be returned to the issuer. The existing indebtedness on the card, though, may be liquidated under terms agreed to when the card was issued. Further, a newly appointed examiner is allowed to retain any outstanding extension of credit from a member bank affiliated with an insured State nonmember bank if it is liquidated in accordance with its original terms. In the case of credit extended through the use of a credit card where the total extension of credit exceeds $5,000, however, the credit card may not be used again until the existing indebtedness on the card is, under the terms agreed to when the card was issued, reduced to below $5,000. When the newly appointed examiner remains obligated on an extension of credit (other than credit extended through the use of a credit card, the total extension of which is $5,000 or less and is on terms no more favorable than those available to other bank customers), the examiner is disqualified from examining or participating in any decision having an impact on the lender or its affiliate.

The proposed amendments were reviewed and approved by the Department of Justice ("DOJ"). All changes in FDIC regulations concerning loans to examiners must be reviewed and approved by the DOJ in order to insure that the changes do not violate sections 212 and 213 of title 18 of the United States Code (18 U.S.C. 212 and 213), statutes which DOJ is responsible for enforcing. Also, in accordance with regulations issued by the United States Office of Personnel Management, the final amendments were approved by the United States Office of Government Ethics.

The FDIC received twenty-five comments regarding the proposed amendments. The majority (twenty) of individuals who commented expressed an enthusiastic and complete support for the amendments. Their general sentiment was that FDIC examiners have long been at an undue disadvantage in obtaining necessary credit and that the ability to obtain credit cards from affiliated banks will help correct this problem.

Eight writers noted that the FDIC should go even further in relaxing its credit restrictions upon examiners. In light of these comments, the FDIC considered a greater relaxation of its restrictions. It was determined, however, that at present the Corporation will proceed with only the credit-card liberalization; concurrently, the FDIC will assess whether a further relaxation is necessary, administratively feasible and legally permissible.

Three individuals suggested that allowing examiners to obtain credit cards from affiliate banks will cast doubt upon the integrity and objectivity of bank examiners. The FDIC disagrees with this opinion. Corporation employees do not examine banks from which they will now be permitted to obtain credit cards. As such, there is only a remote and tangential connection between the supervisory responsibilities of FDIC examiners and the extensions of credit permitted by these amendments. Hence, the FDIC maintains that the amendments will not interfere with the objectivity and integrity of its examiners.

As the result of a special request for such comments, a number of individuals commented on the treatment of demand loans *vis-a-vis* the amendments to Part 336. The main issue here deals with the elimination of outstanding demand loans held by examiners. Because the FDIC's current regulations do not allow examiners to maintain any loans with affiliated banks, the elimination of outstanding demand loans comes into play only if: (1) a member bank becomes affiliated with an insured State nonmember bank, (2) a member bank converts into or merges with a State nonmember bank, or (3) a newly hired examiner has an outstanding demand loan with an affiliated bank. Regarding demand loans which are structured with a repayment schedule, the amendments provide for these three situations by permitting the examiner to liquidate the outstanding indebtedness pursuant to the terms of the existing agreement. With respect to outstanding demand loans without repayment schedules, however, the amendments do not address the question of how examiners should liquidate these loans. Considering the infrequency with which the situation is expected to arise, the FDIC has decided to handle demand loans without repayment schedules on a case-by-case basis. The majority of comments on this matter suggested that examiners be given a one- or two-year period in which to liquidate demand loans without repayment schedules. These comments will be viewed by the Ethics Counselor upon the *ad hoc* review of such loans.

The FDIC is presently evaluating further revisions of Part 336. Some of the comments received by the FDIC regarding the foregoing amendments dealt with matters being studied under this review. One such matter is the treatment of loans made to an examiner's spouse. Another is the adoption of a joint policy by the Federal Financial Institutions Examination Council regarding loans to examiners. These comments will be considered in the near future.

Since the amendments to Part 336 are internal in nature (they affect only FDIC examiners), the changes do not affect the recordkeeping or reporting requirements or the competitive status of insured State nonmember banks; therefore, neither a cost-benefit analysis nor a small bank impact statement has been prepared.

In consideration of the foregoing, 12 CFR Part 336 is amended as follows:

1. The authority citation for Part 336 reads as follows:

Authority: E.O. 11222; 3 CFR, 1964–65 Comp.; 5 CFR 735.104, unless otherwise noted.

2. In § 336.735–11, paragraph (b)(5)(i) is revised to read as follows:

§ 336.735–11 Gifts, entertainment, favors and loans.

* * * * *

(b) * * *

(5) * * *

(i) A Corporation examiner or assistant examiner may not, after his or her appointment, directly or indirectly accept or become obligated on any extension of credit, including credit extended through the use of a credit card, from an insured State nonmember bank. Further, a Corporation examiner or assistant examiner may not, after his or her appointment, directly or indirectly accept or become obligated on any extension of credit from a member bank affiliated with an insured State nonmember bank unless the credit is extended through the use of a credit card, does not exceed $5,000 at any time, and is on terms no more favorable than those available to other bank customers. An examiner who has received an extension of credit through the use of a credit card permitted by this subsection shall not be disqualified from participating in any examination of or any decision having an impact on an insured State nonmember bank affiliated with the bank which issued the card.

* * * * *

3. In § 336.735–13, paragraph (a)(7) and (a)(8) are revised to read as follows:

§ 336.735–13 Financial interests and obligations.

(a) * * *

* * * * *

(7) If a merger, acquisition, or other transaction results in a credit extension to an examiner or assistant examiner prohibited by § 336.735–11(b)(5)(i), that extension of credit may be retained if it is liquidated under its original terms, without any renegotiation. In the case of credit extended through the use of a credit card issued by an insured State nonmember bank, however, the credit card must be returned to the insured State nonmember bank. The existing balance of indebtedness on the card, however, may be liquidated under the terms agreed to when the card was issued. In the case of credit extended through the use of a credit card issued by a member bank affiliated with an insured State nonmember bank where the total extension of credit exceeds $5,000, the credit card may not be used again until the existing indebtedness on the card is, under the terms agreed to when the card was issued, reduced to below $5,000. If a merger, acquisition, or other transaction results in a credit extension to an examiner or assistant examiner prohibited by § 336.735–11(b)(5)(i) and that extension of credit is retained in accordance with this subsection, the examiner or assistant examiner is disqualified from examining or participating in any decision having an impact on the insured State nonmember bank lender or its affiliate. If a merger, acquisition, or other transaction results in the existence of a credit extension prohibited by § 336.735–11(b)(5) (ii) or (iii) the obligation will be removed unless the Ethics Counselor determines that removal would be an undue hardship on the employee. When an obligation prohibited by § 336.735–11(b)(5) (ii) or (iii) may be retained, the obligation will be paid according to its existing terms, without any renegotiation, and the employee will be disqualified under § 336.735–13(a) from participating in any examination of or any decision having an economic impact on the lender or any affiliate of the lender.

(8) An examiner or assistant examiner who is newly appointed may remain obligated on any outstanding extension of credit from an insured State nonmember bank if the obligation is liquidated under its original terms, without any renegotiation. In the case of credit extended through the use of a credit card, however, the credit card must be returned to the insured State nonmember bank. The existing balance of indebtedness on the card, however, may be liquidated under the terms agreed to when the card was issued. Further, an examiner or assistant examiner who is newly appointed may remain obligated on any extension of credit from a member bank affiliated with an insured State nonmember bank if the obligation is liquidated under its original terms, without any renegotiation. In the case of credit extended through the use of a credit card where the total extension of credit exceeds $5,000, however, the credit card may not be used again until the existing indebtedness on the card is, under the terms agreed to when the card was issued, reduced to below $5,000. An extension of credit would be "outstanding" if it was made before the date on which the new appointee officially commenced employment by reporting for duty. When the newly appointed examiner or assistant examiner remains obligated on an extension of credit (other than an extension of credit extended by a member bank through the use of a credit card, the total extension of which does not exceed $5,000 and is on terms no more favorable than those available to other customers), he or she is disqualified under § 336.735–13 from participating in any examination of or any decision having an impact on the lender or an affiliate of the lender. An examiner or assistant examiner may not, after his or her appointment, directly or indirectly become obligated on any extension of credit (including credit through the use of a credit card) from an insured State nonmember bank. An examiner or assistant examiner may not, after his or her appointment, become obligated on an extension of credit from an affiliate of an insured State nonmember bank unless the extension of credit is extended through the use of a credit card, does not exceed $5,000 at any time, and is on terms no more favorable than those available to other bank customers. Full disclosure of any obligation to a bank and the date the obligation should be fully repaid must be made in writing to the Regional Director on an official Corporation form designated for the purpose. The Regional Director shall also be notified of the repayment of the obligation. For bank credit cards, these disclosure requirements are met if the Regional Director is notified in writing of the date of receipt of the card, the name of the bank acting as principal and the date of the discontinuance if the card is destroyed or returned to the bank. Regional Directors will immediately forward copies of the disclosures by examiners or assistant examiners to the Ethics Counselor. All disclosure statements received by Regional Directors shall be treated as confidential. The information on the disclosure statements submitted to a Regional Director shall also be reported on annual disclosure statements submitted to the Ethics Counselor. The Ethics Counselor shall treat all disclosure statements as confidential.

* * * * *

By order of the Board of Directors dated November 17, 1980.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 80-36562 Filed 11-21-80; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-EA-51, Amdt. 39-3977]

AVCO Lycoming O-320-H, O-360-E Engines; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends AD 80-04-03 applicable to O-320-H type aircraft engines, and concerns spalling and chipping of hydraulic tappets. It required a replacement of exhaust valve spring seats and hydraulic lifters and an oil inspection for contaminants. This rule adds additional engine models to the applicability statement and imposes a requirement to add an oil additive with a reporting of results to the FAA. The oil additive will alleviate the spalling problem. Failure to correct the spalling will affect the airworthiness of the engine.

EFFECTIVE DATE: November 24, 1980. Compliance is required as set forth in the AD.

ADDRESSES: Avco Lycoming Service Bulletins may be acquired from the manufacturer at Williamsport, Pennsylvania 17701.

FOR FURTHER INFORMATION CONTACT: I. Mankuta, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, New York 11430; Tel. 212-995-2894.

SUPPLEMENTARY INFORMATION: Since the publication of AD 80-04-03 which relates to this problem, it has been determined that there have been additional cases of spalling and chipping. The manufacturer has tested and demonstrated that the oil additive will reduce or eliminate spalling. It was also determined that the 0-360E Series engines have the same valve train design and are also susceptible to the spalling condition. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations, 14 CFR 39.13 is amended, by amending and revising AD 80-04-03 to read as follows:

AVCO Lycoming: Applies to 0-320-H series engines and 0-360-E, LO-360-E, TO-360-E and LTO-360-E series engines; (all serial numbers and hydraulic lifter (tappet) configurations).

Compliance required as indicated, unless already accomplished.

a. To prevent hazards in flight associated with bent push rods on Model 0-320-H series engines, accomplish the following:

Within the next 50 hours in service after the effective date of this AD, replace the upper exhaust valve spring seats with P/N LW-16475-KLI and the exhaust hydraulic lifters with P/N LW-16586 in accordance with AVCO Lycoming Service Bulletin No. 435 dated March 17, 1979, or FAA-approved equivalent, on all 0-320-H series engines with serial numbers up to and including L-6182-76 and on all 0-320-H series engines overhauled (remanufactured by Lycoming) before March 19, 1979.

b. To prevent excessive wear and oil system contamination associated with hydraulic lifters spalling on 0-320-H, and 0-360-E, LO-360-E, TO-360-E and LTO-360-E series engines, accomplish the following:

1. At the next engine oil change but no later than 50 hours in service after the effective date of this AD, and at each subsequent oil change or 50-hour interval, whichever occurs earlier, add one 6-ounce can of Lycoming P/N LW-16702 oil additive in accordance with Lycoming Service Bulletin No. 446B.

2. Within the next 50 hours in service after the effective date of this AD and at every subsequent oil change thereafter, not to exceed 100-hour intervals, inspect lubrication system for metal contaminants. Inspection of the lubrication system consists of visual examination for minute particles of metal suspended in the oil, examination of the engine oil suction screen for presence of metal particles and the inspection of the external full flow oil filter for metal particles by cutting it open so that the pleated element can be unfolded and examined. If ferrous metal contaminants are detected during the above inspections, the camshaft lobes and all hydraulic lifters must be inspected for wear or loss of metal. Replace the camshaft and hydraulic lifters found to have such indications.

3. If contaminants are detected, engine maintenance entries shall be made and notification in writing must be sent to the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, specifying the following information:

Total time and time since overhaul.

Total time on hydraulic lifters.

Total time since oil additive first used.

(Reporting Approved by the Bureau of the Budget under OMB No. 04-R0174).

c. Equivalent methods of compliance may be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

d. Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspection, the Chief, Engineering and Manufacturing Branch, FAA, may adjust the compliance time specified in this AD.

e. Special Flight Permits may be issued per FAR's 21.197 and 21.199 to authorize operation of aircraft to a base where the modification and inspection required by this AD may be performed.

AD 80-04-03 was effective February 8, 1980.

This amendment is effective November 24, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423, 1431(b)); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c) and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

Issued in Jamaica, New York, on November 10, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-36513 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 80-ASW-29, Amdt. 39-3976]

Bell Model 47 Series Helicopters; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a revision to Amendment 39-3942, (45 FR 67645) Airworthiness Directive (AD) 80-21-09, applicable to Bell Model 47 series helicopters equipped with the 47-641-170 series tail rotor hub and blades by correcting bolt part numbers specified in the AD. This amendment is needed to correct bolt part numbers that were transposed.

DATES: Effective November 24, 1980. Compliance required as specified in the amendment.

ADDRESSES: A copy of the bulletins and instructions may be obtained from the Regional Counsel, Attention: Docket No. 80-ASW-29, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. Bell service information may be obtained from the Product Support Department, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: J. H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number (817) 624-4911, extension 516

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-3942 (45 FR 67645), AD 80-21-09, which currently requires within 100 hours' time in service after November 17, 1980, installation of safety washers and longer bolts on both tail rotor pitch control links on Bell Model 47 series helicopters equipped with the 47-641-170 series tail rotor hub and blades by specifying the correct bolt part numbers in subparagraph (c) of the AD.

After issuing Amendment 39-3942, AD 80-21-09, the agency determined the bolt part numbers stated in subparagraph (c) of the AD were incorrect for the pitch horns specified and were in conflict with and transposed from that specified in Bell Helicopter Textron Alert Service Bulletin No. 47-80-8, Rev. A. Therefore, the AD is being amended by specifying the correct bolt part numbers.

Since this amendment corrects a transposed part number to agree with a manufacturer's bulletin and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-3942 (45 FR 67645), AD 80-21-09, by revising subparagraph (c) of the amendment to read as follows:

(c) Install bolts P/N NAS1304-32D or 20-057-4-32D (used with pitch horn, P/N 47-641-187-1, -3, or -5), or P/N NAS1304-30D, or 20-057-4-30D (used with pitch horn, P/N 47-641-187-7) as appropriate, with washer, P/N 47-641-189-1 or -3 under the bolt head or nut, and washer P/N 47-641-189-3 between the link bearing and pitch horn with bevel towards the bearing. Torque nuts 80 to 100 inch-pounds and install cotter pins.

This amendment becomes effective November 24, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Issued in Fort Worth, Tex., on November 7, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-36514 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-WE-55-AD, Amdt. 39-3979]

Hughes Helicopters Model 369 Series Helicopters; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which imposes a restriction in operations in that the middle front seat must not be occupied during flight in falling and/or blowing snow. The AD is prompted by a report that possibly the occupant of the middle front seat disarmed the Automatic Engine Reignition System and blocked the crew's view of the auto-reignition system "ARMED" and "RE-IGN" advisory lights. This could result in a commitment for an autorotation landing since adequate time might not be available for a manual engine restart.

DATES: Effective December 4, 1980. Compliance schedule—As prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from:

Hughes Helicopters, Division of Summa Corporation, Centinela and Teale Streets, Culver City, California 90230.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591, or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: There has been a report of a crash during snow precipitation in which a possible cause is being attributed to the occupant of the middle front seat inadvertantly disarming the Automatic Engine Reignition System and also blocking the crew's view of the advisory lights. A pilot and an aerospace engineer from the Flight Test Section have made an evaluation of the location of the switches and lights associated with the Automatic Engine Reignition System and have determined that the existing arrangement is a non-compliance with CAR 6.611 and 6.353. Since this condition is likely to exist or develop on other helicopters of the same type design, this Airworthiness Directive is being issued to require a restiction in operations, specifically, the middle front seat is not to be occupied during flight in falling and/or blowing snow.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Hughes Helicopters: Applies to Model 369 Series Helicopters, certified in all categories, equipped with Automatic Engine Reignition System.

Compliance is required as indicated unless already accomplished.

To prevent the possibility of the middle front seat occupant accidentally deactivating the Automatic Engine Reignition System and also from blocking the crew's view of the automatic reignition "ARMED" and "RE-IGN" advisory lights, accomplish the following:

(a) Within thirty (30) consecutive calendar days or prior to flight in falling and/or blowing snow, whichever comes first, after the effective date of this AD, install a placard in close proximity to the Automatic Engine Reignition Arming switch and in plain view of the pilot which states "Middle front seat is not to be occupied during flight in falling and/or blowing snow" or equivalent words.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate aircraft to a base for the accomplishment of modification required by this AD.

(c) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Engineering and Manufacturing Branch, FAA Western Region.

This amendment becomes effective December 4, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Polices and Procedures (44 FR 11034, February 26, 1979).

Issued in Los Angeles, Calif., on November 12, 1980.

John D. Mattson,

Director, FAA Western Region.

[FR Doc. 80-36511 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-SO-69, Amdt. No. 39-3978]

Piper PA-28, PA-32, and PA-34 Series Airplanes; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection of the ammeter connections on certain Piper Model PA-28, PA-32, and PA-34 series airplanes and replacement of the ammeter with an airworthy like part as necessary. This AD is prompted by several reports of heat damaged ammeters and smoke in the cockpit caused by loose and shorting ammeter terminal posts. A shorted condition at the ammeter could result in complete electrical failure.

DATES: Effective November 28, 1980. Compliance required within the next 25 hours time in service after the effective date of this AD.

ADDRESSES: The applicable service bulletin may be obtained from Piper Aircraft Corporation, Lockhaven, Pennsylvania 17745, telephone (707) 748-6771.

A copy of the service bulletin is also contained in the Rules Docket, Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Norman Berry Drive, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT: Fred Jones, ASO-213, Engineering and Manufacturing Branch, FAA, Southern

Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763–7781.

SUPPLEMENTARY INFORMATION: There have been reports of heat damaged ammeters and loosening and shorting of the ammeter terminal posts in certain Piper Aircraft Corporation Models PA–28, PA–32, and PA–34 airplanes which resulted in smoke in the cockpit and unscheduled/emergency landings. Since this condition is likely to exist or develop on other airplanes of the same type design, an Airworthiness Directive is being issued which requires inspection of the ammeter connections on certain Piper Aircraft Corporation Models PA–28, PA–32, and PA–34 series airplanes and replacement of the ammeters as necessary.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Piper Aircraft Corporation: Applies to the following Piper models certificated in all categories:

Model	Serial numbers
PA–28–180	7405001 thru 7505259
PA–28–181	7690001 thru 8190081
PA–28–201T	7921001 thru 7921091
PA–28–235	7411001 thru 7710089
PA–28–236	7911001 thru 8111021
PA–28R–200	7435001 thru 7635545
PA–28R–201	7737001 thru 7837317
PA–28R–201	7703001 thru 7803373
PA–28R–201T	7918001 thru 8118017
PA–28RT–201T	7931001 thru 8131022
PA–32–260	7400001 thru 7800008
PA–32–300	7440001 thru 7940290
PA–32–301	8006001 thru 8106005
PA–32–301T	8024001 thru 8124001
PA–32R–300	7680001 thru 7880068
PA–32RT–300	7985001 thru 7985105
PA–32RT–300T	7787001 and 7887002 thru 7987126
PA–32R–301	8013001 thru 8113002
PA–32R–301T	8029001 thru 8129002
PA–34–200T	7570001 thru 8170028

Compliance is required as indicated, unless already accomplished. To prevent smoke in the cockpit and possibly complete electrical failure resulting from shorting of ammeter terminal posts, accomplish the following:

(a) Within the next 25 hours time in service after the effective date of this AD, inspect the ammeter and ammeter connections of the above listed airplanes as follows:

Inspect to determine if washer beneath each terminal post retainer nut is nylon or phenolic. If nylon, no further action is required. If any terminal post washer is phenolic, replace the washer with a Stewart Warner nylon washer, Part No. 820005 (Piper Part No. 756–549). Nylon washer must be positioned with shoulder adjacent to the cluster case. Before installing replacement nylon washer, inspect for evidence of overheating and/or arcing at or near the ammeter terminal posts. If there are any indications of overheating and/or arcing, replace the ammeter with an airworthy like part.

Note.—When installing a new ammeter, insure that the terminal post washers are nylon, that the terminal post retainer nuts are properly tightened, and that the terminal posts are secure. Use caution installing hardware as terminal posts are brass and easily damaged.

(b) Make appropriate maintenance record entry after completing the inspection and installation/reconnection.

Note.—Piper Service Bulletin No. 698 covers this subject.

(c) An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, FAA, Southern Region.

This amendment becomes effective November 28, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "For Further Information Contact."

Issued in East Point, Ga, on November 12, 1980.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 80-38512 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-WE-50-AD, Amdt. 39-3975]

Robinson Model R-22 Helicopter; Airworthiness Directives

AGENCY: Federal Aviation Aministration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection of tailcone supporting framework tubes for cracks on Robinson Model R–22 helicopters. The AD is prompted by two reports of cracks in the tailcone supporting framework tubes which could result in loss of the tailcone.

DATES: Effective November 24, 1980. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from:

Robinson Helicopter Company, 24747 Crenshaw Boulevard, Torrance, California 90505; telephone (213) 539–0508.

Also, a copy of the service information may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue, SW., Washington, D.C. 20591,

or

Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Robert T. Razzeto, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6351.

SUPPLEMENTARY INFORMATION: There have been reports of cracks in the tailcone supporting tubes on two Robinson Model R–22 helicopters which could result in loss of the tailcone. Since this condition is likely to exist or develop on other helicopters of the same type design, an Airworthiness Directive is being issued which requires inspection of the P/N A020–2 frame assembly on certain Robinson Model R–22 helicopters.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Robinson Helicopter: Applies to Model R–22 helicopters serial numbers 0002 through 0082 certificated in all categories. Compliance required as indicated, unless already accomplished.

To prevent possible loss of the tailcone resulting from supporting framework tube or tube weldment fractures, accomplish the following:

(a) Unless accomplished within the previous 90 hours' time in service, in accordance with the methods of Robinson Helicopter Company Service Bulletin B–4 dated September 19, 1980, hereinafter referred to as SB B–4, prior to the accumulation of 100 hours' time in service or within 10 hours time in service from the effective date of this AD and thereafter at intervals not to exceed 100 hours' time in service since the last such inspection, dye penetrant inspect the tubes and weldments for cracks per methods of, and in the areas identified as items 1 through 4 of the figure of SB B–4.

(b) If no cracks are found the rotorcraft may be returned to service provided that, on reassembly, the hardware as discussed in paragraphs 7 and 8 of the section of SB B–4 entitled "Removal of the A 023 Tailcone Assembly" is replaced with the following identical new parts:

NAS—679–A4 NUT (5 each)
NAS 1304–22 Bolt (4 each)
NAS 1304–3 Bolt (1 each)
PAL NUTS (5 each)

(c) If cracks are detected as a result of the inspections of paragraph (a) of this AD, prior to further flight notify the Chief, Aircraft Engineering Division, FAA Western Region for instructions and disposition of the part. Exact location and extent of crack must be made available to the FAA.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(e) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective November 24, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C 1354(a), 1421, 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures 944 FR 11034; February 26, 1979.

Issued in Los Angeles, Calif., on November 5, 1980.

John D. Mattson,

Director, FAA Western Region.

[FR Doc. 80-38515 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-ASO-38]

Alteration of Federal Airways, Orlando, Fla.; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: On September 22, 1980, the FAA published amendments to Part 71, effective October 30, 1980, to alter the descriptions of Victor Airways V–3, V–152, V–159, V–267, and V–441 in the vicinity of Orland, Fla. (45 FR 62795). On October 9, 1980, the FAA published corrections to that amendment (FR Document 80–31499; 45 FR 67072) to correct the descriptions of V–3, V–51, and V–152 and to extend the effective date of the amendments to December 25, 1980. This action corrects discrepancies subsequently found in the descriptions of V–3, V–152, and V–159.

EFFECTIVE DATE: December 25, 1980.

FOR FURTHER INFORMATION CONTACT: C. Horne, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8525.

SUPPLEMENTARY INFORMATION: This action corrects the amendment, published on September 22, 1980 (45 FR 62795) to V–159, by correcting minor variations in radials of V–159 caused by computation calculation methods.

This action also corrects the amendment as corrected (45 FR 62795 and 67072) by further correcting the descriptions of V–3 and V–152. This is necessary to correct minor variations found in the radials of V–152 caused by computation calculation methods. This is also necessary to properly describe the V–3 west alternate which was inadvertently described as being from Vero Beach, Fla., to Ormond Beach, Fla., instead of from Melbourne, Fla., to Ormond Beach, Fla.

Since this action is corrective in nature to achieve the intended results described in the preambles to the final rule and correction, I find that further notice and public procedure is unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), as republished, amended, and corrected (45 FR 307, 62795, and 67072), is further amended, effective 0901 G.m.t., December 25, 1980, as follows:

1. FR Document 80–31499 (45 FR 67072, October 9, 1980) is amended as follows:

a. Under V–3, after the words "Vero Beach 143°" is amended to read "radials; Vero Beach 343° INT Melbourne, Fla., 161° radials Melbourne; Melbourne 341° radials INT Ormond Beach, Fla., 161° radials Ormond Beach; including a W alternate from Melbourne to Ormond Beach, via Melbourne 321° INT Ormond Beach 211° radials;"

b. Under V–152, all after "St. Petersburg, Fla." is deleted and "via INT St. Petersburg 062° and Ormond Beach, Fla., 211° radials; Ormond Beach, including a S alternate via Lakeland, Fla., Orlando, Fla.; INT Orlando 049° and Ormond Beach 161° radials;" is substituted therefor.

2. FR Document 80–29167 (45 FR 62795, September 22, 1980) is corrected as follows:

Under V–159, after "Ocala, Fla.," add "including a S alternate from INT Vero Beach 319° and Melbourne, Fla., 298° radials, to Ocala via INT Melbourne 298° and Ocala 145° radials."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on November 18, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-38509 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-ASW-43]

Designation of Compulsory Reporting Point

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment designates TRIAD Intersection as a compulsory reporting point. TRIAD is located on V–477, 28 miles south of Scurry, Tex., VORTAC. Designation of TRIAD as a compulsory reporting point improves air safety and enhances the flow of traffic between Scurry and Houston.

EFFECTIVE DATE: February 19, 1981.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8525.

SUPPLEMENTARY INFORMATION: On October 27, 1980, the FAA proposed to

amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate TRIAD, Tex., Intersection as a compulsory reporting point (45 FR 70878). TRIAD Intersection, located 28 miles south of Scurry, Tex., on V–477 is currently depicted on charts as a noncompulsory reporting point. This action increases air traffic safety by requiring aircraft to report passing TRIAD. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.203 of Part 71 was republished in the **Federal Register** on January 2, 1980 (45 FR 645).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates TRIAD, Tex., Intersection, located 28 miles south of Scurry, Tex., on V–477 as a compulsory reporting point. This amendment enhances air safety by requiring aircraft to report passing TRIAD Intersection.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 645) is amended, effective 0901 G.m.t., February 19, 1981, as follows:

Under § 71.203 "TRIAD, Tex." is added.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on November 18, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-36517 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-AWA-11]

Amendment to Victor Airways, Patuxent River, Md.; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects a rule that excluded several airways from adjacent restricted areas in the vicinity of Patuxent River, Md., as published in the FR Doc. 80–33612 appearing at page 71773 in the **Federal Register** of October 30, 1980. The correction is required because the exclusions for Federal Airways V–20, V–33, and V–157 were incorrectly stated as to the applicable restricted areas.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–3715.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. No. 80–33612 appearing at page 71773 in the **Federal Register** of Thursday, October 30, 1980, is corrected as follows:

a. On page 71773, under Adoption of the Amendment, the third line is changed to read "§ 71.123 of Part 71 of the Federal"

b. On page 71773, the amendatory language to § 71.123 is changed to read as follows:

3. Under V–20 the following is added: "The airspace within R–4007A and R–4007B is excluded."

4. Under V–33 the following is added: "The airspace within R–4007A and R–4007B is excluded."

5. Under V–157 the following is added: "The airspace within R–4005 and R–4006 is excluded."

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69).

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on November 18, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-36516 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-ASW-36]

Designation of Transition Area; Holdenville, Oklahoma

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of the action being taken is to designate a transition area at Holdenville, Oklahoma. The intended effect of the action is to provide controlled airspace for aircraft executing a new instrument approach procedure to the Holdenville Municipal Airport. The circumstance which created the need for the action is the proposed establishment of a nondirectional radio beacon (NDB) on the airport.

EFFECTIVE DATE: February 19, 1981.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW–535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817–624–4911, extension 302.

History

On August 21, 1980, a notice of a proposed rule making was published in the **Federal Register** (45 FR 55759) stating that the Federal Aviation Administration proposed to designate the Holdenville, Okla., transition area. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) designates the Holdenville, Okla., transition area, This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing a new proposed instrument approach procedure to the Holdenville Municipal Airport.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective 0901 G.m.t., February 19, 1981, as follows:

In Subpart G, § 71.181 (45 FR 445), the following transition area is added:

Holendville, Oklahoma

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Holdenville Muncipal Airport. (latitude 35°05'15"N., longitude 96°25'00"W.), and within 3 miles each side of the 348° bearing of the Holdenville NDB, (latitude 350°05'07"N., longitude 96°23'47"W.), extending from the 5-mile radius area to 8.5 miles north of the Holdenville NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on November 5, 1980.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 80-36520 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 8908]

Encyclopaedia Britannica, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order modifies Paragraphs II (A), (B), (D) and (E) of the original Commission order issued March 9, 1976 (41 FR 19301, 87 F.T.C. 421) against respondents. The modifications permit respondents, for a one-year period, to use alternative means of making prescribed disclosures regarding their sales solicitation activities. This action affords respondents further opportunity to propose provisions that will lessen any undue financial impact on them and to demonstrate to the Commission that these provisions will effectively communicate to prospective customers, the disclosures required by the previous order.

DATES: Decision issued March 9, 1976. Modifying order issued Oct. 28, 1980.

FOR FURTHER INFORMATION CONTACT: FTC/P, Robert Blacher, Washington, D.C. 20580 (202) 523–3868.

SUPPLEMENTARY INFORMATION: In the Matter of Encyclopaedia Britannica, Inc., a corporation, and Britannica Home Library Services, Inc., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13 and appearing at 41 FR 19301, remain unchanged.

The Order Modifying Cease and Desist Order is as follows:

On March 9, 1976, the Commission issued an Order in this docket against Encyclopaedia Britannica, Inc., a corporation and Britannica Home Library Services, Inc., a corporation. The Order includes, *inter alia,* provisions Paragraphs II(A) and II(B)) requiring respondent, Encyclopaedia Britannica, Inc., to disclose in certain advertising and in a specified manner that persons who reply as requested may be contacted by a salesperson for the purpose of selling respondent's products. Furthermore, the Order (Paragraphs II(D) and II(E)) requires that when a sales representative of the respondent visits the home or place of business of potential purchasers of respondent's products, such representatives shall, at the time admission is sought, present a 3 by 5 card which identifies the sales representative and discloses that the purpose of the visit is to sell respondent's products.

On August 2, 1979, the United States Court of Appeals for the Seventh Circuit affirmed and enforced the Commission Order in this docket. On March 17, 1980, the Supreme Court of the United States denied respondents' petition for *certiorari.* Accordingly, pursuant to Section 5(g)(3) of the Federal Trade Commission Act, as amended, the Order of the Commission in this docket is now final.

During the time their *certiorari* petition was pending in the Supreme Court, respondents initiated discussion with the staff of the Commission concerning possible modifications of Paragraphs II(A), II(B), II(D) and II(E) of the Commission's Order. On March 18, 1980, Paragraphs II(A), (B). (D), and (E) of the Commission's Order were stayed until further notice in order to permit the Commission to consider proposed modifications. On March 26, 1980, respondents filed their "Request to Reopen Proceedings and Modify Order." Respondents filed a memorandum in support of this request on May 2, 1980. In their petition and supporting memorandum, respondents asserted that, without such modifications, they would be placed at a competitive disadvantage, resulting in substantial financial harm to their business operations. Respondents also asserted that they have adopted in the last several years new sales procedures, including disclosures in advertising and in business calling cards presented by salespersons at the door of prospective customers, which effectively disclose to prospective customers the direct sales solicitation purpose and nature of such sales activities.

Pursuant to § 2.51 of its Rules of Practice, the Commission invited public comment on respondents' petition to modify the Order. Having considered respondents petition and supporting memorandum, and the comments received, the Commission has determined that it would be appropriate to provide respondents further opportunity to (1) propose provisions that would lessen any undue financial impact on them and (2) present evidence demonstrating that such provisions will effectively communicate the information required by the original Order. Furthermore, with respect to the advertising disclosures required by Paragraphs II(A) and II(B), the Commission has determined that, without necessity of further evidence, certain modifications of the advertising disclosures can be ordered which will communicate effectively while allowing respondents alternative methods of making the disclosures.

Therefore, it is ordered, That Paragraphs II (A), (B), (D) and (E) of the Order issued in this docket on March 9, 1976 shall be modified as follows:

1. Paragraph II(A) shall read:

"A. Disseminating or causing to be disseminated any advertisement or promotional material which solicits participation in any contest, drawing or sweepstakes, or solicits any response to any offer of merchandise, service or information, unless any such solicitation clearly and conspicuously discloses that a person who replies as requested may be contacted directly by a salesperson for the purpose of selling respondent's products, using one of the following disclosures:

1. Important: this card will let you know of my interest and enable your [location designation, if appropriate] sales representative to

(contact me at home)	(information)
(call or visit me) with	(details)
(contact me in person)	(facts) on how I

may (purchase)/(buy) [applicable product].
2. Important: Returning this card allows me to have your [location designation, if appropriate] sales representative (contact me at home) (information) (call or visit me) with (details) (contact me in person) (facts) on how I may (purchase)/(buy) [applicable product].
3. Important: Returning this card will enable your [location designation, if appropriate] sales representative to (contact me at home) (information) (call or visit me) with (details) (contact me in person) (facts) on how I may (purchase)/(buy) [applicable product].

Upon prior approval in writing of the Assistant Director of the Division of Compliance of the Bureau of Consumer Protection, or his designee, respondent may use any other disclosure that clearly and conspicuously discloses that a person who replies as requested may be contacted directly by a salesperson for the purpose of selling respondent's products. A request for approval shall be in writing and shall be deemed granted if not disapproved within 30 days after receipt by the Assistant Director of the Division of Compliance of the Bureau of Consumer Protection."

2. Paragraph II(B) shall read:

"B. Providing any return card, coupon or other device which is used to respond to any advertisement of promotional material covered by Paragraph II(A) above, unless one of the disclosures set forth in such Paragraph, or a disclosure approved by the Assistant Director of the Division of Compliance or his designee as satisfying the requirements of Paragraph II(A), clearly and conspicuously appears in immediate proximity to the space provided for a signature or other identification of the responding party. During the one (1) year period from the date this Order becomes final, respondent may submit a request to reopen these proceedings pursuant to § 2.51 of the Commission's Rules of Practice. Such petition shall contain information demonstrating that any proposed modifications of Paragraphs II(A) and II(B) will clearly and conspicuously disclose to potential purchasers of respondent's products that a person who replies as requested may be contacted directly by a salesperson for the purpose of selling respondent's products. The foregoing sentence shall not be construed as a limitation on respondent's submission of additional information regarding the request to reopen, including information relating to the financial impact of Paragraphs II(A) and II(B) on respondent. Should a request be submitted, the Commission shall determine whether to reopen these proceedings within one hundred-twenty (120) days of receipt of such request. The procedure to reopen the proceedings as set forth herein is in addition to, and not in lieu of, any other procedure (or time period with respect to such procedure) permitted by law or the Commission's Rules of Practice."

3. Paragraph II(D) shall be amended by adding the following proviso at the end thereof:

Provided, however, that for one (1) year from the date this Order becomes final, respondent may, in lieu of the card required by this Paragraph of the Order, substitute a business card of at least 2 inches by 3½ inches containing only the following information:

(1) The name of the corporation.
(2) The name of the salesperson.
(3) The term "sales representative."
(4) An address and telephone number at which the corporation or salesperson may be contacted.
(5) The product or the corporation logo or identifying mark.

During this one (1) year period, respondent shall comply in all other respects with the requirements of Paragraph II(D) above. Prior to the expiration of the aforesaid time period, respondent may submit a request to reopen these proceedings pursuant to § 2.51 of the Commission's Rules of Practice. Such petition shall contain information demonstrating that the business card required in Paragraph II(D), as modified above, is effective in communicating to potential purchasers, prior to the entry into their homes or places of business by any of the respondent's sales representatives, that the purpose of the sales representative's call is to solicit the sale of respondent's products. The foregoing sentence shall not be construed as a limitation on respondent's submission of additional information regarding the request to reopen, including information on the financial impact of Paragraph II(D) on respondent. Should a request be submitted, the Commission shall determine whether to reopen these proceedings within one hundred-twenty (120) days of receipt of such request. Respondent may continue to use the business card, as described by this *proviso,* during the time that a request to reopen these proceedings pursuant to this Paragraph is pending, and, if such proceedings are reopened, until the Commission determination of the matter has become final. The procedure to reopen the proceedings as set forth herein is in addition to, and not in lieu of, any other procedure (or time period with respect to such procedure) permitted by law or the Commission's Rules of Practice.

4. Paragraph II(E) shall be amended by striking the words "to direct each such person to read the information contained on such card." The amended Paragraph shall read:

E. Failing to give the card, required by Paragraph II(D) above, to each person and to provide each such person with an adequate opportunity to read the card before engaging any such person in any sales solicitation.

It is further ordered, That the foregoing modifications shall become effective upon service of this order.

It is further ordered, That the stay issued on March 18, 1980 shall be vacated and Paragraphs II (A), (B), (D) and (E), as modified by this order, shall have full force and effect upon service of this order.

By direction of the Commission. Commissioner Pitofsky did not participate.

Carol M. Thomas,
Secretary.

[FR Doc. 80-36830 Filed 11-21-80; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 4

[Docket No. RM80-65]

Exemption From All or Part of Part I of the Federal Power Act of Small Hydroelectric Power Projects With an Installed Capacity of Five Megawatts or Less; Correction

November 18, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: On November 7, 1980, the Federal Energy Regulatory Commission (Commission) issued Order No. 106 (45 FR 76115, November 18, 1980) which implements exemption procedures under Subpart K (§§ 4.101 to 4.108) of Part 4 of its regulations. This document makes corrections to that rule.

FOR FURTHER INFORMATION CONTACT:
James Hoecker, Division of Regulatory Development, Office of the General Counsel, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, (202) 357–9342.

SUPPLEMENTARY INFORMATION: The Final Rule in that order is corrected as follows:

1. In § 4.103(a), the reference to "paragraph (d)" is corrected to read "paragraph (c)."
2. In § 4.104(a)(1), the subparagraph title is corrected to read *"Unexpired permit or license."*. The word "application" is deleted.
3. In § 4.104(a)(2)(ii)(A), the word "preliminary" is inserted before the word "permit".
4. In § 4.104(b), the paragraph title is corrected to read: *"Priority of exemption applicant's earlier permit or license application."*.
5. In § 4.104(e), the title of subparagraph (1) is corrected to read: *"Exemption against permit."*; and, the title of subparagraph (2) is corrected to read: "Exemption against license.".
6. In the first sentence of § 4.106(c) and the third sentence of § 4.106(e), the word "submitted" is inserted before the word "by".

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36816 Filed 11-21-80; 8:45 am]
BILLING CODE 6450-85-M

18 CFR Parts 271, 273, and 274

[Docket No. RM80-50; Order No. 107]

High-Cost Natural Gas: Production Enhancement Procedures

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is establishing an incentive maximum lawful price under section 107 of the Natural Gas Policy Act of 1978 (NGPA) for certain intrastate gas produced from wells on which production enhancement work has been performed. The rule establishes an incentive price for production enhancement gas equal to the lesser of the section 109 price or a price negotiated by the parties after November 9, 1978 in connection with the production enhancement work. This price is available for natural gas for which a maximum lawful price prescribed under section 105 of the NGPA is applicable. The rule defines "production enhancement work" to include ten different types of production enhancement techniques and establishes the procedures for determining whether natural gas qualifies for the incentive price.

EFFECTIVE DATE: December 15, 1980.

FOR FURTHER INFORMATION CONTACT:
Webster Gray, Office of Pipeline and Producer Rates, 825 North Capitol Street NE., Room 6000–B, Washington, D.C. 20426, (202) 357–8693
Roger Coven, Office of General Counsel, 825 North Capitol Street NE., Room 4013, Washington, D.C. 20426, (202) 357–9124

Issued November 13, 1980.

On July 25, 1980, the Federal Energy Regulatory Commission (Commission) issued a Notice of Proposed Rulemaking (45 FR 51219, August 1, 1980) to establish an incentive maximum lawful price under section 107 of the Natural Gas Policy Act of 1978 (NGPA) for certain intrastate gas produced from wells on which production enhancement work has been performed. The proposed incentive price was the *lesser* of the section 109 maximum lawful price or the negotiated contract price. The Commission proposed this incentive price in order to prevent loss of production from wells for which the existing intrastate contract prices permitted under section 105 of the NGPA are insufficient to encourage production enhancement work necessary to maximize or continue production.

We are now promulgating a final rule. During the course of this rulemaking we have reaffirmed our original, general purpose to encourage production of gas reserves that would not otherwise be produced. However, the Commission's lack of sufficient information respecting the economic impact of the proposed rule on the natural gas industry and consumers and our inability to elicit enough information during the comment period to permit us to predict the exact nature and extent of that impact dictate that we proceed with caution.[1] Therefore, we have not extended the scope of the rule to include gas subject to sections 104 and 106(a),[2] *i.e.,* gas committed or dedicated to interstate commerce; or gas subject to section 106(b), *i.e.,* intrastate rollover contract gas. Nor have we increased the incentive price ceiling above the section 109 maximum lawful price, *i.e.,* the price applicable to gas not subject to any other section of Title I. We have also decided to retain those requirements in the rule that are essential to insure that the incentive price provided in this rule is available only when *necessary* to provide a *reasonable* incentive for production.[3] However, based on comments received during this rulemaking, we have extended the scope of this rule to add five production enhancement techniques to the five originally proposed.

[1] Commission action in this regard commenced on June 13, 1979 with the issuance of a "Notice of Inquiry Regarding the Implementation of Section 107 (b) and (c) of the Natural Gas Policy Act of 1978" to identify categories of high-cost natural gas and correlative incentive prices. Docket No. RM79–44 (44 FR 34511, June 18, 1979). In response to a petition by the Sun Gas Company (Docket No. RM80–41, filed February 27, 1980), the Commission initiated Docket No. RM80–50 and in that docket, approved in principle on May 29, 1980, proposed a rule classifying natural gas resulting from production enhancement procedures as high-cost natural gas and specifying an incentive price. *See* Notice of Availability of the Staff Draft, Docket No. RM80–50 June 12, 1980 (45 FR 41449, June 19, 1980); and Memorandum to Public File: Informal Conferences with the Public to Discuss the Staff Draft, Docket No. RM80–50. A Notice of Proposed Rulemaking was issued in RM80–50 on July 25, 1980, and thirty day comment period was announced. Two public hearings were held following the comment period to receive oral comment.

[2] There are additional reasons for excluding section 104 and section 106(a) gas from the scope of this rule. *See* Discussion *infra.*

[3] Under section 107 the Commission is empowered to designate certain natural gas as "high cost natural gas" if it is produced under conditions that present extraordinary risks or costs and to establish prices higher than the otherwise applicable maximum lawful price to the extent necessary to provide reasonable incentives for the production of such gas.

I. Background

A. The Problem

Section 105 of the NGPA establishes maximum lawful prices for first sales of natural gas that was not committed or dedicated to interstate commerce on November 8, 1978, and that is sold under a contract that was in effect on November 8, 1978. Section 105 also covers sales of gas under successor contracts to such existing contracts. Maximum lawful prices in section 105 are referenced to the price or price terms of the contract on November 9, 1978.

Under section 105(b)(2), a producer whose contract price on date of enactment was above the maximum lawful price for "new" natural gas, *i.e.,* the section 102 price, is entitled to receive the higher of the section 102 price or his contract price, adjusted for inflation. If and when the section 102 price exceeds the contract price (adjusted for inflation), as a result of the effect of the additional section 102 growth factor,[4] the producer and purchaser can renegotiate the contract price up to the section 102 price.

Under section 105(b)(1), however, the producer whose contract price on November 9, 1978, was less than the section 102 price is only entitled to the *lower* of the section 102 price or the price under the terms of the contract as of November 9. Therefore, not only is the producer making sales subject to section 105(b)(11) denied the section 102 price, he is also prohibited from renegotiating the contract to obtain a price higher than that determined under the contract's terms on date of enactment. If the producer encounters production problems, he will be unlikely to correct those problems if the section 105(b)(1) price is insufficient to cover the costs of production enhancement work and also return a reasonable profit. Under such circumstances production will probably diminish and, at the point out-of-pocket expenses exceed revenues, the producer will be likely to abandon the well. The result of either abandonment or a decrease in the rate of production may be permanent loss of the unrecovered gas.

The origins of this pricing problem are unique to section 105 [5] and derive from the imposition of federal regulation on

[4] In addition to being adjusted by the monthly inflation factor the section 102 maximum lawful price is also escalated monthly by a growth factor.

[5] *See* discussion of section 108(b) *infra* in Section II.

contractual relationships that responded to and were created in a very different regulatory environment. The only previous limitations on renegotiation of intrastate contract prices were state law and any restrictions contained in the contract itself. Contracts frequently contained no pricing provision to account for production problems that might develop during the course of producing a well but that were unforseen at the time the contract was entered into. However, if a purchaser deemed it in his best interests to compensate a producer for correcting such problems in order to obtain additional gas supplies he was free to renegotiate the contract. Thus, prior to the NGPA, a purchaser could assume that he would be able to protect his interests by using renegotiation as a safety valve in such situations.

The advent of the NGPA vitiated that assumption. In section 105(b)(1) Congress "froze" intrastate contract prices in order to protect purchasers of very low-priced intrastate gas from the increase in bargaining power accruing to intrastate producers under the NGPA as a result of their ability to sell in the interstate, as well as the intrastate, market free of prior regulatory restraint. [6] However, prohibiting intrastate producers from charging increased prices also restricts their intrastate purchasers. A purchaser willing to increase the price he pays for gas by providing revenues for production enhancement work in order to insure an increase in gas supply is prevented from agreeing to pay that higher price unless the contract provides, by its terms, a mechanism for increasing the price above that in effect on date of enactment.

This legal restriction confronting producers of gas subject to section 105 does not apply to producers of interstate gas, *i.e.*, gas that is subject to sections 104 and 106(a). [7] The maximum lawful prices for those sections are based on the just and reasonable rates under section 4 of the Natural Gas Act as of April 1, 1977, adjusted for inflation. If the revenues produced by such prices are inadequate, the problem is attributable to the rate making methods used under the Natural Gas Act. Buyers and sellers who contracted in that regulatory environment are assumed to have taken these price restrictions into account when deciding to proceed with a transaction. Because any inadequacies in the maximum lawful prices for section 104 or section 106(a) derive from a different regulatory context than those in the section 105 price, we will not deal with them under this rule. [8]

B. The Commission's Solution

The Congress has authorized this Commission to permit higher maximum lawful prices if necessary to privide reasonable incentives to encourage production of gas that is produced at extraordinary risk or cost. [9] The Commission has decided that an incentive is necessary in order to induce a producer of section 105 gas to perform production enhancement work. We have determined to permit an incentive equal to the lesser of the price under section 109, (a price category reserved by the Congress as a kind of residual or catch-all) or the renegotiated price. The section 109 price as of November 1980 is $1.929.

Production enhancement work is performed in order to maintain or to increase production from a marginal well or to return an abandoned well to production. [10] Typical production enhancement operations such as re-entries, recompletions, or the addition of compression are not commonly regarded as presenting extraordinary risks or costs. In certain circumstances, however, cost becomes extraordinary because it cannot be recouped at the otherwise applicable section 105 price or because it is so high in relation to the price under the contract that the producer simply will not undertake the production enhancement operation in the absence of an incentive price. Nevertheless, the price necessary to induce a producer to perform these types of operations will prove, in almost every case, to be lower than the price that pipeline purchasers would pay for new supplies or that end users would pay for alternative fuels.

For all the above reasons, the Commission has decided to encourage such production enhancement work by providing an incentive price for gas subject to section 105, if such work is performed. As in the proposed rule, the incentive price provided in the final rule is the lesser of the section 109 price or the renegotiated price.

As a general matter the Commission will not at this time extend the incentive price for production enhancement gas to section 106(b) gas. We note that the Congress has provided other repricing mechanisms for such gas in section 106(c). [11] However, in order to avoid the anomalous result that would occur if the contract for production enhancement gas rolled over and resulted in a maximum lawful price lower than the incentive price available under this rule, [12] the Commission is amending its

[6] Section 601(a)(1)(A), denies Natural Gas Act jurisdiction to any natural gas not committed or dedicated to interstate commerce as of November 8, 1978.

[7] Section 104 of the NGPA provides maximum lawful prices for natural gas that was committed or dedicated to interstate commerce on November 8, 1978 and for which a just and reasonable rate under the Natural Gas Act was in effect on November 8, 1978 for the first sale of such gas.

Section 106(a) provides maximum lawful prices for natural gas that was committed or dedicated to interstate commerce on November 8, 1978 and that is sold under any "rollover contract. A rollover contract is any contract entered into on or after November 8, 1980 for the first sale of gas that was previously subject to a contract that expired at the end of a fixed term.

[8] We note that Congress has provided special repricing mechanisms for such gas in sections 104(b)(2) and 106(c). *See* note 10, *infra*.

[9] Section 503, entitled "DETERMINATIONS FOR QUALIFYING UNDER CATEGORIES OF NATURAL GAS," sets out procedural rules regarding category determinations under the NGPA. That section discusses jurisdictional agency authority to make category determinations, the effect of such determinations, and review of such determinations by the Commission and the courts. Section 107(c) specifically provides for determinations to be made in accordance with section 503. Section 503(a)(1)(D) mirrors this provision. On the basis of this authority, the Commission provides in this rule for use of jurisdictional agency determinations to identify qualified production enhancement gas.

[10] The final rule is intended to encourage production of natural gas from wells that require production enhancement work in order to maintain or to enhance production. Production enhancement, as we use the term, must be understood in the context of declining production rates. Production enhancement would include operations calculated to maintain the current rate of decline in production if that rate would otherwise accelerate. Enhancement operations are those intended to improve, *i.e.*, to retard, a declining production rate. A successful enhancement operation will increase the amount of gas reserves ultimately produced but need not brake completely the decline in production rate.

[11] Section 106(c) authorizes the Commission to establish a maximum lawful price in excess of that prescribed in section 106 for rollover contract gas. Such a price must be just and reasonable within the meaning of the Natural Gas Act. The Commission has issued proposed rules prescribing substantive and procedural guidelines for granting "special relief" under this section (as well as sections 104(b) and 109(b)) and will coordinate the final rule on special relief with the final rule for production enhancement gas. *See* Procedures Governing Applications for Special Relief under Sections 104, 106 and 109 of the Natural Gas Policy Act of 1978, Docket No. RM79-67, Notice of Proposed Rulemaking, issued August 14, 1979, (44 FR 49468, August 23, 1979); Notice of Request for Public Comment . . ., issued January 16, 1980, (45 FR 5321, January 23, 1980); Notice of Proposed Rulemaking, issued May 9, 1980, (45 FR 31744, May 14, 1980).

[12] Under our current regulations for section 108(b), the maximum lawful price for qualified production enhancement gas in the month of rollover would be the higher of the otherwise applicable section 105 price or $1.121, as of December, 1978, adjusted for inflation to the month of rollover. It is conceivable that an escalation clause in the original contract triggered sometime after the gas qualifies under the production enhancement rule could increase the section 105 price above the incentive price, in which case no decrease in the maximum lawful price would occur when the renegotiated "successor contract" rolled over. However, for the majority of gas subject to this rule, the original contract will contain no such provision, and, absent an

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regulations in Subpart F of Part 271, concerning intrastate rollover contracts, to permit the producer to price his gas under section 106(b) at time of rollover by reference to the incentive price provided in this rule. [13]

C. How the Incentive Works

By the terms of the rule and for the reasons previously discussed, only gas sold under an existing intrastate contract or a successor contract can qualify for the incentive price. In addition, the production enhancement work to be encouraged must be commenced on or after May 29, 1980, the date the incentive price was first proposed in an open Commission meeting. We must assume that an incentive price was not necessary to induce a producer to engage in any production enhancement work commenced prior to the announcement of that price.

The producer must obtain an eligibility determination from the jurisdictional agency in order to receive the incentive price. He may obtain that determination before or after completing the production enhancement work but will be prohibited from charging and collecting the incentive price, on either an interim or a retroactive basis, until the work has been completed.

The Commission has crafted the eligibility requirements to insure that an incentive price is necessary for undertaking the production enhancement work and that the price itself is reasonable, and not an excessive incentive. The Commission wishes to be assured that the incentive price is available only for wells for which the section 105 maximum lawful price is insufficient to encourage application of production enhancement techniques now or in the near future, and for which the potential increase in gas production is large enough to insure that the increased cost to the pipeline purchasers and end users will not exceed the price they would have to pay for new supplies or alternative fuels. At the same time, the Commission has precluded from qualification, gas that is produced as a result of production enhancement work that would have been performed absent the availability of the incentive price or that is performed only for the purpose of repricing the gas.

As the first of its safeguards the Commission has required parties to amend the contract in existence on November 9, 1978, prior to filing an application with the jurisdictional agency. The amendment must permit collection of an incentive price stated in the application, which cannot be greater than the section 109 price. [14] This renegotiation requirement will provide the purchaser with an opportunity to resist paying the higher price if he is not reasonably assured that the production enhancement work will produce sufficient additional volumes to make the increase in cost economic. [15] Although the assumption may not be valid in all cases, the Commission also believes that most purchasers will not agree to pay a higher price unless they are sure that the additional gas would not otherwise be produced because the cost of the production enhancement work is prohibitive at the existing price. Thus the renegotiated price is a test both of the necessity for an incentive and of the reasonableness of the incentive price.

Purchasers commonly make such assessments when they negotiate contracts. We do not believe that an intrastate purchaser will accede to the intrastate producer's attempts to renegotiate the contract for flowing gas merely because the producer wishes to receive the incentive price. It is significant to note that, prior to passage of the NGPA, producers and purchasers in unregulated intrastate markets were free to renegotiate their contracts. Experience shows that many of those contracts were not renegotiated, even in circumstances where the prices under new contracts were rapidly escalating.

In addition to filing a copy of the relevant portion of the amended contract with the jurisdictional agency, the producer must also secure an oath from the purchaser that he has a reasonable basis to believe the producer's statement that the production work is necessary, that it would not be performed absent the incentive price because of the inadequacy of the section 105 price and that the reserve and production estimates are reasonable.

The Commission views this purchaser oath as essential to the integrity of the incentive pricing scheme because willingness to renegotiate a contract is not always coincident with a belief that the new price is necessary as a reasonable incentive. There may be a number of other reasons why a purchaser would be willing to pay a higher price for natural gas. Our intent in requiring the purchaser oath is to eliminate the possibility that gas will be repriced simply because of the producer's bargaining power.

In most cases purchasers are sufficiently familiar with the necessary information regarding a well's production capability and the costs or risks of enhancement work to know if a higher price is necessary for increasing gas production. If the purchaser has any hesitancy in making the statement, it is doubtful that we could determine that the incentive price sought by the applicant is necessary as a reasonable incentive under section 107.

The producer must file an oath statement that the section 105 price is inadequate, that the production enhancement work can reasonably be expected to enhance production and that the work would not be performed absent an incentive price. He must also estimate the well's current and enhanced rate of production as well as the increase in revenues to be expected from application of the incentive price and must use those estimates to determine whether the projected increase in revenues that is attributable solely to the projected increase in units of gas production exceeds a price per MMBtu equal to 200 percent of the maximum lawful price allowed for conventional, onshore development, i.e., the section 103 price. [16] We are requiring this calculation because we have determined that, if the effective cost for any increases in production appears,

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amendment to our rules for section 106(b), the gas will be remanded at the time of rollover to a price under the original contract terms that will, in many cases, be substantially lower than the incentive price provided under this rule. *See* discussion of price impact, *infra* in Section G.

[13] Technically, this amendment modifies our regulations for section 106(b). However, the amendment is being prescribed under our section 107 authority; it constitutes neither an intepretation of the term "expired contract" in section 106(b)(1)(A)(i) nor an exercise of our authority under section 108(c) to prescribe a higher maximum lawful price within the just and reasonable standard of the Natural Gas Act.

[14] If the fixed price is lower than the section 109 price, the contract price *is* the incentive price.

[15] We note that the unit cost cap establishes the upper limit on what the Commission considers economic.

[16] The proposed rule would have set the unit cost cap at the price for imported crude oil. The Commission received a wide variety of comments concerning the proposed cap on the unit cost of incremental production. Many commenters supported this proposal by arguing that the cap would prevent economic waste, producer windfalls and unnecessary consumer costs. (These commenters endorsed the unit cost cap as support for their argument that the incentive price ceiling should be set higher than the section 109 price.) On the other hand, at least one commenter argued that the unit cost cap is shortsighted and should be deleted. This commenter stated that, even if the price of incremental volumes rises above the cost of foreign crude from time to time, the goal of displacing more expensive foreign oil over the long term is still advanced. According to the same argument we could allow the price of the incremental volumes to rise to a price many times that of foreign crude. We believe it appropriate, within the mandate of section 107, to establish a unit cost cap that allows as much foreign crude to be displaced as is possible while limiting the price of the gas to a level that is reasonable in the context of the NGPA.

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prospectively, to exceed the commodity value of that incremental production, the higher maximum lawful price cannot be considered a reasonable incentive, even though the higher price is necessary to induce production enhancement efforts. (However, because the unit cost cap is a function of the difference between the existing section 105 price and the incentive price, a producer who would otherwise be disqualified may be able to satisfy the cost cap requirement by lowering his renegotiated price sufficiently below the section 109 price.)

In the recently issued final rule relating to tight formation gas,[17] the Commission discussed the commodity value of natural gas and identified two benchmarks for determining that value. First, the Commission referenced the commodity value of such gas to the most recently available Btu-equivalent price for No. 2 fuel oil deliveries to electric utility facilities, which was $5.78. Based on this Btu-equivalent price, the imputed commodity value of natural gas was obtained by subtracting the average cost of transporting gas from the wellhead to the user. The average transportation and distribution costs for natural gas were determined to be approximately $1.00 per MMBtu; thus the commodity value of natural gas in relation to No. 2 fuel oil was estimated to be about $4.78 per MMBtu. The Commission also noted that, as an alternative, the commodity value of natural gas could be established by reference to the price of imported Canadian or Mexican natural gas. The Commission determined that 200 percent of the section 103 price closely approximates the price of such imported gas.[18]

Based on the same reasoning, the Commission has decided to set the unit cost cap for incremental production at a price per MMBtu equal to 200 percent of the section 103 price. This cap does not represent the actual value of the incremental production. It merely establishes a ceiling above which any incentive price for incremental production can no longer be considered reasonable.

We have permitted a calculation based on a series of estimates, and have not required completion of the production enhancement work prior to application, in order to accelerate the qualification process while allowing the applicant to be certain that he may continue to qualify for the incentive price even if a project falls short of production estimates that were reasonable when filed. We acknowledge that obtaining accurate estimates may be a problem. Nevertheless, we have decided to rely on the good faith of the parties in this regard. Should experience demonstrate that our reliance has been misplaced, the Commission will feel compelled to terminate the program.[19]

In order for a producer to qualify for the incentive price the jurisdictional agency must determine that there is a reasonable basis to conclude that the particular production enhancement work is necessary and that it can be expected to maintain or enhance production. We are relying on the jurisdictional agencies' knowledge regarding the production characteristics of the wells or zones in question and their technical expertise regarding the purpose and efficacy of the production enhancement techniques in enhancing production from those wells.

The jurisdictional agency must also examine the producer's production estimates in light of other information in the record in order to assure itself that those estimates are reasonable and that the effective cost of the incentive price does not exceed the price for new gas supplies or alternative fuels.

The Commission is comfortable at this time with its choice of an incentive price no higher than the section 109 price. Therefore, as a general matter, it is willing to accept the parties' judgments and oaths regarding the necessity for such an incentive in particular situations. The Commission will not, and the jurisdictional agency need not, inquire further concerning price, unless information or discrepancies in the record give cause for doubt as to the veracity of the producer's or purchaser's oaths.

D. Jurisdictional Agency Findings and Discretion

As a practical matter, the success of this rule in effecting the purpose for which it is intended rests with the jurisdictional agencies. We have provided latitude to the jurisdictional agencies in order to permit them to exercise their judgment in determining whether the incentive price is necessary as a reasonable incentive for the producer to undertake production enhancement work.

As we have indicated, what constitutes a reasonable incentive for production enhancement work, within the meaning of section 107, depends on several variables: the applicable contract terms upon which the section 105 price is based, the increment in production to be expected from application of the production enhancement technique, and the cost or risk associated with use of that technique. The flexibility we have afforded the jurisdictional agencies reflects our belief that in the face of so many variables, a reliable basis for affirming the necessity and reasonableness of an incentive price cannot be established by rigid regulatory guidelines.

For example, we intend that this flexibility permit a jurisdictional agency to find that no incentive price is necessary for gas produced from a horizon above other producing horizons, if it determines that the producer would have produced the upper horizon anyway in the normal course of production. It might make a similar finding if a downhole pump were installed to lift liquid hydrocarbons, *e.g.*, condensate, in order to increase gas production but the value of the condensate would, by itself, provide an incentive to installation of lift equipment. Similarly, if production enhancement work were performed on an oil well, ostensibly to increase production of associated gas, the gas might be denied the incentive price provided under this rule if the work would have been performed in any event to increase oil production.

A jurisdictional agency might also make a negative determination if it found that the filed estimates concerning incremental production were disproportionate to previously recorded production; or that the work performed was not within a defined category of production enhancement work; or that the stated or estimated cost of the production enhancement work is sufficently low in relation to the section 105 price that it could not accept the producer's oath statement that the work would not have been performed in the absence of the incentive price.

E. The Production Enhancement Techniques

The production enhancement techniques specifically included in the final rule have been broadly defined in order to permit the jurisdictional agencies to be flexible in determining what types of projects should qualify under the final rule. Any attempt on our part to define these projects more narrowly could result in the exclusion of many deserving projects. In allowing this degree of flexibility we are relying on the technical expertise of the jurisdictional agencies.

The proposed rule included, and requested comment on, five categories of production enhancement techniques. All have been included in the final rule. In addition, and in response to comments, we have added five other categories of production enhancement techniques. Should techniques that we have not considered in this rulemaking be brought to the attention of the Commission, the rule may be amended.[20]

The first category of production enhancement work is re-entry into a well that has been plugged and abandoned.

The second category covers work performed in re-entering a well to drill deeper, or to sidetrack, to a different completion location. This category will usually apply whenever a well that was drilled in the past, and from which the drilling equipment has been removed, is re-entered for further drilling.

The third category is recompletion by reperforation of a zone from which natural gas has been produced or by perforation of a different zone.[21] This category will apply whenever a well is perforated other than in the original completion location. The Commission is aware that a producer may perforate a new zone higher up the wellbore than the zone he is currently producing and then produce from both zones. Accordingly, if a well qualifies under this rule as a result of a "perforation of a different zone," only the gas produced from the new completion location will receive the incentive price. The producer will be responsible for separately identifying the gas from each completion location. We realize that, in most cases, the gas from separate completion locations will be produced through separate "stringers" and metered separately. However, if the gas is commonly metered, a reasonable allocation of production among the producing intervals or completions will be required.

The fourth category is the repair or replacement of faulty or damaged casing, tubing or related downhole equipment. It should be emphasized that this category is intended to include major repair work only; routine maintenance, however costly, is not production enhancement work.[22]

The fifth category is fracturing, acidizing or installing compression equipment. The Commission recognizes that production enhancement work involving compression will often affect more than one well. Activities that affect several wells would constitute production enhancement work with respect to each well sufficiently affected to meet the other requirements of this rule. We also note that leasing of compression equipment will be treated in the same manner as purchasing of such equipment, and that upgrading compression or adding further stages of compression will be considered to be installation of compression equipment.

Commenters requested the inclusion of a variety of other production enhancement techniques. In response, we have included the following additional categories.

The first is installation of equipment necessary for removal of excessive water, brine, or condensate from the wellbore in order to establish, continue or increase production from the well. The category would apply, for example, if any one of a variety of pumping techniques were used to remove large volumes of water in conjunction with the production of natural gas, including use of electrically powered submersible pumps and sucker rod surface pumps or plunger lifts. Other procedures would include installation of smaller than normal tubing to increase the velocity of the gas in order to enable it to "blow" the water out of the well, or the injection of foaming agents to change the water into a foam, reducing the fluid pressure and enable the gas to "blow" the foam out of the well.

The second addition covers workover operations designed to reduce production of excessive water or brine in order to establish, continue or increase production of gas from the well. For example, the perforations that are "watered-out" can be plugged with cement, and gas can then be produced from other perforations of from new perforations.

The third addition concerns operations for disposing of water or brine, the presence of which prohibits or severely limits gas production from the well.

The fourth addition covers workover operations to control sand production in the wellbore, or to remove sand from the wellbore and downhole equipment in order to continue to produce gas from the well. This category can include the use of gravel packing and filtered tubing liners to keep the sand out of the tubing, or the pumping of an epoxy resin or other stablizer into the wellbore to consolidate the sand around the wellbore. This category can also include replacement of a gravel packer or a tubing liner or the cleaning of a wellbore and application of epoxy resin.

The last technique included in the rule is "inert" gas injection, such as nitrogen injection.[23] The nitrogen can be compressed or liquified and injected into the reservoir to displace the hydrocarbon gas. Once injected into the reservoir, the nitrogen expands, either forcing hydrocarbon gas from the reservoir or removing obstructions that prevented the flow of gas into the wellbore. The Commission realizes that this last category, like compression, will often apply to more than one well. To the extent that a producer can demonstrate that a well is sufficiently affected by the inert gas injection to meet the other requirements of the rule, that well will qualify for the incentive price.[24]

[17] Docket No. RM79-76, issued August 15, 1980. (45 FR 56034, August 22, 1980).

[18] The price for imported Canadian or Mexican natural gas was $4.47 as of November 1980. Two hundred percent of the section 103 price was $4.656 as of November 1980.

[19] Moreover, the Commission may find an adequate basis in specific instances to reopen a favorable determination under § 275.205 and vacate the determination if information is disclosed which indicates that the estimates were not filed in good faith.

[20] In this regard, the Commission will entertain properly filed petitions by interested parties for amendments to include additional production enhancement techniques in the rule. *See* § 1.7 (b) and (e) of the Commission's Regulations.

[21] At least two commenters requested a clarification with respect to the second and third categories. They asked that the Commission clarify the proposed rule to provide that re-entry for deeper drilling, or sidetracking, to a *different* completion location (as opposed to a *new* completion location as provided in the proposed rule) and a recompletion by perforation of a different (as opposed to a *new*) zone would constitute production enhancement work. The Commission believes that this suggestion is consistent with the intent of the proposed rule. Accordingly, for clarification only, the words "new" in the second and third categories will be changed to read "different."

[22] One commenter asked the Commission to consider inclusion of costly well maintenance projects as a category of production enhancement work. The scope of this rulemaking is limited to incentives for work that is included in the definition of production enhancement work. Operations that the Commission considers to be normal well maintenance have been excluded from that definition.

[23] In common industry parlance "inert" gas means that is noncombustible. Several commenters indicated that the section 109 price (or even a price as high as the section 102 price) would induce no work of this nature because of the extraordinary costs associated with the technique. The incentive price may be inadequate to encourage inert gas injection. However, we do not have an adequate basis in the comments to deal with this problem at this time. We will, therefore, leave its resolution to future proceedings.

[24] The technique of gas cycling was also suggested for inclusion as a production enhancement technique. Gas cycling is a technique for increasing the recovery of natual gas liquids and condensate from the reservoir. The technique involves the re-injection into the reservoir of natural gas, stripped of its liquids; the gas may have been produced from that zone or another zone. Sufficient reservoir pressure is thereby maintained in order to prevent natural gas liquids from condensing within the reservoir wellbore. Although this process will result in an increase in production from the reservoir, the majority of this increase will usually be composed of natural gas liquids and condensate. There may even be a net drop in natural gas production due to volume losses caused by the separation process, losses from injected volumes unrecoverable in the reservoir, or losses due to use of natural gas as fuel to power the separator and injection equipment. An additional problem results if the injected gas is from another producing zone. In this case it is difficult to determine accurately what volume of gas produced

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Although many comments recommended that the jurisdictional agencies be permitted to qualify for eligibility other, unlisted techniques, few supplied any guidelines regarding the nature of this determination or the extent of jurisdictional agency discretion. The Commission wishes to avoid the complexities attendant in qualifying production enhancement techniques on a case-by-case basis. As we have stated, however, we will remain receptive to appropriate petitions for addition by amendment, made under § 1.7 of our regulations.

F. The Incentive Maximum Lawful Price

The incentive maximum lawful price will frequently be the same as the renegotiated price agreed to by the parties. However, that price cannot be greater than the section 109 price.

In order to avoid allocation problems that would arise were the incentive price applied only to the incremental volumes produced as a result of production enhancement work, the Commission has decided to apply the incentive price to all gas produced from a well on which production enhancement work has been performed.[25] Repricing all of the gas rather than only the incremental production will also provide a measure of revenue certainty to the producer. Even if his estimates concerning the expected increment in production eventually prove to be inaccurate, or if the production enhancement work effects no increase in production at all, he can still be assured of that increase in revenues which results from repricing the current production.

The section 109 price has been chosen as the ceiling for the price incentives provided under this rule because, in the Commission's judgment, it is sufficiently high to encourage a large number of potential production enhancement projects and low enough to prevent a windfall for producers. However, many commenters requested an incentive price ceiling higher than the section 109 price. Most commenters supported their recommendation by arguing that a higher ceiling would promote production of even more volumes of gas.

We cannot disagree that an increase in the incentive price will produce some increase in the amounts of gas produced in response to that price. We do disagree that the wording of section 107(b), which limits the price to one necessary to provide reasonable incentives, permits incentive pricing based wholly on a supply-maximization rationale.

If the purpose of section 107(b) were, without qualification, to induce the maximum production of natural gas, the Commission could attempt to create a price sufficiently high that, from the perspective of the producer, even the most costly, unpromising production enhancement ventures would appear economically attractive. However, in determining what constitutes a reasonable incentive the Commission must balance the needs of suppliers and consumers. On balance, a reasonable incentive for production enhancement work is one that will produce additional gas supplies without requiring the consumer to pay unnecessary prices to obtain those supplies.

In the Notice of Proposed Rulemaking the Commission solicited data regarding projected increases in production that could be expected in response to different incentive prices. Unfortunately, the Commission has received no information that would permit it to quantify the potential supply responses to various hypothetical incentive prices.[26] Absent such information, the Commission is reluctant to increase the incentive price ceiling above the section 109 price.

We have looked to the statutory pricing scheme of the NGPA in order to determine what constitutes a reasonable incentive for purposes of section 107. Under Title I of the NGPA, the section 109 maximum lawful price is applicable, inter alia, to natural gas that was not committed or dedicated to interstate commerce on November 8, 1978, and that was not subject to any contract on November 8, 1978.[27] We view this as evidence that Congress considered the section 109 price to be an appropriate incentive to the production of any gas for which the price has not been established either under the Natural Gas Act or, if intrastate, by agreement of the purchaser and seller. The purchaser's inability to renegotiate a contract price now that he is subject to the restrictions imposed by section 105(b)(1) is tantamount to there being no contractually-established price to serve as a reference in pricing gas produced as the result of production enhancement efforts. The situations addressed under this rule and under section 109 are analogous. The section 109 price appears to be an appropriate incentive price ceiling for purposes of this rule.

At the very least, the Commission can be assured that such a ceiling is not unreasonable when evaluated in the context of other Title I prices. Given the minimal amount of information that is available on the potential supply and price impacts of this rule, we are inclined to proceed on this rationale. Our choice of this incentive price ceiling does not preclude us from examining the actual response to that ceiling and from determining whether it continues to be appropriate.

G. The Potential Economic Impact of the Rule

In deciding whether to permit producers and purchasers of section 105 gas to renegotiate their existing contract prices in return for undertaking production enhancement efforts, the Commission has attempted to assess the economic impact of this rule in a number of important areas. First among these are the increased revenues to intrastate producers and the associated increased cost to intrastate consumers that will be generated by the incentive price. A second concern involves the potential impact of this rule on stimulation of additional supplies of natural gas. Finally, there is the question of the rule's distributional impact on the interstate and intrastate consumer markets.

The comments received by the Commission in this proceeding make it clear that the potential impact of this rule on consumer costs may be considerable. According to information provided by the Texas Independent Royalty Owners, in Texas nearly half the gas flowing in intrastate commerce sold for less than $1.00 per MMBtu during the fiscal year ending August 31, 1979. Assuming that the situation in Texas is fairly typical of that in other producing states, this statistic suggests that, of the more than 10 trillion feet of natural gas currently flowing in intrastate commerce, as much as 5 trillion feet could be eligible for a price increase somewhere in the range of $1.40 per MMBtu.[28] Therefore, in the unlikely event that all intrastate contracts now priced below $1.00 per MMBtu were renegotiated up to the section 109 price, a gross increase of as much as 7 billion dollars could be effected in the annual payments made for gas subject to intrastate contracts. Additional costs would be imposed on intrastate consumers to the extent that

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from the target reservoir is "native" to that reservoir. For these reasons, this technique will not be included as qualified production enhancement work.

[25] But note the exception in § 271.704(c)(1)(i)(B) for gas from a well producing from more than one zone.

[26] A few commenters labeled such projections as "inherently unquantifiable."

[27] Section 109(a)(3).

[28] The $1.40 per MMBtu figure represents the difference between an assumed $0.50 per MMBtu price for gas priced below $1.00 per MMBtu and a maximum lawful price under section 109 of approximately $1.90 per MMBtu.

contracts for intrastate gas currently selling above $1.00 per MMBtu were also renegotiated up to the section 109 price.

Although the potential price impact of this rulemaking is very considerable, the Commission believes that the safeguards against abuse that have been included in the rule will minimize any unwarranted results. The rule permits a purchaser to avoid paying the higher price by refusing to renegotiate in the event he determines that it would not be in his economic interest to pay a higher price in order to encourage production enhancement work.

An example of the value of low-priced gas to an intrastate consumer may be of illustrative value. An electric utility or industrial user presently taking gas at the rate of 3,000 MMBtu's per day at a cost of $.30 per MMBtu would pay 1.75 million dollars per year in additional costs if the price were renegotiated up to $1.90 per MMBtu. Clearly, such a cost increase is of sufficient magnitude that the purchaser will not voluntarily submit to such higher prices unless the potential for increased supply appears substantial.

Alternatively, real costs may be imposed upon intrastate customers if they are precluded from contract renegotiations keyed to enhanced production activity. A purchaser of gas subject to a contract price may be unable to compel the producer to undertake costly production enhancement measures. Purchasers, in their discussions with producers, are in the best position to judge whether a price higher than the otherwise applicable section 105 price may be discouraging cost effective production stimulation efforts by the producer. The Commission is willing to allow purchasers to amend the price protections afforded them by section 105 where such renegotiation is in the purchaser's perceived self-interest.

The Commission's initiation of this rulemaking stems from its perception that the potential supply response to production enhancement initiatives is substantial. Despite the many differences that exist among natural gas production projects, all producing wells reach a stage in their production life where the cost of maintaining production exceeds the revenue stream from that well. If the price of natural gas is restrained below market levels, the point in the well's production life at which a producer will be unable to recover his out-of-pocket expenses will occur earlier than it would if the gas were sold at prices closer to its market value. The economic life of many wells currently producing intrastate gas could be extended, in appropriate circumstances, if existing contract prices were permitted to increase.

The volume of additional supplies that will be elicited through production enhancement incentives provided in this rule cannot be estimated with any absolute certainty. The rule imposes no specific volumetric standard on the producer. Rather, the required oath statement and unit cost cap are designed to give guidance to both the seller and buyer on the presumed value of incremental gas supplies under current market circumstances. These provisions should insure the maximum economically practicable supply response to expenditures associated with production enhancement.

Finally, the Commission recognizes the possibility that the rule may make gas presently sold under intrastate contracts less accessible to interstate purchasers if the current purchaser seeks to obtain an extended supply commitment in return for consenting to the higher prices authorized by this rule. However, to the extent this rule elicits gas that would not otherwise be purchased, interstate market interests would be unaffected. Most gas subject to renegotiation is produced from wells that are at or near the end of their presently useful producing life. Thus, the Commission expects the rule's distributional impact on the interstate and intrastate markets to be relatively modest.

II. Summary of the Final Rule

A. Definition of Qualified Production Enhancement Gas

We have added to Subpart G of Part 271 of our regulations a new section, § 271.704, which defines "qualified production enhancement gas" and establishes a maximum lawful price for such gas. Paragraph (c)(1) of § 271.704 establishes five criteria which the juridictional agencies are to apply in identifying qualified production enhancement gas.

First, the jurisdictional agency must find that the gas is produced from a well (or a zone, in the case of multiple completion locations) on which production enhancement work was commenced, or will be commenced, on or after May 29, 1980. In order to make this finding, the jurisdictional agency must determine that the work constitutes qualified production enhancement work as described in paragraph (d) [29] and that the work was commenced on or after May 29, 1980.

[29] *See* discussion of production enhancement techniques beginning in Part I, Section E, *supra*.

Second, the jurisdictional agency must find that the gas is subject to a maximum lawful price under section 105.

Third, the jurisdictional agency must find that a renegotiated price is in effect for a first sale of the gas at the time of application. A renegotiated price is defined in paragraph (b)(3) as a price (not higher than the section 109 price) which was agreed to after the enactment of the NGPA in connection with production enhancement work which is the subject of an application under this rule.

In essence, the fourth criterion in the definition requires the jurisdictional agency to find that the requisite estimates and oath statements, regarding the necessity for and reasonableness of the incentive, are not contradicted by other information in the record.

Finally, the jurisdictional agency must find that the price for the increased production does not appear, prospectively, to exceed the commodity value of that incremental production. Clause (v) of paragraph (c)(1) sets forth the formula for making this calculation. The results must indicate that the projected increase in revenue, attributable solely to the projected increase in units of gas production, may not exceed a price per MMBtu equal to 200 percent of the maximum lawful price allowed for conventional, onshore development (i.e., the section 103 maximum lawful price) for the month in which the application is made.

The calculation will be based on production estimates filed with the application. The applicant must first estimate the total number of MMBtu's that would be produced from the well in the absence of production enhancement work over a five-year test period commencing with the month the application is made.[30] In doing so, the applicant must consider, at the time of application, the condition of the well and the rate of production absent production enhancement work and must then estimate total production for the next five years. The applicant must then estimate the total number of MMBtu's that would be produced from the well over the same five-year period, based on the assumption that the production enhancement work was completed on the date of application.[31] Once these

[30] These estimates are based only on production of gas; oil, LNG or other liquid hydrocarbons are not to be included in the calculation.

[31] These estimates may be made, and an eligibility determination received, before production enhancement work is commenced on the well. *See* discussion of Collection of the Incentive Price, *infra*, Section D.

estimates have been made, the

Under the filing requirements in

In addition, the applicant must include

an incentive price would not constitute a

Sections 271.602(c), 271.701(b), 271.704,

that the production enhancement work

estimates have been made, the "projected increase in units of production" can be calculated by subtracting the first estimate from the second.

In order to calculate the "projected increase in revenue," the applicant must multiply the number of MMBtu's that would be produced absent production enhancement work by the otherwise applicable maximum lawful price under section 105 as of the date of application. The applicant must then multiply the total number of MMBtu's that will be produced from the well after production enhancement work is completed by the section 109 price at the time of application. However, if the renegotiated price is less than the section 109 price and if it is also either a fixed price or a percentage of the section 109 price, the applicant may base the calculation on the renegotiated price rather than the section 109 price. The projected increase in revenue to be derived under the rule is determined by subtracting the first product from the second product.

Finally, the applicant must divide the projected increase in revenue by the projected increase in units of production in order to determine whether the price per MMBtu for the incremental production exceeds 200 percent of the section 103 price as of the month the application is filed.

If the jurisdictional agency makes all five findings, the natural gas will qualify as production enhancement gas. If the gas receives this determination, it is subject to the maximum lawful price specified in paragraph (a) of § 271.704.

B. The Incentive Price

The incentive price set forth in § 271.704(a) is the lesser of the section 109 maximum lawful price or the renegotiated price.

The final rule adopts the requirement in the proposal that a newly negotiated price be in effect at the time the producer files for a determination. (However, the definition of that price is changed so that it simply requires renegotiation after November 9, 1978, in connection with the production enhancement work.) The determination is keyed to the particular renegotiated price,[22] evidence of which must be included in the application. Therefore, if the contract is subsequently amended to modify that price a new application and a new jurisdictional agency determination will be required.

[22] We note that this may be a single price or a set of fixed prices such as a price equivalent to a certain percentage of the section 109 price.

Under the filing requirements in § 274.205(f) the producer must submit that portion of the sales contract which authorizes collection of the incentive price established in § 271.704. In most instances parties to the contract will have to amend their contract before filing an application with the jurisdictional agency. In such cases the filing will consist of the contract amendment drafted in response to the availability of the incentive price under this rule.

Section 271.704(a)(3) provides that the increase in the price paid for the natural gas by reason of this rule will not result in the elimination of price controls under section 121(a)(3) of the NGPA. The Commission does not believe that Congress intended it to deregulate natural gas subject to section 105 which, but for the effect of the final rule, would not be sold for a price in excess of $1 on December 31, 1984. Elimination of price controls under that section will occur only if, and when, such elimination would have occurred based on the maximum lawful price that would have been applicable but for this rule.

Because the definition of qualified production enhancement gas requires that the gas be subject to a maximum lawful price prescribed by Subpart E of Part 271, i.e., the section 105 price, once the contract under which it is sold rolls over, the gas is outside the scope of § 271.704. In order to permit a producer to continue to collect an incentive price for gas that previously qualified under § 271.704, we have amended our regulations regarding the maximum lawful price for gas subject to section 106(b). For purposes of determining the maximum lawful for such gas under § 271.602 of our regulations, the maximum lawful price paid under the expired contract, in the month in which the rollover contract becomes effective, will be deemed to include any amount paid by reason of qualification under the final rule in § 271.704.

C. Filing Requirements

The filing requirements are provided in new paragraph (f) of § 274.205. The applicant must file an FERC Form No. 121; a detailed statement describing the production enhancement work; an itemized statement of the costs incurred or to be incurred in performing the work (and invoices, where appropriate); the unit cost cap calculation and related production estimates; that portion of the contract which authorizes collection of the incentive price; and, if the jurisdictional agency requires, certified copies of records upon which the applicant has relied.

In addition, the applicant must include separate oath statements by himself and the purchaser. The applicant must file a statement, under oath, that the production enhancement work is necessary, and can be reasonably expected, to enhance production; that the section 105 maximum lawful price does not provide an adequate incentive for the performance of the production enhancement work; and that, but for the availability of a price at least as high as the renegotiated price, the production enhancement work would not have been or will not be performed.

The applicant must also state that the production enhancement work was not commenced before May 29, 1980; that to the best of his knowledge and belief, the production estimates that are included in the application are reasonable; and that he has no knowledge of any information inconsistent with the filed statements and estimates.

The purchaser must state under oath that, to the best of his knowledge and belief, there is a reasonable basis for the statements and estimates made by the applicant. The purchaser must also state that he has no knowledge of information not described in the application that is inconsistent with the statements made by the applicant.

D. Collection of the Incentive Price

A producer may choose to perform production enhancement work on a well before filing an application for an eligibility determination. Under §§ 273.202 and 273.203, such a producer may make interim collections of the incentive price for all deliveries of gas made after the date the application is filed with the jurisdictional agency. In addition, we have amended § 273.204(a)(1) to permit collection of the incentive price retroactive to the date that the qualifying production enhancement work was completed.

On the other hand, if the producer so chooses, he may apply for and receive an eligibility determination before completing, or even commencing, the production enhancement work. Under such circumstances, § 271.704(a)(2) prevents the producer from charging the incentive price, on either an interim or a retroactive basis, before the production enhancement work upon which the application is based has been completed and the producer has given written notice to the purchaser stating that the production enhancement work has been completed.

III. Environmental Impact

The Commission staff has completed an environmental assessment of this rule and has concluded that establishing an incentive price would not constitute a major federal action significantly affecting the quality of the human environment. An environmental impact statement is not required.

In the environmental assessment, the staff identified a potential for impact of fracturing operations on fresh water aquifers. In order to determine whether further limitations to qualification are necessary in order to protect such fresh water aquifers, we will monitor environmental data that we will require from applicants regarding fracturing operations. However, we emphasize that, as the rule is currently written, the five criteria for qualification do not include any environmental standards and that information on the potential environmental impact of a project will not be used to disqualify a well for the incentive price.

If an application is based to any extent on the performance of fracturing operations, the applicant will be required to file specified information regarding the environmental effects of the fracturing operations. However, the jurisdictional agency may waive this filing requirement if it determines that there exists in the state an adequate program reasonably designed to assure no damage to fresh water aquifers.

We will review any filed environmental information at the time that the jurisdictional agency forwards the notice of determination to us. We do not intend to use the information to disqualify a particular well after the production enhancement work has been performed on it. We will use this information, however, in order to determine the necessity of amending the rule.

IV. Public Procedures and Effective Date

These regulations were originally proposed for comment on July 25, 1980, in Docket No. RM80–50 (45 FR 51219, August 1, 1980). For 30 days thereafter comments were received, and on August 26, 1980 and September 4, 1980, two public hearings were held on these regulations. By this process the Commission has complied with 5 U.S.C § 553 and with section 502(b) of the NGPA, which requires that, "[t]o the maximum extent practicable," an opportunity for the oral presentation of data, views and arguments be afforded for certain regulations under the NGPA. The regulations contained in this order rest upon consideration given to the information received during the above-described notice, comment, and hearing process. The Commission finds that further notice and public procedure with respect to these regulations are unnecessary.

Sections 271.602(c), 271.701(b), 271.704, 273.204(a)(1)(iii) and 274.205(f) are being issued as final regulations effective December 15, 1980.

(Department of Energy Organization Act, 42 U.S.C §§ 7107–7352; E.O. 13009, 42 Fed. Reg. 46267; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3422)

In consideration of the foregoing, Subparts F and G of Part 271, Subpart B of Part 273, and Subpart B of Part 274, Subchapter H, Chapter I, Title 18 of the Code of Federal Regulations are amended as set forth below, effective December 15, 1980.

By the Commission. Commissioner Sheldon concurring.

Kenneth F. Plumb,

Secretary.

1. Section 271.602 is amended by adding a new paragraph (c) to read as follows:

§ 271.602 Maximum lawful price.

* * * * *

(c) *Qualified production enhancement gas.* For purposes of paragraph (a)(1)(i) of this section, the maximum lawful price, per MMBtu, paid under the expired contract is deemed to include any amount paid by reason of a maximum lawful price allowed under § 271.704 (relating to qualified production enhancement gas.)

2. Section 271.701 is amended by adding a new paragraph (b) to read as follows:

§ 271.701 Applicability.

* * * * *

(b) Qualified production enhancement gas.

3. Part 271 is further amended in the table of contents and in the text of the regulations by adding a new § 271.704 to Subpart G to read as follows:

§ 271.704 Qualified production enhancement gas.

(a) *Maximum lawful price for qualified production enhancement gas.*

(1) The maximum lawful price, per MMBtu, for the first sale of qualified production enhancement gas shall be the lesser of:

(i) The renegotiated price stated in the application; or

(ii) The section 109 price.

(2) *Requirement of completed production enhancement work.* If the production enhancement work has not been completed on or before the date the application is filed, the maximum lawful price provided in paragraph (a)(1) of this section shall not apply until the production enhancement work is completed and the seller has given written notice to the purchaser stating that the production enhancement work upon which the application for determination of eligibility is based, has been completed. The applicant must retain a copy of this notice in his records for a period of three years after the month in which the first sales priced under this section occurred.

(3) *Elimination of price controls.* For purposes of determining the price paid, under section 121(a)(3) of the NGPA, any amount paid solely by reason of a maximum lawful price allowed by this section shall be disregarded.

(b) *Definitions.* For purposes of this subpart:

(1) "Qualified production enhancement gas" means natural gas that a jurisdictional agency has determined in accordance with Parts 274 and 275 meets the qualification requirements in paragraph (c) of this section.

(2) "Production enhancement work" means an operation or installation of equipment described in paragraph (d) of this section.

(3) "Renegotiated price" means a price (not in excess of the section 109 price) agreed to after November 9, 1978, in connection with the production enhancement work which is the subject of an application under this section.

(4) "Section 109 price" means the maximum lawful price specified for Subpart I of Part 271 in Table I of § 271.101(a).

(c) *Qualified production enhancement gas.* For purposes of this section:

(1) Qualified production enhancement gas is natural gas:

(i) Which is produced:

(A) From a well on which production enhancement work (other than production enhancement work described in paragraph (d)(3) of this section) was commenced on or after May 29, 1980; or

(B) From a zone that is perforated in accordance with paragraph (d)(3) of this section on or after May 29, 1980;

(ii) For which a maximum lawful price prescribed by Subpart E of Part 271 applies (but for this section);

(iii) For which a renegotiated price is applicable;

(iv) For the production of which there is a reasonable basis, grounded in part on the amount of the investment, to conclude that:

(A) The price prescribed in paragraph (a) of this section is necessary as a reasonable incentive; and

(B) But for the availability of the price prescribed in paragraph (a) of this section, the production enhancement work would not have been performed or will not be performed; and

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(v) The production of which (as calculated by the seller for a five year period beginning from the month of application ("test period"), based on estimates filed pursuant to § 274.205(f)(4)) will result in a projected increase in revenue which, when divided by the projected increase in units of production, does not exceed 200 percent of the maximum lawful price specified for Subpart C of Part 271 in Table I of § 271.101(a) for the month that the application is filed.

(2) "Projected increase in revenue" means:

(i) The product of (A) the estimated units of gas production (MMBtu's) which would be produced from the well during the test period if production enhancement work has been completed on the day that the application is filed, times (B) the section 109 price (unless paragraph (c)(4) of this section otherwise permits) for the month that the application is filed, less

(ii) The product of (A) the estimated units of gas production (MMBtu's) which would be produced from the well during the test period if the production enhancement work is not performed, or had not been performed, times (B) the maximum lawful price otherwise applicable to natural gas from the well as of the date the application is filed.

(3) "Projected increase in units of production" means:

(i) The estimated units of gas production (MMBtu's) which would be produced from the well during the test period if the production enhancement work had been completed on the day that the application is filed, less

(ii) The estimated units of gas production (MMBtu's) which would be produced from the well during the test period if the production enhancement work is not performed, or had not been performed.

(4) For purposes of paragraph (c)(2)(i)(B) of this section, if the renegotiated price is a fixed price or a percentage of the section 109 price, such renegotiated price (as of the date of application) may be substituted for the section 109 price in making the determination required in paragraph (c)(2) of this section.

(d) *Production enhancement work defined.* For purposes of this section, "production enhancement work" means any work that is performed for one or more of the following purposes:

(1) Re-entry into a well which has been plugged and abandoned.

(2) Re-entry into a well for the purpose of deeper drilling, or sidetracking, to a different completion location.

(3) Recompletion by reperforation of a zone from which natural gas has been produced or by perforation of a different zone.

(4) Repair or replacement of faulty or damaged casing, tubing or related downhole equipment.

(5) Fracturing, acidizing or the installing of compression equipment.

(6) Installing equipment necessary for removal of excessive water, brine or condensate from the wellbore in order to establish, continue or increase production of gas from the well.

(7) Workover operations to reduce excessive water or brine production in order to establish, continue or increase production of gas from the well.

(8) Operations to dispose of water or brine produced from the well, the presence of which prevents or severely limits gas production from the well.

(9) Workover operations to reduce excessive sand production or operations to remove excessive sand from the well-bore in order to continue production of gas from the well.

(10) Injection of nitrogen gas or other inert gas necessary to establish, continue or increase production of gas from the reservoir.

(e) *Cross reference.* For the rule establishing the maximum lawful price for qualified production enhancement gas which becomes subject to an intrastate rollover contract, *see* § 271.602(c).

4. Section 273.204(a)(1) is amended by adding a new clause (iii) to read as follows:

§ 274.204 Retroactive collection after final determination.

(a) *General Rule.* * * *

(1) * * *

(iii) in the case of qualified production enhancement gas (as defined in §271.704(c)), the amount of such excess may be computed, charged, and collected for first sales of such natural gas delivered on or after the date that the production enhancement work was completed.

5. Section 274.205 is amended by adding a new paragraph (f) to read as follows:

§ 274.205 High-cost natural gas.

* * * * *

(f) *Qualified production enhancement gas.* A person seeking a determination for purposes of § 271.704 that natural gas is qualified production enhancement gas shall file with the jurisdictional agency an application which contains the following items:

(1) FERC Form No. 121;

(2) A detailed statement describing the production enhancement work that has been performed on the well, including the dates such work was commenced and completed, or that will be performed on the well;

(3) An itemized statement of costs incurred in performing the production enhancement work described in § 271.704(d), including copies of invoices and bills for such work or, if the work has not yet been completed, estimates of such cost;

(4) An statement estimating, for the five year period begining from the month in which the application is filed, the units of gas production (MMBtu's) that:

(i) Would be produced from the well if the production enhancement work had been completed on the day that the application is filed; and

(ii) Would be produced from the well if the production ehancement work is not performed or had not been performed;

(5) The calculation, based on the estimates required by paragraph (f)(4) of this section, that is required by § 271.704(c)(1)(v);

(6) The renegotiated price and a copy of that portion of the sales contract that authorizes collections of such price;

(7) A statement by the applicant, under oath, that:

(i) The production enhancement work is necessary, and can be reasonably expected, to enhance production;

(ii) The maximum lawful price that would be applicable but for qualification of the gas under § 271.704, does not, or will not, provide adequate incentive for the performance of the production enhancement work;

(iii) But for the availability of a price at least as high as the renegotiated price specified in subparagraph (6), the production enhancement work would not have been or will not be performed;

(iv) The production enhancement work was not commenced before May 29, 1980;

(v) To the best of the applicant's knowledge and belief, the estimates required by paragraph (f)(4) of this section are reasonable; and

(vi) The applicant has no knowledge of any other information not described in the application which is inconsistent with these statements and estimates;

(8) A statement by the purchaser, under oath, that to the best of the purchaser's knowledge or belief:

(i) There is a reasonable basis for the statements and estimates made by the applicant pursuant to this paragraph; and

(ii) The purchaser has no knowledge of any information not described in the application which is inconsistent with such statements and estimates; and

(9)(i) If the application is based to any extent on fracturing operations described in § 271.704(d)(5), a statement that:

(A) Describes the minimum separation between the target production zone and fresh water aquifers which are, or are expected to be, used as domestic or agricultural water supplies; and

(B) Identifies the measures that have been, or will be, taken by the applicant to protect the quality of such fresh water aquifers and to protect the intergrity of the separating strata between the target production zone and the fresh water acquifers if the fracturing operations might result in fluid communication between these formations;

(ii) The jurisdictional agency may waive the requirements of paragraph (f)(9)(i) of this section if it determines that the state has a program reasonably designed to assure that no damage will result, from fracturing operations, to fresh water aquifers which are, or are expected to be, used as domestic or agricultural water supplies; and

(10) If the jurisdictional agency so requires, certified copies of records upon which the applicant relied, including copies of the jurisdictional agency's official files.

[FR Doc. 80-36566 Filed 11-21-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 80-058]

Drawbridge Operation Regulations, Manasquan River, N.J.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the New Jersey Department of Transportation, the Coast Guard is changing the regulations governing the Route 70 drawbridge across the Manasquan River, mile 3.4, Brielle, Monmouth County. This change will allow the draw to remain closed to marine traffic from 11 p.m. to 7 a.m. The New Jersey Department of Transportation made this request because of a steady decrease in requests for opening the draw during this period. This action will relieve the bridge owner of the burden of having a person available to open the draw during these hours while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on December 29, 1980.

FUR FURTHER INFORMATION CONTACT:

William C. Heming, Bridge Administrator, Aids to Navigation Branch, Bldg. 135A, Governors Island, NY 10004, (212-668-7165).

SUPPLEMENTARY INFORMATION: On May 27, 1980, the Coast Guard published a proposed rule (45 FR 35351) concerning this amendment. The Commander, Third Coast Guard District, also published this proposal as Public Notice 3-413 dated May 23, 1980. Interested persons were given until July 1, 1980 to submit comments.

Drafting Information

The principal persons involved in drafting this rule are: Richard A. Gomez, Project Manager and Lieutenant Bruce H. Tobey, Project Attorney, Third Coast Guard District.

Discussion of Comments

Two comments were received, one opposed the proposal and one had no objection. The objecting party felt the draw should be unmanned during the week and manned during the weekends. The Commander, Third Coast Guard District, evaluated this comment and concluded that due to the limited amount of openings during an entire week from 11 p.m. to 7 a.m. it would not serve to benefit but rather impose a greater burden on navigation.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.225(f)(6) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of drawtenders is not required.

* * * * *

(f)* * *

(6) Route 70 Bridge across the Manasquan River At Brielle, Monmouth County, New Jersey. From 11 p.m. to 7 a.m. the draw need not open to navigation. At all other times the draw shall open on signal.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: November 3, 1980.

R. I. Price,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 80-36575 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD 80-48]

Drawbridge Operation Regulations; Reynolds Channel, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the County of Nassau, New York, the Coast Guard is changing the regulations governing the operation of the Long Beach drawbridge across Reynolds Channel, mile 4.7. This change will require at least four hours notice from midnight to 7 a.m. The County of Nassau made this request due to a steady decrease of openings of the draw during this period. This action will relieve the bridge owner of the burden of having a person available to open the draw during these hours while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on December 29, 1980.

FOR FURTHER INFORMATION CONTACT:

William C. Heming, Bridge Administrator, Aids to Navigation Branch, Third Coast Guard District, Bldg. 135A, Governors Island, New York, NY 10004 (212-668-7165).

SUPPLEMENTARY INFORMATION: On May 5, 1980, the Coast Guard published a proposed rule (45 FR 29594) concerning this amendment. The Commander, Third Coast Guard District, also published this proposal as Public Notice 3-401 dated May 7, 1980. Interested persons were given until June 19, 1980 and June 30, 1980 respectively, to submit comments.

Drafting Information

The principal persons involved in drafting this rule are: Richard A. Gomez, Project Manager and Lieutenant Bruce H. Tobey, Project Attorney, Third Coast Guard District.

Discussion of Comments

Four comments were received, two opposed the change and two had no objection. Those opposed felt that a four hour notice was too long and requested it be reduced to two hours. The Commander, Third Coast Guard District, evaluated this suggestion but chose not to adopt it. This decision was based on the unnecessary burden a two hour notice period would place on the bridge owner in arranging infrequently requested openings during the hours of midnight to 7 a.m. without further benefiting the interests of navigation. During 1979 there were only 3 openings from midnight to 7 a.m.

In consideration of the foregoing, Part 117 of the Code of Federal Regulations is

amended by revising § 117.180(j) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.180 Long Island, New York inland Waterway from East Rockaway Inlet to Shinnecock Canal; bridges.

* * * * *

(j) Long Beach Bridge across Reynolds Channel. The draw shall open on signal except:

(1) From midnight to 7 a.m. the draw need open only if at least four hours notice is given; and

(2) From 3 p.m. to 8 p.m. on Memorial Day, Independence Day, Labor Day and Saturdays and Sundays from May 15 through September 30, the draw need open only on the hour and half hour.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2), 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: November 3, 1980.

R. I. Price,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 80-36576 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD 80-060]

Drawbridge Operation Regulations; Cheesequake Creek, N.J.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the New Jersey Department of Transportation, the Coast Guard is changing the regulations governing the operation of the Route 35 drawbridge across Cheesequake Creek, mile 0.0 at Morgan, New Jersey, to allow the draw to remain closed to marine traffic from 11 p.m. to 7 a.m. during the months of December, January, February and March. The New Jersey Department of Transportation has made this request because of infrequent openings during the aforementioned period. This action will relieve the bridge owner of the burden of providing full-time drawtenders during these periods while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on December 29, 1980.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Aids to Navigation Branch, Third Coast Guard District, Bldg. 135A, Governors Island, NY 10004 (212–668–7165).

SUPPLEMENTARY INFORMATION: On May 27, 1980, the Coast Guard published a proposed rule (45 FR 35350) concerning this amendment. The Commander, Third Coast Guard District, also published this proposal as Public Notice 3–411 dated May 23, 1980. Interested persons were given until July 1, 1980 to submit comments.

Drafting Information

The principal persons involved in drafting this rule are: Richard A. Gomez, Project Manager and Lieutenant Bruce H. Tobey, Project Attorney, Third Coast Guard District.

Discussion of Comments

No comments were received.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.215(j)(4) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.215 Navigable streams flowing into Raritan Bay (except Raritan River and Arthur Kill), the Shrewsbury River and its tributaries and all inlets on the Atlantic Ocean including their tributaries and canals between Sandy Hook and Bay Head, N.J.; bridges.

* * * * *

(j) The general regulations contained in paragraphs (a) to (g) inclusive, of this section apply to all bridges except as modified by the special regulations contained in this paragraph.

* * * * *

(4) New Jersey Route 35 drawbridge across Cheesequake Creek at Morgan, South Amboy, N.J. The draw shall open on signal except:

(i) From 11 p.m. to 7 a.m. during the months of December, January, February and March the draw need not open to navigation; and

(ii) From 7 a.m. to 7 p.m. daily from May 15 through October 15 the draw need be opened only on the hour.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2), 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: November 3, 1980.

R. I. Price,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 80-36577 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD 80-059]

Drawbridge Operation Regulations; Barnegat Bay, N.J.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the New Jersey Department of Transportation, the Coast Guard is changing the regulations governing the Route 37 drawbridge across Barnegat Bay, Mile 14.1, New Jersey Intracoastal Waterway at Island Heights. This change would allow the draw to remain closed to marine traffic from 11 p.m. to 7 a.m. during the months of December, January, February and March. The New Jersey Department of Transportation has made this request due to the infrequent openings during the aforementioned period. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on December 29, 1980.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, Aids to Navigation Branch, Third Coast Guard District, Bldg. 135A, Governors Island, NY 10004 (212–668–7165).

SUPPLEMENTARY INFORMATION: On May 27, 1980, the Coast Guard published a proposed rule (45 FR 35349) concerning this amendment. The Commander, Third Coast Guard District, also published this proposal as Public Notice 3–412 dated May 23, 1980. Interested persons were given until July 1, 1980 to submit comments.

Drafting Information

The principal persons involved in drafting this rule are: Richard A. Gomez, Project Manager and Lieutenant Bruce H. Tobey, Project Attorney, Third Coast Guard District.

Discussion of Comments

No comments were received.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.220(p) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§117.220 New Jersey Intracoastal Waterway and tributaries; bridges

* * * * *

(p) New Jersey Route 37 Bridge across Barnegat Bay. The draw shall open on signal except:

(1) From 11 p.m. to 7 a.m. during the months of December, January, February and March the draw need not open to navigation; and

(2) From 10 a.m. to 2 p.m. on Saturdays, Sundays and holidays, from Memorial Day through Labor Day the draw need open only on the hour and half hour, except that it shall open at any time for the passage of vessels with tows during such periods.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05–1(g)(3))

Dated: November 3, 1980.

R. I. Price,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 80-36578 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD 80-44]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, (AIWW), Palm Beach County, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Town of Palm Beach, the Coast Guard is amending the regulations governing the operations of the Flagler Memorial Bridge, mile 1021.9, Royal Park Bridge, mile 1022.6, and Southern Boulevard Bridge, mile 1024.7, all across the Atlantic Intracoastal Waterway. Operating restrictions on the Flagler Memorial and Royal Park Bridges that are presently in effect from December 1 through April 30, would be extended to November 1 through May 31. The year-round restrictions in effect on the Southern Boulevard Bridge would be reduced to November 1 through May 31. These amendments will provide closed periods Monday through Friday during peak vehicular traffic. They are being made because of significant increases in vehicular traffic during these periods on the Flagler Memorial and Royal Park Bridges, while there has been an overall decrease in vehicular traffic on the Southern Boulevard Bridge. This action will relieve vehicular traffic during the morning and evening rush hours and establish openings during the normal working hours, while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This amendment is effective on December 24, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Kretschmer, Bridge Administrator, Bridge Section (OAN), Room 1006, Federal Building, 51 Southwest First Avenue, Miami, Florida 33130, telephone: (305) 350–4108.

SUPPLEMENTARY INFORMATION: On May 12, 1980, the Coast Guard published a proposed rule (45 FR 31132) concerning this amendment. The Commander, Seventh Coast Guard District also published these proposals as a public notice dated May 16, 1980. Interested persons were given until June 13, 1980 and June 20, 1980 to submit comments.

Drafting information: The principal persons involved in drafting this rule are: Ensign Jane L. Hamilton, Bridge Administration Officer, Office of Aids to Navigation and Lieutenant John M. Griesbaum, Office of Commander, Seventh Coast Guard District, Legal Office.

Discussion of Comments

A total of 294 comments were received; 286 supported the proposal and eight were in opposition. Those opposed, addressed three areas of concern: The proposed regulations would restrict the movement of waterborne traffic and favor vehicular traffic; the existing regulations are adequate to meet the needs of both waterborne and vehicular traffic; the minimum vertical clearance on the bridges should be raised. These objections have some validity; however, with a scheduled opening during the closed periods, it is felt that vessel operators can adjust their schedules to avoid conflicts and significant delays during the closed periods. Traffic studies show that there is a significant increase of vehicular traffic during peak hours and that the delays evolving from bridge openings are great enough to warrant these additional restrictions. The alternative of raising the bridges is considered unfeasible due to the cost involved in such an undertaking.

The daily closed periods for the Southern Boulevard Bridge that are found in the existing regulations have been retained in these final rules. These differ from the closed periods that were proposed for this bridge. Traffic studies showed that no change was necessary. In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended as set forth below:

1. By revising § 117.440 to read as follows:

§ 117.440 Lake Worth, AIWW, mile 1021.9, Flagler Memorial Bridge, SR A–1–A, Palm Beach, Florida.

(a) From November 1 to May 31, Monday through Friday, excluding Federal holidays, except as provided in paragraph (b) of this section, the draw need not open from 8 a.m. to 9:30 a.m. and from 4 p.m. to 5:45 p.m.; however, the draw shall open at 8:30 a.m. and 4:45 p.m., if any vessels are waiting to pass. From 9:30 a.m. to 4 p.m., the draw need open only on the hour and half hour if any vessels are waiting to pass. At all other times the draw shall open on signal.

(b) The draw shall open at any time for passage of public vessels of the United States, tugs with tows, or vessels in distress. The opening signal from these vessels is four blasts of a whistle, horn, or by shouting.

(c) The owner of or agency controlling this bridge shall post, on both sides of the bridge, signs that state the conditions of this regulation. These signs shall be of such size that they may be easily read from an approaching vessel at any time.

2. By revising § 117.440a to read as follows:

§ 117.440a Lake Worth, AIWW, mile 1022.6, Royal Park Bridge, SR 704, Palm Beach, Florida.

(a) From November 1 through May 31, Monday through Friday, excluding Federal holidays, except as provided in paragraph (b) of this section, the draw need not open from 8 a.m. to 9:30 a.m. and from 3:30 p.m. to 5:45 p.m.; however, the draw shall open at 8:45 a.m., at 4:15 p.m. and 5 p.m., if any vessels are waiting to pass. From 9:30 a.m. to 3:30 p.m., the draw need open only on the quarter and three-quarter hour if any vessels are waiting to pass. At all other times the draw shall open on signal.

(b) The draw shall open at any time for the passage of public vessels of the United States, tugs with tows, or vessels in distress. The opening signal from these vessels is four blasts of a whistle, horn, or by shouting.

(c) The owner of or agency controlling this bridge shall post, on both sides of the bridge, signs that state the conditions of this regulation. These signs shall be of such size that they may be easily read from an approaching vessel at any time.

3. By adding a new § 117.440b immediately after § 117.440a to read as follows:

§ 117.440b Lake Worth, AIWW, mile 1024.7, Southern Boulevard Bridge, SR 700/80, Palm Beach, Florida.

(a) From November 1, through May 31, Monday through Friday, excluding Federal holidays, except as provided in paragraph (b) of this section; the draw need not open from 7:30 a.m. to 9:00 a.m. and from 4:30 p.m. to 6:30 p.m.; however, the draw shall open at 8:15 a.m. and 5:30 p.m. if any vessels are waiting to pass. At all other times the draw shall open on signal.

(b) The draw shall open at any time for passage of public vessels of the United States, tugs with tows, or vessels in distress. The opening signal from these vessels is four blasts of a whistle, horn, or by shouting.

(c) The owner of or agency controlling

Response: Designation of a dumping

(c) The owner of or agency controlling this bridge shall post, on both sides of the bridge, signs that state the conditions of this regulation. These signs shall be of such size that they may be easily read from an approaching vessel at any time.

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: November 3, 1980.

B. L. Stabile,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 80-36580 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 150

[CGD 76-170a]

Casualty Reporting Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the casualty report requirement for deepwater ports by adding a diving casualty as a reportable incident, and by increasing the monetary damage criterion to $25,000 for incidents involving vessels. This action provides for a more efficent casualty reporting system by making deepwater ports casualty reporting criteria compatible with other Coast Guard casualty reporting criteria.

EFFECTIVE DATE: This rule is effective on January 1, 1981.

FOR FURTHER INFORMATION CONTACT: CDR H. T. Blomquist, Office of Merchant Marine Safety (G-MMI/24), Room 2407, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C. 20593 (202) 426-1455.

SUPPLEMENTARY INFORMATION: The Coast Guard published a Notice of Proposed Rulemaking (NPRM) on October 19, 1978 at 43 FR 48982, and a Supplemental NPRM on December 3, 1979, at 44 FR 69305 regarding these amendments. The public was given until January 17, 1980, to submit comments regarding the Supplemental NPRM. The Coast Guard received one comment which concurred with the language of the proposed rule and suggested that no changes be made. However, this docket is a companion to CGD 76-170, which addresses the casualty reporting requirements for all vessels. CGD 76-170 established a monetary damage criterion of $25,000.00, an amount which has been adopted in this final rule in order to ensure that a consistent monetary damage criterion is established for all vessel casualties.

This final rule has been reviewed under the Department of Transportation's "Regulatory Policies and Procedures" (44 FR 11034, February 26, 1979) and has been determined to be nonsignificant.

Drafting information: The principal persons involved in drafting this final rule are CDR H. T. Blomquist, Project Manager, Office of Merchant Marine Safety, and LCDR Jack Orchard, Project Counsel, Office of the Chief Counsel.

In consideration of the foregoing, Part 150 of Title 33, Code of Federal Regulations is amended to read as follows:

1. By amending § 150.711 by revising subparagraph (a)(1) and by adding subparagraph (a)(6) to read as follows:

§ 150.711 Casualty or accident.

(a) * * *

(1) Any component of the deepwater port is hit by a vessel and damage to property is in excess of $25,000.00 This amount is to reflect the cost necessary to restore the property to the service condition which existed prior to the casualty, including the cost of salvage, gas freeing, and dry dock. It does not include such items as demurrage.

* * * * *

(6) Loss of life or injury causing any person to be incapacitated for a period in excess of 72 hours as a result of diving using underwater breathing apparatus.

* * * * *

(Secs. 10(a), 10(b), Pub. L. 93-627, 88 Stat. 2137-38 (33 U.S.C. 1509 (a) and (b)); 49 CFR 1.46(s))

Dated: November 17, 1980.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 80-36582 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[WH-FRL 1679-7]

Ocean Dumping; Final Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates a fish cannery waste site in the Pacific Ocean as an EPA approved interim ocean dumping site. this action is necessary to provide a site for the dumping of fish cannery wastes originating in American Samoa which can no longer be accommodated on land. This action will permit the dumping of these wastes on an interim basis until an Environmental Impact Statement can be prepared on this site.

DATE: This site designation shall become effective on November 24, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-548), EPA, Washington, DC 20460. 202/472-2836.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq., (hereafter "the Act") gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management. This final interim site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I, Subchapter H, § 228.4) state that ocean dumping sites will be designated by publication in this Part 228. EPA designated "Approved Interim and Final Ocean Dumping Sites" on January 11, 1977 (42 FR 2461 et seq.) and extended the designations on January 16, 1980 (45 FR 3053 et seq.).

On August 25, 1980, EPA proposed designation of an additional approved interim ocean dumping site. (45 FR 56374.) The proposed new site is in the Pacific Ocean and would be used solely for the dumping of fish cannery wastes originating in American Samoa. The public comment period expired on October 24, 1980.

The proposed rulemaking contained detailed information regarding the need for an ocean dumping site for the disposal of these fish cannery wastes, the properties of the wastes, and an evaluation of the factors to be considered in site selection in relation to this particular site.

Three comments were received in response to the notice of proposed rulemaking. The comments and responses follow.

Comment: One commenter felt that the restriction of use of the dumpsite for fish cannery waste was too general and would allow the disposal of a wide variety of materials at the proposed site. He suggested that the proposed rule be amended to limit the dumping exclusively to the pollutants discussed and that the rule specifically mention that future use of the site after the rule has expired be contingent upon the filing of an acceptable Environmental Impact Statement (EIS) and public notice in the **Federal Register.**

Response: Designation of a dumping site is only part of the total action required for approval of an ocean dumping operation. Site designations are made in terms of the generic type of wastes for which the site is to be used (e.g., industrial wastes, sewage sludge, dredged material, containerized wastes). The ocean dumping permit itself, which is the actual authorization for dumping in any particular case, specifies not only the processes from which the waste is generated but also the detailed physical and chemical characteristics of the wastes which may be dumped. Proposed actions on permit applications are also subject to public comment and opportunity for public hearing, and it is in the action on permit applications that specific requirements are placed on the applicant as to the volume and type of waste that may be dumped.

As noted by the comment, the interim site designation exists only for a specific period of time, and dumping at this site will be allowed only during the stated time. The site may not be used after this interim period unless an EIS is prepared and the site is designated as a finally approved site through further formal rulemaking.

Comment: The National Marine Fisheries Service commented that recent research has shown that it is feasible to use this type of organic waste for methane gas production and suggested that the government of American Samoa might care to explore this approach in this particular case. If practical in this situation, this process could result in generation of energy combined with a decrease in the volume of waste disposed of at sea.

Response: EPA agrees fully that wherever possible wastes should be used for beneficial purposes, and the ocean dumping regulations require that land-based methods of disposal, including recycling and reuse, be considered in determining whether or not an ocean dumping permit should be issued. This suggestion by the National Marine Fisheries Service has been referred to the permit applicants and the government of American Samoa, and EPA Region IX will work with them to determine the feasibility of this technique for the situation in American Samoa.

Comment: EPA Region IX pointed out the difficulties involved in conducting the necessary environmental studies at a location so far removed from adequate scientific support facilities. The logistical requirements in regard to deploying a suitable vessel at American Samoa and having laboratory analyses done in Hawaii or California will significantly lengthen the time necessary to complete the field surveys necessary before an EIS can be begun. Region IX requested that the interim designation be extended to 36 months rather than 24 months so as to allow time to complete the field work and EIS in a thorough manner.

Response: In view of the difficulties pointed out by EPA Region IX, the interim designation is made for 36 months. This is regarded as an adequate length of time for completion of the necessary studies and preparation of an EIS, and no extension of the interim designation beyond this time is contemplated.

Management authority for this site will be delegated to the Regional Administrator of EPA Region IX.

Although this site designation may have substantial local impacts in the vicinity of the dump site and to those who use it, we have determined that this proposed rule is not a "significant" regulatory action within the meaning of Executive Order 12044, Improving Government Regulations (March 23, 1978).

(33 U.S.C. 1412 and 1418)

Dated: November 18, 1980.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is amended by adding to § 228.12(a) an ocean dumping site for Region IX as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

(a) * * *

Approved interim dumping sites.

* * * * *

Fish Cannery Wastes Site—Region IX.
Location: Latitude—14d22'S;
Longitude—170d41'W (center point).
Size: 1 nautical mile in diameter.
Depth: 1,200 meters (4,000 feet).
Primary Use: Fish cannery wastes.
Period of Use: Site will expire (36 months after date of publication).
Restriction: Disposal shall be limtied to not more than 130,000 tons per year of fish cannery wastes generated on the island of Tutuila, American Samoa.

[FR Doc. 80-36567 Filed 11-21-80; 8:45 am]

BILLING CODE 6560-29-M

40 CFR Part 261

[SWH-FRL 1674-5]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Reopening of Comment Period and Availability of Additional Information

AGENCY: Environmental Protection Agency.

ACTION: Reopening of comment period on proposed and interim final hazardous waste listings and notice of availability of additional information.

SUMMARY: The Environmental Protection Agency (EPA) today is reopening for sixty (60) days the deadline for comment on EPA's May 19, 1980, proposed and interim final hazardous waste listings under Section 3001 of the Resource Conservation and Recovery Act (RCRA), as amended, of two wastes generated by the wood preserving industry. EPA is taking this action to make available to the public additional information and data on the hazardousness of these particular wastes which information became available to EPA after the close of the comment period. This information is now contained in a revised listing background document, which also is being made available for public comment.

Grant of this extension period does not delay the effectiveness of the listing of bottom sediment sludges from the treatment of wastewaters from wood preserving processes using pentachlorophenol and creosote. This hazardous waste listing was promulgated in interim final form on May 19, 1980 and still becomes effective as an interim final regulation on November 19, 1980.

DATES: Comments on this additional information and on the revised listing background document are due no later than January 23, 1981.

ADDRESSES: Comments should be addressed to Deborah Villari, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Comments should identify the regulatory docket number, "wood preserving-§ 3001."

Copies of the background document described in this notice are available for reviewing at the EPA Public Information Reference Unit (Room 2404) and the RCRA Docket Room (Room 2711), both located at 401 M Street, SW., Washington, D.C. 20460, and at all EPA Regional Office libraries during the

hours of 9:00 a.m. to 4:30 p.m., Mondays through Fridays.

FOR FURTHER INFORMATION CONTACT: Matthew A. Straus, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755-9187.

SUPPLEMENTARY INFORMATION: On May 19, 1980, as part of its initial regulations implementing Section 3001 of RCRA, EPA published an interim final list of hazardous wastes (Subpart D of this Part), and proposed to add eleven additional wastes to this list (45 FR 33123-33124, 33136-33137). Included in these proposed and interim final lists were two wastes from the wood preserving industry, namely "bottom sediment sludges from the treatment of wastewater from wood preserving processes that use creosote and/or pentachlorophenol" (Hazardous Waste No. K001) and "wastewater from wood preserving processes that use creosote or pentachlorophenol" (proposed). The original deadline for commenting on these listings was July 18, 1980.

Since the close of the comment period, the Agency has identified additional information and data to further support the listing of these two wastes. The additional information includes several damage incidents involving these wastes, additional waste stream analytic data, more complete descriptions of typical wastewater treatment processes, and additional information as to the environmental fate of pentachlorophenol, a principal waste constituent. We also have documented more prominently data analyzing hazardous constituent concentrations in wood preserving process wastewaters. The Agency also has revised the listing background document for these wastes to incorporate this additional information and to respond to comments received to date. We are reopening the comment period for sixty (60) days to allow additional time to comment on these revisions and on the new data. We will not consider comments on any other section of the Part 261 hazardous waste regulations.

In reopening the comment period, the Agency is not taking any action to either finalize or to temporarily exclude these wastes from the hazardous waste management regulatory control system. Therefore, on November 19, 1980, the bottom sediment sludges (Hazardous Waste Number K001), promulgated as an interim final listing on May 19, 1980, will be subject to the full complement of Subtitle C regulations. Process wastewater, proposed for listing as a hazardous waste on May 19, will not be subject to Subtitle C regulation until the listing is finalized. Since we believe that the additional information and data further supports the conclusion that these wastes are hazardous, we believe it would be inappropriate to delay the effectiveness of the interim final regulation. At the same time, we believe it would be inappropriate to finalize these hazardous waste listings until the public has had an opportunity to comment on the additional information.

Dated: November 13, 1980.

Eckardt C. Beck,

Assistant Administrator.

[FR Doc. 80-36050 Filed 11-21-80; 8:45 am]

BILLING CODE 6560-30-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. H-23]

Reporting Motor Vehicles for Disposal and Release of Vehicles After Sale; Temporary Regulation

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation requires Federal agencies to include odometer information on their reporting documents (Standard Form 120, Report of Excess Personal Property, or Standard Form 126, Report of Personal Property for Sale) when referring motor vehicles to the selling agency for disposal. The additional information will enable the selling agency personnel to make the necessary vehicle odometer certifications on revised Standard Form 97 (Rev. 7-79), the United States Government Certificate of Release of a Motor Vehicle, as required by section 408(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988(a)), as implemented in 49 CFR Part 580.

DATES: Effective date: November 24, 1980.

Expiration date: October 1, 1981.

Comments due on or before: April 1, 1981.

ADDRESS: Comments should be addressed to: General Services Administration (DPS), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: Milton L. Herman or Dona Gamble, Sales Management Branch (703-557-0681).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044. (Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter H to read as follows:

November 13, 1980.

[Federal Property Management Regs.; Temporary Reg. H-23]

Reporting Motor Vehicles for Disposal and Release of Vehicles After Sale

1. *Purpose.* This regulation requires Federal agencies to submit odometer information to the selling agency when reporting vehicles for disposal.

2. *Effective date.* This regulation is effective upon publication in the **Federal Register.**

3. *Expiration date.* This regulation expires on October 1, 1981.

4. *Applicability.* The provisions of this regulation apply to those Federal agencies that report motor vehicles for disposal.

5. *Background.* 49 CFR Part 580, Odometer Disclosure Requirements, implements section 408(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988(a)). This regulation requires the transferor of a motor vehicle to make a written disclosure to the transferee concerning the accuracy of odometer mileage. To implement this requirement to cover the sale of Government motor vehicles, revised Standard Form 97 (Rev. 7-79), the United States Government Certificate of Release of a Motor Vehicle, and Standard Form 97-A, Agency Record Copy of the United States Government Certificate of Release of a Motor Vehicle, include the required odometer mileage statement. In order for the selling agency to make the required certification, agencies reporting vehicles for disposal must provide the additional information required by par. 6.

6. *Motor vehicle reporting requirements and release of vehicles after sale,* a. Reporting agencies must enter the following additional information on Standard Forms 120, Report of Excess Personal Property, and Standard Forms 126, Report of Personal Property for Sale, covering motor vehicles. Vehicles with odometers which require the same certification may be item numbered sequentially on the reporting document and one certification (see (2), below) given covering the vehicles.

(1) The mileage shown on the vehicle odometer; and

(2) A certification as follows (see attachment A for a complete explanation of each block):

```
Mileage shown for item   1. ☐ Correct                  )
                         2. ☐ Turned Over              )Check One
No(s)._____is/are:       3. ☐ Incorrect                )

Odometer(s) has/have:    4. ☐ Not been altered         )
                         5. ☐ Been altered-correct     )Check One
                         6. ☐ Been altered-incorrect)
```

b. Delivery of motor vehicles to purchasers shall be evidenced by submitting to the purchaser a completed copy of Standard Form 97/97-A. This form contains the odometer certification required by section 408(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988(a)).

c. The agency reporting document containing the necessary certification is used by the selling agency as the basis for making the odometer certification on Standard Form 97/97-A. The completed Standard Form 97/97-A is forwarded to the custodian with the GSA Form 27, Notice of Award, authorizing the custodian to release the property. At the time of release the custodian will obtain the signature of the buyer or his/her authorized representative in the "Signature of Transferee (Buyer)" block at the bottom of the Standard Form 97, and distribute the form as follows:

(1) Provide the original to the purchaser at the time of release; and

(2) Mail the two copies of the Standard Form 97-A to the appropriate selling agency with the signed release copy of GSA Form 27, Notice of Award. The selling agency shall then provide one of these copies to the owning agency.

d. If agencies should elect to sell their own motor vehicles using the small lot authority under FPMR 101-45.105-3, a supply of Standard Forms 97/97-A to cover these vehicles should be requested from the supporting GSA regional office.

e. Proper precautions must be taken by agency heads to prevent blank copies of Standard Form 97/97-A from being obtained by unauthorized persons.

7. *Agency comments.* Comments concerning the effect or impact of this regulation on agency operations or programs should be submitted to the General Services Administration (DPS), Washington, DC 20405, no later than April 1, 1981.

8. *Effect on other directives.* This regulation supplements the policies in FPMR 101-45.303.

Note.—The form as illustrated in Attachment A is filed with the original document and does not appear in this volume.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 80-36048 Filed 11-21-80; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3300

[Circular No. 2481]

Amendment to the Regulations on Grants of Pipeline Rights-of-Way on the Outer Continental Shelf

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking makes technical changes in the regulations on Grants of Pipeline Rights-of-Way on the Outer Continental Shelf. The amendments will clear up a procedural conflict between the Bureau of Land Management and the U.S. Geological Survey as to which agency handles the issuance of grants for those pipelines owned by the lessee or lessee's operator which are located within the boundaries of a single lease, the boundaries of a unitized lease or the boundaries of contiguous leases of the same lessee or lessee's operator.

EFFECTIVE DATE: November 24, 1980.

ADDRESS: Any inquiries or suggestions should be sent to: Director (540), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Herbert Kaufman (202) 343-6906.

SUPPLEMENTARY INFORMATION: After the issuance of the final rulemaking on Grants of Pipeline Rights-of-Way on the Outer Continental Shelf, questions arose about the extent of the authority of the U.S. Geological Survey for the issuance of permits for pipelines owned by a lessee or lessee's operator which are located on the Outer Continental Shelf. These questions arose because of conflicts between the Bureau of Land Management and the U.S. Geological Survey as to their respective authority to authorize rights-of-way for pipelines located on the Outer Continental Shelf. These questions were resolved with the signing of a memorandum of understanding between the two agencies that delineated the authority of each of the agencies with regard to the authorizations for rights-of-way for pipelines located on the Outer Continental Shelf, with the U.S. Geological Survey's responsibility limited to permits for pipelines located within the boundaries of a single lease, the boundaries of a unitized lease and the boundaries of contiguous leases of the same lessee or lessee's operator and the Bureau of Land Management having the responsibility for the issuing of right-of-way grants for pipelines not wholly contained within the boundaries of a single lease, the boundaries of a unitized lease or the boundaries of contiguous leases of the same lessee or lessee's operator.

These technical changes do not impose any additional burden on lessees or applicants for a right-of-way grant on the Outer Continental Shelf. The rulemaking only further defines the extent of the responsibility of the Bureau of Land Management and U.S. Geological Survey and has no significant impact on the public.

The principal author of this final rulemaking is Herbert Kaufman of the Division of Offshore Resources, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is determined that publication of this final rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

The Department of the Interior has determined that this document is not a significant regulatory action requiring

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the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331 et seq.), Subpart 3340, Part 3300, Group 3300, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations is amended as set forth below.

Guy R. Martin,

Assistant Secretary of the Interior.

November 18, 1980.

§ 3340.0–2 [Amended]

1. Section 3340.0–2 is amended by the deletion of the second paragraph.

2. Subpart 3340 is amended by the addition of a new section 3340.0–4 as follows:

§ 3340.0–4 Responsibilities.

(a) The Bureau of Land Management is responsible for making right-of-way grants for pipelines on the Outer Continental Shelf that are not wholly contained within the boundaries of a single lease, the boundaries of unitized leases or the boundaries of contiguous, not cornering, leases of the same leasee or lessee's operator.

(b) The U.S. Geological Survey is responsible for issuing permits in accordance with the provisions of 30 CFR 250.20 for pipelines on the Outer Continental Shelf which are wholly contained within the boundaries of a single lease, the boundaries of unitized leases or the boundaries of contiguous, not cornering, leases of the same leasee or lessee's operator.

3. Section 3340.2–1(e)(1) is amended to read as follows:

§ 3340.2–1 Applications.

* * * * *

(e)(1) An applicant shall show the extent to which the right-of-way applied for invades or crosses mineral leases and rights-of-way granted by the Bureau of Land Management or pipelines permitted by the U.S. Geological Survey, other than mineral leases, rights-of-way or pipelines of the applicant. The application shall contain a statement that a copy of the application has been delivered personally or by registered or certified mail to each lessee, right-of-way or pipeline permit holder whose lease, right-of-way or pipeline permit is so affected. * * *

[FR Doc. 80-36496 Filed 11-21-80; 8:45 am]

BILLING CODE 4310-84-M

43 CFR Part 3610

[Circular No. 2479]

Mineral Materials Sales, Noncompetitive (Negotiated) Sales; Dollar Limitations

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency final rulemaking.

SUMMARY: This emergency final rulemaking will remove the dollar limitations on negotiated sales of mineral materials that will be used on the Trans-Alaska Pipeline System and Alaska Natural Gas Transportation System in Alaska. There is an urgent need for additional fossil fuel supplies to the United States. The intended effect of this rulemaking is to expedite the construction and operation of two fossil fuel transportation systems in Alaska to meet this need.

EFFECTIVE DATE: November 24, 1980.

ADDRESS: Any suggestions or inquiries should be sent to: Director (140), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Larry Montross (202) 343–6226.

SUPPLEMENTARY INFORMATION: The principal author of this regulation is Larry Montross of the Office of Special Projects, Bureau of Land Management, Washington, D.C., assisted by the staff of the Office of Legislation and Regulatory Management.

This emergency final rulemaking will remove the dollar limitations on negotiated sales of mineral materials that will be used on the Alaska Natural Gas Transportation System (ANGTS) in Alaska and the Trans-Alaska Pipeline System (TAPS).

Present regulations require competition, but competitive sales take longer to process than negotiated sales and experience with TAPS has shown that, for all practical purposes, competition does not exist.

The Alaska Natural Gas Transportation Act of 1976 declares that the expeditious construction of a natural gas pipeline is in the national interest and the Act of July 31, 1947 provides that the Secretary may authorize negotiated sales of materials if it is impracticable to obtain competition. It is desirable that mineral materials for the two transportation systems be acquired by negotiated sales. In addition, the elimination of the dollar requirements for these negotiated sales is considered appropriate for the following reasons:

(1) The efficiency of pipeline construction can be increased because the elimination of dollar limits would allow purchase of larger quantities through fewer sales.

(2) The quantities of gravel required will involve dollar amounts that are far in excess of the one-year, $10,000 limitation currently required in the regulations.

Even though TAPS became operational in 1977 it is included in this regulation because there is a continuing annual need of approximately two million cubic yards of gravel for routine maintenance and the construction of new facilities such as pump plants.

The right-of-way grant for ANGTS is presently under review by Congress and anticipated to be completed by November. Shortly thereafter, the grant is expected to be issued. Thus, the need for gravel appears imminent and is the reason for the emergency nature of these regulations.

It is hereby determined that the publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of the Act of July 31, 1947, as amended, (43 U.S.C. 602) Subpart 3611, Part 3610, Group 3600, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations is amended as set forth below.

Guy R. Martin,

Assistant Secretary of the Interior.

November 17, 1980.

1. Subpart 3611 is amended by adding a new section 3611.4 to read as follows:

Subpart 3611—Noncompetitive (Negotiated) Sales

* * * * *

§ 3611.4 Exceptions.

The dollar limitations in § 3611.1 and § 3611.3 shall not apply to sales in the State of Alaska of mineral materials which the authorized officer determines are needed for construction, operation, maintenance or termination of the Trans-Alaska Pipeline System or the Alaska Natural Gas Transportation System.

[FR Doc. 80-36581 Filed 11-21-80; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF HEALTH AND HUMAN SERVICE

Office Of the Secretary

45 CFR Part 76

Debarment and Suspension From Eligibility for Financial Assistance; Correction

AGENCY: Department of Health and Human Services.

ACTION: Final rule; correction.

SUMMARY: On October 9, 1980 final regulations governing the debarment and suspension of individuals and institutions from eligibility for financial assistance were published in the Federal Register (45 FR 67262), effective November 10, 1980. This notice corrects several errors which appeared in that document.

FOR FURTHER INFORMATION CONTACT: William G. Ketterer, Senior Attorney, NIH, Office of the General Counsel, Room 2B50, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205. Telephone: (301) 496–6043.

Accordingly, the following corrections are made in FR Doc. 80–26916, appearing on pages 67262 through 67269 in the Federal Register dated October 9, 1980:

1. On page 67262:

(a) Second column, paragraph (2), in the heading the first letters of the words "Regulations" and "Necessary" are changed to the lower case (as corrected the heading reads "Are the regulations necessary?");

(b) Second column, paragraph (2), fourth line from the bottom, insert the word "this" between the words "take account" (as corrected, the line reads "regulations should take this into account");

(c) Third column, paragraph (4), eleventh line, insert the word "of" between the words "specifications the". (as corrected, the line reads: "conditions or specifications of the prior awards").

2. On page 67264, paragraph (11), second column, thirty-fourth line, in the second full paragraph the citation "§ 17.24(c)" is changed to read § 76.24(c)."

3. On page 67265, § 76.1(b), third column, the twelfth line is corrected by inserting a comma after the word "facts" and by adding the word "to" immediately following "and". As corrected, the line reads "existence or absence of facts, and to the".

4. On page 67267 § 76.14(a)(3), first column, seventh line, the word "know" is changed to "known".

5. Page 67268:

(a) Section 76.20, first column, first line, the number "(1)" is deleted;

(b) Section 76.23(a), third column, eighth line from the bottom, change the word "and" to "an". As corrected the line reads as follows: "interest by the Secretary, an exception".

Dated: November 18, 1980.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 80-36615 Filed 11-21-80; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 4, 26, 35, 78, 97, 109, 167, 185, and 196

[CGD 76–170]

Casualty Reporting Requirements

AGENCY: Coast Guard, DOT.

ACTION: Interim final rule.

SUMMARY: This rule amends the casualty reporting requirements for vessels, and includes the following major changes: The physical damage monetary criterion has been increased to $25,000; some intentional groundings need not be reported; losses of main propulsion of primary steering systems or components are a separate reporting criterion; and occurrences which materially adversely affect a vessel's fitness for service or route must be reported. These amendments are necessary in order to provide more comprehensive and useful reporting criteria as the initial step in a marine investigation.

DATES: This rule is effective on January 1, 1981.

Comments: Comments regarding the changes made to §§ 4.03–1(b) and 4.05–1(e) must be received on or before January 15, 1981.

ADDRESS: Comments should be submitted to: Commandant (G–CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593.

FOR FURTHER INFORMATION CONTACT: CDR H. T. Blomquist, Office of Merchant Marine Safety (G–MMI/24), Room 2407, U.S. Coast Guard Headquarters, 2100 Second St., S.W., Washington, D.C. 20593 (202) 426–1455.

SUPPLEMENTARY INFORMATION: The Coast Guard published a Notice of Proposed Rulemaking (NPRM) on October 19, 1978, at 43 FR 48982, and a Supplemental NPRM on December 3, 1979, at 44 FR 69308, regarding these amendments. Twenty-five comments which were received in response to the NPRM were discussed in the Supplemental NPRM. An additional 21 comments were submitted in response to the Supplemental NPRM and are discussed in this document. Two requests for a public hearing and five requests for "consultations" were received from members of the inland towing industry. These requests addressed paragraph 4.05–1(a) which requires the reporting of all accidental groundings. Because the written comments succinctly state the views of the commenters, the Coast Guard does not believe that a public hearing would provide additional beneficial information. Therefore, no public hearing has been scheduled.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are CDR H. T. Blomquist, Project Manager, Office of Merchant Marine Safety, and LCDR Jack Orchard, Project Attorney, Office of the Chief Counsel.

Discussion of the Major Comments—Monetary Damage Criterion

Although the proposed monetary damage criterion was increased by the Supplemental NPRM from $5,000 to $10,000, many commenters suggested that because this figure is to include all of the costs necessary to restore the property to its pre-casualty condition (i.e., labor, material, salvage, gas freeing, and drydock), the amount should be increased so that the reporting of relatively minor damage may be avoided. The Coast Guard has reevaluated its proposed monetary damage criterion and, after taking into consideration the requirement that all incurred costs must be included, has increased the dollar amount to $25,000 in this final rule.

In related comments it was suggested that the monetary damage criterion should not include the cost of gas freeing because this cost varies greatly, depending upon the type of cargo which is carried. As an example, a commenter pointed out that physical damage to a vessel's tank might not be reportable if the tank contained a material such as water, but would be reportable if it contained benzene, because the high costs of gas freeing would cause the dollar amount to exceed the monetary criterion. The commenter's point is well taken. However, the Coast Guard's selection of a monetary value as a reporting criterion is based upon the premise that increased repair costs are indicative of the increased seriousness of a marine casualty. Gas freeing costs, as they relate to the commenter's example, are indicative of the increased seriousness of a casualty which results in damage to a benzene tank as

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compared to a casualty which involves damage to a water tank. While damage to a water tank might not be of a sufficient magnitude to require a marine investigation, a similar degree of damage to a tank containing a hazardous cargo would probably warrant an investigation. The monetary damage criterion has been chosen as the most effective method of ensuring that only the more serious casualties are reported.

Accidental Grounding Criterion

Nine of the commenters, the majority of whom were members of the inland towing industry, addressed the accidental grounding criterion. The thrust of their argument is that because of the presence of shifting sandbars in inland rivers, accidental groundings which do not result in damage are common occurrences which should not be reported. The Coast Guard understands that under some circumstances an accidental grounding may not result in serious damage. Nonetheless, the extent of damage is frequently not easily determined until a vessel is inspected by divers or is placed in drydock. To be of any value, a marine casualty investigation must commence as close in time to the accident as possible. If the Coast Guard is not made aware of damage until a vessel is placed in drydock, information surrounding the actual grounding may be partially or completely unobtainable. In addition to the difficulty in recognizing the extent of damage, the information on accidental groundings provides valuable data on potential or actual waterway hazards. As was mentioned in the Supplemental NPRM, the purpose of requiring notification of all accidental groundings is to provide marine safety information so that the Coast Guard may take corrective or preventive action, as is necessary. Even though this requirement may result in the reporting of a grounding which results in no damage, the information will be useful in identifying channel deficiencies or unsafe operating practices.

It must be emphasized that intentional damage-free groundings need only be reported if another reporting criterion is applicable. This exception was included in the regulation specifically to eliminate the reporting of groundings which are done intentionally by towing vessels while they are working with their tows.

Loss of Steerage or Propulsion

Four commenters addressed the criterion regarding the failure of a steering or propulsion component or control system. They question whether the Coast Guard intends to apply this criterion if the losses are only momentary or if standby backup equipment takes over immediately for damaged equipment. Paragraph (b) of § 4.05–1 contains the phrase "the loss of which causes a reduction of the maneuvering capabilities of the vessel." This means that if a standby steering or propulsion system is immediately placed "on the line" so that there is no reduction in the vessel's maneuvering capabilities, then no reportable marine casualty has occurred. However, if a vessel's maneuvering capabilities are reduced, even if only for a short period of time, a reportable casualty has occurred.

Notification

Six commenters questioned the necessity of giving notice "by the most rapid means," rather than "as soon as possible." The "most rapid means" language was inserted in the supplemental NPRM to ensure that casualty information was made available in sufficient time to allow the Coast Guard's Search and Rescue (SAR) units and pollution strike forces to provide immediate assistance. Two of the commenters pointed out that the Coast Guard's interim rule located in Part 161 of Title 33, Code of Federal Regulations (CFR), contains a requirement to immediately notify the Coast Guard of the existence of a "hazardous condition" on a vessel. Because this notification requirement provides information which allows Coast Guard SAR and pollution response units to carry out their duties, immediate notification under Part 4 of Title 46, CFR, is unnecessary. Therefore, the "by most rapid means" language has been dropped and the existing "as soon as possible" language has been retained.

Hospitalization

The NPRM contained a proposal which would have directed the submission of a report whenever an injured person required hospitalization for more than 24 hours. This provision was deleted from the Supplemental NPRM in response to comment which stated that in order to avoid charges of negligence and to allow sufficient time for observation, many hospitals routinely hospitalize injured patients for 24 to 48 hours. The Coast Guard reevaluated its proposal and determined that the reporting of injuries serious enough to incapacitate a person for 72 hours would provide sufficient information to allow it to adequately investigate the cause of the injury and to determine if corrective action should be taken. Three commenters disagreed with this determination and were of the opinion that the 24-hour hospitalization proposal should be made final in this rule. While a 24-hour hospitalization reporting criterion would probably result in an increase in the volume of reports submitted to the Coast Guard, it is doubtful that this increased volume would provide any additional significant information to the marine casualty investigator. The Coast Guard continues to believe that the 72-hour incapacitation and the loss of life reporting criteria will provide adequate information for it to carry out its personnel safety responsibilities. Therefore, no hospitalization criterion is included in this final rule.

Administrative Changes

Major Marine Casualty

Both the National Transportation Safety Board (NTSB) and the Coast Guard investigate marine casualties. The term "Major Marine Casualty" has been used in both the "joint regulations of the NTSB and the Coast Guard" in Subpart 4.40, and in the Coast Guard regulations in Subparts 4.03, 4.07, and 4.09. However, the term in defined differently in each subpart. In order to avoid confusion to persons who are concerned with marine casualties in general, the term "major marine casualty" has been deleted from Subparts 4.03, 4.07, and 4.09.

A printing error has been discovered in the designation of § 4.01–3. The designation is corrected in this final rule to read "§ 4.01–3" instead of "§ 4.02–3".

A reporting exclusion has been added to § 4.01–3 for vessels which provide notice in accordance with the provisions of 46 CFR 197.484 regarding commercial diving accidents.

In § 4.05–5, regarding the substance of a marine casualty notice, the term "probably occasion" has been used. Because this term has been interpreted to mean either "probable cause" or "circumstances", and thus has led to confusion in the past, it has been replaced by the term "circumstances." This change has also been made in each subchapter which contains a "substance of marine casualty notice" section.

Additional Amendments

The language in § 4.03–1(b) which expands upon the definition of a "marine casualty," refers to "injury or loss of life to any of its crew or passengers." The statutes which provide the authority for these regulations refer to "loss of life" and "injuries to persons," and do not limit their applicability to crews members and passengers. Although the majority of casualties which result in loss of life or injury will involve passengers or crew members, some casualities occur which involve other classes of persons. For example, if a vessel strikes and kills or injures a swimmer (who is not a crew member or or a passenger), with no other damage, the event would not be required to be reported under the previous definition contained in § 4.03–1(b). This oversight has been eliminated in this final rule by the substitution of a requirement that the loss of life or injury to "any person" must be reported.

Likewise, the language of § 4.05–1(e) provided an exemption from the reporting requirement for non-fatal injuries to harbor workers as long as the injury did not involve a "vessel casualty" or a "vessel equipment casualty." This exemption resulted in an unnecessary exclusion of person who performed a major portion of their work onboard vessels, and thus were exposed to a significant risk of being injured in shipboard accidents. To correct this situation the exemption has been eliminated and all injuries to all persons which incapacitate them for greater than 72 hours, are reportable.

Because these two amendments to §§ 4.03–1(b) and 4.05–1(e) were not addressed in the NPRM nor in the supplemental NPRM, comments regarding them will be accepted for 45 days. Any changes which the Coast Guard makes in response to comments will be addressed in a document to be published in the **Federal Register** within 120 days of the effective date of this rule. This final rule has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (DOT Order 2100.5). A final evaluation has been prepared and is included in the public docket.

In compliance with the Federal Reports Act of 1946, forms CG–924E and CG–2692 have previously been submitted to and sanctioned by the Office of Management and Budget (OMB), until May, 1985. This interim final rule affects the occasions when a report must be submitted. For this reason, OMB approval of this action has been sought concurrently with the publication of this document. If OMB approval is not received by January 1, 1981, a notice will be published in the **Federal Register.**

In consideration of the foregoing, Title 46, Code of Federal Regulations is amended as follows:

PART 4—MARINE INVESTIGATION REGULATIONS

§ 4.02–3 Redesignated as §4.01–3 and Amended)

1. By redesignating § 4.02–3 as § 4.01–3, and amending it to read as follows:

§ 4.01–3 Reporting exclusion.

(a) Vessels subject to 33 CFR 173.51 are excluded from the requirements of Subpart 4.05.

(b) Vessels which report diving accidents under 46 CFR 197.484 regarding deaths, or injuries which cause incapacitation for greater than 72 hours, are not required to give notice under §§ 4.05–5(d) or 4.05–5(e).

2. By amending § 4.03–1(b) and adding a new § 4.03–1(c) to read as follows:

§ 4.03–1 Marine Casualty or accident.

* * * * * *

(b) The term "marine casualty or accident" includes any accidental grounding, or any occurrence involving a vessel which results in damage by or to the vessel, its apparel, gear, or cargo, or injury or loss of life of any person; and includes among other things, collisions, strandings, groundings, founderings, heavy weather damage, fires, explosions, failure of gear and equipment and any other damage which might affect or impair the seaworthiness of the vessel.

(c) The term "marine casualty or accident" also includes occurrences of loss of life or injury to any person while diving from a vessel and using underwater breathing apparatus.

§ 4.03–5 [Reserved]

3. By revoking and reserving § 4.03–5.

4. By revising § 4.05–1 to read as follows:

§ 4.05–1 Notice of marine casualty.

The owner, agent, master or person in charge of a vessel involved in a marine casualty shall give notice as soon as possible to the nearest Coast Guard Marine Safety or Marine Inspection Office whenever the casualty involves any of the following:

(a) All accidental groundings and any intentional grounding which also meets any of the other reporting criteria or creates a hazard to navigation, the environment, or the safety of the vessel;

(b) Loss of main propulsion or primary steering, or any associated component or control system, the loss of which causes a reduction of the maneuvering capabilities of the vessel. Loss means that systems, component parts, subsystems, or control systems do not perform the specified or required function;

(c) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route, including but not limited to fire, flooding, or failure or damage to fixed fire extinguishing systems, lifesaving equipment, auxiliary power generating equipment, or bilge pumping systems;

(d) Loss of life;

(e) Injury causing a person to remain incapacitated for a period in excess of 72 hours;

(f) An occurrence not meeting any of the above criteria but resulting in damage to property in excess of $25,000.00. Damage includes the cost necessary to restore the property to the service condition which existed prior to the casualty, including the cost of salvage, gas freeing, and drydock. It does not include such items as demurrage.

5. By revising §4.05–5 to read as follows:

§ 4.05–5 Substance of marine casualty notice.

The notice required in § 4.05–1 must include the name and official number of the vessel involved, the name of the vessel's owner or agent, the nature and circumstances of the casualty, the locality in which it occurred, the nature and extent of injury to persons, and the damage to property.

6. By adding a new § 4.05–30 to read as follows:

§ 4.05–30 Incidents involving hazardous materials.

When a casualty occurs involving hazardous materials, notification and a written report to the Department of Transportation may be required. See 49 CFR 171.15 and 171.16.

§ 4.07–50 [Reserved]

7. By revoking and reserving § 4.07–50.

8. By revising § 4.09–1 to read as follows:

§ 4.09–1 Commandant to designate.

If it appears that it would tend to promote safety of life and property at sea or would be in the public interest, the Commandant may designate a Marine Board of Investigation to conduct an investigation.

PART 26—OPERATIONS

9. By amending Part 26 by adding a new Subpart 26.08 to read as follows:

Subpart 26.08—Notice of Marine Casualty and Voyage Records

Sec.

26.08–1 Notice of marine casualty.
26.08–3 Reporting exclusion.
26.08–5 Substance of marine casualty notice.

Sec.
26.08–10 Report by officer in charge of

circumstances of the casualty, the

any foreign nation, communications in

PART 78—OPERATIONS

§ 97.07–1 Notice of casualty.

Inspection Office whenever the casualty involves any of the following:

Sec.
26.08–10 Report by officer in charge of vessel in person.
26.08–15 Voyage records, retention of.
26.08–20 Report of accident to aid to navigation.
26.08–25 Report when state of war exists.

Authority: Sec. 10, 18 Stat 128 (33 U.S.C. 361); R.S. 4450, as amended (46 U.S.C. 239); R.S. 4405 (46 U.S.C. 375); 80 Stat 938 (49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).

Subpart 26.08—Notice of Marine Casualty and Voyage Records

§ 26.08–1 Notice of marine casualty.

The owner, agent, master or person in charge of a vessel involved in a marine casualty shall give notice as soon as possible to the nearest Coast Guard Marine Safety or Marine Inspection Office whenever the casualty involves any of the following:

(a) All accidental groundings and any intentional grounding which also meets any of the other reporting criteria or creates a hazard to navigation, the environment, or the safety of the vessel;

(b) Loss of main propulsion or primary steering, or any associated component or control system, the loss of which causes a reduction of the maneuvering capabilities of the vessel. Loss means that systems, component parts, subsystems, or control systems do not perform the specified or required function;

(c) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route including but not limited to fire, flooding, or failure or damage to fixed fire extinguishing systems, lifesaving equipment, auxiliary power generating equipment, or bilge pumping systems;

(d) Loss of life;

(e) Injury causing a person to remain incapacitated for a period in excess of 72 hours;

(f) An occurrence not meeting any of the above criteria but resulting in damage to property in excess of $25,000.00. Damage includes the cost necessary to restore the property to the service condition which existed prior to the casualty, including the cost of salvage, gas freeing, and dry dock. It does not include such items as demurrage.

§ 26.08–3 Reporting exclusion.

Vessels subject to 33 CFR 173.51 are excluded from the requirements of subpart 26.08.

§ 26.08–5 Substance of marine casualty notice.

The notice required in § 26.08–1 shall show the name and official number of the vessel involved, the name of the vessel's owner or agent, the nature and circumstances of the casualty, the locality in which it occurred, the nature and extent of injury to persons, and the damage to property.

§ 26.08–10 Report by officer in charge of vessel in person.

(a) In addition to the notice required by § 26.08–1, the person in charge of the vessel shall, as soon as possible, report in writing and in person to the Officer in Charge, Marine Inspection, at the port in which the casualty occurred or nearest the port of first arrival; *Provided,* That when due to distance it may be inconvenient to report in person it may be done in writing only. The written report required for personnel accidents shall be made on Form CG 924E and submitted for each individual injured and each loss of life. For all other vessel casualties the written report shall be made on Form CG 2692.

(b) If filed without delay, the Form CG 924E or CG 2692 may also provide the notice required by § 26.08–1.

§ 26.08–15 Voyage records, retention of.

(a) The owner, agent, master, or person in charge of any vessel involved in a marine casualty shall retain such voyage records as are maintained by the vessel, such as both rough and smooth deck and engine room logs, bell books, navigation charts, navigation work books, compass deviation cards, gyro records, stowage plans, records of draft, aids to mariners, night order books, radiograms sent and received, radio logs, crew and passenger lists, articles of shipment, official logs and other material which might be of assistance in investigating and determining the cause of the casualty. The owner, agent, master, other officer or person responsible for the custody thereof, shall make these records available upon request, to a duly authorized investigating officer, administrative law judge, officer or employee of the Coast Guard.

§ 26.08–20 Report of accident to aid to navigation.

Whenever a vessel collides with a lightship, buoy, or other aid to navigation under the jurisdiction of the Coast Guard, or is connected with any such collision, it shall be the duty of the person in charge of such vessel to report the accident to the nearest Officer in Charge, Marine Inspection. No report on Form CG 2692 is required unless one or more of the results listed in § 26.08–1 occur.

§ 26.08–25 Reports when state of war exists.

During the period when a state of war exists between the United States and any foreign nation, communications in regard to casualties or accidents will be handled with caution and the reports shall not be made by radio or by telegram.

PART 35—OPERATIONS

10. By revising § 35.15–1 (a) and (b) to read as follows:

§ 35.15–1 Notice of casualty and voyage records—TB/ALL.

(a) The owner, agent, master or person in charge of a vessel involved in a marine casualty shall give notice as soon as possible to the nearest Coast Guard Marine Safety or Marine Inspection Office whenever the casualty involves any of the following:

(1) All accidental groundings and any intentional grounding which also meets any of the other reporting criteria or creates a hazard to navigation, the environment, or the safety of the vessel;

(2) Loss of main propulsion or primary steering, or any associated component or control system, the loss of which causes a reduction of the maneuvering capabilities of the vessel. Loss means that systems, component parts, subsystems, or control systems do not perform the specified or required function;

(3) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route including but not limited to fire, flooding, or failure or damage to fixed fire extinguishing systems, lifesaving equipment, auxiliary power generating equipment or bilge pumping systems;

(4) Loss of life;

(5) Injury causing a person to remain incapacitated for a period in excess of 72 hours;

(6) An occurrence not meeting any of the above criteria but resulting in damage to property in excess of $25,000.00. Damage includes the cost necessary to restore the property to the service condition which existed prior to the casualty, including the cost of salvage, gas freeing, and dry dock. It does not include such items as demurrage.

(b) The notice required by paragraph (a) of this section must include the name and official number of the vessel involved, the name of the vessel's owner or agent, the nature and circumstances of the casualty, the locality in which it occurred, the nature and extent of injury to persons, and the damage to property.

(c) * * *

* * * * *

PART 78—OPERATIONS

11. By revising § 78.07–1(a) to read as follows:

§ 78.07–1 Notice of casualty.

(a) The owner, agent, master or person in charge of a vessel involved in a marine casualty shall give notice as soon as possible to the nearest Coast Guard Marine Safety or Marine Inspection Office whenever the casualty involves any of the following:

(1) All accidental groundings and any intentional grounding which also meets any of the other reporting criteria or creates a hazard to navigation, the environment, or the safety of the vessel;

(2) Loss of main propulsion or primary steering, or any associated component or control system, the loss of which causes a reduction of the manuevering capabilities of the vessel. Loss means that systems, component parts, subsystems, or control systems do not perform the specified or required function;

(3) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route, including but not limited to fire, flooding, or failure or damage to fixed fire extinguishing systems, lifesaving equipment, auxiliary power generating equipment, or bilge pumping systems;

(4) Loss of life;

(5) Injury causing a person to remain incapacitated for a period in excess of 72 hours;

(6) An occurrence not meeting any of the above criteria but resulting in damage to property in excess of $25,000.00. Damage includes the cost necessary to restore the property to the service condition which existed prior to the casualty, including the cost of salvage, gas freeing and dry dock. It does not include such items as demurrage.

* * * * *

12. By revising § 78.07–5 to read as follows:

§ 78.07–5 Information required.

The notice required by § 78.07–1 must include the name and official number of the vessel involved, the name of the vessel's owner or agent, the nature and circumstances of the casualty, the locality in which it occurred, the nature and extent of injury to persons, and the damage to property.

PART 97—OPERATIONS

13. By revising § 97.07–1(a) to read as follows:

§ 97.07–1 Notice of casualty.

(a) The owner, agent, master or person in charge of a vessel involved in a marine casualty shall give notice as soon as possible to the nearest Coast Guard Marine Safety or Marine Inspection Office whenever the casualty involves any of the following:

(1) All accidental groundings and any intentional grounding which also meets any of the other reporting criteria or creates a hazard to navigation, the environment, or the safety of the vessel;

(2) Loss of main propulsion or primary steering, or any associated component or control system, the loss of which causes a reduction of the maneuvering capabilities of the vessel. Loss means that systems, component parts, subsystems, or control systems do not perform the specified or required function;

(3) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route, including but not limited to fire, flooding, or failure or damage to fixed fire extinguishing systems, lifesaving equipment, auxiliary power generating equipment, or bilge pumping systems;

(4) Loss of life;

(5) Injury causing a person to remain incapacitated for a period in excess of 72 hours;

(6) An occurrence not meeting any of the above criteria but resulting in damage to property in excess of $25,000.00. Damage includes the cost necessary to restore the property to the service condition which existed prior to the casualty, including the cost of salvage, gas freeing and dry dock. It does not include such items as demurrage.

* * * * *

14. By revising § 97.07–5 to read as follows:

§ 97.07–5 Information required.

The notice required by § 97.07 –1 must include the name and official number of the vessel involved, the name of the vessel's owner or agent, the nature and circumstances of the casualty, the locality in which it occurred, the nature and extent of injury to persons, and the damage to property.

PART 109—OPERATIONS

15. By revising § 109.411 (a) and (b) to read as follows:

§ 109.411 Notice of casualty.

(a) The owner, agent, master or person in charge of a vessel involved in a marine casualty shall give notice as soon as possible to the nearest Coast Guard Marine Safety or Marine Inspection Office whenever the casualty involves any of the following:

(1) All accidental groundings and any intentional grounding which also meets any of the other reporting criteria or creates a hazard to navigation, the environment, or the safety of the vessel;

(2) Loss of main propulsion or primary steering, or any associated component or control system, the loss of which causes a reduction of the maneuvering capabilities of the vessel. Loss means that systems, component parts, subsystems, or control systems do not perform the specified or requried function;

(3) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route, including but not limited to fire, flooding, or failure or damage to fixed fire extinguishing systems, lifesaving equipment, auxiliary power generating equipment, or bilge pumping systems;

(4) Loss of life;

(5) Injury causing a person to remain incapacitated for a period in excess of 72 hours;

(6) An occurrence not meeting any of the above criteria but resulting in damage to property in excess of $25,000.00. Damage includes the cost necessary to restore the property to the service condition which existed prior to the casualty, including the cost of salvage, gas freeing, and dry dock. It does not include such items as demurrage.

(b) The notice required by this section must include the following:

(1) Name and official number of the unit.

(2) Name of the owner or agent of the unit.

(3) Description of the nature and circumstances of the casualty.

(4) Location of the unit at the time of the casualty.

(5) Nature and extent of injury to persons.

(6) Damage to property.

* * * * *

PART 167—PUBLIC NAUTICAL SCHOOL SHIPS

16. By revising § 167.65–65 (a) and (b) to read as follows:

§ 167.65–65 Notice of casualty and voyage records.

(a) The owner, agent, master or person in charge of a vessel involved in a marine casualty shall give notice as soon as possible to the nearest Coast Guard Marine Safety or Marine Inspection Office whenever the casualty involves any of the following:

(1) All accidental groundings and any intentional grounding which also meets

any of the other reporting criteria or

Subpart 185.15—Notice of Marine

may be inconvenient to report in person,

soon as possible to the nearest Coast

DEPARTMENT OF COMMERCE

conditions, as the owner obtained in

any of the other reporting criteria or creates a hazard to navigation, the environment, or the safety of the vessel;

(2) Loss of main propulsion or primary steering, or any associated component or control system, the loss of which causes a reduction of the maneuvering capabilities of the vessel. Loss means that systems, component parts, subsystems, or control systems do not perform the specified or required function;

(3) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route, including but not limited to fire, flooding, or failure or damage to fixed fire extinguishing systems, lifesaving equipment, auxiliary power generating equipment, or bilge pumping systems;

(4) Loss of life;

(5) Injury causing a person to remain incapacitated for a period in excess of 72 hours;

(6) An occurrence not meeting any of the above criteria but resulting in damage to property in excess of $25,000.00. Damage includes the cost necessary to restore the property to the service condition which existed prior to the casualty, including the cost of salvage, gas freeing, and dry dock. It does not include such items as demurrage.

(b) The notice required by this section must include the name and official number of the nautical school ship involved, the name of the ship's owner or agent, the nature and circumstances of the casualty, the locality in which it occurred, the nature and extent of injury to persons, and the damage to property.

(c) * * *

* * * * *

PART 185—OPERATIONS

17. By revising Subpart 185.15 to read as follows:

Subpart 185.15—Notice of Marine Casualty and Voyage Records

Sec.

185.15–1 Notice of casualty.
185.15–5 Substance of marine casualty notice.
185.15–10 Report by officer in charge of vessel in person.
185.15–15 Voyage records, retention of.
185.15–20 Report of accident to aid to navigation.
185.15–25 Reports when state of war exists.

Authority: Sec. 10, 18 Stat. 128 (33 U.S.C. 361); R.S. 4450, as amended (46 U.S.C. 239); R. S. 4405 (46 U.S.C. 375); 80 Stat. 938 (49 U.S.C. 1655(b)(1)); 49 CFR 1.46(b).

§ 185.15–1 Notice of casualty.

The owner, agent, master or person in charge of a vessel involved in a marine casualty shall give notice as soon as possible to the nearest Coast Guard Marine Safety or Marine Inspection Office whenever the casualty involves any of the following:

(a) All accidental groundings and any intentional grounding which also meets any of the other reporting criteria or creates a hazard to navigation, the environment, or the safety of the vessel;

(b) Loss of main propulsion or primary steering, or any associated component or control system, the loss of which causes a reduction of the maneuvering capabilities of the vessel. Loss means that systems, component parts, subsystems, or control systems do not perform the specified or required function;

(c) An occurrence materially and adversely affecting the vessel's seaworthiness of fitness for service or route, including but not limited to fire, flooding, or failure or damage to fixed fire extinguishing systems, lifesaving equipment, auxiliary power generating equipment, or bilge pumping systems;

(d) Loss of life;

(e) Injury causing a person to remain incapacitated for a period in excess of 72 hours;

(f) An occurrence not meeting any of the above criteria but resulting in damage to property in excess of $25,000.00. Damage includes the cost necessary to restore the property to the service condition which existed prior to the casualty, including the cost of salvage, gas freeing, and dry dock. It does not include such items as demurrage.

§ 185.15–5 Substance of marine casualty notice.

The notice required in § 185.15–1 must include the name and official number of the vessel involved, the name of the vessel's owner or agent, the nature and circumstances of the casualty, the locality in which it occurred, the nature and extent of injury to persons, and the damage to property.

§ 185.15–10 Report by officer in charge of vessel in person.

(a) In addition to the notice required by § 185.15–1, the person in charge of the vessel shall, as soon as possible, report in writing and in person to the Officer in Charge, Marine Inspection, at the port in which the casualty occurred or nearest the port of first arrival: *Provided,* That when due to distance it may be inconvenient to report in person, it may be done in writing only. The written report for personnel accident shall be made on form CG–924E and shall be submitted for each individual injured and for each loss of life. For all other vessel casualties the written report shall be made on form CG–2692.

(b) If filed without delay, the forms CG–924E or CG–2692 may also provide the notice required by § 185.15–1.

§ 185.15–15 Voyage records, retention of.

(a) The owner, agent, master, or person in charge of any vessel involved in a marine casualty shall retain such voyage records as are maintained by the vessel, such as both rough and smooth deck and engine room logs, bell books, navigation charts, navigation work books, compass deviation cards, gyro records, stowage plans, records of draft, aids to mariners, night order books, radiograms sent and received, radio logs, crew and passenger lists, articles of shipment, official logs and other material which might be of assistance in investigating and determining the cause of the casualty. The owner, agent, master, other officer, or person responsible for the custody thereof, shall make these records available upon request, to a duly authorized investigating officer, administrative law judge, officer or employee of the Coast Guard.

§ 185.15–20 Report of accident to aid to navigation.

Whenever a vessel collides with a lightship, buoy, or other aid to navigation under the jurisdiction of the Coast Guard, or is connected with any such collision, it shall be the duty of the person in charge of such vessel to report the accident to the nearest Officer in Charge, Marine Inspection. No report on Form CG 2692 is required unless one or more of the results listed in § 185.15–1 occurs.

§ 185.15–25 Reports when state of war exists.

During the period when a state of war exists between the United States and any foreign nation, communications in regard to casualties or accidents shall be handled with caution and the reports shall not be made by radio or by telegram.

PART 196—OPERATIONS

18. By revising § 196.07–1(a) to read as follows:

§ 196.07–1 Notice of casualty.

(a) The owner, agent, master, or person in charge of a vessel involved in a marine casualty shall give notice as soon as possible to the nearest Coast Guard Marine Safety or Marine Inspection Office whenever the casualty involves any of the following:

(1) All accidental groundings and any intentional grounding which also meets any of the other reporting criteria or creates a hazard to navigation, the environment, or the safety of the vessel;

(2) Loss of main propulsion or primary steering, or any associated component or control system, the loss of which causes a reduction of the maneuvering capabilities of the vessel. Loss means that systems, component parts, subsystems, or control systems do not perform the specified or required function;

(3) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route, including but not limited to fire, flooding, or failure or damage to fixed fire extinguishing systems, lifesaving equipment, auxiliary power generating equipment, or bilge pumping systems;

(4) Loss of life;

(5) Injury causing a person to remain incapacitated for a period in excess of 72 hours;

(6) An occurrence not meeting any of the above criteria but resulting in damage to property in excess of $25,000.00 Damage includes the cost necessary to restore the property to the service condition which existed prior to the casualty, including the cost of salvage, gas freeing, and dry dock. It does not include such items as demurrage.

* * * * * *

19. By revising § 196.07–5 to read as follows:

§ 196.07–5 Information required.

The notice required by § 196.07–1 must include the name and official number of the vessel involved, the name of the vessel's owner or agent, the nature and circumstances of the casualty, the locality in which it occurred, the nature and extent of injury to persons, and the damage to property.

(Sec. 10, 18 Stat 128 (33 U.S.C. 361); R.S. 4450, as amended (46 U.S.C. 239); R.S. 4405 (46 U.S.C. 375); 80 Stat 938 (49 U.S.C. 1655(b)(1); 49 CFR 1.46(b)))

Dated: November 17, 1980.

J. B. Hayes,

Admiral, U.S. Coast Guard Commandant.

[FR Doc. 80–36581 Filed 11–21–80; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF COMMERCE

Maritime Administration

46 CFR Part 276

Construction-Differential Subsidy Repayment; Total Repayment Policy

AGENCY: Maritime Administration, Commerce.

ACTION: Amendment to interim rule.

SUMMARY: On October 15, 1980, the Maritime Subsidy Board (the Board) published as amendment to 46 CFR Part 276—Construction-Differential Subsidy Repayment, as an interim rule (45 FR 68393). New § 276.3 states the policy of the Board in considering requests for the total repayment of construction-differential subsidy (CDS), as authorized under provisions of the Merchant Marine Act, 1936, as amended (the Act). The Board has decided to amend the regulation to clarify how interest on CDS repayment is calculated.

DATES: Effective October 15, 1980.

Comments are due on or before December 14, 1980.

ADDRESS: Send comments to Robert J. Patton, Jr., Secretary, Maritime Subsidy Board/Maritime Administration, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: William B. Ebersold, Director, Office of Trade Studies and Statistics, Maritime Administration, Washington, D.C. 20230, telephone (202) 377–4758.

SUPPLEMENTARY INFORMATION: On May 5, 1980, the Board published in the **Federal Register** a Notice of Proposed Rulemaking to amend 46 CFR Part 276 (45 FR 29610). The proposed amendment was substantially as published on November 2, 1978 (43 FR 51045), and further provided for the payment of interest. The Board authorized republication with further opportunity for public comment, because of a Supreme Court decision February 20, 1980 that the Secretary of Commerce has authority (delegated to the Board) to accept full repayment of CDS in return for removal of domestic trading restrictions imposed by the Act.

The Board has decided to amend § 276.3(c) of the interim rule, entitled "Repayment Terms", to clarify that interest applicable to the unamortized CDS is to be calculated from the day of disbursement of each CDS payment by the Board through the day of completion of the vessel and its delivery by the shipyard, or through the date of repayment, at the discretion of the Secretary. In addition, the amount of interest shall be computed at the same rates, and on the same terms and conditions, as the owner obtained in financing his portion of the vessel during its period of construction, as opposed to a different interest rate for each semi-monthly payment. The purpose of this amendment to § 276.3 is to help insure that a CDS vessel making total repayment of CDS will operate in the domestic trade at a comparable capital cost to a domestic vessel already engaged in the trade. The advantage of construction with CDS would be nullified by the charging of interest on the CDS amount paid.

Accordingly, 46 CFR 276.3(c) is being amended after the first sentence to read as follows:

§ 276.3 Total repayment.

* * * * * *

(c) *Repayment Terms.* * * *

Interest applicable to the unamortized CDS is to be calculated from day of disbursement of each CDS payment by the Board through the day of completion of the vessel and its delivery by the shipyard, or through the date of repayment, at the discretion of the Secretary. In addition, the amount of interest shall be computed at the same rates, and on the same terms and conditions, as the owner obtained in financing his portion of the vessel during its period of construction.

(Secs. 204(b), 207, 506, and 714 Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b), 1117, 1156, and 1204); Pub. L. 86–518 (74 Stat. 216); Reorganization Plans No. 21 of 1960 (64 Stat. 1273), and No. 7 of 1961 (75 Stat. 840), as amended by Pub. L. 91–469 (84 Stat. 1036); and Department of Commerce Organization Order 10–8 (36 FR 19707 July 23, 1973))

(Catalog of Federal Domestic Assistance Program No. 11.500 (Construction-Differential Subsidies))

Dated: November 10, 1980.

By order of the Maritime Subsidy Board/ Maritime Administration.

Robert J. Patton, Jr.,

Secretary, Maritime Subsidy Board, Maritime Administration.

[FR Doc. 80–36594 Filed 11–21–80; 8:45 am]

BILLING CODE 3510–15–M

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 656

Atlantic Mackerel Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA) / Commerce.

ACTION: Promulgation of Final Regulations.

SUMMARY: These regulations implement

24. This regulation to implement the

Director will allocate the entire reserve

exceed the initial level of harvest

SUMMARY: These regulations implement the reserve allocation provisions of Amendment No. 1 to the Atlantic mackerel fishery management plan of the Northwest Atlantic Ocean (FMP). The provisions require the Regional Director, Northeast Region, NMFS, to: (1) Project the domestic annual harvest (DAH) during October of the fishing year; and (2) based upon the projection, allocate the appropriate amount of Atlantic mackerel, *Scomber scombrus*, from the reserve to the foreign fisheries.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT:
Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930;
or
Frank Grice, Chief, Fisheries Management Division, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930. Telephone number for both individuals is (617) 281–3600.

SUPPLEMENTARY INFORMATION: The Assistant Administrator for Fisheries disapproved that part of Amendment No. 1 originally submitted by the Mid-Atlantic Fishery Management Council (Council) which set provisions for the allocation of mackerel from the reserve to the total allowable level of foreign fishing (TALFF) (45 FR 22144). The Council submitted a revision to the disapproved provision. The Assistant Administrator approved the revision, which authorizes the Northeast Regional Director to allocate the entire reserve on the basis of domestic catch levels.

Public Comments

The proposed regulations were published in the **Federal Register** on September 12, 1980 (45 FR 60457). No public comments were received.

Environmental Impact and Executive Order 12044:

A Supplementary Environmental Impact Statement (SEIS) for Amendment No. 1 was prepared (see Notice of Availability, 45 FR 37275). This action implements the amended FMP, and the Assistant Administrator has determined that it does not alter the context or intensity of impacts described in the SEIS. Therefore, pursuant to NOAA Directive 02–10, neither an Environmental Assessment nor an SEIS was prepared regarding these final regulations. Amendment No. 1 was determined by the Assistant Administrator to be nonsignificant under Executive Order 12044 and NOAA Directives Manual Chapter 21, Section 24. This regulation to implement the reserve allocation mechanism is also nonsignificant.

Other:

The mechanism to allocate the reserve to TALFF is set forth below as an amendment to Part 656. Because the allocation mechanism also affects the foreign fisheries, the regulations also amend Part 611.

Administrative Procedure Act:

The Assistant Administrator has determined that the 30-day "cooling" period required under the Administrative Procedure Act should be waived so that these regulations may have immediate effect. Because of unforeseen administrative delay, the procedure for allocation of reserve that was to be initiated in October and proposed by November 1 could not otherwise be accomplished in a timely manner. A proposed allocation of mackerel from the reserve will be subject to a 15-day comment period in accordance with these regulations.

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C., this the 19th day of November, 1980.

Robert K. Crowell,
Deputy Executive Director, National Marine Fisheries Service.

PART 611—FOREIGN FISHING

50 CFR Part 611 is amended by adding § 611.52 as follows:

§ 611.52 Mackerel fishery.

(a) *Projections.* During October, the Regional Director will project the total amount of mackerel that will be harvested by U.S. fishermen during the entire fishing year. In making this projection, the Regional Director will consider not only the actual reported domestic harvest through September 30, but also the ability and intent of domestic harvesters and processors to harvest and process Atlantic mackerel during the remainder of the fishing year.

(b) *Allocation of Reserve.* If the projected amount of mackerel to be harvested by U.S. fishermen exceeds the initial level of harvest specified as DAH in Appendix 1 to § 611.20, the Regional Director will leave the excess in the reserve to allow the U.S. fishery to continue without closure throughout the year. The Regional Director will allocate the rest of the reserve to the total allowable level of foreign fishing (TALFF). If the projected amount of mackerel to be harvested by U.S. fishermen does not exceed the initial level of harvest specified as DAH in Appendix 1 to § 611.20, the Regional Director will allocate the entire reserve to TALFF.

(c) *Notice of allocation.* (1) By November 1 the Regional Director will publish a notice stating the amount of mackerel proposed to be allocated from reserve to TALFF in the **Federal Register.** The public will be given 15 days from the date of publication to comment on the proposed allocation. During the comment period, the Regional Director will consult with the Executive Director of the Mid-Atlantic Council on the consistency of the proposed allocation with the objectives of the FMP.

(2) The Regional Director will publish a final notice of the decision on allocation in the **Federal Register.** It will contain a summary of all comments and relevant information received during the comment period and the latest catch statistics available for Atlantic mackerel.

(d) *Subsequent allocations.* After the initial allocation decision is made, the Regional Director may allocate any remaining portion of the reserve to TALFF, if he determines that the domestic harvest will not attain the level projected under paragraph (a) of this section. Notice of subsequent allocations will be made according to the procedures stated in paragraph (c) of this section.

PART 656—MACKEREL FISHERY OF THE NORTHWESTERN ATLANTIC OCEAN

50 CFR Part 656 is amended by adding § 656.22 as follows:

§ 656.22 Allocations.

(a) *Projections.* During October, the Regional Director will project the total amount of mackerel that will be harvested by U.S. fishermen during the entire fishing year. In making this projection, the Regional Director will consider not only the actual reported domestic harvest through September 30, but also the ability and intent of domestic harvesters and processors to harvest and process Atlantic mackerel during the remainder of the fishing year.

(b) *Allocation of Reserve.* If the projected amount of mackerel to be harvested by U.S. fishermen exceeds the initial level of harvest specified in § 656.21(a), the Regional Director will leave the excess in the reserve to allow the U.S. fishery to continue without closure throughout the year. The Regional Director will allocate the rest of the reserve to the total allowable level of foreign fishing (TALFF). If the projected amount of mackerel to be harvested by U.S. fishermen does not exceed the initial level of harvest specified in § 656.21(a), the Regional Director will allocate the entire reserve to TALFF.

(c) *Notice of allocation.* (1) By November 1 the Regional Director will publish a notice stating the amount of mackerel proposed to be allocated from reserve to TALFF in the **Federal Register.** The public will be given 15 days from the date of publication to comment on the proposed allocation. During the comment period, the Regional Director will consult with the Executive Director of the Mid-Atlantic Council on the consistency of the proposed allocation with the objectives of the FMP.

(2) The Regional Director will publish a final notice of the decision on allocation in the **Federal Register.** It will contain a summary of all comments and relevant information received during the comment period and the latest catch statistics available for Atlantic mackerel.

(d) *Subsequent allocations.* After the initial allocation decision is made, the Regional Director may allocate any remaining portion of the reserve to TALFF, if he determines that the domestic harvest will not attain the level projected under paragraph (a) of this section. Notice of subsequent allocations will be made according to the procedures stated in paragraph (c) of this section.

[FR Doc. 80-36652 Filed 11-21-80; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

SUPPLEMENTARY INFORMATION: The financial interest in the prune industry. regulations, pack specifications, salable

V. 45 NO. 024 80 0 UMI

Proposed Rules

Federal Register
Vol. 45, No. 228
Monday, November 24, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

Walnuts Grown in California; Proposed Free and Reserve Percentages for the 1980–81 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites written comments on marketing percentages for California walnuts during the 1980–81 season. The estimated 1980 walnut production is in excess of domestic markets, and the proposal is intended to tailor the supply to domestic needs. Excess supplies would be available chiefly for export. The percentages were recommended by the Walnut Marketing Board. The Board works with USDA in administering the Federal marketing order for California walnuts.

DATES: Comments must be received by December 10, 1980.

PROPOSED EFFECTIVE DATES: August 1, 1980, through July 31, 1981.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for inspection during business hours.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5053. The Final Impact Statement describing the options considered in developing this proposal and the impact of implementing each option is available on request from J. S. Miller.

SUPPLEMENTARY INFORMATION: This proposal has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified not "significant".

J. S. Miller has determined that an emergency situation exists which warrants less than a 60-day comment period. Handlers will be receiving, processing, and marketing 1980 crop walnuts in volume soon. Therefore, they must know as soon as possible what marketing percentages will be effective for the 1980–81 marketing year so they can plan their operations.

The proposal under consideration pertains to establishing free and reserve percentages for California walnuts of 71 percent and 29 percent, respectively, for the 1980–81 marketing year. The 1980–81 marketing year began August 1, 1980.

This marketing percentages would be established pursuant to § 984.45 of the marketing agreement, and order No. 984, both as amended (7 CFR Part 984), regulating the handling of walnuts grown in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The Walnut Marketing Board's recommendation is based on estimates for the current marketing year of supply, and inshell and shelled trade demands, adjusted for handler carryover. The total 1980–81 supply subject to regulation is estimated at 192.5 million pounds kernelweight. Inshell and shelled trade demands adjusted for handler carryover are estimated at 32.4 and 104.4 million pounds kernelweight, or a total adjusted trade demand of 136.8 million pounds kernelweight. Dividing this by the total 1980–81 supply subject to regulation of 192.5 million pounds kernelweight, and rounuding to the nearest full percent results in a free percentage of 71 percent. Subtracting the resulting free percentage from 100 percent results in a reserve percentage of 29 percent.

The proposed marketing percentages would establish the supply of merchantable walnuts available to the domestic inshell and shelled markets at maximum quantities that reasonably can be expected to be utilized during the 1980–81 season, while also providing an ample supply of walnuts for use next year until the 1981 crop is available for market. The supplies in excess of 1980–81 domestic needs would be for export, oil, feed, or other outlets noncompetitive with outlets for free merchantable walnuts.

The proposal is as follows:

§ 984.226 Free and reserve percentages for California walnuts during the 1980–81 marketing year.

The free and reserve percentages for California walnuts during the marketing year beginning August 1, 1980, shall be 71 percent and 29 percent, respectively.

Dated: November 19, 1980.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division.

[FR Doc. 36568 Filed 11–21–80; 8:45 am]
BILLING CODE 3410–02–M

7 CFR Part 993

[Docket No. F&V AO 201–A8]

Dried Prunes Produced in California; Hearing on Proposed Amendment of the Marketing Agreement, as Amended and Order, as Amended

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed amendment.

SUMMARY: The hearing is being held to consider proposed changes in the dried prune marketing agreement and order. The principle issues to be considered would (1) Eliminate the need for the Prune Administrative Committee to determine annually whether or not to establish an undersized regulation for dried prunes; (2) change the name of the Committee to the Prune Marketing Committee; (3) provide for a public member and alternate on the Committee; and (4) specify the basis for sharing Committee representation among cooperative marketing associations. Also to be considered are a minor nature.

DATE: The hearing will be held on December 2, 1980, at, 9:00 a.m., local time.

ADDRESS: Hearing Location: Room 543, 211 Main St., San Francisco, Calif.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202) 447–5053. The Draft Impact analysis describing the options considered in developing this notice of hearing and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendment, hereinafter set forth, and any appropriate modifications thereof, of the marketing agreement, as amended, and Order No. 993, as amended, regulating the handling of dried prunes produced in California.

The proposed amendment, set forth below, has not received the approval of the Secretary of Agriculture.

This proposed action has been reviewed under the USDA procedures established in the Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified significant.

Proposed By the Prune Administrative Committee

Proposal No. 1

Section 993.21c is revised to read as follows:

§ 993.21c Salable prunes.

"Salable prunes" means those prunes which are free to be handled pursuant to any salable percentage established by the Secretary pursuant to § 993.54, or, if no reserve percentage is in effect for a crop year, all prunes, excluding the quantity of undersized prunes determined pursuant to § 993.49(c), received by handlers from producers and dehydrators during that year.

Proposal No. 2

Section 993.24 is amended by revising the introductory paragraph and adding a new paragraph (e) to read as follows:

§ 993.24 Establishment and membership.

A Prune Marketing Committee (herein referred to as the "Committee"), consisting of 22 members with an alternate member for each such member, is hereby established to administer the terms and provisions of this part, of whom with their respective alternates, 14 shall represent producers, 7 shall represent handlers, and 1 shall represent the public. Committee membership shall be allocated in accordance with the following grouping with the alternate positions identically allocated:

* * * * *

(e) The public member shall have no financial interest in the prune industry.

Section 993.27 is revised to read as follows:

§ 993.27 Eligibility.

Producer members of the Committee shall be at the time of their selection, and during their term of office, a producer in the group, and if to represent a district also a producer in the district for which selected, and, except for producer members representing cooperative producers, shall not be engaged in the handling of prunes either in a proprietary capacity or as a director, officer, or employee. Handler members of the Committee shall be handlers in the group they represent or directors, officers, or employees of such handlers. These requirements shall not apply to the public member and alternate member.

In Section 993.28 a new paragraph (e) is added to read as follows:

§ 993.28 Nominees.

* * * * *

(e) The producer and handler members of the Committee selected for new term of office shall nominate a public member and alternate member at the first meeting following their selection.

Proposal No. 3

Section 993.28(b) is revised to read as follows:

§ 993.28 Nominees.

* * * * *

(b) Nominations of producer members to represent cooperative producers and handler members to represent cooperative handlers shall be submitted to the Secretary by cooperative marketing associations engaged in the handling of prunes before April 16 of each year in which nominations are made. The number of cooperative producer members and handler members to be nominated by each cooperative marketing association shall bear, as near as practicable, the same percentage as each cooperative marketing association's tonnage of prunes handled as first handler thereof bears to the total tonnage handled by all cooperative marketing associations as first handlers thereof during the crop year preceding such nomination year.

Proposal No. 4

Section 993.33 is revised to read as follows:

§ 993.33 Voting procedure.

Decisions of the Committee shall be by majority vote of the members present and voting and a quorum must be present: *Provided*, That decisions on marketing policy, grade or size regulations, pack specifications, salable and reserve percentages, and on any matters pertaining to the control or disposition of reserve prunes or to prune plum diversion pursuant to § 993.62, including any delegation of authority for action on such matters and any recommendation of rules and procedures with respect to such matters, including any such decision arrived at by mail or telegram, shall require at least 14 affirmative votes. A quorum shall consist of at least 13 members of whom at least 8 must be producer members and at least 4 must be handler members. Except in case of emergency, a minimum of 5 days advance notice must be given with respect to any meeting of the Committee. In case of an emergency, to be determined within the discretion of the chairman of the Committee, as much advance notice of a meeting as is practicable in the circumstances shall be given. The Committee may vote by mail or telegram upon due notice to all members, but any proposition to be so voted upon first shall be explained accurately, fully, and identically by mail or telegram to all members. When any proposition is submitted to be voted on by such method, one dissenting vote shall prevent its adoption.

* * * * *

Proposal No. 5

Section 993.49(c) is revised to read as follows:

§ 993.49 Incoming regulation.

* * * * *

(c) In any crop year no handler shall receive prunes from producers or dehydrators, other than as undersized prunes, which pass freely through a round opening as follows: For French prunes the diameter of the round opening shall be 23/32 of an inch, and for non-French prunes the diameter of the round opening shall be 28/32 of an inch: *Provided*, That the Secretary upon a recommendation of the Committee, may establish larger openings whenever it is determined that supply conditions for a crop year warrant such regulation. The quantity of undersized prunes in any lot received by a handler from a producer or dehydrator shall be determined by the inspection service and entered on the applicable inspection certificate.

* * * * *

Proposal No. 6

Section 993.53 is revised to read as follows:

V 45 N 024 80 0 UMI

§ 993.53 Above parity situations.

The minimum standards, the minimum sizes, including the minimum undersized regulation prescribed in § 993.49(c), and the provisions of this part relating to administration shall continue in effect irrespective of whether the estimated season average price for prunes is in excess of the parity levels specified in section 2(1) of the act.

Proposal No. 7

Section 993.55 is revised to read as follows:

§ 993.55 Application of salable and reserve percentages after end of crop year.

The salable and reserve percentages established for any crop year shall remain in effect in the subsequent crop year until salable and reserve percentages are established for that crop year. After such percentages are established, all reserve obligations shall be adjusted to the newly established percentages.

Proposed By the U.S. Department of Agriculture

Proposal No. 8

Make such changes as may be necessary to make the entire marketing agreement and order conform with any amendments thereto that may result from this hearing.

Copies of this notice may be obtained from the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be inspected there.

Signed at Washington, D.C. on: November 18, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-36811 Filed 11-21-80; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Domestic Licensing of Production and Utilization Facilities; Fracture Toughness Requirements for Nuclear Power Reactors

Correction

In FR Doc. 80-35207, appearing at page 75536, in the issue of Friday, November 14, 1980, make the following correction:

On page 75538, Appendix H, third column the formula in the third line from the bottom of the page should read "(E>1MeV)".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-NW-52-AD]

Airworthiness Directives: All Boeing 720 and 720B airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: Airworthiness Directive (AD) 80-15-10 Amendment 39-3856 (45 FR 49910 July 28, 1980) required a one-time high frequency eddy current inspection of wing lower surface stringers 5 and 7 between wing stations (WS) 265 and 470 on all 720 and 720B airplanes. Five operators had reported cracks in these stringers and/or adjacent skins on five different airplanes. If the skin is cracked in combination with a complete severance of a stringer, a situation may exist in which limit load cannot be carried. The purpose of the one-time inspection was to provide immediate protection for the fleet while also allowing time to evaluate the damaged structure so that suitable reinspection intervals could be determined. Following engineering evaluation, reinspection intervals have been determined and are proposed herein to require repetitive inspections for the affected stringers and wing skins.

DATES: Comments must be received on or before January 1, 1981.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 80-NW-52-AD, East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, P. E. Airframe Branch, ANW-120S, Seattle Area Aircraft Certification Office, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communication should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM's

Any person may obtain a copy of this notice or proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rule Docket, Docket No. 80-NW-52-AD, 9010 East Marginal Way South, Seattle, Washington 98108.

Discussion of the Proposed Rule

Five operators reported cracks in the wing lower skin and/or stringers 5 and 7 on five airplanes which had accumulated 26,000 to 50,900 landings (20,100 to 47,000 flight hours). On two airplanes, stringer 5 was severed at W.S. 374 and 379; on two other airplanes stringer 7 was severed at W.S. 310 and 346. Stringer 7 was found partially severed on a fifth airplane. Seven skin cracks were found at the affected stringers at W.S. 308, 310, 346, 351, 374, and 379. These cracks varied in length from 0.75 to 8.0 inches. Cracking was attributed to fatigue.

The severance of stringers 5 and/or 7 in conjunction with skin cracks in the same area will impose an additional load on adjacent stringers and skin. Failure to detect skin cracks prior to their growing to a critical length, in combination with a severed stringer, will result in degradation of the wing lower surface strength below regulatory fail-safe load requirments. For this reason, AD 80-15-10 required a one-time high frequency eddy current inspection of the 720/720B fleet. It is anticipated that repetitive inspection requirements would be developed based on the results of this initital inspection analysis of the original cracks.

After extensive evaluation of the original crack data, repeat inspections of the two affected stringers by means of low frequency eddy current techniques at intervals of 2,860 landings are proposed. The AD is proposed to be

amended to make the repeat inspection mandatory.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by amending AD 80-15-10 (Amendment 39-3852 45 FR 49910, July 28, 1980) as follows:

Change paragraphs A and B to read as follows:

A. Within 500 landings after the effective date of this Amendment and thereafter at intervals not to exceed 2,860 landings, conduct a low frequency eddy current inspection of the wing lower surface for cracks in the stringer/skin between wing stations 265 and 470 and stringers 5 and 7 in accordance with Boeing Service Bulletin A3395 Revision 2, dated October 10, 1980, or later FAA approved revisions or in a manner approved by the Chief, Seattle Area Aircraft Certification Office. Skin/stringers found cracked, must be repaired prior to further flight in a manner approved by the Chief, Seattle Area Aircraft Certification Office.

B. Airplanes may be flown to a maintenance base for repairs or replacement in accordance with FAR 21.197.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.85)

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 1034; February 26, 1979).

Issued in Seattle, Wash., on November 12, 1980.

Jonathan Howe,

Acting Director, Northwest Region.

[FR Doc. 80-36510 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-AAL-22]

Establishment of Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Federal Airways, V-388, between Anchorage, Alaska, and Kenai, Alaska, and G-6, between St. Marys, Alaska, and Sparrevohn, Alaska, via Aniak, Alaska. The need for these airways is prompted by signficiant increase of air traffic between Anchorage and Kenai and between Sparrevohn, Aniak, and St. Marys Airports. Establishment of these routes would result in improved procedures for air traffic control (ATC) by allowing more efficient use of controlled airspace, thereby reducing delays to users.

DATES: Comments must be received on or before December 24, 1980.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 80-AAL-22, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Jack Overman, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513. All communications received on or before December 24, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.103 and § 71.125 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would establish Federal Airways V-388, between Anchorage, Alaska, and Kenai, Alaska, and G-6 between St. Marys, Alaska, and Sparrevohn, Alaska, via Aniak, Alaska. Establishment of the V-388 airway would provide more efficient ATC services between Anchorage and Kenai. The need for V-388 is prompted by the significant increases of air traffic between Anchorage and the Kenai Airports, especially during the annual fish harvest. The establishment of this airway would allow specific procedures to be established and the initiation of flow patterns for single direction traffic, thus eliminating head-on traffic situations. The airway would allow these procedures to be used even in a nonradar environment should the Center encounter periods of radar outages and would reduce delays to users.

The need for Green 6 is dictated by significant increases in air traffic between Sparrevohn, Aniak, and St. Marys Airports, and the need for air traffic control between the transition areas for the affected airports. The establishment of the airway would cancel the nonpart 95 route already established and at the same time allow controllers to more accurately determine the protected airspace for each aircraft and to provide for a more efficient use of airspace, thereby reducing delays to users. Section 71.103 and § 71.125 of Part 71 were republished in the **Federal Register** on January 2, 1980 (45 FR 305, 342).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.103 and § 71.125 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 305, 342) as follows:

1. Add "G-6 From St. Marys, Alaska, NDB via Aniak, Alaska, NDB to Sparrevohn NDB."

2. Add "V-388 From Anchorage, Alaska, to INT Anchorage 173°M(198°T) and Kenai, Alaska, 037°M(062°T); Kenai, Alaska."

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive

Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR

SUPPLEMENTARY INFORMATION:

G-10 From Alfee, Alaska, NDB via INT Elfee NDB 041°T(024°M) and Port Heiden,

Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767-

aircraft on direct routes or radar vectors

Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on November 14, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-36519 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-AAL-20]

Alteration of Low Frequency Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Green Airway 10 between Elfee, Alaska, NDB and Port Heiden, Alaska, NDB. The present alignment of G–10 from Humboldt, Alaska, NDB has proven to be unusable. The realignment would enhance the traffic flow in the area.

DATES: Comments must be received on or before December 24, 1980.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Alaskan Region, Attention: Chief, Air Traffic Division, Docket No. 80–AAL–20, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513.

The official docket may be examined at the following location:

FAA Office of the Chief Counsel, Rules Docket (AGC–204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Lewis Still, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 14, 701 C Street, Anchorage, Alaska 99513. All communications received on or before December 24, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C., 20591, or by calling (202) 426–8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.103 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would realign Green Airway 10 from Elfee, Alaska, NDB to Port Heiden, Alaska, NDB. The present alignment of G–10 utilizing the Humboldt, Alaska, NDB 345° bearing is not usable, according to flight check data. In lieu of revoking that portion of G–10 between Humboldt NDB and G–8, the FAA believes Air Traffic Control would be enhanced by this realignment and it would also aid flight planning. Section 71.103 of Part 71 was republished in the **Federal Register** on January 2, 1980, (45 FR 305).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.103 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 305) as follows:

Under § 71.103 Green Federal Airways

G–10 is rewritten to read as follows:

G–10 From Alfee, Alaska, NDB via INT Elfee NDB 041°T(024°M) and Port Heiden, Alaska, NDB 248°T(229°M) bearings; Port Heiden NDB; 67 miles 12 AGL, 77 miles 85 MSL, 67 miles 12 AGL, to Woody Island, Alaska, NDB.

(Secs 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.65)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Washington, D.C., on November 18, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-36518 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-ANW-17]

Proposed Alteration of 1200' Transition Area, Spokane, Washington

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to alter transition airspace in the vicinity of Pullman, Washington, to more fully utilize the airspace for arriving and departing aircraft.

DATES: Comments must be received on or before January 2, 1981.

ADDRESSES: Send comments on the proposal in triplicate to:

Chief, Operations, Procedures and Airspace Branch, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108.

The official docket may be examined at the following location:

Office of the Regional Counsel, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:

Robert L. Brown, Airspace Specialist, Operations, Procedures and Airspace Branch, (ANW–534), Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767–2610.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this proposed rule making by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic environmental, and energy aspects of the proposals. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 80–ANW–17." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rule Making by submitting a request to the Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, ANW–530, Northwest Region, FAA Building, Boeing Field, Seattle, Washington, 98108 or by calling (206) 767–2610. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Spokane, Washington, 1200 foot transition area. This proposal would allow assignment of significantly lower altitudes for aircraft on direct routes or radar vectors from the Lewiston and Pullman areas to Spokane, Washington. The description of this transition area under Part 71 was republished on January 2, 1980. (45 FR 445).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445), as follows:

Spokane, Washington [Amended]

By amending the description beginning on line 11 by inserting the words "area bounded on the east by a line parallel to and 10 miles east of V253, on the south by V536, on the west by the east edge of V112E; that airspace southeast of Spokane extending upward from 6,000 feet MSL, bounded on the north by the arc of a 38 mile radius circle centered on the Fairchild AFB, on the northeast by V–2S, on the southeast by the arc of the 52 mile radius area, on the southwest by a line parallel to and 10 miles northeast of V253, that airspace southeast of Spokane extending upward from 7,000 feet MSL bounded on the northwest by the 52 mile radius area, on the north by V2S, on the southeast by the north edge of V536 and on the southwest by a line parallel to and 10 miles northeast of V253."

This amendment is proposed under the authority of (Sec. 307(a), 313(a), and 1110, Federal Aviation Act of 1958, (49 U.S.C. §§ 1348(a), 1354(c), and 1510); Sec. 6(c) Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.65).

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote flight safety, the anticipated impact is so minimal that it does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Seattle, Washington, November 13, 1980.

Jonathan Howe,

Acting Director, Northwest Region.

BILLING CODE 4910-13-M

concerning equipment and ferry boats

Five respondents indicated support

V 45 N O 2 4 80 UMI

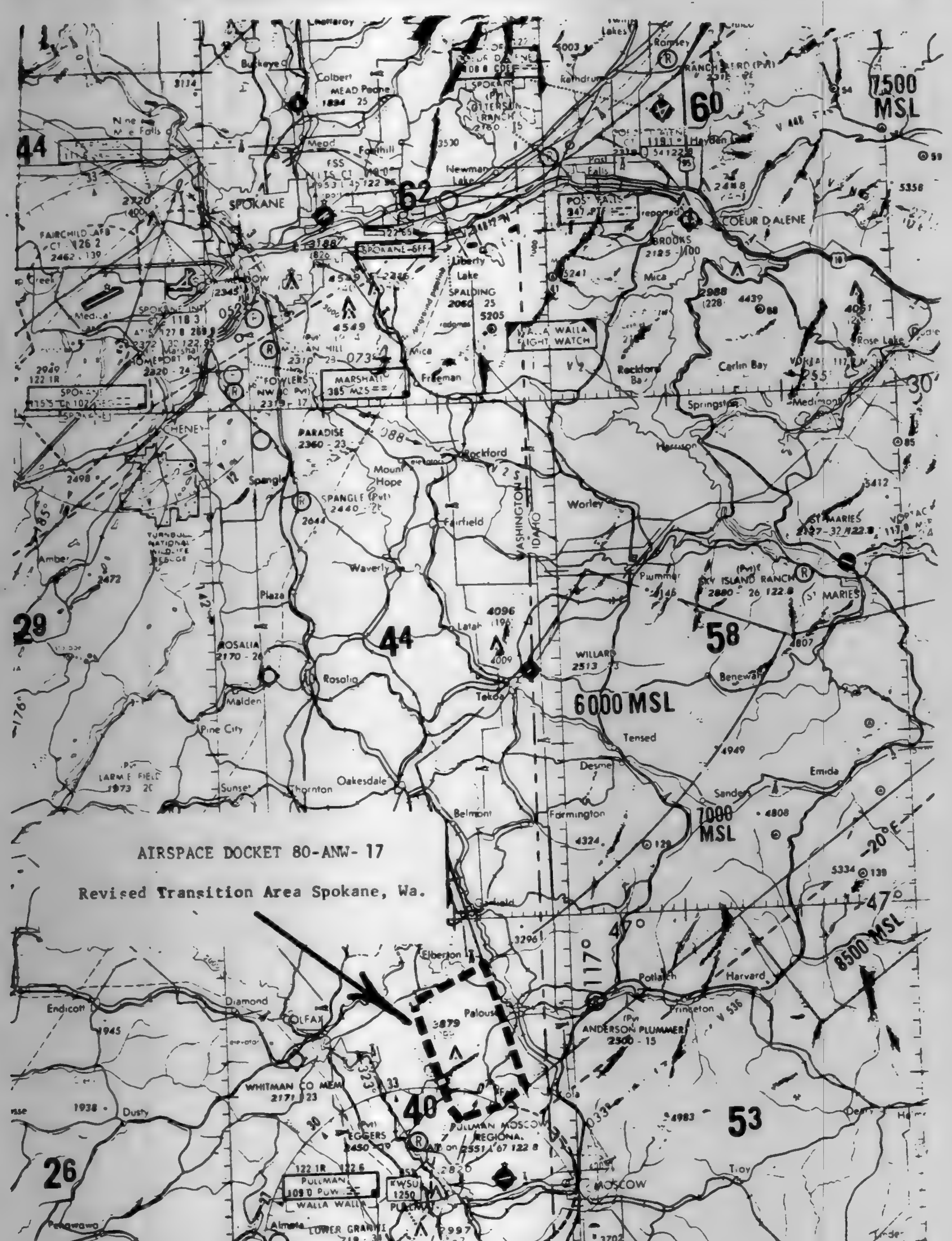

[FR Doc. 80-36521 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-13-C

Federal Highway Administration

23 CFR Part 635

[FHWA Docket No. 80-1]

Buy America Requirements: Proposed Revisions

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Highway Administration (FHWA) requests comments on proposed revisions to its Buy America regulation. The revised regulation would require the use of domestic steel construction materials on most federally-assisted highway projects. These proposed revisions are being issued in response to comments received on the emergency regulation issued on November 17, 1978.

DATE: Comments must be received on or before January 23, 1981.

ADDRESS: Interested persons are invited to submit written comments to FHWA Docket No. 80-1, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comment must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Peter R. Picard, Construction and Maintenance Division, (202) 426-4847, or Stanley H. Abramson, Office of the Chief Counsel, (202) 426-0762, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: On November 6, 1978, the President signed into law the Surface Transportation Assistance Act of 1978 (STAA), Pub. L. 95-599, 92 Stat. 2689. The provisions of Section 401, Buy America, were effective immediately and required immediate implementation. A final rule was issued under emergency procedures on November 17, 1978 (43 FR 53717). Comments on the regulation were invited and received in FHWA Docket No. 78-35 through January 17, 1979.

The revised regulation would include the following major elements:

1. The coverage of the Buy America requirements would be extended to all steel construction materials in highway construction projects. No other materials would be covered. Contracts for projects concerning equipment and ferry boats would follow 49 CFR 660, the Buy America requirements issued by the Urban Mass Transportation Administration in December 1978 (43 FR 57145).

2. Buy America requirements would continue to apply to all Federal-aid highway construction projects estimated to cost over $450,000. However, the requirements would not prevent *de minimus* use of foreign steel, if the amount of foreign steel used does not exceed one-tenth of one percent (0.1 percent) of the total contract and domestic steel is otherwise required. This would avoid unnecessary red tape on projects where foreign steel is used in truly insignificant amounts.

3. The current alternate bidding procedure would apply on all projects where structural steel would be permanently incorporated into higway bridges and tunnels.

4. Procedures would be included under which State highway agencies could request waivers of the Buy America requirements in the public interest or for steel construction materials which are not in sufficient or reasonably available supply and of a satisfactory quality from domestic sources.

5. Projects funded as part of the territorial highway program would be covered under the proposed requirements.

6. Buy America requirements would not be covered by the optional Certification Acceptance Procedures (23 CFR 640), because the Buy America statute is not a part of Title 23 of the United States Code (U.S.C.).

7. Several clarifying definitions would be added to the regulation. For example, a definition of "overall project contract" would be added to make clear that the 10 percent domestic preference applies to each contract and not to an overall project which may consist of several contracts. A definition of "equipment" would be added to exclude items which would be incidental to highway construction and not intended to be permanent improvements to land.

Thirty-two comments were received in response to issuance of the current regulation. These comments were submitted by representatives of the following interest groups: 11 steel producers and suppliers, 9 government agencies, 7 port authorities and steel importers, and 5 other interested parties. A complete summary and analysis of these comments has been prepared and placed in the public docket (78-35). The major comments and FHWA's responses are summarized below.

Five respondents indicated support for the Buy America provision and nine respondents indicated opposition. The State highway agencies generally supported the concept of Buy America preference. Comments from the domestic steel industry and the import industry were diametrically opposite. The steel industy requested expansion of the scope of the regulation and the import industry wanted complete rescission of Buy America.

Sixteen responses were received on the scope or applicability of the regulation to specific materials. Again, the steel and import industry points of view were opposite. The State highway agencies urged caution in expanding the scope of the regulation to specific products such as portland cement, aluminum products, paint, asphalt, galvanized products, signal controllers, prestressing strand, steel culverts, various plastic products, fertilizer, and other small strucutural steel shapes.

Foreign steel has been identified as the only foreign commodity having a significant nationwide effect on the cost of Federal-aid highway construction projects. Its continued unrestricted use is contrary to Section 401 of the STAA. Therefore, it is proposed to implement Buy America for steel products only, with the provision that the FHWA may grant waivers based on the public interest or on factual justification of shortages and nonavailability. Two other types of commodities are used in large amounts as materials for Federal-aid highway construction: natural materials, such as sand, stone, gravel, and earth materials; and petroleum and petroleum-based products, such as fuels, lubricants, and bituminous products. Foreign competition in natural materials is not experienced, because of the difficulty and high cost of transportation due to their bulk and weight. For this reason, these materials are usually procured on or near the construction site and have been virtually all domestic, not requiring the protection of Buy America. Petroleum and petroleum-based products are not available from domestic sources in sufficient and reasonably available quantities. Other products are not used in sufficient quantity to have any appreciable effect on the overall cost of a project and do not require protection. It is therefore, proposed to waive application of Section 401 on all products other than steel.

The import industry contended that the existing regulation would lead to increased inflation, particularly on the West Coast of the United States. A survey of contracts awarded from

December 1977 through April 1979,

expressly solicits comments from the

also interested in receiving reliable

includes all transportation costs to the

increase the cost of the overall project

(6) A request for waiver and an

December 1977 through April 1979, which would be subject to the current regulation, indicated that a very small quantity (1,300 tons) of structural steel was included in Federal-aid highway projects for this period. The West Coast steel importers furnished information that 250,000 tons of structural steel of the type covered by the current regulation were handled in a typical year through California ports. Although usage factors are subject to variation, FHWA concluded that only about one-half of one percent of West Coast imported steel was destined for Federal-aid highway projects during that period.

The import industry also contended that widespread unemployment would result in its sector if the current regulation was implemented. Again, the small amount of structrual steel used during the recent past would appear to dispute the import industry's contention.

The following specific questions about application and intent of the current regulation were raised by several comments.

1. Q: Does the regulation apply to miscellaneous steel items such as guardrail posts and hardware? A: The proposed rule would require domestic steel construction materials for this work on all projects over $450,000.

2. Q: What is meant by "domestic"? A: A definition has been included in the proposed rule. The definition incorporates guidance previously provided to FHWA field offices on this subject.

3. Q: What is FHWA's authority and/or reasoning for expanding coverage to projects costing less than $500,000? A: At the time of project approval by FHWA, only estimated costs are available. The final contract amount could exceed the estimate by a nominal amount (say 10 percent) and still result in a contract award. If the estimate were less than $500,000, the Buy America provisions were not followed, and the low bid exceeded $500,000, the contract could not be awarded because of lack of Buy America preference as specified by law. The FHWA considers this expansion of applicability reasonable and proper to allow the program to continue without undue red tape and administrative difficulties. Its effect should be minimal.

An alternative is available which would allow the FHWA regulation to match the $500,000 applicability level of Section 401. It would be applied after bids are received, but would require alternative bids for all projects on which structural steel is to be permanently installed on highway bridges and tunnels. This alternative is considered to be more administratively burdensome than the proposed rule. The FHWA expressly solicits comments from the public on the merits of this alternative for use in developing the final regulation.

Several modifications were suggested to further reduce the administrative problems of complying with the regulation.

1. Two State highway agencies suggested that the contract should contain a significant amount of structural steel before the alternate bidding requirements are necessary, since small quantities of structural steel could not possibly have an overall 10 percent effect on project costs. The FHWA agrees and proposes to apply the alternate bid requirements only where structural steel is required for construction of highway bridge or tunnel structures. With this change, the alternate bidding requirements would not be applicable to minor quantities of structural steel, and domestic steel would be required.

2. One State highway agency asked that specific penalty provisions be established for violations. The FHWA does not consider this action necessary since the contracting agency has the obligation and authority to apply normal contract remedies for items which do not meet contract requirements or specifications.

3. One State suggested that a "Certification of Compliance" should be required. The FHWA does not agree, but will allow contracting agencies to require such a certificate at their option.

4. One steel company suggested a change of the definition of "domestic" to "not more than 25 percent of components derived from foreign origin." The FHWA does not agree since the legislative history of the STAA suggests that Buy America be applied in accordance with the Buy America Act of 1933 (41 U.S.C. 10a–d), and the Federal Procurement Regulations (41 CFR 1–18.6), which apply the 50 percent criterion.

5. One importer suggested that the 10 percent preference should apply only to the costs of materials. The FHWA does not agree since this is not consistent with the language of the STAA.

Docket Number 80–1 has been assigned to this proposed regulation and the public is invited to submit comments. The comments should specifically address the effect of the proposed regulation on the highway and steel industries and the effect of the procedures on the Federal-aid program in the States. Comments on the scope of coverage, particularly as revised in this notice of proposed rulemaking, should be supported by verifiable facts and figures wherever possible. The FHWA is also interested in receiving reliable information concerning the cost differential between domestic and foreign steel, the economic effects of the current and proposed regulations, and any effects of the regulations on small businesses.

Note.—The Federal Highway Administration has determined that this document contains a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. A draft regulatory analysis is available for inspection in the public docket and may be obtained by contacting Mr. Peter R. Picard, of the FMWA Construction and Maintenance Division at the address specified above.

In consideration of the foregoing, and under the authority of Section 401, Surface Transportation Assistance Act of 1978, Pub. L. 95–599, 92 Stat. 2689; 23 U.S.C. 315; and 49 CFR 1.48(c)(1), it is proposed to amend Chapter I of Title 23, Code of Federal Regulations, by revising § 635.410 to read as set forth below.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on: November 17, 1980.

John S. Hassell, Jr.,

Federal Highway Administrator.

635.410 Buy America requirements.

(a) *Applicability.* The requirements of this section apply to all Federal-aid highway construction projects estimated to cost more than $450,000. These requirements also apply to projects funded as part of the territorial highway program. Projects concerning equipment and ferry boats authorized under Title 23, U.S.C., shall comply with the requirements of 49 CFR 660 as issued by the Urban Mass Transportation Administration (43 FR 57145, December 6, 1978).

(b) *Definitions.*

(1) "Component"—any article, material, or supply directly incorporated in construction material.

(2) "Construction material"—any article, material, or supply brought to the construction site for incorporation into the project. An individual construction material is the smallest single item, subassembly, or assembly which is delivered to the construction site.

(3) "Domestic"—manufactured in the United States, if the costs of components which are mined, produced or manufactured in the United States exceed 50 percent of the costs of all components. The cost of components includes all transportation costs to the place of incorporation into the construction material and the duty imposed on components of foreign origin.

(4) "Equipment"—any moveable personnal property such as vehicles or machinery, but excluding permanent structures, appurtenances, and improvements upon real property incidental to highway construction.

(5) "Overall project contract"—means each individual third party contract for a discrete portion of the overall project.

(6) "Structural steel"—steel sheet piling, H-piling, I-beams, plates, channels, angles, and/or T-sections.

(7) "United States"—the 50 States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States of America.

(c) *General.* All steel construction materials which are to be permanently incorporated into applicable projects are to be domestic origin except to the extent provided by one or more of the following provisions:

(1) The competitive bidding procedure set forth in paragraph (d) of this section results in an award of contract based on the foreign steel alternate. In this case, the use of foreign steel is acceptable, but is not mandatory, however, payment will be made at the unit price bid for foreign steel.

(2) Where domestic steel is otherwise required in compliance with the requirements of this section, foreign steel may be supplied in minor amounts not to exceed one-tenth of one percent (0.1 percent) of the total contract cost. Such minor amounts shall be considered in compliance with the requirements of furnish domestic steel.

(3) The FHWA has approved a waiver of applicability of the provisions of Section 401(a) of the Surface Transportation Assistance Act of 1978 (STAA), Pub. L. 95–599, 92 Stat. 2689, under paragraph (e)(2) of this section.

(4) The State elects to use standard contract provisions that have been in effect since the date of enactment of STAA (November 6, 1978) that favor the use of domestic materials and products, including steel construction materials, to the same or greater extent than the provisions here set forth.

(d) *Competitive bidding procedure.*

(1) If a project structural steel to be permanently incorporated into the higway bridge and tunnel structures, the bidding procedures set forth in paragraph (d)(3) of this section shall be used.

(2) If a project includes steel construction materials, other than structural steel, in sufficient quantity that inclusion of domestic material may increase the cost of the overall project contract by more than 10 percent, a State may adopt the competitive bidding procedure set forth in paragraph (d)(3) of this section with FHWA concurrence.

(3) The bidding procedure set forth below shall be used in accordance with the requirements of paragraphs (d)(1) and (d)(2) of this section:

(i) A separate bid item shall be established for steel in accordance with the State highway agency's normal contracting methods.

(ii) For each such item, bidders are to be given the option of:

(A) Submitting a bid for domestic steel, or

(B) Submitting a bid for domestic steel *and* a bid for foreign steel.

(iii) Bidders are to be advised that the basis of award shall be the lowest responsive total bid based on domestic steel unless that bid exceeds the lowest responsive total bid based on foreign steel by more than 10 percent, in which case the award shall be made to the lowest responsive, responsible bidder. A suggested bidding provision entitled "Information Regarding Buy America Procedures" is included as an Appendix for this purpose.

(e) *Waivers.*

(1) The requirements of this section are not applicable to materials other than steel construction materials.

(2) A State may request a waiver of the provisions of Section 401(a) of the STAA if:

(i) The application of those provisions would be inconsistent with the public interest; or

(ii) Supplies of the class or kind to be used in the manufacture of articles, materials, supplies are not mined, produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

(3) A request for waiver, accompanied by supporting information, must be submitted in writing to the Regional Federal Highway Administrator (RFHWA) through the FHWA Division Administrator. A request must be submitted sufficiently in advance of the need for the waiver in order to allow time for proper review and action on the request.

(4) Requests for waivers may be made for specific projects, or for certain materials or products in specific geographic areas, or for combinations of both, depending on the circumstances.

(5) The denial of a request by the RFHWA may be appealed by the State to the Federal Highway Administrator, whose action on the request shall be considered administratively final.

(6) A request for waiver and an appeal for a denial of a request must include facts and justification to support the granting of the waiver. The FHWA response to a request or appeal will be in writing and made available to the public on request.

(7) In determining whether the waivers described in paragraph (e)(2) will be granted, the FHWA will consider all appropriate factors including, but not limited to, the cost, "redtape," and delay that would be imposed if the provision were not waived.

Appendix—Suggested Alternate Bidding Provision—Information Regarding Buy America Procedures

(a) Section 401 of the Surface Transportation Assistance Act of 1978 (Pub. L. 95–599) generally requires that only domestic construction material be used in the performance of this contract. The implementing regulations applicable to this contract (23 CFR 635.410) provide that this requirement applies only to steel construction materials.

(b) Alternative bids will be accepted for foreign structural steel (i.e., sheet piling, H-piling, I-beams, plates, channels, angles, and/or T-sections) to be permanently installed in highway bridge or tunnel structures on this project, and for other steel construction materials if alternate bid items are included in the bid schedule.

(c) If the bidder desires to submit a bid for such foreign materials, the bidder must also submit an alternate bid for such materials from domestic sources. Failure to do so shall result in such bid being considered irregular.

(d) The award of contract will be based on the lower of the following:

(1) the lowest total bid based on domestic steel; or

(2) 110 percent of the lowest total bid based on the foreign steel alternate (the amount of the contract will be based on the actual bid).

(e) If the basis of award is domestic steel, foreign steel shall not be used. If the basis of award is foreign steel, either domestic or foreign steel shall be acceptable. In the latter case, payment will be made at the unit price for foreign steel.

(f) Domestic means manufactured in any of the 50 States, the District of Columbia, Puerto Rico, and other territories and possessions of the United States of America, if the costs of components which are mined, produced, or manufactured in the United States exceed 50 percent of the costs of all components. The costs of components include all transportation costs to the place of incorporation into the construction material and any duty

imposed on components of foreign origin.

Administration Branch, Hale Boggs Federal Building, 500 Camp Street, New

intermittently between April 1977 and March 1979.

(Sec. 5, 28 Stat. 363, as amended, sec. 6(g)(2),

grounds that such VOC bubbles do not

imposed on components of foreign origin.

(g) Where domestic steel is otherwise required by this contract, foreign steel may be supplied in minor amounts not to exceed one-tenth of one percent (0.1 percent) of the total contract cost.

[FR Doc. 80-36286 Filed 11-21-80; 8:45 am]
BILLING CODE 4910-22-M

Coast Guard

33 CFR Part 117

[CGD 80-147]

Drawbridge Operation Regulations; Gulf Intracoastal Waterway, Houma Navigation Canal, Bayou La Carpe and Bayou Terrebonne, Louisiana

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Terrebonne Parish Police Jury, the Coast Guard is considering changing the regulations governing the East Park Avenue, East Main Street and Bayou Dularge bridges over the Gulf Intracoastal Waterway, mile 57.6, 57.7 and 59.9 respectively; the State Highway 661 bridge over the Houma Navigation Canal, mile 36.0; the State Highway 661 bridge over Bayou La Carpe, mile 7.5; and, the Daigleville bridge over Bayou Terrebonne, mile 35.5. All bridges are in Houma, Louisiana.

The six bridges are low level except Bayou Dularge which is a semi-high rise with a vertical clearance of 40 feet in the closed position. All bridges presently are required to open on signal at any time.

The proposed change is being considered in the form of two options: Option 1 would allow the draw of each bridge to remain closed from 7:00 to 8:30 a.m. and 4:30 to 6:00 p.m., Monday through Friday except holidays. Option 2 would divide the closure in the morning and afternoon, respectively, into two 45 minute intervals separated by an opening of the draw not to exceed 10 minutes to pass waiting navigation. Both options are intended to relieve overland traffic congestion during peak morning and afternoon vehicular traffic periods, while still providing for the reasonable needs of navigation.

DATE: Comments must be received on or before December 29, 1980.

ADDRESS: Comments should be submitted to and are available for examination from 9:00 a.m. to 3:00 p.m., Monday through Friday, at the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT: Joseph Irico, Chief, Bridge Administration Branch, at the address given above (504-589-2965).

SUPPLEMENTARY INFORMATION: Interested parties are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reason for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclosed a stamped self addressed postcard or envelope.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Joseph Irico, Project Manager, District Operations Division, and Steve Crawford, General Attorney, District Legal Office.

Discussion of the Proposed Regulation

Waterway activity (largely barge tows) on the four waterways in the vicinity of the six bridges has remained basically unchanged, judging from the relatively constant number of bridge openings for the past five years for each bridge. In order of activity, the yearly openings were about 20,500 for the East Main and East Park bridges over the Gulf Intracoastal Waterway, 15,000 for State Highway 661 bridge over Houma Navigation Canal, 7500 for Bayou Dularge bridge over the Gulf Intracoastal Waterway, 5000 for State Highway 661 bridge over Bayou La Carpe and 2400 for Daigleville bridge over Bayou Terrebonne. East Park and East Main are in such close proximity to each other that they can be considered as one bridge.

Together with the Houma Tunnel, the six bridges operate as an integrated overland transportation system. A closure to vehicular traffic of one or more of the bridges during peak traffic periods interrupts the system and further overburdens the other crossings.

Temporary closures of the bridges to navigation have been authorized on seven (7) separate occasions to relieve overland traffic congestion, when the East Main Street bridge was inoperative and unavailable for vehicular use. These closures were for 1½ hours each in the morning and afternoon, Monday through Friday. The closure clock times were basically like those now being proposed in Option 1 and were in effect intermittently between April 1977 and March 1979.

Data submitted by the Louisiana Department of Transportation and Development indicate that:

(1) In January 1980, the daily average number of vehicles crossing the six bridges was as follows during the proposed morning and afternoon closure period, Monday through Friday:

Bridge	Vehicles 7-8:30 a.m.	Vehicles 4:30-6:00 p.m.
East Main	1,785	2,352
East Park	579	740
Houma Navigation Canal	698	838
Bayou Dularge	916	994
Bayou La Carpe	838	1,081
Daigeville	(1)	(1)

[1] Not available but should be similar to East Park.

(2) During 1976, the daily average number of bridge openings and their total duration for the six bridges were as follows during the proposed morning and afternoon closure periods, Monday through Friday:

Bridge	Openings 7-8:30 a.m.	Total duration (minutes)	Openings 4:30-6 p.m.	Total duration (minutes)
East Main	2.7	26	3.0	30
East Park	2.6	24	3.0	29
Houma Navigation Canal	2.1	18	2.2	16
Bayou Dularge	0.8	5	1.0	7
Bayou La Carpe	0.6	4	1.0	6
Daigeville	(1)	(1)	(1)	(1)

[1] Not available but should be less than the other bridges.

(3) The data indicate that East Main, the key bridge in the system, is available to pass overland traffic 64 minutes or 71% of the time in the morning, for a total of 1785 vehicles, and 60 minutes or 67% of the time in the afternoon, for a total of 2352 vehicles. Were the bridge available the full 90 minutes, an additional 725 vehicles could pass in the morning and 1176 in the afternoon, the number of vehicles now theoretically being delayed.

(4) One of the seven temporary closures mentioned above was between August 1, and September 22, 1978, During that time, the daily average number of barge tows delayed was about 5.3 in the morning and 8.0 in the afternoon for all bridges. The daily average time required for all waiting vessels to completely clear the bridges when the draws were opened after the closure periods was as follows:

Bridge	Time to clear bridges (minutes) a.m.	p.m.
East Park	17.3	19.4
Houma Navigation Canal	11.3	13.3
Bayou Dularge	8.6	6.6
Bayou La Carpe	6.0	4.8

Option 2 which would close the draw of each bridge for 45 minutes, opening it for 10, and then closing it for another 45 minutes, should cut the time for navigation to clear each bridge by half. Using the times given above, reduced by half, yields a time to clear of 10 minutes or less. While the 10 minute opening would cause some delay to overland traffic, this delay would be offset by a corresponding gain for this traffic since the next opening would be of shorter duration because of fewer vessels waiting to pass.

The Coast Guard feels that both of the proposed options would provide relief to overland traffic during peak morning and afternoon traffic periods with Option 2 probably having the lesser effect on navigation. In any event, the reasonable needs of navigation should be met, particularly if barge movement is scheduled to allow for the closures.

The Louisiana Department of Transportation and Development presently is planning to replace both East Main and East Park bridges with high-level fixed bridges. When this project materializes, operating restrictions for other bridges may no longer be necessary.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by adding a new § 117.537 as set forth in either Option 1 or 2 below:

§ 117.537 Gulf Intracoastal Waterway, mile 57.6 (East Park Ave.), mile 57.7 (East Main St.) and mile 59.9 (Bayou Dularge); Houma Navigation Canal, mile 36.0 (State Highway 661); Bayou La Carpe, mile 7.5 (State Highway 661); and, Bayou Terrebonne, mile 35.5 (Daigleville), all at Houma, LA.

Option 1: The draws need not open for the passage of vessels Monday through Friday except holidays, from 7:00 a.m. to 8:30 a.m and 4:30 p.m. to 6:00 p.m. At all other times, the draws shall open promptly on signal.

Option 2: The draws need not open for the passage of vessels Monday through Friday except holidays from 6:50 a.m. to 7:35 a.m. and 7:45 a.m. to 8:30 a.m.; from 4:20 p.m. to 5:05 p.m. and 5:15 p.m. to 6:00 p.m. At all other times, the draws shall open promptly on signal.

(Sec. 5, 28 Stat. 363, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(g)(3))

Dated: November 14, 1980.

P. A. Yost,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 80-36579 Filed 11-21-80; 8:45 am]
BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 7

[AS-FRL-1679-4]

Proposed Consolidated Non-discrimination Regulations

November 17, 1980.

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent.

SUMMARY: The Envionmental Protection Agency gives notice that its proposed consolidated non-discrimination regulations will be ready for publication on or about December 6, 1980. This regulation will implement Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, and Section 13 of the Clean Water Act of 1977.

FOR FURTHER INFORMATION CONTACT: Bob C. Downes (202) 755-0540.

Eduardo Terrones,

Director, Office of Civil Rights

[FR Doc. 80-36535 Filed 11-21-80; 8:45 am]
BILLING CODE 6560-36-M

40 CFR Part 52

[A-2-FRL 1677-1]

Air Pollution Control: Recommendation for Alternative Emission Reduction Options Within State Implementation Plans; Proposed Revision to the New Jersey State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and amendment to policy statement.

SUMMARY: EPA proposes to conditionally approve Subsection (c)(4) and (c)(5) of New Jersey Administrative Code (N.J.A.C.) 7-27-16.6, which contain provisions for "bubbles" involving multiple sources of volatile organic compounds (VOCs) emissions. EPA proposes not to require that each bubble adopted under these sections be submitted as a SIP revision, on the grounds that such VOC bubbles do not involve action by the state requiring EPA approval.

EPA is proposing in this same notice to amend its "bubble" policy to permit VOC sources to adopt bubbles involving emission points in more than one Control Technology Guideline category (CTG), as well as to offer other states with bubble rules like New Jersey's the opportunity in some circumstances to avoid the need for each bubble to be approved as a SIP revision.

DATES: Comments must be submitted on or before December 24, 1980.

ADDRESS: All comments should be addressed to: Richard G. Rhoads, Control Programs Development Diovision (MD-15), Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711.

FOR FURTHER INFORMATION CONTACT: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, New York 10278. (212) 264-2517.

SUPPLEMENTARY INFORMATION:

I. The EPA Bubble Policy.

On December 11, 1979, EPA published its bubble policy. 44 FR 71779. In that policy, EPA set out criteria for permitting sources to have adopted into the State Implementation Plan (SIP) alternative, more cost-effective emission limits to those previously specified in an existing SIP. These criteria included a statement that each bubble had to be submitted as a SIP revision. 44 FR 71782. In addition, the policy noted that for sources located in ozone nonattainment areas, where there is no plan demonstrating attainment of the ozone ambient air quality standard by the statutory deadlines, bubbles would only be allowed if they included emission points which are in the same category of sources of volatile organic compounds, (VOCs) defined by a Control Techniques Guideline (CTG).[1] The bubble policy also provided that emission points involved in a proposed bubble be in compliance with the SIP or on a compliance schedule in order to be able to use the bubble policy, and contained restrictions on certain types of trades among pollutants, such as prohibiting trading increased toxic hydrocarbon emissions against decreases in nontoxic hydrocarbon emissions. *See generally* 44 FR 71780-85.

[1] CTGs are issued by EPA to provide guidance to the states and sources regarding what constitutes Reasonably Avialable Control Technology (RACT) for control of VOCs. Each CTG covers a particular category of VOC sources.

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II. The New Jersey Bubble Policy

EPA designated the entire state of New Jersey as nonattainment for ozone. *See* 45 FR 15531. New Jersey was therefore required to submit an implementation plan for ozone meeting the requirements of Part D of the Act. It submitted such a plan on December 29, 1978. 45 FR 15531. As part of this plan, New Jersey included regulations setting out requirements for reasonably available control technology (RACT) at existing stationary sources of volatile organic compounds (VOCs). These regulations, codified of Section 7:27–16 of the New Jersey Administrative Code, specified certain control measures for certain designated categories of sources, Sections 7:27–16.2 through 7:27–16–5; and established maximum allowable emission rates for most other VOC sources. Section 7:27–16.6. The emission rates were specified on an emission point-by-emission point basis. Section 7:27–16.6(c)(1) of the New Jersey Administrative Code.

New Jersey also adopted a "bubble" provision, Sections 7:27–16.6(c)(4) and (5). These sections allow sources with many emission points to seek state approval of different emission limits for each emission point provided that the sum of the emission rates does not exceed the sum of the rates specified by Sections 7:27–16.5(a), 16.6(a), and 16.6(b). In addition, sources must meet the requirements of Section 7:27–16.6(c)(5), which largely track the criteria laid out in EPA's bubble policy. However, New Jersey's bubble provision does not commit the state to submit each change in specific emission limits (or bubble) to EPA for approval as a SIP revision. In addition, the New Jersey rules do not require emission points involved in a proposed bubble to be in compliance with the SIP, or on a compliance schedule, in order to be allowed to use the bubble approach. Finally, New Jersey permits bubbles when the emission points involved may be in different CTG categories or in categories of sources for which a CTG has not yet been issued.[2]

III. EPA's March 11, 1980 Action On the New Jersey Bubble Rules

On March 11, 1980 EPA conditionally approved the New Jersey SIP revision as meeting the requirements of Part D of the Act. 45 FR 15531. However, EPA took no action with regard to the New Jersey bubble rules (Sections 7:27–16.6(c)(4) and (5) of the New Jersey Administrative Code), thus omitting these rules from the federally-approved SIP. The basic reason for EPA's action was that the New Jersey rules did not provide for submission of each bubble to EPA as a SIP revision. For this reason EPA stated:

> Finally, as pointed out in EPA's notice of proposed rulemaking. Subsections (c)(4) and (c)(5) of N.J.A.C. 7–27–16.6 contain provisions for "bubbling" multiple emission sources. In today's notice EPA is taking no action with regard to these two subsections since individual State applications of New Jersey's "bubble policy" provisions will be submitted to EPA as revisions to the New Jersey SIP. These revisions will be judged by EPA against its criteria contained in "Recommendations for Alternative Emission Reduction Options Within State Implementation Plans: Policy Statement" published on December 11, 1979 at 44 FR 71780.
>
> 45 FR 15540 (March 11, 1980).

IV. Today's Proposed Action

As noted above, EPA did not take action on the New Jersey bubble rules when it approved the state's Part D SIP. However, after further evaluation of those rules, EPA has decided that they can be approved, provided that the bubble rules are amended to meet the following conditions [3] on or before July 1, 1981:

1. The bubble rules must provide that only emission points in compliance with the SIP or on a compliance schedule may use the bubble.

2. New Jersey must provide an adequate opportunity for public notice and comment on each alternative set of emission limitations developed under its bubble program.

3. New Jersey must require sources using the program to provide to EPA a written acknowledgment that the alternative limits are enforceable by EPA and may be enforced pursuant to Section 304(a) of the Clean Air Act. Such acknowledgement shall also bind the source owner's successors.

4. New Jersey must promptly transmit to EPA copies of each alternative set of emission limitations when they are proposed by the source owner and when they are adopted pursuant to the bubble rules, and, if EPA requests, additional supporting documents.

EPA further proposed to adopt the following procedure: EPA may participate in the state's notice and comment procedures on the alternative limitations. In addition, EPA may object in writing to the alternative limitations within 30 days of receipt after they have been adopted by the state. EPA may only object if the alternative set of limitations violates one or more specific provisions of the SIP (including those proposed to be incorporated in 40 CFR 52.1582(d)). If EPA does object to the alternative limitations, the state will have an opportunity to correct the deficiencies. If they are not corrected, then EPA will consider the *original* SIP emission limits to remain enforceable. If the state does submit the corrections, EPA again will have 30 days in which to object to them in writing. If EPA does not object within the stated time limits, then the new emission limits will be deemed enforceable in lieu of the old ones.

Finally, as a further condition of approval, EPA proposes that New Jersey must commit to following the four conditions set out above until such time as its rules are formally amended and approved by EPA as meeting the conditions. this will enable New Jersey to use its bubble rules during the period between final EPA conditional approval and the state's amendment of its rules, without the need for each bubble to be submitted as a SIP revision.

V. Rationale

A. *Need for SIP revisions.* EPA proposes not to require that alternative emission limitations adopted under New Jersey's VOC bubble rules be submitted for EPA approval as SIP revisions. New Jersey's VOC bubble rules are tightly drawn and basically require only that the state perform the essentially mechanical task of adding up the new emission limits and determining whether that sum equals the sum of the limitations imposed by the SIP. The rules are sufficiently circumscribed and contain adequate safeguards to provide firm assurance that their use *cannot* interfere with attainment and maintanence of ambient air quality standards. Therefore, EPA believes that it can make an exception to its general policy and approve the New Jersey VOC bubble program without requiring case-by-case SIP revisions.

EPA believes that its proposal fully comports with the Clean Air Act. The heart of the Act's program for control of air pollution is the SIP, which lays out the state's strategy for attaining and maintaining the national ambient air quality standards (NAAQS). These plans must meet the requirements of sections 110(a)(2) and, where applicable, 172 of the Act, including a demonstration of attainment and maintenance of the NAAQS; emission limitations on stationary sources; schedules and timetables for compliance with these limitations sufficient to ensure attainment and maintenance of

[2] Section 16.6(c)(5) also does not explicitly provide for public participation in the choice of alternative emission limits.

[3] For a further discussion of these conditions, see Part V of this notice.

NAAQS; and preconstruction review of new or modified stationary sources.

The states are meant to play the primary role in air pollution control. In particular, Congress intended that the states choose the strategies they believed would best meet their own particular needs, including any mix of emission limitations they felt were appropriate, provided that these strategies would attain and maintain the NAAQS. Congress also required that EPA review the state's strategy to assure its adequacy. EPA's role in this regard is one of oversight only: it must make sure that the state plan will work, but it may not tell the state which of the range of acceptable strategies to choose. That is, if the state is contemplating a choice between plan A and plan B, EPA must be sure that whatever option is submitted will work; but if both will work, then EPA cannot tell the state to choose A rather than B. In short, as the Supreme Court noted:

> Thus, so long as the ultimate effect of a State's choice of emission limitations is compliance with the national standards for ambient air, the State is at liberty to adopt whatever mix of emission limitations it deems best suited to its particular situation (, and) * * * under the Act's division of responsibilities * * *, the Agency shall approve (the state's choices) if they satisfy * * * the requirements of section 110(a)(2).
>
> *Train* v. *NRDC*, 421 U.S. 60, 79–80 (1975) (italics added).[4]

EPA believes that since the key underlying reason for EPA oversight is to ensure that state choices do not interfere with attainment and maintenance of standards, *see Train v. NRDC, supra*, 421 U.S. at 79, EPA review and prior approval of state choices is not necessary where state choices are sufficiently circumscribed and mechanical in operation that they could not interfere with attainment and maintenance. Where the SIP provides for mechanical procedures by which SIP emission limits are changed such that the new limits are the mathematical equivalent of the existing limits, and where such mathematical equivalency necessarily means that the impact on ambient air quality will be equivalent, EPA need not approve the state's decision. But where the change in the SIP involves choices by the state that are not similarly circumscribed and mechanical in operation and where such choices would alter the ambient air quality impact, then EPA approval is necessary.[5]

New Jersey's VOC bubble rules fit into this exception to case-by-case EPA approval of SIP revisions. The state has demonstrated compliance with Part D in part by defining maximum emissions from each of certain categories of VOC emission points. The bubble rules then permit the owners of plants containing two or more emission points to rearrange the mix of emission limits with which they will comply within each plant so long as the total for the plant remains the same. Since, unlike some other pollutants, the effects of VOC emissions on concentrations of ozone are monitored and modeled on an areawide rather than a site-specific basis,[6] all emissions of VOC within a broad geographic area are considered to be comparable, regardless of the precise location of the source, the height of the stack from which the VOC is released, the topography of the site of the source or other potentially complicating factors. Determining the equivalency of emissions of VOC within a plant is therefore essentially a matter of arithmetic. The state's task is basically to add up the source's choice of emission limits and compare that number to the total of the numbers it specified for the emission points in the plant in the SIP. If the totals are the same the trade is equivalent so far as ambient ozone levels are concerned.[7]

In sum, EPA finds that prior EPA approval of each VOC bubble adopted under New Jersey's VOC bubble rules is unnecessary. For this reason, EPA proposes not to require each VOC bubble to be submitted as a SIP revision. EPA is prepared to adopt a similar approach for other states' VOC bubble programs, provided those programs include the kinds of protective restrictions utilized by New Jersey.

EPA solicits comment on whether it should broaden this exception to EPA's general policy concerning the need for bubbles to be treated individually as SIP revisions and whether other kinds of bubble rules could also be approved without requiring EPA approval of each bubble.

B. *Bubbles Involving Sources Outside of CTG Categories.* EPA proposes to approve the New Jersey bubble rules despite the fact that these rules allow sources to include emissions points which are in different CTG categories from one another or in a category for which a CTG has not yet been issued. This is a change to EPA's bubble policy, since New Jersey has not demonstrated attainment of the ozone NAAQS by the statutory deadlines.

EPA's general policy has been that bubbles should not be available where there is no approved attainment demonstration for the area in which the source proposing the bubble is located. There is one exception in the current bubble policy to this general prohibition, however. VOC sources may use the bubble if the emissions points involved are all in the same CTG category. 44 FR 71781.

Upon further reflection, EPA believes that bubble trades should also be allowed among emissions points in different CTG categories, provided that a CTG has been issued and RACT has been defined and approved by EPA for each category. The applicable reductions are already known in such a case, and so EPA can see no reason why sources should not be able to use the bubble policy in such circumstances. EPA therefore is proposing to modify this aspect of the bubble policy, and is proposing to allow New Jersey to apply its bubble program to emission points in different CTG categories.

In addition, EPA proposes not to restrict use of the bubble in New Jersey only to those emission points in categories for which a CTG has already been issued, so long as the state has an EPA-approved regulation which defines RACT for the relevant emission points. Section 16.6 of N.J.A.C. 7–27 imposes a requirement that all VOC sources in New Jersey (save for certain specified categories of sources for which a CTG has been issued) reduce their emissions by at least 85%, including sources with

[4] The Clean Air Act also provides that states must include in their SIP procedures by which SIPs may be changed, when such changes may be necessary, section 110(a)(2)(H). In addition, states may of course change their SIPs whenever they feel this would be desirable so long as the SIP remains in compliance with the Act. EPA's role again is that it must assure that the changes meet the requirements of Section 110(a)(2). *See* Section 110(a)(3).

[5] *See* Sections 110 (a)(2), 110(a)(3), 110(i), *Train v. NRDC, supra*. As noted, Congress required EPA approval of changes to SIPs because it wanted EPA to ensure that such changes would not interfere with attainment and maintenance of the NAAQS. This can be particularly appropriate with regard to some bubbles, for while the bubble concept is simple in theory, it can in some cases be very complicated in practice. Bubbles involve a trade of increased controls at one emission point for lesser controls at another point. But the key to the bubble policy is that the trade must be equivalent in its effect on ambient air quality effect and not interfere with attainment and maintenance of ambient standards, *see* 44 FR 71782–84 (December 11, 1979); and such a demonstration can in some cases be quite complex and require the exercise of a significant degree of judgment. *Id.* This can be especially true if monitoring or modeling is needed to evaluate ambient impacts or if questions such as those related to stack heights are involved.

[6] This is due to the fact that areawide oxidant levels are dependent on overall area emissions, and so equal amounts of VOC emissions anywhere in the broad area of nonattainment are deemed equivalent in their ambient effect.

[7] In contrast to VOC emissions, the ambient effects of sulfur dioxide and particulate emissions are typically determined by detailed modeling and/or monitoring on a site-specific basis and are affected by such factors as source location, stack height, extent to which the stacks are separated, local topography, etc.

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emission points for which no CTG is available.[9] EPA believes that while future CTGS may require greater than 85% reductions, the New Jersey rule in this respect represents a sound current overall definition of RACT for these sources.[9] Therefore, EPA proposes to approve the New Jersey rules even though they allow bubbles involving emission points which are not in categories of VOC sources for which a CTG has been issued.

C. *Compliance status.* EPA's bubble policy states that sources not in compliance with the SIP or on an EPA approved compliance schedule should not be permitted to use the bubble policy, for otherwise "consideration of alternative control strategies would only protract and confuse efforts to enforce the SIP." 44 FR 71781. However, this requirement only pertains to those emission points at the source which are involved in the proposed bubble. In addition, the source need demonstrate only that those points are in compliance (or on a compliance schedule) with respect to the particular pollutant involved in the bubble.[10] The demonstration of compliance need not be any more elaborate than currently-required compliance demonstrations. *See* 45 FR 59877 (September 11, 1980).

New Jersey's bubble program does not appear to contain such a restriction. EPA proposes to approve the program on condition that this deficiency is remedied, and that until the deficiency is remedied, no bubble will be effective unless all emission points involved are in compliance with the SIP or on an EPA approved compliance schedule. However, EPA solicits comment on whether Section 16.6(f) of the N.J.A.C., which has already been approved by EPA, itself satisfied this condition.

D. *Public participation.* The Clean Air Act evidences a strong Congressional desire that there be an adequate opportunity for public notice and comment on actions taken with respect to submissions of or changes in SIPs. Sections 110(a)(2), 110(a)(2)(H), 110(a)(3); 172(b)(1); *cf.* Section 110(c)(1). In addition, public participation is required in all programs for issuing new source review permits. *See, e.g.,* Section 165(a)(2), 40 CFR 51.18(h). New Jersey must provide such an opportunity, particularly in view of the fact that EPA will not be taking notice and comment on individual bubble applications. EPA will not specify detailed requirements in this regard, but is proposing to require only that New Jersey adopt a reasonable system for public notice and comment.[11] This is not a major deficiency, and EPA therefore proposes correction of the deficiency as a condition of its approval of the New Jersey bubble rules.

E. *Enforceability.* EPA believes that it can enforce alternative emission limitations adopted pursuant to carefully restricted EPA approved procedures like those adopted by New Jersey. *Cf.* 40 CFR 52.02(d), 52.23. This represents a change from EPA's flat statement in the bubble policy that "case-by-case SIP revisions are necessary for an alternative approach to be legally enforceable." 44 FR 71786. But one of EPA's underlying concerns remains the same, i.e., that some sources might nevertheless argue that the alternative limits themselves are not set out in the SIP and so EPA could not enforce them. While EPA does not agree with this interpretation of EPA's enforcement powers as applied to these circumstances, EPA believes it advisable to forestall the possibility of such claims. EPA therefore proposes to require sources ot provide a written acknowledgement that the new emission limits adopted pursuant to New Jersey's bubble program are fully enforceable by EPA, and may be enforced by citizens under Section 304(a) of the Act.[12] In addition, EPA proposes to insert into its approval of the New Jersey rules a statement that these new emission limits are deemed part of the New Jersey SIP and so may be enforced by EPA and by citizen suit.[13]

F. *Invalid Bubbles.* A related issue concerns the possibility that a source will be permitted to use a bubble even though that bubble is not equivalent to the existing SIP limits or does not otherwise meet the requirements of Sections 16.6 (c)(4) and (5). Under EPA's existing policy, EPA would simply disapprove the bubble after its submittal as a SIP revision as being inconsistent with the SIP and as interfering with attainment and maintenance of standards. But under today's proposal, the Agency will follow a different procedure.

Although EPA views as remote the possibility that such an invalid bubble will be approved by the state, such a situation needs to be addressed. More important, the invalid bubble, because it was issued in violation of the conditions of the bubble rule included in the SIP, would not itself be a valid part of the SIP and so would not displace the original SIP emission limitations as a matter of federal law. The source would therefore be liable for any violation of the original SIP emission limits. To avoid situations in which an error is only discovered through an enforcement action brought years after the bubble was approved and implemented, EPA believes a procedure is necessary to timely alert the source, and the state, to any such problems should they occur.

EPA proposes to adopt a procedure under which New Jersey must transmit to EPA a copy of each alternative set of control requirements proposed by the source.[14] This material should be sent as soon as the state receives the proposal. The state must also submit any additional relevant material requested by EPA. EPA in turn may choose to participate in the state's notice and comment procedure on the proposal if it so desires. The state must then promptly transmit to EPA any alternative emission limits it finally adopts. If within 30 days of receipt of the adopted alternative emission limits EPA does not object in writing on the grounds that the alternative limits violate one or more specific provisions of the New Jersey SIP, then EPA will deem enforceable *only* the new (alternative) emission limits. If EPA does object to the bubble, then EPA will regard the original SIP limits as enforceable.[15] Should EPA discover after the 30-day period has elapsed that the bubble was improper, it may issue a notice of deficiency regarding that bubble to the state; but until the deficiency is corrected, the new emission limits will remain in force.

This procedure imposes no significant added burden on New Jersey or sources using the bubble program. In fact, since a bubble which violates the SIP is void anyway, this procedure really operates to provide an early warning and a time limit for discovering such invalid bubbles, and so adds more certainty to the entire process. Given EPA's statutory duty to assure attainment and maintenance of NAAQS, EPA believes this procedure provides sufficient federal oversight without introducing any significant delays into the process.

G. *Guidance for other states.* EPA will consider approval of generic SIP revisions submitted by other states (or currently contained in state law, but not approved by EPA) if they are similar to New Jersey's bubble rules. These rules must apply only to VOC sources and provide that bubbles may be approved only if the new emission limits adopted pursuant to the bubble rules are the mathematical equivalent of the existing SIP limits.[16] In addition, the state must provide an adequate opportunity for notice and comment and must commit to transmit copies of bubble applications and approved bubbles to EPA (as well as any additional relevant material which EPA may request). Third, the rules must include provisions by which sources acknowledge federal enforceability of the alternative emission limitations. Finally, the rules must generally conform to EPA's bubble policy (as modified by this proposal). This includes a requirement that all emission points involved in a bubble transaction be in compliance or on a compliance schedule in order to be able to use a bubble, and restrictions on trades of toxic hydrocarbons in a bubble. *See generally* 44 FR 71780–85 (December 11, 1979).

[9] This section actually imposes a range of requirements, including reductions in emissions of 85% to 99.7%, as well as other control practices. The section contains limited exceptions for certain categories of sources.

[9] EPA does not mean to imply that 85% reduction is a mandatory or absolute minimum for RACT, but only that by requiring such reductions New Jersey's rules represent RACT.

Of course, should future CTGs indicate that RACT probably does require greater than currently required reductions, the state must find those additional reductions, either from the sources covered by the CTG or from other sources.

[10] Compliance or a compliance schedule would also have to be shown with respect to pollutants whose emissions are linked to emissions of the pollutant involved in the bubble.

[11] For example, New Jersey need not require a public hearing on each bubble.

[12] This acknowledgement will of course, not constitute a waiver as to any other issue, such as the source's right to contest a SIP requirement or to argue that it is in compliance, should EPA bring an enforcement action.

[13] Such a statement, if formally added to Part 52, will represent a final, binding action by EPA.

[14] *Cf.* 40 CFR 51.16.

[15] The state may, of course, correct the deficiencies. EPA will have 30 days in which to object in writing to the corrections. If EPA does not object, then EPA will deem enforceable only the new emission limits.

[16] New Jersey only allows individual plants to use its bubble policy. If states wish to allow multiplant VOC bubbles, EPA will evaluate whether such rules would be approvable.

VI. Public Comment

Interested persons are invited to comment on any element of EPA's proposed action and on whether or not the proposed New Jersey Implementation plan revision meets Clean Air Act requirements. Comments received by December 24, 1980 will be considered in EPA's final decision. All comments received will be available for inspection at the Region II office of EPA at 26 Federal Plaza, Room 908, New York, New York 10007.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. I have reviewed this package and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice is issued as required by Section 110 of the Clean Air Act, as amended, to advise the public that comments may be submitted on whether the proposed revision to the New Jersey State Implementation Plan should be approved, conditionally approved, or disapproved. (Sections 110, 172, and 301 of the Clean Air Act as amended (42 U.S.C. 7410, 7502 and 7601)).

November 17, 1980.

Douglas M. Costle,

Administrator.

EPA proposes to revise 40 CFR 52.1582(d) to read as follows:

§ 52.1582 Control strategy and regulations: Ozone (volatile organic substances) and carbon monoxide

* * * * *

(d) Subchapter 16 of the New Jersey Administrative Code, entitled "Control and Prohibition of Air Pollution by Volatile Organic Substances," N.J.A.C. 7:27–16.1 *et seq.* as submitted to EPA on October 19, 1979 by the New Jersey Department of Environmental Protection, is approved for the entire State of New Jersey, with the following exceptions:

(1) Subsections 16.6(c)(4) and 16.6(c)(5) are approved on the following conditions:

(i) On or before July 1, 1981 the state must amend Subsection 16.6(c)(5) to provide that the state may approve mathematical combining of source gases pursuant to subsection 16.6(c)(4) only if all emission points involved are in compliance with New Jersey's SIP or on an EPA approved compliance schedule;

(ii) On or before July 1, 1981, the state must amend subsection 16.6(c)(5) to require an adequate opportunity for public notice and comment on each use of Subsections 16.6(c)(4) and 16.6(c)(5);

(iii) On or before July 1, 1981 the state must require each source desiring to use Subsections 16.6(c)(4) and 16.6(c)(5) to provide EPA a written acknowledgment that the emission limitations developed pursuant to those subsections are fully enforceable by EPA as part of the applicable state implementation plan and may be enforced pursuant to Section 304(a) of the Clean Air Act. Such acknowledgment shall also bind the source owner's successors;

(iv) The State must follow the procedures set out in paragraph (d)(1)(i)–(iii) of this section until EPA approves the revisions to subsection 16.6(c)(5) required by these subsections;

(v) The state must promptly transmit to EPA a copy of each set of emission limits proposed by a source pursuant to subsections 16.6(c)(4) and 16.6(c)(5), as well as a copy of the final emission limits adopted by the state. In addition, the state must transmit any relevant additional material EPA may request;

(2) With regard to emission limits adopted pursuant to subsections 16.6(c)(4) and (5), EPA shall have thirty (30) days from the date of receipt of the emission limits adopted by the state to object in writing to the emission limits. Should EPA object in writing to the emission limits in accordance with paragraphs (d)(2)(i) and (ii) of this section, and the state choose to correct the deficiencies, EPA will have thirty (30) days in which to object to the corrected submission;

(i) EPA shall furnish its objections in writing, setting forth the specific deficiencies in the emission limitations adopted pursuant to Subsections 16.6(c)(4) and 16.6(c)(5);

(ii) EPA shall object only if such emission limitations violate one or more specific provisions of the New Jersey SIP, including the provisions of this section;

(iii) EPA shall deem enforceable such emission limitations:

(*a*) If EPA has not objected to them in accordance with paragraphs (d)(2)(i) and (ii) of this section within 30 days of their receipt by EPA; or

(*b*) Where EPA has objected, if EPA does not object to the state's corrections to the deficiencies noted in EPA's written objection within 30 days of receipt of those corrections. If EPA does not timely object in accordance with paragraphs (d)(2)(i) and (ii) of this section to emission limits adopted pursuant to subsections 16.6(c)(4) and (5), the previous emission limitations contained in the SIP shall be deemed replaced by the new emission limitations and such previous limitations shall no longer be federally enforceable. If EPA timely objects in accordance with paragraphs (d)(2)(i) and (ii) of this section to emission limits purportedly adopted pursuant to subsections 16.6(c)(4) and (5), the applicable emission limitations set out elsewhere in the New Jersey SIP shall be deemed still in force and fully enforceable by EPA;

(3) Emission limitations adopted under subsections 16.6(c)(4) and (5) and not objected to by EPA in accordance with 40 CFR 52.1582(d)(2) are deemed part of the New Jersey SIP and shall be enforceable by EPA and by citizens in the same manner as other requirements of the SIP;

(4) Although EPA approves the variance provisions in subchapter 7:27–16.9 and 7:27–16.10, in order to be considered as part of the SIP, each variance issued under these provisions

must be submitted to and approved by

Public Information Reference Unit,

identification form for each SLAMS

of the Clean Air Act, as amended, and

Ohio (41 FR 36324). This proposed rule

proposed control strategy, less

must be submitted to and approved by EPA as a SIP revision.

[FR Doc. 80-36551 Filed 11-21-80; 8:45 am]

BILLING CODE 6560-25-M

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40 CFR Part 52

[A-9-FRL 1680-2]

Approval and Promulgation of Implementation Plans; Ambient Air Quality Surveillance Provisions for Arizona, California, Hawaii, and Nevada

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: On May 10, 1979, EPA promulgated Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions. That action revoked the requirements for air quality monitoring in Part 51 of Title 40 of the Code of Federal Regulations and established a new Part 58 entitled Ambient Air Quality Surveillance. Those regulations satisfy the requirements of Section 110(a)(2)(C) of the Clean Air Act (the Act) by requiring ambient air quality monitoring and data reporting for purposes of State Implementation Plans (SIP). Additionally requirements of Sections 319, 313, and 127 of the Act are satisfied.

Revisions to the Arizona, California, Hawaii, and Nevada SIPs have been submitted to EPA in order to meet the requirements of this new Part 58. This Notice discusses the States' submittals and EPA's proposed approval action.

DATES: Comments may be submitted up to January 23, 1981.

ADDRESSES: Comments may be sent to: Acting Regional Administrator, Attn: Air and Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4-2), Environmental Protection Agency, 215 Fremont Street, San Francisco CA 94105.

Copies of the revisions and the evaluation reports are available for public inspection during normal business hours at the EPA Region IX Library at the above address and at the following locations:

Arizona Department of Health Services, 1740 West Adams Street, Phoenix AZ, 85007

California Air Resources Board, 1102 "Q" Street, Sacramento CA 95812

Environmental Protection and Health Services Division, Hawaii State Department of Health, 1250 Punchbowl Street, Honolulu HI 96813

Department of Conservation and Natural Resources, 201 South Fall Street, Carson City, NV 89710

Public Information Reference Unit, Room 2404 (EPA Library), 401 "M" Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Douglas Grano, Chief, Regulatory Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco CA 94105, (415) 556-2938.

SUPPLEMENTARY INFORMATION: On May 10, 1979 (44 FR 27558) pursuant to the requirements of Sections 110(a)(2)(c), 319, 313, and 127 of the Act, EPA promulgated Ambient Air Quality Monitoring, Data Reporting and Surveillance Provisions, revoking Part 51 and establishing a new Part 58 entitled Ambient Air Quality Surveillance.

As required by subpart C, 58.20 "the State shall adopt and submit to the Administrator a revision to the plan which will:

(a) Provide for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) which measure ambient concentrations of those pollutants for which standards have been established in 40 CFR Part 50.

(b) Provide for meeting the requirements for Appendices A, C, D, and E to this part.

(c) Provide for the operation of at least one SLAMS per pollutant during any stage of an air pollution episode as defined in the contingency plan.

(d) Provide for the review of the air quality surveillance system on an annual basis to determine if the system meets the monitoring objectives defined in Appendix D to this part. Such review must identify needed modifications to the network such as termination or relocations of unnecessary stations or establishment of new stations which are necessary.

(e) Provide for having a SLAMS network description available for public inspection and submission to the Administrator upon request. The network description must be available at the time of plan revision submittal and must contain the following information for each SLAMS:

(1) The Storage and Retrieval of Aerometric DATA (SAROAD) site identification form for existing stations.

(2) The proposed location for scheduled stations.

(3) The sampling and analysis method.

(4) The operating schedule.

(5) The monitoring objective and spatial scale of representativeness as defined in Appendix D to this part.

(6) A schedule for:

(i) Locating, placing into operation, and making available the SAROAD site identification form for each SLAMS which is not located and operating at the time of plan revision submittal;

(ii) Implementing quality assurance procedures of Appendix A to this part for each SLAMS for which such procedures are not implemented at the time of plan revision submittal; and

(iii) Re-siting each SLAMS which does not meet the requirements of Appendix E to this part at the time of plan revision submittal."

The number and locations of SLAMS were jointly determined by the States of Arizona, California, Hawaii, Nevada and the Regional Office. Stations are located in all areas where each state and EPA decided they are necessary to determine:

(1) Highest concentrations expected to occur in the area covered by the network;

(2) Representative concentrations in areas of high population density;

(3) The impact of significant sources or source categories on ambient pollution levels; and

(4) General Background concentration.

The States in Region IX will operate the SLAMS network in accordance with the Quality Assurance Procedures described in Appendix A to 40 CFR Part 58 and will submit a written Quality Assurance Program to the Regional Office. Some SLAMS will be designated as episode monitoring sites for declaring and monitoring episodes for CO, SO_2, NO_2, O_3, and total suspended particulate matter.

Each State provides for a special purpose monitoring system (SPMS) to supplement the SLAMS monitoring network. The SPMS stations will be used for determining areas where permanent SLAMS need to be located, determining the effect of point sources, research, determining acceptable growth patterns, and to provide a better understanding of air pollution in each State and the effects of air pollution on the public's health.

Each State's submittal establishes an ambient air monitoring network for "Criteria Pollutants" (SLAMS) meeting Appendices A, C, D, and E, establishes episode monitoring stations, and provides for a network description and an annual SLAMS review.

EPA finds the States' submittals meet the applicable regulations and is therefore, proposing approval of the comprehensive air quality monitoring networks.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received, and on a determination whether they meet the requirements of Sections 110(a)(2)(C), 319, 313, and 127

of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 58.

EPA has determined that this action is "specialized" and therefore, not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 301(a), Clean Air Act as amended (42 U.S.C. 7410, 7601(a))

Dated: November 13, 1980.

Sheila M. Prindivilla,

Acting Regional Administrator.

[FR Doc. 80-36563 Filed 11-21-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL 1679-6]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposes to approve a revision to the Federally promulgated Ohio State Impelementation Plan for sulfur dioxide as it applies to the B.F. Goodrich Company in Lorain County. This revision increases the allowable sulfur dioxide emissions from the Company's two coal-fired boilers and reduces the allowable emissions from its four oil-fired boilers. This revision will not jeopardize the attainment and maintenance of the National Ambient Air Quality Standards.

DATE: Comments on this proposed action must be received on or before December 24, 1980. Requests for a public hearing must be received no later than December 9, 1980.

ADDRESSES: Comments and requests for a hearing should be submitted to Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

The docket (# 5A-80-12) for this revision is available for inspection and copying during normal business hours at the above address and at the Central Docket Section, West Tower Lobby, Gallery 1, USEPA, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Air Program Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6039.

SUPPLEMENTARY INFORMATION: On August 27, 1976, the U.S. Environmental Protection Agency (USEPA) promulgated regulations establishing the State Implementation Plan (SIP) for the control of sulfur dioxide for the State of Ohio (41 FR 36324). This proposed rule would amend that SIP as it applies to the B.F. Goodrich Company in Lorian County.

On July 24, 1979, B.F. Goodrich submitted a SIP revision request for its facility in Lorain County. Additional information was submitted on March 14, 1980 and May 15, 1980. B.F. Goodrich's Lorain County facility uses steam provided by two coal-fired boilers and four oil-fired boilers. The submissions request a revision to the August 27, 1976 regulation that set boiler-specified limits according to a general county-wide equation that used the rated heat capacity of each boiler.

The B.F. Goodrich Company's SIP revision involves increasing the allowable emissions from the two coal-fired boilers and reducing the allowance emissions from the four oil-fired boilers. The revision will result in a decrease in both maximum allowable SO_2 emissions and actual SO_2 emissions in comparison with current emission levels in support of its proposed revision, B.F. Goodrich submitted a modeling analysis using the RAM urban model. The use of the urban model, however, was determined to be inappropriate. Recent USEPA final rulemaking (June 24, 1980, 45 FR 42279) for the Cleveland Electric Illuminating Company's (CEI) Avon Lake Plant, located 2 km. north of B.F. Goodrich, relied on modeling performed with USEPA's rural, single-source CRSTER model. Because both the CEI and the B.F. Goodrich plants are located close together, USEPA determined that it was appropriate to model both plants together with MPTER (the multi-source version of CRSTER).

A modeling anaylsis of B.F. Goodrich and CEI with MPTER was performed by USEPA. USEPA's analysis was based on meterological data from 1973, 1976, and 1977 since the CEI analysis demonstrated that 1974 and 1975 meterological data did not produce higher impacts in this area. Based on results from the CEI modeling, USEPA's analysis also assumed a 40 $\mu g/m3$ background level to account for non-inventoried, anthropogenic and natural sources.

USEPA's modeling analyzed B.F. Goodrich with the existing SIP emission limitations rather than with the proposed emission limitations. USEPA believes that if the existing control strategy is adequate to attain the NAAQS, then the proposed control strategy will also be adequate. Under both strategies, total allowable plant emissions remain nearly constant although the relationship between the amount of emissions and the height of the emissions differs. Under the proposed control strategy, less emissions are allowed from the four shorter oil-fired boiler stacks (with heights of 18, 23, 23 and 46 meters) while greater emissions are allowed from the two taller coal-fired boiler stacks (both at 46 meters). Since the ground-level impact from a 46 meter stack will generally be less than the ground-level impact from a shorter stack (if all other stack exit and emission parameters are the same) USEPA believes that overall ground-level impacts will be less with the proposed strategy. USEPA ran the MPTER model for B.F. Goodrich and CEI Avon Lake with 1973, 1976, and 1977 Cleveland/Buffalo meterological data. On the day of the highest, second high concentration, MPTER was rerun for only B.F. Goodrich to identify B.F. Goodrich's contribution to the impacts. The results were as follows:

(a) B.F. Goodrich impacts did not alter the constraining 3-hour concentration in the area. The 3-hour concentration which was equal to the secondary NAAQS of 1300 $\mu g/m3$, was dominated by emissions from CEI's Avon Lake Plant. Consequently, at the proposed limits, the 3-hour secondary standard will be protected with B.F. Goodrich at the proposed limits.

(b) B.F. Goodrich contributed significantly to the 24-hour concentrations in the area although these concentrations were also dominated by CEI's Avon Lake Plant. The 24-hour concentrations were, however, less than the primary SO2 NAAQS of 365 $\mu g/m3$. Therefore, the 24-hour primary standard will be protected with B.F. Goodrich at the proposed limits.

(c) No annual modeling was performed since all previous analyses in this area indicate that the short-term standards are constraining. Since the analysis demonstrated that the short-term standards will be attained with the proposed emission limitations, the annual primary standard will also be protected.

USEPA also reviewed the proposed emission limitations considering various emission limitations for CEI. In its June 24, 1980 rulemaking on CEI (45 FR 42279), USEPA established two sets of emission limitations for CEI and required a fluid modeling study which may ultimately result in a third set of emission limitations. The two emission limitations were based on attainment of the constraining 3-hour secondary standard. USEPA believes that any emission limitation resulting from the fluid modeling study will also be based on the 3-hour standard. As discussed above, B.F. Goodrich does not contribute to the constraining 3-hour values.

V 45 N 0 24 80 UMI

Consequently, the applicable CEI emission limitations are not critical. Any changes in the CEI limits resulting from the fluid modeling study will not affect the revised limits for B.F. Goodrich.

Based upon the Agency's review and analysis of the SIP revision request, USEPA has determined that approval of the proposed SIP will not jeopardize the attainment and maintenance of the NAAQS. Therefore, USEPA proposes to approve the revised emission limitations for the B.F. Goodrich Company in Lorain County.

Final promulgation of this revision will follow an analysis of any public comments submitted.

Note.—Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized". I have reviewed this proposed regulation pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator and I have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart KK—Ohio

1. Section 52.1881 is amended by adding a new paragraph (b)(38)(ix) as follows:

§ 52.1881 Control Strategy: Sulfur oxides (sulfur dioxide).

* * * * *

(b) *Regulations for the control of sulfur dioxide in the State of Ohio.* * * *

(38) *In Lorain County* * * *

* * * * *

(ix) The B.F. Goodrich Company or any subsequent owner or operator of the facility in Lorain County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of the rates specified below:

(A) 0.30 pound of sulfur dioxide per million BTU of actual heat input for oil-fired boilers number 1, 2, 5, and 6.

(B) 5.20 pound of sulfur dioxide per million BTU of actual heat input for coal fired boilers number 3 and 4.

* * * * *

(Sec. 110, Clean Air Act, as amended, (42 U.S.C. 7410))

Dated: October 31, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-36564 Filed 11-21-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 261

[SWH-FRL 1679-3]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Reopening of Comment Period and Availability of Additional Information

AGENCY: Environmental Protection Agency.

ACTION: Re-opening of comment period on proposed hazardous waste listing and notice of availability of additional information.

SUMMARY: For the document concerning the reopening for sixty (60) days the deadline for comment on EPA's May 19, 1980, proposed hazardous waste listing under Section 3001 of the Resource Conservation and Recovery Act (RCRA), as amended, from the wood preserving industry, see a rule document issued in another section of today's **Federal Register**.

DATES: Comments on this additional information and on the revised listing background documents are due no later than January 23, 1981.

ADDRESSES: Comments should be addressed to Deborah Villari, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Comments should identify the regulatory docket number, "wood preserving—§ 3001."

Copies of the background document described in this notice are available for viewing at the EPA Public Information Reference Unit (Room 2404) and the RCRA Docket Room (Room 2711), both located at 401 M Street, SW., Washington, D.C. 20460, and at all EPA Regional Office libraries during the hours of 9:00 A.M. to 4:30 P.M., Mondays through Fridays.

FOR FURTHER INFORMATION CONTACT: Matthew A. Straus, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 755-9187.

Dated: November 18, 1980.

Eckardt C. Beck,

Assistant Administrator.

[FR Doc. 80-36545 Filed 11-21-80; 8:45 am]

BILLING CODE 6560-30-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 391, 392

[BMCS Docket No. MC-96; Notice No. 80-12]

Qualifications of Drivers and Driving of Motor Vehicles; Drugs

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice solicits comments on a proposed revision to the rules prohibiting the use of drugs and other substances by interstate truck and bus drivers. The present Federal Motor Carrier Safety Regulations (FMCSR) name only categories of prohibited drugs and other substances. The proposed revision lists specific drugs and substances. Thus, the proposal would revise the present rules by increasing specificity through the addition of a table of disqualifying drugs and other substances.

DATE: Comments must be received on or before March 24, 1981.

ADDRESS: All comments should refer to the docket number and notice number that appear at the top of this document and must be submitted, preferably in triplicate, to the Federal Highway Administration, Bureau of Motor Carrier Safety, Room 3402, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald J. Davis, Bureau of Motor Carrier Safety (202) 426-9767; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, (202) 426-0346, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FMCSR's current drugs and other substances rules (§ 391.15(c)(2)(i) and (ii), § 391.41(b)(12), and § 392.4) address usage, possession, transportation of drugs and other substances, and driver disqualification as a result of criminal offenses or medical disqualification. The number of inquiries by motor carriers, drivers, and other interested parties for interpretations of these rules indicates that interest in drugs and other substances is widespread and on the increase. The Bureau of Motor Carrier Safety (BMCS) proposes to update its regulatory approach concerning prohibited substances by naming and classifying prohibited drugs and other substances. The BMCS would utilize the classification system presented in the Drug Enforcement Administration's Comprehensive Drug Abuse Prevention and Control Act of 1970, (Pub. L. 91-513, October 27, 1970, 84 Stat. 1236) part of which is known as the Controlled Substances Act (CSA). The CSA would be the mechanism utilized to bring about a more comprehensive regulatory system which will provide clarification on whether a drug or other substance is prohibited. Also, the CSA is annually updated and lends itself to immediate decisionmaking by physicians, motor carriers, drivers, and BMCS personnel about the use, possession, transportation of, and driver disqualification regarding drugs and other substances in interstate or foreign commerce.

Background and Research

Most simply defined, a drug is a substance introduced into the body to alter the way the body functions. A drug's chemical makeup may be simple or complicated. A drug may be extracted from natural sources, such as plants, berries, or trees, and used in its original state or purified. Or it may be made synthetically in a laboratory.[1]

A drug may affect a specific organ, such as the brain, or many organs. Physicians ususally prescribe drugs in order to relieve pain or to obtain a few specific desired results. Sometimes a drug produces side effects that have nothing to do with the result one is trying to obtain. Side effects are usually not desirable.

The drugs discussed in this proposal have the power to change feelings, emotions, and sometimes behavior; they are psychoactive. Reactions to drugs depend on the dosage, the psychological and physiological makeup of the user, and how they are removed from the body.

With all of these influences playing a part, one can see why the same drug can affect two people differently or even the same person differently on different occasions. There are no simple cause-and-effect relationships between a drug and any behavior.

Abuse occurs when a drug is taken, usually by self-administration, in a way that departs from approved medical or social practice. The abuser takes the drug for pleasurable physical or emotional sensations, rather than for a medical reason. Sometimes the drug is taken in such large amounts that it cause physical and/or psychological damage, as well as unusual behavior.

All drugs mentioned in this proposal can create a state of dependence if administered over a long enough period of time, and can result in the abuser experiencing a sense of need if deprived of the drug. The nature and strength of this sense of need changes with the kind and amount of drug abuse.

Physical dependence developes when the body becomes accustomed to a drug and, in some unknown way, requres it in order to continue functioning. If the drug is suddenly withdrawn, uncomfortable and even violent physical reactions may occur. Withdrawal symptoms give a rough measure of how serious a drug habit has become.

Psychological dependence develops when the drug is relied upon to give a pleasurable emotional effect. If withdrawn, the abuser experiences a strong emotional, rather than physical, craving for it. However, this type of dependence can be as compelling as a physical dependence.

The term addiction has been used to describe a state or strong physical dependence. However, its usage now includes psychological dependence since drug researchers now believe that anyone who becomes so physically or psychologically dependent on a drug that they cannot live usefully without it and whose entire life centers around drugs is an addict.

The condition physicians call tolerance occurs when greater and greater amounts of a drug are required to produce the same physical and psychological effects.

Some drugs produce tolerance, and physical and psychological dependence at the same time; others produce psychological dependence and tolerance only; still others lead to psychological craving alone. Drug authorites rate the psychological need for drugs as more complex and difficult to overcome than physical dependence.

Drugs have been employed to cure sickness and bring comfort since the earliest days of recorded history. Descriptions of drugs, as medicine, can be found in Chinese manuscripts 3,000 years old. The nonmedical use of drugs—for pleasure or to create a sense of religious joy and deeper self-understanding—is probably as old as life itself. Many of the drugs that are controversial today were known to ancient cultures, and sometimes were just as controversial.

The BMCS, in its continuous effort to keep pace with the current drug controversy has researched drug-related literature and has contacted various private an governmental sources to obtain additional information to provide a basis for rulemaking in this area. All contacts provided noteworthy material; however, the BMCS has determined that the drug classification system, as set forth in the CSA, most efficiently leads itself to establishing a basis for rulemaking that can be used in regulating dangerous drugs and substances used by some commercial vehicle drivers.

The CSA's drug classification system is based on five groups and five schedules.[2] The placement of a drug in a group (narcotics, depressants, stimulants, hallucinogens, and cannabis) is based upon its biological and chemical composition, its accepted medical use in the United States, its overall effect upon the human body, and its potential for abuse. The drug groups are:

1. *Narcotics.* The term narcotic originally referred to a variety of substances including an altered state of consciousness. In current usage it means opium, its derivatives, or synthetic substitutes that produce tolerance and dependence, both pyschological and physical.

Narcotics are especially useful in the practice of medicine for the relief of intense pain. They are the most effective analgesics known. They are also used as a cough suppressant and as a century old remedy for diarrhea.

Relief of physical or emotional suffering through the use of narcotics may result in a short-lived state of euphoria. They also tend to induce drowsiness, apathy, lethargy, decreased physical activity, constipation, pinpoint pupils, and reduced vision. Except in cases of acute intoxication, there is no slurred speech nor loss of motor coordination. Large doses may induce sleep, but there is a greater probability of nausea, vomiting, and respiratory depression.

The initial effects of narcotics are often unpleasant, leading many to conclude that those who persist in their use many have latent personality disturbances that antedate the physical and psychological dependency produced. To the extent that the response is felt to be pleasurable, its intensity may be expected to increase with the amount of the dose administered. Repeated use, however, will result in increasing tolerance so that the user must administer progressively larger doses to attain the desired effect, thereby reinforcing the compulsive behavior known as narcotics addiction.

Among the drugs belonging to this group are opium, heroin, morphine, codeine and methadone.

[1] Harvey R. Greenburg, M.D., "What You Should Know About Drugs and Drug Abuse" (New York: Four Winds Press, 1971), pp. 6-11.

[2] U.S. Department of Justice, Drug Enforcement Administration. *Drug Enforcement* (Washington, D.C.: U.S. Government Printing Office, monthly issues of 2/79, 7/79, 10/79, and 3/80.)

2. *Depressants.* These substances

These effects are greatly intensified with

(preludin), and methylphenidate

fragmentary thoughts with disturbed

dependence or psychological

of motor vehicles, and there is little

2. *Depressants.* These substances have a potential for both physical and psychological dependence. Taken as prescribed by a physician, depressants can be beneficial in the symptomatic treatment of insomnia, relief of anxiety, irritability, and tension. In excessive amounts, however, they produce a state of intoxication that is remarkably similar to that of alcohol.

As with alcohol, these effects may vary not only from person-to-person, but from time-to-time in the same individual. Small doses produce mild sedation; larger doses may produce a temporary state of euphoria, mood depression and apathy. Intoxicating doses invariably result in impaired judgement, slurred speech, and an often unrealized loss of motor coordination and response time, which is critical to the safe operation of a motor vehicle. Depressants may also induce drowsiness, sleep, stupor, coma, and death. The danger of depressants multiplies when used in combination with other drugs or alcohol.

In addition to the dangers of disorientation which can result in accidents on the highway, habitual users incur increased long-term risk. Tolerance to depressants develops rapidly, extending the intake capacity while narrowing the range between an intoxicating and lethal dose. The person who is unaware of the dangers of increasing dependence will often seek prescriptions from several physicians concurrently, increasing the dose up to 10 to 20 times the recommended amount.

Anyone who ceases to take or abruptly curtails the amount of a depressant on which he/she has become dependent will encounter severe symptoms of withdrawal. If the individual is dependent on a large amount of the drug, delirium, psychotic behavior, convulsions, or death may occur.

Among the depressants that most commonly give rise to the general conditions described above are chloral hydrate, barbiturates, glutethimide, methaqualone, the benzodiazepines, and meprobamate (tranquilizers). The most common legal tranquilizer prescribed is valium.

3. *Stimulants.* This group includes drugs which act directly on the central nervous system. These "speed up" drugs are used to relieve fatigue, lethargy, and to counteract chronic depression.

The oral consumption of stimulants may result in a temporary sense of exhilaration, superabundant energy, hyperactivity, dilated pupils, increased pulse rate, increased blood pressure, loss of appetite and extended wakefulness. It may also induce irritability, anxiety and apprehension. These effects are greatly intensified with administration by intravenous injection which may produce a sudden sensation known as a "flash" or "rush." The protracted use of stimulants is followed, however, by a period of depression known as "crashing" that is invariably described as unpleasant. Since the depression can be easily counteracted by another injection of a stimulant, this abuse pattern becomes increasingly difficult to break. Heavy users may inject themselves every few hours. The process sometimes continue to the point of delirium, psychosis, or physical exhaustion.

Tolerance develops rapidly, increasing the probability of overdose. Larger doses also result in various mental aberrations, the early signs of which include repetitive grinding of the teeth, touching and picking the face and extremities, performing the same task over and over, a preoccupation with one's own thought processes, suspiciousness, and a feeling of being watched. Paranoia with auditory and visual hallucinations characterize the toxic syndrome resulting from continued high doses. Dizziness, tremor, agitation, hostility, panic, headaches, flushed skin, chest pain with palpitations, excessive sweating, vomiting, and abdominal cramps are among the symptoms of a sublethal overdose. In the absence of medical intervention, high fever, convulsions, and cardiovascular collapse may precede the onset of death.

Since death is due in part to the consequences of a marked increase in body temperature, it should be noted that physical exertion and environmental temperature may greatly increase the hazards of stimulant use. Fatalities under conditions of extreme exertion have been reported among athletes who have taken stimulants in moderate amounts.

Whether these drugs produce physical dependence is still open to question. There can be no doubt that the chronic high dose users do not easily or soon return to normal if withdrawn from stimulants. Profound apathy and depression, fatigue, and disturbed sleep, up to 20 hours a day, which can last for several days, characterize the immediate withdrawal syndrome. A lingering impairment of perception and thought processes may also be present. So strong is the psychological dependence produced by the sustained use of stimulants that anxiety, an incapacitating tenseness, and suicidal tendencies may persist for weeks or months.

Among the drugs found to be classified as stimulants are the amphetamines, cocaine, phenmetraxine (preludin), and methylphenidate (ritalin). Under the CSA, cocaine is designated a narcotic.

4. *Hallucinogens.* The hallucinogenic drugs are substances, both natural and synthetic, that distort the perception of objective reality. They produce sensory illusions making it difficult to distinguish between fact and fantasy. If taken in large doses, they cause hallucinations, the apparent perception of unreal sights and sounds.

Under the influence of hallucinogens, a user may speak of "seeing" sounds and "hearing" colors. The senses of direction, distance, and time become disoriented. Restlessness and sleeplessness are common until the drug wears off. The greatest hazard of the hallucinogens is that their effects are unpredictable each time they are taken. Mood and expectation are primary determinants in the character of the experience. Latent psychoses are easily unleashed when a user is in a hallucinogenic state. Other deep seated emotional problems surface that otherwise would not come to life. Toxic reactions may precipitate psychotic reactions and even death can occur. Persons in hallucinogenic states should be closely supervised and upset as little as possible to keep them from harming themselves and others.

Among the drugs included in this group are lysergic acid diethylamide (LSD), phencyclidine (PCP), psilocybin-psilocin, and mescaline. Under the CSA, PCP is designated a depressant.

5. *Cannabis.* this plant, grown extensively in Central and South America, Africa, India, and the Middle East, has been cultivated for centuries for the hemp fibers of the stem, for the seeds which are used in feed mixtures, and for the oil as an ingredient of paint. Also, it is grown for biologically active substances contained in its leaves and flowers.

As a psychoactive drug, cannabis is usually smoked in the form of loosely rolled cigarettes (joints), although it may also be taken orally. It may be smoked alone or in combination with other plant materials. Low doses tend to produce initial restlessness and an increased sense of well-being, followed by a dreamy, carefree state of relaxation; alteration of sensory perceptions, including an illlusory expansion of time and space; a more vivid sense of touch, sight, smell, taste, and sound; hunger, especially a craving for sweets; and subtle changes in thought formation and expression. Moderate doses may result in a state of intoxication that intensifies these reactions. The individual may experience rapidly changing emotions, shifting sensory imagery, a flight of fragmentary thoughts with disturbed associations, a dulling of attention, and impaired memory, accompanied by an altered sense of self-identity and commonly a sense of enhanced insight. High doses may result in distortions of body image, loss of personal identity, fantasies, and hallucinations. Very high doses may precipitate a toxic psychosis (i.e., temporary drug-induced brain malfunction). Drugs included in this group are marijuana, hashish, and hashish oil.

As mentioned earlier, the drug classification system used in the CSA has five schedules. Schedule I drugs and other substances are the most controlled (they have the highest abuse potential) and Schedule V are the least controlled. Section 202(b) of the CSA sets forth the findings which must be made in order to place a substance in any of the five schedules. The findings are as follows:

Schedule I

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has no current accepted medical use in treatment in the United States.

(C) There is a lack of accepted safety for use of the drug or other substances under medical supervision.

Schedule II

(A) The drug or other substance has a high potential for abuse.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States or a currently accepted medical use with severe restrictions.

(C) Abuse of the drug or other substances may lead to severe psychological or physical dependence.

Schedule III

(A) The drug or other substance has a potential for abuse less than the drugs or other substances in Schedules I and II.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to moderate or low physical dependence or high psychological dependence.

Schedule IV

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in Schedule III.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule III.

Schedule V

(A) The drug or other substance has a low potential for abuse relative to the drugs or other substances in Schedule IV.

(B) The drug or other substance has a currently accepted medical use in treatment in the United States.

(C) Abuse of the drug or other substance may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in Schedule IV.

The key criteria and the ones used most often in making these findings are the substance's potential for abuse, and its psychological and physical dependence.

Proposed Revision and Addition

In view of the information presented and the current nationwide drug controversy, the Federal Highway Administration proposes to revise the present drug regulations (§ 391.15(c)(1) and (2)(8), (ii) and (iii); § 391.41(b)(12); and § 392.4), and to add a table of disqualifying Drugs and Other Substances as Appendix D in the FMCSR.

This table shall consist of the drugs and other substances, by official, common or usual, chemical, generic, or brand name designated for manufacturing and distribution. All drugs or other substances found in this table have been evaluated in accordance with the following criteria:[3]

(1) The risk, if any, to the public while under the influence of the drug or other substance;

(2) The state and availability of current scientific knowledge regarding the drug or other substance;

(3) Scientific evidence of the drug's or other substance's pharmacological effect, if known;

(4) The drug's or other substance's accepted medical use, if any, in treatment in the United States; and

(5) The drug's or other substance's actual or relative potential for abuse.

The influence of drugs or other substances upon motor vehicle driving abilities is a significant factor in the human performance element of motor vehicle safety. Quick reactions and good judgment are required for the operation of motor vehicles, and there is little doubt that impaired reaction time and poor judgment, added to faulty attitudes, emotional disturbances, and physical disabilities are basically responsible for many, if not most, accidents. Thus, one of the key factors to reducing accidents is the overall state of the driver's mental and physical health.

Several groups of drugs are known to affect a driver's overall state of mental and physical health, which in one manner or another impairs driving ability. The more important groups have been discussed.

The revision of the FMCSR and the addition of the table will classify drugs and other substances in schedules as used in the CSA. A driver who is convicted of a crime involving the transportation, possession, or use of a Schedule I, II, III, IV, or V drug or other substance identified in the table would be disqualified for 1 year. Any Schedule I or II drug or other substance prescribed by a physician would make a driver medically unqualified to drive while using the medication. Use of Schedule III, IV, or V drugs or other substances would be cause for a driver to be found medically unqualified, if the prescribing physician cannot attest to their safety when the driver is operating a motor vehicle. The prescribing medical practitioner's criteria for judging a Schedule III, IV, or V drug or other substance would be located in Appendix D of the FMCSR.

The word "knowing" is being removed from § 391.15(c)(2)(ii) because it has created confusion about interpretation. The removal of the word clarifies that it is the intent of the regulation to disqualify anyone who has been convicted of a criminal offense described. The fact that the offense is a crime is sufficient to establish that the act was knowingly committed.

At present in § 391.41(c)(2), disqualifying drug and alcohol offenses must have been committed while operating a motor vehicle. In the revision, this requirement is changed to offenses committed while the driver is on duty. The change reflects the fact that the effects of alcohol and drugs usually continue to have an impact during the entire on-duty time. Also, a driver's nondriving on-duty period could affect safety on the highway once driving takes place. An example is pre-trip inspection and loading. A driver performing these tasks with less than normal attention could easily miss a vehicle defect or improperly load a vehicle, either of which could result in an increased probability of an accident later when driving.

[3] The method and classification system employed in controlling the manufacture, distribution, and medical use of the drug or other substance is set forth by the United States Department of Justice, Drug Enforcement Administration and the Department of Health and Human Services, Food and Drug Administration.

Comments will be available for examination by any interested person in

substance identified in Appendix D of this subchapter I.

Appendix D—Table of Disqualifying Drugs and Other Substances

(5) Alphamethadol	9605	(2) 2,5-dimethoxyamphetamine. Some trade or other names: 2,5-dimethoxy-α-	7396	Oct. 1, 1976; 42 FR 15679, Mar. 23, 1977; 43 FR
(6) Benzethidine	9606			

Comments will be available for examination by any interested person in the docket room of the Bureau of Motor Carrier Safety, Room 3402, 400 Seventh Street, SW., Washington, D.C., both before and after the closing date for comments.

Note.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. A draft regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Mr. Gerald J. Davis of the program office at the address specified above.

(49 U.S.C. 304, 49 U.S.C. 1655, 49 CFR 1.48(h) and 301.60)

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: November 17, 1980.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

Therefore, in consideration of the foregoing, it is proposed to amend Subchapter B, Chapter III, of Title 49, Code of Federal Regulations as set forth below:

PART 391—QUALIFICATIONS OF DRIVERS

1. Section 391.15(c) (1) and (2) is revised to read as follows:

§ 391.15 Disqualification of drivers.

* * * * *

(c) *Disqualification for criminal misconduct.* (1) *General Rule.* A driver who is convicted of (or forfeits bond or collateral upon a charge of) a disqualifying offense specified in paragraph (c)(2) of this section is disqualified for the period of time specified in paragraph (c)(3) of this section, if the offense was committed during on-duty time as defined in § 395.2(a) of this subchapter.

(2) *Disqualifying offenses.* The following offenses are disqualifying offenses:

(i) A driver who is on duty and under the influence of alcohol.

(ii) A driver who is on duty and under the influence of a Schedule I, II, III, IV, or V drug or other substance identified in Appendix D to this subchapter.[1]

(iii) An offense involving the transportation, possession, or unlawful use of a disqualifying drug or other substance identified in Appendix D of this subchapter.[1]

(iv) Leaving the scene of an accident which resulted in personal injury or death.

(v) A felony involving the use of a motor vehicle.

* * * * *

2. Section 391.41(b)(12) is revised to read as follows:

§ 391.41 Physical qualifications for drivers.

* * * * *

(b) * * *

(12) Does not use a drug or other substance that is identified in Schedule I, II, III, IV, or V of Appendix D to this Subchapter.

Exception: Paragraph (b)(12) of this section does not apply to the use of a Schedule III, IV, or V drug or other substance that is prescribed by a medical practitioner[1] who has assessed the driver's reaction to it and judged the drug or other substance not to have an affect on the driver's ability to safely operate a motor vehicle.

* * * * *

PART 392—DRIVING OF MOTOR VEHICLES

3. The table of sections for Part 392, Subpart A is amended by changing the heading of § 392.4 to read "Drugs and other substances," and the section is revised to read as follows:

§ 392.4 Drugs and other substances.

(a) No driver shall be on duty and possess, be under the influence of, or use any drug or other substance identified in Appendix D to this chapter.

Exception: This paragraph does not apply to the use of a Schedule III, IV, or V drug or other substance that is prescribed by a medical practitioner who has assessed the driver's reaction to it and judged the drug or other substance not to have an affect on the driver's ability to safely operate a motor vehicle.

(b) No motor carrier shall require or permit a driver to violate paragraph (a) of this section.

(c) As used in this section, "possession" does not include possession of a substance which is manifested and transported as part of a shipment.

4. Subchapter B is amended by adding Appendix D as set forth below:

Appendix D—Table of Disqualifying Drugs and Other Substances

This drug classification system's schedules are adopted in whole from 21 CFR 1308, Schedules of Controlled Substances. The prohibitions of § 391.41(b)(12) and § 392.4(a) do not apply to drivers who possess, are under the influence of, or are using any Schedule III, IV, or V drug or other substances identified in Appendix D of this subchapter if a medical practitioner[1] has prescribed the drug and assessed its safety impact on the driver operating a motor vehicle. The information a driver must provide his/her motor carrier or special agent of the BMCS, upon request, to verify eligibility for the exception must minimally address the following: (1) the medical condition being treated; and (2) the drug(s) name, dosage, and length of treatment period; and include a statement that the medical practitioner has noted or observed the driver's reaction to the named drug treatment and it is the practitioner's medical opinion that the driver's reaction will not render the driver a safety risk in operating a motor vehicle.

Note.—The Controlled Substances Act (CSA) Schedules list drugs and other substances by their chemical name. Since most prescription drugs are labeled by product name, a second format of the CSA listing in which these drugs are listed by product name is included. This format is an adaptation of "Controlled Substances Inventory List" of the United States Department of Justice's Drug Enforcement Administration, as of January 1979. Schedule I drugs and other substances are not listed since they are not prescribed by treating physicians in the United States.

Schedule II drugs are presented alphabetically by product name. Schedule III, IV, and V drugs are combined into a single alphabetized list. This format is presented to more easily facilitate utilization of the CSA's schedules by nonmedical personnel.

Schedules

§ 1308.11 Schedule I.

(a) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the DEA Controlled Substances Code Number set forth opposite it.

(b) *Opiates.* Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, salts is possible within the specific chemical designation:

(1) Acetylmethadol	9601
(2) Allylprodine	9602
(3) Alphacetylmethadol	9603
(4) Alphameprodine	9604

[1] Copies of this list of Dangerous Drugs and Other Substances may be obtained by writing to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20590, or to any Regional Motor Carrier Safety Office of the Federal Highway Administration at the address given in § 390.40 of this subchapter.

[1] "Medical practitioner" means a physician, dentist or other person licensed, registered, or otherwise permitted by the United States or the jurisdiction in which he/she practices to administer or prescribe a controlled substance in the course of professional medical service.

[1] "Medical practitioner" means a physician, dentist or other person licensed, registered, or otherwise permitted by the United States or the jurisdiction in which he/she practices to administer or prescribe a controlled substance in the course of professional medical service.

(5) Alphamethadol	9605
(6) Benzethidine	9606
(7) Betacetylmethadol	9607
(8) Betameprodine	9608
(9) Betamethadol	9609
(10) Betaprodine	9611
(11) Clonitazene	9612
(12) Dextromoramide	9613
(13) Diampromide	9615
(14) Diethylthambutene	9616
(15) Difenoxin	9168
(16) Dimenoxadol	9617
(17) Dimepheptanol	9618
(18) Dimethylthiambutene	9619
(19) Dioxaphetyl butyrate	9621
(20) Dipipanone	9622
(21) Ethylmethylthambutene	9623
(22) Etonitazene	9624
(23) Etoxeridine	9625
(24) Furethidine	9626
(25) Hydroxpethidine	9627
(26) Ketobemidone	9628
(27) Levomoramide	9629
(28) Levophenacylmorphan	9631
(29) Morpheridine	9632
(30) Noracymethadol	9633
(31) Norlevorphanol	9634
(32) Normethadone	9635
(33) Norpapanone	9636
(34) Phenadoxone	9637
(35) Phenampromide	9638
(36) Phenomorphan	9647
(37) Phenoperidine	9641
(38) Piritramide	9642
(39) Proheptazine	9643
(40) Properidine	9644
(41) Propiram	9649
(42) Racemoramide	9645
(43) Trimeperidine	9646

(c) *Opium derivatives.* Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Acetorphine	9319
(2) Acetyldihydrocodeine	9051
(3) Benzylmorphine	9052
(4) Codeine methylbromide	9070
(5) Codeine-N-Oxide	9053
(6) Cyprenorphine	9054
(7) Desomorphine	9055
(8) Dihydromorphine	9145
(9) Drotebanol	9335
(10) Etorphine (except hydrochloride salt)	9056
(11) Heroin	9200
(12) Hydromorphinol	9301
(13) Methyldesorphine	9302
(14) Methyldihydromorphine	9304
(15) Morphine methylbromide	9305
(16) Morphine methylsulfonate	9306
(17) Morphine-N-Oxide	9307
(18) Myrophine	9308
(19) Nicocodeine	9309
(20) Nicomorphine	9312
(21) Normorphine	9313
(22) Pholcodine	9314
(23) Thebacon	9315

(d) *Hallucinogenic substances.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

(1) 4-bromo-2,5-dimethoxy-amphetamine. Some trade or other names: 4-bromo-2,5-dimethoxy-α-methylphenethylamine, 4-bromo-2,5-DMA.	7391
(2) 2,5-dimethoxyamphetamine. Some trade or other names: 2,5-dimethoxy-α-methylphenethylamine, 2,5-DMA.	7396
(3) 4-methoxyamphetamine. Some trade or other names: 4-methoxy-α-methylphenethylamine; paramethoxyamphetamine, PMA.	7411
(4) 5-methoxy-3,4-methylenedioxy-amphetamine	7401
(5) 4-methyl-2,5-dimethoxy-amphetamine. Some trade and other names: 4-methyl-2,5-dimethoxyl-α-methylphenethylamine; "DOM"; and "STP"	7395
(6) 3,4-methylenedioxy amphetamine	7400
(7) 3,4,5-trimethoxy amphetamine	7390
(8) Bufotenine. Some trade and other names: 3-(β-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N,N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine.	7433
(9) Diethyltrptamine. Some trade and other names: N,N-Diethyltrptamine; DET.	7434
(10) Dimethyltryptamine. Some trade or other names: DMT	7435
(11) Ibogaine. Some trade and other names: 7-Ethyl-6,6β,7,8,9,10,12,13 - octahydro-2-methoxy-6,9-methano-5H-pyrido [1',2':1,2] azepino [5,4-b] indole: Tabernanthe iboga.	7260
(12) Lysergic acid diethylamide	7315
(13) Marihuana	7360
(14) Mescaline	7381
(15) Peyote. Meaning all parts of the plant presently classified botanically as *Lophophora williamsi Lemaire*, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (interprets 21 USC 812(c), Schedule I(c)((12))	7415
(16) N-ethyl-3-pipendyl benzilate	7482
(17) N-methyl-3-pipendyl benzilate	7484
(18) Psilocybin	7437
(19) Psilocyn	7438
(20) Tetrahydrocannabinols. Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of *Cannabis*, sp. and/or synthetic substances, derivates, and their isomers with similar chemical structure and pharmacological activity such as the following: Δ1 cis or trans tetrahydrocannabinol, and their optical isomers. Δ6 cis or trans tetrahydrocannabinol, and their optical isomers. Δ3,4 cis or trans tetrahyrocannabinol, and its optical isomers. (Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)	7370
(21) Ethylamine analog of phencyclidine. Some trade of other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE.	7455
(22) Pyrrolidine analog of phencyclidine. Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP.	7458
(23) Thiophene analog of phencyclidine. Some trade or other names: 1-[1-(2-theny,)-cyclohexyl]-pperidine, 2-theny-lanalog of phencyclidine, TPCP, TCP.	7470

(e) *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Mecloqualone	2572

[39 FR 22141, June 20, 1974, as amended at 40 FR 19813, May 7, 1975; 40 FR 28611, July 8, 1975; 41 FR 4016, Jan. 28, 1976; 41 FR 43401, Oct. 1, 1976; 42 FR 15679, Mar. 23, 1977; 43 FR 43295, Sept. 25, 1978]

§ 1308.12 Schedule II.

(a) Schedule II shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the Controlled Substances Code Number set forth opposite it.

(b) Substances, vegetable origin or chemical synthesis. Unless specifically excepted or unless listed in another schedule, any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, dextrorphan, nalbuphine, naloxone, and naltrexone, and their respective salts, but including the following:

1 Raw opium	9600
2 Opium extracts	9610
3 Opinum fluid extracts	9620
4 Powdered opum	9639
5 Granulated opium	9640
6 Tincture of opum	9630
7 Codeine	9050
8 Ethylmorphine	9190
9 Etophine hydrochlonde	9059
10 Hydrocodone	9193
11 Hydromorphone	9150
12 Metopon	9260
13 Morphine	9300
14 Oxycodone	9143
15 Oxymorphone	9652
16 Thebaine	9333

(2) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (b)(1) of this section, except that these substances shall not include the isoquineline alkaloids of opium.

(3) Opium poppy and poppy straw.

(4) Coca leaves (9040) and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extraction do not contain cocain (9041) or ecgonine (9180).

(5) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy), 9670.

(c) Opiates. Unless specifically excepted or unless in another schedule any of the following opiates, including its isomers, esters, ethers, salts and salts of isomers, esters and ethers whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation, dextrorphan excepted:

(1) Alphaprodine	9010
(2) Anileridine	9020
(3) Beztramide	9800
(4) Dihydrocodeine	9120

(5) Diphenoxylate 9170
(6) Fentanyl 9801
(7) Isomethadone 9226
(8) Levomethorphan 9210
(9) Levorphanol 9220
(10) Metazocine 9240
(11) Methadone 9250
(12) Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane 9254
(13) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropanel-carboxylic acid 9802
(14) Pethidine (meperidine) 9230
(15) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine 9232
(16) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate 9233
(17) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid 9234
(18) Phenazocine 9715
(19) Pimnodine 9730
(20) Racemethorphan 9732
(21) Racemorphan 9733

(d) *Stimulants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:

(1) Amphetamine, its salts, optical isomers, and salts of its optical isomers 1100
(2) Methamphetamine, its salts, iso-mers, and salts of its isomers 1105
(3) Phenmetrazine and its salts 1631
(4) Methylphenidate 1724

(e) *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Amobarbital 2125
(2) Methaqualone 2565
(3) Pentobarbital 2270
(4) Phencyclidine 7471
(5) Secobarbital 2315

(f) *Immediate precursors.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances:

(1) Immediate precursor to amphetamine and methamphetamine:
(i) Phenylacetone—8501
Some trade or other names: phenyl-2-propanone; P2P; benzyl methyl ketone: methyl benzyl ketone:
(2) Immediate precursors to phencyclidine (PCP):
(i) 1-phenylcyclohexylamine—7460
(ii) 1-piperidinocyclohexanercarbonitrile (PCC)—8603

[39 FR 22142, June 20, 1974, as amended at 40 FR 6780, Feb. 14, 1975; 40 FR 10456, Mar. 6, 1975; 41 FR 28568, June 28, 1976; 41 FR 43401, Oct. 1, 1976; 42 FR 15680, Mar. 23, 1977; 43 FR 21325, May 17, 1978; 44 FR 71823, Dec. 12, 1979]

§ *1308.13 Schedule III.*

(a) Schedule III shall consist of the drugs and other substances, by whatever and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the DEA Controlled Substances Code Number set forth opposite it.

(b) *Stimulants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Those compounds, mixtures, or preparations in dosage unit form containing any stimulant substances listed in schedule II which compounds, mixtures, or preparations were listed on August 25, 1971, as excepted compounds under § 306.32, and any other drug of the quantitive composition shown in that list for those drugs or which is the same except that it contains a lesser quantity of controlled substances 1405
(2) Benzphetamine 1228
(3) Chlorphentermine 1645
(4) Clortermine 1647
(5) Mazindol 1605
(6) Phendimetrazine 1615

(c) *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system:

(1) Any compound, mixture or preparation containing:
(i) Amobarbital 2125
(ii) Secobarbital 2315
(iii) Pentobarbital 2270
or any salt thereof and one or more other active medicinal ingredients which are not listed in any schedule.
(2) Any suppository dosage form containing:
(i) Amobarbital 2125
(ii) Secobarbital 2315
(iii) Pentobarbital 2270
or any salt of any of these drugs and approved by the Food and Drug Administration for marketing only as a suppository.
(3) Any substance which contains any quantity of a derivative of barbituric acid or any salt thereof 2100
(4) Chlorhexadol 2510
(5) Glutethimide 2550
(6) Lysergic acid 7300
(7) Lysergic acid amide 7310
(8) Methyprylon 2575
(9) Sulfondiethylmethane 2600
(10) Sulfonethylmethane 2605
(11) Sulfonmethane 2610

(d) Nalorphine 9400.

(e) *Narcotic Drugs.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1.8 grams of codeine per 100 milliliters of not more than 90 milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium 9803
(2) Not more than 1.8 grams of codeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognzed therapeutic amounts 9804
(3) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium 9805
(4) Not more than 300 milligrams of dihydrocodeinone per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts 9806
(5) Not more than 1.8 grams of dihydrocodeine per 100 milliliters or not more than 90 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts 9807
(6) Not more than 300 milligrams of ethylmorphine per 100 milliliters or not more than 15 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts 9808
(7) Not more than 500 milligrams of opium per 100 milliliters or per 100 grams or not more than 25 milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts 9809
(8) Not more than 50 milligrams of morphine per 100 milliliters or per 100 grams, with one or more active nonnarcotic ingredients in recognized therapeutic amounts 9810

[39 FR 22142, June 20, 1974, as amended at 41 FR 43401, Oct. 1, 1976, 43 FR 3359, Jan. 25, 1978; 44 FR 40888, July 13, 1979]

§ *1308.14 Schedule IV.*

(a) Schedule IV shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name or brand name designated, listed in this section. Each drug or substance has been assigned the DEA Controlled Substances Code Number set forth opposite it.

(b) *Narcotic drugs.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(1) Not more than 1 milligram of difenoxin (DEA Drug Code No. 9168) and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts or isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Barbital 2145
(2) Chloral betaine 2460
(3) Chloral hydrate 2465
(4) Chlordiazepoxide 2744
(5) Clonazepam 2737
(6) Clorazepate 2768
(7) Diazepam 2765
(8) Ethchlorvynol 2540
(9) Ethinamate 2545
(10) Flurazepam 2767
(11) Lorazepam 2885
(12) Mebutamate 2800
(13) Meprobamate 2820
(14) Methohexital 2264
(15) Methylphenobarbital (mephobarbital) 2250
(16) Oxazepam 2835
(17) Paraldehyde 2585
(18) Petrichoral 2591
(19) Phenobarbital 2285
(20) Prazepam 2764

(d) *Fenfluramine.* Any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers, whenever the existence of such salts, isomers, and salts of isomers is possible:

(1) Fenfluramine 1670

(e) *Stimulants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position, or geometric), and salts of such isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

(1) Diethylpropion 1610
(2) Phentermine 1640
(3) Pemoline (including organometallic complexes and chelates thereof) 1530

(f) *Other substances.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances, including its salts:

(1) Dextropropoxyphene (alpha - (+) - 4 - dimethylamino-1,2 - diphenyl - 3 - methyl - 2 -propionoxybutane) 8121
(2) Pentazocine 9709

[39 FR 22143, June 20, 1974; 40 FR 4150, Jan. 28, 1975, as amended at 40 FR 24001, June 4, 1975; 41 FR 43402, Oct. 1, 1976; 41 FR 55176, Dec. 17, 1976; 42 FR 8636, Feb. 11, 1977; 42 FR 54546, Oct. 7, 1977; 43 FR 38383, Aug. 28, 1978; 44 FR 2170, Jan. 10, 1979; 44 FR 40888, July 13, 1979]

§ *1308.15 Schedule V.*

(a) Schedule V shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section.

(b) Narcotic drugs containing nonnarcotic active medicinal ingredients. Any compound, mixture, or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation valuable medicinal qualities other than those possessed by narcotic drugs alone:

(1) Not more than 200 milligrams of codeine per 100 milliliters or per 100 grams.

(2) Not more than 100 milligrams of dihyrocodeine per 100 milliliters or per 100 grams.

(3) Not more than 100 milligrams of ethylmorphine per 100 milliliters or per 100 grams.

(4) Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit.

(5) Not more than 100 milligrams of opium per 100 milliliters or per 100 grams.

(6) Not more than 0.5 milligram of difenoxin (DEA Drug Code No. 9168) and not less than 25 micrograms of atropine sulfate per dosage unit.

(c) Loperamide 8125.

[39 FR 22143, June 20, 1974, as amended at 42 FR 25499, May 18, 1977; 43 FR 38383, Aug. 28, 1978; 44 FR 40888, July 13, 1979]

BILLING CODE 4910-22-M

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Controlled Substances Inventory List

Revised - January 1979
Subject to the Controlled Substances Act of 1970
(Public Law 91-513)

United States Department of Justice
Drug Enforcement Administration
Washington, D.C. 20537

Abbreviations

Aerosol	AR	Miscellaneous	MI
Bulk	BL	Ointment	ON
Capsule	CA	Powder	PW
Crystal	CR	Solution	SL
Disc	DI	Spray	SP
Drops	DP	Suppository	SU
Effervescent tablet	FT	Suspension	SS
Elixir	EL	Sustained rel cap	XC
Emulsion	EM	Sustained rel tab	XT
Enteric coated tab	ET	Syrup	SY
Enteric coated cap	EC	Tablet	TB
Gas	GS	Tincture	TR
Gel	GL	Wafer	WA
Granule	GR		
Hypodermic tablet	HT	**Schedule**	
Inhaler	IN	C-I	1
Injection	IJ	C-II	2
Jelly	JL	C-III	3
Liquid	LQ	C-IV	4
Lotion	LO	C-V	5
Lozenge	LZ		

LIST OF SCHEDULE II DRUGS

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
A			
A T A	CENCO H E LABS INC	TB	2
ACHLOR	WAYNE MEDICAL CO	CA	2
AMBAR EXTENTABS	VARIOUS	XT	2
AMOBARBITAL (SALTS)	VARIOUS	PW	2
AMOBARBITAL (SALTS)	VARIOUS	CA	2
AMOBARBITAL (SALTS)	VARIOUS	HS	2
AMOBARBITAL (SALTS)	VARIOUS	TB	2
AMOBARBITAL (SALTS)	VARIOUS	IJ	2
AMOBARBITAL D-LAY	LEMMON PHARMACAL CO	XT	2
AMPHAPLEX 10,30	PALMEDICO INC	TB	2
AMPHETABS NO.3 FIVE	SHERRY PHARM CO	TB	2
AMPHETAMINE (SALTS) & (ISOMERS)	VARIOUS	CA	2
AMPHETAMINE (SALTS) & (ISOMERS)	VARIOUS	PW	2
AMPHETAMINE (SALTS) & (ISOMERS)	VARIOUS	TB	2
AMPHOCAPS-TD	STARR PHARMACAL EC	CA	2
AMSEC 2	KENYON DRUG COMPANY	CA	2
AMYLATE	MALSEY DRUG COMPANY	CA	2
AMYTAL (SALTS)	VARIOUS	CA	2
AMYTAL (SALTS)	VARIOUS	TB	2
AMYTAL (SALTS)	VARIOUS	IJ	2
AMYTAL (SALTS)	VARIOUS	PW	2
ANALGESIC INJECTION	IOWA UNIVERSITY	IJ	2
ANILERIDINE	MERCK & CO INC	PW	2
ANILERIDINE HYDROCHLORIDE	MERCK & CO INC	PW	2
APC W/MEPERIDINE HYDROCHLORIDE REDIPAK	WYETH LABORATORIES	TB	2
APC WITH DEMEROL	WINTHROP LABS	TB	2
AQUETTE	FLAB MEDICINE CO	LQ	2
B			
B & O	VARIOUS	SU	2
BAMADEX SEQUELS	LEDERLE LABORATORIES	XC	2
BARB-3,0	FREEPORT DRUG CO	TB	2
BARB-4,5	FREEPORT DRUG CO	CA	2
BARBIDEO	RUGBY LABORATORIES	TB	2
BINAPAC	PHILADELPHIA CAPS CO	CA	2
BENZEDRINE	SMITH KLINE FRENCH	TB	2
BENZEDRINE SPANSULE	SMITH KLINE FRENCH	XC	2
BEUTHANASIA	BURNS-BIOTEC	IJ	2
BEUTHANASIA SPECIAL	BURNS-BIOTEC	IJ	2
BIOCIDE (VET)	BIOLAB CORP	IJ	2
BIPHETAMINE	VARIOUS	CA	2
BROWN'S MIXTURE (GLYCERINATED AND OPIUM)	AMARCHIC INC	TB	2
C			
BUCOSED	BURNS-BIOTEC	IJ	2
BUTISECO	BOWMAN PHARMACEUTIC	TB	2

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
C			
CARODESE	CATAWBA CAROMED	XC	2
CHLOROPENT	FORT DODGE LABS	IJ	2
COCAINE	VARIOUS	PW	2
CODEINE (SALTS)	VARIOUS	IJ	2
CODEINE (SALTS)	VARIOUS	PW	2
CODEINE (SALTS)	VARIOUS	TB	2
CODOINE	LEMMON PHARMACAL CO	TB	2
COMBUTHAL	DIAMOND LABS	IJ	2
COMBUTHAL	ABBOTT LABS	PW	2
COMPOBARB	VITARINE CO INC	CA	2
COSEMAL	CALDWELL & BLOCK CO	CA	2
D			
D-S-DESAMINE YELLOW	STARR PHARMACAL LA	XT	2
D-9-ESOPHEN	STARR PHARMACAL LA	XT	2
DA-15-T	PREVENTIVE PHARM CO	CA	2
DA-5, DA-10	PREVENTIVE PHARM CO	TB	2
DATRIL W OXYCODONE	BRISTOL LABS	TB	2
DEE-DER-5,-10	MERICON INDUSTRIES	TB	2
DEE-10	VARIOUS	TB	2
DEL DRIN, -5	MERICON	TB	2
DELCODESE	MAST M M COMPANY	CA	2
DELCODESE	DELCO CHEMICAL	CA	2
DELCODESE	DELCO CHEMICAL	TB	2
DEMEROL	WINTHROP LABS	LQ	2
DEMEROL	WINTHROP LABS	IJ	2
DEMEROL	WINTHROP LABS	TB	2
DEMEROL APAP	BREON LABS	TB	2
DESAMINE	STARR PHARMACAL LA	TB	2
DESAMINE # 100 # 15	STARR PHARMACAL LA	XC	2
DESOPHEN #1	STARR PHARMACAL LA	XC	2
DESOPHEN-G # 10 GREEN (SPECIAL FORMULA)	STARR PHARMACAL EC	TB	2
DESOPHEN-L #5	STARR PHARMACAL EC	TB	2
DESORYEPHEDRINE (SALTS) & (ISOMERS)	VARIOUS	PW	2
DESORYEPHEDRINE (SALTS) & (ISOMERS)	VARIOUS	CA	2
DESOXYN	ABBOTT LABS	TB	2
DESOXYN (GRADUMET)	VARIOUS	TB	2
DEXAMPEX	LEMMON PHARMACAL CO	CA	2
DEXAMPEX	LEMMON PHARMACAL CO	TB	2
DEXAMYL # 1, # 2	VARIOUS	CA	2
DEXAMYL TABLETS	SMITH KLINE FRENCH	TB	2
DEXEDRAY T.D.	VARIOUS	XC	2
DEXEDRINE	VARIOUS	TB	2
DEXEDRINE	VARIOUS	IL	2
DEXEDRINE	VARIOUS	CA	2
DEXTRO-15 PROLONGSULES	MAST M M COMPANY	XC	2
DEXTROAMPHETAMINE & AMOBARBITAL	VARIOUS	CA	2
DEXTROCELL	JONES AND VAUGHAN	TB	2
DIABUTAL	DIAMOND LABS	IJ	2
DIANABIT-3	CIBA-GEIGY CORP	CA	2
DIARRHEA TABLETS	ANABOLIC INC	TB	2
DICODID BITARTRATE	KNOLL PHARMACEUTICAL	TB	2
DICODID BITARTRATE	KNOLL PHARMACEUTICAL	PW	2
DIDRATE	PENICK & CO	BL	2
DIHYDROCOMP	KIRKMAN LABS	TB	2
DILAUDID	KNOLL PHARMACEUTICAL	TB	2
DILAUDID	KNOLL PHARMACEUTICAL	IJ	2
DILAUDID	KNOLL PHARMACEUTICAL	PW	2
DILAUDID	KNOLL PHARMACEUTICAL	LQ	2
DILOCOL	BELL PHARM CORP	HS	2

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
DIONIN	MERCK & CO INC	PW	2
DIPHENOXYLATE HCL	MALLINCKRODT	BL	2
DIPHENOXYLATE HCL	PENICK & CO	BL	2
DIPYLLETS	TUTAG PHARMACEUTICAL	CA	2
DI-DESOXYEPHEDRINE	VARIOUS	TB	2
DI-DESOXYEPHEDRINE	VARIOUS	PW	2
DOFS WT	DOFS LABS	XC	2
DOFSDEX	DOFS LABS	CA	2
DOFSDEX	DOFS LABS	TB	2
DOLOPHINE HCL	LILLY ELI & CO	IJ	2
DOLOPHINE HCL	LILLY ELI & CO	TB	2
DUO BARB	TRIKETON C O INC	CA	2
DX-2,5,5,10	WESTERN RESEARCH LAB	TB	2
E			
EQUIANE ANESTHETIC (VET)	VETERINARY LABS INC	IJ	2
ESKATROL	SMITH KLINE FRENCH	XC	2
ETHOBRAL	WYETH LABORATORIES	CA	2
ETHYLMORPHINE HCL	PENICK & CO	BL	2
EU SLEEP	AMERLAB	III	2
EUSOL SOLUTION	MUTUAL PHARM	III	2
EUTH-O-BARB	HOLMES SERUM CO	IJ	2
EUTHA VET-3 & 6	PACIFIC VET SUPPLY	III	2
EUTHANASIA	VARIOUS	III	2
EUTHANASIA	VARIOUS	BL	2
EUTHANOL-6	TRICO PHARM	III	2
EUTHANSOL	VARIOUS	IV	2
EUTHENSA	ARIZONA VET SUPPLY	IJ	2
F			
FATAL (VET)	NORTH AMERICAN PHARM	IJ	2
FENTANYL CITRATE USP	PENICK & CO	BL	2
FERNDEX	FERNDALE LABS	TB	2
FETAMIN	MISSION PHARM CO	TB	2
G			
GUM-LYN WITH CHERRY	SCRIP INC	LQ	2
H			
HOUSED	DELTA DRUG (PLA)	CA	2
HYCODAN	ENDO LABS INC	PW	2
HYDROMORPHONE	VARIOUS	IJ	2
HYDROMORPHONE	VARIOUS	PW	2

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PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
I			
INNOVAR	JANSSEN PHARM	TB	2
INNOVAR-VET	JANSSEN PHARM	VE	2
IPECAC & OPIUM POWDER	VARIOUS	BL	2
L			
LANABARB # 1 & # 2	LANNETT CO	CA	II
LAUDACM	BUTLER W A CO	LQ	II
LAYBARB	TRUXTON C O INC	TB	2
LEBITINE	MERCK & CO INC	IJ	2
LEBITINE	MERCK & CO INC	TB	2
LETAKE EUTHYSOL	BARBER VET SUPPLY	IJ	2
LEVO-DROMORAN	ROCHE LABS	TB	2
LEVO-DROMORAN	ROCHE LABS	IJ	2
M			
M-99 M-30-30	D-M PHARMACEUTICALS	IJ	2
MASON'S EQUANIL (VET)	STATE VET SUPPLY	IJ	2
MEPERGAN	WYETH LABORATORIES	IJ	2
MEPERIDINE	VARIOUS	IJ	2
MEPERIDINE	VARIOUS	TB	2
METAZOCINE	PENNICK & CO	BL	2
METHADONE HCL	MALLINCKRODT	BL	2
METHADOSE	MALLINCKRODT	LQ	2
METHAMPEX	LEMMON PHARMACAL CO	TB	2
METHAMPHETAMINE	VARIOUS	PW	2
METHAMPHETAMINE	VARIOUS	TB	2
METHAQUALONE	GAME'S CHEMICAL WKS	BL	2
METHYLPHENIDATE HCL	VARIOUS	TB	2
MONOSYL	ARCUM PHARM CORP	TB	2
MORPHINE	VARIOUS	IJ	2
MORPHINE	VARIOUS	PW	2
M-30-30 DIPRENORPHINE (VET)	LEDERLE LABORATORIES	IJ	2
M99 ETORPHINE (VET)	LEDERLE LABORATORIES	IJ	2
N			
NAPUZEM	ZEMMER CO INC	PW	2
NEMBUTAL	ZEMMER CO INC	IJ	2
NEM-KAP	SCRIP INC	CA	2
NEMBUTAL	VARIOUS	BL	2
NEMBUTAL	VARIOUS	IJ	2
NEMBUTAL	VARIOUS	TB	2
NEMBUTAL	VARIOUS	CA	2
NEOTAL (PINK)	CALDWELL & MOOR CO	TB	2
NIDAR	ARMOUR PHARM	TB	2
NIGHT CAPS	SCHWARZ PHARMACEUTIC	CA	2
NIRVAPASE	NORTHRUP PHARM	TB	2
NISENTIL	ROCHE LABS	IJ	2
NUMORPHAN	ENDO LABS INC	SW	2
NUMORPHAN	ENDO LABS INC	IJ	2
O			
OBETROL-10	OBETROL PHARM	TB	2
OBETROL-20	OBETROL PHARM	TB	2
OBOTAM	MALLINCKRODT	TB	2
OMNISED	DELTA DRUG (FLA)	TB	2
OPIUM	VARIOUS	TB	2
OPIUM	VARIOUS	PW	2
OXYCODONE HCL	MALLINCKRODT	BL	2
OXYCODONE TEREPHTHALATE	MALLINCKRODT	BL	2
OXYDESS	VARIOUS	TB	2
P			
PANTOPON	PENNICK & CO	BL	2
PANTOPON	ROCHE LABS	IJ	2
PARADUAL	R&A-MOUNT SURG SUPP	CA	2
PAREST 200	PARKE-DAVIS & CO	CA	2
PAREST-400	PARKE-DAVIS & CO	CA	2
PARSTONE BITARTRATE	MALLINCKRODT	PW	2
PEMBAR	VANGARD LABS	CA	2
PENTO TABS	MERICON INDUSTRIES	TB	2
PENTOBARBITAL	VARIOUS	PW	2
PENTOBARBITAL	VARIOUS	TB	2
PENTOBARBITAL	VARIOUS	CA	2
PENTOBARBITAL	VARIOUS	IJ	2
PENTOBARBITAL SODIUM (VET)	VARIOUS	IJ	2
PENTOSOL	VARIOUS	IJ	2
PERCOBARB	ENDO LABS INC	CA	2
PERCOCET-5	ENDO LABS INC	TB	2
PERCODAN	ENDO INC	TB	2
PETHADOL	HALSEY DRUG COMPANY	TB	2
PHENAZOCINE HBR POWDER	PENNICK & CO	BL	2
PHENMETRAZINE HYDROCHLORIDE	WESTERN FINER LABS	PW	2
POPPY STRAW	VARIOUS	BL	2
PRELUDIN	VARIOUS	TB	2
PRO-EUTHA-SOL-10	PRO-MED-CO	IJ	2
PYRAZENE W ANTIHISTAMINE & COMPONT	SAYLOR MED & SURG	SV	2
PYRAMID IMPROVED	SMITH DRUG CO	EL	2
QUAALUDE	ROBER INC	TB	2
QUAD SET	RENYON DRUG CO	TB	2
QUADAMINE	HARVEY LABS	TB	2
QUADRA-SED	VARIOUS	TB	2

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
R			
RITALIN	CIBA-GEIGY CORP	IJ	2
RITALIN	VARIOUS	TB	2
RODYNE 2 & 3	PRUDENT PHARM	TB	2
ROTASE-MITTE	NORTHRUP PHARM	TB	2
S			
SACCAMINE	TRUXTON C O INC	TB	2
SACCAMINE-10	TRUXTON C O INC	TB	2
SACCAMINE-30	TRUXTON C O INC	TB	2
SAP	LEMMON PHARMACAL CO	TB	2
SCHUCRULES 1	MERICON INDUSTRIES	CA	2
SEBAR	VANGARD LABS	CA	2
SEC-BAP	SCRIP INC	CA	2
SECANAP	ZEMMER CO INC	TB	2
SECO-B	FLEMING AND COMPANY	CA	2
SECOBARBITAL	VARIOUS	LQ	2
SECOBARBITAL	VARIOUS	CA	2
SECOBARBITAL	VARIOUS	PW	2
SECOBARBITAL	VARIOUS	IJ	2
SECOBARBITAL (SALTS)	VARIOUS	TB	2
SECOBARBITAL & AMOBARBITAL	VARIOUS	CA	2
SECONAL	LILLY ELI & CO	EL	2
SECONAL SODIUM	LILLY ELI & CO	CA	2
SECOPHEN (WHITE SQUARE)	MALLARD INC	TB	2
SECTAL D.S	SHERRY PHARM CO	CA	2
SECTAL S.S	SHERRY PHARM CO	CA	2
SERPYLAN	BIO-CEUTIC LABS	IJ	2
SERPYLAN (VIAL)	PHELPS ROXANE LABS	IJ	2
SLEEPAWAY	FORT DODGE LABS	IJ	2
SODACTIVES	SCRIP INC	EE	2
SOMNAFAC	COOPER LABS INC	CA	2
SOMNAFAC FORTE	COOPER LABS INC	CA	2
SOMNIPENTYL	PITMAN-MOORE	IJ	2
SOPOR	ARNAR-STONE LABS	TB	2
SPANCAP	VARIOUS	CA	2
ST MICOBARB	SCOT-TUSSIN PHARM	CA	2
STAT	CHADWICK PHARMACALS	RT	2
STIM	SCRIP INC	CA	2
SURUMAZE	ACHIEVE LABS INC	IJ	2
SYNTHETIC CODEINE	PENNICK & CO	BL	2
T			
THEBAINE	VARIOUS	BL	2
THALY DELSOM	QUEEN CITY PHARMACAL	EE	2
THALY DELSOM	QUEEN CITY PHARMACAL	MC	2
TRI-BARB	CUMBERLAND PHARM	TB	2
TRI-BARBS	VARIOUS	CA	2
TRI-SED	VARIOUS	TB	2
TRIBARB	LANNETT CO	CA	2
TRIO-BAR	VARIOUS	TB	2
TRIOBAR	QUEEN CITY PHARMACAL	TB	2
TRIP NOTIC	ORTEGA PHARM CO	CA	2
TRIPLE BARBITURATE	VARIOUS	TB	2
TRIPLE BARB	MOORE KIRK LABS	TB	2
TRIUMBARB BROWN	TRUXTON C O INC	TB	2
TWIN BARBITAL MOD	RUGBY LABORATORIES	CA	2
TYLOX	ACHIEVE LABS INC	CA	2
U			
U H BROMPTON'S MIXTURE	IOWA UNIVERSITY	SL	2
UTHOL SOLUTION (VET)	BUTLER W A CO	IJ	2
V			
V PENTO (VET)	BUCK AND SON INC	IJ	2
W			
WETAKETAMINE	VITARINE CO INC	EE	II
WITCHER'S EQUINE ANESTHETIC	WITCHER D L	EE	2
WITCHER'S EUTHANASIA (VET)	WITCHER D L	IJ	2
Z			
ZEMSORYN	ZEMMER CO INC	TB	2

CONSOLIDATED LIST-SCHEDULE III, IV, AND V DRUGS

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
A			
ACTAGEN	ACTAGEN	TB	3
ACTAGEN	ACTAGEN	CA	3
ACTAGEN	ACTAGEN	IJ	3
ACTAGEN	ACTAGEN	SY	3
ACTAGEN	ACTAGEN	SU	3
ACTAGEN	ACTAGEN	EL	3
ACTAGEN	ACTAGEN	RT	3
ACTAGEN	ACTAGEN	BL	3
ACTAGEN	ACTAGEN	EE	3
ACTAGEN	ACTAGEN	MC	3
ACTAGEN	ACTAGEN	PW	3
ACTAGEN	ACTAGEN	LQ	3
ACTAGEN	ACTAGEN	VE	3
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ACTAGEN	ACTAGEN	CV	3
ACTAGEN	ACTAGEN	CU	3
ACTAGEN	ACTAGEN	CT	3
ACTAGEN	ACTAGEN	CS	3
ACTAGEN	ACTAGEN	CR	3
ACTAGEN	ACTAGEN	CP	3
ACTAGEN	ACTAGEN	CO	3
ACTAGEN	ACTAGEN	CN	3
ACTAGEN	ACTAGEN	CM	3
ACTAGEN	ACTAGEN	CL	3
ACTAGEN	ACTAGEN	CK	3
ACTAGEN	ACTAGEN	CJ	3
ACTAGEN	ACTAGEN	CH	3
ACTAGEN	ACTAGEN	CG	3
ACTAGEN	ACTAGEN	CF	3
ACTAGEN	ACTAGEN	CE	3
ACTAGEN	ACTAGEN	CD	3
ACTAGEN	ACTAGEN	CC	3
ACTAGEN	ACTAGEN	CB	3
ACTAGEN	ACTAGEN	CA	3
ACTAGEN	ACTAGEN	BZ	3
ACTAGEN	ACTAGEN	BY	3
ACTAGEN	ACTAGEN	BX	3
ACTAGEN	ACTAGEN	BW	3
ACTAGEN	ACTAGEN	BV	3
ACTAGEN	ACTAGEN	BU	3
ACTAGEN	ACTAGEN	BT	3
ACTAGEN	ACTAGEN	BS	3
ACTAGEN	ACTAGEN	BR	3
ACTAGEN	ACTAGEN	BP	3
ACTAGEN	ACTAGEN	BO	3
ACTAGEN	ACTAGEN	BN	3
ACTAGEN	ACTAGEN	BM	3
ACTAGEN	ACTAGEN	BL	3
ACTAGEN	ACTAGEN	BK	3
ACTAGEN	ACTAGEN	BJ	3
ACTAGEN	ACTAGEN	BH	3
ACTAGEN	ACTAGEN	BG	3
ACTAGEN	ACTAGEN	BF	3
ACTAGEN	ACTAGEN	BE	3
ACTAGEN	ACTAGEN	BD	3
ACTAGEN	ACTAGEN	BC	3
ACTAGEN	ACTAGEN	BB	3
ACTAGEN	ACTAGEN	BA	3
ACTAGEN	ACTAGEN	AZ	3
ACTAGEN	ACTAGEN	AY	3
ACTAGEN	ACTAGEN	AX	3
ACTAGEN	ACTAGEN	AW	3
ACTAGEN	ACTAGEN	AV	3
ACTAGEN	ACTAGEN	AU	3
ACTAGEN	ACTAGEN	AT	3
ACTAGEN	ACTAGEN	AS	3
ACTAGEN	ACTAGEN	AR	3
ACTAGEN	ACTAGEN	AP	3
ACTAGEN	ACTAGEN	AO	3
ACTAGEN	ACTAGEN	AN	3
ACTAGEN	ACTAGEN	AM	3
ACTAGEN	ACTAGEN	AL	3
ACTAGEN	ACTAGEN	AK	3
ACTAGEN	ACTAGEN	AJ	3
ACTAGEN	ACTAGEN	AH	3
ACTAGEN	ACTAGEN	AG	3
ACTAGEN	ACTAGEN	AF	3
ACTAGEN	ACTAGEN	AE	3
ACTAGEN	ACTAGEN	AD	3
ACTAGEN	ACTAGEN	AC	3
ACTAGEN	ACTAGEN	AB	3
ACTAGEN	ACTAGEN	AA	3

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
Z			
ZEMSORYN	ZEMMER CO INC	TB	2

CONSOLIDATED LIST-SCHEDULE III, IV, AND V DRUGS

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
A			
A.C.A.P.	VARIOUS	TB	3
A.C.D	PHILIPS ROXANE LABS	TB	5
A.C.D.	PHILIPS ROXANE LABS	CA	3
A.P.B.	LEMMON PHARMACAL CO	TB	3
A-N-R # 1 & # 2	PALMEDICO INC	SU	3
A-POXIDE	ABBOTT LABS	CA	4
A-REX C EXPECTORANT	BUCKSTUHL COMPANY	SY	5
ABGAT	HALSOM DRUG CO	TB	3
ABGAT	HALSOM DRUG CO	CA	3
AC TUSSIN	MAST M M COMPANY	SY	5
ACCOPAIN	VITARINE CO INC	CA	5
ACEDOVAL	VALE CHEMICAL CO	TB	3
ACETA W CODEINE	CENTURY PHARM INC	TB	3
ACETAMINOPHEN W CODEINE	VARIOUS	TB	3
ACODA-ZEM	ZEMMER CO INC	TB	3
ACODA ZEM	ZEMMER CO INC	CA	3
ACRUSED	WILL-STAN PRODUCTS	LQ	3
ACTACIN C	VARIOUS	LQ	5
ACTAGEN-C	GENERIX DRUG CORP	LQ	5
ACTAMINE-C EXPECTORANT	MOORE DRUG EXCHANGE	LQ	5
ACTECON C	VARIOUS	LQ	5
ACTIFED-C EXPECT.	BURROUGHS WELLCOME	LQ	5
ACTION-C EXPECTORANT	MICHIGAN PHARM	LQ	5
ACTIPAR-C	PARMED PHARM	LQ	5
ACUTUSS EXPECTORANT WITH CODEINE	PHILIPS ROXANE LABS	LQ	5
ADATUSS	VARIOUS	SY	3
ADCOTUSS	ADCO PHARM	LQ	5
ADIPEX 8	LEMMON PHARMACAL CO	TB	4
ADIPEX 8	LEMMON PHARMACAL CO	XC	4
ADIPEX P	LEMMON PHARMACAL CO	CA	4
ADIPEX-P BLUE/WHITE	LEMMON PHARMACAL CO	TB	4
ADPHEN	FERNDALE LABS	TB	3
AFED C EXPECTORANT SYRUP	GENEVA GENERICS	SY	5
AIDANT	NOYES P J CO	TB	3
AL NAL	VARIOUS	TB	3
AL NAL	VARIOUS	CA	3
ALADRINE	VARIOUS	TB	3
ALADRINE SUSPENSION	MERIT PHARM CO	SS	3
ALAMINE C	NORTH AMERICAN PHARM	LQ	5
ALBUTAL WHITE	BELL GEO H CHEMISTS	TB	3
ALKAMINT	MACKSEIN & COMPANY	TB	4
ALLERFRIN W CODEINE	RUGBY LABORATORIES	LQ	5
ALLERIN C EXPECTORANT	RUGBY LABORATORIES	LQ	5
ALLERPHED-C	SPENCER-MEAD INC	LQ	5
ALLERTANE DC	PHARMECON INC	LQ	5
ALLERTANE DC EXPECTORANT	FATON PHARM INC	LQ	5
ALPHENAL	GANE'S CHEMICAL WKS	EL	3
ALPRINE	ULMER PHARMACAL CO	TB	3
ALURATE	ROCHE LABS	EL	3
ALURATE VERDUM	ROCHE LABS	EL	3
ALURET	FOY LABS INC	TB	4
AM TUSS	AMID LABS INC	SY	5
AMBENYL EXPECTORANT	PARKE DAVIS & CO	SY	5
AMBUTAL	AREND MILLER PHARM	TB	3
AMEGINE	AREND MILLER PHARM	TB	3
AMERITABS	HAUCK W E INC	TB	3
AMGENAL EXPECTORANT	GENERIX DRUG CO	LQ	5
AMMEX 100 MG	AMPLE PHARM CO	XC	3
AMOGEL PG	NORTH AMERICAN PHARM	LQ	5
AMOGEL PG TABLETS	NORTH AMERICAN PHARM	TB	3
AMPHASUB (LIGHT PINK)	PALMEDICO INC	TB	3
AMPHAZINE (BROWN AND YELLOW)	PALMEDICO INC	XC	3
ANAGRAINE	HARNEL PHARM COMPANY	TB	3
ANAIDS	O'NEAL JONES FELDMAN	TB	4
ANALGESIC TABLETS	VITARINE CO INC	TB	3
ANALGESIC-ANTIPYRETIC-ANTITUSSIVE	DRUMMER LABS	TB	3
ANALGESIN	DANIELS PHARM	CA	3
ANALGESTINE	MALLARD INC	TB	3
ANALGESTINE FORTE	MALLARD INC	CA	3
ANEXSIA WITH CODEINE	BEECHAM-MASSENGILL	TB	3
ANEXSIA-D	BEECHAM MASSENGILL	TB	3
ANOREX-MCS-DMC	COOPER LABS INC	TB	3
ANOQUAN	MALLARD INC	CA	3
ANORACT	FORT DAVID LABS	TB	3

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
ANOREX	DUNHALL PHARM INC	TB	3
ANOXINE (ORANGE)	WINSTON PHARMACEUTIC	TB	3
ANOXINE-AM	WINSTON PHARMACEUTIC	CA	4
ANOXINE-T (BLUE AND ORANGE)	WINSTON PHARMACEUTIC	XC	3
ANSER	VARIOUS	SU	3
ANTI-HIST	BEVERLY MEDICAL SUP	SY	5
ANTI-TEN	CENTURY PHARM INC	TB	3
ANTINAUSEA	WEBCON PHARM	SU	3
ANTITUSSIVE EXPECTORANT	DRUMMER LABS	LQ	5
APA-DEINE	VANGUARD LABS	TB	3
APC W BUTALBITAL	VARIOUS	TB	3
APC W CODEINE	VARIOUS	CA	3
APC W CODEINE	VARIOUS	TB	3
APC W PHENOBARBITAL	VARIOUS	TB	4
APC WITH IBA	DANBURY PHARMACAL	CA	3
APC WITH IBA	DANBURY PHARMACAL	TB	3
APCODEINE	APPROVED PHARM	TB	3
APHONALS	ORMONT DRUG & CHEM	TB	3
APITINE	THOMAS PHARM	TB	3
APITROL	HEALTHCO	TB	3
APROBARBITAL	VARIOUS	EL	3
APROBARBITAL	VARIOUS	PW	3
APROBARBITAL	VARIOUS	TB	3
APSUL WITH ATROPINE	HALSOM DRUG COMPANY	TB	3
APTROL (LAVENDER)	MISEMER PHARM INC	TB	3
APTROL LA	MISEMER PHARM INC	XC	3
AQUACHLORAL	WEBCON PHARM	SU	4
ARBUTAL	ARCUM PHARM CORP	TB	3
ARCOBAN	ARCUM PHARM CORP	TB	4
ARCOTROL	ARCO PHARMACEUTICALS	TB	3
ASA & CODEINE COMPOUND	LILLY ELI & CO	TB	3
ASA & CODEINE COMPOUND	LILLY ELI & CO	CA	3
ASALCO NO.2	JENKINS LABS INC	TB	3
ASCAPHEN W CODEINE 1/4	CALDWELL & BLOOR CO	TB	3
ASCAPHEN WITH CODEINE 1/2	CALDWELL & BLOOR CO	TB	3
ASCODEEN-30	BURROUGHS WELLCOME	TB	3
ASCONEX D-C	ALLISON LABS	LQ	5
ASCRIPTIN W CODEINE	VARIOUS	TB	3
ASPHAC W CODEINE	CENTRAL PHARMACAL CO	TB	3
ASPIR-ACETOPHEN	BOERICKE AND TAFEL	CA	3
ASPIR-CODE	ROBINSON LABORATORY	TB	3
ASPIR-SED	BIO-FACTOR LABS	TB	4
ASPIRIN COMPOUND W CODEINE	VARIOUS	TB	3
ASPIRIN COMPOUND W DOVERS POWDER	VARIOUS	CA	3
ASPIRIN PHENACETIN PB W CODEINE PHOS	ZENITH LABS INC	CA	3
ASPIRIN W CODEINE	VARIOUS	TB	3
ASPIRO COMPOUND	VARIOUS	TB	3
ATIVAN	WYETH LABORATORIES	TB	4
ATUSS	TRI-STATE PHARM	LQ	3
AZENE	ENDO LABS INC	CA	4
B			
B AND R NO 280, 281, 334	BOERICKE AND TAFEL	TB	4
B B S	VARIOUS	TB	3
B.P.P.	LEMMON PHARMACAL CO	TB	3
B-B-S ELIXIR	CALDWELL & BLOOR CO	EL	3
B-BARB	FOY LABS INC	TB	4
B-SED-C	SCRIP INC	TB	4
BABASOL NO 2 (ASO BUFFER)	GANE'S CHEMICAL WKS	EL	4
BACARATE	TUTAG PHARMACEUTICAL	TB	3
BAMATE	CENTURY PHARM INC	TB	4
BAMO	MISEMER PHARM INC	TB	4
BANCAP W CODEINE	VARIOUS	CA	3

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
BANGESIC	GENERAL PHARM INC	TB	3
BANOBESE	SEATRACE CO INC	TB	3
BAR ELIXIR	SCRIP INC	EL	4
BAR-25,30,15,100	SCRIP INC	TB	4
BARAHIST E.C	VARIOUS	LQ	5
BARBACINE	WAYNE MEDICAL CO	TB	4
BARBATOSE NO.2	VALE CHEMICAL CO	TB	4
BARBELDONNA	LIMA MEDICAL SUPPLY	TB	4
BARBELLIN C.T. GREEN	CALDWELL & BLOOR CO	TB	4
BARBIKOTE	MACKSEIN & COMPANY	TB	4
BARBINAL # 3	VARIOUS	CA	3
BARBINUX	PHYSICIANS SUPPLY	TB	4
BARBIPIL	NORTH AMERICAN PHARM	TB	4
BARBITA	NORTH AMERICAN PHARM	TB	4
BARBITAB 1/4 & 1/2	VISTA LABS	TB	3
BARBITAL (SALTS)	VARIOUS	PW	4
BARBITAL (SALTS)	VARIOUS	TB	4
BARBULEN	LEN-TAG COMPANY	TB	3
BARIFED W CODEINE EXPECTORANT	BARRY-MARTIN PHARM	LQ	5
BARTINAL	ZEMMER CO INC	TB	4
BARTUS	BARRE DRUG CO	SY	5
BAY-HISTINE DH	BAY LABORATORIES INC	LQ	5
BAYACDIN	BAY LABORATORIES INC	SY	5
BAYHISTINE EXPECTORANT	BAY LABORATORIES INC	LQ	5
BAYTUSSIN AC	BAY LABORATORIES INC	LQ	5
BEL-PHEN NO2	STANLABS INC	TB	4
BELERGAN	CHEMRICH LABS	LQ	5
BELLADONNA-CHARCOAL & PHENOBARBITAL	RUGBY LABORATORIES	TB	4
BELLO PHEN	UNITED RESEARCH LABS	TB	4
BENAPHEN NO. 2	CUMBERLAND PHARM	CA	4
BENITYL	FARMACIA NUEVA	LQ	4
BEPLETE	WYETH LABORATORIES	EL	4
BERGESIC-65	PHARMED INC	CA	4
BETA CHLOR	MEAD JOHNSON LABS	TB	4
BEUTHANASIA D	VARIOUS	IJ	3
BEV S COUGH	BEVERLY MEDICAL SUP	SY	5
BEWSTOL	STANDARD DRUG PROD	TB	3
BEXOPHENE-65 W APC	MALLARD INC	CA	4
BIATUSS-AC	LINDEN LABORATORIES	LQ	5
BIO-DAYSED	BIO-FACTOR LABS	TB	3
BIO NIL	BIOLINE LABS INC	TB	3
BIO TAL	PHILIPS ROXANE LABS	IJ	3
BIOPEC	CALDWELL & BLOOR CO	TB	3
BIOPHEN EXPECTORANT W CODEINE	BIOLINE LABS INC	LQ	5
BIOPHEN VC EXPECTORANT W CODEINE	BIOLINE LABS INC	LQ	5
BIOTAL	BIO CELTIC LABS	IJ	3
BIOTANE DC EXPECTORANT	BIOLINE LABS INC	LQ	5
BIPECTOL	VALE CHEMICAL CO	WA	3
BISKAPEC	TRUXTON C O INC	TB	3
BISMULANS	VARIOUS	CA	3
BISMUTH & PAREGORIC	VARIOUS	TB	3
BISMUTH AND SALOL COMP WITH PAREGORIC	DUROT DRUG COMPANY	SS	5
BISMUTH AND SALOL WITH OPIUM	TRUXTON C O INC	LQ	5
BISMUTH-PAREGORIC-PECTIN	LEMMON PHARMACAL CO	TB	3
BISMUTH-SALOL ZINC-PAREGORIC-MIXTURE	BOWMAN PHARMACEUTIC	SS	5
BISMUTH,PECTIN & PAREGORIC	DELIMAR LABS	TB	3
BLADDER MIXTURE PLUS PHENOBARBITAL	IOWA UNIVERSITY	LQ	4
BLOMKISAL	RAPHET PHARMACEU	LQ	4
BOF	SARON PHARMACAL CORP	TB	3
BONCOGESIC W CODEINE	BONCO LABORATORIES	CA	3
BONTRIL PDM	CARNRICK LABS	TB	3
BORN OREX	BORNEMAN & SONS	CA	3
BORN-OREX	BORNEMAN & SONS	TB	3
BREVITAL SODIUM	LILLY ELI & CO	IJ	4
BRIGEN-G	GRAFTON PHARM	CA	4
BRO TUSS AC	BRITTHEIS PHARM INC	LQ	5
BROGESIC	BROTHERS PHARM INC	TB	3
BROM-CORT	INTERSTATE DRUG EXCH	SY	5
BROMANATE DC EXPECTORANT	VARIOUS	LQ	5
BROMANYL EXPECTORANT	VARIOUS	LQ	5
BROMATANE DC EXPECTORANT	VARIOUS	LQ	5
BROMATUSS EXPECTORANT W CODEINE	RUGBY LABORATORIES	LQ	5
BROMPHEN DC EXPECTORANT	RUGBY LABORATORIES	LQ	5
BROMPHENATE DC EXPECTORANT	WOLINS PHARM CORP	LQ	5
BROMPHENIRAMINE EXPECTORANT DC	VARIOUS	LQ	5
BROMPHENIRAMINE W CODEINE	KAISER FOUND. HOSP.	LQ	5
BRON-CORT-DC EXPECTORANT	INTERSTATE DRUG EXCH	LQ	5
BRONCHO-TUSSIN IMPROVED	FIRST TEXAS PHARM	LQ	5

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
BRONICOF	JENKINS LABS INC	LQ	5
BROWN MIXTURE	VARIOUS	LQ	5
BUBARTAL TT	PHILIPS ROXANE LABS	TB	3
BUBROMIDE	TRUXTON C O INC	TB	3
BUFFERED ASC W CODEINE	CHROMALLOY PHARM INC	TB	3
BUSERP	TRUXTON C O INC	TB	3
BUSODIUM	TRUXTON C O INC	CA	3
BUSODIUM	TRUXTON C O INC	EL	3
BUSODIUM	TRUXTON C O INC	TB	3
BUTA	FREEPORT DRUG CO	TB	3
BUTABAR	VARIOUS	EL	3
BUTABARBITAL	ABBOTT LABS LTD	EL	3
BUTABARBITAL (SALTS)	VARIOUS	TB	3
BUTABARBITAL (SALTS)	VARIOUS	EL	3
BUTABARBITAL (SALTS)	VARIOUS	CA	3
BUTABON	BONCO LABORATORIES	TB	3
BUTACYL	QUEEN CITY PHARMACAL	TB	3
BUTAGEM	ELART PHARM	TB	3
BUTAGEN G	GRAFTON PHARM	EL	3
BUTAHAB	PHEBRIL DRUG COMPANY	EL	3
BUTAL	VARIOUS	EL	3
BUTAL	VARIOUS	TB	3
BUTALAN	LANNETT CO	EL	3
BUTALBITAL (SALTS)	VARIOUS	TB	3
BUTALBITAL (SALTS)	VARIOUS	CA	3
BUTALBITAL (SALTS)	VARIOUS	PW	3
BUTALIX	VALE CHEMICAL CO	SY	3
BUTALONE	WILLER LABS	TB	3
BUTAMID	VANGARD LABS	EL	3
BUTASED	VARIOUS	TB	3
BUTASERP	QUEEN CITY PHARMACAL	TB	3
BUTASOD	BORNEMAN & SONS	EL	3
BUTATIN	WINSTON PHARMACEUTIC	TB	3
BUTATRAN	PALMEDICO INC	TB	3
BUTAZEM	ZEMMER CO INC	EL	3
BUTAZEM	ZEMMER CO INC	TB	3
BUTETHAL	GANE'S CHEMICAL WKS	EL	3
BUTICAPS	MCNEIL LABS INC	CA	3
BUTISERPAZIDE	VARIOUS	TB	3
BUTISERPINE	VARIOUS	TB	3
BUTISOL (SODIUM)	VARIOUS	TB	3
BUTISOL (SODIUM)	VARIOUS	EL	3
BUTIZIDE	VARIOUS	TB	3
BUTTE ELIXIR	SCRIP INC	LQ	3
BUTTE 15 & 30	SCRIP INC	TB	3
C			
C.D.P.	GENERIX DRUG CORP	CA	4
CADOPHEN	BELLEVUE SURGICAL CO	CA	3
CALBISMUL	CALDWELL & BLOOR CO	LQ	5
CALCIDRINE	ABBOTT LABS	SY	5
CALPHEN	JAMIESON MCKAMES INC	CA	3
CAM-METRAZINE	CAMALL COMPANY	XC	3
CAM-METRAZINE	CAMALL COMPANY	TB	3
CAMUATE	CAMALL COMPANY	TB	4
CANQUIL 400	CANFIELD AND CO	TB	4
CAP-METRAZINE	CAMALL COMPANY	XC	3
CAPITAL WITH CODEINE	CARNRICK LABS	TB	3
CAPITAL WITH CODEINE	CARNRICK LABS	SS	5
CARBRITAL	VARIOUS	CA	3
CARBRITAL	PARKE DAVIS & CO	EL	3
CARLISAN	FARMACIA CARLIMAR	LQ	4
CARNUSEN	QUEEN CITY PHARMACAL	TB	4
CARBOTUSSIN WITH CODEINE	CARROLL CHEM CO	LQ	5
CEPHALABON	BONCO LABORATORIES	TB	3
CEPHALACAP	BONCO LABORATORIES	CA	3
CEROSE	IVES LABS INC	LQ	5
CETRO CIROSE	IVES LABS INC	LQ	5
CHARBELPHEN	MODERN DRUG CO	TB	4
CHARBO PHEM	CUMBERLAND PHARM	TB	4
CHARCOAL COMPOUND	VARIOUS	TB	4
CHARDONNA	RORER INC	TB	4
CHARDONNA BLACK	PHARMECON INC	TB	4

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
[illegible] CHARCOAL COMPOUND	WESLEY PHARMACAL CO	TB	4
CHARPHEN	VARIOUS	TB	4
CHERACLOR W CODEINE	BORNEMANN & SONS	LQ	5
CHERACOL	VARIOUS	LQ	5
CHERALIN WITH CODEINE	LANNETT CO	LQ	5
CHERATUSSIN-AC	LIFE LABORATORIES	SY	5
CHERY MANCE W CODEINE	MANCE BROS & WHITE	LQ	5
CHERI-APRO	APPROVED PHARM	LQ	5
CHERI-NAL WITH CODEINE	NALSOM DRUG COMPANY	LQ	5
CHERI-SED	NALSOM DRUG COMPANY	LQ	5
CHIROPLY WITH CODEINE	REYMAN DRUG CO	LQ	5
CHIROSPECT	TRUSTON C O INC	LQ	5
CHIRSALES W CODEINE	VARIOUS	LQ	5
CHERRY COMPOUND W CODEINE	INTERSTATE DRUG EXCH	SY	5
CHILDRENS COUGH SYRUP	MICHIGAN PHARM	SY	5
CHLOR MAG SOLUTION	MUTUAL PHARM	SI	4
CHLOR-TRIMETON EXPECTORANT W CODEINE	SCHERING CORP	SY	5
CHLORAL BETAINE	HOFFMAN-TAFF	PW	4
CHLORAL HYDRATE	VARIOUS	SY	4
CHLORAL HYDRATE	VARIOUS	CA	4
CHLORAL THESIA (VET)	BIG ISLAND RANCH	LI	4
CHLORAL DES (VET)	VETERINARY LABS INC	LI	4
CHLORAL MAG	TRICO PHARM	LI	4
CHLORAL THESIA	VARIOUS	LI	4
CHLORATE (VET)	BUTLER W A CO	LI	4
CHLOROAZEPOXIDE	VARIOUS	CA	4
CHLORODIAZEPOXIDE	VARIOUS	PW	4
CHLORINSTINE DH	PATON PHARM INC	LQ	5
CHLORINSTINE EXPECTORANT	VARIOUS	LQ	5
CHLOROPHEN	ROBINSON LABORATORY	TB	3
CHLORPHENIRAMINE CODEINE SYRUP	DORSEY LABORATORIES	LQ	5
CHLORPHENTERMINE	VARIOUS	TB	3
CHRISTODYNE INC	CANFIELD AND CO	TB	3
CIDICOL	UPJOHN CO	LQ	5
CITRA FORTE	VARIOUS	SY	3
CITRA FORTE	VARIOUS	LQ	5
CITRATED CODEINE COMPOUND	LIFE LABORATORIES	LQ	5
CITRATED CODEINE W ANTIHISTAMINE	LIFE LABORATORIES	LQ	5
CLIPODEINE	SCHEIN HENRY INC	CA	4
CLONOPIN	ROCHE LABS	TB	4
CLORAZEPATE	VARIOUS	CA	4
CLORAZEPATE	VARIOUS	PW	4
CLORAZEPATE	VARIOUS	TB	4
CO ZAM	CENTRAL PHARMACAL CO	SY	5
CO-ENTERO	COAST LABS	TB	3
CO-HIST-E	AREND MILLER PHARM	LQ	5
CO-MSTINE EM REFORMULATED	RAY PHARMACAL CO	EL	5
COASTALDYNE W CODEINE	COASTAL PHARM CO	TB	3
COCKLAN COMPOUND	TRUSTON C O INC	SY	5
COCKLANA COMPOUND	BERRY & WITHINGTON	SY	5
COCKLANA COMPOUND W CODEINE	VARIOUS	LQ	5
COCKLCO WITH CODEINE	CARROLL CHEM CO	SY	5
COCKLENE	GENERIC PHARMACAL	SY	5
COCKMALLO COMPOUND W CODEINE	BORNEMANN & SONS	SY	5
CODAMINE #3	KIRKMAN LABS	TB	3
CODALAN 1,2 & 3	LANNETT CO	TB	3
CODAP	TUTAG PHARMACEUTICAL	TB	3
CODAPAC	UNITED PHARM	TB	5
CODATUSS/C	MOORE KIRK LABS	EL	5
CODE COCILAN	APPROVED PHARM	SY	5
CODEINE EXPECTORANT	ALLISON LABS	LQ	5
CODEINE WITH CODEINE PHOSPHATE	GENEVA GENERICS	SY	5
CODEI	ELDER P B COMPANY	SY	5
CODEINE	MANCE BROS & WHITE	LQ	5
CODIMAL DM	CENTRAL PHARMACAL CO	SY	3
CODITRATE	CENTRAL PHARMACAL CO	SY	3
CODITRATE	CENTRAL PHARMACAL CO	TB	3
CODIXIM	UNITED PHARM	SS	5
COGESIC NO 3 W CODEINE	BO-MISE COMPANY	TB	3
COMIDRATE	COASTAL PHARM CO	CA	4
COMISTINE EXPECTORANT	COOPER DRUG CO	LQ	5
COLAMA WITH DIONIM	MANCE BROS & WHITE	SY	5
COLAREST PD	BO-MISE COMPANY	LQ	5
COLDATE	ELDER P B COMPANY	TB	3
COLREX COMPOUND CAPSULES	BOWELL LABS INC	CA	3
COLREX COMPOUND ELIXIR	BOWELL LABS INC	EL	5
COMBINATION TABLETS NO 157	BOERICKE AND TAFEL	TB	4
COMCAP PHENOBARBITAL	CONSOLIDATED MIDLAND	KC	4

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
COMEX W CODEINE	VARIOUS	LQ	5
COMTIMER	RHODE J G INC	EI	5
COPAVIN	LILLY ELI & CO	CA	3
COPHENE-S	DUNHALL PHARM INC	SY	5
CORPORATE	COASTAL PHARM CO	PW	4
CORDANTI	CORD LABS INC	LQ	5
CORRECTIVE MIXTURE WITH PARREGORIC	BEECHAM MASSENGILL	LQ	5
CORTANE DC EXPECTORANT	VARIOUS	LQ	5
CORTUSS A C	VARIOUS	LQ	5
CORY-EZE	BIO FACTOR LABS	TB	3
COSMELCO W CODEINE	VARIOUS	LQ	4
COSMELCO-D	BARRE DRUG CO	SY	5
COTUSS A.C.	COOPER DRUG CO	LQ	5
COTUSSIS	MERRELL NATIONAL LAB	SY	5
COUGH & CORYZA	QUAKER CITY PHARM CO	CA	3
COUGH MEDICINE SY 407N	MAGNA INC	SY	5
COUGH SYRUP W CODEINE	VARIOUS	SY	5
CROUP	PHILADELPHIA CAPS CO	CA	3
CUM-BU-BARB	LUMBERLAND PHARM	TB	3
CYCLOPAL GAME	GAME'S CHEMICAL WKS	RI	3
CYLERT	ABBOTT LABS	TB	4

D

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
D-ASMA	DUNHALL PHARM INC	TB	3
D-ASMA-S	DUNHALL PHARM INC	SY	3
D-CAPS	NALSOM DRUG COMPANY	CA	3
D-LYSERGIC ACID	SIGMA CHEM CO	PW	3
D-REX	BUCKSTUMP COMPANY	CA	4
D-REX W ASAP	BUCKSTUMP COMPANY	TB	4
D-REX 65 COMPOUND	BUCKSTUMP COMPANY	CA	4
D-TUSS	MICHIGAN PHARM	LQ	3
DAL TUSSIN	LASER INC	LQ	3
DALATUSSIN WITH CODEINE	DAYLIN MED AND SURG	LQ	5
DALMANE	ROCHE LABS	CA	4
DAMASON P	VARIOUS	TB	3
DAMA-TUSS	FRIENDLY PHARMACY	LQ	5
DANSPAN	DANIELS PHARM	KC	3
DANTAL 1/4 & 1/2	DANIELS PHARM	TB	3
DARTANE DC EXPECTORANT	ROSOW DAVID A INC	LQ	5
DARVOCET-N	LILLY ELI & CO	TB	4
DARVON	LILLY ELI & CO	CA	4
DARVON COMPOUND	LILLY ELI & CO	CA	4
DARVON COMPOUND-65	LILLY ELI & CO	CA	4
DARVON WITH A.S.A.	LILLY ELI & CO	CA	4
DARVON-N	LILLY ELI & CO	SS	4
DARVON-N W A.S.A.	LILLY ELI & CO	TB	4
DASENO	BAKER W F DRUG CO	CA	3
DECONGESTANT	INTERSTATE DRUG EXCH	SY	5
DECONGESTANT ANTITUSSIVE	VARIOUS	LQ	5
DECONGESTANT DH	VARIOUS	LQ	5
DECONGESTANT EXPECTORANT	VARIOUS	LQ	5
DEMIST EXPECTORANT MODIFIED	GENEVA GENERICS	LQ	5
DESA EXPECTORANT	WINTHROP LABS	EP	5
DELCOCAPS	DELCO CHEMICAL	RC	3
DELCOZINE	DELCO CHEMICAL	TB	3
DELGESIC #3	DELTA DRUG LAB	CA	3
DEPLETITE	TUTAG PHARMACEUTICAL	TB	4
DEPROL	VARIOUS	TB	4
DERFULE	VARIOUS	CA	3
DESA HIST	VARIOUS	LQ	3
DESABAM	VARIOUS	TB	4
DETUSS	WOLINS PHARM CORP	LQ	3
DETUSSIN	VARIOUS	LQ	3
DEXTROMS WITH CHLORAL HYDRATE	LINCO DRUG PRODUCTS	TI	4

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
DI-AP-TROL	FOY LABS INC	TB	3
DI-METRER	FELLOWS MED MFG CO	TB	3
DI-TUSS	BO MISE COMPANY	LQ	3
DIABISMUL	O'NEAL JONES FELDMAN	TB	3
DIABISMUL	O'NEAL JONES FELDMAN	SS	5
DIALYLBARBITURIC ACID	SIGMA CHEM CO	PW	3
DIALYLBARBITURIC ACID	GAME'S CHEMICAL WKS	RI	3
DIANULSIN IMPROVED	VALE CHEMICAL CO	TI	5
DIAR CHER	P AND S APOTHECARY	TI	5
DIARRAM	QUAKER CITY PHARM CO	CA	3
DIARRHEA	PHYSICIANS SUPPLY	TB	3
DIARRHEA AND STOMACH MEDICINE	MAGNA INC	LU	3
DIASCAPHEN	VARIOUS	TB	3
DIASTAY	ELDER P B COMPANY	TB	3
DIAZACHEL	RACHELLE LABS	CA	4
DIAZARES	ECONO RX INC	CA	4
DIAZEPAM	CAMALL COMPANY	TB	4
DICOCIL	MEDCO SUPPLY CO	LQ	5
DICODENOL	HEALTHCO	LQ	5
DICOPHEN VC EXPECTORANT W CODEINE	MEDCO SUPPLY CO	LQ	5
DIDRATE	THOMAS PHARM	TB	3
DIDRATE	EMDMAS PHARM	CA	3
DIDREX	UPJOHN CO	TB	3
DIETHYLPROPION	VARIOUS	PW	4
DIETHYLPROPION	VARIOUS	TB	4
DIETHYLPROPION	VARIOUS	CA	4
DIHISTINE	MOORE DRUG EXCHANGE	LQ	5
DIHISTINE DH	VARIOUS	EL	5
DIHISTINE EXPECTORANT	VARIOUS	LQ	5
DIMETANE EXPECTORANT DC	ROBINS A H CO INC	LQ	5
DIPENTOL	DIAMOND LABS	LI	3
DIPHENATOL	BUGBY LABORATORIES	LQ	3
DIPHENATOL	BUGBY LABORATORIES	TB	5
DIPHENETTEATE COMPOUND	SHERATON LABS INC	TB	5
DIPHENOXYLATE W ATROPINE	VARIOUS	PW	3
DIPHENOXYLATE W ATROPINE	VARIOUS	TB	5
DITUSS PLUS	BO-MISE COMPANY	LQ	5
DIXAREST DH	DIXON-SHANE INC	EL	5
DIXAREST EXPECTORANT	DIXON-SHANE INC	LQ	5
DIXON'S BUTABARB	DIXON-SHANE INC	EL	3
DIZINE	TRACY PHARMACAL CO	TB	3
DIZINE F.D	TRACY PHARMACAL CO	NC	3
DO-TABS	OXFORD PHARM	TB	3
DOCAPS	VARIOUS	CA	3
DOCRA VC EXPECTORANT WITH CODEINE	DOCRA PHARM CO	LQ	5
DOENTA	VARIOUS	TB	3
DOENTA WITH DOVERS POWDER	QUEEN CITY PHARMACAL	CA	3
DOLACET	HAUCK W E INC	TB	4
DOLAFORT	VISTA LABS	TB	3
DOLEINE	LEDERLE LABORATORIES	CA	4
DOLENE AP-65	LEDERLE LABORATORIES	TB	4
DOLENE COMPOUND-65	LEDERLE LABORATORIES	CA	4
DOLMAR	MARLOP PHARM INC	CA	3
DOLORAL	PROGESSIVE ENTER	TB	3
DONAVANCE PG	ADVANCE DRUG	LQ	5
DONNAGEL-PG	ROBINS A H CO INC	EE	5
DONNORM	HEALTHCO	TB	3
DOREX	BUCKSTUMP COMPANY	CA	3
DORIDEN	VARIOUS	TB	3
DORNTABS	SPENCER-MEAD INC	TB	3
DOTABS	CALDWELL B BLOOR CO	TB	3
DOUBLE-PHEN LAYTABS	TRUSTON C O INC	TB	3
DOV ASPHEN	PHYSICIANS SUPPLY	CA	3
DOVACET	VALE CHEMICAL CO	CA	3
DOVACIN	VARIOUS	CA	3
DOVACOM	MOFFET INC	TB	3
DOVAMIDE	PHILIPS ROXANE LABS	CA	3
DOVAMOR	MOORE KIRK LABS	TB	3
DOVAVAL	MOORE KIRK LABS	TB	3
DOVENEL	HARMEL PHARM COMPANY	CA	3
DOVERAM	VARIOUS	CA	3
DOVERAM	VARIOUS	TB	3
DOVERIN	VARIOUS	CA	3
DOVERLYN	SCRIP INC	TB	3
DOVERLYN	SCRIP INC	CA	3
DOVERNON	TUTAG PHARMACEUTICAL	CA	3
DOVERS AP	BUCKWALTER DRUG CO	TB	3

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
DOVERS EMPLINE	VARIOUS	CA	3
DOVERS COMPOUND	LAMPERT PHARMACAL CO	CA	3
DOVERS COMPOUND	LAMPERT PHARMACAL CO	TB	3
DOVER	VARIOUS	TB	3
DOYOSAL	VARIOUS	TB	3
DRI PHED C EXPECTORANT	STAYNER CORPORATION	LU	3
DROXEMMS (MODIFIED)	TRUSTON C O INC	TB	4
DRUCON WITH CODEINE	STANDARD DRUG PROD	LQ	5
DURADYNE DHC	O'NEAL JONES FELDMAN	TB	3
DYSEMAD JR	JENKINS LABS INC	TB	3

E

ECONOBARB	ECONO RX INC	EI	3
EPED	ALTO PHARM INC	III	3
EPRICON EXPECTORANT	LANNETT CO	III	5
ERIRISED	MALLARD INC	TB	3
ELDONAL-S	CAMBRIGHT CORP	TB	3
ELIXIR PENOBARBITAL F.E.U	SERN MENDEZ LABS	EI	4
ELIXSED	NORTH AMERICAN PHARM	LQ	4
EME-NIL	THERA MEDIC	III	3
EMESERT 1,2,3	ARNAR STONE LABS	SU	3
EMONIL	RHODE J G INC	TB	3
EMONIL	RHODE J G INC	LQ	3
EMPABARB	EMPIRE PHARM INC	TB	4
EMPIRIN COMPOUND W CODEINE	VARIOUS	TB	3
EMPIRIN W CODEINE	VARIOUS	TB	3
EMPRACET W CODEINE NO 3	BURROUGHS WELLCOME	TB	3
EMPRAZIL-C	BURROUGHS WELLCOME	TB	3
ENDAL EXPECTORANT	UAD LABS	LQ	3
ENDAL-HD	UAD LABS	LQ	3
ENDOTUSSIN-C	ENDO LABS INC	LU	5
ENDRA	TUTAG PHARMACEUTICAL	TB	3
ENTAL	ALLISON LABS	TB	3
ENTAL	ALLISON LABS	EI	3
ENTUSS	MAUCK W E INC	TB	3
ENTUSS EXPECTORANT	MAUCK W E INC	LQ	3
EPHEDRINE HYDROCHLORIDE	LILLY ELI & CO	CA	3
EPHEDRINE SULFATE	LILLY ELI & CO	CA	3
EPHEDRINE SULFATE AND AMOBARBITAL	BARRE LABORATORIES	CA	3
EPHEDROL WITH CODEINE	LILLY ELI & CO	SY	5
EPIRAGEN	LILLY ELI & CO	CA	3
EPROSPAN	VARIOUS	RC	4
EQUAGEN	GRAFTON PHARM	TB	4
EQUAGESIC	WYETH LABORATORIES	TB	4
EQUANIL	VARIOUS	TB	4
EQUANIL	VARIOUS	SS	4
EQUANIL	VARIOUS	CA	4
EQUISED	BURNS BIOTEC	LI	4
EQUISED (VET)	BURNS VETERINARY	LI	4
ERASEN	WINSTON PHARMACAL	TB	4
ESKABARB	SMITH KLINE FRENCH	RC	4
ETHCHLORVYNOL	ABBOTT LABS	RI	4
EUTHANASIA (VET)	VARIOUS	SL	3
EUTHANASIA (VET)	VARIOUS	LI	3
EVENOL	DELTA DRUG (PLA)	TB	4
EX-OBESE	RAY PHARMACAL CO	TB	3
EXPECC	LEKALABS INC	EY	5
EXPECTICO	COASTAL PHARM CO	EN	3
EXPECTORANT COMPOUND SYRUP	LANNETT CO	EI	5
EXPECTORANT MIXTURE	BARRE DRUG CO	LIII	5

F

F M 200	FEDERAL PHARM CORP	TB	4
F M 400	FEDERAL PHARM CORP	TB	4
FASTIN	BEECHAM MASSENGILL	CA	4
FEDRIDYNE 2,3,4	LANDRY PHARM INC	CA	3
FELLO-SED	FELLOWS MED MFG CO	EI	4
FELSULES	FELLOWS MED MFG CO	CA	4
FEMALEAF	ORMONT DRUG & CHEM	TB	4
FENBUTAL	TUTAG PHARMACEUTICAL	CA	3
FENFLURAMINE HYDROCHLORIDE	MERAGON LABS	RI	4
FENOBARBITAL	SERN MENDEZ LABS	TB	4

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Product name	Labeler	Dosage form	Schedule
FENOBARBITAL SODICO	LABORATORIOS TERRIER	IJ	4
FIOMED	VARIOUS	CA	3
FIBETAL	HALSEY DRUG COMPANY	TB	3
FIOREX	BUCKSTUHL COMPANY	TB	3
FIORGEN	GENERIX DRUG CORP	CA	3
FIORGEN	GENERIX DRUG CORP	TB	3
[illegible]	VARIOUS	CA	3
FIORINAL	VARIOUS	TB	3
FIORINAL	SANDOZ PHARM	CA	3
FIORINAL W CODEINE	LEN-TAG COMPANY	TB	3
FIOBLEN	MOORE DRUG EXCHANGE	TB	3
[illegible]	MOORE DRUG EXCHANGE	CA	3
FIORMOR	MEDCO SUPPLY CO	TB	3
FIOSAL	FOREST HILL PHARM	LQ	4
FLORTUSSIN-AM	SCRIP INC	TB	3
FO-MATE	[illegible]	[illegible]	[illegible]
FOR-TABS	UNITED RESEARCH LABS	TB	3
FORBUTOL	INDIANAPOLIS PHARM	CA	3
FORCOLD	LEMMON PHARMACAL CO	LQ	5
FORPANE WITH CODEINE	MICHIGAN PHARM	CA	5
FORTECROUP	QUAKER CITY PHARM CO	CA	3
FOURSED SPECIAL 1620	VALE CHEMICAL CO	TB	3
FOY-NUX	FOY LABS INC	TB	4

G

Product name	Labeler	Dosage form	Schedule
G-3	PALMEDICO INC	CA	3
G-3	PALMEDICO INC	TB	3
[illegible]	ABBOTT LABS	TB	3
[illegible]	CORD LABS INC	SY	5
GENAGESIC	[illegible]	TB	4
GENALUDE	GENERIX DRUG CORP	TB	3
GESIC	[illegible]	TB	3
GG-TUSSIN CF	VITARINE CO INC	SY	5
[illegible]	VARIOUS	TB	3
GLUTETHIMIDE	VARIOUS	PW	3
GLYCERYL GUAIACOLATE	INTERSTATE DRUG EXCH	LQ	5
GLYCERYL GUAIACOLATE AC	FATON PHARM INC	LQ	5
GLYCERYL GUAIACOLATE W CODEINE	FATON PHARM INC	LQ	5
GLYCOTUSSIN WITH CODEINE	PREMO PHARM LABS INC	LQ	5
GODFREYS CORDIAL	VAN FLEET LABS	LQ	3
GOLACOL	VARIOUS	SY	5
GREENBAR-ONE, TWO	FREEPORT DRUG CO	TB	4
[illegible]	LAMPERT PHARMACAL CO	TB	3
GUAIATRATE	BOWMAN PHARMACEUTIC	LQ	5
[illegible]	KAISER FOUND. HOSP.	SY	5
GUAIAMID A.C.	VARIOUS	LQ	5
GUIATUSS A.C.	VARIOUS	LQ	5
GUIATUSS W CODEINE	BOSOW DAVID A INC	LQ	5
GUIATUSSIN A C	SPENCER-MEAD INC	SY	5
GUIATUSSIN W CODEINE	RUGBY LABORATORIES	LQ	5
[illegible]	VALE CHEMICAL CO	SY	3
GYLATE-C	MEDICAL SPECIALTIES	LQ	5

H

Product name	Labeler	Dosage form	Schedule
HABOGESIC	[illegible] DRUG COMPANY	TB	4
HAMMONDS MIXTURE W/PB SODIUM	IOWA UNIVERSITY	LQ	4
HAMA-TUSSIN W CODEINE	VARIOUS	SY	5
HAMAPHEN ELIXIR	HANCE BROS & WHITE	EL	4
[illegible]	MODERN DRUG COMPANY	TB	4
[illegible]	GANE'S CHEMICAL WKS	EL	4
HENOMINT	BOWMAN PHARMACEUTIC	EL	4
HENOTAL	BOWMAN PHARMACEUTIC	EL	4
HENOTAL	BOWMAN PHARMACEUTIC	TB	4
HEXOBARBITAL	VARIOUS	PW	3
HISTA DERFULE	VARIOUS	CA	3
HISTA-DOREX	BUCKSTUHL COMPANY	CA	3
HISTADYL EC	LILLY ELI & CO	SY	5
HISTAFED-C EXPECTORANT	LIFE LABORATORIES	LQ	5
HISTANEL PLUS	MARNEL PHARM COMPANY	SY	5
HISTAWOL	WOLINS PHARM CORP	LQ	5
[illegible]	TRUXTON C O INC	SY	5
HISTINE DH	SHERATON LABS INC	EL	5
HISTINE EXPECTORANT	SHERATON LABS INC	LQ	5
HOMEOPATHIC TABLETS NO 93	BOERICKE AND TAFEL	TB	4
HOURBESE	CORD LABS INC	XC	3
HY-SED	CALDWELL & BLOOR CO	CA	4
HYBAR	JENKINS LABS INC	TB	4
[illegible]	BLAINE COMPANY	LQ	4
HYCODAN	VARIOUS	LQ	3
HYCODAN	ENDO LABS INC	TB	3
HYCOFF	[illegible]	SY	3
HYCOMINE	VARIOUS	SY	3
HYCOMINE COMPOUND	ENDO LABS INC	TB	3
HYCOTUSS EXPECTORANT	ENDO LABS INC	SY	3
[illegible]	SCHEIN HENRY INC	LQ	3
HYDROCODONE SYRUP	SCHEIN HENRY INC	LQ	3
[illegible]	[illegible] DRUG COMPANY	TB	4
HYPASEN	QUEEN CITY PHARMACAL	TB	4
HYPHENAL	BLAINE COMPANY	TB	4
HYPIVALS	PHYSICIANS SUPPLY	TB	4
[illegible]	VARIOUS	TB	4
[illegible]	VARIOUS	TB	3

I

Product name	Labeler	Dosage form	Schedule
I PAC	SPENCER-MEAD INC	CA	3
I-PAC	SPENCER-MEAD INC	TB	3
[illegible]	ICN PHARMACEUTICALS	CA	4
IDENAL	INTERSTATE DRUG EXCH	TB	3
[illegible]	ORTHO PHARMACEUTICAL	CA	5
INACTIN	ABBOTT LABS	BL	3
INFADORM DROPS	REID-PROVIDENT LABS	DP	4
INFABASE	TRI-STATE PHARM	LQ	4
INFANTOL PINK	FIRST TEXAS PHARM	LQ	5
[illegible]	ZEMMER CO INC	LQ	5
IONAKRAFT	KRAFT PHARMACEUTICAL	TB	4
[illegible]	KRAFT PHARMACEUTICAL	XC	4
IONAMIN	VARIOUS	CA	4
IONAPAR	PARMED PHARM	XC	4
IOPHED	MARSH-EMORY LABS	SY	4
IP-44	BELL GEO N CHEMISTS	TB	4
IP-77	BELL GEO N CHEMISTS	TB	3
ISOBARB	THREE P PRODUCTS	TB	3
ISOBARB	BARRE DRUG CO	TB	3
ISOBARB AND APC	VARIOUS	TB	3
ISOBUTAL TABLETS	SCHEIN HENRY INC	TB	3
ISOCLOR EXPECTORANT	ARNAR-STONE LABS	EL	5
ISOLLYL	RUGBY LABORATORIES	TB	3
ISONAL	BORNEMAN & SONS	TB	3

J

Product name	Labeler	Dosage form	Schedule
J-A.P.C. W CODEINE PHOSPHATE	J-PHARMACAL CO	TB	3

K

Product name	Labeler	Dosage form	Schedule
K-N-S	KING PHARMACEUTICAL	EL	4
K-PEC WITH PAREGORIC	BEVERLY MEDICAL SUP	LQ	5
K-PHEN EXPECTORANT WITH CODEINE	KAY PHARMACAL CO	SY	5
KA-THAL-PEC	O'NEAL JONES FELDMAN	SS	5
KA-THAL-PEC (IMPROVED FORMULA)	WESTERFIELD LABS	SS	5
KALMEX-C EXPECTORANT	BISTER LABORATORIES	LQ	5
KALMM	SCRIP INC	TB	4
KAMAGEL	TOWNE PAULSEN & CO	SS	5
KAO-GORIC	HANCE BROS & WHITE	LQ	5
KAOCAP	TAYLOR LABORATORIES	CA	5
KAODENE	PFEIFFER CO	LQ	5
KAODONNA P G	VARIOUS	LQ	5
KAOGORIC	WESLEY PHARMACAL CO	TB	3
KAOGORIC	ABCO PHARM	LQ	5
KAOLIN-PECTIN W PAREGORIC	VARIOUS	LQ	5
KAOLINPEC W PAREGORIC	TRUXTON C O INC	LQ	5
KAOMEAD P.G.	SPENCER-MEAD INC	LQ	5
KAOPAR	HALSEY DRUG COMPANY	LQ	5
KAOPARIN W PAREGORIC	MCKESSON LABS	SS	5
KAOPHEN	VALE CHEMICAL CO	TB	4
KAOSED	STANDARD DRUG PROD	LQ	5
KAOTIN P G	ECONO RX INC	LQ	5
KAPECTOLIN W PAREGORIC	VARIOUS	LQ	5
KAPINAL	JENKINS LABS INC	TB	3
KAPPAGESIC	TRI COUNTY PHARMACAL	CA	3
KAVON-65	KAY PHARMACAL CO	CA	4
KBP/O (REVISED)	COLE PHARMACAL CO	CA	3
KENPECTIN-P	KENWOOD LABS INC	SS	5
KEOPARIC	BLUE LINE CHEM CO	LQ	5
KESSO-BAMATE	MCKESSON LABS	TB	4
KESSODRATE	MCKESSON LABS	CA	4
KESSODRATE SYRUP	MCKESSON LABS	SY	4
KLEER EXPECTORANT	SCRIP INC	LQ	5
KOBAC	ZEMMER CO INC	TB	3
KOLCAPS W DOVERS POWDER	TRUXTON C O INC	CA	3
[illegible] W CODEINE	PFEIFFER CO	LQ	3
KONET W CODEINE	PFEIFFER CO	TB	3
KOTABARB	WESLEY PHARMACAL CO	TB	4

L

Product name	Labeler	Dosage form	Schedule
LANIROIF	TRUXTON C O INC	TB	3
LANORINAL	LANNETT CO	CA	3
LANORINAL	LANNETT CO	TB	3
LEMIDYNE WITH CODEINE	LEMMON PHARMACAL CO	TB	3
LEMO-PP	PISGAH PHARM	TB	3
[illegible]	LEN-TAG COMPANY	CA	3
LEN-22	LEN-TAG COMPANY	TB	3
LESSTEN	TRI STATE PHARM	TB	3
LESTENSE	[illegible] PHARM CO	TB	3
LIBRITABS	VARIOUS	TB	4
LIBRIUM	ROCHE LABS	CA	4
LIBRIUM	ROCHE LABS	[illegible]	4
LIBRIUM	S & G DISTRIBUTORS	CA	4
LIMBITROL 10-25	ROCHE LABS	TB	4
LIMIT	BOCK PHARMACAL CO	TB	3
LIQUIX-C	ELDER P B COMPANY	CA	3
LO-CAL 35	LEN TAG COMPANY	TB	3
LO-TABS	PARMED PHARM	TB	5
LO-TROL	VANGARD LABS	TB	5
LO-TROL	VANGARD LABS	LQ	5
LO-WATE	PHARMECON INC	TB	3
LOBE-CAL	HALSOM DRUG COMPANY	TB	3
LOFENE	LANNETT CO	TB	5
LOMANATE	VARIOUS	LQ	5
LOMO-PLUS	MD PHARMACEUTICAL	TB	5
LOMOTIL	VARIOUS	TB	5
LOMOTIL	VARIOUS	LQ	5
LONOX LIQUID	GENEVA GENERICS	LQ	5
LORCET W APAP	UAD LABS	TB	4
LOREX	BUCKSTUHL COMPANY	TB	5
LORYL	KREMERS URBAN CO	CA	4
LOTUSATE	WINTHROP LABS	TB	3
LOW-QUEL	HALSEY DRUG COMPANY	TB	5
LULL	VARIOUS	TB	3
LUMINAL OVOIDS	WINTHROP LABS	TB	4
LUMINAL SODIUM	WINTHROP LABS	IJ	4
LYCORAL	FELLOWS MED MFG CO	LQ	4

M

Product name	Labeler	Dosage form	Schedule
M-PHEN	MCNEIL R A CO	LQ	5
M-POXIDE	MICHIGAN PHARM	CA	4
MAGNADENE DIARRHEA AND STOMACH MEDICINE	MAGNA INC	[illegible]	5
MALLERGAN	MALLARD INC	LQ	5
MAR-COF	MARNEL PHARM INC	LQ	5
[illegible]	NORTHRUP PHARM	TB	4
MARGESIC COMPOUND 65	NORTH AMERICAN PHARM	CA	4
MARGESIC IMPROVED	NORTH AMERICAN PHARM	CA	4
MARGESIC NO.3	MARNEL PHARM INC	TB	3
MARNAL	NORTH AMERICAN PHARM	TB	3
MARTABS	CALDWELL & BLOOR CO	TB	4
MARUATE	NORTH AMERICAN PHARM	TB	4
MAXIGESIC	[illegible]	CA	3
MEBARAL	WINTHROP LABS	TB	4
MEBROIN	WINTHROP LABS	TB	4
MEBROIN-V	WINTHROP LABS	TB	4
MED-TAME D C EXPECTORANT	MEDWICK LABS INC	SY	5
MEDA-HIST DH	MEDWICK LABS INC	SY	5
MEDA-HIST EXPECTORANT	MEDWICK LABS INC	LQ	5
MEDA-TUSS AC	MEDWICK LABS INC	SY	5
MEDAHISTINE-D	MEDCO SUPPLY CO	LQ	5
MEDCOHIST W CODEINE	PALMEDICO INC	TB	3
MEDI-BARB (BUTABARB SOD)	SPENCER-MEAD INC	EL	3
MEDIATRIC	AYERST LABORATORIES	TB	3
MEDIATRIC	AYERST LABORATORIES	CA	3
MEDIATRIC	AYERST LABORATORIES	LQ	3
[illegible] PLUS	VARIOUS	CX	3
MEDITUSSIN	PALMEDICO INC	LQ	3
MEDITUSSIN-X	PALMEDICO INC	LQ	5
MEDTRADINE	METICON INDUSTRIES	TB	3
MELFIAT	REID PROVIDENT LABS	TB	3

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PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
MEPHOBARBITAL	VARIOUS	TB	4
MEPHOBARBITAL	VARIOUS	PW	4
MEPHONAB	HABERLE DRUG COMPANY	TB	4
MEPHORAL	CANFIELD AND CO	TB	4
MEPRIUM	LEMMON PHARMACAL CO	TB	4
MEPRO	VARIOUS	TB	4
MEPROBAMATE	VARIOUS	PW	4
MEPROBAMATE	VARIOUS	TB	4
MEPROBANE	LINDEN LABORATORIES	TB	4
MEPROBEN-A	RUGBY LABORATORIES	TB	4
MEPROCHISTINE	SHERRY PHARM CO	TB	4
MEPROCON CMC	CONSOLIDATED MIDLAND	TB	4
MEPRODAN	DANIELS PHARM	TB	4
MEPRONEL	MARNEL PHARM COMPANY	TB	4
MEPROTIL	BRUNER-TILLMAN CO	TB	4
MEPROZINE	MIDWAY MEDICAL CO	TB	4
MEPTYZINE	ROBINSON LABORATORY	TB	4
MERCODOL WITH DECAPRYN	MERRELL NATIONAL LAB	SY	5
MERIBAM	MERIT PHARM CO	TB	4
MERPRIUM	LEMMON PHARMACAL CO	TB	4
METHARBITAL	ABBOTT LABS	TB	3
METHAZINE V C EXPECTORANT W CODEINE	VARIOUS	LQ	5
METRA	O'NEAL JONES FELDMAN	TB	3
METROGESIC # 2 & # 3	METRO MED INC	TB	3
MIDANIST DH	VARIOUS	LQ	5
MIDANIST EXPECTORANT	VARIOUS	LQ	5
MILTOWN	WALLACE LABORATORIES	TB	4
MINTO-CHLOR W CODEINE SULFATE	VALE CHEMICAL CO	SY	5
MINUS	FEDERAL PHARM CORP	TB	3
MISTURA BISMUTH & SALOL W OPIUM	VARIOUS	SS	5
MONACET WITH CODEINE	REXALL DRUG CO	TB	3
MOTILATE	WOLINS PHARM CORP	TB	3
MOULTONS DIARRHEA MIXTURE	MOULTONS DRUGS	LQ	5
MOULTONS PAIN RELIEVERS	MOULTONS DRUGS	TB	3
MUL SED	WEBCON PHARM	SS	3
MURCIL	TUTAG PHARMACEUTICAL	CA	4
MYOCAPS	PHILADELPHIA CAPS CO	CA	4
MYOLATE	AMFRE GRANT INC	TB	3
MYOTHESIA	BEECHAM-MASSENGILL	LI	3
MYTRANS	QUEEN CITY PHARMACAL	TB	4

N

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
NALLINE	MERCK & CO INC	LI	3
NALORPHINE HCL	MERCK & CO INC	PW	3
NAPAP # 2 & # 3	ROBINSON LABORATORY	TB	3
NAPAP WITH CODEINE	ROBINSON LABORATORY	EL	5
NASCOBARB	MAYRAND PHARM INC	TB	4
NASCOBARB OVALETS	MAYRAND PHARM INC	TB	4
NAUTROL	REID-PROVIDENT LABS	SU	3
NEMBU-DONNA 1/2	ABBOTT LABS	CA	3
NEMBUTAL	VARIOUS	SU	3
NEOCURB	PASADENA RESEARCH	TB	3
NEOCURB-TDC BROWN/CLEAR	PASADENA RESEARCH	XC	3
NEOREXIANT	CALDWELL & BLOOR	TB	3
NEOTUSS W CODEINE	WESTERFIELD	LQ	5
NEOTUSSIN	MOFFET INC	SY	5
NEOZYL	TUTAG PHARMACEUTICAL	LQ	5
NEURAMATE	HALSEY DRUG COMPANY	TB	4
NEURATE 400	TRIMEN LABS	TB	4
NEUROVAL	VALE CHEMICAL CO	EL	4
NEVROTOSE # 2 & # 3	VALE CHEMICAL CO	TB	4
NI TABS	BOWMAN PHARMACEUTIC	TB	4
NIPIRIN	ELDER P B COMPANY	CA	3
NIRATAME DC EXPECTORANT	PROGRESS LABS	LQ	5
NOCTEC	SQUIBB & SONS	SY	4
NOCTEC	SQUIBB & SONS	CA	4
NOLUDAR	VARIOUS	TB	3
NOLUDAR	VARIOUS	CA	3
NOR-MIL	NORTH AMERICAN PHARM	TB	5
NORATUSS	NORTH AMERICAN PHARM	LQ	5
NORCET	THERA-MEDIC	TB	3
NORMATANE DC	NORTH AMERICAN PHARM	LQ	5
NORMATANE DC EXPECTORANT	NORTH AMERICAN PHARM	SY	5
NOVACAPS 75	THOMAS PHARM	XC	4
NOVAHISTINE DH	DOW CHEMICAL CO	LQ	5
NOVAHISTINE EXPECTORANT	DOW CHEMICAL CO	LQ	5
NOVATABS	THOMAS PHARM	TB	4
NOVATUSS EXPECTORANT	BLAINE COMPANY	LQ	5
NOKYTR	ARLO INTERAMERICAN	TB	5
NOKYTR	ARLO INTERAMERICAN	LQ	5
NUCOFED	BEECHAM-MASSENGILL	SY	5
NULUCOF-PH	NOYES P J CO	SY	5
NURAPHEN	O'NEAL JONES FELDMAN	TB	4
NW-G,O,Y WEIGHTROL	WESTERN RESEARCH LAB	TB	3
NYSIAN EXPECTORANT WITH CODEINE	WILL-STAN PRODUCTS	LQ	5
NYSIAN V.C. EXPECTORANT WITH CODEINE	WILL-STAN PRODUCTS	LQ	5

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PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
O.B.C.T.	PHARMICS INC	XT	4
OBACIN	KENYON DRUG CO	TB	3
OBALAN	LANNETT CO	TB	3
OBE-DEL	MARLOP PHARM INC	CA	3
OBE-NIL (WHITE AND SEEDS)	THERA-MEDIC	TB	3
OBE-NIL TR (RED & YELLOW)	THERA-MEDIC	XC	3
OBE-NIX	THERA-MEDIC	CA	4
OBECAPS	THOMAS PHARM	CA	4
OBEPAR	PARMED PHARM	TB	3
OBESAMEAD	SPENCER-MEAD INC	XC	4
OBETABS-8	THOMAS PHARM	TB	4
OBEVAL	VALE CHEMICAL CO	TB	3
OBEZINE	WESTERN RESEARCH LAB	TB	3
OBY OBEZINE GREEN	WESTERN RESEARCH LAB	TB	3
OBY OBEZINE ORANGE	WESTERN RESEARCH LAB	TB	3
OBY OBEZINE YELLOW	WESTERN RESEARCH LAB	TB	3
OMNIBARB	DELTA DRUG(FLA)	TB	4
OMNI-TUSS	PENNWALT PRODUCTS	SS	5
OMNIBESE	DELTA DRUG (FLA)	TB	3
OMNIDESIC-C	DELTA DRUG (FLA)	CA	3
ONA-MAST	MAST M M COMPANY	XC	4
ONA-MAST	MAST M M COMPANY	TB	4
OPECTO ELIXIR	BOWMAN PHARMACEUTIC	EL	5
OR ORASATE (LIGHT BLUE)	WESTERN RESEARCH LAB	TB	3
ORADRATE	COAST LABS	CA	4
ORBIGESIC WITH CODEINE PHOSPHATE	ORBIT PHARMACEUTICAL	TB	3
ORBIHISTINE DH	ORBIT PHARMACEUTICAL	EL	5
ORBIHISTINE EXPECTORANT	ORBIT PHARMACEUTICAL	LQ	5
ORBIMETH EXPECTORANT	ORBIT PHARMACEUTICAL	LQ	5
ORBIMETH VC EXPECTORANT	ORBIT PHARMACEUTICAL	LQ	5
OVAMID	CALDWELL & BLOOR CO	TB	3
OXAZEPAM	PHARMACY SERVICE CEN	CA	4

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PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
P B TABLETS	VARIOUS	TB	4
P H TABLETS	VARIOUS	TB	4
P-M-P EXPECTORANT	MERICON INDUSTRIES	LQ	5
P-M-Z HCL EXPECTORANT W CODEINE PHOSPHA	SUTLIFF & CASE	SY	5
P-V-TUSSIN	REID-PROVIDENT LABS	LQ	3
P-V-TUSSIN	REID-PROVIDENT LABS	TB	3
PABIZOL WITH PAREGORIC	REXALL DRUG CO	LQ	5
PAC COMPOUND W CODEINE SULFATE	UPJOHN CO	CA	3
PAC COMPOUND W CODEINE SULFATE	UPJOHN CO	TB	3
PACONAL	JONES AND VAUGHAN	CA	3
PAIN TABS	VARIOUS	TB	3
PALGESIC	PAN AMERICAN LABS	CA	3
PALGESIC	PAN AMERICAN LABS	TB	3

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
PALKO	MOORE KIRK LABS	TB	4
PAMINE PB	UPJOHN CO	DP	4
PAN-BIS-CAL WITH PAREGORIC	NOYES P J CO	LQ	3
PANBUTAL	PAN AMERICAN LABS	TB	3
PANBUTAL	PAN AMERICAN LABS	EL	3
PANBUTAL	PAN AMERICAN LABS	CA	3
PANELLEX NO 1/2	VARIOUS	CA	3
PANHYON	WESLEY PHARMACAL CO	CA	4
PANHIBENO TP	PAN AMERICAN LABS	XC	4
PANQUIL	PAN AMERICAN LABS	TB	4
PANREXIN-M (PINK)	PAN AMERICAN LABS	TB	3
PANREXIN-M TP	PAN AMERICAN LABS	XC	3
PAPADEINE NO 3 (PAPADINE)	VANGARD LABS	TB	3
PAR 5 W CODEINE	PARMED PHARM	TB	3
PAR-LB 5, 10, 25	PARMED PHARM	CA	4
PARA-HIST	PHARMICS INC	SY	5
PARAKRAFT	KRAFT PHARMACEUTICAL	TB	3
PARAL (PARALDEHYDE)	FELLOWS MED MFG CO	CA	4
PARAL AMPULES	CHROMALLOY PHARM INC	LI	4
PARAPRIN	PARAMOUNT SURG SUPP	TB	3
PARATUSSIN A.C.	PARAMOUNT SURG SUPP	SY	5
PAREGORIC	VARIOUS	TB	3
PAREGORIC	VARIOUS	LQ	3
PAREGORIC AND SODA COMPOUND	VALE CHEMICAL CO	TB	3
PARELIXIR	VARIOUS	EL	5
PAREPECTOLIN	RORER INC	LQ	5
PARGESIC COMPOUND 65	PARMED PHARM	CA	4
PARGESIC 65	PARMED PHARM	CA	4
PARHISTINE DH MODIFIED	PARMED PHARM	LQ	5
PARMINE	PARMED PHARM	CA	4
PARPECK MIX	FORT DAVID LABS	LQ	5
PARPECTATE P.G.	PARMED PHARM	LQ	5
PARTUSS A.C.	PARMED PHARM	SY	5
PASEINE PH CT YELLOW	LANPAR COMPANY	TB	3
PASA-FLORA	INDIANAPOLIS PHARM	TB	4
PASMAL	PACE BOND DRUG	TB	3
PASSAGED NO3	TRUXTON C O INC	TB	4
PAVADON ELIXIR	COASTAL PHARM CO	EL	5
PAVILOR	HEALTHCO	TB	4
PAX-400	KENYON DRUG CO	TB	4
PBR/12	SCOTT-ALISON PHARM	XC	4
PC W CODEINE	VARIOUS	CA	3
PC W CODEINE	VARIOUS	TB	3
PECTAGORIC	CARROLL CHEM CO	LQ	5
PECTALIN W PAREGORIC	DAYLIN MED AND SURG	LQ	5
PECTIN KAOLIN & OPIUM	DRUMMER LABS	LQ	3
PECTO-KALIN	LEMMON PHARMACAL CO	LQ	3
PECTORAL SYRUP	NOYES P J CO	SY	3
PEDI-COLD	QUAKER CITY PHARM CO	TB	3
PEDIACOF	WINTHROP LABS	SY	5
PEDIATAB NO 2 (A.C.D.)	PHILIPS ROXANE LABS	TB	5
PEDIATRIC COUGH SYRUP	LIFE LABORATORIES	SY	5
PEDO-SOL	BOCK PHARMACAL CO	EL	3
PEDO-SOL	BOCK PHARMACAL CO	TB	3
PEMOLINE	ABBOTT LABS	BL	4
PEMOLINE	SIGMA CHEM CO	PW	4
PENOTAL	COASTAL PHARM CO	CA	3
PENTATHYN	SCRIP INC	TB	3
PENTAZINE VC W CODEINE	CENTURY PHARM INC	LQ	5
PENTAZINE W CODEINE	CENTURY PHARM INC	LQ	5
PENTOBARBITAL	VARIOUS	SU	3
PENTOTHAL	ABBOTT LABS	LI	3
PERCOGESIC-C	ENDO LABS INC	TB	3
PERICOL DC	PERRY LABS	SY	5
PERIDYNE	QUEEN CITY PHARMACAL	TB	4
PHARMADOSE	PHARMACARE	EL	4
PHARMATUSSIN	PHARMECON INC	LQ	5
PHAZYME-PB	REED & CARNRICK	TB	4
PHEDRAMIST	CALDWELL & BLOOR CO	CA	3
PHEDRAZINE	KINGSBAY PHARM	TB	3
PHEDRAZINE	KINGSBAY PHARM	CA	3
PHELANTIN	PARKE-DAVIS & CO	CA	3
PHENACETOPHEN W CODEINE	VARIOUS	CA	3
PHENACON EXPECTORANT WITH CODEINE	ECONO RX INC	SY	5
PHENACON VC EXPECTORANT WITH CODEINE	ECONO RX INC	SY	5
PHENALIX	MALLARD INC	TB	4
PHENAMINE	KINGSBAY PHARM	TB	4
PHENAMINE EXPECTORANT	PHARMECON INC	LQ	5
PHENAMINE-C	PHARMECON INC	LQ	5
PHENAPHEN W CODEINE	VARIOUS	CA	3
PHENATROCARB	O'NEAL JONES FELDMAN	TB	4
PHENATROCARB REVISED	WESTERFIELD LABS	TB	4
PHENAZINE	VARIOUS	CA	3
PHENAZINE	VARIOUS	TB	3
PHENDIET	TRUXTON C O INC	TB	3
PHENDIMEAD	SPENCER-MEAD INC	CA	3
PHENDIMEAD	SPENCER-MEAD INC	TB	3
PHENDIMETRAZINE	VARIOUS	TB	3
PHENDIMETRAZINE	VARIOUS	PW	3
PHENDIMETRAZINE	VARIOUS	CA	3
PHENDOREX	WOLINS PHARM CORP	TB	3
PHENDOREX	WOLINS PHARM CORP	CA	3
PHENEREX EXPECTORANT W CODEINE	RUCKSTUHL COMPANY	LQ	5
PHENEREX VC EXPECTORANT	RUCKSTUHL COMPANY	LQ	5
PHENERGAN EXPECTORANT W CODEINE	VARIOUS	LQ	5
PHENERGAN VC EXPECTORANT W CODEINE	WYETH LABORATORIES	LQ	5
PHENERVANCE EXPECTORANT W CODEINE	ADVANCE DRUG	LQ	5
PHENERVANCE VC EXPECTORANT W CODEINE	ADVANCE DRUG	LQ	5
PHENHIST D H W CODEINE	RUGBY LABORATORIES	LQ	5
PHENHIST D.H.	RUGBY LABORATORIES	LQ	5
PHENHIST EXPECTORANT	RUGBY LABORATORIES	LQ	5
PHENO-DONNA	MYRO PHARM INC	TB	4
PHENO-NUX	VALE CHEMICAL CO	TB	4
PHENO NUX & PEPSIN PINK	WESLEY PHARMACAL CO	TB	4
PHENOBARBITAL	VARIOUS	PW	4
PHENOBARBITAL	VARIOUS	EL	4
PHENOBARBITAL	VARIOUS	TB	4
PHENOBARBITAL	VARIOUS	SU	4
PHENOBARBITAL	VARIOUS	LI	4
PHENOBARBITAL	VARIOUS	CA	4
PHENOBARBITAL & ASPIRIN	INVENEX PHARM	TB	4
PHENOBARBITAL & BELLADONNA	VARIOUS	TB	4
PHENOBARBITAL & HYOSCYAMINE	CALDWELL & BLOOR CO	TB	4
PHENOBARBITAL & HYOSCYAMINE	VARIOUS	TB	4
PHENOBARBITAL W BROMIDE	VARIOUS	EL	4
PHENOBESE	TRACY PHARMACAL CO	TB	4
PHENOCHLORIDE PINK	CALDWELL & BLOOR CO	TB	4
PHENOSQUAR	MALLARD INC	TB	4
PHENTERCOT T.D.	TRUXTON C O INC	XC	4
PHENTERLOW	WESLEY PHARMACAL CO	XC	4
PHENTERMINE	VARIOUS	PW	4
PHENTERMINE	VARIOUS	CA	4
PHENTERMINE	VARIOUS	TB	4
PHENTERSPAN	WESLEY PHARMACAL CO	XC	4
PHENTRA	RUCKSTUHL COMPANY	TB	3
PHENTROL	NORTH AMERICAN PHARM	TB	4
PHENTROL	NORTH AMERICAN PHARM	CA	4
PHENYLHISTINE EXPECTORANT	LIFE LABORATORIES	LQ	5
PHENYLHISTINE EXPECTORANT MODIFIED	KAISER FOUND. HOSP.	LQ	5
PHENYLHISTINE-DH	LIFE LABORATORIES	LQ	5
PHENYLIN WITH CODEINE PHOSPHATE	DAYLIN MED AND SURG	LQ	5
PHENZINE	MALLARD INC	TB	3
PHERAZINE EXPECTORANT W CODEINE	HALSEY DRUG COMPANY	LQ	5
PHERAZINE VC EXPECTORANT W CODEINE	HALSEY DRUG COMPANY	LQ	5
PHERAMINE	CHROMALLOY PHARM INC	TB	3
PHI-TABLET	LANPAR COMPANY	TB	4
PHITAL	PHILPHARMA	TB	3
PHLEMAZIN W CODEINE	PROGRESS LABS	LQ	5
PHINT-30	WESTERN RESEARCH LAB	CA	4
PHINTR	WESTERN RESEARCH LAB	TB	4
PI-HE	PIXLON LABS	CA	4
PIRIN-PLUS	SCRIP INC	TB	3
PLACIDYL	VARIOUS	CA	4
PLEGINE	AYERST LABORATORIES	TB	3
PLEXONAL	SANDOZ PHARM	TB	3
PMP EXPECTORANT	MERICON INDUSTRIES	SY	5
PMZ EXPECTORANT WITH CODEINE PHOSPHATE	OXFORD PHARM	SY	5
POLY-CODILENE	NANCE BROS & WHITE	LQ	5
POLY-HISTINE	BOCK PHARMACAL CO	LQ	5
PONDIMIN	ROBINS A H CO INC	TB	4
PRE-SATE	WARNER-CHILCOTT LABS	XT	3
PRE-SED	VARIOUS	TB	3

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
QUAQUIB, P.G.	RUGBY LABORATORIES	LQ	3
QUIBAR	VARIOUS	TB	3
QUIBAR	VARIOUS	EL	3
QUIBAR	VARIOUS	CA	3
QUIESS	ATHENS HOMES FELDMAN	TB	3
QUIL CAPS	ECONO RX INC	CA	3

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R A F	FORT DAVID LABS	CA	3
RALDRAFE	JONES AND YAMOHAN	SY	4
RATIONALE COUGH SYRUP FORTE	FORT DAVID LABS	SY	5
RECTULES	FELLOWS MED MFG CO	SU	4
REDUCTO IMPROVED	ARCUM PHARM CORP	TB	3
RELATIN	STANDARD DRUG PROD	TB	3
[illegible] IMPROVED	SCOTT-AUSON PHARM	TB	3
REMEPHEN	WINSTON PHARMACEUTIC	TB	3
REPOSINOL TB	WESLEY PHARMACAL CO	CA	4
REPOSE REVISED (WET)	DIAMOND LABS	LQ	3
REPRO COMPOUND 65	REID-PROVIDENT LABS	CA	4
RESTOPHEN	HOYES P J CO	TB	4
RETION (LAVENDER)	TRI-STATE PHARM	TB	3
REX-A MIST EXPECTORANT	BUCKSTUHL COMPANY	LQ	5
REXAMISTINE DH	ECONO RX INC	EL	3
REXAMISTINE EXPECTORANT	ECONO RX INC	LQ	3
REXPED-C EXPECTORANT	ECONO RX INC	LQ	5
REXIGEN	ION LABORATORIES	TB	3
REYMACOF-AC	REYMAN DRUG CO	ST	5
RICHESTINE DH	HALSEY DRUG COMPANY	EL	3
RICHESTINE EXPECTORANT	HALSEY DRUG COMPANY	LQ	5
RICOR	VARIOUS	TB	3
RICOR RED	BUNDY C M COMPANY	ET	3
RID-A PAIN W CODEINE	PFEIFFER CO	TB	5
RO-CHLOREPOXIDE	ROBINSON LABORATORY	CA	4
RO-DIET	ROBINSON LABORATORY	TB	4
RO-DIMEN ATRIC	ROBINSON LABORATORY	TB	5
RO-TUSSIN SYRUP A C	ROGERS WHOLESALERS	ST	5
ROBAN	SIG INCORPORATED	TB	4
ROBAMATE	ROBINSON LABORATORY	TB	4
ROBICOF A-C	PACE PHARM	LQ	5
ROBITUSSIN A C	VARIOUS	LQ	5
ROBITUSSIN-DAC	ROBINS A H CO INC	LQ	5
ROBITAT TB	THOMAS PHARM	ST	3
ROPED C EXPECTORANT	VARIOUS	LQ	5
ROHISTINE DH	THREE P PRODUCTS	EL	3
ROHISTINE EXPECTORANT	THREE P PRODUCTS	LQ	5
ROLA-METHAZINE DECONGESTANT EXPCT W COD	ROBINSON LABORATORY	SY	5
ROLA-METHAZINE W CODEINE	ROBINSON LABORATORY	LQ	5
ROLAMIST DA	ROBINSON LABORATORY	LQ	5
ROLAPHENT 15 30	ROBINSON LABORATORY	CA	4
ROLATHMINE	ROBINSON LABORATORY	TB	3
ROMAZINE EXPECTORANT W CODEINE	WESLEY PHARMACAL CO	LQ	5
ROMAZINE VC EXPECTORANT W CODEINE	WESLEY PHARMACAL CO	LQ	5
ROPLEDGE	ROBINSON LABORATORY	TB	3
ROPOXY	ROBINSON LABORATORY	CA	4
ROPOXY-COMPOUND-65	ROBINSON LABORATORY	CA	4
ROTANE DC EXPECTORANT	VARIOUS	LQ	5
ROTENSE	ROBINSON LABORATORY	TB	3
ROTUSSIN SYRUP A C	THREE P PRODUCTS	ST	5
RU-E-N	RUCKER PHARMACAL CO	LQ	3
RU-LOB-N	RUCKER PHARMACAL CO	TB	3
RU-TUSS	RUCKER PHARMACAL CO	LQ	3
RU-TUSS EXPECTORANT	RUCKER PHARMACAL CO	LQ	5
RUCK-SED	VARIOUS	TB	3
RUCK-SED ELIXIR	RUCKER PHARMACAL CO	EL	3
RYNA-C & -CI	MALLINCKRODT	ST	5

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
PRODOLOR	AMPHE-GRANT INC	TB	3
PROGESIC COMPOUND-65	ULMER PHARMACAL CO	CA	4
PROGESIC-65	ULMER PHARMACAL CO	CA	4
PROMAGEN-G	GRAFTON PHARM	LQ	5
PROMATE	RAY PHARMACAL CO	TB	4
PROMATUSS	PARKDALE MEDICAL	LQ	5
PROMET	CENTURY PHARM INC	CA	4
PROMETH COMPOUND WITH CODEINE	HEDRICK LABS INC	SY	5
PROMETH EXPECTORANT W CODEINE	SCHEIN HENRY INC	LQ	5
PROMETH VC W CODEINE	BARRE DRUG CO	LQ	5
PROMETHAPAP VC WITH CODEINE	PARMED PHARM	LQ	5
PROMETHAPAP WITH CODEINE	PARMED PHARM	LQ	5
PROMETHAZINE EXPECTORANT W CODEINE	VARIOUS	LQ	5
PROMETHAZINE VC EXPECTORANT W CODEINE	VARIOUS	LQ	5
PROMETHAZINE VC W CODEINE	VARIOUS	LQ	5
PROMEX EXPECTORANT W CODEINE	DRUG AIDS INC	SY	5
PROMEX VC EXPECTORANT W CODEINE	DRUG AIDS INC	LQ	5
PROMEX W CODEINE	LEMMON PHARMACAL CO	LQ	5
PROPANTHELINE BROMIDE W PB	TRACY PHARMACAL CO	TB	4
PROPHENAMINE EXPECTORANT WITH CODEINE	CARROLL CHEM CO	LQ	5
PROPOXYPHENE	VARIOUS	PW	4
PROPOXYPHENE	VARIOUS	CA	4
PROPOXYPHENE ACETAMINOPHEN COMP	RICHLYN LABORATORIES	CA	4
PROPOXYPHENE COMPOUND	VARIOUS	CA	4
PROPOXYPHENE COMPOUND 65	VARIOUS	CA	4
PROPOXYPHENE HCL COMPOUND-65	ANTLANI PHARMACEUTICAL	CA	4
PROPOXYPHENE HCL W APAP 65/650	PUREPAC PHARM	TB	4
PROPOXYPHENE W ACETAMINOPHEN	VARIOUS	CA	4
PROPOXYPHENE W APAP	VARIOUS	CA	4
PROTENSION	BLAINE COMPANY	TB	3
PROTHAZINE W CODEINE	NORTH AMERICAN PHARM	LQ	5
PROTRAM	VARIOUS	TB	4
PROTUSS-CP	CALDWELL & BLOOR CO	SY	5
PROVAL NO 3	BEECHAM-MASSENGILL	CA	3
PROVON COMPOUND-65	GRAFTON PHARM	CA	4
PROXAGESIC	TUTAG PHARMACEUTICAL	CA	4
PRUNICODEINE	LILLY EU & CO	LQ	5
PSEUDO HIST EXPECTORANT	THERA-MEDIC	LQ	3
PSEUDODINE C	BAY LABORATORIES INC	LQ	5
PSEUDOEPHEDRINE HCL CODEINE PHOSPHATE	X-V-PHARMACAL CO	RC	3
PSEUDOPHEN C	BAY LABORATORIES INC	LQ	5
PT-15	WESTERN RESEARCH LAB	CA	4
PTR-30	WESTERN RESEARCH LAB	CA	4
PTY-30	WESTERN RESEARCH LAB	CA	4
PULSAPHEN	WESLEY PHARMACAL CO	TB	4
PURETANE EXPECTORANT DC	PUREPAC PHARM	LQ	5
PYRACOL	VITA-FORE PRODUCTS	ST	5
PYRADYL	PATON PHARM INC	LQ	5
PYRADYNE COMPOUND	LEMMON PHARMACAL CO	TB	3
PYRIBENZAMINE EXPT W CODEINE	CIBA-GEIGY CORP	LQ	5
PYRILADES-CP	CALDWELL & BLOOR CO	LQ	5
PYRROGLATE W CODEINE PHOSPHATE	UPJOHN CO	CA	3

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Q-BAN 480	QUALITY PHARMACAL	TB	4
480-DC	QUALITY PHARMACAL	CA	3
Q VON 65	QUALITY PHARMACAL	CA	4
QUABUTA	QUAKER CITY PHARM CO	CA	3
QUACHARSE	QUAKER CITY PHARM CO	TB	4
QUARVET-KEM	QUAKER CITY PHARM CO	CA	3
QUARBAR	QUAKER CITY PHARM CO	CA	4
QUARK-RI YELLOW	MALLARD INC	ET	3
QUASIN	QUAKER CITY PHARM CO	CA	3
QUASIN JR	QUAKER CITY PHARM CO	TB	3
QUAZINE	QUAKER CITY PHARM CO	TB	3

PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
S T FORTE	SCOT-TUSSIN PHARM	SY	3
S.A.P.PLUS [illegible]	LEMMON PHARMACAL CO	TB	3
SA-7 AND 8	MODERN DRUG CO	TB	4
SABUC CAPS	MEDICAL SPECIALTIES	CA	3
SALATH WITH CODEINE	FRENDALE LABS	TB	3
SALDOV	TRUXTON C O INC	TB	3
SALIBARB	WALES CHEMICAL CO	EL	3
SALIPRAL	REMYON DRUG CO	TB	3
SALOL AND BISMUTH COMP	VALE CHEMICAL CO	TB	3
SANORER	SANDOZ PHARM	TB	3
SARISOL	HALSEY DRUG COMPANY	EL	3
SARISOL	HALSEY DRUG COMPANY	TB	3
SARORIN	SARORIN PHARMACAL CORP	TB	4
SECOBARBITAL	VARIOUS	SU	3
SECONAL SODIUM	LILLY EU & CO	SU	3
SED-A-PED	MISSOURI PHARM	LQ	4
SEDA-8	BOOSEY W E AND CO	CA	3
SEDABAMATE	MALLARD INC	TB	4
SEDABARB'S	ROERICKE AND TAFEL	TB	4
SEDADROPS REFORMULATED	MERRELL-NATIONAL LAB	DP	4
SEDAOERIC	VARIOUS	TB	3
SEDAJEN	VARIOUS	TB	4
SEDAMEL	LORNEL COMPANY	TB	4
SEDATIVE # 85-A m	STANDARD PHARMACAL	TB	4
SEDATIVE COMBINATION # 10-8, 13 & 28	STANDARD PHARMACAL	TB	4
SEDATIVE W LIVER	STANDARD PHARMACAL	TB	4
SEDITAL	VARIOUS	TB	4
SEDITEMID	TRUXTON C O INC	TB	4
SEDOBAL	MALLARD INC	SY	3
SEDPAINE	FREEPORT DRUG CO	TB	3
SERAX	WYETH LABORATORIES	TB	4
SERAX	WYETH LABORATORIES	CA	4
SEREEN	FOY LABS INC	CA	4
SERPITAL	SCHUEMANN JONES	TB	3
SHERAZED-C	SHERATON LABS INC	LQ	5
SHERFACT-C EXPECTORANT	SHERRY PHARM CO	LQ	5
SHERNISTINE D H ELIXIR	SHERRY PHARM CO	LQ	5
SHERNISTINE EXPECTORANT	SHERRY PHARM CO	LQ	5
SHERTAL	MEDICAL SPECIALTIES	EL	4
SHERRYBARB ELIXIR	SHERRY PHARM CO	EL	3
SHERRYCOPY	SHERRY PHARM CO	LQ	5
SHERRYTUSSIN A C	SHERRY PHARM CO	LQ	5
SIBA RECTAL SUPPOSITORIES	SPENCER-MEAD INC	SU	3
SINUTAB WITH CODEINE	WARNER-CHILCOTT LABS	TB	3
SK-APAP W CODEINE	SMITH KLINE FRENCH	TB	3
SK-BARBARB	SMITH KLINE FRENCH	TB	4
SK-CHLORAL HYDRATE	SMITH KLINE FRENCH	CA	4
SK-LYDEN	SMITH KLINE FRENCH	LA	[illegible]
SK-PHENOBARBITAL	SMITH KLINE FRENCH	TB	4
SK-65	SMITH KLINE FRENCH	CA	4
SK-65 COMPOUND	SMITH KLINE FRENCH	CA	4
SK-65 W APAP	SMITH KLINE FRENCH	TB	4
SLIM-HAL	HALSON DRUG COMPANY	TB	3
SLIMZEM	ZEMMER CO INC	TB	3
SODIUM N-AMYLETHYL BARBITURATE	DAME'S CHEMICAL WKS	EL	3
SODUBEN	ARCUM PHARM CORP	EL	3
SODUBEN	ARCUM PHARM CORP	TB	3
SOLFOTON	POYTHRESS & CO INC	TB	4
SOLFOTON	POYTHRESS & CO INC	CA	4
SOLUBARB	FELLOWS MED MFG CO	TB	4
SOMA-A-BARB	CHAMBERS PHARMACAL	TB	4
SOMA COMPOUND WITH CODEINE	WALLACE LABORATORIES	TB	3
SOMABLEX	BIKER LABS INC	TB	3
SOMAPHEN	MERCK & CO INC	EL	4
SOMNYL	PLAT MEDICINE CO	LQ	4
SORBASE 2	FORT DAVIS LABS	SY	3
SPANBELIN MD 3	ARCUM PHARM CORP	TB	4
SPAN-RD TABS	METRO MED INC	TB	3
SPANTRAM	PALMERICO INC	TB	4
SPC COMPOUND WITH CODEINE PHOSPHATE	LINDEN LABORATORIES	TB	3
SPC WITH CODEINE	BARRE DRUG CO	TB	5
SPEN-HISTINE DH	SPENCER-MEAD INC	EL	3
SPEN-HISTINE EXPECTORANT	SPENCER-MEAD INC	LQ	5
SPENTANE DC EXPECTORANT	SPENCER-MEAD INC	LQ	5

PRODUCT NAME	LABELER	ENTERICS FORMS	SCHEDULE
STATOBEX	LEMMON PHARMACAL CO	TB	3
STATOBEX	LEMMON PHARMACAL CO	CA	3
STRAPHEN W CODEINE	STERI-MED INC	TB	3
STRIMEN C EXPECTORANT	STERI-MED INC	LQ	5
STRIO-DARVON W ASA	LILLY EU & CO	TB	4
STRIO-100	SCRIP INC	CA	3
STRIM-25	SCRIP INC	TB	3
STODEX	JALCO PHARM INC	TB	3
STODEX-M-50	JALCO PHARM INC	CA	4
STOMI SYRUP	SCRIP INC	LQ	3
STOMI-25	SCRIP INC	TB	3
SU-TUSS	MOPPET INC	LQ	5
SUBITAL	PARKE-DAVIS & CO	LI	3
SYNALGOS-DC	IVES LABS INC	CA	3
SYNALFUSS-PH12	FREEPORT DRUG CO	SY	5
SYNTHRICIN	WINTHROP LABS	ET	5
SYRCODATE	BLUE LINE CHEM CO	ST	5
SYRCOREST	VARIOUS	LQ	5
SYRETE A-F COMPOUND	VARIOUS	LQ	3
SYROLATE WITH CODEINE	BRYANT PHARM	LQ	5
SYRUP AROMATUSS	ECONO RX INC	SY	5
SYRUP OF THEBYLATE	HALSEY DRUG COMPANY	ST	5

T

T.C.-5	VARIOUS	LQ	5
T.I.D. TABLETS	LEM-TAG COMPANY	TB	4
TABLETAS FENOBARBITAL	SEIN MENDEZ LABS	TB	4
TAPPO-PHEN LAYTABS	TRUXTON C O INC	TB	3
TARDLIN WITH PARREGORIC	DETROIT PREST AID CO	LQ	5
TAMINE EXPCT DC	GENEVA GENERICS	LQ	5
TANGENE	TRACY PHARMACAL CO	SY	5
TANOREX	LASER INC	TB	3
TEDIPEN	PENNDALE LABS	TB	3
TEGA-CODE	VARIOUS	TB	3
TEGA-NIL	ORTEGA PHARM CO	TB	3
TEGA-TUSSIN	VARIOUS	SY	3
TEGA-TUSSIN	ORTEGA PHARM CO	TB	3
TEN-SHUN	MARBLE DRUG COMPANY	TB	3
TEN-U-MAST	MAST M M COMPANY	TB	4
TENABARB	QUEEN CITY PHARMACAL	TB	3
TENAX	REID-PROVIDENT LABS	CA	4
TENNEX	BUCKSTUHL COMPANY	ST	4
TENSAKRAFT	KRAFT PHARMACEUTICAL	TB	3
TENSENAL	FOY LABS INC	TB	3
TENSOBARB	VARIOUS	CA	3
TENSOBARB	PHARMACON INC	TB	3
TENSTAN	STANDER LABORATORIES	TB	3
TENUATE	MERRELL-NATIONAL LAB	TB	4
TENUATE DOSPAN	MERRELL-NATIONAL LAB	ET	4
TEPANIL	RICER LABS INC	TB	4
TEPANIL TEN-TABS	RICER LABS INC	TB	4
TERAMINE	RUGBY LABORATORIES	TB	3
TERAMINE	TRACY PHARMACAL CO	TB	3
TERPIN HYDRATE & CODEINE	VARIOUS	EL	5
THEDA LQ	THEDA CORPORATION	TB	5
THEDA LQ	THEDA CORPORATION	LQ	5
THEDA AMP	THEDA CORPORATION	TB	4
THEDA P C 65	THEDA CORPORATION	CA	4
THEDA PH	THEDA CORPORATION	CA	4
THEDA PH 65/APAP	THEDA CORPORATION	TB	4
THEDA-BROM DC EXPECTORANT	THEDA CORPORATION	LQ	5
THEDA-HIST DH	THEDA CORPORATION	LQ	5
THEDA-HIST EXPECTORANT	THEDA CORPORATION	LQ	5
THEDA-METH EXPECTORANT W CODEINE	THEDA CORPORATION	LQ	5
THEDA-METH VC W CODEINE	THEDA CORPORATION	LQ	5
THEDA-PHED C EXPECTORANT	THEDA CORPORATION	LQ	5
THEDA-PHEN	THEDA CORPORATION	LQ	5
THEDA-TUSS A-C	THEDA CORPORATION	LQ	5
THEO-RID	THEO PHARM CO INC	TB	3
THIABTAL	RHODE J G INC	EL	4
THIABTAL	RHODE J G INC	TB	4

DEPARTMENT OF COMMERCE

authorize the Regional Director to

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	PRODUCT NAME	LABELER	DOSAGE FORM	SCHEDULE
	TRIAMYL SORBIDE W 5% SODIUM CARBONATE	CAINE'S CHEMICAL WKS	BL	3
	THORETS	BAKER W F DRUG CO	CA	3
	TI-SAMATE	THOMPSON LABS	TB	4
	TI-CHLORAL	THOMPSON LABS	CA	4
	TI-PHENO	THOMPSON LABS	TB	4
	TOLU-SED	FIRST TEXAS PHARM	SY	5
	TOLUMINT-C	MOYES P J CO	LQ	3
	TOLUMINT-DHC	MOYES P J CO	LQ	3
	TORA	TUTAG PHARMACEUTICAL	TB	4
	TRANCOT	TRUSTON C O INC	TB	4
	TRANMEP	REID-PROVIDENT LABS	TB	4
	TRANQUI-TABS	GENERAL PHARM INC	TB	4
	TRANQUILAMS	MOYES P J CO	TB	4
	TRANZEME	VARIOUS	TB	4
	TRANZENE	VARIOUS	CA	4
	TRANZENE SD	ABBOTT	TB	4
	TRI-BAR	VARIOUS	TB	4
	TRI-PHEN DC	BAY LABORATORIES INC	LQ	5
	TRI-VON COMP 65	TRI COUNTY PHARMACAL	CA	4
	TRIACIN C EXPECTORANT	VARIOUS	LQ	5
	TRIADINE-C	BOCK PHARMACAL CO	SY	3
	TRIAPED C SYRUP	WOLINS PHARM CORP	SY	5
	TRIAMINIC EXPECTORANT DH	DORSEY LABORATORIES	LQ	3
	TRIAMINIC EXPECTORANT WITH CODEINE	DORSEY LABORATORIES	SY	5
	TRIAPHED-F	VENATEX CORPORATION	LQ	5
	TRIAPHEN DC	DUNHALL PHARM INC	CA	3
	TRICODEINE	PFEIFFER CO	LQ	5
	TRIPED-C EXPECTORANT	GENEVA GENERICS	SY	5
	TRIPHSTA-COD	RECSEI LABS	LQ	5
	TRIM TABS	VARIOUS	TB	3
	TRIOPHEN	BONDER LABORATORIES	TB	3
	TRIORBIT-C EXPECTORANT	ORBIT PHARMACEUTICAL	LQ	5
	TRIPLE SEDATIVE WITH HMB	DRUMMER LABS	TB	3
	TRIPOSED-C EXPECTORANT	MALSEY DRUG COMPANY	SY	5
	TRIPROPED W CODEINE	ROBINSON LABORATORY	LQ	5
	TRIPROLIDINE W CODEINE	KAISER FOUND. HOSP.	LQ	5
	TRITANE DC EXPECTORANT	SCOND RX INC	LQ	5
	TRITUSSIN	TOWNE PHARM & CO	SY	5
	TSG CROUP LIQUID	REDES P S COMPANY	LQ	5
	TUSS-A-C	ARCUM PHARM CORP	SY	5
	TUSSAPIN EXPECTORANT	RUGBY LABORATORIES	LQ	3
	TUSSAMIL	MISEMER PHARM INC	LQ	3
	TUSSAMIL DH	MISEMER PHARM INC	TB	3
	TUSSAR	ARMOUR PHARM	LQ	3
	TUSSCODIME-AC	PROGRESS LABS	SY	5
	TUSSEND	DOW CHEMICAL CO	TB	3
	TUSSINE EXPECTORANT	DOW CHEMICAL CO	EL	3
	TUSSIUM MODIFIED	GENESEE DRUG CORP	LQ	3
	TUSSI-ORGANIDIN	WALLACE LABORATORIES	EL	3
	TUSSIONEX	PENNWALT PRODUCTS	SS	3
	TUSSIONEX CAPSULES	PENNWALT PRODUCTS	XC	3
	TUSSIONEX TABLETS	PENNWALT PRODUCTS	XT	3
	TUSSMEX	SCOT-TUSSIN PHARM	SY	5
	TUSSTROL	REID-PROVIDENT LABS	LQ	5
	TYLENOL W CODEINE	VARIOUS	LQ	5
	TYLENOL W CODEINE	VARIOUS	TB	3

U

	UCAM 30	BO-MISE COMPANY	CA	4
	UGA-MO 3	ECONO RX INC	TB	3
	UNICURE 4	UPJOHN CO	TB	4
	UNITRIN	UNITED RESEARCH LABS	TB	3
	UPLEGE	BO-MISE COMPANY	TB	3

V

	V-CHLOR	VANGARD LABS	LQ	4
	V-CLOR	VANGARD LABS	CA	4
	VALDERME	VALE CHEMICAL CO	TB	3
	VALIUM	ROCHE LABS	EL	4
	VALIUM	VARIOUS	IJ	4
	VALMID	IOWA UNIVERSITY	TB	4
	VALMID	DISTA PRODUCTS CO	CA	4
	VERSTRAN	WARNER CHILCOTT LABS	TB	4
	VICOPRIN	KNOLL PHARMACEUTICAL	TB	3
	VINBARBITAL	GANE'S CHEMICAL WKS	BL	3
	VISTABAMATE	VISTA LABS	TB	4
	VITRAZINE	VITARINE CO INC	TB	3
	VITRAZINE TR (RED & YELLOW)	VITARINE CO INC	XC	3
	VORANIL	USV PHARM CORP	TB	3

W

	WANS	WESCON PHARM	SU	3
	WEHLESS THECELLES	MAUCK W E INC	XC	4
	WRIGHTROL	NORTH AMERICAN PHARM	EA	3
	WRIGHTROL	NORTH AMERICAN PHARM	TB	3
	WESCOD	WESLEY PHARMACAL CO	TB	3
	WESCOPHEN-S	WESLEY PHARMACAL CO	TB	4
	WESDEX	WESLEY PHARMACAL CO	XC	3
	WESTROL	WESLEY PHARMACAL CO	TB	4
	WHITE-BAR ONE & TWO	FREEPORT DRUG CO	EB	4
	WILPOWR	FOY LABS INC	EA	4
	WINDOLOR	WINSTON PHARMACAL	TB	3
	WINSTAMINE 7 WITH CODEINE	WINSTON PHARMACEUTIC	LQ	5
	WINSTAMINE JR-8	WINSTON PHARMACEUTIC	LQ	5
	WOLGRAINE	WOLINS PHARM CORP	CA	3
	WOLGRAINE	WOLINS PHARM CORP	TB	3
	WOLSPECTING-PG	WOLINS PHARM CORP	SS	3
	WOLTUSSIN-AC	WOLINS PHARM CORP	SY	5
	WP PHENDOREX	WESTERN RESEARCH LAB	TB	3
	WPB BLUE	LINDEN LABORATORIES	TB	4
	WPHYTG	WESTERN RESEARCH LAB	TB	4
	WYOGESIC	WYETH LABORATORIES	EB	4

X

	X-TRO	XTERRA LABS	CA	4

Y

	YUBA CEBO-PECAC WITH CODEINE	SCHERICH AND KAPE	SY	5

Z

	ZO-TUSSIS	MALSEM DRUG COMPANY	SY	5

3

	3-P BAMATE	PARK PLAZA PHARMACTU	TB	4
	3-P DY-ETT	PARK PLAZA PHARMACTU	CA	4
	3-P EXPECTURANT WITH CODEINE	PARK PLAZA PHARMACTU	LQ	5
	3-P PANE WITH CODEINE	PARK PLAZA PHARMACTU	TB	3
	3-P ROMCAP	PARK PLAZA PHARMACTU	CA	4

[FR Doc. 80-36388 Filed 11-21-80; 8:45 am]

BILLING CODE 4110-23-C

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 656

Mackerel Fishery of the Northwest Atlantic, Allocation of Atlantic Mackerel From Reserve

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Notice of proposed Atlantic Mackerel allocation.

SUMMARY: Under the authority delegated by the Assistant Administrator for Fisheries, NOAA, the Regional Director, Northeast Region, National Marine Fisheries Service (NMFS), is proposing the allocate the entire reserve of Atlantic mackerel (*Scomber scombrus*) to foreign nations. The Atlantic mackerel reserve of 6,000 metric tons (mt) would be transferred to the total allowable level of foreign fishing (TALFF), increasing it from 4,000 mt to 10,000 mt.

DATE: Comments on this proposed 6,000 mt allocation of mackerel from reserve to TALFF are invited for a 15-day period. Comments must be submitted in writing on or before December 10, 1980.

ADDRESS: All comments should be sent to: National Marine Fisheries Service, Northeast Region, State Fish Pier, Gloucester, Massachusetts 09130. Mark: "Comments on Proposed Mackerel Allocation" on the outside of the envelope.

FOR FURTHER INFORMATION CONTACT: Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930; or Frank Grice, Chief, Fisheries Management Division, Northeast Region, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts 01930. Telephone number for both individuals is (617) 281–3600.

SUPPLEMENTARY INFORMATION: Regulations to implement the management measures of the Fishery Management Plan for Atlantic Mackerel, as amended, were published in the **Federal Register** at 45 FR 45291 and 45 FR 60457. These regulations establish a reserve for Atlantic mackerel and provisions to allocate all or part of the reserve to TALFF. The regulations authorize the Regional Director to review during October of each year the U.S. mackerel harvest and the ability and intent of the domestic industry to harvest and process this species during the remainder of the fishing year. The Regional Director then projects the total amount of mackerel which will be harvested by domestic fishermen through March 31, 1981. If the projection shows that the estimate of domestic annual harvest (DAH) of 20,000 mt is adequate for the domestic industry during this fishing year, then the entire reserve of 6,000 mt is allocated to foreign fishermen.

The total mackerel catch for this fishing year was derived by examining the present reported landings from April through September, and projecting commercial and recreational landings for the remainder of the fishing year. Also, the ability and intent of domestic harvesters and processors to harvest and process mackerel during this period was considered.

The Mid-Atlantic and New England Fishery Management Councils and the National Marine Fisheries Service have inquired to determine the intent and the ability of harvesters and processors to handle mackerel landings from April through September, 1980, were 1,449 mt. This represents a five percent increase over the 1,378 mt landed in the same period of the previous fishing year. Additionally, the current 1980 assessment of the mackerel spawning stock reveals a 20 percent increase over the 1979 spawning stock size. Therefore, taking this 20 percent increase in stock size and other relevant data into consideration the Regional Director projects that the total mackerel landings by U.S. fishermen for the 1980–81 fishing year will be 5,332 mt. It has been determined that the remainder of the DAH is adequate for their needs. Therefore, the entire 6,000 mt of the reserve is proposed to be allocated to TALFF.

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C., this 19th day of November 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

It is proposed to revise 50 CFR 611.20 Appendix 1 to read as follows:

PART 611—FOREIGN FISHING

§ 611.20 [Appendix I] [Revised]

Species	Species code	Areas	OY	DAH	JVP	Reserve	TALFF
1. Northwest Atlantic Ocean fisheries:							
B. Mackerel fishery, mackerel, Atlantic	204		30,000	20,000	0	0	10,000

[FR Doc. 80-36553 Filed 11-21-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 228
Monday, November 24, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Bylaws of Corporation

The bylaws of the Commodity Credit Corporation, amended September 19, 1980, are as follows:

Offices

1. The principal office of the Corporation shall be in the City of Washington, District of Columbia, and the Corporation shall also have offices at such other places as it may deem necessary or desirable in the conduct of its business.

Seal

2. There is impressed below the offical seal which is hereby adopted for the Corporation. Said seal may be used by causing it or a facsimile thereof to be impressed or affixed or reproduced.

Meetings of the Board

3. Regular meetings of the Board shall be held, whenever necessary, on Wednesdays at 9:30 a.m. in the Board meeting room in the U.S. Department of Agriculture in the City of Washington, D.C. Notice of such meetings shall be provided in the same manner as is specified for special meetings in Paragraph 4. No regular meetings of the Board shall be held except in accordance with provisions of the Government in the Sunshine Act (5 U.S.C. 552b).

4. Special meetings of the Board may be called at any time by the Chairman, the Vice Chairman, or by the President, or the Executive Vice President and shall be called by the Chairman, the Vice Chairman, the President, or the Executive Vice President at the written request of any five Directors. Notice of special meetings shall be given either personally or by mail (including intradepartmental mail channels of the Department of Agriculture or interdepartmental mail channels of the Federal Government) or by mailgram, and notice by telephone shall be personal notice. Any Director may waive in writing such notice as to himself, whether before or after the time of the meeting, and the presence of a Director at any meeting shall constitute a waiver of notice of such meeting. No notice of an adjourned meeting need be given. Any and all business may be transacted at any special meeting unless otherwise indicated in the notice thereof. No special meetings of the Board shall be held except in accordance with provisions of the Government in the Sunshine Act (5 U.S.C. 552b).

5. The Secretary of Agriculture shall serve as Chairman of the Board. The Deputy Secretary of Agriculture shall serve as Vice Chairman of the Board and, in the absence or unavailability of the Chairman, shall preside at meetings of the Board. In the absence or unavailability of the Chairman and the Vice Chairman, the President of the Corporation shall preside at meetings of the Board. In the absence or unavailability of the Chairman, the Vice Chairman, and the President, the Directors present at the meeting shall designate a Presiding Officer.

6. At any meeting of the Board a quorum shall consist of five Directors. The act of a majority of the Directors present at any meeting at which there is a quorum shall be the act of the Board.

7. The General Council of the Department of Agriculture, whose office shall perform all legal work of the Corporation, and the Associate General Counsel in the Office of the General Counsel who is in immediate charge of legal work for the Corporation shall, as General Counsel and Associate General Counsel of the Corporation, respectively, attend meetings of the Board.

8. The Executive Vice President, the Vice President who is the Associate Administrator of the Agricultural Stabilization and Conservation Service, and the Secretary shall attend meetings of the Board. Each of the other Vice Presidents and Deputy Vice Presidents, and the Controller shall attend meetings of the Board during such times as the meetings are devoted to consideration of matters as to which they have responsibility.

9. Other persons may attend meetings of the Board upon specific authorization by the Chairman, Vice Chairman, or President.

Compensation of Board Directors

10. The Compensation of each Director shall be prescribed by the Secretary of Agriculture. Any Director who holds another office or position under the Federal Government, the compensation for which exceeds that prescribed by the Secretary of Agriculture for such Director, may elect to receive compensation at the rate provided for such other office or position in lieu compensation as a Director.

Officers

11. The officers of the Corporation shall be a President, Vice Presidents, and Deputy Vice Presidents as hereinafter provided for, a Secretary, a Controller, a Treasure, a Chief Accountant, and such additional officers as the Secretary of Agriculture may appoint.

12. The Under Secretary of Agriculture for International Affairs and Commodity Programs shall be ex officio President of the Corporation.

13. The following officials of the Agricultural Stabilization and Conservation Service (referred to as ASCS), Foreign Agricultural Service (referred to as FAS), Food and Nutrition Service (referred to as FNS), Food Safety and Quality Service (referred to as FSQS), and the Agricultural Marketing Service (referred to as AMS) shall be ex officio officers of the Corporation:

Administrator, ASCS; Executive Vice President.
Administrator, FAS; Vice President.
Administrator, AMS; Vice President.
Administrator, FNS; Vice President.
Administrator, FSQS; Vice President.
General Sales Manager and Associate Administrator, FAS; Vice President.
Associate Administrator, ASCS; Vice President.
Deputy Administrator, State and County Operations, ASCS; Deputy Vice President.
Deputy Administrator, Commodity Operations, ASCS; Deputy Vice President.
Deputy Administrator, Management, ASCS; Deputy Vice President.
Executive Assistant to the Administrator, ASCS; Secretary.
Director, Financial Management Division, ASCS; Controller.
Deputy Director-Fiscal, Financial Management Division, ASCS; Treasurer.
Chief, Financial Systems and Procedures Branch, Financial Management Division, ASCS; Chief Accountant.

The person occupying, in an acting capacity, the office of any person designated ex officio by this paragraph 13 as an officer of the Corporation shall, during his occupancy of such office, act as such officer.

14. Officers who do not hold office ex officio shall be appointed by the Secretary of Agriculture and shall hold office until their respective appointments shall have been terminated.

The President

15. (a) The President shall have general supervision and direction of the Corporation, its officers and employees.

(b) The President shall establish and direct an Office of the Secretariat. Such office shall be responsible for obtaining or developing, as the President determines, information on major program or policy proposals submitted to the Board.

The Vice Presidents

16. (a) The Executive Vice President shall be the chief executive officer of the Corporation and shall be responsible for submission of all Corporation policies and programs to the Board. Except as provided in paragraphs (b), (c), (d), (e), and (f) below, the Executive Vice President shall have general supervision and direction of the preparation of policies and programs for submission to the Board, of the administration of the policies and programs approved by the Board, and of the day-to-day conduct of the business of the Corporation and of its officers and employees.

(b) The Vice President who is the Administrator, Foreign Agricultural Service, shall be responsible for preparation for submission by the Executive Vice President to the Board of those policies and programs of the Corporation which are for performance through the facilities and personnel of the Foreign Agricultural Service. He shall also have responsibility for the administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of the foreign Agricultural Service. he shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(c) The Vice President who is Administrator, Agricultural Marketing Service, shall be responsible for the administration of those operations of the Corporation, under policies and programs approved by the board, which are carried out through facilities and personnel of the Agricultural Marketing Service. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(d) The Vice President who is the General Sales Manager and Associate Administrator, Foreign Agricultural Service, shall be responsible for preparation for submission by the Executive Vice President to the Board of policies and programs of the Corporation which are for performance through the facilities and personnel of the Foreign Agricultural Service. He shall also have responsibility for the administration of those operations of the Corporation, under the policies and programs approved by the Board, which are carried out through facilities and personnel of the Foreign Agricultural Service. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(e) The Vice President who is the Administrator, Food and Nutrition Service, shall be responsible for the administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of the Food and Nutrition Service. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

(f) The Vice President who is the Administrator, Food Safety and Quality Service, shall be responsible for the Administration of those operations of the Corporation, under policies and programs approved by the Board, which are carried out through facilities and personnel of the Food Safety and Quality Service. He shall also perform such special duties and exercise such powers as may be prescribed, from time to time, by the Secretary of Agriculture, the Board, or the President of the Corporation.

17. The Vice President who is the Associate Administrator, Agricultural Stabilization and Conservation Service, and the Deputy Vice Presidents shall assist the Executive Vice President in the performance of his duties and the exercise of his powers to such extent as the President or the Executive Vice President shall prescribe, and shall perform such special duties and exercise such powers as may be prescribed from time to time by the Secretary of Agriculture, the Board, the President of the Corporation, or the Executive Vice President of the Corporation.

The Secretary

18. The Secretary shall attend and keep the minutes of all meetings of the Board; shall attend to the giving and serving of all required notices of meetings of the Board; shall sign all papers and instruments to which his signature shall be necessary or appropriate; shall attest the authenticity of and affix the seal of the Corporation upon any instrument requiring such action and shall perform such other duties and exercise such other powers as are commonly incidental to the Office of Secretary as well as such other duties as may be prescribed from time to time by the President or the Executive Vice President.

The Controller

19. The Controller shall have charge of all fiscal and accounting affairs of the Corporation, including all borrowings and related financial arrangements, claims activities, and formulation of prices in accordance with established policies; and shall perform such other duties as may be prescribed from time to time by the President or the Executive Vice President.

The Treasurer

20. The Treasurer, under the general supervision and direction of the Controller, shall have charge of the custody, safekeeping and disbursement

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of all funds of the Corporation; shall designate qualified persons to authorize disbursement of corporate funds; shall direct the disbursement of funds by disbursing officers of the Corporation or by the Treasurer of the United States, Federal Reserve Banks and other fiscal agents of the Corporation; and shall issue instructions incidental thereto; shall be responsible for documents relating to the general financing operations of the Corporation, including borrowings from the United States Treasury, commercial banks and others; shall arrange for the payment of interest on and the repayment of such borrowings; shall arrange for the payment of interest on the capital stock of the Corporation; shall coordinate and give general supervision to the claims activities of the Corporation and shall have authority to collect all monies due the Corporation, to receipt therefor and to deposit same for the account of the Corporation; and shall perform such other duties relating to the fiscal and accounting affairs of the Corporation as may be prescribed from time to time by the controller.

The Chief Accountant

21. The Chief Accountant, under the general supervision and direction of the Controller, shall have charge of the general books and accounts of the Corporation and the preparation of financial statements and reports. He shall be responsible for the initiation, preparation and issuance of policies and practices related to accounting matters and procedures, including official inventories, records, accounting and related office procedures where standardized, and adequate subsidiary records of revenues, expenses, assets and liabilities; and shall perform such other duties relating to the fiscal and accounting affairs of the Corporation as may be prescribed from time to time by the Controller.

Other Officials

22. Except as otherwise authorized by the Secretary of Agriculture or the Board, the operations of the Corporation shall be carried out through the facilities and personnel of the Agricultural Stabilization and Conservation Service, the Office of the General Sales Manager, the Foreign Agricultural Service, the Food and Nutrition Service, the Food Safety and Quality Service, and the Agricultural Marketing Service in accordance with any assignment of functions and responsibilities made by the Secretary of Agriculture and, within his respective agency or office, by the Administrators of the Agricultural Stabilization and Conservation Service, Foreign Agricultural Service, Food and Nutrition Service, Food Safety and Quality Service, Agricultural Marketing Service, or the General Sales Manager of the Office of the General Sales Manager.

23. The Directors of the divisions and commodity offices of the Agricultural Stabilization and Conservation Service shall be contracting officers and executives of the Corporation in general charge of the activities of the Corporation carried out through their respective divisions or offices. The responsibilities of such Directors in carrying out activities of the Corporation, which shall include the authority to settle and adjust claims by and against the Corporation arising out of activities under their jurisdiction, shall be discharged in conformity with these bylaws and applicable programs, policies, and procedures.

Contracts of the Corporation

24. Contracts of the Corporation relating to any of its activities may be executed in its name by the Secretary of Agriculture or the President. The Vice Presidents, the Deputy Vice Presidents, the Controller, the Treasurer, and the Directors of the divisions and commodity offices of the Agricultural Stabilization and Conservation Service may execute contracts relating to the activities of the Corporation for which they are respectively responsible.

25. The Executive Vice President who is the Administrator of ASCS and, subject to the written approval by such Executive Vice President of each appointment, the Vice Presidents, the Deputy Vice Presidents, the Controller, and the Directors of the divisions and commodity offices of the Agricultural Stabilization and Conservation Service may appoint, by written instrument or instruments, such Contracting Officers as they deem necessary, who may, to the extent authorized by such instrument or instruments, execute contracts in the name of the Corporation. A copy of each such instrument shall be filed with the Secretary.

26. Appointments of Contracting Officers may be revoked by written instrument or instruments by the Executive Vice President or by the official who made the appointment. A copy of each such instrument shall be filed with the Secretary.

27. In executing a contract in the name of the Corporation, an official shall indicate his title.

Annual Report

28. The Executive Vice President shall be responsible for the preparation of an annual report of the activities of the Corporation, which shall be filed with the Secretary of Agriculture and with the Board.

Amendments

29. These bylaws may be altered or amended or repealed by the Secretary of Agriculture, or subject to his approval by action of the Board at any regular meeting of the Board or at any special meeting of the Board, if notice of the proposed alteration, amendment, or repeal be contained in the notice of such special meeting.

Approval of Board Action

30. The actions of the Board shall be subject to the approval of the Secretary of Agriculture.

I, Bill Cherry, Secretary, Commodity Credit Corporation, do hereby certify that the above is a full, true, and correct copy of the bylaws of Commodity Credit Corporation, as amended September 19, 1980.

In witness whereof I have officially subscribed my name and have caused the corporate seal of the said Corporation to be affixed this twenty-fifth day of September 1980.

Bill Cherry,

Secretary, Commodity Credit Corporation.

[FR Doc. 80-36539 Filed 11-21-80; 8:45 am]

BILLING CODE 3410-05-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended November 14, 1980 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR Part 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases, the Board may issue a final order without further proceedings.

Subpart Q Applications

Date filed	Docket No.	Description
Nov. 10, 1980	38942	Piedmont Aviation, Inc., P.O. Box 2720, Winston-Salem, North Carolina 27102. Application of Piedmont Aviation, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a Certificate of Public Convenience and Necessity to engage in scheduled air transportation of persons, property and mail between the terminal point Pittsburgh, Pa., and the terminal point Syracuse, N.Y. Conforming Applications and Answers may be filed by December 8, 1980.
Nov. 10, 1980	38943	Texas International Airlines, Inc., P.O. Box 12788, Houston, Texas 77017. Application of Texas International Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests the Board to amend its Certificate of Public Convenience and necessity for Routes 82 by the addition of new nonstop authority between the terminal point Dallas/Ft. Worth, Texas and the alternate terminal points: Akron/Canton, Ohio Albany, Georgia Albany, New York Allentown/Bethlehem/Easton, PA Asheville, N. Carolina Ashland, KY/Huntington, W. Virginia Aspen, Colorado Augusta, Georgia Bakersfield, California Bangor, Maine Billings, Montana Binghamton/Endct/Johnson City, New York Bismarck/Mandad, North Dakota Bozeman, Montana Bristol/Kingsport/Johnson City, Tennessee Buffalo/Niagara Falls, New York Burlington, Vermont Casper, Wyoming Cedar Rapids/Iowa City, Iowa Champaign/Urbana, Illinois Charleston, South Carolina Charleston/Dunbar, W. Virginia Charlotte, North Carolina Charlottesville, Virginia Chattanooga, Tennessee Columbia, South Carolina Columbus, Georgia Columbus, Ohio Dayton, Ohio Dothan, Alabama Duluth, Minn/Superior, Wis Eglin Air Force Base, Florida Elmira/Corning, New York Erie, Pennsylvania Eugene, Oregon Eureka/Arcata, California Evansville, Indiana Fairbanks, Alaska Fargo, N.D./Moorhead, Minnesota Fayetteville, Arkansas Fayetteville, North Carolina Flint, Michigan Fort Wayne, Indiana Fresno, California Grand Forks, N. Dakota Grand Junction, Colorado Grand Rapids, Michigan Great Falls, Montana Green Bay/Clintonville, Wis Greensboro/High Point, North Carolina Greenville/Spartanburg, South Carolina Gulfport/Biloxi, Mississippi Harrisburg/York, Pennsylvania Hilo, Hawaii, Hawaii Honolulu, Oahu, Hawaii Huntsville/Decatur, Alabama Idaho Falls, Idaho Islip/Long Island, New York Ithaca/Cortland, New York Jacksonville/Camp Lejeune, North Carolina Juneau, Alaska Kahului, Maui, Hawaii Kalamazoo, Michigan Key West, Florida Knoxville, Tennessee Kona, Hawaii, Hawaii La Crosse, Wisconsin Lansing, Michigan Lexington Kentucky Lihue, Kauai, Hawaii Lincoln, Nebraska Madison, Wisconsin Manchester, New Hampshire Missoula, Montana Moline, Illinois/Davenport, Iowa Montgomery, Alabama Myrtle Beach, South Carolina Naples, Florida Nashville, Tennessee Newport News/Hampton, Virginia Norfolk/Virginia Beach/Port Smith/Chesapeake, Virginia Orange County/Santa Anna/ Anaheim, California Peoria, Illinois Pocatello, Idaho Portland, Maine Providence Rhode Island Prudhoe Bay, Alaska Raleigh/Durham, North Carolina Rapid City, South Dakota Redding, California Richmond, Virginia Roanoke, Virginia Rochester, Minnesota Rochester, New York St. Croix, Virgin Islands St. Thomas, Virgin Islands Saginaw/Bay City/Midland, Michigan Salinas/Monterey, California San Juan, Puerto Rico Santa Barbara, California Savannah, Georgia Scranton/Wilkes Barre, Penna. Sioux City, Iowa Sioux Falls, South Dakota South Bend, Indiana Spokane, Washington Springfield, Illinois Springfield, Missouri Syracuse, New York Conforming Applications and Answers are due December 8, 1980.

Subpart Q Applications—Continued

Date filed	Docket No.	Description
Nov. 12, 1980	38944	Air Florida, Inc., 1515 South Federal Highway, Boca Raton, Florida 33432. Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a Certificate of Public Convenience and Necessity to engage in scheduled air transportation of persons, property and mail between the terminal point Miami, Florida and the terminal point Pittsburgh, Pa. Conforming Applications and Answers may be filed by December 9, 1980.
Nov. 12, 1980	38945	Air Florida, Inc., 1515 South Federal Highway, Boca Raton, Florida 33432. Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a Certificate of Public Convenience and Necessity to engage in scheduled air transportation of persons, property and mail between the terminal point Miami, Florida and the terminal point Syracuse, N.Y. Conforming Applications and Answers may be filed by December 9, 1980.
Nov. 13, 1980	38946	Air Florida, Inc., 1515 South Federal Highway, Boca Raton, Florida 33432. Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a Certificate of Public Convenience and Necessity to engage in scheduled air transportation of persons, property and mail between the terminal point Miami, Florida and the terminal point Rochester, N.Y. Conforming Applications and Answers may be filed by December 9, 1980.
Nov. 13, 1980	38947	Air Florida, Inc., 1515 South Federal Highway, Boca Raton, Florida 33432. Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a Certificate of Public Convenience and Necessity to engage in scheduled air transportation of persons, property and mail between the terminal point Miami, Florida and the terminal point Buffalo, N.Y. Conforming Applications and Answers may be filed by December 9, 1980.
Nov. 13, 1980	38948	Air Florida, Inc., 1515 South Federal Highway, Boca Raton, Florida 33432. Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a Certificate of Public Convenience and Necessity to engage in scheduled air transportation of persons, property and mail between the terminal point Miami, Florida and the terminal point Albany, N.Y. Conforming Applications and Answers may be filed by December 9, 1980.
Nov. 13, 1980	38949	Air Florida, Inc., 1515 South Federal Highway, Boca Raton, Florida 33432. Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a Certificate of Public Convenience and Necessity to engage in scheduled air transportation of persons, property and mail between the terminal point Miami, Florida and the terminal point Hartford, Conn. Conforming Applications and Answers may be filed by December 9, 1980.
Nov. 13, 1980	38950	Air Florida, Inc., 1515 South Federal Highway, Boca Raton, Florida 33432. Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a Certificate of Public Convenience and Necessity to engage in scheduled air transportation of persons, property and mail between the terminal point Miami, Florida and the terminal point Providence, R.I. Conforming Applications and Answers may be filed by December 9, 1980.
Nov. 13, 1980	38951	Air Florida, Inc., 1515 South Federal Highway, Boca Raton, Florida 33432. Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a Certificate of Public Convenience and Necessity to engage in scheduled air transportation of persons, property and mail between the terminal point Miami, Florida and the terminal point Portland, Maine. Conforming Applications and Answers may be filed by December 9, 1980.
Nov. 13, 1980	38952	Air Florida, Inc., 1515 South Federal Highway, Boca Raton, Florida 33432. Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a Certificate of Public Convenience and Necessity to engage in scheduled air transportation of persons, property and mail between the terminal point Miami, Florida and the terminal point Manchester, N.H. Conforming Applications and Answers may be filed by December 9, 1980.
Nov. 13, 1980	38953	Air Florida, Inc., 1515 South Federal Highway, Boca Raton, Florida 33432. Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a Certificate of Public Convenience and Necessity to engage in scheduled air transportation of persons, property and mail between the terminal point Miami, Florida and the terminal point Burlington, Vt. Conforming Applications and Answers may be filed by December 9, 1980.
Nov. 13, 1980	38954	Air Florida, Inc., 1515 South Federal Highway, Boca Raton, Florida 33432. Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a Certificate of Public Convenience and Necessity to engage in scheduled air transportation of persons, property and mail between the terminal point Miami, Florida and the terminal point Portland, Maine. Conforming Applications and Answers may be filed by December 9, 1980.
Nov. 13, 1980	38955	Air Florida, Inc., 1515 South Federal Highway, Boca Raton, Florida 33432. Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a Certificate of Public Convenience and Necessity to engage in scheduled air transportation of persons, property and mail between the terminal point Miami, Florida and the terminal point Bangor, Maine. Conforming Applications and Answers may be filed by December 9, 1980.
Nov. 13, 1980	38956	Air Florida, Inc., 1515 South Federal Highway, Boca Raton, Florida 33432. Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a Certificate of Public Convenience and Necessity to engage in scheduled air transportation of persons, property and mail between the terminal point Miami, Florida and the terminal point Presque Isle, Maine. Conforming Applications and Answers may be filed by December 9, 1980.
Nov. 13, 1980	38957	Air Florida, Inc., 1515 South Federal Highway, Boca Raton, Florida 33432. Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a Certificate of Public Convenience and Necessity to engage in scheduled air transportation of persons, property and mail between the terminal point Miami, Florida and the terminal point Augusta, Maine. Conforming Applications and Answers may be filed by December 9, 1980.
Nov. 13, 1980	38958	Air Florida, Inc., 1515 South Federal Highway, Boca Raton, Florida 33432. Application of Air Florida, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a Certificate of Public Convenience and Necessity to engage in scheduled air transportation of persons, property and mail between the terminal point Miami, Florida and the terminal point Worcester, Mass. Conforming Applications and Answers may be filed by December 9, 1980.

The distinction between bush and

80-11-82, requested data from other

training school location at Great Neck, New

Subpart Q Applications—Continued

Date filed	Docket No.	Description
Nov. 12, 1980	38951	Laker Airways Limited, c/o Robert M. Beckman, 1001 Connecticut Avenue, N.W., Suite 235, Washington, D.C. 20036. Application of Laker Airways Limited pursuant to Section 402 of the Act and Subpart Q of the Board's Limited pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests amendment of its foreign air carrier permit to authorize the transportation of persons, property and mail in schedule service between Manchester, England and Prestwick, Scotland, on the one hand, and Miami, Florida, and Los Angeles, California, on the other hand. Answers may be filed by December 10, 1980.
Nov. 12, 1980	38952	Eastern Air Lines, Inc., Miami International Airport, Miami, Florida 33148. Application of Eastern Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests amendment of its certificate of public convenience and necessity for Route 131, last amended pursuant to Order 80–5–35, so as to authorize nonstop service between Atlanta, Ga. and colerminal points in Panama. Conforming Applications and Answers are due December 10, 1980.
Nov. 12, 1980	38954	Global International Airways Corp., Ambassador 1, Air World Center, 10920 Ambassador Drive, Kansas city, Missouri 64153. Conforming Application of Global International Airways Corp. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests issuance of a certificate of public convenience and necessity authorizing it to engage in foreign air transportation of property and mail as follows: Between a point or points in the United States, and points in Argentina, Barbados, Brazil,. Colombia, the Dominican Republic, Ecuador, Haiti, Jamaica, the Netherlands Antilles, Nicaragua, Mexico, Panama, Peru and Venezuela. Answers may be filed by November 28, 1980
Nov. 13, 1980	38959	Rich International Airways, Inc., Post Office Box 522067, Miami, Florida 33152. Conforming Application of Rich International Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests authority to (a) provide scheduled foreign air transportation of property and mail as follows: Between a point or point in the United States and points in Argentine, Barbados, Brazil, Columbia, the Dominican Republic, Ecuador, Haiti, Jamaica, the Netherlands Antilles, Mexico, Panama, Nicaragua, Peru, and Venezuela; and (b) To transport, at the expense of the shipper, one or more attendants with any shipment, provided that such attendant or attendants may be transported only when actually accompanying the shipment and may not be transported from the destination of the shipment to its origin or otherwise. Answers may be filed by November 28, 1980.
Nov. 14, 1980	38965	Wings International Airways, Inc., 3318 Queen Lane, Philadelphia, Pennsylvania 19129. Application of Wings International Airways, Inc. pursuant to Section 401 of the act and Subpart Q of the Board's Procedural Regulations requests issuance of a new certificate of public convenience and necessity authorizing it to engage in interstate scheduled air transportation of persons, property and mail between New York, N.Y. and Los Angeles, California. Conforming Applications and answers are due December 12, 1980.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-36590 Filed 11-21-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket Nos. 33361, 32639, 32640]

Former Large Irregular Air Service Investigation and Applications of Air Transport Miami, Inc.; Assignment of Proceeding

This proceeding has been assigned to Chief Administrative Law Judge Joseph J. Saunders.

Dated at Washington, D.C., November 18, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-36591 Filed 11-21-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket Nos. 38019, 38960 and 38961]

Mainline and Bush Service Mail Rate Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Summary of Orders 80–11–81 and 80–11–82.

SUMMARY: The Board has set temporary rates for Wien Air Alaska's service mail rates and propose to extend the temporary rates to Alaska Airlines in Order 80–11–81. The Board has adopted a new basis for deferring mainline and bush service in Alaska, and is convening a conference to discuss the issues. It is requesting information from interested Alaska carriers by Order 80–11–82.

DATES: Adopted: November 13, 1980. Statements from parties wishing to comment on Wien's final rate due November 21, 1980. Notice of objection to Alaska's rate and the Board's tentative findings due November 21, 1980 and supporting documents are due November 28, 1980.

ADDRESSES: Comments on Wien's final rates should be filed in Docket 38019; and notice of objections should be filed in Docket 38690, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Barry L. Molar, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. (202) 673–5373.

Supplementary Information:

By Order 80–9–150 the Board embarked on a project to modify the structure of Wien Air Alaska's mail rate compensation for service within the state of Alaska. The existing system consists of a single basic rate category encompassing mainline operations by jet aircraft and bush operations performed with small propeller aircraft. The Board wished to explore the feasibility of establishing separate rates for bush and mainline service.

Order 80–9–150 proposed a new temporary rate structure for Wien and established procedures for the determination of final rates. The Board proposed establishing separate rates for bush and mainline service. Bush service consists of service to small isolated communities in Alaska which are often inaccessible by other means of transportation. Nevertheless, they may generate very small amounts of traffic. Service to these points is generally provide by small propeller aircraft. Mainline service consists of service to larger communities in Alaska which generate greater amounts of traffic, and is provided with large jet or prop-jet equipment. The temporary rates would have consisted of priority and non-priority rates for both bush and mainline service and each would have been a dual element rate consisting of a terminal charge and a linehaul charge. The final rate proceeding would have investigated the use of a similar structure permanently.

The subject orders make a number of revisions to the temporary rate structure and the final rate proceeding. Order 80–11–81 fixes temporary rates for Wien.

The distinction between bush and mainline service is maintained but non-priority bush rates are eliminated. The Board eliminated non-priority bush rates on a temporary basis because comments indicated that all bush mail moved on a priority basis. The Board also abandoned dual element rates and reverted to single element rates. Charges associated with take-off, landing, and ground handling (terminal charges) are lumped with charges associated with acutal flying operations to produce a single unit rate. It moved to single element rates because of accounting difficulties in switching to the multi-element rates on a temporary basis. Certain parties had also questioned the Board's allocation of investment expenses and return between terminal and linehaul elements.

The Board also proposes extending the temporary rates to Alaska Airlines. Equalization clauses in Alaskan mail contracts require competing carriers on any route to match the lowest rate set for any individual carrier in order to carry mail. Numerous parties pointed out that the clauses could cause serious distortion in the case of Alaska Airlines, which still operates under system rates, and has extensive route overlap with Wien. The Board tentatively concluded that the best means to deal with this problem is to extend the tiered rates to Alaska Airlines.

The Board also adopted a new basis for defining mainline and bush service. Rather than distinguishing on the basis of points served, the Board will distinguish on the basis of the size of aircraft used. Service with aircraft with maximum payload capacity of 4000 pounds is bush service and service with larger aircraft is defined as mainline. This definition reflects the Board's assumption that bush and mainline service have different cost characteristics.

The final rate proceeding has been extended to include Alaska Airlines, for the reasons discussed above. The procedural schedule has been modified to add a conference before data is submitted. That conference is meant to consider issues such as the use of multi-element rates and non-priority bush rates which arose in connection with temporary rates and questions on the Board's data requirements.

Finally, numerous parties argued that the equalization clause problem affects all carriers in Alaska, and they urged the Board to extend the rates to all Alaskan carriers. The Board declined to do this because of its concern that costs may not be sufficiently consistent across the entire state to justify a single class. However, the Board in a separate order, 80–11–82, requested data from other Alaskan carriers on their operations. When that data is received, the Board will take up the question of a state-wide class rate.

Copies of the complete orders are available by postcard request from Distribution Section, Civil Aeronautics Board, Room 516, 1825 Connecticut Avenue, NW, Washington, D.C. 20428.

By the Civil Aeronautics Board: November 13, 1980.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 80-36592 Filed 11-21-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 38793]

Proposed Approval; Application of Pan American World Airways, Inc. and Pan American World Services, Inc., for Approval Under Section 408 of the Federal Aviation Act of 1958, as Amended, of the Acquisition of Control of Airline Operations Training, Inc.

Notice is given, pursuant to the statutory requirements of section 408(b)(2) of the Federal Aviation Act of 1958, as amended, that I intend to issue the attached order under delegated authority. Interested persons are afforded until December 24, 1980, within which to file comments or request a hearing with respect to the action in the order.

Dated at Washington, D.C., November 19, 1980.

Barbara A. Clark,
Director, Bureau of Domestic Aviation.

[Docket No. 38793]

Application of Pan American World Airways, Inc. and Pan American World Services, Inc. for Approval of Control Relationships Under Section 408 of the Federal Aviation Act of 1958, as Amended

Order of Approval

By application filed October 3, 1980,[1] Pan American World Airways, Inc. and its wholly owned subsidiary, Pan American World Services, Inc. (PAWS),[2] request that the Board approve without a hearing under section 408 of the Federal Aviation Act of 1958, as amended, Pan American's, through PAWS, acquisition of all of the capital stock of Airline Operations Training, Inc. (Airline Operations), or grant an exemption from the approval requirements of section 408. The applicants also request expeditious consideration.

Airline Operations is a New York corporation having its principal office and training school location at Great Neck, New York. The school offers Aircraft Dispatcher and Operations, Airline Agents, and Flight Engineer Training programs to airline employees and students seeking opportunities with the airline industry.

PAWS has contracted with Mr. William T. Ferris, the sole owner of Airline Operations, to purchase all of the company's stock, subject to Board authorization within 120 days from the date of execution of the contract on September 10, 1980.

According to the applicants, Airline Operations is a going corporation with the reputation, background, and goodwill which will permit its expansion into the area of training of individuals in activities associated with aeronautics and the acquisition of its stock will permit the continuation of the corporate entity, the capitalization on its reputation and goodwill.

No comments on this application have been received.

We have concluded that Pan American's indirect acquisition of control, through PAWS, of Airline Operations, would not result in a lessening of competition or other anticompetitive consequence, nor would it otherwise be inconsistent with the public interest. The transaction for which approval is sought is similar to others which have been authorized by the Board and does not raise any new substantive issues.[3]

We further conclude that the transaction will not affect the control of an air carrier directly engaged in the operation of aircraft in air transportation, that no person disclosing a substantial interest in the transaction is requesting a hearing, and that the public interest does not require a hearing.[4 5]

Pursuant to authority delegated by the Board in its Regulations, 14 CFR 385.3 and 385.13, we find that the acquisition of indirect control of Airline Training by Pan American, through PAWS, should be approved without a hearing under section 408(b)(2) of the Act; and that the request for expeditious consideration should be granted. We also find that this is not a major regulatory action under the Energy Policy and Conservation Act of 1975.

Accordingly, 1. We approve the acquisition of control of Airline Training by Pan American, through PAWS;

2. We grant the request for expeditious consideration; and

3. We retain jurisdiction to reexamine this proceeding at any time for the purpose of revoking, modifying, or terminating this order as may be appropriate in the public interest.

[1] The application was amended on November 17, 1980.

[2] By Orders 75–5–117, May 29, 1975 and 79–11–69, November 8, 1979, the Board approved the control relationship involving Pan American and PAWS.

[3] See Braniff Airways, Incorporated, Braniff International Corporation, Order 73–11–8, October 23, 1973 (involving Braniff Education Systems, Inc.).

[4] Notice of intent to dispose of this application without a hearing has been published in the Federal Register, and a copy of such notice has been furnished by the Board to the Attorney General and the Secretary of Transportation not later than the day following the date of such publication, both in accordance with the requirements of section 408(b)(2) of the Act.

[5] The applicants have not requested, nor do we find, that the public interest requires us to exempt from the operations of the antitrust laws any of the parties to the acquisition affected by this order.

Persons entitled to petition the Board for review of this order under the Board's

SUPPLEMENTARY INFORMATION:
The complete text of Order 80–11–82 is

distortions caused by the shipment of movements and watches assembled in

make the size of the first-tier allocation dependent on the level of shipments

assembled in Guam and entered duty-free into the customs territory of the

(b) Applications from new firms are invited for 500,000 units of the calendar

Persons entitled to petition the Board for review of this order under the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon the expiration of the above period unless within such period a petition for review is filed, or the Board gives notice that it will review this order on its own motion.

By Barbara A. Clark,

Director, Bureau of Domestic Aviation.

Phyllis T. Kaylor,

Secretary.

[FR Doc 80-36500 Filed 11-21-80; 8:45 am]

BILLING CODE 6320-01-M

Republic Airlines Subpart Q Restriction Removal Proceeding (Chicago Midway-Sioux Falls)

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (80-11-86).

SUMMARY: The Board is proposing to remove a restriction in Republic's certificate which require service in the Chicago-Sioux Falls market to be provided through the Midway Airport at Chicago.

The proceeding is being processed under the expedited procedures of Subpart Q of the Board's Procedural Regulations. The tentative findings and conclusions will become final if no objections are filed. The complete text of this order is available as noted below.

DATE: All interested persons having objections to the Board issuing the proposed order shall file, and serve upon all persons listed below, no later than December 19, 1980, ——, a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 38857. They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Republic Airlines, Ozark Air Lines, Western Air Lines; Mayors of Chicago and Sioux Falls; Airport Managers of the Joe Foss Municipal Airport at Sioux Falls and of Chicago-O'Hare and Chicago-Midway; Illinois Division of Aeronautics and the South Dakota Department of Transportation.

FOR FURTHER INFORMATION CONTACT: James Ransom, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428, (202) 673-5197.

SUPPLEMENTARY INFORMATION: The complete text of Order 80-11-86 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 80-11-86 to that address.

By the Bureau of Domestic Aviation: November 14, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-36503 Filed 11-21-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of Territorial and International Affairs

Proposed Rules for the Allocation of Watch Quotas for Calendar Year 1981 Among Producers Located in the Virgin Islands, Guam and American Samoa

AGENCY: Import Administration, International Trade Administration, Department of Commerce; Office of Territorial and International Affairs, Department of the Interior.

ACTION: Proposed annual rules.

SUMMARY: Pursuant to Section 3 of the Departments' Codified Watch Quota regulations (15 CFR Part 303), annual rules for calendar year 1981 are being proposed. The Departments propose to reduce the weight assigned to taxes in the allocation formula. Also, several changes are proposed for the Guam allocation. With these exceptions, the rules proposed for 1981 are substantially the same as the 1980 rules.

DATE: Comments must be received on or before January 26, 1981.

FOR ADDITIONAL INFORMATION CONTACT: Mr. Frank W. Creel, who can be reached on 202-377-1660.

SUPPLEMENTARY INFORMATION: The Departments propose to retain in the 1981 rules the two-tier allocation system contained in the 1979 and 1980 rules. They propose to continue in force the same eligibility criteria for second-tier allocations. Minor changes in the language are proposed in order to clarify that the Departments may, for the purposes of Section 3(a) only, make appropriate adjustments in a producer's wage and shipment data to avoid distortions caused by the shipment of movements and watches assembled in other that the quota year.

Changes in the Virgin Islands industrial incentive program were noted by the Departments last year (44 FR 61403 (1979)) in discussing whether corporate income taxes paid should be eliminated or deemphasized in the allocation formula. It was then determined that carryover liabilities might produce an inequitable effect on some producers if this were done, and a weight of 20 percent was assigned to the income tax factor in the final formula. Carryover liabilities are now believed to be an insignificant factor, and the Departments are proposing a weight of only 5 percent for this factor. All Virgin Islands producers now enjoy industrial incentive benefits including a 90 percent refund of corporate income taxes. The Departments propose to assign two-thirds of the resulting 15 percent weight differential to the wage factor, in accordance with traditional policy of gradually increasing the emphasis given to this important direct contribution to the Virgin Islands economy. The proposed formula would therefore assign a 70 percent weight to wages, 25 percent to shipments and 5 percent to income taxes.

The Departments propose to raise the maximum of wages per person which shall be credited in the allocation of quota from $16,000 to $17,000. This change would partly offset the practical lowering of the ceiling by inflation while continuing the Departments' policy of emphasizing local wages.

In Guam, the Departments expect that there will be only one producer in that territory during 1981. The Guam industrial development program provides for corporate income tax rebates of up to 75 percent. Accordingly, the Departments propose to assign a cobined weight of 75 percent to wages and income taxes, with the remainder assigned to shipments.

To date there have been no shipments from Guam during 1980. A new firm received an allocation during the year and may make shipments prior to the end of the calendar year. In the event, however, that the firm is unable to commence operations prior to the end of the calendar year, the Departments are proposing to allocate to that firm a 1981 quota on the strength of its new entrant application in 1980, without inviting applications from other firms, and without reference to the allocation formula proposed for Guam, which would apply if the firm makes shipments during 1980. Also due to the expectation that 1980 Guam shipments will be negligible at best, it is inappropriate to make the size of the first-tier allocation dependent on the level of shipments during 1980. Accordingly, the Departments propose to define the first-tier quota as 60 percent of the total Guam quota.

The Departments propose to invite applications from new firms for the American Samoa quota and for 500,000 units of the Virgin Islands quota. The American Samoa quota has not been used since 1977 and utilization of the Virgin Islands quota has been low and in steady decline since 1977.

For the above reasons, the Departments propose calendar year 1981 watch quota rules as follows:

Section 1. (a) A portion of the 1981 Virgin Islands quota determined in accordance with subsection (b) below will be allocated on the basis of (1) the dollar amount of wages, up to a maximum of $17,000 per person, paid by each producer during calendar year 1980 to Virgin Islands residents and attributable to each producer's headnote 3(a) watch and watch movement assembly operations, (2) the dollar amount of income taxes paid by each producer during calendar year 1980 attributable to its headnote 3(a) watch and watch movement assembly operations (excluding penalty payments and income tax refunds and subsidies paid by the Virgin Islands government during calendar year 1980), and (3) the number of units of watches and watch movements assembled in the Virgin Islands and entered by each producer duty-free into the customs territory of the United States during calendar year 1980.

(b) In making allocations under this formula, a weight of 70 percent will be assigned to the wage factor, a weight of 5 percent will be assigned to the income tax factor, and a weight of 25 percent will be assigned to the shipment factor. An amount representing that portion of the 1981 Virgin Islands quota equal to the ratio of general headnote 3(a) shipments of watches and watch movements from the territory during 1980 to the total 1980 Virgin Islands quota will be allocated among the producers in the Virgin Islands, in accordance with the allocation factors and weights specified in (a) above.

Section 2. (a) Subject to the provisions of subsection 2(c) below, sixty percent of the 1981 Guam quota will be allocated on the basis of (1) the dollar amount of wages, up to a maximum of $17,000 per person, paid during 1980 to Guam residents, plus any income taxes paid during calendar year 1980 and attributable to headnote 3(a) assembly operations (less the exclusions listed in Section 1), and (2) the number of units assembled in Guam and entered duty-free into the customs territory of the United States during 1980.

(b) In making allocations under this formula, a weight of 75 percent will be assigned to the combined wages and income tax factor and a weight of 25 percent will be assigned to the shipment factor.

(c) In the event the 1980 record of wages, taxes and shipments in Guam does not provide reasonable basis for making this portion of the Guam allocation in the manner prescribed above, the Departments may make the allocation pursuant to § 303.5(a)(4) of Title 15 of the Code of Federal Regulations.

Section 3. (a) The portion of the Virgin Islands quota not allocated pursuant to Section 1, except as specified in Section 4, will be allocated among firms meeting the requirements of paragraphs (1) or (2) of this section. Eligible firms will be allocated quota in accordance with the factors and weights specified in Section 1. Allocation of the portion of the Virgin Islands quota under this Section will be made to firms which: (1) Assembled all watch movements shipped during 1980 from unassembled movements having at least 26 discrete components and all watches (that is, cased movements) during 1980 from at least 29 discrete components, including at least 26 movement components and at least 3 case components; or (2) Made wage payments during 1980 in the territory averaging not less than $.75 per watch movement and $.95 per watch assembled and shipped into the customs territory of the United States. In determining a firm's eligibility under this criterion, the Departments may make appropriate data adjustments to take into account wages paid for the assembly of units not shipped during 1980 and shipments assembled prior to 1980.

(b) Allocation of the portion of the Guam quota not allocated pursuant to Section 2 may be allocated pursuant to § 303.5(b) of Title 15 of the Code of Federal Regulations.

Section 4. Quota set aside for new firms in the Virgin Islands under subsection 5(b) shall be subtracted from the quota amount allocable under Section 3, before allocations are made pursuant to that subsection.

Section 5. (a) Applications from new firms are invited for the calendar year 1981 American Samoa quota. Due to the limited size of the American Samoa quota, the Departments will allocate that quota to the single firm which offers the best prospect of making a meaningful long-term contribution to the economy of the territory.

(b) Applications from new firms are invited for 500,000 units of the calendar year 1981 Virgin Islands quota.

(c) Applicants for new-entrant quotas must complete applicable sections of Form ITA-334P, copies of which may be obtained from the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Detailed instructions for completing ITA-334P will be provided by the Statutory Import Programs Staff together with copies of the application form.

(d) The Departments will consider new entrant applications only from firms which certify to the Departments that they are able and willing to meet the minimum assembly or wage contribution criteria established in Section 3. Following the Secretaries' determination that a qualifying application has been received, an announcement will be published in the Federal Register establishing a closing date for further applications. The closing date shall be 30 days from the date of such notice. If the Departments do not receive prior to September 1, 1981, a qualifying application for quota set aside by subsection (b) above, that quota may be reallocated among eligible producers pursuant to § 303.5(b) of Title 15 of the Code of Federal Regulations.

Section 6. Reallocation of calendar year 1981 quota that becomes available will be restricted to those firms satisfying the criteria established in subsection 3(a), to any new entrant firms selected pursuant to Section 5 above, and to the new Guam firm selected in 1980, provided its operations at the time of the reallocation satisfy the criteria established in subsection 3(a).

Section 7. As used in Section 3 of these rules.

(a) "Wages" means all wages up to $17,000 per person paid to residents of the territories employed in a firm's headnote 3(a) watch and watch movement assembly operations. Excluded, however, are wages paid to (i) accountants, lawyers or other professional personnel who may render special services to the firm, (ii) persons assembling non-headnote 3(a) watches and watch movements, (iii) persons engaged in the repair of non-headnote 3(a) watches and watch movements, and (iv) persons engaged in the strapping and packaging of watches. Wages paid to persons engaged in both headnote 3(a) and non-headnote 3(a) assembly and repair activities shall be credited proportionately for their headnote 3(a) activities, provided the firm maintains production and payroll records adequate for the Departments' verification of the headnote 3(a) portion.

(b) "Discrete movement components" within the meaning of section 731 of the

Sodium silicates are colloidal solutions, hydrated powders or

to unrelated U.S. purchasers with

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anhydrous sodium metasilicate from

(b) "Discrete movement components" means screws, parts, components and subassemblies not assembled together with another part, component or subassembly at the time of importation into the territory. (A mainplate containing set jewels or shock devices, together with other parts, would be considered a single discrete component, as would a barrel bridge subassembly.) Excluded are dials, dial washers, dial screws, hour wheels, hands, automatic mechanisms and related parts, day-date mechanisms and calendar features, and jewels.

Section 8. (a) All firms must, as a condition for receipt of allocations or reallocations based on subsection 3(a) criteria, certify to the Departments that they will not alter assembly operations during calendar year 1981 in a manner which would result in their failure to satisfy the respective criteria.

(b) If the Departments have reason to believe that a producer has not complied with or is not complying with the certification required by subsection (a) of this Section, they may issue an order requiring the producer to show cause within 30 days of receipt of the order why the duty-free quota to which it would otherwise be entitled should not be cancelled or reduced by the Departments.

(Pub. L. 89–805, 80 Stat. 1521 (19 U.S.C. 1202) as amended; 15 CFR Part 303)

Issued at Washington, D.C., on November 19, 1980.

John Greenwald,

Deputy Assistant Secretary for Import Administration, International Trade Administration, Department of Commerce.

Wallace O. Green,

Acting Assistant Secretary for Territorial and International Affairs Department of the Interior.

[FR Doc. 80-36541 Filed 11-21-80; 8:45 am]

BILLING CODE 4310-10-M
BILLING CODE 3510-25-M

DEPARTMENT OF COMMERCE

International Trade Administration

Anhydrous Sodium Metasilicate From France; Antidumping—Final Determination of Sales at Less Than Fair Value

AGENCY: U.S. Department of Commerce.

ACTION: Final determination of sales at less than fair value.

SUMMARY: This notice is to advise the public that, as a result of an antidumping investigation, the Department of Commerce has determined that anhydrous sodium metasilicate from France is being sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended. Sales at less than fair value generally occur when the price of merchandise exported to the United States is less than the price of such or similar merchandise sold in the home market, or to third countries, or less than the constructed value. This case has beeen referred to the United States International Trade Commission for a determination concerning possible material injury to an industry in the United States.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: Steve Garment, Office of Investigations, International Trade Administration, Department of Commerce, Washington, D.C. 20230, (202–377–1756).

SUPPLEMENTARY INFORMATION:

Procedural Background

On May 15, 1980, the Department of Commerce received a petition in proper form from counsel on behalf of PQ Corporation, Valley Forge, Pennsylvania, alleging that anhydrous sodium metasilicate from France is being sold at less than fair value within the meaning of section 731, Tariff Act of 1930, as amended (19 U.S.C. 1673 *et seq.*) (the Act). After conducting a summary investigation as required under section 732 of the Act (19 U.S.C. 1673a), we determined that there were sufficient grounds to initiate a full-scale investigation, and published a Notice of Initiation of Antidumping Investigation in the **Federal Register** on June 10, 1980 (45 FR 39324). The period of investigation was October 1, 1979 through May 31, 1980.

On June 30, 1980, the United States International Trade Commission (ITC) determined that there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of imports of anhydrous sodium metasilicate from France allegedly sold at less than fair value. The ITC published notice of that determination in the **Federal Register** on July 9, 1980 (45 FR 46255). On September 5, 1980, the Department of Commerce published a "Preliminary Determination of Sales at Less than Fair Value and Suspension of Liquidation" in the **Federal Register** (45 FR 58929).

Product Description

Merchandise covered by this investigation is anhydrous sodium metasilicate (ASM) classifiable under item number 421.3400, Sodium compounds: Silicates, Tariff Schedules of the United States Annotated (TSUSA).

Sodium silicates are colloidal solutions, hydrated powders or anhydrous powders and glasses. The ratio of SiO_2 to Na_2O for each type of sodium silicate can vary, and the resulting product will have distinctive characteristics. Sodium metasilicate has a definite crystalline form, a molecular SiO_2/Na_2O ratio of 1:1 and a chemical formula of Na_2SiO_3. It is alkaline and readily soluble in water. Applications include waste paper de-inking, ore flotation, bleach stabilization, clay processing, medium or heavy duty cleaning, and compounding into other detergent formulations.

Nature of the Industry

Approximately 4,908,000 pounds of sodium silicates, valued at $443,000, were imported from France in 1979. According to information available to the Department, the only significant exporter of ASM from France to the United States is Rhone-Poulenc S.A., a large, muti-divisional corporation which operates mainly in the production and sale of chemicals and related products. During the period of investigation, Rhone-Poulenc exported four grades of ASM to the United States: AN (58 percent of sales), AG (5 percent of sales), AS (22 percent of sales) and AST (15 percent of sales).

Most of these sales are made through Rhone-Poulenc's wholly-owned U.S. subsidiary, although there are also some sales made directly from France to unrelated purchasers in the U.S. Because there are sufficient sales in the home market, we used home market sales to establish foreign market value in order to determine whether or not ASM is being or is likely to be sold at less than fair value.

United States Price

For transactions in which sales were made to U.S. customers through wholly-owned U.S. subsidiaries of the French producer, we used exporter's sales price (ESP), as defined in section 772 (c) of the Act (19 U.S.C. 1677a(c)) to determine the United States price. We calculated ESP on the basis of the selling price from the subsidiary to the first unrelated purchaser in the United States with deduction, where applicable, for French inland freight, ocean freight, insurance, U.S. duty, brokerage, wharfage, U.S. inland freight, U.S. warehousing, discounts, and selling expenses. For transactions in which sales were made directly from France to unrelated U.S. customers, we use purchase price, as defined in section 772(b) of the Act (19 U.S.C. 1677a(b)) to determine the United States price. We calculated purchase price on the basis of the CIF U.S. price to unrelated U.S. purchasers with deductions, where applicable, for ocean freight, insurance, French inland freight, FOB charges, and commissions.

Foreign Market Value Compared to Purchase Price

We calculated the foreign market value, as defined in § 353.3 Commerce regulations (19 CFR 353.3, 45 FR 8191), on the basis of sales to industrial users in the home market as of the date the imported ASM was purchased or agreed to be purchased. We based the foreign market value on the net sales price to the purchasers who purchased in large, wholesale quantities, taking into account deductions for rebates and French inland freight, where appropriate. In addition, we made an adjustment for differences in packing costs and an adjustment for credit cost differential.

Foreign Market Value Compared to Exporter's Sales Price

We calculated the foreign market value, as defined in § 353.3 Commerce regulations (19 CFR 353.3, 45 FR 8191), on the basis of sales to industrial users in the home market at the time of exportation of the ASM to the United States. We based the foreign market value on the net sales price to these purchasers who purchased in large, wholesale quantities, taking into account deductions for rebates and French inland freight, where appropriate.

We also made adjustments for differences in packing costs and credit costs. Finally, in accordance with § 353.15(c) (19 CFR 353.15(c), 45 FR 8194), we deducted, as an offset, a portion of selling expenses incurred in sales in the home market not greater than selling expenses deducted from the United States price. We discuss claims for additional adjustments to the foreign market value in the following section.

Issues

A public hearing was held on October 3, 1980. Interested persons were provided an opportunity to present written and oral views in accordance with § 353.44(e), Commerce Regulations (19 CFR 353.44(e), 45 FR 8203).

At the public hearing, the respondent requested that we make three adjustments in our calculation of the exporter's sales price and the foreign market value. Those three adjustments are (1) an adjustment for differences in circumstances of sale to reflect the cost of technical services performed by Rhone-Poulenc, S.A., on behalf of its customers in France; (2) an adjustment to reflect the difference in credit costs between the home market and the United States market; and (3) an adjustment to reflect the cost of inland freight paid by Rhone-Poulenc in home market sales.

With regard to the adjustment for technical services, we have disallowed this claim. Our policy is to require the respondent to document and to demonstrate that the technical services have a reasonably direct bearing on, relationship to, or effect upon the sales under consideration. The respondent failed to establish such a relationship. Consequently, we treated technical services as a general expense for purposes of the selling expense adjustment. Finally, we allowed the other two adjustments, because information supplied by Rhone-Poulenc, and verified by Department officials, supported these claims.

Verification

Prior to the Preliminary Determination, and in accordance with section 733(b)(2) of the Act, the petitioner furnished an irrevocable, written waiver of verification of information received within the first 60 days of the investigation. Consequently, we did not verify this data. We did, however, verify all information submitted after the 60th day of this investigation, if we used that information as a basis for the final determination. We verified this information by examination of freight records, payment records and other internal corporate records provided by Rhone-Poulenc and information provided by various French banks and the Department concerning interest rates in France and the United States, respectively.

Results of Fair Value Comparisons

We made fair value comparisons on all exports of ASM, from France to the United States sold during the period of investigation. Using the above criteria, we found that purchase price and exporter's sales price were lower than the home market price of ASM for all sales, with a weighted-average margin of 60 percent. Increases in margins over those reported in the preliminary determination were largely due to the recalculation of both United States price and foreign market value to reflect corrections in application and magnitude of French inland freight costs.

Final Determination

On the basis of the information developed in the investigation and for the reasons stated above, I hereby determine, pursuant to section 735(a) of the Act (19 U.S.C. 1673d(a)) that anhydrous sodium metasilicate from France is being sold at less than fair value. In accordance with section 735(c)(1)(A) of the Act (19 U.S.C. 1673d(c)(1)(A)), we are making available to the International Trade Commission ("ITC") the information upon which this determination is based. The Department will provide the ITC with all non-privileged and non-confidential information relating to this investigation. The Department will also make available to the ITC all privileged and confidential information in its files, provided that the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Department. Suspension of liquidation will remain in effect until further notice, and importers will be required to post a cash deposit, bond or other security in the amount of 60 percent of the FOB value of each such entry or withdrawal.

This determination is published pursuant to § 353.44(f), Commerce Regulations (19 CFR 353.44(f), 45 FR 8203).

Donald A. Furtado,

Acting Under Secretary for International Trade.

[FR Doc. 80-36546 Filed 11-21-80; 8:45 am]

BILLING CODE 3510-25-M

Discrete Semiconductor Device Subcommittee of the Semiconductor Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on August 29, 1980 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on September 19, 1980 pursuant to the charter of the Committee.

The Discrete Semiconductor Device Subcommittee was formed to study transistor, diode, photoconductive, and thyristor semiconductor devices with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

TIME AND PLACE: December 10, 1980, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Conference Room A, 14th Street and Constitution Avenue NW., Washington, D.C. The Subcommittee will meet only in Executive Session to discuss matters

properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202–377–2583.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the consurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 11652 or 12065.

A copy of the Notice of Determination to closed meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202–377–4217.

Dated: November 18, 1980.

Saul Padwo,

Director of Licensing, Office of Export Administration.

[FR Doc. 80-36547 Filed 11-21-80; 8:45 am]

BILLING CODE 3510-25-M

Semiconductor Manufacturing Materials and Equipment Subcommittee of the Semiconductor Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration, Commerce.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on August 29, 1980 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on September 19, 1980 pursuant to the charter of the Committee.

The Semiconductor Manufacturing Materials and Equipment Subcommittee was formed to study the technical and strategic value of semiconductor device production equipment and materials for the purpose of maintaining a continuous review of the export control technical parameters, and the formulation of recommendations to the Commerce Department for parameter updating as appropriate for reasons of national security.

TIME AND PLACE: December 10, 1980, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Avenue NW, Washington, D.C. 20230. The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202–377–2583.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 11652 or 12065.

A copy of the Notice of Determination to closed meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202–377–4217.

Dated: November 18, 1980.

Saul Padwo,

Director of Licensing, Office of Export Administration.

[FR Doc. 80-36548 Filed 11-21-80; 8:45 am]

BILLING CODE 3510-25-M

Steel Trigger Price Mechanism; Preclearance Procedures

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Establishment of Preclearance Procedures.

SUMMARY: This notice is advise the public that the Department of Commerce has established preclearance procedures under which certain foreign producers or exporters may ship steel mill products to the United States at prices below the applicable trigger prices without "triggering" an analysis to determine whether an antidumping investigation is warranted.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: F. Lynn Holec, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, 202–377–2786.

On October 8, 1980, the Department of Commerce announced its intention to reinstate, with modifications, the steel trigger price program (TPM). Fourth quarter 1980 trigger prices were published in the Federal Register of October 21, 1980 (45 FR 69527) for that purpose.

The Department of Commerce uses trigger prices to monitor imports of steel mill products into the U.S. Sales below trigger price indicate possible sales of the subject merchandise at less than fair value within the meaning of Title VII, Tariff Act of 1930, as amended (hereinafter referred to as the Act). In those instances, where imports appear to be priced at less than fair value, the Secretary of Commerce may exercise his authority to self-initiate antidumping investigations.

The Department of Commerce recognizes, however, that there may be certain manufacturers/exporters that can produce and/or export steel to the U.S. at prices below the TPM which are not at less than fair value. Where this is the case, the foreign producer/exporter can avoid the risk of a TPM initiated antidumping investigation by requesting preclearance and cooperating with the Department's preclearance review of the producer's/exporter's production costs and pricing practices.

A number of preclearance requests have already been filed and the requesting companies will be sent a preclearance questionnaire. A list of such companies and the products for which preclearance has been requested follows in Table I. Any additional requests for preclearance should be filed with the U.S. Department of Commerce, International Trade Administration, Import Administration, Office of Compliance, Room 2128, Washington, D.C. 20230. The request may cover any of the categories in the trigger price manual published by the U.S. Department of Commerce for the fourth quarter of 1980. Notice of and opportunity to comment on a preclearance request will be published in the Federal Register.

Depending on the results of a preclearance review, a price below the trigger price may be established for the investigated products. Sales made at or above the preclearance price will not result in a TPM initiated antidumping investigation by the Department of Commerce.

In quarters subsequent to the period of preclearance, the initial preclearance price will be adjusted to maintain a constant ratio to the revised trigger price for the period. Where the applicant determines that subsequent adjustments to the preclearance price has resulted in a price above fair value, a reapplication for preclearance may be submitted. Preclearance will be reviewed for changed circumstances at least annually.

Preclearances granted under preexisting procedures will expire on February 28, 1981. Those companies that wish their preclearance extended without interruption should submit a completed response to a preclearance questionnaire to the Department of Commerce no later than December 31, 1980.

In the preclearance submission to the Department of Commerce, the applicant is required to include the computation of "fair value", as defined by the Act. For the purposes of preclearance, the fair value computation will be based on home market sales of such or similar merchandise unless sales in the home market are at prices which represent less than the cost of production. In that case, "constructed value" as defined by the Act will form the basis of the fair value computation. (For purposes of preclearance, cost of production is the average cost by product category including general and administrative, selling and interest expense, of the merchandise under consideration.)

To complete the computation of "fair value", the home market sales must be adjusted to account for differences in the cost of sales in the U.S. and the home market, including differences in physical characteristics, packing, freight, commissions, insurance, handling, brokerage and any other cost differences incident to transporting the merchandise from the place of shipment to the place of delivery. For purposes of preclearance, adjustments for differences in quantities, level of trade and circumstances of sale, except commissions, will generally not be considered. If below the trigger price, fair value, adjusted where appropriate for the above mentioned cost differences, will be the preclearance price for the trigger price quarter under consideration.

Preclearance questionnaires can be obtained by writing or calling: F. Lynn Holec, U.S. Department of Commerce, International Trade Administration, Import Administration, Office of Compliance, Room 2126, Washington, D.C. 20230, 202–377–2786.

Any comments on the preclearance procedures or questionnaire should be addressed to: F. Lynn Holec, U.S. Department of Commerce, International Trade Administration, Import Administration, Office of Compliance, Room 2126, Washington, D.C. 20230.

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

Table 1.—*Preclearance requests*

Company	Products
Lake Ontario Steel Co	Structurals, Grader Blades.
Quecor Steel Ltd	Structural Shapes, Plates, Carbon Bars, Welded Pipe and Tubing.
Richter Steel Corp	Structurals, Structural Tubing Sheets, Deformed Reinforcing Steel.
Laurel Steel Products Ltd	Cold Finished Bars, Round and Shaped Wire.
Dotasco	Sheets.
Akstel Inc	Sheets, Coils, Structurals, Pipe and Tubing
Siveco	Steel Wire Products.
Dominion Bridge Co., Ltd	Plates, Bar, Structurals.
Gunnebo Bruks Aktiebolag	Stainless Steel Hard/Spring Wire.
Iveco	Wire Rod.
Brussels Steel Corp	Structurals, Coils, Expanded Metal, Plates, Sheet, Pipe and Tubing, Bar Products, Wire Products.
Cappco Tubular Products Ltd	Structurals.
Ennistael Service Centre Inc	Structural Shapes, Plates, Light Rails, Concrete Reinforcing Bars, Carbon Bars, Welded Pipe & Tubing, Hot Rolled Sheets, Hot Rolled Strip.
A.J. Forsyth & Co. Ltd	Steel Plate.
Burrington Steel	Bar.
Mart Steel Corp	Structurals, Bars, Plates, Sheets, Tubing Products, Wire Products.
Corinth Pipeworks	Pipe & Tubing.

[FR Doc. 80-36550 Filed 11-21-80; 8:45 am]

BILLING CODE 3510-25-M

Expanded Metal of Base Metal From Japan; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: This notice is to advise the public that the Department of Commerce has conducted an administrative review of the antidumping finding on expanded metal of base metal from Japan. The scope of the review covers twenty nine exporters of this merchandise to the United States. The review covers separate time periods for each exporter up to December 31, 1979. This review indicates the existence of dumping margins in particular periods for certain exporters. The Department is currently conducting review of five additional exporters.

As a result of this review, the Department has preliminarily determined to assess dumping duties for individual exporters equal to the calculated differences between foreign market value and United States price on each of their shipments occurring during the covered periods. Where company-supplied information was inadequate or no information was received, the Department has used the best information available. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: J. Linnea Bucher, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, (202–377–2704).

SUPPLEMENTARY INFORMATION:

Procedural Background

On January 16, 1974, a dumping finding with respect to expanded metal of base metal from Japan was published in the Federal Register as Treasury Decision 74–29 (39 FR 1979). On January 1, 1980, the provisions of Title I of the Trade Agreements Act of 1979 became effective. On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department published in the Federal Register of March 28, 1980 (45 FR 20511–20512) a notice of intent to conduct administrative reviews of all outstanding dumping findings. As required by section 751 of the Tariff Act of 1930 ("the Act"), the Department has conducted an administrative review of the finding on expanded metal of base metal from Japan.

Scope of the Review

Imports covered by this review are shipments of expanded metal of base matal manufactured in three types (standard, flattened and grating) and various thicknesses. Expanded metal of base metal is currently classifiable under item 652.8000 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of a total of 34 exporters to the United States of Japanese expanded metal of base metal. This review covers 29 of them (4 manufacturers and 25 non-manufacturing exporters) for all time periods for which information is

available, that is, all periods up to December 31, 1979, during which shipments of expanded metal of base metal may have been made to the United States and for which appraisement instructions ("master list") have not been issued. Therefore, different time periods are involved for different companies. The issue of the Department's obligation to conduct administrative review of entries unliquidated as of January 1, 1980 and covered by such master lists is under review. Liquidation has been suspended pending disposition of the issue.

Fourteen companies, including one manufacturer, Kanebo Steel, stated that they did not export expanded metal of base metal in the respective periods reviewed here. The estimated deposit rate for these companies is the most recent information for the firm.

That rate will be the one published in the most recent master list for the firm or, if no such rate exists, the rate found for the firm at the time of the fair value investigation. If there are no such earlier calculations, the rate will be the highest current rate for responding firms.

Twelve companies failed to respond or provided inadequate responses to the Department's latest questionnaire. For these non-responsible exporters we proceeded to use the best informaton available. The best information is the most recent rate for the non-responding firm unless it is equal to or less than the highest rate among all the rates for responding firms in the current period. If it is equal to or less than the highest rate, the best evidence is the higher of the firm's fair value rate or the highest current rate for responding firms. For those firms not investigated at the fair value stage, the best evidence is the higher of the highest fair value rate or the highest current rate for responding firms.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772(b) of the Act, since all sales were made to unrelated purchasers. In this case purchase price was calculated on the basis of the F.O.B. or C.I.F. packed price to an unrelated purchaser in the United States or to an unrelated Japanese trading company for export to the United States, as appropriate. Where applicable, deductions were made for ocean freight, insurance, shipping charges, inland freight, brokerage charges, U.S. duty, survey charges and loading charges. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price as defined in section 773(a) of the Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. The three manufacturers that exported to the United States during the periods reviewed sold at least 75% of their total production in Japan. The home market prices are based on delivered price with adjustments for inland freight, interest charges and packing differentials where applicable. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Japanese exporter	Time period	Margin (in percent)
Daikure Co., Ltd	1-1-75/12-31-79	[1]4
Daishin Kogyo Co	9-5-73/12-31-79	[1]4
Daitoku Trading Co., Ltd	11-1-78/12-31-79	4
Eiko Co., Ltd	1-1-77/ 3-31-79	3.9
	4-1-79/12-31-79	[1]4
Fuji Shoko Co., Ltd	9-5-73/12-31-79	4.9
Henwa Co., Ltd	4-1-78/12-31-79	.33
Itohtaka International Corp	1-1-75/12-31-76	3.8
	1-1-77/12-31-79	4.5
Kanebo Steel Co., Ltd. (a.k.a. Kanebo Bldg. & Mfg. Ltd.)	11-1-78/12-31-79	[1]4.9
Kanematsu-Gosho Ltd	1-1-75/12-31-79	[1]4
Kansai Tekko Co., Ltd	9-5-73/ 3-31-74	2.7
	4-1-74/ 3-31-75	1.7
	4-1-75/11-30-76	0
	12-1-76/ 3-31-78	0
	4-1-78/ 9-30-78	0
	10-1-78/12-31-79	.83
Kawamoto & Co., Ltd	4-1-78/12-31-79	4.9
Kawashige Kozai Co., Ltd	4-1-78/ 3-31-79	4.97
	4-1-79/12-31-79	4.9
Kawasho Corp	11-1-76/ 3-31-78	4.9
(mfg. Kanebo)	4-1-78/12-31-79	4.9
(mfg. Nippon Steel)	4-1-78/12-31-79	.33
Kobayashi Metals Ltd	4-1-78/12-31-79	[1]4
Marubeni Corp	4-1-78/ 3-31-79	[1].33
	4-1-79/12-31-79	.33
Mitsubishi Corp	12-1-76/ 3-31-78	0
	4-1-78/ 9-30-78	0
	10-1-78/12-31-79	.83
Mitsui & Co., Ltd	1-1-77/12-31-79	4.9
Murata Chemical Co., Ltd	9-1-73/ 6-30-74	0
	7-1-74/10-31-76	4.9
	11-1-76/ 9-30-78	4.9
	10-1-78/12-31-79	4.9
Nakusumi Kogyo, Ltd	4-1-78/12-31-79	4.9
Nichimen Co., Ltd	1-1-75/ 3-31-79	[1]4.9
	4-1-79/12-31-79	4.9
Nippon Steel Products Co., Ltd	3-1-74/ 8-31-74	[1]3.8
	4-1-76/ 3-31-79	0
	4-1-79/12-31-79	.33
Nissho Iwai Co., Ltd	4-1-78/12-31-79	[1].33
Nissetsu Shoji Co., Ltd	4-1-79/12-31-79	[1].33
Sansho Kohki Co., Ltd. and Shinwa Kohki (shipper)	1-1-77/ 3-31-78	12.7
	4-1-78/ 3-31-79	6.6
	4-1-79/12-31-79	4
Sumikan Bussan Kaisha, Ltd	1-1-75/12-31-79	[1]4
Sumitomo Shoji Kaisha, Ltd. (a.k.a. Sumitomo Corp.)	1-1-75/12-31-76	0
	4-1-78/ 3-31-79	6.6
	4-1-79/12-31-79	[1]4.9

[1] No shipments during current period.

Interested parties may submit written comments on these preliminary results on or before December 24, 1980, and may request disclosure and/or a hearing on or before December 9, 1980. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess duties on all entries made during the time periods involved. Individual statutory values may vary from the percent stated above. The Department will issue appraisement instructions separately on each exporter directly to the Customs Service.

Further, as required by § 353.48(b) of the Commerce Regulations, a cash deposit based upon the most recent of the margins calculated above shall be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This requirement shall remain in effect until publication of the final results of the next administrative review.

This administrtative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53, 45 FR 8205).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

November 18, 1980.

[FR Doc. 80-36507 Filed 11-21-80; 8:45 am]

BILLING CODE 3510-25-M

Portland Cement, Other Than White, Nonstaining Portland Cement, From the Dominican Republic; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Finding.

SUMMARY: This notice is to advise the public that the Department of Commerce has conducted an administrative review

of the antidumping finding on portland cement, other than white, nonstaining portland cement, from the Dominican Republic. The scope of the review covers the one known producer or exporter of this merchandise. The review covers the period from December 4, 1969 through May 31, 1980. This review indicates the existence of dumping margins for the only known shipments. As a result of this review, the Department has preliminarily decided to assess dumping duties equal to the calculated differences between foreign market value and United States price on those shipments occurring during the period. Since no information was received from the producer, the Department has used the best information available.

Interested parties are invited to comment on this decision.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis U. Askey, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-4793).

SUPPLEMENTARY INFORMATION:

Procedural Background

On May 4, 1963, a dumping finding with respect to portland cement, other than white, nonstaining portland cement, from the Dominican Republic was published in the **Federal Register** as Treasury Decision 55883 (28 FR 4507-08). On January 1, 1980, the provisions of Title I of the Trade Agreements Act of 1979 became effective. On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department published in the **Federal Register** of March 28, 1980 (45 FR 20511-12) a notice on intent to conduct administrative reviews of all outstanding dumping findings. As required by section 751 of the Tariff Act of 1930 ("the Act") the Department has conducted an administrative review of the finding on portland cement, other than white, nonstaining portland cement, from the Dominican Republic.

Scope of Review

Imports covered by this review are shipments of portland cement, other than white, nonstaining portland cement. It is classifiable under item 511.14 of the tariff Schedules of the United States Annotated (TSUSA). The Department knows of one producer or exporter of portland cement, other than white, nonstaining portland cement, to the United States. This firm is Fabrica Dominicano de Cemento, C por A. This review covers all time periods, that is, from December 4, 1969 up to May 31, 1980, during which shipments of portland cement, other than white, nonstaining portland cement may have been made to the United States and for which master lists have not been issued. The issue of the Department's obligation to conduct administrative review of entries unliquidated as of January 1, 1980 and covered by lists completed before that date is under review. Liquidation has been suspended pending disposition of the issue.

The Department received no responses to its questionnaires. Therefore, the Department used the margin calculated from the only information available (November, 1969).

United States Price

In calculating United States price, based on the 1969 price information, the Department used purchase price, as defined in section 772(b) of the Act, since all sales were made to unrelated purchasers. Purchase price was caculated on the basis of the ex-factory, packed price to unrelated purchasers in the United States. No adjustments were claimed or made.

Foreign Market Value

In calculating foreign market value, based on the 1969 price information, the Department used home market price, as defined in section 773(a) of the Act. The home market price is based upon the ex-factory, packed price. No adjustments were claimed or made.

Results of the Review

As a result of the comparison of United States price to foreign market value, I preliminarily determine that the margin of 58.33 percent exists. Interested parties may submit written comments on this preliminary determination within 30 days of the date of publication of this notice and may request disclosure and/or a hearing on such determination within 15 days of the date of publication. The Department will publish a notice of the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the U.S. Customs Service shall assess, duties on all entries made during the time periods involved. The relationship between individual statutory values will not vary from the percent stated above. The Department will issue appraisement instructions separately on the shipper directly to the Customs Service. Further, as required by section 353.48(b) of Commerce Regulations, a cash deposit based upon the margin on the last known shipments, that is, 58.33 percent, will be required on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results. This requirement shall remain in effect until publication of the results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (93 Stat. 175, 19 U.S.C. 1675(a)(1)) and § 353.53 of Commerce Regulations (19 CFR 353.53, 45 FR 8205).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

November 18, 1980.

[FR Doc. 80-36508 Filed 11-21-80; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

[Docket No. S-679]

Application for Operating-Differential Subsidy by First American Bulk Carrier Corp.

Notice is hereby given that First American Bulk Carrier Corpporation, a Delaware corporation, has filed an application dated August 27, 1980, as amended, with the Maritime Subsidy Board pursuant to Title VI (46 U.S.C. 1171-1183) of the Merchant Marine Act, 1936, as amended, for a long-term Operating-Differential Subsidy Agreement to aid in the operation of two 40,000 DWT combination dry bulk/container carriers.

The vessels will be engaged in the worldwide carriage of dry bulk cargoes in the foreign commerce of the United States and the foreign-to-foreign carriage of container cargoes. Primarily employment is to be with bulk cargoes from Australia to the U.S. Gulf and East Coasts, bulk cargoes from the U.S. to Europe and container cargoes from Europe to Australia/New Zealand.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, 14th and E Streets, NW., Washington, D.C. 20230.

Any person, firm or corporation having an interest in such application, and who desires to offer views and comments thereon for consideration by the Maritime Subsidy Board, should submit such views and comments in writing, in triplicate, to the Secretary, Maritime Subsidy Board, by the close of business on December 12, 1980. The Maritime Subsidy Board will consider such views and comments and take such

actions with respect thereto as may by

such hearing is at the discretion of the

All statements and opinions contained in this request are summaries of those of

Dated: November 18,1980.

The Proposed Remedial Order sets

filed, the Proposed Remedial Order may

actions with respect thereto as may by deemed appropriate.

(Catalog of Federal Domestic Assistance, Program No. 11.504, Operating-Differential Subsidies (ODS))

Dated: November 18, 1980.

By Order of the Maritime Subsidy Board.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 80-36812 Filed 11-21-80; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

Clacton Pier, Ltd.; Receipt of Application for Marine Mammals Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Clacton Pier Ltd.

b. Address: Clacton on the Sea, Essex CO15 1 QX England.

2. Type of permit: Public display.

3. Name and number of animals: California sea lions (*Zalophus californianus*), 4.

4. Type of take: To take beached/stranded California sea lions for public display if available.

5. Location of activity: Santa Barbara, California.

6. Period of activity: 2 years.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before December 24, 1980. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and Regional Director, National Marine Fisheries Services, 300 South Ferry Street, Terminal Island, California 90731.

Dated: November 14, 1980.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 80-36584 Filed 11-21-80; 8:45 am]

BILLING CODE 3510-22-M

Dolfirodam B.V., Gebouw de Hoofdpoort; Marine Mammals Permit Modification Request

Notice is hereby given that Dolfirodam B.V., Gebouw de Hoofdpoort, Blaak 101, 3011 GB Rotterdam, Netherlands, has requested a modification to Public Display Permit No. 299 issued on July 16, 1980, under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

The Permit Holder is requesting to take an additional Atlantic bottlenose dolphin *(Tursiops truncatus)* as a replacement for an animal which died during acclimation in the United States. The animal will be taken by the means, in the area, and for the purposes set forth in the original permit application.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before December 24, 1980. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above request are available for review in the following offices:

Assistant Administrator for Fisheries, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: November 14, 1980.

Richard B. Roe,

Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 80-36583 Filed 11-21-80; 8:45 am]

BILLING CODE 3510-22-M

Gerald L. Kooyman; Issuance of Marine Mammals Permit

On September 12 1980, Notice was published in **Federal Register** (45 FR 60465), that an application had been filed with the National Marine Fisheries Service by Dr. Gerald L. Kooyman, Physiological Research Laboratory, Scripps Institution of Oceanography, University of California, San Diego, La Jolla, California 92093, for a permit to take 2 Atlantic bottlenose dolphins (*Tursiops truncatues*), 10 harbor seals (*Phoca vitulina*), and 15 California sea lions (*Zalophus Californianus*) for the purpose of scientific research.

Notice is hereby given that on November 18, 1980, as authorized by provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marion Fisheries Service issued a Scientific Research Permit for the above taking to conduct physiological studies on the three species of marine mammals subject to certain conditions set forth therein.

This Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, D.C.,

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, Duval Building, St. Petersburg, Florida 33702, and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: November 18,1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-36585 Filed 11-21-80; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Barkett Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 295.192 (c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Barkett Oil Company, Inc., 7950 N.W. 58th Street, Miami, Florida 33166. This Proposed Remedial Order charges Barkett Oil Company with pricing violations in the amount of $204,425, connected with sales of gasoline during the period January 1 through March 31, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mr. James C. Easterday, District Manager of Enforcement, Southeast District, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367, Telephone (404) 881–2396. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia on the 13th day of November 1980.

James C. Easterday,

District Manager.

Concurrence:

Leonard F. Bittner,

Chief Enforcement Counsel

[FR Doc. 80-36503 Filed 11-21-80; 8:45 am]

BILLING CODE 6450-01-M

Koch Industries, Inc.; Remedial Order

AGENCY: Department of Energy.

ACTION: Notice of Proposed Remedial Order to Koch Industries, Inc. and Notice of Opportunity for Objections.

Pursuant to 10 CFR 205.192(c), the Special Counsel for Compliance, Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued on October 15, 1980 to Koch Industries, Inc., Post Office Box 2256, Wichita, Kansas 67201.

The Proposed Remedial Order sets forth findings of fact and conclusions of law concerning Koch's failure to supply West Side Distributing Company of Rochester, Minnesota with motor gasoline during the period February, 1979 through April, 1979. The Special Counsel determined that Koch was required to supply West Side with gasoline for the months of February and March, 1979 as a result of Koch's acquisition on March 31, 1978 of Midwest Oil Company. Midwest Oil Company was West Side's base period supplier for those months. As a result of Koch continuing in April, 1978 to function as a wholesale purchaser-reseller while providing West Side with gasoline, the Special Counsel also determined Koch was obligated to supply West Side with motor gasoline in April, 1979. The Order alleges a violation of 10 CFR 211.9(a) (1) and requires Koch to offer to supply West Side with West Side's base period entitlement for these months at the prices in effect at the time the gasoline should have been supplied.

Any person may obtain a copy of the Proposed remedial Order, with confidential information deleted, from the ERA. Requests may be addressed to:

Milton Jordan, Director
Division of Freedom of Information
Forrestal Building
Room 1E–190 1000 Independence Avenue, S.W.
Washington, D.C. 20585

On or before December 9, 1980, any aggrieved person may file a Notice of Objection in accordance with 10 CFR 205.193. If a Notice of Objection is not filed, the Proposed Remedial Order may be issued as a final order. Such Notice should be filed with:

Office of Hearings and Appeals
Department of Energy
2000 M Street, N.W.
Washington, D.C. 20461

Issued in Washington, D.C. on November 6, 1900.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 80-36505 Filed 11-21-80; 8:45 am]

BILLING CODE 6456-01-M

Proposed Remedial Orders

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice that the following Proposed Remedial Orders have been issued. These Proposed Remedial Orders allege violations of applicable law as indicated.

A copy of the Proposed Remedial Orders, with confidential information deleted, may be obtained from Thomas M. Holleran, Program Manager for Product Retailers, 2000 M Street, NW, Washington, DC 20461, phone 202/653–3569. On or before December 9, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Washington, DC, on the 14th day of November 1980.

Robert D. Gerring,

Director, Enforcement Program Operations Division, Economic Regulatory Administration.

Proposed Remedial Orders

Station	Address	Date	Violation amount	Cents per gallon in violation
Southeast District				
Claypool Hill Exxon	Rt. 3 Box 84, Claypool Hill, VA 24260	11-3-80	$15,313.28	7.9
Howard's Exxon	640 Stockton St., Jacksonville, FL 32204	11-4-80	195.35	.1.0
Central District				
George's Standard	1950 South Mannheim Rd., Westchester, IL 60153.	11-4-80	$1,788.43	12.6
George's Standard	10358 W. Roosevelt Rd., Westchester, IL 60155.	11-4-80	4,559.36	8.2
Roger's Standard	1006 West Dundee Road, Arlington Heights, IL 60004.	11-4-80	389.86	.7
Western District				
Freeway Texaco No. 1	23652 Rockfield Blvd., El Toro, CA 92630	6-23-80	$6,684.59	5.0
Freeway Texaco No. 2	795 El Camino Real, San Clemente, CA 92672.	6-23-80	921.22	3.2

[FR Doc. 80-36504 Filed 11-21-80; 8:45 am]

BILLING CODE 6456-01-M

V 45 NO 224 80 UMI

Gary Energy Corp.; Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to the Gary Energy Corp., Four Inverness Court East, Englewood, Colorado, 80112. This Proposed Remedial Order charges the Gary Energy Corp. with pricing violations in the amount of $270,050.38, connected with the sale of condensate (crude oil) from the Altonah and Bluebell natural gas processing plants during the period September 1, 1973 through March 31, 1977.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Kenneth E. Merica, District Manager of Enforcement, Department of Energy, 1075 South Yukon Street, P.O. Box 26247, Belmar Branch, Lakewood, Colorado, 80226, phone (303) 234–3195. On or before December 9, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW., Washington, D.C., 20461, in accordance with 10 CFR 205.193.

Issued in Lakewood, Colorado on the 18th day of November 1980.

Kenneth E. Merica,

District Manager, Rocky Mountain District, Economic Regulatory Administration.

Concurrence:

James A. Forrester,

Acting Regional Counsel.

[FR Doc 80–3680 Filed 11–21–80; 8:45 am]

BILLING CODE 6450–01–M

National Helium Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken on consent order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals:

FOR FURTHER INFORMATION CONTACT: Charles Croxton, Program Manager, Natural Gas Liquid Processors, Office of Enforcement, Room 5003, 2000 M Street, NW., Washington, D.C. 20461, Telephone No. (202) 653–3451.

SUPPLEMENTARY INFORMATION: On February 11, 1980, the Office of Enforcement of the ERA published notification in the **Federal Register** that it executed a proposed Consent Order with National Helium Corporation, (NHC), of Liberal, Kansas on January 30, 1980, which would not become effective sooner than 30 days after publication, 45 FR 9057 (1980). Interested persons were invited to submit comments concerning the terms, conditions or procedural aspects of the proposed Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund of overcharges paid by NHC pursuant to the proposed Consent Order were requested to submit notice of their claims to the ERA.

A second notice was published in the **Federal Register** (45 FR 23051 April 4, 1980), which stated that no comments were received and therefore the proposed Consent Order was finalized.

Pursuant to the consent Order, NHC refunded the sum of $10,000,000.00 by check made payable to the United States Department of Energy on April 23, 1980. All such funds received by DOE have been placed into a suitable account pending determination of their proper distribution.

The following persons submitted claims to the ERA:

Atlantic Richfield Company

Action taken: The ERA is unable readily to identify the persons entitled to received the $10,000,000.00 or to ascertain the amounts of refunds that such persons are entitled to receive. The ERA has therefore petitioned the Office of Hearings and Appeals (OHA) on November 5, 1980, to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the remaining refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C. on the 18th day of November 1980.

Robert D. Gerring,

Director, Program Operations Division.

[FR Doc 80–36599 Filed 11–21–80; 8:45 am]

BILLING CODE 6450–01–M

Proposed Remedial Orders

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice that the following Proposed Remedial Orders have been issued. These Proposed Remedial Orders allege violations of applicable law as indicated.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Thomas M. Holleran, Program Manager for Product Retailers, 2000 M Street, NW, Washington, DC 20461, phone 202/653–3569. On or before December 9, 1980 any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Washington, DC on the 18th day of November 1980.

Robert D. Gerring,

Director, Enforcement Program Operations Division, Economic Regulatory Administration.

Proposed Remedial Orders

Station	Address	Date	Violation amount	Cents per gallon in violation
Central District				
The Floating Clown Restaurant	Rt. 2 Box 48, Osage Beach, MO 65065	7–2–80	$1,730.00	9.4
Western District				
Chana's Auto Service Center	240 N. Virgil, Los Angeles, CA 90004	10–12–79	$1,811.02	7.7
Bell's Texaco Service Garage	3445 Geary Blvd., San Franscico, CA 94118	1–21–80	2,654.23	9.2
Bud Dietrich's Oridna Shell	9 Orinda Way, Orinda, CA 94563	9–27–79	5,398.24	4.3
A's Auto Safety Service	2400 San Bruno Avenue, San Francisco, CA 94134.	1–25–80	1,972.54	1.9
Ed's Exxon	8510 Gravenstein Highway, Cotati, CA 94928.	1–25–80	3,578.05	5.7

[FR Doc. 80–36600 Filed 11–21–80; 8:45 am]

BILLING CODE 6450–01–M

Gasoline Marketing Advisory Committee; Postponement of Meeting

This notice is given to advise of the postponement of the meeting of the Gasoline Marketing Advisory Committee originally scheduled to be held on December 3 and 4, 1980, from 9:00 a.m. to 5:00 p.m. each day, room 305A of the DOE New York Regional Office, 26 Federal Plaza, New York, New York. Notice of Meeting was published in the issue of November 17, 1980 (45 FR 75742). When the meeting is rescheduled a notice will appear in the **Federal Register.**

Issued at Washington, D.C. on November 19, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80–36894 Filed 11–21–80; 8:45 am]

BILLING CODE 6450–01–M

Energy Information Administration

1980 Manufacturing Industries Energy Consumption Study and Survey of Large Combustors

The U.S. Department of Energy has recently mailed out Form EIA–463, "The 1980 Manufacturing Industries Energy Consumption Study and Survey of Large Combustors," to 10,000 establishments within Standard Industrial Classification Codes 20 to 39 that are likely to have a boiler, gas turbine, combined cycle unit, or internal combustion engine with a maxium design firing rate of 50 million Btu per hour or greater. (The selection of 50 million Btu per hour as the basis for inclusion in this survey relates to the final regulation developed by the Department of Energy and reported in the **Federal Register,** Friday, June 6, 1980, (45 FR 38276), 10 CFR 500.4 and 500.5.)

Response to this report is mandatory under the Federal Energy Administration Act of 1974 (Pub. L. 93–275) and the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95–620). If you did not receive this form and operate a combustor as described above, please contact: Mr. Stephen Dienstfrey, Industrial Survey Manager, U.S. Department of Energy, P.O. Box 2110, Rockville, Maryland 20852, (800) 638–6584.

Issued in Washington, D.C., November 13, 1980.

Albert H. Linden, Jr.,

Acting Administrator, Energy Information Administration.

[FR Doc. 80–36597 Filed 11–21–80; 8:45 am]

BILLING CODE 6450–01–M

Office of Conservation and Solar Energy

[Docket No. CAS–RM–79–303]

Final Report to Congress on the Classification and Evaluation of Electric Motors and Pumps; Availability of Final Report

AGENCY: Department of Energy.

ACTION: Notice of availability.

SUMMARY: The Department of Energy (DOE) is submitting its report to Congress on the classification and evaluation of electric motors and pumps. The report sets forth standard classifications with respect to size, function, type of energy used, method of manufacture, and other factors, and makes a determination of the practicability and effects of requiring all or part of the classes of electric motors and pumps to: (1) Be tested and labeled in accordance with Federal regulations; and (2) meet performance standards which establish minimum levels of energy efficiency.

DATE: November 24, 1980.

Copies of the final report are available for inspection at the DOE Freedom of Information Office, Forrestal Building, Room 1E–190, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday, at each DOE Regional Office as follows:

Region, Address and Hours

I—Analex Bldg., DOE Library, 150 Causeway Street, Boston, MA 02114, (617) 223–5207—8:30 to 5:00
II—Room 3206, 26 Federal PLaza, New York, NY 10007, (212) 264–4636—8:30 to 5:00
III—Room 1011, 1421 Cherry Street, Philadelphia, PA 19102, (215) 597–9067—8:00 to 4:30
IV—8th Floor, 1655 Peachtree Street NE, Atlanta, GA 30309, (404) 881–2696—8:00 to 4:30
V—Room A–333, 175 West Jackson Blvd., Chicago, IL 60604, (312) 886–5170—8:30 to 4:30
VI—Room 280, 2626 West Mockingbird Lane, Dallas, TX 75235, (214) 767–7701—8:30 to 4:30
VII—324 East 11th Street, Kansas City, MO 64106, (816) 374–5182—7:30 to 4:00
VIII—Room 208, 1075 South Yukon St., Lakewood, CO 80226, (303) 234–2420—7:30 to 4:00
IX—Third Floor Reading Room, 11 Pine Street, San Francisco, CA 94111, (415) 556–0305—7:30 to 3:00
X—Room 1992, 915 Second Avenue, Seattle, WA 98174, (206) 442–7303—8:00 to 4:00.

FOR FURTHER INFORMATION CONTACT:
Lewis S. Newman, Office of Industrial Programs, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585 (202) 252–2384
or
Catherine Edgerton, Office of General Counsel, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–9513

SUPPLEMENTARY INFORMATION: DOE has prepared its report to Congress on the classification and evaluation of electric motors and pumps pursuant to Section 342(a) of the Energy Policy and Conservation Act, Pub. L. 94–163, as established by Part 3 of Title IV of the National Energy Conservation Policy Act, Pub. L. 95–619.

The proposed report to Congress on the classification and evaluation of electric motors and pumps was made available to the public for comment on March 17, 1980, and public hearings were held during the month of May. DOE revised the proposed report on the basis of its analysis of information received during the public comment period, as well as its own additional analysis of the economic impacts association with Federal actions.

In its final report, DOE makes the following recommendations with respect to industrial motors:

1. DOE should monitor industry implementation of standardized test procedures.
2. DOE should monitor industry implementation of a more informative labeling program which has been developed on a voluntary basis by industry.
3. Legislative authority to establish minimum efficiency standards should not be requested.
4. DOE monitoring of the market penetration for high-efficiency motors should be undertaken.
5. DOE should continue to assist in development of information designed to accelerate investment in high-efficiency motors.

The following recommendations are made with respect to industrial pumps:

1. DOE should monitor industry implementation of test procedures.
2. DOE should monitor industry implementation of an improved information program on pump efficiency.

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3. Legislative authority to establish minimum efficiency standards should not be requested.

4. DOE should work with industry in development of information materials designed to accelerate investment in pumps which would reduce energy consumption.

Issued in Washington, D.C., November 12, 1980.

T. E. Stelson,

Assistant Secretary, Conservation and Solar Energy.

[FR Doc. 80-36802 Filed 11-21-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Objection to Proposed Remedial Orders Filed September 29 through October 10, 1980

During the period of September 29 through October 10, 1980, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before December 10, 1980. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearing and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

November 18, 1980.

Atlantic Richfield Company, Los Angeles, California, BRO-1322, covered products

On October 7, 1980, Atlantic Richfield Co., 515 South Flower Street, Los Angeles, California 90051, filed a Notice of Objection to a Proposed Remedial Order which the DOE Pacific District Office of Enforcement issued to the firm on September 9, 1980. In the PRO the Pacific District found that Atlantic Richfield was improperly computing its increased costs attributable to covered products.

Nemo Landing Marina, Pittsburg, MO, BRO-1321, motor gasoline

On October 7, 1980, Nemo Landing Marina, Star Route, Box 104, Pittsburg, MO 65724, filed a Notice of Objection to a Proposed Remedial Order which the DOE Central District Office of Enforcement issued to the firm on August 29, 1980. In the PRO the Central Enforcement District found that during April 28, 1980 to June 14, 1980, Nemo Landing Marina had been charging prices in excess of the maximum lawful selling price allowed by 10 CFR Part 212.

According to the PRO the Nemo Landing Marina violation resulted in $1,012.04 of overcharges. This Notice of Objection has been transferred to the Central Regional Center of the Office of Hearings and Appeals for analysis.

Plaquemines Oil Sales Corporation, Belle Chasse, Louisiana, BRO-1320, No. 2 diesel fuel

On October 7, 1980, Plaquemines Oil Sales Corporation (Plaquemines), P.O. Box 430, Belle Chasse, Louisiana 70037, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest District Office of Enforcement issued to the firm on September 19, 1980. In the PRO the Southwest District found that during the period November 1, 1973 through August 31, 1975, the firm committed pricing violations in connection with the sale of No. 2 diesel fuel. According to the PRO the Plaquemines violation resulted in $331,572.44 in overcharges.

Village Standard Service, Elk Grove, Village, IL, BRO-1330, motor gasoline

On October 7, 1980, Village Standard Service, 1501 Busse Road, Elk Grove Village, IL 60007, filed a Notice of Objection to a Proposed Remedial Order which the DOE Central District Office of Enforcement issued to the firm on May 27, 1980. In the PRO the Central Enforcement District found that during August 1, 1979 to April 18, 1980, Village Standard Service had been charging prices in excess of the maximum lawful selling price allowed by 10 CFR Part 212.

According to the PRO the Village Standard Service violation resulted in $6,437.16 of overcharges. This Notice of Objection has been transferred to the Central Regional Center of the Office of Hearings and Appeals for analysis.

[FR Doc. 80-36803 Filed 11-21-80; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; Week of October 27 Through October 31, 1980

During the week of October 27 through October 31, 1980, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Acting Director, Office of Hearings and Appeals.

November 17, 1980.

Atlantic Richfield Co., Dallas, Texas; DXE-2235, crude oil.

Atlantic Richfield Co. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would permit Atlantic Richfield to continue receiving relief which allowed the firm to charge upper tier prices for old oil. On October 31, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

C. F. Lawrence & Assoc., Inc., Midland, Texas; BXE-1385, crude oil.

C. F. Lawrence & Assoc., Inc. filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell all of the crude oil which it produces from the Childress M. I. Masterson Lease for the benefit of the working interest owners at upper tier ceiling prices. On October 30, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

Craft Petroleum Company, Inc., Jackson, Mississippi; BEE-1099, crude oil.

Craft Petroleum Company, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the J. W. Richardson No. 3 Well located in Lincoln County, Mississippi, at market price levels. On October 31, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be denied.

Fuelgas Company, Inc., Washington, D.C.; DEE-6000, propane.

Fuelgas Company, Inc. filed an Application for Exception from the provisions of 10 CFR 212.11(c)(1). The exception request, if granted, would permit Fuelgas to establish a single class of purchaser and pricing structure for two propane marketing firms which Fuelgas has recently acquired and consolidated into one business operation. On October 31, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Getty Reserve Oil Company, Denver, Colorado; BXE-1342, crude oil.

Getty Reserve Oil Company filed an Application for exception from the provisions of 10 CFR Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the SL-071595A and SL-069551 Leases for the benefit of the working interest owners at market price levels. On October 28, 1980, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

Haber Oil Products, Pleasant Hall, California; BEE-0382, motor gasoline.

Haber Oil Products filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Haber Oil Products to receive an increased amount of unleaded gas for the purpose of producing gasohol. On October 29, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

J. J. Doherty and Co., Inc., Trenton, NF; BEE-0739, Gasohol.

J. J. Doherty and Co., Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit the firm to receive an increased allocation of motor gasoline for the express purpose of blending and marketing gasohol. On October 30, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

McCall Marketing Co., Portland, Oregon; BEE-1280, Gasohol.

McCall Marketing Co. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit the applicant to receive an additional 5.7 million gallons of unleaded gasoline per year to enable it to expand its gasohol marketing operations. On October 28, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted in part and that McCall's base period allocation of unleaded gasoline be increased by 350,000 gallons per month.

Montgomery Oil Company, Leeds, Alabama; BEE-0689, Gasohol.

Montgomery Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Montgomery to receive an increased allocation of unleaded gasoline with which to blend gasohol. On October 31, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case Number, and Location

Lucia Lodge, DEE-5531, Monterey, CA.
Sawyer's Gen. Store, DEE-7206, Raymond, CA.
St. Lucie County, FL, BEE-1026, Ft. Pierce, FL.

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case Number, and Location

Kennedy Oil Co., DEE-5783, Streator, IL.
Louis H. Long, DEE-2610, Rapid City, SD.
Sea Shell Car Wash, BXE-1329, Jupiter, FL.

[FR Doc 80-36502 Filed 11-21-80; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Eastern Division, Pick-Sloan Missouri Basin Program; Final Post-1985 Marketing Plan; Correction

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Corrections in announcement of the final Post-1985 marketing plan for the Eastern Division, Pick-Sloan Missouri Basin Program.

Post-1985 Marketing Plan

The following are corrections in previous **Federal Register** notice (45 FR 71860) published October 30, 1980. The corrections are on page 71861, column one. In paragraph three, line five, the sentence should read, "Such commitments will total 35 MW in the summer season and 40 MW in the winter season." In paragraph four, line four, "1.6461 percent" should read "1.6361 percent".

Issued at Golden, Colorado, November 17, 1980.

Robert L. McPhail,

Administrator.

[FR Doc 80-36686 Filed 11-21-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[EN-FRL 1674-2]

California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption

AGENCY: Environmental Protection Agency.

ACTION: Waiver of Federal preemption.

SUMMARY: This decision grants California a waiver of Federal preemption to enforce amendments to its exhaust emission standards and test procedures for new motor vehicles reflecting the adoption of special oxides of nitrogen (NO_x) exhaust emission standards for certain model year vehicles produced by qualified "small-volume, vendor-dependent" manufacturers.

ADDRESS: Information relevant to this decision is available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at: U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2404 (EPA Library), 401 M St., S.W., Washington, D.C. 20460, (202) 755-2808. Copies of the standards and test procedures are also available upon request from the California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, California 95812.

FOR FURTHER INFORMATION CONTACT: Jerry Schwartz, Attorney/Advisor, Manufacturers Operations Division, (EN-340), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 472-9421.

SUPPLEMENTARY INFORMATION:

I. Introduction

By this decision, issued under section 209(b) of the Clean Air Act, as amended (hereinafter the "Act"),[1] I am granting the State of California a waiver of Federal preemption to enforce amendments to its exhaust emission standards and test procedures. These amendments embody the adoption of

[1] 42 U.S.C. 7543 (b)(1977).

special NO_x emission standards for 1980 and 1981 model year passenger cars, be less protective of public health and welfare than the applicable Federal

Section 202(b)(1)(BN) establishes a Federal NO_x standard of 1.0 gpm

argued that since it develops its NO_x emission control technology for LDTs

requested that EPA not reconsider at the hearing the waiver permitting California

III. Discussion

special NO_x emission standards for 1980 and 1981 model year passenger cares, and 1981–1982 model year light-duty trucks (LDTs) and medium-duty vehicles (MDVs) with equivalent inertia weight of less than 4,000 pounds,[2] produced by qualified "small-volume, vendor-dependent" manufacturers.[3]

Under section 209(b) of the Act, I am required to grant the State of California a waiver of Federal preemption, after opportunity for a public hearing, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as the applicable Federal standards. I must grant a waiver unless I find that the protectiveness determination of the State of California is arbitrary and capricious, that the State does not need its own standards to meet compelling and extraordinary conditions, or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act. State standards and enforcement procedures are deemed not to be consistent with section 202(a) if there is inadequate lead time to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within that time frame, or if the Federal and California certification and test procedures are inconsistent.[4]

For enforcement procedures accompanying these standards, I must grant the requested waiver unless I find that the procedures may cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards. When I am considering that finding, if the public record of the proceedings before me contains plausible evidence that the California enforcement procedures may cause the California standards, in the aggregate, to be less protective than the corresponding Federal standards, then I must deny the waiver if: (1) California did not make a positive determination as to the protectiveness of the standards when coupled with the new enforcement procedures or (2) California did make such a determination, and the record contains clear and compelling evidence that its determination is arbitrary and capricious.[5]

On the basis of the record before me, I cannot make the findings required for a denial of the waiver under section 209(b)(1) with respect to the amendments to California's exhaust emission standards and test procedures previously delineated; therefore, I am granting the waiver of Federal preemption California has requested.

II. Background

A. Procedural History

The California Air Resources Board (CARB) adopted exhaust emission standards and test procedures applicable to 1979 and subsequent model year passenger cars, LDTs and MDVs that contained, among other things, a 1.0 grams per mile (gpm) NO_x standard beginning in the 1980 model year for passenger cars and in the 1981 model year fro LDTs and MDVs with 0–3999 pounds equivalent inertia weight. I granted the State of California a waiver of Federal preemption to enforce these standards and test procedures in three separate waiver decisions.[6]

Subsequent to the waiver decisions, American Motors Corporation (AMC) filed a petition in the United States Court of Appeals for the District of Columbia Circuit challenging my passenger car waiver decision as applied to AMC. Specifically, AMC claimed that the 1.0 gpm 1980 California NO_x passenger car standard for which I granted a waiver of Federal preemption denied AMC, as a qualified "small-volume vendor-dependent manufacturer," the lead time mandated by Congress in section 202(b)(1)(B).

Section 202(b)(1)(BN) establishes a Federal NO_x standard of 1.0 gpm applicable to light-duty vehicles (passenger cars) and engines manufactured during and after the 1981 model year. However, this section also provides for a two-year delay in applying the Federal 1.0 gpm standard to certain qualified small-volume manufacturers.[7] The two-year delay provision was designed to provide small-volume manufacturers who are dependent on other manufacturers for emission control technology (i.e., "vendor-dependent" manufacturers) extra lead time to incorporate into their own vehicles the new three-way catalyst technology developed by other manufacturers and regarded as necessary to meet a 1.0 gpm NO_x standard.[8]

The Court largely upheld AMC's challenges to the California waiver decision.[9] The Court held that California's 1.0 gpm passenger car NO_x standard, which does not provide AMC any extra time to meet a 1.0 gpm level, is inconsistent with section 202(a)(2) of the Act. Specifically, the Court vacated the June 14, 1978 waiver decision "to the extent it permits California to deny AMC the lead time prescribed by section 202(b)(1)(B) of the Act."

On September 14, 1979, AMC petitioned me to reconsider and amend or modify certain portions of the earlier waiver decisions concerning California's 1981 and later model year LDT and MDV NO_x exhaust emission standards in light of the Court's decision.[10] AMC

[2] The amendments are set forth in Section 1960.2 and 1960.3, Title 13, California Administrative Code, for passenger cars, and LDTs and MDVs, respectively. The substance of the amendments is also contained in the following documents:

1. "California Exhaust Emission Standards and Test Procedures for 1980 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended March 5, 1980.
2. "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended March 5, 1980.
3. "California Assembly-Line Test Procedures for 1980 Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended March 5, 1980.
4. "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended March 28, 1980.
5. "California Assembly-Line Test Procedures for 1981 Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended March 28, 1980.

[3] Qualified manufacturers are those meeting the requirements of section 202(b)(1) (B) of the Act for relief as a "small-volume, vendor-dependent" manufacturer. See footnote 7, *infra* for the text of that section.

[4] See section 202(a)(2) of the Act, 42 U.S.C. 7521(a)(2) (1977). See also 45 FR 54126, 54127 (August 14, 1980).

[5] See 45 FR 9344–9346 (March 7, 1978); H.R. Rep. No. 95–294, 95th Cong. 1st Sess. 301–302 (1977).

[6] 43 FR 25729 (June 14, 1978) (for California's 1979 and later model year passenger cars); 43 FR 1829 (January 12, 1978) (for California's 1979–1982 model year LDTs and MDVs); and 43 FR 15490 (April 13, 1978) (for California's 1983 and later model year LDTs and MDVs).

[7] Section 202(b)(1)(B) provides, in part: The Administrator shall prescribe standards in lieu of (the 1.0 grams per vehicle mile standard otherwise required) which provide that emissions of oxides of nitrogen may not exceed 2.0 grams per vehicle mile for any light-duty vehicle manufactured during model years 1981 and 1982 by any manufacturer whose production, by corporate identity, for calendar year 1976 was less than three hundred thousand light-duty motor vehicles world-wide if the Administrator determines that—

(i) The ability of such manufacturer to meet emission standards in the 1975 and subsequent model years was, and is, primarily dependent upon technology developed by other manufacturers and purchased from such manufacturers; and

(ii) Such manufacturer lacks the financial resources and technological ability to develop such technology.

I determined that AMC was a qualified manufacturer and prescribed alternative NO_x standards for 1981 and 1982 for AMC in accordance with this section. 44 FR 47880 (August 15, 1979).

[8] H.R. Rep. No. 95–564, 95th Cong., 1st Sess., 165–166 (1977). 123 Cong. Rec., S9233 (daily ed. June 9, 1977).

[9] *American Motors Corp. v. Blum*, 603 F. 2d 978 (D.C. Cir. 1979).

[10] Petition for Reconsideration of the Waiver Decisions for California Exhaust Emissions Standards Applicable to Oxides of Nitrogen for 1981 and Later Light-Duty Trucks and Medium-Duty Vehicles, from William C. Jones, Manager, Vehicle

Footnotes continued on next page

argued that since it develops its NO_x emission control technology for LDTs and MDVs by relying on existing emission control technology adapted from passenger cars, it was unable to meet the 1.0 gpm NO_x standard.

To implement the Court's decision, EPA published a notice in the **Federal Register** vacating the passenger car waiver decision to the extent that the decision permits California to enforce against AMC 1980 and 1981 passenger car NO_x standards other than the California 1979 model year NO_x standard of 1.5 gpm.[11] This notice and another notice published the same day,[12] also announced that EPA would hold a public hearing on July 24, 1980, to consider whether the 1982 and later model year passenger car standards and the 1981 and later model year MDV and LDT standards, as applied to AMC, are consistient with section 202(a) of the Act and *AMC v. Blum*.[13] EPA also announced it would consider any timely CARB waiver requests relating to NO_x standards for small-volume manufacturers at the hearing.

In a June 13, 1980 letter to the Administrator,[14] CARB requested a waiver of Federal preemption for amendments to its exhaust emission standards and test procedures and Assembly-Line Test procedures, for 1980 and 1981 model year passenger cars and 1981 and 1982 model year LDTs and MDVs as they applied to qualified small-volume manufacturers. Subsequently. EPA announced that it would consider this waiver request at the July 24, 1980 public hearing.[15]

Prior to the hearing, by letters dated July 18 and July 22, 1980, respectively, CARB and AMC indicated that they had reached a tentative agreement regarding the "later model year standards,"[16] and requested that EPA not reconsider at the hearing the waiver permitting California to enforce the standards the State then had in place for those models and years.[17] At the July 24 hearing, after CARB reiterated this request, EPA indicated that it would hold an additional waiver hearing subsequent to the receipt of the waiver request which CARB contemplated regarding the later model year standards.[18]

B. The CARB Waiver Request

CARB's proposed amendments require that a qualified small-volume vendor-dependent manufacturer meet a NO_x standard of 1.5 gpm in the 1980 and 1981 model years with both its certification test vehicles and its individual passenger car engine families and subgroups during production. It also requires that a qualifed manufacturer meet a NO_x standard of 1.0 gpm for the average of its entire combined passenger car production for a full calendar year for both the 1980 and 1981 model years. CARB may grant relief from the 1.0 gpm average if the manufacturer encounters unforeseen technical difficulty in meeting these requirements. In no case may individual engine families exceed a NO_x standard of 1.5 gpm.

The amended requirements for LDTs and MDVs (with 0–3999 pounds Equivalent Inertia Weight) are essentially identical to that adopted by CARB for passenger cars. A qualified manufacturer must meet a NO_x standard of 1.5 gpm in the 1981 and 1982 model years with its certification test vehicles and with its individual engine families and subgroups during production. The manufacturer must meet a NO_x standard of 1.0 gpm on the average over the combined calendar year's production of all of its LDTs and MDVs; i.e., the emissions totals of both the year's LDT and MDV production are added together and averaged to determine whether the year's production average meets the 1.0 gpm standard.

III. Discussion

A. Public Health and Welfare

I have already set forth in the introduction the criteria for my review of the public health and welfare issue as it pertains to both exhaust emission standards and accompanying enforcement procedures for which California requests a waiver. With regard to the proposed passenger car standards contained in CARB's waiver request, section 202(b)(1)(B) directs the Administrator to set a Federal NO_x standard for qualified manufacturers for the 1981 and 1982 model years which does not exceed 2.0 gpm. The 2.0 gpm level is the Federal NO_x standard for all passenger cars for 1980. Therefore, the Federal NO_x standard for all model year passenger cars covered by CARB's waiver request is 2.0 gpm. California's NO_x standards as set forth in the CARB waiver request, both in certification and on the assembly line, are numerically more stringent than the applicable Federal NO_x standard. California's hydrocarbon (HC) standards, which are not affected by the waiver request, are also numerically at least as stringent as the Federal HC Standard.

California's passenger car carbon monoxide (CO) standards, however, are not in every case numerically as stringent as applicable Federal standards. For the 1981 model year, one of the optional California CO standards is 7.0 gpm while the applicable Federal standard for that year is 3.4 gpm. When EPA asked how CARB took this fact into account in making its protectiveness determination,[19] CARB replied by citing the legislative history of section 209 of the Act.[20] By including the words "in the aggregate" in the 1977 Amendments for that section, Congress intended to authorize California to adopt a mix of standards that "as a package" are at least as protective of public health and welfare as applicable Federal standards.[21] In this case, as it has done in conjunction with standards associated with other motor vehicles or engine classes, CARB reasoned that NO_x emissions in California pose a more significant threat to public health than do CO emissions. Thus, CARB concluded that its more stringent NO_x standard provided adequate additional "protectiveness" relative to Federal

Footnotes continued from last page

Emissions and Fuel Economy Standards, AMC, to Douglas M. Costle, Administrator, EPA, dated September 14, 1979 (hereinafter "Petition for Reconsideration").

[11] 45 FR 45359 (July 3, 1980).

[12] 45 FR 45357 (July 3, 1980). The same day EPA published a notice announcing that Carb's motorcycle fill-pipe opening specifications would also be reconsidered at the July 24, 1980 hearing. See 45 FR 45356 (July 3, 1980). This issue will be the subject of a waiver determination to be published in the near future.

[13] AMC also filed a petition for review in the United States Court of Appeals for the District of Columbia Circuit of that portion of the waiver granted for CARB's NO_x standards applicable to LDTs and MDVs equal to or greater than 4000 pounds. That action has been held in abeyance pending my determination of this waiver decision.

[14] Letter from Gary Rubenstein for Thomas C. Austin, CARB, to Douglas M. Costle, Administrator, EPA, dated June 13, 1980 ("CARB letter").

[15] 45 FR 48842 (July 22,1980).

[16] The term "later model year standards" refers to the NO_x exhaust emission standards for 1982 and later model year passenger cars and 1983 and later model year LDTs and MDVs with inertia weights of 0–3999 pounds produced by qualified "small-volume, vendor-dependent manufacturers."

[17] Letter fom Gary Rubenstein, CARB, to Glenn Unterberger, EPA, dated July 18, 1980. Letter from K.W. Shang, AMC, to Glenn Unterberger, EPA, dated July 22, 1980. CARB stated that it would put these standards before the California Board for its consideration at its regular public hearing on August 27 and 28, 1980. Tr. 9.

[18] Transcript of Public Hearing to Reconsider Waiver of Federal Preemption Granted State of California: CARB NO_x Standards as Applied to American Motors Corporation, July 24, 1980 (hereinafter "Tr."), 7–10, 24–27.

[19] California determined that its amended regulations are, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. See CARB letter, Tr. 12, and CARB Resolutions 80–5 (March 5, 1980), and 80–6 (March 28, 1980).

[20] Tr. 17–18.

[21] H.R. Rept. No. 95–295, 95th Cong. 1st Sess. 302 (1977).

standards applicable to this engine

denying the waiver on this issue for the

standards and accompanying

The Act does not authorize me to

reason, I hereby determine and find that

was announced in the Federal Register

standards applicable to this engine family to at least compensate for any "protectiveness" lost due to its less stringent CO standard.[22] I cannot find that CARB's determination that the State's passenger car standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards is arbitrary and capricious.

With regard to CARB's proposed standards for LDTs and MDVs, the California standards are all numerically at least as stringent as the applicable Federal standards. Therefore, according to Section 209(b)(2) of the Act, California's LDT and MDV standards are deemed to be at least as protective of public health and welfare as applicable Federal standards.[23]

With regard to the proposed accompanying enforcement procedures applicable to passenger cars, LDTs and MDVs, the public record contains no plausible evidence that the proposed amendments to the Assembly-Line Test (ALT) procedures reduce the protectiveness of these standards. Accordingly, California did not need to make any additional public health and welfare determinations in conjunction with this waiver request.[24] Nevertheless, CARB did determine that its amended accompanying enforcement procedures are, in the aggregate, at least as protective of public health and welfare as their Federal counterparts because the changes to the ALT procedures are technical in nature.[25] CARB stated that it intends the enforcement procedure amendments to ensure consistency between the ALT procedures for evaluating ALT results and the proposed exhaust emission standards, since the existing ALT procedures did not provide a mechanism for determining compliance by individual engine families with an emission standard expressed in terms of a cumulative average.[26] Thus, I cannot find a basis for denying the waiver on this issue for the proposed amendments to the standards or the accompanying enforcement procedures.

B. Consistency

Under section 209(b)(1)(C), I must grant a California waiver request unless I find that California's standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act. Section 202(a) states, in part, that any regulation promulgated under its authority, "shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period." [27]

1. Lead Time and Technology

No party presented any evidence for either passenger cars or LDTs and MDVs to indicate that compliance with the proposed amendments is technologically infeasible considering available lead time. On the other hand, CARB presented testimony with respect to passenger cars indicating that the proposed amendments are currently technologically feasible for AMC, the only manufacturer which now qualifies for the "small volume manufacturer" relief.

AMC has testified at a CARB hearing that it condsiders the standards "feasible and acceptable." [28] Furthermore, actual certification emission results for 1980 model year AMC vehicles indicate that AMC is currently capable of achieving both the 1.0 gpm cumulative production average standard and the 1.5 gpm certification standard.[29] Finally, the cumulative NO_x emissions data for the AMC 1980 passenger car engine families for the period from October 1, 1979, to March 31, 1980, indicate that the cumulative average is 0.68 gpm, well below the 1.0 gpm standard required by the proposed amendments.[30]

In light of the above dicussion, I cannot conclude that qualified manufacturers cannot develop and apply the requiste technology within the available lead time in order to achieve compliance with the proposed California standards and accompanying enforcement procedures.[31]

2. Cost of Compliance

No party offered any evidence regarding cost of compliance with the proposed amendments for either passenger cars or LDTs and MDVs. In light of the fact that AMC, the only qualified manufacturer to date, has evidenced ability through its 1980 model year passenger car production vehicles to comply with the proposed standards, I cannot find that the cost of compliance with the proposed amendments is so excessive as to warrant denial of the waiver on these grounds.

3. Other Objections to granting the Waiver

To date, AMC is the only manufacturer which has qualified under section 202(b)(1)(B) for extra lead time to meet the 1981 model year Federal 1.0 gpm NO_x standard. The Automobile Importers of America (AIA) testified that there are other small-volume manufacturers that are eligible to qualify for "relief" from Federal NO_x standards under section 202(b)(1)(B). AIA expressed concern that CARB considered only the technological capabilities of AMC in adopting its amended standards, and that what is technologically feasible for AMC may not be feasible for the other potential applicants.[32]

CARB testified that the proposed amendments are "of general application" and apply not just to AMC, but to any manufacturer that I determine, pursuant to section 202(b)(1)(B), meets the statutory criteria for small-volume manufacturer relief.[33] CARB stated that if other qualified manufacturers are unable to comply with the proposed regulations, provisions exist for special relief.[34] Finally, CARB testified that since AMC was the only manufacturer that had qualified as a "small-volume vendor-dependent" manfacturer under section 202(b)(1)(B), AMC's technological capability information was the only information available for analysis.[35]

[22] Tr. 18.

[23] Sections 209(b)(2) states, "[i]f each State standard is at least as stringent as the comparable applicable Federal standard, such State standard shall be deemed to be at least as protective of health and welfare as such Federal standards for purposes of paragraph (1)." 42 U.S.C. 7543(b)(2) (1977).

[24] See the discussion accompanying footnote 5, *supra*.

[25] See footnote 19, *supra*.

[26] CARB Staff Report 80-3-1, "Public Hearing to Consider Proposed Amendments to Title 13 of the Administrative Code and to the Assembly-Line Test Procedures and to Exhaust Emission Standards for 1980 and 1981 Model Year Passenger Cars," February 4, 1980, p. 10-11; CARB Staff Report 80-5-1, "Public Hearing to Consider Proposed Amendments to Title 13 of the Administrative Code and to the Exhaust Emission Standards and Assembly-Line Test Procedures for 1981 and 1982 Model Year Light-Duty Trucks and Medium-Duty Vehicles, 0-3999 Equivalent Inertia Weight, March 20, 1980, p. 14; Tr. 19-20.

[27] See footnote 4, *supra*.

[28] Tr. 14.

[29] Tr. 15, 22; CARB submissions at July 24, 1980 hearing, Executive Orders A-17-32, A-17-53, A-17-56, and A-17-57.

[30] Tr. 15; CARB supplemental submission, letter to Glenn Unterberger, EPA, from K. D. Drachand, CARB, August 7, 1980.

[31] The standards and accompanying enforcement procedures adopted by California are also consistent with the mandate of the Court in *AMC v. Blum* that made clear that the special problems of small-volume vendor-dependent manufacturers in meeting the 1.0 gpm NO_x standard for passenger cars must be given special consideration.

[32] Tr. 28.

[33] Tr. 29.

[34] CARB stated it was considering several potential forms of relief, including temporarily raising the standard, or granting relief for one specific engine family. See Tr. 21-22 for a more detailed discussion of the relief available.

[35] Tr. 30.

The Act does not authorize me to deny California a waiver on the grounds supplied in this objection. First, AIA has not provided any evidence regarding the eligibility of these additional manufacturers to qualify for the extra lead time available under section 202(b)(1)(B). Even assuming they were entitled to special lead time considerations, AIA has in no way established that the special consideration provided by CARB would not be adequate for these manufacturers. AIA has not met its burden of proof to enable me to conclude that CARB's regulations are not technologically feasible and to deny the waiver on these grounds.

IV. Finding and Decision

Having given due consideration to the public hearing of July 24, 1980, all material submitted for the record, and other relevant information, I find that I cannot make the determinations required for a denial of the waiver under section 209(b) of the Act, and therefore I hereby waive application of section 209(a) of the Act to the State of California with respect to the following exhasust emission standards and accompanying enforcement procedures:

Amendments contained in Section 1960.2 and 1960.3, Title 13, California Administrative Code, for passenger cars, and LDTs and MDVs, respectively. The substance of the amendments is also set forth in :

1."California Exhaust Emission Standards and Test Procedures for 1980 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended March 5, 1980.

2. "California Exhaust Emmission Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended March 5, 1980.

3."California Assembly-Line Test Procedures for 1980 Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended March 5, 1980.

4. "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended March 26, 1980.

5. "California Assembly-line Test Procedures for 1981 Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles," as amended March 26, 1980.

My decision will affect not only persons in California but also the maufacturers located outside the State which must comply with California's standards in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this decision is of nationwide scope and effect.

Dated: November 18, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-36533 Filed 11-21-80; 8:45 am]

BILLING CODE 6560-30-M

[OPTS 50023; TSH-FRL 1679-8]

Premanufacture Notification Information; Data Transfer to Contractor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will transfer information contained in Premanufacture Notices (PMN's) submitted by manufacturers and importers under section 5 of the Toxic Substances Control Act (TSCA) to Clement Associates, Inc. of Washington, D.C., a subcontractor of an EPA contractor, Walk, Haydel & Associates, Inc. of New Orleans, Louisiana. Some of this information may be claimed to be confidential. Clement Associates will review, analyze, and report to EPA on manufacturing and processing methods, chemical use, exposure, and environmental release information contained in PMN's.

DATE: The transfer of data submitted in PMN's and claimed to be confidential will occur December 1, 1980.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office, Office of Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460; Toll-free: (800-424-9065), In Washington, D.C.: (554-1404).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, manufacturers and importers of chemical substances are required to submit PMN's for new chemical substances that they intend to manufacture or import and that are not included in EPA's Initial Inventory of Chemical Substances. To evaluate the information in these PMN's, EPA will require the assistance of outside experts. EPA selected Walk, Haydel & Associates of New Orleans, Louisiana to assist it in evaluating potential risks associated with the manufacture, processing, distribution in commerce, use and disposal of new chemical substances. Walk, Haydel & Associates is also assisting EPA in evaluating the effectiveness and cost of control options to minimize exposure or environmental release of new chemical substances (Contract No. 68-01-6065). The transfer of data to Walk Haydel and Associates was announced in the **Federal Register** of July 23, 1980 (45 FR 49159). Clement Associates is to assist Walk, Haydel & Associates in the review through a subcontract issued by the latter.

Pursuant to 40 CFR 2.306(j), EPA has determined that it will need to disclose confidential business information to Clement Associates. EPA will provide Clement Associates with information submitted in PMN's on chemical identity, product formulation, and specific processes used to manufacture or process new chemical substances, as well as other information related to the uses, release rates, and exposure levels of new chemical substances. If any PMN information is claimed to be confidential, reports prepared by Clement Associates dealing with this Confidential Business Information will be treated as confidential. After evaluating the information in a PMN, Clement Associates will return the PMN and any reports prepared to EPA.

Since Clement Associates will review information claimed to be confidential, EPA is publishing this Notice to inform all submitters of PMN's that Clement Associates will receive Confidential Business Information from EPA.

Clement Associates is legally required to safeguard from any unauthorized disclosure the PMN's and any information generated during Clement Associates' review. Clement Associates' subcontract specifically prohibits disclosure of any of this information to any third party in any form without written authorization from EPA.

Clement Associates has been authorized under the EPA TSCA Confidential business Information Security Manual to have access to Confidential Business Information. EPA has approved Clement Associates' security plan. EPA's Office of Inspector General has conducted the required inspection of the Clement Associates facilities and has found them to be in compliance with the requirements of the Security Manual. Clement Associates is required to handle in accordance with this Manual all PMN's and any reports prepared by Clement Associates that contain information claimed to be confidential.

Dated: November 12, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

[FR Doc. 80-36537 Filed 11-21-80; 8:45 am]

BILLING CODE 6560-31-M

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[WH-FRL 1679-5]

Proposed Ground Water Protection

AGENCY: Environmental Protection Agency.

ACTION: Public hearings on proposed ground water protection strategy.

SUMMARY: The proposed Ground Water Protection Strategy offers possible management approaches for coordinating efforts to protect the Nation's ground waters and provides background information on current ground water use and contamination, existing State and Federal Laws, and public interest and industry involvement in ground water concerns.

EPA is proposing this strategy in the context of two compelling realities: The need to begin a preventive program to protect the quality of the Nation's ground water in the future and to manage the growing number of instances of significant contamination currently being discovered.

The extent of the problem, its complexities, and the potential for increasing threats to public health and sensitive ecological systems, EPA believes, calls for a careful exploration of how ground water protection efforts can be more effectively directed. This strategy proposes a cooperative effort in understanding and dealing with the futher magnitude of this problem.

At the hearings, or through written response, we are soliciting comments on all aspects of the proposed strategy and are especially interested in receiving comments on the following questions:

1. Is the policy goal based upon "present and projected future uses" a sound and workable goal? Conversely, should alternative goals be selected, such as non-degradation for some or all ground waters? What would be the practical implication of such approaches?

2. Are State strategies a useful vehicle for helping to improve State efforts toward ground water protection? For focusing EPA and other federal assistance on State and local concerns?

3. Is ground water classification an effective and useful approach to setting priorities on the protection of significant ground waters? To identifying appropriate areas for siting new hazardous waste disposal facilities and other facilities with the potential for seriously affecting ground-water quality?

4. What are the technical impediments to carrying out a classification system? Are there social, economic or political impediments? What steps should be taken at the Federal, State or local levels to overcome such impediments?

5. What criteria might be devised to ensure appropriate participation of local authorities in the formulation of State ground water protection strategies and in classifying ground waters?

6. Is the proposed system for developing national criteria for ground water classification appropriate for State implementation? Are the associated Federal, State and local responsibilities applicable and useful or should alternative approaches be considered?

7. Is there any basis for concern that the proposed Ground Water Protection Strategy (or any part of it) would preclude or hamper EPA or the States from acting under their "imminent hazard" statutes to protect the public health or to deal with significant environmental threats?

8. Should EPA seek Federal legislation to implement this strategy (or selected parts of it) immediately or should we await additional experience as outlined in the proposed strategy?

9. Are there areas of ground water protection into which the Federal government should not intrude itself? What would be the impact of leaving these areas exclusively to State and local control?

DATES: Public hearings will be held in five cities: January 12–13, 1981, Atlanta, GA., at the Atlanta Marriott, Courtland at International Blvd; and Denver, CO., at the Denver Hilton, 1550 Court Place; January 15–16, 1981, Dallas, TX., in the First International Bldg., 1201 Elm St., 29th Floor Conference Facility; and Philadelphia, PA., at the Social Security Auditorium, 4th and Spring Garden Streets; January 29–30, 1981, in Washington, D.C., at the Health and Human Services Auditorium (North) 330 Independence Ave., S.W. All hearings will begin at 8:30 a.m., local time.

Written public comments should be received on or before February 18, 1981.

FOR FURTHER INFORMATION CONTACT: To submit public comments or for further information, write Ms. Marian Mlay, Assoicate Deputy Assistant Administrator for Drinking Water, WH-550, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460. Requests for copies of the full strategy and expressions of interest in testifying at one of the hearings may be telephoned to 800-424-9159.

Eckardt C. Beck,

Assistant Administrator for Water and Waste Management.

November 18, 1980.

Executive Summary—Ground Water Protection Strategy

The U.S. Environmental Protection Agency (EPA) is proposing this ground water protection strategy in response to a growing concern over the plight of the Nation's ground waters. The public, along with government officials and experts in the field, is aware that instances of ground-water contamination have been discovered in most sections of the country. They are concerned that ground water is vulnerable to even more widespread contamination in the future as our population and industry continue to grow, thus increasing the already staggering volume of waste to be disposed of.

The problem is national in scope. Approximately half of the country's population relies on ground water for its drinking water. And yet protection of those water sources has been inadequate, in large measure because until recently conventional wisdom believed that nature protected our underground water much more than it actually does. Unfortunately, most of our activities on the land directly affect the quality of the ground water underneath.

With growing frequency, newspapers are reporting new instances of ground-water contamination. Dramatic problems such as Love Canal and the Valley of the Drums have attracted national attention, but numerous local situations of ground-water contamination are also of concern. Some examples are:

- South Brunswick, New Jersey, where one-third of the local water supply for this community of 18,000 is unusable now as a result of contamination by a half gallon of solvents daily for a five to ten year period.
- St Louis Park, Minnesota, where creosote contamination from a manufacturing operation built up over many years resulting in some drinking water wells being closed due to a tar-like taste and the discovery of relatively high levels of possible carcinogens in the ground water.
- Thirty square miles of the shallow aquifer table underlying the Rocky Mountain Arsenal near Denver, Colorado, are contaminated by chemical by-products from the manufacture of pesticides and herbicides, resulting in temporary abandonment of a number of domestic, stock, and irrigation wells, and final abandonment of two wells.
- Fifty-one cases have been filed by EPA and the Department of Justice to force responsible parties to clean up dangerous hazardous waste sites. Of these, 28 involve pollution of ground water, about half of which are drinking water sources.

The contaminants in all these cases are synthetic organic chemicals. Some of these compounds are cancer-causing in laboratory animals. Some are known human carcinogens. Many are highly toxic. Hundreds of thousands of chemical compounds are in use; little is known about and health effects of most, particularly about the impact on human health of various combinations of compounds.

The most frequently found industrial solvents are known to be dangerous to human health. When they appear in ground water they are often in concentrations sufficiently high to present a significant risk to health. Aquifers do not provide the natural dilution or flushing that occurs in surface waters. A contaminant that penetrates ground water tends to form a "plume" of highly contaminated water, moving slowly through the aquifer for years, even decades. Managing instances where contamination is discovered to avoid future public health problems is a major task for the future which is beyond the past experience of most units of state and local governments.

EPA is making major efforts to assist in the cleanup of areas where ground-water problems have been discovered and to take action to find potential threats and prevent future instances of contamination. This is not a simple task: Detecting and cleaning up contamination are difficult and costly operations. And ground water underlies almost the entire country. The little we have learned in recent years has taught us three sobering lessons: the problem is real and dangerous; our present state of knowledge to deal with these problems is limited; and present programs, authorities and resources are inadequate. It is clear that while the cost of protecting ground water will be high, the cost of continuing to ignore the problem is even higher and clearly unacceptable from a public health perspective.

As states mount more aggressive efforts to conduct monitoring and ground-water quality sampling in the future, and as more ground water monitoring is conducted pursuant to the hazardous waste program, more local instances of ground-water contamination will be discovered. The more states look for such problems, doubtlessly, the more they will find. Also, normal patterns of increased industrial activity will expand the problem. Finally, a significant impact could be caused by other environmental regulations which are closing off the air, surface waters, oceans, and other media as acceptable areas for waste disposal.

The dimensions of the current ground-water problem are becoming unmanageable. There is no single Agency at any level responsible for ground water protection. Ground water management is carried out on a state-by-state basis, with different approaches and implementation in every state. With the growing number of instances of contamination and the addition of new EPA programs affecting ground water, the states and localities may soon be overwhelmed.

Addressing Ground Water Protection

Numerous Federal laws and state programs deal in some way with ground water protection and management. Some parts of the Clean Water Act (CWA)—specifically, Sections 208 and 106—have strengthened state abilities to protect ground water. The Safe Drinking Water Act (SDWA) through its underground injection control and sole source aquifer protection provisions and the Resource Conservation and Recovery Act (RCRA) provide for control of certain hazardous practices and some protection for highly vulnerable areas. Other EPA statutes which regulate toxic substances and pesticides and the surface mining and uranium mill tailings programs administered by other Federal agencies also contribute protection provisions.

In addition, EPA has now before Congress a Superfund program which, when enacted, would help resolve problems caused by abandoned waste disposal sites. This proposal provides the Federal government with both the authority and the resources to clean up abandoned sites; permits speedy action, prior to long judicial proceedings, to prevent and abate situations that may threaten public health; and imposes joint, several, and strict liability on those who caused or are causing the problem. This program would serve as both a deterrent and as a means of recovering cleanup costs.

EPA is pursuing the imminent hazard provisions of existing statutes to protect public health and the environment. It is accelerating its research and development efforts and taking other steps described in greater detail in the full strategy document. Many states are expanding their ground water protection efforts by implementing federally delegated programs as well as devising protection programs for some sources of contamination not regulated by Federal statute.

Given the extent of the problem, with its complexities and the potential for increasing threats to public health and sensitive ecological systems, it is clear that significantly increased attention must be given to this issue to manage instances where contamination is detected and to initiate preventive programs to avoid ground-water contamination in the future.

Late last year the Administrator of EPA, Douglas Costle, began the formulation of a ground water protection strategy, calling upon representatives of state and local government, business and industry, environmental and academic groups and the public to help. He felt that we must obtain better insights into this problem and clarify how, and in what policy direction, our nation should proceed. It is hoped that this strategy will help to bring focus to uncoordinated efforts, better enabling us all to protect this resource. This strategy should help to develop more effective relationships among Federal, state and local governments in working together on these problems.

This strategy is not a detailed implementation plan. It addresses broad policy issues rather than narrow technical choices. It emphasizes a preventive approach rather than concentrating on the clean-up of known sources of contamination; not that the latter is not a vital need, but it is already beginning to occur as a consequence of existing legislation and the proposed Superfund program. The strategy is an attempt to look to the future to assure that the quality of ground water is protected as a resource for future generations and to explore new approaches to ground water protection.

The strategy focuses on key isues that are critical to ground-water *quality* in order to have the most impact. For example, it is not intended to deal with tap water issues, such as current or proposed drinking water standards or treatment technologies. Likewise, the ground-water depletion issue is not a major focus. While depletion is a critical issue in many sections of the country, it relates to this strategy only as a problem that can contribute to ground water quality problems, not as an independent issue.

EPA is not proposing new Federal legislation. The immediate challenges seem to be ones of coordination, follow-through and implementation. As

implementation of the existing programs is completed and more time and effort are devoted to the protection of ground water, the need for additional legislation or significant new programs will be assessed.

Given the far-reaching aspects of the problem, the ground water protection strategy is being developed with broad public debate and participation. Workshop discussions, which included some 80 participants from all levels of government and from industry, public interest groups, and academia, were instrumental in drafting this strategy. Public comments based on public hearings and the publication of this proposal in the **Federal Register** will be considered in the final formulation of the ground water protection strategy.

Goal and Objectives

The proposed goal for the ground water protection strategy is:

> It shall be the national goal to assess, protect, and enhance the quality of ground waters to the levels necessary for current and projected future uses and for the protection of the public health and significant ecological systems.

This goal recognizes that all ground water is not of the same value. The goal is primarily preventive, rather than curative. Of course, newly discovered ground-water quality problems must be remedied to the extent possible to mitigate against imminent hazards, but the long-term objective of the strategy is to prevent ground-water contamination before it occurs, rather than to clean it up after the fact.

The objectives of this ground water protection strategy are:

By 1985

- To initiate ground water protection strategies in all States, aimed at meeting the goal and the long-term objectives and to develop the necessary institutional capacities (resources, personnel, legal authorities, etc.) at the State and local levels.
- To implement fully the currently enacted Federal regulatory programs which affect ground water (e.g., Resource Conservation and Recovery Act (RCRA), Underground Injection Control Program (UIC), and Surface Mining Reclamation Act) and Superfund when enacted.
- To launch efforts to evaluate ground-water quality, to ameliorate the most hazardous conditions discovered, and to develop and implement technical and administrative methods of managing newly discovered plumes of ground-water contamination.
- To provide a process whereby State and local governments and the public, in specific situations, with adequate public health and environmental protection, can set priorities among competing activities which may use or contaminate ground water.

By 1990

- To ensure that appropriate levels of protection are being provided for the ground water resources in each State and that each State has a complete program which has been fully implemented to manage all ground water.

Management Approach

The management approach proposed in this strategy includes four key elements:

First, *state ground water protection strategies* to be development by the states. States will be encouraged to devise strategies which identify how this goal, as well as state and local goals and consistency across state boundaries, will be met through specific regulatory and other program actions at the state and local levels. These will be fostered and may be partially funded as part of the State/EPA Agreements (SEAs).

Second, *ground-water classification.* The principal premise of a classification system is that different levels of protection can be provided to ground water according to a number of factors. The classification process should help sort out the high priority ground-water areas for high levels of protection and for first attention and investment, and assist in identifying those areas least environmentally sensitive for siting of future waste disposal facilities or other potentially polluting activities.

Classification decisions about the appropriate levels of protection for individual ground waters would be based on such factors as: Present and projected future uses; current quality; yield, or volume of water available; availability of alternative water supplies; and vulnerability to contamination, that is, the degree of natural protection afforded by local hydrology and geology.

Until a classification system is developed with full public participation and adopted, EPA will maintain a policy that where ground water is currently of drinking water quality or better, it will be provided protection to ensure that its utility for this use is not impaired.

Third, *minimum national requirements for selected high priority problems.* There are some problems which, on a national scale, are so severe and complex that national standards are appropriate. Examples include highly toxic chemicals and pesticides where product bans or restrictions are appropriate. The Underground Injection Control Program and the Hazardous Waste Regulations under RCRA provide national requirements for selected problems, including their imminent hazard provisions. Other ubiquitous problems will be reviewed for possible federal action.

Fourth, *EPA administrative action.* This includes EPA action to coordinate and bring consistency among existing EPA and other federal programs with ground water protection authorities. It will include action by EPA to encourage and assist states to expand monitoring to detect contamination, to begin developing ground water protection strategies through State/EPA Agreements, to increase research and development and, to the extent possible, to provide technical assistance to state programs. In addition, EPA intends to continue its involvement of the public and numerous institutions in the implementation of this strategy.

Technical Requirements

A range of technical requirements will be needed under this ground water protection strategy due to the variety of problems affecting ground-water quality.

There are four types of technical requirements which are expected to be used extensively under this strategy. (Other approaches, such as economic incentives, may also prove effective.) The four principal approaches are siting practices, best management practices, technology-based or effluent standards, and performance standards. These are described in the full strategy document.

[FR Doc. 80-36536 Filed 11-21-80; 8:45 am]
BILLING CODE 6560-26-M

[SA-FRL 1679-2]

Science Advisory Board, Sampling Protocol Study Group; Meeting

Under Pub. L. 92-463, notice is herein given for a meeting of the Sampling Protocol Study Group of the Science Advisory Board of the U.S. Environmental Protection Agency to be held on December 11, 1980 starting at 9 a.m. and ending at 4:30 p.m. The meeting location is:

Environmental Protection Agency,
National Enforcement Investigations Center, Building No. 53, General Conference Room,
Denver Federal Center, Denver, Colorado 80225.

The purpose of this meeting is to provide a review of the proposed exposure assessment approach to be used by the Office of Health and Ecological Assessment, Office of Research and Development.

The Meeting is open to the public. Because of limited seating capacity, members of the public desiring to attend should preregister by close of business December 4, 1980. Please call Dr. Douglas Seba, Executive Secretary, or Joanna A. Foellmer, secretary, of the Science Advisory Board at 202-472-9444 to preregister or obtain information about the meeting.

Richard M. Dowd,
Staff Director, Science Advisory Board.
November 14, 1980.

[FR Doc. 80-36534 Filed 11-21-80; 8:45am]
BILLING CODE 6560-34-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Statement Regarding Eligibility To Make Application To Become an Insured Bank Under Section 5 of the Federal Deposit Insurance Act

AGENCY: Federal Deposit Insurance Corporation.

SUMMARY: This statement is to provide information and guidance to financial institutions regarding their eligibility to make application to become an FDIC-insured bank, and the standards which will be applied in considering applications for deposit insurance.

FOR FURTHER INFORMATION CONTACT: Roger A. Hood, Assistant General Counsel, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. (202/389-4628).

SUPPLEMENTARY INFORMATION: In response to inquiries regarding the eligibility of financial institutions to make application to the Federal Deposit Insurance Corporation to become an insured bank under Section 5 of the Federal Deposit Insurance Act (12 U.S.C. 1815), and the standards to be applied in considering insurance applications the Board of Directors of the Federal Deposit Insurance Corporation has authorized the release of the following statement.

The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) requires the maintenance of reserves against transaction accounts and nonpersonal time deposits held by depository institutions, beginning November 1, 1980.

Section 103 of that Act defines the term "depository institution" to include, in addition to other designated institutions, "* * * any bank which is eligible to make application to become an insured bank under Section 5 of [the Federal Deposit Insurance] Act."

Section 5 of the Federal Deposit Insurance Act provides that any State nonmember bank, upon application to and examination by the Federal Deposit Insurance Corporation and approval by the Board of Directors, may become an insured bank. In addition, in order to be eligible to make application to become an insured bank, a bank must be engaged in the business of receiving deopsits other than trust funds.

Although the Federal Deposit Insurance Act does not define the term "bank," the FDIC, throughout its history, has required that a State-chartered financial institution be chartered by its State of incorporation as a bank if that institution is to be regarded as a bank by the FDIC. Many institutions are chartered under State laws to engage in one or more of the functions traditionally engaged in by banks. In determining a financial institution's status as a bank, the FDIC will look to the characterization of the institution by the laws under which the institution is created. Similarly, to be considered a bank for purposes of FDIC insurance, an institution must be engaged in the business of receiving deposits other than trust funds. The authority to receive deposits is not a generally recognized implied power of a corporation. Such power must be expressly conferred, and will not be presumed from a grant of authority to receive funds evidenced by certificates of indebtedness, certificates of investment or similar instruments which may not, under the law of the State of incorporation, be denominated as deposits.

With respect to becoming an insured bank and a member of the Federal Deposit Insurance Corporation, the question of eligibility to make application to become an insured bank is a threshold question. Any institution found to be a State bank engaged in the business of receiving deposits other than trust funds will be regarded as eligible to make application to become an insured bank, but the Federal Deposit Insurance Act requires that in considering any such application, the FDIC's Board of Directors will give consideration to the factors stated in Section 6 of the Federal Deposit Insurance Act (12 U.S.C. 1816). These factors are: The financial history and condition of the bank, the adequacy of its capital structure, its future earnings prospects, the general character of its management, the convenience and needs of the community to be served by the bank and whether or not its corporate powers are consistent with the purposes of the Federal Deposit Insurance Act. In applying the factor relating to the consistency of corporate powers the Board of Directors will be guided by the standards, powers and functions applicable to or associated with commercial banks. Applicants which, although eligible to make application to become an insured bank, are found by FDIC's Board of Directors, upon consideration of any of the foregoing statutory factors, to constitute unacceptable risks to ghe Federal deposit insurance fund will be denied membership in FDIC.

Under existing regulations of the Federal Deposit Insurance Corporation, insured State nonmember banks, with respect to interest payable on deposits, are subject to the limitations prescribed in § 329.6 of FDIC's Regulations (12 CFR 329.6) unless they are within the definition of "mutual savings bank" prescribed in § 329.7(a) of those regulations (12 CFR 329.7(a)). "Mutual savings banks" may pay the higher rates of interest on deposits prescribed by § 329.7 of those regulations (12 CFR 329.7). Any changes in the rates prescribed in Part 329 will be promulgated by the Depository Institutions Deregulation Committee pursuant to authority granted to that Committee by Section 203 of the Depository Institutions Deregulation Act of 1980, Title II, Pub. L. 96-221, 94 Stat. 142 (12 U.S.C. 3502).

By Order of the Board of Directors,
November 17, 1980.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[FR Doc 80-36801 Filed 11-21-80; 8:45 am]
BILLING CODE 6714-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

FMCS Arbitration Services Advisory Committee; Recertification

Pursuant to Section 9(c) of the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Federal Mediation and Conciliation Service announce the intent to file recertification with the appropriate committees of the Senate and the House of Representatives on or before December 8, 1980.

The objectives of the committee are as follows: (1) Advise the Director of FMCS on the means and methods of providing better arbitration services; (2) review and evaluate the existing criteria for determining selection of applicants to the FMCS roster of arbitrators; (3) advise on the promulgation of new criteria to be utilized in selecting applicants; (4) advise on means to

achieve a more efficient and effective utilization of the existing roster of arbitrators; (5) advise the Director of Arbitration Services on ways to utilize training programs and other technical assistance to and in improving arbitration services; (6) serve as a forum for exchange of ideas and opinions of interested persons.

Additional information regarding the FMCS Arbitration Services Advisory Committee may be obtained from John Grimes, Advisory Committee Management Officer, Federal Mediation and Conciliation Service, Washington, D.C. 20427, telephone: 653–5226.

Dated: November 18, 1980.

Wayne L. Horvitz,

Director.

[FR Doc. 80-36531 Filed 11-21-80; 8:45 am]

BILLING CODE 6732-01-M

FEDERAL RESERVE SYSTEM

CDL Corp.; Proposed Retention of Insurance Activities

CDL Corporation, Hallock, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain control of the assets of Northwestern Insurance Agency, Hallock, Minnesota.

Applicant states that it would continue engage in general insurance activities in a community that has a population not exceeding 5,000. These activities would be performed from an office of the Applicant located in Hallock, Minnesota, and the geographic areas to be served are Kittson County, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflict of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 17, 1980.

Board of Governors of the Federal Reserve System, November 17, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36553 Filed 11-21-80; 8:45 am]

BILLING CODE 6210-01-M

Great Plains Bank Corp.; Formation of Bank Holding Company

Great Plains Bank Corporation, Eureka, South Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 98 percent of the voting shares of Eureka State Bank, Eureka, South Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 11, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Board of Governors of the Federal Reserve System, November 17, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36554 Filed 11-21-80; 8:45 am]

BILLING CODE 6210-01-M

Norkitt Bancorporation; Proposed Acquisition of Insurance Activities

Norkitt Bancorporation, Hallock, Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire control of the assets of Northwestern Insurance Agency, Hallock, Minnesota.

Applicant states that it would engage in providing general insurance activities in a community with a population not exceeding 5,000. These activities would be performed from an office of the Applicant located in Hallock, Minnesota, and the geographic areas to be served are Kittson County, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 17, 1980.

Board of Governors of the Federal Reserve System, November 17, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36555 Filed 11-21-80; 8:45 am]

BILLING CODE 6210-01-M

Strong City Banco, Inc., Formation of Bank Holding Company

Strong City Banco, Inc., Strong City, Kansas, has applied for the Board's approval under 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 97.8 per cent or more of the voting shares of Strong City State Bank, Strong City, Kansas. The factors that are considered in acting on the application are set forth in 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received no later than December 17, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 17, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36557 Filed 11-21-80; 8:45 am]

BILLING CODE 6210-01-M

Valley Bancshares, Inc.; Formation of Bank Holding Company

Valley Bancshares, Inc., Kalispell, Montana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Valley Bank of Kalispell, Kalispell, Montana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 17, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 16, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36556 Filed 11-21-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory body scheduled to assemble during the month of December 1980.

National Commission on Alcoholism and Other Alcohol-Related Problems

December 8: 11 a.m.—Open. Hubert H. Humphrey Building, Room 727A, 200 Independence Avenue SW., Washington, D.C. 20201.

Contact: Mr. Frank Hoban or Mr. Benedict Latteri, 5600 Fishers Lane, Room 17A–09, Rockville, Maryland 20857, (301) 443–3806.

Purpose: The Commission will conduct a study of alcoholism and alcohol-related problems by: assessing unmet treatment and rehabilitation needs of alcoholics and their families; assessing personnel needs in the fields of research, treatment, rehabilitation, and prevention; assessing integration and financing of alcoholism treatment and rehabilitation into health and social health care services within communities; studying the relationship of alcohol use to aggressive behavior and crime; studying the relationship of alcohol among family members; evaluating the effectiveness of prevention programs; surveying the unmet research needs in the area of alcoholism and alcohol-related problems; surveying the prevalence of occupational alcoholism and alcohol abuse programs offered by Federal contractors; and evaluating the needs of special and underserved population groups, incldng American Indians, Alaskan Natives, youth, the elderly, women, and the handicapped and assessing the adequacy of existing services to fulfill such needs.

Agenda: The entire meeting will be open to the public. Agenda items include: Discussion of Federal Alcohol Programs and Initiatives and Organizational Issues of the National Commission.

Substantive program information may be obtained from: Mr. Frank Hoban, Executive Officer, 5600 Fishers Lane, Room 17A–09, Rockville, Maryland 20857, (301) 443–3806.

Attendance by the public will be limited to space available. Mr. Frank Hoban will furnish, upon request, summaries of the meeting and a roster of the Commission members. This information can be obtained from the National Commission on Alcoholism and Other Alcohol-Related Problems, 5600 Fishers Lane, Room 17A–09, Rockville, Maryland 20857, (301) 443–3806.

Dated: November 20, 1980.

Frank Hoban,

Executive Officer, National Commission on Alcoholism and Other Alcohol-Related Problems.

[FR Doc. 80-36793 Filed 11-21-80; 10:49am]

BILLING CODE 4110-88-M

Collaborative Program on the Psychobiology of Depression—Biological Studies; Invitation of Cooperative Agreement Applications for Data Analyses

AGENCY: National Institute of Mental Health.

ACTION: Notice on invitation of cooperative agreement applications for data analyses under the NIMH Collaborative Program on the Psychobiology of Depression—Biological Studies.

SUMMARY: The National Institute of Mental Health (NIMH) announces that it will accept applications from clinical investigators to assist in the analysis of behavioral data from the ongoing NIMH Collaborative Program on the Psychobiology of Depression—Biological Studies. It is NIMH's intention to make only one cooperative agreement award based on the response to this notice.

DEADLINE FOR RECEIPT OF APPLICATIONS: January 23, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. Stephen H. Koslow, National Institute of Mental Health, Room 10C–24, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: (301) 443–1504.

SUPPLEMENTAL INFORMATION: Cooperative Agreement: The NIMH invites interested investigators to submit applications to assist in the design and analysis of behavioral data resulting from ongoing studies (of the Collaborative Program on the Psychobiology of Depression—Biological Studies). It is the intention of the NIMH to award only one approved application, and this award will be made via a cooperative agreement which will involve substantial NIMH staff participation during the award. NIMH staff participation includes contributions to the design of the research program, coordination and monitoring of data collection and data analysis activities among investigators, direction of meetings, and preparation and publication of reports in scientific journals. The NIMH will make data processing services available to the awardee. The period of support will be for two years at the level of approximately $10,000 per annum total

direct costs. Catalog of Federal

Office of Human Development Services

Median Income for Families of Four for Fiscal Year 1982—Continued

330 Independence Avenue SW.,

Public Health Service

DEPARTMENT OF HOUSING AND

direct costs. Catalog of Federal Domestic Assistance Number is 13.242, Mental Health Research Grants, and support is authorized under the Public Health Service Act, Section 301(c); Pub. L. 78–410 as amended, (42 U.S.C. 241, 242a). OMB Circular A–95 State and local clearinghouse review is not required for this program.

The purpose of this cooperative agreement is to support the development of appropriate data analytic methods for assessing patients' behavioral states and traits which have been measured by the different instruments used in these ongoing studies. More specifically, this will involve constructing and developing appropriate approaches to the analysis of behavioral data associated with subtypes of depression, and examining available data in order to develop reliable measures of outcome in the treatment of depression with tricyclic antidepressants.

Criteria used in the review of applications received in response to this announcement are as follows:

(1) Adequacy of resources;

(2) Experience with the different live and video assessment techniques utilized;

(3) Ability to work with the various collaborating centers;

(4) Publication history in this area of research.

Availability of Additional Information

The NIMH encourages persons interested in applying for this award to contact Dr. Stephen Koslow, Project Director for this program, (whose address and phone number are given above) for a statement of guidelines for preparing the application. Because this project is intended to assist in the analysis of behavioral data obtained from the current collaborative program on depression, the NIMH believes that information about the program up to now is essential in order to prepare an application.

Application kits (PHS 398) can be obtained from the Grants Operation Section, NIMH, Room 7C–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. All applications should be submitted to Division of Research Grants, NIH, Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland 20205.

Robert L. Trachtenberg,

Deputy Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-36486 Filed 11-21-80; 8:45 am]

BILLING CODE 4110-85-M

Office of Human Development Services

Family Median Income by State; Eligibility for Social Services

Under the provision of sections 2002(a)(5)(B), 2002(a)(6) (A) and (B), and 2002(a)(14)(A) of title XX of the Social Security Act, promulgation is made of the median income of a family of four for each State, the District of Columbia, and the States as a whole applicable to the period October 1, 1981 through September 30, 1982. For those States whose 1982 fiscal year begins before or after October 1, 1981, this promulgation is also applicable. The purpose of the promulgation is to determine the extent of Federal financial participation (FFP) in State expenditures under title XX. The above listed sections impose certain limitations with respect to the avilability of FFP based upon the relationship of the income of the family of a service recipient to the median income of a family of four in the State.

Estimates of the median income of four-person families for each State and the District of Columbia were developed by the Bureau of the Census. In developing the median income scales, the Bureau of the Census used the following three sources of data:

(1) The March 1980 Current Population Survey; (2) the 1970 Census of Population; and (3) per capita personal income estimates from the Bureau of Economic Analysis. The methodology for adjusting median income for families of different sizes is specified in 45 CFR 1396.60.

The median income for a family of four, by State for fiscal year 1982 with calculation at the 80, 90, and 115 percent levels, is set forth below for use by States in establishing income ceilings and fee schedules under title XX of the Social Security Act:

Median Income for Families of Four for Fiscal Year 1982

State	Median income [1]	80 percent of median income	90 percent of median income	115 percent of median income
Alabama	$18,813	$14,890	$16,752	$21,405
Alaska	31,037	24,830	27,933	35,693
Arizona	23,000	18,400	20,700	26,450
Arkansas	18,493	14,794	16,644	21,267
California	25,109	20,087	22,598	28,875
Colorado	25,228	20,182	22,705	29,012
Connecticut	24,410	19,528	21,969	28,072
Delaware	21,184	16,947	19,066	24,362
District of Columbia	21,310	17,048	19,179	24,507
Florida	20,757	16,606	18,681	23,871
Georgia	21,578	17,262	19,420	24,815
Hawaii	24,582	19,666	22,124	28,269
Idaho	20,429	16,343	18,386	23,493
Illinois	24,265	19,412	21,839	27,905
Indiana	22,614	18,091	20,353	26,006
Iowa	22,567	18,054	20,310	25,952
Kansas	22,848	18,278	20,563	26,275
Kentucky	19,138	15,310	17,224	22,009
Louisiana	20,166	16,133	18,149	23,191
Maine	18,074	14,459	16,267	20,785
Maryland	24,686	19,749	22,217	28,389
Massachusetts	23,786	19,029	21,407	27,354
Michigan	24,422	19,538	21,980	28,085
Minnesota	24,409	19,527	21,968	28,070
Mississippi	17,672	14,138	15,905	20,323
Missouri	21,294	17,035	19,165	24,488
Montana	20,051	16,041	18,046	23,059
Nebraska	20,749	16,599	18,674	23,861
Nevada	25,457	20,366	22,911	29,276
New Hampshire	22,335	17,868	20,102	25,685
New Jersey	24,640	19,712	22,176	28,336
New Mexico	21,032	16,826	18,929	24,187
New York	21,082	16,866	18,974	24,244
North Carolina	19,648	15,718	17,683	22,595
North Dakota	19,520	15,616	17,568	22,448
Ohio	22,528	18,022	20,275	25,907
Oklahoma	20,852	16,682	18,767	23,980
Oregon	24,031	19,225	21,628	27,636
Pennsylvania	22,314	17,851	20,083	25,661
Rhode Island	21,636	17,309	19,472	24,881
South Carolina	20,154	16,123	18,139	23,177
South Dakota	19,209	15,367	17,298	22,090
Tennessee	19,437	15,550	17,493	22,353
Texas	23,416	18,733	21,074	26,928
Utah	21,250	17,000	19,125	24,438
Vermont	19,314	15,451	17,383	22,211
Virginia	22,976	18,381	20,678	26,422
Washington	24,410	19,528	21,969	28,072
West Virginia	18,876	15,101	16,988	21,707
Wisconsin	23,516	18,814	21,166	27,046
Wyoming	22,673	18,138	20,406	26,074

[1] Median Income based on 1979 data.

NOTE.—The median income for a family of four in the 50 States and the District of Columbia, applicable to the period October 1, 1981 through September 30, 1982 is $22,395.

(Catalog of Federal Domestic Assistance Program No. 13.771 Social Services for Low Income and Public Assistance Recipients)

Dated: November 18, 1980.

Cesar A. Perales,

Assistant Secretary for Human Development Services.

[FR Doc. 80-36539 Filed 11-21-80; 8:45 am]

BILLING CODE 4110-92-M

White House Conference on Aging; Technical Committee Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee on the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Pub. L. 92–463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Older Americans as a Growing National Resource will hold their final meeting on Wednesday, December 17, 1980 from 9:30 a.m. until 3:30 p.m. in Room 5542 at 330 Independence Avenue SW., Washington, D.C. 20201.

The purpose of the meeting will be to discuss the draft report.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue SW., Washington, D.C. 20201, telephone (202) 245–1914. Technical Committee meetings are open for public observation.

Dated: November 18, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-36537 Filed 11-21-80; 8:45 am]

BILLING CODE 4110-92-M

White House Conference on Aging, Technical Committee Meeting

The White House Conference on Aging Technical Committee was established to provide scientific and technical advice and recommendations to the National Advisory Committee of the 1981 White House Conference on Aging and to the Executive Director of the 1981 White House Conference on Aging in developing issues to be considered and to produce technical documents to be used by the Conference.

Notice is hereby given pursuant to the Federal Advisory Committee Act, (Pub. L. 92–463, 5 U.S.C. App. 1, sec. 10, 1976) that the Technical Committee on Retirement Income will hold their next meeting on Wednesday, December 10, 1980 from 9:00 a.m. until 5:00 p.m. and Thursday, December 11, 1980 from 9:00 a.m. until 3:00 p.m. in Room 5542 at 330 Independence Avenue, S.W., Washington, D.C. 20201.

The purpose of the meeting will be to discuss the remaining sections of the Committee's outline and review the first part of the Committee report.

Further information on the Technical Committee meeting may be obtained from Mr. Jerome R. Waldie, Executive Director, White House Conference on Aging, Room 4059, 330 Independence Avenue, S.W., Washington, D.C. 20201, telephone (202) 245–1914. Technical Committee meetings are open for public observation.

Dated: November 18, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-36538 Filed 11-21-80; 8:45 am]

BILLING CODE 4110-92-M

Public Health Service
Health Resources Administration

Health Education Assistance Loan Program; "Variable Interest Rate for Quarter Ending December 31, 1980"

The Secretary announces that for the three-month period ending December 31, 1980 the variable interest rate on loans in the Health Education Assistance Loan (HEAL) Program shall be at the annual rate of 11⅛ percent.

Using the regulatory formula (45 CFR 126.13 (a) (2) and (3)), the Secretary would normally compute the variable rate for this three-month period by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.5 from the average bond equivalent rate of 91–day Treasury bills for the preceding calendar quarter (9.78 percent), and rounding the result (6.28 percent) upward to the nearest one-eight of one percent (6.375). Thus, the variable rate for this three-month period would normally be 1.59373 percent.

However, the regulatory formula also provides that the annual rate of the variable interest rate for a three-month period shall be reduced to the highest one-eight of one percent which would result in an averager rate not in excess of 12 percent for the twelve-month period concluded by those three months. For the three previous quarters the variable interest at the annual rate has been as follows: 12⅝ percent for the quarter ending March 31, 1980; 13¼ percent for the quarter ending June 30, 1980 and 11 percent for the quarter ending September 30, 1980. Therefore, in order to maintain an average rate of 12 percent for the twelve month period ending December 31, 1980, the variable interest rate for the quarter ending December 31, 1980, will be at an annual rate of 11⅛ percent.

Dated: November 18, 1980.

Karen Davis,

Administrator.

(Catalog of Federal Domestic Assistance No. 13.574, Health Professions Educational Assistance Act Insured Loans)

[FR Doc. 80-36540 Filed 11-21-80; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

[Docket No. N–80–1035]

National Mobile Home Advisory Council; Cancellation of Biannual Meeting

AGENCY: Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, HUD.

ACTION: Notice of cancellation of biannual meeting.

SUMMARY: This notice announces cancellation of the biannual meeting of the Mobile Home Advisory Council scheduled for December 9, 10, 11 and 12, 1980 in Austin, Texas.

FOR FURTHER INFORMATION CONTACT: Jesse McElroy, Director, Office of Mobile Home Standards, Office of Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, Room 3244, 451 7th Street, S.W., Washington, D.C. 20410. Telephone (202) 755–6920—this is not a toll free number.

SUPPLEMENTARY INFORMATION: On October 17, 1980 (FR Vol. 45 No. 203, p. 69046, Docket No. N–80–1035), this office published notice of a beannual meeting of the National Mobile Home Advisory Council. That meeting was to be held December 9, 10, 11 and 12, 1980 at the Sheraton Crest Inn, 111 East First Street, Austin, Texas 78701. Notice is hereby given that this meeting is cancelled. It will be rescheduled after January 1, 1981 pursuant to a notice subsequently published in the **Federal Register**. That notice will indicate the time, place and tentative discussion subjects of the rescheduled meeting.

(Sec. 7(d) Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5404); and Federal Advisory Committee Act (5 U.S.C. App. I, 10(a)(2)]).

Issued at Washington, D.C., November 18, 1980.

William O. Anderson,

Acting General Deputy Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 80-36508 Filed 11-21-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[INT DEIS 80-72]

Proposed Grazing Mangement Program for the Benton/Owens Valley Planning Unit, Bishop Resource Area, Bakersfield District, California; Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management (BLM) has prepared a draft environmental impact statement concerning a proposed intensive grazing management program for the Benton/Owens Valley near Bishop, California. Four management alternatives are presented and analyzed for 49 grazing allotments 8 of which are proposed for intensive management under allotment management plans (AMPs). The program affected 542,000 acres of BLM land and 120,000 acres of private and other agency land.

Comments on the draft environmental impact statement are being solicited from public agencies and interested individuals and entities. The Bureau of Land Management invites written comments on the statement to be submitted by January 26, 1981 to the District Manager, Bakersfield District, Bureau of Land Management, 800 Truxtun Ave., Room 302, Bakersfield, California 93301. The comments will be incorporated in the final environmental impact statement.

A limited number of copies of the drat environmental impact statement are available upon request at the following offices:

California State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, Telephone (916) 484–4541.

Bakersfield District Office, Bureau of Land Management, 800 Truxtun Ave., Bakersfield, California 93301.

Bishop Area Office, Bureau of Land Management, 873 North Main St., Bishop, California 93514, Telephone (714) 872–4881.

Copies of the draft environmental impact statement will be available for public reading and review at the following locations:

Division of Rangeland Management, Bureau of Land Management, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240.

California State Office (911), Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825, Telephone (916) 484–4541.

Bakersfield District Office, Bureau of Land Management, 800 Truxtun Ave., Bakersfield, California 93301, Telephone (805) 984–1191.

Bishop Area Office, Bureau of Land Management, 873 North Main St., Bishop, California 93514, Telephone (714) 872–4881.

Dated: November 14, 1980.

Ron Hofman,

Associate State Director.

[FR Doc. 80-36552 Filed 11-21-80; 8:45 am]

BILLING CODE 4310-84-M

Water and Power Resources Service

Contract Negotiations With the Casper-Alcova Irrigation District and the City of Casper; Intent To Negotiate a Water Service Contract

In accordance with procedures established by the Department of the Interior concerning public participation in water service and repayment contract negotiations, the Water and Power Resources Service intends to initiate negotiations with the Casper-Alcova Irrigation District and the city of Casper, Wyoming, for municipal water service to the city of Casper from the Kendrick Project, Wyoming, and establishment of a water service charge for water service to subdivided lands within the district.

The proposed municipal water service contract will provide the city of Casper with up to 7,000 acre-feet of water per year. The water is needed by the city of Casper as an additional supply of municipal water to supplement its existing water supply to meet its growing water demands due to increases in population.

The establishment of a water service charge for subdivided lands within the district will be for those lands of less than 10 acres receiving district water which are no longer considered as agricultural tracts in accordance with local county definition.

The Kendrick Project, located in central Wyoming, was authorized by a finding of feasibility approved by the President on August 30, 1935, as an addition under the Reclamation Project Act of 1939 (53 Stat. 1187). Major project features include Seminoe Dam, Reservoir, and Powerplant; Alcova Dam, Reservoir, and Powerplant; the Casper canal, laterals, and drainage works; and a power transmission system.

The Casper-Alcova Irrigation District is located along the northwesterly side of the North Platte River between the cities of Alcova and Casper in central Wyoming. The city of Casper is located in central Wyoming and is adjacent to the general service area of the district. The city's population is approximately 58,400 and is expected to increase to over 112,000 by the year 2000.

The 7,000 acre-feet of Kendrick Project water the district proposes to make available to the city will not reduce the district's irrigation water supply or place additional demands upon the Kendrick Project. The water supply will be developed through proposed water conservation measures by the district. The district proposes to initiate a system improvement program which should yield more than the 7,000 acre-feet of water needed by the city annually.

All meetings scheduled by the Water and Power Resources Service with the Casper-Alcova Irrigation District and the Casper Board of Public Works for the purpose of discussing terms and conditions of the proposed water service contract will be open to the general public as observers. Advance notice of meetings shall be furnished only to those parties having previously furnished a written request for such notice at least 1 week prior to any meeting. Requests should be addressed to the Regional Director, Water and Power Resources Service, Attention Code 440, P.O. Box 25247, Denver, Colorado 80225.

All written correspondence concerning the proposed contract shall be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

The public is invited to submit written comments on the form of the proposed contract not later than 30 days after the completed contract draft is declared to be available to the public. In the event there is little or no public interest evidenced in these contract negotiations pursuant to this notice, the availability of the negotiated draft contract for public review and comment will not be formally publicized in the **Federal Register** or other media. The Commissioner of Water and Power will review comments submitted and based on the number, source, and nature of the comments, he will decide whether to hold a public hearing.

For further information on scheduled contract negotiating sessions and copies of the proposed contract form, please contact Mr. Robin D. McKinley or Mr. Buddy J. Smith, Repayment Branch, at the above address, or telephone (303) 234–3327 or 234–6562.

Dated: November 17, 1980.

Aldon D. Nielsen,

Acting Assistant Commissioner of Water and Power Resources.

[FR Doc. 80-36469 Filed 11-21-80; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided November 18, 1980.

In our recent decisions, a 13-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 13.4-percent. We are authorizing that the 13-percent surcharge for this traffic remain in effect, and that all owner-operators are to receive compensation at this level.

No change is authorized in the 2.3-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner operators, the 1.3-percent surcharge for United Parcel Service, nor in the 5.0-percent surcharge authorized for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commission or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

IT IS ORDERED:

This decision shall become effective Friday 12:01 a.m. November 21, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Clap, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix.—*Fuel Surcharge*

	Transportation performed by—			
	Owner operator	Other	Bus carrier	UPS
	(1)	(2)	(3)	(4)
Average percent: fuel expenses (including taxes) of total revenue	16.9	2.9	8.3	3.3
Percent surcharge developed	13.4	2.3	5.0	[1] 2.1
Percent surcharge allowed	13.0	2.3	5.0	[2] 1.3

[1] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).

[2] The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

Base date and price per gallon (including tax)	
January 1, 1979	63.5¢
Date of current price measurement and price per gallon (including tax)	
November 17, 1980	113.8¢

[FR Doc. 80-36605 Filed 11-21-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349.* These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.240(B). A copy of any application together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.240(A)(h).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 113349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application or to any application directly related thereto filed on or before January 8, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: November 14, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor and Williams.

MC–F–14492F, filed October 20, 1980. WILSON TRUCKING CORPORATION (Wilson) (P.O. Drawer 2, Fishersville, VA 22939)—purchase (portion)—TARHEEL EXPRESS, INC. (Tarheel) (18th Street Place, Hickory, NC 28601). Representative: Francis W. McInerny, Suite 502, Solar Building, 1000 16th Street NW., Washington, DC 20036. Wilson seeks to purchase a portion of the operating rights of Tarheel. Charles W. Wilson, who controls 44.9% of the capital stock, and is president of Wilson, seeks to acquire control through this transaction. The interstate operating

rights to be acquired by Wilson are contained in Tarheel's certificate of registration, MC 99334 (Sub-No. 2), which authorizes the transporation of *general commodities* (except those requiring special equipment), between points in Cabarrus, Alamance, Cherokee, Cumberland, Davie, Davidson, Forsyth, Gaston, Durham, Cleveland, Halifax, Iredell, Jackson, Johnston, Lee, Mecklenburg, Montgomery, McDowell, Randolph, Rockingham, Richmond, Rowan, Surry, Stanly, Anson, Caldwell, Edgecombe, Catawba, Guilford, Haywood, Henderson, New Hanover, Union, Vance, Wake and Wilkes Counties, NC. Wilson holds authority as a motor common carrier pursuant to Certificate MC 64600 and sub-numbers thereunder. (Hearing site: Washington, DC, or Greensboro, NC)

Notes.—(1) A directly related conversion application has been filed in MC 64600 (Sub-No. 60F), published in this same **Federal Register** issue. (2) An application for temporary authority has been filed. (3) Applicants acknowledge that the authority being retained by Tarheel duplicates to an extent that authority being sold to Wilson. They have requested cancellation of the portion determined to be duplicative. We will therefor exclude new furniture and furniture parts from the general commodity authority being purchased.

MC 64600 (Sub. 60F), filed October 20, 1980. Applicant: WILSON TRUCKING CORPORATION—conversion—P.O. Drawer 2, Fishersvile, VA 22939. Representative: Francis W. McInerny, Suite 502, Solar Building, 1000 16th Street NW., Washington, DC 20036. Conversion of Certificate of Registration No. MC–99334 (Sub-No. 2) into a Certificate of Public Convenience and Necessity authorizing the transportation as a *common carrier*, by motor vehicle, over irregular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, new furniture and furniture parts and those requiring special equipment), between points in Cabarrus, Alamance, Cherokee, Cumberland, Davie, Davidson, Forsyth, Gaston, Durham, Cleveland, Halifax, Iredell, Jackson, Johnston, Lee, Mecklenburg, Montgomery, McDowell, Randolph, Rockingham, Richmond, Rowan, Surry, Stanly, Anson, Caldwell, Edgecombe, Catawba, Guilford, Haywood, Henderson, New Hanover, Union, Vance, Wake and Wilkes Counties, NC. (Hearing site: Washington, DC, or Greensboro, NC)

Note.—This proceeding is a matter directly related to a proceeding pursuant to 49 U.S.C. 11343 in MC–F–14402F, published in this same **Federal Register** issue. New furniture and furniture parts was excluded from the grant of general commodities as requested by applicant to eliminate the possibility of duplicating authority.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–36800 Filed 11–21–80; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Finance Applications; Decision-Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). These rules provide, among other things, that opposition to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. Opposition under these rules should comply with Rule 240(c) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, and specify with particularity the facts, matters and things relied upon, but shall not include issues or allegations phrased generally. Opposition not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of any protest shall be filed with the Commission, and a copy shall also be served upon applicant's representative or applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(c)(4) of the special rules and shall include the certification required.

Section 240(e) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request its dismissal.

Further processing steps will be by Commission notice or order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown.*

Any authority granted may reflect administratively acceptable restrictive amendments to the transaction proposed. Some of the applications may have been modified to conform with Commission policy.

We find with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the national transportation policy subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930.

In the absence of legally sufficient protests as to the finance application *or* any application directly related thereto filed within 30 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: November 12, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor, and Williams.

MC–F–14402F, filed May 30, 1980. LILE INTERNATIONAL COMPANIES (Lile) (15605 S.W. 72nd Avenue, Tigard, OR 97223)—control—MADDOX TRANSFER AND STORAGE, INC. (Maddox) (1231 N.W. Hoyt, Portland, OR 97209). Representative: Robert R. Hollis, 400 Pacific Bldg., Portland, OR 97204. Lile seeks authority to acquire control of Maddox through the purchase by Lile of all the issued and outstanding stock of Maddox. Wendell B. Lile who controls Lile through stock ownership, seeks to acquire control of Maddox through the transaction. The interstate operating rights to be controlled are contained in certificate MC 94427, which authorizes the transaction as a motor common carrier over irregular routes, transporting (1) *general commodities*, usual exceptions, between points in Portland, OR, (2) *household goods* as defined by the Commission, and *used pianos*, between Portland, OR, and Vancouver, WA, and (3) *household goods* as defined by the Commission, and *new and used pianos*, between Portland, OR, on the one hand, and, on the other, points in Clark, Skamania, Cowlitz, and Wahkiakum Counties, WA. Lile holds motor common carrier authority pursuant to MC 129420 and sub-numbers thereunder. (Hearing site: Portland, OR)

Note.—Application for temporary authority has been filed.

MC–F–14404F, filed May 28, 1980. LILE INTERNATIONAL COMPANIES (Lile) (15605 S.W. 72nd Avenue, Tigard, OR 97223)—control—BOWER TRANSPORTATION SERVICES, INC. (Bower) (136 N.E. 16th, Portland, OR 97332). Representative: Robert R. Hollis, 400 Pacific Bldg., Portland, OR 97204. Lile seeks authority to acquire control of Bower through the purchase by Lile of all the issued and outstanding stock of Bower. Wendell B. Lile who controls Lile through stock ownership, seeks to acquire control of Bower through the transaction. The interstate operating rights to be controlled are contained in Certificate MC 1083, which authorizes the transportation, as a motor common carrier over irregular routes of (1) *edible nuts*, from points in Clark County, WA, to points in Marion and Polk Counties, OR, and those in Yamhill County, OR (except Dundee and Newberg), (2) *fresh fruits*, from points in Marion and Polk and Yamhill (except Dundee and Newberg) Counties, OR, to points in Clark County, WA, (3) *general commodities*, usual exceptions, between Portland, OR, on the one hand, and, on the other, Clark County, WA, and (4) *fruits and nuts*, between points in Clark County, WA, on the one hand, and, on the other, Dundee and Newberg, OR. Lile holds motor common carrier authority pursuant to MC 129420 and sub-numbers thereunder. (Hearing site: Portland, OR)

Note.—An application for temporary authority has been filed.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–36804 Filed 11–21–80; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–160 (Sub-3F)]

Montour Railroad Co.—Abandonment—Near Library Junction in Allegheny and Washington Counties, Pa.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided November 6, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the present and future public convenience permit the abandonment by the Montour Railroad Company of a portion of its main line of railroad extending from railroad milepost 32.5 to the end of the line at railroad milepost 39.9, a distance of 7.4 miles, and its entire Library Branch from Library Junction at railroad milepost 0.0 to the end of the line at railroad milepost 5.7, a distance of 5.7 miles, in Allegheny and Washington Counties, PA subject to the conditions for the protection of railway employees prescribed by the commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), and further that applicant shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 180 days from November 6, 1980, to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way. A certificate of public convenience and necessity permitting abandonment was issued to the Montour Railroad Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than December 4, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–36808 Filed 11–21–80; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–37 (Sub-10F)]

Oregon-Washington Railroad & Navigation Co.—Abandonment—and Discontinuance of Service by Union Pacific Railroad Co. Near Starbuck, in Columbia County, WA; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided October 9, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the present and future public convenience and necessity permit the abandonment by the Oregon-Washington Railroad and Navigation Company and discontinuance of service by Union Pacific Railroad Company over a portion of a line of railroad known as the Tucannon Branch extending from railroad milepost 4.71 (old milepost 3.75) near Starbuck to milepost 5.10 (old milepost 4.14) near Starbuck, a distance of 0.39 mile in Columbia County, WA, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), and further that applicants shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from October 9, 1980, to permit any state or local government agency or other interested party to negotiate the acquistion for public use of all or any portion of the right-of-way. A certificate of public convenience and necessity permitting abandonment was issued to the Oregon-Washington Railroad & Navigation Company and discontinuance of service to Union Pacific Railroad Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decision in the **Federal**

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Register be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission Building, Washington, D.C. 20423 no later than December 4, 1980. The offer, as filed, shall contain information required pursuant to Section § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective December 24, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36807 Filed 11-21-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Proposed Consent Decree in Action to Enjoin Discharge of Air Pollutants by United States Steel Corp. (Geneva Works)

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on or about November 4, 1980, a proposed consent decree in *United States* v. *United States Steel Corporation*, was lodged with the United States District Court for the District of Utah. The proposed consent decree requires the Corporation to bring its Geneva Works into compliance with requirements of the Clean Air Act.

The proposed consent decree may be examined at the office of the United States Attorney, 200 Post Office and Courthouse Building, 350 South Main Street, Salt Lake City, Utah 84101, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 2633, Ninth and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, at a cost of $17.00 per copy to cover reproduction expense. A check or money order for $17.00 and made payable to the Treasurer of the United States must accompany any request for a copy of the proposed decree.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Deputy Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *United States Steel Corporation* (D. Utah), D.J. Ref. 90–5–2–1–326.

Angus MacBeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-36571 Filed 11-21-80; 8:45 am]

BILLING CODE 4410-01-M

National Institute of Justice

Solicitation for Competitive Research Cooperative Agreement Program to Evaluate a Field Test of the Differential Police Response to Calls for Service Program

The National Institute of Justice announces a competitive research cooperative agreement program to evaluate a field test of the *Differential Police Response to Calls for Service* program. The purpose of this evaluation award is to assess the operations and effectiveness of this program. Key research questions in this evaluation are:

1. To assess the impact of the differential response system on police practices;

2. To assess the impact of the differential response system on citizens;

3. And to assess the transferability of the program to other police departments.

The solicitation asks for the submission of draft proposals. A formal application will be requested following a peer review process in accordance with the criteria set forth in the solicitation. In order to be considered, all papers must be *received* no later than January 21, 1981. To maximize competition for the award, both profit-making and nonprofit organizations are eligible to apply; however, a fee will not be paid.

At this time the NIJ appropriation for fiscal year 1981 has not been finalized. If the proposed request is adopted, the Institute will allocate approximately $350,000 for an initial 18 month period. If a figure less than the amount requested is appropriated, this funding level may be modified. In either case, the total amount of the award will depend upon receipt of a high quality proposal that meets the selection criteria. In addition to the initital procurement a follow-on non-competitive supplementary award for 10 months and $150,000 is currently planned.

Further information and copies of the solicitation can be obtained by contacting Phil Travers, Joyce Cason or Diann Stone, at the Office of Program Evaluation, NIJ, 633 Indiana Avenue, NW., Washington, D.C. 20531, or phone (301) 492–9085.

Harry M. Bratt,

Acting Director, National Institute of Justice

[FR Doc. 80-36570 filed 1-21-80; 8:45 am]

BILLING CODE 4410-18-M

LEGAL SERVICES CORPORATION

Grants and Contracts

November 18, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 42 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Gulfcoast Legal Services in St. Petersburg, Florida, to serve Manatee and Sarasota Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street NE., 9th Floor, Atlanta, Ga. 30308.

Clinton Lyons,

Director, Office of Field Services.

[FR Doc. 80-36468 Filed 11-21-80; 8:45 am]

BILLING CODE 6820-35-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (80–80)]

NASA Advisory Council (NAC) Space and Terrestrial Applications Advisory Committee (STAAC); Meeting

The *Ad Hoc* Informal Advisory Subcommittee on Satellite Communications Applications of the NAC–STAAC will meet on December 11, 1980 from 9:00 a.m. to 4:30 p.m., at NASA Headquarters, Room 226A, Federal Building 10B, 600 Independence Avenue SW, Washington, DC 20546. The meeting is open to the public. Members of the public will be admitted to the meeting on a first-come, first-served basis and will be required to sign a visitor's register. The seating capacity of the room is for 35 persons.

This Subcommittee, comprised of twelve members including the Subcommittee Chairperson, Dr. John V. Harrington, will review the NASA Satellite Communications Program and related issues.

The approved agenda for the meeting is as follows:

Time and Topic

9:00 a.m. Introductory Remarks
9:15 a.m. Program Overview
10:00 a.m. Review of 30/20 GHz Program
—Status of Technology Development
—Plans for New Start
3:00 p.m. Potential Joint Mobile Satellite Program with Canada
4:00 p.m. General Discussion
5:00 p.m. Adjourn

For further information regarding the meeting, please contact Dr. S. H. Durrani, National Aeronautics and Space Administration, Code EC–4, Washington, DC 20546, (202) 755–3591.

Frank J. Simokaitis,

Acting Associate Administrator for External Relations.

November 18, 1980.

[FR Doc. 80-36400 Filed 11-21-80; 8:45 am]

BILLING CODE 7510-01-M

[Notice (80–81)]

NASA Advisory Council (NAC) Space and Terrestrial Applications Advisory Committee (STAAC); Meeting

The scheduled meeting on October 23 and 24, 1980, of the Ad Hoc Informal Advisory Subcommittee on Weather, Climate and Oceans, published in the **Federal Register** on October 7, 1980, (45 FR 66534), was subsequently cancelled. The meeting cancellation notice was published in the **Federal Register** on October 21, 1980 (45 FR 69602). This meeting is now rescheduled to be held on December 18 and 19, 1980. The committee will meet on December 18, 1980, from 9:00 a.m. to 5:00 p.m. and from 8:30 a.m. to 11:45 a.m. on December 19, 1980. The location of this meeting is the NASA Goddard Space Flight Center, Greenbelt, Maryland 20770, Building 26, Room 205.

The meeting is open to the public. Members of the public will be admitted to the meeting on a first-come, first-served basis and will be required to sign a visitor's register. The seating capacity of the meeting room is for 50 persons.

The Subcommittee, comprised of 21 members of the NAC–STAAC including the Chairperson, Dr. Richard Goody, will review the Global Weather Program and related issues in the Environmental Observations Program.

The approved agenda for the meeting is as follows:

Time and Topic

DECEMBER 18, 1980

9:00 a.m. Chairperson's Remarks
9:15 a.m. Committee Business
9:30 a.m. Review of Global Weather Program
5:00 a.m. Adjourn

DECEMBER 19, 1980

8:30 a.m. National Oceanic Satellite Service (NOSS) Research and Air Sea Interactions and Related Areas
9:30 a.m. Topographical Experiment (TOPEX)/Gravitational Satellite (GRAVSAT) Buoys and Related Areas
10:15 a.m. Program Status and Overview Report
10:45 a.m. Conclusions and Recommendations
11:45 a.m. Adjourn

For further information regarding the meeting, please contact John Theon, NASA Headquarters, Washington, DC 20546, (202) 755–8596.

Gerald D. Griffin,

Acting Associate Administrator for External Relations.

November 18, 1980.

[FR Doc. 80-36466 Filed 11-21-80; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Artists-in-Schools Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Artists-in-Schools panel to the National Council on the Arts will be held on December 10–12, 1980, from 9:00 a.m. to 5:30 p.m. in room 1422, Columbia Plaza Office Complex, 2401 E St., NW., Washington, D.C.

This meeting will be open to the public on a space available basis. The topic for discussion will be policy and general application review.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

Nobember 17, 1980.

[FR Doc. 80-36572 Filed 11-21-80; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Visual Arts Panel (Workshops, Residencies, Crafts Apprenticeships); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Visual Arts Panel (Workshops, Residencies, Crafts Apprenticeships) to the National Council on the Arts will be held December 9–11, 1980, from 9:00 a.m.–5:30 p.m., in room 1125, December 9 and 11; in room 1422, December 10, Columbia Plaza Office Complex 2401 E St., NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5 United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operation, National Endowment for the Arts.

November 14, 1980.

[FR Doc. 80-36491 Filed 11-21-80; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–461A and 50–462A]

Illinois Power Company, et al.; receipt of Antitrust Information

Illinois Power Company, on behalf of itself and Soyland Power Cooperative, Inc. and Western Illinois Power Cooperative, Inc., has filed antitrust

information for their application for

For the Nuclear Regulatory Commission.

The number of forms in the request for

• Public Assistance and Other Income Supplements, 10,800 responses, 9,100

Device Establishments
SIC: 384

DEPARTMENT OF THE INTERIOR

information for their application for operating licenses for the Clinton Power Station, Units 1 and 2. This information was filed pursuant to Part 2.101 of the Commission Rules and Regulations and is in connection with the owners' plans to operate two boiling water reactors in Dewitt County, Illinois. The application contains antitrust information for review pursuant to NRC Regulatory Guide 9.3 to determine whether there have neen any significant changes since the completion of the antitirust review at the construction permit stage. The remainder of the application for operating licenses was submitted previously and was docketed on September 9, 1980. (See **Federal Register** Notice 45 FR 64307.)

On completion of staff antitrust review of the above-named application, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, request for reevaluation may be sumbitted for a period of 60 days after the date of the **Federal Register** notice. The results of any reevaluations that are requested will also be published in the **Federal Register** and copies sent to the Washington and local public document rooms.

A copy of the application for operating licenses and the antitrust information submitted are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555 and in the local public document room at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitirust matters which have occurred in the applicants' activities since the construction permit antitrust reviews for the above-named plant should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before, January 26, 1981.

Dated at Bethesda, Maryland, this 13th day of November, 1980.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 80-36367 Filed 11-21-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

November 19, 1980.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The agency clearance officer can tell you the nature of any particular revision you are interested in. Each entry contains the following information:

The name and telephone number of the agency clearance officer (from whom a copy of the form and supporting documents is available);
The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;
Whether small businesses or organizations are affected;
A description of the Federal budget functional category that covers the information collection;
An estimate of the number of response;
An estimate of the total number of hours needed to fill out the form;
An estimate of the cost to the Federal Government;
The number of forms in the request for approval;
The name and telephone number of the person or office responsible for OMB review; and
An abstract describing the need for and uses of the information collection

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. Our usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review. If you experience difficulty in obtaining the information you need in reasonable time, please advise the OMB reviewer to whom the report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Jim J. Tozzi, Assistant Director for Regulatory and Information Policy, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202-447-6201.

Extensions (No Change)

- Food and Nutrition Service
- Food Stamp Mail Issuance Report
- FNS-259
- Quarterly
- State or Local Governments
- State Agencies and Project Areas
- SIC: 943

- Public Assistance and Other Income Supplements, 10,800 responses, 8,100 hours, $1,000 Federal costs, 1 form

Charles A. Ellett, 202-395-7340

In order to conform with the food stamp regulations, this form is required. The form provides management information on the number and dollar amounts of mail issuance, the replacement of mail losses, and the action(s) taken to reduce the occurrence of such losses.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202-245-7486.

New

- National Institutes of Health

Occupational Cancer Questionnaire
Other—see SF83
Individuals or Households
High School Students and Teachers
Health, 2,456 responses, 1,960 hours; $242,793 Federal cost, 2 forms
Richard Eisinger, 202-395-6880

A lack of basic knowledge exist regarding carcinogenesis risks in workplace. Educational strategies suggest a more universal knowledge regarding cancer should be diffused before potential workers enter the workplace. This project will develop, implement and evaluate a program of occupational cancer education in high schools to serve as a model to be replicated in other educational systems.

- Human Development Services

AFDC WIN Change Notice
IM-6
On Occasion
State or Local Governments
Income Maintenance Units of Local Public Welfare Offices
SIC: 832
Training and Employment, 400,000 responses, 20,000 hours; $210 Federal cost, 1 form
Barbara F. Young, 202-395-6880

The IM-6 is an operational form designed to facilitate communication concerning a change in an applicant/recipient's welfare status between two separate agencies, the income maintenance unit (IMU) and the employment and training (E&T) sponsor. The form facilitates such notification of changes, e.g., change in employment status, change from voluntary to mandatory status, or rejecton of AFDC application.

- Food and Drug Administration

Administrative Deteption Recordkeeping
On Occasion
Businesses or Other Institutions
Device Establishments
SIC: 384
Consumer and Occupational health and Safety, 1 response, 0 hours; $25 Federal cost, 1 form
Richard Eisinger, 202-395-6880

These requirements are necessary to document compliance and conditions of mfg. and to compare information concerning detained devices to information about other shipments of the devices. These requirements are also necessary to permit FDA to trace articles for which the detention period expired before a seizure is accomplished or injunctive relief is obtained.

Revisions

- Food and Drug Administration

Radioactive Drug Research Committee Report on Research Use
If Radioactive Drug: Membership Summary and Study Summary
2914 2915
On Occasion
Businesses of Other Institutions
Radioactive Drug Research Committees
Consumer and Occupational Health and Safety, 3,000 responses, 750 hours; $1,500 Federal Cost, 2 forms
Richard Eisinger, 202-395-6880

Under 21 CFR 361.1, radioactive research committees are required to provide a report of their current membership and a summary of the studies approved by the committee both on an annual basis and whenever specified limits to studies are exceeded. The report are used to monitor the continued committee compliance with regulations.

Extensions (Burden Change)

- Social Security Administration

Worksheet for Integrated Quality Control Reviews
SSA-4340
Semiannually
Individuals of Households/State of Local Governments
Welfare Recipients
SIC: 944
Public Assistance and Other Income Supplements, 24,334 responses, 0 hours; $750,000 Federal cost, 1 form
Barbara F. Young, 202-395-6880

Section 402(a)(6), and 403(c), and (j) of the Social Security Act provide for information regarding State administered quality control systems for public assistance programs. This form used to measure and reduce the frequency of benefit error, which are benefits disbursed for ineligible recipients. These forms provide the information necessary to comply with Congressional Directive, Sec. 201 of HR 4389.

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—William L. Carpenter—202-343-6181.

New

- Heritage Conservation and Recreation Service

Grant-in-Aid Project Completion Report
FHR-8-300A & FHR-8-300B
On Occasion
State or Local Governments
State Historic Preservation Officers
SIC: 951
Recreational Resources, 300 responses, 600 hours; $83,863 Federal cost, 2 forms
Erika Jones, 202-395-7340

The collection system is in place as required by OMB Circular A-102. The performance report shows how Federal grant funds were used to complete specific historic preservation project work on National Register properties. Technical information in reports is shared with States, Federal agencies, and the public thorugh HCRS publications.

Extensions (Burden Change)

- Office of the Solicitor and Office of the Secretary

State Program Reporting Form—Youth Conservation Corps Work Accomplishment
YCC 5
Annually
State on Local Governments
Camp Directors of YCC State Grant Program Camps
SIC: 941 944 951
Other natural resources, 500 responses, 500 hours; $41,500 Federal cost, 1 form
Erika Jones, 202-395-7340

State grant YCC camp directors report the value of work accomplished in their camps by resource category. Comparison of the value of work accomplished with funds expended results in a benefit/cost ratio for each camp. This information is primarily used for program justification but is also used for evaluation.

DEPARTMENT OF STATE

Agency Clearance Officer—Gail J. Cook—202-632-3538.

Revisions

- Administration of Foreign Affairs

Application for Amendment of Passport
DSP-19
On Occasion
Individuals or Households
Passport Applicants
Conduct of Foreign Affairs, 40,000 responses, 4,666 hours; $160,000 Federal cost, 1 form
Phillip T. Balazs, 202-395-4814.

DSP-19 is used to amend a passport to show a change of name, to correct the descriptive data, or to include or exclude a spouse or minor children.

DEPARTMENT OF THE TREASURY

Agency Clearance Officer—Ms. Joy Tucker—202-634-2179

New

• Office of the Secretary
Self-Evaluation—Transition Plan
Nonrecurring
State or Local Governments
State and Local Governments Receiving $25,000 or More in Revenue
Central Fiscal Operations, 28,000 responses, 70,000 hours; $0 Federal cost, 1 form
Warren Topelius, 202-395-7340.

To aid recipient governments in reviewing their programs, policies and practices to improve compliance with section 504 of the Rehabilitation Act of 1973. Record keeping requirement, with information to be retained for a three-year period.

Extensions (No Change)

• Office of the Secretary
Survey of Federal General Revenue Sharing and Anti-Recession Fiscal Assistance Expenditures (State Governments)
RS-902
Annually
State or Local Governments
State Governments
Central Fiscal Operations, 50 responses, 50 hours; $1,000 Federal cost, 1 form
Warren Topelius, 202-395-7340.

This form is used to gather data on expenditures from general revenue sharing and anti-recession fiscal assistance program funds received by State governments. Data are used to analyze expenditures for conformance with progam requirements.

C. Louis Kincannon,

Deputy Assistant Director for Reports Management.

[FR Doc. 80-36586 Filed 11-21-80; 8:45 am]

BILLING CODE 3110-01-M

President's Commission for a National Agenda for the Eighties; Meeting

November 17, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Full Commission of the President's Commission for a National Agenda for the Eighties, is scheduled for December 5, 1980 from 9 a.m. to 5 p.m. in Washington, D.C. The meeting will be held at the Federal Home Loan Bank Board Building, 1700 G Street NW., in the Auditorium.

The purpose of the meeting is to discuss elements of the Commission's report.

Available seats will be assigned on a first-come basis.

The meeting will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Ms. Loretta Marshall, President's Commission for a National Agenda for the Eighties, Office of Administration, 744 Jackson Place, Northwest, Washington, D.C. 20006, (202) 275-0616.

Brenda Mayberry,

Acting Budget and Management Officer.

[FR Doc. 80-36490 Filed 11-21-80; 8:45am]

BILLING CODE 3110-01-M

DEPARTMENT OF TRANSPORTION

Federal Aviation Administration

Airport Traffic Control Tower at Lancaster, Pennsylvania; Adjusted Hours of Operation

Notice is hereby given that the Airport Traffic Control Tower at Lancaster, Pennsylvania, will adjust its hours of operation. Commencing on or about November 3, 1980, the adjusted hours of operation will be 6:30 a.m. to 11:00 p.m. daily in lieu of 6:30 a.m. to 11:30 p.m.

(Sec. 313(a), 72 Stat. 752; U.S.C. 1354)

Issued in New York, N.Y., on November 4, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-36404 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-13-M

Flight Standards District Office at Fort Worth, Texas; Separation of Functions

Notice is hereby given that on or about December 1, 1980, the aeronautical quality assurance function will be separated from the Flight Standards District Office, Fort Worth, Texas, and reestablished as a separate office. The new office will be listed as the Aeronautical Quality Assurance Field Office. The Flight Standards District Office will continue to provide General Aviation functions. This information will be reflected in the FAA Organization Statement the next time it is reissued.

Issued in Fort Worth, Texas, on November 7, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc 80-36402 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-80-32]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before December 15, 1980.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ——— 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on November 18, 1980.

John H. Cassady,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
20564	InterContinental Airways Co. (ILAX)	14 CFR 121.291(a)(1)	To permit ILAX to operate a CD-8-61F aircraft configured with 252 passenger seats without first conducting a full-seating capacity emergency evacuation demonstration.
20592	Commercial Helicopters	14 CFR 43.3(h)	To allow appropriately trained airmen to remove, inspect, and replace magnetic chip detector plugs on turbine powered aircraft.
20661	United States Fidelity and Guaranty Co.	14 CFR 91.32(b)(1)(ii)	To permit the pilots of petitioner's Gates Learjet Model 35A airplane to operate the aircraft up through the aircraft's maximum certificated altitude (FL 450) without either pilot wearing an oxygen mask as long as there are two pilots at the controls and each pilot has a quick-donning oxygen mask.
20600	New Mexico Aerial Surveys, Inc	14 CFR 91.169(a)(1)	A one time delay of the annual inspection on petitioner's aircraft from August to December 1981.
20599	United Air Lines	14 CFR 121.311(f)	To permit certain of petitioner's required flight attendants to occupy passenger seats instead of flight attendant seats equipped with the specified restraint system.
20602	Air Midwest, Inc.	14 CFR 21.197	To allow for issuance of a special flight permit with a continuing authorization to fly certain aircraft, that may not meet applicable airworthiness requirements, but are capable of safe flight to bases where repairs or maintenance are to be performed.
20566	Texas International Airlines	14 CFR 121.391(a)(3)	To allow petitioner to utilize two flight attendants aboard its DC-9-30 airplanes with 115 passenger seats when 15 passenger seats are blocked from use and when aircraft substitution for mechanical reasons is required at a station where a third flight attendant is not available or cannot be made available without undue delay or flight cancellation.
18104	Flight Safety International (FSI)	14 CFR 61.57(a)(1)	Amendment of Exemption No. 2592B, to delete the specific simulator type designation and allow future types as they become operational and approved. Exemption 1592B permits pilots to complete their biennial flight review in specified motion base visual simulators.
20785	Herbert F. Diamond	14 CFR 61.39(a)(1)	A 1-year extension of the validity period of petitioner's instrument rating written examination.

Dispositions for Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
20452	Dresser Industries, Inc	14 CFR 61.58(c)	To allow accomplishment of the entire 24-month pilot-in-command proficiency check in an FAA-approved simulator. *Granted 11/6/80.*
20203	Capital Aero, Inc	14 CFR 135.261(a)(1)	To allow petitioner to use a minimum rest period of less than 10 hours in a 24-hour period. *Denied 11/10/80.*
20477	Evergreen International Airlines	14 CFR 121.311(f) and 121.547	To allow petitioner, to the extent necessary, to operate its DC-8 aircraft with a nonessential flight attendant occupying a cockpit jump seat during takeoffs and landings. *Denied 11/12/80.*
20486	United Airlines	14 CFR 21.93	To allow an "acoustical change" on their JT8D-3A powered 747 fleet without prior approval. *Denied 11/13/80.*

[FR Doc 80-36540 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-13-M

Proposed Olympic Regional Airport, Jefferson County, Wash., Availability of Draft Environment Impact Statement

The Northwest Regional Office of the Federal Aviation Administration (FAA) announces the availability for public review of the Draft Environmental Impact Statement for the proposed Olympic Regional Airport in Jefferson County, Washington. Copies of the report are available for public review and comment at North Olympic Library, Kitsap Regional Library, Jefferson County Library, FAA Office, Seattle, and Washington State Department of Transportation, Aeronautics Office, Seattle. Review comments must be received by Mr. George L. Buley, Chief, Planning and Programming Branch, FAA Building, King County International Airport, Seattle, Washington 98108 or by Mr. William Hamilton, Assistant Secretary for Aviation, Washington State Department of Transportation, Aeronautics Division, 8600 Perimeter Road South, Seattle, Washington 98108 by January 20, 1980. For information or questions please call Mr. Buley at (206) 767-2633.

Dated: November 14, 1980.

George L. Buley,

Chief, Planning and Programming Branch, ANW-610.

[FR Doc. 80-36495 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 143—Ground Based Automated Weather Observation Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 143 on Ground Based Automated Weather Observation Equipment to be held on December 16-17, 1980 in RTCA Conference Room 261, 1717 H Street, N.W., Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Sixth Meeting Held on June 19-20, 1980; (3) Review Third Draft Report on Minimum Operational Performance Standards for Ground Based Automated Weather Observation Equipment; and (4) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons

V 45 N 024 80 0 UMI

wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on November 12, 1980.

Karl F. Bierach,

Designated Officer.

[FR Doc. 80-36463 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

[Docket No. IP80-7; Notice 2]

General Motors Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

This Notice grants the petition by General Motors Corporation of Warren, Michigan ("GM" herein), to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.208, Motor Vehicle Safety Standard No. 208, *Occupant Crash Protection*, on the basis that it is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on April 10, 1980 (45 FR 24752) and an opportunity afforded for comment.

Paragraph S4.1.2.3.1(c) of Standard No. 208 requires that each rear designated seating position in a passenger car shall have a Type 1 (lap belt) seat belt assembly that conforms to 49 CFR 571.209, Motor Vehicle Safety Standard No. 209, *Seat Belt Assemblies*. Paragraph S4.1(k) of Standard No. 209 requires each seat belt assembly to "be permanently and legibly marked or labeled with model (number) . . ." GM discovered that the center rear seat belt assemblies in approximately 284,000 1980 Chevrolet Citation, Pontiac Phoenix and Buick Skylark passenger cars had an incorrect model number (1717) instead of the correct one (1015). The company argued that the noncompliance was inconsequential as the seat belt assemblies comply in all other respects. Further, since the GM part number on the labels is correct, GM records enable the vehicles to be identified in the event of any notification and remedy campaign.

No comments were received on the petition.

The NHTSA concurs with GM's arguments. The labelling noncompliance appears to be of the nature that the inconsequentiality provisions of the Act were intended to excuse. Accordingly, petitioner has met its burden of persuasion and its petition with respect to the noncompliance herein described is deemed inconsequential as it relates to motor vehicle safety and is hereby granted.

(Sec. 102, Pub. L. 98–42, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued: November 14, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-36287 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-59-M

International Automotive Ratings Symposium

AGENCY: National Highway Traffic Safety Administration.

ACTION: Notice of public meeting.

SUMMARY: The National Highway Traffic Safety Administration will hold a symposium in Lancaster, Pennsylvania, on December 9–11, 1980, to provide a forum for the exchange of information and viewpoints on various aspects of automotive ratings. All interested persons are invited to attend and participate in the symposium.

DATE: The International Automotive Ratings Symposium will be held on December 9, 10, and 11, 1980.

ADDRESS: The symposium will be held at Host Farm Inn, Lancaster, Pennsylvania.

FOR FURTHER INFORMATION:

Ms. Ivy Baer, Office of Automotive Ratings, National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, D.C. 20590, 202–426–1750.

SUPPLEMENTARY INFORMATION: Title II of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1941, *et seq.*) authorizes the National Highway Traffic Safety Administration (NHTSA) to study the methods for determining the damage susceptibility, crashworthiness (occupant protection), and ease of diagnosis and repair of passenger motor vehicles, and to devise ways in which information on these subjects can be communicated to consumers to aid in purchasing decisions. In order to gather information and air viewpoints in these areas, NHTSA will conduct an International Automotive Ratings Symposium at the Host Farm Inn, Lancaster, Pennsylvania, on December 9–11, 1980.

Topics to be discussed at the symposium will include research on automotive ratings, the direction of future ratings efforts, consideration of alternative rating methods, and marketing issues associated with the dissemination of ratings information. Representatives of government, industry, and consumer interests will present papers on relevant subjects and all participants will have the opportunity to exchange viewpoints at small workshop sessions.

NHTSA invites all interested persons to attend the symposium and participate in the discussion of any of the topics noted above.

Issued on: November 19, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-36669 Filed 11-21-80; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

[T. D. 80-279]

Revocation of Customhouse Cartman's License No. 13 Issued by the District Director of Customs, New Orleans, La., to Dave Streiffer Co.

Notice is hereby given that on November 17, 1980, pursuant to the provisions of section 565, Tariff Act of 1930, as amended, and § 112.30 of the Customs Regulations (19 CFR 112.30), it was decided to revoke the Customhouse Cartman's License No. 13 issued in the District of New Orleans on May 20, 1969 to Dave Streiffer Company of New Orleans, Louisiana. This revocation is effective as of December 8, 1980.

William T. Archey,

Acting Commissioner of Customs.

November 17, 1980.

[FR Doc. 80-36543 Filed 11-21-80; 8:45 am]

BILLING CODE 4810-22-M

[T.D. 80-281]

Reimbursable Services—Excess Cost of Preclearance Operations

November 19, 1980.

Notice is hereby given that pursuant to §24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning November 30, 1980.

Installation	Biweekly excess cost
Montreal, Canada	17,190
Toronto, Canada	27,811
Kindley Field, Bermuda	4,869
Nassau, Bahama Islands	19,522
Vancouver, Canada	12,300
Winnipeg, Canada	1,800
Freeport, Bahama Islands	12,846
Calgary, Canada	6,378
Edmonton, Canada	5,231

Jack T. Lacy,

Comptroller.

[FR Doc. 80-36544 Filed 11-21-80; 8:45 am]

BILLING CODE 4810-22-M

Fiscal Service

[Dept. Circ. 570, 1980 Rev., Supp. No. 11]

Surety Companies Acceptable on Federal Bonds

Certificates of authority as acceptable sureties on Federal bonds are hereby issued to the following companies under Sections 6 to 13 of Title 6 of the United States Code.

Name of Company, Business Address, Underwriting Limitation, and State of Incorporation

Hartford Insurance Company of Alabama
Hartford Plaza
Hartford, Connecticut 06115
$128,000
Alabama

Hartford Insurance Company of Illinois
Hartford Plaza
Hartford, Connecticut 06115
$151,000
Illinois

Hartford Insurance Company of the Midwest
Hartford Plaza
Hartford, Connecticut 06115
$203,000
Indiana

Hartford Insurance Company of the Southeast
Hartford Plaza
Hartford, Connecticut 06115
$150,000
Florida

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1980 Revision, at page 44506 to reflect this addition. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: November 17, 1980.

W. E. Douglas,

Commissioner, Bureau of Government Financial Operations.

[FR Doc. 80-36560 Filed 11-21-80; 8:45 am]

BILLING CODE 4810-35-M

Office of the Secretary

[Dept. Circ., Public Debt Series No. 35–80]

Treasury Notes of November 30, 1982, Series Y–1982

November 19, 1980.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $4,500,000,000 of United States securities, designated Treasury Notes of November 30, 1982, Series Y–1982 (CUSIP No. 912827 LG 5). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated December 1, 1980, and will bear interest from that date, payable on a semiannual basis on May 31, 1981, and each subsequent 6 months on November 30 and May 31, until the principal becomes payable. They will mature November 30, 1982, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Tuesday, November 25, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, November 24, 1980.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accomplished by a payment guarantee as provided in Section 3.5., must be made or completed on or before Monday, December 1, 1980. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, November 28, 1980. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80-38713 Filed 11-20-80; 4:05 pm]

BILLING CODE 4810-40-M

V 45 N 0 224 80 UMI

Sunshine Act Meetings

Federal Register
Vol. 45, No. 228
Monday, November 24, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., November 25, 1980.

PLACE: 2033 K Street NW., Washington, D.C., fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:
Continuation of the discussion held on November 18, 1980 of Minimum Financial Requirements.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–6314.

[S–2133–80 Filed 11–20–80; 10:54 am]
BILLING CODE 6351–01–M

2

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission will hold a Special Open Meeting, on the subjects listed below on Tuesday, November 25, 1980, at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item Number, and Subject

General—1—*Title:* Domestic Implementation of the Final Acts of the 1979 World Administrative Radio Conference. *Summary:* The 1979 World Administrative Radio Conference, (WARC) performed a general review and revision of the international Radio Regulations; much of the effort concerned the international Table of Frequency Allocations. The FCC Rules and Regulations must be reviewed in light of the Final Acts of the WARC. The Commission will discuss the implementation of the international provisions in the domestic Rules.

General—2—*Title:* Policy on use of the High Frequency radio spectrum by Fixed and Land Mobile Services. *Summary:* Use of the High Frequency (HF) spectrum by the Fixed and Land Mobile Radio services is limited according to provisions of Part 2 of the FCC Rules and Regulations. The 1979 World Administrative Radio Conference reallocated a considerable amount of HF spectrum from the Fixed service to other services, and this could affect domestic use of the HF spectrum. The Commission will discuss the conditions for use of HF radio spectrum by the Fixed and Land Mobile Radio services.

General—3—*Title:* The Role of the FCC Within the United States Organizatin for the International Radio Consultative Committee.

General—4—*Title:* An Inquiry Relating to Preparation for an International Telecommunication Union World Administrative Radio Conference on the Use of the Geostationary-Satellite Orbit and the Planning of the Space Services Utilizing It. *Summary:* This proceeding requests public comment concerning Commission preparation for a World Administrative Radio Conference on the use of the geostationary-satellite orbit and the planning of the space service utilizing it. The Conference will be held in two sessions in 1984 and in 1985. This item before the Commission begins the public proceeding for these preparations.

Common Carrier—1—*Title:* License Contract Agreements and Other Intrasystem Arrangements of the Major Telephone Systems. *Summary:* The Commission will consider whether to initiate an inquiry and proposed rulemaking regarding license contracts and other intrasystem arrangements of the major telephone systems.

Common Carrier—2—*Title:* In re Bell System Procurement Practices, Docket 80–53; In re Bell Operating Company Procurement of telecommunications Equipment, RM No. 3381. *Summary:* The Commission will consider a Bell proposal submitted in response to its Final Decision in Docket 19129 regarding the procurement practices of the Bell Operating Companies. In addition, the Commission will consider a petition from ITT requesting it to order the Bell Companies to acquire one-third of their telecommunications equipment from General Trade suppliers.

Common Carrier—3—*Title:* In re application of AT&T *et. al.* for authority under section 214 to construct a light-guide cable between Cambridge, Massachusetts and Washington, D.C. File No. W–P–C–3071. *Summary:* The Commission will consider an application filed by AT&T and eight associated operating companies to construct and operate a light-guide cable between Cambridge, Massachusetts and Washington, D.C. The proposed construction represents the first major application in the United States of fiber optic technology in the long haul interstate telephone network.

Common Carrier—4—In re Applications of RCA American Communications, Inc. and Southern Satellite Systems, Inc. under Section 214 for a satellite channel of communication. Before the commission are Section 214 applications filed by RCA Americom and Southern Satellite seeking three year authorization of a communication channel via CABLE NET I.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: November 19, 1980.
Federal Communications Commission.
William J. Tricarico,
Secretary.

[S–2135–80 Filed 11–20–80; 11:26 am]
BILLING CODE 6712–01–M

3

FEDERAL COMMUNICATIONS COMMISSION.

The following item has been deleted at the request of the Common Carrier Bureau from the list of agenda items scheduled for consideration at the November 25, 1980 Special Open Meeting, and previously listed in the Commission's Public Notice of November 18, 1980.

This item has been rescheduled for consideration on December 4, 1980.

Agenda, Item, and Subject

Common Carrier—4—In re Applications of RCA American Communications, Inc. and Southern Satellite Systems, Inc. under Section 214 for a satellite channel of communication. Before the Commission are Section 214 applications filed by RCA Americom and Southern Satellite seeking three year authorization of a communication channel via CABLE NET I.

Additional information concerning this item may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: November 19, 1980.
Federal Communications Commission.
William J. Tricarico,
Secretary.

[S–2134–80 Filed 11–20–80; 11:26 am]
BILLING CODE 6712–01–M

4

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission will hold a Special Closed Meeting, on the subject listed below on Tuesday, November 25, 1980, following the Special Open Meeting, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item Number, and Subject

Hearing—1—Petition for reconsideration filed by Walton Broadcasting, Inc. in the Tucson, Arizona, KIKX renewal proceeding (Docket No. 20287).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: November 19, 1980.
Federal Communications Commission.
William J. Tricarico,
Secretary.

[S–2136–80 Filed 11–20–80; 11:26 am]
BILLING CODE 6712–01–M

5

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45FR 76840, November 20, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., November 25, 1980.

CHANGE IN THE MEETING: The following items have been added:

Item Number, Docket Number, and Company

CAG–21. RP80–131, Natural Gas Pipeline Co. of America.
ER–7. ER80–204, CP National Corp.
M–7. RM80–60, Ex parte and separation of functions rules.
M–7(A). RM78–15, Rules relating to investigation.
M–7(B). RM80– , Amendment to the standards of conduct.
M–8(A). RM80–73, Natural Gas Policy Act of 1978, section 110, gathering allowance.
M–8(B). RM80–74, Natural Gas Policy Act of 1978, section 110, compression allowance.
CP–4. CP80–236, Transcontinental Gas Pipe Line Corp.; CP79–70, Transcontinental Gas Pipe Line Corp. and United Gas Pipe Line Co.; CP80–217, Transcontinental Gas Pipe Line Corp.; CP80–216, Transcontinental Gas Pipe Line Corp. and United Gas Pipe Line Co.; CP80–267, Columbia Gulf Transmission Co. and Southern Natural Gas Co.; CP80–286, Michigan Wisconsin Pipe Line Co.; CP80–251, Michigan Wisconsin Pipe Line Co.; CP80–375, Consolidated Gas Supply Corp., Northern Natural Gas Co., Division of Internorth, Inc., Michigan Wisconsin Pipe Line Co. and El Paso Natural Gas Co.; CP80–384, Michigan Wisconsin Pipe Line Co.; CP80–82, Michigan Wisconsin Pipe Line Co., Texas Eastern Transmission Corp. and Transcontinental Gas Pipe Line Corp.; CP78–340, Trunkline Gas Co.

Kenneth F. Plumb,
Secretary.

[S–2138–80 Filed 11–20–80; 2:32 pm]
BILLING CODE 6450–85–M

6

METRIC BOARD.

TIME AND DATE: 8:30 a.m., Thursday, December 11, 1980; 8:30 a.m., Friday, December 12, 1980.

PLACE: New Orleans Public Library, auditorium, third floor, 219 Loyola Avenue, New Orleans, Louisiana.

STATUS: Open to the Public—Thursday, December 11, 1980. Closed Session—Friday, December 12, 1980.

MATTERS TO BE CONSIDERED: December 11:

Approval of Agenda.
Review/Approval of Minutes—October Board Meeting.
Committee Reports. Report by the Chairmen of the Public Awareness and Educational Committee, Administrative and Budget Committee, Planning & Coordination Committee, and Research Committee on the status of each Committee's projects and activities.
Consumer Program. Final version of the USMB Consumer Program submitted to the Board for approval.
Worker Tool—First Report. Initial results of the USMB Worker Tool project will be presented to the Board. Topics to be discussed are measurement sensitivity of selected occupations; segments of the worker population most likely to be impacted by metrication, and estimated tool and training costs.
Small Business Impacts. Survey of Small Business to identify the issues in metric planning and conversion to the metric system. A briefing will be presented on the completion of the first phase of the Board's research project on Small Business.
Construction Conference. A report will be made to the Board on the outcome of the December 2 and 3 Construction Community Metric Symposium. Included in the report will be an analysis of the attendance figures, and indication of the overall success of the program, and plans for the future.
State Program. A description of events for the coming year in the State Programs area will be outlined for the Board, including some treatment of the National Council on State Metrication.
Agenda Items for Future Board Meetings. Agenda items to be considered for the February 5 meeting to be held in Washington, D.C.
Update on Canadian Activities. Mr. Paul Boire, Executive Director, Metric Commission Canada, will provide the Board with an update of metric activities in Canada.

December 12:

Approval of FY–81 Financial Plan, FY–81 Operating Plan, and personnel matters. Closed session. These matters are closed under 5 U.S.C. 552b(c)(9)(B).

SUPPLEMENTARY INFORMATION: Notice of a Public Forum to be held in conjunction with this meeting on December 11, 1980 which will provide individuals and groups the opportunity to comment on metric conversion appears elsewhere in this issue.

CONTACT PERSON FOR MORE INFORMATION: Ms. Lu Verne V. Hall, 703/235–1933.

Louis F. Polk,
Chairman, United States Metric Board.

[S–2127–80 Filed 11–20–80; 9:51 am]
BILLING CODE 6820–94–M

7

METRIC BOARD.

AD HOC COMMITTEE ON STATE GOVERNMENT.

TIME AND DATE: 5 p.m., Wednesday, December 10, 1980.

PLACE: Warwick Hotel, 1315 Gravier Street, Somerset Room, New Orleans, Louisiana 70112.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Review the introduction and Appendices to the State Metric Status Reports.
2. Review and discuss the summary report of the National Council on State Metrication meeting in September.
3. Review and discuss the planned activities of USMB State Programs for calendar year 1981.

CONTACT PERSON FOR FURTHER INFORMATION: Alan S. Whelihan, 703–235–2583.

Louis F. Polk,
Chairman, United States Metric Board.

[S–2131–80 Filed 11–20–80; 9:50 am]
BILLING CODE 6820–94–M

8

METRIC BOARD.

ADMINISTRATIVE AND BUDGET COMMITTEE MEETING

TIME AND DATE: 2 p.m., Wednesday, December 10, 1980.

PLACE: New Orleans Public Library, room 1, third floor, 219 Loyola Avenue, New Orleans, Louisiana.

STATUS: Closed session.

MATTERS TO BE CONSIDERED:
December 10:

OMB Proposed Funding Level fiscal year 1982.
Congressional Activity on Appropriation Bills.
Fiscal year 1981 Resource Allocations and Operating Plan.

These matters are closed under 5 U.S.C. 552(b)(c)(9)(B).

CONTACT PERSON FOR FURTHER INFORMATION: Helen T. Stellman, 703/235–1696.

Louis F. Polk,

Chairman, United States Metric Board.

[S–2129–80 Filed 11–20–80; 9:56 am]

BILLING CODE 6820–84–M

9

METRIC BOARD.

Public Awareness and Education Committee

TIME AND DATE: 10 a.m. to 5 p.m., Wednesday, December 10, 1980.

PLACE: New Orleans Public Library, auditorium, third floor, room 2, 219 Loyola Avenue, New Orleans, Louisiana.

STATUS: Open to the Public, Wednesday, December 10, 1980.

MATTERS TO BE CONSIDERED: December 10:

Approval of September and November minutes.
Public Awareness Philosophy Statements. Discussion of PAE Philosophy Statements.
National Metric Week. Discussion of role of United States Metric Board in National Metric Week.
Metric Certification Program. Discussion of Seal of Approval.
Review of PAE Staff Progress Reports. Review of activities conducted by PAE Staff over last two months.
"What About Metric" Reprint. Consideration of design and editorial changes for update of publication.
Candidates for Public Forum Presentations. Report on witness selection for public forum presentations in Alburquerque and Charlotte.
Metric Magazine Public Service Announcements. Audition of selected radio public service announcements.
Suburban Press Columns. Presentation for discussion of sample news columns being produced on the contract.
Public Forum Questionnaire. Discussion of questionnaire developed to determine effectiveness of various means used to announce public forums.

CONTACT PERSON FOR FURTHER INFORMATION: John Donnelly, 703/235–2820.

Louis F. Polk,

Chairman, United States Metric Board.

[S–2132–80 Filed 11–20–80; 10:02 am]

BILLING CODE 6820–84–M

10

METRIC BOARD.

Public forum

Notice is hereby given that the United States Metric Board will hold a Public Forum on Thursday, December 11, 1980, from 10 a.m. to 12:30 p.m. The Forum will be held in conjunction with the Metric Board's regular bi-monthly meeting. Notice of the regular meeting appears in the Sunshine Meeting section of this issue. The Forum and meeting will be held at the New Orleans Public Library, Auditorium, Third Floor, 219 Loyola Avenue, New Orleans, Louisiana.

The purpose of the Forum will be to allow Board Members to receive comments about increased metric usage and voluntary metric conversion from individuals and from representatives of groups or organizations. The public is invited and encouraged to provide oral or written comments and ask questions of the Board from 11:30 a.m. to 12:30 p.m. Those who wish to participate may also submit comments or questions in advance to Douglas Bernon, Office of Public Awareness and Education, United States Metric Board, The Magazine Building, 1815 North Lynn Street, Suite 600, Arlington, Virginia 22209.

Louis F. Polk,

Chairman, United States Metric Board.

[S–2128–80 Filed 11–20–80; 9:54 am]

BILLING CODE 6820–84–M

11

METRIC BOARD.

Research Committee

TIME AND DATE: 9 a.m., Wednesday, December 10, 1980.

PLACE: Warwick Hotel, 1315 Gravier Street, Somerset Room, New Orleans, Louisiana 70112.

STATUS: Parts will be open to the public and parts will be closed to the public.

MATTERS TO BE CONSIDERED: Parts open to the public:

Two Briefings on Research Activities: (1) A general status report of all research projects and activities; (2) A briefing of the results of the Part A Report of the Effects of Metric Conversion on Measurement and Dimensionally Sensitive Occupations.

Parts closed to the public:

A briefing to the Research Committee of the preliminary results of the U.S. Metric Board's Survey of Small Business to Identify Issues in Metric Planning and Conversion to the Metric System for the Research Committee's deliberations and recommendations to the Board. This matter is closed to the public under 5 USC 522b(9)(B).

CONTACT PERSON FOR MORE INFORMATION: G. Edward McEvoy, Director of Research United States Metric Board, 1815 N. Lynn Street, Suite 600, Arlington, Virginia 22209 at (703) 235–2583.

Louis F. Polk,

Chairman, United States Metric Board.

[S–2130–80 Filed 11–20–80; 9:58 am]

BILLING CODE 6820–84–M

12

[NM–80–39]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 2 p.m., Friday, December 5, 1980.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594.

STATUS: Open.

MATTER TO BE CONSIDERED: *Briefing* on Planned Accident Data Systems.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

November 20, 1980.

[S–2137–80 Filed 11–20–80; 12:01 pm]

BILLING CODE 4910–58–M

13

NUCLEAR REGULATORY COMMISSION.

DATE: Week of November 24.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Wednesday, November 26

10:00 a.m.—Discussion of Management-Organization and Internal Personnel Matters (Approx 2 hrs) (Closed-Exs. 2, 6).

2:00 p.m.—1. Briefing on Environmental Releases at NFS-Erwin and Other Fuel Cycle Plants (Approx 1 hr) (Public Meeting); 2. Affirmation Session (Approx 10 min) (Public Meeting)—a. Indemnification of Licensees for Offsite Fuel Storage; b. Reappointment of ACRS Member; c. Protection of Unclassified Safeguards Information; d. Petition for Rule Making from Public Citizen Litigation Group on Required Levels of Financial Protection.

ADDITIONAL INFORMATION: The Discussion of Proposed New Order on Psychological Stress at TMI–1 rescheduled from November 14 to November 20 at 2:00 p.m.

Automatic telephone answering service for schedule update: (202) 634–14198. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee (202) 634–1410.

Walter Magee,

Chief, Operations Branch, Office of the Secretary.

November 19, 1980.

[S–2141–80 Filed 11–20–80; 3:45 pm]

BILLING CODE 7590–01–M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

COMMODITY FUTURES TRADING COMMISSION

70441 10–24–80 / Amendment to Financial reporting provision of the Conduct Regulation

ENERGY DEPARTMENT

Office of Controller—

70429 10–24–80 / General policy for pricing and charging for materials and services sold by the Department of Energy

ENVIRONMENTAL PROTECTION AGENCY

70446 10–24–80 / Approval and disapproval of rule revisions for five air pollution control districts

70448 10–24–80 / California; rule revisions of five air pollution control districts

70449 10–24–80 / Illinois, approval of sulfur dioxide plan; State Implementation Plan for Commonwealth Edison Kincaid Station

70728 10–24–80 / Requirement to submit notice of manufacture or importation of PBBs and Tris

GENERAL SERVICES ADMINISTRATION

66009 10–6–80 / Automatic data processing contracting

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office—

70445 10–24–80 / Montana; approval of Abandoned Mine Reclamation Plan

JUSTICE DEPARTMENT

Immigration and Naturalization Service—

70428 10–24–80 / Inspection procedure for Canadian residents entering U.S. by small craft

70427 10–24–80 / Redesignation of Ajo, Ariz, and Naco, Ariz. substations as border patrol stations

TRANSPORTATION DEPARTMENT

Coast Guard—

70262 10–23–80 / Compatibility of bulk liquids and liquefied gas on vessels

Research and Special Programs Administration—

70390 10–23–80 / Liquefied natural gas facilities; Federal Safety Standards (certain provisions)

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms—

63242 9–23–80 / Unlawful trade practices under the Federal Alcohol Administration Act
[Corrected at 45 FR 66007, 10–6–80]

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.** A complete cumulative listing through Public Law 96–483 was published in the **Reader Aids** section of the issue of Wednesday, November 5, 1980.

Last Current Listing October 24, 1980

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A Cumulative checklist of CFR issuances for 1980 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

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11-24-80
Vol. 45—No. 228
BOOK 2:
Pages
77701-78116

federal register

Book 2 of 2 Books
Monday, November 24, 1980

Part II

United States Regulatory Council

CALENDAR OF FEDERAL REGULATIONS

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77747 Chapter 2—Environment and Natural Resources
77782 Chapter 3—Finance and Banking
77804 Chapter 4—Health and Safety
77898 Chapter 5—Human Resources
77924 Chapter 6—Trade Practices
77964 Chapter 7—Transportation and Communication
77991 Index I—Sectors Affected by Regulatory Action
78034 Index II—Date of Next Regulatory Action
78054 Index III—Dates for Public Participation Opportunities
78065 Appendix I—Public Participation in the Federal Regulatory Process
78089 Appendix II—Status of Regulations from May 1980 Edition
78100 Appendix III—Publication Dates for Agency Semiannual Regulatory Agendas
78101 Appendix IV—Important Regulations Scheduled for Agency Review

UNITED STATES REGULATORY COUNCIL

Director; and Kate C. Beardsley is the Deputy Director.

The Council works to eliminate

[Alternative Approaches to Regulation, **Weekly Compilation of Presidential**

do this by completing the questionnaire in the back of this edition or by writing

determined by the independent agency. They may observe or fully participate in

INFORMATION ABOUT ADDITIONAL COPIES AND BOOK REPRINTS

UNITED STATES REGULATORY COUNCIL

AGENCY: The United States Regulatory Council.

ACTION: Calendar of Federal Regulations.

SUMMARY: The United States Regulatory Council publishes the Calendar of Federal Regulations in order to provide a comprehensive catalog of important Federal regulations under development by participating agencies. This is the fourth edition. We publish the Calendar every six months, in November and May.

We designed the Calendar to provide in one place a concise summary of important regulations under development. It is a tool to increase public awareness of and participation in the regulatory process.

Special indices and appendices to the Calendar should help readers quickly identify the items that might be of most interest; other indices and appendices describe how to participate in the rulemaking process at each Council department and agency.

ADDRESS: United States Regulatory Council, Washington, DC 20503.

FOR FURTHER INFORMATION: For information about specific regulations, please refer to the "Agency Contact" listed at the end of each entry.

For information on the work of the Council: Peter J. Petkas, Director, United States Regulatory Council, Washington, DC 20503, (202) 395–6110.

For information on the **Calendar:** Mark C. Schoenberg, Associate Director, United States Regulatory Council, Washington, DC 20503, (202) 653–7240.

SUPPLEMENTARY INFORMATION:

LETTER FROM THE DIRECTOR OF THE UNITED STATES REGULATORY COUNCIL

November 1980 marks the second anniversary of the United States Regulatory Council, and the fourth edition of the **Calendar of Federal Regulations.**

During the past two years, the Council has worked, together with its 38 agencies, to improve coordination of Federal regulatory activities and to encourage more effective management of the regulatory process.

Presently, Douglas M. Costle, Administrator of the Environmental Protection Agency, serves as Chairman of the Regulatory Council; Susan B. King, Chairman of the Consumer Product Safety Commission, serves as Vice-Chairman; I am the Council's Director; and Kate C. Beardsley is the Deputy Director.

The Council works to eliminate duplication and inconsistencies in existing and proposed rules; to provide the public with information about the regulatory process; and to help improve that process so that regulations can accomplish their objectives in the least burdensome and most efficent ways.

The **Calendar of Federal Regulations** provides a comprehensive overview of important regulations that agenices are developing and a summary of the analytical bases for them. It is designed to encourage greater public participation in the regulatory process, identify areas of multiple regulatory impact, and assist the regulators in developing cost-effective and consistent regulations.

The **Calendar of Federal Regulations** is an important tool for the President, the Congress, the regulators, and the public to understand and shape the way we implement national regulatory policy goals. The **Calendar** is also the first comprehensive and continually updated catalog of important Federal regulations that are under development. With the **Calendar** and the semiannual regulatory agendas now published by each agency under President Carter's Executive Order on Improving Government Regulations (E.O. 12044; 3 CFR 1980 Comp., p. 152; extended by E.O. 12221; 45 FR 44249, July 1, 1980), interested persons can follow most of the regulatory activity under way in the Federal Government.

The **Calendar of Federal Regulations** is a cooperative product of the Regulatory Council staff and the staffs of Council agencies, as are most Council projects. I am proud of the contribution the **Calendar** has made to regulatory reform in the last 21 months.

The **Calendar's** usefulness in both reflecting and stimulating agency reform is exemplified by another Regulatory Council project: Innovative Techniques. "Innovative techniques" are alternatives to the traditional "command-and-control" form of regulation, which often sets detailed uniform requirements and relies primarily on formal Government sanctions against violators. The eight alternative approaches include providing economic incentives, shifting to performance-oriented standards, and relying on competitive market forces to meet regulatory goals. The Council's Innovative Techniques project is actively promoting these methods by helping agency personnel—those who actually write new regulations—to understand their practical advantages. The project is implementing a Presidential Mandate to find new application of innovative techniques (Alternative Approaches to Regulation, **Weekly Compilation of Presidential Documents,** Vol. 16, p. 1109).

Just over one year ago, the Council provided regulatory agencies with the first systematic guidance to help them describe their use of innovative techniques for the second edition of the **Calendar** (44 FR 68201, November 28, 1979). Since that time, the agencies have rapidly increased their use of innovative techniques; the present **Calendar** describes nearly three times the number of applications as the November 1979 edition—and over one-half of all entries now contain an innovative technique among the alternatives under consideration. (Index I notes the regulations for which the agencies are considering these techniques.) Clearly, Council agencies are beginning to shift toward more flexible, less burdensome ways to solve regulatory problems. I think the **Calendar** itself—by recording the variety of practical ways agencies use innovative techniques—is one important factor in getting both the regulators and the public to appreciate their potential for improving regulation.

Other Council activities have included:

- Developing national policies on major regulatory issues, such as the control of cancer-causing chemicals;
- Resolving special regulatory problems of small businesses;
- Organizing interagency efforts to manage better the regulatory environment of special industries, such as automobiles and nonferrous metals;
- Producing an industry-specific calendar—the **Automobile Calendar**—to present a summary of all regulatory activities that may affect the automobile industry;
- Identifying and reducing conflicting regulations or actions affecting single industries, such as hospitals and coal producers;
- Assessing the benefits of regulation; and
- Improving regulatory methods, such as regulatory analysis and the evaluation of existing regulations.

We designed the **Calendar of Federal Regulations** as a tool for the user to locate easily information on the regulations described in it, and to help them to participate effectively in the Federal regulatory process. We surveyed many of those who used the previous three editions and incorporated many of their suggestions for improving the document.

We hope to continue to improve each edition and ask your help in doing so. Please send us any comments and suggestions that would make this document more useful to you. You can do this by completing the questionnaire in the back of this edition or by writing to us. We would appreciate hearing from you.

Dated: November 20, 1980

Peter J. Petkas

Director

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COUNCIL MEMBERS AND THE CALENDAR

The Regulatory Council is composed of 38 Federal departments and agencies. Twenty executive agencies are participating members, and 18 independent regulatory agencies contribute to the activities of the Council in various ways. The extent of an independent regulatory agency's activity in any Council project is determined by the independent agency. They may observe or fully participate in any Council activity as they choose. All Council agencies have submitted information for some sections of this **Calendar.** For a variety of reasons, the five agencies identified with an asterisk (*) in the following list have not submitted entries describing regulations under development to this edition. These agencies do not issue regulations of the type covered by this document, though they do conduct some forms of activity related to the regulatory process, such as analysis of administrative procedures or administrative adjudications.

Executive Agencies

*Administrative Conference of the United States
Department of Agriculture
Department of Commerce
Department of Education
Department of Energy
Department of Health and Human Services
Department of Housing and Urban Development
Department of the Interior
Department of Justice
Department of Labor
Department of Transportation
Department of the Treasury
Environmental Protection Agency
Equal Employment Opportunity Commission
Federal Emergency Management Agency
General Services Administration
National Credit Union Administration
Small Business Administration
*United States International Trade Commission
Veterans Administration

Independent Regulatory Agencies

Civil Aeronautics Board
Commodity Futures Trading Commission
Consumer Product Safety Commission
Federal Communications Commission
Federal Deposit Insurance Corporation
Federal Election Commission
Federal Energy Regulatory Commission
Federal Home Loan Bank Board
Federal Maritime Commission
*Federal Mine Safety and Health Review Commission
Federal Reserve System
Federal Trade Commission
Interstate Commerce Commission
*National Labor Relations Board
Nuclear Regulatory Commission
*Occupational Safety and Health Review Commission
Postal Rate Commission
Securities and Exchange Commission

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In addition, the Council will republish the **Calendar** in a paperback book format. It will be available from the Superintendent of Documents as Stock No. 052–003–00786–0 at $9.00 each.

HOW TO USE THE CALENDAR

The **Calendar** is organized to help users locate information about regulations of interest to them. The **Calendar** contains a letter from Regulatory Council Director Peter J. Petkas; a table of contents; a section on how to use the **Calendar;** a list of abbreviations; a list of regulations covered in this edition; seven chapters describing these regulations; three indices; and four appendices.

The section on how to use the **Calendar** explains the basic organization of the **Calendar,** how to use its individual components, the criteria the agencies used to select the regulations reported, the type of information available in each entry, and the limitations on the data presented.

We have divided the entries describing regulations into seven chapters; each covers a major area of Federal regulatory activity.

The chapters are:

Energy: Developing and conserving energy resources.

Environment and Natural Resources: Protecting the environment and protecting and developing natural resources.

Finance and Banking: Regulating banks, financial institutions, and securities and commodity markets.

Health and Safety: Promoting and protecting human health and safety, including consumer product and workplace safety.

Human Resources: Promoting social justice and non-discrimination, and managing social services.

Trade Practices: Promoting fair business and trade practices.

Transportation and Communication: Promoting and regulating different modes of transportation and communication.

Within each Chapter, we present the entries in alphabetical order, first by executive and then by independent agencies. The entries are further alphabetized by issuing office, if any, and then by the title of the entry.

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We have created seven indices and appendices to aid **Calendar** readers to locate easily information that may be important to them and to help them learn more about the process of developing regulations.

Separate indices identify sectors affected by each proposal, the estimated date of the next regulatory action, and information on opportunities for public participation in developing the individual regulations, where applicable.

The appendices include sections on public participation procedures in each agency, status of the regulations reported in the last edition on the **Calendar**, but absent from this edition, publication dates for each agency's semiannual Regulatory Agenda, and important regulations scheduled for agency review under the provisions of Executive Order 12044.

Each index and appendix begins with a brief description of its contents, and how to use it.

ABOUT THE ENTRIES

Council agencies submitted entries that describe their regulations under development. These entries comprise the body of the **Calendar.**

Criteria for Selection

This edition of the **Calendar** provides an overview of important regulations *under development* by Regulatory Council agencies. Each agency submitted entries for the **Calendar** according to several criteria. At a minimum, agencies were asked to use the same criteria as those they use for determining when to prepare Regulatory Analyses under the general guidelines in Executive Order 12044, Improving Government Regulations (3 CFR 1980 Comp., p. 152; extended by E.O. 12221; 45 FR 44249, July 1, 1980).

Under the Executive Order, executive agencies (and those independent agencies that choose to do so) are to prepare regulatory analyses at least for those regulations;

- that are likely to have an annual effect on the economy of $100 million or more; or
- that may impose a major increase in costs or prices for individual industries, levels of government, or geographic regions.

In addition to these criteria, agencies have submitted reports on regulations for this **Calendar** that concern:

- Precedent-setting rules.
- Issues of great public interest.
- Rules that may increase productivity and/or profits without causing any adverse effects.
- Grants and income transfer program regulations that may impose annual compliance costs of $100 million or more.
- Regulations that the agency is reproposing after review pursuant to Executive Order 12044, if the proposed change will have important consequences.

Any regulation which the agency reported in the third edition of the **Calendar** is also reported in this edition unless it has been issued as a final rule or withdrawn. If so, we have noted this action in Appendix II: Status of Regulations from May 1980 Edition.

The regulations covered in the **Calendar**, that is, those that are *under development*, are those for which an agency is reasonably likely to issue an Advance Notice of Proposed Rulemaking (ANPRM), a Notice of Proposed Rulemaking (NPRM), a Final Rule, or to take other significant action *within the next twelve months.*

For clarity and consistency, the Council staff asked all agencies in writing their **Calendar** entries to follow a set of guidelines we developed in consultation with the agencies and the Office of Management and Budget, the Council of Economic Advisors, the Council on Wage and Price Stability, and others in the Executive Office of the President. In addition, we publish the guidelines for the **Calendar** in the **Federal Register**, and we incorporate public comments in the guidelines we issue for each new edition. A copy of the full set of Regulatory Council guidelines used by agencies in preparing submissions to this edition of the **Calendar** is available from the Council at 45 FR 62304, September 18, 1980.

Contents of Entries

Category—Each **Calendar** entry describes a regulation and contains the following standard categories of information	Content—the following information is provided in each category
Title and CFR Citation	Title of the regulation under development and the CFR citation for the regulation. An asterisk (*) after the CFR citation indicates that the regulation will be a revision to an existing regulation that has been codified in the CFR. If the regulation under development will occupy a new CFR section, there is no asterisk. If there is no CFR citation, the regulation has not yet been assigned a place in the CFR.
Legal Authority	A citation of the statutory authority under which the agency undertakes the regulatory action.
Reason for Including This Entry	A brief statement of the importance of the regulation under development.
Statement of Problem	A brief discussion of the problem that the regulation is addressing.
Alternatives Under Consideration	A brief description of the major choices the agency is considering to achieve its regulatory objectives.
Summary of Benefits	A discussion of the expected direct and indirect benefits of the regulatory action to the sectors of the economy, population, government, etc. that will be affected.
Sectors Affected	A listing of those sectors that may benfit as a result of the proposal. Where possible, we use SIC terminology in listing the sectors.
Summary of Costs	A discussion of the expected direct and indirect costs of this action to the sectors of the economy, population, government, etc., that may be affected.
Sectors Affected	A listing of the sectors that may bear costs as a result of the proposal. Where possible, we use SIC terminology in listing the sectors.
Related Regulations and Actions	A description of other regulations or actions, either within or outside the agency, that are related to the regulation under consideration.
Active Government Collaboration	The steps the agency is taking to coordinate the proposed regulation with any other Federal, State, or local agencies.
Timetable	A chronological listing of the future major steps the agency will take to develop the regulation.
Available Documents	A list of major background documents related to the proposed regulation, and notice of where they may be obtained or read.
Agency Contact	The name, address, and telephone number of a person in the agency who can respond to questions about the proposed regulation.

Data Limitations

Agencies prepared entries for this edition of the **Calendar** to give the public the earliest possible notice of their schedules for proposing and promulgating regulations. They have tried to predict their future plans accurately, but dates and schedules are still tentative. Agencies may withdraw some of the entries they have listed, or they may promulgate or propose other regulations not included in this edition. Agency actions in the rulemaking process may occur before or after the dates they have listed in the **Calendar.** The **Calendar** does not create a legal obligation on submitting agencies to adhere to schedules within it or to confine their regulatory activities to those regulations that appear. The information in this edition is accurate as of November 1, 1980, in the judgment of the submitting agencies.

Readers should note that information on costs, benefits, and other economic effects makes up only a part of the basis for decisions in regulatory agencies. In particular, agencies do not mechanically add up estimates of costs of the one hand, and benefits on the other, and then act on the basis. Futhermore, there is considerable disagreement about methods used for estimating costs, benefits, and other economic impacts. Necessarily, agencies that include economic information in the **Calendar** have not used a common methodology in producing it. Therefore, such information, when expressed quantitatively, cannot and should not be added together.

LIST OF ABBREVIATIONS

The following abbreviations appear throughout this edition of the **Calendar:**

ANPRM— The Advance Notice of Proposed Rulemaking is a preliminary notice that an agency is considering a regulatory action. The agency issues an ANPRM before it develops a detailed proposed rule. The ANPRM usually describes the general area that will be subject to the regulation, lists the alternatives that the agency is considering, and asks for public comment on the proposed regulation.

CFR—The Code of Federal Regulations is a codification of the general and permanent rules published in the **Federal Register** by the departments and agencies of the Federal Government. The Code is divided into 50 titles which represent broad areas subject to Federal regulation. The Office of the Federal Register revises it annually.

E.O.—An Executive order is a Presidential directive to executive agencies that the President issues under Constitutional or statutory authority. For certain E.O.s, independent agencies may voluntarily comply. E.O.s are published in the **Federal Register** and in Title 3 of the Code of Federal Regulations.

FR—The **Federal Register** is a daily Federal Government publication that announces all proposed and final Federal regulations. It also contains notices of public meetings and other events Federal agencies may schedule. Most major libraries carry the **Federal Register.**

FY—Fiscal year is a budget term. The Federal fiscal year runs from October 1 to September 30, as opposed to the calendar year, which runs from January 1 to December 31.

NTIS—The National Technical Information Service of the Department of Commerce is the central point in the United States for the public sale of Government-funded research and development reports and other analyses prepared by Federal agencies, their contractors, or grantees.

NPRM—The Notice of Proposed Rulemaking is the document an agency issues and publishes in the **Federal Register** that solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act, it must include, at a minimum:

- a statement of the time, place, and nature of the public rulemaking proceeding;
- reference to the legal authority under which the rule is proposed; and
- either the terms or substance of the regulation under development, or a description of the subjects and issues involved.

SIC—The Standard Industrial Classification Manual, published by the Office of Management and Budget in the Executive Office of the President, defines industries in accordance with the composition and structure of the economy and covers the entire field of economic activities. The **Calendar of Federal Regulations** uses SIC terminology, whenever possible, throughout the "Sectors Affected" sections.

U.S.C.—The United States Code contains a consolidation and codification of all general and permanent laws of the United States. The U.S.C. is divided into 50 titles which represent broad areas of Federal law.

LIST OF AGENCY ACRONYMS

Executive Agencies

ACUS—Administrative Conference of the United States
USDA—U.S. Department of Agriculture
- AMS—Agricultural Marketing Service
- FmHA—Farmers Home Administration
- FNS—Food and Nutrition Service
- FS—Forest Service
- FSQS—Food Safety and Quality Service
- SCS—Soil Conservation Service

DOC—Department of Commerce
- ITA—Industry and Trade Administration
- MARAD—Maritime Administration
- NMFS—National Marine Fisheries Service
- NOAA—National Oceanic and Atmospheric Administration
- NTIA—National Telecommunications and Information Administration
- OCZM—Office of Coastal Zone Management

ED—Department of Education
- OCR—Office for Civil Rights
- OERI—Office of Educational Research and Improvement
- OESE—Office of Elementary and Secondary Education
- OPE—Office of Post-Secondary Education

DOE—Department of Energy
- CS—Conservation and Solar Applications
- ERA—Economic Regulatory Administration
- RA—Resource Applications

HHS—Department of Health and Human Services (formerly Department of Health, Education, and Welfare)
- FDA—Food and Drug Administration
- HCFA—Health Care Financing Administration

HUD—Department of Housing and Urban Development
- FHA—Federal Housing Administration
- HOUS—Office of the Assistant Secretary for Housing
- NVACP—Neighborhoods, Voluntary Associations, and Consumer Protection
- OS—Office of the Secretary

DOI—Department of the Interior
- BLM—Bureau of Land Management
- FWS—Fish and Wildlife Service
- GS—Geological Survey
- HCRS—Heritage Conservation and Recreation Service
- NPS—National Park Service
- OSM—Office of Surface Mining
- WPRS—Water and Power Resource Service

DOJ—Department of Justice
- CRD—Civil Rights Division
- INS—Immigration and Naturalization Service
- LEAA—Law Enforcement Assistance Administration
- OJARS—Office of Justice Assistance, Research, and Statistics

DOL—Department of Labor
- ESA—Employment Standards Administration
- ETA—Employment and Training Administration
- LMSA—Labor Management Services Administration
- MSHA—Mine Safety and Health Administration
- OSHA—Occupational Safety and Health Administration
- PWBP—Pension Welfare Benefits Program

DOT—Department of Transportation
- FAA—Federal Aviation Administration
- FHWA—Federal Highway Administration
- FRA—Federal Railroad Administration
- NHTSA—National Highway Traffic Safety Administration
- OST—Office of the Secretary of Transportation
- RSPA—Research and Special Programs Administration
- USCG—United States Coast Guard

TREAS—Department of the Treasury
- ATF—Alcohol, Tobacco, and Firearms Bureau
- CUSTOMS—U.S. Customs Service

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OCC—Office of the Comptroller of the Currency
EPA—Environmental Protection Agency
OANR—Office of Air, Noise, and Radiation
OMSAPC—Office of Mobile Source Air Pollution Control
OPTS—Office of Pesticides and Toxic Substances
OWWM—Office of Water and Waste Management
EEOC—Equal Employment Opportunity Commission
OGC—Office of the General Counsel
OPI—Office of Policy Implementation
FEMA—Federal Emergency Management Agency
GSA—General Services Administration
FPRS—Federal Property Resources Service
HRO—Administration Operations Division
NARS—National Archives and Records Services
NCUA—National Credit Union Administration
SBA—Small Business Administration
USITC—United States International Trade Commission
VA—Veterans Administration
DMA—Department of Memorial Affairs
OHG—Office of Human Goals

Independent Regulatory Agencies

CAB—Civil Aeronautics Board
CFTC—Commodity Futures Trading Commission
CPSC—Consumer Product Safety Commission
FCC—Federal Communications Commission
FDIC—Federal Deposit Insurance Corporation
FEC—Federal Election Commission
FERC—Federal Energy Regulatory Commission
FHLBB—Federal Home Loan Bank Board
FMC—Federal Maritime Commission
FMSHRC—Federal Mine Safety and Health Review Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
ICC—Interstate Commerce Commission
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
OSD—Office of Standards Development
OSHRC—Occupational Safety and Health Review Commission
PRC—Postal Rate Commission
SEC—Securities and Exchange Commission

LIST OF REGULATIONS

Alphabetically by Agency

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USDA–AMS Regulatory Treatment of Reconstituted Milk in All Federal Milk Marketing Orders 77926
USDA–FSQS Proposed Net Weight Regulations 77928
USDA–FSQS Proposed Polychlorinated Biphenyls (PCBs) Regulation—Existing Equipment 77806
USDA–SCS Watershed Protection and Flood Prevention Program 77747

Department of Commerce

DOC–MARAD Construction-Differential Subsidy Repayment; Total Repayment Policy 77931
DOC–NOAA Regulations Implementing a Fishery Management Plan for the Groundfish Fishery for the Bering Sea/Aleutian Island Area 77748
DOC–NOAA Regulations Implementing a Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, United States Waters 77751
DOC–NOAA Regulations on the Mining of Deep Seabed Hard Mineral Resources 77753
DOC–NOAA Regulations on the Construction, Location, Ownership, and Operation of Ocean Thermal Energy Conversion (OTEC) Facilities and Plantships 77710

Department of Education

ED–OCR Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Education, Effectuation of Title VI of the Civil Rights Act of 1964 77898
ED–OESE Financial Assistance to Local and State Agencies to Meet Special Educational Needs; and Financial Assistance to Local Educational Agencies for Children with Special Educational Needs 77901

Department of Energy

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DOE–CS Emergency Building Temperature Restrictions 77714
DOE–CS Energy Conservation Program for Consumer Products Other Than Automobiles 77715
DOE–CS Energy Performance Standards for New Buildings 77717
DOE–CS Federal Price Support Loan Program for Energy from Municipal Waste Resource Recovery Facilities 77718
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Federal OTEC-related actions are

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CHAPTER 1—ENERGY

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Regulations on the Construction, Location, Ownership, and Operation of Ocean Thermal Energy Conversion (OTEC) Facilities and Plantships (15 CFR Part 1001)

Legal Authority

Ocean Thermal Energy Conversion Act of 1980, 42 U.S.C. § 9101 *et seq.*

Reason for Including This Entry

These regulations are of significant public interest and may create a major impact on the economy by providing a new legal system under which various commercial Ocean Thermal Energy Conversion (OTEC) operations may proceed.

Statement of Problem

OTEC facilities and plantships (a plantship is basically an OTEC facility that floats unmoored or moves through the water) will produce electric power from the thermal differential between warm ocean surface waters and cold, deep (approximately 1,000 meters) waters. The electricity generated could be fed ashore by cable and distributed via normal electric distribution grids, or it could be used at sea to produce ammonia or other chemical or metallurgical products. The industry is in a formative stage at present, because although the basic principles of OTEC power generation have been tested, the hardware, engineering, and operational requirements of commercial-scale OTEC operations are yet to be developed and will require very substantial capital investments of tens or hundreds of millions of dollars.

Several U.S. shipyards, engineering firms, makers of electrical generating equipment, and electricity and ammonia suppliers have expressed significant interest in building and operating demonstration-scale and commercial-scale OTEC facilities. The U.S. national interest in OTEC grows out of its potential as an alternative (non-fossil fuel, non-nuclear) energy source. The U.S. House of Representatives' Committee on Merchant Marine and Fisheries, Subcommittee on Oceanography, estimates that OTEC could produce as much as 10 percent of the U.S. electrical generating capacity by the year 2000, and up to 25 percent of all new electrical generating capacity coming on-line between now and the year 2000, if the OTEC program is successful and aggressively pursued (see House Report No. 96–944, at page 25). The OTEC principle can be applied most economically in areas where the thermal differential between surface and deep waters is about 20° C or more; this constraint dictates that U.S. use of OTECs will be limited to the Gulf of Mexico and the southeastern United States and to U.S. island areas such as Hawaii, Puerto Rico, the U.S. Virgin Islands, and the U.S. Western Pacific islands.

These proposed regulations will implement the Ocean Thermal Energy Conversion Act of 1980 (the Act), which authorizes the Administrator of NOAA to license (and requires persons to obtain licenses prior to) the construction, location, ownership, and operation of: (1) OTEC facilities connected to the United States by pipeline or cable; (2) OTEC facilities located in the territorial sea of the U.S.; (3) OTEC plantships documented under the laws of the United States; and (4) OTEC plantships that are constructed, owned or operated by U.S. citizens.

The Act requires NOAA to issue regulations with respect to licensing of these OTEC facilities and plantships.

Along with its licensing provisions, the Act is intended to: (1) establish a legal system to encourage the development of OTEC as a commercial energy technology; (2) protect the marine and coastal environment and the interests of other users of the territorial sea, Continental Shelf, and high seas, and foreign nations that may be affected by a thermal plume (heated discharge) from an OTEC; and (3) ensure that

Federal OTEC-related actions are consistent with approved State coastal zone management plans. The Act requires NOAA to issue final implementing regulations by August 3, 1981.

Alternatives Under Consideration

NOAA is just beginning its rulemaking process to implement the Act. The Agency has only begun to identify issues that we could treat in alternative ways. In developing these OTEC regulations, NOAA will address issues which may fall in several broad areas, including: (1) the amount and type of financial, technical, environmental, and other information that an applicant must submit with an application; (2) criteria for selecting OTEC projects when there are multiple applicants for the same geographic area; (3) environmental safeguards; (4) environmental monitoring requirements; and (5) the prevention of interference by one OTEC facility or plantship with another, and with other users of the territorial sea, Continental Shelf, and high seas.

In identifying and evaluating alternatives for the development of OTEC regulations for each of these general areas, NOAA first would define the basic objectives for each, and then evaluate alternative approaches. Three general approaches are for NOAA to:

(A) Address these areas in substantial detail in its regulations, providing specific terms that would apply to all OTEC operations. If experience later revealed that such degree of detail and extent of requirements were unnecessary, we could reduce them.

(B) Address an area in a more general way in its regulations, and then apply the concepts in those regulations to the specific facts and site characteristics associated with each license or permit, relying more on individual terms, conditions, and restrictions for detail.

(C) Employ less detailed requirements in both the regulations and the terms, conditions, and restrictions for each OTEC license, and rely on the subsequent monitoring specified in the Act to ascertain whether additional requirements were needed in the future.

In considering alternative approaches to these regulations, NOAA will assess the feasibility of relying on certain innovative techniques which may allow more flexibility for OTEC builders, owners, or operators while still accomplishing the purposes and requirements of the Act. For instance, NOAA may be able to rely on general environmental performance standards or parameters, rather than specifying detailed requirements concerning use of specified types or models of equipment or specified operating procedures. NOAA also may provide generalized guidance in its regulations for meeting the requirements of the Act, but then make it the responsibility of the applicant to specify in detail in its application how it will meet these requirements. Once we issued a license, we would expect the OTEC builder, owner, or operator to conduct its activities according to the terms of its application. NOAA will consider impacts on small business from the regulations.

Summary of Benefits

Sectors Affected: Ocean thermal energy production; ship-building and repairing; manufacturing of electric transmission and distribution equipment and electric industrial apparatus; electric utilities; production of ammonia, fertilizer, aluminum, and other energy intensive products; inhabitants of the U.S. southeastern and Gulf of Mexico states, the U.S. Virgin Islands, Puerto Rico, Hawaii, and the U.S. Pacific island possessions and territories; and the general public.

Commercialization of the OTEC technology under the new legal system of the Ocean Thermal Energy Conversion Act and the proposed regulations could generate benefits to the ship-building and repairing industry that would construct and maintain the OTEC facilities and plantships. Electrical equipment manufacturers would benefit from any additional demand for electric generation and transmission equipment. Energy intensive industries such as production of ammonia, some fertilizers, and aluminum would benefit from availability of a competitively priced alternative source of electric power. Areas of the United States adjacent to ocean waters which contain thermal differentials sufficient to support OTEC power generation would benefit from availability of a non-fossil, non-nuclear energy supply and consequent reduction of costs or risks associated with fossil or nuclear fuel. The regulations will provide the framework for development of a new OTEC industry, which will benefit those owning and operating OTEC facilities or plantships as a business. The Regulatory Analysis which NOAA will prepare on these regulations will quantify these benefits.

Summary of Costs

Sectors Affected: Suppliers of fossil and nuclear fuel for electric power production; suppliers of natural gas for production of ammonia, fertilizer, aluminum, and other energy intensive products; construction of land-based electric power plants; inhabitants of the U.S. southeastern and Gulf of Mexico states, the U.S. Virgin Islands, Puerto Rico, Hawaii, and the U.S. Pacific Island possessions and territories; and ocean thermal energy production.

Some companies whose business is based on supplying fossil or nuclear fuel for electric power production may lose market opportunities to the extent OTEC facilities or plantships are built on a commercial scale and replace other sources of energy. Suppliers of natural gas feedstocks for production of ammonia and other energy intensive products would suffer some market displacement as OTEC power becomes available for ammonia production from air and seawater. To the extent that availability of OTEC electric power in affected areas of the U.S. results in economic development which causes environmental or socioeconomic problems, some costs may be incurred in the areas where OTECs operate. Persons applying to construct, own or operate OTEC facilities or plantships will incur costs in assembling the financial, technical, environmental, and other information required for the license application, and in complying with license conditions relating to matters such as environmental protection and monitoring and non-interference with other users of the ocean. The Regulatory Analysis will address these costs in more detail.

Related Regulations and Actions

Internal: None.

External: Under the Act, the Coast Guard must issue regulations governing documentation, design, construction, alteration, equipment, maintenance, repair, inspection, certification, and manning of OTEC facilities and plantships. The Coast Guard also is to issue, after consulting with the Administrator of NOAA, regulations governing the movement and navigation of OTEC plantships to insure that the thermal plume from the plantship generally does not unreasonably impinge upon and degrade the thermal gradient (the net temperature differential between warm surface waters and cold deep waters) of another OTEC facility or plantship, or adversely affect the territorial sea or natural resource jurisdiction zone of a foreign nation. NOAA also must consult the Coast Guard before deciding whether to issue regulations governing site evaluation and preconstruction activities. NOAA and the Coast Guard may "jointly or severally" issue enforcement regulations. The

Environmental Protection Agency may prepare regulations applicable to OTEC

issuing those documents.

Public Comment Period—A 60-day

Statement of Problem

The residential and commercial

whether or not to include non-regulated, municipally owned utilities and

this proposed rulemaking. However, in some instances, elements of this

Summary of Costs

Sectors Affected: Federal

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Environmental Protection Agency may prepare regulations applicable to OTEC facilities and plantships under the National Pollutant Discharge Elimination System program under the Clean Water Act. The Secretary of Energy may determine, after consultation with the Administrator of NOAA, which substantive requirements of Title I of the Act will apply to OTEC demonstration projects. NOAA must consult with "the Secretary of Energy . and the heads of other Federal agencies" before issuing regulations to carry out the Act.

Active Government Collaboration

NOAA already has initiated discussions with the Department of Energy, the Maritime Administration, the Coast Guard, and the Environmental Protection Agency concerning implementation of the Act and the respective programs and jurisdictions of the other agencies. NOAA also will discuss matters with the Departments of State (with respect to non-interference with other ocean users, and with other nations) and Justice (with respect to OTEC antitrust issues). NOAA also intends to initiate discussions with components of the Department of the Interior, such as the U.S. Geological Survey and the Bureau of Land Management, in order to benefit from their experience in certain areas where those agencies have faced similar issues. Furthermore, NOAA intends to coordinate with the Small Business Administration in order to assess the potential impact of these regulations on small businesses.

In addition to this coordination with affected Federal agencies, NOAA will contact relevant State (and, as appropriate, local) government officials in potentially affected areas (for example, the Gulf of Mexico area, the U.S. Virgin Islands, Puerto Rico, Hawaii, and the Commonwealth of the Northern Mariana Islands).

Timetable

ANPRM—NOAA may publish one in November/December 1980.
NPRM—March 1981.
Regulatory or Other Analysis—NOAA plans to issue a draft Regulatory Analysis and a draft Environmental Impact Statement (EIS) in March 1981.
Public Hearing—NOAA plans to hold at least one public hearing on the proposed rules and accompanying draft EIS after NOAA issues the NPRM and draft EIS. In addition, NOAA intends to hold public meetings concerning the proposed rules and the draft EIS before issuing those documents.
Public Comment Period—A 60-day public comment period will follow the NPRM.
Final Rule—July 1981.
Final Rule Effective—August 1981.

Available Documents

A Federal Register notice requesting other Federal agencies having expertise concerning, or jurisdiction over, any aspect of the construction or operation of OTEC facilities and plantships to send NOAA written descriptions of their expertise or statutory responsibilities (45 FR 56857, August 26, 1980).

Notice of Environmental Impact Statement (EIS) scoping meeting (45 FR 63543, September 25, 1980).

As other documents pertaining to this rulemaking and development of the EIS become publicly available, they may be obtained from the Office of Ocean Minerals and Energy, NOAA, Page Building No. 1, Room 410, 2001 Wisconsin Ave. NW., Washington, DC 20235 (Telephone: (202) 653–7695).

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DEPARTMENT OF ENERGY

Conservation and Solar Applications

Commercial and Apartment Conservation Service Program (10 CFR 458 *)

Legal Authority

National Energy Conservation Policy Act (NECPA), P.L. 95–619, 92 Stat. 3206; Energy Security Act (ESA), P.L. 96–294, 794 Stat. 611.

Reason for Including This Entry

The Department of Energy (DOE) believes this rulemaking is important because it will expand the Commercial and Apartment Conservation Service (CACS) program, which now encourages the installation of energy-saving measures and the adoption of energy conserving operation and maintenance practices in small multifamily dwellings. Our rule would expand the CACS program to also cover existing small commercial buildings and large (five or more units) multifamily dwellings. We estimate that the rule will result in savings of 136 million barrels of oil equivalent through the year 2000.

Statement of Problem

The residential and commercial building sectors consume about 36 percent of the Nation's total energy use. In the residential sector, 90 percent of energy usage occurs in single-family homes and multifamily dwellings with less than five units. Promotion of conservation efforts within this sector is covered in the rules adopted by DOE in November 1979, the Residential Conservation Service (RCS) program (part 1, Title II of NECPA). RCS requires approximately 350 larger gas and electric utilities to provide information on energy conservation practices and measures appropriate by building type to their residential customers in one- to four-unit dwellings. RCS also requires covered utilities to offer such customers the opportunity to request various services, including an on-site audit; assistance in arranging for the purchase and installation of recommended conservation and renewable resource measures; lists of suppliers, lenders, and contractors agreeing to conform to RCS Standards and program requirements; the opportunity to include the costs of such installations in monthly utility bills; written one-year manufacturers' and installers' warranties; and access to consumer grievance procedures.

The remaining 10 percent of the energy used by the residential sector is in multifamily dwellings of five or more units, representing 15 percent of the residential sector. Energy saving incentives traditionally have been fewer for residents in such buildings, especially in units which are master metered. In order to help meet the President's buildings weatherization goals by 1999 as contained in the National Energy Plan II, DOE is proposing this rulemaking to cover both multifamily buildings of five or more units and that portion of the commercial sector containing buildings that use less than 1,000 therms of natural gas, 4,000 kilowatt hours of electricity per month, or combined energy usage of all fuels that is less than the equivalent of 114 million Btu's.

Under both the RCS program and its expansion through CACS in the proposed rulemaking, DOE invites States to submit plans to DOE for approval to administer and enforce utility compliance with State programs. According to § 211 of NECPA, utilities covered by RCS and CACS included all those which during the second preceding year had sales (for purposes other than resale) which 1) exceeded 10 billion cubic feet for natural gas, or 2) exceeded 750 million kilowatt hours of electricity. Participating Governors must decide

whether or not to include non-regulated, municipally owned utilities and interested home heating suppliers in State plans. Non-regulated utilities not included in State plans but meeting the above size criteria must prepare and submit their own plans for DOE approval. NECPA requires DOE to prepare a Federal plan and order covered investor owned utilities to comply with it in cases where no approved State plan exists; in such circumstances non-regulated utilities will prepare and submit plans.

The energy use in the sectors covered by this rulemaking, while smaller than that of single-family homes, is nonetheless very significant in that it represents 30 percent of the energy equivalent of U.S. oil imports. Numerous studies by DOE and others have demonstrated that a major fraction of this energy use could be eliminated by cost effective investments in retrofitting of existing buildings. DOE's objective through the CACS program is to aid small business and apartment owners and tenants to achieve cost-effective energy savings. DOE recognizes that appropriate energy saving information is costly to obtain, and there is much inertia on the part of small business personnel to spend the time and resources needed to secure and analyze such information. Therefore, the Government will play a useful role in requiring covered utilities (and home heating suppliers willing to participate) to make appropriate information available to owners and tenants of applicable buildings.

Unlike RCS, the CACS program is principally an information program, and participation is voluntary for building owners and tenants. The proposed program does not mandate specific actions to save energy except to the extent that it stimulates owners and tenants of commercial and apartment buildings to request the audit and adopt conservation practices and install conservation and renewable resource measures. The success of the program depends largely on the enthusiasm with which covered utilities carry out the intent of the program to encourage customers to both respond to the offer of on-site audits and actually make energy-saving improvements in buildings.

Alternatives Under Consideration

The statute sets specific criteria for expansion of RCS to the commercial building and multifamily dwelling sectors and requires the Secretary to develop regulations to carry out the program. The highly prescriptive nature of the statute leaves relatively little discretion to the Secretary in developing this proposed rulemaking. However, in some instances, elements of this rulemaking that differ from the RCS regulations are indicative of the choice of alternatives.

In contrast to RCS, the proposed rulemaking requires covered utilities to provide a building energy use monitoring list to building managers and a Tenant's Energy Conservation Information Package to commercial and apartment building tenants once an audit has been requested. The audit requirements in the proposed rulemaking differ from RCS due to the differences in buildings. Unlike the one- to four-unit residential units covered by RCS, commercial and apartment buildings covered by CACS vary substantially in size, structure, and energy use. Owners of such buildings are mostly business persons, and the measures appropriate to the various structures are diverse, with equipment types varying widely in each category. As a result of these differences, the proposed regulations allow much greater latitude to States and utilities; require utilities to provide fewer services to eligible customers; and include a greater use of estimates based on typical values achieved in similar facilities than do the RCS regulations.

Summary of Benefits

Sectors Affected: Federal Government; State governments; investor-owned and municipally owned electric and gas utilities meeting the sales criteria established in § 211 of NECPA; participating home heating oil suppliers; tenants and owners of eligible commercial buildings and multifamily dwellings of five or more units; and the general public.

All sectors affected will benefit from the energy savings achieved by the program. The Federal Government will benefit from having limited sources of non-renewable fuels extended by the conservation actions of building owners and tenants. DOE estimates that total energy savings resulting from the proposed regulation will be 136 million barrels of oil equivalent through the sectors covered through the year 2000. Building owners' and tenants' benefits will be realized in terms of lower or controlled utility bills and greater personal comfort. Utilities will benefit by avoiding additional capital expenditures for increased generating capacity. Home heating suppliers will preserve good customer relations and may expand their base of operations as a result.

Summary of Costs

Sectors Affected: Federal Government; State governments; investor-owned and municipally owned electric and gas utilities covered by the regulations; participating home heating oil suppliers; tenants and owners of eligible commercial buildings and multifamily dwellings of five or more units; and the general public.

Total cost of the programs are estimated at $1,026 million (1980 dollars) for the multifamily sector and $770 million for the commercial sector. The cost of energy saved on a discounted basis is $11.50 per barrel of oil equivalent for the multifamily sector and $7.89 for the commercial sector. The cost of developing, implementing, and monitoring the proposed CACS program to 1990 is expected to be $16 million. State governments will encounter costs for similar activities, including State plan development, implementation, and enforcement. The costs are considerably less than for the same responsibilities under RCS. It is expected that the test cost to States to the year 1990 will be $52.5 million. Covered utilities will be able to charge eligible customers up to $15 per dwelling unit for providing the prescribed on-site audit. The method to recover the remainder of such costs will be determined by the rate-making authority in the case of investor-owned utilities and by the utility directly in the case of non-regulated utilities. The statute requires that the utility take into account the customer's ability to pay in determining charges. DOE estimates that the total program costs to utilities to the year 1990 will be $251.7 million (1980 dollars), while the projected cost to building tenants and owners for the audit and selected building modifications will be $705.9 million. It should be stressed that the program is entirely voluntary for eligible building owners and tenants.

Related Regulations and Actions

Internal: DOE has or is cooperating in several on-going programs which also provide energy conservation assistance to homeowners. These programs include (1) existing RCS program for single-family residences, (2) Low-Income Weatherization Assistance Program, (3) Energy Extension Service, and (4) State Energy Conservation Grant Program.
External: Existing State laws or regulations.

Active Government Collaboration

DOE will work closely with interested States to prepare, implement, and monitor State Plans for this program.

Timetable

NPRM—November 1980.

which will help forestall additional shortages.

building owners or operators to comply with the regulations through alternate

such as infiltration and building HVAC (heating, ventilating, air-conditioning)

Conservation Service Hotline: (800) 424–9122 or 252–4950 (Washington, DC).

covered product in accordance with § 322(b) of the Act.

Timetable

NPRM—November 1980.
Final Rule—March 1981.
Regulatory Analysis—Being prepared.

Available Documents

None.

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DOE–CS

Emergency Building Temperature Restrictions (10 CFR Part 490)

Legal Authority

The Energy Policy and Conservation Act, §§ 201(a) and (b), 42 U.S.C. § 6261(b) *et seq.*

Reason for Including This Entry

This entry is included because of its widespread impact on the non-residential building sector and its importance as a nationwide mandatory conservation measure.

Statement of Problem

The Emergency Building Temperature Restrictions (EBTR) were implemented July 16, 1979, after the President determined that the United States was unable to rely upon imports of crude oil to meet normal demand due to international instability. Worldwide production of crude oil is now at levels below those of the comparable period last year. As the President pointed out in the proclamation extending the Building Temperature Restrictions on April 15, 1980, the United States has had to terminate crude oil imports from Iran and is experiencing increased uncertainty about the level of continued crude oil supplies from other producing countries. Actions by the Soviet Union in Afghanistan and the tensions between Iraq and Iran further increase the threat to the stability of commerce in the Persian Gulf.

United States dependence on insecure crude oil imports, which have rapidly increased in price, has substantially increased our inflation rate and created a major adverse impact on the national economy. Because these effects are likely to be of significant scope and duration, it is necessary to take action which will help forestall additional shortages.

The Energy Policy and Conservation Act (EPCA) contains provisions permitting the President to develop and submit to Congress standby emergency energy conservation contingency plans. Standby Conservation Plan No. 2, Emergency Building Temperature Restrictions, was transmitted to Congress on March 1, 1979, and approved by both Houses. The plan was implemented by Presidential proclamation on July 16, 1979, due to a severe energy supply disruption caused by events in Iran, and renewed for an additional 9 months on April 15, 1980.

Savings are estimated between 200,000 to 400,000 barrels per day oil equivalent, about 25 percent of which can be translated directly into barrels of oil saved, principally middle distillates. By saving this amount of energy, EBTR may help to alleviate the severity of the continuing energy crisis faced by the Nation. Additionally, EBTR has helped complying building owners and operators to develop new energy-saving modes of building operation.

EBTR accomplishes this goal by generally requiring that thermostats in most nonresidential buildings be set no lower than 78° F. for cooling, no higher than 65° F. for heating, and no higher than 105° F. for general purpose hot water. The regulations also require building temperature setbacks during unoccupied hours.

Alternatives Under Consideration

The EBTR regulations permit any State or political subdivision to submit to the Department of Energy (DOE) for approval a comparable plan which could include temperature limits other than those provided for in the EBTR regulations, in addition to other building energy conservation measures. Such plans have already been approved for New Jersey, Massachusetts, and Houston, Texas.

Section 231 of Title II of the Emergency Energy Conservation Act of 1979 (EECA) (P.L. 96–102, 93 Stat. 757, to be codified at 42 U.S.C. 8501) requires that EBTR must permit a State or political subdivision to include in any comparable plans procedures permitting individual building owners to propose alternative conservation means that will achieve at least as much energy savings in their buildings as would the temperature restrictions plan. DOE has published an amendment to the EBTR regulations bringing them into compliance with this provision of EECA (10 CFR Part 490).

DOE is also considering publication of an amendment which would permit all building owners or operators to comply with the regulations through alternate plans which would conserve as much energy as would adherence to the temperature restrictions alone. Alternate means would not be restricted to adjustments in heating, ventilating and air-conditioning systems, but might include any changes in the design, construction, or operation of the building such as lighting reduction, insulation, weatherstripping, installation of control systems, hours of operation, etc. This will afford maximum flexibility to building owners and operators and give retailers, restauranteurs, and others the chance to implement strategies which they have indicated may be more appropriate to their particular circumstances. This amendement would be designed to help foster creative and innovative approaches to energy-efficient building operation. Administration of the program would, however, grow more complex and costly, and the alternate plan approach may not be appropriate to short-term emergency implementation of the EBTR regulations as they now exist.

The emphasis of the EBTR program is on voluntary public compliance. Although over 40,000 building inspections have been conducted by DOE and participating States (demonstrating approximately an 80 percent compliance rate), inspectors have concerned themselves primarily with educating the public and assisting building owners in bringing their buildings into compliance, rather than stressing enforcement and punitive action.

Summary of Benefits

Sectors Affected: The general public; and owners, operators, and users of approximately 2.8 million nonresidential buildings, including industrial/manufacturing buildings, schools, restaurants, retail stores, offices, hotel/lodging nonsleeping areas, shopping centers, warehouses, and retail food stores, and excluding the sleeping areas of hotels and other lodging facilities, health care facilities, elementary schools, nursery schools, and day care centers.

Compliance with the EBTR regulations can save an average of 6 percent of total building energy use (with consequent reductions in utility bills), although this figure will naturally vary from building to building.

In estimating potential fuel savings, computer simulations of building energy usage before and after EBTR were used. These building models were based on sensitivity analyses of key characteristics affecting energy savings, such as infiltration and building HVAC (heating, ventilating, air-conditioning) system type. Building owners and managers will become more conscious of energy conservation.

Summary of Costs

Sectors Affected: DOE; and State energy offices.

The costs of EBTR are primarily administrative. Eight million dollars were expended over the first 9 months of the program to cover grants to States for inspections and public education, and DOE regional and headquarters support. This included funding for program analysis, administrative costs, printing and mailing of program manuals, and operation of a toll-free EBTR information hotline.

Related Regulations and Actions

Internal: The Standby Federal Emergency Energy Conservation Plan (10 CFR Part 477, February 7, 1980) developed under the authority of EECA, contains a building temperature measure similar to EBTR.

External: Some State energy offices are considering the inclusion of building temperature measures in State emergency energy conservation plans being developed to meet the requirements of EECA.

Active Government Collaboration

DOE has been working with over 75 Federal agencies to ensure that all Federal buildings are in compliance with EBTR. The energy conservation directors of each of these agencies have maintained contact with DOE and have inspected any buildings against which public complaints have been lodged. The General Services Administration, Department of Defense, and U.S. Post Office, the three Federal agencies with the largest building populations, are in almost daily contact with DOE regarding EBTR enforcement within their jurisdictions. DOE, with over 122,000 buildings covered by EBTR, has conducted inspections of 64,000 buildings since the program was implemented in July 1979.

Timetable

Final Rule—November 1980.

Available Documents

NPRM—45 FR 35788, May 27, 1980.

Emergency Building Temperature Restrictions Regulations, 10 CFR Part 490, July 5, 1979.

"How to Compy with Emergency Building Temperature Restrictions." Copies may be obtained by writing to the Agency Contact listed below or calling the toll-free Emergency Conservation Service Hotline: (800) 424–9122 or 252–4950 (Washington, DC).

Emergency Building Temperature Restrictions Docket No. CAS–RM–79–109. Transcripts of all public hearings and supporting documents are available for review in the Freedom of Information Office. Correspondence should be addressed to: Milton Jordan, Director, Freedom of Information Office, Department of Energy, 1000 Independence Avenue, S.W., Room 5B–138, Washington, DC 20585.

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DOE–CS

Energy Conservation Program for Consumer Products Other Than Automobiles (10 CFR Part 430*)

Legal Authority

Energy Policy and Conservation Act, Title III, Part B P.L. 94–163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act, P.L. 95–619, 92 Stat. 3257.

Reason for Including This Entry

The Department of Energy (DOE) includes this entry because the proposed rule imposes substantial costs on the home appliance industry, increases the cost of appliances, and involves energy conservation issues of great public interest.

Statement of Problem

Major consumer products now being manufactured are less energy efficient than they could be. DOE's Conservation Program for Consumer Products Other Than Automobiles seeks to reduce energy consumption of major household consumer products. The legal authority establishes 13 product categories for review. These product categories are: refrigerators and refrigerator/freezers, dishwashers, clothes dryers, water heaters, room air conditioners, home heating equipment (not including furnaces), television sets, kitchen ranges and ovens, clothes washers, humidifiers and dehumidifiers, central air conditioners, and furnaces.

The legal authority also allows for a 14th product category for any other type of consumer product classified as a covered product in accordance with § 322(b) of the Act.

DOE has developed test procedures measuring efficiency levels of products covered by the proposed energy efficiency standards. These standards will establish the minimum level of energy efficiency that the manufacturer of the covered product must achieve, but will not prescribe the methods, designs, processes, or materials to be used to achieve the particular efficiency level. The Energy Policy and Conservation Act (EPCA) further directs that DOE design any standard it issues to achieve the maximum improvement in energy efficiency which is technologically feasible and economically justified. Manufacturers will be required to certify that their products are on conformance with the standards by testing them in accordance with DOE test procedures before they can place such products on the market.

Alternatives Under Consideration

The major alternatives considered for each covered product were labeling, rebates, tax incentives, consumer education, prescriptive standards, voluntary programs, and no regulation.

Each of these alternatives has been evaluated relative to achieving the mandate of Congress, and other related policy objectives.

We considered the alternative of labeling as the primary action of DOE to be inappropriate because Congress has, in the Act, mandated the establishment of a labeling program by the Federal Trade Commission (FTC). FTC's labeling program requires that eight of the 13 covered products be labeled to reflect average annual operating costs or energy efficiency ratings. These costs are based on Federal test procedures developed by DOE.

We determined that the alternative of providing consumer rebates for purchase of more energy efficient products would involve unnecessary expenditure of Federal funds. Since the consumer is the ultimate benefactor with regard to net cost savings resulting from increased energy efficiency, a rebate to the consumer would serve only to further increase the consumer's economic benefit. In addition, a rebate would be provided to consumers who would have purchased more efficient products without further stimulus as well as to those whose behavior would be altered by the incentive. The length of time over which the rebate would be extended was also a factor in rejecting this alternative. A long-term program could be very costly, while a short-term program may not achieve lasting benefits.

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DOE also considered the alternative of providing tax incentives for purchasing or manufacturing energy efficient products. Many of the same problems that we anticipated in the rebate alternative are also pertinent to this alternative. In both programs, the majority of the associated costs would be borne by the Federal Government, i.e., distributed among all taxpayers, while the benefits would be derived only by the purchasers of covered products. Thus, on an individual-by-individual basis, the costs would outweight the benefits for those taxpayers who do not purchase the covered products.

DOE has not rejected the alternative of a consumer or public education program. Rather, DOE believes that a strong, viable education program is an important facet of any approach undertaken to achieve energy efficiency of the covered products. DOE's education program will focus on educating consumers to read energy efficiency labels when purchasing covered products, and on the most energy efficient use of the covered products. The concept of energy efficiency does not only relate to the design of a product, but also to how the product is used. The benefits of a well-designed energy efficient product may be completely lost if users are not aware of how to operate and maintain the product to achieve the desired performance. For example, some refrigerators provide an antisweat heater to use during damp or humid weather. Proper use of the heater will reduce energy consumption of the refrigerator.

Other alternatives that DOE considered include the possibility of prescriptive standards based on specific energy efficient design elements rather than the proposed performance standards. We rejected this approach because of the potential for reducing manufacturers' options to use innovative technology to achieve the energy efficiency requirements.

The original version of the Act (EPCA, P.L. 94-163) called for the industry to set up voluntary energy efficiency targets for the covered products. Congress specifically changed this section when amending the Act to provide for immediate establishment of Federal standards. DOE rejected the voluntary program in order to achieve energy efficient products as rapidly as possible.

The "no regulation" alternative assumes that standards are not implemented for any of the covered products. If DOE chooses this alternative, some energy efficiency improvements would result in the covered products because of State regulations, and labeling programs, voluntary industry certification, and increasing interest by consumers in energy efficiency as energy costs rise. However, these increases would be much less than the levels that would be obtained with minimum energy efficiency standards. Thus, relative to the proposed standards, this alternative would result in smaller energy savings and reduced progress toward national energy self-sufficiency.

DOE proposes to require industry to meet a prescribed performance standard rather than a specific design standard, leaving the manufacturer free to find the most cost effective means of compliance while maintaining the desired level of overall quality.

Summary of Benefits

Sectors Affected: Manufacturers and users of major household appliances; and the general public.

The improvement of consumer product efficiencies will decrease the amount consumers pay on their monthly utility bills and the overall amount of energy consumed in the Nation. We also expect that implementation of Federal standards will accelerate adoption of high efficiency consumer products by 10 years. Standards will be effective beginning in 1981. All products below the prescribed level of standards will be eliminated. Energy savings are estimated at between 13.4 quadrillion, British thermal units (Btu's) and 24.1 quadrillion Btu's over the period 1982 through 2005. The discounted value of these energy savings will be between $18.8 and $24.4 billion, in 1975 dollars. For the year 2000, annual energy savings are expected to be between 0.8 quadrillion Btu's and 1.9 quadrillion Btu's. This translates to energy savings in the range of 376,000 to 993,000 barrels of oil equivalent per day by the year 2000.

Summary of Costs

Sectors Affected: Manufacturing of major household appliances; and users of these appliances.

The costs resulting from implementation of the program will be borne by consumers in the form of increased consumer product prices. This cost over the 1982 through 2005 period is expected to be between $8.3 and $11.1 billion in discounted 1975 dollars. However, the overall program will have a positive net present value between $10.5 and $13.3 billion.

Adverse impacts will be minimized because we will prescribe separate standards for each category of consumer products. This allows the Federal Government to maximize benefits while minimizing burdens in a more judicious manner.

Strong, more technologically sophisticated firms are not expected to be severely burdened. The greatest potential for near-term adverse impacts to manufacturers will be for those which produce air conditioning and refrigeration products. The overall competitive effect of standards is expected to be a slight increase in concentration in this 300-firm industry.

Burdens on manufacturers will be kept to a minimum through careful consideration of potential impacts. In addition, firms with sales under $8 million are allowed exemption from standards for 2 years following promulgation, upon successful petition to the Federal Government.

Related Regulations and Actions

Internal: Energy Performance Standards for New Buildings, Residential Conservation Service Program.

External: Minimum Property Standards for One- and Two-Family Dwellings/Department of Housing and Urban Development.

Federal Trade Commission Appliance Labeling Program.

Active Government Collaboration

Federal Trade Commission and National Bureau of Standards.

Timetable

Final Rule for Nine Products—January 1981.
NPRM for Four Products—March 1981.
Final Rule for Four Products—November 1981.

Available Documents

Draft Regulatory Analysis.
Test Procedures:
Refrigerators, Refrigerator-freezers—42 FR 46140, September 14, 1977.
Freezers—42 FR 46140, September 14, 1977.
Dishwashers—42 FR 39964, August 8, 1977.
Clothes Dryers—42 FR 46140, September 14, 1977; 45 FR 46762, July 10, 1980.
Water Heaters—42 FR 54110, October 4, 1977; 43 FR 48986, October 19, 1978; 44 FR 52632, September 7, 1979.
Room Air Conditioners—42 FR 27896, June 1, 1977; 45 FR 2632, January 11, 1980.
Home Heating Equipment—not including Furnaces, 43 FR 20108, May 10, 1978.
Television Sets—42 FR 46140, September 14, 1977.
Kitchen Ranges and Ovens—42 FR 20106, May 10, 1978.
Clothes Washers—42 FR 49802, September 28, 1977.
Humidifiers and Dehumidifiers—42 FR 55599, October 18, 1977.
Central Air Conditioners, including Heat Pumps—42 FR 60150, November 25, 1977; 44 FR 76700, December 27, 1979.
Furnaces—43 FR 20108, May 10, 1978; 45 FR 53714, August 12, 1980.
NPRM Regarding Provisions for the Waiver of Consumer Product Test Procedures, 45 FR 14188, March 4, 1980.
Sampling Requirements of Consumer Products Test Procedures—44 FR 22410, April 13, 1979.
Public comments (including comments from public hearing held August 1980).
Representative Average Unit Cost of Electricity, Natural Gas, No. 2 Heating Oil, and Propane—44 FR 37534, June 27, 1979.
Standards:
ANPRM Regarding Energy Efficiency Standards for Nine Types of Consumer Products—44 FR 49, January 2, 1979.
ANPRM Regarding Energy Efficiency Standards for Four Types of Consumer Products—44 FR 72276, December 13, 1979.
ANPRM Regarding Energy Efficiency Standards for Heat Pumps—45 FR 5602, January 23, 1980.
NPRM Regarding Energy Efficiency Standards for Nine Types of Consumer Products—45 FR 43976, June 30, 1980.

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DOE-CS

Energy Performance Standards for New Buildings

Legal Authority

Energy Conservation Standards for New Buildings Act of 1976, 42 U.S.C. §§ 6831-6840; Department of Energy Organization Act, § 304, 42 U.S.C. § 7101 *et seq.*

Reason for Including This Entry

This entry is included because it imposes significant costs on the building and residential housing industries, and because it involves energy conservation issues of great public interest.

Statement of Problem

The problem of energy shortages can be addressed by a number of conservation measures. The intent of this regulation is to reduce the amount of energy consumed in new buildings. One-third of all energy consumed in the U.S. is used in buildings. Inefficient building designs and equipment waste about 40 percent of this energy.

The Department of Energy (DOE) is developing design energy consumption budget levels, measured in units of British Thermal Units (Btu's) of design energy consumption per square foot of floor space per year (Btu/sq. ft./yr.). These design energy budgets will take into account the differences in energy consumption required by climate and by different building functions. This regulation will require all new buildings to be designed not to exceed the corresponding energy budget.

Buildings which meet these energy budgets will consume about 45 percent less energy than recently constructed buildings. This will mean aggregate energy savings of 26 quadrillion Btu's through the year 2000, in addition to the other energy saving programs under consideration.

In the NPRM (44 FR 68120, November 28, 1979), Proposed Building Energy Performance Standards are expressed in Btu's per square foot and are multiplied by "weighting factors" to account for the different values of fuels. The measurement of design energy is made using a Standard Evaluation Technique.

Alternatives Under Consideration

(A) Revising the building classification.

(B) Replacing the "Weighting Factors" with dual site budgets.

(C) Adding alternate evaluation techniques to the list of certified evaluation tools.

(D) Adding "certified equivalent energy codes" as an alternative means of complying with the Standard.

Also, an examination of non-regulatory approaches to achieving the Standards has been conducted and is now being refined.

Summary of Benefits

Sectors Affected: The building industry (architectural services, construction, and manufacturing of construction materials); buildings workers (professional, management, skilled, and operative); the building market (realtors, purchasers, and users of buildings); and the general public.

Single family residential buildings designed to comply with the proposed Standards should use between 22 percent and 51 percent less energy than current practice. Commercial and multifamily residential buildings complying with the standards should use between 17 percent and 52 percent less energy. Economic impacts are small, i.e., at a 10 percent real discount rate (which adjusts for the effects of inflation), the Standards may, by 1991, increase the Gross National Product by 0.1 percent, increase employment by 1.0 percent, and improve the balance of trade by 5 percent. The building industry could benefit by increased demand for their services.

Summary of Costs

Sectors Affected: The building industry (architectural services, construction, and manufacturing of construction materials); the building market (realtors, purchasers, and users of buildings); DOE; HUD; and State and local governments.

As a result of the standards, the cost of new commercial buildings is expected to increase about 2.5 percent. The cost of new residential buildings is estimated to increase $.75 to $1.00 per square foot or $1,200 to $1,600 for a 1,600 square foot one-story home. The added cost to enforce the Standards varies with the method used to implement the standards, but assuming State and local governments choose to make existing code mechanisms equivalent, we estimate that the enforcement costs for Federal, State, and local governments will be $55 million.

Related Regulations and Actions

Internal: DOE is developing a Model Building Energy Code which translates the Standards into code language.

External: Minimum Property Standards for One- and Two-Family Dwellings, Department of Housing and Urban Development (HUD); Minimum Property Standards for Multifamily Dwellings; HUD Handbook 4910, Revision 5, April 1977; Proposed Increase in Thermal Insulation Requirements for the Minimum Property Standards for One- and Two-Family Dwellings, 43 FR 17371, April 24, 1978; Farmers Home Administration, Form 424.1; 7 CFR Part 1804, Subpart A, Appendix D, Construction Standards.

Active Government Collaboration

The Department of Housing and Urban Development and National Bureau of Standards are actively involved in the development program.

Timetable

NPRM—August 1981.
Public Comment Period—Will follow

NPRM.
Final Rule—April 1983.

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apply for a 7-year loan. No payment can

DOE-CS

disposal fee might not go forward despite its economic feasibility when

Because the transportation sector

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NPRM.
Final Rule—April 1983.

Available Documents

In support of this proposed rule, the Department has developed ten Technical Support Documents. These documents provide detailed information on important aspects of the proposed rule and are referred to throughout the preamble. All documents may be obtained from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22150, and the Technical Information Center, Oakridge National Laboratory, P.O. Box 62, Oakridge, TN 37830.

Technical Support Document Number	Title	Administrative Record Number
1	The Standard Evaluation Technique	9561.00
2	Statistical Analysis	9562.00
3	Energy Budget Levels Selection	9563.00
4	Weighting Factors	9564.00
5	Standard Building Operating Conditions	9565.00
6	Draft Regulatory Analysis	9566.00
7	Draft Environmental Impact Statement	9567.00
8	Economic Analysis	9568.00
9	Passive & Active Solar Heating Analysis	9569.00
10	Climate Classification Analysis	9570.00

Additional documents are the phase one/base data for the Development of Energy Performance Standards for New Buildings (Final Report, PB–286 898; Climatic Classification, PB–286 900; Data Collection, PB–286 902; Residential Data Collection and Analysis, PB–286 899; Data Analysis; PB–286 901; Building Classification, PB–286 904; and Sample Design. PB–286 903), January 12, 1978.

ANPRM—43 FR 54512, November 21, 1978.

NPRM—44 FR 68120, November 28, 1979.

Draft Final Environmental Impact Statement, Building Energy Performance Standards (DOE, April 1980).

Draft Regulatory Analysis.

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DOE–CS

Federal Price Support Loan Program for Energy from Municipal Waste Resource Recovery Facilities (10 CFR Part 485)

Legal Authority

Energy Security Act (ESA) Title II, Subtitle B, P.L. 96–294.

Reason for Including This Entry

The regulations to be developed by DOE will establish policy and set forth procedures whereby municipalities may submit applications for price support loans for energy produced and sold by municipal waste resource recovery facilities. These regulations are precedent-setting. The regulations will be issued in two phases.

Statement of Problem

In 1980, approximately 156 million tons of municipal solid waste and dry sewage sludge solids are potentially available for energy recovery. Should all these wastes be utilized for energy production, they could produce the equivalent of over 200 million barrels of oil annually.

In addition to municipal solid waste, about 14 million barrels of oil equivalent are potentially recoverable from the 30 million tons of process wastes generated by U.S. industry annually. Also, appreciable amounts of energy can be conserved through waste materials recycling processes. The magnitude of the potential energy production from all facets of wastes indicates that resource recovery systems could make a major contribution to national energy goals.

The proposed rulemaking will provide inducements to recover a substantial portion of the energy potential of solid and industrial process wastes. The initial phase of the regulations (phase 1) will establish the components for setting the amount of price support loans. The main regulations (phase 2) will cover the remaining components of the price support loan program, including procedures for filing applications, criteria for project eligibility and approval, deadlines for filing, etc.

A price support loan program for municipal waste-to-energy systems could encourage projects to go forward that might otherwise be deferred because projected initial project costs resulted in disposal fees that were not competitive with the prevailing costs of landfill at the time the project was initiated. A price support loan affects the operational costs of a plant, having the effect of reducing the disposal fee. Without a price support loan in the early years, a project with a high initial disposal fee might not go forward despite its economic feasibility when calculated on a life cycle basis.

Alternatives Under Consideration

DOE is considering several options for the application of proposed price support loans. These include support based upon the quality of product, the quantity of product, the unit price received for product, and full or partial purchase of product by the Federal Government.

DOE is also considering other mechanisms for support of municipal solid waste energy recovery projects as specified in the Energy Security Act. These mechanisms include loan guarantees, construction loans, and price guarantees.

Summary of Benefits

Sectors Affected: Municipalities, counties, and special authorities (State and local); private industries in the role of energy buyers, waste disposers or project developers; investor-owned and municipally-owned utilities and their customers; investment banking companies and financial underwriters; waste processing equipment and systems manufacturers, and wholesale and retail traders; project engineering consultants; consumers of petroleum products; and the general public.

This regulation will significantly accelerate municipal waste reprocessing. Although these technologies may be economically marginal today, on a life-cycle basis they are attractive and will reduce our vulnerability to petroleum supply disruptions.

The proposed regulation will tend to reduce costs and prices of end products from municipal waste reprocessing facilities for individual levels of government, industries, and regions. In addition to contributing to the displacement of a significant amount of fossil fuels, primarily oil, this regulation also has the effect of creating both construction and permanent jobs. The facilities assisted under this price support program will also divert municipal wastes from landfills and reduce the volume for ultimate disposal by communities by 85 to 95 percent. Pollution of ground, water, and air will be significantly reduced.

Summary of Costs

Sectors Affected: The Federal Government.

The total Federal assistance available under this program is $160 million. Existing facilities may apply for a 5-year price support loan; new projects may apply for a 7-year loan. No payment can be based on a unit value of support greater than $2.00 per thousand Btu's (MBtu) of energy produced and sold. Beginning in the second year, the amount of the loan declines in each succeeding year, to zero at the end of the 5- or 7-year loan term. For example, with a 7-year loan, the payment in year 2 would equal the per unit value multiplied by 6/7; in year 3 the proportion delines to 5/7; etc. Repayment begins in year 8.

Related Regulations and Actions

Internal: Urban Waste Demonstration Facilities Guarantee Program (10 CFR 495).

Municipal Waste Reprocessing Demonstration Program Facilities Evaluation and Assessment Guidelines (10 CFR 492).

Loan Guarantee for Alcohol Fuels Biomass Energy and Municipal Waste Energy Programs (10 CFR Part 799), Proposed August 19, 1980.

External: None.

Active Government Collaboration

Environmental Protection Agency; Department of Commerce.

Timetable

NPRM (Phase 2)—November 1980.
Public Comment Period (Phase 1)—November/December 1980.
Final Rule (Phase 1 and 2)—January/February 1981.

Available Documents

NPRM (Phase 1)—45 FR 63822, September 25, 1980.

Public comments (Phase 1 public comment period was September/October 1980) and comments from Phase 1 public hearing (October 14, 1980) are available from Agency Contact.

Environmental Assessment, July 19, 1979; this document can be obtained from Room 1F–059, 1000 Independence Avenue, S.W., Washington, DC 20585, (202) 252–9397.

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DOE–CS

Standby Federal Emergency Conservation Plan (10 CFR 477)

Legal Authority

The Emergency Energy Conservation Act of 1979, Title II, P.L. 96–102, 93 Stat. 757, to be codified at 42 U.S.C. § 8501.

Reason for Including This Entry

The Department of Energy (DOE) issues this rule to conform to the requirements of the Emergency Energy Conservation Act of 1979 (EECA). The Standby Federal Emergency Energy Conservation Plan (the Federal Plan) is one element in the framework provided by EECA for a coordinated national response to a severe energy supply interruption.

State of Problem

Serious disruptions due to continued high dependence on insecure crude oil imports have occurred recently in the gasoline and diesel fuel markets of the United States. Because it is likely that such disruptions could recur, and urgent need exists for Federal, State, and local governments to establish emergency energy conservation measures for gasoline, diesel fuel, home heating oil (middle distillates), and other energy sources which may be in scarce supply.

The EECA, passed by Congress on November 5, 1979, provides the framework for national, statewide, and local responses to serve energy supply disruptions. Under the terms of the Act, if the President finds that a "severe energy supply interruption" exists or is imminent, or that actions are necessary to restrain domestic energy demand under the terms of international energy agreements, he may establish emergency energy conservation targets for the Nation generally, and for each affected energy source (e.g., gasoline). Within 45 days from the publication of the targets, the Act requires States to submit to DOE emergency conservation plans containing measures designed to meet or exceed the energy savings targeted by the President. Section 213 of the Act requires that DOE establish a Standby Federal Emergency Energy Conservation Plan containing measures designed to reduce the consumption of targeted energy sources. If, after a period of not less than 90 days, a State is not substantially meeting its target, and a shortage of 8 percent or greater of the targeted energy source will persist for an additional 60 days, the President may impose upon the State all or a portion of the measures contained in the Federal Plan.

Because the transportation sector accounts for almost one-half of the Nation's petroleum consumption, and the greatest potential for fuel savings within this sector is related to the use of passenger automobiles, DOE gave primary emphasis in the Federal Plan to measures which are designed to reduce the demand for gasoline and other motor fuels. However, DOE included one non-motor fuel measure (mandatory building temperature restrictions) because it has already demonstrated the potential for savings of 200,000 to 400,000 barrels per day of oil equivalent.

Several of the measures referred to above are interim final rules, while others are proposed rules. Included in the interim final rules are:

1. Public information measures, intended to inform motorists about fuel conservation actions they can take, including efficient operation and maintenance of vehicles, alternative means of travel, and trip planning. Additionally, the rules require gasoline station owners to have available working air pumps and tire pressure gauges and informative, prominently displayed signs regarding the energy efficiency of proper tire pressure;

2. Minimum automobile fuel purchase restrictions, which set forth restrictions on any minimum gasoline purchase scheme implemented under Federal authority (i.e., the minimum amount of gasoline which may be purchased for a vehicle with 8 or more cyclinders shall be $7.00, and for vehicles with fewer then 8 cylinders, the minimum amount shall be $5.00);

3. Odd-even motor-fuel purchase restrictions, which set forth restrictions on any odd-even gasoline purchase program adopted by the Federal Government;

4. Portions of the employer-based commuter and travel measure, which requires private and public employers of a certain size to undertake measures to encourage the use of energy-efficient modes of transportation by their employees in commuting to work;

5. Speed limit enforcement measures, which require States to increase immediately the compliance level for the 55 mph speed limit, and take additional steps to reduce speed limits depending on the severity of the shortage.

6. Mandatory temperature restrictions, which prescribe thermostat levels for heating, cooling, and hot water in most nonresidential buildings.

Included as proposed rules are:

1. Portions of the employer-based commuter and travel measure, including employer subsidization of employees' cost for mass transit, and "work-at-home" arrangements;

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2. The compressed workweek measure, requiring all but exempted Government and business activities to reduce their work week by one day; and

3. The vehicle use sticker measure, which prohibits the operation of certain motor vehicles on either one, two, or three preselected days of the week.

Most of the measures are much more intricate than can be captured in this brief analysis. DOE suggests the Federal Plan be read in order to gain a better appreciation of each measure. In addition to the demand reduction measures, the Federal Plan also contains a section which describes the contents, review, and approval of State emergency conservation plans.

Alternatives Under Consideration

The Act requires that DOE develop emergency conservation measures designed to reduce the public and private demand for certain fuels in the event of an energy supply emergency. The legislation also establishes criteria to judge the suitability of various measures for inclusion in the Plan.

Demand reduction measures may be implemented by Federal, State, or local government officials. Measures may be voluntary or mandatory, designed to achieve three goals: a reduction in energy use through a reduction in product or service output; improvements in efficiency which will reduce the energy required for the same output; and switching from a fuel in short supply to one that is more abundant.

DOE employed a systematic process in selecting demand restraint measures for inclusion in the Federal Plan. First, we analyzed the specific characteristics of U.S. energy demand in order to ascertain which sectors were likely to experience the most severe impact of an energy supply interruption. Next, we analyzed past shortages and devised demand restraint measures to meet a probable future shortage. We reviewed existing literature and surveyed the measures already in operation in various States to develop a catalogue of measures for inclusion in the Federal plan. Finally, we subjected these measures to an increasingly rigorous review to eliminate those which conflicted with statutory requirements. Other reasons for eliminating measures included their relatively minor energy savings, or their perceived unacceptable impacts on public health, the national economy, and the environment. However, some measures not selected for inclusion within the Federal Plan may well be appropriate for inclusion in State plans in States where they could result in significant energy savings and could be readily enforced. Examples of these measures are:

1. school schedule modification;
2. electricity end-user measures;
3. electric utility conservation measures;
4. commercial and industrial boiler efficiency improvements;
5. industrial and utility fuel switching;
6. reductions of lighting energy use; and
7. building insulation and weatherization measures.

Because the transportation sector accounts for nearly one-half of the Nation's average daily consumption of petroleum products, we targeted this sector for concentration in the Federal Plan. The greatest potential for fuel savings in transportation exists in the use of gasoline in passenger automobiles, which now account for more than 50 percent of all transportation energy consumption. For these reasons, all but one of the measures contained in the Federal Plan address the consumption of gasoline and motor fuels.

Summary of Benefits

Sectors Affected: All sectors of the economy, particularly transportation related industries; and the general public.

The benefits accruing from the Federal Plan are difficult to measure because it is a standby plan. We will implement it only after the States have been given an opportunity to develop and administer their own emergency conservation plans. The State plans may include elements of the Federal Plan. Publication of the interim final rule in February, 1980 has sparked an intense debate at all levels of government and the private sector as to the efficacy of various emergency conservation measures. It is clearly in the national interest that a standby plan be prepared so that our Nation will be able to respond within a coordinated framework to a severe energy supply interruption.

The average daily demand for gasoline in 1979 was just over 7 million barrels per day (BPD). Estimated energy savings (primarily gasoline) for the measures contained in the Federal Plan are:

Measure	Estimated reduction (in thousand BPD)
Public information	70–200
Minimum fuel purchase restrictions	Unknown
Odd-even purchase restrictions	Unknown
Employer-based commuting	55
Speed limit (the range indicated depends on the degree of enforcement and designated speed limits).	30–400
Compressed workweek	300
Building temperature restrictions (measured in barrels/oil equivalent).	200–400
Vehicle-use sticker (the range indicated depends on the number of non-driving days from 1 to 3).	265–1,350

Summary of Costs

Sectors Affected: All sectors of the economy, particularly transportation-related industries; and Federal and State government.

The actual costs associated with this plan depend on the extent of the energy shortfall, how long the shortfall lasts, and which of the standby measures are actually implemented. Implementation costs will be borne by all units of government as well as by the private sector. To give an indication of how much it might cost to implement portions of the standby plan in an energy shortfall, consider the following example. A minimal program to reduce gasoline consumption by 8 to 10 percent could include the public information, employer-based commuting, and 55 mph speed limit enforcement measures. We estimate that the costs to the Federal Government of implementing these three measures would total roughly $100 million.

Under the public information measure, gasoline station owners will be required to have available tire pressure gauges and operating tire pumps. According to the employer-based commuter and travel measure, employers over a certain size will be required to develop for each affected worksite a program to reduce work-related travel by employees. It should be emphasized that these substantial costs are incurred only in the event of an energy shortfall.

Administrative costs associated with developing State standby plans will total about $10 million.

Related Regulations and Actions

Internal: On July 16, 1979, the Emergency Building Temperature Restrictions became effective. The regulations, which prescribe heating and cooling limits for most nonresidential buildings, were extended until January 16, 1981 by Presidential Proclamation on April 15, 1980.

External: Many State Energy Offices have begun to design emergency conservation plans. We are encouraging States to submit plans to DOE prior to the actual publication of mandatory emergency conservation targets.

Active Government Collaboration

An interagency task force has been created to ensure that effective input from all Federal agencies is heard in the development of the Federal Plan. Included on this task force are representatives from the Departments of Defense, Labor, Agriculture, Health and Human Services, Transportation, and Commerce; the General Services Administration; and the Postal Service.

Timetable

Final Rule—DOE expects to publish the Final Rule in December 1980. The Final Rule may incorporate both the interim and the proposed rules.

Regulatory Analysis—will accompany Final Rule.

Available Documents

Standby Federal Emergency Energy Conservation Plan—Interim Final and Proposed Rules (10 CFR 477), published February 7, 1980.

Standby Federal Emergency Energy Conservation Plan Docket CAS–RM–79–507. Transcripts of all public hearings and supporting documents are available for review in the Freedom of Information Office. Correspondence should be addressed to: Milton Jordan, Director, Freedom of Information Office, Department of Energy, 1000 Independence Avenue, S.W., Room 5B–138, Washington, DC 20585.

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DOE–Economic Regulatory Administration

Amendments to Puerto Rican Naphtha Entitlements Regulations

(10 CFR Parts 211* and 212*)

Legal Authority

Emergency Petroleum Allocation Act of 1973, as amended 15 U.S.C. § 751 *et seq.*

Reason for Including This Entry

The regulation could have a significant impact on the competitive position of the Puerto Rican petrochemical industry in relation to its main competitors, the petrochemical producers on the United States mainland. Additionally, any increased entitlement benefits to this segment of the industry would result in corresponding increased crude oil costs to the domestic refining industry.

Statement of Problem

During the 1950s and 60s the Federal Government and the Puerto Rican government encouraged the development of a refining and petrochemical industry in Puerto Rico. Commonwealth Oil Refining Company (CORCO), Phillips, Sun, and Union Carbide were among the major firms that invested large amounts of capital in refinery facilities, based on the tax relief afforded by the Puerto Rican government and the allocation of substantial quantities of low cost foreign crude oil and naphtha (a volatile, colorless, distillate product between gasoline and refined oil) by the Federal Government. Both naphtha and crude oil are "feed-stocks" convertible into one or more end products in the process of refinery operations and petrochemical production.

Two major considerations governed the joint policy of the Puerto Rican and the Federal governments towards the establishment of this refining capacity. First, the policy was based on the availability of low-cost imported feedstock, particularly naphtha, which provided a cost advantage over petrochemical producers on the mainland. This advantage was needed to offset the higher shipping and other costs of starting up the industry in the relatively underdeveloped economy of Puerto Rico. A second major consideration was that the new refinery facilities would expand employment and provide Puerto Rico with fuel for manufacturing, transportation, and agriculture.

Since the 1960s, the petrochemical industry in Puerto Rico has grown to such an extent that it now contributes greatly to U.S. petrochemical capacity and to the economy of Puerto Rico. In 1977, petroleum-related industry in Puerto Rico contributed more than $2 billion to the island's economy, approximately one-third of its total income. In addition, 10 percent of U.S. petrochemical output is now located in Puerto Rico.

Despite these gains, Puerto Rican oil refineries have been severely affected by the world-wide increase in the price of imported crude oil, coupled with the imposition of price controls on domestic crude oil by the Federal Government. The combination of soaring prices for imported naphtha and crude oil, coupled with Federal regulatory policy which enabled mainland refiners to purchase cheaper domestic crude oil, has reversed the feedstock cost advantage that the Puerto Rican petrochemical industry formerly enjoyed. Mainland competitors now pay less for feedstocks than Puerto Rican refiners.

To lessen the competitive disadvantage to Puerto Rican companies of higher feedstock costs, the Federal Energy Administration (FEA) amended the entitlements program on July 20, 1976, to permit Puerto Rican petrochemical producers to receive entitlement benefits for imported naphtha feedstocks. (An "entitlement" is a credit given by DOE to a refiner, and is equivalent to the difference between the average (volume weighted) delivered cost per barrel of uncontrolled crude oil and the average (volume weighted) delivered cost per barrel of domestic price-controlled crude oil.) The maximum value of the per-barrel naphtha entitlement for any month cannot exceed the value of a single crude oil runs credit. Entitlement obligations are imposed on domestic price controlled crudes so as to raise their cost to that of comparable decontrolled crude oils. Each refiner receives a runs credit for every barrel of crude oil processed, which is the uniform distribution of entitlement monies collected. The entitlement credit, used in this manner, would reduce the price of purchased feedstocks. FEA determined that it would be inappropriate to grant the full crude oil entitlement benefit to naphtha imports in months when the differential between the prices of imported and domestic naphtha is less than that month's per-barrel crude oil runs credit. Accordingly, the rules the FEA adopted tie the entitlement credit for naphtha imported into Puerto Rico to the difference between the average (volume weighted) cost for imported naphtha and an imputed domestic naphtha price, divided by a modified crude oil runs credit (See § 211.67(d)(5)(iii)). This imputed value is set at 108 percent of the average (volume weighted) cost of crude oil to refiners. (It is necessary for the Government to impute this price because very little naphtha is sold domestically.)

These rules are now the responsibility of the Department of Energy (DOE), and are administered by the Economic Regulatory Administration (ERA) within DOE. DOE believes that two factors in the current regulations are causing problems: (1) the naphtha entitlement

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value is limited to a crude oil entitlement runs credit, and (2) the factor used to impute the domestic naphtha price is too low. FEA never expected that it would need to grant more than a full crude oil runs credit, since world naphtha prices historically have paralleled crude oil prices. However, during the last year, the prices for imported naphtha have increased much faster than those for crude oil. Further, ERA's review of current data on naphtha prices and crude oil costs show that the factor presently used to impute the domestic naphtha cost is much too low. As a result of these factors, approximate feedstock costs equalization of Puerto Rican petrochemical producers with their U.S. mainland competitors has not been achieved under the existing regulations.

In recognition of the problems facing the petrochemical industry in Puerto Rico, DOE's Office of Hearings and Appeals (OHA) has provided exceptional relief to two of the three petrochemical companies in Puerto Rico that import naphtha. This interim relief was given in order to provide the Economic Regulatory Administration (ERA) with sufficient time to address these issues through the rulemaking process. One firm has been granted relief that allows it to earn two entitlement runs credits for each barrel of imported naphtha run in its petrochemical plant, and the second firm is eligible for increased entitlements for each barrel of imported naphtha processed in excess of a certain monthly level.

Alternatives Under Consideration

DOE will consider several options for better calculating the imputed cost of domestically produced naphtha. The cost of naphtha to the mainland domestic petrochemical industry is a central issue in determining the appropriate level of price protection that should be afforded through the entitlement program to maintain a competitive petrochemical industry in Puerto Rico. These Puerto Rican producers find it difficult to compete with mainland domestic firms because the mainland firms have access to naphtha produced from lower cost domestic crude oils.

The possible approaches to imputing a domestic naphtha price that we are examining include:

- Retaining the current program of imputing a price based on domestic crude oils.
- Adopting a means of imputing the value of domestic naphtha based on its value as a major component in the motor gasoline pool.
- Calculating an imputed price for domestic naphtha by subtracting a fixed cost adjustment from the wholesale price of unleaded regular gasoline. The fixed cost adjustment would be derived by comparing wholesale gasoline and imputed naphtha prices (calculated according to the formula in the above alternative) during a recent 12-month reference period.
- Retaining the current approach of imputing a price based on domestic crude oils, but periodically changing the factor to reflect changes in world market naphtha prices.

In addition to examining changes in the ways of calculating the imputed cost of domestically produced naphtha, DOE has proposed increasing the maximum naphtha entitlement benefit to two run credits, rather than the single runs credit ceiling which currently applies.

Summary of Benefits

Sectors Affected: Puerto Rican petrochemical industry and economy; and users of naphtha derived petrochemicals.

Any of the alternative proposals should increase the competitive position of the Puerto Rican petrochemical industry with petrochemical producers located on the mainland. The Puerto Rican petrochemical industry maintains that if no regulatory changes are made to equalize their naphtha feedstock costs with those of firms operating on the Gulf Coast, they will be forced either to seriously trim their operations or incur large operating losses. In fact, one major Puerto Rican petrochemical plant has already closed. As we formerly stated, the development of refining and petrochemical facilities has had a great impact upon the economy of Puerto Rico. Thus, the proposed changes, in making the Puerto Rican petrochemical industry more competitive, would have a direct positive effect on Puerto Rico's economy.

The proposal should reduce the costs of naphtha-derived petrochemicals to U.S. consumers by a small amount.

Summary of Costs

Sectors Affected: Domestic petroleum refining industry; and U.S. consumers of petroleum products.

None of the proposed changes to the Entitlement Program will increase ERA's compliance or administrative costs. There will be no added reporting requirements for the petroleum industry. However, by allowing naphtha feedstocks imported into Puerto Rico to earn increased entitlement benefits, credits available to domestic refiners of crude oil are reduced. This would increase the cost of crude feedstock to domestic refiners and, in turn, this could result in a small price increase in oil products to U.S. consumers.

An increased naphtha entitlement value might also have the adverse effect of increasing the price of naphtha in the world marketplace.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Final Rule—December 1980.
Final Rule Effective—30 days after it is issued.

Available Documents

NPRM—45 FR 59818, August 28, 1980.
Draft Regulatory Analysis, September 4, 1980.
Public comments (public comment period ended November 10, 1980).

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DOE-ERA

Crude Oil Resales Pricing Revisions (10 CFR Parts 211* and 212*)

Legal Authority

Emergency Petroleum Allocation Act of 1973, as amended, 15 U.S.C. § 751 *et seq.*

Reason for Including This Entry

Apparent violations of price regulations by companies buying and reselling crude oil have received considerable attention from the media and the Congress. At the same time, members of the crude oil reselling industry have complained of inequities and ambiguities in the regulations affecting them.

Statement of Problem

With the exception of the group of resellers who entered into business after December 1977 (Class C), who are allowed a uniform maximum markup of 20 cents per barrel in accordance with a rulemaking issued July 29, 1980, firms are limited to the profit or loss experienced in a base reference period. Companies in existence in May 1973 (Class A) may earn the net (except for income taxes) per-barrel markup they earned in the month of May 1973.

Companies beginning business after May 1973 and before December 1977 (Class B) may earn the net per-barrel markup they earned in November 1977. With each Class A and Class B company setting its own Permissible Average Markup on the basis of sales in a particular month, one company earning an average of a few cents a barrel might be in violation, while another earning perhaps 50 cents per barrel might be in compliance. Average markups for the industry in recent years have been in the order of 9 cents to 14 cents per barrel.

A price-control system which allows a profit on each transaction is likely to encourage superfluous transactions. Investigations show that numerous "paper transactions" have been inserted in crude oil supply chains in order to lower average markups into compliance with the regulations.

Alternatives Under Consideration

Various uniform Permissible Average Markups ranging from 1 cent to 25 cents per barrel were proposed in an NPRM (October 1979). Comments were requested on the alternatives.

A Permissible Average Markup of 20 cents per barrel was proposed. This alternative would be consistent with the currenty regulatory scheme and would not require extensive revisions to the regulatory structure in the short period remaining for price controls, which will expire September 30, 1981. Thus, it would be less burdensome on the industry and would not require changes in industry practices. It would also be consistent with the 20 cent markup currently in effect for Class C resellers and would provide equitable treatment for all resellers. The allowable markup for Class C resellers is presently above the median average markup of 12–13 cents per parrel for Class A resellers in May 1973, where 99 percent of crude oil was resold at average markups of less than 20 cents per barrel. Therefore, we conclude that a 20-cent-per-barrel markup for Class A and Class B resellers to match Class C markups would be fair and compare favorably with historical average markups.

As an alternative to establishing a maximum average permissible cents-per-barrel markup, we have also proposed a maximum markup for each transaction. In addition, we proposed a low markup or no markup at all for transactions in which the reseller neither transported nor received crude oil into his storage facilities.

We have also proposed an alternative base period for Class B resellers which had no sales in November 1977. If a reseller came into business between May 1973 and November 1977, it would calculate its allowable permissible markup on the basis of November 1977 sales. If such a reseller had no sales in that month, there is no basis on which it would know whether it is in compliance with the regulations and no effective way they could be enforced against him. DOE's Economic Regulatory Administration (ERA) has proposed the last month prior to November 1977 in which the reseller sold crude oil as a substitute base period. This rule will be retroactive and will apply until uniform markups are specified by ERA.

Summary of Benefits

Sectors Affected: Crude oil wholesalers; petroleum refiners; and consumers of petroleum products.

Under the present regulations, each reseller of crude oil—except post-November 1977 firms affected by the amendment adopted on July 29, 1980—has its own individual price limitation. The complexity and inequity of this type of price control probably contributes to violations and makes enforcement difficult. Changing to a uniform markup limitation for all resellers will bring the benefits of clarity, simplicity, equity, and increased competition to the reseller industry. If competition allows, some crude oil resellers would increase profits. For buyers of crude oil and for ultimate consumers of petroleum products, there will be benefits if violations are reduced.

Administrative and enforcement costs to the Department of Energy will be lowered under a uniform markup regulation.

Summary of Costs

Sectors Affected: Crude oil resellers.

While adoption of a standard average permissible markup for all firms would allow some crude oil resellers to increase profits, others would bear costs if DOE requires them to reduce markups. However, under a 20-cent-per-barrel average allowable markup, probably markup increases by resellers constrained by the current regulations would be approximately matched by reductions by resellers with markups above 20 cents per barrel. The reason is that in the current moderately competitive market, few resellers realize their legal maximum net markup month after month.

In a fully competitive market, crude reseller price regulations would have little impact.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Final Regulatory Analysis—Fourth Quarter 1980.
Final Rule—December 1980.

Available Documents

NPRM—44 FR 62848, October 31, 1979.
Transcript of public hearings held December 6, 12, and 13, 1979.
Public comments on above NPRM.
Draft Regulatory Analysis.
ERA Docket No. ERA–R–79–48.
All documents are available in the DOE Freedom of Information Reading Room, Forrestal Building, Room 5B–180, 1000 Independence Avenue, S.W., Washington, DC 20585.

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DOE-ERA

Domestic Crude Oil Entitlements (10 CFR 211.67*)

Legal Authority

Emergency Petroleum Allocation Act of 1973, as amended, 15 U.S.C. § 751 *et seq.*

Reason for Including This Entry

This proposal has a significant economic effect; it would distribute the benefits of access to price controlled crude oil more equitably by reducing the post-entitlement cost differences between price-controlled (except Alaska North Slope controlled crude oil) and equivalent uncontrolled domestic crudes in Production Allocation for Defense Districts (PADDs) I–IV and PADD V. This would reduce the competitive advantage of refiners with access to above average proportions of controlled crudes in PADDs I–IV. This proposal would reduce the approximate $170 million cost advantage to refiners from refining controlled crudes in PADDs I–IV and reduce the approximate $45 million cost disadvantage to refiners for refining controlled crudes in PADD V.

Statement of Problem

The net cost of crude oil to a refiner is its delivered cost plus any entitlement obligation, less the runs credit. Entitlement obligations are imposed on price controlled crudes so as to raise their cost to that of comparable exempt

crudes. The runs credit is a uniform distribution of the money collected

recently declined, and these net cost

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be followed to assign unleaded gasoline to potential blenders. The only recourse

allocation of gasohol within a refiner's system.

difference in costs between imported and domestic crude) to alcohol

crudes. The runs credit is a uniform distribution of the money collected under the obligation and is applied to every barrel of crude oil processed by refiners in the United States.

The entitlements program is designed to equitably distribute the benefits of access to price-controlled crude oil. This is fully accomplished when the net costs of comparable price controlled and exempt crudes are equal. When first adopted in 1974, the entitlement program approximately equalized these net costs. Changes in relative market values of crude, due to restrictions on sulfur content in refined products, the reduced consumption of fuel oils, and foreign crude pricing and supply, no longer permit the equalization of net costs under the system adopted in 1974.

The net costs of controlled crudes have differed from the net costs of equivalent exempt domestic crudes, which are the most comparable to the price-controlled crudes. For example, in January 1980 the net cost of controlled crude was $6 to $9 less than that of equivalent exempt crudes in PADDs I–IV, and $2 and $4 more than the exempt crudes in PADD V. These differences had changed to $3 to $6 and $5 to $7 respectively by June 1980. In PADDs I–IV (essentially all of the United States east of the West Coast), the price controlled crudes had a total net cost approximately $170 million less than the net cost of an equivalent volume of exempt domestic crudes in that region. In PADD V (essentially the West Coast), the controlled crudes had a total net cost of approximately $45 million more than a comparable volume of exempt crudes in that region. These net costs differences are a measure of the degree to which the entitlements program does not accomplish equitable distribution of the benefits of access to price controlled crude oil.

Alternatives Under Consideration

We are developing a proposal to establish separate entitlement obligations for controlled crudes refined in PADD V and for those refined in PADDs I–IV. These separate obligations would equalize average controlled crude oil costs with average exempt domestic crude oil costs in each region, and achieve equitable distribution of the benefits of access to price-controlled crude oil.

In addition to the regional program, we are developing a proposed adjustment to the entitlement obligations in PADDs I–IV which would compensate for the price differences in high and low sulfur content crudes.

We are also considering taking no action at this time. Crude oil prices have recently declined, and these net cost disparities may be essentially removed by market actions. The traditional crude oil market, in which prices reflected differences in quality and location, may be restored. In that case, the domestic price disparities other than in PADD V would be essentially eliminated without changes to the entitlements program. Decontrol of price-controlled crude oil is also eliminating the impact of the disparity.

Summary of Benefits

Sectors Affected: Crude oil refiners; and marketers and consumers of petroleum products.

Refiners with below proportions of controlled crudes in PADDs I–IV and refiners of California, Nevada, Arizona, and Southern Alaska crudes in PADD V would obtain lower costs. Some marketers of products refined by these refiners may obtain lower costs, but the entire cost difference may not be passed on to these marketers as some refiners may not reduce selling prices. Similarly, reductions in costs to marketers may not be passed on to consumers.

Summary of Costs

Sectors Affected: Crude oil refiners; and marketers and consumers of petroleum products.

As the entitlements program redistributes costs among refiners, those firms that do not receive benefits incur costs equal to the total benefits. Therefore, all refiners other than those in the benefiting group would incur added costs. If market conditions allow, some of these added costs may be reflected in increased costs to marketers who in turn may increase prices to consumers.

The proposals do not require significant changes in data collection, reporting, or computation and should not impose any significant added administrative or enforcement burden on DOE or refiners.

Related Regulations and Actions

Internal: None.
External: None.

Active Government Collaboration

None.

Timetable

Public Comment Period—60 days following publication of NPRM.
Final Rule—January, 1981.

Available Documents

Regulatory Analysis—With NPRM.
NPRM—

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DOE-ERA

Gasohol Marketing Regulations (10 CFR Parts 211* and 212*)

Legal Authority

Emergency Petroleum Allocation Act of 1973, as amended 15 U.S.C. § 751 *et seq.*

Reason for Including This Entry

The Department of Energy (DOE) believes that amendments to the motor gasoline allocation and price regulations may be necessary to clarify the rights and responsibilities of refiners and marketers that enter the gasohol market. The amendments also are significant because of the degree of public interest in the further development of gasohol.

Statement of Problem

Gasoline supplies can be stretched further if increased use is made of gasohol, which is a blend of ethanol (a kind of alcohol) and unleaded gasoline. Because the ethanol in gasohol can be produced from domestic resources such as grain, the President has set increased use of gasohol as a national goal. This would reduce our dependence on foreign oil.

Existing Federal regulations on the allocation of motor gasoline control the distribution of gasoline in the United States. Price regulations control the methods by which (1) refiners allocate costs to gasoline in total and to individual grades of gasoline, and (2) marketers set selling prices for petroleum products. Unless these rules are appropriate to the growth of the gasohol market, it will be difficult for new and existing businesses to plan production and distribution of gasohol. Therefore, DOE is considering amendments to the regulations which will clarify the criteria under which DOE will assign supplies of unleaded gasoline to blenders for gasohol production, clarify the responsibilities of gasohol producers in marketing gasohol pursuant to the regulations, and amend the methods by which refiners must allocate ethanol costs and marketers set prices for gasohol.

The current regulations do not specify criteria to be employed or procedures to be followed to assign unleaded gasoline to potential blenders. The only recourse under the current regulations is to apply for an exception through DOE's Office of Hearings and Appeals (OHA). As the gasohol market grows, this approach may be an inappropriate device to deal with increasing numbers of applications by prospective gasohol blenders. Furthermore, unless the allocation regulations were amended, gasohol marketers would have to assume that gasohol would have to be allocated by applying the regulations to the unleaded gasoline which constitutes 90 percent of the gasohol blend. This, however, may be entirely inappropriate to the development of a strong and viable market for this product. Finally, application of the current refiner price rules to gasohol requires that the refiners allocate ethanol costs among all barrels of a grade of gasoline (e.g., unleaded regular gasoline). To the extent that the costs associated with blending and marketing gasohol must be attributed to other grades of gasoline and cannot be recovered in the price of gasohol alone, a disincentive exists for refiners to enter the gasohol market. Correction of these problems would supplement the strong position previously taken by DOE in support of the development of gasohol.

Alternatives Under Consideration

(A) DOE could do nothing at this time, in which case the Office of Hearings and Appeals would still provide an avenue of relief for firms entering the gasohol market. But there are major disadvantages in inaction, including continued uncertainty over rules applicable to gasohol, possible unleaded gasoline supply dislocation, and a possibly unmanageable caseload for OHA.

(B) Deregulation of gasohol must be considered as an alternative, since price and allocation controls on motor gasoline will expire on September 30, 1981. This would allow gasohol blenders and marketers to compete in the market for the unleaded gasoline blend stocks they need to mix with ethanol and would not require a large bureaucracy to implement. However, deregulation of unleaded gasoline for gasohol blending suggests enforcement problems with other unleaded gasoline continuing under controls.

(C) DOE could amend the allocation and price regulations to provide for an appropriate passthrough of ethanol costs to gasohol, specify the criteria by which DOE will assign supplies of unleaded gasoline to a potential gasohol marketer, and create new provisions for the allocation of gasohol within a refiner's system.

Summary of Benefits

Sectors Affected: Gasohol refiners, ethanol producers, gasohol marketers, retailers, and users; and the general public.

Allocation of unleaded gasoline for blending with ethanol to produce gasohol could provide a regulatory framework within which ethanol fuel production could increase, perhaps from the present 60 million gallons per year to as much as 300 million gallons per year by 1982. Gasohol use may eventually reach 3 billion gallons per year, or 3 percent of present gasoline consumption, as a result of this and other measures. In addition, use of gasohol would also reduce dependence on foreign oil (see the Report of the Alcohol Fuels Policy Review, DOE, June 1979).

Summary of Costs

Sectors Affected: Refiners which manufacture unleaded gasoline; resellers and retailers marketing those refiners' unleaded gasoline production; ethanol producers; and gasohol consumers in some areas.

Allocation of unleaded gasoline to gasohol blenders reduces the amount of unleaded gasoline available to other distributors. Because we expect ethanol production and blending to occur primarily in the Midwest, near resources to produce ethanol, this rule could result in a shift of gasoline supplies to the Midwest at the expense of other regions. DOE has not yet determined whether the gasohol, once blended, would flow back to the regions affected by reduced gasoline supplies. However, since the proposed amendments are expected to serve largely as a codification of certain procedures, or modification of those procedures, which are now undertaken by the Office of Hearings and Appeals to avert these costs, we are unable to state definitely that direct costs will occur or, if so, in what magnitude.

Related Regulations and Actions

Internal: DOE has already provided certain price incentives for the marketing of gasohol. DOE price regulations permit gasohol resellers and retailers to pass through as product costs the cost of nonpetroleum-based alcohol blended with gasoline (45 FR 20104, June 13, 1980). DOE has also issued a rule to permit refiners to allocate all of the costs of alcohol among the various grades of gasoline (44 FR 69594, December 5, 1979). DOE has issued a rule offering an entitlement benefit (a payment related to the difference in costs between imported and domestic crude) to alcohol producers of ethyl alcohol derived from biomass that is blended with gasoline for use as fuel (44 FR 63515, November 5, 1979). An Environmental Assessment (EA) has been prepared and published for public comment (45 FR 44961, July 2, 1980). On the basis of the Environmental Assessment, DOE has made a finding of no significant impact and determined that it is unnecessary to prepare an Environmental Impact Statement in conjunction with this rulemaking.

External: Gasohol marketing is encouraged by the National Energy Act motor fuel excise tax exemption on gasoline/alcohol blends, which is worth 4 cents per gallon of gasohol (at a 9 to 1 ratio) and 40 cents per gallon of ethanol if blended with gasoline. This is equivalent to $16.80 per barrel of ethanol. This exemption will continue through the year 1992 under the terms of the Crude Oil Windfall Profits Tax Act (P.L. 96–223, April 2, 1980, § 232(a)). Provisions of various State governments permit whole and partial exemptions from State motor fuel taxes for gasohol, in an attempt to ensure that gasohol is competitively priced.

Active Government Collaboration

DOE is cooperating actively with the Alcohol Fuels Commission on this issue.

Timetable

Final Rule—Fourth quarter, 1980.
Final Rule Effective—30 days after final rule issuance.

Available Documents

Regulatory Analysis (DOE/RG–0032).
Environmental Assessment (DOE/EA–0107).
NPRM—45 FR 34846, May 22, 1980.
Draft Analysis issued May 1980 (DOE/RG–0032).
Environmental Assessment—(DOE/EA–0107), 45 FR 44961, July 2, 1980.
Transcript of Public Hearing—Washington, DC, July 8 and 9, 1980; Des Moines, Iowa, June 23, 1980.

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DOE-ERA

Maximum Lawful Price for Unleaded Gasoline (10 CFR 212.83*)

Legal Authority

Emergency Petroleum Allocation Act of 1973, as amended, 15 U.S.C. § 175 *et seq.*

Reason for Including This Entry

These proposed regulations could have an annual economic effect of over $180 million.

Statement of Problem

The present regulations may contribute to unleaded gasoline price differentials between refiners which may lessen the competitiveness of independent marketers. Also, the current rules may encourage refiners to market a premium unleaded gasoline with an unnecessarily high octane although the production of an unnecessarily high octane gasoline is economically inefficient. Also, lack of a satisfactory higher unleaded octane gasoline could lead to fuel switching and contribute to unnecessary pollution of the environment.

Generally, under the current price regulations, the maximum lawful price refiners may charge for unleaded gasoline is the May 15, 1973, selling price of unleaded gasoline plus increased product and nonproduct costs. If a refiner did not sell unleaded gasoline on May 15, 1973, or 30 days prior thereto, as was the case for most refiners, the maximum lawful selling price is imputed. This imputed selling price is the weighted average selling price charged for leaded gasoline on May 15, 1973, of the same or nearest octane as the unleaded gasoline, plus one cent.

Experience has shown that some automobiles do not function satisfactorily on the minimum required grade of unleaded gasoline, 87 octane (R+M)/2

(Research Octane Number + Motor Octane Number)/2.

Research shows that a 90 octane (R+M)/2 unleaded gasoline would meet the requirements of almost all of these automobiles. However, a refiner newly marketing this grade would have a base price which still would be imputed from the May 15, 1973 selling price of the nearest octane leaded regular grade of gasoline. The current regulations encourage a refiner to increase the unleaded gasoline octane to bring it nearer to the premium leaded grade, generally 94 octane (R+M)/2, sold on May 15, 1973. By consuming more crude oil than is necessary, this increase, which will vary among refiners based on their refining capabilities, is wasteful and unnecessarily expensive to refiners and thus to motorists.

For most refiners, the comparable leaded grade to 90 octane (R+M)/2 was their "regular" leaded grade of gasoline, usually 89 octane (R+M)/2. However, some refiners were marketing a subregular grade whose octane was closer to the minimum unleaded grade and, in at least one instance, a refiner was marketing only a premium leaded gasoline. Those refiners with actual May 15, 1973 sales of unleaded gasoline generally had actual base prices which were higher than those imputed by other refiners, making their prices for unleaded higher.

This proposal would tend to remove inequities imposed by the prior regulations by decreasing base price differentials for unleaded gasoline among refiners and thus improve the competitive positions of independent marketers by removing price disparities in their purchase price.

Alternatives Under Consideration

The proposal provides for two alternatives for refiners to calculate a price for unleaded grades of gasoline. One proposal would recognize the higher cost of improving unleaded octanes by permitting refiners to allocate increased costs to different grades of unleaded gasoline at their discretion. Under current regulations, refiners may not automatically treat new grades of unleaded gasoline as separate product categories. DOE believes that the proposal will remove the disincentive for the introduction of new grades and will encourage the production of unleaded gasoline with more efficient octane ratings. Firms that introduce new grades of unleaded gasoline will automatically be permitted the pricing flexibility to apportion increased costs as the refiners deem appropriate to meet market conditions. This approach would not provide any additional potential revenues because it involves the reallocation of product and non-product costs. It would not provide any additional incentive to refiners to market a higher grade of unleaded gasoline.

The second alternative offers several options for refiners to use in establishing a higher base price for octane increases over the minimum required grade of unleaded gasoline. We based these options on the assumption that a higher base price, which includes a profit element, is necessary to encourage production of a premium unleaded gasoline. The rationale for stimulating this production is that motorists requiring this grade will otherwise purchase a higher octane grade of leaded gasoline and increase air pollution. Any of the base price increase options, however, are less costly by .5 to 1 cent a gallon to the public than the present regulation would be if the refiner needlessly raised the unleaded octane to benefit from higher premium leaded gasoline base prices under the present regulation. These options remove the disincentive for the production of unleaded gasoline with octane ratings close to the regular leaded gasoline sold on May 15, 1973 because current regulations require that the imputed selling price for such unleaded be calculated on the basis of the lower priced, lower octane leaded gasoline.

Summary of Benefits

Sectors Affected: Refiners, resellers, retailers, and consumers of unleaded gasoline; and the general public.

The effect of the proposed changes would be to decrease base price differentials for unleaded gasoline among refiners. This should translate into prices to independent marketers and resellers which are more comparable to prices being charged by other marketers and contribute to the improvement of their competitive positions. In addition, motorists should have a second grade of unleaded gasoline available at a lesser price than would otherwise be the case if they purchased an octane that is unnecessarily high. The availability of the second, higher octane grade may help prevent misfueling (the switching of a regular grade for an unleaded one) and the resultant pollution of the air. Misfueling occurs because motorists desire a higher octane gasoline to improve engine performance. The Environmental Protection Agency (EPA) contends that misfueling significantly contributes to air pollution.

Summary of Costs

Sectors Affected: Refiners, resellers, and retailers of unleaded gasoline.

The proposed changes could result in no increased costs to the consumer. Additional information is required to confirm this and will be incorporated, if a final rule is adopted, in a final Regulatory Analysis. We currently believe that the proposed revisions will be less costly to the public than the present regulations and that they will restrain potential waste of petroleum products.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Final Rule—December 1980.
Final Regulatory Analysis—Fourth Quarter, 1980.

Available Documents

NPRM—45 FR 54694, August 15, 1980.
Public comments on above NPRM, and comments from public hearing (September 11, 1980).
All documents are available in the DOE Freedom of Information Reading Room, Forrestal Building, Room 5B–180, 1000 Independence Avenue, S.W., Washington, DC 20585.
Draft Regulatory Analysis—August 1980.

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DOE-ERA

Motor Gasoline Allocation Regulations Revisions (10 CFR Part 211*)

Legal Authority

Emergency Petroleum Allocation Act of 1973, as amended, 15 U.S.C. § 751 *et seq.*

Reason for Including This Entry

The Department of Energy (DOE) motor gasoline allocation program has a significant influence on the energy sector of the Nation's economy. Changes to the overall regulatory scheme can have potential impacts upon every level of supply down to retail outlets and their customers. In addition, if the changes we propose succeed in reducing gasoline lines at retail stations during any future supply shortages, motorists will benefit as they will lose less time from work and waste less fuel waiting in lines.

Statement of Problem

DOE's Mandatory Petroleum Allocation Regulations apply to all domestic transactions in motor gasoline. The regulations operate to allocate the product to historical purchasers as measured during the base period of November 1977 through October 1978. Where supplies are inadequate to meet base period obligations, suppliers are required to recognize certain priority uses and to apply prorated reductions equitably among their customers.

Motor gasoline markets are constantly changing to reflect new marketing techniques, evolving consumer preferences, improvements in efficiency, and competitive advantages among firms. In this context, a rigid allocation system based on historical relationships cannot respond smoothly to recent shifts in demand, and this can result in inadequate allocations of gasoline to areas of greatest need. The principal means to reflect such shifts and changes in marketing practices are contained in procedures available under the program for allocating gasoline to new retail outlets and increasing allocations to existing firms. Additional flexibility is available through the program's State set-aside provisions, under which State Governors are authorized to allocate up to 5 percent of gasoline delivered to the State to meet emergency supply conditions. The allocation program also permits large or "prime" suppliers to a State to redirect a portion of supplies to areas in need as they see fit. However, the evidence to date suggests that these provisions have not been used to equalize regional impacts resulting from localized shortfalls.

A further contributing factor relating to regional supply disparities that have been experienced has been the relative differences in suppliers' allocation fractions. The allocation fraction is the primary measure of a supplier's ability to meet the needs of its historical customers. Each month, a supplier is required to offer to its historical purchasers a volume of gasoline equal to the volume purchased during the same month of the November 1977 through October 1978 base period. When a supplier's total available supply is less than its total obligations, the firm must reduce on a pro rata basis the amount supplied to its non-priority purchasers by the application of an allocation fraction. The numerator of the allocation fraction represents a supplier's allocation supply less obligations to priority use customers and State set-aside volumes. The denominator represents the supplier's base period obligations. If the allocation fraction is less than 1.0, all purchasers whose allocation level is subject to the fraction are offered only that portion of their base period volumes.

During the 1979 summer driving season, 18 States and the District of Columbia experienced moderately severe or severe gasoline lines at the retail level, according to DOE's Energy Liaison Center. The available evidence suggests that gasoline lines and apparent shortages at the retail level occurred mainly in densely populated urban and suburban areas. These areas appear most prone to gasoline lines because travel and gasoline demand paterns appear to have actually shifted during the generalized shortfall that occurred in 1979. This shift apparently was the result of reduced inter-city travel and travel to vacation and other rural areas by motorists who became concerned about the availability of gasoline. There was relatively less of a reduction of driving within urban regions where a lower percentage of the driving is discretionary.

Our tentative view is that if the present allocation system remains unchanged, the same parts of the Nation which suffered most of the gas lines in 1979—mainly urban areas—may again experience lines during a future supply shortage. To date, the allocation system has not provided sufficient flexibility to respond to these apparent demand shifts, and motorists in urban areas have had to bear a disproportionate share of the hardships associated with gasoline shortages.

On June 6, 1980, an NPRM was issued presenting for public comment alternative proposed revisions to the motor gasoline allocation program (45 FR 40078, June 12, 1980). The pending rulemaking proceeding is intended to identify and explore the extent of such inequities and to provide a public forum to consider the merit of proposed alternative revisions. This rulemaking proceeding is based upon a belief that it is prudent to identify and explore various options for improving the ability of our regulations to minimize the adverse effects of future shortages experienced at the retail level.

In addition, we have also become aware of certain unintended effects of our regulations. We are concerned that certain independently operated retail stations may be experiencing competitive difficulties as a result of their relative inability to obtain increased allocations for increased demand as easily under our regulations as many wholesaler- and refiner-operated stations. The pending proceeding is also intended to identify and explore the extent of such inequities and to provide a public forum to consider the merit of proposed alternative revisions.

Alternatives Under Consideration

Each of the alternative proposals that has been offered is being explored thoroughly and extensive opportunity for public comment and discussion will be provided. On the basis of full consideration of each, DOE may determine to adopt some or all of the following proposals, or may determine

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that no action is warranted and terminate the proceeding.

Among the possible alternative regulatory changes that have been proposed are:

(A) More restrictive standards for making allocation assignments for new retail service stations and methods of limiting present interim supply procedures.

(B) More equitable standards for making allocation adjustments to existing service stations.

(C) Increased flexibility for refiners and retail marketers to shift volumes within their own distribution system in response to changing demand.

(D) Clarification of existing regulations to authorize State set-aside officials in emergencies to require a supplier of one brand of gasoline to deliver gasoline to other firms selling a different brand in order to meet emergency supply conditions.

(E) Authorization of resellers supplying more than one brand to maintain and base deliveries on separate allocation fractions.

(F) Substitution of an improved mechanism for providing allocations to geographic areas that have experienced unusual growth.

(G) Increased authority for State Governors to require intrastate redirection of gasoline in order to meet emergency supply conditions.

(H) Designation of vehicle leasing firms as consumers rather than resellers of gasoline (for purposes of the allocation regulations only).

Summary of Benefits

Sectors Affected: Refiners producing gasoline; wholesale and retail gasoline suppliers; wholesale and retail gasoline purchasers; and State governments.

The objective of the pending proposals to revise the allocation regulations is to reduce the distortions that may be occurring as a result of the program's inability to respond to long-term and temporary demand shifts. All of the identified sectors affected can benefit from improvements in the regulatory scheme that permit competition to direct supply toward demand. The qualitative benefits of adopting several of the proposed alternative revisions described above (A–H) are summarized briefly as follows:

(A) and (B)—The proposals to restrict new station access to increased allocations of gasoline and to expand existing station access to increased allocations would tend to alleviate apparent inequities being felt by certain independent gasoline station dealers under the current provisions. These changes would grant access to increased supplies to these groups on an equal basis and would tend to lend to increased economic efficiencies. The changes would remove a disincentive that may currently exist against upgrading and improving existing retail stations. This would lead to lower cost operations at the retail level and ultimately to lower prices paid by consumers. Adoption of these proposals would also introduce increased competition among firms operating at the retail level and remove any artificial advantages that the current program makes available to firms in a position to enter a market by constructing new stations.

(C)—The proposal to permit refiners and other retail marketers increased flexibility to shift allocations within their own distribution systems would enhance these firms' ability to respond to demand changes since the base period. Added flexibility to respond to real changes in the marketplace could contribute to more efficient distribution systems and decreased costs.

(D) and (G)—The proposals to authorize State officials in implementing the State set-aside program to require suppliers to make the product available to firms operating under a different brand and to order refiners to redirect gasoline supplies could improve the capability of the set-aside program to respond to emergency supply conditions. Currently, many States have adopted branding laws that prohibit such "cross branding" and the proposal would apply only to States that have no such restrictions. The increased flexibility provided to States under the proposals could be useful in resolving unusual or extreme supply problems.

(E)—The proposal to authorize wholesalers that supply more than one brand of gasoline to maintain separate allocation fractions would provide added flexibility to such firms under the program. Currently, firms supplied by more than one brand must apply a uniform allocation fraction to all purchasers irrespective of brand. Under the proposal, such firms would be permitted to place their customers on separate allocation fractions according to brand of gasoline. If adopted, this proposal would tend to relate a firm's supply condition as measured by the allocation fraction to the actual supply position of the ultimate refiner whose brand is associated with its gasoline products. This would operate to make the allocation program more in line with actual supply conditions among firms and could thereby tend to reduce the artifical effects of the regulatory program.

(F)—The proposal to modify the currently available adjustment to reflect unusual growth could, if adopted, correct a seasonal bias that may be present. Whether the correction would be worth the administrative costs associated with this change, however, is not clear.

(H)—The proposal to reclassify vehicle leasing firms as consumers rather than as resellers under the allocation program would tend to conform with the actual business fractions of such firms and enable them to obtain adequate supplies of unleaded gasoline for their essentially new car fleets.

Summary of Costs

Sectors Affected: Refiners producing gasoline; wholesale and retail gasoline suppliers; wholesale and retail gasoline purchasers; and State and Federal government.

(A) and (B)—The proposals to restrict new station access to increased allocations and to expand existing station access to increased allocations could disrupt supplier/purchaser relationships and entail added administrative costs among the identified sectors affected and the Federal Government. It is estimated that granting to existing service stations the opportunity to apply for increased allocations could contribute significantly to administrative costs of DOE Regional Offices processing such applications. It is estimated that a 25 percent increase in regional staff may be required to respond to existing station applications.

(C)—The proposal to permit refiners and other retail marketers increased flexibility to reassign allocations within their own distribution systems could result in increased administrative costs to such firms in accounting for changed allocations. Some suppliers may be in a position to use the flexibility to exert competitive pressure on other firms within a market. To some extent, this is a benefit that, if abused, could lead to increased concentration.

(D) and (G)—The proposals to authorize State officials to assign suppliers to make the product available to firms operating under a different brand and order refiners to redirect the product to respond to emergencies within their States would also add needed flexibility during a shortage. If exercised, the cross branding authority could be inconsistent with the brand identity objectives of larger firms. Motor gasoline, however, tends to be a readily exchangeable product and making this

authority available to States in an emergency could be a benefit to respond to a gasoline shortfall within a State.

(E)—The proposal to authorize wholesale purchaser-resellers that supply more than one brand of gasoline to maintain separate allocation fractions could grant supplier flexibility that could be used to the detriment of those of his purchasers who do not sell a major branded product. Possible effects of discrimination among such firms' non-branded purchasers are being examined and compensating limitations are under consideration.

(F)—The proposal to modify the current unusual growth adjustment could entail significantly increased administrative costs to suppliers and purchasers of gasoline and to the DOE. The large number of base period relationships that could be affected by the new provisions could result in significant disruptions that may not be worth the mitigating effects of the proposal modification.

(H)—The proposal to classify vehicle leasing firms as consumers of gasoline under the allocation regulations could potentially affect a large number of base period relationships. The modification, if adopted, would have little or no impact on the supply rights of these firms except for unleaded gasoline entitlements during a severe shortage. Otherwise, the modification should result in minimal increased administrative costs.

Related Regulations and Actions

Internal: An NPRM entitled "Motor Gasoline Allocations; Adjustments and Downward Certification" (44 FR 69962) was issued on December 5, 1979. On April 28, 1980, DOE issued a notice of intent not to adopt as a final rule its principal proposal on downward certification. A draft Regulatory Analysis was published at 45 FR 58788 (September 4, 1980). The alternative proposals remain under consideration.

External: None known.

Active Government Collaboration

DOE is actively cooperating with the Small Business Administration in the portions of this proposal concerning assignments for new retail outlets and adjustments for existing retail outlets.

Timetable

Final Rule—December 1980.
Final Rule Effective—30 days after issuance.

Available Documents

Draft Regulatory Analysis (DOE/RG–0037).
NPRM—45 FR 40078, June 12, 1980.
Public comments (hearings held July 17, 21, 24, 28, 29 in Atlanta, Kansas City, San Francisco, Washington, D.C.).

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DOE-ERA

Motor Gasoline—Downward Certification (10 CFR 211.107*)

Legal Authority

Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*

Reason for Including This Entry

This proposed rulemaking is of great public interest; it will examine possible revisions to the Mandatory Petroleum Allocation Regulations that could improve the capacity of the gasoline marketplace to distribute available supplies in an equitable manner during a shortage. The pending proposals present alternative provisions that would require certain wholesalers of gasoline to report or certify to their suppliers reductions in their supply obligations attributable to closed service stations or other customers they previously supplied.

Statement of Problem

Under the allocation program, DOE determines a wholesaler's allocation entitlements by referring to the firm's purchases during a historical base period, which is currently November 1977 through October 1978. When a wholesaler's base period allocation obligations are increased by an Economic Regulatory Administration (ERA) assignment or adjustment, the firm may adjust upward its allocation entitlements by certifying to its suppliers the corresponding increase. However, when a wholesaler's obligations decrease because a relationship with a base period purchaser is terminated (e.g., a retail outlet it supplies goes out of business), there is no equivalent mandatory procedure to certify to its suppliers the corresponding decrease, except where previous upward adjustments have been granted to the firm.

The downward certification proposals are designed to assure that a wholesaler's entitlements from suppliers match more closely the firm's actual obligations to its purchasers under the program. The changes proposed are intended to restore this balance and to resolve the distortions the absence of a downward adjustment is having on the program's effectiveness as a measure of actual supply conditions.

Alternatives Under Consideration

On November 30, 1979, an NPRM (44 FR 69962, December 6, 1979) was issued presenting several alternative downward certification proposals. After reviewing the extensive public comments received on the alternative proposals, ERA announced on April 21, 1980 that it would not adopt the principal proposed provision and that the rulemaking proceeding would be continued to consider the merit of adopting the alternative proposals (45 FR 28148, April 28, 1980). The alternative proposals remain under consideration, and on August 28, 1980, ERA issued a draft Regulatory Anaylsis of the alternative proposals (45 FR 58788, September 4, 1980). The alternative proposals under consideration are as follows:

The first would require downward adjustment only as a condition precedent to receiving an allocation increase. Under this alternative, certain wholesalers referred to as "wholesale purchaser-resellers" under the regulations would not be required to decrease their allocations when their supply obligations decrease except to the extent that they wish to certify allocation increases to their suppliers.

The second would require adjustments to reflect an allocation decrease when retail outlets close but would not require an adjustment to reflect an allocation decrease when a reseller is relieved of its obligation to supply certain wholesale or bulk purchaser customers.

The third would require a wholesaler to report a decreased obligation only when a supplier's base period obligations are assumed by another supplier in accordance with the regulations. To a varying extent, ERA requires applicants to account for the reduced obligation when its Regional Offices approve applications for such reassignments.

The fourth would require a wholesaler to report a decreased allocation obligation only for decreased obligations due to station closings that occurred subsequent to the end of the current base period.

The fifth would apply prospectively from the date of the adoption of a final rule. Under this alternative, wholesalers would be required to report to their suppliers decreased allocations for lost business occurring in the future.

In connection with these alternatives, ERA stated that none are mutually

Summary of Costs

Sectors Affected: Refiners producing

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users in the highest priorities and interruptible, large-volume, industrial

outside the scope of the curtailment priority system itself, must work in

Although this updating process may give a more current picture of the end-

In connection with these alternatives, ERA stated that none are mutually exclusive, and that features from more than one alternative could be included in a final rule.

Summary of Benefits

Sectors Affected: Wholesale and retail gasoline suppliers; and wholesale and retail gasoline purchasers.

If adopted, a procedure that would require wholesalers to notify their suppliers of reduced needs by certifying a downward adjustment in the allocations of gasoline would tend to restrict the present ability that some wholesalers have under the rule to increase their share of a market solely by a complex manipulation of the allocation regulations. One objective of the allocation program is to minimize interference with market mechanisms and this may be frustrated in cases where wholesaler expansion is permitted beyond that which would occur in a free market. In the context of a generally fixed amount of available supply, the increases that some wholesalers are able to obtain under the present rules may often be made at the expense of existing retail outlets that have no comparable means of obtaining allocation increases. No action in this proceeding would continue the favorable treatment wholesalers receive, and this could, over the long term, contribute to economic inefficiency. The adverse impacts on the independent retail segment of the market would also continue.

A downward certification procedure would reduce wholesalers' flexibility to shift allocation volumes within markets and divert the product unlawfully to purchasers having no allocation entitlements under the regulations.

These restrictions would operate to contain motor gasoline within the allocation program and thereby assure that the product is available to firms having supply rights under the program. Adoption of a downward certification requirement could increase the allocable volumes of motor gasoline to certain independently operated retail service stations.

The various proposed downward certification provisions that are under consideration are being reviewed in conjunction with the pending revisions to the motor gasoline allocation programs as set forth in the **Calendar** entry herein entitled "Motor Gasoline Allocation Revisions (10 CFR Parts 205 and 211.)"

Summary of Costs

Sectors Affected: Refiners producing gasoline; wholesale and retail gasoline suppliers; and wholesale and retail gasoline purchasers.

Administrative costs to affected wholesalers, suppliers of wholesalers, and the ERA would be increased if a procedure were adopted to require wholesalers to report and certify to suppliers decreases in supply obligations attributable to closed service stations and other lost accounts. Wholesalers subject to such reductions would lose their flexibility under the present program to shift product to areas experiencing stronger demand, and this could lead to distortions and inefficiencies in the marketplace. Adoption of such a procedure would also restrict certain wholesaler increases in market share that have been occurring as a direct result of the absence of a downward certification procedure. Some costs could be associated with this result because an expanding independent marketing segment can operate to assure that competition achieves its goal of improving distribution of supplies and restraining price.

Related Regulations and Actions

Internal: An NPRM entitled "Motor Gasoline Allocation Regulations Revisions" was issued on June 6, 1980 (45 FR 40078). These proposals remain under consideration and any action taken thereon may take into account possible aspects of the downward certification proceeding.

External: None.

Active Government Collaboration

None.

Timetable

Final Rule—To be determined.
Final Rule Effective—30 days after issuance.

Available Documents

Draft Regulatory Analysis (45 FR 58788, September 4, 1980).

NPRM—44 FR 69962, December 6, 1979.

ERA decision to continue rulemaking proceeding to consider merit of adopting alternative proposals (45 FR 28148, April 28, 1980).

Public comments on NPRM and comments on public hearings (January 31 and February 1, 1980).

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DOE–ERA

Natural Gas Curtailment Priorities for Interstate Pipelines (10 CFR Part 580*)

Legal Authority

Natural Gas Act, 15 U.S.C. § 717 *et seq;* Natural Gas Policy Act of 1978, §§ 401, 402, 403, 15 U.S.C. §§ 3391–3393; Department of Energy Organization Act, §§ 301(b), 402(a)(1)(E), and 501, 42 U.S.C. §§ 7151(b), 7172(a)(1)(e), and 7191; E.O. 11790 (39 FR 23185), E.O. 12009 (42 FR 46267).

Reason for Including This Entry

The Department of Energy Organization Act (DOE Act) makes the Secretary of Energy responsible for reviewing and establishing natural gas curtailment (rationing) priorities. This rule will implement the curtailment priorities established by the Natural Gas Policy Act (NGPA) and will address, as indicated by our review, any other changes we determine to be necessary. We are including this rule because of its potentially far-reaching effects on interstate pipelines and local distributors and their natural gas customers.

Statement of Problem

Natural gas curtailment priorities deal with the manner in which natural gas will be allocated to customers of interstate pipelines when there are supply or capacity shortages. Under the DOE Act, the Secretary of Energy is responsible for establishing and reviewing priorities for curtailments. The Secretary of Energy has delegated this authority to the Administrator of the Economic Regulatory Administration (ERA). Under the DOE Act, the Federal Energy Regulatory Commission (FERC) administers and implements the curtailment policies developed by the ERA.

Historically, FERC's predecessor, the Federal Power Commission (FPC), had exclusive Federal jurisdiction under the authority of the Natural Gas Act (NGA) for curtailment of natural gas in interstate pipelines. The FPC dealt with curtailment of natural gas on a case-by-case basis. From the rulings issued in these cases by the FPC, a priority system developed which ranked end-users of natural gas from high (last to be curtailed) to low (first to be curtailed). The FPC priority system generally placed residential and small commercial users in the highest priorities and interruptible, large-volume, industrial users in the lowest, first-curtailed priorities.

Several considerations shaped FPC's approach to the curtailment priority system: first, the importance of gas used to protect health, safety, and other human needs; second, the operational difficulty of physically cutting off or reducing service to residential and small commercial customers; third, the differences in the costs that different kinds of end-users would experience in converting to an alternate fuel.

This review and rulemaking process will implement the provisions of the NGPA that mandate the establishment of certain curtailment priorities. Additionally, the rulemaking provides an opportunity for review of gas curtailment priorities, adopted by the FPC in 1973, in light of current circumstances and requirements.

Specifically, the review of curtailment priorities has focused on the following:

(1) High priority and essential agricultural uses. Section 401 of the NGPA requires the Secretary of Energy to prescribe a rule restricting interstate pipelines from curtailing the requirements of "high priority users" (e.g., schools, hospitals, residences) and of essential agricultural uses that the Secretary of Agriculture has certified as necessary for full food and fiber production. Essential agricultural uses may be curtailed only to meet needs of "high priority users" or when FERC determines in consultation with the Secretary of Agriculture that an alternate fuel is economically practicable and reasonably available. DOE has previously issued a rule implementing these priorities (see CFR Part 580, 44 FR 15642, March 15, 1979). DOE anticipates that the substance of that rule will be incorporated into the present rulemaking.

(2) Industrial process and feedstock uses. Section 402 of the NGPA directs the Secretary of Energy to prescribe a rule limiting the circumstances in which an interstate pipeline may curtail gas supplies used in an industrial process or as a feedstock. Use as a feedstock refers to gas employed as an ingredient of the end-product, as distinguished from gas used to power production machinery.

(3) Emergency allocation authority. Relevant sections of the National Energy Act (NEA) authorize the President to declare a natural gas supply emergency, which could trigger various consequences. As an example, the President could authorize an interstate pipeline to make emergency purchases from intrastate pipelines under short-term contracts. This authority, while outside the scope of the curtailment priority system itself, must work in concert with it. Therefore, this rule will consider the effects of the NEA emergency authorities on the curtailment priority system. Decontrol of natural gas prices will not affect the curtailment priorities established by this rule.

Alternatives Under Consideration

(A) Maintain a system similar to the present system as developed by the FPC, while making those changes required by the NGPA and improving the present system by facilitating free flow of gas between systems. As compared to making no change in the present system, this alternative would have economic effects on the order of magnitude of $1 billion. These effects would be offset by $0.9 billion, which is the estimated cost of establishing the essential agricultural priority required by the NGPA. If the present system is also improved by allowing a "percentage limitation" option, i.e., allowing lower priorities not to be curtailed completely before a higher priority is curtailed, this would provide further reduction in the cost of the curtailment system. The net benefit of this alternative would be on the estimated order of magnitude of $1.2 billion ($1 billion plus $1.1 billion minus $0.9 billion).

The present curtailment system also has the advantage of being familiar to both gas suppliers and users, which would minimize the uncertainty that could otherwise lead to additional costs if the system were changed and could offset most of the benefits of a newer and more complicated system such as a "pricing" system. However, a pricing system could allocate natural gas to users more precisely on the basis of cost benefit analysis.

(B) Develop a curtailment system as in alternative (A), but updating the base period from which requirements are measured. Systems using a fixed base period instead of rolling or updating the base period are likely to cause increases in shortages costs if they switch to another fuel under the present Federal curtailment approach. A rolling base period involves updating the index of gas requirements from which curtailments are measured. In rolling the base period, the total supply of gas available to all distribution companies served by a pipeline would not be affected, but the supply would be reallocated in proportion to the current end-use profiles of the pipeline distribution companies' customers which may have changed over time.

Although this updating process may give a more current picture of the end-use of the gas delivered, it would increase the costs of curtailments by about $0.2 billion per year, if there were a complete shift to a rolling base period in the present Federal plans. Suppliers and users have instigated self-help measures obtaining their own supplies of gas under the present curtailment system, and the cost of disrupting these self-help projects would most likely offset any benefits derived from the updating process.

(C) Develop a pro-rata system that reduces all users' deliveries by a percentage equal to the percentage of supply reduction. It is tempting to think that the apparent fairness of pro-rata curtailment justifies this alternative and that users with low conversion costs would switch to another fuel, allowing a gradual evolution to an optimal curtailment system based on pro-rata allocation, but this is not the case. Unfortunately, switching to a pro-rata system would destroy good parts of the present system and eliminate the benefits from users who have already adjusted to curtailments under the present system.

The present FERC curtailment policy provides for pro-rata allocation within each priority category. Since the present categories have been formed by an end-use system that does recognize differences in shortage costs, a full pro-rata plan is bound to increase costs. It will lump all users into one category even though surveys show that there are widely different costs. The 1976–1977 shortage had impact costs of $54/Mcf (thousand cubic feet) of shortfall in higher priorities and only $2/Mcf in lower priorities. Pro-rata is less precise than the end-use approach in present curtailment plans for identifying uses which have high costs of conversion to other fuels.

In addition to causing higher shortage costs, pro-rata is not practical and not in accordance with new legislation. For example, pro-rata cannot be applied to residential and small commercial users for operational reasons. It cannot be applied to "agricultural uses" and "essential industrial process or feedstock uses" because of stipulations in the NGPA.

Weather and price controls combined create shortages that cause high shortage costs under pro-rata. There are high costs of fuel switching, and there are high impact costs for users who cannot justify fuel substitution. Even when feasible, fuel substitution is expensive when the investment is only for infrequent shortages.

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(D) Use some form of "pricing" or bidding approach to distribute available gas supplies during periods of curtailments instead of a rationing system, e.g., end-use customer bidding for available gas supplies. Fuel substitution costs vary greatly, even among users within the same carefully designed end-use priority categories; precise ranking of users in line with substitution costs may not be possible except under some type of pricing approach. Surveys reveal that substitution costs range from $2/Mcf to $20/Mcf even within one end-use category, as presently constituted; in addition, shortage impact costs range from $0.10/Mcf to $100/Mcf among users within one end-use priority class due to large impacts as curtailment reaches 100 percent.

To be practical, a pricing system must be implemented at the end-user level. This would involve changes in concepts for State regulation and would require distribution company participation. There appears to be no practical implementation plan for a pricing system with present Federal constraints and using only interstate pipeline participation.

Additional studies are necessary to determine if a practical pricing approach could be developed and whether it could attain most or all of the $3.6 billion savings estimated in our Regulatory Analysis as the net national benefit of switching from the present system to some type of pricing system. These studies could also determine if implementation of a pricing approach would have significant costs that might affect the annual gains. A thorough study of a pricing approach prior to any major change in curtailment policy would be valuable for outlining the best long-run solution to managing natural gas curtailments.

We are also considering whether the guidelines should apply strictly to all interstate pipelines which transport gas, or whether FERC should be allowed to depart from strict application of the general policy under the ERA rule to account for the differing circumstances of individual pipelines, making adjustments where they are necessary. Individual pipelines vary as to number and types of customers and suppliers of gas, as well as to the conditions under which they operate, such as weather conditions in their particular service areas.

The present Federal approach to curtailment priorities is based on end-use; it reflects costs of substitution and has the benefit of being familiar to suppliers and users after years of operation. NGPA mandates some changes in priorities, but no further changes are warranted because benefits will not justify the greater costs and uncertainty from changing priorities. However, there are worthwhile modifications that can be made to the overall functioning of the present system. For example, the total costs of natural gas curtailments could be reduced if priority systems and natural gas policies in general could encourage freer flow of gas from users with low costs of fuel substitution to users with high costs of substitution.

The proposed rule concerns all priority-of-service categories related to curtailment of natural gas deliveries by interstate pipeline companies. The rule is consistent with the majority of the comments responding to our Notice of Inquiry (NOI) and the findings of our Regulatory Analysis, and adopts in substance our previously issued final rule regarding essential agricultural uses. Priorities established by the proposed rule, with Priority One to be the last curtailed, are as follows:

(1) High-priority, which includes residential, small commercial (less than 50 Mcf on a peak day), schools, hospitals, plant protection, and institutions such as prisons.

(2) Essential agricultural uses, certified by the Secretary of Agriculture, without alternate fuel capability.

(3) Essential industrial process and feedstock uses as defined by the proposed rule, without alternate fuel capability.

(4) All gas use less than 300 Mcf per day not included in Priorities One through Three, including large commercial users.

(5) All other users not included in Priorities One through Four, with volumetric subcategories, i.e., larger users would be curtailed before smaller users.

The first three priorities are defined in accordance with the language in Title IV of the NGPA and our final rule governing priorities for essential agriculture use. The 300 Mcf per day cutoff level of Priority Four is based on comments from the NOI indicating that it is logistically almost impossible to curtail such uses on a short-term basis. These uses may be presumed not to have alternate fuel capacity.

The rule provides more flexibility for priority categories Four and Five by providing that curtailment of volumes within any priority category or subcategory below the statutorily mandated categories (Priorities One, Two, and Three) may be limited to some percentage of the total requirements in circumstances where such treatment would reduce shortage costs (i.e., cost of substitute fuels, lost production, etc.) and where more precise end-use priority classification is not possible. Imprecision in present curtailment plans might be reduced in two ways. First, individual suppliers and users could more precisely classify uses within the base period requirements for each priority category. Second, a Federal rule could give higher priority to more critical volumes within categories, e.g., by establishing subdivisions within intermediate priorities, such as the "percentage-limit" option. Priority Five is subdivided into volumetric ranges for requirements over 300 Mcf per day based on findings in the Regulatory Analysis that large users have lower curtailment costs per unit of gas.

The proposed rule should give the FERC ample flexibility to take into consideration a pipeline's specific circumstances in implementing the rule.

While the proposed rule sets out a curtailment priority system which the comments to our NOI and our draft Regulatory Analysis say should reduce the overall national costs of curtailments, other costs from implementing changes for the sake of change may outweigh any benefits. To prevent this, the proposed rule states that "nothing requires that a curtailment plan in effect on the date of the adoption of this rule be changed, except to the extent that changes are necessary to protect Priorities One, Two, and Three from curtailment."

Summary of Benefits

Sectors affected: General public.

Any reduction in the economic costs of curtailments under improved curtailment options helps to reduce the inflationary effects that would otherwise result from cost increases stemming from delayed production and from shifting production among producers. Studies and analysis show that the net macro-economic effect of using any alternative that reduces curtailment costs is a reduction in the amount of inflation equal to the reduction in total costs resulting from the use of such alternative.

Summary of Costs

Sectors affected: Interstate pipelines; natural gas distribution companies; low priority direct users of natural gas, such as large-volume industrial or electric utility users; high priority users, such as residential users; customers of industrial users and electric utilities; and the general public.

The selection of a curtailment option has significant effects on real Gross National Product. Curtailment impacts on gas users are offsetting because any permanently lost production of goods and services by a curtailed end-user is made up by other establishments, and temporarily lost production is made up later by the same end-user. Surveys of redistribution of services indicate that this is usually not a problem because of the short duration of critical gas shortages.

The following types of costs have been analyzed:

(1) Users' shortage impact costs: These are all users' costs that can be attributed to a specific shortage of natural gas, e.g., the higher costs of substitute fuels, cost of interrupted production and unemployment.

(2) Users' shortage coping costs: These are all users' costs to prepare for natural gas curtailment whenever it might occur, e.g., the investment costs of having dual-fuel capability to prevent interrupted production during curtailment.

(3) Suppliers' operating costs: All costs that pipeline and distribution company suppliers incur to supply and allocate gas, e.g., the cost of maintaining underground storage, liquefied natural gas, propane storage to meet sharp peaks on abnormally cold days, and the cost to operate in a spot market during potential shortages.

(4) Non-users' pollution costs: The costs of different pollution levels, e.g., the additional pollution damage when dirtier fuels are substituted for natural gas.

For example, the "users' shortage impact costs" that could result from doing nothing about the present curtailment system are estimated to be on the order of magnitude of $4 billion; on an overall national basis the "user shortage coping costs" are $1.6 billion, and the "suppliers' operating costs" are $18 billion, or a total of $23.6 billion (1978 dollars). These same costs for a system based on a pricing approach which is integrated with rate design structure is estimated to have total costs of $20 billion. The result of using a pricing approach could theoretically reduce costs by $3.6 billion ($23.6 billion less $20 billion). These costs represent the willingness to pay to avoid curtailments. These costs are based on simulations of day-to-day management of curtailments in the face of uncertain weather. Shortage costs are the average for all types of weather that could occur. The studies of "non-user pollution costs" indicate a negligible cost change between the alternatives for changing the present rationing approach and doing nothing, and an uncertain gain if some type of pricing approach is used.

The result of case studies indicated there would be little change in environmental impacts from the status quo of any of the curtailment alternatives. The impacts of all alternative curtailment policies on annual pollutant concentrations were nearly identical to the impact of existing curtailment policy. The net effect, therefore, of any change from the status quo was essentially zero. This is explained in major industrial areas by the fact that large quantities of emissions from other sources in these major industrial areas completely overshadow the emissions from the burning of alternate fuels during periods of winter season natural gas curtailment.

Exceptional cases of larger incremental increases in pollutants can be dealt with on a case-by-case basis. The FERC currently has authority to grant exemptions from a given curtailment policy if it finds that undue hardship otherwise would result. The Draft Environmental Impact Statement therefore recommends that the FERC continue environmental reviews of individual pipelines for the purpose of evaluating requests for exemptions from applicable curtailment rules.

Related Regulations and Actions

Internal: "Curtailment Priorities for Essential Agricultural Use," final rule issued on March 9, 1979 (44 FR 15642). "Emergency Natural Gas Regulations" (under consideration).

External: FERC—Rules issued under Title III of the NGPA.

FERC and Department of Agriculture—Rules issued under Title IV of the NGPA.

Active Government Collaboration

The Federal Energy Regulatory Commission staff is kept informed of Economic Regulatory Administration activities. The Commission is formally reviewing the DOE–ERA rule, as provided in § 404 of the DOE Act. ERA and FERC held four joint meetings on this NPRM in July and August 1980 (Chicago, Atlanta, San Francisco, and Washington, DC).

Timetable

Final Rule—December 1980.
Final Rule Effective—Immediately on publication in the **Federal Register**.

Available Documents

Final Rule—"Curtailment Priorities for Essential Agricultural Uses," Docket No. ERA–R–78–22 (44 FR 15642, March 15, 1979).

NOI—"Concerning Review of Natural Gas Curtailment Priorities," Docket No. ERA–R–79–10 (44 FR 16954, March 20, 1979).

NOI—"Concerning Use of Natural Gas Authorities to Increase Coal and Other Non-Petroleum Fuel Usage and Heavy Oil Production," Docket No. ERA–R–79–49 (44 FR 61243, October 24, 1979).

NPRM—45 FR 45098, July 2, 1980, and related Regulatory Analysis and Environmental Impact Statement.

Public comments on the above.

All documents are available in the DOE Freedom of Information Reading Room, Forrestal Building, Room GA–142, 1000 Independence Avenue, S.W., Washington, DC 20585.

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DOE–ERA

Powerplant and Industrial Fuel Use Act of 1978; Cogeneration Exemption (10 CFR Parts 500*, 503*, 504*, 505*, and 506)

Legal Authority

Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*; Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. § 8301 *et seq.*; E.O. 12009.

Reason for Including This Entry

The Department of Energy (DOE) believes that this rule is important because it will establish a statewide energy limit as a means of encouraging cogeneration in regions where there is a potential for oil and gas savings, while insuring that new alternate fuel-fired capacity will not be deferred.

Statement of Problem

Under the Powerplant and Industrial Fuel Use Act of 1978 (FUA), new and existing powerplants and major fuel burning installations (MFBIs), including cogenerators (electric powerplants or major fuel burning installations that produce electric power and any other form of useful energy, such as steam, gas, or heat, which is or will be used for industrial, commercial, or space heating purposes), are prohibited from using oil and natural gas, unless the Economic Regulatory Administration (ERA) grants an exemption for such uses (see 45 FR 36871, May 30, 1980). The purpose of this prohibition was to conserve our supplies of oil and of natural gas (at the time the Act was passed, natural gas was in

short supply) and to encourage the use of other fuels. Sections 212(c) and 312(c) of the Act specifically provide for exemptions for oil and natural gas use in eligible new and existing cogenerators.

ERA adopted interim rules relating to exemption for cogeneration facilities on May 17 and July 23, 1979 (44 FR 28950 and 44 FR 43176, respectively). After reviewing the comments on the interim rules, ERA determined that before it adopts a final rule on cogeneration, it would be appropriate to propose and solicit public comment on other methods of implementing the cogeneration exemption sections of FUA.

Therefore, ERA is proposing a new approach in an NPRM that encourages cogeneration in those regions of the country where there is a potential for oil and gas savings, while insuring that new alternate fuel-fired capacity would not be deferred. This approach proposes three methods for qualifying for a cogeneration exemption: (1) a showing of overall oil/gas savings through the use of cogeneration, including a demonstration that new coal- or nuclear-fired facilities will not be delayed as a result of cogeneration; (2) a state certification that a cogenerator is to receive an "allocation" of cogeneration capacity (states would be allowed to grant allocations up to a limit set by ERA, to assure that cogenerators displace only oil- or gas-fired electric utility powerplants); or (3) a showing that the exemption would be in the public interest.

In addition, ERA is seeking public comments on a proposal to amend the current definition of "electric generating unit" to avoid the possible unintended treatment of certain cogenerating MFBIs as powerplants and, thus, perhaps inhibit cogeneration which would otherwise be economically efficient.

Alternatives Under Consideration

A. Electric Generating Unit.

ERA seeks comment on whether the dividing line between MFBIs and powerplant cogenerators should be "half the useful energy output" or some other percentage.

ERA is also proposing an alternative definition of an electric generating unit: "Electric generating unit" does not include (1) any "electric generating unit" subject to the licensing jurisdiction of the Nuclear Regulatory Commission; and (2) any cogeneration facility, less than half of the annual electric power generation of which is sold to or exchanged with an electric utility for resale by the utility to consumers other than the cogenerating supplier.

Our proposed definition would only refer to net electrical power sold or exchanged for resale; it would not include amounts sold to the grid but repurchased by the cogenerator firm for its own use. This concept could also be adopted in the primary proposal, adding the word "net" before "annual electrical power generation" in the second exception. ERA has reservations about whether this definition is permitted under FUA. We are not yet persuaded that it is appropriate, since it could result in increases in oil and gas prices which are currently below market clearing prices. Moreover, it could result in the deferment of baseload alternate fuel-fired electrical generating capacity. We solicit comments whether either of the alternative definitions is appropriate, as well as the impact they may have with respect to the development of energy efficient cogeneration and on future alternate fuel use for electrical generation.

ERA also solicits other appropriate methods of distinguishing MFBIs and powerplant cogenerators and their impact on cogeneration and future oil and gas use.

B. Cogeneration Exemption: Alternative Proposal for States Using Oil and Gas for Baseload Electrical Cogeneration.

ERA seeks comment on an alternative proposal for determining eligibility for cogeneration exemptions in those states in which there are a significant number of existing oil/gas-fired baseload powerplants.

In this proposal, ERA has assigned to each of the oil/gas-dependent states an initial "Cogeneration Electric Capacity Limit" consisting of a total megawatt output instead of a total energy input as described in the primary proposal. Under this approach, the limit is focused solely on the electrical generation by the cogenerator and does not include the nonelectric output (e.g., industrial steam, heat, etc.).

Summary of Benefits

Sectors Affected: Potential industrial and electric powerplant cogenerators; and the general public.

Any of the alternative proposals should increase the amount of cogeneration. Without modification to the FUA jurisdictional facilities or modification to the exemption provision for cogenerators, the oil and gas savings which could be achieved by use of this technology might be lost.

Summary of Costs

Sectors Affected: The general public.

Certain industrial and electric powerplant facilities which could have used coal or other alternate fuels might instead use oil and gas in cogeneration facilities if the prohibitions and exemptions applicable to such facilities are relaxed.

Related Regulations and Actions

Internal: "New Electric Powerplants and Certain New Major Fuel Burning Installations; Use of Petroleum and Natural Gas" (45 FR 38276, June 6, 1980). "Calculation of Cost of Using Alternate Fuels under the Powerplant and Industrial Fuel Use Act of 1978" (45 FR 42190, June 23, 1980). "Powerplant and Industrial Fuel Use Act of 1978; Existing Facilities" (45 FR 53682, August 12, 1980).

External: Public Utility Regulatory Policies Act of 1978 (45 FR 12214, February 25, 1980, and 45 FR 17959, March 20, 1980).

Active Government Collaboration

None.

Timetable

Final Rule—End of calendar year, 1980.
Final Rule Effective—30 days after issuance.

Available Documents

NPRM—45 FR 53368, August 11, 1980.

All documents (including public comments in response to the NPRM and comments from public hearings held September 25, October 6, and October 9, 1980) are available in the DOE Public Information Office, Room B110, 2000 M Street, N.W., Washington, DC 20461.

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DOE–Resource Applications

Outer Continental Shelf (OCS) Sequential Bidding Regulations (10 CFR Part 376)

Legal Authority

Department of Energy Organization Act, §§ 302(b)(1) and 303(c), 42 U.S.C. §§ 7152(b)(1) and 7153(c); and the Outer Continental Shelf Lands Act, as amended, § 8(a)(1), 43 U.S.C. § 1337(a)(1).

Reason for Including This Entry

This entry is included because sequential bidding would improve the competitive position of smaller firms for OCS oil and gas leases.

Statement of Problem

The present cash bonus-fixed royalty bidding system for Outer Continental Shelf (OCS) leases requires the Federal Government to offer all drilling areas (tracts) included in an OCS lease sale to bidders at the same time. All bids must be sealed and accompanied by one-fifth of the cash payment the bidder intends to pay for the lease (cash bonus). Bids are opened, announced publicly, and recorded, but no bids are accepted or rejected, and no leases are awarded at that time. Within 60 days of the opening of bids, the Department of the Interior (DOI), which administers this program, decides whether to accept the bid from the highest qualified bidder for each tract. Bids that DOI does not accept within the 60-day period, it rejects. DOI returns the money that was deposited on rejected bids.

The present bid opening system requires a substantial commitment of cash resources by firms to particular OCS lease sales; this may strain the ability of some firms to participate in the OCS leasing process. Bidders must be prepared to support each bid immediately with a deposit of one-fifth of the total cash payment. Opening all the bids at the same time may limit the number and magnitude of bids that an individual firm is able to submit. In addition, a firm might win on a greater number of tracts in an OCS lease sale than it had anticipated, which could call for bonus payments that exceed the firm's financial resources, forcing it to search for additional sources of capital.

The Department of Energy (DOE) estimates that more than 100 smaller firms are more subject to constraints of this type than larger firms. Some small companies may have withdrawn from competition for tracts because of financial barriers. In addition, the simultaneous nature of the bidding process may tend to preserve an informational advantage that larger firms may have over smaller ones because they can afford more extensive exploration in advance of a lease sale.

Under § 302(b)(1) of the Department of Energy Organization Act, DOE has authority to promulgate regulations which foster competition for Federal leases, to assure the public a fair return on its resources. Thus, DOE is interested in alternative bidding mechanisms which may improve the ability of smaller companies to compete in these lease sales.

Sequential bidding would address these problems by dividing an OCS lease sale into at least two bidding sessions, separated by a minimum of 48 hours. Tracts would be assigned to bidding sessions through a random selection procedure; bidding sessions each would consist of an approximately equal number of tracts. Cash bonus deposits accompanying the highest bid on each tract would be retained by DOI until it made a decision on awarding leases. DOI would return all other cash bonus deposits to the bidders that submitted them immediately after the conclusion of each bidding session. Arrangements for disclosure of bids are presently being discussed within DOE and DOI; they include no information release, announcement of the highest bidder, and disclosure of all bidders and amounts of bids at the end of each bidding session.

Alternatives Under Consideration

Possible alternatives to sequential bidding which we have been considering include a "bid limit" option, which would allow bidders to set a "maximum aggregate winning cash bonus limit" for the lease sale. This would enable a firm to bid on tracts with the assurance that its winning bids would not exceed an amount which it had stipulated.

Another possible approach that might achieve results similar to sequential bidding would be to hold lease sales at shorter intervals, each sale with approximately the same number of tracts. However, in order to reduce a bidder's financial exposure as effectively as we think sequential bidding could do, 18 to 24 lease sales would be necessary each year compared with five to six lease sales now being held annually. The administrative burdens on DOI associated with this alternative would be severe.

Retention of the present bid opening system is another alternative. This alternative would preserve a maximum degree of simplicity in administrative matters, but would not address the problems we have discussed above.

DOE has proposed that sequential bidding be tested on an experimental basis. This will allow bidders to become familiar with the process, and allow DOE and DOI to study bidder reactions. This experimental approach is an innovative alternative to an immediate move to an unproved new bidding process.

Summary of Benefits

Sectors Affected: Off-shore oil and gas extraction (including independent producers, joint business ventures, and other firms participating in offshore operations), particularly small firms; and the general public.

DOE expects sequential bidding to foster competition for Federal OCS leases, partially by easing financial barriers to participation, and partially by reducing informational advantages that major OCS participants currently have. Returning cash bonus deposits of unsuccessful bidders after each session would allow them to use returned funds in the subsequent bidding session. Announcing the amount of the high bid for each tract will provide information on the value other bidders have placed on tracts as a result of their exploration. These changes will tend to equalize the informational and financial position of smaller firms participating in leasing competition.

DOE estimates that the application of sequential bidding to an OCS lease sale would yield greater revenue to the Government because of increased competition for OCS leases.

The use of sequential bidding primarily affects current and prospective bidders for OCS leases. DOE anticipates that smaller firms would benefit more from sequential bidding than would the major participants in OCS lease sales.

Summary of Costs

Sectors Affected: DOE; and DOI.

The use of sequential bidding imposes a relatively minor administrative cost on DOE and DOI in performing additional analyses and extending the actual conduct of the sale over a minimum of three days.

Related Regulations and Actions

Internal: Final OCS bidding system regulations, published at 45 FR 9536, February 12, 1980 and 45 FR 36784, May 30, 1980 (10 CFR Part 376).

External: Current OCS lease sales bidding procedures, administered by the Department of the Interior, found at 43 CFR 3300.

Active Government Collaboration

Department of the Interior. The Department of Justice and the Federal Trade Commission are advising on competition issues.

Timetable

Final Rule—First quarter, 1981.
Final Rule Effective—60 days after it is issued.

Available Documents

Draft Regulatory Analysis, "Increasing Competition for Federally-Owned Mineral Fuels by Altering the Present Bidding Process to Allow for Sequential Bidding" (September 2, 1979).

NPRM—44 FR 52842, September 11, 1979.

Public comments in response to NPRM, and comments from public hearing (October 15, 1979).

All documents are available in the DOE Freedom of Information Reading

2. substitution of abundant energy resources for those in short supply; and

the Federal Register July 10, 1980 (45 FR 46712).

tend to reduce the expected cash bonus required to win a lease. Also, when

(5) discourage concentration of holdings.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

All documents are available in the DOE Freedom of Information Reading Room, Room GA-142, Forrestal Building, 1000 Independence Avenue, S.W., Washington, DC 20585.

Agency Contact

Robert H. Lawton, Acting Director
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DOE-RA

Proposed Regulations Establishing Alternative Bidding Systems for Coal Lease Sales

Legal Authority

Department of Energy Organization Act, §§ 302(b)(2) and 303(c)(1), 42 U.S.C. §§ 7152(b)(2) and 7153(c); Mineral Lands Leasing Act, §§ 2(a), 7(a), and 32, 30 U.S.C. §§ 201, 207, and 189; and the Mineral Leasing Act for Acquired Lands, §§ 3 and 10, 30 U.S.C. §§ 352 and 359.

Reason for Including This Entry

The Department of Energy (DOE) includes this entry because it increases competition for Federal coal leases, thereby encouraging the development of coal resources in an efficient and timely manner.

Statement of Problem

On August 4, 1976, Congress enacted the Federal Coal Leasing Amendments Act of 1976 (FCLAA, P.L. 94-377, 90 Stat. 1083), which amended the Mineral Lands Leasing Act of 1920 (MLLA, Act of February 25, 1920, ch. 85, 30 U.S.C. § 181 *et seq.*). The legislation addressed eight major problems with the then existing Federal coal leasing program. These problems were: (1) speculation; (2) concentration of holdings; (3) inadequate return to the public; (4) need for environmental protection, planning, and public participation; (5) adverse social and economic impacts; (6) need for information; (7) need for maximum economic recovery; and (8) military lands.

Further, as a result of the 1973 oil embargo by the Organization of Petroleum Exporting Countries (OPEC) and the ensuing debate over the need for a definitive national energy policy, a National Energy Plan (NEP) was adopted and published on April 29, 1977. Objectives of the NEP included:

1. reducing dependence on foreign oil and vulnerability to supply interruptions;
2. substitution of abundant energy resources for those in short supply; and
3. expanding U.S. coal production and use.

On April 15, 1979, the President delivered his Energy Address to the Nation. On July 15, 1979, the President again addressed the Nation about energy. In his addresses, the President spoke about the Nation's energy problems and the steps that had to be taken to alleviate those problems. Among the steps listed were:

1. encouraging domestic production of energy; and
2. shifting to more abundant sources of energy.

One of the Nation's most abundant resources of energy is coal. However, there has not been general leasing of Federal lands for coal production since 1971. Under regulations published by the Department of Interior (DOI) on July 19, 1979 (44 FR 42585), Federal coal leasing is scheduled to resume, with the first sale scheduled for January 1981.

The proposed regulations address some of the above noted problems, goals, and changes in the law through establishing coal bidding systems and procedures to be used at coal lease sales. These bidding systems and procedures can be used to achieve some of the goals of the FCLAA (i.e., to discourage speculation and concentration of holdings and to ensure receipt of a fair return), the NEP, and national energy policy.

On August 4, 1977, Congress enacted the Department of Energy Oranization Act (DOE Act, 42 U.S.C. § 7101 *et seq.*). Section 302(b) of the DOE Act (42 U.S.C. § 7152(b)) gave the Department of Energy a role in Federal coal leasing by transferring to the Secretary of Energy the functions of the Secretary of Interior to promulgate regulations under five statutes, including the MLLA and the Mineral Leasing Act for Acquired Lands (MLAAL) which relate to, among other things, the implementation of alternative systems and procedures for use at coal lease sales. Accordingly, DOE is proposing promulgation of these regulations pursuant to §§ 302(b) and 303(c) of the DOE Act, §§ 2(a), 7(a), and 32 of the MLLA, and §§ 3 and 10 of the MLAAL.

Alternatives Under Consideration

DOE initially proposed three alternative bidding systems: (1) cash bonus bid with a fixed royalty; (2) royalty bid with a fixed bonus; and (3) cash bonus bid with a sliding scale royalty. Also, intertract competition, a bidding procedure, was proposed in these rules. An NPRM was published in the **Federal Register** July 10, 1980 (45 FR 46712).

The first bidding system proposed was the cash bonus bid with a fixed royalty. Under this system, the royalty rate is fixed in advance of the sale at not less than 12.5 percent and firms bid a cash bonus (a lesser royalty rate may be allowed in the case of coal removed by underground mining operations). The highest cash bonus bid for a tract wins the lease, provided the bid exceeds a minimum level (established by the U.S. Geological Survey prior to the sale). This bidding system is the one historically used in competitive sales of Federal coal leases. This system places heavy emphasis on initial commitment of capital, although this capital commitment requirement has been somewhat alleviated by the provision for deferred payment of the bonus. However, it can discourage participation by smaller companies, which may reduce competition and limit the number of bids per tract. For these and other reasons, bidding systems using contingency (royalty or profit share) payments have received considerable attention.

The second bidding system proposal was the royalty bid with a fixed cash bonus. Under this system, the cash bonus is fixed prior to the sale (at a nominal level) and companies bid on the royalty rate that will apply if the lease is productive. Because royalty bidding deemphasizes the cash bonus, it encourages greater participation by smaller companies. There is no immediate penalty to the bidder for increasing his royalty bid. However, there is a danger inherent in this system that a bidder will increase his royalty bid in an attempt to win the lease only to find that the royalty rate is too high to permit economic development of the resource. In sum, while this system reduces initial financial requirements for engaging in the bidding process, there is a substantial risk that winning royalty bids will be "too high," and will prevent resource development for smaller or marginal reserves.

The third bidding system which DOE proposed was the cash bonus bid with a sliding scale royalty. A sliding scale royalty system also uses a cash bonus bid variable, but the royalty rate that applies for each time period is based on the value of production from the lease during the time period. Several functional relationships are available for calculating the royalty rate; linear, logarithmic, reciprocal, etc. When compared with the cash bonus and fixed royalty systems under similar conditions, the sliding scale systems tend to reduce the expected cash bonus required to win a lease. Also, when compared to higher-rate fixed royalty systems, the sliding scale system tends to reduce the risk that smaller reserves will not be developed. The reduced cash bonuses should encourage bidding by smaller companies and could entice firms to bid on tracts that would not otherwise receive bids under the traditional systems.

No single system is invariably superior to all other systems over the wide range of economic, geological, and engineering conditions which might be experienced. However, in individual sales, specific sale and tract conditions and the relative importance placed on the various (and competing) legislative and energy policy objectives will dictate the selection of an appropriate bidding system. DOE is, however, considering analyzing further the bidding systems that have as components the royalty bid with a fixed cash bonus and the cash bonus bid with a sliding scale royalty.

Under the intertract competition bidding procedure, which was also being proposed, a greater amount of tracts would be offered for lease sale than are to be leased. Bids are received on all tracts offered for lease sale and are submitted on a standard measure of value, e.g., dollars per ton. Leases are awarded to the highest bidders until the desired level of leasing is achieved, e.g., one million tons. Because only a fraction of the total tracts offered will be leased, bidders are placed in competition not only with each other for a tract, but also with the highest bidders on all tracts that are part of the lease sale. It is believed that an intertract competition procedure will increase competition in leasing and provide a means of selecting tracts for leasing. However, administrative problems may include larger lease sales, more costly environmental impact statements, and tract evaluations for a much larger number of tracts.

Summary of Benefits

Sectors Affected: The coal mining industry, and companies participating in coal lease bidding; the Federal government; and the general public.

DOE anticipates that the regulations will improve the coal leasing program. They are designed to serve several purposes:

(1) provide a fair return to the Federal Government for its resources;

(2) increase competition for Federal leases;

(3) encourage development of coal resources in an efficient and timely manner;

(4) discourage speculation; and

(5) discourage concentration of holdings.

In addition, they will carry out the intent of the DOE Organization Act, the Mineral Lands Leasing Act, and the Mineral Leasing Act for Acquired Lands, because they will foster competition and implement alternative bidding systems for Federal leases. The public will also benefit if the revised bidding system regulations do a better job of meeting the stated objectives.

Summary of Costs

Sectors Affected: Companies participating in coal lease bidding; and DOI.

DOE anticipates no significant additional costs as a result of this regulation. Administrative costs may increase slightly if the intertract competition bidding procedure is used. Also, the Department of the Interior has indicated that the U.S. Geological Survey, prior to actual use of a sliding scale royalty in a lease sale, will analyze the administrative costs associated with that system.

Related Regulations and Actions

Internal: Coal production goals which have been developed by the Leasing Policy Development Office and which are currently being updated to reflect synfuels development.

External: Regulations of the Department of the Interior regarding coal leasing, 43 CFR Part 3500.

Active Government Collaboration

The Department of the Interior and the Department of Justice.

Timetable

Final Rule—December 15, 1980.
Final Rule Effective—January 1, 1981.

Available Documents

NPRM—45 FR 46742, July 10, 1980.
Public Comments on NPRM.
We have prepared a Regulatory Analysis entitled "Coal Bidding Systems Regulations," and it is available, along with the proposed regulation, from the Agency Contact listed below.

All documents are available in the DOE Freedom of Information Reading Room, Forrestal Building, Room GB-142, 1000 Independence Avenue, S.W., Washington, DC 20585.

Agency Contact

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

Solar Energy and Energy Conservation Bank (24 CFR 1800 et seq.)

Legal Authority

The Energy Security Act, Title V (The Solar Energy and Energy Conservation Act of 1980), P.L. 96-294, June 30, 1980.

Reason for Including This Entry

The Department of Housing and Urban Development (HUD) includes this entry because it is a precedent-setting action in the area of energy conservation, with expected economic effects considerably in excess of $100 million per year, and because it is of considerable public interest.

Statement of Problem

The purpose of the Solar Energy and Energy Conservation Act is to encourage investments in energy conservation and solar energy and thereby reduce the Nation's dependence on foreign oil. The Solar Energy and Energy Conservation Bank (henceforth "Bank") is to be established as a separate entity within the Department of Housing and Urban Development to attain the objectives of the Act by providing subsidies covering a portion of the cost of energy-related investments, with the remainder of the cost financed through conventional channels.

Alternatives Under Consideration

Currently, tax incentives form the bulk of government aid to solar energy and energy conservation investments. While many taxpayers have taken the "energy credits" on their federal income tax returns, most of the impact has been on middle and upper income taxpayers. The Act provides for a new system of direct Federal grants to purchasers of energy-saving equipment to cover a portion of the investment. The remainder of the cost is financed through conventional channels. Subsidies and program requirements differ between the energy conservation program and the solar energy program, so that while there is some similarity of approach, the programs and the alternatives under the programs should be considered separately. While there are many program design alternatives, the Regulatory Analysis will focus on (1) the eligibility of program participants (Congress specified a schedule relating family income to the allowable subsidy, and the main question here is which income groups should obtain subsidies), (2) the eligibility of solar and energy

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conservation investments for funding (that is, which kinds of equipment are eligible, with what technical specifications), and (3) the amount of subsidy allowable for each project.

Summary of Benefits

Sectors Affected: Building contractors; owners and tenants of residential buildings; commercial buildings not primarily used for manufacturing; certain agricultural buildings; banks and credit agencies; manufacturers of solar energy equipment; and the general public.

Estimates of aggregate benefits from the Regulatory Analysis are not yet available, but our preliminary estimate is that the program will be cost effective, with benefits exceeding costs. The Regulatory Analysis (under preparation) should allow for much more refined benefit and cost estimates which vary across program alternatives.

Qualitatively, building contractors will benefit from increased numbers of conservation investments, and banks and credit agencies will benefit from higher loan demand. Owners of buildings will be assisted in making investments which will lower heating and cooling costs for their buildings. This in turn will generate a lower demand for energy, and hence a lower demand for imported oil. We expect the solar energy program to stimulate the solar equipment manufacturing industry and provide a large scale demonstration of the feasibility of solar improvements in many sections of the United States.

Summary of Costs

Sectors Affected: The Federal Government, primarily HUD.

Overall program authorization calls for HUD to provide $200 million, $625 million, $800 million, and $875 million in fiscal years 1980 through 1983, respectively, for the purpose of grants under the energy conservation program. Authorizations for solar energy systems are $100 million, $200 million, and $225 million in fiscal years 1980 through 1982. Any program of this magnitude involves start-up costs and costs of administering the program. We have taken steps to minimize these costs in the program design, and minimize the compliance costs of those eligible for program participation.

Related Regulations and Actions

Internal: None.
External: DOE regulations governing other parts of the Energy Security Act.

Active Government Collaboration

The Board of Directors of the Bank will consist of the Secretary of Housing and Urban Development, the Secretary of Energy, the Secretary of the Treasury, the Secretary of Agriculture, and the Secretary of Commerce.

Timetable

NPRM—None.
Interim Rule—December 1980.
Public Comment Period—60 days following publication of Interim Rule.
Draft Regulatory Analysis—Will accompany Interim Rule.
Final Rule—July 1981.
Final Regulatory Analysis—Will accompany Final Rule.

Available Documents

None.

Agency Contact

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Fuel Economy Standards for Model Year 1983–85 Light Trucks (49 CFR Part 533*)

Legal Authority

Motor Vehicle Information and Cost Savings Act, § 502(b), 15 U.S.C. § 2002.

Reason for Including This Entry

The National Highway Traffic Safety Administration (NHTSA) thinks this rule is important because of its impact on the automotive industry, the public, and energy consumption.

Statement of Problem

In 1978, roughly half of the total petroleum consumed in the United States was used for transportation. The light truck fleet, which includes vehicles such as conventional pickups and vans, consumed approximately 20 percent of that amount. During the past 10 years, light truck sales have grown dramatically. Sales recently have declined, in part because of the poor gasoline mileage of these vehicles and the rising price of gasoline. Nevertheless, we expect light trucks to account for 20 percent of all vehicle sales annually because of the demand for multi-use vehicles. Such sales mean that light trucks will continue to consume substantial amounts of fuel.

Congress set fuel economy standards for passenger cars for model years 1978 to 1980 and 1985 and thereafter, and directed NHTSA to establish standards for model years 1981 to 1984. Congress also directed NHTSA to establish standards for light trucks for each model year beginning with 1979. Without fuel economy standards for light trucks, the gap between the improving fuel efficiency of passenger cars and the low fuel efficiency of light trucks would widen, contrary to the national objective of fuel conservation. In response to the Congressional mandate of Title V, Improving Automotive Efficiency, of the Motor Vehicle Information and Cost Savings Act (the Act), NHTSA already has established fuel economy standards for light trucks in the 1979 to 1982 model years. NHTSA published the 1982 model year standard in the Federal Register on March 31, 1980 (45 FR 20871) and has proposed that standards be established for 1983 to 1985.

Alternatives Under Consideration

The final fuel economy standards for light trucks for model years 1983 to 1985 must satisfy the statutory criterion for maximum feasible average fuel economy and must reflect consideration of technological feasibility, economic practicability, the impact of other Federal standards for motor vehicles, and the Nation's need to conserve energy. Based on the results of the Agency's preliminary Regulatory Analysis, we have proposed the following ranges of possible fuel economy improvement for 1983 to 1985 model years.

Proposed Fuel Economy Standards for Light Trucks in 1983–85 Model Years

Model year	Vehicle miles per gallon (mpg)	
	Two-wheel drive	Four-wheel drive
1983	18.0–20.0	15.6–18.0
1984	18.8–21.4	16.1–19.3
1985	19.7–22.4	16.2–19.9

NHTSA is also considering the possibility of a combined two-wheel drive and four-wheel drive standard. This would provide additional flexibility to the manufacturers in terms of where to make investments and and how they want to meet the standard.

Summary of Benefits

Sectors Affected: Buyers of new light trucks; the general public; and suppliers of materials and components that improve fuel efficiency.

NHTSA estimates that the new fuel economy standards for model year 1982 light trucks and the standards proposed for light trucks in the 1983 to 1985 model years will save between 11 billion and 17 billion gallons of gasoline more than the standards for model year 1981 light trucks. The Nation could save between $3.5 billion and $5.1 billion in 2005 (at the July 1979 price of $23 per barrel for imported oil). The buyer of a 1985 model year truck meeting the proposed fuel economy levels would save between $510 and $1,120 (1979 dollars) over the life of the vehicle, compared to a buyer of a truck meeting the 1981 model year standards. Components for new vehicles, such as computerized controls to improve engine efficiency, may be installed. Thus, there would be greater demand for these items.

Summary of Costs

Sectors Affected: Manufacturers of light trucks; suppliers of materials and components which reduce energy efficiency; buyers of new light trucks; petroleum production and refining; and State and local governments.

NHTSA is developing detailed information on the costs associated with these fuel economy standards. Based on preliminary information, the Agency estimates that the average retail price of a model year 1985 vehicle, compared to a model year 1981 vehicle, would increase by $350 to $615 (1979 dollars) per vehicle. However, the two major economic issues in this rulemaking are the marketability of new, more fuel-efficient models and the financial capability of the industry to produce these new models.

The general economic effect would probably be as follows. Vehicle manufacturers would incur increases in capital expenditures and variable manufacturing costs to implement technologies for fuel efficiency. The absolute amount of such increases depends upon the level of the standards. We expect costs to range from $3.9 billion to $4.3 billion (1979 dollars). Material suppliers would experience changes in demand. For example, the substitution of aluminum for steel would increase the demand for aluminum and reduce the demand for steel. The petroleum industry would face a reduced increase in demand for gasoline. State and local governments would face a lower rate of increase in revenue from gasoline taxes due to a decrease in the rate of growth of the demand for gasoline. The initial purchase price of light trucks may increase due to potentially higher manufacturing costs.

NHTSA does not anticipate that the standards will have a significant effect on employment. The effect of the standards on the Gross National Product (GNP), inflation, and urban areas will depend directly on the price and availability of gasoline and on the level of fuel economy set in the standards.

Related Regulations and Actions

Internal: NHTSA has already issued standards for fuel economy for light trucks in model years 1979 to 1982 (49 CFR 533*).

External: The Environmental Protection Agency (EPA) has issued regulations governing how fuel economy in motor vehicles is to be measured (40 CFR 600). EPA also has issued regulations governing emissions from light trucks (40 CFR 86). The Federal Trade Commission has issued guidelines governing the advertising of fuel economy for motor vehicles (16 CFR 259).

Active Government Collaboration

NHTSA coordinates its program for fuel economy standards principally with the Department of Energy and the Environmental Protection Agency. NHTSA also reviews the program with the Council on Wage and Price Stability.

Timetable

Regulatory Analysis—Will accompany Final Rule.
Final Rule—November or December 1980.

Available Documents

NPRM—44 FR 77199, December 31, 1979.
Preliminary Regulatory Analysis.
NHTSA Docket No. FE 78–01; Notice 1.

All documents available for review in the Docket Section, NHTSA, Room 5108, 400 Seventh Street, S.W., Washington, DC 20590.

Agency Contact

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FEDERAL ENERGY REGULATORY COMMISSION

High-Cost Natural Gas Produced from Wells Drilled in Deep Waters

Legal Authority

Natural Gas Policy Act of 1978, 15 U.S.C. § 3317.

Reason for Including This Entry

This rule will encourage production of natural gas from unconventional sources by setting an incentive price for one source of such gas—gas from wells drilled in deep water. "Unconventional" or "high-cost" gas, gas produced from geologic formations or under other conditions that make it especially expensive or risky to produce, represents an important and abundant domestic energy resource and can help in our national efforts to reduce dependence on foreign fuels.

Statement of Problem

The Natural Gas Policy Act of 1978 (NGPA) placed all sales of natural gas by producers under Federal jurisdiction and set a series of gradually escalating prices for recently discovered or "new" natural gas which more closely approximated the higher costs of alternate fuels at the time the Act was passed. These prices were intended to stimulate production and to smooth the transition to deregulation of most new gas which was set for January 1, 1985 by the NGPA.

Unconventional gas, while abundant, can be discovered and produced only at extraordinary risk or cost. The Natural Gas Policy Act of 1978 (NGPA) specifies certain categories of unconventional gas eligible for an incentive price, that is, a selling price higher than the prices for conventional gas set by Congress and high enough to make recovery of this gas economically feasible. Under § 107(c)(5), the NGPA gives the Federal Energy Regulatory Commission authority to designate other categories of natural gas as unconventional.

In a Notice of Inquiry issued on June 13, 1979, the Commission requested that the public suggest categories of gas which might qualify under § 107(c)(5) for an incentive price as high-cost or high-risk gas. This rulemaking is an outgrowth of the comments received in response to the Notice of Inquiry. All commenters agreed the production of gas from submerged acreage becomes more costly as offshore production moves seaward. Costs and risks escalate rapidly because specially designed exploratory vessels, drilling and production platforms, and other equipment are required.

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The purpose of this rule would be to encourage the development and production of one type of unconventional gas—gas produced from wells drilled in deep water—with an incentive price.

Alternatives Under Consideration

The Commission has proposed an incentive price of 150 percent of the otherwise applicable maximum lawful price for gas produced from water 500 feet deep or deeper. Under the proposed regulations, to qualify for the incentive price, surface drilling of the well must have been commenced on or after May 28, 1980. The Commission proposes to qualify submerged acreage in blocks conforming to the blocks leased by the Department of Interior (DOI) by reference to the 500-foot contour line on National Oceanic and Atmospheric Administration (NOAA) maps.

The Commission specifically solicited public comment on the incentive price necessary to encourage production of natural gas produced from deep water and on depth at which an incentive price becomes necessary.

The Commission is considering several alternatives. The Commission could:

(A) vary the incentive price;

(B) vary the depth at which drilling is eligible for the incentive price;

(C) establish several depths and set corresponding graduated incentive prices;

(D) take no action.

Comments on the proposed rule and continued staff analysis are expected to provide information on the relative merits of each alternative.

Summary of Benefits

Sectors Affected: Natural gas producers; natural gas users; and the general public.

An appropriate incentive price should permit producers to develop natural gas from wells drilled in deep water on submerged acreage that has already been leased. The pace at which additional development will proceed and the additional volumes of gas that will be produced are not quantifiable. The benefits to natural gas users and the general public of increased domestic supplies of natural gas—a clean, environmentally benign fuel—and the possibility of a concomitant reduction in imports of foreign fuels are likewise not precisely quantifiable.

Summary of Costs

Sectors Affected: Natural gas producers; natural gas users; and the general public.

If the incentive price finally adopted is lower than that necessary to encourage production from deep-water wells, producers will be discouraged from recovering deep-water gas, less gas will be available to domestic consumers and we will not, therefore, be able to displace that amount of imported fuel. Conversely, if a higher than necessary price is adopted, consumers will pay unnecessarily high prices for the additional gas.

Related Regulations and Actions

Internal: The Commission is considering other categories of gas which may be eligible, as high-cost or high-risk gas, for an incentive price.
External: None.

Active Government Collaboration

The Commission worked with the Department of Interior to develop a method of designating qualified acreage.

Timetable

Final Rule—December 31, 1980.
Final Rule Effective—December 31, 1980.
Rehearing Decision—To be determined.
Regulatory Analysis—The FERC is an independent regulatory agency and is not required to prepare the Regulatory Analysis prescribed in E.O. 12044. However, the FERC performs essentially the same analysis for rules of major importance, the results of which are reported in the orders issuing NPRMs and final rules.

Available Documents

NPRM—45 FR 47863, July 17, 1980 (Docket No. RM80–38).

The comments filed on this proposed rule are available to the public at the Commission's Division of Public Information, Room 1000, 825 N. Capitol St., N.E., Washington, DC 20426.

Agency Contact

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FERC

High-Cost Natural Gas: Production Enhancement Procedures (18 CFR Part 271, Subpart G*)

Legal Authority

Natural Gas Policy Act of 1978, 15 U.S.C. § 3317.

Reason for Including This Entry

This rule will encourage production of reserves of natural gas which are recoverable only by application of techniques to enhance production which are often too costly to apply at the prices available.

This, along with other categories of "unconventional" or "high-cost" gas, gas produced from geologic formations or under other conditions that make it especially expensive or risky to produce, represents an important and abundant domestic energy resource and can help to reduce imports of foreign fuels.

Statement of Problem

The Natural Gas Policy Act of 1978 (NGPA) placed all sales of natural gas by producers under Federal jurisdiction and set a series of gradually escalating prices for recently discovered or "new" natural gas which more closely approximated the higher costs of alternate fuels at the time the Act was passed. These prices were intended to stimulate production and to smooth the transition to deregulation of most new gas which was set for January 1, 1985 by the NGPA.

Unconventional gas, while abundant, can be discovered or produced only at extraordinary risk or cost. The NGPA specifies certain categories of unconventional gas eligible for an incentive price, that is, a selling price higher than the prices for conventional gas established by Congress and high enough to make recovery of these reserves economically feasible. Section 107(c)(5) of the NGPA gives the Commission authority to designate other categories of natural gas as unconventional.

In a Notice of Inquiry issued on June 13, 1979, the Federal Energy Regulatory Commission requested that the public suggest categories of gas which might qualify under § 107(c)(5) as high-cost or high-risk.

This rulemaking is an outgrowth of the comments received in response to that Notice of Inquiry and a petition filed by the Sun Gas Company requesting the Commission to classify gas produced as a result of production enhancement procedures as high-cost. This petition was supported by other natural gas producers and environmental groups such as Friends of the Earth and the Environmental Policy Center.

Production enhancement procedures often become necessary in order to maintain or to increase production from a depleting well or a well in which production has become marginal. Production supply enhancement procedures eligible under the proposed

rule include: (1) re-entry into a well which has been plugged and abandoned; (2) re-entry into a well in order to drill deeper or start a side shaft; (3) re-perforation of the well casing or perforation into a separate gas-producing zone; (4) repair or replacement of a faulty or damaged casing or related equipment in the well; (5) acidizing, fracturing, or installation of compression equipment. Current regulations do not allow sufficient flexibility to contracting parties to amend, modify or renegotiate contracts in order to provide for production enhancement work.

The purpose of this rule is to set a ceiling or maximum price which may be paid by a purchaser and which is high enough to encourage production of reserves of natural gas recoverable only if production enhancement procedures are applied.

Alternatives Under Consideration

The Commission has proposed that gas produced with supply enhancement procedures applied after May 29, 1980 be eligible for an incentive price as high as the price for gas under § 109 of the NGPA. (In August, 1980, the price for § 109 gas was $1.72 per million Btu's.) A negotiated contract price must be in effect to ensure that the price for qualified production enhancement gas is set by agreement of all the contract parties. The Commission has also proposed a formula limiting the unit cost of production that results from enhancement procedures so that incremental revenues are not excessive.

The Commission specifically solicited comments on what constitutes a reasonable incentive price and whether other production enhancement techniques should be eligible for the incentive. The Commission also requested any information on the types of supply enhancement projects that will not be undertaken unless the ceiling is even higher than the § 109 price.

The Commission will consider in a separate proceeding whether gas subject to § 104 (gas already dedicated to interstate commerce when the NGPA was enacted) and § 106 (natural gas subject to both interstate and intrastate "rollover" contracts) of the NGPA should be eligible for the incentive price if supply enhancement procedures are necessary to maintain production.

Summary of Benefits

Sectors Affected: Natural gas producers; natural gas users; and the general public.

Large volumes of gas remain in mostly depleted or faulty wells, although it is impossible to estimate the amount. An appropriate incentive price should allow producers to tap reserves of natural gas recoverable only through supply enhancement procedures. The benefits to natural gas users and the general public of increased domestic supplies of natural gas—a clean, environmentally benign fuel—and the possibility of a concomitant reduction in imports of foreign fuels are not precisely quantifiable.

Summary of Costs

Sectors Affected: Natural gas producers; natural gas users; the general public; State jurisdictional agencies; and the Commission.

If the incentive price finally adopted is lower than that necessary to encourage production of reserves recoverable through supply enhancement procedures, these reserves may be left in the ground and therefore, natural gas users and the economy will not benefit from the increased domestic supply. If an incentive price that is higher than necessary is adopted, consumers will pay unjustified prices for the additional gas.

Workload will be increased at the Commission and at the State jurisdictional agencies in order to determine that the supply enhancement work for which the incentive price is claimed has actually been performed and that such work is in fact necessary to produce the gas.

Related Regulations and Actions

Internal: The Commission is considering other categories of gas which may be eligible, as high-cost or high-risk gas, for an incentive price.
External: None.

Active Government Collaboration

None.

Timetable

Final Rule—October 28, 1980.
Rehearing Decision—To be determined.
Regulatory Analysis—The FERC is an independent regulatory agency and is not required to prepare a Regulatory Analysis as prescribed in E.O. 12044. However, the FERC performs essentially the same analysis for rules of major importance and reports the results in the orders issuing NPRMs and final rules.

Available Documents

NPRM—45 FR 51219, August 1, 1980 (Docket No. RM80–50).
Sun Gas Petition for Rulemaking (Docket No. RM80–41).
Final Rule—October 28, 1980.

The comments filed on this proposed rule are available to the public at the Commission's Division of Public Information, Room 1000, 825 N. Capitol Street, N.E., Washington, DC.

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FERC

Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978 (18 CFR Parts 2* and 271*)

Legal Authority

Natural Gas Policy Act of 1978, 15 U.S.C. § 3301 *et seq.;* Department of Energy Organization Act, 42 U.S.C. § 7107 *et seq.;* Natural Gas Act, as amended, 15 U.S.C. § 717 *et seq.;* E.O. 12009, 3 CFR, 1977–78 Comp., p. 142.

Reason for Including This Entry

These proposed regulations would encourage producers of these categories of natural gas to undertake new production or production enhancement projects not otherwise economically feasible. These regulations will cover natural gas production costing millions of dollars annually.

Statement of Problem

The Natural Gas Policy Act of 1978 (NGPA) established a maximum lawful price (MLP) for any first sale of natural gas. The proposed regulations are important in that they would implement the Federal Energy Regulatory Commission's (Commission) authority under the NGPA to set prices higher than the MLP for three categories of gas sales, namely: first sales of gas committed or dedicated to interstate commerce on the day before the date of enactment of the NGPA, first sales of gas under rollover contracts, and first sales of gas not covered by any MLP under any other section of the NGPA. ("First sale" is a term indicating that the sale is subject to the terms of the NGPA and is therefore eligible for NGPA prices. The term does not refer to the first time gas is sold—hence there may be a chain of first sales.) Thus, producers of these categories of natural gas would be encouraged to undertake new production or production enhancement projects not otherwise economically feasible at the MLP specified in the NGPA.

In the past, ceiling prices for producer sales of natural gas were set by the

discussed categories of natural gas sales. It does not, however, have

to petition for maximum lawful prices greater than those explicitly set forth

Regulatory Analysis—The FERC is an independent regulatory agency and

can attract investors and raise capital for construction.

options. The Commission could establish a basic formula for

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In the past, ceiling prices for producer sales of natural gas were set by the Commission or its predecessor, the Federal Power Commission (FPC), on an area—later a nationwide—basis. These prices were set to cover classes of producers (large or small) and vintage (when the well was drilled or production began). In some instances, however, the ceiling price did not permit a producer to earn a fair profit or, in the extreme case, recover his cost of production. This put the producer face-to-face with two alternatives: continue production at an economic loss, or abandon the well. Neither of these alternatives was in the public interest, as the first affected the producer and would likely discourage further business ventures, and the latter affected the consumer in that it made less gas available. Therefore, regulations called "special relief procedures" were adopted; they allowed producers to apply for prices higher than those set at area or nationwide ceilings.

Passage of the NGPA fundamentally removed the responsibility for establishing ceiling prices from the Commission. The MLP for a particular sale now depends on when the well is drilled, where the gas is produced, and whether it was priced under the earlier practices of the Commission. As part of its general regulatory scheme, however, the NGPA provides that the Commission may set a price higher than that stated in the NGPA for certain types of producer sales; in other words, the Commission may continue to grant "special relief" under the NGPA.

The Commission believes that it is necessary to continue providing producers with the opportunity, in special or unusual situations, to obtain relief from the MLPs. To this end, the Commission has proposed new regulations for granting such relief. The new regulations describe the circumstances under which a producer-seller of natural gas may seek a "special relief" rate, the manner in which the seller may apply for the rate, the process by which the Commission will consider an application, and the cost standards which the Commission will use to determine a special relief rate.

Alternatives Under Consideration

In providing regulations to govern the application for, and granting of special relief under, the NGPA, the Commission must determine which of the various categories of natural gas that are priced under the NGPA will be eligible for the relief, and on what basis it will grant the relief. There are alternatives for both of these questions.

The Commission has the authority to grant special relief for the three above-discussed categories of natural gas sales. It does not, however, have authority to grant special relief for the remaining five categories of natural gas sales defined in the NGPA, namely: new natural gas and certain natural gas produced from the outer continental shelf; natural gas produced from new, onshore production wells; natural gas sold under existing intrastate contracts; certain high-cost natural gas; and stripper well natural gas (wells which produce at very low rates). However, the NGPA could be read to permit a price higher than the MLP for these categories under circumstances which might be considered as warranting "special relief." The Commission is, therefore, considering other rulemaking procedures to encompass some or all of these categories.

Also under consideration is the advisability of an upper limit or "cap" on special relief. The Commission has requested comments on this issue, and a related one: If a "cap" is indeed advisable, what should it be?

One of the more complex problems in establishing a rule for special relief is the criteria by which the Commission should determine a special relief rate. Under the old special relief rules a producer could recover either out-of-pocket expenses or a rate sufficient to provide a fair return on past and future costs, including any extra investment he had to make. The new regulations, while simplifying the standards by providing a formula approach, also distinguish between a producer who must undertake an important investment to make his well economically productive, and one who needs no further investment but needs special relief to cover ongoing operating and maintenance expenses.

The most difficult issues concern the rates to be granted to producers making new investment. The Commission must decide what kinds of investment should be recovered and what the appropriate rate of return on investment should be.

The relative pros and cons of alternative standards are extremely complex. In deciding among them, the Commission must balance the impact of each alternative against the practicalities of producer regulation, the supplies affected, the administrative difficulty (or simplicity) of the regulations, and the intent of the NGPA.

Summary of Benefits

Sectors Affected: The Commission; natural gas production; natural gas pipelines; and natural gas consumers.

This proceeding will directly benefit producer-sellers of natural gas. It will provide the sellers with an opportunity to petition for maximum lawful prices greater than those explicitly set forth under the NGPA. This is important for those sellers who might incur real economic harm or hesitate to undertake new projects because the costs to produce their gas exceeds the MLP they could get for the gas under the NGPA.

In addition, the proceeding will benefit the pipelines that purchase the gas and the ultimate consumers. The benefits will be in the form of added supplies of natural gas—a clean, environmentally benign fuel—which would otherwise never reach the market. These added supplies may permit a reduction in imports of foreign fuels.

Summary of Costs

Sectors Affected: The Commission; natural gas producers and sellers; natural gas pipelines that purchase the gas; and natural gas consumers.

The procedures to allow special relief applications will add to administrative time and costs at the Commission. The number of petitions for special relief that may be filed cannot be determined at this time and will depend upon many variables, including general economic trends and the particulars of individual cases. About 50 to 60 cases per year were administered under the old special relief procedures. This would be a realistic estimate for cases filed under the proposed regulations.

The new procedures of the proposed rule should result in a more economical use of the Commission's time. Thus, administrative costs should be lower than under prior practices. However, about 130 requests for special relief are now pending. These cases, originally filed under the old procedures, form a backlog requiring immediate administrative action under the new procedures.

The granting of a special relief rate means that a producer can receive a higher price for the sale of his gas. This higher price can be passed through to the ultimate consumer. The exact magnitude of this effect is unknown but could well reach millions of dollars annually.

Related Regulations and Actions

Internal: Regulations implementing the Natural Gas Policy Act.
External: None.

Active Government Collaboration

None.

Timetable

Final Rule—December 1980.
Rehearing Decision—To be determined.

Regulatory Analysis—The FERC is an independent regulatory agency and is not required to prepare the Regualtory Analysis prescribed in E.O. 12044. However, the FERC performs essentially the same analysis for rules of major importance and includes the results in the orders issuing NPRMs and final rules.

Available Documents

NPRM—44 FR 49468, August 23, 1979 (Docket No. RM79–67).

Notice Granting Extension of Time to Comment—44 FR 53759, September 17, 1979 (Docket No. RM79–67).

Notice of Public Hearing, issued October 13, 1979 under Docket No. RM79–67.

Notice of Request for Public Comments and Notice of Public Discussion, 45 FR 5321, January 23, 1980 (Docket No. RM79–67).

Transcripts of public hearings and public discussions, and written comments are available at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, DC 20426

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FERC

Rate of Return: Electric

Legal Authority

Federal Power Act, 16 U.S.C. §§ 824, 824d, 824e, (Supp. 1979) and 42 U.S.C. § 712(a)(1)(B) (Supp. 1979).

Reason for Including This Entry

The Federal Energy Regulatory Commission has initiated a rulemaking to examine the possibilities for expediting the determination of an appropriate rate of return for electric utilities selling wholesale electric power. This rulemaking could result in a new procedure for setting the rate of return.

Statement of Problem

Electric utilities finance construction in the same manner as other businesses, that is, with a mixture of borrowed and investor funds. In general, the ratepayers do not finance construction or system upgrading. For this reason, the utilities must be allowed a sufficient rate of return on investment so that they can attract investors and raise capital for construction.

Many local electric utilities do not own facilities to generate power and confine their operations to the distribution of electric power bought at wholesale. Under the Federal Power Act of 1935, the Federal Energy Regulatory Commission sets the rates for these wholesale power transactions. The FERC regulates rates charged by 211 electric utilities for wholesale sales of electricity—about 13 percent of total annual sales of electricity in the U.S.

Because many rate increases filed by electric utilities subject to the FERC's jurisdiction are contested by customer utilities, in order to determine an appropriate rate of return, extensive evidence must be taken in a trial-type hearing before an administrative law judge. The rate of return issue is essentially considered anew in each contested rate case.

In a special report to Congress ("Decisional Delay in Wholesale Electric Rate Increase Cases: Causes, Consequences and Possible Remedies," January 23, 1980), FERC Chairman Charles Curtis spoke of the Commission's large and growing electric rate caseload and the length and complexity of electric rate cases. At that time, he suggested that the Commission should work to develop alternative methods for determining the rate of return, perhaps the most time consuming of the elements in a rate case.

Although the capital structure, business organization, and financial condition of electric utilities vary widely, there are enough similarities to suggest that a more general approach to rate of return questions might be possible.

Alternatives Under Consideration

The Commission has three basic alternatives to consider in determining a method for setting the rate of return for electric utilities. First, the Commission could continue the current practice, determining rate of return on a case-by-case basis. This method is geared to individual company requirements, and extremely complex issues of corporate finance and economic market conditions are considered. The advantage of this method is that these requirements can be carefully weighed and a finely tailored result produced. However, this alternative involves a large commitment of FERC resources and is an extremely lengthy process.

As a second alternative, the Commission could develop a general approach for determining an appropriate return. Within this general approach, there are a number of procedural options. The Commission could establish a basic formula for determining the rate of return. Or, the Commission could adopt a specific rate of return or a "zone of reasonableness," a limited range within which a rate of return could be set. This rate or zone of rates would be applicable to all utilities under the FERC's jurisdiction. While the results of a generic approach may not be as precise as those produced by a case-by-case approach, it is possible that the savings in litigation costs may offset any benefits to be gained from such precision.

A third alternative would involve setting specific guidelines for setting rate of return on a case-by-case basis. With this alternative, the Commission could speed up rate cases while retaining the advantages of examining each company's structure and capital requirements.

Summary of Benefits

Sectors Affected: Electric utilities selling power at wholesale; investors in those utilities; electric utilities purchasing power at wholesale; ultimate consumers of electricity; and the Commission.

Shortening the time to decide rate of return issues and simplifying the processes involved could benefit consumers by saving administrative costs in all sectors. Given the Commission's growing caseload, speeding up determination of rate of return, along with other measures to expedite the resolution of rate cases, should allow the Agency to stay abreast of new filings and clear up current backlog.

The Federal Power Act permits the Commission to suspend rate increases for only 5 months before the new rates become effective, while 2 to 3 years are often necessary to evaluate and act on rate cases. This means that the utilities collect rates that may be excessive for long periods of time. Although these rates are collected subject to refund and utilities must make refunds with interest if required, this is nevertheless an inconvenience to consumers and contributes to uncertainty about electric rates. Speeding up the determination of rate of return would reduce this burden on consumers.

Finally, speeding up the determination of rate of return might give investors more confidence in utilities, reduce regulatory risk, and thus lower the costs to utilities of raising capital for construction and system improvements, costs which are passed on to consumers in rates. Speedier case resolution also should assure investor returns more

commensurate with allowed returns, particularly in inflationary periods,

Reason for Including This Entry

significant environmental disturbances than other, smaller water power

Additional hydroelectric facilities will

revised its procedural regulations

This rule involves millions of dollars annually in potential revenues to

commensurate with allowed returns, particularly in inflationary periods.

Summary of Costs

Sectors Affected: Electric utilities selling power at wholesale; investors in those utilities; electric utilities purchasing wholesale power; and ultimate consumers of electricity.

Depending on which alternative the Commission selects and how the Commission decides to implement the method selected, there may be costs to one or more of the sectors involved. A high rate of return would result in higher costs to consumers. Conversely, a low rate would reduce rates to consumers. The method selected may also affect investor interest in individual utilities and utilities in general, influencing the cost of capital.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

NPRM—To be determined.
Final Rule—To be determined.
Rehearing Decision—To be determined.
Regulatory Analysis—The FERC is an independent regulatory agency and is not required to prepare a Regulatory Analysis as prescribed in E.O. 12044. However, the FERC performs essentially the same analysis for rules of major importance and includes the results in the orders issuing NPRMs and final rules.

Available Documents

None.

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FERC

Regulations Governing Applications for Major Unconstructed Projects (18 CFR Part 4*)

Legal Authority

Federal Power Act, 16 U.S.C. § 791a *et seq.*; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. § 2601 *et seq.*

Reason for Including This Entry

This rulemaking is important because it simplifies and clarifies licensing requirements and procedures for major projects yet to be constructed, thereby making the development of new sources of hydroelectric power generation—a renewable energy resource with great undeveloped potential—more attractive and efficient.

Statement of Problem

This rulemaking is the third phase of the Federal Energy Regulatory Commission's (FERC) licensing reform program for all projects built for the generation of electric energy by water power that are within the Commission's jurisdiction.

Section 405 of the Public Utility Regulatory Policies Act of 1978 (PURPA) charges the Commission to establish simple licensing procedures for water power projects which are connected with existing dams and have a capacity to generate 15 megawatts (20,000 horsepower) or less of electricity at any one time. The Commission is extending this reform effort to licensing procedures for all water power projects. As a result, this rulemaking proposes licensing reforms which deal with all "major" projects (those with a generating capacity of more than 1.5 megawatts or 2,000 horsepower) (1) for which there is no dam or impoundment (body of water impounded by a dam) at the time of the application, or (2) which would result in a significant increase in the normal surface elevation of an existing impoundment, or (3) which are otherwise determined, pursuant to the Commission's regulations implementing the National Environmental Policy Act of 1969 (NEPA), to have a potentially significant environmental impact.

The current requirements governing licensing of major water power projects are to be found in various sections of the Commission's regulations. An applicant may be required to submit information in as many as 23 different exhibits within each application. Frequently, the existing regulations do not explain in sufficient detail what information applicants must submit. This can result in duplicate filings or deficient applications. The revision of the regulations governing major unconstructed projects where no dam or impoundment has been built will consolidate and simplify the information required of any applicant in order to elicit only that information which is relevant to an informed decision on the merits of the application.

Projects of the magnitude covered by this rulemaking naturally result in more significant environmental disturbances than other, smaller water power projects. The Commission will therefore require any applicant for a major unconstructed project to file an Environmental Report of considerably greater depth and detail than it will require for smaller projects or projects at existing dams. The Commission is also revising its NEPA regulations that set forth the specifications of an Environmental Report for all projects, and is tailoring the requirements for such reports to the type of water power project for which the applicant seeks a license. The need for relatively greater detail concerning such projects also extends to information relating to their structural and financial integrity.

Alternatives Under Consideration

The Commission is not required by PURPA to reform its licensing procedures for hydroelectric projects that are not connected with existing dams. Nevertheless, the FERC has previously reformed hydroelectric licensing procedures outside the scope of PURPA, and this rulemaking accordingly extends to major unconstructed projects the benefits of the simplified licensing program.

The Commission must determine how it will revise the licensing procedures, and decide which of the current reporting requirements to simplify and consolidate. For example, the Commission must determine how extensive the Environmental Report for such projects must be. Because construction of a dam involves flooding land permanently and for the first time and the impacts of extensive construction activity, more environmental detail will be needed to assess the environmental impacts of such a project than is needed for projects where the dam already exists. The Commission will also revise its NEPA reporting requirements to require an Environmental Impact Statement for all such projects.

Summary of Benefits

Sectors Affected: The Commission; State, municipal, and private developers of major unconstructed hydroelectric power projects within the jurisdiction of the Commission; consumers of hydroelectric power; and the general public.

Better licensing procedures should expedite the licensing of water power projects, thus encouraging hydroelectric development. This in turn may help replace costly imported energy supplies with this cheap, renewable energy resource.

Additional hydroelectric facilities will mean that more consumers will have access to hydropower. This may create greater stability in the cost of electricity to consumers. It may even result in lower rates for electric power.

The improved regulations will help conserve the manpower and financial resources of both the Commission and the hydroelectric facility applicants, because the regulations will be more understandable and more reasonable in their requirements. As a result, developers may file fewer deficient applications which require upgrading, and both developers and the Commission may waste less time interpreting and litigating the regulations.

By obtaining more complete environmental data, the improved regulations should also enable the Commission to better fulfill its obligations under NEPA to identify and minimize adverse environmental disturbances. The public will benefit because development of hydropower will be more attractive and adverse environmental impacts will be minimized.

Summary of Costs

Sectors Affected: State, municipal, and private developers of major unconstructed hydroelectric power projects within the jurisdiction of the Commission.

This proposal will require an applicant for a license to construct a major project to file with the Commission a more detailed Environmental Report than is required for smaller projects or for projects at existing dams. The Commission will also require greater specificity regarding the structural and financial integrity of these projects. This will create an additional reporting burden for major project developers. The burden should not discourage them from applying for licenses, however, in light of the significant improvements in the other licensing procedures.

Related Regulations and Actions

Internal: The first phase of the licensing reform program revised the licensing regulations for all "minor" projects (installed capacity of 1.5 megawatts or less) (FERC Order No. 11, 43 FR 40215, September 11, 1978). The second phase revised the regulations for "major" projects (more than 1.5 megawatts of installed capacity) where at least a dam and impoundment are in existence at the time of the application (FERC Order No. 59, 44 FR 67645, November 27, 1979). In conjunction with these reforms, the Commission also revised its procedural regulations governing licenses and preliminary permits for all water power projects (FERC Order No. 54, 44 FR 61328, October 25, 1979).

The Commission proposed new Regulations Implementing the National Environmental Policy Act of 1969 governing the collection, evaluation, and dissemination of environmental information concerning Commission actions (NPRM, 44 FR 50052, August 20, 1979, Docket No. RM79–76).

External: None.

Active Government Collaboration

None.

Timetable

NPRM—November 1980.
Final Rule—To be determined.
Rehearing Decision—To be determined.
Regulatory Analysis—The FERC is an independent regulatory agency and is not required to prepare the Regulatory Analysis prescribed in E.O. 12044. However, the FERC performs essentially the same analysis and includes the results in the orders issuing NPRMs and final rules.

Available Documents

FERC Order No. 11, 43 FR 40215, September 11, 1978.
FERC Order No. 59, 44 FR 67645, November 27, 1979.
FERC Order No. 54, 44 FR 61328, October 25, 1979.
NPRM, 44 FR 50052, August 20, 1979, Docket No. RM79–76.

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FERC

Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act (18 CFR Part 271, Subpart K*)

Legal Authority

15 U.S.C. § 3320(a) (Supp. II 1978).

Reason for Including This Entry

These regulations will determine who pays for certain services necessary for natural gas production and transportation and how much may be paid for those services.

This rule involves millions of dollars annually in potential revenues to producers and other sellers of natural gas. The Federal Energy Regulatory Commission (FERC), in providing for collection of production-related costs, will establish a workable set of rules for natural gas pricing which may increase deliveries of properly compressed, treated, and processed gas for shipment to ultimate consumers.

Statement of Problem

On December 1, 1978, the Natural Gas Policy Act of 1978 (NGPA) became law. By that law, the Congress established maximum prices for which a producer could sell natural gas. In establishing these prices, the Congress specified that a producer could collect amounts above the maximum lawful prices when the producer incurred particular types of costs, if the Commission approved.

When the NGPA went into effect, the Commission put out interim regulations implementing the Act. Among those regulations were rules defining who could apply to the Commission for production-related costs, what costs could be applied for, and how an application could be made for authorization to collect the add-ons for the costs. The Commission solicited comments on these interim regulations and amended them in July of 1980.

The July 1980 amendments attempted to address three important problems. First, how can the Commission establish a mechanism so that a producer can promptly receive approval to add on to a ceiling price an amount for production-related costs? Second, how can the Commission best respond to the situation in which a pipeline company rather than the producer agrees to incur production-related costs? And third, how can the regulations best be designed to ensure that a producer knows what can be applied for and how to apply?

Alternatives Under Consideration

In implementing the production-related cost section of the NGPA, the Commission has two basic alternatives. It could provide a "simple rule" outlining who can apply, what kinds of production-related costs can be applied for, and how to apply. This was the approach used in the interim regulations first issued to implement the NGPA. That approach was based on a case-by-case determination of cost add-ons and only treated cases in which the producers or other sellers of natural gas incur the production-related costs.

Alternatively, the Commission could establish certain categories of production-related costs that could

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automatically be added to a producer's ceiling price and provide for situations when the purchaser, instead of the seller, agrees to incur those costs. In this way, the administration of the program becomes simpler, and both the seller and the purchaser are considered. This was the approach adopted by the Commission in the July 1980 amendments.

In adopting this approach, the Commission decided to proceed step-by-step. First, the regulations were amended to immediately provide that certain minimal types of production-related costs could be automatically added by a producer to a sales price without further administrative action or delay. Second, the two most important types of production-related costs were isolated—costs for gathering natural gas (i.e., collecting it from individual wells and bringing it to a common transporting system) and compressing natural gas (i.e., pressurizing it so that it will move from the gas well to and through a transporting system). An appropriate add-on for these costs will be determined in separate notices of proposed rulemaking so that they too may automatically be added on by sellers.

Third, a policy statement for pipelines that purchase natural gas from producers was issued. This policy describes the types of production-related activities that the Commission will consider for inclusion in the pipeline's rates, further simplifying administrative proceedings.

Finally, FERC would propose a new rule to mark out certain costs that will be considered production costs, as opposed to production-related costs. These costs must therefore be covered by the sales price for the gas, which price cannot exceed the maximum lawful price.

Summary of Benefits

Sectors Affected: Producers and other sellers of natural gas; industry purchasers of natural gas, such as pipelines; and ultimate consumers of natural gas.

All sectors will benefit from a workable and practicable set of rules governing collection of production-related costs.

This rule involves several millions of dollars in potential revenues to producers and other sellers of natural gas. The Commission, in providing for production-related costs, is seeking to establish a workable set of rules for natural gas pricing and to increase deliveries of properly compressed, treated, and processed gas for shipment to consumers.

Summary of Costs

Sectors Affected: Natural gas producers; natural gas purchasers; and natural gas consumers.

Any and every add-on permitted by the Commission to a producer will increase the sale price of natural gas. This price must be paid in all cases by the ultimate consumer of that gas. To the extent that a producer does not get an add-on for a production-related cost, or is delayed in getting the add-on, the producer will incur costs. To the extent that the add-on is permitted, costs will be incurred by natural gas purchasers and, ultimately, paid by natural gas consumers.

The cost involved is sizable but not quantifiable. The amounts involved will be determined by several factors: how many sellers request or receive add-ons; what add-ons are sought; and the amounts of those add-ons. Some measure of the potential impact of the rule can be deduced from the number of producing natural gas wells in the country. There are some 15,000 such wells now in existence, and more being completed every year. There may be production-related costs allowed for most, if not all, of these wells.

Related Regulations and Actions

Internal: Because of the step-by-step process, there are several rulemakings involved. These will include, in addition to the main docket described in this entry, the rulemaking for gathering allowances (to be designated as Docket No. RM80-73), the rulemaking for compression allowances (to be designated as Docket No. RM80-74), and a rulemaking for production costs (to be designated as Docket No. RM80-72). Also, rules considered under Order No. 68, "Final Regulations Under Sections 105 and 106(b) of the Natural Gas Policy Act of 1978," Docket No. RM80-14 (issued January 18, 1980, 45 FR 5678, January 24, 1980), may affect this regulation.

External: None.

Active Government Collaboration

None.

Timetable

Final Rule—Early 1981.
Final Rule Effective—The rule is effective on an interim basis as of July 25, 1980.
Rehearing Decision—To be determined.
Regulatory Analysis—The FERC is an independent regulatory agency and is not required to prepare a Regulatory Analysis as prescribed in E.O. 12044. However, the FERC performs essentially the same analysis for rules of major importance and includes the results in the orders issuing NPRMs and final rules.

Available Documents

The interim regulations on which this proceeding is based were published in the **Federal Register** of December 1, 1978 (43 FR 56488).

Amendments to interim regulations, Order No. 94, "Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act," Docket No. RM80-47 (issued July 25, 1980, 45 FR 53099, August 11, 1980).

Transcripts of hearings and comments on the interim regulations are available and may be obtained from the Commission's Division of Public Information, Room 1000, 825 N. Capitol Street, NE., Washington, DC.

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CHAPTER 2—ENVIRONMENT AND NATURAL RESOURCES

USDA–SCS
Watershed Protection and Flood Prevention Program 77747

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Regulations Implementing a Fishery Management Plan for the Groundfish Fishery for the Bering Sea/Aleutian Island Area 77748

DOC–NOAA
Regulations Implementing a Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, United States Waters 77751

DOC–NOAA
Regulations on the Mining of Deep Seabed Hard Mineral Resources 77753

DOI–HCRS
Uniform Rules and Regulations for the Protection and Conservation of Archaeological Resources Located on Public and Indian Lands 77755

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Right-of-Way Regulations 77757

DOI–OSM
Definition: "Surface Coal Mining Operations" and "Coal-Processing Plant" 77759

DOI–OSM
Discharge from Mine Areas: Revision of Standards for Effluent Limits and Sedimentation Ponds 77760

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Review, and Possible Revision, of the National Ambient Air Quality Standard for Nitrogen Dioxide 77768

EPA–OANR
Review, and Possible Revision, of the National Ambient Air Quality Standards for Particulate Matter 77769

EPA–OANR
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Effluent Limitations Guidelines and Pretreatment Standards, and New Source Standards Controlling the Discharge of Pollutants from Pulp, Paper, and Paperboard Mills into Navigable Waterways 77775

EPA–OWWM
Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Iron and Steel Manufacturing Plants to Navigable Waterways and the Pretreatment of Wastewaters Introduced into Publicly Owned Treatment Works 77776

EPA–OWWM
Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Steam Electric Power Plants 77778

EPA–OWWM
Water Quality Standards Regulations 77780

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Watershed Protection and Flood Prevention Program (27 CFR Part 622*)

Legal Authority

Watershed Protection and Flood Prevention Act of 1954, 16 U.S.C. § 1001 *et seq.*

Reason for Including This Entry

The U.S. Department of Agriculture (USDA) believes this entry is important because it would help achieve maximum reduction in upstream flood damages in an economically and environmentally defensible manner. The proposal emphasizes minimizing adverse impacts on wetlands and prime farmlands and integrating nonstructural alternatives and water conservation measures used in the flood protection measures used in the program.

Statement of Problem

Under the Watershed Protection and Flood Prevention Act, the Secretary of Agriculture may give technical and financial help to sponsoring non-Federal organizations to plan and install watershed projects that prevent erosion, sedimentation, and floodwater damage; to further the conservation, development, use, and disposal of water; and to further the conservation and proper use of land. Sponsoring local organizations consist of units of State and local government. The sponsoring local organizations for a watershed project must have the ability under State statutes to obtain lands for project works of improvement, such as a dam, bear their share of the cost of installation, and operate and maintain the project after installation. Some watershed projects benefit urban areas, but most are located in rural areas. Projects provide benefits such as flood damage reduction, erosion reduction, recreation, irrigation, and water supply and conservation to rural communities and agricultural areas.

The Watershed Protection and Flood Prevention Act of 1954 indicates that works of improvement installed with program assistance are to yield benefits in excess of their costs. Program activities are to be governed by rules and regulations issued by the President. Among other things, E.O. 10584 (December 18, 1954) gives the Secretary of Agriculture responsibility for establishing criteria for the formulation and justification of plans for works of improvement and criteria for the economic and engineering soundness of works of improvement consistent with the provisions of the Act and with policies, rules, and regulations issued by the President.

Executive Order 12044 (March 24, 1978) and the Secretary of Agriculture's Memorandum 1955 require that USDA systematically review the rules and regulations for all programs at regularly specified intervals. In keeping with this requirement, as well as the President's initiatives, and other concerns, the Department of Agriculture has scheduled for review the rules and regulations governing the formulation, implementation, and operation of watershed projects.

Alternatives Under Consideration

USDA will develop and consider

of the economy and groups to whom the costs are expected to accrue will also be

inspection at the time proposed and final rules are published

amended, established a national fishery management program for the

from a stock under current environmental conditions

Alaska pollock, Pacific halibut, Pacific Ocean perch, yellowfin sole, turbots

Alternatives Under Consideration

USDA will develop and consider alternatives to help resolve issues in each of the problem areas (environment, economic evaluation, equity aspects in terms of the distribution of costs and benefits, and safety aspects), and to improve the performance of the program in achieving its objectives.

The review will consider such things as the appropriate mix of structural (such as dams and stream channel modifications) and nonstructural alternatives (such as purchase and removal of damageable structures or flood plain zoning) to achieve flood control, appropriate levels of protection to achieve national flood damage objectives, and appropriate levels of soil and water conservation and measures to be used to achieve conservation objectives.

Summary of Benefits

Sectors Affected: People living in existing or potential watershed project areas; and State and local governments.

A change in the rules and regulations for the Watershed Protection and Flood Prevention Program could affect people living in rural and urban watersheds of up to 250,000 acres that have erosion, sediment, flood, drainage, irrigation, recreation, or water supply problems. The units of local government that might sponsor a watershed project, and therefore benefit, include the following: soil and water conservation districts; conservancy districts; boards of county commissioners; county councils; water districts; natural resource districts; city, town, and village councils; State departments of natural resources; State fish and wildlife departments; and State park departments.

USDA will analyze the benefits of each regulatory alternative considered for each problem area as a part of the regulatory analysis process. The sectors of the economy and groups to whom the benefits are expected to accrue will also be identified.

Summary of Costs

Sectors Affected: People living in existing or potential watershed project areas; and State and local governments.

Those who pay the costs of watershed projects, both monetary and non-monetary, are generally the members of the same sectors and groups who receive the benefits of the program.

USDA will analyze the costs of each regulatory alternative considered for each problem area as a part of the regulatory analysis process. The sectors of the economy and groups to whom the costs are expected to accrue will also be identified. Alternatives considered in the regulatory review will include those which would allocate costs commensurate with privately appropriable benefits accruing from the program.

Related Regulations and Actions

Internal: Compliance with NEPA (National Environmental Protection Act), Procedures for Soil Conservation Service (SCS)-Assisted Programs, 7 CFR 650.1.

Compliance with NEPA, Related Environmental Concerns, Flood Plain Management, 7 CFR 650.25.

Support Activities, Compliance with NEPA, Protection of Wetlands, 7 CFR 650.26.

Procedures for the Protection of Archaeological and Historical Properties Encountered in SCS-Assisted Programs, 7 CFR Part 656.

Prime and Unique Farmlands, 7 CFR 657. Describes prime and unique farmlands and States' policies for protecting and preserving them for agricultural use.

External: Principles and Standards for Planning Water and Related Land Resources, Water Resources Council (WRC).

Procedures for Evaluation of Natural Economic Development Benefits and Costs in Water Resources Planning—WRC.

Executive Order 10584, "Rules and Regulations Relating to Administration of the Authority of the Watershed Protection and Flood Prevention Act."

Active Government Collaboration

During the study of rules and regulations for the watershed program, USDA will coordinate applicable changes with the Water Resources Council.

Prior to initiating review of the program, USDA will develop a plan for public participation by public groups, State and local governmental groups, and other Federal agencies.

Timetable

USDA will not complete the review of rules and regulations for the watershed program until the Water Resources Council (WRC) has finalized new procedures for planning and evaluating water resource projects. The present schedule is as follows:

NPRM—April 1981.
Public Comment—60 days following publication of NPRM.
Final Rule—September 1981.
Draft and Final Impact Analyses—Will be available for public inspection at the time proposed and final rules are published respectively.

Available Documents

Watershed Projects, 7 CFR Part 622, Source: 40 FR 12475, March 19, 1975.

Revision of "Principles and Standards for Planning Water and Related Land Resources," December 1979.

Procedures for Evaluation of National Economic Development Benefits and Costs in Water Resources Planning, December 1979.

Environmental Quality Manual (issued by WRC): 45 FR 64402, September 29, 1980.

Supplement to National Economic Development Manual (issued by WRC): 45 FR 64472, September 29, 1980.

These documents are available from the Agency Contact listed below.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Regulations Implementing a Fishery Management Plan for the Groundfish Fishery for the Bering Sea/Aleutian Island Area

Legal Authority

The Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. § 1801 *et seq.*

Reason for Including This Entry

The Department of Commerce (DOC) believes these regulations are of significant public interest in the fishery management area under the geographical jurisdiction of the North Pacific Fishery Management Council. We expect the regulations to provide the framework for development of underutilized species of fish, to rebuild fishery stocks or maintain them at productive levels, and to increase profits and productivity of the U.S. fishing industry.

Statement of Problem

Background Information on Fishery Management Plans

The Fishery Conservation and Management Act of 1976 (the Act), as amended, established a national fishery management program for the conservation and management of fishery resources subject to exclusive U.S. management authority in the fishery conservation zone (FCZ). The FCZ is the area between the seaward boundary of each coastal state and a point 200 miles from the baseline used to measure the territorial sea. Congress authorized this program to prevent overfishing, rebuild overfished stocks, ensure conservation of fishery stocks, and realize the full potential benefits of the Nation's fishery resources for present and future generations. To meet these objectives, the Act calls for the preparation of fishery management plans (FMPs) by the eight Regional Fishery Management Councils (the Councils), or under certain conditions, by the Secretary of Commerce (the Secretary). The Secretary is responsible for the review, approval, and implementation of these FMPs. Each Council has the authority to prepare an FMP for each fishery within its geographical area of authority. (A fishery is defined as one or more stocks of fish identifiable on the basis of geographical, scientific, technical, recreational, and economic characteristics.) Enforcement of the Act, including the provisions of approved FMPs and the implementing regulations, is the joint responsibility of the Secretary and the Secretary of Transportation (who oversees the operations of the Coast Guard).

The Act established seven National Standards to be applied by both the Council and the Secretary in the preparation and review of any FMP. The National Standards require that the Councils design their FMPs to: (1) achieve the optimum yield of a stock of fish (a species, subspecies, geographical grouping, or other category of fish capable of being managed as a unit) on a continuing basis; (2) use the best scientific information available; (3) manage an individual stock of fish as a unit throughout its range; (4) be nondiscriminatory among residents of different States (assigning fair and equitable fishing privileges); (5) promote efficiency in harvesting techniques or strategies; (6) take into account the variability of fishery resources and the needs of fishermen, consumers, and the general public; and (7) minimize the costs of conservation and management measures. Optimum yield (OY) is based upon the maximum sustainable yield (MSY) of a fishery modified by relevant economic, social, or ecological factors. The MSY is an average, over a reasonable length of time, of the largest catch which can be taken continuously from a stock under current environmental conditions.

An FMP allows foreign fishing fleets to harvest that portion of the optimum yield of a fishery which will not be harvested by U.S. fishermen. To participate in a U.S. fishery in the FCZ, a foreign vessel must have a permit issued by the Secretary. Each permit contains a statement of the conditions and restrictions with which the foreign fishing vessel must comply.

Before a foreign nation may obtain a U.S. fishing permit, it must sign a Governing International Fishery Agreement (GIFA). This agreement acknowledges the exclusive fishery management authority of the United States and forms a binding commitment of that nation to comply with the terms and conditions specified under the Act. Any existing international agreements, other than GIFAs, are considered valid only if they were in effect before the Act and have not expired, been renegotiated, or been negated in any manner. The Secretary of State, in cooperation with the Secretary, determines the allocation of the total allowable surplus the applicant nation will receive.

The Bering Sea/Aleutian Island Groundfish FMP

The North Pacific Fishery Management Council (the Council) has developed an FMP for the groundfish fishery of the Bering Sea/Aleutian Island area off the coast of Alaska. The stocks covered by this FMP include Pacific Ocean perch, Alaska pollock, Pacific cod, yellowfin sole, turbots, sablefish, other flounders and flatfish, Atka mackerel, squid, and other species.

The FMP for the groundfish fishery in the Bering Sea/Aleutian Island area would replace the current Preliminary Fishery Management Plan (PMP) prepared by NOAA/NMFS. This is necessary because the PMP cannot regulate domestic fishing activities and, therefore, guard against overfishing and the potential for incidental catches of halibut in a directed fishery for groundfish.

The FMP addresses four problems: (1) maintaining stocks currently at levels of MSY; (2) rebuilding depleted stocks to levels of abundance producing MSY; (3) controlling the incidental catch of species of commercial importance to U.S. fishermen; and (4) establishing an environment conducive to development of a U.S. groundfish fishery.

(1) Maintaining or rebuilding of stocks. We (NOAA/NMFS) have conducted stock assessment studies on the following categories of Bering Sea/Aleutian Island groundfish species: Alaska pollock, Pacific halibut, Pacific Ocean perch, yellowfin sole, turbots, other flatfishes, Pacific cod, rockfishes, sablefish, Atka mackerel, squid, and other species. With the exception of Pacific Ocean perch, Pacific halibut, and sablefish, we believe all other groundfish species in the Bering Sea/Aleutian Island area to be at levels of abundance equal to or greater than those that would produce MSY.

We consider Pacific Ocean perch stocks to be at relatively low levels of abundance because of: (1) a continuous decline in catch per unit of effort (CPUE) since 1968, (2) a drastic reduction in the availability of all sizes of ocean perch between 1969–1972, (3) a heavy dependence of the fishery on younger fish, and (4) the lack of any evidence of a strong incoming year class. The Council defined the target level which would serve the development of a stock rebuilding program as being equal to MSY (107,000 metric tons (mt)) in the FMP. Therefore, to promote rebuilding, the Council set the allowable biological catch (ABC = 10,750 mt) of Pacific Ocean perch at half of the current equilibrium yield (EY = 21,500 mt). The ABC is a seasonally determined catch that may differ from MSY for biological reasons. The EY is the annual or seasonal harvest which allows the stock to be maintained at approximately the same level of abundance, apart from the effects of environmental variation, in successive seasons or years.

Pacific halibut stocks have declined sharply in the eastern Bering Sea since the early 1960s. Recent surveys indicate an increase in the abundance of juveniles; however, abundance is still below early 1960s levels. The Council did not set an allowable biological catch for Pacific halibut in the FMP because the fishery is currently regulated by the International Pacific Halibut Commission (IPHC). Instead, the Council specified OY for species other than halibut covered by the FMP to accommodate rebuilding of halibut stocks. It is important to note that the rebuilding program of the IPHC is governed by a philosophy rather than a mandate to achieve a specified stock size. Specifically, the IPHC's concern is focused on rebuilding stocks back to levels which can support the maximum catch, given the biological and economic conditions of the fishery.

Analyses of CPUE data for sablefish by both U.S. and Japanese scientists show a declining trend. They have interpreted the declining trend in CPUE, coupled with catch data, as indicating that sablefish stocks in the eastern Bering Sea/Aleutian Region are at

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reduced levels of abundance. The Council set the allowable biological catch for sablefish (5,000 mt) at 38 percent of the estimated MSY (13,200 mt) to facilitate rebuilding of the stock.

(2) Incidental catch. Foreign fishing fleets dominate current fishery activity directed at Bering Sea groundfish resources. Foreign vessels target on groundfish and substantial numbers of halibut and crabs (king and Tanner) are taken as an incidental catch. Although regulations require that these species be released, most die from injuries received during capture. In the eastern Bering Sea, we estimated the annual yield loss of halibut due to the incidental catch by foreign vessels to be 5,000 mt. On the basis of 1978 exvessel prices (the value of the catch at dockside), we calculated the potential market value of the lost halibut to be $11,550,000. We projected the incidental catches of king and Tanner crab during 1977 to be about 0.6 million and 17.5 million crabs, respectively. The potential market value of the incidental crab losses using 1977 U.S. exvessel prices was estimated at $4.8 million for king crab and $13.6 million for Tanner crab. These estimates assume that U.S. fishermen would have caught the king and Tanner crab and that exvessel prices would not have changed significantly in response to the additional crab landings. We expect that regulations implementing the Bering Sea groundfish FMP and the Tanner crab FMP will reduce the incidental catch of crabs and halibut by foreign vessels. The magnitude of halibut and crab losses indicates that optimum yields, total allowable levels of foreign fishing, and domestic allowable harvests established in the FMP can affect several important domestic fisheries.

(3) Development of a U.S. groundfish fishery. Many U.S. fishing interests perceive the presence of fleets of large foreign trawlers as an impediment to the development of a domestic groundfish trawl fishery in the Bering Sea because of the possibility of: (a) preemption of favored grounds by concentrations of foreign vessels that are two to three times the size of the largest U.S. trawlers, and (b) competition for fish by foreign vessels that can apparently operate sucessfully at levels of abundance and average fish sizes that are less than those required for economic operation of domestic trawlers.

Management objectives for the groundfish fishery in the Bering Sea/Aleutian Island area are as follows:

(a) continue rebuilding the halibut resource so that a viable halibut longline (a type of gear with hooks attached to a long rope suspended from buoys) fishery is again available to American fishermen;

(b) rebuild depleted groundfish stocks to, and maintain healthy groundfish stocks at, levels of abundance that will produce MSY;

(c) provide an opportunity for U.S. involvement in the Bering Sea/Aleutian Island groundfish fishery, limited only by the OY of individual species and objectives (a) and (b) above; and

(d) allow foreign participation in the fishery, consistent with objectives (a), (b), and (c), above.

Alternatives Under Consideration

In the process of preparing the FMP, the Council considered alternative management options to attain the plan's objectives. Before making a final decision on a particular set of management options, the Council developed a draft FMP and solicited, through public hearings and public comments, the advice and recommendations of all interested persons, including States and commercial and recreational fishery groups. After the Council selected the preferred management options, it prepared a final FMP for submission to the Secretary for review, approval, and implementation. The alternatives we now are considering are:

(A) Continue the 1979 PMP—Under this alternative, we would extend the 1979 PMP to cover the 1980 fishing season. However, a PMP can only regulate foreign fishing. As a result, the Council would not be able to develop regulations to permit the rebuilding of depleted stocks or to adequately control the incidental catch of species of commercial importance to U.S. fishermen (halibut, king crab, and Tanner crab).

(B) Develop an FMP—The FMP developed by the North Pacific Fishery Management Council contains management measures specifying OY for the total fishery (1,559,226 metric tons (mt)), domestic allowable harvest (56,100 mt), reserves (73,324 mt), and the total allowable level of foreign fishing (TALFF) (1,429,802 mt). The Council set optimum yields for Pacific Ocean perch and sablefish at levels which should result in rebuilding these stocks to MSY levels. The Council also set the domestic allowable harvest at a level consistent with the production expectations of both U.S. harvesters and processors.

To prevent the OY from being exceeded without hindering unexpected domestic fishery development (an unanticipated increase in U.S. catching capability and intent), we will hold in reserve 500 mt or 5 percent of the OY (whichever is greater) of each species for allocation later in the fishing season on the basis of domestic need. Unless specifically withheld by the National Marine Fisheries Service Alaska Regional Director, acting with the advice of the North Pacific Council, up to 25 percent of the reserve of each species can be released to TALFF every two months, beginning with the end of the second month of the fishing year. The Council determined initial TALFFs for each species by subtracting the sum of domestic allowable harvest and reserve from optimum yield.

Additional management measures selected by the Council included statistical reporting requirements, and permit requirements and area closures for foreign fishing vessels.

(C) Areas Closed to Foreign Fishing—The Council considered several area closure alternatives applicable to foreign fishing fleets. These areas cover the "Winter Halibut-savings areas," the Petrel Bank, and fishing grounds off the western portions of the Aleutian Islands. If we allowed foreign fishing in these areas during the specified time periods, there would be a continuation of incidental halibut catches. Although these areas are known to contain large concentrations of juvenile halibut, we are unable to quantify the halibut yield losses.

Summary of Benefits

Sectors Affected: U.S. commercial fishing and processing in Alaska; consumers of groundfish; and the general public.

The optimum yield of 1,559,226 mt set by the 1980 FMP represents an increase of 133,156 mt over the OY of 1,426,070 mt specified in the 1979 PMP. There were also increases in the domestic allowable harvest (46,100 mt), reserves (71,224 mt), and the TALFF 15,832 mt). We have estimated that foreign nations could pay $11.9 million in vessel and privilege fees to fish in the Bering Sea/Aleutian Island area in 1980.

At present, there is insufficient information to quantify the economic effects of this FMP on U.S. fishermen and processors. Projections of domestic catches are not reliable for the fishery because there has been only a limited amount of effort directed at the harvesting of groundfish by U.S. fishermen in the Bering Sea/Aleutian Island area. However, the preferential U.S. allocation of groundfish allows opportunity for expansion of U.S. harvests as rapidly as the private sector is willing to invest in the fishery. The U.S. allocation will permit the continued harvest of groundfish, which are used as crab bait, as well as the implementation of pilot projects for food fish production.

If these projects are successful, there may be an opportunity for expansion of U.S. exports of seafood products.

We also expect economic benefits from the rebuilding of stocks to levels of high abundance or to MSY levels. There are potential reductions in the cost of harvesting fish because of larger CPUE (i.e., greater productivity). Additionally, there is a strong consumer demand for halibut products. A rebuilt stock, under proper management, will enable the catch of the fishery to expand and increase the supply of halibut for the U.S. consumer.

A biological benefit of rebuilding depleted fish stocks is the maintenance of a large amount of genetic variability in the stock to increase its chances of adapting to changes in the environment. Also, there is the benefit of stabilizing the fishable population to reduce the likelihood of sharp yearly variations in the harvest.

Summary of Costs

Sectors Affected: The State of Alaska; the Federal Government; and the Departments of Commerce, State, and Transportation.

We project the total annual cost of implementing the FMP at $5,574,000. Of this total, the cost of the foreign fishery observer program of $370,000 will be reimbursed to the U.S. Treasury by foreign governments. The remaining $5,204,000 is divided among the National Oceanic and Atmospheric Administration ($493,000) for administrative and data collection costs, the State of Alaska ($11,000) for data collection costs, and the Coast Guard ($4.7 million) for ship and aerial patrols.

Related Regulations and Actions

Internal: Provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. § 1361 *et seq.*) have a bearing on this FMP through restrictions on killing or harvesting seals and sea lions (50 CFR Part 216), which may prey on fish already captured in nets. The FMP for Groundfish in the Gulf of Alaska (43 FR 17242, April 22, 1978) has implementing regulations designed to minimize the incidental catch of halibut. In addition, the Convention for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (5 UST 5) controls the directed catch of halibut.

External: The Alaska Department of Fish and Game and the Alaska Limited Entry Commission issue regulations which control the harvest of fishery resources in State territorial waters (0 to 3 miles) off the coast of Alaska.

Active Government Collaboration

We requested comments on this FMP from the Environmental Protection Agency; the Marine Mammal Commission; the Departments of Agriculture, Interior, State, and Transportation; and several State governments.

Timetable

Final Rule—December 1980.
Final Rule Effective—January 1981.

Available Documents

NPRM—44 FR 66356, November 19, 1979.

The Draft Environmental Impact Statement and Fishery Management Plan for the Groundfish Fishery in the Bering Sea/Aleutian Island area.

Draft Regulatory Analysis for the FMP.

Public Comments.

All documents are available for review at the National Marine Fisheries Service, Office of Resource Conservation and Management, Plan Review Division, 3300 Whitehaven Street, Washington, DC 20235.

Agency Contact

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DOC–NOAA

Regulations Implementing a Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, United States Waters

Legal Authority

The Fishery Conservation and Management Act of 1976, as amended, 16 U.S.C. § 1801 *et seq.*

Reason for Including This Entry

The Department of Commerce (DOC) believes these regulations are of significant public interest in the fishery management area under the geographical jurisdiction of the Gulf of Mexico Fishery Management Council. We expect these regulations to increase productivity in the shrimp fishery.

Statement of Problem

Background Information on Fishery Management Plans

The Fishery Conservation and Management Act of 1976 (the Act), as amended, established a national fishery management program for the conservation and management of fishery resources which are subject to exclusive U.S. management authority in the fishery conservation zone (FCZ). The FCZ is the area between the seaward boundary of each coastal State and a point 200 miles from the baseline used to measure the territorial sea. Congress authorized this program to prevent overfishing, rebuild overfished stocks, ensure conservation of fishery stocks, and realize the full potential benefits of the Nation's fishery resources for present and future generations. To meet these objectives, the Act calls for the preparation of fishery management plans (FMPs) by the eight Regional Fishery Management Councils (the Councils) or, under certain conditions, by the Secretary of Commerce (the Secretary). The Secretary is responsible for the review, approval, and implementation of these FMPs. Each Council has the authority to prepare an FMP for each fishery within its geographical area of authority. (A fishery is defined as one or more stocks of fish identifiable on the basis of geographical, scientific, technical, recreational, and economic characteristics.) Enforcement of the Act, including the provisions of approved FMPs and promulgated regulations, is the joint responsibility of the Secretary and the Secretary of Transportation (who oversees the operations of the Coast Guard).

The Act established seven National Standards to be applied by both the Councils and the Secretary in the preparation and review of an FMP. The National Standards require that the Councils design their FMPs to: (1) achieve the optimum yield of a stock of fish (a species, subspecies, geographical grouping, or other category of fish capable of being managed as a unit) on a continuing basis; (2) use the best scientific information available; (3) manage an individual stock of fish as a unit throughout its range; (4) be nondiscriminatory among residents of different States (assigning fair and equitable fishing privileges); (5) promote efficiency in the harvesting techniques or strategies; (6) take into account the variability of fishery resources and the needs of fishermen, consumers, and the general public; and (7) minimize conservation and management costs. Optimum yield (OY) is based upon the maximum sustainable yield (MSY) of a fishery, modified by relevant economic, social, or ecological factors. The MSY is an average, over a reasonable length of time, of the largest catch which can be taken continuously from a stock under current environmental conditions.

An FMP allows foreign fishing fleets to harvest that portion of the OY of a

(2) Discard of Shrimp by Culling. Several States have laws which restrict

shrimp fishing; however, the sanctuary

The Council rejected these measures

Summary of Costs

Service, Office of Resource Conservation and Management, Plan

An FMP allows foreign fishing fleets to harvest that portion of the OY of a fishery which will not be harvested by U.S. fishermen. To participate in a U.S. fishery in the FCZ, a foreign vessel must have a permit issued by the Secretary. Each permit contains a statement of the conditions and restrictions with which the foreign fishing vessel must comply.

Before a foreign nation may obtain a U.S. fishing permit, it must sign a Governing International Fishery Agreement (GIFA). This agreement acknowledges the exclusive fishery management authority of the United States and forms a binding commitment of that nation to comply with the terms and conditions specified under the Act. Any existing international agreements, other than GIFAs, are considered valid only if they were in effect before the Act and have not expired, been renegotiated, or been negated in any manner. The Secretary of State, in cooperation with the Secretary, determines the allocation of the total allowable surplus the applicant nation will receive.

The Shrimp FMP

The Gulf of Mexico Fishery Management Council (the Council) has developed an FMP for the U.S. shrimp fishery in the Gulf of Mexico. Target species comprising the shrimp fishery include: brown shrimp, white shrimp, pink shrimp, and royal red shrimp. Seabobs and rock shrimp are caught incidental to the target species.

Shrimp is the single most valuable fishery in the United States, measured by the exvessel value of the reported catch (the value of the catch at dockside). In 1979, the U.S. fleet landed 93,722 metric tons (mt) of shrimp in the Gulf of Mexico with an exvessel value of $378 million. Total value of all U.S. landings in 1979 (exclusive of catches off foreign coasts) was $2.08 billion (2.68 million mt).

The Gulf Council identified the following major problems in the shrimp fishery:

(1) Conflict Among User Groups on Fishing Areas and Harvest Size of Shrimp. The commercial shrimp fishing fleet consists of small boat operations restricted to inland bays and shallow water offshore areas, and larger vessels which can fish in the territorial seas and the FCZ. In these fleets, some vessels prefer small size shrimp while other vessels focus on the larger size (higher valued) shrimp. Gulf State regulations control the shrimp catch in the territorial sea; however, there are no regulations in the FCZ to reflect the size preferences of the different segments of the shrimp fishing fleet.

(2) Discard of Shrimp by Culling. Several States have laws which restrict the size (i.e., the number of shrimp per pound) at which shrimp can be legally landed and marketed. Often, illegal-size shrimp are inadvertently caught and subsequently discarded (culled). There is a high mortality of these discarded shrimp, and this lowers the yield from the shrimp fishery.

(3) The Continuing Decline in the Quality and Quantity of Estuarine and Associated Upland Habitats. The alteration of the natural environment has destroyed some of the habitat of shrimp in their postlarvae and juvenile stages. Alterations include: (1) impoundments, which prevent the movement of shrimp; (2) bulkheading, which seals off critical marsh water or mangrove water interface; and (3) diversion of fresh water, which changes the salinity factor of natural areas. Most of these physical areas are outside the FCZ and, therefore, not under the direct jurisdiction of the Council. However, the Council is encouraging the State and Federal government agencies to protect these critical habitat areas and has established a special committee to monitor and research this problem.

(4) Lack of Basic Data Needed for Effective Management. Although statistical data covering the shrimp fishery of the Gulf of Mexico is more complete than for many other Gulf fisheries, there is a shortage of information concerning the optimum harvest sizes and the market sectors.

Alternatives Under Consideration

In the process of preparing the FMP, the Council considered alternative management options to resolve the problems in the shrimp fishery. Before making a final decision on a particular set of management options, the Council developed a draft FMP and solicited, through public hearings and public comments, the advice and recommendations of all interested persons, including States and commercial and recreational fishery groups. After the Council selected the preferred management options, it prepared a final FMP for submission to the Secretary for review, approval, and implementation. The following alternatives are a partial listing of the options considered in the shrimp FMP.

(A) Permanent Closure of the "Tortugas Shrimp Sanctuary"—This option would close to fishing the Tortugas Shrimp Sanctuary, which serves as a sanctuary for pink shrimp recruited to the Tortugas and Sanibel shrimping grounds. The State of Florida has closed part of the Tortugas sanctuary in its territorial waters to shrimp fishing; however, the sanctuary also extends into the FCZ where Florida does not have jurisdiction over fishing vessels of other States. The objective of this option is to eliminate the capture and subsequent mortality of undersized shrimp. As a result, we expect the average size and availability of shrimp to increase in the fishing grounds beyond the sanctuary.

(B) Closure of the Territorial Sea of Texas and the Adjacent U.S. FCZ to Shrimp Fishing—The Department of Commerce will close the FCZ at the same time that the State of Texas closes its territorial sea. Closure normally occurs June 1 to July 15; however, the effects of environmental conditions on shrimp growth may necessitate a 15-day flexibility in the closing and opening dates. We expect this option to increase the yield of shrimp and to eliminate waste due to discarding of undersized brown shrimp in the FCZ. Studies indicate that closure would protect the smaller shrimp until they have grown to a more valuable size.

(C) Seasonal Closure of the FCZ off the Texas Coast out to either 20 Fathoms or 30 Nautical Miles—The State of Texas usually closes its territorial sea from June 1 through July 15. Extension of the closed season to either 20 fathoms or 30 nautical miles is intended to reduce the discard (biological waste) of small brown shrimp in the territorial sea and the FCZ associated with Texas during the May through August period.

The Council did not propose the 20-fathom and 30-nautical mile closure alternative. Although these measures would reduce biological waste, they would create substantial enforcement problems for the Coast Guard and National Marine Fisheries Service in monitoring the limited closure areas. Closure of the FCZ was the least expensive enforcement alternative.

(D) Spawning Area Closures—The Council considered several management measures which would protect shrimp from being harvested during spawning periods. These measures included area and seasonal closures and the establishment of sanctuaries. However, the Council did not propose any of these measures because our data did not support a biological advantage from protecting spawning shrimp. Our scientists have not established a strong relationship between the number of spawners and number of recruits into the fishery.

(E) Other Management Options—The Council considered a wide range of management measures concerning minimum sizes, different seasons, entry restrictions, and different gear types. The Council rejected these measures because they could result in high enforcement costs, impose economic burdens on fishermen, or have no biological benefits.

The two major management measures selected by the Council are closure of the Tortugas Shrimp Sanctuary and the closure of the U.S. FCZ at the same time that Texas closes its territorial sea to brown shrimping.

Summary of Benefits

Sectors Affected: U.S. commercial fishing and processing; and the general public, including consumers of shrimp.

We have determined jointly with the Council that management of the shrimp stocks in the FCZ will probably provide a higher yield of shrimp in both weight and value than would result if we took no action. In the absence of an FMP, there would continue to be waste from culling and discarding of small shrimp, conflicts among users, and inadequate statistical information to monitor the fishery.

We expect that the expansion of the Tortugas Shrimp Sanctuary beyond the Florida territorial sea will result in an increase in pink shrimp landings of one million pounds. This increase is due to a combination of two factors: (1) growth in undersized shrimp (smaller than 69 tails to the pound); and (2) reductions in discarded (culled) shrimp. We estimate the total exvessel value of the increased landings at $2.43 million (1978 dollars). In addition, we expect a positive effect on the economic efficiency of the shrimp fleet, i.e., landings per vessel should increase, assuming effort remains constant. However, as revenues increase, more shrimp vessels could be attracted into the fishery and have a negative impact on economic efficiency in the long run.

We expect that closure of the FCZ off the Texas coast, when a substantial portion of the brown shrimp weigh less than a count of 65 tails to the pound, may result in an increase in landings of 2.1 million pounds. This increase includes 0.5 million pounds from the growth of smaller shrimp and 1.6 million pounds due to use of previously discarded shrimp which now can be marketed. We estimate the exvessel value of the increase in landings at $7.1 million (1978 dollars). The reason for the large increase in value is that the Texas closure shuts down the fishery for 45 days, which allows the shrimp to attain a larger, more valuable size. In the short run, we expect the economic efficiency of the fleet to increase as a result of the availability of more and larger-sized shrimp for a given level of effort.

Summary of Costs

Sectors Affected: U.S. commercial and recreational fishing and processing; and the Federal Government.

We estimate the Federal Government's costs (1980 dollars) associated with the implementation and enforcement of the shrimp FMP at $1.7 million. These cost estimates include $543 thousand for enforcement, $374 thousand for data system development, and $782 thousand for annual data system operation.

The statistical reporting system involves surveys of fishermen and processors. We have not yet established the sampling strategy for the surveys and, therefore, do not have estimates of reporting burdens.

Related Regulations and Actions

Internal: The shrimp FMP is related to the stone crab FMP (44 FR 53519, September 14, 1979), which establishes a seasonal boundary line to resolve gear conflicts. The shrimp FMP is also related to the draft coastal migratory pelagic resources (mackerel) FMP and the draft reef fish FMP through the incidental catch of groundfish and reef fish by shrimp fishing gear. The incidental catch of sea turtles, which are taken by shrimp trawling operations, is regulated by the Endangered Species Act of 1973 (16 U.S.C. § 1531 *et seq.*). The shrimp FMP also attempts to be consistent with the Marine Mammal Protection Act of 1972 (16 U.S.C. § 1361 *et seq.*).

External: The States of Texas, Louisiana, Mississippi, Alabama, and Florida regulate the catch of shrimp in their respective territorial seas.

Active Government Collaboration

We have requested comments on the draft FMP from Federal and State agencies, Regional Fishery Management Councils, Fisheries Associations and Commissions, Sea Grant Advisory Services, and the general public. We also work closely with the U.S. Fish and Wildlife Service to protect sea turtle populations.

Timetable

NPRM—December 1980.
Final Rule—March 1981.
Final Rule Effective—April 1981.

Available Documents

Draft Regulatory Analysis for the Shrimp Fishery Management Plan.

Draft Environmental Impact Statement and Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico.

Public Comments.

All documents are available for review at the National Marine Fisheries Service, Office of Resource Conservation and Management, Plan Review Division, Washington, DC 20235.

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DOC–NOAA

Regulations on the Mining of Deep Seabed Hard Mineral Resources (15 CFR Part 970)

Legal Authority

Deep Seabed Hard Mineral Resources Act, 30 U.S.C. § 1401 *et seq.*

Reason for Including This Entry

The National Oceanic and Atmospheric Administration (NOAA) includes these proposed regulations because they may create a major impact on the economy by providing a legal system under which seabed mining by U.S. citizens may proceed. The proposed rules will have an integral relationship to the regulations of certain other programs and agencies, and they also may have significant public interest.

Statement of Problem

Pursuant to the Deep Seabed Hard Mineral Resources Act, the deep seabed hard minerals mining industry will be engaging in exploration authorized by NOAA until January 1988, at which time it may begin commercial recovery operations under permits issued by NOAA. The industry will be mining from the deep seabed nodules that include one or more minerals, at least one of which contains manganese, nickel, cobalt, or copper. The industry is in a formative stage, and the engineering and equipment requirements for mining at the necessary tremendous depths (approximately 15,000 feet) will necessitate very substantial investments by the mining industry. It is estimated that over $1 billion ultimately must be invested for each mining system, including processing facilities. Five international consortia are now engaged in seabed mining exploration and development efforts, and seven United States companies are participants in four of these.

The significance to the United States of such mining is apparent from the fact that this country must rely almost entirely on imports to meet its needs for manganese (approximately 98 percent), cobalt (approximately 98 percent), and

nickel (approximately 75 percent), which are necessary for the production of steel and other alloys. Because of the increasing domestic needs and other export opportunities of present suppliers, the United States cannot count on a continued supply of imports of all of these metals. Thus, the future supply of such metals is not as reliable as it should be, considering their significance to the needs of the Nation.

The mining of such nodules from the deep seabed has been a major issue in the present discussions at the U.N. Conference on the Law of the Sea. In the face of the uncertainties created by the Law of the Sea negotiations with respect to the legal status of potential miners, U.S. companies determined that they could no longer proceed with the commitment of substantial resources in such efforts, in the absence of domestic legislation authorizing mining.

In response to this situation, Congress passed domestic legislation to establish a legal structure pursuant to which U.S. miners could proceed with their efforts, pending the conclusion of an acceptable Law of the Sea treaty. On June 28, 1980, P.L. 96–283, the Deep Seabed Hard Mineral Resources Act (the Act), became law. It establishes an interim program to regulate exploration for and commercial recovery of seabed minerals by U.S. citizens; encourages the successful conclusion of a Law of the Sea treaty that will assure, among other things, non-discriminatory access to seabed minerals for all nations; establishes an international revenue-sharing fund; accelerates NOAA's seabed mining environmental assessment program; encourages the conservation of seabed mineral resources; protects the environment; promotes safety of life and property at sea; and encourages the continued development of necessary seabed mining technology. The Act requires NOAA to promulgate implementing regulations, which will govern the issuance by NOAA of exploration licenses and commercial recovery permits for industry. As required by the Act, NOAA will issue proposed regulations within 270 days after enactment of the statute (March 1981) and final regulations within 180 days thereafter (September 1981).

Aside from the Act's requirement to promulgate these regulations, the consequences of not responding to the above problem would be the continued uncertainty for potential U.S. miners with respect to their legal ability to rely on returns on their deep seabed mining investments. This uncertainty probably would lead to a halt in the development of such industry, which in turn would mean the continued U.S. dependence for the important metals on potentially unreliable foreign sources, at the same or increased levels.

Alternatives Under Consideration

NOAA is just beginning its rulemaking effort to implement the above statute. Therefore, the Agency has only begun to identify and consider alternatives in a very preliminary sense. In developing regulations for seabed mining, NOAA must address issues which fall into several areas. The major areas of issues raised by the Act are the financial and technological qualifications and capabilities of applicants; environmental effects and safeguards related to mining activities; resource development concepts; the safety of life and property at sea; international issues, including the prevention of interference by miners with other U.S. miners and with miners from foreign nations which have been licensed under compatible programs recognized by NOAA; and enforcement.

Alternatives for the development of seabed mining regulations are somewhat similar for all of the above areas, although different alternatives may be selected for different areas. Generally, one alternative would be to address these areas in substantial detail in the regulations, providing specific terms which would apply to all miners. If experience later revealed that such degree of detail and extent of requirements were unnecessary, we could reduce them. This approach would provide detailed guidance and predictability, but may prove to be unduly burdensome. On the other hand, NOAA could address an area in a more general way in its regulations, and then apply the general concepts in those regulations to the specific facts and site characteristics associated with each license or permit, relying more on individual terms, conditions, and restrictions for detail. This approach would allow greater flexibility; however, even individual provisions for some issues may require the acquisition of more information than NOAA and miners would possess at the time of granting a license or permit. A third alternative would be to employ less detailed requirements in both the regulations and the terms, conditions, and restrictions for each license and permit, and to rely on subsequent monitoring to ascertain whether additional requirements were needed in the future. This approach would provide the least predictability to applicants, but the amount of flexibility it allowed for addressing certain issues may be the most desirable, given that the industry is in a developing stage.

In considering alternative approaches to these regulations, NOAA will assess the feasibility of relying on certain innovative techniques which may allow more flexibility for individual miners while still accomplishing the purposes and requirements of the statute. For instance, NOAA may be able to rely on more flexible general performance standards or parameters for issues such as environmental safeguards, rather than specifying detailed compliance requirements. NOAA also may provide guidance in its regulations for meeting the requirements of the statute and then make it the responsibility of the applicant to specify in detail in its application how it will meet these requirements. Once a license or permit is issued, NOAA would expect the miner to operate according to the terms of its application. In addition, NOAA plans to consider the small business implications of this program.

Summary of Benefits

Sectors Affected: Mining of copper ores and ferroalloy ores, except vanadium; metal mining services; primary metal industries; and the general public.

Generally, the benefits from these regulations will relate to the existence of a more certain legal structure within which mining may proceed. Yet mining will proceed in a responsible manner with respect to concerns such as environmental effects and rational development of the resources. These efforts in turn will provide a more stable source to the United States of important metals such as cobalt, manganese, nickel, and copper. NOAA also assumes that those companies will realize a reasonable profit from their efforts.

NOAA has decided to conduct a Regulatory Analysis on these regulations. As we develop that analysis, we will be able to develop a more detailed analysis of the benefits to be derived from the regulations.

Summary of Costs

Sectors Affected: Mining copper ores and ferroalloy ores, except vanadium; metal mining services; and primary metal industries.

NOAA's investigation of costs is preliminary. Currently, it appears that the primary costs which would be incurred are the costs to the Government to establish a legal foundation conducive to seabed mining and the costs to the public and private

sectors from the permit application and reporting requirements.

Related Regulations and Actions

Internal: None.

External: Pursuant to the Act, the Coast Guard will provide NOAA with necessary permit conditions for seabed miners in order to meet the statute's requirement pertaining to avoiding inordinate threat to the safety of life and property at sea. The Act provides that the Coast Guard will have the exclusive responsibility for enforcement measures which affect the safety of life and property at sea, and may assist NOAA in the enforcement of the provisions of the statute. Furthermore, the Act specifies that any discharge of a pollutant from a mining vessel or other floating craft will be subject to the Clean Water Act and thus require a National Pollution Discharge Elimination System permit from the Environmental Protection Agency.

Active Government Collaboration

NOAA already has initiated preliminary discussions with the Environmental Protection Agency and the Coast Guard with respect to their authorities discussed above, which we will address in our regulations. NOAA also has initiated discussions with the Department of State, which has specified functions under the statute relating to NOAA's designation of reciprocating foreign states (the recognition of other nations' programs, referenced above), and with the Department of Justice and the Federal Trade Commission, which under the statute are to conduct antitrust reviews of seabed mining applications. NOAA intends to continue to coordinate these functions in the most effective and efficient manner possible.

In addition to preliminary discussions with the above agencies, NOAA has initiated discussions with other agencies with expertise concerning or jurisdiction over any aspect of the recovery or processing of deep seabed hard mineral resources. Thus, NOAA has initiated discussions with the Corps of Engineers to assist and coordinate with that agency in planning for the impact of onshore processing of deep seabed nodules. NOAA has also discussed the potential implications of the statute with the Maritime Administration, which may receive requests for financial assistance for mining-related vessels. NOAA has initiated discussions with the Bureau of Mines, the U.S. Geological Survey and the Bureau of Land Management of the Department of the Interior in order to benefit from their experience in those areas where the agencies have faced similar issues. Finally, NOAA has begun coordinating with the Small Business Administration in order to assess the potential impact of these regulations on small businesses.

In addition to this coordination at the Federal level, NOAA sponsored a study of the Federal, State, and local laws which would affect the possible siting of a seabed mining processing plant on the west coast of the United States and conducted public meetings on the west coast to allow relevant agencies and other interested persons to begin considering this possibility.

Timetable

NPRM—March 1981.
Regulatory and Other Analysis—We plan to issue a draft Regulatory Analysis and a draft Programmatic Environmental Impact Statement in March 1981.
Public Hearing—We will hold a public hearing during the comment period after the NPRM and draft Programmatic Environmental Impact Statement are issued.
Public Comment Period—60-day public comment period will follow the NPRM.
Final Rules—September 1981.
Final Rules Effective—October 1981.

Available Documents

The documents relevant to this rulemaking that are now available are the ANPRM (45 FR 49953, July 28, 1980), a draft environmental assessment report, which will form the basis for development of the Programmatic Environmental Impact Statement, and a preliminary discussion paper on the regulations which NOAA intends to make available to the public in November 1980. Information on the availability of these documents may be obtained from the Agency Contact below.

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DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

Uniform Rules and Regulations for the Protection and Conservation of Archaeological Resources Located on Public and Indian Lands (36 CFR 1215)

Legal Authority

The Archaeological Resources Protection Act of 1979, 16 U.S.C. § 470 aa–11.

Reason for Including This Entry

The Department of the Interior (DOI) believes these rules and regulations are important because they will significantly affect many archaeological investigations conducted on public and Indian lands by providing an equitable decisionmaking process within the permitting procedure and thereby ensuring greater accountability among Federal agencies. Furthermore, the regulations will improve the management of archaeological resources, detail procedures for civil penalties, and benefit authorized users by reducing or eliminating procedural differences within and among agencies.

Statement of Problem

In the past, the administration of the American Antiquities Act of 1906 (Public Law 59–209; 16 U.S.C. §§ 431–433) was subjected to legal challenges in the courts. The challenges were based on the statute's vagueness, resulting from its failure to inform the public in lay terms of what constitutes an "object of antiquity." Consequently, the criminal sanctions of this statute were easily avoided by those individuals who were destroying, excavating, and removing objects of antiquity without authorization from federally owned or controlled lands. In addition, P.L. 59–209 did not foster cooperation from all segments of society to protect and conserve such resources, for its focus was directed toward institutionally initiated research only. By 1974, it became obvious that the permitting sections of the Act were outdated because they did not provide adequate criminal penalties for violations.

As a result of the above, the Congress enacted the Archaeological Resources Protection Act of 1979 (P.L. 96–95) which provides adequate criminal penalties, clear definitions, new civil penalties, and the promotion of greater public involvement in the decisionmaking process connected with the permitting procedure. This new law is administered by the Heritage Conservation and

Recreation Service (HCRS), as is P.L. 59–209, on behalf of the Secretary of the

system constitutes a formal analysis of the applicant's ability to undertake the

site. In order to preserve such value, blanket exclusion of such items was

Summary of Costs

Sectors Affected: Federal land

rulemaking under 36 CFR 1214 to coordinate definitions between the two

Final Rule—Spring 1981.

Available Documents

Recreation Service (HCRS), as is P.L. 59–209, on behalf of the Secretary of the Interior. Although HCRS exercises overall program policy direction, each land-managing bureau of the Department is responsible for field-level program operations on those lands under its immediate jurisdiction. This statute also applies to all Interior land-managing bureaus, the Departments of Defense and Agriculture, the Tennessee Valley Authority, and all other independent land-managing or holding agencies of the Federal Government.

On Indian lands, the specific individual Indian land owner or the recognized Indian tribal authority with jurisdiction over such lands owns the archaeological resources located thereon. Such lands are administered jointly by the Bureau of Indian Affairs and the appropriate tribal authority.

These regulations establish procedures for enforcing the Act. The regulations will place limitations on the use of archaeological resources located on all public and Indian lands. The rule will include a systematic permitting procedure, an appeals process for parties denied permits, and a procedural approach for civil penalties imposed by the Secretary of the Interior and the other major Federal land managers for those persons who violate the statute in a noncriminal manner. This approach leaves a measure of Secretarial discretion in educating the public rather than using only criminal sanctions as the single effective deterrent to resource degradation.

These regulations seek Federal-wide uniformity in program administration and management policy direction. The Department of the Interior, as the lead Federal agency in the field of historic preservation, seeks to provide national leadership in this effort.

The regulations will have a direct impact on the activities of collectors, treasure hunters, and other users of the public domain. These rules will also have a direct impact upon the activities of professional archaeologists undertaking either institutionally initiated field research investigations or work directly related to survey, clearance, and mitigation investigations for energy projects. These regulations will also create new opportunities for the Native American community, resulting in their direct authority to provide protection for such resources as form a part of their immediate cultural heritage.

HCRS, on behalf of the Secretary, either issues or denies permits for archaeological investigations after it completes an institutional and professional review process in response to each application received. The review system constitutes a formal analysis of the applicant's ability to undertake the work, provide adequate curatorial facilities for the archaeological resources recovered, and meet several other requirements which demand professional objectivity by the Federal Government. Today, the success of many small professional archaeological businesses and the livelihood of thousands of employees depends upon responsible and objective review.

Therefore, the Federal Antiquities Program is one of the few such programs centralized to maintain uniform policy direction within the Department of the Interior and to ensure full professional accountability within the permitting authority. Applications are received from potential permittees and placed within a comprehensive review system which includes internal review, and review by the affected land managing bureau, scholars who are familiar with the archaeology of the proposed land area, and representatives of the appropriate Native American community. Permits are normally issued within 4 to 6 weeks after an application is received. In addition, HCRS may impose an emergency permitting procedure when specific archaeological resources are in immediate danger from natural or manmade terrain-altering activities, or when such investigations may delay energy-related projects if not allowed to commence immediately.

Alternatives Under Consideration

The Department considered several alternatives to this proposal:

A—No rules and regulations to implement the legislation. This alternative was rejected, for the Act requires at least two levels of rulemaking to occur.

B—Implementation through guidelines. This alternative would not have the binding force of rulemaking and would be contrary to congressional intent, and was therefore rejected.

C—More restrictive definition of "archaeological resource," which excludes bottles, bullets, coins, or other collector items of non-Native American manufacture. This alternative was rejected because it was not viewed as consistent with the broad purpose of the Act to protect and conserve the Nation's archaeological resources and sites. The field of archaeology is not confined to the study of prehistoric Indian cultural remains. Much of this Nation's cultural heritage is of non-Indian origin and can be the object of archaeological inquiry. Even common collector's items such as bottles and coins can be of great value in establishing the age of associated materials, demonstrating cultural contact, or determining the function of a site. In order to preserve such value, blanket exclusion of such items was rejected in favor of a definition which provides a test for determining whether items have archaeological value.

Summary of Benefits

Sectors Affected: Federal land managers (including the Departments of the Interior, Defense, and Agriculture; the Tennessee Valley Authority; and all other independent land-managing or holding agencies of the Federal Government); professional archaeologists, particularly small professional archaeological firms; Native Americans; collectors and treasure hunters; the general public; and public and Indian lands throughout the United States (approximately 800 million acres), with major emphasis in the 13 Western States where the majority of such lands are located.

The major benefit of the proposed rules will be to inform the public of what is expected of them, and to clarify obligations of the Federal land managers to the public. Archaeological research and the resource base benefit because the program procedures are simpler to understand, and thereby inform the public in a clear, concise manner while affording a systematic and equitable permitting procedure for legitimate field investigations. The Native American community also benefits greatly because these regulations provide greater control of archaeological resources to the Indian landowners, and afford all Indian tribes an opportunity to provide comment on all undertakings proposed to occur on non-Indian public lands which may be their former traditional tribal lands.

This rule also clarifies the enforcement procedures of each land-managing bureau of the Department. The most important single benefit to the public in this rule lies in its implicit intent to foster greater and improved involvement and cooperation among the professional archaeological community, Native Americans, and collectors nationwide.

The Department of the Interior strongly believes one of the most important aspects of the Archaeological Resources Protection Act and its regulations lie in their authority to bring about a greater national sensitivity for the protection and conservation of archaeological resources. Because this program will increase public awareness, the Interior Department is confident that it will help to enhance and safeguard that which remains of our national patrimony as represented by the tangible remains of man's prehistory and history in the United States.

Summary of Costs

Sectors Affected: Federal land managers; professional archaeologists; educational and scientific institutions; numerous small businesses in the private sector (professional archaeology firms); Native Americans; and collectors.

It is difficult to provide reliable estimates for the direct and indirect costs of the regulations to the sectors they affect. However, we anticipate only minimal costs. Increases will occur in the costs to the Federal Government of administering the Federal Antiquities Program, especially through policy direction at the national level by HCRS on behalf of the Secretary of the Interior. Such expenses as recordkeeping, inspections of curatorial facilities, onsite field investigations, and overall program monitoring of project-specific activities by the land-managing bureaus will obviously bring additional costs. These same bureaus will incur slight increases in funds for law enforcement efforts, not by increasing the number of field agents, but by providing greater coordination among existing law enforcement facilities at the State and local levels and increased coordination among Federal law enforcement agencies.

HCRS has requested $425,000 for FY 1981 for implementation of the program at the national policy direction level. Such funds as are necessary to implement the responsibilities of the several land-managing bureaus of the Department will be sought as needed by those bureaus, as well as the other Federal land managing departments and independent agencies. We anticipate the needs of the Interior land-managing bureaus not to exceed $700,000 per fiscal year.

For other departments and independent agencies, the levels of funding for full program implementation above existing program levels will depend upon their actual level of involvement and whether or not they choose to delegate program administration and/or policy direction to the Department of the Interior. Fiscal impacts to existing protection and permitting programs for non-Interior agencies is expected to be proportionally equal to Interior.

Related Regulations and Actions

Internal: American Antiquities Act of 1906 (43 CFR 3)—The Department of the Interior published proposed rulemaking on the "Definition of an Object of Antiquity" on April 10, 1978 (43 CFR 14975). Due to the passage of P.L. 96–95, the definition of an "object of antiquity" will be republished as proposed rulemaking under 36 CFR 1214 to coordinate definitions between the two separate statutes next spring after uniform regulations under 36 CFR 1215 are published in final and become effective.

External: None.

Active Government Collaboration

The Department of the Interior, through HCRS and under the auspices of the Federal Antiquities Program, initiated an interagency task force to write the rules and regulations immediately prior to the President's signing of House Bill 1825 (Archaeological Resources Protection Act), on October 31, 1979. On March 24, 1980, the Secretary of the Interior formally created the Interagency Rulemaking Task Force for the Implementation of Public Law 96–95. This task force is comprised of representatives of each Interior land-managing bureau, the Departments of Defense (Navy, Air Force, and Army) and Agriculture, and the Tennessee Valley Authority. In addition, several other smaller land-managing and holding independent agencies will be affected by these uniform regulations, and will be expected to issue agency-specific guidelines and procedures. This interagency task force will remain active through publication of final uniform regulations in the **Federal Register**.

These rules and regulations are the first in a three-tier rulemaking process. Subsequent to the publication of final regulations in the **Federal Register** of the uniform regulations, each Federal land manager (department or independent agency) is required to publish the next level of regulations specific to that department or agency's overall mission. Procedurally, each may vary in scope and applicability within the framework of the uniform regulations. Subsequent to the publication of final departmental regulations in the **Federal Register**, each bureau of a department may issue bureau mission-specific guidelines or procedures which may take the form of regulations within the scope of that particular bureau's departmental regulations or departmental manual.

Timetable

NPRM—Fall 1980.
Public Comment Period—60 days following NPRM, ending approximately December 19, 1980.
Regulatory Analysis—None.
Public Hearings—November 8, 1980–December 13, 1980 (Albuquerque, New Mexico; Anchorage, Alaska; San Francisco, California; Denver, Colorado; Chicago, Illinois; and Atlanta, Georgia).
Final Rule—Spring 1981.

Available Documents

"Archaeological Resources Protection Act of 1979; Notice of Permitting Procedures Pending Publication of New Regulations," **Federal Register**, January 23, 1980 (45 FR 5302).

"Archaeological Resources Protection Act of 1979; Public Hearings Prior to Publication of Proposed Rulemaking," **Federal Register**, March 19, 1980 (45 FR 17622).

Transcripts and recordings of early input public hearings held in Denver, Colorado (March 22, 1980); Phoenix, Arizona (March 29, 1980); Portland, Oregon (April 12, 1980); and Knoxville, Tennessee (April 19, 1980).

The Environmental Assessment, the Determination of Significance, and the Work Plan for Public Involvement.

The above documents are available by mail from the offices of the Heritage Conservation and Recreation Service, Washington, DC 20243, (202) 343–5264.

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DOI—National Park Service

Right-of-Way Regulations (36 CFR Part 14*)

Legal Authority

16 U.S.C. §§ 5, 79; 23 U.S.C. § 317; 36 CFR Part 14 (45 FR 47092, July 11, 1980).

Reason for Including This Entry

The National Park Service (NPS) includes this entry because these regulations may have regionwide or local impacts on State and local government, and on other programs of the Department of the Interior or other Federal agencies.

Statement of Problem

A right-of-way is a use of National Park System lands by State and local governments, other Federal agencies, and private individuals and organizations for such purposes as roads and highways, utility and communication lines and facilities, pipelines, and water facilities.

Until July 1, 1980, the National Park Service in dealing with requests for rights-of-way, used regulations promulgated by the Bureau of Land

Management (BLM) and codified in 43 CFR Part 2800. However, BLM revised these regulations in accordance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. § 1761) and deleted all reference to the National Park Service. Since the provisions of this Act and the regulations promulgated to comply with it do not apply to the National Park Service, the Service must develop independent regulations applicable to right-of-way requests on National Park System lands. At the present time, the National Park System of the United States comprises nearly 320 areas covering some 76 million acres in 49 States, the District of Columbia, Guam, Puerto Rico, Saipan, and the Virgin Islands. These areas include such designations as national park, national preserve, national monument, national memorial, national historic site, national seashore, and national battlefield park.

These regulations will provide a process for the review, consideration, and approval or disapproval of requests for rights-of-way across all areas of the National Park System. They will establish procedures for the granting of rights-of-way to State and local governments, other Federal agencies, and private individuals and organizations. These procedures will cover rights-of-way authorized at the discretion of the Secretary of the Interior, by individual park legislation, and for rights-of-way issued because of the right to which the holder is legally entitled.

Until these regulations are drafted, the Service is following interim regulations (45 FR 47092, July 11, 1980).

Alternatives Under Consideration

The National Park Service is considering two alternatives:

Alternative (A) is the drafting of right-of-way regulations which at a minimum are needed to comply with existing laws (16 U.S.C. §§ 5, 79 and 23 U.S.C. § 317). This will provide a process for the review, consideration, and approval or disapproval of requests for rights-of-way across all areas of the National Park System.

The disadvantage of this alternative is that it will not address all the issues and problems and may not assure the best protection of all National Park values. Issues and problems that would not be addressed under Alternative A include: access across park lands to private property, rights-of-way authorized in specific legislation establishing a park, and the effects on adjacent lands and landowners of NPS approval or denial of a right-of-way application. These situations currently exist in most of the more that 320 units of the National Park System. By failing to address them in regulations, the NPS will not be providing the maximum protection to the natural, cultural, aesthetic, and recreational resources it administers and is required by law to preserve and protect.

Alternative (B) is the drafting of broader regulations that will cover such issues as: reasonable access to an owner's property, a legally held right to cross NPS lands, and right-of-way authorizations in individual statutes.

These broader regulations will address problems and issues that presently exist in units of the National Park System and will afford greater protection for the natural, cultural, aesthetic, and recreational values that the parks were established to protect. However, since these regulations will be addressing a greater number of complex issues and the indirect effects of granting rights-of-way (i.e., the impact on lands and landowners adjacent to the parks) it is likely that they will be more controversial and difficult to enforce.

At this time the National Park Service prefers alternative (B) because it will afford greater protection for all National Park System areas.

Summary of Benefits

Sectors Affected: Other Federal agencies; State and local governments; private industries (e.g., electric, gas, and other utility services, oil and gas extraction, pipeline transportation, communication services); other establishments requesting rights-of-way across National Park System areas; and NPS.

These rules will benefit each of these sectors because they will provide more detailed, specific, and concise procedures for rights-of-way across National Park System areas. They will also provide information on costs involved and the terms and conditions for revocation and cancellation of permits. These sectors will realize these benefits over the entire time span of the permit.

These regulations will benefit the National Park Service because they will provide detailed, specific, and concise instructions to park management and will afford protection to natural, cultural, aesthetic, and recreational park resources.

If these rules are not promulgated, none of these sectors will have the information or guidance that is necessary to deal with right-of-way requests.

Summary of Costs

Sectors Affected: Other Federal agencies; State and local governments; private industries (i.e., electric, gas, and other utility services, oil and gas extraction, pipeline transportation, communication companies); other establishments requesting rights-of-way across National Park System areas; and NPS.

At this time, NPS does not know what costs these sectors will bear as a result of this proposal. However, fees will be charged to applicants to cover the cost of processing the application. Rental fees, appraised at fair market value, will also be charged to the holder of a right-of-way. It is likely that these charges will be waived for State and local governments if their use of a right-of-way is for governmental purposes and such lands and resources shall continue to serve the general public.

Related Regulations and Actions

Internal: On July 11, 1980, the National Park Service issued interim right-of-way regulations (45 FR 47092). These regulations will remain in effect until replaced or revised through the rulemaking process. Other Interior agencies have right-of-way regulations. Bureau of Land Management regulations are located in 43 CFR Part 2800, and the U.S. Fish and Wildlife Service regulations are located in 50 CFR Part 28.

External: None reported.

Active Government Collaboration

The National Park Service is working with other Interior agencies (Bureau of Land Management, U.S. Fish and Wildlife Service) in the promulgation of these regulations. In addition, NPS will be working with State and local agencies as these rules are developed since these regulations will have an impact on their programs.

Timetable

NPRM—December 1, 1980.
Regulatory Analysis—The National Park Service has not made a determination on the need for a Regulatory Analysis. We are soliciting public comment on the potential economic impact of the proposed rule.
Public Hearing—None scheduled.
Public Comment Period—90 days following publication of NPRM. Comments should be directed to Division of Ranger Activities and Protection, National Park Service, Department of the Interior, Washington, DC 20242.
Final Rule—June 15, 1981.

Final Rule Effective—July 15, 1981.

Available Documents

ANPRM—45 FR 54771, August 18, 1980.

Agency Contact

Maureen Finnerty, Park Ranger
Division of Ranger Activities and Protection
National Park Service
Department of the Interior
18th and C Streets, N.W.
Washington, DC 20240
(202) 343–4874 or 5607

DOI—Office of Surface Mining

Definition: "Surface Coal Mining Operations" (30 CFR 700.5*) and "Coal-Processing Plant"(30 CFR 701.5*)

Legal Authority

30 U.S.C. § 1201 *et seq.*

Reason for Including This Entry

The Department of the Interior (DOI) Office of Surface Mining (OSM) is initiating a study of the characteristics of coal-processing plants located outside the mine permit area. This study is being undertaken to inform OSM in its determination of the nature and scope of regulations of these facilities. One outcome of this study may be an amendment of the definition of "surface coal mining operations" and "coal-processing plant." The amendment, if adopted, might have a major impact on the coal industry.

Statement of Problem

The definitions of "surface coal mining operations" and "coal-processing plant" in the existing regulations do not indicate clearly which off-site coal-processing plants are to be regulated. Physical or chemical processing of coal may produce coal waste and DOI has a legal mandate to regulate the treatment and disposal of this waste. The coal-processing plants and their support facilities may be located within or outside the permit area for a mine, and the current regulations do not always clearly specify whether those facilities outside a permit area fall in with DOI's regulatory jurisdiction.

Furthermore, the degree of the environmental impact from the operation of coal-processing plants may vary according to the nature and location of the plant. Consequently, unless the regulatory agency obtains a clear understanding of the whole industry and the agency's regulatory jurisdiction, some coal processing plants that are located outside the permit area but cause serious environmental and pollution problems may be outside the jurisdiction of the regulatory agency.

OSM is initiating a study and possibly revising the definition of "surface coal mining operations" and "coal-processing plant," mainly in response to a 1979 decision of the DOI Board of Surface Mining and Reclamation Appeals. The case involved Western Engineering Company, which operates a river terminal exclusively to prepare and load coal on barges. Western sometimes crushes coal and sprays the coal with water or takes other measures to control dust. Western was cited by OSM for failure to pass the effluent from these operations through a sedimentation pond and for violation of the effluent limitations. The Board overturned the enforcement action, concluding that OSM's regulations delineating which processing facilities were regulated were unclear.

If OSM does not take any action, similar uncertainty and pollution will continue to occur and, therefore, complicate OSM's enforcement work.

Alternatives Under Consideration

The proposed amendment will clarify OSM's intent on which coal-processing plants are to be regulated and eliminate any ambiguities in OSM's regulations. One alternative OSM can consider is taking no action. Depending upon the outcome of the study, it is possible OSM may take no action; however, OSM presently favors some change in regulations in order to minimize the adverse environmental impact of coal-processing operations, and to clarify for the industry who is and who is not regulated.

Among other things, the study will determine the number and location of coal-processing plants that will produce clean coal and coal waste and the number and location of coal-processing plants that will only crush and load coal. The study will also report what environmental standards those plants are currently operating under or should be complying with and the cost of such compliance.

Summary of Benefits

Sectors Affected: Owners and employees of coal-processing plants (breakers, washeries, screening and sizing plants); persons who live near and around coal-procesing plants; the general public; OSM and State regulatory authorities.

Owners of coal-processing plants will have the benefit of knowing whether their plants are subject to regulation, thus eliminating uncertainty and saving cost. Citizens who live near coal-processing plants will have the benefit of knowing whether the plants are subject to regulation. The regulatory authority will know the jurisdiction of its enforcement authority and, therefore, perform better enforcement.

Indirectly, citizens who live in communities with coal-processing plants will enjoy cleaner air and water and improved quality of life. The general public will also enjoy a better environment.

Summary of Costs

Sectors Affected: Owners of coal-processing plants (breakers, washeries, screening and sizing plants); the general public; OSM and the State regulatory authority.

OSM is initiating a study to determine more specifically the number and location of various types of coal-processing plants, such as the number and location of plants that only crush and load coal and the number and location of coal-processing plants that clean coal and produce waste products.

Besides determining the number and kinds of coal-processing plants, this study will also discuss the direct and indirect costs to such plants resulting from any proposed action. Such costs might include the cost incurred by the plant owner to comply with the regulations. Total costs will be determined by the study itself.

States that have primary responsibility for enforcing the OSM regulations may have to change their corresponding definitions of "surface coal mining operations" and "coal-processing plants," and consequently their jurisdiction may also change.

Related Regulations and Actions

None.

Active Government Collaboration

None at the present. OSM may collaborate with the Environmental Protection Agency and the Mine Safety and Health Administration in the future.

Timetable

ANPRM—May 15, 1981.
NPRM—June 15, 1981.
Regulatory Analysis—None.
Public Hearings—Between June 15, 1981 and August 15, 1981 at the following locations:
Washington: Department of the Interior Auditorium, 18th and C Streets, N.W., Washington, DC
Indianapolis: Indiana World War Memorial Auditorium, 431 North Meridian Street, Indianapolis, IN
Denver: Court House, 1961 Stout Street, Room C–503, Denver CO
Public Comment—Written comments

can be mailed or hand-delivered to the Office of Surface Mining, U.S. Department of the Interior, Administrative Records Office, Room 153 South, 1951 Constitution Avenue, N.W., Washington, DC 20240. Written comments will be accepted between June 15, 1981 and August 15, 1981.

Final Rule—Final rule will be published in the **Federal Register** on November 15, 1981.

Final Rule Effective—30 days after the publication of the final rule.

Available Documents

None.

Agency Contact

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DOI–OSM

Discharge from Mine Areas: Revision of Standards for Effluent Limits and Sedimentation Ponds (30 CFR 716.17*, 717.17*, 816.42*, 816.46*, 817.42*, and 817.46*)

Legal Authority

Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. § 1201 *et seq.*

Reason for Including This Entry

The Department of the Interior (DOI) considers these rules to be of general public interest because they concern the environment and the public health and safety and because they will help to improve the quality of the waters of the United States.

Statement of Problem

On December 13, 1977, the Office of Surface Mining (OSM) published initial regulations for control of sediment in discharges from areas of surface coal mining and reclamation activities and on March 13, 1979, published final regulations. The rules established specific limitations—called "effluent limitations"—on the total suspended solids (TSS) iron and manganese content of the discharges from the mining area. The rules also required that all runoff be passed through sedimentation ponds and established minimum design criteria for these ponds. Essentially, sedimentation ponds improve the quality of discharges by detaining runoff until heavier particles settle to the bottom of the pond.

The TSS limitations were essentially the same as those established by EPA on April 26, 1977 (42 FR 21380) and on January 12, 1979 (44 FR 2586). EPA's regulations were promulgated pursuant to the Clean Water Act, 33 U.S.C. § 1251 *et seq.* OSM's pond design criteria were based on the best technical information available when the OSM regulations were published. Six months after publication of the final regulations, however, two studies—one conducted by Skelly & Loy under contract to EPA and the other by D'Appolonia under contract to OSM—indicated that discharges from ponds designed to meet OSM's design criteria might not be able to meet the TSS effluent limitations during large precipitation events.

On the basis of these studies, the Joint National Coal Association/American Mining Congress (NCA/AMC) Committee on Surface Mining Regulations filed a petition with the Secretary of the Interior to immediately suspend the TSS effluent limitations and sedimentation pond design criteria. The petition was published in the **Federal Register** (October 18, 1979, 44 FR 60226), and a public comment period followed. EPA also solicited comments on the studies during the same period and, on December 28, 1979, amended its TSS effluent limitation regulations. The amendment granted an exemption from compliance with the effluent limitations during rainfall events to operations whose facilities are designed, constructed, and maintained to treat or contain a 10-year/24-hour rainfall event.

On December 31, 1979, OSM suspended certain of its regulations and also published a notice of intent to commence rulemaking. On January 30, 1980, OSM adopted EPA's amended effluent regulations, including EPA's rainfall exemption from the effluent limitations.

EPA expects to propose new TSS regulations by October 1980, and final regulations by April 1981. These will be based on an ongoing EPA field study of representative sedimentation ponds across the country. Consequently, OSM will postpone further rulemaking pertaining to these issues until sufficient data from this study are available for use in revising the OSM sedimentation pond design criteria, if that should be necessary.

Alternatives Under Consideration

(A) OSM would re-adopt its present regulations, including the effluent limitations and the sedimentation pond design criteria.

This option will comply with the mandate of the Act by improving the quality of the waters entering the receiving stream. However, as the Skelly & Loy and D'Appolonia studies have indicated, operators may not be able to comply with the effluent limitations during large rainstorm events, even with ponds conforming to the design criteria. In order to comply with the effluent limitations during a large rainfall event the size of the pond would have to be so large that it would be unfeasible to consider.

(B) OSM would adopt a rainfall exemption to either increase or decrease the size of the precipitation event to which the exemption is keyed—10-year/24-hour at present—but would re-adopt the effluent limitations and sedimentation pond design criteria.

This option will comply with the mandate of the Act and give minimum national design standards for sedimentation ponds. This option will also protect and improve the Nation's waters and limit the additional contribution of TSS to the receiving stream. However, the studies have indicated that even with ponds designed to OSM standards, operators may exceed the effluent limitations during large rainfall events.

(C) The same as (B), except that the sedimentation pond design criteria would be modified to reflect the conclusions of the Skelly & Loy and the D'Appolonia studies.

This option also complies with the mandate of the Act and provides minimum national design standards for sedimentation ponds. This option also protects and improves the Nation's waters and limits the additional contribution of TSS to the receiving stream. However, as stated above, the studies indicate that even with ponds designed to OSM standards, operators may exceed the effluent limitations during large rainfall events.

(D) OSM would re-adopt the effluent limitations, but would delete design criteria concerned with the size of sedimentation ponds. All other design criteria would be re-adopted including the requirement to install a pond.

This option has advantages and disadvantages similar to those of option (B) and (C). However, it will provide operators and regulatory authorities with greater flexibility in designing sedimentation ponds.

(E) OSM would re-adopt its effluent limitations and design criteria, but would grant an exemption from the effluent limitations to structures conforming to OSM's design criteria. OSM would propose special design criteria for steep slope areas.

One of the advantages of this option is that it will help protect the Nation's waters while giving relief to operations on steep slope areas. A disadvantage is that, according to the Skelly & Loy and D'Appolonia studies, the effluent limitations may be exceeded during rainfall events even with ponds designed to OSM design standards.

(F) OSM would re-adopt all sections of the regulations on sedimentation ponds as they existed prior to suspension, except for sections dealing with effluent limitations and rainfall exemptions. OSM would delete these sections and replace them with new regulations incorporating rainfall and TSS effluent limitations to be promulgated by EPA under 40 CFR 434.

By adopting EPA's effluent limitations, OSM would comply with the requirements of the Act. As stated previously, re-adoption of the sedimentation pond design criteria will not assure that the effluent limitations will be met at all times.

(G) OSM would re-adopt the current effluent limitations and apply them only to base flow (discharges during non-rain periods). OSM would adopt a rainfall event effluent limitation to be promulgated by EPA based on field data presently being gathered. Based on the rainfall event effluent limitations, OSM would develop minimum nationwide sedimentation pond design standards.

We are currently considering this option as the most feasible. We know that the existing effluent standards are achievable during non-rain periods. EPA is collecting field data throughout the Nation and sampling the influent and effluent from sedimentation ponds before, during, and after rainstorms. Once the data are analyzed, we can also promulgate nationwide effluent standards for rainstorms. This two-tier effluent standard system will give maximum protection to the Nation's waters without imposing an undue burden on operators.

Summary of Benefits

Sectors Affected: The coal mining industry; users of water downstream from coal mining and reclamation operations; the general public; and the general environment.

There will be a significant improvement in the quality of the Nation's waters due to improvement in the discharges from sedimentation ponds. This will benefit all downstream users, improve the aesthetics of streams receiving discharges from coal mining and reclamation operations, and give coal operators guidance on how to comply with the Act, eliminating confusion which they now experience.

The cost of treating water for human consumption will decrease, though the exact amount is not yet known. Waterborne organisms will decrease by an amount not yet known. Fish, as well as organisms living on stream and lake bottoms, will be subject to less man-caused pollution. In summary, the quality of life will be improved.

Summary of Costs

Sectors Affected: The coal mining industry.

We have not prepared a formal Regulatory Analysis (RA) of all the alternatives. However, OSM published an RA for the public final permanent program regulations in March 1979 (OSM–RA–1). It showed that the production-weighted average national cost in incremental cents per ton of constructing sediment ponds designed to OSM specifications is 16 cents for surface mining and 2 cents for deep mining. There is a distinct possibility that this average cost might decrease when OSM promulgates new regulations because sedimentation pond size they require might be smaller. OSM does not envision an increase in these figures. Since these costs are relatively insignificant compared to the cost of a ton of coal (roughly $22), no decrease in coal mining operations is expected. To verify this assumption, OSM will conduct an economic analysis during Fiscal Year 1981. The analysis will also provide specific information on the economic impact on small operators and operations in the Appalachian region as well as information on the general economic impact on the coal industry.

It is difficult to assess how much more the users of coal will pay due to the regulations.

Related Regulations and Actions

Internal: Listed under Available Documents.

External: EPA regulations as described throughout the entry.

Active Government Collaboration

OSM is actively coordinating its rulemaking efforts with the Environmental Protection Agency, which has the responsibility for regulating all discharges to the Nation's waters. The agencies will work together in promulgating regulations.

Timetable

Public Hearings—Washington, DC—November 20–21, 1980.
Knoxville, TN—November 24–25, 1980.
Indianapolis, IN—November 27–28, 1980.
Kansas City, KS—December 1–2, 1980.
Denver, CO—December 4–5, 1980.
Seattle, WA—December 10–11, 1980.
Public Comment Period—Between November 7, 1980 and December 31, 1980. Comments can be mailed or hand-delivered to the Office of Surface Mining, U.S. Department of the Interior, Administrative Records Office, Room 153 South, 1951 Constitution Avenue, N.W., Washington, DC 20240.
NPRM—Fourth Quarter, 1980
Regulatory Analysis—None.
Final Rule—April 15, 1981.
Final Rule Effective—May 15, 1981.

Available Documents

- 42 FR 62639–62716, December 13, 1977. Surface Mining Reclamation and Enforcement Provisions—Final Rules.
- 44 FR 14901–15463, March 13, 1979. Surface Coal Mining and Reclamation Operations—Permanent Regulatory Program.
- 44 FR 30610–30634, May 25, 1979. Surface Mining Reclamation and Enforcement Provisions—Final Rules for initial regulatory program.
- Evaluation of Performance Capability of Surface Mine Sediment Basins, Skelly & Loy, August 3, 1979.
- Evaluation of Sediment Pond Design Relative to Capacity and Effluent Discharge, D'Appolonia, August 3, 1979.
- Petition filed with OSM by the National Coal Association/American Mining Congress (NCA/A*4C) Committee on Surface Mining Regulations, September 21, 1979.
- 44 FR 60226–60228, October 18, 1979. Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; petition to amend sediment control performance standards.
- Comments on the NCA/AMC Petition (fifty).
- 44 FR 77447–77454, December 31, 1979. Notice of suspension and withdrawal of certain rules in 30 CFR Chapter VII subchapter B and K; and statement of policy regarding effect on State programs and enforcement during initial and permanent program.
- 44 FR 77456–88457, December 31, 1979. Notice of intent to commence rulemaking to establish effluent limitations for total suspended solid discharges.
- 45 FR 6813, January 30, 1980. Parither Creek Watershed, MI, notice of finding no significant impact from the deauthorization of Federal funding.
- 45 FR 6913; January 30, 1980.
- Comments on notice to proposed rulemaking for sedimentation ponds.
- Final Regulatory Analysis, Permanent Regulatory Program of the Surface Mining Control and Reclamation Act of 1977, OSM–RA–1.

Documents can be examined at: OSM Headquarters, U.S. Department of the Interior, South Building, Room

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153, 1951 Constitution Avenue, N.W., Washington, DC 20240; (202) 343–4728.

OSM Region I, First Floor, Thomas Hill Building, 950 Kanawha Blvd., East, Charleston, WV 25301; (303) 342–8125.

OSM Region II, 530 Gay Street, Suite 500, Knoxville, TN 37902; (615) 637–8060.

OSM Region III, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 520, Indianapolis, IN 46204; (317) 369–2609.

OSM Region IV, 818 Grand Avenue, Scarritt Building, 5th Floor, Kansas City, MO 64106; (913) 753–2193.

OSM Region V, Brooks Towers, 1020 15th Street, Denver, CO 80202; (303) 827–5511.

Agency Contact

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DOI-Water and Power Resources Service

Rules and Regulations for Acreage Limitation Under Federal Reclamation Law (43 CFR 426)

Legal Authority

The Reclamation Act of 1902, as amended and supplemented, 43 U.S.C. § 371 *et seq.*

Reason for Including This Entry

The Department of the Interior (DOI) believes that these rules and regulations are important because they will affect about 50,000 farms throughout the 17 Western States which receive irrigation water from projects administered by its Water and Power Resources Service (WPRS), formerly the Bureau of Reclamation.

Statement of Problem

Federal reclamation law places a limit of 160 acres on the quantity of land an individual or organization may own and irrigate with water from a Federal water supply project. Only projects where specific Congressional or administrative exemptions or modifications to the law have been granted may exceed this limit, which has been in effect since the basic Reclamation Law was enacted in 1902. Land in excess of 160 acres may receive project water if the owner enters into a contract with the United States agreeing to sell the excess land to an individual who, after the purchase, will not own more than 160 acres. The sale must be made under terms and conditions that satisfy the Secretary of the Interior, and at a price that does not reflect the increase in the value to the land attributable to the construction of the Federal reclamation project. The contract specifies the time period during which the landowner must sell the excess land. If the landowner does not sell the land within that period, the Secretary of the Interior has power of attorney to sell the land. If the landowner chooses not to use Federal project water for the excess land, there is no requirement that he place the land under contract or that he sell it. The 1902 Act also imposes a requirement that the landowner be a resident on or in the neighborhood of the land, interpreted to be 50 miles from the land, to be eligible to receive project water.

The purposes of the acreage limitation provisions of the reclamation law are to promote owner-operated family farms, provide opportunity for a maximum number of farmers on land that Federal project water serves, and preclude speculative gain in the disposition of land that project water serves. In the past, these provisions have been administered through State-chartered irrigation districts and other entities that have contracted with the United States for the Federal reclamation project. The DOI has made determinations on the application of the provisions on a case-by-case basis, based on court decisions and opinions of the Solicitor of the Department of the Interior. The DOI has never promulgated formal rules by which the acreage limitation provisions would be administered.

The practices followed in the past have resulted in a lack of uniformity among the irrigation districts in administering the acreage limitation provisions, and, in some cases, in lax enforcement of those provisions by the districts. In August 1976, a United States district court ordered the Secretary of the Interior to prepare and publish rules and regulations dealing with acreage limitation under reclamation law, with specific reference to procedures to be used to approve sales of excess land *(National Land for People, Inc.* v. *The Bureau of Reclamation of the Department of the Interior* (417 F. Supp. 449 (D.C.D.C. 1977)). Such rules and regulations will provide the needed guidelines for the uniform administration of the acreage limitation of the reclamation law to ensure that the purposes of the law are carried out.

On August 25, 1977, the DOI published proposed rules and regulations for acreage limitation in the **Federal Register** (43 CFR Part 426). During the 128-day comment period on these proposed rules, the DOI received over 11,000 written comments and heard testimony from 1,075 witnesses at 17 public hearings. The Department then revised the proposed rules, taking these comments into consideration. These revised rules will serve as the basis for the environmental impact statement (EIS) the DOI is preparing to comply with the order of a United States district court, issued December 7, 1977, halting the rulemaking until the Department completed an EIS. The draft EIS will be published by December 15, 1980, and the final EIS by July 1, 1981. The EIS will assess the economic, social, community, and environmental effects of the proposed rules.

The revised proposed rules include provisions dealing with the sale of excess land, limitations on leasing, residency requirements, and other provisions to establish criteria and procedures to implement and enforce the acreage limitation provisions of law.

Alternatives Under Consideration

The EIS will address a number of alternative rules that DOI can establish under existing law, as well as alternatives requiring amendments to the acreage limitation provisions of reclamation law. The alternatives will deal with the size of ownerships and operations that are eligible for Federal project water, residency requirements, ownership arrangements, and procedures that the DOI must use in processing sales of land receiving Federal project water. The alternatives will include the following:

Alternative (A) is a small-farm alternative, with the size of the farm operation eligible to receive Federal project water limited to 320 acres.

Alternative (B) is based on amendments to reclamation law proposed by DOI that reflect the revised proposed rules. They would limit the size of the farm operation that is eligible to receive Federal project water to 960 acres, and limit the multiple ownership arrangements that are permitted.

Alternative (C) is based on procedures used in the past which limited ownership to 160 acres per individual and permitted loose multiple ownership arrangements and unlimited leasing.

Alternative (D) is based on the pricing structure for Federal project water that would permit delivery of project water to excess land upon payment to the Federal Government of the full cost of providing the water service.

Alternative (E) is based on no acreage limitation or the repeal of the acreage limitation provisions and residency requirements of reclamation law.

The EIS will consider other alternatives as well. Both the draft and final EIS will address the pros and cons of the alternatives. The draft statement is scheduled to be published December 15, 1980, and the final statement July 1, 1981.

Summary of Benefits

Sectors Affected: Agriculture in the 17 Western States where WPRS projects are located.

The regulations will apply to deliveries of irrigation water to over 12 million acres of land in about 50,000 farms in these projects.

The major effect of the proposed rules will be related to the change in the size of farm operations on Federal reclamation projects and to the number of family farms that may result. On many projects the change in the number and size of farms may not be significant, while on others, where larger farm operations exist, there would be a noticeable increase in the number of farms and a reduction in their size. The change in the agricultural sector could result in economic effects on production efficiency, improving the efficiency in some cases and reducing it in others; changes in income to the farm family, both up and down; increases in the community income as the number of farms increases; and changes in the nature and number of employment opportunities. The EIS on the proposed rules, currently being prepared, will identify and analyze these and other impacts of the rules. While the reduction in large-scale farming may result in a change in the number of farming opportunities, the overall change in income to the agricultural sector may not be significant; however, DOI will complete a Regulatory Analysis of the proposed rules if it appears necessary after we have completed the draft EIS.

Summary of Costs

Sectors Affected: Agriculture in the 17 Western States where WPRS projects are located; and WPRS.

Until we complete the EIS, it is difficult to provide reliable estimates of the direct and indirect costs of the regulations to the sectors they affect. We have discussed the possible costs-versus-benefits in the section above. In addition, increases may occur in the cost of administering the acreage limitations of law under the regulations by the Federal Government in recordkeeping, inspections, and monitoring irrigation water deliveries in projects involved. There may be an increase in the cost of public services in some areas where new farms may be established.

Related Regulations and Actions

None.

Active Government Collaboration

The Department of Agriculture is cooperating in preparing the EIS on the proposed regulations.

Timetable

Draft EIS and Revised NPRM—December 15, 1980.
Public Comment Period—Ends March 16, 1981.
Public Hearings—December 15, 1980–March 16, 1981.
Regulatory Analysis—After December 15, 1980, if required.
Final Rule—September 1981.

Available Documents

"Department of the Interior, Bureau of Reclamation, Acreage Limitation Rules and Regulations," NPRM—43 FR 426, August 25, 1977.

"Environmental Assessment of the Impact of Proposed Rules and Regulations for Acreage Limitation Administration as published in the Federal Register, August 25, 1977." Prepared by the Bureau of Reclamation, January 1977.

The above documents are available without cost from the Water and Power Resources Service, Department of the Interior, 18th and C Streets, N.W., Washington, DC 20240.

Agency Contact

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DEPARTMENT OF TRANSPORTATION

United States Coast Guard

Construction Standards for the Prevention of Pollution from New Tank Barges Due to Accidental Hull Damage; and Regulatory Action to Reduce Pollution from Existing Tank Barges Due to Accidental Hull Damage (46 CFR Parts 30°, 32°, and 35°)

Legal Authority

Port and Tanker Safety Act of 1978, 33 U.S.C. 1221, 46 U.S.C. § 391a.

Reason for Including This Entry

The Coast Guard believes that this rule is important because it has major economic implications for the barge and towing industry in this country. In addition, testimony presented at the hearings on this proposal indicated that the rule may adversely affect the national oil supply network because it would take barges out of service that may not be replaced.

Statement of Problem

Data gathered by the Coast Guard show that, from 1973 through 1977, the total volume of oil spilled by tank barges was about 174,000 barrels. Approximately 85 percent of the oil spilled resulted from hull damage, which occurred as a result of groundings and collisions in the normal course of barge movements. Because barges operate mainly on the inland river system, most of the oil spilled by tank barges enters highly sensitive inland waters where the effect on the marine environment is more significant than it would be on the high seas. While the amount of pollution entering the waters from tank barges fluctuates annually, it is not decreasing in general. Thus, the present regulations in 33 CFR Subchapter O dealing with pollution prevention, which essentially regulate only loading and unloading operations, are insufficient to reduce oil pollution from tank barges. Based on a study entitled "Tank Barge Oil Pollution Study," prepared by Automation Industries, Inc., the Coast Guard has concluded that the lack of construction standards for tank barges is a major factor in the pollution they cause. After reviewing the data, the Coast Guard determined that a "no action" alternative is not acceptable. The barge industry would not attack the river pollution problem without our intervention. The Coast Guard believes that barges need the protection of a double hull to prevent cargo discharge, which would ordinarily result from groundings and minor collisions that breach the hulls of single-skin barges.

Alternatives Under Consideration

In 1971 the Coast Guard proposed a requirement for double walls on new tank barges constructed for the carriage of oil in specified trades. This proposal would have required the vertical surfaces, or walls, of barges to be double, but it did not propose double bottoms. Because the nomal attrition of existing tank barges is fairly slow, there would be no dramatic reduction in oil pollution due to improved construction standards for new barges. In order to accelerate the retirement of the existing fleet of single-hull barges, the 1971 proposal included a provision that would have prohibited the complete rebuilding of existing vessels, and would

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have allowed only limited repair to damaged areas on these vessels. This provision was designed to speed the attrition of existing single-hull barges, while at the same time allowing them sufficient service life to reduce the financial impact that total fleet replacement would have on barge owners. Another proposed alternative was to specify a date after which owners and operators could not use single-hull barges.

Because of the extensive negative comments from the towing industry, we did not impose the double-wall construction requirement for new tank barges at that time. Instead, the Coast Guard initiated two studies. The first, "Alternative Inland Tank Barge Designs for Pollution Avoidance," developed design and construction alternatives and evaluated them for effectiveness. The second, "Tank Barge Study," evaluated design, construction, and equipment standards for tank barges that carry oil. These studies have convinced the Coast Guard that a double-hull tank barge fleet is necessary to prevent pollution due to hull damage.

The comments we received in response to the 1971 NPRM indicated that, while the industry supported the intent of the regulations to prevent pollution, it strongly objected to the methods proposed to accelerate the retirement of existing single-hull vessels and to substitute double-hull barges. We received no comments suggesting economically acceptable ways to accelerate retirement of these vessels.

The Coast Guard is aware that the problems and costs associated with the construction of new barges differ greatly from the problems and costs associated with modifying existing barges. For this reason, following the 1971 proposal, the Coast Guard split this rulemaking into two parts: an ANPRM asking for comments on how to reduce the pollution problem posed by the existing fleet, and an NPRM proposing construction standards for new barges.

The present barge fleet consists of about 1,200 full double-hull barges, 2,200 single-hull barges, and 428 barges with partial double skins. Hastening the retirement of single-hull barges could significantly affect both the economic viability of many individual tank barge operators and the tank barge industry's ability to respond to the Nation's need to transport bulk liquid cargo. The alternatives we considered in the ANPRM are early retirement of vessels, conversion to other service, restriction of routes, increased Coast Guard inspection standards, and reduction of the numbers of barges towed together as a single unit.

In the case of new construction, the NPRM proposed two alternatives to the double-hull approach: (1) taking no action or (2) requiring the use of heavier internal structures in either selected areas of the vessel or overall to make the hulls more resistant to penetration. We selected the double-hull alternative as a result of information gathered in a joint Coast Guard/Maritime Administration study known as the "1974 Tank Barge Study," which indicated that this was the most effective method.

Because any action taken on these two items would have a profound effect on the environment and the economy of the towing industry, we decided to hold a series of hearings on both the ANPRM and the NPRM in various parts of the country. Responses at the hearings addressed both the ANPRM and the NPRM, without distinguishing between them.

In general, the comments advocated the following alternatives:

(A) Do not retire existing equipment.

(B) Require constructing single-hull barges with heavier materials.

(C) Require more stringent inspection and vigorous enforcement of existing regulations.

In addition, industry representatives questioned the effectiveness of double hulls in preventing pollution.

These issues are valid and deserve further consideration. The Coast Guard has decided that an independent agency should evaluate the proposed alternatives. In addition, industry estimates of costs differ greatly from Coast Guard estimates. Industry estimates are higher by far. In light of the industry data, the Coast Guard will have to reexamine the anticipated economic effects of the proposal. Consequently, the National Academy of Sciences will reexamine the entire tank barge issue and recommend various options to accomplish the Coast Guard's objective.

Summary of Benefits

Sectors Affected: Builders of tank barges; aquatic environment for wildlife; and the general public.

The Coast Guard has concluded that double hulls would be 95 percent effective in preventing pollution due to hull damage. This conclusion is based on the report we mentioned previously, the "1974 Tank Barge Study."

The benefits to the general public are impossible to quantify. There would be some reduction in the amount of oil in the water, which would have an aesthetic value for those using the waterways for recreational purposes. However, the actual improvement in the aquatic environment for wildlife is difficult to determine, because destruction done to plants and animals depends upon such factors as how much oil is spilled and how quickly and at what time of year. The success of subsequent cleanup efforts also has a direct bearing upon how much environmental damage is done. A relatively large spill that occurs in protected waters and is promptly cleaned up could have very little impact on the quality of the water while representing a statistically significant pollution incident. All parties involved with this proposal agree that reduced oil pollution is a desirable goal, but there are no ways to measure the benefits.

Shipyards that manufacture barges would benefit from an increased demand for construction and servicing.

Summary of Costs

Sectors Affected: Water transportation of oil tank barges; towing services; builders of tank barges; and users of oil.

In 1978, the cost of a double-hull inland tank barge ranged from $146,000 to $425,000 more than for a single-hull inland barge of comparable size. Added costs for full double hulls on ocean barges ranged from $700,000 to $1,700,000 for each barge.

The costs for modifying existing barges are more difficult to determine. The proposals in the ANPRM are estimated at approximately $222 million (in current dollars), or a 31 percent increase over present expenses for the tank barge industry. The ANPRM solicited estimates of these costs as well as costs the industry would incur for activities such as oil recovery and cleanup resulting from spills related to hull damage. Comments received indicated industry estimates for increased expenses were several times the Coast Guard estimates. In addition, repair costs for double-hull barges would be much more expensive because the space between the hulls is difficult to work in and must be freed from toxic and explosive gas before any work can be done on the barge's hull. The comments also failed to show any offsetting savings resulting from decreased cleanup costs. Compliance costs would be passed on to the consuming public.

We do not anticipate any significant administrative costs associated with the proposal.

Related Regulations and Actions

Internal: The Coast Guard is also considering double-hull requirements as a possible solution to spilling hazardous materials.

External: None.

Active Government Collaboration

The Coast Guard has informed the Environmental Protection Agency, the Maritime Administration, and the National Oceanographic and Atmospheric Administration of its regulatory proposals.

Timetable

The National Academy of Sciences held a workshop on these proposals on April 15 and 16, 1980. The Academy is developing recommendations for the Coast Guard; its report is due in January 1981. We will defer any further action until we have evaluated these recommendations and any new economic information.

Available Documents

Karlson, E. S., et al., "Alternative Inland Tank Barge Designs for Pollution Avoidance," May 22, 1974.

"Polluting Incidents In and Around U.S. Waters," annual reports for 1971 through 1977. Coast Guard publication number C.G. 467.

Joint Coast Guard/Maritime Administration Study, "Tank Barge Study," October 1974. National Technical Information Service number COM–75–10284/AS.

Bender, A., et al., "Tank Barge Oil Pollution Study," prepared for the Coast Guard by Automation Industries, Inc., 1978.

NPRM—36 FR 24960, December 24, 1971 (superseded).

NPRM—44 FR 34440, June 14, 1979, for new construction.

ANPRM—44 FR 34443, June 14, 1979, for existing construction.

Supplementary NPRM—45 FR 16438, March 13, 1980, for both proposals.

Draft Regulatory Analysis and Environmental Impact Statement, "Design Standards for New Tank Barges and Regulatory Analysis for Existing Tank Barges to Reduce Oil Pollution Due to Accidental Hull Damage, May 1979." Documents available from Agency Contact.

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ENVIRONMENTAL PROTECTION AGENCY

Office of Air, Noise, and Radiation

Regulations for the Prevention of Significant Deterioration (PSD) from Set II Pollutants (Hydrocarbons, Carbon Monoxide, Nitrogen Oxide, Ozone, and Lead) (40 CFR 51.24* and 52.21*)

Legal Authority

The Clean Air Act, as amended, § 166, 42 U.S.C. § 7476.

Reason for Including This Entry

The regulation, when developed and promulgated, is likely to impose siting restrictions on air pollution sources because of limitations on areawide emission totals. This could have a significant effect on industry.

Statement of Problem

The purpose of this program is to provide for adequate representation of the public interest where the Nation's clean air resources are threatened by increases in concentrations of Set II pollutants (hydrocarbons, carbon monoxide, nitrogen oxides, ozone, and lead). The present Prevention of Significant Deterioration (PSD) regulations administered by the Environmental Protection Agency (EPA) require the use of "best available control technology" (BACT) on all new or modified major sources of all pollutants covered by the Clean Air Act. In addition the present program also limits increases in areawide concentrations of sulfur dioxide and particulate matter through an air quality increment system, which limits the amount of emission increases based on air quality impact. The present program, however, does not similarly limit areawide emission levels or air quality impacts of Set II pollutants and, therefore, cannot protect against the degradation of air quality up to the National Ambient Air Quality Standards (NAAQS). (i.e., those levels of air quality set to prevent health and welfare effects). The Clean Air Act, as amended in 1977, requires EPA to respond to this problem (42 U.S.C. 7476).

Alternatives Under Consideration

EPA is now reviewing a range of regulatory alternatives which appear to be most reasonable at this time. These alternatives include the following:

(A) Existing Emissions Controls Only—This system would rely primarily on the requirements for best available control technology (BACT) on major new stationary sources and the Federal standards for motor vehicle emissions. Control requirements under this system would not vary as a function of ambient pollutant concentrations or of the proximity of other sources, as long as the National Ambient Air Quality Standards were not violated.

(B) Ambient Air Quality Allocation.

Ambient Air Quality Increments—This approach would call for the States to develop an area classification system establishing numerical limits for allowable degradation of ambient air quality. This system would be similar to that already in effect for particulate matter and sulfur dioxide.

(C) Emission Allocation.

(1) Emission Density Zoning (EDZ)—An EDZ system would set theoretical ambient air quality increments to serve only as a guideline for establishing limits on maximum allowable emissions per unit land area. Once EPA established these emissions density limits, the appropriate State or local air pollution control agency would base preconstruction review of new and modified sources on the emission density limits rather than on ambient air quality.

(2) Inventory Management—This system would require State and local agencies to develop and maintain detailed emission inventories, with the provision for mandatory periodic public review whenever the local emission inventory increased by a pre-established quantity or percentage. The system would require this public review before allowing any further incremental increase in emissions, and could include an environmental analysis, a community environmental education program, a public hearing, and a vote by elected officials from the potentially affected areas.

(D) Empirical Criteria.

(1) Co-location of hydrocarbon (HC) and nitrogen oxide (NO_x) Sources (Avoidance of Juxtaposed Major Sources of Hydrocarbons and Nitrogen Oxides)—We would design this approach to prevent significant deterioration in air quality from high ozone levels (ozone results when HC and NO_x combine). Such a program would focus special attention on the hydrocarbon/nitrogen dioxide ratio and would prevent the location of major sources within a certain fixed distance of each other.

(2) Transportation BACT—This alternative would require means to reduce emissions associated with motor vehicle—related sources. These means could involve specifications for road systems or performance standards for public transportation systems, such as specified levels of service for public

transportation. EPA also could consider additional criteria for existing

As we noted above, we will assess the costs of implementing these regulations

Development Division, MD–15, U.S.

segments range from 5 to 12 percent of

The newly proposed CO NAAQSs should result in a greater assurance that

Timetable

transportation. EPA also could consider additional criteria for existing transportation processes and inspection and maintenance.

(3) Indirect Source Review for Federally Funded Projects—The Clean Air Act precludes EPA from requiring states to perform indirect source reviews of non-federally funded projects; therefore, this alternative would require indirect source review for Federally owned, funded or assisted projects. These projects could include airports, highways, sport complexes, and other projects constructed with Federal grants.

EPA is also investigating economic allocation schemes to use in conjunction with the above described regulatory alternatives. The specific programs we are considering at this time are emission fees and marketable permits.

The final regulation may include parts of several control methodologies in conjunction with empirical criteria and/or economic allocation schemes, or may present several options from which a State would choose its specific program.

Summary of Benefits

Sectors Affected: The general public.

Areas of the country which are presently attaining the NAAQS for carbon monoxide, nitrogen dioxide, ozone, and lead will have a program to prevent significant air quality deterioration from those pollutants. In addition, regulations will provide special protection to national parks, national wilderness areas, and other Class I areas.

These regulations are at such an early stage of development that we cannot yet quantify benefits and costs. The benefits will vary depending on the alternative or alternatives we select. The regulations are unlikely to impose additional direct emission control requirements on air pollution sources, but they may impose siting restrictions because of limitations on areawide emission totals. Once we complete the Regulatory Analysis, we will have a better estimate of the benefits and costs associated with this regulation.

Summary of Costs

Sectors Affected: Industries emitting Set II pollutants, including: transportation, electric services, and manufacturing (particularly the petroleum refining and the primary metal industries).

We do not anticipate that the regulation will affect small businesses disproportionately. The Regulatory Analysis will, however, specifically address this problem.

As we noted above, we will assess the costs of implementing these regulations as a part of the Regulatory Analysis. We already require the affected sources under the present PSD regulations to install the best available control technology (40 CFR 51.24 and 40 CFR 42.21). Therefore, the costs (decline in economic growth, regional costs, etc.) resulting from this regulation alone will be related only to site location.

Related Regulations and Actions

Internal: EPA has developed and currently administers regulations for the prevention of significant deterioration of air quality resulting from emissions of particulate matter and sulfur dioxide (40 CFR 51.24). The same regulations also require best available control technology on the sources potentially affected by this regulation.

External: The regulation will require each State to develop regulations to implement this program. These regulations will require EPA review and approval.

Active Government Collaboration

EPA has formed an interagency work group to assist it in the development and review of these regulations. The following are members of the workgroup: Department of Transportation, Department of Energy, Department of Interior (National Park Service, Fish and Wildlife Service, and Bureau of Land Management), Department of Commerce, Department of Housing and Urban Development, Department of Agriculture, and Council on Environmental Quality. In addition, we have solicited and received cooperation from State governments through the State and Territorial Air Pollution Program Administrators, and local agencies through the Association of Local Air Pollution Control Officers.

Timetable

Regulatory Analysis—May 1981.
NPRM—August 1981.
Public Hearing—September 1981.
Public Comment Period—October 1981.
Final Rule—April 1982.

Available Documents

"Program to Prevent Significant Deterioration of Carbon Monoxide, Ozone, Hydrocarbons, Nitrogen Dioxide and Lead," (EPA report number EPA–450/2–80–071, March 1980) available from NTIS Accession No. PB80–221260.

"Community Environmental Education: Three Models of Organization for PSD Set II," (report for public review, June 1980), available from Nancy Mayer, Control Programs Development Division, MD–15, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

EPA has established a docket (EPA, Central Docket Section A–79–34) for review of the PSD Set II regulations.

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EPA-OANR

Review, and Possible Revision, of the National Ambient Air Quality Standard for Carbon Monoxide (40 CFR Part 50*)

Legal Authority

Clean Air Act, as amended, § 109(d)(1), 42 U.S.C. § 7409 *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes that this review is important in order to ensure the protection of public health and welfare and because any changes to the existing standards may result in an annual effect of $100 million or more on the economy.

Statement of Problem

Section 109(d)(1) of the Clean Air act as amended directs EPA to review existing national ambient air quality standards (NAAQS) every 5 years. Ambient air quality standards define allowable pollutant concentrations in the ambient air that are required to protect public health and welfare. EPA set the original carbon monoxide (CO) standards (April 30, 1971, 36 FR 8186) at 9 parts per million (ppm) averaged over an 8-hour period and 35 ppm for a 1-hour period. On August 18, 1980 (45 FR 55066), the Agency proposed to retain the 9 ppm 8-hour standard and lower the 1-hour standard to 25 ppm. At that time, EPA also proposed to modify the form of the two standards to a daily maximum interpretation for exceedances of the standard.

The incidence of adverse health effects in the general population resulting from human exposure to carbon monoxide has not been completely quantified. However, there are several population groups that are particularly sensitive to carbon monoxide exposure, such as people with coronary heart disease (e.g., angina pectoris), peripheral vascular disease, cerebrovascular disease, or chronic obstructive pulmonary disease; pregnant women and their fetuses; and people with anemia. These sensitive population segments range from 5 to 12 percent of the U.S. population. Thus, between 11 million and 27 million persons in the United States with cardiovascular, pulmonary, and central nervous system diseases can have these conditions aggravated by exposure to carbon monoxide.

Alternatives Under Consideration

The Agency considered the following alternative standards prior to the August 18, 1980 Proposal:

1-hr averaging time	8-hr averaging limit
15 ppm	7 ppm
25 ppm	9 ppm
35 ppm	12 ppm

EPA originally selected the 8-hour averaging time because most people achieve equilibrium or near-equilibrium levels of carboxyhemoglobin (COHb) in the blood after an 8-hour exposure to carbon monoxide. In addition, most people are exposed to carbon monoxide in roughly 8-hour blocks of time. We uncovered no evidence during the review process resulting in the August 18, 1980 NPRM that indicated that the 8-hour averaging time should be changed.

As a result of the review and revision of the health criteria, EPA proposes to retain the existing primary 8-hour standard at 9 ppm and to lower the primary 1-hour standard to 25 ppm. The change in the 1-hour standard is being proposed because of the more rapid accumulation of blood carboxyhemoglobin in moderately exercising sensitive persons compared to resting individuals. The impact of exercise, which is greater for short-duration exposures, was not considered in the original standard.

We are investigating no new Federal regulatory techniques in the CO NAAQS review process. State governments use their own discretion in taking regulatory actions to meet EPA's national ambient air quality standards. The States are free to use performance standards, economic incentives, or any other means to attain ambient air quality standards within their jurisdiction. The only EPA requirement for State governments is that they demonstrate attainment and maintenance of the NAAQS by statutory compliance dates.

Summary of Benefits

Sectors Affected: Persons with cardiovascular or pulmonary disease; pregnant women and fetuses; and anemics.

The newly proposed CO NAAQSs should result in a greater assurance that persons with cardiovascular heart disease will not experience deleterious health effects due to high ambient concentrations of carbon monoxide. Specifically, the two standards are intended to keep 99 percent of the sensitive population affected by cardiovascular heart or peripheral vascular disease below a COHb level of 2.1 percent.

Summary of Costs

Sectors Affected: Manufacturing of motor vehicles and motor vehicle equipment; administration of State and local transportation programs; the driving public; EPA; and State air pollution control agencies.

In its regulatory impact analysis, EPA estimated the 1987 annualized costs of various CO control strategies for the three 8-hour alternatives; the total nationwide cost in 1979 dollars is approximately $2.8 billion for the 9 ppm proposed standard. It is $2.9 billion for the 7 ppm alternative and $2.6 billion for the 12 ppm alternative. Costs for alternative 1-hour standards were not developed because control strategies needed to attain any of the three alternative 8-hour standards investigated automatically attain all of the 1-hour standards that EPA analyzed.

Related Regulations and Actions

Internal: The newly proposed CO NAAQSs will not affect any other Agency program since there is no change in the controlling 8-hour standard. Emission standards for moving sources will not be affected since they are established under Title II of the Clean Air Act (42 U.S.C. § 7501 *et seq.*).

External: The newly proposed CO NAAQSs will not alter any on-going or planned State, local, or private industry control program since there is no change in the controlling 8-hour standard.

Active Government Collaboration

Other Federal agencies that are involved in reviewing the standard include the Departments of Transportation, Energy, and Health and Human Services. In addition, EPA has contacted the Interagency Regulatory Liaison Group (IRLG) and will involve them in the Standard review. The IRLG functions to coordinate the regulatory authorities of the Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, and the Food Safety and Quality Service, Department of Agriculture.

Timetable

Final Rule—Spring 1981.

Available Documents

ANPRM—"Review of the Carbon Monoxide Air Quality Standard," 43 FR 56250, December 1, 1978.

NPRM—"Carbon-Monoxide. Proposed Revisions to the NAAQS," 45 FR 55066, August 18, 1980.

"Air Quality Criteria for Carbon Monoxide" (External Review Draft, April 1979); it is available from the Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

U.S. Environmental Protection Agency Science Advisory Board Clean Air Scientific Advisory Committee, Subcommittee on Carbon Monoxide, "Transcript of Proceedings" for January 30 and 31, 1979 and June 14–16, 1979.

Public hearing record and public comments (comment period open until November 10, 1980).

The following reports are available from the U.S. EPA Library (MD–35), Research Triangle Park, NC 27711. Telephone: (919) 541–2777 (FTS: 629–2777).

"Control Techniques for Carbon Monoxide Emissions," EPA-450/3–79–006, June 1979.

"Regulatory Impact Analysis of the National Ambient Air Quality Standards for Carbon Monoxide," April 2, 1980.

"Proposed National Ambient Air Quality Standards for Carbon Monoxide: Draft Environmental Impact Statement," July 1980.

"Estimated Exposure to Ambient Carbon Monoxide Concentrations Under Alternative Air Quality Standards (Draft)," August 1980.

"Preliminary Assessment of Adverse Health Effects from Carbon Monoxide and Implications for Possible Modifications of the Standard (Draft)," June 1, 1979.

"Sensitivity Analysis of Coburn Model Predictions of COHb levels Associated with Alternative CO Standards (Draft)," July 1, 1980.

"Significant Harm Levels for Carbon Monoxide (Draft)," July 1980.

EPA has established a docket (EPA, Central Docket Section OAQPS–79–7) for review of this standard. The docket is available for investigation between 9:00 a.m. and 4:00 p.m. on weekdays in the Section Office: Room 2903B, 401 M Street, S.W., Washington, DC.

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EPA-OANR

Review, and Possible Revision, of the National Ambient Air Quality Standard for Nitrogen Dioxide (40 CFR Part 50*)

Legal Authority

Clean Air Act, as amended, §§ 109(c) and 109(d), 42 U.S.C. § 7409 *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes that this review is important to ensure protection of public health and welfare and because any changes to the existing standards may result in an annual effect of $100 million or more on the economy.

Statement of Problem

Section 109(c) of the Clean Air Act, as amended, directs EPA to promulgate a short-term nitrogen dioxide (NO_2) standard unless there is no significant scientific evidence that such a standard is needed to protect public health. Section 109(d)(1) of the Act requires EPA to review the scientific basis of existing National Ambient Air Quality Standards (NAAQS) every 5 years. (Ambient air quality standards define allowable pollutant concentrations in the ambient air that are required to protect public health and safety. The States are responsible for developing and implementing the necessary regulatory programs to ensure the attainment and maintenance of the NAAQS.) This review includes the existing NO_2 annual average standard promulgated by EPA on April 30, 1971 (36 FR 8186). The standard is 100 micrograms per cubic meter ($\mu g/m^3$), annual arithmetic mean (40 CFR 50.11). The Agency has combined possible proposal of a short-term NO_2 standard with review of the annual average NAAQS into one rulemaking process (see 45 FR 6959, January 31, 1980). After review of scientific bases for the standards (the air quality criteria), EPA will decide whether to propose a short-term NO_2 standard and change or reaffirm the existing annual NO_2 NAAQS.

Public exposure to NO_2 can result in impairment of pulmonary (lung) function and can increase susceptibility to respiratory infection. NO_2 or other nitrogen oxide compounds in the ambient air can adversely affect crops, visibility, and materials, and can cause acid rainfall. Acid rainfall adversely affects crops, materials, and aquatic ecosystems.

Alternatives Under Consideration

Based on revised air quality criteria, EPA may decide to keep the existing annual standard without change, or make some modification to the allowable air concentration of nitrogen dioxide, the period over which the concentration is measured or the number of times States will be allowed to exceed the standards. The Agency may also decide to propose a short-term NO_2 standard.

We are investigating no new regulatory techniques in the NO_2 NAAQS review/standard-setting process. All governmental regulatory actions taken as a result of setting an NAAQS are at the discretion of State governments. They are free to use performance standards, economic incentives, or any other means to attain ambient air quality standards within their jurisdictions. The only EPA requirement for State governments is that they demonstrate attainment and maintenance of the NAAQS by statutory attainment dates.

Summary of Benefits

Sectors Affected: The general public, particularly those persons suffering from respiratory disease; agriculture; and the aquatic ecosystem.

Revision of air quality criteria and review of the existing ambient air standard will result in greater assurance that the standard which EPA reaffirms or newly promulgates will protect public health and welfare, crops, materials, and aquatic ecosystems.

Summary of Costs

Sectors Affected: Industries emitting nitrogen oxides, such as manufacturing, electric services, and natural gas pipelines; manufacturing of motor vehicles and motor vehicle equipment; regulation and administration of transportation programs; EPA; and State air pollution control agencies.

We will assess the costs and economic effects of controlling oxides of nitrogen for alternative short-term and annual standards at the time we propose a revised standard. In addition, EPA will also assess the impact on State air pollution control agencies of developing and modifying control programs to attain and maintain a possible short-term and annual NO_2 standard. The Agency will publish these assessments in a regulatory impact analysis that will be issued simultaneously with the NPRM.

The costs may exceed $100 million annual impact on the economy.

If the Agency's NO_2 activities result in a new regulatory action, the regulation could affect the level of control for sources of nitrogen oxides emissions, such as power plants, industrial boilers, and natural gas pipeline stations. We currently are controlling mobile source emissions under existing emissions limits for motor vehicles; however, a stringent short-term NO_2 standard could result in the need for community-wide inspection and maintenance programs for automobile and truck emissions.

Related Regulations and Actions

Internal: Changes to the current ambient standard may affect EPA's regulations for nitrogen oxides emissions from motor vehicles and EPA regulations for new source review.

External: Modifications in the existing standard may require States to reassess their current implementation control programs and make revisions in control measures and strategies if necessary. A new short-term standard would require States to assess ambient air quality data, and if concentrations exceed the standard, develop a State implementation plan to control NO_2 emissions.

Active Government Collaboration

Other Federal agencies that are involved in reviewing the nitrogen dioxide standards are the Departments of Energy, Transportation, Interior, Commerce, and Health and Human Services, and the Tennessee Valley Authority. In addition, we have informed the Interagency Regulatory Liaison Group (IRLG) of this review. The IRLG functions to coordinate the regulatory authorities of the Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, and the Food Safety and Quality Service, Department of Agriculture.

Timetable

NPRM—Spring 1981.
Regulatory Analysis—Spring 1981.
Public Comment Period—To be specified in NPRM.
Public Hearings—60 days after publication of NPRM.
Final Rule—Fall 1981.

Available Documents

"Air Quality Criteria for Nitrogen Dioxide" (external review draft, annotated version, June 1980), available from the Environmental Criteria and Assessment Office (ECAO), U.S. Environmental Protection Agency, MD-52, Research Triangle Park, NC 27711.

U.S. Environmental Protection Agency, Science Advisory Board, Clean Air Scientific Advisory Committee, Committee Meeting on Air Quality Criteria for Oxides of Nitrogen, "Transcript of Proceedings" conducted in Washington, DC on January 29 and 30, 1979; available from ECAO.

"Control Techniques for Nitrogen Dioxide Emissions" (draft, January 1978), available from Emission Standards and Engineering Division, U.S. Environmental Protection Agency, MD-13, Research Triangle Park, NC 27711.

"National Ambient Air Quality Standards: Establishment of Standard Review Docket for Nitrogen Dioxide," 45 FR 6958, January 31, 1980.

EPA has established a docket (EPA, Central Docket Section OAQPS-78-9) for review of the NO_2 standard. Reports in the docket are available for inspection between 8 a.m. and 4 p.m. on weekdays at the Docket Section Office, Room 2903B, 401 M Street, S.W., Washington, DC.

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EPA-OANR

Review, and Possible Revision, of the National Ambient Air Quality Standards for Particulate Matter (40 CFR Part 50*)

Legal Authority

The Clean Air Act, as amended, § 109(d)(1), 42 U.S.C. § 7409 *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes that this review is important to ensure the protection of public health and welfare, and because any changes to the existing standards may result in an annual effect of $100 million or more on the economy.

Statement of Problem

Section 109(d) of the Clean Air Act Amendments of 1977 directs EPA to review the existing National Ambient Air Quality Standards NAAQS) every 5 years. Ambient air quality standards define the level of pollutant concentrations in the ambient air that are allowed while still protecting public health and safety. The current primary standard for particulate matter (to protect public health) is 75 micrograms per cubic meter ($\mu g/m^3$), annual geometric mean, and 260 $\mu g/m^3$, maximum 24-hour concentrations, not to be exceeded more than once per year. The current secondary standard for particulate matter (to protect public welfare, e.g., effects on soils, vegetation, man-made materials, visibility, economic values, etc.) is 150 $\mu g/m^3$, maximum 24-hour concentration, not to be exceeded more than once per year. The States are responsible for developing and implementing the necessary regulatory programs to ensure the attainment and maintenance of the NAAQSs.

EPA will review the scientific basis of the primary and secondary standards (the air quality criteria), as well as the standards themselves. Where appropriate, EPA will revise the air quality criteria and promulgate new standards.

Exposure to airborne particulate matter (PM) aggravates asthma and other respiratory disorders, as well as cardiovascular diseases, and can impair pulmonary function; this exposure can also increase coughing and chest discomfort. PM may also increase the adverse health effects of gaseous air pollutants, such as sulfur dioxide. Depending on their chemical composition, specific types of PM may have more serious toxic or carcinogenic effects than others. Elevated PM levels result in increased soiling of exposed materials and impair visibility.

Alternatives Under Consideration

On the basis of the revised air quality criteria, EPA may decide to keep the existing standards without change or, alternatively, may decide to change the allowable air concentration of particulate matter, the period over which the concentration is measured, or the number of allowable exceedances of the standards. EPA is also considering standards based on the size of the particulate as well as its concentration. This consideration is based on evidence that smaller particles penetrate deeper into the lung and evidence that when elevated concentrations of particulate matter occur in combination with elevated levels of sulfur oxides, adverse health effects may be more pronounced.

EPA is not investigating new Federal regulatory techniques in the NAAQS review and revision process. All governmental regulatory actions taken as a result of setting an NAAQS are at the discretion of State governments, which are free to use performance standards, economic incentives, or any other means to attain ambient air quality standards within their jurisdiction. The only EPA requirement for State governments is that they attain and maintain the NAAQSs by statutory compliance dates.

Summary of Benefits

Sectors Affected: The general public, including children and those persons suffering from respiratory diseases and cardiovascular diseases.

The revision of the air quality criteria and the review of the existing ambient standards will result in greater assurance that the standards, whether reaffirmed or newly promulgated, will adequately protect health and welfare of the general public, including those groups within the general public most sensitive to adverse health effects of PM.

Summary of Costs

Sectors Affected: Industries emitting particulate matter, including (1) electric, gas, and sanitary services, (2) the non-ferrous metal industry, and (3) those industries that use or supply large quantities of fossil fuels; and State air pollution control agencies.

EPA will complete a study of costs and economic impacts of controlling particulate matter under alternative standards when it issues the NPRM. In addition, EPA will also assess the impact on State air pollution control agencies of modifying their control programs to accommodate revisions to the existing standards.

Related Regulations and Actions

Internal: Changes to the current ambient standards for particulate matter may affect EPA's regulations for new source review.

External: Modifications in the existing standards would require States to reassess their current implementation control programs and make revisions in control measures and strategies if necessary.

Active Government Collaboration

Other Federal agencies that are actively involved in reviewing the standards for particulate matter are the Departments of Energy, Transportation, Interior, Commerce, and Health and Human Services; and the Tennessee Valley Authority. In addition, EPA has informed the Interagency Regulatory Liaison Group (IRLG) of this review. The IRLG coordinates the regulatory activities of the Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, and

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the Food Safety and Quality Service, Department of Agriculture.

Timetable

NPRM—Fall 1981.
Regulatory Analysis—Fall 1981.
Public Comment Period—To be specified in NPRM.
Public Hearing—60 days after publication of NPRM.
Final Rule—Spring 1982.

Available Documents

ANPRM—"National Ambient Air Quality Standards; Review of Criteria and Standards for Particulate Matter and Sulfur Oxides," 44 FR 192, October 2, 1979.

"Air Quality Criteria for Particulate Matter," AP–49, January 1969, available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

"Health Effects Considerations for Establishing a Standard for Inhalable Particles," July 1978, available from the Health Effects Research Laboratory, Environmental Protection Agency, Research Triangle Park, NC 27701.

"Airborne Particles," National Academy of Sciences, 1977, available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

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EPA-OANR

Review, and Possible Revision, of the National Ambient Air Quality Standards for Sulfur Oxides (Sulfur Dioxide (40 CFR Part 50*)

Legal Authority

The Clean Air Act, as amended, § 109(d)(1), 42 U.S.C. § 7409 *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes that this review is important in order to ensure the protection of public health and welfare, and because any changes to the existing standards may result in an annual effect of $100 million or more on the economy.

Statement of Problem

Section 109(d) of the Clean Air Act Amendments of 1977 directs the EPA to review the existing National Ambient Air Quality Standards (NAAQS) every 5 years. Ambient air quality standards define allowable pollutant concentrations in the ambient air that are allowed while still protecting public health and welfare. The present primary standard for sulfur oxides measured as sulfur dioxide (set to protect public health) is 80 micrograms per cubic meter ($\mu g/m^3$), annual arithmetic mean, and a maximum 24-hour concentration of 365 $\mu g/m^3$, not to be exceeded more than once per year. The current secondary standard for sulfur oxides measured as sulfur dioxide (to protect public welfare e.g., effects on soils, vegetation, man-made materials, visibility, economic values, etc.) is 1300 $\mu g/m^3$, with the maximum 3-hour concentration not to be exceeded more than once per year. The States are responsible for developing and implementing the necessary regulatory programs to ensure the attainment and maintenance of the NAAQSs.

EPA will review the scientific basis of the standards (the air quality criteria), as well as the standards themselves. Where appropriate, EPA will revise the air quality criteria and promulgate new standards.

Sulfur oxides in the air, working alone or in combination with other pollutants, aggravate respiratory diseases such as asthma, chronic bronchitis and emphysema, and also irritate the eyes and respiratory tract. Sulfur oxides also cause impaired visibility and help form acid rain, which adversely affects crops, materials, and aquatic ecosystems.

Alternatives Under Consideration

On the basis of the revised air quality criteria, EPA may decide to keep the existing standards without change or, alternatively, may alter the air concentration of sulfur dioxide or the period over which the concentration is measured.

EPA is investigating no new Federal regulatory techniques in the NAAQS review and revision process. All governmental regulatory actions taken as a result of setting an NAAQS are at the discretion of State governments. They are free to use performance standards, economic incentives, or any other means to attain ambient air quality standards within their jurisdiction. The only EPA requirement for State governments is that they attain and maintain the NAAQSs by statutory compliance dates.

Summary of Benefits

Sectors Affected: The general public, including children and those persons suffering from respiratory diseases; and agriculture.

The revision of the air quality criteria and the review of the existing ambient standards will result in greater assurance that the standards, whether reaffirmed or newly promulgated, will adquately protect the health and welfare of the general public, including those most sensitive to adverse health effects of sulfur oxides.

Summary of Costs

Sectors Affected: Industries emitting sulfur dioxides, including (1) electric, gas, and sanitary services industries, (2) the non-ferrous metal industry, (3) the petroleum refining industry, and (4) those industries that supply or use large quantities of fossil fuel; and State air pollution control agencies.

A study of costs and economic impacts of controlling sulfur oxides under alternative standards will be completed by EPA when the NPRM is issued. In addition, EPA will also assess the impact on State air pollution control agencies of modifying their control programs in order to accommodate any revisions to existing standards.

Related Regulations and Actions

Internal: Changes to the current ambient standards may affect EPA's regulations for new source review.

External: Modifications in the existing standards would require States to reassess their current implementation control programs, and make revisions in control measures and strategies if necessary.

Active Government Collaboration

Other Federal agencies that are actively involved in reviewing the sulfur oxide standards are the Departments of Energy, Transportation, Interior, Commerce, and Health and Human Services; and the Tennessee Valley Authority. In addition, EPA has informed the Interagency Regulatory Liaison Group (IRLG) of this review. The IRLG coordinates certain regulatory activities of the Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, and the Food Safety and Quality Service, Department of Agriculture.

Timetable

NPRM—Fall 1981.
Regulatory Analysis—Fall 1981.
Public Comment Period—To be specified in NPRM.
Public Hearing—60 days after publication of NPRM.
Final Rule—Spring 1982.

Available Documents

ANPRM—"National Ambient Air Quality Standards; Review of Criteria and Standards for Particulate Matter and Sulfur Oxides," 44 FR 56730, October 2, 1979.

"Air Quality Criteria for Sulfur Oxides," AP–50, January 1969—available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

"Sulfur Oxides," National Academy of Sciences, 1978—available from the National Academy of Sciences, Printing and Publication Office, 2101 Constitution Avenue, Washington, DC 20418.

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EPA-OANR

Standards of Performance to Control Atmospheric Emissions from Industrial Boilers (40 CFR Part 60*)

Legal Authority

The Clean Air Act, as amended, § 111, 42 U.S.C. § 7411.

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes this rule would be important because it would affect many industries, address a major air polluter, namely industrial boilers, and minimize emissions in the face of increased industrial use of coal. The impact of this regulation on industry would approach $100 million per year for additional capital and annualized costs by 1990.

Statement of Problem

Combustion of coal, oil, and gas in industrial boilers results in the emission of significant quantities of particulate matter, sulfur dioxide, and nitrogen oxides to the atmosphere. Because of the large number of boilers and the associated emission rates, industrial boilers contribute significantly to air pollution in the United States. In 1975, emissions from industrial boilers were estimated to include 2.77 million tons of particulate matter, 3.25 million tons of sulfur dioxide, and 2.01 million tons of nitrogen oxides or approximately 17, 11, and 8 percent of total national emissions of these pollutants. The projected growth rate of the use of industrial boilers, coupled with the emphasis on shifting fuel from gas and oil to coal, will increase the potential for emissions. These air pollutants affect the health and welfare of most of our urban-dwelling citizens by contributing to respiratory disease in people and animals, reducing visibility in the atmosphere, damaging vegetation, and soiling and deteriorating real estate. Failure to provide more effective control of emissions from industrial boilers will increase exposure to the undesirable effects of these pollutants and will expand the portions of the country that exceed EPA's ambient standards for these pollutants. This rule will apply to new and modified industrial boilers. Only the largest industrial boilers are presently covered by § 111 standards; these apply only to new and modified units. Existing industrial boilers are required to meet State and local regulations which usually limit sulfur dioxide and particulate emissions. Section 111 regulations are expected to incorporate limits for nitrogen oxides and limits for sulfur dioxide and particulate that are more stringent than State and local regulations.

Alternatives Under Consideration

The 1977 Clean Air Act requires that EPA adopt standards of performance for stationary sources of air pollution that are fired by fossil fuels. EPA is gathering information on eight technologies for reducing boiler emissions of three pollutants: (1) oil cleaning and use of existing clean oil, (2) coal cleaning and existing clean coal, (3) synthetic fuels, (4) fluidized bed combustion (a relatively new technology applicable only to large coal-fired boilers), (5) particulate control, (6) flue gas desulfurization, (7) nitrogen oxides combustion modification, and (8) nitrogen oxides flue gas treatment.

We are examining several control alternatives which include different levels of control for three pollutants being studied. Computer modeling is being used to determine the cost impacts, emission impacts, effects upon fuel consumption, overall energy impacts, and other environmental effects on a regional and national basis.

Summary of Benefits

Sectors Affected: Manufacturing industries; and the general public.

This rule will apply to new and modified industrial boilers used in a large number of manufacturing industries, particularly energy-intensive industries, such as glass (SIC 321, 322, 323), pulp and paper (SIC 261, 262, 263), and chemical manufacturing (SIC 281), and will affect people in urban and rural areas who are subject to pollution emissions from these industries.

Installing equipment that represents the best available control technology at new and modified industrial boiler facilities will help lessen air pollution in already affected areas and preserve clean air in as yet unpolluted areas of the country. Since only a small fraction of the industrial boiler population is replaced or modified annually, the short term impact on air quality will be only nominal. However, annual reductions in emissions will be cumulative resulting in significant betterment of air quality over the long term. Equipping new boilers with best available control technology will reduce the need for using the "cleanest" fuels, which can be diverted to existing plants in which new add-on controls are less cost effective.

A regulation that requires more stringent controls on new and modified industrial boilers will allow industrial expansion and economic growth without an accompanying assault on ambient air quality.

Summary of Costs

Sectors Affected: Manufacturing industries; and users of products produced by these industries.

Energy intensive industries such as glass (SIC 321, 322, 323), pulp and paper (SIC 261, 262, 263), and chemical manufacturing (SIC 281) are the specific industries that this rule would affect most.

Cost estimates for applying the control technology required by a regulation governing emissions from industrial boilers would be determined by the number, sizes, and types of sources we regulate and the degree of control we require. EPA estimates that by 1990, annual added capital costs of control will approach $200 million and annualized costs will approach $100 million (1978 dollars). These estimates are necessarily very tentative at this time. Consumers may pay higher prices for products manufactured by energy-intensive industries.

Related Regulations and Actions

Internal: We have issued water pollution regulations in the form of "Best Practical Technology Currently Available" and "Best Available Technology Economically Achievable." Industrial boilers are also subject to requirements of the Resource Conservation and Recovery Act, Part 261, Subpart C.

External: Industrial boilers are subject to the Power Plant and Industrial Fuel Use Act and associated regulations established by the Department of Energy.

Active Government Collaboration

Because emissions from industrial

pounds GVW and heavy-duty vehicles (HDVs) which include the 8,500 pounds

less stringent standards. EPA can make such revisions to the standard if it finds

These reductions will yield

Active Government Collaboration

figure to increase to over two-thirds,

Active Government Collaboration

Because emissions from industrial boilers come from the combustion of fossil fuels, EPA is working closely with the Department of Energy to share information and stimulate advances in technology.

EPA works closely with State and local governments in developing and implementing these rules.

Timetable

Regulatory Analysis—July 1981.
NPRM—July 1981.
Public Hearing—March 1981.
Final Rule—December 1981.

Available Documents

ANPRM—40 CFR 60 (44 FR 37632, June 28, 1979).

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EPA–OANR–Office of Mobile Source Air Pollution Control

Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines (40 CFR Part 86*)

Legal Authority

The Clean Air Act, as amended, § 202, 42 U.S.C. § 7521.

Reason for Including this Entry

The Environmental Protection Agency (EPA) thinks this rule is important because we expect it will have an annual economic impact of more than $100 million.

Statement of Problem

The Clean Air Act Amendments of 1977 require EPA to establish regulations which require a reduction (from the uncontrolled state) of heavy-duty engine or vehicle emissions of 90 percent for hydrocarbon (HC) and carbon monoxide (CO) in 1983 and 75 percent for oxides of nitrogen (NO_x) in 1985. These amendments also provide EPA with options to either temporarily revise or change the standards under certain conditions. As defined in the Act, heavy-duty vehicles include those trucks over 6,000 pounds gross vehicle weight (GVW); excluded are off-road vehicles, such as farm tractors and construction equipment. This definition overlaps two truck categories as used by EPA. These are light-duty trucks (LDTs), which EPA defines as trucks up to 8,500 pounds GVW and heavy-duty vehicles (HDVs) which include the 8,500 pounds GVW over trucks. We published regulations implementing the mandated reductions in HC and CO emissions for HDVs on January 21, 1980 (45 FR 4136) and for LDTs on September 25, 1980 (45 FR 63734). This entry concerns the regulations implementing the mandated reduction in NO_x.

During high temperature combustion in internal combustion engines, atmospheric nitrogen reacts to form nitric oxide (NO) and a comparatively small amount of nitrogen dioxide (NO_2). In the atmosphere, the NO is converted to NO_2 by direct reaction with oxygen and by photochemical processes. NO_2 in the atmosphere causes visibility restrictions and brownish coloration. Elevated NO_2 levels are also associated with both long-term and short-term health effects on the respiratory system.

Based upon the present annual standard of 0.05 parts per million, EPA has identified several (8 or less) Air Quality Control Regions which are currently exceeding acceptable levels. EPA's analysis of future oxides of nitrogen (NO_x) emissions indicates that current light-duty and heavy-duty vehicle NO_x control strategies will produce some overall NO_x reductions through the mid-1980s, after which annual growth of vehicle sales, industry, and other sources contributing to pollution will begin to dominate. Thus, to even maintain the status quo, further NO_x controls will be needed. Heavy-duty vehicles and light-duty trucks, representing approximately 40 percent of mobile source NO_x emissions, constitute one area where further NO_x control is available on a cost-effective basis. Mobile sources themselves constitute about 30 percent of total NO_x emissions.

Alternatives Under Consideration

In the development of the NO_x standard, EPA will consider the following alternatives:

(A) Implement an NO_x standard that reflects the Clean Air Act's mandated 75 percent reduction.

(B) Implement an oxides of nitrogen standard that is either less stringent or more stringent than the 75 percent reduction required by the Clean Air Act.

EPA is currently evaluating the advantages and disadvantages of both alternatives. The Clean Air Act (as amended August 1977) directs EPA to set an NO_x standard that reflects a 75 percent reduction (from uncontrolled levels), applicable for the 1985 model year. However, Congress incorporated provisions in the Act allowing EPA either to set more stringent standards or less stringent standards. EPA can make such revisions to the standard if it finds that the emission standards cannot be achieved by available technology at reasonable cost. Of course, as standards are made more stringent, more benefits will accrue. Likewise, as standards become more stringent, costs of compliance will generally increase. The task confronting EPA is one of determining technological capabilities, and balancing costs and benefits.

At the present time, the Agency considers alternative (A) as the most likely option to propose. However, we will continue to address issues such as technological capability and cost as we develop the final rule. It is possible that after analyzing manufacturers' comments, EPA will reconsider alternative (B).

EPA had considered the additional alternative of emission averaging, but has decided to pursue averaging as a separate rulemaking. Under an averaging approach, a manufacturer could achieve compliance to an emission standard by averaging its aggregate fleet emissions. The manufacturer could design some engines to be below the standard and others above it. Conceptually, this approach could increase a manufacturer's flexibility from both a technological and an economic standpoint. Averaging will require a major effort to incorporate the concept into the existing regulations. Since the Clean Air Act requires EPA to promulgate the NO_x rulemaking swiftly, and since we believe the averaging concept will need lengthy analysis and discussion between EPA and the industry and public, we will pursue averaging and NO_x as separate rulemakings. We expect to publish an ANPRM for the averaging concept during the fall of 1980 and will attempt to complete the averaging rulemaking as close as possible to the time of the NO_x final rule.

Summary of Benefits

Sectors Affected: The general public, especially urban populations and persons particularly susceptible to respiratory disease.

Although a thorough and detailed benefit analysis has not been performed yet, we can roughly estimate the environmental impact. A proposed NO_x standard representing a 75 percent reduction from uncontrolled levels would reduce lifetime emissions of an average light-duty truck by 500 pounds, and of an average heavy-duty vehicle by approximately 1 ton and 7 tons for gas and diesel, respectively (compared to vehicles sold under present regulations). These reductions will yield improvements in excess of 10 percent in average NO_x air quality by 1995.

Summary of Costs

Sectors Affected: Manufacturers of heavy-duty engines and vehicles and light-duty trucks; and purchasers and users of heavy-duty engines and vehicles and light-duty trucks.

This regulation will require the addition of engine emission control hardware and/or engine modifications in order to comply with the proposed NO_x standard. Consequently, to cover the cost of any new hardware or engine modifications, manufacturers will have to increase the price of their products. Although precise cost estimates are not available at this time, we project that the average initial price increase of a light-duty truck will be roughly $150, while the average initial price increases of heavy-duty vehicles will be roughly $280 for gasoline engines and $360 for diesel engines (in 1980 dollars).

Related Regulations and Actions

Internal: Current emission standards for light-duty trucks and heavy-duty engines can be found in "Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines: Certification and Test Procedures," 40 CFR Part 86. Regulations implementing the Department of Transportation light-duty truck fuel economy standards are found in "Fuel Economy of Motor Vehicles," 40 CFR Part 600.

EPA has recently finalized standards and measurement procedures for the control of particulate emissions for diesel-fueled light-duty trucks ("Standard for Emission of Particulate Regulation for Diesel-Fueled Light-Duty Vehicles and Light-Duty Trucks," 45 FR 14496, March 5, 1980). Other related regulations recently finalized are HC and CO emission regulations for 1984 and later model year heavy-duty engines and for 1984 and later light-duty trucks ("Gaseous Emission Regulations for 1984 and Later Model Year Heavy-Duty Engines," 45 FR 4136, January 21, 1980, and "Gaseous Emission Regulations for 1984 and Later Model Year Light-Duty Trucks," 45 FR 63734, September 25, 1980).

In addition to the existing regulations above, EPA is in the process of developing particulate regulations for heavy-duty diesel engines.

External: Light-duty vehicle and light-duty truck fuel economy standards are found in the Department of Transportation "Passenger Automobile Average Fuel Economy Standards," 41 CFR Part 351.

Active Government Collaboration

Department of Transportation, Council on Wage and Price Stability, and Department of Commerce.

Timetable

NPRM—December 1980.
Public Hearing—February 1981.
Public Comment Period—60 days following publication of NPRM. Comments may be sent to Central Docket Section A–130, West Tower Lobby, Gallery 1, Environmental Protection Agency, Attn: Docket No. A–80–18, 401 M Street SW., Washington, DC 20460.
Final Rule—December 1981.
Final Rule Effective—January 1982, applicable to model year 1985.

Available Documents

None at this time.

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EPA–OANR–OMSAPC

Heavy-Duty Diesel Particulate Regulations (40 CFR Part 86 *)

Legal Authority

The Clean Air Act, as amended, §§ 202, 206, 207, and 301, 42 U.S.C. §§ 7521, 7525, 7541, and 7601.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this rule is important because it may have an annual effect of $100 million or more on the economy.

Statement of Problem

Despite significant gains made in the control of particulate emissions, there are still many regions of the United States that are not able to meet the National Ambient Air Quality Standard (NAAQS) for total suspended particulate matter (TSP). To help improve this situation, Congress required EPA (through the Clean Air Act Amendments of 1977) to prescribe standards for the emission of particulate matter from 1981 model year heavy-duty diesel vehicles. EPA must base this standard on the lowest emission rates that we find technologically feasible at the time the standard will take effect, while also taking cost, noise, energy, and safety into consideration.

Diesel engines already power one-third of the heavy-duty vehicles sold in this country. By 1995, EPA expects this figure to increase to over two-thirds, primarily because of the fuel economy advantage of diesel engines over gasoline engines. These diesels emit 40 to 100 times the particulate matter emitted by catalyst-equipped vehicles operated on unleaded gasoline. (EPA expects that most gasoline-fueled heavy-duty vehicles will require catalysts and unleaded gasoline beginning in 1984 due to stringent standards for the emissions of hydrocarbons and carbon monoxide (see 45 FR 4136, January 21, 1980)). Heavy-duty diesel vehicles, if left uncontrolled, would emit 218,000–286,500 metric tons per year of particulate matter to the atmosphere by 1995. Urban areas would be the most seriously affected by these emissions. Ambient particulate levels from heavy-duty diesels alone would reach 2 to 7 micrograms per cubic meter (annual geometric mean) in cities such as Chicago, Los Angeles, New York, and Dallas. Somewhat smaller levels of 2 to 5 micrograms per cubic meter (annual geometric mean) would occur in smaller cities such as St. Louis, Denver, and Phoenix. These levels would occur over large-scale areas within these cities. Additional diesel particulate levels of 5 to 6 micrograms per cubic meter (annual geometric mean) would be expected in localized areas within 90 meters of very busy roadways. If controls are not applied, these ambient impacts would hinder the efforts of many urban air quality control regions to meet the primary NAAQS for TSP of 75 micrograms per cubic meter. EPA set this NAAQS at a level to protect the public health; many areas of the country are currently exceeding the standard.

Diesel particulate is a particular health concern because of its chemical nature. Diesel particulate contains polycyclic organic matter, which is believed to be carcinogenic, and carbon, which can synergistically increase the effects of other pollutants. The extractable organic fraction of diesel particulate has been shown to be mutagenic (causing genetic damage) in short-term bioassays. EPA is currently performing a health assessment to determine the carcinogenic risk (if any) to human health.

Diesel particulate is also extremely small in size, allowing it to penetrate deeply into the lungs. Over 95 percent of diesel particulate is fine (aerodynamic diameter of less than 2.5 micrometers). Fine particles, such as these, have the greatest potential health impact as they have the longest contact with the most sensitive areas of the respiratory tract. Particulate emitted from diesels also has a greater relative exposure impact than

that from many stationary sources because it is emitted at ground level in areas where people live and work.

Alternatives Under Consideration

EPA will consider the following alternatives when proposing a standard for particulate emissions from heavy-duty diesel vehicle engines:

(A) Do not regulate particulate emissions from heavy-duty diesel vehicles, but apply additional controls to particulate emissions from stationary sources. Control of particulate emissions from stationary sources may be less costly than controlling particulate emissions from heavy-duty diesel vehicles. But these stationary source controls may not be able to provide the necessary improvements in air quality which are available from the control of heavy-duty diesel vehicles.

(B) Do not regulate particulate emissions from heavy-duty diesel vehicles, but apply more stringent controls to particulate emissions from other classes of motor vehicles. Controls placed on these other vehicle classes, however, do not at this time appear to be as cost effective as heavy-duty diesel controls. Also, controls placed on these other vehicle classes may not be able to provide the same improvement in air quality as the regulation of emissions from heavy-duty diesels.

(C) Prescribe a heavy-duty diesel particulate standard and examine alternative levels of control along with alternative dates of implementation. It is likely that the different alternatives examined will have different costs and effectiveness and one may prove to be significantly better than the others, while still complying with Congressional mandates.

We currently regard alternative (C) as the most desirable alternative. Additional particulate controls available for stationary sources and other mobile sources do not appear able to reduce particulate emissions enough to remove the need for regulation of particulate emissions from heavy-duty diesel engines.

Summary of Benefits

Sectors Affected: The general public, particularly those living in urban areas or near busy roadways, and those who are especially susceptible to respiratory disease; and States containing areas currently in violation of the National Ambient Air Quality Standard (NAAQS) for total suspended particulate matter (TSP).

EPA estimates that this regulation will reduce particulate emissions from heavy-duty diesel vehicles by 50 to 75 percent. This reduction would begin to appear with those new vehicles produced in the 1985 model year. By 1995, emissions of particulate matter from these vehicles would be reduced from 218,000–266,500 metric tons per year (depending on the number of diesels on the road) to 78,000–95,000 metric tons per year. Urban levels of heavy-duty diesel particulate in the atmosphere would be reduced from 2–7 micrograms per cubic meter to 1–3 micrograms per cubic meter. Roadside levels would be reduced similarly. These reductions will help many areas of the country meet the primary NAAQS for TSP (75 micrograms per cubic meter) which EPA set at a level to protect the public health. Because diesel particulate is highly respirable, these reductions should provide an added benefit in the area of public health.

Also, because diesel particulate is very small (average diameter of 0.07 to 0.2 micrometer) and is primarily made up of carbon, it is very effective in reducing visibility. Thus, any reduction in diesel-particulate concentration should improve visibility, particularly in urban areas.

Summary of Costs

Sectors Affected: Manufacturers of heavy-duty diesel engines and vehicles; and purchasers and users of heavy-duty diesel vehicles.

This regulation probably will require the addition of emission control devices to heavy-duty diesel engines, though the actual devices used and their cost could vary from manufacturer to manufacturer and engine to engine. Manufacturers of these engines and of the vehicles equipped with these engines will have to raise prices to recover their increased investment. While this increase could be substantial, roughly a one-time purchase price increase of $500–$650 (1980 dollars), EPA does not expect this to adversely affect sales. This increase only represents a 1 to 3 percent increase in the price of a heavy-duty diesel vehicle.

EPA does not expect this regulation to increase the operating costs of heavy-duty diesel vehicles; in fact, a decrease may actually be possible. Because operating costs comprise 90 to 95 percent of the total cost of owning and operating heavy-duty diesel vehicles, this regulation should have a negligible impact (less than 0.5 percent) on the cost of hauling freight in these vehicles. Thus, neither those whose business is hauling freight nor those who have their freight hauled should be adversely affected. Small, independent haulers should experience no disproportionate effect.

The regulation could have an annual effect on the economy of $100 million or more.

Related Regulations and Actions

Internal: "Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines: Certification and Test Procedures," 40 CFR Part 86.

EPA is also in the process of revising the standard for the emissions of nitrogen oxides from both gasoline-fueled and diesel heavy-duty engines.

External: None.

Active Government Collaboration

None.

Timetable

NPRM—November 30, 1980.
Regulatory Analysis—November 30, 1980.
Current Status—Under preparation.
Public Hearings—30 days after publication of NPRM, Ann Arbor, Michigan.
Public Comment Period—60 days following publication of NPRM.
Comments may be sent to:
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2565 Plymouth Road,
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Final Rule—May 1, 1981.
Final Rule Effective—The 1985 Model Year.

Available Documents

ANPRM—42 FR 61287, December 2, 1977, EPA docket A–80–18.

All documents available for review at the EPA, Central Docket Section A–130, West Tower Lobby, Gallery 1, Attn: Docket No. A–80–18, 401 M Street, S.W., Washington, DC 20460. The documents are available for personal inspection Monday through Friday between 8:00 a.m. and 4:00 p.m., or copies can be obtained by personal or written request. A reasonable fee may be charged for copying.

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EPA—Office of Water and Waste Management

Effluent Limitations Guidelines and Pretreatment Standards, and New Source Standards Controlling the Discharge of Pollutants From Pulp, Paper, and Paperboard Mills Into Navigable Waterways (40 CFR Parts 430° and 431°)

Legal Authority

The Clean Water Act, §§ 301, 304, 306, 307, 308, and 501; 33 U.S.C. §§ 1311, 1314, 1316, 1317, 1318, and 1361.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this rule is important because it will have an annual effect of $100 million or more on the economy.

Statement of Problem

The Clean Water Act requires the Environmental Protection Agency (EPA) to develop technology-based effluent limitations guidelines and standards for discharges of pollutants into navigable waterways and the introduction of pollutants into publicly owned treatment works (POTWs), and to review such guidelines and standards at least every 5 years. EPA promulgated effluent limitations guidelines reflecting the best practicable control technology currently available (BPT) and the best available technology economically achievable (BAT) and new source performance standards (NSPS) for six subcategories of the industry on May 9 and 29, 1974 (39 FR 16578, 40 CFR Part 431; and 39 FR 1872, 40 CFR 430). EPA promulgated BPT guidelines for the 16 remaining subcategories of the industry on January 6, 1977 (42 FR 1398, 40 CFR Part 430).

The Clean Water Act of 1977 requires industry to achieve by July 1, 1984 effluent limitations requiring application of BAT for those pollutants which Congress declared "toxic" under § 307(a) of the Act. In addition to the emphasis on toxic pollutants reflected by BAT, the Act requires industry to achieve by July 1, 1984 "effluent limitations requiring the application of the best conventional pollutant control technology" (BCT) for the regulation of conventional water pollutants (biochemical oxygen demand, suspended solids, fecal coliform, oil and grease, and pH). All pollutants that are not either toxic or conventional have been termed "non-coventional" and are subject to regulation under BAT.

EPA expects to publish proposed effluent limitations guidelines for BAT, BCT, and NSPS, and pretreatment standards for existing and new sources (PSES, PSNS) for the pulp, paper, and paperboard and the builders' paper and board mills point source categories in the Federal Register, in November 1980.

EPA estimates that there are 706 operating pulp, paper, and paperboard mills in the United States which discharge about 4.2 billions gallons per day of wastewater. Toxic and non-conventional pollutants of concern detected in the industry's wastewaters during an EPA sampling program were 2,4,5-trichlorophenol, 2,4,6-trichlorophenol, pentachlorophenol, chloroform, ammonia, and zinc. Chloroform, pentachlorophenol, trichlorophenolic ammonia, and zinc can be toxic to aquatic organisms. Chloroform and trichlorophenol are known carcinogens. Conventional pollutants routinely monitored in discharges from pulp, paper, and paperboard mills include biochemical oxygen demand, suspended solids, and pH. Excessive discharge of conventional pollutants may cause a depletion of the dissolved oxygen in streams, which can result in fish kills.

Alternatives Under Consideration

The Agency is considering various wastewater treatment technologies for controlling toxic, non-conventional, and conventional pollutant discharges from the pulp, paper, and paperboard industry to the Nation's waterways. We will regulate toxic and non-conventional pollutants under the best available technology economically achievable (BAT), new source performance standards (PSNS), pretreatment standards for existing sources (PSES), and pretreatment standards for new sources (PSNS). We will regulate conventional pollutants under the best conventional pollutant control technology (BCT) and new source performance standards (NSPS).

In evaluating the options for development of regulations, the Agency considers several important factors, including the quantity and type of pollutants each wastewater source discharges, treatment technologies that are available for the control of these wastewaters, the air pollution and solid wastes that the wastewater treatment systems may produce, and the cost of these systems.

The Agency, through its sampling and data gathering efforts, has determined that existing biological treatment systems are very effective in removing most toxic pollutants found in pulp, paper, and paperboard industry wastewaters. Several toxic pollutants were detected with sufficient frequency and/or at sufficient levels to concern us and we are considering them as candidates for control under BAT and pretreatment regulations. The pollutants of concern and the options being considered to ensure their control under BAT are described below.

Pentachlorophenol, 2,4,5-trichlorophenol, and 2,4,6-trichlorophenol (toxic pollutants) are present in treated effluents in many subcategories of the industry. These compounds are present in certain of the slimicide and fungicide formulations used in the pulp, paper, and paperboard industry. The best and least expensive method for control of these pollutants is the substitution of these slimicides and fungicides with formulations that do not contain pentachlorophenol, 2,4,5-trichlorophenol, or 2,4,6-trichlorophenol.

Chloroform (a toxic pollutant) is present in very high concentrations (up to 10 milligrams per liter) in raw wastewaters from mills producing bleached pulps. Biological treatment systems are capable of removal of chloroform to low levels (less than 0.1 milligrams per liter). The Agency is considering establishing BAT effluent limitations guidelines and NSPS based on those levels of chloroform attained through the application of biological treatment.

Zinc (a toxic pollutant) is present in wastewaters from facilities using zinc hydrosulfite as a bleaching chemical. The Agency is considering establishing BAT effluent limitations guidelines, NSPS, and pretreatment standards based on the substitution of zinc hydrosulfite with sodium hydrosulfite.

Ammonia (a non-conventional pollutant) is discharged from facilities using ammonia-based pulping processes. The Agency is considering establishing BAT effluent limitations and NSPS based on either a substitution to a different chemical base or on the application of additional end-of-pipe treatment.

Conventional pollutants currently regulated include: biochemical oxygen demand (BOD), total suspended solids (TSS), and pH. The Agency is considering three alternatives under BCT to reduce the discharge of BOD and TSS from pulp, paper, and paperboard mills:

Alternative (A) includes the addition of in-plant production process controls to reduce raw wastewater flow and BOD to the existing BPT treatment system.

Alternative (B) includes the reduction of BOD and TSS to levels typical of best performing mills. This option may require expansion or upgrading of existing end-of-pipe treatment systems at many mills in the pulp, paper, and paperboard industry.

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Alternative (C) includes the application of chemically assisted clarification in addition to the technology considered as the basis of Alternative (A).

The Agency is still developing information on the costs and capabilities of the three technology options.

Summary of Benefits

Sectors Affected: The general public.

The major benefit of the proposed rule will be the reduction or elimination of toxic, non-conventional, and conventional pollutant discharges from pulp, paper, and paperboard mills. The discharge of 2,4,5-trichlorophenol, 2,4,6-trichlorophenol, pentachlorophenol, and zinc would be virtually eliminated and the discharge of chloroform and ammonia would be greatly reduced.

The discharges of BOD and TSS from pulp, paper, and paperboard mills will be substantially reduced by the following amounts dependent upon the option selected as the basis of BCT regulations:

BOD: Alternative (A)—18 percent, Alternative (B)—40 percent, Alternative (C)—50 percent.

TSS: Alternative (A)—18 percent, Alternative (B)—45 percent, Alternative (C)—80 percent.

The current discharge of one million pounds per day of BOD from pulp, paper, and paperboard mills accounts for about 45 percent of the total industrial contribution of BOD. Therefore, these additional reductions represent a significant portion of current conventional pollutant discharge to the Nation's waterways.

Summary of Costs

Sectors Affected: Pulp, paper, and paperboard mills; and users of pulp, paper, and paperboard products.

The Agency is currently refining cost data for the various technology options. We expect that, with the exception of ammonia removal options, the BAT, PSES, and PSNS technology options will have an insignificant impact on the pulp, paper, and paperboard industry. It is likely that large capital expenditures will be necessary at the nine pulp mills using ammonia-based cooking liquors, should we establish limitations for the control of ammonia.

The Agency has made preliminary estimates of the capital costs (1978 dollars) for all U.S. pulp, paper, and paperboard mills to attain levels of BOD and TSS associated with the BCT technology alternatives. They are: Alternative (A)—$.83 billion, Alternative (B)—$1.2 to 1.9 billion, and Alternative (C)—$2.2 billion.

These costs may result in price increases ranging from zero to 11.5 percent.

These regulations should not require additional resources of EPA or State permit authorities.

Related Regulations and Actions

Internal: Requirements for the management of solid wastes under the Resource Conservation and Recovery Act may affect the cost of installation and operation of various wastewater treatment technologies.

External: None.

Active Government Collaboration

The Department of Commerce has provided assistance by reviewing materials.

Timetable

NPRM—November 1980.
Public Comment Period—60 days following publication of NPRM.
Final Rule—June 1981.
Regulatory Analysis—November 1980.

Available Documents

Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Unbleached Kraft and Semichemical Pulp Segment of the Pulp, Paper, and Paperboard Mills Point Source Category, EPA, May 1974, National Technical Information Service (NTIS) Number PB-238833.

Development Document for Effluent Limitations Guidelines (BPCTCA) for the Bleached Kraft, Groundwood, Sulfite, Soda, Deink, and Non-integrated Paper Mills Segment of the Pulp, Paper, and Paperboard Point Source Category, EPA December 1976 (available for review at EPA Headquarters Library, 401 M St., S.W., Washington, DC 20460).

Preliminary Data Base for Review of BATEA Effluent Limitations Guidelines, NSPS, and Pretreatment Standards for the Pulp, Paper, and Paperboard Point Source Category, prepared for the U.S. Environmental Protection Agency by the Edward C. Jordan Co., Inc., Portland, Maine, June 1979 (Available for review at EPA Headquarters and Regional Libraries only).

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EPA—OWWM

Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Iron and Steel Manufacturing Plants to Navigable Waterways and the Pretreatment of Wastewaters Introduced into Publicly Owned Treatment Works (40 CFR Part 420*)

Legal Authority

The Clean Water Act as amended, §§ 301, 304, 306, 307, and 501; 33 U.S.C. §§ 1311, 1314, 1316, 1317, and 1351.

Reason for Including This Entry

The Environmental Protection Agency (EPA) believes this regulation is important because it will provide control of discharges into the water from the largest metal manufacturing industry in the United States. We expect it will have annual effect on the economy of more than $100 million.

Statement of Problem

The Clean Water Act requires the Environmental Protection Agency (EPA) to promulgate regulations to control the discharge of pollutants into navigable waters and the introduction of pollutants into publicly owned treatment works (POTWs). These regulations must include effluent limitations representing the best practicable technology (BPT), the best conventional technology (BCT), the best available technology (BAT), new source performance standards (NSPS), and pretreatment standards for facilities introducing wastewaters into POTWs.

The Clean Water Act of 1977 requires industry to achieve, by July 1, 1984, effluent limitations requiring application of BAT for those pollutants which Congress declared "toxic" under 307(a) of the Act. In addition to the emphasis on toxic pollutants reflected by BAT, the Act requires industry to achieve, by July 1, 1984, "effluent limitations requiring the application of the best conventional pollutant control technology" (BCT) for the regulation of conventional water pollutants (biochemical oxygen demand, suspended solids, fecal coliform, oil and grease, and pH). All pollutants that are not either toxic or conventional have been termed "non-conventional" and are subject to regulation under BAT.

Initially, we promulgated regulations for the iron and steel manufacturing industry on June 28, 1974 (Phase I or steelmaking operations), and on March 29, 1976 (Phase II or forming, finishing, and specialty steel segments). The U.S. Court of Appeals for the Third Circuit remanded the regulations for several reasons, including the Agency's failure

to consider adequately (1) the impact of plant age on the cost or feasibility of retrofitting, (2) site-specific costs, (3) consumptive water use, (4) the economic condition of the industry, and (5) the achievability of certain limitations. *(AISI et al. v. EPA)* 526 F.2d 1027 (3d Cir. 1975) and *AISI et al. v. EPA* 568 F.2d 284 (3d Cir. 1977).

We are developing a new BPT regulation to replace the regulations remanded by the court. This regulation will reflect new information from industry surveys and sampling and will remedy the deficiencies found by the court. In addition, we are developing BCT and BAT regulations to control conventional and toxic pollutants, as required by the 1977 amendments to the Clean Water Act. We expect to publish an NPRM in the **Federal Register** in December 1980 which will include effluent limitations and standards for the manufacturing operations covered by the 1974 and 1976 regulations.

The iron and steel manufacturing category (Standard Industrial Classification Codes 3312, 3315, 3316, 3317, and parts of 3313 and 3479) is comprised of approximately 650 manufacturing facilities nationwide. The amount of process water used by these facilities is estimated to be 6,272 million gallons per day. Because of these large flows, the quantity of pollutants discharged is very large, even though the concentration of pollutants in a waste stream sometimes may be relatively small. The October 1979 Draft Development Document presented the concentration and load data available at that time.

During its sampling program, EPA detected, in iron and steel manufacturing wastewaters, significant levels of copper, chromium, cyanide, iron, nickel, lead, zinc, oil and grease, ammonia, sulfide, fluoride, and suspended solids. Additionally, the Agency found a wide variety of organic materials including benzene, phenols, and aromatic compounds in wastewaters from coke manufacturing, from blast furnaces which use the coke, and in cold rolling operations. The heavy metals may produce cumulative toxic effects and many of the organic compounds are known or suspected carcinogens. Ammonia, a "non-conventional" pollutant, is proposed for control because of its high aquatic environment impact at the high concentrations present in wastes from some operations in this industry.

Alternatives Under Consideration

The Agency is evaluating the capabilities and costs of various wastewater treatment technologies for controlling pollutant discharges from iron and steel manufacturing facilities. A primary focus of this effort is to promulgate regulations to control the discharge, and to prevent "pass through" etc., of toxic pollutants.

The technologies for the control of wastewater pollutants include both end-of-pipe treatment and methods to reduce water usage. End-of-pipe treatment, best applied after recycle to reduce wastewater volumes, includes, where appropriate, cyanide oxidation, hexavalent chromium reduction, metals precipitation, oil removal, suspended solids (including precipitated metals) removal, and chemical and biological destruction of ammonia and toxic organic materials. The applicability of these technologies is dependent on the type of waste generated by the subcategory or segment; i.e., not all of the listed technologies are applicable to all sources. However, within each subcategory or segment, the appropriate technologies in the alternatives outlined below are generally applicable to all iron and steel manufacturing facilities within that segment.

Alternative (A) includes in-process controls to reduce water flows, metals precipitation (if not already required by BPT), and filtration. This option also includes extended biological treatment of coke plant wastes. This alternative achieves approximately a 90 percent reduction in the BPT effluent loads.

Alternative (B) includes sulfide precipitation of metals prior to filtration. Coke plants would add powdered activated carbon (PAC) to the extended biological treatment system. This alternative further reduces toxic metal discharges at modest additional cost. The PAC treatment assures reduced discharges of toxic organic compounds, but would require significant additional costs.

Alternative (C) includes advanced treatments such as evaporation to achieve zero discharge, and chemical oxidation of sinter plant and blast furnace wastewaters to reduce discharges of ammonia and organic pollutants. Evaporative treatments generally provide the maximum protection of the environment but at considerable cost in most cases. Chemical oxidation of sinter and blast furnace process waster provides control of the large loads of toxic organic and "non-conventional" pollutants that would otherwise be discharged.

In evaluating options for this regulation now under development, we considered all of the important factors, including the quantity and type of pollutants generated by each wastewater source; the treatment technologies available for application to that wastewater source; air, solid waste, energy, and other non-water quality environmental aspects of the proposed regulation; and the cost and economic impact of applying each of the several options.

We are still gathering additional information on costs and on the availability and effectiveness of technologies. We have not at this time selected the alternatives we will propose, although we think that alternatives which reduce the discharge of water to the maximum extent are the most environmentally acceptable.

Summary of Benefits

Sectors Affected: The general public.

The major benefit of the regulation we will propose will be the reduction of toxic pollutant discharges from iron and steel manufacturing facilities. The quantity of pollutants removed from discharges to the environment under this regulation will vary depending on the various options selected. The Agency estimates that through compliance with the BPT regulation the industry will remove approximately 3.4 million pounds per year of toxic organics, 5.8 million pounds per year of toxic metals, and 176 million pounds per year of suspended solids, oil and grease, ammonia, and other pollutants. Alternatives (A), (B), or (C) will reduce BPT process wastewater volumes from about 2,600 million gallons per day (mgd) to about 300 mgd. Alternative (A) will reduce PBT pollutant discharge loads by about 85 percent to 90 percent. Alternatives (B) and (C) will provide additional, but less dramatic, removals of pollutants. BCT limitations will be achieved by the BPT or BAT systems; i.e. no additional costs will be incurred specifically to achieve BCT limitations.

Summary of Costs

Sectors Affected: Manufacturing of iron and steel products; and users of these products.

We are continuing to refine the cost data for BPT remaining to be installed and for the various BAT options. We are also evaluating the cost effectiveness of the different BAT levels of treatment for the various operations. As an approximation of the cost of compliance, the capital investment (in millions of 1978 dollars) for the BPT remaining to be installed and the BAT regulatory options likely to be selected are as follows:

BPT	417.8
BAT	444.1
NSPS	159.5
Total	1021.4

These costs exclude Consent Decree

External: This regulation will set

high public interest in these regulations

Alternatives Under Consideration

Alternatives to chlorine were

bottom ash transport water were

These costs exclude Consent Decree commitments and anticipated shutdowns through July 1, 1984.

Under the current and projected 1981 to 1990 economic environments, it is doubtful that the industry will be able to raise all of the funds necessary to finance the capital requirements of this regulation plus the capital necessary to maintain production facilities and still maintain high enough bond ratings to ensure ready access to debt capital markets. The industry will face excess capacity as it attempts to recover from the current recession and will face continued competition from foreign steel. Throughout the 1980s both these factors will probably prevent the industry from raising prices to levels that would enable them to recover the annual costs associated with this regulation. Consequently, we project that this regulation will probably contribute somewhat to (1) a gradual decline in productive capacity, (2) a gradual loss in the industry's share of the domestic steel market, and (3) a gradual decline in steel industry employment. However, we also project that major changes in U.S. industrial policy towards industry in general, and the steel industry in particular, could enable the industry to finance all its projected productive capital requirements as well as this regulation without serious adverse economic effects. Such policy changes might include major tax reform, a return to "fair value" steel import prices, and full latitude for the industry to increase prices in accordance with market conditions.

Although our projected baseline economic impact is pessimistic, this regulation is only a proposal at this time. Further analysis of the economic impact will be completed before the regulation is promulgated.

Related Regulations and Actions

Internal: The Agency is reviewing the interaction between this regulation and air pollution and solid waste disposal requirements. As an example, we are evaluating the possible disposal of blowdown from blast furnace wastewater recycle systems by evaporation in slag pits. We are coordinating this with the Office of Research and Development and with air programs.

In addition, in evaluating wastewater treatment alternatives, the Agency is considering, to the extent possible, the requirements and costs for the management of solid wastes under the Resource Conservation and Recovery Act.

External: This regulation will set minimum requirements on a national level which supersede less stringent State or local regulations. However, all levels of government may require more stringent limitations in specific instances if water quality criteria or other requirements so justify.

Active Government Collaboration

None.

Timetable

NPRM—December 1980.
Regulatory Analysis—February 1981.
Public Comments & Hearing—February 1981.
Final Rule—July 1981.

Available Documents

The applicable documents currently available are:

Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Steelmaking Segment of the Iron and Steel Manufacturing Point Source Category, June 1974; EPA-440/1-74-024-a.

Development Document for Proposed Effluent Limitations Guidelines and Standards for the Iron and Steel Manufacturing Point Source Category, Volumes 1 through 9, October 1979; EPA 440/1-79/024-a.

Copies of the June 1974 report are available from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161. The accession number is PB 238-837 and the cost is $24.80 per copy. The October 1979 report may be obtained through the EPA contact designated below.

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EPA—OWWM

Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants From Steam Electric Power Plants (40 CFR Part 423*)

Legal Authority

The Clean Water Act, §§ 301, 304, 305, 306, 307, 311, 402, and 504, 33 U.S.C. §§ 1311, 1314, 1316, 1317, 1318, 1321, 1364, 1346.

Reason for Including This Entry

The Environmental Protection Agency is including this entry because of the high public interest in these regulations and because they may have an annual effect on the economy of $100 million or more.

Statement of Problem

The Environmental Protection Agency (EPA), in its efforts to control water pollution under the Clean Water Act, is required to develop technology-based effluent limitations guidelines and standards to control pollutant discharges from the steam electric power generating industry, and review these regulations once every 5 years. We initially promulgated effluent limitations guidelines for this industry on October 8, 1974 that reflected the best practicable control technology currently available (BPT), the best available technology economically achievable (BAT), new source performance standards (NSPS), and pretreatment standards for new sources (PSNS). The U.S. Court of Appeals for the Fourth Circuit remanded parts of the guidelines (*Appalachian Power* v. *Train*, 545 F. 2d 1351 (4th Cir. 1976)). The court found the record insufficient with respect to various technical aspects and non-water quality considerations (especially cost data and ultimate disposal of wastes).

We have reviewed the 1974 regulations to reflect updated information and remedy the deficiencies pointed out by the Fourth Circuit Court of Appeals. In addition to the pollutants examined in the previous regulations, we expanded the review to include toxic substances cited in the June 8, 1976 Consent Decree, *Natural Resources Defense Council et al.* v. *Train*, 8 ERC 2120 (D.D.C. 1976). The NPRM was published in the **Federal Register** on October 14, 1980. We did not include guidelines for thermal discharges in these regulations. The Agency is still considering various thermal options in light of *Appalachian*.

The steam electric generating industry is composed of approximately 850 generating plants nationwide. These plants have extremely large discharge flows, therefore the quantity of pollutants they discharge may be substantial even though the concentration is relatively low. The average discharge flow from a steam electric power plant is 210 million gallons per day. Discharges from the Steam Electric power industry constitute about 15 percent of the total flow in the United States rivers and streams. Pollutants detected in the wastewaters of steam electric plants during an EPA sampling program were total residual chlorine, copper, zinc, nickel, chromium, arsenic, and trihalomethanes.

Alternatives Under Consideration

The Agency considered several wastewater treatment technologies for controlling pollutant discharges from steam electric plants to the Nation's waterways. The primary focus of this effort was to assess the potential control of discharges of toxic substances. In this review of effluent regulations, we focused our efforts on cooling water and ash transport water as the major wastestreams because of their large flows. Over 95 percent of the volume of water used in an average power plant is used as cooling water.

Cooling Water—All steam electric power plants circulate large volumes of water through their condensers in order to condense steam in the turbines. The thermal efficiency of the steam cycle can be greatly reduced if biological growth occurs in the condensers. Plants using chlorine to control biological growth have the potential to discharge total residual chlorine (TRC) and chlorinated compounds into the navigible waters. TRC is a pollutant that has been studied extensively and is known to adversely affect aquatic life.

For regulatory purposes, the Agency separated those power plants with a recirculating cooling tower and those discharging the cooling water without recirculation. The waste streams produced as a result of these operations are cooling tower blowdown and once-through cooling water discharges.

In addition to TRC discharges, plants with cooling towers have the potential to discharge toxic pollutants through chemicals added for cooling tower maintenance.

The technologies that the Agency evaluated for control of pollutants from cooling water included 1) chlorine minimization, 2) dechlorination, 3) alternative chemicals, and 4) mechanical antifouling devices.

Chlorine minimization is a program designed to insure the most efficient use of chlorine and reduce the amount of TRC discharged. Plant personnel conduct a series of tests to determine the minimum amount of chlorine necessary to control biological growth in the condensors. Many plants undergoing such a program find that chlorine doses can be reduced significantly. Chlorine minimization programs are difficult to conduct at plants with cooling towers since chlorine may also be used for cooling tower maintenance.

Dechlorination is chemical treatment that removes a significant amount of TRC from the cooling water discharge. Although dechlorination reduces the amount of TRC, it does not eliminate it.

Alternatives to chlorine were explored for use in both cooling tower blowdown and once-through cooling water discharges. While adequate substitutes for chlorine were found, they were not viable in all cases, and could not be applied on a national basis. Alternative chemicals were also evaluated for use in cooling towers because other chemicals (besides chlorine) are commonly added to prevent scaling and corrosion in the cooling tower. Many of these chemicals contain priority pollutants. For example, high levels of chromium and zinc are present in cooling tower blowdown only if they were added for cooling tower maintenance. Alternatives to these chemicals were found to be available.

Some plants use mechanical antifouling devices to control biological growth in the condensers. Two types of methods are used. One uses sponge rubber balls that are forced through the tubes under water pressure and then recycled. The second method uses brushes that are installed on the inside of each tube. Although this method eliminates chlorine use, it is expensive to install on existing sources. Furthermore, mechanical antifouling devices are not always adequate substitutes for chlorine.

For plants with once-through cooling water, the Agency has chosen to combine a chlorine minimization program with a maximum limit for TRC of .14 milligrams per liter (mg/1) and dechlorination, if that limit can not be met through minimization only. In this way the Agency assures proper use of chlorine, as well as limiting the addition of dechlorination chemicals.

For plants with cooling towers, the Agency did not require chlorine minimization technique, because it would be unduly complex for this waste stream since chlorine may also be used for cooling tower maintenance. The proposed regulations instead limit the discharge of TRC to .14 mg/l based on dechlorination technology. For control of toxic pollutants discharged from cooling towers, the Agency has chosen alternative chemicals as the best technology to eliminate toxic pollutant discharges. These alternative chemicals effectively and economically protect cooling towers from scaling, corrosion, and biological growth.

Ash Transport Water—For ash transport water (defined below), the Agency was concerned about the presence of inorganic toxic substances. However, the data on fly ash ponds did not demonstrate a consistent pattern of pollutant concentration, and were considered to be statistically inconclusive. Pollutant concentrations in bottom ash transport water were typically lower than those in fly ash transport water.

These pollutants can enter the water because coal or oil that is burned in a steam electric plant's boiler produces varying amounts of ash that require periodic collection and disposal. The relatively fine and light-weight ash is carried from the boiler with the flue gases and collected with air pollution control equipment. This type of ash is called "fly ash." The relatively bulky and heavy ash that settles at the bottom of the boiler's furnace is called "bottom ash." These two types of ash can be transported wet or dry to their ultimate or temporary disposal sites. (Only those plants that transport their ash using water would be affected by effluent regulations.)

The Agency did not propose any further controls for existing sources of fly ash transport water beyond the current regulation. EPA seriously considered proposing no discharge of fly ash transport water but EPA concluded that the extremely high costs to the industry ($3.2 billion in capital costs for 1980–1985) could not be justified in view of the inconclusive nature of the available data regarding the degree of pollutant reduction. The technology base for achieving this option was the use of transport methods that do not require the use of water (dry transport). EPA did not feel that it would be responsible to impose such costly additional requirements in the face of such uncertainty. The Agency is considering further sampling to clarify wastewater characteristics of ash pond discharges. However, the Agency is proposing to prohibit the discharge of fly ash water for all new plants. This is because the technology is clearly demonstrated and available, since about half of the industry already uses dry methods of transport. Moreover, the costs for installing a dry fly ash handling system are not appreciably different than costs to install a wet ash sluicing system in a new plant. We do not anticipate any new sources to discharge their fly ash water to a publicly owned sewage treatment plant.

Bottom Ash—The need to control pollutant discharges from bottom ash transport water was not demonstrated based on the sampling data, since at most plants sampled, the concentrations of pollutants detected in the bottom ash pond were less than the concentrations detected in the plant's inlet water. In addition, the concentrations of these pollutants were not only lower than those detected in fly ash ponds, but also exhibited a greater variability. Thus, we

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have proposed to withdraw the current BAT requirement for partial recycle of bottom ash sluice water, since the sampling data suggests that adequate controls are already imposed by the effective BPT technology of settling ponds.

Summary of Benefits

Sectors Affected: The general public; manufacturing of antipollution equipment; and the aquatic environment.

The major benefit of the proposed rule is the improvement of the aquatic environment through the reduction and/or elimination of discharges from steam electric generating facilities. The review found that the chlorine controls were not sufficiently stringent. In addition, toxic pollutant additives were virtually banned from use in cooling towers. Preliminary estimates indicate that the proposed regulations will result in the following reduction or elimination of pollutants by waste stream types:

1. Once Through Cooling Water: 17.4 million pounds per year of total residual chlorine.

2. Cooling Tower Blowdown: a. 30,000 pounds per year of total residual chlorine.

b. 157,000 pounds per year of toxic pollutants (chromium, zinc, chlorinated phenolics, etc.).

Manufacturers of anti-pollution equipment would find increased demand for their products.

Summary of Costs

Sectors Affected: Establishments engaged in the generation, transmission and/or distribution of electric energy for sale (electric services); and users of the electric energy.

On a national basis an estimate of the total capital expenditures required to bring existing plants into compliance with the proposed regulations for the period 1980–1985 equals $120 million (1980 dollars). This represents about 0.05 percent of the total anticipated capital expenditures for the industry during the same period. With the addition of operation and maintenance costs, this means that the average electric bill for consumers would increase by approximately 0.04 percent. The estimated capital expenditures for plants coming on line between 1985 to 1995 are $80 million. None of these requirements is expected to cause plant closings; furthermore, the economic impact is minimal.

Related Regulations and Actions

Internal: The scrubber systems used to comply with air pollution regulations may discharge contaminated water. The proposed requirements of the New Source Performance Standards under § 111 of the Clean Air Act will increase the number of facilities with scrubber systems in the future.

Section 316(b) of the Clean Water Act authorizes the Agency to require the best available technology in the location, design, construction, and capacity of intake structures for cooling water, to minimize adverse environmental impact.

Requirements for the management of solid wastes under the Resource Conservation and Recovery Act may affect the economic and environmental factors associated with various wastewater treatment technologies.

External: The recent emphasis on converting oil-fired power plants to other fuel types and the problems associated with nuclear waste disposal will affect the distribution of generating capacity by fuel types in the industry and, therefore, the amount of pollutants that would be discharged and controlled.

Active Government Collaboration

The Nuclear Regulatory Commission, the Department of Interior, and the Department of Energy have provided assistance by supplying the Agency with information and/or reviewing materials.

Timetable

Public Comment Period—60 days following publication of NPRM.
Final Rule—April 1981.

Available Documents

Development Document for Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Steam Electric Power Generating Point Source Category (EPA 440/1–80/029–b, September 1980).

NPRM—45 FR 68327, October 14, 1980.
Regulatory Analysis—October 1980.
Economic Analysis of Proposed Effluent Limitations Guidelines, New Source Performance Standards and Pretreatment Standards for the Steam Electric Power Generating Point Source Category (EPA, August 1980).

Copies of the above reports can be obtained from NTIS or the EPA contact designated below.

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EPA—OWWM

Water Quality Standards Regulations (40 CFR Part 35.1550*)

Legal Authority

The Clean Water Act, 33 U.S.C. § 1314(a).

Reason for Including This Entry

This regulation proposes significant new policies and procedures in the development and implementation of water quality standards.

Statement of Problem

The existing Water Quality Standards Regulation (40 CFR Part 35.1550) does not provide the guidance needed by States to develop and implement an effective State program which will meet the water quality goals set forth in the Clean Water Act. Guidance is lacking in the areas of defining what stream uses are attainable and how standards may be adapted to specific local environmental conditions. This proposed regulation seeks to establish a clearer, more flexible process for States and EPA to use in formulating water quality standards; conducting water quality analyses; establishing wasteload allocations to distribute the total daily load of pollutants that a stream segment can assimilate and maintain to achieve standards; and implementing a control program regulating point source discharges through issuance of permits (either by the States or EPA) based on State water quality standards. In some cases, application of previous policies and regulatory provisions have resulted in setting unreasonably high standards, forcing the imposition of costly treatment controls with little environmental improvement.

The water quality standards program will continue to consist of three components: (1) designation of uses for segments of surface water bodies, such as swimming, aquatic protection, and public water supply; (2) development of criteria, primarily by EPA, designed to achieve and maintain designated uses; and (3) application of uses and criteria by the States to specific streams. The 1972 amendments to the Clean Water Act (CWA) established the 1983 goal of achieving, wherever attainable, aquatic protection and recreation for the Nation's waters, including both fresh and marine waters. Congress recognized that progress toward meeting or reassessing the attainability of this goal would be incremental in that different levels of treatment are required at different times, and treatment beyond

technology-based requirements may, in some cases, be necessary to meet water quality standards. Progress depends on such variables as the effectiveness of municipal and industrial treatment technologies in meeting water quality standards and the economic impact on municipalities and industries of attaining standards. The development and implementation of standards requires periodic review and adjustment of control measures or standards by the States and EPA, as appropriate.

This proposed regulation revises and consolidates the existing regulations governing water quality standards: 40 CFR 35.1550 and 40 CFR 120. No change is envisioned in the Act's direction that States adopt water quality standards, subject to EPA review and approval. EPA is revising these regulations to:

(1) provide more detail on policies and procedures for determining the attainability of uses applied to water bodies or segments thereof;

(2) establish a stronger water quality standards program for control of toxic pollutants; and

(3) improve the public's understanding of the process by providing more specific guidance on the development of State water quality standards and implementation.

Alternatives Under Consideration

EPA gave public notice of its intent to revise this regulation in an ANPRM (43 FR 29588, July 10, 1978). In that notice, EPA identified and requested public comment on a number of possible policy alternatives dealing with the establishment and revision of beneficial stream uses, the adoption of water quality criteria published by EPA, the application of the criteria for toxic pollutants developed by EPA, economic impact considerations, and a number of other program issues.

Since the public responded to the ANPRM, the Agency has prepared drafts of a water quality standards program strategy and a series of option papers based on the public's reaction to the policy alternatives proposed in the ANPRM. These papers dealt with the subjects of use attainability, options for State adoption of criteria for toxic pollutants, program definitions, economic guidance on stream downgradings, and other subjects. These papers have been reviewed by various parties outside the Agency, such as the States, and various industrial and environmental groups.

The proposed regulation is a result of the analyses, discussions, and public comments on the ANPRM and subsequent documents. The regulation itself is subject to further public comment.

Summary of Benefits

Sectors Affected: The States; and through their regulatory controls based on water quality standards, the general public; publicly owned treatment works; all types of industries discharging into surface waters; and EPA.

Use designation for many stream segments need reappraisal for a number of reasons. States initially established many water quality standards without sufficient site-specific analysis of waterway conditions affecting the attainability of the designated use, and the criteria necessary to support these uses. In addition, States and EPA lacked sufficient information regarding the effectiveness of technology-based controls in implementing these water quality standards. The review of advanced waste treatment projects mandated by the Congressional Appropriations Committee in FY 1980 also uncovered a number of instances where use classifications needed review.

The proposed regulation provides much more detailed guidance on how States may reassess their stream use classifications in order to meet the "where attainable" water quality goal of the Act. It will provide public officials with more adequate information on the environmental, economic, and technological impacts of their actions which they can consider in making their decisions. The overall benefit will be the establishment of environmentally and economically attainable standards and the prevention of setting arbitrarily high standards, forcing unnecessary, costly treatment controls.

Summary of Costs

Sectors Affected: State government.

The net result of the increased flexibility for establishing site-specific, attainable water quality standards will be to reduce the costs to municipalities and industries of meeting water quality-based regulatory controls by assuring that more prudent decisions are made. There may be an increase in State costs to generate and analyze the data necessary to establish attainable uses, but much existing information is available and the analyses will be done either by EPA or the States on a priority basis only where advanced waste treatment decisions are pending, thus lessening the impact on the States. EPA is now attempting to estimate the costs to States. Our belief, however, is that these increased administrative costs will more than be offset from savings in reducing or eliminating treatment levels not required to meet water quality standards.

Regulated Regulations and Actions

Internal: All regulations designed to achieve water quality standards would be indirectly related, including: National Pollutant Discharge Elimination System, construction grants requirements, and water quality management regulations.

External: All State regulations dealing with water quality regulations.

Active Government Collaboration

The Association of State and Interstate Water Pollution Control Administrators (ASIWPCA) is assisting EPA on this regulation. The U.S. Department of the Interior is also providing assistance.

Timetable

NPRM—December 1980.
Public Hearings—As needed.
Public Comment Period—3–4 months following publication of NPRM.
Final Rule—August 1981.
Regulatory Analysis—To accompany NPRM.

Available Documents

ANPRM—43 FR 29588, July 10, 1978, "Water Quality Standards."

Water Quality Standards Strategy, EPA, September 1980.

Water Quality Use Designation Changes and Justification for Advanced Waste Treatment Installations, EPA, February 7, 1980.

Draft Economic Guidance for Water Quality Standard Downgrading, EPA, April 22, 1980.

Environmental, Technological, and Economic Evaluation of Water Quality Standards Attainability, EPA, April 23, 1980.

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CHAPTER 3—FINANCE AND BANKING

Treas–OCC
Adjustable-Rate Mortgages 77782

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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Adjustable-Rate Mortgages (Proposed 12 CFR Part 29)

Legal Authority

12 U.S.C. § 1 *et seq.*, 12 U.S.C. § 93a. Real estate loans—rules and regulations, 12 U.S.C. § 371(g).

Reason for Including This Entry

The Office of the Comptroller of the Currency (OCC) includes this entry because it would set a precedent concerning the regulation of the terms on which national banks engage in certain types of lending activity. It also concerns a subject of great public interest—namely, the type of residential mortgage financing available in the marketplace.

Statement of Problem

Two trends in particular are making fixed-rate, long-term lending unattractive to mortgage lenders, including commercial banks. The first of these trends, which has been developing since the mid-1960s, is the volatility of short-term market interest rates. Each successive business cycle has produced interest rates swings wider than those in the preceding cycle, and the low point in each cycle has been steadily rising as the underlying rate of inflation has increased.

The second trend is the increasing sensitivity of banks' cost of deposits and other borrowed funds to swings in short-term interest rates. With the introduction in 1978 of the 6-month money-market certificates of deposit, with an interest-rate ceiling linked to the 26-week Treasury bill rate, and ever-growing portion of banks' liabilities has become concentrated in short-term market-rate deposits. This trend is accelerating because of the gradual deregulation of deposit interest rate controls, as mandated by the Depository Institutions Deregulation and Monetary Control Act of 1980. As deposit rate controls are phased out over the next 6 years, interest rates paid by banks on short-term deposit and on transaction accounts can be expected to rise to market levels.

This interest-rate environment has led many mortgage lenders to seek a means of passing along changes in their cost of funds to their long-term borrowers, including mortgage borrowers. Lenders frequently have proposed using some form of adjustable-rate mortgage (ARM) as a solution. In several States, however, State regulation has severely limited this approach. For national banks located in those States, we favor preemptive Federal regulations authorizing the use of ARMs that will track the interest rates paid by the banks on their deposit liabilities more closely than would be allowed under State law. But in those States, as well as in the majority of States that impose no limitations on adjustable-rate lending, we favor some manner of borrower protection. Federal regulations should offer such protection principally in the form of assuring adequate disclosure and preventing extraordinary rate increases.

Alternatives Under Consideration

The Office of the Comptroller of the Currency has proposed for comment a regulation that will authorize all national banks to make adjustable-rate mortgage loans, provided banks make adequate disclosure to borrowers concerning the terms of the loans and the economic risks they might entail, and provided also that the banks impose appropriate limitations on interest-rate swings. We are also actively considering two other major alternatives: not issuing any regulation, i.e., leaving the matter entirely to the States (or Congress, if it should choose to act); or authorizing the use of a single adjustable-rate mortgage instrument, to the exclusion of all others, in order to facilitate comparison shopping by borrowers and to facilitate the development of a secondary market. Without prejudging the alternatives, the OCC currently regards the approach of issuing a regulation containing a flexible grant of authority to national banks to make ARMs on terms they view as appropriate, subject to certain minimum borrower safeguards, as preferable to the two alternatives enumerated above. Such an approach will give banks the freedom to design adjustable-rate mortgage plans that effectively meet their changing needs and those of their customers, including both borrowers and secondary mortgage market investors.

Summary of Benefits

Sectors Affected: National banking industry; customers and shareholders of national banks; and the general public.

OCC regulation of adjustable-rate mortgage lending by national banks should facilitate bank implementation of efficient product design, i.e., the structuring of loan terms so that the income from AMRs fully covers bank expenses in attracting and maintaining deposit liabilities supporting such loans. That may untimately expand the volume of mortgage lending , especially in States where existing regulatory schemes are restrictive enough to discourage discretionary mortgage lenders, such as national banks, from engaging in mortgage lending. Authorization to make ARMs may induce national banks to enter or remain in real estate lending markets even in times of extreme interest rate volatility. That may also be true in States without existing regulatory schemes, since the borrower protections in the regulation could accelerate public acceptance of ARMs. To the extent that increased willingness on the part of national banks to engage in long-term real estate lending will enhance competition in the mortgage lending market, the overall cost to mortgage borrowers may decrease relative to what might have been in the absence of the regulation. A reduction in any inflation premium in the initial interest rate charged by national banks on ARM loans may further reinforce the downward rate pressures of this competitive effect. The initial interest rate on an ARM does not have to include a premium, as a fixed-rate mortgage loan presumably does, against unexpected increases in the rate of inflation.

Regulation will offer the further benefit of ensuring that banks make adjustable-rate mortgage loans within a framework of borrower protection. In particular, a public accustomed to fixed-rate mortgage loans needs to be informed of the risks and nature of adjustable-rate mortgage instruments. Also, it may be desirable to protect borrowers against rapid escalation of mortgage cost by limiting interest rate or payment changes.

Summary of Costs

Sectors Affected: National banking industry; customers and shareholders of national banks; and the general public. We expect the costs of this regulation to be negligible. If banks adopt the use of ARMs on a widespread basis, the overall cost of mortgage borrowing may actually decrease, as stated above. Further, we expect the additional costs resulting from implementation of this regulation for national banks to be negligible. Start-up costs for adjustable-rate lending consistent with any regulation of the Comptroller of the Currency will not vary significantly from the start-up cost which might result from such lending in the absence of a regulation. Most national banks are not presently engaged in adjustable-rate mortgage lending. The proposed regulation will also minimize disclosure costs through the prescription of model disclosure forms, the use of which will constitute compliance with any disclosure requirements imposed.

Related Regulations and Actions

Internal: None.

External: The Federal Home Loan Bank Board has promulgated two sets of regulations affecting Federal savings and loan associations engaging in adjustable-rate mortgage lending. Those regulations, found in 12 CFR Part 545, impose disclosure requirements and set limitations on permissible interest rate charges. In addition, one of the sets of regulations concerning variable-rate mortgages requires institutions offering such instruments to offer fixed-rate mortgages as well and to disclose, in side-by-side comparison tables, the costs to the borrower of the worst case under a variable-rate mortgage instrument compared with the costs of a fixed-rate mortgage loan.

Approximately eleven States regulate adjustable-rate mortgage lending within their borders. Their rules apply to either all lenders or specified classes of lenders, but they do not affect Federal savings and loan associations, which are subject to the Federal Home Loan Bank Board's rules. Two of the States prohibit adjustable-rate mortgage lending. The other nine impose rather narrow limits within which interest rates may be adjusted.

Active Government Collaboration

The Office of the Comptroller of the Currency will expressly solicit comment by sending copies of any proposal to the banking authorities of the 50 states and to the Federal Home Loan Bank Board, the Federal Reserve Board, the Federal Home Loan Mortgage Corporation, and the Federal National Mortgage Association.

Timetable

Regulatory Analysis—OCC will not prepare. Our initial investigation implied there would be little, if any, cost associated with affirmative authorization of adjustable-rate mortgages.

Public Hearings—Depending upon interest expressed, perhaps in several cities across the United States, near the end of the comment period.

Public Comment Period—September 29, 1980 to November 28, 1980. Comments may be addressed to Docket No. 80–10, Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, DC 20219.

Final Rule—Early 1981.

Final Rule Effective—30 days following Federal Register publication.

Available Documents

Testimony of Senior Deputy Comptroller for Policy before House Government Operations Subcommittee, March 27, 1980.

Semiannual Agenda—45 FR 52168, Docket No. 80–7, August 6, 1980.

NPRM—45 FR 64196, Docket No. 80–10, September 29, 1980.

These documents are available for review and photocopying in the Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, DC 20219.

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TREAS–OCC

Description of Office, Procedures, Public Information (12 CFR 4*); Supplemental Application Procedures (12 CFR 5*); Assessment of Fees; National Banks; District of Columbia Banks (12 CFR 8*); Employee Stock Option and Stock Purchase Plans (12 CFR 13*); Changes in Capital Structure (12 CFR 14*); Change in Bank Control (12 CFR 15*); Federal Branches and Agencies of Foreign Banks (12 CFR 28*); Policy Statements (41 FR 47964*)

Legal Authority

12 U.S.C. § 93a.

Reason for Including This Entry

Treasury believes this action is significant because it entails a comprehensive review of all rules, policies, procedures, and forms that the Office of the Comptroller of the Currency (OCC) uses to govern

applications for all structural and corporate activities of national banks. We believe such a review could result in enhanced competition and efficiency in the supply of financial services to bank customers. For this reason, we feel this action is of great public interest, and that it could have a significant positive impact on the economy.

Statement of Problem

The OCC has authority over the corporate activities of the approximately 4,500 national banks. Each of those banks may file various applications with the OCC at any time. In 1979, for example, OCC received approximately 87 charter applications, 984 branch applications, 100 merger applications, and hundreds of additional applications for changes in capital structure, relocations, operating subsidiaries, title changes, and other matters.

OCC rules, policies, procedures, and forms for the various structural and corporate activities of national banks have not been substantially reviewed or revised since November 1976. Since that time, the banking system has experienced substantial changes and many new laws were enacted which may have altered the appropriateness of existing OCC rules, policies, procedures, and forms covering filings for various structural and corporate activities.

In addition, the OCC believes that its regulations and policies governing the procedures it uses in evaluating those filings should be periodically reviewed, with input from national banks and other members of the public. The OCC also believes that the corporate filing process should not create unnecessary delays and costs. Forms and processing procedures should not require the submission or review of unnecessary information while failing to elicit information vital to an appropriate decision.

Accordingly, the OCC has started a comprehensive review of this area and has labeled this review the Corporate Activities Review and Evaluation (CARE) Program.

Ultimately, this review should:

(1) lower costs to the applicants, the OCC, and the public;

(2) provide a better understanding of OCC policies;

(3) modify or eliminate OCC rules, regulations, policies, procedures, and forms that are unnecessary or lead to inefficiencies; and

(4) remove barriers to competition.

The first phase of the CARE Program has been completed. Included in this phase is a reorganization and consolidation of all rules, policies, procedures, and forms for national bank structural and corporate activities, which previously were located in numerous Parts of the Code of Federal Regulations and other documents, into a single regulation—12 CFR 5. This action should make it easier for all interested parties to locate and understand present requirements plus enable the OCC to review its policies, the need for additional policies, existing regulations, and methods, and to improve its decision criteria and to reduce inappropriate burdens on applicants. Other areas covered in this first phase include:

(1) a policy statement governing OCC evaluation of applications for a national bank charter;

(2) a policy statement governing public disclosure by the OCC of material filed with notices of change in control of a national bank;

(3) proposed rules to be followed by OCC in determining whether or not a public hearing should be held in connection with an application for any corporate activity (charter, branches, etc.); and

(4) proposed procedures enabling the OCC to treat expeditiously applications for interim banks.

The areas that are being or will be addressed include:

(1) developing procedures and forms to be used by banks applying for branches, mergers, stock options, Federal branches and agencies, conversions, location and title changes, changes in capital structure, and subordinated debt;

(2) assessing stock appraisal rights of dissenting shareholders in merger type transactions; and

(3) developing criteria to be employed by the OCC in evaluating applications.

Alternatives Under Consideration

Although proposed changes will be issued for comment on a subject-by-subject basis (i.e., branches, mergers, etc.), the major alternatives common to each involve the choice between current or lesser levels of government intervention in the business judgments of national banks. OCC's intent is to eliminate unnecessary interference in the business decisions of national banks. For example, OCC will consider whether national banks in sound condition desiring to branch or issue subordinated debt should be permitted to do so with lesser filing requirements and lesser review procedures than are currently in effect.

Summary of Benefits

Sectors Affected: National banking industry; customers and shareholders of national banks; the general public; and OCC.

The benefits of lesser government intervention could include enhanced competition and efficiency in the supply of financial services. Experience has shown that the marketplace normally is the best regulator of economic activity and that competition allows the marketplace to function and promotes a sound and more efficient banking system that better serves customers. In addition, OCC and applicants' direct and indirect costs may be reduced by this lesser amount of intervention. Unnecessary requirements should be eliminated, speed of processing corporate filings increased, and the quality of OCC and banker decisions enhanced. Because OCC will continue to regulate the national banking system where some intervention is necessary to protect the public interest, the revisions to its corporate rules, policies, procedures, and forms will ensure that poor bank decisions are not implemented to the detriment of the bank, its customers, shareholders and communities.

Summary of Costs

Sectors Affected: National banking industry; customers and shareholders of national banks; and the general public.

The costs of lesser government intervention include possible implementation of poor business decisions by individual banks, which could increase operating costs that would be passed on to customers and shareholders, or possible increases in the number of individual banks exiting from the banking system through mergers or failures.

Related Regulations and Actions

Internal: None.

External: Each of the 50 States has rules governing applications for State-chartered banks. Regulations of the Board of Governors of the Federal Reserve System are included in 12 CFR 262, 263, and 265. Federal Deposit Insurance Corporation regulations are included in 12 CFR 303, 304, 306 and 308.

Active Government Collaboration

OCC will send proposals it issues for comment to the banking authorities for each of the 50 States and to the Board of Governors of the Federal Reserve System and Federal Deposit Insurance Corporation.

Timetable

NPRM—Stock appraisal rights of dissenting shareholders, November 30, 1980.

NPRM—Policy statements on OCC evaluation of applications for branches, changes in title, relocation, and OCC evaluation of employee stock option plans, December 31, 1980.

NPRM—new forms for charter applications, December 31, 1980.

Regulatory Analysis—OCC will not prepare. Our initial investigation of suggested costs, if any, to affected parties will be minor.

Public Hearing—None planned.

Public Comment Period—We have grouped issues under review topically with each topic cutting across several regulations, and each having its own comment period. We expect the total period to be September 1980 to July 1981. Recently issued NPRMs call for a public comment period from September 1980 to November 1981. Comments may be sent to Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, DC 20219.

Final Rules—Since we are reviewing a number of issues, several rules are involved. We project publication of Final Rules over a period of time, probably December 1980 to July 1981.

Available Documents

Policy Statement—41 FR 47964, November 1, 1976.

Semiannual Agenda—45 FR 52166, Docket No. 80-7, August 6, 1980.

NPRM—45 FR 68611, Docket No. 80-14, October 15, 1980. (Proposes amendments to OCC's rules governing use of public hearings to acquire additional information prior to evaluating applications for charters, branches, mergers, change in title, and location and changes in capital.)

NPRM—45 FR 68612, Docket No. 80-15, October 15, 1980. Proposes amendments to OCC rules governing material to be submitted in support of an application to charter an interim bank.)

Final Rule—45 FR 68586, Docket No. 80-11, October 15, 1980. (Consolidates all existing OCC rules, policies, procedures, and forms concerning the review and processing of applications for charters, branches, mergers, changes in title and location, and changes in capital into a single regulation—12 CFR 5.)

Final Rule—45 FR 68603, Docket No. 80-12, October 15, 1980. (Codifies OCC chartering policy in 12 CFR 5 and describes the analytical framework used by the OCC to determine whether a proposed national bank is likely to be operated in a safe and sound manner, possess reasonable prospects for success, and can be expected to meet the credit needs of its entire community.)

Final Rule—45 FR 68607, Docket No. 80-13, October 15, 1980. (Specifies the circumstances under which the OCC will routinely release basic information contained in notices of change in control required by 12 CFR 15.)

These documents are available for review and photocopying in the Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, DC 20219.

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TREAS—OCC

Lending Limits (12 CFR 7.1100*); Unimpaired Surplus Fund (12 CFR 7.7545*)

Legal Authority

12 U.S.C. § 93a.

Reason for Including This Entry

The Office of the Comptroller of the Currency (OCC) is proposing to change the definition of "capital," thereby affecting the activities of all national banks, State and local governments, and the general public.

Statement of Problem

The OCC charters, examines, regulates, and supervises national (i.e., federally-chartered) banks. Maintaining adequate capital in national banks is an important part of OCC's goal to ensure a safe and sound national banking system. OCC is considering changes to its policy and procedures for assessing the adequacy of capital of individual banks. In connection with that effort, OCC is reviewing its interpretive rules which define capital for statutory purposes.

Various statutes limit the extent of a national bank's activities based on the amount of its capital. These activities include, among others, holding investment securities, establishing branches, borrowing, lending to a single entity or group of related entities, lending secured by real estate, and lending to affiliated entities. In some cases, the limitation is on the aggregate extent of activity; in others, the limitation is on the magnitude of the activity as it relates to single bank customers. Adoption of OCC's proposal to change the definition of capital would affect all those activities.

Immediate changes in the interpretive rulings which define capital under those statutes would have instant impact on all national banks. Those changes would also have an impact on borrowers from national banks, State and local governments which issue securities, national bank shareholders, and other members of the public.

Capital planning is an integral element in the management of every national bank. Assuring adequate capital in national banks is an important element of bank supervision. Although maintaining adequate capital in the national banking system is a continual task of the OCC, several recent factors present in the financial system have increased the OCC's attention to the subject. These factors include, among others, the effects on bank capital of inflation-generated growth in bank assets and liabilities.

In order to develop and implement a consistent, rational capital adequacy policy, an appropriate definition of capital is necessary. The present OCC definition includes (for most, but not all purposes) all shareholders' equity accounts, subordinated notes and debentures (long-term debt securities whose holders' rights are subordinated to the rights of depositors and other creditors), and 50 percent of the reserve for possible loan losses (a contra-asset account reflecting expected losses in the loan portfolio). That definition is inconsistent with definitions used by the Board of Governors of the Federal Reserve System and by the Federal Deposit Insurance Corporation in their supervision of State-chartered banks. OCC is working with those agencies to develop a consistent definition of capital and a more uniform capital adequacy policy. In light of recent economic conditions and uncertainty as to the future, OCC believes that a revised, consistent, rational capital adequacy policy (based on an appropriate definition of capital) is necessary at this time to supervise and monitor national banks properly and to assist banks in their own analyses and planning.

Alternatives Under Consideration

OCC is considering alternatives to the statutory definition of capital and alternative implementation programs. One alternative is to make no change. A disadvantage of that approach is that it would inhibit the development of well-conceived capital adequacy policies. Implementation costs associated with change would, of course, be avoided.

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The OCC has proposed deleting the reserve for possible loan losses from the statutory definition of capital. That contra-asset account reflects the difference between the face amount of all loans outstanding on the books of the bank and the amount the bank anticipates will be repaid. As such, it is a protective cushion for the sole purpose of absorbing probable loan losses. The advantage of deleting the reserve for possible loan losses is that the revised definition of capital would then be more reflective of what is considered by most financial experts as capital. It would also limit capital to those accounts representing shareholder equity which are available to absorb loan losses, thereby granting the bank sufficient time for earnings to recover while sustaining market confidence. The disadvantage of deleting this account from the definition of capital is that it would reduce the maximum size of certain loans and investments that may presently be made by national banks.

The OCC also has proposed deleting subordinated notes and debentures from the definition of capital. Although those debt instruments reflect some of the characteristics of capital when they have distant maturities, they must be repaid, interest payments are mandatory, and they become increasingly less like capital instruments as maturity dates approach. The advantage of eliminating subordinated debt from the statutory definition is that the entire capital account will be available to absorb unforeseen losses which may be experienced by an otherwise sound institution. A disadvantage of elimination is a curtailment of various bank activities presently subject to limitations based on bank capital.

In order to avoid disruptions in the on-going conduct of banking operations, the OCC has proposed to implement those changes over time. The delayed impact would enable banks to plan adequately for any necessary changes. Another advantage is that anticipated growth in other components of capital will minimize the reductions in banking activities inherent in the proposals. As such, it is proposed that the reserve for possible loan losses be eliminated as of December 31, 1981, and that subordinated notes and debentures be eliminated at maturity or December 31, 1985, whichever occurs first.

The OCC considered other implementation options before it issued the proposal. Significant options considered included:

(A) eliminating only subordinated notes and debentures with short maturities;

(B) establishing a timetable to reduce, in stages, the percentage of the reserve and subordinated debt which may be included in the definition (i.e., a phase-out over time); and

(C) allowing outstanding long-term subordinated debt to be included until its maturity, but excluding new debt regardless of its maturity.

OCC is soliciting comments on specific questions germane to the proposal. These include:

(1) what terms, e.g., length to maturity, or mandatory conversion features might qualify subordinated notes and debentures as capital;

(2) what other forms of capital instruments exhibit sufficient characteristics to qualify as equity; and

(3) whether subordinated notes and debentures issued or outstanding at any time prior to December 31, 1985 should be included.

Summary of Benefits

Sectors Affected: National banking industry; customers of national banks; the general public; and OCC.

Adequately capitalized banks permit a broad range of banking services to be offered competitively to the public. Improvements in capital analysis will have nonquantifiable benefits for national banks and their customers by improving the ability of bankers, regulators, and the public to assess capital adequacy and by maintaining public confidence. Related OCC decisions to be made, such as the need for OCC review of bank plans to issue debt and equity, may reduce burdens on applicants and the OCC, and are expected to result in expanded abilities in national banks to take advantage of market opportunities to issue appropriate securities. The proposal would also establish a more uniform definition of capital, for statutory purposes, among the Federal bank regulatory agencies and eliminate regulatory treatment of banks, which currently is often varied, in more or less similar circumstances.

Summary of Costs

Sectors Affected: National banking industry, particularly in rural areas; and customers of national banks, including businesses and State and local governments.

Reduction in capital, as defined, will further limit a variety of national bank activities. For example, current statutes generally permit a national bank to lend to an individual entity no more than 10 percent of its defined capital. Similarly, current statutes generally permit a national bank to invest in a revenue obligation issued by a State or local government in an amount no greater than 10 percent of its defined capital. Reducing the amount of defined capital will decrease the maximum lending and investment limits at every national bank.

OCC has performed a preliminary study based on information otherwise filed by national banks, indicating:

(1) that 999 of the country's approximately 4,500 national banks have subordinated debt outstanding in an aggregate amount approximating $3.3 billion;

(2) that many of those banks have equity capital to asset ratios below the average level for banks of similar size; and

(3) that the average decrease in maximum lending limits for those banks, if subordinated debt were excluded from the definition of capital, would be 12.8 percent. Similarly, the average reduction in maximum lending limits for all national banks, should the reserve for possible loan losses be excluded from the definition of capital, would be approximately 4.5 percent.

That analysis, by itself, does not, however, indicate whether the changed limits would affect actual bank performance. For example, the preliminary analysis might indicate that a specific national bank's lending limit to a single borrower would be decreased from $100,000 to $90,000 if the proposals were adopted without a delayed effective date. If that bank has not made and does not intend to make loans to a single borrower in excess of $70,000, the changes would have little impact. Conversely, if that bank has been making loans at its limit and its present and future customers were likely to need loans in amounts approaching the bank's lending limit, the effects of the changes could be more dramatic. However, the anticipated growth in other components of capital between the date of adoption of the changes and the delayed effective dates, as proposed, would significantly decrease the likelihood of adverse disruptive consequences. Accordingly, in its NPRM, OCC specifically requested input on the extent of adverse effects the proposal would have. Comments received suggest that the proposed changes could have greater adverse consequences for banks, businesses, and local governments in rural areas, compared to others areas, if banks in those rural areas have significant amounts of subordinated debt outstanding. Such banks have access to fewer sources of equity funds and would thus find it difficult to keep total capital at desired levels as the debt portion was phased out.

Related Regulations and Actions

Internal: Section 303 of the *Comptroller's Handbook for National Bank Examiners* describes the present capital adequacy analysis.

External: Each of the 50 States has capital definitions and limitations based on capital applicable to State-chartered banks.

Active Government Collaboration

OCC has been working with the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation to develop a uniform capital adequacy policy and definition of capital. Meetings among staff are, and will continue to be, held frequently.

Timetable

Regulatory Analysis—OCC will not prepare. Our initial investigation indicated costs to affected parties will be negligible.
Public Hearing—None planned.
Final Rule—December 31, 1980.
Final Rule Effective—To be determined.

Available Documents

NPRM—45 FR 49276, Docket No. 80-6, July 24, 1980.
Semiannual Agenda—45 FR 52166, Docket No. 80-7, August 6, 1980.
Comptroller's Handbook for National Bank Examiners, Section 3.
Public comments on NPRM (public comment period closed September 20, 1980.)
Those documents are available for review and photocopying in the Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, DC 20219.

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TREAS-OCC

Use of Data Processing Equipment and Furnishing of Data Processing Services (12 CFR 7.3500*)

Legal Authority

12 U.S.C. §§ 24 and 93a.

Reason for Including This Entry

The Office of the Comptroller of the Currency (OCC) includes this entry because of the possible significant impact on the activities of all national banks, the data processing industry, and the general public.

Statement of Problem

The OCC regulates and supervises national (*i.e.*, federally-chartered) banks. OCC Interpretive Ruling 7.3500, last revised in 1974, attempts to define by generic description and by example the data processing services which a national bank may lawfully provide for itself and others pursuant to 12 U.S.C. § 24. That ruling currently permits national banks to perform all data processing services directly or incidentally related to the business of banking. As examples under the existing ruling, a national bank may collect, transcribe, process, analyze and store, for itself and others, banking, financial, or related economic data, as part of its banking business. Additionally, the ruling notes that a national bank, incidental to its banking business, may market excess time on data processing equipment and sell the by-products of data processing activity under certain defined circumstances. Finally, the ruling emphasizes Federal prohibitions against national banks tying other banking services to customer use of data processing facilities.

Since Interpretive Ruling 7.3500 was last revised in 1974, there have been rapid and profound advances in both data processing technology and the application of that technology to the financial industry. Moreover, experience with the application and interpretation of the Interpretive Ruling indicates that a more precise delineation of permissible data processing activities by national banks may be needed. Accordingly, the OCC is considering whether the existing ruling accommodates technological advances and provides adequate guidance, or whether the ruling should be revised and, if so, how.

To this end, the OCC issued an ANPRM inquiring into a wide range of subjects. We solicited comments on the types of electronic data processing (EDP) services offered by banks; the advantages and disadvantages of banks as providers of data processing; the extent to which the sale of EDP services, software, and excess time is necessary or beneficial to acquisition and maintenance of an adequate EDP capacity by banks; and foreseeable new applications of EDP technology.

Alternatives Under Consideration

The OCC has defined the following alternatives, described more fully in the ANPRM:

(A) OCC could retain the ruling as now written;

(B) OCC could revise the ruling to include a new generic description of permissible data processing activities;

(C) OCC could revise the ruling to adopt standards similar to those articulated in the present regulation and the interpretive ruling of the Board of Governors of the Federal Reserve System concerning data processing services provided by bank holding companies;

(D) OCC could retain its current ruling and provide supplemental aids such as a listing of specific activities found to be permissible under the ruling; and

(E) OCC is also considering the promulgation of a formal regulation as an alternative, or in addition to, an interpretive ruling.

Summary of Benefits

Sectors Affected: National banking industry; the data processing industry; customers of national banks; the general public; and OCC.

Until both the form and substance of any revision in the interpretive ruling are known, it is impossible to predict the benefits expected from such a revision. Nevertheless, a more specific interpretive ruling would provide additional guidance concerning the nature of data processing services which may lawfully be offered by national banks. By identifying those data processing services that are incidental to the business of banking, the OCC could eliminate confusion regarding the application of the existing ruling to specific services, which would benefit both the national banking and data processing industries. Finally, such a revision would benefit the public because it would provide greater certainty to banks which may be deterred from offering the public financially related data-processing services because of the legal questions raised under the existing ruling.

Summary of Costs

Sectors Affected: National banking industry; the data processing industry; customers of national banks; the general public; and OCC.

Until both the form and substance of any revision are known, it is impossible to predict the costs expected from such a revision. Nevertheless, specific guidelines in the area of electronic data processing technology might unduly limit the flexibility needed by banks to

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accommodate technological change. Also, such guidelines could become rapidly outdated, requiring continual modification by the OCC. Thus, a less flexible interpretive ruling might retard the development and financial application of data processing technology by national banks. Such an impediment would adversely affect the data processing industry and the general public which would otherwise benefit from such innovations.

Related Regulations and Actions

Internal: None.

External: The present regulation and interpretive ruling of the Board of Governors of the Federal Reserve System concerning data processing services provided by bank holding companies appears at 12 CFR 225.4(a)(8) and 12 CFR 115.123(e), respectively.

Active Government Collaboration

None at present.

Timetable

NPRM—December 1, 1980.

Regulatory Analysis—We will determine if one is required after reviewing the public comments and determining the precise content of the NPRM.

Public Hearing—None planned.

Public Comment Period—December 1, 1980 to January 31, 1981. Comments may be sent to Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, DC 20219.

Final Rule—March 31, 1981.

Final Rule Effective—March 31, 1981.

Available Documents

Interpretive Ruling 12 CFR 7.3500.

ANPRM—45 FR 40613, Docket No. 80–1, June 16, 1980.

Semiannual Agenda—45 FR 52166, Docket No. 80–7, August 6, 1980.

Public Comments.

Those documents are available for review and photocopying in the Communications Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, DC 20219.

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NATIONAL CREDIT UNION ADMINISTRATION

Group Purchasing Activities of Federal Credit Unions (12 CFR 721.1* and 721.2*)

Legal Authority

Federal Credit Union Act 12, U.S.C. §§ 1752(1), 1757(15), and 1766(a).

Reason for Including This Entry

The National Credit Union Administration (NCUA) includes this entry because we have recently discovered that there may have been a number of abuses of the authority now exercised by Federal credit unions under the present regulations. Such abuses may be due in part to a lack of clarity in the present regulations. Our review of the existing regulations will further define the type of services that Federal credit unions can offer as financial cooperatives. Our review will also affect the way insurance companies and consumer product and service vendors market their goods and services.

Statement of Problem

Federal credit unions are financial cooperative associations, chartered by the Federal Government for the purpose of promoting thrift among their members and making loans to their members. The members of Federal credit unions must have a common bond of occupation (such as employees in the same factory) or association (such as members of a local fraternal lodge) or must be within a well-defined neighborhood, community, or rural district.

In addition to specific enumerated powers (such as paying dividends on members share (savings) accounts and granting loans, a Federal credit union can, according to the Federal Credit Union Act, "exercise such incidental powers as shall be necessary and requisite to enable it to carry on effectively the business for which it has been incorporated" (12 U.S.C. § 1757(15)). NCUA interprets "incidental powers" authority in light of the Federal Credit Union Act definition of a Federal credit union: ". . . . a cooperative association organized . . . . for the purpose of promoting thrift among its members and creating a source of credit for provident and productive purposes" (12 U.S.C. § 1752(1)). In 1972, NCUA issued 12 CFR 721.1, which permits Federal credit unions to facilitate their members' voluntary purchase of insurance, incidental to the promotion of thrift or to the borrowing of money. NCUA limited credit unions to facilitating their members' voluntary purchase of group disability coverage related to loan obligations, and group insurance related to share (savings) accounts, life savings and loan protection insurance, and group, fire, theft, automobile, life, and disability insurance. Finally, NCUA decided, pursuant to 12 CFR 721.2, that Federal credit unions could promote thrift among their members by informing their members of the availability of group purchasing plans for goods and services other than insurance.

NCUA placed certain limitations on Federal credit unions to make sure that Federal credit unions maintained their identity as financial cooperatives. Federal credit unions can inform their members as to the availability of insurance or group purchasing plans, but cannot endorse the insurance or the purchasing plan. In order to maintain the privacy of their members, Federal credit unions are prohibited by NCUA from making mailing lists available to the insurance company or vendor. Federal credit unions are not permitted to act as an agent for an insurance company. When making credit-related insurance available to its members, Federal credit unions must inform borrowers that they may purchase coverage from another insurance company. Finally, Federal credit unions are permitted to accept reimbursement from the insurance company or vendor, but only for actual costs of administrative tasks performed by the credit union.

A recent study conducted by NCUA indicates that a number of instances exist of possible abuse of this "incidental authority." For example, in some cases, credit unions offer types of insurance, such as cancer insurance, which many studies show to be of dubious value to consumers. Credit unions apparently have provided, in some cases, mailing lists of their members to insurance companies and other vendors. These vendors use the lists for purposes not intended by the credit union. Eighteen of seventy credit unions surveyed had violated the prohibition against providing mailing lists to vendors. Some credit unions enter into agreements with insurance companies or other vendors that indicate that the credit union is, in effect, serving as an insurance agent by filing applications and processing claims. A number of credit unions surveyed by NCUA are lax in making it clear to their members that loan-related insurance offered through the credit union is voluntary and that members may obtain such insurance from other sources. Finally, many credit unions receive compensation not attributable to their costs in providing informational material (such as brochures) and performing paperwork-related tasks. Instead, insurance companies compensate the credit union based on a percentage of the dollar amount of the insurance purchased by the credit union's members.

NCUA has decided to act on this problem at this time for a number of reasons. First, an NCUA study has indicated that credit unions are involved in the sale of a type of insurance which may be of dubious value to their consumer members. Second, random examinations by NCUA have indicated a number of apparent violations of the existing regulations, some possibly due to a lack of a clear understanding of the requirements of the regulations. Finally, NCUA is reviewing all its existing regulations in accordance with our Final Report, "In Response to E.O. 12044: Improving Government Regulations," and as required by § 804 of P.L. 96—221, the Financial Regulation Simplication Act of 1980. NCUA is required to review its existing regulations periodically.

If we take no action at this time, the abuses noted above may continue, and perhaps, worsen. Federal credit unions may rely more heavily on the income derived from their participation in these sales programs, although compensation above their actual costs is a violation of present regulations. This, in turn, may lead to credit union involvement in other commercial ventures totally unrelated to their identities as financial cooperatives. This may violate the Federal Credit Union Act. Lastly, credit unions may continue to be involved in the sale of insurance or products and services which may be of dubious value to their members. Credit union members rely on their credit unions for advice. If credit unions offer insurance or products that are not worthwhile, this may endanger member loyalty.

Alternatives Under Consideration

NCUA is considering a number of alternatives; however, we do not currently favor one alternative over the others.

(A) We could make no change to the existing regulations, 12 CFR 721.1 and 721.2, but issue an "Interpretive Ruling and Policy Statement" (IRPS) to clarify ambiguities in the regulation. This may solve the problem by placing credit unions on notice of NCUA's position and of our intent to take administrative action against violators. This alternative has the advantages of clarifying ambiguities, permitting credit unions to seek compliance with existing regulations, and continuing to permit credit unions to offer a wide range of group purchasing activities. The disadvantages are that the clarification and warning of possible enforcement action may not prevent all continued violations. Investigation and prosecution of violations could tax NCUA's resources heavily. Lastly, this alternative would not offer assurance that credit unions will give their members adequate information about the plans offered through their credit union.

(B) We could revise the existing regulations to require credit unions to consider the programs more carefully, to require mailing lists to remain in the control of the credit union, and to prohibit compensation of the credit union. Insurance companies and other vendors would not have access to the credit union's mailing list because the company mailing any information to credit union members would act as the agent of the credit union and not as the agent of the insurer or vendor. This alternative would eliminate the problem of compensation in excess of costs by prohibiting compensation. It would also ensure closer examination of products and services by credit unions because this alternative would require that a credit union provide a written justification of the decision to participate in a group program. The advantage of this alternative would be that credit unions can continue to offer a variety of group plans, while the innovative regulatory technique of economic disincentives would discourage participation in programs that are not expecially valuable to the credit unions members. Another advantage of this alternative would be that mailing lists remain in the control of the credit union or its agent. In addition, by prohibiting compensation, this alternative would eliminate the possible conflict of interest between increasing income for the credit union versus providing credit union members with information on valuable services. The disadvantages are that the credit union will have to find income to meet the expenses associated with insurance activities (and possibly other expenses) elsewhere, because NCUA will prohibit compensation. Also, credit unions may circumvent the prohibition on compensation if vendors offer lower costs to the credit union for the credit union's own purchases. Another risk is that the credit union may place greater emphasis on considering its own costs than on the quality of the plan to be offered to its members. Mailing list abuse may continue because the credit union's data processor or mailing firm may work for a vendor and may share the mailing list with the vendor.

(C) We could, by revising the regulation, permit only group purchasing activities related to insurance and directly related to loans or savings, and prohibit reimbursement of expenses by vendors. This alternative could solve the problem of whether Federal credit unions can act as economic cooperatives by limiting their group purchasing activities to those related directly to financial services. It would eliminate the need for the use of mailing lists because credit unions can give the information to a prospective borrower or saver when the loan is made or the account is opened. This alternative would eliminate the problem of calculating costs for determining the amount of reimbursement for administrative tasks performed by the credit union. Other advantages of this alternative would be the elimination of certain types of insurance which are of dubious value and the elimination of mailing list violations, because information would be provided directly to the borrower only at the time of the loan application. One disadvantage would be increased cost to credit unions because this alternative would prohibit reimbursement. Another disadvantage would be that the credit unions may choose the insurance plan that is least costly to the credit union although the plan may not be the most beneficial to its members. Group purchasing plans for products or services other than insurance would be prohibited and thus the types of services that credit union members could receive would be limited.

(D) We could permit the credit union community to attempt self-regulation. This could solve the problem by allowing a committee of representatives of credit unions, credit union members, insurance companies, and vendors to develop guidelines to prevent the identified abuses. This committee would be necessary to ensure that there is a broad base of interests represented in the formualtion of voluntary standards. The advantages of this approach would be the use of voluntary standards, in lieu of binding regulations, through increased industry cooperation. The disadvantages are the administrative problems involved, in coordinating an industry committee to develop guidelines. NCUA is uncertain of the effectiveness of any voluntary guidelines. Finally, there may arise an appearance of an abdication of NCUA responsibility.

(E) We could, by revising the regulation, ban all group purchasing

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plans except those purchased by the credit union for all qualified members. This alternative could solve the problem by placing the economic risk of involvement in group purchasing plans on the credit union directly. The advantages of this approach are that it would give the credit union the incentive to obtain the best coverage for the least cost because it would derive the primary benefit (for example, the credit union will receive payments on loans covered by loan protection insurance that might otherwise go into default) and bear premium cost. This alternative would allow the credit union to receive commissions from the sales of its group insurance from the vendor (which the credit union could use to reduce its own premiums). Credit union members would still obtain the advantages of group purchasing. The disadvantages are that members who may not want to obtain these services would bear part of the costs to the credit union, because all members might receive lower dividends, higher interest rates on loans, or reduced services. The credit union's investment may act as a disincentive for advising members that they may obtain these services elsewhere. If certain types of insurance are extended to members already covered under their own personal insurance plans, these members may receive no additional benefit if the insurance plan prohibits the insured from collecting twice on the same loss. Finally, this alternative eliminates a wide range of group purchasing activities, because the credit union could not afford the initial cost or the economic risk.

Summary of Benefits

Sectors Affected: Federal credit unions and their members; insurance industry; and wholesale and retail trade of consumer products.

The primary benefit of alternative (A) is that the credit union would continue to offer a wide range of group purchasing activities. This may benefit the credit union by increasing member interest in, and loyalty to, the credit union. The members would also benefit from the reduced costs associated with group purchasing plans. Insurance companies and consumer product vendors would benefit from continuing to use credit unions as a vehicle to market their services or products. Finally, clarification through the issuance of an interpretive ruling should not substantially alter or restrict present limitations. This may benefit credit unions, insurance companies, and other vendors that are familiar with operating under the present rules.

Alternative (B) may have the benefit of protecting credit union members' privacy by prohibiting the distribution of mailing lists to insurance companies or vendors. While continuing to allow credit unions to offer a wide range of group purchasing plans, this approach may have the advantage of eliminating less valuable plans through the use of economic disincentives. Since the credit union cannot be reimbursed, the credit union would more carefully select the group purchasing plan. The credit union would, therefore, no longer face the conflict of interest between choosing a plan that compensates the credit union or choosing a plan best suited for its members.

Alternative (C) may have the advantage of ensuring that group purchasing plans would be directly related to the financial services offered by credit unions. It would also eliminate the mailing list problem because the credit union or vendor could give information to a member at the time he or she applies for the services. It would also use economic disincentives to ensure that the credit union carefully chooses the group purchasing plan because the credit union cannot be reimbursed for its expenses.

Alternative (D) may have the advantage of permitting industry self-regulation, thus reducing the regulatory burden imposed by and on NCUA.

Alternative (E) may have benefit of using economic incentives, rather than regulation, because the credit union would purchase the group plan. It would allow reimbursement to the credit union through its sales to its members. Also, it would permit credit unions the freedom to select from a wide range of group purchasing plans.

Summary of Costs

Sectors Affected: Federal credit unions and members; insurance industry; and wholesale and retail trade of consumer products.

The dollar estimate of the costs of the various alternatives listed below are not available to NCUA at this time. We are considering issuing an ANPRM to solicit cost information.

The primary costs of alternative (A) may be those associated with the current abuses of existing regulations. Credit unions would continue to violate the privacy of their members by distributing mailing lists. Credit unions would continue to act as insurance agents and to receive compensation in excess of their costs.

Alternative (B) may increase costs to the Federal credit union. This, in turn, may harm consumers because credit unions may select programs that are least costly to operate, rather than programs that are most beneficial to their consumer members. Also, by permitting credit unions to distribute mailing lists to mailers that are employed by the credit union, this alternative places the burden of enforcement on the credit union to ensure that the mailer does not breach his contract with the credit union by making the list available to vendors.

Alternative (C) also may increase credit union costs by prohibiting reimbursement. It also may lead credit unions to choose insurance plans least costly to the credit union without regard to the benefits provided to the members. This alternative may also reduce the income of wholesalers and retailers who rely upon the group purchasing activities (other than insurance) provided through credit unions. To the extent that these group purchasing plans provide real savings to consumers, credit union members' costs could increase in those areas in which such plans are prohibited.

Alternative (D) may continue the costs associated with the current abuses of the existing regulations. It could also impose additional costs on the credit union industry to produce and distribute voluntary guidelines.

Alternative (E) would increase costs to credit unions because any group purchasing plan must be bought by the credit union. To the extent that this alternative results in fewer plans being offered to members, the members' costs may also increase.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Preliminary Review by NCUA Staff—December 31, 1980.
ANPRM—To be determined.
NPRM—To be determined.
Public Comment Period—60 days following publication of NPRM.
Public Hearing—Not anticipated.
Final Rule—To be determined.
Regulatory Analysis—To be determined.

Available Documents

Memorandum from Office of Policy Analysis to NCUA Board, dated June 5, 1980, "Evaluation of Federal Credit Union Group Purchase Plans."

Abt Associates, Inc., "Cancer Insurance Costs and Benefits: A Study for the Board of the National Credit Union Administration," May, 1980.

The above documents are available for review in the Office of General Counsel, National Credit Union Administration, 1776 G Street, N.W., Washington, DC 20456.

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COMMODITY FUTURES TRADING COMMISSION

Large Trader Reporting to Exchanges and Reporting Open Positions (17 CFR Parts 15*, 16*, 17*, 18*, and 21*)

Legal Authority

Commodity Exchange Act, §§ 4g, 4i, 5(d), and 8a(5), 7 U.S.C. §§ 6g, 6i, 7(d), and 12a(5).

Reason for Including This Entry

The Commodity Futures Trading Commission (CFTC) thinks these rules are important because they would shift primary responsibility for the collection of key market surveillance data from the Commission itself to the commodity exchanges. If we adopt these rules, the exchanges will be better equipped to prevent price manipulations, cornering of commodities and other market disturbances, and the Commission will be able to act more in an oversight role and less as a primary regulator. This will set an important precedent.

Statement of Problem

The Commission and the commodity exchanges both have obligations under the Commodity Exchange Act to prevent price manipulation, corners and other disruptions in the futures markets. In order to detect market disruptions, the Commission and the exchanges both conduct market surveillance activities. The Commission operates an extensive large trader reporting system through which it collects information about traders who control significant futures positions from commodity exchanges, futures commission merchants (FCMs), foreign brokers who carry futures accounts, and individual traders. The various exchanges employ widely differing market surveillance practices and, according to a recent staff review, in some cases, the exchanges apparently collect little data on individual traders' positions for routine use in their surveillance efforts.

As a result of the overlapping responsibility of the Commission and the exchanges described above, some duplication of effort exists. Additionally, since large trader data, which the Commission considers essential to preventing and detecting price manipulations and other market disturbances, is generally not equally available to the exchanges and the Commission, it may be difficult for the exchanges to fully discharge their market surveillance obligations. If the Commission does not act, these problems are unlikely to be resolved. In order to reduce duplication of effort and to enable the exchanges to discharge their self-regulatory responsibilities, the Commission is considering a general proposal that would require exchanges to collect, process, and forward to the Commission in machine readable form information similar to that which the Commission currently collects under existing regulations from FCMs and brokers. If adopted, this rulemaking approach would improve the market surveillance capability of the exchanges and thus enable the Commission to move toward an oversight, rather than regulatory role.

Alternatives Under Consideration

As described above, the Commission is considering whether, as self-regulatory entities, commodities exchanges should be primarily responsible for collecting and processing large-trader data. It has requested public comments on this question and will determine, after studying those comments, whether to publish specific rulemaking proposals to implement this approach.

Shifting primary responsibility for this activity to the exchanges would have several advantages. It would provide the exchanges with the information that is essential to maintaining an effective exchange market surveillance program; it would transfer significant responsibility from Government to the private sector; it would reduce some duplicative reporting burdens now imposed on the FCM community; and it would transfer a substantial portion of the cost of market surveillance to entities that are the direct beneficiaries of effective self-regulation—namely the exchanges, their members, and customers. This innovative compliance reform would reduce government costs as well. The most significant disadvantage to this approach is that, absent coordination by the exchanges, a reduction in reporting burdens may not be achieved.

Alternatively, the Commission is considering whether it would be feasible for the exchanges or a newly created self-regulatory organization to maintain a joint reporting system. This would have all of the advantages of the approach described above and would eliminate the possibility that different exchanges might impose duplicative or inconsistent reporting requirements. The disadvantage of this approach is that it could delay, complicate, or (because of start-up costs associated with creating a new self-regulatory organization) render more expensive the transfer of primary responsibility from the Commission to the exchanges.

Summary of Benefits

Sectors Affected: Commodity exchanges; futures commission merchants; foreign brokers; the CFTC; and all market users.

These proposals would directly benefit commodity exchanges by enhancing their surveillance capability and by lessening the degree of Government involvement in their operations. They would also benefit FCMs and foreign brokers by eliminating the need for them to report certain information both to the Commission and some commodity exchanges, as they are required to do under existing Commission and exchange rules. Moreover, the CFTC would save time and money if proposals which shifted the primary burden of data collection to the exchanges were adopted.

Less directly but equally importantly, all market users would benefit from the exchanges' improved surveillance capacity and ability to prevent certain market disruptions.

Summary of Costs

Sectors Affected: Commodity exchanges; futures commission merchants; and foreign brokers.

Commodity exchanges which are currently collecting and maintaining less comprehensive data than would be required under these proposals are likely to experience increased operating costs. Additionally, unless a joint or coordinated reporting program is developed by the exchanges, futures commission merchants and foreign brokers in some instances might incur the cost of complying with duplicative reporting requirements. It is unlikely, however, that their reporting costs under the new system would exceed present reporting costs once the reporting system has been shifted fully from the Commission to the exchanges.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Final Rule—November 1980.

reports from and communicating with both domestic and foreign traders, including farmers and other

expected to exist." It also requires a

commodity exchange members, more

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Timetable

Comment Period Expires—November 25, 1980.
Staff review of comments and formulation of recommendation to Commission expected to be completed by February 15, 1981.
Regulatory Analysis—the CFTC, as an independent agency, is not required to prepare a Regulatory Analysis as it is defined under E.O. 12044. However, the CFTC prepares much of the same information in its NPRMs and final rules.

Available Documents

NPRM—45 FR 57141, August 27, 1980. Public comments, contact Jane Stuckey at address below.

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CFTC

Proposed Rules Concerning Foreign Brokers and Traders (17 CFR 21.03*)

Legal Authority

Commodity Exchange Act, §§4g, 4i, 5, 5a, and 8a, 7 U.S.C. §§6g, 6i, 7, 7a, and 12a.

Reason for Including This Entry

The Commodity Futures Trading Commission (CFTC) thinks this rule is important because it will facilitate the Commission's ability to obtain timely information concerning foreign traders. We expect that, if adopted, the rule could substantially improve our market surveillance capability.

Statement of Problem

In recent years, foreign participation in the United States futures markets has become increasingly significant. Although little statistical information is available, it appears that foreign participation may account for 25 percent or more of the activity in some commodities. By engaging in futures trading in the United States, foreigners, like domestic market participants, become subject to the regulatory scheme set forth in the Commodity Exchange Act, 7 U.S.C. § 1 *et seq.*, and the Commission's regulations thereunder. One aspect of this scheme requires the Commission to perform intensive market surveillance, which involves collecting reports from and communicating with both domestic and foreign market participants.

The CFTC is considering proposed rules which would make domestic futures commission merchants (FCMs) who are registered with the Commission primarily responsible for ensuring the availability of information needed by the Commission about the foreign brokers and traders whose futures trading accounts they carry. The reason for this action is that, at present, the Commission receives less timely, less complete, and less verifiable information from some foreign brokers and traders than it generally receives from their domestic counterparts, about the size of accounts and the identity of the persons for whose benefit the accounts were established. The Commission has encountered difficulties and delays in trying to identify and communicate with these foreign entities, in part because of foreign secrecy laws and legal restrictions in some countries on direct communications between foreign governments and their citizens. There is apparent widespread noncompliance by foreign brokers and traders with CFTC reporting requirements and it is difficult for the Commission to take effective enforcement action against them. As the markets regulated by the Commission have become increasingly international in character, the need for us to address these problems has become more important. If the Agency does not take any action, its market surveillance program will be hampered, and it will be difficult for the Commission to detect and take action to prevent price manipulations, corners, and other market discruptions.

Alternatives Under Consideration

The proposed rules would require domestic futures commission merchants who are registered with the Commission and who carry accounts for foreign persons to obtain a list of the persons for whose benefit the accounts were established. In our NPRM (45 FR 31733, May 14, 1980), we requested comments on whether that information should be maintained routinely, or acquired only when the Commission specifically requests it. Routine maintenance of the information might be more effective for our market surveillance program but acquisition of the information only as needed would be less burdensome for futures commission merchants and foreign brokers and traders.

Summary of Benefits

Sectors Affected: All sectors of the U.S. commodity futures markets, including farmers and other producers, processors, manufacturers, commercial users, and consumers of commodities, and persons speculating in the futures markets; and CFTC.

If the CFTC adopts the proposed rule, the information available to the Agency about the size of positions held by foreigners and the identity of the persons who are the true owners of the positions will increase. The accounts of foreign persons who refuse to provide requested information will be liquidated. This should provide an incentive for greater compliance with our reporting requirements by foreigners. The availability of more complete market information will promote fair dealing and integrity in the markets and improve the CFTC's ability to detect and take action to prevent price manipulations, corners, and other market disruptions. All market users will benefit from more honest markets. The CFTC will benefit from being able to shift the burden from Government to industry for obtaining this information.

Summary of Costs

Sectors Affected: Registered domestic futures commission merchants; and foreign brokers and traders who participate through domestic agents in the U.S. futures market.

The proposed regulation could impose some administrative costs on registered futures commission merchants in the United States who would be responsible for obtaining required information about foreigners whose accounts they carry. Additionally, if futures commission merchants are required to liquidate customers' accounts to comply with the rule, they may experience some loss of foreign business.

Related Regulations and Actions

Internal: On April 1, 1980, CFTC voted to adopt final rules which would require foreign brokers and traders to have an agent for service or delivery of Commission communications. ("Designation of a Futures Commission Merchant to be the Agent of Foreign Brokers, Customers of Foreign Brokers and Foreign Traders," 17 CFR 15.05).
External: None.

Active Government Collaboration

None.

Timetable

Regulatory Analysis—the CFTC, as an independent agency, is not required to prepare a Regulatory Analysis as it is defined under E.O. 12044. However, the CFTC prepares much of the same information in its NPRMs and final rules.

Final Rule—November 1980.

Available Documents

NPRM—45 FR 31733, May 14, 1980. "Futures Commission Merchants—Duties Concerning Accounts Carried For Foreign Brokers And Traders."

"Rules Concerning Foreign Brokers And Traders," Memorandum of the Office of the General Counsel, April 1, 1980.

Both the above documents are available by mail at no cost from the Office of the Secretariat, CFTC, 2033 K Street, N.W., Room 806, Washington, DC 20581.

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CFTC

Review of Guideline No. 1—Criteria for Determining Whether a Board of Trade Meets the Economic Purpose and Public Interest Tests for Contract Market Designation (17 CFR Part 5)

Legal Authority

Commodity Exchange Act, §§ 5, 5a, 6, and 8a, 7 U.S.C. §§ 7, 7a, 8, and 12.

Reason for Including This Entry

The Commodity Futures Trading Commission (CFTC) Guideline No. 1 sets forth the criteria that a board of trade must meet to become and to continue to be a market for a particular commodity futures contract. The CFTC includes this entry because clarification concerning these criteria could have a significant effect on the futures contracts traded on boards of trade.

Statement of Problem

The Commodity Exchange Act requires a board of trade (commodity exchange) seeking to become a market for a particular commodity futures contract to show CFTC that trading in the contract would not be contrary to the public interest. Guideline No. 1 (40 FR 25849, June 19, 1975), sets forth the criteria a contract market must meet in making such a showing. It indicates that the public interest test includes an "economic purpose" test and "to meet the 'economic purpose' test a board of trade is expected to establish that something more than occasional use of the contract for hedging (a method of protecting against price fluctuations) or price basing exists, or can reasonably be expected to exist." It also requires a demonstration, based on the individual terms and conditions of the contract, that the contract will result in adequate deliverable supplies. Further, the guideline requires an affirmation that transactions for future delivery in the commodity will not be contrary to the public interest.

The public interest, hedging, and price-basing standards, as presently contained in Guideline No. 1, are very general. It has been the Commission's experience, in reviewing applications for initial contract market designation, that boards of trade have not uniformly met their statutory burden of demonstrating that their proposed contract markets may reasonably be expected to serve an economic purpose and are not contrary to the public interest. Furthermore, these applications have not consistently shown compliance with all other applicable requirements. As a result, the Commission has expended much time and effort in soliciting additional information from boards of trade and others. There have been concomitant delays in review. Additionally, the Commission is concerned about problems which could result when a previously designated contract becomes completely inactive or otherwise stops serving an economic purpose. The Commission estimates that more than 50 contracts may fall into this category. Further, the Commission is concerned with low volume or lightly traded contracts. The Commission estimates that at least ten to thirteen contracts will fall into this category. In such cases the Commission believes there is increased potential for price manipulation and other market distortions.

The existence of a particular futures market which does not meet a public interest standard could have an adverse impact on markets for the underlying and related commodities, to the detriment of farmers and other producers, processors, fabricators, commercial users, and consumers of the commodity, as well as members of the public who buy and sell futures contracts. Trading in a contract for which an adequate deliverable supply does not exist, for example, could result in price distortion.

The recent enormous growth of the futures markets and the development of futures contracts in many new commodities make this issue particularly important at the present time. At the end of fiscal 1979, U.S. futures exchanges were offering 119 different futures contracts in 59 commodities. There were 3,000 commodity exchange members, more than 300 futures commission merchants, about 37,000 commission registered futures industry salespeople, and 1,660 commodity trading advisors and commodity pool operators. Futures trading in Government securities, which was just beginning in 1975 when Guideline No. 1 was promulgated, has become increasingly significant. The market for Treasury bonds for example, increased from about 3,000 open contracts in 1977 to more than 65,000 in 1979.

If the Agency does not act, it will be difficult for exchanges to be on notice concerning what showing is required by a board of trade seeking designation as a contract market and what standards should be applied for continuation of such designation.

Alternatives Under Consideration

The Commission is considering several alternatives which will be published for public comment in November 1980. For futures contracts which we have not yet approved (designated) for trading, the Commission has proposed specific requirements which are intended to clarify the present economic purpose test a board of trade must meet in its application for designation. One approach the Commission has suggested is that a board of trade which seeks designation for a contract which is similar to one already traded by another exchange be required to describe the particular terms or conditions of the proposed contract or the exchange's institutional features which make it reasonable to expect that the proposed contract will meet the standards of the economic purpose test.

The Commission is also considering adopting a requirement which will clarify that a board of trade which is seeking designation as a new contract market first must demonstrate the adequacy of its rule enforcement and surveillance programs for its existing contracts. This proposal reflects the Commission's view that it would be contrary to the public interest to designate boards of trade as additional contract markets, where information available to the Commission demonstrates significant deficiencies in enforcement programs for currently designated markets.

The Commission is also considering adoption of a rule which would clarify the requirement that boards of trade that seek designation as contract markets for contracts based on securities issued or guaranteed by the U.S. Government must make certain additional showings. For these contracts, boards of trade would have to

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provide information to the Commission about the effects, if any, such contracts would have on the debt financing requirements of the U.S. Government and the continued efficiency and integrity of the underlying market for Government securities. The Commission is required, under § 2(a)(B)(ii) of the Commodity Exchange Act, to consider these factors for contracts based on Government securities.

With respect to the showing that boards of trade should be required to make to justify continued designation as a contract market, the CFTC has considered several alternatives. Although we initially considered requiring boards of trade to provide us with quantitative standards for assessing whether a contract continues to serve an economic purpose, we have determined not to propose such a rule at this time. Instead, we have proposed a rule which would require boards of trade to evaluate trading in low volume contracts and document that they are used for price basing and commercial participation. Additionally, contract markets would be required to evaluate the extent to which commercial participants used the contract for hedging, a method or protecting against price fluctuations. We believe this approach is more desirable and that it will facilitate our determination whether a contract continues to serve an economic purpose, without imposing excessive paperwork burdens on boards of trade.

Additionally, the Commission has proposed for comment a rule preventing an exchange from adding new delivery months to a dormant contract without Commission approval. A related rule proposal would require a contract market to file periodic reports with the Commission containing volume and trading information concerning low volume contracts. This approach would provide the Commission with an indication of whether a contract continues to serve an economic purpose. It would also be useful to boards of trade in fulfilling their self-regulatory responsibilities concerning low volume contracts.

Summary of Benefits

Sectors Affected: All sectors of commodity futures markets, including farmers and other producers, processors, manufacturers, commercial users, and consumers of commodities; persons who speculate in the futures markets; boards of trade; and CFTC.

Codification and clarification of current Commission requirements concerning the economic purpose and public interest tests would help assure the proper functioning of the futures and cash markets by reducing the potential for market abuses such as price manipulations, which would result from initial or continuing designation of a contract which does not serve an economic purpose. It would also decrease the likelihood of adverse effects on other sectors of the economy which would result from artificial commodities prices, and enhance the protections provided to market participants by boards of trade. In addition, clarifying the standards to be applied could make the Commission contract review process more efficient. A reducton of the uncertainty about what the Commission considers an adequate showing that a board of trade meets the requirements for contract market designation should also reduce the effort and resources which boards of trade expend in new contract preparation. Finally, to the extent that the submission of more detailed, relevant information facilitates Agency action, the Commission could realize some savings in staff resources.

Summary of Costs

Sectors Affected: Boards of trade.

Boards of trade could incur some additional administrative costs if the submissions accompanying their applications for contract market designation are required to be more detailed. They also would be subject to a new reporting requirement with respect to low volume contracts, which would raise their compliance costs.

Related Regulations and Actions

Internal: On October 21, 1980, CFTC voted to publish for comment proposed rules clarifying the economic and public interest requirements for contract rules market designation, and proposed rules relating to dormant and low volume contracts.

External: None.

Active Government Collaboration

None.

Timetable

Public Comment Period—Comment on NPRM expires February 1, 1981.
Staff Analysis—February 1981.
Final Rule—Mid-1981.
Regulatory Analysis—CFTC, an independent regulatory agency, does not prepare Regulatory Analyses as defined under E.O. 12044.

Available Documents

NPRM—(45 FR 73504, November 5, 1980),"Economic and Public Interest Requirements for Contract Market Designation."

NPRM—(45 FR 73499, November 5, 1980), "Dormant and Low Volume Contracts."

"Possible Revisions to Commission Guideline No. 1," Staff discussion paper, April 22, 1980.

The above documents are available by mail at no charge from the Office of the Secretariat, CFTC, 2033 K Street, N.W., Washington, DC 20581.

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FEDERAL DEPOSIT INSURANCE CORPORATION

Applications, Requests, Submittals, and Notices of Acquisition of Control (12 CFR Part 303*) and Disclosure of Information (12 CFR Part 309*)

Legal Authority

Federal Deposit Insurance Act of 1950, as amended, 12 U.S.C. §§ 1815, 1816, 1818, 1819, 1828, and 1829.

Reason for Including This Entry

These proposals are important because (1) they concern an issue of public interest (access to public information) and (2) they enhance Agency productivity by reducing operations costs to the Federal Deposit Insurance Corporation (FDIC) without causing adverse effects.

Statement of Problem

FDIC regulations require that the FDIC create a separate public file, containing most kinds of applications that banks submit to the FDIC, and make that file available for public review. The FDIC found that very few members of the public request to review the public files. Thus, most public files on pending applications are prepared but are never used. The FDIC has proposed to amend its regulations to eliminate the separate public files. Under the proposal, the FDIC would retain the information it currently keeps in the public files as a part of the complete application file. The FDIC would make the public file information available within one day after a member of the public requests to see the file.

Alternatives Under Consideration

Alternatives the FDIC considered other than this proposal were (A)

leaving the regulation unchanged or (B) eliminating the public file and requiring requesters to use the procedures of the Freedom of Information Act ("FOIA," 5 U.S.C. § 552) to obtain information relating to pending applications. The FDIC determined that retention of the public file, though providing easy access, results in large expenditure of FDIC resources with little corresponding gain. Eliminating the public file with no provision for expedited access would unreasonably burden any individual who has a need to review a file. The proposed regulation would provide access to more information than the minimum that FOIA requires the FDIC to release, would permit a request for access to be made either in writing or orally, and would require the material to be made available no later than one working day after receipt of the request. The proposal would relieve FDIC regional staff of the administrative burdens and costs involved in maintaining the current public file, but would not adversely affect the public's interest.

Summary of Benefits

Sectors Affected: FDIC; insured State nonmember banks; and the general public.

The amendments FDIC proposes effect only its own internal regulation. The amendments impose no reporting, recordkeeping, or other requirements on insured State nonmember banks as a result of the proposed changes. The benefit to the FDIC in reduced administrative costs would be shared indirectly by the banks the FDIC supervises because FDIC operating costs affect assessments for deposit insurance paid by banks to the FDIC.

Summary of Costs

Sectors Affected: None.

The FDIC thinks this proposal would reduce FDIC administrative burden while meeting public needs, and that no sector would bear any costs.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Final Rule—Pending deliberation at end of comment period (October 20, 1980), the FDIC expects to publish the Final Rule in December 1980.
Regulatory Analysis—None.
Public Hearings—None.

Available Documents

NPRM—45 FR 52619, August 8, 1980. The public comment period ended on October 20, 1980. The comments and copies of the NPRM are available at the Information Office, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, DC 20429.

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FDIC

Securities of Insured State Nonmember Banks (12 CFR Part 335*)

Legal Authority

The Securities Exchange Act of 1934, § 12(i), 15 U.S.C. § 78/(i).

Reason for Including This Entry

The proposed rule is important because it will affect (1) the disclosure requirements of more than 400 insured nonmember banks and (2) the investing public.

Statement of Problem

Section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. § 78/(i)) (Act) required that the Federal Deposit Insurance Corporation (FDIC) (1) adopt regulations substantially similar to the Securities and Exchange Commission's (SEC) rules on registration requirements for securities or (2) publish findings and detailed reasons that such conforming regulations are neither necessary nor appropriate in the public interest or for the protection of investors. The FDIC proposes to amend its Part 335 to make it conform to rules adopted by the SEC in June 1979 and to make it more understandable.

The FDIC's proposed rule covers the following topics and problems: (1) A safe harbor for projections—The FDIC rule exempts banks from liability imposed by other regulations if the banks properly use future earnings projections and other forward looking information in filings and annual stockholder reports. If, for an example, a bank makes projections about earnings prospects but does not meet those projections because of unforseen circumstances, then the bank will not be subject to liability for making false or misleading disclosures, unless the projections were prepared without a reasonable basis or were disclosed other than in good faith. In the past, banks have been reluctant to give the investing public any information that lacked a purely historical basis. Consequently, banks have withheld or not developed relevant information, about projections, for example. The FDIC's proposed rule enables investors to obtain more information without subjecting banks to additional liability.

(2) Reporting by foreign banks—The FDIC rule exempts foreign banks that have insured branches from certain general financial reporting requirements and provides a reporting form to accompany applicable required reports. Basically, this rule provides a cover page to which a subject bank must attach any report that is public or is required to be filed in the bank's country of domicile, incorporation, or origin. The purpose of the rule is to make available in the United States any information that is available in the foreign country, without unduly burdening the reporting bank. One possible disadvantage of the rule is that substitutes the foreign country's reporting format and content standards for those of the United States.

(3) Corporate governance—The FDIC rule gives shareholders of subject banks more flexibility in voting; for example, it allows shareholders to withhold proxies from a candidate for the board of directors. In the past, shareholders have been able to vote against specific issues, such as a merger or an acquisition, but in voting for directors, they have had to vote for the whole slate or withhold their proxies. Under the proposed FDIC rule, shareholders can withhold their proxies from specific directors. Thus, shareholders have more freedom of choice and, at least theoretically, individual directors will be more responsive to shareholders.

(4) Dividend reinvestment plans—The FDIC rule creates an exemption from the reporting and liability provisions previously applicable to bank insiders (directors, principal officers, and 10 percent-or-more shareholders) who participate in banks'dividend reinvestment plans. Section 16(a) of the Act requires that insiders report their stock ownership and update their § 16(a) reports. Section 16(b) prohibits insiders from making short-swing profits (profits from buying or selling the corporate stock within any six-month period) on the assumption that short-swing profits are made by trading based upon inside, not public, information. Ordinarily, insiders are liable to the corporation for any short-swing profits they make on its stock. However, because dividend reinvestment plans,

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which automatically purchase stock for participants, are managed by a trustee and are not controlled by insiders, there is no reason to treat insiders less favorably than other participants in such plans. Accordingly, the SEC rule and the FDIC proposed rule exempt insiders' participation in dividend reinvestment plans from § 16(b) reporting and liability provisions.

(5) Tender offers—The FDIC rule clarifies and makes more comprehensive the existing rules about tender offers. A tender offer involves the solicitation of an offer to sell securities.

(6) Reformating Part 335—The FDIC rule reorders and renumbers paragraphs and sections of Part 335 of the FDIC rules and regulations to make Part 335 easier to read.

Alternatives Under Consideration

As stated above, § 12(i) of the Act requires that the FDIC adopt regulations that conform to the SEC's rules on registration requirements for securities, unless the FDIC finds that the implementation of substantially similiar regulations with respect to insured banks are not necessary or appropriate in the public interest or for the protection of investors. Because the FDIC considers these SEC rules to be appropriate, it has no discretion to consider alternatives. The FDIC has not proposed regulations conforming to SEC amendments on (1) issuer tender offers and (2) "going private" transactions (those that have a reasonable likelihood of relieving banks of disclosure requirements of the Securities Exchange Act of 1934). The FDIC's detailed findings and reasons for considering the alternatives of not conforming with these SEC rules are published in the **Federal Register** of September 19, 1980 (45 FR 62480).

These FDIC proposals are not suited to a flexible regulatory approach (small bank/large bank) because share-holders and investors in small banks need the same quality of information that their counterparts in large banks need. The Office of Small Business Policy at the Securities and Exchange Commission is studying the feasibility of reducing reporting requirements for small issuers.

Summary of Benefits

Sectors Affected: More than 400 insured nonmember banks (including state-chartered banks and some foreign banks that have insured branches in the U.S.); and the investing public.

Banks and the public will derive both quantitative and qualitative benefits from the proposed amendents. The proposed rule on safe harbors for projections saves banks the costs of liability they might incur if reasonably based projections are not met. Qualitatively, investors will benefit by having access to more forward looking information.

The proposed exemption for foreign banks saves those banks the costs of creating additional kinds of general financial reports.

The proposed rule on corporate governance benefits shareholders primarily qualitatively by giving them greater opportunities to exercise their right of suffrage and to obtain information about matters on which they vote.

As stated above, insiders will benefit from the proposed exemption for dividend reinvestment plans, because they will not have the uncertainty of having to pay to the corporation any short-swing profits earned by those plans. The proposed rule should result in quantitative and qualitative cost-savings to insiders without imposing additional costs on any affected sector.

The banks and the public will benefit from the proposed rule on tender offers because they will save the considerable costs of litigating uncertainties about the proper procedures for making tender offers. Management may thereby conserve corporate resources otherwise used to combat tender offers.

As mentioned earlier, another qualitative benefit of the proposal is that it will change the format of Part 335, making the part easier to read and understand.

Summary of Costs

Sectors Affected: More than 400 insured nonmember banks (including State-chartered banks and some foreign banks that have branches in the U.S.).

As explained above, the amendments are required by statute because they are either necessary or appropriate. Consequently, cost-benefit analysis does not determine the design of the regulations the FDIC adopts, for they must be substantially similar to those issued by the SEC. The quantitative and qualitative cost savings are summarized above under Summary of Benefits.

As for banks' compliance costs such as recordkeeping, administrative overhead, and reporting, the safe harbor rule creates none beyond the administrative costs of understanding a new rule.

The International Banking Act of 1978 amended the term "insured bank" in § 3(h) of the Federal Deposit Insurance Act to include a foreign bank having an insured branch in the United States. Because of the operation of § 12(i) of the Securities Exchange Act of 1934, such foreign banks have for the first time become subject to Part 335. The proposed rule on foreign bank reporting is a low cost alternative for complying with the statutes because it requires only submission of information already required by the foreign bank's home country and provides cover sheet forms for those reports.

The proposed rule on corporate governance will require some changes in proxy cards and, therefore, the costs of printing new proxy card forms.

In conclusion, the amendments primarily impose requirements of public disclosure and filings with the FDIC. In its NPRM, the FDIC has specifically requested comments about any increases in costs that the amendments impose, particularly projected start-up costs and continuing costs.

Related Regulations and Actions

Internal: None.

External: SEC regulations pursuant to § 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. § 78/(i)). The Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System are also subject to § 12(i) of the Act and are therefore proposing substantially similar regulations.

Active Government Collaboration

The FDIC has coordinated its efforts to comply with § 12(i) with the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System.

Timetable

Final Rule—Spring 1981 (pending deliberation at the end of the comment period and final coordination with the other affected Federal financial supervisory agencies. The comment period ended on November 18, 1980).
Regulatory Analysis—None.
Public Hearings—None.

Available Documents

NPRM—45 FR 62480, September 19, 1980.

Copies of the notice are available at the Information Office, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, DC 20429.

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FEDERAL HOME LOAN BANK BOARD

Regulations To Implement the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 CFR Subchapters A*, B*, C*, and D*)

Legal Authority

The Depository Institutions Deregulation and Monetary Control Act of 1980, P.L. 96–221, 94 Stat. 161.

Reason for Including This Entry

The FHLBB includes these proposed regulations because they implement the Depository Institutions Deregulation and Monetary Control Act of 1980, which provides precedent-setting ways in which savings and loan institutions can compete more effectively in the financial marketplace and offer a wider array of services to their communities.

Statement of Problem

The Depository Institutions Deregulation and Monetary Control Act of 1980 (the Act), signed by President Carter on March 31, 1980, made numerous significant changes in the Nation's financial community. For savings and loan associations, the Act greatly broadened the scope of investment and lending powers under which they operate so that they may compete more effectively in the financial marketplace. The Act authorized savings and loans to offer their communities a wider array of financial services in order to carry out this purpose. Among them are Negotiable Order of Withdrawal (NOW) accounts, interest bearing check-like accounts, credit cards, consumer loans, trust services, and remote service units for customers' convenience in conducting financial transactions.

Other changes brought about by the Act affect all financial institutions' competitive positions and daily operations. All depository institutions covered by the Act are required to hold reserves against their transaction and other accounts as defined by the Board of Governors of the Federal Reserve System. The interest rate differential on savings accounts and deposits will be phased out over the next 6 years. The Act preempts state usury laws for residential real estate, mobile home, and other loans. This means lenders can change a higher interest rate than that allowed by state laws.

In order to implement the changes made by the Act, each Federal financial regulatory agency is in the process of adopting appropriate regulations (see "Related Regulations and Actions"). The Bank Board has adopted final regulations under the Act as listed below. Proposed regulations upon which the Board will act over the next few months are described in the body of this entry.

- Mobile Home Loan Consumer Protection Provisions (45 FR 46339, July 10, 1980, and 45 FR 50556, July 30, 1980).
- Conversion from State Stock to Federal Stock Charter (45 FR 57114, August 22, 1980).
- Resolution Regarding Regulatory Simplification (45 FR 63135, September 23, 1980).
- Reserve Requirements (45 FR 50797, July 31, 1980).
- Credit Cards, Travelers' Convenience Withdrawals, and Third-Party Payments (45 FR 46338, July 10, 1980).
- Service Corporation Investment Authority (45 FR 56029, August 22, 1980).
- Mutual Fund Investment Counting Toward Liquidity (45 FR 57113, August 27, 1980).
- Amendments Relating to Federal Mutual Savings Banks (45 FR 56031, August 22, 1980).
- Collection, Processing and Settlement of Payment Instruments (45 FR 64161, September 29, 1980).
- NOW Accounts (45 FR 66781, October 3, 1980).

While the primary function of the savings and loan industry—to provide home financing—will remain unchanged, the Act's provisions will increase the ability of savings and loans to compete for deposits by allowing them to engage in activities traditionally reserved for commercial banks. The following list briefly describes the proposed regulations upon which the Board will act in the next few months to complete implementation of the Act's provisions affecting savings and loans.

(1) Investment in Consumer Loans, Commercial Paper, and Corporate Debt Securities—The Board, by Resolution No. 80–468 of July 31, 1980 (45 FR 52177, August 6, 1980), proposed to implement § 401 of Title IV of the Act which authorizes Federally-chartered savings and loan associations and mutual savings banks, subject to a 20-percent-of-assets limitation, to invest in, sell, or hold consumer loans, commercial paper and corporate debt securities as defined and approved by the Board. These regulations would also implement the Federal Financial Institutions Examination Council's recommended "Uniform Policy for Classification of Consumer Installment Credit Based on Delinquency Status." The public comment period closed October 6, 1980.

(2) Revision of Real Estate Lending Regulations—By Resolution No. 80–469 of July 31, 1980 (45 FR 52173, August 6, 1980), the Board proposed regulations to implement, in part, Title IV of the Act, which comprehensively revised and expanded the investment authority of Federal savings and loan associations in the area of real-estate-related loans. Major changes would include the lifting of restrictions on location of security property, lien priority and dollar amount of loans. The public comment period closed October 6, 1980.

(3) Trust Powers Authorization—By Resolution No. 80–526 of August 21, 1980 (45 FR 57728, August 29, 1980), the Board proposed a new Part 550 to implement the recent statutory authorization for the granting of trust powers to Federal savings and loan associations. Section 403 of the Act amends the Home Owners' Loan Act of 1933 ("HOLA") (12 U.S.C. § 1464), by adding a new subsection (n) to 5 of that law. The Board proposed regulations which implement its authority "to grant by special permit to an association applying therefore the right to act as trustee, executor, administrator, guardian, or in any other fiduciary capacity in which state banks, trust companies, or other corporations which come into competition with associations are permitted to act under the laws of the State in which the association is located." The Board also proposed regulations regarding the proper exercise of Federal association trust powers. The public comment period closed October 21, 1980.

(4) Reserve Accounts—By Resolution No. 80–445 of July 24, 1980 (45 FR 50718, July 31, 1980), the Board proposed the following changes to the net worth requirements imposed on institutions which have accounts insured by the Federal Savings and Loan Insurance Corporation: (1) replace the current net worth requirement of five percent of insurable accounts plus five percent of secured borrowings with a requirement of four percent of liabilities, (2) eliminate the Asset Composition and Net Worth Index plus the five percent of secured borrowings requirement, (3) provide for up to a ten percent reduction in the otherwise applicable net worth requirement proportionate to the amount of long-term debt, flexible-yield mortgages and short-term liquid assets held, and (4) provide a limited waiver of the net worth and reserve requirements for institutions that sell residential mortgages carrying an interest rate of seven and one-half percent or less. The Board also proposed to reduce the current statutory reserve requirement from an amount equal to five percent of insured accounts to an amount equal to four percent of insured accounts. The

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public comment period closed September 29, 1980.

(5) Mutual Capital Certificates—By Resolution No. 80-490 of August 15, 1980 (45 FR 55720, August 21, 1980), the Board proposed to amend its regulations for Federal mutual associations, Federally-insured state-chartered mutual institutions, and Federal mutual savings banks to provide procedures for the issuance of mutual capital certificates. In summary, the proposed regulations set forth: (1) procedures for application to the Board for approval of the issuance of mutual capital certificates; (2) procedures for insured mutual association membership approval of the authorization for issuance of mutual capital certificates; (3) proxy solicitation and issuer disclosure requirements; (4) pre-approved charter amendments for Federal mutual associations and Federal mutual savings banks; and (5) permissible and mandatory legal attributes of mutual capital certificates issued pursuant to the Board's regulations. In addition, the proposed regulations provide that mutual capital certificates shall be deemed to constitute a part of an insured mutual association's statutory reserve and net worth accounts. The proposed regulations implement Title IV of the Act, providing for the creation and issuance of mutual capital certificates. The public comment period closed October 20, 1980.

Alternatives Under Consideration

Prior to implementation of final regulations, the Board issues regulatory proposals soliciting public comment regarding alternative approaches it may take to effect the purposes of the Act. Also, the Board may, where appropriate, discuss in these proposals the alternatives it has considered in developing the chosen approach. In other cases, where the Act is specific with regard to its implementation, there is very limited leeway in the regulatory alternatives open to the Board.

Summary of Benefits

Sectors Affected: Savings and loans, particularly those with Federal charters; savings and loan customers.

Implementation of the increased authorities provided by the Act will provide savings and loans with the means to compete more effectively with other financial institutions for deposits by offering an increased range of loan types and services to the public and by attracting new sources of capital investments.

Summary of Costs

Sectors Affected: Savings and loans, particulary those with Federal charters; savings and loan customers.

Costs associated with the proposed regulations vary for all affected sectors, and each proposal should therefore be read separately. For instance, costs associated with establishment by savings and loans of trust departments and consumer lending operations will differ in accordance with the scale of activity each institution decides to implement.

Related Regulations and Actions

Internal: Statutory changes affect existing regulations included in 12 CFR Subchapters A, B, C, and D.

External: Other provisions of the Act are being implemented by, or in conjunction with, the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the National Credit Union Administration. Examples of such provisions are in the areas of reserves against transaction accounts, and clearing services to be provided by the Federal Reserve Banks and the Federal Home Loan Banks for NOW account drafts drawn on savings and loan deposits.

Active Government Collaboration

Under the Act, a six-member Depository Institutions Deregulation Committee has been established to promulgate regulations for setting rates on savings deposits. These members, who are the Secretary of the Treasury, the Comptroller of the Currency, and the Chairpersons of the Federal Reserve Board, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, and the National Credit Union Administration, also work together in implementing various other provisions of the Act.

Timetable

1. *Investment in Consumer Loans, Commercial Paper, and Corporate Debt Securities*
   Final Rule—November 1980.
   Regulatory Analysis—None.
2. *Revision of Real Estate Lending Regulations*
   Final Rule—November 1980.
   Regulatory Analysis—None.
3. *Trust Powers Authorization*
   Final Rule—December 1980/January 1981.
   Regulatory Analysis—None.
4. *Reserve Accounts*
   Final Rule—November 1980.
   Regulatory Analysis—None.
5. *Mutual Capital Certificates*
   Final Rule—December 1980/January 1981.
   Regulatory Analysis—None.

Available Documents

Copies of proposed rules, public comment letters, and final rules (listed in "Statement of Problem") are available at the Board's offices at 1700 G Street, N.W., Washington, DC 20552. The Board's Public Information Office, (202) 377-6934, or Office of Communications, (202) 377-6677, may be called for additional information.

Copies of transcripts of public meetings are available from the Office of the Secretary, Federal Home Loan Bank Board, at the same address.

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FEDERAL RESERVE SYSTEM

Truth in Lending

Legal Authority

The Truth Lending Act, 15 U.S.C. § 1601, *et seq.*, as amended by The Depository Institutions Deregulation Act of 1980, Title VI, P.L. 96-221, 94 Stat. 191.

Reason for Including This Entry

The Federal Reserve Board (Board) includes this entry because it is of great public interest as it deals with disclosure of credit information to consumers.

Statement of Problem

The Board has statutory responsibility to implement the Truth in Lending Act. The Act requires that creditors provide uniform disclosure of the cost of credit to enhance consumers' abilities to choose among alternative financing arrangements (i.e., credit shopping). Congress originally passed the Act in 1968, and amended it in 1970, 1974, and 1976. In March 1980, Congress, realizing that the Act had become extremely complicated, substantially simplified it by reducing the number and complexity of the disclosures a creditor must provide consumers and requiring the Board to issue model disclosure forms.

At the end of April 1980, the Board proposed for public comment a complete revision of its Regulation Z (45 FR 29702, May 5, 1980) to implement the new Truth in Lending Simplification and Reform Act. Rulemaking continues, and the Board will issue a revised NPRM in December 1980. A final revised

Regulation Z must be adopted by the Board not later than April 1, 1981. Compliance with the new rules by those who extend credit will be optional until April 1982, after which they must comply.

The proposed revision of Regulation Z reflects not only the Truth in Lending Simplification and Reform Act, but also the work of the Board's staff and the staff of the Federal Reserve Bank of Atlanta as part of the Board's Regulatory Improvement project to examine and reevaluate all Federal Reserve regulations. The revised and simplified Regulation Z is the final phase of an effort that began 3 years ago with the Board's submission to the Congress of a proposal for simplifying the Truth in Lending Act.

Alternatives Under Consideration

While the Board had the option to incorporate the numerous statutory amendments into the existing regulation, it decided to completely revise the regulation, reorganizing its provisions so as to have a clearer and more understandable regulation.

The proposals would make several major changes in the regulation. The proposals would:

- Restructure the regulation's format to group together related provisions in separate subparts. Although that results in some duplication and therefore lengthening of the regulation, it means that the substantive rules for closed-end (for example, installment and mortgage) credit, open-end (for example, revolving) credit, and personal property leases are presented separately, eliminating the need to search through the regulation for the applicable provisions.
- Incorporate into the regulation the substance of many Board and staff interpretations and clarify several troublesome questions raised by court decisions, such as the identity of the creditor.
- Include model disclosure forms and language to enhance understanding and compliance and to provide a safe harbor from civil liability for those who make proper use of the models.
- Encourage early disclosure through the use of streamlined closed-end credit disclosures reflecting representative transactions. It is designed to provide consumers with a realistic opportunity for credit shopping. Public comments to date have opposed this proposal because both creditors and borrowers are afraid it would not offer adequate documentation.
- Eliminate some of the closed-end credit disclosers currently required for certain transactions, while permitting consumers to request an explanation of how the credit proceeds were disbursed, if they desire.
- Require for the first time that closed-end credit disclosures be placed together and segregated from other contract provisions and any other Federal or State disclosures.
- Eliminate many of the current format requirements for open-end credit disclosures, thereby giving creditors more flexibility in designing their forms to convey necessary information more effectively.
- Conform the open-end credit disclosures to the requirements of Regulation E (Electronic Fund Transfers) wherever necessary and possible.
- Exempt from the right of rescission (i.e., consumers right to rescind provisions of a contract) advances made under an open-end credit account that is secured by the consumer's home.

In addition:

- Although, like the new statute, the Board's proposal do not materially change open-end credit disclosures, they clarify a number of points about those disclosures and ease several requirements regarding billing statements and error notices.
- The Board's proposals also provide that regulatory changes should occur only once a year, in October.

The proposals incorporate several requirements that are not expressly mandated by statute. The Board is interested in comments on the merits of including those requirements and on how they might be modified to further the purposes of the amended Truth in Lending Act. Examples of such provisions are:

- The proposals provide special rules for certain refinancings and assumptions of existing closed-end credit obligations as well as for demand obligations. It also requires advance notice of changes effecting open-end credit plans. In both instances, it generally follows the current regulation.
- The proposals would require an explanation of any variable rate feature in a consumer credit obligation.

We have sought public comment on whether this restructuring and inclusion of additional information will be helpful.

Summary of Benefits

Sectors Affected: All sectors of the economy that grant consumer credit, including banks, credit agencies, and retail establishments; and all consumers of credit.

The revised format and simpler language of Regulation Z should benefit creditors using the regulation because it will be easier to understand and therefore easier to comply with. Greater compliance will benefit consumers through knowledge of the true costs of credit. Consumers should also benefit from the regulation's requirement that creditors must present their information in a very clear and straightforward manner. For example, creditors must highlight the Truth in Lending disclosures and provide simple definitions of required terms. The Board will provide model forms that illustrate effective communication with consumers. The Board designed these forms in part to help smaller creditors who have fewer administrative resources. If these forms are properly used, creditors will be in compliance with the regulations. While creditors, in printing these forms, will incur initial high costs, they will benefit over the long run because they will bear lower legal and administrative costs in complying with these regulations. Moreover, since proper use of the forms ensures compliance, both creditors and borrowers should benefit from a reduced need for litigation.

In addition to the benefits discussed above, many costs associated with Truth in Lending that have resulted from the frequent changes in regulation should be reduced because of the statutory provision that requires all regulatory changes to occur only in October of each year.

Summary of Costs

Sectors Affected: All sectors of the economy that grant consumer credit, including banks, credit agencies, and retail establishments; and all consumer of credit.

The adoption of the revised regulation will require virtually all creditors to revise their disclosure procedures, resulting in additional costs in computer programming and forms revision. However, the Board's provision of model forms should reduce the managerial and legal costs in designing dislcosure forms.

Creditors may pass any costs through to consumers of credit.

Related Regulations and Actions

Internal: Electronic Transfers (12 CFR Part 1205).

External: None.

Active Government Collaboration

None.

Timetable

NPRM—December 1980.
Regulatory Analysis—Summary accompanies NPRM; full text available from Agency Contact listed below.
Public Comment—30 days following NPRM.

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Board Decision—April 1, 1981.

Available Documents

NPRM—45 FR 29702, May 5, 1980.
Copies are also available from the Public Information Office of the Federal Reserve, 20th & Constitution Avenue, N.W., Washington, DC 20551.
Comments may be inspected at Room B-1122, at the above address.

Agency Contact

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SECURITIES AND EXCHANGE COMMISSION

Proposed Comprehensive Revision to System for Registration of Securities Offerings (17 CFR Part 239*)

Legal Authority

Securities Act of 1933, §§ 6, 7, 10, and 19(a), 15 U.S.C. § 77a *et seq.*

Reason for Including This Entry

The Securities and Exchange Commission (SEC) believes that these new registration forms are important because they will significantly revise the registration statements filed with the SEC under the federal securities acts when securities are offered to the public. The proposed revision potentially would affect approximately 9,000 public companies and other issuers.

Statement of Problem

The Securities Act of 1933 (Securities Act) requires companies which desire to offer securities to the public to file registration statements with the SEC. The Securities Exchange Act of 1934 (Exchange Act) requires companies with publicly traded securities to register with the SEC, to file annual and other periodic reports, and to register additional securities which they may wish to sell to the public. The SEC is proposing to revise its forms for registration statements to establish a single, integrated disclosure system which will permit most registered companies to comply simultaneously with the disclosure provisions of both Acts.

At present, the Securities Act and the Exchange Act have different disclosure requirements. The Securities Act requires that companies registering securities give detailed disclosure concerning their business and financial condition at the time that securities are offered for public sale. Under the Exchange Act, companies whose shares are registered with the SEC, or which have previously sold shares to the public under the Securities Act, must file periodic reports containing detailed disclosure of their affairs. Often major portions of the disclosure required in Securities Act registration statements and in Exchange Act reports overlap to a great degree, but because of differences in the timing of the filings, the disclosure is not word-for-word the same.

In addition to filing registration statements and periodic reports with the SEC, many public companies prepare and deliver to shareholders informal annual reports, portions of which are required by various State laws and SEC rules. Again, the informal annual reports prepared by many public companies tend to contain information which duplicates some of the information contained in Securities Act registration statements in the Exchange Act reports. In the case of informal reports, however, the duplicated information tends to be delivered in a somewhat different format.

The problem faced by the SEC is to reduce or eliminate the duplicative reporting and to reduce thereby both the volume and the cost of the material which companies prepare. Concurrently, the SEC is seeking to maintain the quality of disclosure and to update disclosure obligations to eliminate outmoded or unnecessary requirements.

At least three significant factors suggest that the SEC should act at this time to combine or integrate disclosure under the Securities Act, the Exchange Act, and in informal shareholder reports. First, the report of the SEC's Advisory Committee on Corporate Disclosure, delivered to the SEC in November 1977, examined the possibility of combined reporting and indicated a significant and urgent need for integration. Second, an SEC examination of registration statements, Exchange Act reports, and informal shareholder reports indicates that over the years, the number of significant content differences may have diminished, thereby making an integrated system more feasible. Finally, as the volume of disclosure requirements has increased over the years, the cost to registrants and the burden upon the SEC staff has correspondingly increased. An integrated system will reduce the volume of disclosure documents, and correspondingly reduce both the costs and burdens to reporting companies.

If the SEC does not act now, companies will continue to bear unnecessary costs and burdens. Additionally, from the SEC's point of view, over the past 10 years the SEC staff responsible for the review of filings has been gradually reduced, while the volume of disclosure has increased. At present staffing levels, if the SEC did not eliminate the need to review essentially duplicative filings, the staff would increasingly dilute its ability to review effectively the content and quality of filed documents.

Alternatives Under Consideration

(A) With respect to Exchange Act reports, information is classified into two general categories relating to either an Exchange Act filing or to an informal shareholder report. Companies could avoid duplicating information already contained in their shareholder reports by incorporating such information by reference into their Exchange Act filings. The content of public company registration statements filed under the Securities Act in connection with the sale of additional securities would depend upon the availability of previously documented information in the marketplace or from other sources outside of the Exchange Act. Thus, the SEC would employ a three-tier scheme to classify companies desiring to sell securities. First, companies with widely traded securities could incorporate most disclosure by reference to Exchange Act filings. Second, companies with no record of financial difficulty and 3 years of adequate Exchange Act filings could incorporate some disclosure by reference to Exchange Act filings and to informal reports to shareholders, but the SEC would require the delivery of one or more of those filings or reports to prospective purchasers of securities. Finally, the SEC would require all other companies to prepare extensive registration statements which would involve some duplication of information previously filed in Exchange Act reports. The SEC staff believes this alternative would result in both a more rational organization of information concerning public companies, and the development of informal reports to shareholders, which could serve as the primary source of descriptive and financial information concerning those companies. Reports to the SEC would supplement, but not duplicate, the informal shareholder report. Although the SEC staff does not expect a reduction in the size or information content in the informal shareholder report, it would expect dramatic decreases in both size and content of formal SEC filings.

(B) This alternative would involve the opportunity for integration of disclosure between Exchange Act filings and informal shareholder reports as outlined in the first alternative, but would keep these filings and reports separate from registration statements. The SEC would make no effort to integrate further these filings and reports with registration statements filed under the Securities Act. Because some duplication of prior disclosure would be required where a registrant decided to sell additional securities to the public, this approach would result in less cost savings to public companies. On the other hand, this approach would accept the existing different structures and, particularly, the existing different liability provisions of the two Acts, thereby avoiding potentially difficult legal issues which arise when a document prepared for filing under the Exchange Act is subsequently used to satisfy a requirement under the Securities Act.

(C) This alternative would integrate disclosure under the official Exchange Act filings and Securities Act registration statements, but would leave informal reports to shareholders outside of the formal disclosure system. This would continue much of the present disclosure system. The SEC would require companies to make changes in Exchange Act reports to make them more readable so that they could be used more effectively in connection with Securities Act registration statements. This approach would mazimize a company's ability to communicate in informal reports, but probably would not result in a significant reduction in the volume of disclosure documents.

The SEC currently is pursuing Alternative A, which maximizes the potential for reductions in duplicative disclosure without doing away with informal reports. The SEC believes that informal shareholder reports are currently the most effective means of communicating with shareholders. Alternative C does not appear to be attractive because the advantage in terms of the readability of the informal shareholder report would be lost in the Securities Act registration context, as such reports would not be incorporated by reference into Securities Act registration statements. Finally, the SEC is not pursuing Alternative B because reductions in duplicative disclosures would be minimal and in any event, the SEC may have to address the liability problems which Alternative B avoids.

Summary of Benefits

Sectors Affected: Companies having a class of securities registered under § 12 or with a reporting obligation under § 15(d) of the Exchange Act, or which offer securities subject to registration under the Securities Act; shareholders of such companies; persons wishing to purchase shares of such companies; other persons who rely upon or use information filed by such companies with the SEC, or who rely upon or use information contained in informal shareholder reports; and the SEC.

The SEC believes, on the basis of its own informal estimates, that the proposed amendments would reduce the total volume of Exchange Act periodic reports filed by a particular registered company from 0 to 50 percent, and of registration statements filed under the Securities Act from 0 to 75 percent. Approximately 30,000 Exchange Act reports and 2,500 Securities Act registration statements were filed in 1979. The greater reductions would relate to filings by companies with widely traded securities, since those companies incur the largest costs. In this regard, the SEC's Advisory Committee on Corporate Disclosure reported in 1977 that large companies incurred costs averaging more than $45,000 per year to prepare SEC-mandated annual reports. We believe that at least some direct cost savings would be realized by nearly all companies having a reporting or filing obligation.

The SEC does not believe that there will be any measurable cost savings to shareholders, potential investors, and other users of financial reports and filed information. However, to the extent that corporate costs are reduced, companies may pass on some of the cost reduction to one or more of these interests.

Because of the reduction in the total volume and complexity of disclosure documents, registered companies and issuers of securities should realize reduced legal and other professional costs, printing and duplicating charges, and mailing costs. Although the SEC cannot measure the amount of these savings, because of numerours internal variables and the lack of a reporting system, the SEC believes them to be significant. Additionally, the overall volume reductions should decrease the administrative burden to the SEC staff, increase processing speed, improve communications with shareholders and investors, and result in some improved access to capital markets.

Shareholders, investors, and other users of filed information should also benefit because companies will produce more readable and communicative disclosure information.

Summary of Costs

Sectors Affected: Companies having a class of securities registered under § 12 or with a reporting obligation under § 15(d) of the Exhange Act, or which offer securities subject to registration under the Securities Act; shareholders of such companies; persons wishing to purchase shares of such companies; other persons who rely upon or use information filed by such companies with the SEC, or who rely upon or use information contained in informal shareholder reports.

The SEC does not believe that any significant costs would be incurred by any affected sector as a result of the adoption of these proposals, although in some circumstances a limited number of companies filing reports and issuing shares could incur greater auditing costs.

Additionally, if the SEC mandates incorporation by reference into Securities Act registration statements of information in informal reports to shareholders, it may eliminate some flexibility in the manner in which companies disseminate information to shareholders. The imposition of Securities Act liability on portions of these documents could also inhibit their present communicative style, even though the SEC expects the overall communicability of the portions which do become formal filings and reports to improve.

Shareholders, investors, and other users of filed documents will receive slightly less information as a result of these proposals; and to the extent that legal liability makes portions less readable, these sectors could also be detrimentally affected. The SEC believes, however, that these costs will be more than offset by the greater readability of the overall information package.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Regulatory Analysis—SEC, as an independent agency, is not required to prepare a Regulatory Analysis as defined under E.O. 12044.
Public Hearings—None planned.
Public Comment Period—September 2, 1980 to January 15, 1981.
Final Rule—Spring 1981.

Available Documents

"Proposed Comprehensive Revision to System for Registration of Securities Offerings," Securities Act of 1933 Release No. 6235, 45 FR 63693, September 25, 1980.

"Amendments to Annual Report Form, Related Forms, Rules and Guides: Integration of Securities Acts Disclosure

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Systems," Securities Act of 1933 Release No. 6231, 45 FR 63630, September 25, 1980.

"Business Combination Transactions—New Short Form for Registration and Related Rule Amendments," Securities Act of 1933 Release No. 6232, 45 FR 63647, September 25, 1980.

"General Revision of Regulation S–X," Securities Act of 1933 Release No. 6233, 45 FR 63660, September 25, 1980.

"Uniform Instructions as to Financial Statements—Regulation S–X, Securities Act of 1933 Release No. 6234, 45 FR 63682, September 25, 1980.

"Proposed Revision of Form 10–Q, Quarterly Report," Securities Act of 1933 Release No. 6236, 45 FR 63724, September 25, 1980.

These releases are available from Publications, Securities and Exchange Commission, 500 N. Capitol Street, Washington, DC 20549, (202) 272–2960. 20 SEC Docket 1059–1239.

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SEC

Proposed Rules Exempting the Acquisition and Ownership of Interests in Power Generation and Transmission Companies and Exempting Certain Non-Utility Subsidiaries of Registered Holding Companies (17 CFR Part 250)

Legal Authority

Public Utility Holding Company Act of 1935, §§ 3(d) and 20(a), 15 U.S.C. § 79a *et seq.*

Reason for Including This Entry

The Securities and Exchange Commission (SEC) has proposed three rules that would provide exemptions from the application of certain provisions of the Public Utility Holding Company Act of 1935. The rules will benefit only a limited number of electric or gas utilities and other energy related companies, but the exemptions may greatly facilitate the organization of joint venture companies to build and operate assets costing in the billions of dollars. The SEC has proposed the rule in furtherance of the Administration's policy to eliminate unnecessary and duplicative Federal regulation of energy projects which are in the national interest.

Statement of Problem

The risks and costs of building and owning large new electric generating plants or other energy assets (e.g., gas transmission pipelines, coal gasification plants, liquefied natural gas facilities) have caused utilities to turn increasingly to forms of joint ownership. For many reasons, including limited liability and the ability to finance the new facility on a "project financing" basis—that is, through the issuance of long-term debt or other securities by the project entity rather than by the individual owners—joint ventures typically take the form of subsidiary corporations or general partnerships in which the sponsoring utilities own voting securities or other voting interests.

The acquisition of 5 percent or more of the voting securities of a power generation or transmission company (which is an "electric utility" for purposes of the Holding Company Act) may require SEC approval under §§ 9(a)(2) and 10 even though the acquiring company is not otherwise subject to regulation under the Holding Company Act. Furthermore, because the acquiring company becomes a "holding company" when it acquires 10 percent or more of the voting securities of such an entity, the Holding Company Act imposes upon the acquiring company certain standards and requirements which have little, if any, bearing upon its status as an operating electric utility company. In most cases, this kind of acquisition does not involve significant issues under §§ 9 and 10, and the acquiring company is usually able to qualify for an exemption as a "holding company" under § 3(a). Nevertheless, each such acquisition requires SEC approval on a case-by-case basis, and the SEC also must review the parent company's status as an "exempt" holding company.

The SEC believes that case-by-case consideration of these arrangements, as required by §§ 3, 9, and 10 of the Act, is not necessary in the public interest and very often is duplicative of other State and Federal regulatory actions.

Accordingly, the SEC is proposing Rules 14 and 15 to exempt such acquisitions from §§ 9 and 10, if several conditions are met, including the receipt of other State and Federal regulatory approvals of various transactions involved in these arrangements. The rules provide that the SEC will not challenge the status of an acquiring company as an "exempt" holding company if the acquisition meets all of the requirements for an exempt acquisition.

Joint ventures to build and own major non-utility facilities involve a slightly different problem under the Holding Company Act. Rule 16 addresses this problem. The owners of a non-utility subsidiary company are not "holding companies" under the Holding Company Act, but if any company owning 10 percent or more of the voting securities of such a company is already a registered holding company, the subsidiary is a "subsidiary company" and is regulated for all purposes as such; that is, all financing proposals and, other related transactions of the "subsidiary company" must be approved by the SEC, even though that entity is owned largely by companies which are not, themselves, subject to any regulation under the Act.

Several non-utility joint venture projects have been announced, including a major new gas transmission system and a coal gasification plant. These projects involve the participation of a registered holding company with other energy concerns which are not subject to the Holding Company Act. The energy concerns not subject to the Act have conditioned their participation in these projects upon the SEC exempting the project entity from regulation as a "subsidiary company." Rule 16 responds to this need. Without the exemption, all financing actions by the project entity would require SEC approval. The SEC believes that this regulatory burden is unnecessary and undesirable in cases in which the joint venture company is substantially owned by companies which are not subject to the Holding Company Act, and the SEC is capable of monitoring the involvement of registered holding companies in, and all financial commitments made to, these ventures through its jurisdiction over acquisitions generally under §§ 9 and 10 of the Act.

Alternatives Under Consideration

Rules 14, 15, and 16 are exemptions from regulatory requirements, although not from the standards of the Holding Company Act. The alternative would be for the SEC to deny the exemptions, in which case interested concerns would have to comply with all of the procedural requirements, including a hearing, if needed, in order to participate in the joint venture undertakings referred to above. The regulatory burden imposed by the Holding Company Act may discourage this kind of joint undertaking.

The SEC has concluded that transactions such as those contemplated by the rules generally do not involve the abuses against which the Act is directed; rather, they are undertaken most often to secure a source of supply for existing utility customers and thus do not involve the growth or extension or unlimited diversification of holding company systems. Furthermore, such transactions are regulated by other State and Federal regulatory authorities in most respects, so that the SEC's function is largely duplicative. Also, in many cases, these transactions are undertaken pursuant to specific Federal loan or loan guarantee programs which are intended to promote the development of new or alternative energy resources, including cogeneration, synthetic fuel production, and geothermal power, so that the objectives and financial integrity of the programs are already approved, as being in the public interest, under entirely independent statutory standards. Therefore, the SEC prefers to provide exemptions by rule, rather than by reviewing the merits of each case.

Summary of Benefits

Sectors Affected: Rules 14 and 15—Electric utility companies which are not members of registered holding company systems, and rural electric cooperative associations. Rule 16—Registered holding companies and their subsidiaries, gas utilities and other energy related establishments, such as natural gas transmission companies; the SEC; and consumers of electric, gas, and other energy sources.

The SEC believes, on the basis of its own informal estimates, that the proposed rules would eliminate the need for the Agency to process anywhere from 10 to 30 separate applications each year for express approval of qualifying projects. The savings would result from elimination of regulatory expense and delay. The rules should reduce the administrative burden to the SEC staff and provide greater flexibility to utilities and other energy concerns in structuring joint venture projects.

The SEC does not believe that the proposed rules will result in any measurable cost savings to shareholders or potential investors. Utility customers and other consumers may benefit to the extent that the proposed rules enable energy concerns to take advantage of lower capital costs associated with long-term financing, but the SEC has no way of measuring any such savings.

Summary of Costs

Sectors Affected: None.

The SEC does not believe that any sector would incur significant costs as a result of the adoption of the proposed rules. The rules do not impose any new liabilities in connection with the transactions contemplated, or any other restrictions or conditions that the SEC would not normally impose in approving these transactions on a case-by-case basis.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Regulatory Analysis—SEC, as an independent agency , is not required to prepare a Regulatory Analysis as defined under E.O. 12044.
Public Hearing—None planned.
Final Rules—Winter 1980.
Final Rules Effective—Upon publication in the Federal Register.

Available Documents

"Certain Acquisitions by Electric Utility Companies," Public Utility Holding Company Act Release No. 21661, 45 FR 49954, July 28, 1980.

"Proposed Rule to Exempt Certain Non-Utility Subsidiaries under the Public Utility Holding Company Act of 1935," Public Utility Holding Company Act Release No. 21685, 45 FR 57436, August 28, 1980.

These releases are available from Publications, Securities and Exchange Commission, 500 N. Capitol Street, Washington, DC 20549, (202) 272–2960.

In addition, public comments on the proposed rules, contained in files No. S–7–845 and S–7–847, may be reviewed at the SEC Public Reference Room (Room 6101), 1100 L Street, N.W., Washington, DC.

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CHAPTER 4—HEALTH AND SAFETY

DOL–OSHA
Identification and Labeling of Hazard

EPA–OANR–OMSAPC

DEPARTMENT OF AGRICULTURE

food supplies have been contaminated by PCBs. Recent history suggests that

replacement equipment or machinery containing liquid PCBs on the premises

CHAPTER 4—HEALTH AND SAFETY

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DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

Proposed Polychlorinated Biphenyls (PCBs) Regulation—Existing Equipment (9 CFR Parts 308* and 381*; 7 CFR Part 2859*)

Legal Authority

Federal Meat Inspection Act, 21 U.S.C. § 601 *et seq.*; Poultry Products Inspection Act, 21 U.S.C. § 454 *et seq.*; Egg Products Inspection Act, 21 U.S.C. §§ 1031 *et seq.*

Reason for Including This Entry

The Food Safety and Quality Service (FSQS) protects the public health by ensuring the safety of meat, poultry, and egg products. Since 1971, there have been several incidents of PCB contamination of human food supplies, including meat, poultry, and eggs. FSQS considers environmental contamination of food a serious public health hazard and is seeking to prevent such contamination from recurring.

Statement of Problem

PCBs are part of a broad group of organic chemicals known as chlorinated hydrocarbons. PCBs were produced in the United States from 1929 to 1977. (Virtually all production then came to a halt in anticipation of a prohibition placed by the Environmental Protection Agency on the manufacture of PCBs in July 1979.) Because of their almost complete resistance to fire and explosion, their high dielectric performance (as nonconductors of electric current), and their excellent heat transfer properties, PCBs were primarily used in electrical transformers, capacitors, heat-transfer systems, and hydraulic systems. (PCBs in meat, poultry, and egg products plants are currently primarily confined to transformers and capacitors.)

Research and studies conducted during the past 15 years have demonstrated numerous adverse health effects associated with various levels of exposure to PCBs. Direct human exposure has been associated with such symptoms as skin disorders, digestive disturbances, jaundice, throat and respiratory irritations, swelling of joints, and severe headaches. Tests on laboratory animals have shown that PCBs can cause reproductive failures, gastric disorders, and skin lesions. In previous rulemaking procedures, the Environmental Protection Agency has reported that PCBs appear to have caused malignant and benign tumors in rats and mice in several experiments.

During the same 15 years, there have been several incidents where human food supplies have been contaminated by PCBs. Recent history suggests that one PCB contamination incident per year is likely. These cases of environmental contamination have resulted either from accidental spills, improper disposal techniques, unintentional misuses of PCB-contaminated materials and equipment, and PCB liquid leaking from industrial equipment.

The levels of PCB exposure that produced the above-described adverse health effects exceed the levels of PCBs found at any time in the United States food supply. However, the effects of PCB contamination are cumulative. PCBs are extremely stable and chemically persistent, and thus do not readily metabolize in living organisms. Rather, PCBs accumulate in the fatty tissues of humans and animals, and, as a result, there is ample evidence indicating that prolonged exposure to PCBs poses a potential health risk.

The FSQS intends to establish a requirement that no equipment or machinery, other than capacitors containing less than 3 pounds of PCB liquid, and no separately maintained liquids in the plants and establishments inspected by the U.S. Department of Agriculture (USDA), could contain PCBs in excess of 50 parts per million (ppm). This would mean that firms with existing equipment containing excessive PCBs would have to replace the equipment or remove the PCBs from that equipment. The purpose of this proposed action is to reduce the likelihood of an incident of environmental contamination and thereby reduce the overall threat to public health.

In a related action, the FSQS finalized, on October 17, 1980 (45 FR 68914), a regulation that prohibits the introduction of any new or replacement equipment or machinery in any meat, poultry, or egg products establishment that it regulates, if that machinery or equipment contains PCBs in excess of 50 ppm in the liquid medium.

Alternatives Under Consideration

(A) Take no action on the use of existing equipment or machinery or separately maintained liquids containing PCBs in plants under FSQS jurisdiction. These plants could still use existing equipment containing PCBs and continue to service that equipment as needed with separately maintained liquids containing PCBs. This alternative would not significantly reduce the likelihood of contamination of the food supply from equipment leaking PCBs for many years. As stated above, the FSQS has already published a regulation that prohibits the introduction of any new or replacement equipment or machinery containing liquid PCBs on the premises of the meat, poultry, and egg products plants under FSQS jurisdiction. Because transformers and capacitors have a product life of 25 to 40 years, exisitng equipment will continue to present a potential public health hazard for many years to come if no action is taken to affect the rate of replacement.

(B) Conduct an extensive information and education campaign aimed at the managers of all plants under FSQS jurisdiction. This campaign can stress the seriousness of PCB contamination and the unnecessary liability associated with maintaining equipment containing PCBs when replacement equipment is available. Under this alternative, equipment containing PCBs could be used at the discretion of individual plant managers. Managers would, however, be making informed choices. Some PCBs could contaminate the food supply. The FSQS has already implemented this option to a certain degree. As part of the information and education campaign, the USDA has distributed the booklet "Polychlorinated Biphenyls: An Alert for Food and Feed Facilities" to FSQS field personnel, plant managers, State program directors, and other parties including various trade associations. FSQS has also developed film and slide materials for presentation to inspection personnel who are located in plants. These materials include explanations of what residues are, why they are dangerous, and how they get into the food supply. The FSQS has also participated in two seminars conducted with States in cooperation with the Interagency Regulatory Liaison Group (IRLG). Finally, the FSQS has developed in draft form a public information campaign that addreses environmental contaminants in general, and the Agency's Contamination Response System (CRS), the operational system to control the spread of contamination after initial detection.

(C) Ban any PCB-containing equipment, other than capacitors containing less than 3 pounds of PCB liquid, and any liquid PCBs from all meat, poultry, or egg processing establishments under FSQS jurisdiction. This alternative would completely eliminate one source of potential contamination of the food supply. Possible problems associated with this option include the availability of approved PCB incinerators, the risks involved with removing or refilling existing equipment, and the availability of replacement equipment.

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Summary of Benefits

Sectors Affected: Manufacturing of meat, poultry, and egg products; consumers of these products; and FSQS.

Manufacturers benefit from reducing the likelihood of PCB contamination of the food supply. Food contaminated with PCBs cannot be sold for human consumption, and must be destroyed at the producer's expense. We estimate the costs of condemned products in a major 1979 PCB contamination incident centered in Montana to be almost $3 million, not including disposal costs. Also, in checking for PCBs in meat, poultry, and egg products, products are detained by FSQS until the results of laboratory analysis (carried out by FSQS) are available if the Agency has reason to suspect that the products may be contaminated. Thus, the producer's sales are postponed. If we reduce the number of contamination incidents, we reduce this burden on producers.

FSQS also benefits through cost avoidance. When alerted to a PCB contamination incident, the Agency must spend its resources tracking and testing products to ensure they are not contaminated. We estimate that the costs to FSQS during the 1979 PCB incident were almost $1 million.

When the likelihood of PCB contamination is reduced, consumers have greater confidence in the products they buy. (Greater confidence may also lead to increased purchases—a benefit for producer.) Consumers also benefit from avoidance of potential adverse health effects. The levels of PCB exposure that produced the above-described adverse health effects exceed the levels of PCBs found at any time in the United States food supply. However, the effects of PCB contamination are cumulative. PCBs are extremely stable and chemically persistent, and thus do not readily metabolize in living organisms. Rather, PCBs accumulate in the fatty tisues of humans and animals, and, as a result, there is ample evidence indicating that prolonged exposure to PCBs poses a potential health risk. There are, therefore, public health costs associated with PCB contamination which might result from not regulating the use of PCB-containing equipment. These potential public health costs are unquantifiable.

The total value of all benefits is difficult to quantify. While the total costs of the 1979 incident originating in Montana may never be known, it has been estimated by FSQS that the costs to FSQS and industry to locate, remove, and destroy the contaminated products ran into several millions of dollars. These costs may be only a small portion of the total costs. Other costs include lost profits, costs of litigation, and costs to other Federal and State agencies.

Summary of Costs

Sectors Affected: Manufacturing of meat, poultry, and egg products; consumers of these products; and FSQS.

Alternative (C) would be the most costly of the three alternatives. To provide cost information, the FSQS conducted a census of federally inspected meat and poultry plants to obtain data on the number of existing transformers/capacitors in plants under FSQS jurisdiction, the size of these units, and the number of these units that may contain PCBs.

As of August 1980, FSQS has collected and analyzed the data from over 7,200 federally inspected meat and poultry plants—at a cost of approximately 3 staff-years. The Agency's Official Establishment Inventory contains approximately 7,400 federally inspected meat and poultry plants. There are probably a few transformers/capacitors in the approximately 5,000 small State inspected meat and poultry plants and a few units in the approximately 120 federally inspected egg processing plants, but the data base now assembled includes reported data from most of the plants that would be affected by the proposed regulation. The data indicate that less than 2,000 out of the total of approximately 12,500 federally and State inspected plants would be affected. The inventory data can be summarized as follows:

Approximately 400 plants have a total of approximately 7,000 capacitors that have a combined total Kilo Volt Ampere Reactive (KVAR) of 180,000 KVAR. Approximately 1,100 plants have a total of approximately 6,000 transformers that have a combined total Kilo Volt Ampere (KVA) of 2 million KVA. Based on these data, we have estimated that all plants under FSQS jurisdiction have from 7,000 to 10,000 capacitors and from 6,000 to 6,500 transformers.

The data show that approximately 500 (300,000 KVA) of the transformers are units manufactured with concentrated PCB fluid as the coolant. These units would probably have to be replaced. There are 5,500 to 6,000 mineral oil transformers. Limited data show that from one-third to 40 percent of these units are contaminated with PCBs above 50 ppm. Owners of these units could probably drain, flush, and refill them. We estimate that there are 2,500 of these contaminated transformers (700,000 KVA). At present, the replacement cost for a transformer is approximately $12 per Kilo Volt Ampere (KVA) and for a capacitor approximately $10 per Kilo Volt Ampere Reactive (KVAR). We estimate that installation costs are equal to the costs of the equipment. We also estimate that the costs to drain, flush, and refill transformers are equal to the costs of the equipment. Capacitors must be replaced since they cannot be refilled.

Using these figures, the 7,000 capacitors would cost $1.8 million to purchase and another $1.8 million to install. Replacing 500 PCB-transformers would cost $3.6 million to purchase and another $3.6 million to install. Draining, flushing, and refilling 2,500 contaminated mineral oil transformers would cost an estimated $8.4 million ($12 per KVA).

The total estimated cost for replacing or refilling existing PCB equipment in 1980 is therefore approximately $20 million. This is a one-time, out-of-pocket cost to the owners of the equipment. The meat, poultry, and egg processing industries own all of the capacitors and most of the PCB transformers. Utilities own a large number of the PCB-contaminated transformers currently installed on the premises of federally inspected plants. The utilities could remove or drain and refill their units. We estimate that the costs to remove the equipment are about the same as the costs to drain and refill the equipment. The meat, poultry, and egg products industries could pass their costs onto consumers in terms of retail price increases.

The enforcement of Alternative (C) places an additional burden on USDA inspectors or compliance personnel. The Agency must monitor the removal or replacement of existing equipment. However, the Agency already has full-time inspectors at all the larger federally inspected plants where most of the affected equipment is located. Smaller plants are inspected on a patrol basis. We therefore estimate that requiring existing in-plant inspectors to monitor the installation, refilling, or removal of equipment will not be a major effort.

Under Alternative (B), the Agency could conduct an extensive information and education campaign aimed at those plant managers who must make decisions on whether or not to use electrical equipment containing PCBs. Product liability should influence these decisions. Concern for the public health should also influence these decisions.

Under Alternative (A), the Agency would not, at the current time, take any action with respect to the use of equipment containing PCBs on the premises of any plant under FSQS jurisdiction. With no action, there are no direct costs.

Alternatives (A) and (B) also carry the public health costs associated with PCB contamination incidents which might result from no regulation of the PCB-containing equipment. We do not know the size of such costs, but they could potentially equal several million dollars per incident.

Related Regulations and Actions

Internal: Final Regulation—Prohibition of All New and Replacement Equipment and Machinery Containing Liquid Polychlorinated Biphenyls (PCBs)—45 FR 68914, October 17, 1980.

External: Food and Drug Administration: Proposed Regulation—Current Good Manufacturing Practice Relating to Poisonous and Deleterious Substances in Food, Feed, and Food-Packaging Materials Plants—45 FR 30984, May 9, 1980.

Environmental Protection Agency: Proposed Regulation—Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Proposed Restrictions on Use at Agricultural Pesticide and Fertilizer Facilities—45 FR 30989, May 9, 1980.

Active Government Collaboration

PCBs are a toxic substance identified for regulatory coordination by the Toxic Substances Work Group of the Interagency Regulatory Liaison Group (IRLG). During the development stage of this regulation, FSQS consulted representatives of the Environmental Protection Agency, the Food and Drug Administration, the Consumer Product Safety Commission, and the Occupational Safety and Health Administration. On May 9, 1980, the FSQS proposed joint regulations at 45 FR 30980 with the Food and Drug Administration and the Environmental Protection Agency that would implement Alternative (C) above for all food and food chemical (agricultural pesticide and fertilizer) plants.

Timetable

Public Comment Period—Closes December 4, 1980.
Final Rule—Summer 1981.
Regulatory Analysis—Final Impact Statement will be completed by June 1980 as part of the rulemaking process.

Available Documents

Public Comment—Comments available upon request. Docket number FR Doc. 80-13740.

Draft Impact Analysis—Prohibition of PCB-Containing Equipment or Machinery and Liquid Polychlorinated Biphenyls (PCBs) in Federally Inspected Meat Plants, Poultry Product Plants, and Egg Product Plants—April 11, 1980.

Proposed Regulation—Prohibition of PCB-Containing Equipment or Machinery and Liquid Polychlorinated Biphenyls (PCBs) in Federally Inspected Meat Establishments, Poultry Product Establishments, and Egg Product Plants—45 FR 30980, May 9, 1980.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Abbreviated New Drug Applications for New Drugs Approved After October 10, 1962, for Human Use (21 CFR Part 314*)

Legal Authority

Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 321(p), 352, 355, and 371(a).

Reason for Including This Entry

The Food and Drug Administration (FDA) includes this entry because it represents a change in Federal policy with significant implications for competition for prices in prescription drug markets.

Statement of Problem

Under § 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355), no person (sponsor) may market a new drug (for human use) in interstate commerce without prior approval from FDA in the form of an approved new drug application (NDA). An approved NDA permits marketing of the product only under the conditions approved and only by the person named in the NDA. Other persons who want to manufacture and market the same product must have their own approved NDAs.

The statute also requires that an NDA contain the information essential for FDA to determine whether a new drug is approvable. FDA regulations (21 CFR Part 314) explain the application requirements in detail. These regulations also describe the contents of abbreviated new drug applications (ANDA) (21 CFR 314.1(f)). An ANDA must contain all the information essential for FDA to determine the approvability of a drug product that is identical or closely related to a drug product that has previously satisfied the NDA requirements. However, an ANDA need not contain evidence of safety and effectiveness of the drug product because that information already is available to FDA. (Safety and effectiveness evidence, gathered from studies of the drug when used in animals and humans, account for the largest costs to a firm that seeks approval of an NDA.)

On October 10, 1962, the Federal Food, Drug, and Cosmetic Act was amended to require that new drugs be proven to be effective as well as safe before marketing. Prior to that date, the statute required only evidence of safety. FDA regulations (21 CFR Part 314) and policy now in effect make many drug products first approved for marketing prior to October 10, 1962 eligible for approval on the basis of an ANDA rather than a NDA. The proposed rule would extend the applicability of ANDAs to certain drug products introduced after this date.

It is not in the public interest for FDA to continue to require full NDAs for all new drug products introduced into commerce after October 10, 1962. Because FDA now requires an NDA for all post-1962 drug products, prospective marketers of a "duplicate" drug product (i.e., a product identical in active ingredient(s), dosage form and strength, and route of administration to one that has an approved NDA) either must conduct their own clinical studies or they must reference published studies to support claims of safety and effectiveness that already had been documented in the NDA of the first sponsor ("pioneer") of the drug. If published studies do not exist, prospective marketers of duplicate drug products cannot obtain NDA approval without incurring the costs of clinical trials. This situation acts as a barrier to the marketing of duplicate drug products, thus dampening competition and causing higher drug prices. Moreover, conducting duplicate clinical studies for the purpose of obtaining safety and effectiveness data consumes clinical resources unnecessarily and causes FDA to use its resources unnecessarily in reviewing the reports of the studies.

FDA will attempt, in its draft Regulatory Analysis, to estimate the effects of its policy on competition, drug prices, and use of resources.

Alternatives Under Consideration

The agency is considering several alternatives in developing its proposed rule:

(A) No change. The Agency does not permit ANDAs for duplicates of drug

revenues that result from an exclusive marketing period for a producer of

generated by the submission of a smaller number of duplicate NDAs

proposed rule could have an annual

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(A) No change. The Agency does not permit ANDAs for duplicates of drug products that FDA approved after October 10, 1962. However, FDA does allow the approval of "paper" NDAs, i.e., NDAs that rely on published reports of clinical studies showing safety and effectiveness. Thus, a paper NDA policy achieves many of the same objectives sought by an extended ANDA policy. However, this informal paper NDA policy is necessarily restricted to drugs for which adequate published literature is available, and published data are known to exist for less than one-third of the pioneer drugs whose patents have expired. No change in policy would perpetuate the existing restrictions on competition in prescription drug markets. Such a policy benefits sponsors of pioneer drug products to the extent that market exclusivity sometimes continues beyond the patent expiration.

(B) Full extension of ANDA applicability. This alternative would allow ANDAs for appropriate drugs introduced after October 10, 1962, regardless of date of approval. Although this alternative would maximize the potential competition in prescription drugs by reducing the costs associated with marketing new drugs, ANDA activity would be constrained (just as NDA activity is now constrained) by the existence of patents in many cases, particularly for more recently approved pioneer drugs. (Although NDA and ANDA approvals are independent of patent issues, marketers of duplicate drugs risk civil suits of patent infringement when a patent has not expired.)

(C) Limited extension of ANDA applicability. The Agency could limit the extension of applicability of the post 1962 ANDA policy in two general ways. First, FDA would extend ANDA availability to duplicates or drugs very similar to "older" drugs introduced during a fixed period of time (e.g., 1962–1967). Second, FDA could extend ANDA availability initially to duplicates of drugs introduced before a certain date (e.g., December 31, 1970) and provide annually for successive 1-year extensions, thereby increasing each year the total number of products for which FDA would accept ANDAs. This alternative is a means to balance the tradeoff to society. On the one hand, society benefits from enhanced competition (i.e., the expectation of subsequent lower prices on generic drugs to consumers). On the other hand, society derives benefits from a policy that fosters research and development of previously unmarketed drugs, which in turn is dependent on adequate revenues that result from an exclusive marketing period for a producer of drugs.

Summary of Benefits

Sectors Affected: Consumers of prescription drugs (pharmaceutical preparations); taxpayers; manufacturers of generic drugs (generic pharmaceutical preparations); certain drug test populations; and Federal and State drug purchasing programs.

The proposal would be favorable to increased competition in post-1962 drugs, potentially leading to reduced prices in many cases through increased direct competition or through anticipatory price decreases to reduce the threat of such competition. Consumers would benefit from savings on purchases of affected drugs, as would taxpayers through Federal and State drug purchasing and reimbursement programs.

Prospective marketers (e.g., generic drug manufacturers could submit ANDAs for approval without conducting new safety and effectiveness testing. Subsequently, they would benefit from the profit they receive after their drug products are marketed. Additionally, the proposal would eliminate the use of human subjects and clinical investigators in unnecessary testing of drugs with known characteristics. FDA resources would not be used unnecessarily for the review of duplicative research.

Summary Costs

Sectors Affected: Manufacturers of drugs (pharmaceutical preparations); consumers; and FDA.

None of the alternatives impose any direct costs on the economy. Extension of the ANDA policy would reduce from present levels the requirements on firms who must now submit an NDA to obtain approval to market duplicate drug products. Nevertheless, insofar as an action (i.e., any alternative except no change) results in activities that promote the concomitant goals of increased competition and reduced societal expenditures for prescription drugs, certain costs may be incurred by various sectors of the economy.

Drug manufacturers as a group would incur costs for the preparation of increased numbers of ANDAs. The costs per ANDA is modest as compared to costs of an NDA. However, as the proposed rule became fully implemented, the number of ANDAs submitted could generate aggregate application costs that exceed those costs that likely would have been generated by the submission of a smaller number of duplicate NDAs.

Drug firms that develop innovative drug products could receive less revenues from such products as a consequence of increased competition in certain markets. Conceivably, the impact on total revenues of such firms or on the expected revenues from newly developed drugs could affect unfavorably the economic capacity or incentives for drug development. Should this be translated into a reduction in the future rate of drug development, it could represent a future indirect cost to consumers in the form of delayed introduction of new or improved therapies.

Processing the increased volume of ANDAs could produce a net increase in FDA's total drug approval workload and resource requirements.

Related Regulations and Actions

Internal: 21 CFR Part 314.
External: None.

Active Government Collaboration

None.

Timetable

NPRM—January 1981.
Public Comment Period—To be determined.
Public Hearing(s)—To be determined.
Final Rule—To be determined.
Draft Regulatory Analysis—Available at time of NPRM.

Available Documents

None.

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HHS–FDA

Chemical Compounds Used in Food-Producing Animals; Criteria and Procedures for Evaluating Assays for Carcinogenic Residues (21 CFR Parts 70*, 500*, 514*, and 571*)

Legal Authority

Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 409(c)(3)(A), 512(d)(1)(H), 706(b)(5)(B), and 701(a).

Reason for Including This Entry

The Food and Drug Administration (FDA) includes this entry because the proposed rule could have an annual effect of $100 million or more on the economy.

Statement of Problem

The Federal Food, Drug, and Cosmetic Act (§§ 409(c)(3)(A), 512(d)(1)(H), and 706(b)(5)(B)) allows the FDA Commissioner to approve a carcinogenic new animal drug, food additive, or color additive for use in food-producing animals, provided the compound will not adversely affect the animals for which it is intended, and no residue of such compound will be found (by methods of examination prescribed or approved by FDA regulation) in any edible portion of such animals after slaughter, or in any food yielded by or derived from the living animals. This exception to the general statutory prohibition (Delaney clause) against the addition of carcinogenic substances to the food supply has come to be known as the "DES Proviso."

The enactment, in 1962, of the DES Proviso to the Delaney clause of the Act has been a source of continuing controversy stemming from the phrase "no residue will be found." This phrase can be interpreted either in an absolute or an operational sense. There are two important facts bearing on this controversy. First, the introduction of a compound, whether or not carcinogenic, into the system of a food-producing animal is likely to leave in the animal's edible tissues minute residues that cannot be detected or measured by any known or likely to be developed method of analysis. Second, for any test developed to measure the concentration of a residue in an edible tissue, there is some level of residue in that tissue below which the test will show no interpretable result. In view of these facts, the Commissioner could not permit any use of carcinogenic drugs in animals if he adopted the absolute interpretation of the phrase "no residue will be found." The effect of that interpretation would be to deny the DES Proviso any effect whatever. The second possible interpretation is to assume that Congress intended to require the Commissioner to give an operational and more realistic definition to the phrase "no residue" and to proceed accordingly.

As a matter of policy, to implement the DES Proviso, the Agency has adopted the second interpretation as a more likely reflection of congressional intent, for two reasons. First, by its nature, the absolute interpretation constitutes a negation of the DES Proviso to the Delaney clause and leads to the conclusion that the Congress introduced the Proviso intending it to have no effect. Second, the critical term in the Proviso is that no residue will be "found"—not that none will exist. Therefore, application of the Delaney clause to animal drugs, food additives, or color additives hinges on the availability of appropriate analytical methods that determine whether residues are present in edible tissues from animals treated with carcinogenic drugs. Although the Food and Drug Administration (FDA) has adopted the second interpretation, it has never specified by regulation the criteria and procedures that apply in the process of approving methods for analyzing animal tissues for carcinogenic residues. The proposed regulation specifies such criteria and procedures.

Alternatives Under Consideration

The Agency considered several alternatives in developing its proposed rule published in the Federal Register of March 20, 1979 (44 FR 17070).

(A) No change. The current method for approval of suspect carcinogenic compounds for veterinary use relies on an FDA/sponsor-negotiated ("sponsor" means the person seeking approval to market the compound) residue level, which attempts to weigh in balance the known or perceived human risk of cancer, the availability of a reliable regulatory assay method, and the agricultural importance of the compound. The Agency has rejected this approach, because it is difficult to administer fairly and rationally.

(B) State-of-the-art. This alternative, which the Agency has considered inappropriate from the start, defines the phrase "no residue" as the lowest limit of measurement or detection by the best analytical method that is capable of measuring the residues of a compound in edible tissues of animals, and that is available at the time FDA approves the compound. The Agency has rejected this approach. Different compounds have differing carcinogenic potencies. These differences are not in any way related to the availability or lack of sensitive analytical methods that measure residues in edible tissues from food-producing animals that have been administered a compound. For instance, depending on the relative sensitivity of the available methods, this alternative would permit public consumption of meat contaminated with very large levels of some potently carcinogenic residues while it would require that meat be essentially free from other carcinogenic residues of low potency. The Agency has rejected this alternative because the degree of public risk associated with the use of a compound would become a function solely of the capability of available analytical technology.

(C) Practical zero. This approach would have one advantage over alternative (B): it would provide a well-defined criterion for the lowest limit of measurement that a regulatory assay method would have to satisfy. This approach would not, however, take into account differences in carcinogenic "potency" among various carcinogens. Therefore, it is unacceptable for the same reason as alternative (B). Unless the "practical zero" were set at the level appropriate for the most potent carcinogen, it would not provide sufficient protection; but if it were set at that level, it might be unnecessarily stringent for carcinogens that produce a response that is of a lower magnitude. In sum, no one "practical zero" is appropriate for all carcinogens.

(D) Sensitivity of Method (SOM). A third approach is to establish procedures to define "no residue" operationally, on the basis of quantitative carcinogenicity testing of residues, and extrapolation of test data (using one of a number of available procedures). The extrapolation procedure estimates the residue levels that are safe in the total diet of test animals and that would, if they occurred, be considered safe in the total diet of man. This approach (SOM procedures) accounts for differing carcinogenic potencies of each compound, but is feasible only if there is a regulatory assay method to reliably measure the safe level in edible tissue. Under this approach, the Agency accepts a very low level of increased risk of cancer (one case in one million lifetimes).

FDA proposed to adopt this alternative.

Summary of Benefits

Sectors Affected: Veterinary pharmaceutical manufacturing; livestock production; consumers of meat and poultry; and FDA.

The proposal provides uniform criteria and procedures for evaluating the carcinogenic risk presented by residues of sponsored compounds for use in food-producing animals. FDA, industry, and consumers will benefit from uniformity in regulation of such compounds.

Veterinary pharmaceutical manufacturers will know in advance the procedures on which FDA will rely to approve or reaffirm prior approval of applications, if the compound is a suspect carcinogen. FDA will apply a screening mechanism known as "threshold assessment" to make the determination of potential carcinogenicity. This should benefit

sponsors of future applications because

FDA became aware of the hazards of

for endogenous substances (a substance

contaminating feed for poultry and

Agency Contact

transformers with fluids that do not

sponsors of future applications because they will be able to determine the kinds and extent of evidence that FDA requires to evaluate carcinogenic potential. For some compounds, such evidence already exists, and the manufacturer will avoid unnecessary costs. In other cases, manufacturers may elect to initiate SOM procedures if it appears that the stepwise SOM procedures will identify a safe, feasible residue level and a suitable analytical method for its detection. Finally, there may be cases where manufacturers will avoid the expense of conducting tests for compounds that are unlikely to be approved because their safe residue levels cannot be measured by existing technology.

Consumers of meat and poultry derived from the animals to whom the compounds were administered (either as a drug or a feed additive) will be assured a virtually risk-free supply of these products.

FDA will benefit because the standardized requirements will permit more efficient review of applications, fewer negotiating sessions with industry, and reduced likelihood of legal challenges to its decisions.

Summary of Costs

Sectors Affected: Veterinary pharmaceutical manufacturing; livestock production; and consumers.

The sponsor of a compound subject to SOM procedures would bear the costs to complete the prescribed procedures. The aggregate cost estimate will depend on the outcome of the Agency's "threshold assessment"—the process of identification of known or suspect carcinogens.

Veterinary pharmaceutical manufacturers who sponsor or have sponsored a compound that is subject to SOM procedures (that is, a compound that the threshold assessment finds is a known or suspect carcinogen) would bear the costs to conduct the prescribed testing procedures. These costs could be passed on to livestock and poultry producers who later purchase the products to control diseases and stimulate animal growth. Ultimately, consumers may pay higher prices for meat and poultry.

The draft Regulatory Analysis estimated that the average one-time costs of compliance with SOM procedures for an exogenous substance (a synthetic- or natural-origin substance that is not produced in the body of the food-producing animal) will not exceed $2.8 million (1979 dollars) for each combination of target species and route of administration. There is a corresponding estimate of $0.5 million for endogenous substances (a substance normally produced in the body of the food-producing animal). The aggregate cost will depend on the number of known or suspect carcinogens identified by the threshold assessment. Thus, the greater the number of compounds that are identified, the greater the aggregate cost. If, after conducting SOM procedures and determining the approvable residue level for a specific compound, the manufacturer is unable to develop a residue-testing method of the required sensitivity (and such a method is otherwise unavailable), FDA would withdraw approval of the product. It is difficult, if not impossible, to predict which products would be affected in this way. The ultimate effect on feedlot operations and on the supply of meat and poultry is in turn subject to speculation about which products may lose market approval. If few products are affected in this way and there is an adequate array of substitute products, the impacts could be small and limited to the substitution costs and some loss of total output of slaughtered animals. Conceivably, however, a number of unique products could be affected and the impact correspondingly higher. FDA's final Regulatory Analysis will address these questions.

Related Regulations and Actions

Internal: FDA is developing procedures and priorities for a review of previously-approved animal drugs.

External: None.

Active Government Collaboration

We are keeping the Department of Agriculture (USDA) informed of our action and they are reviewing the analytical methodology that we require.

Timetable

Tentative Final Rule or Final Rule—May 1981.

Final Regulatory Analysis—Available with Final Rule.

Available Documents

NPRM—44 FR 17070, March 20, 1979.

Data and information supporting the NPRM.

Comments received during public comment periods.

Transcript of the public hearing on June 21–22, 1979.

Draft Regulatory Analysis.

Food and Drug Administration Docket No. 77N–0026.

The above documents are available for review in the Dockets Management Branch, Food and Drug Administration, 5600 Fishers Lane, Room 4–62, Rockville, MD 20857.

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HHS–FDA

Current Good Manufacturing Practice Relating to Poisonous and Deleterious Substances in Food, Feed, and Food-Packaging Materials Plants; Polychlorinated Biphenyls (PCBs) (21 CFR Parts 109*, 110*, 225*, 226*, 500*, and 509*)

Legal Authority

Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 342(a), 346, 348, and 371(a); The Public Health Service Act, 42 U.S.C. § 264.

Reason for Including This Entry

The Food and Drug Administration (FDA) includes this entry because the proposed rule could have an annual economic impact in excess of $100 million.

Statement of Problem

Polychlorinated biphenyls (PCBs) are a class of chemicals that have been widely used in electrical transformers, capacitors, electromagnets, and heat transfer and hydraulic systems. They are useful in industrial applications due to their chemical stability, low flammability, high boiling points, and low electrical conductivity. PCBs were also used as plasticizers in the manufacture of paints, adhesives, and caulking compounds, as fillers for investment casting waxes, and as dye carriers in carbonless copy paper.

Although PCBs were first manufactured and commercially marketed for industrial uses in 1929, it was not until 1967 that their presence in the food supply was detected. At that time and during years since, the Food and Drug Administration (FDA) encountered a number of isolated industrial accidents resulting in PCB contamination of animal feed and human food. These accidents involved either the spillage or leakage of the chemical directly onto animal feed from manufacturing equipment, or animal feed otherwise coming in physical contact with PCB-containing materials. The consumption of the contaminated feed by food-producing animals resulted in the transfer of PCBs to human food (e.g., milk, meat, eggs).

FDA became aware of the hazards of PCBs to human health from an incident that occured in Yusho, Japan, in 1968 when very high levels of PCBs leaked from processing equipment and contaminated rice oil. The PCB-contaminated rice oil was sold as salad oil and, after several weeks, consumers were stricken with the so-called "Yusho" disease which ultimately was traced to the PCBs. Among the many symptoms exhibited by the victims of this disease were chloracne (skin rash), discoloration of the gums and nailbeds, swelling of joints, and waxy secretions from glands in the eyelids.

The levels of PCB that produced those effects substantially exceeded the levels of PCB found at any time in the U.S. food supply. However, because PCBs accumulate in the fatty tissue of humans and animals, FDA found ample evidence that prolonged exposure to PCBs, even at low levels, posed a potential health risk. Therefore, FDA concluded that there was a need to limit consumer exposure to PCBs in food and, to accomplish this end, FDA decided to eliminate the use of PCB-containing equipment in food and feed establishments.

On July 6, 1973, FDA promulgated final regulations (38 FR 18096) providing that new equipment or machinery for handling or processing human food and animal feed and for manufacturing food or feed-packaging materials shall not contain PCBs. FDA required the establishments in these industries that had such equipment in place to replace any PCB-containing fluids in such equipment with fluid that did not contain PCBs by September 4, 1973. The regulations, however, specifically exempted electrical transformers and condensers (capacitors), which hold PCBs in sealed containers because, at that time, there were no known suitable replacement fluids for such equipment, and FDA did not expect their use in FDA-regulated establishments to result in direct contact with materials being processed.

Since 1973, FDA has received toxicity data based upon laboratory animal studies that demonstrate a definite association between low-level PCB exposure and potentially more serious subchronic and chronic toxicities, including adverse reproductive effects, liver damage, and tumor production. One of these studies also has confirmed many of the adverse effects exhibited by the Yusho victims.

Recently, FDA studies a number of incidents in which the use or disposal of PCBs resulted in contamination of food in the United States. PCBs leaking from damaged spare transformers and contaminating feed for poultry and livestock caused at least two of these incidents. The contaminated feed caused PCBs to be carried into human food. A fire in a warehouse in Ponce, Puerto Rico, caused one of the incidents, in 1977, when PCBs were released from transformers stored in the warehouse. The warehouse served as a storage area for tuna fishmeal which was dried, rebagged, and shipped to manufacturers for use in the manufacture of animal and fish feeds. Over 2 million pounds of finished feed and fishmeal were contaminated, more than 400,000 chickens destroyed, and millions of eggs withheld from consumer markets.

The second transformer incident occurred in a federally inspected meat-slaughtering and processing establishment in Billings, Montana, in 1979. A spare transformer, stored in a shed at the packing plant, leaked an estimated 200 gallons of PCB-containing transformer oil into the plant's waste water system. The solids that the operators recovered from the plant's waste water system were rendered, and these rendered residues were included in meat meal. This contaminated meat meal was then fed to poultry and livestock and caused the contamination of approximately 800,000 chickens, 3.8 million eggs, 4,000 hogs, 800,000 pounds of assorted animal feeds and feed ingredients, and many bakery items in which contaminated eggs were used. Quick action by plant officials and a U.S. Department of Agriculture (USDA) inspector, who recognized PCB leakage from a capacitor in a federally inspected hog-slaughtering establishment in Iowa, prevented another incident of potential massive contamination.

Alternatives Under Consideration

The agency described several alternatives in its proposed rule published in the Federal Register of May 9, 1980 (45 FR 30984):

(A) No change. The Agency rejected this alternative because it concluded that the continued use of PCB-contaminated electrical equipment would pose unreasonable risk of injury to human health. FDA cannot readily measure the potential harm, but the recent contamination incidents demonstrate the extent to which large numbers of people can be exposed to PCB health risks because of a single contamination.

(B) Complete ban. A complete ban on equipment containing any level of PCBs in food, feed, and food-packaging plants, i.e., a "zero" level in electrical fluids, would be unnecessarily restrictive. This approach would not allow the retrofilling of transformers i.e., refiling transformers with fluids that do not contain PCBs, where it is the less expensive option. Furthermore, the significantly higher costs may not assure any additional safety.

(C) Inspection program. A contract study, prepared by EPA, examined this alternative, which requires regularly scheduled inspection of PCB-containing equipment, in lieu of replacing such equipment. While annual inspection costs were projected to be lower than replacement or retrofilling equipment, they must be endured for the life of the equipment and, consequently, the cost of this option has a higher net present value than costs of the alternative. Also, an inspection program, however rigorous, cannot necessarily prevent contamination experienced in recent incidents.

(D) Restrict PCBs in new equipment only. This alternative would require companies using PCB-containing equipment to replace it at the going obsolescence rate for transformers and capacitors. This would extend the danger of PCB contamination in foods over many years, because the life of a transformer can exceed 40 years.

Variations on this option could phase out PCB-containing equipment over periods of time shorter than the remaining life of existing equipment, thus reducing the immediate economic impact of the proposal. This alternative may also ensure that the demand for replacement transformers and capacitors would be more easily met by the electrical manufacturing industry. Because this alternative does not eliminate the potential public health hazard in an immediate manner, it provides commensurately fewer benefits during the phase-out period.

(E) Installation of protective devices against leaks and spills. This alternative would require owners of transformers and capacitors to install basins, signaling devices, or similar systems to prevent PCBs leaked or spilled from transformers or capacitors from contaminating foods, feeds, and food packaging materials. At the time of the proposal, FDA did not have cost or feasibility data on this alternative, but sought to obtain such information through a contracted survey and also through the comments submitted in response to the proposal.

(F) Restrict the use of PCB-containing equipment in animal feed and feed ingredient facilities only. Recently reported incidents of direct PCB contamination of foods, feeds, and food-packaging material (where the PCB source was known to have been from transformers or capacitors) originated in facilities manufacturing and/or storing

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animal fees or ingredients. Therefore, this alternative would remove the most recently experienced problem sources and result in no costs to the remainder of the food and food-packaging industry.

In the proposal, FDA did not consider this option a suitable alternative because there is insufficient evidence to warrant limiting this proposal to the animal feed industries. The potential for leaking PCBs exists in the human food industry, as well, and direct human food PCB contamination would present a much greater health hazard since there would be no PCB dilution as in the feed processing chain.

(G) Restrict the use of PCB-containing equipment in food, feed, and food- and feed-packaging materials facilities. This alternative would prohibit or limit the amount of PCBs in sealed electrical transformers and capacitors used or stored in or around food, feed, and food- and feed-packaging material plants or storage facilites, and require that certain raw materials used in human foods, which are susceptible to PCB contamination, be analyzed as necessary to ensure that they comply with FDA tolerances. Capacitors containing less than 3 pounds of fluid would be exempt from the regulation, because most of the PCBs they contain are in a nonliquid, nonmobile state.

This alternative would significantly reduce the likelihood of additional incidents in which the use or disposal of PCBs resulted in contamination of food or feed. FDA proposed to adopt this alternative.

Summary of Benefits

Sectors Affected: The general public; manufacturers of transformers and capacitors; manufacturers of food and kindred products (except meat, poultry and egg products).

This proposed rule is intended to reduce significantly the likelihood of additional incidents in which the use or disposal of PCBs would result in contamination of food. A reduction of such incidents would be in the interest of protecting the public health and would serve to avoid the necessary destruction of PCB-contaminated food with attendant economic cost. The manufacturers of transformers and capacitors would benefit because of increased demand for new machinery.

Summary of Costs

Sectors Affected: Manufacturers of food and kindred products (except meat, poultry and egg products); consumers of these products; public warehousing of food and feeds; manufacturing of food-packaging materials, including metal cans and shipping containers, wood and plastic containers, and paperboard containers and boxes.

While we do not have sufficient data for a reliable estimate of transformer and capacitor use in the industries subject to this proposal, it seems likely that transformers and capacitors are concentrated in large establishments. Data which FDA has contracted for or has requested be included in comments submitted on the proposal should permit us to define with greater precision the sectors that will be affected by the proposal.

The alternative proposed by FDA would permit an FDA-regulated food, feed, and food-packaging establishment either to replace PCB-containing transformers and capacitors with non-PCB equivalents or to drain the PCB-containing fluid from transformers and refill them with a fluid containing not more than 50 parts per million (ppm) PCB. We presume that all capacitors must be replaced because we do not believe retrofilling of capacitor fluid is practical. The proposed rule has the potential to affect establishments using PCB-containing equipment where there exists the possibility of contaminating the food supply. FDA knows of approximately 76,000 food establishments, including 34,000 food manufacturers and 24,000 food warehouses. Additionally, we know there are an unknown number of food and feed packaging materials establishments. We also know that not all these establishments use PCB-containing equipment, but do not know their proportions. That is, we have no reliable estimates of the number of potentially affected establishments that own or use utility-owned transformers or capacitors. Neither do we have reliable estimates of the proportion of such equipment that may be PCB-free, nor of the proportion of such equipment that may be used or stored in such a way that it is not in or around a plant or facility within the meaning of FDA's proposal.

Consumers may bear some of the costs of replacing or retrofilling PCB-containing equipment. The magnitude of these costs depends on the extent to which PCB-containing equipment is in use in the industries subject to this proposal.

The preliminary analysis of this proposal indicates that the economic costs of the proposal would exceed $100 million, the threshold established by Executive Order 12044 for requiring a Regulatory Analysis, even though a reliable estimate of economic costs cannot be made without additional data. (See USDA–FSQS, Proposed Polychlorinated Biphenyls (PCBs) Regulation, for more information on this point.)

FDA expects to obtain additional insight into the feasibility and costs of its proposed actions, as well as alternatives to it. An Environmental Protection Agency (EPA) contract study to determine the prevalence of PCBs and the costs of removing them from the affected industries is currently under way. In addition, FDA extended the public comment period to November 4, 1980, so that interested persons would have sufficient time to collect and submit similar data. The final Regulatory Analysis and final rule will reflect these additional inputs.

Related Regulations and Actions

Internal: 21 CFR Parts:

109—Unavoidable Contaminants in Food for Human Consumption and Food-Packaging Material;

110—Current Good Manufacturing Practice in Manufacturing, Processing, Packing, or Holding Human Food;

225—Current Good Manufacturing Practice for Medicated Feeds;

226—Current Good Manufacturing Practice for Medicated Premixes;

500—General; and

509—Unavoidable Contaminants in Animal Food and Food-Packaging Material.

External: Environmental Protection Agency—40 CFR Part 761—Polychlorinated Biphenyls (PCBs); Department of Agriculture, Food Safety and Quality Service—7 CFR Part 2859—Inspection of Eggs and Egg Products (Egg Products Inspection Act of 1970), 9 CFR Part 308—Sanitation, 381—Poultry Products Inspection Regulations.

EPA published a proposal in the **Federal Register** of May 9, 1980 (45 FR 30989) to restrict the use of PCBs at agricultural pesticide and fertilizer facilities.

USDA published a proposal in the **Federal Register** of February 29, 1980 (45 FR 13471) to amend the Federal meat, poultry, and egg products inspection regulations by prohibiting the entry of new or replacement equipment and machinery containing PCBs onto the premises of plants under their jurisdiction. USDA has also published a proposal in the **Federal Register** of May 9, 1980 (45 FR 30980) to prohibit PCB-containing equipment or machinery and liquid PCBs in federally inspected meat, poultry-product, and egg product plants. Comments received as a result of the USDA proposals, the EPA proposal, and FDA's proposal will be shared among the members of IRLG.

Active Government Collaboration

As a result of the multiagency involvement in PCB containment and the recent incidents of PCB leakage from electrical transformers and capacitors, FDA, as a member of the Interagency Regulatory Liaison Group (IRLG), joined in a cooperative effort with the Environmental Protection Agency (EPA) and the Food Safety and Quality Service of the U.S. Department of Agriculture (USDA) to determine if any additional controls were necessary to further protect the public health from the use of PCB-containing equipment in or around food and feed facilities.

EPA sponsored and EPA, FDA, and USDA distributed a technical booklet entitled "Polychlorinated Biphenyls: An Alert for Food and Feed Facilities," December 1979, which was the result of interagency cooperation. We prepared this booklet to aid the food, feed, pesticide, and fertilizer industries in identifying potential problems with PCBs and to recommend that these industries institute a program for preventive action without delay. This cooperation also resulted in the agencies' concluding that further mandatory controls are needed.

Timetable

Final Rule—To be coordinated with EPA and USDA—1982.

Final Rule Effective—FDA proposes that any final regulations resulting from this proposal be effective 180 days after the date of publication of the final regulations in the **Federal Register** or after an incinerator approved by EPA for the disposal of PCBs is available, whichever is later.

Regulatory Analysis—Final Regulatory Analysis with final rule.

Available Documents

NPRM—45 FR 30984, May 9, 1980.

Data and information supporting the NPRM.

Transcript of the public meeting held November 7, 1980.

Comments received during public comment period.

FDA's testimony to Congress regarding the NPRM

Draft Regulatory Analysis.

Food and Drug Administration Docket No. 80N–0128.

The above documents are available for review in the Dockets Management Branch (HFA–305), Food and Drug Administration, Room 4–62, 5600 Fishers Lane, Rockville, MD 20857.

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HHS–FDA

Food Labeling Initiatives (21 CFR Chapter I*, 7 CFR Chapter XXVIII*, 9 CFR Chapter III*, 16 CFR Chapter I*)

Legal Authority

Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 321(n), 343, and 371(a) *et seq.*

Reason for Including This Entry

The Food and Drug Administration (FDA) includes this entry because some of the proposed changes in food labeling are economically significant and potentially controversial issues of broad public interest.

Statement of Problem

The Food and Drug Administration (FDA), the U.S. Department of Agriculture (USDA), and the Federal Trade Commission's Bureau of Consumer Protection (FTC) believe that the existing Federal food labeling laws and implementing regulations should be updated. These laws are enforced by the USDA (meat and poultry) and FDA (all other foods). The FTC is interested in food labeling because it is responsible for regulating food advertising.

Congress enacted the first Federal food laws in 1906, and, although some changes have been made since, the basic concepts of food labeling have remained unchanged for many years. For example, the last major revision of the food labeling provisions of the Federal Food, Drug, and Cosmetic Act (FD&C) administered by FDA was in 1938.

Since these food laws were enacted, significant changes have occurred both in the food industry and in Americans' attitudes toward the food supply and their diet. Advances in the food industry have resulted in a wider variety of available foods and increased availability of fresh foods. At the same time, the number of processed foods on the market now account for more than half of the American diet.

Federal agencies have attempted to meet these changes through labeling regulations. Because different regulatory agencies are responsible for different aspects of food labeling, the resulting rules have been complex, duplicative, and/or inconsistent. FDA, USDA, and FTC realized a need to reassess the existing food labeling regulations before implementing any further revisions.

In 1978, the agencies conducted a series of five public hearings soliciting views on food labeling issues, and FDA sponsored a Consumer Food Labeling Survey to determine public opinion. The agencies designed these efforts to provide themselves with information that would help develop legislative proposals or goals, devise new or revised regulations, and eliminate any unnecessary regulatory requirements. The announcement of hearings and request for comments on a series of food labeling topics were published in the **Federal Register** of June 9, 1978 (43 FR 25296). The agencies sought the public's views on many issues, including ingredient labeling, nutrition labeling and dietary information, open date labeling (e.g., pack date or sell by or use by date), food fortification, the labeling of imitation and other substitute foods, safe and suitable ingredients, and the total food label as an information source for consumers.

Over 9,000 people commented on these and other related food labeling issues. They especially wanted labels describing all ingredients for *all* foods, nutrition labeling on more foods, open dating on more foods, labeling of sugars content, and labels telling a product's salt (sodium) content. FDA, USDA, and FTC analyzed these comments and published their tentative positions on 27 food labeling issues—ranging from ingredient labeling to nutrition labeling to the labeling of imitation and substitute foods—in the **Federal Register** of December 21, 1979 (44 FR 75990) for further comment. In the same issue of the **Federal Register**, the agencies announced a public hearing held on March 4 and 5, 1980 to hear oral testimony on the 27 positions and issues. Subsequent to the December 21, 1979 notice, and as a consequence of the March hearings, FDA received hundreds more comments. FDA is now in various stages of preparing a number of specific labeling proposals stemming from these proceedings.

Alternatives Under Consideration

The agency considered several alternatives for this program:

(A) No change. This alternative would be unresponsive to consumers' expressed desire for more informative food labeling.

(B) Seek voluntary food labeling changes by industry. This alternative may or may not be responsive to the consumers' specific information needs. It could result in partial, incomplete, or

inconsistent food labeling which may be

Summary of Costs

agencies to ensure consistency among

We intend to reaffirm the position that

Summary of Benefits

inconsistent food labeling which may be difficult for consumers to interpret.

(C) Issue new or revised regulations. Although industry voluntarily may adopt some food labeling initiatives, other initiatives will require agency action through new or revised regulations to ensure food labeling uniformity and consistency. Where the agencies have authority to act, there appears to be a need for action, and the issues seem clear, the agencies could develop proposed revisions of the food labeling regulations. FDA is now in the process of identifying areas of activity that meet these criteria.

(D) Seek new legislative authority. Certain changes in the food labeling regulations that the agencies favor would require additional legal authority: for example, declaration of mandatory ingredients in standardized foods and open date labeling.

Summary of Benefits

Sectors Affected: The general public.

The benefits that will accrue from improved food labeling are difficult to quantify. Qualitatively, the benefits can be viewed in the context of protecting public health and helping consumers make sound purchasing decisions.

Of the factors that guide the agency in making food-labeling changes, the public health consideration is the most important. From this latter standpoint, consuming essential nutrients in sufficient quantities is vital to human health. A person can achieve this goal only by eating a variety of foods. An improper selection of foods can result in a person receiving inadequate or excessive amounts of nutrients, either of which may be detrimental to health.

Accurate and informative labeling concerning a product's ingredients and nutrient content is of even greater public health significance now than in the past, because advances in technology have created more processed and fabricated foods whose nutrient content and other characteristics are not readily discernible to consumers without adequate food labeling. As the relationship of nutrition to certain diseases is becoming better understood, food labeling becomes even more important by providing consumers with information for choosing products. In some instances (e.g., sodium labeling) food labeling may be the most effective method for providing health protection.

Many Americans need special diets because of disease or abnormal physiological conditions, such as allergies. These people especially need accurate food labeling information.

Summary of Costs

Sectors Affected: Manufacturers of food and kindred products other than meat and poultry; and consumers of these products.

The food-labeling initiatives will affect all segments of the food manufacturing industry, regardless of size. Small businesses may be disproportionately affected by the costs associated with revising labels. FDA can alleviate this effect somewhat by providing sufficient time for making the changes, and by setting a reasonable uniform effective date. The agencies assume that most of the immediate cost impacts on food-processing firms will be passed on to consumers through increases in product prices. Ultimately, therefore, it is consumers to whom the cost as well as the benefits of the initiatives will accrue.

FDA is currently working on a regulatory assessment of possible food labeling changes. A number of initiatives will warrant detailed analysis of their economic impact as a step toward selection of specific proposals and courses of action. The agencies, therefore, will ask the public for data or analyses that may be helpful in clarifying and quantifying the economic impact of alternative proposals on industry and consumers as needed.

In addition, FDA has contracted for a number of studies to determine the economic impacts of the possible labeling changes. FDA expects to begin receiving the results of these studies by the end of 1980. The agencies expect that additional evidence of economic impact of the various alternatives will accumulate during the course of the legislative and rulemaking process.

Related Regulations and Actions

Internal: In the **Federal Register** of July 8, 1980 (45 FR 45962), FDA announced a series of public meetings, and a contract with a professional design firm, to explore and develop alternative food label formats for presenting nutrition and ingredient information.

External: None.

Active Government Collaboration

FDA will develop any subsequent food labeling revisions in cooperation with the Food Safety and Quality Service of the U.S. Department of Agriculture and the Bureau of Consumer Protection of the Federal Trade Commission. The agencies will initiate activities to implement food labeling revisions according to each agency's authorities and procedures, and will coordinate such action with other agencies to ensure consistency among them.

In addition, we are keeping the White House Office of Consumer Affairs advised of these activities.

Timetable

NPRM—FDA expects to begin issuing NPRMs to implement food labeling revisions during the first or second quarter of 1981.
Regulatory Analyses—will accompany NPRMs.
Public Comment Periods—To be determined.
Public Hearings—To be determined.
Final Rules—To be determined.

Available Documents

Notices of Hearings and Requests for Comment on Food Labeling Issues—43 FR 25296, June 9, 1978; 44 FR 75990, December 21, 1979.

Food Labeling Background Papers.

FDA 1978 Consumer Food Labeling Survey.

Food labeling report on the analysis of comments.

Transcripts of the six public hearings and written comments on food labeling issues.

Food and Drug Administration Docket No. 78N–0158.

The above documents are available for review in the Dockets Management Branch, Food and Drug Administration, 5600 Fishers Lane, Room 4–62, Rockville, MD 20857.

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HHS—Health Care Financing Administration

Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities (42 CFR Parts 405° and 442°)

Legal Authority

The Social Security Act, as amended, Title XI (Professional Standards Review Organizations), Title XVIII (Health Insurance for the Aged and Disabled), and Title XIX (Grants to States for Medical Assistance Programs), 42 U.S.C. §§ 1102, 1814, 1832, 1833, 1861, 1865, 1866, 1871, 1302, 1395f, 1395k, 1395t, 1395x, 1395z, 1395bb, 1395cc, and 1395hh.

Reason for Including This Entry

The Department of Health and Human Services (HHS) includes this entry because it concerns precedent-setting requirements regarding patients' rights and comprehensive care in skilled nursing facilities (SNFs) and intermediate care facilities (ICFs).

Statement of Problem

In order to participate as a provider of institutional long-term care services under the Medicare and Medicaid programs, a facility must be an SNF within the meaning of § 1861(j) of the Act or an ICF within the meaning of § 1905(c) of the Act. These sections of the Act and additional health and safety regulations contained in the Conditions prescribe specific standards that facilities must meet in order to be eligible to participate in the Medicare and Medicaid programs. Participation in either program is voluntary.

SNFs and ICFs are surveyed at least annually by State Government survey personnel under contract with the Department of Health and Human Services. Based on information obtained during the survey, the HHS Regional Office certifies facilities for participation in the programs. However, if the facility elects to participate only in the Medicaid program, the State makes the certification decision.

Presently, there are approximately 8,058 Federal- and/or State-certified SNFs and 10,883 ICFs containing approximately 1,500,000 certified beds.

The proposed revision is designed to simplify, clarify, and integrate the existing distinct regulations governing SNFs and ICFs to focus on patient care, to promote cost containment while maintaining quality care, and to achieve more effective compliance. The revision of the Conditions for SNFs and ICFs is only the first of a three-phase process. During the second phase, we will revise the interpretive guidelines which must complement the proposed regulation. Finally, during the third phase of the revision process, we will develop a new survey form which will focus the surveyor's attention and documentation toward outcome measures of patient care. All three phases of the revision process represent an integration of the existing distinct regulations, interpretive guidelines, and survey forms governing SNFs and ICFs respectively.

Alternatives Under Consideration

In the proposed regulation, we have elevated patients' rights to the level of a Condition in order to give substance to the Department's commitment to the rights of individuals in SNFs and ICFs. We intend to reaffirm the position that institutionalization in a nursing home does not constitute an abrogation of rights and, further, we set in place a mechanism to ensure this by incorporating a more definitive structure for patients' rights in the survey process.

As part of the expansion of patients' rights, we have proposed a stronger provision on accessibility. This will ensure access at all times to nursing home ombudsmen and legal advocates. However, since the patient has the right to see or refuse to see anyone, it is the patient who will ultimately determine just how accessible he or she will be. Other provisions include access to information, the right to form resident councils, to be fully informed regarding all decisions affecting them, to privacy, and to have personal property. The standards comprising this Condition reinforce the concept that patients should be permitted to do as much for themselves as possible to forestall being cast in a dependent or helpless role. Further, we have invited comments on how to accomplish the patient's right to a comfortable and familiar surrounding while respecting the facility's needs and obligation to protect the health and safety of their patients.

A second significant change is the introduction of a patient care management system (PCMS). PCMS is a systematic, holistic approach to the care of the long-term patient. The process begins upon admission to the SNF or ICF when a comprehensive, interdisciplinary assessment of the patient's medical, physical, and psychosocial needs is conducted. The findings of the assessment will serve as the basis for planning the individual's care. Clearly delineated, time-limited goals will characterize that plan of care. Periodic evaluations will review goal achievement and changes in needs which should trigger new goals. This process will result in more individualized patient-centered care planning.

By creating the conceptual framework for total patient care and treatment, we hope to integrate the fragmented approach so reminiscent of the acute care model. PCMS actually consolidates the care planning standards of five existing Conditions (Nursing, Social Services, Dietetic Services, Rehabilitative Services, and Patient Activities) under one Condition. Other standards throughout the proposed regulation relating to patient care include cross references to PCMS. Ultimately, we expect PCMS to facilitate treatment of the whole person.

Summary of Benefits

Sectors Affected: Skilled nursing facilities and intermediate care facilities (nursing and personal care facilities) participating in the Medicare and Medicaid programs; patients and staff of these facilities; and State health agencies.

We have developed a single set of conditions of participation which are applicable to both SNFs and ICFs. Where possible, general provisions, e.g., Administration, Patient Care Management, Physical Environment, Safety, and Patients' Rights have been made uniform. Differences in patient needs and level of care are reflected in provisions such as staffing and required services.

Under PCMS, HHS will specify minimum data requirements and common definitions, but will permit States to include their own data requirements as well. The benefits inherent in this strategy include:

- States will have the opportunity to coordinate and include data needs for quality assurance review, e.g., Inspections of Care and PSRO Long Term Care Review;
- surveyors and review teams can be trained at the State level in the review and documentation which is specific to their State;
- States and facilities which already employ some form of assessment will not necessarily have to abandon their existing system, especially if it already contains the required critical data elements; and
- paperwork will be limited to a single form which will satisfy both Federal and State requirements.

Expansion of patients' rights—not just legal rights, but the right to self-determination and involvement in planning the services and activities which will characterize the patient's life for an extended period of time—testifies to HHS's position that one does not surrender the right to self-determination when entering an SNF or an ICF. The standards in the patients' rights Condition reinforce the specifics of this concept and will become items to be evaluated during the survey process.

Development of new survey forms and interpretive guidelines will improve the survey and certification process by streamlining the information needed and making the requirements more surveyable. The surveyor's attention and documentation will be redirected toward more outcome-, patient-focused evaluation of compliance with the regulations.

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Summary of Costs

Sectors Affected: Skilled nursing facilities and intermediate care facilities (nursing and personal care facilities) participating in the Medicare and Medicaid Programs; patients of these facilities; and Federal and State certification Personnel.

In an effort to explain how we arrived at the provisions of the proposed rule, we have prepared a Regulatory Analysis of the regulation in accordance with Executive Order 12044, "Improving Government Regulations," issued March 23, 1978. This document contains an extensive discussion of the major issues discussed in the regulation, the options considered, along with factors such as cost and benefit which were weighed in the considerations, and the rationale for options being accepted or rejected. Our preliminary estimates indicate the annual cost increase that would result from the proposed options to be approximately $80 million, which represents about .5 percent of annual nursing home expenditures ($15.75 billion in FY 1978) and about 1 percent of Medicare and Medicaid payments to nursing homes.

Comments were invited on the Regulatory Analysis, which will be revised and reissued when the final regulation is published.

Related Regulations and Actions

Internal: Consolidation of Survey and Certification Requirements for Medicare and Medicaid (42 CFR Parts 405 and 431). A regulation proposal was contained in 45 FR 13477, February 29, 1980. Protection of Patients' Funds in Nursing Homes. An NPRM was published in 45 FR 49440, July 24, 1980.

Adoption of the National Bureau of Standards Fire Safety Evaluation System for Health Care Facilities. An NPRM was published in 45 FR 50264, July 28, 1980.

Automatic Extinguishment Systems for New Long Term Care Facilities. An NPRM was published in 45 FR 50268, July 28, 1980.

Charges to Patients' Funds in Nursing Homes. Regulation proposal is under development and the projected publication date for the NPRM is December 1980.

External: None.

Active Government Collaboration

Various agencies within the Department of Health and Human Services involved in long-term care; the Federal Trade Commission; various State agencies concerned with survey and certification and reimbursement for long-term care.

Timetable

Final Rule—December 31, 1980.

Available Documents

Notice of Proposed Rulemaking on the Conditions of Participation for Skilled Nursing and Intermediate Care Facilities (45 FR 47368, July 14, 1980).

Draft Regulatory Analysis on the Conditions of Participation for Skilled Nursing and Intermediate Care Facilities (June 30, 1980).

Public comments on the NPRM and draft Regulatory Analysis are available for public inspection in Room 309G of the Department's offices at the Hubert H. Humphrey Building, 220 Independence Avenue, Washington, DC 20201, (202) 245–7890.

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HHS–HCFA

Consolidation of Survey and Certification Requirements for Medicare and Medicaid (42 CFR 405* and 431*)

Legal Authority

The Social Security Act, as amended, Titles 11, 18, and 19, 42 U.S.C. §§ 1302, and 1395 *et seq.*

Reason for Including This Entry

The Department of Health and Human Services (HHS) includes this entry because of its potential for impact on consumers, health care industry, and State agencies. Our goal is to streamline the survey and certification process. Streamlining these processes would reduce administrative costs and the reporting burden imposed on Federal and State governments as well as related costs currently imposed on health care providers. At the same time, the processes would be refined to focus on the quality of health services being furnished to program beneficiaries and recipients.

Statement of Problem

In order to participate in the Medicare or Medicaid program, providers of services must be found to meet pertinent requirements, specified in Titles 11, 18, and 19 of the Social Security Act, (hereafter referred to as "the Act") and related regulations. The Act (§ 1864) further requires that the Secretary of HHS enter into an agreement with a State agency for the purpose of performing surveys to ascertain compliance with program requirements. Under this agreement, the State survey agency is further required to certify to the Secretary whether health care providers meet program requirements.

For Medicare providers, the State's certification is, in essence, a recommendation to the Secretary. The Health Care Financing Administration (HCFA), on behalf of the Secretary, determines whether a provider of services is eligible to participate using the State agency's certification. If HCFA approves, it enters into an agreement (§ 1866 of the Act) with the provider of services.

For Medicaid, the statute (§ 1902(a)(33)(B)) requires that the State survey agency determine compliance with health and safety requirements. The survey agency must then certify its findings to the State Medicaid agency. In this instance, the certification is a determination of eligibility, not a recommendation. If eligibility is established, the State Medicaid agency will enter into an agreement (§ 1902(a)(27) of the Act) with the health care provider.

HCFA has certified providers based on the results of surveys since the earliest days of the program. From the very beginning, health care providers were required, by regulation, to be approved annually for program participation. However, it was not until 1973, following implementation of P.L. 92–603, that a single survey agency for Medicare and Medicaid was established. Prior to 1973, separate surveys were typically conducted for Medicare and Medicaid by separate agencies. Even after 1973, the Medicaid State agency continued to conduct medical reviews and Independent Professional Review in Medicaid facilities.

Additionally, prior to the creation of HCFA, Medicare was administered by the Bureau of Health Insurance, Social Security Administration, whereas Medicaid was guided centrally by the Medical Services Administration, Social and Rehabilitation Service. (By law, each State administers its own Medical Assistance Program.) Other agencies, such as the Office of Long Term Care (ONHA) and the Bureau of Quality Assurance (BQA), were also involved in establishing policies affecting survey and certification for the Medicare and Medicaid programs.

At the same time, the health industry has gained sophistication, in terms of knowing what they have to do in order to participate. In contrast to the early days of the programs, when residential

nursing homes were upgraded to meet skilled nursing requirements, facilities are now built to conform with program requirements. Similarly, the chain organization, with its resources and managerial expertise, has had a significant impact on the industry.

HCFA believes that the survey and certification process needs reassessing. Provider groups complain about the extreme reporting burden. Consumers and their advocates claim that we are not really looking at the quality of care, and are insisting that they be involved in the survey and certification of health care facilities. The Office of Management and Budget is insisting that we reduce administrative costs and the public reporting burden. State agencies and providers complain that often multiple State agencies survey the same facilities, but arrive at different conclusions.

HCFA, relying on its own program experience, knows that some of the procedures currently required are either inefficient or ineffective, particularly when applied universally to the 37,000 health care providers that participate in Medicare or Medicaid. For example, all providers are now required to be surveyed annually. Survey records document that a significant percentage have a history of complying with program requirements. In other words, the facilities are surveyed year after year, but no significant deficiencies are cited. We must question whether our finite resources should be used to reaffirm continuing compliance, or whether these resources should be focused on marginal performers. Similarly, regulations now require that facilities submit, quarterly, staffing reports. Certainly, for some facilities (those having marginal staff) this data would enable the State agency to monitor facilities staffing. We do not feel that this kind of requirement should be applied to all facilities. Providers complain that these staffing reports are time-consuming and a reporting burden. States complain that they do not need this information for all facilities and do not use it.

The State agencies are budgeted approximately $70,000,000 to conduct surveys and certify their findings. There are about 37,000 health care providers who participate in Medicare or Medicaid. In these times of Federal budgetary restraints and escalating costs of health care, HCFA believes it important to consider ways of making the process more efficient, cost effective, and meaningful in terms of evaluating the quality of care actually being furnished program beneficiaries and recipients.

Alternatives Under Consideration

Following publication of a Regulation Proposal on February 29, 1980 (45 FR 13477), we published a Notice of Public Meeting on March 7, 1980 (45 FR 14900). Public hearings were held in each of the HHS Regions and in Washington, DC. The purpose was to solicit public reaction and comment on a set of survey and certification issues which we, along with State agencies and Regional Offices, had identified as needed modifications. Copies of the issue papers were announced and made available, in advance, to all persons expressing interest in either testifying or submitting written comments. Proposals included in the issue papers were made, not as official HCFA positions, but rather as a way of presenting example alternatives.

We solicited public comment and recommendations on the following issues:

- whether annual surveys for all health care providers should be retained, or whether some process that allowed flexible survey cycles should be adopted;
- whether all facilities providing inpatient care should be required, quarterly, to submit staffing reports, or whether this should be required as the State agency deems necessary;
- whether we should continue to require that small hospitals meet the same requirements as the large hospitals, or whether requirements should reflect the scope and complexity of the services being furnished;
- whether various quality assurance reviews should continue to be done by Professional Standards Review Organizations (PSROs) and the Medicaid State agency, apart from the certification survey, or whether all these programs should be consolidated into one program;
- whether State agencies should continue to be required to follow up with providers within 90 days after the survey to ascertain the provider's progress in correcting problems cited by the State during its survey, or whether the revisit should coincide with the provider's projected correction date;
- whether Federal surveyors should continue to survey hospitals on Indian reservations, but not long term care facilities, or whether Federal surveyors should survey all Indian health facilities;
- whether HCFA should require that JCAH hospitals disclose JCAH survey findings;
- whether HCFA should specify surveyor qualifications;
- whether, and the extent to which, patients, family, and friends should be included in the survey and certification process; and
- whether HCFA needs to more clearly define what constitutes compliance.

We have received thousands of comments on each of the above issues. Following analysis we will prepare option papers, then set forth the alternatives offered, and the advantages and disadvantages of each. Once decisions are made on the proposals, an NPRM will be developed.

Summary of Benefits

Sectors Affected: The Federal Government; State Health Departments, State Social Services Departments; and 37,000 health care service providers, consumers, and their advocates.

The amount of overall savings will vary depending upon which proposals are adopted. Since we have every intention of making the process more efficient, we anticipate real cost savings. For example, if only 10 percent of the providers were surveyed every two years, we would save about $6,000,000 (.10 × 37,000 × $70,000,000 divided by 37,000 = $5,920,000). This would also reduce the overall reporting burden now imposed on providers.

Other proposals, if adopted, could increase costs. If, for example, we establish credentialling requirements for surveyors, we would see an increase in State agency staff costs, since health specialists are generally higher salaried than generalists. On the other hand, the State surveys would be of a higher quality and therefore impact favorably on patients and residents.

We anticipate a more efficient process which will reduce provider reporting burden and overall Federal and State costs. Further, we see the process being returned to what it was designed to do—determine whether providers of services meet program requirements. Eliminating superfluous procedures not directly related to assessing quality of care and the facilities in which it is being furnished will enable the Federal and State governments to focus their limited resources where they are most needed. This will ultimately benefit the beneficiaries and the tax paying public.

Summary of Costs

Sectors Affected: The Federal Government.

We forsee no additional cost to providers of services. The purpose is to reduce overall administrative costs and the public reporting burden. Depending on proposals adopted, some could

produce additional costs to the Federal

Reason for Including This Entry

Conditions of Participation of SNFs and

Administration collaborated in testing

than $50 billion for services delivered

organizations that participate in the

produce additional costs to the Federal Government. Any State costs would be assumed by the Federal Government through the State agency budgeting process. Overall, we see a cost reduction.

Related Regulations and Actions

None.

Active Government Collaboration

State agency personnel participated in a work group to identify procedures that should be considered for revision. Other Bureaus within HCFA and the Office of General Counsel will have the opportunity to comment on proposals before they are adopted.

Timetable

NPRM—March 31, 1981.
Public Comment Period—60 days following publication of NPRM. Address comments to: Administrator, HCFA, P.O. Box 17082, Baltimore, MD 21235.
Additional Public Hearing—None.
Regulatory Analysis—To be determined.
Final Rule—March 1982.

Available Documents

Regulation Proposal (42 FR 13477, February 29, 1980).
Notice of Public Meetings (42 FR 14900, March 7, 1980).
Issue Papers—These issue papers were sent to those who requested them. Their avilability was announced in the **Federal Register** on March 7, 1980.
Summary of public hearings.
The above documents are available for review at: Health Care Financing Administration, Health Standards and Quality Bureau, 2–A–2, Dogwood East Building, 1849 Gwynn Oak Avenue, Baltimore, MD 21207.

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HHS—HCFA

Life Safety Code in Hospitals, Nursing Facilities, and Intermediate Care Facilities (42 CFR Parts 405* and 431*)

Legal Authority

Title XVIII (Health Insurance for the Aged and Disabled) of the Social Security Act, 42 U.S.C. 1395 *et seq.*

Reason for Including This Entry

The Department of Health and Human Services (HHS) includes this entry because of its far-reaching impact on health care facilities rendering services to inpatients (i.e., hospitals, skilled nursing facilities, and intermediate care facilities). Insurance companies and manufacturers will also be affected.

Statement of Problem

In order to participate in the Medicare and Medicaid programs, hospitals, nursing homes, and intermediate care facilities (ICFs) are required to meet a number of conditions. One of the conditions requires facilities to meet the Life Safety Code (LSC) provision of the National Fire Protection Association (NFPA). This code contains a detailed set of standards, mostly related to safety aspects of the physical plant, such as structure, fire prevention systems, hazard alarms, etc. Since older facilities often incurred considerable costs attempting to meet these standards, efforts were initiated by the National Bureau of Standards to develop a rating system that would assess a facility's life safety provisions without requiring vigorous adherence to each detailed standard.

Under a contract with the Department of Health, Education, and Welfare (HEW), the National Bureau of Standards developed "A System for Fire Safety Evaluation of Health Care Facilities." The system was approved by the Department of Commerce in December 1978. Under this new LSC evaluation system, safety provisions are assigned numerical values by which HHS measures compliance with the LSC. Therefore, two facilities with differing safety provisions could still be rated as having equivalent levels of life safety.

On June 28, 1979, the Department published a notice in the **Federal Register** (44 FR 37818) which proposed extending the fire safety evaluation system evolved by the National Bureau of Standards to all hospitals participating in the Medicare and Medicaid programs and requesting comments on whether the system should be extended to skilled nursing facilities (SNFs) and intermediate care facilities (ICFs). On July 28, 1980, a notice was published (45 FR 50264) to extend the system to those institutions as well. The Fire Safety Evaluation System is now being used as an alternative evaluation method in existing older facilities. Regulatory changes concerning new facilities appeared in proposed form when NPRMs for Conditions for Participation of Hospitals and Conditions of Participation of SNFs and ICFs were published in the **Federal Register** on June 20, 1980 and July 14, 1980, respectively (45 FR 41794 and 45 FR 50373). Under these regulations, facilities newly entering into the Medicare or Medicaid programs would have the option of being evaluated under the 1973 revisions of the NFPA code, as well as the Fire Safety Evaluation System or the 1967 NFPA code. The 1973 code has been updated to take into account advances in fire prevention technology.

If we fail to further regulate in this area, facilities which enter participation in the Medicare or Medicaid programs for the first time would be evaluated under the 1967 NFPA code or the FSES. They would not be able to take advantage of cost-saving technologies addressed in the 1973 code.

Alternatives Under Consideration

The major alternative available is to use the FSES and the NFPA code for evaluating all providers.

Summary of Benefits

Sectors Affected: Hospitals, SNFs and ICFs (nursing and personal care facilities) participating in Medicare and Medicaid will be affected; manufacturers of fire prevention equipment; insurance industries; and health professional organizations.

Depending upon which major alternative is chosen, estimated savings will vary. Estimated savings have not been calculated for the major alternatives. In addition, the age of a facility must determine its level of cost savings. For instance, existing facilities newly entering the program generally will save less money by the 1973 code because it is not economically feasible for them to undertake changes in construction that can be done for a facility in the design stage.

Summary of Costs

Sectors Affected: None.

There are no additional costs involved. A provider will incur no greater costs than previously if it follows the NFPA code. Evaluation will not be made under the FSES or the 1973 version of the NFPA code unless it results in savings to the provider.

Related Regulations and Actions

None.

Active Government Collaboration

The Department of Commerce (National Bureau of Standards) cooperated in preparing the fire safety evaluation system; the Veterans Administration collaborated in testing its application.

Timetable

Final Rule, Conditions of Participation for Hospitals—December 1980.
Final Rule, Conditions of Participation for SNFs and ICFs—December 1980.
Regulatory Analysis—None.

Available Documents

NPRM—42 FR 4966, January 28, 1977.
NPRM—42 FR 41794, June 20, 1980.
NPRM—42 FR 50373, July 14, 1980.
Life Safety Code in Hospitals, SNFs and ICFs.
Briefing paper on LSC Issues.
Operating Objectives of the LSC unit.
Notice with comment period—44 FR 37818, June 28, 1979.
Notice—45 FR 50264, July 28, 1980.
These documents are available for inspection at 2nd Floor, Dogwood East Building, 1849 Gwynn Oak Avenue, Baltimore, MD 21207.
Persons who wish to obtain a copy of "Life Safety Code in Hospitals, SNFs and ICFs" may do so by sending $10.00 and requesting publication number 80–195–795 (NBSIR 78–1555–1) from the United States Department of Commerce, 5285 Port Royal Road, Springfield, VA 22151.

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HHS—HCFA

Uniform Reporting Systems for Health Services Facilities and Organizations (42 CFR Part 402)

Legal Authority

Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977, § 19, 42 U.S.C. 1121.

Reason for Including This Entry

The Department of Health and Human Services (HHS) includes these regulations because they set a precedent for changing the Medicare/Medicaid reporting methodologies currently employed. The systems we propose will enable the Department to obtain uniform, comparable data necessary for Federal reimbursement of health services facilities, effective cost containment and policy analysis, assessment of alternative reimbursement mechanisms, and health planning.

In FY 1981 the Health Care Financing Administration (HCFA) will pay more than $50 billion for services delivered under the Medicare and Medicaid programs. HCFA's ability to manage these publicly funded health care programs has been impeded by current cost-reporting methods, which make it difficult to judge the efficiency of institutional providers and to accurately compare the costs of services furnished within institutions or among institutions.

Statement of Problem

Section 19 of P.L. 95–142 requires improved financial and statistical data from institutional providers of Medicare and Medicaid services to accurately identify costs and to aid in the control of the escalating inflation rate in health care costs. It requires the Secretary of Health and Human Services to establish a uniform reporting system for institutional health care providers.

With the begining of the Medicare program in 1966, the Federal Government reimbursed providers of health services on the basis of costs they incurred. The Government made reimbursement under a relatively unsophisticated mechanism compatible with the individual provider accounting systems of the time. Since then, health care costs have risen dramatically. During the last 2 years alone (1978 and 1979), hospital costs rose at an annual rate of 12.5 percent. Because of their need to furnish accountings to the Government and private insurance companies and a growing awareness of the value of cost control, health care providers began to upgrade the complexity and sophistication of their accounting systems. However, each provider continued to report costs on the basis of its unique location, age of physical plant, and management philosophy. The unsophisticated reimbursement methods employed by the Federal Government also permitted providers to legitimately maximize the amount of reimbursement by the way in which they chose to report their costs.

With the continued rise in health care costs, efforts at cost containment were initiated on several occasions. However, lacking means to effectively compare costs of services delivered by different institutions, the Government has been compelled to reimburse on the basis of costs incurred—there has been no means of determining whether a provider was furnishing health care services in an efficient and cost-effective manner. Recognizing this problem, Congress enacted the Medicare-Medicaid Anti-Fraud and Abuse Amendments in 1977.

The regulations we propose would establish uniform reporting systems for all health services facilities and organizations that participate in the Medicare and Medicaid programs, including hospitals, skilled nursing facilities, intermediate care facilities, home health agencies, and health maintenance organizations.

The law requires promulgation of regulations to establish a uniform system of reporting for the following types of information for each type of health services facility or organization:

1. the aggregate cost of operations and the aggregate volume of services;
2. the cost and volume of services by functional account (a group of activities involved in providing a particular health care service);
3. rates by category of patient and class of purchaser;
4. capital assets, as defined by the Secretary of Health and Human Services, including (as appropriate) capital funds, debt services, lease agreements used in lieu of capital funds, and the value of land, facilities, and equipment, and;
5. discharge and bill data.

We will implement uniform reporting through several different regulations, since the different types of facilities and different types of data required involve diverse issues and approaches.

When in place, these systems will enable the Department to obtain uniform, comparable data necessary for reimbursement, effective cost containment and policy analysis, assessment of alternative reimbursement mechanisms, and health planning. Adequate and comparable data are not presently available to support these objectives.

If we fail to regulate in this area, we would fail to follow the legislative mandate of the Congress and have no effective means of securing data to permit inter-institutional comparisons of health care costs. Without such comparisons, we cannot judge relative efficiency in health care delivery and we are hampered in our own efforts at health care cost containment.

Alternatives Under Consideration

Within the legislative mandate, certain options are available. A timetable and objectives specified in the legislation limit flexibility in timing and scope of the regulations. Other factors that affect the scope of the regulations include the Department's concern with minimizing reporting burden and eliminating duplicative and overlapping data requirements placed on the provider, while meeting the intent of the legislation.

For the regulation implementing reporting of data on cost, use, and

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capital assets for hospitals, the major options we chose were:

1. To merge, to the extent possible, Departmental data collection activities (e.g., Medicare and Medicaid cost reporting, hospital facilities components of the Cooperative Health Statistics Systems funded by the Public Health Service) to coordinate reporting requirements and minimize the burden on the providers. (This will shift some of the burden to HCFA, since it will have to pass the information on to the Public Health Service.)

2. To reduce cost reporting requirements for small facilities (less than 4,000 admissions annually) in order to minimize the burden on such facilities. (This will have only slight effect on the comparability of the data obtained through the system.)

3. To limit, to the extent possible, the level of detail required to ascertain the cost of services provided (e.g., sub-classification of salaries, employee benefits, supplies) for specified cost centers, in an effort to decrease the reporting burden. This will also reduce the accuracy of the data derived, but we are unable to directly correlate the loss of accuracy with the significant savings that will result from limiting the degree of detail in these areas.

For the regulation implementing the collection of hospital bill and discharge data, the major issues under consideration are:

1. Confidentiality considerations regarding data collected on non-federally financed patients and the physicians treating them. In order to assure the adequacy of sampled data, such data must be collected on a random basis from the entire patient population, without distinction as to source of payment. Of necessity, this will mean that some of the discharge and billing data obtained will pertain to non-Federal patients and their physicians. The data collected on Federal patients is required in order to verify the accuracy of charges made, but in the case of non-Federal patients no such consideration exists. Appropriate safeguards will be required to avoid inappropriate disclosure and to assure that data collected are not identified with a patient or practitioner to any greater degree than required for completion of the study.

2. Method of collecting and processing the bill and discharge data.

3. Appropriate areas of reporting for industries with differing methods of patient care, such as home health agencies and skilled nursing facilities.

4. Appropriate "discharge data" from such institutions as health maintenance organizations which primarily treat ambulatory patients.

Summary of Benefits

Sectors Affected: All hospitals, skilled nursing facilities, intermediate care facilities (nursing and personal care facilities), home health agencies, health maintenance organizations and other types of health services facilities and organizations participating in the Medicare and Medicaid program; patients in these facilities or those being treated by them; physicians and other health care practitioners reimbursed through Medicare and/or Medicaid programs; and the Department of Health and Human Services.

In 1979, the Nation spent an estimated $212.2 billion, or $943 per person, for health care. This expenditure included $54.4 billion in premiums to private health insurance, $60.9 billion in Federal payments, and $30.5 billion in State and local government funds.

Since 1965, health care costs have averaged a 12.2 percent increase annually, while the Gross National Product (GNP) increased an average 9.2 percent annually over the same period. The result has been that health care costs, which accounted for 6.1 percent of the GNP in 1965, now account for 9.0 percent. This cost spiral has affected the entire economy. Better management practices and health care cost containment are expected to decrease the health care portion of the GNP and expand the resources available for other sectors of the economy. The Department of Health and Human Services will also benefit through a reduction in the rate of cost increase and improved data for comparability and health planning. Providers will benefit through improved management techniques potentially resulting from comparisons of data from their institution and others across the Nation.

It is HCFA's judgment that cost savings will be realized by the health care industry and the general public by implementation of uniform bill and discharge reporting systems. Most patients at health care facilities today have their treatment costs defrayed in whole or part by a third party (Federal, State, and local government, private insurance, employer, etc.) and most of these payors require billing data to be presented in their own specified formats. If a format can be devised that gains universal acceptance, health care providers are expected to save considerable staff time with consequent reductions in the costs of administering health care facilities. In addition to bill data, numerous Federal and State agencies as well as other organizations require discharge information to be reported separately from the billing process. As with bill data, providers are required to report discharge data according to the specifications of the data user. Most discharge data sets duplicate over 60 percent of the data reported on the bill. HCFA is working toward improving the collection and management of these two data sets. Alternative reporting mechanisms are now being investigated.

We are designing uniform reporting systems with the intent of reducing and eliminating costly multiple collection and processing of duplicate data and with the intent of improving the utility of the data through consistent and compatible definitions and codes. It is anticipated that providers will prepare a single data set instead of the several reports for multiple State and Federal agencies required in the past. We expect the data collected through these systems to result in further cost savings because they will provide the basis for reimbursement reform, better health policy analysis, improved health planning, and better control over expenditures by providers for supplies, services, and capital. Cost savings should also be realized by individuals, since promotion of greater efficiency and less staff time for furnishing discharge and bill reports data should aid in curbing the increases in health care costs.

Summary of Costs

Sectors Affected: All hospitals, skilled nursing facilities, intermediate care facilities (nursing and personal care facilities), home health agencies, health maintenance organizations, and other types of health services facilities and organizations participating in the Medicare and Medicaid programs; patients in these facilities and those being treated by them; and HHS.

Based upon our Regulatory Analysis of costs of implementing a uniform reporting system for the hospitals of the Nation, alternatives available range in cost from $218 million to $0 in 1979 dollars. The former figure represents costs of conversion to uniform accounting and reporting systems, a situation not required by the Congress or HCFA. The latter figure represents no conversion of any sort, which is contrary to legislative mandate. We have chosen an alternative that we estimate will cost $56 million to implement, or approximately $8,000 for each of the 7,000 hospitals in the Nation. This figure includes a $19 million ($2,700 per hospital) start-up cost, and an annual cost of $37 million ($5,300 per hospital) thereafter. Of these figures, HCFA will share approximately 40 percent of the cost through normal reimbursement mechanisms. A preliminary cost study for implementing uniform reporting for home health agencies has recently been completed for HCFA by the firm of Morris, Davis and Company, certified public accountants. We will undertake similar studies in conjunction with development of other uniform reporting systems.

Related Regulations and Actions

Internal: Medicare and Medicaid cost reporting requirements. Professional Standards Review Organization reporting requirements, and National Center for Health Statistics Cooperative Health Statistics Systems reporting requirements are in effect now. We will incorporate these in the uniform reporting systems.

External: None.

Active Government Collaboration

The Public Health Service has cooperated with HCFA to merge their hospital facilities' data collection requirements into the proposed uniform cost and utilization reporting systems.

Timetable

NPRM, Uniform Cost Reporting for Skilled Nursing Facilities and Intermediate Care Facilities—Fiscal Year 1983.
NPRM, Hospital Discharge and Billing Data—Fiscal Year 1983.
NPRM, Skilled Nursing facility/Intermediate Care Facility Discharge and Billing Data—To be determined.
NPRM, Home Health Agency Cost and Utilization—To be determined.
Draft Cost and Regulatory Analysis—To be determined.
NPRM, Home Health Agency Discharge and Billing—Fiscal Year 1984.
NPRM, Health Maintenance Organization Cost and Utilization—Fiscal Year 1984.
NPRM, Health Maintenance Organization Discharge and Billing—Fiscal Year 1984.
Final Rule, Hospital Cost and Utilization Reporting—January 1981.
Final Cost and Regulatory Analysis—January 1981.

Available Documents

Uniform Reporting Systems for Health Services Facilities and Organizations, NPRM—44 FR 4741, January 23, 1979.
Public Comments Responding to NPRM.
A Guide to Hospitals for Planning and Producing the Reports for the System for Hospital Reporting (SHUR)—September 30, 1979.
Annual Hospital Report (Manual and Forms)—February 20, 1980.
NPRM and Draft Regulatory Analysis—45 FR 17894, March 19, 1980.
Public Comments Responding to NPRM.

Copies of these documents may be reviewed in the Department's offices at Room 309G, Humphrey Building, 200 Independence Avenue, S.W., Washington, DC (202) 245-7890.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Neighborhoods, Voluntary Associations, and Consumer Protection

Lead-Based Paint—Chewable Surfaces (24 CFR Part 35)

Legal Authority

Lead-Based Paint Poisoning Prevention Act, Title 3, § 302, 42 U.S.C. § 4801 *et seq.*

Reason for Including This Entry

This proposal has the potential for a major economic effect on the economy, with costs and benefits which may exceed $100 million per year.

Statement of Problem

The Department of Housing and Urban Development (HUD) is required by the Lead-Based Paint Poisoning Act of 1971 to establish procedures to eliminate the "immediate hazard" of lead-based paint poisoning in all federally owned housing, and in housing which is covered by an application for mortgage insurance or housing assistance payments under a program administered by the Secretary of HUD. Further, HUD is to ensure notification to purchasers and tenants of pre-1950 HUD-insured or HUD-assisted housing of the hazards, symptoms, and treatment of lead poisoning. The percentage of lead in paint has dropped very sharply in recent years as substitutes for lead have become available. Thus, the heaviest lead concentrations occur in older structures. Because of difficulties in measuring lead content of paint already applied to interior surfaces, current HUD regulations (24 CFR Part 35) presume that any loose, peeling, or chipping paint constitutes an immediate hazard, and require that such surfaces be made intact; for example, by scraping and repainting with two coats of non-lead-based paint. While this procedure removes the most obvious hazards, there is concern that children may ingest lead by chewing intact surfaces containing high levels of lead. Also, there is concern that levels of lead used in post 1950 paint may constitute a health hazard, such as "Lead poisoning," which might lead to mental retardation. Reliable estimates of the number of cases of lead poisoning are not available, but the Center for Disease Control found "undue lead absorption" in over 7 percent of preschool children screened in 1977. Also, according to a legal opinion from the Office of the General Counsel at HUD, the legislative history of paragraph 302 of the Act indicates that Congress intended that intact lead-based painted surfaces be included as part of the "immediate hazard."

Alternatives Under Consideration

We are considering the following alternatives and subalternatives:

(A) Institute no regulatory change; or

(B) Redefine "immediate hazard" to include intact leaded chewable surfaces. Within alternative (B) several subalternatives exist: (1) What level of lead in applied paint is considered acceptable? Currently, non-intact paint is presumed to be lead-based, and thus there is no definition of what level of lead is considered hazardous. In fact, until recently, there was no consistent method of measuring lead content in applied paint. More stringent standards involve greater costs while causing more lead to be removed from a dwelling. (2) What surfaces are considered accessible to children and therefore potentially chewable? The highest incidence of lead poisoning occurs in preschool children, and there must be some definition of whether potentially chewable surfaces are restricted to protruding surfaces like window sills or door jambs, and what height above the floor is considered accessible to young children. Once again, the more all-inclusive the definition of what is considered chewable, the more costly will be the required removal of paint, and the greater the amount of lead removed. (3) What methods of treatment are necessary to render a chewable surface acceptable—i.e., to remove the

immediate hazard? Currently, surfaces are treated by scraping or sanding and repainting, but removal of the "immediate hazard" could require total removal of paint down to the bare wood, or the application of an impenetrable barrier. The ANPRM will solicit public comment on all of these issues. Obviously, the more thorough the required treatment, the more costly will be the requirement, and the more certain will we be that hazardous lead has been removed.

Summary of Benefits

Sectors Affected: Occupants of public housing and other HUD-assisted properties (particularly children who are susceptible to elevated blood lead levels); and painting contractors.

The linkages between the existence of paint in homes, potential for ingestion by children, the elevation of blood lead, and the emergence of symptoms of lead poisoning are not well understood. However, elevated blood levels are correlated with higher levels of lead in dwellings. What is known is that since 1970 the percentage of children with elevated blood lead has declined substantially, but lead poisoning has not disappeared.

Benefits to be received from reducing the number of cases of lead poisoning include the avoidance of costs of medical treatment, the reduction in the occurrence of mental retardation traced to this source, and the avoidance of suffering by victims of lead poisoning. It is very difficult to place numerical estimates on these benefits, but the Regulatory Analysis will examine the available evidence.

Thus far, the estimates of benefits must remain qualitative. We expect that the establishment of a new requirement for paint removal and repainting will benefit painting contractors through the extra business generated, but quantification of this benefit will not be possible until the Regulatory Analysis is complete.

Summary of Costs

Sectors Affected: Public housing authorities; owners and private lessors of HUD-assisted housing; and HUD.

Costs of lead paint abatement depend heavily on the definitions of immediate hazards of unacceptable lead levels in applied paint, the percentage of units subject to inspection, the type of inspection performed, the abatement technique used, and the definition of chewable surface. Currently, loose, peeling, and chipping paint is presumed to pose a hazard if it occurs in HUD-associated housing, and such surfaces must be made intact. Alternative (B), above, involves detection of lead paint in which lead exceeds allowable levels, as well as removal and refinishing of chewable surfaces. Estimates in 1977 indicated the cost might be at least $1,000 per dwelling unit for a particular set of definitions (removal of all lead paint from the interior of a typical dwelling built prior to 1940, where lead paint is defined as concentration greater than 2 milligrams per square centimeter). Preliminary estimates of aggregate costs were about $600 million for HUD-associated housing. Actual costs could be higher or lower than this depending on the choices among the subalternatives under alternative (B). Likewise, the total cost would depend on the number of units covered by the regulations, and this, too, is open to a range of the alternatives in the Regulatory Analysis. We will examine these costs, and how they vary according to the definition we might adopt.

Related Regulations and Actions

Internal: None.
External: Unknown.

Active Government Collaboration

None.

Timetable

ANPRM—December 1980.
Public Comment Period—60 days following publication of ANPRM.
NPRM—July 1981.
Draft Regulatory Analysis—Will accompany NPRM.
Public Comment Period—60 days following publication of NPRM.
Final Rule—December 1981.
Final Regulatory Analysis—Will accompany Final Rule.

Available Documents

None.

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

Mandatory Safety Standards for Surface Coal Mines and Surface Areas of Underground Coal Mines (30 CFR Part 77*)

Legal Authority

Federal Mine Health and Safety Act of 1977, 30 U.S.C. § 811.

Reason for Including This Entry

The Mine Safety and Health Administration (MSHA) plans to include additional requirements in its existing regulation and believes that initial industry costs to comply may exceed $50 million.

Statement of Problem

In 1978 approximately 417 million tons of coal, from a total figure of 660 million tons mined, was taken from surface mines, and we expect this tonnage to increase.

It is estimated there are 89,000 miners currently working in the Nation's surface coal mines and surface areas of underground mines. MSHA statistics for 1978 reveal a fatality rate of .04 and an injury rate of 4.08 per 200,000 hours worked (per 100 fulltime employees). The primary causes of fatalities are from haulage and machinery accidents.

MSHA has reviewed all existing safety standards for surface coal mines and comments received from industry and labor representatives on regulations the agency initially proposed in 1977, and has determined that there is a need to strengthen and clarify certain provisions. In addition, in light of E.O. 12044, some subparts and sections of the current regulations need reorganizing in order to make them easier to use by operators and inspectors. We also recognize the need to expand the existing regulations to include additional requirements for illumination of work areas; guarding of electrical equipment; examination and testing of high-voltage circuit breakers; protection of direct current circuits; protection of low- and medium-voltage alternating current circuits; protection of electric wiring and equipment; handling of energized trailing cables and portable feeder cables; mine maps; ground control; and locations for explosives magazines. Where appropriate, we will simplify sections and delete irrelevant provisions.

Alternatives Under Consideration

These amendments and revisions were first proposed in January 1977. The proposal would have revised all the

safety requirements for surface coal mines and surface areas of underground coal mines. MSHA has evaluated the proposal and comments received in response to that proposal. Three alternatives are available: (A) Develop a final rule based on the 1977 proposal. This approach would sacrifice revisions which reflect new technology and further public comment on these revisions. (B) Separate the 1977 proposed rule into several sections such as electrical and nonelectrical safety requirements. This approach would allow MSHA to address high priority areas first but would diminish our ability to consider all the surface safety regulations as one cohesive package. (C) Repropose the entire Part. This would allow a total review and publication of all MSHA's surface coal mining safety regulations in one cohesive package.

MSHA had decided to repropose the entire Part as described above, within the framework of the Federal Mine Safety and Health Act of 1977 and its requirements. However, at this time, MSHA is leaning toward the second alternative. The aspects of publishing such a large package make the public comment process cumbersome and a burden for small business.

Summary of Benefits

Sectors Affected: Surface coal mining and surface areas of underground coal mines; miners who work in these areas; representatives of miners, which according to Part 40 can include any person or organization which represents two or more miners at a coal or other mine; and MSHA.

MSHA expects that these improved standards will help reduce fatalities and injuries of miners. This reduction in fatalities and injuries will decrease certain costs to surface mine operators, e.g., productivity lost because of accidents, and lower insurance premiums. In addition, the increased readability of the standards will benefit mine operators and MSHA inspectors. In some instances, we will include specific requirements in the standards rather than incorporating other documents by reference. This will provide clarity for operators, miners, and their representatives.

Summary of Costs

Sectors Affected: Surface coal mining and surface areas of underground coal mines.

When we first proposed these rgulations in January 1977, our economic estimates revealed that it would cost approximately $44 million for the industry to comply with the proposal. The principal costs relate to additional equipment purchases to meet requirements for low-resistance portable feeder cables; protection of direct current circuits; guarding of high-voltage equipment; examination and protection of high-voltage circuit breakers; protection of low- and medium-voltage alternating current circuits; illuminations; guarding of electrical equipment; and protection of electric wiring and equipment. 1979 estimates were as follows: illumination—$20 million; guarding of electrical equipment—$16 million; protection of electric wiring and equipment—$2.2 million; high-voltage circuit breakers, examination—$6 million; energized trailing cables—$9 million; protection of direct current circuits—$2.0 million; guarding of high-voltage equipment—$3.2 million; and booms and masts, warning devices—$3.5 million.

The initial estimate does not take into consideration industry expansion and overall increases caused by inflation. Industry costs to comply may well exceed $50 million in the first year (1976 dolars). Approximately 90 percent of the costs are associated with one-time equipment purchases. Therefore, we expect costs to decline drastically for the second year. The burdens of small business will be given special consideration and assessed accordingly.

Related Regulations and Actions

Internal: MSHA has regulations setting forth requirements for underground coal mines (30 CFR Part 75). MSHA is working on safety and health standards for construction work on mine property (30 CFR Part 110).
External: None.

Active Government Collaboration

None.

Timetable

NPRM—December 30, 1980.
Public Comment Period—60 days following NPRM.
Public Hearings—Broken up by sections of proposal. Locations and dates have not been finalized.
Regulatory Analysis—Will accompany NPRM.
Final Rule—1982.

Available Documents

NPRM—42 FR 2800, January 13, 1977.
Comments on first NPRM (see Agency Contact).

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DOL—MSHA

Regulations Setting Forth Requirements for Safety and Health Training for Mine Construction Workers (30 CFR Part 48)

Legal Authority

Federal Mine Safety and Health Act of 1977, 30 U.S.C. §§ 811 and 815.

Reason for Including This Entry

The Department of Labor has included this entry because of great public interest in the regulation.

Statement of Problem

Preliminary industry estimates reveal that there are approximately 70,000 to 90,000 employees engaged in mine construction work, and the Bureau of Labor Statistics' data reveal that construction is a high hazard industry. In 1977, based upon Occupational Safety and Health Administration (OSHA) data, the incidence of accidents and injuries for all workers in the private sector was 9.3 per 100 full-time workers; however, it was 15.5 per 100 for construction workers. The Mine Safety and Health Administration (MSHA) has no separate accident and injury statistics, to date, for construction workers on mine property. However, we do know that there were approximately 18 mining fatalities related to construction in 1979. Section 115(d) of the 1977 Federal Mine Safety and Health Act requires that the Secretary of Labor promulgate appropriate standards for safety and health training for construction workers. These regulations will require that all construction workers on mine property be appropriately trained by their employers in the safety and health hazards of their jobs. Such training should help construction employees avoid accidents in the mines, thereby resulting in a reduced accident incidence rate for construction workers.

Alternatives Under Consideration

MSHA is considering the following alternatives: what amount of training we will require (current surface regulations require 24 hours; however, MSHA is uncertain as to whether that amount of time is appropriate for construction workers); how often (given the mobility of the construction workforce); if there is a need for refresher training; and what training can be substituted for that which the regulation may require (for example, apprenticeship training).

MSHA believes that an important

identifying those independent

the public, or damage to the

specified size and larger, there will be

Summary of Costs

Final Rule—January 30, 1983.

MSHA believes that an important consideration in the development of the regulation will be to determine exactly what kind of training employers are currently providing, so that appropriate credit can be given for such training to avoid any duplication of industry and labor training effort. MSHA is engaging in consultations with both labor and industry to get this information.

Summary of Benefits

Sectors Affected: Mine construction industry and employees; mining industry; and miners.

MSHA expects that these regulations will provide a strong framework for reducing injuries, illnesses, and fatalities which are associated with mine construction work. Our long-term goal is to reduce measurably the hazards related to construction in the mining workplace. We anticipate that the 15.5 percent incidence rate previously mentioned can be reduced for the 70,000 to 90,000 construction workers on mine property. A reduction in the incidence rate will benefit the industry in the form of higher productivity and lower accident-related costs. In addition, a reduced incidence rate will result in fewer injuries, illnesses, and fatalities, which will benefit construction employees, as well as miners exposed to the hazards created by ongoing construction work.

Summary of Costs

Sectors Affected: Mine construction industry; and the mining industry.

MSHA is developing estimates for the costs of complying with these regulations. When MSHA promulgated Part 48, the Agency developed model training programs to help operators comply with the regulations. MSHA will consider this approach for construction training as an aid to minimize the cost of small businesses developing their own training programs. Since MSHA is only in the drafting stage with respect to this regulation, the cost estimates will depend, in large part, upon the final make-up of the regulation, including categories of training required, hours of training, etc.

Related Regulations and Actions

Internal: MSHA is developing safety and health standards for construction work on mine property (30 CFR Part 110). MSHA has existing mandatory safety and health training regulations for miners (30 CFR Part 48). OSHA has construction safety and health standards (29 CFR Part 1926, and portions of 29 CFR Part 1910), some of which require training. MSHA has regulations which set forth criteria for identifying those independent contractors who will be operators within the meaning of § 3(d) of the Mine Act, 30 CFR Part 45.

External: None.

Active Government Collaboration

None.

Timetable

ANPRM—February 1981.
NPRM—1981.
Regulatory Analysis—We are unsure at this time if we will prepare one.
Public Comment Period—ANPRM—45 days following publication; NPRM—60 days following publication.
Public Hearings—Will be held after the NPRM is published. Dates and locations of the public hearings to be announced at that time.
Final Rule—1982.

Available Documents

None.

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DOL—MSHA

Requirements for Construction and Maintenance of Impounding Structures and Tailings Piles at Metal and Nonmetal Mines (30 CFR Parts 55.20-10°, 57.20-10°, and New Parts not yet Specified)

Legal Authority

Federal Mine Health and Safety Act of 1977, 30 U.S.C. § 811.

Reason for Including This Entry

The Mine Safety and Health Administration (MSHA) thinks these regulations are important because current regulations are inadequate to ensure safe construction and maintenance of metal and nonmetal waste-impounding structures. We expect the regulation to have over $50 million impact annually on the industry.

Statement of Problem

There are approximately 680 metal and nonmetal tailings dams in the United States. Based upon a recent survey, MSHA estimates that 15 to 20 percent of the existing structures pose some form of potential hazard, which might result in loss of life to both workers at the mines and members of the public, or damage to the environment. We developed and published improved standards governing impoundments and waste piles at coal mines following the coal mine dam failure at Buffalo Creek in 1972, which resulted in many injuries and fatalities. However, because of recent waste dam failures at metal and nonmetal mines and the continuous potential for loss of life, MSHA decided that there is a problem related to the construction of new and existing impounding structures as well, and that improved standards are necessary. Existing regulations are very general, and unenforceable as written. Located at 30 CFR 55, 56, and 57.20-10, they read as follows: "*Mandatory:* if failure of a water or silt retaining dam will create a hazard, it shall be of substantial construction and inspected at regular intervals."

MSHA anticipates that the improved standards will result in a reduction of injuries at the mine site and will minimize the chances of water and waste from the ore spilling over into the surrounding public environment and creating the possibility of physical damage to the land and its occupants.

Alternatives Under Consideration

MSHA has considered the following major alternatives:

(A) The manner in which we will require metal and nonmetal operators to construct new dams, i.e., how they should be designed and the materials used in construction. The type and specificity of requirements for these structures will affect the cost of compliance to the industry to comply. Although structures will, of course, have to vary depending upon the nature and geography of the mine being served and the type of waste product involved, requirements which are specific and yet allow for operator flexibility could possibly result in more consistent enforcement by MSHA and greater miner safety. In other words, these requirements will give operators better notice of what their responsibilities are with respect to waste dams, and MSHA inspectors will have better guidelines upon which to base citations for violations.

(B) Whether or not there will be a delayed effective date to allow existing facilities to comply.

(C) Whether certain existing facilities will be exempted from or receive special treatment under the new requirements. It might be feasible to include a grandfather clause in the regulation which will exempt certain existing facilities from the requirements of the standard. However, since the regulations only apply to dams of specified size and larger, there will be no need to provide special exemptions for small mines.

(D) Whether metal and nonmetal operators will have to submit plans for the construction of waste and impoundment structures. These plans would be approved by the appropriate Department of Labor, Metal and Nonmetal Mine Safety and Health District Manager. This requirement would increase the paperwork burden on the affected industry; however, it would ensure that all new facilities are constructed in the proper manner.

(E) What the applicability will be of the Department of the Army's Corps of Engineers' requirements related to impounding construction. MSHA adopted their size criteria, in large part in this proposed regulation.

(F) Whether to allow the existing regulation to remain in its very general form, and do nothing at all. At this time, it appears that this alternative would not do anything to help solve the problem. Because the existing regulation contains no general guidelines or performance standards, the quality of waste dams varies greatly.

MSHA is considering whether to appoint an advisory committee composed of members from labor, industry, and the public to review these and other related issues in order to arrive at the best approach possible to alleviating the present problem.

Summary of Benefits

Sectors Affected: Miners working in mines having waste dams; persons who live in close proximity to such mines; the metal and nonmetal mining industry (except fuels); the general public; and State and local governments.

Although there are not current statistics on the number of injuries resulting from dam failures at the approximately 680 operating metal and nonmetal mines, the dam failure at the Buffalo Creek coal mine killed 123 persons and left thousands in the surrounding community homeless. At least four metal and nonmetal failures have caused damage to the surrounding public environment; waste water and mud were released not only into the lands, but also into the source of the local water supply. We anticipate that this regulation, in whatever form we propose it, will reduce injuries, fatalities, and environmental damage associated with dam failures by setting forth more stringent requirements for waste dam construction. This would also benefit State and local governments that bear part of the costs in dealing with dam failures.

Summary of Costs

Sectors Affected: Metal and nonmetal mining industry (but not fuels); States and localities which conduct mining activities; miners; and representatives of miners (any person or organization which represents two or more miners at a coal or other mine).

MSHA is in the process of developing data about the economic impact on the metal and nonmetal mining industry. The final cost estimates will have to take into consideration vast differences in types of mines, types and amounts of waste products involved, and the geographical terrain. In addition, the extent to which existing facilities can comply with the regulation with only minor changes will affect the cost. We have recently contracted to determine the cost impact of the regulation. The contract will assist in our decision to proceed with the regulations in their present form. We do expect them to qualify as a major regulation under the Department of Labor's Guidelines for Improving Government Regulations (44 FR 570, January 26, 1979), inasmuch as cost of implementation to the mining industry is expected to exceed $50 million. Operators of metal and nonmetal mines which have waste dams would be most affected by the costs of the regulation. We have prepared preliminary risk assessments of the currently prevailing situation with regard to impounding structures, and we will obtain more detailed information from the contract.

Related Regulations and Actions

Internal: MSHA currently has surface coal mine safety standards for refuse piles (30 CFR 77.214-217). MSHA has existing metal and nonmetal safety standards which regulate impounding structures (30 CFR 55.20-10; 30 CFR 56.20-10; 30 CFR 57.20-10).

External: The Department of the Army has authority, through the Corps of Engineers, to regulate dams and their construction on public property under P.L. 92-367, 86 Stat. 506-507. The Department of the Interior, Office of Surface Mining, has authority to regulate coal mine dams and waste piles under the Surface Mining Control and Reclamation Act of 1977, P.L. 95-87, 91 Stat. 445.

Active Government Collaboration

None.

Timetable

ANPRM—Fall 1981.
NPRM—Winter 1981-82.
Public Comment Period—March 30-May 30, 1982.
Public Hearing—September 30, 1982.
Final Rule—January 30, 1983.
Regulatory Analysis—Will accompany NPRM.

Available Documents

None.

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DOL—MSHA

Review of Safety and Health Standards Applicable to Metal and Nonmetal Mining and Milling Operations (30 CFR Parts 55°, 56°, and 57°)

Legal Authority

Federal Mine Health and Safety Act of 1977, 30 U.S.C. § 811.

Reason for Including This Entry

The Mine Safety and Health Administration (MSHA) believes this rule is important because it is a major review of all standards affecting metal and nonmetal mines. This review is important to the industry because MSHA will be reviewing the standards with an eye towards reducing reporting requirements, deleting unnecessary standards, and simplifying existing standards.

Statement of Problem

In accordance with E.O. 12044, MSHA is currently undertaking a thorough review of all existing metal and nonmetal health and safety standards. The Agency committed itself to this review when it published its final rule on August 17, 1979, which converted former metal and nonmetal advisory standards to mandatory standards. The document stated that "MSHA intends to conduct a comprehensive study of all the health and safety standards contained in 30 CFR Parts 55, 56, and 57 in order to assess their continued applicability and effectiveness." More specifically, MSHA is undertaking this review in order to update and upgrade existing standards and to consider eliminating, consolidating, clarifying, simplifying, or reorganizing provisions where appropriate. MSHA's review is also covering changes in technology and economic conditions and other factors which affect the applicability of existing standards. This rulemaking project is covering all of the safety and health

standards included in Parts 55, 56, and

This review will benefit the metal and

are available by mail at a cost of 10

However, § 101(a)(8) of the Act requires

Summary of Costs

rulemaking with OSHA. MSHA has

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standards included in Parts 55, 56, and 57, which are divided into sections relating to such areas as fire prevention and control; storage, transportation, and use of explosives; use of equipment; and electricity.

Alternatives Under Consideration

The Agency published an ANPRM (45 FR 19267, March 25, 1980), and solicited public comment on problems related to existing standards and on the order in which MSHA should review the standards. MSHA received requests to extend the comment period and did so on June 6, 1980 (45 FR 38087, June 6, 1980), allowing an additional 60 days for recommendation. MSHA has received over 100 suggestions from the mining community and interested public.

Suggestions we received reveal that current standards need to be (1) reorganized to facilitate their use by the metal and nonmetal mining community; (2) simplified and clarified so that they can be easily understood; and (3) deleted if outdated, duplicative, or overlapping with other MSHA standards. The standards are currently organized in terms of general hazards covered, such as electrical, explosives, etc. However, many commenters stated that the existing sections are not comprehensive in that standards covering electrical hazards appear in several sections. The commenters felt that combining all associated standards together would enable operators to more easily understand their responsibilities.

Other standards may no longer be applicable because of changes in technology. The current regulations incorporate by reference many other requirements such as National Fire Protection Code Standards, Threshold Limit Values, American National Standards Institute requirements, etc., some of which may be outdated. In the review, MSHA will pay particular attention to the incorporations by reference. In addition, commenters recommend that it will be helpful to the metal and nonmetal mining community to include a more detailed index with cross-referencing to other MSHA standards, as well as other style and format changes. Commenters stated that certain standards included duplicative requirements such as training for miners. In light of MSHA's comprehensive training standards, MSHA is now reviewing suggestions and deciding priorities for review.

Summary of Benefits

Sectors Affected: Metal and nonmetal mining industry (except fuel); and miners in these industries.

This review will benefit the metal and nonmetal mining community because it will result in improved safety and health standards. In addition, we will revise or revoke outdated standards; clarify those standards which are confusing and delete standards which overlap. These actions will make it easier for metal and nonmetal operators to comply with MSHA's standards. In addition, a deletion of duplicative and outdated standards may result in a reduction of operator costs associated with compliance.

Summary of Costs

Sectors Affected: Metal and nonmetal mining industry (except fuel).

MSHA will consider the effect of these regulations on small businesses and make a special effort to minimize recordkeeping and compliance burdens on these businesses. It is important to note that the majority of the businesses affected by these regulations are small businesses. There may be additional costs associated with capital outlays for some equipment due to new technological advances; however, MSHA is hopeful that the review will actually result in a reduction in recordkeeping costs and a deletion of duplicative requirements which may help offset any increased costs.

Related Regulations and Actions

Internal: All existing standards covering Parts 55, 56, and 57, as of January 1, 1980.

External: None.

Active Government Collaboration

None.

Timetable

Notice of MSHA decision of priorities—June 30, 1981.
Open Conferences (Public Meetings)—June through October 1981.
NPRM (related to priority revisions)—January 1982.
Initial Regulatory Analysis (including Initial Regulatory Flexibility Analysis)—October 1981, as appropriate.
Public Comment Period—60 days following publication of NPRM.
Public Hearings—June 1982, tentative.
Final Rule—To be determined.

Available Documents

All existing standards in 30 CFR Parts 55, 56, and 57, as of January 1, 1980.

ANPRM (45 FR 190267, March 25, 1980 and 45 FR 38037, June 6, 1980).

Public comments received in response to ANPRM and copies are available from Agency Contact on request. Copies are available by mail at a cost of 10 cents per page for copying.

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DOL—MSHA

Safety and Health Standards for Construction Work at All Surface Mines and Surface Areas of Underground Mines (30 CFR Part 110)

Legal Authority

Federal Mine Health and Safety Act of 1977, 30 U.S.C. § 811.

Reason for Including This Entry

The Department of Labor (DOL) believes there is significant public interest in this regulation.

Statement of Problem

Construction work at the Nation's surface mines and surface areas of underground mines constitutes approximately 10 to 15 percent of total construction activity and exposes approximately 70,000 to 90,000 persons per year to safety and health hazards associated with construction. In 1977, based upon Occupational Safety and Health Administration (OSHA) data, the incidence of accidents and injuries for all workers in the private sector was 9.8 per 100 fulltime workers; however, it was 15.5 for construction workers. In addition, although the Mine Safety and Health Administration (MSHA) has no separate accident and injury statistics, to date, for construction workers on mine property, we do know that there were approximately 18 mining fatalities related to constuction in 1979. MSHA is currently in the process of developing complete injury, illness, and fatality data for construction workers on mine property.

Prior to March 9, 1978, construction contractors performing work at metal and nonmetal mines were subject to OSHA's construction standards. On that date, the Mining Enforcement and Safety Administration, which was transferred from the Department of the Interior (DOI) to the Department of Labor became MSHA and assumed jurisdiction over industry workers on all surface mine property. Currently, MSHA applies its existing surface safety and health standards (Parts 55, 56, 57, 71, and 77) to construction activity.

However, § 101(a)(8) of the Act requires that "The Secretary shall, to the extent practicable, promulgate separate mandatory health or safety standards applicable to mine construction activity on the surface." If MSHA does not publish comprehensive regulations which address the hazards associated with all phases of construction work, protection will be inadequate for this important segment of the construction industry.

Alternative Under Consideration

MSHA has circulated for public comment an ANPRM which contained virtually all of OSHA's current requirements related to constuction. Requirements for personal protective equipment, fire protection, welding and cutting, steel erection, excavation trenching, shoring, and blasting are included. This alternative (publication of comprehensive regulations similar to those of OSHA) is endorsed by the majority of those commenting on the ANPRM and will provide the least disruption to that portion of the industry which prior to March 9, 1978 was subject to the jurisdiction of OSHA while working on surface mine property.

Other alternatives incude:

(A) Which edition of the American Conference of Governmental Industrial Hygienists' "Threshold Limit Values of Airborne Contaminants" should be incorporated into the standard governing exposure of employees to gases, vapors, fumes, dusts, and mists at construction sites. OSHA uses the 1970 edition, but the 1978 edition is more current and imposes more stringent requirements, resulting in reduced exployee exposure to some contaminants.

(B) The substitution of certain requirements from 30 CFR Parts 71 and 77, regarding construction activities (e.g., a requirement that all electrical work be performed by qualified and certified persons), for related OSHA requirements. This would retain certain practices currently existing at coal mine construction sites.

Summary of Benefits

Sectors Affected: Mine constuction industry and employees; the mining industry; miners; and representatives of miners (any person or organization which represents two or more miners at a coal or other mine).

The use of OSHA's standards will minimize disruption of the construction industry. Use of updated threshold limit values for airborne contaminants would potentially decrease the incidence of occupational illness and its attendant costs.

Summary of Costs

Sectors Affected: Mine construction industry; and the mining industry.

MSHA is developing the estimates for the costs to industry of complying with these regulations. Although these are new regulations for MSHA, they will not represent new requirements for a large segment of the construction industry for the following reason. Prior to the effective date of the Federal Mine Health and Safety Act of 1977, all construction activity in metal and nonmetal mines which was not undertaken by the operator was subject to OSHA's jurisdiction. This was by far the largest portion of construction work at metal and nonmetal mines. Thus, construction contractors working at metal and nonmetal mines had to comply with OSHA's construction standards. However, because most sand and gravel operations are small, most construction activity of this kind at the mine site was undertaken by the operators themselves. These new regulations address many of the same hazards covered by the existing requirements but are new in format and contain some new requirements for most of these operators and may be burdensome at first; however, little sand and gravel construction activity occurs at these mines.

All construction on coal mine property was subject to the jurisdiction of DOI's Mining Enforcement and Safety Administration, this Agency's predecessor. Major construction work is usually performed by large contractors who also perform work at metal and nonmetal mines which is currently subject to OSHA's standards. Therefore, these regulations will not be new to these contractors.

Because MSHA's draft standards are in large part OSHA's current construction regulations, and because the standards address the same hazards as those addressed by MSHA's standards for surface mining, these standards will have a minimum impact on the methods by which construction contractors do business. However, if MSHA does decide to incorporate the latest edition of the "Threshold Limit Values of Airborne Contaminants," there could be increased costs associated with reduced employee exposure levels.

Related Regulations and Actions

Internal: MSHA currently has coal mine surface construction regulations (30 CFR Part 77). OSHA has regulations which govern construction activity (29 CFR 1926 and portions of 29 CFR 1910). MSHA is coordinating all aspects of this rulemaking with OSHA. MSHA has regulations which set forth criteria for identifying those independent contractors who will be operators within the meaning of § 3(d) of the 1977 Act (30 CFR Part 45). MSHA is also drafting regulations setting forth requirements for safety and health training for mine construction workers (30 CFR Part 48).

External: None.

Active Government Collaboration

None.

Timetables

NPRM—January 1981.
Regulatory Analysis—If required, a draft will be available with the NPRM.
Public Comment Period—60 days after NPRM.
Public Hearings—February–March 1981. Various locations to be announced.
Final Rule—September 1981.

Available Documents

ANPRM—44 FR 52258, September 4, 1979.

Comments received in response to ANPRM (available through Agency Contact).

OSHA Standards—44 FR 8575, February 9, 1979 and 44 FR 20940, April 6, 1979.

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DOL—Occupational Safety and Health Administration

Generic Standard for Occupational Exposure to Pesticides During Manufacture and Formulation (29 CFR Part 1910)

Legal Authority

The Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) has determined that this regulation is necessary for the immediate protection of workers employed in the manufacture and formulation of pesticides. Numerous incidents of harmful employee exposures to a variety of pesticides have already been recorded in these industries. The large number of

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pesticides being produced in this country, as well as the broad range of toxic effects they produce, suggests that there is a potential for continuing harmful exposures and, thus, a need for employee protection.

Statement of Problem

Approximately 34,000 workers are exposed to toxic substances during the manufacture and formulation of pesticides. Pesticides are biologically active substances which are designed to kill or alter some living organism, usually designated as the target "pest." However, pesticides frequently cause health effects in whatever living organisms are exposed to them, including humans. Extensive evidence in the scientific literature indicates that worker exposure to pesticides results in serious health problems, including severe skin irritation, damage to the liver and kidneys, sterility, lung damage, and central nervous system disorders. In addition, some pesticides cause cancer, genetic changes, and birth defects. Several well-publicized tragedies have occurred in recent years involving the development of adverse health effects in employees who were exposed to pesticides during manufacture and formulation operations (for example, the effects of Kepone on workers in a Virginia plant and the cases of sterility in male workers packaging the pesticide dibromochloropropane (DBCP)). Investigations of these incidents indicate that there is an immediate need for regulatory action by OSHA to reduce the risk of occupational disease in exposed workers.

Alternatives Under Consideration

Mandatory standards may be necessary to protect employees working in the pesticides manufacturing and formulation industries. One alternative is to develop standards for pesticides on a substance-by-substance basis. OSHA currently has permissible exposure limits (standards) for approximately 160 substances (see 29 CFR 1910.1000, Tables Z–1, Z–2 and Z–3) that are used as pesticides. However, the Environmental Protection Agency (EPA) has registered nearly 1,500 pesticide active ingredients which are formulated into almost 40,000 pesticide products; thus, OSHA's current regulations cover only a small percentage of the currently available pesticide products. Therefore, pursuing this alternative would significantly delay extending protection to many employees in these operations and would require a much greater investment of Government time and resources. The Agency currently believes that a generic approach to regulation—that is, regulation of pesticides as a class of hazardous substances rather than on a substance-by-substance basis—provides basic protection to workers more quickly, and appears to be a more manageable approach for implementation by employers.

OSHA is considering several variations of a generic standard covering employee exposure to pesticides. The basic provisions, in all cases, address emergency situations, worker training, medical surveillance, hygiene practices, housekeeping, and personal protective equipment. The approaches differ primarily in the degree of specification used to describe the required control measures and the methods used to determine whether a specific provision applies to a given pesticide.

At present, we are evaluating three such alternative generic approaches:

(A) This alternative would base requirements for control measures solely on the degree of control that is currently used in each individual workplace. For example, the employer whose employees work in an area where pesticides are manufactured in an enclosed process (one which results in minimal exposure potential for employees) would be required to provide fewer additional control measures than the employer formulating pesticides in open vats (where the potential for employee exposure is great). Only personal protective equipment and respiratory protection devices would be required; no engineering controls (such as local exhaust ventilation) would be specified. All pesticides would be regulated in the same manner under this alternative, with no differentiation with respect to toxicity.

(B) In the second alternative, determination of the application of the various provisions to control employee exposure to a specific pesticide would depend on the toxicity of that pesticide. OSHA would incorporate the toxicity categorization scheme that EPA developed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. § 136 *et seq.*) into this approach. For example, employers who have pesticides in Toxicity Category I (highly toxic) in their workplaces would have to perform housekeeping activities, such as removal of pesticide accumulations on surfaces, more frequently than those with pesticides in Toxicity Category III (slightly toxic). The standard would also include detailed requirements for engineering controls, such as requiring that processes and operations involving highly toxic pesticides be enclosed and isolated.

(C) This approach would be performance-oriented, and would require the employer to assume responsibility for ensuring that proper control measures are selected and implemented when necessary. Rather than indicating what specific control measures would be required in each case, the standard would require the employer to perform a hazard evaluation and then determine the appropriate control measures on the basis of the hazards found. In making the hazard evaluation, the employer would survey the workplace and make an assessment of the conditions in which his/her employees work. The employer would be required to consider all relevant factors (for example, toxicity, physical state, and current level of control) before implementing controls.

Although OSHA has not determined which alternative it will propose as a standard, the performance-oriented work practices approach (alternative C) seems to be the most appropriate for a generic standard. This type of standard relies heavily on the "good faith" efforts of employers to comply with the intent of the regulation, but it appears to be the most equitable way to deal with the large number of pesticides involved and the range of hazards they produce. The standard would provide immediate protection for all employees in the pesticide industries. OSHA may decide to develop substance-specific standards for the most hazardous pesticides at a later date.

Summary of Benefits

Sectors Affected: Establishments engaged in manufacturing and formulating pesticide active ingredients and products; and workers in these establishments.

Sectors affected by this regulation include, but may not be limited to, establishments classified in Standard Industrial Classification (SIC) codes: 281 (Industrial Inorganic Chemicals), especially 2812 (Alkalies and Chlorine); 286 (Industrial Organic Chemicals), especially 2869 (Industrial Organic Chemicals, not elsewhere classified); and 287 (Agricultural Chemicals), especially 2879 (Pesticides and Agricultural Chemicals, not elsewhere classified). Firms classified in a number of other SIC codes also manufacture or formulate pesticides, although not as a primary product. We estimate at least 4,600 establishments will be affected by this regulation.

The direct benefit we expect from this action is a reduction in the incidence and prevalence of the adverse health effects in the 34,000 workers that are exposed to pesticides. The standard will also result in indirect benefits, such as reduced costs of adverse health effects to the worker, to industry, and to society. For the worker and his/her family, these costs may include loss of potential earnings because of disability or premature death, medical expenditures (including hospital costs, physicians' fees, and pharmaceuticals), and intangible costs, such as pain and suffering, and family bereavement. The regulation will also result in declining social costs of social security disability insurance, public assistance programs, and Medicaid and Medicare payments. Employers may experience gains in productivity as a result of reductions in employee absenteeism and turnover and from the improved health of employees. OSHA does not, as yet, have estimates of the magnitude of any of these benefits. Because workers will be healthier and have fewer job-related illnesses, workers' compensation premiums may decrease. OSHA is in the process of evaluating the alternative schemes for a Regulatory Analysis, which will be available when the NPRM is published in the Federal Register.

Summary of Costs

Sectors Affected: Establishments engaged in manufacturing and formulating pesticide active ingredients and products; and users of these pesticide ingredients and products.

OSHA is currently estimating the direct and indirect costs of compliance with the alternatives and will make this data available at the time it publishes the proposal.

The pesticide producers and formulators will probably attempt to pass through their increased compliance costs in the form of higher prices for their products to pesticides users. The agricultural sector is the largest user of pesticides, but this standard would indirectly affect many other diverse users, because pesticides are used in many workplaces to control pests.

Related Regulations and Actions

Internal: OSHA promulgated a final standard for control of employee exposure to the pesticide dibromochloropropane (DBCP) on March 17, 1978 (43 FR 11514), and for inorganic arsenic, which is found in some pesticide formulations, on May 5, 1978 (43 FR 19584). The OSHA Air Contaminant Standards (29 CFR 1910.1000) contain maximum permissible limits for about 160 chemicals which may be used as pesticides. All of these specific permissible exposure limits will continue to apply when the Agency promulgates the generic standard for pesticides.

External: The Environmental Protection Agency (EPA), the Food and Drug Administration of the Department of Health and Human Services, and the Departments of Transportation and Agriculture have programs for regulating the use of pesticides.

Active Government Collaboration

The National Institute for Occupational Safety and Health (NIOSH) has published a "criteria document," a report containing recommendations for controlling occupational exposure to pesticides during their manufacture and formulation. NIOSH is also preparing control technology assessment of the pesticides industries. OSHA has been working with NIOSH to obtain information relevant to the development of an OSHA pesticide standard.

The Environmental Protection Agency (EPA) has the primary Federal responsibility for regulating the use of pesticides in the United States. OSHA has a working relationship with EPA whereby EPA makes available to the appropriate OSHA staff any disclosable information relevant to an OSHA pesticides standard.

The State of California's occupational safety and health program has an active pesticides division. We have established working relationships with the State to exchange information and develop a pesticides data base.

Timetable

NPRM—Summer 1981.
Regulatory Analysis—Spring 1981.
Public Comment Period—
Approximately 30–60 days following NPRM.
Public Hearing—If requested, following public comment period.
Final Rule—Spring 1982.
Final Rule Effective—To be determined.

Available Documents

"Request for Comments and Information—Occupational Exposure to Pesticides," 43 FR 54955, November 24, 1978.

"Criteria for a Recommended Standard . . . Occupational Exposure During the Manufacture and Formulation of Pesticides" (NIOSH–HEW, 1978).

Public docket of the rulemaking record, Docket H–115.

These documents are available for review and copying at the OSHA Technical Data Center, Room S–6212, 200 Constitution Avenue, N.W., Washington, DC 20210. A fee is usually charged for copies of these documents.

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DOL—OSHA

Identification and Labeling of Hazardous Materials in the Workplace

Legal Authority

Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) believes this proposed regulation is extremely important because it will allow employees to identify the chemical substances and know the workplace hazards to which they are exposed, thereby enabling them to take actions to better protect themselves from these hazards.

Statement of Problem

Approximately 25 million American workers are currently exposed to toxic chemicals where they work. A 1972 National Institute for Occupational Safety and Health (NIOSH) survey found 85,000 trade name products that are commonly used in the workplace. In 90 percent of the cases neither employer nor employee knew the identity of the chemicals or the hazards of these products. The rapid proliferation of new chemicals increases the number of substances found in the workplace, and consequently increases the number of substances with which employees may be unfamiliar. Without provisions for chemical identification, workers do not know what chemicals they are using and are unaware of the potential hazards. Thus, employees are less able to properly protect themselves and are unaware that they should ask their employers for adequate protection. Furthermore, if chemicals in the workplace are not appropriately identified, it is difficult to determine which chemicals are responsible when occupational diseases occur.

Alternatives Under Consideration

In the May 30, 1980 edition of the *Calendar of Federal Regulations*, the agency presented several alternative standards for consideration. First, the standard was to include an employee training provision. The preliminary evaluation of this compliance activity

revealed difficulties in prescribing appropriate training programs within a

identified hazards), substance-employee

(for example, in retail trade or services)

exposures and which have a long

discovered, new chemicals are added to

Active Government Collaboration

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revealed difficulties in prescribing appropriate training programs within a regulatory format that would be cost effective. Accordingly, the training provision is no longer under active consideration as a mandatory feature of the proposal. Second, the scope of the standard was limited to chemical industries. However, a substantial number of workers employed in other industries are exposed to significant concentrations of hazardous substances. By narrowing the scope of the standard to the chemical industries, these additional workers would not be afforded adequate protection although they would be exposed to the same recognized hazards. Third, the scope of this standard was limited to chemicals which have already been classified as recognized hazards by other Federal, private, or national organizations. By narrowing the scope of the standard to these recognized hazards, this would eliminate the regulation of many substances for which there is evidence that exposure may represent a hazard. Hence, this alternative is not under active consideration by the Agency. The alternatives we currently are considering are:

(A) All employers whose activities are classified under Division D, major groups 20–39, of the Standard Industrial Classification (SIC) Manual, would be required to identify hazardous chemicals in the workplace. These requirements would include the labeling of containers of hazardous materials, and the provision of hazard warning information to employees, customers, and suppliers. This alternative is based on the assumption that workers in those industries which manufacture, process, handle, or use chemical substances have the greatest potential for serious exposures. In addition, we also would regulate employers who import or repackage hazardous substances.

(B) We could expand the standard to include construction, as well as manufacturers, importers, and repackagers. Construction establishments would be required to comply with activities outlined in alternative A.

(C) We could expand the scope of the standard to include all industries. This approach would require all establishments to identify hazardous chemicals in the workplace, and to provide information to employees, customers, and suppliers.

(D) We could expand the standard to include other requirements in addition to those outlined in alternative A. Such requirements could include material safety data sheets (brief papers containing pertinent information on the identified hazards), substance-employee identification lists (compilations of the hazardous chemicals and of the employees present in a work area), and employee access to certain records which must be maintained by employers.

(E) We could promulgate a regulation jointly or in coordination with the Environmental Protection Agency (EPA). In order to implement the requirements of the Toxic Substances Control Act (TSCA), EPA is planning to issue regulations concerning warning of hazardous or toxic substances. OSHA and EPA are exploring the possibility of issuing a joint or coordinated rulemaking. This would have the advantage of avoiding duplicative requirements imposed on employers and inconsistent labeling practices.

The regulatory mandates of TSCA and the Occupational Safety and Health Act (OSH Act) are complementary. OSHA has jurisdiction for the protection of employees, while EPA governs the distribution of the products in commerce. Although the contents of the rulemakings have not been finally determined, it is expected that the two agencies will divide the responsibility for requirements of a comprehensive chemical substance identification rule. Thus, each agency's individual rulemaking would be limited, but comprehensive coverage would be provided through joint implementation of the two regulations.

OSHA currently considers a combination of alternatives A, D, and E to be most desirable. Such an approach would provide the necessary information to those employees with the greatest need, that is, those employees who work in establishments which manufacture, import, repackage, or use hazardous chemicals. In addition, by coordinating our actions with those of EPA, we would avoid the duplication of regulation by governmental agencies.

Summary of Benefits

Sectors Affected: Workers and establishments in all industries which manufacture, process, import, or repackage hazardous chemicals, or which use such chemicals in manufacturing processes, or which otherwise use or distribute hazardous chemicals.

This regulation will directly affect workers and employers in manufacturing establishments (SIC codes 20 through 39) which produce or use hazardous chemicals. Importers and repackagers who handle such materials would also be regulated. Establishments and employees in other industries not required to comply with the standard (for example, in retail trade or services) will also benefit from this regulation because they will receive products on which the chemical hazards will be identified.

The most important direct benefit of the standard or its alternatives is the information it will provide to workers exposed to toxic and hazardous chemicals. Although the private market does supply some information on chemical hazards, there is clear evidence that is of insufficient quality and quantity. In the absence of additional regulation, there will continue to be—as there have been in the past—substantial numbers of injuries and illnesses due to workers' lack of knowledge of the hazards present in the workplace. Data drawn from Workmen's Compensation files from participating States and published by the Bureau of Labor Statistics in the Supplementary Data System (SDS) provide information on the number of chemical source injuries and illnesses resulting in lost workdays during 1976 and 1977. Using those data, the percentage of all work-related injuries and illnesses attributable to a chemical source was found to be 0.6 percent and 25.5 percent, respectively. However, it is unclear as to what percent of these injuries and illnesses the proposed regulation will prevent. Also, it may be that a disproportionate fraction of unreported work illnesses may be from a chemical source.

The ultimate purpose of the regulation is to provide information to the worker which can be used to identify potential hazards and enable the worker to take steps to avoid or minimize his exposure. In addition, this information can be used by the worker to alert his/her physician to the potential cause of observed health effects.

The employee will be able to alleviate the costs of health care necessary for the treatment of injuries and illnesses caused by exposure to hazardous substances. Furthermore, a reduction of pain and suffering will result as a consequence of the elimination of some chemical source injury and illness.

The occupational hazard information could influence worker behavior. The worker would be able to take necessary precautions when handling hazardous substances or would be able to use personal protection devices. Society will gain from the additional production forthcoming as worker illnesses and injuries are reduced. The decrease in lost production due to complete and partial workday losses stemming from chemical source injuries and illnesses is expected to be substantial. Diseases which are caused by chemical exposures and which have a long latency period are also expected to be significantly reduced. Hence, the production capacity of the worker in the workplace will be enhanced. Furthermore, the reduction of chemical injuries and illnesses will enhance the ability to contribute to the needs of the family. Although this benefit is largely unmeasurable, it is likely to be very significant.

The employers in covered industries will be able to discover the existence of previously unknown hazards, which in some cases may be easily reduced. Non-hazardous or less hazardous products may be substituted for hazardous ones, and labor market pressures which the added information will engender are likely to provide incentives for employers to invest in health and safety programs and equipment, and to develop safer substances and control techniques.

Indirect benefits of the regulation or its alternatives are likely to be considerable, but they are unmeasurable. Workers' families and relatives will benefit because of reduced medical care costs (including hospitalization and physician services) and reduced pain and suffering. Quicker medical diagnoses will also occur when physicians are able to identify chemical hazards in the workplace. Recordkeeping will similarly improve diagnoses where workplace diseases have long latency periods and will provide valuable information to improve epidemiological research. Finally, reduced absenteeism and a clean workplace may contribute to production gains.

Additional indirect benefits include a reduction in the likelihood and severity of low probability, but spectacular, chemically-caused disasters. For example, the polybrominated biphenyl (PBB) tragedy in Michigan might have been prevented had this standard been in effect at the time.

Summary of Costs

Sectors Affected: Establishments which manufacture, process, import, or repackage hazardous chemicals; establishments in SIC codes 20 through 39 which use such chemicals; and consumers of products containing or produced with hazardous chemicals.

The direct costs of the standard will include an initial (one-time) administrative expense to the manufacturing establishments of identifying, listing, and recording information on existing hazardous substances. There will also be continued costs of updating the informational system as new information is discovered, new chemicals are added to lists, lists are updated, and so forth. The overall cost of the standard viewed as a whole, to the entire industry, is expected to be minimum because of the shared expenses anticipated by downstream distributors and users.

The preliminary evaluation of the initial cost of alternative A is $643 million; the expected annual cost of alternative A is $338 million. The expansion of coverage to include construction as specified by alternative B would increase the costs by a factor of approximately 1.4.

There may be some indirect costs as a result of the standard. For example, there may be a minimum affect on industrial research and development, and, hence, maybe upon innovation. There may be an increase in prices for products containing or those produced with hazardous substances because of the direct costs of identification and labeling. Further, the information provided by the requirements of the standard may generate additional expenditures in the form of wages through collective bargaining agreements for those employees working in hazardous areas, or in the alternative, additional expenditures in the form of capital investments for health and safety equipment and training.

Related Regulations and Actions

Internal: None.

External: A hazard warning regulation authorized by the Toxic Substances Control Act of 1976 is currently under development by the EPA. The regulation would require hazard warnings on all containers distributed in commerce. EPA, under the Federal Insecticide, Fungicide, and Rodenticide Act, also has regulations requiring the labeling of pesticides. The Department of Transportation (DOT), Food and Drug Administration (FDA), and the Consumer Product Safety Commission (CPSC) all have labeling regulations. The Department of Transportation's regulations pertain to the bulk shipment of hazardous goods. They have published an NPRM (44 FR 32972, June 7, 1979) for the display of identification numbers for hazardous materials to improve emergency response capability. FDA and CPSC regulations pertain to products for consumer consumption. However, none of these labeling regulations adequately address the problem of identifying and labeling hazardous substances in the workplace environment.

Active Government Collaboration

OSHA and the Environmental Protection Agency are cooperating in the development of this hazard warning rule. In addition, OSHA is actively participating in the Interagency Regulatory Liaison Group (IRLG) and its Labeling Task Force to assure that the provisions of this rule do not conflict with the existing regulations of other agencies.

Timetable

NPRM—Fall 1980.
Regulatory Analysis—November 1980.
Public Comment—60 days following NPRM.
Final Rule—Summer 1981.
Final Rule Effective—To be determined.

Available Documents

ANPRM—42 FR 5372, January 28, 1977.

"A Recommended Standard—An Identification System for Occupationally Hazardous Materials" (HEW–NIOSH, Publication Number 75–126).

Public docket of the record of rulemaking on chemical labeling (OSHA Docket H–022).

These documents are available for review and copying at the OSHA Technical Data Center, Room S–6212, 200 Constitution Avenue, N.W., Washington, DC 20210.

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DOL—OSHA

Occupational Noise Exposure Hearing-Conservation Amendment (29 CFR 1910.95*)

Legal Authority

The Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) has included this entry because we believe that an amendment to the present noise standard will provide protection to over 5 million workers who are adversely affected by noise. We estimate that the amendment will have an annual impact of $100 million or more on the economy.

Statement of Problem

Exposure to high levels of noise may cause temporary or permanent hearing loss and other harmful health effects.

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The extent of damage depends on two factors: the intensity of the noise and the duration of the exposure. Noise intensity is, for purposes of the existing standard, determined by the sound pressure level, measured as "decibels" and abbreviated "dBA."

There is an abundance of epidemiological and laboratory evidence that protracted noise exposures above 90 dBA cause hearing loss in a substantial portion of the exposed population, and that more susceptible individuals will incur hearing loss at levels below 90 dBA. Noise-induced hearing loss is an irreversible condition that progresses with increased exposure and with age. Because hearing is essential for communication, hearing loss can lead to serious social and psychological handicaps.

Noise can also cause other adverse effects, such as degraded job performance, increases in accidents and absenteeism, job dissatisfaction, headaches, fatigue, sleeplessness, stress-related illnesses, and other effects that are more difficult to isolate as noise-related than hearing loss, and yet are just as real when they occur.

OSHA's existing standard for occupational exposure to noise (29 CFR 1910.95) specifies a maximum permissible exposure to noise of 90 dBA for a duration of 8 hours, 95 dBA for a period of 4 hours, 100 dBA for a period of 2 hours, and so on. The Agency refers to this relationship as the 8-hour time-weighted average of 90 dBA. Thus, exposure to an 8-hour time-weighted average greater than 90 dBA is considered overexposure. Employers must use engineering or administrative controls, or combinations of both, whenever employee exposure to noise in the workplace exceeds permissible exposures. The standard also requires employers to administer a "continuing, effective hearing conservation program" for overexposed employees but the standard does not define such a program, causing enforcement of this provision to be quite limited.

OSHA proposed a revised noise standard in 1974 (39 FR 3773, October 24, 1974) which maintained the current standard's 90 dBA time-weighted average exposure limit, but expanded the requirements for hearing conservation programs. There was a great deal of controversy about alternative permissible exposure levels and their technical and economic feasibility, but few commentors challenged the concept of a hearing conservation program. Along with the 1974 proposal, the Agency developed draft environmental and economic impact statements and held two sets of public hearings. At present, the written comment and transcripts of the oral testimony in the hearing record amount to approximately 25,000 pages. Analysis of the record reveals information gaps in the nonauditory physiological effects of noise (i.e., adverse health effects other than loss of hearing, such as high blood pressure) and also in the areas of economic and technological feasibility of noise control. The Agency needs to obtain additional material and to perform additional impact analyses before we can propose a comprehensive new regulation.

In the meantime, there are an estimated 2.9 million workers in American production industries with exposures in excess of 90 dBA, and an additional 2.3 million employees with exposures between 85 dBA and 90 dBA. These workers could receive greatly increased protection if the Agency can promulgate and enforce hearing conservation requirements, as an amendment to the present standard. The Agency would then issue a final comprehensive standard after obtaining the missing but necessary information, updating existing cost figures, and selecting the appropriate control strategy.

Alternatives Under Consideration

OSHA is considering the following alternatives at this time:

(A) No regulation; do not make specific requirements for noise monitoring, audiometric (hearing) testing, selection and use of ear protection, and employee education. We do not favor this alternative, however, as issuance of and compliance with a final comprehensive regulation are at least 2 years in the future, the Agency believes workers need the interim protection that hearing conservation measures can provide.

(B) Issue a final regulation in the immediate future that is essentially the same as the 1974 proposal. This option has the advantage of providing renewed emphasis on engineering controls, but it appears that the exposure levels in the proposed standard are not adequately protective. Furthermore, we lack sufficient information on the feasibility of reducing noise to below 90 dBA for all industries. Also, we lack quantitative information on the nonauditory effects of noise.

(C) Issue the hearing conservation requirements as an amendment to the present noise standard (29 CFR 1910.95), and issue the final regulation at a later date. Under this alternative, the Agency would continue to study the nonauditory effects of noise and we would explore various regulatory approaches to engineering controls, such as providing different compliance periods for different industries or requiring lower noise levels for new plants. During this time the Agency would continue to enforce the present standard.

We currently regard alternative (C) as the most desirable alternative because it will provide millions of employees with immediate protection while the Agency prepares the final standard.

Summary of Benefits

Sectors Affected: Manufacturing industries; electric, gas, and sanitary services; Federal and State agencies with industrial programs; and employees of these industries and programs.

In 1976, an OSHA study presented the following estimates of the percentage of workers which would be affected by the proposed noise regulation in various industry sectors.

SIC	Industry	Percent of Production Workers Exposed above 85 dBA
20	Food	28
21	Tobacco	10
22	Textiles	75
23	Apparel	1
24	Lumber & Wood	84
25	Furniture & Fixture	30
26	Paper	40
27	Printing & Publishing	45
28	Chemicals	37
29	Petroleum & Coal	76
30	Rubber & Plastics	20
31	Leather	1
32	Stone, Clay & Glass	16
33	Primary Metals	63
34	Fabricated Metals	34
35	Machinery Except Electrical	26
36	Electric Machinery	7
37	Transportation Equipment	23
49	Electrical, Gas & Sanitary Services.	74

Insofar as OSHA regulations impact government workers this action will also benefit Federal and State government workers in industrial jobs.

Hearing conservation measures, including noise exposure monitoring, audiometric testing, hearing protection devices, and employee education, should have considerable benefits for more than 5 million employees. OSHA is in the process of quantifying the expected benefits of a hearing conservation regulation by estimating the amount of hearing that may be saved by instituting hearing conservation measures at various exposure levels. The Agency will also discuss the nonauditory benefits in qualitative terms.

Hearing protection devices should reduce the incidence of noise-induced hearing loss and also the various nonauditory effects mentioned above. Audiometric tests should enable employers and employees to take proper precautions to prevent further deterioration of hearing, and monitoring and educational programs will increase general awareness of noise problems and should encourage noise control at the source.

Hearing conservation measures, however, will not provide 100 percent protection to overexposed employees. The adequacy of protection will depend upon the quality of the hearing protector, the tightness of the fit, and its use by employees. Permanent hearing loss can occur before it is identified by audiometric testing and, of course, nonauditory effects cannot be detected by audiometry. Thus, none of these measures is as effective as controlling the hazard at the source, although a well-run hearing conservation program can be very effective in minimizing the adverse effects of noise.

One of the intangible benefits of this regulation may be a general improvement of employee and employer awareness of occupational health problems and the need for precautions. Another benefit, which was suggested by a National Institute for Occupational Safety and Health study, is a reduction in workplace accidents and absenteeism.

Summary of Costs

Sectors Affected: Manufacturing industries; electric, gas, and sanitary services; and Federal and State agencies with industrial programs.

All of the two-digit SIC industries listed under "Summary of Benefits" above have noise problems sufficient to necessitate hearing conservation programs. At this time, the Agency anticipates that this action will not apply to the construction industry.

OSHA has developed preliminary estimates of the expected compliance costs of this regulation. The estimated annualized costs for each major provision, in 1980 dollars, are:

Monitoring	$3,731,000
Audiometric Testing	87,168,000
Ear Protectors	45,534,000
Training	40,028,000
Warning Signs	1,795,000
Recordkeeping	6,033,000
	254,290,000

There will be some capital outlays by large firms which elect to develop in-house programs; however, higher operating expenses constitute the greatest part of these annual compliance costs.

At this time we do not anticipate any indirect costs, such as job losses or plant closings. However, we will try to identify any such costs before completing our economic analysis.

Related Regulations and Actions

Internal: Within OSHA there is a regulation for occupational noise exposure in the construction industry (29 CFR 1926.52). This regulation is virtually identical to OSHA's regulation for general industry (29 CFR 1910.95).

Within the Mine Safety and Health Administration (MSHA) there are three noise exposure regulations:

1. Underground coal mines (30 CFR 70.500 to 70.510). These regulations cover permissible exposure limits, noise measurement and survey requirements, and reporting procedures.

2. Surface work areas of underground coal mines and surface coal mines (30 CFR 71.300 to 71.305). These regulations are essentially the same for those for underground coal mines.

3. Metal and nonmetal mines (30 CFR 55.5, which is essentially the same as OSHA's noise standard, 29 CFR 1910.95).

External: All States having their own occupational health programs must promulgate requirements at least as protective as those of the Federal OSHA. A few States already have some hearing conservation requirements.

The Department of Defense (DOD) has had hearing conservation requirements for many years. Under the most recent DOD Instruction (No. 6055.3, June 8, 1978), the three services (Army, Navy, Air Force) develop and issue their individual requirements.

The Federal Advisory Council on Occupational Safety and Health has established a Subcommittee on Noise for the purpose of developing noise abatement and hearing conservation guidelines to be used by all Federal agencies.

The Environmental Protection Agency (EPA) has regulations and programs for noise control and hearing conservation. Under the Noise Control Act of 1972, EPA has the statutory responsibility to coordinate all Federal noise programs.

Active Government Collaboration

Formal coordination between OSHA and other agencies takes place under the auspices of the Interagency Regulatory Liaison Group. The vehicle is the Noise Subgroup of the Regulatory Development Work Group. This Subgroup is chaired by the Environmental Protection Agency (EPA). OSHA interacts with the other member agencies: EPA, Consumer Product Safety Commission, and Food and Drug Administration. We are also coordinating activities with the Mine Safety and Health Administration and with the Department of Defense under the auspices of the Noise Subgroup's Hearing Conservation Planning Group, which is chaired by OSHA. Informal liaison takes place with the National Institute for Occupational Safety and Health, the Department of Transportation's Federal Railroad Administration, and the National Bureau of Standards in the Department of Commerce.

Timetable

Regulatory Analysis—Fall 1980.
Final Rule—Fall 1980.
Final Rule Effective—Spring 1981.

Available Documents

Occupational Noise Exposure, 29 CFR 1910.95 (existing standard).

"Impact of Noise Control at the Workplace," January 1974 contractor report on technical and economic impact.

Occupational Noise Exposure, 39 FR 37773, October 24, 1974 (NPRM).

"Proposed Regulation: Noise," June 1975, Draft Environmental Impact Statement.

"Economic Impact Analysis of Proposed Noise Control Regulation," April 1976 (contractor report).

OSHA Docket OSH–011A and B.

All documents are available for review in the Docket Office, Room S–6212, U.S. Department of Labor-OSHA, 200 Constitution Avenue, N.W., Washington, DC 20210. A fee is usually charged for copies of these documents.

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DOL—OSHA

OSHA General Industry Standard for Walking and Working Surfaces (29 CFR 1910 Subpart D*), and Construction Safety Standards for Ladders and Scaffolding (29 CFR 1926 Subpart L*), Floor and Wall Openings, and Stairways (29 CFR 1926 Subpart M*)

Legal Authority

The Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) believes these rules are important because preliminary economic estimates indicate that these revisions may involve compliance costs in excess of $100 million annually because the standards apply to almost all workplaces.

Statement of Problem

The number of occupational injuries resulting from fall accidents associated with unsafe ladders, scaffolding, floors, wall openings, stairways, and walking and working surfaces ranges from 20 to 25 percent of all occupational injuries in general industry and construction. There are approximately 60 million workers in these categories. The National Safety Council estimates that the direct medical cost and lost productivity cost of injuries and fatalities resulting from these hazards may reach $5 billion annually (1977 dollars).

Portions of the current safety and health standards, which were promulgated by OSHA in 1971, are deficient in coverage, ambiguous, or redundant. In addition, industry and construction groups have revised and updated their voluntary standards. Court decisions have held some of the current standards to be invalid, and other standards have been modified by OSHA program directives or variances in an attempt to deal with problems of interpretation. The proposed revision of the standards will allow these deficiencies to be addressed and will incorporate all modifications.

OSHA needs to replace the existing specification-oriented standards with revised performance-oriented standards (where criteria are set but where specific ways of meeting the criteria are not set), and to include specific hazardous items not currently covered, such as catenary scaffolds and roof perimeter guarding. Furthermore, if no Agency action is taken, the existing ambiguous and lengthy language will continue to be inadequate to provide protection in the areas discussed above.

OSHA bases this proposed action on more than 5 years of data collection which documents hazards, and on its commitment to prevent hazard-related injuries. OSHA will coordinate the revision of these standards with similar activities of professional and trade organizations and industry and labor representatives.

Alternatives Under Consideration

The first alternative, a comprehensive revision of the existing standards, would incorporate performance-oriented standards, language simplification, and additional coverage for hazards that are not currently regulated, such as those addressing manholes, power utility towers, and the use of body belts and harnesses. The performance-oriented standards would permit and encourage more flexibility in controlling hazards. OSHA believes that greater flexibility would lead to more effective protection at decreased expense. As part of the first alternative, OSHA would include an appendix to the standards document to aid employers and employees in complying with the performance-oriented standards through alternative methods. The appendix would provide specific, non-mandatory ways of complying with the standard. Failure to use any of the alternatives in the appendix would not mean failure to comply with the standard. The purpose of an appendix would be to help employers be aware of acceptable methods of compliance which they may follow if they do not wish to develop their own compliance methods to meet the performance-oriented language of the standard.

The advantage of this alternative is that it would address the most important problems of the existing standards by fully using the research work, support studies, and outside assistance that OSHA has collected to date. A comprehensive revision of the standards would permit more flexible and cost-effective compliance methods, reduce inconsistency among several regulatory standards, and simplify regulatory language. However, this alternative may have a major economic impact because it would cover a greater number of hazards than the present standards. Consequently, this option would involve a greater number of interested parties in the rulemaking procedures.

The second alternative is a phased effort, where a series of rulemaking procedures would be used in an established order of priority to remedy major problems in the existing standards, rather than to comprehensively revise those standards in a single effort. This alternative would not address the many gaps and shortcomings in the current standards and would not include an appendix listing alternative methods of compliance.

This alternative may cost the affected employers less and may simplify the overall rulemaking process, but it would not address many important hazards that are presently causing working injuries. This alternative would only remove those major problem areas known to exist in the present standards. In addition, it would not advance OSHA's regulatory policy of promulgating performance-oriented rather than specification standards.

The third alternative is to take no action, leaving the present standards as they are. This would greatly hinder OSHA's enforcement and consultation efforts, and certain hazardous areas, such as catenary scaffolding and steep-roof-perimeter protection, would remain unregulated. Many organizations and individuals who have contributed significantly to the development of proposed revisions would be disappointed with OSHA. In addition, there would be no immediate hope of more adequately addressing those hazards that may account for one-fifth of all occupational injuries.

Adoption of any one of the three alternatives would have some effect on most industrial activities. However, under the first and second alternatives, OSHA would stagger the effective dates for implementation to enhance voluntary compliance, to minimize potential economic effects and to provide time to implement an enforcement strategy.

The Agency currently regards the first alternative as the most desirable, since it is the only one that will adequately address all of the injuries associated with falls.

Summary of Benefits

Sectors Affected: All general industries (manufacturing; wholesale and retail trade; transportation, communication, electric, gas, and sanitary services; finance, insurance, and real estate; and service industries); the construction industry; and employees in these industries.

Major benefits are expected to be a reduction in work-related injuries and deaths, which now account for approximately 20 percent of all occupational injuries. There would also be a reduction in related personal and family pain and suffering. OSHA expects to see benefits because the proposed standard would cover currently unregulated hazards and would revise existing standards that offer inadequate protection. Although there are no simple solutions to the hazards covered by these standards, even marginal improvements in accident rates will be significant when aggregated on a nationwide basis. For example, a 10 percent reduction in work-related falls could save $500 million (1977 dollars) annually in associated medical and lost productivity costs.

In addition to these economic benefits, the revision of the construction standards to include all relevant provisions and the parallel rulemakings for construction and for general industry would encourage compliance by all employers by making it easier for employers to locate the particular regulations covering a specific situation. Further, OSHA will use a new format that will help to eliminate redundancy and ambiguity. Elimination of ambiguity will assist employers and compliance officers alike by reducing confusion as to the exact requirements of the standard. Less ambiguous language will also aid in any judicial review of a citation.

Summary of Costs

Sectors Affected: All general industries; and the construction industry.

The cost of the first alternative, comprehensive revision using performance-oriented standards, may exceed $100 million (1980 dollars) for employers to comply. This cost includes capital costs as well as operation and maintenance costs. These costs primarily affect the private sector and include every employer who is covered by either the OSHA general industry or construction industry standards. We have not yet determined whether there will be differential costs for small businesses. There will be some consideration given to the size of the facility and the frequency of use. OSHA will conduct an economic analysis.

Related Regulations and Actions

Internal: Following this action, OSHA intends to revise its standards for walking and working surfaces in the maritime industries. The agricultural standards do not need revision at this time.

External: Publications by the American Society of Testing and Materials, the American National Standards Institute, and the American Society of Civil Engineers contain or soon will contain related voluntary standards for many of the products and installations that this proposal addresses. OSHA has shared its research information with all of the affected standards development groups.

Active Government Collaboration

OSHA has worked and is continuing to work with the National Bureau of Standards in the Department of Commerce to develop safety requirements for scaffolding, guardrails, and safety belts. The Consumer Product Safety Commission and OSHA have been working together to establish satisfactory ladder performance standards.

The Coast Guard is also developing standards for maritime vessels and oil drilling platforms on the Outer Continental Shelf where hazards exist that are comparable to those addressed in this rulemaking. OSHA will coordinate this rulemaking with the Coast Guard's action in these areas.

Timetable

NPRM—Summer 1981.
Regulatory Analysis—Accompanying NPRM.
Public Hearings—In at least three cities.
Public Comment Period—90 days after NPRM.
Final Rule—To be determined.
Final Rule Effective—To be determined.

Available Documents

ANPRM–40 FR 17160, April 23, 1976. Comments and transcripts from town meetings which were held on June 8–10, 1976, in San Diego, California; June 15–17, 1976, in Rosemont, Illinois; June 22–24, 1976, in New Orleans, Louisiana; and June 29–July 1, 1976, in New York, New York. These documents are available for review and copying at the OSHA Technical Data Center, Room S–6212, Second and Constitution Avenue, N.W., Washington, DC 20210.

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DOL—OSHA

Regulations for Reducing Safety and Health Hazards in Abrasive Blasting Operations (29 CFR 1910.94(a)*)

Legal Authority

The Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) believes this regulation is necessary to protect the 100,000 abrasive blasters and employees who work in and around abrasive blasting operations from respiratory impairment and a variety of occupational safety and health hazards.

Statement of Problem

Abrasive blasting operations expose workers to several occupational hazards which may cause disease and physical injury. Of primary concern are the hazards of (1) dusts of silica (sand) and silica substitutes, (2) excessive noise levels, and (3) safety hazards, such as slippery surfaces and conditions that enhance the development of fires and explosions.

In abrasive blasting operations, streams of silica or sand substitutes are projected by compressed air to prepare a clean surface for subsequent treatment. Large quantities of dust are created which, when inhaled, are responsible for specific types of lung disease.

Silicosis is one of those diseases. It is a tissue-scarring disease of the lung that is irreversible and often fatal. The disease is responsible for a large number of deaths, either directly or by predisposing workers to tuberculosis and other infectious diseases.

The severity of this preventable disease has been repeatedly emphasized by the occupational health community, in which there is general agreement that abrasive blasters usually contract silicosis after about 10 years of occupational exposure. The incidence of silicosis increases progressively with increasing concentrations of dust present in the work environment. Systemic poisoning or cancer may also develop, depending upon the composition of the abrasive. Abraded byproducts (i.e., any materials removed from the surface of the object being blasted) may also contain toxic materials and cancer-causing agents. Furthermore, dust hazards affect not only the abrasive blasters, but also those nearby employees assisting with the blasting as well as other employees at adjacent worksites.

In addition to the severe dust hazards, this worker population is exposed to excessive noise levels. The primary effect of noise exposure is premature hearing loss, although a wide spectrum of nonauditory adverse health effects, such as changes in blood pressure and decreases in respiratory rates, can also result from noise exposure.

In abrasive blasting work, a realistic potential for causing loss of life or limb is also created by the heavy dust clouds which reduce visibility. Additionally, the powerful collision of abrasive material against hard surfaces generates airborne particulates which may result in fire and explosion hazards, particularly where electrical apparatus is present.

Alternatives Under Consideration

The Agency is considering the following regulatory approaches:

(A) There are major deficiencies with the existing abrasive blasting standard (29 CFR 1910.94(a)) which result in inadequate employee protection. These deficiencies include the lack of requirements for regulated abrasive blasting zones; monitoring for silica exposures; adequate engineering controls and work practices; and adequate respiratory protection programs, medical surveillance, and employee training. One alternative would be to eliminate existing regulatory deficiencies by adding the appropriate requirements and revising the existing regulations by referencing appropriate health and safety provisions (occurring throughout 29 CFR Part 1910) which currently apply to abrasive blasting.

(B) A second alternative would be to ban the use of sand in addition to the regulatory additions and revisions discussed above. Sand used in abrasive blasting is already banned in several countries and the Mine Safety and Health Administration (MSHA) is considering prohibiting its use in above ground mining operations.

The toxicity of some alternative abrasives and abraded products indicates that a revision of the existing regulations must be accomplished to ensure adequate employee protection, regardless of whether or not the Agency decides to ban sand as an abrasive.

The Agency believes there is no suitable nonregulatory approach because the existing regulations are inadequate to provide protection, and traditional nonregulatory approaches, such as program directives and consultation, do not appear to provide relief because cases of chronic lung disease and accidents among abrasive blasters continue to occur.

Summary of Benefits

Sectors Affected: Abrasive blasters; associated workers; and establishments in the construction, manufacturing, and transportation industries listed in Table 1, particularly heavy construction not elsewhere classified, painting, paperhanging and decorating, and plating and polishing.

Table 1.—*Industries Affected by the Abrasive Blasting Standard*

SIC code	Industry short title
1629	Heavy construction, not elsewhere classified
1721	Painting, paperhanging, and decorating
1743	Terrazzo, tile and marble, and mosaic work
2911	Petroleum refining
3272	Concrete products, except block and brick
3281	Cut stone and stone products
3312	Blast furnaces and steel mills
3321	Gray iron foundries
3322	Malleable iron industries
3323	Steel foundries, not elsewhere classified
3352	Aluminum rolling and drawing
3356	Nonferrous rolling and drawing
3361	Aluminum foundries
3362	Brass, bronze, and copper foundries
3369	Nonferrous foundries, not elsewhere classified
3391	Iron and steel forgings
3399	Primary metal, not elsewhere classified
3441	Fabricated structural steel
3471	Plating and polishing
3731	Shipbuilding and repairing
4011	Railroads, line-haul operating

The Census Bureau categorizes these workers as machine operatives (Census number 690) and construction laborers (Census number 751).

Regulatory action in this area will decrease the number of cases of lung disease among the 100,000 exposed workers. The reduction in exposure levels will produce a corresponding reduction in adverse health effects. The Agency also expects regulatory action to result in fewer injuries and deaths related to abrasive blasting safety hazards. Reduction in lung disease and injury associated with abrasive blasting will decrease the pain and suffering of workers and their families and the burden on social programs, and will provide employees with significant risk reductions and improvements in productivity.

Summary of Costs

Sectors Affected: Construction, manufacturing, and transportation industries listed above in Table 1, particularly heavy construction not elsewhere classified, painting, paperhanging and decorating, and plating and polishing.

Three industrial classifications, SIC 1629 (Heavy Construction, not elsewhere classified), SIC 1721 (Painting, Paperhanging and Decorating), and SIC 3471 (Plating and Polishing), account for approximately 55 percent of the abrasive blasting operations and about 78 percent of the abrasive blasters. The approximate population at risk is 100,000 workers.

Preliminary estimates of the additional costs of alternative A are listed below. The size of the range reflects variations in the stringency and timing of selected provisions of this alternative.

Table 2.—*Cost of Alternative A (1980 dollars)*

(Dollars in millions)

Type of Cost	Amount
Installed capital	$13 to $165.
Annual capital charge	$3 to $44.
Annual energy	$.01 to $8.
Annual operating and maintenance	$51 to $78.
Total annualized [1]	$54 to $130.

[1] Annualized costs are estimated to be less than one-tenth of one percent of sales.

OSHA estimates that the alternative of banning sand would cost an additional $94 million (1980 dollars) in annual operating and maintenance costs because of the extra cost of substitutes for silica sand. Since sand sold for blasting is less than 3 percent of the sales of sand suppliers, the incremental effect on sand suppliers of banning sand would be minor. As noted above, there may also be indirect costs caused by increases in health problems due to the possible hazardous properties of substitutes which may be used for sand. For example, the National Institute for Occupational Safety and Health has determined that some slag substitutes break down, after blasting, into respirable particulates of highly toxic heavy metals.

These preliminary figures suggest that both alternatives are economically feasible for the industries affected. The Agency is preparing an economic impact assessment; tentative results indicate that even if industry is able to pass on compliance costs completely to their consumers, prices will increase by less than two-tenths of one percent if sand is banned (alternative B) and by less than one-tenth of one percent if alternative A is implemented. Impacts on output, employment, and market structure are expected to be minor as well.

Related Regulations and Actions

Internal: OSHA intends to develop a new standard covering the use of silica in all industries. This new standard may change the current permissible exposure limit for silica and may apply to abrasive blasting operations. However, we do not project publication of a proposal or any significant activity on a standard for silica within the next 12 months.

External: The Mine Safety and Health Administration is also considering a change in the permissible exposure level for silica. In addition, it is considering banning its use in aboveground operations.

Active Government Collaboration

None.

Timetable

NPRM—Fall 1980.
Regulatory Analysis—Fall 1980.
Public Comment Period—Following NPRM.
Public Hearing—Following NPRM.
Final Rule—Fall 1981.
Final Rule Effective—To be determined.

Available Documents

Public docket of the record of rulemaking on safety and health hazards of abrasive blasting operations (OSHA Docket No. H–102).

These documents are available by mail and for review and copying at the OSHA Technical Data Center, Room S–6212, Third Street and Constitution Avenue, N.W., Washington, DC 20210. A fee is usually charged for copies of these documents.

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DOL—OSHA

Safety and Health Regulations for Locking Out and Tagging Energy Sources in General Industry (29 CFR Part 1910) and in Construction (29 CFR Part 1926*)

Legal Authority

The Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) thinks these rules are important because they concern a subject in which the public has shown considerable interest and because preliminary economic information reveals that these regulations may have a major impact on the economy.

Statement of Problem

The proposed regulations will protect employees from death and injury caused by the accidental deactivation of machinery, equipment, or systems that have not been turned off, locked out, and tagged while they are being worked on. Lockout/tagging is a term applied to a device or method to prevent accidental, activation of machinery, equipment, or systems while employees are performing maintenance, repair, servicing, or installation.

Evaluation of 125 fatality investigations involving fixed machinery during the 2-year period 1974 to 1976 indicates that 46 percent (58) of these fatalities were related to the failure to properly deactivate and lock out the equipment. The new regulations will apply, with few exceptions, to all equipment and systems in industries covered by 29 CFR Part 1910 for General Industry and by 29 CFR Part 1926 for the construction industry. The agriculture and maritime industries will not be regulated by these standards.

At present, lockout-related regulatory provisions are scattered throughout the general industry and construction standards, and many of these provisions are inadequate because they only address lockout procedures for electrical power sources. The new standard will deal with the hazards associated with the more sophisticated machines in modern use, which are powered by hydraulic, pneumatic, and electronic sources. The standard will also address hazards associated with the potential energy latent in these systems.

If no action is taken, the death and injury toll caused by lockout-related accidents will continue to rise.

Alternatives Under Consideration

OSHA is considering the following alternatives:

(A) Continue using the existing standards, most of which were adopted before 1973. Choosing this option means that accidents attributable to inadequate and outdated lockout provisions will continue, and compliance activity will also continue to rely on the General Duty Requirement of the OSH Act. This section of the Act is only used to cite serious violations involving hazards not covered by any OSHA standard; these citations point to gaps in OSHA's regulatory coverage. The advantage of this option is that it would require no additional outlay of Agency resources; the disadvantages are that accidents and lack of worker awareness of lockout hazards will continue.

(B) Revise the individual lockout-related provisions in each of the subparts of 29 CFR Part 1910 (General Industry Standards) and 29 CFR Part 1926 (Construction Safety Standards). The advantage of this choice is that the lockout provisions pertaining specifically to a particular industry, such as tunneling, would be located in the appropriate subpart with all other industry-specific rules. The disadvantage of this option is that revising all the affected subparts would take many years and be very expensive in terms of OSHA's financial and personnel resources.

(C) Promulgate comprehensive new lockout and tagging standards that will apply, with few exceptions, to all machines, equipment, and systems used in industries covered by 29 CFR Parts 1910 and 1926. Such a standard will probably include requirements for work practices, operating procedures, training, and equipment design and operation. The disadvantage of this approach is that standards covering all industries may not be as responsive to the hazards and needs of a specific industry as one tailored to that industry. The chief advantage is that the Agency will be able to reduce the injury and fatality toll attributable to lockout-related causes in the most effective and timely fashion. For this reason, OSHA presently favors alternative (C). Such a standard should be written in performance language, which encourages voluntary compliance by permitting employers the flexibility to use the most cost-effective methods of compliance.

Summary of Benefits

Sectors Affected: All manufacturing industries (SIC Division D), construction industries (SIC Division C), and electric, gas, and sanitary services (SIC Division F); machinery and process system users scattered throughout the transportation, communications wholesale and retail trade and service sectors (SIC Divisions E and I); and workers in these industries.

OSHA believes serious lockout-related incidents are on the increase as the use of more complex and sophisticated power sources becomes widespread in the industrial economy. Preliminary data indicate that approximately 40,000 lost workday injuries annually may be lockout-related. Although property losses are sometimes involved, the most significant losses result from injuries and fatalities to workers. Workers who suffer permanent disabilities sustain large personal and economic losses, while employers lose skilled workers. Data to estimate trend increases for this type of accident are not currently available, but we will gather it during the rulemaking process.

Indirect benefits may accrue to machinery manufacturers if the regulation's performance requirements reduce product liability, as is anticipated.

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Summary of Costs

Sectors Affected: All manufacturing industries (SIC Division D), construction industries (SIC Division C), and electric, gas, and sanitary services (SIC Division F); machinery and process system users scattered throughout the transportation, communications wholesale and retail trade and service sectors (SIC Divisions E and I); and users of these industries' products and services.

OSHA and the National Institute for Occupational Safety and Health (NIOSH) are currently investigating injury data and potential cost impacts and are not yet able to estimate whether these regulations will have a major impact on the economy. Direct costs to employers will result from the increased cost of lockout devices and increased labor costs required by preventive lockout procedures and work practices. These costs will be small relative to machine costs, and they will be partially offset by productivity increases associated with accident reduction. Some portion of these direct costs may be passed on to consumers in the form of minor price increases, or may be pushed back to machine and tool workers in the form of lower machine profit margins in the event that machinery users postpone machinery replacements and reduce overall demand.

Related Regulations and Actions

Internal: The General Industry Standards, 29 CFR Part 1910, and the Construction Standards, 29 CFR Part 1926, contain widely dispersed lockout-related provisions. Examples can be found in 1910.145, 1910.179, 1910.213, 1910.218, 1910.261, 1910.262, 1910.263, 1910.265, 1926.20(b)(3), 1926.150(d), 1926.600(a)(3)(i), and 1926.957(b).

External: The States of California, Michigan, and Washington presently have or have proposed regulations governing the locking out and tagging of energy sources. These states submitted plans under the OSH Act, U.S.C. § 655, which allows for the development and enforcement of State occupational safety and health standards if they are as effective as the Federal regulations. The American National Standards Institute is developing a voluntary standards for lockout and tagout. The National Fire Protection Association is also developing a voluntary standard for locking out and tagging of electrical equipment.

Active Government Collaboration

OSHA is coordinating its efforts and sharing information with the National Institute for Occupational Safety and Health of the Department of Health and Human Services, which has published a Request for Information on this topic in the **Federal Register** (45 FR 7006, January 30, 1980).

Timetable

General Industry

Informal Public Meetings—Fall 1980.
NPRM—Summer 1981.
Regulatory Analysis—Summer 1981.
Public Comment Period—60 days after publication of NPRM.
Public Hearings—Fall 1981.
Final Rule—To be determined.

Construction

Informal Public Meetings—Fall 1980.
NPRM—Summer 1981.
Regulatory Analysis—Summer 1981.
Public Comment Period—60 days after publication of NPRM.
Public Hearings—Fall 1981.
Final Rule—To be determined.

Available Documents

General Industry—Docket No. S–012.
ANPRM—45 FR 41012, June 17, 1980.
Comments received in response to the ANPRM.
"Notice of Request for Information: NIOSH," 45 FR 7006, January 31, 1980.
"Machinery and Machine Guarding, Request for Information," 42 FR 19741, January 7, 1977.
Petition from the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW).
OSHA's study on fixed machinery by the Division of Statistical Studies.
American National Standards Institute Z241.1–1975, pages 6, 8, 9, 10.
Construction—Docket No. S–203.
ANPRM—45 FR 41015, June 17, 1980.
Comments received in response to the ANPRM.

These documents are available for inspection and copying at the Docket Office, Occupational Safety and Health Administration, U.S. Department of Labor, Room S–6212, 200 Constitution Avenue, N.W., Washington, DC 20210, (202) 523–7894.

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DOL—OSHA

Safety and Health Standard for Conveyors (29 CFR 1910.186)

Legal Authority

The Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) thinks this rule is important because extrapolation of data derived from studies of the groups most affected indicates that this regulation may have a major impact on the economy.

Statement of Problem

OSHA has proposed a standard (39 FR 19507, June 3, 1974) to reduce safety hazards when employees work with or close to conveyors in general industry. Conveyors are the most common mechanical material-handling equipment. They range in complexity from small portable units to large and complex systems that transport materials, packages, and units over long distances. More than 288 industry groups use conveyors, but it is not possible to estimate the number of workers exposed to conveyors in the course of their work.

Data from the Bureau of Labor Statistics Supplementary Data System in 1976 and 1977 indicate that conveyors are the reported source of at least 17,000 lost workday injuries annually for over 250 industry groups. This case count, about one percent of the annual total of lost workday injuries, suggests that conveyors are an unusually frequent source of occupational injury. Moreover, conveyors produce more than the average percentage of permanent disabilities, and the average medical and compensation payments for conveyor-related injuries are higher than the average payments for all injuries. Hence, the conveyor-related injuries are more severe than the average injury. The proposed conveyor standard therefore attacks a widespread and serious occupational safety problem.

If this problem is not addressed, the pain and suffering and loss of productivity caused by conveyor-related fatalities and injuries will continue.

Alternatives Under Consideration

(A) One option would be to publish a final rule based as closely as possible on the proposal published in 1974, which followed the specification approach favored by OSHA at that time. Specification-based standards are designed to attain a safety objective by prescribing the workplace and equipment details necessary for compliance, while a performance-based standard states the acceptable level of control required to deal with the hazard but does not specify the method of attaining compliance. Such a rule would therefore not permit the flexibility of compliance that a performance standard does. The advantage of this option is that it would require the least amount of effort, in terms of money and personnel, by the Agency.

(B) A second alternative would be to rewrite the proposal's requirements in performance language, after consideration of comments received in response to the 1974 proposal and any other relevant material received or generated by OSHA in the interim, and then to publish a final rule. The advantages of this approach are that it would encourage voluntary compliance by giving employers the greatest possible amount of flexibility in choice of method of compliance, and it would also be the most efficient way of proceeding. The disadvantage of this approach is that the final rule will be based primarily on material received or generated in response to the 1974 NPRM. However, this disadvantage should be minor, because there have been few changes in conveyor technology since 1974.

(C) A third choice would be to initiate a new rulemaking, which would involve publishing a new NPRM. The advantage of this method would be that the record would be current; however, the disadvantages—a major commitment of Agency time and money and an indefinite postponement of worker protection against conveyor hazards—far outweigh any advantage.

The Agency favors Alternative (B), for the reasons discussed above.

Summary of Benefits

Sectors Affected: All general industries (manufacturing; wholesale and retail trade; transportation, communications, electric, gas, and sanitary services, finance, insurance, and real estate; and service industries); and employees in these industries.

In 1976, establishments in 288 industry groups reported conveyor-related injuries to the Supplementary Data System, which is maintained by the Bureau of Labor Statistics. Workers and establishments in the industry groups displayed in Table 1 will be particularly affected. These industry groups account for approximately 34 percent of all reported conveyor-related injuries.

TABLE 1.—Industries Studied and Conveyor-Injury Rank

SIC Code	Industry title	Conveyor injury rank 1976	1977
201	Meat Products	3	3
203	Canned Fruits and Vegetables	2	2
205	Bakery Products	11	6
208	Beverages	8	7
242	Sawmills	1	1
243	Millwork, Veneer, and Plywood	12	8
265	Paperboard Boxes	8	12
271	Newspapers	[illegible]	[illegible]
332	Iron and Steel Foundries	21	21
344	Fabricated Structural Metal	[illegible]	25
3711	Motor Vehicle Assembly (Ranking is for SIC 371, of which SIC 3711 is a major part).	7	8
514	Wholesale Groceries	5	4
541	Retail Groceries	10	11

Source: OSHA, Office of Regulatory Analysis. Rankings are based on conveyor-coded injuries reported to the Bureau of Labor Statistics, Supplementary Data Systems (SDS)

Based on the reports to the Supplementary Data System, we estimate that 16,720 conveyor-related lost workday injuries, approximately one percent of all lost workday injuries, occurred in 1976. There is some evidence that these injuries are more severe than the typical occupational injury. An analysis of the type of accidents producing these injuries suggests that the proposed standard, together with the new proposed provision designed to protect workers against hazards caused by trying to unjam a conveyor that has not been turned off and locked out to prevent the power from accidentally being turned on, will address most of the hazards that produce conveyor-related injuries. For example, several provisions of the standard will address "caught-in" and "caught-between" accidents, the accident type that accounts for almost half of all conveyor-related injuries and three-quarters of the permanently disabling conveyor-related injuries. We therefore expect the standard to reduce substantially the frequency and severity of conveyor-related injuries.

We can estimate the indirect benefits of the conveyor standard by examining the current costs (in 1979 dollars) associated with conveyor-related injuries. These injuries require an estimated $21.2 million in compensation payments and $11.2 million in medical payments annually.

In addition, workers often suffer an uncompensated income loss after conveyor-related injuries. Finally, a recent estimate of the total loss to firms from a lost workday injury implies that conveyor-related injuries currently cost firms approximately $234 million annually (in 1979 dollars). A substantial reduction in conveyor-related injuries would, therefore, have sizable indirect benefits.

Summary of Costs

Sectors Affected: All general industries (manufacturing; wholesale and retail trade; transportation, communications, electric, gas, and sanitary services; finance, insurance, and real estate; and service industries).

Establishments in the 288 industry groups reporting conveyor-related injuries in 1976 to the Supplementary Data System will be affected. The 13 industry groups displayed in Table 1 account for approximately 34 percent of all reported conveyor-related injuries and so will be especially affected by a conveyor standard. OSHA selected these industry groups to study the economic impact of the proposed standard. Assessing industries having the largest number of conveyor-related injuries maximizes the chances of detecting a major impact on any one industry. This selection procedure cannot validly be used to estimate total compliance costs, but incremental costs attributable to the proposed standard or to a version of the standard containing alternative provisions for all affected industries may exceed $100 million. Table 2, below, displays estimates of the incremental costs of the proposed standard and the alternative version for the industries studied. The alternative version differs from the proposed standard by including exceptions and allowing cost-effective alternatives for compliance in provisions for work practices, training, visual inspections, and warning devices.

Table 2.—*Cost Estimates for Industries Studied—1980*

[In millions of dollars]

Type of cost	Proposed standard	Alternative final standard
Installed Capital	[illegible]	[illegible]
Annual Capital	34.461	33.221
Annual Operating	[illegible]	[illegible]
Total Annualized (Annual Capital + Annual Operating)	62.140	[illegible]

Capital costs are annualized using a standard capital recovery formula, a 10 percent interest rate, and an asset lifetime that varies with the nature of the equipment purchased.

Table 3, below, describes the implications of these cost estimates for price, output, and employment in the industries studied. The final two percentages in the Table estimate the potential effect on market structure.

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Table 3.—*Estimated Adverse Economic Impact*

	Percent change in price	Percent change in output	Percent change in employment	TAC* as a percent of profit	ICC* as a percent of normal investment
Proposed Standard	0.0205	0.0513	0.0615	0.85	2.44
Alternative Version	0.0144	0.0360	0.0445	0.59	2.34

*TAC = total annualized costs; ICC = installed capital cost

These estimates of adverse economic impact suggest that both the proposed and the alternative version of the standard are economically feasible for the industries studied. Since the industries studied are among the largest contributors to the annual toll of conveyor-related fatalities and injuries, these estimates also suggest that the proposed and alternative standards are feasible for the remaining conveyor-using industries as well.

Related Regulations and Actions

Internal: There is an OSHA safety standard for conveyors used in the construction industries (29 CFR 1926.555). There are also provisions in the general industry standards pertaining to the use of conveyors in specialized industries, such as Pulp, Paper, and Paperboard Mills (29 CFR 1910.261), Bakery Equipment (29 CFR 1910.263), and Sawmills (29 CFR 1910.265). The maritime standards for longshoring (29 CFR 1918) also contain conveyor requirements.

External: Twenty states have regulations relating to the safety of employees working near conveyors. Since the OSH Act requires the States to achieve an equally effective program, promulgation of an OSHA conveyor standard will require those States with State plans to develop or adopt a standard for conveyors.

Active Government Collaboration

OSHA will continue to discuss the scope and content of a conveyor standard with officials from State occupational safety and health departments.

Timetable

Regulatory Analysis—Winter 1981.
Notice to Reopen the Record—Winter 1981.
Public Comment Period—60 days after Notice to Reopen.
Final Rule—Spring 1982.
Final Rule Effective—60 days after publication.

Available Documents

The following documents are available for review and copying at the OSHA Technical Data Center, Room S–6212, Third Street and Constitution Avenue, N.W., Washington, DC 20210.

NPRM—39 FR 19507, June 3, 1974.

Transcript of public hearing held on October 15, 1974.

Written comments received relative to the NPRM.

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DOL—OSHA

Standard for Occupational Exposure to Asbestos (29 CFR 1910.1001*)

Legal Authority

Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) thinks this regulation is necessary to protect workers from the carcinogenic risks and other adverse health effects associated with exposure to asbestos.

Statement of Problem

A preliminary report indicated that 2.3 to 2.5 million employees have some degree of occupational exposure to asbestos. Of this total, 180,000 to 400,000 are in the construction industry and the remaining 2.1 million are in general industry. A significant number of these employees are exposed to airborne asbestos levels at or near OSHA's existing permissible exposure limit (2,000,000 fibers per cubic meter). This limit was established in 1972 for the limited purpose of reducing the incidence of asbestosis, rather than cancer.

The National Institute for Occupational Safety and Health (NIOSH) and other sources have provided data to OSHA which indicate that the present OSHA exposure limit may be inadequate to protect workers from asbestos-related disease. Exposure to asbestos can cause asbestosis (a diffuse, nonmalignant, scarring of the lungs), lung cancer, and mesothelioma (a cancer of the chest and abdominal cavity linings of exposed workers). Recent epidemiologic evidence indicates these diseases may be induced at very low levels of exposure, and experimental data in animals suggest that all forms of asbestos present a health hazard.

OSHA is developing a proposal to revise the current standard for occupational exposure to asbestos. The regulation would set a permissible exposure limit (PEL) for employee exposure to asbestos, and affected industries would have the opportunity to implement control measures to achieve the PEL for their operations in the most cost-effective manner. Failure to promulgate new regulations will prolong the occurrence of disease, disability, and mortality associated with asbestos exposures.

Alternatives Under Consideration

The Agency is currently considering two alternative PELs: (A) a 500,000 fiber per cubic meter (fiber/m³) 8-month time-weighted average (TWA) with a 5,000,000 fiber/m³ ceiling (above which no employee may be exposed) and (B) a 100,000 fiber/m³ TWA with a 500,000 fiber/m³ ceiling. For each of these alternatives, other revisions to current provisions for engineering and work practice controls, hygiene facilities, medical surveillance, respirators, training, etc., may be included in the proposed regulations.

Studies indicate that all commercially available forms of asbestos are cancer-causing agents. Some scientists argue that all asbestos materials, therefore, should be regulated equally. Others believe that different asbestos forms display varying degrees of toxicity and that OSHA should develop separate standards based on data associated with each specific asbestos mineral. OSHA will consider the merits of each of these regulatory options.

Still another approach is to establish regulations for asbestos on the basis of the feasibility of compliance for different industries. Specific requirements of the standard would differ according to the feasibility of various control measures in different industries or processes, such as construction versus general industry.

We do not anticipate issuing an NPRM until late Winter 1980, and currently have no preferred alternative.

Summary of Benefits

Sectors Affected: Workers and establishments in manufacturing, retail trade, construction and service industries which produce or use asbestos-containing products; users of these products; establishments manufacturing substitutes for asbestos or asbestos-containing products; and the general public.

Affected industries include the primary manufacturers of asbestos products; secondary fabricators in the automobile aftermarket, shipbuilding and repair, and elsewhere; and the construction industry. The primary manufacturers are largely grouped in Standard Industrial Classification (SIC) Code 3292 (asbestos products), and many of these establishments also perform some secondary fabrication. Shipbuilding and repair is included in SIC Code 3731. The automobile aftermarket includes establishments which repair, resurface, and repackage such friction parts as brake shoes and clutch faces. The establishments involved are located in SIC Code 55 (automotive dealers and gasoline stations), SIC Code 3714 (motor vehicle parts and repair), and SIC Codes 7538 and 7539 (general automotive repair shops, and automotive repair shops not elsewhere classified). Other secondary fabricators are located in SIC Code 3293 (gaskets, packing, and sealing devices), and in many other SIC Codes too numerous to list here. Construction (SIC Codes 15–17) will also be affected where asbestos-containing products are used, such as roofing felt, asbestos-cement pipe, asbestos-cement siding, and some forms of floor tile.

Establishments which produce substitutes for asbestos or asbestos-containing products will also be affected. Although a complete enumeration of such substitutes and their respective SIC Codes is not included here, a partial listing is as follows: Substitutes for asbestos itself, in various uses, include fibrous glass (SIC Code 322), mica (SIC Code 329), graphite-carbon fibers (SIC Code 329), nylon (SIC Code 228), polypropylene (SIC Code 282), and others. A large number of substitutes also exist for asbestos-containing products. Iron or polyvinyl chloride pipe (produced in SIC Codes 33 and 307) can be substituted for asbestos-cement pipe. Substitutes for asbestos-cement siding include vinyl, aluminum, and wood siding; substitutes for vinyl-asbestos floor tile include pure vinyl tile, carpeting, and hardwood flooring.

The direct benefit we expect from controlling exposure to asbestos is a reduction in the incidence and prevalence of the health effects cited in "Statement of Problem." OSHA has not yet completed an analysis of the benefits expected by reducing exposures to any of the alternative levels being considered. However, because of the large numbers of workers exposed, and the accumulated evidence on the toxicity of even low levels of asbestos exposure, the numbers are expected to be large. Such reductions in mortality and morbidity will result in reduced pain and suffering for employees, and in savings in medical expenses and lost output which would otherwise occur.

Indirect benefits from controlling asbestos exposures to either of the alternative levels will include reductions in the burden placed on such public support programs as Medicare and Medicaid, Welfare, and Worker's Compensation. In addition, improved worker health and safer working conditions are likely to reduce employee turnover and raise labor productivity. Finally, further controlling asbestos exposures will stimulate a search for asbestos substitutes and for alternatives to asbestos-containing products, and it will induce employers to innovate improved control technologies. With less asbestos and fewer asbestos products used, consumers will benefit as incidental asbestos exposures will decline.

Summary of Costs

Sectors Affected: Workers and establishments in manufacturing, retail trade, construction, and service industries which produce or use asbestos-containing products; and consumers of these products.

The costs of the regulatory options being considered are largely the capital and operating expenses which the regulated firms will incur in order to comply. Because these cost increases may raise the prices of asbestos-containing products, the quantity demanded of such products may decline. Higher prices of asbestos products would result in a switch to presently unregulated substitutes. To the extent that some of the substitutes have adverse health or safety effects, these will also be costs of the regulation. The extent of this substitution is under investigation and quantitative estimates are presently unavailable.

A preliminary evaluation of the potential impact on industry of regulation of asbestos was reported in the previous *Calendar of Federal Regulations* (45 FR 36971, May 30, 1980). This evaluation is currently being updated by OSHA.

Indirect costs attributable to additional regulation hinge on the estimated impact of the use of substitute products and their likely consequences for health, safety, and product quality. Costs associated with the most stringent alternative could result in a significant use of substitutes for asbestos fibers and asbestos-containing products. The extent of this substitution is under investigation by OSHA and quantitative estimates are presently unavailable. We are also evaluating the health and safety effects of likely substitutes but, again, no qualitative or quantitative estimates can be ventured at this time.

Related Regulations and Actions

Internal: We are planning to modify the existing OSHA standard for asbestos, found at 29 CFR 1910.1001 of the Agency's General Industry Standards, which specifies an 8-hour time-weighted average of 2,000,000 fibers/m³. Other provisions of the standard address monitoring, medical surveillance, training, respirators, recordkeeping, protective clothing, and methods of compliance.

On October 7, 1975, OSHA published a notice proposing to revise the current asbestos standard and to reduce the PEL to 500,000 fibers/m³ (40 FR 3392). We are performing analyses of the economic and technological impact of that and alternative exposure levels.

External: Regulatory measures are under consideration by the Environmental Protection Agency (EPA) and the Consumer Product Safety Commission (CPSC). EPA/CPSC published an ANPRM for asbestos use in October 1979. EPA currently has a national emission standard for asbestos (38 FR 8820) and CPSC regulates uses of asbestos in certain consumer products.

Active Government Collaboration

An OSHA/Environmental Protection Agency/Consumer Product Safety Commission task group will coordinate development of an appropriate regulatory response to possible health hazards associated with asbestos. Information-sharing activities with other governmental agencies, such as the National Institute for Occupational Safety and Health, Food and Drug Administration, and Department of Agriculture, are underway.

Timetable

NRPM—Late Winter 1980.
Regulatory Analysis—Winter 1980.
Public Hearing—Following NPRM.
Public Comment Period—

Approximately 30-60 days following NPRM.
Final Rule—Winter 1981.

the current OSHA PELs for "carcinogenic" hexavalent chromium compounds to 1 microgram (

(A) a 25 μg/m³ 8-hour time-weighted average (TWA);

industry segments where no occupational exposure to chromium

further study will incur compliance costs

equivalent of 100 μg/m³ and is calculated as an 8-hour TWA. Table Z–1

Approximately 30-60 days following NPRM.
Final Rule—Winter 1981.
Final Rule Effective—To be determined.

Available Documents

"Occupational Exposure to Asbestos," NPRM (40 FR 47652 October 7, 1975), and comments received in response to the NPRM (OSHA Docket No. H-033).

"Criteria for a Recommended Standard . . . Occupational Exposure to Asbestos" (NIOSH-HEW, 1975); updated Criteria Document (1976).

"Workplace Exposure to Asbestos: Review and Recommendations" (NIOSH-OSHA), April, 1980.

These documents are available by mail and for review and copying at the OSHA Technical Data Center, Room S-6212, 200 Constitution Avenue, N.W., Washington, DC 20210. A fee is usually charged for copies of these documents.

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DOL—OSHA

Standard for Occupational Exposure to Chromium (29 CFR 1910.1000, Table 2-1*)

Legal Authority

Occupational Safety and Health Act of 1970, 29 U.S.C. § 655.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) views this regulation as necessary to protect workers from the carcinogenic risks and other health effects associated with exposure to chromium compounds. A relatively large proportion of the work force is exposed to chromium compounds. The excessive risk of lung cancer observed at exposure levels near the current OSHA permissible exposure limit (PEL) and the upper respiratory tract irritation observed at exposure levels below the OSHA PEL demonstrate the urgent need for a reduction in the levels of occupational exposure.

Statement of Problem

As many as 2 million employees may be exposed to chromium compounds. In 1975, the National Institute for Occupational Safety and Health (NIOSH) submitted a criteria document to OSHA which recommended reducing the current OSHA PELs for "carcinogenic" hexavalent chromium compounds to 1 microgram (μg) per cubic meter as an 8-hour time-weighted average. (The current OSHA PEL for hexavalent chromium compounds is 100 μg per cubic meter measured as chromic acid, CrO_3). Preliminary data indicate that over 135,000 workers are exposed to levels of hexavalent chromium greater than 10 μg per cubic meter as an 8-hour time-weighted average.

Chromium workers' risks include a wide variety of adverse health effects that are attributable to exposure to chromium and chromium compounds. There is evidence of dermatological effects (including skin ulceration and allergic contact dermatitis), respiratory effects (including perforation of the nasal membrane, nasal irritation, irritation of the throat, and respiratory disorders), and systemic effects (inlcuding liver damage, kidney abnormalities, erosion and discoloration of the teeth, perforation of the eardrum, and abdominal pain).

OSHA is investigating the numerous epidemiologic studies which indicate a large and significantly increased lung cancer risk for workers in the chromium chemical production industry. Additional studies suggest that a cancer hazard may also be present in the chromate pigment industry, the chromium plating industry, the ferrochromium alloy production industry, and chromate spray-painting operations. Experimental results in animals also suggest that chromium compounds are potential human carcinogens.

OSHA is developing a proposal to regulate occupational exposure to chromium as determined by available health and technological/economic feasibility data. The regulation would set a permissible exposure limit (PEL) for chromium, and affected industries would be permitted to implement engineering and work practices controls of their choice to comply with this PEL in the most cost-effective manner. The regulation may also require the employer to perform medical surveillance of exposed employees, periodic monitoring of the workplace environment, and employee training and education. Failure of OSHA to regulate expeditiously will prolong the occurrence of the incidence of diseases, disability, and mortality associated with exposures to chromium.

Alternatives Under Consideration

The Agency has under consideration a range of alternative performance PELs, including:

(A) a 25 $\mu g/m^3$ 8-hour time-weighted average (TWA);
(B) a 10 $\mu g/m^3$ TWA;
(C) a 5 $\mu g/m^3$ TWA; and
(D) the lowest technologically feasible TWA.

Appropriate and feasible ceiling limits, including 10, 25, or 50 $\mu g/m^3$, are also being considered. We may supplement the PEL with other provisions requiring engineering controls, work practices, and hygienic facilities. The Agency has asked for public comment on other possible alternatives for limiting workers' exposures to chromium.

Studies indicate that workers exposed to industrial processes involving exposure to chromium compounds have an increased risk of lung cancer. Some scientists argue that all chromium compounds should be presumed to be carcinogenic and regulated as such. Others believe that carcinogenic and noncarcinogenic forms of chromium can be identified, and that OSHA should develop separate standards. OSHA will consider the merits of each of these regulatory options.

Still another approach is to establish regulations for chromium on the basis of the feasibility of compliance for different industries to the extent that the protection of employee health is achieved or strengthened. Specific requirements of the standard would differ according to the feasibility of various control measures in different industries or processes where the potential for exposure exists.

Summary of Benefits

Sectors Affected: Industries in which workers are exposed to chromium; workers in those industries; manufacturing of chromium substitutes and substitute products; and the general public.

This regulation will affect industries in the following Standard Industrial classifications: 2819 (Chromate and Bichromates), 2816 (Pigments), 2851 (Paints), 2865 (Plastic colorants), 2893 (Printing inks), 2899 (Plating compounds), 2899 (Water treatment compounds), 2865 (Dyes), 2819 (Catalysts), 311 (Leather tanning and finishing), 3479 (Spray painting), 3471 (Electroplating), 1799 and 7692 (Welding), 3339 (Primary chromium refining), 1721 (Painting traffic lanes), 3312 (Stainless steel), and 5133 (Textiles).

Other than studies which indicate a potential cancer hazard among spray painters and chromium platers, OSHA has not yet collected information on the risks workers may face in industries which use chromium products. (Those industry segments where no occupational exposure to chromium occurs (e.g., solid state chromium that is not ground, drilled, polished, or heated) will not be covered by the proposed regulation.) Some of the substitutes for chromium compounds, including lead, cadmium, and organic pigments, may also be potential hazards. Relative toxicities of substitutes are unknown.

Risks to the general public are not well documented. At this time, no estimates have been made of the magnitude of occupational disease attributable to exposure to chromium. The direct benefit of reducing occupational exposure to chromium, however, is a corresponding reduction in the number of cases of chromium-induced malignant and nonmalignant diseases, prolonged life expectancy for workers, and an increase in the lifetime earnings of workers. While a reduction in the acute health effects will be realized as soon as compliance is achieved, there will be a lag in the reduction of cancer incidence. Workers will continue to develop cancer from past exposures to chromium compounds because of the long latency period between exposure to chromium and the onset of clinical lung cancer. However, after this initial period of adjustment, the benefits of reduced exposure levels will continue to accrue over time.

OSHA also expects indirect benefits to occur as a result of controlling chromium exposures. Medical care costs for employees (including hospitalization and physician services) will be reduced to the extent that these costs are borne by public support programs such as Medicaid, Medicare, and workers' compensation. Another area where benefits can be expected is in the decreased number of social security disability payments and welfare payments to disabled workers and their families. Also, reduced absenteeism and a cleaner workplace may contribute to productivity gains. In addition, affected industries may develop technological innovations that may improve production processes in general.

OSHA will gather more data on the benefits of the regulatory alternatives prior to proposal of this regulation. No information is available, currently, on the benefits to firms that manufacture chemical substitutes and/or control technology.

Summary of Costs

Sectors Affected: Industries in which workers are exposed to chromium.

Those industries listed in the Summary of Benefits section and any others that may be identified after further study will incur compliance costs as a result of this regulation.

The chart below compares initial estimates (in 1976 dollars) of the direct costs of compliance with two of the alternative PELs. The total annualized cost estimate is the sum of the annual operating costs and the annualized capital costs. Annualized capital costs were calculated with a standard capital recovery formula using an 18 percent rate of return and a 10-year average life of equipment.

Preliminary Cost Estimates in Millions of 1976 Dollars

Alternative	Capital	Annual operating	Total annualized
(A)	*	*	*
(B)	104	63	65
(C)	*	*	*
(D)	194	63	102

*No data currently available. We are in the process of estimating these costs.

These direct costs of compliance may result in several indirect effects. Analysis to date indicates that the chromate pigment (paints, dyes, inks) production and use industries will incur larger costs than other industrial sectors. Because there are competitive substitutes in this market, the demand for pigments containing chromium will probably decline. For the other pigments applications, metal finishing uses, and manufacture of stainless steel, there are no available substitutes for chromium. In these cases, preliminary analysis indicates that compliance costs will be passed on to consumers. Negligible price changes are projected for chromate production, because small compliance costs will be spread over a large volume of production, resulting in very small price increases per pound. Compliance in the catalyst production industry is not expected to generate significant price changes because the cost of a catalyst is a very small portion of the cost of the final product. Negligible price changes are also projected for the textile mill users because of low compliance costs.

Minor changes in the number and size distribution of firms are likely to occur in pigment production, water treatment compound formulation, and chrome alloy welding. OSHA will also examine the proposed regulation's effects on employment and international trade.

Related Regulations and Actions

Internal: The OSHA Air Contaminants Standards found at 29 CFR 1910.1000, Table Z-2, of the Agency's General Industry Standards, specify a maximum PEL of one milligram per 10 cubic meters (m^3) of air as chromic acid and chromates. This is the equivalent of 100 $\mu g/m^3$ and is calculated as an 8-hour TWA. Table Z-1 specifies a ceiling exposure value of 0.1 milligram per cubic meter (mg/m^3) with a notation to avoid skin contact for tert-Butyl chromate as chromium trioxide. Table Z-1 also specifies a PEL of 0.5 mg/m^3 for soluble chromic and chromous salts and 1 mg/m^3 for metallic chromium and insoluble salts.

External: The Environmental Protection Agency (EPA) has issued the following regulations for the control of chromium pollution: (1) .05 mg/liter in drinking water, (2) 4 mg/liter effluent guideline in wood preserving, and (3) 1 mg/liter (daily maximum) and 0.5 mg/liter (30-day averge) in the manufacture of chromium metal and ferroalloys, and 0.1 mg/liter (daily maximum) and 0.5 mg/liter (30-day average) as hexavalent chromium. In addition, EPA has proposed the following regulations: (1) 0.5 mg/liter in leachate from hazardous wastes, and (2) 4.2 mg/liter (daily maximum) and 1.6 mg/liter (30-day average) in electroplating effluents.

Active Government Collaboration

We are sharing information with the National Institute for Occupational Safety and Health, the Environmental Protection Agency, and the Consumer Product Safety Commission.

Timetable

NPRM—Late Fall 1980.
NPRM—Summer 1981.
Public Comment Period—Following NPRM.
Public Hearing—Following public comment period, if requested.
Regulatory Analysis—Summer 1981, if required.
Final Rule—Summer 1982.
Final Rule Effective—To be determined.

Available Documents

ANPRM—41 FR 18869, May 7, 1976.

"Criteria for a Recommended Standard . . . Occupational Exposure to Chromium (VI)," (NIOSH-HEW, 1975).

"Criteria for a Recommended Standard . . . Occupational Exposure to Chromic Acid," (NIOSH-HEW, 1973).

Public docket of the record of comments received in response to the 1976 and 1974 ANPRM's—H-033, H-054.

These documents are available by mail and for review and copying at the OSHA Technical Data Center, Room S-6212, Third Street and Constitution Avenue, N.W., Washington, DC 20210. A fee is usually charged for copies of these documents.

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DOL—OSHA

Standard for Occupational Exposure to Safety and Health Hazards in Grain Handling Facilities (29 CFR 1910)

Legal Authority

The Occupational Safety and Health Act of 1970, 29 U.S.C. § 655; Secretary of Labor's Order 8-76 (41 FR 25059), 29 CFR Part 1911.

Reason for Including This Entry

The Occupational Safety and Health Administration (OSHA) believes this rulemaking is important because we anticipate that this regulation will have a significant economic impact on the affected industries.

Statement of Problem

Workers in the grain handling industry are exposed to safety and health hazards associated with fires and explosions as well as organic dust, fungicides, and biological growths. For example, in late 1977 and early 1978, fires and explosions that occurred in grain handling facilities killed more than 60 persons and injured numerous others. OSHA responded to these disasters by issuing a grain elevator hazard alert for the purpose of providing industry with recommended safety and health guidelines. OSHA also contracted with the National Academy of Sciences to study the causes of these fires and explosions to increase our understanding of the problem and to obtain recommendations.

OSHA has also increased the number of inspections directed at recognized hazards within grain handling facilities, but enforcement personnel have encountered problems in applying existing OSHA standards to control the hazards in grain handling facilities since present standards do not address the most serious safety and health problems. Enforcement personnel believe that a gap exists because of the lack of OSHA standards directed specifically to grain handling facilities. Interested employee groups have also requested that OSHA develop grain handling facilities standards.

OSHA believes that continued absence of regulation will not be in the best interest of employers, employees, or the country. Although the annual number of fires and explosions involving grain elevators is highly variable, there has been no indication of any decrease in the number of explosions occuring in grain handling facilities due to voluntary measures such as the grain elevator hazard alert. On the contrary, incidents have continued to occur even after the efforts put forth to inform affected groups of the hazards.

During 1979, there were at least 20 grain handling facilities that suffered serious fires or explosions in the United States, resulting in devastation, several deaths, and more than 15 injuries. Already in 1980 ther have been at least 34 explosions or serious fires, with eleven deaths and many severe burn injuries.

In addition, there is no specific OSHA health standard protecting the 225,000 grain elevator workers and the additional 450,000 grain processing workers from the health hazards peculiar to grain handling facilities. These hazards include exposure to grain dust, pesticides, and the biological agents associated with grain. A substantial body of evidence demonstrates that exposures to these can result in various acute and chronic health effects, including allergies, dermatitis, respiratory disease, and cancer.

The present regulations that apply to these health hazards are incomplete. For example, OSHA currently regulates exposures to dust (permissible exposure level of 15 milligrams per cubic meter) under 29 CFR 1910.1000, Table Z-3. These regulations for "inert" or "nuisance dust," however, are not specific for organic dust such as grain dust, nor do they include provisions for exposure monitoring, personal protective equipment, or other control measures. Studies indicate that exposure to grain dust also subjects workers to toxicological hazards caused by fumigants used to protect the grain.

OSHA also has permissible exposure limits for some 160 substances which may be used as pesticides (29 CFR 1910.1000, Tables Z-1 and Z-2). However, these standards cover only a small percentage of the total number of pesticides manufactured and formulated in this country. In addition, they establish only airborne concentration limits and general control requirements for these 160 pesticides and do not address other protective measures, such as exposure monitoring, personal protective equipment, and medical surveillance. Thus, the existing standards are not comprehensive enough to fully control worker exposure to the health hazards of pesticides in grain handling operations.

OSHA does not currently regulate occupational exposures to fungi, molds, bacteria, or their toxins, which also expose workers in grain handling facilities to significant risks.

Alternatives Under Consideration

(A) Safety Options: In addition to voluntary measures which have already been attempted, we can consider at least three options.

The first option is to promulgate specific standards for the grain handling industry. This approach would simplify enforcement activities and could minimize the possibility of fires and explosions in grain handling facilities. The standard would address new as well as existing facilities in a comprehensive manner. The major disadvantage would be the cost impact on operators of modifying their grain handling facilities.

The second option is to develop specific standards for new grain handling facilities but to include special, less stringent standards for existing facilities. This option would permit due consideration of the economic burden on older facilities by not requiring these facilities to meet the more stringent standards for new facilities.

The third option is to develop specific standards for new and major rehabilitated facilities with an exemption for all existing facilities. This approach would be similar to that taken by the Environmental Protection Agency in its regulation of pollutants for grain handling facilities. However, this option would only partially close the gap in current OSHA standards. It would complicate enforcement activities, and the major problems in older facilities would go unchecked.

(B) Health Options: OSHA is considering several major regulatory alternatives to deal with the health hazards in grain handling facilities.

The first option is to establish a permissible exposure limit (PEL) for grain dust, as well as safe work practices and procedures to control exposure to grain, biological agents, and pesticides. Within this option, there are several approaches that we may take. We may set the PEL at any one of a number of concentrations, depending on OSHA's evaluation of available data. In addition, the standard may be performance-oriented, allowing employers to choose the controls necessary to reduce exposures to the PEL, or may require specific controls. Furthermore, we may limit the standard to grain elevators, or expand it to cover grain handlers in processing facilities as well.

Another option would be to regulate the three health hazards associated with grain handling individually, rather than having one standard cover all three hazards. Similarly, we could develop one standard but include specific provisions to address each of the three health hazards separately rather than together.

A third possibility would be to regulate both safety and health hazards in one comprehensive standard. Although this approach appears practical, many of the problems in safety and health differ greatly, and a combined standard would be extremely complex. This option could thus result in delaying promulgation of a health standard.

In addition to these options, OSHA is evaluating information received in response to the ANPRM (45 FR 10732, February 15, 1980), and the testimony received at the informal public meetings held in April and May 1980, to determine what other options may be viable. We will prepare a Regulatory Analysis of the options prior to any rulemaking activity.

Summary of Benefits

Sectors Affected: Grain handling facilities; workers in these facilities; and grain producers, shippers, and users.

The proposed regulation will affect the following industries: Cash grains (SIC 011), Crop preparation for market (SIC 0723), Grain mill products (SIC 204), Bakery products (SIC 205), Distilled liquor, except brandy (SIC 2085), Trucking, local and long distance (SIC 421), Farm product warehousing and storage (SIC 4221), Deep sea domestic transportation (SIC 442, 443, and 444), and Grain wholesale (SIC 5153). Grain handling facilities are scattered throughout the grain-producing States, with major bulk terminals at proximate domestic and export distribution points along the Great Lakes and on the east, west, and Gulf coasts.

Explosions and fires in the nation's 15,000 grain handling facilities continue to plague the industry despite substantial industry motivation to adopt preventive measures. During 1979, 20 major fires and explosions resulted in 15 injuries and several deaths, and one explosion in late 1977 caused 36 deaths. In such instances, property losses often exceed $25 million (in 1979 dollars). Insurance premiums are high, and coverage is sometimes difficult to obtain. In addition, increasing evidence indicates the potential for serious health hazards resulting from worker exposure to grain dust as well as toxic fumigants and biologic agents in the dust. Establishing a PEL for grain dust or mandating safe work practices and procedures would reduce the allergies, dermatitis, respiratory disease, and cancer associated with exposures in the industries regulated.

Catastrophic explosions occur at a rate of more than five per year and as many as 15 have occurred within a single year. Under such circumstances, secondary economic losses to producers and shippers could easily result in annual direct and indirect property losses exceeding $200 million. Insufficient data presently make it difficult to estimate medical care costs, lost income, and other substantial personal losses in these cases, but these costs are also very substantial, as reflected by numerous liability case settlements. A recent grain elevator disaster case in Louisiana was settled out of court for $25 million. It is apparent that the 225,000 grain elevator workers, the additional 450,000 grain processing workers, and their employers will benefit directly from any reduction in workplace hazards that is achieved by regulatory action. In fact, most affected parties seem to agree that action is needed.

Grain producers and consumers will benefit indirectly from the reduction in economic losses that currently are pushed back to the producers through lower grain prices or higher storage fees, or pushed forward to the consumer through higher prices. Also, dependents of workers and local communities will benefit indirectly from any reduction in grain industry accidents, which are frequently catastrophic to local communities.

Summary of Costs

Sectors Affected: Grain handling facilities; grain producers, shippers, and users; and OSHA.

Those industries listed in the Summary of Benefits section will incur compliance costs or direct costs as a result of this regulation.

Under application of any final regulation, older facilities may bear a disproportionately higher share of the compliance costs because they lack the safety provisions that are designed into newer facilities and because retrofitting is typically more expensive than building safety equipment into new facilities. Geographic impacts appear to be evenly spread among the grain handling facilities.

OSHA has not yet initiated studies to estimate direct costs, but anticipates that this proposal will be a "major action." Dust control including ventilation equipment is expensive, and probably will be necessary to reduce explosion and fire hazards throughout the grain facilities and to reduce health hazards at employee work stations. We will require grain dust monitoring equipment and associated recordkeeping, along with preventive maintenance beyond that presently performed. These direct costs will be offset to some extent by reduced losses. We have not yet determined whether there will be differential costs for small businesses. There will be some consideration given to the size of the facility and frequency of use as it is affected by the regulations.

We anticipate that grain handlers would pass some costs on to grain producers, shippers, and users.

Employers will incur indirect overhead and administrative costs. Additionally, OSHA will divert some share of its resources from other standards development and enforcement activities. These indirect costs would be incurred by any program that can effectively control grain handling hazards.

Related Regulations and Actions

Internal: None.

External: The Department of Agriculture (USDA), and in particular the Federal Grain Inspection Service (FGIS), enforces the United States Grain Standards. The Environmental Protection Agency (EPA) regulates the application of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) which the EPA promulgated in 1972. The National Institute for Occupational Safety and Health and the Department of Energy are involved in grain dust research. The Council on Wage and Price Stability and the Office of Management and Budget will want to take active part in the economic analysis that will be required for the regulation.

Active Government Collaboration

OSHA has established working relationships with the Environmental Protection Agency (EPA) to determine EPA's jurisdiction regarding pesticides. We have held meetings with Department of Agriculture (USDA) Federal Grain Inspection Service personnel to obtain health hazard information regarding exposure monitoring of the Federal grain inspectors. The National Institute for Occupational Safety and Health (NIOSH) is providing data from in-house and contract studies on the health hazards of grain handling. Both the USDA and NIOSH participated in OSHA's informal public meetings during the spring of 1980.

The National Academy of Sciences panel on grain elevator explosions is coordinating criteria development for this rulemaking effort with EPA, the U.S. Coast Guard, USDA, and NIOSH.

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Timetable

NPRM—Tentatively planned for late summer of 1981.
Public Hearings—Fall or winter 1981.
Regulatory Analysis—To be determined.

Available Documents

"Occupational Safety and Health Hazards in Grain Handling Facilities; Request for Comments and Information and Notice of Informal Public Meetings," 45 FR 10732, February 15, 1980.
Transcripts of informal public meetings held in April and May, 1980.
Public docket of the rulemaking record, Docket H–117.
These documents are available for review and copying at the OSHA Technical Data Center, Room S–6212, 200 Constitution Avenue, N.W., Washington, DC 20210.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Flammability Standards for Crewmember Uniforms (14 CFR Parts 121*, 123*, 127*, and 135*)

Legal Authority

Department of Transportation Act, § 6(c), 49 U.S.C. § 1655(c); Federal Aviation Act of 1958, as amended, §§ 313(a), 601, and 604, 49 U.S.C. §§ 1354(a), 1421, and 1424.

Reason for Including This Entry

The Federal Aviation Administration (FAA) thinks these proposed rules are important because they will impose a major increase in costs on the airline industry.

Statement of Problem

The FAA has found that many uniform items worn by flight crewmembers are highly flammable when exposed to fire and other sources of ignition. Tests performed by the National Bureau of Standards of the Department of Commerce under contract to FAA established that fabrics presently used in making uniforms for crewmembers would not resist the effects of flame and heat flux in survivable cabin fires and could prevent crewmembers from helping passengers in such situations. Among other actions, the FAA is considering establishing standards of flammability and resistance to heat flux for materials used in crewmember uniforms.

Alternatives Under Consideration

Possible alternatives to establishing flammability standards for crewmembers are:

(A) No regulation; do not require uniforms worn by crewmembers to meet any flammability standard. Current materials used to make uniforms provide maximum comfort, a range of styling, and are easily cleaned. However, they are constructed of conventional fabric that is flammable and may provide inadequate protective clothing. Without protective clothing, crewmembers may be incapable of performing necessary functions in certain emergencies.

(B) Require crewmembers to put on special garments such as firemen wear in case of a fire. This option was fully explored and reported in FAA Report No. FAA–RD–77–18. Although the garment provides maximum protection from flame and radiant heat, it is very expensive and difficult to put on.

(C) Require that crewmember uniforms meet a standard similar to the current children's sleepwear standards. This is a performance standard that requires that materials used for children's sleepwear resist ignition when exposed to flame, and self-extinguish rapidly. Materials which satisfy the children's sleepwear standard must be flame-resistant, but need not protect the wearer from radiant heat transferred through clothing.

(D) Require crewmember uniforms to meet a test measuring resistance to ignition and ability to self-extinguish as well as a standard designed to protect the wearer from injury from the transfer of radiant heat through clothing.

We regard Alternative D as the most desirable alternative, since crewmembers must be adequately protected from both flame and radiant heat injury if they are to perform their duties adequately in an emergency.

Currently, technology in the textile industry permits the establishment of a standard that protects wearers from both flame and radiant heat. Most fabrics can be treated to increase their protective qualities. In addition, fire-retardant wool and cotton are available in a wide range of colors and weights. These fire-retardant fabrics are woven of both natural and synthetic fire-retardant fibers to maximize wearability and protection. Synthetic fabrics such as Nomex are available in a variety of weights. Although these synthetics provide the greatest protection to the wearer, their range is somewhat limited due to problems with colorfastness. In the past, Nomex has been used primarily by fire and police agencies, and color choice was not a problem. If demand for more variety increases, a wider range of colors may be developed.

Although certain fabrics such as polyester have limited fire-retardant qualities, other fabrics of similar weight and purpose may be substituted. Fire-retardant fabrics are available that are comparable to conventional fabrics with respect to durability, color choice, style and tailoring capability, and fabric weight range. The fire retardant properties of some fabrics can be retained through the useful life of the garment. For other fabrics, it could last through at least 50 wash/cleaning cycles.

Summary of Benefits

Sectors Affected: Air carrier flight crewmembers; and air passengers.

The benefits expected from the proposed flammability standards would be increased safety for crewmembers and passengers. Flightcrews would be safer in case of fire, which would increase safety for the traveling public.

Summary of Costs

Sectors Affected: Manufacturers of textile mill products and apparel, and other textile products; the air transportation industry; and air passengers.

The cost per uniform would increase, causing an economic impact on the user or purchaser. The U.S. textile and clothing industry would be affected by the economic impact of producing new materials and clothing made from these materials. The air carrier industry would bear the cost, possibly through increased airfare, which would directly affect air passengers. No specific cost information is available at this time. We will include it in the Regulatory Analysis.

Related Regulations and Actions

Internal: Part 121 of the Federal Aviation Regulations and FAA Report Nos. FAA–RD–75–176 and FAA–RD–77–18.

External: Federal Rule, Flammability Standard for Children's Sleepwear, 16 CFR 1616.5(a)(b)(c)(i)(ii). State and local governments have established clothing standards for some hazardous professions, such as those for firemen.

Active Government Collaboration

The National Transportation Safety Board's comments on Notices 75–13 and 75–13A recommended that the scope be expanded to include clothing of all crewmembers to give them the same protection as flight attendants. The National Bureau of Standards developed the technical basis for the flammability standards.

Timetable

The FAA is proposing standards to be listed in appendices to 14 CFR Parts 121, 123, 127, and 135. The following are future action dates:
NPRM—July 1981.
Comment Periods—For hearing and for ANPRM 75–13 and Notices 75–13A and 75–13B, beginning December 16, 1980; for NPRM, 90 to 120 days after issuance.
Draft Regulatory Analysis—will accompany NPRM.
Final Rule—Pending.
Effective Date of Regulation—36 months after we issue amendment.

Available Documents

ANPRM 75–13 (40 FR 11737), published March 13, 1975; Notice 75–13A (45 FR 2775) published April 24, 1980 reopening the comment period; and Notice 75–13B (45 FR 55760) published August 21, 1980 extending the comment period are available from the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rule Docket (AGC–24), Docket No. 14451, Federal Aviation Administration, 800 Independence Ave., S.W., Washington, DC 20591.

You can get copies of FAA reports entitled "Development of a Proposed Flammability Standard for Commercial Transport Flight Attendant Uniforms," Report No. FAA–RD–75–176, and "Development of a Fire Protective Overgarment for Use by Air Carrier Flight Attendants," Report No. FAA–RD–77–18, from the National Technical Information Service, Springfield, VA 22161.

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DOT—Federal Highway Administration

Hours of Service of Drivers (49 CFR Part 395*)

Legal Authority

The Motor Carrier Act of 1935 (Part II of the Interstate Commerce Act), 49 U.S.C. § 304; Department of Transportation Act, § 3, 49 U.S.C. § 1655.

Reason for Including This Entry

The Federal Highway Administration (FHWA) thinks this rule is important because any change in the hours of service regulations that restricts when a driver may work could have a major economic impact on both the trucking industry and consumers, causing considerable controversy.

Statement of Problem

The FHWA is considering revising the regulations that limit the driving hours and prescribe rest periods for drivers of vehicles engaged in interstate or foreign commerce. It is taking this action in response to:

- Numerous requests from public interest groups, labor organizations, motor carriers, and individual drivers.
- Research studies showing driver fatigue to be a cause in commercial motor vehicle accidents.
- A 1974 decision of a Federal District Court involving a suit brought by PROD, Inc., an interest group representing some commercial truck drivers who sought judicial review of FHWA's failure to initiate rulemaking proceedings on the hours of service regulations. The suit was dismissed by the court to allow FHWA to begin rulemaking. The dismissal allowed PROD to reinstate the suit in 18 months if FHWA had failed to initiate rulemaking.

The objective of this regulation is to increase the overall safety of the Nation's highways through the revision of current regulations governing the hours of service for drivers of commercial trucks and buses engaged in interstate or foreign commerce.

The FHWA currently limits, by regulation, the hours of service for drivers, as part of its overall responsibility for the safe operation of motor carriers. Research studies dating from the mid-1930s have indicated that fatigue causes narrowing of vision and inattention, which make drivers miss signs and signals, and result in highway accidents. In 1978, more than 34,000 commercial motor vehicle accidents were reported to the Bureau of Motor Carrier Safety; many of these were single-vehicle accidents and other accidents that involved running off of the road without apparent cause. The FHWA suspects that fatigue was a factor in many of these cases.

If we do not take regulatory action, we may be unable to prevent fatigued drivers from traveling the Nation's highways, thereby allowing a potentially dangerous situation to continue.

Alternatives Under Consideration

Some of the alternatives to current regulations that FHWA is studying include longer off-duty periods for drivers between driving or work assignments and mandatory rest periods during long driving assignments. FHWA is also considering simplifying the methods drivers use to record hours of service, in order to reduce the paperwork burden on both the driver and the motor carrier companies. In addition, FHWA is considering requirements related to the following: maximum weekly work hours; maximum on-duty time; minimum off-duty time during assignments; driving hours or mileage limitations; driver relief periods between assignments; elimination of intermittent off-duty periods which extend the overall length of the work day; mandatory meal periods; and special provisions for night-driving assignments.

Providing simpler methods for recording hours of service would eliminate the industry-wide complaints about the drivers' logs, and may increase compliance. The other proposed regulatory actions would provide stricter controls over drivers' work habits, but they would not necessarily increase compliance.

Summary of Benefits

Sectors Affected: Users of highways, including bus drivers, truckers, and the general public; the interstate trucking industry; interstate bus lines and bus charter services; shippers and users of goods transported by truck or bus; and passengers and tour groups that normally travel by bus.

FHWA believes that revisions to regulations on the hours of service for drivers would help reduce driver fatigue and ensure alertness, thereby eliminating the risk of fatigue-related accidents. This, in turn, would increase the overall safety of the Nation's highways.

The FHWA expects that the revised regulation would have economic benefits, because there would be fewer fatalities and injuries and less property damage caused by highway accidents. In addition, motor carriers' operating expenses would be reduced because of fewer accidents, lower insurance premiums, and reduced compensation payments. FHWA does not have an

estimate of the savings that would occur as a result of these regulations. Many

by PROD, Inc., a group representing professional drivers. The suit sought

customer requests, are manufacturing new trucks with smaller cab dimensions

savings to expect as a result of reduced

Service, Springfield, VA 22161

FRA believes that corrective action is

V 45 NO 228 1980 UMI

estimate of the savings that would occur as a result of these regulations. Many factors impair drivers' alertness. The Agency cannot distinguish between those accidents that would be prevented by changing these regulations and those that would be prevented by taking other actions.

Summary of Costs

Sectors Affected: Interstate trucking industry; interstate bus lines and bus charter services; interstate truckers and bus drivers; shippers and users of goods transported by truck or bus; and passengers and tour groups that normally travel by bus.

FHWA expects that the costs resulting from these regulations may be high. Revising the hours of service regulations to restrict the hours that a driver may work could increase payroll expenses for motor carriers because they may need additional drivers. This could increase other operating expenses for motor carriers, resulting in increased costs to passengers and shippers for truck and bus transportation and, eventually, for goods consumed. The increased expenses to motor carriers would, however, be offset by such items as reduced vehicle downtime, minimized delays in cargo delivery, and lower insurance premiums that could result from fewer accidents.

Related Regulations and Actions

Internal: Current FHWA regulations restrict hours of service of drivers (49 CFR Part 395).

FHWA has initiated a test program, which began May 1, 1980, to evaluate alternatives to drivers' daily logs.

External: None.

Active Government Collaboration

None.

Timetable

NPRM—January 1981.
Regulatory Analysis—Will accompany NPRM.

Available Documents

ANPRM—41 FR 6275, February 12, 1976.

Second ANPRM—43 FR 21905, May 22, 1978.

Bureau of Motor Carrier Safety Docket MC–70–1.

Sixteen reports or professional journal articles are referenced in the second ANPRM, 43 FR 21905, May 22, 1978.

PROD, Inc., et al. v. *Brinegar*, Civil Action 2098–73, U.S. District Court, District of Columbia (May 20, 1974). This is a decision in which the District Court dismissed, without prejudice to renew in 18 months, a suit brought against DOT by PROD, Inc., a group representing professional drivers. The suit sought judicial review of the FHWA's failure to institute rulemaking proceedings on "hours of service."

"Effects of Hours of Service, Regularity of Schedules, and Cargo Loading on Truck and Bus Driver Fatigue," October 1978, available through the National Technical Information Service, Springfield, VA 22161 (DOT HS–803799).

Bureau of Motor Carrier Safety dockets are available at the Federal Highway Administration, Room 3402, 400 Seventh Street, S.W., Washington, DC 20590.

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DOT—FHWA

Minimum Cab Space Dimensions (49 CFR Part 393*)

Legal Authority

The Motor Carrier Act of 1935 (Part II of the Interstate Commerce Act), 49 U.S.C. § 304; Department of Transportation Act, 49 U.S.C. § 1655.

Reason for Including This Entry

The Federal Highway Administration (FHWA) thinks this rule is important because it could necessitate redesigning the cab portion of a truck to make it larger for safety purposes. This may reduce the amount of cargo space available and possibly increase costs for the trucking industry.

Statement of Problem

All States and the District of Columbia impose restrictions on total vehicle length for trucks. Most of these restrictions range from 55 to 65 feet; 75 feet is the maximum length that any State allows. However, there are no regulations for the minimum size of the cab portion of trucks. Thus, drivers of heavy commercial vehicles must sometimes drive trucks with cab dimensions that make them uncomfortable, thereby increasing fatigue and the likelihood of an accident. The extent of the problem is unknown.

FHWA's preliminary investigations suggest that the older truck cabs, whose dimensions may cause problems, are being phased out. However, reports from drivers' organizations have stated that vehicle manufacturers, in response to customer requests, are manufacturing new trucks with smaller cab dimensions in order to enlarge the space available for cargo. Reducing the size of the cab can make the driver uncomfortable and the engine less accessible for inspection. It can also place excessive weight on the steering axle, making the truck harder to steer and overloading the front tires, which can cause flats. Some studies have linked highway accidents with these conditions.

If the size of the cab actually increases accident rates by causing driver fatigue, failure to require adequate cab size through regulation could result in continued accidents.

Alternatives Under Consideration

The alternatives in this case are to regulate or not to regulate. (Any regulations would apply only to new trucks.) If, in fact, there is a serious safety problem related to cab size, a possible alternative to rulemaking is to propose voluntary model advisory standards for minimum cab space dimensions. The National Highway Safety Advisory Committee Report of March 1977 recommended this approach.

Within the rulemaking process, certain factors should be considered. One is whether certain types of weight classes of vehicles should be exempted from the regulations. Another is whether to restrict manufacturers from placing the cabs over the engine. A third is the safety of different length cabs matched with different length trailers.

If the FHWA either suggests voluntary standards or pursues the regulatory route, the driver would have a better driving environment, which would lead to safer vehicle operation. Voluntary standards would give the industry an opportunity to comply without the need for Federal regulation in this area. If the industry failed to comply, regulation would be necessary, with the associated disadvantages of additional recordkeeping requirements and reporting burdens. Any regulation would have to take into account the factors described above. The obvious advantage of the regulation is that it would ensure compliance.

Summary of Benefits

Sectors Affected: Users of highways, including the interstate trucking industry, truckers, and the general public.

The benefit of this regulatory action would be to reduce wheel and axle overloading and protect the driver's work place, thereby reducing the risk of accidents to all highway users. FHWA does not know at this time what dollar savings to expect as a result of reduced accident involvement or avoidance. The percentage of accidents that would be avoided through regulatory action is unknown, but the risk would be reduced.

Summary of Costs

Sectors Affected: Manufacturing of truck cabs; the interstate trucking industry; and shippers and users of goods transported by truck.

These regulations may necessitate substantially redesigning the cab portion of some trucks. Initially, the manufacturers would bear the financial burden of accomplishing this redesign and retooling. This would lead to an increase in the cost of trucks to users. Unless the States change the allowable overall length of a tractor/semi-trailer cargo space, this could result in smaller loads and the need for additional vehicles and drivers to ship the same amount of goods. All of these factors could increase shipping costs and eventually result in consumer price increases for all items carried by truck. Specific estimates of the costs are not available at this time.

Related Regulations and Actions

Internal: None.

External: Fifty States and the District of Columbia have regulations limiting overall vehicle length.

Active Government Collaboration

None.

Timetable

Further action to be determined.

Available Documents

ANPRM—43 FR 6273, February 14, 1978.

Bureau of Motor Carrier Safety Docket MC–79.

"Interior Cab Dimensions of Heavy Duty Motor Vehicles," February 1980, in the Bureau of Motor Carrier Safety Docket MC–79.

"Driver Profile and Body (Anthropometric) Data on Interstate Truck Driver," April 1977, available through the National Technical Information Service, Springfield, VA 22161 (PB273514/AS).

"A Study of Heat, Noise, and Vibration in Relation to Driver Performance and Physiological Status," October 1974, available through the National Technical Information Service, Springfield, VA 22161 (PB238629).

"Cause and Control of Commercial Vehicle Accidents Involving Front Tire Failure," August 1975, available through the National Technical Information Service, Springfield, VA 22161 (PB245863).

Bureau of Motor Carrier Safety dockets are available at the Federal Highway Administration, Room 3402, 400 Seventh Street, S.W., Washington, DC 20590.

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DOT—Federal Railroad Administration

Alerting Lights Display—Locomotives (49 CFR Part 222)

Legal Authority

Federal Railroad Safety Act of 1970, § 202(a), 45 U.S.C. § 431(a); Locomotive Inspection Act, 45 U.S.C. § 22 *et seq.*

Reason for Including This Entry

The Federal Railroad Administration (FRA) has included this entry because of the degree of controversy the ANPRM and the NPRM evoked and because of the cost impact on the railroad industry.

Statement of Problem

Each year, hundreds of persons are killed and thousands are injured in accidents at rail-highway grade crossings (the intersections of railroad tracks and highways at the same level). The National Grade Crossing Inventory maintained by the Department of Transportation (DOT) indicates the following number of grade crossings: 217,068 public; 140,653 private; and 3,609 pedestrian. During the period from 1968 to 1978, there was an annual average of 1,232 fatalities and 3,803 injuries resulting from accidents of all types at rail-highway grade crossings. In 1978, the most current year for which data have been analyzed, there was a total of 12,435 crossing accidents of all types, resulting in 1,021 fatalities and 4,256 injuries. The majority of accidents, injuries, and fatalities occurred at public crossings.

To reduce the number of these accidents, the FRA is proposing to require railroad locomotives to display highly conspicuous alerting lights at public rail-highway grade crossings. FRA is taking this action at the present time in response to: (1) congressional interest as reflected in legislation proposed during the past several sessions to require strobe lights on locomotives, and (2) technolgical advances in types of lighting devices. FRA believes that corrective action is necessary since the probable consequence of inaction would be a continuation of the current accident level.

Alternatives Under Consideration

FRA has considered several alternatives to the status quo.

(A) This alternative, which is the one FRA is proposing, would require railroad locomotives to display highly conspicuous alerting lights at public rail-highway grade crossings. The lights would provide additional warning to motorists who are approaching public grade crossings. A specific requirement would result in a uniform system of warning lights that motorists would associate with the presence of a railroad locomotive. One possible disadvantage is that the locomotive engineer may be distracted by the reflection caused by a pulsating light.

(B) Alternative (B) would rely on voluntary action by the railroads to install and display alerting lights on railroad locomotives. In an attempt to stimulate such voluntary action, FRA would use existing studies and data indicating that highly conspicuous alerting lights reduce accidents. There are drawbacks to this alternative. First, many railroads probably would not install alerting lights. Many railroads question the effectiveness of the lights, and others do not want to commit the necessary funds. If motorists are to associate alerting lights with the presence of a locomotive, the lighting system must be uniform. Second, railroads might install lights with differing characteristics (color, location, flash rate, and intensity) on the locomotives. Again, uniformity of the lights used would improve the effectiveness of the system for motorists.

(C) Alternative (C) is to install active warning systems (lights, bells, and gates) at all public rail-highway grade crossings.

(D) Alternative (D) would be to eliminate all public crossings by separating public highways from rail lines (by overpasses and underpasses).

Alternatives (C) and (D) were less cost-effective than alerting lights and prohibitively expensive—approximately $4 billion for active warning systems and $200 billion for grade separation (1979 dollars). The FRA believes Alternative (A) is the most cost-effective and readily available overall approach. It would result in a uniform alerting device that a motorist would associate with the presence of a locomotive. Active warning systems and grade separations will continue to be superior

options, however, at specific high-risk crossings.

Summary of Costs

Sectors Affected: Railroads; railroad locomotive manufacturers; and railroad employees.

Costs would be incurred by railroads in purchasing and installing the alerting lights. Costs would also be incurred by railroad locomotive manufacturers in designing and producing the lights. Railroad employees would incur costs in learning the meaning of the lights.

Related Regulations and Actions

Internal: None.

External: None.

Active Government Collaboration

None.

Timetable

NPRM—December 1980.
Regulatory Analysis—Will accompany NPRM.

Available Documents

ANPRM—43 FR 20632, May 12, 1978.

NPRM—Docket No. RSOR–1, Notice No. 1.

Docket No. RSOR–1 is available for inspection and copying at the Federal Railroad Administration, Room 5101, 400 Seventh Street, S.W., Washington, DC 20590.

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DOT—National Highway Traffic Safety Administration

its statutory mandate to provide consumers with comparative

protect occupants in a crash. Manufacturers could combine that crash

truck accident rates are increasing. NHTSA is examining the long-range

options, however, at specific high-risk crossings.

Summary of Benefits

Sectors Affected: Users of highways; and the railroad transportation industry.

The proposed rule would affect the driving public because of the anticipated reduction in rail-highway grade crossing accidents, injuries, and fatalities. Accident reduction would also have a beneficial impact on the railroad industry by reducing the costs associated with rail-highway grade crossing accidents.

A 1978 study done for the FRA, "Analysis for NPRM—Strobe Lights on Locomotives" (from here on referred to as the Study), estimated that 124 fatalities, 566 injuries, and 1,414 accidents would be avoided each year if an alerting lights system using xenon strobe lights were used. The Study estimated the total annual benefit to be $65 million, produced by the anticipated accident reduction. The net present value benefit, including all societal benefits, was estimated to be $432.6 million (with present value calculations based on a 20-year project evaluation and a 10 percent discount rate). The net present value benefit is the estimated dollar savings for the full 20-year period, after subtracting the costs involved, and calculating a discount to reflect the current value of future cost savings. The Study used actual and estimated cost figures for evaluation of fatalities, injuries, property damage, lost use of the rail line, and other costs. The probable decrease in injuries and fatalities is of great importance in itself, in addition to the economic benefits.

Summary of Costs

Sectors Affected: The railroad transportation industry; shippers and users of goods transported by rail; and rail passengers.

The railroad industry would absorb the initial cost of installing alerting lights. The proposed rule may affect shippers and the general public if the short-term costs to railroads exceed the short-term benefits, because this could lead to rate increases.

The initial cost of installing alerting lights would be approximately $21 million over a 3-year period (1978 dollars). This would be substantially offset by the anticipated reduction in costs related to grade crossing accidents. In the short-term, costs might exceed benefits. According to the Study cited earlier, the estimated present value cost of application and subsequent maintenance of an alerting lights system using xenon strobe lights is $32.3 million (based on a 20-year evaluation), while the economic impact is estimated to be a benefit of $61.4 million to the railroads.

If the short-term costs due to the capital expense of installing alerting lights exceed the short-term benefits, the financial condition of the railroad industry could necessitate recovering these costs through rate increases. (See "A Prospectus for Change in the Freight Railroad Industry," a preliminary report by the Secretary of Transportation, October 1978.) Since the cost of installing alerting lights is only $21 million over a 3-year period, the effect on rates would not be large.

Related Regulations and Actions

Internal: FRA requires that all grade crossing accidents be reported (49 CFR Part 225). FRA publishes each year a "Rail-Highway Grade Crossing Accident/Incident Bulletin." In addition, FRA has published and periodically updates the National Grade Crossing Inventory. Railroad locomotives are required by 49 CFR 230.231 to have a headlight. In addition, the Federal Highway Administration has authority under 23 U.S.C. § 130 to fund the construction costs of projects that eliminate hazards at rail-highway grade crossings.

External: None.

Active Government Collaboration

None.

Timetable

Final Rule—January 1981.

Available Documents

NPRM—44 FR 34982, June 18, 1979.
ANPRM—43 FR 9324, March 7, 1978.
Draft Regulatory Analysis.

"A Prospectus for Change in the Freight Railroad Industry," October 1978, a preliminary report by the Secretary of Transportation.

Analysis for NPRM—"Strobe Lights on Locomotives," Input Output Computer Services, Inc., May 26, 1978.

DOT Transportation Systems Center Study—"Grade Crossing Resource Allocation for Strobe Lights and Conventional Warning Systems," November 16, 1978.

Documents are available from Agency Contact.

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DOT—National Highway Traffic Safety Administration

Crashworthiness Ratings (49 CFR Chapter 5)

Legal Authority

Motor Vehicle Information and Cost Savings Act, 15 U.S.C. § 1941; National Traffic and Motor Vehicle Safety Act, 15 U.S.C. § 1401.

Reason for Including This Entry

The National Highway Traffic Safety Administration (NHTSA) thinks that this rulemaking is important because of the possible impact on manufacturers, the interest shown by consumers, and the potentially significant effect of the rule on the automotive marketplace.

Statement of Problem

Consumers do not have objective, comprehensive information available to them on the comparative ability of cars to protect them in a crash. Such information would help consumers make informed decisions about buying cars and would foster competition among manufacturers to produce safer cars.

To help consumers make informed purchasing decisions, congress enacted the Motor Vehicle Information and Cost Savings Act of 1972. Title II of the Act directs NHTSA to develop ways to assess the ability of a car to protect its occupants in a crash (crashworthiness), the susceptibility of a car to property damage in a crash (damageability), and the ease of diagnosing and repairing vehicle systems that fail in use or are damaged in a crash (repairability).

The Act further directs NHTSA to develop methods of providing information on crashworthiness, damageability, and repairability to the public in a simple and readily understandable form to facilitate comparisons among various makes and models of cars.

The Act also directs the Agency to require car dealers to distribute information to prospective purchasers that compares differences in insurance costs for different makes and models of cars based upon differences in damageability and crashworthiness.

NHTSA has begun an experimental program to assess the crashworthiness of cars in representative, standardized crash tests. The Agency's testing of 1979 and 1980 makes and models has demonstrated that there are significant differences in the ability of cars to protect their occupants in a crash.

Alternatives Under Consideration

The Agency is currently considering several alternative ways of carrying out its statutory mandate to provide consumers with comparative information rating the crashworthiness of cars.

(A) Under Alternative (A) the Agency would conduct all of the crash tests needed to rate the cars and provide the information to manufacturers for dissemination to prospective purchasers. Although this approach would place all the testing under the full, direct control of the Agency, it would require an expensive test program. More importantly, the Agency would have to obtain the cars for testing after they have been publicly offered for sale to ensure that they are representative of cars available to the public rather than pre-production prototypes. Thus, the comparative ratings could not be distributed at the beginning of the model year to help consumers make their buying decisions.

(B) Alternative (B) would require manufacturers to develop the crashworthiness data and distribute it to consumers. Manufacturers already conduct crash testing to determine if their cars comply with the Federal motor vehicle safety standards. By conducting those tests at higher speeds (e.g., 35 mph rather than 30 mph as set in the current safety standards), they will be able both to determine if they comply with the Federal safety standards and to rate the crashworthiness of their cars. Since the compliance crash testing must be completed before the cars are offered for sale, manufacturers would be able to have the crashworthiness ratings available for prospective purchasers at the beginning of the model year.

Summary of Benefits

Sectors Affected: Purchasers of new cars.

NHTSA is developing an analysis of the benefits for the proposed rulemaking. One of the chief benefits would be to provide prospective purchasers of new cars with objective information about the crashworthiness of different makes and models to enable them to make informed buying decisions. The crashworthiness rating should foster competition among manufacturers to produce cars that provide increased levels of protection in a crash.

Summary of Costs

Sectors Affected: Manufacturers of cars; purchasers of new cars.

NHTSA is developing an analysis of the expected costs of the proposed rulemaking. If manufacturers are required to develop the crashworthiness data, they would have to conduct crash tests to rate the ability of their cars to protect occupants in a crash. Manufacturers could combine that crash testing with the testing they already do to certify compliance with Federal safety standards. Thus, the additional crash test costs for all manufacturers should be limited, particularly for manufacturers who have designed their cars to provide more than the 30 mph level of protection required by the current Federal safety standards.

Related Regulations and Actions

Internal: Insurance Cost Information Regulation (49 CFR Part 582).

External: None.

Active Government Collaboration

None.

Timetable

NPRM—January 1981.
Preliminary Regulatory Analysis—Will accompany NPRM.

Available Documents

The results of the Agency's series of tests rating the crashworthiness of 1979 and 1980 model cars have been placed in Docket No. 79-19. All documents are available for review in the Docket Section, NHTSA, Room 5108, 400 Seventh Street, S.W., Washington, DC 20590.

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DOT—NHTSA

Heavy Duty Vehicle Brake Systems (49 CFR Parts 571.105*, 571.121*)

Legal Authority

National Traffic and Motor Vehicle Safety Act, § 103, 15 U.S.C. § 1392.

Reason for Including This Entry

The National Highway Traffic Safety Administration (NHTSA) thinks this rule is important because of the level of public and Congressional interest.

Statement of Problem

Various Federal safety standards issued by NHTSA apply to truck, bus, and trailer brake systems (Federal Motor Vehicle Safety Standards No. 106, "Brake Hoses;" No. 116, "Brake Fluids;" and No. 121, "Air Brake Systems"). Although these standards have improved heavy truck braking performance considerably, problems with braking systems remain, and heavy truck accident rates are increasing. NHTSA is examining the long-range issues related to braking systems for trucks, buses, and tractor-trailers.

The number of persons killed while riding in heavy trucks increased from 847 in 1975 to 1,248 in 1978—an increase of 47 percent. In addition, the number of deaths involving automobiles and heavy trucks increased from 2,086 in 1975 to 2,959 in 1978. Roadside inspections, which the Bureau of Motor Carrier Safety (BMCS) of the Federal Highway Administration (FHWA) conducted, indicate an unacceptably high number of poorly maintained trucks. In a recent BMCS inspection survey of 273 heavy trucks, the inspectors put 57 percent of the trucks out of service. Half of these violations were attributable to the braking system. In another BMCS survey of 1,400 vehicles, 51 percent had brakes that were not adjusted properly; inspectors found that 17 percent of these vehicles were unsafe for highway operation.

If the Agency does not take any action, the number of deaths resulting from accidents involving heavy trucks is likely to continue.

Alternatives Under Consideration

NHTSA has issued and ANPRM to solicit comments on the Agency's long-range course of action regarding medium- and heavy-duty truck braking performance. Although it is too early in the regulatory process to identify specific alternatives and their advantages and disadvantages, general areas of consideration include:

(A) Establishing performance requirements in one or more of the following areas: (1) brake adjustment; (2) stability of the vehicle during stopping; (3) fade resistance, or stopping power for brakes exposed to high brake temperatures caused by prolonged or severe use; (4) contamination of brake systems by road dust, water, etc.; and (5) reliability and maintainability. The NHTSA standards apply to types of vehicles rather than to how they are used. Therefore, rulemaking related to devices that act on the engine rather than on the brakes to help slow the vehicle during mountain-descents will probably be up to the BMCS or to State governments. These agencies have the authority to regulate vehicles in use.

(B) Other possible approaches include: (1) issuing a public advisory notice on ways to improve fade resistance; (2) establishing criteria for total brake system performance and stopping distance capability; (3) increasing State vehicle inspection programs; (4) teaching drivers how to avoid accidents; and (5) requiring

vehicle manufacturers to improve the design of vehicles to enhance the

pounds to have service brakes on all wheels. On June 13, 1980, the Agency

accident. Federal, State and local agencies have designed numerous

ends of vehicles; body repair shops; and pedestrians.

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will affect 19 U.S. flag vessels and approximately 150 foreign flag vessels.

vehicle manufacturers to improve the design of vehicles to enhance the driver's vision and ability to brake rapidly.

Summary of Benefits

Sectors Affected: Users of highways, including the trucking industry, truckers, bus charter services, bus drivers, and the general public; and manufacturers of trucks, buses, tractor-trailors, and braking systems.

The benefits this rulemaking would achieve depend on specific performance requirements, which have not yet been determined. The chief benefit would be a reduction in the number of accidents related to the braking systems in heavy trucks. The purpose of the ANPRM is to make the public aware of NHTSA's concerns, to outline our research plans, and to solicit relevant comments from the trucking industry.

Summary of Costs

Sectors Affected: Manufacturers of trucks, buses, tractor-trailers and braking systems; purchasers of buses, trucks, and tractor trailers; and the general public.

Generally, the manufacturers would incur costs for designing new brake systems or components. Ultimately, such costs will be passed on to the consumer public through higher prices. For example, if requirements are set on brake adjustment, manufacturers may have to use automatic adjusters in their brake systems. Automatic adjusters would cost truck buyers about $50 to $75 per axle more than manual adjusters. The initial cost of automatic adjusters would be more than offset by the savings in brake system maintenance and tire wear. However, until the regulatory requirements are defined, it is not possible to specify the overall economic impact.

Related Regulations and Actions

Internal: NHTSA issued an ANPRM (44 FR 9783) on February 15, 1979. The ANPRM proposed establishing a new Air Brake Standard (No. 130) for trucks, buses, and trailers over 10,000 pounds gross vehicle weight rating (GVWR) to replace Air Brake Standard No. 121. The new Air Brake Standard would reinstate a stopping distance requirement to replace the one invalidated by the decision of the U.S. Court of Appeals for the Ninth Circuit in *PACCAR* v. *NHTSA and Department of Transportation*, 573 F. 2d 632 (9th Cir. 1978), cert denied, 439 U.S. 862 (Oct. 2, 1978). NHTSA also issued a final rule on June 2, 1980 (45 FR 38380) that amends existing Standard No. 121. That amendment requires all vehicles with a GVWR over 10,000 pounds to have service brakes on all wheels. On June 13, 1980, the Agency granted a California Highway Patrol petition (45 FR 41468) asking the Agency to begin rulemaking to amend the parking brake requirements of Standard No. 121.

External: None.

Active Government Collaboration

None.

Timetable

NPRM—To be determined.
Preliminary Regulatory Analysis—Will accompany NPRM.
Final Rule—To be determined.

Available Documents

ANPRM—45 FR 13155, February 28, 1980.
NHTSA Docket No. 79-03, Notice 03.

All documents available for review in the Docket Section, NHTSA, Room 5108, 400 Seventh Street, S.W., Washington, DC 20590.

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DOT—NHTSA

Pedestrian Protection (49 CFR Part 571*)

Legal Authority

National Traffic and Motor Vehicle Safety Act, § 103, 15 U.S.C. § 1392.

Reason for Including This Entry

The National Highway Traffic Safety Administration (NHTSA) thinks this rule is important because the performance requirements associated with the proposal would necessitate redesigning the front ends of all passenger cars. This may have an annual effect of $100 million (1979 dollars) or more on the economy. The rule also would benefit pedestrians by reducing the number of injuries and deaths resulting from accidents with passenger cars.

Statement of Problem

NHTSA has been interested in pedestrian safety since the Agency was formed. Each year, there are nearly 130,000 accidents involving pedestrians and motor vehicles. NHTSA is concerned about the number and severity of the injuries in these mishaps. Pedestrians suffer an average of four injuries, of varying severity, in each accident. Federal, State and local agencies have designed numerous programs to reduce this figure, including driver and pedestrian education programs, changes in traffic laws and ordinances, and traffic operational policies (such as better pedestrian signals and pedestrian overpasses or underpasses in locations where numerous accidents occur). In addition, the Agency has issued motor vehicle safety standards to improve the operating systems of vehicles, such as braking and lighting, so that collisions with pedestrians will be avoided. Nevertheless, approximately 8,000 pedestrians die annually in accidents with motor vehicles.

NHTSA decided to initiate this rulemaking when results from the Agency's pedestrian impact protection research program showed that it was possible to design the front ends of vehicles to reduce injury to a pedestrian in an accident.

Follow-up research has indicated that the severity of an injury, especially to a pedestrian's lower body, can be reduced when the front ends of vehicles are designed so that they use more energy-absorbing materials, such as rubber or plastic. Because the proposal would not help prevent accidents involving pedestrians and motorists, we expect to measure the benefits in terms of reducing the severity of injuries and increasing the number of lives saved.

Data from the Agency's accident file show that the frontal structure of passenger cars is the major cause of a large percentage of pedestrian injuries. The only approach likely to change this situation is rulemaking to require automobile manufacturers to make the front ends of vehicles safer. If the Agency takes no action, the current number of pedestrian fatalities and injuries will stay the same or possibly increase.

Alternatives Under Consideration

The Agency is considering establishing performance requirements for the front of passenger cars so that pedestrians would suffer less injury if hit. The Agency is evaluating what areas of the front of the vehicle should be covered, what impact speeds should be used in testing, and what level of performance should be required to prevent injuries.

Summary of Benefits

Sectors Affected: Domestic and foreign manufacturers of passenger cars and parts; suppliers of materials, such as steel, aluminum, rubber and plastics, used in constructing the front ends of vehicles; body repair shops; and pedestrians.

NHTSA is developing an analysis of the benefits for the proposed rulemaking. We believe that the above-named sectors will benefit from this rule, and will discuss the benefits in the NPRM we are developing. The chief benefit would be to reduce the number and severity of injuries to the lower body of a pedestrian struck by a passenger car. Consequently, there would be fewer deaths and less severe injuries in accidents involving pedestrians and motor vehicles.

Summary of Costs

Sectors Affected: Domestic and foreign manufacturers of passenger cars and parts; and purchasers and users of passenger cars.

NHTSA is developing an analysis of the expected costs of the proposed rulemaking. Generally, the costs to the manufacturers would include initial redesign, material substitution, and additional tooling. We expect design changes to decrease the weight and, therefore, the cost of some vehicles, but to increase the weight and cost of others. The Agency is considering these factors in deriving the expected manufacturer costs. We anticipate that manufacturers will pass along any additional costs to consumers. NHTSA will examine how much it would cost the consumer to operate a vehicle over its lifetime to determine the difference between vehicles that do not meet the standard and vehicles that do. The rule could have an annual effect of $100 million (1979 dollars) or more on the ecomony.

Related Regulations and Actions

Internal: The most closely related NHTSA standard is the Part 581 Bumper standard. The proposal's performance requirements may require modification of this standard.

External: None.

Active Government Collaboration

None.

Timetable

NPRM—Early 1981.
Draft Regulatory Analysis—Will accompany NPRM.

Available Documents

None yet.

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DOT—U.S. Coast Guard

Construction and Equipment for Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases (46 CFR 31°, 34°, 38°, 40°, 54°, 98°, and 154°)

Legal Authority

Port and Tanker Safety Act of 1978, 33 U.S.C. 1221, 46 U.S.C. 391a.

Reasons for Including This Entry

This proposal concerns the safe shipping of bulk liquefied gas in existing ships that have been designed for this purpose. The Coast Guard has included this entry because the safety of this cargo and class of vessels has been a general public concern for several years.

Statement of Problem

Existing U.S. ships for carrying liquefied gas, which are called gas ships, were designed and constructed in accordance with current Coast Guard standards. The Coast Guard developed these standards as the need for ships capable of carrying extremely cold liquefied gas grew. However, there has never been an internationally accepted set of design, equipment, and construction standards, and virtually every nation uses its own unique standards. This has created problems because not all countries recognize each other's standards. Therefore, an individual ship must comply with the standards of each country with which it wants to trade. This has the effect of restricting free international trade. To alleviate this situation, in 1976 the international community agreed upon a uniform set of standards for gas ships, developed by the International Maritime Consultative Organization (IMCO). This is known as the Existing Gas Ship Code. The Unied States can either adopt the Code or not. The Coast Guard needs to evaluate what impact the IMCO Existing Gas Ship Code would have on the U.S. fleet, so we have issued an ANPRM for public comments.

Alternatives Under Consideration

The Coast Guard has considered four alternatives:

(A) Adoption of the IMCO Existing Ship Gas Code.
(B) Issue no regulations.
(C) Require existing gas ships to comply with the new gas ship standards.
(D) Treat all affected vessels on a case-by-case basis.

The Coast Guard has issued an ANPRM to gather information for future rulemaking. The proposed regulations will affect 19 U.S. flag vessels and approximately 150 foreign flag vessels. Most U.S. vessels and those foreign vessels currently trading with the United States come close to complying with the IMCO Existing Ship Gas Code. Adoption of the code would establish a uniform level of safety at an acceptable cost, and would allow U.S. flag ships to trade in countries that have adopted the IMCO standard. Consequently, the Coast Guard favors Alternative A Comments received in response to the ANPRM indicate that there would be minimal difficulty for U.S. vessels to comply with this alternative. Alternatives, B, C, and D have serious drawbacks, such as perpetuating inconsistencies, imposing heavy economic burdens on the industry, and restricting free trade.

Summary of Benefits

Sectors Affected: The general public; the marine environment; water transportation of bulk liquefied gas; and construction of liquid cargo vessels.

The Coast Guard expects that any proposed regulation would ensure the safe transportation of bulk liquefied gases aboard existing vessels entering the United States by upgrading the minimum standards for their equipment, material, and construction. However, development of the IMCO standards has been going on for a long time, and most U.S. vessels come close to meeting these standards. In addition, the Coast Guard has been issuing Letters of Compliance to foreign vessels for years. This means that although the IMCO rules would upgrade some safety standards, there would be no radical changes. The major benefit derived from the adoption of these rules would be to have an internationally uniform set of regulations. This would help the industry and the Nation by eliminating confusing conflicts between various standards accepted in different parts of the world. In other words, along with increased safety, an even greater benefit would be promotion of free trade between countries that adopt the IMCO standards.

Summary of Costs

Sectors Affected: Water transportation of bulk liquefied gas; users of this product; and manufacturing of liquid cargo vessels.

Any regulatory action would directly affect owners and operators of gas ships, who probably would pass costs on to the general consumer. The comments received in response to the ANPRM, although incomplete in many respects, indicate that costs would be well below the levels required for a

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Regulatory Analysis in the Secretary's guidelines. In any case, the present market for this type of ship is at a minimum. Therefore, in most cases owners and operators would have the flexibility to perform modifications without interrupting their delivery schedules.

Related Regulations and Actions

Internal: On May 3, 1979, the Coast Guard published rules for new self-propelled vessels carrying bulk liquefied gases, which are based on the IMCO Gas Code for new ships. The rules were effective on May 31, 1979.

External: IMCO Existing Gas Ship Code.

Active Government Collaboration

None.

Timetable

NPRM—April 1981. This project has been delayed because other regulatory proposals have had priority over the limited USCG resources available for drafting.
Regulatory Analysis—No Regulatory Analysis will be done.

Available Documents

ANPRM—42 FR 33353, June 30, 1977. Documents are available from the Agency Contact.

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ENVIRONMENTAL PROTECTION AGENCY

Office of Air, Noise, and Radiation

Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes (40 CFR Part 191)

Legal Authority

Atomic Energy Act of 1954, as amended, 42 U.S.C. § 2201(b).

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks this rule is important because it is a critical step towards developing disposal methods for high-level and other long-lived radioactive wastes which could pose serious health problems to current and future generations of people. In addition, we estimate that the annual cost for implementing these standards could exceed $100 million (1978 dollars).

Statement of Problem

It is important to ensure proper management and disposal of high-level radioactive wastes because they represent a significant health risk to the population of the United States. Large quantities of these wastes already exist, and national defense programs, commercial nuclear power plants, and research reactors are producing more. At present, the Department of Energy (DOE) stores 70 million gallons of high-level defense wastes in various liquid and solid forms on three Federal reservations in the States of Idaho, South Carolina, and Washington. Owners of commercial nuclear power plants are temporarily storing about 6,000 tons of spent fuel (i.e., fuel removed from a reactor after having generated electrical power) in holding ponds at the various plant sites. Over the next few years, reactors currently licensed to operate are expected to produce an additional 600 tons a year of spent fuel. EPA estimates that these proposed standards will limit cancer deaths resulting from disposal of these wastes to less than 10 per 100 years over the first 10,000 years after disposal. Waste disposal is a future activity and no present basis for risk comparison exists.

Our program to develop these standards began in 1976 as part of an interagency effort to speed up development and demonstration of a high-level waste repository. President Ford announced this program as part of his Nuclear Waste Management Plan on October 27, 1976. President Carter established an Interagency Review Group (IRG) on Waste Management in March 1978 to review existing programs and recommend new policies where necessary. After holding several public hearings on its draft report, the IRG prepared a final report to the President in March 1979. This report recommended that EPA accelerate its programs to set standards for nuclear waste management and disposal activities. President Carter approved this recommendation as part of his Program on Radioactive Waste Management, which he announced on February 12, 1980.

If EPA took no action, this would further delay the Federal waste management program and could have significant environmental consequences. Delay in developing disposal methods results in longer storage of existing wastes in surface facilities requiring human control. Such storage is not necessarily a danger under normal conditions. The wastes, however, are more vulnerable to accidental release in surface storage than they would be in disposal facilities. The chances for environmental damage are greater the longer the wastes are stored in existing sites. Furthermore, the lack of a solution to this problem has caused serious uncertainty about the future use of nuclear energy in the United States. This uncertainty makes both national and local energy policy more difficult and has many indirect adverse economic and environmental effects.

Alternatives Under Consideration

The disposal system for high-level radioactive waste has yet to be designed and demonstrated by DOE. As a result, we are evaluating two basic types of environmental protection standards, and a third option which combines certain aspects of both.

Alternative(A)—We could develop a standard establishing general principles to govern disposal methods without setting quantitative standards. These principles would specify broad design requirements for disposal systems such as: (1) designing multiple manmade barriers and using natural barriers to prevent release of the wastes, (2) disposing of the wastes so that future generations could recover and relocate them, if necessary, and (3) designing disposal systems to reduce potential releases to the lowest levels reasonably achievable. Such requirements would reduce some of the uncertainties of the disposal systems to be developed which must work for very long times. However, they would not place any clear limit on expected environmental effects.

Alternative (B)—We could set numerical performance requirements for disposal systems without using general principles like those discussed in Alternative (A). These environmental protection standards would then be compared by the Nuclear Regulatory Commission (NRC) against the predicted performance of a proposed disposal system to determine whether the system should be approved. Such an approach would allow complete flexibility in meeting the objectives; however, it would rely upon predictions over very long time periods and such predictions involve many uncertainties.

Alternative (C)—Combine both types of standards discussed above. This will require long-term predictions of disposal system performance to determine if environmental protection objectives are met. The general principles will require conservative design approaches which will protect the environment as much as possible even if these long-term predictions are wrong.

We believe that Alternative (C) provides the most reliable protection of the general population and the environment.

Summary of Benefits

Sectors Affected: The general public.

The primary benefit of these standards is the protection of human health. Because the Federal Government has yet to design and demonstrate the disposal system, we are unable to accurately determine the health impact resulting from these standards. We estimate that the number of premature cancer deaths that would be caused by disposal in compliance with our standards would not exceed 1,000 over the first 10,000 years after disposal of the wastes. This is an average of one death every 10 years. Because our estimates are conservative, there is a good chance that actual disposal systems would result in fewer cancer deaths than we estimate.

Many sectors of society, especially environmental groups, State governments, and Members of Congress, have stated that nuclear power should not continue to be used while the problem of high-level radioactive waste disposal remains unsolved. Nuclear power now provides approximately 13 percent of the Nation's power supply. While EPA is neither for nor against nuclear power, we believe that these standards are the first step towards involving the problem of disposing of high-level radioactive wastes, so that the Nation can decide whether or not nuclear power will continue to be part of our energy system.

Summary of Costs

Sectors Affected: Commercial nuclear power plants; consumers of electricity supplied by nuclear power; Federal defense waste management programs; and NRC.

The high-level radioactive waste disposal program will be initially financed by the Federal Government. According to the provisions of President Carter's spent fuel policy, utilities will pay a one-time full cost recovery charge to the Federal Government for the transfer of spent fuel. Military-produced wastes are to be managed and disposed of by the Federal Government.

We calculated the cost impact of these standards by estimating the cost of the additional steps the Federal Government would have to take to be in compliance. Based largely on data and analyses performed by the Department of Energy (DOE), we estimate that in the year 1990 (the year we assume the waste program will be established) these standards will result in an incremental annual cost of commercial waste management of no more than $600 million (1978 dollars). This cost impact amounts to less than a one percent increase in national average electricity rates.

We also estimated that the standards would cause an increase of less than $1.7 billion (1978 dollars) over the total cost of the reference defense waste management program (assuming on-site disposal of high-level waste in geological repositories as the reference program), which is estimated to cost about $3.7 billion (1978 dollars).

The NRC is responsible for implementing these standards.

Related Regulations and Actions

Internal: We have coordinated the part of these standards that covers normal waste management operations with our Environmental Radiation Protection Standards for Nuclear Power Operations (40 CFR Part 190) to provide consistent exposure standards for all uranium fuel cycle operations.

External: The Nuclear Regulatory Commission (NRC) is responsible for implementing these standards. To accomplish this, NRC is currently developing regulations for Disposal of High-Level Radioactive Wastes in Geologic Repositories (10 CFR Part 60); NRC describes these proposed regulations in this edition of the Calendar.

Active Government Collaboration

We established an interagency working group to help us develop these standards. The agencies represented are the Nuclear Commission, the Department of Energy, and the United States Geological Survey.

Timetable

NPRM—December 1980.
Regulatory Analysis and Environmental Impact Statement—December 1980 (under preparation).
Public Hearings—Several public hearings will be conducted during the public comment period, at times and places that we will announce in the Federal Register.
Public Comment Period—180 days following publication of NPRM.
Final Rule—December 1981.
Final Rule Effective—December 1981.

Available Documents

ANPRM—41 FR 235, December 6, 1976.

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EPA–OANR

Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer (40 CFR Part 61)

Legal Authority

The Clean Air Act, as amended, §§ 111,112, and 301(a), 42 U.S.C. §§ 7411, 7412, and 7601(a).

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this policy is important because it will set a precedent in establishing how EPA will regulate airborne carcinogens under the Clean Air Act, and include risk assessment and economic analysis in the regulatory process.

Statement of Problem

Cancer is the second leading cause of death in the United States. One American in four is expected to contract some form of cancer in his or her lifetime, and one in five is expected to die from the disease. The most recent statistics show a continued increase in the total incidence of cancer, resulting principally from increases in lung cancer.

Studies of human cancer rates and their worldwide geographical variations, and observations of incidence rates in migrant populations, have revealed that factors in the human environment are probably responsible for a large proportion of cancers. "Environmental factors" in the broad sense include chemcial exposures from smoking, diet, occupation, drinking water, and air pollution; various forms of radiation, including sunlight; and some forms of severe physical irritation. Although the uncertainties are great, estimates by the World Health Organization, other prominent institutions, and individual experts suggest that these factors may cause 60 to 90 percent of all human cancers.

Although airborne carcinogens may induce cancer at a number of areas in the body, lung cancer is thought to be the principal form of cancer related to air pollution. While cigarette smoking is probably the most important cause of lung cancer in the United States, many scientists believe that various air pollutants increase the risk of cancer from smoking and other carcinogenic insults. Available estimates also indicate that occupational exposures to

chemcials are responsible for a significant portion of the incidence of lung cancer in the United States.

Through preliminary examination of industries producing chemicals and radioactive materials, and of air sampling results, EPA has identified over 50 known or potential chemical carcinogens and numerous radioactive materials which may be emitted into the atmosphere. Many of these substances are synthetic organic chemicals that have been in commercial use only since the 1930s. Because cancer induced by exposures to small amounts of airborne carcinogens may not appear for 15 to 40 years after exposure, it is still too early to detect the full effects of these chemicals on human health. Thus, it is both prudent and, in view of the large number of people potentially affected, important to reduce or contain emissions of known or suspected atmospheric carcinogens in order to prevent future problems before we actually observe them.

We have, since 1971, listed three airborne carcinogens (asbestos, vinyl chloride, benzene) as hazardous pollutants under § 112, "National Emission Standards for Hazardous Air Pollutants," of the Clean Air Act. As required by § 112, we have developed and are continuing to develop emission standards for significant sources of these pollutants. In addition, we are evaluating a number of other potentially carcinogenic substances to determine whether action under § 112 is appropriate. We have found our actions on airborne carcinogens to be hampered by the lack of a policy, developed with public participation, that would guide our use of § 112 to control airborne carcinogens.

Specifically, we need publicly stated, legally binding policies and regulatory mechanisms to: (1) determine the carcinogenicity and carcinogenic risks of air pollutants for regulatory purposes, (2) establish priorities for evaluating the need for and implementing additonal regulatory action, (3) specify the degree of source control required in general under § 112 and indicate how we will determine that level of control in setting individual standards, and (4) provide more extensive public involvement in the Agency's decisionmaking on the regulation of airborne carcinogens.

Alternatives Under Consideration

We describe a number of alternatives in the proposal document (44 FR 58642, October 10, 1979). Beyond that, the principal alternative is to have no formal policy. Under this alternative, EPA would continue with a case-by-case approach for regulating airborne carcinogens under § 112 of the Clean Air Act. This strategy would allow the Agency maximum regulatory flexibility, but would not give either the general public or the regulated industry sufficient information to enable them to participate fully in the rulemaking process. In addition, the alternative of no policy would not resolve the difficulties which EPA has encountered in the listing of airborne carcinogens and in the subsequent development of emissions regulations. It also does not recognize the need for procedures to ensure that available resources are allocated to the most important or tractable problems on a priority basis.

Under the policy, we will list under § 112 those airborne substances identified as high probability human carcinogens which present a significant carcinogenic risk to public health as a result of air emissions from one or more categories of stationary sources. Where applicable, we will propose generic standards (low-cost, good housekeeping-type standards for the control of fugitive emissions) for control of fugitive emissions from industrial sources. We will submit these standards concurrently with the listing to expedite reductions in emissions which can be achieved through good housekeeping practices in the manufacturing, handling, or use of hazardous materials. We will use risk assessments to determine priorities for further regulation of significant source catagories and in the evaluation of residual risk (the risk remaining after the application of best available technology).

At a minimum, the policy requires new and existing sources which present or would present significant cancer risks to apply best available technology (BAT) to control emissions of listed airborne carcinogens. BAT for new sources represents the most advanced level of control adequately demonstrated, considering economic, energy, and environmental effects. For existing sources, the determination of BAT also considers the impacts and technological problems associated with the retrofitting of control equipment. Controls more stringent than BAT may be imposed if the risk remaining after the application of BAT is unreasonable, or, for new sources, if EPA's criteria for risk avoidance associated with plant siting cannot be met.

Our proposed policy contains no reporting requirements.

In most cases, emission standards we establish pursuant to our proposed policy will be in the form of performance standards, rather than specific design standards. Design, operating, or equipment standards will be used only when performance standards are not practical.

In addition, the new source-siting provisions of the policy allow a new source owner to use an emission offset mechanism to locate a new source of airborne carcinogens in an area where other such sources exist or where the owner has difficulty in meeting emission requirements for the new source.

Summary of Benefits

Sectors Affected: The general public, particulary people living and working in densely populated urban areas and areas with a high concentration of chemical manufacturing industries; EPA; State and local regulatory authorites.

Generic and emission standards that we develop for sources of airborne carcinogens under the proposed policy will reduce cancer risks for large segments of the U.S. population exposed to airborne carcinogens in the ambient air. The greatest benefits will be to individuals who live in the immediate vicinity of characteristic source types.

While low levels of potentially carcinogenic substances have been detected in many parts of the country, the areas of greatest concern are densely populated urban centers and areas with a high concentration of chemcial manufacturing industries. In the latter case, the proposal would benefit populations in the Gulf Coast (Louisiana and Texas), the Kanawha Valley (West Virginia), and Northern New Jersey.

The proposed policy will significantly improve EPA's regulatory effort in identifiying and controlling airborne carcinogens. Proposing generic standards for certain categories or sources concurrent with listing under § 112 will provide significant reduction in emissions pending development of final § 112 standards.

A mechanism for establishing regulatory priorities will ensure that we address the most important or tractable problems first. The policy also provides for increased public understanding of and participation in EPA's actions and allows EPA to give earlier notice of its findings and regulatory intent to State and local regulatory authorities and to industries.

Summary of Costs

Sectors Affected: Source types emitting carcinogenic substances into the atmosphere, including petroleum refining and establishments which mine or manufacture minerals, inorganic chemicals, radioactive substances and byproducts, and synthetic organic chemicals; and users of these products.

Our preliminary analyses have identified a number of source types which may emit carcinogenic substances into the atmosphere. Most of these types fall into one of the following six broad groups: (1) mining, smelting, refining, manufacture, and end-use of minerals and other inorganic chemicals; (2) combustion processes, coke ovens, incinerators, power plants, etc; (3) petroleum refining, distribution, and storage; (4) synthetic organic chemical industries and end-use applications and waste disposal; (5) mining, processing, use, and disposal of radioactive substances and radioactive by products; and (6) sources of noncarcinogenic emissions which are chemcially transformed into carcinogens in the atmosphere.

We intend the proposed rule only to guide the Agency in identifying and controlling airborne carcinogens. In its present form, we cannot assess its regulatory effects quantiatively. This policy will, however, provide a basis for impact assessments in subsequent regulatory actions that are taken in accord with its provisions.

Related Regulations and Actions

Internal: Other offices within EPA which are also in the process of developing carcinogen control programs include the Office of Pesticides and Toxic Substances, the Office of Water and Waste Management, and the office of Mobile Source Air Pollution Control. A program is also underway to develop an agencywide cancer policy.

External: Related external efforts include the development of a national cancer policy by the member agencies of the U.S. Regulatory Council; the recent report by the Risk Assessment Work Group of the Interagency Regulatory Liaison Group (IRLG) on the identification of carcinogens and the quantitative assessment of risks; a staff paper by the White House Office of Science and Technology Policy on the identification, characterization, and control of potential human carcinogens; and a report to the President by the Interagency Toxic Substances Strategy Committee.

Other regulatory agencies that are involved in this area include the Occupational Safety and Health Administration, which published a final policy for regulating occupational exposure to carcinogens on January 2, 1980 (45 FR 5002), the Food and Drug Administration, and the Consumer Product Safety Commission. Nongovernmental groups which have expressed interest in or made recommendations on the control of carcinogens include the Environmental Defense Fund, the American Industrial Health Council, and the Natural Resources Defense Council.

Active Government Collaboration

The Agency has presented testimony at the public hearings held after the Occupational Safety and Health Adminstration proposed its carcinogen policy. We have also provided information briefings for the Interagency Regulatory Liaison Group and members of the President's Council on Environmental Quality, the Council on Wage and Price Stability, Congressional staff, and interested State air pollution agencies. We have participated in the proposed policy regulating chemical carcinogens issued by the Regulatory Council on October 17, 1979 (44 FR 60038).

Timetable

Final Rule—April 1981.
Regulatory Analysis—None.

Available Documents

"Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer," NPRM, October 10, 1979, 44 FR 58642.

"National Emission Standards for Hazardous Air Pollutants—Generic Standards," ANPRM, October 10, 1979, 44 FR 58662.

"Summary of Responses and Proposals—Testimony and Written Submissions," EPA Public Hearings on Regulation of Carcinogenic Air Pollutants, Washington, DC, March 23, 1978.

Testimony presented at public hearings in Washington, DC, Boston, MA, and Houston, TX the week of March 10, 1980 as well as the written comments received.

Copies of written comments received during the public comment period.

These documents as well as others referenced in the proposed policy are available in public rulemaking docket number OAQPS 79-14. The docket is open for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at: Central Docket Section, Room 2903B, Waterside Mall, 401 M Street, S.W. Washington, DC 20460.

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EPA—OANR

Remedial Action Standards for Inactive Uranium Processing Sites (40 CFR Part 192*)

Legal Authority

Uranium Mill Tailings Radiation Control Act of 1978, § 206, 42 U.S.C. § 2022.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks these standards are important because the Federal and State governments cannot undertake the remedial actions Congress authorized until we have promulgated standards for them. People who live or work near tailings areas, primarily in the Rocky Mountain States and Pennsylvania, are very interested in all aspects of the remedial action program.

Statement of Problem

The soils and rocks which make up the earth's crust contain radioactive uranium and thorium isotopes (radionuclides). Almost all human activities that involve removing and processing materials from the earth's crust can result in the release of some of these radioactive materials into the atmosphere. These releases can become potentially hazardous when:

1. The activity involves handling materials that contain concentrations of these radionuclides significantly above the average concentrations in soil;
2. These radionuclides are concentrated during processing to a level significantly above the average concentrations in soil; or
3. The radioactive material is redistributed from its place in nature into a pathway where humans can be exposed to it.

Uranium mining operations involve removing large quantities of ore containing uranium and its radioactive decay products in concentrations up to 1,000 times greater than are normally found in the natural terrestrial environment. After mining, the ores are shipped to uranium mills for separation of the uranium from the other materials in the ore. After the mill crushes and grinds the ore, the uranium is dissolved, precipitated, dried, and packaged as "yellow cake" (U_3O_8). The residues of the process, normally in the form of a wet sand (tailings), are discharged to a disposal area where the liquids are evaporated or partially recycled.

The tailings disposal area consists of a pond and a dry beach area. The size of

each component depends on the amount of water that is recycled, the rate of evaporation, and the amount of raw ore being milled. In areas of high evaporation, large dry beach areas are exposed. Radioactive emissions from these areas result from wind erosion of the tailings and diffusion of radioactive radon gas out of the tailings. In addition, radioisotopes and other toxic substances may seep into ground water. The release of radon gas from piles of uranium mill tailings exposes people in the immediate vicinity of the tailings site to radioactivity and, to a lesser extent, exposes more distant populations. Windblown radioactive particulates from tailings sites and direct gamma radiation constitute secondary sources of radiation exposure. If the tailings are uncontrolled, EPA estimates that approximately 200 premature deaths per century could occur in the national population from radiation-induced lung cancer resulting from emissions from these sources. These effects would be divided approximately equally between people who live within 5 miles of the inactive tailings piles and those in the rest of the country. Health effects from potential contamination of ground water resources are not included in this estimate. The radioactive components in the tailings will remain hazardous for hundreds of thousand of years.

In addition to the hazards posed by tailings piles are those of tailings which have been removed from the piles. In source areas, tailings have been used in construction, often as fill under buildings. Radioactive gas from the tailings may then enter the buildings and raise indoor radioactivity well above normal levels.

Congress recognized that unless it acted, tailings from inactive processing sites might pose a continuing health hazard. Therefore, with the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA), Congress authorized a joint Federal and State program to perform remedial actions for inactive uranium processing sites according to standards EPA would set. Under the terms of UMTRCA, the Department of Energy (DOE) has designated 25 eligible inactive processing sites. Tailings piles at these sites contain more than 26 million tons of residual radioactive materials on more than 1,030 acres of land. In addition, DOE is working to designate additional lands and buildings which are affected by tailings from these sites. However, UMTRCA also provides that no remedial actions may be undertaken until EPA has promulgated standards.

Alternatives Under Consideration

EPA's standards for uranium mill tailings will be standards of general application. They are standards which define environmental radiation conditions which must not be exceeded, but they do not specify the means of remedying existing excesses. UMTRCA requires DOE to conduct the remedial action program. We are developing the standards based on currently available knowledge of the potential harmful effects of uranium mill tailings and the technology and costs of avoiding them. With regard to the form and content of the standards, we are considering the following alternatives:

(A) Disposal Standards—EPA is considering an entire range of options from no control to virtually complete control of releases of radioactivity and of non-radioactive toxic substances from tailings. We find that means of providing long-term control of radon releases are available. We are examining the health benefits and costs of controlling these releases to alternative levels which are (a) significantly above the radon release rates characteristic of undisturbed land areas, (b) within the normal range of release from undisturbed lands, or (c) significantly below average rates from such lands.

We currently favor alternative (b) because it avoids nearly all the harmful effects of radon releases and appears to be technically and economically feasible to achieve. Alternative (c) is neither needed nor is it clear that it is reasonably achievable.

We are also considering whether we should prohibit releases of radioactive and non-radioactive toxic substances from tailings to water, or limit releases to levels which preserve water quality for potential uses, including drinking and agriculture. Although information is very limited, we currently believe that a standard prohibiting any releases may be very difficult to implement, and is not clearly needed. We prefer standards for uranium mill tailings disposal that prohibit degrading the existing quality of underground and surface water bodies.

The health protection the disposal system ultimately affords depends on the control levels and the time over which they are maintained. We are examining the technical and economic reasonability of requiring effective control for (a) several hundred years, (b) hundreds to thousands of years, and (c) longer than tens of thousands of years. We currently believe it reasonable to apply the disposal standards for at least 1,000 years. Applying them for very much longer periods would be impractical for general application.

(B) Cleanup Standards for Contaminated Open Land—We are considering alternative standards for cleanup of contaminated open land as follows:

(a) Standards that would reduce residual radiation levels to local natural background levels.

(b) Standards that would limit the residual radioactivity to levels that may be above local background, but are still within a common natural range of values.

(c) Standards that limit residual radiation to levels significantly above normal background.

Alternative (a) would be unreasonable because the measurements required to distinguish small elevations above background radioactivity would be unproductively expensive. We believe alternative (b) is technically and economically reasonable, and the residual risk will be very small in practice. Therefore, we feel alternative (c) is not warranted.

(C) Cleanup Standards for Buildings—Tailings have sometimes been used as construction materials for buildings. This can cause elevated indoor radioactivity and increased risk of lung cancer for occupants who breathe radioactive particles in the air. In developing remedial action standards for this condition, we are considering earlier recommendations by the U.S. Surgeon General for a similar situation at Grand Junction, Colorado, and guidance provided by EPA to the State of Florida regarding indoor radioactivity. We are also considering alternative standards which take account of this earlier guidance, and which reflect current assessments of the health effects of the indoor radioactivity. The standards will take the form of "action levels," i.e., specifications that, if exceeded, will require remedial action.

We could set action levels in terms of the total indoor radioactivity concentrations, or as an increment above average natural background levels. We prefer to express the indoor radon decay product action level in terms of total radon decay concentration, because background levels cannot be determined separately in practice. Indoor gamma radiation levels are much more easily determined, however, so we prefer to express the gamma radiation standard as a increment above background. In all cases, the standards will apply to radiation that may reasonably be attributed to tailings, not to other causes.

Summary of Benefits

Sectors Affected: People living or working near inactive uranium mill tailings sites designated by DOE for remedial actions under UMTRCA which are located in Arizona, Colorado, Idaho, New Mexico, North Dakota, Oregon, Texas, Pennsylvania, Utah, and Wyoming; individuals who live or work in contaminated buildings; and the general public.

The disposal standards will avoid virtually all detrimental effects of uranium mill tailings for as long as the standards apply. Based on current population distributions, we estimate about 200 lung cancer deaths per century due to radon emissions from tailings piles will be avoided. The number may be larger if populations increase, or if population centers develop near piles that are now remote from people. Furthermore, surface and ground water will be protected from degradation by the tailings. Individuals who live or work in contaminated buildings will benefit from application of the cleanup standards. Finally, applying the cleanup standards for open land will result in conditions that do not require further control. This could make several thousand acres of land available for use, and avoid a potential future administrative burden.

Local economies could benefit from decreased unemployment and increased business activity associated with performing the remedial actions to comply with the standards. The remedial actions would also virtually eliminate the inequitable distribution of risk associated with the tailings, which is now greater for people who live or work near the piles or in contaminated buildings than for the general population. After disposal, the radiation risk for such people will be within the normal range of natural background values.

Summary of Costs

Sectors Affected: Federal Government; affected States; and people living near inactive uranium mill tailings sites designated by DOE for remedial action.

The Federal Government will bear 90 percent of the costs of the remedial action program and the 10 affected States will bear 10 percent. The Federal Government will bear all the costs of remedial actions on Indian lands.

The costs of meeting the disposal standards of all the tailings piles eligible under UMTRCA are difficult to estimate, primarily because methods should be chosen on a site-specific basis. We estimate the average one-time cost of meeting the standards we currently propose to be about $1 million to $6 million (1978 dollars) per site if the existing site is suitable, and $6 million to $13 million (1978 dollars) per site otherwise. Total disposal costs for all sites, spread over the 7 years Congress authorized for the remedial action program, would therefore be about $21 million to $273 million. More restrictive standards, which would limit radon releases from tailings to well below release rates from normal soils, could require much costlier methods of disposal.

A DOE contractor (Ford Bacon and Davis, Utah Inc.), using interim cleanup criteria, previously estimated that cleanup costs for open lands and buildings would be about $10 million (1978 dollars). Even allowing for increased costs under the cleanup standards we now prefer, which are very difficult to estimate, tailings disposal is still by far the largest cost component of the remedial action program.

During the performance of the remedical actions, localities will be subjected to increased traffic, dust, and other side-effects of earth-moving and construction operations. Disposal operations may require large quantities of clay and soil for covering the tailings. Contaminated open land will be subjected to scraping and digging by the cleanup operations. The environmental effects of these land disturbances will vary with the site.

Related Regulations and Actions

Internal: Radiation protection guidance for remedial actions on residences on Florida phosphate lands (44 FR 38664).

Draft proposed standard for high-level radioactive waste (in development).

Proposed standards for treatment, storage, and disposal of hazardous wastes under the Resource Conservation and Recovery Act (40 CFR Parts 260–265).

Draft Clean Air Act Standards for radioactive materials (in development).

Proposed Environmental Protection Criteria for Radioactive Wastes, and applicable Federal Radiation Protection Guidance.

Clean Water Act regulations (40 CFR Subchapter D, Part 100 *et seq.*).

National Interim Primary Drinking Water standards (41 FR 133, 40 CFR Part 142).

EPA Air Carcinogen Policy (NPRM—44 FR 58642).

Resource Conservation and Recovery Act (42 U.S.C. §§ 6905, 6912(a), 6921–27, 6930, and 6974).

External: Under UMTRCA, the responsibility for selecting and performing remedial actions that satisfy EPA's standards is given to the Department of Energy. Any States that share the cost must fully participate, and the Nuclear Regulatory Commission must concur. Any affected Indian tribe and the Department of Interior must be consulted when Indian lands are involved. In addition, the Department of Justice has responsibilities related to determining the responsibility, if any, of any private parties for remedial actions.

Active Government Collaboration

The President's Energy Coordinating Committee has formed a subcommittee to oversee Federal implementation of UMTRCA. The subcommittee is chaired by the Administrator of the Environmental Protection Agency. Other participating agencies are the Nuclear Regulatory Commission and the Departments of Energy, Justice, and Interior. These agencies, which all have responsibilities under UMTRCA, have formed a staff level working group which plans necessary interagency coordination and reviews draft documents as appropriate.

Timetable

NPRM—Disposal Standards–November 1980.
Final Rule—Cleanup Standards–September 1981.
Final Rule—Disposal Standards–September 1981.
Final Rules Effective—60 days after promulgation.
Regulatory Analysis—EPA will not develop an analysis, because we expect the cost of implementing the standard in any calendar year will be less than the $100 million criterion EPA has established for requiring an economic analysis.
Public Hearing—EPA plans to conduct public hearings on the NPRMs, but has not established a date or location for the hearings at this time. We will announce the dates and locations in the **Federal Register.**
Public Comment Period—The public will have at least a 60-day comment period before the Agency issues the final rules.

Available Documents

From the Congress—House Document Room, H—226 Capitol, Washington, DC 20515. P.L. 95–604,Uranium Mill Tailings Radiation Control Act (UMTRCA); House Report No. 95–2480, Pt. I, Committee on Interior and Insular Affairs; House Report No. 95–1480, Pt. II,

Committee on Interstate and Foreign Commerce.

may not have an annual impact of $100 million or more, the potential growth in

and fuels additives with no exemptions. Approximately 2,000 fuels and fuel

extent they are passed on by the petroleum refiners.

Standards Development and Support Branch

containing at least one of approximately 400 substances that the Occupational

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Committee on Interstate and Foreign Commerce.

From DOE—Technical Library, Bendix Field Engineering Corp., P.O. Box 1569, Grand Junction, Colorado, 81502—"Phase II, Title I, Engineering Assessment of Inactive Uranium Mill Tailings Sites" by Ford, Bacon and Davis, Utah Inc. (Microfiche copy only, nominal charge per report).

From EPA/ORP–OANR—"EPA Development of Standards for Uranium Mill Tailings and Uranium Report on Mining Wastes—Call for Information and Data," **Federal Register** notice, 44 FR 33433, June 11, 1979.

"EPA Indoor Radiation Exposure Due to Radium-226 in Florida Phosphate Lands—Radiation Protection Recommendations and Request for Comment," **Federal Register** notice, 44 FR 38664–38670, July 2, 1979.

"Interim Cleanup Standards for Inactive Uranium Processing Sites," **Federal Register** notice, 45 FR 2736b–27368, April 22, 1980.

"Proposed Cleanup Standards for Inactive Uranium Processing Sites," **Federal Register** notice, 45 FR 27370–27375, April 22, 1980.

EPA documents listed above are available at 401 M Street, S. W., Washington, DC 20460.

Additional documents, when they become available, will be placed in Docket No. A–79–25, which is located in the EPA, Central Docket Section, Room 2902, 401 M Street, S.W., Washington, DC 20460.

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EPA–OANR—Office of Mobile Source Air Pollution Control

Fuels and Fuel Additives (40 CFR Part 79*)

Legal Authority

The Clean Air Act, as amended, § 211, 42 U.S.C. § 7545.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this rule is important because it may have a marked effect on the way private industry develops and markets fuels and fuel additives, and because of its potentially beneficial public health effects. While this rule may not have an annual impact of $100 million or more, the potential growth in the use of synthetic fuels and fuel additives in the future, as the Nation attempts to lessen its dependence on foreign oil, makes it a rulemaking worthy of attention.

Statement of Problem

In 1977, Congress amended the Clean Air Act, adding § 211(e), which requires EPA to develop regulations to test the environmental and health effects of fuels and fuel additives. Section 211(e)(2) of the Act itself establishes deadlines by which the manufacturer must provide the requisite information to the EPA Administrator. Section 211(e)(3) authorizes the Administrator to: (1) exempt small businesses from the regulations, (2) provide for sharing of testing costs among manufacturers who desire to register identical compounds, and (3) exempt businesses from duplicative testing requirements.

The present registration regulation requires that manufacturers submit certain information on the chemical composition and the toxicity of fuels and fuel additives to the extent this information is known by the manufacturer as the result of testing conducted for reasons other than fuel registration (40 CFR 79.31(c)).

The proposed action may require the manufacturer to perform certain physical, chemical, and biological testing fuels and fuel additives before registration.

On August 29, 1978 EPA published an ANPRM in the **Federal Register** (43 FR 38607) requesting comments on the types of health effects and emissions test methods to be used, small business criteria, and cost sharing provisions. In response to this request, the Agency received over 22 submittals of comments from the interested public. These regulations will consider all comments received from the interested individuals and organizations.

Alternatives Under Consideration

Our preferred alternative is to require health effects and emissions testing by manufacturers on a tier basis. This approach would require manufacturers to report the chemical composition of all candidate fuels and fuel additives. If, based on chemical composition, EPA can make a determination that the environmental and health impacts are insignificant, further testing may not be required. However, if the initial and subsequent data present a cause for concern, further testing will be required until the concern is alleviated.

The second alternative would require full testing by manufacturers for all fuels and fuels additives with no exemptions. Approximately 2,000 fuels and fuel additives could require full environmental and health testing by their current manufacturers. This alternative would be unnecessarily costly, as many fuels and fuel additives whose environmental impact we can predict to be small or negligible will have to be tested.

The third alternative would be to require manufacturers to submit test data demonstrating the effect of their fuel or fuel additive on regulated pollutants only (oxides of nitrogen, carbon dioxide, hydrocarbons) before registration, but not to require health or environmental testing. This is the present system as required by 40 CFR Part 79, but which the Congress required be improved via these regulations.

Summary of Benefits

Sectors Affected: The general public, particularly those living in urban areas where the concentration of vehicles is greatest; and those people who live near or work in plants which produce fuels or fuel additives.

The benefit we expect from this regulation is the protection of public health. Those fuels and fuel additives and the products of their combustion, which may be harmful to public health, will be identified and eliminated from the marketplace, where appropriate.

We cannot estimate the economic benefits, in terms of reduction in respiratory and other diseases, at this time. However, because of the current cost of medical services and because of the generally accepted view that prevention is preferable to treatment of diseases, the expected economic and social benefits, although they are not quantifiable at this time, should be significant.

Summary of Costs

Sectors Affected: Petroleum refining; and users of motor vehicles or their services.

There are over 2,000 fuels and fuel additives currently registered under § 211 of the Clean Air Act. We roughly estimate that approximately 200 of these will require some degree of testing by the manufacturers. The cost to the industry of implementing these tests could total as high as $90 million to $120 million (1979 dollars). These costs will be incurred over the first 3 years of regulation, because by law, all fuels and fuel additives must meet the testing requirements within 3 years of the date of promulgation of this regulation. Small businesses would be exempt from the most costly tests. Users of motor vehicles will share these costs to the extent they are passed on by the petroleum refiners.

Related Regulations and Actions

Internal: Fuels and Fuel Additives Registration, 40 CFR Part 79.

Proposed Guidelines for Registration of Pesticides, 40 CFR Parts 161, 162, and 163.

Toxic Substances Control Act, § 4, Carcinogen Protocols and Chronic Toxicity Protocols, 40 CFR Part 772.

Ambient Air Quality Standards, 40 CFR Part 50.

External: None.

Active Government Collaboration

Health-testing protocols will be submitted to the Interagency Regulatory Liaison Group (IRLG) for screening before the regulation is promulgated.

Timetable

ANPRM—February 1981.
NPRM—November 1981.
Regulatory Analysis—November 1981.
Public Hearing—60 days after publication of NPRM.
Public Comment Period—90 days following publication of NPRM. Comments may be sent to Charles L. Gray, Jr., Director, Emission Control Technology Division, Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, MI 48105.
Final Rule—November 1982.
Final Rule Effective—Three years after promulgation of regulation.

Available Documents

Testing for Health Effects on Fuels and Fuel Additives, Gause, et al., Environmental Monitoring Systems Laboratory, Research Triangle Park, NC 27711.

Test Plan to Study the Effect of MMT on Emissions Control Performance (unpublished draft); Protocol to Characterize Gaseous Emissions as a Function of Fuel and Additive Composition, EPA–600/2–750048, September 1975.

ANPRM—43 FR 38607, August 29, 1978, EPA Docket ORD–78–1.

All documents available for review at the EPA, Central Docket Section, Waterside Mall, Room 2903B, 401 M Street, S.W., Washington, DC 20460. The documents are available for personal inspection Monday through Friday between 8:00 a.m. and 5:00 p.m., or copies can be obtained by personal or written request. A reasonable fee may be charged for copying.

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EPA—Office of Pesticides and Toxic Substances

Chemical Hazard Warning Labels (40 CFR Parts 780 and 781)

Legal Authority

Toxic Substances Control Act, 15 U.S.C. §§ 2605 (a)(3) and (c)(1); 15 U.S.C. §§ 2607(a)(1) (A) and (B), 15 U.S.C. § 2625(c).

Reason for Including This Entry

These regulations may have a significant impact on at least some segments of the chemical industry and may cause the industry initial costs of $100 million or more.

Statement of Problem

Workers are exposed in their jobs to a large number of chemical substances and mixtures, many of which present health or safety hazards. U.S. companies produce or import approximately 55,000 substances for commercial purposes. This number only accounts for *substances;* far more of the chemical products manufactured or imported for commercial purposes are *mixtures* composed of combinations of these substances. Existing data indicate that as many as 25 percent of these substances present health and/or safety hazards. Exactly how many of the estimated 300,000 chemical products—counting both substances and mixtures—are hazardous is not known.

Manufacturing industries employ approximately 20.5 million people; the chemical industry alone employs approximately 1.1 million, including professionals (such as chemists and chemical engineers) and a variety of production, maintenance and repair, and janitorial workers.

During production there are many opportunities for workers to be exposed to hazardous chemicals. Exposure may occur as workers maintain and repair industrial systems; as they handle raw materials, intermediates, and finished products; or as a result of breakdowns, leaks, and spills. Workers also may be exposed continously to fumes and vapors from hazardous chemicals.

In 1977 the National Institute for Occupational Safety and Health published the National Occupational Hazard Survey. The results indicated that approximately 7.5 million workers were exposed to trade-name products containing at least one of approximately 400 substances that the Occupational Safety and Health Administration (OSHA) then regulated. Workers who were exposed experienced, on the average, exposures to seven hazards simultaneously (the survey recorded exposures to different substances or exposure to the same substance through different routes (e.g. inhalation and skin contact) as distinct exposures).

The Bureau of Labor Statistics (BLS) reported approximately 168,000 new cases of occupational illness in 1976, and 162,000 in 1977. But under-reporting of occupational illness is a major problem, in part because the chemical causes of many acute and chronic occupational illnesses remain unrecognized. These BLS data indicate that 91,900, or 54.7 percent, of occupational illnesses in 1976 and 93,600, or 57.9 percent, of occupational illnesses in 1977, other than malignant or benign tumors, were caused directly by exposure to chemicals.

To deal with this problem, EPA is planning to promulgate a rule that will require manufacturers and importers of chemical substances and mixtures which present acute health or safety hazards to label containers of these chemicals with warning statements and precautions for use. The Agency will simultaneously promulgate a rule that will require similar labeling for containers of carcinogenic substances and mixtures.

Some chemical manufacturers and importers already place hazard warning labels on containers of their products. EPA has reviewed a sample of labels that industry currently uses voluntarily and has found that many provide clear and comprehensive hazard information. In some cases, indeed, labels provide extensive information. However, many companies use labels that are internally inconsistent, inaccurate, or provide less information than EPA believes is necessary. These rules will make mandatory an activity that is now voluntary, and, in doing so, will ensure that all workers who are exposed to chemical hazards have access to information about these hazards and about the precautions they can take against them.

Alternatives Under Consideration

The Agency has decided to require container labeling because it provides an immediate source of hazard information at the site of exposure to chemicals in the workplace, at a relatively low cost. This approach has the same focus as current industry practice, and workers are familiar with systems of labeling on which the

proposed rules are based. Alternatives that did not involve labeling (such as requiring training programs) have been rejected because they would not provide hazard information relating to specific chemicals at the time and place of potential worker exposure.

The principal alternatives to this rule that the Agency is considering are (A) taking no regulatory action and (B) limiting the scope of the labeling rules in some way.

Alternative A, taking no regulatory action at this time, theoretically could produce the same benefits as the proposed rule, assuming that the industry continued with existing voluntary labeling programs and that these programs were successful. However, to the extent that the benefits of voluntary labeling were equal to the benefits of the proposed rule, the costs would also be equal. EPA has rejected this alternative, because it believes that current voluntary labeling is insufficient, particularly when it comes to warning for cancer hazards. There is no appropriate body to police the industry's labeling practices, and there are insufficient incentives for industry to improve labeling practices in the absence of regulatory action.

Alternatives for the rules' scope of applicability are to have them apply to (a) all hazardous chemicals distributed in commerce, (b) chemical substances but not mixtures, (c) large volume chemicals only.

Alternative (a), applying the rules to all hazardous chemicals distributed in commerce, is the Agency's choice. Alternative (b) has the advantage that it could reduce the costs that manufacturers and importers would incur in determining whether their products were hazardous. It would eliminate the difficulties of determining the hazards of mixtures, and it would apply to a much smaller set of chemicals. Current voluntary industry standards already cover far more chemical products than would be covered by rules with such a narrowed scope; this approach would represent a backward step in hazard warning labeling. To restrict the scope in this way would significantly reduce the benefits of the rules. It would also cause confusion among workers, because a hazardous substance would be labeled, while a mixture with the same hazards would not. This kind of inconsistency would lead workers to wonder whether any hazard warning label was meaningful. For these reasons, the Agency believes that to narrow the scope of the rules in this way would result in virtually meaningless rules.

Alternative (c) is to have the rules apply only to large volume chemicals. This alternative theoretically could reduce the costs of the rules. But there presently is no recognized definition of a "large volume" chemical. Because different companies often produce the same substances or mixtures under different trade names, EPA would need to require extensive confidential formulation information, recordkeeping, and reporting in order to identify "large volume" products. The cost of developing an accurate and specific list of "large volume" chemicals would be so high that this alternative would be unlikely to produce significant cost savings.

The same alternatives apply to the rule on cancer hazard warning. In addition, there is an alternative to the approach the Agency has taken to cancer hazard warning in the proposed rule. EPA intends to promulgate along with the rule a list of substances that the Administrator has designated as carcinogens. Manufacturers would have to label as carcinogens these substances and any mixtures containing them.

Alternatively, EPA could publish a set of criterja by which manufacturers and importers would determine whether their products were carcinogenic. There are, however, no criteria that would make it easy for a manufacturer or importer routinely to evaluate products for carcinogenicity. In the interests of reducing controversy and preventing duplications of effort that could result in large expenditures of resources, EPA has chosen to promulgate a list of designated carcinogens instead of a set of criteria.

The proposed rules as they are presently written provide substantial flexibility, so that companies which are essentially in compliance now need not redesign their labels. Compliance will be on a phased schedule, so that the industry may take advantage of information it develops for substances in developing information for mixtures. Since mixtures are composed of combinations of substances, the rules will require manufacturers and importers of substances to comply earlier than manufacturers and importers of mixtures. The rules will require no recordkeeping or reporting.

These rules require the disclosure of information, and in this respect employ an innovative regulatory technique. When information about the hazards of chemicals in the workplace is widely available to workers and to occupational health specialists, they may modify their behavior accordingly and thus eliminate the necessity, in some cases, for more restrictive forms of regulatory action.

Summary of Benefits

Sectors Affected: Workers and establishments in all industries which produce, use, or otherwise place workers in contact with hazardous chemicals, particularly manufacturing industries.

The primary benefit of these labeling regulations will be to provide information to industrial workers, through labels supplied by the manufacturers and importers of hazardous chemicals, about the hazards to which their work exposes them. The Agency expects that workers will use this information to protect themselves from injury and illness that may result from exposure to hazardous chemicals. The knowledge so gained should result in reduced exposure to chemical hazards and reduced occurrences of occupational injury and illness that result from such exposure. A Regulatory Analysis is in progress. Even when it is complete, however, the benefits of these rules will not be altogether quantifiable.

The indirect benefits of the labeling regulations may be great. Once workers have adequate hazard information, they can work with management to control or eliminate most hazardous exposures. Companies that use chemicals may stop using the most hazardous, thereby creating incentives for the development of safer substitutes and/or better exposure controls for specific uses.

Summary of Costs

Sectors Affected: The chemical industry, particularly small firms.

Chemical companies will incur initial costs for developing information and designing labels. Ongoing costs will include the costs of producing the necessary number of labels for a given year's production and of developing new labels when new information reveals that a product has a hazard that was previously unrecognized. The Agency's preliminary estimate is that initial costs will range from $50 million to $150 million and ongoing costs from $6 million to $16 million. To some extent, the impact will be greater on small companies than large ones, primarily because small firms' expertise in locating and evaluating hazard information is limited. To assist such firms, the Agency will provide guidance on information sources. A Regulatory Analysis is being prepared.

Related Regulations and Actions

Internal: None.

External: The Occupational Safety and Health Administration (OSHA) of the Department of Labor will be proposing a rule requiring that labels on containers of hazardous chemicals in the workplace disclose the chemical identity of the contents.

Active Government Collaboration

EPA and the Occupational Safety and Health Administration have been coordinating the development of their respective labeling rules and plan to propose them in the **Federal Register** simultaneously.

Timetable

NPRM—December 1980.
Regulatory Analysis—Will accompany NPRM.
Public Hearings—Schedule not yet set.
Public Comment Period—Following NPRM.
Final Rule—Fall 1981.
Final Rule Effective—Not yet determined.

Available Documents

None Yet.

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EPA—OPTS

Chloromethane and Chlorinated Benzene Proposed Test Rule; Amendment to Proposed Health Effects Standards (40 CFR Part 773)

Legal Authority

Toxic Substances Control Act, §§ 4 and 26, 15 U.S.C. §§ 2603 and 2625.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks this rule is important because we need data to assess the risk of injury to human health caused by exposure to the chemicals chloromethane and chlorinated benzenes. This rule is also significant because it is the first rule the Agency has proposed under § 4 of the Toxic Substances Control Act (TSCA) which will require manufacturers and processors of chemical substances to perform testing to assess the health effects of toxic substances.

Statement of Problem

Section 4 of TSCA gives the Environmental Protection Agency the authority to require that manufacturers and/or processors of chemicals test these chemicals for possible adverse effects on human health or the environment. To implement § 4, we are in the process of developing, proposing, and promulgating test standards and test rules. A test standard is a description of the scientific methodology and analysis to be used in testing for an effect. A test rule is a regulation requiring manufacturers and processors of specific chemicals to test these substances for certain effects according to appropriate test standards. The Agency established a reasonable timetable in which industry must complete the development of the test data.

Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to make recommendations to the EPA Administrator, in the form of a list, regarding chemical substances that should receive priority consideration in the Agency's development of test rules. For the most part, chemicals to be included in test rules come from the semiannual recommendations made by the ITC. The Committee's eight members represent the Council on Environmental Quality, the Department of Commerce, the Environmental Protection Agency, the National Science Foundation, the National Institute of Environmental Health Sciences, the National Institute for Occupational Safety and Health, the National Cancer Institute, and the Occupational Safety and Health Administration (OSHA).

The ITC in its Initial Report (42 FR 55026, October 12, 1977), recommended that chloromethane be tested for carcinogencity, mutagenicity, teratogenicity, and other chronic effects and emphasized its concern about chloromethane's effects on the central nervous system, liver, kidney, bone marrow, and the cardiovascular system.

We have completed our analysis of data on the health effects of and levels of exposure to chloromethane. Approximately 300 to 500 million pounds of choromethane are manufactured annually in the United States.

Almost all chloromethane is used as a chemical intermediate in the manufacture of materials such as silicones and tetramethyl lead. Because of chloromethane's almost exclusive use in chemical and allied product manufacture and processing, the greatest potential for human exposure during its life cycle occurs for workers engaged in the manufacture, processing, and use of the chemical.

Our analysis of studies showing gene mutations in bacteria, chromosomal changes in plant cells, neurotoxicity, birth defects, embryo and fetal toxicity in test animals, and other data indicate that exposure to chloromethane may cause cancer and structural birth defects in humans. Hence, we believe that the level of human exposure to chloromethane during manufacturing, processing, and use may pose an unreasonable risk to human health. Because of these findings and the estimated levels of human exposure, we are proposing requirements for industry to test for the health effects of chloromethane in our first test rule.

Monochlorobenzene and dichlorobenzene were also contained in the ITC's initial report. The ITC recommended the development of rules that would require industry to test these chlorinated benzenes for potential to cause cancer, gene mutation and chromosomal aberration, structural birth defects, other chronic effects, and environmental effects and also recommended requiring an epidemiological study. The ITC's third report [43 FR 50830, October 30, 1978] added the higher chlorinated benzenes. (tri-, tetra-, and penta-) to the priority list and recommended testing requirements for the same effects.

Our investigation of the chlorinated benzenes indicates that the annual domestic production volume ranged from over one million pounds of pentachlorobenzene to 325 million pounds of monochlorobenzene. Exposure to the liquid chlorobenzenes is due to their use as a functional fluid in transformers, process solvents, solvents in formulated products, and synthetic intermediates, while exposure to the solid forms results from their use as synthetic intermediates and pesticides. Workers are exposed to chlorinated benzenes during manufacture, processing, and use; consumers are exposed to certain chlorobenzenes in the use of formulated products such as toilet bowl cleaners, drain cleaners, space deodorants, and moth conrol agents; and the general population may be exposed from environmental concentrations resulting from manufacture, processing, use, and disposal of the substances.

Our analysis shows that exposure to the chlorinated benzenes may present an unreasonable risk of cancer, structural birth defects, and reproductive and subchronic/chronic effects (effects from longer term exposure periods of 90 days to 2 years). These conclusions are based on (1) their chemical structural similarity to known carcinogens and teratogens; (2) the tumor-promoting activities of chlorinated benzene metabolities (chemicals to which chlorinated benzenes may be converted by

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processes in the human body); (3) studies showing, among other things, mutagenic effects, birth defects, embryo- and feto-toxic (toxic to the fetus) responses, and reproductive effects in animals; and (4) reports of adverse effects on human livers and blood production. Because of these findings and the potential for human exposure, we are proposing health effects testing requirements for the chlorobenzenes in the first test rule.

EPA is also assessing other ITC chemicals as candidates for future § 4 test rules. Nitrobenzene, 1,1,1-trichloroethane, and dichloromethane are actively being assessed at the present time. EPA anticipates proposing two test rules in 1981.

Alternatives Under Consideration

The alternatives available to us are quite limited. Under TSCA, if EPA finds that (1) a chemical may present an unreasonable risk of injury to human health or the environment or a chemical may enter the environment in substantial quantities or result in significant human exposure, and (2) there are insufficient data or experience to characterize its effects on health or the environment, and (3) testing is necessary to develop such data, we must require industry to conduct testing and there is no alternative to issuing a test rule. However, we will encourage industry to begin testing of a chemical before a test rule is proposed. If such testing is satisfactory, it could obviate the need for a test rule.

Another alternative is to conduct testing in governmental facilities or under contract to the Government. We will take this approach where it would be inappropriate or infeasible to require testing by the chemical industry, but heavy reliance on this approach would be in direct conflict with TSCA, which states that the development of data on health and environmental effects "should be the responsibility of those who manufacture and those who process chemical substances and mixtures."

EPA considered a proposal to require alternative health effects tests to those chemicals selected, but rejected these alternatives for a number of reasons. Some alternative types of testing which were not selected were excluded because under the § 4(a)(1)(A)(i) finding, EPA must be able to show that the chemical may have the propensity to cause an effect before testing that effect can be required. Other testing was rejected because the choice of tests must reflect the § 4(a)(1)(A)(ii) finding that existing data are insufficient to determine the effects of the chemical. For example, in the instance of two of the chlorinated benzenes, because oncogenicity (cancer) testing is already under way through the National Cancer Institute, EPA is not proposing additional oncogenicity testing for these two chemicals at this time. A third reason for not selecting an alternative type of testing is that elements of the test methodology were not available, or their development would have caused a delay in the proposal of the rule.

EPA selected the chlorinated benzenes and chloromethane for this test rule rather than alternative chemicals on the ITC Priority List. The selection of chemicals for this test rule was based on the following strategy. Because the ITC has designated all chemicals on the Priority List as having equal priority, EPA has, in general, attempted to evaluate the ITC chemicals in the order that they were presented to the Agency. This order is also influenzed by the availability of information and difficulty of assessment. In addition, as is the case with the two chlorinated benzenes groups, the Agency may evaluate together several recommendations proposed by the ITC at different times.

EPA also considered an alternative approach to the reporting deadlines. This approach would have established dates only for the beginning of the testing period rather than dates for reporting during and at the end of the testing period. This alternative was rejected because § 4(b)(1)(C) of TSCA requires EPA to specify the time period within which persons subject to a test rule must submit test data. In addition, EPA believes that it is not necessary to consider size or production capacity of the manufacturers or processors subject to the rule when establishing reporting deadlines because this is not specifically required in the Act, because it is difficult to predict exactly who will bear the testing responsibility, and because EPA expects manufacturers and processors to coordinate their testing efforts.

Summary of Benefits

Sectors Affected: Workers in establishments manufacturing chloromethane, chlorinated benzenes, and products produced with these chemicals, and workers otherwise exposed to these chemicals; consumers of formulated products containing chlorinated benzenes, such as toilet bowl cleaners, drain cleaners, space deodorants, and moth control agents; the general public; EPA; OSHA; and State and local governments.

The data generated from the testing required by this rule would permit EPA to assess the risk to human health of manufacturing, processing, and use of chloromethane and the manufacturing, processing, use, and disposal of the chlorinated benzenes. If the Agency finds this risk to be unreasonable, it may take action to reduce human exposure under one of its authorities or recommend regulation by another agency, such as OSHA.

The testing required by this rule could potentially benefit individuals who may be exposed to these chemicals. This would include potentially 50,000 workers who may be exposed to chloromethane and potentially 3 to 4 million workers who may be exposed to the chlorinated benzenes. In addition, consumers exposed to products containing the chlorinated benzenes and the general population exposed to any of these chemicals via dissemination throughout the environment may also derive benefits from the test rule on these chemicals. The benefits from future regulations which are based on data obtained through the test rule would include reduced illnesses among workers, consumers, or the general population; this would potentially result in reductions of absenteeism at work, higher productivity levels, and savings of health costs.

The data generated by this test rule will also result in benefits to Federal agencies such as EPA and OSHA and State and local governments. These data will serve to alert government agencies to potential risk from these chemicals and will also obviate the need for these agencies to expend resources to search for data on these chemicals when assessing their risks.

Summary of Costs

Sectors Affected: Manufacturing of chlorinated benzenes, including some manufacturers and processors of industrial solvents, dyes, organic intermediates, pesticides, and solvent-carrying chemicals; and manufacturing of chloromethane, including manufacturers and processors of some silicone products, chlorinated hydrocarbons, butyl rubber products, herbicides, and lubricating greases and oils; and consumers of products produced with these chemicals.

EPA esimates the annualized costs of complying with these rules to be $144,000 to $267,000 (1979 dollars) for manufacturers and processors of chloromethane and $371,000 to $1,016,000 for manufacturers and processors of the chlorinated benzenes. These costs might conceivably be passed on to processors of these chemicals who have not contributed money towards the cost of testing through reimbursement procedures (i.e., manufacturers using these chemicals in their manufacturing processes), or to consumers of products produced with these chemicals.

Related Regulations and Actions

Internal: We proposed health effects test standards for various effects on May 9, 1979 (44 FR 27334) and July 26, 1979 (44 FR 44054) and standards for Good Laboratory Practices for Health Effects on May 9, 1979 (44 FR 27382).

EPA will publish final health effects standards in early 1981. EPA also plans to propose standards for various ecological toxicology tests in early 1981 and standards for environmental fate (tests which determine the transport and persistence of a chemical in the environment) in late 1980.

We also published a proposed rule under TSCA § 8(d) that would require persons to submit all unpublished health and safety studies concerning all chemicals recommended for testing by the Interagency Testing Committee (44 FR 77470, December 31, 1979).

Simultaneously with our publication of this first rule, we (1) published a Proposed Statement of Exemption Policy and Procedure relating to the granting of exemptions from § 4 testing, and (2) announced our tentative decision not to require health effects testing for acrylamide, a compound suspected of entering surface water and ground water through its use as a chemical grout, a wastewater treatment chemical, and other industrial applications. The conclusion is based on animal studies that demonstrate the consistent induction of nervous system disorders at very low exposure levels, and we believe that any further information gained through testing would not affect regulatory actions designed to reduce human exposure to acrylamide. Acrylamide was included in the ITC's second list of chemicals (43 FR 16684, April 19, 1978) to be considered by EPA for test rule development.

External: Under the aegis of the Interagency Regulatory Liaison Group, the EPA, the Food and Drug Administration, the Occupational Safety and Health Administration, and the Consumer Product Safety Commission are jointly developing guidelines describing test methods that will meet all four agencies' needs.

Active Government Collaboration

Other Federal agencies that have been or will be consulted include the Food and Drug Administration, Consumer Product Safety Commission, Occupational Safety and Health Administration, National Cancer Institute, and National Institute of Environmental Health Sciences.

Timetable

Final Rule—October 1981.
Regulatory Analysis—None.

Available Documents

Chloromethane and Chlorinated Benzenes Proposed Test Rule, Proposed Health Effects Standards Amended, 45 FR 48524, July 18, 1980.

Acrylamide: Response to the Interagency Testing Committee, 45 FR 48510, July 18, 1980.

Exemptions from Test Rules: Proposed Statement of Policy and Procedures, 45 FR 48512, July 18, 1980.

Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules: Proposed Good Laboratory Practice Standards for Health Effects, 44 FR 44054, July 26, 1979.

Proposed Health Effects Test Standards for Toxic Substances Control Act Test Rules, 44 FR 27334, May 9, 1979.

The Interagency Testing Committee established under TSCA has issued six reports making recommendations on chemicals to be covered by TSCA testing rules:

First Report 42 FR 55026, October 12, 1977.
Second Report 43 FR 16684, April 19, 1978. OTS Docket 040004.
Third Report 43 FR 50630, October 30, 1978. OTS Docket 04005.
Fourth Report 44 FR 31886, June 1, 1979. OTS Docket 41001.
Fifth Report 44 FR 70664, December 7, 1979. OTS Docket 41001.
Sixth Report 45 FR 35897, May 28, 1980. OPTS Docket 41002A.

Public Comments received during the comment period, which ended October 31, 1980, are available for inspection in the OPTS Reading Room (Room 407 East Tower, 401 M Street, S.W., Washington, DC 20460) between the hours of 8:00 a.m. and 4:00 p.m. on working days (Docket number 80T–127).

Transcripts of public meetings held on October 15, October 21, October 24, October 30, and October 31, 1980, are also available for inspection in the OPTS Reading Room.

The following Proposed Support Documents are also available in the OPTS Reading Room: 1) Chloromethane Support Document, 2) Chlorinated Benzenes Support Document, 3) Exposure Support Document, and 4) Economic Analysis Support Document.

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EPA—OPTS

Pesticide Registration Guidelines (40 CFR Part 163, Subparts A–P)

Legal Authority

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. §§ 136a(c)(2)(A), 136f, and 136w.

Reason for Including This Entry

The Environmental Protection Agency (EPA) estimates that the cost to chemical companies and other registrants whose products are registered with EPA or who apply for registration of their products to meet the Guidelines' requirements will be approximately $1.4 billion over the next 10 years.

Statement of Problem

With certain limited exceptions, EPA must, in accordance with FIFRA, register all pesticides before legal sale and distribution by manufacturers and formulators can occur in the United States. The purpose for requiring registration of a pesticide is to permit EPA to determine if: (A) the composition of the pesticide is such as to warrant the proposed claims for it; (B) the labeling and other material required to be submitted comply with the requirements of the Act; (C) the pesticide will perform its intended function without unreasonable adverse effects on the environment; and (D) when used in accordance with widespread and commonly recognized practice it will not generally cause unreasonable adverse effects on the environment.

Before the development of the Guidelines, registration actions and review were undertaken on a case-by-basis. Such a procedure obviously led to much confusion, many inefficiencies, and a great deal of inconsistency. With some 35,000 currently-registered pesticide products (several thousand registered each year), the need for an improved procedure was obvious to Congress when it required the Agency to develop Guidelines, at FIFRA § 3(c)(2)(A). Without these Guidelines, the following problems would inevitably result: registration applications would often be incomplete or inadequate; applications would spend unnecessary time and money because requirements were not delineated or clarified; and EPA would not be able to perform registration reviews efficiently. These are the problems that existed before the

proposed Guidelines were first published.

The Guidelines specify the kinds of information required to support a registration application. Such information encompasses data required for health and safety evaluation for humans, domestic animals, wildlife, aquatic organisms, and nontarget plants and insects. It also includes chemistry data concerning characteristics of pesticidal ingredients and the pesticide product, and dealing with residues and environmental fate of pesticides. In addition, information on registration procedures, labeling, product efficacy, exposure analysis, and product disposal are required. The Guidelines also specify the kinds of information of each type mentioned above that would be required for pesticides to be tested under an experimental use permit, and for pesticides categorized as biorational pesticides (pheromones, bacteria, viruses, etc.).

Prospective registrants (primarily pesticide manufacturers and formulators) are responsible for both testing and submittal of test results to the Agency to support their registration applications. In addition, FIFRA requires that currently registered pesticides be re-registered expeditiously. In many cases, the registrants of these pesticides will now have to submit health and safety data that meet FIFRA requirements, either because they had not previously submitted the data or because they had submitted inadequate data.

Alternatives Under Consideration

Section 3(c)(2)(A) of FIFRA requires that "The Administrator shall publish guidelines specifying the kinds of information required to support the registration of a pesticide and shall revise such guidelines from time to time." Therefore, we are not considering alternatives to publication of the Guidelines. The Agency is analyzing public comments on the portions already proposed (see "Available Documents") and is considering these comments to improve the nature and clarity of the proposed data and testing requirements.

Summary of Benefits

Sectors Affected: Pesticide and agricultural chemical manufacturing and formulating; chemical/biological testing laboratories; EPA; users of and those exposed to pesticides, especially farmers and farm laborers; and the general public.

The Guidelines will give prospective registrants the benefit of knowing precisely what kinds of data the Agency requires (though there are some provisions for waiving some requirements under some circumstances). Manufacturers and formulators therefore will be able to plan their research and development programs with greater certainty and thereby save money and time. (For example, if a product of moderately-wide potential use can be marketed 2 years sooner—which is likely, if the applicant can use the Guidelines properly—$4 million profit for those 2 years can be had.) The chemical/biological testing industry (comprising 90 to 100 businesses at present, but still expanding) will also benefit from increased business due to some additional requirements now in the Guidelines and due to the standardized requirements that improve planning and efficiency. The Guidelines will benefit the Agency by improving the quality of data available for making decisions, and by allowing for more efficient processing of applications. Farmers and the public will benefit generally from having safer pesticides available.

Summary of Costs

Sectors affected: Pesticide and agricultural chemical manufacturing and formulating; and users of pesticides, particularly farmers.

To meet the Guidelines' requirements over the next 10 years, EPA estimates that the cost (in 1980 dollars) to registrants will be approximately $470 million for the data call-in program, $382 million for the remaining data needed to meet for registration standards, $840 million for the data needed to support new registrations, and about $210 million for the data to be required by those subparts of the Guidelines yet to be proposed. Approximately half of the costs would be applied to re-registration, and the rest to new registration; however, the costs for re-registration would be principally in the "data call-in" and "remaining data" categories.

The annual cost would be higher (starting at $200 million) during the first 5 years and then decline (to about $100 million) during the latter 5 years. Current (1980) pesticide industry research and development expenditures are $365 million; of this total, approximately $100 million are used to meet registration requirements. The additional costs imposed by these Guidelines would thus add 30 to 55 percent to the total research and development expenditures. In relation to sales, these costs amount to 4 to 6 percent of the income at the basic producers level ($3 billion), or 2 to 3 percent of the income at the retail level ($5.8 billion).

The projected cost due to the Guidelines represents expenditures for conducting laboratory and field testing, and developing the reports of such tests. While registrants will initially bear the costs, we expect that the cost will be passed on to the pesticide users. The per-farm costs was estimated in 1980 to be $63 to $70 per year, including $21 due to costs of new requirements in the Guidelines.

We do not expect these Guidelines to have any significant effect on employment in the pesticide industry, or to have any other nationally significant economic effects. We do expect producers of some pesticides of small economic significance to withdraw their products from the market rather than go to the expense of developing the required data. In this situation, we expect consumers to choose other available pesticides.

Related Regulations and Actions

Internal: EPA is also developing testing standards for chemical substances and mixtures under the Toxic Substances Control Act (TSCA). As far as possible, EPA will make the pesticide testing methods prescribed by the Guidelines consistent with the TSCA test standards. The Good Laboratory Practice standards we are developing under TSCA and FIFRA, which prescribe uniform standards of performance for toxicological testing, will also be consistent.

External: Under the aegis of the Interagency Regulatory Liaison Group, five Federal agencies (EPA, the Food and Drug Administration, the Occupational Safety and Health Administration, the Consumer Product Safety Commission, and the Department of Agriculture) are jointly developing guidelines describing test methods and standards that will meet all five agencies' needs.

For guidelines on toxicology testing, the Agency is also working with the Organization for Economic Cooperation and Development (OECD). This group is developing international testing standards, and has the cooperative imput of 24 other countries besides the United States. In published form, our toxicology guidelines (Subpart F) will be consistent with the international standards.

Active Government Collaboration

FIFRA §§ 25(a) and (d) requires the Administrator of EPA to provide copies of draft proposed and final regulations to the Department of Agriculture, the Committee on Agriculture in the House of Representatives, the Committee on Agriculture and Forestry in the Senate, and the FIFRA Scientific Advisory Panel. Reviews by these groups provide technical, legal, and scientific oversight to the guidelines at stages near publication in the **Federal Register.**

Agencies and other Government groups that we have consulted or that have provided assistance in Guidelines development include members of the Interagency Regulatory Liaison Group, the National Cancer Institute, the Department of the Interior, and the Department of Agriculture. The latter department is required by FIFRA to comment on proposed and final regulatory documents.

Timetable

The current rulemaking process began in 1973 and is expected to continue until 1982–83. There are a number of subparts to the regulations, which will have separate NPRMs, public hearings, Regulatory Analyses, and requests for public comment. We intend to publish the following portions as NPRMs in early 1981: Subpart G (Product Performance); Subpart H (Label Development); Subpart K (Exposure Date Requirements: Reentry). An overall Regulatory Analysis will be prepared for the entire Guidelines when we publish most of the subparts as Final Rules.

A detailed timetable is available from the Agency Contact listed below. Once we develop the basic regulations, we will update and revise the timetable as necessary.

Available Documents

An economic impact analysis based on those portions of the Guidelines already published in 1978 was prepared for public comment on September 6, 1978 (43 FR 39644). Its title is "Economic Impact Analysis of Guidelines for Registering Pesticides in the U.S." This analysis covered the cost of Subparts B, D, E, and F that would be responsible for 90 percent of the total costs of the Guidelines. With the publication of each subsequent subpart, we intend to make available brief analyses set in the context of the incremental and total costs of the Guidelines. Following or concurrent with the publication of most subparts as final rules we will publish an overall Regulatory Analysis for the entire Guidelines.

We have published the following portions of the Guidelines as NPRMs:

Subpart B—Introduction, 43 FR 29606, July 10, 1978. (This subpart will become Subpart A when published final.)

Subpart D—Chemistry Requirements, 43 FR 29696, July 10, 1978. (This subpart will be divided into five subparts when published final: D—Chemistry Requirements: Product Chemistry; K—Exposure Data Requirements: Reentry; N—Chemistry Requirements: Environmental Fate; O—Residue Chemistry; and P—Data to Support Disposal Instructions.)

Subpart E—Hazard Evaluation: Wildlife and Aquatic Organisms, 43 FR 29696, July 10, 1978.

Subpart F—Hazard Evaluation: Humans and Domestic Animals, 43 FR 37336, August 22, 1978.

Subpart F—Hazard Evaluation: Humans and Domestic Animals (two additional general sections on good laboratory practices for toxicology testing) 45 FR 28373, April 18, 1980. (This proposal will be separated from Subpart F when developed into a final rule.)

Subpart I—Experimental Use Permits (publish November 1980).

Subpart J—Hazard Evaluation: Nontarget Plants and Microorganisms (publish November 1980).

Subpart L—Hazard Evaluation: Nontarget Insects (publish November 1980).

Subpart M—Data Requirements for Biorational Pesticides (we will publish in December 1980).

We have published or will publish the following portions of the Guidelines as final rules:

Subpart C—Registration Procedures (interim final), 40 FR 41788, September 9, 1975.

Subpart D—Chemistry Requirements: Product Chemistry (November 1980).

Subpart E—Hazard Evaluation: Wildlife and Aquatic Organisms (November 1980).

Subpart N—Chemistry Requirements: Environmental Fate (we will publish in December 1980).

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EPA–OPTS

Premanufacture Notification Requirements and Review Procedures (40 CFR Part 720) (44 FR 2242, January 10, 1979, 44 FR 59764, October 16, 1979)

Legal Authority

Toxic Substances Control Act (TSCA), § 5, 15 U.S.C. § 2604.

Reason for Including This Entry

The Environmental Protection Agency (EPA) thinks that this rule is important because the regulations may have a substantial impact on the chemical industry.

Statement of Problem

To prevent public health risks and environmental contamination before potentially toxic substances are widely used and dispersed, Congress included a section on premanufacture notification in the Toxic Substances Control Act (TSCA). This section requires a manufacturer to notify EPA of his intent to manufacture or import a new chemical substance, and to submit information concerning that substance which the Agency can use to assess the risks associated with its manufacture, processing, distribution in commerce, use, or disposal. On the basis of this assessment and evaluation of economic considerations and other relevant factors, EPA will make decisions concerning the reasonableness of any risk, and will take appropriate action to obtain more information or data; regulate production or use; or require reporting by manufacturers, processors, or distributors of chemicals once the substance is in commerce. If EPA does not regulate the substance during the premanufacture notification period, the manufacturer may begin production (subject to regulation under any other laws).

To implement the notification process, EPA proposed a set of premanufacture notification rules and forms for public comment on January 10, 1979. In October, EPA reproposed the forms and certain portions of the rule. The rules, when final, will clarify the statutory obligations of manufacturers and importers of new chemical substances to provide information on the substances, and will also clarify the Agency's procedures for reviewing the information. The forms will provide a detailed specification of the information they must submit and the formats in which they should supply the information. The manufacturers are responsible for assembling the information. EPA must decide, generally within 90 days of receiving the information, whether the substance in question presents an unreasonable risk to human health or the environment, and if so, what action to take.

Alternatives Under Consideration

There are several significant issues to be resolved in this rulemaking. Among them are the scope and the level of detail of information it should require; the identification of chemical substances for which industry must submit premanufacture notification to EPA; policies regarding the confidentiality of information submitted;

the extent to which the submitter must

notice forms in a typical year would be

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and some consumer products.

of alternative B over alternative A is

asbestos-related risks. However, the

the extent to which the submitter must contact prospective customers to obtain relevant data; supplemental reporting; and whether and how EPA determines that submissions meet its requirements. EPA is considering other approaches to resolving these and related issues based on the comments received from individual and public interest groups which suggested alternatives to the initial proposal (see "Available Documents," NPRM for Proposed Rules and Other Issues—44 FR 59764, October 16, 1979.)

Summary of Benefits

Sectors Affected: Establishments and employees in the chemical industry; importing of chemical products; the general public; and the environment.

The premanufacture review process will benefit public health and the environment by preventing the production, use, or disposal of new chemicals which present unreasonable risks. By preventing potential hazards at an early stage, EPA can minimize economic dislocation, especially that which would result if a chemical is in full production and use is withdrawn. Adverse employment effects and the obsolescence of plant equipment will be substantially reduced by early regulation. Preventing toxic chemicals from entering the environment also will decrease lost work days and hospitalization costs that result from worker exposure to toxic chemicals.

Summary of Costs

Sectors Affected: The chemical industry; and importing of chemical products.

EPA is conducting an in-depth study of the premanufacture notification requirements to determine with a greater degree of confidence the nature of the costs and economic effects of this rulemaking. These effects will include the effect on research and development programs; industry sales, growth, and profitability; and the structure of the chemical industry. EPA will use the results of this study in making final decisions on how to implement the premanufacture notification program. Preliminary results of this analysis estimated that the notice form proposed on January 10, 1979 would cost between $2,500 and $22,500 to complete for each submitter, in current dollars. Estimates for the October 16 reproposed shortened form indicated that completion of the revised form would cost between $1,155 and $8,925 in current dollars. It has also been estimated that approximately 400 notices would be submitted per year. Therefore, the total cost of providing the notice forms in a typical year would be between $462,000 and $3,570,000. October 16 cost estimates also included costs of between $0 and $6,400 for asserting and substantiating claims of confidential business information in connection with the notice submission.

The fiscal year 1981 EPA operating plan for implementing the premanufacture notification program is $5,720,000.

Related Regulations and Actions

None.

Active Government Collaboration

Other Federal agencies that have been involved in this rulemaking include the Consumer Product Safety Commission, the Occupational Safety and Health Administration, the Food and Drug Administration, the Department of Transportation, and the Bureau of the Census.

Timetable

Regulatory Analysis—Winter 1980–81.
Final Rule—April 1981.
Final Rule Effective—30 days following publication of the Final Rule.

Available Documents

Public Comments.

NPRM for Premanufacture Notification Requirements and Review Procedures—44 FR 2242, January 10, 1979 (Docket number OTS 050002).

Discussion of Premanufacture Testing Policy and Technical Issues—44 FR 16240, March 16, 1979 (Docket number OTS 050002).

Interim Policy Statement—44 FR 28558, May 15, 1979 (Docket number OTS 050002).

NPRM for Proposed Processor Requirements, Premanufacture Review Program—45 FR 54642, August 15, 1980 (Docket number OTS 050002).

These documents are available from the Agency Contact listed below.

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Title

Rules Restricting the Commercial and Industrial Use of Asbestos Fibers (40 CFR Part 763)

Legal Authority

Toxic Substances Control Act (TSCA), 15 U.S.C. §§ 2601 and 2605.

Reason for Including This Entry

The Environmental Protection Agency (EPA) has included this action because of its potential economic impact on the asbestos industry. The economic cost of the rule will probably exceed $100 million. We may prohibit a large portion of the domestic production and importation of asbestos-containing products into the United States.

Statement of Problem

Epidemiological studies have established that exposure to asbestos fibers can contribute to increased risk of lung damage (asbestosis) and human cancer of several kinds.

EPA is concerned that in spite of past governmental regulation of asbestos, millions of Americans may be exposed to levels of asbestos that significantly increase the risk of contracting asbestos-related diseases. (Past regulations are cited below under Related Regulations and Actions.) Currently, more than two million workers are exposed to asbestos fibers (at levels higher than background) in their places of employment. In addition, the 159 million Americans who live in urban areas may be exposed to asbestos fiber levels that significantly increase the risk of contracting asbestos-related diseases. EPA is concerned that asbestos fiber emissions from the mining, milling, processing, or distribution of asbestos or from the use, misuse, or disposal of asbestos-containing products might cause significant pollution of urban air.

It is difficult to estimate the number of people who will contract asbestos-related diseases at current exposure levels. Data on mortality rates are available for workers who are exposed to asbestos fiber levels considerably higher than general population exposures. EPA will extrapolate to predict risks for the general population.

EPA is conducting this regulatory program because the Agency is not convinced that existing regulations have adequately protected the public. These regulations have focused on limited aspects of the asbestos exposure problem, such as worker exposures, air emissions from manufacturing facilities,

and some consumer products. Regulation under the Toxic Substances Control Act (TSCA) would eliminate unreasonable human health risks from all asbestos-related activities. The comprehensive mandate of TSCA enables EPA to reduce health risk from sources that are difficult to control through medium-specific or source-specific regulation authorized under other Federal authorities. Under TSCA, EPA is currently investigating the cumulative effects of exposure to asbestos throughout its life cycle in commercial and industrial products from mining and milling through processing, product manufacturing, use, and disposal. Our preliminary studies indicate substantial continuing exposure of millions of people to the ever growing inventory of asbestos sources. As a result of this study, the Agency expects to promulgate rules to prevent and reduce any unreasonable risks that are identified.

Alternatives Under Consideration

EPA is considering the following alternative actions: (A) prohibiting the manufacture, processing, distribution in commerce, and importation of asbestos for all nonessential asbestos uses; (B) restricting the quantity of fibers that could be mined and imported, or processed annually in the United States, thus allowing the marketplace to determine which products and uses to eliminate; (C) developing other marketplace regulatory strategies; (D) requiring labeling of asbestos containing products; (E) regulating under laws other than TSCA; and (F) taking no regulatory action.

EPA's choice of a regulatory program will depend on the seriousness of the risks and the identification of the major sources of exposure. EPA suspects that much of the asbestos to which the public is exposed comes from emissions caused by mining, milling, and processing asbestos fibers; emissions resulting from the use of asbestos-containing products may not be as significant. In that case, EPA would want to reduce risks from mining, milling, and processing as much as possible (alternative A). A disadvantage of alternative A would be that both the affected industry and EPA would be involved in extensive exemption proceedings.

Alternative B is a possible substitute for alternative A. The allocation of quotas could be a very difficult process and could result in some inequities within the industry. Further, at this time it is not clear that the economic impact of such an approach would be any less than alternative A. The major advantage of alternative B over alternative A is that the marketplace would decide which uses of asbestos should continue.

Alternative C involves developing other marketplace strategies. A disadvantage of both alternatives B and C is that since they have never been attempted before, the implementation problems are unknown. Also, there would be no guarantee of eliminating products that present a particularly high health risk. For example, if a product with fibers that are easily released commands a relatively high price, it might remain in the marketplace much longer than if it were regulated specifically. However, if necessary, a market strategy could be modified to eliminate this problem.

EPA is considering imposing a labeling requirement (alternative D) either in addition to or in lieu of other requirements. A labeling rule would have considerably less economic impact than alternatives A, B, or C, and it would also provide less direct protection to public health. Alternative D, if implemented alone, would increase awareness of the hazards of asbestos and would increase recognition of products that can cause these health risks. However, it would not force any reduction in exposure to asbestos fibers.

EPA is considering either regulating under other Federal laws administered by EPA or not regulating in deference to other Federal agencies (alternative E). Several comments on the ANPRM (44 FR 60056, October 17, 1979) indicated that industry does not consider TSCA to be appropriate authority for regulating asbestos and that further Federal regulation, if needed, should be implemented under other laws, particularly the Occupational Safety and Health Act (OSH Act). Although the Occupational Safety and Health Administration (OSHA) has announced its intention to lower its workplace standard to 0.1 fiber per cubic centimeter, OSHA lacks the legislative mandate to address the problem of asbestos exposure outside of the workplace. EPA action to restrict production and importation of products containing asbestos may be necessary to complement the OSHA workplace standard for airborne asbestos.

Any action by the Consumer Product Safety Commission (CPSC) would not affect production of industrial asbestos-containing products, and these production processes may cause significant fiber emissions.

A combination of EPA actions under the Clean Air Act, Clean Water Act, Safe Drinking Water Act, Resource Conservation and Recovery Act, and other laws might significantly reduce asbestos-related risks. However, the EPA Administrator might find that it is in the public's interest to regulate under TSCA because the limited mandate of these other laws results in continued risk from asbestos.

Alternative F, taking no regulatory action, would benefit the asbestos industry since it would incur no costs. However, there would also be no reduction in the exposure to asbestos in the United States.

Summary of Benefits

Sectors Affected: Establishments and workers in the asbestos industry (including asbestos mining and asbestos product manufacturing); the general public; and establishments that manufacture asbestos substitutes.

At this early stage of development of EPA's rule, it is difficult to estimate benefits in quantitative terms. Regulation will decrease the incidence of asbestosis and lung cancer in the United States, thereby decreasing the number of worker-days lost due to worker sickness, increasing space available in hospitals, and decreasing costs due to illness and premature death.

EPA regulation of asbestos should increase demand for substitutes such as fiberglass, ceramic fibers, polyvinylchloride, and ductile iron pipe. Therefore, manufacturers and distributors of substitutes should benefit from regulation.

Summary of Costs

Sectors Affected: Establishments and workers in the asbestos industry (including asbestos mining and asbestos product manufacturers); and their suppliers; importers of asbestos and asbestos products; and users of asbestos products.

Because EPA has not completed its analysis of economic effects, cost estimates are not available. Asbestos mines and asbestos processors will be forced to reduce production, and many processors will be forced out of the asbestos business. EPA plans to regulate in a manner that will allow asbestos processors time to convert to substitutes. Small businesses may seek aid from the Small Business Administration to obtain capital to convert. It is too early to predict the effect of regulation on employment. EPA hopes that jobs lost from the asbestos industry will be offset by jobs gained in the substitutes industries. Substitute products generally cost more than asbestos-containing products, and these costs will be passed on to consumers.

Related Regulations and Actions

Internal: EPA has established

occupational standard be promulgated which is designed to eliminate

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granular activated carbon) or equivalent technology would be appropriate in

contamination by synthetic organic chemicals. These water sources would

National Cancer Institute, National Institute of Environmental Health

Related Regulations and Actions

Internal: EPA has established National Emission Standards for Hazardous Air Pollutants for several asbestos sources under the Clean Air Act, 42 U.S.C. § 7401 *et seq.* EPA is developing effluent guidelines regulating wastewater discharges of asbestos under the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*, as amended in 1972 and 1977. It is also considering additional regulation of asbestos in drinking water under the Safe Drinking Water Act, 42 U.S.C. § 3006 *et seq.*

The Agency is developing a rule to require surveys to determine whether asbestos hazards are present in public schools because of deteriorating insulation. EPA is also considering requiring appropriate corrective measures where it finds hazards (see 44 FR 54676, September 20, 1979). Other existing asbestos sources that the Agency may control in the future include public buildings where asbestos was used as an insulation or decorative material and merchant ships where asbestos is widely used as insulation.

EPA regulations directed specifically to asbestos are found in 40 CFR Part 61 (air) and Parts 129 and 427 (water).

External: EPA and CPSC both published ANPRMs on October 17, 1979 in the Federal Register (44 FR 60053). These ANPRMs were prefaced by a Joint Statement of Cooperation signed by the EPA Administrator and the CPSC Chairman. The statement indicated how the two agencies will cooperate and direct their regulatory efforts to minimize reporting requirements and other burdens on industry, and to improve overall public health. EPA is planning to promulgate a rule under § 8(a) of TSCA to require manufacturers and processors of asbestos fibers to submit economic and exposure information. EPA has proposed a rule under § 8(d) of TSCA requiring industry to submit unpublished health and safety studies relating to asbestos. CPSC is planning to issue a general order requiring manufacturers and private labelers of some categories of consumer products to submit information on the use of asbestos in those products. CPSC will not require the submission of information already submitted to EPA.

OSHA plans to lower its workplace standard for asbestos exposure (8-hour time-weighted average) from 2 f/cc (fibers per cubic centimeter) to 0.1 f/cc. This action is in response to a recommendation in April 1980 by the joint National Institute for Occupational Safety and Health (NIOSH)–OSHA Asbestos Work Group that "a new occupational standard be promulgated which is designed to eliminate nonessential asbestos exposures, and which requires the substitution of less hazardous and suitable alternatives where they exist."

Asbestos regulations promulgated in the past by other agencies are as follows:

CPSC—16 CFR Parts 1145, 1304, and 1305; OSHA—29 CFR Part 1910; FDA—21 CFR Parts 121, 128, 133, and 191; DOT—49 CFR Parts 170–189; MSHA—30 CFR Parts 55, 57, and 71.

Active Government Collaboration

To maximize the effectiveness of this proposed rule, EPA is coordinating either directly or through the Interagency Regulatory Liaison Group (IRLG) with the Occupational Safety and Health Administration (OSHA), the Consumer Product Safety Commission (CPSC), the Food and Drug Administration (FDA), the Mine Safety and Health Administration (MSHA), and the Department of Transportation (DOT).

In July, 1980, EPA and the Consumer Product Safety Commission (CPSC) cooperated in sponsoring and organizing a 3-day workshop on substitutes for various uses of asbestos in commercial and industrial products. About 500 persons attended the workshop, which was designed to increase industry's awareness of substitutes for asbestos and to expand EPA's and CPSC's data base. EPA was the lead agency in coordinating the workshop.

Timetable

NPRM—August 1981.
Regulatory Analysis—Draft Regulatory Analysis, August 1981; final version, August 1982.
Public Hearing—December 1981, Washington, DC.
Public Comment Period—August 1981–December 1981.
Final Rule—August 1982.
Final Rule Effective—September 1982.

Available Documents

ANPRM for Asbestos-Containing Materials in School Buildings, 44 FR 54676, September 20, 1979.

ANPRM for Commercial and Industrial Use of Asbestos Fibers, 44 FR 60056, October 17, 1979.

Comment period extended, 44 FR 73127, December 17, 1979.

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EPA—Office of Water and Waste Management

Control of Organic Chemicals in Drinking Water (40 CFR Part 141*)

Legal Authority

The Safe Drinking Water Act, as amended, § 1412, 42 U.S.C. § 300(f) *et seq.*

Reason for Including This Entry

The Environmental Protection Agency (EPA) includes this regulation because it is likely to impose compliance costs of over $100 million.

Statement of Problem

Recent technological developments in sophisticated analytical measurement techniques have resulted in the identification of numerous organic contaminants in drinking water that may pose a health risk to consumers. For example, chloroform, a suspected human carcinogen, is only one of many synthetic organic chemicals known to be present in drinking water. Chloroform is representative of a class of chemicals known as trihalomethanes (THMs), whose presence in drinking water was controlled by rules finalized at 44 FR 68624 on November 29, 1979. Future measures to control organic chemicals in drinking water are proceeding through two related approaches:

I. Treatment Technique Requirement for the Control of Synthetic Organic Chemicals—reproposal under consideration.

II. Control of volatile organics in drinking water; ANPRM late December 1980.

I. *Treatment Technique Requirement: Synthetic Organic Chemicals.*

Synthetic organic chemicals are chemicals which enter sources of drinking water as a result of industrial discharges, spills, sewage discharge, and non-point sources, such as urban and rural rainwater run-off. Some of these organic chemicals are either known or suspected carcinogens. The list of synthetic organic chemical contaminants that have been found at least once in drinking water has grown to over 1,000. Because of the technical infeasibility of controlling every synthetic organic contaminant individually by setting a maximum contaminant level (MCL), EPA is evaluating if control of a broad spectrum of organic chemicals by a treatment technique (filtering water through granular activated carbon) or equivalent technology would be appropriate in certain locations where substantial risk of contamination exists. The intent of applying a treatment technique at certain water supplies would be to improve the quality of drinking water at the tap and reduce the health risk to the public from long term exposures to synthetic organic chemicals in drinking water. EPA proposed regulations on February 9, 1978 (43 FR 5756), which would have required granular activated carbon (GAC) treatment to be installed at public water systems vulnerable to contamination by synthetic organic chemicals. Since the proposal, further information has become available regarding the performance of GAC; EPA is also conducting additional studies and will evaluate all of the available data to assess the appropriate regulatory action. If it is determined that the regulations should be reproposed, the reproposal would become one portion of the National Revised Primary Drinking Water Regulations which will apply to all public water systems in the United States.

Alternatives Under Consideration

The alternatives being considered include requirements for community water systems to install granular activated carbon treatment (GAC), or its equivalent, if they use sources of drinking water which are vulnerable to contamination by synthetic organic chemicals. The reproposed regulations will consider, among other possibilities, changes in the application of the GAC technology, as the required treatment might be achieved by replacing sand with GAC in existing filter beds. The frequency of reactivation (i.e., the process whereby adsorbed chemicals are removed from the GAC, restoring its capacity for adsorption) could be specified in the regulation. Reactivation frequencies under consideration range from 6 months to 1 year. On-going work being performed by EPA's Office of Research and Development is expected to broaden significantly our knowledge in this area; further, a survey is being conducted by EPA's Office of Drinking Water of water treatment systems in the U.S. that currently use GAC. This survey should provide information regarding the effectiveness of GAC for control of organic chemicals.

The criteria set forth in the original proposal for determining which public water systems are vulnerable to contamination by synthetic organic chemicals are currently being reevaluated; the reproposed regulations may specify rivers or stream segments that we consider to be subject to contamination by synthetic organic chemicals. These water sources would be chosen after an evaluation of the number and type of industrial/municipal discharges upstream of drinking water intakes, an estimate of the transportation of industrial and agricultural chemicals on the waterway and a review of the potential for contamination from non-point sources.

Summary of Benefits

Sectors Affected: The general public; municipally and privately owned public water systems; all segments of the water supply industry, including consulting sanitary engineers, analytical chemists, plant operators, and equipment manufacturers and suppliers.

A reproposed treatment technique for control of synthetic organic chemicals would provide protection to a larger population at a lower per capita cost (upwards of 80 percent of the American population at a per capita cost of $2.60 to $7.10) than would the original proposal (52 percent of the population and $7.10 to $26.10, respectively). The reproposed technique would provide broad spectrum protection from synthetic organic contaminants and could be implemented 2 to 3 years earlier than the original proposal.

Summary of Costs

Sectors Affected: State and local government; municipal and privately owned public water systems; and consumers in communities installing GAC facilities.

The estimated total national capital cost to implement a reproposal is $333 million over 3 years (in 1980 dollars). It is estimated that such expenditures would increase local water rates by an average of approximately $5 per year per family of three in those communities whose water supply system would install GAC facilities.

Related Regulations and Actions

Internal: All EPA regulations that affect control of chemical contamination of water would be indirectly related, including: Effluent Guidelines, National Pollution Discharge Elimination System, and Water Quality Criteria.

External: State programs would deal with decisions on variances and exemptions from the regulations, and would provide technical assistance to public water systems making changes in their treatment processes.

Active Government Collaboration

Supporting documentation for the health basis of the proposed regulation requires information-sharing with the National Cancer Institute, National Institute of Environmental Health Sciences, Consumer Product Safety Commission, Occupational Safety and Health Administration, and the Food and Drug Administration. Also, we have gained data supporting development of criteria to determine if public water systems are vulnerable to contamination by synthetic organic chemicals through cooperation with the Coast Guard, Department of Transportation, and the Department of Commerce.

Timetable

Following the current ODW survey of existing water treatment with GAC, all available information and data will be evaluated to determine the appropriate regulatory approach for implementation of control measures for synthetic organic chemicals in drinking water from surface water supplies. The evaluation should be complete by Summer 1981 and a decision will be made at that time regarding the appropriate approach and timetable.

Available Documents

ANPRM—41 FR 28991, July 14, 1976.
NPRM—43 FR 5766, February 9, 1978

"Drinking Water and Health," National Academy of Sciences, 1977.

"National Organics Reconnaissance Survey," EPA, Municipal Environmental Research Laboratory, 1975.

"National Organics Monitoring Survey," EDA, Office of Drinking Water.

"Statement of Basis and Purpose for an Amendment to the National Interim Primary Drinking Water Regulations on a Treatment Technique for Synthetic Organic Chemicals," EPA, Office of Drinking Water, 1977.

"Economic Analysis of Proposed Regulations on Organic Contaminants in Drinking Water," EPA, Office of Drinking Water, 1977.

"Draft Interim Treatment Guide for the Control of Synthetic Organic Contaminants in Drinking Water Using Granular Activated Carbon," EPA, Municipal Environmental Research Laboratory, 1978.

"Revised Economic Impact Analysis of Proposed Regulations on Organic Contaminants in Drinking Water," EPA, Office of Drinking Water, 1978.

"Operational Aspects of Granular Activated Carbon Adsorption Treatment," EPA, Municipal Environmental Research Laboratory, 1978.

National Academy of Sciences Study on Granular Activated Carbon, 1979.

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II. *Control of Volatile Organics in Drinking Water.*

Recent information indicates that a number of volatile organic chemicals exist in both raw and finished drinking waters, particularly in ground water supplies which have been contaminated by improper waste disposal practices. Accordingly, an ANPRM will be published that will set forth current considerations in the development of maximum contaminant levels (MCLs) for certain volatile organic chemicals in the Revised Primary Drinking Water. At this time, contamination of drinking water by volatile organics has been found to be most serious in ground waters in urbanized and industrial areas. The levels of occurrence, coupled with the suspected carcinogenicity and toxicity of several identified compounds, appear to support the setting of MCLs for the following compounds:

- Trichloroethylene
- Carbon tetrachloride
- Tetrachloroethylene
- 1,2-Dichloroethane
- 1,1,1-Trichloroethane
- cis-1,2-Dichloroethylene
- trans 1,2-Dichloroethylene
- 1,1-Dichloroethylene
- Methylene chloride
- Vinyl chloride
- Benzene

If EPA takes no action with regard to the above chemicals, a possible health risk to the public will continue to exist and the overall quality of drinking water will be suspect in those groundwater areas. Most of these chemicals are suspected carcinogens, while certain of them are known mutagens and/or teratogens.

Alternatives Under Consideration

Specific options are being developed and alternatives will be separately evaluated for each contaminant. MCLs will be proposed only after careful evaluation of the best available evidence in the areas of epidemiology, toxicology, analytical methods, quality assurance, monitoring requirements, feasibility and efficiency of competing treatment methods, and economic impacts.

Summary of Benefits

Sectors Affected: The sectors affected include the American public in general; municipally and privately owned public water supply systems; and all segments of the water supply industry, including consulting sanitary engineers, analytical chemists, plant operators, and equipment manufacturers and wholesalers.

These MCLs will have their greatest impact on small water supply systems which currently employ little or no treatment. The public served by such systems will, in particular, realize the benefits of this proposal.

It is impossible at this time to assign direct monetary values to the benefits to be realized under this proposal. Such benefits include a lessening of public exposure to toxic substances in drinking water and a consequental safeguarding of public health.

Summary of Costs

Sectors Affected: General public; State and local governments; and public water systems (both privately and publicly owned).

The public in general will be the principal group affected by this proposal, since the users will undoubtedly bear the costs of any necessary modifications to their water supply system. This will be true particularly for users of small water supply systems that currently employ little or no treatment.

No estimates of the economic impact are available at this time.

Related Regulations and Actions

Internal: All EPA regulations that affect control of chemical contaminants of water are indirectly related, including: Effluent Guidelines, National Pollution Discharge Elimination System, Water Quality Criteria, Hazardous Waste Disposal Controls, and Underground Injection Control.

External: State programs would be expected to deal with decisions on variances and exemptions from the regulations and to provide technical assistance to public water systems making changes in their treatment processes.

Active Government Collaboration

Supporting documentation for the health basis of any regulation requires information-sharing with the National Cancer Institute, National Institute of Environmental Health Sciences, Consumer Product Safety Commission, and the Food and Drug Administration. In addition, the National Academy of Sciences and the National Drinking Water Advisory Council will be consulted during the development of MCLs.

Timetable

ANPRM—Late Fall 1980.
Public Technical Seminar (to be announced)—Winter 1980-81.
NPRM—Spring 1981.
Regulatory Analysis—Undecided.
Public Hearings (to be announced)—Summer 1981.
Final Rule—Spring 1982.

Available Documents

"National Organics Reconnaissance Survey," EPA, Municipal Environmental Research Laboratory, 1975.

"National Organics Monitoring Survey," EPA, Office of Drinking Water.

"Interim Treatment Guide for Controlling Organic Contaminants in Drinking Water Using Granular Activated Carbon," EPA, Municipal Environmental Research Laboratory, January 1978.

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EPA—OWWM

Hazardous Waste Regulations: Phase I and II Regulations to Control Hazardous Solid Waste from Generation to Final Disposal (40 CFR Parts 260, 261, 262, 264, 265, and 266)

Legal Authority

Resource Conservation and Recovery Act of 1976 (RCRA), as amended, §§ 3001, 3002, and 3004, 42 U.S.C. §§ 6921, 6922, and 6924.

Reason for Including This Entry

These regulations are important because they initiate, for the first time on a national level, management of hazardous solid waste from generation to final disposal. The Environmental Protection Agency (EPA) includes them in the Calendar to inform the regulated community and the general public of EPA's continuing actions to implement a national hazardous solid waste program.

Statement of Problem

EPA estimates that more than 54 million metric tons of hazardous waste is generated annually in the United States. Hazardous waste includes toxic chemicals, pesticides, acids, caustics, flammables, and explosives. Of this hazardous waste, EPA estimates that 90 percent has been managed by practices that will not meet the new Federal standards. A variety of health and environmental damages result from improper management practices. The most frequent are damages resulting from direct contact with toxic waste; fire and explosions; groundwater

contamination by leachate; surface water contamination through runoff or overflow; air pollution by open burning, evaporation, and wind erosion; and poisoning through the food chain. The amount of hazardous waste will increase by 30 percent in the next decade, primarily because other environmental laws have curtailed emissions into the air, waterways, and oceans.

EPA has information on more than 400 cases of damage to human health or the environment due to improper hazardous waste management. One such case, Love Canal in Niagara Falls, New York, occurred because the hazardous waste facility was not properly monitored after it was closed. This resulted in the evacuation of 239 local families at relocation costs of approximately $10 million, projected clean-up costs of over $30 million, and health problems, including possible increases in birth defects, miscarriages, and liver and respiratory disorders. With as many as 30,000 hazardous waste disposal sites posing potential public health and environmental threats, hundreds of millions of dollars in damages and remedial costs could result if the problem is left unattended.

Alternatives Under Consideration

We studied a number of alternatives during the development of the final regulations. Several significant changes to the regulations required reproposal, partial promulgation, or promulgation of interim final rules for parts of §§ 3001 and 3004 of the Resource Conservation and Recovery Act of 1976 (RCRA). Consequently, rules that were not ready for promulgation by May 19, 1980 will be issued in late 1980 and early 1981 as Phase II regulations. In the preamble to the rules issued May 19, 1980 as Phase I, EPA discusses in detail the alternatives considered and the reasons for their selection or rejection.

To achieve a better balance between the often competing goals of regulatory specificity and broad standards, EPA has promulgated specific standards where appropriate and used broader ones or exceptions or variances where more flexibility is required. EPA has issued a notice of intent to issue regulatory amendments and interpretive guidance where situations of inappropriate results from application of the standards occur.

EPA promulgated the initial phase of RCRA § 3001 regulations on May 19, 1980. It identified four characteristics of hazardous waste (ignitable, corrosive, reactive, or toxic) to be used by persons handling solid waste to determine if that waste is hazardous. In addition, it listed 85 process wastes as hazardous wastes and approximately 400 chemicals as hazardous wastes if they are discarded. This regulation also set forth the criteria used by EPA to identify characteristics of hazardous wastes and to list hazardous wastes. Because of limited resources, we have tried to prioritize our efforts to deal with the most serious environmental problems first and to finalize those portions of the proposed regulations of December 18, 1978, which we must issue if a core hazardous waste management program is to be implemented.

We deferred until Phase II final action on a number of aspects of the proposed regulation, including integrating regulating polychlorinated biphenyls ("PCBs") under RCRA and the Toxic Substances Control Act ("TSCA"); fully regulating wastes that are used, re-used, reclaimed, or recovered; infectious wastes; radioactive wastes; and a number of proposed listed wastes. We expect to finalize regulations for the first three of these and for uranium and phosphate radioactive wastes by the end of 1980. Congressional action on the RCRA reauthorization bill deferred regulation of uranium and phosphate radioactive wastes until 6 months after a study is completed. However, EPA plans to promulgate regulations regarding the use of these wastes in building materials for habitable structures. The other waste streams we deferred from final action included those wastes which EPA intends to list as hazardous but for which revised background documents could not be completed by May 19, wastes for which more information was needed to determine that they were hazardous, wastes which available data suggested are not hazardous, and wastes which are no longer produced. On July 16, EPA listed 18 wastes from this first category and proposed that seven more be listed. We plan to finalize these last seven wastes by late 1980. As significant health effects information on other wastes becomes available, these too will come under control.

RCRA § 3002, which outlines the standards for generators of hazardous waste, was promulgated February 26, 1980 and clarified May 19, 1980. Generators must prepare manifests for all shipments of hazardous waste that are sent to off-set treatment, storage, or disposal facilities, where personnel also fill out the manifest form. This form traces the hazardous waste from generation to ultimate disposal. Generators are also required to keep records; report those shipments which do not reach the facility designated on the manifest, and submit an annual summary of their activities to EPA. The May 19, 1980 changes included requiring a generator to designate a facility, or accept the waste if it cannot be delivered to the designated or alternate facility; expanding the requirements for accumulation of hazardous wastes in tanks; and requiring that generators develop contingency plans.

The regulations adopted a system which tiers special requirements for hazardous waste produced by small generators: low quantity (1 to 100 kilograms per month) exclusion limits for certain extremely hazardous wastes; and an initial general exclusion limit for generators of less than 1,000 kilograms per month of other hazardous wastes in combination with disposal conditions. The second exclusion assumed that small amounts of hazardous waste will be disposed of in land disposal facilities approved under RCRA Subtitle D and, therefore, will not pose a hazard to human health or the environment. This approach should allow EPA and the States to focus limited enforcement and implementation resources on those generators producing over 95 percent of all hazardous waste.

On May 19, 1980, EPA issued a revision of part of its proposed rule of December 18, 1978 under RCRA § 3004, outlining the requirements for financial responsibility which owners and operators of hazardous waste management facilities must meet. Under this revised proposal, as in the original, EPA would require these owners or operators to provide assurance that funds will be available when needed for properly closing the facility and, in the case of a disposal facility, for maintaining and monitoring it after closure. We proposed the revised provisions for financial assurance for inclusion both in the general standards to be used in permitting (Part 264) and in the standards for facilities in interim status (Part 265). The revised proposal includes a new requirement for liability insurance for facilities in interim status. EPA reproposed this rule because of the many new and revised provisions which have not been subject to public review. The changes have resulted from further analyses by the Agency in response to public comment on the original proposal. We are now examining the comments on the revised proposal and considering them in writing our final regulations, which we expect to promulgate in November 1980, as part of the Phase II regulations.

The revised proposal allows a number of options in providing financial assurances, while the original proposal

had only one option, trust funds. We believe that expanding these options plans, provide flexibility for inclusion of facility-specific factors required by Subtitle C of RCRA to

to 5 percent of the fully collateralized sales for those affected industries EPA issued rules regarding the

had only one option, trust funds. We believe that expanding these options will enable facilities to choose the method most feasible for their situation. The options include a surety bond, a letter of credit, a financial test and guarantee, and a revenue test. A trust fund is established by the owner or operator of a hazardous waste facility and held by a financial institution as a trustee, with fiduciary responsibility to carry out the terms of the trust, to be specified in the regulation. A surety bond is a contract by which a surety company engages to be answerable for the default or debt by the owner or operator of a hazardous waste facility on responsibilities relating to closure or post-closure care of that facility and agrees to satisfy these responsibilities, if the owner or operator does not satisfy them, in accordance with the terms to be specified in the regulation. A letter of credit is an irrevocable engagement by an issuing financial institution, at the request of an owner or operator of a hazardous waste facility. The institution will honor demands for payment made by EPA, for the period of the letter of credit and under the terms to be specified in the regulation. The financial test and guarantee refers to those requirements to be specified in the regulation which private sector organizations must meet to be considered financially responsible. This could include requirements such as enough capital to cover closure and post-closure care of such facilities. The revenue test refers to those requirements to be specified in the regulation which municipalities must meet to be considered financially responsible. This could include requirements such as enough revenues from taxes and other sources to cover closure and post-closure of hazardous waste facilities for which the municipalities are responsible.

The proposed RCRA § 3004 standards of December 18, 1978 were intended to ensure the proper design, construction, and operation of hazardous waste management facilities. Lacking information on long-term experience in advanced waste management technologies, EPA deferred promulgation of nationally applicable technical standards. Accordingly, these standards are being promulgated and implemented in phases.

The Phase I standards are minimum requirements, primarily administrative, appropriate for all wastes during the Interim Status Period. Other general technical requirements, e.g., waste analysis, training, and contingency plans, provide flexibility for inclusion of facility-specific factors.

To issue permits protecting human health and the environment, in the absence of the detailed national technical standards, EPA must evaluate the technical capabilities of specific facilities to manage hazardous wastes. Phase II of the RCRA § 3004 regulations will be a set of technical regulations allowing permits to be issued based on the Agency's best engineering judgment of the technical requirements to be met by individual facilities. These regulations will allow permits to be processed by evaluating such facilities for both site-specific factors and characteristics of the waste the facility will manage. At a minimum, these regulations will contain a set of factors (e.g., distance to groundwater and waste mobility) which must be considered. Where available, the regulations will also contain models, formulas, and performance standards to provide a standardized method of analysis. To determine whether a facility will adequately safeguard human health and the environment, EPA will apply best engineering judgment to data which the permit applicant submits concerning these factors. This approach is appropriate because the possible combinations of types of wastes and management scenarios are almost infinite. We expect to issue these technical regulations in November 1980.

Phase III of the regulatory program will involve the promulgation of more definitive counterparts of the Phase II standards, superceding them and making permitting a more straightforward process. The Phase III standards will include both standards for specific types of facilities such as tanks, surface impoundments, piles, landfills, and incinerators, as well as standards for specific industries and wastes requiring special management standards. All standards for Phases I, II, and III allow variances to selected individual standards if an equivalent degree of protection or performance can be demonstrated.

Summary of Benefits

Sectors Affected: The general public; all industries handling hazardous waste, especially manufacturing; EPA; and financial institutions.

By issuing these regulations, EPA is creating a framework for the control of hazardous wastes which would otherwise contaminate groundwater, surface waters, and soils; poison humans and animals; and cause air pollution, fires, and explosions. These regulations are part of a series of seven required by Subtitle C of RCRA to initiate hazardous waste management nationally. The regulatory program will reduce the incidence of damage to human health and the environment and save hundreds of millions of dollars in the costs associated with clean-up, emergency response, and health and environmental damages.

The expected improvements are not quantifiable, however, since records of past practices and problems are extremely limited. Also, it is difficult or impossible to quantify benefits derived from reduced adverse impacts on health or the environment. In addition, EPA expects an improvement in economic efficiency and equity, and substantial direct savings from avoiding clean-up costs in the future. Pre-RCRA practices for managing hazardous waste created economic inequities as the cost of disposal often fell randomly on individuals due to improper management or on the public at large, since tax revenues were used to clean up inadequate facilities. Pre-RCRA industry management practices also created economic inefficiency as the prices of goods did not include the cost of properly managing the waste produced. Under RCRA, Subtitle C, the economy will be more efficient and equitable because those receiving the benefits will also pay the costs, and prices will serve as a more efficient allocator of resources.

Comprehensive regulatory controls over the generation, movement, storage, and treatment of hazardous wastes may also help reduce opposition to the siting of hazardous waste management facilities. Overcoming the barrier of local opposition will allow siting of management facilities at environmentally secure sites and further reduce the possibility of damages to health and the environment.

Benefits to financial institutions, EPA, and the facilities handling hazardous waste from increased options in providing financial assurances (RCRA § 3004), include the following:

This approach gives the facilities increased flexibility in meeting the financial requirements, by allowing them to select the one option most suited to their situation. As the trust fund will be completely funded by the owner or operator of the hazardous waste facility, he can obtain a rate of return from investing this amount, which would not be possible otherwise. Those large companies whose financial condition is such that they do not have to fully collateralize their surety bonds or letters of credit will merely have to pay an annual fee (representing about 1 to 5 percent of the fully collateralized amount) and can invest the rest.

To help all these facilities, their financial institutions, and EPA itself, we have designed standard forms for each of these options. This will reduce the reporting and recordkeeping burden on the facilities, enable their financial institutions to process their requests for financial assurance more expeditiously, and reduce the staff time EPA needs to monitor the process and gather the information it needs.

Summary of Costs

Sectors Affected: All industries generating hazardous waste, especially manufacturing; consumers of goods manufactured by these industries; public and private waste management; and Federal, State, and local governments.

Although these regulations affect most industries throughout the country, the Agency focused its Economic Impact Analysis (EIA) on major hazardous waste generating segments within the following industries: textile mill products, industrial inorganic chemicals, plastic materials, drugs, paints, industrial organic chemicals, explosives, agricultural chemicals (including pesticides), petroleum refining, lubricating oil and greases, rubber products, leather tanning and finishing, primary metal industries, plating and polishing of metals, special industrial machinery, electronic components, and batteries. Eight sectors are likely to experience some plant closures and job losses. These sectors include electroplating; wool fabric dyeing and finishing; mercury cell chlorine; leather finishing; mercury smelting and refining; and secondary copper, secondary lead, and secondary aluminum smelting. Overall, we do not find substantial price increases resulting from the regulation of products from these industries, except for projected price increases for electroplating job shops (6.6 percent) and cattlehide non-chrome tanneries (1 to 3 percent).

The estimated annual compliance cost attributed to the Interim Status Standards part of the Phase I RCRA hazardous waste regulations is $510 million. Of this, $303 million (1979 dollars) is associated with closure/post-closure liability requirements, $57 million is attributable to treatment and disposal, and $15 million is associated with recordkeeping and reporting. Monitoring and testing, administration, training, and contingency planning account for the remaining $135 million. The total annual cost represents less than 0.2 percent of the annual value of sales for those affected industries examined.

The regulations will also affect the public and private hazardous waste management industry. In all, some 380,000 generators, transporters, treaters, storers, and disposers of hazardous wastes will be brought into the regulatory program. The affected industrial segments will probably pass on the increased costs to the public, resulting in a nominal increase in prices of selected consumer items.

Industries which presently dispose of hazardous waste at their own facilities may begin to ship their waste to off-site facilities rather than incur the costs of upgrading their disposal facilities to comply with the regulations. This is likely to cause a short-run shortage of disposal capacity, increasing the demand for new sites. This capacity shortage and the rigorous standards for facilities may result in a nominal increase in the cost of disposal.

We estimate the governmental costs associated with implementation and maintenance of the hazardous waste management program at $20 million to $35 million per year (1979 dollars) 1979 dollars. We currently estimate that 39 States and territories will assume the program while EPA operates a Federal program in the remaining 17, by January 1982.

Because Texas, Ohio, Pennsylvania, Louisiana, Michigan, Indiana, Illinois, Tennessee, West Virginia, and California generate 65 percent of all hazardous waste produced nationally, these States will probably be affected to a greater degree than others.

Related Regulations and Actions

Internal: Proposed and final rules linked with RCRA §§ 3001, 3002, and 3004 in creating the RCRA Subtitle C regulatory framework are:

(1) Authorization of State Hazardous Waste Programs; Advance Notice of Final Regulation, 45 FR 6752, January 29, 1980.

(2) Notification of Hazardous Waste Activity; Public Notice, 45 FR 12746, February 28, 1980.

(3) Standards for Transporters of Hazardous Waste; Final Rule, 45 FR 33150, May 19, 1980.

(4) Final Consolidated Permit Regulations, 45 FR 33290; and Consolidated Permit Application Form, 45 FR 33516, May 19, 1980 (final rule and application forms, respectively).

On August 19, 1980, EPA announced a notice of its intent to issue amendments to, interpretations of, and answers to questions on its February 26, and May 19, 1980, hazardous waste regulations in 45 FR 55386.

EPA issued rules regarding the disposal of polychlorinated biphenyls (PCBs) under the Toxic Substances Control Act, § 6(e), 15 U.S.C. § 2605. Regulations issued under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. § 135 *et seq.*) address the disposal of pesticides and pesticide containers. Rules under the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. § 1401 *et seq.*) control incineration or dumping of hazardous waste at sea.

External: The Department of Transportation (DOT) has developed hazardous materials transportation regulations (49 CFR Parts 171–173 and 178–179) controlling containerization and labeling of waste by generators using transporters engaged in interstate or foreign commerce. EPA published the final rule, Standards Applicable to Transporters of Hazardous Waste, in 45 FR 12737, February 26, 1980. This incorporated DOT's rules on labeling, marking, packaging, placarding, and discharge reporting.

DOT, in its final rule of May 22, 1980, 45 FR 34560, incorporated EPA's manifest requirements and expanded its list of hazardous materials to include hazardous wastes which require a manifest. Through implementation of certain record-handling requirements, this regulation ensures that these wastes are delivered to predetermined, designated facilities. DOT's regulation applies to inter- and intrastate transportation of hazardous wastes.

Active Government Collaboration

The Department of Defense, Occupational Safety and Health Administration, Department of Energy, Food and Drug Administration, Soil Conservation Service, Water Resources Council, the Center for Disease Control of the Department of Health and Human Services, Department of Transportation, and the Interstate Commerce Commission cooperated with EPA during development of the regulations.

Timetable

Those hazardous waste regulations promulgated on July 16, 1980 will become effective January 16, 1981.

Available Documents

Phase II Final Rules—Those wastes proposed as hazardous on July 16, 1980, the RCRA § 3001 Interim Final Rules issued May 19, 1980, and RCRA § 3004 Technical Standards and financial requirements for owners and operators of hazardous waste management facilities, were finalized November 19, 1980.

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Phase I Final Rules—Regulations affecting hazardous waste generators became effective November 19, 1980. Regulations for identification and listing of hazardous waste promulgated on May 19, 1980 became effective November 19, 1980. Regulations promulgated May 19, 1980 affecting owners or operators of hazardous waste treatment, storage, or disposal facilities became effective November 19, 1980.

Advance Notice of Final Rule, 45 FR 6752, January 29, 1980.
Public Notice, 45 FR 12746, February 26, 1980.
Final Rule, 45 FR 12722, February 26, 1980.
Final Rule, Interim Final Rule, 45 FR 33084, May 19, 1980.
Proposed Rule, 45 FR 33136, May 19, 1980.
Final Rule, 45 FR 33140, May 19, 1980.
Final Rule, Interim Final Rule, 45 FR 33154, May 19, 1980.
Revision of Proposed Rule, 45 FR 33260, May 19, 1980.
Interim Final Rule, 45 FR 47832, July 16, 1980.
Proposed Rule, 45 FR 47835, July 16, 1980.

The EPA Office of Solid Waste Docket (Room 2711, EPA, 401 M Street, S.W., Washington, DC 20460) maintains the following documents for public review:

- Background documents for interim status standards
- Final background documents
- Resource Requirements Summary
- Regulatory Analysis
- Public comments
- Summaries of ex parte contacts
- Public hearing transcripts
- Studies and reports on hazardous waste and hazardous waste management
- References for background documents

Copies of the following documents are also available from Edward Cox, Solid Waste Information Office, 26 West St. Clair, Cincinnati, OH 45260:

- Draft Environmental Impact Analysis
- Draft Integrated Impact Assessment of Hazardous Waste Management Regulations
- Studies and reports on hazardous wastes and hazardous waste management

Agency Contact

Criteria for Identifying and Listing Hazardous Waste (RCRA § 3001):
Gary Dietrich
Associate Deputy Assistant Administrator for Solid Waste
U.S. Environmental Protection Agency
Office of Solid Waste (WH–562)
401 M Streets, S.W., Washington, DC 20460
(202) 755–9170

Standards Applicable to Generators of Hazardous Waste (RCRA § 3002).
Rolf Hill
Acting Program Manager, Systems Implementation Program
U.S. Environmental Protection Agency
Office of Solid Waste (WH–563)
401 M Street, S.W., Room 2624
Washington, DC 20460
(202) 755–9150

Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (RCRA § 3004):
John Lehman
Director, Hazardous and Industrial Waste Division
U.S. Environmental Protection Agency
Office of Solid Waste (WH–565)
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EPA—OWWM

Sewage Sludge Disposal Regulations (40 CFR Part 258)

Legal Authority

Clean Water Act, § 405(d), 33 U.S.C. § 1345.

Reason for Including This Entry

These regulations are important because they will provide requirements for the disposal and use of wastewater treatment plant sludge. Initial regulations will include requirements for the landspreading of sludge as well as for the distribution and marketing of fertilizers and soil conditioners derived from sludge. Ultimately, the impact on the regulated community of all the sewage sludge disposal regulations is expected to exceed $100 million total cost.

Statement of Problem

The Environmental Protection Agency (EPA) estimates that approximately 5 million dry tons of municipal sewage sludge from publicly owned treatment works (POTWs) alone are generated annually in the United States. Sewage sludge is a broad term for the solids removed from wastewater as it goes through a municipal treatment plant and is cleaned up for discharge. Sludge can be disposed of—or used—in a liquid form or it can be concentrated by dewatering processes. These can be mechanical, heat drying, or outdoor drying beds or lagoons. The end product can be a liquid, a thick slurry, a wet cake, a dry cake, a compost product, or a dried powder. The end product needs to be regulated to prevent its uncontrolled or indiscriminate use, which could lead to potential environmental and public health problems. Documented cases of damage incidents indicate that some of the sludge-based fertilizer and soil conditioner products have been found to contain potentially harmful levels of heavy metals, toxic organics, and pathogens.

Sludge volume is expected to double in the next 10 years, due to an increase in the volume of sewage to be treated and the implementation of advanced wastewater treatment systems, which will treat such wastewater more completely. Currently, the major disposal methods of sewage sludge are landspreading (31 percent), landfilling (24 percent), incineration (21 percent), and ocean disposal (18 percent). Composted sludge is produced by adding wood chips or other organic refuse to dewatered sludge to produce a humus-like material with soil-conditioning and nutrient value. When composted properly, this material is essentially ordorless and pathogen-free. Over the years, EPA has issued several regulations protecting single environmental media, such as air, water, or land, from degradation. In the area of sludge disposal, this sequential, rather than comprehensive approach, has often resulted in shifting the problem from one environmental medium to another (e.g., from the ocean to land). A comprehensive approach will enable risk assessment to be conducted across all environmental media, rather than transferring risk from one medium to another.

Alternatives Under Consideration

As mentioned above, EPA believes that promulgation of a comprehensive regulation will be preferable to assorted or no regulations. Therefore, EPA is considering a new approach by incorporating all regulations affecting sewage sludge disposal into a comprehensive sludge management regulation. The most important beneficial result of this approach would be to encourage a complete environmental and economic assessment of sludge management alternatives at the local level. Other benefits will include an easier understanding of sludge disposal requirements by the public and better coordination of sludge management programs at the State and local levels.

Since complete issuance of a comprehensive sewage sludge regulation would take several years, EPA intends to develop these regulations in a phased program. This allows the Agency to both address the various methods of sewage sludge disposal according to perceived priorities and to expand the scientific data base.

All land disposal of non-hazardous sludges, which includes landfilling, disposal in surface impoundments, and landspreading (both on food-chain crop land and non-food-chain land; food-chain crop land is used for growing crops for direct human consumption or for feeding animals whose products will be used for direct human consumption; non-food-chain land is that land used for other purposes and which does not contribute to the human food chain) is currently regulated by the requirements of the "Criteria for Classification of Solid Waste Disposal Facilities and Practices," 44 FR 53438, issued on September 13, 1979 (the Criteria). These regulations were issued by EPA under authority of the Resource Conservation and Recovery Act (RCRA) Subtitle D and the Clean Water Act (CWA) § 405. The next regulatory proposal will include an amendment to the Criteria by specifying certain recordkeeping requirements for the land application of sewage sludge.

EPA expects to propose regulations for the distribution and marketing of sludge products under its sewage sludge disposal regulations in December 1980 and to finalize them in December 1981. Distribution and marketing of sludge-derived fertilizers and soil conditioners is the next candidate for regulation because EPA perceives an immediate need in this area for several reasons. First, the land application of sludge products is currently unregulated except in a few States. Second, use of this method is expected to increase as ocean disposal is being phased out as an alternative, thus increasing the health hazards as the amount of heavy metals, toxic organics, and pathogens in the soil is increased.

We will reserve several other parts of the comprehensive sewage sludge regulations for future completion and will incorporate and update some of the regulations described below under "Related Regulations and Actions." These may include landfilling, incineration, surface impoundments, thermal processing, and ocean disposal. EPA does not yet have a timetable for completion of these parts of the regulations.

Summary of Benefits

Sectors Affected: Public and privately owned sewerage systems; EPA; State and local governments; manufacturing and distributing of fertilizers and soil conditioners derived from sludge; and the general public.

Although the costs of these regulations are not known at present, EPA feels that the benefits to be gained are important enough to justify writing these regulations. The Agency will discuss the benefits and costs more fully in its Regulatory Analysis, which will be completed at the time of the proposal for the distribution and marketing regulations. Benefits include aiding the State and local governments to select the most effective sludge management approach for their individual situations, promoting better coordination of sludge management programs among jurisdictions within a regional area (such as would be needed for the Potomac River, which travels through Maryland, Virginia, and the District of Columbia), and providing the public and the sludge disposal organizations (both private and public) with advice on the safe and proper methods for disposing of sewage sludge. Documented cases of damage incidents indicate the potential environmental and public health problems relating to the uncontrolled or indiscriminate use of sludge-based fertilizer and soil conditioner products. Although some of these products have been found to contain potentially harmful levels of heavy metals, toxic organics, and pathogens, they are often distributed and marketed without the public knowing about their chemical or biological constituents or the proper manner of application to the soil. Over time, repeated application of such products can result in accumulation of contaminants in the soil, which will affect future use of the site.

We are preparing an Environmental Impact Statement/Economic Impact Analysis at the present time; it will be completed at the time of the proposal for the distribution and marketing regulations.

Summary of Costs

Sectors Affected: EPA; State and local governments; and public and privately owned sewerage systems.

As mentioned in "Summary of Benefits," the Agency will address the costs fully in its upcoming Regulatory Analysis.

Related Regulations and Actions

Internal: Of the incineration methods of sewage sludge disposal, both new stationary sources or air emissions and hazardous pollutants are regulated by the Clean Air Act (CAA). Polychlorinated biphenyls (PCBs) are regulated by the Toxic Substances Control Act (TSCA), and hazardous wastes by RCRA Subtitle C. Ocean dumping is regulated by the Marine Protection, Research and Sanctuaries Act (MPRSA).

External: None.

Active Government Collaboration

In developing the pre-proposal and the proposal drafts of the distributing and marketing of sewage sludge, EPA is working with the Food and Drug Administration, the Consumer Product Safety Commission, and the U.S. Department of Agriculture.

Timetable

NPRM—January 1981.
Draft Regulatory Analysis—Same date as the NPRM.
Environmental Impact Statement/Economic Impact Analysis—Same date as the NPRM.
Public Hearings—Three to five will be held in various cities nationwide shortly after the NPRM.
Public Comment Period—60 days after the NPRM.
Final Rule—January 1982.
Final Regulatory Analysis—Same date as the final regulation.
Final Rule Effective—30 days after the final rule is published.

Available Documents

Final Rule for air emission and hazardous pollutants is in 40 FR 46259, October 6, 1975 and 40 FR 48302, October 14, 1975.

Final Rule for ocean dumping is in 42 FR 2462, January 11, 1977.

Final, Interim Final, and Proposed Rules for the Criteria for classification of solid waste disposal facilities and practices are in 44 FR 53438, September 13, 1979.

Final Rule for polychlorinated biphenyls is in 44 FR 31514, May 31, 1979.

Final, Interim Final, and Proposed Rules for hazardous waste are in 45 FR 33066, May 19, 1980.

Pre-proposal draft of the distribution and marketing of sewage sludge, May 6, 1980. Available free from the Public Information & Participation Branch, U.S. EPA, Office of Solid Waste (WH–562), 401 M Street, S.W., Washington, DC 20460.

Public comments concerning sludge requirements contained in the Criteria and the pre-proposal draft of the distribution and marketing of sewage sludge are available for review in the Solid Waste Docket, Room 2711A, U.S. EPA, Office of Solid Waste (WH–562), 401 M Street, S.W., Washington, DC 20460.

After the regulation is proposed, background documents and the Environmental Impact Statement/Economic Impact Analysis will be

available for review in the Solid Waste Docket at the above address.

Specifically, the President directed the Federal Emergency Management

The process is voluntary; that is, there is

The FEMA procedure is justified on its

include communications equipment,

findings and determinations with

available for review in the Solid Waste Docket at the above address.

Agency Contact

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FEDERAL EMERGENCY MANAGEMENT AGENCY

Review and Approval of State and Local Radiological Emergency Plans and Preparedness (44 CFR Part 350)

Legal Authority

Disaster Relief Act of 1974, as amended 42 U.S.C. § 5121; Federal Civil Defense Act of 1950, as amended, 50 U.S.C. App. § 2251 *et seq.*, Executive Order 12148 of July 20, 1979, as amended 44 FR 43239.

Reason for Including This Entry

The Federal Emergency Management Agency (FEMA) includes these regulations because of the great interest of the public in planning for safety around nuclear power plants. These procedures describe how State and local governments can obtain FEMA evaluation, assessment, findings, and determinations as to the adequacy of State and local plans and preparedness to cope with the offsite effects of a radiological emergency at nuclear power plants.

Statement of Problem

The President's Commission on the Accident at Three Mile Island (known as the Kemeny Commission), the General Accounting Office, Congressional Committees, and others have all concluded that State and local plans and preparedness are inadequate to cope with the offsite effects of an emergency resulting from accidental emission of radiation at a nuclear power plant. The President has taken a number of actions as a consequence of recommendations on means to improve this situation.

Forty States have populations within 10 miles of the 73 nuclear power plants that are licensed to operate, the 88 under construction, and the 86 planned. While a significant number of States have either completed or will shortly complete their plans, considerably more needs to be done to achieve the proper preparedness.

Specifically, the President directed the Federal Emergency Management Agency to take the lead in offsite emergency planning and response. This means planning for action taken outside the plant to deal with consequences affecting the public away from the plant. FEMA also is to review State plans in those States with nuclear power facilities either in operation or scheduled for operation in the near future. FEMA, in order to implement this assignment, entered into a Memorandum of Understanding with the Nuclear Regulatory Commission, which has the responsibility for licensing nuclear power plants. NRC, however, has no authority to specify the emergency planning responsibilities of State and local governments. Under the Memorandum, FEMA has agreed to make findings and determinations as to whether State and local plans are adequate and capable of implementation (e.g., adequacy and maintenance of procedures, training, resources, staffing levels, and qualifications and equipment adequacy).

The NRC recently has issued new emergency planning regulations which will be effective November 3, 1980. These were published August 19, 1980 (45 FR 55402). Under the NRC rule, in order for a plant to continue operations or to receive an operating license, the plant will be required to submit its emergency plans, as well as State and local government emergency response plans, to NRC. The NRC will then make a finding as to whether the state of onsite and offsite emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. The NRC will base its finding on a review of the FEMA findings and determinations as to whether State and local emergency plans are adequate and capable of being implemented and on the NRC assessment as to whether the emergency plans for the nuclear plant itself are adequate and capable of being implemented. These issues may be raised in NRC operating license hearings, but a FEMA finding will constitute a rebuttable presumption on the question of adequacy.

Alternatives Under Consideration

The FEMA-proposed rule provides for a formal process for evaluation, review, and approval by FEMA of State plans and the local plans which are submitted to FEMA as annexes to the State plan and considered jointly with it. FEMA would also evaluate and assess the capabilities of State and local governments to implement the plans. The process is voluntary; that is, there is no requirement in law that a State submit a plan to FEMA for review and approval. There is no FEMA sanction for failure to submit a plan. FEMA, which offers grants to State and local agencies to support civil defense and disaster preparedness planning, has not made submission of radiological emergency plans and preparedness a condition for making these other grants.

The FEMA-proposed rule also calls for a public meeting at which the State, utility, and FEMA would explain the plan and for an exercise at which the plan is tested. Both of these requirements are conditions for approval. The findings and determinations are based on performance standards rather than adherence to detailed criteria.

Alternatives would include deletion of one or all of the above features. For example, as one Governor suggested, the review process could be established without a rule, without an exercise or public meeting, and without public involvement at all. A number of commentators on the proposed rule believe the public meeting is unnecessary. FEMA believes such a meeting is extremely important in informing the public and thus obtaining its support for whatever decisions may be made.

Summary of Benefits

Sectors Affected: State and local governments; NRC; nuclear power facilities; and the general public.

The benefits to be obtained from these procedures are those of an orderly process by which States can obtain evaluation and review of their plans and preparedness to cope with the away-from-the-plant consequences of a radiological accident at a nuclear power plant. The Nuclear Regulatory Commission is conditioning licensing of nuclear power plants on, among other things, the adequacy of State or local measures to be taken offsite in event of a radiological emergency. The NRC does not have jurisdiction to require a State or locality to develop or submit a plan. It does have jurisdiction to require a nuclear power plant licensed by NRC to submit, as data, information (the State and local plans) about the adequacy of State and local preparedness to cope with the effects of an accident. NRC, by its rules, will rely in its licensing proceedings on FEMA findings and determinations on the adequacy for health and safety purposes of the plans and preparedness. FEMA is the expert Federal agency on State and local plans and preparedness to respond to emergencies of all types.

The FEMA procedure is justified on its own terms as a process for review and approval of State and local plans to cope with a special type of emergency, and the procedure thus exists independent of NRC licensing hearings and is usable even if not tied to a licensing hearing.

The State and local governments benefit because the procedure is related to other emergency preparedness response plans and allows them to deal with a single Federal agency on this subject rather than dealing with many agencies. It further assures an independent, carefully considered review and evaluation of their plans.

Nuclear power facilities also benefit because they will know that FEMA's findings and determinations are the product of a comprehensive, impartial, and independent review process.

The general public also benefits because it knows that the process calls for review and approval of plans and preparedness, based on established performance standards; and it can directly participate by attending the public meeting where it can comment. The various notices and the meeting keep the public informed. Advance planning may result in reduced public expenditures in dealing with emergencies.

Summary of Costs

Sectors Affected: FEMA; State and local governments; nuclear power plants; and users of electricity produced by nuclear power.

We have not prepared a Regulatory Analysis. The procedure itself does not require any expenditure of large amounts of funds. That is to say, submission of a plan is voluntary and the process by which FEMA determines whether or not it can approve the plan involves staff time on the part of Federal agencies, such as the Departments of Energy, Health and Human Services, Commerce, and Agriculture, and the Environmental Protection Agency, States and local governments and the utilities. The conduct of an exercise, and the holding of a public hearing do have cost impact on the aforementioned agencies.

What may have a small cost impact are actions which a State or local government may need to take in order that its plans and preparedness can be found adequate. According to studies, typical costs to a State or local government to prepare a plan for a single facility can be approximately $360,000 initially and $74,000 yearly to update plans. It may well be that these costs can be passed to the utilities, and perhaps to the consumer. Costs might include communications equipment, radiation monitoring equipment, exercises, training, etc. However, the total cost is going to be minute when compared to a total investment in a nuclear plant, which will be in the hundreds of millions of dollars. Who bears the cost is a matter of State and local law. In some cases, the utilities are charged for State and local costs. In some, the utilities may volunteer to pay.

Related Regulations and Actions

Internal: FEMA has developed, pursuant to a Presidential assignment, interagency assignments which replace a description of assignments set out in a Notice published in the Federal Register on December 24, 1975 (40 FR 59494). These new assignments were published on October 22, 1980 (45 FR 69904). See also the discussion under External actions.

External: FEMA and Nuclear Regulatory Commission (NRC) have jointly issued "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants", NUREG–0654/FEMA–REP–1. This guidance and acceptance criteria provides a basis for NRC licensees and State and local governments to develop radiological emergency plans and improve emergency preparedness associated with nuclear power facilities. The document combines guidance to State and local governments with guidance to the NRC and supersedes previous guidance and criteria published by FEMA and NRC. It is intended for use by Federal officials in reviewing and assessing the adequacy of State, local, and nuclear power facility operator emergency plans and preparedness. FEMA–REP–1/NUREG 0654 contains a series of planning standards which will be a part of the FEMA rule. It lists specific criteria for the planning and preparedness activities of State and local governments as well as the licensees of NRC. NRC and FEMA currently are revising the document as a result of public comment submitted pursuant to a Notice published on February 13, 1980 (45 FR 9768). We intend that the FEMA rule will set the same standards and criteria as the new NRC rule discussed in "Statement of Problem." Thus, both FEMA reviewers and NRC reviewers will be using the same criteria and standards.

Active Government Collaboration

We are closely coordinating this rulemaking with the Nuclear Regulatory Commission (NRC), which has formally commented on it. We furnish the findings and determinations with respect to adequacy of State plans and preparedness, which are a product of this procedure, to NRC.

FEMA will use the expertise of several Federal agencies in making its findings and determinations. The manner in which we will accomplish this is set out at 45 FR 69904, which was prepared in collaboration with other agencies.

Timetable

Final Rule—Not yet scheduled.
Final Rule Effective—30 days after adoption.
Regulatory Analysis—None.

Available Documents

NPRM—45 FR 42341, June 24, 1980.

Memorandum of Understanding between NRC and FEMA to accomplish a prompt improvement in radiological emergency planning and preparedness; 45 FR 5847, January 24, 1980.

FEMA–REP–1, NUREG–0654: Criteria for Preparation and Evaluation of Radiological Emergency Plans and Preparedness in Support of Nuclear Power Plants (now under revision jointly with NRC).

Copies of the above documents are available from the Agency Contact listed below.

Public Comments: Copies are available for review at FEMA, Rules Docket Clerk, Room 801, 1725 I Street, N.W., Washington, DC 20472.

Agency Contact

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CONSUMER PRODUCT SAFETY COMMISSION

Chronic Hazards Associated With Benzidine Congener Dyes in Consumer Dye Products

Legal Authority

Consumer Product Safety Act, 15 U.S.C. § 2051 *et seq.*

Reason for Including This Entry

The Consumer Product Safety Commission (CPSC) believes this is an issue of considerable public interest due to the possibility of adverse health effects which can result from consumer exposure to benzidine dyes, o-tolidine dyes, and o-dianisidine dyes and the significant number of consumers that may be exposed to them.

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Statement of Problem

Benzidine and two related chemicals (congeners) o-tolidine and o-dianisidine, constitute a family of synthetic aromatic amines used as intermediates in the synthesis of more than 400 direct benzidine congener dyes.

In 1972, the International Agency for Research on Cancer (IARC) concluded that benzidine is carcinogenic in several species of animals, and that "epidemiologic studies showed that occupational exposure to commercial benzidine alone was strongly associated with bladder cancer." Both the Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) have issued regulations for benzidine based on the determination of its carcinogenicity. In 1978, the National Cancer Institute (NCI) reported that three benzidine dyes produced tumors in rats. Although it has not been conclusively shown that o-tolidine and o-dianisidine are human carcinogens, there is animal evidence demonstrating carcinogenicity. In addition, evidence indicates that dyes based on benzidine, o-tolidine, and o-dianisidine may be metabolically converted to their respective parent compounds in the body. These studies cause the staff of the CPSC to believe that benzidine dyes, o-tolidine dyes, and o-dianisidine dyes may present substantial health hazards to consumers.

Consumer exposure to these dyes may occur from the use of packaged consumer dyes in homes, schools, and arts and crafts processes. In addition to the consumer market, benzidine dyes, o-tolidine dyes, and o-dianisidine dyes are used industrially in the manufacture of consumer products. For example, it is estimated that 40 percent of all benzidine dyes produced are used to dye paper goods such as tissues, paper towels and stationery; 25 percent are applied to textiles; and 15 percent are used in dyeing leather products.

The consumer dyes market can be divided into two segments: the mass-merchandised dye market, consisting of consumer dye products sold at various retail outlets to the general public for home dyeing applications, and the market for specialty dye products sold as arts and crafts materials. Consumer dyes are purchased by the general public from retail stores; their major use is in home fabric dyeing because these dye products are specifically formulated for ease of application and affinity for cotton and rayon fibers. Artists use the consumer dyes for home crafts, teaching workshops, textile printing, and in the production craft items for resale on a limited basis. Children may be exposed to benzidine congener dyes during arts and crafts applications in school projects. A danger to consumers arises from the possibility that benzidine congener dyes or their decomposition products may enter the human system by skin absorption. In addition, dry dust powders may enter the human system by inhalation and ingestion. It is possible, despite precautions, for even an experienced artist to contact dye solution on some part of the body during dyeing operations.

Sources estimate that about 30 million packages of consumer dye products are sold annually. Using 65 cents as an average unit price, it is estimated that the retail market for home dyes falls between $15 million and $18 million.

The three major home dye manufacturers have indicated that since 1978 they have not used benzidine dyes in consumer dye products. However, field studies conducted by the CPSC have demonstrated that general retail outlets still sell older dye packages, manufactured at a time when industry used benzidine dyes.

Although benzidine dyes no long may be produced for sale to the general public, arts and crafts people are able to purchase them directly from manufacturers or retail dye outlets. Often these dyes are industrial dyes which have been repackaged for arts and crafts use. It is estimated that 100 to 500 pounds of benzidine dyes are sold annually to between 1,000 and 4,000 consumers for arts and crafts applications.

Substitutes used for benzidine dyes in consumer dye products may be based on o-tolidine or o-dianisidine. About nine different o-tolidine dyes and o-dianisidine dyes are currently used in consumer dye products. Of approximately 30 million packages sold annually, estimates place the range of packaged dye products containing o-diansidine dyes or o-tolidine dyes between 15 and 21 million, encompassing as much as 60 to 70 percent of the home dye market.

In response to a petition jointly submitted in October 1978 by the Center for Occupational Hazards, the Artist-Craftsmen of New York, the Foundation for the Community Artists, and the Surface Design Association, the CPSC is considering the need to take regulatory action with respect to benzidine congener dyes in consumer dye products.

Alternatives Under Consideration

The Commission currently is considering the following three regulatory alternatives in response to a petition requesting a ban of benzidine dyes, o-tolidine dyes, and o-dianisidine dyes in consumer dye products. The staff has recommended alternative (A) to the Commission.

(A) Commence a proceeding to ban benzidine dyes, o-tolidine dyes, and o-dianisidine dyes in consumer dye products. This action would eliminate the risk of consumer exposure to benzidine congener dyes in consumer dye products. Considering the estimate that o-tolidine dyes and o-dianisidine dyes may be represented in 60 to 70 percent of the formulations presently used by the consumer dye industry, the economic impact of a ban on these dyes may be considerable.

(B) Commence a proceeding to ban benzidine dyes in consumer dye products and do not take immediate action on o-tolidine dyes and o-dianisidine dyes.

The economic impact of a ban on benzidine dyes on the consumer dye industry is expected to be minimal. Deferred action on o-tolidine dyes and o-dianisidine dyes pending further study of substitutes and reformulation may cause less market disruption.

Although the consumer dye industry has indicated that benzidine dyes are no longer being used, a Commission survey revealed that consumer dye products containing benzidine dyes are still available at retail stores. Therefore, if this alternative is chosen, a recall of consumer dye products containing benzidine dyes may also be considered. CPSC staff plans to gather information from consumer dye manufacturers concerning the feasibility of a recall.

(C) Deny the petition. The Commission may decide to take no action with respect to benzidine dyes, o-tolidine dyes, and o-dianisidine dyes in consumer dye products. This alternative would permit continued consumer exposure to benzidine congener dyes.

To date, the CPSC staff's primary concern has been with home dye packages containing benzidine dyes, o-tolidine dyes, or o-diansidine dyes sold directly to consumers. The Commission staff plans to investigate the commercial use of benzidine congener dyes in textiles. There is a possibility that the staff will recommend to the Commission further action in the future with respect to those products that have been dyed commercially with benzidine congener dyes.

Summary of Benefits

Sectors Affected: General consumers, craftspeople, and hobbyists.

Benzidine congener dyes are used in packaged consumer dye products. Evidence indicates that these dyes may

be potential carcinogens. Consumers may be exposed to these dyes by inhalation, skin absorption, or ingestion during the home dyeing process. The Commission will be considering possible regulation of benzidine congener dyes in consumer dye products to reduce exposure to potential carcinogens. The staff has recommended a ban of consumer dye products containing benzidine dyes, o-tolidine dyes, and o-diansidine dyes.

Summary of Costs

Sectors Affected: General consumers, craftspeople and hobbyists; and dye manufacturers.

The consideration of substitute dyes to replace benzidine congener dyes is of great concern to the Commission staff; substitution of noncarcinogenic dyes for those that present chronic health effects is essential. Current information indicates that substitutes for o-tolidine dyes, and o-diansidine dyes are generally available with the possible exception of a few colors.

If substitutes for these few colors cannot be readily identified or developed for consumer dye products, a search for substitutes not based on benzidine or its congeners could involve virtually hundreds of other organic compounds and, because the entire dye formulation may need to be adjusted, there could be substantial costs to industry. Reformulations have not yet been developed and therefore no overall estimates of substitution costs are available. However, information currently available to the CPSC staff suggests that the cost of dye ingredients may not be the predominant cost element that determines the retail price of consumer dyes. If substitution were to occur, costs for labor, packaging, distribution, and advertising, which may be the primary price determinants, may not vary greatly from present costs.

If a recall were to occur of products containing benzidine dyes, the lack of ingredient listings on dye containers may make it difficult for retailers to identify which dye products contain benzidine dyes.

Should the price of commercial dyes increase, an indirect cost may be felt by artists and craftspeople. If manufacturers pay higher prices for raw materials, greater overhead costs and possible smaller profit margins could result for artists.

The CPSC staff is considering, at the present time, only the need for controls of consumer dye products; however, if later action is considered against the other uses of benzidine congener dyes in consumer products, the Commission will investigate the potential economic impacts on those products that have been colored with benzidine dyes, o-tolidine dyes, and o-diansidine dyes.

Related Regulations and Actions

Internal: At the present time the CPSC is supporting research on the breakdown of benzidine congener dyes in the body and on the long and short term economic effects of various regulatory alternatives on consumers and the consumer dye industry. A hazard assessment for textile and non-textile uses of benzidine dyes, o-tolidine dyes, and o-dianisidine dyes will be completed in Summer 1981.

External: The Occupational Safety and Health Administration (OSHA) recently released a field directive on the carcinogenicity of three benzidine dyes which recommends that other benzidine dyes also be handled as carcinogens.

The National Institute for Occupational Safety and Health (NIOSH) published the "Special Hazard Review of Benzidine Based Dyes" which recommends that these dyes should be recognized as potential human carcinogens and that the benzidine congener dyes be handled with extreme care.

OSHA and NIOSH jointly released a Health Hazard Alert for benzidine dyes, o-tolidine dyes, and o-dianisidine dyes which concludes that benzidine dyes are carcinogenic, and states that o-tolidine dyes and o-dianisidine dyes may present a cancer risk to workers and should be handled with care.

The Environmental Protection Agency (EPA) has proposed a Toxic Substances Control Act (TSCA) § 8(a) rule, and is developing a TSCA § 8(d) rule to require manufacturers to submit specific information and health and safety studies for a variety of chemicals, including benzidine dyes.

Active Government Collaboration

The CPSC is working closely with the Interagency Regulatory Liaison Group (IRLG) Benzidine Congener Dyes Workgroup in determining the most effective statutes for possible controls on the use of benzidine dyes and benzidine congener dyes, and is investigating regulatory options.

The National Cancer Institute (NCI), National Institute of Occupational Safety and Health (NIOSH), the Stanford Research Institute, Consumer Product Safety Commission (CPSC), Occupational Safety and Health Administration (OSHA), and the Environmental Protection Agency (EPA) plan to meet periodically with the Dyes Environmental and Toxicology Organization (DETO) to perform a systematic study of dyes and to recommend dyes to the National Toxicology Program (NTP) for carcinogenicity testing.

Timetable

Commission Decision to grant or deny petition—October 29, 1980.

Regulatory Analysis—The Commission, as an independent agency, is not required to prepare a Regulatory Analysis as defined under E.O. 12044. However, the Commission prepares essentially the same information in its rulemaking proceedings.

Available Documents

"CPSC Staff Briefing Packages" dated February 26, 1979 and September 24, 1980 are available from the Office of the Secretary, 1111 18th St., N. W., U.S. Consumer Product Safety Commission, Washington, DC 20207.

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CPSC

Chronic Hazards Associated With Formaldehyde

Legal Authority

Consumer Product Safety Act, 15 U.S.C. § 2051 *et seq.;* Federal Hazardous Substance Act, 15 U.S.C. § 1261 *et seq.*

Reason for Including This Entry

Formaldehyde in consumer products is of concern to the CPSC because use of these products may expose consumers to hazards.

Statement of Problem

Formaldehyde is a reactive chemical which is widely used in consumer and industrial applications. According to studies made by the CPSC, 16 U.S. companies currently produce formaldehyde. In 1978, total production was approximately 6.4 billion pounds and the value of formaldehyde was between $285 million and $350 million.

Chemcial manufacturers use formaldehyde to produce over 20, intermediate chemicals. Formaldehyde's reactions with amino acids, proteins, and nucleic acids are important in yielding protein denaturants for use in leather tanning, as preservatives, and in the preparation of vaccines. It is widely used in the manufacture of phenolic, urea, and melamine resins. These resins are used in bonding particle board, in

laminating veneers and plywood, and as insulating materials, protective coatings

Burn") and in certain persons may cause

Alternatives Under Consideration

The Commission staff will also

In those industries in which no known

assist in evaluating the results of

laminating veneers and plywood, and as insulating materials, protective coatings, and special treatment for textiles and paper products.

The manufacture of urea formaldehyde resins and phenol formaldehyde resins accounts for 50 percent of the total formaldehyde production. Urea formaldehyde resins are used as adhesives for making particle board, medium-density fiberboard and interior plywood. The housing construction industry uses these materials extensively in the construction of new residential housing and fabrication of mobile homes. The construction industry also uses urea formaldehyde resins to produce a foam thermal insulation for residential and industrial construction.

Manufacturers of exterior plywood, fiberglass, and mineral wool insulation blankets use phenol formaldehyde resins as adhesives. Parts that are subject to high temperature and pressure are produced from phenol formaldehyde resin compounds.

The textile industry uses formaldehyde resins. The resins react with cellulosic fibers such as cotton and rayon to give the fabric a permanent structure such as that found in wash and wear or permanent press clothing. In addition to crease proofing, urea formaldehyde resins also serve the purpose of shrinkage control, stiffening, and fire retardance.

Additionally, about 150 million pounds of the formaldehyde produced annually (approximately 2.5 percent of total production) is used to make formalin, an aqueous solution containing 37 percent formaldehyde. Formalin is widely use as a biological specimen preservative and is also used in disinfectants, embalming fluid, leathers, and dyes.

Under certain conditions, such as high temperature and humidity, free formaldehyde is released from resinous products by diffusion, decomposition, or environmental degradation. Products known to release formaldehyde over a prolonged period include urea formaldehyde foam insulation, particle board, and plywood.

Formaldehyde is a strong irritant, and sensitizer which produces a variety of symptoms depending on the mode, duration, and concentration of exposure. Generally, short term exposure to formaldehyde vapor causes irritation of eye, nose, and throat and sometimes of the skin. Chronic change, especially those of the respiratory system, have been observed after long term exposure to formaldehyde vapor. Dermal exposure to formaldehyde solution causes irritation of the skin ("Chemical Burn") and in certain persons may cause an allergic reaction. Persons whose skin or respiratory system has been sensitized to formaldehyde respond more severely to lower concentrations, and the symptoms may persist for some time or worsen after exposure.

Consumer exposure to formaldehyde can occur by ingestion of liquid formaldehyde, dermal contact with the liquid or with substances containing formaldehyde, or by inhalation of formaldehyde vapor.

Formaldehyde's adverse effects on the respiratory system are of particular concern to individuals who suffer from asthma or chronic obstructive lung disease or who are generally allergic to a variety of substances. These people may experience severe reactions when exposed to low concentrations of formaldehyde. Another group of great concern are those individuals who have become sensitized to the chemical because of repeated exposure and then respond in an exaggerated manner to subsequent exposures at low levels. Upon being exposed to formaldehyde, these sensitized people may exhibit a variety of symptoms ranging from dermatitis to severe asthmatic reactions.

In addition to the potential adverse safety and health effects described above, based on the acute toxic and sensitization aspects of formaldehyde, interested persons should be aware of the following information concerning the possible carcinogenic potential of formaldehyde. Preliminary test results from the Chemical Industry Institute of Toxicology (CIIT), a scientific organization supported by 36 U.S. chemical corporations, show that rats exposed to formaldehyde gas (15 ppm) developed squamous cell carcinomas of the nose beginning after 12 months of exposure.

Rats exposed to lower concentrations of formaldehyde and mice exposed to 15 ppm have not developed tumors to date. The Commission has, under the auspices of the National Toxicology Program, convened a panel of scientists from within the Federal Government. This panel will help assess the human health implications of this study and the health implications of exposure to formaldehyde. The findings of the panel are expected in November, 1980.

The Commission is awaiting the determinations of the panel and information on the extent of consumer exposure to formaldehyde released by plywood, particle board, textiles, and school laboratory use. No decision has yet been made as to how to proceed.

Alternatives Under Consideration

The CPSC staff is exploring the following alternatives:

(A) The Commission may determine that no further regulatory action is warranted.

(B) The Commission could decide to institute a ban on the use of formaldehyde in those consumer products where the Commission determines its use presents an unreasonable risk of injury to consumers and that there is no possible standard that would adequately protect the public. This approach would protect the public from further significant exposure to formaldehyde from consumer products. Through delayed effective dates and phase-out times the staff believes the industry could be provided sufficient time to develop the technology to adequately replace formaldehyde in certain products.

(C) The Commission may require manufacturers to inform consumers of possible adverse health effects from products that can release formaldehyde. For example, the Commission has already proposed a regulation (see Calendar entry on urea formaldehyde foam (UFF) insulation) that would require urea formaldehyde foam insulation manufacturers to provide certain performance and technical data to prospective purchasers. The Commission staff believes that the cost to industry would not be as great as from a direct ban. Consumers would continue to be exposed to formaldehyde through this type of action. However, those who are allergic or who have been sensitized would be able to take steps to limit their exposure.

(D) Another alternative would be for the Commission to develop mandatory standards regulating the manufacturing of consumer products containing formaldehyde or establishing a maximum amount which could be released. This could reduce consumer exposure but not eliminate it completely.

(E) The Commission could encourage industry to voluntarily reduce the use of formaldehyde in those products where release of formaldehyde gas and dermal contact cause consumer exposure. This option would allow industry to proceed on its own initiative to find substitutes for the use of formaldehyde in consumer products. Such a voluntary effort by industry would be evaluated by Commission staff at fixed time intervals to ensure effective and timely reduction of the risk. Combining the skills of the private sector with the Government regulatory process may result in effective consumer protection while minimizing costs to the consumers.

The Commission staff will also consider whether to recommend that the Commission issue an ANPRM. The ANPRM may be issued in the fall of 1980 and could describe CPSC's proposed regulatory approach to formaldehyde in consumer products and solicit public comment on that approach. The Commission would consider the comments in developing any further regulations or other remedial action to protect consumers. Information which the Commission would expect to receive includes whether it has chosen the most appropriate regulatory approach; whether there are additional health effects or studies which the Commission should consider; whether consumers are being exposed to formaldehyde from products in addition to those known by the Commission; the extent to which the use of formaldehyde in consumer products is essential; and how the Commission should evaluate the costs, availability, utility, or safety of substitutes.

Summary of Benefits

Sectors Affected: The general population, especially those individuals who are sensitized to formaldehyde or who suffer from respiratory illnesses or multiple allergies.

If formaldehyde is a human carcinogen, the primary benefit to be achieved by regulation would be to reduce consumer exposure to a carcinogenic substance. Regardless of the results of the carcinogenicity tests, reduction of exposure to formaldehyde would be particularly important for the sector of the population which is sensitized to formaldehyde (estimated to be 4.5 to 7.8 percent of the population). These sensitized persons may exhibit allergic dermatitis or mild to severe asthmatic reactions. Some sensitized individuals develop increasingly severe reactions upon continued exposure to formaldehyde. Those individuals who suffer from multiple allergies or respiratory diseases also exhibit serious physical effects from very low level exposures. Continued exposure for long periods can lead to chronic changes of the respiratory tract such as rhinitis and airway obstruction.

Summary of Costs

Sectors Affected: Producers and distributors of formaldehyde; manfacturing industries that regularly use formaldehyde in the production of their products, including paper and wood products, textiles, insulation; and users of these products, including the construction industry.

In those industries in which no known substitutes for formaldehyde exist, industry may be faced with research and development costs for substitutes and/or the development of new technologies. There may be significant costs to industry if the Commission decides to ban certain products containing formaldehyde. The impact may be less if the Commission developed mandatory or voluntary standards or if the Commission issued regulations requiring labeling of products or disclosure of information to consumers. However, there is a possibility that labeling or disclosure to consumers may result in a decline in product sales if consumers, upon being alerted to the presence and potential effects of formaldehyde decide not to purchase the product. Additionally, there may be associated costs to consumers, in price or decreased utility of substances. The CPSC is currently preparing an analysis of the economic impact on selected products of various regulatory approaches to formaldehyde use. These estimates will be available in Spring 1981.

Related Regulations and Actions

Internal: The CPSC has proposed a regulation requiring manufacturers of urea formaldehyde foam insulation to provide prospective purchasers with performance and technical information concerning the potential release of formaldehyde (45 FR 39434, June 10, 1980).

External: The Occupational Safety and Health Administration (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) have issued a joint current Intelligence Bulletin on occupational exposure to UFF.

The National Cancer Institute (NCI) is conducting an epidemiological study on the effects of formaldehyde on morticians.

The Department of Energy published interim final material and installation standards for UFF insulation on September 25, 1980 (45 FR 63786).

Active Government Collaboration

The CPSC is a member of the Interagency Regulatory Liaison Group (IRLG). The IRLG has established a Formaldehyde Work Group, which CPSC chairs. The IRLG agencies, especially the CPSC, are examining formaldehyde products and exposure when the chemical is released or "off gassed" from products manufactured from it.

The CPSC has convened, under the auspices of the National Toxicology Program, a panel of scientists selected from within the Federal Government to assist in evaluating the results of epidemiologic, carcinogenic, teratogenic, and mutagenic tests on formaldehyde. The panel is attempting to assess the human health implications of exposure to formaldehyde from consumer products.

Timetable

Report on the Evaluation of Health Risks of Formaldehyde by Government Scientists—Fall 1980.
ANPRM on Formaldehyde in Consumer Products—Fall 1980.
Hazard evaluation and exposure assessment for textile uses—Summer 1981.
Hazard evaluation and exposure assessment for particle board, plywood, laboratory uses—Fall 1981.
Regulatory Analysis—The Commission, as an independent agency, is not required to prepare a Regulatory Analysis as defined under E.O. 12044. However, the Commission prepares essentially the same information in its rulemaking proceedings.

Available Documents

The staff briefing packages and all materials which the Commission has relevant to the investigation of formaldehyde in consumer products are available from the Office of the Secretary, U.S. Consumer Product Safety Commission, Third Floor, 1111 18th Street N.W., Washington, DC 20207.

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CPSC

Consumer Products Containing Asbestos (16 CFR Parts 1304* and 1305*)

Legal Authority

Consumer Product Safety Act, 15 U.S.C. § 2051 *et seq.;* Federal Hazardous Substance Act, 15 U.S.C. § 1261 *et seq.*

Reason for Including This Entry

Asbestos is a known human carcinogen used in a variety of products. The Consumer Product Safety Commission (CPSC) believes this to be an issue of great interest to the public because of serious potential health hazards that may be involved when consumers are exposed to inhalable asbestos fibers.

Statement of Problem

The Consumer Product Safety Commission (CPSC) is concerned about the risk of injury to consumers from exposure to asbestos fibers released from consumer products.

We do not know exactly how many

protection from exposure to asbestos fibers released from consumer products.

to analyze the use of possible substitute materials in a variety of applications.

consumer products it will help alleviate some of these unfortunate consequences.

significantly, through complementary actions, unreasonable human health risk from exposure to asbestos. The second

Reason for Including This Entry

This standard may impose a major

Statement of Problem

The Consumer Product Safety Commission (CPSC) is concerned that the presence of asbestos in consumer products under certain conditions may present a risk of cancer and respiratory disease to consumers. On the basis of present information, it appears that consumer products containing asbestos fibers can pose a health hazard if the products release asbestos fibers into the air which consumers can inhale.

CPSC, therefore, issued an ANPRM on asbestos in October 1979. The primary purpose of CPSC issuing the ANPRM was to begin a formal investigation of the use of asbestos in consumer products by identifying consumer products containing asbestos, and to discuss ways CPSC could act to protect the public from exposure to asbestos fibers in consumer products. CPSC could issue a standard or ban, concerning asbestos-containing products, require labeling of consumer products containing asbestos, encourage some form of voluntary action by industry, or take other action.

The CPSC staff has recently completed a review of the health effects of asbestos which causes the staff to believe that, under certain conditions, the presence of asbestos in consumer products may present a risk of cancer and respiratory disease. The health hazard occurs when asbestos fibers are released into the air and people inhale them. Inhaled asbestos fibers may become embedded in lung tissue and once embedded, they may remain there indefinitely. Asbestos fibers that are released from consumer products can remain in household air for long periods of time and may subject household members to a continuous risk of fiber inhalation.

Consumer products are one source of exposure to asbestos fibers; there are also a number of environmental sources. Therefore, consumer products must be viewed as part of a cumulative burden of asbestos exposure.

Asbestos released from consumer products poses several problems in the household. First, young children and infants are exposed. Second, asbestos fibers that consumer products release into the living space can remain there over long periods of time and may be subject to repeated cycles of settling and resuspension. The presence of asbestos fibers can thus pose an ongoing inhalation risk in the household. Third, unlike the workplace, where engineering control systems and protective clothing are available to minimize worker's exposure to asbestos, the home provides household members with little or no protection from exposure to asbestos fibers released from consumer products.

We do not know exactly how many asbestos-containing products are available to the consumer; however, we estimate that hundreds of different types of consumer products contain asbestos in some form. Asbestos paper has been used in many consumer products, such as household appliances, as a thermal or electrical insulating barrier. Asbestos is also commonly used in household building products, such as roofing shingles and tile, to provide strength and stability.

In a **Calendar of Federal Regulations** entry published in May, 1980, the Commission stated its concern about consumer exposure to asbestos fibers. This **Calendar** statement on asbestos described an ANPRM issued in October, 1979 (44 FR 60057). The purpose of the ANPRM was to inform the public of the Commission's concern and to announce the initiation of a Commission investigation of asbestos in consumer products. The Commission is considering comments and information received in response to the ANPRM in determining regulatory options we might pursue.

One example of CPSC action on products containing asbestos is hairdryers. As a result of information indicating that certain hairdryers released asbestos fibers during use, CPSC asked the National Institute for Occupational Safety and Health (NIOSH) of the Department of Health and Human Services to conduct tests. The results showed that some hairdryers released asbestos fibers into the air stream and directly on the user's head during ordinary use; thus, any fibers the hairdryers emitted could potentially be inhaled.

As a result of negotiation between the Commission's staff and firms which share approximately 90 percent of the consumer hairdryer market, the firms agreed to cease production and distribution of hairdryers containing asbestos and to offer consumers some form of repair, replacement, or refund for hairdryers they currently own.

CPSC has approved a General Order to manufacturers (including importers) and private labelers of certain categories of consumer products to submit information on the use of asbestos in their products. The general order is currently undergoing review by the General Accounting Office for compliance with the Federal Reports Act. CPSC staff will examine the information in response to the order to help identify specific products containing asbestos, to determine how the asbestos is used in the products, and to analyze the use of possible substitute materials in a variety of applications. The CPSC staff review of this information will also aid in evaluating the impact of possible regulation on the cost, availability, and utility of the products.

The staff is concentrating its evaluation on certain types of products. We will focus initial action on products which show definite fiber release. We may make subsequent efforts to investigate other products which contain asbestos.

As we acquire testing and product information from the General Order and other sources identify other asbestos-containing products which may be of concern, we may institute other in-depth reporting requirements.

Alternatives Under Consideration

(A) On the basis of health research and economic studies, the Commission stated in its ANPRM that it may consider the elimination of non-essential uses of asbestos in those products from which fibers are released during reasonably foreseeable conditions of use or misuse.

The Commission is considering two methods of accomplishing this: a generic approach, or a product-by-product approach. If the Commission chooses to use a generic approach, it could address in a single regulatory action the use of asbestos as a component in a number of different consumer products that share similar or related uses.

In making its determination of whether or not to take action, the CPSC will consider detailed risk and economic findings. The CPSC will also take into account the function performed by the asbestos in the product, the cost to industry and consumers of the regulations and the availability of substitutes for the asbestos and the safety of such substitutes.

In cases in which we do not know the asbestos content and whether there is any fiber release, the staff will continue to test products for any asbestos fiber emission.

Summary of Benefits

Sectors Affected: General public.

The primary benefit of asbestos regulations is to reduce consumer exposure to a know human carcinogen.

Asbestos fiber inhalation has been linked with lung cancer, asbestosis, and mesothelioma (cancer of the pleura—the membranes surrounding the lung). These diseases can inflict pain and are often fatal. They may cause large financial burdens due to medical expenses that result. The CPSC believes that by reducing the release of asbestos from consumer products it will help alleviate some of these unfortunate consequences.

Summary of Costs

Sectors Affected: Asbestos mining industry; and all manufacturers, wholesale and retail traders, and users of products containing asbestos.

The CPSC estimates that some economic impact may occur on industry in those cases where a mandatory regulation concerning asbestos-containing products occurs. Current studies are now being made to determine potential costs to industry in developing substitutes for asbestos in consumer products.

Related Regulations and Actions

Internal: In 1977, the Consumer Product Safety Commission banned consumer patching compounds containing asbestos and artifical emberizing materials for fireplaces that contained respirable asbestos (16 CFR 1304 and 1305).

External: The Environmental Protection Agency (EPA) may shortly propose for comments a life-cycle reporting and recordkeeping requirement on asbestos. In September 1980, EPA published a corrective action program for school buildings containing asbestos.

The Occupational Safety and Health Administration (OSHA), during spring 1980, published for comments a proposal for reducing occupational exposure to asbestos from 2 fibers per cubic centimeter to 100,000 fibers per cubic meter.

Active Government Collaboration

We have worked closely with the Environmental Protection Agency to ensure that our efforts to investigate and possibly regulate the use of asbestos will be coordinated, compatible, and nonduplicative. EPA simultaneously published an ANPRM in October 1979 which describes that agency's systematic effort to gather information on groups of asbestos products, and to evaluate risk from these products based on the "life cycle" concept. In the life cycle analysis, the Agency examines cumulative risk from human exposure to asbestos from primary processing through end use and disposal. The CPSC's ANPRM describes an approach to the investigation of possible health risks that may be associated with the use of asbestos in a number of consumer products.

Through close cooperation in our regulatory endeavors, EPA and CPSC hope to achieve the following three objectives: The first is to reduce significantly, through complementary actions, unreasonable human health risk from exposure to asbestos. The second is to reduce potential reporting burdens on industry by coordinating information-gathering activities. Third, to avoid inconsistent or needlessly burdensome regulations, we will develop regulatory actions that may result from these investigations in close consultation with each other.

CPSC published, jointly with EPA, an ANPRM in the **Federal Register** of October 17, 1979 (44 FR 60057) on consumer products containing asbestos. Comments on that ANPRM have been received and reviewed.

Timetable

General Order to Industry—End of 1980.

Regulatory Analysis—The Commission, as an independent agency, is not required to prepare a Regulatory Analysis as defined under E.O. 12044. However, the Commission prepares essentially the same information in its own rulemaking proceedings.

Available Documents

CPSC—Consumer Products Containing Asbestos; Advance Notice of Proposed Rulemaking—44 FR 60057, October 17, 1979.

Briefing Package of Comments on Advance Notice of Proposed Rulemaking, September, 1980 and briefing package on Petition to Ban Asbestos Paper, April, 1980.

16 CFR 1304 and 1305: Ban on asbestos-containing patching compounds and emberizing materials, January, 1977.

Copies are available from the Office of the Secretary, U.S. Consumer Product Safety Commission, 1111 18th Street, N.W., Washington DC 20207.

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CPSC

Omnidirectional Citizens Band Base Station Antenna Standard (16 CFR Part 1402*)

Legal Authority

Consumer Product Safety Act, §§ 7 and 14, 15 U.S.C. §§ 2056 and 2063.

Reason for Including This Entry

This standard may impose a major increase in costs or prices for antenna manufacturers, distributors, retailers, and purchasers.

Statement of Problem

The Consumer Product Safety Commission (CPSC) staff estimates that approximately 220 persons in 1975, 275 persons in 1976, and 220 persons in 1977 were electrocuted in incidents involving communjcations antennas. The vast majority of these deaths occurred when people were putting up or taking down the antennas which in the process contacted electric power lines. Typically, these incidents occur when the antenna contacts the power line while people are transporting it to the erection site or when it falls into a power line because it gets out of the control of the people who are putting it up or taking it down. The Commission estimates that over 70 percent of the antennas involved in these accidents are Citizens Band (CB) base station (other than mobile) antennas.

On June 29, 1978, the Commission issued a rule under § 27(e) of the Consumer Product Safety Act which requires manufacturers and importers of (1) outdoor Citizens Band (CB) base station antennas, (2) outdoor television antennas, and (3) antenna-supporting structures to provide purchasers with (a) instructions on how to avoid the hazard of contacting electric power lines with the antenna or supporting structure while putting it up or taking it down, (b) labels on the antennas and supporting structures warning of this hazard and referring the reader to the instructions, and (c) statements on the packaging or parts container, and at the beginning of the instructions, warning of this hazard and referring the reader to the instructions. We intend this rule to help prevent injuries and death from electric power lines when people put up or take down antennas or antenna-supporting structures. The Commission reasoned that if consumers know of the danger and how to avoid it, they will be better able to take the necessary steps to protect themselves.

While the Commission believes that the present information and labeling rule will reduce the deaths that occur because of the contact of television and CB base station antennas with electric power lines, the Commission also believes that a standard which would help ensure that the antenna would not transmit a harmful amount of electricity to the installer if the antenna did contact a power line may address the risk of electrocution more effectively, and

thereby cause a greater reduction in deaths.

The Commission is presently developing a standard directed only at non-directional CB antennas because they account for the largest number of reported injuries. Moreover, they can be insulated more readily than TV and directional CB antennas because they have fewer joints and element parts.

Alternatives Under Consideration

Possible alternatives to pursuing a mandatory standard at this time include delaying further action until we measure the § 27(e) information and the labeling rule's ability to reduce deaths and injuries. The Commission estimates that it could take from 1 to 2 years to assess the rule's effectiveness because of the time it takes to influence the product mix (number of complying products) in the marketplace.

Another alternative is a voluntary approach through the Electronics Industries Association (EIA). The EIA has formed an ad hoc committee to develop a voluntary standard for CB omnidirectional base station antennas. However, the EIA committee has been unable to obtain the resources to conduct the research needed to develop a standard. In addition, it is unclear what the level of effectiveness of, or industry conformance with, a voluntary standard would be, and therefore we do not know what percent of the known antenna-related deaths could be prevented by an EIA standard that might be developed.

Under the Consumer Product Safety Act, CPSC may develop a proposed consumer product safety standard in the following ways: (1) We may invite people or organizations outside the Commission to develop a recommended standard (those who submit such offers are referred to as "offerors" and the development of recommended standards in this manner is called the "offeror process"); (2) the Commission may invite people or organizations outside the Commission to submit to the Commission an existing standard which it could propose as a consumer product safety standard; (3) the Commission may publish an existing standard as a proposed consumer product safety standard; or (4) the Commission may develop the standard itself.

The standard under development is a performance standard, and is expected to apply to importers, as well as U.S. manufacturers.

In the case of the electrocution hazard associated with CB base station antennas, the Commission is not aware that any Federal department or agency or other qualified agency, organization, or institution has issued, adopted, or proposed any standard that would adequately reduce the risk and that the Commission could publish as a proposed standard. The Commission has determined that it would be more expeditious to develop this standard itself than for interested parties outside the Commission to develop the standard. The Commission started the proceeding by publishing an ANPRM in the **Federal Register** in September 1979.

Summary of Benefits

Sectors Affected: Users, installers, manufacturers, and importers of CB base station omnidirectional antennas.

The benefits from this proceeding are related to the injury and death information we cited in "Statement of Problem." The staff estimates that the standard could prevent many of the deaths associated with outdoor communications antennas (all outdoor antennas) by addressing omnidirectional (reception and transmission essentially uniform in all directions) CB antennas only.

In addition to the reduction in deaths associated with the standard, we anticipate that the § 27(e) rule will reduce other deaths: (a) some deaths that would otherwise be associated with antennas manufactured between October 1978, the effective date of the § 27(e) rule, and the date when the new standard will take effect; (b) some deaths otherwise associated with antennas or voltages that the standard will not cover; and (c) some deaths where contact would be between the power line and the mast or other support structures, rather than the antenna itself.

Certain provisions of the standard may also benefit consumers in the form of increased useful life of the product.

Manufacturers and importers of these antenna may also benefit from a decrease in product liability suits to the extent the standard reduces accidents.

Summary of Costs

Sectors Affected: Manufacturing, importers, wholesale and retail trade; and purchasers of CB base station omnidirectional antennas.

The CPSC staff estimates that the average price of CB antennas will probably increase as a result of the standard; however, we cannot supply precise estimated figures at this time because the costs are dependent upon the requirements to be developed.

We anticipate that manufacturers may meet the standard by coating or covering the antenna with a nonconductive material, by constructing antennas of a nonconductive material with an embedded conductor, or by electrically separating the antenna from the antenna mast or antenna support structure by a nonconductive material.

Current retail prices for omnidirectional CB antennas range from $20.00 to over $150.00. The price of some antenna may not increase at all because of the standard. Some manufacturers have claimed that, depending on provisions of the standard, price increases for some antennas may range up to 50 percent or more. Certain producers, particularly the smaller companies in the industry, may leave the omnidirectional CB antenna market if they cannot develop the capability to produce complying antennas at a reasonable cost.

Related Regulations and Actions

Internal: "CB Base Station Antennas, TV Antennas and Supporting Structures: Warning and Instructions Requirements," 16 CFR 1402, 43 FR 28392.

External: Electronics Industry Association (EIA) development of a Voluntary Standard for CB Antennas.

Active Government Collaboration

We encourage Federal agencies and State governments to participate in developing the standard by submitting comments.

Timetable

NPRM—April 30, 1981.
Public Comment Period—May and June 1981.
Final Rule—October 30, 1981.
Regulatory Analysis—the Commission, as an independent agency, is not required to prepare a Regulatory Analysis as defined under E.O. 12044. However, the Commission prepares essentially the same information in its rulemaking proceedings.

Available Documents

Comments from public meeting held November 17, 1980, in Washington, DC.

"CPSC Staff Briefing Packages," dated January 23, 1979 and August 1, 1979.

ANPRM—"Omnidirectional Citizens Band Base Station Antennas—Proceeding to Develop a Consumer Product Safety Standard by the Commission," 44 FR 53676, September 14, 1979.

"Accident Factors Relevant to the Development of A Safety Standard for Omnidirectional Citizens Band Base Station Antennas," June, 1980.

"Research and Technical Service for Safety Standard Development for CB Based Station Antennas Final Report," June, 1980.

These documents are available from the Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, DC 20207.

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CPSC

Safety Requirements for Chain Saws

Legal Authority

Consumer Product Safety Act, 15 U.S.C. § 2051, *et seq.*

Reason for Including This Entry

The Commission estimates that there were over 100,000 chain saw injuries requiring medical attention in 1979, an increase from an estimated 77,000 injuries in 1976. This rulemaking proceeding aims to reduce these injuries and is of public interest to those concerned about consumer safety and well being.

Statement of Problem

In recent years, the increased use of wood-burning stoves and fireplaces in this country has brought about the increased use of chain saws by consumers. It is estimated that industry shipped 3.8 million professional and home use chain saws for sale in 1979, compared to 2.3 million in 1976. Unfortunately, the increase in the use of chain saws has been accompanied by an increase in injuries associated with them. The Commission estimates that there were over 100,000 chain saw injuries requiring medical attention in 1979, which is up from an estimated 77,000 injuries in 1976. It further estimates that about 23 percent of the injuries associated with chain saws resulted from a phenomenon known as "kickback." The other injuries result from contact with the chain in motion or when stopped from loss of control of the saw or of balance of the operator, from the saw bouncing, from following through after the cut, or from falling material.

Kickback is the sudden and potentially violent rearward and/or upward movement of the chain saw that can be caused by sudden interference with the movement of the chain. This interference can be caused by the chain binding in the cut, by the chain hitting an unusually hard portion or obstruction in the wood being cut, or by the chain striking the wood or another object on the top quadrant of the tip of the bar. This interference with the movement of the chain transfers the energy that is driving the chain into a movement of the entire saw, causing the bar tip to move back and/or up so fast that the operator may be struck by the moving chain, frequently in the face, neck, or throat area.

Manufacturers have developed a number of devices in attempts to reduce the risk of kickback occurring or to reduce the likelihood of injury if it occurs. One way to help prevent kickback is to provide a guard to cover the chain at the upper quadrant of the tip of the blade, thereby preventing contact with the chain in this area. Another way is to provide a chain brake intended to stop the chain before contact with the operator can occur. The chain brake is generally operated by contact of the operator's hand with a hand guard as the saw moves back, although some types of chain brakes are automatic and do not depend upon the user's hand. These automatic brakes are actuated by an inertial sensing device. A hand guard alone can also provide significant protection against kickback and other injuries. Manufacturers have also designed "low-kick" guide bars and chains which are intended to reduce the energy generated when the chain at the bar tip contacts an object.

By a letter dated March 21, 1977, John Purtle, Esq., of Batesville, Arkansas, petitioned the Commission (Petition CP 77-10) to begin proceedings under § 7 of the Consumer Product Safety Act (CPSA) to develop a mandatory consumer product safety standard to "minimize and prevent chain saw kickback." Mr. Purtle suggested that every chain saw incorporate a safety device such as ". . . a chain saw brake, a nose-tip guard, a kill switch or other safety device."

Alternatives Under Consideration

While the Commission's staff was evaluating this petition in 1977, the Chain Saw Manufacturers Association (CSMA) met with the staff. CSMA recommended that the petition be denied on the grounds that a mandatory standard was not needed because the industry was taking significant voluntary steps to address the chain saw kickback hazard. CSMA estimated that 50 to 60 percent of the saws being sold at that time already contained some type of kickback protection. The industry expected the American National Standards Institute (ANSI) to approve an interim design standard by February 1978. The interim voluntary design standard (ANSI B 175.1, published in April 1980), would require gasoline chain saws to incorporate such protection as a nose-tip guard, a chain brake, a low kick chain, or a low kick guide bar. The technology to define kickback in terms of a performance standard did not exist, but CSMA estimated at that meeting that a test method could be developed and performance requirements drafted in approximately 2½ years.

In December 1977, CSMA proposed a joint 18-month effort with the Commission to develop a voluntary performance standard. The Commission directed the staff to study the proposal to determine whether it provided an acceptable approach. In March 1978, the staff recommended the voluntary effort as the most expeditious and cost effective strategy for reducing chain saw kickback injuries.

Subsequently, the Commission denied the petition to establish a mandatory standard (43 FR 26103, June 16, 1978) and in June 1978, formally agreed to participate with CSMA in a joint effort to develop a voluntary performance standard to reduce chain saw kickback injuries. The joint process involved the active participation of consumer, industry, and government representatives in the development of testing equipment and procedures, study of operator interaction with the saw, and analysis of injury data. The agreement specified that work on the standard was to be completed by December 31, 1979.

On December 21, 1979, CSMA submitted to the Commission draft performance requirements for chain saws and backup documentation. CSMA considered the draft to be both "a final standard and rationale" containing sufficient information for CPSC to write a supportable performance standard proposal, although additional work on correlation between the standard and rationale was needed.

The draft standard submitted by CSMA calls for using a specified test apparatus to measure the maximum energy generated at the tip of the chain bar at the initial moment of kickback. A computer model then translates the maximum energy measurement into the angle that the saw would rotate toward an operator. In making this translation, the model uses (1) the energy measurement, (2) information describing key characteristics of the saw being tested, (3) an equation for converting the measured energy into horizontal, vertical, and rotational energy, and (4) formulas intended to describe the influence of the operator's hands on the handle during kickback. The result is a

"Derived Angle of Rotation," which is compared to acceptance criteria to determine whether the saw meets or fails the requirements.

The staff's evaluation of CSMA draft standard and rationale has left serious doubts that the standard as submitted would reduce injuries associated with chain saws. Staff identified the following specific deficiencies:

1. The portion of the computer model that attempts to account for the action of the operator's hands on the saw is based on an unproved equation. Furthermore, the study did not establish that the hand-held tests that were performed by CSMA related to the situation where kickback occurs with an unsuspecting user.

2. The lack of a method to determine the angle at which the chain would stop, and the inability of the model to predict the angle at which the chain stops, prevent use of the acceptance criteria applicable to chain brakes.

3. There is no analysis of the sensitivity of the computer model to variations in input data.

4. The draft standard would apply only to saws with an engine displacement of 3 cubic inches (CID) and less, whereas the Commission has data indicating that saws up to 4.5 CID are used regularly by consumers.

These deficiencies, and the failure of CSMA to perform the development process in the manner specified in the agreement with the CPSC, caused the Commission to conclude preliminarily that it cannot rely on the voluntary process being conducted by CSMA to adequately protect the public from the risk of injury associated with the kickback of chain saws. Furthermore, the Commission preliminarily concludes that the risk of kickback injuries associated with chain saws is unreasonable and that a consumer product safety standard is necessary to reduce or eliminate this unreasonable risk.

In starting the effort to develop a standard addressing chain saw kickback, the Commission expects the standard to apply to both gasoline-powered and electric chain saws. The standard that we develop could be a performance standard that would, for example, specify allowable levels of kickback energy or allowable kickback angles under specified test conditions. However, if the Commission concludes that a performance standard is not feasible, the standard could require the incorporation of specified design features to reduce the risk of kickback injuries. Or, the standard might incorporate both design and performance requirements. In addition, we have not determined whether the standard should apply only to the assembled chain saw; only to components of the saw such as saw chain, or both; or whether replacement parts such as saw chains should be subject to requirements of the standard. These questions will be considered by the Commission during the development of the standard. For the time being, however, where the term "chain saw" is used in this regulatory development it also refers to the components and replacement parts of chain saws.

In the case of the kickback hazard associated with chain saws, the Commission is not now aware of any standard issued, adopted, or proposed by any Federal department or agency or by any other qualified agency, organization, or institution that could be published as a proposed standard by the Commission. CPSC is undertaking further analysis of foreign standards.

The voluntary standard presently in effect in the United States (ANSI B 175.1, Safety Specification for Gasoline Powered Chain Saws, published in April 1980), while requiring at least some features designed to reduce the hazard, does not go far enough and still permits the marketing of consumer chain saws which present an unreasonable risk of injury. ANSI is developing a similar standard, ANSI B 175.2, for electric chain saws. There are also a number of standards in effect in foreign countries that may be effective in reducing the unreasonable risks of kickback, but the requirements of these standards have not been developed or analyzed to the point that we could propose them as a consumer product safety standard at this time.

If a valid voluntary standard applicable to a sufficent number of consumer saws is developed and implemented in the future, the Commission could reconsider the need to continue the development of a mandatory standard at that time.

Summary of Benefits

Sectors Affected: Users of chain saws, especially working-age males and their dependents.

The benefits we expect from this proceeding are improved public health and safety through the prevention of accidents and injuries associated with chain saws. We estimate that over 100,000 injuries occur annually requiring medical treatment. There are also an increasing number of deaths associated with this product.

The purpose of these proceedings would be to reduce injuries and deaths and the costs associated with them. These costs can be considerable.

For example, assuming kickback injuries are a fairly constant proportion of total chain saw injuries, the Commission estimates that the cost (in 1978 dollars) of chain saw kickback injuries, not including pain and suffering, was $12 million in 1976, $17 million in 1977, $22 million in 1978, and $24 million in 1979. We estimate injury costs (in 1978 dollars), including pain and suffering, at $28 million in 1976, $40 million in 1977, $51 million in 1978, and $54 million in 1979. These cost estimates include hospital cost, follow-up medical treatment costs, foregone earnings, health insurance costs, product liability insurance, litigation cost, transportation cost, and patients' visitors' foregone earnings and transportation costs.

A reduction in any of these costs would be a sizable benefit to the accident victims and their families.

Summary of Costs

Sectors Affected: Professionals who use consumer chain saws; and manufacturing of consumer chain saws.

Professional users of consumer chain saws may find that low kick bar and chain safety requirements may decrease cutting speed of the saws. They may also find saws with chain brakes more expensive and heavier. Increased cost for a chain saw could be up to $10.00, or less than 10 percent of the total cost of the saw, depending on the requirements of the final standard and the changes needed to comply with it.

Economic costs of these safety requirements for manufacturers, suppliers, and purchasers would be minimal and would depend in part on the need to retool and redesign to comply with the standard. Many manufacturers now offer chain brakes and chain guards as options. Additional cost would also vary depending on whether or not specific parts suppliers have already retooled for options now available.

Related Regulations and Action

Internal: None.

External: In spring 1980, the State of Washington proposed safety standards for chain saws including requirements for chain brakes and low kick chains. The U.S. Environmental Protection Agency is considering the need for requirements for chain saws as part of its noise abatement program.

Active Government Collaboration

The National Bureau of Standards (NBS) of the Department of Commerce has provided some technical analysis concerning the Commission's safety activities on chain saws. We will ask NBS to continue to do so in this regulatory development.

Timetable

NPRM—To be determined.
Public Hearing—To be determined.
Public Comment Period—To be determined.
Regulatory Analysis—The Commission, as an independent agency, is not required to prepare a Regulatory Analysis as defined under E.O. 12044. However, the Commission prepares essentially the same information as a part of its rulemaking proceedings.
Final Rule—To be determined.
Final Rule Effective—To be determined.

Available Documents

Notice of Intent to Develop Standard for Chain Saws, 45 FR 62392, September 19, 1980.

"CPSC Staff Briefing Packages," dated November 1977, March 1978, and April 15 and May 28, 1980, are available from the Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, DC 20207.

Denial of Petition from John Purtle, 43 FR 26103, June 16, 1978.

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CPSC

Upholstered Furniture Cigarette Flammability Standard

Legal Authority

Flammable Fabrics Act, § 4, 25 U.S.C. § 1193.

Reason for Including This Entry

One of the major causes of deaths, injuries, and property damage in the United States each year is from fires in upholstered furniture started by burning cigarettes. Appropriate action is needed to reduce this death and injury toll.

A mandatory upholstered furniture cigarette flammability standard could increase costs for upholstered furniture manufacturers, distributors, and retailers, and increase prices for purchasers.

Statement of Problem

The staff of the Consumer Product Safety Commission (CPSC) estimates that 45,000 upholstered furniture fires occur each year in residences in the United States, 30,000 of which are associated with cigarettes. Our current estimates indicate that 5,000 injuries and 1,600 deaths occur annually because of those fires. Cigarette-ignition of residential upholstered furniture causes 3,700 of the injuries and 1,300 of the deaths. Among other actions, the Commission is considering a cigarette-ignition resistant flammability standard for upholstered furniture to reduce the number of injuries and deaths.

The Commission staff estimates that property damage resulting from cigarette ignition of upholstered furniture runs more than $100 million (in 1978 dollars) annually. The losses of life are difficult to express in economic terms, especially since the Commission does not endorse monetary estimates of the value of human life. The CPSC staff has used a figure of $1 million per life for illustrative purposes only. This figure is within the range of estimates that are associated with studies of the "statistical value of life." The "statistical value of life" is derived from observations and inferences of how much people are willing to pay to reduce the risk of death. The willingness to pay can also be derived from compensating wage differentials for life-threatening jobs. Literature dating back over the past 20 years provides much of the foundation for the statistical value of life cited here. The annual cost of lives lost, therefore, could be about $1.3 billion. The staff has also estimated $40 million for annual injuries, exclusive of pain and suffering. A rough estimate of the annual losses associated with cigarette ignition of upholstered furniture, thus, exceeds $1.4 billion.

Alternatives Under Consideration

The major alternative to a mandatory standard is the Upholstered Furniture Action Council's (UFAC) Voluntary Action Program. UFAC believes that manufacturers who agree to build furniture according to the provisions of the UFAC program will produce furniture that can resist ignition by cigarettes. This program provides for the classification of upholstered fabrics into two categories based on their performance in a cigarette-ignition test that UFAC developed. For furniture containing the more cigarette-ignition-resistant Class I fabrics, this voluntary program requires elimination of ignition-prone welt cord (heavy yarn enclosed by fabric around the edges of furniture cushions) and untreated cotton beneath the decking fabric (the material on which a loose seat cushion rests) and in immediate contact with the covering of inside vertical furniture walls. The requirements for furniture containing Class II fabrics are the same as for Class I, with the addition that furniture using Class II fabrics must also avoid contact between conventional polyurethane foam cushions and horizontal seating surfaces. The UFAC voluntary program provides test methods to determine acceptable filling materials (such as treated cotton batting, polyester batting, etc.) for use in furniture.

Tests carried out by CPSC and UFAC during 1979 indicated that the UFAC Voluntary Action Program had a strong potential for significantly increasing the safety (cigarette ignition resistance) of upholstered furniture. Therefore, the program might substantially reduce the annual loss of life, injuries, and property damage attributed to cigarette ignition of upholstered furniture, and the economic losses calculated above. Late in 1979, the Commission voted to defer any regulatory action on the flammability of upholstered furniture for 1 year in order to determine the effectiveness of UFAC's voluntary program in reducing the ignition of upholstered furniture by cigarettes. This 1-year evaluation is now in progress.

If the industry's voluntary program is not effective, CPSC will consider proposing a mandatory performance standard which is now in draft form. Under this draft proposed mandatory standard, firms would test upholstery fabrics and place them into one of four classes—"A" through "D"—on the basis of their resistance to ignition from cigarettes burned on the fabric. Fabric manufacturers would label fabrics according to these classes to show their flammability classification.

Furniture manufacturers would determine furniture constructions suitable for use with the fabric classes by testing mockups of the furniture to demonstrate their resistance to cigarette ignition. The standard would require annual testing, and permit manufacturers to use only the combinations of fabric and filling material that did not ignite when the applicable mockup was tested.

Summary of Benefits

Sectors Affected: Users of upholstered furniture.

The benefits we expect from the proceeding are related to the injury and loss statistics we cite in "Statement of Problem." The staff estimates that the draft proposed mandatory standard could prevent more than 1,000 deaths, 3,000 injuries, and $96 million in property damage annually, which constitutes 86 percent of the losses. The Commission staff estimates that the annual benefits (calculated as discussed

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in "Statement of Problem") could be about $1.25 billion when all upholstered furniture is manufactured in compliance with the standard. However, benefits attributable to the standard might be lower than this to the extent that more cigarette-ignition-resistant furniture is produced before the standard goes into effect, such as may result from the UFAC Voluntary Action Program discussed above. The Commission staff will assess this factor before the Commission decides whether to propose the standard.

Other benefits that may be related to the cigarette-ignition standard are a reduction in losses associated with pain and suffering from burn injuries, a possible reduction in losses due to ignition sources other than cigarettes, and a possible increase in the durability of upholstered furniture fabrics as thermoplastics replace cellulosic fibers.

Summary of Costs

Sectors Affected: Upholstered furniture manufacturing; textile mill products manufacturing (particularly cotton and other cellulosic fibers); upholsterers of used furniture for resale; and wholesale and retail trade, and users of upholstered furniture.

In 1978, the CPSC staff estimated that the annual retail cost increase to the consuming public as a result of the mandatory standard which it is considering would range from $114 to $174 million (in 1978 dollars).

The staff estimates that the average manufacturing cost (in 1978 dollars) increases would range from $1.75 to $2.65 per piece ($3.50 to $5.30 retail price increase) for chairs and from $3.30 to $5.00 per piece ($6.60 to $10.00 retail price increase) for sofas.

The CPSC staff estimates that the possible increases in manufacturing cost (in 1978 dollars) that result from the standard would range from $57 to $87 million in the first year that all provisions of the standard are in effect. The projected increase consists of anticipated costs of $8–$11 million for fabric classification testing; $8 million for costs of mockup testing; $18 to $33 million for use of filling material with greater resistance to cigarette ignition; $12 to $17 million for smolder-resistant backcoating of 50 percent of the Class D fabrics, which are the least smolder-resistant fabrics that the fabric classification test reveals; $8 to $11 million for the use of foil barriers on 10 percent of the furniture pieces that are covered with Class D fabrics; and $3 to $5 million for required recordkeeping.

Consumers may find fewer types of upholstery fabrics available. The Commission staff expects heavier fabrics, such as damasks, jacquards, and velvets that are made from cotton and rayon to require more extensive and costly treatment under the standard. CPSC staff expects the early response to be a shift by the furniture industry away from these fabrics to fabrics made from thermoplastic fibers, such as nylon, polyester, or olefin. If the Commission issues the standard, we estimate that the furniture industry may not use 10 to 14 percent of currently available fabrics.

The Commission staff expects that the standard would result in relatively greater cost increases for the smaller furniture producers (who make up about 50 percent of all producers) than for larger producers; smaller producers would face higher furniture mockup testing costs as a percentage of sales. These costs may represent about 2 percent of the total value of shipments for firms with less than $250,000 in annual sales. Firms with about $2 million in annual sales are expected to face costs for mockup testing totaling about .3 percent of their value of shipments. Firms with annual sales of about $7 million can expect to have mockup testing costs of only .1 percent of their value of shipments. This disparate effect on smaller firms may be made worse to the extent that these firms produce furniture covered with fabric supplied by the customer, which is more likely to be Class D fabric. The requirement for Class D mockup tests would substantially increase the price of such special order items. The Commission believes that smaller furniture manufacturers are more likely than larger ones to produce furniture with a customer's own material.

Small fabric producers, like small furniture producers, can expect to face higher testing costs as a percentage of sales than larger fabric producers. In addition, these firms are more likely to produce cotton or other cellulosic fabrics that would be expected to decline in demand as an early response to the standard. Conversion by these firms to greater use of thermoplastic fibers may be difficult. Capital expenditure to alter machinery may be necessary. Furthermore, these changes would place these firms in more direct competition with the larger firms that now produce thermoplastic fabrics.

Changes in filling materials used under the standard may affect suppliers of polyester fiberfill and urethane foam cushioning who are likely to face a reduction in demand by the furniture industry. Others, such as producers of cotton batting, are likely to face a reduction in demand by the furniture industry. The extent of the reduction in demand for certain filling materials, as well as for cellulosic fabrics, will largely depend on the result of research now underway into smolder-retardant treatment methods for materials which are flammable.

The Commission staff will review the estimated costs of compliance with the standard before the Commission decides whether to propose the rule, because the cigarette-ignition characteristics of materials used by the furniture industry have changed in recent years. Also, the change in materials used as a result of compliance with the UFAC Voluntary Action Program may alter the costs of compliance with the mandatory standard. We may also make some revisions to our 1978 costs estimates as the result of comments submitted by the industry and other information that has come to the staff's attention.

Related Regulations and Actions

Internal: None.

External: The State of California has flammability regulations, parts of which the CPSC standard may preempt. Other States may have similar regulations.

Active Government Collaboration

The National Bureau of Standards of the Department of Commerce developed the technical basis for the standard.

Timetable

ANPRM—To be determined.
NPRM—To be determined.
Regulatory Analysis—The Commission, as an independent agency, is not required to prepare a Regulatory Analysis as defined under E.O. 12044. However, the Commission prepares essentially the same information in its rulemaking proceedings.
Public Hearing—To be determined.
Public Comment Period—To be determined.
Final Rule—To be determined.
Final Rule Effective—To be determined.

Available Documents

"CPSC Staff Briefing Packages," November 15, 1978 and September 27, 1979, and other applicable material related to upholstered furniture flammability are available from the Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, DC 20207.

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CPSC

Urea Formaldehyde Foam (UFF) Insulation

Legal Authority

Consumer Product Safety Act, 15 U.S.C. § 2051 *et seq.*

Reason for Including This Entry

This investigation is of great public interest because of possible adverse health and safety effects of urea formaldehyde foam (UFF) insulation. It is of special interest to consumers with homes containing the insulation, to consumers considering the purchase of it, and to those who manufacture, distribute, sell, and install it.

Statement of Problem

The Consumer Product Safety Commission (CPSC) is concerned about adverse safety and health effects that may be associated with UFF insulation. This type of home insulation, which is also referred to as urea-based foam insulation or foamed in-place insulation, is manufactured at the job-site. Workers drill holes in existing wall cavities and pump in the resin and a foam agent through pressurized hoses. There are an estimated 400,000 installations of UFF insulation. The Commission has received over 1,500 reports about adverse health effects that may be associated with the release of formaldehyde gas from UFF insulation. It has conducted over 400 in-depth injury investigations of the injury reports; over 25 percent of these injuries resulted in either a temporary or permanent period of dislocation of consumers from their homes. The in-depth investigations indicate that in some cases, consumers were hospitalized. The range of severity of reported reactions varies from short-term discomfort to greater impairment, such as the loss of visual acuity, and reduction in lung function.

Current information suggests that the most common reactions of consumers exposed to formaldehyde gas released from UFF insulation are: (1) eye, nose, and throat irritation; (2) coughing and shortness of breath; (3) skin irritation; (4) headaches and dizziness; and (5) nausea. Persons with respiratory problems or allergies, especially persons who are allergic to formaldehyde, can suffer more serious reactions.

In addition to the above effects current information indicates that formaldehyde is a strong sensitizer, so that exposed individuals may experience progressively more severe reactions to formaldehyde at increasingly low levels of exposure. Sensitized individuals may find it increasingly difficult to stay in their homes. In some cases, the individual's sensitization to formaldehyde is so severe that after leaving the home, the consumer may be adversely affected by exposure to even very low levels of formaldehyde from other sources. Since there are many sources of formaldehyde exposure, complete avoidance of this exposure may be nearly impossible.

Although some consumers' reactions to formaldehyde may be so severe that they seek medical attention, many others may experience a less specific but persistent discomfort that may be mistaken for a cold, allergy, or general rundown feeling.

In addition to the potential adverse safety and health effects described above, based on the acute toxic and sensitization aspects of formaldehyde, interested persons should be aware of the following informaiton concerning the possible carcinogenic potential of formaldehyde. Preliminary test results from the Chemical Industry Institute of Toxicology (CIIT), a scientific organization supported by 36 U.S. chemical corporations, show that rats exposed to formaldehyde gas (15 parts per million (ppm)) developed squamous cell carcinomas of the nose beginning after 12 months of exposure. Rats exposed to lower concentrations of formaldehyde and mice exposed to 15 ppm have not developed tumors to date. The Commission has, under the auspices of the National Toxicology Program, convened a panel of scientists from within the Federal Government. This panel will help assess the human health implications of this study and the health implications of exposure to formaldehyde. The findings of the panel are expected in November 1980.

Information currently available to the Commission indicates that the potential for UFF insulation to release formaldehyde may be dependent on the following factors: (a) quality of ingredients in the insulation; (b) age or shelf life of ingredients; (c) viscosities of ingredients; (d) ratios of ingredients; (e) temperatures at which foaming occurs; and (f) mixing of ingredients. Additional factors that may increase the likelihood of liberating formaldehyde are: (a) excess formaldehyde in the resin; (b) excess catalyst in the foaming agent; (c) excess foaming agent; (d) improper ratio of resin to foaming agent; (e) foaming at high humidities; (f) foaming with cold chemicals; (g) dry density of foam exceeding the manufacturer's specifications; (h) application against recommended practice; and (i) improper use or lack of vapor barriers.

After the UFF insulation is in place it may begin to release formaldehyde, either immediately or after a delay, and may continue to release formaldehyde indefinitely. Available information indicates that heat and humidity may increase formaldehyde emissions. Because of these factors, the Commission believes that some consumers may insulate their homes in the winter months and not experience adverse health and safety effects until the summer months.

Formaldehyde is also an ingredient in many different consumer products, including textiles, paper, and wood products.

American industry produces an estimated 6.5 billion pounds of formaldehyde annually with about half of the annual production going into wood products such as plywood, fiber board, and particleboard. Manufacturers of these products combine formaldehyde with urea or phenol to create an inexpensive, effective binding agent.

Alternatives Under Consideration

At the present time the Commission is continuing to gather and assess epidemiological, technical, and economic information concerning UFF insulation.

On October 20, 1976, the Metropolitan Denver District Attorneys' Consumer Office filed a petition under § 10 of the Consumer Product Safety Act (CPSA) 15 U.S.C. § 2059, requesting the Commission to develop a safety standard under § 7 of the CPSA, 15 U.S.C. § 2065, for certain types of home insulation products, including UFF insulation. The petitioner claimed that there is an unreasonable risk of injury of irritation and poisoning associated with UFF insulation. After considering information compiled by the Commission staff, on March 5, 1979, the Commission decided to defer a decision on the parts of the petition that dealt with UFF insulation and instructed the Commission staff to evaluate additional information on possible means of addressing this alleged unreasonable risk of injury (44 FR 12080, March 5, 1979).

The Commission held public hearings concerning safety of formaldehyde gas from UFF insulation in Portland, Oregon, on December 13, 1979; in Atlanta, Georgia, on January 10, 1980; in Minneapolis, Minnesota, on February 5, 1980; and in Hartford, Connecticut, on February 26, 1980. The primary purpose of the hearings was to obtain additional information concerning health and safety problems that may be associated

with UFF insulation. The Commission is also considering information presented

(C) Under § 15 of the CPSA (15 U.S.C. § 2064), the Commission could

walls with an oil-base paint to keep formaldehyde gas out of the living areas

(1) The State of Massachusetts has

requiring the Commissioner of Health to

Commission, as an independent

with UFF insulation. The Commission is also considering information presented at the hearings about safety and health problems that may be associated with the release of formaldehyde from other consumer products.

In their decision on what regulatory actions, if any, should be taken for UFF insulation and other products containing urea formaldehyde, the CPSA Commissioners will consider the evaluation of additional information, including that obtained at the public hearings. This additional evaluation will allow a more comprehensive and thorough evaluation of the hazard of these products and the costs involved in the various actions that the Commission can take to address the problem.

The Commission has proposed a regulation under § 27(e) of the CPSA (15 U.S.C. § 2076(e)) that would require manufacturers of UFF insulation to provide prospective purchasers with performance and technical data concerning the release of formaldehyde from the product. Several industry commentors have questioned the basis and need for the proposed regulation. The Commission will evaluate and consider these comments before it decides whether to issue a final regulation. Staff plans to present a regulatory options paper to the Commissioners in the near future discussing the need for any additional regulatory action.

The Commission has the authority to take the following regulatory actions, where appropriate, concerning adverse safety and health problems that may be associated with UFF insulation:

(A) Under §§ 7 and 9 of the CPSA (15 U.S.C. §§ 2056, 2058), the Commission could issue a consumer product safety standard for UFF insulation. Such a standard could include requirements concerning the performance, composition, finish, or packaging of the product, or requirements that the product be marked with or accompanied by clear and adequate warnings or instructions. Before issuing such a standard, the Commission must find that the rule is reasonably necessary to eliminate or reduce an unreasonable risk of injury and that issuance of the rule is in the public interest.

(B) Under §§ 8 and 9 of the CPSA (15 U.S.C. § 2057), the Commission could issue a ban of UFF insulation. In addition to finding that the ban is reasonably necessary to eliminate or reduce an unreasonable risk of injury and is in the public interest, the Commission must also find that no feasible standard would adequately protect the public.

(C) Under § 15 of the CPSA (15 U.S.C. § 2064), the Commission could determine that UFF insulation presents a substantial product hazard. After making such a determination, the Commission could order manufacturers, distributors, or retailers of the product to either repair the defect, replace the product with a product that does not contain the defect, or refund the purchase price of the product.

(D) Under § 2(q)(1)(B) of the Federal Hazardous Substances Act (FHSA) (15 U.S.C. § 1261 *et seq.*), the Commission could classify UF foam insulation as a banned hazardous substance. Such a classification would be based on a finding that, notwithstanding cautionary labeling that the Commission may require for the product, the degree or nature of the hazard caused by the presence or use of the product in households is such that the protection of the public health and safety can be adequately accepted only by keeping the product out of the channels of interstate commerce.

Summary of Benefits

Sectors Affected: Consumers of UFF insulation, especially persons with respiratory problems and allergies and those sensitized to formaldehyde; and manufacturers, wholesale and retail traders, and installers of UFF insulation.

The benefits we expect from this proceeding are improved public health and safety resulting from the reduction of consumer exposure to formaldehyde released from UFF insulation.

The Commission staff estimates that as many as 71,000 homes may have been insulated with UFF insulation in 1979. UFF insulation is pumped into the walls of a home in a shaving-cream-like foam and hardens in place, once inside the wall. This insulation has been primarily used to retrofit existing homes, since the insulation can be pumped through relatively small holes in the walls of standing structures. The Commission staff believes that there are substitutes for most, but not all, uses of UFF insulation. Each of the UFF-insulated homes is a potential source of formaldehyde exposure. The Commission is not aware of a practical solution that has been demonstrated to be effective in all instances to the problem of released formaldehyde gas from UFF insulation. Some of the remedial measures that have been suggested by industry representatives include ventilation by opening windows and doors and turning on air conditioners, the use of ammonia or other chemicals to neutralize formaldehyde gas, painting interior walls with an oil-base paint to keep formaldehyde gas out of the living areas of the home, and the use of chemically treated air filters to absorb formaldehyde gas. These remedies have not been successful in all cases. In some instances, persons have successfully eliminated problems by removing the UFF insulation after it has hardened. However, since this remedy requires removal of the interior walls of the home, it can be a very expensive solution. The Commission has also received reports that in some instances, formaldehyde gas problems have continued even after the UF foam insulation has been removed.

A written notice to consumers providing performance and technical data describing possible effects of formaldehyde gas released from UFF insulation would give all prospective purchasers more information to decide whether they should buy the product. If consumers who are more likely to have adverse reactions to formaldehyde would refrain from purchasing UFF, this could reduce the total medical and non-medical costs attributable to formaldehyde emissions from UFF installations, without greatly reducing the demand for the product. Also, the firms may realize a decrease in the number of complaints, costs of remedial measures to correct installations involving complaints, law suits involving adverse health effects, and unfavorable publicity.

Summary of Costs

Sectors Affected: Manufacturers, wholesale and retail traders, installers, and consumers of UFF insulation.

The major economic impact of a notification requirement on the UFF insulation industry would be a possible reduction in the number of installations. It is difficult to project the decrease in the number of installations that may result from a rule requiring notification of possible adverse health effects, since they would depend on factors such as: (1) previous State and local actions; (2) previous public awareness of the possible effects of formaldehyde emissions; (3) the wording of the notice; (4) consumers' expectations of savings in costs to heat and cool their homes as a result of this UFF installation; and (5) the availability and cost of alternative insulations.

Related Regulations and Actions

Internal: None.

External: The Commission is aware of the following actions take by the State and Federal agencies concerning UFF insulation.

(1) The State of Massachusetts has declared UFF insulation to be a banned hazardous substance and has required the removal of the UFF insulation from commerce in that State (105 CMR: Department of Public Health 650.020). The Massachusetts ban became effective November 14, 1979. The Massachusetts regulations are currently in litigation, although the ban itself is in effect during this litigation. Also, the State proposed repurchase provisions in July 1980. This would entitle homeowners who have had their homes insulated with UFF insulation to have the foam removed from their homes at the manufacturers' expense if at least one occupant of the structure has suffered adverse health effects which occurred or were aggravated after exposure to the UFF insulation.

(2) The Attorney General's Office of the State of Connecticut has entered an agreement with nine members of the UFF insulation industry to resolve complaints concerning adverse physical effects associated with UFF insulation. The Connecticut agreement also requires manufacturers to provide prospective purchasers with a notice concerning possible adverse health effects associated with UFF insulation. On January 1, 1980, the Connecticut Department of Consumer Protection proposed a regulation to require a health warning in all UFF insulation contracts from all manufacturers.

(3) The Office of the Attorney General of the State of Colorado has issued a warning about potential health hazards to consumers who have purchased UFF insulation. Denver County has adopted a prohibition against the use of UFF in new or existing construction. The Colorado Board of Health held a hearing on UFF insulation on June 18, 1980 as to the advisability of either requiring labeling or banning the product. A member of the State Attorney General's Office testified in favor of an outright ban. The board decided to extend the comment period and proceed with a labeling rule.

(4) On December 18, 1979, the Virginia Department of Health issued a Health Hazard Alert on formaldehyde and UFF insulation.

(5) In several State legislatures, bills have been introduced to require a safety-related disclosure (Maryland), to ban or impose a moratorium on the sale of the product (Arizona, West Virginia, New Hampshire, Maryland), or to set performance requirements limiting formaldehyde emission (California).

In New York and Rhode Island, health-and-safety related disclosures were passed by the legislatures. In Minnesota, the legislature enacted a law requiring the Commissioner of Health to determine if the use of building materials that emit formaldehyde gas presents a significant health problem. On May 22, 1980, the Commissioner of Health declared that the use of building materials which give off formaldehyde vapor can be a "significant health problem" under certain circumstances. On June 23, 1980, the Commissioner of Health proposed a temporary rule which will establish a maximum limit of 0.5 parts per million (ppm) for the air inside newly constructed dwelling units.

(6) The U.S. Department of Housing and Urban Development (HUD) has issued a Use of Materials Bulletin (#74) that explains the conditions under which HUD will accept UFF insulation and stipulates certain limitations for its use.

(7) On September 25, 1980, the Department of Energy (DOE) issued material and installation standards for UFF insulation under the Residential Conservation Service (RCS) Program established by Title II, Part 1 of the National Energy Conservation Policy Act (NECPA), P. L. No. 96-619 (44 FR 75956).

Active Government Collaboration.

The Commission requested the National Academy of Sciences (NAS) to evaluate available information on the toxicity of formaldehyde and recommend a "tolerable" level, if one exists, for formaldehyde in the home environment. The Commission has received the NAS report and is currently studying the report results.

The Commission is also conducting research with the Department of Energy to help determine why formaldehyde gas is released from UFF insulation and whether there are means of preventing such release. The Commission has also received a completed economic study, conducted by a contractor, concerning the major uses of formaldehyde in consumer products, including UFF insulation. The study also provides an overview of the production of and market for formaldehyde.

The Commission staff has had meetings with the National Association of Urea Foam Insulation Manufacturers, the National Insulation Certification Institute, and the Formaldehyde Institute (including the National Particleboard Association and the Hardwood Plywood Manufacturers Association).

Timetable

Commission Decision on Regulatory Options—November 1980.
ANPRM—To be determined.
NPRM—To be determined.
Regulatory Analysis—The Commission, as an independent agency, is not required to prepare a Regulatory Analysis as defined under E.O. 12044. However, the Commission prepares essentially the same information in its rulemaking proceedings.
Public Hearings—To be determined.
Public Comment Period—To be determined.
Final Rule—To be determined.
Final Rule Effective—To be determined.

Available Documents

CPSC staff briefing packages dated November 2, 1979, April 23, 1980, and September 2, 1980 are available from the Office of the Secretary, U.S. Consumer Product Safety Commission, Washington, DC 20207.

"Public Hearings Concerning Safety and Health Problems that May Be Associated with Release of Formaldehyde Gas From Urea Formaldehyde (UF) Foam Insulation," 44 FR 69578, December 3, 1979.

"Urea-Formaldehyde Foam Insulation Proposed Notice to Purchasers," 45 FR 39434, June 10, 1980.

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FEDERAL ENERGY REGULATORY COMMISSION

Regulations Governing the Safety of All Water Power Projects and Project Works Licensed Under Part I of the Federal Power Act (18 CFR Part 12*)

Legal Authority

Federal Power Act, 16 U.S.C. § 792a *et seq.*

Reason for Including This Entry

Recent dam failures demonstrate a need for more stringent examination of the structural soundness of project works, and for the establishment of well-conceived plans to protect life and property if a dam is breached. The purpose of this rule is to reassess old and possibly outdated dam safety rules, as recommended by a Presidential review panel and other authorities, and revise them appropriately.

Statement of Problem

Under § 10(c) of the Federal Power Act, the licensee of any water power project within the jurisdiction of the Federal Energy Regulatory Commission

must comply with regulations that the Commission may prescribe "for the protection of life, health, and property."

On December 27, 1965, the Commission's predecessor agency, the Federal Power Commission (FPC), issued Order No. 315, establishing regulations under 18 CFR Part 12 for complete safety inspections of dams and other water-power projects by independent consultants at regular 5-year intervals, or more frequently if necessary. The inspection procedures the FPC established by Order No. 315 were designed to supplement routine prelicensing inspections supervised by an independent consultant. The FPC chose to apply the inspection requirements to only those licensed projects that have a dam exceeding 35 feet in height above the streambed, or projects with a gross storage capacity of more than 2,000 acre-feet.

These existing dam safety regulations provide only for the 5-year inspection of project structures and equipment, under the guidance of an independent consultant. The inspection provisions, including the consultant's report on the inspection, are general in nature. These regulations make no provision for procedures to be followed by the licensee in the event of an emergency, for warning or safety devices, for periodic testing of spillways, or for other measures that experience has shown to be important for protecting public safety.

This rulemaking accordingly revises these existing 18 CFR Part 12 dam inspection procedures and replaces them with new practices and procedures that encompass dam inspections by independent consultants and other procedures necessary to a successful dam safety program.

This rulemaking also expands the safety regulations to include any dam with a high-hazard potential, as defined by the Corps of Engineers, if the Commission's regional engineer determines that such a dam needs a consultant's inspection. The rulemaking is also intended to improve the quality and efficiency of the Commission's inspections, to improve guidance for the 5 year inspections, to increase use of the dam inspection career training plan, and to make other managerial improvements.

Alternatives Under Consideration

Among various alternatives under consideration are these: Should all dams be subject to the new rules, or only those exceeding a specific height or volume capacity? In addition to dams meeting the specified physical criteria, the Commission is inclined to apply the rule to other dams which may, for various reasons, have a high-hazard potential. Also under consideration is the cost, benefit, and desirability of a "damage reporting" requirement: for example, should licensees have to report heavy slides on their dikes? If so, within what time period and to which local, State, or Federal agencies? What other kinds of injuries or events might weaken the structure? Should they be reported also?

Summary of Benefits

Sectors Affected: State, municipal, and private hydroelectric power projects within the jurisdiction of the Commission with a gross storage capacity of more than 2,000 acre-feet, or which have a dam with a high-hazard potential or a dam which exceeds 35 feet in height above the streambed; employees at these projects and persons in surrounding communities; independent engineering consulting services; the Commission; and the general public, particularly users of hydroelectric power.

A more comprehensive dam safety program should result in increased public safety. It will help ensure a high degree of quality in the design, construction, and maintenance of water power projects by improving the quality and efficiency of the Commission's inspections. The rulemaking should help increase public confidence in dam safety, and further encourage the development of new hydroelectric projects and the maintenance of existing projects. Hydroelectric power is a reliable and renewable source of energy.

Summary of Costs

Sectors Affected: State, municipal, and private hydroelectric power projects which have potentially high-hazard dams.

The costs incurred under the proposed rulemaking should not be any greater for dams that are now subject to the existing 18 CFR Part 12 regulations. Dams that have never been subject to these regulations—namely, certain high-hazard dams—may incur an additional cost because of the requirement that outside consultants be used in assessing the structural safety of a facility.

Overall, the Commission believes that the proposed regulations should not appreciably increase the costs of dam safety.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Final Rule—December 1980.
Rehearing Decision—To be determined.
Regulatory Analysis—The FERC is an independent regulatory agency and is not required to prepare the Regulatory Analysis prescribed in E.O. 12044. However, the FERC performs essentially the same analysis for rules of major importance and includes the results in the orders issuing NPRMs and final rules.

Available Documents

Federal Dam Safety Report of the Office of Science and Technology Policy Independent Review Panel, Executive Office of the President, December 6, 1978. Copies of this document are available at the cost of reproduction from the Chief of Federal Dam Safety, Federal Emergency Management Agency, 909 Premier Building, 1725 I Street, N.W., Washington, DC 20472.

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NUCLEAR REGULATORY COMMISSION

Office of Standards Development

Decommissioning of Nuclear Facilities Regulation (10 CFR Parts 30*, 40*, 50*, and 70*)

Legal Authority

Atomic Energy Act of 1955, as amended, § 161, 42 U.S.C. § 2201.

Reason for Including This Entry

The Nuclear Regulatory Commission (NRC) thinks that this rule is important because the NRC expects it will eventually have an annual effect of $100 million or more on the economy.

Statement of Problem

Decommissioning is the removal or isolation of the radioactive contaminants from a nuclear facility so it can be released for unrestricted use. The purpose of this regulation is to specify requirements for planning and implementing decommissioning to reduce potential radiation hazards to both the public and workers at a facility after the end of its useful life. The regulation will clearly specify NRC requirements for the method, cleanup

criteria, schedule, and financial assurance of decommissioning actions.

Alternatives Under Consideration

The present regulatory approach leaves the choice of decommissioning method, schedule, and financial procedures to the licensee within a loose framework of regulatory criteria. The proposed regulatory approach will carefully specify the decommissioning procedures licensees must follow.

NRC is considering two major alternatives for the method of decommissioning. One is the removal of radioactive constituents by the licensee, allowing unrestricted use of the facility and site, after decommissioning. By unrestricted use, we mean the site is not limited by its previous nuclear use. The other alternative is the permanent isolation of the radioactive components on the site, where small portions of the site will have temporary limited access for public use (depending on radioactive decay times). For facility components that have long-lived radioactive materials (i.e., significant radioactivity for 100 years or more), the latter method is unacceptable, because their isolation cannot be adequately guaranteed. The regulation may provide for delays of varying lengths before decommissioning to allow for reduction of radiation exposure and decommissioning costs.

The advantages and disadvantages of the above two options are detailed and complex, and they are being developed as part of the Generic Environmental Impact Statement which we plan to prepare by January 1981.

The regulation will also consider various methods of paying for decommissioning. While it is generally acknowledged that those who benefit (the users of the power) should pay, the manner and timing of such payment is unclear. Requiring funds before NRC issues a license, while a facility is in operation, at the end of its life, or a combination of these are all viable alternatives.

Summary of Benefits

Sectors Affected: Workers in firms and facilities licensed by the NRC or by States having agreements with NRC to assume certain regulatory responsibilities for nuclear materials and facilities, including approximately 70 nuclear power plants and over 20,000 material licensees, such as firms manufacturing nuclear fuel and radiopharmaceutical supplies, and industries using radioisotopes; and the general public.

At the present time, NRC can characterize the benefits of the regulations only in a qualitative way. The NRC's systematic and encompassing regulations identify licensing requirements that will ensure the licensee accomplishes decommissioning safely. This will reduce the potential radiation hazards to both the public and occupationally exposed workers. NRC data for a study in progress indicate approximately 253,000 people are monitored.

The following are examples of regulatory particulars that are designed to provide the desired benefits:

(1) Clearly specified decommissioning requirements simplify planning and conduct of decommissioning activities and reduce the need for remedial actions to clean up sites that are found to have been inadequately decommissioned.

(2) NRC design requirements for new facilities that are directed toward facilitating eventual decommissioning can mitigate occupational radiation exposures associated with decommissioning, as well as reduce radiation exposures associated with routine facility operations.

Summary of Costs

Sector Affected: Firms and facilities licensed by the NRC or by States having agreements with NRC to assume certain regulatory responsibilities for nuclear materials and facilities, including approximately 70 nuclear power plants and more than 20,000 material licensees, such as firms manufacturing nuclear fuels and pharmaceutical supplies, and industries using radioisotopes; and users of electricity produced by nuclear power.

The estimated cost of decommissioning a single nuclear power reactor is approximately $40 million (in 1978 dollars). There are 70 such reactors now operating, and about 100 are under construction or being planned. None of the currently operating reactors is in need of decommissioning in the near future. Although this action would not change the existing responsibility of licensees to decommission, it could require immediate collections from electricity customers to accumulate decommissioning funds. These collections could amount to $2 million per year for each reactor, or a total amount of $140 million per year (in 1978 dollars). While the added cost to the consumer would depend on many factors, we estimate this cost to be relatively insignificant and on the order of a tenth of a mill (1/10 of a cent) per kilowatt-hour of electricity used. If NRC requires advance collection or surety bonding, rather than collection over the anticipated operating life of the facility, the economic impact will be to increase further the cost of the electricity that nuclear reactors produce. It is not likely that the change in the cost of electricity will affect the existence of any reactor-owning company. It is possible that additional financial assurance costs could drive smaller nuclear fuel cycle licensees, such as fuel fabricators or uranium mill operators, out of the nuclear business.

The costs of decommissioning and financial assurance for the more than 20,000 material licensees (e.g., radiopharmaceutical suppliers, industrial radioisotope users) are not well established at this time.

Related Regulations and Actions

Internal: NRC action regarding radioactive waste disposal.

External: Environmental Protection Agency standard under development for low-level radioactive residues in the environment.

The Federal Energy Regulatory Commission controls accounting methods and treatment of decommissioning costs by electrical wholesalers.

Internal Revenue Service rulings on tax treatment of funds collected for future decommissioning actions.

State Public Utility Commissions requirements for accumulation of funds for decommissioning.

State Legislatures' passage of laws requiring bonds or other surety for nuclear decommissioning.

Department of Energy program for decommissioning active facilities. (Under development—see Environmental Development Plan (EDP) Decontamination and Decommissioning, July 1978).

International Atomic Energy Agency decommissioning programs.

Active Government Collaboration

We are carrying on active liaison with the States, the Environmental Protection Agency, the Federal Energy Regulatory Commission, the Internal Revenue Service, the Department of Energy, and the International Atomic Energy Agency.

Timetable

Draft Environmental Impact Statement—November 1980.
Publish Policy Statement—May 1981.
NPRM—September 1981.
Public Hearing—To be determined.
Regulatory Analysis—Although no Regulatory Analysis is being prepared, the Draft Environmental Impact Statement will contain much of the same information.

Available Documents

Washington, D.C. 20555

Alternatives Under Consideration

Summary of Costs

NPRM (Procedural Requirement)—

Available Documents

NUREG–0436, Rev. 1, Supplement 1, "Plan for Reevaluation of NRC Policy of Decommissioning of Nuclear Facilities," dated August 1980.

NUREG–0278, "Technology, safety and Cost of Decommissioning of Reference Nuclear Fuel Reprocessing Plant," dated October 1977.

NUREG/CR–0130, "Technology, Safety and Costs of Decommissioning a Reference Pressurized Water Reactor Power Station," dated June 1978.

NUREG/CR–0130 (Addendum), "Technology, Safety and Costs of Decommissioning a Reference Pressurized Water Reactor Power Station," dated August 1979.

NUREG/CR–0131, "Decommissioning of Nuclear Facilities—An Annotated Bibliography," dated October 1978.

NUREG/CR–0129, "Technology, Safety and Costs of Decommissioning a Reference Small Mixed Oxide Fuel Fabrication Plant," February 1979.

NUREG/CR–0671, "Decommissioning Nuclear Facilities: A Review and Analysis of Current Regulations," dated August 1979.

NUREG/CR–0569, "Facilitation of Decommissioning of Light Water Reactors," dated December 1979.

NUREG–0590, Rev. 2, "Thoughts on Regulation Changes for Decommissioning," Draft Report, dated August 1980.

NUREG–0584, Rev. 1, "Assuring the Availability of Funds for Decommissioning Nuclear Facilities," Draft Report, December 1979.

NUREG/CR–0570, "Technology, Safety and Cost of Decommissioning a Reference Boiling Water Reactor Power Station," June 1980.

NUREG/CR–0672, "Technology, Safety and Costs of Decommissioning a Reference Low-Level Waste Burial Ground," June 1980.

NUREG/CR–1481, "Financing Strategies for Nuclear Power Plant Decommissioning," June 1980.

All of the above documents are available in the NRC Public Document Room CPDR at 1717 H Street, N.W., Washington, DC for inspection and copying. A charge of 8 cents per page is made for documents copied in the PDR. The NUREG documents are also available by writing to the National Technical Information Service, Springfield, VA 22161.

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NRC—OSD

Disposal of High-Level Radioactive Waste in Geologic Repositories Regulation (10 CFR Parts 2*, 19*, 20*, 30*, 40*, 51*, 60, and 70*)

Legal Authority

Energy Reorganization Act of 1974, §§ 202(3) and (4), 42 U.S.C. § 5842.

Reason for Including This Entry

The Nuclear Regulatory Commission (NRC) thinks that this rule should be included in the **Calendar** because it deals with an important health and safety issue which has great public interest.

Statement of Problem

The Energy Reorganization Act of 1974 gives NRC licensing and regulatory authority over facilities to be built and operated by the Department of Energy (DOE) for the permanent disposal of high-level radioactive wastes (HLW) that have been generated under activities licensed by the Commission or by Government programs. High-level radioactive wastes are the residue from reprocessing spent reactor fuel and spent fuel itself if it is to be disposed without reprocessing.

The intent of this regulation is to provide information to DOE and other interested parties on how the NRC plans to exercise its authority over DOE facilities to be used for the disposal of HLW in prepared cavities deep in the earth. (This method of waste diposal is commonly termed "geologic disposal," and the facility itself is called a "geologic repository.") No regulations or procedures currently exist which address the disposal of HLW.

Specifically, the regulation spells out the procedures DOE should follow in applying for an NRC license for geologic disposal of HLW and the procedures NRC should follow in reviewing that application. It will state the technical criteria the NRC will use in evaluating a DOE application, approving or disapproving a license, and inspecting the placement of the waste within the geologic repository. Specific topics addressed include the suitability of a site and the design and closure of a repository. During the licensing process, the NRC staff will be made available to discuss with representatives of both State and local government opportunities for participation.

Alternatives Under Consideration

This regulation addresses only geologic disposal of HLW. The NRC had considered promulgating a broad regulation to cover other methods which have been suggested for the disposal of HLW, such as placing the wastes on the ocean floor (seabed emplacement), or within a polar ice cap (icesheet disposal). However, neither of these methods appears to be within NRC's jurisdiction, and other potential methods (e.g., transmutation-alteration of the waste to decrease its radioactivity) do not appear to be technically developed yet to the point that rulemaking would be warranted.

The NRC had also considered whether to proceed with rulemaking at this time or to rely on its existing body of regulations in discharging its licensing responsibilities over the disposal of HLW. The NRC has decided to proceed with rulemaking because reliance on existing regulations would neither give proper perspective to the unique problem of geologic disposal of HLW, nor provide the guidance to both the DOE and the public which NRC believes to be necessary to an efficient and publicly accessible licensing process.

Summary of Benefits

Sectors Affected: Industries producing high-level radioactive waste, such as electric services using nuclear power; DOE (including HLW from its research and development, and military programs); State and local governments; and the general public.

Industry would be able to dispose of its high-level radioactive waste permanently in a DOE repository licensed under this regulation. State and local governments would be able to participate in the licensing process under the provisions of this regulation. This regulation would require NRC to make a finding of reasonable assurance that the high-level radioactive waste could be disposed of in a manner that would protect the public health and safety and the environment.

There is a great concern on behalf of the public, State governments, and the Congress that a "safe" method be found for the disposal of HLW. The type of regulation we are proposing should contribute to public confidence by providing an opportunity for public review and comment during the construction, operation, and closure of the repository. Another benefit is that the regulation will serve as a base from which DOE can plan and develop such a facility, hence saving both time and expense in the licensing process.

Summary of Costs

Sectors Affected: Industries producing high-level radioactive waste, such as electric services using nuclear power; DOE (including HLW from its research and development, and military programs); users of electricity produced by nuclear power; and NRC.

Estimated construction and operation costs for a geologic repository range from $1 billion to $5 billion (in 1978 dollars). Estimates of the impact on the cost of electricity production vary over a wide range, but are not expected to exceed one mill (1/10 of a cent) per kilowatt hour. As many as four repositories may be required to accommodate the HLW that the Government and commercial interests generate by the end of the century. Compliance with NRC's regulations are not expected to alter these costs.

The only costs to produce the regulation are the resources that NRC expends to develop, support, and issue it.

Related Regulations and Actions

Internal: This action is related to an NRC program to classify radioactive waste according to the degree of hazard it presents.

External: This action is related to the Environmental Protection Agency's criteria and standards being developed for the disposal of HLW.

Active Government Collaboration

We have active liaison with the Environmental Protection Agency, the United States Geological Survey, and the Department of Energy.

Timetable

NPRM (Technical Requirements)—December 1980.
Public Comment Period—60 days following publication of NPRM.
Public Hearing—To be determined.
Final Rule (Procedural Requirements)—December 1980.
Final Rule (Technical Requirements)—December 1981.
Regulatory Analysis—Not required, but similar material available in NPRM.

Available Documents

Commission Paper—SECY–79–366 (and agenda).

ANPRM, "Technical Criteria for Regulating Geologic Disposal of High-Level Radioactive Waste," 45 FR 31393, May 13, 1980.

Policy Statement—"Licensing Procedures for Geologic Repositories for High-Level Radioactive Wastes," 43 FR 53869, November 17, 1978.

NPRM (Procedural Requirement)—"Disposal of High-Level Radioactive Wastes in Geologic Repositories; Proposed Licensing Procedures," 44 FR 70408, December 6, 1978.

NUREG–0279—"Determination of Performance Criteria for High-Level Solidified Nuclear Waste," July 1977.

NUREG–0465—"A Classification System for Radioactive Waste Disposal—What Waste Goes Where?" June 1978.

All of the above documents are available in the NRC Public Document Room at 1717 H Street N.W., Washington, DC, for inspection and copying. A charge of 8 cents per page is made for documents copied in the PDR. The NUREG documents are also available for sale by writing the National Technical Information Service, Springfield, VA 22161.

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CHAPTER 5—HUMAN RESOURCES

ED–OCR
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ED–OESE
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HUD–FHA
Coinsurance for Private Mortgage Lenders (New Construction) 77902

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DOJ–CRD
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DOJ–OJARS–LEAA
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Sex Discrimination Guidelines—Employee Benefits 77910

DOL–LMSA–PWBP
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DOL–LMSA–PWBP
Individual Benefit Reporting and Recordkeeping for Multiple Employer Plans 77912

DOL–LMSA–PWBP
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CHAPTER 5—HUMAN RESOURCES—Continued

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DEPARTMENT OF EDUCATION

Office for Civil Rights

ED–OCR

Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Education, Effectuation of Title VI of the Civil Rights Act of 1964 (34 CFR 100, Subpart B*)

Legal Authority

Title VI of the Civil Rights Act of 1964, as amended; 42 U.S.C. § 2000d *et seq.*

Reason for Including This Entry

The Department of Education (ED) includes this entry because the proposed rules concern an issue of great public interest—the denial of equal educational opportunities to any student because of that student's limited understanding and use of the English language. The proposed rules would impose a significant increase in educational costs.

Statement of Problem

In these proposed rules, ED addresses one of the most serious barriers to equal opportunity in education. It proposes standards for teaching students whose primary language is not English and who do not understand or speak English well.

Past educational practices in the United States have resulted in denying many students with limited proficiency in English the equal educational opportunities to which they are legally entitled. Title VI of the Civil Rights Act of 1964 enacts a broad prohibition against discrimination in federally funded programs and provides a legal remedy for this situation.

Shortly after Title VI became law, the Department of Health, Education, and Welfare (HEW) promulgated regulations implementing Title VI (45 CFR Part 80, republished for the Department of Education as 34 CFR Part 100). The regulations were primarily directed toward the elimination of segregation. Among other things, the regulations prohibited practices by recipients that:

(1) resulted in services, financial aid, or other benefits that were different or were provided in a different manner to minority and non-minority people;

(2) restricted an individual's enjoyment of an advantage or privilege enjoyed by others on the basis of race, color, or national origin; or denied an individual the right to participate in federally assisted programs because of race, color, or national origin; or

(3) had the effect of defeating or substantially impairing the objectives of federally assisted programs for persons of a particular race, color, or national origin.

HEW interpreted Title VI and its implementing regulations to prohibit the denial of access to education programs because of a student's limited English proficiency. HEW publicized this interpretation through a guideline, known as the May 25, 1970 Memorandum (35 FR 11595). The United States Supreme Court, in *Lau* v. *Nichols*, 414 U.S. 563 (1974), unanimously upheld this guideline as an appropriate and permissible interpretation of Title VI.

The *Lau* decision involved approximately 3,000 limited-English-proficient Chinese students enrolled in the San Francisco public schools who were required to attend classes taught exclusively in English. The opinion of the Court noted that the Title VI regulations promulgated by the Department of Health, Education, and Welfare prohibited conduct that had a discriminatory effect as well as conduct that was intentionally discriminatory.

The Court reasoned that exclusion based upon a characteristic unique to a national-origin minority group had the same effect as an intentional scheme to exclude such a group from a realistic chance to obtain an education.

The number of students with limited proficiency in English is large and growing. Estimates by the National Institute of Education and the National Center for Educational Statistics currently place the number of limited-English-proficient school-age children at more than 3.5 million. The overwhelming majority of these children were born in this country. Of all the limited-English-proficient children in this country, the largest group is Hispanic. The second largest group speaks Asian languages such as Chinese, Korean, Vietnamese, and Cambodian.

Students who do not use English well enough to participate effectively in classes where the language of instruction is English often face difficulties obtaining an appropriate education. These limited-English-proficient students face two main problems. First, they must learn English. Second, while they are learning English, they must have the opportunity to keep pace with their English-speaking classmates who are learning other subjects. Educational practices that do not address these problems impose substantial and unnecessary burdens on these students.

In the past, too many schools have failed to meet the needs of limited-English-proficient students. Students who rely on a language other than English drop out of school at a much higher rate than that of members of their own ethnic, racial, or socioeconomic group who speak English. For Hispanic students who primarily speak Spanish, this drop-out rate is more than three times higher than that of Hispanic students who primarily speak English.

Alternatives Under Consideration.

The *Lau* decision did not prescribe the steps which a school district must take to accommodate students whose English is limited. The Court stated: "Teaching English to the students of Chinese ancestry who do not speak the language is one choice. Giving instruction to this group in Chinese is another. There may be others." (*Lau, supra,* at p. 565). Rulemaking authority is expressly given to agencies with the responsibility to enforce Title VI (42 U.S.C. § 2000d–1).

After the Court rendered its decision, the Department of Health, Education, and Welfare asked experts for advice on assisting limited-English-proficient students. The result was an HEW policy document, made available in the summer of 1975, entitled "Task Force Findings Specifying Remedies Available for Eliminating Past Educational Practices Ruled Unlawful Under *Lau* v. *Nichols.*" The document was not published in the **Federal Register**, but was distributed widely to school officials and to the general public. This document became known as the Lau Remedies.

Consideration was given to publishing the Lau Remedies as a rule. The Lau Remedies document, however, is not clearly written. Many of its provisions are vague; others are written in highly technical language. Its requirements are hard to follow. Some procedures required by the Remedies are not cost-effective. For example, the provision governing assessment requires all students identified as having a primary or home language other than English to receive an assessment of relative language proficiency. This is an expensive procedure compared to a reading achievement test or a test of oral language proficiency in English.

The proposed rules instruct school districts to compare English reading achievement or oral proficiency scores of children with a primary language other than English with those of non-minority children in the district, or all children in the State, or in the Nation. School districts must classify students scoring below the 40th percentile as limited-English-proficient. ED has considered raising or lowering this eligibility criterion for service in order to raise or reduce the number of students eligible for help. However, most students with a primary language other than English have difficulty in school. For this reason, if ED raised the cutoff score from the 40th percentile to the 50th, far fewer students in the population would be eligible for services than if the test scores of children with a primary language other than English were generally closer to those for children who speak only English.

Because scores for students with a primary language other than English are so low, lowering the cutoff to the 25th percentile also eliminates fewer children than might be expected. However, cost can be lowered by reducing the service population by using a lower pecentile rank as a cutoff and raised by increasing it, at least to some extent.

ED made the decision to select the 40th percentile instead of the 25th to assure coverage for those students who would be disadvantaged by being denied the services required by the proposed regulations. ED believed students at the higher percentile rank could still profit from assistance, and should be included. The proposed rules do not contemplate a "remedial" program, but instead would require schools to provide equality of access to children with language characteristics different from those children who speak only English. ED decided that schools should not curtail help once a student's performance in school and ability to use English becomes only marginal, but that help should continue until the school provides an adequate opportunity for the student to become a fully effective participant.

However, the characteristics of a student scoring at the 40th percentile are so similar to those of students who score at the 50th percentile that an argument that children between the 40th and 50th percentile need special assistance is relatively hard to support. In fact, the standard margin for error of most tests accounts for a substantial portion of the difference in scores between students at the 40th and 50th percentile. Help is no longer essential when a student is able to meet the expectations regarding proficiency which teachers and schools place upon "average" or "ordinary" students. Students who generally meet such expectations are not students whose test scores are precisely at the 50th percentile rank, but are students whose scores will range to some degree between points somewhat below or above the average score.

According to the proposed rules, schools are not required to provide specially tailored services for limited-English-proficient students who are clearly English-superior. The proposed rules simply mandate that English superior students have the same access to compensatory help as other students.

The remaining students—those who are clearly primary-language-superior and those who are comparably limited in English and in their primary language—must receive instruction designed to develop full proficiency in English.

The proposed rules require that primary-language-superior students receive instruction in both languages in all required subjects while the students are learning English.

Two alternatives are presented in the text of the proposed rules to stimulate comment on whether students who are comparably limited in both English and their primary language should also receive instruction in both languages in required subjects. These alternatives are presented because experts disagree about which placement is best for comparably limited students. Some educators argue strongly that students who are comparably limited in two

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languages will have a difficult time in a monolingual, English-speaking class. They also argue that the skills that limited-English-proficient students possess in their own language are not necessarily the same as those possessed in English. For example, vocabulary or grammar skills may be different in each language. Others object to this assumption and argue that these students will do better in the long run if their English skills are sharpened by instruction offered exclusively through English.

Summary of Benefits

Sectors Affected: State and local educational agencies; limited-English-proficient students in elementary and secondary schools.

Although quantifying benefits is inherently difficult, information exists on the size of the problem that the proposed regulations address. The largest non-English speaking group in this country is Hispanic. Language characteristics among Hispanics appear to predict the degree of educational success. For example, a 1978 survey showed that among Hispanic people aged 14-30, slightly under 15 percent of those with a Spanish language background who had come to rely on English as their usual language had dropped out of school. For non-Hispanic English speakers with a non-English language background, the non-completion rate was close to that of monolingual English speakers—about 8 percent.

Hispanics who relied primarily on Spanish showed a non-completion rate of 30 percent. Non-Hispanics who relied primarily on their own language had a drop-out rate in excess of 16 percent. While other characteristics also predict academic success or failure, the effect of language characteristics on academic success is substantial. Indeed, family income may not even exert as great an effect as language characteristics. For example, at 150 percent of the poverty level or above, the drop-out rate for Hispanics who relied primarily on Spanish was still substantially higher (close to 20 percent) than for Hispanics who primarily relied on English, regardless of family income.

Demand for bilingual instruction among language-minority people reflects their perception of the failure of the public education system. Course instruction in English has not provided equal access to education. Studies designed to evaluate the general effectiveness of federally funded bilingual programs in the early 1970s showed mixed results (American Institute for Research, 1977). However, studies of specific bilingual programs have shown that bilingual education can make a substantial difference in educational opportunity.

Summary of Costs

Sectors Affected: State and local educational agencies.

Developing estimates of the total costs to the national economy of goods and services necessary to implement the proposed rules is a complex analytical process. Because of severe limitations on the current availability of precise data, such as information on the number of students in each class of proficiency or numbers of available qualified teachers, ED had to make several assumptions and methodological decisions which affect the preliminary estimates. It is important that ED state these assumptions explicitly so that the uncertainties in the estimates can be understood.

A basic decision was to calculate the total cost of the proposed rules from a base of the current levels of service. The ED estimates reflect the costs of serving all students who would be eligible under the proposed rules and those students who are not currently receiving services. This estimation procedure could underestimate the additional costs of the proposed rules, since it is based on an assumption that all children currently reported as served are receiving services that would meet present legal requirements.

The decision to calculate total costs of the proposed rules from a base of current levels of services could overestimate the cost of the proposed rules by not adequately taking the existing requirements of the Lau Remedies into account. Since full compliance with the Lau Remedies has not yet been achieved, calculations of the total cost of the proposed rules over current levels of services include the cost of coming into full compliance with the Lau Remedies.

Thus, in addition to calculating costs of the proposed rules over current levels of services, we have calculated the cost of full implementation of the Lau Remedies over current levels of service,and the difference in cost between the proposed rules and full implementation of the Lau Remedies.

ED has estimated costs by high and low ranges based on the variables discussed. The range of costs is reported in order to elicit public and expert comment on the assumptions made in determining the costs. It is also hoped that commenters on the proposed rules will suggest additional reliable data sources and possible improvements in methodology which would serve to narrow the range of the estimates.

ED has presented two alternatives in the text of the proposed rules to stimulate comment on whether limited-English-proficient students who are neither English-superior nor primary-language-superior should receive bilingual subject matter instruction in required subjects. Under the cost estimate in Alternative A, these students would receive instruction designed to improve English language skills but would not be entitled to bilingual subject matter instruction. Under Alternative B these students would also receive bilingual instruction.

TABLE I.—*Summary of the Estimated Average Annual Costs to State and Local Educational Agencies for the Start-up Period (5 Years) and Alternative Options Considered and Rejected.*

[Figures rounded in tens of millions of 1980 dollars]

	Cost above current expenditures	Cost over full compliance with the Lau Remedies
Lau Remedies	$190 to $360.	
Proposed rules (40th percentile of English reading achievement or oral proficiency):		
Alternative A	$180 to $390.	−$10 to $30
Alternative B	$290 to $590.	$100 to $230

This cost analysis presents only start-up costs for the first 5 years. Start-up costs for programs are greater than the costs for continuing programs in place. ED assumes that the major costs of full compliance with either the Lau Remedies or the proposed rules will be met by State and local educational agencies during the start-up period. Greater start-up costs occur because of the need to train teachers and to purchase instructional materials, books, and equipment. During the start-up period it is also necessary to fill in staff shortages with aides that add to regular program costs. These costs should diminish over the longer run, although they are probably not eliminated.

Related Regulations and Actions

Internal: ED regulations under Title VII of the Elementary and Secondary Education Act of 1965, as amended, 45 CFR Part 123 *et seq.* (to be redesignated as 34 CFR Part 550 *et seq.*).

External: The Equal Educational Opportunity Act of 1974 requires that public educational agencies take steps to overcome language barriers impeding equal participation in school programs.

Several States, including California, Texas, Colorado, and Massachusetts, have also enacted laws requiring bilingual educational programs.

Active Government Collaboration

None.

Timetable

Final Rule—To be published after evaluation of public comments.

Available Documents

NPRM—45 FR 52052, August 5, 1980.

Regulatory Analysis—Copies may be requested from the Agency Contact (citations to all statistical studies cited in this entry may be found in the Regulatory Analysis).

Transcripts of hearings and public comments are available at the Department of Education, Room 5409, Switzer Bldg., 330 C St., S.W., Washington, DC.

Agency Contact

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ED—Office of Elementary and Secondary Education

Financial Assistance to Local and State Agencies To Meet Special Educational Needs; and Financial Assistance to Local Educational Agencies for Children with Special Educational Needs (45 CFR Parts 116 and 116a*, To Be Redesignated as 34 CFR Parts 200 and 201)

Legal Authority

Title I of the Elementary and Secondary Education Act of 1965, §§ 101–198, as amended by P.L. 95–561, 20 U.S.C. §§ 2701–2854.

Reason for Including This Entry

The Department of Education (ED) includes this entry because the proposed rules would govern one of ED's largest programs of Federal assistance to education. This program has an annual effect on the economy of more than $100 million.

Statement of Problem

The proposed regulations are necessary to implement Title I of the Elementary and Secondary Education Act of 1965 as re-enacted by the Education Amendments of 1978.

Title I authorizes a State-administered grant program that provides financial assistance to:

(1) Local educational agencies (LEAs) for projects designed to meet the special educational needs of educationally deprived children in low-income areas and children in local institutions for neglected or delinquent children.

(2) State agencies for projects designed to meet the special educational needs of handicapped children.

(3) State agencies for projects designed to meet the special educational needs of children in institutions for neglected or delinquent children, or children in adult correctional institutions.

(4) State educational agencies (SEAs) for projects designed to meet the special educational needs of migratory children of migratory agricultural workers or fishers.

The proposed Title I regulations consist of two parts: Part 116 and Part 116a.

Part 116 contains requirements that apply to all Title I grantees and to State and Federal administration of Title I programs. The regulations in Part 116 are supplemented by the regulations in 45 CFR Parts 116a through 116d, which contain requirements peculiar to each of the four categories of Title I programs.

Part 116a applies to Title I projects that are operated by LEAs for educationally deprived children in eligible low-income areas and for children in local institutions for neglected or delinquent children. In addition, Part 116a incorporates provisions from previously published (1) ED interpretive rules concerning the rights of parents to freely elect the members of Title I advisory councils and the amount of funds an SEA must refund to ED if certain requirements are not met; and (2) final regulations for the evaluation of Title I projects by agencies receiving assistance and for Title I concentration grants for LEAs in counties with a high concentration of children from low-income families.

Alternatives Under Consideration

Because ED originally published proposed regulations on June 29, 1979, and these proposed regulations are issued in response to comments received on the original proposed regulations, no major alternatives are now being considered. These regulations (1) follow, in general, the format of the Title I statute; (2) incorporate or paraphrase all major Title I statutory requirements; and (3) include additional or modified standards, criteria, and examples that are required by the Title I statute or are needed to provide clarity.

Summary of Benefits

Sectors Affected: State and local educational agencies; educationally deprived elementary and secondary school students and their parents; and elementary and secondary school teachers and other education employees.

Congress appropriated $3.2 billion in Fiscal Year 1979 for Title I programs operated in the 1979–1980 school year. Of that total, Congress appropriated $2.8 billion for Title I grants to LEAs.

In appropriating this sum, Congress recognized the special educational needs of children from low-income families and the impact that concentrations of low-income families have on the ability of LEAs to support adequate educational programs. The Federal financial assistance provided to LEAs serving areas with concentrations of childen from low-income families enables them to expand and improve those educational programs which contribute particularly to meeting the special educational needs of educationally deprived children. Financial assistance is also provided to meet the special educational needs of Indian children, of children of certain migrant parents, and of handicapped, neglected, and delinquent children.

Federal funds are used to pay instructional and administrative costs. In addition, the proposed rules provide for teacher, school board, and parent participation in Title I projects.

Summary of Costs

Sectors Affected: State and local educational agencies.

The primary administrative costs stem from the recordkeeping and reporting requirements imposed on State and local educational agencies in order for them to obtain and account for Federal funds. Federal payments are made to reimburse these costs. Some of the requirements, such as the rule against supplanting local effort, may also cause administrative burdens by requiring that LEAs be prepared to demonstrate that the State and local funds currently available for each type of special program are properly allocated. Most of these requirements, however, are imposed by statute. No systematic data is available on the costs of those requirements that are only partially mandated by law.

Related Regulations and Actions

Internal: ED regulations in 45 CFR Parts 116b–116d were published separately and are now in effect as final regulations. Part 116b governs Title I grants to State agencies operating

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projects for handicapped children. Part 116c governs Title I grants to State agencies operating projects for neglected or delinquent children. Part 116d governs Title I grants to SEAs operating projects for migratory children.

External: None.

Active Government Collaboration

In addition to considering public comments, ED made special efforts to obtain additional specific suggestions from State and local government officials.

Timetable

Regulatory Analysis—Not required.
Final Rule—December 1980.

Available Documents

NPRM—44 FR 38400, June 29, 1979.
NPRM—45 FR 39712, June 11, 1980.
Individuals interested in reviewing public comments may call or write the Agency Contact listed below.

Agency Contact

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Housing Administration

Coinsurance for Private Mortgage Lenders (New Construction) (24 CFR Part 251)

Legal Authority

National Housing Act, § 244.12 U.S.C. § 1715z(9). Department of Housing and Urban Development Act, § 7(d), 42 U.S.C. § 3535(d).

Reason for Including This Entry

The Department of Housing and Urban Development thinks this is an important rule because it sets precedents in providing for increased lender participation in the Federal Housing Administration (FHA) multifamily insurance programs of § 221 of the National Housing Act.

Statement of Problem

Most of the nation's depository financial institutions are reluctant to use FHA mortgage insurance because they feel that a lengthy processing time is required for FHA underwriting analysis. Coinsurance, in which the insured lender bears a share of any loss caused by mortgage default by the borrower, can solve this problem, because it enables HUD to delegate processing to coinsured lenders. They can be trusted to perform underwriting analysis carefully because they bear a risk of loss upon default.

Section 8 new construction or substantial rehabilitation, which is not financed with tax-exempt bonds or with conventional uninsured mortgages, is generally financed under § 221(d)(3) or 221(d)(4) programs for, respectively, nonprofit or profit-motivated mortgagors. The latter is currently the most active FHA-multifamily program.

Alternatives Under Consideration

HUD considered two alternatives to this proposal which it subsequently rejected.

(A) HUD might delegate processing to approved mortgagees that originate mortgage loans with full FHA insurance. This could, however, impose an unacceptable risk on the FHA Insurance Fund, because HUD would then be obligated to pay 100 percent of any loss on these loans (instead of 85 percent under coinsurance) in which the lender and not HUD performed underwriting analysis.

(B) HUD might permit mortgage bankers to originate coinsured § 221 mortgages. To limit HUD's risk exposure, eligible coinsurance orginators could be limited to supervised depository lenders, because they have the assets and net worth to absorb a share of coinsurance losses, and they are supervised by Federal or State bank examiners.

Summary of Benefits

Sectors Affected: Savings and loan associations, commercial banks, and savings banks; private rental housing developers; residential building construction; occupants of low- and moderate-income housing projects; HUD; and the general public.

The benefits of this proposal would be:

(1) Faster processing of FHA § 221 mortgage insurance approvals, benefiting financial institutions and developers.

(2) Reduced HUD insurance risk exposure (HUD takes 85 percent of loss under coinsurance, instead of full 100 percent).

(3) An increased source of supply of private mortgage financing for § 221 housing, including § 8—assisted lower income housing, benefiting potential occupants of assisted housing.

(4) Increased availability of housing for the general public.

(5) Increased business for the construction sector.

No additional HUD staff would be required to implement this program.

Summary of Costs

Sectors Affected: Savings and loan associations, commerical banks, and savings banks

This proposal could cause increased risk exposure for lenders because for those mortgages which terminate in default, the lender would assume 15 percent of the loss (basically, unpaid mortgage balance less (a) the amount realized upon resale of the housing project; (b) the lender's share of all FHA mortgage insurance premiums collected from the mortgagor; and (c) the amount of application and insurance commitment fees normally collected by HUD from lenders, because these fees would no longer be charged as the lender would be processing the application with its own staff specialists in property appraisal, mortgage credit analysis, and construction inspection).

Related Regulations and Actions

Internal: HUD already has in operation FHA coinsurance programs for single-family housing, 24 CFR Part 204; and State Housing Finance Agencies multifamily housing, 24 CFR Part 250; and will soon implement a program of FHA § 223(f) coinsurance under 24 CFR Part 255.

External: Unknown.

Active Government Collaboration

The Federal Home Loan Bank Board has provided informal advice and comments in the drafting of this proposed rule.

Timetable

NPRM—November 1980.
Draft Regulatory Analysis—Available with NPRM.
Comment Period—60 days following NPRM.
Final Rule—July 1981.
Final Regulatory Analysis—Will accompany final rule.
Public Hearings—None planned.

Available Documents

None.

Agency Contact

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HUD–Office of the Assistant Secretary for Housing

Minimum Property Standards for One- and Two-Family Dwellings (24 CFR Part 200, Subpart S)

Legal Authority

National Housing Act, § 211, 12 U.S.C. § 1715(b).

Reason for Including This Entry

The Department of Housing and Urban Development (HUD) thinks this rule is important because it is an initial effort to reduce unessential regulations, incorporate model code standards, and minimize the bulk of the current Minimum Property Standards.

Statement of Problem

HUD now imposes Minimum Property Standards on the construction of one- and two-family dwellings insured or assisted by HUD funds. Some 300,000 units a year are subject to these standards. The standards are set for the health and safety, marketability, durability, liveability, and workmanship of these dwellings. Over the years, these standards have increased in length and complexity, due to the continuing review and revision of the standards to conform to up-to-date building practices. Unfortunately, this has made the standards harder to use by builders, who must maintain a familiarity with a more lengthy document, and a streamlining of the standards is now appropriate. HUD's Housing Cost Task Force identified several aspects of the minimum property standards, such as conformity with model building codes and elimination of unessential "livability" standards, which, if changed, might improve the affordability of housing without substantially lowering the construction quality of the housing affected (i.e., housing with FHA mortgage insurance or HUD-assisted units). For these reasons, HUD is proposing a revision to delete redundant, obsolete, and unnecessary requirements. Appropriate parts of the model one- and two-family dwelling code are also being incorporated.

Alternatives Under Consideration

Alternative A would be to make no change in the present standards. This would save administrative effort but has no other advantage. On the other hand, if we do not revise the standards, they will become more obsolete through time, and present undue compliance costs will be perpetuated. Therefore, we are considering the following alternatives:

Alternative B would be to replace the Minimum Property Standards with the model one- and two-family dwelling code. While this would reduce compliance costs to builders, we are concerned that this drastic step should be undertaken only after careful study and consideration of the implications. We are studying additional ways to make the minimum property standards conform to the model code, but until these studies are completed and evaluated, we feel alternative B is premature.

Alternative C is to move toward simplification of the Minimum Property Standards by deleting standards we consider unnecessary and revising the sections of the standards that in our judgment can safely be simplified at this time, while retaining those standards which we feel are necessary to ensure the health and safety of the occupants. Alternative C is the alternative that HUD has selected in this rulemaking procedure.

Summary of Benefits

Sectors Affected: Residential building construction and construction workers; public and private developers of housing programs; occupants and owners of minimum standard housing, especially FHA-insured housing; and the mortgage banking industry;

Although Minimum Property Standards govern all FHA housing, FHA-eligible dwellings are often built to standards higher than those required by the Minimum Property Standards. In such cases, the standards are not binding and lowering them will have no effect. We expect, however, that the impact of these changes would be felt throughout the construction industry generally, because they would promote lower building costs, ultimately reducing the purchaser's outlay. Our Draft Regulatory Analysis attempted to come to grips with the potential cost savings, but accurate estimates are not available, since obtaining such estimates would require a large survey to determine which standards are binding, and what the impact of lowering these standards would be. Qualitatively, to the extent that cost savings are realized, the amount of new housing produced will increase, and this would generate indirect benefits in the form of construction employment and increased mortgage activity for the banking industry. Also, the standards are picked up by a number of local building codes, and for this reason, changes in the standards should have an impact beyond FHA-insured and HUD-assisted housing alone.

The Draft Regulatory Analysis estimated the maximum benefit in terms of a maximum direct cost saving of $61.5 million per year (1979 dollars), such saving consisting of potential lowered construction costs. The likely impact is considerably less than this, in that this estimate assumed all dwellings currently constructed at the lower end of the quality scale would adopt the lower allowed standards. Of course, some of these units would not fully exploit the potential cost savings, because builders might consider a higher quality unit more marketable.

Summary of Costs

Sectors Affected: Residential building construction; occupants and owners of minimum standard housing; and HUD.

The purpose of the Minimum Property Standards is to ensure units of housing which are decent, safe, and sanitary, and which conform to good building practice. This protects the home buyer by assuring the unit is built to (at least) a minimum quality level, and provides a basis for FHA mortgage insurance, so that if a mortgage defaults, there is a high probability that the value of the property will exceed the principal balance on the loan. Most of the costs associated with the proposed changes are in the form of what we consider a small additional risk of lower quality units being built. There are administrative costs involved in issuing a new regulation, and builders will have to become familiar with a new set of standards, even though the standards are simplified compared to the existing ones. It is felt, however, that these costs are small, and more than likely to be offset by future cost savings.

Related Regulations and Actions

Internal: None.
External: Local Building Codes.

Active Government Collaboration

None.

Timetable

Public Hearings—None planned.
Public Comment Period for NPRM—Ends November 15, 1980.
Final Rule—To be published approximately July 1981.

Available Documents

NPRM—September 15, 1980; 45 FR 62316.
Draft Regulatory Analysis.
Environmental Impact Statement, July 1981.
Available from Rules Docket Clerk, Room 5218 at address below.

Agency Contact

Mervin Dizenfeld, Mechanical Engineer

Department of Housing and Urban Development, Room 6170

(2) issuing guidelines for establishing reasonable time limits on efforts to

impossible to say that, if any, additional costs may be incurred.

Personnel Management, Small Business Administration, Department of State,

attempting to participate in DOJ-assisted programs.

Federal Bureau of Investigation or other agencies within DOJ.

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DEPARTMENT OF JUSTICE

Civil Rights Division

Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs (28 CFR 42.401 et seq.)

Legal Authority

E.O. 12250 (45 FR 72995, November 4, 1980).

Reason for Including This Entry

The Department of Justice (DOJ) includes this entry because it concerns a matter of great public interest.

Statement of Problem

The changes DOJ proposes are the result of responsibilities placed on the Attorney General by the President when he issued Executive Order 12250 on November 2, 1980. That Order charged the Attorney General with responsibility for coordinating the implementation and enforcement of Title VI of the 1964 Civil Rights Act, 42 U.S.C. § 2000d *et seq.*; Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 *et seq.*; § 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; and all other provisions of Federal statutory law which prohibit discrimination on the basis of race, color, national origin, handicap, religion, or sex in federally assisted programs.

Title VI prohibits discrimination on the basis of race, color, or national origin in programs or activities receiving Federal financial assistance.

Title IX prohibits discrimination on the basis of sex in education programs receiving Federal financial assistance.

Section 504 prohibits discrimination on the basis of handicap in federally assisted and federally conducted programs.

Each Federal agency empowered to extend such assistance is primarily responsible for enforcing Title VI, Title IX, § 504, and other statutes prohibiting discrimination on the basis of race, color, national origin, religion, handicap, or sex as they relate to their activities.

Under Executive Order 12250, issued November 2, 1980, the Attorney General is charged with the responsibility for:

(1) developing standards and procedures for taking enforcement actions and for conducting investigations and compliance reviews;

(2) issuing guidelines for establishing reasonable time limits on efforts to secure voluntary compliance, on the initiation of sanctions, and for referral to the Department of Justice for enforcement where there is noncompliance; and

(3) establishing guidelines and standards for the development of consistent and effective recordkeeping and reporting requirements and for datasharing among agencies.

These specific responsibilities as they relate to the statutes covered by the Order are new and were not specifically set out in any previous Executive Order applicable to the Attorney General.

The proposed regulations implement the directives of the President as set forth in Executive Order 12250.

Alternatives Under Consideration

The principal alternative of taking no action would not be responsive to the Executive Order.

Summary of Benefits

Sectors Affected: The Federal Government; minorities; handicapped individuals; women; and the general public.

We expect that these proposed rules will result in a more efficient use of Federal executive agency civil rights personnel. The rules place time limits on how long investigation of alleged civil rights noncompliance may last and how long voluntary negotiations between an agency and recipient may continue before the agency determines whether voluntary compliance is possible or formal enforcement action is necessary. As a result civil rights investigations should be resolved more quickly. In addition, because they provide that civil rights compliance decisions are subject to the approval of agency civil rights offices, whose staffs are trained in civil rights requirements, decisions should be more consistent and made more promptly.

As a result, recipients, minorities, women, handicapped individuals, and the public can expect that civil rights problems will be dealt with in a more predictable and efficient manner.

Summary of Costs

Sectors Affected: None.

This proposal allows for the more efficient use of existing staff and, therefore, no additional personnel costs are expected in the immediate time period after its adoption. Additional costs may be incurred by agencies as they use these procedures to enforce Title IX, § 504, and other statutes covered by the Order. However, it is impossible to say that, if any, additional costs may be incurred.

Related Regulations and Actions

Internal: These proposed rules will require the amendment of regulations entitled "DOJ Nondiscrimination in Federally Assisted Programs—Implementation of Title VI of the Civil Rights Act of 1964," 28 CFR 42.101 *et seq.*

External: These proposed rules will require the amendment or issuance of regulations implementing Title VI, Title IX, § 504, and other statutes which prohibit discrimination on the basis of race, color, national origin, handicap, religion, or sex by the following agencies: ACTION; Agency for International Development (AID); Department of Agriculture (DOA); Civil Aeronautics Board (CAB); Department of Defense (DOD); Department of Commerce (DOC); Department of Education (ED); Equal Employment Opportunity Commission (EEOC); Environmental Protection Agency (EPA); Federal Home Loan Bank Board (FHLBB); General Services Administration (GSA); Department of Health and Human Services (HHS); Department of Labor (DOL); Department of Housing and Urban Development (HUD); Department of the Interior (DOI); Department of the Treasury (Treasury); National Aeronautics and Space Administration (NASA); National Endowment for the Arts (NEA); Nuclear Regulatory Commission (NRC); National Science Foundation (NSF); Office of Personnel Management (OPM); Small Business Administration (SBA); Department of State (DOS); Department of Transportation (DOT); Tennessee Valley Authority (TVA); Water Resources Council (WRC); and Veterans Administration (VA).

Active Government Collaboration

In 1979, we proposed the concepts set forth in the proposed rules, as they relate to Title VI, by letter or in meetings, or both, with ACTION, Agency for International Development, Department of Agriculture, Civil Aeronautics Board, Department of Defense, Department of Commerce, Department of Education, Department of Energy, Environmental Protection Agency, Federal Home Loan Bank Board, General Services Administration, Department of Health and Human Services, Department of Housing and Urban Development, Department of the Interior, Department of Labor, National Aeronautics and Space Administration, National Endowment for the Arts, Nuclear Regulatory Commission, National Science Foundation, Office of Personnel Management, Small Business Administration, Department of State, Department of Transportation, Tennessee Valley Authority, Water Resources Council, Veterans Administration, Equal Employment Opportunity Commission, International Communications Agency, National Endowment for the Humanities, Community Services Administration, and Office of Management and Budget.

Additional consultation with affected agencies will take place prior to final issuance of the proposed rules as required by Executive Order 12250.

Timetable

NPRM—December 1980/January 1981.
Regulatory Analysis—Not required.
Public Hearing—None.
Public Comment Period—Minimum of 90 days following publication of NPRM.
Final Rule—May/June 1981.
Final Rule Effective—Upon publication.

Available Documents

E.O. 12250, 45 FR 72995, November 4, 1980.
28 CFR 42.401–.415.
42 U.S.C. § 2000d *et seq.*
20 U.S.C. § 1681 *et seq.*
29 U.S.C. § 794.
"Agencies When Providing Federal Financial Assistance Should Ensure Compliance With Title VI," General Accounting Office (GAO), April 15, 1980. Available from GAO, publication number HRD–80–22.

Agency Contact

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DOJ-CRD

Regulations Prohibiting Discrimination on the Basis of Age in Federally Assisted Programs

Legal Authority

Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*; Health, Education, and Welfare (now Health and Human Services) Government-Wide Age Discrimination Regulations, 44 FR 33768, June 12, 1979.

Reason for Including This Entry

The Department of Justice includes this entry because it concerns an issue of great public interest. This proposed regulation is intended to eliminate discrimination on the basis of age against persons participating or attempting to participate in DOJ-assisted programs.

Statement of Problem

A substantial number of people in the United States are denied full participation in major activities, such as public benefits, services, and facilities, because of discrimination based on their age. Recognizing this fact, the Congress passed the Age Discrimination Act of 1975, which prohibits discrimination solely on the basis of age in all programs and activities that receive Federal financial assistance. Federal agencies that provide such assistance must develop and publish regulations in furtherance of the broad remedial purpose of the Age Discrimination Act of 1975.

Alternatives Under Consideration

In furtherance of its statutory authority, the Department of Health and Human Services (HHS) has required each Federal department or agency to issue regulations that are consistent with the Federal-wide regulations promulgated by HHS. Section 90.31(c) of 45 CFR (44 FR 33768, June 12, 1979) requires each Federal department or agency to submit its final regulation to HHS for review no later than 120 days after publication of proposed age discrimination regulations. Accordingly, there are no alternatives to the standards that HHS has published (44 FR 33768, June 12, 1979) in terms of scope, timing, or substantive requirements obligating recipients of Federal assistance from the Department of Justice.

Summary of Benefits

Sectors Affected: Approximately 9,000 units of State and local governments that are involved in law enforcement and related activities; approximately 1,000 private entities, such as juvenile homes, educational institutions, and public interest groups that participate in activities related to the Nation's criminal justice system; and individuals eligible to take part in their programs.

The regulations will establish standards to define and prohibit age discrimination in programs and activities that receive Federal financial assistance from DOJ. Programs and activities that the regulation would cover include those administered by State and local units of the criminal justice system that receive Federal assistance in the form of grants and Federal assistance contracts from the Law Enforcement Assistance Administration (e.g., police departments, prisons, courts), or training from the Federal Bureau of Investigation or other agencies within DOJ.

Summary of Costs

Sectors Affected: Approximately 9,000 units of State and local governments that are involved in law enforcement and related activities; approximately 1,000 private entities, such as juvenile homes, educational institutions, and public interest groups that participate in activities related to the Nation's criminal justice system; and individuals eligible to take part in their programs.

We cannot provide estimates of compliance costs although at present it appears that the compliance cost of the regulation will not result in major economic consequences within the meaning of E.O. 12044. We considered the appropriateness of a Regulatory Analysis and determined that no such analysis is necessary. We invited public comment on this issue.

Related Regulations and Actions

Internal: None.

External: HEW (now HHS) general regulations under the Age Discrimination Act, 44 FR 33768, June 12, 1979.

Active Government Collaboration

Pursuant to 42 U.S.C. Section 6103(a)4, the proposed regulation was sent to the Secretary of Health and Human Services for review.

Timetable

Final Rule—February 1981.
Regulatory Analysis—None.

Available Documents

NPRM—45 FR 32710, May 19, 1980.
Public Comments—Available for review, see Agency Contact.

Agency Contact

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DOJ—CRD

Regulations Prohibiting Discrimination on the Basis of Sex in Education and Training Programs Receiving Federal Financial Assistance (28 CFR Part 42*)

Legal Authority

Education Amendments of 1972, as amended, Title IX, §§ 901 and 902, 20 U.S.C. § 1681 *et seq.*

V 45 NO 024 80 0 UMI

Reason for Including This Entry

The Department of Justice (DOJ) includes this entry because it deals with a matter of public concern. These regulations would prohibit discrimination on the basis of sex in education programs and activities receiving financial assistance from DOJ.

Statement of Problem

In June 1980, the Department of Justice proposed a new regulation for nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance. We intended the June proposal to implement Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 *et seq.*, which prohibits (with certain exceptions) sex discrimination in federally assisted education programs or activities.

The proposed rule and request for comments were published in the **Federal Register** on June 17, 1980, (45 FR 41001), and parties were given 60 days from that date in which to file comments. The Department was asked by several interested groups to extend the comment period, and by notice published in the **Federal Register** on August 18, 1980 (45 FR 54770) extended the comment period to September 19, 1980.

The Department has received a number of requests for an additional extension of the comment period. The Department believes that major issues of public concern have been raised in the comments already received and that additional comments on the June 17 proposal would be redundant. The comments received to date have indicated a belief that coverage of recipients that receive Federal financial assistance indirectly would significantly extend the application of Title IX to private schools, including religious schools. We do not intend such an expansion of coverage, and we do not believe that the June 17 proposal would have had that effect. Nevertheless, the Department recognizes its responsibility to respond to the concerns expressed by making it clear that the regulation will not significantly expand coverage of private schools. Therefore, we will publish a clarified version of the proposed regulation in the near future, and interested parties will have a period of 90 days to comment on it. The requests for extension of the comment period on the June 17 proposal were therefore denied, but the public will have an additional opportunity to comment before the regulation is drafted for final publication.

Alternatives Under Consideration

The Department of Justice had two possible alternatives to choose from in designing this congressionally mandated regulation: it could have followed the directions provided by the other Federal agencies, the Department of Health, Education, and Welfare (HEW), (now the Department of Education) and the Department of Agriculture (USDA), which have already issued their Title IX regulations; or it could have developed an entirely new approach to Title IX enforcement, ignoring the work performed by other agencies. The Department of Justice is following the leads of HEW and USDA in order to ensure consistency in the Federal Government's approach to enforcing Title IX.

Summary of Benefits

Sectors Affected: All education programs and activities receiving or benefitting from Federal financial assistance.

This regulation will clarify prohibited discrimination on the basis of sex in access to education and training programs and in fringe benefit plans sponsored by recipients receiving assistance from DOJ. Viewed from a larger perspective, implementation of the regulation will upgrade the quality of law enforcement and related activities by ensuring equal access to education and training programs regardless of sex. Specifically, it will improve the ability of women who have traditionally been discriminated against by the employment practices of law enforcement agencies to obtain equal access, once hired; to those activities needed for professional advancement.

Summary of Costs

Sectors Affected: State and local law enforcement and correction agencies; and private entities participating in activities related to the Nation's criminal justice system, such as juvenile homes, educational institutions, and public interest groups.

We cannot provide precise estimates of compliance costs at this stage; however, they appear to be minimal. We do not believe that the compliance costs associated with this regulation will have any major economic consequences within the meaning of E.O. 12044.

Related Regulations and Actions

Internal: DOJ regulation issued by the Law Enforcement Assistance Administration under the authority of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. § 3789d(c) *et seq.* This law, which contains a general prohibition against sex discrimination, has been reenacted in the Justice System Improvement Act of 1979, P.L. 96–157, and is implemented by 28 CFR 42.201–.217.

External: HEW regulation 45 CFR Part 86, USDA Regulation, 44 FR 21610, April 11, 1979.

Active Government Collaboration

At the time of development of the regulation no Federal agency had been delegated overall responsibility for coordination enforcement of Title IX. However, DOJ has attempted to make its regulation consistent with those already published by the Department of Health, Education, and Welfare and the U.S. Department of Agriculture.

Timetable

Second NPRM—December 1980.
Public Comment Period—90 days following publication of NPRM.
Regulatory Analysis—Not required.

Available Documents

NPRM—June 17, 1980, 45 FR 41001.

Comments received on the June 17 proposal will remain available for public inspection in Room 412, 521 12th Street, N.W., Washington, DC, between 9:00 a.m. and 5:30 p.m., Monday through Friday, except on Federal holidays, until the rule is published in final form.

Agency Contact

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DOJ—Immigration and Naturalization Service

Admission of Refugees and Asylum Procedures (8 CFR Parts 207 and 208)

Legal Authority

Refugee Act of 1980, P.L. 96–212, 94 Stat. 102.

Reason for Including This Entry

These proposed regulations will set a precedent for U.S. programs providing relief for the increasing numbers of refugees seeking haven in the United States. The refugee problem has generated worldwide attention and is of major concern to the United States and its citizens.

Statement of Problem

The Refugee Act of 1980 is a major departure from prior legislation which provided relief for refugees. It establishes a permanent and systematic procedure for meeting these humanitarian needs. Prior statutory provisions have proven to be inadequate because of the lack of uniformity in treating refugees from different parts of the world. The Immigration and Naturalization Service must adopt regulations to implement the provisions of the new Act.

The proposed regulations provide that the Immigration and Naturalization Service accomplish the following specific responsibilities: determine who qualifies as a refugee; establish asylum procedures; adjust the status of refugees; establish procedures for inspection and examination of refugees; waive certain exclusionary grounds for admitting refugees; develop regulations for procedures to terminate the status of those who no longer qualify as refugees; and admit refugees into the United States, subject to numerical limitations established by the President after appropriate consultation with Congress. In addition, the regulations also specify procedures for the Immigration and Nationalization Service to inform aliens, other governmental agencies, and the public as to who may qualify as a refugee, and the methods and procedures for refugees to apply for the benefits which the act provides.

Alternatives Under Consideration

Because of certain retroactive provisions in the Refugee Act of 1980, and the short time frame within which to develop regulations, the Service decided to publish interm regulations on June 2, 1980 (45 FR 37392) to meet these exigent circumstances. The nature of the problem we are faced with—emergency relief for human suffering—argues against a prolonged deliberative process to weigh innumerable alternatives before deciding upon a course of regulatory action. Fine tuning of the regulations can be done at a later date in the form of final regulations after opportunity for public comment, and experience we gain with the interim regulations.

Summary of Benefits

Sectors Affected: Refugees; Federal agencies, such as Department of State Education, Health and Human Services, and Labor, and the Public Health Service; international organizations; foreign governments; State governments; others involved in refugee relief and resettlement; and the general public.

Until the refugees are absorbed into the economy and contribute to the Nation's gross national product through their labor and services, they will place a burden upon public agencies.

Summary of Costs

Sectors Affected: Federal agencies, such as Departments of State, Education, Health and Human Services, and Labor, and the Public Health Service; international organizations; State governments; and others involved in refugee relief and resettlement.

As the number of refugees admitted increases because of the new liberalized admission trend reflected in the Act, the workload of the Federal agencies, public and private agencies, and charitable organizations will increase proportionately. The need for financial and medical assistance for the refugees will fall upon various Federal and State agencies responsible for public health and welfare. Private and voluntary organizations which provide services not available from public agencies will also have increased operating costs. While we are unable at this time to place a dollar value on the cost to all sectors affected by the Act our experience in FY 1979 indicates that about 108,000 refugees were admitted into the United States by the Immigration and Naturalization Service. We believe the total will be about 225,000 for FY 1980.

Related Regulations and Actions

Internal: Existing regulations dealing with asylum (8 CFR 108) adjustment of status (8 CFR 245) and other references in various subsections in Title 8, Chapter I of the regulations will be affected by the new interim regulations, and we will amend them as necessary.

External: While other Federal agencies are also affected by the Act, it is not certain at this time what revisions they must make to their regulations to conform them to the Immigration and Naturalization Service's interim regulations.

Active Government Collaboration

Operating units of the Immigration and Naturalization Service have been in contact with the Departments of State, Labor, Education, and Health and Human Services because of the mutual areas of responsibility each shares under the Act.

Timetable

Final Rule—Late 1981.
Regulatory Analysis—Not required.

Available Documents

Interim Regulations—45 FR 37392, June 2, 1980.

Refugee Act of 1980, P.L. 96–212 (94 Stat. 102).

Available from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 at $1.50 per copy.

Senate Conference Report 96–590, Refugee Act of 1980. Available from Senate Document Room, U.S. Capitol, Washington, DC 20510 (no cost).

Agency Contact

For questions on asylum procedures for refugees:
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For questions on admission of refugees:
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For questions on adjustment of status of refugees:
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DOJ–INS

Employment Authorization (8 CFR Part 109)

Legal Authority

Immigration and Nationality Act, 8 U.S.C. §§ 1103 and 1255(c).

Reason for Including This Entry

The Immigration and Naturalization Service thinks this rule is important because the various subsections, Service policy, and standards relating to employment authorization for aliens will be codified under one new part. In the existing regulations, employment authorization and revocation of employment authorization were discretionary with the district directors of the Immigration and Naturalization Service. The new regulations will clearly specify the classes of aliens eligible to work upon admission into the United States and those aliens who will require administrative authorization to work. The regulation also impacts upon the

Social Security Act and related labor laws.

Statement of Problem

Immigration and Naturalization Service procedures for granting employment authorization to aliens are based on the Attorney General's authority under 8 U.S.C. § 1103, which charges him with the administration and enforcement of the immigration and nationality laws. 28 CFR 0.105 delegates this authority and responsibility to the Commissioner of Immigration and Naturalization. A 1976 amendment to the Immigration and Nationality Act bars adjustment of status of any alien (other than an immediate relative of a U.S. citizen) who after January 1, 1977 engages in unauthorized employment prior to filing an application for adjustment of status.

Implementation of the amendment to the law resulted in numerous revisions to the Immigration and Naturalization Service's regulations and instructions, determinations of work eligibility on a case-by-case basis, and discretionary grants of employment authorization based upon the financial necessity of the alien. To ensure a more uniform application of the Immigration and Naturalization Service's policies in this area, we need clearly defined criteria for granting employment authorization to specific classes of aliens. We should consolidate numerous policy guidelines into one ready reference.

On July 25, 1979, the Immigration and Naturalization Service published regulations in the **Federal Register** (44 FR 43480) to codify the body of procedures and criteria which it had already developed through experience with granting employment authorizations. The proposed regulations would require nonimmigrant aliens to continue complying with existing regulations relating to employment for their particular nonimmigrant status. Other aliens would apply to the district directors of the Immigration and Naturalization Service for discretionary grants of employment authorization based upon establishing financial necessity for employment or presumable qualification for some type of permanent status in the United States.

In view of the comments we received from interested persons, the Immigration and Naturalization Service has significantly modified its proposed rule by specifically setting out those classes of aliens who are authorized to be employed in the United States as a condition of their admission without specific authorization from the Service. The new proposed rule also clearly describes the classes of aliens who may apply for discretionary work authorization based upon their financial needs caused by subsequent changes in circumstances. Lastly, the proposed rule defines the criteria to be used by the Immigration and Naturalization Service district directors and the uniform procedures they must follow in revoking previously granted discretionary work authorizations. We published this new proposal in the **Federal Register** on March 26, 1980 (45 FR 19563), and the public had 60 days to submit their comments.

Alternatives Under Consideration

We originally conceived this as a consolidation of existing procedures; however, in view of the public comments received and the significant issues raised, we are considering making substantive changes. At this time, proposing alternative actions would be premature.

Summary of Benefits

Sectors Affected: Aliens; industries employing aliens, including the medical profession, nursing profession, and other skilled labor professions; the Service; Federal agencies such as the Departments of Labor and State, and the Social Security Administration; State and local governments; charitable organizations; others requiring classification of an alien's employable status; and the general public.

This rule will not only benefit aliens entering the United States but also will benefit the general public. Definable classes of aliens will be employable without delay and employers will know what classes of aliens can be legitimately employed without requiring proof of work authorization from the Immigration and Naturalization Service. The regulation will also clarify for employers what class of alien is covered under the Social Security Act and Federal labor laws, as social security coverage and labor law protection of workers are dependent upon the alien's classification and whether or not he/she is legitimately employable. The Immigration and Naturalization Service will benefit because this proposal will generate information which will forestall many individual inquiries from employers, other Government agencies, and charitable organizations requesting classification of an alien's employable status. Agencies such as the Departments of Labor and State and the Social Security Administration will benefit by the clearly defined employment status of aliens because their regulations also impact upon defining eligibility for visas and benefits.

Summary of Costs

Sectors Affected: None.

Related Regulations and Actions

Internal: This regulation codifies the numerous intepretations and policies of the Service relating to work authorization which were spread throughout Chapter I of the regulations and the Immigration and Naturalization Service's Operations Instructions.

External: Related regulations of the Departments of Labor and State and the Social Security Administration will be affected by the proposed regulations.

Active Government Collaboration

The Immigration and Naturalization Service expects to receive comments from the Departments of Labor and State and the Social Security Administration in formulating the final rule because of the interaction of responsibilities in the alien employment area. We anticipate that these agencies also will amend their regulations to clarify the status of employable aliens who are entitled to benefits under the various agencies.

Timetable

Revised NPRM—November 1980.
Regulatory Analysis—Not required.

Available Documents

NPRM—45 FR 43480, July 25, 1979.
NPRM—45 FR 19563, March 26, 1980.
All documents available for review in the Public Reading Room, Room 5037, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, DC 20536.

Agency Contact

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DOJ—Office of Justice Assistance, Research, and Statistics—Law Enforcement Assistance Administration

Equal Service Evaluation Guidelines (28 CFR Part 42*)

Legal Authority

Justice System Improvement Act of 1979, 42 U.S.C. § 3782(a) *et seq.*

Reason for Including This Entry

The Office of Justice Assistance, Research, and Statistics (OJARS) believes that these guidelines are important because they will help it assure that State and local criminal justice agencies do not discriminate in the delivery of services to the public, and will help the agencies spot and correct discriminatory practices without the need for Federal action.

Statement of Problem

OJARS, the Law Enforcement Assistance Administration (LEAA), the National Institute of Justice (NIJ), and the Bureau of Justice Statistics (BJS) award grants to support improvements in all parts of the criminal justice system—police, corrections, courts, probation, parole, prosecution, defense, and juvenile justice agencies.

The nondiscrimination provision of the Justice System Improvement Act of 1979, 42 U.S.C. § 3879d(c)(1), states that no person may be "excluded from participation in, . . . denied the benefits of, . . . subjected to discrimination under or denied employment in connection with" any program or activity supported by funds made available under the Act on the basis of race, color, religion, national origin, or sex. The Act requires OJARS to take rapid action to end assistance to recipients who practice such discrimination.

The OJARS Office of Civil Rights Compliance (OCRC) investigates complaints of discrimination and, even in the absence of a complaint, conducts "compliance reviews" of its recipients. OCRC has received an increasing number of complaints alleging discrimination in the services that criminal justice agencies provide to minority groups and women. Complaints may range from a police department's failure to respond to calls for assistance from a minority neighborhood to a department of corrections' failure to provide the same "halfway house" facilities for women that it does for men. OCRC has also sought to focus more compliance reviews on recipients' efforts to serve their communities equitably. In attempting to investigate these complaints and conduct these reviews, however, OCRC has found that recipients do not maintain the information necessary to permit OJARS to make a determination of compliance or noncompliance. As a result, OJARS cannot fully implement the nondiscrimination provision in the services area.

Alternatives Under Consideration

There are three alternative methods of addressing the problem. OJARS could:

(A) establish a guideline broad enough to inform each category of criminal justice recipient (e.g., police agency, court, corrections department) of the type of information OJARS would need to review to determine compliance with 42 U.S.C. § 3789d(c)(1);

(B) implement an ad hoc method of collecting information tailored to each recipient that OJARS would establish after it initiated its complaint investigation, or compliance review, of the recipient; or

(C) decide not to investigate complaints of discrimination in services, or to close all such investigations for "insufficient data."

Options (B) and (C) would do little to assist OJARS in eliminating discrimination in services from the criminal justice system. Option (B) would also be too time-consuming and impractical to administer for the 20 persons who comprise OCRC's staff. We cannot obtain the information from another Federal agency because no other agency collects the type of data OJARS needs for review.

Option (A) is the only alternative that would effectively assist OJARS in implementing the nondiscrimination provision of the Justice System Improvement Act. Administered properly, it would assure OJARS that the information it needed to evaluate a complaint of discrimination would be available for review, and would enable the recipient criminal justice agency to quickly and effectively rebut a false charge. The guideline will also be a useful self-examination tool for criminal justice agencies seeking to voluntarily curb discrimination that they might not have previously recognized.

Summary of Benefits

Sectors Affected: State and local criminal justice agencies; members of the public served by those agencies, particularly inmates of correctional institutions, persons on probation, parolees, and juveniles found to be delinquent by a court; and OJARS.

The proposed guideline will:

1. greatly improve OJARS' ability to assure that recipients of its funds are not in violation of the nondiscrimination provision of the Justice System Improvement Act;
2. help protect individuals from being subjected to discrimination in violation of the Justice System Improvement Act;
3. reduce the time needed to conduct complaint investigations and compliance reviews;
4. help OJARS recipients defend themselves against baseless charges of discrimination; and
5. give recipient agencies the information they need to voluntarily end discrimination they might not have previously known they were practicing.

Summary of Costs

Sectors Affected: State and local criminal justice agencies.

OJARS recipients may incur some indirect personnel costs in developing a mechanism to collect the required data. Those costs should diminish considerably after they have established the mechanism. However, because most agencies already collect the data the guidelines would require, it should not be unduly burdensome to them.

Related Regulations and Actions

Internal: OJARS has previously published Nondiscrimination Regulations at 28 CFR 42.201, *et seq.*, and Equal Employment Opportunity Program (EEOP) Guidelines at 28 CFR 42.301, *et seq.* The proposed guideline would seek to collect services information in much the same way that the EEOP Guidelines collect employment information. OJARS will revise the EEOP Guidelines for comment at the same time it proposes the Equal Service Program Guidelines. The anticipated revisions in the EEOP Guidelines will reflect an attempt to streamline and clarify the scope of those requirements.

OJARS also revised the existing Nondiscrimination Regulations in April 1980, primarily to make them conform with technical amendments made in the civil rights provisions of the Justice System Improvement Act.

External: None.

Active Government Collaboration

OJARS will request the views of the Civil Rights Division of the Department of Justice, and give them serious consideration.

Timetable

NPRM—Undecided pending agency review.
Public Comment Period—Undecided pending agency review.
Final Rule—Undecided pending agency review.
Final Rule Effective—Upon publication.
Regulatory Analysis—Not required.

Available Documents

ANPRM—44 FR 53179, September 13, 1979.

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DEPARTMENT OF LABOR

Employment Standards Administration

Sex Discrimination Guidelines—Employee Benefits (41 CFR 60–20.3(c)*)

Legal Authority

E.O. 11246, as amended by E.O. 11375, 3 CFR 1964–65 Comp., pp. 339–48 and 1966–70 Comp., pp. 684–6.

Reason for Including This Entry

This proposal could involve substantial costs for employers who have contracts with the Federal Government by prohibiting the sex-based provision of unequal fringe benefits. This is a matter of considerable public interest.

Statement of Problem

E.O. 11246, as amended, prohibits employment discrimination on the basis of race, color, religion, sex, or national origin against any person employed by or seeking employment with Federal contractors or under federally assisted construction contracts. It also establishes obligations for Federal contractors and subcontractors to take affirmative action to ensure nondiscriminatory treatment of their employees and of applicants for employment. The sex discrimination guidelines for compliance by Federal contractors with the equal employment opportunity requirements of E.O. 11246 are in 41 CFR 60–20. They contain § 41 CFR 60–20.2(c), which says that with respect to employers' contributions for insurance, pensions, welfare programs, and other similar fringe benefits, the guidelines are not violated where employer contributions for such programs are equal for men and women *or* where the resulting benefits are equal.

On August 25, 1978, the Department of Labor published in the **Federal Register** proposals to revise both this regulation and the same standard under the Department's Interpretative Bulletin concerning the Equal Pay Act. Under these proposals, sex-based differences in employee benefits would not be lawful even if unequal employer contributions are necessary to ensure equal benefits. Also, it would not be permissible for covered employers to require sex-based differences in employees' contributions to achieve equal benefits. On July 1, 1979, the Equal Employment Opportunity Commission (EEOC) assumed responsibility for administration and enforcement of the Equal Pay Act. The Department of Labor retained responsibility for administration and enforcement of E.O. 11246.

In light of an April 25, 1978 U.S. Supreme Court decision in the case of *Los Angeles, Department of Water and Power* v. *Manhart*, 435 U.S. 702, it is not realistic to expect that "the equal contributions or equal benefits" rule, in its present form, may continue. In the *Manhart* decision, the Supreme Court ruled that a city employer's requirement that female employees make larger contributions to its pension fund than male employees because of the longer life expectancy of women as a class discriminated against the individual female in violation of Title VII of the Civil Rights Act of 1964. The Court also ruled that retroactive monetary recovery was inappropriate because this was the first litigation challenging differences in pension fund contributions based on valid actuarial tables, which fund administrators might have assumed justified the differential; the resulting prohibition constituted a marked departure from past practice; and drastic changes in legal rules can have grave consequences on pension funds.

In order to achieve consistency among regulations concerning the equal employment opportunity obligations of employers under Title VII of the Civil Rights Act of 1964, the Equal Pay Act, and E.O. 11246, as amended, DOL modification of this regulation will be necessary.

Alternatives Under Consideration

The major issues under consideration in relation to the treatment of fringe benefits under Title VII, the Equal Pay Act, and E.O. 11246 include: (A) whether and how the provision in the Equal Pay Act which prohibits any reduction in the wage rate of any employee in order to comply with that law applies to resolution of the equal benefits issue; (B) the applicability of the proposal to each of the numerous types of fringe benefit plans (e.g., defined benefit pension plans, defined contribution pension plans, health insurance, life insurance, etc.); (C) its applicability to the various options under retirement benefit plans (e.g., straight-life, joint and survivor, early retirement, etc.); and (D) the effective date of the amendments, including the issue of retroactivity and its effect on accrued or vested benefits.

We will cooperate with the EEOC in developing alternative approaches on this matter.

Summary of Benefits

Sectors Affected: Employees of Federal contractors and federally-assisted construction contractors.

Employers are precluded by the Equal Pay Act from achieving compliance with that law by means of pay rate reductions for employees of the higher-paid sex where sex-based wage differences exist. Applying the prohibition to the fringe benefits issue under the Equal Pay Act, elimination of the equal cost allowance would result in increased fringe benefits for employees whose employers provide fringe benefits but do not provide them on an equal basis to male and female employees regardless of sex because, based on sex-segregated actuarial computations, the cost for any particular benefits is higher, on average, for similarly situated employees of one sex or the other. Retirement benefits could particularly be affected, since women's longevity, on average, is significantly greater than men's. Thus, payment of equal retirement benefits where this has not been the practice will result in higher benefits for female employees. Male employees' retirement benefits would also be affected in terms of increased periodic payments to their surviving spouses where such employees choose a joint-and-survivor pension benefit option that provides the spouse with a continuing payment.

Summary of Costs

Sectors Affected: Federal contractors and federally-assisted construction contractors.

Employee benefit costs of Federal contractors, along with those of employers not affected by E.O. 11246, can be expected to increase as they implement the *Manhart* decision. Because virtually all Federal contractors are covered by Title VII of the Civil Rights Act and the Equal Pay Act, which also apply to other employers, the costs for them to comply with the equal benefits requirement under E.O. 11246 are a part of the total costs of employers involved in complying with this standard under Title VII and revised guidelines under the Equal Pay Act. Fewer employees are affected by coverage under E.O. 11246 than are affected under Title VII and the Equal Pay Act. The development of cost estimates is contingent on the identification of legally feasible options. We will consult with EEOC to delineate the implications for Federal contractors.

Related Regulations and Actions

Internal: None.

External: Subsequent to its July 1, 1979 assumption of jurisdiction for administering and enforcing the Equal Pay Act, the EEOC is reviewing the interpretations which the Department of Labor used in administering the Equal Pay Act (29 CFR 800). The EEOC is studying the question of how to interpret properly the Equal Pay Act in relation to Title VII of the Civil Rights Act, under which it has regulations that also address the subject of equal benefits, and will issue its own interpretations under the Equal Pay Act.

Active Government Collaboration

Consultations between the Equal Employment Opportunity Commission and the Department of Labor are required to achieve consistency among the Federal regulations concerning the equal employment opportunity obligations of employers under Title VII of the Civil Rights Act, the Equal Pay Act, and E.O. 11246, as amended. Consultation with the Internal Revenue Service is also involved so as to avoid any potential conflicts with the Internal Revenue Code and the Employee Retirement Income Security Act.

Timetable

The timetable for finalizing this section of the Office of Federal Contract Compliance Programs' sex discrimination guidelines is contingent on EEOC's progress in addressing the issues involved in determining appropriate treatment of the equal benefits issue, particularly in relation to standards the EEOC will issue regarding prohibited wage discrimination under the Equal Pay Act and the treatment of this issue under Title VII of the Civil Rights Act.

Regulatory Analysis—Under consideration.

Available Documents

Office of Federal Contract Compliance Programs Sex Discrimination Guidelines—41 CFR 60–20.

NPRM—43 FR 38057, August 25, 1978.

Agency Contact

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DOL—Labor Management Services Administration—Pension and Welfare Benefit Programs

Definition of Plan Assets and Establishment of Trust (29 CFR Part 2550)

Legal Authority

Employee Retirement Income Security Act of 1974, §§ 401(b), 403(b) and 505, 29 U.S.C. §§ 1101(b), 1103(a), 1103(b) and 1135.

Reason for Including This Entry

These proposed regulations have generated considerable public interest. A number of the public comments submitted to the Department on the proposals argued that employee benefit plan investments would be curtailed in certain types of companies which invest in small businesses, thereby affecting the amount of capital available to small business. The Department is therefore reproposing the regulations to address these concerns, among others. The portion of the proposals which gave rise to concerns about the amount of capital available to small business was reproposed to address many of the arguments presented by these commentators, and the reproposal, if adopted, should eliminate any unnecessary adverse impact on small business. Public comments generally indicate an acceptance of the principle of the reproposal while indicating some concern about certain technical requirements.

Statement of Problem

The Employee Retirement Income Security Act of 1974 (ERISA) covers virtually all private employee benefit plans. There are several statutory exceptions, such as plans for government employees or plans established by churches. ERISA does not require any employer to establish an employee benefit plan; but if the employer does have an employee benefit plan, the requirements of ERISA will apply to it.

Part 4 of Title I of ERISA sets forth certain requirements that a fiduciary has to meet in handling plan assets. The term "fiduciary" is defined in § 3(21) of ERISA to include a person who exercises any discretionary management of such plan or who exercises any authority or discretion regarding the management or disposition of its assets.

While ERISA contains a definition of fiduciary and that definition uses the concept of "plan assets," ERISA does not explicitly define plan assets. The proposed regulation would provide this key definition. This definition is important under ERISA because plan assets are the funds which will generate the benefit payments to participants and beneficiaries. Consequently, in order to protect plan assets, ERISA requires that they be held in trust, and provides that persons responsible for decisions regarding those assets be subject to ERISA's fiduciary responsibility requirements (i.e., they must meet certain standards of conduct, such as making prudent investments).

These proposed regulations also relate to the requirement of ERISA that assets of an employee benefit plan must be held in trust by one or more trustees. The Secretary of Labor is authorized to exempt the assets of certain types of employee benefit plans from the trust requirement. One of the proposed regulations would exempt, pursuant to that authority, certain assets of employee welfare benefit plans.

On August 28, 1979, these proposed regulations appeared in the **Federal Register** (44 FR 50363). They substituted for and withdrew a proposal the Department made in December 1974 that was never finalized (29 CFR 2552.1). The Department held public hearings in Washington, DC on February 27 and 28, 1980. At the conclusion of these hearings, the Department held the record open until March 28, 1980 in order to permit the filing of additional comments. Based on these comments, the Department reproposed for comment, on June 6, 1980, a revised version of a portion of one of the August 28, 1979 proposed regulations.

The regulations proposed on August 28, 1979 provided that any property in which a plan has a beneficial ownership interest is a plan asset. They also provided that the assets of an entity in which a plan has an equity investment would be plan assets, except that the assets of operating companies (i.e., companies which are primarily in the business of providing goods or services, but not the investment of capital), whose shares are widely held and freely transferable, and companies that are registered with the Securities and Exchange Commission under the Investment Company Act of 1940, would not be regarded as plan assets. The June 6, 1980 reproposal modifies the proposed definition of plan assets to treat plan investments in the equity securities of certain companies (e.g., certain venture capital companies), which are involved in influencing or controlling the management of the companies in which they invest, in the same manner as plan investments in the equity securities of operating companies (i.e., the assets of

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such companies would not be regarded as plan assets). In addition, holding companies of operating companies would be regarded as operating companies and companies primarily engaged in the development or management of real estate (as opposed to merely financing, holding real estate for appreciation, etc.) would also be regarded as operating companies.

The Department believes that the concept of "plan assets" should be clarified so that persons exercising discretionary authority or control respecting the management or disposition of these assets (and who, therefore, are fiduciaries with respect to the plan) are aware of their responsibilities under ERISA.

Alternatives Under Consideration

For the reasons set forth above, the Department has concluded that the alternative of not publishing a regulation defining "plan assets" is inappropriate. The Department is considering modifications to the proposed definition suggested by commentators in this matter. Some modifications were incorporated in the reproposal of June 6, 1980.

Summary of Benefits

Sectors Affected: Fiduciaries (which include trustees and investment managers), sponsors (e.g., employers), participants, and beneficiaries of employee benefit plans; and persons providing investment management services, such as banks and insurance companies.

The benefit of regulations in this area is that confusion as to what are plan assets would be avoided, thus enabling fiduciaries to be aware that they have certain responsibilities respecting the management or disposition of such assets, and the other sectors named above to clearly understand their rights and duties.

Summary of Costs

Sectors Affected: Fiduciaries (which include trustees and investment managers), sponsors (e.g., employers), participants, and beneficiaries of employee benefit plans; and persons providing investment management services, such as banks and insurance companies.

There will be some administrative costs to plan sponsors incident to holding in trust any plan assets that are not now being held in trust. The proposed regulation may also make some persons reluctant to accept plan assets or to act as a fiduciary. This could change plan investment strategies (i.e., investments might be made in different vehicles). The extent, if any, that such changed investment strategies might affect small business would depend on the availability of needed capital in general. The Department expects the reproposed portion of the proposed regulation to eliminate many of the concerns that pension capital, specifically, will not be available to small business.

Related Regulations and Actions

Internal: None.
External: Section 4975 of the Internal Revenue Code of 1954.

Active Government Collaboration

None.

Timetable

Final Rule—Undecided.
Regulatory Analysis—None.

Available Documents

NPRM—39 FR 44456, December 24, 1974.
NPRM—44 FR 50363, August 28, 1979.
NPRM—45 FR 38084, June 6, 1980.
Public Comments—All documents are available for review in the Public Documents Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, DC 20216. "Plan Asset Regulation."

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DOL—LMSA—PWBP

Individual Benefit Reporting and Recordkeeping for Multiple Employer Plans (29 CFR Parts 2520* and 2530*)

Legal Authority

Employee Retirement Income Security Act of 1974, §§ 105, 209, and 505, 29 U.S.C. §§ 1025, 1059, and 1135.

Reason for Including This Entry

The Department of Labor (DOL) proposed regulations in the individual benefit reporting and recordkeeping area which were published on February 9, 1979 (44 FR 8294). These proposed regulations generated considerable public interest among those members of the public directly and indirectly involved with the administration of pension plans. In light of the comments on that proposal, the Department decided to publish new proposed regulations in that area.

Statement of Problem

The Employee Retirement Income Security Act of 1974 (ERISA) imposes a comprehensive scheme of regulation on private sector employee benefit plans. There are several statutory exceptions, such as plans for government employees and plans established by churches. ERISA does not require any employer to establish an employee benefit plan; but if the employer does have an employee benefit plan, it is subject to Title I of ERISA. In the case of pension plans, Title I of ERISA imposes reporting and disclosure requirements, fiduciary duties, and minimum standards. The term "fiduciary" is defined in § 3(21) of ERISA to include a person who exercises any discretionary management of a plan or who exercises any authority or discretion regarding the management or disposition of its assets. With respect to welfare plans, Title I of ERISA imposes only reporting and disclosure requirements and fiduciary duties. This proposed regulation only applies to multiple employer pension plans, other than plans adopted by employers which are under common control. A multiple employer pension plan is one to which more than one employer makes contributions. There are approximately 8 million multiple employer plan participants and beneficiaries.

ERISA generally requires pension plan administrators to provide participants and beneficiaries with statements of the individual benefit entitlements (i.e., the benefits which they would be entitled to receive at retirement age by virtue of their service up to the date of the benefit statement) upon request and upon certain other occasions, such as a 1-year break in service or the termination of service. These statements must include information on the total benefits the individual has accrued, the percentage of those accrued benefits which are nonforfeitable (i.e., the benefits which they will be entitled to receive at retirement age regardless whether they leave employment before retirement age), or the earliest date the benefits would become nonforfeitable.

ERISA also requires employers in plans with more than one employer contributing to furnish the plan administrator with the information necessary to maintain records and compile the benefit statements. The Secretary of Labor has the authority to issue regulations on the specifics of the requirement.

Many plans now provide benefit statements to their participants and beneficiaries; however, many others may not. Further, of those plans that do issue benefit statements, some of the plans' statements may not be adequate or may not be provided at the appropriate times. Likewise, some plans keep records; but many plans may have inadequate or no records.

On August 8, 1980, the Department published in the **Federal Register** (45 FR 52824) proposed regulations dealing with individual benefit reporting and recordkeeping for multiple employer plans. These proposed regulations specify content, format, and timing of benefit statements and the retention time, content, and manner of retention of records. DOL published separate proposed regulations concerning single employer plans on August 1, 1980 (45 FR 51231). The two sets of proposed regulations published in August 1980 represent a revision and reproposal of individual benefit reporting and recordkeeping regulations that were proposed on February 9, 1979 (44 FR 8294).

In the new proposals, by contrast to the 1979 proposal, the Department issued separate regulations for single and multiple employer plans in order to address more effectively the distinct problems of each type of plan.

Alternatives Under Consideration

In adopting regulations in this area, the Department is seeking to achieve a balance. On the one hand, plans should provide participants and beneficiaries with accurate, timely, and useful information. On the other hand, the Department recognizes the need to avoid imposing undue administrative burdens and costs on employers and administrators.

In response to the originally proposed regulations, the Department received a significant number of comments. In light of these comments, the Department has reproposed the regulations to include some substantial changes. The *Calendar of Federal Regulations* (Vol. 45, No. 106, May 30, 1980) entry for the regulations originally proposed in 1979 discussed four alternatives that were under consideration. The Department has incorporated those alternatives into the reproposed regulations. The following changes were made in the proposed regulations:

(A) The reproposal generally extends the time frame for furnishing individual benefit statements to enable plan administrators to key benefit statements to the end of the plan year (i.e., the plan's fiscal year) and to allow more time for preparing benefit statements.

(B) The reproposal reduces the amount of information that the plan administrator is required to set forth in the benefit statement, particularly that information which is unique to each participant or beneficiary. This should reduce the burden and cost to the plan attendant involved in retrieving, compiling, and reporting the information in a benefit statement.

(C) The new proposal includes separate individual benefit reporting and recordkeeping regulations for single employer plans and for multiple employer plans. Separation of the regulations permit the Secretary of Labor to establish standards that are appropriate to the different conditions of single employer and multiple employer plans, particularly in the recordkeeping area.

(D) The new proposal indicates that the Department contemplates delaying the date on which collectively bargained multiple employer plans have to be in compliance with the recordkeeping rules. Changes in the collective bargaining agreement may be necessary before such a plan can implement the recordkeeping standard. Because of this, DOL contemplates providing an implementation schedule keyed to the expiration date of the collective bargaining agreement(s) in effect on the date of adoption of the regulations, so that employers can achieve a more orderly compliance to the regulations.

Summary of Benefits

Sectors Affected: Multiple employer pension plan sponsors (employers, labor unions, and joint labor-management bodies that establish plans), administrators (i.e., persons who are responsible for the administration of pension plans), participants and beneficiaries.

The proposed regulations would provide multiple employer plan sponsors and administrators with the necessary guidance for compliance with the statutory provisions. This would enable participants in multiple employer pension plans and their beneficiaries to receive accurate, timely, and useful information about their specific benefit entitlements under pension plans, and to have the information verified from records maintained by the plan under the standards established by the Secretary of Labor. With this information, participants and beneficiaries will be better able to protect their rights to retirement benefits.

Summary of Costs

Sectors Affected: Sponsors and administrators of multiple employer pension plans.

Based on available data as furnished in public comments on the proposed regulation, the estimated first year cost of complying with the requirements of these reproposed regulations would be approximately $58.1 million. The start-up costs attributable to the recordkeeping are approximately $35.8 million. Some plans which currently maintain adequate records will not be faced with significant start-up costs. Approximately $22.3 million will be expended annually by plans in order to furnish benefit statements on request. The deferral of implementation of the recordkeeping requirements in order to accommodate the collective bargaining process should further reduce the total cost of compliance for all multiple employer plans in any one year. (All costs were estimated based on 1979 dollars.)

Related Regulations and Actions

Internal: None.
External: Treasury Regulations under § 6057 of the Internal Revenue Code of 1954.

Active Government Collaboration

None.

Timetable

Final Rule—Undecided.
Regulatory Analysis—None.

Available Documents

NPRM–45 FR 52824, August 8, 1980 and public comments (public comment period closed October 8, 1980) available for review in the Public Documents Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Ave., N.W., Washington, DC 20216, (202) 523–8671.

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DOL—LMSA—PWBP

Individual Benefit Reporting and Recordkeeping for Single Employer Plans (29 CFR Parts 2520* and 2530*)

Legal Authority

Employee Retirement Income Security Act of 1974, §§ 105, 209, and 505, 29 U.S.C. §§ 1025, 1059, and 1135.

Reason for Including This Entry

The Department of Labor (DOL) proposed reglations in the individual benefit reporting and recordkeeping area which were published on February

9, 1979 (44 FR 8294). These proposed regulations generated considerable

beneficiaries; however, many others may not. Further, of those plans that do

administrator is required to set forth in the benefit statement, particularly that

approximately $7 million annually for statements furnished upon terminations

amendments, the Department of Labor (DOL), which then administered the

remain in the workforce beyond age 65 or "normal retirement age" as

9, 1979 (44 FR 8294). These proposed regulations generated considerable interest among those members of the public directly and indirectly involved with the administration of pension plans. In light of the comments on that proposal, the Department decided to publish new proposed regulations in that area.

Statement of Problem

The Employee Retirement Income Security Act of 1974 (ERISA) imposes a comprehensive scheme of regulation on private sector employee benefit plans. There are several statutory exceptions, such as plans for government employees and plans established by churches. ERISA does not require any employer to establish an employee benefit plan; but if the employer does have an employee benefit plan, it is subject to Title I of ERISA. In the case of pension plans, Title I of ERISA imposes reporting and disclosure requirements, fiduciary duties, and minimum standards. With respect to welfare plans, Title I of ERISA imposes only reporting and disclosure requirements and fiduciary duties. This proposed regulation only applies to single employer pension plans, defined to include plans maintained by groups of employers under common control (a term relating to ownership—e.g., the relationship between parent companies and subsidiaries). There are approximately 23 million plan participants and beneficiaries affected by this regulation.

ERISA generally requires pension plan administrators to provide participants and beneficiaries with statements of their individual benefit entitlements (i.e., the benefits which they would be entitled to receive at retirement age by virtue of their service up to the date of the benefit statement) upon written request and upon certain other occasions, such as a 1-year break in service or the termination of service. These statements must include information on the total benefits the individual has accrued, the percentage of those accrued benefits which are nonforfeitable (i.e., the benefits which they will be entitled to receive at retirement age regardless whether they leave employment before retirement age) or the earliest date the benefits would become nonforfeitable.

ERISA also requires employers to maintain records so that the information is available for the administrator of the plan to compile the benefit statements. The Secretary of Labor has the authority to issue regulations on the specifics of the requirement.

Many plans now provide benefit statements to their participants and beneficiaries; however, many others may not. Further, of those plans that do issue benefit statements, some of the plans' statements may not be adequate or may not be provided at the appropriate times. Likewise, some plans keep records; but many plans may have inadequate or no records.

On August 1, 1980, the Department published in the **Federal Register** (45 FR 51231) proposed regulations dealing with individual benefit reporting and recordkeeping for single employer plans. These proposed regulations specify content, format, and timing of benefit statements and the type, retention time, content, and manner of retention of records. DOL published separate proposed regulations concerning multiple employer plans on August 8, 1980 (45 FR 52824). The two sets of proposed regulations published in August 1980 represent a revision and reproposal of indivdual benefit reporting and recordkeeping regulations that were proposed on February 9, 1979 (44 FR 8294).

In the new proposals, by contrast to the 1979 proposal, the Department issued separate regulations for single and multiple employer plans in order to more effectively address the distinct problems of each type of plan.

Alternatives Under Consideration

In adopting regulations in this area, the Department is seeking to achieve a balance. On the one hand, plans should provide participants and beneficiaries with accurate, timely, and useful information. On the other hand, the Department recognizes the need to avoid imposing undue administrative burdens and costs on employers and administrators.

In response to the originally proposed regulations, the Department received a significant number of comments. In light of these comments, the Department has reproposed the regulations to include some substantial changes. The *Calendar of Federal Regulations* (Vol. 45, No. 106, May 30, 1980) entry for the regulations originally proposed in 1979 discussed four alternatives that were under consideration. The Department has incorporated those alternatives into the reproposed regulations. The following changes were made in the proposed regulations:

(A) The reproposal generally extends the time frame for furnishing individual benefit statements to enable plan administrators to key benefit statements to the end of the plan year (i.e., the plan's fiscal year) and to allow more time for preparing benefit statements.

(B) The reproposal reduces the amount of information that the plan administrator is required to set forth in the benefit statement, particularly that information which is unique to each participant or beneficiary. This should reduce the burden and cost to the plan attendant involved in retrieving, compiling, and reporting the information in a benefit statement.

(C) The new proposal includes separate individual benefit reporting and recordkeeping regulations, for single employer plans and for multiple employer plans. Separation of the regulations permits the Secretary of Labor to establish standards that are appropriate to the different conditions of single employer and multiple employer plans, particularly in the recordkeeping area.

(D) The fourth alternative addressed the problems of multiple employer plans and therefore is covered in a separate DOL entry in this *Calendar* (see "Individual Benefit Reporting and Recordkeeping for Multiple Employer Plans").

Summary of Benefits

Sectors Affected: Single employer pension plan sponsors (employers, labor unions, and joint labor-management bodies that establish plans), plan administrators (i.e., persons who are responsible for the administration of single employer pension plans), participants, and beneficiaries.

The proposed regulations would provide single employer plan sponsors and administrators with the necessary guidance for compliance with the statutory provisions. This would enable participants in single employer pension plans and their beneficiaries to receive accurate, timely, and useful information about their specific benefit entitlements under pension plans, and to have the information verified from records maintained by the plan under the standards established by the Secretary of Labor. With this information, participants and beneficiaries will be better able to protect their rights to retirement benefits.

Summary of Costs

Sectors Affected: Sponsors and administrators of single employer pension plans.

Based on available data as furnished in public comments submitted on the proposed regulations, the estimated cost of complying with requirements of these reproposed regulations would be approximately $29 million annually. Of these costs, employers would spend $22 million annually for providing statements on request and approximately $7 million annually for statements furnished upon terminations and breaks in service. No significant costs are attributable to compliance with the recordkeeping requirements of the regulations. (All costs were estimated based on 1979 dollars.)

Related Regulations and Actions

Internal: None.
External: Treasury Regulations under § 6057 of the Internal Revenue Code of 1954.

Active Government Collaboration

None.

Timetable

Final Rule—Undecided.
Regulatory Analysis—None.

Available Documents

NPRM–45 FR 51231, August 1, 1980 and public comments (public comment period closed October 1, 1980) available for review in the Public Documents Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Ave., N.W., Washington, DC 20216, (202) 523–8671.

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Office of the General Counsel

Employee Benefit Plans; Proposed Guidelines on the Application of the Age Discrimination in Employment Act of 1967 to Retirement and Pension Plans (29 CFR Part 860.120)

Legal Authority

Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 *et seq.*

Reason for Including This Entry

The Equal Employment Opportunity Commission (EEOC) believes these proposed guidelines are important because they will clarify the applicability of the Age Discrimination in Employment Act (ADEA) to employee benefit plans and will aid in the elimination of discrimination on the basis of age.

Statement of Problem

Congress amended the ADEA in 1978 to extend protection under the Act from age 65 to age 70. Pursuant to those amendments, the Department of Labor (DOL), which then administered the ADEA, issued interpretative bulletins, codified at 29 CFR 860.120(f)(1)(iv) and 860.120(f)(2)(ii). These bulletins interpret the ADEA to permit pension plans (1) to cease employee contributions at normal retirement age, (2) to fail to credit service and salary increases which occur after an employee's normal retirement age, (3) to fail to adjust actuarially the benefit accrued as of normal retirement age for an employee who continues work beyond that age, and (4) to fail to take into account benefit improvements and salary increases which take place after an employee reaches the normal retirement age specified in the plan.

As a consequence of DOL's interpretations, many older employees are receiving or will receive diminished pension benefits simply because of their age.

Pursuant to Reorganization Plan No. 1 of 1978 (43 FR 19807, May 9, 1978), responsibility and authority for enforcement of the ADEA, as amended, 29 U.S.C. 621 *et seq.* was transferred from the Department of Labor to the Equal Employment Opportunity Commission. The transfer became effective and the Commission assumed enforcement of this Act on July 1, 1979. In 44 FR 37974, June 29, 1979, the EEOC provided notice that it had undertaken a complete review of DOL interpretations. Pursuant to its authority under the Act, the Commission proposes new interpretative rules on the application of the ADEA to retirement and pension plans.

Alternatives Under Consideration

There are currently no additional alternatives under consideration. The EEOC believes that it is essential to issue revised interpretations in this area, to clarify existing ambiguities and to conform more precisely to the intent of the original Act and the 1978 amendments. However, the Commission may make revisions to its proposal as a result of comments received.

The Commission's interpretation would provide greater pension benefits to older employees than those that are available to them under the current rules. This potection would be more consistent with the purpose of the ADEA.

Summary of Benefits

Sectors Affected: All employers who are subject to the ADEA and who maintain employee benefits plans; all employees who are or may be participants in an employee benefits plan and who seek employment or remain in the workforce beyond age 65 or "normal retirement age" as defined by the applicable plan.

The proposed guidelines will aid employers in understanding their obligations under the Act and in ensuring that the terms of their employee benefits plans are in conformity with the requirements of the law. The guidelines will benefit employees by ensuring their rights under the Act in a manner consistent with the original statute and the 1978 amendments. The guidelines will provide for the greater continued participation of and accrual of benefits for older employees in employee benefits plans than is now required under the original DOL interpretation still in effect. The EEOC does not yet have monetary figures as to the quantitative benefit to employees. However, it is reasonably believed that these guidelines will improve pension and benefit coverage to older employees.

Summary of Costs

Sectors Affected: All employers who are subject to the ADEA and who maintain employee benefits plans.

The EEOC does not have actual figures as to the costs an employer will incur as a consequence of these guidelines. However, the guidelines have been developed so as not to make it more expensive to retain older workers than it is to retain younger workers. While compliance with the proposed rules will cost employers more than compliance with DOL's rules, the costs imposed will be in keeping with the statute's cost-justification principle. Thus, employers will not be required to expend more for pension benefits on behalf of older workers than on behalf of younger workers.

Related Regulations and Action

None.

Active Government Collaboration

In compliance with E.O. 12067 (3 CFR, 1978, Comp., p. 206), the EEOC has consulted with representatives of the Department of Labor, the Department of Justice, and the Internal Revenue Service.

Timetable

NPRM—Fall 1980.
Regulatory Analysis—The EEOC does not currently plan to conduct a Regulatory Analysis.
Public Hearing—The EEOC does not currently plan to hold a public hearing.
Public Comment Period—90 days following publication of NPRM.

Final Rule—Unknown at present.

EEOC—Office of Policy

programs. After exhaustive review, the

guidance to those sectors affected as to

concern about whether such practices

be examined by the enforcement

Final Rule—Unknown at present.

Available Documents

Copies of the Proposed Guidelines on the Application of the Age Discrimination in Employment Act of 1967 to Retirement and Pension Plans will not be available until they have been published in the **Federal Register** for public comment.

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EEOC–OGC

Proposed Rule on the Application of the Age Discrimination in Employment Act of 1967 to Apprenticeship Programs (29 CFR 1627)

Legal Authority

Age Discrimination in Employment Act of 1967, 29 U.S.C. § 621 *et seq.*

Reason for Including This Entry

The EEOC believes this proposed rule important because it reflects an interpretation of the Age Discrimination in Employment Act (ADEA) that is more consistent with that statute than the rule currently in effect. This proposed rule will aid in the elimination of discrimination on the basis of age.

Statement of Problem

On July 1, 1979, pursuant to Reorganization Plan No. 1 of 1978, (43 FR 19807, May 9, 1978) responsibility and authority for enforcement of the Age Discrimination in Employment Act of 1967, as amended (ADEA) (29 U.S.C. § 621, 623, 625, 626–633, and 634) was transferred from the Department of Labor (DOL) to the Equal Employment Opportunity Commission (EEOC). The Commission assumed enforcement of the ADEA on that date. Prior to the assumption of jurisdiction, the Commission commenced a in-depth review of all existing interpretations of the ADEA which were promulgated by DOL (see 44 FR 37974, June 29, 1979). On November 30, 1979, the Commission published in the **Federal Register** its proposed interpretations of the ADEA (See 44 FR 68858, November 30, 1979). However, those proposed interpretations did not address the interpretation contained at 29 CFR 860.106 concerning apprenticeship programs. After exhaustive review, the Commission proposes to rescind that interpretation and promulgate a new rule regarding apprenticeship programs under the ADEA.

The consequence of the DOL rule has been to exclude people on the basis of age from job opportunities. Exclusion from the meaningful training provided by apprenticeship programs has also meant exclusion from meaningful jobs. The exclusion affects workers who are relatively young, i.e., in their 30's, as well as older workers. It significantly limits the options available to people today who may have to change careers because of economic dislocation. The age exclusion also compounds other discrimination, since women and minorities have often been discriminatorily excluded form apprenticeship programs. These groups later suffer added discrimination on the basis of age. The Commission's proposal will have the effect of opening up greater opportunities to all workers.

The proposed rule will rescind DOL's interpretation, which permits age limitations for admission into apprenticeship programs. EEOC bases its proposal on several factors. First, the existing interpretation runs counter to the stated purposes of the ADEA, which are to promote employment of older persons based their ability rather than age. Second, the statute and its legislative history do not support an interpretation which completely excludes apprenticeship programs from coverage under ADEA. While some apprenticeship programs may have legitimate reasons for excluding employees on the basis of age, those few exceptions do not justify the blanket exemption now in effect. The Commission retains its authority under § 9 of the ADEA to grant "reasonable exemptions . . . as necessary and proper in the public interest."

Alternatives Under Consideration

(A) The Commission could have adopted the DOL rules. For the reasons stated above it was determined that such action would not have been consistent with the statute.

(B) The Commission determined that a change in the rules was essential to equitable enforcement of the statute.

Summary of Benefits

Sectors Affected: All employers, unions, and joint labor management committees who administer apprenticeship programs; and all employees who wish to participate in such apprenticeship programs.

The new rule will provide better guidance to those sectors affected as to the applicability of the ADEA to apprenticeship programs. It will thus be easier to come into compliance with the statute. Additionally, the new rule will open up new job opportunities previously denied to employees on the basis of age. Workers will have access to more jobs as a consequence of better and greater numbers of training opportunities. Women and minorities may also find more employment opportunities that were previously denied to them because of sex or race discrimination.

Summary of Costs

Sectors Affected: All employers, unions, and joint labor management committees who administer apprenticeship programs.

No additional costs should be incurred as a consequence of this rule change. There are no new recordkeeping requirements, and apprenticeship programs will not alter their mode of operation.

Related Regulations and Actions

None.

Active Government Collaboration

In compliance with E.O. 12067 (3 CFR 1978, Comp., p. 206) the EEOC has consulted with representatives of the Department of Labor and the Department of Justice.

Timetable

Public comment period—September 29, 1980-November 28, 1980.
Final Rule—Fall 1980.
Public Hearing—None planned.
Regulatory Analysis—EEOC will not prepare.

Available Documents

Copies of the proposed rule published September 29, 1980 at 45 FR 64212, are available from: The Equal Employment Opportunity Commission, Office of the Executive Secretariat, 2401 E Street, N.W., Washington, DC 20506.

Agency Contact

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Legal Counsel Division
Equal Employment Opportunity Commission
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EEOC—Office of Policy Implementation

Interpretive Guidelines on Employment Discrimination and Reproductive Hazards

Legal Authority

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000(e) *et seq.*

Reason for Including This Entry

The Equal Employment Opportunity Commission (EEOC) believes these guidelines are important because employment policies, practices, and plans relating to reproductive hazards can have the effect of denying employment opportunities to individuals. Thus, the guidelines will aid in the elimination of discrimination on the basis of sex.

Statement of Problem

These Hazardous Substances Guidelines are the result of the collective efforts and expertise of several Federal agencies. These efforts were necessitated by charges presented to the Equal Employment Opportunity Commission and to the Office of Federal Contract Compliance Programs (OFCCP), alleging employment discrimination in workplaces containing substances and conditions hazardous to reproductive health.

Also, EEOC and OFCCP became aware of the increasing number of employers and contractors who are initiating policies excluding all women of childbearing capacity from certain jobs because of exposure to hazardous substances or conditions. A number of employers and contractors have policies of not hiring women of childbearing capacity for jobs in which there is exposure to alleged reproductive hazards, and have terminated or transferred women to lower paying jobs based on such policies. Employers and contractors, in establishing such practices, often show a lack of concern for similar effects upon men. Some employers and contractors have attempted to justify these policies on the basis of potential harm occurring to an unborn child through exposure of the mother. These policies have been developed without apparent regard to whether exposure of the father can result in harm to the unborn child. Preliminary evidence indicates that as many as 20 million jobs may involve exposure in the workplace to alleged reproductive hazards.

In response to such exclusionary practices, the EEOC, on April 21, 1978, issued a policy statement indicating its concern about whether such practices conform with Federal antidiscrimination laws. In a May 31, 1978 letter from the Department of Labor's Assistant Secretary for Occupational Safety and Health, the Occupational Safety and Health Administration (OSHA) expressed its concern regarding employment practices which deny opportunities to any class of workers on the basis of safety and health. On February 1, 1980, the EEOC published guidelines specifically addressing those situations involving allegations of sex discrimination.

Title VII of the Civil Rights Act of 1964, as amended, and E.O. 11246 require that the enforcement agencies closely scrutinize the exclusion of a sex-based class from consideration for employment.

Exclusions which, by their stated terms, are based on membership in a sex-based class are *per se* violations of Title VII and E.O. 11246 because the exclusions are expressed or implemented in terms of membership in a class protected by Title VII and E.O. 11246. Also, an employer/contractor's conduct which treats disparately members of a sex-based class raises a presumption of a violation of Title VII and E.O. 11246. Finally, a neutral employment policy which appears to be neutral on its face but in reality has an adverse impact upon a specific sex-based class is an unlawful employment practice unless it is truly neutral and is justified by the employer/contractor.

It is important to note that, as a result of the Pregnancy Discrimination Act, P.L. 95–555, 92 Stat. 2067 (1978), women affected by pregnancy, childbirth, or related medical conditions constitute a protected class under Title VII. All such women must be treated the same for employment-related purposes as other persons not so affected but similar in their ability or inability to work. For example, where an employer/contractor seeks to determine the hazardous reproductive effects on pregnant women from their exposure to a certain substance or condition, the employer/contractor must also determine the effects on males and nonpregnant females from the same exposure.

If the hazard is known to affect the fetus through either parent, an exclusionary policy directed only at women would be unlawful under Title VII and E.O. 11246. Further, if the hazard is shown by reputable scientific evidence to affect the fetus through women only, the class excluded must be limited to pregnant women and not all women of childbearing capacity. Whether expressed in a policy or not, the employer/contractor's conduct will be examined by the enforcement agencies to determine whether the conduct is nondiscriminatory or justified.

Alternatives Under Consideration

Various charges of sex discrimination currently pending before the Commission make it apparent that greater guidance as to the applicability of Title VII to exclusionary policies is needed. The Commission is presently analyzing the large number of comments received in response to the NPRM of February 1, 1980 (45 FR 7514).

Summary of Benefits

Sectors Affected: Employees of industries in which workers are exposed to reproductive hazards.

These guidelines provide clear guidance to employers as to types of practices the EEOC believes to be in violation of Title VII of the Civil Rights Act of 1964, as amended. In addition, they are designed to protect large numbers of women employees and applicants from arbitrary and discriminatory exclusion from job opportunities. Similarly, they are designed to assure that employers consider the potential hazards to the reproductive capacity of male employees in the adoption of any exclusionary policies to ensure equitable application of such policies.

Summary of Costs

Sectors Affected: Industries in which workers are exposed to reproductive hazards.

The guidelines require employers to initiate research designed to produce evidence of the effect of the reproductive hazard as used in the employer/contractor's workplace. The guidelines provide for the conducting of joint studies by employers. Also, if the employer/contractor does not have the capacity to conduct or sponsor the necessary research, the employer can request the Occupational Safety and Health Administration (OSHA) to perform the research. The Commission believes that the cost of conducting such research will vary from employer to employer. The Commission is unable to place a dollar figure on the cost of such research at this time. The proposed guidelines specifically requested comments as to anticipated costs in this area. Many of the comments received addressed themselves to the problem of costs and the Commission is analyzing these submissions.

Related Regulations and Actions

None.

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Active Government Collaboration

In compliance with E.O. 12067 (3 CFR, 1978, Comp., p. 206), the Commission consulted with representatives of the Department of Labor, the Occupational Safety and Health Administration, and the Office of Federal Contract Compliance Programs.

Timetable

Regulatory Analysis—EEOC will not prepare.
Public Hearing—None.
Final Guidelines—Date not known at present.

Available Documents

Copies of the proposed Guidelines, published February 1, 1980, are available through the Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, DC 20506. The public comment period ended July 2, 1980. Comments may be reviewed from 9:30 a.m.–4:30 p.m. at the Equal Employment Opportunity Commission Library, 2401 E Street, N.W., Washington, DC 20506.

Agency Contact

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EEOC–OPI

Proposed Revision of the Guidelines on Discrimination Because of National Origin (29 CFR Part 1606*)

Legal Authority

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000(e) *et seq.*

Reason for Including This Entry

The Equal Employment Opportunity Commission (EEOC) includes this entry because it is a matter of great public importance and because these guidelines will aid in the elimination of discrimination on the basis of national origin. The proposed revision will clarify the guidelines and thereby specifically inform the public of unlawful employment practices which discriminate on the basis of national origin. These guidelines reaffirm the Commission's position on national origin discrimination as expressed in Commission decisions and other legal interpretations.

Statement of Problem

The key revision of the proposed guidelines deals with "speak-English-only" rules used by some employers. Under a new section, the Commission finds that totally prohibiting employees from speaking their primary language in the workplace violates Title VII of the Civil Rights Act of 1964, as amended, except in limited circumstances. According to the guidelines, the "speak-English-only" rule is a term and condition of employment which may discriminate on the basis of national origin by restricting an individual's employment opportunities and by creating a discriminatory working environment. Where such a rule exists, the Commission said that it would be closely scrutinized.

The guidelines recognize that an individual's primary language is often an essential national origin characteristic. According to estimates, approximately 28 million persons in the United States, or about 13 percent of the total population, have non-English language backgrounds and may be affected by an employer's "speak-English-only" rule. The major groups are Spanish, 10.6 million; Italian, 2.9 million; German, 2.7 million; French, 1.9 million; Chinese, Japanese, Korean and Vietnamese, 1.8 million; Polish, 1.5 million.

The guidelines do recognize, however, that requiring employees to speak only in English at certain times would not be discriminatory if the employer shows that the rule is justified by business necessity. In such situations, the employer is obliged to clearly inform employees of the circumstances in which they are required to speak only in English and the consequences of violating the rule.

The guidelines hold that notice of such a rule is necessary because it is common for individuals whose primary language is not English to inadvertently slip from speaking English to speaking their primary language. Any adverse employment decision against an individual based on a violation of the rule will be considered as evidence of discrimination when an employer has not given effective notice of the rule.

The guidelines follow in the wake of a Fifth Circuit Court of Appeals decision, *Garcia* v. *Gloor*, 618 F 2nd 264 (1980), where the Court noted that there were not standards or regulations for judging employer rules on speaking English.

Alternatives Under Consideration

With reference to the above, it was apparent to the Commission that revised guidelines were necessary in order to clarify interpretation of the statute and to explain the applicability of Title VII prohibitions against national origin discrimination to situations involving "English-only" rules in the workplace. Therefore there are no alternatives.

Summary of Benefits

Sectors Affected: Employers, unions, and employees subject to Title VII of the Civil Rights Act of 1964, as amended; EEOC; and the Federal courts.

These guidelines will benefit employers, unions, and employees in defining clearly the prohibitions embodied in Title VII with regard to discrimination based on national origin. The clarification will assist the EEOC and the courts in their enforcement of the statute. The greater understanding provided by the guidelines will assist in providing protection against discrimination and make it less likely that people will be denied job opportunities because of discrimination.

Summary of Costs

Sectors Affected: All employers and unions subject to Title VII of the Civil Rights Act of 1964, as amended.

No costs are likely to be incurred as a consequence of abiding by these guidelines. The guidelines simply clarify existing law and statutory interpretation. No new obligations are imposed as a consequence of the guidelines.

Related Regulations and Actions

None.

Active Government Collaboration

Pursuant to E.O. 12067 (3 CFR, 1978, Comp., p. 206), the EEOC has coordinated these proposed guidelines with the Departments of Labor, Health and Human Services, Transportation, Education, Housing and Urban Development, and Treasury; the National Labor Relations Board; and the Office of Personnel Management.

Timetable

Final Guidelines—Fall 1980.
Regulatory Analysis—EEOC will not prepare.

Available Documents

Copies of the guidelines, published September 19, 1980 (45 FR 184), and public comments are available from: The Equal Employment Opportunity Commission, Office of the Executive Secretariat, 2401 E Street, N.W., Washington, DC 20506.

Agency Contact

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GENERAL SERVICES ADMINISTRATION

Administration Operations Division (HRO)

Nondiscrimination Against Handicapped Persons in Programs and Activities Receiving Federal Assistance (41 CFR Part 101–6.3)

Legal Authority

Rehabilitation Act of 1973, 29 U.S.C. § 794; E.O. 11914, 3 CFR, 1976 Comp., p. 117; 40 U.S.C. § 486(c).

Reason for Including This Entry

The General Services Administration (GSA) has included this item because of the high level of public interest in nondiscrimination against handicapped persons in federally assisted programs and activities.

Statement of Problem

Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794) prohibits discrimination against handicapped persons in all programs and activities receiving Federal assistance. E.O. 11914 designated the Department of Health, Education, and Welfare (HEW) as the lead agency to coordinate Government-wide enforcement of 504. HEW issued regulations (45 CFR Part 85) in 1978 which set standards, procedures, and guidelines for other agencies to follow in issuing their own regulations. We intend our proposed regulations to be consistent with the HEW standards and guidelines. It establishes the procedures GSA will use to enforce nondiscrimination against handicapped persons in programs and activities which receive Federal assistance under laws which GSA administers in whole or in part.

GSA's assistance typically consists of donation or sale below market price of surplus Federal property—land, buildings, historical records, vehicles, or supplies—to State and local governments and other public or charitable bodies. These recipients in turn use the property for a wide range of purposes, such as airports, parks, education, public health, public safety, and economic development. GSA makes over 50,000 grants of assistance and conveys approximately $4 billion in surplus property to the States each year.

The proposed GSA regulation will require the applicants for assistance from GSA submit an assurance to GSA that the assisted program or activity will be offered on a nondiscriminatory basis, and will be accessible to the handicapped. Where the assistance is in the form of real property, the proposed regulation requires a covenant in the deed which would allow GSA to reclaim the property if the recipient's use is contrary to the nondiscrimination provisions. The proposed regulation requires recipients to evaluate the effectiveness of their nondiscrimination efforts and to set up a grievance procedure and encourages them to take remedial action on a voluntary basis. The requirement of nondiscrimination also applies to employment under federally assisted programs and activities.

Alternatives Under Consideration

There are no alternatives under consideration, because HEW guidelines leave little room to vary these proposals. At an early stage in the development of the proposed regulation, we decided simply to require an "assurance," the form of which may be different for different applicants, and to exempt small recipients (those with fewer than 15 employees) from some requirements of the regulation.

Summary of Benefits

Sectors Affected: Persons with physical handicaps; State and local governments, and other public bodies and charitable organizations receiving assistance from GSA; and programs and activities that benefit from this assistance.

The physically handicapped of our society will be assured of equal benefit from and access to programs and facilities which receive Federal support through GSA. A study of the number of handicapped persons who use these programs and activities is now under way. Where employment is stimulated by the federally supported programs, we expect to see long-term productivity improvements because of the high productivity levels of qualified handicapped workers. Some handicapped workers may achieve self-sufficiency or higher standards of living because of these employment opportunities.

Summary of Costs

Sectors Affected: State and local governments, and other public and charitable bodies receiving Federal assistance through GSA; programs and activities that benefit from this assistance; and GSA.

We will require recipients to ensure that the assisted programs and services are available on a nondiscriminatory basis to handicapped persons. The costs of actual compliance imposed by statute may be quite high (as where building modifications are needed). The cost of giving assurances to GSA, as the GSA regulation would require, is quite small and we do not expect that cost to deter any applications for assistance from GSA. All recipients and GSA would incur some cost of compliance monitoring. This monitoring is closely related to the monitoring for racial and other forms of prohibited discrimination, and we expect the additional cost to recipients will be small. GSA will bear the costs of more on-site reviews.

Related Regulations and Action

Internal: 41 CFR Part 101–6.2.
External: 28 CFR 42.401–415.

Active Government Collaboration

GSA has worked with the Architectural and Transportation Barriers Compliance Board (a Government board created by the Rehabilitation Act of 1973) on developing standards for the design, construction, or alteration of facilities. As required by the Department of Health, Education, and Welfare (HEW) regulation, GSA's proposed final regulation has been submitted to HEW (now the Department of Health and Human Services).

Timetable

Public Hearing—None.
Final Rule—December 1980.
Regulatory Analysis—Not required.

Available Documents

NPRM—44 FR 62298, October 30, 1979.
Public Comments—Anyone interested in reviewing public comments in response to the NPRM may contact the Agency Contact listed below.

Agency Contact

Jacquie C. Perry, Acting Director
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Office of Civil Rights
General Services Administration
18th & F Streets, N.W., Room B–219
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GSA—National Archives and Records Service

Freedom of Information Act Requests for National Security Classified Information in the National Archives (41 CFR Parts 105-61*)

Legal Authority

Freedom of Information Act, 5 U.S.C. § 552; E.O. 12065, 3 CFR, 1978 Comp., p. 190.

Reason for Including This Entry

The General Services Administration (GSA) included this rule in the Calendar because it deals with access to classified information, which is an important resource for historical research.

Statement of Problem

The Freedom of Information Act (FOIA) sets out procedures for obtaining information and records from Federal Government agencies. Researchers and other persons seeking access to records of Federal agencies under FOIA direct their requests to the agency which has custody of the records. The National Archives and Records Service (NARS) of the General Services Administration acts as custodian of noncurrent records of Federal agencies, including records classified for reasons of national security. A request for access to classified information also serves as a request for declassification of the information. NARS is authorized to declassify records more than 20 years old (or 30 years in the case of foreign government information provided to the United States). If a request is for newer classified records, NARS forwards a request for declassification to the agency with declassification authority (usually the originating agency), and that agency decides whether to declassify the requested information. FOIA requires NARS to notify the requestor of a denial of access, but under current NARS regulations, agencies with declassification authority sometimes inform requestors directly of denials of declassification without informing NARS. As a result, NARS is sometimes unable to respond to requests on a timely basis, while at other times the requestor may receive duplicate notices from the other agency and from NARS.

Alternatives Under Consideration

The proposed regulation changes the current procedure so that agencies with declassification authority would notify NARS of the decision about declassification and NARS would in turn provide a single notification to the requestor. Our alternative would be to keep the current procedure.

Summary of Benefits

Sectors Affected: Persons and organizations requesting access to national security classified information under the Freedom of Information Act; NARS; and other agencies with declassification authority.

If NARS changes the regulation, the 100 to 200 people a year who request access to national security classified information will maintain direct contact with NARS when it is the agency which has physical custody of the records, and will receive notices only from NARS. We expect that this "single point of contact" approach will be less confusing to persons requesting information. It should also slightly reduce costs of other government agencies by reducing duplication of notices.

Summary of Costs

Sectors Affected: None.

The proposed regulations has no direct or indirect costs.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

NPRM—Early 1981.
Public Hearing—None.
Public Comment Period—60 days following NPRM.
Final Rule—Mid-1981.
Regulatory Analysis—Not required.

Available Documents

Public Use of Archives and FRC Records, 41 CFR Parts 105-61.

Agency Contact

Adrienne C. Thomas, Director
Planning and Analysis Division (NAA)
National Archives and Records Service
General Services Administration
Washington, DC 20408
(202) 523-3214

SMALL BUSINESS ADMINISTRATION

Revision to Method of Establishing Size Standards and Definitions of Small Business (13 CFR Part 121)

Legal Authority

The Small Business Act, 15 U.S.C. §§ 632 and 634.

Reason for Including This Entry

The Small Business Administration (SBA) thinks that these rules are important because they will define the term "small business" and thus clarify what businesses are eligible for SBA programs. In addition, these rules have an annual effect on the economy in excess of $100 million.

Statement of Problem

SBA is charged by the Small Business Act of 1953 and the Small Business Investment Act of 1958 to administer a wide variety of programs designed to benefit the small business community of the United States. These programs include financial business assistance, such as direct loans, loan guarantees, and surety bond guarantees; management and technical assistance, such as direct consultation; and provision of opportunities to contract with the Federal Government to provide it goods and services. Eligibility for these programs is based on, among other things, the size of the applicant. SBA must define the term "small business" in a manner which is equitable to all concerns seeking the Agency's assistance. Hence, size standards are necessary, and we have set them to cover each of the industries specified in the Standard Industrial Code. We urge other Federal agencies to use these standards as well, and many do, in their contracting and financial assistance programs.

The promulgation of size standards is a difficult chore because the concept of size is by nature a relative one. The Small Business Act precludes SBA from rendering assistance to firms that are dominant in their industries. However, conception of the size of a firm can be based on a number of other factors, including number of employees, sales per particular time period, and competitive position within an industry or geographic area. It may also be appropriate to define "small" differently depending on the SBA program involved.

In the past, size standards have varied from SBA program to program and were often set to suit the preferences of SBA's program offices or other procuring agencies within the Federal Government. However, many of these standards attracted considerable criticism from the public because they were factually unsubstantiated, inconsistent, and confusing, and not tied sufficiently to expressed SBA policy. Both the House and Senate Small Business Committees have made frequent inquiries concerning SBA's size-standard setting procedures, and

the General Accounting Office prepared two reports in 1978 and 1979 which were somewhat critical of the process as it concerned SBA's procurement and timber set-aside programs.

All of this led SBA Administrator A. Vernon Weaver to pledge in congressional testimony, in 1979, that SBA would develop new size standards where justified.

SBA thinks that the proposed revision of these size standards rules is important because it will update and improve the logic, methodology, and format of the size standards. It will simplify understanding of SBA programs for the small business community, reduce complexity in the administration of SBA's programs, and improve the targeting of SBA's resources.

Alternatives Under Consideration

The possible alternatives under consideration are:

(A) SBA can use a combination of factors to determine a firm's size for the purposes of these proposed rules, such as sales, number of employees, and gross assets. The advantage of this system is that it allows for review of a firm from a number of different viewpoints. The disadvantage is that it can confuse the small business community and the public at large because it will require comparisons of the operative factors within various industries which cannot be easily made and which will make uniformity of decisionmaking, to the extent that it is desirable, an impossibility. Furthermore, SBA has found that size standards measured in dollars, such as in sales or gross assets, are not a true measure, since inflation can affect different products or assets differently, and distort any attempt to compare their prices.

(B) SBA can use a single factor, such as number of employees, to determine a firm's size. Such a standard will be easier for SBA to administer, but might be inequitable, because the factor chosen may not be an adequate measure of size in a given industry. However, SBA feels that using employment as opposed to sales or assets will provide greater stability for SBA and its clients because it will remove distortions generated by inflation and will reduce the need for frequent future adjustments merely to reflect inflation.

(C) SBA can use the same size standard in administering each of its programs. This will promote uniformity in SBA decisionmaking and ease of administration for SBA and applicants, but it also inevitably will lead to decisions that do not take all the important variables into consideration.

(D) SBA can use individual size standards for each of its programs, which may mean several different standards would apply to one company. This will lead to a more flexible decisionmaking process, but will also promote confusion and difficulty in administration, because a given company might be eligible for one SBA program and not another based on this system.

Currently, SBA bases its size standards on a combination of factors and uses different standards for each of its programs. We are proposing to use the firm's number of employees as the exclusive measure of size, and to develop a single standard to cover all of our programs by this proposed revision.

Summary of Benefits

Sectors Affected: SBA; businesses eligible to receive SBA assistance.

The proposed regulations will benefit SBA because they will help us determine which businesses will be eligible for SBA assistance. Our program will cover all sectors covered by the Standard Industrial Classification.

Currently, about 99 percent of all American firms meet the definition of "small business," and are eligible for SBA assistance. We project that our redefinition will decrease that figure to 96 percent. While this means that some businesses that previously may have been eligible for SBA assistance may no longer be eligible, there will be a corresponding benefit to those that remain eligible, in that there may be fewer companies competing for SBA assistance.

We cannot project precisely what the cost or benefit impact will be in this respect, because businesses are not automatically entitled to SBA assistance if they meet our definition of "small." There are no other eligibility requirements for the various SBA programs that would still apply to an applicant in a given situation. (Our proposed rule to redefine "small business" will not modify these program-specific requirements.)

Summary of Costs

Sectors Affected: Businesses that may no longer be defined as small.

Because the total number of businesses eligible for SBA assistance will decline by about 3 percentage points (from 99 percent under the current definition to about 96 percent under the new definition), some businesses that previously may have been eligible for SBA assistance will no longer be eligible for assistance. This represents a difference of about 225,000 businesses, of which about 150,000 are agricultural and about 75,000 are industrial, manufacturing, or retail businesses.

Related Regulations and Actions

Internal: In order to be eligible for any SBA business assistance, SBA must determine the firm is "small." Therefore, these regulations will, of necessity, affect the application of all of the Agency's business assistance regulations, including 13 CFR Parts 106, 107, 115, 118, 119, 120, 122, 124, 125, 128, 129, 130, and 131.

External: These regulations will affect any Federal regulations which contemplate governmental assistance to, or contracting with, small business, if those regulations incorporate by reference SBA's definitions of small business. Use of SBA's size standards is left to the discretion of each governmental agency.

Active Government Collaboration

In establishing its size standards, SBA has relied upon information developed by the Department of Commerce and Internal Revenue Service. SBA contemplates the receipt of comments and suggestions from other Federal and State agencies on its proposed rules during the comment period thereon.

Timetable

NPRM—Decemer 5, 1980.
Final Rule—April 5, 1980.
Regulatory Analysis—A Regulatory Analysis of these rules is presently being prepared.

Available Documents

ANPRM—45 FR 15442, March 10, 1980; 45 FR 23704, April 8, 1980; and 45 FR 59587, September 10, 1980.

In addition, comments received in regional hearings held between May 8 and June 5, 1980, and comments in response to the ANPRMs, are available at SBA's Central Office, 1441 L Street, N.W., Washington, DC 20416, for public review and inspection.

Agency Contact

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(202) 653-6373

V 45 NO 024 80 UMI

VETERANS ADMINISTRATION

Department of Memorial Affairs

State Cemetery Grants (38 CFR 39)

Legal Authority

Veterans Housing Benefits Act of 1978, § 202(b)(1), 38 U.S.C. § 1009.

Reason for Including This Entry

The Veterans Administration (VA) believes that these regulations will be of interest to veterans, State officials, and the general public, because they establish procedures for a grant program to establish and improve State veterans' cemeteries.

Statement of Problem

The Veterans Housing Benefits Act of 1978 authorized the Veterans Administration to make grants to States to assist in establishing and improving veterans' cemeteries. The proposed regulations will define eligibility and requirements for participation in the program, and establish minimum standards for cemetery construction projects assisted through grant funds. The requirements will elaborate on the provisions of Office of Management and Budget Circular No. A-95 (Revised), which provides for the evaluation, review, and coordination of Federal and federally-assisted programs and projects, and OMB Circular No. A-102, which provides the uniform administrative requirements for grants-in-aid to State and local governments.

Alternatives Under Consideration

These regulations will implement the requirements of § 202(b)(1) of the Veterans Housing Benefits Act of 1978. The regulations establish standards and guidelines relating to site selections, planning, and construction which will be applied to this grant program.

Summary of Benefits

Sectors Affected: States, Territories, and Possessions of the United States, including the District of Columbia and the Commonwealth of Puerto Rico, that apply for grant assistance for a cemeterial construction project; and veterans and their families.

These regulations will guide and assist State officials in applying for assistance for veterans' cemeterial project from the State Cemetery Grants Program. No State may receive grants in any fiscal year in a total amount in excess of 20 percent of the total amount appropriated for each fiscal year.

The grant program and the regulations will help interested States develop and improve State veterans' cemeteries. This will indirectly benefit the veteran and other residents of the State.

Summary of Costs

Sectors Affected: None.

Congress authorized to be appropiated $5 million for FY 1980 and for each of the 4 succeeding fiscal years for the purpose of these VA grants. The cost of compliance with this regulation on the part of the States wishing to apply for a grant will not be significant.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Final Rule—November/December 1980.
Regulatory Analysis—Not required.

Available Documents

OMB Circular No. A-95 (Revised).
OMB Circular No. A-102.
NPRM—44 FR 55866-55872.

Agency Contact

Harold F. Graber, Director
State Cemetery Grants Program
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(202) 389-2313

VA—Office of Human Goals

Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance From the Veterans Administration (38 CFR Part 18e)

Legal Authority

The Age Discrimination Act of 1975, 42 U.S.C. § 6101 *et seq.*

Reason for Including This Entry

The Veterans Administration (VA) thinks this rule is important because it will allow qualified individuals regardless of age to participate in programs and activities that are federally funded and that have been previously denied to them.

Statement of Problem

The Age Discrimination Act of 1975 requires each Federal agency that grants Federal financial assistance to any program or activity to implement regulations to carry out the provisions of the Act. The purpose of the Act is to prohibit discrimination on the basis of age. The Act applies to persons of all ages. These proposed regulations concern activities that receive Federal financial assistance from VA. The programs that are covered are generally the same as those covered by Title VI of the Civil Rights Act of 1964, but exclude those programs that involve employment.

VA proposes to use procedural provisions contained in the regulations for Title VI of the Civil Rights Act of 1964 to enforce proposed VA regulations. These provisions are 38 CFR §§ 18.9-18.11 and 38 CFR Part 18b.

Alternatives Under Consideration

This regulation will implement the requirements of the Age Discrimination Act of 1975 and the governmentwide regulations issued by the former Department of Health, Education, and Welfare (45 CFR Part 90). Because these regulations are mandated by legislation, those requirements provide no alternative for consideration.

Summary of Benefits

Sectors Affected: All persons involved in programs and activities receiving VA financial assistance, except those programs that involve employment.

The regulations will help assure that the benefits of federally assisted programs and activities will be extended to all eligible persons without discrimination. These regulations, however, will not result in more programs for either the elderly or youth; and they are nullified if there exists a Federal, State, or local legislation that requires an age distinction.

Summary of Costs

Sectors Affected: None.

We believe that the cost to the Veterans Administration and to the recipients will be minimal.

Related Regulations and Actions

Internal: None.
External: Department of Health, Education, and Welfare, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 CFR Part 90.

Active Government Collaboration

The Veterans Administration's regulation will be similar to those issued by the Department of Health, Education, and Welfare (HEW), except as necessary to meet specific Veterans Administration organizational, procedural, or program requirements. We anticipate entering into an agreement with Federal agencies to eliminate duplication of enforcement effort. This would parallel the delegations of responsibility with regard to Title VI of the Civil Rights Act of 1964, which makes HEW (now Department of Education and Department of Health and Human Services) responsible for institutions of higher learning, public schools, and hospital and other health facilities, and the Veterans Administration responsible for privately owned schools.

Timetable

NPRM—December 1980.
Public Comment Period—30 days after proposed regulations are published.
Final Rule—October 1981.
Regulatory Analysis—Not required.

Available Documents

None.

Agency Contact

Marion M. Slachta, Equal Opportunity Specialist
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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

Amendments to Federal Seed Act Regulations (7 CFR Parts 201* and 202*)

Legal Authority

Federal Seed Act of 1939, 7 U.S.C. § 1551 *et seq.*

Reason for Including This Entry

The U.S. Department of Agriculture (USDA), the State governments that cooperate in the enforcement of the Federal Seed Act (FSA), and the seed industry recognize several problem areas in the Federal seed regulatory program. The goal is to modify the regulations to serve the public interest more effectively.

Statement of Problem

The FSA is designed to protect farmers and other consumers who buy seed that is sold across State lines, or is imported. There are approximately 2,500 seed shippers and the value of seed shipped interstate each year is estimated at $3 billion. The FSA requires labeling of all such seed, prohibits false labeling and advertising, and prohibits importation of uncleaned seed, seed with low germinating levels, and seed containing noxious-weed seeds. The consequences of failure to control seed transactions such as these include a reduction in crop quality, sometimes to the point of crop failure (as with seed that will not germinate). Similarly, excessive noxious-weeds in a crop will render it economically worthless.

USDA and State governments cooperate in enforcing the FSA. The States enforce their laws independently of the FSA. Federal enforcement begins with the States reporting violations to USDA. The States cooperate in sampling, testing, and investigating interstate shipments of seed. The Agricultural Marketing Service (AMS) of USDA cooperates with the Animal and Plant Health Inspection Service (APHIS) of USDA and the U.S. Customs Service (Customs) by testing samples of exported and imported seed, respectively, that are taken by APHIS and Customs. USDA is now reviewing and revising existing regulations used to administer the FSA. USDA will repromulgate these regulations, as amended, to provide up-to-date rules for testing seed, improve standards for certified seed, change rules for sampling new and different containers of seed, and clarify definitions and other provisions in light of current marketing practices and improved seed testing technology.

Specific problem areas are:

(1) Handling complaints promptly. USDA investigates and takes action on complaints of alleged violations of the FSA, mostly from State seed regulatory agencies that cooperate with USDA. Slow action draws criticism from State agencies and the seed dealers regulated.

(2) Enforcing seed laws uniformly. Variability of State programs and unequal cooperation by State agencies results in unequal administration of the Federal law.

(3) Sampling of imported seeds. U.S. Customs agents sample the seed at the ports of entry and forward the samples to USDA seed laboratories. USDA tests the samples and admits or rejects the seed. Failure to sample, misidentification of seed samples, or delays in sampling affect the efficiency and effectiveness of the program. The risk of undesirable seeds coming into the United States is increased by the failure to sample at the port of entry. This risk is diminished by subsequent sampling at the State level.

(4) Regulating labeling of seed varieties. The FSA requires labeling and prohibits false labeling. With some seeds, it is impossible to identify the variety by seed characteristics; it is necessary for anyone interested in determining the variety of such seeds to subject them to special biochemical tests or grow them in field plots to differentiate varieties. Some seedsmen question the methods mandated by USDA and the interpretations of the results.

Alternatives Under Consideration

USDA held public meetings in September 1979 in Memphis and Denver, and invited all interested parties to express their views on the effect the FSA has on their business practices. We are considering the comments and letters we received in a study of the FSA now underway. When we have evaluated this new information, it should provide guidance for possible alternative strategies.

They are:

(A) No change in the regulations. The current regulations explain the requirements of the FSA, add definitions, specify kinds of seed that are subject to the FSA, prescribe rules for sampling and testing, and set forth standards for certain purposes. Possible advantages of this alternative are consistency (status quo), avoidance of controversy, and no cost to the Government or the industry to implement change. The disadvantage is that the problems discussed in the previous section will continue.

(B) Amend the regulations to make possible improvements in the current system. USDA expects many changes to have the support of all affected parties. Specific changes cannot be identified at this time because studies are not yet completed. One change (mandated by E.O. 12044) expected to have the support of all affected parties is the revision into "Plain English." Others will be controversial. Hearings will air controversial issues (such as those listed under "Statement of Problem," in addition to any others which might arise) and will, hopefully, shed light on suitable solutions. The regulations need to be updated because of developments in technology and seed marketing. For example, seed of new plant populations is being sold, there are more seed products designed for the apartment dweller or mini-gardener, and additional methods of measuring seed quality exist. No existing regulations pertain to such seed and methods. Technical bodies of the State agencies have recommended to USDA changes in the technical rules for testing and standards for certified seed. Some other contemplated amendments would involve adding more kinds of seeds to the list of seeds currently subject to the FSA, preinnoculated and hermetically sealed seed, variety status and naming, recordkeeping, and the procedures for sampling seed. Most interested parties urge uniform regulations. In those instances when the FSA is different from the consensus of the States, the FSA should be changed.

(C) Amend authorizing legislation to change the mandate for regulations, such as: delete certain sections of the law completely (such as rules for testing), change the approach from "truth-in-labeling" (a system whereby certain items are required to be shown on the label and no items appearing on the label can be false or misleading in any respect) to grades for quality which would include all or part of the current labeling requirements (such as USDA #1 or Grade A), and/or require permits so the shipper is licensed to ship seed subject to revocation of license if the shipper fails to meet certain standards, or require compulsory inspection by State or Federal agents before marketing. The current system is a truth-in-labeling and spot-check-inspection system. It is not perfect. The spot-check-inspections are done by the States, and violations are reported to USDA. Not all States participate fully in reporting violations. Improvement could be obtained by encouraging participation by those States that are inactive or by Federal takeover of inspections. Cost-benefit analysis may justify the current inspection system. The freedom to produce and distribute seeds without inspection or constraint simplifies the distribution system and minimizes the regulatory burden. On the other hand, the current system may not suffice to protect consumers from faulty seed which may cause crop losses. A farmer's crop may be lost before the fault in the seed is detected. Premarket inspection and a pedigree system (such as the certification program) might reduce errors.

Summary of Benefits

Sectors Affected: Seed industry: growers, wholesale trade (including importing), and retail trade; seed testing laboratories; USDA; State seed regulatory and seed certifying agencies; farmers, gardeners, and other seed users; and the U.S. Treasury Department's Bureau of Customs.

Seed laboratories and State agencies will benefit by being able to use the same rules for State and Federal work. Farmers and gardeners will benefit by getting more accurately labeled seed, resulting in fewer crop losses and better quality crops. Revised regulations would improve compliance and enforcement because improving the wording of the regulations would minimize misunderstandings (such as arise in a section that contains many provisos). Many complaints are technical, arising from the shipper's misunderstanding of the regulations. USDA now receives approximately 1,000 violation complaints each year, and USDA expects it could handle the resultant fewer complaints more promptly, avoid the problems of currently drawn-out proceedings, thus improving relations with the State agencies and seed dealers at all marketing levels. The cooperative agreements with the States would be more effective under improved regulations, which could help overcome unequal enforcement in the States. Under a more streamlined enforcement system States would be expected to cooperate more than they do now. Adoption of new rules for sampling and testing seed and changes in standards for certified seed would promote uniformity and effectiveness of seed regulations and the administration of seed laws. The accuracy of seed labeling would be enhanced to the benefit of seed users. Also, changing lists of noxious-weed seed for imported seed to agree with regulations under the Federal Noxious-Weed Act, administered by APHIS, would facilitate cooperation between the two agencies, APHIS and AMS, for the inspection of imported seeds and commodities infested with weed seed. (This action could be taken under all three of the alternatives previously listed.) It may be possible and advantageous to relieve Customs officials of the burden of sampling imported seed. The benefit would arise from reducing the delay through Customs and placing the sampling responsibility on an agency accustomed to handling seed. This change would place the enforcement of the import provisions of the FSA in one Government department.

Summary of Costs

Sectors Affected: USDA; and State seed regulatory and certifying agencies.

The FSA appropriation USDA requested for Fiscal Year 1981 is about $1.4 million. USDA will incur only minor administrative costs in improving the wording of the regulations. However, the Department may need additional Federal funds for seed inspection and testing, ranging from about $300,000 to $5 million annually (based on 1979 data), depending on the type of testing or inspection it uses to assure truthful labeling. If the proposed amendments result in improved seed inspection in States that are not cooperating, then Federal cost increase will be minimal, but if the Federal Government totally assumed the inspection in the approximately 20 States that are inactive, the costs will be high. We do not know what States spend now or what increased costs the States would have if activity were changed. The seed dealers are now required to label seed, and the changes that can be made in the regulations without basic statutory change should not create a significant change in costs to seed dealers. Most labels are changed constantly depending on the seed being marketed and would not be affected on a one-time basis.

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USDA presently contemplates no statutory changes that would create a cost burden to the industry. Pass-through costs to consumers for the amendments contemplated would be minimal, because there would be minimal additional burden or cost to seedsmen. Transferring responsibility for sampling imported seeds from Customs to USDA probably would not result in a shift of funds from Customs to USDA because sampling seed comprises only a small portion of Customs inspectors' time and cost. We do not anticipate any significant increase in cost to USDA for sampling.

Related Regulations and Actions

Internal: USDA has proposed amendments to the FSA, but is withholding further action pending completion of two detailed studies of the program. The contemplated amendments to the regulations would not be contrary to the proposed amendments to the FSA that USDA is considering. The proposed amendments to the FSA are intended to clarify wording, update certain provisions, and delete provisions that are obsolete or unnecessary.

The Plant Variety Protection Act (7 U.S.C. § 2321 *et seq.*) that this Agency administers interacts with the FSA in certain instances regarding determination of variety status and prohibition of selling certain protected varieties unless the seed is certified.

Seed imports that are subject to the FSA are inspected by AMS under that Act for noxious weeds. Imports of all other commodities must be inspected for certain weed species under the Federal Noxious Weed Act (7 U.S.C. § 2321 *et seq.*), which APHIS administers. AMS has held informal discussions with APHIS regarding cooperative inspection of imported seed and identification of weed seeds in other commodities.

External: State seed laws and regulations are similar to but not required to conform with the FSA.

Active Government Collaboration

AMS has already worked with State regulatory agencies in developing ideas for the proposed amendments and will continue to develop a set of proposed regulations. AMS will be in communication with Customs in connection with import sampling matters.

Timetable

USDA has a limited study underway regarding scientific aspects of the FSA and has another general study planned to more broadly evaluate the FSA. If the Department decides to amend the regulations, the following estimated dates are applicable:

NPRM—Spring 1981.
Public Comment Period—Minimum of 60 days following NPRM.
Public Hearing—Following NPRM.
Final Rule—Fall 1981.
Regulatory Analysis—Will be prepared as part of the rulemaking process.
Final Rule Effective—Spring 1982.

In addition, USDA is proposing specific amendments in connection with up-to-date rules for testing seeds and modifying standards for certified seed.

The timetable is as follows:

NPRM—December 1980.
Public Hearings—December 1980 in Denver, Colorado, and Washington, DC.
Final Rule—February 1981.
Regulatory Analysis—Will be prepared as part of the rulemaking process.
Final Rule Effective—February 1981.

Available Documents

The following documents are available from the Agency Contact listed below:

Backgrounder: "Public meetings on the Federal Seed Act," August 1979.

Federal Seed Act (7 U.S.C. § 1551 *et seq.*) and regulations (7 CFR Parts 201 and 202).

Agency Contact

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USDA—AMS

The following entry involves a formal rulemaking procedure as required by the Agricultural Marketing Agreement Act and set forth in the Administrative Procedure Act. Readers should note the description of the procedure and the status of the action as described in the Statement of Problem. This procedural requirement precludes any conclusionary statements, such as estimates of benefits or costs, in the entry at the current stage of the proceeding.

Regulatory Treatment of Reconstituted Milk in All Federal Milk Marketing Orders (7 CFR Parts 1000-1139*)

Legal Authority

Agricultural Marketing Agreement Act of 1937, as amended, 7 U.S.C. § 601.

Reason for Including This Entry

The Department of Agriculture (USDA) includes this entry because of major interest on the part of consumers and industry.

Statement of Problem

On January 1, 1980, there were 47 Federal milk marketing orders in the United States, each covering a specific geographic area in which milk is sold. Through these milk marketing orders, the Federal Government establishes minimum prices to producers for about 65 percent of all U.S. produced milk and about 80 percent of all U.S. Grade A milk. Much of the remaining Grade A milk not regulated by Federal orders is priced under State regulations. Grade B milk (about 17 percent of the total U.S. production) is produced under less stringent farm sanitation standards than Grade A milk and, under present State health regulations, cannot be sold for drinking purposes and is used to produce butter, dry milk, cheese, and other manufactured milk products. Grade B milk is not regulated under Federal orders. About half of the Grade B milk in the United States is produced in Minnesota and Wisconsin.

The Department is presently analyzing the potential economic impacts of a proposal by the Community Nutrition Institute (CNI), a fluid (drinking) milk distributor, and three individual consumers to change the regulatory treatment of reconstituted milk (made by mixing nonfat dry milk, milk fat and water) under all Federal milk marketing orders. A preliminary impact statement has been completed.

USDA undertook the analysis because the Secretary must decide whether or not a hearing should be held on the CNI proposal or any related proposals for changes in the orders. If USDA calls a hearing, the Secretary must decide, from the evidence presented in a hearing, if, and how, the regulatory treatment of reconstituted milk in the Federal milk marketing orders should be changed.

The Agricultural Marketing Agreement Act of 1937 (AMAA), as amended, provides authority for establishing Federal milk marketing orders and for amending such orders. The Act's objective is to establish and maintain orderly marketing conditions for agricultural products in interstate commerce so as to provide an orderly flow of the supply of products to market in order to avoid unreasonable fluctuations in supplies and prices.

The Agricultural Marketing Agreement Act, the Administrative Procedure Act, and the Department's rules set forth the procedures for establishing or amending orders. According to the AMAA, whenever the Secretary has reason to believe USDA's issuance of an order (or its amendment) may tend to accomplish the objectives of the Act, he may give notice of a hearing on the proposal. From the time of announcing a hearing until the Secretary renders a final decision, the Federal officials directly involved in developing and rendering the decision are restricted from "ex parte" communications—any discussion of the issues except on the hearing record. At formal hearings, evidence is introduced by interested members of the industry and general public. On the basis of the evidence and briefs submitted by interested persons, a decision is recommended and published in the **Federal Register**. Additional time must then be allowed by USDA for filing exceptions to the recommended decision. Then, the Secretary issues a final decision. If the Secretary decides that no order or amendments should be adopted, then the proceeding is terminated.

If the final decision is that a new or amended order should be issued, USDA must conduct a referendum among producers selling milk in the affected Federal order market area. Farmer cooperatives have authority to vote for all of their producer members. If at least two-thirds (three-fourths in certain cases) of the producers voting in a market affirm the proposed new order or amended order, then USDA issues the order. If, however, the referendum fails, the order is terminated or not issued.

Although the regulations apply to handlers, the primary impact of the reconstituted milk regulations falls on prices paid for milk to the dairy producers and by fluid milk consumers in the Federal milk order areas. Secondary price impacts are on dairy producers outside those areas and consumers of manufactured milk products throughout the country.

Federal orders require handlers who buy Grade A milk (grade being defined by state sanitary standards) from dairy farmers or their cooperative associations and who distribute it in the specified market order area to pay at least minimum milk prices depending on how the milk is used. It is the use of the milk that determines the "class" in which it is priced. If the milk is used in hard manufactured products such as cheese, butter, dry whole milk, and nonfat dry milk, a handler pays milk producers the lowest price (Class III price in most orders). The Class III price is set equal to the average price that manufacturing plants pay per 100 pounds of Grade B milk in the Minnesota-Wisconsin area (usually referred to as the M-W price). This price is determined by a statistical series maintained by USDA and is essentially the same in all Federal orders across the United States. Most orders also provide for a middle class—for such products as cottage cheese and ice cream—with a Class II price slightly higher than the M-W price.

Handlers must pay a higher minimum price for milk used for fluid consumption ("Class I" use), which is determined each month by a formula in the order which adds a designated amount—Class I diferential—to the M-W price for the second preceding month. Although different in each Federal order, the Class I differentials are related to each other in many orders. In Federal orders east of the Rocky Mountains, the minimum Class I price per 100 pounds of milk is approximately the M-W price plus 90 cents plus 15 cents per 100 miles the specific order area is located from Eau Claire, Wisconsin. For example, the minimum Class I price in the southeastern Florida market order is set $3.15 above the M-W price, i.e., 90 cents plus $2.25 for the approximately 1,500 miles the order area is from Eau Claire. The minimum Class I prices set in some orders located in the far West are less than those calculated with this formula. Under most Federal orders, the payments by all handlers in the market for regulated milk used in different classes are pooled, and farmers are paid on the basis of an average marketwide value of milk in all uses. In three markets, blend prices to producers are computed on an individual handler basis.

A market administrator for each marketing order operates the pricing pool through which farmers receive the blend price, and also audits all handlers to assure that farmers receive the minimum designated prices.

Reconstituted milk is subject to regulation by Federal orders. When processed for drinking purposes, reconstituted milk sold in a Federal order market is classified by the order as Class I milk (as are other milk products processed for fluid consumption). The allocation provisions of milk orders require complete allocation by handlers of reconstituted milk made from purchased powder to a handler's Class III use or Class II use. If a handler has insufficient Class III and Class II use to which such reconstituted milk can be allocated, all orders require it to be allocated to Class I use. For such reconstituted milk allocated to Class I use, a handler is charged an amount equal to the difference between the order's Class I and Class III prices. The pefition for rulemaking by the Community Nutrition Institute and others suggests that eliminating this so-called "compensatory" payment on reconstituted milk would reduce the product's cost to consumers and further suggests these payments are not essential to the objectives of the milk order program.

This treatment of such reconstituted milk under Federal orders is a part of the overall means by which milk from other areas that comes into a market is regulated under the order for that market. Regulated handlers may receive milk not only from producers but from other sources as well, such as bulk milk or powder from other Federal order markets or from unregulated plants. It is necessary in each order to establish a procedure for allocating all of a handler's receipts from the various sources to his use of milk to determine how much producer milk is to be priced in each class.

The thrust of the proposal by CNI and others is to remove reconstituted milk from the Class I pricing provisions of all Federal milk orders and in effect reclassify such milk in the lowest class. The proposal would do this by (1) removing reconstituted milk products from the definition of "other source milk" for the purpose of eliminating the "down-allocation" (placing it in a lower classification) of milk ingredients used in such products and (2) eliminating the requirement that handlers who are processors of reconstituted milk products make a "compensatory payment" on such products assigned to Class I use.

Alternatives Under Consideration

The Secretary must decide if a hearing should be held to consider the reconstituted milk proposal. A preliminary impact statement has been prepared for use in reaching this decision, and USDA has requested public comment. (See **Federal Register**, November 17, 1980.) If a hearing is convened, the Secretary must decide whether or not proposed changes should be considered in the orders.

Summary of Benefits

Not available now.

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Summary of costs

Not available now.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

No dates for hearings or subsequent decision stages can be established until USDA reaches a decision on whether to hold a hearing.

Available Documents

CNI proposal. (Available from Robert Groene, Room 2755–S, USDA, Washington, DC 20250; Tel. (202) 447–4831.)

A preliminary impact statement is available for public comment through January 2, 1981.

Agency Contact

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USDA—Food Safety and Quality Service

Proposed Net Weight Regulations (9 CFR Parts 318* and 381*)

Legal Authority

Federal Meat Inspection Act, 21 U.S.C. § 453(h)(5) *et seq.*; Poultry Products Inspection Act, 21 U.S.C. § 343(e) *et seq.*

Reason for Including This Entry

The U.S. Department of Agriculture (USDA) has received a number of complaints from consumers and State officials about current Federal net weight regulations for meat and poultry products. These complaints concern both the accuracy of net weight labels under existing regulations, and the enforceability of the regulations. USDA has proposed standardized procedures for enforcing net weight regulations which will assure more accurate consumer and marketing information.

Statement of Problem

Present USDA net weight regulations for meat products (9 CFR 317.2(h)) and poultry products (9 CFR 381.121) permit "reasonable variations" in weight caused by the loss or gain of moisture during distribution.

In 1972, a District Court voided Federal net weight regulations due to vagueness of the permitted "reasonable variations."

USDA responded to the court ruling in December 1973 by proposing new net weight regulations, which set forth numerical allowable variations and procedures for determining allowable net weight variations at the producing plant and during distribution. Liquids that drained from the product would have been considered part of the net weight. For compliance purposes, firms would have had to implement net weight quality control programs. The compliance test required that the average weight of the samples equal or exceed the declared net weight, and that negative differences between actual and declared net weights not exceed the numerical variations. Further, the proposal required labels for bulk shipments to contain at least a quantity count of containers.

Public comments on the proposal expressed widespread dissatisfaction. Consumers wanted labels which excluded water, blood, and liquids absorbed by packing materials from net weight. Industry complained that the numerical variations were too "tight," and that the regulations should be directed only to consumer packages, not bulk shipments. Some comments also objected to Federal preemption of State and local rules.

The proposal was never adopted.

In October 1977, the State of California filed a petition with USDA requesting new regulations which would permit States and municipalities to enforce strict standards at the time of consumer purchase. (State and local regulatory agencies enforce the Federal net weight regulations.) Officials of 47 other States, several farm organizations, and consumer groups cosigned the petition.

According to the petition, the Supreme Court decision in *Rath Packing Company* v. *M. H. Becker, et al.* in March 1977 had left States without adequate authority to enforce their own net weight regulations. The Court had held that states and municipalities were preempted from enforcing standards that were stricter than Federal regulations, which are based on "reasonable variations." Since the term "reasonable variations" does not provide a quantifiable standard, the petition contended that states and municipalities were, in effect, precluded from enforcing net weights at retail.

In addition, consumers have complained that net weight statements on packages of meat and poultry do not provide accurate information on the amount of usable product in the package. The present regulation counts free liquid as part of the net weight. (Free liquid is liquid that has seeped out of a product into the package but has not been absorbed by the packaging material.) As a result of moisture loss and free liquid, consumers have frequently complained that they have no way of knowing how much usable product they are getting for their money.

In response to the California petition and consumer complaints, USDA's Food Safety and Quality Service (FSQS) published proposed Federal net weight regulations on December 2, 1977. The principal features of the proposal were as follows:

- Free liquids, as well as liquids, fats, and solids absorbed by packaging material, would be excluded from a product's net weight. Thus, net weight would be based on a drained weight system, as opposed to a wet tare or dry tare. (Tare is the quantity subtracted from gross weight to determine net weight.) Under a wet tare, net weight equals package and contents minus the weight of the packaging material and liquids absorbed by the packaging material. (Free liquid is included in the net weight.) Under a dry tare, net weight equals package and contents minus the weight of the dry packaging material. (Again, free liquid is included.)
- The present allowance for moisture loss due to evaporation during distribution would be eliminated. The average weight for products from the same lot would be required to equal or exceed the labeled net weight. Single packages, however, would be permitted actual weights below the labeled weight by a specified amount.
- Federal net weight standards (which do not currently exist) would be established for bulk shipments of wholesale-sized packages.

All federally-inspected meat and poultry plants would be required to implement an FSQS-approved quality control program for net weight; no such requirements currently exist.

- After the proposal appeared in the **Federal Register**, USDA received over 3,000 comments, which indicated widespread disagreement concerning the economic impact of the new regulations and the extent to which new regulations were needed to improve the accuracy of net weight labeling. Since the closing of the comment period, FSQS has commissioned two economic studies. The first, "Analysis of Proposed Regulations on Net Weight Labeling" (October 1978), was carried out by the Consumer Federation of America. The second of these, "Assessment of Proposed Net Weight Labeling Regulation," conducted by USDA's Economics, Statistics, and Cooperatives Service (ESCS), was made available for comment on August 31, 1979. The comment period closed on October 30, 1979.

Alternatives Under Consideration

The alternatives USDA considered are:

(A) The current FSQS proposal. It is based on the studies, comments, reviews, analyses, and efforts by the Food Safety and Quality Service and the Food and Drug Administration (FDA) to develop more uniform net weight labeling proposals following publication of previous proposals in 1973 and 1977. FDA's proposal is similar to that of FSQS, but covers additional categories of food. FDA published it as a companion entry to FSQS's NPRM published in the **Federal Register** on August 8, 1980.

The currently permitted "reasonable variations" between labeled net weight and actual net weight would be replaced by explicit numerical allowances. These allowable numerical variations are based on recognized, unavoidable deviations that occur during manufacture; they were determined in consultation with the National Bureau of Standards. The numerical variations do not include allowances for moisture loss, as do present regulations. In addition to explicit variations on individual packages, this alternative would also set tolerances for bulk shipments.

This proposal would establish specific sampling procedures to assure consistent weight measurements and compliance determinations by Federal, State, and local personnel. FSQS-approved quality control programs for checking net weight compliance would remain voluntary.

In an effort to treat meat and poultry products and other food products equitably, this proposal would be, to the maximum extent possible, compatible with the Food and Drug Administration's net weight proposal. Compatibility is sought in the definition of tare, actions taken on out-of-compliance products, procedures for checking compliance, and sampling plans.

FSQS was unable to determine on the basis of analysis whether liquids absorbed by packaging material should be included or excluded from determination of net weight. (Free liquids are included.) As such, FSQS included both methods of determining net weight in the proposal. The Agency will choose between the two methods based on public comments on the proposal.

(B) FSQS also considered two options previously proposed in 1973 and 1977. (These are discussed above.) The main differences between these two alternatives and alternative A are the definition of tare and the establishment of mandatory net weight quality control programs. Neither of these options is compatible with the FDA proposal; they are both more expensive than alternative A, but do not provide more accurate labeling. Mandatory quality control would be very expensive; it would cost the industry between $56 and $114 million for personnel. (This would be offset by savings of $3.1 million per year to FSQS.) As stated, the definition of tare does not by itself affect the price of useable product. However, the 1977 proposal, which includes a drained weight system, could lead to price increases because such a system would require processors to change processing methods and/or incur added costs to adopt procedures for correct labeling under this system. The dry tare system considered in the 1973 proposal would not have effects of this nature. Because free liquid is included in net weight, producers would not need to change processing methods, nor would they have to develop procedures to estimate the weight of free liquids in packages.

(C) This alternative was originally proposed by the Grocery Manufacturers of America, but it was never fully developed. Determination of tare would vary depending on the product. This alternative would allow variations for specific products that lose or gain moisture during the course of standard production practices or while the product is in the food distribution channel. State or local agencies would sample packages of a product to check for net weight compliance. If the sample were not in compliance, packages from the sampled lot would be collected and sent to designated laboratories to determine the cause of noncompliance. In the meantime, a hold would be placed on further distribution and sale of the lot or lots sampled.

FSQS estimates that this alternative would take 2 to 4 years to implement. The one-time costs to industry to estimate moisture losses or gains could be quite high. For the majority of meat and poultry products, products held for results of compliance testing would spoil, causing large economic losses. Further, this option is not compatible with FDA's proposal.

(D) This alternative is modeled on procedures being developed by the Codex Alimentarius Commission of the United Nations, an organization that sets international food standards. (The Commission has not formally approved its own net weight proposal.) Net weight compliance would be based on the average net weight of packages at the time of packaging. Checking for compliance is supplemented by limited inspections by State and local agencies at retail. This alternative would require at least two-thirds of all sample packages drawn from a lot to have a net weight of contents equal to or in excess of the amount stated on the label.

The requirement that at least two-thirds of the packages sampled must equal or exceed the labeled net weight represents a major departure from the current method of determining compliance and from the FDA proposal. Both these methods are based on the average weight of packages. The two-thirds requirement would undoubtedly cause producers to overpack. Again, this would not change the total price of a package, but it would result in relative shifts in the labeled price per pound. Standards and procedures for enforcement under this alternative have not been worked out in sufficient detail to assess their impacts.

The objectives which were used to choose between alternatives were: 1) ease of enforcement of the regulations by FSQS and State and local regulatory agencies, 2) ease of compliance by industry, and 3) compatibility with the Food and Drug Administration's net weight proposal.

One might expect that the desirability of a particular net weight regulation would also be evaluated in terms of its usefulness to the consumer as a generator of information for consumers, and its effects on the production, labeling, and pricing practices of the industry. Unfortunately, evidence concerning the utility to consumers provides little basis for choosing between possible net weight regulations. Some of the options discussed above eliminate or reduce free liquid from calculation of a product's net weight; however, as the ESCS study shows, the consumer will probably pay the same price for the same amount of usable product under any net weight definition. If revised regulations require producers to alter the labeled net weight on a package, they can be expected to alter correspondingly the price per pound so that they receive the same price for the package as under existing regulations. (If producers incur additional costs to comply with new net weight regulations, the consumer may pay more per pound.) In other words, consumers are not currently paying for free liquid. They might be paying for packages that

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contain free liquid, but if producers are required to eliminate free liquid, the price of the package would not drop.

Further, elimination of free liquid from the calculation of net weight would not give the consumer a more accurately labeled package. Accuracy is controlled by the size of allowable variations, not by the definition of tare.

Likewise, it is not possible to predict industry's responses to various definitions of tare. For instance, under a drained weight system, producers might be expected to eliminate free liquid from their packages because free liquid would no longer be counted as part of a package's net weight. However, free liquid often results from processing methods that would be very expensive to modify. The producer might choose instead to lower the labled net weight on each package. However, USDA would expect producers who lower the labeled net weight to raise the labled price per pound. The resulting increase in the labeled price per pound—estimated at approximately 4 cents—might be a larger rise then the producer is willing to accept. Because of trade-offs between the cost of packaging materials, the cost of processing, the labeled price per pound a producer is willing to accept for his product, and the appearance the producer wants to give his packaged product, it is not possible to predict producers' responses to any option.

Considering both its effectiveness in meeting the stated objectives and the avoidance of undesirable impacts, FSQS selected alternative A over the other options because:

- It promotes easy enforcement of net weight regulations by State and local agencies.
- It would generate net weight statements at least comparably accurate to all other options, and would establish numerically allowable variations which are not present in existing regulations.
- It would not force processors to increase expenses to comply.
- It is the only option compatible with FDA's net weight proposal.
- It would not increase enforcement costs for FSQS or State and local regulatory agencies.

Summary of Benefits

Sectors Affected: Wholesale and retail trade of meat and poultry; consumers of these products; State and local government.

There would be four benefits to establishing a more objective (or quantifiable) Federal net weight standard.

First, consumers would benefit from more accurate net weights at retail. In buying a chicken, ground beef, or bacon, a consumer will almost always look at the price per pound. Without accurate information on the weight of the product, however, shoppers cannot make accurate price comparisons. With an objective standard, enforceable at retail, consumers would be in a better position to make price comparisons. (The total value of meat and poultry products sold in 1979 exceeded $60 billion.)

Second, there would be more accurate information on meat and poultry products at all points in the distribution and marketing chain. For example, the buyers of bulk-packed products would have a clearer standard for checking the weights of shipments they receive. Such a standard would be helpful, particularly to small volume buyers who may now be reluctant to adjust invoices to correct for underweight shipments.

Third, because States and municipalities would have a more enforceable standard at retail, the net weight standard would reduce the risk of deliberate fraud. Although ESCS' study found no evidence of consistent or flagrant short-weighing of meat and poultry products now in the marketplace, State officials have stated that it could occurr unless there is an enforceable Federal standard in place.

Fourth, this proposal will make FDA's and USDA's approaches to regulating net weight labeling more compatible.

Summary of Costs

Sectors Affected: Manufacturing, wholesale and retail trade of meats and poultry; and consumers of these products.

The regulation's effect on the food industry will vary with the type of tare required. A dry tare system would not increase producers' costs, and could reduce their costs in those States which now use wet or drained weight tares for checking compliance if they use more expensive production methods to comply with these tare systems. Under a wet tare system, producers might have to alter their labeling or processing practices, particularly for those products, such as chicken, whose packaging materials absorb a significant amount of moisture. Since the absorbed moisture would not be counted as part of net weight, producers would have to either overpack or reduce the labeled net weight. As we have noted, these practices would lead to changes in the labeled price per pound, but no change in the price per usable pound. FSQS cannot accurately predict consumers' reaction to this apparent price shift; it would depend on the size of the shift, which is estimated not to exceed 4 cents per pound, and the degree and effectiveness of consumer education efforts. Producers are already complying with wet tare systems in some States, but FSQS does not know the costs of compliance. Presumably producers are able to pass along the costs of compliance, if any, to consumers. A wet tare system would also entail a small cost for product loss or repackaging resulting from compliance checks because State and local agencies must open packages to weigh the packing material and absorbed liquids. No such cost is associated with dry tare.

There will be no change in costs to Federal, State, or local regulatory agencies under either tare definition.

Related Regulations and Actions

Internal: Proposed Rule for Voluntary Meat and Poultry Plant Quality Control System (44 FR 53526, September 14, 1979).

External: Food and Drug Administration, 21 CFR 501.105q. Federal Trade Commission, 16 CFR 500.22.

Active Government Collaboration

FSQS and the Food and Drug Administration (FDA) have held a series of meetings over the past year or so to develop, as far as possible, a common approach to net weight regulations. In late 1977 and early 1978, the two agencies held several public hearings on the issue of net weights.

In 1975, USDA, FDA, Federal Trade Commission, and the National Bureau of Standards formed an interagency net weight committee. The committee has met intermittently since then.

In the past 2 years, FSQS officials have consulted regularly with State and local weights and measures officials and State departments of agriculture.

Timetable

Public Comment Period—Extending to early January 1981.
Final Rule—Summer 1981.
Regulatory Analysis—A final Regulatory Analysis will be performed as part of the final rulemaking process.

Available Documents

Proposed Regulations for Net Weight Labeling (reproposal, actually)—45 FR 53002, August 8, 1980. Public comments on this proposal are also available, as is a draft Regulatory Analysis.

Notice of availability of ESCS study—44 FR 51275, August 31, 1979. Comment period on ESCS study closed October 30, 1979.

Net Weight Regulations for Meat and Poultry Products, 9 CFR 317.2(h)(2), 9 CFR 381.121(e)(8).

Proposed Regulations for Meat and Poultry Products—42 FR 61279, December 2, 1977.

Consumer Federation of America, "Analysis of Proposed Regulations on Net Weight Labeling," October 1978.

General Accounting Office, "Proposed Changes in Meat and Poultry Net Weight Labeling Regulations Based on Insufficient Data," CED–79–28, December 20, 1978.

Economics, Statistics, and Cooperatives Service, USDA, "Assessment of Proposed Net Weight Labeling Regulation," August 1978. Public comments on this study are also available. Docket number 79–27236.

Agency Contract

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DEPARTMENT OF COMMERCE

Maritime Administration

Construction-Differential Subsidy Repayment; Total Repayment Policy (46 CFR Part 276)

Legal Authority

Merchant Marine Act, 1936, as amended, §§ 204(b), 207, 506, and 714, 46 U.S.C. §§ 1114(b), 1117, 1156, and 1204.

Reason for Including This Entry

The Maritime Administration (MarAd) is including this entry because the regulation sets a major precedent for the administration of the maritime subsidy programs. The regulation would establish a policy for total repayment of construction-differential subsidy (CDS) in exchange for the removal of domestic trade restrictions prescribed in § 506 of the Merchant Marine Act, 1936, as amended (the Act). However, the annual impact of the regulation on the economy may not exceed $50 million, and is not expected to impose a major increase in costs or prices.

Statement of Problem

Pursuant to authority in Title V of the Act, MarAd grants financial aid in the form of construction-differential subsidy (CDS) for the construction of vessels for operation in the U.S. foreign trade. The purpose of the regulation is to establish guidelines for deciding whether to permit vessels built with such aid to enter the domestic trade and operate without restriction in exchange for the payback of the CDS attributable to the remaining economic useful life of the vessel. These guidelines will be designed to protect investors in and operators of vessels intended exclusively for the domestic trade, shipbuilders, shippers, MarAd, consumers, and the general public.

Sections 501–507 of the Act (46 U.S.C. §§ 1151–1157) contain the provisions relating to eligibility and conditions for the award of CDS by the Secretary of Commerce (Secretary). The authority to grant these awards rests, by delegation, with the Maritime Subsidy Board within MarAd. Essentially, CDS represents the excess of the cost of constructing (including reconstructing or reconditioning in exceptional cases) a vessel in a U.S. shipyard (excluding the cost of national defense features) over the fair and reasonable estimated cost of its construction in a representative foreign shipbuilding center. This excess is paid by MarAd to the U.S. shipyard only for a vessel "to be used in the foreign commerce of the United States," as defined in § 905 of the Act (46 U.S.C. § 1244).

Section 506 of the Act (46 U.S.C. § 1156) requires the owner of every vessel for which CDS has been paid to agree that the vessel be operated "exclusively in foreign trade" or in foreign trade with limited domestic trade operation as specified in this section. If such a vessel engages in this limited domestic operation, the owner must repay a portion of the CDS. Section 506 also provides for the temporary transfer of such a vessel to services other than those covered by the owner's CDS agreement for periods "not exceeding 6 months in any year," with the consent of the Secretary. A condition for consent to such temporary transfer is the agreement by the owner to repay, on conditions that the Secretary may prescribe, "an amount which bears the same proportion to CDS paid as such temporary period bears to the entire economic life of the vessel."

In addition to these express statutory provisions for partial repayment, the Secretary has discretionary authority to accept full repayment of CDS in return for the permanent removal of the domestic trading restrictions in § 506. The U.S. Supreme Court has affirmed this authority. (*Seatrain Shipbuilding Corp., et al.* v. *Shell Oil Co. et al.*, 100 S. Ct. 800 (1980).)

Consistent with this decision, MarAd proposed the regulation to provide, as a matter of sound policy, guidelines and procedures for approval of applications to repay CDS, which MarAd can apply uniformly to all applicants.

Neither § 506 nor any other provision of the Act provides guidelines for determining the circumstances under which the total repayment of CDS is appropriate. In order to establish such guidelines MarAd is conducting an analysis to provide a basis for determining suitable factors and to estimate costs and benefits. The economic impact of the regulation will depend on these factors.

Recently MarAd published an interim regulation applying only to tankers of at least 100,000 deadweight tons. Ten existing CDS-built vessels are in this category. MarAd has received applications for the total repayment of CDS with respect to six of these vessels. Subsequently, applications for three of these vessels have been withdrawn.

Alternatives Under Consideration

The first alternative requiring consideration in any regulatory analysis is the "no-action" option. MarAd believes that adoption of a regulation is not a legal requirement and could exercise discretion in allowing the total repayment of CDS by adopting a case-by-case approach and making a determination on the individual merits of each application.

MarAd is considering whether it should adopt a single regulation for all CDS vessels, regardless of type, size, or employment pattern, or whether it should adopt separate regulations for various categories, however defined. A single regulation has the advantage of general applicability and simplicity but may not adequately reflect the unique aspects of the markets in which the various categories of vessels operate.

The choice of specific "exceptional circumstances" under which MarAd would grant permission for a vessel to operate in the domestic trade presents a number of potential alternatives and underlying factors to evaluate. If the factors are too restrictive, the interests of the CDS-built vessel's owner, MarAd, and the maritime industry may not be served. If they are too general, they raise questions concerning whether the non-subsidized fleet, in which there is considerable investment, will be equitably treated.

If no favorable opportunities exist for economic employment of a category of CDS-built vessels in the foreign trade for a protracted period that is longer than that of normal cyclical market downturns, MarAd might consider whether exceptional circumstances are present which would warrant approval of total CDS repayment in return for

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removal of the restrictions on domestic trade operation of the vessel.

MarAd must consider potential impacts on competition in the development of these factors. The approval of an application for total repayment of CDS for a vessel can be expected to remove that vessel from the foreign trade for which it was intended, generating a potential competitive impact in that trade. Similarly the removal of the domestic trading restrictions may have a competitive impact in the domestic trades. Among the factors that MarAd might consider before approving an application is whether the operation of the vessel in the domestic trade would be likely to have any significant adverse impact on other vessels operating in that trade.

Finally, MarAd must consider two principal procedural alternatives to ensure that all interested parties have an opportunity to present their views. Under the first alternative, MarAd would publish in the **Federal Register** a notice of any application for the total repayment of CDS, and would allow a specified period for interested parties to submit written comments. As a second alternative, MarAd would hold a hearing or similar proceeding to provide an opportunity for all interested parties to provide data and analyses in support of their respective positions. The hearing requirement, however, would greatly increase the likelihood of delays in the decisionmaking process. These delays could have significantly adverse impacts on the applicant, as well as on any security interest of the Government with respect to any outstanding ship obligation guarantees or ship mortgage insurance.

MarAd must consider various hypotheses in order to prepare a Regulatory Analysis involving economic matters. The statements in this document concerning impacts are merely illustrative and are in no sense to be considered exhaustive or definitive.

Summary of Benefits

Sectors Affected: Owners and operators of vessels built with CDS and intended for deep sea foreign transportation; owners and operators of vessels built without CDS and intended for deep sea domestic transportation; shipbuilding; shippers of commodities by U.S. deep sea foreign and domestic transportation and users of these commodities; MarAd; and the general public.

Fairness to all identifiable interests in the administration of the CDS program is the object of the regulation. The regulation can be expected to state the factors MarAd will consider for removing a restriction on domestic trade operation that is required by the Act as a condition for receiving CDS assistance.

The regulation may limit total repayment of CDS in exchange for the removal of domestic trade restrictions to situations determined by MarAd to represent "exceptional circumstances," with guidelines provided for making this determination. Benefits would accrue to the owner or operator of an existing vessel that has no favorable opportunities for employment in the foreign trades for which it was originally built with CDS.

Since vessels built with CDS may have obligation guarantees or vessel mortgage insurance issued by MarAd under Title XI of the Act, the prospective default by the vessel owner may mean an imminent loss to the Government due to its payment of the debt (reduced by the amount of recovery through foreclosure sale), as well as the loss of any on-going benefit to the economy from the Government's CDS expenditure. MarAd may better preserve the value of its security interest by allowing the vessel to operate in the domestic trade in order to generate sufficient income to amortize its Government-guaranteed or -insured debt.

The guidelines to be adopted are intended to minimize any potential adverse impact on the U.S. shipbuilding market for the construction of vessels for the domestic trade. The regulation may significantly reduce uncertainties in this market. Other objectives are that owners of vessels built without CDS will not be subject to excess tonnage competition; shippers will be protected against unreasonably high rates; and the consuming public will not experience higher commodity prices resulting from unreasonably high freight rates.

MarAd's careful application of these guidelines should protect investment in domestic trade shipping, shippers of domestic trade cargoes, consumers of commodities shipped in the domestic trade; MarAd's security interests, and the general public.

By allowing repayment, the funds repaid become available for other Government purposes and the vessel can be actively employed. The general public may benefit through reallocation of the asset. A Regulatory Analysis is currently being prepared which will provide estimates of the potential benefits.

Summary of Costs

Sectors Affected: Owners and operators of vessels built with CDS and intended for deep sea foreign transportation; owners and operators of vessels built without CDS and intended for deep sea domestic transportation; shipbuilding; shippers of commodities by U.S. deep sea foreign and domestic transportation, and users of these commodities; MarAd; and the general public.

Vessels built without CDS may face competition from CDS-built vessels for which owners have paid less than a full domestic construction price; shipbuilders may receive fewer shipbuilding orders; commodity shippers may pay higher freight rates; consumers may pay higher prices for commodities; and MarAd's financial risk may increase due to a lessened value of the vessel as security.

The costs and impacts that the regulation would impose, other than administrative costs which the regulation seeks to minimize, include possible adverse effects on existing vessels that were built without CDS primarily for the domestic trades, which may face increased competition, and on U.S. shipyards which might otherwise obtain orders for the construction of new vessels for the domestic trades. The Regulatory Analysis MarAd is currently preparing will provide estimates of these costs and impacts. Owners and operators of existing domestic trade vessels, which are not eligible for CDS aid, contend that the introduction of even a single additional vessel into the trade, through CDS repayment, would have significant impact on rates. Unlike liner trades with regulated tariffs, rates in the bulk trades are generally controlled by vessel availability, suitability, and location at any particular time. The domestic trades are relatively small, and few vessels are available at any given time, since most are in proprietary trades or under long-term charter. Thus, the addition of a single CDS vessel could temporarily reduce the profit potential of an existing owner. However, over time, the average charter rates obtained in the domestic trade might not be significantly affected.

While the regulation is intended to limit impacts on shipbuilding, shipyards in the United States could possibly lose an opportunity for new vessel construction for the domestic trade if a CDS vessel owner is allowed to make total repayment in exchange for the removal of domestic trade restrictions. In addition, the uncertainty of potential competition from other CDS vessels could further reduce the incentives for vessel construction for the domestic trade. Since the Act expressly permits owners of vessels built with CDS to apply for permission to operate temporarily in domestic trades for periods not exceeding 6 months in any year, the policy reflected in the regulation does not create a completely new class of competing vessel. Also, when the foreign trades again provide favorable employment opportunities, new construction for these trades would probably occur.

Related Regulations and Actions

Internal: Participation by vessels built with CDS in the carriage of oil from Alaska in the domestic trade (46 CFR Part 250).

External: None.

Active Government Collaboration

MarAd encourages Federal agencies and State and local governmental bodies, as well as the general public, to participate in development of this regulation through submission of comments to the Agency Contact listed below.

Timetable

Final Rule—January 1981.

Regulatory Analysis—Although the economic impacts of the regulation may not exceed the thresholds requiring the preparation of a Regulatory Analysis, set forth in the agency procedure adopted to implement E.O. 12044, MarAd is now preparing a Regulatory Analysis because it considers the regulation to be a matter of sufficient policy significance to warrant such an analysis.

Available Documents

Comments received in response to the NPRM (45 FR 29610, May 5, 1980) are available for inspection in Room 3099B, Department of Commerce Building, 14th and E Streets, N.W., Washington, DC. An interim rule has been published in the **Federal Register** (45 FR 68393, October 15, 1980). The final Regulatory Analysis will be made available for inspection at the time the notice of final rulemaking is published in the **Federal Register.**

Agency Contact

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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Requirements (23 CFR 635.410*)

Legal Authority

Surface Transportation Assistance Act of 1978, § 401; P.L. 95-599, 92 Stat. 2689.

Reason for Including This Entry

The Federal Highway Administration (FHWA) thinks this rule is important because it is controversial and could possibly increase construction costs in the Federal-aid highway program by 2 percent, or approximately $150 million (in current year dollars) annually.

Statement of Problem

The Buy America provisions (§ 401) of the Surface Transportation Assistance Act (STAA) of 1978 require that all articles, materials, and supplies purchased with grant funds authorized under the Act must be of U.S. origin. The States, as recipients of the grant funds, are responsible for enforcing § 401.

Before Congress enacted STAA, suppliers of certain foreign products, including steel, were allowed to compete for contracts on Federal-aid highway projects. The pressure of foreign competition has been increasing and will continue. In fact, the General Accounting Office (GAO) found that, in 1976 and 1977, foreign-produced steel products valued at $97.8 million (in 1976 and 1977 dollars) were used in Federal-aid highway construction projects.

Under STAA, the Department of Transportation (DOT) must develop and enforce a policy on procurement of foreign materials for projects funded by Federal-aid highway assistance. However, the Secretary of Transportation has retained the authority to waive the Buy America provisions under certain conditions. These include situations where domestic supplies are unavailable or where using them would increase the cost of the project by more than 10 percent.

Alternatives Under Consideration

The Buy America provisions were effective immediately and required implementation. Therefore, the FHWA issued an emergency regulation on November 17, 1978, to implement them. That regulation applied only to foreign structural steel.

The FHWA is considering continuing the provisions of the emergency rule because its approach is consistent with the legislative history of the Buy America provisions. Competition between domestic and foreign sources for highway construction contracts generally has been limited to the structural steel market. Other products are abundant domestically or are not available in sufficient quantities from American sources to meet highway construction needs (e.g., petroleum and petroleum products).

The FHWA is considering whether materials used in Federal-aid construction projects over $500,000 should meet the Buy America provisions. While fairly large quantities of petroleum products, such as fuel, lubricants, and asphalts, are used on all highway projects, domestic petroleum is not sufficiently and reasonably available to meet this need. Restrictions on the purchase of petroleum products undoubtedly would delay many construction projects and would be contrary to the legislative intent. Moreover, the statute clearly allows domestic preference only if the exclusion of foreign products wold not increase project costs by more than 10 percent.

Summary of Benefits

Sectors Affected: Domestic steel industry, including blast furnaces and basic steel products manufacturing, steel foundaries, and fabricated structural steel products manufacturing.

Reduction in the use of foreign products would give domestic suppliers more opportunities for contracts. The FHWA estimates that, from 1979 to 1982, the Bridge Replacement and Rehabilitation Program will use more than $500 million (in 1980 dollars) annually in structural steel. The GAO estimates that 9.5 percent of the steel used annually in the Federal-aid highway program is from foreign sources. For the years 1976 and 1977, the GAO estimated that $97.8 million in foreign steel products were used in the highway program. Domestic suppliers could have provided this steel.

Summary of Costs

Sectors Affected: Highway construction industry; States; and steel importing.

The increase of up to 10 percent in the cost of highway construction projects may affect all industries participating in these projects. The regulatory provisions would force contractors to find domestic sources for some of their steel and steel products. States would be required to bear additional administrative costs in order to evaluate bids. A limited number of steel importers could lose some import business.

The FHWA has estimated that the provisions of Buy America, which apply

products excise taxes by large

Government borrowing and associated

operating costs would reduce taxable income. (The interest costs to the large

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$5 million or more to make the tax payment electronically into the Federal

The FHWA has estimated that the provisions of Buy America, which apply to approximately 87 percent of the Federal-aid authorization of $35 billion over the years of 1979 to 1982, could increase construction costs by 2 percent, or $150 million (in 1980 dollars) annually.

Because the States are responsible for administering the regulations, State administrative costs may increase. Further, projects could be delayed until the Secretary approved any necessary waivers.

Related Regulations and Actions

Internal: The Buy America regulation of the Urban Mass Transportation Administration (49 CFR Part 660).

External: None.

Active Government Collaboration

None.

Timetable

NPRM—November 30, 1980.
Draft Regulatory Analysis—Will accompany NPRM.

Available Documents

Emergency Rule—43 FR 53717, November 17, 1978.

Federal Highway Administration Docket 78–35.

GAO Report, "Foreign Source Procurement Funded through Federal Programs by States and Organizations," report number 1D–79–1, November 30, 1978.

All documents are available for review in the Office of the Chief Counsel, Room 4205, 400 Seventh Street, S.W., Washington, DC 20590.

Agency Contact

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DEPARTMENT OF THE TREASURY

Alcohol, Tobacco, and Firearms Bureau

Accelerated Payment of Certain Tobacco Products Excise Taxes (27 CFR Parts 270* and 275*)

Legal Authority

Internal Revenue Code of 1954, 26 U.S.C. § 7805.

Reason for Including This Entry

The Treasury Department has proposed regulations which would accelerate the payment of tobacco products excise taxes by large producers, a move which would decrease the Federal Government deficit by about $144 million in FY 1981 and would net the Government an estimated $10 million to $15 million yearly.

Statement of Problem

Early this year, the Office of Management and Budget (OMB), Executive Office of the President, submitted to the U.S. Congress the U.S. Budget for FY 1981, which, among other things, established program trends that would improve the prospects for budgetary balance. In the U.S. Budget, several cash management initiatives were proposed by OMB to improve the management of Federal funds. One of those initiatives is the Tobacco Products Excise Tax Acceleration Project, which involves the Bureau of Alcohol, Tobacco, and Firearms (ATF).

This project would accelerate the collection of excise taxes of tobacco products from large manufacturers of tobacco products by (1) increasing the frequency of their excise tax payments from twice a month to weekly and (2) reducing the deferral period—the period between the time the collection period ends and the time the tax payment is due. (For purposes of this project, a large manufacturer of tobacco products is defined as an individual factory for which the annual excise tax payment is $5 million or more.)

Currently, these tobacco product excise taxes are due within 15 days after each semimonthly collection period ends.

ATF is considering amending the regulations by requiring the large manufacturers of tobacco products to pay these excise tax payments within 3 days after each weekly collection period. The collection and deferral periods for small manufacturers of tobacco products (those who pay less than $5 million) would remain unchanged. The Department of the Treasury estimated that the Federal Government would realize a reduction in the Federal Budget deficit of $280 million in FY 1981 and $8 million a year thereafter if another ATF proposal on electronic fund transfer is adopted for alcohol and tobacco products (refer to the **Calendar** entry entitled "Delivery of Certain Alcohol and Tobacco Products Excise Tax Payments via Electronic Fund Transfer").

The Federal Government could realize improved interest savings if ATF collects these excise taxes earlier than it does now. If ATF takes regulatory action, ATF would help improve the cash flow of the Federal Government and would reduce unnecessary Government borrowing and associated interest costs.

Alternatives Under Consideration

One alternative to issuing final regulations would be to issue no regulations. ATF believes, however, that final regulations would be the better alternative, because they would instill in ATF and industry effective cash management practices and realize significant cash flow and cost-reduction savings to the Federal Government.

Summary of Benefits

Sectors Affected: The Federal Government.

The proposed rule would directly benefit the Federal Government. By reducing the collection period to 7 days from 15 days, the Federal Government would have the funds available 8 days sooner. By reducing the deferral period from 15 days to 3 days, the Federal Government would have the funds available an additional 12 days sooner. The combined effect of these two reductions is a 20-day acceleration in the cash flow.

Based on the tobacco excise tax collection of $2.404 billion in FY 1979, a Treasury bill rate of 15.381 percent (interest rate as of March 10, 1980), and a 20-day savings in interest, ATF calculated a gross benefit (savings) to the Federal Government of $20.261 million or a net benefit of $13.505 million.

The accelerated excise tax payments would cause some year-end tax liabilities, which under existing regulations are paid in the next year, to be paid in the current year. This "receipts effect" would be $144 million for FY 1981, based on budgetary receipts forecasts by OMB. The gross interest saving for FY 1981, including the interest on the year-end "receipts effect," would be $14.5 million (based on 10 percent borrowing costs for FY 1981 forecasts by OMB). There would be very little net change in year-to-year receipts due to the "receipts effects" after FY 1981.

Summary of Costs

Sectors Affected: Large manufacturers of tobacco products; Federal Government; State and local governments; and consumers.

ATF calculated that the benefit loss to the large manufacturers would be $23.710 million. In economic terms, this loss would be real and would be reflected in higher operating costs to the large manufacturers of tobacco products (approximately 12 of 147).

There would also be a direct loss of income tax to the Federal, State, and local governments, because higher operating costs would reduce taxable income. (The interest costs to the large manufacturer are a deductible expense and would reduce the net income before taxes on the income statement and tax returns of the large manufacturer.) For example, at a nominal corporate income tax rate of 46 percent at the Federal level, the direct loss of Federal income tax revenue would be $10.906 million. State and local governments would experience similar direct income tax revenue losses.

Consumers may pay higher prices due to an increase in operation costs to the large manufacturers. The price increase would not be significant and would be an estimated average of 0.04 cents per package of cigarettes. Also, the effect of any price rise on the Consumer Price Index would not be significant.

One-time administrative costs to ATF is $4,500; the cost to the Internal Revenue Service is presently unknown.

Related Regulations and Actions

Internal: ATF is considering regulations that would require the large manufacturers to transmit their tobacco excise tax payments via electronic fund transfer. This proposed rule appeared in the **Federal Register** (45 FR 38258, June 6, 1980; 45 FR 52407, August 7, 1980). See also the **Calendar** entry "Delivery of Certain Alcohol and Tobacco Products Excise Tax Payments via Electronic Fund Transfer."

External: None.

Active Government Collaboration

ATF and the Internal Revenue Service are reviewing their procedures to identify any administrative problems that could result and to develop additional procedures to correct those problems.

Timetable

Final Rule—Undetermined at present.
Public Hearing—To be determined.
Final Rule Effective—30 days after publication in the **Federal Register**.
Final Regulatory Analysis—Undetermined at present.

Available Documents

NPRM—45 FR 38271, June 6, 1980.
Extension of Comment Period Notice—45 FR 52407, August 7, 1980.
Draft Regulatory Analysis (Cost Effectiveness) on Notice No. 342.
Comments received during comment period (June 6 through September 8, 1980).

The above documents are available for review during normal business hours in the ATF Reading Room, Office of Public Affairs and Disclosure, Bureau of Alcohol, Tobacco, and Firearms, Room 4407, 12th Street and Pennsylvania Avenue, N.W., Washington, DC 20226.

ATF "Draft Regulatory (Cost Effectiveness) Analysis on Proposed Rule (Notice No. 342): Proposed Return and Deferral Periods for Certain Tobacco Products Excise Tax Payments," 1980. Available free from the Regulations and Procedures Division, Bureau of Alcohol, Tobacco, and Firearms, Post Office Box 385, Washington, DC 20044.

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TREAS–ATF

Delivery of Certain Alcohol and Tobacco Products Excise Tax Payments via Electronic Fund Transfer (27 CFR Parts 19, 70*, 240*, 245*, 250, 270*, and 275*)

Legal Authority

Internal Revenue Code of 1954 (26 U.S.C. § 5061(a); 26 U.S.C. §§ 5703 (b) and (c); 26 U.S.C. § 6302(a); 26 U.S.C. § 7805.)

Reason for Including This Entry

The Department of the Treasury has proposed regulations to require alcohol and tobacco products taxpayers to transmit their excise tax payments to the U.S. Treasury by use of electronic fund transfer (EFT). The Treasury estimated that the use of electronic fund transfer would decrease the Federal Government's deficit by about $280 million in FY 1981 and by about $8 million yearly in subsequent years.

Statement of Problem

During 1978, the President's Reorganization Project (PRP) Team recommended to the Department of the Treasury a cash management improvement project within the Bureau of Alcohol, Tobacco, and Firearms (ATF) that would result in savings through reduced interest payments for the U.S. Treasury. In effect, ATF would collect excise tax payments on alcohol and tobacco products from approximately 150 large revenue-producing taxpayers (individual plants) via electronic fund transfer.

The proposed rule would require each alochol and tobacco products taxpayer whose annual payment of excise tax is $5 million or more to make the tax payment electronically into the Federal Reserve System. By having access to the Federal Reserve Bank and a nationwide banking network, the Federal Government can receive payments originating from any commercial bank within a matter of minutes via electronic fund transfers. This system would virtually eliminate checks and also would eliminate the time customarily required for clearing a check. Ideally, usable funds would be received on the actual date of payment; and the Federal Government would pay zero interest.

Agreeing with this recommendation, the Department of the Treasury determined that ATF's present system of collecting these excise taxes would have to be modified. Under the present system of collecting alcohol and tobacco products excise taxes, the taxpayer generally prepares and mails a tax return twice a month, accompanied by a check or money order, to the district director of the Internal Revenue Service (IRS). The district director deposits the taxpayer's check or money order in a local bank designated to accept deposits to the account of the U.S. Treasury and mails the tax return and confirmed certificate of deposit to the IRS Service Center.

Under the proposed system, an alcohol and tobacco products taxpayer would send his/her payment by electronic fund transfer on the due date directly to the Treasury's account. Under this system, funds would be available to the Treasury's account on the actual due date of the taxes rather than be delayed several days due to mailing (or hand delivery) and due to processing of checks and money orders.

Alternatives Under Consideration

One alternative to issuing final regulations would be the status quo. ATF believes, however, that this proposed system would be the better alternative, because the Federal Government would realize significant cash flow and cost-reduction savings.

Summary of Benefits

Sectors Affected: The Federal Government.

The proposed rule would directly benefit the Federal Government. If tax payments are actually received on the due date, or as soon thereafter as possible, the Federal Government would be improving its cash flow management of revenues. Based on excise tax payments of $6.668 billion by the large taxpayers (approximately 150 of 1,200 alcohol and tobacco products taxpayers) in FY 1977 and on a float time of 3 days for check clearing, ATF determined that

the Federal Government would receive an annual, gross direct benefit of $12.307 million from not paying interest. The net benefit to the Federal Government, after allowing for certain direct and indirect effects, would be $7.879 million. (Note: All financial data have changed, because revenue and interest forecasts from OMB have changed.)

The Department of the Treasury estimated that the use of electronic fund transfer to collect the alcohol excise tax would decrease the deficit of the Federal Government by $228 million in FY 1981 and $5 million a year thereafter, while using electronic fund transfer to collect the tobacco products excise tax would decrease the deficit by $52 million in 1981 and $3 million a year thereafter.

The reason for the difference between benefits in the first and subsequent years is that the receipts effect (which occurs because the accelerated excise tax payments would cause some year-end tax liabilities, which taxpayers can pay in the next year under current regulations, to be paid in the current year) represents the entire tax payment from approximately 150 large taxpayers for one full return period, while the gross direct benefit represents the interest for 3 days on yearly tax payments for these large taxpayers. The receipts effect occurs because 25 tax payments take place in the fiscal year that the electronic fund transfer system is initiated. Thereafter, there are 25 tax payments as usual.

Summary of Costs

Sectors Affected: The Federal Government; State and local governments; large producers of distilled spirits; large brewers; large winemakers; large manufacturers of tobacco products; and consumers.

We calculate that the total gross benefit loss to the approximately 150 large taxpayers resulting directly from the decreased amount of time the funds would be available to them would be $14.404 million in FY 1979. Compared to the excise tax base of $6.668 billion, the cost of products on which excise tax is paid by electronic fund transfer represents only a .2 percent increase in cost to consumers. Net of direct income tax savings, this cost to the large taxpayers is $6.625 million or .099 percent.

Any earnings lost by the large taxpayers as a direct result of electronic fund transfer would be a loss of taxable income to these large taxpayers.

Whether a large taxpayer used his/her own funds to make tax payments or used borrowed funds, a loss of taxable earnings from the funds would result from the earlier tax payment. Those foregone taxable earnings are at least equal to the opportunity cost (benefit loss) of $14.404 million described above. At a nominal corporate income tax rate of 46 percent at the Federal level, the loss of Federal income tax revenue would be $6.290 million, $6.621 million discounted. We project similar direct income tax revenue losses for State and local governments.

This reduction in Federal, State, and local income tax revenue would be permanent in respect to a taxpayer who entered on and continued using electronic fund transfer. If a taxpayer would revert to a nonelectronic-fund-transfer status, there wold be a related income tax revenue increase for Federal Government and State and local governments due to the resulting increase in the taxpayer's taxable earnings. The taxpayer would gain 3 days of "float" when he goes off electronic fund transfer. This 3 days of float would result in greater taxable income for the taxpayer vis a vis more income tax revenues for the Federal Government, and State and local governments.

The large taxpayers most likely will pass on any related cost increases to consumers in the form of price increases. Where demand is relatively price elastic (i.e., when 1 percent increase in price results in greater than 1 percent decline in consumption), the large taxpayers may absorb some of the cost increase.

While general demand for alcohol and tobacco products is believed to be relatively price inelastic, there may be submarkets (e.g., where distilled spirits are a major market, cordials are a submarket) in which demand sharply declines relative to a price increase. (For instance, gin might be a price elastic product and gin liqueur may be a highly priced inelastic product.) Consequently, large taxpayers competing in those submarkets might not be able to pass on their increased costs to those submarkets without suffering loss of revenue.

In practice, we expect little cost absorption by large taxpayers, because they participate in a number of submarkets. This diversification allows them to avoid absorbing cost increases by increasing prices more sharply in price inelastic submarkets than in price elastic submarkets. For example, if the large taxpayer produces both gin and gin liqueur, he is more likely to increase the cost of gin liqueur than gin.

As a result of this pricing behavior by the large taxpayers, small taxpayers (those paying less than $5 million of excise tax) in the industry will suffer no ill effects from electronic fund transfer in price elastic submarkets, and may gain some small price advantage in price inelastic submarkets.

The proposed rule would have significant indirect effects in Federal income tax and excise tax collections, as well as on State and local income tax, excise tax, and sales tax. Federal income tax would increase by at least $2 million, and Federal excise tax would decline by at least $1 million.

Related Regulations and Actions

Internal: ATF is also considering regulations that would require the large manufacturers of tobacco products to submit their excise tax payments weekly rather than twice a month. Under the proposed rule, these large taxpayers would be granted 3 business days after the proposed weekly collection period, rather than 15 days. This proposed rule appeared in the **Federal Register** (45 FR 38271, June 6, 1980; 45 FR 52407, August 7, 1980); see also entry in this **Calendar** on "Accelerated Payment of Certain Tobacco Products Excise Taxes."

External: None.

Active Government Collaboration

ATF, the Internal Revenue Service, and the Bureau of Government Financial Operations are reviewing their internal procedures to identify any administrative problems in an attempt to resolve them and to develop any new procedures.

Timetable

Final Rule—December 1980 or January 1981.
Final Rule Effective—Thirty days after publication in the **Federal Register.**
Final Regulatory Analysis—November 1980 or December 1980.

Available Documents

NPRM—45 FR 38258, June 6, 1980.
Extension of Comment Period Notice—45 FR 52407, August 7, 1980.
Draft Regulatory Analysis (Cost Effectiveness) on Notice No. 341.
Comments received during comment period (June 6 through September 8, 1980).

The above documents are available for review during normal business hours in the ATF Reading Room, Office of Public Affairs and Disclosure, Bureau of Alcohol, Tobacco, and Firearms, Room 4407, 12th Street and Pennsylvania Avenue, N.W., Washington, DC 20226.

ATF, "Draft Regulatory (Cost Effectiveness) Analysis on Proposed Rule (Notice No. 341): Electronic Fund Transfer for Certain Alcohol and Tobacco Products Excise Tax Payments," 1980. Available free from the Regulations and Procedures Division, Bureau of Alcohol, Tobacco, and Firearms, Post Office Box 385, Washington, DC 20044.

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TREAS–ATF

Implementation of the Distilled Spirits Tax Revision Act of 1979 (27 CFR Parts 5*, 13, 19, 170*, 173*, 186*, 194*, 195*, 196*, 197*, 200*, 201*, 211*, 212*, 213*, 231*, 240*, 250*, 251*, and 252*)

Legal Authority

Distilled Spirits Tax Revision Act of 1979 (Title VIII, Trade Agreements Act of 1979), P.L. 96–39, 93 Stat. 273.

Reason for Including This Entry

The Department of the Treasury thinks that this is important because it establishes a new tax system for proprietors of distilled spirits plants. There will also be an annual revenue loss to the Treasury in excess of $100 million and a tax savings amounting to over $100 million a year to importers of bottled distilled spirits.

Statement of Problem

Under the Internal Revenue Code of 1954, the Secretary of the Treasury has strict control over liquors for beverage purposes and alcohol for industrial purposes, from the beginning of the production process to the point of removal from bonded premises (the portion of the distilled spirits plant where spirits on which the tax has not been paid or determined are stored). The Secretary has maintained control through a rigid system requiring permits, on-site supervision, and restriction of industry operations to separate premises or designated areas. However, in recent years, Treasury's Bureau of Alcohol, Tobacco, and Firearms (ATF) has recognized the need for modernizing this system of control and has sought legislative amendments to make possible an all-in-bond system for taxing and controlling distilled spirits. Under the all-in-bond system, all distilled spirits operations are conducted on the bonded premises of a distilled spirits plant, and the tax is determined after processing and bottling is completed on the basis of the proof (alcoholic content) of the finished product when removed from bond.

The Distilled Spirits Tax Revision Act of 1979 changed the tax system to eliminate disparities in taxation between domestic and imported spirits. Under this Act, the tax is based solely on the alcoholic content of the domestic or foreign distilled spirits products. The Act also gave the Secretary of the Treasury authority to discontinue assignment of Government officers at distilled spirits plants. Finally, in order to promote increased efficiency of Government and industry operations, the Act permitted many other simplifications in the regulation of the distilled spirits industry. Reduction of Government forms and increased acceptance of commercial documents in place of separate Government records, elimination of the distinction between bonded and non-bonded operations and premises, and elimination of many letterhead applications all contribute to greater simplification of operations and recordkeeping systems.

On December 11, 1979, ATF issued temporary regulations in Treasury Decision (T.D.) ATF–62 (44 FR 71613). These regulations implemented the Distilled Spirits Tax Revision Act of 1979, effective January 1, 1980.

Alternatives Under Consideration

Because these regulations were required to implement a statute, there was no practical alternative to issuing them. However, because these regulations completely changed the ways the distilled spirits industry was operated and regulated, ATF issued them in the form of a temporary rule with provision for public comment. Based on the public comments received, ATF will issue a final rule. Pertinent comments citing practical experiences of both the industry and the Government under the temporary regulations will be considered in the writing of the final rule.

Summary of Benefits

Sectors Affected: Manufacturers and importers of distilled spirits, brandy and wine spirits; bonded manufacturers of wine; and the Federal Government.

Direct benefits accruing to proprietors of distilled spirits plants include savings due to simplification of their operational methods and required recordkeeping. With respect to operations, greater flexibility on the use of premises and equipment is possible, because all operations are conducted on bonded premises. In addition, eliminating the requirement for Government officers to supervise directly certain operations or to be present to allow proprietors access to bonded areas allows for more efficient scheduling of plant operations.

Under the new system, proprietors determine the amount of tax due to the Government after processing and bottling is completed on the basis of the proof (alcoholic content) of the bottled product when removed from bond. Under previous regulations, ATF officers determined the tax when bulk spirits were withdrawn from bonded premises to non-bonded processing and bottling facilities. By postponing the tax determination until removal of the finished products, the new system simplifies the records systems necessary for proprietors to document their tax liability.

Distilled spirits taxes are paid on the basis of semimonthly returns. Under the previous system, qualified proprietors could defer actual payment of tax for up to 30 days. The new law provided for an additional deferral period of 15 days, and this benefits proprietors of distilled spirits plants because it saves them the cost of borrowing money for this additional length of time. This increased deferral period will be phased in over 3 years.

Wineries are also directly affected by the elimination of "standard wine premises." Under previous law, winery proprietors could not manufacture and bottle nonstandard wine products on standard winery premises. The previous regulations required these nonstandard wine products to be manufactured on nonstandard wine premises. Effective January 1, 1980, the new law abolished distinction between standard and nonstandard premises and manufacturers may now both produce and bottle wines on the same bonded winery premises.

These regulations directly affect importers of bottled distilled spirits because such products are no longer taxed on a wine gallon basis when below 100 degrees proof (i.e., on the actual volume of liquid in the product when below 100 degrees proof). Under the new law and regulations, imported bottled distilled spirits are taxed on a proof gallon basis (i.e., on the actual degree of proof in the product). As a result, importers will pay a reduced amount of tax amounting to over $100 million a year beginning in calendar year 1980.

The Government will realize manpower savings because of the elimination of on-site supervision of distilled spirits plants by ATF officers, and the more simplified methods of tax collection, records, and reporting requirements.

Summary of Costs

Advertising of Distilled Spirits (27 CFR

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advertising of alcoholic beverages. ATF

advertising industry; consumers who

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Summary of Costs

Sectors Affected: Manufacturers of distilled spirits, brandy and wine spirits; bonded manufacturers of wine; manufacturers of nonbeverage products; and the Department of the Treasury.

Proprietors of distilled spirits plants should generally experience some increase in costs during the year in which Government supervision is eliminated. Training employees, adopting security measures to replace those that were formerly provided by the Government, and revising internal control and recordkeeping systems will entail a one-time cost.

The wine industry and manufacturers of alcoholic flavorings used in spirits will probably feel some effects of the new distilled spirits tax system. While the regulations will provide ways for wineries and flavoring manufacturers to continue their existing relationships with distilled spirits plants, the statutory changes in the tax system may lead to changes in product mix or in the formulation of existing products which would affect their sales to the distilled spirits industry.

The Government also will bear administrative costs of implementing the new system. Specific costs include those for developing the new regulations and procedures and for providing assistance to the industry in converting to the new system. The taxation of certain distilled spirits on a proof gallon basis rather than on a wine gallon basis directly affects the Government because there will be an annual revenue loss to the Treasury amounting to over $100 million a year beginning in calendar year 1980.

Related Regulations and Actions

Internal: The principal regulations that this statutory change affects are the following: Gauging Manual (27 CFR part 13); Distilled Spirits Plants (27 CFR Part 19); Distilled Spirits Plants (27 CFR Part 201); Wine (27 CFR Part 240); Taxpaid Wine Bottling Houses (27 CFR Part 231); Liquors and Articles from Puerto Rico and the Virgin Islands (27 CFR Part 250); Importation of Distilled Spirits, Wine and Beer (27 CFR Part 251); Exportation of Liquors (27 CFR Part 252); Gauging Manual (27 CFR Part 186); Miscellaneous Regulations Relating to Liquors (27 CFR Part 170); Distribution and Use of Denatured Alcohol and Rum (27 CFR Part 211); Distribution and Use of Tax-free Alcohol (27 CFR Part 213); Liquor Dealers (27 CFR Part 194); Drawback on Distilled Spirits Used in Manufacturing Nonbeverage Products (27 CFR Part 197); Labeling and Advertising of Distilled Spirits (27 CFR Part 5).

We have incorporated the following regulation projects that were under development into this general revision:

Alternate Premises between Distilled Spirits Plants and Bonded Wine Cellars (27 CFR Parts 201 and 240); Formulas for Rectified Products (27 CFR Parts 170, 201, 250, and 252); Strip Stamps and Alternative Devices (NPRM published November 7, 1978 (43 FR 51808), 27 CFR Parts 194, 201, 250, 251, and 252); Export Storage Facilities at Distilled Spirits Plants (27 CFR Part 201); Samples of Distilled Spirits (27 CFR Part 201); Distilled Spirits Meters (27 CFR Part 201).

External: The statutory changes affect the regulations that the U.S. Customs Service administers (Title 19, Code of Federal Regulations).

Active Government Collaboration

Certain aspects of the regulatory changes affect procedures of the U.S. Customs Service and the Internal Revenue Service (IRS). Some distilled spirits plants currently receive imported bulk spirits under an immediate delivery procedure whereby ATF officers act as Customs officers. Elimination of assignment of ATF officers would preclude the use of this procedure in the future. ATF is coordinating its plans for withdrawal of ATF officers with the U.S. Customs Service.

The repeal of the rectification tax (an additional tax applicable to certain mixed or processed products) eliminated the need for the collection of the rectifier's occupational tax by IRS.

Timetable

Final Rule—March 1981.
Regulatory Analysis—ATF will not prepare.

Available Documents

ANPRM—Notice No. 326, 44 FR 41833, July 18, 1979.

Public comments in response to ANPRM.

NPRM—Notice No. 329, 44 FR 71612, December 11, 1979.

Public comments in response to NPRM. The comment period closed October 15, 1980.

Temporary Rule—T.D. ATF–62, 44 FR 71613, December 11, 1979.

Extension of comment period—Notice No. 347, 45 FR 54087, August 14, 1980.

Public Law 96–39, Trade Agreements Act of 1979.

Committee Reports—U.S. Senate, Committee on Finances (S. 1376); U.S. House of Representatives, Ways and Means Committee (H.R. 4537).

These documents are available for public inspection during normal business hours at the ATF Reading Room, Room 4407, Federal Building, 12th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20226.

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TREAS-ATF

Labeling and Advertising Regulations Under the Federal Alcohol Administration Act (27 CFR Parts 4*, 5*, and 7*)

Legal Authority

Federal Alcohol Administration Act, 27 U.S.C. §§ 205 (e) and (f).

Reason for Including This Entry

The Department of the Treasury believes this rule is important because it is the first major amendment of alcoholic beverage advertising regulations since the repeal of prohibition. The regulations proposed are intended to deregulate in some instances, update advertising standards, and ensure conformity between the labeling and advertising regulation subparts.

Statement of Problem

The Bureau of Alcohol, Tobacco, and Firearms (ATF) is responsible for ensuring that advertisements for alcoholic beverages contain certain information about the product and that the advertisements are not false or misleading. While the current advertising regulations have remained basically unchanged since ATF adopted them in the mid-1930s, advertising techniques and practices and consumer education and awareness have changed significantly in the past 40 years. Over the years, ATF has issued a number of rulings interpreting the regulations in light of the changing advertising practices and growing consumer awareness. In many cases, inappropriate regulations and varied interpretations of these regulations have caused confusion for both the advertiser and the consumer.

ATF reviews approximately 3,000 advertisements for alcoholic beverages each year, usually after the advertiser is ready to release the advertisement to the media. However, since review by ATF is not mandatory, some advertisements are released without ATF review.

Furthermore, because of the confusion over certain regulations, some advertisements violate these regulations, and ATF recalls or rejects them, costing the industry and ATF money and effort. ATF does not have a monetary estimate of the costs which it and industry incur because of recalled and rejected advertisements.

From the consumer's perspective, many advertisements which conform to ATF regulations seem to be false or misleading because of consumers' changing perceptions of certain products. For instance, the term "light" used with a malt beverage traditionally referred to the color of the product. Now the term "light" has a completely different meaning to most consumers of malt beverages, that is, reduced caloric content.

For these reasons, ATF is reviewing the labeling and advertising regulations for possible updating and revision. Among the areas under review are:

(A) the use of prominent, active athletes and the depiction of athletic events in alcoholic beverage advertisements and on labels;

(B) the use of subliminal advertising techniques (subliminal is the use of words and devices to send a message to an audience subconsciously);

(C) the use of the word "natural" on labels and in advertisements to imply that the product is natural;

(D) the current interpretation of false or misleading statements and advertisements;

(E) the use of curative or therapeutic references on labels and in advertisements;

(F) comparative advertisements (i.e., ads that mention a competitor's name or brand);

(G) an interpretation of disparagement (for instance, should statements about a competitor's product which are true but nonetheless disparaging be allowed on labels and in advertisements?);

(H) the use of "taste tests" in alcoholic beverage advertisements;

(I) the use of the term "light" on alcoholic beverages; and

(J) the use of the words "pure," "double distilled," and "triple distilled" on labels and in advertisements.

If ATF fails to address these issues, the problem of false and misleading labeling and advertising statements and representations will continue.

Alternatives Under Consideration

The Federal Alcohol Administration (FAA) Act requires the Treasury Department to regulate the labeling and advertising of alcoholic beverages. ATF received approximately 6,900 comments from the general public on the ANPRM (43 FR 54286, November 21, 1978) that announced the proposal to review existing regulations. Some of the public comments called for greater restrictions on advertising, including a total ban on alcoholic beverage advertisements. This is beyond the authority of ATF and would require legislative action. However, the Treasury Department may deregulate in certain areas, such as in taste tests, within the framework of the FAA Act, and may rely on industry self-regulation. For example, if an industry member feels that a certain advertisement by a competitor does not comply with regulations or certain statements made in the advertisement cannot be factually supported, the industry member would submit a complaint to ATF for their appropriate action.

ATF reviewed all comments received in response to the ANPRM and analyzed the alternatives. The NPRM we will publish late this year will reflect the consideration of the alternatives and comments received on the ANPRM. The alternatives were to take no action, leaving the present regulations as they are now written and not consolidating previous ATF rulings into the regulations; to place stricter regulations on industry; or to issue guidelines for industry to follow in presenting advertisements that are truthful and that will not tend to mislead the consumer, while at the same time allowing industry greater discretion in choosing their advertising matter.

By clarifying and consolidating regulations, policies, interpretations, and rulings on advertising, ATF hopes to provide a single comprehensive source of guidelines and to liberalize the regulations in certain areas (for example, if ATF allows the use of truthful comparative advertising, the consumer might gain more information about various alcoholic beverage products and be able to make a more informed selection). ATF hopes also to restrict certain advertising practices which the public finds objectionable (for example, many respondents objected to the possible use of subliminal stimuli in alcoholic beverage advertising).

ATF will uniformly apply the adopted regulations to all alcoholic beverage advertising.

Summary of Benefits

Sectors Affected: Manufacturing, wholesale and retail trade of advertised alcoholic beverages, including malt beverages, wines, and distilled spirits (liquors); the advertising industry; consumers who view advertisements of these products; and Federal and State governments.

These regulations will benefit consumers and those listed above. Because these regulations will clarify ATF's position on advertising, they will help reduce the recall and rejection of advertisements, thus saving the industry money by reducing necessary revisions of the advertisements' content in order to comply with regulations, while protecting the industry's right to advertise its products and reinforcing the consumer's right to expect clear and truthful advertisements. In addition, the use of taste tests will promote competition among industry members, while regulations prohibiting subliminal advertising would protect the consumer against undue persuasive advertising.

Revising the regulations will not increase costs to Government. The Government will benefit, since it currently spends much effort in explaining confusing regulations and rulings.

The FAA Act affects only labeled and advertised alcoholic beverages which are entered into interstate commerce. In the case of malt beverages, the labeling and advertising regulations issued under the authority of the FAA Act apply only to the extent that the law of a particular State imposes similar requirements. In States which have adopted the FAA Act (22 States have adopted) or impose similar requirements, these State governments should also benefit from the revisions and amendments of the regulations.

Summary of Costs

Sectors Affected: Manufacturing, wholesale and retail trade of advertised alcoholic beverages, including malt beverages, wines, and distilled spirits (liquors); and the advertising industry.

We have not been able to determine specific cost estimates for this project. In general, costs to producers of alcoholic beverages and the advertising media should not increase because these regulations affect only advertising content and do not alter methods of advertising.

Related Regulations and Actions

Internal: ATF has published a Treasury Decision (T.D. ATF–66, 45 FR 40538, June 13, 1980) requiring ingredient labeling for alcoholic beverages. ATF contracted a study with Michigan State University to study the effects of alcoholic beverage advertising on the drinking habits of young people. The

University has submitted a preliminary report, which ATF did not accept. Michigan State University is in the process of revising their report. We held a meeting with the Federal Trade Commission and the National Institute of Alcohol Abuse and Acoholism concerning the preliminary report.

External: The Federal Trade Commission (FTC) is responsible for regulating the advertisement of wine with less than 7 percent alcohol by volme and the advertisement of nonalcoholic beverages.

Active Government Collaboration

The Federal Trade Commission and ATF are collaborating on this project. ATF is soliciting comments on the proposed regulations from other Federal agencies, and State and local governments.

Timetable

NPRM—Winter 1980/81.
Public Hearings—We will hold them if warranted.
Regulatory Analysis—ATF will not prepare.

Available Documents

ANPRM—Notice No. 313, 43 FR 54266, November 21, 1978, entitled Advertising Regulations Under the Federal Alcohol Administration Act.

A notice extending the comment period—Notice No. 313, 44 FR 2603, January 12, 1979.

Copies of the documents and comments may be inspected during normal business hours at the ATF Reading Room, Room 4407, Federal Building, 12th Street and Pennsylvania Avenue, N.W., Washington, DC 20226.

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TREAS–U.S. Customs Service

Accelerated Duty Payment (19 CFR Parts 141°, 142°, and 144°)

Legal Authority

Customs Procedural Reform and Simplification Act of 1978, § 103, 19 U.S.C. §§ 66, 1484, 1505, 1557, and 1624.

Reason for Including This Entry

The Customs Service (Customs) thinks this project is important because it would alter existing policy governing the deposit of customs duties, and could impose an increased economic burden on a segment of the importing community.

Statement of Problem

The Department of the Treasury has overall responsibility to maintain adequate cash to meet the Government's expenditure needs. One source of that revenue is the duty which Customs collects on imported merchandise. To expedite the flow of funds to the Government, Customs must maintain effective cash management practices. In this regard, the Department has determined that Customs' current practice of allowing importers a 10-day deferral period to deposit estimated duties after "entry" of imported merchandise, or immediate release of the merchandise before entry papers are filed, causes the Government unnecessary borrowing and associated interest costs. The Government's cash flow could be improved if Customs collected duties earlier than it does now.

We based this determination on a Report to the Congress by the Comptroller General entitled "Import Duties and Taxes: Improved Collection, Accounting, and Cash Management Needed," dated August 21, 1978.

According to the Report, Customs collected about $3.9 billion in duties on entries during FY 1976. Of these duties, importers deferred payment of about $3.3 billion in estimated duties because they used the immediate delivery procedure. The Report also stated that although the Government is entitled to payment when merchandise is released to the importer, a study indicated that importers deferred payment an average of 12.4 calendar days, ranging as high as 33 days. Using the 12.4-day delay developed in the study and interest costs of 6.5 percent per year, the Report estimated that deferrals delayed collections which, had they been deposited when the merchandise was released, could have reduced governmental interest cost by about $7.3 million in FY 1976. It should be noted that the cost of the Government's borrowing money today is significantly greater than 6.5 percent per year.

The Customs Procedural Reform and Simplification Act of 1978 (the Act) made significant changes in the Customs laws on the entry of imported merchandise. A document amending the Customs Regulations (19 CFR Chapter I) to establish new procedures needed to reflect these changes was published as Treasury Decision (T.D.) 79–221 in the **Federal Register** on August 9, 1979 (44 FR 46794).

One of the more significant statutory changes involved amending § 505(a), Tariff Act of 1930, as amended (19 U.S.C. § 1505(a)), to permit the payment of estimated duties either at the time of making entry or at a later time, but not later than 30 days after making entry, as prescribed by regulations.

Although the amendments made by T.D. 79–221 continued the practice of requiring estimated duties to be deposited within 10 working days after the date of entry, the NPRM that preceded those amendments (43 FR 55774, November 29, 1978) advised the public that Customs was considering the possibility of requiring the deposit of estimated duties earlier than 10 working days after the date of entry.

After further review of the matter and of the current need to improve the flow of funds received as duty on imported merchandise, the Treasury Department and Customs are considering a project to reduce the 10-working-day period to a 3-working-day period for the deposit of estimated duties. We would phase in the proposed reduction, if adopted, over a 7-year period, one day each year, beginning January 1, 1981. However, we would monitor each yearly reduction closely and assess the impact on Customs and the importing community to determine if we should implement the next reduction as scheduled. We would also consider a rollback of a scheduled reduction to a longer period where circumstances warrant.

It is essential to understand that Customs must maintain the most effective cash management practices possible to expedite the flow of funds to the Government. Collecting duties earlier than is now the practice will improve the Government's cash flow and maximize the use of Customs collections in reducing unnecessary borrowing and associated interest costs. Customs believes that any hardships imposed by the project can be mitigated substantially if that segment of the importing public most likely to be affected by the change, i.e., Customs brokers (persons licensed by Customs and authorized to act as agents of importers in customs transactions), adopt more responsible cash management practices.

Alternatives Under Consideration

As stated above, Customs is currently considering the reduction of the time for deposit of estimated duties from 10 days to 3 days, spaced over a period of 7 years. However, because we have not yet published an NPRM and received public comment, we are not committed to that specific time frame.

Possible alternatives might be to reduce immediately the time period to 3 days, or to some other period greater than 3 days but less than 10 days after the time of entry, instead of spacing out the reduction. Other alternatives might be to phase in the reduction of the time period during which estimated duties must be deposited over some period less than 7 years (e.g., 3 years, 5 years).

Summary of Benefits

Sectors Affected: The Federal Government; and the general public.

If we adopt this proposal, there will be a savings to the Government, which would collect duties earlier than at present, and place them in Treasury depositories. This would spare the Government the interest expense of raising the equivalent amount of revenue by borrowing from the public. The Government would save the following amount of interest during each of the 1981–87 calendar years:

	Projected duty collections (in current billions of dollars)	Estimated Government bill and bond interest rate (percent)	Interest savings to the Government (in current millions of dollars)
Calendar year:			
1981	9.1	10.4	3.0
1982	10.1	10.7	7.0
1983	11.1	10.9	11.7
1984	12.0	10.3	15.9
1985	13.0	9.8	20.4
1986	14.1	9.6	30.8
1987	15.4	9.6	34.2

Summary of Costs

Sectors Affected: The Federal Government; customhouse brokerage services; and importers, especially small firms.

The Government may incur increased processing costs and a decrease in tax revenue from the importing community. The proposal might result in errors in liquidation and other bottlenecks caused by the rush to pay estimated duties in less than 10 working days. Those negative factors would necessitate increased processing costs to Customs and decreased tax revenue owing to increased tax writeoffs by the importing community, which would incur additional business expenses.

While it is likely that the proposal could lead to some additional costs to the Government, the actual amount of those costs cannot be determined adequately at this time without further study and information. The additional processing costs should be minimal if the proposal is implemented gradually, i.e., by one day per year. In any case, it is conceivable that any additional costs incurred by the Government would lessen as experience with the new processing approach is developed.

The proposal will probably lead to increased interest-related costs of over $3 million to the importing community in 1981. This figure is somewhat higher than the $3 million benefit to the Government, because borrowing costs incurred by brokers will be higher than those of the Government. The brunt of the over $3 million will be borne by brokers in the short run, and small brokers (perhaps 80 percent or more of all brokers) could be affected most of all. The increased costs ultimately would be passed on to the remainder of the importing community and then to consumers.

Brokers currently benefit from the "float" they enjoy in the duty-payment process. "Float" (in this case) refers to the procedure whereby brokers receive early duty payments from some clients, and use those to cover late duty payments on duties owed by other clients. Brokers also benefit from the deposit in interest-bearing accounts of monies received from clients until the date when the estimated duty payment is due.

Implementation of the proposal would deprive many brokers of a certain amount of interest on their float. Moreover, some brokers could be forced to resort to additional borrowing in order to pay estimated duties (or interest due) sooner. Small brokers would be at a greater disadvantage than large brokers, because small brokers generally would have more difficulty obtaining credit, and likely would incur higher borrowing fees than large brokers. Because some brokers may tend to operate on narrow margins, the effects of the proposal on those brokers could be adverse, although (as discussed below) the costs involved per broker may not be extremely significant.

There are approximately 1,000 licensed brokers in the United States, employing a total of 10,000 to 12,000 people. Some of those brokers are also freight forwarders who transport merchandise for importers, and whose brokerage activities often account for 40 percent or less of a firm's business. If a form of accelerated duty payment is adopted by Customs, this latter group of large brokers stands to lose relatively less than small brokers whose entire livelihood is based on the brokerage business alone.

The over $3 million in interest and borrowing cost to brokers in 1981, which we estimate to occur if we adopt the proposal, translates into an $8.000 cost per broker if each of the 1,000 brokers shared equally in the cost. The actual cost would vary widely according to the broker's size and the duty rates on the type of merchandise handled. It could be difficult for brokers to pass on the increased costs to their clients in the short run because of contractual reasons as well as competitive reasons.

In addition to interest and borrowing losses to brokers, the proposal could increase the cost of processing for many brokers.

Importers generally will not be as adversely affected by the proposal as brokers would be (at least not in the short run). Importers, especially large importers, temporarily would be well insulated from any adverse effects, although in time much of the increased costs would be passed on to importers by brokers. However, some smaller importers who rely on brokers to finance their imports could be affected adversely in the short run.

The impact of the proposal on U.S. foreign trade probably will be negligible, despite the fact that the importing community (especially brokers) has indicated that the proposal would cause trade bottlenecks, distribution delays, and the disruption of normal trade patterns, ultimately resulting in a decrease in trade. While a decrease in trade may occur, Customs believes that the decrease would be very small, even if the importing community were to incur significant costs owing to the proposal. Even if the entire sum (proposal costs) were passed on to import costs, the total decrease in U.S. imports still would be only a negligible portion of the $295 billion in U.S. imports projected for 1981.

In addition, even if the increased costs of the proposal incurred by the importing community were completely passed on to consumers over a period of time, it is unlikely that the effect on either consumers or the general inflation rate would be significant.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Work Plan 80–3—Fall 1980.
Draft Regulatory Analysis—Fall 1980.
NPRM—Fall 1980.
Public Comment Period—60 days following publication of NPRM in the **Federal Register.**
Final Rule/Treasury Decision (T.D.)—Winter 1980.
Final Rule Effective—30 days from date of publication in the **Federal**

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Register.

Available Documents

NPRM—43 FR 55774, November 29, 1978.

Treasury Decision (T.D.) 79–221, 44 FR 46794, August 9, 1979.

Report to the Congress by the Comptroller General, "Import Duties and Taxes: Improved Collection, Accounting, and Cash Management Needed," dated August 21, 1978.

Copies of these documents may be reviewed at the Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, DC 20229, Room 2426, during normal business days between 9:00 a.m. and 4:30 p.m.

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TREAS–Customs

Administrative Rulings (19 CFR Part 177*)

Legal Authority

19 U.S.C. §§ 66 and 1624.

Reason for Including This Entry

The Customs Service (Customs) believes that the proposed amendments are necessary to expedite the issuance of tariff classification rulings in view of the increase in the number of ruling requests and a decrease in the Customs Headquarters staff. We anticipate that implementation of the proposal will reduce the time required to issue rulings in non-complex and non-sensitive cases and will provide more timely guidance to the international trade community. Because these amendments will change the procedure for making ruling requests, they are of public interest.

Statement of Problem

To be certain of the rate of duty which will be assessed upon merchandise when it is imported into the United States, importers usually request binding rulings from Customs before the import transaction relating to the merchandise takes place. Such rulings are issued by the Office of Regulations and Rulings (ORR) at Customs Headquarters. While some of the requests require immediate replies, others do not require such quick responses. In the absence of advice from the requester, ORR usually cannot determine the urgency of any particular ruling request. Some of these requests are quite simple, do not involve significant duty, or have any other complicating factors. However, a small percentage are either very complex or have other issues involved which make the decisions sensitive.

Because of significant increases in ruling requests and decreases in staffing, it has become apparent to Customs that some method must be found to distinguish the importance of the requests and to expedite the ruling process. Although a variety of management improvements have been made in ORR, it still takes an average of 100 to 110 days to process a response to an importer. Such a processing time for non-complex and non-sensitive cases is not acceptable if Customs intends to provide the necessary guidance to the international trade community.

Customs undertook a detailed examination of the ruling process and how it might be improved. Subsequently, on July 25, 1980, we published an NPRM in the **Federal Register** (45 FR 49591) proposing that present procedures be modified to allow for a more active role by the National Import Specialists (NIS), a relatively small, skilled group of Customs employees, located in Customs Region II, New York, New York.

In the NPRM, we propose that authority to issue selected rulings would be invested in the Regional Commissioner of Customs, New York, under whose supervision the NIS are organized. The NIS would issue ruling letters regarding only prospective Customs transactions.

Subject to guidelines provided by Customs Headquarters, the Regional Commissioner would determine whether the requested ruling would be issued from the Region or whether, due to its complex or sensitive nature, the matter would be referred to the Director, Classification and Value Division, Customs Headquarters. Those members of the public who believed that their classification requests presented complex or important issues could make their requests directly to Headquarters.

The Director, Classification and Value Division, Customs Headquarters, would retain authority to issue rulings in all matters brought to his attention and to independently review all ruling letters issued by the Regional Commissioner. If the recipient of a ruling disagrees with the tariff classification, he could petition the Director, Classification and Value Division, Customs Headquarters, for review of the ruling.

If an actual importation of merchandise occurs after receipt of a request for a ruling but before the ruling is issued, the NIS would handle the matter in the same way it is currently handled by Headquarters.

Rulings signed by the Regional Commissioner would be binding on Customs. If published, these rulings would create established and uniform practices. Rulings would not be withdrawn retroactively to the detriment of the party on whose behalf the ruling was requested.

This amendment to the Customs Regulations is required in order to authorize the Regional Commissioner, New York, to issue administrative rulings. If the proposal is not implemented, Customs may be hampered in its effort to expedite the issuance of rulings in non-complex and non-sensitive cases.

Alternatives Under Consideration

The NPRM published in the **Federal Register** invited interested persons to submit comments regarding the proposal. Because Customs is considering the numerous comments which have been received in response to the NPRM, no decision has been made regarding possible modifications to the proposal. However, the final rule will contain a detailed analysis of any changes that are adopted.

Summary of Benefits

Sectors Affected: Customs; and the international trade community.

It is anticipated that implementation of the proposal will reduce the time required to issue tariff classification rulings in non-complex and non-sensitive cases, enabling Customs to provide more timely guidance to the international trade community.

Summary of Costs

Sectors Affected: None.

The proposal will not impose substantial additional requirements or costs on the international trade community.

Related Regulations and Actions

None.

Active Government Collaboration

The proposal was prepared by Customs Headquarters personnel after consulting with Customs field officers and members of the international trade community.

Timetable

Regulatory Analysis—None.
Public Hearing—None planned.
Final Rule—Fall 1980.
Final Rule Effective—30 days from date of publication in the **Federal Register.**

Available Documents

Customs Study on Improving the Administration of the Ruling Process.

Work Plan 80–5, June 6, 1980.

NPRM—45 FR 49591, July 25, 1980.

Public Comments on NPRM (public comment period closed August 27, 1980).

Copies of these documents may be reviewed at the Customs Service Headquarters, 1301 Constitution Avenue, N.W., Room 2426, Washington, DC 20229, during normal business days between 9:00 a.m. and 4:30 p.m.

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TREAS–Customs

Civil Aircraft Regulations (19 CFR Parts 6* and 10*)

Legal Authority

Trade Agreements Act of 1979, § 601, 19 U.S.C. §§ 66 and 1624.

Reason for Including This Entry

The Customs Service (Customs) believes this rule is important because, by eliminating duty on civil aircraft and parts for civil aircraft, it implements the Civil Aircraft Agreement of the Multilateral Trade Negotiations (MTN). Further, the amendments will change the procedures for the admissibility of civil aircraft and parts for civil aircraft and therefore, it is of public interest.

Statement of Problem

Unless specifically exempted, all merchandise imported into the United States is subject to a customs duty. One of the major responsibilities of Customs is to assess and collect duties when due, and to insure that the entry requirements for merchandise are met.

In some instances, the President and the Congress determine that it would be in the national interest to reduce or eliminate duty on particular merchandise. In this regard, as part of the MTN conducted with many of the nations engaged in international trade, the United States signed the Agreement on Civil Aircraft. This Agreement, which was incorporated into U.S. law as Title VI of the Trade Agreements Act of 1979 (the Act), provides for the duty-free trade in civil aircraft and parts for civil aircraft.

To implement the statutory provisions of Title VI of the Act, Customs is proposing to amend its regulations as they relate to (1) the importation of civil aircraft and parts for civil aircraft, and (2) foreign repairs to and foreign purchases of repair parts and materials for U.S.-registered civil aircraft. The regulations which we will develop will enable us to administer the provisions of the Agreement.

In the area of tariffs, the Agreement eliminates, as of January 1, 1980, duties on the following:

(a) all civil aircraft;

(b) all civil aircraft engines and their parts and components;

(c) all other parts, components, and subassemblies of civil aircraft; and

(d) all ground-flight simulators (machines used for training on the ground which duplicate flight conditions) and their parts and components, whether used as original or replacement equipment in the manufacture, repair, maintenance, rebuilding, modification, or conversion of civil aircraft.

"Civil aircraft" are defined in Title VI of the Act to mean all aircraft other than those purchased for use by the Department of Defense and the Coast Guard.

Under the Act, parts, components, and subassemblies of civil aircraft qualify for duty-free entry if they (1) are for use in civil aircraft, and (2) are classified for Customs purposes under one of the specific Tariff Schedules of the United States (19 U.S.C. § 1202) headings listed in Title VI of the Act.

To be admitted free of duty, parts, components, and subassemblies must be "Certified for Use in Civil Aircraft" by the Federal Aviation Administration (FAA) or an FAA-recognized airworthiness authority in the country of exportation.

In addition, duties on foreign repairs to and foreign purchases of repair parts and materials for U.S.-registered civil aircraft, previously assessed under § 466, Tariff Act of 1930, as amended (19 U.S.C. § 1466), and §§ 6.7 (d) and (e), Customs Regulations (19 CFR 6.7 (d) and (e)), are eliminated.

Alternatives Under Consideration

Customs cannot consider alternatives to the proposal because it must implement the provisions of the Agreement and the Act providing for the duty-free entry of civil aircraft and aircraft parts. However, certain enforcement and administrative methods are being considered as a result of public comments on the NPRM.

Summary of Benefits

Sectors Affected: Domestic and foreign manufacturing, repair services, wholesale trade (particularly importing), and retail trade of civil aircraft and parts for civil aircraft; the general public; and purchasers of civil aircraft and parts for civil aircraft.

This Agreement and implementing regulations will indirectly benefit all nations with a civil aircraft industry, whether it be a civil aircraft manufacturer, air carrier, or civil aircraft maintenance industry, by providing for the free flow between countries that are signatories to the Agreement on civil aircraft and parts for civil aircraft.

Foreign repairs to, and foreign purchase of, repair parts and materials for U.S.-registered civil aircraft which were previously dutiable, are duty free under the Act and Customs' proposed implementing regulations. This will eliminate a trade barrier to foreign repairs to and foreign purchases of repair parts and materials for U.S.-registered civil aircraft. Elimination of the duty will also benefit purchasers of foreign civil aircraft and purchasers of spare or replacement parts for those aircraft through a reduction in the purchase price because of elimination of duties.

Summary of Costs

Sectors Affected: None.

These regulations do not require a Regulatory Analysis under the criteria established by E.O. 12044 (43 FR 12861) and the implementing Treasury Directive (43 FR 52120). Accordingly, no analysis of costs has been made by Customs. An analysis of the budgetary impact is contained in the Senate report on the Act (Senate Report No. 96–249). Customs believes the costs of implementation of the provisions would be negligible, since significant additional requirements for the entry of the items covered by the Act have not and will not be established.

Related Regulations and Actions

Internal: Customs has appointed an MTN Coordinator to oversee implementation of the Act, including the proposed regulations relating to civil aircraft. We have held meetings at the Customs Service headquarters with representatives of the aircraft industry and others who were involved in the MTN negotiations on this Agreement.

External: None.

Active Government Collaboration

The proposal has been coordinated with representatives of the Office of the Special Trade Representative; the Departments of State, Labor, Commerce, and Treasury; the International Trade Commission; and the Federal Aviation Administration.

Timetable

effective date of an emission control

Alternatives Under Consideration

engine into conformity within 90 days of

Final Rule—Spring 1981.

receivable accounts. Specifically, Part 6,

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Timetable

Regulatory Analysis—None.
Public Hearing—None.
Final Rule—Winter 1980.
Final Rule Effective—30 days from date of publication in the **Federal Register**.

Available Documents

Work Plan 79–30.
NPRM—45 FR 1633, January 8, 1980.
Public Comments on NPRM. (Public comment period closed March 10, 1980.)
Copies of these documents may be reviewed at the Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, DC 20229, Room 2426, during normal business days between 9:00 a.m. and 4:30 p.m.

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TREAS–Customs

Importation of Motor Vehicles and Motor Vehicle Engines Under the Clean Air Act (19 CFR 12.73)

Legal Authority

Clean Air Act Amendments of 1970, 42 U.S.C. § 7521 *et seq.;* 19 U.S.C. §§ 66 and 1624; 42 U.S.C. §§ 7521, 7522, and 7601.

Reason for Including This Entry

The Customs Service (Customs) thinks this proposal is important because it would improve our administrative and enforcement efficiency and the effectiveness of regulations relating to the importation of motor vehicles and motor vehicle engines under the Clean Air Act. The proposal also would be a matter of great public interest because it provides a precedent-setting exemption to an individual who wishes to import a vehicle or engine for personal use.

Statement of Problem

Under §§ 202 and 203 of the Clean Air Act, as amended (42 U.S.C. §§ 7521 and 7522) (the Act), the Department of Health and Human Services (formerly the Department of Health, Education, and Welfare) and the Environmental Protection Agency (EPA) have promulgated regulations in 40 CFR Parts 85 and 86 which establish standards for the control of emissions from certain vehicles and engines. The Act prohibits importation into the United States of a vehicle or engine manufactured after the effective date of an emission control standard applicable to the vehicle or engine (or which would have been applicable had the vehicle been manufactured for importation into the United States). However, this prohibition does not apply if the vehicle or engine is covered by a certificate of conformity with applicable standards or if it is exempted by the EPA Administrator.

In conjunction with EPA, Customs enforces those laws and regulations applicable to emission controls for imported vehicles and engines. Regulations relating to those importations are found in § 12.73, Customs Regulations (19 CFR 12.73), and in the EPA regulations at 40 CFR Part 85, Subpart P. EPA is proposing several major changes in its regulations, published in the **Federal Register** on July 21, 1980 (45 FR 48812). If adopted, the revision to the EPA regulations would require corresponding changes to § 12.73, Customs Regulations.

If a vehicle or engine now fails to comply with emission standards, an importer may post a bond with Customs and bring the vehicle or engine into conformity within 90 days of entry. This procedure has misled some importers into believing that modification is an easy option. Likewise, although an importer may post a bond and enter a vehicle or engine to attempt to demonstrate that it conforms by subjecting it to the full Federal test procedure, in some cases this is expensive and impracticable.

Adminstration and enforcement of present procedures place a substantial burden on Customs and EPA. To alleviate this burden, Customs published in the **Federal Register** on July 21, 1980 (45 FR 48817) an NPRM which would eliminate the provisions currently found in § 12.73(c), Customs Regulations, which allow conditional importation of a vehicle or engine under bond. Further, because of potential hardships, the proposed regulations would provide an exemption to an individual who has not imported or attempted to import a nonconforming vehicle or engine since December 31, 1970, the effective date of the Clean Air Act Amendments of 1970, and who wishes to import a vehicle or engine for personal use and not for resale. The individual could use this exemption only once.

The Customs proposal provides very limited exemptions for national security and repairs or alterations to vehicles or engines and strengthens and clarifies the exemption in § 12.73 and other exclusions.

Alternatives Under Consideration

Because Customs, in conjunction with EPA, enforces those laws and regulations applicable to emission controls for imported vehicles and engines, the proposed Customs regulations to a large degree are predicated upon the alternatives proposed by EPA.

Alternative (A) would be to maintain the *status quo.* However, because the present regulations appear to have misled some importers resulting in great expense and inconvenience to them, and are burdensome to Customs and EPA, we believe that this alternative is not satisfactory.

Alternative (B) would be to eliminate the current provisions which allow conditional importation of a vehicle or engine under bond, pending modification to make the vehicle or engine identical in construction to a vehicle or engine covered by a certificate of conformity, or testing to demonstrate that the vehicle or engine conforms with Federal emission standards. However, adoption of this alternative could cause a hardship to individuals who import nonconforming personal use vehicles for the first time. Without the modification and testing options, an individual attempting to import a vehicle or engine not covered by a certificate of conformity would have to export or destroy the vehicle.

Alternative (C), which we favor and have set forth in the NPRM, would be to adopt Alternative (B) above, but promulgate regulations providing a qualified exemption for an individual who imports a nonconforming vehicle or engine for his or her own personal use and not for resale. The exemption would apply only to an individual who has not imported or attempted to import a nonconforming vehicle or engine since the effective date of the Clean Air Act Amendments of 1970 (December 31, 1970). Therefore, an individual could use the exemption only one time at most to import one vehicle or engine not covered by a certificate of conformity.

Summary of Benefits

Sectors Affected: Individuals importing nonconforming vehicles or engines for their own personal use and not for resale; nonresident and resident owners of fleet vehicles (such as corporate owners of taxicabs or buses) importing those vehicles or engines for repairs or alterations; Customs; and EPA.

Under current regulations, if a vehicle or engine fails to comply with emission standards, an importer may post a bond with Customs and bring the vehicle or engine into conformity within 90 days of entry. This procedure and related regulations have imposed a substantial administrative and enforcement burden on Customs and EPA. Similarly, it has proved misleading, expensive, and impracticable for importers to modify or test nonconforming vehicles or engines. Adoption of Alternative (C) would allow an individual, under specified conditions, to import a nonconforming vehicle or engine only once and for personal use and not for resale.

A savings in expenses to the Government and individuals would be realized. Individuals eligible to use the exemption to import a nonconforming vehicle or engine for personal use would be saved the expense of bringing the vehicle or engine into conformity or having to export or destroy it. Similarly, the Government would be able to reduce its expenses associated with administering and enforcing the present procedures related to conditional importations under bond.

The current regulations do not allow residents or nonresidents to import vehicles or engines for the purpose of repairs or alterations. Under the proposed regulations, owners of fleet vehicles would be allowed to import those vehicles or engines for repairs or alterations.

Summary of Costs

Sectors Affected: None.

Adoption of the proposed regulations would not result in any increased costs to any sectors.

Related Regulations and Actions

Internal: None.
External: The regulations of EPA applicable to emission control for imported vehicles and engines are found in 40 CFR Part 85, Subpart P.

In conjunction with Customs, EPA published its NPRM on July 21, 1980, in the **Federal Register** (45 FR 48812). On September 22, 1980, EPA published a document in the **Federal Register** (45 FR 62851) extending the time for public comment to December 3, 1980, and announcing that a public hearing would be held at EPA headquarters on November 3, 1980.

Active Government Collaboration

Customs-proposed regulations were coordinated with and reviewed by the Environmental Protection Agency, which would review in a similar manner any final rule adopted by Customs.

Timetable

Regulatory Analysis—None.
Public Comment Period—Ends December 3, 1980.
Final Rule—Spring 1981.
Final Rule Effective—30 days from date of publication in the **Federal Register.**

Available Documents

Clean Air Act Amendments of 1970 (P.L. 91–604).
Customs NPRM—45 FR 48817, July 21, 1980.
Comments to NPRM.
EPA NPRM—45 FR 48812, July 21, 1980.
Copies of these documents may be reviewed at Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, DC 20229, Room 2426, during normal business days between 9:00 a.m. and 4:30 p.m.

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TREAS–Customs

Interest Charges on Delinquent Accounts (19 CFR Parts 24* and 113*)

Legal Authority

19 U.S.C. §§ 66, 580, 1623, and 1624.

Reason for Including This Entry

The Customs Service (Customs) believes this project is important because it would provide an incentive for importers to pay accounts due to Customs promptly and, if accounts are not paid on time, provide for reimbursement of interest costs resulting from unnecessary Government borrowing resulting in possibly millions of dollars in savings to the Government. Because of the possible savings involved, Customs believes this matter is of great public interest.

Statement of Problem

The Department of the Treasury (Treasury) has overall responsibility to maintain adequate cash to meet the Government's expenditure needs. One source of that revenue is the duty and other charges that Customs collects on imported merchandise. If importers or other persons who owe the Government money do not pay these amounts on time, Treasury must borrow funds to meet the Government's expenditure needs.

In a major effort toward improving cash management practices, Treasury in 1979 issued requirements prescribing cash management-related procedures, including interest charges on overdue receivable accounts. Specifically, Part 6, Chapter 8020.20, Treasury Fiscal Requirements Manual (TFRM), requires payment of amounts owed the Government on time and assessment of a late charge on overdue accounts calculated at a percentage rate based on the current value of funds to the Treasury. The percentage rate will be calculated by Treasury as an average of the current value of funds to the Treasury for a recent 3-month period; and will be transmitted in TFRM bulletins before the first day of each calendar quarter.

Section 580 of Title 19, United States Code (19 U.S.C. § 580), provides for collection of interest upon all bonds, on which suits are brought for the recovery of duties at the rate of 6 percent a year, from the time when the bonds became due. The TFRM provides that interest will be charged at an annual rate of 9 percent on all contracts, agreements, or other formal arrangements. Thus, the TFRM requirements would be applicable in all cases except those covered by 19 U.S.C. § 580.

In a report from the Comptroller General to the Congress dated August 21, 1978, the General Accounting Office (GAO) recommended that Customs charge interest on all duty accounts 30 days past due. GAO made this recommendation as part of an effort to maximize the Government's use of Customs collections to decrease its own borrowing. That report states that in the Customs Regions of Boston, Chicago, Los Angeles, and New York, accounts receivable for duties averaged $8.5 million each month from April 1976 to March 1977 and that approximately 38 percent of that amount was more than 90 days past due.

The present Customs accounts collection policy is to (1) issue a bill which is due and payable upon receipt, (2) pursue collection in accordance with the Federal Claims Collection Act (31 U.S.C. §§ 951, 952, and 953) if payment is not received by Customs within 30 days, and (3) if a surety (guarantor) is also liable by virtue of a bond (contract), to make a formal demand on the surety for payment if the bill remains unpaid after 60 days. Currently, there is no provision for collection of an amount exceeding the principal amount, regardless of the time period of delay or additional administrative costs to the Government incurred as a result of special collection efforts.

This project would amend Parts 24 and 113, Customs Regulations (19 CFR Parts 24 and 113), to establish interest charges for the late payments of supplemental duty bills (bills for additional duties found due after

payment of estimated duties and release

Timetable

The Tokyo Round of the Multilateral

transaction value of imported

interests of the United States commerce

applied on customs values determined

payment of estimated duties and release of merchandise); reimbursable services; and miscellaneous bills issued by Customs to organizations outside the Government, including sureties upon which a formal demand for payment has been issued and that have not paid the amount within 60 days of the issuance of the formal demand.

The proposal bases the interest rate on the current value of funds to the Treasury and calculates the rates as prescribed by the TFRM, as discussed above.

Alternatives Under Consideration

Customs is proposing amending its regulations to conform to Treasury cash management policies. Accordingly, other than giving the importing community sufficient time to adjust their procedures, alternative approaches are not applicable.

Summary of Benefits

Sectors Affected: The Federal Government; the importing community; and the surety insurance industry.

If this proposal is adopted, it will provide substantial benefits to the Government (1) through the avoidance of unnecessary borrowing by the Treasury, and (2) by providing an incentive for prompt payment of accounts which will reduce delays in collection or, alternatively, provide compensation to the Government for revenue collection delays on overdue accounts.

Customs is preparing a Regulatory Analysis which will detail the monetary benefits and other impacts from this proposal on the Federal Government, importing community, and surety insurance industry. Until the Regulatory Analysis is completed, it is not possible to estimate with any degree of certainty the impact of the proposal on the sectors affected.

Summary of Costs

Sectors Affected: The Federal Government; the importing community; and the surety insurance industry.

We believe any costs incurred would be negligible. However, as discussed above, the Regulatory Analysis will detail the impact of the proposal and summarize the costs.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

NPRM—Fall 1980.
Draft Regulatory Analysis—Fall 1980.
Public Comment Period—60 days following publication of NPRM in the **Federal Register.**
Public Hearing—None.
Final Rule/Treasury Decision (T.D.)—Winter 1980.
Final Rule Effective—30 days from date of publication in the **Federal Register.**

Available Documents

Work Plan 80–2.
Part 6, Chapter 8020.20, "Treasury Fiscal Requirements Manual."
Report from the Comptroller General to the Congress, dated August 21, 1978.
These documents are available at Customs Service Headquarters, 1301 Constitution Avenue, N.W., Room 2426, Washington, DC, during normal business days from 9:00 a.m. to 4:30 p.m.

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TREAS—Customs

Valuation of Imported Merchandise for Customs Purposes (19 CFR Part 152)

Legal Authority

Trade Agreements Act of 1979, 19 U.S.C. §§ 66 and 1624.

Reason for Including This Entry

The Customs Service (Customs) thinks this proposal is important because it changes the methods used for determining the customs value of all merchandise imported into the United States.

Statement of Problem

The purpose of customs valuation is to establish the value of imported merchandise in order for Customs and foreign customs services to assess duties levied on an ad valorem (percentage of value) basis. Such values are also used, with appropriate adjustment, for reporting the value of imports. The method of valuation which a country applies can be as important as the tariff rate itself in determining the actual amount of duty charged. The customs valuation can be used to impede or promote importation of merchandise.

The Tokyo Round of the Multilateral Trade Negotiations (MTN) was the seventh round of negotiations held under the General Agreement on Tariffs and Trade (GATT) since 1948. The six previous rounds were concerned primarily with tariff reductions.

Many countries have criticized the U.S. customs valuation system, which has nine different methods of determining value, as being a major U.S. nontariff barrier to trade. Therefore, a principal objective of these countries in the Tokyo Round was to obtain changes in the U.S. customs valuation system.

The customs valuation systems of several of the countries engaged in trade with the United States also have controversial and protective features. A major objective of the United States in the negotiations was the elimination of the arbitrary and protective features from foreign customs valuation systems.

It was against this background that a new set of international rules was developed in the Tokyo Round to eliminate or reduce these features from customs valuation as nontariff barriers to trade.

The Trade Agreements Act of 1979 incorporates into U.S. law the trade agreements negotiated by the United States in the Tokyo Round and transmitted to the Congress by the President on June 19, 1979.

Title II of the Act, "Customs Valuation," implements the Agreement on Implementation of Article VII of the GATT relating to customs valuation. Title II makes significant changes in the laws administered by Customs relating to the valuation of all imported merchandise. Therefore, it is necessary to amend the Customs Regulations (19 CFR Chapter I) to implement and administer the provisions of Title II.

The Act repeals § 402a, Tariff Act of 1930, as amended (19 U.S.C. § 1402), and amends § 402 of the Tariff Act (19 U.S.C. § 1401a) to establish a new and different concept of valuation comprised of a primary and four secondary methods. These five methods are arranged in hierarchical fashion, in order of precedence for use: transaction value, transaction value of identical merchandise, transaction value of similar merchandise, deductive value, and computed value. If none of the five bases can be used, then Customs will determine a value derived from one of these bases, reasonably adjusted.

A general explanation of these terms follows. Transaction value is the price actually paid or payable for the imported merchandise when sold for exportation to the United States. Transaction value of identical merchandise is the previously accepted

transaction value of imported merchandise identical to that being appraised, sold for export to the United States, and exported at or about the same time as the merchandise being appraised. Transaction value of similar merchandise is the previously accepted transaction value of imported merchandise similar to that being appraised, sold for export to the United States, and exported at or about the same time as the merchandise being appraised.

Deductive value is the resale price in the United States of the imported merchandise, with deductions for certain items. These items are commissions or profit and general expenses, transportation, and insurance costs; customs duties and other Federal taxes; and, if appropriate, the value of further processing.

Computed value is the sum of (a) materials, fabrication, and other processing used in producing the imported merchandise; (b) profit and general expenses; (c) any assist, if not included in (a) and (b); and (d) packing costs.

Customs must amend Part 152, Customs Regulations (19 CFR Part 152), to reflect the new methods of value established by the Act. We will place the proposed regulations in a new subpart to existing Part 152.

In this regard, Customs published an NPRM in the **Federal Register** on March 31, 1980 (45 FR 20912).

Alternatives Under Consideration

Because Customs must propose regulations to implement those provisions of the Act which change the bases for determining the valuation of all merchandise imported into the United States, there are no alternatives.

Summary of Benefits

Sectors Affected: U.S. Import and export trade; customhouse brokerage services; the general public; and Customs.

The proposed regulations provide guidelines, definitions, interpretations, and examples to enable all sectors of the importing community to understand and use the new valuation law. All importers and customhouse brokers will be affected by the proposed regulations to some degree regardless of whether they import for business or personal use. The degree to which they are affected will vary according to the merchandise imported.

The Statement of Administrative Action, approved as part of the legislative history to the Act, indicates that the Agreement on Implementation of Article VII of the GATT serves the interests of the United States commerce in the following ways:

1. Provides an agreed interpretation of current GATT rules on customs valuation. This should result in greater international uniformity in customs valuation practices and reduce the potential for dispute.

2. Bases customs values, to the greatest extent possible, on transaction values. This should lead to greater predictability and certainty in the determination of customs values both in the United States and abroad, thus benefiting both U.S. importers and exporters.

3. Eliminates the protective features of current foreign customs valuation systems, including arbitrary valuation methods and fictitious values. This should serve to make the customs valuation process abroad trade neutral; that is, the level of protection in foreign markets facing U.S. exports will not be provided by the valuation process but will be confined to the tariff rate.

4. Places increased obligations on foreign customs services regarding the transparency and propriety of their actions in customs valuation matters, thereby safeguarding U.S. exporters from abuse.

5. Increases the opportunities for U.S. exporters to appeal improper customs valuation decisions both at the national and international levels.

6. Simplifies the current U.S. valuation system without reducing the protection of U.S. industries afforded by certain features of the current U.S. system.

7. Increases the ease of administration of U.S. valuation laws and clarifies certain controversial areas of those laws. This should result in streamlined customs valuation procedures, in reduced administrative costs, and in fewer disagreements between U.S. importers and Customs.

Summary of Costs

Sectors Affected: None.

The Statement of Administrative Action states that adoption of a transaction value-based system of customs valuation, as provided in the Agreement, will not have a significant overall impact on the amount of customs duties collected in the United States. Products for which there might have been significant impact, such as those currently subject to the American Selling Price method of customs valuation, will have new tariff rates apply to them to ensure that U.S. industries producing those products receive protection substantially equivalent to what they currently receive from present rates of duty applied on customs values determined under present U.S. law.

The legislative history of the Act also states that the paperwork and recordkeeping requirements the regulations may impose are not anticipated to be different in any significant or substantial way from those under existing law.

The legislative history further states that there would be no new budget authority or any new or increased tax expenditures or new budget authority providing financial assistance to State and local governments.

Related Regulations and Actions

Internal: Customs has appointed an MTN Coordinator to oversee implementation of the Act, including the proposed regulations relating to Customs valuation. Customs has held meetings with representatives of the importing community throughout the United States to explain the new methods of determining value for customs purposes. In addition, we have prepared a pamphlet, "Customs Valuation," and distributed it throughout the importing community.

External: None.

Active Government Collaboration

The proposed regulations were coordinated with and reviewed by an interagency task force made up of representatives of the Office of the Special Trade Representative; the Departments of State, Commerce, and Treasury; and the International Trade Commission.

Timetable

Regulatory Analysis—None.
Public Hearing—None planned.
Final Rule—Winter 1980.
Final Rule Effective—On date of publication of the Treasury Decision in the **Federal Register.**

Available Documents

Trade Agreements Act of 1979, P.L. 96–39, 93 Stat. 144.
Trade Agreements Act of 1979, Statement of Administrative Action House Document No. 96–153, Part II (96th Congress, 1st Session).
House Report on H.R. 4537, House Report No. 96–317 (96th Congress, 1st Session).
Senate Report on H.R. 4537, Senate Report No. 96–249 (96th Congress, 1st Session).
NPRM—45 FR 20912, March 31, 1980.
Public comments on NPRM. (Public comment period closed May 30, 1980.)
Customs Valuation, March 1980.
Copies of these documents may be reviewed at the Customs Service

Headquarters, 1301 Constitution Avenue, N.W., Washington, DC 20229

Alternatives Under Consideration

Officer
Office of Standards, Tariff and Trade Activities
Washington, DC 20229
(202) 566–5765

Summary of Benefits

Customs Service Headquarters, 1301 Constitution Avenue, N.W., Washington, DC 20229

Agency Contact

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TREAS—Customs

Valuation of Imported Merchandise for Customs Purposes (19 CFR Part 152)

Legal Authority

Trade Agreements Act of 1979, 19 U.S.C. §§ 66 and 1624.

Reason for Including This Entry

The Customs Service (Customs) thinks this proposal is important because it changes the methods used for determining the customs value of all merchandise imported into the United States.

Statement of Problem

The purpose of customs valuation is to establish the value of imported merchandise in order for Customs and foreign customs services to assess duties levied on an ad valorem (percentage of value) basis. Such values are also used, with appropriate adjustment, for reporting the value of imports. The method of valuation which a country applies can be as important as the tariff rate itself in determining the actual amount of duty charged. The customs valuation can be used to impede or promote importation of merchandise.

The Tokyo Round of the Multilateral Trade Negotiations (MTN) was the seventh round of negotiations held under the General Agreement on Tariffs and Trade (GATT) since 1948. The six previous rounds were concerned primarily with tariff reductions.

Many countries have criticized the U.S. customs valuation system, which has nine different methods of determining value, as being a major U.S. nontariff barrier to trade. Therefore, a principal objective of these countries in the Tokyo Round was to obtain changes in the U.S. customs valuation system.

The customs valuation systems of several of the countries engaged in trade with the United States also have controversial and protective features. A major objective of the United States in the negotiations was the elimination of the arbitrary and protective features from foreign customs valuation systems.

It was against this background that a new set of international rules was developed in the Tokyo Round to eliminate or reduce these features from customs valuation as nontariff barriers to trade.

The Trade Agreements Act of 1979 incorporates into U.S. law the trade agreements negotiated by the United States in the Tokyo Round and transmitted to the Congress by the President on June 19, 1979.

Title II of the Act, "Customs Valuation," implements the Agreement on Implementation of Article VII of the GATT relating to customs valuation. Title II makes significant changes in the laws administered by Customs relating to the valuation of all imported merchandise. Therefore, it is necessary to amend the Customs Regulations (19 CFR Chapter I) to implement and administer the provisions of Title II.

The Act repeals § 402a, Tariff Act of 1930, as amended (19 U.S.C. § 1402), and amends § 402 of the Tariff Act (19 U.S.C. § 1401a) to establish a new and different concept of valuation comprised of a primary and four secondary methods. These five methods are arranged in hierarchical fashion, in order of precedence for use: transaction value, transaction value of identical merchandise, transaction value of similar merchandise, deductive value, and computed value. If none of the five bases can be used, then Customs will determine a value derived from one of these bases, reasonably adjusted.

A general explanation of these terms follows. Transaction value is the price actually paid or payable for the imported merchandise when sold for exportation to the United States. Transaction value of identical merchandise is the previously accepted

transaction value of imported merchandise identical to that being appraised, sold for export to the United States, and exported at or about the same time as the merchandise being appraised. Transaction value of similar merchandise is the previously accepted transaction value of imported merchandise similar to that being appraised, sold for export to the United States, and exported at or about the same time as the merchandise being appraised.

Deductive value is the resale price in the United States of the imported merchandise, with deductions for certain items. These items are commissions or profit and general expenses, transportation, and insurance costs; customs duties and other Federal taxes; and, if appropriate, the value of further processing.

Computed value is the sum of (a) materials, fabrication, and other processing used in producing the imported merchandise; (b) profit and general expenses; (c) any assist, if not included in (a) and (b); and (d) packing costs.

Customs must amend Part 152, Customs Regulations (19 CFR Part 152), to reflect the new methods of value established by the Act. We will place the proposed regulations in a new subpart to existing Part 152.

In this regard, Customs published an NPRM in the **Federal Register** on March 31, 1980 (45 FR 20912).

Alternatives Under Consideration

Because Customs must propose regulations to implement those provisions of the Act which change the bases for determining the valuation of all merchandise imported into the United States, there are no alternatives.

Summary of Benefits

Sectors Affected: U.S. Import and export trade; customhouse brokerage services; the general public; and Customs.

The proposed regulations provide guidelines, definitions, interpretations, and examples to enable all sectors of the importing community to understand and use the new valuation law. All importers and customhouse brokers will be affected by the proposed regulations to some degree regardless of whether they import for business or personal use. The degree to which they are affected will vary according to the merchandise imported.

The Statement of Administrative Action, approved as part of the legislative history to the Act, indicates that the Agreement on Implementation of Article VII of the GATT serves the interests of the United States commerce in the following ways:

1. Provides an agreed interpretation of current GATT rules on customs valuation. This should result in greater international uniformity in customs valuation practices and reduce the potential for dispute.

2. Bases customs values, to the greatest extent possible, on transaction values. This should lead to greater predictability and certainty in the determination of customs values both in the United States and abroad, thus benefiting both U.S. importers and exporters.

3. Eliminates the protective features of current foreign customs valuation systems, including arbitrary valuation methods and fictitious values. This should serve to make the customs valuation process abroad trade neutral; that is, the level of protection in foreign markets facing U.S. exports will not be provided by the valuation process but will be confined to the tariff rate.

4. Places increased obligations on foreign customs services regarding the transparency and propriety of their actions in customs valuation matters, thereby safeguarding U.S. exporters from abuse.

5. Increases the opportunities for U.S. exporters to appeal improper customs valuation decisions both at the national and international levels.

6. Simplifies the current U.S. valuation system without reducing the protection of U.S. industries afforded by certain features of the current U.S. system.

7. Increases the ease of administration of U.S. valuation laws and clarifies certain controversial areas of those laws. This should result in streamlined customs valuation procedures, in reduced administrative costs, and in fewer disagreements between U.S. importers and Customs.

Summary of Costs

Sectors Affected: None.

The Statement of Administrative Action states that adoption of a transaction value-based system of customs valuation, as provided in the Agreement, will not have a significant overall impact on the amount of customs duties collected in the United States. Products for which there might have been significant impact, such as those currently subject to the American Selling Price method of customs valuation, will have new tariff rates apply to them to ensure that U.S. industries producing those products receive protection substantially equivalent to what they currently receive from present rates of duty applied on customs values determined under present U.S. law.

The legislative history of the Act also states that the paperwork and recordkeeping requirements the regulations may impose are not anticipated to be different in any significant or substantial way from those under existing law.

The legislative history further states that there would be no new budget authority or any new or increased tax expenditures or new budget authority providing financial assistance to State and local governments.

Related Regulations and Actions

Internal: Customs has appointed an MTN Coordinator to oversee implementation of the Act, including the proposed regulations relating to Customs valuation. Customs has held meetings with representatives of the importing community throughout the United States to explain the new methods of determining value for customs purposes. In addition, we have prepared a pamphlet, "Customs Valuation," and distributed it throughout the importing community.

External: None.

Active Government Collaboration

The proposed regulations were coordinated with and reviewed by an interagency task force made up of representatives of the Office of the Special Trade Representative; the Departments of State, Commerce, and Treasury; and the International Trade Commission.

Timetable

Regulatory Analysis—None.
Public Hearing—None planned.
Final Rule—Winter 1980.
Final Rule Effective—On date of publication of the Treasury Decision in the **Federal Register.**

Available Documents

Trade Agreements Act of 1979, P.L. 96–39, 93 Stat. 144.
Trade Agreements Act of 1979, Statement of Administrative Action House Document No. 96–153, Part II (96th Congress, 1st Session).
House Report on H.R. 4537, House Report No. 96–317 (96th Congress, 1st Session).
Senate Report on H.R. 4537, Senate Report No. 96–249 (96th Congress, 1st Session).
NPRM—45 FR 20912, March 31, 1980.
Public comments on NPRM. (Public comment period closed May 30, 1980.)
Customs Valuation, March 1980.
Copies of these documents may be reviewed at the Customs Service

V45 NO 224 80 UMI

Headquarters, 1301 Constitution Avenue, N.W., Washington, DC 20229, Room 2426, during normal business days between 9:00 a.m. and 4:30 p.m.

Agency Contact

Thomas Lobred, Attorney
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GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

National Defense Stockpile Acquisition Regulations (41 CFR Part 5C)

Legal Authority

Strategic and Critical Materials Stockpiling Act, 50 U.S.C. § 98 *et seq.*

Reason for Including This Entry

The General Services Administration (GSA) includes this regulation because of interest to industries concerned with commodities maintained in the national defense stockpile and because the Government is a significant buyer of these commodities.

Statement of Problem

Under the Strategic and Critical Materials Stockpiling Act, the Federal Property Resources Service (FPRS) is responsible for the acquisition and disposal of materials for the National Defense Stockpile.

The stockpile contains a supply of 93 commodities such as tungsten, tin, and industrial diamonds, which would have strategic or critical importance in the event of war or other national emergency. The stockpile has a current market value of $14 billion, and FPRS plans more than 100 acquisition transactions each year with a total value of as much as $500 million. Section 6(b) of the Act provides that "acquisition of strategic and critical materials under this Act shall be in accordance with established Federal procurement practices." At this time there is no regulation which describes the practices and procedures which FPRS uses in making acquisitions for the stockpile. The proposed regulation is intended to describe FPRS practices in a publicly available form. These practices often reflect both commercial procedures which are unique to certain commodities, and the consideration FPRS gives to avoiding market disruption and preventing avoidable loss to the Government.

Alternatives Under Consideration

We have considered issuing no regulation, amending other procurement regulations to cover stockpile acquisitions, and issuing a separate regulation. If we do not issue a regulation, the public will not have a formal description of our practices and procedures for stockpile acquisitions. Amendment of other procurement regulations would introduce into them a large body of information which pertains only to stockpile transactions. For this reason, we believe that a separate regulation is preferable and can better describe FPRS practices in acquiring stockpile commodities.

Summary of Benefits

Sectors Affected: Domestic and foreign industries which supply, trade, and use the basic industrial raw materials of the economy of the United States; and users of these raw materials.

The proposed regulation will increase public knowledge of FPRS's stockpile acquisition practices. This knowledge should help other buyers, traders, and users of affected commodities to deal with FPRS and plan their transactions.

Summary of Costs

Sectors Affected: None.

The proposed regulation does not impose direct or indirect costs on the Government or any sector of the economy because it will not require changes in existing practices.

Related Regulations and Actions

None.

Active Government Collaboration

The Federal Emergency Management Agency coordinates National Defense Stockpile program activity, developing stockpile goals and setting overall annual disposal and acquisition plans in coordination with the Departments of Defense, Interior, State, Commerce, and Treasury; the Central Intelligence Agency; GSA; and the Office of Management and Budget. GSA has sole control over actual stockpile transactions.

Timetable

NPRM—None.
Public Hearing—None.
Public Comment Period—None.
Final Rule—Late 1980.
Regulatory Analysis—Not required.

Available Documents

None.

Agency Contact

Anne Eckstone, Administrative Officer
Office of Stockpile Transactions
Federal Property Resources Service
Crystal Square-Building 5
Washington, DC 20426
(202) 557–0982

GSA–FPRS

National Defense Stockpile Disposal Regulations (41 CFR Part 101–14)

Legal Authority

Strategic and Critical Materials Stockpiling Act, 50 U.S.C. § 98 *et seq.*

Reason for Including This Entry

The General Services Administration (GSA) includes this regulation because it is of interest to industries concerned with commodities maintained in the national defense stockpile and because the Government is a significant buyer of these commodities.

Statement of Problem

Under the Strategic and Critical Materials Stockpiling Act, the Federal Property Resources Service (FPRS) is responsible for the acquisition and disposal of materials for the National Defense Stockpile.

The stockpile contains a supply of 93 commodities such as tungsten, tin, and industrial diamonds, which would have strategic or critical importance in the event of war or other national emergency. The stockpile has a current market value of $14 billion, and FPRS plans more than 100 disposal transactions each year with a total value of as much as $500 million.

Section 6(b) of the Act provides that "disposal of materials from the stockpile shall be made by formal advertising or competitive negotiation procedures." The purpose of advertising a sale, when appropriate, and of competitive negotiations, is to involve the largest practical number of bidders, and thereby to obtain the most favorable offer. At this time there is no regulation which describes the practices and procedures which FPRS uses in disposing of materials from the stockpile. The proposed regulation is intended to describe FPRS's practices in a publicly available form. These practices often reflect both commercial procedures which are unique to certain commodities and the consideration FPRS gives to avoiding market disruption and preventing avoidable loss to the Government.

Alternatives Under Consideration

We have considered issuing no regulation, amending other disposal regulations to cover stockpile disposals, and issuing a separate regulation. If we do not issue a regulation, the public will be left without a formal description of our practices and procedures for disposal of stockpile materials. Amendment of other disposal regulations would introduce into them a large body of information which pertains only to stockpile transactions. For this reason, we believe that a separate regulation is preferable and can better describe FPRS practices in disposing of stockpile commodities.

Summary of Benefits

Sectors Affected: Domestic and foreign industries which supply, trade, and use the basic industrial raw materials of the economy of the United States; and users of these raw materials.

The proposed regulation will increase public knowledge of FPRS stockpile disposal practices. This knowledge should help other buyers, traders, and users of affected commodities to deal with FPRS and plan their transactions.

Summary of Costs

Sectors Affected: None.

The proposed regulation does not impose direct or indirect costs on the Government or any sector of the economy because it will not require changes in existing practices.

Related Regulations and Actions

None.

Active Government Collaboration

The Federal Emergency Management Agency coordinates National Defense Stockpile program activity, developing stockpile goals and setting overall annual disposal and acquisition plans in coordination with the Departments of Defense, Interior, State, Commerce, and Treasury; the Central Intelligence Agency; GSA; and the Office of Management and Budget. GSA has sole control over actual stockpile transactions.

Timetable

NPRM—None.
Public Hearing—None.
Public Comment Period—None.
Final Rule—Late 1980.
Regulatory Analysis—Not required.

Available Documents

None.

Agency Contact

Anne Eckstone, Administrative Officer
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Federal Property Resources Service
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FEDERAL ELECTION COMMISSION

Nonpartisan Communications by Corporations or Labor Organizations (11 CFR 110.4)

Legal Authority

Federal Election Campaign Act, 2 U.S.C. §§ 438(a)(8) and 441b.

Reason for Including This Entry

The Federal Election Commission (FEC) includes this proposed rulemaking because it concerns an issue of public interest that affects all corporations and labor organizations contemplating nonpartisan activities in connection with Federal elections.

Statement of Problem

The Federal Election Campaign Act (at 2 U.S.C. § 441b) prohibits corporations and labor organizations from making contributions or expenditures in connection with a Federal election. Certain exceptions from that general prohibition are set forth in the statute. These statutory exceptions permit a corporation or labor organization to make contributions or expenditures for communications or activities aimed at the corporation's executive and administrative personnel, stockholders and their families, or the union's members and their families. Thus, 2 U.S.C. § 441b(2)(A) and (B) specifically permit:

1. A corporation to use its treasury funds for communications or for nonpartisan registration and get-out-the-vote campaigns aimed at its stockholders and their families or at its executive or administrative personnel and their families.

2. A labor organization to use its treasury funds for communications or for nonpartisan registration and get-out-the-vote campaigns aimed at its members and their families.

While the above statutory exceptions permit contributions or expenditures for communications or activities aimed at a corporation's or labor organization's restricted class, there are no comparable statutory exceptions for communications or activities aimed at the general public. Commission regulations, however, do permit a corporation or union to use its treasury funds for communications or activities directed to individuals who are outside the restricted class—that is, to all employees of the corporation or labor organization or to the general public—provided that certain requirements are met. 11 CFR 114.4(c) and (d) of Commission Regulations permit the following activities:

1. A corporation or labor organization may, through various communications, urge *employees* of the corporation or employees of the labor organization to register, to vote, or to otherwise participate in the electoral process, provided that the organization meets certain specified conditions designed to ensure nonpartisanship. These conditions are that the communication mentions no political affiliation and that information on particular candidates or political parties is not included unless the entire list of candidates on the ballot is reproduced (see 11 CFR 114.4(c)(1)(i) and (ii)).

2. A corporation or labor organization may reprint in whole and distribute to the *general public* official registration and voting information or materials, provided that the organization meets certain specified conditions designed to ensure nonpartisanship (see 11 CFR 114.4(c)(2)).

3. A corporation or labor organization may distribute to the *general public* voter guides and similar materials describing the candidates and their positions if the organization obtains the materials from a nonpartisan nonprofit organization and if the materials do not favor one candidate or political party over another (see 11 CFR 114.4(c)(3)).

4. A corporation or labor organization may participate in registration and get-out-the-vote drives aimed at the *general public* if the drive is jointly sponsored with and conducted by a nonpartisan nonprofit organization and if the corporation or labor organization meets other specified conditions designed to ensure nonpartisanship (see 11 CFR 114.4(d)).

The above regulations thus specifically permit a corporation or labor organization to make nonpartisan registration and voting communications directly to the corporation's or union's *employees.* There is, however, no provision which specifically permits a corporation or labor organization to use its treasury funds to make such communications directly to the *general public.* Except for official materials prepared by a State government, current regulations specifically permit a corporation or labor organization to make contributions or expenditures for communications or activities directed to the general public only with the involvement of a nonpartisan, nonprofit organization.

Any person may request an Advisory Opinion from the FEC on the application of the Federal Election Campaign Act to a proposed specific transaction or activity by the requestor. Several

corporations and labor organizations have expressed, through the Advisory Opinion procedure, interest in making nonpartisan communications directly to the general public. In certain situations, the Commission has approved the expenditure of corporate funds for nonpartisan registration and voting communications directed to the general public without the involvement of a nonpartisan nonprofit organization. (See Advisory Opinions 1980–20, Federal Election Campaign Financing Guide (CCH) ¶5487; and Advisory Opinion 1980–33, Id., ¶5500.) In order to clarify the circumstances in which corporations and labor organizations may make such nonpartisan communications, the Commission is considering the promulgation of regulations to govern such activity.

Alternatives Under Consideration

The Commission is considering the following four possible revisions to 11 CFR 114.4:

(A) Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures for nonpartisan communications to the general public about registration and voting?

(B) Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures to prepare and distribute to the general public publications about the record of a candidate, including the voting record of an officeholder?

(C) Should 11 CFR 114.4 be revised to permit corporations or labor organizations to make contributions or expenditures to prepare and distribute to the general public voter guides setting forth the positions of candidates on various issues?

(D) Should 11 CFR 114.4 be revised to include a provision prohibiting any activity which is not specifically permitted under that section, or should 11 CFR 114.4 be revised to include a provision permitting any activity which is indistinguishable from those activities specifically permitted under that section?

Summary of Benefits

Sectors Affected: Labor organizations and corporations in all industries, including corporations without capital stock, incorporated membership organizations, trade associations, and cooperatives.

The revisions under consideration would affect those entities whose activities come within the purview of 2 U.S.C. § 441b: corporations, labor organizations, incorporated membership organizations, trade associations, cooperatives, and corporations without capital stock.

By clarifying which types of nonpartisan communications by corporations and labor organizations to the general public are permissible under 2 U.S.C. § 441b, the revisions under consideration will remove uncertainty as to such activity. This will make it easier for corporations and labor organizations to plan such nonpartisan activity, and will thereby encourage such activity.

It is hoped that the proposed action will provide increased voter participation, reduced costs to corporations and labor organizations in complying with 2 U.S.C. § 441b (because greater clarity in regulations will eliminate the need to seek Advisory Opinions), and reduction in Advisory Opinion workload at FEC.

Summary of Costs

Sectors Affected: None.

The alternatives under consideration would impose no obligation to make nonpartisan communications. There is, therefore, no cost imposed by any of the possible revisions.

Related Regulations and Actions

Internal: Generally, 11 CFR Part 114 ("Corporate and Labor Organization Activity").

External: None.

Active Government Collaboration

Per 2 U.S.C. § 438(f), we have informed the Internal Revenue Service of our actions.

Timetable

NPRM—Winter 1981.
Transmittal to Congress—Spring 1981.
Final Rule—30 legislative days after transmittal to Congress, if not disapproved (see 2 U.S.C. § 438(d)).

Available Documents

ANPRM—45 FR 56349, August 25, 1980.

Agency Contact

Susan E. Propper
Office of General Counsel
Federal Election Commission
1325 K Street, N.W.
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FEDERAL TRADE COMMISSION

The entries for credit practices and mobile homes describe rulemaking proceedings that are currently in progress. The views expressed in these entries are those of the rulemaking staff, based upon information now available. These views should not be regarded as a final staff position, nor should they be attributed to the Commission itself, which will address the issues presented after it reviews the record.

The entries for Blue Shield, real estate brokers, and eyeglasses describe current investigations in which rulemaking is one of several options under consideration. The views expressed here are those of the investigative staff, based upon information now available. These views should not be regarded as a final staff position, nor should they be attributed to the Commission itself, which will consider whether a rulemaking proceeding or some other courses of action should be undertaken after it reviews the results of the investigation and comments in response to any advance notices of proposed rulemakings.

The entries for the standards and certification and the children's advertising rulemaking proceedings which were included in the **Calendar of Federal Regulations** published in November 1979 are not included in this edition. Descriptions of those two proceedings may be found in the **Federal Register** (44 FR 68331, November 28, 1979).

The standards and certification rulemaking is currently pending. It is affected by the Federal Trade Commission Improvements Act of 1980, Public Law 96–252. More specifically, the Federal Trade Commission's authority to issue the standards and certification rule with respect to "unfair or deceptive acts or practices" under § 18 of the FTC Act has been removed. The 1980 Act leaves unaffected whatever authority the FTC might have under any other provision of the Act to issue a rule with respect to "unfair methods of competition."

The 1980 Act suspended the children's advertising proceeding until the Federal Trade Commission votes to publish the text of a proposed rule. Additionally, any further action in the proceeding could be based only on acts or practices which are "deceptive." By order of June 18, 1980, the Commission requested the staff to analyze the rulemaking record and submit its recommendations regarding what courses of action might be undertaken by the Commission and an evaluation of them by October 15, 1980. This deadline was postponed to February 15, 1981 by Commission order dated September 30, 1980 so that the staff could conduct further discussions of alternatives to rulemaking with all interested persons. By the new date, the staff is to submit the previously requested report or a status report describing the progress of informal meetings.

With respect to any rulemaking activities and in compliance with the Federal Trade Commission Improvements Act of 1980, P.L. 96–252, a preliminary Regulatory Analysis will be issued whenever the Commission publishes a notice of proposed rulemaking, and a final Regulatory Analysis will be issued whenever the Commission promulgates a final rule.

FTC

Amendment to Eyeglasses Rule and Eyeglasses II (16 CFR Part 456*)

Legal Authority

Federal Trade Commission Act, §§ 5 and 18, 15 U.S.C. §§ 45 and 57(a).

Reason for Including This Entry

The Federal Trade Commission (FTC) is examining restrictions on the delivery of eye care services and products in an effort to ensure maximum consumer access to these goods and services at the lowest possible price, without any compromise in the quality of vision care. The Commission has authorized publication of an ANPRM requesting public comment on the issues discussed below.

Statement of Problem

The staff of the FTC's Bureau of Consumer Protection has identified a number of restrictions on delivery of eye care goods and services which may have the effect of decreasing consumer access to vision care services, increasing the cost of those services, and impeding the growth of alternative "non-traditional" eye care practices. The Commission's interest in assessing the effects of these restrictions stems from its earlier eyeglasses investigation which began in 1975, and culminated in 1978 in a new Federal regulation (16 CFR Part 456) requiring (among other things) the release of eyeglasses prescriptions following an eye examination. In that investigation, which focused on advertising restrictions, the Commission's staff became aware of a number of additional eye care restrictions which may significantly harm consumers by maintaining higher prices and limiting the accessibility to consumers of vision care products and services. The Commission staff is aware of little evidence at this time to support the assertion by proponents of these restrictions that they are necessary to protect the public health and safety.

One category of restriction under review inhibits the commercial or high-volume practice of optometry and opticianry. (Optometry is the examining of eyes and the prescribing of corrective lenses, and opticianry is the dispensing of eyeglasses.) For example, many States prohibit opticians and optometrists from working for nonprofessional corporations or department stores, or from locating in high-traffic commercial locations, such as shopping centers. Many States also ban the use of trade names by practitioners, or place restrictions on the number of branch offices they may operate.

Proponents of these restraints argue that they are needed to guard against low quality vision care. They argue that the practice of optometry in commercial settings invites the intrusion of profit motives into the profession, resulting in poor quality, incomplete examinations, or unnecessary prescribing of corrective lenses. Bans against the use of trade names are justified by the additional argument that they protect consumers from deception.

The effect of these laws may be to prevent individual practitioners from locating in areas such as shopping centers, where the potential for developing high-volume, lower cost operations, such as optical chains, exists. They may also limit the ability of opticians, optical chains, and department stores to compete, and, according to preliminary evidence, may result in an increase in consumer prices. Finally, branching and location restrictions may restrict consumer accessibility to vision care, especially affecting the elderly and other less mobile members of society. Both higher prices and decreased accessibility may mean that some consumers receive no care at all or obtain vision care less frequently than they otherwise would.

The second category of restrictions which the FTC staff has examined consists of those prohibiting opticians from (1) duplication, a process whereby a new eyeglass lens is produced by analyzing the prescription of an existing lens, and (2) fitting of contact lenses. These restrictions, may limit the consumer's ability to comparison shop for eyeglasses or contact lenses, particularly when consumers are not given a copy of their prescriptions following the initial sale of eyeglasses and contact lenses. The Commission's Eyeglasses Rule currently mandates prescription release only after the eye examination, and not after the dispensing of prescription lenses.

Approximately twelve States prohibit opticians from duplicating a new eyeglass lens from an existing lens. One of the justifications advanced in support of such prohibitions is that opticians may not be able to duplicate eyeglasses accurately from an existing pair. The FTC staff conducted a study which was designed to measure the accuracy of the duplication process. The results indicate that there appears to be some potential for introducing a significant margin of error through the duplication process. However, even in States where duplication is prohibited, an optician is permitted to make new eyeglass lenses from a valid prescription. Thus, if the consumer has been provided with a copy of his or her prescription following the initial sale of eyeglasses (*i.e.*, a "re-release" procedure), he or she could use that prescription to purchase new eyeglass lenses from any optician, so that comparison shopping would be facilitated while any problems in the duplication process would be avoided.

A possible concern with such a "re-release" procedure is that it will enable the consumer to bypass regular eye examinations. However, staff is unaware of any State which presently requires an additional eye examination before the purchase of new eyeglasses if the seller already possesses a valid prescription for the consumer. Thus, even in States where duplication is proscribed, a consumer can purchase additional eyeglasses from his or her initial seller without further eye examinations.

Certain States also prohibit opticians from fitting contact lenses. It has been argued that these restrictions are necessary on the ground that opticians may not be adequately trained to perform this function. The FTC staff has designed a study of recently fitted contact lens wearers in an attempt to generate comparative empirical data about relative quality and prices of lenses in States which restrict opticians from fitting contact lenses and those States which do not.

Alternatives Under Consideration

Various options are available to the Commission if it decides to proceed in this area, including an amendment to its Eyeglasses I Rule, the promulgation of new trade regulation rule provisions, a formal complaint against private parties alleged to have engaged in unfair acts or practices, a voluntary guide defining unfair acts or practices, legislative recommendations to Congress or to the States (including development of model State laws), or a public report setting forth the findings of the staff, or no action. On September 17, 1980, the Commission authorized publication of a **Federal Register** notice requesting public comment on the options open to it. A discussion of some of these options follows.

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A. Staff Recommendations

The FTC staff has written a report recommending that the Commission (1) commence a rulemaking proceeding to examine commercial practice restrictions and (2) propose amendments to the Eyeglasses I Rule concerning release of eyeglass and contact lens prescriptions following the dispensing of those ophthalmic goods.

The staff's proposal concerning commercial practice restraints would remove certain restrictions on the practice of optometry and opticianry in commercial settings. Economic evidence indicates that these restrictions may raise consumer prices and that the argued justifications be without merit. The staff proposal, however, would not interfere with the State's ability to control any perceived abusive practices through more direct regulation rather than broad restrictions aimed at banning commercial practice altogether. For example, to the extent that a State is concerned with the thoroughness of eye examinations offered by eye doctors, the State would remain free to enact minimum eye examination standards.

The staff has also recommended that the Commission extend the prescription release requirement of the Eyeglasses I Rule to require that upon filling a prescription for spectacle lenses, the dispenser (whether an ophthalmologist, optometrist, or optician) return the prescription to the consumer. This would enable the consumer to obtain replacement or duplicate pairs of eyeglasses from the provider of his or her choice, and should enhance competition among dispensers. Under this recommendation, States or individual eye doctors would be free to impose a reasonable expiration date on the prescription.

The staff has also recommended that questions concerning the fitting of initial contact lenses by opticians be explored in public hearings which could result in the issuance of a model State law.

Finally, the staff has recommended that the Commission expand the release-of-prescription requirement in the Eyeglasses I Rule to require that the original contact lens fitter provide each consumer with a copy of his or her complete contact lens specifications at the completion of the initial contact lens fitting process. This would enable consumers to obtain replacement contact lenses from the dispenser of their choice.

B. Other Options

In addition to the staff recommendations, the Commission is considering alternative courses of action. One of the alternatives is a publication of a Commission report along with a model State law for review by the States. Such a model statute might, for example, permit optometrists and opticians to practice in commercial settings but at the same time ensure protection of quality of care by including minimum standards for eye examinations and equipment and the protection of the doctor-patient relationship.

Another alternative would be the issuance of a voluntary guide, including some or all of the provisions recommended by the Commission's staff for a rulemaking. A guide could define, for example, the kinds of private restrictions on commercial practice that the Commission believed unjustifiably inhibited competition among eye care providers or consumer access to alternative, low cost eye care goods and services.

Summary of Benefits

Sectors Affected: The retail ophthalmic industry and primarily three groups within that industry: ophthalmologists, optometrists, and opticians; and consumers of eyeglasses and contact lenses.

The Commission's staff estimates that the removal of commercial practice restraints should benefit consumers by reducing vision care costs and making vision care more accessible. In this regard, the Commission's Bureau of Economics (BE) conducted a study which compared prices charged for eye examinations and eyeglasses in cities where commercial optometry exists and in cities where it is restricted. The data, collected in late 1977 and early 1978, suggest that (1) prices are significantly lower in cities where commercial practice and advertising are not restricted; (2) commercial optometrists charged lower prices than noncommercial optometrists; and (3) noncommercial providers who operated in markets where commercial practice was permitted charged less than those noncommercial providers working in markets where commercial practice was prohibited.

The BE Study also found that optometrists charged an average of $72 for an eye examination and eyeglasses in markets where commercial practice was permitted, as opposed to $94 in restrictive cities. Given the substantial size of this industry, consumers annually spend approximately $2.7 billion for ophthalmic goods and an additional $1 billion for eye examinations. There may be considerable savings to consumers if commercial practice restrictions are lessened or eliminated.

The lifting of commercial practice restraints may also facilitate the growth of commercial chains or volume practices because practitioners would be able to locate in high-traffic commercial areas, have branch offices, and be employed by lay individuals and firms. Such firms could compete with other traditional dispensers of optical goods, with a very possible effect of generating lower prices to consumers. In addition, such changes may provide consumers with a wider choice of providers and greater accessibility to vision care.

If the Commission were to adopt a requirement that the person who fills an eyeglasses prescription must return the prescription, consumers would be able to have their prescriptions refilled by sellers of their choice without necessarily obtaining another eye examination. Such a "re-release" requirement, by enabling consumers to engage in comparison-shopping for replacement lenses, could increase competition and lead to lower prices. In addition, the re-release requirement recommended by the staff should fully protect the quality of care received by consumers who wish a duplicate or replacement pair of eyeglasses which reproduce the visual correction present in their existing eyeglasses. The duplication process, on the other hand, may have some potential for error, according to preliminary evidence reviewed by the staff.

Under the staff's recommendation, States or individual eye doctors would be free to impose a reasonable expiration date on the prescription. Such a requirement would prevent consumers from bypassing needed examinations by obtaining duplicate or replacement lenses with an outdated prescription.

If the Commission were to adopt a provision which requires original contact lens fitters to release complete contact lens specifications after the initial fitting, consumers would be able to engage in comparison shopping for replacement lenses. The market for replacement lenses appears to be substantial: preliminary data indicate that contact lens wearers purchase, on the average, one new lens per year. Furthermore, the data suggest that there may be a wide price disparity for replacement lenses ranging from $1 to $90 per replacement lens. Such a provision could enable consumers who have been forced to purchase replacement lenses from higher-priced providers to obtain lenses from lower-priced providers without undergoing a new fitting procedure. (Although there is no currently available evidence that lower-priced providers of contact lenses offer lower quality goods or services, data from the FTC's contact lens study will provide information concerning comparative quality and any possible tradeoffs between quality and price.)

Summary of Costs

Sectors Affected: The retail ophthalmic industry and primarily three groups within that industry: ophthalmologists, optometrists, and opticians; and States.

In assessing the costs of possible Commission action, it should be understood that this proposal is essentially deregulatory, not regulatory. That is, the investigation seeks to enhance competition by eliminating restrictions on the marketplace which may be unnecessary.

One cost associated with removal of present commercial restrictions may involve the issue of quality of care. While removal of these restrictions may lower consumer prices, it is necessary to determine whether their removal would involve any decrease in the quality of care received by the public. Before any action is taken, the Commission must determine what, if any, effect there will be if such restrictions are removed.

Results from the Bureau of Economics Study indicate that commercial or chain firm optometrists derived the correct prescription and produced accurate eyeglasses no less frequently than noncommercial optometrists. Moreover, the study found no difference between commercial optometrists and noncommercial optometrists in the incidence of prescribing of unnecessary eyeglasses. On the other hand, the data also indicated that examinations given by commercial optometrists may be less thorough than the examinations given by noncommmercial providers when measured by the number of procedures or tests performed during the examinations. (The study did not measure whether the practitioners performed the procedures correctly.)

If instead of restricting commercial practices the States were solely to impose requirements to control specific abusive practices (for example, by setting minimum eye examination requirements to ensure that all practitioners provide thorough examinations), the States would have to bear the costs of monitoring compliance with those requirements, and it is possible that the prices of vision care would be affected.

The Commission staff does not yet know exactly what costs would be associated with a requirement that a seller return an eyeglass prescription to the purchaser, or a requirement that the original contact lens fitters release complete contact lens specifications to their customers following the fitting process. As noted above, data from the FTC's contact lens study will provide information concerning comparative quality of contact lenses fitted by lower-priced providers and possible tradeoffs between price and quality.

If the Commission were ultimately to promulgate a rule requiring that when an eyeglass prescription is filled the seller return it to the patient, the compliance cost should be minimal, involving only the time and material for the seller to write a copy of the prescription. If the Commission were to require ophthalmologists and optometrists to release complete contact lens specifications following the initial contact lens fitting so that consumers can obtain replacement contact lenses from a fitter of their choice, the compliance cost should be, again, minimal.

Related Regulations and Actions

Internal: The Advertising of Ophthalmic Goods and Services Trade Regulation Rule (16 CFR Part 456).

External: Various State laws restricting commercial vision care practices and the ability of opticians to fit contact lenses and duplicate lenses without a prescription.

Active Government Collaboration

None.

Timetable

Public Comment Period—Following issuance of ANPRM, November 1980–January 1981. Comments should be submitted to: Secretary, Federal Trade Commission, 6th and Pennsylvania Avenue, N.W., Room 281, Washington, DC 20580, Attention: Eyeglasses II.

The Commission staff has recommended the issuance of an amendment to the Eyeglasses I Rule's prescription release requirement and new trade regulation provisions which would remove certain State-imposed restrictions on commercial practice. The Commission has decided to issue an ANPRM requesting comment on staff's recommendations and on alternative courses of action which the Commission might take. At the conclusion of the comment period, the FTC staff will review the comments and reevaluate its recommendations. Following this review, the staff will make its next set of recommendations and the Commission will decide what action, if any, it should take in this area.

Available Documents

All are available from Room 281, Federal Trade Commission, Washington, DC 20580.

ANPRM—to be published in the Federal Register in November 1980.

"Staff Report on the Advertising of Ophthalmic Goods and Services and Proposed Trade Regulation Rule (16 CFR Part 456)," dated May 1977.

"A Comparison of a Random Sample of Eyeglasses," prepared by Resource Planning Corporation for the Federal Trade Commission, dated July 2, 1979.

"Advertising and Commercialism in the Profession: The Case of Optometry," prepared by the FTC's Bureau of Economics, April 1980.

"State Restrictions on Vision Care Providers: The Effects on Consumers (Eyeglasses II)," Report of the Staff to the Federal Trade Commission, July 1980.

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FTC

Medical Participation in Control of Certain Open-Panel Medical Prepayment Plans (16 CFR Chapter 1*)

Legal Authority

Federal Trade Commission Act §§ 5 and 6, 15 U.S.C. §§ 45 and 46.

Reason for Including This Entry

Two Federal Trade Commission (FTC) staff reports which analyze medical participation in control of Blue Shield and other open-panel medical prepayment plans suggest that control of these plans by physician organizations may reduce competition in the provision of health care services and may raise the prices of these services. The issues raised are important because of the continuing rise of medical care costs and the public interest in identifying appropriate ways to contain these cost increases.

Statement of Problem

Blue Shield and other open-panel medical prepayment plans pay for or deliver care to patients principally through physicans who compete with each other to provide services that are covered by the prepayment plans. In general, patients subscribing to "open-panel plans" may use virtually any physician practicing in the area served by the plan. This characteristic distinguishes open-panel plans from

other plans where care is delivered through physicians who are employed by the plans or who comprise a relatively small percentage of the physicians in the area.

Blue Shield plans make up the largest system of open-panel medical prepayment plans in the Nation. The 70 Blue Shield plans operating in the United States today cover about 40 percent of the population of the Nation and control or administer payment of about a quarter of all funds paid for the services of physicians. In 1976, Blue Shield plans paid out over $3.8 billion to settle claims on their underwritten coverage. Other open-panel plans—variously called medical service bureaus, foundations for medical care, and/or individual practice association-type health maintenance organizations (IPA-type HMOs)—cover a small but rapidly growing portion of the population of the Nation. The Commission's current inquiry deals with issues relating to the control of such open-panel plans by medical societies and other groups of physicians.

In April 1979, the Bureau of Competition's (BC) staff of the FTC submitted to the Commission a report entitled "Medical Participation in Control of Blue Shield and Certain Other Open-Panel Medical Prepayment Plans," which notes that many members of such boards frequently have been selected by medical societies and other groups of physicians whose services were paid for by the plan. The report points out that as of 1978, for example, medical societies and other physician groups formally participated in the selection of some members of the boards of directors of 47 of the 70 Blue Shield plans and selected a majority of the boards of directors of 32 plans. Thirty-one plans had physician majorities on their boards, and virtually all plans had physician-dominated committees that made decisions about payments and coverages.

The staff report expresses the concern that groups of competing physicians, such as State and local medical societies, may control or participate in the control of many Blue Shield and other open-panel plans. When such physician groups elect members on the boards of directors, or otherwise participate in control of plans, they may be able to control or influence plan decisions about how much to pay physicians, which physicians or other health professionals to pay for covered services, what cost-containment mechanisms to employ, and other matters that may affect competition and costs in the professional health services sector of the Nation's economy.

The staff report concludes that there is reason to believe that control or participation in the control of open-panel medical prepayment plans by physician organizations impairs competition among physicians and between physician and nonphysician providers of health care services, and thus may be an unfair method of competition in violation of § 5 of the Federal Trade Commission Act.

In November 1979, the Bureau of Economics (BE) of the FTC published a staff study titled "Physician Control of Blue Shield Plans." The results of the study, which assessed the relationship between medical society participation in plan governance and reimbursement rates for selected medical procedures, were that (other factors being equal) Blue Shield reimbursement rates in 1977 were 16 percent higher where a local medical society selected plan board members. The study also reported that five other measures of participation by physicians in plan governance were correlated with higher reimbursement rates. The study suggested that medical control of plans has little relation to plan administrative costs.

Alternatives Under Consideration

The Commission has not decided whether or not to take action on the basis of the recommendations set forth in these reports, but the Commission did conclude that the reports raise a number of important issues, especially in light of the rapid escalation of the cost of health care. Is there a relationship between medical participation in control of Blue Shield and other open-panel medical prepayment plans, and the increase in fees charged by physicians? Does a plan controlled by a physician organization have less incentive than one which is not controlled to attempt to keep down physicians' fees and to pay the fees of nonphysician providers of health care? What are the benefits of medical participation in these plans, and can these benefits be obtained if physician groups do not control the plan? In public policy terms, is such control or participation in control in the public interest? And in terms of § 5 of the Federal Trade Commission Act, is such control or participation in control an unlawful restraint of trade?

Before considering these issues, however, the Commission decided to solicit comments on its staff's analyses, on the facts supporting the reports written by BC and BE staff, and on certain specific areas of concern. The Commission concluded that such public comment may enhance its understanding of the issues which should be considered in determining what action, if any, to take. Therefore, on March 17, 1980, the Commission issued a Request for Comment and ANPRM. Commission staff is presently digesting and analyzing the more than 250 comments which were received in response to this Request for Comment.

The first specific area about which the Commission has solicited comment concerns the degree and types of medical participation in control of open-panel medical prepayment plans which may lead to anticompetitive effects. More specifically, when physician organizations participate in the selection of plan board members, do they represent the interest of the medical profession as a whole, thus posing antitrust concerns? Do these concerns depend on the nature of the physician organization? For example, does participation in control by groups of "participating physicians"—that is, physicians who have agreed to abide by the plan's payment terms and cost-containment programs—present less of a problem than participation by medical societies or other more highly organized groups? Similarly, do these concerns depend on the extent of this participation? For example, does participation on plan boards by a minority consisting of representatives of a physician organization pose a sufficient danger of anticompetitive effects that, on balance, it should be forbidden? The Commission also asked whether any action it might take should be focused on plan boards, or whether it should also consider ways by which physician organizations might participate in plan decisions through control of plan committees, or by reason of plan delegation of decisions to medical societies or other physician organizations.

A second area of specific questions raised by the Commission concerns the role of governing bodies whose members choose their own successors. The BC staff report indicates the possibility that plans currently controlled by boards selected by physician organizations will make decisions which will perpetuate the influence of the physician organization. Staff raises a similar concern about plans which have recently changed from boards with physician organization control to self-perpetuating boards. The Commission has asked if this is a serious problem, and if so, how to deal with it.

Another significant area of Commission interest concerns the types of plans to which the analysis of the staff should apply. As discussed above, the open-panel plans, which make up

the Blue Shield system, comprise the largest system of medical prepayment plans in the Nation, and medical control of these plans would appear to have the most immediate and substantial impact on the professional health care sector. However, there apparently also exists a growing number of other open-panel medical prepayment plans which the staff report indicates may operate like Blue Shield member plans and may raise the same issues as medical participation in control of Blue Shield. Others have asserted that these plans in general, and individual practice association-type (IPA–type) plans in particular, have enhanced competition, and that medical participation in the governance of such plans either has been beneficial or, at worst, has had little effect on competition. In addition, the Office of HMOs of the Department of Health and Human Services has asserted that its regulations are sufficient to alleviate any problem which may exist insofar as it relates to federally qualified IPA–type HMOs. The Commission has also invited comments on each of these positions, and on the staff's suggestion that its analysis should apply only to plans that will pay more than 50 percent of the physicians practicing in their areas for nonemergency services they provide to subscribers. The basis for this suggestion is that plans which will reimburse a relatively small group of physicians may increase competition in the medical service market, and medical control of such plans may not be anticompetitive. The Commission is also questioning various alternatives, including the possibility of applying the staff's analysis only to Blue Shield plans, or only to plans that cover more than a specified percentage of the population of their service areas.

The Commission also sought specific comment on procedures it should use to further explore these issues if the Commission determines that this is appropriate. While the staff points out that the choice among procedural options is not clear-cut, the staff report concluded that rulemaking would be the fairest and most efficient way to address the problem, because it allows the Commission to consider, and the public to present, all of the facts, policy considerations, and possible remedies in one forum, and does not single out any one plan. The staff points out that one alternative approach would be for the Commission to issue one or several complaints bringing suit against physician organizations and/or plans which present the problems discussed in its report. In addition, the Commission has noted that at least three other alternatives are open to it. First, the Commission might consider issuing an industry guide to provide a basis for voluntary abandonment of inappropriate and illegal relationships. Second, the Commission might prepare a report to the Congress or to the States on these issues. Finally, the Commission might issue a complaint against Blue Shield Association (BSA) and/or conclude that BSA's assurance that it will move toward the goals of minimizing medical society involvement on plan boards and committees is sufficient to resolve the problems presented by the staff report.

Commission action resulting from this investigation would be designed to promote free market competition. Rulemaking in this matter would not create any new regulatory requirement, but rather would be designed to clarify existing law with respect to whether and to what extent the antitrust laws permit physician organizations to participate in controlling medical prepayment plans. The alternatives being considered, such as traditional case-by-case antitrust enforcement, also seek to improve the health care system by means of competition instead of regulation.

Summary of Benefits

Sectors Affected: Subscribers to hospital and medical service plans, particularly open-panel medical prepayment plans; alternate health care delivery systems, including closed-panel HMOs and independent open-panel hospital and medical service plans; nonphysician providers of health care services; medical groups; and the general public.

In recommending alternative methods by which the Commission might challenge the structural ties between physician organizations and open-panel medical prepayment plans, the staff is proposing termination of what may be an antitrust violation. Such action also may promote competition in the health services sector by permitting open-panel plans to make their payment, benefit, and coverage decisions in an independent manner. Increased competition may help to hold down health care costs by (1) increasing the incentives of open-panel plans to hold down the level of physicians' fees and to provide appropriate coverage for the services of nonphysicians; (2) encouraging commercial insurers to seek to hold down the costs of health care services; and (3) providing an environment in which alternative health care delivery systems, including closed-panel health maintenance organizations and independent, open-panel plans, have a full opportunity to compete.

The Commission staff cannot, at this time, calculate specific cost savings that would result, as they would depend on the specific course of action taken. However, the staff believes cost savings would be substantial. The BE study indicates that medical participation in the control of Blue Shield plans leads to significantly higher reimbursement levels.

The benefits summarized above would most probably result regardless of the particular means of enforcement, but the immediacy and magnitude of such benefits to subscribers and consumers would depend upon the length of time the market might take to respond to whatever action the Commission might choose to pursue.

Summary of Costs

Sectors Affected: Open-panel medical prepayment plans; physicians receiving payment from these plans; physician organizations which control or participate in the control of these plans; and subscribers to these plans.

One type of direct cost which might occur because of Commission action would be the administrative costs involved in changing the way affected plans would be governed. The staff has not yet attempted to estimate the amount of these costs. It is possible that some indirect costs might occur if medical societies react to any Commission action in ways which may interrupt the ability of some plans to offer paid-in-full coverage to subscribers, or to implement certain kinds of cost-control programs. It is also possible that any Commission action which has the general effect of dissuading medical societies from establishing and operating prepayment plans open to all physicians in the community may reduce the number of such plans that are formed; however, such action might also have the beneficial effect of increasing the number of smaller plans, each of which would consist of a limited number of physicians.

For example, if, as a result of Commission action, plans were encouraged to achieve compliance with procompetitive standards through a market-oriented mechanism, such as one which enabled each plan to find its own most effective means of compliance, disruption of the market and decreased entry might be avoided or minimized. The Commission and staff are actively considering various alternatives in an effort to minimize the direct and indirect costs of enforcement and compliance.

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Related Regulations and Actions

Internal: The Commission has an ongoing program of investigation of competitive restraints in the health care sector.

External: A number of States have laws governing the composition of health plans' boards of directors. These health laws would not be affected by any staff proposal now under consideration. In some States, such as Pennsylvania, these laws have recently been amended to reduce medical participation in the control of Blue Shield plans. In other States, including Ohio and Indiana, court suits or administrative actions have been undertaken for the same purpose. Other States, including New York and Virginia, have recently studied the relationship between plans and medical societies.

The Department of Health and Human Services has published a notice of intent to issue a regulation prohibiting doctors, hospital administrators, and others with finanical interests in the health care industry from dominating the governing body of any carrier or intermediary that participates in the Medicare program or any fiscal agent that particpates in the Medicaid program. The National Health Plan legislation recently proposed by the executive branch would also impose restrictions on the proportion of the boards of plans administering that program which may be physicians or selected by physicians. The General Accounting Office has also conducted an econometric study relating to these concerns.

Active Government Collaboration

The Bureau of Competition and Bureau of Economics staff have consulted with numerous other Federal and State agencies in the course of preparing their reports. The staff also solicited the views of both Federal agencies and the States in the course of the comment period.

Timetable

Comment Period Concluded—May 16, 1980.
Commission Consideration of Staff Recommendations—Summer/fall 1980.
Commisson Decision on Implementation of Staff Recommendations—Fall/winter 1980/81.

Available Documents

ANPRM—45 FR 17019 (March 17, 1980).

Public comments are available for review in Room 130, at the address below.

Bureau of Competition, "Medical Participation in Control of Blue Shield and Certain Other Open-Panel Medical Prepayment Plans", Staff Report to the Federal Trade Commission and Proposed Trade Regulation Rule, April 1979.

Bureau of Economics, Staff Report on Physician Control of Blue Shield Plans, November 1979.

Copies of these documents may be obtained from: Public Reference Room (Room 130), Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, DC 20580, (202) 523–3598.

In addition, the public may review and obtain at the above address during normal business hours comments and materials submitted by Blue Shield Association, The American Association of Foundation for Medical Care, and other parties.

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FTC

Proposed Trade Regulation Rule on Mobile Home Sales and Service (16 CFR Part 441)

Legal Authority

Federal Trade Commission Act, §§ 5 and 18, 15 U.S.C. §§ 45 and 57(a).

Reason for Including This Entry

Mobile homes are an important segment of the housing industry, with annual sales of approximately 275,000 units. The recommended rule of the Federal Trade Commission (FTC) staff seeks to enhance fair competition in the mobile home industry by establishing certain requirements and incentives designed to ensure that mobile home manufacturers fulfill warranty obligations. Therefore the rule could have a significant impact on the mobile home segment of the housing market.

Statement of Problem

Most mobile home manufacturers offer a 1-year written warranty to cover defects in the materials and workmanship of the home. This warranty obligates them to repair defects. However, the FTC staff believes, on the basis of the rulemaking record developed, that some manufacturers and dealers have failed in a significant number of instances to provide adequate warranty service to the homeowner.

The record indicates that many mobile homeowners discover defects in their new mobile homes, including water leaks, malfunctioning plumbing, buckled frames, and inoperative windows and doors. Such problems may have been caused by factory defects or improper transportation or installation of the mobile home. In some cases, severe problems—for example, lack of electricity and heat—may threaten the safety of the homeowner and make the mobile home uninhabitable. Nonetheless, when consumers seek warranty repairs, some manufacturers and dealers often refuse service or delay repairs beyond a reasonable time. In some instances, when manufacturers and dealers attempt repairs, they do not adequately remedy the problem.

These problems in providing adequate warranty service indicate that mobile home manufacturers and dealers may not have adequate service systems to properly perform their warranties. Their warranty systems appear to be deficient in several ways. First, although dealers perform much of the warranty work, the evidence indicates that many manufacturers fail to clearly allocate service responsibilities between themselves and their dealers. As a result, disputes between manufacturers and dealers can delay warranty service. Second, some manufacturers and dealers fail to have sufficient parts, service personnel, and equipment to fulfill consumer requests for repairs. Finally, some manufacturers do not properly monitor their dealers to determine if they have completed repairs. Because they do not have an adequate warranty performance system, some manufacturers and dealers are not able to provide prompt and competent warranty repairs for mobile homeowners. In addition, disputes over the responsibility for defects caused by transportation and installation (set-up) of the home also impede and delay warranty repairs.

The Federal Trade Commission's investigation into warranty service problems in the mobile home industry initially led to consent orders against four major manufacturers. (A consent order is an agreement between the Commission and a company, in which the company agrees to change certain of its business practices. The agreement is not an admission of wrongdoing by the company.) Under the orders, the companies agreed to take specific steps to improve their warranty service programs. Shortly after the consent agreements were entered into, the Commission began this rulemaking proceeding because it had reason to believe that substantial numbers of mobile home purchasers receive inadequate warranty service, and that an industrywide approach to this problem might be necessary.

Commission staff recently issued a report and recommended a rule concerning warranty practices in the mobile home industry. The recommended rule contains substantial modifications and deletions from the rule (40 FR 23334, May 29, 1975) that had been proposed. The recommended rule seeks to improve warranty service by setting time limits within which the warrantor must complete warranty repairs, and by requiring manufacturers or their service agents to perform pre-occupancy inspections of the home. It would also require that manufacturers who offer written warranties on mobile homes maintain recordkeeping systems and disseminate a consumer questionnaire to monitor the adequacy of factory and dealer repairs. The recommended rule also would require that manufacturers enter into written service agreements with dealers and others who perform warranty repairs. Under the rule, written warranties must include specific time deadlines for service; set-up and transportation damage cannot be excluded; and repairs cannot be contingent on return of the home to the factory or return of a registration card. Some mobile home manufacturers have used clauses in their written warranties requiring that a warranty registration card be returned to validate the warranty or as a precondition to receiving free warranty service.

Alternatives Under Consideration

In contrast to the detailed requirements of the original proposed rule, the recommended rule sets general performance standards for warranty service and warranty service systems, and does not contain many of the original provisions proposed in 1975. The use of performance standards should allow industry flexibility to develop its own specific systems and procedures. To illustrate this approach, the original proposal addressed alleged problems in the manufacturers handling of consumer complaints by requiring (1) implementation of a specific system to process complaints; (2) designation of a corporate focal point to handle complaints, with responsibility vested in non-sales personnel; (3) recordkeeping; and (4) regular review and periodic reports on the effectiveness of complaint handling procedures. In contrast, the rule now recommended by staff only requires warrantors to resolve complaints in 30 days and to keep records concerning such complaints. Similarly, the 1975 proposal contained detailed requirements for the manufacturer's evaluation of prospective new dealers, including periodic visits to the dealer's sales lot. We have deleted these provisions from the recommended rule on the basis that the recommended service deadlines—as well as Federal warranty law, which places ultimate responsibility for warranty performance on the manufacturer that offers a written warranty—provide sufficient incentives for manufacturers to develop their own cost-effective evaluation mechanisms.

The Commission and the staff will further evaluate the need for each of the provisions of the recommended rule based on a review of the written comments being received on the recently released staff report. While we have designed the provisions of the recommended rule as performance standards for warranty service and service systems, we still must resolve the appropriate degree of flexibility for each rule provision. For instance, the recommended rule sets specific time deadlines for warranty repairs. These deadlines are consistent with some present industry policies and some State laws. A possible alternative would be to allow individual manufacturers and dealers to set their own deadlines, so long as they were disclosed in their warranties.

The recommended rule sets out eight issues that must be addressed in the written service agreement between the manufacturer and dealer. If we retain specific service deadlines and related requirements in any final rule that is promulgated, this may obviate the need for the written agreement to include some of the terms that essentially track obligations the recommended rule would impose on manufacturers.

We also will consider the need to mandate a pre-occupancy inspection by the warrantor or his agent. Industry members consider such an inspection to be a beneficial procedure, and at present industry inspects about half of all new mobile homes. Given these facts and that other provisions of the rule create strong incentives for timely warranty service, many manufacturers may independently decide to perform inspections.

The recommended rule requires warrantors to assume responsibility for set-up and transportation damage. While this requirement should eliminate manufacturer-dealer disputes as to the cause and responsibility for defects, we will consider further whether ultimate liability for such defects should rest on the manufacturer.

Finally, the recommended rule requires manufacturers to monitor the effectiveness of factory and dealer warranty repairs by maintaining service records and disseminating consumer questionnaires. The questionnaire should provide a low-cost means of monitoring dealer service. Because the questionnaire will also enable consumers to list in one place all remaining defects at a specified time, service costs thereby could be lessened by reducing the number of service calls. Since the recommended rule would require manufacturers to monitor warranty repairs, an alternative may be to have manufacturers select their own monitoring devices, rather than require the use of a questionnaire.

Summary of Benefits

Sectors Affected: Purchasers of mobile homes, mobile home and mobile home dealers manufacturers.

By ensuring that manufacturers meet warranty obligations, the recommended rule should heighten industry competition by removing unjustified advantages that may be enjoyed by companies that appear to offer warranty coverage, but breach their warranties. It would allow reputable manufacturers to communicate the effectiveness of their warranty repair program through written warranties and would enable consumers to rely on competing warranty claims when making their decision to select a particular brand.

Owners of new mobile homes would receive more prompt and competent warranty service. Survey data on the rulemaking record from California and Ohio indicate that as many as 80 percent of new mobile homes have defects, and 40 percent of the mobile homeowners who request service have been unsuccessful in obtaining adequate repairs. Thus, significant numbers of owners either have to pay for repairs themselves or suffer the inconvenience of defective homes. Improved warranty service may reduce these problems. Moreover, consumers may benefit from inspections that provide early detection and repair of problems. Because many defects can lead to more serious structural damage if not promptly repaired, the recommended rule may also prolong the useful life of mobile homes and, thus, increase their resale value. This, in turn, may lead to more favorable financing terms for purchasers of mobile homes and should make mobile homes a more attractive investment, providing consumers with a

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less costly but reliable alternative to site-built homes.

The recommended rule may also encourage warrantors to reduce customer claims by voluntarily correcting the underlying causes of defects. For example, manufacturers may find it less costly to comply if they build better homes that require less warranty service, thereby providing a clear benefit to consumers.

Summary of Costs

Sectors Affected: Mobile home manufacturers and dealers, particularly firms not presently providing adequate warranty service.

The proposed rule would affect the business practices of some 200 mobile home manufacturers (Standard Industrial Classification 2451) and approximately 12,000 mobile home dealers.

The recommended rule would affect most heavily those firms that do not presently provide adequate warranty service. For such companies, we estimate that the total costs to comply with the rule recommended in the staff report would be a maximum of $120 per home. This figure represented approximately 1 percent of the average wholesale price of a new home in 1978. Other companies would experience lower compliance costs. Our projections are based in part upon an analysis of records submitted in 1977 by the four mobile home manufacturers that are operating under consent orders. These estimates of compliance costs are based on the terms of the recommended rule and may change significantly if it is modified.

We can generally assign industry compliance costs to one of three categories: (1) administrative and other overhead costs, (2) inspections, and (3) additional repairs to mobile homes. Many of the provisions of the original proposed rule that imposed purely administrative costs have been eliminated. We estimate that administrative costs for the recommended rule will represent a maximum per-home cost increase of about $5.00 to $10.00 for large manufacturers, $13.00 for medium-sized producers, and $25.00 for small firms, assuming that no corporate officials now work on warranty matters. Since most companies currently assign at least some corporate personnel to their warranty programs, the net cost increase should be substantially below these estimates.

Manufacturers would also incur other overhead costs through compliance with the service agreement and questionnaire provisions of the recommended rule. The cost to manufacturers of entering into written agreements should be concentrated in the first year of compliance and therefore should have minimal effect on prices in the long run. For the most part, the long run impact will depend on the frequency with which manufacturers affiliate with new dealers. Responses from the companies currently under Commission order indicate that legal costs for drafting the written service contracts should not exceed about $2.00 per home for the medium-sized manufacturer. We estimate that such costs would be less than $1.00 for large manufacturers and should not exceed $5.00 for small companies. Based upon the experience of the consent order companies, the required consumer questionnaires should cost no more than $5.00 per home to print, distribute, and tabulate. Adding this figure to the other costs brings the total administrative and overhead compliance costs of the recommended rule to a maximum of $35.00 per home for small firms, $20.00 for medium firms, and $16.00 for large firms.

Analysis of data from the companies under the consent orders indicates that each of the required pre-occupancy inspections of mobile homes costs these manufacturers about $50.00. Since half of all new mobile homes are already inspected, total industry compliance costs should not exceed $25.00 per unit. These estimates include reimbursements to dealers for travel and all inspection expenses. Furthermore, because the total number of inspections will depend directly upon the number of homes sold, large and small manufacturers will spend approximately the same amount per home to meet the inspection requirements of the proposed rule.

It is difficult to estimate the magnitude of increases in warranty costs related to repairs or general increases in warranty expenditures resulting from more diligent attention to customer complaints, as the recommended rule presumably could motivate producers to lower the incidence of defective homes. Specifically, manufacturers can be expected to introduce quality control improvements whenever the cost is justified by expected future savings in warranty expenditures. In addition, a pre-occupancy inspection should permit dealers to spot and correct installation problems before costly structural problems result and would therefore reduce overall warranty service expenditures.

We estimate that additional expenditures for each different size of manufacturer for the warranty service under the recommended rule should be approximately $0 to $75 per home, depending on the present level of service provided. Companies that already meet the recommended requirements should experience no additional costs. Firms on the other end of the service and quality spectrum could expect to incur substantial costs, perhaps greater than the $75.00 estimate. However, if industry service costs increase more than $75.00 per home, it will be because we have underestimated the seriousness of current warranty problems and thus the benefits to be achieved by strengthening warranty performance: Thus, total compliance costs for administration, overhead, inspection, and service should not exceed $120 per home for medium size firms. Comparable maximums for large firms would be $115.00 per unit and for small firms $135.00. These costs should not have an unfair impact on small manufacturers, since most of the cost (direct warranty service) will vary by the number of homes sold. Manufacturers would probably attempt to increase prices by an equivalent amount, though competitive pressures from firms with more effective warranty systems and lower compliance costs might prevent a full cost pass-through to consumers.

The recommended rule should not alter the competitive structure of the industry significantly. We have investigated whether the rule will encourage manufacturers to integrate vertically into retailing or enter into exclusive franchising agreements with dealers. Even the largest manufacturers would probably find the capital costs of establishing a large network of company-owned retail outlets to be prohibitive. The record also documents that dealers would not find exclusive franchises (representing one manufacturer) as profitable as their present practice of representing four to five manufacturers. Since consumers generally do not select mobile homes on the basis of brand reputation, dealers currently compete for sales by offering the widest possible selection of homes in varying price ranges, sizes, and floor plans. Exclusive dealing would necessarily limit the variety of homes that dealers could offer without giving them any compensating benefits.

Related Regulations and Actions

Internal: Commission consent orders presently require four mobile home companies to establish effective warranty performance systems. We have brought other cases against mobile home companies allegedly in violation of the warranty disclosure and labeling

requirements of the Magnuson-Moss Act, § 101 *et seq.*, 15 U.S.C. § 2301 *et seq.*

External: The Department of Housing and Urban Development regulates the production of mobile homes at the factory under the National Mobile Home Construction and Safety Standards Act of 1974, Title VI, 42 U.S.C. § 5401 *et seq.*

Seventeen States require warranties in the sale of new mobile homes. A number of States license and bond mobile home dealers and manufacturers.

Active Government Collaboration

The Department of Housing and Urban Development, Small Business Administration, and representatives from eleven State attorney general offices testified at the rulemaking hearings. Other Federal and State officials submitted written comments on the proposed rule.

Timetable

Commission Consideration of Recommended Rule—Spring/Summer 1981.

Available Documents

NPRM—40 FR 23334, May 29, 1975.

Final NPRM—42 FR 26398, May 23, 1977.

Presiding Officer's Report—45 FR 53538, September 11, 1979.

Final Staff Report (including a cost-benefit analysis)—45 FR 53839, August 13, 1980.

The record of this proceeding is publicly available at the Office of Legal and Public Records Section, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, DC 20580.

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FTC

Residential Real Estate Brokerage Industry Practices

Legal Authority

Federal Trade Commission Act, § 5, 15 U.S.C. § 45.

Reason for Including This Entry

The Federal Trade Commission (FTC) has authorized a staff investigation to determine whether competition among real estate brokers may be hindered by private restrictions, thus causing consumers to pay higher than necessary prices for brokerage services. If remedial action ultimately is taken, it could have an important effect on the relationships among consumers, brokers, and agents in real estate transactions and on competition in this critical sector of the economy.

Statement of Problem

The FTC staff estimates that in 1979 approximately 3.8 million existing homes were sold through real estate brokers. Total revenues from those 1979 sales exceeded $215 billion, generating an estimated $13 billion in commissions paid to over 2 million licensed brokers and agents in the country.

The FTC has received complaints from many sources within the real estate brokerage industry. Brokers and sales agents throughout the country contend that their competitive efforts have been frustrated by other brokers and groups in unfair ways.

In addition, complaint letters, petitions, and public statements from individuals and consumer groups have called attention to alleged consumer problems in the brokerage services market, including inadequate representation of the buyer's and the seller's interests.

Further, articles and studies in legal and economic publications have suggested that problems may exist in the competitive process of the industry. Economists and other observers have questioned, in particular, whether the seemingly high degree of price and service uniformity among brokers, characterized by the commonplace 6 or 7 percent commission rate, is the product of problems with the competitive process.

The FTC staff has identified five issues for particular emphasis in its study of the residential brokerage industry: (1) the nature and role of private trade associations of brokers; (2) the structure and operations of multiple listing services (systems for sharing house listings among brokers); (3) problems facing brokers who offer innovative packages of prices and services; (4) the role of the broker in the residential brokerage transactions, including issues of potentially conflicting duties and interests which may make the adequate representation of consumers difficult, and (5) the nature and role of State law and State agencies that regulate the industry.

The Commission staff has now completed its investigative fieldwork and is preparing a summary report for the Commission. The staff currently expects to complete this report in the fourth quarter of 1980. It will summarize staff findings and recommend any appropriate FTC action.

Alternatives Under Consideration

Since the FTC staff has just completed its investigative work, neither the staff nor the Commission has reached any conclusions on any appropriate FTC action. However, the following are among the numerous alternatives under scrutiny.

The FTC staff is considering at least five major types of alternative recommendations: (A) FTC public reports containing legislative proposals to Congress or the State legislatures seeking to alter the legal standards of practice for the industry; (B) a trade regulation rule or guide; (C) FTC efforts to inform the home buying and selling public, including attempts to increase consumer understanding of the brokerage transaction and to facilitate consumer shopping efforts; (D) FTC formal administrative complaints alleging violations of the FTC act against groups or individuals in the industry; and (E) no FTC action.

One or more of these alternatives might encourage a number of substantive changes which would enhance competition and improve the flow of information to consumers. The FTC staff, in considering various policy alternatives, is seeking to insure that the marketplace will be allowed to provide the choices consumers want. The staff is giving primary consideration to actions that enhance competition by eliminating any anticompetitive private restraints on competitors, and that improve the flow of accurate information to consumers. Among the many possible provisions the staff is considering are: (1) elimination of restrictions that directly or indirectly inhibit competition among brokers on the basis of prices and services offered; (2) easing restrictions on the use of multiple listing services and other important services; (3) clarification of existing legal duties between brokers, and between brokers and consumers; and (4) facilitating informed consumer choice through requirements that brokers make brief information disclosures to consumers. The FTC could incorporate these provisions in any of the above alternative approaches.

Summary of Benefits

Sectors Affected: Licensed real estate brokers and agents, and brokerage firms; and consumers of brokerage services, both buyers and sellers.

The costs and benefits of FTC action will depend upon the final choices the Commission makes among the numerous policy alternatives currently under

consideration. Overall estimates will remain highly conjectural until the

It is possible that lower rates flowing from greater competition might reduce

prosecutors and State consumer

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judgment is obtained against him. In

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consideration. Overall estimates will remain highly conjectural until the Commission determines which specific actions, if any, it will take. The staff is now carefully analyzing each alternative.

Pending a final decision on which alternative or alternatives, if any, we will follow, we can only roughly estimate the precise benefits of the above alternatives. However, if one accepts the view of some experts that the widespread 6 percent standard commission rate is not the product of healthy competition, then improving competition could produce a significant reduction in consumer settlement costs.

The above alternatives also could provide benefits in the form of: more vigorous competition among different systems of brokerage in addition to competition among different firms offering essentially the same approach; increased consumer choice among different packages of prices and services; greater consumer understanding of the brokerage process and thus more effective consumer shopping and bargaining skills; and greater efficiency in brokerage operations. Brokers and brokerage firms could benefit from reduced uncertainty over their own legal liability to consumers. In the present system, brokers face situations where they may be legally liable for incorrect statements made by other brokers, or for violations of legal duties not clearly understood by many brokers. Brokers and firms could also benefit from reduced private regulatory restraints and the resulting increased competitive freedom.

Summary of Costs

Sectors Affected: Licensed real estate brokers and agents, and brokerage firms; trade associations; and related services, such as multiple listing service.

The FTC will carefully design any action in the brokerage industry to minimize regulatory burdens and costs. For example, many of the alternatives under consideration involve the removal of private regulation of brokers' activities, rather than additional government regulation. Other alternatives, such as affirmative disclosures, should in most cases involve no more paperwork than brokers currently use, and would require disclosures currently recommended by real estate attorneys to protect brokers from liability.

The principal costs of these remedial efforts would be the one-time costs involved in redrafting forms and changing training programs.

It is possible that lower rates flowing from greater competition might reduce total revenues to the industry as a whole if there is little change in business volume. However, it is conceivable that there might be some increase in business volume resulting from the reduced rates.

The staff is analyzing all the proposals under consideration against the criterion that the positive impact on the millions of households using brokers each year must outweigh the burdens imposed. The staff is taking particular care to identify alternatives which avoid placing small businesses at a competitive disadvantage.

Related Regulations and Actions

Internal: None.

External: Other Federal agencies have a role in the brokerage industry. The Justice Department's Antitrust Division has conducted a series of investigations of brokerage practices, primarily involving alleged local brokerage conspiracies in restraint of trade. The Department of Housing and Urban Development (HUD) maintains a Real Estate Brokerage Practices Division. HUD is currently conducting a 2-year study of settlement services, including brokerage services, in light of the 1975 Real Estate Settlement Procedures Act, which requires that certain information be provided to the consumer at different stages of the home purchase/sale process.

State departments of real estate or real estate commissions have primary regulatory responsibility in this industry. The FTC staff believes this will continue to be the case. A number of the State agencies are actively engaged in reviewing and revising licensing and related regulations.

State antitrust enforcement officials are also active in the brokerage industry. State and local prosecutors in California, New Jersey, New York, Washington, and many other States have conducted investigations and brought lawsuits involving many of the practices identified for study in this investigation.

Active Government Collaboration

The FTC staff is in contact with the Justice Department and the Department of Housing and Urban Development regarding the studies and investigation underway in those agencies.

The staff has sent a "Notice of Intent to Make Recommendations and Invitation to Comment" to State and local government officials, including all the State departments of real estate, governors, attorneys general, and legislatures, and to selected local prosecutors and State consumer agencies. The FTC will encourage State and local agencies to participate in every phase of any FTC effort in the industry.

Timetable

The timetable for any FTC action will depend upon the nature of the action selected. Currently, we expect a decision of FTC as to appropriate action—Winter 1980–81.

Available Documents

Documents available to the public include:

(1) FTC Press Release, dated December 27, 1975, describing the initiation of the original FTC brokerage investigation;

(2) FTC Press Release, dated March 31, 1978, announcing that the Los Angeles Regional Office of the FTC would coordinate the consolidated FTC brokerage investigation;

(3) "Notice of Intent to Make Recommendations and Invitation to Comment," issued in July 1979 to State and local government officials.

Copies of these documents can be obtained from the FTC Office of Public Information, Sixth and Pennsylvania Avenue, N.W., Washington, DC 20580 or from the Agency Contact listed below.

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FTC

Trade Regulation Rule Concerning Credit Practices (16 CFR Part 444)

Legal Authority

Federal Trade Commission Act, §§ 5 and 18, 15 U.S.C. §§ 45 and 57(a).

Reason for Including This Entry

The Commission is conducting a rulemaking proceeding on the consumer and competitive effects of certain practices used by creditors when consumers have difficulty repaying their debts. Remedies under consideration in this proceeding could have an important effect on the relationship between creditors and consumer debtors in the United States and on competition in this sizable sector of the economy.

Statement of Problem

Most Americans use consumer credit at some time in their lives. At any given time, about half of all households in the

Nation are making payments on installment debt. Many encounter financial or other problems which cause them to become delinquent in their payments. Only rarely is such delinquency deliberate. Studies show that the leading causes are such unplanned events as unemployment, illness, and circumstances in which the consumer is overburdened with debt obligations.

When debtors default, they become subject to a variety of legal remedies that creditors use to collect money. Many creditor remedies are appropriate collection devices. Certain others, however, inflict injury on debtors that may be disproportionate to the gain to creditors. The injury includes not only dollar losses, but also nonpecuniary harm, such as emotional distress, loss of privacy, and disruption of family relationships. The disproportionate nature of the injury may mean that many consumers may be obtaining credit on terms that they would not choose in a market in which more complete information about credit terms was available.

The right of creditors to use remedies derives largely from provisions included in credit contracts. Credit contracts are standardized form documents prepared by creditors. There is generally no bargaining over terms between debtor and creditor.

The record shows that consumers frequently cannot shop for credit terms because they lack the specialized legal knowledge necessary to understand and evaluate remedy terms in contracts. Furthermore, creditors often do not compete with each other by offering more favorable remedy terms of contracts, and therefore, in a given market, consumers will find little variation in such terms. We believe that all these factors indicate market forces may not have produced a reasonable balance of creditor and debtor rights in credit contracts.

Specific contractual and other creditor remedies which may cause substantial injury to consumers and which are in widespread use include the following:

1. Confession of judgment—As part of the contract by which credit is extended, the debtor signs a form which authorizes the creditor to obtain a court judgment against him without notice to the consumer and without any opportunity for the consumer to appear and defend himself. The debtor thus loses due process rights, such as the ability to contest disputed claims.

2. Waivers of state property exemptions—The debtor waives the right, granted by State law, to keep certain minimal property if a court judgment is obtained against him. In many States, a court will not honor the waiver; however, the rulemaking record shows that some creditors nonetheless have used this waiver to threaten debtors with loss of all their goods.

3. Wage assignments—The debtor authorizes the creditor to seize a portion of his wages without first obtaining a court judgment. The debtor loses the ability to contest disputed claims. Moreover, some debtors may be subject to disciplinary action or firing by employers who do not like to divide employee wages between a creditor and an employee because of the accounting costs this imposes.

4. Blanket security interests in household goods—These security interests give the creditor the right to take all of the debtor's household goods in the event of default. Because in many instances such goods may have little resale value, it appears that creditors may use these security interests primarily to threaten the debtor and deter default, rather than to actually secure the debt.

5. Cross-collateral security interests—These security interests allow a merchant to take all goods that a consumer has purchased from that merchant over an extended period of time, in the event of the consumer's failure to pay for a single purchase.

6. Deficiences—Following the repossession and sale of collateral, the creditor can sue the debtor for deficiency, i.e., the difference between the sale price of the product and the amount the consumer owes. The evidence shows that the sale prices of repossessed collateral may frequently be very low, resulting in large deficiencies.

7. Attorney's fee provisions—The provisions require the debtor to pay the creditor's attorney fees. They thus may tend to inhibit debtors from defending themselves against payment of disputed debts. The evidence indicates that, in some instances, attorneys' fees assessed by courts may be larger than actual court costs or the cost of actual legal service provided.

8. Late charges—Late charges are penalty fees that the creditor assesses when the debtor fails to pay an installment on time. The rulemaking record shows that sometimes they are "pyramided," i.e., a creditor allocates payments in such a way that a single late or missed payment may result in the debtor being assessed a late fee on all subsequent installments.

9. Third party contacts—The record indicates that creditors make contacts for debt collection purposes with third parties, such as relatives, neighbors, or the debtor's employer. Such contacts may tend to invade privacy and may harm a debtor's employment relationship and lead to job loss.

10. Cosigners—Creditors sometimes have the debtor obtain one or more cosigners who agree to pay the debt if the principal debor defaults. The evidence shows that cosigners frequently do not understand that the obligation they undertake is substantial.

Alternatives Under Consideration

The rule that was originally proposed on April 11, 1975 (40 FR 16347) would prohibit a number of the above creditor remedies and restrict the use of others. It would prevent or limit confessions of judgment, waivers of State property exemptions, wage assignments, non-purchase money security interests in household goods, and attorneys' fee provisions. Creditors would have to promise in the contract not to make third party contacts except to locate the debtor or his property. Cross-collateral security would be permitted only if creditors released collateral from the security agreement as the consumer paid for it in the order it was purchased by the consumer. Creditors could collect deficiencies only if they credited the debtor with the fair market retail value of the collateral. Late fees would be limited. Cosigners would have to be given an information disclosure explaining their obligation and a 3-day "cooling-off" period to evaluate that obligation. Creditors would also be required to give cosigners copies of relevant documents, to notify cosigners in the event of default by the principal debtor, and to make serious efforts to collect from the principal before seeking payment from the cosigner.

Following publication of the NPRM, members of the public (including many members of the credit industry which would be affected by the rule) suggested numerous modifications, alternatives, exceptions, and deletions to the proposed rule. Based, in part, on these suggestions, the rulemaking staff, in its recently released staff report, has recommended modifications to the originally proposed rule. The most important proposed modifications concern the provisions on late fees, security interests, deficiencies, and cosigners.

The original proposal would have limited late fees to the amount derived by applying the annual percentage interest rate governing the debt to the amount which was late for the period it was late. The staff report finds insufficient evidence to support the proposed general limitation on late fees

and recommends confining the provision to a ban on "pyramiding."

the prohibition against third party contacts to contacts with employers

which result in injury to the employment

the price of consumer credit (i.e., interest rates) and reductions in

forms and instructional materials that they give their employees. They will

Reserve Board staff also testified. The Commission received written comments

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and recommends confining the provision to a ban on "pyramiding."

The original proposal on security interests would have prohibited any security interest other than a purchase money security interest, where credit is used to purchase consumer goods. (A purchase money security interest is a security interest in goods that are purchased with the credit that is being secured.) The staff report recommends dropping the general restriction on non-purchase money security interests. Instead, it recommends a provision banning non-purchase money security interests in household goods but allowing them in other consumer goods such as automobiles. The recommended provision is intended to focus on the specific problem documented on the record.

The original proposal on deficiencies would have required that whenever a creditor repossesses collateral, the creditor must credit the debtor with the fair market retail value of the property. The revised proposal would apply a retail value standard only if the creditor wishes to collect a deficiency. Creditors would not be required to return surpluses to debtors based solely on the retail value standard. In addition, retail value would have to be determined based on an actual sale in an established retail market, either by the creditor or a third party. This would eliminate ambiguity in the determination of retail value. If no established retail market exists for the collateral, the creditor could not collect any deficiency. This is consistent with the view that deficiencies may be appropriate when high value collateral, such as automobiles, is repossessed but not when low value collateral is repossessed.

The original proposal required that creditors provide cosigners with a 3-day cooling-off period before the cosigners become obligated on a debt. The staff report recommends a cooling-off period only where a creditor solicits someone to become a cosigner after a debtor has defaulted.

Apart from the four alternatives described, the staff report recommends a variety of other, more technical changes in the proposed rule. The staff report is accompanied by a memorandum from the Director of the Bureau of Consumer Protection which does not make specific recommendations but which invites public comment on alternatives to a number of proposed rule provisions. These include: substituting a "loser pays" approach to attorneys' fees for the proposed ban on provisions that require a debtor to pay attorneys' fees, limiting the prohibition against third party contacts to contacts with employers, and dropping proposed protections for cosigners that go beyond disclosure. In addition, the Bureau Director's memorandum suggests that the Commission may wish to consider some optimal mix of rule provisions, perhaps modeled on consumer credit laws that are already in effect in Connecticut, Iowa, and Wisconsin. These three States have laws that are similar in many respects to the proposed rule, and the rulemaking developed extensive information about how these State laws have worked in practice.

Finally, a memorandum from the Commission's Bureau of Economics concerning the recommended rule is also available to the public. The Bureau of Economics memorandum suggests alternative rule provisions in a number of areas, including elimination of the prohibition on security interests in household goods; elimination of the cross-collateralization provision of the rule; substitution of a "loser pays" approach to attorneys' fees; and modification of the deficiency balances section of the rule to permit creditors to calculate deficiencies based on either the wholesale or retail value of the collateral, as determined by an actual sale.

The Commission will consider the alternatives recommended in the staff report, as well as those raised by the Bureau Director, the Bureau of Economics, and various participants in the proceeding, and will decide what form of rule, if any, it ultimately should promulgate.

Summary of Benefits

Sectors Affected: Consumer debtors.

The primary beneficiaries of this rule would be consumers who borrow to obtain goods or services and have difficulty repaying their debts. While the rule would not prevent creditors from compelling consumers to pay legitimate debts where necessary, it seeks to limit unjustified consumer injury arising from the use of certain boilerplate collection remedies, where the benefits to creditors from such use appear to be small and the injury to consumers is substantial.

Although at the present time the Commission does not know what form of rule, if any, it will adopt, it is possible to identify the type of benefits that should result if it promulgates certain provisions of the proposed rule. For example, several provisions would produce dollar benefits for consumers by reducing excessively large deficiencies and late fees. If the final rule eliminates collection methods which result in injury to the employment relationship, it would benefit consumers by protecting their employment security. Eliminating practices by which creditors evade due process requirements would increase the fairness with which creditors treat consumers and would improve consumer's ability to legally defend themselves when creditors demand payment even though the consumer did not get what he paid for as a result of fraud or other seller non-performance.

An important qualitative benefit of any final rule should be fairer treatment of people suffering from financial difficulties. The proposed rule attempts to rectify practices that currently result in some creditors unfairly threatening such individuals with the loss of their possessions and jobs, and harassing their friends and relatives.

Quantitative information relevant to an assessment of current injury to consumers is available for a number of provisions of the proposed rule. For example, evidence in the rulemaking record indicates that over 60,000 consumers have wage assignments filed with their employers each year. One source estimates that use or threatened use of wage assignments results in loss of employment up to 10 to 20 percent of the time, at least for low-income consumers. Next, the rulemaking record indicates that well over 10 million consumers are subject to contracts containing blanket security interests in household goods. Creditors often make implicit or explicit threats to repossess when borrowers become seriously delinquent. We estimate, based on the rulemaking record, that creditors make such threats to repossess to at least several hundred thousand borrowers each year. Finally, over 750,000 automobiles are repossessed each year. In most cases where an auto is repossessed, it is sold at less than its wholesale value and the consumer continues to owe the creditor money. Based on figures for the mid-1970s, the amount owed totals over $400 million. The provision of the proposed rule relating to deficiency judgements, if adopted, may significantly reduce this amount.

Summary of Costs

Sectors Affected: Consumer debtors; credit agencies other than banks, particularly installment sales finance companies, and other establishments providing consumer credit; retail trade of consumer products; adjustment and collection agencies; and State governments.

The cost to consumers of any rule may potentially take two forms: increases in the price of consumer credit (i.e., interest rates) and reductions in availability of credit to certain consumers.

The rulemaking record contains empirical economic evidence based on data in States whose credit laws contain provisions similar to one or more provisions of the proposed rule. These economic studies and other information on the record provide an imprecise estimate of the effect a rule would have on the cost of credit, but suggest that adopting the rule in the form originally proposed by the Commission would cause no more than a small increase in the interest rate on loans made by finance companies in States with no existing regulation.

For example, the primary econometric study prepared for the proceeding applied statistical techniques commonly used by economists to data on individual loans from thirty States with varying credit laws. The estimates of the effect of the rule on the price of credit varied with the method of estimation. The estimates predicted an increase in the annual percentage rate ranging from 0.19 percentage points to 1.6 percentage points, compared to the average interest rate of 25 percent for loans in the sample. (The 0.19 percent measures the overall impact on the price of credit of demand and supply factors influencing the cost and availability of credit. The 1.6 percent, in contrast, measures only the factors influencing the supply of credit. This estimate is based on loans made at or above the legal interest rate ceiling where it is hypothesized that the demand for credit exceeds the available supply of credit.) However, these estimates should be viewed as "worst case" estimates. For example, the study measures the effect of a shift to the rule from a system where there is no regulation whatsoever. In fact, most States already restrict one or more of the creditor remedies covered by the rule, so the change created by the rule should be smaller than that measured by the study.

Testimony by State officials, some creditors, and others who have experience in States with laws similar to the proposed rule indicates that prohibitions on the covered creditors' remedies have not had significant impact on either the cost or availability of credit in those States.

However, the Commission and its staff will analyze these economic data carefully before determining if the rule should be issued or what form it should take.

The main costs of creditors' compliance with any rule should be those associated with revising contract forms and instructional materials that they give their employees. They will have to do these tasks only once. Creditors can spread the cost over all subsequent transactions covered by the rule: costs should therefore be low on a per-transaction basis. While the rule would restrain certain creditor remedies, the evidence suggests that such restraints would not prevent creditors from collecting debts.

For example, the remedies rated as most valuable by creditors in surveys—self-help repossession (retaking of collateral without first going to court) and garnishment (creditor taking a proportion of a debtor's wages directly from the employer pursuant to a court order)—would not be affected by the rule. Moreover, the fact that most serious delinquency is unintentional should involuntary limit the economic importance of any collection remedy, and particularly of pressure devices such as household goods security and third party contacts.

The proposed rule would be likely to affect large and small creditors in similar ways. This proposal would affect finance companies more than other creditors because finance companies make greater use of the remedies covered by the rule.

The rule would not impose any requirements on State and local governments. However, several of the proposals concerning cosigners could preempt State laws on this subject.

Related Regulations and Actions

Internal: None.

External: If the Commission decides to adopt the proposed rule, the Federal Reserve Board is required by § 18 of the FTC Act to consider adopting a substantially similar rule for banks, unless the Board determines that such acts or practices of banks are not unfair or deceptive or that implementation of similar regulations would seriously conflict with essential monetary and payment systems policies of the Board. The Federal Home Loan Bank Board is also required to consider a similar rule for savings and loan institutions.

Most States have laws similar to one or more provisions of the proposed rule. A small number of States—including Connecticut, Iowa, and Wisconsin—have laws similar to most provisions of the rule, though they differ in detail.

Active Government Collaboration

Federal, State, and local government agencies participated in the rulemaking proceeding. Representatives of over half of the States testified at hearings, along with a number of local government officials. A member of the Federal Reserve Board staff also testified. The Commission received written comments from additional government agencies including, among others, the Department of Defense, the National Credit Union Administration, and several State and local agencies.

Timetable

Post-Record Comment Period—Currently scheduled to run through December 22, 1980.
Commission Consideration—Summer 1981.

Available Documents

NPRM—40 FR 16347, April 11, 1975.
Final Notice Concerning Proposed Trade Regulation Rule—42 FR 32259, June 24, 1977.
Report of the Presiding Officer—August 1978.
Staff Report—August 1980.
Bureau of Economics Comments on Credit Practices Rule—August 1980.

Copies of these documents can be obtained from the Office of Legal and Public Records, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, DC.

All documents on the rulemaking record, including hearing transcripts, public comments, etc., are available for examination at the same address.

Agency Contact

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CHAPTER 7—TRANSPORTATION AND COMMUNICATION

DOT-FHWA
Design Standards for Highways—Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation (RRR) of Streets and Highways Other Than Freeways 77964
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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Design Standards for Highways—Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation (RRR) of Streets and Highways Other Than Freeways (23 CFR Part 625*)

Legal Authority

Federal-Aid Highway Acts, as amended, 23 U.S.C. §§ 101, 109, 315, and 402; 49 CFR 1.46(b).

Reason for Including This Entry

The Federal Highway Administration (FHWA) believes this rule is important because of the controversy over its possible impacts on safety and because the geometric design criteria proposed in the ANPRM would substantially affect the condition of the Nation's highway system.

Statement of Problem

The 1976 and 1978 Highway Acts provided for a Federal-aid program to assist the States in resurfacing, restoration, and rehabilitation (RRR) of streets and highways. Under current procedures, RRR work must meet the standards contained in FHWA regulations for new construction. The FHWA permits exceptions on a project-by-project basis. The intent of this action is to amend existing regulations in order to establish separate RRR procedures to carry out this program.

Many highways in need of RRR work have deteriorated and do not meet today's traffic demands, or the geometric design standards that are currently required by FHWA regulations for new construction for safety features such as banking of curves, roadway and bridge width, and horizontal clearances of obstructions. Failure to provide design standards for RRR work means that the work has to meet design standards for new construction or be exempted. This practice has probably resulted in some RRR work not being accomplished in a timely manner. In light of this, FHWA is considering a number of alternatives for implementing the RRR program.

Alternatives Under Consideration

FHWA explored major alternatives through the publication of an ANPRM on August 25, 1977. The three alternatives discussed in the ANPRM were:

(A) To continue FHWA design approval operations within the provisions of the current regulations (23 CFR Part 625) by granting exceptions to existing design standards on an individual project basis for RRR projects.

(B) To incorporate, by reference, the American Association of State Highway and Transportation Officials' (AASHTO) "Geometric Design Guide for Resurfacing, Restoration, and Rehabilitation (RRR) of Highways and Streets" as the acceptable criteria for Federal-aid RRR work.

(C) To develop, with State officials, individual RRR standards for each State by using the AASHTO "RRR Guide" and other guides.

After reviewing the ANPRM comments on all three alternatives, an FHWA task force formulated new recommendations. The task force rejected all three previous proposals, and the FHWA withdrew the ANPRM.

FHWA then recommended a new set of geometric design standards for RRR projects, which it published as an NPRM in August 1978. The NPRM elicited more than 100 comments, primarily from State and local highway agencies. The FHWA subsequently established an internal working group to review the comments it received on the NPRM and to identify and evaluate alternatives for implementing the RRR program.

Two basic policy alternatives are available to the FHWA:

(A) The FHWA would adopt design standards for use on all federally assisted, non-freeway RRR projects nationwide. Various options for implementing this alternative include: application of current design standards in 23 CFR Part 625 with exceptions granted on a case-by-case basis (i.e., essentially maintaining the status quo); application of current design standards in 23 CFR Part 625 without exception; development and application of new design standards (e.g., standards proposed by the FHWA in 1978 under Docket No. 78-10).

(B) The FHWA would adopt a flexible approach to non-freeway RRR projects without establishing nationwide standards. Options available under this alternative include: providing State highway agencies with full authority to adopt their own non-freeway RRR design standards; issuing an FHWA policy statement for non-freeway RRR work; issuing an FHWA policy statement for non-freeway RRR work and establishing a framework for the adoption of non-freeway RRR procedures and criteria in each State that meets the intent of the FHWA policy.

The FHWA is evaluating these alternatives.

Summary of Benefits

Sectors Affected: Users of highways; State and local governments; and the general public.

The primary benefits of this program would be to prolong the life of the existing highway system and to enhance highway safety features. These highways would otherwise continue to deteriorate to the point of structural failure, requiring a much larger expenditure by Federal, State, and local governments, and ultimately taxpayers, for reconstruction. Other anticipated benefits to users of highways and the general public include: reducing costs related to vehicle operation and future highway repair; lowering energy consumption; and increasing the comfort, convenience, and safety of drivers.

Summary of Costs

Sectors Affected: Users of highways; State and local governments; the highway construction industry and its suppliers; and engineering services.

FHWA is preparing an analysis of the impact of the major alternatives. A full analysis will be available when we publish the next rulemaking action. Using estimates of the funding levels that Congress might provide, the analysis will discuss the impacts of various levels of design standards.

Related Regulations and Actions

Internal: FHWA has regulations establishing geometric design standards for highway construction projects (23 CFR Part 625).

External: None.

Active Government Collaboration

None.

Timetable

NPRM—November 30, 1980.
Public Meeting—Approximately 30 days following publication of NPRM.
Public Comment Period—90 days following publication of NPRM.

Available Documents

ANPRM—42 FR 42876, August 25, 1977, FHWA Docket 77-4.

Withdrawal of ANPRM—43 FR 2734, January 19, 1978.

NPRM—43 FR 37556, August 23, 1978.

Notice regarding status of proposed rulemaking—44 FR 29921, May 23, 1979.

Draft Regulatory Analysis of the proposed regulation.

FHWA Docket 78-10.

All documents are available for review in the Office of the Chief Counsel, Federal Highway Administration, Room 4205, 400 Seventh Street, S.W., Washington, DC 20590.

Agency Contact

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DOT—Office of the Secretary

Special Air Traffic Rules and Airport Traffic Patterns (14 CFR Part 93*)

Legal Authority

Federal Aviation Act of 1958, as amended, 49 U.S.C. §§ 1303, 1348(a) and (c), and 1354(a); Department of Transportation Act, § 6(c), 49 U.S.C. § 1655(c); Act for the Administration of Washington National Airport, 54 Stat. 688.

Reason for Including This Entry

The Department of Transportation (DOT) thinks these proposed rules are significant due to substantial public interest, the potential costs to airlines and passengers, and the potential impact on air transportation service to some communities with service to and from Washington National Airport (DCA).

Statement of Problem

The Civil Aeronautics Board (CAB) and the Department of Justice have expressed concerns about continuing the antitrust immunity under which the airline scheduling committees currently allocate landing and takeoff reservations, or "slots," for air carriers and commuter airlines at DCA. A new method of allocation may become necessary.

Alternatives Under Consideration

The high density rule (14 CFR Part 93) defines three categories of users—scheduled air carriers, air taxis, and general aviation—for purposes of slot allocation at four airports (Washington National, John F. Kennedy International, La Guardia, and O'Hare International). The rule also sets a maximum number of available slots for each category. A rule published on September 18, 1980 (45 FR 62406) adopted definitions as follows: air carriers—scheduled operators of aircraft with more than 56 seats; commuters—scheduled operators of aircraft with 56 or fewer seats; and general aviation—all other operators.

The alternatives for the allocation of air carrier slots that the DOT is considering are:

(A) To have air carriers compete for all available slots (one-step allocation).

(B) To divide air carrier slots into subcategories for allocation purposes (two-step allocation system). The subcategories for alternative (B) are first determined geographically by:

(1) distance of the airport served from Washington, DC;

(2) location of the airport served within geographic wedges radiating from DCA; or

(3) the size of the airport being served in terms of annual number of passengers travelling to DCA.

The available geographic slots would next be allocated to air carriers under one of the three methods below:

(A) To retain the existing scheduling committees, either as they are or with some modification.

(B) To auction the slots using a method known as the slot exchange auction, which involves simultaneous bidding for all slots that continues until all prices are stabilized.

(C) To use an administrative procedure based upon a set of weighting factors that take into account the number of slots a carrier is using, the number of passengers each carrier enplanes or deplanes at DCA, and the number of cities each carrier serves with nonstop service.

The DOT will not select a preferable alternative until we receive comments on this NPRM. The procedures being considered for air carrier slot allocation would also be proposed for commuter slot allocation.

Summary of Benefits

Sectors Affected: Scheduled air carriers; commuter airlines; and scheduled passengers, including passengers traveling to and from small communities.

The DOT expects that benefits from a two-step allocation system, which is different from the current scheduling committee system, would be to increase competition among carriers serving DCA; to make more efficient use of the airspace; and to continue and possibly improve service to Washington, DC, for travelers from small communities within

the 1,000-mile wide perimeter allows under the September 18, 1980 rule.

Timetable

rendered our assistance. Therefore, we

enterprises. This proposal would reverse

This proposal, which includes but is

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the 1,000-mile wide perimeter allows under the September 18, 1980 rule.

Summary of Costs

Sectors Affected: Air carriers; commuters; and scheduled passengers.

Without the two-step procedure, both the slot exhange auction and the administrative allocation are expected to result in increased service on high-density routes at the expense of service to smaller cities. If a slot exchange auction is initiated, passenger fares may, on the average, rise by as much as $6 to $24 (in 1980 dollars) depending on the airline bidding strategy. The average first-leg-out/last-leg-in fare for DCA (that is, the fare to the first stop after leaving DCA or the last stop before landing there) was $72 in February 1980. Fares would be unaffected by the administrative procedure or the scheduling committee procedure.

The slot exchange auction may increase airline costs of service that DCA between $49 million and $197 million per year (in 1980 dollars) depending upon airline bidding strategy.

Related Regulations and Actions

Internal: On August 15, 1980, the Secretary of Transporation issued a Policy for the Operation of Washington National Airport. This followed publication of a Notice of Proposed Policy (45 FR 4320, January 21, 1980). The policy and implementing regulations were published in the **Federal Register** in September 18, 1980 (45 FR 62406). On October 29, 1980, DOT issued a regulation for the temporary allocation of slots at DCA for the period December 1, 1980 until April 26, 1981, because of the failure of the scheduling committee to come to agreement for that period.

External: The Air Transport Association (ATA) had petitioned the CAB for an extension of antitrust immunity granted to the Airline Scheduling Committee. In CAB Order 80-9-148, the CAB granted the ATA a one-year extension of antitrust immunity. At the same time, the CAB will investigate the need for antitrust immunity for airline scheduling committees.

Active Government Collaboration

The DOT has worked with the Civil Aeronautics Board (CAB) and the Department of Justice to develop a set of alternative allocation procedures. An initial study of slot auctions was prepared for DOT/CAB and was widely circulated for comment within the government and to the general public.

Timetable

Public Hearing—December 1980.
Public Comment Period—90 days from publication of NPRM.
Final Rule—May 1981.
Final Rule Effective—June 1981.

Available Documents

NPRM—October 27, 1980 (45 FR 71236).

Draft Regulatory Analysis—available when the NPRM is published.

"A Method for Administrative Assignment of Runway Slots," June 1980, FAA-AVP-80-5.

Econ Inc., "The Allocation of Runway Slots by Auction," Princeton, NJ, April 1980, FAA-AVP-80-3.

J. Watson Noah, Inc., "A Slot Allocation Model for High Density Airports," Falls Church, VA, August 1980.

The above documents are, or will be, available from the Agency Contact listed below.

Polynomics Research Laboratories, Inc., "Alternative Method of Allocating Slots: Performance and Evaluation." Available from the Civil Aeronautics Board.

Agency Contact

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SMALL BUSINESS ADMINISTRATION

Revision of Business Loan Policy; Business Loans and Guarantees (13 CFR 120.2(d)(4)*)

Legal Authority

The Small Business Act, 15 U.S.C. § 633(d).

Reason for Including This Entry

The Small Business Administration (SBA) has determined that these regulations are significant because they are precedent-setting—they will allow us for the first time to target media-oriented small businesses for financial assistance.

Statement of Problem

The Small Business Administration (SBA) is acutely aware of the large number of recent mergers and acquisitions in the media industries, and we are concerned that these takeovers tend to eliminate many media-oriented small businesses and promote concentration of ownership. We are also concerned that our present "opinion-molder" policy relative to media industry eligibility may be unnecessarily inhibiting our ability to assist these small businesses, and that it may thereby indirectly promote undesirable concentration of ownership. We are therefore in the process of altering this policy, and as we have expressed in recent testimony before Congress, we favor a regulatory rather than a legislative approach to accomplishing this purpose.

Under SBA's present regulatory policy, the Agency cannot make business loans to an applicant engaged in the "creation, origination, expression, dissemination, propagation, or distribution of ideas, values, thoughts, opinions or similar intellectual property, regardless of medium, form, or content" (13 CFR 120.2(d)(4)). There are several exceptions to this prohibition regarding assistance to firms involved in printing, advertising, T.V., and certain publishing firms.

SBA originally adopted this policy in 1953 under the authority granted by § 4(d) of the Small Business Act (15 U.S.C. § 633(d)), which permits SBA to "establish general policies which shall govern the granting and denial of applications for financial assistance by the Administration."

There are three basic reasons for the policy: First, the prohibition is based upon SBA's desire to avoid any possible accusation that the government is attempting to control editorial freedom by subsidizing media or communication for political or propaganda purposes. Second, the Agency has generally sought to avoid government identification, through its business assistance programs, with concerns which might publish or produce matters of a religious or controversial nature. Third, SBA recognizes that the constitutionally protected rights of freedom of speech and press ought not be compromised either by the fear of government reprisal or by the expectation of government financial assistance.

SBA has come to the conclusion that assistance rendered under exceptions to the "opinion-molder" rule and its Small Business Investment Company and disaster programs may not be sufficient to assist the small businesses in the media industries which are demonstrably in need of increased assistance. We feel that time has come for a complete revision of our "opinion-molder" policy. We note that there has been strong sentiment in both Houses of Congress favoring a change in the policy, and we acknowledge that the present policy has produced inconsistent results in the way we have

rendered our assistance. Therefore, we have recently undertaken a legal review of the policy, and we feel that we are not legally prohibited from making regulatory changes which will allow us to make much more assistance available from SBA to media concerns.

We favor a regulatory approach to this problem because, as indicated below, we feel it will permit us to maintain the rule's valid features while allowing increased assistance to worthy elements of the media industry.

Alternatives Under Consideration

Alternative (A)—Retain the present rule, but provide a waiver procedure by which media concerns which SBA denies assistance could demonstrate that the purpose of the rule is not served by the denial of assistance.

This policy would add a "rule of reason" to SBA's current strict policy of denying assistance to all "opinion-molders" except those that qualify for specific exemptions. This proposal would give SBA administrative flexibility to allow funding of certain exterprises covered by the rule where application of the rule would serve no useful purpose (e.g., most publishers or distributors of greeting cards, sheet music, pictures, and posters; producers or distributors of musical broadcasts or recordings; specialty bookstores that do not promote a particular point of view; most neighborhood newspapers). The waiver procedure would be administered by an SBA central office committee to ensure fairness and uniformity in ruling on waiver requests.

Alternative (B)—Expand the exceptions in the current rule to allow SBA assistance to those types of businesses which meet the present broad definition of an "opinion-molder," but which do not primarily mold opinions, and the funding of which would not be likely to promote governmental interference with freedom of speech and press.

This proposal would substantially reduce the number of cases in which SBA is forced to deny assistance to concerns which technically are covered by the rule but in which no real purpose is served by denying them assistance. Unlike the waiver procedure described above, this proposal could directly exclude from the rule, for example, greeting card manufacturers and certain types of publishers. The case-by-case determinations involved in the waiver procedure are absent from this proposal.

Alternative (C)—Replace the present broad proscription against assisting "opinion-molders" with specific prohibitions against certain types of assistance to certain types of enterprises. This proposal would reverse the structure of the current extremely broad rule by making small media concerns eligible for assistance unless otherwise prohibited from receiving it. This proposal would have the effect of widening the scope of media concerns to which SBA would provide assistance.

Alternative (D)—Prohibit SBA assistance to certain forms of media enterprises which advocate a particular religious, political, social, or economic point of view.

This proposal would narrow the "opinion-molder" rule to cover those cases where its purpose is best served. The danger of government censorship of the press is greatest where a newspaper, magazine, book publisher, or bookstore advocates a particular point of view. By refraining from assisting all such businesses (regardless of what point of view is advocated) while funding other media concerns which do not advocate a particular point of of view, SBA could assist eligible media enterprises while avoiding actual or apparent government censorship of the media.

For purposes of this proposal, a daily or weekly newspaper serving a city or community would not be considered as advocating a particular point of view, even if it carried editorials as well as news stories.

Alternative (E)—Prohibit SBA assistance to an applicant if more than 30 percent of the applicant's annual gross income is derived from the sale, rental, or lease of religious products, materials, or services.

This proposal, which includes but is not limited to media concerns, would ensure that SBA's liberalization of the "opinion-molder" rule would not run afoul of the First Amendment's prohibition of governmental establishment of religion. The Supreme Court has repeatedly held that government cannot act in a manner which will have a primary effect that advances religion or which will promote excessive entanglement with religion. SBA funding of religious bookstores or broadcast stations that emphasize religious programming would advance religion and excessively involve the government in religiously oriented enterprise. The 30 percent income limitation contained in the proposal is a reasonable standard by which SBA could determine that assisting an enterprise would violate the First Amendment.

Alternative (F)—Prohibit SBA assistance to an applicant if more than 30 percent of the applicant's annual gross income is derived from the sale, rental, or lease of sexually explicit products, materials, or services.

This proposal, which includes but is not limited to media concerns, would keep SBA from funding hard-core sex industries. Such businesses (e.g., sexually explicit magazines or pornographic bookstores or theaters) are generally not in need of governmental assistance and thus SBA's finite resources could be more productively applied to other types of businesses.

Alternative (G)—Prohibit direct SBA loans to "opinion-molders."

Presently, all financial assistance, including SBA loan guarantees as well as direct loans, are denied to "opinion-molders." The dangers of government interference with freedom of speech and press is greatest where direct loans are involved. This proposal would be a reasonable accommodation between our desire to assist eligible media enterprises while minimizing the danger of actual or apparent government censorship of the media.

Summary of Benefits

Sectors Affected: All "media" small businesses, including printing, publishing and allied industries, news syndicates, television and radio broadcasting, motion pictures, and theatrical producers; and SBA.

These regulations will benefit all U.S. small media businesses because we will use them to determine which of those businesses will be eligible for SBA assistance. In addition, these revisions will benefit SBA by making its policy with respect to assistance to media concerns more specific. However, no additional funds will be available to media concerns as a result of the revisions. The revision will merely affect the targeting of appropriated funds.

Summary of Costs

Sectors Affected: None.

SBA expects no costs as this rule by itself would impose no burdens. There is a possibility that the rule could result in decreased funding to some businesses, since the rule would not generate additional funds, but redistribute current targets. However, we do not know at this time what businesses would be affected or to what degree.

Related Regulations and Actions

Internal: These regulations will apply to SBA's loan-making function. Therefore, those regulations which deal with that function, 13 CFR Parts 120 and 122, will be affected.

External: None.

Active Government Collaboration

In preparing its ANPRM, SBA contacted the Department of Justice and Office of Management and Budget to

obtain legal clearance. We do not contemplate any other government

passengers and to the ability of carriers

Carriers—14 CFR Part 291; and Charter

Reason for Including This Entry

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obtain legal clearance. We do not contemplate any other government collaboration although we anticipate that comments may be forthcoming from other sectors of the executive branch, as well as from the legislative branch of government.

Timetable

Public Comment Period—October 8, 1980–December 8, 1980.
NPRM—December 8, 1980.
Public Comment Period—December 8, 1980–February 8, 1981.
Final Rule Effective—March 1, 1981.
Public Hearing—None planned.
Regulatory Analysis—None planned.

Available Documents

ANPRM—October 8, 1980.

Agency Contact

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CIVIL AERONAUTICS BOARD

Air Carrier Insurance and Liability (14 CFR Part 205)

Legal Authority

Federal Aviation Act of 1958, § 401(q), as amended by the Airline Deregulation Act of 1978, § 22(d), P.L. 95–504, 92 Stat. 1722, 49 U.S.C. § 1371(q).

Reason for Including This Entry

The Civil Aeronautics Board (CAB) considers this rule important because it would place insurance requirements on certificated route airlines for the first time and would substantially increase the present insurance requirements for air taxi operators. The proposed rule would also meet a concern of Congress when it passed the Airline Deregulation Act of 1978: that passengers be protected during the transition to a more competitive environment.

Statement of Problem

The Civil Aeronautics Board (CAB) staff estimates that the average bodily injury/death claim award for losses suffered by passengers and non-passengers has climbed from $55,182 in 1967 to a projected $252,834 in 1979, an increase of 450 percent. The CAB's insurance regulations (14 CFR Parts 208 and 298), which require airlines to obtain insurance from private companies, now only apply to air taxis (operators of small aircraft), charter airlines, and domestic cargo carriers. The minimum insurance limits that the CAB requires for these carriers range from $75,000 per person to $500,000 per person. However, at the present time, there are no CAB insurance requirements for CAB-certificated passenger carriers, such as the large nationwide airlines.

The Airline Deregulation Act of 1978 requires all certificated air carriers to have liability insurance coverage as established by the CAB. Unless a carrier complies with the CAB's insurance rules, it cannot obtain or retain operating authority. Although there has not been a problem with the ability of existing scheduled carriers to pay claims made against them, Congress concluded that airline deregulation would significantly reduce the barriers to entry into air transportation. This in turn could result in operations by new carriers that are less able to compensate the public for damage losses in an accident.

Changes in the liability protection rules also appear to be needed to keep pace with the steadily increasing value of losses the public suffers in aircraft accidents. The restructuring and revision of insurance rules will also meet the mandate of the Congress, in ensuring protection of the public during the transition of air transportation from a heavily regulated to a deregulated market.

Alternatives Under Consideration

Possible alternatives the CAB is considering include (A) minimum standards for insurance policies and self-insurance plans, to prohibit certain types of exclusions of liability such as for safety violations, or to require certain specific terms, such as for policy cancellation; (B) minimum limits of coverage; (C) requiring disclosure of the carrier's insurance and liability limits to shippers; (D) establishing different limits and standards for different types and sizes of air carriers; and (E) no action at all at this time.

Minimum limits of liability and minimum standards for insurance policies, alternatives (A) and (B), would set specific amounts and terms and conditions that the carriers must meet. The standards would be similar to the CAB's current insurance rules, which require insurance by licensed insurors and prohibit cancellation without notice to the CAB. These alternatives have the advantage of ensuring a minimum financial responsibility for all existing carriers, whatever their past records, and for new carriers as the historical barriers to entry are reduced. They would also go further in meeting the intent of the Airline Deregulation Act, which emphasizes that safety in air transportation be given primary importance in the transition to deregulation.

For domestic air cargo transportation, the CAB now uses alternative (C), and requires carriers to disclose their insurance and liability limits for cargo, but does not require specific amounts for those limits. While the CAB has only used this type of approach in regulation of insuance liability for a short time, it has the advantage of allowing carriers to establish their own liability limits within the boundaries of competition and internal economic management. Its disadvantages are that it depends on a generally knowledgeable consumer, such as a shipper in cargo transportation, and may not be as effective in giving actual notice to vacation travelers and others who might not be regular users of air transportation.

Alternative (D) is important because of the wide variety in the size of airlines, the aircraft they use, and the size of their businesses. An advantage of different rules for large and small aircraft or businesses is that the rules may be structured so that the premium costs are not overwhelming. The disadvantage is that nonuniform rules may be misleading to passengers and shippers.

Alternative (E) is based on the assumption that the present standards, conditions, and applicability of the CAB's insurance requirements are adequate, and that the burden should generally be on passengers and shippers to ensure that they have necessary insurance coverage in case of an accident. An advantage is that the alternative would involve no increase in costs to airlines, other than inflation. The disadvantages are the possibility of substantial loss for some passengers because of inadequate insurance of some air carriers, and that passengers would have no way of knowing whether the airline has adequate coverage.

The CAB is proposing to use a combination of alternatives (A) through (D). The proposal includes authorized exclusions and standards for insurers, and minimum coverage of $300,000 per passenger. The minimum for passenger liability per accident would be $300,000 x 75 percent of the number of seats. For liability to nonpassengers, the proposal amounts are $300,000 per person and $20,000,000 per occurrence ($2,000,000 for small aircraft). The proposal would also require disclosure of an air cargo carrier's insurance and liability limits to shippers. This combination of alternatives would allow the Agency to tailor insurance regulations to the needs of each group of shippers and passengers and to the ability of carriers to afford needed coverage.

Summary of Benefits

Sectors Affected: Air cargo carriers; air travellers; and shippers using air transportation.

Both air passengers and air shippers can be expected to benefit from the proposed insurance requirements because they would be better able to recover money damages in the event of an accident or damage to property. Cargo air carriers would benefit by being able to set their own insurance levels and liability limits to meet market demand, thus ensuring they will be at the most efficient amounts.

Summary of Costs

Sectors Affected: The air transportation industry, including certificated air passenger carriers, charter air carriers, air taxis, and air cargo carriers; the insurance industry; air travellers and shippers; and the CAB.

Although the CAB has not previously required certificated route carriers to maintain insurance, most already have coverage in amounts equal to or greater than the limits being considered. All but one of the charter airlines also have such coverage. Some air taxi operators may have to increase their insurance coverage to meet the proposal, and new carriers would, of course, have to obtain coverage meeting these standards. Air cargo carriers would have the cost of giving notice to their customers of the insurance carried. The CAB staff estimates that the increased annual cost to the air taxis for new passenger liability coverage may be approximately $200 (1979 dollars) per seat, and the increase in cost for public liability coverage (insurance for liability to people other than passengers) may be approximately $200 to $4,000 (1979 dollars) per plane, depending on the size of the plane. These costs would likely be passed on to passengers and shippers as increases in prices.

The insurance industry would have some costs in rewriting present policies and obtaining reinsurance to meet the new coverages and conditions.

Operators of small aircraft would have somewhat smaller costs for the proposed third-party liability coverage, since the per-occurrence limit set for those aircraft would be $2,000,000 rather than $20,000,000.

Related Regulations and Actions

Internal: Insurance requirements for special classes of air carriers: Indirect Cargo Carriers—14 CFR Part 296; Air Taxis—14 CFR Part 298; Domestic Cargo Carriers—14 CFR Part 291; and Charter Carriers—14 CFR Part 208.

External: The CAB staff is researching related actions by other agencies.

Active Government Collaboration

CAB staff held discussions with the Federal Aviation Administration, whose experience with accident litigation and insurance problems is helpful to the CAB in formulating a proposed rule, and with the Military Traffic Management Command for information about insurance of air carriers carrying civilians for the Department of Defense.

Timetable

Final Rule—Winter 1980–1981.
Final Rule Effective—Winter 1980–1981.
Public Hearings—None.
Regulatory Analysis—The CAB, as an independent agency, is not required to prepare a Regulatory Analysis as it is defined under E.O. 12044. However, the CAB prepares essentially the same information in its NPRMs and final rules.

Available Documents

NPRM—45 FR 7566, February 4, 1980 (EDR–395).

Extension of comment period—45 FR 14062, March 4, 1980 (EDR–395A).

(Note.—Numbers in parentheses are CAB reference numbers for these documents.)

Civil Aeronautics Board Dockets 37531 and 37532.

Public comments may be examined in Room 7111, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, DC.

Agency Contact

Foreign air carrier requirements:
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CAB

Essential Air Service Subsidy Guidelines (14 CFR Part 271)

Legal Authority

Federal Aviation Act of 1958, § 419(d), as amended by the Airline Deregulation Act of 1978, P.L. 95–504, 92 Stat. 1739, 49 U.S.C. § 1389(d).

Reason for Including This Entry

The Civil Aeronautics Board (CAB) considers this rule important because it should significantly reduce the Federal subsidy of airlines. It also represents a major shift in focus of the subsidy program. Rather than subsidizing certificated airlines to aid in their economic viability and expansion, the new subsidy program will focus on smaller commuter airlines in order to improve air service to small communities.

Statement of Problem

The primary thrust of the Airline Deregulation Act of 1978 is to let the level, quality, and price of air transportation be determined by free competition of airlines seeking to meet consumer demand, instead of by pervasive government regulation. However, to minimize the potential disruption caused by airlines' increased freedom to reduce or eliminate service in particular markets, the Deregulation Act also established a program to preserve essential air service to small communities that cannot support profitable air service, using Federal subsidy when necessary. The CAB is responsible for determining the level of essential air transportation at each eligible point and ensuring that such service is provided. "Eligible points" basically are those to which any certificated airline was authorized to provide service on October 24, 1978 (555 points), plus certain other points that the CAB may designate. "Essential air transportation" is a level of air transportation that the CAB, according to statutory criteria, finds will satisfy the community's needs for air transportation to one or more principal destinations, and will ensure the community's access to the nation's air transportation system.

The Federal Aviation Act has long contained a subsidy provision—§ 406. Although the CAB has built incentives into that subsidy system, § 406 has not always been effective as a tool to prevent the withdrawal of airlines from small communities. One reason is that § 406 is limited to certificated airlines, which typically use large aircraft. Also, the CAB must consider the needs of the certificated airline's overall system, and not only the points affected, when determining the airline's subsidy need.

This subsidy provision had not been significantly modified since the adoption of the Civil Aeronautics Act in 1938. Its primary intent was the development of a national air transportation system, rather than ensuring air service to small communities. That is why the CAB was

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to consider the financial need of the airline's entire system in establishing subsidy rates. This approach enabled airlines to expand and acquire larger aircraft. While this worked well in building the air transportation system and nurturing airlines to self-sufficiency, the shift to larger equipment made high-frequency service to smaller points increasingly impractical. Because the § 406 subsidy was limited to certificated airlines, the CAB was unable to subsidize the air taxi industry, whose equipment was better suited to serving the small points.

The essential air service subsidy program of § 419, which was added to the Federal Aviation Act by the Airline Deregulation Act of 1978, corrects this problem. This rulemaking to establish subsidy guidelines responds to § 419(d), which states:

> The Board shall, by rule, establish guidelines to be used by the Board in computing the fair and reasonable amount of compensation required to insure the continuation of essential air transportation to any eligible point. Such guidelines shall include expense elements based upon representative costs of air carriers providing scheduled air transportation of persons, property, and mail, using aircraft of the type determined by the Board to be appropriate for providing essential air transportation to the eligible point.

During Fiscal Year 1979, the CAB began work on deciding whether subsidy is needed for essential service to 27 points. During Fiscal Year 1980, the CAB expects to provide subsidy support for 24 points, and during Fiscal Year 1981, 51 points. Those points are smaller communities where air service cannot be provided at a profit.

Alternatives Under Consideration

The Airline Deregulation Act does not point the CAB toward any particular subsidy approach. On the contrary, Congress expects the CAB to develop new and innovative subsidy methods. The primary emphasis is on ensuring essential services, rather than on minimizing the costs of the program; that is, the subsidy program must be structured so as not to hinder, in any way, the provision of essential services. But of course, the CAB must be prudent with Federal expenditures, so it is faced with the dual and conflicting objectives of keeping subsidy at a reasonable level without interfering with the provisions of essential air services.

Developing a market for air service to small communities is a step common to achieving both goals. Specifically, increased traffic volumes can at once justify better service (more flights) and reduced subsidy cost. The CAB is considering three alternatives for achieving these goals. One alternative is cost-plus subsidy, under which the CAB reimburses airlines for their expected losses, allows them a reasonable profit, and, in addition, compensates them for any additional losses that they incur in actually providing the service. This approach does not appear to promote either goal.

Instead, the CAB favors two innovative incentive approaches. Under one, the fixed incentive rate, the CAB would reimburse the airline for a predetermined projected loss, and would allow a reasonable profit. If the airline incurred additional losses, it would not receive additional compensation. If the airline received additional revenue, however, it could keep the extra profit. The possibility of making large profits with subsidy gives airlines the incentive to be cost efficient and develop the market. The possibility of uncompensated losses, however, poses the danger of service terminations. To avoid this problem, the CAB is also considering a third approach, the shared incentive rate. Under this approach, as with the others, the CAB would reimburse the airline for a predetermined project loss and allow a reasonable profit. The difference is that under the shared rate, the CAB would compensate the airline for some of its additional losses instead of all of them (cost-plus approach) of none of them (fixed incentive rate approach). These three alternatives will be discussed in the NPRM.

Summary of Benefits

Sectors Affected: Small communities; air travelers and potential travelers to these communities; industries within small communities; the air transportation industry, particularly small, commuter airlines; the general public; and CAB.

The benefits from the subsidy program are the avoidance of severe economic dislocation and the continuation of essential air service to communities that would otherwise lose that service as a result of airline deregulation. In some subsidy cases, the combination of deregulation and subsidy will result in more flights and cheaper or more available air service. Small commuter airlines are more likely to take advantage of the subsidy program because it is oriented towards cities where jet service is inefficient. This may lead to other tangible benefits to the communities, such as the attraction of new industry or business, and intangible benefits, such as an improved way of life stemming from better and continued access to the nation's air transportation system.

The subsidy guideline rule, as opposed to the subsidy program itself, should also provide several benefits. It would simplify the procedures for computing subsidy amounts, thus saving administrative time for the CAB and airlines. It could also result in improved services and lower subsidy costs if it uses an incentive approach. Although the effect on individual taxpayers of the choice of guidelines will be slight in any event, the incentive plan should minimize subsidy compensation and save taxpayers in the aggregate several million dollars annually, when compared with other approaches to subsidy.

The Congressional Budget Office estimated that when this new system is phased in and the old subsidy system phased out (in 1986), there will be a savings of 26 million subsidy dollars per year. The subsidy program and guidelines are not predicated on a cost/benefit analysis by the Agency, but are required by law.

Summary of Costs

Sectors Affected: None.

The cost to the government of the underlying subsidy program for Fiscal Year 1979 was $1.2 million. The CAB staff's preliminary estimates of the costs are $9.4 million for Fiscal 1980, and $20.2 million for 1981. The program is still in an early stage, and these estimates could prove to be understated, particularly if the defined level of "essential air transportation" is raised. A regulation establishing subsidy guidelines, as opposed to the subsidy program itself, is not likely to impose any significant costs.

Related Regulations and Actions

Internal: The CAB has adopted the following new regulations: Criteria for Designating Additional Eligible Points—14 CFR Part 270. Terminations, Suspensions, and Reductions of Service—14 CFR Part 323. Procedures for Compensating Air Carriers for Losses—14 CFR Part 324. Guidelines for Individual Determinations of Essential Air Transportation—14 CFR Part 398.

External: The CAB is a party to an interagency cooperative agreement, described below.

Active Government Collaboration

The CAB is a party to an interagency cooperative agreement for the purpose of fostering optimum air service to small communities through coordinated financial assistance. The agreement is titled "Small Community Air Transportation Memorandum of Cooperation." Other parties to it are: the Economic Development Administration (Department of Commerce), the Federal Aviation Administration (Department of Transportation), the Farmers Home Administration (Department of Agriculture), and the Small Business Administration.

Timetable

NPRM—Winter 1980–1981.
Public Comment Period—To be announced in NPRM.
Public Hearing—None.
Final Rule—Fall 1981.
Final Rule Effective—Fall 1981.
Regulatory Analysis—The CAB, as an independent agency, is not required to prepare a Regulatory Analysis as it is defined under E.O. 12044. However, the CAB prepares essentially the same information in its NPRMs and final rules.

Available Documents

The documents listed below can be viewed at Docket Section, Room 714, 1825 Connecticut Avenue, N.W., Washington, D.C.

Final rule adopting Part 270: 44 FR 76767, December 28, 1979 (ER–1166).

Final rule adopting Part 323: 44 FR 20635, April 6, 1979 (PR–200).

Final rule adopting Part 324: 44 FR 42171, July 19, 1979 (PR–209).

Final rule adopting Part 398: 44 FR 52646, September 7, 1979 (PS–87).

Note.—Numbers in parentheses are CAB reference numbers for these documents.

Agency Contact

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CAB

Notice to Passengers of Conditions of Carriage (Proposed 14 CFR Part 255)

Legal Authority

Federal Aviation Act of 1958, as amended, §§ 403, 404, and 411, 49 U.S.C. §§ 1373, 1374, and 1381.

Reason for Including This Entry

The Civil Aeronautics Board (CAB) considers this rule important because it should greatly benefit a large portion of the public by increasing passengers' ability to understand their agreements with the airlines, and to make informed choices about what airlines to fly and what services to buy. It should also help airlines to prepare for the later stages of deregulation, when they will have to make contracts directly with passengers, rather than through tariffs filed with the CAB.

Statement of Problem

Contracts between airlines and their passengers are very complicated. The airlines write thousands of contract provisions in technical legal language and publish them in tariffs, which are documents that airlines file with the Civil Aeronautics Board (CAB). These documents contain crucial information about the rights passengers do or do not have when they encounter air travel problems like mishandled baggage, delayed or canceled flights, oversold flights (bumping), lost tickets, or fare misunderstandings. Unlike the practice with most contracts, airlines do not give air travelers a copy of the tariffs to take home and read. The CAB requires airlines to inform passengers about a few basic subjects by using airline ticket notices and ticket counter signs written by the CAB (14 CFR 221.173–221.176). But even these notices have been technical and hard to understand, and to read most of the terms of their contracts, passengers must visit the Tariffs Section at the CAB or an airline ticket office where tariffs are kept open for public inspection. It is hard for the average passenger to locate and understand important information in the tariffs, and most airline passengers don't find out about many important limitations on their rights until after they have a serious problem and register a claim with the airline. But because of the legal doctrine of "constructive notice," under which passengers are assumed to know what is in the tariffs, passengers are usually bound by the contents of tariff rules, whether or not they are aware of them when they agree to buy their tickets.

Alternatives Under Consideration

The CAB has issued an NPRM (45 FR 42629, June 25, 1980) proposing a simpler, more direct way than tariffs for informing passengers of their contract terms. The proposed rule states that airlines may not use the tariff system to put terms in the contract without giving passengers a direct opportunity to read and know of them. The courts would review the adequacy of the airlines' notification efforts, as they do in unregulated industries. The NPRM requests comments on alternative ways to notify passengers. One alternative under consideration would entail increased amounts of CAB involvement in specifying "plain-English" standards for the contract documents prepared by airlines, or in reviewing the clearness and completeness of documents. More detailed regulation, such as specifying subject matter, readability, form, distribution, and type size of notices, has the disadvantages of restricting airline management decisions and not necessarily using the most effective and least costly method.

Summary of Benefits

Sectors Affected: Air travelers (over 250 million passengers yearly); the air transportation industry; and travel agents.

Passengers would have more reasonable expectations of just what is included in their air fares, and would be able to take precautions to avoid many types of air travel problems or minimize the consequences when problems do arise. They would also be able to make more informed choices among competing airlines, since they would have a clearer understanding of the differences in the services offered. Airlines would also receive some benefits, since they would gain valuable experience for the later phases of deregulation, when they will no longer have the protection of a government-regulated tariff system and the concomitant doctrine of constructive notice. Similarly, travel agents would be better able to serve their customers, since they could more easily determine the differences between different airlines' service offerings.

Summary of Costs

Sectors Affected: The air transportation industry; and air travelers.

There would be one-time airline costs to develop "plain-English" contract documents, as well as printing and distribution costs to make the documents available to passengers. Under airline deregulation when tariffs are eliminated for domestic air transportation in 1983, however, airlines will eventually face this problem and these costs in some form anyway. The effect of the CAB regulation would not be to add significantly to costs in the long run, but instead to assist the industry in developing the most cost-effective means of making passengers aware of the terms and conditions of their travel.

Related Regulations and Actions

Internal: 1. The CAB issued an NPRM to simplify the notices that it already requires airlines to give passengers (45 FR 25817, April 16, 1980); CAB reference number for this document is EDR–396.

2. The CAB issued an NPRM to require that airlines give actual notice to passengers about the terms of the

contract of carriage. Under the proposed rule, tariff filings would no longer

FEDERAL COMMUNICATIONS COMMISSION

Second Notice of Inquiry seeking information to evaluate the

television. If this is adopted, it would increase the number of sources of

20554. The comments from the public are also available for review (the public was

Alternatives Under Consideration

contract of carriage. Under the proposed rule, tariff filings would no longer automatically be part of the passenger/airline contract (45 FR 42629, June 25, 1980); CAB reference number for this document is EDR-404.

3. "Exemption of U.S. and Foreign Air Carriers from Tariff Observance Requirements to Permit Resolution of Consumer Complaints," Order 78-12-49, Docket 34189.

4. "Air Carrier Rules Governing Failure to Operate on Schedule or Failure to Carry," Order 79-4-115, 79-9-129, 79-11-23, and 80-3-10, Docket 35361.

5. "Air Carrier Rules Governing the Application of Tariffs," Order 79-2-106, 79-12-98, and Order 80-4-51, Docket 34772.

6. 14 CFR Part 221, "Tariffs."

7. 14 CFR Part 250, "Qversales."

External: None.

Active Government Collaboration

None.

Timetable

Public Hearings—None.

Final Rule—Winter 1980-81.

Final Rule Effective—Winter 1980-81.

Regulatory Analysis—The CAB, as an independent agency, is not required to prepare a Regulatory Analysis as it is defined under Executive Order 12044. However, the CAB prepares essentially the same information in its NPRMs and final rules.

Available documents

The orders listed under Related Regulations and Actions can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, DC 20428. (202) 673-5432.

NPRM—45 FR 42629, June 25, 1980 (EDR-404).

Extension of Comment Period—45 FR 52820, August 5, 1980 (EDR-404A).

Public comments available in Docket 38548.

(Note—Numbers in parentheses are CAB reference numbers for these documents.)

Agency Contact

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FEDERAL COMMUNICATIONS COMMISSION

Children's Television Programming and Advertising Practices (Docket 19142)

Legal Authority

The Communications Act of 1934, as amended, 47 U.S.C. §§ 307, 308, and 403.

Reason for Including This Entry

The Federal Communications Commission (FCC) thinks that these proposed regulations are of significant public interest because of the large volume of citizen mail received about children's television programming and practices. This proposed rulemaking puts out for comment the options we think may be available for changing children's television programming practices, if change is appropriate.

Statement of Problem

On January 26, 1971, at the request of a public interest group, Action for Children's Television (ACT), the FCC issued a Notice of Inquiry into children's programming and advertising practices, calling for comments on ACT's proposal that the Commission adopt certain guidelines for television programming for children. As a result of this inquiry, the FCC issued a Children's Television Report and Policy Statement in October 1974 stating that it expected television licensees to make meaningful efforts to voluntarily regulate themselves in several areas:

- to air programming specifically designed for children;
- to air a reasonable amount of programming (no less than 14 hours per week) designed to educate and inform and not merely to entertain;
- to provide programming for specific age groups; and
- to improve scheduling practices by providing programming in each of the age groups specified below and during the time periods specified:

(i) ages 2-5, 7 a.m. to 6 p.m. daily and weekends;

(ii) ages 6-9, 4 p.m. to 8 p.m. daily and 8 a.m. to 8 p.m. weekends;

(iii) ages 10-12, 5 p.m. to 9 p.m. daily and 9 a.m. to 9 p.m. weekends.

The FCC also set forth specific advertising guidelines regarding too many commercials, separation of program matters from commercial matters, host selling (use of a program host or other program personality to promote products), and tie-ins (promotion of products during a program in such a way that it constitutes advertising). In 1978, the Commission reopened its inquiry and issued a Second Notice of Inquiry seeking information to evaluate the effectiveness of its 1974 guidelines and to assess possible alternatives to these guidelines. As a result of the Commission's findings, the FCC issued a Children's Television Task Force Report in December 1979, concluding that industry self-regulation during this period had not been effective in fully meeting the programming guidelines set forth in the 1974 Children's Television Report and Policy Statement. Because the industry had not regulated itself enough in the programming area, the Commission issued an NPRM asking for comments on a number of options for rules to be applied to the broadcast industry. Comments were due on June 2, 1980, and the FCC is now considering them.

Alternatives Under Consideration

In considering whether (and to what extent) the FCC needs to regulate children's television programming, the FCC is considering the following alternatives:

(A) repealing the existing Policy Statement;

(B) maintaining or modifying the Policy Statement in accordance with comments received;

(C) adopting interim programming rules requiring a minimum amount of educational programming for preschool and school-age children (the Task Force report recommended 2½ hours per week of educational and instructional programming for school-age children and 5 hours per week for preschool children). If these rules are adopted, it would require broadcasters to provide programming for children, and there is evidence that broadcasters are producing a great deal less programming than is desired. It would require that the programming be aimed at specific age groups. In contrast, the broadcasters feel that they would have to spend money on programming that would not be profitable. In addition, the broadcasters feel there is a lot of children's programming already being aired on public television and independent stations, and the proposed rule would result in a duplicative effort;

(D) adopting similar requirements as license-renewal processing guidelines. If these requirements are adopted, the FCC would have more flexibility to deal with broadcasters at license renewal time who do not comply with the guidelines. If the requirement is mandatory, the broadcaster has to comply; and/or

(E) encouraging competition among broadcasters by increasing the number of cable systems, subscription television, and other types of pay television. If this is adopted, it would increase the number of sources of programming to provide diversity, and more programming would be provided to small audiences and children's programming without Commission action.

Summary of Benefits

Sectors Affected: Children nationwide and their families; cablevision services, subscription or closed circuit television, and other types of pay television.

If adopted, these proposed rules could improve the amount of educational television programming (7½ hours per week on weekdays where on some channels none exists), and decrease the number of commercials which children watch; and by deregulating this industry as proposed, improve competition among broadcasters throughout the pay television industry. Presently, children watch television on an average of 33½ hours per week for preschool age and 29 hours per week for school age.

Summary of Costs

Sectors Affected: The entire television broadcasting industry, including networks, stations, and production and programming activities; and the advertising industry.

Eight percent of programming by network affiliates and 11 percent of programming by independent stations was devoted to children in 1978.

The FCC will review public comments on the question of potential costs of this proposal, and cannot make any express findings of these costs until final review has taken place.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Report and Order—December 31, 1980.

Regulatory Analysis—The FCC, as an independent agency, is not required to prepare a Regulatory Analysis as it is defined under E.O. 12044. However, the FCC does an extensive analysis of the economic effects of regulation.

Available Documents

"Television Programming for Children:" A Report of the Children's Television Task Force, October 1979.

The Notice of Inquiry/Notice of Proposed Rulemaking of January 9, 1980 is available on request from the FCC's Office of Public Affairs, Washington, DC 20554. The comments from the public are also available for review (the public was invited to an FCC panel discussion on October 15-16, 1980). Request Docket 19142.

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FCC

Creation of "New" Personal Radio Service (PR Docket 79-140)

Legal Authority

The Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 403.

Reason for Including This Entry

The Federal Communications Commission (FCC) thinks this rulemaking is important because it would make a new radio service available to the public at large.

Statement of Problem

For over 30 years, the Federal Communications Commission has recognized the need for, and the value of, personal radio communications. The largest personal radio service is the Citizens Band (CB) Radio Service, in which the FCC has licensed more than 14 million people. Other personal radio services include the General Mobile Radio Service, which offers the general public very high quality communications, but at considerable equipment cost, and the Radio Control Radio Service, which licenses people to operate model boats, cars, and airplanes by radio control. The CB Radio Service meets many personal and business needs, but there are continuing complaints by CB users about channel congestion and interference.

The FCC is now exploring several issues:

(1) to what extent the public views the limitations of the three personal radio services as problems (the limitations include the complaints discussed above, as well as any other problems brought to our attention during the comment period);

(2) whether creation of a new personal radio service in a different frequency range would solve any problems;

(3) what the demand would be for a new personal radio service; and

(4) what features the public would like to see incorporated in a new personal radio service.

Alternatives Under Consideration

The FCC is considering whether to establish a new personal radio service in the 900 Megahertz (MHz) band. The major alternative under consideration is for the FCC to decline to create a new personal radio service. If the decision is made to establish the new service, there will be a series of secondary issues that will have to be resolved. For example, the FCC will decide whether equipment to be used in this new service should be designed so that it automatically identifies the station, and whether to allow interconnection with the public telephone system. A new service would allow the public to better satisfy their personal communication needs. In comparison to CB, a new service would provide for better emergency highway and information communications, better communications between known parties (car to home or work, etc.), and could be more aesthetically pleasing to use. Eventually, the new service could also be as entertaining to listen to as CB is today. For these reasons, our demand estimates indicate that a new service would attract many new people into personal radio (perhaps an additional 1 to 10 million people, depending on the service) who would never become users of CB radio. In addition, a new service would better provide for the needs of many CBers (1 to 10 million users). It may also help to stimulate development of technology that can be used for other services. If a new service is not created, the 1 to 5 MHz needed for the service could be available for other kinds of uses. The 900 MHz band could continue to be reserved for land mobile services. However, the demand for these frequencies is projected to be relatively light during the next decade in most areas. In addition, if the service is not created, the interference situation would improve over the next decade as better CB equipment replaces older equipment. The amount of interference to television could be reduced to one-seventh of the present level by the early 1990's. If a new service is created, the interference situation may or may not improve as much, depending on the frequency band selected for the service.

Summary of Benefits

Sectors Affected: Manufacturing, wholesale, and retail trade of two-way radio transmitting, signaling, and detection equipment and apparatus; all potential personal two-way radio users; and all owners of home entertainment equipment (such as stereos, televisions, etc.).

Some members of the public have suggested that the benefits of a new

personal radio service at 900 MHz

staff is researching the ramifications of

change the traditional approach to

personal radio service at 900 MHz would include better quality communications than those available in the CB Radio Service; less potential than the CB Radio Service for causing television interference; and the possibility to incorporate special features (such as channels devoted to special uses) in the new service. A new service could reduce congestion in the CB radio service and offer a higher quality radio service than the present day CB service offers.

The FCC is also interested in knowing through public comment whether this new service will affect other sectors.

Summary of Costs

Sectors Affected: Radio services desiring the 900 MHz spectrum for their communications systems (broadcasting, private land mobile, and common carriers); and FCC.

The 900 MHz equipment costs more because it uses an advanced state of the art technology and, at least initially, demand would be less for the 900 MHz equipment.

The FCC has requested the public to comment on the issue of possible costs. For example, the FCC expressly asked for comments on whether the technical standards for the radios in the new service should be set so as to minimize the costs of the radio.

Because the issue of costs is open for public comment, the FCC has not taken a position on many of the questions related to potential costs. However, the automatic transmitter identification system would help to lower enforcement costs, but there would be substantial administrative costs to the FCC (potentially $1 million to $4 million).

The FCC is interested in knowing whether this service will affect other sectors.

Related Regulations and Actions

Internal: The Commission recently terminated the proceeding in Docket 19759 (the proposal to create a new personal radio service in 220 MHz Band). The public comments filed in this proceeding were inconclusive. The FCC concluded that a "fresh start" was necessary on the creation of a new Personal Radio Service, and, therefore, that it would start a new rulemaking proceeding to request public comment.

In addition to the actions noted above, the Commission is also investigating the feasibility of allocating some SSB-only single sideband channels to the CB Service. The role of SSB in the CB Service is one of the unresolved issues in Docket 20120, and, in view of the very widespread interest in this issue, the staff is researching the ramifications of an allocation of frequencies above 27.410 MHz. The reduced occupied bandwidth, the slight frequency offset, and the time varying characteristics of an SSB signal may well result in substantially reduced intermodulation product generation than occurs with the mixing of two AM signals. We expect to resolve this issue in the near future and take appropriate action based on our findings. The current proceeding will not be able, nor is it intended, to be the forum through which the SSB issue is resolved. We would, however, urge respondents who have unmet communications needs at 27 MHz to consider which, if any, of those needs might be met at 900 MHz, and to determine what impact a 900 MHz service will have on their overall communications needs.

External: None.

Active Government Collaboration

None.

Timetable

NPRM—Early 1981.

Regulatory Analysis—The FCC, as an independent agency, is not required to prepare a Regulatory Analysis as it is defined under E.O. 12044. However, the FCC does an extensive analysis of the economic effects of regulation.

Available Documents

The Notice of Inquiry (June 7, 1979) is available on request from the FCC's Office of Public Affairs, Washington, DC 20554. For review of public comments, request PR Docket 79-140.

Agency Contact

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FCC

Deregulation of Competitive Domestic Telecommunications Market (Common Carrier Docket 79-252) (47 CFR 61.38*)

Legal Authority

The Communications Act of 1934, as amended, 47 U.S.C. §§ 4(i), 4(j), 201, 202, 203, 204, 205, 214, and 403; The Administrative Procedure Act, 5 U.S.C. § 553.

Reasons for Including This Entry

The Federal Communications Commission (FCC) is attempting to change the traditional approach to regulating common carriers to one where the Commission would exercise only that amount of regulation that is necessary, given the size and amount of competition faced by the particular common carrier.

Statement of Problem

The telecommunications industry provides telephone, telegraph, and similar "common carrier" services. As a result of technological and regulatory developments in recent years, the telecommunications industry has evolved from one dominated by a few large entities to one where there is now some competition for the provision of some communications services.

The rules the FCC originally adopted to regulate a monopoly telecommunications market may now result in unnecessary regulatory burdens on smaller, competitive carriers. We have attempted to address this problem.

Alternatives Under Consideration

In considering whether (and to what extent) the FCC needs to continue to regulate extensively in the common carrier field, we have adopted a number of alternatives:

(A) Allow smaller ("nondominant") carriers to file tariffs (prices, terms, and conditions of service) without requiring them to file underlying cost support data. (The current rules require them to do so.)

(B) Assume that rates contained in the tariff filings of nondominant carriers are lawful.

(C) Relax the rules that now restrict the addition of new circuits or the discontinuation of service by nondominant carriers.

(D) Use a market power test, an element of which is control over bottleneck facilities, to determine which carriers are dominant or nondominant.

The FCC is also considering further deregulatory options, such as not regulating the nondominant carriers at all. The FCC has not made a specific proposal, but has set forth the issues for public comment.

Summary of Benefits

Sectors Affected: The telecommunications industry, particularly nondominant carriers; telecommunications users; and the FCC.

This proposal would allow the staff to concentrate its resources on regulating those carriers with substantial market power, particularly AT&T.

In proposing this deregulation, the FCC speculates the proposal could save smaller carriers (approximately 27) the costs of complying with FCC regulation and reduce entry barriers associated with the regulations. This savings in turn could be passed on to the consumer. The proposal could also save the FCC the costs of implementing and enforcing the rules.

Summary of Costs

Sectors Affected: The telecommunications industry; domestic telecommunications users; and the FCC.

The FCC is reviewing public comments on the Inquiry/Proposal. For this reason, the FCC has not yet made any express findings of the costs of this proposal.

Related Regulations and Actions

Internal: The FCC found that the public interest would be served by allowing all interstate telecommunications services, including message telephone service (MTS) and wide area telephone service (WATS) and their functional equivalents, to be provided competitively. (FCC Docket 78-72, MTS-WATS Market Structure Inquiry.)

External: None.

Active Government Collaboration

None.

Timetable

Memorandum Opinion and Order—Fall 1980.

Regulatory Analysis—The FCC, as an independent agency, is not required to prepare a Regulatory Analysis as it is defined under E.O. 12044. However, the FCC does an extensive analysis of the economic effects of regulation.

Available Documents

The Notice of Inquiry/NPRM of September 27, 1979, is available on request from the FCC's Office of Public Affairs, Washington, DC 20554. Request FCC Docket 79-252. MTS-WATS Market Structure Inquiry (FCC Docket 78-72).

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FCC

Notice of Inquiry/Notice of Proposed Rulemaking in the Matter of Radio Deregulation (Broadcast Docket 79-219) (47 CFR Parts 73 and 0)

Legal Authority

The Communications Act of 1934, as amended, 47 U.S.C. §§ 1, 154(i), 154(j), 303(g), 303(r) and 403.

Reason for Including This Entry

The Federal Communications Commission (FCC) thinks this proposed rule is important because it proposes a major change in the traditional FCC emphasis on detailed regulation of the broadcast industry. The proposed rules would better reflect structural changes in the radio industry which have occurred over the past two decades.

Statement of Problem

The FCC is reviewing some of its regulations governing commercial radio broadcast stations. In particular, the FCC is reviewing four groups of regulations which may no longer be needed in today's radio market.

In the 1930s and 1940s, when the FCC first began to regulate radio broadcasting, the radio marketplace was very different than it is today. There were many fewer stations, for example, and television was not the dominant medium it is now.

The FCC is exploring whether the regulatory assumptions it made in the 1930s and 1940s are still valid. In particular, the Inquiry/Proposal focused on whether current radio regulations are the most effective and least costly way to achieve such goals as:

(1) adequate informational (nonentertainment) programming;

(2) reasonable limits on the number of commercial minutes each hour;

(3) consideration by the radio broadcaster of community needs and interests; and

(4) retention by the broadcaster of adequate records of nonentertainment programming and commercial time ("program logs").

Current FCC regulations accomplish these goals in a variety of ways. In the area of nonentertainment programming, FCC rules specify that the amount of nonentertainment programming must be at least a minimum percentage of a station's total programming. For AM stations, FCC rules specify that for an application to be routinely processed, nonentertainment programming must be at least 8 percent of total programming. For FM stations, FCC rules specify 6 percent of total programming. If a radio station is applying for renewal of its license and proposes to program less than 8 percent (or 6 percent, as appropriate) nonentertainment programming, the FCC's Broadcast Bureau staff cannot routinely grant the renewal until the application is considered by the full Commission.

In the area of commercial limits, FCC rules now set commercial limits (18 to 20 minutes per hour, plus additional time during political campaigns) that, if a radio station renewal applicant exceeds them, can prevent routine granting of an application by the Broadcast Bureau under its delegated authority.

FCC policies also now require a radio broadcaster to consider the community's needs and interests when planning a station's programming. The FCC adopted a detailed primer setting out procedures for determining the composition of the area to be served, consulting with community leaders and members of the general public, enumerating community problems and needs, evaluating the problems and needs, and relating proposed programming to the evaluated problems and needs. The FCC has denied applications based on the failure of the applicant to ascertain these criteria in accordance with the requirements of the primer. The FCC calls this procedure "ascertainment."

Current FCC rules require a broadcaster to keep detailed records of his programming and commercial time. The program log rules require numerous entries, such as the source of each program (e.g., networks, etc.), the time each program begins and ends, the sponsor(s) of the program, and the public service announcements that the station broadcasts. A radio station licensee must make these logs available to the public on request.

In the notices proposing radio deregulation, the FCC said:

> We have long been, and remain, committed to the principle that radio must serve the needs of the public. We have never, however, believed that radio is a static medium that requires the retention of every rule and policy once adopted. A regulation that was reasonable when adopted, and appropriate to meet a given problem, may be most inappropriate if retained once the problem ceases to exist. In our view, it is vital that our rules and policies be appropriate for the industry and marketplace we regulate, reducing regulation to the maximum extent consistent with the public interest, convenience and necessity. We note in passing that Congress is now examining whether legislative reform is necessary to foster optimum development of all

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communications industries, including broadcasting. Additionally, the President has ordered executive agencies to adopt procedures to improve existing and future regulations, including the deletion of unneeded ones.

Alternatives Under Consideration

The advantages and disadvantages of each proposal are discussed in paragraphs 243 through 250 of the Notice of Inquiry/Notice of Proposed Rulemaking.

(1) There are a number of alternative approaches by which the FCC could modify or eliminate current nonentertainment rules and policies:

(A) The FCC could remove itself from all consideration of the amounts of nonentertainment programming that commercial radio licensees furnish, leaving it to the marketplace to determine what levels of such programming broadcasters would present.

(B) The FCC could relieve individual licensees of any obligation to provide nonentertainment programming but could, instead, analyze the amounts of such programming on a marketwide basis, and if the amount of such programming in a particular market fell below a certain level, the FCC then could taken action to redress the matter.

(C) The FCC could free licensees of any specific responsibilities with respect to nonentertainment programming (as well as ascertainment and commercial limits) but would require licensees to show, if their renewals were challenged, that they were serving the public interest.

(D) The FCC could impose quantitative programming standards (and not just set out guidelines) for each nonentertainment programming category, such as a minimum number of hours per week for each category of programming or a specified percentage of time to be devoted to each category.

(E) The FCC could impose quantitative standards, but measure the adequacy of programming on the basis of each station's expenditures. In other words, the FCC could mandate a proportion of revenues or profits that a station must reinvest in nonentertainment programming.

(F) The FCC could establish a minimum, fixed percentage of local public service programming that licensees would have to present—including local news, public affairs and public service announcements, community bulletin boards, or any other locally-produced nonentertainment programming that served local needs.

(2) Changes in the commercial limit rules that the FCC is now considering include:

(A) Eliminating all rules and policies dealing with the amount of commercial time and allowing the marketplace to determine tolerable levels of commercialization.

(B) Setting quantitative standards which, if ignored, would result in the FCC imposing some sanction against the licensee.

(C) Eliminating all rules specific to individual licensees but interceding if heavy levels of commercialization occurred marketwide.

(D) Retaining quantitative guidelines but only with regard to the Broadcast Bureau's delegation of authority.

(3) The Commission said there were four options warranting consideration in the area of ascertainment of community problems and needs:

(A) The FCC could eliminate all Federally mandated ascertainment requirements and leave it to marketplace forces to ensure that stations provided programming to meet the needs and problems of each station's listenership.

(B) The FCC could require that licensees conduct ascertainment but permit them to decide in good faith how best to conduct that ascertainment without the current detail of formalized FCC requirements.

(C) The FCC could retain the ascertainment requirement, but in a simplified form.

(D) The FCC could retain existing ascertainment requirements.

(4) The FCC's requirements for program logging are intended, in part, to assure documentation of nonentertainment programming and commercial practices. If we removed nonentertainment programming and commerical requirements as a result of this proceeding, we also would consider eliminating or modifying program log requirements. However, members of the public challenging a station's programming failure might need these records to substantiate such claims. Therefore, the FCC is considering the following three options:

(A) The FCC could eliminate the need for AM and commerical FM stations to keep program logs.

(B) The FCC could eliminate its program log requirements, but require any licensee keeping records of its programming or commercial schedules for its own purposes to make these available to the public in accordance with procedures outlined in the Commission's rules.

(C) The FCC could continue current program logging and disclosure requirements.

Summary of Benefits

Sectors Affected: The radio broadcasting industry, including networks, local stations, and programming and production services; the advertising industry; radio listeners; and the FCC (and accordingly, the taxpayer). Over 95 percent of households own radio receivers, and there are 7,799 stations, providing commercial radio broadcasting to the public.

If adopted, this Inquiry/Proposal could affect the internal work priorities of the FCC by allowing the shifting of personnel, who currently are engaged in reviewing applications to determine whether the guidelines have been met, into areas that the Commission believes are more worthy of their attention. Also, it would allow for more efficient use of personnel. Over time, this might result in an alteration of personnel needs.

The FCC said in the Inquiry/Proposal that it had seen evidence that market forces will, in most instances, yield programming that serves consumer well-being. If the FCC adopts deregulation, the FCC anticipates that radio programming would reflect listeners' tastes, rather than regulatory decisions.

The FCC has now received public comments on the issue of potential benefits of this proposal. Over 20,000 comments were received covering a wide range of views on virtually all of the major issues.

The savings (in terms of costs to licensees) of having to comply with fewer regulations could be passed on to the consumer.

Summary of Costs

Sectors Affected: The radio broadcasting industry, including networks, local stations, and programming and production services; the advertising industry; radio listeners; and the FCC (and accordingly, the taxpayer).

If adopted, this Inquiry/Proposal could cause changes in the internal work priorities of the FCC as set forth above.

The FCC has asked for public comment on potential costs of the Inquiry/Proposal and comments are being reviewed. For this reason, the FCC has not made any express findings of costs.

The FCC is interested in learning during the comment period if this proceeding will affect any other sectors. Some members of the public have suggested that the deregulation Inquiry/Proposal will not result in broadcasting which serves the public interest.

Although comments have been received relative to the costs to stations of complying with the requirements of regulations, no consensus on those costs is present in the comments.

Related Regulations and Actions

Internal: The FCC has had, and is continuing, a long-standing project of broadcast deregulation. That project is intended to streamline Commission rules relating to broadcast radio and television. The substantive changes to Commission rules pertaining to radio proposed in this proceeding is an outgrowth of both broadcast deregulation and the Commission's longstanding policy that its rules remain relevant to an industry and technology characterized from its inception by rapid and fundamental change.

External: None.

Active Government Collaboration

None.

Timetable

Report and Order by December 31, 1980.

Regulatory Analysis—The FCC, as an independent agency, is not required to prepare a Regulatory Analysis as it is defined under E.O. 12044. However, the FCC does an extensive analysis of the economic effects of regulation.

Available Documents

Public Comments available/Broadcast Bureau.

FCC Fact Sheet on Radio Deregulation Proposals available from the Broadcast Bureau.

The Notice of Inquiry/NPRM issued September 6, 1979 is available on request from the FCC's Office of Public Affairs, Washington, DC 20554. Request BC Docket 79–219.

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FEDERAL MARITIME COMMISSION

Amendments to Tariff Filing Requirements for Controlled Carriers (46 CFR Part 536*)

Legal Authority

The Shipping Act of 1916, §§ 18(b), 18(c), 21, and 43, 46 U.S.C. §§ 817(b), 817(c), 820, and 841(a); Ocean Shipping Act of 1978, P.L. 95–483, 92 Stat. 1607.

Reason for Including This Entry

The Federal Maritime Commission (FMC) thinks this rule is important because it will have a salutary impact on the U.S. liner trades.

Statement of Problem

Section 18(c) of the Shipping Act of 1916, as amended by the Ocean Shipping Act of 1978, provides that the FMC shall regulate the rates and charges for ocean transportation services filed by certain state-owned or -controlled carriers operating in the foreign commerce of the United States. The term "state-controlled carrier" means a common carrier by water in the foreign commerce of the United States whose operating assets are directly or indirectly owned or controlled by the sovereign government (i.e., state) under whose registry the carrier's vessels operate. Controlled carriers, operating as "cross-traders" (carriers that operate in a specific trade and do not fly the flag of the exporting or importing nations in that trade) in the U.S. oceanborne foreign commerce and backed by the resources of their government have penetrated the United States liner trades by actively and systematically pursuing a practice of rate cutting (maintaining rates in their tariffs that may be below a level which is just and reasonable) to attract more cargo for their ships. Their rates may be set at 15 to 50 percent below the rate levels established by ocean carrier conferences and other independent carriers operating in the same trades. Such rate cutting threatens to disrupt the international trade of the United States and may jeopardize the economic viability of U.S. flag carriers as well as other privately owned carriers. The seriousness of the problem was underscored by the fact that the state-controlled carriers of one nation which did not trade at all in the U.S. ocean commerce several years ago had captured 5 to 10 percent of the cargo on several U.S. trade routes at the time of the enactment of the Ocean Shipping Act of 1978.

The Ocean Shipping Act of 1978 P.L. 95–483) strengthens the provisions of the Shipping Act of 1916 and thus the powers of the Federal Maritime Commission to regulate the rate cutting practices of state-controlled carriers. The provisions of § 18(c) of the Shipping Act of 1916, which were created by the Ocean Shipping Act of 1978 and became effective November 17, 1978, impose upon the Federal Maritime Commission the responsibility to regulate the rates and practices of certain state-owned or -controlled carriers operating in the oceanborne foreign commerce of the United States in order to eliminate the threat posed by such rate cutting.

The Commission proposes to amend 46 CFR Part 536 to implement the requirements of P.L. 95–483. The proposed amendments prescribe the technical requirements for the publication, filing, justification, and suspension of controlled carrier tariff rates, charges, classifications, and rules. They also require that all common carriers annually file with the Federal Maritime Commission an information circular which contains specific questions related to the carriers' ownership, vessels, subsidiaries, service, flag, form of organization, forwarding activities, consolidation activities, intermodal operations, and the number of containers owned or leased.

The Commission, acting under the authority of § 21 of the Shipping Act of 1916, added this requirement to 46 CFR Part 536 so that it will be apprised of all controlled carriers serving the U.S. trades. However, the Commission will give these controlled carriers an opportunity to submit information which may warrant an exemption from the requirements of § 18(c).

Alternatives Under Consideration

There are no realistic alternatives because the proposed rules are necessary to implement the requirements of P.L. 95–483. In enacting this legislation, the Congress provided the Commission with no flexibility in the interpretation of the tariff filing requirements needed to put the law into effect and specifically mandated that Commission responsibilities be broadened to address the problem. Although the Commission has many alternatives in the administration of P.L. 95–483, there are no alternatives to the tariff filing requirements which literally implement the law.

Summary of Benefits

Sectors Affected: All common carriers in the foreign commerce of the United States (deep sea foreign transportation); shippers; and the general public.

It is necessary to provide a systematic method to adopt the standards set forth in P.L. 95–483, which was designed to prevent controlled carrier penetration and disruption of U.S. trades through rates and practices which are unjust and unreasonable. The requirement that all common carriers file an information circular with the Federal Maritime Commission is needed for the Commission to properly classify common carriers entering or leaving trades in the U.S. foreign commerce and

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to identify those which are state-controlled. The proposal will protect all privately owned carriers operating in the U.S. oceanborne foreign trade from the noncompensatory rates and predatory practices of controlled carriers which operate without covering the cost of the resources used in the provision of a shipping service. The information obtained from the circular will also benefit privately owned carriers, shippers, and the general public by identifying those carriers which are state-owned and providing those sectors with information regarding their ownership, registry, and operations.

Summary of Costs

Sectors Affected: All common carriers in the foreign commerce of the United States (deep sea foreign transportation).

All carriers required to file the information circular will have some administrative costs. In our NPRM, we asked the carriers to provide an estimate of the financial and man-hour burden expected of them. We also asked controlled carriers to submit a separate estimate of the financial and man-hour burden, if any, which will be incurred in complying with the other requirements of the proposed rules. Shippers, the users of ocean transportation, are the Commission's real consumers; therefore, it is extremely difficult, if not impossible, to determine the cost of the proposed rules to the lay consumer.

Related Regulations and Actions

None.

Active Government Collaboration

The Department of State and the Commission, before the rulemaking, coordinated an effort to initially identify state-controlled carriers.

Timetable

Regulatory Analysis—This rule does not require a Regulatory Analysis under E.O. 12044 because we are developing it through a formal rulemaking process in accordance with the Administrative Procedure Act.
Final Rule—Winter 1980–1981.
Final Rule Effective—Winter 1980–1981.

Available Documents

NPRM—45 FR 42721, June 25, 1980.
Federal Maritime Commission Docket 80–40.

All documents are available for review in the Office of the Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, N.W., Washington, DC 20573.

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FMC

Filing of Currency Adjustment Factors (46 CFR Parts 536* and 538*)

Legal Authority

The Shipping Act of 1916, 46 U.S.C. §§ 813(a), 817(b), 820, 833(a), and 841(a).

Reason for Including This Entry

The Federal Maritime Commission (FMC) thinks this rule is important because it will provide shippers with greater rate stability and the consequent ability to improve long-range commercial marketing practices.

Statement of Problem

The shocks absorbed in foreign exchange markets since 1971, arising from two devaluations of the U.S. dollar and a shift of most of the major currencies from fixed to floating exchange rates, have created frequent and substantial fluctuations in these exchange rates. Consequently, ocean carriers and conferences (associations of carriers permitted, pursuant to an agreement approved by the Commission under § 15 of the Shipping Act of 1916, to discuss, establish, and file rates and practices on behalf of their member lines) have filed numerous currency adjustment factors with the Commission in recent years to accommodate currency fluctuations. A currency adjustment factor is a surcharge imposed upon the shipping public by steamship carriers and conferences to allow for the adjustment of ocean freight rates to reflect currency fluctuations. Several years ago, carriers in the U.S. foreign commerce began to impose these surcharges upon the shipping public in response to currency changes.

Whenever currency adjustment factors are established by steamship conferences, the shipping public frequently registers legitimate complaints about their establishment. Over the last several years, the Commission has received an increased number of such complaints, centering on three major issues. One major complaint refers to the fact that such surcharges often do not reflect current foreign exchange market conditions because currency surcharges are generally implemented some time after the negative currency fluctuation in question has occurred. Another complaint concerns the allegedly disproportionate level of the surcharge imposed in response to the currency fluctuation and the methods used in its computation. The shipping public also protests the lack of reciprocal adjustments to reflect positive tariff currency changes.

When a surcharge of any type is filed by an ocean carrier or conference, the Commission has an obligation to ensure that these transportation costs will not unduly impede our international trade by interfering with the efficient flow of goods or imposing costs upon U.S. exporters that are unreasonably high in comparison to costs imposed upon their foreign counterparts. In response to this obligation, the Commission promulgated rules to provide for a procedure under which certain carriers and conferences that operate pursuant to a Commission-approved system of dual-rates could justify and impose currency surcharges on less than the required statutory notice period (90 days) in the event of a depreciation of the tariff currency. (Dual-rate contracts are used as a patronage or loyalty device to offer lower rates to shippers who agree to give all or a fixed portion of their shipments to a specific carrier or conference. The Shipping Act of 1916 requires that the contract rate shall not be more than 15 percent lower than the published ordinary rate.) Owing to its cumbersome requirements for justifying a "short-notice" currency surcharge, this rule has never been used by any carrier or conference since its promulgation.

Since this rule has never been used, the staff of the Commission developed other, informal procedures in February 1977 to validate currency surcharges. However, this system did not produce sufficient data to permit proper evaluation of the surcharges. Since the existing formal rule has never been used and the Commission's informal system has yielded inadequate data regarding the validity of currency surcharges, it has become apparent that a new procedure is required.

The proposed regulation replaces the existing rules, which apply only to carriers and conferences employing approved dual-rate systems. The purpose of the new regulation is to establish procedures and tariff filing requirements under which steamship carriers and conferences may publish and file currency adjustment factors in their ocean freight rate tariffs on not less than 15 days' notice in the event of a change in the value of the tariff currency. The proposed rule will establish a simplified and uniform

procedure for the filing of all currency surcharges and will apply to all carriers and conferences.

The proposed regulation represents an effective system which will ensure prompt Commission consideration of all currency surcharges. The proposal establishes clear, understandable procedures that are equitable to the industry and permit adequate review by the Commission to ensure protection of the shipping public.

Alternatives Under Consideration

Retention of the existing rules and the informal currency surcharge validation system is an alternative. However, to do so would cause the Commission to be unresponsive to problems that have arisen under these procedures. For example, one of these problems concerns the selection of a base date used by a carrier or conference to compute the level of a currency surcharge. The proposed rule eliminates the uncertainties under existing procedures by specifically defining the base date that must be used.

If the Commission takes no action, regulatory supervision over carriers and conferences imposing currency surcharges will continue to be inadequate and the shipping public will not benefit from the increased degree of protection that would be provided through the rule.

Other alternatives would entail different systems of evaluating currency adjustment factors. However, the Commission believes the existing proposal is the simplest and most equitable because it affords shippers the greatest protection while imposing the least burden upon the industry and generating the least administrative cost within the FMC.

Summary of Benefits

Sectors Affected: Steamship carriers and conferences operating in the U.S. foreign commerce (deep sea foreign transportation); and shippers.

All steamship carriers and conferences operating in the U.S. foreign commerce will be affected by the proposed rule if they impose currency surcharges. The rule will allow carriers and conferences to impose such surcharges on short notice (15 days), thus permitting more responsive and faster adjustments in rates due to currency fluctuations. The proposal establishes a simplified and uniform procedure for the publication of currency adjustment factors. This will enable the Commission to fairly, reasonably, and promptly review these surcharges under statutory standards and provide a greater degree of protection to the shipping public.

The rule also requires a reciprocal adjustment in rates if the tariff currency appreciates by 2 percent or more. This requirement permits the currency adjustment factor to operate as a true adjustment, restoring the prior currency relationship, and it is therefore clearly responsive to shippers' complaints. Since the methods used to compute a currency adjustment factor level as prescribed in the rule are uniform, shippers will be aware of how individual currency surcharges are determined.

Summary of Costs

Sectors Affected: Steamship carriers and conferences operating in the U.S. foreign commerce (deep sea foreign transportation).

No quantitative estimate of the relative costs are available. However, those carriers and conferences imposing currency surcharges must submit expense data in a specific format (Currency Adjustment Factor Computation Statement), and thus will incur some administrative costs.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Regulatory Analysis—This rule does not require a Regulatory Analysis under E.O. 12044 because we are developing it through a formal rulemaking process in accordance with the Administrative Procedure Act.
Final Rule—Fall-winter 1980.
Final Rule Effective—Fall-winter 1980.

Available Documents

NPRM—45 FR 23708, April 8, 1980.
Public Comments.
Federal Maritime Commission Docket 80–19.

Commission General Order 13, "Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States" (46 CFR Part 536).

Commission General Order 19, "Dual-Rate Contract Systems in the Foreign Commerce of the United States" (46 CFR Part 538).

All documents are available for review in the Office of the Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, N.W., Washington, DC 20573.

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FMC

Revision of Commission General Order 4, Licensing of Independent Ocean Freight Forwarders (46 CFR Part 510*)

Legal Authority

Shipping Act of 1916, 46 U.S.C. §§ 820, 841(a), and 841(b); Shipping Act Amendments of 1979, P.L. 96–25, 93 Stat. 71.

Reason for Including This Entry

The Federal Maritime Commission (FMC) thinks this rule is important because it will substantially affect the entire ocean freight forwarding industry and that industry's commercial relationships with the shipping public and oceangoing common carriers, thus affecting a significant portion of United States export commerce. It will modernize the Commission's regulations affecting the freight forwarding industry, which have not been substantially modified in 18 years, to reflect significant changes in the practices and economics characterizing the U.S. ocean commerce.

Statement of Problem

There is a need to revise and modify FMC General Order 4, "Licensing of Independent Ocean Freight Forwarders," to reflect the changing nature of the U.S. export commerce. An independent ocean freight forwarder is an individual, corporation, partnership, association, or other legal entity that, for a fee, dispatches shipments on behalf of oceangoing common carriers and handles the processing incident to such shipments. Most independent ocean freight forwarders are smaller businesses. Services rendered by this industry include the dispatching and facilitation of export cargo on behalf of shippers; examining instructions and documents received from shippers; preparing and processing export declarations; booking or confirming cargo space; preparing and processing delivery orders and dock receipts; arranging for and furnishing trucks and lighters (boats used in unloading and loading vessels not lying at wharves, or in transporting freight about a harbor); preparing instructions to truckmen and lightermen; preparing and processing ocean bills of lading; preparing and processing government international commercial documents and arranging

for their certification; arranging for and furnishing warehouse storage; arranging forwarder's payment of freight monies to the carrier. Increased costs compel oceangoing common carriers (deep sea transportation)

Summary of Costs
Sectors Affected: Independent ocean

INTERSTATE COMMERCE COMMISSION

limitations also result in diminished service to the public, increased

for their certification; arranging for and furnishing warehouse storage; arranging for insurance; clearing shipments in accordance with U.S. Government export regulations; preparing and sending advance notifications of shipments and other documents to banks, shippers, or consignees; advancing necessary funds in connection with the dispatching of shipments; coordinating the movement of shipments from origin to vessel; rendering special services in connection with unusual shipments or difficulties in transit; and giving expert advice to exporters concerning letters of credit, licenses, and inspections.

The FMC's General Order 4 sets forth regulations affecting all aspects of these functions by establishing criteria for qualification as an independent ocean freight forwarder and setting guidelines for the performance of forwarding duties, specifically providing for the Commission's licensing of independent ocean freight forwarders, the procedure for applying for licenses, the qualifications required of applicants, and the grounds for Commission revocation or suspension of licenses. The General Order also contains rules pertaining to the practices of licensed independent ocean freight forwarders, ocean freight brokers (persons engaged by a carrier to sell transportation services and who hold themselves out by solicitation or advertisement as entities who negotiate between shipper and carrier for the purchase, sale, conditions, and terms of transportation), and oceangoing common carriers, pursuant to 46 U.S.C. § 841(b) as enumerated above. The FMC believes that since the General Order was originally issued in December, 1961, many of the rules published in that Order have become outdated and impractical, creating confusion and consequent inefficiency in their application.

Additionally, substantive questions have arisen which the proposed rule attempts to resolve. At present, the FMC does not require each branch office of a licensed forwarder to post a separate surety bond covering the cargo shipments it handles nor have a qualified individual supervise its operation. For better protection of the shipping public, the FMC believes that consideration should be given to requiring each branch office to be separately licensed, and individually bonded, and to have its own qualifying officer or individual. The FMC also needs to clarify fitness qualifications for prospective forwarders and establish a more realistic rule governing the forwarder's payment of freight monies to the carrier. Increased costs compel higher license fees and the policies of the Shipping Act Amendments of 1979, P.L. 96–25, 93 Stat. 71, need to be reflected in the General Order, ensuring that forwarders certify as required by the FMC, that they will not engage in illegal rebating activities (46 U.S.C. § 802(b)) and will be subject, if necessary, to the Commission's assessment of civil penalties for such activities (46 U.S.C. § 831(e)).

If the FMC takes no action at this time, regulatory supervision over freight forwarding will be more difficult and less current, and the shipping public may not be sufficiently protected from injury caused by inexperience, malpractices, negligence, or financial mismanagement.

Alternatives Under Consideration

Retention of the existing General Order 4 is an alternative, but it represents an option that would be unresponsive to current commercial practices in the ocean shipping industry and to the problems that have arisen under the regulations encompassed in the current Order.

The proposed rule requires a surety bond in the same amount from each licensed branch office. This may prove to be too burdensome for some small branch offices while providing insufficient indemnification of the shipping public for other, larger offices. The proposal invites comments on the alternative approach of graded levels of surety bonds from a forwarder's home office, depending on the company's number of branch offices.

In evaluating alternative criteria which may be used to determine the qualifications for a forwarding license, the Commission must weigh the administrative costs, paperwork burden, and overall regulatory burden of extensive criteria for qualification against the need to protect the shipping public from unscrupulous or financially irresponsible applicants. Similarly, in considering alternative criteria for revocation and/or suspension of forwarding licenses, the FMC must balance the regulatory burden of careful monitoring and oversight of the forwarding industry against the ongoing need to protect the shipping public.

The FMC invited comments on alternative proposals and methodologies from interested parties on all or any part of the proposed rule.

Summary of Benefits

Sectors Affected: Independent ocean freight forwarders; shippers; and oceangoing common carriers (deep sea transportation).

Through more detailed clarification of the qualifications necessary to obtain a license and the rights and duties of forwarders in their relationships with shippers and carriers, the FMC anticipates fewer problems developing within this industry, with a resulting decrease in the need for more burdensome regulation in the form of formal proceedings and assessment of civil penalties.

There are more than 1,300 licensed independent ocean freight forwarders located in almost every State, most of whom will benefit from this rule. By increasing the time within which such forwarders must make payment of freight monies to carriers, a more orderly and commercially realistic operation should emerge. Forwarders will also benefit by being allowed to deduct from such freight payments monies owned them by the carriers. Currently licensed responsible freight forwarders will also be better protected from competition from irresponsible or inexperienced forwarders, both licensed and unlicensed.

All manufacturers of goods for export abroad, located in every State of the United States, represent shippers that will benefit from the protections afforded by the proposed rule. A stringent rule requiring payment by the forwarder to the carrier of the freight monies advanced by the shipper should minimize those situations where the carrier sues the shipper for such freight monies when a forwarder does not pay it. A more experienced and responsive forwarding industry will perform better services for shippers. Where something does go wrong, shippers will be better protected by more stringent and adequate surety-bond requirements.

Oceangoing common carriers departing every U.S. port will benefit by a more responsive forwarding industry. More cargo will be generated for carriage, leaving little to do by the carrier itself other than loading cargo aboard ship and taking the cargo to its destination.

A revised and clarifed General Order should benefit all affected sectors by providing a better description of the rights and obligations attendant upon all participants in forwarding activities and transactions. Revision of General Order 4 also provides the opportunity to modernize existing regulations to conform to current commercial needs and practices, with consequent benefits for all affected sectors.

Summary of Costs

Sectors Affected: Independent ocean freight forwarders.

As a result of increased costs determined by an FMC cost analysis, the proposed rule would increase license application fees from $125 to $350 and add new fees of $100 each for supplementary investigations and processing applications for approval of changes. The estimated yearly aggregate increase in cost to the independent ocean freight forwarding industry of this increase would be $65,000. Record-keeping and reporting requirements have been slightly changed. Other than these, the FMC cannot accurately evaluate the regulatory burden, but in our NPRM, we asked interested parties to provide an estimate of the financial and work-hour burdens that will be incurred in complying with the recordkeeping and reporting requirements as well as with other substantive regulations.

Related Regulations and Actions

Internal: The proposed rule would eliminate publication in the **Federal Register** of notice of applications for independent ocean freight forwarder licenses as unnecessary. A separate rulemaking to accomplish this in more expeditious fashion is being considered.

External: None.

Active Government Collaboration

None.

Timetable

Regulatory Analysis—This rule does not require a Regulatory Analysis under E.O. 12044 because we are developing it through a formal rulemaking process in accordance with the Administrative Procedure Act.

Final Rule—December 1980.

Final Rule Effective—December 1980; branch office licensing may become effective somewhat later.

Available Documents

NPRM—45 FR 17029, March 17, 1980. Federal Maritime Commission Docket 80–13.

All documents are available for review in the Office of the Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, N.W., Washington, D.C. 20573.

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INTERSTATE COMMERCE COMMISSION

Elimination of Gateway Restrictions and Circuitous Route Limitations; Removal of Restrictions From Authorities of Motor Carriers of Property (Ex Parte No. 142; Ex Parte No. 142 (Sub-No. 1)) (49 CFR Chapter X*)

Legal Authority

Interstate Commerce Act, 49 U.S.C. §§ 10321 and 10922(h).

Reason for Including This Entry

The Interstate Commerce Commission (ICC) believes these related rulemakings are important because they implement Congressional mandates which mark significant changes in the manner in which we regulate. These major reforms will allow carriers much greater flexibility in the routes they may use, the services they may offer, the territories they may serve, and the commodities they may haul. The cumulative effect of these reforms will reduce carriers' operating inefficiencies and will also reduce wasted fuel.

Statement of Problem

Under the existing scheme of economic regulation, persons seeking to transport most types of property by motor carrier in interstate commerce must first obtain common or contract operating authority from the ICC. Applications are filed with the Commission seeking to transport certain commodities, and to serve certain territories. These applications may also include self-imposed limitations on service (e.g., restricting service to or from a shipper's plantsite; restricting service to that performed in specialized equipment, such as vehicles equipped with mechanical refrigeration or in bulk; or excluding service to a particular commercial zone, or to any number of points in a certain territory). The ICC always retains the power to include restrictions that are found to be in the public interest.

In the Motor Carrier Act of 1980 (the Act), Congress recognizes that in the past, carriers have often imposed limitations on themselves—that is, they have applied for the narrowest possible authority—as a means of avoiding opposition to their applications by other carriers who contend that such applications could damage their own operations. This situation has resulted in thousands of narrow-authority applications. This not only creates a burden on the ICC, but the self-imposed limitations also result in diminished service to the public, increased operating inefficiencies for the carrier, and wasted fuel. The cumulative costs of limitations are often passed on to the ultimate consumer and are reflected in increased costs.

For instance, current regulatory restrictions may prevent certain carriers from providing service by way of the most direct routes, since they only authorize those carriers to travel on specified routes ("regular-route" carriers). Carriers are sometimes subject to extremely narrow limitations on the types of commodities they can transport and the territories they can serve. Existing authorities may prohibit carriers from serving intermediate points on their routes, or prohibit them from obtaining revenue-paying freight for return trips (backhauls) because they have only one-way authority to or from certain markets.

The Act directs the ICC either to eliminate these restrictions by the end of 1980 or to prescribe procedures by which carriers can apply to eliminate, or lessen the impact of, these restrictions. The Commission is conducting two rulemakings in response to the Act's mandate.

In Ex Parte No. MC-142, Elimination of Gateway Restrictions and Circuitous Route Limitations, the ICC proposes to adopt rules which would allow property carriers to perform their services over any available route. Presently, some carriers can only provide point-to-point service by operating over a prescribed route, which is not necessarily the most direct, or by joining separate grants of operating authority (serving Washington-New York by joining authorities to serve Washington-Pittsburgh and New York-Pittsburgh). This proposal would repeal most existing rules, allowing carriers to deviate from prescribed regular routes.

In Ex Parte No. MC-142 (Sub-No. 1), Removal of Restrictions from Authorities of Motor Carriers of Property, the ICC proposes to adopt rules that would establish expedited procedures for carriers to use in filing applications to eliminate restrictions or broaden unduly narrow service limitations or commodity descriptions in their existing authorities. The rules would contain guidelines designed to assist applicants in filing applications for the removal of operating restrictions by indicating certain types of restrictions or operating limitations in operating authorities which the Commission considers, under normal circumstances, to be excessively narrow, wasteful of fuel, inefficient, or contrary to the public interest.

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Alternatives Under Consideration

There are no specific alternatives presently contemplated. The ICC will consider feasible alternatives, proposed by the public during the comment period, which are consistent with the national transportation policy.

Summary of Benefits

Sectors Affected: The motor carrier industry; shippers and consumers of products transported by truck, particularly small shippers and shippers and consumers serving and located in small and rural locations; and the ICC.

Adoption of these rules is expected to increase competition in the motor carrier industry, to result in fuel savings and concurrent cost savings, to reduce transit time for delivery, to improve the operating efficiency of carriers, and to aid in providing and maintaining service to small and rural communities and small shippers. These benefits are expected to accrue as the motor carrier industry gears itself to operating in a competitive business environment where there is less intrusive government regulation.

Summary of Costs

Sectors Affected: The motor carrier industry; and the ICC.

The costs of transporting products are expected to decrease overall; however, because market forces will be a more determinative factor in transportation, the costs of transporting products to or from particular rural locations may increase for some carriers not geared to rural operations. It is conceivable that increased competition might lead to diminished business for less efficient carriers or carriers who are not receptive and responsive to market conditions. In this situation, however, more efficient carriers with lower costs would be favored with greater amounts of traffic from the shipping public.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Final Rule—December 1980.

Regulatory Analysis—The Commission does not plan to issue a separate Regulatory Analysis in this proceeding. The notice of final rules will incorporate the results of our regulatory analysis process.

Available Documents

NPRM published at 45 FR 61333, September 16, 1980 (Ex Parte No. MC-142).

NPRM published at 45 FR 61326, September 16, 1980 (Ex Parte No. MC-142) (Sub-No. 1).

Public comments are available for review in the Office of the Secretary, 12th St. and Constitution Avenue, N.W., Washington, DC. (Ask for docket for Ex Parte No. MC-142 and MC-142, Sub-No. 1.)

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ICC

Rules Governing Applications for Operating Authority; Acceptable Forms of Requests for Operating Authority (Ex Parte No. 55 (Sub-Nos. 43 and 43A)) (49 CFR Chapter X*)

Legal Authority

Interstate Commerce Act, 49 U.S.C. §§ 10922, 10923, and 10321.

Reason for Including This Entry

The Interstate Commerce Commission (ICC) believes these related rulemakings are important because they will encourage competition by establishing simpler and expedited procedures for those who apply to the ICC for motor carrier operating authority under the Motor Carrier Act of 1980 P.L. 96–296).

Statement of Problem

Under the existing scheme of economic regulation, persons seeking to operate in interstate or foreign commerce as motor carriers, water carriers, freight forwarders, and brokers must first obtain appropriate authority from the ICC. Former ICC policies effectively made it difficult to obtain authority to operate as a motor carrier of property. Authorities which were granted often were narrowly drafted and contained restrictions limiting the service carriers could offer the public.

The Motor Carrier Act of 1980 relaxes the entry criteria for new and existing motor carriers of property, requires the ICC to expedite its processing of all non-rail applications for operating authority, directs the ICC to implement procedures broadening descriptions of service which motor carriers can offer, and prohibits most restrictions and limitations on authorizations for services.

These two rulemakings not only simplify the application process for motor carriers, water carriers, freight forwarders, and brokers, but also adopt interim rules for the ICC's processing of applications, which will eliminate unnecessary regulatory examination of applications. Furthermore, because the proposed regulations would grant broad operating authority to motor carriers of property, carriers would not, in many instances, be required to file new applications for authority each time they seek to broaden the service they want to offer.

In the Ex Parte No. 55 (Sub-No. 43) proceeding, Rules Governing Applications for Operating Authority, the ICC proposes simplified filing procedures and a revised application form for all non-rail applications for operating authority. For certain applications for authority ("fitness-related" applications), applicants must meet fewer criteria than would otherwise be applicable, and need only supply sufficient information to establish themselves as fit. The ICC will process most applications through its modified procedure (parties exchange sworn statements rather than present their evidence in an oral hearing), which statutorily requires an initial decision within 180 days of the date the application is filed with the ICC. Prior to the Motor Carrier Act, ICC rendered initial decisions upwards of 400 days after the application was filed with the ICC (sometimes longer for applications assigned to oral hearing). Parties may request oral hearing, but only in extraordinary cases will the ICC consider applications for operating authority in an oral hearing procedure.

The proposed application process also provides that carriers may consolidate their existing operating authorities. Carriers presently may own hundreds of separate, fragmented operating authorities. The new procedure allows carriers to make one filing for consolidation of and expansion upon their existing authorities. This will make it easier for carriers and the public to ascertain what service carriers can offer and will decrease the number of times carriers will have to file for more authority.

The Commission has adopted the application process on an interim basis, in response to the Motor Carrier Act of 1980. Final rules are expected to be adopted by December 1980.

In Ex Parte No. 55 (Sub-No. 43A), Acceptable Forms of Requests for Operating Authority, the Commission is proposing broader and simpler descriptions of authorized service in its granting of operating authority for motor carriers of property. We presently describe all operating authority in terms of geography, commodity, and service limitations. The proposed rules would require most carriers to file for at least countrywide authority, would eliminate most service limitations, and would establish a short list of broad commodity descriptions under which all commodities would be classified.

Alternatives Under Consideration

The Commission's application process is keyed to the new statutory requirements for speedy processing. We believe that broader, simplified operating authority for motor carriers is consistent with the pro-competitive aims of the new Motor Carrier Act. However, the Commission, in the NPRM, does ask for alternatives to the proposed forms of requests for operating authority, particularly in the area of commodity descriptions. The proposed rule would use a commodity classification system now employed by railroads, but the ICC realizes this may not be suitable for motor carriers.

Summary of Benefits

Sectors Affected: The regulated non-rail transportation industry (including motor carriers, water transporters, freight forwarders, and brokers), particularly the trucking industry; shippers; ultimate consumers of products transported by truck; and the ICC.

The ICC believes that the new application process will make entry into the regulated motor carrier industry easier by lowering the regulatory restraints to entry, e.g., the simpler application form will reduce Federal paperwork compliance requirements. Because of broadened authority that would be granted to applicants, the new application process will also reduce the total number of filings that a carrier will be required to make with the ICC to achieve any desired level of service.

The proposed rules would reduce paperwork compliance costs to carriers by establishing simpler procedures used in fitness-related applications, by reducing the number of copies of pleadings which the Commission requires, and by requiring less filings, each of which requires a filing fee. In this way, carriers which obtain operating authority could pass savings on to the consumer. More importantly, by easing the regulatory restraints on obtaining operating authority, there will probably be more applicants. Once they are granted their authority, we believe they will force existing regulated carriers to be more competitive, generally lowering freight charges to attract business. This will result in lower prices which could be passed on to consumers of transportation services.

Summary of Costs

Sectors Affected: None.

ICC anticipates no new costs from this proposal.

Related Regulations and Actions

Internal: In Ex Parte No. MC–143, Owner-Operator Food Transportation, an NPRM has been issued requesting comments on a fitness-related application for operating authority for owner-operator transportation of regulated food and other edible products. The proposed rules establish simplified rate filings provisions and an annual reporting form, so that compliance with the requirements of operating under this authority may be monitored. Additionally, the rules propose that a filing fee for the application be waived.

Regulations existing before July 1, 1980 governing applications for operating authority and acceptable forms of requests for operating authority have been superseded by Ex Parte No. 55 (Sub–Nos. 43 and 43A).

External: None.

Active Government Collaboration

None.

Timetable

Final Rule—December 1980.

Regulatory Analysis—The Commission does not plan to issue a separate Regulatory Analysis in this proceeding. The notice of final rules will incorporate the results of our regulatory analysis process.

Available Documents

Ex Parte No. 55 (Sub-No. 43) (Notice of interim rules and request for comments on interim rules as basis for final rules) and Ex Parte No. 55 (Sub-No. 43A) (Notice of proposed policy statement) appear at 45 FR 45534 and 45545, July 3, 1980, respectively.

Public comments are available for review in the Office of the Secretary, 12th St. and Constitution Avenue N.W., Washington, DC (Ask for docket for Ex Parte No. 55 Sub-Nos. 43 and 43A.)

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POSTAL RATE COMMISSION

Experimental Classification—Rulemaking Docket No. RM80–2 (39 CFR 3001.120 et seq.)

Legal Authority

The Postal Reorganization Act of 1970, as amended, §§ 3603, 3622, and 3623, 39 U.S.C. § 3601 (1970).

Reason for Including This Entry

This rulemaking may have a national effect because it may help to facilitate the Postal Service's offering of new postal services which it has developed with the assistance of marketplace experiments. It is of national concern because changes in postal services can affect all mail users.

Statement of Problem

The Postal Service must request a recommended decision from the Postal Rate Commission before implementing a change in postal rates and fees or classifications (29 U.S.C. §§ 3622–23). The Postal Rate Commission issues its rate or classification decision after giving interested parties an opportunity for a public hearing in compliance with 5 U.S.C. §§ 556–57. The Commission forwards its decisions, in accordance with 39 U.S.C. § 3624, to the Governors of the Postal Service for final action. The Governors, under varying requirements, may approve, allow under protest, reject, or modify a Commission decision. This rulemaking deals only with the Commission's jurisdiction over classification changes.

From the time the Postal Service took over the functions of the Post Office Department in 1971, it presumed that it had authority to conduct marketplace experiments (experimental changes services, fees, classification, or required mail preparation) without requesting a recommended decision from the Postal Rate Commission.

On August 7, 1979, the Court of Appeals for the Third Circuit held that the Postal Service must come to the Postal Rate Commission for a recommended decision before conducting any marketplace experiment which includes a change in the rates any mailer pays, or the classification of any mail (*United Parcel Service* v. *USPS*, No. 78–2390 (3d Cir. Aug. 7, 1979)).

The Postal Rate Commission designed its current rules of procedure (39 CFR 3001.1–3001.116) with a view toward recommending decisions on proposals for permanent postal rates and

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classifications. The rules require the Postal Service to provide in writing the detailed information necessary if the mailing public is to participate meaningfully in Commission proceedings. This information also is necessary for the Commission to fulfill its statutory duties, described in 39 U.S.C. §§ 3622(b) and 3623(c), in recommending changes in rates and classification.

The current rules may not be suited for Postal Service requests for authority to conduct experiments. A substantial amount of the information required by the rules may not be available because it may be the very information the Postal Service seeks to acquire through the experiment. Any change in the rules will attempt to bring into better balance the right of the public to participate—by becoming a party or a limited intervenor, or offering comments—in the proceedings to decide if proposed experiments are appropriate and the need for the Postal Service to obtain expeditious consideration of its proposed experiments from the Postal Rate Commission.

Alternatives Under Consideration

The Commission held a conference on possible rulemaking on this subject on September 26, 1979 to explore potential solutions to the perceived problem. Six parties submitted written comments. On July 17, 1980, the Commission issued an NPRM which was published in the **Federal Register** (45 FR 48663, July 21, 1980). Four parties have submitted written comments in response to the NPRM. The parties who have taken part in the proceedings are: Officer of the Commission; United Parcel Service; Purolator Courier Corporation, *et al.;* Mail Order Association of America; American Bankers Association; National Association of Greeting Card Publishers; Time Incorporated; the United States Postal Service; and Fingerhut Corporation. The alternatives that the Commission is considering are:

(A) No change in the rules of procedure. The Postal Service would be required to provide all the information in accordance with the current rules unless it requested and received a waiver from the Commission (39 CFR 3001. 22). Parties who regularly take part in Commission proceedings are familiar with the current rules and should have no problem dealing with waiver motions. The Commission's rules of procedure, however, were not designed for use with experimental proposals. The waiver procedure may be unduly time-consuming and repetitious. Additionally, the Commission may be able to design rules that permit it to consider experimental proposals more expeditiously.

(B) The rules in the NPRM provide for a procedure to identify, at the beginning of the proceeding, the issues not requiring a trial-type hearing. Also, they specify that if there is a satisfactory explanation for the absence of information normally required, that absence could not be used as an argument against approving the experiment. The proposed rules require that the Postal Service's proposal include a description of the data-collection efforts the Postal Service intends to use. The proposed rules also call for a self-imposed deadline of 150 days for the Commission to issue its decision on the proposed experiment. The proposed changes are intended to streamline the necessary procedure.

(C) The Postal Service believes that the procedural rules governing experiments should be more streamlined than the Commission's proposed rules. The Postal Service proposes that the rules require the Postal Service only to describe the experimental offering and present a range of rates to be tested, along with reasonable cost estimates. No discovery (written questions parties direct to the Postal Service before the hearing) would be permitted and the Commission could hold hearings only on questions concerning the cost estimates. These rules would give the Postal Service considerable flexibility in conducting experiments, but would severely limit the public's participation in the decisionmaking. Eliminating discovery could increase the time spent in hearings, since discovery tends to reduce the number of issues and clarify parties' positions and allows much cross-examination in written form rather than by oral questioning. Limiting hearings to the issue of cost estimation would expedite the proceedings. However, the statute (39 U.S.C. §§ 3622–23) requires the Commission to consider other factors such as "the establishment and maintenance of a fair and equitable schedule" and "the desirability of special classifications from the point of view of both the user and of the Postal Service."

(D) The Officer of the Commission (OOC), who represents the interests of the general public in the Commission proceedings, offered some additional sections for the proposed rules; these additions concern duration, flexibility, data collection, and termination. The OOC's proposed rules require the Postal Service's request to include the time period for conducting the experiment. The OOC-proposed rules permit the Postal Service to request and receive a recommended decision for an experiment whose rates, services, and requirements vary within specified limits. These rules would require the Postal Service to submit monthly reports on the data collection. The OOC also proposed that at the end of the authorized experimental period, the Postal Service must file a request to make the experiment a permanent service offering, or to extend the experiment, or to notify the Commission and all parties that it does not intend to offer the experimental service after its authorization period expires. Furthermore, the rules would require the Postal Service to file a motion if it wanted to terminate the experiment early. These rules, unlike the current rules, are designed specifically to regulate Postal Service experiments. They would require the Postal Service to keep interested parties informed of the results of the experiment as well as the Postal Service's intentions regarding the service offerings.

(E) United Parcel Service (UPS) supports the rules in the NPRM, but offers three additions. First, UPS believes that the rules should forbid the Postal Service to conduct any experiment for longer than 2 years to prevent the Postal Service from using its authority to experiment as a substitute for requesting the Commission to recommend a permanent change, and to minimize any harmful effects to the Postal Service or others that the experiment might have. Second, UPS supported rules to permit the Commission to order the experiment modified or terminated if the Commission believes such an action to be in the best interest of the Postal Service or the public. Third, UPS suggests the rules contain an explicit statement that the Commission's approval of an experiment does not imply that the Commission is in favor of adopting a permanent change. The UPS suggestions would tend to involve the Commission in the experiment to a greater degree, and thus limit the Postal Service's flexibility. This greater involvement would allow more public participation, because interested parties who opposed the experiment would have the opportunity of asking the Commission to order the Postal Service to end it.

(F) The American Bankers Association (ABA) supports the rules proposed by the Commission, but suggests three changes. Under the ABA's proposal, the Postal Service could change different aspects (such as price) of the experimental service after notifying the Commission. The public could comment on the changes and the Commission could order the changes stopped. The ABA also proposes that the Commission require the Postal Service to report on the experiment at set intervals, and that the Commission keep the record open during the experiment, so that it can include the reports and suggestions submitted by the public. The ABA believes that, with the additions it proposes, the rules governing requests for experiments would prevent delays in the implementation of experiments while protecting the public's rights.

(G) In its comments responding to the NPRM, Fingerhut Corporation, which does a large amount of mail order business, states that the procedures concerning proposals for experiments should work as expeditiously as possible. Fingerhut is concerned that a party who opposes a particular experiment may be able to make the proceeding unduly burdensome and time-consuming. To promote a more expeditious procedure, Fingerhut suggests that the Commission's self-imposed deadline be shortened by 30 days. In fashioning a new set of rules, the Commission is attempting to make the procedure as expeditious as possible while allowing the public its right to participate meaningfully. Fingerhut's proposals would promote expedition but would reduce the ability of the public to participate in the decisionmaking.

The Commission is considering the comments that the parties have submitted to determine if the suggested modifications or additions would result in a set of rules best suited to the goal of expediting proceedings on experiments while affording the public its right to participate meaningfully.

Summary of Benefits

Sectors Affected: United States Postal Service; the Postal Rate Commission; and the mailing public.

Rules designed specifically for the expeditious consideration of proposed experiments should assist the Postal Service in developing new services and improving current ones to meet the needs of the mailing public. Rules expediting procedures for Commission consideration of experiments should encourage the Postal Service to propose more experiments than it might under the current rules, with the resulting benefit that the Postal Service can move more quickly to offer the public innovative services. The rules should help the Commission and interested parties focus on the factors that are important for an experiment, without having to make a case-by-case, repetitious identification of what is important in considering a permanent change, but not an experiment.

The Commission tries to issue a decision on a proposed permanent classification change within 10 months of the day it is filed. This time period is the same as the statute, 39 U.S.C. § 3624(c)(1), gives the Commission to consider Postal Service requests for permanent changes in rates, but is not a mandatory one. Under the proposed rules, the Commission has set a 120-day (4 month) deadline for itself. The Commission believes that the rules will assist it in considering experimental proposals with the greater expedition that the limited character of experimental proposals makes possible.

Special rules for experimental proposals should enable the parties to participate in a more meaningful way by focusing the proceedings only on the important issues, eliminating effort spent on issues important in a permanent change but not in an experiment. The Commission should be able to consider the cases more expeditiously. Additionally, the opportunity for interested parties to participate in the decisionmaking for experiments should give the Postal Service valuable insight and information concerning mailers' needs. The Postal Service may be better able to take parties' suggestions into consideration, as the rules attempt to focus attention on the aspects of the case in which the parties' suggestions can be most helpful. The parties may suggest improvements in the proposed experiments that otherwise would not have been considered.

Adoption of special rules for consideration of proposals for experiments may result in lower costs of regulation. If the Postal Service had to follow the current rules, which were designed for types of cases other than experimental proposals, it is possible that the Postal Service and the other participants would expend resources on issues that need not be explored in considering a proposal for an experiment. Our proposed rules are designed to eliminate such unnecessary expenditures by streamlining the proceedings for experimental cases.

Summary of Costs

Sectors Affected: None.

We do not expect the proposed rules to impose any cost burdens, beyond those that may occur because simpler procedures may result in an increase in the number of experimental proceedings the Commission will consider. The fact that only one regulated entity (the Postal Service) is involved, however, tends to set a natural limit on the number of additional proceedings that might occur. The cost of dealing with increased number of applications will be far outweighed by time and resources saved under this new proposal by all interested parties, including the PRC.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

Final Rules—To be adopted after consideration of comments received in response to NPRM (45 FR 48663, July 21, 1980).
Public Hearing—To be determined.
Regulatory Analysis—The PRC, as an independent agency, is not required to prepare a Regulatory Analysis as it is defined under E.O. 12044. However, the PRC prepares essentially the same information in its NPRMs and final rules.

Available Documents

NPRM—45 FR 48663, July 21, 1980.
The transcript of the September 26, 1979 conference and the comments that parties have filed on Possible Rulemaking and in response to the NPRM on USPS Experimental Services (Docket No. RM80–2) are available by contacting the Commission's Docket Room, 2000 L Street, N.W., Room 500, Washington, DC 20268, (202) 254–3800. Documents may be inspected in the Commission's reading room. Copies of documents issued by the Commission or filed by the OOC are available without charge. Copies of all other public documents are available for 15¢ per page. Copies may be requested by mail or telephone.

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PRC

Postal Rate Commission Docket—E-COM Forms of Acceptance, 1980

Legal Authority

Postal Reorganization Act, 39 U.S.C. §§ 3621–23.

Reason for Including This Entry

This case may have a national effect because it will be an investigation into

possible ways to make the Postal Service's planned new service offering,

At the time the Governors accepted the Commission's design for E-COM,

and direct connection of telecommunication systems owned by

when they pay for the goods and services

documents issued by the Commission or filed by the OOC are available without

(A) The percentage rate increases the Postal Service proposes for the various

possible ways to make the Postal Service's planned new service offering, E–COM (Electronic Computer Originated Mail), available to more mailers. It is possible that the decision in this case may provide an opportunity for the Postal Service and large volume mailers to increase their productivity without causing any adverse effects.

Statement of Problem

The Postal Service is preparing to offer a service, E–COM, in which large volume mailers can have messages electronically transmitted from their computers to specially equipped post offices. At these post offices, the Postal Service will convert the electronic messages to printed documents that the Postal Service will put in envelopes and deliver. After reviewing new and developing technologies, the Postal Service had decided that electronic mail was an important way of offering innovative service and lowering costs to mailers.

The Postal Service filed a proposal for the Commission's consideration. The Postal Service intended to contract with a single commercial telecommunications carrier, to provide all the transmission and data processing services involved when mailers used the E–COM service. The Commission, while agreeing with the Postal Service's decision to enter the market for electronic mail, recommended an alternative plan in which various private firms can compete for the business of transmitting the electronic messages from customers to 25 specially equipped post offices, where the data processing, printing, and enveloping would be done. On August 15, 1980, the Governors of the Postal Service accepted the E–COM system the Commission recommended.

The Postal Rate Commission (PRC), believes that the alternative it recommended and the Postal Service accepted would foster competition in telecommunications, provide technically superior service at a lower cost, and eliminate a potential jurisdictional overlap with the Federal Communications Commission (FCC). The FCC has jurisdiction over telecommunications carriers. Under the Postal Service's original proposal, the FCC believed that the Service would become a telecommunications carrier under FCC's jurisdiction. The E–COM system the PRC recommended and the Governors of the Postal Service approved is consistent with the Administration policy to involve the Postal Service in electronic mail and to preserve a competitive telecommunications market.

At the time the Governors accepted the Commission's design for E–COM, however, they instructed the Postal Service to present, as soon as possible, evidence to the Commission supporting two additional methods for mailers to use in entering electronic mail into the postal system—two methods that mailers could use to enter their mail into the E–COM system without purchasing telecommunications service from one of the various firms that will offer it. The Governors want to permit (1) mailers to enter electronic mail by presenting magnetic tapes over-the-counter at the specially equipped post offices, and (2) direct connection to those post offices by mailers who have their own telecommunication systems.

Consideration of these two additional methods of entry will not delay the Postal Service's implementation of its E–COM service offering. To facilitate consideration of the matter, the PRC instituted Docket No. MC80–1 shortly after the Governors first suggested the two alternative entry methods, in anticipation of the Postal Service's filing. The institution of Docket No. MC80–1 gives notice to interested parties that the Commission will expeditiously consider the proposal to add two other methods of entry for E–COM mail. The parties therefore have additional time to assess their positions and decide whether to intervene and what to present.

Alternatives Under Consideration

At this stage of the case, before the Postal Service has filed its proposal, only a general outline of the issues to be considered is clear. After the Postal Service has filed its proposal, interested parties will have an opportunity to offer modifications to the two forms of entry under consideration, as well as any related proposals—possibly including additional methods for entry. The alternatives we are considering are:

(A) No change in the forms of entry. The system would operate as described in our opinion in Docket No. MC 78–3. Every mailer who wanted to use E–COM would have to use the services of a carrier. The Postal Service can implement E–COM service without the additional methods of entry. These two methods were not explored in Docket No. MC 78–3; therefore, neither the Postal Service nor the Commission can estimate how many mailers would use the additional methods if they were available and what the cost to the Postal Service and mailers would be.

(B) The Governors of the Postal Service want the methods of entry expanded to include presentation of magnetic tapes in specified post offices and direct connection of telecommunication systems owned by mailers. According to the Governors, this expansion of the methods of entry into the E–COM system could reduce mailers' costs. Additionally, mailers who might not use the E–COM service if they had to purchase telecommunication service might decide to use E–COM if the additional methods of entry are available.

Summary of Benefits

Sectors Affected: USPS; large volume mailers and recipients of that mail; and the telecommunications industry.

The exploration of these possible modifications should reveal whether improvements can be made in methods of entry into the E–COM system. The availability of additional ways to enter messages into the E–COM system might decrease costs to mailers who take advantage of them, and might make electronic mail available to more mailers. Competition might be enhanced because the telecommunication carriers would be competing against these alternatives as well as each other. The Postal Service would benefit if the additional entry methods increased the volume of E–COM mail without increasing the Postal Service's costs. Recipients of E–COM mail might benefit if the alternative methods reduced mailers' costs, because the recipients will often be consumers of the goods and services produced by the mailers and anything that serves to hold down the mailers' costs will tend to stabilize the prices charged consumers. Possible benefits may have to be weighed against potential increases in costs to the Postal Service, which might result if extra equipment or personnel are needed to deploy the new forms of entry. These are the issues that the Commission will consider in the case.

Summary of Costs

Sectors Affected: USPS; and large value mailers and recipients of that mail.

If the alternative methods are adopted, the Postal Service will have to pay for an employee to accept computer tapes over-the-counter and perform the operations necessary to convert the messages from the tapes into printed words on paper. Large volume mailers who took advantage of either alternative form of entry would have to pay the cost of putting their messages into a form that the Postal Service's E–COM system can accept. Because recipients will often be consumers of the goods and services produced by the mailer, those recipients probably will bear the costs involved when they pay for the goods and services.

At this time, the Commission cannot estimate the impact that this case will have on costs. The Commission anticipates that the Postal Service will present evidence on its costs to accept electronic mail under the two additional methods and that mailers desiring to use the additional methods of entry will present evidence concerning their costs.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

When the Postal Service files its proposal, the Commission will issue a schedule for the expeditious consideration of this case.

Public Hearing—The Commission will hold public hearings in compliance with 5 U.S.C. §§ 556–57.

NPRM—To be determined, contingent upon Postal Service's filing of proposal.

Public Comments—Will be invited in NPRM.

Regulatory Analysis—The Postal Rate Commission, as an independent agency, here engaged in formal rulemaking on the record, is not required to prepare a Regulatory Analysis as it is defined under E.O. 12044. However the Postal Rate Commission presents essentially the same information in its decisions.

Available Documents

As the following documents are filed with the Commission or issued by it during the course of the proceedings, they will be available from the Commission's Docket Room, 2000 L Street, N.W., Room 500, Washington, DC 20268, (202) 254–3800.

Commission Order No. 339 instituting the proceeding in MC80–1 and the Notice sent to the **Federal Register**, published at 45 FR 37571, June 3, 1980.

Transcripts of Hearings, as well as Testimony, Exhibits, Workpapers, Library References/Studies, Interrogatories and Answers, and Requests for Oral Cross-Examination and Written Cross-Examination for Docket MC80–1.

Commission Orders and Notices; Presiding Officer's Orders, Ruling, Motions and Notices, Petitions for Leave to Intervene and Requests for Limited Participation; and Commission's Recommended Decision for Docket MC80–1.

Documents may be inspected in the Commission's reading room. Copies of documents issued by the Commission or filed by the OOC are available without charge. Copies of all other public documents are available for 15 cents per page:

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PRC

Postal Rate Commission Docket R80–1—Postal Rate and Fee Changes, 1980

Legal Authority

Postal Reorganization Act, 39 U.S.C. §§ 3621–23.

Reason for Including This Entry

This case is important because it may result in changes in every postal rate and fee charged the mailing public. The Postal Service estimates that its proposed changes would increase its revenues by $3.75 billion in the 12-month period from March 21, 1981 to March 20, 1982.

Statement of Problem

On April 21, 1980, the United States Postal service (USPS) filed with the Postal Rate Commission (PRC) Docket No. R80–1, a request for a recommended decision on its proposed changes in postal rates and fees, together with proposals for certain changes in mail classification. The Postal Service says that unless the PRC recommends the proposed changes in postal rates and fees, the Service will suffer a deficit of $4.9 billion in the 12-month period from March 21, 1981 to March 20, 1982.

In addition to rate and fee increases—and certain decreases for some mail given special preference by Congress—the Postal Service proposes a number of changes in the way rates are structured and mail is classified.

The public hearings on the Postal Service's case began on July 8, 1980. Participants filed their evidence on August 13, 1980 and hearings on those cases began on October 6, 1980. Parties filed rebuttal testimony on November 6, 1980, and the hearings on those filings began on November 13, 1980. In addition to the Postal Service, more than 50 other parties are taking part in the case.

Alternatives Under Consideration

Parties in this case have advanced various alternatives. Some of the highlights of some of the alternatives are as follows:

(A) The percentage rate increases the Postal Service proposes for the various major categories of mail service are approximately as follows:

First-class (includes letter mail)—33.3 percent (increase from 15¢ to 20¢ for the first ounce).

Second-class (regular) (magazines and newspapers)—1.9 percent (increase in average rate paid per piece from 10.2¢ to 10.4¢).

Third-class bulk rate (regular)—17.7 percent (increase in average rate paid per piece from 8.5¢ to 9.5¢).

Fourth-class parcel post—8.4 percent (increase in average rate paid per piece from $2.12 to $2.34).

Fourth-class special-rate (for books, records, and tapes)—0.6 percent (increase in average rate paid per piece from 112.8¢ to 113.4¢).

Included with the Postal Service's request are various proposals affecting mailing practices. The proposed rate structure includes a 3-cent discount for mailers who presort first-class mail by ZIP codes, and a 4-cent discount for mailers who presort to the carrier route on which the mail will be delivered. Mailers who presort post cards to ZIP codes or carrier routes will receive discounts of 1 and 2 cents, respectively.

Other highlights of the proposed rate structure include a merger for rate purposes of the controlled circulation category of publications with regular second-class mail so that mailers of both categories of publications would pay the same rates. (Second-class is for periodicals that have paying subscribers. Controlled circulation can be used with periodicals that do not have paying subscribers, such as trade journals sent without charge to the recipient.) The Postal Service proposes an additional parcel post zone (a distance bracket within which mail of the same weight and class is charged the same; for example, zone 3 is 150 to 300 miles) for parcels mailed and to be delivered within the service area of the same Bulk Mail Center, (the central point in the area to which parcels are sent for processing); and a reduction of rates for lockbox rentals in small post offices where neither rural nor city delivery service is provided.

Additionally, the proposed rate structure and associated classification changes would eliminate some fees now required of mailers of presorted bulk first-class; create an additional zone for express mail and make return receipts available with it; charge an additional fee, of 20¢ or 60¢ depending on destination, for parcel post not compatible with Postal service processing machines; and make insurance optional with registered mail.

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(B) The American Bankers Association (ABA) suggests a discount for presort to the first three numbers of the ZIP codes. ABA says the minimum number of pieces of first-class mail necessary to qualify for the presort discount should be lowered from the current 500 to 400. The rate for each ounce over the first should be 5¢ less than the rate for the first ounce. Fees for caller service (the recipient picks up his or her mail at the post office window) should be $5.00 per year and lockbox fees should be reduced 50 percent because mail would take up post office space anyway.

(C) American Business Press (ABP) supports the Postal Service's proposal to eliminate the controlled circulation class and make it a part of second-class. According to ABP, this change will simplify the rate structure and make the presort discount now available to second-class also available to publishers using controlled circulation. Expansion of the presort discount would result in more worksharing and cost savings to both mailers and the Postal Service. ABP proposes that the expeditious delivery treatment now given time-sensitive publications such as newspapers be available to all publications willing to pay a fee of 1.1¢ per piece in addition to the rate for the regular delivery service provided to second-class. ABP offers an alternative zone rate schedule with lower rates than the Postal Service proposed for zones 4 through 8.

(D) The American Retail Federation (ARF) proposes that the discount for first-class mail presorted by ZIP codes be increased to 5¢ with an additional 1¢ discount for first-class mail presorted to the carrier route on which the mail will be delivered.

(E) Associated Third Class Mail Users (ATCMU) says that businesses, especially small businesses, would have great difficulty in adjusting to the increase proposed for third-class. ATCMU believes that businesses could cope with postal increases—even frequent ones—more easily if the increases were smaller. ATCMU proposes that the increase for third-class bulk be 23 percent instead of the 30 percent proposed by the Postal Service. To support the lower rate, ATCMU believes the Commission should reduce the Postal Service's revenue requirement by eliminating the costs for what it believes are non-essential items, including Saturday delivery and the next day delivery standard for some non-local first-class mail.

(F) The Association of American Publishers, Inc. (AAP) supports the Postal Service's proposed increases for fourth-class. AAP suggests redistributing costs from special rate fourth-class (book rate) to parcel post because of competitive necessity, since parcel post rates inevitably will be higher than UPS's.

(G) The Bank Stationers Association (BSA) opposes the requested increases for fourth-class. Additionally, it proposes that the rate structure for third-class bulk be changed from a minimum per piece and per pound schedule to a per piece and per pound schedule. With a minimum per piece and per pound schedule, first the total charge at the pound rates is computed. Then this charge is divided by the number of pieces in the mailing, and if the result is less than the minimum per piece rate, the minimum per piece rate is applied to each piece in the mailing. The result is that any mailing with pieces weighing under 3.42 ounces (at proposed rates) will pay the same postage regardless of whether they are 0.5 ounces or 3.4 ounces, or any weight in between. In fact, the Postal Service's Domestic Mail Manual indicates that *total* postage is computed twice—once at minimum per piece rates and once at pound rates, and the higher postage prevails. With a per piece, per pound rate schedule, postage would be computed by multiplying the number of pieces by the per piece charge and adding that figure to the charge for the number of pounds in the mailing.

(H) The Council of Public Utility Mailers (CPUM) proposes a different rate schedule for presorted first-class: for letters presorted to ZIP codes—15¢ for the first ounce and 13¢ for each additional ounce; for letters presorted to carrier route—13.8¢ for the first ounce and 13¢ for each additional ounce; for cards presorted to ZIP codes—11¢; and for cards presorted to carrier route—9.8¢.

(I) The Council to Save the Post Card wants the Commission to refuse approval of any increase in the postage rate for cards, leaving it at 10¢.

(J) Dow Jones & Company, Inc. proposes that the Commission recommend establishing a daily newspaper subclass. It believes the cost of delivering daily newspapers is considerably less than for the other second-class mailings.

(K) The Department of Defense (DOD) opposes the Postal Service's proposed increases in the fees DOD pays for parcels delivered to overseas military personnel. DOD says that while it does not oppose the merger of controlled circulation into second-class, all publications now qualifying for controlled circulation should qualify for second-class after the merger.

(L) Growers & Shippers League of Florida (GSLF) says that parcel post rates should not include the 3¢ per pound charge designed to reflect nontransportation costs (such as costs for sorting to post office which will deliver the parcel) because handling costs do not vary with weight. GSLF opposes any constraint against lowering rates for higher weight parcels, saying that is intra-class subsidization; that is, heavier parcels are paying more than their fair share of costs for all of parcel post. GSLF opposes a surcharge for parcels not compatible with the Postal Service's processing machines.

(M) The International Labor Press Association (AFL-CIO/CLC) proposes a 1¢ discount for nonprofit publications if the mailer presorts to carrier route and a 0.7¢ discount if the mailer presorts to ZIP codes.

(N) The Magazine Publishers Association (MPA) opposes the method the Postal Service used to distribute the cost of unused space in vehicles transporting mail and offers an alternative method of allocating these costs. MPA further contends that second-class mail is more sensitive to rate increases than the Postal Service has taken into account.

(O) The Mail Order Association of America (MOAA) believes that the cost coverage (i.e., share of non-traceable costs added to the traceable costs to arrive at a rate) the Postal Service proposes for third-class is too high and the Commission should lower it. MOAA proposes that the rate schedule for third-class have separate rates for catalogs because of different cost characteristics. MOAA further proposes that the rate schedule for third-class have a per piece and per pound charge rather than the current minimum per piece and per pound charge. MOAA says that the Postal Service's proposed rates for fourth-class bound printed matter are too high and recommends that they be lowered.

(P) The March of Dimes Birth Defects Foundation, *et al.* proposes modifications to the Postal Service's distribution of costs to the various types of mail. March of Dimes supports a three-tier structure for third-class, with different rates for mail presorted to carrier route, presorted to ZIP codes, and "all other." March of Dimes proposes that the rate for third-class mail presorted to carrier route be lower than the Postal Service proposes in order to encourage worksharing.

(Q) The National Association of Greeting Card Publishers (NAGCP) proposes that a single percentage be used to compute the mark-up of all the classes' contributions to institutional

costs. This modification would relieve first-class of the disproportionate amount of institutional costs—those costs which cannot be traced directly or indirectly to any specific class of mail—NAGCP believes it is paying. NAGCP also opposes some of the methods the Postal Service uses to allocate costs.

(R) The National Association of Letter Carriers, AFL-CIO (NALC) generally supports the Postal Service's proposal as justified by inflation. NALC contends that the Commission should recompute or order the Postal Service to recompute the projection of labor costs in order to ensure that the Service has made adequate provisions for labor costs.

(S) The National Newspaper Association proposes a 1¢ per piece discount for within-county second-class mail (those copies delivered within the county of publication) and limited circulation (publications mailing fewer than 5,000 copies outside the county of publication) presorted to carrier route.

(T) Newsweek, Inc. proposes increases in the discount for presorting second-class mail and it opposes the Postal Service's method of distributing the cost of unused space in vehicles transporting mail.

(U) The Officer of the Commission (OOC), who represents the interests of the general public in Commission proceedings, presents an alternative costing methodology based on data provided by the Postal Service and OOC adjustments. According to the OOC, his costing methodology is superior to the Postal Service's because it is based on fairness, while the Postal Service's is based on demand control (marginal costing). The OOC proposes different methods of attributing some costs. Additionally, the OOC suggests a per piece and per pound rate structure for third-class to replace the current minimum per piece and per pound structure. The OOC proposes a rate of 18¢ for the first ounce of first-class mail. The rates he proposes for the other classes are, in general, higher than those proposed by the Postal Service. The OOC supports the Postal Service's proposal to merge controlled circulation and second-class, but asserts that the rates should be higher for publications that currently are controlled circulation than for those currently second-class. The OOC also proposes that the Commission recommend a new subclass for first-class mail—sealed cards. The sealed cards would pay a rate lower than letters but higher than post cards. A sealed card is a standardized card or sheet folded and sealed, with the message written on the inner sides. No enclosures would be allowed, and weight would be limited to one half ounce.

(V) The Parcel Shippers Association (PSA) supports the new intra-bulk mail center rates proposed by the Postal Service. PSA suggests fourth-class rates lower than the Postal Service proposed to enable the Postal Service to challenge UPS's strong position in the parcel market.

(W) The Reader's Digest Association recommends reducing the Postal Service's revenue requirements by lowering the provision for contingencies (expenses which the Postal Service can neither foresee nor prevent), eliminating recovery of prior year losses, reducing the estimate for the cost of workers' compensation, and increasing the estimate of productivity to take into account the increasing amounts of easier-to-handle presorted mail. Reader's Digest further proposes that mailers (such as newspaper publishers) who want expeditious handling for second-class pay 2.16¢ more per piece than mailers who are willing to accept slower delivery standards. Reader's Digest proposes that the second-class rate schedule include a new zone similar to the local zone in the parcel post rate schedule.

(X) Reuben H. Donnelley Corporation proposes that the rate for third-class bulk mail presorted to carrier route be reduced from the current 6.7¢ per piece to 6.4¢ because of the great sensitivity this mail has to price, the availability of substitute delivery, and the low value of the service to the mailer.

(Y) Tide-Mar, Inc. supports lowering the minimum number of first-class pieces a mailer must have to qualify for the presort discount from 500 to 10. Tide-Mar also suggests that the Commission recommend eliminating the annual fee that mailers of presorted first-class pay.

(Z) United Parcel Service (UPS) opposes the proposed intra-bulk mail center rates because they do not vary with distance. UPS believes implementation would decrease revenues while increasing costs because dropshippers (mailers who provide some of the transportation for their mail and therefore enter it closer to the place of delivery) would shorten the length of their hauls, taking shipments only to just inside the Bulk Mail Center area. UPS proposes parcel post rates higher than those proposed by the Postal Service. According to UPS, parcel post rates should be raised at least 22 percent for all parcels. Rate for bound printed matter and special-rate fourth-class also should be increased by about that percentage.

(AA) Warshawsky and Co. supports the adoption of a per piece and per pound rate structure for third-class and recommends a 16.8¢ per pound charge with a per piece charge of 6.7¢ for mailings presorted to carrier route, 7.7¢ for mailings presorted to ZIP codes, and 9.3¢ for "all other."

Parties in the proceeding include: United States Postal Service; Ad-A-Day Company, Inc.; Agricultural Publishers Association, Inc.; American Bankers Association; American Business Press, Inc.; American Newspaper Publishers Association; American Retail Federation; Associated Third Class Mail Users; Association of American Publishers, Inc.; Association of Independent Clinical Publications, Inc.; Association of Second Class Mail Publishers, Inc.; Bank Stationers Association; CarCross Company, Inc.; Classroom Publishers Association; Columbia Gas System; Council of Public Utility Mailers; Council to Save The Post Card; Department of Defense; Direct Mail/Marketing Association, Inc.; Dow Jones & Company, Inc.; Envelope Manufacturers Association; Fingerhut Corporation; Growers and Shippers League of Florida and Florida Gift Fruit Shippers Association; International Labor Press Association (AFL-CIO/CLC); Magazine Publishers Association, Inc.; Mail Advertising Service Association (International), Inc.; Mail Order Association of America; March of Dimes Birth Defects Foundation; Meredith Corporation; National Association of Advertising Publishers; National Association of Catalog Showroom Merchandisers; National Association of Greeting Card Publishers; National Association of Letter Carriers, AFL-CIO; National Newspaper Association; Newsweek, Inc.; Parcel Shippers Association; J. C. Penney Company, Inc.; Samuel Pennington; The Reader's Digest Association, Inc.; The Recording Industry Association of America, Inc.; Spiegel, Inc.; Time-Critical Shipment Committee; Time Incorporated; United Parcel Service; Warshawsky & Co.; Officer of the Commission; Tide-Mar, Inc.; McGraw-Hill, Inc.; Reuben H. Donnelley Corporation; Crest Fruit Company; Pittman & Davis, Inc.; Texas Gift Packing & Shippers, Inc. and Alamo Fruit; American Lung Association; Kathleen M. Conkey; Council on Wage and Price Stability; Printing Industries of America, Inc.; National Easter Seal Society for Crippled Children and Adults, *et al.*

Summary of Benefits

Sectors Affected: United States Postal Service; and the mailing public.

The rate and fee schedules that the Commission will recommend will adjust

Initial Briefs filed—December 19, 1980.
Reply Briefs filed—January 5, 1981

INDEX I—SECTORS AFFECTED BY REGULATORY ACTION

The rate and fee schedules that the Commission will recommend will adjust rates so that the Postal Service's revenues, together with appropriations, as nearly as practicable equal its expenses, as 39 U.S.C. § 3621 directs. The Postal Service says that its proposed rate and fee changes should increase its revenues by approximately $3.75 billion, in the 12-month period from March 21, 1981 to March 20, 1982. This $3.75 billion represents 15.5 percent of the total revenue the Postal Service expects to receive during that 12-month period. Any change in rates and fees that the Commission recommends must be in accordance with the factors listed in 39 U.S.C. § 3622(b). Any change in mail classification that the Commission recommends must be in accordance with the factors listed in 39 U.S.C. § 3623(c).

The Postal Service believes that an additional zone in the rate schedule for Express Mail and a new zone for parcel post to be delivered within the delivery area of the bulk mail center will allocate costs more accurately; that is, mail causing lower costs to the Postal Service will be reflected in lower postage rates to the mailer. Additionally, the Postal Service believes that the elimination of certain fees currently required with presorted bulk first-class mail will encourage more mailers to presort, to the benefit of both the mailers, through lower rates, and the Postal Service, through reduced processing of the mail before delivery. Specific reduced costs and the mailers who would benefit are listed for each proposal under the "Alternatives Under Consideration" section. The Commission will consider the merits of these proposals and those that other parties have advanced.

Summary of Costs

Sectors Affected: The mailing public; and recipients of mail.

The Postal Service estimates that its proposal would increase postal revenues by $3.75 billion. Increases in rates must be paid by users of the mails; businesses may pass along higher postal costs to their customers in higher prices for the goods and services they provide. The Commission cannot estimate the economic effect of this case any more specifically until all the evidence is on the record, and it has made its analysis.

Related Regulations and Actions

None.

Active Government Collaboration

None.

Timetable

The following is a tentative schedule:

Initial Briefs filed—December 19, 1980.
Reply Briefs filed—January 5, 1981.
Oral Argument—January 8, 1981.
Commission Opinion and Recommended Decision—Mid-February 1981.
Regulatory Analysis—The Postal Rate Commission, as an independent agency, here engaged in formal rulemaking on the record, is not required to prepare a Regulatory Analysis as it is defined under E.O. 12044. However, the Postal Rate Commission presents essentially the same information in its decisions.

Available Documents

The following documents will be available as they are filed with the Commission or issued by it during the course of the proceedings. Please contact the Commission's Docket Room, 2000 L Street, N.W., Room 500, Washington, DC 20268, (202) 254–3800.

Commission Order No. 332 instituting the proceeding in R80–1 and the Notice sent to the **Federal Register**, published at 45 FR 28552, April 29, 1980.

Transcripts of Hearings, as well as Testimony, Exhibits, Workpapers, Library References/Studies, Interrogatories and Answers, and Requests for Oral Cross-Examination and Written Cross-Examination for Docket R80–1.

Commission Orders and Notices; Presiding Officer's Orders, Rulings, Motions, and Notices; Petitions for Leave to Intervene and Requests for Limited Participation; and Commission's Recommended Decision for Docket R80–1.

Documents may be inspected in the Commission's reading room. Copies of documents issued by the Commission or filed by the OOC are available without charge. Copies of all other public documents are available for 15¢ per page.

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INDEX I—SECTORS AFFECTED BY REGULATORY ACTION

This index graphically presents those sectors of our society that are most likely to benefit from or incur the costs of the regulations described in this edition of the **Calendar**. The information noted here corresponds to that provided by the agencies in the "Summary of Costs" and "Summary of Benefits" sections of each entry. The index presents the regulations alphabetically, by agency, by unit within the agency, and then by title of the regulation. For additional information on the effects of the regulation, the reader should refer to the specific **Calendar** entry.

A reader who is interested in a particular industry or group can easily identify those regulations that have a major impact on that industry or group. The reader should locate the relevant "Affected Industries" or "Other Affected Sectors" heading and scan the columns within them to locate the specific industry or other sector in which he or she is interested. For each entry, the reader can then see the agency issuing the regulation, the title of the regulation affecting the sectors of interest, and the page number on which the regulation appears in the **Calendar**.

Similarly, a reader who is interested in a particular regulation can identify the activities and groups that the particular regulation will affect significantly.

This index highlights two types of regulatory impacts: (1) direct impacts on industries and other sectors that are required to take a specific action or that will receive a direct or immediate benefit as a result of a regulation; and (2) indirect impacts on sectors that are important suppliers, or customers of the directly regulated or benefited sector, or important providers of substitute products.

For each regulation, we first identify the major industrial sectors affected. The terminology we use in the Affected Industries section of the index corresponds, where possible, to standard SIC nomenclature (Standard Industrial Classification Manual, published by OMB, 1972 edition with 1977 supplement, available from Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, Stock Nos. 041–001–00066–6 and 003–005–00178–0, respectively). The SIC Manual defines industries in accordance with the composition and structure of the economy, and covers the entire field of economic activities. The SIC classifies industries by major division, and further classifies them within divisions by using multiple digit codes.

The specific categories within the Affected Industries section correspond to the major SIC industrial divisions. Where an impact will probably be felt throughout a major industrial division, we name that major division (i.e., Agriculture, Mining, Construction, Manufacturing, etc.). Where a regulation will affect only a particular type of establishment within a division, we use a more specific SIC level (i.e., Livestock Production, Coal Mining, Building Construction, Petroleum Refining, etc.). Below is a brief explanation of each major industrial division.

Agriculture, Forestry, Fishing

This division includes establishments primarily engaged in agricultural production of crops, seeds, livestock and dairy products, and related agricultural services; forestry; and commercial fishing (including shellfish and marine products). Manufacturing and processing of agricultural products away from the farm and packaging of fish are classified under Manufacturing.

Mining

This division includes establishments primarily engaged in metal and nonmetallic mineral mining, coal mining and processing, oil and gas extraction, and related mining services. Manufacturing and processing of agricultural products away from the farm, packaging of fish, petroleum refining and smelting, and refining of metal are classified under Manufacturing. Natural gas transmission is classified under Electric, Gas, and Sanitary Services, and pipeline transportation of petroleum is listed under Transportation.

Construction

This category includes establishments and contractors primarily engaged in construction. Construction includes new work, additions, alterations, and repairs. Three broad types of construction activity are covered: (1) building construction by general contractors or builders primarily engaged in construction of buildings for sale on their own account rather than as contractors; (2) heavy construction, such as highways, streets, cemeteries, mines, dams and water projects, sewage collection, treatment and disposal facilities, hydroelectric plant construction, and irrigation projects; and (3) construction by special trade contractors, such as painting, carpentry, and electric work, including establishments primarily engaged in the sale and installation of communication equipment and insulation material.

Manufacturing

This division includes establishments engaged in the mechanical or chemical transformation of materials or substances into new products. The materials processed by manufacturing establishments include products of agriculture, forestry, fishing, mining, and quarrying, as well as products of other manufacturing establishments. This division includes milk processing and bottling, fish packaging, smelting and refining of metal, and shipbuilding.

Transportation, Communications, and Electric, Gas, and Sanitary Services

This division includes establishments providing to the general public or to other business enterprises passenger and freight transportation; communication services; utilities such as electricity, gas, steam, and water or sanitary services; and the U.S. Postal Service.

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Trade

This division covers both wholesale and retail trade. In addition, we have specifically identified impacts on the exporting and importing operations of wholesale and retail establishments. Wholesale trade includes establishments or places of business primarily engaged in selling merchandise to retailers, to industrial, commercial, institutional, farm or professional business users, or to other wholesalers; and businesses acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies. Retail trade includes establishments engaged in selling merchandise for personal or household consumption, and rendering services incidental to the sale of goods. Impacts highlighted include increases or decreases in demand for goods or services traded, as well as passthrough costs from suppliers to wholesalers and retailers.

Finance, Insurance, Real Estate

This division includes establishments operating primarily in the fields of finance, insurance, and real estate. Finance includes banks, trust companies, credit agencies other than banks, investment companies, brokers and dealers in securities and commodity contracts, and security and commodity exchanges. Insurance covers carriers of all types of insurance, and all insurance agents and brokers. Real estate includes owners, lessors, lessees, buyers, sellers, agents, and developers of real estate.

Other Services

This division includes establishments primarily engaged in providing a wide variety of services for individuals, business and government establishments, and other organizations. Included are health services; accounting, architectural, legal, engineering, and other professional services; educational institutions; business, repair; and recreational services; and membership organizations. Not included are services closely related to a particular industry, such as agriculture, mining, transportation, etc., which are noted in their respective categories.

All- or Multi-Industry Industry

This category identifies regulations having (1) an "across-the-board" impact on all sectors of the economy, or (2) an impact which affects several industries and cannot be adequately identified with SIC terminology. Examples of the latter include regulations affecting industries producing a particular pollutant; using a particular manufactured product, raw material, or energy source; employing a particular minority group; or subject to a particular law. For some regulations having this kind of cross-industry impact, we also identify sepcific industries within the general group which will be significantly affected. For example, in the case of a regulation restricting the production of asbestos products, we (1) record "Other Industries Using Asbestos Products" in the All- or Multi-Industry Impact column, and (2) record "Construction" in the Construction column, because that industry is the major industrial user of asbestos products.

After highlighting industrial sectors affected, we next record impacts on governmental, social, geographic, and other sectors. A brief explanation of each of these "Other Affected Sectors" follows.

State, Local Government

This category identifies regulations significantly affecting State and local governments. We highlight regulations in this category which directly regulate a State or local government function, involve State or local government in implemention, or preempt a State law or regulation.

Some State and local governments engage in operations not traditionally considered "governmental" in nature (such as State-owned liquor stores). Impacts on such operations are recorded in the appropriate category of the Industries Affected section of the index (i.e., any impact on State-owned liquor stores is included in the listing "Retail of Liquor" under the Wholesale and Retail Trade column. Such impacts are not noted in the State, Local Government category.

Population Groups

We use this category to highlight impacts on various population groups, including groups defined by age, income, health status, type of employment, ethnicity, and living environment.

We also use this column to highlight regulations which the agencies identify as having a special or significant impact on consumers. Regulations identified include proposals aimed at providing safer and better quality consumer goods and services, as well as proposed actions which might raise prices or decrease the quality or quantity of consumer goods and services.

This category also identifies proposed actions which impact the general public. This term encompasses general improvements to the quality of life, including upgrading the environment, encouraging the development of energy sources, curbing inflation, and improving the balance of trade.

Geographic Areas

In this category, we identify those areas of the country particularly affected by a regulation, such as specific States (as physical regions rather than political units), rural, urban or other regions, Indian lands, public lands, and national parks.

Small Business

In this category we identify those regulations which have special impacts on the small business community as a whole, as well as on small businesses within specific industries. Notations in this category encompass a variety of impacts, including Small Business Administration proposals aimed at directly benefitting the small business community, proposals which might adversely affect small businesses, and regulations which are structured to meet both the special needs and the special limitations of small businesses.

Innovative Regulatory Techniques Considered

The Innovative Techniques category, which is included in the **Calendar** for the first time, is the final column in our index. This category highlights regulations which agencies are considering implementing by using innovative, market-oriented techniques. These techniques are departures from traditional "command and control" regulation, which involves strictly specified rules and formal government sanctions for failure to comply. Instead, innovative techniques involve the use of private ingenuity and the economic forces of the market place to develop better long-term solutions to regulatory problems. These techniques include:

- Enhanced competition: achieving needed regulatory goals more efficiently by adjusting market structure to enhance competition—often through removing regulatory and other barriers to competition.
- Marketable rights: allowing Government-conferred rights to be exchanged by private parties, eliminating the need for detailed Government involvement in their allocation.
- Economic incentives: structuring fees or subsidies (rather than Government-enforced standards) that encourage private sector achievement of regulatory goals.
- Performance standards: replacing regulations that specify the means of compliance (usually detailed design standards) with more general standards. These standards are based on desired overall performance levels—leaving regulated firms free to find the most efficient means of compliance.
- Information disclosure: replacing direct regulation with programs to give customers informed freedom of choice among products and services.
- Voluntary standard setting: negotiating voluntary rules with industry groups that pledge to adopt them, subject to regulatory agency review or audit.
- Compliance reform: creating market-oriented substitutes for Federal compliance inspections, including such devices as government-licensed private auditors, consumer deputies, third-party inspections, self-reporting, whistle blower programs, and noncompliance penalties.
- Tiering: setting less demanding standards or exempting business institutions based on their size or nature of the organization.

The remaining paragraphs provide an overview of the sectors that may be most significantly affected by regulations described in this edition of the **Calendar**. We present industrial impacts by major SIC Division; where appropriate, we also present data for particular industries within the major Divisions. We only tabulated impacts when they were industry-specific; we did not include other all- or multi-industry impacts in the tabulations we present below. Because our goal is to present an overview rather than a detailed analysis, we limited the information we present here to direct impacts and *significant* indirect impacts.

Of the 182 regulations appearing in the **Calendar**, approximately one-half affect Manufacturing (91). Within the Manufacturing Division, regulatory impacts are most frequent on chemical manufacturing (30), primary metal industries (28), manufacture of transportation equipment (28), and petroleum refining (29).

Trade industries are affected by 41 regulations, with wholesale and retail establishments each being affected by 21 regulations. A substantial number of regulations also affect Service industries (32), with 13 affecting various membership organizations, 10 affecting health services, and 9 involving other business services. Thirty-four regulations affect Transportation, 31 regulations affect Construction, and 24 affect Mining.

Of the 22 regulations affecting the Finance sector, 22 affect banking and 15 affect credit agencies (which include savings and loans). Electric, Gas, and Sanitary Services are affected by 29 regulations, with a majority affecting electric and gas services. The Divisions affected least are Agriculture (11); Communications (9); Real Estate (8); and Insurance (4). This edition of the **Calendar** contains no regulations with direct or significant indirect impacts on Forestry.

Of the 99 regulations affecting consumers, 33 deal with health and safety issues, and 32 address other types of consumer protection. Over half of these regulations affect the consumers of manufactured products. Of the 38 regulations that affect employees, 16 affect manufacturing workers. Other population groups affected are minorities (9); children (6); and the elderly (4). Over two-thirds of the regulations have direct or significant indirect affects on the general public. A total of 62 regulations have a general affect on State governments and 21 will affect local governments.

A total of 90 of the 182 entries discuss implementation of various innovative regulatory techniques. The techniques most often mentioned are performance standards (23); tiering (34); enhanced competition (12); and information disclosure (12).

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USDA-AMS 77924 Amendments to Federal Seed Act Regulations	Seed Production, Farmers Using Seed					Wholesale, Retail and Importing of Seed		Seed Testing Laboratories; Seed Labeling services		State Seed Regulatory and Certifying Agencies			
USDA-AMS 77926 Regulatory Treatment of Reconstituted Milk in All Federal Milk Marketing Orders	NO SECTORS AFFECTED INFORMATION AVAILABLE AT THIS TIME												
USDA-FSQS 77928 Proposed Net Weight Regulations				Meat, Poultry		Wholesale and Retail Meat and Poultry				State and Local Net Weight Standards	Consumers of Meat and Poultry		
USDA-FSQS 77806 Proposed Polychlorinated Biphenyls (PCBs) Regulation - Existing Equipment				Meat, Poultry, Egg Products		Wholesale and Retail Meat, Poultry and Egg Products					Consumers of Meat, Poultry and egg Products		
USDA-SCS 77747 Watershed Protection and Flood Prevention Program	Agriculture		Watershed Structures, such as Dams							State and Local Governments Sponsoring Watershed Projects	People Living in Watershed Project Areas		
DOC-MARAD 77931 Construction-Differential Subsidy Repayment; Total Repayment Policy				Shipbuilding	Deep Sea Foreign and Domestic Transportation				Shippers of Goods by Deep Sea Transportation Business Users of These Goods		Consumers of Goods Shipped by Deep Sea Transportation, the General Public		Training

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DOC-NOAA 77748 Regulations Implementing a Fishery Management Plan for the Groundfish Fishery for the Bering Sea/Aleutian Island Area	Fishing			Fish Processing		Exporting of Fish Products				Alaska	Consumers of Groundfish; the General Public; Alaska	Small Business	
DOC-NOAA 77751 Regulations Implementing a Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, United States Waters	Fishing			Fish Processing							Consumers of Shrimp; Recreational Fishermen; the General Public	Small Business	
DOC-NOAA 77753 Regulations on the Mining of Deep Seabed Hard Mineral Resources		Mining of Copper Ores and Ferroalloy Ores, Metal Mining Services		Primary Metal Industries							The General Public; the West Coast		Performance Standards
DOC-NOAA 77710 Regulations on the Construction, Location, Ownership, and Operation of Ocean Thermal Energy Conversion (OTEC) Facilities and Plantships		Oil and Gas Extraction	Power Plant Construction	Shipbuilding and Repairing; Electric Equipment; Energy Intensive Products Such as Ammonia, Fertilizer, and Aluminum; Petroleum Refining; Nuclear Fuel	Electric Services; Ocean Thermal Energy Production	Wholesale of Natural Gas, Petroleum and Nuclear Fuel					The General Public; SE. Gulf Coast, Virgin Islands, Puerto Rico, Hawaii and Pacific Islands	Small Business	Performance Standards; Compliance Reform

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ED-OCR 77898 Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Education, Effectuation of Title VI of the Civil Rights Act of 1964										State and Local Education Agencies	Limited English-Proficient Students		
ED-OESE 77901 Financial Assistance to Local and State Agencies to Meet Special Educational Needs; and Financial Assistance to Local Educational Agencies for Children with Special Educational Needs										State and Local Education Agencies	Educationally Deprived Students, and Their Parents, Teachers and Other Education Employees		
DOE-CS 77712 Commercial and Apartment Conservation Service Program					Electric and Gas Services	Retail of Home Heating Oil	Commercial Buildings, Apartment Buildings		Occupants of Commercial Buildings	State Energy Programs	Apartment Dwellers, the General Public		Information Disclosure
DOE-CS 77714 Emergency Building Temperature Restrictions							Commercial Buildings		Occupants of Commercial Buildings	State Energy Programs	The General Public		Performance Standards
DOE-CS 77715 Energy Conservation Program for Consumer Products Other Than Automobiles				Major Household Appliances							Consumers of Major Household Appliances, the General Public		Tiering; Performance Standards

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DOE-CS 77717 Energy Performance Standards for New Buildings			Building Construction	Construction Materials			New Buildings	Architectural Services	Occupants of New Commercial Buildings	State and Local Energy Programs	Building Workers, Occupants of New Residential Housing, the General Public		Performance Standards
DOE-CS 77718 Federal Price Support Loan Program for Energy from Municipal Waste Resource Recovery Facilities			Municipal Waste Resource Recovery Facilities	All Manufacturing, Waste Processing Equipment	Electric Services; Waste Resource Recovery Facilities, Transportation Industries	Wholesale of Waste Processing Equipment	Investment Banking, Financial Underwriting	Engineering	Other Commercial Users of Electricity and Petroleum Products, Other Industries Producing Solid Waste and Dry Sewage Sludge	State and Local Waste Reprocessing Programs	Consumers of Electricity and Petroleum Products; the General Public		Economic Incentives; Tiering
DOE-CS 77719 Standby Federal Emergency Conservation Plan					Transportation				All Industries	State Energy Programs	The General Public		Voluntary Standards
DOE-ERA 77721 Amendments to Puerto Rican Naphtha Entitlements Regulations				All Manufacturing Petrochemicals, Petroleum Refining	Transportation Industries				Other Commercial Users of Petroleum Products including Naptha-Derived Petrochemicals		Consumers of Petroleum Products, including Naptha-Derived Petrochemicals Puerto Rico		

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DOE-ERA 77722 Crude Oil Resales Pricing Revisions				All Manufacturing, Petroleum Refining	Transportation Industries	Wholesale of Crude Oil			Other Commercial Users of Petroleum Products		Consumers of Petroleum Products		
DOE-ERA 77723 Domestic Crude Oil Entitlements				All Manufacturing, Petroleum Refining	Transportation Industries	Wholesale and Retail of Petroleum Products			Other Commercial Users of Petroleum Products		Consumers of Petroleum Products		
DOE-ERA 77724 Gasohol Marketing Regulations				Gasohol, Ethanol, Unleaded Gasoline	Transportation Industries	Wholesale and Retail of Gasohol and Unleaded Gasoline			Other Commercial Users of Gasohol		Consumers of Gasohol, the General Public; the Midwest		Enhanced Competition
DOE-ERA 77726 Maximum Lawful Price for Unleaded Gasoline				Unleaded Gasoline	Transportation Industries	Wholesale and Retail of Unleaded Gasoline			Other Commercial Users of Unleaded Gasoline		Consumers of Unleaded Gasoline, the General Public		Economic Incentive
DOE-ERA 77727 Motor Gasoline Allocation Regulations Revisions				Gasoline	Transportation Industries	Wholesale and Retail of Gasoline			Other Commercial Users of Gasoline	State Energy Programs	Consumers of Gasoline, Urban Areas		Tiering
DOE-ERA 77729 Motor Gasoline - Downward Certification				Gasoline	Transportation Industries	Wholesale and Retail of Gasoline			Other Commercial Users of Gasoline		Consumers of Gasoline		
DOE-ERA 77730 Natural Gas Curtailment Priorities for Interstate Pipelines				Manufacturing	Natural Gas Transmission and Distribution				Other Commercial Users of Natural Gas and Electricity		Consumers of Natural Gas and Electricity; the General Public		Tiering

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DOE-ERA 77733 Powerplant and Industrial Fuel Use Act of 1978; Cogeneration Exemption					Industrial and Electric Powerplant Cogenerators						The General Public		
DOE-RA 77734 Outer Continental Shelf (OCS) Sequential Bidding Regulations		Oil and Gas Extraction							Companies Bidding for OCS Leases		The General Public; the Outer Continental Shelf		Enhanced Competition
DOE-RA 77736 Proposed Regulations Establishing Alternative Bidding Systems for Coal Lease Sales		Coal Mining							Companies Bidding for Coal Leases		The General Public	Small Business	Marketable Rights; Enhanced Competition
HHS-FDA 77807 Abbreviated New Drug Applications for New Drugs Approved After October 10, 1962, for Human Use				Pharmaceutical Preparations, Particularly Generic Drugs						State Drug Purchasing Programs	Consumers of Pharmaceutical Preparations		
HHS-FDA 77808 Chemical Compounds Used in Food-Producing Animals; Criteria and Procedures for Evaluating Assays for Carcinogenic Residues	Livestock and Poultry Production			Veterinary Pharmaceuticals							Consumers of Meat and Poultry		

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HHS-FDA Current Good Manufacturing Practice Relating to Poisonous and Deleterious Substances in Food, Feed, and Food-Packaging Materials Plants; Polychlorinated Biphenyls (PCBs)	77810	Livestock Production			Transformers and Capacitors. Food and Kindred Products Other Than Meat, Poultry and Egg Products; Food-Packaging Materials		Warehousing of Food and Feeds					Consumers of Food and Kindred Products Other Than Meat, Poultry and Egg Products; the General Public		
HHS-FDA Food Labeling Initiatives	77813				Food and Kindred Products, Other Than Meat and Poultry							Consumers of Food and Kindred Products Other Than Meat and Poultry; the General Public		Information Disclosure; Voluntary Standards
HHS-HCFA Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities	77814								Skilled Nursing and Personal Care Facilities		State Health Agencies and Health Certification Personnel	Patients and Staff of Skilled Nursing and Personal Care Facilities		
HHS-HCFA Consolidation of Survey and Certification Requirements for Medicare and Medicaid	77816								Health Services		State Health and Social Services Departments	Consumers of Health Services		Tiering

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HHS-HCFA Life Safety Code in Hospitals, Nursing Facilities, and Intermediate Care Facilities	77818				Fire Prevention Equipment			Life and Fire Insurance Industries	Hospitals, Nursing and Personal Care Facilities, Health Professional Membership Organizations			Patients in Hospitals, SNFS, and ICFS		Performance Standards
HHS-HCFA Uniform Reporting Systems for Health Services Facilities and Organizations	77819								Health Services Facilities and Practitioners			People in Need of Health Services		Tiering
HUD-FHA Coinsurance for Private Mortgage Lenders (New Construction)	77902			Residential Building Contractors				Savings and Loan and Banking Industries, Low and Moderate Income Housing, Rental Housing Developers				Occupants of Low and Moderate Income Housing; the General Public		
HUD-HOUS Minimum Property Standards for One- and Two-Family Dwellings	77903			Residential Building Contractors				Minimum Standard Housing Housing Developers; the Mortgage Banking Industry			Local Building Codes	Occupants of Minimum Standard Housing, Construction Workers		
HUD-NVACP Lead-Based Paint - Chewable Surfaces	77821			Painting Contractors				Public and HUD-Assisted Housing			State and Local Public Housing Authorities	Occupants of Public and HUD-Assisted Housing, Particularly Children		

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HUD-OS 77737 Solar Energy and Energy Conservation Bank			Building Contractors	Solar Energy Equipment			Banking Industry, Credit Agencies, and Residential, Commercial Non-manufacturing, and Agricultural Buildings				Occupants of Residential, Commercial Non-manufacturing, and Agricultural Buildings; the General Public		Economic Incentives
DOI-HCRS 77755 Uniform Rules and Regulations for the Protection and Conservation of Archaeological Resources Located on Public and Indian Lands								Archeological Activities			Native Americans, Collectors and Treasure Hunters; the General Public, Public and Indian Lands, Particularly in the 13 Western States		
DOI-NPS 77757 Right-of-Way Regulations		Oil and Gas Extraction			Communications Services, Electric, Gas and Sanitary Services				Other Establishments Requesting Rights-of-Way Across National Parks	State and Local Governments Requesting Rights-of-Way Across National Parks	National Parks		
DOI-OSM 77759 Definition: "Surface Coal Mining Operations" and "Coal-Processing Plant"		Coal-Processing Plants								State Coal Regulatory Authorities	People Living Near Coal-Processing Plants, the General Public	Small Business	

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DOI-OSM 77760 Discharge from Mine Areas: Revision of Standards for Effluent Limits and Sedimentation Ponds		Coal Mining							Business Users of Downstream Water		Consumers of Downstream Water; the General Public		Tiering
DOI-WPRS 77762 Rules and Regulations for Acreage Limitation Under Federal Reclamation Law	Agriculture				Irrigation						17 Western States	Small Business	Tiering; Economic Incentives
DOJ-CRD 77904 Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs							DOJ-Funded Programs and Activities				Minorities, Handicapped, Women, General Public		
DOJ-CRD 77905 Regulations Prohibiting Discrimination on the Basis of Age in Federally Assisted Programs							DOJ Funded Programs and Activities			State and Local Law Enforcement Agencies	Employees of and Participants in DOJ Funded Programs and Activities		
DOJ-CRD 77905 Regulations Prohibiting Discrimination on the Basis of Sex in Education and Training Programs Receiving Federal Financial Assistance							DOJ-Funded Programs and Activities			State and Local Law Enforcement and Correction Agencies	Employees of and Participants in DOJ Funded Programs and Activities		
DOJ-INS 77906 Admission of Refugees and Asylum Procedures							Charitable Organizations Involved With Refugee Relief			State and Local Refugee Relief Programs	Refugees; the General Public		

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DOJ-INS 77907 Employment Authorization								Charitable Organizations	Industries Employing Aliens	State and Local	Aliens, the General Public		
DOJ-OJARS -LEAA 77908 Equal Service Evaluation Guidelines										State and Local Criminal Justice Agencies	The General Public, Particularly Inmates, Probationers, Parolees and Juvenile Delinquents		
DOL-ESA 77910 Sex Discrimination Guidelines Employee Benefits			Federally-Assisted Construction Contractors						Federal Contractors		Employees of Federal Contractors and Federally-Assisted Construction Contractors		
DOL-LMSA -PWBP 77911 Definition of Plan Assets and Establishment of Trust							Investment Management, Including the Banking and Insurance Industries	Labor Organizations Sponsoring Employee Benefit Plans	Industries Sponsoring Benefit Plans		Participants and Beneficiaries of Employee Benefit Plans	Small Business	
DOL-LMSA -PWBP 77912 Individual Benefit Reporting and Recordkeeping for Multiple Employer Plans							Investment Management, Including the Banking and Insurance Industries	Labor Organizations Sponsoring Multiple Employer Pension Plans	Industries Sponsoring Multiple Employer Pension Plans		Participants and Beneficiaries of Multiple Employer Pension Plans		Tiering

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DOL-LMSA-PWBP 77913 Individual Benefit Reporting and Recordkeeping for Single Employer Plans							Investment Management, Including the Banking and Insurance Industries	Labor Organizations Sponsoring Single Employer Pension Plans	Industries Sponsoring Single Employer Pension Plans		Participants and Beneficiaries of Single Employer Pension Plans	Small Business	Tiering
DOL-MSHA 77822 Mandatory Safety Standards for Surface Coal Mines and Surface Areas of Underground Coal Mines		Coal Mining						Labor Organizations Representing Coal Miners			Coal Miners	Small Business	
DOL-MSHA 77823 Regulations Setting Forth Requirements for Safety and Health Training for Mine Construction Workers		Mining	Mine Construction								Mine Construction Workers, Miners	Small Business	
DOL-MSHA 77824 Requirements for Construction and Maintenance of Impounding Structures and Tailings Piles at Metal and Nonmetal Mines		Metal and Nonmetal Mining	Construction of Impounding Structures					Labor Organizations Representing Metal and Nonmetal Miners		State and Local	Metal and Nonmetal Miners, People Living Near Metal and Nonmetal Mines, the General Public	Small Business	Tiering
DOL-MSHA 77825 Review of Safety and Health Standards Applicable to Metal and Nonmetal Mining and Milling Operations		Metal and Nonmetal Mining									Metal and Nonmetal Miners	Small Business	

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DOL-MSHA Safety and Health Standards for Construction Work at All Surface Mines and Surface Areas of Underground Mines	77826		Mining	Mine Construction					Labor Organizations Representing Miners			Mine Construction Workers; Miners	Small Business	
DOL-OSHA Generic Standard for Occupational Exposure to Pesticides During Manufacture and Formulation	77827	Agriculture			Pesticides					Other Commercial Users of Pesticides		Workers in the Pesticides Manufacturing Industry; Consumers of Pesticides		Performance Standards; Tiering; Compliance Reform
DOL-OSHA Identification and Labeling of Hazardous Materials in the Workplace	77829	Agriculture			Chemical Manufacturing; Establishments using Hazardous Chemicals					Other Industries Involved with Hazardous Chemicals		Workers Exposed to Hazardous Chemicals; Consumers of Products Containing or Produced with Hazardous Chemicals		Information Disclosure
DOL-OSHA Occupational Noise Exposure Hearing-Conservation Amendment	77831				Manufacturing Industries	Electric, Gas and Sanitary Services					State Occupational Health Programs; State Industrial Programs	Workers in Manufacturing Industries, Electric, Gas and Sanitary Services, and Government Industrial Jobs		Tiering

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DOL-OSHA OSHA General Industry Standard for Walking and Working Surfaces, and Construction Safety Standards for Ladders and Scaffolding, Floor and Wall Openings, and Stairways	77833			Construction						General Industry		Workers in Construction and General Industry	Small Business	Performance Standards
DOL-OSHA Regulations for Reducing Safety and Health Hazards in Abrasive Blasting Operations	77835			Construction	Manufacturing Industries Using Abrasive Blasting	Railroads						Abrasive Blasters and Associated Workers		
DOL-OSHA Safety and Health Regulations for Locking Out and Tagging Energy Sources in General Industry and in Construction	77837			Construction						Machinery and Process System Users in General Industry; Commercial Users of Construction and General Industry Products	CA, MI and WA Safety and Health Regulations	Workers in Construction and General Industry; Consumers of These Industries' Products		Performance Standards
DOL-OSHA Safety and Health Standard for Conveyors	77838									General Industry	State Occupational Health Programs	Workers in General Industry		Performance Standards

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DOL-OSHA Standard for Occupational Exposure to Asbestos	77840			Construction	Primary Asbestos Products, Shipbuilding, Asbestos Substitutes		Automobile Dealers, Gasoline Stations		Automobile Repair	Other Industries Using Asbestos Products		Workers in Industries Producing or Using Asbestos Products; Consumers of Asbestos Products; the General Public		Tiering
DOL-OSHA Standard for Occupational Exposure to Chromium	77842				Chromium Products; Chromium Substitutes					Industries Using Chromium Products		Workers Exposed to Chromium; the General Public		Tiering
DOL-OSHA Standard for Occupational Exposure to Safety and Health Hazards in Grain Handling Facilities	77844	Grain Handling Facilities; Grain Producers; Grain Users			Grain Products		Wholesale and Retail of Grain and Grain Products					Workers in Grain Handling Facilities and Wholesale Grain Establishments; Consumers of Grain Products	Small Business	Performance Standards; Tiering
DOT-FAA Flammability Standards for Crewmember Uniforms	77846				Textile Mill Products and Apparel; Other Textile Products	Air Transportation						Air Passengers; Air Carrier Crew members		Performance Standards

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DOT-FHWA Buy America Requirements	77933			Highway Construction	Domestic Steel Industry		Steel Importing				State Highway Construction Programs			Tiering
DOT-FHWA Design Standards for Highways - Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation (RRR) of Streets and Highways Other Than Freeways	77964			Highway Construction	Highway Construction Materials				Engineering Services		State and Local Street and Highway Construction Programs	Users of Highways; the General Public		Voluntary Standards; Performance Standards
DOT-FHWA Hours of Service of Drivers	77847					Interstate Trucking and Busing				Shippers of Goods by Truck and Bus; Business Users of These Goods		Users of Highways; Consumers of Goods Shipped by Truck and Bus		
DOT-FHWA Minimum Cab Space Dimensions	77848				Truck Cabs	Interstate Trucking				Shippers of Goods by Truck; Business Users of These Goods		Users of Highways; Consumers of Goods Shipped by Truck		Tiering
DOT-FRA Alerting Lights Display - Locomotives	77849					Railroad				Shippers of Goods by Rail; Business Users of These Goods		Users of Highways; Rail Passengers; Consumers of Goods Shipped by Rail		
DOT-NHTSA Crashworthiness Ratings	77850				Passenger Cars					Commercial Users of Passenger Cars		Purchasers of New Passenger Cars		Information Disclosure

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DOT-NHTSA **77738** Fuel Economy Standards for Model Year 1983-85 Light Trucks		Petroleum Production		Light Trucks and Parts and Materials Used in Their Production; Petroleum Refining					Commercial Users of New Light Trucks	State and Local	Consumers of New Light Trucks		Performance Standards
DOT-NHTSA **77851** Heavy Duty Vehicle Brake Systems	Agriculture			Trucks; Buses; Tractor-Trailers; Braking Systems	Trucking and Busing				Other Commercial Users of Trucks, Buses, and Tractor-Trailors		Users of Highways; Purchasers of Trucks and Tractor-Trailers; the General Public		Performance Standards
DOT-NHTSA **77852** Pedestrian Protection				Passenger Cars and Parts; Materials Used in Their Production				Body Repair Shops	Commercial Users of Passenger Cars		Pedestrians; Consumers of Passenger Cars		Performance Standards
DOT-OST **77965** Special Air Traffic Rules and Airport Traffic Patterns					Air Carriers						Air Passengers; Small communities		Marketable Rights; Enhanced Competition; Tiering
DOT-USCG **77853** Construction and Equipment for Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases				All Manufacturing; Liquid Cargo Vessels	Water Transportation of Bulk liquefied Gas; Utilities and Transportation Industries				Other Commercial Users of Bulk Liquified Gas		The Marine Environment; the General Public; Consumers of Bulk Liquified Gas		

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DOT-USCG **77763** Construction Standards for the Prevention of Pollution from New Tank Barges Due to Accidental Hull Damage; and Regulatory Action to Reduce Pollution from Existing Tank Barges Due to Accidental Hull Damage				All Manufacturing; Tank Barges	Water Transportation of Oil Tank Barges; Marine Towing; Utilities and Transportation Industries				Other Commercial Users of Oil		The Aquatic Environment; the General Public; Consumers of Oil		
TREAS-ATF **77934** Accelerated Payment of Certain Tobacco Products Excise Taxes	Tobacco			Tobacco Products						State and Local	Consumers of Tobacco Products	Small Business	Tiering
TREAS-ATF **77935** Delivery of Certain Alcohol and Tobacco Products Excise Tax Payments via Electronic Fund Transfer	Tobacco			Distilled Spirits; Malt Beverages; Wines; Tobacco Products						State and Local	Consumers of Distilled Spirits, Malt Beverages Wine, and Tobacco Products		
TREAS-ATF **77937** Implementation of the Distilled Spirits Tax Revision Act of 1979				Distilled Spirits; Brandy; Wine; Alcoholic Flavorings		Importing of Distilled Spirits, Wine, and Brandy							
TREAS-ATF **77938** Labeling and Advertising Regulations Under the Federal Alcohol Administration Act				Alcoholic Beverages		Wholesale and Retail of Alcoholic Beverages		Advertising Industry		States Which Have Adopted the Federal Alcohol Administration Act	Consumers of Alcoholic Beverages		Enhanced Competition

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TREAS-CUSTOMS 77940 Accelerated Duty Payment						Importing, Customhouse Brokerage Services					The General Public	Small Business	
TREAS-CUSTOMS 77942 Administrative Rulings						International Trade Community							
TREAS-CUSTOMS 77943 Civil Aircraft Regulations				Civil Aircraft and Parts, Domestic and Foreign	Air Transportation	Wholesale, Retail, and Importing of Civil Aircraft and Parts		Domestic and Foreign Repair of Civil Aircraft and Parts	Other Commercial Users of Civil Aircraft and Parts		Consumers of Civil Aircraft and Parts; the General Public		
TREAS-CUSTOMS 77944 Importation of Motor Vehicles and Motor Vehicle Engines Under the Clean Air Act					Passenger Transportation by Taxicab, Bus or Charter Service				Other Industries Owning Fleet Vehicles, Such as Taxicabs and Buses		Individuals Importing Motor Vehicles and Engines		
TREAS-CUSTOMS 77945 Interest Charges on Delinquent Accounts				Manufacturers Importing Intermediate materials		Importing Community	Surety Insurance Industry						
TREAS-CUSTOMS 77946 Valuation of Imported Merchandise for Customs Purposes						U.S. Import and Export; Customhouse Brokerage Services					The General Public		

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TREAS-OCC 77782 Adjustable-Rate Mortgages							National Banking Industry		Business Customers and Shareholders of National Banks	State Regulation of Adjustable Rate Mortgages	Customers and Shareholders of National Banks		Enhanced Competition
TREAS-OCC 77783 Description of Office, Procedures, Public Information; Supplemental Application Procedures; Assessment of Fees; National Banks; District of Columbia Banks; Employee Stock Option and Stock Purchase Plans; Changes in Capital Structure; Change in Bank Control; Federal Branches and Agencies of Foreign Banks; Policy Statements							National Banking Industry		Business Customers and Shareholders of National Banks		Customers and Shareholders of National Banks; the General Public		Enhanced Competition
TREAS-OCC 77785 Lending Limits; Unimpaired Surplus Fund							National Banking Industry		Business Customers of National Banks	State and Local Governments Doing Business with National Banks	Customers of National Banks, the General Public; Rural Areas		
TREAS-OCC 77787 Use of Data Processing Equipment and Furnishing of Data Processing Services							National Banking Industry	Data Processing	Business Customers of National Banks		Customers of National Banks, the General Public		

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EPA-OANR 77854 Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes				Manufacturing Industries	Commercial Nuclear Power Plants				Other Commercial Users of Electricity Produced by Nuclear Power		Consumers of Electricity Produced by Nuclear Power; the General Public		Performance Standards
EPA-OANR 77855 Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer		Mining of Minerals and Radioactive Metals		Petroleum Refining; Chemicals; Radioactive Materials					Other Industries Emitting Carcinogenic Substances; Commercial Users of Products Of Industries Emitting Carcinogenic Substances	State and Local Air Pollution Control	The General Public, Consumers of Products of Industries Emitting Carcinogenic Substances; Urban Areas; Gulf Coast, WV, and Northern NJ		Performance Standards;
EPA-OANR 77765 Regulations for the Prevention of Significant Deterioration (PSD) from Set II Pollutants (Hydrocarbons, Carbon Monoxide, Nitrogen Oxide, Ozone, and Lead)				Manufacturing Industries Emitting Set II Pollutants, Particularly Petroleum Refining and Primary Metal Industries	Transportation Industries; Electric Services				Other Industries Emitting Set II Pollutants	State Air Pollution Control	The General Public		Performance Standards Economic Incentives;

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EPA-OANR 77857 Remedial Action Standards for Inactive Uranium Processing Sites										AZ,CO, ID,NM, ND,OR, TX,PA, UT,and WY	People Living or Working Near Inactive Uranium Mill Tailings Sites in Affected States; People Living or Working in Uranium Contaminated Buildings; the General Public		
EPA-OANR 77766 Review, and Possible Revision, of the National Ambient Air Quality Standard for Carbon Monoxide				Motor Vehicles and Equipment						State and Local Transportation Programs; State Air Pollution Control Agencies	Persons with Cardiovascular or Pulmonary Disease; Pregnant Women and Fetuses; Anemics; the Driving Public		

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EPA-OANR Review, and Possible Revision, of the National Ambient Air Quality Standard for Nitrogen Dioxide	77768	Agriculture			Manufacturing Industries Emitting Nitrogen Oxides; Motor Vehicles and Equipment	Electric Services; Natural Gas Pipelines				Other Industries Emitting Nitrogen Oxides	State Air Pollution Control	The General Public, Particularly Persons Suffering From Respiratory Disease; The Aquatic Ecosystem		
EPA-OANR Review, and Possible Revision, of the Natinnal Ambient Air Quality Standards for Particulate Matter	77769		Coal Mining		Non-Ferrous Metal Industry; Petroleum Refining	Electric, Gas and Sanitary Services				Other Industries Emitting Particulate Matter; Including Industries Supplying or Using Large Quantities of Fossil Fuel	State Air Pollution Control	The General Public, Particularly Children and People with Respiratory and Cardiovascular Diseases		Tiering
EPA-OANR Review, and Possible Revision, of the National Ambient Air Quality Standards for Sulfur Oxides (Sulfur Dioxide)	77770	Agricuture	Coal Mining		Non-ferrous Metal Industry; Petroleum Refining	Electric, Gas and Sanitary Services				Other Industries Emitting Sulfur Dioxides, Including Industries Supplying or Using Large Quantities of Fossil Fuel	State Air Pollution Control	The General Public, Particularly Children and People with Respiratory Diseases		

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EPA-OANR Standards of Performance to Control Atmospheric Emissions from Industrial Boilers	77771				Manufacturing Industries particularly Glass, Pulp and Paper, and Chemical					Commercial Users, of Manufactured Products, Particularly Glass, Pulp and Paper, and Chemicals		The General Public; Consumer of Manufactured Products, Particularly Glass, Pulp and Paper, and Chemicals		
EPA-OANR -OMSAPC Fuels and Fuel Additives	77860				Petroleum Refining	Trucking; Passenger Transportation by taxicab, Bus or Charter Service				Other Commercial Users of Motor Vehicles		People who Live Near or Work in Plants Producing Fuels and Additives; Users of Motor Vehicles; the General Public; Urban Areas	Small Business	Tiering
EPA-OANR -OMSAPC Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines	77772	Agricuture		Construction	Heavy-Duty Engines and Vehicles; Light-Duty Trucks	Trucking; Busing				Other Comercial Users of Heavy-Duty Engines and Vehicles and Light-Duty Trucks		The General Public, Particularly Urban Populations and People with Respiratory Disease; Consumers of Heavy-Duty Vehicles and Light-Duty Trucks	Small Business	Performance Standards

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EPA-OANR -OMSAPC 77773 Heavy-Duty Diesel Particulate Regulations	Agriculture		Construction	Heavy-Duty Diesel Engines and Vehicles	Trucking; Busing				Other Commercial Users of Heavy-Duty Diesel Engines and Vehicles	States with Areas in Violation of the National Ambient Air Quality Standard for Particulate Matter	The General Public, Particularly People with Respiratory Disease, and Urban Populations; Consumers of Heavy-Duty Diesel Vehicles		
EPA-OPTS 77861 Chemical Hazard Warning Labels				Manufacturing Industries Producing or Using Hazardous Chemicals		Importing of Chemicals			Other Industries using Hazardous Chemicals		Workers Exposed to Hazardous Chemicals		Information Disclosure
EPA-OPTS 77863 Chloromethane and Chlorinated Benzene Proposed Test Rule; Amendment to Proposed Health Effects Standards			Welding; Painting	Chloromethane, Chlorinated Benzenes, Other Chemical Products Produced with These Chemicals				Testing Laboratories; Welding			Workers Exposed to Chloromethane and Chlorinated Benzenes, Consumers of Products Containing or Produced With These Chemicals; The General Public		Tiering

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EPA-OPTS 77865 Pesticide Registration Guidelines	Agriculture			Pesticides and Agricultural Chemicals				Chemical and Biological Testing Laboratories	Other Commercial Users of Pesticides and Agricultural Chemicals		Users of Pesticides and Agricultural Chemicals; the General Public		
EPA-OPTS 77867 Premanufacture Notification Requirements and Review Procedures				Chemicals		Importing of Chemical Products					Workers in the Chemical Industry; the General Public		
EPA-OPTS 77868 Rules Restricting the Commercial and Industrial Use of Asbestos Fibers		Asbestos	Construction	Asbestos Products; and Asbestos Substitutes		Importing of Asbestos and Asbestos Products			Other Commercial Users of Asbestos Products		Workers in Asbestos Mining and Manufacturing; Consumers of Asbestos Products; the General Public		Information Disclosure; Marketable Permits
EPA-OWWM 77870 Control of Organic Chemicals in Drinking Water				Water Supply Equipment	Public Water Supply Systems	Wholesale of Water Supply Equipment		Sanitary Engineers	Commercial Users of Water	State and Local Water Treatment Programs	Water Consumers; the General Public		

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EPA-OWWM Effluent Limitations Guidelines and Pretreatment Standards, and New Source Standards Controlling the Discharge of Pollutants from Pulp, Paper, and Paperboard Mills into Navigable Waterways	77775				Pulp, Paper and Paperboard Mills					Commercial Users of Pulp, Paper and Paperboard Products	State and Local Water Pollution Control	Consumers of Pulp, Paper and Paperboard Products; the General Public		
EPA-OWWM Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Iron and Steel Manufacturing Plants to Navigable Waterways and the Pretreatment of Wastewaters Introduced into Publicly Owned Treatment Works	77776			Construction	Iron and Steel Manufacturing Industries Using Iron and Steel Products					Other Commercial Users of Iron and Steel Products	State and Local Water Pollution Control	Consumers of Iron and Steel Products; the General Public		
EPA-OWWM Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Steam Electric Power Plants	77778				Antipollution Equipment Manufacturing Industries Using Electricity	Electric Services				Other Commercial Users of Electricity	State and Local Water Pollution Control	Consumers of Electricity, the General Public, the Aquatic Environment		

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EPA-OWWM Hazardous Waste Regulations: Phase I and II Regulations to Control Hazardous Solid Waste from Generation to Final Disposal	77872				Manufacturing Industries Generating Hazardous Waste	Hazardous Waste Management Systems		Banking and Savings and Loan Industries		Other Industries Generating Hazardous Wastes; Commercial Users of Goods Produced by Industries Generating Hazardous Waste	State and Local Waste Management Programs, Particularly in TX, OH, PA, LS, MI, IN, IL, TN, WV, and CA	Consumers of Goods Produced by Industries Generating Hazardous Waste; the General Public		Tiering
EPA-OWWM Sewage Sludge Disposal Regulations	77876				Fertilizer and Soil Conditioner Derived From Sludge	Sewerage Systems	Wholesale and Retail of Fertilizer and Soil Conditioner Derived From Sludge			Industries Discharging into Water Treatment Facilities	State and Local Waste Management Programs	The General Public		
EPA-OWWM Water Quality Standards Regulations	77780				Manufacturing Industries Discharging into Surface Water	Water Treatment Works				Other Industries Discharging into Surface Waters	State Water Pollution Programs	The General Public		
EEOC-OGC Employee Benefit Plans; Proposed Guidelines on the Application of the Age Discrimination in Employment Act of 1967 to Retirement and Pension Plans	77915									Establishments Subject to ADEA Maintaining Employee Benefit Plans	State and Local Government Employee Benefit Plans	Elderly Participants in Employee Benefit Plans		

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EEOC-OGC 77916 Proposed Rule on the Application of the Age Discrimination in Employment Act of 1967 to Apprenticeship Programs								Labor Organizations Administering Apprenticeship Programs	Establishments Administering Apprenticeship Programs	State and Local Government Apprenticeship Programs	Employees wishing to Participate in Apprenticeship Programs, Particularly the Elderly		
EEOC-OPI 77917 Interpretive Guidelines on Employment Discrimination and Reproductive Hazards				Manufacturing					Other Industries Exposing Workers to Reproductive Hazards		Workers Exposed to Reproductive Hazards	Small Business	
EEOC-OPI 77918 Proposed Revision of the Guidelines on Discrimination Because of National Origin								Labor Organizations Subject to Title VII of the Civil Rights Act of 1964	Companies Subject to Title VII of the Civil Rights Act of 1964	State and Local	Workers with Non-English Language Backgrounds		
FEMA 77878 Review and Approval of State and Local Radiological Emergency Plans and Preparedness				Manufacturing	Nuclear Power Plants				Other Commercial Users of Electricity Produced by Nuclear Power	State and Local Radiological Emergency Programs	Consumers of Electricity Produced by Nuclear Power; the General Public		
GSA-FPRS 77948 National Defense Stockpile Acquisition Regulations		Mining		Manufacturing					Other Industries Supplying, Trading and Using Basic Industrial Raw Materials				

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AGENCY / TITLE OF REGULATION / PAGE NO.	AFFECTED INDUSTRIES: AGRICULTURE, FORESTRY, FISHING	MINING	CONSTRUCTION	MANUFACTURING	TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SERVICES	WHOLESALE AND RETAIL TRADE	FINANCE, INSURANCE, REAL ESTATE	OTHER SERVICES	ALL-OR MULTI-INDUSTRY	OTHER AFFECTED SECTORS: STATE, LOCAL GOVERNMENT	POPULATION GROUPS; GEOGRAPHIC AREAS	SMALL BUSINESS	INNOVATIVE REGULATORY TECHNIQUES CONSIDERED
GSA-FPRS 77948 National Defense Stockpile Disposal Regulations			Mining	Manufacturing					Other Industries Supplying, Trading and Using Basic Industrial Raw Materials				
GSA-HRO 77919 Nondiscrimination Against Handicapped Persons in Programs and Activities Receiving Federal Assistance									GSA-Funded Programs and Activities	State and Local GSA-Funded Programs and Activities			Tiering
GSA-NARS 77920 Freedom of Information Act Requests for National Security Classifiimd Information in the National Archives								Organizations Requesting Classified Information	Other Establishments Requesting Classified Information		People Requesting Classified Information		
NCUA 77788 Group Purchasing Activities of Federal Credit Unions					Wholesale and Retail of Consumer Products	Federal Credit Unions; Insurance Industry					Members of Federal Credit Unions		Compliance Reform
SBA 77900 Revision of Business Loan Policy; Business Loans and Guarantees				Small Communications Businesses								Small Business	Deregulation
SBA 77920 Revision to Method of Establishing Size Standards and Definitions of Small Business												Small Business	Tiering

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VA-DMA 77922 State Cemetery Grants			Cemetery Construction							Cemetery Construction Programs of States, Territories and Possessions	Veterans and Their Families		
VA-OHG 77922 Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Veterans Administration									VA-Funded Programs and Activities	State and Local VA-Funded Programs and Activities	Participants in VA-Funded Programs and Activities particularly the Elderly		
CAB 77968 Air Carrier Insurance and Liability					Air Transportation		Insurance Industry		Shippers of goods by Air		Air Passengers		Information Disclosure Tiering
CAB 77969 Essential Air Service Subsidy Guidelines					Air Transportation				Industries in Small Communities		Small Communities; Air Passengers to and From These Communities; the General Public		Economic Incentive
CAB 77971 Notice to Passengers of Conditions of Carriage					Air Transportation; and Travel Agencies						Air Passengers		Information Disclosure

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CFTC 77791 Large Trader Reporting to Exchanges and Reporting Open Positions							Commodity Exchanges; Futures Commission Merchants; Foreign Brokers		Commercial Users of and Speculators in Commodities		Consumers of and Speculators in Commodities		
CFTC 77792 Proposed Rules Concerning Foreign Brokers and Traders							Commodity Exchanges; Domestic Futures Commission Merchants; Foreign Brokers and Traders		Comercial Users of and Speculators in Commodities		Consumers of and Speculators in Commodities		
CFTC 77793 Review of Guideline No. 1 - Criteria for Determining Whether a Board of Trade Meets the Economic Purpose and Public Interest Tests for Contract Market Designation							Commodity Exchanges; Futures Commission Merchants		Commercial Users of and Speculators in Commodities		Consumers of and Speculators in Commodities		
CPSC 77879 Chronic Hazards Associated with Benzidine Congener Dyes in Consumer Dye Products				Dye							Consumers of Home Dyes; Craftspeople; Hobbyists		

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CPSC 77881 Chronic Hazards Associated with Formaldehyde			Construction	Formaldehyde, Paper and Wood Products, Textiles, Insulation, and other Industries Using Formaldehyde		Wholesale and Retail of Formaldehyde			Business Users of Products Produced with or Containing Formaldehyde		The General Public, Particularly People Sensitized to Formaldehyde, and with Respiratory Illnesses and Allergies; Consumers of Products Produced with or Containing Formaldehyde		Information Disclosure; Voluntary Standards
CPSC 77883 Consumer Products Containing Asbestos		Asbestos	Construction	Asbestos Products		Wholesale and Retail of Asbestos Products			Other Comercial Users of Asbestos Products		Consumers of Asbestos Products; the General Public		
CPSC 77885 Omnidirectional Citizens Band Base Station Antenna Standard			Installation of CB Base Station Omnidirectional Antennas	CB Base Station Omnidirectional Antennas		Wholesale, Retail and Importing of CB Base Station Omnidirectional Antennas			Commercial users of CB Base Station Omnidirectional Antennas		Consumers of CB Base Station Omnidirectional Antennas		Performance Standards; Voluntary Standards
CPSC 77887 Safety Requirements for Chain Saws	Forestry		Construction	Chain Saws And Components					Industries Using Chain Saws		Professional and Consumer Users of Chain Saws		Voluntary Standards; Performance Standards

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CPSC 77889 Upholstered Furniture Cigarette Flammability Standard				Upholstered Furniture; Textile Mill Products; Thermoplastic Fabrics		Wholesale and Retail of Upholstered Furniture and Textile Mill Products				California	Consumers of Upholstered Furniture	Small Business	Voluntary Standards
CPSC 77891 Urea Formaldehyde Foam (UFF) Insulation			Installation of UFF Insulation	UFF Insulation		Wholesale and Retail of UFF Insulation			Commercial Users of UFF Insulation		Consumers of UFF Insulation, Particularly People Sensitized to Formaldehyde, and with Respiratory Illnesses and Allergies		Information Disclosure
FCC 77972 Children's Television Programming and Advertising Practices					Television Broadcasting			Advertising Industry			Children		Deregulation; Enhanced Competition
FCC 77973 Creation of "New" Personal Radio Service				Two-Way Radio Equipment	Radio Broadcasting	Wholesale and Retail of Two-Way Radio Equipment					Users of Two-Way Radios; Owners of Home Entertainment Equipment		
FCC 77974 Deregulation of Competitive Domestic Telecommunications Market					Telecommunications Industry				Commercial Telecommunications Users		Telecommunications Users	Small Business	Deregulation

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FCC 77975 Notice of Inquiry/Notice of Proposed Rulemaking in the Matter of Radio Deregulation					Radio Broadcasting			Advertising Industry			Radio Listeners		Deregulation
FDIC 77794 Applications, Requests, Submittals, and Notices of Acquisition of Control and Disclosure of Information							Insured State Nonmember Banks				The General Public		
FDIC 77795 Securities of Insured State Nonmember Banks							Insured Nonmember Banks				The Investing Public	Small Business	
FEC 77949 Nonpartisan Communications by Corporations or Labor Organizations								Membership Organizations; Including Trade Associations and Labor Organizations	Corporations in All Industries				
FERC 77739 High-Cost Natural Gas Produced from Wells Drilled in Deep Waters		Natural Gas Production		Manufacturing					Other Business Users of Natural Gas		Consumers of Natural Gas; the General Public		Economic Incentives; Tiering
FERC 77740 High-Cost Natural Gas: Production Enhancement Procedures		Natural Gas Production		Manufacturing					Other Business Users of Natural Gas	State Energy Agencies	Consumers of Natural Gas; the General Public		
FERC 77741 Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978		Natural Gas Production		Manufacturing	Natural Gas Transmission and Distribution				Other Business Users of Natural Gas		Consumers of Natural Gas		Tiering; Performance Standards

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FERC 77743 Rate of Return: Electric				Manufacturing	Electric Services				Other Business Users of Electricity; Business Investors in Electric Services		Private Investors in Electric Services; Consumers of Electricity		Performance Standards
FERC 77744 Regulations Governing Applications for Major Unconstructed Projects			Hydroelectric Power Projects	Manufacturing	Hydroelectric Power				Other Commercial Users of Hydroelectric Power	State and Local Hydroelectric Power Projects	Consumers of Hydroelectric Power; The General Public		
FERC 77893 Regulations Governing the Safety of All Water Power Projects and Project Works Licensed Under Part I of the Federal Power Act					Hydroelectric Power			Engineering Services		State and Local Hydroelectric Power Projects	Workers at Hydroelectric Power Projects; People Living Near Projects; the General Public		Tiering
FERC 77745 Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act		Natural Gas Production		Manufacturing	Natural Gas Transmission and Distribution				Other Business Users of Natural Gas		Consumers of Natural Gas		
FHLBB 77797 Regulations to Implement the Depository Institutions Deregulation and Monetary Control Act of 1980							Savings and Loan Industry		Customers and Competitors of Savings And Loans		Customers and Competitors of Savings and Loans		Enhanced Competition
FMC 77977 Amendments to Tariff Filing Requirements for Controlled Carriers					Deep Sea Foreign Transportation				Shippers of Goods by Deep Sea Foreign Transportation				

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FMC 77978 Filing of Currency Adjustment Factors					Deep Sea Foreign Transportation				Shippers of Goods by Deep Sea Foreign Transportation				
FMC 77979 Revision of Commission General Order 4, Licensing of Independent Ocean Freight Forwarders					Deep Sea Foreign and Domestic Transportation; Independent Ocean Freight Forwarding				Shippers of Goods by Deep Sea Foreign and Domestic Transportation			Small Business	Tiering
FRS 77798 Truth in Lending						Retail Establishments Granting Consumer Credit	Banking Industry; Credit Agencies Other Establishments Granting Consumer Credit				Consumers of Credit		Tiering
FTC 77951 Amendment to Eyeglasses Rule and Eyeglasses II						Retail Ophthalmic Industry		Ophthalmologists; Optometrists		State Regulation of the ophtalmic industry	Consumers of Eyeglasses and Contact Lenses		Enhanced Competition
FTC 77953 Medical Participation in Control of Certain Open-Panel Medical Prepayment Plans							Hospital and Medical Service Plans	Physicians; Nonphysician Health Care; Physician Organizations; Medical Groups			Subscribers to Hospital and Medical Service Plans; The General Public		Enhanced Competition

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FTC 77956 Proposed Trade Regulation Rule on Mobile Home Sales and Service				Mobile Homes		Retail of Mobile Homes				State Mobile Home Regulation	Purchasers of Mobile Homes		Performance Standards; Compliance Reform
FTC 77959 Residential Real Estate Brokerage Industry Practices							Real Estate Brokers and Agents; Related Services, Such as MLS	Brokerage Trade Associations; Related Services	Commercial Users of Brokerage Services	State Regulation of Real Estate Practices	Consumers of Brokerage Services		Information Disclosure
FTC 77960 Trade Regulation Rule Concerning Credit Practices						Retail of Consumer Products	Credit Agencies; other Establishments Providing Consumer Credit	Adjustment and Collection Agencies		State Regulation of Credit Practices	Consumer Debtors		
ICC 77981 Elimination of Gateway Restrictions and Circuitous Route Limitations; Removal of Restrictions from Authorities of Motor Carriers of Property					Trucking				Shippers using Trucks; Commercial Users of Products Shipped by Truck		Consumers of Products Shipped by Truck; Small and Rural Communities		
ICC 77982 Rules Governing Applications for Operating Authority; Acceptable Forms of Request for Operating Authority					Trucking; Water Transportation; Freight Forwarders; and Brokers				Shippers Using Trucks and Water Transportation; Commercial Users of Products Shipped by Truck and Water		Consumers of Products Shipped by Truck and Water		Enhanced Competition

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NRC-OSD 77894 Decommissioning of Nuclear Facilities Regulation				All Manufacturing, Nuclear Materials	Nuclear Power Plants				Other Industries Using Nuclear Materials; Other Business Users of Electricity Produced by Nuclear Power	State Control of Nuclear Materials and Facilities	Workers in Nuclear-Related Industries; Consumers of Electricity Produced by Nuclear Power; the General Public		Tiering
NRC-OSD 77896 Disposal of High-Level Radioactive Waste in Geologic Repositories Regulation				Nuclear Materials	Nuclear Power Plants				Business Users of Electricity Produced by Nuclear Power	State and Local	Consumers of Electricity Produced by Nuclear Power; the General Public		
PRC 77983 Experimental Classification--Rulemaking Docket No. RM80-2					US Postal Service						The Mailing Public		Disclosure
PRC 77985 Postal Rate Commission Docket--E-COM Forms of Acceptance, 1980					Telecommunications Industry; and the US Postal Service				Large Volume Mailers; and Business Users of These Mailers' Goods and Services		Recipients of Mail throughout the Nation		
PRC 77987 Postal Rate Commission Docket R80-1--Postal Rate and Fee Changes, 1980					US Postal Service				Business Users of the Mail		The Mailing Public; and Recipients of Mail	Small Business	

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SEC 77800 Proposed Comprehensive Revision to System for Registration of Securities Offerings							Security Brokers; Dealers; Exchanges; and Services		Publicly Traded Companies Required to Register with the SEC; Business Investors in These Companies		Investors in Publicly Traded Companies Required to Required to Register with the SEC		Tiering
SEC 77802 Proposed Rules Exempting the Acquisition and Ownership of Interests in Power Generation and Transmission Companies and Exempting Certain Non-Utility Subsidiaries of Registered Holding Companies				Manufacturing Industries	Electric and Gas Services; Rural Electric Cooperatives; Transportation Industries				Other Commercial Users of Electricity, Gas and Other Energy Sources; Registered Holding Companies and Their Subsidiaries		Consumers of Electricity, Gas and Other Energy Sources		

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INDEX II: DATE OF NEXT REGULATORY ACTION

This index provides you with a quick reference to the status of each of the proposed regulations the agencies describe in this edition of the **Calendar**. The index indicates the month(s) in which the agency plans to take the next scheduled regulatory action.

The index is organized alphabetically by agency, unit within the agency, and then by title of the regulation. We also provide the page number where you can find each entry in this edition of the **Calendar**, so you can check specific dates in the "Timetable" section of that entry.

The actions we note fall into four general categories: ANPRM (Advance Notice of Proposed Rulemaking), NPRM (Notice of Proposed Rulemaking), Final Rule and Other (any important next action which does not fall into the previous three categories). Independent agencies are most likely to have "Other" actions, such as Staff Recommendations or Commission Decisions.

Of the 182 entries described in this **Calendar**, 74, or about 41 percent, of the entries have "Final Rule" scheduled as the next regulatory action; NPRMs are scheduled as the next action for 65 (about 36 percent); and 9 (about 5 percent) list ANPRMs as the next action. Of the remaining entries, 17 list "Other" regulatory actions, 14 do not have next actions scheduled yet, and 3 involve multiple actions.

To review the overall schedule which the agency anticipates for each **Calendar** entry, the reader should turn to the specific entry and refer to the "Timetable" section.

Note.—In most cases, the agency can only estimate these dates. For current information on any action, please call the Agency Contact listed for the specific entry.

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USDA-AMS 77924 Amendments to Federal Seed Act Regulations					←	N	→								
USDA-AMS 77926 Regulatory Treatment of Reconstituted Milk in All Federal Milk Marketing Orders						DATES TO BE DETERMINED									
USDA-FSQS 77928 Proposed Net Weight Regulations								←	F	→					
USDA-FSQS 77806 Proposed Polychlorinated Biphenyls (PCBs) Regulation - Existing Equipment								←	F	→					
USDA-SCS 77747 Watershed Protection and Flood Prevention Program						←	N →								
DOC-MARAD 77931 Construction-Differential Subsidy Repayment; Total Repayment Policy			←	F →											

A= ANPRM N= NPRM F= FINAL RULE O= OTHER

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DOC-NOAA 77748 Regulations Implementing a Fishery Management Plan for the Groundfish Fishery for the Bering Sea/Aleutian Island Area		←	F →												
DOC-NOAA 77751 Regulations Implementing a Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, United States Waters		←	N →												
DOC-NOAA 77753 Regulations on the Mining of Deep Seabed Hard Mineral Resources					←	N →									
DOC-NOAA 77710 Regulations on the Construction, Location, Ownership, and Operation of Ocean Thermal Energy Conversion (OTEC) Facilities and Plantships	←	A	→												
ED-OCR 77898 Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Education, Effectuation of Title VI of the Civil Rights Act of 1964						FINAL RULE-DATE TO BE DETERMINED									
ED-OESE 77901 Financial Assistance to Local and State Agencies to Meet Special Educational Needs; and Financial Assistance to Local Educational Agencies for Children with Special Educational Needs		←	F →												
DOE-CS 77712 Commercial and Apartment Conservation Service Program	←	N	→												

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DOE-CS 77714 Emergency Building Temperature Restrictions	←F→														
DOE-CS 77715 Energy Conservation Program for Consumer Products Other Than Automobiles			←F→		←N→										
DOE-CS 77717 Energy Performance Standards for New Buildings										←N→					
DOE-CS 77718 Federal Price Support Loan Program for Energy from Municipal Waste Resource Recovery Facilities	←N→														
DOE-CS 77719 Standby Federal Emergency Conservation Plan		←F→													
DOE-ERA 77721 Amendments to Puerto Rican Naphtha Entitlements Regulations	←F→														
DOE-ERA 77722 Crude Oil Resales Pricing Revisions	←F→														
DOE-ERA 77723 Domestic Crude Oil Entitlements			←F→												
DOE-ERA 77724 Gasohol Marketing Regulations	←F→														
DOE-ERA 77726 Maximum Lawful Price for Unleaded Gasoline		←F→													
DOE-ERA 77727 Motor Gasoline Allocation Regulations Revisions	←F→														

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DOE-ERA 77729 Motor Gasoline - Downward Certification	FINAL RULE-DATE TO BE DETERMINED														
DOE-ERA 77730 Natural Gas Curtailment Priorities for Interstate Pipelines	←F→														
DOE-ERA 77733 Powerplant and Industrial Fuel Use Act of 1978; Cogeneration Exemption		←F→													
DOE-RA 77734 Outer Continental Shelf (OCS) Sequential Bidding Regulations			←F→												
DOE-RA 77736 Proposed Regulations Establishing Alternative Bidding Systems for Coal Lease Sales		←F→													
HHS-FDA 77807 Abbreviated New Drug Applications for New Drugs Approved After October 10, 1962, for Human Use			←N→												
HHS-FDA 77808 Chemical Compounds Used in Food-Producing Animals; Criteria and Procedures for Evaluating Assays for Carcinogenic Residues							←F→								
HHS-FDA 77810 Current Good Manufacturing Practice Relating to Poisonous and Deleterious Substances in Food, Feed, and Food-Packaging Materials Plants; Polychlorinated Biphenyls (PCBs)															FINAL RULE TO BE COORDINATED WITH EPA AND USDA, 1982.

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HHS-FDA 77813 Food Labeling Initiatives			←						→						
HHS-HCFA 77814 Conditions of Participation for Skilled Nursing Facilities and Intermediate Care Facilities		← F →													
HHS-HCFA 77816 Consolidation of Survey and Certification Requirements for Medicare and Medicaid					← N →										
HHS-HCFA 77818 Life Safety Code in Hospitals, Nursing Facilities, and Intermediate Care Facilities		← F →													
HHS-HCFA 77819 Uniform Reporting Systems for Health Services Facilities and Organizations	MULTIPLE ACTIONS -- SEE ENTRY FOR DETAILS														
HUD-FHA 77902 Coinsurance for Private Mortgage Lenders (New Construction)	← N →														
HUD-HOUS 77903 Minimum Property Standards for One- and Two-Family Dwellings									← F →						
HUD-NVACP 77821 Lead-Based Paint - Chewable Surfaces		← A →	← →												
HUD-OS 77737 Solar Energy and Energy Conservation Bank		← O →													
DOI-HCRS 77755 Uniform Rules and Regulations for the Protection and Conservation of Archaeological Resources Located on Public and Indian Lands	← N →														

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DOI-NPS 77757 Right-of-Way Regulations		← N →													
DOI-OSM 77759 Definition: "Surface Coal Mining Operations" and "Coal-Processing Plant"							← A →								
DOI-OSM 77760 Discharge from Mine Areas: Revision of Standards for Effluent Limits and Sedimentation Ponds	← N →														
DOI-WPRS 77762 Rules and Regulations for Acreage Limitation Under Federal Reclamation Law		← N →													
DOJ-CRD 77904 Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs		← N →													
DOJ-CRD 77905 Regulations Prohibiting Discrimination on the Basis of Age in Federally Assisted Programs				← F →											
DOJ-CRD 77905 Regulations Prohibiting Discrimination on the Basis of Sex in Education and Training Programs Receiving Federal Financial Assistance		← H →													
DOJ-INS 77906 Admission of Refugees and Asylum Procedures												← F →			
DOJ-INS 77907 Employment Authorization	← N →														
DOJ-OJARS 77908 LEAA Equal Service Evaluation Guidelines	DATES TO BE DETERMINED														

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DOL-ESA 77810 Sex Discrimination Guidelines--Employee Benefits	TIME TABLE FOR FINAL GUIDELINES CONTINGENT ON EEOC ACTION														
DOL-LMSA-PWBP 77911 Definition of Plan Assets and Establishment of Trust	FINAL RULE-DATE TO BE DETERMINED														
DOL-LMSA-PWBP 77912 Individual Benefit Reporting and Recordkeeping for Multiple Employer Plans	FINAL RULE-DATE TO BE DETERMINED														
DOL-LMSA-PWBP 77913 Individual Benefit Reporting and Recordkeeping for Single Employer Plans	FINAL RULE-DATE TO BE DETERMINED														
DOL-MSHA 77822 Mandatory Safety Standards for Surface Coal Mines and Surface Areas of Underground Coal Mines		←N→													
DOL-MSHA 77823 Regulations Setting Forth Requirements for Safety and Health Training for Mine Construction Workers				←A→											
DOL-MSHA 77824 Requirements for Construction and Maintenance of Impounding Structures and Tailings Piles at Metal and Nonmetal Mines											←A→				
DOL-MSHA 77825 Review of Safety and Health Standards Applicable to Metal and Nonmetal Mining and Milling Operations								←O→							

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DOL-MSHA 77826 Safety and Health Standards for Construction Work at All Surface Mines and Surface Areas of Underground Mines			←N→												
DOL-OSHA 77827 Generic Standard for Occupational Exposure to Pesticides During Manufacture and Formulation								←N→							
DOL-OSHA 77829 Identification and Labeling of Hazardous Materials in the Workplace	←N→														
DOL-OSHA 77831 Occupational Noise Exposure Hearing-Conservation Amendment	←F→														
DOL-OSHA 77833 OSHA General Industry Standard for Walking and Working Surfaces, and Construction Safety Standards for Ladders and Scaffolding, Floor and Wall Openings, and Stairways								←N→							
DOL-OSHA 77835 Regulations for Reducing Safety and Health Hazards in Abrasive Blasting Operations	←N→														
DOL-OSHA 77837 Safety and Health Regulations for Locking Out and Tagging Energy Sources in General Industry and in Construction								←N→							
DOL-OSHA 77838 Safety and Health Standard for Conveyors			←O→												→F
DOL-OSHA 77840 Standard for Occupational Exposure to Asbestos		←N→													

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DOL-OSHA 77842 Standard for Occupational Exposure to Chromium	←A→														
DOL-OSHA 77844 Standard for Occupational Exposure to Safety and Health Hazards in Grain Handling Facilities									←N→						
DOT-FAA 77846 Flammability Standards for Crewmember Uniforms									←N→						
DOT-FHWA 77933 Buy America Requirements	←N→														
DOT-FHWA 77964 Design Standards for Highways - Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation (RRR) of Streets and Highways Other Than Freeways	←N→														
DOT-FHWA 77847 Hours of Service of Drivers			←N→												
DOT-FHWA 77848 Minimum Cab Space Dimensions					FURTHER ACTION TO BE DETERMINED										
DOT-FRA 77849 Alerting Lights Display - Locomotives			←F→												
DOT-NHTSA 77850 Crashworthiness Ratings			←N→												
DOT-NHTSA 77738 Fuel Economy Standards for Model Year 1983-85 Light Trucks	←F→														
DOT-NHTSA 77851 Heavy Duty Vehicle Brake Systems						DATES TO BE DETERMINED									
DOT-NHTSA 77852 Pedestrian Protection			←N→												

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DOT-OST 77965 Special Air Traffic Rules and Airport Traffic Patterns							←F→								
DOT-USCG 77853 Construction and Equipment for Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases						←N→									
DOT-USCG 77763 Construction Standards for the Prevention of Pollution from New Tank Barges Due to Accidental Hull Damage; and Regulatory Action to Reduce Pollution from Existing Tank Barges Due to Accidental Hull Damage						DATES TO BE DETERMINED									
TREAS-ATF 77934 Accelerated Payment of Certain Tobacco Products Excise Taxes						DATE TO BE DETERMINED									
TREAS-ATF 77935 Delivery of Certain Alcohol and Tobacco Products Excise Tax Payments via Electronic Fund Transfer		←F→													
TREAS-ATF 77937 Implementation of the Distilled Spirits Tax Revision Act of 1979					←F→										
TREAS-ATF 77938 Labeling and Advertising Regulations Under the Federal Alcohol Administration Act	←N→														
TREAS-CUSTOMS 77940 Accelerated Duty Payment	←N→														
TREAS-CUSTOMS 77942 Administrative Rulings	←F→														

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TREAS-CUSTOMS 77943 Civil Aircraft Regulations		F													
TREAS-CUSTOMS 77944 Importation of Motor Vehicles and Motor Vehicle Engines Under the Clean Air Act						F									
TREAS-CUSTOMS 77945 Interest Charges on Delinquent Accounts	N														
TREAS-CUSTOMS 77946 Valuation of Imported Merchandise for Customs Purposes		F													
TREAS-OCC 77782 Adjustable-Rate Mortgages				F											
TREAS-OCC 77783 Description of Office, Procedures, Public Information; Supplemental Application Procedures; Assessment of Fees; National Banks; District of Columbia Banks; Employee Stock Option and Stock Purchase Plans; Changes in Capital Structure; Change in Bank Control; Federal Branches and Agencies of Foreign Banks; Policy Statements	N														
TREAS-OCC 77785 Lending Limits; Unimpaired Surplus Fund		F													
TREAS-OCC 77787 Use of Data Processing Equipment and Furnishing of Data Processing Services		N													

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EPA-OANR 77854 Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes		N													
EPA-OANR 77855 Policy and Procedures for Identifying, Assessing, and Regulating Airborne Substances Posing a Risk of Cancer						F									
EPA-OANR 77765 Regulations for the Prevention of Significant Deterioration (PSD) from Set II Pollutants (Hydrocarbons, Carbon Monoxide, Nitrogen Oxide, Ozone, and Lead)										N					
EPA-OANR 77857 Remedial Action Standards for Inactive Uranium Processing Sites	N														
EPA-OANR 77766 Review, and Possible Revision, of the National Ambient Air Quality Standard for Carbon Monoxide						F									
EPA-OANR 77768 Review, and Possible Revision, of the National Ambient Air Quality Standard for Nitrogen Dioxide						N									
EPA-OANR 77769 Review, and Possible Revision, of the National Ambient Air Quality Standards for Particulate Matter											N				
EPA-OANR 77770 Review, and Possible Revision, of the National Ambient Air Quality Standards for Sulfur Oxides (Sulfur Dioxide)											N				

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EPA-OANR 77771 Standards of Performance to Control Atmospheric Emissions from Industrial Boilers									N						
EPA-OANR-OMSAPC 77860 Fuels and Fuel Additives				A											
EPA-OANR-OMSAPC 77772 Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines		N													
EPA-OANR-OMSAPC 77773 Heavy-Duty Diesel Particulate Regulations	N														
EPA-OPTS 77861 Chemical Hazard Warning Labels		N													
EPA-OPTS 77863 Chloromethane and Chlorinated Benzene Proposed Test Rule; Amendment to Proposed Health Effects Standards												F			
EPA-OPTS 77865 Pesticide Registration Guidelines	MULTIPLE ACTIONS -- CALL OR WRITE AGENCY CONTACT (SEE ENTRY.)														
EPA-OPTS 77867 Premanufacture Notification Requirements and Review Procedures						F									
EPA-OPTS 77868 Rules Restricting the Commercial and Industrial Use of Asbestos Fibers										N					
EPA-OWWM 77870 Control of Organic Chemicals in Drinking Water	A														

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EPA-OWWM 77775 Effluent Limitations Guidelines and Pretreatment Standards, and New Source Standards Controlling the Discharge of Pollutants from Pulp, Paper, and Paperboard Mills into Navigable Waterways	N														
EPA-OWWM 77776 Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Iron and Steel Manufacturing Plants to Navigable Waterways and the Pretreatment of Wastewaters Introduced into Publicly Owned Treatment Works		N													
EPA-OWWM 77778 Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Steam Electric Power Plants						F									
EPA-OWWM 77872 Hazardous Waste Regulations: Phase I and II Regulations to Control Hazardous Solid Waste from Generation to Final Disposal			O	(FINAL RULES EFFECTIVE JAN. 16,1981.)											
EPA-OWWM 77876 Sewage Sludge Disposal Regulations			N												
EPA-OWWM 77780 Water Quality Standards Regulations		N													
EEOC-OGC 77915 Employee Benefit Plans; Proposed Guidelines on the Application of the Age Discrimination in Employment Act of 1967 to Retirement and Pension Plans	N														

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EEOC-OGC 77916 Proposed Rule on the Application of the Age Discrimination in Employment Act of 1967 to Apprenticeship Programs	←F→														
EEOC-OPI 77917 Interpretive Guidelines on Employment Discrimination and Reproductive Hazards	DATE FOR FINAL GUIDELINES TO BE DETERMINED														
EEOC-OPI 77918 Proposed Revision of the Guidelines on Discrimination Because of National Origin	←F→														
FEMA 77879 Review and Approval of State and Local Radiological Emergency Plans and Preparedness	FINAL RULE--DATE TO BE DETERMINED														
GSA-FPRS 77946 National Defense Stockpile Acquisition Regulations	←F→														
GSA-FPRS 77948 National Defense Stockpile Disposal Regulations	←F→														
GSA-HRO 77919 Nondiscrimination Against Handicapped Persons in Programs and Activities Receiving Federal Assistance		←F→													
GSA-NARS 77920 Freedom of Information Act Requests for National Security Classified Information in the National Archives			←N→												
NCUA 77788 Group Purchasing Activities of Federal Credit Unions		←O→													
SBA 77966 Revision of Business Loan Policy; Business Loans and Guarantees		←N→													

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SBA 77920 Revision to Method of Establishing Size Standards and Definitions of Small Business		←N→													
VA-DMA 77922 State Cemetery Grants	←F→														
VA-OHG 77922 Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Veterans Administration		←N→													
CAB 77968 Air Carrier Insurance and Liability	←F→														
CAB 77959 Essential Air Service Subsidy Guidelines		←N→													
CAB 77971 Notice to Passengers of Conditions of Carriage		←F→													
CFTC 77791 Large Trader Reporting to Exchanges and Reporting Open Positions				←N→											
CFTC 77792 Proposed Rules Concerning Foreign Brokers and Traders	←F→														
CFTC 77793 Review of Guideline No. 1 - Criteria for Determining Whether a Board of Trade Meets the Economic Purpose and Public Interest Tests for Contract Market Designation								←F→							
CPSC 77879 Chronic Hazards Associated with Benzidine Congener Dyes in Consumer Dye Products	FURTHER ACTION TO BE DETERMINED														

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CPSC 77881 Chronic Hazards Associated with Formaldehyde	← A →														
CPSC 77883 Consumer Products Containing Asbestos		← O →													
CPSC 77885 Omnidirectional Citizens Band Base Station Antenna Standard						← N →									
CPSC 77887 Safety Requirements for Chain Saws					FURTHER ACTION TO BE DETERMINED										
CPSC 77889 Upholstered Furniture Cigarette Flammability Standard					FURTHER ACTION TO BE DETERMINED										
CPSC 77891 Urea Formaldehyde Foam (UFF) Insulation	← O →														
FCC 77972 Children's Television Programming and Advertising Practices		← O →													
FCC 77973 Creation of "New" Personal Radio Service			← O →												
FCC 77974 Deregulation of Competitive Domestic Telecommunications Market	← O →														
FCC 77975 Notice of Inquiry/Notice of Proposed Rulemaking in the Matter of Radio Deregulation		← O →													
FDIC 77794 Applications, Requests, Submittals, and Notices of Acquisition of Control and Disclosure of Information		← F →													

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FDIC 77795 Securities of Insured State Nonmember Banks					← F →										
FEC 77949 Nonpartisan Communications by Corporations or Labor Organizations		← N →													
FERC 77739 High-Cost Natural Gas Produced from Wells Drilled in Deep Waters		← F →													
FERC 77740 High-Cost Natural Gas: Production Enhancement Procedures					REHEARING DECISION TO BE DETERMINED										
FERC 77741 Procedures Governing Applications for Special Relief Under Sections 104, 106, and 109 of the Natural Gas Policy Act of 1978		← F →													
FERC 77743 Rate of Return: Electric						DATES TO BE DETERMINED									
FERC 77744 Regulations Governing Applications for Major Unconstructed Projects	← N →														
FERC 77893 Regulations Governing the Safety of All Water Power Projects and Project Works Licensed Under Part I of the Federal Power Act		← F →													
FERC 77745 Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act			← F →												

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FHLBB 77797 Regulations to Implement the Depository Institutions Deregulation and Monetary Control Act of 1980	← F (MULTIPLE ACTIONS) →														
FMC 77977 Amendments to Tariff Filing Requirements for Controlled Carriers		← F →													
FMC 77978 Filing of Currency Adjustment Factors	← F →														
FMC 77979 Revision of Commission General Order 4, Licensing of Independent Ocean Freight Forwarders		← F →													
FRB 77798 Truth in Lending		← N →													
FTC 77951 Amendment to Eyeglasses Rule and Eyeglasses II			← O →												
FTC 77953 Medical Participation in Control of Certain Open-Panel Medical Prepayment Plans	← O →														
FTC 77956 Proposed Trade Regulation Rule on Mobile Home Sales and Service					← O →										
FTC 77959 Residential Real Estate Brokerage Industry Practices			← O →												
ICC 77960 Trade Regulation Rule Concerning Credit Practices								← O →							

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ICC 77981 Elimination of Gateway Restrictions and Circuitous Route Limitations; Removal of Restrictions from Authorities of Motor Carriers of Property		← F →													
ICC 77982 Rules Governing Applications for Operating Authority; Acceptable Forms of Request for Operating Authority		← F →													
NRC-OSD 77894 Decommissioning of Nuclear Facilities Regulation											← N →				
NRC-OSD 77898 Disposal of High-Level Radioactive Waste in Geologic Repositories Regulation		← N →													
PRC 77983 Experimental Classification--Rulemaking Docket No. RM80-2		FINAL RULE-DATE TO BE DETERMINED													
PRC 77985 Postal Rate Commission Docket--E-COM Forms of Acceptance, 1980		DATE TO BE DETERMINED													
PRC 77987 Postal Rate Commission Docket R80-1--Postal Rate and Fee Changes, 1980		← O →													
SEC 77800 Proposed Comprehensive Revision to System for Registration of Securities Offerings					← E →										
SEC 77802 Proposed Rules Exempting the Acquisition and Ownership of Interests in Power Generation and Transmission Companies and Exempting Certain Non-Utility Subsidiaries of Registered Holding Companies	← F →														

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INDEX III: DATES FOR PUBLIC PARTICIPATION OPPORTUNITIES

This index provides the basic timetable information needed by readers who are interested in participating in the development of regulations. The index is organized alphabetically by agency, by unit within the agency, and then by the title of the regulation.

This index graphically displays the dates of public comment periods, meetings, and hearings on proposed regulations which agencies describe in this edition of the **Calendar**. Where possible, we indicate the opening and closing dates of the comment periods, the dates and locations of public hearings and meetings, and the next regulatory action for the entry. The index also indicates whether the agencies provide funding or technical assistance for each regulation.

Not all regulations described in the **Calendar** are included here; only those with present or future opportunities for public participation. Those which are not listed usually had public comment periods, meetings, or hearings that have passed.

For more information about participation opportunities, the reader should consult Appendix I: Public Participation in the Federal Regulatory Process. For further information on each regulation, the reader should refer to the text of the entry in the appropriate chapter of the **Calendar**.

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USDA-AMS 77924 Amendments to Federal Seed Act Regulations		←H→	←C	→C→									Funding-No Assistance-Yes	NPRM	Public hearings for NPRM on seed test rules and standards for certified seed in Denver, CO., and Washington, D.C., in December 1980. NPRM for other amendments in spring 1981, followed by public hearings and a public comment period of at least 60 days.
USDA-AMS 77926 Regulatory Treatment of Reconstituted Milk in All Federal Milk Marketing Orders	←C	→C→												To be Determined	Public comments requested on draft impact statement published in the Federal Register Nov. 17, 1980 (estimated). Comment period until January 2, 1981.
USDA-FSQS 77928 Proposed Net Weight Regulations	←C	→C→											Funding-No Assistance-Yes	Final	Public comment period extended to early January 1981.
USDA-FSQS 77806 Proposed Polychlorinated Biphenyls (PCBs) Regulation - Existing Equipment	←C	→C→											Funding-No Assistance-Yes	Final Rule	Public comment period on NPRM closes December 4, 1980.

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USDA-SCS 77747 Watershed Protection and Flood Prevention Program							←C→						Funding-No Assistance-Yes	NPRM	Public comment period 60 days following NPRM in April 1981.
DOC-NOAA 77753 Regulations on the Mining of Deep Seabed Hard Mineral Resources													Funding-Yes Assistance-No	NPRM	Public comment period 60 days following publication of NPRM, March 1981. Public hearing during comment period.
DOC-NOAA 77710 Regulations on the Construction, Location, Ownership, and Operation of Ocean Thermal Energy Conversion (OTEC) Facilities and Plantships													Funding-Yes Assistance-No	ANPRM	Public meetings on proposed rules and draft environmental impact statement before they are issued. At least one public hearing after NPRM is issued, March 1981. Public comment period 60 days following NPRM.
DOE-CS 77717 Energy Performance Standards for New Buildings													No	NPRM	Public comment period will follow NPRM published in August 1981.
DOE-CS 77718 Federal Price Support Loan Program for Energy from Municipal Waste Resource Recovery Facilities	←C	→C→											No	NPRM	Public comment period for Phase I, November/December 1980.
DOE-ERA 77723 Domestic Crude Oil Entitlements		←C	→C→										No	Final Rule	Public comment period 60 days following NPRM, October 1980.
HHS-HCFA 77816 Consolidation of Survey and Certification Requirements for Medicare and Medicaid						←C	→C→						No	NPRM	Public comment period 60 days following publication of NPRM, March 31, 1981.
HUD-FHA 77902 Coinsurance for Private Mortgage Lenders (New Construction)		←C	→C→										No	NPRM	Public comment period 60 days following NPRM, November 1980.

PUBLIC COMMENT PERIOD = C PUBLIC MEETING = M PUBLIC HEARING = H OTHER = O

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HUD-NVACP 77821 Lead-Based Paint - Chewable Surfaces			←C→										No	ANPRM	Public comment period 60 days following ANPRM, December 1980.
HUD-OS 77737 Solar Energy and Energy Conservation Bank			←C→										No	Interim Rule	Public comment period 60 days following Interim Rule, December 1980.
DOI-HCRS 77755 Uniform Rules and Regulations for the Protection and Conservation of Archaeological Resources Located on Public and Indian Lands	C→												Funding-No Assistance-Yes	NPRM	Public comment period ends approximately December 19, 1980. Public hearings November 8 to December 13, 1980, at Albuquerque, NM; Anchorage, AK; San Francisco, CA; Denver, CO; Chicago, IL; Atlanta, GA.
	←H→														
DOI-NPS 77757 Right-of-Way Regulations		←C→											No	NPRM	Public comment period 90 days following NPRM, published December 1, 1980.
DOI-OSM 77759 Definition: "Surface Coal Mining Operations" and "Coal-Processing Plant"								←H,C→					Yes	ANPRM	Public hearings scheduled for Washington, D.C.; Indianapolis, IN; and Denver, CO, from June 15 to August 15, 1981. Public comment period runs simultaneously.
DOI-OSM 77760 Discharge from Mine Areas; Revision of Standards for Effluent Limits and Sedimentation Ponds	C→												Yes	Final Rule	Public comment period ends December 31, 1980. Public hearings held at Washington, D.C.; Knoxville, TN; Indianapolis, IN; Kansas City, KS; Denver, CO; and Seattle, WA, from November 20 to December 11, 1980.
	←H→														
DOI-WPRS 77762 Rules and Regulations for Acreage Limitation Under Federal Reclamation Law		←H→											No	Revised NPRM	Public hearings December 15, 1980, to March 16, 1981.
DOJ-CRD 77904 Coordination of Enforcement of Nondiscrimination in Federally Assisted Programs													No	NPRM	Public comment period minimum of 90 days following publication of NPRM in Dec. 1980-Jan. 1981.

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DOJ-CRD 77905 Regulations Prohibiting Discrimination on the Basis of Sex in Education and Training Programs Receiving Federal Financial Assistance													No	NPRM	Public comment period 90 days following NPRM published in December 1980.
DOJ-INS 77907 Employment Authorization													No	Revised NPRM	Public comment period 90 days following NPRM published in November 1980.
DOL-MSHA 77822 Mandatory Safety Standards for Surface Coal Mines and Surface Areas of Underground Coal Mines			←C→										No	NPRM	Public comment period 60 days following NPRM, December 30, 1980. Public hearings also will be held; dates not yet finalized.
DOL-MSHA 77823 Regulations Setting Forth Requirements for Safety and Health Training for Mine Construction Workers													No	ANPRM	Public comment period 45 days following ANPRM, February 1981, and 60 days following NPRM (publication date unknown).
DOL-MSHA 77824 Requirements for Construction and Maintenance of Impounding Structures and Tailings Piles at Metal and Nonmetal Mines						←C→							No	ANPRM	Public comment period March 30 to May 30, 1982, following publication of NPRM, winter 1981.
DOL-MSHA 77825 Review of Safety and Health Standards Applicable to Metal and Nonmetal Mining and Milling Operations								←M→					No	Notice of MSHA Decision of Priorities	Public meetings June to October 1981. Public comment period 60 days following NPRM in January 1982. Public hearings, January 1982
DOL-MSHA 77826 Safety and Health Standards for Construction Work at All Surface Mines and Surface Areas of Underground Mines				←H→									No	NPRM	Public comment period 60 days following NPRM, January 1981. Locations of public hearings, February to March 1981, to be announced.

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DOL-OSHA 77827 Generic Standard for Occupational Exposure to Pesticides During Manufacture and Formulation													No	NPRM	Public comment period 30-60 days following NPRM, summer 1981. Hearing will be held after comment period, if requested.
DOL-OSHA 77829 Identification and Labeling of Hazardous Materials in the Workplace													No	NPRM	Public comment period 60 days following NPRM, fall 1980.
DOL-OSHA 77833 OSHA General Industry Standard for Walking and Working Surfaces, and Construction Safety Standards for Ladders and Scaffolding, Floor and Wall Openings, and Stairways													No	NPRM	Public comment period 90 days following NPRM, summer 1981. Public hearings also will be held; dates and locations not yet scheduled.
DOL-OSHA 77835 Regulations for Reducing Safety and Health Hazards in Abrasive Blasting Operations													No	NPRM	Public comment period and public hearing following NPRM, fall 1980.
DOL-OSHA 77837 Safety and Health Regulations for Locking Out and Tagging Energy Sources in General Industry and in Construction		◄M►											No	NPRM	Informal public meetings on both general industry and construction issues, fall 1980.
DOL-OSHA 77838 Safety and Health Standard for Conveyors													No	Notice to Reopen the Record	Public comment period 60 days following Notice to Reopen the Record, winter 1981.
DOL-OSHA 77840 Standard for Occupational Exposure to Asbestos													No	NPRM	Public comment period 30-60 days following NPRM, late winter 1980; public hearing also will follow NPRM.

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DOL-OSHA 77842 Standard for Occupational Exposure to Chromium													No	ANPRM	Public comment period following NPRM, summer 1981; public hearing following comment period, if requested.
DOL-OSHA 77844 Standard for Occupational Exposure to Safety and Health Hazards in Grain Handling Facilities													No	NPRM	NPRM tentatively planned for late summer 1981; public hearings in fall or winter 1981.
DOT-FAA 77846 Flammability Standards for Crewmember Uniforms	─C─►												No	NPRM	Public comment period 90-120 days following NPRM, July 1981. Comment period ends December 16, 1980.
DOT-FHWA 77964 Design Standards for Highways - Geometric Design Standards for Resurfacing, Restoration, and Rehabilitation (RRR) of Streets and Highways Other Than Freeways		◄C─►											No	NPRM	Public comment period 90 days following NPRM, November 30, 1980; public meeting approximately 30 days following NPRM.
DOT-OST 77965 Special Air Traffic Rules and Airport Traffic Patterns		◄H►											No	Final Rule	Public comment period 90 days following publication of NPRM, October 27, 1980. Public hearing, December 1980.
TREAS-ATF 77938 Labeling and Advertising Regulations Under the Federal Alcohol Administration Act		─C─►											No	NPRM	Public hearing(s) held if warranted.
TREAS-CUSTOMS 77940 Accelerated Duty Payment													No	NPRM	Public comment period 60 days following NPRM, fall 1980.
TREAS-CUSTOMS 77944 Importation of Motor Vehicles and Motor Vehicle Engines Under the Clean Air Act	─C─►												No	Final Rule	Public comment period ends December 3, 1980.

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TREAS-CUSTOMS 77945 Interest Charges on Delinquent Accounts													No	NPRM	Public comment period 60 days following NPRM, fall 1980.
TREAS-OCC 77782 Adjustable-Rate Mortgages	C→												Funding-No Assistance-Yes	Final Rule	Public comment period ends November 28, 1980.
TREAS-OCC 77783 Description of Office, Procedures, Public Information; Supplemental Application Procedures; Assessment of Fees; National Banks; District of Columbia Banks; Employee Stock Option and Stock Purchase Plans; Changes in Capital Structure; Change in Bank Control; Federal Branches and Agencies of Foreign Banks; Policy Statements							C→						Funding-No Assistance-Yes	NPRM	Public comment period from September 1980 to November 1981 includes several topical issues, each having its own comment period.
EPA-OANR 77854 Environmental Radiation Protection Standards for Management and Disposal of Spent Nuclear Fuel, High-Level and Transuranic Radioactive Wastes													No	NPRM	Public comment period 180 days following publication of NPRM, December 1980; several public hearings during comment period (times and places to be announced).
EPA-OANR 77765 Regulations for the Prevention of Significant Deterioration (PSD) from Set II Pollutants (Hydrocarbons, Carbon Monoxide, Nitrogen Oxide, Ozone, and Lead)											←H→		No	NPRM	Public hearing September 1981. Public comment period ending October 1981 for NPRM published in August.
EPA-OANR 77857 Remedial Action Standards for Inactive Uranium Processing Sites													No	NPRM	Public hearings on NPRM (to be published November 1980) planned; dates and locations will be announced. Public comment period at least 60 days; dates not yet scheduled.

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EPA-OANR 77768 Review, and Possible Revision, of the National Ambient Air Quality Standard for Nitrogen Dioxide													No	NPRM	Public comment period to be specified in NPRM, spring 1981. Public hearings 60 days after publication of NPRM.
EPA-OANR 77769 Review, and Possible Revision, of the National Ambient Air Quality Standards for Particulate Matter													No	NPRM	Public comment period to be specified in NPRM, fall 1981. Public hearing 60 days after publication of NPRM.
EPA-OANR 77770 Review, and Possible Revision, of the National Ambient Air Quality Standards for Sulfur Oxides (Sulfur Dioxide)													No	NPRM	Public comment period to be specified in NPRM, fall 1981. Public hearing 60 days after publication of NPRM.
EPA-OANR 77771 Standards of Performance to Control Atmospheric Emissions from Industrial Boilers					←H→								No	NPRM	Public hearing, March 1981.
EPA-OANR -OMSAPC 77860 Fuels and Fuel Additives													No	ANPRM	Public hearing 60 days after publication of NPRM, November 1981; public comment period, 90 days following NPRM.
EPA-OANR -OMSAPC 77772 Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines				←H→									No	NPRM	Public comment period 60 days following publication of NPRM, December 1980. Public hearing, February 1981.
EPA-OANR -OMSAPC 77773 Heavy-Duty Diesel Particulate Regulations		←H→											No	NPRM	Public comment period 60 days following publication of NPRM, November 30, 1980. Public hearing, 30 days after NPRM, in Ann Arbor, MI.
		←C→													

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EPA-OPTS 77861 Chemical Hazard Warning Labels													Yes	NPRM	Public comment period will follow NPRM (to be published December 1980); public hearings schedule not yet set.
EPA-OPTS 77865 Pesticide Registration Guidelines													No		Multiple actions. Call or write Agency Contact (see entry).
EPA-OPTS 77868 Rules Restricting the Commercial and Industrial Use of Asbestos Fibers										←—	—C	—→	Yes	NPRM	Public comment period August to December 1981; public hearing December 1981 in Washington, D.C.
EPA-OWWM 77870 Control of Organic Chemicals in Drinking Water		←—	—O	—→				←—	—H	—→			No	ANPRM	Public technical seminar, winter 1980-1981; public hearings, summer 1981. Details to be announced.
EPA-OWWM 77775 Effluent Limitations Guidelines and Pretreatment Standards, and New Source Standards Controlling the Discharge of Pollutants from Pulp, Paper, and Paperboard Mills into Navigable Waterways													No	NPRM	Public comment period 60 days following publication of NPRM, November 1980.
EPA-OWWM 77776 Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Iron and Steel Manufacturing Plants to Navigable Waterways and the Pretreatment of Wastewaters Introduced into Publicly Owned Treatment Works				—H→									No	NPRM	Public comment period and hearing, February 1981.
				—C→											
EPA-OWWM 77778 Effluent Limitations Guidelines and Standards Controlling the Discharge of Pollutants from Steam Electric Power Plants	—C→												No	Final Rule	Public comment period from Oct. 14, 1980-Dec. 14, 1980.

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EPA-OWWM 77876 Sewage Sludge Disposal Regulations													No	NPRM	Public comment period 60 days following publication of NPRM, December 1980; 3-5 public hearings in various cities shortly after NPRM.
EPA-OWWM 77760 Water Quality Standards Regulations													No	NPRM	Public comment period 3-4 months following publication of NPRM, Dec. 1980. Public hearings as needed.
EEOC-OGC 77915 Employee Benefit Plans; Proposed Guidelines on the Application of the Age Discrimination in Employment Act of 1967 to Retirement and Pension Plans													No	NPRM	Public comment period 90 days following publication of NPRM, fall 1980.
EEOC-OGC 77916 Proposed Rule on the Application of the Age Discrimination in Employment Act of 1967 to Apprenticeship Programs	—O→												No	Final Rule	Public comment period ends November 28, 1980.
GSA-NARS 77920 Freedom of Information Act Requests for National Security Classified Information in the National Archives													Funding-No Assistance-Yes	NPRM	Public comment period 60 days following NPRM, early 1981.
NCUA 77768 Group Purchasing Activities of Federal Credit Unions													No	Preliminary Review by NCUA Staff	Pre-ANPRM; date of ANPRM to be determined. Public comment period 60 days following NPRM; also to be determined. Public hearing not anticipated.
SBA 77966 Revision of Business Loan Policy; Business Loans and Guarantees		—C→											No	NPRM	Public comment period on ANPRM ends December 8, 1980. Comment period on NPRM, December 8, 1980, to February 8, 1981.
VA-OMG 77922 Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Veterans Administration													Funding-No Assistance-Yes	NPRM	Public comment period 30 days following NPRM, December 1980.

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APPENDIX I—PUBLIC PARTICIPATION

paved the way for reimbursement of selected groups and individuals to

Federal depositories. To find the one nearest you, contact a public library.

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CAB Essential Air Service Subsidy Guidelines	77969													No	NPRM	Public comment period to be announced in NPRM, winter 1980-1981.
CFTC Large Trader Reporting to Exchanges and Reporting Open Positions	77791		C→											No	Staff Recommendation	Public comment period closes November 25, 1980.
CFTC Review of Guideline No. 1 - Criteria for Determining Whether a Board of Trade Meets the Economic Purpose and Public Interest Tests for Contract Market Designation	77793		C											No	Final Rule	Public comment period on NPRM closes February 1, 1981.
CPSC Omnidirectional Citizens Band Base Station Antenna Standard	77985													Yes	NPRM	Public comment period, May and June 1981, following NPRM, April 20, 1981.
FRS Truth in Lending	77798													No	NPRM	Public comment period 30 days following publication of NPRM, December 1980.
FTC Amendment to Eyeglasses Rule and Eyeglasses II	77951		C											No	Staff Review of Recommendations	Public comment period on ANPRM ends January 1981.
FTC Trade Regulation Rule Concerning Credit Practices	77960		C											Funding-Yes Assistance-No	Commission Consideration	Post-record comment period ends December 22, 1980.
NRC-OSD Disposal of High-Level Radioactive Waste in Geologic Repositories Regulation	77896													No	NPRM	Public comment period 60 days following publication of NPRM, December 1980.
PRC Postal Rate Commission Docket--E-COM Form of Acceptance, 1980	77985													Funding-No Assistance-Yes	NPRM	Timetable to be determined when Postal Service files its proposal; PRC will hold public hearings.
SEC Proposed Comprehensive Revision of Rules for Registration of Securities Offerings	77800		C											No	Final Rule	Public comment period began September 15, 1980, and ends January 15, 1981.

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APPENDIX I—PUBLIC PARTICIPATION IN THE FEDERAL REGULATORY PROCESS

I. Introduction

This appendix provides "first step" guidance for effective participation in the Federal regulatory process. It discusses the major procedures at the Federal level that help to ensure that the public's interests are considered fairly in the final decisionmaking process. The appendix describes the general requirements for public participation in 38 agencies of the Federal Government. This section of the appendix briefly discusses procedures that establish the public's role in the Federal rulemaking process. Specific information on the participation procedures at each Regulatory Council agency follows, including:

- The name of each unit, if any, in the agency that issues regulations;
- A brief description of the functions of the agency;
- A summary of the agency's public participation activities;
- A description of any special funding or technical assistance available for public participation activities;
- A list of documents describing the public participation procedures in the agency; and
- The contact person(s) who can provide further information.

Basic Definitions

Below are some basic definitions that will be helpful for those unfamiliar with Federal regulatory proceedings:

"Agency" means an organization of the Federal Government, and includes executive departments and agencies, independent agencies, and their components. (It does not include Congress or the courts.)

"Executive agencies" are headed by persons chosen by the President and who serve at his pleasure, while "independent agencies" are headed by persons appointed by the President for a specific length of time to chair the agency's commission or board. (There are specific limitations on the power of the President to remove the heads of these agencies.)

We have explained in the text of this appendix other terms with which readers may not be familiar.

II. Public Participation Funding and Technical Assistance

Some agencies provide funding and/or technical assistance for members of the public to participate in specified agency activities. Congress first authorized such funding in 1975, when it passed the Magnuson-Moss Act that paved the way for reimbursement of selected groups and individuals to participate in rulemaking proceedings at the Federal Trade Commission.

Although not all agencies offer public participation funding, in some cases because of statutory limitations, those that do offer such funding provide financial assistance to interest groups, individuals, and/or businesses, or to those trade associations that can add a unique perspective to the proceeding and/or would not be able to participate otherwise. These assistance grants generally cover only out-of-pocket expenses, such as travel, telephone, duplication services, some attorney's fees, etc.

Statutes like the Magnuson-Moss Act as well as court decisions on judicial review also influenced agencies to hold more public hearings during major rulemaking proceedings. During the 1970s a great number of social regulations were promulgated, heightening public interest in rulemaking proceedings and increasing the need and demand for public hearings. The Administration is supporting legislation that would authorize public participation funding across the Government.

III. Public Participation in Statutes and Executive Orders

Public participation contributes to the efficiency of Government by providing policymakers with a perspective on issues that enables them to make informed decisions. We describe below the history of the public participation provisions that have permitted public access to information on agency records and proceedings.

A. *Federal Register Act (1935).* The first law providing for the prompt and uniform distribution of documents that result from rulemakings and other agency proceedings was the Federal Register Act of 1935. This Act requires agencies to file documents with the Office of the Federal Register, which prints the **Federal Register**, a daily government publication that announces the official actions of Federal agencies. The Act also allows for public inspection of documents the day before their publication in the **Federal Register**.

The **Federal Register** is available at Federal depository libraries, where most Government publications are maintained for public use. Designated regional Federal depository libraries will have at least one copy of all Federal publications in printed or film form. There are more than 1,500 Federal depository libraries in the United States and its territories. Also, many university libraries have been designated as Federal depositories. To find the one nearest you, contact a public library, university library or your U.S. Congressional representative.

B. *Administrative Procedure Act (1946).* The first major provision for public participation in Federal regulatory proceedings was implemented in 1946 through the Administrative Procedure Act (5 U.S.C. §§ 551–559, 701–706). This Act obligates agencies to follow specific procedures in rulemaking, adjudication, and related matters where public input is most valuable.

This Act gives the public the right to participate in most rulemakings as follows:

1. *NPRM*—The agency must publish a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** to let the public know of proposed rules the agency is considering. The NPRM must include the time, place, and nature of the proceeding; the legal authority under which the agency is proposing the rule; and a description of the proposed rule's substance or a description of the subject and issue(s) involved.

The Act also allows for members of the public to initiate a rulemaking proceeding by petitioning the agency to amend, modify, or repeal an existing rule. Not all agencies have specific procedures explaining how to submit a petition for rulemaking, as the Act does not require them. Individual and/or groups interested in developing a petition for rulemaking shoud examine the statutory basis for such a rule and the agency's mandate and related activities, or consult an attorney. The format for such a petition can duplicate that for submitting public comments.

2. *Making Public Comments*—The agency must allow interested persons and groups the opportunity to participate in rulemaking through written comments to the agency that support, oppose, or suggest modifications in proposed or existing rules—with or without the opportunity for an oral presentation. Anyone can take advantage of this opportunity during the public comment period.

Each agency may have its own specific requirements for how it will accept public comments. Generally, agencies prefer that you:

- Type your comments neatly;
- Indicate the rulemaking proceeding that the comments address;
- Include the writer's name, full address, and title and/or affiliation; and
- Clearly state your arguments favoring or opposing the rule, e.g., you could include information about how the agency's proposal could affect the socioeconomic growth and quality of life

of a community, region, or State; whether there are "new" issues that the agency should consider; or whether the agency's proposal is unfair because it is prohibited by statute from distributing the material, or where the document

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(202) 357–0019

- Allow at least 60 days for public comment at the NPRM stage, as opposed

consumers who attend agency meetings open to the public.

seek public comment during the review of their regulations.

of a community, region, or State; whether there are "new" issues that the agency rule or proposal fails to consider or give proper attention to; or how problems the agency is considering could be solved more efficiently through an alternative or compromise solution. Be as specific as possible.

When public comments reach the agency they are officially logged into the public record (often referred to as the "docket"), and the reviewing staff analyzes the comments so they can consider, during the decision-making process, the significant issues that the public raised.

Interested persons should contact agencies directly for information on the opening and closing dates for comment periods on particular rulemakings, the address they should send comments to, and the number of copies they should submit. (Agency Contacts whom readers can call or write are listed in the appendix.)

3. *Final Rule*—When the agency finally issues a rule, it must publish the rule in the **Federal Register** along with a statement about the rule's basis and purpose, and a discussion of any significant issues raised during the public comment period. The agency must publish substantive rules at least 30 days before the rule becomes effective. Rules that are exempt from these requirements include those relating to U.S. military or foreign affairs functions or agency matters related to personnel or public property, loans, grants, benefits, or contracts.

In addition, the requirements do not apply to rules stating a general agency policy or to rules dealing with agency organization or procedure. However, some agencies voluntarily apply the above NPRM and public comments requirements to those types of matters. The Act also exempts situations where the agency believes that public participation is "impracticable, unnecessary, or contrary to the public interest." However, when an agency claims such an exemption, it must give its reasons.

C. *Freedom of Information Act (1967).* The Freedom of Information Act (FOIA) (5 U.S.C. §552) requires each Federal agency to make available to any person any agency document—whether published or unpublished—that the agency obtains, maintains, or internally produces so long as the material is specifically identified and requested in accordance with procedures established by agency rules. Agencies must usually respond to a request within 10 days of its receipt.

An agency may refuse to disclose a document in cases where the agency is prohibited by statute from distributing the material, or where the document falls within one or more of the exemptions contained in the Act describing confidential matters and materials. The exemptions are *not* mandatory. The agencies *may* disclose *any* information that is not made confidential by some other law.

You should precisely word your request so the agency knows exactly what you want. This will make possible quicker and less expensive file searches. If you wish only part of a file or document, identify that part specifically. The FOIA allows agencies to charge searching and copying fees; such fees may vary from agency to agency. Each agency has an FOIA officer from whom you can obtain general information about FOIA requests. The agency contacts listed later in this appendix can refer you to the appropriate person.

FOIA questions can be difficult to answer, and space does not permit a detailed explanation of all of the provisions of the Act. The Department of Justice's Office of Information Law and Policy oversees Federal FOIA matters. For more general information you can contact them at:

Office of Information Law and Policy
Department of Justice
Main Justice Building
10th & Constitution Ave., N.W., Room 5259
Washington, DC 20530
(202) 633–2674

D. *Federal Advisory Committee Act (1972).* The Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C. Appendix I) gives the public the right to know about meetings between agency personnel and the outside groups they establish to assist them in their work. This Act also controls the number and composition of these groups or committees. Section 10 of the Act requires open meetings and advance public notice of most advisory committee meetings. Agencies may close such meetings if the meeting agenda includes a subject that may be kept confidential under one or more of the exemptions of the "Sunshine Act," which is explained in the following section.

The General Services Administration's Committee Management Secretariat oversees governmentwide Federal advisory committee matters. For more information contact:

Committee Management Secretariat
National Archives and Records Service
Office of the Executive Director
General Services Administration
1100 L Street, N.W., Room 9403
Washington, DC 20408
(202) 357–0019

E. *Government in the Sunshine Act (1976).* This provision, often referred to simply as the "Sunshine Act," (5 U.S.C. § 552b) is an outgrowth of the Federal Advisory Committee Act and applies to agencies headed by a board or commission. The Act calls for public notice of meetings in these agencies and specifies when the agency may close meetings to the public or may withhold information from meeting notices. Exempt meetings are those dealing with (a) secret matters of national defense, (b) agency personnel rules and practices, (c) confidential commercial or financial information, (d) criminal charges, (e) personal privacy invasion, (f) investigatory records for law enforcement purposes, (g) supervision of financial institutions, (h) previously disclosed agency actions, and/or (i) agency participation in a civil court case.

Interested members of the public should contact the agency directly for information about how to receive meeting notices, how to request that a closed meeting be opened, or where to review available public records of agency meetings.

F. *Executive Order 12044 (1978).* Thirty-two years after Congress passed the Administrative Procedure Act, President Carter issued Executive Order 12044, Improving Government Regulations (3 CFR, 1978 Comp., p. 152) which was extended by E.O. 12221 (45 FR 44249, July 1, 1981). The Executive Order outlines requirements for executive agencies to manage better their regulatory responsibilities and includes provisions for expanding public participation in the development of significant agency regulations. Executive agencies are required to comply with the Executive Order, and the President asked that independent agencies voluntarily comply. This Executive Order builds upon the requirements of the Administrative Procedure Act by asking agencies to:

- Publish an Advance Notice of Proposed Rulemaking (ANPRM) to solicit public views before formally proposing the regulation for public comment in a Notice of Proposed Rulemaking (NPRM). An ANPRM describes problems or situations that regulatory action might deal with. Public comments on an ANPRM can raise questions and considerations that help the agency decide whether regulating is the best way to control the problem or situation, and if it is considering the proper issues. The ANPRM is sometimes referred to as a "Notice of Inquiry;"
- Allow at least 60 days for public comment at the NPRM stage, as opposed to the customary 30 day period. The Executive Order also requires the agency to analyze and prepare a discussion of significant public comments before approving regulations;
- Send notices to publications in addition to the **Federal Register**, such as consumer newsletters and trade journals, that are read by those who will be affected by the proposed regulation.
- Notify the affected parties directly regarding developments in the proceeding; and
- Hold open conferences or public hearings.

This Executive Order also asks agencies to write and explain regulations clearly and simply in "plain English" so that nonspecialists can interpret the regulations easily.

In addition, the Order also requires agencies to publish, in the **Federal Register**, semiannual regulatory agendas to facilitate public participation. These agendas, which are usually available from their respective agencies, list all of the significant regulations that an agency has under development or scheduled for review. The lists also advise the public of the agency's regulatory action schedule, and thus ensure the earliest possible opportunity for public participation in rulemaking.

At a minimum, the agenda items identified as "major" by executive agencies are reported here in the **Calendar of Federal Regulations.** Appendix III, of this **Calendar,** "Publication Dates for Agency Semiannual Regulatory Agendas," indicates the dates each agency publishes its agendas in the **Federal Register.**

G. *Executive Order 12160 (1979).* Executive Order 12160, Providing for the Enhancement and Coordination of Federal Consumer Programs, 3 CFR, 1979 Comp. p. 430 establishes a comprehensive policy to guide all agencies in identifying agency consumer affairs staff who will participate in the development and review of all agency rules, policies, programs, and legislation; and it establishes procedures for the early and meaningful participation by consumers—both individuals and groups—in the development and review of all agency rules, policies, and programs. In addition, the Order requires agencies to produce and distribute informational materials that explain agency services and responsibilities, procedures for consumer participation, and aspects of the marketplace over which the agency has some jurisdiction. Agencies also have to provide information to consumers who attend agency meetings open to the public.

H. *The Regulatory Flexibility Act (P.L. 96–354, 94 Stat. 1164).* This law states that it is the policy of the Federal Government to anticipate and, where possible, reduce the impact that regulations may impose on small entities, i.e., small businesses, small organizations, and small governmental jurisdictions. Under the Act, agencies must:

- Publish notice that rules will be promulgated so small entities may participate in their drafting. Each agency is required to publish a regulatory flexibility agenda twice a year. The agenda must give a brief description of any rule the agency expects to propose that is likely to have a significant economic impact on a substantial number of small entities. The agenda must summarize the rule's objectives, its legal basis, the expected timetable for completing action, and invite comment from those who would be subject to the rule. It is expected that many agencies will include a special section of additional material in the semiannual agendas they already publish under E.O. 12044. Agencies must make special efforts to alert small entities "through direct notification or publication of the agenda in publications likely to be obtained by such small entities."
- Prepare draft and final regulatory flexibility analyses for proposed rules that will have an impact on a significant number of small entities. This anslysis will include the purpose and reason for the proposal; the number of small firms and organizations to which it would apply; anticipated reporting and recordkeeping requirements; possible overlap and conflict with other Federal rules; and a description of possible alternative means of accomplishing the stated objectives which would minimize the impact upon small entities. The agency must explain why it may have rejected any signficant alternative which might have had a lesser economic burden on small entities.
- Publish for public comment approaches such as exemptions or reduced requirements that would offset the disproportionate impact regulations would have on small entities.
- Review existing rules to reduce their impact on small entities. Agency heads are to consider the continued need for the rule, public complaints or comments, the complexity of the rule, possible overlap or conflict with other regulations, and possible changes in technology, economic conditions, or other factors that may make it desirable to modify the regulations. Agencies must seek public comment during the review of their regulations.
- The Chief Council for Advocacy of the Small Business Administration is responsible for monitoring agency compliance with the Act and is authorized to appear as a "friend of the court" in any court action brought to review any regulation for its effect on small entities.

Agencies published their consumer programs in the **Federal Register** June 1980 (45 FR 38801 *et seq.*, June 9, 1980).

Agency Public Participation Entries

Public participation activities and possibilities are many and varied, depending upon the agency's resources, the suitability of the activity to the type of proceeding the agency is conducting, and the desired participation result.

Each of the 36 Regulatory Council agencies has provided a general summary of its public participation programs, which we have published in the following pages to help you participate in agency activities. Call or write the various agencies for more information. You and your community surely will benefit from your participation in the Federal regulatory process. The Regulatory Council encourages your interest and involvement.

Administrative Conference of the United States (ACUS)

Units That Issue Regulations

The Administrative Conference has no regulatory responsibilities. The only regulations it issues pertain to its organizational duties, found at 1 CFR Parts 301–304. The formal work product of the Conference is reflected in Recommendations and Statements concerning administrative practice and procedure, codified at 1 CFR Parts 305 and 310.

Functions

The Administrative Conference of the United States was established as a permanent independent agency in the Executive Branch by the Administrative Conference Act, 5 U.S.C. § 571–576, enacted in 1964. It is an advisory agency, not a regulatory agency. Its mandate is to "study the efficiency, adequacy, and fairness of the administrative procedure used by administrative agencies" and to make recommendations for the improvement of those procedures to the agencies, Congress, the President, and the courts. The Office of the Chairman provides advisory and consultative assistance to the government and the public.

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Public Participation Summary

The Administrative Conference develops and adopts its Recommendations through open meetings, which receive advance notice in the **Federal Register.** Conference members serve on nine committees, with a staff attorney serving as committee liaison. The Office of the Chairman is now developing a mailing list of persons interested in receiving early notice of ACUS committee meetings.

Funding and Technical Assistance

The Administrative Conference's activities are all open to the public and ACUS enthusiastically solicits public participation; however, none of its activities require funding of participants. Upon request, technical assistance through consultations with staff will be offered if necessary to facilitate participation.

Public Participation Documents

"An Interpretive Guide to the Government in the Sunshine Act" (1978), a staff publication that explains the provisions of the Act, and draws from the legislative history. It has been cited by several court decisions interpreting the Act. (Single copies are available from the librarian in the Office of the Chairman.)

"Guide on Agency Reports Under Executive Order 12044" (1978), a staff publication that explains the President's Order and cites agencies' responses to it. (Available free from the librarian.)

The continuing series of recommendations and reports on administrative procedure is also available from the librarian in the Office of the Chairman. There is normally no charge for such documents if an adequate supply is on hand.

Information Contact

For information on general public participation procedures or for publications requests:

Jeffrey S. Lubbers, Senior Staff Attorney
Administrative Conference of the United States
2120 L Street, N.W., Suite 500
Washington, DC 20037
(202) 254–7020
or
Sue Boley, Librarian
Administrative Conference of the United States
2120 L Street, N.W., Suite 500
Washington, DC 20037
(202) 254–7020

ACUS maintains a mailing list for its annual reports and occasional newsletters and notices of meetings. Contact either of the persons listed above.

Department of Agriculture (USDA)

Units That Issue Regulations

Agricultural Marketing Service
Agricultural Stabilization and Conservation Service
Animal and Plant Health Inspection Service
Farmers Home Administration
Federal Crop Insurance Corporation
Federal Grain Inspection Service
Food and Nutrition Service
Food Safety and Quality Service
Foreign Agricultural Service
Forest Service
Office of Energy
Office of Environmental Quality
Office of Equal Opportunity
Rural Electrification Administration
Science and Education Administration
Soil and Conservation Service

Functions

USDA establishes national policy regarding the Nation's production, distribution, and consumption of agricultural commodities, foodstuffs, and forest resources, as well as national policy governing the use of agricultural commodities or services for personal or household purposes.

Public Participation Summary

The majority of rulemakings at USDA are informal, or notice and comment actions. Each of the administrative units named above solicits public comments on policy issues under consideration.

The exception is the formal rulemaking process required for commodity marketing orders administered by the Agricultural Marketing Service (AMS). Before holding an evidentiary hearing, AMS performs a prenotice investigation, reviewing public comments framing the issues that must be covered in developing an adequate decision. Following the public hearing and analysis of the record a recommended decision is issued, subject to comment and the filing of exemptions. AMS's final decision is put to a referendum by the regulated producers that the final order will affect.

Each USDA unit listed above has a public participation contact. These are listed below under "Information Contacts."

In addition to the normal educational and informational responsibilities, USDA's public participation office monitors the adequacy of the opportunity for the public to participate in all agency proceedings. The Department public participation staff and agency public participation staffs have the responsibility for assuring that a thorough and systematic effort is made to obtain timely, informed, and substantive comment from those interested in or potentially affected by a proposed action. Public participation plans are required to accompany each impact analysis: for "significant" decisions, the plans are monitored by the Department's public participation staff while plans for "not significant" decisions are monitored by agency public participation staffs. Plans are sent to public participation staffs in the early developmental stages of an action for staff concurrence.

Efforts to increase participation include increased use of prenotice, development of reimbursement regulations (described below), public meetings and briefings, updating of mailing lists, and more use of "Backgrounders" providing additional information on issues and how to participate.

Recent examples of innovative public participation efforts by USDA include:

—Regulations implementing the Grain Standards Act of 1978. We published for early comment a background study and draft regulations covering complex and controversial new program areas. We received many substantive comments, resulting in substantial revision to and improvement in the regulations which we proposed.

—A Food Safety and Quality Service (FSQS) effort to involve the public early in contemplation of a possible future rulemaking activity on food grading. Recent studies have shown that consumers are confused about what the various food grading systems mean, including USDA grades and "house" grades.

USDA has graded meat, poultry, eggs, dairy products, fresh fruits and vegetables, and related products such as jams and juices since 1917. Grading means separating items of food into different levels of quality, where quality refers to the usefulness, desirability, or marketability of the product.

As phase one of this activity, we have conducted a consumer survey to understand consumer perceptions of grading as it now exists and to understand the benefits to consumers if we were to modify the system. More specifically, we are seeking information on what consumers know about USDA food grading, the extent to which the consumer may be confused about grading, and how we might modify the current grading system to improve its utility to consumers.

We used information from the survey to develop options to present to the public for comment. We made a substantial public information and participation effort, including three public hearings, to ensure that adequate information was widely distributed to elicit a broad range of substantive comment.

Following the hearings, FSQS is now reviewing the record and conducting an analysis on (1) whether to propose new regulations and (2) the best options to proposed.

Funding and Technical Assistance

On January 24, 1980, USDA issued regulations governing reimursement of qualified individuals and groups for the costs of participating in USDA rulemaking proceedings. Those regulations became effective 30 days later. (A "Handbook for Applicants" is also available through the department or agency public participation staff listed below.) Applicants may qualify for assistance if: they are an individual, or profit or nonprofit group, association, partnership, or corporation; they lack sufficient resources to participate effectively without financial assistance; their participation is likely to contribute to a full and fair determination of the issues; and they are from the area affected by the proposed action.

The head of the agency conducting the rulemaking will make the determination as to whether funds will be used for this purpose. An independent, Department-level evaluation board will make the final decision on awarding funds to a particular applicant.

Those interested in applying for funding should contact the director of public participation or the public participation contact for the agency proposing the specific action.

Public Participation Documents

In addition to the "Handbook for Applicants" for the reimbursement regulations, described above, the Department public participation staff has published a manual for the public on how to participate in USDA decisionmaking. These documents are available through the Department Director of Public Participation listed below.

Information Contact

For further information contact:

Elizabeth A. Webber, Director of Public Participation
Department of Agriculture
Room 118A, Administration Building
Washington, DC 20250
(202) 447–2113

Agency Public Participation Contacts

Hal Ricker, Assistant to the Administrator
Agricultural Marketing Service
Department of Agriculture
Room 3068–S, South Building
Washington, DC 20250
(202) 447–8669

Ray Voelkel, Assistant to the Deputy Administrator for Commodity Operations
Agricultural Stabilization and Conservation Service
Department of Agriculture
Room 3755–S, South Building
Washington, DC 20250
(202) 447–7865

Nick Bedessem, Assistant to the Administrator
Animal and Plant Health Inspection Service
Department of Agriculture
Room 2139–S, South Building
Washington, DC 20250
(202) 447–2996

Bob Lake
Office of Information
Forest Service
Department of Agriculture
Room 3219–S, South Building
Washington, DC 20250
(202) 447–3760

Barry Flamm
Office of Environmental Quality
Department of Agriculture
Room 412–A, Administration Building
Washington, DC 20250
(202) 447–3965

Joseph Linsley, Chief
Directives Management Branch
Farmers Home Administration
Department of Agriculture
6348 South Building
Washington, DC 20250
(202) 447–4057

Pete Cole, Secretary for the Corporation
Federal Crop Insurance Corporation
Department of Agriculture
Room 4088–S, South Building
Washington, DC 20250
(202) 447–6975

Don Leathem
Federal Grain Inspection Service
Department of Agriculture
Room 1127 Auditors Building
Washington, DC 20250
(202) 447–3910

William Payne, Deputy Chief
Program Planning and Evaluation
Office of Equal Opportunity
Department of Agriculture
Room 4119, Auditors Building
Washington, DC 20250
(202) 447–7327

Harlan Severson, Director
Office of Information and Public Affairs
Rural Electrification Administration
Room 4043–S, South Building
Washington, DC 20250
(202) 447–5606

David Dyer
Science and Education Administration
Department of Agriculture
Room 307–A, Administrative Building
Washington, DC 20250
(202) 447–5211

Christine Van Lenten, Agency Consumer Affairs and Public Participation Officer
Department of Agriculture
Food and Nutrition Service
Room 758, GHI Building
Washington, DC 20250
(202) 447–8982

Penny Gentilly, Deputy Director for Public Participation
Food Safety and Quality Service
Department of Agriculture
Room 1168–S, South Building
Washington, DC 20250
(202) 447–7804

Ida Cuthbertson
Soil and Conservation Service
Department of Agriculture
Room 6123–S, South Building
Washington, DC 20250
(202) 447–5810

Jeff Hudgins, Assistant to the Administrator
Foreign Agricultural Service
Department of Agriculture
Room 5065–S, South Building
Washington, DC 20250
(202) 447–7631

Department of Commerce (DOC)

Units That Issue Regulations

Bureau of the Census
Bureau of Economic Analysis
Economic Development Administration
International Trade Administration
Maritime Administration
Minority Business Development Agency
National Bureau of Standards
National Oceanic and Atmospheric Administration
National Telecommunications and Information Administration
Patent and Trademark Office

Functions

The principal mission of the Department is to foster, promote, and develop the foreign and domestic commerce of the United States. The activities of the components of the Department in furthering the mission are broad and varied in scope and cover such diverse areas as: patents; assistance to minority business and economically depressed areas; tourism,

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weather, ocean, and atmospheric programs; standards development; promotion of domestic and international trade; the censuses; statistical and economic data and analyses; ship subsidies; and telecommunications policy.

Public Participation Summary

The Departmental units each have different procedures for developing and promulgating regulations, including public notification and participation. These procedures were published in the **Federal Register** on January 9, 1979, as a Department Administrative Order (44 FR 2082). The Administrative Order, entitled "Issuing Departmental Regulations," implements Executive Order 12044, "Improving Government Regulations."

The Consumer Affairs Office (CAO), in conjunction with the Office of Regulatory Policy (OPR) coordinates consumer participation responsibilities throughout the Department. The CAO and consumer contact persons in the operating units will be responsible for assuring that timely and meaningful consumer participation occurs throughout the development and review of the Department's rules, policies, and programs.

Participation mechanisms and special features include:

—Notices of proposed and final rules, programs, and policies published in the **Federal Register**.
—Quarterly notices of upcoming rulemaking activities disseminated to consumer representatives and consumer media by CAO, and to other constituents through the Regional Representatives of the Secretary.
—Informal meetings and briefings arranged between Commerce officials and consumer leaders to discuss emerging or ongoing problems and issues, as well as policy and program developments.
—Funds made available whenever possible (see below).

Specific unit programs for public participation include:

•National Bureau of Standards (NBS). The NBS Center for Consumer Product Technology, in conjunction with Underwriters Laboratories, the American Society for Testing and Materials, the National Fire Protection Association, and the American National Standards Institute, sponsors and maintains a Consumer Sounding Board network to ensure that consumer input on program activity is obtained. The Consumer Sounding Boards are composed of a demographic cross section of consumers convened for the purpose of providing standards-making organizations with direct consumer involvement in their programs. A panel appointed by the National Academy of Sciences reviews the Center's programs annually. This panel is composed of individuals from industry, academia, government, and consumer interest groups. The Center has also contracted with consumer interest groups to review its program plans regarding major activities such as the Department of Energy-supported "Energy Appliance Program" and the DOC "Consumer Product Information Labeling Program." The Center also works with the National Conference on Weights and Measures, which is composed of State and local government representatives who have responsibility for consumer issues. These representatives are able to provide input on consumer issues relevant to the mission of NBS and the Center. The Center will continue to seek consumer input to its program from all these sources in the future.

•National Oceanic and Atmospheric Administration (NOAA)/National Marine Fisheries Service (NMFS).

The Administrator of NOAA may provide compensation for reasonable attorneys' fees, fees and costs of experts, and other costs of participation incurred by eligible participants in any NOAA proceeding involving a hearing in which there may be public participation. Rules governing NOAA's public participation program are in 15 CFR Part 904.

Through the availability of the Saltonstall-Kennedy Funds, NMFS conducts a grants program under its Fisheries Development and Utilization Program to further the use and development of U.S. fisheries. NMFS encourages proposals in such areas as determining consumer attitudes toward seafood and seafood consumption patterns, studies to determine education and information materials needed for consumers and the best methods of disseminating them, and activities to educate consumers on the nutritional value, economy, handling, and preparation of fish and fish products.

The Marine Fishery Advisory Committee (MAFAC), composed of approximately 25 representatives from industry, academia, and consumer groups, advises NMFS on fishery activities. The MAFAC Subcommittee on Consumer Affairs covers consumer-related fishery activities.

Under the authority of the Fishery Conservation and Management Act of 1976, eight Fishery Management Councils were established. The members of the Council are required by the Act to have fisheries expertise. The majority of the members are appointed by the Secretary, based upon the recommendations of the Governors of the coastal States. These appointments include consumer members. NMFS consumer affairs personnal are actively pursuing strengthened consumer representation on these Councils. In addition, NMFS is planning regional workshops to be held in conjunction with the Councils to encourage and expand consumer participation.

•National Telecommunications and Information Administration (NTIA).

NTIA is in the process of establishing an advisory committee that will offer advice on the Public Telecommunications Facilities Program's (PTFP) grant applications and on the development of public telecommunications policy. The proposed advisory committee will have 20 members: NTIA will reserve a seat for a representative of a public interest or consumer organization.

Funding and Technical Assistance

The Department's General Counsel has decided that, where no statutes forbid establishment of a public participation funding program, Department funds may be used for such funding when the participation is found necessary and when lack of funding would preclude the participant from participating.

The Department will be giving special attention to developing new procedures and funding sources to finance consumer participation in the Department's regulatory proceedings.

The Department will make funds available whenever possible to enable consumer representatives to give in-depth advice and assistance on major policy or program initiatives. (Recent examples include the Department's development of recommendations on the problem of product liability, where we funded a series of Consumer Forums and a pilot project on voluntary consumer product information labeling, for which a national consumer organization was a consultant to the Department.) NTIA is in the process of developing rules to implement a public participation reimbursement program and will finalize the rules this fall. Also NTIA prepares informational materials explaining the process of obtaining matching grants for telecommunications facilities. This information is distributed to individuals, public interest groups, the trade press, publishers, journals, and other media.

NMFS plans to hold individual consultations and workshops for consumer interest groups to provide technical assistance in preparing proposals for cost-sharing funding under the Fisheries Financial Assistance Program.

Public Participation Documents

During FY 1981, ORP and CAO will develop general guidelines for consumer participation for use throughout the Department.

Information Contact

Meredith Fernstrom, Director of Consumer Affairs
Department of Commerce, Room 5889
Washington, DC 20230
(202) 377-5001

Department of Education (ED)

Units That Issue Regulations

None. The authority to issue regulations has not been delegated to any ED units. Regulations are prepared by the various ED offices and submitted to the Secretary of Education for approval and issuance.

Functions

The Department of Education is a newly created executive department established by the Department of Education Organization Act (P.L. 96-88, October 17, 1979; 20 U.S.C. 3401 *et seq.*). The statute transfers to the new Department certain functions of five other departments and the National Science Foundation, including:

(a) approximately 150 programs of Federal assistance to education and rehabilitative services for handicapped individuals previously administered by the Department of Health, Education, and Welfare (HEW), as well as the related functions of the HEW Office for Civil Rights;

(b) all functions relating to the operation of overseas schools for dependents of the Department of Defense (target date for transfer is October 1, 1981);

(c) all functions of the Secretary of Labor or the Department of Labor under Section 303(c)(2) of the Comprehensive Employment and Training Act relating to certain migrant education programs;

(d) all functions relating to certain science education programs transferred from the National Science Foundation;

(e) the law enforcement education program and the law enforcement internship program previously administered by the Department of Justice; and

(f) all functions of the Secretary of Housing and Urban Development and of the Department of Housing and Urban Development relating to college housing loans under Title IV of the Housing Act of 1950.

Public Participation Summary

In some instances ED may publish an ANPRM in order to permit the earliest possible public participation in the regulatory process. ED schedules a public comment period of 60 days or more for most NPRMs, although the Secretary of Education may waive public comment for minor technical regulations.

Public hearings may be held throughout the United States in convenient locations after ED publishes an NPRM in the **Federal Register** in order to obtain comments from members of the public concerned with the regulations. ED may also make mass mailings to State and local education officials to solicit comments on proposed regulations. Press releases alert the news media to significant ED regulations. ED designs other means of obtaining public participation for particular regulations (e.g., sign language interpreters at public hearings or distribution of information in a foreign language).

Funding and Technical Assistance

No funds are available for compensation to the public for payment of costs of participation in ED's regulatory development process. ED employees provide technical assistance to the public.

Public Participation Documents

None available at this time. However, ED plans to publish a semiannual regulatory agenda beginning December 1, 1980. This document will provide important information on ED regulations under development that may lead to increased public participation.

Information Contact

For information on regulations:

Dr. A. Neal Shedd, Director
Division of Regulations Management
Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202
(202) 245-7091

For public participation activities:

Jeanne Park, Acting Director
Division of Information Services
Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202
(202) 245-8564

Department of Energy (DOE)

Units That Issue Regulations

Board of Contract Appeals
Conservation and Solar Applications
Economic Regulatory Administration
Office of the Controller
Office of Equal Opportunity
Office of Minority Economic Impact
Resource Applications

Functions

The President established DOE in 1977 to consolidate the major energy programs scattered throughout the government into a unified agency that could provide a national energy policy. DOE has played a major role in developing regulatory initiatives for energy policy, including a program for solar energy, plans for gasoline rationing, a program for phased decontrol of crude oil, and a program for import reduction.

Public Participation Summary

DOE responded to E.O. 12044 with an agency Order making certain public participation procedures mandatory. Recision of that DOE Order has been proposed; however, the provisions relating to public participation contained in the Department Order should remain unaffected. Some of these procedures include:

- notification of interested parties, the Governor of each State, DOE regional representatives, and appropriate Federal advisory committees;
- distribution of appropriate notices or press releases describing the regulatory action to trade journals, newspapers, and newsletters read by interested parties;
- public hearings and conferences with interested groups and individuals (with adequate advance notification), where appropriate; and
- provision for one or more public hearings, preceded by at least 14 days notification, for all significant regulations proposed.

In response to a later Executive Order, No. 12160, which provides for the enhancement and coordination of Federal consumer programs, DOE has drafted a plan and is in the process of implementing a departmentwide effort to institutionalize the provisions of that Order.

In addition, the Department conducts citizen participation workshops. It is the responsibility of each program area to conduct those workshops that pertain to their particular program area.

When the Department solicits public comments, it requires full, verbatim transcripts for all public hearings. These transcripts are used in all proceedings where citizens comment for the official record. Our Office of Consumer Affairs publishes public comments in some issues of the "The Energy Consumer."

The Office of Consumer Affairs has the primary responsibility for managing and coordinating the public

participation efforts of the Department. However, DOE program areas are directly accountable for regular and substantive public participation programs.

Funding and Technical Assistance

DOE is prohibited by Congress from providing funding for public participation. Therefore, no funding is available.

Public Participation Documents

The following document is available from the Office of Consumer Affairs: "The Energy Consumer."

Information Contact

The Office of Consumer Affairs maintains a mailing list for distribution. In addition, citizens with specific interests can have their names placed on specialized mailing lists. The Technical Information Center at Oak Ridge, Tennessee, also has a mailing list for its "Energy Meetings" bulletin. For more information contact:

Polly W. Craighill, Director
Consumer Impact Division
Office of Consumer Affairs
Department of Energy
Forrestal Bldg., Rm. 8G–087
1000 Independence Avenue, S.W.
Washington, DC 20585
(202) 252–5866

Hotline Numbers: For problems with getting gasoline or heating oil, or to report excessive dealer prices: (800) 424–9246. In the Washington, DC area (202) 653–3437.

For questions and comments on alcohol fuel technology: (800) 535–2840. In Louisiana (800) 353–2870.

Department of Health and Human Services (HHS)

Units That Issue Regulations

Assistant Secretary for Human Development Services
Health Care Financing Administration
Office of Child Support Enforcement
Office of the Inspector General
Office of the Secretary
Social Security Administration
U.S. Public Health Service

Functions

HHS is the domestic funding agency for 300 programs that focus on assistance to the economically disadvantaged, social security, retirement, and social service. The agency also regulates standards for food and drug safety and performs basic and applied research in health.

Public Participation Summary

HHS frequently publishes an ANPRM to allow the earliest possible public participation in agency rule proposals. The Department also frequently holds regional hearings and meetings to obtain public input in decisionmaking activities. These public meetings are held at times and places most convenient for those affected by the regulations. Accommodations are made to allow certain groups to participate in meetings that they might not be able to attend otherwise.

A pilot program of service desks will be opened in four regions to answer questions from manufacturers about Food and Drug Administration (FDA) regulations. The desks, located in East Orange, New Jersey; Chicago, Illinois; Atlanta, Georgia; and Santa Ana, California, will respond to questions dealing with problems such as how to fill out applications and other government forms, what regulations must be followed to market a new product, and how FDA regulations affect manufacturers' products or manufacturing processes.

Finally, in response to the President's specific concern about the impact of Federal regulations on small businesses, the Food and Drug Administration is attempting to give special assistance to small businesses in their attempt to decipher the various government regulations with which they must comply. The FDA will begin two programs to simplify regulations. FDA also will be appointing an official to the Commissioner's staff to "help assure a consistent agency-wide policy for small business."

Funding and Technical Assistance

HHS is currently developing a proposed regulation that will allow for compensation to the public for participation in the regulations development process. FDA published a final regulation on public participation funding in the October 12, 1979 **Federal Register**. The name and address of the FDA contact person is listed below under "Information Contact."

Public Participation Documents

None available at this time. However, HHS's semiannual regulatory agenda provides important information that may lead to increased public participation. This document exceeds the requirements of E.O. 12044 by identifying not only "significant" regulations but all regulations under development or consideration at the Department. In addition, program regulations are listed by the types of services provided and their effect upon organizations, institutions, and individuals. Over 400 regulations are presented in each agenda. The Department's most recent agenda was published on June 13, 1980.

Information Contact

The Departmentwide contact person for public participation activities is:

Bill Wise, Assistant Secretary for Public Affairs
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201
(202) 245–1850

For information on proposed regulations currently being drafted for compensation of citizen participation contact:

Glenn Kamber, Director
Regulations Management Unit
Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201
(202) 245–3161

For information on FDA public participation funding contact:

Alex Grant, Special Assistant to the Commissioner on Consumer Affairs
Food and Drug Administration
Room 1685, HF–7
5600 Fishers Lane
Rockville, MD 20857
(301) 443–5004

Department of Housing and Urban Development (HUD)

Units That Issue Regulations

Community Planning and Development (CPD)
Fair Housing and Equal Opportunity (FH&EO)
Government National Mortgage Association (GNMA)
Housing
Immediate Office of the Secretary
Neighborhoods, Voluntary Associations, and Consumer Protection (NVACP)
New Community Development Corporation (NCDC)

Functions

HUD's national goal is to ensure that the basic rights of all consumers are considered, respected, and protected in all the agency's housing and community development activities. The agency hopes to achieve this goal through promoting viable communities, providing decent housing, achieving equal opportunity, and effectively coping with natural disasters.

Public Participation Summary

The Office of Citizen Participation, under the Assistant Secretary for NVACP, reviews the public participation requirements of key rules.

HUD has implemented several of the Administration's recommendations for extended public participation, including publishing ANPRMs, extending public comment periods to 60 days, holding public hearings on proposed regulatory changes, and announcing regulatory changes in publications oriented toward special interest groups. HUD's mailing list numbers about 78,000 individuals.

Funding and Technical Assistance

No funding is available at this time. We published an ANPRM on Funding Public Participation in rulemaking on March 4, 1980. Comments are being evaluated.

Public Participation Documents

24 CFR Parts 10 and 15. Part 10 is HUD's procedures for rulemaking that voluntarily adopt 5 U.S.C. 553 for public benefit programs, and provide for rulemaking petitions.

Part 15 discusses the availability of documents and the fees charged for search and reproduction of materials.

Information Contact

Father Geno Baroni, Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Affairs
Department of Housing and Urban Development
451 7th Street, S.W., Room 4100
Washington, DC 20410
(202) 755–0950

Department of the Interior (DOI)

Units That Issue Regulations

Bureau of Indian Affairs
Bureau of Land Management
Bureau of Mines
Bureau of Reclamation
Fish and Wildlife Service
Geological Survey
Heritage Conservation and Recreation Service
National Park Service
Office of Minerals Policy and Research Analysis
Office of Surface Mining and Enforcement
Office of Water Research and Technology

Functions

The functions of the Department of the Interior include:

- management of lands and water resources, including access to publicly owned energy and other mineral resources;
- regulation of energy and mineral development;
- protection of fish and wildlife populations and their habitat;
- protection and interpretation of historic, archaeological, and other cultural or recreation resources of national significance;
- advocacy for American Indian and Alaska Native peoples for whom the Federal Government has a trust responsibility; and
- oversight of Federal programs delivered to the various Territories of the United States.

These responsibilities of the Department are carried out through the day-to-day operations of its eleven major bureaus, services, or offices. These offices are grouped by related functions under four Assistant Secretaries—Land and Water Resources; Energy and Minerals; Fish, Wildlife and Parks; and Indian Affairs to whom the cross-cutting and coordinative staffs report. The Office of Territories reports directly to the Secretary, and there is an Assistant Secretary for Policy, Budget, and Administration.

The Department of the Interior acts as steward for the Nation's storehouse of natural resources. As such, the Department's missions are carried out for all citizens, and any member of the public has a potential interest in the Department's business.

Public Paricipation Summary

Because of the nature of Interior's business—for example, as a land management agency or as a regulator of the surface effects of mining—much of the public's concern with activities naturally arises locally or regionally rather than in Washington. For this reason, the Department of the Interior has established a policy that its managers at all levels must consider the needs of the public, and must make allowance for the fact that the public may have an interest in participating in the development and review of not only rules, policies, and programs, but also of program activities on the regional or local levels. For this reason, program managers and support staff at any level can become the "responsible official" for a public participation plan, which is integrated with the steps necessary to reach final decisions, and the implementation of that plan.

Rulemaking procedures are prescribed by the Administrative Procedure Act, E.O. 12044, and in Part 318 of the Department Manual. These procedures call for early notice of intent to write regulations, not only in the **Federal Register**, but by press release, and where applicable, by mailings to groups and individuals, and other means.

For major policy, program, or other Secretarial level decisions, the Department has specific procedures requiring input on options with Department-wide review before presentation to the Secretary. Part 301 of the Department Manual prescribes the steps for Secretarial Issue Documents. These instructions include a requirement to display the kind and amount of public participation in the preparation of options for decision.

Every 6 months, the Department publishes a semiannual agenda of regulations pending or planned, as do other Federal agencies.

A continuing source of information about Department activities is the public process in producing environmental impact statements. The Department initiates, monitors, or reviews dozens of such statements annually, and a variety of agencies widely publicize and discuss the statements. Public comments on a wide range of natural resource concerns are registered, and become built-in considerations for Departmental managers.

Officials throughout the Department look for opportunities to improve the general level of public knowledge about significant authorities and activites of the Department, with provision for recorded comment and feedback. Such activities include periodic publication of calendars of anticipated actions printed in the popular and official press; periodic open public meetings; periodic "open office" time; and other public involvement techniques which, being regularly scheduled, could lessen the need for the number of separate public participation plans or events.

The best point of access to the Department of the Interior for an individual anywhere in the country is a public information officer for the bureau or office carrying out the activity of interest. If a person does not know which unit is responsible for his/her area of concern, the best beginning point of contact would be the Secretary's Public Affairs Office or the Department Coordinating Officer for Public Participation and Consumer Affairs. These contacts will direct the citizen to the best source of information about his/her concern, including information about the procedures and responsible officials that govern the decisionmaking or activity about which he/she is concerned.

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Funding and Technical Assistance

The Department's Bureaus and Officers have supplied technical assistance in their varied fields of expertise. Traditional recipients have been State and local officials who shared administration responsibility for Department programs. But, for example, citizens or groups interested in reviewing or contributing to a specific element of their State's Comprehensive Outdoor Recreation Plan can obtain reports and technical information and even visit sites as work schedules of knowledgeable personnel permit. On a similar basis, bureaus/offices can guide interested people to available information, and many units provide de facto technical assistance amounting to consultation on specific problems. It is important in this context to remember that the preparation of an environmental impact statement, or other major reports, or a rulemaking decision may extend over several years.

If a citizen does not know who to contact, he/she should ask the closest Public Affairs Office of the Department. Such assistance can be provided at various levels of the agency. It usually occurs during interaction on agency programs through sharing of scientific data, answering procedural questions, assisting in preparation of application forms, etc. Bureaus and offices make every effort to provide appropriate technical assistance to public organizations and to the general public upon request, in accordance with existing laws, regulations, policies, and administrative procedures.

Certain laws (for example, Section 520 of the Surface Mining Control and Reclamation Act) provide for payment of attorney fees and expert witness fees for intervenors.

Public Participation Documents

Departmental Manual Chapter, "Public Participation in Decision-Making: (Part 301, Departmental Chapter 2, DM2)" is available from the Office of the Assistant Secretary for Policy, Budget, and Administration listed below.

Information Contact

Ms. Cecil Hoffman, Staff Assistant to the Assistant Secretary for Policy, Budget, and Administration and Public Participation Coordination Officer
U.S. Department of the Interior
18th and C Streets, N.W.
Washington, DC 20240
(202) 343-5106
or
Harmon Kallman, Acting Director of Public Affairs
U.S. Department of the Interior
18th and C Streets, N.W.
Washington, DC 20240
(202) 343-6416

Department of Justice (DOJ)

Units That Issue Regulations

Antitrust Division
Bureau of Prisons
Civil Rights Division
Criminal Division
Drug Enforcement Administration
Federal Bureau of Investigation
Immigration and Naturalization Service
Land and Natural Resources Division
Office of the Attorney General
United States Parole Commission

Functions

The DOJ enforces criminal laws and laws against subversion; ensures healthy business competition; safeguards the consumer; and enforces drug, immigration, and naturalization laws. The DOJ also plays a significant role in crime prevention, crime detection, and rehabilitation of offenders. In addition, the Department represents the United States in the Supreme Court and generally renders legal advice and opinions upon request to the President and heads of executive departments.

Public Participation Summary

Within the DOJ, none of the divisions or components that engage in regulatory activity operate under formalized public participation procedures.

As a law enforcement agency, the DOJ does not engage in much informal rulemaking activity and, therefore, has not centralized the function of providing information about public participation in such activity. However, pursuant to Attorney General Order No. 831-79, May 25, 1979, the Associate Attorney General and the Deputy Attorney General exercise oversight over components' regulatory agendas with administrative support from the Office of the Administrative Counsel, Justice Management Division.

Funding and Technical Assistance

The DOJ has limited funds for the purpose of obtaining the public's views through advisory committees and the sponsoring of conferences and workshops that contribute to departmental decisionmaking.

Public Participation Documents

The DOJ's consumer plan was published at 45 FR 39209 on June 9, 1980.

Information Contact

For referral to a knowledgeable official on the agency's semiannual regulatory agenda and any related public activity in the appropriate DOJ component contact:

William Snider, Administrative Counsel
Justice Management Division
U.S. Department of Justice
Washington, DC 20530
(202) 633-3452

The Department maintains general public information mailing lists. Any person who wishes to have his or her name included may contact:

Judy Beeman
Office of Public Affairs
U.S. Department of Justice, Room 5114
Washington, DC 20530
(202) 633-2014

Department of Labor (DOL)

Units that Issue Regulations

Bureau of International Labor Affairs
Bureau of Labor Statistics
Employment and Training Administration
Employment Standards Administration
Labor-Management Service Administration
Mine Safety and Health Administration
Occupational Safety and Health Administration

Functions

DOL is primarily concerned with the quality of work-life in America and with the worker/employer-job relationship, including working conditions, pay, job and pay discrimination, job training, collective bargaining, workers compensation, and unemployment insurance. In addition, DOL administers the Labor Management Reporting and Disclosure Act and works with the Internal Revenue Service to administer the Employee Retirement Income Security Act of 1974.

Public Participation Summary

DOL develops a public participation plan for each significant rule proposed. Each of the administrative units named above has designated a consumer representative to handle inquiries and complaints; and the Special Assistant to the Secretary for Consumer Affairs coordinates public participation for all the units and the outreach activities of DOL's regional offices.

The Mine Safety and Health Administration (MSHA) and the Occupational Safety and Health Administration (OSHA) use advisory committees set up on an ad hoc basis to determine the need for regulatory action, as well as the content of a needed regulation. Any member of the public may request an informal public hearing in connection with the development of the regulation. MSHA and OSHA also are authorized to implement temporary standards under action circumstances.

Funding and Technical Assistance

None.

Public Participation Documents

None.

Information Contact

For general information or referral to the consumer representative for any administrative unit named above, contact:

Judy Sorum, Special Assistant to the Secretary for Consumer Affairs
Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210
(202) 523-9184

Department of Transportation (DOT)

Units That Issue Regulations

Federal Aviation Administration
Federal Highway Administration
Federal Railroad Administration
National Highway Traffic Safety Administration
Office of the Secretary
Research and Special Programs Administration
St. Lawrence Seaway Development Corporation
U.S. Coast Guard
Urban Mass Transportation Administration

Functions

The Department of Transportation (DOT) fosters the development and maintenance of safe, effective transportation systems to move people and goods. Each administrative unit named above has separate activities to reach the public, depending upon the nature of ongoing proceedings. DOT's Office of Consumer Liaison coordinates the public participation activities of all the administrative units.

Public Participation Summary

The Department has taken a number of major steps to enhance its public participation programs. First, based on suggestions we received at the Department's Conference on Transportation and the Consumer, held in May 1979, the Department issued an ANPRM (44 FR 46971, August 9, 1979). The ANPRM solicited the public's comments to help the Department review and evaluate citizen participation in the transportation planning and project development process. Second, the Department, along with other government agencies, published its "Final Consumer Program" (45 FR 39144, June 9, 1980), which contained an extensive section on public participation in rulemaking and decisionmaking in policies and programs. The Department's operating administrations published draft consumer programs in the same issue of the Federal Register. In addition, the Department is reviewing its experience with public hearings in rulemaking proceedings to improve them.

An appendix to the Department's Semi-Annual Regulations Agenda contains information on how interested persons may include their names on an agency's mailing list to receive documents issued within the Department. Other appendices list the locations and hours of operation of the Department's public rules dockets and the addresses and phone numbers of persons who can provide general information on DOT's rulemaking process. Persons who want to be placed on a mailing list for future copies of the agenda should call or write the appropriate office listed below under "Information Contact."

The Office of Consumer Liaison publishes a newsletter of general public interest. To receive it, call or write this office, which is listed below under "Information Contact."

Funding and Technical Assistance

In the past, DOT operated a demonstration program in the National Highway Traffic Safety Administration (NHTSA) for certain rulemaking proceedings. The program provided financial assistance to individuals and groups who otherwise would have been unable to participate effectively in NHTSA proceedings. Recently, however, funding for the demonstration program was eliminated by the action taken by Congress on the Department's FY 1980 appropriations.

Public Participation Documents

The "Transportation Consumer Newsletter" is available from DOT's Office of Consumer Liaison.

The "Department of Transportation Regulatory Policies and Procedures" (44 FR 11034, February 26, 1979), and the "Semi-Annual Regulations Agenda" are available from the Office of the General Counsel. (See "Information Contact" below.)

Information Contact

Contact the following office for information on any DOT activity:

Office of Consumer Liaison
Department of Transportation
400 Seventh Street, S.W., Room 9402
Washington, DC 20590
(202) 426-4518

Contact the following office for copies of DOT's "Regulatory Policies and Procedures" and "Semi-Annual Regulations Agenda:"

Office of Regulation and Enforcement
Office of the General Counsel, C-50
Department of Transportation
400 Seventh Street, S.W., Room 10421
Washington, DC 20590
(202) 426-4723

Department of the Treasury

Units That Issue Regulations

Bureau of Alcohol, Tobacco and Firearms
Bureau of Government Financial Operations
Bureau of Public Debt
Comptroller of the Currency
Internal Revenue Service
Office of Revenue Sharing
Office of the Secretary
U.S. Customs Service
U.S. Savings Bonds Division
U.S. Secret Service

Functions

The Department of the Treasury collects, disburses, and ensures the integrity of government revenues.

Public Participation Summary

The Department of the Treasury has the following unique public participation and outreach activities:

- Public speaking by Treasury officials on Treasury regulatory activities.
- Public hearings scheduled by IRS if even one party so requests.
- Public hearings held in cities outside of Washington with evening hearing times available upon request.
- Developing "consumer forums," arranging informal meetings, or providing special briefings for consumers and their representatives.

Funding and Technical Assistance

The Department of the Treasury supplies economic data and reports to researchers, private and public sector officials, students, and consumers at little or no cost to the recipients.

Public Participation Documents

- Agenda of pending regulations, published on a monthly basis by IRS. The Bureau of National Affairs reprints and circulates it to subscribers.

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• ATF sends ANPRMs, NPRMs, and Treasury Decisions to those who can be identified as the interested party within an impacted industry.

• Direct distribution of regulatory documents issued by the Comptroller of the Currency to all national banks.

• Publication of all Customs NPRMs and Final Rules in the Customs Bulletin, which is mailed to any individual expressing an interest in Customs regulatory activities. Customs also furnishes information to the American Importers Association, which publishes and distributes it as the bulletin "Import Alert."

• Publication of the "Consumer Affairs Handbook," available from the Special Assistant to the Secretary (Consumer Affairs).

• No general materials available. For information on specific regulatory activities, write or call the Information Contact listed below.

Information Contact

Steven L. Skancke
Deputy Executive Secretary
Department of the Treasury
Room 3408, Main Treasury
Washington, DC 20220
(202) 566–2269

Individuals and interest groups interested in adding their names to the general public information mailing list may do so by writing to the agency's Deputy Executive Secretary listed above.

Environmental Protection Agency (EPA)

Units That Issue Regulations

Office of Air, Noise, and Radiation
Office of Enforcement
Office of Pesticides and Toxic Substances
Office of Planning and Management
Office of Research and Development
Office of Water and Waste Management

Functions

The President created EPA in 1970 to administer environmental laws, conduct research and demonstration projects, establish and enforce standards, monitor pollution in the environment, and assist State and local governments in their efforts to restore and protect the environment. EPA's regulatory responsibilities are in the areas of air, water, toxics, pesticides, and solid waste management programs.

Public Participation Summary

The Agency develops an individual outreach plan for most proposed regulations. The Agency develops a special contact list, publishes an ANPRM, provides informal open meetings and workshops to explore regulatory issues, and then develops a summary of public viewpoints and preferences for inclusion into the final decisionmaking process. EPA also provides feedback on the outcome of public involvement to all those who participated in the above.

There is no required format for submitting a rulemaking petition, and we do not require multiple copies of public comments, except in special cases to expedite Agency review of comments.

The Administrator's Special Assistant for Public Participation is developing a policy for increased public participation (see below, under "Public Participation Documents"), as well as a pilot program to provide compensation for participation in certain rulemaking activities. The Office of Public Awareness is developing a proposed consumer plan to provide for increased consumer participation in EPA activities.

Funding and Technical Assistance

EPA is developing a pilot program to compensate selected participants for their participation in six specific forthcoming rulemakings, including rules issued under the Clean Air Act, the Clean Water Act, and the Toxic Substances Control Act. The general qualifications for compensation provide that (1) the participant would be unable to participate effectively without Agency compensation; and (2) the participant could make a useful contribution to a full and fair assessment of the issues involved.

Those individuals and groups participating in rulemaking proceedings regarding the control of hazardous chemical substances and mixtures not only must meet the above two requirements but also must not have a direct economic interest in the outcome of the proceeding.

Public Participation Documents

EPA is reviewing public comments on the "Proposed Policy on Public Participation" (45 FR 28912), which sets forth EPA's plan for increasing public participation. The Agency will write a Responsiveness Summary and send it to all participants. EPA then will make decisions on how to incorporate these comments before the final Agency review.

"Improving Environmental Regulations" (44 FR 30988) describes EPA's regulatory development procedures and responds to E.O. 12044.

EPA has published a document on public participation in a specific program, entitled "Public Participation in Programs under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act" (44 FR 10286). EPA has published numerous other free books and pamphlets on several significant regulations and on some of its programs. These publications are available from the Office of Public Awareness.

Information Contact

Sharon Francis, Special Assistant to the Administrator for Public Participation (A–100)
Environmental Protection Agency,
401 M Street, S.W., Room 1227 West Tower
Washington, DC 20460
(202) 245–3066

To receive copies of agency publications call or write:

Joan Martin Nicholson, Director
Office of Public Awareness (A–107)
Environmental Protection Agency
401 M Street, S.W., Room 311 West Tower
Washington, DC 20460
(202) 755–07070
James Keys
Public Information Center (PM-215)
Environmental Protection Agency
401 M Street, S.W., Lobby West Tower
Washington, DC 20460
(202) 755–0707

To have your name included on the Agency's mailing list, call or write:

Carol Hummer
Constitutent Coordinator (A–107)
Environmental Protection Agency
401 M Street, S.W., West Tower
Washington, DC 20460
(202) 755–0710

The Office of Pesticides and Toxic Substances' Industry Assistance Office will provide information concerning the implementation of the Toxic Substances Control Act. Call or write:

John Ritch
Industry Assistance Office (TS–795)
Environmental Protection Agency
401 M Street, S.W., East Tower
Washington, DC 20460
(202) 554–1404
(800) 424–9065

Equal Employment Opportunity Commission (EEOC)

Units that Issue Regulations

Field Services
Office of Policy Implementation
Systemic Programs

Each Commissioner also may issue regulations with the approval of the majority of the full Commission.

Functions

EEOC's responsibility is to enforce Title VII of the Civil Rights Act of 1964, which prohibits discrimination in employment on the basis of race, color, religion, sex, or national origin, and the Equal Pay Act and the Age Discrimination in Employment Act.

Public Participation Summary

EEOC involves affected Federal agencies, State and local governments, business, labor unions, public interest organizations, civil rights groups, and various individuals early in the process of developing proposed regulations. The EEOC's outreach plan is a very extensive one, and includes holding public conferences and hearings, sending press releases and notices to special interest publications, and publishing ANPRMs to allow public comments at the earliest rule development stage.

Funding and Technical Assistance

None.

Public Participation Documents

"Mission" is a Commission publication issued intermittently as the need arises to inform the public of recent significant activities and achievements of the EEOC affecting equal job opportunities.

Information Contact

Karen Danart, Acting Director
Office of Policy Implementation
2401 E Street, N.W.
Washington, DC 20506
(202) 634–7060

Federal Emergency Management Agency (FEMA)

Units That Issue Regulations

Federal Insurance Administration
Office of Disaster Response and Recovery
Office of Plans and Preparedness
United States Fire Administration

Function

The Federal Emergency Management Agency was established by the President with the approval of Congress pursuant to Reorganization Plan No. 3 of 1978 to provide a single point of accountability for all Federal emergency preparedness, mitigation, and response activities. The Agency is chartered to enhance the multiple use of emergency preparedness and response resources at the Federal, State, and local levels of government in preparing for and responding to the full range of emergencies—natural, manmade, and nuclear—and to integrate into a comprehensive framework activities concerned with hazard mitigation, preparedness planning, relief operations, and recovery assistance.

Public Participation Summary

The Federal Emergency Management Agency invites public participation in its rulemaking as a matter of routine, even when not required to do so by the Administrative Procedure Act or by Executive Order 12044; for example, even on an agency organization and procedure matter (such as claims collection), we will request public comment in the process of preparing a final or interim rule.

The Agency also has a Consumer Program under Executive Order 12060 which seeks to involve consumers at all stages of the rulemaking process.

FEMA has adopted extensive regulations regarding actions taken in floodplains and wetlands. An important part of the regulation involves notification of the public at an early time in order to give interested parties a chance to participate in the rulemaking process (44 CFR Part 9.8).

In connection with its review of State and local radiological emergency response preparedness for nuclear power plants, FEMA will require that before it approves State plans there be a public meeting in the vicinity of the power plant to acquaint the public with the content of the plans and to receive suggestions.

In connection with flood elevation determinations which are used in making decisions in the National Flood Insurance Program, FEMA publishes the proposed flood elevation determinations in the **Federal Register** and in local newspapers; in addition, FEMA maintains the docket on comments in the specific involved community.

FEMA also consults extensively with groups of State and local organizations, such as the National Emergency Management Association, United States Civil Defense Council, State insurance regulators, various fire organizations, and others.

Funding and Technical Assistance

At the present time we have no funding program. Further, it is most likely that there will be some sort of a restriction on funding, at least as a general provision in the appropriations act governing this Agency.

Public Participation Documents

None.

Information Contact

William L. Harding
Federal Emergency Management Agency
Office of General Counsel
1725 I Street, N.W.
Washington, DC 20472
(202) 634–4113

General Services Administration (GSA)

Units That Issue Regulations

Automated Data and Telecommunications Service
Executive Committee on the Federal Register
Federal Property Resources Service
Federal Supply Service
Information Security Oversight Office
National Archives and Records Service
Office of Acquisition Policy
Office of General Counsel
Office of Human Resources and Organization
Office of Plans, Programs, and Financial Management
Public Buildings Service
Transportation and Public Utilities Service

Functions

GSA is the Federal Government's business manager. GSA's regulations establish other agencies' procedures on matters such as managing Federal property and records; constructing and operating buildings; obtaining and distributing supplies; using and disposing of property; managing transportation, traffic, and communications; stockpiling strategic materials; and managing the Government's automatic data processing resources program. While GSA is not a major regulatory agency, when agencies apply GSA regulations (for example, the rule on smoking in public buildings), the rules do have an effect on the public.

Public Participation Summary

GSA's procedures are designed in the spirit of openness to gain effective public participation rather than to satisfy specific legal requirements. For each proposed regulation, we select methods of public notice and participation based on the subject of the proposed regulation and the interests of the groups and sectors that will be affected by it. For instance, we may publicize some proposals in industry and trade publications, while regulations about facilities for the handicapped may be made available in Braille and in recorded tape cassettes. In every case, the notice tells how to

participate in GSA's review of a regulation and who to contact.

GSA Hotline for reporting fraud or violations:

Office of General Counsel
National Credit Union Administration

United States International Trade Commission (USITC)

(202) 523–0161

This agency has a general public

Civil Aeronautics Board (CAB)

Units That Issue Regulations

participate in GSA's review of a regulation and who to contact.

Funding and Technical Assistance

No funding is available for public participation in GSA's regulatory process. In some cases, GSA employees may be able to give technical assistance to the public concerning a proposed regulation.

Public Participation Documents

"Consumer Resource Handbook." The Handbook provides a directory of Federal agencies and includes a list of private consumer organizations involved in citizen participation and representation.

Federal Register, December 10, 1979 (Volume II). This **Federal Register** volume contains the proposed consumer programs of 30 Federal agencies. Each draft program contains that agency's plan to provide for public involvement in development of its rules. The Handbook and the **Federal Register** volume are available free from GSA Consumer Information Center, Boulder, CO 81009. Please mark "Free" on the envelope to speed your order.

GSA's Federal Information Centers provide a toll-free telephone point of contact in more than 85 cities for information and referral to all Federal Government activities, including public participation opportunities. Federal Information Centers are listed under "U.S. Government" in the telephone directory white pages.

Information Contact

For general information about regulations being developed call or write:

Anthony Artigliere
Directives Management Branch
General Services Administration
18th & F Streets, N.W.
Washington, DC 20405
(202) 566–0666

For information on public participation in general:

David F. Peterson
Director of Consumer Affairs
General Services Administration
18th & F Streets, N.W., Room G–142
Washington, DC 20405
(202) 566–1794

Nonprofit consumer organizations can enter their names on a special mailing list by contacting:

Teresa Nasif
Consumer Information Center
General Services Administration
18th & F Streets, N.W., Room G–142
Washington, DC 20405
(202) 566–1794

GSA Hotline for reporting fraud or violations:

(800) 424–5210
(202) 566–1780—Washington, DC metro area only.
Or write:
GSA Hotline
P.O. Box 28341
Washington, DC 20005

Dial-A-Reg: Call the following numbers in the city nearest you for information on selected documents scheduled for publication in the next day's **Federal Register**.

(202) 523–5022—Washington, DC
(312) 663–0884—Chicago, IL
(213) 688–6694—Los Angeles, CA

National Credit Union Administration (NCUA)

Units That Issue Regulations

All regulations are issued by the NCUA Board.

Functions

NCUA is responsible for chartering, regulating, and supervising Federal Credit Unions. The agency is also responsible for administering the National Credit Union Share Insurance Fund, which insures the share (savings) accounts of the members of all federally chartered credit unions and select State-chartered credit unions. The NCUA board also serves as the board of directors of the National Credit Union Administration Central Liquidity Facility, which is a mixed ownership Government corporation created to provide funds to meet the liquidity needs of credit unions.

Public Participation Summary

NCUA relies upon published requests for written comments on proposed rules. Advance copies of proposed rules are regularly sent to those persons and associations that have expressed an interest in being placed on NCUA's regulatory mailing list. Send requests to the Office of Administration, at the same address as the Information Contact.

Funding and Technical Assistance

No funding or technical assistance is available at this time.

Public Participation Documents

NCUA final report "In Response to Executive Order 12044: Improving Government Regulations," 44 FR 17954, March 23, 1979.

Information Contact

Rogert S. Monheit, Senior Attorney and Regulatory Development Coordinator
Office of General Counsel
National Credit Union Administration
1776 G Street, N.W.
Washington, DC 20456
(202) 357–1030

Small Business Administration (SBA)

Units That Issue Regulations

SBA issues all regulations under the signature of the agency Administrator.

Functions

The Agency provides the small business community with financial assistance, management training and counseling, and help in getting a fair share of government contracts through over 100 offices in all parts of the Nation. SBA also serves as small business' chief advocate in the Federal Government, and administers the Government's home, personal property, and business Disaster Loan Recovery Program.

Public Participation Summary

SBA does not favor the Administrative Procedure Act's exemption of regulations concerning grants, loans, and other forms of financial assistance from normal public participation procedures; notices on these matters also go out to the general public for comments. Therefore, the agency has developed 13 CFR 101.9, which specifies that public participation will be encouraged in all SBA rulemaking to the maximum extent possible. In this regard, the Agency makes use of regional hearings on its regulatory proposals and solicits advice on a regular basis from advisory committees. Otherwise, the Agency's procedures are in keeping with the Administrative Procedure Act and the spirit of E.O. 12044.

Funding and Technical Assistance

None.

Public Participation Documents

SBA's regulations dealing with public participation in rulemaking can be found at 13 CFR 101.9. Copies may be obtained by calling or writing the Information Contact listed below.

Information Contact

For general information on the preparation of regulations and policy, the promulgation of rules, or public participation procedures, contact:

George M. Grant, Jr., Associate General Counsel for Legislation
Small Business Administration
1441 L Street, N.W., Room 700
Washington, DC 20416
(202) 653–6662

United States International Trade Commission (USITC)

Units That Issue Regulations

The Office of the General Counsel at the Commission is responsible for recommending the adoption of regulations by the Commission, recommending rulemaking proceedings, and preparing notices for rulemaking proceedings.

Functions

The Commission is an independent agency created to provide the Congress and the Executive Branch with expert advice on matters related to U.S. foreign trade. In addition to the general advisory responsibilities, the Commission conducts many investigations related to the impact of imported products on the domestic markets of U.S. producers.

Public Participation Summary

The Office of the Secretary at the Commission is responsible for assisting interested persons with participation in Commission investigations, facilitating access to information gathered by the Commission, and providing general information concerning the Agency. Much of the information developed by the Commission concerns the domestic markets for products. Accordingly, consumers, producers, and importers of the products subject to investigation often have an interest in Commission proceedings and publications.

Funding and Technical Assistance

Although no compensation is made available to the public for participation in a Commission proceeding, assistance is available. Inquiries concerning assistance should be directed to the Office of the Secretary.

Public Participation Documents

"Summary of Statutory Provisions Related to Import Relief" (Publication No. 1057, April 1980) summarizes the statutory provisions for agency investigations of the impact of imports in domestic product markets and is available from the Office of the Secretary.

A brochure that generally describes the agency is also available from the Office of the Secretary.

Information Contact

Hal Sundstrom
Assistant Secretary and Public Information Officer
Office of the Secretary
U.S. International Trade Commission
701 E Street, N.W.
Washington, DC 20536
(202) 523–0161

This agency has a general public mailing list. Address requests to be added to the mailing list to the Office of the Secretary.

Veterans Administration (VA)

Units That Issue Regulations

Department of Medicine and Surgery
Department of Memorial Affairs
Department of Veterans Benefits

Other units can on occasion issue internal regulations; that is, for adherence by the agency only.

Functions

The VA provides services to veterans and their dependents through a variety of programs, including compensation, pension, education, vocational rehabilitation, insurance, home loans, burial, and health care and hospitalization.

Public Participation Summary

The VA works closely with community organizations and knowledgeable individuals involved in veterans' interests in reviewing its regulations and procedures to determine program responsiveness to public need. VA medical centers and regional offices provide many services and disseminate information at the local level, where public involvement is particularly visible.

Also, the VA sends copies of proposed regulations to the U.S. House and Senate Veterans Affairs Committees, to veterans' organizations, and other interested parties. The VA encourages the public to submit written comments on the agency's regulatory activities. There are no formal requirements for submitting these comments, and the comment period on all rulemaking proceedings is either 30, 60, or 90 days, depending on the significance of the regulation.

Funding and Technical Assistance

None.

Public Participation Documents

None.

Information Contact

Nancy C. McCoy
Assistant Director for Administrative Issues
Veterans Administration
Office of Management Services (61)
810 Vermont Avenue, N.W.
Washington, DC 20420
(202) 389–3770 or 2073

Civil Aeronautics Board (CAB)

Units That Issue Regulations

None. CAB regulations are issued by the CAB itself.

Functions

The CAB is responsible for economic regulation of air transportation and for overseeing the transition to a deregulated air transportation system.

Public Participation Summary

Private and public interest groups that petition CAB for rulemaking must file an original and 19 copies of the petition with CAB's Docket Section. Respondents to the petition should also file an original and 19 copies. Individuals may file their comments as consumers without filing multiple copies.

Public files on Agency proceedings may be examined at CAB in Room 711, 1825 Connecticut Avenue, N.W., Washington, DC, during normal business hours Monday through Friday.

Funding and Technical Assistance

The CAB's public participation funding program was terminated by P.L. 96–131, 93 Stat. 1023, November 30, 1979. (See 45 FR 36035, April 17, 1980.)

Public Participation Documents

In May and November, the CAB publishes in the **Federal Register** an agenda of significant regulations under development or review.

Information Contact

For information on public participation:

Mark Schwimmer, Assistant Chief
Rules and Legislation Division
Office of the General Counsel
Civil Aeronautics Board
1825 Connecticut Avenue, N.W.
Washington, DC 20428
(202) 673–5442

For consumer complaints:
Consumer Assistance Section
Bureau of Consumer Protection
Civil Aeronautics Board
1825 Connecticut Avenue, N.W.
Washington, DC 20428
(202) 673–6047

Commodity Futures Trading Commission (CFTC)

Units That Issue Regulations

CFTC regulations are issued by the CFTC itself.

Functions

The CFTC is an independent regulatory agency that exercises

rulemaking and enforcement powers over trading on 10 commodity exchanges offering futures contracts in a wide variety of commodities. The Commission's regulatory and enforcement programs are designed to prevent deliberate market distortions and manipulations, to ensure fair trade processes, to protect the financial integrity of the marketplace and the brokerage community, and to assure the rights of customers, while providing an additional forum for release of their legitimate grievances.

Public Participation Summary

The CFTC also administers a reparations procedure under which it can order a firm or person to pay damages to someone who proves damage by that person or firm caused by a violation of the Commodity Exchange Act, as amended, or of CFTC regulations. This procedure provides an alternative to arbitration or litigation for members of the public who believe they have been damaged by persons or companies registered with or required to be registered with the CFTC, including floor brokers, futures commission merchants, commodity trading advisors, commodity pool operators, and associated persons.

Funding and Technical Assistance

None.

Public Participation Documents

CFTC 101: Reparations.
CFTC 102: Economic Purposes of Futures Trading.
CFTC 103: Farmers, Futures and Grain Prices.

Information Contact

For information concerning public participation or to be included on the Agency's public information mailing list, call or write:

Randell Moore, Director
Office of Public Information
Commodity Futures Trading Commission
2033 K Street, N.W.
Washington, DC 20581
(202) 254–8630

For publications requests contact:

Irwin B. Johnson
Division of Economics and Education
Commodity Futures Trading Commission
2033 K Street, N.W.
Washington, DC 20581
(202) 254–5273

CFTC's Consumer Hotline provides information concerning firms or persons dealing in commodity futures or similar instruments, such as options and leverage. The toll-free phone numbers are:

(800) 424–9838
Alaska, Hawaii: (800) 424–9707
Metro Washington, DC area: (202) 254–7637

Consumer Product Safety Commission (CPSC)

Units That Issue Regulations

The Commission votes on and issues all regulations from the Agency.

Functions

CPSC issues and enforces mandatory product safety standards and bans unsafe products when safety standards are not feasible. It also monitors recalls of defective products, helps industry develop voluntary safety standards, informs and educates consumers about product hazards, conducts research and develops test methods, and collects and publishes injury and hazard data.

Public Participation Summary

CPSC's Office of Public Participation (OPP) develops programs to encourage participation by the public and administers a funding program for selected public participants in certain agency proceedings.

The CPSC "Public Calendar," published weekly, provides information on meetings, hearings, Commission agendas, and proposed and final rules and regulations. Interested persons can use the "Public Calendar" to find out when the Commission is soliciting funding applications for participation in a proceeding. **Federal Register** notices of proceedings would also provide this information.

Funding and Technical Assistance

CPSC provides reimbursement to selected participants in certain Agency proceedings under the Consumer Product Safety Act.

Public Participation Documents

Information on opportunities for participation by the public in CPSC proceedings and on the Commission's funding program is available from the Office of Public Participation. The "Public Calendar" is available from the Office of the Secretary.

Information Contact

Barbara Rosenfeld, Director
Office of Public Participation
Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207
(202) 254–6241
or
Office of the Secretary
Same address as above
(202) 634–7700

For general information about the Commission's activities, call toll-free: (800) 638–8326; Maryland residents only call: (800) 492–8363; Alaska, Hawaii, Virgin Islands, and Puerto Rico: (800) 638–8333.

A teletype for the deaf is available from 8:30 a.m. to 5:00 p.m. Monday through Friday for those who call these numbers.

Federal Communications Commission (FCC)

Units That Issue Regulations

The FCC's seven-member Commission issues and approves all Agency regulations.

Functions

The FCC regulates both interstate and U.S. foreign radio, television, wire, cable, and satellite communications.

Public Participation Summary

The FCC publishes a "Sunshine Agenda" prior to each open FCC meeting that provides brief summaries of each item scheduled for discussion.

The FCC's Consumer Assistance Office (CAO) conducts public participation workshops in various locations across the country. These sessions teach members of the public how to participate in FCC rulemaking proceedings.

CAO also publishes "Feedback," a plain English, consumer-oriented summary of major FCC proposals, and "Actions Alert," a weekly bulletin reminding consumers of major pending actions at the FCC.

Funding and Technical Assistance

The FCC is considering the creation of a program to fund public participation. At this time, the FCC does not have such a program.

Public Participation Documents

You can obtain the following documents on public participation as well as other publications about the agency from the FCC's Consumer Assistance Office free of charge:

"A Guide to Open Meetings"
"The Public and Broadcasting: A Procedure Manual"
"How FCC Rules are Made"
"FCC Information Seekers Guide"
"FCC Feedback"
"FCC Actions Alert"

Information Contact

Patti Grace, Chief
Consumer Assistance Office
Federal Communications Commission
1919 M Street, N.W., Room 258
Washington, DC 20554
(202) 632–7000

Call the Consumer Assistance Office for information on receiving its mailing lists for "Feedback" and "Actions Alert."

The CAO operates a special phone for the hearing impaired 8:00 a.m. to 5:30 p.m., Monday through Friday: (202) 632–6689.

For a recorded list of FCC press releases, telephone (202) 632–0002 (the recording is changed twice daily).

Federal Deposit Insurance Corporation (FDIC)

Units That Issue Regulations

FDIC's Board of Directors issues regulations for the agency.

Functions

FDIC administers a Federal insurance program for the deposits in banks belonging to the Federal Reserve System and in State banks and U.S. branches of foreign banks that apply and qualify for FDIC insurance. FDIC also regulates, at the Federal level, FDIC-insured State-chartered banks that are not members of the Federal Reserve System and State-licensed branches of foreign banks.

Public Participation Summary

Under § 553 of the Administrative Procedure Act, FDIC is required to provide general notice of, and permit public participation in, its rulemaking activities, except for interpretative rules; or rules on FDIC organization, practice, or procedure; or when the notice and public participation are impracticable, unnecessary, or contrary to the public interest. Public participation generally occurs through the submission of written data, views, or arguments. However, the FDIC Board of Directors may on occasion authorize interested persons to present their views orally. Under FDIC rulemaking procedures, the public comment period for all published proposed rules is at least 60 days, unless for good cause, such as unnecessary delay or harm to the public interest, the FDIC Board of Directors determines that a shorter period is necessary. When FDIC does not provide public notice of and the opportunity for public participation in its rulemaking activities, or when the agency does not provide a public comment period of at least 60 days, the FDIC Board of Directors will publish its reasons for not doing so in the **Federal Register** notice for the regulation.

Funding and Technical Assistance

Consideration is given on a case-by-case basis. Requests should be directed to the Executive Secretary listed below under "Information Contact."

Public Participation Documents

An FDIC Policy Statement, "Development and Review of FDIC Rules and Regulations," outlines procedures used by FDIC during the development and review of its regulations. Copies can be obtained from the Information Office listed below.

Information Contact

For information on public participation and on funding:

Hoyle L. Robinson, Executive Secretary
Office of the Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429
(202) 389–4425

For publications requests:
Information Office
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429
(202) 389–4221

Federal Election Commission (FEC)

Units That Issue Regulations

All regulations issued by the Federal Election Commission are approved by affirmative vote of at least four Commissioners. The Office of General Counsel (OGC) drafts regulations for Commission approval. The other functional divisions of the Commission, such as Audit, Reports Analysis, and Public Disclosure, may make recommendations on new regulations to OGC. No office of the Commission has authority to issue regulations without such approval.

Regulations promulgated under the Federal Election Campaign Act of 1971, as amended (2 U.S.C. § 431 *et seq.*), and chapters 95 and 96 of the Internal Revenue Code of 1954 (Title 26, United States Code) must be transmitted to Congress prior to final prescription. If neither House of Congress disapproves the proposed regulation within 30 legislative days after transmittal, it may be prescribed by the Commission. (See 2 U.S.C. § 438(a)(8), 26 U.S.C §§ 9009(c) and 9039(c).)

Functions

The Federal Election Commission administers, formulates policy, and seeks to obtain compliance with respect to the Federal Election Campaign Act of 1971, as amended, and chapters 95 and 96 of the Internal Revenue Code of 1954. Its functions include administering the Federal campaign finance disclosure requirements, contribution and expenditure limitations prohibitions on certain contributions to Federal Candidates, and public financing of Presidential nominating conventions and elections.

Public Participation Summary

The Federal Election Commission has no statutory authority for special public participation programs. Regulations are issued under the Administrative Procedure Act and public comments are invited pursuant to ANPRMs and NPRMs published in the **Federal Register**. Information on pending regulatory activities is also published in the Commission's monthly newsletter, the "FEC Record."

Funding and Technical Assistance

None.

Public Participation Documents

Information on pending regulatory activities, as well as pending advisory opinions, recent enforcement actions, and litigation, is published in the Commission's monthly newsletter, the FEC "Record." The "Record" is distributed free of charge by the Commission's Public Information Office (see Information Contact below).

Information Contact

Dr. Gary Greenhalgh, Assistant Staff Director for Public Information
Federal Election Commission
1325 K Street, N.W.
Washington, DC 20463
(202) 523–4068
Outside the Washington, DC metro area, phone (800) 424–9530.

Federal Energy Regulatory Commission (FERC)

Units That Issue Regulations

There are no administrative units within the FERC that have the authority to issue regulations. The full Commission votes on and issues all FERC regulations.

Functions

The Federal Energy Regulatory Commission (FERC) is an independent five-member regulatory agency. As the successor to the Federal Power Commission, FERC sets rates and charges for transportation and sales of natural gas, transmission and sale of wholesale electric power, and

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transportation of oil by pipeline, and also licenses private, State, and local hydroelectric projects. FERC also reviews certain actions taken by the Department of Energy.

Public Participation Summary

The FERC meets in public session on Wednesday and Thursday of each week, except the first week of the month. The public is invited to attend Commission meetings. Oportunity for public intervention and comment is provided at earlier stages in the decisionmaking process.

FERC often holds public hearings and informal public conferences on major rulemaking proposals in Washington, DC and other regions of the country. These hearings and conferences are usually conducted by a member of the Commission and are announced in the **Federal Register**.

After a proposed rule appears in the **Federal Register**, the public usually has 45 days in which to submit written comments on the proposal. The Commission requires 14 copies of written comments, but in special circumstances the Commission has waived that requirement.

The FERC published a draft plan for a consumer program in the **Federal Register** of June 17, 1980, and a final plan will be published in November 1980. The program will be carried out by the Division of Consumer Affairs within the Office of Congressional, Consumer, and Public Affairs (OCCPA) and the Office of Public Participation. The plan creates mechanisms, including the establishment of two advisory committees, for increased consumer and public participation in Commission proceedings. Copies are available and may be obtained from the contacts listed below.

Funding and Technical Assistance

The Congress established conditions under which certain intervenors could be compensated by the FERC for participation in Commission proceedings in the Public Utility Regulatory Policies Act of 1978. However, in the appropriations process, the Congress has consistently failed to provide funds to compensate intervenors in FERC proceedings, and further wrote an absolute prohibition on the use of FERC FY 1980 and 1981 appropriations to fund public intervention. In addition, the Office of Management and Budget did not approve the FERC FY 1981 budget request for intervenor funding.

Public Participation Documents

A number of publications designed to facilitate public participation in FERC proceedings are now available. These include:

- A Guide to Public Information at the FERC.
- The "FERC Rulemaking Calendar." Published quarterly, it summarizes all rulemakings in progress and gives the name and phone number of the project manager.
- Publications and Staff Report Listings.

Fact sheets are published from time to time explaining the major issues before the Commission.

Other publications are now being drafted:

- A guide to the weekly public Commission meetings.
- A pamphlet tracing rulemakings and the various kinds of cases decided by the Commission through the regulatory process.

The Commission maintains several mailing lists designed to disseminate widely free information on its activities and ongoing proceedings. These mailing services include:

- FERC Weekly Announcements—a weekly compilation of all news releases issued by the FERC.
- Rulemaking Mailing List—all FERC orders in rulemaking proceedings.
- Natural Gas Policy Act (NGPA) Mailing List—all new releases, notices, and orders pertaining to the NGPA.
- Consumer Organization Mailing List—Commission announcements, notices, etc., that are of interest to consumers.
- Incremental Pricing Mailing List—notices and orders pertaining to the incremental pricing program.

Lists of all publications and special reports issued by the FERC can be obtained from the OCCPA Division of Public Information. The Division of Public Information also maintains a daily recorded message listing all orders and notices issued by the Commission. The message is changed at 10:00 a.m. and 3:00 p.m. each day; call (202) 357–8555.

Information Contact

For more information on public participation at the FERC, call or write:
Kenneth S. Levine, Director
Office of Congressional, Consumer, and Public Affairs
Federal Energy Regulatory Commission
825 North Capitol Street, N.E., Room 9200
Washington, DC 20426
(202) 357–8370

Walton M. Chalmers, Director
Division of Consumer Affairs
Office of Congressional, Consumer, and Public Affairs
Federal Energy Regulatory Commission
825 North Capitol Street, N.E., Room 9200
Washington, DC 20426
(202) 357–8392

Federal Home Loan Bank Board (FHLBB)

Units That Issue Regulations

Office of General Counsel, Regulations Division

Functions

The Federal Home Loan Bank Board is an independent regulatory agency headed by a three-member board of directors. Members are appointed by the President, with the advice and consent of the Senate, for 4-year terms. The Chairman is designated by the President and is the chief executive officer of the Board.

The members of the Board comprise the Board of Directors of the Federal Home Loan Mortgage Corporation, which was created by Title III of the Emergency Home Finance Act of 1970 to develop a secondary market for mortgage loans. The Board also supervises the operations of the Federal Home Loan Banks, and directs the operations of the Federal Savings and Loan Insurance Corporation (FSLIC). The FSLIC insures the accounts of all federally chartered savings and loans, and of other building and loan, savings and loan, and homestead associations, and cooperative banks that are eligible for insurance and whose applications have been approved by FSLIC. Finally, the Board supervises and regulates all savings and loan and other similar institutions doing business in Washington, DC.

Public Participation Summary

After notice of a proposed amendment or rule is published in the **Federal Register**, interested persons may participate in the regulatory process by sending written data, views, or arguments to the Secretary of the Board. Members of the public may also petition the Board to issue, amend, or repeal any amendment or rule by sending a petition to the Secretary of the Board.

The Board generally does not hold hearings on proposed regulations or amendments. However, if hearings are held, they are open to the public. Similarly, the public may attend open Board meetings. Notice of these meetings is published in the **Federal Register** and posted in the lobby of the Board's headquarters at 1700 G Street, N.W., Washington, DC.

Funding and Technical Assistance

None.

Public Participation Documents

Information on public participation in Board meetings, hearings, and other parts of the regulatory process, summarized above under the heading "Public Participation Summary," may be found in 12 CFR §§ 505b and 508. Further information on procedures, forms, and other aspects of the Board's operations is available to the public at the Board's headquarters and at the offices of the Federal Home Loan Banks.

Information Contact

Warren J. Dunn
Communications Office
Federal Home Loan Bank Board
1700 G Street, N.W.
Washington, DC 20552
(202) 377–6677

Interested persons may write or phone the above office to be placed on a general public information mailing list to receive press and statistical releases. Other information published by the Board and available to the public, listed in 12 CFR 505.3, includes copies of the Board's Annual Reports, and the *Federal Home Loan Bank Board Journal*, as well as statutory and regulatory material relating to the Board's operations.

Federal Maritime Commission (FMC)

Units That Issue Regulations

There are no units within the Federal Maritime Commission that have authority to issue regulations. All regulations are issued by the Commission as a whole.

Functions

FMC is an independent regulatory agency primarily responsible for administering Federal statutes concerned with the regulation of ocean shipping in the U.S. foreign commerce and the U.S. domestic offshore commerce.

Public Participation Summary

Shippers and receivers of cargo in the U.S. ocean commerce are the FMC's real consumers. Because the general public is not usually directly concerned with ocean freight rates and practices, the Commission's public participation activities are somewhat limited. While interested parties may and do participate in the rulemaking proceedings, comments from the general public are rarely received. However, in addition to requesting written comments from the shipping public on proposed rules, the Commission, at times, conducts informal public discussions in various cities throughout the country to solicit comments on issues to be addressed in proposed rules. Comments obtained through such public discussions become part of the rulemaking record. FMC has a public reference room and a dockets room in Washington, DC, where the public can review files on agreements, tariffs, and legal proceedings. The eight Commission field offices also have public reference areas. Call one of the persons listed under "Information Contact" for the field office nearest you if it is not listed in your telephone directory.

Funding and Technical Assistance

None.

Public Participation Documents

None.

Information Contact

Francis C. Hurney, Secretary
Federal Maritime Commission
1100 L Street, N.W., Room 11101
Washington, DC 20573
(202) 523–5725
or
Otto J. Kirse, Assistant Managing Director for Consumer Affairs
Federal Maritime Commission
1100 L Street, N.W., Room 12411
Washington, DC 20573
(202) 523–5800

Federal Mine Safety and Health Review Commission (FMSHRC)

Units That Issue Regulations

With the exception of certain administrative matters, the agency does not engage in the formal promulgation of regulations; the primary function of FMSHRC is to adjudicate.

Functions

Congress created FMSHRC as an independent agency to adjudicate disputes under the Mine Safety and Health Act of 1977.

Public Participation Summary

Section 105(c) of the Act (30 U.S.C. § 815(c)) contains a Congressional mandate for legal representation by the Federal Government for miners and their representatives in private disputes brought before FMSHRC against mine operators because of alleged discrimination in safety and health matters. Congress also provided that when the Solicitor of the Department of Labor does not provide legal representation, a miner or representative who wins the dispute can recoup costs, including attorney fees, from the mine operator.

Funding and Technical Assistance

The provision by Congress for a miner or his representative to receive legal representation by the Federal Government or to recoup costs can be found at Title 30, § 815(c) of the United States Code.

There is no additional provision or procedure for funding of public participation at this time.

Public Participation Documents

The Rules of Procedure for cases tried before FMSHRC are available from FMSHRC or can be found in Title 29, Part 2700 of the Code of Federal Regulations.

FMSHRC also is considering the publication of a pamphlet explaining how the Commission operates.

Information Contact

Executive Director
Federal Mine Safety and Health Review Commission
1730 K Street, N.W., Sixth Floor
Washington, DC 20006
(202) 653–5625

Federal Reserve System (FRS)

Units That Issue Regulations

Board of Governors of the Federal Reserve System.

Functions

The primary responsibility of the Federal Reserve System is the conduct of monetary policy which affects the availability of money and credit. It exercises supervisory and regulatory authority over member banks and all bank holding companies. It also acts as the fiscal agent for the U.S. Treasury and has responsibility for implementing numerous consumer laws, such as Truth in Lending.

Public Participation Summary

Depending upon the nature of the proposed regulation and the interests of the affected sector, the Federal Reserve Board (FRB) uses a variety of outreach procedures, including publishing an ANPRM that may suggest specific issues on which comments should be focused. FRS may also choose to schedule an informal public hearing or directly solicit views from interested persons or groups.

The Board's Regulations B and Z, which implement the Equal Credit Opportunity and Truth in Lending Acts, provide for special public participation in matters related to the Acts. If the FRB

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receives a request for public comment on an official staff interpretation of these regulations before the effective date is suspended, the FRB will republish the proposed staff interpretation for public comment. Public participation is also invited through the Board's Consumer Advisory Council. The Council generally meets for 1½ days four times a year and about ten new members each year are chosen from the public. The Council publishes its agenda preceding each meeting. We encourage written public comments on proposed topics and public attendance at meetings.

Funding and Technical Assistance

None.

Public Participation Documents

The Federal Reserve has prepared a special pamphlet entitled "Government in the Sunshine" that provides a guide to meetings of the Board of Governors. More formal information on Rules of Procedure, 12 CFR 262 and Rules Regarding Public observation of Meetings, 12 CFR 261B is available through the Publications Office of the Board.

In the Consumer area, information on the Consumer Advisory Council can be found in Rules of Organization and procedure of the Consumer Advisory Council, 12 CFR 267.

Procedures for Issuing Official Staff Interpretations of Regulations B and Z, 12 CFR 202.1(d), 226.1(d) is available through the Publications Office.

Information Contact

Joseph R. Coyne, Assistant to the Board
Federal Reserve Board
Washington, DC 20551
(202) 452–3204

To include your name on the agency's general public information mailing list or to obtain copies of the public participation documents listed above call or write:

Publications
Federal Reserve Board
Washington, DC 20551
(202) 452–3244

Federal Trade Commission (FTC)

Units That Issue Regulations

Bureau of Competition
Bureau of Consumer Protection

Functions

The Commission's functions are aimed at promoting competition and fair and honest dealing in the economy. It seeks to remove market restrictions that drive up prices and limit the supply of goods and services. It also seeks to protect consumers by ensuring that commercial information available to consumers is accurate and complete.

Public Participation Summary

Section 18(h) of the FTC Act (as amended) authorizes the Commission to reimburse persons who participate in its rulemaking proceedings for the costs of that participation if they could not otherwise afford to participate effectively, and if their participation is necessary in the proceeding. The program is administered in the Office of the General Counsel by the Special Assistant for Public Participation, with all funding determinations made by the General Counsel.

To date, nearly 70 groups and individuals representing citizens' and small business interests have been reimbursed for their costs of participating in FTC rulemaking proceedings. The program is intended to improve the rulemaking process by ensuring that all points of view are heard through effective presentations.

An important part of the public participation in the rulemaking program is an affirmative outreach effort. This includes two special features: first, workshops to explain the rulemaking procedures and how to participate effectively; second, seminars to small business and consumer interests that are likely to be concerned with particular rulemakings to inform them of the availability of public participation funding.

The Commission encourages participation from small businesses whose views might not otherwise be adequately represented in rulemaking proceedings. To accomplish this, it sets aside 25 percent of its participation funds for such groups. This reserved amount is available to reimburse only those small businesses (and their trade associations) who meet the conditions for the program and would be regulated by the proposed rule involved.

Funding and Technical Assistance

Interested persons, whether they represent a consumer or a small business point of view, can be reimbursed for their costs of participation in rulemaking proceedings if they meet the statutory criteria. The Special Assistant for Public Participation, listed under "Information Contact," provides assistance in the preparation of reimbursement applications and answers questions regarding the status of rulemaking proceedings. The Commission is unable to provide other assistance to participants.

Public Participation Documents

Staff Guidelines: "The Public Participation in Rulemaking Program: Rulemaking Proceedings and Reimbursement for Costs of Participation."

These Guidelines are intended to assist persons unfamiliar with FTC activities who are seeking reimbursement for their costs of participation in FTC rulemakings. Information is provided on the nature of FTC rulemaking proceedings, types of public participation possible at each stage of these proceedings, and the statutory standards for reimbursement. The Guidelines also explain the financial requirements for reimbursement recipients and include application forms with step-by-step instructions.

Information Contact

For information on general public participation and funding, please call or write:

Bonnie Naradzay, Special Assistant for Public Participation
Office of the General Counsel
Federal Trade Commission
Washington, DC 20580
(202) 357–0258

Interstate Commerce Commission (ICC)

Units That Issue Regulations

The Commission issues all regulations. Staff units responsible for preparing regulations for the Commission's approval are:

Bureau of Accounts
Bureau of Traffic
Office of Consumer Protection
Office of Policy and Analysis
Office of Proceedings

Functions

The ICC was created in 1887. It regulates railroads, trucking companies, bus lines, freight forwarders, and water carriers. The Commission is entrusted with ensuring the "development, coordination and preservation of a transportation system that meets the transportation needs of the United States." In regulating the modes of transportation subject to its jurisdiction, the Commission must carry out a transportation policy which has as its goals: (1) to recognize and preserve the inherent advantage of each mode of transportation; (2) to promote safe, adequate, economical, and efficient transportation; (3) to encourage sound economic conditions in transportation, including sound economic conditions among carriers; (4) to encourage the establishment and maintenance of reasonable rates for transportation without unreasonable discrimination or unfair or destructive competitive practices; (5) to cooperate with each State and the officials of each State on transportation matters; (6) to encourage fair wages and working conditions in the transportation industry; and (7) with respect to transportation of property by motor carrier, to promote competitive and efficient transportation services in order to (a) meet the needs of shippers, receivers, and consumers; (b) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping public; (c) allow the most productive use of equipment and energy resources; (d) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; (e) provide and maintain service to small communities and small shippers; (f) improve and maintain a sound, safe, and competitive privately owned motor carrier system; (g) promote greater participation by minorities in the motor carrier system; and (h) promote intermodal transportation.

Public Participation Summary

The Commission's Office of Special Counsel assists the Commission in determining the public interest in its proceedings. The Special Counsel contributes to the public interest record in Commission proceedings by intervening as a party and by conducting outreach activities to encourage and facilitate direct public participation. The Special Counsel uses complaints and suggestions from the public to formulate a position reflecting the public interest in a proceeding. The Commission sometimes holds informal hearings in cities across the Nation to solicit public comment either before opening a rulemaking proceeding or before taking final action in a rulemaking proceeding. Staff of the Special Counsel are available to assist the public in participating in these hearings.

Staff of the Small Business Assistance Office are also available to help small business interests present their viewpoints in Commission proceedings.

Funding and Technical Assistance

No funding is available, but, as discussed above, the Office of Special Counsel and the Small Business Assistance Office offer technical assistance in some Commission proceedings. In addition, the Commission maintains field offices in every State with staff available to assist the public.

Public Participation Documents

"Informal Rulemaking Procedures," NPRM, 43 FR 27732, June 26, 1978; Notice of Final Rules, 44 FR 42558, July 19, 1979.

"Improving Commission Regulations," Notice of Proposed Policy Statement, 43 FR 27729, June 26, 1978; Notice of Final Policy Statement, 44 FR 42563, July 19, 1979.

Information Contact

For information on public interest issues in agency proceedings call or write:

Edward J. Schack, Special Counsel
Office of Special Counsel
Interstate Commerce Commission
12th St. and Constitution Ave., N.W.
Washington, DC 20423
(202) 275–7411
or
Bernard Gaillard, Director
Small Business Assistance Office
Interstate Commerce Commission
12th St. and Constitution Ave., N.W.
Washington, DC 20423
(202) 275–7597

To include your name on the agency's general public information list, call or write:

Interstate Commerce Commission
Office of Communications
12th St. and Constitution Ave., N.W.
Washington, DC 20423
(202) 275–7252

The Commission operates a toll-free consumer hotline: (800) 424–9312. Consumers may use the hotline if they have complaints about any carrier subject to the Commission's jurisdiction. The hotline is manned from 8:30 a.m. to 5:00 p.m. weekdays and is answered by a recording at other times. Callers can leave their name and number on the recording device, and a staff member will return their call.

To reach the Commission's Spanish-speaking coordinator, call (202) 275–7574.

National Labor Relations Board (NLRB)

Units That Issue Regulations

The Board functions in a quasijudicial manner in processing unfair labor practice charges and representation cases. Although serving as precedent and, in this sense, as guidelines to the labor-management community as a whole, the Board's decisions and orders, strictly speaking, are applicable only to the parties involved. Accordingly, because the NLRB does not normally use rulemaking procedures for the purpose of issuing rules and regulations, the NLRB has no regulatory units.

Functions

The NLRB has two basic functions. They are (1) to determine, through secret ballot elections, the free choice of employees whether or not they wish to be represented by a union for collective bargaining purposes; and (2) to prevent and remedy unfair labor practices by either employers or unions which adversely affect employees' rights to self-organization and collective bargaining.

Public Participation Summary

Although opportunities for public participation in NLRB decisions are normally limited, the Board has taken certain steps that it hopes will facilitate, to the extent possible, participation by the public in agency procedures:

(1) Public Information Program: Effective July 27, 1979, the Board's 33 Regional Offices inaugurated a new public information program designed to enhance the public's understanding of the scope and function of the National Labor Relations Act and the NLRB's role in administering it. The new program resulted from a study that indicated that improved planning and scheduling of information officer assignments, expanded training in the performance of such duties, and the assignment of more experienced Board agents to this function would enable members of the public with grievances which come under Board jurisdiction to receive the agency's assistance sooner than in the past, at the same time that those with grievances not covered by the Act would be directed to the appropriate government agency, if any, for resolution of their complaints. The Agency has launched a training program for information officers that, coupled with public information brochures and a change in the case assignment process, will give priority to the information officer program.

(2) Decentralization of the Administrative Law Judges' Division: In an attempt to expedite the processing of unfair labor practice charges, the Board has recently decentralized the Administrative Law Judges' Division (previously headquartered in Washington and San Francisco) by opening additional offices in New York City and Atlanta, Georgia.

Funding and Technical Assistance

The NLRB does not offer funding or technical assistance.

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Public Participation Documents

"A Guide to Basic Law and Procedures Under the National Labor Relations Act." As a result of experience indicating that there is still a lack of basic information about the National Labor Relations Act, the NLRB has sought to meet this demand by setting forth in this pamphlet the basic law under the Act in a nontechnical way, so that those who may be affected by it, including the general public, can better understand what their rights and obligations are.

This guide is available through the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, at a charge of $2.20.

Information Contact

Thomas W. Miller, Jr., Director
Division of Information
National Labor Relations Board
1717 Pennsylvania Avenue, N.W.,
Room 710
Washington, DC 20570
(202) 632–4950

The Division of Information also maintains several mailing lists that include the following: 1. Weekly Summary of NLRB Cases; 2. Monthly Election Reports; 3. News Releases. Write the above "Information Contact" if you wish to be placed on any of these lists.

Nuclear Regulatory Commission (NRC)

Units That Issue Regulations

Except as delegated to the Executive Director for Operations, the authority to issue regulations rests with the Commission.

Under 10 CFR 1.40(d), the Executive Director for Operations has been delegated authority to issue amendments to the Commission's regulations which are corrective, minor, or nonpolicy in nature, and do not substantially modify existing regulations. The Executive Director for Operations also may issue amendments to regulations in final form, if no significant adverse comments or questions have been received on the proposed rule change.

Under 10 CFR 1.40(o), the Executive Director for Operations has been delegated authority to deny petitions for rulemaking of a minor or nonpolicy nature, where the grounds for denial do not substantially modify an existing precedent.

Under 10 CFR 2.802(f), the Executive Director for Operations also has been delegated authority to return to a petitioner any proposed petition which is incomplete and does not meet the requirements of 10 CFR 2.802(c) dealing with the specificity of petitions for rulemaking.

Functions

The NRC was established by the Energy Reorganization Act of 1974, as amended, P.L. 93–438, 88 Stat. 1233 (42 U.S.C. §§ 5801 *et seq.*). This Act abolished the Atomic Energy Commission and, by § 201, transferred to the Nuclear Regulatory Commission all the licensing and related regulatory functions assigned to the Atomic Energy Commission by the Atomic Energy Act of 1954, as amended, P.L. 83–703, 68 Stat. 919 (42 U.S.C. §§ 2011 *et seq.*).

The NRC regulates civilian nuclear activities to protect the public health and safety, national security, and the quality of the environment, as well as to ensure that the public and private sectors obey the antitrust laws.

Public Participation Summary

NRC has taken steps to enhance both the accessibility and quality of public participation in its rulemaking activities. These steps include:

- making available to the public, at the start of each Commission meeting, any staff papers discussed in open meetings, and placing copies of such papers in the Public Document Room;
- publishing an agenda of petitions for rulemaking and proposed rules and noticing the availability of the agenda in the **Federal Register**;
- publishing quarterly a status summary report called the "Green Book" that lists, among other things, regulations under development by the Office of Standards Development;
- publishing ANPRMs on major actions;
- making available to the public, at the time the Commission considers a final rule, an analysis of comments on the proposed rule and a discussion of their resolution;
- preparing and making available to the public a cost/benefit analysis or environmental impact statement on major rules; and
- holding public hearings or meetings on rulemaking actions of particular interest and importance.

Funding and Technical Assistance

In NRC's budget request to Congress for FY 1981, NRC has included funds for public participation in its rulemaking process. The NRC also encourages prospective petitioners to meet with the staff prior to filing a petition for rulemaking. Those meetings can help expedite the rulemaking process, result in greater understanding of NRC's licensing requirements, or present alternatives to a petitioner for obtaining the petitioner's objectives.

Public Participation Documents

The "NRC Manual" and other elements of the NRC's Management Directives System contain NRC's organization, policies, procedures, assignments of responsibility, and delegations of authority. Copies of the Manual are available for public inspection and copying at the NRC Public Document Room and at each of NRC's Regional Offices.

The NRC's Annual Report, for sale by the Superintendent of Documents, Government Printing Office, includes a section which discusses provisions in NRC regulations for formal participation by the public in rulemaking, licensing, and other proceedings.

The "Rules of Practice for Domestic Licensing Proceedings," 10 CFR Part 2, pertains to the conduct of Commission proceedings, including the opportunities for public participation.

NRC's procedures for public participation in Agency rulemaking are set forth in Subpart H, Rule Making, of NRC's Rules of Practice (10 CFR Part 2).

Information Contact

For information concerning the status of proposed rules or petitions for rulemaking, to set up meetings with the NRC staff regarding proposed petitions, or for other information concerning NRC's rulemaking activities, call or write:

John D. Philips, Chief
Rules and Procedures Branch
Division of Rules and Records
U.S. Nuclear Regulatory Commission
Room 1713 MNBB
Washington, DC 20555
(301) 492–7086

Address rulemaking petitions to:
Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555
Attn: Chief, Docketing & Service Section

Copies of all petitions are available for public review at:

NRC Public Document Room
1717 H Street, NW
Washington, DC 20555

Information concerning the Agency's public information mailing list can be obtained from:

Steve Scott, Chief
Documents Management Branch
Division of Technical Information and Docment Control
U.S. Nuclear Regulatory Commission
Washington, DC 20555
(301) 492–8585

On a trial basis, the NRC has established an automatic telephone answering service for current information concerning the scheduling of Commission meetings. The telephone number is (202) 634–1498. Further details on Commission meetings are available from the staff of the Office of the Secretary by telephoning (202) 634–1410 on weekdays between 8:15 a.m. and 5:00 p.m.

Occupational Safety and Health Review Commission (OSHRC)

Units That Issue Regulations

The Review Commission does not issue regulations but does issue rules of procedure that govern its administrative proceedings.

Functions

The Review Commission is an independent quasi-judicial agency created by Congress to adjudicate contested enforcement actions arising under the Occupational Safety and Health Act of 1970, 29 U.S.C. §§ 651–678.

Public Participation Summary

No program.

Funding and Technical Assistance

None.

Public Participation Documents

"A Guide to Procedures of the Occupational Safety and Health Review Commission" (also available in Spanish) is a nontechnical explanation of procedures before the Commission.

"OSHRC: The Federal Job Safety and Health Court."

"Simplified Proceedings—An Experimental, Alternative Procedure to Resolve Simple Cases Before the Occupational Safety and Health Review Commission" is a brief explanation of the new simplified procedures.

These are available free from the Office of Information at the address below.

Information Contact

Public Information Officer
Occupational Safety and Health Review Commission
1825 K Street, N.W., Room 701
Washington, DC 20006
(202) 634–7948

Postal Rate Commission (PRC)

Units That Issue Regulations

The Commission as a whole issues all decisions, which are forwarded, in accordance with 39 U.S.C. § 3624, to the Governors of the Postal Service for final action. The Governors, under varying requirements, may approve, allow under protest, reject, or modify a Commission decision.

According to 39 U.S.C. § 3603, the Commission may change its rules of procedure without approval of the Governors of the Postal Service. The procedure for any changes must be in accordance with 5 U.S.C. chapters 5 and 7.

Functions

The Postal Rate Commission is an independent Federal regulatory agency composed of five Commissioners appointed by the President, with the advice and consent of the Senate. The Commission, acting upon requests from the U.S. Postal Service or on its own initiative, recommends to the Governors of the Postal service changes in postal rates, mail classification, and services offered. The Commission also has appellate authority to review Postal Service determinations, and to close or consolidate post offices.

Public Participation Summary

PRC's "Rules of Practice and Procedure" govern all proceedings before the Commission. They are complementary to the Administrative Procedure Act.

PRC's Officer of the Commission (OOC) represents the interests of the general public in Commission proceedings. Persons interested in issues of mail classification and postal rates may contact the OOC at 2000 L Street, N.W., Suite 500, Washington, DC 20268, (202) 254–3840, to present their views. However, the agency's *ex parte* rule forbids the OOC and the staff assigned to that office from having any discussion with the Commision or its advisory staff on the issues in the proceedings. This assures no prejudgment exists when the Commission is deciding a case. The OOC is listed below under "Information Contact."

In addition to providing for participation by persons wishing to become parties or limited intervenors in Commission proceedings, the Commission's rules permit any person to file an informal statement of views with the Commission. These statements are open to public inspection (39 CFR § 3001.19b).

Funding and Technical Assistance

None.

Public Participation Documents

PRC's "Rules of Practice and Procedure" govern all proceedings before the Commission in addition to the laws contained in the Administrative Procedure Act. These rules can be found at 39 CFR §§ 3001.1–3001.116.

Information Contact

Any person interested in participating in any Commission proceeding may contact:

David Harris, Secretary and Chief Administrative Officer
Postal Rate Commission
2000 L Street, N.W., Room 500
Washington, DC 20268
(202) 254–3880

General public interest issues can be discussed with:

Stephen Sharfman, Officer of the Commission
Postal Rate Commission
2000 L Street, N.W., Room 500
Washington, DC 20268
(202) 254–3840

Documents filed in the various cases are available from:

PRC Docket Room
2000 L Street, N.W., Room 500
Washington, DC 20268
(202) 254–3800

The Commission issues a free biweekly "Docket Summary" which lists and describes the significant documents that have been filed with or issued by the Commission. To be put on the mailing list, contact:

Dennis Watson, Public Information Officer
Postal Rate Commission
2000 L Street, N.W., Room 500
Washington, DC 20268
(202) 254–5614

Securities and Exchange Commission (SEC)

Units That Issue Regulations

All regulations are issued by the Commission as a whole. However, proposed regulations may be suggested to the Commission by any staff division or autonomous office. The principal staff units with direct responsibility for proposing regulations are:

Division of Corporate Regulation
Division of Corporation Fiance
Division of Investment Management
Division of Market Regulation
Office of Chief Accountant

Functions

The Commission is responsible for overseeing the operations of the Nation's securities trading markets. It has direct responsibility for regulation of those engaged in trading securities or selling them to the public, such as stockbrokers, persons who trade securities on the floors of exchanges, investment advisers, mutual fund

operators, and others. The Commission also administers the "full disclosure system" which assures that publicly

General inquiries or questions about the availability of above-listed

operators, and others. The Commission also administers the "full disclosure system" which assures that publicly owned companies disclose publicly all material information regarding their operations. In addition, the Commision has responsibilities relating to public utility holding companies and to bankruptcies of public corporations.

Public Participation Summary

The Commission's rulemaking process is open to public participation in accordance with the Administrative Procedure Act and, in addition, certain specific provisions of the Federal securities laws. Notable provisions are at 5 U.S.C. § 553 and 15 U.S.C. § 78s. In general, the Commission publishes NPRMs in the **Federal Register**, the "SEC Docket" and the "SEC News Digest," and provides interested persons an opportunity to submit written data, views, and arguments regarding the proposed rules. Further, the Commission, in certain instances, mails copies of proposed rules directly to interested persons in order to encourage public participation in the comment process. Comments are kept in a public file that is available for reference at the Commission's public reference room at 1100 L Street, N.W., Washington, DC 20549.

Funding and Technical Assistance

None.

Public Participation Documents

A brochure entitled "SEC Publications" lists other material published by the Commission and is available from the Publications Section listed below.

Notice of rule proposals, as well as rule adoptions, schedules of open Commission meetings, and many other announcements of interest to the public, are published each day in the "SEC News Digest," which is also available by subscription from the Superintendent of Documents, at a cost of $100 per year.

In addition to publication in the **Federal Register**, all rule proposals issued by the Commission are published in the "SEC Docket," which is available by subscription at a cost of $79 per year from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

Information Contact

Copies of specific rule proposals or corporate disclosure documents may be obtained by writing to:

Public Reference Section
Securities and Exchange Commission
500 North Capitol Street, N.W.
Washington, DC 20549

General inquiries or questions about the availability of above-listed documents may be addressed to:

Office of Public Affairs
Securities and Exchange Commission
500 North Capitol Street, N.W.
Washington, DC 20549
(202) 272-2650

Comments on rule proposals should be directed to:

George Fitzsimmons
Secretary to the Commission
Securities and Exchange Commission
500 North Capitol Street, N.W.
Washington, DC 20549

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APPENDIX II: STATUS OF REGULATIONS FROM MAY 1980 EDITION

This appendix provides information about those regulations that appeared as entries in the May 1980 edition of the **Calendar of Federal Regulations** but are not repeated in this November 1980 edition.

Many entries from the last edition repeat in this edition because the agencies are still developing those regulations. However, some entries do not repeat; for example, a regulation which an agency was developing in May may have been issued as a final rule, or the agency may have withdrawn it or taken some other action that makes it inappropriate to include in this edition of the **Calendar**. This appendix notes the actions the agencies have taken on such regulations. In addition, it notes any significant word changes in the titles of the regulations to help the reader locate entries that have been retitled and appear as entries in both editions of the **Calendar**.

The appendix also includes the page number on which the entry appeared in the May 1980 **Federal Register** edition of the **Calendar**. (45 FR 36884 *et seq.* May 30, 1980.)

The appendix lists 41 regulations that appeared in the May 1980 edition of the **Calendar** but that do not repeat in this edition. Agencies took final action on 31 (or 80%) of those 41 regulations (final action includes final rule, or in the case of independent agencies, such actions as a Commission Decision). In four of the 41 cases, the agency does not anticipate any further action on the proposals, and in one case, the agency anticipates no further action in the coming year. Three were withdrawn from the **Calendar** because the agency no longer felt they were appropriate for inclusion, based on the agency's evaluation of the rule's potential effects, two are on hold pending other actions, such as pending legislation. In two cases, multiple rulemaking actions are involved, parts of which may have been issued as final rules while other parts reappear in the revised entry in this **Calendar**.

The Appendix also lists nine regulations with title changes from the last edition.

The Appendix is organized alphabetically by agency, unit within the agency, and then by title of the regulation.

AGENCY	TITLE OF REGULATION	FR 5/30/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
USDA-AMS	Proposed Federal Milk Order for the Southwestern Idaho-Eastern Oregon Marketing Area	37034	Revised Recommended Decision Issued -- 45 FR 71198, 10/27/80.
USDA-FSQS	Proposed Polychlorinated Biphenyls (PCBs) Regulation	36938	Separated into two regulations: a) Proposed Polychlorinated Biphenyls (PCBs) Regulation - Existing Equipment, in this edition. b) Proposed Polychlorinated Biphenyls (PCBs) Regulation - New or Replacement Equipment, Final Rule -- 45 FR 68914, 10/17/80.

APPENDIX II: STATUS OF REGULATIONS FROM MAY 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 5/30/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
USDA-FSQS	Voluntary Meat and Poultry Quality Control Systems	36940	Final Rule -- 45 FR 54307, 8/15/80.
DOC-NOAA	Regulations Implementing a Fishery Management Plan for the Butterfish Fishery of the Northwest Atlantic Ocean	36885	Final Rule -- 45 FR 71357, 10/28/80.
DOC-NOAA -OCZM	Channel Islands Marine Sanctuary Regulations	36892	Final Environmental Impact Statement issued 6/6/80. Presidential approval 9/21/80. Publication of Final Rule 10/2/80, 45 FR 95198. Effective date of regulation must await Congressional approval as well as review by the Governor of California.
DOE-ERA	Amendments to the Crude Oil Supplier/ Purchaser Rule	36895	Final Rule -- 45 FR 56732, 8/25/80.
DOE-ERA	Amendments to the Emergency Provisions of the Crude Oil Buy/Sell Program	36860	NPRM -- 44 FR 26113, 5/4/79; these proposals are no longer under consideration.
DOE-ERA	Decontrol of Propane/Simplified Propane Price Rule	36862	NOI published 44 FR 7934, 2/7/79; a decision has been made not to proceed with an NPRM.
DOE-ERA	Decontrol of Synthetic Natural Gas Feedstocks	36864	Final Rule -- 45 FR 74672, 11/10/80.

APPENDIX II: STATUS OF REGULATIONS FROM MAY 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 5/30/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
DOE-ERA	Entitlement Adjustments to Alaskan North Slope (ANS) Upper Tier Crude Oil	36864	Final Rule -- 45 FR 46752, 6/10/80.
DOE-ERA	Incentives to Refine Lower Quality Crude Oil	36867	Notice issued 45 FR 63866, 9/26/80 announcing decision to postpone formulation of a rule.
DOE-ERA	Powerplant and Industrial Fuel Use Act of 1978; Implementing Regulations	36871	Final Rule -- 45 FR 38276, 6/6/80.
DOE-ERA	Proposed Amendments to the Equal Application Rule	36873	Final Rule -- 45 FR 28302, 4/29/80.
DOE-RA	Profit Share Bidding System Regulations for Federal Outer Continental Shelf (OCS) Oil and Gas Leases	36875	Final Rule -- 45 FR 36784, 5/30/80.
HEW-FDA	Prescription Drug Products; Patient Labeling Requirements	36947	Final Rule -- 45 FR 60754, 9/12/80.
HUD-NVACP	Lead-Based Paint Poison Prevention Act Regulations	36925	Title change for this edition -- Lead-Based Paint - Chewable Surfaces.
DOI-BLM	Surface Management of Mining Claims Located on the Public Lands	36894	Final Rule -- Mid-November 1980. Exact citation not available at the time of this publication.
DOI-HCRS	Rules and Regulations Pertaining to the Urban Park and Recreation Recovery Program	36897	Final Rule -- 45 FR 47018, 8/9/80.

APPENDIX II: STATUS OF REGULATIONS FROM MAY 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 5/30/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
DOI-OSM	Surface Coal Mining and Reclamation Operations Permanent Regulatory Program: Performance Bonding	36903	Final Rule -- 45 FR 52306, 8/6/80.
DOJ-CRD	Regulations Prohibiting Discrimination Solely on the Basis of Handicap in Federally Assisted Programs	37014	Final Rule -- 45 FR 37620, 6/3/80.
DOJ-OJARS /LEAA	Procedures Relating to the Implementation of the National Environmental Policy Act	36905	Republished in proposed form 45 FR 45311, 7/3/80. Reclassified by the Office of Legal Counsel as "not significant."
DOL-RTA	Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance	37021	Final Rule -- 45 FR 66706, 10/7/80.
DOL-LMSA -PWBP	Individual Benefit Reporting and Recordkeeping	37024	Separated into two entries for this edition -- Individual Benefit Reporting and Recordkeeping for Multiple Employer Plans; Individual Benefit Reporting and Recordkeeping for Single Employer Plans.
DOL-OSHA	Chemical Substance Identification (Labeling)	36958	Title change for this edition -- Identification and Labeling of Hazardous Materials in the Workplace.

APPENDIX II: STATUS OF REGULATIONS FROM MAY 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 5/30/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
DOL-OSHA	Safety and Health Regulations for Construction Underground Operations-Tunnels, Shafts and Related Work Areas	36967	Preliminary analysis indicates this rule does not meet criteria for major regulation.
DOL-OSHA	Safety and Health Regulations for Entry and Work in Confined Spaces in Construction	36968	Preliminary analysis indicates this rule does not meet criteria for major regulation.
DOL-OSHA	Standard for Occupational Exposure to Cadmium	36974	No significant action on this proposal expected during the next 12-month period.
DOT-FHWA	Certification of Vehicle Size and Weight Enforcement	37061	Final Rule -- 45 FR 52365, 8/7/80.
DOT-FHWA	Withdrawal of Interstate Segments and Substitution of Alternative Transportation Projects	37063	Final Rule -- 45 FR 69390, 10/20/80.
TREAS-ATF	Advertising Regulations under the Federal Alcohol Administration Act	37038	Title change for this edition -- Labeling and Advertising Regulations under the Federal Alcohol Administration Act.
TREAS-ATF	Unlawful Trade Practices under the Federal Alcohol Administration Act	37041	Final Rule -- 45 FR 63242, 9/23/80.
TREAS-CUSTOMS	Imports of Petroleum and Petroleum Products	37045	Final Rule -- 45 FR 36376, 5/30/80.
EPA-OANR	Visibility Protection Requirements	36914	Final Rule -- Late November 1980.

APPENDIX II: STATUS OF REGULATIONS FROM MAY 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 5/30/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
EPA-OANR -OMSAPC	Gaseous Emission Regulations for 1983 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines	36917	Final Rule -- 45 FR 63734, 9/25/80.
EPA-OPTS	Test Rule for Chemical Substances and Mixtures--Chloromethane and Chlorinated Benzene	36998	Title change for this edition -- Chloromethane and Chlorinated Benzene Proposed Test Rule; Amendment to Proposed Health Effects Standards.
EPA-OWWM	Hazardous Waste Regulations: Core Regulations to Control Hazardous Solid Waste from Generation to Final Disposal	37001	Title change for this edition -- Hazardous Waste Regulations: Phase I and II Regulations to Control Hazardous Solid Waste from Generation to Final Disposal.
EEOC-OPI	Guidelines on Discrimination Because of Religion	37025	Final Guidelines -- 45 FR 72610, 10/31/80.
EEOC-OPI	Interim Amendment to Guidelines on Discrimination Because of Sex	37026	Final Rule -- 45 FR 74676, 11/10/80.
NCUA	Deregulation of Loan Interest Rate Classification	36928	Final Rule -- 45 FR 57365, 8/28/80 (issued); 8/21/80 (effective).
VA-OHG	Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance	37031	Final Rule -- 45 FR 63264, 9/24/80.
CAB	Air Carrier Fitness	37064	Final Rule -- 45 FR 42593, 6/25/80.

APPENDIX II: STATUS OF REGULATIONS FROM MAY 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 5/30/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
CAB	Plain English for Airline/Passenger Contracts	37068	Title change for this edition -- Notice to Passengers of Conditions of Carriage.
FDIC	Disclosure of Information	37031	Final Rule -- 45 FR 50550, 7/30/80.
FERC	High-Cost Natural Gas Produced from Tight Formations	36879	The Commission issued its decision on 10/21/80, after rehearing the issue.
FHLBB	Regulations to Implement the Depository Institutions Deregulation and Monetary Control Act of 1980	36932	Parts of this entry have gone to final action for this issue of the Calendar. We list them below:
	-Consumer Lending Power (Formal Title: Investment in Consumer Loans, Commercial Paper, and Corporate Debt Securities)	"	Final Rule expected November 1980.
	-Consumer Safeguards on Mobile Home Lending (Fromal Title: Mobile Home Loan Consumer Protection Provisions)	"	Final Rules -- 45 FR 46339, 7/10/80; 45 FR 50556, 7/30/80.
	-Credit Cards (Formal Title: Final Rules on Credit Cards, Travelers' Convenience Withdrawals, and Third-Party Payments)	"	Final Rule -- 45 FR 46338, 7/10/80.

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APPENDIX II: STATUS OF REGULATIONS FROM MAY 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 5/30/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
FHLBB (cont)	-Federal Insurance Reserve (Formal Title: Reserve Requirements)	"	Final Rule -- 45 FR 50797, 7/31/80.
	-Federal Mutual Savings Banks' Leeway Authority (Formal Title: Amendments Relating to Federal Mutual Savings Banks)	"	Final Temporary Rule -- 45 FR 56031, 8/22/80.
	-FHL Bank Processing NOW Accounts (Formal Title: Collection, Processing and Settlement of Payment Instruments)	"	Final Rule -- 45 FR 64161, 9/29/80.
	-Investment in Service Corporations (Formal Title: Service Corporation Investment Authority)	"	Final Rule -- 45 FR 56029, 8/22/80.
	-Money Market Fund Investments (Formal Title: Mutual Fund Investment Counting Toward Liquidity)	"	Final Rule -- 45 FR 57113, 8/27/80.
	-Mutual Capital Certificates	"	Final Rule exepcted November 1980.
	-NOW Account Authority and Overdraft Authority for Federals on NOW Accounts (Formal Title: NOW Accounts)	"	Final Rule -- 45 FR 66781, 10/8/80.

APPENDIX II: STATUS OF REGULATIONS FROM MAY 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 5/30/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
FHLBB (cont)	-Regulatory Simplification (Formal Title: Resolution Regarding Regulatory Simplification)	"	Resolution -- 45 FR 63135, 10/23/80.
	-Reserves Against S&L Deposits (Formal Title: Revisions to Net Worth Requirements)	"	Final Rule expected November 1980.
	-Residential Real Estate Authority (Formal Title: Revision of Real Estate Lending Practices)	"	Final Rule expected November/ December 1980.
	-State Stock to Federal Charter (Formal Title: Conversion from State Stock to Federal Stock Charter)	"	Final Rule -- 45 FR 57114, 8/22/80
	-Trust Powers (Formal Title: Trust Powers Authorization)	"	Final Rule expected December 1980/January 1981.
ICC	Improvement of TOPC/COPC Regulations	37077	This proceeding is being held in abeyance pending development of railroad legislation in Congress. Section 34 of the Motor Carrier Act of 1980 has already enacted certain provisions of this proposal.
ICC	Intercorporate Hauling	37078	Withdrawn because it was superseded by the Motor Carrier Act of 1980. See "Implementation of Intercorporate Hauling Legislation," 45 FR 45526, 7/3/80.

APPENDIX II: STATUS OF REGULATIONS FROM MAY 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 5/30/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
ICC	No Suspend Zone--Motor Common Carriers of Property	37080	Comment period extended to July 1, 1980 (45 FR 39316) to give parties an opportunity to refocus their comments in light of the Motor Carrier Act of 1980. Comments are now under review. The Commission will decide whether to proceed with or withdraw this case after it reviews those comments.
PRC	Experimental Classification Rulemaking	37081	Title change for this edition -- Experimental Classification-Rulemaking Docket No. RM80-2.
PRC	Postal Rate Commission MC79-3 (Red Tag)	37083	The Commission issued its opinion on 5/16/80. The Governors of the Postal Service accepted the Commission's Decision on 8/15/80.

APPENDIX II: STATUS OF REGULATIONS FROM MAY 1980 EDITION

AGENCY	TITLE OF REGULATION	FR 5/30/80 PAGE NO.	ACTIVITY SINCE LAST EDITION
SEC	Proposed Amendments to Annual Report Form; Integration of Securities Act Disclosure Systems	36933	This item encompasses numerous rules which are in different stages of development. One group of rules, involving the amendment of the annual report form to the SEC and the composition of the annual report to security holders has been adopted (45 FR 63630, 63660, 63682, 9/25/80). NPRMs for the second group, involving a comprehensive revision of the system for registration of securities and amendments to the quarterly report form, have been published (45 FR 63693, 63724, 9/25/80). See Calendar entry "Proposed Comprehensive Revision to System for Registration of Securities Offerings."
SEC	Revised Procedures for Processing Post-Effective Amendments Filed by Investment Companies	36935	Final Rule -- 45 FR 57702, 8/29/80.

APPENDIX III: PUBLICATION DATES FOR AGENCY SEMIANNUAL REGULATORY AGENDAS

This appendix lists publication dates for the semiannual regulatory agendas that agencies prepare in response to Executive Order 12044, Improving Government Regulations (3 CFR, 1978 Comp., p. 152 which was extended by E.O. 12221, 45 FR 44249, July 1, 1981). It provides the dates of each agency's last published semiannual agenda and the **Federal Register** citation to enable the public to gain quick access to the list of all significant regulations the agency is considering or reviewing. The appendix also lists the date the agency expects to publish its next agenda.

All executive agencies, and those independent agencies that voluntarily choose to, publish these agendas. The agendas describe, at a minimum, the regulations they are considering, the need for and the basis of the action the agency is taking, the status of the regulations previously listed on the agenda, and an agency contact. The semiannual agendas list all regulations the agencies consider to be "significant." The **Calendar** describes more fully only the most important of these significant regulations. The Regulatory Council and the Office of Management and Budget have jointly urged agencies to consider coordinating the publication dates of their semiannual agency agendas with the publication of the **Calendar of Federal Regulations.** Doing so will provide, twice a year, a comprehensive picture of the regulations that the agencies are developing. We welcome your comments on this idea.

Agency	Publication Date of Last Agenda	Federal Register Citation	Publication Date of Next Agenda
Executive Agencies			
Administrative Conference of the United States	Not applicable	--	--
Department of Agriculture	May 15, 1980	45 FR 32192	November 15, 1980
Department of Commerce	June 5, 1980	45 FR 37972	November 14, 1980
Department of Education	--	--	December 1, 1980
Department of Energy	November 3, 1980	45 FR 72886	Week of April 27, 1981
Department of Health and Human Services	June 13, 1980	45 FR 40356	December 16, 1980
Department of Housing and Urban Development	September 5, 1980	45 FR 59062	March 2, 1981
Department of Interior	July 31, 1980	45 FR 51102	January 30, 1981
Department of Justice:			
Bureau of Prisons	July 31, 1980	45 FR 50818	January 30, 1981
Civil Rights Division	October 8, 1980	45 FR 66813	January 30, 1981
Drug Enforcement Administration	August 7, 1980	45 FR 52397	January 30, 1981
Immigration and Naturalization Service	October 6, 1980	45 FR 66173	January 30, 1981
Land and Natural Resources Division	July 31, 1980	45 FR 50818	January 30, 1981
Office of Justice Assistance, Research and Statistics	August 1, 1980	45 FR 51506	January 30, 1981
Parole Commission	September 12, 1980	45 FR 60451	January 30, 1981
Department of Labor	June 3, 1980	45 FR 37648	November 1980
Department of Transportation	August 25, 1980	45 FR 56538	February 26, 1981
Department of the Treasury:			
Alcohol, Tobacco, and Firearms	August 1, 1980	45 FR 51500	February 2, 1981
Comptroller of the Currency	August 6, 1980	45 FR 52166	February 2, 1981
Customs	August 1, 1980	45 FR 51496	February 2, 1981
Environmental Protection Agency	June 30, 1980	45 FR 44106	December 20, 1980
Equal Employment Opportunity Commission	July 30, 1980	45 FR 51229	January 30, 1981
Federal Emergency Management Agency	--	--	Anticipated January 1981
General Sevices Administration	May 30, 1980	45 FR 36440	November 28, 1980
National Credit Union Administration	July 16, 1980	45 FR 47694	December 11, 1980
Small Business Administration	July 10, 1980	45 FR 46433	February 10, 1981
United States International Trade Commission	Not Applicable	--	--
Veterans Administration	June 18, 1980	45 FR 41169	December 18, 1980
Independent Regulatory Agencies			
Civil Aeronautices Board	June 6, 1980	45 FR 38073	November 28, 1980
Commodity Futures Trading Commission	June 25, 1980	45 FR 49589	April 10, 1981
Consumer Product Safety Commission			Currently Being Scheduled
Federal Communications Commission	May 6, 1980	45 FR 26723	October 1980
Federal Deposit Insurance Corporation	September 26, 1980	45 FR 63867	Anticipated March/April 1981
Federal Election Commission	Not Applicable	--	--
Federal Energy Regulatory Commission	Not Applicable	--	--
Federal Home Loan Bank Board	October 14, 1980	45 FR 67674	May 1981
Federal Maritime Commission	Not Applicable	--	--
Federal Mine Safety and Health Review Commission	Not Applicable	--	--
Federal Reserve System	August 4, 1980	45 FR 51581	February 1981
Federal Trade Commission	August 1, 1979	44 FR 45177	November 28, 1980
Interstate Commerce Commission	July 19, 1979	44 FR 42561	January 1981
National Labor Relations Board	Not Applicable	--	--
Nuclear Regulatory Commission	Not Applicable	--	--
Occupational Safety and Health Review Commission	Not Applicable	--	--
Postal Rate Commission	Not Applicable	--	--
Securities and Exchange Commission	July 3, 1980	45 FR 45554	December 1980

APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

This Appendix provides information about existing regulations the agencies are reviewing according to their internal review procedures or as part of the review requirements of Executive Order 12044, Improving Government Regulations. Many agencies periodically review their existing regulations to determine whether the regulations are still achieving their intended goals effectively.

In some cases, **Calendar** entries describe regulatory actions that the agencies initiated as a result of this review process. Because these regulations appear in the text, this Appendix does not list such actions.

The index is organized alphabetically by agency, by unit within the agency, and then by the title of the regulation.

For guidance on how to get further information on these regulations, contact the "Information Contact" in Appendix I: "Public Participation in the Federal Regulatory Process."

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW BEGIN	ESTIMATED DATES OF REVIEW END
USDA-FmHA	Guaranteed Loan Programs - General	7 CFR 1980-A	7/81	12/81
USDA-FNS	Food Distribution Program	7 CFR Part 250	7/80	7/81
USDA-FS	Timber Management Planning	36 CFR 221.3	10/80	4/81
USDA-FSQS	Standards and Labeling of Meat and Poultry Products	9 CFR Parts 312, 316, 317, and 381	8/80	8/83
DOC-ITA	Anti-dumping Duties and Counter-vailing Duties	19 CFR Parts 353 and 355	Under Review	3/81

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APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
DOC-ITA	Export Administration Regulations	15 CFR Parts 368 and 370-399	Under Review	3/81
DOC-MARAD	Application for Subsidies and Other Direct Financial Aid; Charges for Processing Applications to Transfer Ownership or Vessels Built with Construction-Differential Subsidy	46 CFR Part 251	10/80	12/80
DOC-MARAD	Approval of Certain Vessel Transfers or Charters; Citizenship Declaration by Owners or Mortgagees; Uniform Bareboat Charter Agreements Fees and Processing Vessel Transfer Applications	46 CFR Part 221	Under Review	2/81
DOC-MARAD	Awards of Operating-Differential Subsidy Agreements and Payment of Subsidy	46 CFR Part 280	2/81	4/81
DOC-MARAD	Capital Construction Fund Program	46 CFR Part 390	Under Review	1/81
DOC-MARAD	Employment in the Foreign-to-Foreign Trade of Liquid and Dry Bulk Vessels Constructed with the Aid of Construction-Differential Subsidy	46 CFR Part 278	11/80	1/81
DOC-MARAD	Federal Income Tax Aspects of the Capital Construction Fund	46 CFR Part 391	Under Review	11/80
DOC-MARAD	Merchant Marine Training at U.S. Merchant Marine Academy and State Maritime Academies and Colleges	46 CFR Part 310	Under Review	11/81

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AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
DOC-MARAD	Operating-Differential Subsidy for Bulk Cargo Vessels Engaged in Carrying Bulk Raw and Processed Agricultural Commodities from the United States to the Union of Soviet Socialist Republics	46 CFR Part 294	1/81	3/81
DOC-MARAD	Operating-Differential Subsidy for Bulk Cargo Vessels Engaged in United States Foreign Commerce on the Great Lakes, Connecting Rivers, St. Lawrence River, Gulf of St. Lawrence	46 CFR Part 279	1/81	3/81
DOC-MARAD	Operating-Differential Subsidy for Bulk Cargo Vessels Engaged in Worldwide Services	46 CFR Part 252	Under Review	11/81
DOC-MARAD	Participation by Vessels Built with Construction - Differential Subsidy in the Carriage of Oil from Alaska in the Domestic Trade	46 CFR Part 250	10/80	1/81
DOC-MARAD	Radar Observer Certificates, Ship's Safety, and Use of Radar	32A CFR Part 1867	Under Review	9/81
DOC-MARAD	Statistical Data Required for Use in Operating - Differential Subsidy Application Hearings	46 CFR Part 207	2/81	3/81
DOC-MARAD	Valuation of War Risk Hull Insurance	46 CFR Part 309	1/81	4/81

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APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
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DOC-NOAA-NMFS	Fishery Conservation and Management: Guidelines for Development of Fishery Management Plans	50 CFR 602.2	Under Review	12/80
DOC-NOAA-NMFS	Processed Fishery Products, Processed Products Thereof, and Certain Other Processed Food Products: Inspection and Certification	50 CFR Part 260	1/81	4/81
DOC-NOAA-NMFS	Processed Fishery Products, Processed Products Thereof, and Certain Other Proccessed Food Products: U.S. Standards for Grades of Crustacean Shellfish Products	50 CFR Part 265	Under Review	12/80
DOC-NOAA-NMFS	Processed Fishery Products, Processed Products Thereof, and Certain Other Processed Food Products: U.S. Standards for Grades of Fish Steaks	50 CFR Part 262	6/81	9/81
DOC-NOAA-NMFS	Processed Fishery Products, Processed Products Thereof, and Certain Other Processed Food Products: U.S. Standards for Grades of Whole or Dressed Fish	50 CFR Part 261	6/81	9/81
DOC-NOAA-NMFS	Regulations Governing the Taking and Importing of Marine Mammals: Taking and Related Acts Incidental to Commercial Fishing Operations	50 CFR 216.24	6/81	9/81
DOC-NOAA-OCZM	Coastal Energy Impact Program Regulations	15 CFR Part 931	1/81	4/81

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AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
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DOC-NOAA-OCZM	Coastal Zone Management Program, Development and Approval Provisions	15 CFR Part 923	1/81	4/81
DOC-NTIA	Public Telecommunications Facilities Program	15 CFR Part 2301	10/81	12/81
ED	For Department of Education's entries the citation in parentheses is the new citation that will be assigned to the regulation when it is transferred to Title 34 CFR.			
ED-OERI	Citizens Education for Cultural Understanding Program	45 CFR Part 146a (34 CFR Part 667)	10/80	12/80
ED-OERI	College Library Resources Program	45 CFR Part 131 (34 CFR Part 773)	10/80	12/80
ED-OERI	Educational Information Centers Program	45 CFR Part 137 (34 CFR Part 606)	10/80	12/80
ED-OERI	Grants for Training in Librarianship	45 CFR Part 132 (34 CFR Part 776)	10/80	12/80
ED-OERI	Grants to State Educational Agencies for Educational Improvement, Resources, and Support	45 CFR Part 134 (34 CFR Part 774)	10/80	12/80
ED-OERI	Library Research and Demonstration	45 CFR Part 133 (34 CFR Part 777)	10/80	12/80

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AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
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ED-OERI	Library Services, Public Library Construction, and Interlibrary Cooperation	45 CFR Part 130 (34 CFR Part 770)	10/80	12/80
ED-OERI	Modern Foreign Language and Study Areas	45 CFR Part 146 (34 CFR Part 655)	10/80	12/80
ED-OERI	Strengthening Research Library Resources	45 CFR Part 136 (34 CFR Part 778)	10/80	12/80
ED-OERI	Support for Improvement of Post-secondary Education	45 CFR Part 1501 (34 CFR Part 730)	10/80	12/80
ED-OERI	Teacher Centers Program	45 CFR Part 197 (34 CFR Part 240)	10/80	12/80
ED-OERI	Teacher Corps	45 CFR Part 172 (34 CFR Part 793)	10/80	12/80
ED-OPE	Basic Educational Opportunity Grant Program	45 CFR Part 190 (34 CFR Part 690)	10/80	12/80
ED-OPE	College Work-Study and Job Location and Development Program	45 CFR Part 175 (34 CFR Part 675)	10/80	12/80
ED-OPE	Community Service and Continuing Education Programs	45 CFR Part 173 (34 CFR Part 610)	10/80	12/80
ED-OPE	Cooperative Education Programs	45 CFR Part 182 (34 CFR Part 631)	10/80	12/80
ED-OPE	Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships	45 CFR Part 196 (34 CFR Part 650)	10/80	12/80

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AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
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ED-OPE	Educational Opportunity Centers	45 CFR Part 154 (34 CFR Part 644)	10/80	12/80
ED-OPE	Financial Assistance for Construction, Reconstruction or Renovation of Higher Education Facilities	45 CFR Part 170 (34 CFR Part 617)	10/80	12/80
ED-OPE	General Provisions Relating to Student Assistance Programs	45 CFR Part 168 (34 CFR Part 668)	10/80	12/80
ED-OPE	Graduate and Professional Study Fellowships and Institutional Grants	45 CFR Part 179 (34 CFR Part 648)	10/80	12/80
ED-OPE	Guaranteed Student Loan Program	45 CFR Part 177 (34 CFR Part 682)	10/80	12/80
ED-OPE	Law School Clinical Experience Program	45 CFR Part 150 (34 CFR 639)	10/80	12/80
ED-OPE	National Direct Student Loan Program	45 CFR Part 174 (34 CFR Part 674)	10/80	12/80
ED-OPE	Public Service Education Program	45 CFR Part 194 (34 CFR Part 649)	10/80	12/80
ED-OPE	Special Services for Disadvantaged Students Program	45 CFR Part 157 (34 CFR Part 656)	10/80	12/80
ED-OPE	State Post-secondary Education Commissions Programs - Intrastate Planning	45 CFR Part 199a (34 CFR Part 605)	10/80	12/80
ED-OPE	State Student Incentive Grant Program	45 CFR Part 192 (34 CFR Part 692)	10/80	12/80

APPENDIX IV: IMPORTANT REGULATIONS SCHEDULED FOR AGENCY REVIEW

AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
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ED-OPE	Strengthening Developing Institution Program	45 CFR Part 169 (34 CFR Part 624)	10/80	12/80
ED-OPE	Student Consumer Information Services	45 CFR Part 178 (34 CFR Part 686)	10/80	12/80
ED-OPE	Supplemental Educational Opportunity Grant Program	45 CFR Part 176 (34 CFR Part 676)	10/80	12/80
ED-OPE	Talent Search Program	45 CFR Part 159 (34 CFR Part 643)	10/80	12/80
ED-OPE	Training for Higher Education Personnel	45 CFR Part 198 (34 CFR Part 642)	10/80	12/80
ED-OPE	Upward Bound Program	45 CFR Part 155 (34 CFR Part 645)	10/80	12/80
ED-OPE	Veterans' Cost-of-Instruction Payments to Institutions of Higher Education	45 CFR Part 189 (34 CFR Part 629)	10/80	12/80
DOE-ERA	Proposed Amendments to the Equal Application Rule	10 CFR 212.83(h)	6/80	11-2/80
HUD	Mobile Home Construction and Safety Standards	24 CFR Parts 282 and 283	12/80	7/81
DOI-BLM	Leasing of Minerals Other than Oil and Gas	43 CFR Part 3500	3/81	6/81
DOI-FWS	Endangered Species Convention	50 CFR Part 23	10/80	12/80
DOI-GS	Coal Mining Operating Regulations	30 CFR Part 211	5/80	1/81
DOI-NPS	Boating Regulations	36 CFR Part 3	10/80	10/81

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AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
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DOJ-INS	Naturalization and Citizenship (Streamlining Naturalization Procedures to Decrease the Burden on Petitioners and their Families and in Derivative Citizenship Cases)	8 CFR Chapter 1	Upon Enactment of H.R.7273	3 Months after Enactment
DOL-ESA	Black Lung Benefits: Requirements for Coal Mine Operators Insurance	20 CFR Part 726	Ongoing	--
DOL-ESA	Criteria for Determining Whether State Workers' Compensation Laws Provide Adequate Compensation for Pneumoconioses	20 CFR Part 722	Ongoing	--
DOL-ESA	Labor Standards for Federal Service Contracts	29 CFR Part 4	Ongoing	--
DOL-ESA	Labor Standards Provisions, Davis-Bacon and Related Acts	29 CFR Parts 1,3 and 5	Ongoing	--
DOL-ESA	Office of Federal Contract Compliance Programs	41 CFR Parts 60-1, 60-2, 60-3 60-4, 60-20, 60-30, 60-60, 60-250, 60-741	Ongoing	--
DOL-LMSA	Revision of Certain Annual Information Return/Reports	29 CFR Part 2520	Ongoing	--
DOL-MSHA	Civil Penalties	30 CFR Part 100	Ongoing	--
DOL-MSHA	Respirable Dust Standard for Surface Coal Mines	30 CFR Part 71	Ongoing	--
DOL-MSHA	Underground Coal Mine Safety Standards	30 CFR Part 75	Ongoing	--

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AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
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DOL-OSHA	Fire Protection	29 CFR Part 1910 Subpart L	Ongoing	--
DOL-OSHA	MBOCA	29 CFR 1910.94 (a)	Ongoing	--
DOL-OSHA	Nickel Standard	29 CFR 1910.94 (a)	Ongoing	--
DOL-OSHA	Safety and Health Regulation for Marine Terminal Facilities	29 CFR Parts 1918 Subparts M-S	Ongoing	--
DOL-OSHA	Shiprepairing, Shipbuilding, Shipbreaking	29 CFR Parts 1915, 1916, and 1917	Ongoing	--
DOL-OSHA	Tunnelling	29 CFR 1926	Ongoing	--
DOT-FRA	General Safety Inquiry	43 FR 19696	Ongoing	--
DOT-NHTSA	Exterior Protection	49 CFR 471.215 and 49 CFR Part 581	Ongoing	Fall 1980
DOT-NHTSA	Impact Protection for the Driver From Steering Control System and Steering Control Rearward Displacement	49 CFR 571.203 and 49 CFR 571.204	Ongoing	Fall 1980
DOT-NHTSA	Occupant Protection	49 CFR 571.208	Ongoing	Spring
DOT-RSPA	Master Meter and LPG Distribution Systems	49 CFR Part 192	Ongoing	12/80
				1981

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AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
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DOT-RSPA	Petroleum Gas Systems	49 CFR Part 192	Ongoing	11/80
DOT-RSPA	Toxic Materials; Definitions, Criteria, and Proposed Regulations	49 CFR 173.326 and 173.343	Ongoing	9/81
DOT-USCG	Licensing of Merchant Seamen	46 CFR Part 10	Ongoing	3/81
DOT-USCG	Oil Transfer and Oil Pollution	33 CFR Parts 154, 155, and 156	Ongoing	3/81
DOT-USCG	Vessel Documentation	46 CFR Part 67	Ongoing	5/81
TREAS-ATF	Definition of "Engaged in the Business"	27 CFR Part 178	11/79	1/81
TREAS-ATF	Recodification of Explosives Regulations	27 CFR Part 181	1/80	12/80
TREAS-ATF	Recodification of Wine Regulations	27 CFR Parts 240, 231, and 170	5/79	7/81
TREAS-ATF	Sales of Firearms at Gun Shows	27 CFR Part 178	2/80	3/81
TREAS-OCC	Assessment of Fees; National Banks; District of Columbia Banks	12 CFR Part 8	9/80	6/30/81
TREAS-OCC	Securities Exchange Act Disclosure Rules	12 CFR Part 11	6/80	12/31/80
EEOC	Age Discrimination in Employment Act Interpretative Regulations	29 CFR Part 860 et seq.	7/1/79	Ongoing
EEOC	Equal Pay Act Interpretative Regulations	29 CFR Part 800 et seq.	7/1/79	Ongoing

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AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
EEOC	Recordkeeping Regulations	29 CFR Part 1602 et seq.	1/2/78	Ongoing
NCUA	Credit Union Service Centers; Purchase and Sale of Accounting Services; Joint Operations	12 CFR 701.26, 701.27-1, 701.28	10/80	11/30/80
NCUA	Incidental Powers of Federal Credit Unions	12 CFR Part 721	8/80	12/31/80
NCUA	Incorporation by Reference of the Accounting Manual for Federal Credit Unions	12 CFR 701.2	6/80	12/31/80
NCUA	Surety Bond and Insurance Coverage	12 CFR 701.20	10/80	12/31/80
SBA	Disaster Loans	13 CFR Part 123	6/1/80	12/30/80
CAB	The CAB's regulations scheduled for Agency review are listed in its semiannual agenda which was last published at 45 FR 38073 6/6/80	45 FR 38073 6/6/80	--	--
CFTC	Amendments to Minimum Financial and Related Reporting Requirements for Futures Commission Merchants	17 CFR 1.17	Ongoing	12/80
CFTC	Dealer Options	17 CFR Part 32	Ongoing	--
CFTC	Reform of Reparations System	17 CFR Part 12	Ongoing	12/80
CFTC	Regulation of Gold and Silver Leverage Transactions	17 CFR Part 31	Ongoing	--

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AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
FCC	The FCC's regulations scheduled for Agency review are listed in its semiannual agenda which was last published at 45 FR 26723 5/6/80	45 FR 26723 5/6/80	--	--
FHLBB	Forward Commitments	12 CFR 563.17-3	Ongoing	--
FHLBB	Futures Transactions	12 CFR 545.29	Ongoing	--
FHLBB	Rule of Credit Practices to Parallel Federal Trade Commission Trade Regulation Rule	--	Ongoing	--
FHLBB	Rule on Holder-in-Due-Course to Parallel Federal Trade Commission Trade Regulation Rule	--	Ongoing	--
FMC	Temporary Tariff Filings	46 CFR Part 536	Ongoing	12/80
FRS	Home Mortgage Disclosure -- Regulation C	12 CFR Part 203	12/80	3/81
FTC	Cooling Off Period for Door to Door Sales	16 CFR Part 429	11/79	1/81
FTC	Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures	16 CFR Part 436	11/79	6/81
FTC	Retail Food Store Advertising and Marketing Practices	16 CFR Part 424	1/77	3/81

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AGENCY	TITLE OF REGULATION	CITATION	ESTIMATED DATES OF REVIEW	
			BEGIN	END
ICC	Abandonment of Railroad Lines and Discontinuance of Service	40 CFR Part 1121	11/80	6/81
ICC	Classification of Brokers and Motor Carriers	40 CFR Part 1040	Ongoing	1/81
ICC	Construction, Extension, Acquisition, or Operation of Railroad Lines	49 CFR Part 1120	10/80	2/81
ICC	Control or Consolidation of Motor Carriers on their Property	49 CFR Part 1134	11/80	6/81
ICC	Detention of Motor Vehicles--Nationwide	49 CFR 1310.15	Ongoing	3/81
ICC	Gateways and Tacking--Irregular Route Motor Common Carriers of Property	49 CFR Part 1065	Ongoing	6/81
ICC	General Rules of Practice	49 CFR Part 1100	Ongoing	5/81
ICC	Market Dominance Rules	49 CFR 1109.1	Ongoing	12/80
ICC	Payment of Rates and Charges of Motor Carriers	49 CFR Part 1320	Ongoing	1/81
ICC	Procedures to be Followed in Motor Carrier Revenue Proceedings	49 CFR Part 1104	11/80	7/81
ICC	Railroad Acquisition Control, Merger, Consolidation Project, Trackage Rights, and Lease Procedures	49 CFR Part 1111	12/79	1/81

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			BEGIN	END
ICC	Railroad Cost Recovery Procedures	49 CFR Part 1102	Ongoing	12/80
ICC	Regulations for Payment of Rates and Charges	49 CFR 1320.1	Ongoing	1/81
ICC	Temporary Operating Authorities and Approvals	49 CFR Part 1101	Ongoing	5/81
NRC	In the Three Mile Island action plan (new NUREG 0660), the Commission directed the NRC staff to review each NRC regulation within 5 years. The scope of this task is to review the regulations for content, quality, clarity, and structure beginning with those rules broadly affected by Three Mile Island. This review of the regulations is to be carried out in accordance with the criteria set forth in E.O. 12044.			
SEC	Disclosure Study -- Review of Disclosure Requirements Under the Securities Act of 1933 and Investment Company Act of 1940	17 CFR 270 et seq.	8/79	Unknown
SEC	Financial Responsibility Rules for Broker-Dealers	17 CFR 240.15c3-1 and 240.15c3-3	9/80	Unknown
SEC	Investment Advisers Act Study	17 CFR 275 et seq.	12/78	Unknown

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federal register

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Tuesday, November 25, 1980

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78302 **Grant Programs—Social** NFAH announces 1981–82 National Endowment for the Humanities Program

78164 **Housing** HUD/FHC proposes to permit condominium and interest subsidy loans under coinsurance non–occupant owner transactions; comments by 1–26–81

78502 **Housing** HUD/CPD publishes funding allocation system for the distribution of section 312 rehabilitation loan funds for fiscal year 1981 (Part VII of this issue)

78600 **Research** DOE proposes new regulations dealing with the protection of human subjects in activities it supports; comments by 11–29–80 (Part XIII of this issue)

78508 **Civil Rights** HUD/FHEO proposes procedures and policies to assure nondiscrimination based on race, color, national origin or sex in programs and activities receiving assistance; comments by 1–26–81 (Part VIII of this issue)

78472 **Handicapped** ATBCB revises its regulations relating to compliance with standards for access to and use of buildings by the handicapped; effective 9–9–80 (Part V of this issue)

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Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

78552 **Public Health** HHS/PHS proposes to add planning goals to the National Guidelines for Health Planning; comments by 2–23–81 (Part XI of this issue)

78194 **Grant Programs—Education** ED solicits applications for new projects under the Ethnic Heritage Studies Program; application date changes from 12–22–80 to 1–8–81

78167 **Taxes** Treasury/IRS proposes regulations relating to treatment, for tax purposes, of expenditures for attempts to influence legislation; comments by 1–26–81

78588 **Petroleum** DOE/ERA revises regulations concerning newly discovered crude oil, heavy crude oil, and market level new crude oil; effective 1–1–81 (Part XII of this issue)

78524 **Hazardous Waste Management** EPA releases rules regarding identification and listing of hazardous waste; various effective and comments dates (4 documents) (Part X of this issue)

78448 **Air Pollution Control** EPA establishes existence of a voluntary aftermarket part self-certification program in order to reduce a potential adverse economic impact on the automotive industry; effective 12–26–80 (Part IV of this issue)

78328 **Grant Programs—Foreign Relations** State announces availability of postdoctoral grants for U.S. scientific personnel for carrying out research in Spain; apply by 2–25–81

78378 **Privacy Act Document** OPM (Part II of this issue)

78330 **Sunshine Act Meetings**

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78378 **Part II, OPM**
78432 **Part III, EPA**
78448 **Part IV, EPA**
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Rules and Regulations

Federal Register
Vol. 45, No. 229
Tuesday, November 25, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 408

Eastern United States Apple Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: This final rule corrects the Eastern United States Apple Crop Insurance Regulations as appearing in the **Federal Register** on Tuesday, October 14, 1980 (45 FR 67631–67637).

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

Correction: The Eastern United States Apple Crop Insurance Regulations (7 CFR 408), appearing at 45 FR 67633 in the right column, are hereby corrected in 7 CFR 408.7 Eastern U.S. Apple Crop Insurance Policy, subsection 3, in the sixth line thereof, by deleting the word "insured" immediately following the word "of" and before the word "apples".

Done in Washington, D.C., on November 18, 1980.

Dated: November 18, 1980.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Approved by:

Everett S. Sharp,
Acting Manager.

[FR Doc. 80-36756 Filed 11-24-80; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 418

Wheat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; corrections.

SUMMARY: This final rule corrects the Wheat Crop Insurance Regulations as appearing in the **Federal Register** on Thursday, November 13, 1980 (45 FR 74895–74898).

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

Corrections: Amendment No. 2 of the Wheat Crop Insurance Regulations (7 CFR Part 418), Appendix B, is hereby corrected in the following two instances:

1. Appendix B, appearing in the right column of 45 FR 74895, listing those counties where wheat crop insurance is available under the subheading "California", is corrected with the proper spelling of the word "Colusa".

2. Appendix B, appearing in the left column of 45 FR 74896, listing those counties where wheat crop insurance is available under the subheading "Illinois", is corrected with the proper spelling of the word "De Witt".

Done in Washington, D.C., on November 18, 1980.

Dated: November 18, 1980.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Approved:

Everett S. Sharp,
Acting Manager.

[FR Doc. 80-36757 Filed 11-24-80; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 419

Barley Crop Insurance Regulations; Correction

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: This final rule corrects the Barley Crop Insurance Regulations as appearing in the **Federal Register** on Thursday, November 13, 1980 (45 F.R. 74898–74899), in which the name of a county where barley crop insurance is available was inadvertently omitted.

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

Correction: Amendment No. 2 to the Barley Crop Insurance Regulations (7 CFR § 419), Appendix B, appearing in the right column of 45 FR 74899, under the subheading "Wyoming", is hereby corrected by inserting the word "Platte" immediately beneath the word "Park" and above the word "Washakie".

Done in Washington, D.C., on November 18, 1980.

Dated: November 18, 1980.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Everett S. Sharp,
Acting Manager.

[FR Doc. 80-36758 Filed 11-24-80; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 430

Sugar Beet Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: This final rule corrects the Sugar Beet Crop Insurance Regulations as appearing in the **Federal Register** on Thursday, November 13, 1980 (45 FR 74899–74900).

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–3325.

Correction: Amendment No. 2 to the Sugar Beet Crop Insurance Regulations (7 CFR 430) appearing at 45 FR 74900, in the left column, is corrected in Appendix "B", listing those counties where sugar beet crop insurance is available under the subheading "Idaho", by the correct spelling of "Twin Falls."

Done in Washington, D.C., on November 18, 1980.

Dated: November 18, 1980.

Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mrs. Irma L. Westrell, (202) 443–8192.

SUPPLEMENTARY INFORMATION:

new animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Norden

Amount. 10 milligrams of oxibendazole per kilogram of body weight.

Example 2

Done in Washington, D.C., on November 18, 1980.

Dated: November 18, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved:

Everett S. Sharp,

Acting Manager.

[FR Doc. 80-36759 Filed 11-24-80; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 438

Tomato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: This final rule corrects the Tomato Crop Insurance Regulations as appearing in the **Federal Register** on Tuesday, October 14, 1980 (45 FR 67637-67643).

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

Correction: The Tomato Crop Insurance Regulations (7 CFR Part 438), appearing at 45 FR 67638 in the right column, are hereby corrected in 7 CFR 438.7(d), in the ninth line thereof, by deleting the word "Insert" immediately after the word "Years" and before the word "Canning".

Done in Washington, D.C., on November 18, 1980.

Dated: November 18, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved:

Everett S. Sharp,

Acting Manager.

[FR Doc. 80-36760 Filed 11-24-80; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 439

Almond Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: This final rule corrects typographical errors and an omission in the Almond Crop Insurance Regulations (7 CFR Part 439) as appearing in the **Federal Register** on Thursday, November 6, 1980.

EFFECTIVE DATE: November 25, 1980.

ADDRESS: Written comments on these corrections should be sent to the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

Corrections: The Almond Crop Insurance Regulations (7 CFR Part 439) are corrected appearing in the following instances:

1. In the Supplementary Information section appearing in the center column of 45 FR 73629, the fourth line down is corrected to read, "insuring almonds effective with the 1981".

2. 7 CFR 439.1, appearing in the left column of 45 FR 73630, is corrected in the eleventh line to read, "county, there shall be published in".

3. 7 CFR 439.7(c)(12), appearing in the right column of 45 FR 73632, is corrected by adding a subsection (d) as follows:

§ 439.7 The application and policy

* * * * *

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix A, the contract shall continue in force for each succeeding crop year.

* * * * *

Done in Washington, D.C., on November 17, 1980.

Dated: November 18, 1980.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved:

Everett S. Sharp,

Acting Manager.

[FR Doc. 36761 Filed 11-24-80; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 931

Coastal Energy Impact Program; Correction

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final rule; correction.

SUMMARY: This document makes technical corrections to 15 CFR Part 931, Coastal Energy Impact Program. These corrections are necessary in order to be reflected in the Code of Federal Regulations volume, revised, January, 1981.

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Irma L. Westrell, (202) 443-8192.

SUPPLEMENTARY INFORMATION:

1. Subpart E—Financing Public Facilities and Public Services: Section 931.45, Credit assistance inventory, as published at 44 FR 29591, May 21, 1979 includes major paragraphs (a), (b) (c) and (b). Change the second paragraph (b) to (d).

2. Subpart G—Grants for Unavoidable Losses of Valuable Coastal Environmental and Recreational Resources: Section 931.75, Allotment of section 308(d)(4) environmental and recreational grants, as published at 44 FR 29596, May 21, 1979 includes a major paragraph (a) with one unnumbered subparagraph and codified subparagraphs (2) (3) and (4). Add the numeral (1) to the beginning of the unnumbered subparagraph.

Dated: November 18, 1980.

Mirco P. Snidero,

Deputy Assistant Administrator for Management and Budget.

[FR Doc. 80-36613 Filed 11-24-80; 8:45 am]

BILLING CODE 3510-12-M

International Trade Administration

19 CFR Part 355

Countervailing Duties; Float Glass From Italy; Amendment to Countervailing Duty Order

Correction

In FR Doc. 80-33201, appearing at page 70442 in the issue of Friday, October 24, 1980, the following corrections should be made:

1. On page 70443, the last two lines of column one should read, "consumption on or after October 24, 1980."

2. Also on page 70443, the information in parentheses in the table in column two should be replaced by, "45 FR 70442, 10-24-80".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Oxibendazole Suspension

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the new animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Norden Laboratories, providing for use of oxibendazole suspension for the removal of certain strongylids, roundworms, and pinworms from horses.

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420

SUPPLEMENTARY INFORMATION: Norden Laboratories, Lincoln, NE 68501, filed an NADA (109-722) providing for use of oxibendazole suspension for removal of certain large strongyles, small strongyles, large roundworms, and pinworms, including various larval stages, from horses. The application is approved, and the regulations are amended to codify the approved use of this product.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined pursuant to 21 CFR 25.24(d)(1) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by adding new § 520.1640. to read as follows:

§ 520.1640 Oxibendazole suspension.

(a) *Specifications.* The suspension contains 10 percent oxibendazole.

(b) *Sponsor.* See 011519 in § 510.600(c) of this chapter.

(c) *Conditions of use in horses*—(1) *Amount.* 10 milligrams of oxibendazole per kilogram of body weight.

(2) *Indications for use.* For removal and control of large strongyles (*Strongylus edentatus, S. equinus, S. vulgaris*); small strongylids (species of the genera *Cylicostephanus, Cylicocyclus, Cyathostomum, Triodontophorus, Cylicodontophorus,* and *Gyalocephalus*); large roundworms (*Parascaris equorum*); and pinworms (*Oxyuris equi*) including various larval stages.

(3) *Limitations.* Administer by stomach tube in 3 to 4 pints of warm water, or by top dressing or mixing into a portion of the normal grain ration. Prepare individual doses to ensure that each animal receives the correct amount. Horses maintained on premises where reinfection is likely to occur should be re-treated in 6 to 8 weeks. Do not use in stallions at stud. Not for use in horses intended for food. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. This regulation is effective November 25, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: November 17, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-36686 Filed 11-24-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 150

[T.D. 7732]

Temporary Excise Tax Regulations Under the Crude Oil Windfall Profit Tax Act of 1980; Tax Deposits and Refunds Based on the Net Income

Corrections

In FR Doc. 80.34427 appearing on page 73467 in the issue of Wednesday, November 5, 1980, on page 73469 columns two and three, the tables for Examples 1 and 2 should be printed as set forth below:

Example 1

Oct-Dec, 1980	Jan-Mar, 1981	Apr-June, 1981	July-Sept, 1981
$1,000	[illegible]	[illegible]	[illegible]

Example 2

Oct-Dec, 1980	Jan-Mar, 1981	Apr-June, 1981	July-Sept, 1981
[illegible]	[illegible]	$800	[illegible]

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Mount McKinley National Park; Mining, Climbing and Vehicle Regulations

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to delete three regulations and to revise a fourth for Mount McKinley National Park, Alaska. The three regulations deleted are found in 36 CFR 7.44 (a), (b) and (e). They pertain to the registration of prospectors and miners, surface use of mineral land locations, and vehicle and traffic safety. The fourth regulation, found in 36 CFR 7.44(g) is revised. This action deletes unnecessary regulations and is intended to encourage the most liberal use of Mount McKinley National Park for recreation purposes consistent with 16 U.S.C. 347 *et seq.*

EFFECTIVE DATE: December 26, 1980.

FOR FURTHER INFORMATION CONTACT: Superintendent, Mount McKinley National Park, P.O. Box 9, McKinley Park, Alaska 99755, Telephone: (907) 683-2294.

SUPPLEMENTARY INFORMATION:

Background

The purpose of this action is to delete those subsections of the special regulations for Mount McKinley National Park which are now either adequately covered by other parts of this Chapter or are no longer necessary to provide for protection of park resources and visitor safety. No new regulations are promulgated.

The Mining in the Parks Act of September 28, 1976; 90 Stat. 1342 (16 U.S.C. 1901 *et seq.*) and subsequent promulgation of regulations contained in 36 CFR Part 9 Subpart A, created a comprehensive body of regulations governing mining and mining claims in all units of the National Park System. Prior regulations specific to Mount McKinley are now duplicative.

confusing, and serve no valid function. Deletion of 36 CFR 7.44(a) and 36 CFR 7.44(b) clarifies this situation.

proof of physical fitness, and two-way radios. At various times since 1959 all of

preparation of an Environment Impact Statement.

ENVIRONMENTAL PROTECTION AGENCY

15), Research Triangle Park, North Carolina 27711 (919/541-5226 or 5365).

legally enforceable RACT regulations on an annual basis beginning in January

confusing, and serve no valid function. Deletion of 36 CFR 7.44(a) and 36 CFR 7.44(b) clarifies this situation.

Changes in climbing activities within Mount McKinley National Park have taken place in recent years which make portions of 36 CFR 7.44(g)(1) and all of 36 CFR 7.44(g)(2) and 36 CFR 7.44(g)(3) unnecessary. Regulations governing mountain climbing within the park were first enacted in 1959 (24 FR 11049) and relaxed in 1970 (35 FR 13017). Since 1970 the annual number of total climbers has increased over 400 percent. In addition, better and more sophisticated equipment, techniques, and clothing, have reduced the need for regulated safety considerations. For example, while two-way radio communications is still an advisable precaution for any climbing party, the greater number of climbers and ready availability of citizen's band radios makes a regulated precaution requiring radio communications capability with Park Headquarters unnecessary. Registration for climbing Mount McKinley and Mount Foraker is retained as requirement since it affords a necessary level of safety for both climbers and potential rescue parties should a search be warranted.

Vehicle and traffic safety regulations are found in 36 CFR Part 4. Specific regulations governing vehicle speed limits (36 CFR 4.17) and load limitations (36 CFR 4.11) as well as the completion of State Highway No. 3 which passes through the park and connects Anchorage, Alaska and Fairbanks, Alaska make 36 CFR 7.44(e) obsolete.

Public Participation on the Proposed Rules

The National Park Service published proposed rules addressing changes in the regulations governing Mount McKinley National Park on May 15, 1980 (45 FR 34759). The period for public comment closed on June 23, 1980.

The National Park Service received eleven timely comments on its proposal. Of these, ten comments were from private individuals and one comment was from an organization. All comments addressed the relaxation of climbing regulations. None addressed the deletion of mining or vehicle and traffic safety regulations.

The Service has carefully considered each of these comments. The comments received and the Service's reasons for accepting or rejecting the comments are as follows:

1. A majority of the commenters recommended that more stringent regulations on climbing activities be enacted. These recommendations included requiring checks of equipment, proof of climbing ability or experience, proof of physical fitness, and two-way radios. At various times since 1959 all of these requirements have been in effect. As these regulations have been relaxed there has been no significant increase in the number of search and rescue missions required which is directly attributable to any change in regulations. As previously mentioned, the need for adequate communications once satisfied by a requirement for two-way radios is now satisfied by citizen's band radios and a greatly increased number of climbers in the area. Objective criteria for evaluating equipment, physical fitness, and climbing experience which is applicable to high altitude conditions on Mount McKinley and Mount Foraker is difficult to develop and administer. The National Park Service now stations two Park Rangers, who have extensive mountain climbing experience, at Talkeetna, Alaska throughout the climbing season. One of their primary duties is to contact climbing parties prior to their climb and advise them of high altitude conditions as well as equipment, physical fitness and experience recommendations. Where a non-regulatory approach such as this can satisfy a need, regulation is unwarranted.

2. Nine commenters suggested requiring that all climbers provide evidence of financial means or post a bond to cover the costs of search, rescue, recovery and/or medical attention if required. Search and Rescue activities are provided throughout the State of Alaska and the National Park Service without charge to the victim. This policy applies equally to mountain climbers, hikers, campers, aircraft pilots and passengers, and motorists. The National Park Service does not have the legislated authority to reimburse search and rescue funds through charges to victims. The implications of charging individuals for public safety services which are generally regarded to be an obligation of government go far beyond the issue of mountain climbing at Mount McKinley and are currently being investigated on a servicewide basis. Until those implications are fully considered the current policy will remain in effect.

Impact Analysis

The National Park Service has determined that this document is not a significant rule requiring preparation of a regulatory analysis under Executive Order 12044 and Part 14 Title 43 of the Code of Federal Regulations; nor is it a major Federal action significantly affecting the quality of the human environment, which would require preparation of an Environment Impact Statement.

Drafting Information

The following persons participated in writing these regulations: Frank Betts, former Superintendent, and Gary Brown, Chief Ranger, Mount McKinley National Park; and William F. Paleck, Alaska Area Office.

Authority

(Section 3, Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 3), sec. 5, Act of February 26, 1917 (39 Stat. 938 as amended; 16 U.S.C. 351), 245 DM 1 (44 FR 23384) as amended, and National Park Service Order No. 77 (38 FR 7478), as amended; and Alaska Regional Order No. 1 (43 FR 11613))

Robert C. Cunningham,

Superintendent.

In consideration of the foregoing, § 7.44 of Title 36 Code of Federal Regulations is hereby revised as follows:

§ 7.44 Mount McKinley National Park, Alaska.

(a) *Fishing limit of catch and in possession.* The limit of catch per person per day shall be 10 fish but not to exceed 10 pounds and one fish, except that the limit of catch of lake trout (mackinaw) per person per day shall be two fish including those hooked and released. Possession of more than one day's limit of catch by one person at any one time is prohibited.

(b) *Special wildlife protection area.* The area within one mile of the park road (Denali Highway) between milepost 37 and milepost 42 (Sable Pass area) is closed to photographers, hikers, and other park visitors except as may be specifically authorized by the Superintendent. Observations and photography of wildlife and other features are permitted from the road shoulders and designated turnouts.

(c) *Motorboats.* Motorboats are prohibited on all the ponds, lakes and streams of Mount McKinley National Park.

(d) *Mountain Climbing.* Registration is required in advance on a form provided by the Superintendent for climbing Mount McKinley and Mount Foraker.

(e) *Aircraft operations.* Aircraft shall be operated within the park as provided in § 2.2 of this chapter, except as hereinafter specified:

Landing of aircraft shall be permitted on the airstrip locally known as the McKinley Park Station Airport, located in secs. 3 and 4, T. 14 S., R. 7 W; and Secs. 33 and 34, T. 13 S., R. 7 W., Fairbanks Meridian.

[FR Doc. 80-36695 Filed 11-24-80; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-FRL-1627-4]

Approval and Promulgation of Implementation Plans; Revised Deadline for Submission of Volatile Organic Compound (VOC) RACT Regulations for Set II CTG Sources

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Provisions of the Clean Air Act enacted in 1977 require States to revise their State Implementation Plans for areas that have not attained the national ambient air quality standards. For States with ozone nonattainment areas, EPA has stated that the minimum acceptable level of ozone control includes RACT requirements for sources of volatile organic compound (VOC) emissions for which EPA has published a control technique guideline (CTG) by January 1978 and additional RACT requirements on an annual basis for VOC sources covered by CTGs published by January of the preceding year. Adoption and submittal of additional RACT regulations for sources covered by CTGs published between January 1978 and January 1979 (Set II CTGs) are due July 1, 1980 (44 FR 50371 August 28, 1979). However, because the States' regulatory processes are taking longer than anticipated, but in most cases, good faith efforts are being made to adopt the necessary regulations, EPA is revising the July 1, 1980 deadline to January 1, 1981. EPA is also clarifying that it will disapprove any State plan for ozone if the State fails to submit the necessary RACT regulations for Set II CTG sources by January 1, 1981.

The statutory restriction on construction and modification of major VOC sources will be in effect for areas with disapproved ozone SIPs. If the necessary RACT regulations are adopted and submitted to EPA by January 1, 1981, EPA will review the regulations and take appropriate action to approve, conditionally approve, or disapprove them.

EFFECTIVE DATE: December 26, 1980.

FOR FURTHER INFORMATION CONTACT: The appropriate EPA Regional Office listed at 44 FR 20372 (April 4, 1979) or the following Headquarters office: G. T. Helms, Chief, Control Programs Operations Branch, Control Programs Development Division, Office of Air Quality Planning and Standards (MD-15), Research Triangle Park, North Carolina 27711 (919/541-5226 or 5365).

SUPPLEMENTARY INFORMATION: Provisions of the Clean Air Act enacted in 1977 require States to revise their State Implementation Plans (SIPs) for all areas that have not attained the national ambient air quality standards (NAAQS). Each State was to submit a SIP revision by January 1, 1979, providing for the attainment of the primary NAAQS as expeditiously as practicable, but no later than the end of 1982 (or the end of 1987 for areas with particularly difficult ozone or carbon monoxide problems). Congress also provided that if, after July 1, 1979, a State did not have a revised plan approved by EPA that satisfied the requirements of Part D, there would be a statutory restriction on major new construction and modification of sources until the plan satisfied the requirements of Part D. This statutory restriction on major new sources and modifications is set forth in Section 110(a)(2)(I) of the Act. EPA published an interpretive rule codifying this statutory restriction in the Code of Federal Regulations and the SIPs (44 FR 38471 July 2, 1979).

The requirements for an approvable SIP are set forth in Section 110 and Part D of the Act. The Administrator's memorandum of February 24, 1978, published in the **Federal Register** at 43 FR 21673 (May 19, 1978), summarized the elements that an approved SIP must have in order to meet the requirements of Part D and lift the statutory growth restrictions. EPA also published a General Preamble for Proposed Rulemaking and Approval of State Implementation Plan Revisions for Nonattainment Areas summarizing the major considerations guiding EPA's evaluation of nonattainment area plan revisions. EPA published the General Preamble in order to assist the public in commenting on the approvability of the State SIP revisions (44 FR 20372 April 4, 1979). See also supplements to the General Preamble published at 44 FR 38583 (July 2, 1979), 44 FR 50371 (August 28, 1979), 44 FR 53761 (September 17, 1979), and 44 FR 67182 (November 23, 1979).

For areas not attaining the ozone NAAQS, the Administrator's memorandum and the General Preamble state that, at a minimum, the stationary source portion of an approvable ozone SIP revision must include legally enforceable regulations that reflect the application of reasonably available control technology (RACT) to those VOC sources for which EPA has published a control technique guideline (CTG) by January 1978 and provision for the adoption and submittal of additional legally enforceable RACT regulations on an annual basis beginning in January 1980 for these sources covered by CTGs that have been published by January of the preceding year. RACT requirements for sources covered by the CTGs issued between January 1978 and January 1979 (Set II CTGs) were to be adopted and submitted to EPA by January of 1980. However, on August 28, 1979, EPA revised the deadline for submission of the RACT regulations for Set II CTG sources when it became apparent that the regulatory adoption process was going to take longer than originally anticipated (44 FR 50371). EPA notified States that plan revisions setting forth RACT regulations for the following Set II CTG sources were due by July 1, 1980.

Factory Surface Coating of Flatwood Paneling
Petroleum Refinery Fugitive Emissions (Leaks)
Pharmaceutical Manufacture
Rubber Tire Manufacture
Surface Coating of Miscellaneous Metal Parts and Products
Graphic Arts (Printing)
Dry Cleaning, Perchloroethylene
Gasoline Tank Trucks, Leak Prevention
Petroleum Liquid Storage, Floating Roof Tanks

EPA also codified the requirement for future VOC RACT regulations by adding the following language to the Part 52 "Approval Status" section of each State SIP.

In addition, continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements by July 1, 1980 for the sources covered by CTGs issued between January 1978 and January 1979 and adoption and submittal by each subsequent January of additional RACT requirements for sources covered by the previous January.

In most cases, available information indicates that the States are making good faith efforts to adopt and submit the necessary regulations. But the States' regulatory adoption processes have taken even longer than anticipated and more time is necessary to accomodate public, administrative, and legislative review. For these reasons, EPA is revising the deadline to January 1, 1981. However, EPA is also clarifying that it will disapprove any ozone SIP if the necessary Set II CTG RACT regulations are not adopted and submitted to EPA by January 1, 1981.

If a State fails to submit the regulations required by this rule to be submitted by January 1, 1981, EPA will disapprove the State's SIP by publishing a final action in the **Federal Register**. Prior proposal of a disapproval will not be necessary since interested parties will have known of this requirement,

because the disapproval should not be delayed, and because the EPA action will be essentially ministerial.

EPA to take timely action to revise the deadline. Morever, revision of the deadline for submission of Set II CTG

DATE: Effective on November 25, 1980.

FOR FURTHER INFORMATION CONTACT:

4. Under "Limited area in El Paso County," El Paso 3[1] is redesignated as noted above.

C. Change from "Does Not Meet

Air Act have not been submitted by the State and approved by EPA.

Under Section 307(b)(1) of the Clean

regulatory analysis under Executive Order 12044.

This notice is issued under the authority of Sections 107(d), 171(2) and

because the disapproval should not be delayed, and because the EPA action will be essentially ministerial. Disapproval of a SIP means that if a State's Part D ozone SIP has been previously approved and the statutory restriction on construction and modification of major VOC Sources has been lifted, the statutory restriction would be reinstated and would remain in effect until the necessary regulations are adopted and submitted to EPA.

In previous guidance to EPA Regional Offices, the Agency had indicated that growth restrictions would remain in effect for areas which had not submitted regulations by January 1, 1981, until final rulemaking was published approving or conditionally approving the regulations. Concerns were raised by States that this approach was inequitable since a short delay in the submittal of regulations could result in growth restrictions for an extended period of time. Accordingly, the Agency has revised this portion of the policy to remove growth restrictions as soon as the Agency publishes a notice of receipt in the **Federal Register**.

If EPA has not yet acted on a State's plan or has disapproved the plan, the statutory restriction is already in effect and would remain in effect until all plan deficiencies are corrected. If a State adopts and submits to EPA the Set II CTG RACT regulations by January 1, 1981, EPA will review the regulations and take appropriate action to approve, conditionally approve, or disapprove this portion of the plan. If a plan is disapproved, the statutory restriction would then be in effect.

EPA finds that there is good cause for making this deadline revision a final action without prior notice and comment. EPA summarized the requirements for an approvable ozone SIP and the need for future CTG RACT regulations in the Administrator's memorandum (43 FR 21673 May 19, 1978) and the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas (44 FR 20372 April 4, 1979). The public therefore has had an opportunity to comment on the Agency's ozone SIP policy as well as on the deadline for submission of the Set II CTG RACT regulations in each of EPA's actions on individual State plans. In addition, delaying revision of the deadline in order to provide for public comment would result in unnecessary hardship due to uncertainty by States that are making good faith efforts to adopt and submit these regulations. Extension of the deadline is necessary because of unavoidable delays in State regulatory processes. It is therefore important for EPA to take timely action to revise the deadline. Morever, revision of the deadline for submission of Set II CTG regulations will not jeopardize attainment of the ozone standards within the statutory time frame. For these reasons, further public procedures are unnecessary, impractical, and contrary to the public interest.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and, therefore, subject to the procedural requirements of the order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044. [Sections 110(a), 172, Clean Air Act, as amended (42 U.S.C. 7410(a), 7502).]

Dated: November 18, 1980.

Douglas M. Costle,

Administrator.

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended by adding the following section:

§ 52.25 Date for Submission of Set II CTG Regulations.

Wherever the "Approval Status" section of a subpart states that continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements for sources covered by CTGs issued between January 1978 and January 1979 (Set II CTGs) by July 1, 1980, the date for adoption and submittal of Set II CTG regulations is revised to read January 1, 1981.

[FR Doc. 80-36703 Filed 11-24-80; 8:45 am]

BILLING CODE 6560-26-M

40 CFR Part 81

[A-6-FRL 1680-6]

Designation of Areas for Air Quality Planning Purposes: State of Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice revises the attainment status designations in the State of Texas for 10 areas with respect to total suspended particulate matter (TSP). Three areas are being redesignated from nonattainment to attainment and seven areas from nonattainment to unclassified. These revisions were proposed in a Notice of Proposed Rulemaking published on October 12, 1979 (44 FR 58922).

DATE: Effective on November 25, 1980.

FOR FURTHER INFORMATION CONTACT:

Jerry M. Stubberfield, Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, Dallas, Texas 75270, (214) 767-1518.

SUPPLEMENTARY INFORMATION:

Introduction

Section 107(d)(1) of the Clean Air Act required the States to submit to the Administrator a list identifying all air quality control regions, or portions thereof, that have not attained the National Ambient Air Quality Standards (NAAQS). Section 107(d)(2) of the Act required the Administrator to promulgate this list with such modifications as deemed necessary. On March 3, 1978, at 43 FR 9037, the Administrator promulgated nonattainment designations for the State of Texas for total suspended particulates (TSP), and other pollutants. These designations were effective immediately and public comment was solicited. On September 11, 1978, at 43 FR 40412, in response to comments received, the Administrator revised and amended certain of the original designations. The Act also provided that a State may, from time to time, review and revise its designations list and submit these revisions to the Administrator for promulgation, as specified under Section 107(d)(5). The State of Texas has revised its original designation list and on April 6, 1979, submitted these revisions to the EPA in TACB Resolution R79-2. EPA published a notice of proposed rulemaking on October 12, 1979 and solicited public comment. No comments were received regarding these redesignations. EPA is, today, approving the following redesignations for Texas.

Particulate Matter

The changes listed by the State and being approved by EPA for TSP are as follows:

A. Change from "Does Not Meet Primary Standards" to "Better Than National Standards."

1. Limited areas in Hidalgo County.
2. Limited area in Maverick County.

B. Change from "Does Not Meet Primary Standards" to "Cannot Be Classified."

1. Limited area in Galveston County.
2. Limited area in Bexar County.
3. Under "Limited areas in Harris County," Houston 3[1] is redesignated as noted above.

4. Under "Limited area in El Paso County," El Paso 3[1] is redesignated as noted above.

C. Change from "Does Not Meet Secondary Standards" to "Cannot Be Classified."

1. Under "Limited area in Tarrant County," Fort Worth 2, Fort Worth 3, and Fort Worth 4 are redesignated as noted above.

The areas which were originally designated as nonattainment for primary TSP standards and are being redesignated to attainment are as follows: in Hidalgo County, a portion of the City of McAllen and a portion of the City of Progresso, and in Maverick County, the City of Eagle Pass. The State revised the designations for these three areas to attainment status since they meet the criteria of the Agency's Rural Fugitive Dust Policy (RFDP).

The areas which were originally designated as nonattainment for primary TSP standards and are being redesignated to "Cannot Be Classified" are as follows: in Galveston County, a portion of Texas City; in Bexar County, a portion of the City of San Antonio; in Harris County, Houston 3; and, in El Paso County, El Paso 3. The areas originally designated as nonattainment for secondary TSP standards and being redesignated to "Cannot Be Classified" are as follows: in Tarrant County, Fort Worth 2, Fort Worth 3, and Fort Worth 4. The State revised the designations for these seven areas to "Cannot Be Classified" on the basis that the monitors were located at ground level and unduly influenced by reentrained road dust.

Current Action

EPA is hereby approving the revisions to the attainment status designations for TSP submitted by the State of Texas under TACB Resolution R79-2. As a result of these redesignations, the requirements of Title I, Part D of the Act, no longer apply in the redesignated areas. All other Section 107 designations for the State of Texas not discussed in this notice remain intact.

These redesignations are being made immediately effective in order to lift the growth restrictions applying in nonattainment areas for which SIP revisions required by Part D of the Clean Air Act have not been submitted by the State and approved by EPA.

Under Section 307(b)(1) of the Clean Air Act, judicial review of [this action) is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of [date of publication]. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

The EPA has determined that this document is not a significant regulation and does not require preparation of a regulatory analysis under Executive Order 12044.

This notice is issued under the authority of Sections 107(d), 171(2) and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7407(d), 7501(2) and 7601(a).

Dated: November 19, 1980.

Douglas M. Costle,

Administrator.

Subpart C of Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

§ 81.344 [Amended]

1. In § 81.344—Texas, the attainment status designation table for TSP is amended to read as set forth below:

Texas—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
AQCR 022				X
AQCR 106				X
AQCR 153:				
3 limited areas in El Paso County	X			
1 limited area in El Paso County		X		
1 limited area in El Paso County (El Paso 3)			X	
Remainder of AQCR				X
AQCR 210				X
AQCR 211				X
AQCR 212				X
AQCR 213: 2 limited areas in Cameron County	X			
Remainder of AQCR				X
AQCR 214: 2 limited areas in Nueces County	X			
Remainder of AQCR				X
AQCR 215:				
2 limited areas in Dallas County	X			
1 limited area in Tarrant County		X		
3 limited areas in Tarrant County			X	
Remainder of AQCR				X
AQCR 216:				
2 limited areas in Harris County (Houston 1 and 2)	X			
1 limited area in Harris County (Aldine)		X		
1 limited area in Harris County			X	
1 limited area in Galveston County			X	
Remainder of AQCR				X
AQCR 217: 1 limited area in Bexar County			X	
Remainder of AQCR		X		
AQCR 218				X
				X

[FR Doc. 80-36704 Filed 11-24-80; 8:45 am]

BILLING CODE 6560-38-M

[1] This notation was used by the State of Texas in their original designations to differentiate among the various nonattainment areas within one county. For example, in Harris County, three areas within the city of Houston were designated as nonattainment, i.e. Houston 1, Houston 2, and Houston 3. In El Paso County, five areas within the city of El Paso were designated as nonattainment, i.e. El Paso 1, El Paso 2, El Paso 3, El Paso 4, and El Paso 5.

40 CFR Part 86

[EN-FRL 1674-1]

Corrected Motor Vehicle Exhaust Emission Standards for Oxides of Nitrogen (NO_x) for 1981 and 1982 Model Year Light-Duty Diesel Vehicles

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: This document makes three corrections to the rule previously published in conjunction with my second consolidated waiver decision, which granted waivers for certain engine families pursuant to section 202(b)(6) of the Clean Air Act, 42 U.S.C. 7521(b)(6)(1977).[1] The principal change is to correct inaccurate descriptions identifying the Volkswagen (VW) engine families that received waivers in that decision. The other two corrections are also technical in nature.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Jerry Schwartz, Attorney/Advisor, Manufacturers Operations Division (EN-340), U.S. Environmental Protection

[1] 45 FR 34718 (May 22, 1980).

Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 472-9421.

Manufacturer	Engine family	Model year	NO_x (gpm)

(Rabbit), and the 1.6L-TC-2625 I.W. (Dasher) engine families listed in the

my second consolidated NO_x waiver decision.

FOR FURTHER INFORMATION CONTACT:

James H. Wilson, Policy Division (Code

Subpart 10—*Service Contract Act of 1965*—Continued

Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 472–9421.

SUPPLEMENTARY INFORMATION: On February 11, 1980, when VW reapplied for waivers of the statutory 1.0 grams per mile (gpm) NO_x standard,[2] it split the three vehicle classes for which it requested a waiver in its original application into six smaller classes according to method of aspiration, engine displacement, and vehicle model. VW stated its purpose was to indicate its belief that for these vehicles, the higher inertia weight classes require a higher NO_x standard.[3] At the public hearing EPA held to consider VW's reapplication, VW agreed that it was reasonable for me to describe the engine families with a system of designation other than one based on vehicle model. Because NO_x emissions can vary with inertia weight, I decided upon the inertia weight classes which VW specified in its application as appropriate engine family designators in my decision to grant waivers covering each of those engine families.[4]

In a letter of August 4, 1980, to the Director of the Manufacturers Operations Division, VW indicated that a discrepancy had arisen between the inertia weights of the engine families described in the waiver decision as being covered by waivers, and the inertia weights of the families it actually plans to produce, because in its reapplication some equivalent test weights were mistakenly included under the heading of "Inertia Weight." For the 1.6L–NA–2500 I.W. (Dasher) engine family, the equivalent test weight of the engine family which VW plans to produce is 2,625 pounds, which happens to fall within the 2,500 pound inertia weight class designated for that engine family in the decision.[5] As a result, the designation of this engine family in the waiver decision accurately describes the engine family which VW plans to produce.

For the 2.0L–NA–3250 I.W. and 2.0L–TC–3250 I.W. (Audi) engine families listed in the waiver decision, however, the inertia weight designation VW provided in its waiver application and consequently, in my decision—3,250 pounds—is actually an equivalent test weight, whose corresponding inertia weight class is 3,000 pounds. The 1.6L–NA–2375 I.W. and 1.6L–TC–2375 I.W. (Rabbit), and the 1.6L–TC–2625 I.W. (Dasher) engine families listed in the waiver decision are also labeled with inertia weight class designations which actually are equivalent test weights that also fall into different inertia weight classes than those listed in the decision.

Accordingly, the inertia weight classes actually covered by the waivers I granted to VW should be the inertial weight classes corresponding to the equivalent test weights VW mistakenly submitted in its reapplication. That is because I based the conclusions I reached in determining whether to grant waivers for the VW engine families in question on information in VW's reapplication pertaining to pre-production vehicles which actually belonged to those different inertia weight classes. This correction to the rule accompanying the decision which granted the waivers VW requested will describe the engine families for which VW actually intended to request waivers at the time it submitted its reapplication to EPA and whose emissions characteristics I actually evaluated in considering these requests. Thus, this correction has no substantive effect on the bases of the determinations I made in deciding to grant these waivers.

The following chart contains the corrected engine family designations, with the previous "inertia weight" designations submitted by VW indicated in parentheses:

Engine family	Model year	Interim standard (gpm)
1.6L–NA–2250 (previously 2375) I.W.	1981, 1982	1.3
1.6L–NA–2500 (previously 2500) I.W.	1981	1.4
2.0L–NA–3000 (previously 3250) I.W.	1981, 1982	1.5
1.6L–TC–2250 (previously 2375) I.W.	1982	1.3
1.6L–TC–2500 (previously 2625) I.W.	1982	1.4
2.0L–TC–3000 (previously 3250) I.W.	1982	1.5

This amended rule also contains technical corrections reorganizing this section so as to separately designate standards for 1981 and 1982 model years, consistent with the latest version of this section published at 45 FR 40030 (June 12, 1980). In addition, this amended rule corrects a model year designation for the Daimler-Benz AG 2.4 liter engine family which received a waiver in my first consolidated NO_x waiver decision [6] and was mislabeled in the rule published in conjunction with my second consolidated NO_x waiver decision.

Because the changes being made are not substantive in nature but are technical revisions designed to avoid possible confusion and to bring the regulations into the proper regulatory format, the Agency finds good cause in accordance with 5 U.S.C. 553(b)(B) and (d)(3) to publish this rule as final and effective immediately.

Note.—The Environmental Protection Agency has determined that this action does not constitute a major proposal requiring preparation of a Regulatory Analysis under Executive Order 12044.

In addition, because the decision accompanying this rulemaking is based on a detailed analysis indicating that this rulemaking will have a negligible effect on air quality, the Environmental Protection Agency has not prepared an Environmental Impact Statement to accompany this rulemaking.

Dated: November 18, 1980.

Douglas M. Costle,

Administrator.

40 CFR Part 86 is amended as follows:

Subpart A—General Provisions for Emission Regulations for 1977 and Later Model Year New Light-Duty Vehicles, 1977 and Later Model Year New Light-Duty Trucks, and 1977 and Later Model Year New Heavy-Duty Engines

1. 40 CFR 86.081–8(a)(1)(iii) is revised to read as follows:

§ 86.081–8 Emissions standards for 1981 model year light-duty vehicles.

(a) * * *

(1) * * *

(iii) Oxides of nitrogen—1.0 grams per vehicle mile, except that: (A) Oxides of nitrogen emissions from 1981 model year light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile; (B) oxides of nitrogen emissions from light-duty diesel vehicles of the following 1981 model year engine families shall not exceed the prescribed levels:

Manufacturer	Engine family	Model year	NO_x (gpm)
General Motors Corp.	5.7 liter (L)	1981	1.5
Daimler-Benz AG	2.4L	1981	1.5
	3.0L naturally aspirated (NA).	1981	1.5
	3.0L turbocharged (TC).	1981	1.5
AB Volvo	2.4L NA	1981	1.5
Peugeot	2.3L–TC–XD2S	1981	1.5

2. 40 CFR 86.082–8(a)(1)(iii), is revised to read as follows:

§ 86.082–8 Emissions standards for 1982 model year light-duty vehicles.

(a) * * *

(1) * * *

(iii) Oxides of nitrogen—1.0 grams per vehicle mile, except that: (A) Oxides of nitrogen emissions from 1982 model year light-duty vehicles manufactured by American Motors Corporation shall not exceed 2.0 grams per vehicle mile; (B) oxides of nitrogen emissions from light-duty diesel vehicles of the following 1982 model year engine families shall not exceed the prescribed levels:

Manufacturer	Engine family	Model year	NO_x (gpm)
General Motors Corp.	5.7 liter (L)	1982	1.5
Daimler-Benz AG	2.4L	1982	1.25
	3.0L naturally aspirated (NA).	1982	1.5
	3.0L turbocharged (TC).	1982	1.5
AB Volvo	2.4L NA	1982	1.5
Peugeot	2.3L–TC–XD2S	1982	1.5
Volkswagen AG	1.6L–NA–2,250 pounds inertia weight (IW).	1982	1.3
	2.0L–NA–3,000 I.W.	1982	1.5
	1.6L–TC–2,500 I.W.	1982	1.3
	1.6L–TC–2,250 I.W.	1982	1.4
	2.0L–TC–3,000 I.W.	1982	1.5
Volkswagen AG	1.6L–NA–2,250 pounds inertia weight (IW).	1981	1.3
	1.6L–NA–2,250 I.W.	1981	1.4
	2.0L–NA–3,000 I.W.	1981	1.5

(Secs. 202 and 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7521, 7601(a) (Supp. I 1977))

[FR Doc. 80–36731 Filed 11–24–80; 8:45 am]

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[2] I denied VW's first NO_x waiver application in a decision published at 45 FR 3480 (January 23, 1980).

[3] Transcript of February 27, 1980 Public Hearing on the Waiver of the 1981–1984 Model Year Light-Duty Diesel NO_x Emission Standards, pp. 65–66.

[4] 45 FR 34718, 34721 (May 22, 1980).

[5] See 40 CFR 86.129–80 (1979) for the inertia weight classes that correspond with various equivalent test weights.

[6] 45 FR 3480 (January 23, 1980).

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

41 CFR Ch. 18 (Part 12)

[Procurement Regulation Directive 80–8]

Regulatory Coverage of the Service Contract Act.

November 17, 1980.

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It reflects amendments to Part 12, Subpart 10, concerning the Service Contract Act and to bring this Subpart into closer alignment with the Defense Acquisition Regulation.

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT:

James H. Wilson, Policy Division (Code HP–1), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: 202–755–2237.

SUPPLEMENTARY INFORMATION:

Following are key changes that are made in this Procurement Regulation Directive:

a. The Fair Labor Standards Act and Service Contract Act—Price Adjustment Clause (NPR 12.1050–2) is changed to conform with the same clause in Defense Acquisition Regulation.

b. A requirement is added that both the contractor and bargaining agents will be notified of the pending acquisition 30 days prior to solicitation if the Contracting Officer is aware, or has reason to believe, that the incumbent contractor of a subcontractor has negotiated, or is negotiating, a collective bargaining agreement with an agent representing employees performing on the contract.

c. A requirement is added that rates and benefits will be included in a contract attachment for contractor employees who would be subject to 5 U.S.C. 5332 (GS Grades) if they worked for the Federal Government. This requires the GS classifications to be included on the S.F. 98/98a.

d. This document supersedes NASA Procurement Regulation Directives 73–8 (41 CFR Ch. 18, 1980 Edition, page 477) and 78–8 (41 CFR Ch. 18, 1980 Edition, page 602).

Authority: The provisions of this document are issued under 42 U.S.C. 2473(c)(1).

L. E. Hopkins,

Acting Director of Procurement.

1. In Part 12, Table of Contents, Subpart 10 is revised to read as follows:

Subpart 10—*Service Contract Act of 1965*

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12.1001 Statutory Requirements 12–10:1
12.1002 Applicability 12–10:1
12.1002–1 General 12–10:1
12.1002–2 Geographical Coverage of the Act 12–10:1
12.1002–3 Definitions And Types of Covered Service Contracts Illustrated 12–10:2
12.1002–50 Statutory Exemptions 12–10:3
12.1002–51 Administrative Limitations, Variations, Tolerances, and Exemptions 12–10:4
12.1003 Department of Labor Regulations 12–10:4
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12.1005–2 Notice of Intention To Make a Service Contract 12–10:11
12.1005–3 Contract Minimum Wage Determinations and Fringe Benefit Specification 12–10:14
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12.1005–6 Department of Labor Form 12–10:17
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12.1005–9 Withholding of Contract Payments and Contract Termination 12–10:18
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12.1050–1 General 12–10:19
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Subparts 11 and 12—*[Reserved]*

2. In Part 12, Subpart 10 is revised to read as follows:

Subpart 10—Service Contract Act of 1965

12.1000 Scope of Subpart. This Subpart sets forth policies and procedures for carrying out the provisions of the Service Contract Act of 1965, as amended (41 U.S.C. 351 et seq.); the provisions of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.), as they pertain to service contracts: the implementing regulations prescribed in 29 CFR Parts 4 and 1925; and instructions issued by the Secretary of Labor.

12.1001 Statutory Requirements. The Service Contract Act of 1965, referred to in this Subpart as the "Act", includes the following general requirements with respect to service contracts entered into by Federal agencies:

(i) Regardless of the contract amount, no contractor or subcontractor holding a Federal service contract shall pay any employee engaged in such work less than the minimum wage specified in section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.);

(ii) Federal service contracts in excess of $2,500 shall contain the provisions required by the Act with respect to such matters as minimum wages, including fringe benefits, to be paid the various classes of service employees engaged in the performance of the contract, safe and sanitary working conditions, notification to employees of the compensation required under the Act, and wages they would be paid if employed by the Federal Government;

(iii) Successor contractors performing on contracts in excess of $2,500 must pay wages and fringe benefits at least equal to those agreed upon for substantially the same services in any bona fide collective bargaining agreement entered into by the predecessor contractor (unless such wages and fringe benefits are determined to be substantially at

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variance with those which prevail for services of a similar character in the locality);

(iv) Service contractors performing on contracts in excess of $2,500 to which no predecessor contractor's collective bargaining agreement applies, shall pay their employees at least the wages and fringe benefits found by the Department of Labor to prevail in the locality or, in the absence of a wage determination, the minimum wage set forth in the Fair Labor Standards Act; and

(v) See 12.1002–50 for statutory exemptions and 12.1002–51 for regulatory exemptions.

12.1002 Applicability.

12.1002–1 General. Subject to statutory exemptions or administrative exemptions by the Secretary of Labor under section 4(b) of the Act (41 U.S.C. 353), the Act applies to all Federal contracts (and any bid specification therefore), the principal purpose of which is to furnish services in the United States through the use of service employees.

12.1002–2 Geographical Coverage of the Act.

(a) Inside the United States, the Act is applicable to all service contracts irrespective of amount.

(b) Outside the United States, the Act is not applicable.

12.1002–3 Definitions and Types of Covered Service Contracts Illustrated.

(a) *Definitions.* For this Subpart, unless otherwise indicated, terms used herein are defined as follows:

(i) "Administrator" means the Administrator of the Wage and Hour Division, United States Department of Labor, or the Administrator's authorized representative.

(ii) "Contract" includes any contract subject wholly or in part to provisions of the Act and any subcontract at any tier thereunder.

(iii) "Contractor" includes a subcontractor whose subcontract is subject to provisions of the Act.

(iv) "Professional Employee" is not restricted to the traditional professions of law, medicine, and theology. It includes those professions that have a recognized status and that are based on the acquirement of professional knowledge through prolonged study. Title 29, Part 541, Code of Federal Regulations, defines the term "professional employee" and provides a listing of occupations generally considered to be held by professionals.

(v) "Service Employee" means any person employed in connection with a contract entered into by the United States and not exempted under section 7 of the Act (41 U.S.C. 356), the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR, Part 541); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(vi) "United States" includes any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands, as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.), American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, Johnston Island, and Canton Island, but does not include any other territory under the jurisdiction of the United States or any U.S. base or possession within a foreign country.

(vii) "Wage Determination" includes any determination of minimum wage rates or fringe benefits made pursuant to the provisions of section 2(a) and 4(c) of the Act (41 U.S.C. 351 and 353) for application to the employment in a locality of any class or classes of services employees in the performance of any contract in excess of $2,500 that is subject to the provisions of the Act.

(b) *Types of Covered Service Contracts Illustrated.* Types of contracts, the principal purpose of which is to furnish services through the use of service employees, are too numerous and varied to permit an exhaustive listing. The following list is illustrative, however, of the types of services called for by such contracts that have been found to come within the coverage of the Act.

(i) Aerial spraying.

(ii) Aerial reconnaissance for fire detection.

(iii) Ambulance service.

(iv) Cafeteria and food service.

(v) Chemical testing and analysis.

(vi) Clothing alteration and repair.

(vii) Custodial and janitorial services.

(viii) Drafting and illustrating.

(ix) Electronic equipment maintenance and operation.

(x) Flight training.

(xi) Fire fighting and protection.

(xii) Geological field surveys and testing.

(xiii) Grounds maintenance.

(xiv) Guard and watchman security service.

(xv) Landscaping (other than part of construction).

(xvi) Laundry and dry cleaning.

(xvii) Linen supply service.

(xviii) Lodging and meals.

(xix) Mail hauling.

(xx) Maintenance and repair of motor equipment.

(xxi) Maintenance and repair of all types of equipment.

(xxii) Miscellaneous housekeeping.

(xxiii) Mortuary services.

(xxiv) Motor pool operation.

(xxv) Packing and crating.

(xxvi) Parking service.

(xxvii) Snow removal.

(xxviii) Stenographic reporting.

(xxix) Support services at installations.

(xxx) Taxicab services.

(xxxi) Tire and tube repairs.

(xxxii) Transporting property or personnel (except as explained in 29 CFR 4.118).

(xxxiii) Trash and garbage removal.

(xxxiv) Warehouse or storage.

12.1002–50 Statutory Exemptions. Each of the following transactions is exempt from the Service Contract Act of 1965, as amended, by its terms:

(a) *Contracts for Construction or Repair.* Any contract of the United States for construction, alteration, and/or repair, including painting and decorating of public buildings or public works;

(b) *Work Under the Walsh-Healey Public Contracts Act.* Any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act. (49 Stat. 2036);

(c) *Contracts for the Carriage of Freight or Personnel.* Any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line or oil or gas pipeline where published tariff rates are in effect;

(d) *Contracts for Communication Services.* Any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934;

(e) *Contracts for Public Utility Services.* Any contract for public utility services, including electric light and power, water, steam, and gas;

(f) *Employment Contracts.* Any employment contract providing for direct services to a Federal agency by an individual or individuals; and

(g) *Operation of Postal Contract Stations.* Any contract with the U.S. Postal Service, the principal purpose of which is the operation of postal contract stations.

12.1002–51 Administrative Limitations, Variations, Tolerances, and Exemptions. The Secretary of Labor may, under the Act, provide such reasonable limitations and may make such rules and regulations allowing reasonable variations, tolerances, and exemptions to and from any or all provisions of the Act (except Section 10) as may be necessary and proper in the public interest or to avoid serious impairment of the conduct of

Government business (41 U.S.C. 353(b)). Requests for variations, tolerances, and exemptions from the Act shall be submitted in writing through contracting channels to the Industrial Relations Office, NASA Headquarters (Code NR–31).

12.1003 Department of Labor Regulations. Pursuant to the Service Contract Act of 1965, as amended, the Department of Labor has issued Parts 4 and 1925, and Part 6, Title 29, Code of Federal Regulations, providing for the administration and enforcement of the Act. The regulations include coverage of the following matters relating to the requirements of the Act:

(i) service contract labor standards provisions and procedures (Subpart A. Part 4 (29 CFR));

(ii) equivalents of determined fringe benefits (Subpart B, Part 4 (29 CFR));

(iii) application of the Service Contract Act of 1965, as amended, (rulings and interpretations) (Subpart C, Part 4 (29 CFR));

(iv) safe and sanitary working conditions (Part 1925 of Title 29, CFR); and

(v) rules of practice for administrative proceedings enforcing service contract labor standards (Part 6 of Title 29, CFR).

12.1004 Contract Clauses.

(a) *Clauses for Federal Service Contracts in Excess of $2,500.* Procurement offices (except as provided in 12.1002–50 and 12.1002–51) shall include the following clause in all solicitations which may result in contracts in excess of $2,500 and in contracts in excess of $2,500 (including any transaction for an indefinite amount unless the procurement office has knowledge that it will not exceed $2,500) where the principal purpose of the contract is to furnish services in the United States through the use of service employees:

Service Contract Act of 1965—As Amended (November 1980)

This contract, to the extent that it is of the character to which the Service Contract Act of 1965, as amended (41 U.S.C. 351 et seq.) (hereafter referred to as the "Act"), applies, is subject to the following provisions of the Act and to the regulations of the Secretary of Labor thereunder (29 CFR Part 4).

(a) *Compensation.* Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid no less than the minimum monetary wage and shall be furnished fringe benefits determined by the Secretary of Labor or the Secretary's authorized representative, as specified in any attachment to this contract. If there is such an attachment, any class of service employees not listed therein, but which is to be employed under this contract, shall be classified by the Contractor so as to provide a reasonable relationship between such classifications and those listed in the attachment, and shall be paid monetary wages and furnished fringe benefits determined by agreement of the interested parties, who shall be deemed to be the contracting agency, the Contractor, and the employees who will perform on the contract or their representatives. If the interested parties do not agree on a classification or reclassification which is, in fact, conformable, the Contracting Officer shall submit the question, together with a recommendation, to the Administrator of the Wage and Hour Division, Employment Standards Administration, of the Department of Labor for final determination. Failure to pay such employees the compensation agreed upon by the interested parties or finally determined by the Administrator or the Administrator's authorized representative shall be a violation of this contract. No employee engaged in performing work on this contract shall be paid, in any event, less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(b) *Adjustment of Compensation.* If, as authorized pursuant to section 4(d) of the Act, the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished to service employees shall be subject to adjustment after 1 year and no less than once every 2 years, pursuant to wage determinations to be issued by the Wage and Hour Division, Employment Standards Administration, Department of Labor, as provided in the Act.

(c) *Obligation to Furnish Fringe Benefits.* The Contractor or subcontractor can only discharge the obligation to furnish fringe benefits specified in the attachment or conformed thereto by furnishing any equivalent combinations of fringe benefits, or by making equivalent or differential payments in cash, in accordance with the applicable rules set forth in 29 CFR, Part 4, Subparts B and C.

(d) *Minimum Wage.* In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any employees performing work under the contract (regardless of whether they are service employees) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. Nothing in this provision shall relieve the Contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.

(e) *Successorship.* If this contract succeeds a contract subject to the Act, under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, then in the absence of a minimum wage attachment for this contract neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work less than the wages and fringe benefits provided for in such collective bargaining agreements, to which such employee would be entitled if employed under the predecessor contract, including accrued prospective wages and fringe benefits provided for under such agreement. No Contractor or Subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of 29 CFR 4.1c(b) apply or unless the Secretary of Labor or the Secretary's representative (i) determines that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arms-length negotiations, or (ii) after a hearing, as provided in 29 CFR 4.10, finds that the wages and fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality.

(f) *Notification to Employees.* The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post a notice of such wages and benefits in a prominent and accessible place at the worksite, using such poster as may be provided by the Department of Labor.

(g) *Safe and Sanitary Working Conditions.* The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of the Service employees engaged to furnish these services, and the Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR 1925.

(h) *Records.* The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work, records containing the information specified below for each employee subject to the Act and shall make them available for inspection and transcription by authorized representatives of the Administrator of the Wage and Hour Division, Employment Standards Administration, Department of Labor.

(1) Employee's name and address.

(2) Employee's work classification or classifications, rate or rates of monetary wages and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation.

(3) Employee's daily and weekly hours worked.

(4) Any deductions, rebates, or refunds from employee's total daily or weekly compensation.

(5) A list of monetary wages and fringe benefits for those classes of service employees not included in the minimum wage attachment to this contract, but for which such wage rates or fringe benefits have been determined by the interested parties or by the Administrator or the Administrator's authorized representative, pursuant to the labor standards in paragraph (a) of this clause. A copy of the report required in paragraph (m) of this clause shall be deemed to be such a list.

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(i) *Withholding of Payment and Termination of Contract.* The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the Prime Contractor such sums as the Contracting Officer, or an appropriate officer of the Department of Labor, decides may be necessary to pay underpaid employees. Additionally, any failure to comply with the requirements of this clause relating to the Act may be grounds for termination of the right to proceed with the contract work. In this event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(j) *Subcontractors.* The Contractor agrees to insert this clause in all subcontracts. The term "Contractor" as used in this clause in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

(k) *Service Employee.* As used in this clause relating to the Act, the term "service employee" means any person employed in connection with a contract entered into by the United States and not exempted under section 7 of the Act (41 U.S.C. 356), the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in 29 CFR Part 541 and in any subsequent revisions of these regulations); and shall include all such persons, regardless of any contractual relationship that may be alleged to exist between a Contractor or subcontractor and such persons.

(l) *Federal Wage Board (Blue Collar) and General Schedule (White Collar) Wages and Fringe Benefits Applicable to Service Employee Classifications.* The classes of service employees set forth in an attachment to this contract expected to be employed under the contract with the Government would be subject, if employed by the contracting agency, to the provisions of 5 U.S.C. 5341 and 5332 and would, if so employed, be paid not less than the rates of wages and fringe benefits set forth in such Attachment.

(m) *Contractor's Report.* If there is a wage determination attachment to this contract and one or more classes of service employees which are not listed thereon are to be employed under the contract, the Contractor shall report to the Contracting Officer the monetary wages to be paid and the fringe benefits to be provided each such class of service employee. This report shall be made promptly as soon as such compensation has been determined, as provided in paragraph (a) of this clause.

(n) *Collective Bargaining Agreements Applicable to Service Employees.* If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement that is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report this fact to the Contracting Officer. The Prime Contractor also shall provide full information as to application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. This report shall be made upon commencing performance of the contract in the case of collective bargaining agreements effective at the time, and, in the case of agreements or provisions or amendments thereof effective at a later time during the period of contract performance, the agreements shall be reported promptly after negotiation.

(o) *Regulations Incorporated by Reference.* All interpretations of the Act expressed in Subpart C of 29 CFR Part 4 are incorporated by reference in this contract.

(p) *Exemptions and Limitations.* This clause shall not apply to the following:

(1) Any contract of the United States or District of Columbia for construction, alteration, and/or repair, including painting and decorating of public buildings or public works;

(2) Any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act (49 Stat. 2036);

(3) Any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line, or oil or gas pipeline where published tariff rates are in effect, or where such carriage is subject to rates covered by section 22 of the Interstate Commerce Act;

(4) Any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934;

(5) Any contract for public utility services, including electric light and power, water, steam, and gas;

(6) Any employment contract providing for direct services to a Federal agency by an individual or individuals;

(7) Any contract with the U.S. Postal Service, the principal purpose of which is the operation of postal contract stations;

(8) Any services to be furnished outside the United States. For geographic puposes, the "United States" is defined in section 8(d) of the Service Contract Act to include any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf Lands, as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, Johnston Island, and Canton Island. It does not include any other territory under the jurisdiction of the United States or any United States base or possession within a foreign country;

(9) Any of the following contracts exempted from all provisions of the Act, pursuant to section 4(b) of the Act, which, exemptions the Secretary of Labor, prior to amendment of such section by Public Law 92–473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(i) Contracts entered into by the United States with common carriers for the carriage of mail by rail, air (except air star routes), bus, and ocean vessel, where the carriage is performed on regularly scheduled runs of the trains, airplanes, buses, and vessels over regularly established routes and accounts for an insubstantial portion of the revenue therefrom;

(ii) Any contract entered into by the U.S. Postal Service with an individual owner-operator for mail service where it is not contemplated at the time the contract is made that the owner-operator will hire any service employee to perform the services under the contract except for short periods of vacation time or for unexpected contingencies or emergency situations such as illness or accident.

(q) *Variations, Tolerances, and Exemptions Involving Employment.* Notwithstanding any of the provisions in paragraph (a) through (o) of this clause, relating to the Act, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act (prior to its amendment by Public Law 92–473), found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1)(i) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Act, without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of the Act, in accordance with the procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, as amended, in regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525);

(ii) The Administrator will issue certificates under the Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, as amended, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938, as amended, (29 CFR Parts 520, 521, 524, and 525);

(iii) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in 29 CFR Parts 525 and 528.

(2) An employee engaged in an occupation in which he customarily and regularly receives more than $30 a month in tips may have the amount of these tips credited by the employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with the regulatons in 29 CFR Part 531: *Provided, however,* that the amount of such credit may not exceed 40% of the minimum rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

Note.—The classes of service employees expected to be employed under the contract that would be subject, if employed by the contracting agency, to the provisions of 5 U.S.C. 5341 or 5332 and the corresponding monetary wages and fringe benefits, will be set forth in an attachment to the contract, as required under paragraph (1) of the clause. The Attachment will specifically state that such wages and fringe benefits do not represent a minimum wage determination for the contract (see 12.1005–2(g)).

(b) *Clause for Federal Service Contracts Not in Excess of $2,500.* Procurement offices (except as provided in 12.1002–2, 12.1002–50 and 12.1002–51) shall include the following clause in every solicitation and contract not in excess of $2,500, which has as its principle purpose the furnishing of services through the use of service employees:

Service Contract Act of 1965, as Amended (November 1980)

Except to the extent that an exemption, variation, or tolerance would apply pursuant to 29 CFR 4.6 if this were a contract in excess of $2,500, the Contractor and any subcontractor hereunder shall pay all employees engaged in performing work on the contract not less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. All regulations and interpretations of the Service Contract Act of 1965, as amended, expressed by 29 CFR Part 4 are hereby incorporated by reference in this contract.

(c) *Basic Ordering Agreements and Blanket Purchase Agreements.* In the case of a basic ordering agreement or blanket purchase agreement, the amount for purposes of including (a) or (b) above, shall be the aggregate amount of all orders estimated to be placed for one year after the effective date of the agreement. If a basic ordering agreement continues or is extended, an estimate shall be made annually for each year after the first, and the agreement modified accordingly.

(d) *Price Adjustment Clause.* See 12.1050–2(b) for the "Fair Labor Standards Act and Service Contract Act—Price Adjustment" clause and instructions for its use.

12.1005 Administration and Enforcement.

12.1005–1 Responsibilities of Department of Labor. The Secretary of Labor is authorized and directed to administer and enforce the provisions of the Act, to make rules and regulations, issue orders, make decisions, and take other appropriate action under the Act.

12.1005–2 Notice of Intention To Make a Service Contract.

(a) Prior to the issuance of any solicitation or commencement of negotiations for any new contract, contract extension, modification adding significant new work, or exercise of an option exceeding $2,500 which may be subject to the Act, the contracting office shall file notice of this intention. Contracts for an indefinite amount also require this notice unless the contracting officer has definite knowledge that it will not exceed $2,500. The notice will be filed on SF 98/98a "Notice of Intention To Make a Service Contract and Response To Notice." Any attachments necessary to support or clarify the notice will also be furnished. The notice will be filed with the Office of Government Contract Wage Standards, Wage and Hour Division, Employment Standards Administration, Department of Labor, through the Industrial Relations Office, NASA Headquarters (Code NR–31). To avoid delays because of a late issuance of wage determinations by the Department of Labor in response to the notice, the contracting office shall make every effort to file it as early as possible; however, the original and 4 copies of the notice must be filed so as to reach NASA Headquarters (Code NR–31) at least 40 days prior to issuance of any solicitation or the commencement of negotiations. The SF 98/98a and attachments shall be completed pursuant to instructions on the forms and shall also contain the applicable information required by (b) and (c) below. Care must be taken to insure that all required information is provided to avert return without action by the Department of Labor or Code NASA Headquarters (NR–31). The "Response" portion of the original of the SF 98 will be completed by the Department of Labor and returned directly to the contracting office, advising of any determination of minimum monetary wage and fringe benefits applicable to the contract. Supplies of SF 98 and 98a are available in all GSA supply depots under stock numbers 7540–926–8972 and 7540–118–1008, respectively.

(b) The information requested by item number below shall be furnished, in addition to that required by the SF 98/98a.

(i) *Item 6.* Insert on the far left side of the block the applicable code identifying the type of proposed action:

Code	Proposed action
I	New contract.
II	Recompetition of services.
III	Contract modifications affecting the scope of the work (see 12.1005–8(a)).
IV	Extension of contract performance through exercise of an option or otherwise (see 12.1005–8(b)).
V	Other. An example of a contract fitting this category is a procurement for which the basic term exceeds 1 year. When a multiyear contract (funding is not subject to annual appropriation) is to be entered into, NASA Headquarters (Code NR–31) shall be notified at the time of submission of the required SF 98/98a.

(ii) *Item 8.*

A. If the proposed contract will be under Section 8(a) of the Small Business Act, insert both the Small Business Administration and the name of the minority subcontractor.

B. In all cases when there is an incumbent contractor, the contractor's wage rate ranges and current actual wage rates being paid to the various classes of non-exempt, unrepresented employees will be included as part of the wage data submitted.

C. When there is no incumbent contractor, furnish whatever information that is available on wages and fringe benefits currently being paid in the locality.

D. If no wage determination is currently available to the particular contract, insert "None" in 8.b.

(iii) *Item 10.* In addition to information requested, add the solication number, if known.

(iv) *Item 12. (SF 98a).*

A. When entering into a new service contract, all classes of work expected to be performed under the contract will be listed under this item, regardless of whether the class of employees is considered professional, executive, administrative, or hourly. However, if submission of the Standard Form 98/98a is in connection with any of the other proposed actions (recompetition of services, exercise of an option, etc.), list only the classes of work that the incumbent contractor indicates are "non-exempt."

B. When classifications include both those categories of employees covered by a collective bargaining agreement and those that are not represented by a union, distinguish the difference by marking the classifications that are unionized by an asterisk(s) sign (*).

C. If the classification of work is not known, use the most descriptive job title available for the work to be performed under the contract.

(v) *Item 13.* If the number of employees is not known, the estimated manhours required to perform the tasks should be designated so that manning estimates can be be determined and listed.

(vi) *Item 14.* This item shall also include the wage rates that would be

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paid if the employees were subject to 5 U.S.C. 5332 (GS grades).

(c) If the services to be furnished under the proposed contract will be substantially the same as services being furnished for the same location by an incumbent contractor whose contract the proposed contract will succeed; and if the incumbent contractor is furnishing such services through the use of service employees whose wages and fringe benefits are the subject of one or more collective bargaining agreements, the contracting officer shall obtain from the contractor two copies of each collective bargaining agreement, together with any related documents specifying the wage rates and fringe benefits currently or prospectively payable under such agreement, and submit them with the SF 98/98a. If the services are being furnished for more than one location and the collectively bargained wage rates and fringe benefits are different for different locations or do not apply to all locations, the contracting officer shall identify the locations to which the agreements have application. See (f) below for notice to interested parties, which is required at least 30 days prior to issuance of the solicitation. (See 12.1005–3(c).) concerning collective bargaining agreements that are considered not to be entered into as a result of arms-length negotiations or that are at substantial variance with the wages and fringe benefits prevailing in the locality.

(d) If exceptional circumstances prevent the filing of the notice of intention by the time required in paragraph (a) above, the notice shall be submitted to the Department of Labor through Code NR–31 as soon as practicable with a detailed explanation of the special circumstances which prevented timely submission.

(e) Requests to expedite issuance of wage determinations or to check the status of a particular request should be made to NASA Headquarters (Code NR–31). Direct contact with Department of Labor officials for this purpose is not authorized.

(f) *Notice to Interested Parties.* If, pursuant to paragraph (n) of the SCA clause or through other means, the contracting officer is aware or has reason to believe that the incumbent contractor or a subcontractor is negotiating or has consummated a collective bargaining agreement with a bargaining agent representing service employees performing on the contract, both the contractor and bargaining agent(s) shall be notified of the pending acquisition at least 30 days prior to (i) issuance of the solicitation, or (ii) the commencement of performance of a contract modification extending the initial period of performance or affecting the scope of effort or of an option. This notification shall be made by registered letter, return receipt requested and shall set forth all pertinent dates.

(g) Procedures for computation of the rates required by paragraph (1) of the SCA clause and the note following are as follows:

(i) Wages paid blue collar employees shall be the basic hourly rate for each class. The rate shall be Wage Board pay schedule step two for nonsupervisory service employees and step three for supervisory service employees. Determinations of applicable Wage Board rates are as follows:

A. Where the place of performance is known, the rates applicable to that location shall be used; or

B. Where the place of performance is not known, the rates applicable to the contracting activity's location shall be used.

(ii) Wages paid white collar employees shall be an hourly rate for each class. The rate shall be obtained by dividing the general pay schedule step one biweekly rate by 80.

(iii) Local civilian personnel offices can assist in determining and providing grade and salary data.

(iv) The Department of Labor develops standardized fringe benefits. The approved standard and any subsequent modification shall be furnished by Code NR–31.

12.1005–3 Contract Minimum Wage Determinations and Fringe Benefit Specification.

(a) Prior to Award. Solicitations and contracts for more than $2,500 shall contain an attachment (wage determination or appropriate revisions) issued by the Administrator in response to the notice required under 12.1005–2(a) setting forth the minimum wages and fringe benefits for service employees to be employed thereunder. However, wage determinations and revisions thereto shall not apply—

(i) When no collective bargaining agreement exists and wage determinations or revisions are received by the Federal agency less than 10 days before the opening of bids or date established for the receipt of proposals, unless the contracting officer finds that there is a reasonable time to notify bidder or offerors thereof; or

(ii) When a collective bargaining agreement does exist and (A) the contracting agency has received notice of its existence less than 10 days before bid opening or commencement of performance of a negotiated contract, option, or contract extension, and (B) the contracting officer determines that there is not reasonable time to incorporate a new wage determination in the solicitation, and (C) the notices required by 12.1005–2(a) and 12.1005–2(f) been given.

(b) *Subsequent to Award.* If a required wage determination is not included in the solicitation or contract (either because the notice required by 12.1005–2 (a) or (f) is not filed or is not filed in the time provided) and if the contracting officer receives a wage determination from the Department of Labor within 30 days of the late filing of the notice or the discovery by the Department of Labor of the failure to include a wage determination required by this part—

(i) The contracting officer shall attempt to negotiate a bilateral modification to:

(A) Incorporate the appropriate clause(s), if not previously included;

(B) Incorporate the wage determination which shall be effective as of the date of issuance unless otherwise specified; and

(C) equitably adjust the contract price to compensate for any increased cost of performance under the contract caused by the wage determination.

(ii) If the contracting officer is unable to negotate a contract modfication incorporating the wage determination, the contract file shall be documented to show the efforts made.

(iii) If the contracting officer questions the applicability of the Service Contract Act to the contract, the matter shall be forwarded for resolution to the Office of Industrial Relations. NASA Headquarters, Code NR–31.

(c) *Review of Collective Bargaining Agreements and Wage Determinations.*

(i) If a contracting officer believes that an incumbent contractor's collective bargaining agreement was not entered into as a result of arms-length negotiations, procedures in accordance with (iv) below shall be followed.

(ii) Immediately upon receipt of a wage determination not predicated upon a collective bargaining agreement, the contracting officer shall examine the wage determination to ascertain whether it is correct and whether it conforms with the wages and fringe benefits prevailing for services of a character similar in the locality. If the wage determination is at substantial variance with the prevailing rates, the contracting officer shall proceed in accordance with (iii) below.

(iii) A full statement of the facts shall be transmitted immediately to NASA Headquarters (Code NR–31) for appropriate action.

(iv) If wages and fringe benefits provided for in a collective bargaining agreement are substantially at variance with those prevailing for services of a character similar in the locality, the contracting officer shall proceed as follows:

A. Review immediately the agreement to ascertain if a hearing (12.1051) is warranted.

B. Submit a request for hearing, when warranted, to NASA Headquarters (Code NR–31). Sufficient payroll data shall accompany this request to support a *prime facie* showing that the bargained-for rates, in fact, are substantially at variance with those prevailing for services of a character similar in the locality. Except under extraordinary circumstances, as determined by the Administrator, a request for hearing shall not be considered by the Secretary unless received by the Department of Labor more than 10 days before the award of an advertised contract or prior to the commencement of a negotiated contract or contract extension, through option or otherwise.

(d) *Late Receipt of Wage Determinations.* If the SCA wage determination requested in accordance with 12.1005–2(a) is not received in time for inclusion in the solicitation, the contracting officer should proceed using the latest wage determination included in the existing contract. If a new wage determination is subsequently received 10 or more days prior to the opening of bids or the date established for the receipt of proposals, the solicitation must be amended accordingly. However, if a new wage determination is received less than 10 days before the opening of bids or the date established for the receipt of proposals, it shall be included in the solicitation only when there is a reasonable time to notify offerors thereof. (See 12.1005–3(a).) The contracting officer shall notify NASA Headquarters (Code NR–31) in writing of each case when compelled to proceed without a new wage determination due to a delayed response from the Department of Labor.

12.1005–4 Additional Classifications of Service Employees (Comfortable Rates). When any classes of service employees which are to be engaged in the performance of the contract are not listed in the wage and fringe benefit determination attached to the contract (see paragraph (a) of the clause in 12.1004(a)), such employees shall be classified by the contractor so as to bear a reasonable relationship to the classification listed in the determination. The wages paid and the fringe benefits provided to employees so classified shall be determined by agreement between the interested parties. Such parties shall be deemed to be the contracting agency, the contractor, and the employees (or their representatives) who will perform under the contract. If the interested parties do not agree on a classification or reclassification which is, in fact, conformable with the wage and fringe benefit determination, the contracting officer shall submit the question, together with a recommendation, to the Wage and Hour Division, Employment Standards Administration, Department of Labor, or an authorized representative, through the Office of Industrial Relations, NASA Headquarters, Code NR–31, for final determination.

12.1005–5 Notice of Award. Standard Form 99, "Notice of Award of Contracts," shall be used to report the award of any contract in excess of $2,500 subject to the Act to the Department of Labor. The report shall be submitted with the initial order under an indefinite delivery type contract or basic ordering agreement, or the initial call under a blanket purchase agreement, when they contain the clause in 12.1004(a). The completed original and one copy with the interleaved carbon shall be forwarded to the Administrator, Wage and Hour Division, Department of Labor, Washington, D.C. 20210. The form shall be completed as follows:

(i) Items 1 through 7 and 12 and 13: Self-explanatory:

(ii) Item 8: Enter the notation "Service Contract Act of 1965";

(iii) Item 9: Leave blank;

(iv) Item 10: (1) Enter the notation "Major Category," and indicate beside this entry the general service area into which the contract falls (e.g., food services, custodial-Janitorial service, garbage collection, insect and rodent control, laundry and dry cleaning services), and

(2) Enter the heading "Detailed Description," and following this entry set forth a detailed description of the services to be performed;

(v) Item 11: Enter the dollar amount of the contract, or the estimated dollar value with the notation "estimated" if the exact amount is not known. If neither the exact nor the estimated dollar value is known, enter "Indefinite," or "Not to exceed $———"; and

(vi) Item 14: Leave blank. Supplies of Standard Form 99 are available in all GSA supply depots under stock number 7540–634–4049.

12.1005–6 Department of Labor Form. The contracting officer shall furnish the contractor with Department of Labor Form WH publication 1313 (poster) at the time of contract award and shall ensure that the form is in the possession of the contractor for appropriate posting prior to performance of the contract. The form advises employees of their benefits under the Act and satisfies the notice requirements in paragraph (f) of the contract clause prescribed in 12.1004(a). Contractors are required to post the form at a prominent and accessible place at the worksite. Supplies of the form may be obtained from the Wage and Hour Division, Department of Labor, Washington, D.C. 20210.

12.1005–7 Inquiries Concerning the Act. Contractors or contractor employees who inquire concerning the administration and enforcement of the Act shall be advised that such matters fall within the jurisdiction of the Department of Labor and shall be given the address of the appropriate Regional Director of the Wage and Hour Division of the Department of Labor (see 12.607).

12.1005–8 Contract Modifications.

(a) *Bilateral Contract Modifications.* Generally, a bilateral contract modification affecting the scope of the work is regarded as a new contract for purposes of the Act and the regulations thereunder. Therefore, prior to entering into such modification, the contracting officer shall forward Standard Form 98/98a to NASA Headquarters (Code NR–31) in accordance with the procedure set forth in 12.1005–2(a), except that:

(i) In the "Estmated Solicitation Date" block, enter the date the information is needed; and

(ii) In Block 6, enter "Modification of Existing Contract for (*describe type of services*) * * * Services." Bilateral contract modifications that are unrelated to the labor requirements of a contract shall not be deemed to create a new contract for purposes of the Act, nor shall insignificant changes related to labor requirements.

(b) *Extension of Contract Through Exercise of Option or Otherwise.* A new contract shall be deemed entered into for purposes of the Act when the period of performance of an existing contract is extended pursuant to an option clause or otherwise. Prior to extending the period of performance of the contract, the contracting officer shall forward SF 98/98a as provided in (a) above.

12.1005–9 Withholding of Contract Payments and Contract Termination.

(a) *Withholding.*

(1) As provided by the Act, any violation of the stipulations required by the clauses (12.1004 (a) or (b)) renders the party responsible liable for a sum equal to the amount of any deductions, rebates, refunds, or underpayment of compensation due to any employee engaged in the performance of the

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contract. Upon the written request of the Department of Labor at a level no lower than an Assistant Regional Administrator, so much of the accrued payment due on the contract under which the violations occurred shall be withheld as is necessary to pay the employees under that contract or under any other contract between the Government prime contractor and the Federal Government, provided the other contract is not assigned pursuant to 31 U.S.C. 203 or 41 U.S.C. 15. Any withheld sums shall be held in a deposit fund. On order of the Secretary, any compensation which the Head of a Federal agency or the Secretary has found to be due pursuant to the Act shall be paid directly to the underpaid employees from any accrued payments withheld under the Act.

(2) If the accrued payments withheld are insufficient to reimburse all underpaid service employees, the Government may bring an action against the contractor, subcontractor, or any contract sureties to recover the remaining amount of underpayments. Any sums thus recovered shall be held in the deposit fund and shall be paid, on order of the Secretary, directly to the underpaid employees. Any sum not paid to an employee because of inability to do so within 3 years shall be covered into the Treasury of the United States as miscellaneous receipts.

(b) *Termination.* In addition, as provided by the Act, any failure to comply with the requirements of any of the provisions of the contract clauses set forth under 12.1004 may be grounds for termination, by written notice, of the contractor's right to proceed with the contract work. In this event, the Government may enter into other contracts or arrangements for completion of the work, charging the terminated contractor with any additional cost.

12.1005–10 Cooperation with the Department of Labor. The contracting officer shall cooperate with representatives of the Department of Labor in the examination of records, interviews with service employees, and all other aspects of investigations undertaken by the Department of Labor. When requested, agencies shall furnish to the Administrator, Wage and Hour Division, any available information with respect to contractors, subcontractors, their contracts and the nature of the contract services. Violations apparent to the contracting agency and complaints received shall be promptly referred to the appropriate regional office of the Department of Labor. In no event, however, shall complaints by employees be disclosed to the employer.

12.1005–11 Role of the Comptroller General. The Act provides that the Comptroller General shall distribute a list to all Federal agencies giving the names of persons or firms which have been found to be in violation of the Act. Unless the Secretary of Labor otherwise recommends, no Government contract shall be awarded to any violator so listed or to any firm, corporation, partnership or association in which such violator has a substantial interest until three years have elapsed from the date of publication of the list containing the name of the violator.

12.1005–50 Register of Wage Determination and Fringe Benefits. The regulations of the Department of Labor provide that the Administrator shall determine the minimum monetary wages and specify the fringe benefits to be furnished the various classes of service employees for the several localities in which they are to be employed under contracts subject to determinations under the Act (see 29 CFR 4.3). The regulations further provide that these determinations will be issued as an orderly series constituting a register of minimum wages and fringe benefits. The register will be available for public inspecton during business hours at the Wage and Hour Division, Employment Standard Administration, U.S. Department of Labor. In addition, copies will be made available on request at regional offices of the Wage and Hour Division.

12.1006 Labor Standards Enforcement Report. See 12.404–8.

12.1050 Extensions of Contract Performance Period.

12.1050–1 General. A number of NASA service contracts are written for a period of one year with an option on the part of the Government to renew the contract for additional one-year periods at the same or other price or rates. Since the exercise of an option results in the performance of services for a new or different period not included in the term for which the contractor is obligated to furnish services, or for which the Government is obligated to pay under the original contract in the absence of such action to extend it, the contract for the option (additional) period is within the contemplation of the Service Contract Act in the same position as a wholly new contract with respect to application of the Act's provisions and the regulations thereunder. (See 29 CFR 4.145.)

12.1050–2 Contract Price Adjustment.

(a) The following requirements shall apply to firm fixed-price contracts, time and material contracts, and labor-hour contracts which contain the clause in 12.1004(a) (i.e., contracts in excess of $2,500), and which provide for Government option renewal.

(1) *For Firm fixed-price contracts:*

(i) When the scope of work called for in the solicitation for the original contract period and any renewal option period is the same, the offeror shall be required by the solicitation to submit with the offer, and the Schedule of any resulting contract shall contain, a *single* listing of the classes of service employees subject to the Service Contract Act, and the number of labor hours to be supplied by each class applicable both to the original contract period and to any renewal option period.

(ii) When the scope of work called for in the solicitation for the original contract period and any renewal option period differs, the offeror shall be required by the solicitation to submit with the offer, and any resulting contract shall contain in the Schedule, for the original contract period and any renewal option period, respectively, a *separate* listing of both classes of the Service Contracts Act service employees and the number of labor hours to be supplied by each class.

(2) *For time and material contracts, and labor-hour contracts:* The offeror shall be required by the solicitation to submit with the offer, and the Schedule of any resulting contract shall contain, a listing of the classes of Service Contract Act service employees for the initial contract and any renewal period, and the contract unit price labor rates, in the same format as set forth in the Service Contract Act determination for each class.

(b) The following clause shall be inserted in firm fixed-price contracts, time and material contracts, and labor-hour contracts which contain the clause in 12.1004(a) (i.e., contracts in excess of $2,500), and which contain an option to renew. It should be noted that the adjustments under (c)(ii) and (c)(iii) of the clause may be applicable to the base period as well as to subsequent periods. (The clause prescribed below shall not be used in cost-type contracts.)

Fair Labor Standards Act and Service Contract Act—Price Adjustment (November 1980)

(a) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(b) The minimum prevailing wage determination, including fringe benefits, issued pursuant to the Service Contract Act of 1965, as amended, (41 U.S.C. 351 et seq.), by the Administrator, Wage and Hour Division, U.S. Department of Labor, current at the beginning of each renewal option period shall apply to any renewal of this contract. When no determination has been made as applied to this contract, then the Federal minimum wage as established by Section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. 201 et seq.) current at the beginning of each renewal option period, shall apply to any renewal of this contract.

(c) When, as a result of (i) the Department of Labor determination of minimum prevailing wages and fringe benefits applicable at the beginning of the renewal option period, (ii) an increased or decreased wage determination otherwise applied to the contract by operation of law, or (iii) an amendment to the Fair Labor Standards Act enacted subsequent to award of this contract, affecting minimum wage, which becomes applicable to this contract under law, the Contractor increases or decreases wages or fringe benefits of employees working on this contract to comply therewith, the contract price or contract unit price labor rates will be adjusted to reflect such increases or decreases. Any adjustment will be limited to increases or decreases in wages or fringe benefits as described above, and the concomitant increases or decreases in social security and unemployment taxes and workmen's compensation insurance, but shall not include any amount for general and administrative costs, overhead, or profits. In firm fixed-price contracts, the adjustment will be based on labor hours specified in the Schedule for the particular option period. In Time and Material contracts and Labor-Hour contracts the contract unit price set forth in the Schedule will be adjusted.

(d) The Contractor shall notify the Contracting Officer of any increases claimed under this clause within thirty (30) days after the effective date of the wage change, unless this period is entended by the Contracting Officer in writing. In the case of any decrease under this clause, the Contractor shall promptly notify the Contracting Officer of such decrease but nothing herein shall preclude the Government from asserting a claim within the period permitted by law. The notice shall contain a statement of the amount claimed and any other relevant data in support thereof, which may reasonably be required by the Contracting Officer. Upon agreement of the parties, the contract price or contract unit price labor rates shall be modified in writing. Pending agreement on, or determination of any such adjustment and its effective date the Contractor shall continue performance.

(e) The Contracting Officer or an authorized representative shall, until expiration of three (3) years after final payment under the contract, have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor.

12.1051 Hearings. A successor contractor's obligation (see 12.1001(iii)) cannot be avoided unless it is found after a hearing that the bargained for wages and fringe benefits are substantially at variance with those which prevail for services of a character similar in the locality. Hearings may be requested by any interested party, including the contractor, a union, or the contracting agency. Details pertaining to hearings are in 29 CFR 4.10. Any request for a hearing from a NASA contracting office will be coordinated with, and forwarded to, NASA Headquarters (Code NR–31).

12.1052 Potential Application Clause. The following clause is to be included in solicitations and resulting contracts for overhaul and modification of equipment, which are considered by the contracting officer to be subject to the Walsh-Healy Public Contracts Act rather than the Service Contract Act, as amended. In paragraph (c) of the clause, "60 days" may be substituted for "30 days."

Potential Application of the Service Contract Act as amended (Fixed-Price) (November 1980)

(a) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(b) If during the performance of this contract, it is determined by appropriate authority that the provisions of the Service Contract Act of 1965, as amended, apply to any of the work covered by this contract, the Contracting Officer may unilaterally implement that determination by requiring payment of the appropriate wage and fringe benefit scale, and the Contractor agrees to comply with the implementation. If compliance with the Contracting Officer's direction results in any increase in the labor rates paid under this contract, the Contractor agrees to enter promptly into negotiations to reflect the increase. The contract adjustment shall be limited to increases in wages or fringe benefits affected by the above determination, and the concomitant increases in social security and unemployment taxes and workmen's compensation insurance, but shall not include any amount for profit, or for general administrative costs or overhead.

(c) Within 30 days of receipt of the applicable wage and fringe benefit scale, the Contractor will submit a proposal for any contract price change to the Contracting Officer. With the submission of the proposal for adjustment, the Contractor shall also submit, if requested by the Government, all necessary and pertinent data used in preparing the proposal upon which the original award of this contract was received. The Contracting Officer or an authorized representative shall have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor until the expiration of 3 years after final payment under this contract.

(d) This clause shall be deemed to constitute the exclusive contractual remedy of the Contractor for adjustment arising out of the decision to apply the Service Contract Act, as amended, to the work covered by this contract. Failure of the parties to reach an understanding as to such adjustment shall be considered a dispute subject to the Disputes clause of the contract.

12.1053 Procedures for Evaluating Professional Employee Compensation for Service Contracts.

12.1053–1 General. The Service Contract Act of 1965, as amended, was enacted to ensure that blue collar and some white collar workers are fairly compensated by contractors providing contract services to the Government. It does not apply, however, to professional employees. This paragraph provides procedures to be used when contracting for services which include a meaningful number of professional employees not covered under the Service Contract Act. These requirements augment the evaluation procedures in 3.804–2 and 3.804–3.

12.1053–2 Solicitation Provisions.

(a) To assure a consistent and uniform practice throughout the Government, the Solicitation Provisions in (e) below shall be included as evaluation requirements in solicitations for negotiated procurements in excess of $250,000, the principal purpose of which is to furnish services in the United States, which involve a meaningful number of professional employees who will be employed by the contractor in performance of the service contract.

(b) The Instructions to Offerors will be included under the appropriate explanation of the method of evaluation to be utilized so that prospective offerors may understand the use and treatment of the total compensation of professional employees in the evaluation of proposals.

(c) The weighted and scored evaluation criterion, Total Compensation Plan (Professional Employees), shall be included under the Mission Suitability Factor-Understanding the Requirement. This criterion shall be accorded sufficient weight and relative order of importance to be effective under the particular circumstances involved. In this respect, when there is a significant number of professional employees involved, and the period of performance is lengthy and the cost relatively large, or there is continuity of the same or similar services at the same location, the weight and relative importance of the criterion should be in the most important category.

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(d) The provisions relating to cost (Professional Compensation) and Other (Labor Relations) shall be included as categories under Cost Factors and Other Factors, respectively.

(e) The following provisions will be used as required in (a) above:

Provisions for Evaluation of Compensation for Professional Employees (November 1980)

Instructions to Offerors.

(a) Total compensation (salary and fringe benefits) of professional employees under service contracts may, in some cases, be lowered by recompetition of such contracts. The lowering of compensation can be detrimental in obtaining the necessary quality of professional services needed for adequate performance of service contracts. It is, therefore, in the best interest of the Government that professional employees, as defined in 29 CFR 541 be properly and fairly compensated in such contracts. As a part of their proposals, offerors will submit a "Total Compensation Plan" (salaries and fringe benefits) for professional employees for evaluation purposes.

(b) The Government will evaluate the Total Compensation Plan to assure that such compensation reflects a sound management approach and an understanding of the requirements to be performed. It will include an assessment of the offeror's ability to provide uninterrupted work of high quality. The total compensation proposed will be evaluated in terms of enhancing recruitment and retention of personnel and its realism and consistency with a total plan for compensation (both salaries and fringe benefits).

(c) Criteria for evaluation, therefore, will include an assessment of the Total Compensation Plan submitted by each offeror.

Evaluation Criteria.

(a) *Total Compensation Plan (Professional Employees).* In establishing compensation levels for professional employees, the total compensation (both salaries and fringe benefits) proposed, shall reflect a clear understanding of the requirements of the work to be accomplished and the suitability of the proposed compensation structure to obtain and retain qualified personnel to meet mission objectives. The salary rates or ranges must recognize the distinct differences in professional skills and the complexity of varied disciplines as well as job difficulty. Proposals offering total compensation levels less than currently being paid by the predecessor Contractor for the same work will be evaluated, in addition to the above, on the basis of maintaining program continuity, uninterrupted work of high quality, and availability of required competent professional employees. Offerors are cautioned that instances of lowered compensation for essentially the same professional work may be considered a lack of sound management judgement in addition to indicating a lack of understanding of the requirement.

(b) *Cost (Professional Compensation).* Proposals which are unrealistically low or do not reflect a reasonable relationship of compensation to professional job categories so as to impair the Contractor's ability to recruit and retain competent professional employees, may be viewed as reflecting a failure to comprehend the complexity of the contract requirements. The Government is concerned with the quality and stability of the work force to be employed on this contract. The compensation data required will be used in evaluation of the offeror's understanding of the contract requirements.

(c) *Other (Labor Relations).* An assessment of the potential for adverse effect upon performance and maintenance of the required number of professional employees with requisite skills resulting from an unrealistically low compensation structure will also be made.

12. 1053–3 Notice. Offerors will be advised of the Solicitation Provisions by the inclusion of the following "Notice" in a conspicuous place in the solicitation.

Notice to Offerors

Note.—The solicitation provisions relating to fair and equitable compensation to professional employees set forth elsewhere in this solicitation. Failure to comply with such provisions may constitute sufficient cause to justify non-selection of a proposal. The total compensation plan required to be submitted by the offeror will be viewed as being within the purview of Public Law 87–653.

12. 1053–4 Discussions and Administration.

(a) Although the conduct of written or oral discussions is governed by 3.804–3, NASA evaluators must insure that they fully understand the compensation plan proposed by each offeror within the competitive range, and to the extent a particular plan is either unclear or not fully substantiated, clarification shall be sought from the offeror and/or additional substantiating information shall be requested. To the extent applicable in a given situation, substantiating information will include data, such as recognized national and regional compensation surveys and studies of professional public and private organizations, used in establishing the total compensation structure.

(b) In order to provide for proper administration of the policy during contract performance, and to lend authenticity to the successful offeror's plan for compensation of professional employees, the successful offeror's plan shall be kept on file and will be viewed as being within the purview of Public Law 87–653.

[FR Doc. 80-36814 Filed 11-24-80; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5775

[Nev-047410, Nev-047411, Nev-047432, Nev-047434, Nev-047436, Nev-047437]

Nevada; Partial and Total Revocation of Stock Driveway Withdrawals

Correction

In FR Doc. 80–35728 appearing at page 75664 in the issue for Monday, November 17, 1980, make the following correction:

On page 75664, in the third column, under "Stock Driveway—Withdrawal No. 62, Nevada No. 11", in the sixth line, "S½, N½SW¼" should read "S½N½, SW¼".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80–68; RM–3213, RM–3252 and RM–3265]

FM Broadcast Stations in Lakeport and Williams, Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: This action assigns Channel 252A and Channel 258 to Lakeport, California, and Channel 298 to Williams, California, in response to petitions from Lake County Broadcasting Company, Sydney Moate and California Oregon Broadcasting, Inc.

EFFECTIVE DATE: January 2, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joaquin R. Cantu, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Report and Order

Proceeding Terminated

Adopted: November 18, 1980.
Released: November 24, 1980.

By the Chief, Policy and Rules Division:

1. The Commission has before it the *Notice of Proposed Rule Making*, adopted February 13, 1980,[1] proposing the assignment of Channel 252A and Channel 258 to Lakeport, California, and the assignment of Channel 298 to Williams, California. The *Notice* was issued in response to three petitions for rule making. The petition of Lake County Broadcasting Company ("Lake") for Channel 252A at Lakeport, is unopposed. Sydney H. Moate ("Moate") and California Oregon Broadcasting, Inc. ("COBI") filed petitions for Channel 298 at Lakeport and Williams, respectively, which were mutually exclusive due to the minimum distance separation requirements between co-channels. However, to avoid the short-spacing problem, the Commission proposed to substitute Channel 258 for Channel 298 at Lakeport. In addition, petitioner Moate was requested to submit an improved *Roanoke Rapids* showing and a preclusion study for Channel 258.

2. Lakeport, California (population 3,005) [2] is located in Lake County (Population 19,548) and is served locally by daytime-only AM Station KBLC (1270 kHz). Williams, California (population 1,571) is located in Colusa County (population 12,430), and presently has no local aural service.

3. In response to the Notice, Lake filed comments and reply comments reaffirming its interest in Channel 252A in Lakeport. COBI also filed comments reaffirming its interest in Channel 298 in Williams. Petitioner Moate responded to the *Notice* by filing comments stating that it would apply for Channel 258 if assigned to Lakeport, thus eliminating the competitive element from the assignment of Channel 298. As requested, it submitted an amended *Roanoke Rapids* showing, with population figures that were revised upwards by using more recent counts and with overlapping signal contours that were corrected for terrain shielding. Those figures indicate that a first FM service would be provided to 30,000 persons (the amount of second FM service to be provided remains unclear). Petitioner Moate estimated that 22,000 persons would receive a first nighttime aural service and that 11,000 persons would receive a second nighttime aural service. It also submitted the requested preclusion study for Channel 258, which indicated that preclusion would be caused to some communities with a population exceeding 1,000 persons on Channels 256, 257A and 258. That study further indicated that all such communities have existing and/or available FM channel assignments.

4. After careful review, the Commission has concluded that adoption of the proposal here would serve the public interest. Our decision to assign Class B channels at each community is strongly influenced by the substantial first and second services that would be obtained. In addition, there is a need for at least a first FM assignment in both Williams and Lakeport. Although intermixture of classes of channels will result at Lakeport, the Class A proponent has interposed no objection and this situation is no different than the usual case where Class A assignments are approved to a community already served by a Class B or C channel. See *e.g., Yakima, Washington*, 42 FCC 2d 548 (1973), *Key West, Florida*, 45 FCC 2d 142 (1974). It should be noted that Channel 258 will be assigned to Lakeport with a site restriction of 20 kilometers (12 miles) northwest and that Channel 298 will be assigned to Williams with a site restriction of 22 kilometers (13.6 miles) northwest.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, IT IS ORDERED, That effective January 2, 1981 the FM Table of Assignments, Section 73.202(b) of the Commission's Rules is amended as they pertain to Williams, and Lakeport, California, as follows:

City	Channel No.
Lakeport, Calif.	252A, 258
Williams, Calif.	298

6. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

7. For further information concerning this proceeding contact Joaquin R. Cantu, Broadcast Bureau, (202) 632–9660.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-36736 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80–71; RM–3294]

FM Broadcast Station in Bettendorf, Iowa; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: Action taken herein assigns FM Channel 228A to Bettendorf, Iowa, in response to a petition filed by James J. McNamara. The assigned channel could provide Bettendorf with it first local aural broadcast service.

EFFECTIVE DATE: December 26, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Report and Order

Proceeding Terminated

Adopted: November 10, 1980.
Released: November 21, 1980.

By the Chief, Policy and Rules Division:

1. The Commission has under consideration the *Notice of Proposed Rule Making*, 45 FR 13144, published February 28, 1980, proposing the assignment of FM Channel 228A to Bettendorf, Iowa, as its first FM assignment, in response to a petition filed by James J. McNamara ("petitioner"). Supporting comments were filed by the petitioner in which he reaffirmed his intent to apply for the channel, if assigned.

2. Bettendorf (pop. 25,100) [1] seat of Scott County (pop. 142,687) is located in eastern Iowa on the Mississippi River. It has no local aural broadcast service.

3. Petitioner asserts that Bettendorf, as the county's second largest city is an integral part of the Quad-City metropolitan area, and the center of commerce and civic affairs. The channel assignment would provide for substantial expansion of the economic, cultural and social activities.

4. In view of the above, the Commission believes that the public interest would be served by assigning Channel 228A to Bettendorf, Iowa, since it would provide the community with an opportunity for a first local aural broadcast service.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, it is ordered, that effective December 26, 1980, the FM Table of Assignments (Section 73.202(b) of the Commission's Rules) is amended with regard to the community listed below:

[1] Population figures are taken from the 1970 U.S. Census.

[2] Population figures are taken from the 1970 U.S. Census.

[1] Published in the **Federal Register** at 45 Fed. Reg. 13148 on February 28, 1980.

City	Channel No.
Bettendorf, Iowa	228A
Anaconda, Mont.	257A

2. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

3. For further information concerning this proceeding contact Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-36737 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 87

[PR Docket No. 80–137; RM–3429; FCC 80–

Anaconda, Montana. The proposal was adopted in response to a petition filed by Robert Cooper ("petitioner"). Supporting comments were filed by the petitioner in which he reaffirmed his intent to apply for the channel, if assigned.

2. Anaconda (pop. 12,518) [1] seat of Deer Lodge County (pop. 10,356) is located in western Montana. It has no local aural broadcast service.

3. Petitioner asserts that Anaconda, as the county's largest city is an integral part of the Butte-Anaconda metropolitan area, and the center of commerce and civic affairs. The channel assignment would provide for substantial expansion of the economic, cultural and social activities.

4. In view of the above, the Commission believes that the public interest would be served by assigning Channel 257A to Anaconda, Montana, since it would provide the community with an opportunity for a first local aural broadcast service.

5. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, it is ordered, that effective December 26, 1980, the FM Table of Assignments (Section 73.202(b) of the Commission's Rules) is amended with regard to the community listed below:

City	Channel No.
Anaconda, Mont.	257A

6. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

7. For further information concerning this proceeding contact Joaquin R. Cantu, Broadcast Bureau, (202) 632–9660.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-36738 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 87

[PR Docket No. 80–137; RM–3429; FCC 80–

[1] Population figures are taken from the 1970 U.S. Census.

its ultimate decision in television Table of Assignment cases. Furthermore, it

examination by the Commission's technical staff, that the interference-limited service areas of Channel 2 and

City	Channel No.
Bettendorf, Iowa	E25A

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-36735 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-13; RM-3173]

TV Broadcast Stations in Anaconda, Butte, and Bozeman, Mont.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule (Report and Order).

SUMMARY: This action deletes reserved VHF television Channel *7 from Butte, Montana and reassigns it to Bozeman, Montana, as that community's first local commercial television assignment. It also reassigns VHF television Channel 2 from Anaconda, Montana to Butte, Montana as a reserved noncommercial educational channel.

EFFECTIVE DATE: January 2, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joaquin R. Cantu, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Report and Order

Proceeding Terminated

Adopted: November 18, 1980.

Released: November 26, 1980.

By the Chief, Policy and Rules Division:

1. The Commission has before it the *Notice of Proposed Rule Making*,[1] adopted January 16, 1980, proposing the reassignment of VHF television Channel 7 from Butte to Bozeman, Montana, the substitution of VHF Channel 2 for VHF Channel *7 in Butte, Montana and the deletion of VHF Channel 2 from Anaconda, Montana. The proposal was adopted in response to a petition filed by Robert Cooper ("petitioner"). Comments were submitted by petitioner. Opposing comments were received from Capital City Television, Inc. ("CCTV"), licensee of television Station KTCM, Channel 12, Helena, Montana; the Rocky Mountain Corporation for Public Broadcasting ("RMCPB"); and the Governor of the State of Montana, Thomas L. Judge. Reply comments were submitted by petitioner and CCTV.

2. The *Notice* proposed the reassignment of Channel *7 from Butte, Montana (where it is reserved for noncommercial educational use but unoccupied) to Bozeman, Montana, as a first local commercial television assignment. Further proposed was the deletion of Channel 2 from Anaconda, Montana (where it is unoccupied) and its reassignment to Butte, as a channel reserved for noncommercial educational use. In issuing the proposal for comment, the Commission attempted to respond both to concerns expressed over the possible loss of a noncommercial service to Butte and the State of Montana, as well as to an expressed interest in providing a first local commercial service at Bozeman. Petitioner Robert Cooper submitted the only comments in support of the proposal set forth in the *Notice of Proposed Rule Making*.

3. In opposition to the proposal, CCTV, whose comments indicate that is has filed an application for a 100 watt translator facility (BPTTV-80040IIC) specifying Channel 2 in Anaconda, suggests that petitioner's desire for a VHF commercial channel assignment in Bozeman could be met by removing the reservation for noncommercial educational use from the current Channel *9 Bozeman assignment. In that way, CCTV argues, Channel *7 could remain in Butte, satisfying the area's educational interests, and Channel 2 could remain in Anaconda. Moreover, Bozeman's future noncommercial educational needs could be met. CCTV urges, by adding a reserved UHF channel.

4. Governor Judge and RMCPB object to the proposed substitution of Channel 2 for Channel *7 at Butte, indicating that because of interference, Channel 2 is not as desirable a channel. Several letters[2] attached to Governor Judge's comments also make this claim, but, as with all the comments, no engineering studies are included to support it.

5. As the Commission sees it, two issues must be resolved in this proceeding. First, should provision for a 100 watt VHF translator station at Anaconda be given greater weight than provision for a noncommercial educational VHF channel assignment at Bozeman? CCTV argues that petitioner should have taken into account the possibility of removing the noncommercial educational reservation from the existing Bozeman VHF assignment (Channel *9). But petitioner should not be faulted for this failure inasmuch as the commission has scrupulously avoided requiring such action.[3] Indeed, the Commission has, over the years, developed a policy of resisting proposals to dereserve channels, especially where, as here, a comunity would be left without the means by which to meet the anticipated need for noncommercial educational television service. In this regard, the Commission notes Bozeman's emergence as one of Montana's major markets. Moreover, although the CCTV proposal provided that a UHF channel should be added to Bozeman to replace a dereserved Channel 9, the Commission does not believe that a UHF channel reservation for noncommercial educational use, in a state having no present UHF service, would be a particularly attractive alternative.

6. CCTV further asserts that its proposal is superior because it would enable CCTV to operate a 100 watt commercial VHF translator station at Anaconda. However, section 74.702(c)(3) of the Commission's Rules specifically provides that "[c]hanges in the television Table of Assignments (Section 73.606(b) of this chapter) may be made without regard to existing or proposed television broadcast translator stations." Pursuant to this rule, the Commission has in the past elected not to permit the existence, or proposed existence, of translator stations—so called "secondary" services—to affect its ultimate decision in television Table of Assignment cases. Furthermore, it should be noted that a rejection of CCTV's proposal would not leave it without recourse; it could, for example, seek Commission authorization to construct and operate a 10 watt VHF translator facility in Anaconda, for which a vacant channel assignment is not necessary.[4]

7. In view of the foregoing, it is the Commission's opinion that the need for providing a noncommercial educational channel assignment at Bozeman substantially outweighs the need for a 100 watt translator facility at Anaconda. We therefore find that the public interest would be better served by preserving the noncommercial educational designation for VHF Channel *9 at Bozeman, rather than dereserving it for commercial use, as proposed by CCTV.

8. The second issue involves the problem of comparing the need in Bozeman for a first local commercial VHF channel assignment against the possibility that a Channel 2 Butte educational assignment would be less effective that a Channel 7 assignment in providing service to Butte (and ultimately to the entire State of Montana). The Commission believes that the need for the channel assignment at Bozeman is clear and undisputed. The community presently has only an inactive noncommercial channel (*9) allocated to it, and receives no Grade A television service from outside the community. Its growth into one of the major markets in the State of Montana is also uncontested.

9. On the other hand, it is not so clear that a Channel 2 Butte assignment would be less effective in providing the desired service. Opponents of the proposed amendments to the Table of Assignments have come forward with no information to substantiate their claim that a Channel *2 Butte assignment would be inferior to a Channel *7 Butte assignment. Moreover, even if some reliable information had been forthcoming, the Commission has never elevated a noncommercial educational television service to a status where it would merit a "clear channel" to avoid the possibility of interference.[5] Nor does it appear, from an examination by the Commission's technical staff, that the interference-limited service areas of Channel 2 and Channel 7 would be significantly different. Although the existence of rough terrain (such as the terrain in western Montana) does increase the difficulty of calculating interference, it is far from obvious to the Commission that a Channel 2 Butte station would be inferior. Indeed, it may well be that a Channel 2 station would enable Butte to serve a slightly larger area.

10. In any event, even if information had been submitted demonstrating the technical inferiority of a Channel 2 assignment at Butte, it would also have been necessary to demonstrate that the difference was great enough to outweigh the possible benefits of a first local commercial station at Bozeman. But, having been provided with no information to support the claim that a Channel *2 Butte assignment would be inferior to a Channel *7 Butte assignment, and having found no such information on our own investigation, the Commission must conclude that any actual difference is not sufficient to outweigh the benefits of a first local commercial channel assignment at Bozeman.

11. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules, it is ordered, that effective January 2, 1981, the Television Table of Assignments, Section 73.606(b) of the Commission's Rules, is amended for the cities listed below to delete the listing for Anaconda, Montana and to read as follows:

City	Channel No.
Bozeman, Mont	7-, *9
Butte, Mont	*2+, 4, 6+, 18, 24

12. It is further ordered that this proceeding is terminated.

13. For further information concerning this proceeding, contact Joaquin R. Cantu, Broadcast Bureau, (202) 632-9660.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-36737 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

[1] 45 FR 6124 (published January 25, 1980).

[2] These include letters by Elizabeth L. Hurley, Chairman of the Montana Telecommunications Advisory council; Thomas W. Jenkins, chief Engineer, Department of fiber and television Production, Montana State University; and Gregory S. MacDonald, Acting Chairman, Radio-Television Department, University of Montana.

[3] See for example, *Ogden, Utah*, 44 Fed. Reg. 25252, April 30, 1979; *Kalamazoo, Michigan*, 44 Fed. Reg. 67667, November 27, 1979; *High Point, North Carolina*, 44 Fed. Reg. 67665, November 27, 1979; *Vancouver, Washington*, 45, Fed. Reg. 10346, February 15, 1980.

[4] In this regard, a preliminary investigation by the Commission's technical staff indicates that an appropriately located 10 watt facility may adequately serve Anaconda.

[5] Even Butte's Channel 7 assignment would be predicted to receive interference from Station KPAX-TV, Channel 8, Missoula, Montana (165 kilometers (102 miles) northwest of Butte) and possibly also from KTVB, Channel 7, Boise, Idaho (383 kilometers (238 miles) southwest of Butte).

47 CFR Part 87

[PR Docket No. 80-137; RM-3429; FCC 80-637]

Aviation Services; Automatic Digital Communications in the Aeronautical Enroute Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action will amend the rules to facilitate the operation of automatic digital communications systems in the aeronautical enroute service. This action was requested by Aeronautical Radio, Inc., which is a non-profit communications company owned by the air transport industry. The intended effects are more efficient use of radio frequencies and improved airline operations.

EFFECTIVE DATE: December 26, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert H. McNamara, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Report and Order

Adopted: November 6, 1980.

Released: November 20, 1980.

By the Commission:

1. This action will amend the Commission's rules to facilitate the operation of automatic digital communications systems in the aeronautical enroute service.

Background

(Aeronautical Enroute Service)

2. The aeronautical enroute service provides for air-ground communications for the operational control (i.e., flight management) of aircraft by the owners or operating companies.[1] Communications relate to the safe and efficient operation of aircraft. Typical messages concern aircraft position reports, performance, fuel, weather, supplies, passenger needs and the like.

[1] Operational control communications are defined in Volume II of Annex 10 to the Convention on International Civil Aviation as communications required for exercising authority over initiation, continuation, diversion or termination of a flight. In other words, such communications are used by an organization to directly manage its aircraft operations.

These operational control communications should not be confused with air traffic control communications which relate to the safe, and orderly flow of air traffic, i.e., provide safe separation of aircraft. In the United States, air traffic control services are provided by the Federal Aviation Administration (FAA).

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Public correspondence is not permitted on enroute frequencies.

3. Aeronautical enroute stations (ground stations) are the means by which companies satisfy FAA requirements to maintain reliable communications between each aircraft and the appropriate dispatch office in the case of large airlines, or maintain flight following systems in the case of small airlines and large commercial aircraft operations (14 CFR 121.99 and 121.125, respectively).

4. The Commission's rules governing enroute stations are set forth in Subpart E of Part 87 (Aviation Services). These Stations are required to ". . . provide all necessary non-public service HF and VHF, . . . without discrimination to any aircraft station licensee who makes cooperative arrangements for the operation and maintenance of the aeronautical enroute stations which are to furnish such service and for shared liability in the operation of such stations. . . ." [2] Further, only one enroute station in the domestic service and one such station in the international service may be authorized at any one location. [3] Location for the purposes of this rule is defined as an area which can be adequately served by the particular station.

(Aeronautical Radio, Inc.)

5. Aeronautical Radio, Inc. (ARINC) is the licensee of all but a half dozen of the more than 2500 VHF and HF enroute stations located throughout the United States, and serves the air transport industry on a non-profit, cost-sharing basis. The principal users of its system as well as principal stockholders are the U.S. scheduled airlines. However, ARINC provides enroute service to all aircraft operators, including foreign airlines, business entities and private individuals, who make cooperative arrangements.

(Petition)

6. ARINC filed a petition (RM–3429) requesting that we amend Part 87 of the rules to change existing regulations so as to facilitate the operation of automatic digital communications systems in the aeronautical enroute service. ARINC has developed, in cooperation with the aviation industry, an automatic digital communications system. [4] The system was described as consisting of digital message generating and decoding equipment located at selected ground facilities and on board aircraft together with the usual VHF transmitters and receivers. The communications are generated by airborne sensors, transmitted digitally to a ground station and sent automatically via ARINC's electronic switching system to the addressed terminal. Human intervention is unnecessary.

7. ARINC stated that its system will intially operate on a single frequency for both air-to-ground and ground-to-air. Expansion to a second frequency in the enroute band may be desirable in the future. It will utilize audio phase shift keying transmitting 2400 bits per second of ASCII encoded data. The use of audio phase and frequency shift keying in the band (117.975–136 MHz) is currently provided for in Section 87.67 of the rules. (All equipment new or existing must be type accepted to provide for this emission designator.)

8. ARINC indicated that an automated digital communications system in the enroute service would provide two important benefits for the public and air transport industry. First, it would conserve spectrum by reducing the time to make routine reports. Second, airline operations would be improved by reducing cockpit workloads (i.e., eliminating many routine voice reports) and increasing the reliability of the reported information.

9. According to ARINC, extensive operational testing of its system has demonstrated its feasibility, but has also pointed out changes required in Commission's rules to provide a basis for regular operation of automatic digital systems in the enroute service. Therefore, ARINC requested the rules be amended regarding (1) the form of station identification, (2) the necessity for licensed operators at control points, (3) the maintenance of station logs and (4) transmitter control requirements.

Notice of Proposed Rule Making

10. In response to ARINC's petition, we issued a Notice of Proposed Rule Making [5] which proposed to amend the rules substantially as requested by ARINC. These amendments were designed to accommodate the operation of a computer controlled digital communications system in what is presently a voice communciations system. Changes to four rule sections in Part 87 were proposed.

11. First, we proposed to specifically include automatically controlled digital aeronautical enroute stations within the category of radio systems exempted in Section 87.115(i) from station identification requirements. Section 87.115(i) exempts certain radio systems from transmission of identification where impracticable (e.g., weather radar, radio altimeter, air traffic control transponder). We felt station identification of this automatic digital system would not be necessary. However, we noted that if in the future such systems proliferate in the Aviation or other services some form of station identification may be required.

12. Second, we proposed to amend Section 87.139 to provide that licensed operators would not be required to operate automatically controlled digital enroute stations. In that the ARINC system is computer controlled and incorporates circuitry to prevent interference and excessively long transmissions as well as malfunction alarm circuits, we felt that the presence of a licensed operator at the control point is unnecessary.

13. Third, we proposed to exempt such enroute stations from the requirement contained in Section 87.99 to maintain an operator's station log. Since the ground terminals will be automatically controlled by a computer, an operator's station log would also be unnecessary. We noted, however, that ARINC for its own purposes keeps records of the hours of operation, messages transmitted and operational status of stations. Additionally, the FAA's requirements (contained in 14 C.F.R. 121.711) regarding the retention of records relating to any emergency, claim or complaint will be complied with. Therefore, we take this opportunity to eliminate entirely the log keeping requirement in the enroute service.

14. Fourth, we proposed exempting automatic digital enroute stations from the requirements contained in Section 87.75 for: (1) a licensed operator at a "control point", (2) a visual indication when the transmitter is radiating, and (3) equipment to permit aural monitoring of transmissions. Again, since these stations will be computer controlled and typical digital transmissions will last less than one second, such requirements designed for voice communications systems appeared unnecessary.

15. Additionally, we noted that the spectrum efficiency (less than 0.1 bit per second per Hertz) of the system ARINC plans to operate might not be optimum. Although this system represents a significant increase in the efficiency of enroute communications, we asked for comments addressing more spectrally efficient modulation or encoding techniques which could increase spectrum efficiency.

Comments

16. ARINC was the only party that filed comments in this proceeding. ARINC agrees with each of the proposed amendments to Part 87 of the rules and urges that they be adopted as set forth in the NPRM.

17. ARINC also commented regarding our inquiry as to possible improvements in the ACARS modulation scheme. [6] ARINC states that along with the airlines and equipment manufacturers it has designed and implemented what it considers an efficient and effective communications system, and that changes in design now would negate years of planning and render obsolete an improved service which has just been successfully tested.

18. ARINC further argues that what it considers the success of the air transport industry in meeting its communications needs within the relatively limited aeronautical enroute spectrum has been long range industry planning. ARINC works closely with the air transport industry and equipment manufacturers through its Aeronautical Frequency Committee (AFC) and its Airline Electronic Engineering Committee (AEEC). [7] This process is designed to ensure smooth transitions to new systems at the least cost. ARINC states that together with AFC and AEEC, work is continuing on improved communications systems for future implementation. It emphasizes, however, that changes in the technical operation of its automatic digital enroute service would disrupt implementation and put off realization of the system's benefits for a period of years.

Commission Action

19. We conclude that the amendments proposed in the NPRM to facilitate the operation of automatic digital communications systems in the aeronautical enroute service would be in the public interest. No comments were filed in opposition to the proposed amendments. The system proposed will increase spectrum efficiency and will benefit air transport operations by reducing cockpit workloads and increasing the reliability of communications. It is important to note that such increased efficiency can be achieved with no increased spectrum requirements. Because of this the relatively low bit-rate per hertz of the new system is acceptable. We recognize that more spectrally efficient modulation techniques could not be applied to the ARINC system at this time without substantial delays in implementation. This would not be desirable. However, any further improvements such as an increased bit-rate might well be required before the allocation of additional spectrum would be justified. Therefore, we are amending Sections 87.75, 87.99, 87.115 and 87.139 as proposed.

20. Regarding questions on matters covered in this document contact Robert McNamara (202) 632–7175.

21. Accordingly, IT IS ORDERED, That, under the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, the Commission's rules ARE AMENDED as set forth in the attached Appendix, effective December 26, 1980.

22. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303)

FEDERAL COMMUNICATIONS COMMISSION.

William J. Tricarico,

Secretary.

Appendix

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 87.75, the introductory sentence of paragraphs (c) and (d) are amended and new paragraph (f) added to read as follows:

§ 87.75 Transmitter control requirements.

* * * * * *

(c) Except for stations governed by paragraph (f), a control point is a position which meets all of the following conditions: * * *

(d) Except for stations governed by paragraph (f), at each control point the following facilities shall be installed:

* * * * * *

(f) In the aeronautical enroute service, the control point for an automatically controlled enroute station shall be the computer facility which controls the transmitter. Each such computer facility shall be installed and protected so that is is not accessible to or capable of operation by persons other than those duly authorized by the licensee. Any transmitter controlled by such a computer facility shall be equipped with automatic controls to render the transmitter inoperative following a continuous transmission of more than 180 seconds.

2. In § 87.99, the first sentence of paragraph (a) is amended to read as follows:

§ 87.99 Information required in station logs.

(a) Except for radionavigation land test stations (MTF) and aeronautical enroute stations, all stations at fixed locations shall maintain logs showing hours of operation, frequencies used and hours of duty and the signature of the operator(s) on duty. * * *

* * * * * *

3. In § 87.115 paragraph (i) is amended by adding the words "automatically controlled aeronautical enroute station" at the end of the paragraph, to read as follows:

§ 87.115 Station identification.

* * * * * * *

(i) Radio systems where the transmission of specific identification is considered to be impracticable are exempted from the provisions of this section: I.E., airborne weather radar, radio altimeter, air traffic control transponder, distance measuring equipment, collision avoidance equipment, racon, radiosonde, radio relay, radionavigation land test station (MFT), and automatically controlled aeronautical enroute station.

* * * * * *

In § 87.139, new subparagraph (a)(4) is added to read as follows:

§ 87.139 Operator licenses not required for certain operations.

(a) * * *

(4) Operation of any aeronautical enroute station which transmits by automatic means digital communications to aircraft stations.

* * * * * *

[FR Doc. 80–36705 Filed 11–24–80; 8:45 am]

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[2] 47 C.F.R. 87.291(a)

[3] 47 C.F.R. 87.291(b). However, in the *Notice of Proposed Rule Making* in PR Docket No. 80–243, (adopted May 29, 1980, FCC 80–284, 45 Fed. Reg. 40188 we proposed, among other things, to substitute one *licensee* per location for the current one *station* per location. This is part of an effort to simplify and clarify the enroute rules.

[4] The system is known as the ARINC Communications Addressing and Reporting System (ACARS). ACARS is a registered service mark.

[5] PR Docket No. 80–137 (RM–3429) released April 10, 1980, FCC 80–194, 45 Fed. Reg. 25415; Errata, released May 5, 1980, mimeo 27363, 45 Fed. Reg. 31765.

[6] 31 F.C.C. 2d 193.

[7] ARINC indicates that AFC includes representatives of twelve airlines, the Commuter Airline Association of America, the Helicopter Association of America, the Aircraft Owners and Pilots Association, and the National Business Aircraft Association. AEEC is larger and has worldwide participation. Attendance at the final drafting session of AEEC Characteristic 597, which sets out the airborne system specifications for ACARS, included representatives of ARINC, twelve airlines (including one European airline), six manufacturers, the Department of Transportation, and the United States Air Force.

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INTERSTATE COMMERCE COMMISSION

49 CFR Part 1014

[Ex Parte No. 366]

Legal Assistance Referral Service

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Informal Conference on reopening and reconsideration of Final Rules.

SUMMARY: This notice invites members of the public to participate in an informal conference to discuss the reconsideration of regulations to facilitate the operation of a legal assistance referral program for parties otherwise financially unable to participate in Commission proceedings. This implements the Commission's decision of October 10, 1980 in this proceeding, which granted a petition requesting an informal conference to discuss parts of the Commission's regulations which are in question.

DATE: Wednesday, December 17, 1980, at 9:30 a.m.

ADDRESS: Conference location: Interstate Commerce Commission, 12th St. and Constitution Ave., N.W., Washington, D.C. 20423 (Hearing Room A).

FOR FURTHER INFORMATION CONTACT: Director Gary J. Edles or Associate Director Michael Erenberg, 202–275–7513.

SUPPLEMENTARY INFORMATION: The Commission established rules in the proceeding at 45 FR 20104, March 27, 1980, and corrected at 45 FR 22945, April 4, 1980. The rules govern Commission participation in the Legal Assistance Referral Service, a one-year trial program of the CLCR.

In its order of October 10, 1980, the Commission adopted a suggestion to establish an informal conference whereby interested practitioners could meet with Commission representatives to discuss the establishment of a legal assistance program which would allow the Commission and its bar to achieve the most out of this potentially worthwhile program. I have been directed to chair such a conference. To achieve this goal an informal conference will be held on Wednesday, December 17, 1980, at 9:30 a.m., in Hearing Room A at the Commission's headquarters in Washington, D.C.

Representing the Commission at the conference will be staff members involved in developing the rules necessary to implement any program which may be instituted.

Persons wishing to attend and participate in this discussion should advise me by telephone at least one week prior to the conference. However, the conference will be open to all. Organizations with common views should attempt to agree on a single spokesperson.

By the Commission, Gary J. Edles, Director, Office of Proceedings.

Dated: October 27, 1980.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36772 Filed 11-24-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[Thirteenth Rev. S. O. No. 1473]

Various Railroads Authorized To Use Tracks and/or Facilities of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee)

November 19, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Thirteenth Revised Service Order No. 1473.

SUMMARY: Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, this order authorizes various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), and to use such tracks and facilities as are necessary for operations. This order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

EFFECTIVE: 12:01 a.m., November 22, 1980, and continuing in effect until 11:59 p.m., March 31, 1981, unless otherwise modified, amended or vacated by order of this Commission.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr., (202) 275–7840.

Pursuant to Section 122 of the Rock Island Transition and Employee Assistance Act, Pub. L. 96–254, the Commission is authorizing various railroads to provide interim service over Chicago, Rock Island and Pacific Railroad Company, Debtor, (William M. Gibbons, Trustee), (RI) and to use such tracks and facilities as are necessary for that operation.

In view of the urgent need for continued service over RI's lines pending the implementation of long-range solutions, this order permits carriers to continue to provide service to shippers which would otherwise be deprived of essential rail transportation.

Thirteenth Revised Service Order No. 1473 modifies Appendix A of the previous order by clarifying Item 6.A., with respect to the operation of the Fort Worth and Denver Railway Company (FWD) between Amarillo and Bushland, Texas. The authority of the FWD was incorrectly stated in Ninth Revised Service Order No. 1473, served September 18, 1980, as at Amarillo and at Bushland inadvertently omitting the segment between those points. The authority of the FWD to serve between Amarillo and Bushland is held to be continuous since that date. The authority of the FWD is modified further by the deletion of Item 6.C., from Amarillo, Texas, to Liberal, Kansas, including the trackage rights of the former RI over the Atchison, Topeka and Santa Fe Railway Company (ATSF) between Amarillo and Etter, Texas. ATSF has stipulated that these trackage rights no longer exist. This action is taken without prejudice to future filings by FWD with respect to interim operations or applications for acquisition and does not intend to reflect on the adequacy of service provided by FWD in its various interim operations. Thirteenth Revised Service Order No. 1473 further modifies Appendix A of the previous order by granting additional authority in Item 24.B., to the La Salle and Bureau County Railroad Company from Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8) at Blue Island, Illinois.

Thirteenth Revised Service Order No. 1473 is further modified by incorporating the provisions of Third Revised Service Order No. 1435 into this order and its appendix as Appendix B. This provides for joint operation by various other railroads of RI owned tracks and/or facilities at numerous locations. The use of these tracks and/or facilities is essential to the continued operations of the other railroads.

It is the opinion of the Commission that an emergency exists requiring that the railroads listed in the attached appendices be authorized to conduct operations using RI tracks and/or facilities; that notice and public procedure are impracticable and contrary to the public interest; and good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1473 Service Order No. 1473.

(a) *Various railroads authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company, debtor, (William M. Gibbons, trustee).* Various railroads are authorized to use tracks and/or facilities of the Chicago, Rock Island and Pacific Railroad Company (RI), as listed in Appendix A to this order, in order to provide interim service over the RI; and as listed in Appendix B to this order, to provide for continuation of joint or common use facility agreements essential to the operations of these carriers as previously authorized in Service Order No. 1435.

(b) The Trustee shall permit the affected carriers to enter upon the property of the RI to conduct service as authorized in paragraph (a).

(c) The Trustee will be compensated on terms established between the Trustee and the affected carrier(s); or upon failure of the parties to agree as hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by Section 122(a) Pub. L. 96–254.

1. The authority contained in Item 5(E) of Appendix A of this order, previously operated by the Union Pacific Railroad Company (UP) between Colby and Caruso, Kansas (milepost 387.8 to 429.3) is conditioned upon the assumption by Burlington Northern, Inc. (BN) of the negotiated agreement between UP and the Rock Island Trustee with regard to the compensation to be paid the Trustee for that line segment until a new agreement is reached between the Trustee and the BN.

(d) Interim operators, authorized in Appendix A to this order, shall, within fifteen (15) days of its effective date, notify the Railroad Service Board of the date on which interim operations were commenced or the expected commencement date of those operations.

(e) Interim operators, authorized in Appendix A to this order, shall, within thirty days of commencing operations under authority of this order, notify the RI Trustee of those facilities they believe are necessary or reasonably related to the authorized operations.

(f) During the period of the operations over the RI lines authorized in paragraph (a), operators shall be responsible for preserving the value of the lines, associated with each operation, to the RI estate, and for performing necessary maintenance to avoid undue deterioration of lines and associated facilities.

(1) In those instances where more than one railroad is involved in the joint use of RI tracks and/or facilities described in Appendix B, one of the affected carriers will perform the maintenance and have supervision over the operations in behalf of all the carriers, as may be agreed to among themselves, or in the absence of such agreement, as may be decided by the Commission.

(g) Any operational or other difficulty associated with the authorized operations shall be resolved through agreement between the affected parties or, failing agreement, by the Commission's Railroad Service Board.

(h) Any rehabilitation, operational, or other costs related to the authorized operations shall be the sole responsibility of the interim operator incurring the costs, and shall not in any way be deemed a liability of the United States Government.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(j) *Rate applicable.* Inasmuch as the operations described in Appendix A by interim operators over tracks previously operated by the RI are deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via RI, until tariffs naming rates and routes specifically applicable become effective.

(1) The operator under this temporary authority will not be required to protect transit rate obligations incurred by the RI or the directed carrier, Kansas City Terminal Railway Company, on transit balances currently held in storage.

(k) In transporting traffic over these lines, all interim operators described in Appendix A shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to that traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between the carriers; or upon failure of the carriers to so agree, the divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(l) To the maximum extent practicable, carriers providing service under this order shall use the employees who normally would have performed the work in connection with traffic moving over the lines subject to this Order.

(m) *Effective date.* This order shall become effective at 12:01 a.m., November 22, 1980.

(n) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., March 31, 1981, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under the authority of 49 U.S.C. 10304, 10305, and Section 122, Pub. L. 96–254.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and William F. Sibbald, Jr.

Agatha L. Mergenovich,

Secretary.

Appendix A.—RI Lines Authorized To Be Operated by Interim Operators

1. *Louisiana and Arkansas Railway Company (L&A):*
   - A. Tracks one through six of the Chicago, Rock Island and Pacific Railroad Company's (RI) Cadiz yard in Dallas, Texas, commencing at the point of connection of RI track six with the tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) in the southwest quadrant of the crossing of the ATSF and the Missouri-Kansas-Texas Railroad Company (MKT) at interlocking station No. 19.
2. *Peoria and Pekin Union Railway Company (P&PU):* All Peoria Terminal Railroad property on the east side of the Illinois River, located within the city limits of Pekin, Illinois.
3. *Union Pacific Railroad Company (UP):*
   - A. Beatrice, Nebraska.
   - B. Approximately 36.5 miles of trackage extending from Fairbury, Nebraska, to RI Milepost 581.5 north of Hallam, Nebraska.
   - C. Limon, Colorado.
4. *Toledo, Peoria and Western Railroad Company (TP&W):*
   - A. Keokuk, Iowa.
   - B. Peoria Terminal Company trackage from Hollis to Iowa Junction, Illinois.
5. *Burlington Northern, Inc. (BN):*
   - A. Burlington, Iowa (milepost 0 to milepost 2.06).
   - B. Fairfield, Iowa (milepost 275.2 to milepost 274.7).
   - C. Henry, Illinois (milepost 126) to Peoria, Illinois (milepost 164.35) including the Keller Branch (milepost 1.55 to 8.62).
   - D. Phillipsburg, Kansas (milepost 282) to CBQ Junction, Kansas (milepost 325.9).
   - E. CBQ Junction, Kansas (milepost 325.9) to Seibert, Colorado (milepost 487).
6. *Fort Worth and Denver Railway Company (FW&D):*
   - [1]A. from Amarillo to Bushland, Texas, including terminal trackage at Amarillo, and approximately (3) three miles northerly along the old Liberal Line.

[1] Changed.

B. North Fort Worth, Texas (milepost 603.0 to milepost 611.4).

7. *Chicago and North Western Transportation Company (C&NW):*
A. from Minneapolis-St. Paul, Minnesota, to Kansas City, Missouri.
B. from Rock Junction (milepost 5.2) to Inver Grove, Minnesota (milepost 0).
C. from Inver Grove (milepost 344.7) to Northwood, Minnesota.
D. from Clear Lake Junction (milepost 191.1) to Purina, Iowa (milepost 147.0).
E. from Short Line Junction Yard (milepost 354) to West Des Moines, Iowa (milepost 364).
F. from Short Line Junction (milepost 73.6) to Carlisle, Iowa (milepost 64.7).
G. from Carlisle (milepost 64.7) to Allerton, Iowa (milepost 0).
H. from Allerton, Iowa (milepost 363) to Trenton, Missouri (milepost 415.9).
I. from Trenton (milepost 415.9) to Air Line Junction, Missouri (milepost 502.2).
J. from Iowa Falls (milepost 97.4) to Esterville, Iowa (milepost 206.9).
K. from Bricelyn, Minnesota (milepost 57.7) to Ocheyedan, Iowa (milepost 246.7).
L. from Palmer (milepost 454.5) to Royal, Iowa (milepost 502).
M. from Dows (milepost 113.4) to Forest City, Iowa (milepost 158.2).
N. from Cedar Rapids (milepost 100.5) to Cedar River Bridge, Iowa (milepost 96.2) and to serve all industry formerly served by the RI at Cedar Rapids.
O. from Newton (milepost 330.5) to Earlham, Iowa (milepost 388.6).
P. Sibley, Iowa.
Q. Worthington, Minnesota.
R. Altoona to Pella, Iowa.
S. Carlisle, Indianola, Iowa.
T. Omaha, Nebraska (between milepost 502 to milepost 504).
U. Earlham (milepost 388.6) to Dexter, Iowa (milepost 393.5).

8. *Chicago, Milwaukee, St. Paul and Pacific Railroad Company (Milwaukee):*
A. from West Davenport, through and including Muscatine, to Fruitland, Iowa, including the Iowa-Illinois Gas and Electric Company near Fruitland.
B. Washington, Iowa.
C. from Newport, to a point near the east bank of the Mississippi River, sufficient to serve Northwest Oil Refinery, at St. Paul Park, Minnesota.

9. *Davenport, Rock Island and North Western Railway Company (DRI):*
A. Davenport, Iowa.
B. Moline, Illinois.
C. Rock Island, Illinois, including 26th Street yard.
D. from Rock Island through Milan, Illinois, to a point west of Milan sufficient to include service to the Rock Island Industrial complex.
E. from East Moline to Silvis, Illinois.
F. from Davenport to Iowa City, Iowa.
G. from Rock Island, Illinois, to Davenport, Iowa, sufficient to include service to Rock Island arsenal.

10. *Illinois Central Gulf Railroad Company (ICG):* Ruston, Louisiana

11. *St. Louis Southwestern Railway Company (SSW):* operating the Tucumcari Line from Santa Rosa, NM, to St. Louis, MO (via Kansas City, KS/MO), a total distance of 965.2 miles. The line also includes the RI branch line from Bucklin to Dodge City, KS, a distance of 28.5 miles, and North Topeka, KS. Also between Brinkley and Briark, Arkansas, and at Stuttgart, Arkansas.

12. *Little Rock & Western Railway Company:* from Little Rock, Arkansas (milepost 135.2) to Perry, Arkansas (milepost 184.2); and from Little Rock (milepost 136.4) to the Missouri Pacific/RI Interchange (milepost 130.6).

13. *Missouri Pacific Railroad Company:* from Little Rock, Arkansas (milepost 135.2) to Hazen, Arkansas (milepost 91.5); Little Rock, Arkansas (milepost 135.2) to Pulaski, Arkansas (milepost 141.0); Hot Springs Junction (milepost 0.0) to and including Rock Island milepost 4.7.

14. *Missouri-Kansas-Texas Railroad Company/Oklahoma, Kansas and Texas Railroad Company:*
A. Herington-Ft. Worth Line of Rock Island: beginning at milepost 171.7 within the City of Herington, Kansas, and extending for a distance of 439.5 miles to milepost 613.5 within the City of Ft. Worth, Texas, and use of Fort Worth and Denver trackage between Purina Junction and Tower 55 in Ft. Worth
B. Ft. Worth-Dallas Line of Rock Island: beginning at milepost 611.9 within the City of Ft. Worth, Texas, and extending for a distance of 34 miles to milepost 646, within the City of Dallas, Texas
C. El Reno-Oklahoma City Line of Rock Island: beginning at milepost 513.3 within the City of El Reno, Oklahoma, and extending for a distance of 16.9 miles to milepost 498.4 within the City of Oklahoma City, Oklahoma
D. Salina Branch Line of Rock Island: beginning at milepost 171.4 within the City of Herington, Kansas, and extending for a distance of 27.4 miles to milepost 198.8 in the City of Abilene, Kansas, including RI trackage rights over the line of the Union Pacific Railroad Company to Salina, (including yard tracks) Kansas
E. Right to use joint with other authorized carriers the Herington-Topeka Line of Rock Island: beginning at milepost 171.7 within the City of Herington, Kansas, and extending for a distance of 61.6 miles to milepost 89.9 within the City of Topeka, Kansas, as bridge rights only
F. Rock Island rights of use on the Wichita Union Terminal Railway Company and the Wichita Terminal Association, all located in Wichita, Kansas.
G. Rock Island right to use interchange tracks to interchange with the Great Southwest Railroad Company located in Grand Prairie, Texas.
H. The Atchison Branch from Topeka, at milepost 90.5, to Atchison, Kansas, at milepost 519.4 via St. Joseph, Missouri, at mileposts 0.0 and 498.3, including the use of interchange and yard facilities at Topeka, St. Joseph and Atchison, and the trackage rights used by the Rock Island to form a continuous service route, a distance of 111.6 miles.
I. The Ponca City Line at approximately milepost 28.1 at Billings, Oklahoma, to North Enid, Oklahoma, at milepost 339.5 on the Southern Division main line, a distance of 28.1 miles.
J. That part of the Mangum Branch Line from Chickasha, milepost 0.0 to Anadarko at milepost 18, thence south on the Anadarko Line at milepost 460.5 to milepost 485.3 at Richards Spur, a distance of 42.8 miles.
K. Oklahoma City-McAlester Line of Rock Island: Beginning at milepost 496.4 within the City of Oklahoma City, Oklahoma, and extending for a distance of 131.4 miles to milepost 365.0 within the City of McAlester, Oklahoma.

15. *The Denver and Rio Grande Western Railroad Company:*
A. from Colorado Springs (milepost 609.1) to and including all rail facilities at Colorado Springs and Roswell, Colorado, (milepost 602.8), all in the vicinity of Colorado Springs, Colorado.

16. *Norfolk and Western Railway Company:* is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company running southerly from Pullman Junction, Chicago, Illinois, along the western shore of Lake Calumet approximately four plus miles to the point, approximately 2,500 feet beyond the railroad bridge over the Calumet Expressway, at which point the RI track connects to Chicago Regional Port District track; and running easterly from Pullman Junction approximately 1,000 feet into the lead to Clear-View Plastics, Inc., for the purpose of serving industries located adjacent to such tracks and connecting to the Chicago Regional Port Dictrict. Any trackage rights arrangements which existed between the Chicago, Rock Island and Pacific Railroad Company and other carriers, and which extend to the Chicago Regional Port District Lake Calumet Harbor, West Side, will be continued so that shippers at the port can have NW rates and routes regardless of which carrier performs switching services.

17. *St. Louis-San Francisco Railway Co.:*
A. At Okeene, Oklahoma.
B. At Lawton, Oklahoma.

18. *Southern Railway Company:*
A. At Memphis, Tennessee.

19. *Cadillac and Lake City Railroad:*
A. From Sandown Junction (milepost 0.1) to an including junction with DRGW Belt Line (milepost 3.9) all in the vicinity of Denver, Colorado.

20. *Baltimore and Ohio Railroad Company:*
A. From Blue Island, Illinois (milepost 15.7) to Bureau, Illinois (milepost 114.2), a distance of 98.5 miles.

21. *Louisiana Midland Railway Company:*
A. From Hodge, Louisiana (milepost 173.3) to Alexandria, Louisiana (milepost 247.8), which includes assumption of RI's trackage rights over the Louisiana and Arkansas Railway Company between Winnfield, Louisiana, and Alexandria, Louisiana, and the RI's track and yard in Alexandria, Louisiana.

22. *Cedar Rapids and Iowa City Railway Company (CIC):*
A. From the west intersection of Lafayette Street and South Capitol Street, Iowa City, Iowa, southward for approximately 2.2 miles, terminating at the intersection of the RI tracks and the southern line of Section 21, Township 79 North, Range 6 West, Johnson County, Iowa, including spurs of the main trackage to serve various industry; and to effect interchange with the Davenport, Rock Island and North Western Railway Company.

23. *Keota Washington Transportation Company:*
A. From Keota to Washington, Iowa; to effect interchange with the Chicago, Milwaukee, St. Paul and Pacific Railroad Company at Washington, Iowa, and to serve any industries on the former RI which are not being served presently.

24. *The La Salle Bureau County Railroad Company:*
A. From Chicago (milepost 4.26) and Blue Island, Illinois (milepost 16.61), and yard tracks 6, 9 and 10; and crossover 115 to effect interchange at Blue Island, Illinois.
[2]B. From Western Avenue (Subdivision 1A, milepost 16.6) to 119th Street (Subdivision 1A, milepost 14.8), to Blue Island Illinois.

[2]Added.

Appendix B

Line No. and location to be operated	Railroads using	Rock Island functions to be performed
1—Rock Island Jct., IL. switches	CO/BO, CWPS, CR, CSI	Track maintenance.
2—To ICG connection Cottage Ave., Chicago, IL	CWPS	Track maintenance.
3—Irondale Branch, Chicago, IL	CWPS, CR	Track maintenance.
4—Chicago, IL, Regional Port, District lake, Calument Harbor, West Side.	ICG, CR, CSSB	Track maintenance.
5—Chicago (LaSalle St. Station)—Joliet, IL	RTA	Dispatching performed at Des Moines, IA (Suburban train operation).
5a—Joliet, IL—16th and Clark Streets	ICG, RTA	Interlocking Towers.
6—Moline—East Moline IL crossing signals	BN, DRINW	Highway crossing signal maintenance.
7—Rock Island, IL—26th Street	BN	Switchtender handles crossing and BN switches.
8—West Davenport—Muscatine, IA	MILW	Track and signal maintenance dispatching performed at Des Moines, IA, which controls entry switch at West Davenport (Automatic Block Signal).
9—Burlington—Mediapolis, IA	BN	Track maintenance; dispatching performed at Des Moines. Highway crossing signals maintenance on BN trackage.
10—Eddyville—Beacon, IA	CNW	Track maintenance.
11—Cedar Rapids, IA—4th Street trackage	ICG	Track maintenance.
12—Cedar Rapids, IA—9th Avenue crossing	CNW	Control of CNW-RI crossing and highway crossing signal maintenance.
13—Waterloo, IA—McKinley Street crossing signals	CNW	Highway crossing signal maintenance.
14—Iowa Jct.—Hollis, IL (Peoria Terminal Co.)	TPW	Track maintenance; dispatching performed by Peoria yardmaster.
15—Des Moines (Easton Blvd.) West Des Moines, IA	CNW	Track and signal maintenance; operate and maintain RI and CNW tracks; signals—switches controlled at Short Line Tower (Automatic Block Signal).
16—Almens Jct.—CB&Q Jct. KS (Oronoque)	BN	Track maintenance; dispatching performed at Des Moines, IA; hand thrown switches; (Automatic Block Signal).
17—Colorado Springs—Roswell Industrial District, CO	ATSF	Track maintenance.
18—Council Bluffs, IA—6th, 7th, 8th Sts. crossing signals	BN	Highway crossing signal maintenance.
18a—Council Bluffs, IA, vicinity BN of 14th Street	BN	Diamond crossing maintenance. Interlocking plant maintenance and operation.
19—Albert Lea—Glenville, MN	CNW–ICG	Track and signal maintenance; dispatching performed at Des Moines, IA which controls CTC.
20—Glenville—MN—Manly, IA	CNW	Operator at Manly.
21—Inver Grove—South St. Paul, MN	CNW, SOO	Track and signal maintenance; dispatching performed at Des Moines, IA which controls CTC.
22—Limon, CO	UP	Operator.
23—Polo—Airline Jct., MO	MILW	Track and signal maintenance; dispatching performed at Des Moines, IA which controls CTC from Polo to Birmingham. (Birmingham to Airline Jct. CTC controlled by MILW at Truman Bridge under RI dispatcher's direction.)
24—Atchison, KS—St. Joseph, MO	ATSF	Track and signal maintenance; dispatching performed at El Reno, OK.
25—Wathena—Troy, KS	UP	Track and signal maintenance; dispatching at El Reno, OK.
26—Herington, KS—MP crossing interlocking	MP	Interlocking controlled by RI operator (cannot be lined for MP and left unattended—signalling on MP cleared directionally).
27—Dodge City, KS	ATSF	Between Dodge City and ATSF Jct. over Arkansas River bridge track and bridge maintenance only (Line not in service at present).
28—Marion—Peabody, KS	ATSF	Track and signal maintenance; dispatching performed at El Reno, OK, which controls CTC.
29—McAlester—Shawnee, OK	MKT	Track and signal maintenance; dispatching performed at El Reno.
30—Shawnee—Oklahoma City, OK	ATSF–MKT	Track and signal maintenance; dispatching performed at El Reno.
31—Oklahoma City "North Lines" Industrial Tracks	ATSF	Track maintenance.
32—Malvern—Hot Spring, AR	MP	Dispatching performed at El Reno, OK.
33—Fort Worth—Dallas, TX	FWD, SLSF, MKT/OKT	Track and signal maintenance dispatching performed at El Reno, OK, Missouri-Kansas-Texas Railroad Company/Oklahoma, Kansas and Texas Railroad Company has responsibility for supervision and maintenance of tracks, signals, and dispatching at El Reno, OK, which controls CTC.
34—Dallas, TX Right of District (formerly Dallas Union Terminal)	MP, MKT, FWD, ATSF, SP, SSW, SLSF.	Track and signal maintenance; maintain and control operation from towers. Supervision and maintenance to be provided by Missouri Pacific Railroad Company.
35—Dallas, TX—Cadix St. Yard	LA	Track maintenance.
36—Saginaw, TX	FWD, ATSF	Track and signal maintenance; interlocking controls, switches, and signals.
37—Memphis, TN, Section "A" trackage (1,460 feet) owned by LN	ICG, LN, SOO	Track maintenance.
38—Briark—West Memphis, AR	SSW–MP	Track and signal maintenance; dispatching performed at El Reno, OK: CTC controlled from Kentucky St.
39—West Memphis—Brinkley, AR	SSW	Track and signal maintenance; dispatching performed at El Reno, OK ABS—Block signals operator at Brinkley.
40—Irving—Carrollton, TX	SLSF	Maintenance, dispatching (all functions performed by SLSF at present).
41—Iowa Falls, IA	ICG	Interlocking towers.
42—Rock Island Junction, AR to Hermitage, AR	WSR	Maintenance.
43—Thompson, NE	BN	Diamond crossing maintenance.
44—Beatrice, NE	BN	Diamond crossing maintenance.
45—Centerville, IA	BN	Interlocking plant maintenance and operation.
46—La Salle, IL	BN	Diamond crossing maintenance.
47—Ottawa, IL	BN	Interlocking plant maintenance.
48—Colona, IL	BN	Interlocking plant maintenance.
49—St. Joseph, MO	BN	Diamond crossing maintenance.

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49 CFR Part 1121

[Ex Parte No. 274 (Sub-6)]

Abandonment of Railroad Lines and Discontinuance of Service

AGENCY: Interstate Commerce Commission.

ACTION: Notice of interim rules and request for comments.

SUMMARY: The Staggers Rail Act of 1980, Pub. L. 96–448, makes several significant changes in the law governing railroad abandonments and discontinuance of service. Significantly, the Act sets new deadlines for the Commission to render decisions on applications. Also, the law governing procedures for making offers of financial assistance, either to subsidize continued operations or to purchase the involved line of railroad, has been changed in several important respects. The Act also affects our handling of applications filed prior to October 1, 1980.

To comply with the new Act, we must revise parts of the existing regulations. Because the Act is effective retroactively to October 1, 1980, we are publishing these interim rules to be used until final rules are adopted. Comments are requested on the feasibility of these interim rules as final rules.

DATE: Comments should be submitted on or before December 26, 1980.

ADDRESS: Send comments (original and 15 copies) to: Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Ellen D. Hanson (202) 275–7245,
or
Edward J. O'Meara (202) 275–7963.

SUPPLEMENTARY INFORMATION: The Staggers Rail Act of 1980 amends 49 U.S.C. 10903–10905, those sections of the Act governing the Commission's regulation of railroad abandonments and discontinuance of service. These changes require us to revise in part our regulations at 49 CFR 1121, "Abandonment of Railroad Lines and Discontinuance of Service." The revisions reflect the new Act's directives on the manner in which abandonment and discontinuance applications are to be handled.

The appendix to this notice lists an interim version of the amended rules.

Interim Use of Rules

These rules will be used by the Commission on an interim basis. For the most part the interim rules merely restate the procedural requirements mandated by the new Act. Where the interim rules are procedural, notice and comment for the rules are not required under the Administrative Procedure Act, 5 U.S.C. 553(b)(A). Those few parts of the revised regulations that appear in the interim rules and may be considered substantive changes do not demand notice and comment because the Commission finds that good cause exists to forego notice and comment pursuant to 5 U.S.C. 553(b)(B). The Commission is faced with an impractical situation in which the due and required execution of the agency functions would be delayed by undertaking a rule-making prior to the adoption of any rules. The new Act is effective as of October 1, 1980. The Commission must act to notify the public how abandonment applications will be handled to abide by the directives in the new Act.

Public comments are invited on these interim rules as a basis for final rules. We shall act as quickly as possible in formulating final rules.

Summary of Revisions

A. 49 CFR 1121.30 *Notice of Intent To Abandon Line or Discontinue Service*

The new Act requires an applicant to certify that the posting and publication requirements have been satisfied "within the most recent 30 days prior to the date the application is filed." Presently, under 49 CFR 1121.30(b), service of the notice must be completed "at least" 15 days prior to the actual filing date of the application. The revised paragraph (b) would set the earliest service at 30 days before filing. The applicant's certification itself is adequately covered now at 49 CFR 1121.34(b).

B. 49 CFR 1121.31 *Form of Notice*

The form of the notice published and served by an applicant has been revised to reflect how the new Act changes interested parties' participation in abandonment or discontinuance proceedings. These changes are discussed more fully below in section D.

C. 49 CFR 1121.32 *Contents of Application*

Section 1121.32(a)(5), requiring the applicant to give the proposed effective date of the abandonment or discontinuance, is deleted. That information is no longer needed because of the changes made in the new Act in determining effective dates of abandonments.

D. 49 CFR 1121.36 *Participation in Abandonment or Discontinuance Proceedings*

The new Act changes in certain respects the public's participation in abandonment and discontinuance proceedings. Before the new Act, when any party petitioned for an investigation of the proposed abandonment, the Commission was required to institute an investigation. The decision to investigate is now wholly discretionary with the Commission.

On the other hand, prior to the new Act, the Commission could, on its own initiative, begin an investigation even if no petitions to investigate were filed. Now, if no protests are filed the Commission must approve the application and issue a certificate authorizing the abandonment or discontinuance.

The revised rules for participation in proceedings reflect the new Act's directive that protestants have 30 days from the date the application is filed to file their protests. Parties previously had 35 days under the Commission's regulations to file comments or petitions to investigate. For those applications filed between October 1, 1980, and the date this Notice is published in the **Federal Register**, and in those instances where applicant's notice to the public indicated a protest period of 35 days, the Commission will continue to accept comments up to 35 days after the application is filed, in the interest of fairness to those commentators. The Commission's duties under the new Act and these interim rules, however, will not be changed by the additional 5 days for acceptance of comments.

The discussion in the old rules about written comments and petitions to investigate is removed in the interim rules. Written comments and protests are now discussed. Protests must contain information formerly prescribed for petitions to investigate. As noted, receipt of protests does not command an automatic investigation as it once did. All comments and protests will be reviewed to determine whether an investigation is needed to assist in determining what disposition to make of an application. This determination must

be made by the 45th day after the date the application is filed.

Because the 15-day period between the last day for receipt of comments and protests and the day on which the Commission's decision to institute an investigation must be serviced is so short, all comments and protests must be addressed specifically to the Commission's Section of Finance, as set forth in the interim rules. Likewise, the short time frames demand that rail carrier applicants file their applications no sooner than indicated in the required notices.

The interim rules also establish time limits for the filing of various kinds of pleadings. These limits are necessary in order to assure Commission compliance with the deadlines established in the new Act. (The deadlines are set forth in the interim rules at 49 CFR 1121.37). These filing requirements differ from the ordinary time limits in the Commission's Rules of Practice, 49 CFR 1100. For example, if a pleading or comment is due on a date which happens to fall on a weekend or holiday, the filing deadline is normally considered to fall on the next working day following the weekend or holiday. See 49 CFR 1100.4(b) and 1100.19. The interim rules are different in that any filing in an abandonment or discontinuance proceeding is due on the *previous* working day if the deadline falls on a weekend or holiday.

The schedule for filing verified statements under the modified procedure also differs from normal practice. This is because the Commission has only 90 days to conduct an investigation once an investigation is instituted. See 49 CFR 1121.37(b)(2). Allowing for a reversal of a decision not to investigate a proposal (parties are given 15 days to file appeals from such a decision), the shortened schedule set forth in the interim rules is necessary to allow timely completion of the investigation. Applicants are given only 15 days to file verified statements. It is the Commission's experience, however, that this should be enough time for applicants to prepare their evidence. Any significant opposition would be known long before the decision instituting an investigation is served, so that applicants will actually have much longer than the 15 days to prepare evidence. No motions to strike all or portions of any verified statement will be allowed because the short time limits set forth in the Act do not allow sufficient time to entertain motions and replies within the time allowed to complete the investigation. The Commission, reserves the right to strike material on its own initiative, and will do so under the traditional criteria for such actions.

Time does not allow cross examination at oral hearing of any witness submitting evidence under the modified procedure. Therefore, Rule 51 of the Commission's Rules of Practice, 49 CFR 1100.51, will not apply to abandonment procedures.

The short schedule for investigations set out in the new Act requires the expeditious handling of oral hearings where such hearings are considered necessary to develop evidence fully. Where oral hearings are scheduled, the Commission expects and insists that parties work as closely as possible in the prehearing stages to ensure that problems (such as discovery matters) can be solved without delay or Commission intervention. Parties are expected to make underlying work papers used in developing evidence easily accessible to opposing parties.

The oral hearing will be for the purpose of cross examination of witnesses who have submitted their direct evidence in the form of verified statements in advance of the oral hearing. Applicant's verified statements will be due 15 days from the date the oral hearing is set; protestants verified statements will be due 40 days after the date the oral hearing is set; and applicant's rebuttal evidence may be submitted in direct testimony at the hearing.

Where possible, a time and place for oral hearing will be set forth in the decision instituting an investigation (which is required to be issued no later than 45 days after the filing of the application.).

The Commission anticipates that the hearing will be held 10–14 days after protestants' verified statements are due. Assuming that any hearing should take no longer than one week, the 20 days provided for in the interim rules for submission of post hearing briefs should conclude the investigation in advance of the deadline with very little time to spare. No delays can be allowed under this schedule.

All appeals from any decision in an abandonment or discontinuance proceeding shall be considered only at the discretion of the Commission. The criteria set out at 49 CFR 1121.37(e) essentially combine the Commission's discretionary criteria listed for reopenings and reconsiderations found at 49 U.S.C. 10327(g)(1) and (2). The new Act specifically addresses appeals only in regard to Commission decisions following investigations. 49 U.S.C. 10904(c)(3). Congress clearly provided only for discretionary appeals. The Commission will extend this appellate review procedure to all decisions involving abandonments or discontinuances.

E. 49 CFR 1121.37 *Commission Determination and Certification Under 49 U.S.C. 10904*

The new Act requires the Commission to revise entirely this section of the abandonment regulations. The Act expedites abandonment proceedings by specifically setting forth time periods within which the Commission must act upon applications, depending on the complexity of and the opposition to the application. For example, under the previous law, there was no time limit within which an investigation of an application had to be concluded. The new Act places a time limit of 135 days upon such investigations.

The interim rules simply incorporates from the Act deadlines pertaining to issuances of decisions and certificates and effective dates of such certificates.

The deadlines are the outside limits allowed for any action. For example, the Commission must issue a decision "within 75 days" after an application is filed where protests are received but no investigation is conducted. However, in some instances the Commission may choose to issue its decision long before the 75th day, even as early as the 45th day after the application is filed.

F. 49 CFR 1121.38 *Financial Assistance Procedures*

The new Act also makes significant changes in the procedures relating to offers of financial assistance from shippers and government entities who wish to see service continue on the involved railroad line.

The Act introduces for the first time a procedure which allows a party to request the Commission to set conditions and amount of compensation for subsidy or line acquisition if the offeror and applicant rail carrier are unable to reach an agreement following a negotiating period. The Commission decision would be binding on both parties, although the offeror could withdraw its offer within 10 days of the Commission's decision. This procedure is set forth in the interim rules.

The deadlines for actions by parties and the Commission are sharply reduced in the new Act. Offers must be filed no later than 10 days after publication of the Commission's findings on an application in the **Federal Register**; previously, offerors had 15 days. The Commission must evaluate the offer (or offers, if more than one is made) within 15 days after publication, whereas it previously had 30 days. The evaluation is to determine whether a

"financially responsible person" has offered financial assistance which satisfies certain specified criteria. With these extremely tight frames, it is imperative that the time limits computation set out in the interim rules at 49 CFR 1121.36(d)(1) and (2) be adhered to strictly, and that all filings be addressed to the Commission's Section of Finance so that delivery may be expedited.

Treatment of Pending Applications

The new Act without question applies to applications filed on or after October 1, 1980. As noted earlier, the Commission will continue to accept protests to applications for 35 days after the application is filed, if the application is filed before this Notice is published, and also if the applicant's notice to the public states that commentators have 35 days to file protests. Fairness requires this procedure.

For those applications filed before October 1, 1980, the Commission will apply the interim rules wherever possible. For example, if a decision on an application filed prior to October 1, 1980 is rendered after this Notice is published, the interim rules governing appeals (1121.36(d)(4)(C) and 1121.36(e)) and financial assistance procedures (1121.36) shall apply.

Also, in the circumstance where a certificate is issued after an investigation, and after publication of notice of these interim rules, the effective date of the certificate shall be governed by the periods set out in the new Act and in the interim rules. Previously, such a certificate would have taken effect on the 120th day after the issuance. The new Act states that any such certificate must be made effective within 75 days of the Commission's final decision. The Commission believes it is the intent of Congress to expedite the effective date of abandonment certificates. Therefore, the Commission shall make certificates issued following an investigation effective anywhere from the date of issuance to 75 days following its final decision.

Summary

We adopt the interim revisions as set forth in the Appendix, and we will operate under these rules until further notice.

These action do not appear to affect significantly the quality of the human environment or the conservation of energy resources. The interim adoption of these rules is required to carry out the purpose, findings, and changes made by the Staggers Rail Act of 1980.

These actions are taken under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: November 19, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Commissioner Gilliam (Concurring)

Clearly the intent of section 402 of the Staggers Rail Act of 1980 is to expedite the abandonment process. This intent is evidenced by the fact that under the new Act if no protests are filed the Commission must approve the application and issue a certificate authorizing the abandonment or discontinuance.

On the other hand, in opposed cases, the Act vests the Commission with considerable latitude. In fact, if a party to an abandonment proceeding petitions for an investigation, the Commission is no longer required to institute an investigation; investigations are now *solely* within the Commission's discretion. It is my concern that the Commission not make ill-use of this latitude by willfully failing to investigate or by routinely granting opposed abandonment applications. The Commission's duties under the new Act and these interim rules should continue to be that of providing a regulatory process that balances the needs of carriers, shippers and the public, alike.

Appendix

The following sections of the Commission's regulations at 49 CFR Part 1121, "Abandonment of Railroad Lines and Discontinuance of Service," are amended on an interim basis.

1. Revise paragraph (b) of § 1121.30 as follows:

§ 1121.30 [Amended]

* * * * *

(b) The posting and publication requirements of this section must be completed within the 30-day period prior to the actual filing of the application. Service must be complete at least 15 days, and not more than 30 days, prior to the actual filing date.

2. Revise § 1121.31 as follows:

§ 1121.31 Form of notice.

The notice of intent to abandon or to discontinue service shall be in the following form:

No. AB ——— (Sub-No. ———)

Notice of Intent To Abandon or To Discontinue Service

(Name of Applicant) hereby gives notice that on or about (insert date application will be filed with the Commission) it intends to file with the Interstate Commerce Commission, Washington, D.C. 20423, an application for a certificate of public convenience and necessity permitting the abandonment of (the discontinuance of service on) a line of railroad known as ——— extending from railroad milepost ——— near (station name) to (the end of line or rail milepost) near (station name) a distance of ——— miles, in ——— County(ies), State(s). The line for which the abandonment (or discontinuance) application will be filed includes the stations of (list all stations on the line in order of milepost number, indicating milepost location).

The reason(s) for the proposed abandonments (or discontinuance) is (are) ——— (explain briefly and plainly why the proposed action is being undertaken by the applicant).

This line of railroad has appeared on the system diagram map in category 1 (§ 1121.20(b)(1)) since (insert date).

The interest of railroad employees will be protected by (specify the appropriate conditions).

Any interested person, in response to this notice, is entitled to file with the Interstate Commerce Commission written comments in support of the proposed abandonment (or discontinuance) or protests to it.

Protests to the proposed abandonment (or discontinuance) shall be in the form of a verified statement, and at a minimum contain:

(1) Identification of protestant including its name, address, and business;

(2) Statement of protestant's interest in the abandonment or discontinuance proceeding; whether protestant uses the involved service; and if it does not, information with respect to the group or public interest it represents;

(3) Specific reason(s) for opposing the abandonment (or discontinuance), including information with respect to protestant's reliance on the involved service, with allegations of fact supported by an affidavit or personal knowledge of the facts;

(4) Any rebuttal of information or material submitted by applicant; and

(5) Request for oral hearing and reasons therefor, if desired.

In addition, any commenter or protestant may provide a specific statement of position and summary of evidence with regard to any or all of the following:

(1) Intent to offer financial assistance;

(2) Environmental impact;

(3) Impact on rural and community development;

(4) Suitability of the properties for other public purposes; and

(5) Recommended provisions for protection of the interests of employees.

Written comments and protests will be considered by the Commission in determining whether an investigation is needed to assist in determining what disposition to make of the application. In the event an investigation is conducted, then the commenting party or protestant may participate in the proceeding as its interests may appear.

Those parties filing protests to the proposed abandonment (or discontinuance) should be prepared to participate actively in either oral hearings or via the submission of additional material in the form of verified statements. Parties seeking information concerning the filing of protests should refer to 49 CFR 1121.36.

Written comments and protests should indicate the proceeding designation No. AB ——— (Sub-No. ———) and should be filed with the Deputy Director, Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than (insert the date 30 days after the date applicant files its application). Interested persons may file a written comment or protest with the Commission to become a party to this abandonment (or discontinuance) proceeding. A copy of each written comment or protest shall be served upon the representative of the applicant (insert name and address). The original and 2 copies of all comments or protests shall be filed with the Commission together with a certificate of service.

If no protests are *received* within 30 days after the application is filed, the Commission will find that the public convenience and necessity require or permit the abandonment (or discontinuance). In such a case, the Commission will, within 45 days after the application is filed, issue a certificate which permits the abandonment (or discontinuance) to occur within 75 days after the application is filed.

The line of railroad sought to be abandoned (or discontinued) is available for subsidy or sale in accordance with applicable laws and regulations (49 U.S.C. 10905 and 49 CFR 1121.38). Applicant will promptly provide upon request to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation. The carrier's representative to whom inquiries may be made concerning sale or subsidy terms is (insert name and business address).

Persons wishing further information concerning abandonment procedures may contact the Interstate Commerce Commission's Section of Finance, Office of Proceedings or the Commission's Rail Services Planning Office, or refer to the full abandonment or discontinuance regulations at 49 CFR Part 1121.

A copy of the application will be available for public inspection on or after (insert date abandonment application is to be filed with Commission) at each agency station or terminal on the line proposed to be abandoned or discontinued (if there is no agency station on the line, the application shall be deposited at any agency station through which business for the line is received or forwarded) [insert name, address, location and business hours]. The carrier shall furnish a copy of the application to any interested person proposing to file a written comment or protest, upon request.

§ 1121.32 [Amended]

3. Delete paragraph (a)(5) of § 1121.32 and redesignate:

§ 1121.32(a)(6) as § 1121.32(a)(5)
§ 1121.32(a)(7) as § 1121.32(a)(6)
§ 1121.32(a)(8) as § 1121.32(a)(7)
§ 1121.32(a)(9) as § 1121.32(a)(8)

4. Revise § 1121.36 as follows:

§ 1121.36 Participation in abandonment or discontinuance proceedings.

(a)(1) Interested persons may become parties to an abandonment or discontinuance proceeding by filing with the Commission written comments or protests. Protests to an abandonment or discontinuance shall be in the form of a verified statement and, at a minimum, contain:

(i) Identification of protestant including its name, address, and business;

(ii) Statement of protestant's interest in the abandonment or discontinuance proceeding; whether protestant uses the involved service; and if it does not, information with respect to the group or public interest it represents;

(iii) Specific reason(s) for opposing the abandonment or discontinuance, including information with respect to protestant's reliance on the involved service, with allegations of fact supported by an affidavit of personal knowledge of the facts;

(iv) Any rebuttal of information or material submitted by applicant; and

(v) Request for oral hearing and reasons therefor, if desired.

(2) In addition, any commentor or protestant may provide a specific statement of position and summary of evidence with regard to any or all of the following:

(i) Intent to offer financial assistance;

(ii) Environmental impact;

(iii) Impact on rural and community development;

(iv) Suitability of the properties for other public purposes; and

(v) Recommended provisions for protection of the interests of employees.

(3) Written comments and protest will be considered by the Commission in all proceedings in determining whether an investigation is needed to assist in determining what disposition to make of the application. In the event an investigation is conducted, then the commenting party or protestant may participate in the proceeding as its interests may appear. Those parties filing protests should be prepared to participate actively in either oral hearings or via the submission of additional material in the form of verified statements.

(b) *Employee or employee representative participation.*

(1) In each abandonment or discontinuance proceeding in which the application is granted, employee protective conditions at least as beneficial to the interests of employees as provisions established pursuant to 49 U.S.C. 11347 and pursuant to section 405 of the Rail Passenger Service Act shall be imposed; and

(2) Employees or their representatives, may, but need not, file comments or protests because the Commission will impose in each proceeding the provisions for the protection of interests of employees pursuant to 49 U.S.C. 10903.

(c) *Filing and service of written comments and protests.* (1) Written comments and protests shall be filed with the Commission (Deputy Director, Section of Finance, Room 5417, Interstate Commerce Commission, Washington, DC 20423) within 30 days of the filing with the Commission of an abandonment or discontinuance application. The proposed date of filing of an abandonment or discontinuance application shall be included in the Notice of Intent required in §§ 1121.30–1121.31.

(2) An original and 2 copies of each written comment or protest shall be filed with the Commission.

(3) A copy of each written comment or protest shall be served on applicant or its representative at the time of filing

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with the Commission. Each filing shall contain a certificate of service.

(d) *Time limits.*

(1) Pleadings, requests or other papers or documents (including any comments or protests and any appeal from a Commission decision) required or permitted to be filed under this part must be received for filing at the Commission's Offices at Washington, DC within the time limits, if any, for such filing. The date of receipt at the Commission and not the date of deposit in the mails is determinative, provided, however, that if such document is mailed by certified, registered or express mail postmarked at least 3 days prior to the due date, it will be accepted as timely filed.

(2) In computing any period of time prescribed or allowed by this part, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included unless it is Saturday, Sunday, or a legal holiday in the District of Columbia, in which event the period runs until the end of the *prior* day which is neither a Saturday, Sunday nor a holiday. A half holiday shall not be considered as a holiday. This rule shall apply to the measurement of time forward, as well as backward from a specified date.

(3) The Commission will reject any pleading filed after a specified due date unless good cause is shown why the pleading is filed late.

(4) *Modified Procedure.* If the Commission decides to institute an investigation, with submissions of evidence under the modified procedure, the following time limits shall govern the submission of evidence:

(i) Applicant's initial verified statements due no later than 15 days after the date the decision instituting an investigation is served;

(ii) Protestant's verified statements due no later than 40 days after the date the decision instituting an investigation is served; and

(iii) Applicant's reply verified statements due no later than 55 days after the date the decision instituting an investigation is served.

Under the procedure set forth above for submissions under the modified procedure, parties shall not be permitted to file motions to strike all or part of any evidence so submitted.

(5) *Oral Hearings.* (i) If the Commission decides to institute an investigation, and conduct an oral hearing on the application, the following time limits shall govern the submission of written evidence prior to the commencement of the hearing:

(A) Applicant's initial verified statements due no later than 15 days after the date the decision instituting an investigation is served; and

(B) Protestant's verified statements due no later than 40 days after the date the decision instituting an investigation is served. Any rebuttal evidence by applicant shall be received in the form of testimony at the oral hearing.

(ii) The oral hearing shall be for the primary purpose of cross examination of witnesses filing verified statements pursuant to paragraph (A) of this subsection. Any direct testimony, other than applicant's rebuttal evidence, shall be received at the discretion of the hearing officer.

(iii) Post hearing legal briefs shall be due on a date established at the hearing by the hearing officer; in no event shall the briefs be due later than 20 days after the close of the oral hearing.

(e) *Appellate Procedures.*—(1) *Scope of rule.* These appellate procedures are to be followed in abandonment and discontinuance proceedings in lieu of the procedures in the Commission's General Rules of Practice, Rule 98, 49 C.F.R. 1100.98. Requests for appellate relief may relate either to initial decisions or to Commission actions other than initial decisions.

(2) *Appeals criteria.* No appeal of right is permitted. The Commission may entertain appeals in its discretion if it finds either of the following:

(i) the action involves a matter of general transportation importance, or

(ii) the action would be affected materially because of new evidence, changed circumstances, or material error.

(3) *Time limits.*

(i) An appeal from the Commission's decision not to institute an investigation shall be filed no later than 15 days after the date the decision is served.

(ii) Any appeal from the Commission's initial decision on an application (where no investigation is conducted) shall be filed no later than 15 days after the date the decision is served. Replies to any such appeal shall be filed no later than 25 days after the date the decision is served.

(iii) If the Commission conducts an investigation, any appeal from the initial decision shall be filed no later than 20 days after the date the initial decision is served. Replies to any such appeal must be filed no later than 35 days after the initial decision is served.

(4) *Form.* An appeal and any reply shall not exceed 30 pages in length, including the index of subject matter, argument, and appendices or other attachments.

(5) To the extent that an appeal requests further hearing, rehearing, reargument, or reconsideration, the appeal shall state in detail the nature of the relief requested and the reasons therefor. When in an appeal a party seeks an opportunity to introduce evidence, the evidence must be stated briefly, must not appear to be cumulative, and an explanation must be given why it was not previously adduced.

(6) The filing of an appeal shall not stay the effect of a prior action except that the Commission may stay the effect of the action upon its own motion or on petition. A petition to stay may be filed in advance of the appeal or petition to reopen and shall be filed within 10 days of service of the action. No reply need be filed. However, if a party elects to file a reply, it must reach the Commission no later than 16 days after service of the action.

(7) *Petitions to reopen administratively final actions.*

A person at any time may file a petition to reopen any administratively final action of the Commission. A petition to reopen shall state in detail the respects in which the proceeding involves material error, new evidence, or substantially changed circumstances and shall include a request that the Commission make such a determination.

5. Revise § 1121.37 as follows:

§ 1121.37 Commission determination and certification under 49 U.S.C. 10904.

(a) If no written comments protesting an application are filed under § 1121.36, the Commission shall (i) find that the public convenience and necessity require or permit the abandonment or discontinuance, and (ii) no later than 45 days after the application is filed, issue a certificate which permits the abandonment or discontinuance to occur within 75 days after the application is filed.

(b) Upon receipt of a protest to an application under § 1121.36, the Commission shall, no later than 45 days after the application is filed, determine whether an investigation is needed to assist in determining what disposition to make of the application.

(1) If no investigation is instituted, the Commission shall issue a decision no later than 75 days after the date the application is filed. If the Commission finds that the present or future public convenience and necessity require or permit the abandonment or discontinuance, it shall issue a certificate no later than 90 days after the application is filed permitting the abandonment or discontinuance to occur no later than 120 days after the application is filed.

(2) If the Commission decides to institute an investigation, the investigation shall be completed no later than 135 days, and an initial decision issued no later than 165 days, after the date the application is filed.

(i) The initial decision following an investigation shall become the final decision of the Commission unless, during the 30 days following the initial decision, the Commission decides to hear appeals in accordance with the criteria set forth in § 1121.36(e).

(ii) If an initial decision following an investigation is appealed, and considered by the Commission in its discretion, the Commission shall issue a final decision no later than 255 days after the date the application is filed.

(iii) Whenever the Commission finds, following an investigation, that the present or future public convenience and necessity require or permit the abandonment or discontinuance, the Commission will issue a certificate no later than 15 days following the final decision, permitting the abandonment or discontinuance to occur no later than 75 days following issuance of the final decision.

(3) A copy of the decision instituting an investigation of an abandonment or discontinuance application shall be served on the carrier which owns or operates the line of railroad or its representative. Copies of the decision shall also be served by the Commission on all parties which filed written comments and on all persons upon which copies of the application are required to be served under § 1121.34(c).

6. Revise § 1121.38 as follows:

§ 1121.38 Financial assistance procedures.

(a) An applicant for a certificate of abandonment or discontinuance shall provide promptly upon request to a party considering an offer of financial assistance and shall provide concurrently to the Commission the following:

(1) an estimate of the annual subsidy and minimum purchase price required to keep the line or a portion of the line in operation;

(2) its most recent reports on the physical condition of that part of the line involved in the proposed abandonment or discontinuance; and

(3) traffic, revenue, and other data necessary to determine the amount of annual financial assistance which would be required to continue rail transportation over that part of the railroad line.

(b) In any proceeding in which the Commission finds, after investigation or without investigation, that the present or future public convenience and necessity permit or require the proposed abandonment or discontinuance of rail service, the Commission will, concurrently with service of the decision, publish the findings in the **Federal Register** as notice to persons intending to offer financial assistance to assure continued rail service under 49 U.S.C. 10905 and pursuant to this section of the regulations.

(c) *Submission of offers of financial assistance.*

(1) A prospective offeror shall serve any offer of assistance upon the carrier owning or operating the involved line and other parties to an abandonment or discontinuance proceeding. The offer shall also be filed concurrently with the Commission (Deputy Director, Section of Finance, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423).

(i) An offer may be filed and served any time after the filing with the Commission of an abandonment or discontinuance application.

(ii) An offer must be filed and served no later than 10 days after publication in the **Federal Register** (as required in paragraph (b) of this section) of a Commission finding that the present or future public convenience and necessity permit or require the proposed abandonment or discontinuance of service. This filing and service is subject to the requirements set forth in § 1121.36(d)(1).

(2) The offer as filed shall contain:

(i) An offer of financial assistance accompanied by a Proposed Subsidy Payment in the form prescribed in § 1121.46 or an offer to acquire all or a portion of the line accompanied by a detailed statement of the proposed acquisition cost and proposal for continued operations;

(ii) A resolution, authorization, or other evidence demonstrating that the offeror has, or within a reasonable time will have, the authority to execute and fulfill an agreement to subsidize or to acquire and operate the line;

(iii) Information demonstrating that the offeror has, or within a reasonable time will have, the financial resources to subsidize or acquire the line and otherwise to fulfill its contractual obligations; and

(iv) Information demonstrating that the financial assistance offered is likely to cover the difference between the revenues attributable to and avoidable costs of the line, plus a reasonable return on the value of the line, or the cost of acquisition and the proposed continued operation of the line.

(v) If the offer to subsidize or purchase the line is less than the carrier's estimate provided under paragraph (a)(1) of this section, the offeror shall explain the basis of the disparity, and the manner in which the offer of subsidy or purchase is calculated.

(3) If the offeror is not a government entity it shall also submit:

(i) A current, detailed balance sheet showing its financial condition as to the latest date available (not more than 90 days prior to the filing of the offer);

(ii) A statement of revenues, expenses, and net income for the current portion of the calendar year or offeror's fiscal year and statements for the two immediately preceding calendar or fiscal years or if not available, a statement from a bank or other financial institution attesting to the person's financial capability to discharge its obligations; and

(iii) Such additional information which, in the opinion of the offeror, is necessary or appropriate to support a finding that it is financially responsible.

(d) *Proposed subsidy payment.*

(1) An offeror of financial assistance for all, or a portion, of a line may formulate an offer of subsidy predicated upon the owning or operating carrier's base year net avoidable costs and reasonable rate of return or upon the carrier's projected subsidy year Estimated Subsidy Payment, as submitted in its abandonment or discontinuance application under § 1121.32(d).

(2) Alternatively, an offeror may compute its own Proposed Subsidy Payment using the methodology and form described in subpart D, the traffic, revenue, and other data contained in the abandonment or discontinuance application, and other evidence of record in the abandonment or discontinuance proceeding.

(e) *Proposed acquisition cost.*

(1) An offeror of financial assistance may also make an offer to acquire all or a portion of the line to be abandoned.

(2) In formulating its acquisition offer, an offeror may either accept the carrier's valuation of the properties, as submitted in its abandonment application under § 1121.32(d), or may have the properties appraised by a qualified and certified appraiser and may use either the valuation or the appraisal as its acquisition offer.

(3) An acquisition offer shall include a detailed statement of all items making up the offer, including a price certain and all terms and conditions.

(4) An acquisition offer shall include a detailed statement of the manner in which operations will be continued over

minimum Federal Railroad Administration Class I safety standards, as projected for the subsidy year. The

(1) If the Commission is requested to establish the conditions and compensation for financial assistance in

its selection known to the Commission and all parties, in writing, no later than 25 days after the date the notice is

carrier's request is filed with the Commission and served by the carrier on all parties.

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(4) An acquisition offer shall include a detailed statement of the manner in which operations will be continued over the line after acquisition by the offeror, including, if applicable, a proposed operating agreement whereby the owning or operating carrier or another carrier will perform the operations.

(f) Upon receipt by the carrier of a written comment under § 1121.36 indicating an intent to offer financial assistance or upon receipt by the carrier of an actual offer of financial assistance, whichever occurs earlier, the carrier shall make available to the commenting party or offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.46). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

(g) *Commission's 15-day determination under 49 U.S.C. 10905.* If within 15 days after publication in the **Federal Register** of its finding that the abandonment or discontinuance should be permitted, as provided in § 1121.38(b), the Commission finds, consistent with 49 U.S.C. 10905, that a financially responsible assistance is likely to cover:

(1) The difference between the revenues attributable to the line and the avoidable cost of providing freight service on the line plus a reasonable return on the value of the line; or

(2) The acquisition cost of all or any portion of the line,

then the Commission shall postpone the issuance of a certificate, or, if a certificate has been issued, postpone the effective date of the certificate, in accordance with paragraphs (i) and (k) of this section. The Commission shall determine whether the criteria in this paragraph have been met by each offeror if more than one offer is made (see paragraph (m) of this section).

(h) *Modified estimated subsidy payment.*

Offerors may request, and carriers shall provide, an estimated subsidy payment reflecting operations of less than the entire line.

(i) *Negotiations.*

(1) The carrier and the offeror are encouraged to negotiate an agreement for subsidy or acquisition before the issuance by the Commission of a final decision in an abandonment or discontinuance proceeding. The parties may agree to a final Estimated Subsidy Payment or acquisition price which varies from that contained in the application or in the offer, taking into account such factors as rate increases, changes in traffic level, and maintenance necessary to comply with minimum Federal Railroad Administration Class I safety standards, as projected for the subsidy year. The parties may also agree to provisions which modify the standards established under Subpart D of this part.

(2) When an agreement is reached, the parties shall promptly serve a verified copy on the Commission and on all parties to the abandonment or discontinuance proceedings.

(3) The Commission shall not consider an offer of financial assistance or any resulting agreement in making its initial finding on the merits of the abandonment or discontinuance application.

(j) *Agreement on financial assistance.*

(1) If the carrier and a person offering financial assistance enter into an agreement which will provide continued rail service, the Commission shall postpone the issuance of the certificate, or, if the certificate has been issued, the effective date of the certificate, for so long as the agreement, or an extension or modification of the agreement, is in effect.

(2) If the carrier and a person offering to purchase a line enter into an agreement which will provide continued rail service, the Commission will approve the transaction and dismiss the application for abandonment or discontinuance.

(k) *Failure to reach agreement on financial assistance.*

(1) If the carrier and a financially responsible person (including a government authority) fail to agree on the amount or terms of the subsidy or purchase, either party may, within 30 days after the offer is made, request that the Commission establish the conditions and amount of compensation.

(2) If no agreement is reached within 30 days after the offer of subsidy or purchase is made, and neither party requests the Commission to establish the conditions and amount of compensation during that same period, the Commission will issue a certificate authorizing the abandonment or discontinuance no later than 50 days after notice is published under paragraph (b) of this section. Such certificate will be effective on the date of issuance. If a certificate had already been issued, and the effective date postponed by the Commission while the parties negotiated the offer of subsidy or purchase, the certificate will be effective 50 days after the date the notice is published under paragraph (b) of this section.

(l) *Requests to establish conditions and compensation for financial assistance.*

(1) If the Commission is requested to establish the conditions and compensation for financial assistance in accordance with paragraph (k) of this section, the Commission will issue its decision on the request no later than 60 days after the request is filed with the Commission and served concurrently on all parties.

(2) Because the applicant may receive multiple offers of financial assistance (see paragraph (m) of this section), no request to establish conditions and compensation shall be permitted prior to applicant's selection of the offeror with whom it wishes to transact business.

(3) Any party filing a request with the Commission to establish conditions and compensation for financial assistance shall provide reasons why its estimates are correct and why the other negotiating party's estimates are incorrect; points of agreement and points of disagreement between the negotiating parties; and evidence substantiating these allegations.

(4) Where subsidy has been offered, and no agreement has been reached, the Commission will determine the amount and terms of subsidy based on the avoidable cost of providing continued rail transportation, plus a reasonable return on the value of the line.

(5) Where an offer of purchase has been made in order to continue rail service on the line, and no agreement has been reached, the Commission will determine the price and other terms of sale. In no case will the Commission set a price which is below the fair market value of the line (including, unless otherwise mutually agreed by the parties, all facilities on the line or portion necessary to provide effective transportation services).

(6) The decision of the Commission shall be binding on both parties, except that the person who has offered to subsidize or purchase the line may withdraw its offer no later than 10 days after the date the Commission's decision is served, by notifying, in writing, the Commission, the applicant, and all other parties to the proceeding. If the offeror does withdraw its offer within this time, the Commission shall issue a certificate authorizing the abandonment or discontinuance no later than 20 days after the date the decision on the request for financial assistance is served, unless other offers are being considered pursuant to paragraph (m) of this section.

(m) *Multiple offers of financial assistance.* (1) If an applicant receives more than one offer to purchase or subsidize the line, the applicant shall select the offeror with whom it wishes to transact business. Applicant shall make its selection known to the Commission and all parties, in writing, no later than 25 days after the date the notice is published pursuant to paragraph (b) of this section.

(2) When the applicant has received multiple offers of financial assistance, and has selected the offeror with whom it wishes to transact business, the negotiating parties shall complete the sale or subsidy agreement or request the Commission to establish the conditions and amount of compensation no later than 40 days after the date notice is published pursuant to paragraph (b) of this section. If no agreement on subsidy or sale is reached within the 40-day period and the Commission has not been requested to establish the conditions and amount of compensation, any other offeror may request the Commission to establish the conditions and amount of compensation no later than 50 days after the date notice is published pursuant to paragraph (b) of this section. If no request by any other offeror is made, the Commission shall issue a certificate authorizing the abandonment or discontinuance no later than 60 days after the date notice is published pursuant to paragraph (b) of this section.

(3) When the Commission has established the conditions and amount of compensation, and the original offer has been withdrawn pursuant to paragraph (1)(6) of this section, any other offeror may accept the Commission's decision no later than 20 days after the date the decision on the request is served. The Commission will require the applicant carrier to enter into a sale or subsidy agreement with the subsequent offeror, if the sale or subsidy agreement incorporates the Commission's decision.

(n) *Disposition after sale.* No purchaser of a line or portion of line sold under this section may transfer or discontinue service on the line prior to the end of the second year after consummation of the sale. Nor may the purchaser transfer the line, except to the carrier from whom it was purchased, prior to the end of the fifth year after consummation of the sale.

(o) *Discontinuance of subsidy.* Any subsidy provided under this section may be discontinued by giving at least 60 days notice to the applicant and other parties to the proceeding. Unless, within the 60-day notice period, another financially responsible party enters into a subsidy agreement at least as beneficial to the carrier as that which was to be discontinued, the Commission will at the carrier's request, issue a certificate authorizing the abandonment or discontinuance of service on the line no later than 10 days after the date the carrier's request is filed with the Commission and served by the carrier on all parties.

(p) *Default on agreement.* In the event any party to a financial assistance agreement defaults on the obligations thereunder, then any party to the agreement shall promptly inform the Commission. Upon notification the Commission will take such action as it may deem appropriate.

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DEPARTMENT OF THE INTERIOR

Department (James A. Timmerman, Jr.), Fund for Animals (Lewis Regenstein), may be obtained by writing to: Director,

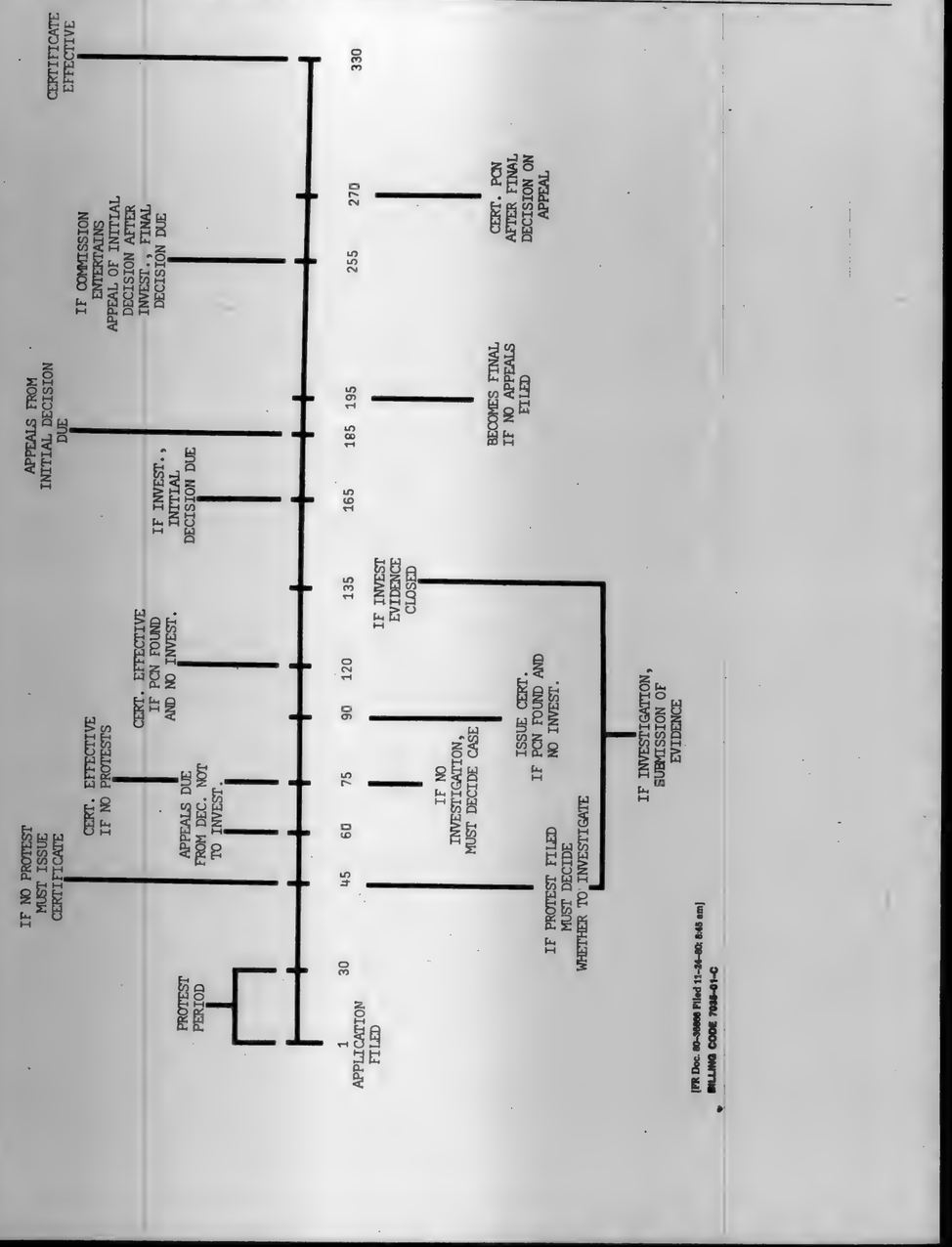

[FR Doc. 80-36866 Filed 11-24-80; 8:45 am]
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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 13 and 17

Revision of the Special Rule on the American Alligator

AGENCY: Fish and Wildlife, Interior.

ACTION: Final rule.

SUMMARY: The Service revises the special rule on the American alligator, 50 CFR 17.42(a), promulgated under authority of the Endangered Species Act of 1973. Fabricators, who are engaged in the business of manufacturing products from American alligator leather, are no longer required to obtain a permit issued under the special rule. To insure that fabricators receive only lawfully taken American alligator hides, buyers and tanners engage in trade in American alligators remain highly regulated. The sale of meat and other parts except hides from lawfully taken American alligators is no longer restricted to the State where the taking occurs. These items may be sold nationwide if such sale is in accordance with the laws and regulations of: (1) The State in which the taking occurs, and (2) the State in which the sale occurs.

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT: John T. Webb, Division of Law Enforcement, U.S. Fish and Wildlife Service, Suite 300, 1375 K Street, NW., Washington, D.C. 20005, telephone: (202) 343-9242.

SUPPLEMENTARY INFORMATION:

Background

On August 8, 1980 (45 FR 52849), under authority of the Endangered Species Act of 1973 (hereinafter ESA), 16 U.S.C. 1533(d), the Service proposed to revise the special rule on the American alligator (*Alligator mississippiensis*), 50 CFR 17.42(a). Briefly, the Service proposed to revise the special rule to: (1) eliminate the permit requirement for fabricators under the special rule, and (2) allow the interstate sale of American alligator meat and parts other than hides.

Summary and Analysis of Comments and Actions Taken

The proposed rule invited comments for 30 days ending September 8, 1980. Comments were received from the following sources: Louisiana Department of Wildlife and Fisheries (Joseph V. Colson), Florida Game and Fresh Water Fish Commission (Col. Robert M. Brantly), South Carolina Wildlife and Marine Resources Department (James A. Timmerman, Jr.), Fund for Animals (Lewis Regenstein), and National Alligator Association (J. Don Ashley). The following summarizes the comments, suggestions, and actions taken.

1. *Definitions.* No comments were received on any of the proposed definition changes. However, the definition of "American alligator" has been reworded to identify more clearly the three separate populations of the species which are covered by the special rule.

2. *Prohibitions and Permits.* Four of the commenters supported as proposed the interstate sale of meat and parts except hides, and the deletion of the permit requirement for fabricators.

One commenter believed the proposal may threaten the future survival of the American alligator by relaxing the safeguards against poaching and loosening enforcement procedures. The Service believes a narrower, sharper focus for law enforcement will be achieved by concentrating Service enforcement resources on discrete points where trade is funneled. The Service will still closely monitor permittees, and vigorously enforce the taking prohibitions applicable to the species with the cooperation of State and local governments and private citizens. These measures appear to have reduced poaching and other illegal activities significantly and compliance with the special rule has been substantial.

Several commenters believed some of the application requirements for a buyer or tanner permit were unnecessary. These requirements, which are found at 50 CFR 17.42(a)(3)(A)(1)–(7), provide information which is necessary for effective permit administration. Because this information is requested only once, when an initial application is submitted, permittees are not unduly burdened by these requirements.

After reviewing all of the comments, the Service has decided that no substantive changes in the proposed rule are necessary. However, editorial changes and minor clarifications have been made, including the substitution of singular for plural nouns.

Refunds Available to Fabricators for Unused Marks (Labels)

Because fabricators no longer are required to obtain a permit under the special rule or affix a mark provided by the Service to each product made of American alligator hide, the Service is offering to refund the purchase price of any unused marks (labels) to fabricators. Information about refunds may be obtained by writing to: Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, P.O. Box 3654, Arlington, Virginia 22203.

National Environmental Policy Act

The Service also solicited comments on the draft environmental assessment prepared in conjunction with the proposal. No comments were received. The final assessment is on file in the Service's Division of Law Enforcement, 1375 K Street, NW., Washington, D.C., and may be examined during regular business hours. This assessment forms the basis for the decision that this final rule is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

Effective Date of This Rule

Because this rule is a substantive rule which grants or recognizes an exemption or relieves a restriction, the Service has determined to make it effective immediately under authority of 5 U.S.C. 553(d)(1).

Classification and Regulatory Analysis

The Department has determined that this document is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Regulations Promulgation:

Accordingly, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations is hereby amended as follows:

PART 13—GENERAL PERMIT PROCEDURES

1. The authority citation for Part 13 reads as follows:

Authority: Lacey Act, 62 Stat. 687, as amended, 63 Stat. 89, 74 Stat. 753, and 83 Stat. 281 (18 U.S.C. 42–44); Black Bass Act, sec. 5, 44 Stat. 576, as amended, 46 Stat. 846 (16 U.S.C. 852c); Migratory Bird Treaty Act, sec. 3, 40 Stat. 755 (16 U.S.C. 704); Bald Eagle Protection Act, sec. 2, 54 Stat. 251 (16 U.S.C. 668a); Tariff Classification Act of 1962, 19 U.S.C. 1202, "Schedule 1, Part 15D, Headnote 2(d), Tariff Schedules of the United States," 76 Stat. 72, Endangered Species Act of 1973, section 11(f), 87 Stat. 884; Fish and Wildlife Act of 1956, sec. 13(d), 86 Stat. 905 amending 85 Stat. 480 (16 U.S.C. 742j–1); Marine Mammal Protection Act of 1972, sec. 112(a), 86 Stat. 1042 (16 U.S.C. 1382); Act of August 31, 1951, Ch. 376, Title 5, section 501, 65 Stat. 290 (31 U.S.C. 483a).

§ 13.12 [Amended]

2. Amend § 13.12(b) by amending "American alligator—buyer, tanner, or fabricator . . . . . 17.42(a)" to read "American alligator—buyer or tanner . . . . . 17.42(a)."

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

3. The authority citation for Part 17, reads as follows:

Authority: Endangered Species Act of 1973 (16 U.S.C. 1531–1543).

4. Revise § 17.42(a) to read as follows:

§ 17.42 Special rules—reptiles.

(a) *American alligator (Alligator mississippiensis)*—(1) *Definitions.* For the purposes of this paragraph (a):

"American alligator" shall mean any member of the species *Alligator mississippiensis*, whether alive or dead, and any part, product, egg, or offspring thereof occurring: in captivity wherever found, in the wild wherever the species is listed under § 17.11 as threatened—similarity of appearance, or in the wild in Florida and in the coastal areas of Georgia, Louisiana, South Carolina, and Texas, contained within the following boundries:

From Winyah Bay near Georgetown, South Carolina, west on U.S. Highway 17 to Georgetown; thence west and south on U.S. Alternate Highway 17 to junction with U.S. Interstate Highway 95 near Walterboro, South Carolina; thence south on U.S. Interstate Highway 95 (including incomplete portions) to junction with U.S. Highway 82; thence southwest on U.S. Highway 82 to junction with U.S. Highway 84 at Waycross, Georgia; thence west on U.S. Highway 84 to the Alabama-Georgia border; thence south along this border to the Florida border and following the Florida border west and south to its termination at the Gulf of Mexico. From the Mississipi-Louisiana border at the Gulf of Mexico north along this border to its junction with U.S. Interstate Highway 10; thence west on U.S. Interstate Highway 10 to junction with U.S. Interstate Highway 12; thence west on U.S. Interstate Highway 12 to Baton Rouge, Louisiana; thence north and west along corporate limits of Baton Rouge to U.S. Highway 190; thence west on U.S. Highway 190 to junction with Louisiana State Highway 12 at Ragley, Louisiana; thence west on Louisiana State Highway 12 to the Beauregard-Calcasieu Parish border, thence north and west along this border to the Texas-Louisiana State border; thence south on this border to Texas State Highway 12; thence west on Texas State Highway 12 to Vidor, Texas; thence west on U.S. Highway 90 to the Houston, Texas, corporate limits; thence north, west and south along Houston corporate limits to junction on the west with U.S. Highway 59; thence south and west on U.S. Highway 59 to Victoria, Texas; thence south on U.S. Highway 77 to corporate limits of Corpus Christi, Texas; thence southeast along the southern Corpus Christi corporate limits to Laguna Madre; thence south along the west shore of Laguna Madre to the Nueces-Kleberg County line; thence east along the Nueces-Kleberg County line to the Gulf of Mexico.

"Buyer" shall mean a person engaged in buying a raw, green, salted, or otherwise untanned hide of an American alligator.

"Tanner" shall mean a person engaged in processing a raw, green, salted, or crusted hide of an American alligator into leather.

(2) *Prohibitions.* The following prohibitions apply to the American alligator, except as provided by permits available under paragraph (a)(3) of this section.

(i) *Taking.* No person may take any American alligator, except:

(A) Any employee or agent of the Service, any other Federal land management agency, or a State conservation agency, who is designated by the agency for such purposes, may, when acting in the course of official duties, take an American alligator without a permit if such action is necessary to:

(*1*) Aid a sick, injured, or orphaned specimen;

(*2*) Dispose of a dead specimen;

(*3*) Salvage a dead specimen which may be useful for scientific study; or

(*4*) Remove a specimen which constitutes a demonstrable but non-immediate threat to human safety. The taking must be done in a humane manner, and may involve killing or injuring only if it has not been reasonably possible to eliminate such threat by live-capturing and releasing the specimen unharmed in a remote area. Any taking pursuant to this paragraph (a)(2)(i)(A) must be reported in writing to the Director (OES), Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, within five (5) days.

(B) Any employee or agent of the Service or of a State conservation agency which is operating under a cooperative agreement with the Service in accordance with section 6(c) of the Act which covers American alligators may, when acting in the course of official duties, take an American alligator to carry out scientific research or conservation programs.

(C) Any person may take an American alligator in the wild wherever listed under § 17.11 as threatened—similarity of appearance in accordance with the laws and regulations of the State in which the taking occurs, subject to the following conditions:

(*1*) Any raw, green, salted, or otherwise untanned hide of such alligator is sold or otherwise transferred only to a person holding a valid Federal permit to buy hides, issued under paragraph (a)(3) of this section;

(*2*) Any meat or other part except the hide is sold or otherwise transferred only in accordance with the laws and regulations of the State in which the taking occurs and the State in which the sale or transfer occurs;

(*3*) The hide is tagged by the State where the taking occurs with a noncorrodible, serially numbered tag which identifies the State where the taking occurs;

(*4*) The tag number, length of skin, type of skin (whether belly or hornback) and date and place of the specimen's taking are recorded by the State; and

(*5*) A tag or label is affixed to the outside of any package or container used to ship an American alligator which:

(*i*) Identifies its contents as American alligator hides, meat, or other parts,

(*ii*) Indicates the quantity of each, and

(*iii*) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.83 of this chapter.

(D) When an American alligator is taken by Federal or State officials in accordance with paragraphs (a)(2)(i) (A) or (B) of this section the hide, meat, and other parts may be sold by their respective agencies, subject to the following conditions:

(*1*) Any raw, green, salted, or otherwise untanned hide of such alligator is sold or otherwise transferred only to a person holding a valid Federal permit to buy hides, issued under paragraph (a)(3) of this section;

(*2*) Any meat or other part except the hide is sold or otherwise transferred only in accordance with the laws and regulations of the State in which the taking occurs and the State in which the sale or transfer occurs;

(*3*) The hide is tagged by the State where the taking occurs with a noncorrodible, serially numbered tag which identifies the State where the taking occurs;

(*4*) The tag number, length of skin, type of skin (whether belly or hornback) and date and place of the specimen's taking are recorded by the State; and

(*5*) A tag or label is affixed to the outside of any package or container used to ship an American alligator which:

(*i*) Identifies its contents as American alligator hides, meat, or other parts.

(*ii*) Indicates the quanity of each, and

(*iii*) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.83 of this chapter.

(ii) *Unlawfully taken alligators.* No person may possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any American alligator taken unlawfully.

(iii) *Import or export.* No person may import or export any American alligator, except that a hide which bears the noncorrodible, serially numbered tag attached by the State where the taking occurs and a manufactured product of a lawfully taken American alligator may be imported or exported in accordance with Part 23 of this chapter.

(iv) *Commercial transactions.* No person may deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce, any American alligator, except:

(A) A fully tanned hide which bears the noncorrodible, serially numbered tag attached by the State where the taking occurs and a manufactured product of a lawfully taken American alligator may be delivered, received, carried, transported, or shipped in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, and may be sold or offered for sale in interstate or foreign commerce.

(B) Any meat or other part except the hide from a lawfully taken American alligator which is sold or otherwise transferred in accordance with the laws and regulations of the State in which the taking occurs and the State in which the sale or transfer occurs may be delivered, received, carried, transported, or shipped in interstate commerce, by any means whatsoever and in the course of a commercial activity, and may be sold or offered for sale in interstate commerce.

(3) *Permits.*—(i) *General.* Permits are available under § 17.32 (Permits—general) for all of the prohibited activities referred to in paragraph (a)(2) of this section. All the terms and provisions of § 17.32 shall apply to such permits.

(ii) *Similarity of appearance.* Permits are not available under § 17.52 (Permits—similarity of appearance) for any of the prohibited activities referred to in paragraph (a)(2) of this section.

(iii) *Buyer or tanner.* Upon receipt of a complete application, the Director may issue a permit in accordance with the issuance criteria of this paragraph (a)(3)(iii) for a buyer or tanner, authorizing the permittee to engage in any activity prohibited by paragraph (a)(2) of this section.

(A) *Application requirements.* An application for a permit under this paragraph (a)(3)(iii) must be submitted to the Director by the person who wishes to engage in the activities of a buyer or tanner. Each application must be submitted on an official application form (Form 3–200) provided by the Service, and must include, as an attachment, all of the following information:

(*1*) The category or categories (buyer and/or tanner) for which the permit is desired;

(*2*) A description of the applicant's business organization including:

(*i*) The location, mailing address, and description of the physical plant in which the activities under the permit will occur,

(*ii*) Experience with American alligators, if any, over the previous five years,

(*iii*) The names and addresses of all partners, directors, officers, shareholders in a close corporation, or other parties in interest in the business organization identified by their relationship to the business organization,

(*iv*) The name and address of any business organization affiliated with the applicant's business organization;

(*v*) The location where books or records concerning any recordkeeping required by paragraph (a)(3) of this section will be kept.

(*vi*) The location where inventories of American alligator hides and hides of any other species of the Order Crocodilia will be stored, and

(*vii*) The name, address, and telephone number of the person authorized to make books or records, or inventories available for examination by Service officials;

(*3*) A description, including samples, of the applicant's present or proposed system of inventory control and bookkeeping capable of insuring accurate accounting for the following items:

(*i*) All American alligator hides, and

(*ii*) All hides of any other species of the Order Crocodilia;

(*4*) A statement detailing any criminal or civil violations of any State, Federal, or foreign law by the applicant within the previous five years for taking or trafficking in wildlife, and if the applicant is a business organization, by any partner, director, officer, principal, employee, agent, shareholder in a close corporation, or other party in interest in the business organization or any other business organization affiliated with such business organization.

(*5*) A report in English of the applicant's dealings during the preceding five years with those species of the Order Crocodilia which at any time have been listed as "Appendix I" in § 23.23 of this chapter, to the extent records of such dealings are available;

(*6*) A foreign applicant must disclose the nature and location of all property in the United States in which the applicant has an interest; and

(*7*) A foreign applicant must provide the name and address of an agent located in the United States upon whom legal process may be served; each applicant must include a certified copy of the power of attorney appointing such an agent and a certified copy of the written consent of such agent so appointed.

(B) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(3)(iii)(A) of this section, the Director will decide whether or not a buyer or fanner permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this chapter, the applicant's reliability and apparent ability and willingness to maintain and disclose accurate inventory and bookkeeping records of all American alligator hides, and all hides of any other species of the Order Crocodilia dealt with by the applicant. In addition, the Director may consider the opinions and views of scientists, law enforcement officials, or other persons or organizations having expertise concerning trade in any species of the Order Crocodilia.

(C) *Special conditions.* In addition to the general conditions set forth in Part 13 of this chapter, each permit issued under paragraph (a)(3)(iii) of this section is subject to the following special conditions:

(*1*) A permittee may not buy or tan any American alligator hide except one which was imported, exported, taken, sold, offered for sale, delivered, carried, transported, or shipped in accordance with paragraph (a)(2) of this section;

(*2*) A permittee may sell, offer for sale, deliver, carry, transport, or ship a raw, green, salted, or otherwise untanned American alligator hide only to a holder of a valid Federal permit issued under paragraph (a)(3)(iii) of this section;

(*3*) A permittee may not violate any State, Federal, or foreign laws concerning any hide, part, or product of any species of the Order Crocodilia;

(*4*) A permittee must maintain complete and accurate inventory control and bookkeeping records in accordance

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with the provisions of § 13.46 of this chapter for all transactions with American alligators and other species of the Order Crocodilia. For all such transactions, a permittee also must maintain on file a copy of any permit or other document required by Part 23 of this chapter or any other State, Federal, or foreign law;

(5) A permittee must file a written report in English with the Director by March 31 of each year concerning all transactions during the preceding calendar year ending December 31 involving American alligators and other species of the Order Crocodilia listed as "Appendix I" in § 23.23 of this chapter (such report shall include the number of hides, parts, and products by species; the supplier's name and address; and the country where taken from the wild, if known);

(6) A permittee may not transport or ship any American alligator hide unless a tag or label is affixed to the outside of any package or container used to transport or ship the hide which:

(i) Identifies its contents as American alligator,

(ii) Indicates the quantity, and

(iii) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.83 of this chapter;

(7) A buyer and/or tanner must leave the State tag on each hide; and

(8) A foreign permittee must maintain an agent in the United States upon whom legal process may be served; in the event of the death or inability to serve, or the resignation or removal of such person, the permittee shall immediately appoint a successor.

(D) *Duration of permits.* The duration of a permit issued under this paragraph (a)(3)(iii) shall be designated on the face of the permit.

(iv) *American alligators in captivity.* Upon receipt of a complete application, the Director may issue a permit authorizing the permittee to engage in any activity prohibited by paragraph (a)(2) of this section with a live American alligator which has been born in captivity or lawfully placed in captivity.

(A) *Application requirements.* An application for a permit under this paragraph (a)(3)(iv) must be submitted to the Director by the person who wishes to engage in the prohibited activity in accordance with the application requirements of § 17.32(a). In addition, the application must include, as an attachment, documentary evidence or other appropriate information where available, and sworn affidavits to show that the American alligator for which a permit is sought has been held in captivity and was either born in captivity or lawfully placed in captivity.

(B) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a)(3)(iv)(A) of this section, the Director will decide whether or not a permit should be issued. In making this decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this chapter, whether the information submitted by the applicant appears reliable, and the applicant's reliability and apparent ability and willingness to maintain and disclose accurate inventory and bookkeeping records of all American alligators, and any other species of the Order Crocodilia dealt with by the applicant. In addition, the Director may consider the opinions and views of scientists, law enforcement officials, or other persons or organizations having expertise concerning trade in any species of the Order Crocodilia.

(C) *Special conditions.* Each permit issued under this paragraph (a)(3)(iv) is subject to the general conditions set forth in Part 13 of this chapter. In addition, any permit which authorizes the taking of an American alligator is subject to the following special conditions:

(1) Any raw, green, salted, or otherwise untanned hide of such alligator is sold or otherwise transferred only to a person holding a valid Federal permit to buy hides, issued under paragraph (a)(3) of this section;

(2) Any meat or other part except the hide is sold or otherwise transferred only in accordance with the laws and regulations of the State in which the taking occurs and the State in which the sale or transfer occurs;

(3) The hide is tagged by the State where held in captivity with a noncorrodible, serially numbered tag which identifies the State where the taking occurs;

(4) The tag number, length of skin, type of skin (whether belly or hornback) and date and place of the specimen's taking are recorded by the State;

(5) A tag or label is affixed to the outside of any package or container used to ship an American alligator which:

(i) Identifies its contents as American alligator hides, meat, or other parts,

(ii) Indicates the quantity of each, and

(iii) Provides the name and address of the consignor and consignee, unless the package or container is clearly and conspicuously marked with a symbol in accordance with the terms of a valid permit issued under § 14.83 of this chapter.

(6) Complete and accurate inventory control, bookkeeping, and other appropriate records must be maintained in accordance with the provisions of § 13.46 of this chapter concerning any taking of, or transaction involving, an American alligator; and

(7) The permittee must file a written report with the Director by March 31 of each year concerning all activities conducted pursuant to the permit for the preceding calendar year ending December 31.

(D) *Duration of permits.* The duration of a permit issued under this paragraph (a)(3)(iv) shall be designated on the face of the permit.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-36878 Filed 11-24-80; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 45, No. 229
Tuesday, November 25, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1701

Proposed Adoption of a Uniform System of Accounts for Community Antenna Television Utilities

AGENCY: Rural Electrification Administration, USDA.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Rural Electrification Administration is considering adopting a uniform system of accounts to provide a guide for establishing and maintaining accounting and related records for Community Antenna Television Systems. REA is interested in receiving comments on the suitability of adopting the accounting standards or practices discussed in the Supplementary Information Section of this notice, to include any of the strengths or weaknesses of the systems mentioned. REA is also soliciting suggestions on the advisability of adopting a uniform system of accounts.

DATE: Public comments must be received by REA no later than: December 26, 1980.

ADDRESS: Persons interested in the proposal may submit written data, views, suggestions or comments to the Director, Accounting and Auditing Division, Rural Electrification Administration, Room 4307, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon Chazin, Director, Accounting and Auditing Division, above address, telephone number (202) 477–7221.

SUPPLEMENTARY INFORMATION: REA is in the process of adopting a Uniform System of Accounts for Community Antenna Television Utilities. We have under review and consideration CATV accounting standards and practices developed by the National Association of Regulatory Utility Commissioners (NARUC), the New York State Commission on Cable Television, and the Price Waterhouse Chart of Accounts presented in FCC contract No. FCC–0177. In addition, we are considering the drafting of a new system of accounts adopting some of the accounting principles and standards of the three sources stated above.

REA would appreciate correspondents identifying and strengths or weaknesses found in the systems mentioned. For example, the NARUC system provides functional accounting in its classification of assets and costs, however, it does not discuss the appropriate accounting for systems development costs as addressed by the AICPA in its Statement of Position 79–2, "Accounting by Cable Television Companies". We would also appreciate information on any additional systems of accounts currently in use.

Copies of these documents are available for inspection in the Accounting and Auditing Division. copies of the NARUC "Uniform System of Accounts for Class A Community Antenna Television (CATV) Utilities" may be purchased at $5.50 each from:

National Association of Regulatory Commissioners, 1102 Interstate Commerce Commission Building, Constitution Avenue and Twelfth Street NW., P.O. Box 684, Washington, D.C. 20044.

This program is listed in the Catalog of Federal Domestic Assistance as 10.853-Community Antenna Television Loans and Loan Guarantees.

All interested parties are invited to comment on this notice. Further public comment will be solicited when the proposed rule is published.

Dated: November 17, 1980.

Joseph Vellone,

Acting Assistant Administrator—Administration.

[FR Doc. 80-36777 Filed 11-24-80; 8:45 am]

BILLING CODE 3410-15-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229 and 239

[Release Nos. 33-6262, 34-17305; File No. S7-853]

Proposed Availability of Simplified Registration Form to Certain Mining Companies

AGENCY: Securities and Exchange Commission.

ACTION: Extension of comment period.

SUMMARY: On October 7, 1980, the Commission proposed for comment amendments to Form S–18 which would allow certain issuers engaged in the mining business to register their securities on that Form. The proposed amendments included a new disclosure item on Form S–18 applicable to mining companies and similar amendments to Item 2 of Regulation S–K. The proposed amendments to Regulation S–K would be applicable to companies using registration forms other than S–18 and to companies subject to the continuous reporting requirements under the Securities Exchange Act of 1934. The Commission also recommended that Form S–3, currently available to certain start-up or unprofitable companies engaged in the mining business, be rescinded. The Commission is extending the period for submitting comments until December 21, 1980.

DATE: Comments should be submitted on or before December 21, 1980.

ADDRESSES: All communications on this matter should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comments should refer to File No. S7–853 and will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Michael J. Eizelman, Office of Small Business Policy, Division of Corporation Finance, (202) 272–2644. With respect to proposed item 7A of Form S–18 and Item 2(c) of Regulation S–K, contact Hubert W. Norman, Office of Engineering, Division of Corporation Finance, (202) 272–3257.

SUPPLEMENTARY INFORMATION: On October 7, 1980, in Release Nos. 33–6245

and 34–17179 (45 FR 68965) the Commission proposed for comment certain to Form S–18 (17 CFR 239.28) and Regulation S–K (17 CFR 229.20) and a proposal to rescind Form S–3 (17 CFR 239.13). These amendments, if adopted, would allow certain issuers engaged in mining operations to register their securities on Form S–18. In addition, new disclosure provisions for Form S–18 and Item 2 of Regulation S–K would require detailed information as to each of the mines, plants or other significant properties owned by mining companies, including those companies using registration forms other than S–18 and those companies subject to the continuous reporting requirements under the Securities Exchange Act of 1934.

It has come to the attention of the Commission that several interested persons initially were of the view that the proposed amendments related only to the availability of Form S–18 to certain small issuers engaged in the mining business. These persons have requested an extension of the comment period in order to submit their views regarding the amendments to Regulation S–K as they apply to larger mining companies.

The Commission recognizes the significant impact which the proposed amendments may have on the disclosure provided by larger mining companies by requiring such disclosure on a plant-by-plant basis and therefore wishes to give such companies ample time to express their views, particularly in light of an apparent misunderstanding as to the scope of the amendments. Interested persons are specifically requested to submit suggestions regarding the manner in which certain operations of such companies may be aggregated for disclosure purposes.

Accordingly, the Commission today has extended the period for the submission of written comments and views concerning the foregoing proposed amendments until December 21, 1980.

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

November 14, 1980.

[FR Doc. 80-36700 Filed 11-24-80; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Parts 239, 249 and 274

[Release Nos. 33-6293, 34-17311, IC-11448, File No. S7-864]

Revisions of Investment Company Current Report Forms

AGENCY: Securities and Exchange Commission.

ACTION: Proposed revisions to forms.

SUMMARY: The Commission is proposing three revisions to its Form N–1Q, which is used by most management investment companies to report the occurrence during the preceding calendar quarter of any one or more of twelve specified events. The Commission is proposing to replace the requirement that investment companies filing Form N–1Q list on a calendar quarterly basis certain information about their securities portfolio with a requirement that this information be reported annually on either Form N–1 or Form N–2. In addition, the Commission is proposing to limit Form N–1Q's requirement that reporting companies furnish information about matters submitted to votes of security holders. Finally, the Commission is proposing to revise Form N–1Q to require that reports be filed on a fiscal quarter rather than calendar quarter basis. The proposed revisions are designed to reduce the number of times management investment companies must file Form N–1Q reports and to make reporting on the form less burdensome for those companies.

DATE: Comments should be submitted on or before January 23, 1981.

ADDRESSES: Comments should refer to File No. S7–864 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549. Comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Barry P. Barbash, Esq. (202) 272–2098 or Anthony A. Vertuno, Esq. (202) 272–2107, Division of Investment Management, Securities and Exchange Commission, Washington, DC. 20549.

SUPPLEMENTARY INFORMATION: The Commission is inviting comment on proposed amendments to its Form N–1Q (17 CFR 274.106). That form, adopted pursuant to section 30 of the Investment Company Act of 1940 ("1940 Act") (15 U.S.C. 80a–29) and sections 13 and 15(d) of the Securities Exchange Act of 1934 ("1934 Act") (15 U.S.C. 78m, 78o(d)), is used by management investment companies to report the occurrence during the preceding calendar quarter of any one or more of twelve events specified in the form. A report on Form N–1Q must be filed within 30 days after the calendar quarter during which any of the specified events occurred.

Among the events an investment company required to file Form N–1Q must report on the form are changes in its securities portfolio and matters submitted to a vote of its security holders.[1] As explained in detail below, the effect of requiring these two events to be reported on Form N–1Q is to require most of those companies filing the form to submit it to the Commission four times a year. To reduce the number of times a reporting company must file Form N–1Q and for the reasons discussed below, the Commission is proposing to eliminate the reporting of portfolio changes on Form N–1Q and to modify the reporting of shareholder voting on the form.

1. Reporting of Changes in Securities Portfolios

(a) *Current Requirement and Reasons for Amendments.*

Item 1 of Form N–1Q, which was adopted by the Commission in 1967, (Investment Company Act Release No. 5180, December 6, 1967 (32 FR 17583 (December 8, 1967))), requires all management investment companies, except small business investment companies and certain venture capital companies, to report any acquisition or disposition of portfolio securities made during a calendar quarter. The first report filed pursuant to Item I and the first report filed pursuant to the item after the end of a calendar year must include information as to the reporting company's entire securities portfolio.

Virtually all investment companies required to file Form N–1Q engage in portfolio transactions during every calendar quarter and as a result must file Form N–1Q reports four times a year. The Commission has found that Form N–1Q is often filed for the sole purpose of reporting the occurrence of portfolio transactions. Having considered this reporting burden in light of the purposes for which the requirement was imposed, the Commission believes that it is appropriate to replace the requirement to include portfolio information on Form N–1Q with a requirement to include

[1] The other ten reportable events are as follows: (a) Changes in the reporting company's policies with respect to security investments; (b) legal proceedings involving the reporting company; (c) changes in the assets securing any class of debt of the reporting company; (d) defaults and arrears on the reporting company's senior securities; (e) changes in control of the reporting company; (f) changes in the constituent instruments defining the rights of the holders of any class of the reporting company's securities; (g) revaluation of the reporting company's assets or restatement of its capital share accounts; (h) changes in the reporting company's certifying accountant; (i) changes in the accounting principles and practices followed by the reporting company; and (j) any merger or consolidation of the reporting company with one or more other registered investment companies.

such information annually on either Form N–1 (17 CFR 239.15, 17 CFR 274.11) or Form N–2 (17 CFR 239.14, 17 CFR 274.11a–1).

Item 1 of Form N–1Q was adopted for three reasons. The information elicited by Item 1 was intended to aid the Commission in carrying out its regulatory responsibilities under the 1940 Act and in conducting studies of investment company portfolio transactions and their effects on the market place.[2] Item 1 was also adopted for the purpose of providing the public with information about the securities transactions of management investment companies.[3]

Although the Commission continues to believe that investment company portfolio transaction data is important, it has determined that it no longer needs to receive that information on a quarterly basis. Pursuant to its authority under Section 31(b) (15 U.S.C. 80a–30(b)) of the 1940 Act to inspect investment company books and records, the Commission can obtain current information about portfolio transactions. In light of its ability to inspect books and records, the Commission believes an annual reporting of investment company portfolio transactions would be sufficient to allow it to conduct studies of those transactions and to carry out its regulatory responsibilities under the 1940 Act effectively and efficiently.

The Commission believes further that any adverse effects on the public that could result from the elimination of quarterly reporting of portfolio transactions by investment companies would be minimal. It is not clear how much public use is made of reports filed in response to Item 1 of Form N–1Q. On one hand, only a limited number of requests have been made to the Commission by members of the public to inspect Form N–1Q reports. On the other hand, certain companies have determined that public interest in Form N–1Q information is significant enough to warrant their publishing tabulations of that information for sale to the public. In any event, the Commission is of the opinion that to the extent members of the public need information on a calendar quarterly basis concerning the portfolios of investment companies, those individuals can rely on information contained in Form 13F (17 CFR 249.325) reports filed pursuant to section 13(f) (15 U.S.C. 78m(f)(1)) of the 1934 Act.

[2] Investment Company Release No. 5180, December 6, 1967 (32 FR 17583 (December 8, 1967)).

[3] *Id.*

Form 13F is used by money managers that fall within the definition of "institutional investment manager" contained in section 13(f)(5)(A) of the 1934 Act (15 U.S.C. 78m(f)(5)(A)),[4] and that meet certain criteria set out in rule 13f–1 under the 1934 Act (17 CFR 240.13f–1), to disclose on a calendar quarterly basis the holdings of the accounts over which they exercise investment discretion. Among the money managers that typically meet the requirements of section 13(f) and rule 13f–1 and thus file Form 13F reports are investment advisers of registered investment companies. In filing form 13F reports, those investment advisers disclose the portfolio holdings of the investment companies they advise. Thus, since the adoption of rule 13f–1, investment company securities holdings are being reported on Form 13F as well as on Form N–1Q.

Although both Form 13F and Form N–1Q contain information about investment company portfolios, the information contained in the two forms is not identical,[5] nor is the information reported in the same manner on the two forms.[6] Nonetheless, the Commission believes that the differences between Form 13F reports and Form N–1Q reports do not prevent the former from being an adequate substitute for Form N–1Q reports as source of public information concerning investment company securities portfolios.

[4] An "institutional investment manager" is defined in section 13(f)(5)(A) of the 1934 Act as "any person, other than a natural person, investing in or buying and selling securities for its own account, and any person exercising investment discretion with respect to the account of any other person."

[5] The information contained in Form 13F reports is not identical to that contained in Form N–1Q reports for at least three reasons. First, under rule 13f–1, an institutional investment manager is required to file Form 13F only if it exercises investment discretion over accounts having $100,000,000 or more in certain equity securities on a specified date. Thus, the holdings of investment companies receiving investment advice from an adviser not meeting the $100,000,000 threshold would not be disclosed in a Form 13F report, even though those holdings would be disclosed in Form N–1Q reports filed by the companies. Second, unlike Form N–1Q, which requires the reporting of information about all securities held by investment companies, Form 13F requires holdings of only certain equity securities to be reported. Third, a Form 13F reporting manager is not required to include in its report holdings of fewer than 10,000 shares having an aggregate fair market value less than $200,000. Form N–1Q contains no similar exclusion.

[6] For example, whereas one Form N–1Q is filed by each reporting investment company and provides information about only the reporting company, an investment adviser filing Form 13F reports in the aggregate portfolio information with respect to all investment companies it advises. In addition, whereas Form N–1Q requires the reporting of a particular company's securities transactions during the calendar quarter, Form 13F requires the reporting of securities holdings as of the end of a calendar quarter.

(b) *Annual Reporting of Portfolio Transactions.* Rule 8b–16 under the 1940 Act (17 CFR 270.8b–16) requires management investment companies, other than small business investment companies, to update their 1940 Act registration statements annually. The Commission is proposing to amend Form N–1, which is used by open-end management investment companies to update their 1940 Act registration statements, and Form N–2, which is used by closed-end management investment companies for the same purpose, to require the reporting of certain portfolio information. Under the proposal, reporting companies would include in Part II of their annual updating form a table of portfolio information virtually identical to the table that is now required by Item 1 of Form N–1Q. Reporting companies would be required to show in a tabular format: (a) The number of shares (or other units) of equity securities or principal amount of debt securities acquired or disposed of for their portfolios during the preceding fiscal year; (b) their holdings of such securities and cash at the end of the fiscal year; and (c) their holdings of all other securities as of the end of the fiscal year.

The Commission has not included in its proposal for annual reporting of investment company portfolio transactions a confidential treatment provision similar to the one now contained in Item 1 of Form N–1Q. Instruction 8 to Item 1 provides generally for confidential treatment of information filed in a Form N–1Q report relating to a program of purchasing securities of a particular issue or issues engaged in by the reporting company both at the end of the calendar quarter and on the date the report is filed. Instruction 8 was made part of Form N–1Q in response to public comments maintaining that if a reporting company's current portfolio purchase program were disclosed the company might have to pay higher prices for the securities being purchased.[7] Because annual updates filed on either Form N–1 or Form N–2 cover greater time periods than does Form N–1Q, and because the time allowed for the filing of those annual updates is significantly longer than the time allowed for the filing of Form N–1Q,[8] the danger that a registrant will be involuntarily required to disclose

[7] Investment Company Act Release No. 5180, December 6, 1967 (32 FR 17583 (December 8, 1967)).

[8] Rule 8b–16 under the 1940 Act requires annual updates on either Form N–1 of Form N–2 to be filed within 120 days of the end of the reporting company's fiscal year, whereas Form N–1Q must be filed within 30 days after the end of a quarter in which a reportable event occurs.

sensitive information relating to an ongoing purchase program seems remote. Thus, the Commission believes that a provision resembling Instruction 8 to Item 1 of Form N–1Q does not need to be incorporated as part of the annual reporting requirement being proposed.

2. Reporting of Matters Submitted to Shareholders

Item 2 of Form N–1Q requires a reporting investment company to furnish certain information about any matter submitted to a vote of the company's securityholders during the preceding quarter year. Instruction 2 to the item provides, however, that the item need not be answered as to procedural matters, the selection or approval of auditors, and the uncontested election of directors. Instruction 2 reflects the Commission's belief that certain routine matters voted upon at shareholder meetings need not be reported on Form N–1Q.

The Commission is proposing to amend Instruction 2 to add voting on the continuation of the reporting company's current advisory contract to the list of routine matters that need not be reported under Item 2 of Form N–1Q.[9] The Commission expects that this amendment, together with the elimination of Item 1, would have the effect of appreciably reducing the number of Form N–1Q reports management investment companies must file.

3. Changing Filing Date of Form N–1Q.

Form N–1Q is now required to be filed within 30 days after the close of each calendar quarter during which any of the twelve events specified in the form has occurred. Calendar quarterly filing of Form N–1Q was adopted by the Commission to obtain information about portfolio transactions on a comparable time basis.[10] In light of its proposal to eliminate the requirement to include portfolio transaction information on Form N–1Q, the Commission is proposing to revise the form to require that reports to be filed 30 days after the end of an investment company's fiscal quarter in which any of the events specified in the form occurred. The Commission expects this change to make it easier for investment companies to file this report.

Text of the Proposed Amendments

Chapter II of Title 17 of the Code of Federal Regulations is proposed to be amended as follows:

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

1. By amending §§ 239.15 and 274.11 by amending Part II of Form N–1 to add new item 11 to read as follows:

§ 239.15 Form N–1 for open-end management investment companies registered on Form N–8A.

§ 274.11 Form N–1, registration statement of open-end management investment companies.

* * * * *

Part II. Other Information

* * * * *

Item 11. Changes in Portfolio Securities

If the registrant has acquired or disposed of any portfolio securities during the fiscal year, furnish the information specified below as to all portfolio securities owned by the registrant at the end of the fiscal year.

Item 11.—*Changes in Portfolio Securities: Number of Shares (or Other Unit), or Principal Amount of Debt Securities*

Name of issuer and title of issue (1)	Exchange symbol (2)	Purchases and other acquisitions (3)	Sales and other dispositions (4)	Owned at end of fiscal year (5)	SEC use (6)
1. U.S. Government Securities (short-term and long-term).	.....	Dollars in thousands	Dollars in thousands	Dollars in thousands	
2. Short-Term Debt Securities (other than U.S. Government.	.....	Dollars in thousands	Dollars in thousands	Dollars in thousands	
3. Long-Term Debt Securities (other than U.S. Government):					
(a) Non-convertible	.....	Dollars in thousands	Dollars in thousands	Dollars in thousands	
(b) Convertible	.....	Dollars in thousands	Dollars in thousands	Dollars in thousands	
4. Preferred Stock:					
(a) Non-convertible	.....	Number of shares	Number of shares		
(b) Convertible	.....	Number of shares	Number of shares	Number of shares	
5. Common stock	.....	Number of shares	Number of shares	Number of shares	
6. Options or Warrants to Purchase Common Stock or Other Securities (Specify).	.....	Number of options or warrants.	Number of options or warrants.	Number of options or warrants.	
7. Other Securities	.....	Number of shares, units, or dollars in thousands (specify).	Number of shares, units, or dollars in thousands (specify).	Number of shares, units, or dollars in thousands (specify).	
Cash	.....	.....	.....	Dollars in thousands	

Instructions

1. This item shall not be answered by any registrant that is engaged principally in the business of underwriting, furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, and reorganizing companies or similar activities.

2. For the purpose of this item the term "U.S. Government securities" means any securities issued by the United States or by an instrumentality of the Government of the United States. "Short-term debt securities" means any securities payable on demand or having a maturity at the time of issuance not exceeding one year, or any renewal thereof payable on demand or having a maturity at time of renewal not exceeding one year. The term "long-term debt securities" means any debt securities other than short-term debt securities.

3. Except for U.S. Government securities and short-term debt securities, with respect to which only the totals for each such category shall be shown in columns (3) through (5), the required information shall be shown separately for each security acquired or disposed of by the registrant during the fiscal year even though the registrant may not have owned the particular security at the end of the year.

4. The principal amount of all U.S. Government securities and of all other short-term and long-term debt securities, and the amount of cash, shall be stated in the nearest thousand dollars. The numbers of shares or other units of other securities shall be stated in the nearest full share or other unit.

5. Set forth in column (2), as to each security registered or traded on a national securities exchange, the symbol assigned to such security by the exchange.

6. Any options or warrants which were attached to another security at the time of their acquisition shall be reported with, and in the category of, such other security. If one of such securities is disposed of separately, such disposition and the remaining holdings of the other security shall be reported in their separate categories and explained by footnote.

7. Acquisitions or dispositions during the calendar fiscal year of shares which were thereafter increased by a stock dividend or stock split during such year shall be adjusted to reflect the additional shares, and the date and basis of such stock dividend or split shall be indicated briefly by footnote to the adjusted quantities in column (3) or (4). The increased number of shares of any security owned at the end of any fiscal year as the result of a stock dividend or split during such year shall be shown in column (5) and likewise indicated by footnote, irrespective of whether there were any other changes in the registrant's ownership of such security during the year. Any increase in shares resulting from a stock dividend on, or split of, shares owned at the beginning of the year shall not be shown as an acquisition in column (3). Similar adjustment and explanation shall be made with respect to any reverse stock split.

8. Any purchases of a security on margin, or acquisition or disposition of a security through exchange or otherwise than for cash, shall be indicated by footnote to the figures in column (3) or (4) stating the nature of the acquisition or disposition and the quantity, if other than that shown in the applicable column. Any acquisitions of a security pursuant to rule 10f–3 (17 CFR 270.10f–3) shall be indicated by footnote to the figures in column (3). Any security held in margin accounts or subject to option at the end of the fiscal year shall also be indicated by footnote to the figures in column (5), which shall include the quantity and, in the case of options, the option prices and the dates within which they may be exercised.

9. If the registrant effected any short sale or any change in a short position in a security during the fiscal year, it shall set forth in a separate table in columnar form the name of the issuer of such security, the title of the issue, and the exchange symbol, if any, and, in numbers of shares, the short sales during the year, the short positions closed during the year, and the short position at the end of the year. Appropriate adjustment in numbers of shares shall be made to reflect any stock dividend or stock split during the year.

2. By amending §§ 239.14 and 274.11a–1 by amending Part II of Form N–2 to add new item 11 of read as follows:

§ 239.14 Form N–2 for closed-end management investment companies registered on Form N–8A.

§ 274.11a–1 Form N–2, registration statement of closed-end management investment companies.

* * * * *

Part II Other Information

* * * * *

Item 11 Changes in Portfolio Securities

Item II.—*Changes in Portfolio Securities: Number of Shares (or Other Unit), or Principal Amount of Debt Securities*

Name of issuer and title of issue (1)	Exchange symbol (2)	Purchases and other acquisitions (3)	Sales and other dispositions (4)	Owned at end of fiscal year. (5)	SEC use (6)
1. U.S. Government Securities (short-term and long-term).	.....	Dollars in thousands	Dollars in thousands	Dollars in thousands	
2. Short-Term Debt Securities (other than U.S. Government).	.....	Dollars in thousands	Dollars in thousands	Dollars in thousands	
3. Long-Term Debt Securities (other than U.S. Government):					
(a) Non-convertible	.....	Dollars in thousands	Dollars in thousands	Dollars in thousands	
(b) Convertible	.....	Dollars in thousands	Dollars in thousands	Dollars in thousands	
4. Preferred Stock:					
(a) Non-convertible	.....	Number of shares	Number of shares		
(b) Convertible	.....	Number of shares	Number of shares	Number of shares	
5. Common stock	.....	Number of shares	Number of shares	Number of shares	
6. Options or Warrants to Purchase Common Stock or Other Securities (Specify).	.....	Number of options or warrants.	Number of options or warrants.	Number of options or warrants.	
7. Other Securities	.....	Number of shares, units, or dollars in thousands (specify).	Number of shares, units, or dollars in thousands (specify).	Number of shares, units, or dollars in thousands (specify).	
Cash	.....	.....	.....	Dollars in thousands	

Instructions

1. This item shall not be answered by any registrant that is engaged principally in the business of underwriting, furnishing capital to industry, financing promotional enterprises, purchasing securities of issuers for which no ready market is in existence, and reorganizing companies or similar activities.

2. For the purpose of this item the term "U.S. Government securities" means any securities issued by the United States or by an instrumentality of the Government of the United States. "Short-term debt securities" means any securities payable on demand or having a maturity at the time of issuance not exceeding one year, or any renewal thereof payable on demand or having a maturity at time of renewal not exceeding one year. The term "long-term debt securities" means any debt securities other than short-term debt securities.

3. Except for U.S. Government securities and short-term debt securities, with respect to which only the totals for each such category shall be shown in columns (3) through (5), the required information shall be shown separately for each security acquired or disposed of by the registrant during the fiscal year even though the registrant may not have owned the particular security at the end of the year.

4. The principal amount of all U.S. Government securities and of all other short-term and long-term debt securities, and the amount of cash, shall be stated in the nearest thousand dollars. The numbers of shares or other units of other securities shall be stated in the nearest full share or other unit.

5. Set forth in column (2), as to each security registered or traded on a national securities exchange, the symbol assigned to such security by the exchange.

6. Any options or warrants which were attached to another security at the time of their acquisition shall be reported with, and in the category of, such other security. If one of such securities is disposed of separately, such disposition and the remaining holdings of the other security shall be reported in their separate categories and explained by footnote.

7. Acquisitions or dispositions during the calendar fiscal year of shares which were thereafter increased by a stock dividend or stock split during such year shall be adjusted to reflect the additional shares, and the date and basis of such stock dividend or split shall be indicated briefly by footnote to the adjusted quantities in column (3) or (4). The increased number of shares of any security owned at the end of any fiscal year as the result of a stock dividend or split during such year shall be shown in column (5) and likewise indicated by footnote, irrespective of whether there were any other changes in the registrant's ownership of such security during the year. Any increase in shares resulting from a stock dividend on, or split of, shares owned at the beginning of the year shall not be shown as an acquisition in column (3). Similar adjustment and explanation shall be made with respect to any reverse stock split.

8. Any purchases of a security on margin, or acquisition or disposition of a security through exchange or otherwise than for cash, shall be indicated by footnote to the figures in column (3) or (4) stating the nature of the acquisition or disposition and the quantity, if other than that shown in the applicable column. Any acquisitions of a security pursuant to rule 10f–3 (17 CFR 270.10f–3) shall be indicated by footnote to the figures in column (3). Any security held in margin accounts or subject to option at the end of the fiscal year shall also be indicated by footnote to the figures in column (5), which shall include the quantity and, in the case of options, the option prices and the dates within which they may be exercised.

9. If the registrant effected any short sale or any change in a short position in a security during the fiscal year, it shall set forth in a separate table in columnar form the name of the issuer of such security, the title of the issue, and the exchange symbol, if any, and, in numbers of shares, the short sales during the year, the short positions closed during the year, and the short position at the end of the year. Appropriate adjustment in numbers of shares shall be made to reflect any stock dividend or stock split during the year.

[9] The Commission's view that the determination to approve or disapprove a management investment company's current advisory contract is a matter that need not be reported was reflected in an earlier release authorized by the Commission setting forth its Division of Investment Management's review procedure applicable to preliminary proxy material. Securities Act Release No. 5988, October 19, 1978 (43 FR 49866 (October 25, 1978)). In that release, the Division of Investment Management indicated that the staff will ordinarily make no substantive review of proxy statements that have no proposals other than those relating to the uncontested election of directors, the ratification of the selection of accountants, and the continuation of a current advisory contract.

[10] Investment Company Act Release No. 5180, December 8, 1967 (32 FR 17583 (December 8, 1967)).

V 45 N 0 25 80 UMI

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

3. Amending the general instructions to Form N–1Q as follows:

§ 249.331 Form N–1Q, quarterly report of management investment companies registered under the Investment Company Act of 1940.

§ 274.106 Form N–1Q, for quarterly report of registered investment company.

* * * * *

(A) General instruction A. is to be amended by deleting the word "calendar" in paragraphs (a) and (b) and inserting the word "fiscal" in its place.

(B) General instruction E. is to be eliminated.

(C) General instruction F. is to be redesignated general instruction E.

4. Amending Form N–1Q as follows:

§ 249.331 Form N–1Q, quarterly report of management investment companies registered under the Investment Company Act of 1940.

§ 274.106 Form N–1Q, for quarterly report of registered investment company.

* * * * *

(A) Item 1 is to be eliminated.

(B) Instruction 2. to Item 2. is to be amended to read as follows:

* * * * *

Item 2. Submission of Matters to a Vote of Security Holders.

* * * * *

Instructions.

* * * * *

2. This item need not be answered as to (1) procedural matters, (ii) the selection or approval of auditors, (iii) the continuation of the current advisory contract, or (iv) the election of directors or officers in cases where there was no solicitation in opposition to the management's nominees, as listed in a proxy statement pursuant to rule 20a–1 under the Act (17 CFR 270.20a–1) and Regulation 14A under the Securities Exchange Act of 1934 (17 CFR 240.14a–1—240.14b–1), and all of such nominees were elected. This item may be omitted if action at the meeting was limited to the foregoing. In cases where the registrant does not solicit proxies and the board of directors as previously reported to the Commission was re-elected in its entirety, a statement to that effect will suffice.

(C) Items 2 through 13 are to be renumbered 1 through 12.

(Secs. 13 and 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78M and 78o(d) and Sections 8 and 30 of the Investment Company Act of 1940 (15 U.S.C. 80a–8 and 80a–29)

By the Commission.

George A. Fitzsimmons,

Secretary.

November 17, 1980.

[FR Doc. 80–36701 Filed 11–24–80; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 436

[Docket No. 80N–0390]

Tests and Methods of Assay of Antibiotic and Antibiotic-Containing Drugs; Revised Standard Response Line Concentrations

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the antibiotic drug regulations by revising the standard response line concentration for capreomycin, cycloserine, gramicidin, and troleandomycin in order to produce more accurate potency assay results. This revision is made in response to the results of a review conducted by the National Center for Antibiotic Analysis.

DATES: Comments by January 26, 1981; request for conference December 26, 1980.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan Eckert, Bureau of Drugs (HFA–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: The current regulations set forth in § 436.106(a) (21 CFR 436.106(a)) for the microbiological turbidimetric potency assay of capreomycin, cycloserine, gramicidin, and troleandomycin provide for standard response line concentrations that are 64, 80, 100, 125, and 156 percent of the reference concentration of the assay. The reference concentration of the assay is the midpoint concentration of the standard response line. A review of the standard response lines by FDA's laboratory, the National Center for Antibiotics Analysis, shows that variations in the assay prevent the straight line portion of the curve from extending far enough to include either the low or high standard response line concentrations of 64 and 156 percent. This problem can be eliminated by (a) raising the low concentration from 64 percent to 80 percent, (b) lowering the high concentration from 156 percent to 125 percent, and (c) recalculating the second and fourth standard response line concentrations. FDA has determined that when the samples are diluted to concentrations within the 80 to 125 percent range, more accurate potency concentration estimates are obtained.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979, 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 436 be amended in § 436.106(a) by revising the last column of the table to read as follows:

Antibiotic	Working standard stock solutions: Drying conditions (method number as listed in § 436.200)	Initial solvent	Diluent (solution number as listed in § 436.101(a))	Final concentration units or milligrams per milliliter	Storage time under refrigeration	Standard response line concentrations: Diluent (solution number as listed in § 436.101(a))	Final concentrations—units or micrograms of antibiotic activity per milliliter
Capreomycin	. . .	. . .	. . .	. . .	. . .	. . .	80.0, 89.0, 100.0, 112.0, 125.0 µg.

Antibiotic	Working standard stock solutions: Drying conditions (method number as listed in § 436.200)	Initial solvent	Diluent (solution number as listed in § 436.101(a))	Final concentration units or milligrams per milliliter	Storage time under refrigeration	Standard response line concentrations: Diluent (solution number as listed in § 436.101(a))	Final concentrations—units or micrograms of antibiotic activity per milliliter
Cycloserine	. . .	. . .	. . .	. . .	. . .	. . .	40.0, 44.5, 50.0, 56.0, 62.5 µg.
Gramicidin	. . .	. . .	. . .	. . .	. . .	. . .	0.032, 0.0356, 0.040, 0.0448, 0.050 µg.
Troleandomycin	. . .	. . .	. . .	. . .	. . .	. . .	20.0, 22.25, 25.0, 28.0, 31.25 µg.

§ 436.106 Microbiological turbidimetric assay.

* * * * *

(a) * * *

Interested persons may, on or before January 26, 1981 submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may also, on or before December 26, 1980 submit to the Dockets Management Branch (address above) a request for an informal conference. The participants in an informal conference, if one is held, will have until November 26, 1980, or 30 days after the day of the conference, whichever is later, to submit their comments.

In accordance with Executive Order 12044, as amended by Executive Order 12221, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Dockets Management Branch, Food and Drug Administration.

Dated: November 18, 1980.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 80–36885 filed 11–24–80; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF STATE

22 CFR Part 51

[Docket No. SD–159]

Persons Who May Be Included in One Passport

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department proposes to amend its regulations to eliminate the current practice under which the name and photograph of an American citizen child under the age of 13 years may be included in the United States passport issued to the child's parent or sibling. As amended, the regulations would require that any citizen needing passport documentation to depart from or enter the United States must be in possession of a valid passport issued in his or her own name. The proposed amendment will not affect the validity of passports issued prior to the effective date of this amendment.

DATES: Comments must be received no later than December 26, 1980.

Proposed Effective Date: The Department proposes that the change will become effective as of January 1, 1981.

ADDRESS: Send comments to Elliott B. Light, Department of State, Office of Citizenship Appeals and Legal Assistance (PPT/C), 2201 C Street, N.W., Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT: Elliott B. Light, (202) 632–0801/0896.

SUPPLEMENTARY INFORMATION: The practice of permitting the inclusion of a child in the passport of his/her parent or sibling was at one time viewed as desirable from both an economic and convenience standpoint. The use of the family-type passport has been declining in popularity. A thirty-day analysis of passport applications filed within the United States during the busy travel month of May 1979 indicated that only two and two tenths per cent (2.2%) of all passports issued included a child or children under the age of thirteen years.

This decline reflects increased recognition by the traveling American public of the difficulties they may encounter in using these passports. An included person may not use the passport for travel unless accompanied by the actual bearer. This has proven to be a problem where an emergency forces an included person to travel internationally without the bearer. Such emergency travel may be delayed because of problems associated with the lack of an individual passport. Foreign governments may question the bearer's use of the passport when unaccompanied by those persons included in the passport. A related problem exists in the case of a bearer who is forced to return immediately to the United States while leaving included persons overseas undocumented as American citizens. Foreign governments also have complained in the past that such passports do not contain adequate identifying data on those persons who are included. Finally, amending passports either to include or exclude persons subsequent to issuance is costly and time consuming, not only for the Department of State, but also for the traveling American public.

In addition, the amendment is required by the new Travel Document Issuing System (TDIS) which was designed on the concept of "one person—one passport".

Accordingly, it is proposed to make the following changes to Part 51 of Title 22 Code of Federal Regulations:

1. Revise § 51.2 to read as follows:

§ 51.2 Passports issued to nationals only.

(a) A United States passport shall be issued only to a national of the United States (22 U.S.C. 212).

(b) Unless authorized by the Department, no person shall bear more than one valid or potentially valid U.S. passport at any one time.

§ 51.5 [Deleted]

2. Delete § 51.5.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

(202) 755–6720 (This is not a toll-free number.)

disposition of the property, in the event of foreclosure, continues.

the Rules Docket Clerk at the address listed above.

(1) It shall submit evidence satisfactory to the Commissioner that it

§ 51.5 [Deleted]

2. Delete § 51.5.

§ 51.21 [Amended]

3. Delete the current § 51.21(c)(2) including the semi-colon and the word "and", add the word "and" after the semi-colon in § 51.21(c)(1), and renumber the current § 51.21(c)(3) as § 51.21(c)(2).

4. Delete the current § 51.21(d)(2) including the semi-colon and the word "and", add the word "and" after the semi-colon in § 51.21(d)(1), and renumber the current § 51.21(d)(3) as § 51.21(d)(2).

5. Delete the current § 51.21(e) and renumber the current § 51.21(f) as § 51.21(e).

§ 51.22 [Deleted]

6. Delete § 51.22.

7. Revise § 51.23 to be entitled, "Name of applicant to be used in passport" and to read as follows:

§ 51.23 Name of applicant to be used in passport.

The passport application shall contain the full name of the applicant. The applicant shall explain any material discrepancies between the name to be placed in the passport and the name recited in the evidence of citizenship and identity submitted. The passport issuing office may require documentary evidence or affidavits of persons having knowledge of the facts to support the explanation of the discrepancies.

§ 51.25 [Amended]

8. Delete the final sentence of § 51.25(a).

9. Delete the current § 51.25(b) and renumber the current § 51.25(c) as § 51.25(b). Renumber the current § 51.25(d) as Section 51.25(c).

§ 51.28 [Amended]

10. Delete the words "or any person to be included" from Section 51.28(a).

11. Revise § 51.32 to read as follows:

§ 51.32 Amendment of passports.

Applications for amendment of a passport shall be made on forms prescribed by the Department.

(Sec. 1, 44 Stat. 887; Sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 2658); E.O. 11295, 36 FR 10603; 3 CFR 1966–70 Comp. p. 507)

Robert E. Fritts,

Acting Assistant Secretary for Consular Affairs.

[FR Doc. 80-36762 Filed 11-24-80; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 204

[Docket No. R-80-874]

Coinsurance

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: Part 204 has been amended to permit under coinsurance non-occupant owner transactions, Section 234(c) condominium loans, and also Section 235 interest subsidy loans. Section 204.2 amends the mortgagee approval procedure and § 204.3 permits lender to use Veterans' Administration appraisals under coinsurance. Section 204.3(a)(1) has been deleted in order to permit coinsurance of mortgages for resale of recently acquired properties. Section 204.256, which prohibited reinsurance, has been deleted. Section 204.260 now permits the lender to retain its portion of the mortgage insurance premium when collected rather than at the end of the coinsurance period. In addition, for all coinsured loans originated after the date of these regulations, the mortgagee will retain 10 percent of the mortgage insurance premiums payable to the Commissioner during the five year period of coinsurance. Section 204.270 has been eliminated consistent with § 204.260; that is, HUD will no longer maintain a coinsurance reserve. Claims will be paid on the basis of HUD's 90 percent exposure. Section 204.321 has been amended to reflect a revised stop loss procedure.

DATE: Comments Due: January 26, 1981.

ADDRESS: Written comments should refer to the above docket number and date and should be submitted to the Rules Docket Clerk, Office of General Counsel, Room, 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. All comments received will be available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk at the above address. All comments received will be considered before adoption of a final rule.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Director, Single Family Development Division, Office of Single Family Housing, Department of Housing and Urban Development, Room 9270, Washington, D.C. 20410, Telephone: (202) 755–6720 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: HUD's single family coinsurance program offers lenders an opportunity to assume HUD–FHA underwriting functions, and receive a share of the mortgage insurance premium. The lender must accept a loss exposure of 10 percent on each loan originated under coinsurance, subject to a stop loss provision. HUD has expanded the coinsurance program to include non-occupant owners, condominium financing and Section 235. The original design of the program met the needs of unsupervised lenders and required lenders participating to be approved mortgages with a net worth of $250,000 as determined by the Commissioner. The regulations required approved lenders to submit current audited financial statements as part of the approval procedure. The Department finds that this procedure inhibits participation by attempts to qualify supervised lenders, particularly Federally-insured savings and loan associations, which together with other insured depository institutions, account for three quarters of all home mortgage lending. These supervised lenders are already subject to examination by regulatory agencies. Therefore, the regulations have been amended to require financial statements from non-supervised lenders and annual audits only as required under Part 203 of the regulations.

Presently, the program prohibits lenders from converting an appraisal issued by the Veterans' Administration to coinsurance. The proposed rule authorizes such a conversion.

At the time the single family coinsurance program was originally implemented, consideration had been given to allowing lenders to obtain reinsurance from private sources on their exposure under coinsurance. However, in view of concerns that lenders would not underwrite conscientiously, a provision was added to prohibit reinsurance. After several years of experience with the program, HUD does not believe it is necessary to retain this provision of the regulations. The prohibition has been deleted. We assume lenders will reinaure and that private mortgage insurers will impose underwriting requirements; this will provide the secondary market with an additional degree of protection not available under the original program. This change should encourage more lenders to participate without sacrificing the quality of underwriting under coinsurance. The requirement for lender

disposition of the property, in the event of foreclosure, continues.

The changes in the reinsurance provision allow the Department an opportune time to revise the regulations concerning the collection and distribution of the mortgage insurance premium and the stop loss provision. Presently, the Department collects from the lender the full amount of the MIP and credits the lender's account with the proper amounts. Claims made by the lender are then paid by HUD in the amount of 100 percent which is accomplished by debiting the lender's MIP account for 10 percent of the loss and HUD's account for the remaining 90 percent. Presently, HUD maintains each lender's coinsurance account on a calendar year basis for five years (the coinsurance period). Balances are remitted to the lender at the termination of the coinsurance period. Lenders using accrual accounting methods are required to pay taxes on the MIP income in the year it is credited to their account even though the disbursement is made at the end of the coinsurance term. These new regulations permit lenders to retain their portion of the MIP at the time collected. Remitting to HUD only the HUD share of the MIP. In this manner, lenders will participate in the MIP earnings at the time of collection, offsetting some of the liability imposed by previous regulations. In addition, HUD will no longer be required to maintain coinsurance accounts for lenders and HUD will only reimburse the lender for 90 percent of the loss subject to a revised stop loss provision.

Presently the aggregate amount for which a mortgagee will be responsible with respect to mortgages coinsured in any one year is limited to one percent of the mortgagee's coinsurance portfolio for that calendar year. The Department considered eliminating the stop loss provision or revising the provision to permit a mortgagee to invoke a stop loss in the case of catastrophic economic conditions. In lieu of either position, the Department proposes a new stop loss provision which will be applied to approved coinsuring lenders.

If the stop loss provision is invoked, the lender will be dropped from the coinsurnce program for at least two years unless the losses were caused by economic conditions beyond the control of the mortgagee.

A finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address listed above.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044, as extended by Executive Order 12221.

Accordingly, the Department proposes to amend CFR Part 204 of Chapter II as follows:

1. The text of § 204.1 is redesignated paragraph (a) of § 204.1; the exception of § 203.18(c) is deleted from the redesignated paragraph (a); a new excepted provision § 203.43(e) is added to the redesignated paragraph (a); and new paragraphs (b) and (c) are added as follows:

§ 204.1 Incorporation by reference.

(a) * * *

§ 203.16 (d), (e) and (f) Maximum mortgage amounts.

* * * * *

§ 203.43(e) Eligibility of mortgages covering houses in Federally-impacted areas.

* * * * *

(b) All of the provisions of Subpart A, Part 234 of this chapter concerning eligibility requirements of mortgages under Section 234(c) of the National Housing Act apply to mortgages covering individually-owned units in a condominium project to be insured under Section 234(c) pursuant to the coinsurance authority of Section 244 of the National Housing Act except the following provisions:

Section 234.66 Eligibility of mortgages covering housing in certain neighborhoods.
Section 234.69 Eligibility of mortgages covering housing in Federally-impacted areas.
Section 234.70 Eligibility of open-end advances.

(c) All of the provisions of Subparts A and C, Part 235 of this chapter concerning eligibility requirements of mortgages and assistance payments to be insured under Section 235 pursuant to the coinsurance authority of Section 244 of the National Housing Act except the following provisions:

Section 235.38 Reservations of contract authority.
Section 235.39 Local government comment period.
Section 235.325 Qualified cooperative members.
Section 235.330 Cooperative unit eligible for assistance payments.

§ 204.2 [Amended]

2. Paragraph (a) of § 204.2 is amended by revising subparagraph (1) and revoking and reserving subparagraphs (4) and (5) as follows:

(a) * * *

(1) It shall submit evidence satisfactory to the Commissioner that it has sound capital funds (net worth) of a value of not less than $250,000.

(2) * * *

(3) * * *

(4) [Reserved]

(5) [Reserved]

(6) * * *

* * * * *

3. In § 204.3, paragraph (a) is amended to revoke and reserve subparagraph (1), paragraph (b) is revised to read, and a new paragraph (c) is added, as follows:

§ 204.3 Authority to determine eligibility.

(a) * * *

(1) [Reserved]

* * * * *

(b) In making the determinations set forth in this section, the mortgagee shall utilize only staff or fee appraisers, mortgage credit examiners, and inspectors approved by the Commissioner, except that a mortgagee may utilize a Certificate of Reasonable Value issued by the Administrator of Veterans Affairs which has not expired.

(c) The mortgagee is authorized to make determinations relating to the qualifications of homeowners for assistance payments pursuant to instructions and standards issued by the Commissioner with respect to mortgages to be coinsured under Part 235 of this chapter.

4. In § 204.251 paragraph (o) is revised to read as follows:

§ 204.251 Definitions.

* * * * *

(o) "Debentures" means registered, transferable securities which are valid and binding obligations, issued in the name of the Mutual Mortgage Insurance Fund in accordance with the provisions of this part; such debentures are the primary liability of the Mutual Mortgage Insurance Fund and are unconditionally guaranteed as to principal and interest by the United States; except that debentures issued in connection with mortgages insured under Section 234 or 235, pursuant to the coinsurance authority of Section 244, of the National Housing Act shall be issued in the name of, and shall be the primary liability of, the General Insurance Fund or the Special Risk Insurance Fund, respectively."

* * * * *

§ 204.256 [Removed]

5. Section 204.256 is revoked.

6. The text of § 204.260 is redesignated as paragraph (a) of § 204.260 and a new paragraph (b) is added as follows.

§ 204.260 Method of payment of MIP.

(a) * * *

(b) With respect to mortgages insured on or after (Effective Date of Final Rule) the mortgagee may retain 10 percent of the MIP payable to the Commissioner during the period of coinsurance.

7. § 204.261 is revised to read as follows:

§ 204.261 Amount of initial MIP.

The initial MIP shall be in an amount equal to one-half percent (seven-tenths of one percent if the mortgage is insured under Part 235 of this chapter) of the average principal obligation for the first year of amortization under the mortgage, without taking into account delinquent payments or prepayments.

8. Section 204.265 is revised to read as follows:

§ 204.265 Amount of annual MIP.

After payment of the initial MIP, an annual MIP shall be paid in an amount equal to one-half percent (seven-tenths of one percent if the mortgage is insured under Part 235 of this chapter) of the average outstanding principal obligation for the 12-month period preceding the date on which the premium becomes payable, without taking into account delinquent payments or prepayments.

10. Section 204.270 is revised to read as follows:

§ 204.270 Annual coinsurance reserve.

(a) There shall be established by the Commissioner for each originating mortgagee, an Annual Coinsurance Reserve which shall consist of credits and debits relating to all mortgages insured with respect to such mortgagee under this part during each calendar year.

(b) An Annual Coinsurance Reserve shall not be established and the provisions of §§ 204.271 through 204.275; 204.284 (a)(2) and (a)(3); 204.330 shall not apply to mortgages insured on or after (Effective Date of Final Rule).

§ 204.300 [Amended]

11. Section 204.300 is corrected by changing the reference in paragraph (a) from § 203.301 to § 204.301.

12. In § 204.321 paragraphs (d) and (e) are revised to read as follows:

§ 204.321 Amount of payment.

* * * * *

(d) With respect to mortgages insured before (Effective Date of Final Rule):

(1) The Commissioner will pay the originating mortgagee 100 percent of the amount computed pursuant to paragraph (a) of this section and will debit to the Annual Coinsurance Reserve any payment in excess of the amount of insurance benefits, provided the credit balance in the Annual Coinsurance Reserve is equal to, or more than, the amount of the mortgagee's responsibility under paragraph (c) of this section.

(2) The aggregate amount for which a mortgagee will be responsible with respect to mortgages coinsured in any calendar year shall not exceed one percent of the total of the original principal amount of all mortgages coinsured by the mortgagee in such calendar year (excluding mortgages for which the coinsurance liability has been transferred), plus the total of the original principal amounts of all additional mortgages originated during such calendar year for which such mortgagee has assumed coinsurance liability. In the event an application for insurance benefits is accepted by the Commissioner which would cause the mortgagee's responsibility to exceed such limitation, the amount of insurance benefits shall be 100 percent of the amount computed pursuant to paragraph (a) of this section.

(e) With respect to mortgages insured on or after (Effective Date of Final Rule), the Commissioner, will, on application of an approved coinsuring mortgagee, pay 100 percent of the amount computed pursuant to paragraph (a) of this section for any mortgage held by the mortgagee at the time of application if the aggregate amount of losses incurred by the mortgagee pursuant to this section during the coinsuring period ending on the date of application exceeds one percent of the aggregate orginal principal amount of such mortgages held by the mortgagee at the time of application. On such application, the mortgagee's approval as a coinsuring mortgagee will be withdrawn but the mortgagee may apply for reinstatement on termination of the stop loss limitation authorized by this section but not before two years after the date of withdrawal, unless the Commissioner determines that the losses were caused by economic conditions beyond the control of the mortgagee.

(Section 211 National Housing Act, (12 U.S.C. 1701, et seq.))

Issued at Washington, D.C. on September 19, 1980.

Clyde McHenry,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-36051 Filed 11-24-80; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Part 242

[Docket No. R-80-875]

Mortgage Insurance for Hospitals; Eligibility Requirements for Refinancing of Existing Debts

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend Part 242 as required by Section 326 of the Housing and Community Development Amendments of 1978 to allow for the refinancing of existing debts of hospitals.

DATE: Comments due: January 26, 1981.

ADDRESSES: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410. Comments submitted will be available at this address for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: C. Edward Lewis, Jr., Chief, Health Facilities Branch, Elderly, Cooperative, and Health Facilities Division, Room 6126, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 (202) 426-7191 (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 326 of the Housing and Community Development Amendments of 1978, Pub. L. 95-557, amends Section 223(f) of the National Housing Act to allow the refinancing of existing debt of an existing hospital. Hospitals will be insured under Part 242 pursuant to the authority in Section 223(f). Appropriate review procedures as required by Pub. L. 95-557(D) and Section 1523(a)(6) of the Public Health Service Act are a responsibility of and will be determined by the Department of Health and Human Services.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for inspection during the regular business hours in the Office of the Rules Docket Clerk at the above address.

This rule not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044, as extended by Executive Order 12221.

Accordingly, the Department proposes to amend Part 242 as follows:

1. The Table of Contents would be amended to include a new section numbered 242.96; and designated,

Eligibility of mortgages on existing hospitals.

2. The following new section would be added and designated as § 242.96 to read as follows:

§ 242.96 Eligibility of mortgages on existing hospitals.

Notwithstanding the generally applicable requirement that mortgages insured under this Subpart be limited to hospitals to be constructed or substantially rehabilitated after commitment for mortgage insurance, a mortgage executed in connection with the refinancing of an existing hospital may be insured under this subpart pursuant to Section 223(f) of the Act. A mortgage insured pursuant to this section shall meet all other requirements of this subpart except as modified by this section and shall be limited as to amount, terms, and conditions for insurance as follows:

(a) *Application, commitment, inspection and required fees*—(1) *Applications.* An application for a conditional or firm commitment for insurance of a mortgage on an existing project shall be submitted by the sponsor and an approved mortgagee. Such application shall be submitted to the local HUD office on an FHA approved form. No application shall be considered unless accompanied by the exhibits listed on the application form. An application may, at the option of the applicant, be submitted for a firm commitment omitting the conditional commitment stage.

(2) *Application fee-conditional commitment.* An application-commitment fee of $2 per thousand dollars of the requested mortgage amount shall accompany an application for conditional commitment.

(3) *Application fee-firm commitment.* An application for firm commitment shall be accompanied by an application-commitment fee of $3 per thousand dollars of the requested mortgage amount to be insured, less the amount of any fee previously received for an outstanding conditional commitment.

(4) *Inspection fee.* No inspection fee will be required.

(b) *Maximum mortgage.* The maximum mortgage amount for refinancing shall not exceed the lesser of:

(1) 80 percent of the Commissioner's estimated replacement cost of the project, or

(2) The cost to refinance the existing real estate indebtedness which will consist only of the following items, the eligibility and amounts of which must be determined by the Commissioner:

(i) The amount required to pay off the existing indebtedness,

(ii) An amount for the initial deposit for the Reserve Fund for Replacements,

(iii) Reasonable and customary legal, title and recording expenses, and fees charged by the mortgagee, and

(iv) Architect's inspection, municipal inspection, state inspection, and/or engineering fees,

(v) Reasonable discounts charged by the mortgagee.

(c) *Maturity.* Notwithstanding § 242.35 the term of the mortgage shall not be less than 10 years, nor shall it exceed the lesser of 20 years or 75 percent of the estimated remaining economic life of the physical improvements. The term of the mortgage shall begin on the first day of the second month following the date of initial/final endorsement of the mortgage for insurance.

(d) *Eligibility property.* A mortgage given to refinance an existing attained sustaining occupancy (occupancy that would produce income sufficient to pay operating expenses, annual debt service and reserve fund for replacement requirements), as determined by the Commissioner, prior to endorsement of the mortgage for insurance, or the mortgagor shall provide an operating deficit fund at the time of endorsement for insurance, in an amount, and under an agreement, approved by the Commissioner. In addition to the other requirements in this section, projects must also meet the following requirements:

(1) Prior to the time of filing an application for mortgage insurance, the project shall have been substantially completed and at least three years must elapsed from the date of completion, or initial occupancy, as determined by the Commissioner, whichever is later;

(2) The refinancing is employed to lower the monthly debt service costs (taking into account any fees or charges connected with such refinancing) of such existing hospital, and only to the extent necessary to assure the continued economic viability of the project; and

(3) The hospital has received such certifications from a State agency designated in accordance with Section 604(a)(1) or Section 1521 of the Public Health Service Act for the State in which the hospital is located as the Secretary deems necessary and appropriate and comparable to the certification required for hospitals insured under this Part and that such State agency additionally certify that the services being provided by such existing hospital at the time of refinancing are appropriate as determined pursuant to Section 1523(a)(6) of the Public Health Act. The above certifications must be acceptable to the Secretary of HHS.

(e) *Labor standards and prevailing wage requirements.* The requirements of §§ 242.63, 242.65, 242.67, 242.69 and 242.71 shall not be applicable to mortgages insured pursuant to a commitment issued in accordance with this section.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Issued at Washington, D.C., on September 19, 1980.

Clyde McHenry,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-36055 Filed 11-24-80; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 53

[LR-190-77]

Treatment, for Tax Purposes, of Expenditures for Attempts To Influence Legislation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the treatment, for tax purposes, of expenditures for attempts to influence legislation. There is a need for amendments to those regulations and especially for clearer guidelines for determining whether a communication constitutes an attempt to influence the public with respect to legislation. The proposed regulations set forth a three-factor test for making this determination, amend certain related rules, and provide for reporting by organizations making expenditures for purposes of influencing the public with respect to legislation. The proposed regulations will affect taxpayers and private foundations making expenditures of this kind directly or indirectly and the organizations through which taxpayers make the expenditures.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 26, 1981. The amendments generally are proposed to be effective for taxable years beginning after 1953 except that the new rules with respect to deductibility of dues, etc., and the reporting requirement for certain organizations are proposed to apply to expenditures made after 1980.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of

Internal Revenue. Attention: CC:LR:T (LR–190–77), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:

Paul A. Francis of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 162, 6001, and 6033 of the Internal Revenue Code of 1954 and to the Regulations on Foundation Excise Taxes (26 CFR Part 53) under section 4945 of the Code. These amendments are proposed to provide clearer guidelines for determining whether a communication constitutes an attempt to influence the public with respect to legislation and to deal with certain related matters. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Existing Rules With Respect to Business Taxpayers

Prior to 1962 the Income Tax Regulations under Code section 162 prohibited the deduction of expenditures for lobbying purposes. The prohibition applied both to expenditures for contacts with legislators and to expenditures for efforts to influence the general public with respect to legislation. Section 162 (e), added to the Code in 1962, expressly permitted deduction of expenditures for contacts with legislators in certain circumstances but left standing the prohibition on deduction of expenditures to influence public opinion on legislation.

Three-factor Test

The proposed regulations establish a three-factor test for determining whether a communication constitutes an attempt to influence the public with respect to legislation. A communication will be treated as an attempt of that sort only if it—

(1) Pertains to action by a legislative body;

(2) Reflects a view on that legislative action, whether explicitly or implicitly; and

(3) Is distributed in a manner so as to reach individuals as voters or constituents.

The proposed regulations provide definitions and examples to clarify the scope and application of this test.

Special Rule for Advertisements

Under the proposed regulations, no portion of an expenditure for an advertisement is deductible if any part of the advertisement constitutes an attempt to influence the general public with respect to legislation. This rule is consistent with the holding with respect to newspaper advertisements in *Consumers Power Co. v. United States*, 299 F. Supp. 1180, 1183 f. (E.D. Mich. 1969), *rev'd on other grounds*, 427 F. 2d 78 (6th Cir. 1970), *cert. denied*, 400 U.S. 925 (1970).

Certain Dues or Contributions

The proposed regulations also provide rules with respect to amounts paid to organizations that engage in political activities (including lobbying) within the scope of section 162 (e)(2).

The existing regulations limit deductions for dues or other amounts paid to these organizations if the political activities of the organizations constitute a substantial part of their overall activities. The limitation does not apply if the political activities do not constitute a substantial part of the activities of an organization. Thus, the existing regulations allow taxpayers to deduct indirect expenditures for political activities in certain circumstances. The allowance of these deductions seems inconsistent with the disallowance of deductions for all direct expenditures for the same activities. Consequently, the proposed regulations limit deductions for dues or other payments if the recipient organization engages in any activities within the scope of section 162(e)(2), whether or not those activities constitute a substantial part of the organization's overall activities.

The proposed regulations also require organizations that receive dues or other payments for which the members or contributors may claim business deductions under section 162 to inform their members or contributors what percentage of their expenditures during a calendar year were expenditures for political activities. This information should assist taxpayers in determining what portion of their dues or contributions may be deductible. The proposed regulations provide certain exceptions to this requirement, which is to be effective for calandar years after 1900.

Rules With Respect to Private Foundations

The Tax Reform Act of 1969 added to the Code new section 4945 which imposes taxes on expenditures by private foundations for certain purposes. The committee reports indicate that the provisions in section 4945 that relate to attempts by private foundations to influence the public with respect to legislation were intended to be "substantially similar" to the rules applied to business taxpayers under section 162(e)(2). H.R. Rep. 91–413, 91st Cong., 1st Sess. 33 (1969); S. Rep. 91–552, 91st Cong., 1st Sess. 48 (1969).

The proposed regulations accordingly conform the general rules for private foundations with respect to attempts to influence the public to the rules proposed for business taxpayers. Thus, the three-factor test and the special rule for advertisements also apply to private foundations. Examples similar to those relating to business taxpayers illustrate the operation of the rules.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations was Paul A. Francis of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Evaluation of the effectiveness of the proposed regulations after issuance will be based upon comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, and the public.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Parts 1 and 53 are as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. Section 1.162–20 is amended by revising paragraphs (a), (b), and (c) (1), (3), and (4) to read as follows:

§ 1.162–20 Expenditures attributable to lobbying, political campaigns, attempts to influence legislation, etc., and certain advertising.

(a) *In general*—(1) *Scope of section.* This section contains rules governing the deductibility or nondeductibility of expenditures for lobbying purposes, for the promotion or defeat of legislation, for political campaign purposes (including the support of or opposition to any candidate for public office) or for carrying on propaganda (including advertising) related to any of the foregoing purposes. This section also deals with expenditures for institutional or "good will" advertising.

(2) *Institutional or "good will" advertising.* Expenditures for institutional or "good will" advertising which keeps the taxpayer's name before the public are generally deductible as ordinary and necessary business expenses provided the expenditures are related to the patronage the taxpayer reasonably expects in the future. For example, a deduction will ordinarily be allowed for the cost of advertising which keeps the taxpayer's name before the public in connection with encouraging contributions to such organizations as the Red Cross, the purchase of United States Savings Bonds, or participation in similar causes. In like fashion, expenditures for advertising which presents views on economic, financial social, or other such issues, but which does not attempt to influence the public with respect to legislative matters (see paragraph (c)(4) of this section) or involved any of the other activities specified in paragraph (c) of this section for which a deduction is not allowable, are deductible if they otherwise meet the requirements of the regulations under section 162.

(b) *Taxable years beginning before January 1, 1963.* For rules with respect to taxable years beginning before January 1, 1963, see 26 CFR 1.162–20(b) (Rev. as of April 1, 1980).

(c) *Taxable years beginning after December 31, 1962.*—(1) *In general.* For taxable years beginning after December 31, 1962, certain types of expenses incurred with respect to legislative matters are deductible under section 162(a) if they otherwise meet the requirements of the regulations under section 162. These deductible expenses are described in subparagraph (2) of this paragraph. All other expenditures for lobbying purposes, for the promotion or defeat of legislation, for political campaign purposes (including the support of or opposition to any candidate for public office), or for carrying on propaganda (including advertising) relating to any of the foregoing purposes (see subparagraph (4) of this paragraph) are not deductible from gross income for such taxable years. For the disallowance of deductions for bad debts and worthless securities of a political party, see § 1.271–1. For the disallowance of deductions for certain indirect political contributions, such as the cost of certain advertising and the cost of admission to certain dinners, programs, and inaugural events, see § 1.276–1.

* * * * *

(3) *Deductibility of dues and other payments to an organization.* If part of the activities of an organization, such as a labor union or a trade association, consists of one or more of the activities to which this paragraph relates (legislative matters, political campaigns, etc.) exclusive of any activity constituting an appearance or communication with respect to legislation or proposed legislation of direct interest to the organization (see subparagraph (2)(ii)(*b*)(*1*) of this paragraph), a deduction will be allowed only for such portion of the dues or other payments to the organization as the taxpayer can clearly establish is attributable to activities to which this paragraph does not relate and to any activity constituting an appearance or communication with respect to legislation or proposed legislation of direct interest to the organization. In no event shall a deduction be allowed for that portion of a special assessment or similar payment (including an increase in dues) made to any organization for any activity to which this paragraph relates if the activity does not constitute an appearance or communication with respect to legislation or proposed legislation of direct interest to the organization. If an organization pays or incurs expenses allocable to legislative activities which meet the tests of subdivisions (i) and (ii) of subparagraph (2) of this paragraph (appearances or communications with respect to legislation or proposed legislation of direct interest to the organization) on behalf of its members, the dues paid by a taxpayer are deductible to the extent used for such activities. Dues paid by a taxpayer will be considered to be used for such an activity, and thus deductible, although the legislation or proposed legislation involved is not of direct interest to the taxpayer, if, pursuant to the provisions of subparagraph (2)(ii)(*b*)(*1*) of this paragraph, the legislation or proposed legislation is of direct interest to the organization, as such, or is of direct interest to one or more members of the organization. For other provisions relating to the deductibility of dues and other payments to an organization, such as a labor union or trade association, see paragraph (c) of § 1.162–15. For requirement that an organization furnish to members and contributors a statement about expenditures, see § 1.6033–2(k). This subparagraph applies to expenditures made after 1980. For corresponding rules for expenditures made before 1981, see 26 CFR 1.162–20(c)(3) (Rev. as of April 1, 1980).

(4) *Limitations with respect to legislative matters*—(i) *In general.* No deduction shall be allowed under section 162(a) for any amount paid or incurred (whether by way of contribution, gift, or otherwise) in connection with any attempt (including what is commonly referred to as a grassroots campaign) to influence the general public, or any segment thereof, with respect to legislative matters. A communication shall be considered an attempt to influence the general public, or a segment thereof, with respect to legislative matters if, and only if, the communication satisfies all of the following three tests:

(A) It pertains to legislation being considered by, or likely in the immediate future to be proposed to, a legislative body, or seeks or opposes legislation;

(B) It reflects a view with respect to the desirability of legislation (for this purpose, a communication that pertains to legislation but expresses no explicit view on the legislation shall be deemed to reflect a view on legislation if the communication is selectively disseminated to persons likely to share a common view of the legislation); and

(C) It is communicated in a form and distributed in a manner so as to reach individuals as members of the general public, that is, as voters or constituents, as opposed to a communication designed for academic, scientific, or similar purposes. A communication may meet this test even if it reaches the public only indirectly as in a news release submitted to the media.

No portion of an expenditure in connection with an advertisement is deductible if any part of the advertisement constitutes an attempt to influence the general public with respect to legislative matters.

(ii) *Definitions.* For purposes of this subparagraph—

(A) The term "legislation" includes action by the Congress, any state legislature, any local council, or similar legislative body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure. The term "legislation" includes a proposed

treaty required to be submitted by the President to the Senate for its advice

the general public with respect to the proposal.

Example (4). The legislature of State Y is

S to develop materials designed to influence opinion on legislation. In performing this work, B uses office space and clerical

taxpayers. Furthermore, an organization is not required under this paragraph to

influence legislation" does not include attempts by a private foundation to

(ii) It reflects a view with respect to the desirability of the legislation (for this

treaty required to be submitted by the President to the Senate for its advice and consent from the time the President's representative begins to negotiate its position with the prospective parties to the proposed treaty.

(B) The term "action" includes the introduction, amendment, enactment, defeat, or repeal of Acts, bills resolutions, or similar items.

(C) The term "legislative body" does not include executive, judicial, or administrative bodies.

(D) The term "administrative bodies" includes school boards, housing authorities, sewer and water districts, zoning boards, and other similar Federal, State, or local special purpose bodies, whether elective or appointive.

(iii) *Examples.* The provisions of this subparagraph relating to attempts to influence the public with respect to legislative matters may be illustrated by the following examples:

Example (1). Several major businesses in State W place in local newspapers an advertisement asserting that lack of new capital is hurting the state's economy. The advertisement recommends that residents either invest more in local businesses or increase their savings so that funds will be available to others interested in making investments. Although the advertisement expresses a view with respect to a general problem that might receive legislative attention and is distributed in a manner so as to reach many individuals, it does not constitute an attempt to influence the public with respect to legislative matters because it pertains to private conduct rather than legislation.

Example (2). Assume the same facts as in example (1), except that the advertisement, although not expressly calling for legislative action, also asserts that particular kinds of state tax incentives (which could not be implemented without legislation) would substantially increase capital formation. Thus, the advertisement is seeking action by the legislature and, at least in part, is addressed to individuals as voters or constituents rather than as potential investors. The advertisement reflects a view with respect to the desirability of the legislation. The advertisement constitutes an attempt to influence the public with respect to a legislative matter, and no portion of any expenditures in connection with the advertisement may be deducted.

Example (3). There is pending in the legislature of State X a proposal to amend certain laws concerning voting in state elections. As a public service, M, a manufacturer in State X, places in local newspapers an advertisement that explains both the current voting laws and the proposed amendments. The advertisement takes no position on the merits of the proposal. Under these circumstances, the advertisement does not reflect a view with respect to the desirability of the proposal and does not constitute an attempt to influence the general public with respect to the proposal.

Example (4). The legislature of State Y is considering a proposal to prohibit hunting on land owned by the state. Hunters in State Y are generally opposed to the measure. N, a manufacturer of hunting equipment, prepares a pamphlet that outlines the proposal and its effects but expresses no view on its merits. N arranges for distribution of the pamphlet to customer of stores in State Y that specialize in hunting equipment. The pamphlet pertains to legislation and is deemed to reflect a view with respect to the desirability of the legislation by reason of its selective distribution to an audience likely to oppose the prohibition on hunting. The information is communicated in a form and distributed in a manner so as to reach individuals as voters or constituents. Expenditures in connection with the preparation and distribution of the pamphlet are nondeductible.

Example (5). The legislature in State Z is considering a proposal to require pharmaceutical firms to test the safety of their products through certain laboratory procedures. P, a pharmaceutical firm in State Z, prepares a detailed report on the usefulness of the tests that would be required under the proposal. The report concludes that the tests specified in the proposal are poorly designed. P distributes copies of the report to university professors in the field of health science without suggesting that the recipients make any attempt to influence the public with respect to the proposal. Although the report pertains to legislation and implies that the legislative proposal under consideration should not be enacted, the form of the report and its limited distribution indicate that copies were furnished to the recipients as scholars in the field rather than as members of the general public, that is, as voters or constituents. The expenditures for the report, therefore, are not expenditures in connection with an attempt to influence the public with respect to the proposal.

Example (6). Assume the same facts as in example (5) except that instead of distributing copies of the report to university professors, P distributes to various civic groups leaflets summarizing the conclusions and recommendations of the report. The information is communicated in a form and distributed in a manner so as to reach individuals as voters or constituents. Expenditures in connection with the report and the leaflet are nondeductible.

Example (7). Corporation Q pays for the radio broadcast of an advertisement that refers to a current controversy and urges citizens to "become involved". The advertisement does not discuss the merits of any legislative proposal, but it does offer a free booklet which analyzes and takes positions on various legislative proposals relating to the controversy. Expenditures in connection with the advertisment and the booklet are nondeductible because together they constitute an attempt by Q to influence the public with respect to this legislative matter.

Example (8). Corporation R makes the services of B, one of its executives, available to S, a trade association of which R is a member. B works for several weeks to assist S to develop materials designed to influence opinion on legislation. In performing this work, B uses office space and clerical assistance provided by R. R pays full salary and benefits to B during this period and receives no reimbursement from S for these payments or for the other facilities and assistance provided. All expenditures of R, including the allocable office expenses, that are attributable to this assignment are nondeductible because B was engaged in an attempt to influence the public on legislative matters.

Par. 2. Paragraph (c) of § 1.6001–1 is amended to read as follows:

§ 1.6001–1 Records.

* * * * *

(c) *Exempt organizations.* In addition to such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, reciepts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033 or the regulations thereunder.

* * * * *

Par. 3. Section 1.6033–2 is amended by revising paragraph (k), by redisignating revised paragraph (k) as paragraph (*l*), and adding a new paragraph (k). These revised, redesignated, and added provisions read as follows:

§ 1.6033–2 Returns by exempt organizations; taxable years beginning after December 31, 1969.

* * * * *

(k) *Statements about certain expenditures.* For years after 1980, every organization which is described in section 501(c) (5) or (6) and any other organization exempt under section 501(a) whose members or contributors may deduct dues or contributions as business expenses under section 162 shall furnish to its members and contributors a statement showing what percentage of its total expenditures during the calendar year were lobbying or political expenditures of a type for which § 1.162–20 denies deductions to taxpayers. The statement required by the preceding sentence shall be furnished on or before January 31 of the following calendar year. This paragraph shall not apply to an organization for any year during which the organization makes no lobbying or political expenditures of a type for which § 1.162–20 denies deductions to

taxpayers. Furthermore, an organization is not required under this paragraph to furnish any statement to a member or contributor for any year if the portion of that person's payments to the organization for that year which is allocable to the type of expenditures for which § 1.162–20 denies deductions is

(1) Less than $25, or

(2) Less than $50 and less than 5 percent of the total payments made by that person to the organization for the year.

[l] *Effective date.* The provisions of this section, other than paragraph (k), shall apply with respect to returns filed for taxable years beginning after December 31, 1969.

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES

Par. 4. Section 53.4945–2 is amended by revising paragraphs (a) (1) and (2), (b), and (c) to read as follows:

§ 53.4945–2 Propaganda influencing legislation.

(a) *Propaganda influencing legislation, etc.*—(1) *In general.* Under section 4945(d)(1) the term "taxable expenditure" includes any amount paid or incurred by a private foundation to carry on propaganda or otherwise to attempt to influence legislation. Attempts to influence legislation may include communications with a member or employee of a legislative body or with an official of the executive department of a government or efforts to affect the opinion of the general public with respect to any legislation. See, however, paragraph (d) of this section for exceptions to the general rule.

(2) *Definitions.* For purposes of this section—

(i) The term "legislation" includes action by the Congress, any state legislature, any local council, or similar legislative body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure. The term "legislation" includes a proposed treaty required to be submitted by the President to the Senate for its advice and consent from the time the President's representative begins to negotiate its position with the prospective parties to the proposed treaty.

(ii) The term "action" includes the introduction, amendment, enactment, defeat, or repeal of Acts, bills, resolutions, or similar items.

(iii) The term "legislative body" does not include executive, judicial, or administrative bodies.

Thus, for example, for purposes of section 4945, the term "any attempt to influence legislation" does not include attempts by a private foundation to persuade an executive body or department to form, support the formation of, expand or support the expansion of, or to acquire property to be used for the formation or expansion of, a public park or equivalent preserves (such as public recreation areas, game, or forest preserves, and soil demonstration areas) established or to be established by act of Congress, by executive action in accordance with an act of Congress, or by State, municipality or other governmental unit described in section 170(c)(1), as compared with attempts to persuade a legislative body, a member thereof, or other governmental official or employee, to promote the appropriation of funds for such an acquisition or other legislative authorization of such an acquisition. Therefore, a private foundation could under this subdivision, for example, propose to a park authority that it purchase a particular tract of land for a new park, even though such an attempt would necessarily require the park authority eventually to seek appropriations to support a new park. However, in such a case, the foundation could not provide the park authority with a proposed budget to be submitted to a legislative body, unless such submission could qualify under paragraph (d) of this section.

(iv) The term "administrative bodies" includes school boards, housing authorities, sewer and water districts, zoning boards, and other similar Federal, State, or local special purpose bodies, whether elective or appointive.

* * * * *

(b) *Attempts to affect the opinion of the general public.*—(1) *In general.* Except as provided in paragraph (d)(1) (relating to the making available of nonpartisan analysis, study, or research) and (4) (relating to examination and discussion of broad social, economic, and similar problems) of this section, any expenditure paid or incurred by a private foundation in connection with an attempt to influence any legislation through an attempt to affect the opinion of the general public or any segment thereof is a taxable expenditure. A communication shall be considered an attempt to influence the general public, or a segment thereof, with respect to legislation if, and only if, the communication satisfies all of the following three tests:

(i) It pertains to legislation being considered by, or likely in the immediate future to be proposed to, a legislative body, or seeks or opposes legislation;

(ii) It reflects a view with respect to the desirability of the legislation (for this purpose, a communication shall be deemed to reflect a view on legislation if the communication is selectively disseminated to persons likely to share a common view of the legislation); and

(iii) It is communicated in a form and distributed in a manner so as to reach individuals as members of the general public, that is, as voters or constituents, as opposed to a communication designed for academic, scientific, or similar purposes. A communication may meet this test even if it reaches the public only indirectly as in a news release submitted to the media.

If any part of an advertisement constitutes an attempt to influence the general public with respect to legislation the entire amount expended for the advertisement is a taxable expenditure.

(2) *Examples.* The provisions of this paragraph relating to attempts to influence the general public with respect to legislation may be illustrated by the following examples:

Example (1). L, a private foundation dedicated to the study of economic issues, places in local newspapers in State W an advertisement that asserts that lack of new capital is hurting the state's economy. The advertisment recommends that residents either invest more in local businesses or increase their savings so that funds will be available to others interested in making investments. Although the advertisement expresses a view with respect to a general problem that might receive legislative attention and is distributed in a manner so as to reach many individuals, it does not constitute an attempt to influence the public with respect to legislation because it pertains to private conduct rather than legislation.

Example (2). Assume the same facts as in example (1), except that the advertisement, although not expressly calling for legislative action, also asserts that particular kinds of state tax incentives (which could not be implemented without legislation) would substantially increase capital formation. Thus, the advertisement is seeking action by the legislature and, at least in part, is addressed to individuals as voters or constitutents rather than as potential investors. The advertisement reflects a view with respect to the desirability of the legislation. The advertisement constitutes an attempt to influence the public with respect to legislation, and the entire amount expended in connection with the advertisement is a taxable expenditure.

Example (3). There is pending in the legislature of State X a proposal to amend certain laws concerning voting in state elections. As a public service, M, a private foundation in State X, places in local newspapers an advertisement that explains both the current voting laws and the proposed amendments. The advertisement takes no position on the merits of the proposal. Under these circumstances, the advertisement does not reflect a view with

respect to the desirability of the proposal and does not constitute an attempt to influence the general public with respect to the proposal.

Example (4). The legislature of State Y is considering a proposal to prohibit hunting on land owned by the state. N, a private foundation, prepares a pamphlet that analyzes the proposal in detail but expresses no view on its merits. N arranges for distribution of the pamphlet to groups in State Y opposed to hunting. The pamphlet is a communication that pertains to legislation and is deemed to reflect a view with respect to the desirability of the legislation by reason of its selective distribution to an audience likely to support the prohibition on hunting. The information is communicated in a form and distrubuted in a manner so as to reach individuals as voters or constitutents. Expenditures in connection with the preparation and distribution of the pamphlet are taxable expenditures.

Example (5). The legislature in State Z is considering a proposal to require pharmaceutical firms to test the safety of their products through certain laboratory procedures. P, a private foundation in State Y, prepares a detailed report on the usefulness of the tests that would be required under the proposal. The report concludes that the tests specified in the proposal are poorly designed. P distributes copies of the report to university professors in the field of health science without suggesting that the recipients make any attempt to influence the public with respect to the proposal. Although the report pertains to legislation and implies that the legislative proposal under consideration should not be enacted, the limited distribution of the report indicates that copies were furnished to the recipients as scholars in the field rather than as members of the general public, that is, as voters or constituents. The expenditures for the report, therefore, are not expenditures in connection with an attempt to influence the public with respect to the proposal.

Example (6). Assume the same facts as in example (5) except that, instead of distributing copies of the report to university professors, P distributes to various civic groups leaflets summarizing the conclusions and recommendations of the report. The information is communicated in a form and distributed in a manner so as to reach individuals as voters or constituents. All amounts expended in connection with the study and the leaflet are taxable expenditures.

Example (7). Q, a private foundation, pays for the radio broadcast of an advertisement that refers to a current controversy and urges citizens to "become involved." The advertisement does not discuss the merits of any legislative proposal but it does offer a free booklet which analyzes and takes positions on various legislative proposals relating to the controversy. Expenditures for the advertisement and the booklet are taxable expenditures because together they constitute an attempt by Q to influence the public with respect to legislation.

Example (8). R, a private foundation, makes the services of B, one of its executives, available to S, an organization described in section 501(c)(4) of the Code. B works for several weeks to assist S in developing materials designed to influence public opinion on legislation. In performing this work, B uses office space and clerical assistance provided by R. R pays full salary and benefits to B during this period and receives no reimbursement from S for these payments or for the other facilities and assistance provided. All expenditures of R, including allocable office expenses, that are attributable to this assignment are taxable expenditures because B was engaged in an attempt to influence the public on legislation.

(c) *Lobbying activites.* Except as provided in paragraph (d) of this section, any expenditure in connection with an attempt to influence legislation through communication with any member or employee of a legislative body, or with any Government official or employee who may particpate in the formulation of the legislation, is a taxable expenditure.

* * * * *

Jerome Kurtz,
Commissioner of Internal Revenue.

[FR Doc. 80-36682 Filed 11-20-80; 1:33 p.m.]
BILLING CODE 4830-01-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

Patent Interference Proceedings

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Proposed rulemaking.

SUMMARY: The Patent and Trademark Office is proposing to amend five sections and to add one additional section to its rules of practice in patent cases. Each of these sections concerns patent interference proceedings. The purpose of this action is: (1) to clarify and more specifically define the matters which may be raised before the Board of Patent Interferences at final hearing; (2) to broaden the present requirements relating to printed briefs at final hearing; and (3) to specify the manner in which discovery may be used.

DATES: Written comments must be received on or before February 4, 1981.

ADDRESSES: Address written comments to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. All comments received will be available for public inspection in Room 11E10 of Building 3, Crystal Plaza, 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Ian A. Calvert, Chairman, Board of Patent Interferences, by telephone at (703) 557-3625, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The reasons for the proposed changes are set out in the following discussion, under three headings which correspond to the purposes stated in the "SUMMARY."

(1) *Matters raised at final hearing.*—The second sentence of present § 1.258(a) contains a lengthy statement concerning consideration of the patentability of a claim. This statement appears to be superfluous and has proven to be extremely confusing even to persons well versed in interference practice. Proposed § 1.258 eliminates this problem by concisely stating that at final hearing the Board of Patent Interferences will consider only priority of invention and matters ancillary thereto.

The other proposed changes in § 1.258 arose as a result of the decision on petition for rehearing in *Peska* v. *Satomura*, 602 F.2d 969, 202 USPQ 726 (CCPA 1979), in which the court noted that § 1.258(b) did not specify certain steps which the Patent and Trademark Office requires to have occurred in order for a motion under § 1.231(a)(4) to be considered at final hearing. In order to correct this deficiency, § 1.258(a) is proposed to be rewritten to specify how matters which are ancillary to priority must have been raised in order to entitle a party to raise them at final hearing. Under the proposed provisions, matters raised in § 1.231 motions which were dismissed as procedurally defective, for example, because they were filed belatedly, or did not comply with the first sentence of § 1.231(b), may not be raised before the Board of Patent Interferences. However, a matter raised in a motion which was dismissed solely because it was based on facts sought to be established by affidavits, declarations or evidence outside of official records and printed publications (as provided in § 1.231(a)(1)), or because it would require the taking of testimony (*Cory* v. *Blakey*, 1905 C.D. 116 (Comr. Pats.)), may be raised at final hearing under proposed § 1.258(a)(1)(iii).

The language of proposed § 1.258(a)(2) is taken from present § 1.225(a).

Present paragraph (b) of § 1.258 has been eliminated as redundant, since the question of benefit of a prior application is ancillary to priority, and is therefore covered under paragraph (a). Paragraph (c) of § 1.258 remains unchanged.

In view of the proposed revision of § 1.258, § 1.225(a) is proposed to be considerably simplified by merely referring to § 1.258. The provision for requesting final hearing within 30 days

of the decision denying the motion has been dropped as superfluous, since the time for requesting final hearing, if appropriate, is always set by the patent interference examiner. A final sentence requiring a motion to take testimony is proposed to be added, in order to ensure that if a matter (ancillary to priority) raised in a § 1.231 motion is one which must be supported by evidence, the testimony or other evidence (e.g., under 37 CFR 1.282) necessary for consideration of the matter by the Board of Patent Interferences will be taken inter partes, in accordance with 37 CFR 1.271 et seq.

Minor changes are proposed in § 1.231(d) for the purpose of consistency with proposed § 1.258.

None of the proposed changes in §§ 1.225(a), 1.231(d) or 1.258 is intended to alter the existing practice, except for the last sentence of proposed § 1.225(a), which makes mandatory a step which good practice dictates should be taken under present procedure but often is not.

(2) *Printed briefs.*—Under present §§ 1.253 and 1.254, testimony and briefs for final hearing filed in interferences must, if printed, comply with the requirements of § 1.253(e), which have consistently been interpreted as requiring standard typographic printing. Since the Court of Customs and Patent Appeals accepts as "printed" briefs produced by other processes, it is considered that the Patent and Trademark Office should follow suit, in order to spare interference parties the present onerous cost of typographic printing. § 1.253(e) is therefore proposed to be amended to conform it more closely to Rule 5.8(a) of the Court of Customs and Patent Appeals. A sentence, based on Court of Customs and Patent Appeals Rule 5.8(e), is proposed to be added to § 1.254 in order to permit the Board of Patent Interferences to accept, in its discretion, a brief which may not literally comply with the rules, but is otherwise considered satisfactory.

(3) *Use of discovery.*—When § 1.287 was adopted in 1971, no particular provision was made in the rules for the introduction and use as evidence of items obtained through discovery. This has led to some disagreement and confusion on the subject. Compare, for example, the majority and concurring opinions in *Inoue* v. *Lobur*, 195 USPQ 256 (Bd. Pat. Int. 1976).

Proposed new § 1.288 is intended to remedy this situation. Paragraph (a) of the rule is analogous to § 1.282, and permits a party to an interference who has obtained, through discovery related to the interference, admissions in writing in response to written requests for admissions, or written answers to written interrogatories, to introduce the admissions or answers into evidence without taking testimony. The term "discovery" is intended to include discovery conducted voluntarily between the parties or in a court, as well as discovery under § 1.287.

Paragraph (b) of the proposed section specifies that other matter obtained by discovery must be introduced in the same manner as other evidence; for example, documents obtained by discovery must be introduced as indicated in *Clark* v. *Wilke*, 203 USPQ 1101 (Bd. Pat. Int. 1978), and testimony taken in an ancillary proceeding under the control of a U.S. District Court must be introduced in accordance with § 1.283 (Commissioner's Notice of May 2, 1972, 898 O.G. 1500).

Pursuant to 35 USC 6(a), as amended, the Commissioner of Patents and Trademarks proposed to amend Title 37 of the Code of Federal Regulations by amending the §§ 1.225, 1.231, 1.253, 1.254 and 1.258, and by adding a new § 1.288, as shown below. The Patent and Trademark Office has determined that these rule changes have no potential major economic consequences requiring the preparation of a regulatory analysis under Executive Order 12044.

It is proposed to amend 37 CFR, Chapter I, Subchapter A, Part 1, as follows:

1. By revising paragraph (a) of § 1.225 to read as follows:

§ 1.225 Failure of junior party to file statements or to overcome filing date of senior party.

(a) If a junior party to an interference fails to file a preliminary statement, or if his statement fails to overcome the effective filing date of another party, judgment on the record will be entered against that junior party unless:

(1) Under the provisions of § 1.258(a), he would be entitled to raise before the Board of Patent Interferences a matter which is ancillary to priority and which, if decided in his favor, would remove the basis for judgment on the record against him, and

(2) Within a time set by the patent interference examiner, not less than 30 days, he requests that final hearing be set to review such matter. If the matter was raised in a motion which was dismissed for one of the reasons specified in § 1.258(a)(1)(iii), the request for final hearing must be accompanied by a motion to take testimony under paragraph (b) of this section.

* * * * *

2. By amending paragraph (d) of §1.231 as follows (additions are indicated by arrows, deletions by brackets):

§ 1.231 Motions before the primary examiner.

* * * * *

(d) All proper motions as specified in paragraph (a) of this section, or of a similar character, will be transmitted to and considered by the primary examiner without oral argument, except that consideration of a motion to dissolve ►on a ground other than no interference in fact◄ will be deferred to final hearing before a Board of Patent Interferences where the motion [urges unpatentability of a count to one or more parties] ►raises a matter◄ which would be reviewable at final hearing under § 1.258(a) and such [unpatentability is urged] ►matter is raised◄ against a patentee or has been ruled upon by the Board of Appeals or by a court in ex parte proceedings. Also consideration of a motion to add or remove the names of one or more inventors may be deferred to final, hearing if such motion is filed after the times for taking testimony have been set. Request for reconsideration will not be entertained.

3. By revising paragraph (e) of § 1.253 to read as follows:

§ 1.253 Copies of the testimony.

* * * * *

(e) When the copies of the testimony are submitted in printed form, they may be produced by standard typographic printing or by any process capable of producing a clear black permanent image. All printed matter except on covers must appear in at least 11 point type on opaque, unglazed paper. Margins must be justified. Footnotes may not be printed in type smaller than 9 point. The page size shall be either 7⅝ by 10¼ inches (19.4 by 26 cm.) with type matter 4⅛ by 7⅛ inches (10.6 by 18.2 cm.), or 8½ by 11 inches (21.6 by 27.9 cm.) with type matter 6½ by 9½ inches (16.5 by 24.1 cm.). The testimony shall be bound to lie flat when open. Plastic and metal ring-type bindings are not acceptable. Twenty-five additional copies for the United States Court of Customs and Patent Appeals, should appeal be taken, may also be filed; if no appeal be taken, the twenty-five copies will be returned to the party filing the testimony.

* * * * *

4. By adding the following sentence to § 1.254:

§ 1.254 Briefs at final hearing.

* * * The board may refuse to accept any brief which has been printed,

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typewritten, or bound otherwise than in substantial conformity with this section.

5. By revising § 1.258 to read as follows:

§ 1.258 Matters considered in determining priority.

(a) In determining priority of invention, the Board of Patent Interferences will consider only priority of invention on the evidence submitted, and matters ancillary thereto. A party shall be entitled to raise a matter which is ancillary to priority only if:

(1) The matter was raised by the party in a motion under § 1.231(a), and:

(i) The motion was transmitted to and decided by the primary examiner; or

(ii) Consideration of the motion was deferred to final hearing; or

(iii) The motion was dismissed as being based on facts sought to be established by affidavits, declarations or evidence outside of official records and printed publications, or as being based on a ground which would require the taking of testimony; or

(2) The matter was raised by the party in opposition to a motion under § 1.231(a) (2), (3), (4) or (5) which was granted over his opposition; or

(3) The party shows good reason why the matter was not raised as specified in paragraphs (a) (1) or (2) of this section.

(b) to prevent manifest injustice the Board of Patent Interferences may in its discretion consider a matter which is ancillary to priority even though it would not otherwise be entitled to consideration under paragraph (a) of this section.

(c) At final hearing between an application and a patent the prior art of record in the patent file may be referred to for the purpose of construing the issue.

6. By adding the following new section:

§ 1.288 Use of discovery.

(a) If a party intends to rely upon an admission or upon an answer to an interrogatory, obtained by discovery, the admission or answer may be introduced into evidence by filing, before the closing of the time for taking the testimony of the party (before the time for taking the testimony in chief if such admission or answer is not in rebuttal), a copy of the admission and the request therefor and/or a copy of the interrogatory and its answer, together with a notice of reliance thereon.

(b) A party may not rely upon any other matter obtained by discovery unless it is introduced into evidence pursuant to §§ 1.271 to 1.286.

Dated: October 15, 1980.

Sidney A. Diamond,

Commissioner of Patents and Trademarks.

Dated: October 31, 1980.

Approved:

Jordan J. Baruch,

Assistant Secretary for Productivity, Technology and Innovation.

[FR Doc. 80-36575 Filed 11-24-80; 8:45 am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EN-FRL 1676-7]

Alternate Method 1 to Reference Method 9 of Appendix A—Determination of the Opacity of Emissions From Stationary Sources Remotely by Lidar

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule: Notice of hearing.

SUMMARY: EPA proposed Alternate Method 1—Determination of the Opacity of Emissions from Stationary Sources Remotely by Lidar (Laser Radar), to Reference Method 9 on July 1, 1980, 45 FR 44329. The comment period closed on September 25, 1980. Due to requests, EPA is conducting a hearing on the proposed alternate method.

DATE: The hearing will be conducted at 8:30 a.m. (local time) on December 17, 1980.

ADDRESS: The hearing will be held in Room 269, Main Post Office Building, 18th and Stout Streets, Denver, Colorado.

FOR FURTHER INFORMATION CONTACT: Arthur W. Dybdahl, 303/234-4658.

Dated: November 17, 1980.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

[FR Doc. 80-36647 Filed 11-24-80; 8:45 am]

BILLING CODE 6560-33-M

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40 CFR Part 60

[AD-FRL-1546-2]

Standards of Performance for New Stationary Sources; Perchloroethylene Dry Cleaners

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit emissions of volatile organic compounds (VOC) from new, modified, and reconstructed perchloroethylene (perc) dry cleaners. The standards would require the installation of carbon adsorbers or equivalent control devices on affected perc dryers and dry-to-dry machines and would require good operating and maintenance procedures on all affected dry cleaning equipment.

The proposed standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that perc dry cleaners contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. The intent is to require new, modified, and reconstructed perc dry cleaners to use the best demonstrated system of continuous emission reduction, considering costs and nonair-quality health, environmental, and energy impacts.

A public hearing will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before January 26, 1981.

Public Hearing. A public hearing will be held on January 8, 1981 (about 30 days after proposal) beginning at 9:00 a.m.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by January 2, 1981.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket Number A-79-30, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460.

Public Hearing. The public hearing will be held at Env. Research Ctr. Auditorium RTP, NC 27711. Persons wishing to present oral testimony should notify Ms. Deanna Tilley, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5477.

Background Information Document. The Background Information Document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to *Perchloroethylene Dry Cleaners—Background Information for Proposed Standards, EPA-450/3-79-029a.*

Docket. Docket No. A-79-30, containing supporting information used by EPA in developing the proposed

standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for photocopying.

FOR FURTHER INFORMATION CONTACT: Mr. John Crenshaw, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5421.

SUPPLEMENTARY INFORMATION:

Proposed Standards

The proposed standards would limit emissions of VOC from the two segments of the perchloroethylene dry cleaning industry: new, modified, and reconstructed professional dry cleaners and new, modified, and reconstructed coin-operated dry cleaners. Professional dry cleaners (both commercial and industrial) are distinguished from coin-operated dry cleaners in that professional equipment is not coin-operated and is not accessible to the customer. Coin-operated equipment is usually operated by the customer.

The proposed regulations consist of a combination of equipment, work practice, and operational standards that allow the best emission control. Professional dry cleaners using perchloroethylene would be required to install and operate a carbon adsorber or equivalent control device. Professional and coin-operated dry cleaners using perchloroethylene would be required to use good operating and maintenance procedures to prevent liquid and vapor leaks of perc from the affected facility. In addition, the treatment of waste solvent would be required to reduce the perc content before disposal. An inspection and maintenance program would also be required to prevent and correct solvent losses from leaks and equipment malfunctions.

Background

The dry cleaning industry is composed of approximately 30,000 small businesses and is generally located in the same area as the population it serves. Dry cleaners may use either perce, petroleum solvents, or trichlorotrifluoroethane to clean such articles as suits, dresses, or uniforms. At present the coin-operated segment of the industry shows a zero growth rate whereas the professional perc segment is growing at about the same rate as the general population, 0.9 percent.

The proposed standards affect only new, modified, or reconstructed dry cleaners using perc. Perc emissions contribute to ambient levels of ozone because perc participates in atmospheric ozone formation. Many areas of the country have ambient levels of ozone above the national ambient air quality standard. To assist States in controlling emissions from existing sources, EPA has published several Control Techniques Guideline (CTG) documents. Among these is a CTG for the perc dry cleaning industry (Control of Volatile Organic Emissions from Perchloroethylene Dry Cleaning Systems, EPA-450/2-78-050). The purpose of the CTG is to recommend reasonably available control technology (RACT). The information developed for the perc CTG also serves as part of the basis for this proposed new source performance standard.

Initial work on controlling air emissions from the dry cleaning industry encompassed all three of the principal dry cleaning solvents. Draft standards were presented at a meeting of the National Air Pollution Control Technical Advisory Commitee (NAPCTAC) meeting on August 28, 1976. In respone to numerous industry comments on that presentation, further work was begun with the intention of writing a separate standard for each of the three solvents.

A draft standard for perc dry cleaners that would have established an emission limitation for dryer exhausts was presented to NAPCTAC in August 1979. Industry comments received on that draft standard, particularly those concerning the excessive economic impact of a performance test for the contorl device, resulted in the draft standard's being changed to an equipment standard.

By 1984, projected nationwide perc dry cleaner emissions from new and existing sources without the new source performance standard would be about 55,000 megagrams per year based on the industry's revenue data reported to the Bureau of Census. Data on the amount of perc sold to the industry indicates that the total perc emissions may be three times higher than the estimate given above. The impact analysis presented below uses the lower emission estimate to calculate the costs and emission reduction that would result from implementation of this standard. Selecting the lower emission estimate is a more conservative assumption to evaluate cost impacts because the smaller emission value minimizes the credit for solvent recovered by the control equipment. Using the lower estimate also results in a more conservative estimate of the emission reduction attributable to the standard. Because an understanding of baseline emissions is important in estimating the impacts of this rule, the Administrator solicits comments on the national perc consumption estimate used and requests additional data of clarify the apparent discrepancy between the data bases.

The regulation of perchloroethylene at this time is based principally upon its role as an ozone precursor and, as such, this action has not been coordinated with EPA's Toxic Substance Priority Commitee (TSPC). Although the potentially hazardous effects of perchloroethylene provide strong support for this action, the Agency's investigations on the possible listing of perchloroethylene as a hazardous air pollutant are being considered separately from this action. These investigations and recommendations will be coordinated with the TSPC.

Summary of Environmental, Energy, and Economic Impacts

The proposed standards would reduce perc emissions from typical coin-operated facilities by about 25 percent and would reduce emissions from typical professional dry cleaners by about 50 percent. Affected facilities that are projected to come on line between 1980 and 1989 are expected to emit 18,000 megagrams of perc in 1989, if they are uncontrolled. If the proposed regulation is implemented, controlled emissions from these facilities are expected to equal 9,800 megagrams in 1989. Thus the proposed standards would reduce perc emissions by about 8,200 megagrams per year by 1989. This figure represents a reduction of 46 percent from the estimate of uncontrolled emissions.

Also affecting nationwide emissions estimates would be any emission reduction attributable to State or local regulations. Revised State Implementation Plans (SIP's) that may incorporate the RACT recommendations in the CTG for perc dry cleaners were due to be submitted to the Administrator by July 1, 1980. Revised SIP's for perc dry cleaning are only required in those areas that are in violation of the National Ambient Air Quality Standards (NAAQS) for photochemical oxidants and that cannot demonstrate compliance with the NAAQS without applying RACT by July 1982. The previous emission estimates do not attribute any emission reduction that may occur due to State SIP's because the magnitude of their impact will not be known until after proposal of this standard.

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The water quality impact associated with this standard is considered small. The only potentially adverse impact of the proposed regulation on water quality would be caused by solvent in the steam condensate from the regeneration (solvent desorption) of carbon adsorbers. The effluent water stream from this process may contain up to 100 parts per million (ppm) perc by weight. It is estimated that the total perc to be sewered nationally by perc dry cleaners with carbon adsorbers in 1984 will be 1.5 to 4 megagrams and will increase to 3 to 9 megagrams in 1989. Therefore, no single body of water would receive more than an insignificant amount of perc because this effluent would be dispersed across the entire country. The increase in perc effluent represents an increase of about 15 percent over the amount of perc that would be disposed of by perc dry cleaners without a new source standard.

The solid-waste impact of the proposed regulations is considered insignificant. The proposed standard would not increase the quantity of filter and still wastes generated because the standard would require some removal of perc from these wastes before their disposal; however, activated carbon used in carbon adsobers must eventually be replaced. This would create new solid wastes, although the replacement should occur only at 15-year intervals. Therefore, the first solid waste impact of the proposed standards would not occur until 1995 and would amount to less than 120 megagrams of spent carbon for that year. The amount of solid waste is expected to grow at the same rate as the dry cleaning industry, 0.9 percent.

The total increased electricity usage resulting from the proposed regulations for all affected facilities in 1984 is about 13.9 gigawatt hours per year (GWh/yr). This increased usage, which results from the use of fans on carbon adsorbers, is equivalent to about 23,000 barrels of fuel oil per year for electrical generation. Thus the proposed regulations result in a nominal (less than 1 percent) increase in electricity usage for the industry.

An increase in fuel usage (normally natural gas or fuel oil) is required to produce steam to desorb the carbon. For new sources in 1984, the increase will be about 51.0 terajoules per year (TJ/yr) (48,000 × 10^6 Btu/yr). This figure represents an increase of less than 1 percent in the total fuel usage by the industry and is equal to about 8,200 barrels of fuel oil per year.

Coin-Operated Dry Cleaners

Under the proposed regulations, coin-operated dry cleaners would not be required to install any additional equipment. The equipment cost for a new coin-operated dry cleaner would increase from about $9,000 to about $16,000 if emission controls like those required on professional dry cleaners were required on coin-operated facilities. Because of this cost increase and the attendant increase in operating costs, the proposed rule does not require carbon adsorbers for coin-operated dry cleaners. Therefore, only proper operation and maintenance of the affected facility and proper treatment of waste materials are required for these facilities. Costs for these procedures are negligible.

Professional Dry Cleaners

The proposed regulations for professional dry cleaners (both commercial and industrial) require the use of a carbon adsorber or equivalent control device to control emissions from dryer or dry-to-dry machine exhausts. In addition, there are maintenance and operating practices and waste content requirements similar to those required for coin-operated dry cleaners. Capitol costs for control equipment are expected to range from $4,000 to $12,000. Calculated annualized costs range from about $600 per year for a small commercial dry cleaner to a savings of over $13,000 per year for an industrial dry cleaner; however, because the lower solvent consumption figures were used to estimate these annualized costs in order to give the "worst-case costs," actual annualized costs may be lower than projected. Reclaimed solvent accounts for the savings achievable with these control techniques, and this saving increases with increased throughput. The cost imposed on small dry cleaners is, however, relatively minor and is not expected to affect industry investment or structure.

The annualized cost for the standards after 5 years is expected to be about $1 million for approximately 3,300 new, modified, and reconstructed professional perc dry cleaners. This industry, however, is highly competitive. Thus new facilities would be unlikely to charge higher prices when competing with existing dry cleaners. Therefore, no retail price increase is expected from the regulations. Rather, the profitablility of new sources would be decreased slightly, by a maximum of about 0.9 percent.

Rationale

Selection of Source

Section 111 of the Act requires establishment of standards of performance for new, modified, or reconstructed stationary sources that cause or contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. EPA has determined that sources that emit perc contribute to the formation of ozone, a criteria pollutant for which national ambient air quality standards have been established under the authority of Section 109 of the Act. Though perc has a relatively low chemical reactivity rate in the ozone formation process, the Agency's policy for ozone precursors (44 FR 35314) affirmed that many of the volatile organic compounds (VOC) previously designated as having low reactivity were moderately or highly reactive under conditions characteristic of urban atmospheres. Most dry cleaners are located in or near urban areas. Also, compounds that have low reactivity can form appreciable amounts of ozone under multiday stagnation conditions such as those that occur during summer in many areas. The potential for ozone air pollution from emissions of perc may reasonably be anticipated to endanger the public health and welfare; therefore, perc emissions from dry cleaners are proposed for regulation under Section 111 of the Act.

The Priority List of sources for new source performance standards (NSPS) (44 FR 49222) identified various sources of emissions on a nationwide basis in terms of the potential improvement in emission reduction that could result from the imposition of NSPS. The sources on the list are ranked based on decreasing order of potential emission reduction. When all three primary dry cleaning solvents were considered, dry cleaners ranked 5th of 59 sources on the list. If listed separately, it is estimated that perc dry cleaners would rank between 8th and 12th on the list.

Though other dry cleaning solvents are currently in use, the proposed standard applies only to perc because sufficient data for the establishment of standards for other dry cleaning solvents are not yet availabe. A standard for petroleum dry cleaning is under development. The third dry cleaning solvent, trichlorotrifluoroethane, will be considered for regulation in the future.

Selection of Pollutants and Affected Facilities

Perc dry cleaning facilities emit only one air pollutant, perchloroethylene. The largest sources of perc emissions in perc dry cleaning facilities are dryers or dry-to-dry machines. The affected facilities are defined as perc dry cleaning dryers or dry-to-dry-machines, washers, filters, muck cookers, and stills.

In the dry cleaning industry, the replacement rate of worn-out equipment is greater than the expected growth rate of new facilities. Selection of dryers and dry-to-dry machines as affected facilities is made to ensure that replacement of existing dryers or dry-to-dry machines with new equipment would require the facility to meet control requirements. Designation of the dry cleaning system as the affected facility would have exempted replacement dryers and dry-to-dry machines from the standard unless an increase in resulting emissions or a capital expenditure of 50 percent of the system replacement cost accompanied the replacement.

Selection of Basis of Proposed Standards

Two principal control options were apparent for reducing perc emissions from dry cleaning plants:

1. Replace perc with a nonphotochemically reactive solvent.
2. Require the use of a carbon adsorber or other control devices to control perc emissions from dryers or dry-to-dry machines, the identification and repair of all leaks, and the reduction of perc content in waste materials.

The only readily available alternative solvents are petroleum solvents and trichlorotriflouoroethane. Petroleum solvents are photochemically reactive, so their use in place of perc would not reduce ozone formation. Furthermore, few dry cleaners are expected to be able to use petroleum solvents instead of perc, primarily because petroleum solvents are flammable and are, therefore, controlled by fire codes and insurance regulations. Existing perc dry cleaning equipment is not designed to utilize flammable solvents. Trichlorotrifluoroethane also has its disadvantages; for example, it does not have the same cleaning characteristics as perc and, according to industry spokespersons, may be unsuitable for heavily soiled articles. Trichlorotrifluoroethane equipment is more expensive than perc equipment and the solvent itself is three to four times as expensive as perc. Many of the projected new plants in the commercial sector would not be constructed if the only solvent available were trichlorotrifluoroethane.

Switching to trichlorotrifloroethane would, however, result in a 100-percent reduction in perc emissions for the dry cleaning systems affected. New source standards eliminating perc emissions would reduce national VOC emissions by approximately 6,000 megagrams by 1984. However, there would be an accompanying increase in trichlorotrifloroethane emissions of about 3,100 megagrams for this option. Trichlorotrifloroethane has been implicated in the depletion of the stratospheric ozone layer, a region of the upper atmosphere that shields the earth from harmful ultraviolet radiation that increases skin cancer risk in humans. In view of this potential impact, it would be inappropriate for EPA to require perc dry cleaners to switch to trichlorotrifloroethane solvents.

New source standards based on the second control option would reduce national VOC emissions by about 4,000 megagrams annually by 1984 without an accompanying increase in trichlorotrifloroethane emissions. There would be three types of emission points covered by this option: (1) dryer or dry-to-dry machine exhausts, (2) leaks, and (3) waste materials. Dryer or dry-to-dry machine emissions would be directed to the control device. Perceptible leaks would be identified and repaired. Filter and distillation wastes would be treated to minimize the perc content before disposal.

Carbon adsorption has been commercially accepted as a dryer exhaust control technology for use in the professional dry cleaning sector of the industry, but not in the coin-operated sector. Fewer than 5 percent of the existing coin-operated machines use this control technique. Carbon adsorption is not considered economically reasonable for the majority of coin-operated dry cleaners because of the additional cost for boiler facilities to produce the steam necessary to desorb the carbon bed. For this reason, a coin-operated dry cleaner would only be require to control leaks and waste materials. This control would require good operation, maintenance, and inspection practices.

Selection of Format of Proposed Standards

Two basic approaches appeared applicable to establishing the format for the standard. The first focused on the emission points and led to separate standards for each specific emission source. The second approach focused on solvent consumption and led to a mass emission limitation format that would place a limit on the total consumption of perc per unit of articles cleaned. This format is similar to the industry technique of computing solvent "mileage" in pounds of articles cleaned per drum of solvent.

The first approach would require different formats for each of the three types of emission points: (1) equipment exhausts and vents, (2) leaks, and (3) waste materials. This approach is the same as that in the control techniques guideline (CTG) on perc dry cleaning and was chosen as the format for the proposed standards, based on the considerations discussed below.

Under Section 111(h) of the Clean Air Act, the Administrator may promulgate a design, equipment, work practice, or operational standard if he

> • • • determines that (A) a pollutant or pollutants cannot be emitted through a conveyance designed and constructed to emit or capture such pollutant, or that any requirement for, or use of, such a conveyance would be inconsistent with any Federal, State, or local law, or (B) the application of measurement methodology to a particular class of sources is not practicable due to technological or economic limitations.

Either concentration limitations, mass emissions standards, or equipment standards could be used to limit emissions from dryer or dry-to-dry machine exhausts at professional dry cleaners. An equipment standard reduces the impact on the profitability of small dry cleaners because this format for the standard does not require an expensive performance test but does require the use of a carbon adsorber or equivalent control device. The annualized cost to a small commercial dry cleaner would be approximately $600 for an equipment standard and $1,000 for a concentration limit or mass emission standard, assuming no more than one performance test would be required over the life of the adsorber. The use of performance tests is not feasible because the economic impact of even a single performance test is considered to be too great for small dry cleaning plants. Foe these reasons, an equipment standard requiring the use of carbon adsorbers was chosen to limit emissions from these sources.

As much as 25 percent of the emissions from a controlled facility can be attributed to leaks. Possible formats for a standard to control these leaks are a work practice standard or a maximum emission limit standard. Because the control of these emissions requires maintenance, a logical format for a standard is a work practice standard, specifying an inspection program to locate leaks and limiting the time period for performing the required maintenance. The maximum emission limit format for a leak standard would require the enclosure of the leak source to quantify the emission rate. Because this procedure is time consuming and the application of measurement methodology is not practicable due to economic limitations, the work practice standard was chosen as the preferred format.

Possible formats for a standard limiting perc emissions from waste

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materials are the establishment of work practices that reduce perc content in waste materials before disposal or the establishment of a limit on the concentration of perc in the waste. Perc dry cleaners generate three different types of waste materials: (1) regenerable filter wastes, (2) residue from solvent stills, and (3) used cartridge filters. The possible formats for a standard have been evaluated separately for each of these waste materials.

Regenerable filter wastes are typically heated in a muck cooker to drive off perc. The perc is recovered by condensation. A concentration limit on the waste material after cooking would require good operation of the muck cooker to minimize the perc content in the muck before disposal. This concentration can be determined by a simple, inexpensive test.

Residue from solvent stills presents a case similar to that of the regenerable filters. Contaminated solvent is boiled at a temperature that volatilizes the solvent without volatilizing the contaminating greases or oils. The solvent vapor is then condensed and recovered. A concentration limit has the same advantages for controlling emissions from solvent stills as it has for controlling emissions from regenerable filter material.

Cartridge filters present a different case, however. These filters cannot normally be heated to recover perc because most of these filters are designed to be disposable and, therefore, are not designed for ease of solvent reclamation. Instead they are drained of excess solvent in their housings and are then disposed of. Performance tests for a concentration format would require the drying of used cartridges to a constant weight. This process can take 2 weeks or longer and cannot usually be performed without the use of laboratory facilities for the entire time which is expensive, making performance testing economically unfeasible. A work practice format would specify a minimum drain time for cartridge filters. This format has the advantage of not requiring a lengthy performance test while maintaining the same control level. Therefore, a work practice standard was chosen for cartridge filters.

Equivalent Systems of Emission Reduction

These standards of performance do not preclude the use of other emission control equipment or procedures of operation that can be demonstrated to be equivalent, in terms of reducing VOC emissions, to those prescribed in the proposed regulation. For determination of equivalency, any person may submit test data and request the Administrator's approval of alternative equipment. The submittal must describe the equipment, test procedures, date and location of the test, and test results. Upon request, the Administrator will also review proposed test procedures for technical feasibility.

Equivalency for dryer or dry-to-dry machine exhaust control equipment can be demonstrated by any person including users or manufacturers of equipment. In order to determine equivalency, the Administrator must find a substantial likelihood that the control technology used in normal operations would produce equivalent emission reductions as the standards would require, at approximately the same or less energy or adverse environmental impact.

To permit the use of alternative systems for carbon adsorption, the Administrator must find either (1) that the control device reduces dryer or dry-to-dry machine emissions by a minimum of 95 percent, averaged over the drying cycle, or (2) that a dry cleaning system employing the control device can achieve an average solvent loss rate of 5 kilograms, or less, per 100 kilograms of articles cleaned. These limits were chosen based on test data from carbon-adsorber-equipped facilities where both types of tests were performed. Although there is no exact correspondence between dryer emission control and average solvent loss, the latter demonstration of equivalency is allowed because control efficiency measurements of multipass control systems are substantially more difficult than such measurements for single-pass systems (e.g., carbon adsorbers).

Some of the other control devices available for perc dry cleaners are multipass control systems, such as refrigerated condensers and direct contact condensers. These units are typically installed to eliminate the exhaust to the atmosphere from the dryer (or dry-to-dry machine) with a closed-loop arrangement. Test data from one solvent mileage test indicate that refrigeration units on dry-to-dry machines may achieve emission rates comparable to a well-operated carbon-adsorber-equipped facility, and industry sources have reported equally promising results for the direct contact condenser.

Selection of Numerical Emission Limits, Equipment Standards, and Work Practice Standards

1. *Equipment Exhausts and Vents*

The standard is based on the predominant type of carbon adsorber in use by the industry today. Activated carbon in those systems typically adsorbs about 1 kilogram of perc for each 5 kilograms of carbon before regeneration. Test data and industry sources also indicate that a well-operated, well-maintained dry cleaning machine ducts about 1 kilogram of perc to the carbon adsorber for each 30 kilograms of articles cleaned. The proposed standard, therefore, requires the carbon bed to be desorbed before it reaches its capacity, as indicated by the throughput of articles cleaned. The maximum throughput allowed by the standard before desorption is 6 kilograms of articles cleaned per kilogram of carbon in the adsorber. This number is based on the above data which indicate that to capture each kilogram of perc no more than 30 kilograms of articles can be cleaned for each 5 kilograms of carbon in the adsorber.

To prevent ineffective desorbing techniques, a requirement for desorbing the bed with a minimum of 170 kilopascals (kPa) (10 pounds per sq. inch (psig)) steam is included in the regulation. This requirement is based on current industry practice. Additionally, carbon adsorbers must be designed to accommodate the unrestricted air flow from the dry cleaning equipment to prevent back pressure on the dry cleaning machine and possible vapor leaks. Also, the air flow must achieve a minimum rate to dry the bed after the desorbing process to ensure proper operation after desorption.

2. *Leaks*

The control of leaks depends on finding the leaks and repairing them. Inspections to find leaks can be performed daily, weekly, monthly, or at other intervals. Daily inspections were judged too burdensome for the many small dry cleaners who would be affected. Weekly inspections could be made during days of lower consumer demand without affecting production. Longer intervals would not allow for timely discovery of leaks. Therefore, weekly inspections are required.

After leaks are found, repairs are required. Emissions from leaks can be reduced by minimizing the length of time before repair. Immediate repair could be burdensome to dry cleaners because of lost production during periods of peak demand. Also, in some cases, required parts may not be on hand. To lessen the impact of the standard, 3 days have been allowed for the leak to be repaired or for required parts to be ordered.

3. *Waste Materials*

The proposed standard would set limits on the amount of perc contained in waste products generated at a dry cleaning facility. These waste products may include residue from regenerable filters, cartridge filters, and solvent stills.

The processing of waste materials to minimize the perc content before disposal is the objective of the proposed standards. Stills can be operated, according to test data, to reduce the perc content to 60 kilograms per 100 kilograms of wet waste material. Industry representatives have agreed that these levels can be achieved by increased distillation times which result in the optimum operation of the still to reduce the perc content without significantly increasing the operating cost of the still. Care must be taken, however, to prevent grease and oils from being evaporated along with the perc. More stringent control levels are not viable for typical dry cleaners because of the likelihood that these contaminates would appear in the reclaimed perc.

Similarly, the proper operation of a muck cooker at test dry cleaners has been demonstrated to reduce the perc content to 25 kilograms per 100 kilograms of wet waste material through the use of improved operating procedures. This technique has been endorsed by industry trade organizations in recommendations to their members. Control levels below 25 kilograms per 100 kilograms of wet waste material are too stringent for typical dry cleaners because of the length of cooking time required. The proposed standard would require the 25-kilograms-per-100-kilograms level to be met.

Cartridge filters are usually drained in their housings or other sealed containers before disposal. the proposed standard would require a minimum of 24 hours of drain time. This time is based on manufacturers' recommendations. Normally, draining would occur over a weekend with the filter's being replaced on the following Monday morning. Therefore, no loss of production time would occur. Another option would have required cartridge filters to be dried in housings vented to carbon adsorbers. This option was not chosen because it could preclude development of other control devices that might be equivalent to carbon adsorbers.

Selection of Monitoring Requirements

The principal monitoring technique that can be used is inspection for leaks. Inspection by the owner or operator for leaks is routine maintenance necessary for the most efficient operation of the dry cleaner. Leaks would be required to be repaired within 3 days; otherwise, a copy of a purchase order showing required parts to be on order must be in evidence. This procedure would minimize perc losses from perceptible leaks by limiting the time for such leaks to be repaired. No other monitoring requirements are included because sufficiently accurate continuous monitors were not found.

For determining compliance witha the liquid leak standard, any liquid leak large enough to drip or run off would be considered "perceptible" and would have to be repaired. This inspection would be visual. Perceptible vapor leaks are more difficult to quantify, but would consist of vapor leaks that are obvious from the odor of perc in the general area or by observation of gas flow by feel, application of bubble solution, or similar means.

Determination of the perc content of waste materials would be accomplished by using ASTM D322–67, with modifications to account for the fact that perc is heavier than water and to give a weight percent rather than a volume percent.

No reports to the Administrator or records are required for several reasons. First, when a carbon adsorber is installed, it is to the economic advantage of the owner or operator to use it. Second, this industry is primarily made up of small businesses upon which recordkeeping would be burdensome. Finally, it is in the spirit of regulatory reform to minimize the burden of regulations when possible and when consistent with achieving a given environmental goal.

Public Hearing

A public hearing will be held to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing4o make oral presentations whould contact EPA at the address given in the Addresses section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the Addresses section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see ADDRESSES section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed rulemaking. The principal purposes of the docket are (1) to allow interested parties to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review.

Miscellaneous

As prescribed by Section 111, establishment of standards of performance for perc dry cleaners was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222) that these sources contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare in accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues.

Standards of performance for new sources established under Section III of the Clean Air Act reflect:

application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieveing such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. [Section 111(a)(1)]

Although there may be emission control technology available that can reduce emissions below those levels required to comply with standards of performance, such technology might not be selected as the basis of standards of performance because of costs associated with its use. Accordingly, these standards of performance should not be viewed as the ultimate in achievable emissions control. In fact, the Act requires (or has the potential for requiring) the imposition of a more stringent emission standard in several situations.

For example, applicable costs do not necessarily play as prominent a role in determining the lowest achievable emission rate (LAER) for new or modified sources locating in nonattainment areas (i.e., thse areas where statutorily mandated health and welfare standards are being violated). In this respect, Section 173 of the Act requires that new or modified sources

constructed in an area where ambient pollutant concentrations exceed the

improvements in emission control technology, and reporting requirements.

§ 60.411 Definitions.

As used in this subpart, all terms not

"Wet waste material" means the

have been demonstrated to his

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constructed in an area where ambient pollutant concentrations exceed the NAAQS must reduce emissions to the level that reflects the LAER, as defined in Section 171(3), for that source category. The statute defines LAER as that rate of emissions based on the following, whichever is more stringent:

(A) The most stringent emission limitation [that] is contained in the implementation plan of any state for such class or category of source unless owner or operator of the proposed source demonstrates that such limitations are not achievable.

(B) The most stringent emission limitation [that] is achieved in practice by such class or category of source.

In no event can the emission rate exceed any applicable new source performance standard [Section 171(3)].

A similar situation may arise under the prevention of significant deterioration of air quality provisions of the Act (Part C). These provisions require that certain sources (referred to in Section 169(1)) employ best available control technology (BACT) (as defined in Section 169(3)) for all pollutants regulated under the Act. Best available control technology must be determined on a case-by-case basis, taking energy, environmental, and economic impacts and other costs into account. In no event may the application of BACT result in emissions of any pollutants that would exceed the emissions allowed by any applicable standard established pursuant to Section 111 (or 112) of the Act.

In all events, State Implementation Plans (SIP's) approved or promulgated under Section 110 of the Act must provide for the attainment and maintenance of NAAQS designed to protect public health and welfare. For this purpose, SIP's must, in some cases, require greater emission reductions than those required by standards of performance for new sources.

Finally, States are free under Section 116 of the Act to establish even more stringent emission limits than those established under Section 111 or those necessary to attain or maintain the NAAQS under Section 110. Accordingly, new sources may in some cases be subject to limitations more stringent than standards of performance under Section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements. The reporting requirements in this regulation will be reviewed as required under EPA's sunset policy for reporting requirements in regulations.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to ensure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the Background Information Document.

Dated: November 18, 1980.

Douglas M. Costle,

Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

It is proposed that 40 CFR Part 60 be amended by adding a new subpart as follows:

1. Add Subpart OO to the Table of Sections as follows:

Subpart OO—Standards of Performance for Perchloroethylene Dry Cleaners

Sec.

60.410 Applicability and designation of affected facility.
60.411 Definitions.
60.412 Standards for volatile organic compounds.
60.413 Equivalent equipment and procedures.
60.414 Test methods and procedures.

Authority: Sec. 111, 301(a) of the Clean Air Act as amended (42 U.S.C. 7411, 7601(a)), and additional authority as noted below.

2. Add Subpart OO as follows:

Subpart OO—Standards of Performance for Perchloroethylene Dry Cleaners

§ 60.410 Applicability and designation of affected facility.

(a) The provisions of this subpart are applicable to the following affected facilities: perchloroethylene dry cleaning dryers, dry-to-dry machines, washers, filters, muck cookers and stills.

(b) Any facility under paragraph (a) of this section that commences construction or modification after ———— (date of proposal) is subject to the requirements of this part.

§ 60.411 Definitions.

As used in this subpart, all terms not defined herein shall have the same meaning given them in the Act and in subpart A of this part.

"Carbon adsorber" means a bed of activated carbon into which perchloroethylene vapors are introduced and trapped for subsequent desorption.

"Cartridge filter" means a discreet solvent filter unit designed to be replaced periodically.

"Coin-operated dry cleaner" means a perchloroethylene dry cleaner activated by the customer. Such dry cleaners are typically coin-operated.

"Desorption" means regeneration of an activated carbon bed by removal of the adsorbed solvent, usually with steam.

"Dryer" means a machine used to remove perchloroethylene from articles of clothing or other textile or leather goods, after washing and extraction of excess perchloroethylene.

"Dry-to-dry machine" means a perchloroethylene dry cleaning machine in which washing, extraction, and drying are all achieved in the same single unit.

"Dry cleaning system" means an affected dryer or dry-to-dry machine and its ancillary washers, filters, muck cookers, stills, interconnecting piping and ducts, and solvent tanks which must be present in order to complete the dry cleaning process.

"Muck cooker" means a device for heating regenerable filter material to drive off perchloroethylene vapors for reclaiming.

"Perchloroethylene dry cleaners" means the dry cleaning dryers or dry-to-dry machines and their ancillary equipment.

"Perceptible leaks" means any perchloroethylene vapor or liquid leaks that are obvious from (1) the odor of perchloroethylene, (2) observation of gas flow by feel or application of bubble solution, or (3) visual observation, such as pools or droplets of liquid.

"Professional" means any perchloroethylene dry cleaner not activated by the customer and includes, but is not limited to, commercial and industrial perchloroethylene dry cleaners.

"Regenerable filter material" means the residue from a filter using loose diatomaceous earth.

"Still residue" means the mixture of perchloroethylene, oils, and other material that must be periodically removed from a solvent still.

"Stills" are defined as devices used to volatilize and recover perchloroethylene from contaminated solvent removed from the cleaned articles.

"Wet waste material" means the undiluted filter material from a regenerable filter or the undiluted residue from a solvent still.

§ 60.412 Standards for volatile organic compounds.

(a) Each owner or operator of a perchloroethylene dryer or dry-to-dry machine used by a professional dry cleaner shall install, operate, and maintain a carbon adsorption unit for the control of volatile organic compound emissions from the dryer or dry-to-dry machine. The carbon adsorber must be designed and operated to meet the following requirements:

(1) Desorption before cleaning 6 kilograms of articles per kg of activated carbon, based on dryer or dry-to-dry machine rated capacity,

(2) Desorption with a minimum steam pressure of 170 kPa,

(3) A rated air flow capacity at least equal to the unrestricted exhaust rate of the dry-to-dry machine or, if applicable, at least equal to the sum of the unrestricted exhaust rates of the washer and dryer, and a minimum air flow capacity of 0.3 cubic meter per second,

(4) no bypass to the atmosphere during desorption.

(b) No owner or operator of a regenerable filter subject to the provisions of this subpart shall dispose of regenerable filter material unless the perchloroethylene content of the regenerable filter material has been reduced to 25 kilograms of perchlorethylene, or less, per 100 kilograms of wet waste material.

(c) No owner or operator of a still subject to the provisions of this subpart shall dispose of still residue unless the perchloroethylene content of the still residue has been reduced to 60 kilograms of perchloroethylene, or less, per 100 kilograms of wet waste material.

(d) No owner or operator of cartridge filters subject to the provisions of this subpart shall dispose of used cartridge filters unless the cartridge filter has been drained in its housing, or other sealed container, for a minimum of 24 hours, or has been dried in an enclosure vented to a carbon adsorber.

(e) The owner or operator of an affected facility subject to the provisions of this subpart shall repair perceptible leaks within 3 working days or, if repair parts are necessary, a purchase order for those parts must be initiated within 3 working days.

§ 60.413 Equivalent equipment and procedures.

(a) Upon written application from any person, the Administrator may approve the use of equipment or procedures that have been demonstrated to his satisfaction to be equivalent, in terms of reducing VOC emissions to the atmosphere, to those prescribed for compliance within a specified paragraph of this subpart. The application must contain a complete description of the testing procedure and the date, time, and location of the test, and a description of the test results.

(b) For the purpose of determining equivalency of control equipment required by § 60.412(a), the Administrator will evaluate the application to determine the adequate demonstration of either:

(1) 95 percent control of dryer emissions, averaged over the drying cycle, or

(2) An average solvent loss rate of 5 kg, or less, per 100 kg of articles dried, for the dry cleaning system, averaged over a minimum of 20 consecutive work days and based on machine capacity.

(c) If the the Administrator's judgment an application for equivalence may be approvable, the Administrator will publish a notice of preliminary determination in the **Federal Register** and provide the opportunity for public hearing. After notice and opportunity for public hearing, the Administrator will determine the equivalence of the alternative means of emission limitation and will publish the final determination in the **Federal Register.**

§ 60.414 Test methods and procedures.

(a) Each owner or operator of an affected facility subject to the provisions of this subpart shall make a weekly inspection of the affected facility to determine compliance with § 60.412(e).

(b) ASTM Method D322–67, as modified below, is used to determine compliance with § 60.412(c) and § 60.412(d). A sample of the wet waste material to be disposed of is taken from each of three different batches of waste materials. Each of the three samples is analyzed using ASTM Method D322–67 modified by using a Bidwell-Sterling type distillation trap in place of a gasoline dilution trap and by adding a known sample mass to the flask instead of a known sample volume so as to obtain a weight prcent of perchloroethylene in the waste material.

(Sec. 114 of the Clean Air Act, as amended (42 U.S.C. 7414))

[FR Doc. 80-36702 Filed 11-24-80; 8:45 am]

BILLING CODE 6560-26-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 59, 60, 61, 62 and 64

[Docket No. FEMA-FIA-60]

National Flood Insurance Program Coverage, Sales and Loss Prevention Provisions

AGENCY: Federal Insurance Administration (FIA), Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the National Flood Insurance Program regulations dealing with flood insurance coverage, the Standard Flood Insurance Policy terms and provisions, and the sale of flood insurance in communities participating in the National Flood Insurance Program. The purpose of the amendment is to revise the Program regulations to reflect improvements in the Flood Insurance Manual used by private sector property insurance agents and brokers in producing flood insurance business, coverage changes in the contract of flood insurance, and advances in flood hazard mitigation engendered by the President's Executive Order 11988.

DATE: All comments received on or before December 26, 1980, will be considered before final action is taken on the proposed rule.

ADDRESS: Persons wishing to comment should submit comments in duplicate to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Donald L. Collins, Federal Emergency Management Agency, Federal Insurance Administration, 451—7th Street, SW, Room 5126, Washington, D.C. 20472, Telephone Number (202) 755–6580.

SUPPLEMENTARY INFORMATION: These proposed amendments are the result of over two years of operation of the National Flood Insurance Program as a Federal program of direct insurance during which time it became apparent that a renewed emphasis was in order in terms of delivering enhancements in flood insurance coverage to the insurance consumer, at rates more reflective of the risk and with a reduction in risk through innovative insurance loss prevention measures. Accordingly, these amendments provide a broadening of coverage under the Standard Flood Insurance Policy balanced by an increase in the basic deductible provisions and, in the agents

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flood insurance manual of rules and rates which will be effective simultaneously with these amendments, an overall rate increase of 30%. In addition, the minimum acceptable premium has been increased from $25.00 to $50.00 and the commissions payable to agents, on premium amounts in excess of $2,000 have been reduced from 15% to 5%, consistent with private sector practices of providing graduated commission arrangements as between insurers and producers.

Of equal importance, increased loss prevention—the cornerstone of any successful insurance program—will be provided by the flood plain management provisions which will establish an insurance procedure involving the individual rating of structures in coastal high hazard areas to implement § 9.11(e) of 44 CFR Part 9.

Actuarial rating of structures on an individual risk basis will serve to further the program goals of providing incentives for hazard mitigation while permitting adequate coverage under premium rates which assure that sizeable risks of loss from flooding incident to dangerous coastal areas are borne by the owners of properties at risk. Thus, those who prefer to remain in coastal high hazard areas will be expected to conform to certain minimum construction standards and submit detailed building plans with any building permit application for a coastal high hazard area to facilitate accurate actuarial rate determinations and assure meaningful hazard mitigation measures in these areas. These matters are being considered as amendments to Parts 59, 60 and 64, and are being proposed in recognition of the President's flood plain management initiatives, expressed in Executive Order 11988, and implemented by FEMA at 44 CFR Part 9, on September 9, 1980.

Part 61 of the amendments, in addition to increasing the basic deductible, includes a graduated reduction in the deductible for one to four family residential buildings, clarifies the provisions for calculating the effective date of new flood insurance policies, and details amendments to those policy provisions involving certain properties and contents which are uninsurable under the program by the exclusion from coverage of serious pollutants (unless stored at or above base flood elevation or, in its absence, ground level) and buildings, 50% of the actual cash value of which are below ground (while, at the same time encouraging the use of earth as an insulation material in conjunction with energy efficient building techniques).

The Standard Flood Insurance Policy has been amended to provide, as an additional hazard mitigation tool, increased cost of construction coverage with which flood damaged single family residences not located in dangerous coastal high hazard areas or in floodways can be reconstructed after a flood to comply with improved construction practices in effect in the community by virtue of its participation in the National Flood Insurance Program; an enhanced replacement cost provision as to one to four family homes; dwelling coverage to the owners of units in condominium-type residential buildings; and definitive policy renewal provisions.

In Part 62, the reduction in the minimum commissions payable to agents is reflected, along with some editorial revisions.

FEMA has determined that an environmental impact statement is not needed for this proposed rule. A copy of the finding of no significant impact is available for inspection at the above address.

Accordingly, Subchapter B of Chapter I of Title 44 is proposed to be amended as follows:

PART 59—GENERAL PROVISIONS

§ 59.1 [Amended]

1. At § 59.1, the definition "Area of special flood hazard" is revised to read as follows:

* * * * *

"Area of special flood hazard" is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM or V on the FIRM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zones A and V are usually refined into Zones A, AO, AH, A1–99, V, VO, and V1–30.

* * * * *

PART 60—CRITERIA FOR LAND MANAGEMENT AND USE

§ 60.3 [Amended]

1a. Section 60.3(e)(2) is revised to read as follows:

* * * * *

(e) * * *

(2) For the purpose of the determination of applicable flood insurance risk premium rates within Zones V1–30 on a community FIRM:

(i) Obtain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement:

(ii) Obtain, if the structure has been flood-proofed, the elevation (in relation to mean sea level) to which the structure was flood-proofed;

(iii) Require on and after August 1, 1981, that applicants include, with their application or request to the community for the issuance of a building permit and as a condition for the issuance of a building permit, a certification from the Federal Insurance Administration stating the FIA estimated base flood elevation (including the 500-year elevation for critical actions, 44 CFR 9.4), including wave height, of the proposed structure and the approximate actuarial flood insurance rate that will be charged by the National Flood Insurance Program in respect to flood insurance coverage for the proposed building upon completion of construction, in accordance with information previously submitted to FIA by the applicant for the permit concerning the following matters (which matters the community shall advise the applicant of):

(A) The siting of the proposed construction and extent to which it is in conformance with local, state and federal zoning and building regulations, including but not limited to, protection of dunes, site of building behind dunes, and conformance with local zoning regulations with regard to shoreline and property lines,

(B) The adequacy of foundations against all effects including water, waves and erosion (or scour),

(C) The connections of floor beams to piles, piers or other foundation types (special attention is needed to properly bolt floor beams and bracing to piles),

(D) The type of connections to foundation throughout the structure from floor beams up through floor system and the walls to the roof for an integral storm-resistant behavior,

(E) Copies of design plans, including but not limited to details concerning (*1*) the elevation of the lowest habitable floor and of the ground level adjacent to the structure, as proposed, and whether or not such structure will contain a basement, (*2*) the dimensions of any support pilings and the depth of their placement, (*3*) the type of building material to be used, and (*4*) the type of barrier, if any, existing between the proposed structure and the potential water, wave and erosion hazards, and;

(F) Maintain a record of subparagraphs (i), (ii) of this paragraph and the FIA Certification obtained pursuant to (iii) with the official designated by the community under Sec. 59.22(a)(9)(iii).

1b. New § 60.3(f) is added as follows:

* * * * *

(f) When the Administrator has designated Zone V on the community's FIRM, the community shall:

(1) Meet the requirements of paragraph (b), except for (b)(5), of this section and the requirements of paragraph (e) of this section within V Zones;

(2) Provide that all new construction within Zone V is located landward of the reach of mean high tide;

(3) Provide (i) that all new construction and substantial improvements within Zone V are elevated on adequately anchored pilings or columns, and securely anchored to such piles or columns so that the lowest portion of the structural members of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level and (ii) that a registered professional engineer or architect certify that the structure is securely anchored to adequately anchored pilings or columns in order to withstand velocity waters and hurricane wave wash;

(4) Obtain, review, and reasonably utilize any base flood elevation data available from a Federal, State, or other source, until such other data has been provided by the Administrator as criteria for use under subparagraph (3),

(5) Provide that all new construction and substantial improvements within Zone V have the space below the lowest floor free of obstruction or be enclosed with open wood constructed lattice "breakaway walls" intended to collapse under stress without jeopardizing the structural support of the structure so that the impact on the structure by abnormally high tides or wind-driven water is minimized. Portions of the space below the lowest floor may also be enclosed by readily removable insect screening provided that no additional permanent supports are required. A community shall notify the permit applicant in writing over the signature of a community official that, on and after February 1, 1981, open wood constructed lattice "breakaway walls," insect screening, or any contents located below the lowest floor are not insurable under the program. A record of this notification shall be maintained by the community.

(6) Prohibit the use of fill for structural support of buildings within Zone V,

(7) Prohibit the placement of mobile homes, except in existing mobile home parks and mobile home subdivisions, within Zone V,

(8) Prohibit man-made alteration of sand dunes and mangrove stands within Zone V which would increase potential flood damage,

(9) For the purpose of the determination of applicable flood insurance risk premium rates within any Zone V, meet the requirements of paragraph (e)(2) of this section.

PART 61—INSURANCE COVERAGE AND RATES

§ 61.5 [Amended]

2. Section 61.5(d) is revised to read as follows:

* * * * *

(d) Each loss sustained by the insured is subject to a deductible provision under which the insured bears a portion of the loss before payment is made under the policy. The deductible is calculated as follows:

(1) in the case of a residential building having five or more dwelling units and a non-residential building, the amount of the deductible for each loss occurrence is $250 and the insurer shall be liable only when such loss exceeds $250 and then only for the amount in excess of this deductible, which deductible shall apply separately to each building, including debris removal, and expenses incurred under the Standard Flood Insurance Policy (Appendix A(1) and A(2), at paragraph "F" of "Perils Excluded") and;

(2) in the case of a one to four family residential building, the loss deductible shall apply separately to each building loss including debris removal, and to each household contents loss including debris removal and expenses incurred under the Standard Flood Insurance Policy (Appendix A(1) and A(2), at paragraph "F" of "Perils Excluded"), and the amount of the deductible for each loss occurrence is determined as follows: the insurer shall be liable only when such loss exceeds $250; and when the loss is between $250 and $2499, the insurer shall be liable for 111 percent of the loss in excess of $250; and when the loss is $2500 or more, no deductible shall apply.

3. Section 61.5(f) is revised to read as follows:

* * * * *

(f) The following property and contents for residential structures are not insurable under the Program:

(1) Accounts, bills, currency, deeds, evidence of debt, money, securities, bullion, manuscripts, or other valuable papers or records, and coins or stamps;

(2) Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks; other open structures located on or partially over water, including boat houses or other similar buildings into which boats are floated; personal property in the open;

(3) Land values, lawns, trees, shrubs or plants, growing crops, or livestock; and those portions of walks, driveways and other paved or poured surfaces outside the foundation walls of the structure;

(4) Units which are primarily containers, rather than buildings (such as gas and liquid tanks, chemical or reactor container tanks or enclosures, brick kilns, and similar units) and their contents (Silos and grain storage buildings including their contents, may be insured even though they may be of container-type construction);

(5) Contents which may become a pollutant to a community during flooding (unless such contents are at or above the base flood elevation, or above ground level where there is no established elevation);

(6) Buildings and their contents, including machinery and equipment which are part of the building, where 50 percent or more of the actual cash value of such buildings is below ground, unless the lowest level is at or above the base flood elevation (in the Regular Program) or the adjacent ground level (in the Emergency Program) by reason of earth having been used as an insulation material in conjunction with energy efficient building techniques;

(7) A mobile home located within a Special Flood Hazard Area that is not anchored to resist flotation or lateral movement by providing ties to ground anchors. This anchorage must be of a kind to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that (i) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side; (ii) frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side; (iii) all components of the anchoring system be capable of carrying a force of 4,800 pounds, and (iv) any additions to the mobile home be similarly anchored;

(8) As to any building in respect to which construction or substantial improvement started on and after February 1, 1981, in Zone V, obstructions below the building's lowest floor, including solid walls, open wood constructed lattice "breakaway walls", insect screening or other "breakaway walls", any personal property or other

contents located below the building's lowest floor;

(9) Animals, birds, fish, aircraft, motor vehicles including parts and equipment (other than motorized equipment pertaining to the service of the premises and not licensed for highway use), trailers on wheels, watercraft including their furnishings and equipment; or business property.

4. Section 61.5(g) is revised to read as follows:

* * * * *

(g) The following property and contents for non-residential structures are not insurable under the Program:

(1) All of the kinds of uninsurable property and contents referenced at paragraph (f)(1) through (8), of this section.

(2) Automobiles including parts and equipment, any self-propelled vehicle or machine, except motorized equipment not licensed for use on public thoroughfares and operated principally on the premises of the insured; watercraft or aircraft.

5. Section 61.10 is revised to read as follows:

§ 61.10 Minimum premiums.

The minimum premium required for any policy, regardless of the term or amount of coverage is $50.00.

6. The title of Section 61.11 is revised to read as follows:

§ 61.11 Effective date and time of coverage under the Standard Flood Insurance Policy—New Business Applications and Endorsements.

* * * * *

§ 61.11 [Amended]

7. Section 61.11(b) is amended by adding the phrase, "after receipt by the NFIP (P.O. Box 34294, Bethesda, Maryland 20034)," following the word "effective".

8. Section 61.11(d) is amended by deletion of the phrase, "with a minimum of $4."

9. New § 61.11(e) is added as follows:

* * * * *

(e) With respect to any submission of an application in connection with new business, the payment by an Insured to an Insured's agent or the issuance of premium payment by the agent does not constitute payment to the NFIP. Therefore, it is important that an application for Flood Insurance and its premium be mailed to the NFIP (P.O Box 34294, Bethesda, Maryland 20034) promptly in order to have the effective date of the coverage based on the application date plus the waiting period. Thus, if the application and the premium payment are received at the NFIP within ten (10) days from the date of application or are mailed by certified mail within ten (10) days from the date of application, the waiting period will be calculated from the date of application. If the application and premium payment are received after ten (10) days from the date of the application or are not mailed by certified mail within ten (10) days from the date of application, the waiting period will be calculated from the date of receipt by the NFIP. To determine the effective date of any coverage added by endorsement to a flood insurance policy already in effect, substitute the term "endorsement" for the term "application" in this paragraph (e)

§ 61.13 [Amended]

10. Appendix A(1) is revised as follows (deleted matter is in brackets, new matter is in italics, any provision not revised remains the same):

a. The Insuring Agreement is revised as follows:

Appendix A(1)

Federal Emergency Management Agency, Federal Insurance Administration—Standard Flood Insurance Policy

(Issued Pursuant to the National Flood Insurance Act of 1968, or Any Acts Amendatory Thereof)

Dwelling Form

In consideration of the payment of the premium, in reliance upon the statements in the application and declaration form made a part hereof and subject to all the terms of this policy, the Insurer does insure the Insured and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind or quality within a reasonable time after such loss [without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and], without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the Insured, against all DIRECT LOSS BY "FLOOD" as defined herein, to the property described while located or contained as described in the [application and] declaration form attached hereto, or pro rata for 45 days at each proper place to which any of the property shall necessarily be removed for preservation from the peril of "Flood", but not elsewhere. *Contents so moved are insured against loss or damage from flood at the new location only if placed in a fully enclosed building.*

Assignment of this policy by the Insured is allowed. the Insurer under this Policy is the Federal Emergency Management Agency.

* * * * *

b. The "PROPERTY NOT COVERED" provisions are revised to read as follows:

Property not Covered

This policy shall not cover:

* * * * *

B. Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, docks; other open structures located on or partially over water, *including boat houses or other similar buildings into which boats are floated;* or personal property in the open.

C. Land values, lawns, trees, shrubs or plants, growing crops, or livestock; [underground structures or underground equipment] and those portions of walks, driveways and other paved or poured surfaces outside the foundation walls of the structure;

* * * * *

E. *Units which are primarily containers, rather than buildings (such as gas and liquid tanks, chemical or reactor container tanks or enclosures, brick kilns, and similar units) and their contents (Silos and grain storage buildings including their contents, may be insured even though they may be of container-type construction);*

F. *Contents which may become a pollutant to a community during flooding (unless such contents are at or above the base flood elevation, or above ground level where there are no established elevations);*

G. *Buildings and their contents, including machinery and equipment, which are part of the building, where 50 percent or more of the actual cash value of such buildings is below ground, unless the lowest level is at or above the base flood elevation (in the Regular Program) or the adjacent ground level (in the Emergency Program) by reason of earth having been used as an insulation material in conjunction with energy efficient building techniques;*

H. *A mobile home located within a Special Flood Hazard Area that is not anchored to resist flotation or lateral movement by providing ties to ground anchors. This anchorage must be of a kind to resist flotation, collapse, or lateral movement by providing over-the-top and frame to ground anchors. Specific requirements shall be that (i) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side; (ii) frame ties be provided at each corner of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side; (ii) frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less that 50 feet long requiring four additional ties per side; (iii) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and (iv) any additions to the mobile home be similarly anchored;*

I. *As to any building in respect to which construction or substantial improvement started on and after February 1, 1981 in Zone V obstructions below the building's lowest floor, including solid walls, open wood constructed lattice "breakaway walls", insect screening or other "breakaway walls", and any personal property or other contents located below the building's lowest floor;*

* * * * *

c. The "DEDUCTBILES" provisions are revised as follows:

Deductibles

[A. With respect to loss to the dwelling, appurtenant private structures, and debris removal covered hereunder, the Insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of $200.00.

B. With respect to loss to contents or debris removal covered hereunder, or to expenses, incurred under paragraph F of "Perils Excluded", the Insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of $200.00].

A. *Each loss sustained by the Insured is subject to a deductible provision under which the Insured bears a portion of the loss before payment is made under the policy.*

B. *The loss deductible shall apply separately to each building loss including debris removal and expenses incurred under paragraph F of "Perils Excluded".*

C. *The amount of the deductible for each loss occurrence is determined as follows: the Insurer shall be liable only when such loss exceeds $250; and when the loss is between $250 and $2499, the Insurer shall be liable for 111 percent of the loss in excess of $250; and when the loss is $2500 or more, no deductible shall apply.*

* * * * * * *

d. The "REPLACEMENT COST PROVISIONS" are revised as follows:

Replacement Cost Provisions

These provisions shall apply only to a one to four (1–4) Family Dwelling covered hereunder. Outdoor radio and television antennas and aerials, carpeting, awnings, domestic appliances and outdoor equipment, all whether attached to the building structure or not, are excluded from the replacement cost coverage.

A. *Replacement cost coverage, (i.e., the full cost of repair or replacement) without regard to the relationship the amount of insurance bears to the value of the structure at the time of loss, is provided up to the amount of insurance for a 1–4 family building provided that at the time of loss the name Insured or the named Insured's spouse lived in the owned building for either (1) 80% of the calendar year immediately preceding the loss or (2) 80% of the period of ownership of the insured building by the name Insured, if less than one calendar year immediately preceding the loss.*

B. [A.] If at the time of loss the total amount of insurance applicable to a 1–4 family dwelling not eligible for coverage under paragraph A of this policy provision, exclusive of mobile homes, is 80% or more of the full replacement cost of such dwelling, or is the maximum amount of insurance available under the National Flood Insurance Program, the coverage of this policy applicable to such dwelling is extended to include the full cost of repair or replacement (without deduction for depreciation).

* * * * *

The succeeding paragraphs "C", "D", "E", and "F" of the section titled "REPLACEMENT COST PROVISIONS" retain the same language and are re-lettered "D", "E", "F" and "G", respectively.

* * * * *

H. *If the dwelling should sustain a total loss or if the Insurer should pay the entire building loss proceeds as a result of a single loss occurrence under these replacement cost provisions, there is no requirement that the dwelling be rebuilt on the same location.*

e. A new policy provision titled "INCREASED COST OF RECONSTRUCTION OR REPAIR" is added between the provisions titled "REPLACEMENT COST PROVISIONS" and "GENERAL CONDITIONS AND PROVISIONS" as follows:

Increased Cost of Reconstruction or Repair

A. *These provisions shall apply only to a single family, detached building covered hereunder.*

B. *If, at the time of loss, the flood damage to the building exceeds fifty 50 percent of the market value of the building at the time of loss, coverage is extended (up to the amount of building coverage purchased) to include the increased cost of reconstruction or repair necessary to comply with the Federal Insurance Administration approved flood plain management measures enacted by the community to conform to or exceed the National Flood Insurance Program regulations, but only if, at the time of loss:*

(1) *the building is insured for at least 80 percent of the building's replacement cost or is insured to the maximum amount of insurance available; and*

(2) *the named Insured or the Insured's spouse lived in the owned building for either (a) 80% of the calendar year immediately preceding the loss or (b) 80% of the period of ownership of the insured building by the named Insured, if less than one calendar year immediately preceding the loss.*

C. *These provisions apply to any building which is not located in a floodway or V-Zone designated as such by the Federal Insurance Administration on a Flood Boundary Floodway Map or Flood Insurance Rate Map (FIRM) and which qualifies under "A" and "B", above, in respect to which, construction or substantial improvement was started (1) before the effective date of the Flood Insurance Rate Map (FIRM) issued by the Federal Insurance Administration for the community in which the building is located, or (2) on or after such effective date and the elevation of the lowest floor (including basement) of the building is at or above the base flood elevation in effect at the start of construction.*

D. *Except for provisions A, B, and C, above, no allowance shall be made under the policy for any increased cost of reconstruction or repair by reason of any ordinance or law regulating construction or repair.*

f. A new policy provision titled "CONDOMINIUM UNIT OWNER COVERAGE" is added between the provisions titled "INCREASED COST OF RECONSTRUCTION OR REPAIR" and "GENERAL CONDITIONS AND PROVISIONS," as follows:

Condominium Unit Owner Coverage

If the named Insured on this policy is the owner of a unit in a condominium style building and, in common with

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other unit owners of the building, is an owner of the building's common structural elements, then at the time of loss by flood the following terms, subject to all other provisions of the policy, unless expressly modified herein, will apply.

1. The building coverage of this policy, subject to the amounts of insurance stated on the Declarations Form attached to this policy, will cover, up to the extent of the Insured's percentile ownership of and responsibility for damage to the common elements, damage to all structural items, which are a part of the described building and are owned by the Insured in common with the other condominium association members, and damage to all structural items within the Insured's condominium unit, including walls, floors, ceilings, and their related coverings, such as paint, paper, panelling, carpeting and tile. In addition, the Insured may apply up to 10% of the amount of insurance, applicable to such condominium unit, not as an additional amount of insurance, to cover loss to structural items of the building owned by the Insured in common with the other condominium association members.

Included as structural items, as to both the common elements and units in the building, are installed appliances for heating, cooling, plumbing and electrical purposes.

2 The contents coverage of the policy, subject to the amount of insurance stated on the Declarations Form attached to this policy, will cover, up to the extent of the Insured's percentile ownership of and responsibility for damage to the common elements, damage to all contents which are contained in the described building and are owned by the Insured in common with the other condominium association members, and damage to the contents items within the Insured's condominium unit.

3. The policy deductible provisions shall apply, as to 1 and 2, above, only once per loss occurrence.

4. Provided, however, in the case of a condominium unit owner, the Insured may not apply any part of the amount of building coverage, as stated on the Declarations Form, to cover loss to appurtenant structures, whether such structures are solely owned by the Insured or are owned by the Insured in common with the other condominium association members

g. A new general condition is added to the section titled "GENERAL CONDITIONS AND PROVISIONS" as follows:

General Conditions and Provisions

* * * * *

U. Policy Renewal—The term of this policy commences on its inception date and ends on its expiration date, as shown on the "Declarations Form" which is attached to the policy. This policy shall not be renewed and the coverage provided by it shall not continue into any successive policy term unless the premium payment for any such successive policy term is received by the National Flood Insurance Program (NFIP), prior to the expiration date of this policy. The renewal premium payment shall be deemed to be received by the NFIP if the renewal payment is mailed to the NFIP prior to the expiration date and is received by the NFIP prior to or within five (5) days following the expiration date or if the renewal payment is mailed by certified mail to the NFIP prior to the expiration date. In all other cases, whether the renewal premium payment is received by the NFIP after the expiration date of this policy or not, this policy shall be deemed terminated as of the expiration date of the last policy term for which the premium payment was timely received by the NFIP and the Insurer shall not be obligated to provide the Insured with any cancellation, termination, policy lapse, or policy renewal notice advising the Insured of any such cancellation, termination, policy lapse or policy renewal.

h. A new general condition is added to the section titled "GENERAL CONDITIONS AND PROVISIONS" as follows:

V. Voidance Due to Community Ineligibility—If, during the term of the policy, the participation in the National Flood Insurance Program of the community in which the insured property is located ceases, the policy shall be deemed voided effective the end of the last day of the policy year in which such cessation occurred and shall not be renewed. In the event the voided policy was for a term of three years, the insured shall be entitled to a full refund of any premium applicable to the remainder of the policy's term after voidance of the policy.

* * * * *

11. Appendix A(2) is revised as follows (deleted matter is in brackets, new matter is in italics, any provision not revised remains the same):

a. The Insuring Agreement is revised as follows:

Appendix A(2).—Federal Emergency Management Agency, Federal Insurance Administration

Standard Flood Insurance Policy (Issued Pursuant to the National Flood Insurance Acts of 1968, or Any Act Amendatory Thereof)

General Property Form

In consideration of the payment of the premium, in reliance upon the statements in the application and declarations form made a part hereof and subject to all terms of this policy, the Insurer does insure the Insured and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss [Without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and] without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the Insured, against all direct loss by "flood" as defined herein, to the property described while located or contained as described in the [application and] declarations form attached hereto or pro rata for 45 days at each proper place to which any of the property shall necessarily be removed for preservation from the peril of "Flood" but not elsewhere. *Contents so moved are insured against loss or damage from flood at the new location only if placed in a fully enclosed building.*

Assignment of this policy by the Insured is allowed. The Insurer under this Policy is the Federal Emergency Management Agency.

* * * * *

b. The "PROPERTY NOT COVERED" provisions are revised to read as follows:

Property Not Covered

This policy shall not cover:

* * * * *

B. Fences, retaining walls, seawalls, outdoor swimming pools, bulkheads, wharves, piers, bridges, docks; other open structures located on or partially over water, *including boat houses or other similar buildings into which boats are floated;* or personal property in the open.

C. Land values; lawn, trees, shrubs or plants, growing crops, or livestock; [underground structures or underground equipment] and those portions of walks, driveways and other paved or poured surfaces outside the foundation walls of the structure.

* * * * *

F. *Units which are primarily containers, rather than buildings (such as gas and liquid tanks, chemical or reactor container tanks or enclosures, brick kilns, and similar units) and their contents (silos and grain storage buildings, including their contents, may be insured even though they may be of container-type construction);*

G. *Contents which may become a pollutant to a community during flooding (unless such contents are at or above the base flood elevation, or above ground level where there are no established elevations).*

H. *Buildings and their contents, including machinery and equipment, which are part of the building, where 50 percent or more of the actual cash value of such buildings is below ground, unless the lowest level is at or above the base flood elevation (in the Regular Program) or the adjacent ground level (in the Emergency Program) by reason of earth having been used as an insulation material in conjunction with energy efficient building techniques;*

I. *A mobile home located within a Special Flood Hazard Area that is not anchored to resist flotation of lateral movement by providing ties to ground anchors. This anchorage must be of a kind to resist flotation, collapse, or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that (i) over-the-top ties be provided at each of the four corners of the mobile home, with two additional ties per side at intermediate locations and mobile homes less than 50 feet long requiring one additional tie per side; (ii) frame ties be provided at each corner of the home with five additional ties per side at intermediate points and mobile homes less than 50 feet long requiring four additional ties per side; (iii) all components of the anchoring system be capable of carrying a force of 4,800 pounds; and (iv) any additions to the mobile home be similarly anchored;*

J. *In Zone V obstructions below a building's lowest floor, including solid walls, open wood constructed lattice "breakaway walls", insect screening or other "breakaway walls", and any personal property or other contents located below the building's lowest floor.*

The "DEDUCTIBLES" provisions are revised as follows:

Deductibles

A. With respect to loss to the building, appurtenant private structures, and debris removal covered hereunder, the Insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of [$200.00] *$250.00.*

B. With respect to loss to contents or debris removal covered hereunder, or to expenses, incurred under paragraph F of "Perils Excluded", the Insurer shall be liable for only that portion of the loss in any one occurrence which is in excess of [$200.00] *$250.00.*

d. A new general condition is added to the section titled "GENERAL CONDITIONS AND PROVISIONS" as follows:

General Conditions and Provisions

* * * * *

U. Policy Renewal—The term of this policy commences on its inception date and ends on its expiration date, as shown on the "Declarations Form" which is attached to the policy. This policy shall not be renewed and the coverage provided by it shall not continue into any successive policy term unless the premium payment for any such successive policy term is received by the National Flood Insurance Program (NFIP), prior to the expiration date of this policy. The renewal premium payment shall be deemed to be received by the NFIP if the renewal payment is mailed to the NFIP prior to or within five (5) days following the expiration date or if the renewal payment is mailed by certified mail to the NFIP prior to the expiration date.

In all other cases, whether the renewal premium payment is received by the NFIP after the expiration date of this policy or not, this policy shall be deemed terminated as of the expiration date of the last policy term for which the premium was timely received by the NFIP and the Insurer shall not be obliged to provide the Insured with any cancellation, termination, policy lapse, or policy renewal notice advising the Insured of any such cancellation, termination, policy lapse or policy renewal.

e. A new general condition is added to the section titled "GENERAL CONDITIONS AND PROVISIONS" as follows:

V. Voidance Due to Community Ineligibility—If during the term of the policy, the participation in the National Flood Insurance Program of the community in which the insured property is located ceases, the policy shall be deemed voided effective the end of the last day of the policy year in which cessation occurred and shall not be renewed. In the event the voided policy was for a term of three years, the Insured shall be entitled to a full refund of any premium applicable to the remainder of the policy's term after voidance of the policy.

PART 62—SALE OF INSURANCE AND ADJUSTMENTS OF CLAIMS

§ 62.3 [Amended]

12. The address in § 62.3(b) is revised to read as follows:

* * * * *

(b) * * *

EDS Federal Corp., 6430 Rockledge Drive, Bethesda, Maryland 20034.

13. The address in § 62.3(d) is revised to read as follows:

* * * * *

(d) * * *

National Flood Insurance Program, P.O. Box 34294, bethesda, MD 20034.

14. Section 62.6 is revised to read as follows:

§ 62.6 Minimum Commissions

(a) The earned commission which shall be paid to any property or casualty insurance agent or broker duly licensed by a state insurance regulatory authority, with respect to each policy or renewal the agent duly procures for an insured, shall not be less than $10 and is computed as follows:

(1) In the case of a new or renewal policy, the following commissions shall apply based on the total premiums paid for the policy term:

Policy term	Premium amount	Commission (percent)
One year	First $2,000	15
	Excess of $2,000	8
Three years	First $6,000	15
	Excess of $6,000	5

(2) In the case of mid-term increases in amounts of insurance added by endorsement, the following commissions shall apply based on the total premium paid for the increased amounts of insurance:

Premium amounts	Commission (percent)
First $2,000	15
Excess of $2,000	5

(b) Any refunds of premiums authorized under this subchapter shall not affect a previously earned commission; and no agent shall be required to return that earned commission, unless the refund is made to establish a common policy term anniversary date with other insurance providing coverage against loss by other

perils in which case a return of commission will be required by the agent on a pro-rata basis. In such cases

SUMMARY: This Order extends the deadline for filing comments and reply comments concerning interim direct

ACTION: Proposed rule; Extension of comment and reply comment period.

Federal Communications Commission.

Henry L. Baumann,

based on agriculture. He further states

0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM

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perils in which case a return of commission will be required by the agent on a pro-rata basis. In such cases, the policy shall be immediately rewritten for a new term with the same amount(s) of coverage and with premium calculated at the then current rate and, as to return premium, returned, pro-rata, to the insured based on the former policy's premium rate.

§ 62.7 [Removed]

14. Section 62.7 is deleted in its entirety.

PART 64—COMMUNITIES ELIGIBLE FOR THE SALE OF INSURANCE

§ 64.3 [Amended]

15. Section 64.3(a)(1) is amended by the addition of Zone symbol "V" between Zone symbols "AO", "AH" and "VI-30", as follows:

V—Area of special flood hazards, without water surface elevations, with high velocity waters that is inundated by tidal floods.

16. Section 64.3(b) is revised as follows:

* * * * *

(b) Nature of the issuance of new or revised FHBMs or FIRMs is given in Part 65 of this subchapter. The mandatory purchase of insurance is required within designated Zones A, A1–99, AO, V, V1–30, VO, M and E.

National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968), 42 U.S.C. 4001–4128; Reorganization Plan No. 3 of 1978 (43 FR 41943), Executive Order 12127, dated March 31, 1979 (44 FR 19367) Executive Order 11988, dated May 24, 1977 and 44 CFR Part 9, Delegation of Authority to Federal Insurance Administrator)

Issued at: Washington, D.C. October 31, 1980

Gloria M. Jimenez

Federal Insurance Administrator.

[FR Doc. 80-36674 Filed 11-24-80; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[Gen. Docket No. 80-603

Direct Broadcast Satellites for Period Following 1983 Regional Administrative Radio Conference; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Inquiry; Extension of comments and reply comment period.

SUMMARY: This Order extends the deadline for filing comments and reply comments, concerning interim direct broadcast satellite systems only, for one week. Deadlines for comments concerning permanent regulatory policies remain unchanged. The extension will avoid inconvenience to the public resulting from a deadline falling the day after Thanksgiving.

DATE: Comments on interim regulations must be received on or before December 5, 1980. Reply comments must be received on or before December 22, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Florence Setzer, Office of Plans and Policy, (202) 653–5940.

SUPPLEMENTARY INFORMATION:

Order Extending Time Comments and Reply Comments—(45 FR 72719)

Adopted: November 7, 1980.

Released: November 14, 1980.

By the Chief, Office of Plans and Policy:

1. It has been brought ot our attention that November 28, 1980, the deadline for filing comments on regulation of interim direct broadcast satellite systems in the above-captioned proceeding, is the Friday after Thanksgiving. In order to avoid inconvenience to the public, we find it appropriate to extent the deadline for comments and reply comments by one week.

2. Therefore, it is ordered, that the date for filing comments is extended to and including December 5, 1980, and the deadline for filing reply comments is extended to and including December 22, 1980.

3. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.271 of the Commission's Rules.

4. The Secretary shall cause this order to be published in the **Federal Register.**

Federal Communications Commission.

Nina W. Cornell,

Chief, Office of Plans and Policy.

[FR Doc. 80-36677 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-526; RM-3599]

FM Broadcast Station in Rifle, Colo.; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Extension of comment and reply comment period.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in the proceeding involving a proposed FM channel assignment to Rifle, Colorado. Garfield County Broadcasters request the additional time to prepare and submit engineering data.

DATES: Comments must be filed on or before November 21, 1980, and reply comments on or before December 10, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Order Extending Time for Filing Comments and Reply Comments

Adopted: October 28, 1980.

Released: November 3, 1980.

By the Chief, Policy and Rules Division:

1. On August 19, 1980, the Commission adopted a *Notice of Proposed Rule Making,* proposing the assignment of Class C FM Channel 287 to Rifle, Colorado (45 Fed. Reg. 58615, published September 4, 1980), in response to a petition filed by Garfield County Broadcasters. Comments are presently due October 21, 1980, and reply comments November 10, 1980.

2. Garfield County Broadcasters, has filed a request seeking an extension of time for filing comments to and including November 21, 1980. It states that the additional time is needed to prepare and submit engineering data.

3. We believe that the public interest would be served by granting the extension so that Garfield County Broadcasters may file information that may be helpful to the Commission in resolving this proceeding. It will also be necessary to extend the reply comment deadline.

4. Accordingly, it is ordered, that the dates for filing comments and reply comments in BC Docket No. 80–526 (RM–3599) are extended to and including November 21, 1980, and December 10, 1980, respectively.

5. This action is taken pursuant to Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-36556 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-733; RM-3649]

FM Broadcast Station in Spirit Lake, Iowa; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Spirit Lake, Iowa, in response to a petition filed by Paul C. Hedberg. The proposed assignment could provide a first local aural broadcast service to Spirit Lake.

DATES: Comments must be filed on or before January 13, 1981, and reply comments must be filed on or before February 2, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Adopted: November 18, 1980.

Released: November 26, 1980.

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:*

(a) A petition for rule making [1] was filed by Paul C. Hedberg ("petitioner"), proposing the assignment of Channel 280A to Spirit Lake, Iowa, as that community's first FM assignment.

(b) The channel can be assigned to Spirit Lake in compliance with the minimum distance separation requirements.

(c) Petitioner states that he will apply for the channel, if assigned.

2. *Community Data:*

(a) *Location:* Spirit Lake, in Dickinson County, is located approximately 309 kilometers (192 miles) northwest of Des Moines.

(b) *Population:* Spirit Lake—3,014,[2] Dickinson County—12,565.

(c) *Local Aural Broadcast Service:* None.

3. *Economic Consideration:* Petitioner states that Spirit Lake's economy is based on agriculture. He further states that the proposed channel would serve the Iowa Great Lakes Region, a resort area comprised of three lakes; West Okoboji, East Okoboji and Spirit Lake and five communities: Spirit Lake, Okoboji, Arnold Park, Milford and Wahapeton. Petitioner claims that the resort area attracts an estimated quarter million persons annually. Economic and demographic information was submitted to demonstrate the need for a first FM assignment to Spirit Lake.

4. In view of the fact that the proposed FM channel could provide a first local aural broadcast service to Spirit Lake, the Commission believes it appropriate to propose amending the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with regard to the following community:

City	Channel No.	
	Present	Proposed
Spirit Lake, Iowa		280A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *NOTE:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before January 13, 1981, and reply comments on or before February 2, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–9660. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and

[1] Public Notice of the petition was given on May 7, 1980, Report No. 1227.

[2] Population figures are taken from the 1970 U.S. Census.

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Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 80-36755 Filed 11-24-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-731; RM-3650]

FM Broadcast Station in Wiggins, Miss.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Wiggins, Mississippi, in response to a petition filed by Community Broadcasting Co., Inc. The proposed channel could provide a first full-time local aural broadcast service to Wiggins.

DATE: Comments must be filed on or before January 13, 1980, and reply comments on or before February 2, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: November 14, 1980.

Released: November 25, 1980.

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:*

(a) A petition for rulemaking[1] was filed by Community Broadcasting Co., Inc. ("petitioner"), proposing the assignment of FM Channel 237A to Wiggins, Mississippi, as that community's first FM assignment.

(b) the channel can be assigned to Wiggins provided the transmitter is located 4.5 kilometers (2.8 miles) northwest of the city.

(c) Petitioner states that it will apply for the channel, if assigned.

2. *Community Data:*

(a) *Location:* Wiggins, seat of Stone County, is located approximately 140 kilometers (90 miles) northeast of New Orleans, Louisiana.

(b) *Population* Wiggins—2,995,[2] Stone County—8,101.

(c) *Local Aural Broadcast Service:* Wiggins is served locally by daytime only AM Station WIGG, licensed to petitioner.

3. Petitioner states that Wiggins is in need of a full-time station as an outlet for coverage of emergencies and for sports and other programming after sunset.

4. In view of the fact that the proposed FM channel assignment would provide for a first local FM broadcast service to Wiggins, Mississippi, the Commission believes it appropriate to propose amending the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with regard to Wiggins, Mississippi, as follows:

City	Channel No.	
	Present	Proposed
Wiggins, Miss.		237A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *NOTE:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before January 13, 1981, and reply comments on or before February 2, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rule Division, Broadcast Bureau.

[1] Public Notice of the petition was given on May 7, 1980, Report No. 1227.

[2] Population figures are taken from the 1970 U.S. Census.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80-36754 Filed 11-24-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-438]

Representatives of Stations by Representatives Owned by Competing Stations in the Same Area; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry; Extension of time for filing reply comments.

SUMMARY: Action taken herein extends the time for filing reply comments in the proceeding to determine whether the Commission's policy prohibiting a licensee from representing a rival station in the same area should be continued. The request for additional time to prepare and submit reply comments was made on behalf of Lotus Rep Corp., Jack Masla and Co., and Pro Time Sales.

DATE: Reply comments must be filed on or before November 24, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Pamela Riley, Broadcast Bureau, (202) 632-3860.

In the matter of representatives of Stations by Representations owned by Competing Stations in the Same Area, BC Docket No. 80-438. See also 45 FR 55242, August 14, 1980.

Adopted: September 29, 1980.

Released: October 3, 1980.

1. On July 31, 1980, the Commission adopted a *Notice of Inquiry* to gather information regarding the *Golden West* policy to determine whether the policy should be continued in its present form or changed in some manner. Comments are due October 14, 1980, and reply comments are due October 31, 1980.

2. Counsel for John Blair and Company (Blair), a national sales representative for 96 television stations and 149 radio stations and also a licensee of several stations in various locations, filed a request seeking additional time for filing comments to and including October 28, 1980 and for filing reply comments to and including November 14, 1980. Counsel states that Blair's comments will be helpful to the Commission in arriving at answers to questions set forth in the *Notice of Inquiry* and in determining whether and in what direction the current policy should be changed. Counsel requests the extension of time because of intervening commitments and believes that the extension would permit preparation of comments which would be more helpful to the Commission.

3. We believe that the public interest would be served by granting the extension so that Blair may prepare comments which would be beneficial to the Commission in resolving the issues raised by the *Notice of Inquiry.*

4. Accordingly, it is ordered, That the above request for an extension of time is granted and the date for filing comments is extended to and including October 28, 1980 and the date for filing reply comments is extended to and including November 14, 1980.

5. This action is taken pursuant to authority contained in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Federal Communications Commission.

Stephen F. Sewell,

Acting Chief, Complaints and Compliance Division Broadcast Bureau.

[FR Doc. 80-36881 Filed 11-24-80; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1201, 1241

[No. 37203]

Cost Center Accounting and Reporting System for Class I Railroads

AGENCY: Interstate Commerce Commission.

ACTION: Suspension of Proposed Rulemaking.

SUMMARY: The Interstate Commerce Commission is suspending until further notice the rulemaking proceeding to consider adopting a cost center accounting and reporting system for Class I railroads. This action is necessary because the Commission's new costing methodology, the Uniform Rail Costing System, has not been fully implemented. Further, recent railroad legislation presents alternative accounting approaches which could preclude the adoption of the proposed cost center system.

EFFECTIVE DATE: November 25, 1980.

FOR FURTHER INFORMATION CONTACT: Bryan Brown, Jr., (202) 275-7448.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking served under Docket No. 37203 on October 26, 1979, and published in the **Federal Register** on October 30, 1979 (44 FR 92312) the Commission began a proceeding to consider a proposed cost center accounting and reporting system for Class I railroads. The Commission extended the original comment date from December 31, 1979, to February 29, 1980, by a Notice published in the **Federal Register** on January 3, 1980 (45 FR 809).

The proposed cost center accounting and reporting system is designed to meet specific data requirements of the Railroad Revitalization and Regulatory Reform Act of 1976 (4-R Act). It attempts to disaggregate system-wide accounting and statistical data by prescribing a lower level of data capture as a cost center. These cost centers include line segments of trackage, terminal switching districts for yards, locomotive types for individual locomotives, and specific specialized service facilities.

The proposed system requires carriers to maintain operating expenses of the Uniform System of Accounts for Railroads (49 CFR 1201, Subpart A) by more specific levels of data accumulation than currently prescribed. These detailed expenses would provide input data to the new costing methodology, the Uniform Rail Costing System (URCS).

The URCS uses regression analysis techniques to determine the extent of variability of individual expense accounts with one or more measures of railroad output. By establishing the variable components of railroad expenses, unit costs can be developed for the various output measures. The implementation of the URCS has been delayed because of certain technical problems with the regression analysis phase. The Bureau of Accounts should be completed with this phase by November 30, 1980.

We need to objectively measure the benefits of cost center accounting and reporting over the present system-average data, including any

improvements it provides to the efficient operation of the URCS. Since the URCS implementation has been delayed, we believe it is premature to prescribe the proposed cost center accounting and reporting system.

Generally, railroad respondents to this proceeding cite excessive implementation and system maintenance costs as well as limitations of their existing internal accounting systems to accommodate the proposed cost center system. They maintain that the cost center proposal creates unnecessary duplication of accounting system. While it is inherently difficult to produce an accounting system for regulatory service costing that is nonduplicative with railroad internal responsibility accounting systems, we need to measure the benefits of this proposal over alternative methods.

Further, we believe current legislation should be considered. The Railroad Transportation Policy Act of 1980 establishes a Railroad Accounting Standards Board that would issue cost accounting standards to be followed by the Commission, railroads and shippers. Railroads would be able to use their existing system, revised if necessary, to meet the standards. A specific cost center accounting and reporting system would be unnecessary.

We believe, therefore, that further consideration of the cost center accounting and reporting system should be deferred until the Commission has analyzed the URCS results and the new railroad legislation.

In the interim, we will conduct further research in FY 1981 on alternative accounting approaches that would provide essential cost data within the parameters of the 1980 Act and existing railroad internal accounting systems. These accounting approaches range from issuing cost accounting standards or guidelines to prescribing a detailed cost center system.

We also will study the alternative that carriers report data by prescribed cost categories which are at a more summary level than the proposed cost centers. The railroads could aggregate their management accounting data to meet the requirements of category reporting. This not only requires specific definitive reasons for introducing cost categories to the URCS; it also requires the development of practical guidelines for railroad input without introducing major changes to their existing level of data capture. This will require extensive exploration since it involves developing standards that can be uniformly applied to all Class I railroads.

This action does not affect significantly the quality of the human environment or the conservation of energy resources.

This action is made under the authority of 49 U.S.C. 553 and 49 U.S.C. 10321.

Decided: October 10, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich

Secretary.

[FR Doc. 80-36606 Filed 11-24-80; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register

Vol. 45, No. 229

Tuesday, November 25, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE COURTS OF THE UNITED STATES

Board of Certification, United States Circuit Courts of Appeals, Court Executive

Standards for Certification as Circuit Executive; Board Meeting

AGENCY: Board of Certification, United States Circuit Courts of Appeals; Court Executive.

ACTION: Notice of standards for certification as circuit executive and notice of Board meeting.

SUMMARY: The Secretary of the Board of Certification sets forth the following standards for certification as circuit executive:

Standards for Certification as Circuit Executive

The Board of Certification, acting pursuant to Section 332(f), Title 28, United States Code, has promulgated the following standards for certification for appointment to the office of circuit executive.

An applicant must:

1. Possess executive ability, usually demonstrated by substantial experience in progressively more responsible management positions in government or in the private sector.

2. Possess superior judgment, understanding and tact and the capacity to maintain proper relationships with the courts, with government officials, and with members of the bar and the public.

3. Possess creative leadership, planning and organizing ability in order to contribute significantly to improved operating procedures.

4. Have experience in modern business and management techniques, and the ability to take advantage of automatic data processing and systems development.

5. Have demonstrated capacity to plan and conduct studies designed to improve the management of the business of the circuit court and of the district courts within the circuit, to make recommendations as a result of such studies, and to implement those recommendations that are approved.

6. Be able to express himself or herself clearly in writing and orally. The ability to conduct conferences and meetings, and to make public appearances is also important.

7. Have demonstrated substantial interest in judicial administration. While detailed familiarity with court procedures is not indispensable, formal training in court management and managerial experience is particularly valuable.

8. Have acquired an undergraduate degree. A graduate degree in business or public administration, or a degree in law, is desirable.

November, 1980

Certification as Circuit Executive

Individuals who wish to serve as circuit executives in the United States judicial system must be certified as qualified by the statutorily created Board of Certification (28 U.S.C. Section 332(f)). While certification is a prerequisite for appointment as circuit executive, certification does not insure employment.

A personal interview with the Board is a prerequisite for certification and the Board cannot reimburse candidates for attendant travel expenses. The Board, however, would be pleased to meet from time to time in cities other than Washington, D.C. if the number of candidates in any particular region would appear to justify it.

Details on how to apply for certification may be had by writing to: Board of Certification, Federal Judicial Center, 1520 H Street, NW., Washington, D.C. 20005.

The next meeting of the Board will be held in San Francisco, California on February 23, 1981. Applications must be received well in advance in order to be considered for a possible appointment on this date.

William E. Foley,

Director of Administrative Office of the United States Courts and Secretary of the Board of Certification, United States Circuit Courts of Appeals.

[FR Doc. 80-36606 Filed 11-24-80; 8:45 am]

BILLING CODE 2210-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Gila National Forest Grazing Advisory Board; Meeting

The Gila National Forest Grazing Advisory Board will meet at 10 a.m., December 19, 1980 in large Conference Room, Federal Building, 2610 North Silver Street, Silver City, New Mexico.

The agenda for this meeting is:

1. Range Management Plans
2. Program Planning for Range Betterment Funds

The meeting will be open to the public.

Dated: November 17, 1980.

Kenneth C. Scoggin,

Forest Supervisor.

[FR Doc. 80-36733 Filed 11-24-80; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

Microcircuit Subcommittee of the Semiconductor Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration.

SUMMARY: The Semiconductor Technical Advisory Committee was initially established on January 3, 1973, and rechartered on August 29, 1980, in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on September 19, 1980, pursuant to the charter of the Committee.

The Microcircuit Subcommittee was formed to study microcircuit and acoustic wave devices with the goal of making recommendations to the

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Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

TIME AND PLACE: December 10, 1980, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 5611, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

FOR FURTHER INFORMATION CONTACT: Mrs. Margaret A. Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202–377–2583.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 11652 or 12065.

A copy of the Notice of Determination to closed meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202–377–4217.

Dated: November 20, 1980.

Saul Padwo,

Director of Licensing, Office of Export Administration.

[FR Doc. 80–36788 Filed 11–24–80; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92–463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, January 6, 1981; Tuesday, January 13, 1981; Tuesday, January 20, 1981; and Tuesday, January 27, 1981 at 10:00 a.m. in Room 3D–325, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92–392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92–463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b. (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b. (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b (4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D–281, The Pentagon, Washington, D.C.

Dated: November 19, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer Washington Headquarters Services Department of Defense.

[FR Doc. 80–36065 Filed 11–24–80; 8:45 am]

BILLING CODE 3810–70–M

DEPARTMENT OF EDUCATION

Regional Education Programs for Deaf and Other Handicapped Persons; Gifted and Talented Children's Education Program; Discretionary Program for Model Education; Correction

AGENCY: Department of Education.

ACTION: Correction of Application Closing Date Notice.

SUMMARY: Two technical corrections are made in the notice published on October 7, 1980 and titled "Direct Grant Programs: Application Notices for Fiscal Year 1981."

On page 66598 of volume 4—84.078 *Regional Education Programs for Deaf and Other Handicapped Persons* first column, under *Available Funds*, the second paragraph is changed to read as follows:

An applicant for a new grant may propose a project period of from 12 to 36 months. Applicants are encouraged to apply for a 12 month project period.

On pages 66606–66607, third column, the section is changed to read: 84.080 *Gifted and Talented Children's Education Program; Discretionary Program for Model Education.*

This notice is deleted. Applications for this program will not be accepted for fiscal year 1981.

Dated: November 20, 1980.

Stewart A. Baker,

Deputy General Counsel for Legislation and Regulations.

[FR Doc. 80–36742 Filed 11–24–80; 8:45 am]

BILLING CODE 4000–01–M

84.070 Ethnic Heritage Studies Program

Grant applications are invited for new projects under the Ethnic Heritage Studies Program. This notice changes the date for receipt of applications from that published October 7, 1980.

Authority for this program is contained in Part E of Title IX of the Elementary and Secondary Education Act, as enacted by Pub. L. 95–561. (20 U.S.C. 3361–3365)

This program makes grants to public and private non-profit educational agencies, institutions, and organizations.

The purpose of the grants is to provide assistance in planning, developing, establishing, and operating ethnic heritage studies programs.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand-delivered by January 8, 1981.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.070, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service Postmark;

(2) A legibly mail receipt with the date of mailing stamped by the U.S. Postal Service;

(3) A dated shipping label, invoice, or receipt from a commercial carrier; and

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark; or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first-class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3 (ROB–3), 7th and D Streets SW., Washington, D.C.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Applicants may propose to carry out activities related to the: (a) development of curriculum materials, in subject areas relating to a particular ethnic group or groups at the elementary or secondary school or institution of higher education level, (b) dissemination of such materials, and/or (c) training of persons in the use of those materials.

Any one or combination of these activities shall be carried out in conjunction with people or organizations or both with an interest in the ethnic group or groups designated in the application.

The Secretary encourages applications that will plan for and implement statewide or school district-wide ethnic heritage studies projects that focus on teacher training in the use of, and in the dissemination of existing Ethnic Heritage Studies curriculum materials.

The Secretary expects that each such statewide or school district-wide project will be funded at no more than $175,000 per year. The Secretary expects that more narrowly-focused projects will be funded at no more than $60,000 per year.

The Secretary will implement the "geographic distribution of projects" provision of the regulations (§ 184.31(b)(2)) in the following manner. The applications will be placed in rank order on the basis of field reader ratings using the criteria established in the regulations. Within the group of applications ranking in the top 20%, the highest ranked application in each of the States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territories of the Pacific will be funded subject to the availability of an appropriation. If funds continue to be available, additional applications will be funded on the basis of ranking, except that if the projects do not collectively focus on a diversity of ethnic groups, the additional applications will be selected in a manner to assure such diversity.

An applicant may request funds for a multi-year project of up to three years. Projects selected for funding will receive funding for an initial budget period not to exceed 12 months. Funding in the second and third years are subject to the availability of funds, satisfactory performance, submission of reports, and a determination that the continuation of the project is in the best interest of the Federal Government. (Education Division General Administrative Regulations (EDGAR) §§ 100a.117 and 110a.253).

Pre-Applications: Pre-applications will not be considered for fiscal year 1981 funding.

Available Funds: It is expected that approximately $2,750,000 will be available in FY 1981 to support approximately 40 projects.

These estimates, however, do not bind the U.S. Department of Education to a specific of grants or to the amount of any grant.

Application Forms: Application forms and program information packages are expected to be ready for mailing not later than November 14, 1980. They may be obtained by writing to the Ethnic Heritage Studies Program, Office of School Improvement (Room 3928, ROB–3), U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the applications not exceed 25 pages in length.

The Secretary further urges that applicants not submit information that is not requested. Compliance with this suggestion should enhance the efficiency and objectivity of the analysis and evaluation of the applications.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Ethnic Heritage Studies (45 CFR Part 184) published April 8, 1980, at 45 FR 24040; and

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c) published April 3, 1980 at 45 FR 22494.

Further Information: For further information, contact Lawrence E. Koziarz, Director of Ethnic Heritage Studies Program, Office of School Improvement, Improvement, U.S. Department of Education (Room 3928, ROB–3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: 202–245–9506 (20 U.S.C. 3361–3365).

F. James Rutherford,

Assistant Secretary, Office of Educational Research and Improvement.

[FR Doc. 80–36061 Filed 11–24–80; 8:45 am]

BILLING CODE 4000–01–M

Office of Elementary and Secondary Education

Title I, Elementary and Secondardy Education Act; Compliance in Puerto Rico; Hearing Reconvened

AGENCY: Department of Education.

ACTION: Notice of reconvened public hearing in Puerto Rico.

SUMMARY: Notice is hereby given that the U.S. Department of Education will reconvene this pubic hearing concerning whether or not it is feasible for the Puerto Rico Department of Education (PRDE) to comply immediately with five Title I, ESEA requirements that are identified in PRDE's August 22, 1980 request for a compliance agreement with the U.S Secretary of Education. The hearing officer has asked the PRDE to responde to a detailed request for additional information. The hearing officer has also decided to convene the public hearing concerning the feasibility of the PRDE's immediate compliance. This notice: (1) sets forth the hearing officer's request for additional information; (2) announces the date, time, and place for the reconvened public hearing in Puerto Rico; and (3) describes the procedures that will be followed at the hearing.

DATE: December 3, 1980; 10:00 a.m. to 5:00 p.m.

ADDRESS: The Conference Room, Gimnasio Municipal de San Juan, Hato Rey, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Dr. Harry J. Hogan, c/o Dr. Sarah G. Bishop, Office of the Assistant Secretary for Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 2181A, Washington, D.C. 20202, telephone 202–245–7881.

SUPPLEMENTARY INFORMATION:

A. PRDE's Request for a Compliance Agreement

Under the terms of Section 186(c) of the title I, ESEA statute, the Puerto Rico Department of Education (PRDE) has submitted a request for and has asked PRDE to respond to the following request for information:

I. Comparability of Instructional Services.

A. In practical terms, what are the Title I requirements concerning the comparabilty of instructional services?

B. How did the PRDE determine the comparabilty averages that were used in the comparability survey that was completed in August (i.e., are they based on per pupil expenditures and staff/pupil ratios in non-project schools or on data from all public schools serving certain grade spans)?

C. What is the extent of the PRDE's non-compliance with the comparabilty requirements? In your response, be as precise as possible and include answers to these specific questions:

1. Provide a copy of the comparability survey that the PRDE completed in August, 1980.

2. Has the PRDE conducted a more recent comparability survey or revised the data in the August 1980 survey? If so, submit a copy of such survey or revisions.

3. How many pubic shools in Puerto Rico are currently particpating in the Title I project?

4. How many of the schools that are currently participating in the Title I project do not meet the Title I comparabilty requirements? (Please provide a list of the schools that are not comparable and indicate what districts they are located in.)

5. How many students attend schools that are not comparable?

6. How many students attend schools that are comparable?

7. What are the reasons for the lack of comparabilty of Commonwealth-supported instructional services?

D. What options could the PRDE use to achieve compliance with the Title I comparability requirements? In your response, be as precise as possible and discuss the following options:

1. *Moving instructional staff.* How many would have to be moved to achieve compliance? How many of the staff are tenured? How many of the staff are not tenured? To what extent could compliance be achieved by moving non-tenured staff from one district to another?

2. *Moving students.* How many would have to be moved to achieve compliance? To what extent could compliance be achieved by moving children to schools that are close to the schools that they presently attend?

3. *Hiring additional instructional staff.* How many would have to be hired to achieve compliance?

4. *Combination of options.* How could these options be used simultaneously to minimize the cost and time needed to achieve compliance?

E. Why can't the PRDE use one or more of the options listed above to achieve compliance immediately? In your response, describe why the PRDE cannot take immediate action or why immediate action would not result in full compliance. Explain exactly why additional time is required and address the following specific questions:

1. Why can't the PRDE achieve full compliance by immediately moving instructional staff into non-comparable schools?

a. What effect do the tenure laws have on the ability of the PRDE to move staff immediately?

b. Why can't the PRDE solve the problem by immediately moving non-tenured staff?

c. What effect do employment contracts have on the ability of the PRDE to move non-tenured staff immediately?

d. What costs would be involved in achieving compliance by immediately moving instructional staff?

e. How does the need for additional classrooms prevent the immediate movement of instructional staff to achieve comparability? (Please cite some examples of this problem.)

f. What role does the Puerto Rico legislature and the Governor play in making a decision to move instructional staff immediately?

2. Why can't the PRDE achieve full compliance by immediately moving students?

a. What costs would be involved in achieving compliance by immediately moving students?

b. Why does the need for additional classrooms prevent the immediate movement of students to achieve compliance? (Please cite some examples of this problem.)

3. Why can't the PRDE achieve full compliance by immediately hiring additional instructional staff to work in the non-comparable schools?

a. What cost would be involved in achieving compliance by immediately hiring additional instructional staff?

b. How much time would be required to complete the process of recruiting and hiring a sufficient number of instructional staff to achieve compliance?

c. What role does the Puerto Rico legislature and Governor play in making a decision to solve the problem by immediately hiring additional instructional staff?

F. In summary, why can't the PRDE take action that will result in immediate compliance with the Title I comparability requirements?

II. Identification and Selection of Projects Areas

A. In practical terms, what are the Title I requirements concerning the identification and selection of project areas and schools?

B. How did the PRDE identify and select project areas and schools for participation in its Title I project during the 1980–81 school year?

C. Provide a copy of the "Socio-economic Survey" that the PRDE submitted to the U.S. Department of Education in August, 1980.

D. Has the PRDE conducted a more recent low-income survey or revised the data in its August 1980 survey? If so, submit a copy of such survey or revisions.

E. On the basis of the results of the most recent low-income survey, do all elementary schools in Puerto Rico qualify under the "25 percent rule"?

F. If the answer to the above question is yes, is there any reason for the PRDE to continue to include this requirement in its request for a compliance agreement?

G. If the PRDE is currently out of compliance with the requirements for the selection and identification of project areas and schools, what is the extent of the non-compliance?

H. What methods does the PRDE have for achieving compliance?

I. Why can't the PRDE use one or more of those methods to achieve compliance immediately?

III. Assessment of Educational Need

A. In practical terms, what are the Title I requirements concerning the assessment of educational need?

B. How does the PRDE currently assess educational need? In your response, discuss the use of objective measures and teacher evaluations.

C. How does the PRDE's current method for assessment of educational need not fully comply with the Title I requirements?

D. What steps must the PRDE take to achieve full compliance with the Title I requirements? In your response, discuss the need to develop evaluation instruments and to train teachers in their use.

E. What prevents the PRDE from immediately taking those steps and/or why wouldn't immediate steps result in full compliance?

IV. Allocation of Title I Funds on the Basic of Educational Need

A. In practical terms, what are the requirements that govern the allocation of Title I funds to project areas?

B. What method did the PRDE use to allocate its Title I funds for the 1980–81 school year?

C. Why did the PRDE use that method to allocate its Title I funds?

D. In what way does the PRDE's current method of allocating Title I funds fail to comply fully with the Title I requirements concerning the allocation of Title I funds?

E. What steps must the PRDE take to achieve full compliance with the Title I requirements concerning the allocation of Title I funds? In your response, discuss the relationship between the assessment of educational need and allocation of funds on the basis of need.

F. What prevents the PRDE from taking those steps immediately and/or why wouldn't immediate steps result in full compliance? In your response, discuss the timing of the process for allocating Title I funds and explain why it is not possible to immediately reallocate the Title I funds for the 1980–81 school year.

V. Establishment of Advisory Councils

A. In practical terms, what are the Title I requirements concerning the establishment of advisory councils?

B. What methods did the PRDE use to establish the Title I advisory councils that are currently functioning?

C. In what ways does the PRDE's current method of establishing advisory councils fail to comply fully with the Title I requirements concerning the establishment of such councils?

D. Which Title I advisory councils have been established in full compliance and which have been established through procedures that do not fully comply?

E. What steps must the PRDE take to achieve full compliance with the Title I requirements concerning the establishment of advisory councils?

F. What prevents the PRDE from taking those steps immediately and/or why wouldn't immediate steps result in full compliance?

B. Procedures for Reconvened Hearing

The reconvened public hearing will be conducted in accordance with the following procedures:

1. The hearing will be open to any interested members of the public, including members of the press.

2. The hearing officer, Dr. Harry J. Hogan, will make a brief opening statement describing the purpose of the hearing and the procedures that will be followed.

3. A court reporter will be employed to record the testimony that is presented at the hearing.

4. Copies of the hearing officer's request for additional information, and the PRDE's response to that request will be available at the hearing, and after November 20, 1980 from the hearing officer, from the PRDE, and from the HHS Audit Agency, Room 233 Federal Building, Carlos Chardon Avenue, Hato Rey, Puerto Rico, Monday through Friday, between 9:00 a.m. and 4:00 p.m.

5. Testimony is invited regarding the hearing officer's request for additional information and the PRDE's response to that request.

6. All persons, or organizations, who desire to present testimony at the reconvened hearing must make that desire known and state how much time they would like to the hearing officer either by signing in at the entrance to the hearing room on the date of the hearing, or by contacting the hearing officer in advance at the following address: Dr. Harry J. Hogan, c/o Dr. Sarah G. Bishop, Office of the Assistant Secretary for Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 2181A, Washington, D.C. 20202, telephone 202–245–7881.

7. Persons needing a sign language interpreter should notify Dr. Sarah Bishop before November 28, 1980.

8. Oral testimony will be accepted in English or Spanish.

9. The PRDE and any interested persons may present written comments on the hearing officer's request for additional information and the PRDE's response. Any written material should be presented to the hearing officer prior to, or at the time of, the reconvened hearing, and preferably in English. However, at the hearing officer's discretion, written statements may be accepted and considered if they are postmarked on or before December 6, 1980 and sent to the address given in paragraph 6.

10. Since the PRDE has the burden of demonstrating that immediate compliance is not feasible, the PRDE's official representatives will be given time at the beginning of the hearing to present testimony.

11. Following the PRDE's initial presentation, other individuals or organizations who desire to speak will be given time for their presentation.

12. The hearing officer will determine the order of all presentations following the PRDE's testimony, and he will determine how much time will be allotted for each presentation. He will take into account the order in which presenters contacted him or signed in at the entrance to the hearing room. However, the hearing officer has the authority to hear presenters out of order if he judges that there is a good reason for doing so.

13. After all interested persons have made their presentations, the PRDE may present additional testimony.

14. The hearing officer may, at his discretion, give other presenters an opportunity to present additional testimony, and may impose time limits on such presentations.

15. No persons will be permitted to raise legal or procedural objections or otherwise interrupt the presentations being given by other persons.

16. All testimony should be relevant to the feasibility of PRDE complying immediately with the identified five requirements of Title I. The hearing officer may decline to accept testimony or evidence that is irrelevant, immaterial, or unduly repetitious. He will disregard irrelevant information in making any recommendation on the issues involved.

17. The hearing officer may interrupt any presentation to ask questions or seek clarification.

18. The hearing officer is responsible for maintaining order at the hearing and may establish whatever procedures that he considers to be appropriate to carry out that responsibility.

19. Other than these procedures, no formal rules of evidence or procedure apply to this hearing.

20. The hearing officer will present written recommendations to the Secretary regarding the feasibility of immediate compliance with each Title I requirement that is identified in the PRDE's request for a compliance agreement. The hearing officer must identify the testimony upon which he bases each of his recommendations.

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21. If the Secretary determines, on the basis of all the facts, that immediate compliance with one or more requirements is not feasible, she will make written findings to that effect before entering into a compliance agreement with the PRDE. An announcement of the findings concerning the feasibility of immediate compliance and a copy of those findings will be sent to each person, or organization, who either submits a written statement or presents testimony at the hearing and requests that notification.

(Catalog of Federal Domestic Assistance No. 84.010, Educationally Disadvantaged Children, Local Educational Agency. Part I of OMB Circular A–95 does apply to this program)

Dated: November 19, 1980.

Thomas K. Minter,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 80–36862 Filed 11–24–80; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Great Plains Gasification Project; Record of Decision

Decision

The U.S. Department of Energy (DOE) has made a decision to issue a loan guarantee for a portion of construction costs for the Great Plains Project which will be located in Mercer County, North Dakota. The Federal loan guarantee will be in the amount of $1.5 billion, which represents 75 pecent of the eligible cost of the project. Initially, the DOE will issue a conditional commitment for the loan guarantee. Upon satisfactionof the conditions stated in the commitment, DOE will issue the loan guarantee. The authority to issue the loan guarantee is contained within Public Law 95–238, and the funding is provided by Pubic Law 96–126. This record of decision, which follows publication of a final Environmental Impact Statement for the project (DOE EIS–0072F, dated August 1980), is isssued in accordance with the regulations of the Council on Environmental Quality (40 CFR 1505.2), and the DOE guidelines (45 FR 20694, March 28, 1980) issued pursuant to the National Environmental Policy Act.

Project Description

The facility will occupy a 600 acre site approximately 65 miles northwest of the city of Bismarck, and 7 mile south of Lake Sakakawea. Municipalities near the site include: Beulah, 7 miles SSE; Hazen, 11 miles SE; and Zap 7 miles SSW. The facility and associated mines lie entirely within Mercer County.

The site will consist of buildings, process equipment, and coal storage facilities. In addition to the plantsite proper, a railroad spur will be extended from an existing Burlington Northern railroad spur (near Zap) 8 miles to the plant. Also, about 6 miles of new roads will be build near the plant and adjoining coal mines. An underground water pipeline, 7.6 miles in length, will be constructed from Lake Sakakawea southward to the plantsite. When operating, the plant will process approximately 14,000 tons day of lignite obtained from mines adjacent to the plant. The project will result in a 125 million cubic feet per day coal gasification facility. The gas produced from lignite will be comparable in quality to natural gas.

The process employed to convert coal to pipeline quality synthetic gas is the Lurgi pressurized fixed bed gasification process with Lurgi methanation. In addition to the Lurgi process units, Phosam ammonia recovery and Stretford sulfur removal will be utilized. This process design is a refinement based on the results of 1974 tests of the gasification properties of lignite. In August 1974, 12,000 tons of North Dakota lignite were shipped to the Sasol commercial gasification plant in Sasolburg, South Africa. Early in September 1974, full scale gasification tests, including a high load test, were run on an isolated gasifier. The results were satisfactory.

EIS Background

On August 8, 1980, the DOE notified the Environmental Protection Agency (EPA) that it had adopted NEPA documentation prepared by other Federal agencies, pursuant to the Council on Environmental Quality's regulations (40 CFR 1506.3) implementing of the national Environmental Policy Act. The documentation, which was republished by DOE along with a statement that there were no changes in circumstances that would effect a significant adverse environmental impact and thus require preparation of a Supplemental EIS, was:

ANG Coal Gasification Company, North Dakota Project Final Environmental Impact Statement. Bureau of Reclamation, U.S. Department of the Interior, FES 78–1, January 20, 1978. This document deals with the plantsite proper and associated operations.

ANG Coal Gasification Company, North Dakota Project. Supplement to the Department of Interior's Final Environmental Impact Statement. Federal Energy Regulatory Commission. FERC/EIS–001, April 1978. This document deals with the location of the product gas pipeline.

Final West-Central North Dakota Regional Environmental Impact Study on Energy Development. United States Department of the Interior, Bureau of Land Management and State of North Dakota, October 1978. This document deals with regional energy development and socioeconomic matters.

Public comments were received in the process of completing the about cited documents and those comments were incorporated in the final documents.

These three NEPA docuemnts were adopted and issued as the *Great Plans Gasification Project, Mercer County, North Dakota. Final Environmental Impact Statement.* DOE EIS–0072F, August 1980.

On August 15, 1980, the EPA published a public notice of this action in the **Federal Register** (45 FR 54437). In addition, the DOE mailed copies of EIS–0072F directly to approximately 650 parties. These parties included Federal and State agencies, environmental groups and individuals known to have an interest in the project.

Description of Alternatives and Basis of Decision

The alternatives discussed in the aforementioned three NEPA documents and reviewed by DOE on the basis of current information, as reflected in DOE's adoption of those documents as its EIS, were (a) no action, (b) alternative designs and processes, (c) alternative sites, (d) alternative uses of resources, and (e) alternative gas sources and other sources of future energy supply. These alternatives were considered from and environmental, economic and technical viewpoint. DOE's review confirmed decisions on the project made by other Federal and State agencies.

The "no action" alternative was considered and rejected due to inherent inconsistencies with the Administration's national energy goals and the intent of Congress in promoting the development of a domestic synthetic fuels industry. Public Law 96–126 states: "In order to expedite the domestic development and production of alternative fuels and to reduce dependence on foreign supplies of energy resources by establishing such domestic production at maximum levels at the *earliest time practicable*, there is hereby established in the Treasury of the United States a special fund to be designated the 'Energy Security Reserve', to which is appropriated $19,000,000,000, to remain available until

expended" (emphasis added). This law also provided the DOE with the funds to issue loan guarantees, for construction and startup costs for synthetic fuel facilities, up to a limit of $1,500,000,000. The goal for achieving production "at the earliest time practicable" was considered. In that regard DOE believes the Great Plains project is the only large scale commercial gasification project in the United States which is ready to begin construction immediately.

Alternative designs and processes were analyzed in the EIS. This evaluation included an engineering review of several gasification technologies, eventually arriving at the commercially proven Lurgi process as the best alternative for this application. Alternatives considered were Koppers-Totzek and the Winkler process. Both alternatives produce a synthetic gas with a very low methane content and the size of the methanation unit must be double the size required for Lurgi. Their other disadvantages are greater oxygen consumption and low operation pressure. The resultant synthetic gas has to be compressed to a final pipeline pressure of 1050 psig. The environmental impacts of the alternative gasification processes would essentially the same as the process selected.

Alternatives within the Lurgi process were considered. The Lurgi process areas are (1) gasification, (2) gas shift conversion, (3) gas cooling, (4) Rectisol, (5) Phenosolvan, (6) methanation, and (7) gas liquor separation. Lurgi proprietary equipment is used in areas 1, 4, 5 and 6 above; thus, gas quality and other performance guarantees only apply if Lurgi designs these elements of the system.

In the area of ammonia recovery, the Lurgi CCL process was compared with the U.S. Steel Phosam-W process. Both processes utilize the same feed stream and both produce commercial grade anhydrous ammonia. Prior selection of the Phosam-W process was confirmed for economic reasons.

For sulfur conversion, a combination of Stretford, Claus, and IFP processes was considered at first. During the 1974 Sasol test, with North Dakota lignite, it was discovered that the sulfur concentrations given off were too low to be effectively recovered by the Clause or IFP processes. Thus, a total Stretford system will be used.

Considerable testing and evaluation was also done in the area of coal preparation. Tests were conducted in the areas of coal drying, crushing and screening. The Sasol test showed that drying was not required. Crushing tests were used to provide data on final coal sizing and equipment selection. In a full scale screening test, a high probability screen, new to the American market, proved to be the best screen to use in the gasification plant.

In the initial decision, eleven sites were considered, all within west-central North Dakota due to the proximity of the sponsor's coal reserves and the availability of an adequate water supply. The proposed site was selected on the basis of combined engineering, economic and environmental criteria. Sites were rejected due either to impacts on wetlands and terrestrial and aquatic organisms, or due to excessive engineering problems and high economic penalties. The proposed site was selected as being the least environmentally damaging and most economically feasible site. DOE's review confirmed the selection.

Two routes for the product pipeline form the plant site to an existing pipeline system were addressed in the Final EIS. One route is a 365 mile pipeline from the plant site to Thief River Falls, Minnesota. The other route is a 25 mile pipeline connecting to the proposed Northern Boarder pipeline at a point approximately 10 miles south of Beulah, North Dakota. The decision regarding the product pipeline route will be made by the Federal Energy Regulatory Commission (FERC), on the basis of environmental and other criteria. In its disposition of the Great Plains product pipeline location, the FERC will appropriately comply with any further requirements of the National Environmental Policy Act, Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands), as necessary.

Alternative uses of the lignite resources were considered. Coal liquefaction and steam electric generation are the feasible alternatives since lignite has poor transportation economics and export is not as realistic alternative. An 880-megawatt steam electric power plant is under construction near the planned gasification facility, thus reducing the need for additional electric power generation in the region. Development of commercial coal liquefaction is a high priority within the DOE and is being supported at other localities. Other sources of energy supply were considered as an alternative to synthetic fuels. The use of oil or liquified natural gas is undesirable from a national goal of reducing imports. Nuclear power generation has encountered considerable delay. Solar and nonconventional energy sources are a high priority within the DOE but these alternatives are not currently at the stage of large scale commercial deployment. In adopting the NEPA documents as DOE's EIS, it was determined that the alternatives presented were reasonable and the preferred action was proper. The fact that during the period from 1978 to 1980 Great Plains obtained all major permits required for construction and operation of the facility supports the appropriateness of the action. Consequently, DOE believes that proceeding with the development of synthetic fuel industries, and the Great Plains project in particular, is in the national interest.

Environmental Impacts and Mitigation

Environmental alternatives have been reviewed. Mitigation and control measures have been incorporated in the project design and operation. From an environmental point of view alone, "no action" is the preferrable alternative. It was determined that the proposed project would best meet program goals. DOE is sensitive to concerns about the potential environmental impacts from the Great Plains Gasification Project during both construction and operation. Every reasonable, state of the art mitigation measure has been incorporated into the project. Potential impacts and mitigation measures are set out below.

Approximately 600 acres of land will be dedicated to the operation of the facility. During construction 300 acres will be cleared, thus disrupting vegetation and wildlife in that locality. In addition, as in all construction activities, the principal pollution impact will be the effect on air quality in the form of dust from the cleared land and vehicular emissions from heavy construction equipment operating at the site. Both sources of air pollutants will be localized at the site during construction and are not expected to be significant.

The construction labor force will vary from 200 at the beginning of construction and gradually increase to 3000 in the third year of construction. The permanent work-force necessary during operation of the plant will be approximately 500. While some impact will be felt by the local communities by an influx of workers, it is anticipated that more than 50 percent of these jobs will be filled by existing residents in nearby communities. As a mitigating measure, company provided quarters will be made available to ease the impact created by transient workers during the peak of construction.

No wetland or floodplain areas exist at the plantsite where the 300 acre clearing and construction activities will

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occur. The avoidance of wetlands and floodplains was a factor in deciding upon the location of the gasification facility. Scattered wetlands do comprise about 0.3 percent of the land area of the minesites necessary to support the gasification facility over an operational period of 25 years. The mining will disrupt less than 12 acres of wetlands over that period of time. After mining and land reclamation at the minesites, the net acreage of wetlands is expected to remain at the same level of 12 acres that currently exists. No floodplains will be impacted at the minesites. Wetlands and floodplains will be impacted should the 365 mile product pipeline route be selected.

During operation of the gasification facility, air emission rates will be 1400 lbs/hr of SO_2, 550 lbs/hr of NO_x, and 160 lbs/hr of TSP. The Stretford sulfur recovery plant will remove in excess of 92 percent of the sulfur in the feed coal. Steam boilers will minimize NO_x formation and electrostatic precipitators and baghouses will remove particulate emissions from combustion and coal handling sources. Emissions from this facility will be significantly lower than those from a conventional steam generating plant producing an equivalent amount of useful energy. The requirements of Section 176(c) of the Clean Air Act (42 USC 7401 et. seq.) have been satisfied. All air permits required prior to construction have been obtained and the project is consistent with North Dakota's State Air Quality Implementation Plan.

Water impacts were also considered. Water supply for the plant will be obtained from Lake Sakakawea through a submerged intake designed to minimize ecological damage to the reservoir. The annual water withdrawal of 6400 acre ft/yr will change the lake level by less than 1 inch, and the volume consumed will not preempt other water users, even during periods of drought. The plant is designed to eliminate the discharge of process wastewater to surface streams. Process water will be reused as much as possible and forced evaporation and incineration will be used to dispose of waste water residuals. Brine from water softening and demineralizing will be disposed of via a deep well into a highly saline aquifer in accordance with EPA guidelines for underground injection control.

Surface mining of the lignite will be performed by an independent mining company. Annual lignite requirements of 4.7 million tons will result in the mining of approximately 180 acres per year. The mining activity associated with the project will be the primary cause of disturbance to plant and animal communities. Surface mining will result in the destruction of habitat for a period of 3 to 5 years after mining until reclamation is complete. Recent reclamation regulations calling for the segregation and return of topsoil and subsoil have proven to result in rapid reestablishment of plant communities. This system will be employed at the mining sites. Attempts will be made to provide a diverse habitat to accelerate the repopulation of reclaimed areas by any animal species originally displaced by mining.

Solid waste to be disposed of from the operation of the gasification plant will consist primarily of 1110 tons per day of wet ash from the gasifiers plus minor amounts of sulfur removal by-products. Areas of the mines suitable for ash disposal will be selected in accordance with solid waste disposal regulations. Monitoring wells will be located around all solid waste disposal areas to detect any movements of leachates should they occur.

The entire project area has been surveyed by the State Historical Society of North Dakota for the presence of areas of historical, paleontological and/or archeological significance. No such areas were identified on the proposed plant site although several sites of undetermined significance were identified in the mine area. Prior to mining, each identified site will be evaluated further. Appropriate mitigation measures will be determined based upon such evaluations and may include procedures such as photographing sites, excavation of artifacts, and, at the extreme, complete preservation in place with no mining.

Effective pollution abatement techniques will be implemented, including precautions for worker health and safety. Employee exposure to potentially hazardous substances will be minimized through engineering controls and adherence to work practice guidelines being prepared specifically for the Great Plains plant. Installed continuous monitors will be used to detect dangerous leaks, and industrial hygiene audits will be performed regularly around various pieces of equipment and potential sources of emissions. In addition, a comprehensive medical examination will be performed by a physician on all plant employees at least once each year.

In order to verify that all activities and processes incorporated within the plant design comply with all applicable Federal and State laws, regulations and permit stipulations, an environmental monitoring program will be implemented. The monitoring program will insure that timely corrective action will be taken on all environmental deficiencies. Numerous State and Federal agencies issue permits and licenses required to construct and operate the Great Plains facility. Strict standards are established. Precise monitoring will be required and data will be submitted for analysis by regulatory agencies. In addition to the environmental monitoring program which will be performed by the plant owner/operator, DOE is committed to an extended, comprehensive environmental health and safety analysis at the site, to collect environmental data that go beyond present regulatory compliance requirements.

Conclusion

The benefits derived from the Great Plains Gasification Project outweigh the potential adverse environmental impacts. No reasonably available project alternatives exist which would satisfy program goals. As a result of these evaluations, DOE has decided to proceed with its participation in the project.

Dated: November 19, 1980.

C. Worthington Bateman,

Under Secretary (Acting) U.S. Department of Energy.

[FR Doc. 80-36724 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Synthetic Fuels Task Group of the Committee on Environmental Conservation; Meeting

Notice is hereby given that the Synthetic Fuels Task Group of the Committee on Environmental Conservation will meet in December 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Environmental Conservation will analyze the environmental problems of the oil and gas industries and the impact of current environmental control regulations on the availability and costs of petroleum products and natural gas. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Synthetic Fuels Task Group meeting follows:

The Synthetic Fuels Task Group will hold its second meeting on Tuesday, December 9, 1980, starting at 1 p.m., in the Conference Room of the National Petroleum Council, 1625 K Street, NW., Washington, D.C.

The tentative agenda for the meeting follows:

1. Briefing by Department of Energy officials regarding DOE report, *Synthetic Fuels and the Environment.*
2. Review of November 6, 1980, meeting of the Coordinating Subcommittee.
3. Review of literature search conducted for the Task Group.
4. Discussion of preliminary review of the DOE report regarding coal gasification, coal liquefaction, oil shale and other synthetic fuels (biomass, urban wastes, alcohol fuels).
5. Review of the schedule for completion of the Task Group effort.
6. Discussion of any other matters properly brought before the Task Group.

The meeting is open to the public. The Chairman of the Synthetic Fuels Task Group is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Synthetic Fuels Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633-8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room IE-190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on November 14, 1980.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development & Operations Resource Applications.

[FR Doc. 80-36727 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

Bonneville Power Administration

Northwestern Montana/North Idaho Support and Libby Integration Draft Supplement to the Final Fiscal Year 1980 Proposed Program; Environmental Impact Statement (EIS); Public Meetings

The Bonneville Power Administration (BPA) hereby gives notice of public meetings to be held to discuss and solicit comments on BPA's draft supplement to the Final Fiscal Year 1980 Proposed Program EIS on Northwestern Montana/North Idaho and Libby Integration. This supplement describes the environmental impacts of BPA's proposed removal of an existing 115-kV wood pole transmission line and replacement with a double-circuit 230-kV line. The route follows existing rights-of-way for 89 miles between Sandpoint, Idaho, and Libby Dam, Montana, and will be rerouted for 4 miles near Vermiculite Mountain. The proposed line crosses several floodplains and one wetland area. Wintering populations of bald eagles, and endangered species, along the Kootenai River may be affected. Assessments of these issues as well as surveys of cultural resources and geologic conditions have been completed. Mitigation measures have been suggested.

The public is invited to attend two public meetings and two open houses at the following locations:

Public Meetings: Tuesday, December 16, 1980, at the Federal Building, Division and Ontario Streets, in Sandpoint, Idaho, from 7–10 p.m.

Wednesday, December 17, 1980, at First National Bank, 504 Mineral Avenue, Libby, Montana, from 7–10 p.m.

Open Houses: Monday, December 15, 1980, at Jack's Club (upstairs), W. Kootenai Avenue, in Booners Ferry, Idaho, from 7–9 p.m.

Thursday, December 18, 1980, at United Methodist Church Fellowship Hall, 3rd and Kalispell, Troy, Montana, from 7–9 p.m.

BPA invites all interested parties to attend and welcomes comments to aid full evaluation of environmental factors relating to the proposed and alternative actions. All comments will be considered in the preparation of the final document. For those unable to attend the meetings, written comments will be accepted until the close of comment date, December 31, 1980.

Questions, written comments, and requests for copies of the draft EIS supplement should be addressed to either the Spokane Area Manager, Bonneville Power Administration, Room 561, U.S. Courthouse, W. 920 Riverside Avenue, Spokane, Washington 99201, telephone (509) 456–2500, or to the Environmental Manager, Bonneville Power Administration, P.O. Box 3621–SJ, Portland, Oregon 97208, telephone (503) 234–3361, extension 5137.

Dated: November 18, 1980.

Stanley E. Efferding,

Acting Administrator.

[FR Doc. 80-36725 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Proposed Remedial Orders

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice that the following Proposed Remedial Orders have been issued. These Proposed Remedial Orders allege violations of applicable law as indicated.

A copy of the Proposed Remedial Orders, with confidential information deleted, may be obtained from Thomas M. Holleran, Program Manager for Product Retailers, 2000 M Street, NW, Washington, DC 20461, phone 202/653-3569. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR § 205.193.

Issued in Washington, DC on the 20th day of November, 1980.

Robert D. Gerring,

Director, Enforcement Program Operations Division, Economic Regulatory Administration.

Proposed Remedial Orders—Northeast District

Station	Address	Date	Violation amount	Cents per gallon in violation
Frank's Marina	34 South End Place, Freeport, N.Y. 11520	10-28-80	$2,776.05	14.3
Steven Frank Arco	1 Union Road, Spring Valley, N.Y. 10977	10-28-80	6,492.10	5.1

Proposed Remedial Order—Central District

Cedar Point, Inc	C. N. 5006, Sandusky, OH 44870	10-28-80	$9,562.70	8.1

Proposed Remedial Orders—Southwest District

Mayfield's Country Store	Juno Route, Ozona, TX 78943	10-28-80	$3,[illegible]45	12.9

[FR Doc. 80-36722 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-01-M

Marion Corp.; Action Taken and Opportunity To Comment on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATES: Effective date is November 5, 1980; Comments by December 26, 1980.

ADDRESS: Send written comments to: James C. Easterday, District Manager of Enforcement, Southeast District, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367.

FOR FURTHER INFORMATION CONTACT: James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367, Telephone (404) 881–2396.

SUPPLEMENTARY INFORMATION: On November 5, 1980 the Southeast District, Office of Enforcement of the ERA finalized a Consent Order with Marion Corporation, a Mobile, Alabama small independent refiner of petroleum products. Under 10 CFR Section 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution. Because of the settlement negotiations involved in this case and the desire to conclude this matter expeditiously, the DOE has determined that it is in the public interest to make the Consent Order with Maion Corporation, effective when signed both by the person to whom it is issued and the DOE.

I. The Consent Order

Marion Corporation (Marion), located in Mobile, Alabama, is a small independent refiner, and is subject to the jurisdiction of the DOE with regard to prices charged in sales of covered products, pursuant to 10 CFR Section 212.83. To resolve certain civil actions which could be brought by the Office of Enforcement of the ERA as a result of its audit of Marion, the Office of Enforcement, ERA, and Marion entered into a Consent Order, the significant terms of which are as follows:

1. The Consent Order relates to prices charged by Marion in sales of No. 2 diesel fuel, liquified petroleum gases, light straight run gasoline, JP–4 jet fuel and residual fuel oil. The products were covered under the Federal pricing regulations during the audit period of December 1, 1973 through April 30, 1974.

2. From the audit conducted during the above period, the Office of Enforcement considered numerous issues, including (a) determinations of Marion's classes of purchases; (b) calculations of Marion's May 1973 product costs, monthly increased costs and allocation of increased costs among and within classes of purchaser and product categories; (c) calculations of Marion's unrecouped cost increases and recoveries of increased costs; (d) calculations of Marion's maximum allowable selling prices and the prices actually charged by Marion for all products covered by the Consent Order; and (e) calculations and reports filed by Marion including but not limited to forms FEO.96 and P–110 pursuant to the applicable DOE regulations.

3. The Consent Order is concerned exclusively with the refund of $115,000.00 in settlement of any and all overcharges and interest which DOE would otherwise seek to assess concerning the products covered by the Consent Order during the above audit period.

4. Marion agrees to refund, in full settlement of any and all civil liability within the jurisdiction of the Department of Energy (DOE) in regard to actions that might be brought by the DOE arising out of the specified transactions, the sum of $115,000 within sixty (60) days of the effective date of this Consent Order. Refund shall be by certified check made payable to the United States Department of Energy and delivered to the Assistant Administrator for Enforcement, Economic Regulatory Administration. The Assistant Administrator for Enforcement, ERA, shall direct that these monies be deposited in a suitable account in order that the monies in the fund may be distributed in a just and equitable manner in accordance with applicable laws and regulations. In addition, Marion agrees to pay a $10,000 civil penalty within 60 days of the effective date of this Consent Order.

5. The provisions of 10 CFR Section 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Dispostion of Refunded Overcharges

In the Consent Order, Marion agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. through I.3., above, the sum of $115,000.00 within sixty (60) days of the effective date of the Consent Order. Refund methodology will be as specified in I.4., above. The amount submitted to the Assistant Administrator will be in the form of certified checks made payable to the U.S. Department of Energy and will be delivered to the Office of the Assistant Administrator for Enforcement, ERA. This submission will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refunded amount in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67.

In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim as specified in A and B above, to James C. Easterday, District Manager of Enforcement, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367. You may obtain a copy of this Consent Order with proprietary information deleted by writing to the same address.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Marion Consent Order."

Comments received by 4:30 p.m., local time December 26, 1980, will be considered. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Atlanta, Georgia on the 10th day of November 1980.

James C. Easterday,
District Manager of Enforcement.

Concurrence:

Leonard F. Bittner,
Chief Enforcement Counsel.

[FR Doc. 80-36723 Filed 11-24-80; 8:45 am]
BILLING CODE 6450-01-M

Beta Development Co.; Notice of Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Action Taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of filing a Petition for the Implementation of Special Refund Procedures for refunds received pursuant to a Consent Order.

DATE: Petition submitted to the Office of Hearings and Appeals: November 17, 1980.

FOR FURTHER INFORMATION CONTACT: William Dorcheus, Director, Crude Oil Branch, Program Manager for Crude Producers, Room 5002, 2000 M Street, N.W., Washington, D.C. 20461, (202) 653–3517.

SUPPLEMENTARY INFORMATION: On March 7, 1980, the Office of Enforcement of the ERA published notification in the Federal Register that it executed a Consent Order with Beta Development Company (Beta) of Farmington, New Mexico, on February 29, 1980, 45 FR 14917 March 7, 1980). Interested persons were invited to submit comments concerning the terms, conditions or procedural aspects of the Consent Order. In addition, persons who believe they have a claim to all or a portion of the refund of overcharges paid by Beta pursuant to the Consent Order were requested to submit notice of their claims to ERA.

Although interested persons were invited to submit comments regarding the Consent Order to the DOE, no comments were received. The Consent Order was therefore issued as signed.

Pursuant to the Consent Order, Beta, is refunding the sum of $128,000.00 plus interest by certified checks made payable to the United States Department of Energy within 15 months of the execution of the Consent Order. All such funds received by DOE have been placed into a suitable account pending determination of their proper distribution. The following persons submitted claims to the ERA:

Caribou Four Corners, Inc.
Defense Logistics Agency.

ACTION TAKEN: The ERA is unable readily to identify the persons entitled to receive the $128,000.00 or to ascertain the amounts of refunds that such persons are entitled to receive. The ERA has therefore petitioned the Office of Hearings and Appeals (OHA) on November 17, 1980, to implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, 10 CFR 205.280 *et seq.* to determine the identity of persons entitled to the remaining refunds and the amounts owing to each of them. Persons who believe they are entitled to all or a portion of the refunds should comply with the procedures of 10 CFR Part 205, Subpart V.

Issued in Washington, D.C. on the 18th day of November, 1980.

Robert Gerring,
Director, Program Operations Division.

[FR Doc. 80645 Filed 11-24-80; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Volume 319]

Notice of Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued November 18, 1980.

BILLING CODE 6450-85-M

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION								
-A A CO					RECEIVED: 10/31/80 JAI LA			
810A403	A0=3627	1707321343	103		JOHN WILLIAMS #1	MONROE	60.0	INC PIPELINE CO
-ADOBE OIL & GAS CORPORATION					RECEIVED: 10/31/80 JAI LA			
810A439	A0=3667	1711320927	107		MACDONELL ESTATE NO 1	SOUTH LAKE ARTHUR	1800.0	
-AMERADA HESS CORPORATION					RECEIVED: 10/31/80 JAI LA			
810A458	A0=3666	1705721489	103		SOUTH COAST CORP NO 18	MAGELAND	440.0	TRANSCONTINENTAL GAS
-AMOCO PRODUCTION CO					RECEIVED: 10/31/80 JAI LA			
810A433	A0=3661	1710121122	103		LAMB REALTY CO INC NO 75	CHARENTON	330.0	TEXAS GAS TRANSMISSI
810A344	A0=3592	1705721689	103		STATE LEASE 2374 NO 15	LAKE BOEUF	35.0	MONTEREY PIPELINE CO
-ANADARKO PRODUCTION COMPANY					RECEIVED: 10/31/80 JAI LA			
810A342	A0=3566	1704920113	102		J W CAPPS NO 1	EROS	300.0	TENNESSEE GAS PIPELI
-BASS ENTERPRISES PRODUCTION CO					RECEIVED: 10/31/80 JAI LA			
810A372	A0=3598	1706120194	102		CV RA SUA FELIX G LEGUIN #1	MICO KNOWLES	73.0	UNITED GAS PIPE LINE
810A374	A0=3600	1706120193	102		CV RA SUB J L SMITH A #2	MICO-KNOWLES	0.0	UNITED GAS PIPELINE
810A371	A0=3597	1706120196	102		CV RA SUC ETTA M CULVIN NO 3	MICO KNOWLES	455.0	UNITED GAS PIPE LINE
810A373	A0=3599	1706120195	102		CV RA SUD PAULINE DREWETT #1	MICO KNOWLES	490.0	UNITED GAS PIPE LINE
810A375	A0=3601	1706120234	102		CV RA SUE REX M TATUM NO 1	MICO-KNOWLES	90.0	UNITED GAS PIPE LINE
810A370	A0=3596	1706120226	102		CV RA SUF MATTIE A TATUM NO 1	MICO-KNOWLES	109.0	UNITED GAS PIPE LINE
-BAYOU PRODUCTION CO					RECEIVED: 10/31/80 JAI LA			
810A461	A0=3646	1701700000	103		ANISMAN #1 SER NO 165460	GREENWOOD-WASKOM	36.0	
-BORDEN INC					RECEIVED: 10/31/80 JAI LA			
810A354	A0=3578	1707522661	102		DELACROIX CORP #1	DALCOUR FIELD	1174.0	SOUTHERN NATURAL GAS
810A455	A0=3683	1710121143	107		PLAN RA SUD J R MEINEN #1	BALDWIN FIELD	1013.0	LOUISIANA INTRASTATE
-CEKA GAS CORP					RECEIVED: 10/31/80 JAI LA			
810A337	A0=3561	1711121780	108		MBC NO 3	MONROE	5.7	INTERNATIONAL MINERA
810A338	A0=3562	1711121906	108		MBC NO 4	MONROE	5.7	INTERNATIONAL MINERA
-CHEVRON U S A INC					RECEIVED: 10/31/80 JAI LA			
810A457	A0=3685	1707720206	107		JUDGE DIGBY	JUDGE DIGBY	1500.0	
810A459	A0=3687	1772520203	103		S L 1354 #28	MAIN PASS BLOCK 69	548.0	SOUTHERN NATURAL GAS
810A347	A0=3571	1708720180	102		S L 6631 NO 3	RIGOLETS	1898.0	
-COCKRELL CORPORATION					RECEIVED: 10/31/80 JAI LA			
810A362	A0=3588	1772120314	103		STATE LEASE 7873 NO 1	WILDCAT - SOUTH PASS BLO	900.0	
-CONOCO INC					RECEIVED: 10/31/80 JAI LA			
810A344	A0=3568	1709920805	103		CONOCO FEE A NO 27	ST MARTINVILLE	10.0	
810A345	A0=3569	1703920210	103		RENE MCDANIEL NO 3	VILLE PLATTE	180.0	LOUISIANA INTRASTATE
810A430	A0=3658	1701920895	103		10000 RA SUA G BAERGEN NO 1	EAST MOSS LAKE	0.0	
810A420	A0=3610	1701920895	103		10200 VU AB G BAERGEN NO 1	EAST MOSS LAKE	260.0	
-CROWN ZELLERBACH CORP					RECEIVED: 10/31/80 JAI LA			
810A463	A0=3697	1703921556	103		CZ FEE TRACT AD #1	LITTLE CREEK	82.1	TRUNKLINE GAS CO
-DAVIS-BOUDREAUX OIL CO					RECEIVED: 10/31/80 JAI LA			
810A364	A0=3590	1702321447	103		CUTLER OIL & GAS CORP #1	TWIN ISLAND	47.4	LOUISIANA RESOURCES

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
-EDWIN L COX					RECEIVED: 10/31/80 JAI LA			
810A406	A0=3625	1710922244	103		LLSE C NO 1	LAKE MATCH	180.0	COLUMBIA GAS TRANSMI
810A346	A0=3570	1709720576	103		BUBAN B GARDNER NO 1	SOUTH SHUTESTON	400.0	LOUISIANA INTRASTATE
-ERSON INC					RECEIVED: 10/31/80 JAI LA			
810A397	A0=3634	1711121824	103		M D GREEN NO 8	MONROE (6624)	7.8	TEXAS GAS TRANSMISSI
810A395	A0=3635	1711122289	103		L B KING NO 1	MONROE (6624)	8.7	TEXAS GAS TRANSMISSI
810A399	A0=3632	1711122217	103		VUA C W WHEELER NO 2	MONROE (6624)	8.7	TEXAS GAS TRANSMISSI
810A394	A0=3637	1711122490	103		VUA CLEVELAND WAYNE NO 1	MONROE (6624)	7.8	TEXAS GAS TRANSMISSI
810A398	A0=3633	1711122493	103		VUA B A DUGAS NO 2	MONROE (6624)	7.8	TEXAS GAS TRANSMISSI
810A396	A0=3636	1711122512	103		W C ADCOCK ESTATE NO 1	MONROE (6624)	8.1	TEXAS GAS TRANSMISSI
-EXXON CORPORATION					RECEIVED: 10/31/80 JAI LA			
810A407	A0=3624	1705721676	103		EXXON FEE B NO 23	SULLY CAMP	39.0	TENNESSEE GAS PIPELI
-FRANKS PETROLEUM INC ET AL					RECEIVED: 10/31/80 JAI LA			
810A359	A0=3584	1702720579	102		MOBB 6170 RA SUB R THURMAN #1-D	LISBON	104.0	ARKANSAS LOUISIANA G
-GAS TRANSPORTATION CORPORATION					RECEIVED: 10/31/80 JAI LA			
810A341	A0=3565	1711122094	108		DUMAS NO 1	MONROE	4.2	PETRO-LEWIS FUNDS IN
810A340	A0=3564	1711122099	108		GTC-B D NOLAN NO 1	MONROE	1.8	PETRO-LEWIS FUNDS IN
810A427	A0=3659	1707321394	103		GTC-MLG NO 1	MONROE GAS FIELD	8.0	MID-LOUISIANA GAS CO
810A382	A0=3649	1707321424	103		GTC-MLG NO 10	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810A381	A0=3650	1707321423	103		GTC-MLG NO 11	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810A380	A0=3651	1707321426	103		GTC-MLG NO 12	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810A379	A0=3652	1707321433	103		GTC-MLG NO 13	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810A378	A0=3653	1707321434	103		GTC-MLG NO 14	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810A426	A0=3654	1707321435	103		GTC-MLG NO 15	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810A390	A0=3641	1707321399	103		GTC-MLG NO 2	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810A389	A0=3642	1707321411	103		GTC-MLG NO 3	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810A388	A0=3643	1707321412	103		GTC-MLG NO 4	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810A387	A0=3644	1707321413	103		GTC-MLG NO 5	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810A386	A0=3645	1707321414	103		GTC-MLG NO 6	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810A385	A0=3646	1707321416	103		GTC-MLG NO 7	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810A384	A0=3647	1707321415	103		GTC-MLG NO 8	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810A383	A0=3648	1707321423	103		GTC-MLG NO 9	MONROE GAS FIELD	8.0	MID LOUISIANA GAS CO
810A339	A0=3563	1711122145	108		TRIMBLE NO 1	MONROE	3.3	PETRO-LEWIS FUNDS IN
-GEORGE R THURMAN					RECEIVED: 10/31/80 JAI LA			
810A355	A0=3581	1703121227	103		NORRIS #2	SPIDER	120.0	LOUISIANA INTRASTATE
810A356	A0=3581	1703121203	103		YARBROUGH #1	SPIDER	300.0	LOUISIANA INTRASTATE
-GETTY OIL COMPANY					RECEIVED: 10/31/80 JAI LA			
810A363	A0=3589	1703120931	103		PACE B NO 3	LOGANSPORT	0.0	TENNESSEE GAS PIPELI
-GODFREY & RILEY					RECEIVED: 10/31/80 JAI LA			
810A472	A0=3706	1711121911	108		STELL NO 2	MONROE	19.0	MID LOUISIANA GAS CO
-GULF OIL CORPORATION					RECEIVED: 10/31/80 JAI LA			
810A434	A0=3668	1772720077	102		CHANDELEUR SOUND BLK 51 SL 7205 #1	CHANDELEUR SOUND BLOCK 5	1260.0	SOUTHERN NATURAL GAS
810A437	A0=3665	1772720103	102		CHANDELEUR SOUND BLK 51 SL 7205 #2	CHANDELEUR SOUND BLOCK 5	360.0	SOUTHERN NATURAL GAS
810A435	A0=3663	1772720104	102		CHANDELEUR SOUND BLK 51 SL 7205 #3	CHANDELEUR SOUND BLOCK 51	900.0	SOUTHERN NATURAL GAS
810A436	A0=3664	1772720106	102		CHANDELEUR SOUND BLK 51 SL 7205 #4	CHANDELEUR SOUND BLOCK 5	900.0	SOUTHERN NATURAL GAS
-HILCORP ENERGY CO					RECEIVED: 10/31/80 JAI LA			
810A478	A0=3712	1707522574	103		GPLO A #170	GRAND BAY	180.0	UNITED GAS PIPELINE
810A409	A0=3622	1707522682	103		HARVEY ABERCROMBIE NO 18	WEST DELTA BLOCK 52	57.1	TENNESSEE GAS PIPELI
810A480	A0=3715	1707522692	103		S L 195 GD #288-D	GUARANTINE BAY	730.0	UNITED GAS PIPELINE
-INTERNATIONAL OIL & GAS CORP					RECEIVED: 10/31/80 JAI LA			
810A361	A0=3587	1705721625	103		STATE LEASE 7594 #1	PLUM POINT	365.0	SOUTHERN NATURAL GAS
-J E HUGHES					RECEIVED: 10/31/80 JAI LA			
810A410	A0=3621	1701702771	108		GL SU B AMI SER #139430	GREENWOOD-WASKOM	0.0	UNITED GAS PIPE LINE

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JC NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
*KERR-MCGEE CORPORATION				RECEIVED: 10/31/80 JAI LA			
8104358	AO-3583	1772620204	103	S L 1998 NO 41	BRETON SOUND BLOCK 20	239.0	SOUTHERN NATURAL GAS
8104412	AO-3619	1772620199	103	S L 2326 NO 40	BRETON SOUND BLOCK 20	8.0	SOUTHERN NATURAL GAS
*KILROY CO OF TEXAS				RECEIVED: 10/31/80 JAI LA			
8104447	AO-3673	1701723382	102	MOSS C RA SUC MUNYER NO 2	SHREVEPORT	365.0	ARKANSAS LOUISIANA G
8104479	AO-3714	1701722585	102	MOSS RA SUB BARROW NO 1	SHREVEPORT	100.0	ARKANSAS LOUISIANA G
*LANKFORD & NANCE				RECEIVED: 10/31/80 JAI LA			
8104376	AO-3602	1711122578	103	K D LANKFORD NO 2	MONROE GAS	14.0	TEXAS GAS TRANSMISSI
*MARATHON OIL COMPANY				RECEIVED: 10/31/80 JAI LA			
8104464	AO-3698	1711900907	108	CVSU MODGES MODGES ET AL #1	COTTON VALLEY	3.0	UNITED GAS PIPE LINE
8104440	AO-3668	1711900840	108	CVSU MODGES LOGAN NO 1	COTTON VALLEY	3.0	UNITED GAS PIPE LINE
*MAY PETROLEUM INC				RECEIVED: 10/31/80 JAI LA			
8104449	AO-3677	1703120691	103	BURFORD #1-D (157803)	BETHANY-LONGSTREET	216.0	ARKANSAS LOUISIANA G
8104448	AO-3676	1705520173	103	CAM E RA SUA M E MCCONNELL #2	DUSON	548.0	TRANSCONTINENTAL GAS
8104450	AO-3678	1703120706	103	GAMBLE A #1-D	BETHANY-LONGSTREET	420.0	ARKANSAS LOUISIANA G
*MIDWAY PRODUCTION CO VII				RECEIVED: 10/31/80 JAI LA			
8104442	AO-3670	1707321379	103	LAKE PARK #1	MONROE	0.5	PETRO-LEWIS CORP
8104443	AO-3671	1707321380	103	LAKE PARK #2	MONROE	0.5	PETRO-LEWIS CORP
8104401	AO-3630	1707321381	103	LAKE PARK NO 3	MONROE	0.5	PETRO-LEWIS CORP
8104402	AO-3629	1707321382	103	LAKE PARK NO 4	MONROE	0.5	PETRO-LEWIS CORP
8104444	AO-3672	1707321386	103	SUNSHINE #3	MONROE	0.5	PETRO-LEWIS CORP
8104441	AO-3669	1707321390	103	SUNSHINE #7	MONROE	0.5	PETRO-LEWIS CORP
8104404	AO-3628	1707321384	103	SUNSHINE NO 1	MONROE	0.5	PETRO-LEWIS CORP
8104400	AO-3631	1707321385	103	SUNSHINE NO 2	MONROE	0.5	PETRO-LEWIS CORP
*MULLINS & PRICHARD				RECEIVED: 10/31/80 JAI LA			
8104423	AO-3607	1707120023	103	LAN RAILROAD #1	LAKE ST CATHERINE	300.0	SOUTHERN NATURAL GAS
*NATOMAS NORTH AMERICA INC				RECEIVED: 10/31/80 JAI LA			
8104413	AO-3616	1710320019	102	STATE LEASE 7186 #1	WILDCAT	109.0	
*NORTHCOTT EXPLORATION CO INC				RECEIVED: 10/31/80 JAI LA			
8104460	AO-3688	1709920794	103	LUCIE MARTIN NO 1	BAYOU BOULLION	730.0	GAS GATHERING CORP
*NORTHEAST RESOURCES INC				RECEIVED: 10/31/80 JAI LA			
8104360	AO-3586	1701700000	103	CV RA SU 87 FRIERSON NO 1	ELM GROVE	273.0	J M OPERATING CO
*OIL COUNTRY MANAGEMENT INC ETAL				RECEIVED: 10/31/80 JAI LA			
8104365	AO-3591	1705721719	103	W ALTON JONES B NO 4	LAROSE	36.0	TENNESSEE GAS PIPELI
*PATRICK PETROLEUM CORP (MI)				RECEIVED: 10/31/80 JAI LA			
8104414	AO-3617	1703721542	103	SBBF N RB SU BOWIE LBR CO #13-D	SOUTH BAYOU BOEUF FIELD	1.0	LOUISIANA RESOURCES
8104462	AO-3689	1703721404	103	SBBF N RB SU BOWIE LBR CO NO 10	SOUTH BAYOU BOEUF FIELD	0.7	LOUISIANA RESOURCES
*PENNZOIL PRODUCING COMPANY				RECEIVED: 10/31/80 JAI LA			
8104416	AO-3613	1701521062	103	MOSS TP SU D SEC 24 NO 1 ALT	OLIGO	200.0	UNITED GAS PIPE LINE
8104417	AO-3614	1701521063	103	MOSS TP SU D SEC 14 NO A-3 ALT	OLIGO	900.0	UNITED GAS PIPE LINE
8104419	AO-3612	1701521154	103	MOSS TP SU B SEC 19 NO 2 ALT	OLIGO	950.0	UNITED GAS PIPE LINE
*PETE CALDWELL DRLG CO INC				RECEIVED: 10/31/80 JAI LA			
8104350	AO-3576	1707321449	103	AC WHITE EST #5 #170323	MONROE GAS	17.0	MID LOUISIANA GAS CO
8104352	AO-3574	1707321450	103	AC WHITE EST #6 #170324	MONROE GAS	19.0	MID LOUISIANA GAS CO
8104351	AO-3575	1707321455	103	AC WHITE EST #7 #170362	MONROE GAS	18.0	MID LOUISIANA GAS CO
*PLACID OIL COMPANY				RECEIVED: 10/31/80 JAI LA			
8104422	AO-3608	1706920094	102	MARTIN LUMBER CO NO 1	DEMERY CREEK	108.0	UNITED GAS PIPE LINE
*PRINOS PRODUCTION CO				RECEIVED: 10/31/80 JAI LA			
8104477	AO-3711	1707321341	103	PETRO-LEWIS BERNSTEIN #1	MONROE GAS	8.2	PETRO-LEWIS FUNDS IN
8104465	AO-3699	1711122497	103	PETRO-LEWIS MOLLIS ET AL #1	MONROE GAS	25.7	PETRO-LEWIS FUNDS IN
8104471	AO-3705	1711122387	103	PETRO-LEWIS PENNZOIL FEE 119 #2	MONROE	16.4	PETRO-LEWIS FUNDS IN
8104470	AO-3704	1711122388	103	PETRO-LEWIS PENNZOIL FEE 119 #3	MONROE GAS	14.4	PETRO-LEWIS FUNDS IN

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JC NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
8104469	AO-3703	1711122522	103	PETRO-LEWIS UNION PROD FEE 113 #4	MONROE GAS	16.4	PETRO-LEWIS FUNDS IN
8104468	AO-3702	1711122523	103	PETRO-LEWIS UNION PROD FEE 113 #5	MONROE GAS	15.4	PETRO-LEWIS FUNDS IN
8104467	AO-3701	1711122524	103	PETRO-LEWIS UNION PROD FEE 113 #6	MONROE GAS	15.4	PETRO-LEWIS FUNDS IN
8104466	AO-3700	1711122525	103	PETRO-LEWIS UNION PROD FEE 113 #7	MONROE GAS	10.3	PETRO-LEWIS FUNDS IN
*PRINOS-PENNZOIL JV				RECEIVED: 10/31/80 JAI LA			
8104474	AO-3708	1711122704	103	FEE 101 #1	MONROE GAS	6.2	UNITED GAS PIPELINE
8104476	AO-3710	1711122663	103	JORDAN #1	MONROE GAS	12.3	UNITED GAS PIPELINE
8104475	AO-3709	1711122686	103	STRIPLING #3	MONROE GAS	18.5	UNITED GAS PIPELINE
*RELIANCE TRW JV				RECEIVED: 10/31/80 JAI LA			
8104473	AO-3707	1711122612	103	RELIANCE TRW-JV E JOHNSON #1	MONROE	30.0	TEXAS GAS TRANSMISSI
*ROY M TEEL				RECEIVED: 10/31/80 JAI LA			
8104392	AO-3639	1707321289	103	UNION PRODUCING #10	MONROE GAS ROCK FIELD	16.4	IMC PIPELINE CO INC
8104393	AO-3638	1707321287	103	UNION PRODUCING #8	MONROE GAS ROCK FIELD	16.4	IMC PIPELINE CO INC
8104391	AO-3640	1707321290	103	UNION PRODUCING CO #11	MONROE GAS ROCK FIELD	20.1	IMC PIPELINE CO INC
*O TEEL				RECEIVED: 10/31/80 JAI LA			
8104348	AO-3578	1707321030	108	SHD VAN #1	MONROE GAS ROCK	24.6	UNITED GAS PIPE LINE
*SAMSON RESOURCES COMPANY				RECEIVED: 10/31/80 JAI LA			
8104424	AO-3606	1701920808	102	NICKERSON FEE NO 1	GILLIS-ENGLISH BAYOU	250.0	UNITED GAS PIPELINE
8104426	AO-3604	1701920809	103	NICKERSON FEE NO 1	GILLIS-ENGLISH BAYOU	250.0	UNITED GAS PIPELINE
*SANCHEZ-O'BRIEN DRILLING PART 1978				RECEIVED: 10/31/80 JAI LA			
8104454	AO-3682	1700320162	103	G W JENKINS ESTATE NO 1	NORTH ELTON	0.0	TEXAS GAS TRANSMISSI
*SCOGIN EXPLORATION INC				RECEIVED: 10/31/80 JAI LA			
8104453	AO-3681	1701723360	103	BLATTERY NO 1	SHREVEPORT	214.0	
*SHELL OIL CO				RECEIVED: 10/31/80 JAI LA			
8104452	AO-3680	1770920223	103	EI 18 82 RA SU BL 1536 NO 30	EUGENE ISLAND BLOCK 18	4.4	TENNESSEE GAS PIPELI
8104425	AO-3605	1706920129	102	SHELL-CRYSTAL-EVANS ET AL NO 2	ROBELINE	1000.0	
8104377	AO-3604	1706920143	102	SHELL-CRYSTAL-G W DOOLITTLE #1	ROBELINE (PROPOSED)	1000.0	
8104343	AO-3567	1709920697	103	WLVE M4 RA SU W BURDIN #20	WEST LAKE VERRET	10.0	UNITED GAS PIPE LINE
*SIGNAL PETROLEUM				RECEIVED: 10/31/80 JAI LA			
8104369	AO-3595	1707322620	103	E COCKRELL JR ET AL #136	LAKE WASHINGTON	1100.0	SOUTHERN NATURAL GAS
*SOUTH LOUISIANA PRODUCTION CO INC				RECEIVED: 10/31/80 JAI LA			
8104353	AO-3577	1703320067	107	17600 TUSC RA SUE CRUMHOLT #1	IRENE	0.0	TRANSCONTINENTAL GAS
*SUN OIL COMPANY (DELAWARE)				RECEIVED: 10/31/80 JAI LA			
8104411	AO-3620	1700120800	103	E W FREELAND NO 3	EGAN	1277.5	TEXAS EASTERN TRANSM
8104421	AO-3609	1701120381	103	LUTCHER-MOORE LUMBER CO NO 12	BOOTS CREEK	40.0	TRUNKLINE GAS CO
*TEEL 79 A				RECEIVED: 10/31/80 JAI LA			
8104336	AO-3560	1707321241	103	MACHTRIEB #A8	MONROE GAS ROCK FIELD	6.9	IMC PIPELINE CO INC
*TENNECO OIL COMPANY				RECEIVED: 10/31/80 JAI LA			
8104429	AO-3687	1703121097	103	MOSS SUT SAMMIE RAILEY NO 1	LOGANSPORT	123.0	
8104438	AO-3666	1710922304	103	TENNECO FEE NO 7	EAST LAKE DECADE	1000.0	
*TEXACO INC				RECEIVED: 10/31/80 JAI LA			
8104451	AO-3679	1704520578	103	RIS 10000 A 8 RD SU 8/L 340 NO 191	RABBIT ISLAND	2555.0	KAISER ALUMINUM & CH
8104431	AO-3659	1770720074	103	8 L 340 MOUND POINT NO 69	MOUND POINT	0.0	TEXAS GAS TRANSMISSI
8104432	AO-3660	1770720075	103	8L 340 MOUND POINT NO 53	MOUND POINT	2752.0	NATURAL GAS PIPELINE
8104405	AO-3626	1770720096	103	8L 340 MOUND POINT NO 62	MOUND POINT	855.0	TEXAS GAS TRANSMISSI
8104408	AO-3623	1770720097	103	8L 340 MOUND POINT NO 76	MOUND POINT	2830.0	TEXAS GAS TRANSMISSI
*TEXAS OIL & GAS CORP				RECEIVED: 10/31/80 JAI LA			
8104428	AO-3656	1703121259	103	MOSS RA SU16 GRIFFITH C #2	BETHANY-LONGSTREET	700.0	ARKANSAS LOUISIANA G
8104357	AO-3582	1703121285	103	LEE E #1	BETHANY-LONGSTREET	200.0	ARKANSAS LOUISIANA G
*TEXOMA PRODUCTION CO				RECEIVED: 10/31/80 JAI LA			
8104456	AO-3684	1709920699	107	WILLIAMS H NO 1	WILDCAT	1775.0	
*TOCE OIL COMPANY INC				RECEIVED: 10/31/80 JAI LA			

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JD NO	JA DKT	API NO	SEC	D WELL NAME	FIELD NAME	PROD	PURCHASER
8104367	AO-3593	1704520625	103	HALL-BONSOULIN NO 1	FAUSSE POINTE FIELD	435.0	SOUTHERN NATURAL GAS
8104368	AO-3594	1707720211	103	LOTTIE LAND & DEVEL CO NO 2	LOTTIE FIELD	365.0	
-UNION OIL COMPANY OF CALIF				RECEIVED: 10/31/80 JA: LA			
8104413	AO-3618	1710922258	103	8700 RB SU F A J ELLENDER NO 1	HOUMA	1000.0	UNITED GAS PIPE LINE
-VIKING RESOURCES				RECEIVED: 10/31/80 JA: LA			
8104349	AO-3573	1711122561	103	OLIN NO 2	MONROE	16.0	PETROLENIS FUNDS INC
-WAGNER & BROWN				RECEIVED: 10/31/80 JA: LA			
8104446	AO-3674	1707720204	107	E W JEWELL NO 1	MOORE-SAMS	3500.0	
8104445	AO-3673	1707720226	107	J E JUMONVILLE SR NO 1	MOORE-SAMS	3500.0	
-WESTALL OIL & GAS CO				RECEIVED: 10/31/80 JA: LA			
8104416	AO-3615	1705120503	103	CIB OP 1 SUA 2914 SD SN 166234	W LAKE PONCHARTRAIN BLK	650.0	SHELL OIL CO

** U.S. GEn OGICAL SURVEY - ALBUQUERQUE,NM

JD NO	JA DKT	API NO	SEC	D WELL NAME	FIELD NAME	PROD	PURCHASER
-AMOCO PRODUCTION CO				RECEIVED: 11/03/80 JA: NM 4			
8104551	NM-1096-80	3004523346	103	A L ELLIOTT C #4	BASIN DAKOTA	34.0	EL PASO NATURAL GAS
8104549	NM-1094-80	3004524008	103	BRUINGTON GAS COM B #1E	BASIN DAKOTA	91.0	EL PASO NATURAL GAS
8104534	NM-1079-80	3004507567	108	DAY GAS COM NO 1	BLANCO - DAKOTA	21.0	SOUTHERN UNION GATHE
8104533	NM-1078-80	3004506985	108	FRED FEASEL B NO 1	FULCHER KUTZ-PICTURED CL	20.0	SOUTHERN UNION GATHE
8104550	NM 1095-80	3004523897	103	GALLEGOS CANYON UNIT #207E	BASIN DAKOTA	91.0	EL PASO NATURAL GAS
8104584	NM-1092-80	3004523898	103	GALLEGOS CANYON UNIT #208E	BASIN DAKOTA	91.0	EL PASO NATURAL GAS
8104532	NM-1077-80	3004520656	108	GALLEGOS CANYON UNIT NO 264	BASIN DAKOTA	14.0	EL PASO NATURAL GAS
8104582	NM-1153-80	3002526076	103	GILLULLY A FEDERAL #16	EUNICE MONUMENT (SGA)	5.1	PHILLIPS PETROLEUM C
8104531	NM-1076-80	3004508745	108	HOUCK GAS COM C NO 1 (2ND FILING)	BASIN-DAKOTA	13.0	EL PASO NATURAL GAS
8104530	NM-1075-80	3003920188	108	JICARILLA APACHE 102 NO 15	BLANCO-MESAVERDE	10.0	GAS COMPANY OF NEW M
8104529	NM-1074-80	3003905977	108	JICARILLA CONTRACT 148 NO 5	SOUTH BLANCO-PICTURED CL	20.0	NORTHWEST PIPELINE C
8104512	NM-1050-80	3003922090	103	JICARILLA CONTRACT 155 #12E	BASIN DAKOTA	91.0	NORTHWEST PIPELINE C
*8104514	NM-1052-80	3003922173	103	JICARILLA GAS COM 35 A #1E	BASIN DAKOTA	91.0	EL PASO NATURAL GAS
*8104513	NM-1051-80	3003922172	103	JICARILLA GAS COM 35 B #1E	BASIN DAKOTA	91.0	EL PASO NATURAL GAS
8104528	NM-1073-80	3004320035	108	JICARILLA TRIBAL 360 NO 2	BALLARD-PICTURED CLIFFS	5.0	EL PASO NATURAL GAS
8104563	NM-1117-80	3003905525	108	JICARILLA 35-A GAS COM NO 1	BASIN-DAKOTA	20.0	EL PASO NATURAL GAS
8104548	NM-1093-80	3004524007	103	MARSROW GAS COM #1E	BASIN DAKOTA	91.0	EL PASO NATURAL GAS
8104491	NM-0767-80	3002526008	103	NELLIS FEDERAL B GAS COM #1	BUFFALO PENN MORROW	133.8	GAS CO OF NEW MEXICO
8104525	NM-1067-80	3004510387	108	STANOLIND A NO 1 (2ND FILING)	BLANCO-MESAVERDE	18.0	EL PASO NATURAL GAS
-ARCO OIL AND GAS COMPANY				RECEIVED: 11/03/80 JA: NM 4			
8104566	NM-1124-80	3004524125	103	KRAUSE WN FEDERAL 6E	BASIN DAKOTA	118.0	NORTHWEST PIPELINE C
8104565	NM-1123-80	3004524277	103	SCHLOSSER WN FEDERAL 1E	BASIN DAKOTA	213.0	EL PASO NATURAL GAS
8104492	NM-0831-80	3004524120	103	SCHLOSSER WN FEDERAL 3E	BASIN DAKOTA	146.0	NORTHWEST PIPELINE C
8104567	NM-1125-80	3004524228	103	SCHLOSSER WN FEDERAL 7E	BASIN DAKOTA	205.0	NORTHWEST PIPELINE C
-BOLIN OIL COMPANY				RECEIVED: 11/03/80 JA: NM 4			
8104483	NM-5051-79B	3003922134	103	CANDADO #23A (BLANCO MV)	BLANCO MV	0.0	EL PASO NATURAL GAS
8104482	NM-5051-79A	3003922134	103	CANDADO #23A (OTERO CHACRA)	OTERO CHACRA	0.0	EL PASO NATURAL GAS
-CONOCO INC				RECEIVED: 11/03/80 JA: NM 4			
8104578	NM-1146-80	3003921982	103	AXI APACHE N NO 16A	AXI APACHE AREA	931.0	GAS CO OF NEW MEXICO
8104554	NM-1101-80	3002526412	103	MEYER B-31A NO 4	NEW MEXICO FEDERAL UNIT	15.0	PHILLIPS PETROLEUM C
8104494	NM 0934-80	3002526745	103	SEMU EUMONT NO 109	NEW MEXICO FEDERAL UNIT	114.0	EL PASO NATURAL GAS
8104555	NM-1102-80	3002526746	103	SEMU EUMONT NO 110	NEW MEXICO FEDERAL UNIT	118.0	WARREN PETROLEUM CO
8104556	NM-1103-80	3002526715	103	SEMU EUMONT NO 111	NEW MEXICO FEDERAL UNIT	97.0	WARREN PETROLEUM CO
8104493	NM 0933-80	3002526714	103	SEMU EUMONT NO 117	NEW MEXICO FEDERAL UNIT	154.0	EL PASO NATURAL GAS
8104558	NM-1104-80B	3002526204	103	WARREN UNIT NO 62 (BLINEBRY)	NEW MEXICO FEDERAL UNIT	21.5	WARREN PETROLEUM CO
8104557	NM-1104-80A	3002526204	103	WARREN UNIT NO 62 (TUBB)	NEW MEXICO FEDERAL UNIT	50.4	WARREN PETROLEUM CO
8104579	NM-1147-80	3002526762	103	WARREN UNIT NO 63	NEW MEXICO FEDERAL UNIT	4.0	WARREN PETROLEUM (C-

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JD NO	JA DKT	API NO	SEC	D WELL NAME	FIELD NAME	PROD	PURCHASER
-CONSOLIDATED OIL & GAS INC				RECEIVED: 11/03/80 JA: NM 4			
8104535	NM-1080-80	3004524148	103	SENTER 1-M (DAKOTA)	BASIN-DAKOTA	0.0	SOUTHERN UNION GATHE
8104536	NM-1081-80	3004524148	103	SENTER 1-M (MV)	BLANCO-MESAVERDE	0.0	SOUTHERN UNION GATHE
8104537	NM-1082-80	3004523874	103	SOUTHERN UNION 1-M	BASIN DAKOTA	0.0	SOUTHERN UNION GATHE
8104553	NM-1099-80	3004523874	103	SOUTHERN UNION 1-M	BLANCO-MESAVERDE	0.0	SOUTHERN UNION GATHE
-EL PASO EXPLORATION CO				RECEIVED: 11/03/80 JA: NM 4			
8104509	NM-1046-80	3003906725	108	JICARILLA 119 N #12	TAPACITO - PICTURED CLIF	20.0	NORTHWEST PIPELINE C
8104508	NM-1045-80	3003906226	108	JICARILLA 120 C #15	SOUTH BLANCO - PICTURED	21.0	NORTHWEST PIPELINE C
-EL PASO NATURAL GAS COMPANY				RECEIVED: 11/03/80 JA: NM 4			
8104542	NM-1087-80A	3004523861	103	ATLANTIC C #6A (MV)	BLANCO MESAVERDE	220.0	EL PASO NATURAL GAS
8104543	NM-1087-80B	3004523861	103	ATLANTIC C #6A (PC)	BLANCO PICTURED CLIFFS	70.0	EL PASO NATURAL GAS
*8104503	NM-1031-80	3004520531	108	HUERFANO UNIT #186	BASIN-DAKOTA GAS	18.0	EL PASO NATURAL GAS
8104504	NM-1032-80	3004521038	108	HUGHES #20	BLANCO-PICTURED CLIFFS G	21.0	EL PASO NATURAL GAS
8104506	NM1041-80	3003921218	108	JICARILLA C #12	BLANCO SOUTH - PICTURED	21.0	EL PASO NATURAL GAS
8104507	NM-1043-80	3003906416	108	JICARILLA J #4	SOUTH-BLANCO - PICTURED	20.0	EL PASO NATURAL GAS
8104505	NM-1035-80	3004507349	108	LACKEY B #16	BASIN - DAKOTA	15.0	EL PASO NATURAL GAS
8104583	NM-1088-80	3004523702	103	RUSSELL #4A	BLANCO MESAVERDE	220.0	EL PASO NATURAL GAS
8104544	NM-1089-80A	3003922122	103	SAN JUAN 27-4 UNIT #120 (MV)	BLANCO MESAVERDE	180.0	EL PASO NATURAL GAS
8104545	NM-1089-80B	3003922122	103	SAN JUAN 27-4 UNIT #120 (PC)	TAPACITO PICTURED CLIFFS	70.0	EL PASO NATURAL GAS
8104573	NM-1133-80B	3003921005	103	SAN JUAN 27-4 UNIT #132 (DAKOTA)	BASIN DAKOTA	70.0	EL PASO NATURAL GAS
8104572	NM-1133-80A	3003921005	103	SAN JUAN 27-4 UNIT #132 (MV)	BLANCO MESAVERDE	250.0	EL PASO NATURAL GAS
8104540	NM-1086-80A	3003921882	103	SAN JUAN 27-5 UNIT #21A (MV)	BLANCO MESAVERDE	150.0	EL PASO NATURAL GAS
8104541	NM-1086-80B	3003921882	103	SAN JUAN 27-5 UNIT #21A (PC)	TAPACITO PICTURED CLIFFS	50.0	EL PASO NATURAL GAS
*8104486	NM-0442-80	3003906888	108	SAN JUAN 27-5 UNIT #51 MV & PC	SOUTH BLANCO-PICTURED CL	19.8	EL PASO NATURAL GAS
8104570	NM-1132-80A	3003922299	103	SAN JUAN 28-6 UNIT #22A (MV)	BLANCO MESAVERDE	50.0	EL PASO NATURAL GAS
8104571	NM-1132-80B	3003922299	103	SAN JUAN 28-6 UNIT #22A (PC)	BLANCO SOUTH PICTURED CL	70.0	EL PASO NATURAL GAS
8104538	NM-1085-80A	3003922240	103	SAN JUAN 28-7 UNIT #32A (MV)	BLANCO MESAVERDE	200.0	EL PASO NATURAL GAS
8104539	NM-1085-80B	3003922240	103	SAN JUAN 28-7 UNIT #32A (PC)	BLANCO SOUTH PICTURED CL	50.0	EL PASO NATURAL GAS
8104546	NM-1090-80A	3003922209	103	SAN JUAN 28-7 UNIT #8A (MV)	BLANCO MESAVERDE	200.0	EL PASO NATURAL GAS
8104547	NM-1090-80B	3003922209	103	SAN JUAN 28-7 UNIT #8A (PC)	BLANCO PICTURED CLIFFS	50.0	EL PASO NATURAL GAS
8104481	NM-0006 80ER	3004521288	108	STOREY B #7	AZTEC PICTURED CLIFFS GA	20.8	EL PASO NATURAL GAS
8104502	NM 1029-80	3004507461	108	TAPP #2	BLANCO - MESAVERDE GAS	20.0	EL PASO NATURAL GAS
-GULF OIL CORPORATION				RECEIVED: 11/03/80 JA: NM 4			
8104526	NM-1070-80	3001522406	103	CARDENAS FEDERAL COM NO 1	NORTH BURTON FLAT MORROW	0.0	EL PASO NATURAL GAS
8104527	NM-1071-80	3002526699	103	FEDERAL COM 4 NO 1	NORTH LUSK MORROW	0.0	EL PASO NATURAL GAS
-H K KEESEE				RECEIVED: 11/03/80 JA: NM 4			
8104510	NM-1047-80	3004300000	108	CINCO DIABLOS #1	BALLARD PICTURED - CLIFF	4.0	EL PASO NATURAL GAS
8104511	NM-1048-80	3004300000	108	CINCO DIABLOS #11	BALLARD PICTURED CLIFFS	12.0	EL PASO NATURAL GAS
-HANSON OIL CORPORATION				RECEIVED: 11/03/80 JA: NM 4			
8104552	NM-1098-80	3001523073	103	GINSBERG FEDERAL NO 15	SHUGART NE NE SEC 35-T18	10.2	PHILLIPS PETROLEUM C
-HNG OIL COMPANY				RECEIVED: 11/03/80 JA: NM 4			
8104562	NM-1110-80	3002526133	102	WILSON 21 FEDERAL #3 NM23199	COMANCHE STATELINE TANSI	80.0	EL PASO NATURAL GAS
8104561	NM-1109-80	3002526134	102	WILSON 21 FEDERAL #4 NM 23199	COMANCHE STATELINE TANSI	46.0	EL PASO NATURAL GAS
-HOLLY ENERGY INC				RECEIVED: 11/03/80 JA: NM 4			
8104501	NM-0981-80	3001523069	103	CANADIAN KENWOOD FED NO 1	UNDES NORTH SHUGART MORR	700.0	NORTHERN NATURAL GAS
-HUSKY OIL COMPANY				RECEIVED: 11/03/80 JA: NM 4			
8104498	NM-0959-80	3004524401	103	BOLACK D #3-E	BASIN DAKOTA	104.0	EL PASO NATURAL GAS
8104499	NM-0960-80	3004524238	103	SCHWERDTFEGER D #3-E	BASIN DAKOTA	104.0	EL PASO NATURAL GAS
-J GREGORY MERRION&ROBERT L BAYLESS				RECEIVED: 11/03/80 JA: NM 4			
8104580	NM-1148-80	3003922021	103	EAST LINDRITH #1	SO BLANCO PIC CLIFFS	24.0	NORTHWEST PIPELINE C
8104581	NM-1149-80	3003922023	103	EAST LINDRITH #3	SO BLANCO PIC CLIFFS	30.0	NORTHWEST PIPELINE C
-KEN BLACKFORD				RECEIVED: 11/03/80 JA: NM 4			
8104485	NM-0153-80	3003921737	108	37-B #1-R LN-09-000037-B(TR 82)	BALLARD PICTURED CLIFFS	6.0	EL PASO NATURAL GAS

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JD NO	JA UNI	API NO	SEL ID	WELL NAME	FIELD NAME	PROD	PURCHASER
*MARATHON OIL COMPANY							
0104569	NM-1128-80	3001523165	103	RECEIVED: 11/03/80 JA	BLANCO MV/GALLUP PC	15.3	NORTHWEST PIPELINE C
*SHEBA PETROLEUM				MARTINEZ FEDERAL 31 #1	WEST LINDRITH GALLUP	11.0	NORTHWEST PIPELINE C
0104500	NM0977-80	3003902211	103	RECEIVED: 11/03/80 JA	TU BE DESIGNATED (NONE S	73.0	
				SOUTH BLANCO FEDERAL 1-6	LYBROOK	30.0	GAS CO OF NEW MEXICO
*MOBIL PROD TEXAS & NEW MEXICO INC				RECEIVED: 11/03/80 JA	BLANCO MV/GALLUP PC	15.3	NORTHWEST PIPELINE C
0104574	NM-1135-80	3003906492	108	JICARILLA D NO 2	WEST LINDRITH GALLUP	11.0	NORTHWEST PIPELINE C
0104496	NM-0950-80	3003922329	103	JILLSON FEDERAL NO 4			
*PIONEER PRODUCTION CORPORATION				RECEIVED: 11/03/80 JA	BASIN DAKOTA	67.7	PIONEER NATURAL GAS
*0104469	NM-0458-80	3004506470	103	COOPER #1E	BASIN DAKOTA	67.7	PIONEER NATURAL GAS
*0104487	NM 456-80	3004506094	103	MAKEY #1E	BASIN DAKOTA	67.7	PIONEER NATURAL GAS
*0104488	NM 0457-80	3004507504	103	PHILLIPS #1E	BASIN DAKOTA	67.7	PIONEER NATURAL GAS
*0104489	NM 459-80	3004506220	103	REID #1E			
*R & G DRILLING CO C/O WALSH ENG				RECEIVED: 11/03/80 JA	KUTZ FARMINGTON	2.0	EL PASO NATURAL GAS
0104484	NM-0030-80	3004523190	108	KRAUSE NO 1-A			
*READING & BATES PETROLEUM CO				#17-1 FEDERAL	CHACON-DAKOTA ASSOCIATED	30.0	EL PASO NATURAL GAS
0104497	NM-0958-80	3003905469	103	RECEIVED: 11/03/80 JA			
*SOUTHLAND ROYALTY CO				ARIZONA JICARILLA #1	SOUTH BLANCO PICTURED CL	15.0	GAS CO OF NEW MEXICO
0104575	NM-1141-80	3003921038	108	EMPIRE FEDERAL 4 COM #1		75.0	NORTHERN NATURAL GAS
0104520	NM-1042-80	3001523266	103	EMPIRE FEDERAL 34 COM #1		80.0	NORTHERN NATURAL GAS
0104519	NM-1041-80	3001523290	103	GRENIER A #7	AZTEC PICTURED CLIFFS	10.6	SOUTHERN UNION GATHE
0104576	NM-1142-80	3004522704	108	MANK #8	SOUTH BLANCO PICTURED CL	0.0	SOUTHERN UNION GATHE
0104577	NM 1143-80	3004500000	108	RICHARDSON #9E (DAKOTA)	BASIN	70.0	SOUTHERN UNION GATHE
0104521	NM-1001-80A	3004524147	103	RICHARDSON #9E (FRUITLAND)		60.0	SOUTHERN UNION GATHE
0104522	NM 1001-80B	3004524147	103	WHITLEY #7		12.0	SOUTHERN UNION GATHE
0104504	NM-1110-80	3004526440	108	RECEIVED: 11/03/80 JA	BASIN		
*SUN OIL COMPANY (DELAWARE)				MARY DUDD A NO 22	GRAYBURG JACKSON QUEEN-G	1.0	PHILLIPS PETROLEUM C
0104495	NM-0940-80	3001500000	108	RECEIVED: 11/03/80 JA			
*TENNECO OIL COMPANY				FLORANCE #17	BLANCO PICTURED CLIFFS	0.0	EL PASO NATURAL GAS
0104516	NM-1057-80	3004511196	108	FLORANCE #8	BLANCO PICTURED CLIFFS	0.0	EL PASO NATURAL GAS
0104515	NM 1056-80	3004511367	108	MICHENER #1	BASIN DAKOTA	0.0	NORTHWEST PIPELINE C
0104518	NM-1060-80	3004511679	108	MOORE #7	BASIN DAKOTA	0.0	EL PASO NATURAL GAS
0104523	NM-1064-80	3004520065	108	MOORE COM #1	BASIN DAKOTA	0.0	NORTHWEST PIPELINE C
0104517	NM-1058-80	3004511826	108	RIDDLE #7	BLANCO PICTURED CLIFFS	0.0	EL PASO NATURAL GAS
0104524	NM-1065-80	3004511700	108	RECEIVED: 11/03/80 JA			
*YATES PETROLEUM CORPORATION				ALLISON CO FEDERAL NU 5	BOYD MURROH	0.0	TRANSWESTERN PIPELIN
0104559	NM-1105-80	3001523145	103	ALLISON CU FEDERAL NU 6	UNDESIGNATED YESO	0.0	TRANSWESTERN PIPELIN
0104560	NM 1106-80	3001523211	103	TECKLA MD FEDERAL NO 2	WILDCAT	0.0	TRANSWESTERN PIPELIN
0104568	NM-1127-80	3000560681	102				

OTHER PURCHASERS VOLUME NO 1310

0104478	TEXAS EASTERN TRANSMISSION CORP		
0104486	NORTHWEST P L CORP		
0104487	EL PASO NATURAL GAS CO		
0104488	EL PASO NATURAL GAS CO		
0104489	EL PASO NATURAL GAS CO		
0104490	NORTHWEST P L CORP		
0104503	NORTHWEST P L CORP		
0104513	NORTHWEST P L CORP		
0104512	NORTHWEST P L CORP		

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceeding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the commission within fifteen (15) days after the date of publication of this notice in the **Federal Register.**

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38617 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-86-000]

Alabama Power Co.; Notice of Filing

November 18, 1980.

Take notice that on October 30, 1980, Alabama Power Company (Alabama) tendered for filing a revised Informational Schedule to the Transmission Service Agreement (Agreement) dated August 11, 1980 between Alabama and Tennessee Valley Authority (TVA). The revised Informational Schedule shows revised charges for transmission service under Section 3.2 of the Agreement, which result from operation of the formulary rate contained in Exhibit A of the subject Agreement.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before December 3, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38635 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-319-002]

Consolidated Gas Supply Corp.; Petition To Amend

November 18, 1980.

Take notice that on October 31, 1980, Consolidated Gas Supply Corporation (Petitioner), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP79-319-002 a petition to amend the order issued November 21, 1979, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an additional alternate delivery point for the sale of natural gas to Texas Gas Transmission Corporation (Texas Gas), all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

Petitioner states that on November 21, 1979, it was authorized to initiate a limited term sale of up to 100,000 dekatherms (dt) equivalent per day of surplus natural gas to Texas Gas which gas was to be delivered to Texas Gas at the northern terminus of Blue Water facilities near Egan, Louisiana, and at the northern terminus of High Island Offshore System (HIOS) at West Cameron Block 167, offshore Louisiana. Additionally, Petitioner states that its agreement with Texas Gas provided for an alternate point of delivery at the northern terminus of U-T Offshore System near Cameron Meadows in Cameron Parish, Louisiana, which would be used in the event that Texas Gas could not accept up to 40,000 dt equivalent per day tendered at the HIOS delivery point.

Petitioner asserts that due to capacity limitations Texas Gas has been unable to accept the full quantities of natural gas tendered by Petitioner at West Cameron Block 167 or at the alternate point of delivery at Cameron Meadows.

Petitioner further asserts that in order to cope with this delivery problem, it and Texas Gas by agreement dated May 15, 1980, amended their May 17, 1979, sales agreement to provide for an additional point of delivery at the existing interconnection between Transcontinental Gas Pipe Line Corporation's Southwest Louisiana lateral and its main line located in Calcasieu Parish, Louisiana.

Accordingly, Petitioner requests the Commission to amend the November 21, 1979, order so as to include the above mentioned additional delivery point.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38636 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER76-716]

Indiana and Michigan Electric Co.; Notice of Filing

November 18, 1980.

The filing company submits the following:

Take notice that on November 3, 1980, the Indiana and Michigan Electric Company submitted for filing a revised cost of service and revised rates pursuant to Commission Opinion No. 79.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before December 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file

with the Commission and are available for public inspection.

with the Commission and are available for public inspection.

increasing difficulty in meeting this requirement, the proposed additional

in accordance with the Commission's Rule.

extended loop pipeline from encroaching upon population centers

per day assigned to Texas Eastern by the Mid Louisiana Gas Company. It is

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36825 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-111-000]

Kansas City Power & Light Co.; Notice of Filing

November 18, 1980.

The filing Company submits the following:

Take notice that on November 10, 1980, Kansas City Power & Light Company (KCPL) tendered for filing a Municipal Wholesale Firm Power Contract, dated October 21, 1980, between KCPL and the City of Higginsville, Missouri. The Contract terminates the Municipal Wholesale Firm Power Contract dated January 28, 1975, as supplemented May 3, 1976, KCPL's Rate Schedule FERC No. 72, and provides for rates and charges for wholesale firm power service by KCPL to the City of Higginsville. KCPL requests an effective date of November 1, 1980, for this filing.

KCPL also tendered for filing Service Schedule MWFP-2 for Wholesale Firm Power Service (Municipal Utilities) under the Municipal Wholesale Firm Power Contract, dated October 21, 1980. This Service Schedule updates the rate for Wholesale Firm Power Service to the level accepted for filing by the Commission in Docket No. ER80-450. KCPL requests the same effective date as ordered by the Commission for rates for similar service in Docket No. ER80-450, presently January 6, 1981, subject to refund.

KCPL states that the proposed rates are KCPL's rates and charges for similar service under schedules previously submitted by KCPL to the Federal Energy Regulatory Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before December 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36825 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP75-27-001]

Kansas-Nebraska Natural Gas Co., Inc.; Petition To Amend

November 18, 1980.

Take notice that on October 27, 1980, Kansas-Nebraska Natural Gas Company, Inc. (Petitioner), P.O. Box 608, Hastings, Nebraska 68901, filed in Docket No. CP75-27-001 a petition to amend the order issued September 26, 1975 [1], in Docket Nos. CP75-1, *et al.* (CP75-27) pursuant to Section 7(c) of the Natural Gas Act so as to authroize the expansion of the area of interest; the addition of a new new balancing point; and the filing on an annual basis of additions or deletions of delivery points and/or balancing points under a gas exchange agreement dated June 17, 1974, among El Paso Natural Gas Company (El Paso), Panhandle Eastern Pipe Line Company (Panhandle) and Petitioner, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that on September 26, 1975, it was authorized to exchange gas with El Paso in specified portions of Roger Mills County, Oklahoma, and Hemphill and Wheeler Counties, Texas, in accordance with a gas exchange agreement dated June 17, 1974. It is stated that Petitioner was also authorized to establish additional delivery points from time to time.

Petitioner proposes to add an additional balancing point in Roger Mills County, Oklahoma, to expand the area of interest covered by the gas exchange agreement, to request blanket authority to delete delivery points and to add and delete balancing points from time to time, and to file an annual tariff filing showing the addition or deletion of delivery points or balancing points. The area of interest would be expanded to include all of Roger Mills County, Oklahoma, and Hemphill and Wheeler Counties, Texas, rather than specified portions thereof, it is asserted.

Petitioner states that under the September 26, 1975, order, the parties are to correct any imbalance within 30 days. However, it is asserted that because the parties have experienced increasing difficulty in meeting this requirement, the proposed additional balance point was added. It is further asserted that inasmuch as the gathering systems of both El Paso and Petitioner are already connected to the well, no additional facilities would be required.

It is further stated that the September 26, 1975, order limits the scope of the exchange of natural gas to the specified geographical areas of interest although recently Petitioner asserts that it has been advised by El Paso that El Paso has obtained the right to purchase gas from a well, the Black Kettle #1A, located outside of the area of interest. Accordingly, in order that the Black Kettle #1A as well as other wells located in Roger Mills County, Oklahoma, or Hemphill or Wheeler Counties, Texas, in which the parties may obtain an interest but which are located outside the parameters of the current area of interest would be included, Petitioner proposes to expand the area of interest.

Petitioner asserts that since commencement of the stated exchange agreement, numerous new delivery points have been added, thus necessitating the filing of numerous tariff changes. To facilitate the expeditious addition of new delivery points, it has proposed herein to file with the Commission on or before January 31 of each year pursuant to Part 154 of the Commission's Regulations a tariff filing showing the addition or deletion of delivery points under the agreement.

Petitioner further requests blanket authorization to add and delete such balancing points as may be required to keep the volumes of exchange gas in balance during the term of the arrangement and to file such additions and deletions with its annual tariff filing.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rule.

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36838 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP79-498-001]

Michigan Wisconsin Pipe Line Co.; Petition To Amend

November 18, 1980.

Take notice that on October 28, 1980, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP79-498-001 a petition to amend the order issued August 22, 1980, in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize the construction and operation of 14.2 miles of pipeline loop in Michigan in lieu of 9.4 miles of pipeline looping, all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

Petitioner states that on August 22, 1980, it was authorized, *inter alia,* to install two segments of 42-inch O.D. pipeline loop with appurtenances located in Van Buren and Ottawa Counties, Michigan, between its Bridgman and W. G. Woolfolk Compressor Stations. This pipeline loop was estimated to cost $10,239,510, it is said.

Petitioner asserts that it has further refined its enginering and environmental studies of the 5.8-mile segment of pipeline loop originally proposed and has determined that it would be preferable to substitute a single 14.2-mile pipeline loop segment of 42-inch O.D. pipe in Ottawa and Kent Counties, Michigan, for the two pipeline loops aggregating 9.4 miles in length which were authorized.

The revised proposal provides that the southern segment of loop in Van Buren County of 3.6 miles would be eliminated and that the northern segment of loop would start 2.3 miles north of its proposed southern terminus, and then, proceeding in a northerly direction, would be routed westerly approximately one mile to allow for avoidance of populated areas adjacent to the existing pipeline north of there. The pipeline loop would then be extended northerly and then easterly to reconnect with pipelines running between the Hamilton and Woolfolk Compressor Stations, it is asserted.

Petitioner submits that this rerouting and extension of the pipeline loop would remove the central portion of the extended loop pipeline from encroaching upon population centers adjacent to existing pipeline while still allowing the loop pipeline to follow an existing electric transmission line right-of-way for five miles.

Petitioner states that the rerouted facilities proposed herein are estimated to cost $17,471,390 which costs would be financed with treasury funds, retained earnings, and other funds generated internally, together with borrowings from banks under short-term lines of credit as may be required. It anticipates that any bank borrowings would subsequently be permanently financed as market conditions permit.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36840 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-34-000]

Michigan Wisconsin Pipe Line Co.; Application

November 18, 1980.

Take notice that on October 27, 1980, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP81-34-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of gas for the account of Texas Eastern Transmission Corporation (Texas Eastern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a fifteen-year transportation agreement dated July 10, 1980, between Texas Eastern and Applicant, Applicant proposes to transport up to 5,000 Mcf of natural gas per day assigned to Texas Eastern by the Mid Louisiana Gas Company. It is asserted that Applicant would receive the subject gas at the production platform in West Cameron Area Block 281, offshore Louisiana, and would transport it to an undersea valve in Texas Eastern's facilities in Block 280, West Cameron Area, offshore Louisiana.

The stated agreement would commence upon the date of initial delivery. Texas Eastern, it is asserted, would pay Applicant $1.85 per month for each Mcf of contract demand transported.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36841 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

V 45 N 0 25 80 0 UMI

[Docket No. CP81-35-000]

Montana-Dakota Utilities Co.; Application

November 18, 1980

Take notice that on October 27, 1980, Montana-Dakota Utilities Co. (Applicant), 400 North Fourth Street, Bismarck, North Dakota 58501, filed in Docket No. CP81-35-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities on its interstate gas transmission system to implement a change in Applicant's curtailment plan in its FERC Gas Tariff, First Revised Volume No. 1, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant proposes to amend the curtailment plan in its FERC Gas Tariff, First Revised Volume No. 1, which was approved by the Commission in Docket No. RP76-92 so as to provide for a new delivery point to serve its electric department's Glendive, Montana, combustion turbine station. Applicant also proposes herein to construct and operate a tap on its transmission main and meter and regulator facilities in order to deliver gas to its electric department's Glendive, Montana, combustion turbine station. Applicant asserts that the gas would be used as fuel for the turbine generator and would be used solely for peaking and emergency purposes. Applicant further asserts that such gas is needed to provide a reliable fuel supply at this relatively small facility which has had difficulty in obtaining a firm contract for fuel oil to operate this station. It is submitted that fuel oil which has been obtained in the Glendive area is expensive and that the availability of natural gas to supplement the use of oil at this station would result in substantial savings to Applicant's electric customers.

Applicant asserts it would assign up to 200,000 Mcf of natural gas to the Glendive turbine from present entitlements. Applicant states that it has announced in a letter dated September 22, 1980, that its Priority 4 users would no longer be curtailed although the restriction on the other priorities would continue. Applicant's curtailment plan is set forth in FERC Gas Tariff, First Revised Volume No. 1 which contains a restriction on growth in Section 2.10 as shown in First Revised Sheet No. 55A, it is said. It is further asserted that such a restriction on growth would preclude establishment of a new delivery point which is deemed necessary to provide gas to Applicant's Glendive combustion turbine station. Accordingly, Applicant proposes the addition of this station in the Index of Requirements on Sheet No. 101 and also proposes to reduce the Miles City Power Plant allocation of Priority 4 gas from 421,453 Mcf to 221,453 Mcf and assign the difference of 200,000 Mcf to the Glendive combustion turbine as Priority 4. This change, Applicant submits, would make additional volumes of gas available to its electric department, and would serve to allow more efficient and economical use of the total volume of gas available. Applicant further submits that its electric department presently utilizes grouping as allowed in the tariff and that the approval of the change requested would only serve to add an additional delivery point for the present allocation of gas. There would be no net effect on Applicant's curtailment plan since no additional volumes would be made available, it is said.

The total estimated cost to construct the delivery facilities proposed herein is $40,200 which cost would be financed through internally generated funds and/or interim short-term bank loans, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 9, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36842 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-39-000]

Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.; Application

November 18, 1980.

Take notice that on October 31, 1980, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, and Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81-39-000, a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation and sales agreement dated October 24, 1980, between Applicants and Northern, Applicants would transport, less 1 percent fuel and losses, up to 13,600 Mcf of natural gas per day purchased by Northern from East Cameron Block 104, offshore Louisiana. Trunkline, it is asserted, would receive the gas in Jefferson Davis Parish, Louisiana, and deliver the gas at its Longville Compressor Station in Beauregard Parish, Louisiana. It is stated that Trunkline has authorization to deliver gas to Panhandle for the account of Northern at an interconnection in Douglas County, Illinois. Further it is stated, Panhandle has authorization to deliver gas to Northern in Kiowa County, Kansas.

It is stated that Northern would have an option to reduce the transportation quantity in the sixth and subsequent years to no less than 50 percent of the initial volume. It is further asserted that Northern has agreed to sell to Panhandle up to 20 percent of the subject gas which Trunkline proposes to transport. It is stated that the purchase price for such gas would be Northern's actual weighted average purchase price per Mcf for the respective month, or if applicable Northern Exploration and Production Division's unit modified cost of service reflected in the cost of service underlying Northern's then effective jurisdictional sales rate plus associated transportation charges plus associated cost of service charges applicable to facilities Northern installs or causes to be installed to provide service to effect deliveries.

Northern would pay Panhandle $2,176 per month for 10,880 Mcf of natural gas per day subject to a 67.0-cent upward or downward adjustment per Mcf for any deficiency or excess in quantities of gas taken. Panhandle, it is stated, would pay Trunkline for its *pro rata* share of the transportation service from the amounts paid by Northern.

Northern, pursuant to a prior transportation agreement, has agreed to sell to Panhandle 20 percent of the subject gas, which Trunkline proposes to transport. Pursuant to a transportation agreement dated October 20, 1980, it is stated that Trunkline would transport, less 5 percent fuel and losses, Panhandle's gas from Trunkline's compressor station in Longville, Louisiana, to Panhandle's facilities in Douglas County, Illinois.

Panhandle, it is stated, would pay Trunkline $18,598 per month for 2,720 Mcf of natural gas transported per day subject to a 22.90-cent adjustment for more or less than stated daily quantity. Applicants state Trunkline would retain 5.0 percent of Panhandle's gas as reimbursement for fuel and line losses.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36843 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-107-000]

Southern California Edison Co.; Notice of Filing

November 18, 1980.

The filing company submits the following:

Take notice that on November 10, 1980, pursuant to FERC Order Nos. 84, 48-A-B and a Notice of Extension of Time granted August 26, 1980 in Docket No. RM79-29, Southern California Edison Company (Edison) filed the following documents:

1. Amendment No. 1 to the California Power Pool Agreement, Rate Schedule FERC No. 24.
2. Amendment No. 2 to the Pasadena-Edison 230 kV Interchange Agreement, Rate Schedule FERC No. 55.
3. Amendment No. 1 to the Six-Party Economy Energy Agreement, Rate Schedule FERC No. 61.
4. Amendment No. 1 to the Edison-Nevada Economy Energy Agreement, Rate Schedule FERC No. 64.
5. Amendment No. 1 to the City-Edison Excess Energy Sale Agreement, Rate Schedule FERC No. 71.
6. Amendment No. 1 to the Edison-Sierra Pacific Emergency Service Agreement, Rate Schedule FERC No. 75.
7. Amendment No. 1 to the Edison-Utah Economy Energy Agreement, Rate Schedule FERC No. 96.

Edison states that the limiting language of these amendments is intended to comply with FERC Order No. 84. The amendments to rate schedules FERC Nos. 55, 64 and 96 are tendered in fully executed form, while the remaining rate schedules are tendered unilaterally.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36844 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-101-000]

Idaho Power Co; Filing

November 18, 1980.

The filing Company submits the following:

Take notice that on November 7, 1980, the Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during September, 1980, along with cost justification for the rate charged.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36818 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-105-000]

Any person desiring to be heard or to protest said filing should file a protest

1.8, 1.10). All such petitions or protests should be filed on or before December 5,

intervene. Copies of this application are on file with the Commission and are

[Docket No. ER81-104-000]

November 1, 1980, Through April 30, 1981.

[Docket No. ER81-105-000]

Indiana & Michigan Electric Co.; Proposed Tariff Change

November 18, 1980.

The filing Company submits the following:

Take notice that Indiana & Michigan Electric Company on November 10, 1980, tendered for filing proposed changes in its FERC Electric Tariff MRS and its FERC Electric Tariff WS, applicable to service to municipal resale customers. The proposed changes would increase revenues from jurisdictional sales and service by approximately $209,635, based on the 12-month period ending December 31, 1979. Indiana & Michigan Electric Company proposes that the rates and charges and terms and conditions of service revised by this filing become effective November 1, 1980.

Copies of the filing were served upon each affected customer, the Public Service Commission of Indiana and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38626 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-5]

Minnesota Power & Light Co.; Filing

November 18, 1980.

The filing company submits the following:

Take notice that on November 7, 1980, Minnesota Power & Light Company submitted for filing certain revised rate schedules and a revised billing comparison pursuant to the decision of the Presiding Judge, issued October 14, 1980, in the above referenced proceeding.

A copy of this filing has been sent to the parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38627 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-108-000]

Monongahela Power Co.; Proposed Tariff Change

November 18, 1980.

The filing Company submits the following:

Take notice that Monongahela Power Company, on November 10, 1980, tendered for filing a Supplement to its FERC Electric Tariff, Original Volume No. 1 consisting of an Electric Service Agreement with the Preston Electric Company and one appendix thereto. The Agreement supersedes a previous Agreement between Monongahela Power Company and the Preston Electric Company. The proposed change would increase revenues from jurisdictional sales and service by $382,016.42 based on the twelve month period ended October 31, 1980. Monongahela Power Company has requested that the Agreement become effective January 7, 1981 in order that the date of the Agreement and the termination of the previous Agreement coincide. The proposed changes will have no effect upon purchases under other rate schedules.

The reason for the proposed change is to place Preston Electric on the same rate schedule as Monongahela Power Company's other wholesale for resale customers.

A copy of the filing has been served upon Preston Electric Company and upon the West Virginia Public Service Commission by Monongahela Power Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38628 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-114-000]

The Montana Power Co.; Filing

November 18, 1980.

The filing Company submits the following:

Take notice that the Montana Power Company ("Montana") on November 13, 1980, tendered for filing in accordance with Section 35 of the Commission's regulations, Letter Agreements with Portland General Electric Company ("Portland"). Montana states that these Letter Agreements provide for the sale of firm energy between Montana and Portland.

Montana indicates that the proposed Letter Agreements increased revenues from jurisdictional sales by $1,362,027.24, based upon energy delivered from August 4, 1980, through August 31, 1980. Montana states that the rate for firm energy under these Letter Agreements was negotiated.

An effective date of August 4, 1980, is proposed and waiver of the Commission's requirements is therefore requested.

Montana also tendered for filing a Notice of Cancellation of Rate Schedule and all its supplements, an agreement for the sale of firm energy between Montana and Portland General Electric Company ("Portland"). Montana states that the agreement has expired as of its own terms and has not been renewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38629 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-104-000]

Montaup Electric Co.; Filing

November 18, 1980.

The filing Company submits the following:

Take notice that on November 7, 1980, Montaup Electric Company tendered for filing two "Exhibit A's" to a service agreement under which the Company provides tariff transmission service to the Taunton, Massachusetts, Municipal Lighting Plant. One provides for transmission of power from the Brayton Point No. 4 unit of New England Power Company for the period October 25, 1980, through October 31, 1980. The other provides for transmission of power from Boston Edison Company's new Boston Station for Various days in the first half of November 1980. The revenues from the transmission service under both Exhibit A's are estimated to be $7,898.

The Company requests waiver of the 60-day notice requirement so that the Exhibit A's may become effective on the specified dates.

Copies of the filing have been served on the Taunton, Massachusetts, Municipal Lighting Plant.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38621 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-116-000]

Montana Power Co.; Filing

November 18, 1980.

The filing Company submits the following:

Take notice that the Montana Power Company (Montana) on November 13, 1980, tendered for filing in accordance with Section 35 of the Commission's regulations, a Letter Agreement with the City of Pasadena (Pasadena). Montana states that this Letter Agreement provides for the sale of firm energy between Montana and Pasadena.

Montana indicates that the proposed Letter Agreement increased revenues from jurisdictional sales by $455,286.94, based upon energy delivered from July 12, 1980 through August 31, 1980. Montana states that the rate for firm energy under this Letter Agreement was negotiated.

Montana also tendered for filing a Notice of Cancellation of Schedule and all its supplement, an agreement for the sale of firm energy between Montana and the City of Pasadena ("Pasadena"). Montana states that the agreement has expired as of its own terms and has not been renewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38629 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-102-000]

Montaup Electric Co.; Filing

November 18, 1980.

The filing Company submits the following:

Take notice that on November 7, 1980, Montaup Electric Company tendered for filing an Exhibit A to the Company's transmission service agreement with the Town of Templeton, Massachusetts. It provides for transmission of power from Somerset Unit No. 6 for the period November 1, 1980, Through April 30, 1981.

The Company requests waiver of the 60-day notice requirement so that the Exhibit A may become effective on November 1, 1980. The revenues from the transaction are projected to be $1,877.

Copies of the filing have been served on the Town of Templeton, Massachusetts.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.18 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38622 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-103-000]

Montaup Electric Co.; Filing

November 18, 1980.

The filing Company submits the following:

Take notice that on November 7, 1980, Montaup Electric Company tendered for filing an Exhibit A to the Company's transmission service agreement with the Town of Mansfield, Massachusetts. It provides for transmission of power from Somerset Unit No. 6 for the period November 1, 1980, through April 30, 1981.

The Company requests waiver of the 60-day notice requirement so that the Exhibit A may become effective on November 1, 1980. The revenues from the transaction are projected to be $1,120.

Copies of the filing have been served on the Town of Mansfield, Massachusetts.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, in accordance with §§ 1.18 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such

petitions or protests should be filed on or before December 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36623 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER76-304, et al.]

New England Power Co.; Filing

November 18, 1980.

The filing company submits the following:

Take notice that on November 13, 1980, New England Power Company submitted for filing a refund compliance report pursuant to the order issued in the above-referenced proceeding.

A copy of this filing has been sent to the parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before December 9, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36630 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-110-000]

New York State Electric & Gas Corp.; Filing

November 18, 1980.

The filing Company submits the Following:

Take notice that New York State Electric & Gas Corporation (NYSEG), on November 10, 1980, tendered for filing, pursuant to Section 35.12 of the Regulations under the Federal Power Act, as a rate schedule, an agreement with the Connecticut Light and Power Company. The agreement provides that NYSEG shall sell base load electric energy on an interruptible basis to Connecticut Light and Power Company. Service under this agreement commenced on October 8, 1980 and is to continue until terminated by either party upon not less than 30 days prior written notice.

NYSEG has filed a copy of this filing with the Connecticut Light and Power Company and with the Public Service Commission of the State of New York.

NYSEG requests that the 60-day filing requirement be waived and that October 1, 1980 be allowed as the effective date of the filing.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36631 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-109-000]

Ohio Power Co.; Filing

November 18, 1980.

The Filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on behalf of its affiliate, Ohio Power Company (Ohio Power) tendered for filing on November 10, 1980 a change of rate schedule, Modification No. 15 to the Operating Agreement between Ohio Power Company and The Cleveland Electric Illuminating Company (CEI). This Modification provides for the sale of System Unit Power by Ohio Power and the purchase by CEI of electric power and electric energy associated therewith for the contract period and in the demand quantities as follows:

January 1, 1981—December 31, 1981—400,000 KW.

Applicant has requested the Commission to accept the Modification for filing on or before January 1, 1981 as it intends to commence the sale of System Unit Power to CEI as of that date.

The proposed change provides for extension of the duration of System Unit Power sales to CEI. The proposed billing rates of Service Schedule H—System Unit Power have not been changed and are the same as the rates originally accepted for filing by FERC on September 11, 1980 in Docket No. ER80-621.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure on or before December 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36632 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-73-000]

Southern Company Services, Inc.; Filing

November 18, 1980.

Take notice that on October 30, 1980, Southern Company Services, Inc. (Southern Company) tendered for filing revised Informational Schedule E to Service Schedule E of an Interchange Contract dated December 15, 1968 between Florida Power Corporation (FPC) and the Operating Companies. The revised Information Schedule E shows revised charges for the long-term power sale to FPC and results from operation of the formulary rate contained in Service Schedule E of the Interchange Contract.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 3, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36624 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-106-000]

St. Joseph Light & Power Co.; Filing

November 18, 1980.

The filing company submits the following:

Take notice that St. Joseph Light & Power Company (St. Joseph) on November 10, 1980, tendered for filing Amendments to Interconnection Agreements between St. Joseph and the following companies: Associated Electric Cooperative, Incorporated, FERC Rate Schedule No. 13, Iowa Power and Light Company, FERC Rate Schedule No. 12, Northern States Power Company, Interstate Power Company, Iowa Public Service Company, Omaha Public Power District, Kansas City Power and Light Company, FERC Rate Schedule No. 11.

Said Amendments have been filed to comply with Order No. 84 of the Federal Energy Regulatory Commission in Docket No. RM79-29 which requires revenue limits to be placed on the operation of percentage adders in rate schedules used for the transmission or third party resale of electric power.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before December 5, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36619 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST81-27-000]

Tejas Gas Corp.; Application for Approval of Rates

November 18, 1980.

Take notice that on October 27, 1980, Tejas Gas Corp. (Applicant), P.O. Box 2806, Corpus Christi, Texas 78401, filed in Docket No. ST81-27-000 an application pursuant to Section 284.123(b)(2) of the Commission's Regulations for approval of rates to be charged for transporting certain natural gas for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it and Northern have entered into an agreement dated August 28, 1980, Whereby Applicant is to provide certain gas transportation services for Northern through existing facilities owned by Applicant and located in Irion, Tom Green and Sterling Counties, Texas (Irion County Pipeline). It is further stated that such transportation service would be performed pursuant to the provisions of Section 311(a) of the Natural Gas Policy Act of 1978 and a gas exchange agreement among Valero Transmission Company, Texas Utilities Fuel Company, Northern and Applicant. The gas to be transported by Applicant would be redelivered to Northern at a point on Northern's existing interstate pipeline system and such gas so redelivered would then become a part of Northern's general system supply of gas for resale, it is said.

Applicant states that the term of its service for Northern would be a period of two years from the date of initial deliveries with such date anticipated by the parties to be on or about October 31, 1980.

Applicant proposes a base transportation charge of $0.27 per million Btu as a fair and equitable charge for the service to be rendered.

Any person desiring to be heard or to make any protest with reference to said application should on or before December, 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36633 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-30-000]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.; Application

November 18, 1980.

Take notice that on October 23, 1980, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP81-30-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 2.5 miles of 16-inch diameter pipeline extending from the South Marsh Island, offshore Louisiana, (SMI) 61-D platform to an existing 20-inch sub-sea side valve on Applicant's SMI 61-C line, along with certain appurtenant facilities.

Applicant states that it has purchased gas from Tenneco Oil Company and that the installation of the proposed facilities would make the additional 47,600,000 Mcf of natural gas having a deliverability of 70,000 Mcf per day available to Applicant's system.

Applicant estimates the total cost of the proposed facilities to be $3,700,000, which would be financed from internally generated funds. It is stated that no new sales or service by Applicant is proposed.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a

party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36634 Filed 11-24-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket Nos. ER80-768, ER80-804, ER80-810, ER81-2-000, et al.]

Indiana and Michigan Electric Co., et al.; Order Accepting for Filing and Suspending in Part Revised Interconnection Agreements, Denying Waiver, Initiating Hearing and Consolidating Proceedings

Issued November 14, 1980.

In the matter of: Indiana and Michigan Electric Company, Docket Nos. ER80-768, ER80-804, ER80-810, ER81-2-000; Appalachian Power Company *et al.*, Docket No. ER80-771; Ohio Power Company, Docket Nos. ER80-775, ER80-809, ER80-811; Indiana and Michigan Electric Company, Docket No. ER80-808; and Ohio Power Company.

On various dates in September and October, 1980, on behalf of some of its affiliate companies, American Electric Power Service Corporation (AEP) submitted for filing proposed revisions to various interconnection agreements between the affiliate AEP companies and other utilities interconnected with the AEP system.[1] These proposals would revise the demand charge for fuel conservation energy and related third-party transmission services and replace the existing percentage adders to the incremental cost energy charge with fixed adders or a fixed limitation on the percentage adders.

Public notices of these filings were issued in each of the above-captioned dockets.[2] No comments, protests, or petitions to intervene have been filed.

Discussion

The filings in these dockets arise from a March 28, 1980, Commission order in *Indiana and Michigan Electric Company et al.*, Docket Nos. ER78-229 *et al.* Therein, the Commission established a "Statement of Principles" for settling disputes concerning several fuel conservation rate schedules proposed in those consolidated dockets.[3] The Commission then directed parties to those dockets who desired to comply with these principles to file conforming rate schedules. All rate schedules filed in the dockets which are the subject of this order are in response to that directive and are purported to comply with the Statement of Principles.

A. Basic Demand Charges

In each docket, the utilities propose a third-party transmission demand charge and a basic fuel conservation energy demand charge. Since the AEP companies propose identical demand charges in each of the dockets, we will first analyze these charges and then analyze the charges proposed by the other involved utilities.

1. AEP Companies

The AEP companies propose to maintain the third-party transmission demand charge at their originally proposed rate of 1.7 mills/kwh. The companies propose to increase the demand charge for fuel conservation energy from 5 mills/kwh to 7.7 mills/kwh. This latter charge consists of production and transmission components of 6.0 mills/kwh and 1.7 mills/kwh respectively.

The AEP companies attempt to support the production component of the fuel conservation demand charge based on the weighted annualized cost of the marginal units expected to provide service. These companies have adjusted the production demand costs further to reflect the projected extent that the marginal units will be available for this conservation service. The AEP companies support the transmission demand charge based on the annualized cost of AEP's average system transmission cost.

The Commission finds that the methodology underlying the development of the production component of the fuel conservation charge may be improper. Specifically, the companies' projection of expected availability of their marginal units may be unreasonably low. Also, the companies' stated expectation that only three generation units will be used to provide this service may be unreasonable. The data submitted by the AEP companies [4] cast doubt on this expectation since they indicate that a number of different units would be used for similar short-term and long-term services.

The Commission's analysis, based upon information provided by the Commission staff, indicates that this methodology may produce substantially excessive revenues.

The Commission finds that the proposed charges for third-party transmission service conform to the Statement of Principles and that this portion of the companies' filings is cost justified.

2. Illinois Power Company (Illinois) Docket No. ER80-768. Indianapolis Power and Light (Indianapolis) Docket No. ER80-810 *Duquesne Light Company (Duquesne) Docket No. ER80-811*

Illinois proposes to increase the demand charge for fuel conservation energy generated on the Illinois system from 5 mills/kWh to 6.5 mills/kWh (5.5 mills/kWh production component and 1.0 mills/kWh transmission component) and to decrease the third-party transmission demand charge from 1.7 mills/kWh to 1.0 mills/kWh Indianapolis proposes to increase the fuel conservation demand charge from 5 mills/kWh to 7.6 mills/kWh (6 mills/

[1] The revisions were filed as follows:
Docket No. and Date—
ER80-768—September 15, 1980.
ER80-771—September 16, 1980.
ER80-775—September 16, 1980.
ER80-804—September 29, 1980.
ER80-808—September 29, 1980.
ER80-809—September 29, 1980.
ER80-810—September 29, 1980.
ER80-811—September 29, 1980.
ER81—2-00—October 2, 1980.
See attachment A for rate Schedule designations.

[2] Public notices of the filings and the respective due dates for comments were as follows:

Docket No.	Issue date	Due date
ER80—768	Sept. 23, 1980	Oct. 14, 1980.
ER80—771	do	Do.
ER80—775	do	Do.
ER80—804	Oct. 8, 1980	Oct. 27, 1980.
ER80—808	do	Do.
ER80—809	do	Do.
ER80—810	do	Do.
ER80—811	do	Do.
ER81—2-000	do	Do.

[3] The Statement of Principles can be found in *Indiana and Michigan Electric Company, supra*, at Appendix B.

[4] See the AEP companies' April 7, 1980 response to a staff deficiency letter in Docket Nos. ER80-168 *et al.*

kWh production component and 1.6 mills/kWh transmission component) and to increase the third-party transmission demand charge from 1.5 mills/kWh to 1.6 mills/kWh. Duquesne proposes to increase the fuel conservation demand charge from 5 mills/kWh to 7.6 mills/kWh (6 mills/kWh production component and 1.6 mills/kWh transmission component) and to increase the third-party transmission demand charge from 1.4 mills/kWh to 1.5 mills/kWh.

The proposed third-party transmission demand charge in each of these filings is cost justified and conforms to the Statement of Principles. The Commission notes that each company supports the production component of its fuel conservation demand charge using a plant availability factor which may be unreasonably low. Nonetheless, the Commission finds each of these proposed demand charges to the cost justified.

3. *Central Illinois Public Service Company (CIPS) Docket No. ER80-804*

CIPS proposes to increase the demand charges for fuel conservation energy generated on the CIPS system from 5 mills/kWh to 8.4 mills/kWh (7.2 mills/kWh production component and 1.2 mills/kWh transmission componet) and to decrease the third-party transmission demand charge from 1.7 mills/kWh to 1.2 mills/kWh.

The proposed third-party transmission demand charge is cost justified and conforms to the Statement of Principles. However, the methodology underlying the proposed fuel conservation demand charge has not been shown to be just and reasonable. CIPS supports the production component of this charge based on a weighted annualized cost of the marginal units expected to provide service. While this approach is consistent with the Statement of Principles, it includes the following two calculations that may produce excessive revenues:/1) calculation of investment costs of the generating units based on their net summer continuous capability; and (2) calculation of demand related production O&M expenses as if they included all production expenses except fuel expenses and one-half of the maintenance expenses.

4. Cincinnati Gas & Electric Company (CG&E) Docket No. ER80-808 *Dayton Power & Light Company (Dayton) Docket No. ER80-809*

CG&E and Dayton propose identifical rates. Each proposes to increase the demand charge for fuel conservation evergy from 5 mills/kWh to 7.8 mills/kWh. Each proposes to decrease the third-party transmission demand charge from 1.7 mills/kWh to 1.3 mills/kWh.

In Docket No. ER80-572, both companies filed rates identical to those described above for the same services which they now propose. Consistent with the Commission's order issued in that docket on September 25, 1980, and for the reasons discussed therein, the Commission finds that the proposed third-party transmission demand charge is just and reasonable, while the proposal demand charge for fuel conservation energy may be unjust and unreasonable.

5. *Allegheny Power System (APS) Docket No. ER80-771*

APS proposes to decrease the third-party transmission demand charge from 1.75 mills/kWh to 1.7 mills/kWh and established a demand charge from fuel conservation from energy generated on the APS system of 6.7 mills/kWh.

In Docket No. ER80-428, APS filed identical rates for identical services to other utilities. Consistent with the order issued in that docket on July 31, 1980, and for the reasons discussed therein, the Commission finds that the above-described proposed charges are just and reasonable.

6. *Cleveland Electric Illuminating Company (CEI) Docket No. ER80-775*

Although CEI does not propose to increase the presently effective demand charge of 5.0 mills/kWh for fuel conservation energy generated on the CEI system, CEI proposes to modify the production and transmission components of the charge to reflect charges of 3.8 mills/kWh and 1.2 mills/kWh, respectively. CEI proposes to decrease its third-party transmission demand charge from 1.5 mills/kWh to 1.2 mills/kWh.

In Docket No. ER80-427, CEI filed identical rates for identical services to other utilities. Consistent with the order issued in that docket on July 31, 1980, and for the reasons discussed therein, the Commission finds that the above-described proposed charges are just and reasonable.

B. Remaining Aspects of Rate Filings

The remaining aspects of each rate filing are consistent with the Statement of Principles. The filings provide a fixed adder not exceeding two mills or a percentage energy adder capped at two mills. Also, the proposed fuel conservation schedules contain language describing both dispatch priority and replacement pricing methodology. Replacement cost of fuel is calculated as the cost of fuel delivered to the station which provided the conservation energy, for the second month following the month in which the fuel conservation energy was provided. The schedules also indicate that fuel conservation energy is assigned a dispatch priority between short term energy and economy energy. While the language with respect to these two definitions is broad, it is consistent with the Statement of Principles. Finally, all of the proposed schedules specify that energy losses will be recovered on an incremental basis. This complies with the Commission directive in its August 15, 1980, Order on Rehearing in Docket Nos. ER78-229, *et al.* which requires utilities to indicte in their rate schedules whether such losses will be calculated on a incremental or averge system basis.

Conclusions

The Commission's analysis indicates that the demand charges for fuel conservtion filed by the AEP companies (all dockets), CG&E (Docket No. ER80-808), Dayton (Docket No. ER80-809), and CIPS (Docket No. ER80-804) may have been improperly determined and that, therefore, these proposed rates may be unjust, unreasonable, unduly discriminatory, unduly preferential or otherwise unlawful. Accordingly, the Commission will accept these proposed rates for filing and suspend them as ordered below.

In a number of suspension orders [5], the Commission has addressed the considerations underlying its policy regarding rate suspensions. For the reasons given there, the Commission has concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads it to believe that the filing may be unjust and unreasonable or that it may run afoul of other statutory standards. The Commission has acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. No such circumstances have been presented here. Accordingly, the Commission suspends the specific rates described above to become effective, subject to refund, five months from sixty days after the filing proposing such lates was submitted.[6]

[5] E.g., *Boston Edison Co.*, Docket No. ER80-508 (August 29, 1980) (five month suspension); *Alabama Power Company*, Docket Nos. ER80-506, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Company*, Docket Nos. ER80-488 (August 22, 1980) (one day suspension).

[6] Accordingly, the effective dates for the rates are:

Docket	Companies	Effective dates
ER80-768	AEP	Apr. 15, 1981.
ER80-771	AEP	Apr. 15, 1981.
ER80-775	AEP	Apr. 16, 1981.
ER80-804	AEP and CIPS	Apr. 29, 1981.
ER80-808	AEP and CG&E	Apr. 29, 1981.
ER80-810	AEP	Apr. 29, 1981.
ER80-811	AEP	Apr. 29, 1981.
ER81-2-000	AEP	May 2, 1981.
ER80-809	AEP and Dayton	Apr. 29, 1981.

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As previously indicated, the rates under investigation in Docket No. ER80–572 involve common issues of fact and law. The Commission therefore directs that an investigation of the suspended charges herein be consolidated with the proceedings in Docket No. ER80–572.

The Commission's analysis also indicates that (1) the proposed third-party transmission demand charges for all companies, (2) the demand charges for self-generated fuel conservation energy proposed by APS (Docket No. ER80–771), Illinois (Docket No. ER80–768), CEI (Docket No. ER80–775), Indianapolis (Docket No. ER80–810), and Duquesne (Docket No. ER80–811), and, so far as all filings are concerned, (3) the energy charges with the revised adders; (4) the procedure to calculate losses, (5) the replacement pricing methodology, and (6) the dispatch priority assigned to fuel conservation energy should be accepted for filing without suspension to become effective as discussed below.

Each filing requested that the rates proposed therein could become effective immediately should circumstances arise requiring their use. This we take as an implied request for waiver of the statutory notice requirements. As a general matter, the Commission grants requests for waiver when the buyer or buyers agree to the waiver and the waiver appears to be consistent with the public interest. Here, however, the consent of the buyers is less meaningful, because the major impact of an increase in a fuel conservation energy rate is likely to be on ultimate third-party buyers who are not party to the contract. Furthermore, the suspended rates may be excessive and inconsistent with the Statement of Principles. Consequently, the Commission does not find good cause for the requested waiver for the suspended rates. As to the rates which we are accepting, we agree that early effectiveness of such rates is desirable. We shall therefore grant the waiver as necessary to permit all of the accepted rates to become effective on November 15, 1980.

As noted, the currently proposed fuel conservation rates would supersede rates filed in the consolidated Docket Nos. ER78–229 *et al.* There have been no transactions under the prior fuel conservation schedules. However, the superseding rates will not become effective for five months from sixty days after the filing proposing such rates was submitted. The Commission will terminate the dockets in Docket Nos. ER78–229 *et al.* accordingly.[7]

The Commission orders:

(A) Waiver of the statutory notice requirements are hereby granted, in part, as provided above.

(B) The proposed demand charges for self-generated fuel conservation energy filed by the AEP companies, CIPS, CG&E and Dayton are hereby accepted for filing and suspended for five months from 60 days after the filing date in the respective dockets, becoming effective at that time subject to refund.

(C) The remaining portions of the filings not suspended by ordering paragraph (B) are hereby accepted for filing and waiver of the notice requirements granted where necessary for the rates to become effective on November 15, 1980.

(D) The following fuel conservation energy dockets presently consolidated in the proceedings in Docket Nos. ER78–229 *et al.* shall be terminated on the dates indicated:

Docket Nos. ER78–229 and ER78–249, April 15, 1981; Docket No. ER79–242, April 16, 1981; Docket Nos. ER78–292, ER78–313, ER79–254, ER80–1 and ER80–6, April 29, 1981, and Docket No. ER79–247, May 2, 1981.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by subsection 402(a) of the Department of Energy Act and by the Federal Power Act, and pursuant to the Commission's Rules of Practice and Procedure and Regulations under the Federal Power Act (18 CFR, Ch. 1), a public hearing shall be held concerning the justness and reasonableness of the proposed demand charges referenced in ordering paragraph (A).

(F) All dockets in this proceeding are hereby consolidated with Docket No. ER80–572 for purposes of hearing and decision.

(G) A prehearing conference is hereby ordered to be held within 30 days of the issuance of this order for purposes of establishing further procedural dates as may be necessary including dates for the submittal of case-in chief by the AEP companies and CIPS.

By the Commission.

Kenneth F. Plumb,
Secretary.

[7] These dockets will be terminated as of the following dates:

Docket No.	Superseding docket No.	Termination date
ER78–229	ER80–768	Apr. 15, 1981.
ER78–249	ER80–771	Apr. 15, 1981.
ER78–292	ER80–808	Apr. 29, 1981.
ER78–313	ER80–811	Apr. 29, 1981.
ER79–242	ER80–775	Apr. 16, 1981.
ER79–247	ER81–2–000	May 2, 1981.
ER79–254	ER80–810	Apr. 29, 1981.
ER80–1	ER80–804	Apr. 29, 1980.
ER80–6	ER80–809	Apr. 29, 1980.

Rate Schedule Designations

Docket No. ER80–768

(1) *Indiana & Michigan Electric Company,* Supplement No. 14 to Rate Schedule FPC No. 23, (Supersedes Supplement No. 11)
(2) *Illinois Power Company,* Supplement No. 13 to Rate Schedule FPC No. 9, (Supersedes Supplement No. 10)

Docket No. ER80–771

(3) *Appalachian, Power Company,* Supplement No. 16 to Rate Schedule FPC No. 55, (Supersedes Supplement No. 11)
(4) *Monongahela Power Company,* Supplement No. 12 to Rate Schedule FPC No. 31, (Supersedes Supplement No. 6)
(5) *Ohio Power Company,* Supplement No. 16 to Rate Schedule FPC No. 73, (Supersedes Supplement No. 11)
(6) *West Penn Power Company,* Supplement No. 12 to Rate Schedule FPC No. 28, (Supersedes Supplement No. 6)
(7) *Wheeling Electric Company,* Supplement No. 16 to Rate Schedule FPC No. 5, (Supersedes Supplement No. 11)

Docket No. ER80–775

(8) *Ohio Power Company,* Supplement No. 14 to Rate Schedule FPC No. 31, (Supersedes Supplement No. 8)
(9) *Cleveland Electric Illuminating Company,* Supplement No. 13 to Rate Schedule FPC No. 1, (Supersedes Supplement No. 8)

Docket No. ER80–804

(10) *Indiana & Michigan Electric Company,* Supplement No. 20 to Rate Schedule FPC No. 67, (Supersedes Supplement Nos. 15 and 16)
(11) *Central Illinois Public Service Company,* Supplement No. 12 to Rate Schedule FPC No. 62, (Supersedes Supplement No. 9 and concurs in (10) above)

Docket No. ER80–808

(12) *Indiana & Michigan Electric Company,* Supplement No. 16 to Rate Schedule FPC No. 16, (Supersedes Supplement No. 9)
(13) *Ohio Power Company,* Supplement No. 16 to Rate Schedule FPC No. 21, (Supersedes Supplement No. 9)
(14) *Cincinnati Gas & Electric Company,* Supplement No. 10 to Rate Schedule FPC No. 13, (Supersedes Supplement No. 6 and concurs in (12) and (13) above)

Docket No. ER80–809

(15) *Dayton Power and Light Company,* Supplement No. 11 to Rate Schedule FPC No. 31, (Supersedes Supplement No. 8)
(16) *Ohio Power Company,* Supplement No. 24 to Rate Schedule FPC No. 36, (Supersedes Supplement No. 21)

Docket No. ER80–810

(17) *Indiana & Michigan Electric Company,* Supplement No. 17 to Rate Schedule FPC No. 21, (Supersedes Supplement No. 14)
(18) *Indianapolis Power & Light Company,* Supplement No. 15 to Rate Schedule FPC No. 1, (Supersedes Supplement No. 12)

Docket No. ER80–811

(19) *Duquesne Light Company,* Supplement No. 11 to Rate Schedule FPC No. 8, (Supersedes Supplement No. 9)
(20) *Ohio Power Company,* Supplement No. 11 to Rate Schedule FPC No. 30, (Supersedes Supplement No. 9)

Docket No. ER81–2–000

(21) *Indiana & Michigan Electric Company,* Supplement No. 8 to Rate Schedule FERC No. 70, (Supersedes Supplement No. 6)

[FR Doc. 80–36637 Filed 11–24–80; 8:45 am]
BILLING CODE 6450–85–M

ENVIRONMENTAL PROTECTION AGENCY

[A5 FRL 1643–4]

Ohio; Extension of the Interim Enforcement Policy for Sulfur Dioxide Emission Limitations

Correction

In FR Doc. 80–33481, appearing on page 71422 in the issue of Tuesday, October 28, 1980, at the end of the first "Summary" paragraph, delete the period and add the words, "and was clarified on September 8, 1980 (45 FR 59199).".

BILLING CODE 1505–01–M

[AS–FRL 1677–2]

Prevention of Significant Deterioration of Air Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of withdrawal of ruling.

SUMMARY: EPA hereby gives notice that it has withdrawn a ruling that it made in August 1978 under its PSD regulations in effect at that time. The ruling was that primary and secondary dust control and collection equipment on a hot-mix asphalt batch plant is "air pollution control equipment" within the meaning of the definition of "potential to emit" in those regulations.

FOR FURTHER INFORMATION CONTACT: Michael Trutna, Standards Implementation Branch (MD–15), Office of Air Quality Planning and Standards, Research Triangle Park, N.C. 27711, 919–541–5292.

SUPPLEMENTARY INFORMATION: In June 1978, EPA promulgated two sets of regulations for the prevention of significant deterioration of air quality (PSD). One set, which upon promulgation became a part of each state implementation plan, required any "major stationary source" or "major modification" in certain circumstances to have a PSD permit before construction on it could begin lawfully. *See* 43 FR 26388 (codified at 40 CFR 52.21 (1979)) (the "1978 Part 52 regulations"). The other set specified the minmum requirements that a PSD program submitted by a state as a substitute for the federal program would have to meet in order to warrant EPA approval. *See* 43 FR 26380 (codified at 40 CFR 51.24 (1979)) (the "1978 Part 51 regulations").

Under both the 1978 Part 51 and Part 52 regulations, whether a source or modification was "major" depending upon its potential to emit." That term meant "the capability at maximum capacity to emit a pollutant *in the absence of air pollution control equipment,*" "Air pollution control equipment," in turn, meant "control equipment which is not *** *vital* to production of the normal product of the source or to its normal operation." *See* 40 CFR 51.24(b)(1)–(3), 52.21(b)(1)–(3)(1978) (emphasis added).

In July 1979, Ashland-Warren, Inc., an owner and operator of hot-mix asphalt batch plants, asked EPA whether primary and secondary dust control and collection equipment on those plants is "air pollution control equipment" within the meaning of the defintion of "potential to emit." In a letter dated August 18, 1978, EPA responded that such equipment is "air pollution control equipment" on the ground it is not vital to the production of the normal product of such plants. A copy of the letter appears below as Appendix A.

Ashland-Warren subsequently challenged that ruling. In addition to bringing a judicial action, it petitioned EPA to reconsider the ruling. EPA began a reconsideration, but later suspended it when the agency proposed a new and different definition of "potential to emit." See 44 FR 51948, 51952 (September 5, 1979).

On August 7, 1980, EPA promulgated a new definition of "potential to emit." It provides that the term means "the maximum capacity of a stationary source to emit a pollutant under its physical and operational design." 45 FR 52730–31, 52736. It adds that "[a]ny physical or operational limitation on the capacity of a source to emit a pollutant, including air pollution control equipment" may be treated as part of its design only if the limination or the effect it would have is federally enforceable. 45 FR 52688, 52730–31, 52736.

As a result of that new definition of "potential to emit," EPA has withdrawn the August 1978 ruling. A copy of the letter of withdrawal appears below as Appendix B. It indicates the reasons for the withdrawal and adds that, in withdrawing the ruling, EPA is not intend to express any view on its merits.

Dated: November 17, 1980.

David G. Hawkins,
Assistant Administrator, Office of Air, Noise and Radiation.

Appendix A

U.S. Environmental Protection Agency,
Office of Air Quality Planning and Standards,
Research Triangle Park, N.C., August 18, 1978.

Mr. Theodore L. Garrett,
Counsel for Ashland-Warren, Inc., Covington and Burling, 888 Sixteenth Street, N.W., Washington, D.C. 20006.

Dear Mr. Garrett: Thank you for your letter of July 26, 1978. In that letter you ask for a ruling "that in the case of the hot-mix asphalt industry, potential emissions include only those expected to occur with the use of primary and secondary dust control and collection equipment."

We have carefully reviewed the arguments in your letter referred to above and in the January 31, 1978, comments of Ashland-Warren, Inc., and the National Asphalt Pavement Association regarding proposed regulations for the prevention of significant deterioration (PSD) of air quality (42 FR 57471–79, November 3, 1977).

In response to your request, a ruling that would define potential emissions to include only those expected to occur with the use of primary and secondary dust control equipment would not be consistent with the recently published regulations for the prevention of significant deterioration. Neither the primary nor secondary control equipment generally used by the asphalt industry is so vital that the produce could not be produced without the control equipment. Basically, the mineral fines, when necessary for the product, need not come solely from those collected through the dust collection systems. Such resource recovery activity, though financially beneficial to the source, is not "vital to the production of the normal product" and must be included in calculating potential emissions under the PSD regulations. *See,* 43 FR 26392, June 19, 1978.

In response to other comments raised by Ashland-Warren and the National Asphalt Pavement Association, the Agency amended the proposed regulations to alleviate a serious review burden that the asphalt industry would have been subject to otherwise. Specifically, the regulations were amended to allow for a one-time permit for asphalt batch plants without requiring addtional permits for relocations. *See,* 40 CFR §§ 51.24(i), 52.21(i). This exemption meets the primary concerns of the asphalt industry as indicated by the comments to the proposed regulations.

In addition, I would like to point out that the current PSD regulations contain a two-tier review which focuses the detailed, more

time-consuming aspects of the PSD review on those sources with allowable emissions (i.e., those after control) of greater than 50 tons per

withdrawal in the **Federal Register** in the near future.

Environmental Protection Agency (EPA) gave notice of a number of meetings to

later than the close of business on December 18, 1980.

BPH–800910AN (new), Chelan, Wash., The Northcentral Broadcasting Co. Req: 93.5

BPED–791220CZ (WWLC), Lynchburg, Va., Lynchburg College; Has: 90.3 mHz; Channel

time-consuming aspects of the PSD review on those sources with allowable emissions (i.e., those after control) of greater than 50 tons per year, 1000 pounds per day, or 100 pounds per hour. For major sources subject to PSD with allowable emissions less than the above cutoffs, the review would only consist of a determination that (1) the emissions from the source would not adversely impact areas with known violations of the applicable PSD increment or any Class I area, (2) a valid State new source review permit had been obtained, and (3) there was adequate opportunity for public comment on the proposed new source. It is my understanding that most hot-mix asphalt plants will be able to qualify for this abbreviated PSD review through the application of good control technology.

I trust this fully responds to your inquiry. Sincerely yours,

Walter C. Barber,

Director, Office of Air Quality Planning and Standards

Appendix B

U.S. Environmental Protection Agency,
Office of Air, Noise, and Radiation
Washington, D.C., November 12, 1980.

Theodore L. Garrett, Esq., 126Covington and Burling, 888 Sixteenth Street, N.W., Washington, D.C. 20006.

Dear Mr. Garrett: In my letter to you of August 18, 1978, EPA ruled that dust collection equipment on an asphal tplant is "air pollution control equipment" within the meaning of the definition of "potential to emit" in the PSD regulations which appear at 40 CFR 51.24 and 52.21 (1979). As a result of the recent revision of that definition of "potential to emit," EPA hereby withdraws the August 1978 ruling.

The central reason for the withdrawal is that the issue of whether dust collection equipment is "air pollution control equipment" no longer matters under 40 CFR 51.24 and 52.21. The new definition of "potential to emit" in those regulations establishes that one may take any limitation on the emissions capacity of a proposed project into account in calculating its "potential to emit," so long as the limitation or its effect is federally enforceable. 45 FR 52730–31, 52736 (August 7, 1980). Dust collection equipment would constitute such a limitation. Hence, even if the equipment were "air pollution control equipment," one could nevertheless take its effect on emissions into account, provided that the effect was federally enforceable. Furthermore, even if the equipment were not "air pollution control equipment," its effect would still have to be federally enforceable to be taken into account.

In withdrawing the August 1978 ruling, EPA intends that the ruling should no longer play any role at the state and federal levels, as if it had never existed. EPA does not intend, however, to express any view of its merits.

EPA intends to place a brief notice of this withdrawal in the **Federal Register** in the near future.

Sincerely,

Walter C. Barber,

Director, Office of Air Quality Planning.

[FR Doc. 80-36814 Filed 11-24-80; 8:45 am]

BILLING CODE 6560-26-M

[PH FRL 1633-3; OPP-30000/35A]

Carbon Tetrachloride; Pesticide Programs; Rebuttable Presumption Against Registration and Contained Registration of Certain Pesticide Products

Correction

In FR Doc. 80-31808 appearing at page 68551 in the issue for Wednesday, October 15, 1980, make the following corrections:

1. On page 68551, in the second column, paragraph 2., the fourth line, "cholorie" should be corrected to read "chloride"; also in the same paragraph, the tenth line, "naptha" should be corrected to read "naphtha".

2. On page 68553 in the second column, the last line "and discussed" should be corrected to read "are discussed".

3. On pages 68564 and 68565, "CCl" should be corrected to read "CCl_4".

4. On page 68564, in the second column, the first paragraph, third line from the bottom "macroscopic" should be corrected to read "microscopic".

5. On page 68569, in the first column, the first paragraph, the tenth line "portentiates" should be corrected to read "potentiates".

6. On page 68569, in the second column, the last line "use" should be corrected to read "used".

7. Also on page 68569, in the third column, the forth line from the bottom, " > " should be deleted.

8. On page 68570, in the third column, the fourth line under the table "form" should be corrected to read "from".

9. On page 68580, in the first column, the first paragraph, the ninth line "of difference" should be corrected to read "of a difference"; and also in the fourth line from the bottom "the" should be corrected to read "that".

BILLING CODE 1505-01-M

[Docket No. ECAO-CD-79-1; AD-FRL 1682-5]

Air Quality Criteria for Particulate Matter and Sulfur Oxides; Public Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Meeting.

SUMMARY: In the **Federal Register** of November 7, 1980 (45 FR 74047), the U.S. Environmental Protection Agency (EPA) gave notice of a number of meetings to help further its preparation of a second external review draft of a revised air quality criteria document for particulate matter and sulfur oxides ($PM–SO_x$). The November 7, 1980 notice contains general information concerning the purpose and conduct of these meetings. This notice announces the third in that series of meetings, and invites public attendance at the meeting.

DATES: The third meeting is scheduled to be held on December 4 and 5, 1980, beginning at 9 a.m., concerning chapters 7 and 8 (Acidic Deposition and Vegetation Effects). Information concerning the subject matter and dates of additional meetings will be announced in subsequent **Federal Register** notices.

ADDRESS: The meeting of December 4 and 5, 1980, will be held in Room 126 of the EPA Annex (Beaunit Building), Alexander Drive, Research Triangle Park, North Carolina. The location of additional meetings will be announced in subsequent **Federal Register** notices.

FOR FURTHER INFORMATION CONTACT:
Robert Bauman, Deputy Director, Environmental Criteria and Assessment Office (MD–12), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone 919/541–4172.

Peter Voytek,

Acting Director, Office of Health and Environmental Assessment.

November 20, 1980.

[FR Doc. 80-36845 Filed 11-24-80; 8:50 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A-21]

FM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: November 4, 1980.

Cut-Off Date: December 18, 1980.

Notice is hereby given that the applications listed in the attached appendix are hereby accepted for filing. They will be considered to be ready and available for processing after December 18, 1980. An application, in order to be considered with any application appearing on the attached list or with any application on file by the close of business on December 18, 1980, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., not later than the close of business on December 18, 1980.

Petitions to deny any application on this list must be on file with the Commission no later than the close of business on December 18, 1980.

Attachment.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

BPH–800229AE (WSVS–FM), Crewe, Va., Southern Virginia Broadcasting Corp. Has: 104.7 mHz; Channel No. 284C. ERP: 40 kW; HAAT: 450 ft. (Lic). Req: 104.7 mHz; Channel No. 284C. ERP: 100 kW; HAAT: 450 feet.

BPH–800407AG (KMIT), Mitchell, S. Dak., Mitchell Broadcasting, Ltd. Has: 105.9 mHz; Channel No. 290C. ERP: 3 kW; HAAT: 300 ft. (Lic). Req: 105.9 mHz; Channel No. 290C. ERP: 64.5 kW; HAAT: 291 feet.

BPH–800529AF (WFFF–FM), Columbia, Miss., Haddox Enterprises, Inc., Has: 96.7 mHz; Channel No. 244A. ERP: 3 kW; HAAT: 100 ft. (Lic). Req: 96.7 mHz; Channel No. 244A. ERP: 3 kW; HAAT: 300 feet.

BPH–800530AF (WAOR), Niles, Mich., Niles Broadcasting Co., Has: 95.3 mHz; Channel No. 237A. ERP: 3 kW; HAAT: 160 ft. (Lic). Req: 95.3 mHz; Channel No. 237A. ERP: 3 kW; HAAT: 300 feet.

BPH–800619AG (new), Whitehall, Wis., Intercontinental Communications Corp., Req: 102.3 mHz; Channel No. 272A. ERP: 1.55 kW; HAAT: 400 feet.

BPH–800807AG (new), Bentonville, Ark., Elvis L. Moody. Req: 98.3 mHz; Channel No. 252A. ERP: 3 kW; HAAT: 300 feet.

BPH–800808AB (new), Monroe City, Mo., Lynnlee Broadcasting Co., Inc., Req: 101.7 mHz; Channel No. 269A. ERP: 2.4 kW; HAAT: 330 feet.

BPH–800811AH (new), Kingsville, Tex., Megahype Broadcasting. Req: 92.7 mHz; Channel No. 224A. ERP: 3 kW; HAAT: 210 feet.

BPH–800813AC (new), Port Henry, N.Y., Peter Edward Hunn. Req: 106.3 mHz; Channel No. 292A. ERP: .818 kW; HAAT: −77 feet. (Allocated to Moriah, NY.)

BPH–800814AB (new), Iron Mountain, Mich., Iron Mountain-Kingsford Broadcasting Co. Req: 93.1 mHz; Channel No. 226C. ERP: 100 kW; HAAT: 635 feet.

BPH–800815AA (new), Madison, Fla., Madison Communications Corp. Req: 104.9 mHz; Channel No. 285A. ERP: 3 kW; HAAT: 300 feet.

BPH–800819AE (KWLF), Oakdale, Calif., Goldrush Broadcasting, Inc., Req: 95.1 mHz; Channel No. 236B. ERP: 11.2 kW; HAAT: 912 feet.

BPH–800821AB (WRKT–FM), Cocoa Beach, Fla., Triplett Broadcasting Co. of Georgia, Inc. Has: 104.1 mHz; Channel No. 281C. ERP: 30 kW; HAAT: 165 ft. (Lic). Req: 104.1 mHz; Channel No. 281C. ERP: 100 kW; HAAT: 1392 feet.

BPH–800822AE (KFDI–FM), Wichita, Kans., Wichita Great Empire Broadcasting, Inc. Has: 101.3 mHz; Channel No. 267C. ERP: 100 kW; HAAT: 440 ft. (Lic). Req: 101.3 mHz; Channel No. 267C. ERP: 100 kW; HAAT: 1130 feet.

BPH–800910AN (new), Chelan, Wash., The Northcentral Broadcasting Co. Req: 93.5 mHz; Channel No. 228A. ERP: .165 kW; HAAT: 1040 feet.

BPH–800922AA (WDDD), Marion, Ill., 3–D Communications Corp., Has: 107.3 mHz; Channel No. 297B; ERP: 50 kW; HAAT: 500 feet (LIC); Req: 107.3 mHz; Channel No. 297B; ERP: 20 kW; HAAT: 720 feet.

BMPH–800809AG (KIJK), Prineville, Oreg., High Lakes Broadcasting Co., Has: 95.3 mHz; Channel No. 237A; ERP: 3 kW; HAAT: −98 feet (CP); Req: 95.3 mHz; Channel No. 237A; ERP: 1.12 kW; HAAT: 456 feet.

BPED–791026AJ (WCVY), Coventry, R.I., Coventry Rhode Island Public Schools, Has: 91.5 mHz; Channel No. 218DS; ERP: .01 kW; HAAT: — feet (LIC); Req: 91.5 mHz; Channel No. 218A; ERP: .200 kW; HAAT: 36 feet.

BPED–791121AC (KKUP), Cupertino, Calif., Assurance Science Foundation; Has: 91.5 mHz; Channel No. 218D; ERP: .042 kW; HAAT: 2,290 feet (LIC); Req: 91.5 mHz; Channel No. 218A; ERP: ERP: .041 kW; HAAT: 2,270 feet.

BPED–791123AB (new), Kalamazoo, Mich., Board of Education School District of Kalamazoo; Req: 89.9 mHz; Channel No. 210A; ERP: .140 kW; HAAT: 127 feet.

BPED–791221AL (KVFG), Thibodaux, La., Nicholls State University; Has: 91.5 mHz; Channel No. 218DS; ERP: .01 kW; HAAT: — feet (LIC); Req: 91.3 mHz; Channel No. 217A; ERP: 3 kW; HAAT: 286 feet.

BPED–791226BB (KLHS–FM), Lewiston, Idaho; Independent School District No. 1; Has: 89.1 mHz; Channel No. 206D; TPO: .01 kW; (LIC); Req: 88.9 mHz; Channel No. 205A; ERP: .153 kW; HAAT: −810 feet.

BPED–791226CF (KDUR), Durango, Colo., Fort Lewis College; Has: 91.9 mHz; Channel No. 220D; TPO: .01 kW; (LIC); Req: 91.9 mHz; Channel No. 220A; ERP: .223 kW; HAAT: −447 feet.

BPED–791226CH (WONY), Oneonta, N.Y., State University of New York; Has: 90.9 mHz; Channel No. 215D; TPO: .01 kW; (LIC); Req: 90.0 mHz; Channel No. 215A; ERP: .177 kW; HAAT: −72 feet.

BPED–791226CR (KICC), International Falls, Minn., Rainy River Community College, Has: 91.5 mHz; Channel No. 218D; TPO: .01 kW. (LIC); Req: 91.5 mHz; Channel No. 218A; ERP: .18 kW; HAAT: 99 feet.

BPED–791226CS (WIUV), Castleton, Vt., Vermont State College, Has: 91.3 mHz; Channel No. 217D; TPO: .01 kW. (LIC); Req: 91.3 mHz; Channel No. 217A; ERP: .124 kW; HAAT: −235 feet.

BPED–791226CU (WUTM), Martin, Tenn., University of Tennessee at Martin; Has: 90.3 mHz; Channel No. 212DS; ERP: .01 kW; HAAT: — feet (LIC); Req: 90.3 mHz; Channel No. 212A; ERP: .185 kW; HAAT: 250 feet.

BPED–791226CW (WRMC–FM), Middlebury, Vt., Middlebury College, Has: 91.7 mHz; Channel No. 219D; TPO: .01 kW. (LIC); Req: 91.7 mHz; Channel No. 219A; ERP: .100 kW; HAAT: −37 feet.

BPED–791226CX (WUTS), Sewanee, Tenn., University of the South; Has: 91.5 mHz; Channel No. 218DS; ERP: .01 kW; HAAT: — feet (LIC); Req: 91.3 mHz; Channel No. 217A; ERP: .205 kW; HAAT: 658 feet.

BPED–791226CZ (WWLC), Lynchburg, Va., Lynchburg College; Has: 90.3 mHz; Channel No. 212DS; ERP: .01 kW; HAAT: — feet (LIC); Req: 90.3 mHz; Channel No. 212A; ERP: .114 kW; HAAT: 35 feet.

BPED–791226DH (KSDB–FM), Manhattan, Kans., Kansas State University; Has: 88.1 mHz; Channel No. 201DS; ERP: .01 kW; HAAT: — feet (LIC); Req: 88.1 mHz; Channel No. 201A; ERP: .102 kW; HAAT: −38 feet.

BPED–791227AD (WETD), Alfred, N.Y., State University of New York; Has: 91.3 mHz; Channel No. 217D; TPO: .01 kW. (LIC); Req: 90.9 mHz; Channel No. 215A; ERP: .360 kW; HAAT: 285 feet.

BPED–791227AP (WDUB), Granville, Ohio; Denison University; Has: 90.9 mHz; Channel No. 215DS; ERP: .01 kW; HAAT: — feet (LIC); Req: 91.1 mHz; Channel No. 216A; ERP: .100 kW; HAAT: 169 feet.

BPED–791227AW (WSYC–FM), Shippensburg, Pa., Shippensburg State College; Has: 88.7 mHz; Channel No. 204D; TPO: .01 kW. (LIC); Req: 88.7 mHz; Channel No. 204A; ERP: .129 kW; HAAT: −157 feet.

BPED–791231BB (WBOR), Brunswick, Maine, The Bowdoin College; Has: 91.1 mHz; Channel No. 216D; TPO: .01 kW; (LIC); Req: 91.1 mHz; Channel No. 216A; ERP: .300 kW; HAAT: 166 feet.

BPED–800610AA (new), Batavia, Ohio, WCNE Educational Community Radio, Inc. Req: 88.7 mHz; Channel No. 204B; ERP: 3.5 kW; HAAT: 190 feet.

BMPED–800918AD (KAZI), Austin, Tex., Austin Community Radio; Has: 88.7 mHz; Channel No. 204A; ERP: .13 kW; HAAT: 1,120 feet (CP). Req: 88.7 mHz; Channel No. 204A; ERP: 1.62 kW; HAAT: 345 feet.

[FR Doc. 80-36873 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. A-21A]

FM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date; Correction

Released: November 14, 1980,

The FM application listed below, which was inadvertently omitted from the cut-off notice, Report No. A–21, Mimeo No. 01109 released on November 4, 1980, is hereby incorporated into that Notice. Cut-off date: December 18, 1980.

BPED–800215AM (new), Washburn, Wis., Washburn Public Schools. Req: 90.5 mHz; #213. ERP: 150 watts; HAAT: 250 feet.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-36872 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

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[CC Docket No. 80-339; Transmitted No. 2258, et al.]

ITT World Communications Inc. et al.; Revisions to Tariffs for Establishing Separate Charges for Terminals, Tielines, and Transmission Offered in Connection With International Telex Service and Implementing Expanded Gateways and Additional Domestic Operating Areas for International Telecommunications Service

In the matter of ITT World Communications Inc. (Transmittal Nos. 2258, 2259, 2260, 2280), RCA Global Communications, Inc. (Transmittal Nos. 4610, 4611, 4613, 4614, 4615, 4616, 4636), TRT Telecommunications Corporation (Transmittal Nos. 909, 910, 911), Western Union International, Inc. (Transmittal Nos. 1430, 1431, 1447), Western Union International Caribbean, Inc. (Transmittal No. 224) and FTC Communications, Inc. (Transmittal Nos. 69, 77) (45 FR 67463).

Adopted: November 5, 1980.

Released: November 14, 1980.

By the Chief, Common Carrier Bureau:

1. TRT Telecommunications Corporation (TRT), Western Union International, Inc. (WUI), and FTC Communications, Inc. (FTCC) have each requested extensions of time from November 6, 1980 to November 21, December 5, and December 8, 1980, respectively, in which to file their direct cases in Docket No. 80-339.

2. In its petition, TRT explains that the personnel assigned to the task of developing TRT's direct case and assembling the data were called upon to resolve a labor dispute and could not complete their work in this docket on time. WUI argues that it has been diligently assembling and analyzing the required data, but that the enormity of the operation prevents it from completing it on time. FTCC states that the person assigned the task of collecting the data was required to attend planning sessions on TAT-7 and that obtaining the pre-1979 data from Paris has resulted in considerable delays. All three carriers suggest that they will be able to present the Commission with better and more complete information if granted the additional time.

3. The Western Union Telegraph Company (Western Union) does not oppose a grant of an extension of time to FTCC or TRT, but does oppose a grant to WUI or to the carriers in general. Western Union argues that the carriers have known of the investigation since July 1, 1980 and have had considerable time since the release of the order on August 8, 1980, to prepare their direct cases.

4. Although we are interested on the one hand in conducting the investigation quickly, we are also concerned that the information upon which the Commission will base its decision be as complete and accurate as possible. An additional 30 days' time should contribute to this latter goal without serious impairment to the former. Therefore, we find that the requested extension of time would not be contrary to the public interest.

5. Accordingly, it is ordered, pursuant to authority delegated in Section 0.291 of the Commission's Rules, 47 C.F.R. § 0.291, That the requests for an extension of time filed by TRT Telecommunications Corporation, Western Union International, Inc., and FTC Communications, Inc. are granted.

6. It is further ordered, That each of the International Record Carriers (IRCs) shall submit their direct cases on or before December 8, 1980. Other parties may file their reply cases or comments within 30 days thereafter. The IRCs may file their responses within 15 days thereafter.

7. It is further ordered, That this Order shall be published in the **Federal Register.**

Thomas J. Casey,

Deputy Chief, Common Carrier Bureau.

[FR Doc. 80-36870 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1257]

Petitions for Reconsideration of Actions in Rule Making Proceedings

November 17, 1980.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed by December 10, 1980. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Operation of Visual and Aural Transmitters of TV Stations (BC Docket No. 80-10).

Filed by: Everett H. Erlick, Robert J. Kaufman, Mark D. Roth, James A. McKenna, Jr., R. Michael Senkowski and W. Kennedy Keane, Attorneys for American Broadcasting Companies, Inc., on 10-27-80.

Subject: Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations (Mt. Vernon, Ohio) (BC Docket No. 80-22, RM-3286).

Filed by: Thomas Schattenfield and Susan A. Marshall, Attorneys for Mt. Vernon Broadcasting Company (WMVO-AM-FM) on 9-10-80.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-36877 Filed 11-24-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 5, 1980. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompained by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 10406.

Filing party: William H. Fort, Esquire, Kominers, Fort, Schlefer & Boyer, 1776 F Street NW., Washington, D.C. 20006.

Summary: Agreement No. 10406 is a general agency and terminal services agreement between Trailer Marine Transport Corporation (TMT) and Remolcadores y Chalanes, S.A. (Remolcadores). The agreement provides that TMT will act as exclusive general agent in the United States for Remolcadores in connection with the latter's roll-on/roll-off service between the U.S. Gulf and the Mexican Gulf. TMT's duties are to include solicitation, booking and documentation of cargo, as well as a full range of other duties customarily performed by a general agent. The agreement also provides that, at ports where TMT owns or leases terminal facilities, it will provide berth and docking space and other related services for Remolcadores' vessels. The agreement is irrevocable until October 31, 1985, and continues indefinitely thereafter or until terminated by the parties.

By Order of the Federal Maritime Commission.

Dated: November 19, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-36711 Filed 11-24-80; 8:45 am]

BILLING CODE 6730-01-M

Controlled Carriers Under the Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Listing of controlled carriers.

SUMMARY: The Federal Maritime Commission hereby lists an additional "controlled carrier" as defined by the Shipping Act, 1916, that is not totally exempt from the provisions of the Act. This carrier is being added to the list of "controlled carriers" appearing in the **Federal Register** of June 30, 1980.

DATES: None.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street NW., Washington, D.C. 20573.

SUPPLEMENTARY INFORMATION: The Ocean Shipping Act of 1978 (Pub. L. 95-483) was incorporated into sections 1 and 18(c) of the Shipping Act, 1916 (46 USC 801, 817(c)) (the Act), and provides for the regulation of the rates or charges of certain state-owned or controlled carriers operating in the foreign commerce of the United States. These provisions became effective November 17, 1978, imposing upon the Federal Maritime Commission the responsibility to regulate the rates and practices of such carriers operating as "cross-traders" in the United States ocean-borne foreign commerce.

Not all controlled carriers are subject to the regulatory requirements of Pub. L. 95-483. Section 18(c)(6) of the Act sets forth two categories of controlled carriers which are exempt from the regulatory requirements and three conditions under which controlled carriers are exempt in certain trade areas. For example, rates of controlled carriers in the bilateral trades or in a trade served exclusively by controlled carriers are exempt from the rate regulations prescribed in Pub. L. 95-483. Likewise, rates which are established pursuant to an agreement among carriers, such as a conference agreement, are exempt. However, rates set independently (such as open rates) are subject to the regulatory requirements of Pub. L. 95-483 when not related to cargo moving in the bilateral trades or a trade served exclusively by controlled carriers.

In order to identify controlled carriers that are not exempt from the provisions of the Act, the Commission periodically issues section 21 Orders to carriers who could meet the definition of a controlled carrier under the Act. The Orders require the carriers to answer questions concerning ownership, flag of their vessels, operating areas, United States trades served, and seek their opinion as to possible exemptions.

Upon reviewing recent carrier responses, the Commission has classified Surinam Navigation Company as a controlled carrier, pursuant to the definition contained in the Act, that has not been totally exempted by section 18(c)(6) of the Shipping Act, 1916.

On October 10, 1980, a letter was sent to Surinam Navigation Company advising it of the Commission's action. The carrier was also advised that all of its rates, including open rates, in the bilateral trades between the U.S. and Surinam are exempt. However, in the crosstrades between the United States and other countries, rates set independently of section 15 conference or rate agreements, such as open rates, are subject to section 18(c) of the Shipping Act.

Therefore, pursuant to section 18(c) of the Shipping Act, 1916, the Federal Maritime Commission has classified Surinam Navigation Company as a controlled carrier and is amending the list of controlled carriers that have not been totally exempted by section 18(c)(6) of the Act, previously published in the **Federal Register** on June 30, 1980 to include this carrier. The amended list is shown below:

Baltic Shipping Co.—U.S.S.R.
Bangladesh Shipping Corp.—Bangladesh
Black Sea Shipping Company—U.S.S.R.
Black Star Line—Ghana
Compagnie Maritime Zairoise (CMZ)—Zaire
Compagnie Nationale Algerienne de Navigation—Algeria
Companhia de Navegacao Loide Brasileiro—Brazil
Compania Chilena De Navegacion Interoceanica, S.A.—Chile
Djakarta Loyd, P.T.—Indonesia
Egyptian National Line—Egypt
Far Eastern Shipping Co. (FESCO)—U.S.S.R.
Flota Mercante Gran Centro Americana S.A. (Flomerca)—Gatemala
Murmansk Shipping Co. (Arctic Line)—U.S.S.R.
Neptune Orient Lines (NOL)—Singapore
Pakistan National Shipping Corporation—Pakistan
Peruvian State Line—Peru
Polish Ocean Lines—Poland
Shipping Corporation of India—India
South African Marine Corp. Ltd.—South Africa
Surinam Navigation Company—Surinam
Transportes Navieros Ecuatorianos (Transnave)—Ecuador

The process of identification and classification of controlled carriers is continuous. The list as shown will be amended as such carriers enter and leave the United States foreign trades.

By the Commission November 12, 1980

Francis C. Hurney,

Secretary.

[FR Doc. 80-36710 Filed 11-24-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

First American Bank Corp.; Acquisition of Bank

First American Bank Corporation, Kalamazoo, Michigan, has applied for the Board's approval under section 3 (a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of The First National Bank of Alger County, Munsing, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 17, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 17, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36888 Filed 11-24-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Texas International Company is granted early termination of the waiting period provided by law and the

FCC and NRC requests are invited from all interested persons, organizations,

a program to be submitted with a license application or renewal request will

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

reflect the complete reorganization of the National Institute on Drug Abuse,

SUMMARY: Texas International Company is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Tiger Drilling Company from Edward Mike Davis. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Mr. Davis. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: November 17, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-36783 Filed 11-24-80; 8:45 am]

BILLING CODE 4750-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on November 17, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC and NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before December 15, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Rom 5106, 441 G Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Federal Communications Commission

The FCC requests an extension without change clearance of Form 901, Monthly Report of Revenues, Expenses, and Other Items—Telephone Companies, which is required by Sections 1.786 and 43.31 of the Commission's Rules and Regulations and Section 219A of the Communications Act of 1934. All Class A telephone companies who have operating revenues for the preceding year in excess of $1,000,000 must file with the FCC a certified copy of this report within 40 days after the end of each calendar month. The FCC estimates respondent burden to average 8 hours per report and that approximately 68 respondents will complete Form 901 monthly.

Nuclear Regulatory Commission

The NRC requests clearance of the application and recordkeeping requirements contained in a new ALARA program for Academics. The program is designed to reduce collective academic occupational radiation exposures. NRC has in the past required ALARA (as low as is reasonable achievable—radiation exposures and releases) programs for fuel cycle licensees and recently established a program for medical licensees that contained numerical guidelines for occupational exposures NRC expects to be attained. This new academic ALARA program is similar to the medical program and is expected to reduce collective academic occupational doses while maintaining individual worker doses at 10 percent or less of dose limits contained in 10 CFR Part 20. NRC states that some leeway is provided for special cases. The program was developed with the advice and assistance of representatives of the Campus Radiation Safety Officers. The NRC estimates that approximately 320 NRC licensees will participate in the program and that time for each licensee or applicant to prepare a program to be submitted with a license application or renewal request will require a one-time burden of 8 hours per applicant or licensee. Each licensee will be required to maintain records concerning the considerations used in establishing action levels for its program which will require one hour annually. Each licensee will be required to maintain records of each personnel exposure investigation and such recordkeeping will require one hour for each investigation record.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-36784 Filed 11-24-80; 8:45 am]

BILLING CODE 1815-01-M

Regulatory Reports Review; Receipt and Approval of Report Proposal

A request for an extension clearance of Form OP–1, Application for Motor or Water Carrier Certificate of Permit, Brokerage License, Freight Forwarder Permit or Water Carrier Exemption, was received from the Interstate Commerce Commission by the Regulatory Reports Review Staff, GAO, on November 3, 1980. The purpose of publishing this notice is to inform the public of such receipt and action taken by GAO.

Interstate Commerce Commission

The Interstate Commerce Commission requested an extension clearance of Form OP–1, Application for Motor or Water Carrier Certificate of Permit, Brokerage License, Freight Forwarder Permit or Water Carrier Exemption. We had granted a conditional clearance on Form OP–1 on June 12, 1980, and limited the clearance to December 31, 1980. (See 45 FR 45960)

We were informed by a letter from ICC dated October 30, 1980, that the Commission will be unable to complete its rulemaking Ex Parte No. 55 (Sub No. 43) by the November 15 deadline established by GAO for resubmission of Form OP–1 for clearance. Therefore, ICC has requested an extension of 120 days of the present form to allow them sufficient time to complete the final rules, design the form, obtain the necessary clearance and print the new form. We agreed to extend our clearance of the present form for 120 days. The new expiration date of this clearance is April 30, 1981.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-36785 Filed 11-24-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 76G-0191]

Austin Hansen Associates, Inc.; Withdrawal of Petition for Affirmation of Gras Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the withdrawal without prejudice of a petition proposing that *Thamnidium elegans* mold for use in aging of meat be affirmed as generally recognized as safe (GRAS).

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Bureau of Foods (HFF–335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–426–8950.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 171.7 *Withdrawal of petition without prejudice* of the procedural food additive regulations (21 CFR 171.7), Austin Hansen Associates, Inc., 26 E. Andrews Dr. NW., Atlanta, GA 30305, has withdrawn its petition (GRASP 5G0054), notice of which was published in the **Federal Register** of September 7, 1976 (41 FR 37657) proposing that *Thamnidium elegans* molds for use in aging of meat be affirmed as GRAS.

Dated: November 14, 1980.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 80-36667 Filed 11-24-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 76F-0096]

Calor Agriculture Research, Inc.; Filing of Petition for Food Additive Permitted in Feed and Drinking Water of Animals

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Calor Agriculture Research, Inc., has filed a petition proposing that the food additive regulations be amended to provide for safe use of fermented ammoniated condensed whey in liquid animal feeds.

FOR FURTHER INFORMATION CONTACT: William D. Price, Bureau of Veterinary Medicine (HFV–123), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3442.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (MF–3655) has been filed by Calor Agriculture Research, Inc., 207 Fourth St., P.O. Box 190, Luxemburg, WI 54217, proposing that § 573.450 *Fermented ammoniated condensed whey* (21 CFR 573.450) be amended to provide for use of the additive in free-choice liquid feed supplements for cattle. The regulation currently provides for mixing the additive with grain, roughage, or grain and roughage before feeding to cattle.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: November 17, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-36668 Filed 11-24-80; 8:45 am]

BILLING CODE 4110-03-M

Small Business Participation; Notice of Open Meeting

Correction

In FR Doc. 80–34717, appearing on page 74062 in the issue of Friday, November 7, 1980, the "DATE" paragraph should read, "This meeting will be held at 1:30 p.m., Wednesday, December 17, 1980.".

BILLING CODE 1505-01-M

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HM (Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA)) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (39 FR 1654, January 11, 1974, as amended most recently in part by 44 FR 35297, June 19, 1979) is amended to reflect the complete reorganization of the National Institute on Drug Abuse, ADAMHA. The reorganization accomplishes the following: (1) establishes an Office of Special Populations, an Office of Grants and Contracts, a Division of Prevention and Treatment Development, and a Division of Training; (2) abolishes the Division of Resource Development; (3) retitles the Office of Program Support to be the Office of Management, the Office of Medical and Professional Affairs to be the Division of Medical and Professional Affairs, the Office of Extramural Project Review to be the Office of Extramural Policy and Project Review, and the Division of Scientific and Program Information to be the Division of Data and Information Development; and (4) modifies the functional statements for the entire Institute. The reorganization also provides the Director of NIDA support in exercising that official's leadership role through three Associate Directors, who will serve as operational heads for the following specified areas: (1) knowledge development, encompassing the Divisions of Data and Information Development, Research, and Prevention and Treatment Development; (2) services and training, encompassing the Division of Community Assistance Training, and Medical and Professional Affairs; and (3) administration, encompassing the Offices of Management and Grants and Contracts.

Section HM–B, Organization and Functions, is amended as follows:

Delete all functional statements for the *National Institute on Drug Abuse (HMH)* and substitute the following:

National Institute on Drug Abuse (HMH)

Provides leadership, policies, and goals for the Federal effort in the prevention, control, and treatment of narcotic addiction and drug abuse, and the rehabilitation of affected individuals. In carrying out these responsibilities the Institute: (1) conducts and supports research on the biological, psychological, sociological and epidemiological aspects of narcotic addiction and drug abuse; (2) supports the training of professional and paraprofessional personnel in prevention, treatment and control of drug abuse; (3) conducts and supports research on the development and improvement of drug abuse services delivery, administration, and financing and supports services programs and projects; (4) collaborates with and provides technical assistance to State

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drug abuse authorities, and supports State and community efforts in planning, establishing, maintaining, coordinating and evaluating more effective narcotic addiction and drug abuse programs; (5) collaborates with provides assistance to, and encourages other Federal agencies, national, foreign, State and local organizations, hospitals, and volunteer groups to facilitate and extend programs for the prevention of narcotic addiction and drug abuse, and for the care, treatment, and rehabilitation of drug abusers; and (6) carries out administrative and financial management, policy development, planning and evaluation, and public information functions which are required to implement such programs.

Office of the Director (HMH1)

(1) Provides leadership, direction, and policy in the development of Institute goals, priorities, policies, and programs; and serves as the focal point for the Department's efforts on drug abuse; (2) provides overall program coordination; (3) conducts and coordinates Institute interagency, intergovernmental, and international activities, including liaison with the regional offices; (4) provides advice and guidance on legislation, statutes and regulations related to all aspects of drug abuse treatment and prevention; (5) assesses the impact of Institute programs; (6) provides support to the Institute in various areas of administrative management, equal employment opportunity, and in program development, policy analysis, and legislative analysis; and (7) provides correspondence control services for the Institute.

Office of Extramural Policy and Project Review (HMH14)

(1) Provides leadership and develops recommendations on the formulation of program policies related to Institute extramural activities; (2) plans, administers and coordinates peer and objective review of grant applications and contract proposals; (3) develops Institute review policies and procedures, provides orientation and guidance on such policies and procedures, and monitors the review process to ensure quality of review and conformance to policy; (4) recommends nominees for review groups; (5) administers the committee management function; (6) collects and analyzes data relating to the review of grant applications and contract proposals, and makes recommendations, as necessary, for changes in Institute committee structure and/or referral guidelines; (7) collaborates with other Institutes and the Office of the Administrator to insure adequate exchange of information and optimum effectiveness of the review process; (8) participates in the review of proposed HHS, PHS, and ADAMHA policies and documents affecting peer and objective review and extramural programs; and (9) coordinates Institute activities under the Privacy Act and for reports clearance.

Office of Program Development and Analysis (HMH13)

(1) Develops program plans and monitors progress toward established objectives; (2) analyzes program policy and activities and develops recommendations for significant program changes; (3) develops Institute program evaluation policy and plans in conjunction with the annual development of the Institute's budget; (4) develops data requirements pertinent to planning and evaluating program activities; and (5) develops policy recommendations and proposals for integrating basic and applied research findings into the Institute's service delivery programs.

Office of Special Populations (HMH18)

(1) Serves as focal point for Institute program and strategy developmental activities on behalf of special populations including children and youth, women, racial/ethnic minorities, native Americans, and the elderly; (2) identifies the drug related problems of these special populations; (3) works with staff and line components of the Institute to assure that the drug related problems of special populations receive appropriate consideration in the policies, programs, and distribution of resources of the Institute; and (4) acts as NIDA liaison with Federal, State, and local government agencies, Congress, special interest groups and private organizations concerned with drug abuse among special populations by (a) advising the Director and senior staff on trends and issues in drug abuse among special populations; and (b) interpreting NIDA policy on matters relating to special population drug abuse.

Office of Communications and Public Affairs (HMH17)

(1) Provides for the communications and public affairs aspects of NIDA's programs by establishing and maintaining relationships with the media, professional and citizen organizations and public interest groups, and sponsorship of special events; (2) serves as central liaison and coordinating point for NIDA on all communications and public affairs projects and activities, and assures that these activities are in accord with NIDA goals; (3) reviews and clears publications, press releases, and other material of a public information nature, and obtains further review and clearance of these materials from higher echelon; (4) advises the Director on policy matters related to NIDA communications and public affairs activities; (5) coordinates NIDA activities under the Freedom of Information Act and insures the availability of information to the public; (6) operates the National Clearinghouse for Drug Abuse Information which collects, stores, and disseminates drug abuse scientific and technical information to the public and to other government agencies; and (7) operates a resource center of books, periodicals, films, and records relating to drug abuse research and prevention.

Office of Management (HMH15)

(1) Provides or coordinates the provision of administrative management support to the Institute in such areas as (a) financial management, including budget and accounting, (b) administrative services, and (c) personnel management; (2) develops administrative management policies, procedures and guidelines, and conducts management studies of Institute programs and operations; (3) maintains liaison with the management staff of the Office of the Administrator and implements within the Institute general management policies prescribed by ADAMHA and higher authorities.

Office of Grants and Contracts (HMH16)

(1) Develops, implements and coordinates Institute procedures for the management of grants and contracts; (2) provides guidance to Institute staff and extramural awardees on the management and administrative aspects of grant and contract programs; (3) reviews grant applications, operating programs, and reports of expenditures, to insure compliance with grant managment policies and procedures; (4) negotiates, executes, and administers the Institute's contracts and reimbursable agreements; (5) prepares reports and maintains records relating to grant and contract applications and awards; (6) reviews and responds to audit reports submitted to higher echelons; and (7) represents the Institute in activities to implement policies related to grants and contracts management.

Division of Data and Information Development (HMH9)

(1) Coordinates Institute development and implementation of new information and data gathering systems; (2) permanently manages a variety of fully operational drug abuse information systems initially developed by Institute components; (3) obtains necessary clearances from higher echelons for new information systems; (4) responsible for the design, development, operation, and maintenance of Institute drug abuse management information emanating from Federal/non-Federal drug abuse prevention and treatment efforts; (5) provides periodic and special reports and analyses for operational and planning purposes; and (6) provides consultation to and liaison with Institute staff and other Federal, State and private agencies concerned with information programs on drug abuse.

Division of Research (HMH3)

(1) Plans, develops, and administers a broad extramural program of biomedical, psychosocial, behavioral, and basic clinical research which seeks to develop new knowledge concerning the mechanisms underlying drug abuse and its causes, hazards, treatment, and prevention; (2) through its intramural research program, carries out fundamental biomedical, psychosocial, behavioral, and clinical research related to the causes, hazards, treatment, and prevention of drug abuse in experimental laboratory settings. Supports basic and clinical studies designed to determine the neurological and biochemical effects of newly developed pharmacological agents; (3) disseminates research information, promoting its exchange between researchers, planners, and the field through consultations, conferences, committees, and publications; (4) conducts studies to develop new methodologies for testing the abuse potential of new compounds and performs such tests as deemed appropriate; and (5) supports training to increase the quantity, quality, and utilization of skilled basic research investigators in the field of drug abuse.

Division of Prevention and Treatment Development (HMH4)

(1) Plans, develops, and administers a comprehensive program of applied research, social policy analysis, technology transfer, and prevention capacity building to further the development of drug abuse prevention nd treatment; (2) evaluates the efficacy of accepted as well as new prevention and treatment techniques; (3) conducts research designed to test and develop the potential of new prevention/treatment intervention approaches, models, and strategies to meet the needs of both active and prospective drug abuse treatment clients; (4) disseminates the findings from ongoing and completed applied research projects to prevention and treatment programs at State and local levels; (5) develops materials to assist the field in the application of new techniques; and (6) supports a system of technical assistance to the States, local agencies, and community groups to aid in the development and implementation of prevention projects.

Division of Community Assistance (HMH7)

(1) Plans, develops and administers the Institute's treatment and rehabilitation programs; (2) assumes primary Institute responsibility for the rendering of technical assistance on treatment needs to States; (3) insures the development and implementation of, and compliance with, quality treatment standards at reasonable cost; (4) initiates and administers programs for the treatment and rehabilitation of drug dependent persons within the criminal justice system; and (5) monitors and maintains the management efficiency of treatment projects.

Division of Training (HMH2)

(1) Plans, develops, and supports programs to train professional and paraprofessional human resources in the prevention, treatment and control of drug abuse, including training in special group drug abuse programs; (2) develops and conducts training courses for U.S. Attorney staffs, HHS regional office personnel, and Institute staff responsible for implementation of narcotic addict treatment programs; (3) provides assistance to Federal, State, and local agencies and nonprofit organizations in the development of human resources and training programs; (4) develops new training strategies and programs as appropriate to trends in human resource utilization, and (5) supports the nationwide dissemination of professional and paraprofessional resources through conferences, committees, and publications.

Division of Medical and Professional Affairs (HMH8)

(1) Develops and implements medical/professional standards and policy, and monitors the registration and compliance of physician/programs under such guidelines; (2) conducts studies and analyses of the medical and non-medical use of controlled substances, the prescribing of such substances by physicians, and their diversion from legitimate medical channels; (3) advises appropriate Federal agencies on the prevention of non-medical use of licitly manufactured psychoactive drugs, including the scheduling and rescheduling of psychoactive drugs and the establishment of standards for the appropriate prescribing of these drugs; (4) assesses the medical need for controlled substances and provides such information to appropriate Federal agencies; and (5) serves as Institute liaison with the medical/professional community and with other Federal agencies concerned with the utilization and control of psychoactive substances.

Dated: November 17, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-36728 Filed 11-24-80; 8:45 am]

BILLING CODE 4110-86-M

Health Resources Administration and Health Services Administration; Statement of Organization, Functions, and Delegations of Authority

This **Federal Register** notice amends two chapters within Part H (Public Health Service) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services: Chapter HR (Health Resources Administration) and Chapter HS (Health Services Administration).

Part H, Chapter HR (Health Resources Administration) of the Statement of Organizations, Functions, and Delegations of Authority for the Department of Health and Human Services (43 FR 39436, September 5, 1978, as amended most recently at 45 FR 47245, July 14, 1980) is amended to delete from the functional statement for the Bureau of Health Professions reference to the administration of an insured loans program and to abolish the Division of Health Professions Training Support within the Bureau of Health Professions. These activities are being transferred to a newly established Bureau of Health Personnel Development and Service within the Health Services Administration.

Sec. HR-B, *Organization and Functions*, is amended as follows:

(1) *Under the Bureau of Health Professions (HRM)* amend item (5) by changing the comma to a semicolon and deleting "and administers a program of insured loans to students enrolled in health professions schools;".

(2) Delete the *Division of Health Professions Training Support (HMR6)* in its entirety.

Delete Sec. HR-D, *Delegations of Authority*, in its entirety and substitute the following:

Sec. HR-D, *Delegations of Authority*

All delegations of authority to the Administrators Health Resources Administration, which were in effect immediately prior to the effective date of this reorganization, excluding the program authorities pertaining to the functions heretofore assigned to the Division of Health Professions Training Support, shall continue in effect pending further redelegation. All delegations and redelegations of authority to officers or employees of the Health Resources Administration, which were in effect immediately prior to the effective date of this reorganization, shall continue in effect in them, pending further redelegation.

Part H, Chapter HS (Health Services Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (39 FR 10463, March 20, 1974, as amended most recently at 44 FR 56989, October 3, 1979) is amended to establish a new Bureau of Health Personnel Development and Service which will carry out the health professions scholarship and student assistance programs formerly administered by the Division of Health Professions Training Support within the Bureau of Health Professions, Health Resources Administration, and also the National Health Service Corps Program formerly administered by the Program Office for National Health Service Corps within the Bureau of Community Health Services, Health Services Administration. The amendment transfers the functions of the Division of Emergency Medical Services from the Bureau of Medical Services to the Bureau of Community Health Services and realigns most of the remaining functions within the Bureau of Medical Services. Further, the amendment updates the order of succession to the position of Administrator, Health Services Administration, during the absence or disability of the Administrator or in the event of a vacancy in that office.

Sec. HS–B, *Organization and Functions,* is amended as follows:

(1) Delete the functional statements of the *Bureau of Medical Services (HSM)* in their entirety and substitute the following:

Bureau of Medical Services (HSM). The Bureau of Medical Services provides direct health care services and support for such services to certain legal beneficiaries of the Public Health Service, including meeting the occupational health needs of Federal employees, by providing: (a) comprehensive direct health care for designated Federal beneficiaries and selected community goups; (b) occupational health care and safety services for Federal employees; (c) training for health services personnel; and (d) intramural clinical and health services research.

Office of the Director (HSM1). (1) Provides leadership and general direction to Bureau activities, including Equal Employment Opportunity and the control of written communication, and provides guidance and coordination to each major Bureau component by acting as a central point of reference for program continuity and information; (2) establishes Bureau policies, goals, and objectives; (3) coordinates and evaluates development and progress of the Bureau activities; (4) develops and directs a comprehensive medical program for prisoners in Federal prisons and correctional institutions; (5) maintains relationships with other HHS operating agencies, other Federal agencies, State and local governments, consumer groups, and national organizations concerned with health affairs; (6) administers a comprehensive medical program for military personnel and eligible dependents of the Coast Guard; and (7) directs and coordinates the direct health and medical services to authorized beneficiaries, including the resources necessary to provide services.

Office of Program Support (HSM13). Provides staff support to the Bureau Director for: (1) the development, coordination, and evaluation of administrative program, policies and procedures; (2) the conduct and coordination of the Bureau's financial management and materiel management responsibilities; (3) participation in administrative staff recruitment, training and assignment; and (4) provision of consultative services to and continuing liaison with other programs of the PHS.

Office of Program Development (HSM14). Provides staff support to the Bureau Director for: (1) program planning and evaluation, including development of improved methodologies for planning and evaluation; (2) consultation, coordination and guidance in policy development, implementation, and evaluation of health delivery programs throughout the Bureau; and (3) the formulation, implementation, coordination, and evaluation of legislation, regulations, policies, instructions, and procedures as they affect the Bureau.

Office of Health Professional Services (HSM15). The Office of Health Professional Services plans, directs, coordinates and evaluates the delivery of health professional services within the Bureau's medical facilities. Specifically: (1) provides leadership, guidance, and coordination for professional and technical health manpower development responsibilities; (2) plans, directs and coordinates the health education and training programs for the Bureau; and (3) directs and provides oversight to the recruitment and staffing program, and assures the professional adequacy of resources necessary to the effective health services delivery program for beneficiaries and patients throughout the system of medical facilities; and (4) provides leadership, guidance, and coordination for the research activities of the Bureau.

Office of Health Systems Management (HSM16). The Office of Health Systems Management is responsible for coordinating and implementing comprehensive management, administrative and technical programs to insure the continued operation of the PHS hospital and clinic system. Specifically: (1) assures that the PHS hospital and clinic system conforms and contributes to national health policy; (2) directs and coordinates the administrative operations of health system financial and resource management activities; (3) develops standards and objectives for acceptable efficiency levels and evaluates the effectiveness of health systems programs and operations; (4) serves as a focal point for Third Party Reimbursement activities; (5) provides, in collaboration with the Office of the Assistant Secretary for Health, architectural and engineering services which include, but are not limited to, the development and/or coordination of: (a) modernization and construction projects, (b) the maintenance and repair program, (c) capital budgeting activities, (d) architectural planning programs, (e) guidelines for sharing patient care services, (f) biomedical engineering program, (g) energy conservation policies, (h) compliance requirements of fire, life safety, and Occupational Safety and Health Administration codes, and the related accreditation requirements of the Joint Commission on the Accreditation of Hospitals, and (i) environmental impact statements for construction projects; (6) plans, directs, coordinates and evaluates data processing and data collection activities for the Bureau's headquarters and field programs; and (7) designs, programs and implements new or revised data systems and procedures.

Office of Ambulatory Care (HSM17). (1) Assists in development and implementation of the ambulatory care programs throughout the Bureau in coordination with the Office of Health Systems Management; (2) provides direction, assistance and guidance in respect to the administration of the outpatient medical facilities of the Bureau, including contract physician medical facilities, independent outpatient clinics, hospital-supervised outpatient clinics, and hospital ambulatory care programs; (3) has management control over the resources assigned to the freestanding ambulatory care clinics; (4) maintains continuing oversight and surveillance over these facilities in respect to staffing, contract and other requirements, problems in providing health services to beneficiaries, involvement in cooperative and/or collaborative community programs, and relationships with Federal and non-Federal agencies in the community; and (5) coordinates the actions taken in respect to these ambulatory care responsibilities with the specialized resources of the Bureau.

Division of Federal Employee Occupational Health (HSMA). (1) Provides consultation on, and stimulates the development of improved occupational health and safety programs throughout the Government; (2) evaluates upon request Federal agency occupational health services in relations to standards; (3) administers employee occupational health programs for other Federal agencies on a reimbursable basis; (4) conducts research studies, training and demonstration projects; (5) develops occupational medical standards and methods for Federal employee occupational health programs; (6) promotes activities designed to protect the working health and safety of Federal employees in order to maximize their productivity.

PHS Hospitals (HSMFM–HSMFV). Staten Island, Baltimore, Norfolk, New Orleans, Carville, Nassau Bay, San Francisco, Boston, and Seattle (1) Provides a comprehensive program of direct health care for designated Federal beneficiaries and selected community groups; (2) carries out the training of health services personnel; (3) conducts intramural and health services research; (4) plans and performs activities in support of and in cooperation with intra-agency and interagency sponsored community programs; and (5) provides administrative and professional support to outpatient clinics, as appropriate.

(2) Under the *Bureau of Community Health Services (HSP)* make the following changes:

(a) Delete the functional statement for the *Bureau of Community Health Services (HSP)* in its entirety and substitute the following:

Bureau of Community Health Services (HSP). The Bureau of Community Health Services serves as a national focus for efforts to improve the organization and assure delivery of health services to specified medically underserved groups or in medically underserved areas. To the maximum extent possible this is done in conjunction with the major health care financing programs. To this end, the Bureau: (1) facilitates the development of locally-based programs of health services delivery; (2) enhances the capacity of bureau supported health service programs for full participation in the major public health financing systems—Medicare and Medicaid; (3) administers programs providing specific services to specific populations including family planning, maternal and child health care, and migrant care; (4) directs programs, excluding the National Health Service Corps, which assure accessibility to health care in underserved areas; (5) improves quality and contains costs of services provided in bureau supported health service delivery programs; and (6) provides national leadership for assistance, guidance, and encouragement in the development, improvement, expansion, and integration of comprehenive area emergency medical services systems.

(b) Delete the title *"Program Office for National Health Service Corps (HSP14)"* from the heading of the overall functional statement for the Program Offices.

(c) Insert the following statement after the *Program Office for Maternal and Child Health (HSP15):*

Program Office for Emergency Medical Services (HSP1A). Under the direction of an Associate Bureau Director who is a member of the Bureau Director's immediate staff: The Program Office provides national leadership for assistance, guidance, and encouragement in the development, improvement, expansion, and integration of comprehensive area emergency medical services systems to meet the needs of States and local communities and other eligible entities.

To this end: (1) Serves as the focal point within the Department for the development of objectives, plans, and policies for all aspects of an emergency medical services systems program; (2) promulgates national standards and guidelines for emergency medical services systems; (3) coordinates emergency medical services systems activities within the Department and with Federal and other agencies, consumer groups, and professional organizations; (4) provides staff and support for the Interagency Committee on Emergency Medical Services; (5) collects, analyzes, catalogs and disseminates all data useful in the development and operation of emergency medical services systems; (6) provides budget authority and technical cooperation to the Health Resources Administration for implementation of emergency medical services systems research and training; (7) through the PHS Regional Offices, provides grants and contracts to States, communities, and other eligible entities in the planning, development, initial operation, and improvement and expansion of their emergency medical services systems and subsystems; (8) through the PHS Regional Offices and the Headquarters office, provides technical assistance and consultation to States, communities, and organizations in the development of emergency medical services systems and subsystems.

(3) Insert the following statements after the *Division of Monitoring and Analysis (HSPL):*

Bureau of Health Personnel Development and Service (HSR). The Bureau of Health Personnel Development and Service serves as a national focus for efforts to increase the availability of and the placement of health professionals in medically underserved areas, and in promoting a redistribution of health care professionals into health manpower shortage areas. This is accomplished in coordination with health service delivery programs administered by other organizations in the Public Health Service. To this end, the Bureau: (1) directs health professions scholarship and student assistance and training programs; (2) administers programs, including the National Health Service Corps, which assure accessibility to health care in underserved areas by arranging for health professionals to provide direct health services in health manpower shortage areas; (3) facilitates the integration of providers of health services into overall health delivery systems by providing national leadership in the development of assignments and professional productivity standards to improve quality of care.

Office of the Director (HSR1). (1) Directs the national health professions student assistance and development programs and activities for the medically underserved; (2) provides policy guidance and staff direction; (3) maintains liaison with other Federal and non-Federal organizations and agencies with health service and health professions educational responsibilities; (4) directs and coordinates human rights activities as they relate to civil rights, consumer representation, and equal employment opportunity. Coordinates

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such activities with the Office of Health Resources Opportunity, HRA, and the Office of Equal Employment Opportunity, HSA; (5) provides correspondence control and records management; (6) directs, coordinates, and provides guidance in the Privacy Act and Freedom of Information inquiries and the handling of public and congressional inquiries; and (7) maintains liaison on matters affecting Bureau programs with HRA, and other DHHS operating agencies, other Federal agencies, consumer groups, national organizations concerned with health affairs, and State and local governments through the Regional Offices; and (8) reviews regulations and policies concerning student assistance and development programs with the National Advisory Council on Health Professions Education and the Nurse Training Council.

Office of Program Development and Evaluation (HSR12). Serves as the focal point for planning, evaluation, analysis, legislation, and program implementation activities, including the development and dissemination of program objectives, alternatives, and policy positions. Coordinates its activities closely and continuously with the Office of Planning, Evaluation, and Legislation, HSA, and PHS Regional Offices. Specifically: (1) Stimulates, initiates, guides, and coordinates program planning, reporting, and evaluation activities of the divisions and staff offices; (2) provides staff services to the Director for program planning and its relation to the budgetary process, congressional reports, and evaluation; (3) prepares the forward plan; (4) develops and implements evaluation programs; (5) provides staff services and coordinates activities pertaining to legislative policy development, interpretation, and implementation, including the development of legislative proposals, the analysis of existing and pending legislation, liaison with other agencies, and distribution of legislative materials, and (6) develops legislative implementation plans, including the development, clearance, and dissemination of regulations, criteria, guidelines, and operating procedures.

Office of Data Management (HSR13). Serves as the focal point for system and information management. Specifically: (1) Directs, analyzes, designs, develops, implements, and monitors data systems, data collection activities, data analyses and interpretations; (2) represents the Director on systems and data matters external to the Bureau; (3) conducts training for staff on data systems; (4) interfaces with all data systems support organizations; and (5) coordinates data reporting to common PHS data systems.

Office of Program Support (HSR14). Serves as the focal point for planning, directing, coordinating, and evaluating Bureau-wide administrative and management activities; and maintains close liaison with officials of HSA, the Office of the Assistant Secretary for Health, and the Department on matters relating to management and administrative support activities. Specifically: (1) Provides or serves as liaison for providing program support services and resources, including procurement of equipment and supplies, printing, property, etc.; (2) directs, conducts, and coordinates manpower management activities and advises on the allocation of personnel resources; (3) provides organization and management analysis, develops policies and procedures for internal operation, and interprets and implements the Bureau's management policies, procedures, and systems; (4) develops and coordinates program and administrative delegations of authority activities; (5) develops and maintains manual issuances and conducts forms management; (6) coordinates the development and processing of Bureau contract procurement activities and maintains liaison with the Office of Contracts and Grants, HSA, and the Division of Material Management, Office of the Assistant Secretary for Health; (7) develops and carries out a full range of financial management activities, including development of the annual zero base budget; and (8) in cooperation with the Office of Personnel, HSA, coordinates personnel activities for the Bureau.

Division of Student Services (HSRA). Serves as the focal point for the Health Professions and Nursing Student Loan and Scholarship Program, the Exceptional Financial Need Scholarship Program, the Health Educational Assistance Loan and Loan Repayment Programs, the Health Professions and Nurse Education Loan Repayment and Loan Cancellation Programs, and the Cuban Refugee Health Professions Loan Program. Specifically: (1) Directs and administers these student assistance, training and support programs, including the awarding of loan and scholarship funds; (2) develops and implements program plans and policies and operating and evaluation plans and procedures in coordination with the Office of Program Development and Evaluation; (3) monitors and assesses educational and financial institutions with respect to capabilities and management of Federal support for students; (4) provides guidance and technical assistance to Public Health Service staff in Regional Offices; (5) develops and conducts training activities for staff of educational and financial institutions and Regional Offices; (6) maintains liaison with and provides assistance to program-related public and private professional organizations and institutions; (7) maintains liaison with the Office of General Counsel, the Office of the Inspector General, DHHS, components of the Department of Education, and the Department of defense and State agencies concerning student assistance; (8) develops, in coordination with the Office of Program Development and Evaluation, legislative proposals and related administrative and management information and control documents; (9) in consultation with the Division of Financing Services, coordinates financial aspects of programs with educational institutions; and (10) in coordination with the Office of Data Management, develops program data needs, formats, and reporting requirements, including collection, collation, analysis and dissemination of data.

Division of Financing Services (HSRB). Directs and coordinates the financial aspects of the programs and performs the grants management functions. Specifically: (1) Develops and operates fiscal services and maintains fiscal controls for obligations, collections, disbursements, repayments, cancellations, and close-out of open awards; (2) interprets policy and provides direction in the conduct of the bureau's grant activities; (3) develops, coordinates, and interprets financial policies, procedures, and plans; (4) reviews, evaluates, analyzes, and reports on program accomplishments in financial terms, evaluates audit reports, and makes financial recommendations; (5) provides guidance and technical assistance to participating educational institutions, financial institutions, communities, and Regional Offices with regard to financial reporting, accounting procedures, cancellation of loans, bankruptcies, and uncollectible student loans; (6) maintains liaison with the Internal Revenue Service (IRS) and provides information pertaining to applicable tax laws and IRS exceptions for the guidance of participating educational institutions and other program recipients; (7) administers the reimbursement program of the NHSC field stations; (8) maintains liaison with the Office of General Counsel and the Office of the Inspector General, DHHS, with respect to cases of fraud and

petitions of bankruptcy; (9) in coordination with the Office of Program Development and Evaluation, prepares legislative proposals and related administrative and management information and control documents; (10) coordinates the fiscal aspects of programs with the Bureau's Office of Program Support and with HSA's Office of Fiscal Services and the PHS and departmental financial management offices, and represents the Director as financial advisor with respect to the resolution of intra-agency or interagency accounting issues; and (11) in coordination with Office of Data Management, develops program data needs, formats and reporting requirements including collection, collation, analysis and dissemination of data.

National Health Service Corps (HSRC). (1) Directs nationwide efforts to improve the availability and distribution of health care delivery professional; (2) plans, directs, administers and coordinates clinical services and related professional health care activities at the national level; (3) in coordination with the Office of Program Development and Evaluation, develops legislative proposals and related administrative and management information and control documents; (4) directs and implements policies and long and short-range goals and objectives for programs and activities related to the National Health Service Corps (NHSC); (5) administers programs for: (a) recruitment and placement of volunteer health professionals and placement of NHSC Scholarship obligees; (b) Private Practice Option and Private Practice Grants for NHSC scholarship recipients; and (c) Start-up Loans for NHSC Sites; (6) relative to the NHSC activities, provides coordination with other programs providing health services, including voluntary, official, and other community agencies; establishes and provides liaison in program matters with Bureaus in the HSA, within the PHS, within the Department, and with other Federal agencies, consumer groups and national organizations concerned with health matters, and through the Regional Offices with State and local governments; (7) plans, develops, and implements assistance programs to: (a) improve the quality and effectiveness of patient care delivery systems for underserved population groups; and (b) improve the quality of staffing, and knowledge of specific types of health care delivery providers; and (8) in coordination with Office of Data Management, develops program data needs, formats, and reporting requirements including collection, collation, analysis and dissemination of data.

Division of Health Services Scholarships (HSRD). Serves as the Federal focal point for the Public Health Service Scholarship Training Program, the Physician Shortage Area Scholarship Program, and the NHSC Scholarship Program. Specifically: (1) Directs and administers these student assistance programs, including the recruitment, application, selection and awarding of scholarship funds and deferment and service monitoring systems in close coordination with NHSC; (2) develops and implements program plans and policies and operating and evaluation plans and procedures in coordination with the Office of Program Development and Evaluation; (3) monitors obligatory service requirements and conditions of deferment for compliance; (4) provides guidance and technical assistance to PHS staff in Regional Offices and to staff of educational institutions; (5) maintains liaison with and provides assistance to program-related public and private professional organizations and institutions; (6) maintains liaison with the Office of General Counsel and the Office of the Inspector General, DHHS; (7) in coordination with the Office of Program Development and Evaluation, prepares legislative proposals and related administrative and management information and control documents; (8) in consultation with the Division of Financing Services, coordinates financial aspects of programs with educational institutions; and (9) in coordination with the Office of Data Management, develops program data needs, formats, and reporting requirements including collection, collation, analysis and dissemination of data.

Sec. HS–C, *Order of Succession,* during the absence or disability of the Administrator or in the event of a vacancy in that Office, the first official listed below who is available shall act as Administrator, except that during a planned period of absence, the Administrator may specify a different order of succession:

(1) Deputy Administrator,

(2) Associate Administrator for Operations,

(3) Associate Administrator for Management,

(4) Director, Indian Health Service,

(5) Director, Bureau of Medical Services,

(6) Director, Bureau of Community Health Services, and

(7) Director, Bureau of Health Personnel Development and Service.

Delete Sec. HS–D *Delegations of Authority,* in its entirety and substitute the following:

Sec. HS–D, *Delegations of Authority.*

All delegations of authority to the Administrator, Health Services Administration, which were in effect immediately prior to the effective date of this reorganization, shall continue in effect pending further redelegation. All delegations and redelegations of authority to officers or employees of the Health Services Administration, including officers or employees transferred from the former Division of Health Professions Training Support within the Health Resources Administration, which were in effect immediately prior to the effective date of this reorganization, shall continue in effect in them or their successors, pending furth redelegation.

Dated: November 14, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-36729 Filed 11-24-80; 8:45 am]

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BILLING CODE 4110-84-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-80-1044]

Solar Energy Advisory Committee and Energy Conservation Advisory Committee Charters

AGENCY: Solar Energy and Energy Conservation Bank, HUD.

ACTION: Notice of advisory committee charters.

SUMMARY: The Solar Energy Advisory Committee and the Energy Conservation Advisory Committee were established by the Solar Energy and Energy Conservation Bank Act, Title V of Pub. L. 96–294 (94 Stat. 719), to advise the Board of Directors of the Solar Energy and Energy Conservation Bank. In accordance with provisions of the federal Advisory Committee Act, 5 U.S.C. App. I § 1 et seq., the Secretary is publishing herewith charters for the advisory committees, duly approved by him as Chairman of the Board of Directors of the Bank.

FOR FURTHER INFORMATION CONTACT: R. Frederick Taylor, Manager, Solar Energy and Energy Conservation Bank, Department of Housing and Urban Development, Room 6100, 451 Seventh Street, S.W., Washington, D.C. 20410 (202–755–5928).

SUPPLEMENTARY INFORMATION: There is appended hereto the text of the charters.

as approved by the Secretary on October 10, 1980.

Issued at Washington, D.C., October 10, 1980.

Moon Landrieu,

Secretary of Housing, and Urban Development and Chairman of the Board of Directors, Solar Energy and Energy Conservation Bank.

Energy Conservation Advisory Committee Charter

1. *Purpose.* This establishes the charter for the energy Conservation Advisory Committee as required under the provisions of the Federal Advisory Committee Act (FACA) of 1972, Pub. L. No. 92–463, 5 U.S.C. App.I § 1.

2. *Objectives, Scope and Duties.* The Energy Conservation Advisory Committee will advise the Board of Directors (the Board) of the Solar Energy and Energy Conservation Bank (the Bank) for the purpose of assisting the Bank in carrying out its activities relating to residential and commercial energy pursuant to the Solar Energy and Energy Conservation Bank Act (12 U.S.C. 3601). The function of the advisory committee shall be advisory only and all the matters under its consideration shall be determined, in accordance with law, by the Board of Directors of the Bank.

3. *Authority.* a. The Energy Conservation Advisory Committee is mandated by and established under the authority of Section 508(b) of the Solar Energy and Energy Conservation Bank Act, Pub. No. 96–294, 94 Stat. 719, 724.

b. The Energy Conservation Advisory Committee shall operate in conformance with the requirements outlined in the Solar Energy and Energy Conservation Bank Act, and all applicable laws, rules, regulations and guidelines promulgated by the Congress, the President, the General Services Administration and the Secretary of Housing and Urban Development.

4. *Composition.* The Energy Conservation Advisory Committee shall be composed of five members who are not officers or employees of any governmental entity. Each of the following groups shall be represented by one member who is able, due to education, training and experience, to represent its views: Consumers, financial institutions, builders, architectural or engineering interests, producers or installers of residential and commercial energy conserving improvement.

5. *Appointments.* A member serves in a representative capacity and is not considered a "Special Government Employee" (as defined by 18 U.S.C. 202).

a. Except as provided below, members are appointed by the Board to serve two year terms.

b. Those members representing the views of consumers and financial institutions shall be appointed for an initial term of three years.

c. The terms of members are automatically extended until new members are appointed.

d. Any member who becomes an officer or employee of any governmental entity may continue as a member of the advisory committee for not longer than 90 days after becoming such an officer or employee.

e. The terms of all members shall automatically cease upon termination of the advisory committee.

6. *Chairperson.* The chairperson of the Energy Conservation Advisory Committee shall be selected by the members of the advisory committee.

7. *Designated Federal Employee.* In accordance with section 10(e) of FACA, the Secretary of Housing and Urban Development has designated the Executive Vice President for Energy Conservation to attend every advisory committee meeting.

8. *Meetings.* The Energy Conservation Advisory Committee shall ordinarily convene in full session four times each year under the following conditions:

a. The Designated Federal Employee may call, and will approve in advance the scheduling and agenda of, advisory committee meetings and subcommittee meetings after consultation with the advisory committee chairperson.

b. A notice of all advisory committee meetings will be published at least 15 days in advance in the **Federal Register.**

c. Three members of the Energy Conservation Advisory Committee shall constitute a quorum, but a lesser number of members may hold hearings.

d. All advisory committee meetings will be open to the general public, except meetings concerned with matters listed in the Freedom of Information Act, Section 552(b) of Title 5 U.S.C., covering such subjects as investigatory files, trade secrets, and internal Government memoranda which are not available to the public upon request.

e. Detailed minutes of each meeting of the advisory committee shall be kept and their accuracy shall be certified by the advisory committee chairperson. The minutes shall conform with Departmental regulations and shall include:

(1) The time and place of the meeting;

(2) A list of advisory committee members and staff, Board members or delegates and Departmental employees present at the meeting;

(3) A summary of matters discussed and the conclusions reached;

(4) Copies of all reports received, issued, or approved by the advisory committee;

(5) A description of the extent to which the meeting was open to the public;

(6) A description of public participation, including a list of members of the public who presented oral or written statements; and

(7) Copies of reports or written statements received from members of the public; and

(8) An estimate of the number of members of the public who attended the meeting.

f. In accordance with FACA, no meeting of the advisory committee will be held in the absence of the Designated Federal Employee or a delegate. The Designated Federal Employee is authorized to adjourn any advisory committee meeting whenever he or she determines adjournment to be in the public interest.

9. *Support Service.* The Bank's Executive Vice President for Energy Conservation shall provide staff support services for the Energy Conservation Advisory Committee. General support services provided to the Bank by various organizational units of the Department of Housing and Urban Development will be available to the advisory committee upon approval of the Executive Vice President for Energy Conservation.

10. *Estimated Support and Cost.* It is estimated that the annual operating cost of the Energy Conservation Committee will not exceed $50,000. This includes travel compensation, transcripts, and miscellaneous meeting expenses but excludes staff support costs which are estimated to be 1080 staff hours.

11. *Travel and Compensation.* a. Members of the Energy Conservation Advisory Committee, while engaged in the performance of formal advisory committee duties away from their homes or regular places of business, are allowed travel expenses on an actual expenses basis for travel incurred for official advisory committee business as authorized by Section 5703(b) of Title 5, United States Code.

b. Subject to the availability of appropriations, the rate of compensation for members of the advisory committee is equal to the daily equivalent of the maximum annual rate in effect for grade GS–15 of the General Schedule (5 U.S.C. 5332(a)) for each day, including travel time, during which they are engaged in the actual performance of duties vested in the advisory committee.

12. *Reports.* The Energy Conservation Advisory Committee shall submit before the conclusion of each calendar year, an annual written report to the Board describing its membership, functions, and actions during the year. The advisory committee shall submit other written reports to the Board from time to time containing the recommendations and findings of the advisory committee.

13. *Expiration of Charter.* The Energy Conservation Advisory Committee shall not terminate until the Solar Energy and Energy Conservation Bank ceases to exist.

14. Date Charter filed with the Secretary of Housing and Urban Development as Chairperson of the Board of Directors of the Solar Energy and Energy Conservation Bank: October 10, 1980.

Solar Energy Advisory Committee Charter

1. *Purpose.* This establishes the charter for the Solar Energy Advisory Committee as required under the provisions of the Federal Advisory Committee Act (FACA) of 1972, Pub. L. No. 92–463, 5 U.S.C. App. I § 1.

2. *Objectives, Scope and Duties.* The Solar Energy Advisory Committee will advise the Board of Directors (the Board) of the Solar Energy and Energy Conservation Bank (the Bank) for the purpose of assisting the Bank in carrying out its activities relating to solar energy systems pursuant to the Solar Energy and Energy Conservation Bank Act (12 U.S.C. 3601). The function of the advisory committee shall be advisory only and all matters under its consideration shall be determined, in accordance with law, by the Board of Directors of the Bank.

3. *Authority.* a. The Solar Energy Advisory Committee is mandated by and established under the authority of Section 508(b) of the Solar Energy and Energy Conservation Bank Act, Pub. L. No. 96–294, 94 Stat. 719, 724.

b. The Solar Energy Advisory Committee shall operate in conformance with the requirements outlined in the Solar Energy and Energy Conservation Bank Act, and all applicable laws, rules, regulations and guidelines promulgated by the Congress, the President, the General Services Administration and the Secretary of Housing and Urban Development.

4. *Composition.* The Solar Energy Advisory Committee shall be composed of five members who are not officers or employees of any governmental entity. Each of the following groups shall be represented by one member who is able, due to education, training and experience, to represent its views: Consumers, financial institutions, builders, architectural or engineering interests, solar energy industry.

5. *Appointments.* A member serves in a representative capacity and is not considered a "Special Government Employee" (as defined by 18 U.S.C. 202).

a. Except as provided below, members are appointed by the Board to serve two year terms.

b. Those members representing the views of consumers and financial institutions shall be appointed for an initial term of three years.

c. The terms of members are automatically extended until new members are appointed.

d. Any member who becomes an officer or employee of any governmental entity may continue as a member of the advisory committee for not longer than 90 days after becoming such an officer or employee.

e. The terms of all members shall automatically cease upon termination of the advisory committee.

6. *Chairperson.* The chairperson of the Solar Energy Advisory Committee shall be selected by the members of the advisory committee.

7. *Designated Federal Employee.* In accordance with section 10(e) of FACA, the Secretary of Housing and Urban Development has designated the Executive Vice President for Solar Energy to attend every advisory committee meeting.

8. *Meetings.* The Solar Energy Advisory Committee shall ordinarily convene in full session four times each year under the following conditions:

a. The Designated Federal Employee may call, and will approve in advance the scheduling and agenda of, advisory committee meetings and subcommittee meetings after consultation with the advisory committee chairperson.

b. A notice of all advisory committee meetings will be published at least 15 days in advance in the **Federal Register.**

c. Three members of the Solar Energy Advisory Committee shall constitute a quorum, but a lesser number of members may hold hearings.

d. All advisory committee meetings will be open to the general public, except meetings concerned with matters listed in the Freedom of Information Act, Section 552(b) of Title 5 U.S.C., covering such subjects as investigatory files, trade secrets, and internal Government memoranda which are not available to the public upon request.

e. Detailed minutes of each meeting of the advisory committee shall be kept and their accuracy shall be certified by the advisory committee chairperson. The minutes shall conform with Departmental regulations and shall include:

(1) The time and place of the meeting;

(2) A list of advisory committee members and staff, Board members or delegates and Departmental employees present at the meeting;

(3) A summary of matters discussed and the conclusions reached;

(4) Copies of all reports received, issued, or approved by the advisory committee;

(5) A description of the extent to which the meeting was open to the public;

(6) A description of public participation, including a list of members of the public who presented oral or written statements; and

(7) Copies of reports or written statements received from members of the public; and

(8) An estimate of the number of members of the public who attended the meeting.

f. In accordance with FACA, no meeting of the advisory committee will be held in the absence of the Designated Federal Employee or a delegate. The Designated Federal Employee is authorized to adjourn any advisory committee meeting whenever he or she determines adjournment to be in the public interest.

9. *Support Services.* The Bank's Executive Vice President for Solar Energy shall provide staff support services for the Solar Energy Advisory Committee. General support services provided to the Bank by various organizational units of the Department of Housing and Urban Development will be available to the advisory committee upon approval of the Executive Vice President for Solar Energy.

10. *Estimated Support and Cost.* It is estimated that the annual operating cost of the Solar Energy Committee will not exceed $50,000. This includes travel compensation, transcripts, and miscellaneous meeting expenses but excludes staff support costs which are estimated to be 1080 staff hours.

11. *Travel and Compensation.* a. Members of the Solar Energy Advisory Committee, while engaged in the performance of formal advisory committee duties away from their homes or regular places of business, are allowed travel expenses on an actual expenses basis for travel incurred for official advisory committee business as authorized by Section 5703(b) of Title 5, United States Code.

b. Subject to the availability of appropriations, the rate of compensation for members of the advisory committee is equal to the daily equivalent of the maximum annual rate in effect for grade GS–15 of the General Schedule (5 U.S.C. 5332(a)) for each day, including travel

time, during which they are engaged in the actual performance of duties vested

LOUISIANA

Tensas Parish

Centre County

Bellefonte vicinity, *New Western*

Churchtown vicinity, *Weaver's Mill Bridge (Covered Bridges of Lancaster County*

Terre Hill vicinity, *Red Run Covered Bridge (Covered Bridges of Lancaster County*

December 6, 1980, at 1:00 p.m. in the YMCA building, E. Potomac Street,

time, during which they are engaged in the actual performance of duties vested in the advisory committee.

12. *Reports.* The Solar Energy Advisory Committee shall submit before the conclusion of each calendar year, an annual written report to the Board describing its membership, functions, and actions during the year. The advisory committee shall submit other written reports to the Board from time to time containing the recommendations and findings of the advisory committee.

13. *Expiration of Charter.* The Solar Energy Advisory Committee shall not terminate until the Solar Energy and Energy Conservation Bank ceases to exist.

14. Date Charter filed with the Secretary of Housing and Urban Development as Chairperson of the Board of Directors of the Solar Energy and Energy Conservation Bank: October 10, 1980.

[FR Doc. 80-36649 Filed 11-24-80; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before November 14, 1980. Pursuant to section 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by December 10, 1980.

Carol Shull,
Acting Chief, Registration Branch.

ILLINOIS

Will County

Joliet, *Joliet Municipal Airport,* 4000 W. Jefferson St.

INDIANA

Switzerland County

Vevay vicinity, *Wright, Thomas T., House, SW of Vevay on IN 56.*

KANSAS

Dickinson County

Chapman Vicinity, *Prospect Park Farm,* S of Chapman.

LOUISIANA

Tensas Parish

St. Joseph, *St. Joseph Historic District,* Roughly bounded by Panola Ave., Front, Hickory, 4th, and Pauline Sts.

MARYLAND

Carroll County

Eldersburg vicinity, *Brown, Moses, House,* SE of Eldersburg at 7604 Ridge Rd.

MISSISSIPPI

Bolivar County

Rosedale, *Grace Episcopal Church,* 203 Main St.

NEBRASKA

Buffalo County

Kearney, *Hanson-Downing House,* 723 W. 22nd St.

Dodge County

Fremont, *McDonald, J. D., House,* 310 E. Military Ave.

NEVADA

Carson City (independent city)

Bank Saloon, 418 S. Carson St.

Washoe County

Reno, *Virginia Street Bridge,* Spans Truckee River.

NEW JERSEY

Essex County

Newark and Belleville, *Branch Brook Park,* Roughly bounded by Belleville Park, W Washington and Clifton Aves., 6th and Orange Sts.

Union County

Plainfield, *Crescent Area Historic District,* Roughly bounded by Park, Prospect, and Carnegie Aves., 7th and Richmond Sts.

PENNSYLVANIA

COVERED BRIDGES OF CHESTER COUNTY THEMATIC RESOURCES. Reference—see individual listings under Chester County.

COVERED BRIDGES OF LANCASTER COUNTY THEMATIC RESOURCES. Reference—see individual listings under Lancaster County.

COVERED BRIDGES OF SOMERSET COUNTY THEMATIC RESOURCES. Reference—see individual listings under Somerset County.

Allegheny County

Pittsburgh, *Allegheny Cemetery,* Roughly bounded by N. Mathilda and Butler Sts., and Penn, Stanton, and Mossfield Aves.

Beaver County

Ambridge, *Harmony Society Meetinghouse,* 1320 Church St.

Bucks County

Yardley vicinity, *Burroughs, John, House,* Wrightstown-Taylorsville Rd.

Centre County

Bellefonte vicinity, *New Western Penitentiary,* 6 mi. SW of Bellefonte on PA 64.

Blanchard vicinity, *Bechdel, Christian, II, House,* S of Blanchard on Liberty Twnshp. Rd. 14050.

Chester County

MERCER'S MILL COVERED BRIDGE (COVERED BRIDGES OF LANCASTER COUNTY THEMATIC RESOURCES). Reference—see Lancaster County.

PINE GROVE COVERED BRIDGE (COVERED BRIDGES OF LANCASTER COUNTY THEMATIC RESOURCES). Reference—see Lancaster County.

Downingtown vicinity, *Gibson's Covered Bridge (Covered Bridges of Chester County Thematic Resources)* SE of Downingtown.

Downingtown vicinity, *Larkin Covered Bridge (Covered Bridges of Chester County Thematic Resources)* N of Downingtown.

Honey Brook vicinity, *Sandy Hill Tavern,* PA 340.

Malvern vicinity, *Bartram's Covered Bridge (Covered Bridges of Chester County Thematic Resources)* SE of Malvern (also in Delaware County).

Marshallton vicinity, *Hannum, Col. John, House,* NE of Marshallton at 898 Frank Rd.

Modena vicinity, *Speakman No. 1 (Covered Bridges of Chester County Thematic Resources)* SW of Modena.

Modena vicinity, *Speakman No. 2, Mary Ann Pyle Bridge (Covered Bridges of Chester County Thematic Resources)* S of Modena.

New London vicinity, *Stevens, Linton, Covered Bridge (Covered Bridges of Chester County Thematic Resources)* SW of New London.

West Grove vicinity, *Glen Hope Covered Bridge (Covered Bridges of Chester County Thematic Resources)* SW of West Grove.

West Grove vicinity, *Rudolph and Arthur Covered Bridge (Covered Bridges of Chester County Thematic Resources)* SW of West Grove.

Cumberland County

Mechanicsburg vicinity, *Bielman-Musselman-Urich House (Old Mansion Farm),* S of Mechanicsburg on Stumpstown and Lisburn Rds.

Delaware County

BARTRAM'S COVERED BRIDGE (COVERED BRIDGES OF CHESTER COUNTY THEMATIC RESOURCES) Reference—see Chester County

Erie County

Fairview, *Sturgeon House,* 102 S. Garwood St.

Lancaster County

Brownstown vicinity, *Zook's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* W of Brownstown.

Christiana vicinity, *Mercer's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* NE of Christiana (also in Chester County).

Churchtown vicinity, *Pool Forge Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* NW of Churchtown.

Churchtown vicinity, *Weaver's Mill Bridge (Covered Bridges of Lancaster County Thematic Resources)* SW of Churchtown.

Columbia vicinity, *Forry's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* NE of Columbia.

Columbia vicinity, *Seigrist's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* NE of Columbia.

Denver vicinity, *Butcher's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* S of Denver.

Ephrata vicinity, *Bitzer's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SE of Ephrata.

Ephrata vicinity, *Keller's Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SW of Ephrata.

Intercourse vicinity, *Leaman Place Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* S of Intercourse.

Kirkwood vicinity, *Jackson's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* N of Kirkwood.

Kirkwood vicinity, *Pine Grove Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* (also in Chester County).

Kirkwood vicinity, *White Rock Forge Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* S of Kirkwood.

Lancaster, *Landis Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources).*

Lancaster vicinity, *Pinetown Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* E of Lancaster.

Lititz vicinity, *Buck Hill Farm Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* S of Lititz.

Manheim, *Shearer's Covered Bridge (Covered Bridges of Lancaster County Thematic Resources).*

Manheim vicinity, *Kaufman's Distillery Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SW of Manheim.

Manheim vicinity, *Risser's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SW of Manheim.

Manheim vicinity, *Shenk's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* S of Manheim.

Pequea vicinity, *Colemanville Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* NE of Pequea.

Refton vicinity, *Lime Valley Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* N of Refton.

Rothsville vicinity, *Erb's Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* N of Rothsville.

Soundersburg vicinity, *Herr's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SW of Soudersburg.

Strasburg vicinity, *Neff's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* W of Strasburg.

Terre Hill vicinity, *Red Run Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* NW of Terre Hill.

Washington vicinity, *Murry Site (36La183),* S of Washington.

Willow Street vicinity, *Baumgardner's Mill Covered Bridge (Covered Bridges of Lancaster County Thematic Resources)* SW of Willow Street.

Lebanon County

Lebanon, *Gloninger Estate,* 2511 W. Oak St.

Montgomery County

Bryn Mawr vicinity, *Mill Creek Historic District,* E of Bryan Mawr.

Gladwyne, *Gladwyne Historic Dictrict (Merion Square Historic District)* PA 23.

Lansdale vicinity, *Williams-Kindig House,* W of Lansdale on Welsh Rd.

Norristown vicinity, *Barley Sheaf Inn,* N of Norristown at 420 W. Germantown Pike.

Northampton County

Bath vicinity, *Allen Township Academy (George Wolf Academy),* School RD.

Philadelphia County

Philadelphia, *Harrison, Alfred C., Stable,* 1713–1715 Rittenhouse St.

Somerset County

Berlin vicinity, *Beechdale Bridge (Covered Bridges of Somerset County Thematic Resources)* SW of Berlin.

Davidsville vicinity, *Packsaddle Bridge (Covered Bridges of Somerset County Thematic Resources).*

New Baltimore, *New Baltimore Bridge (Covered Bridges of Somerset County Thematic Resources).*

Shanksville vicinity, *Glessner Bridge (Covered Bridges of Somerset County Thematic Resources)* NW of Shanksville.

Somerset vicinity, *Barronvale Bridge (Covered Bridges of Somerset County Thematic Resources)* W of Somerset.

Somerset vicinity, *King's Bridge (Covered Bridges of Somerset County Thematic Resources)* W of Somerset.

Somerset vicinity, *Walter's Mill Bridge (Covered Bridges of Somerset County Thematic Resources)* N of Somerset.

Stoystown vicinity, *Trostletown Bridge (Covered Bridges of Somerset County Thematic Resources)* SE of Stoystown.

Tire Hill vicinity, *Shaffer's Bridge (Covered Bridges of Somerset County Thematic Resources)* W of Tire Hill.

Ursina vicinity, *Lower Humbert Bridge (Covered Bridges of Somerset County Thematic Resources)* N of Ursina.

[FR Doc. 80-36532 Filed 11-24-80; 8:45 am]
BILLING CODE 4310-03-M

National Park Service

Chesapeake and Ohio Canal National Historical Park Commission; Meeting

Notice is hereby given in accordance with Federal Advisory Committee Act that a meeting of the Chesapeake and Ohio Canal National Historical Park Commission will be held Saturday, December 6, 1980, at 1:00 p.m. in the YMCA building, E. Potomac Street, Brunswick, Maryland.

The Commission was established by Pub. L. 91–664 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Chesapeake and Ohio Canal National Historical Park.

The members of the Commission are as follows:

Mr. Donald R. Frush, Chairman, Hagerstown, Maryland
Mrs. Bonnie Troxell, Cumberland, Maryland
Miss Nancy Long, Glen Echo, Maryland
Mrs. Constance Morella, Bethesda, Maryland
Mr. Kenneth S. Rollins, Brookmont, Maryland
Mrs. Constance Lieder, Baltimore, Maryland
Mr. Edwin F. Wesley, Jr., Brookmont, Maryland
Mr. John D. Millar, Cumberland, Maryland
Mr. James B. Coulter, Annapolis, Maryland
Mrs. Dorothy Grotos, Arlington, Virginia
Mrs. Minny Pohlmann, Dickerson, Maryland
Mrs. Margaret Dietz, Lovettsville, Virginia
Mr. William H. Ansel, Jr., Romney, West Virginia
Dr. James H. Gilford, Frederick, Maryland
Mr. Donald H. Shannon, Washington, D.C.
Mr. Silas F. Starry, Shepherdstown, West Virginia
Mr. Rockwood H. Foster, Washington, D.C.
Mr. R. Lee Downey, Williamsport, Maryland
Mr. John C. Frye, Gapland, Maryland

Matters to be discussed at this meeting include:

Development Concept Plan, Great Falls, Maryland
Development Concept Plan, Cumberland/North Branch, Maryland
Development Concept Plan, Williamsport, Maryland
Abandoned Western Maryland Railroad Right-of-Way
C&O Canal Advisory Commission Extension Status
Parcourse Fitness Circuit Proposal
Cumberland Terminus Walkway
Brunswick Commuter Railroad Station Proposal.

The meeting will be open to the public. Any member of the public may file with the Commission, a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact William R. Failor, Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782, telephone 301/739–4200.

Minutes of the meeting will be available for public inspection four (4) weeks after the meeting at Park Headquarters, Sharpsburg, Maryland.

V 45 NO25 80 UMI

Dated: November 18, 1980.

Manus J. Fish, Jr.,

Regional Director, National Capital Region.

[FR Doc. 80-36807 Filed 11-24-80; 8:45 am]

BILLING CODE 4310-70-M

Delta Region Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 1:30 p.m. CST on December 10, 1980, at the Louisiana Department of Wildlife and Fisheries Building, 400 Royal Street, Room 220, New Orleans, Louisiana.

The Delta Region Preservation Commission was established pursuant to Pub. L. 95–265, Section 907(a) to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park, in the development and implementation of a general management plan, and in the development and implementation of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

Matters to be discussed at this meeting include:

1. Workshop session to review and work on comments of the draft General Management Plan.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact James Isenogle, Superintendent, Jean Lafitte National Historical Park, 400 Royal Street, Room 220, New Orleans, Louisiana 70130, telephone area code 504–589–3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park.

Dated: November 14, 1980.

Jack Mackels,

Acting Regional Director, Southwest Region, National Park Service.

[FR Doc. 80-36806 Filed 11-24-80; 8:45 am]

BILLING CODE 4310-70-M

Water and Power Resources Service

Proposed Supplemental Repayment Contract With the Central Utah Water Conservancy District; Availability of the Proposed Draft Supplemental Repayment Contract, Bonneville Unit, Central Utah Project, Utah

In accordance with procedures established by the Department of the Interior concerning public participation in water service and repayment contract negotiations, the Water and Power Resources Service announces the availability of a draft supplemental repayment contract with the Central Utah Water Conservancy District (CUWCD), Orem, Utah, to cover the increased costs of municipal and industrial (M&I) water resulting from the development of the Bonneville Unit of the Central Utah Project. Construction on the Bonneville Unit was initiated in 1967. The contract is written pursuant to the Reclamation laws and authorized under the Act of Congress approved April 11, 1956 (70 Stat. 105).

The Bonneville Unit will provide 99,000 acre-feet of M&I water for use in Salt Lake and Utah Counties. The CUWCD entered into a repayment contract on December 28, 1965, amended April 15, 1966, with the United States to repay the costs associated with the Bonneville Unit. That amended contract provides for repayment of about $102,403,000 of costs associated with M&I water development.

Total estimated costs have increased due to inflation since the execution of those contracts. Presently, a difference of about $250,000,000 exists between estimated construction costs allocated to M&I water development and the costs to be repaid under the existing contract, as amended. The facilities expected to be completed under existing contract terms could deliver less than 50 percent of the anticipated M&I yield for the project.

The supplemental contract will provide for the repayment of the additional costs which will be incurred to deliver the full amount of M&I water. The new contract provisions will apply only to the water supply to be repaid under the supplemental contract. The existing contract will remain in effect for repayment of the costs associated with the project irrigation and remaining M&I water supplies.

The terms and conditions of the proposed contract were approved as to form by CUWCD on November 13, 1980, but have not yet been approved by the Secretary of the Interior which will be necessary before the contract is executed.

The public is invited to submit written comments on the form of the proposed contract not later than December 15, 1980. The Commissioner of the Water and Power Resources Service will review comments submitted and based on the number, source, and nature of the comments, he will decide whether to hold a public hearing.

Requests for copies of the proposed contract and comments on the contract should be addressed to the Regional Director, Water and Power Resources Service, Attention: 440, P.O. Box 11568, Salt Lake City, Utah 84147. All written correspondence concerning the contract is available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

Dated: November 19, 1980.

Aldon D. Nielsen,

Acting Assistant Commissioner of Water and Power Resources.

[FR Doc. 80-36883 Filed 11-24-80; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 202]

Assignment of Hearings

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 144190 (Sub-9F), Story, Inc., now assigned for hearing on January 21, 1981 (1 day) at Nashville, TN in a hearing room to be later designated.

MC 123048 (Sub-462F), Diamond Transportation System, Inc., now assigned for hearing on January 22, 1981 (2 days) at Nashville, TN in a hearing room to be later designated.

MC 103051 (Sub-480F), Fleet Transport Company, Inc., now assigned for hearing on January 26, 1981 (5 days) at Nashville, TN in a hearing room to be later designated.

MC 145360 (Sub-8F), Thom's Transport Company, Inc., now assigned for hearing on January 27, 1981 (2 days) at Jacksonville, FL in a hearing room to be later designated.

MC 148020 (Sub-3F), Big "M" Transport, Inc., now assigned for hearing on January 29, 1981 (2 days) at Jacksonville, FL in a hearing room to be later designated.

MC 136605 (Sub-135F), Davis Bros. Dist., Inc., now being assigned for hearing on January 22, 1981 (2 days) at Portland, OR, location of hearing room will be designated later.

MC 34631 (Sub-6F), A. Arnold & Sons Transfer & Storage Co., Inc., now assigned for hearing on December 10, 1980 (1 day) at Columbus, OH in Room No. 426, Federal Building and U.S. Court House, 85 Marconi Blvd.

MC 135524 (Sub-48F), G. F. Trucking Co., now assigned for hearing on December 11, 1980 (2 days) at Columbus, OH in Room No. 426, Federal Building and U.S. Court House, 85 Marconi Blvd.

MC F–14171, Columbus Retail Merchants Delivery, Inc.—Purchase—Reed Lines, Inc., and MC 14251 (Sub-7F), Columbus Retail Merchants Delivery, Inc., now assigned for hearing on December 15, 1980 (5 days) at Columbus, OH in Room No. 426, Federal Building & U.S. Court House, 84 Marconi Blvd.

MC 140389 (Sub-57F), Osborn Transportation, Inc., now assigned for hearing on December 2, 1980 (2 days) at Atlanta, GA in ICC Room No. 401, 4th Floor, 1776 Peachtree Street, N.W.

MC 99848 (Sub-3F), J. F. Lux Trans, Co., Inc., now being assigned for hearing on January 7, 1981 (3 days) at at Boston, MA, location of hearing room to be designated later.

MC 111307 (Sub-11F), Overland Western Limited, now being assigned for hearing on January 20, 1981 (1 day) at Detroit, MI, location of hearing room will be designated later.

MC 147572F Marine Trucking, Inc., now being assigned for hearing on January 21, 1981 (3 days) at Detroit, MI, location of hearing room to be designated later.

MC 147398 (Sub-2F), A. T. Tucker, d.b.a. Hotshot Unlimited is transferred to Modified Procedure.

MC 146048 (Sub-3F), D. T. Auto Transport, Inc., now assigned for November 18, 1980 at Denver, CO, hearing cancelled and application dismissed.

MC 125985 (Sub-28F), Auto Driveaway Company, is dismissed.

MC C–8879 Bowman Transportation, Inc., now assigned for hearing on December 16, 1980 (4 days) at Louisville, KY in Room No. 273–D, Second Floor, Federal Building—Federal Plaza.

MC 119789 (Sub-700F), Caravan Refrigerated Cargo, Inc., now assigned for hearing on December 11, 1980 (1 day) at Fort Worth, TX at the ICC Hearing Room—4th Floor, 411 West 7th Street, Neil P. Anderson Building.

MC 133591 (Sub-101F), Wayne Daniel Truck, Inc., now assigned for hearing on December 12, 1980 (1 day) at Fort Worth, TX at the ICC Hearing Room—4th Floor, 411 West 7th Street, Neil P. Anderson Building.

MC C–10770, State of Texas v. Mistletoe Express Service, now assigned for hearing on December 15, 1980 (3 days) at Fort Worth, TX at the ICC Hearing Room—4th Floor, 411 West 7th Street, Neil P. Anderson Building.

MC 138882 (Sub-370F), Wiley Sanders Truck Lines, Inc., now assigned for hearing on December 16, 1980 (2 days) at Fort Worth, TX at the ICC Hearing Room—4th Floor, 411 West 7th Street, Neil P. Anderson Building.

MC 16121 (Sub-28F), Advance Transportation Company, is transferred to Modified Procedure.

MC 143662 (Sub-3F), Gene Viogt Trucking, Inc., now assigned for hearing on December 3, 1980 (3 days) at Madison WI is postponed to December 4, 1980 (2 days) at Madison WI, hearing room will be designated later.

MC 115523 (Sub-186F), Clark Tank Lines, Inc., now being assigned for hearing on January 13, 1980 (9 days) at Salt Lake City, UT, location of hearing room will be designate later.

MC 110380 (Sub-18F), Berschens of Madison, Inc., now being assigned for hearing on January 21, 1980 (3 days) at Milwaukee, WI, location of hearing room will be designated later.

MC 11592 (Sub-29F), Best Refrigerated Express, Inc., now being assigned for hearing on January 19, 1981 (3 days) at Omaha, NE, location of hearing room will be designated later.

MC 145359 (Sub-13F), Thermo Transport, Inc., now being assigned for hearing on January 13, 1981 (1 day) at Los Angeles, CA, location of hearing room will be designated later.

MC 147089 (Sub-3F), Cal Thermo Express, Inc., now being assigned for hearing on January 14, 1981 (3 days) at Los Angeles, CA, location of hearing room will be designated later.

MC 13851 (Sub-21F), Peoples Transfer, Inc., now being assigned for hearing on January 19, 1981 (1 week) at Sacramento, CA, location of hearing room will be designated later.

Ex Parte 371, in the Matter of Louis J. Amato, now being assigned for prehearing conference on January 7, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.

Ex Parte, 369, in the Matter of John M. Nader, now being assigned for prehearing conference on January 6, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 125628 (Sub-5F), S. S. Baird & Sons, Limited, now being assigned for hearing on January 14, 1981 (3 days) at Portland, ME, location of hearing room will be designated later.

MC 43 (Sub-71F), Illinois Central Gulf Railroad Company—Abandonment—Between Columbia, and Silver Creek, MC now being assigned for hearing on January 6, 1981 (9 days) at Columbia, MS, location of hearing room will be designated later.

MC F–12730, Pacific Transportation Lines, Inc.—Purchase—Jackson Distribution Corp., and MC 142048 (Sub-7F), Pacific Transportation Lines, Inc., now being assigned for hearing on January 14, 1981 (3 days) at Buffalo, NY, location of hearing room will be designated later.

MC 140611 (Sub-1F), Harkema Express Lines, Inc., now being assigned for hearing on January 19, 1981 (4 days) at Buffalo, NY, location of hearing room will be designated later.

MC 60251 (Sub-13F), P & D Transportation, Inc., now being assigned for hearing on November 24, 1980 (2 days) at Providence, RI in Room No. 234, John O. Pastore Federal Bldg. and Post Office, 37 Exchange Towers.

MC 145152 (Sub-90F), Big Three Transporation, Inc., now being assigned for hearing on December 2, 1980 (1 day) at Kansas City, MO will be held in Room 303, Federal Building, 911 Walnut Street.

MC 134755 (Sub-208F), Charter Express, Inc., now assigned for hearing on December 3, 1980 (1 day) at Kansas City, MO will be held in Room 303, Federal Building, 911 Walnut Street.

MC 141092 (Sub-2F), E. R. Hopkins Truck Line, Inc., now assigned for hearing on December 4, 1980 (2 days) at Kansas City, MO will be held in Room 303, Federal Building, 911 Walnut Street.

MC 113908 (Sub-495F), Erickson Transport Corp., now being assigned for hearing on December 8, 1980 (1 week) at Kansas City, MO will be held in Room 303, Federal Building, 911 Walnut Street.

MC 87909 (Sub-32F), Kroblin Transportation Systems, Inc., now assigned for Prehearing Conference on December 8, 1980 at Washington, D.C., is canceled and application is dismissed.

MC 133485 (Sub-26F and 27F), International Detective Service, Inc. , now assigned for hearing on November 17, 1980 (5 days) at Providence, RI is canceled and application dismissed.

MC 56679 (Sub-167F), Brown Transport Corp., now assigned for Prehearing Conference on December 1, 1980 at Washington, D.C., is canceled and application dismissed.

MC C–8879, Bowman Transporation, Inc., v Central Motor Express, Inc., now assigned for hearing on December 16, 1980 (4 days) at Louisville, KY is postponed to January 6, 1981 (4 days) at Lousiville, KY.

MC 58902 (Sub-19F), Manley Transfer Company, Inc., now assigned for continued hearing on December 19, 1980 at Kansas City, MO will be held in the Midland Building, Conference Room, Sixth Floor, 1221 Baltimore Avenue.

MC 14138 (Sub-11F), Heavy Transport, Inc., now assigned for Prehearing Conference on January 14, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 133194 (Sub-21F), Woodline Motor Freight, Inc., now assigned for Prehearing Conference on January 8, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 109533 (Sub-128F), Overnite Transportation Company, now assigned for Prehearing Conference on January 8, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 61264 (Sub-36F), Pilot Freight Carriers, Inc., now assigned for Prehearing Conference on January 9, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 1977 (Sub-42F), Northwest Transport Service, Inc., now assigned for Prehearing Conference on January 9, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.

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MC 120181 (Sub-17F), Main Line Hauling Co., Inc., now assigned for Prehearing Conference on January 8, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 141108 (Sub-8F), D & C Express, Inc., now assigned for hearing on November 17, 1980 at Chicago, IL is transferred to Modified Procedure.
MC 134755 (Sub-208F), Charter Express, Inc., now assigned for hearing on December 3, 1980 at Kansas City, MO is transferred to Modified Procedure.
MC 106398 (Sub-958F), National Trailer Convoy, Inc., now assigned for hearing on November 17, 1980 at Orlando, FL is transferred to Modified Procedure.
MC 56679 (Sub-152F), Brown Transport Corp., now assigned for hearing on December 2, 1980 at Atlanta, GA is transferred to Modified Procedure.
MC 112304 (Sub-222F), Ace Doran Hauling & Rigging Co., now assigned for hearing on December 11, 1980 at St. Louis, MO is transferred to Modified Procedure.
MC 120427 (Sub-10F), Williams Transfer, Inc., now assigned for hearing on January 14, 1981 (3 days) at Lincoln, NE in a hearing room to be later designated.
MC 69224 (Sub-51F), H & W Motor Express Company, now assigned for hearing on January 19, 1981 (4 days) at Davenport, IA in a hearing room to be later designated.
MC 108119 (Sub-151F), E. L. Murphy Trucking Company, now assigned for hearing on December 8, 1980 at Birmingham, AL is transferred to Modified Procedure.
37507, Rates on Iron Ore, Randville to Escanaba via Iron Mountain, 37516, the Hanna Mining Company v. Chicago and North Western Transportation Company, et al., now assigned for hearing on January 26, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 115826 (Sub-479F), W. J. Digby, Inc., now assigned for hearing on December 4, 1980 at Denver, CO is transferred to Modified Procedure.
MC 127042 (Sub-304F), Hagen, Inc., now assigned for hearing on December 16, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 70151 (Sub-56F), United Trucking Service, Inc., now assigned for hearing on December 2, 1980 (9 days) at Detroit, MI will be held on December 2, 1980 in Room 1194, Patrick V. McNamara Building, 477 Michigan Avenue, December 3, 4, 5, 1980 in Room 895, Court House, 231 W. Lafayette, December 8, 1980 in Room 834, Court House, 231 W. Lafayette, December 9, 10, 11, 12, 1980 in Room 1080, Patrick V. McNamara Building, 477 Michigan Avenue.
MC 146874 (Sub-2F), Palwood Transportation, Inc., now assigned for hearing on November 19, 1980 at Chicago, IL is postponed indefinitely
MC 73165 (Sub-522F), Eagle Motor Lines, Inc., now assigned for hearing on December 5, 1980 (1 day) at Birmingham, AL in a hearing room to be later designated.
MC 119639 (Sub-20F), Inco Express, Inc., now assigned for hearing on November 19, 1980 at Portland, OR is canceled and application dismissed.
MC 145152 (Sub-90F), Big Three Transportation, Inc., now assigned for hearing on December 2, 1980 at Kansas City, MO is transferred to Modified Procedure.
MC 95540 (Sub-1105F), Watkins Motor Lines, Inc., now assigned for Prehearing Conference on November 7, 1980 at Washington, D.C., is transferred to Modified Procedure.
MC 60014 (Sub-132F), Aero Trucking, Inc., MC 2900 (Sub-424F), Ryder Truck Lines, Inc., now assigned for Prehearing Conference on December 17, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 60014 (Sub-190, Aero Trucking, Inc., now assigned for hearing on January 6, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.
35021, the Sterling Colorado Beef Company v. The Atchison, Topeka & Santa Fe Railway Company, et al, now assigned for Prehearing Conference on December 2, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
37499, the Murray Ohio Manufacturing Company v. Louisville & Nashville RR Company, now assigned for Prehearing Conference on November 7, 1979 at Washington, D.C., is postponed to November 12, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 147942 (Sub-2F), M & L Truck Line, Inc., now assigned for hearing on December 2, 1980 (4 days) at Memphis, TN and continued to February 3, 1981 at Washington, D.C., and continued to March 3, 1981 (2 days) at Memphis, TN in a hearing room to be later designated.
MC 140094 (Sub-1F), Latin Express Service, Inc., now assigned for hearing on January 21, 1981 (3 days) at Miami, FL in a hearing room to be later designated.
MC 114552 (Sub-243F), Senn Trucking Company, now assigned for hearing on January 26, 1981 (1 day) at Jacksonville, FL in a hearing room to be later designated.
MC 136782 (Sub-12F), R.A.N. Trucking Company, now assigned for hearing on January 27, 1981 (1 day) at Pittsburgh, PA in a hearing room to be later designated.
MC 136782 (Sub-27F), R.A.N. Trucking Company, now assigned for hearing on January 28, 1981 (3 day) at Pittsburgh, PA in a hearing room to be later designated.
MC 125433 (Sub-302F), F–B Truck Line Company, now assigned for hearing on January 20, 1981 (1 day) at Chicago, IL in a hearing room to be later designated.
MC 110988 (Sub-414F), Schneider Tank Lines, Inc., now assigned for hearing on January 21, 1981 (3 day) at Chicago, IL in a hearing room to be later designated.
MC 119656 (Sub-63F), North Express, Inc., now assigned for hearing on January 26, 1981 (1 week) at Chicago, IL in a hearing room to be later designated.
MC 144069 (Sub-9F), Freightways, Inc., now assigned for hearing on January 22, 1981 (2 days) at Charlotte, NC in a hearing room to be later designated.
MC 45656 (Sub-26F), Anderson Truck Line, Inc., now assigned for hearing on January 26, 1981 (5 days) at Charlotte, NC in a hearing room to be later designated.
MC 106398 (Sub-938F), National Trailer Convoy, Inc., now assigned for hearing on January 20, 1981 (1 day) at Philadelphia, PA in a hearing room to be later designated.
MC 126551 (Sub-5F), Philboro Coach Corp., now assigned for hearing on January 21, 1981 (3 days) at Philadelphia, PA in a hearing room to be later designated.
MC 114211 (Sub-425F), Warren Transport, Inc., now assigned for Prehearing Conference on December 3, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 2202 (Sub-636F), Roadway Express, Inc., now assigned for Prehearing Conference on December 16, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 110525 (Sub-1319F), Chemical Leaman Tank Lines, Inc., now assigned for Prehearing Conference on December 17, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 73165 (Sub-513F), Eagle Motor Lines, Inc., now assigned for Prehearing Conference on December 18, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 73165 (Sub-519F), Eagle Motor Lines, Inc., now assigned for Prehearing Conference on December 18, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 135419 (Sub-1F), Container Carrier Corporation, now assigned for hearing on December 2, 1980 (7 days) at New Orleans, LA, at the holiday Inn, French Quarter, 124 Royal Street.
MC 22301 (Sub-29F), Sioux Transportation Co., Inc., now assigned for hearing on December 9, 1980 (9 days) at Chicago, IL in Room No. 1944C, 219 South Dearborn Street, Everett McKinley Dirksen Building.
MC 136012 (Sub-6F), Untied States Tranportation Inc., now assigned for hearing on December 15, 1980 (3 days) at Cincinnati, OH in Room No. 8017, Federal Building, 550 Main Street.
MC 144140 (Sub-45F), Southern Freightways, Inc., now assigned for hearing on November 13, 1980 at Orlando, FL is transferred to Modified Procedure.
MC 90794 (Sub-7F), Di-Jub Leasing Corp., now assigned for hearing on January 7, 1981 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 111079 (Sub-3F), H. W. Jones & Son, Inc., now assigned for hearing on January 7, 1981 (3 days) at Cincinnati, OH in a hearing room to be later designated.
FF–523, Henry Ortiz, now assigned for hearing on January 12, 1981 (5 days) at Cleveland, OH in a hearing room to be later designated.
MC 64428 (Sub-22F), Chester Jackson Co., now assigned for hearing on February 3, 1981 (4 days) at New York, NY in a hearing room to be later designated.
MC 125299 (Sub-7F), Witte Brothers Exchange Incorporated, now assigned for hearing on December 4, 1980 at St. Louis, MO is transferred to Modified Procedure.
FF–521F, Harbour Forwarding Company, Inc., now assigned for hearing on December 9, 1980 at Washington, D.C., is transferred to Modified Procedure.
MC 114211 (Sub-470F), Warren Transport, Inc., is transferred to Modified Procedure.

MC 146892 (Sub-13F), R. & L. Transfer, Inc., now assigned for hearing on January 21, 1981 (3 days) at Columbus, OH in a hearing room to be later designated.
MC 44783 (Sub-11F), the Mahoning Express Company, now assigned for hearing on January 26, 1981 (5 days) at Columbus, OH in a hearing room to be later designated.
MC 83539 (Sub-530F), C & H Transportation Inc., now assigned for Prehearing Conference on September 3, 1980 at Washington, D.C., is transferred to Modified Procedure.
MC 107605 (Sub-23F), Advance-United Expressways, Inc., now assigned for hearing on December 2, 1980 (9 days) at St. Paul, MN is postponed to January 27, 1981 (9 days) at St. Paul, MN in a hearing room to be later designated.
MC 142715 (Sub-95F), Lenertz, Inc., now assigned for hearing on January 9, 1981 (1 day) at St. Paul, MN in a hearing room to be later designated.
MC 108223 (Sub-31F), Century-Mercury Motor Freight, now assigned for hearing on January 12, 1981 (1 week) at St. Paul, MN in a hearing room to be later designated.
MC 103373 (Sub-9F), Howard Martin, Inc., now assigned for hearing on January 6, 1981 (1 day) at Chicago, IL in a hearing room to be later designated.
MC 121123 (Sub-3F), Leoni Motor Express, Inc., now assigned for hearing on January 12, 1981 (2 days) at Chicago, IL in a hearing room to be later designated.
MC C–10339, Mclean Trucking Company And Wolverine Express, Inc.—Investigation And Revocation of Certificates, now assigned for hearing on January 14, 1981 (3 days) at Chicago, IL in a hearing room to be later designated.
MC 107012 (Sub-392F), North American Van Lines, Inc., now assigned for hearing on January 12, 1981 (1 week) at Chicago, IL is transferred to Modified Procedure.
MC 105120 (Sub-20F), Freightways Express, Inc., now assigned for hearing on December 9, 1980 at Memphis, TN will be held in Room No. 936, Federal Building, 167 North Main Street.
MC 147846 (Sub-2F), A–1 Espress Chartered Bus Service, Inc., now assigned for hearing on December 10, 1980 (3 days) at Indianapolis, IN will be held in Room 402, Old Federal Building, 56 E. Ohio Street.
MC 101474 (Sub-26F), Red Top Trucking Company, Inc., now assigned for hearing on December 15, 1980 (5 days) at Indianapolis, IN will be held in the Federal Building, 575 N. Pennsylvania Street, Room 284.
MC 108863 (Sub-1F), Bacon Motor Express, Inc., now assigned for hearing on December 9, 1980 at the Offices of the Interstate Commerce Commission, Washington, D.C.
MC 108863 (Sub-1F), Bacon Motor Express, Inc., now assigned for Prehearing Conference on November 7, 1980 is transferred to Modified Procedure.
MC 32882 (Sub-124F), Mitchell Bros. Truck Lines, now assigned for hearing on January 13, 1981 (4 days) at Salt Lake City, UT in a hearing room to be later designated.
124160 (Sub-38F), Savage Brothers, Incorporated, now assigned for hearing on January 19, 1981 (1 week) at Salt Lake City, UT in a hearing room to be later designated.
MC 148095F, Rojan Freight Lines Limited, now assigned for hearing on January 13, 1981 (9 days) at Detroit, MI in a hearing room to be later designated.
MC 86247 (Sub-24F), I.C.L. International Carrier Limited, now being assigned for hearing on January 28, 1981 (3 days) at Detroit, MI, location of hearing room will be designated later.
MC 732 (Sub-16F), Albina Transfer Co., Inc., now being assigned for hearing on January 21, 1981 (3 days) at Portland, OR, location of hearing room will be designated later.
MC 133101 (Sub-5F), Peninsula Air Delivery, now being assigned for hearing on January 26, 1981 (3 days) at San Francisco, CA, location of hearing room will be designated later.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-36710 Filed 11-24-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An interim proposed final rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49* U.S.C. 11344 and 11349. Those rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.240(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.240(A)(h).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed on or before January 9, 1981 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: November 14, 1980.

By the Commission Review Board No. 5, members Krock, Taylor, and Williams (Board Member Taylor votes to approve the proposed transfer in MC–14498F, but considers the removal of the restriction, which would authorize transferee to perform an entirely new and different service from that conducted by transferor, to be outside the scope of a proceeding under 49 U.S.C. 11344).

MC F–14498F, filed October 31, 1980. ARLEDGE TRANSFER, INC. (Arledge) (1100 Arnold Drive, West Burlington, IA 53632)—purchase (portion)—ROCK

ISLAND MOTOR TRANSIT COMPANY (Rock Island) (1119 High Street, Des Moines, IA 50308) (Bernard C. Chaitman, Assignee for the Benefit of the Creditors of the Rock Island Motor Transit Company). Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Arledge seeks authority to purchase a portion of the interstate operating rights of Rock Island. James G. Arledge is the major stockholder of Arledge and, as a condition to the approval and authorization of this transaction, will be required to join in this application as person in control. Arledge seeks to purchase the interstate operating rights contained in Rock Island's certificates which authorize the transportation, as a motor common carrier, over regular routes, as follows: (1) MC–29130 (portion), *general commodities*, (except those of unusual value, livestock, nitroglycerin, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Kansas, City, MO, and Des Moines, IA, serving the intermediate points of Cameron, MO, and Inidanola, IA, and the off-route points of Kansas City, KS: from Kansas City over alternate U.S. Hwy 69 to junction U.S. Hwy 69, then over U.S. Hwy 69 to Des Moines, and return over the same route, the operations authorized are subject to such further limitations, restrictions, or modifications as the Commission may find it necessary to impose in order to ensure that the service should be auxilliary of or supplementary to the train service of the Rock Island and Pacific Railroad Company hereinafter referred to as the C.R.I. & P.R.R. and shall not unduly restrain competition; and (2) MC–29130 (Sub-No. 44), *general commodities* (except those of unusual value, commodities in bulk, and those requiring special equipment), to and from points in the Kansas City, MO-Kansas City, KS commerical zone as defined in the *Kansas City, MO–KS City Commercial Zone*, 31 M.C.C. 5 as intermediate or off-route points in connection with said carrier's previoulsy authorized regular-route operations, the service to be performed by said carrier shall be limited to service which is auxilliary to, or supplemental or, rail service of the Chicago, Rock Island and Pacific Railway Company (Joseph B. Fleming and Aaron Colnon Trustee) hereinafter called the Railway; all contractural arrangements between said carrier and the railway shall be reported to the Commission and shall be subject to revision, if and as the Commission finds it to be necessary in order that such arrangements shall be fair and equitable to the parties; and such further specific conditions as the Commission, in the future, may fine it necessary to impose in order to restrict said carrier's operations to service which is auxilliary, or supplementary of, rail service. Arledge also seeks removal of the restrictions which limit the service to that which is auxiliary to or supplemental of the rail service of vendor's rail parent and other substantial motor for rail restrictions. Removal of restrictions from operating authority may be consistent with the public interest and is within the scope of a preceeding under 49 U.S.C. 13344. In this instance, the restrictions have no applicability to vendee and would otherwise defeat the purpose of the transaction. Therefore, they will be removed upon consummation of the transaction, and the scope of the authority to be transferred to Alredge is as follows: (1) *general commodities* (with stated exceptions), between Kansas City, MO, and Des Moines, IA, serving the intermediate points of Cameron, MO, and Indianola, IA, and the off-route point of Kansas City, KS; from Kansas City over alternate U.S. Hwy 69 to junction U.S. Hwy 69, then over U.S. Hwy 69 to Des Moines, and return over the same route; and (2) *general commodities* (with stated exceptions), serving points in the Kansas City, MO-Kansas City, KS commercial zone as intermediate or off-route points in connection with carrier's previously authorized-regular-route operations. Arledge is authorized to operate as a motor common carrier pursuant to certificates issued in MC–101186 and sub-numbers thereunder. Condition: Authorization and approval of this transaction and the issuance of the effective notice is conditioned upon the prior receipt by the Commission of an affidavit signed by James G. Arledge, stating that he is the person in control of Arledge Transfer, Inc., through stock ownership, and that he joins in this application.

Note.—Application for temporary authority has been filed. Applicant intends to join the subject authority with its presently authorized regular-route operations.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36767 Filed 11-24-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of these applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before January 9, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. On or before January 26, 1981, and applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an appliant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1–076

Decided: November 14, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 2900 (Sub-441F), filed November 5, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Rd., Jacksonville, FL 32209. Representative: S. E. Somers, Jr. (same add. ess as applicant). Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 123310 (Sub-22F), filed October 22, 1980. Applicant: DOUG ANDRUS DISTRIBUTING, INC., 1820 West Broadway, Idaho Falls, ID 83401. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 152220 (Sub-1F), filed November 3, 1980. Applicant: FLEET FORWARDERS, INC., 26 Third St., Suite 470, San Francisco, CA 94103. Representative: Alan F. Wohlstetter, 1700 K St., NW, Washington, DC 20006. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 152560F, filed November 3, 1980. Applicant: JIM CHAPMAN TRUCKING, INC., 217 Charlotte St., York, SC 29745. Representative: Steven W. Gardner, 3574 Piedmont Road, Atlanta, GA 30305. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP1–078

Decided: November 14, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 118561 (Sub-20F), filed November 6, 1980. Applicant: HERBERT B. FULLER d.b.a. FULLER TRANSFER COMPANY, 212 East St., Maryville, TN 37801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 138000 (Sub-79F), filed November 5, 1980. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Dixie C. Newhouse, P.O. Box 1417, Hagerstown, MD 21740. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 150170 (Sub-3F), filed November 7, 1980. Applicant: METRO SALES CORP., 1921 West First St., P.O. Box 1861, Sanford, FL 32771. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. As a *broker*, in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

Volume No. OP1–080

Decided: Nov. 17, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 87730 (Sub-30F), filed November 13, 1980. Applicant: R. W. BOZEL TRANSFER, INC., 4500 Hollins Ferry Rd., Baltimore, MD 21227. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 152221F, filed October 14, 1980. Applicant: KEY TRANSPORT, INC., 8370 Greensboro Dr. #604, McLean, VA 22102. Representative: Steven L. Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP2–086

Decided: Nov. 7, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 146942 (Sub-1F) filed, October 17, 1980. Applicant: CARROLL TRUCKING, INC., 7444 Major Avenue, Norfolk, VA 23505. Representative: Blair P. Wakefield, Suite 1001, First & Merchants, National Bank Bldg., Norfolk, VA 23510. Transporting *general commodities* (except household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 126473 (Sub-47F) filed September 18, 1980 (correction), published in the **Federal Register** issue of October 22, 1980, and republished this issue. Applicant: HAROLD DICKEY TRANSPORT, INC., Packwood, IA 52580. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting (1) *foodstuffs*, from the facilities of Geo. A. Hormel & Co., in Rock County, WI, to points in TX, LA, AR, MS, TN, MD, PA, and VA; and (2) (a) *meats, meat products, and meat by-products*, (b) *foodstuffs* (except the commodities in (a) above), and (c) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (a) and (b) above, in the reverse direction.

Note.—This republication is to correct the origin territory in (1) above.

MC 126473 (Sub-48F), filed September 18, 1980, (correction), previously noticed in the **Federal Register** issue of October 22, 1980, and republished this issue. Applicant: HAROLD DICKEY TRANSPORT, INC., Packwood, IA 52580. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting (1) *foodstuffs*, from the facilities of Geo. A. Hormel & Co., in Scott County, IA, to points in AL, CO, CT, DE, FL, GA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NH, NC, ND, OH, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and DC; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of gelatin products, in the reverse direction.

Note.—This republication is to correct the territory description in (1) above.

Volume No. OP2–087

Decided: Nov. 14, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 113963 (Sub-1F), filed November 7, 1980. Applicant: HEAVY & SPECIALIZED HAULERS, INC., 190 Polk Ave., P.O. Box 8796, Nashville, TN 37203. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 147553 (Sub-8F), filed October 30, 1980. Applicant: DENNIS MOSS AND GARY MOSS, a partnership, d.b.a. MOTOR WEST, P.O. Box 1405, Caldwell ID 83605. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for

the United States Government, between points in the U.S.

Note.—Issuance of a certificate in this proceeding is subject to coincidental

MC 152497 (Sub-1F), filed October 17, 1980. Applicant: CALDWELL

Answer: Yes.

Originally, the Commission held in

materials or toxic wastes in interstate or foreign commerce.

which man and nature can exist in productive harmony, and fulfill the

the United States Government, between points in the U.S.

Volume No. OP3–076

Decided: Nov. 14, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 2484 (Sub-58F), filed October 31, 1980. Applicant: E & L TRANSPORT COMPANY, a corporation, 23420 Ford Road, Dearborn Heights, MI 48127. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 131065 (Sub-1F), filed November 4, 1980. Applicant: PDR TRUCKING, INC., P.O. Box 609, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K St., N.W., Washington, DC 20005. *Broker,* in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 144094 (Sub-5F), filed October 31, 1980. Applicant: ALADDIN, INC., 15 Scout Avenue, South Kearny, NJ 07032. Representative: Edward F. Bowes, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 149474 (Sub-1F), filed November 4, 1980. Applicant: CONTRACTORS CARGO COMPANY, A Corporation, 11100 S. Garfield Ave., South Gate, CA 90280. Representative: John H. Briggs (same address as applicant). Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

Volume No. OP3–080

Decided: Nov. 17, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 73165 (Sub-532), filed October 21, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35222. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting *metal articles, construction materials, machinery,* and *machinery parts,* between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—Issuance of a certificate in this proceeding is subject to coincidental cancellation of carrier's existing certificate in No. MC–73165, Subs 180, 196, 217, 226, 237, 283, 283, 295, 296, 322, 355, 361, 362, 363, 368, 370, 391, 396, 425, 426, 455, 463, 471, and 500. Applicant relies on traffic studies rather than shipper support.

Volume No. OP4–125

Decided: Nov. 13, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Fortier not participating.

MC 43867 (Sub-46F), filed October 31, 1980. Applicant: A. LEANDER MCALISTER TRUCKING CO., a corporation, P.O. Box 2214, Wichita Falls, TX 76307. Representative: John T. Wirth, 717–17th St., Suite 2600, Denver, CO 80202. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 100666 (Sub-537F), filed October 27, 1980. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To engage in operations, as a property broker in interstate or foreign commerce, at Shreveport, LA, to arrange for the transportation, by motor vehicle, of *general commodities* (except household goods), between points in the U.S.

MC 146646 (Sub-124F), filed October 23, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between Fernwood, Kokomo, Lexie, Tylertown, Black Bayou Junction, Minter City, Vance, Tutwiler, Belzoni, and Sunflower, MS, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier for abandoned rail carrier service.

MC 151667 (Sub-1 F), filed October 31, 1980. Applicant: J. F. LOMMA, INC., 125 Adams St., South Kearny, NJ 07032 Representative: John L. Alfons, 550 Mamaroneck Ave., Harrison, NY 10528. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 152497 (Sub-1F), filed October 17, 1980. Applicant: CALDWELL ENTERPRISES, INC., 1209 N.E. 137th Ave., Portland, OR 97230. Representative: Raymond D. Caldwell (same address as applicant). Transporting *food or other edible products* (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, Agricultural limestone and other soil conditioners, and agriculutural fertilizers, by the owner of the motor vehicle in such vehicle, between points in the U.S.

MC 152577F, filed November 6, 1980. Applicant: FORBES & STOUT, LTD., P.O. Box 115, Lawrence, NY 11559. Representative: Lawrence S. Burstein, One World Trade Center, Suite 2373, New York, NY 10048. To engage in operation, interstate or foreign commerce as a property broker, at Lawrence, NY, in arranging for the transportation, by motor vehicle, of *general commodities* (except household goods), between points in the U.S.

Volume No. OP4–126

Decided: Nov. 10, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 152467 (Sub-1F), filed October 29, 1980. Applicant: ROY B. HAMMETT, d.b.a. ALLIGATOR EXPRESS, 107 Main St., Abita Springs, LA 70420. Representative: Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. Transporting *general commodities* (except used household goods, hazardous or secret mataerials and sensitive weapons and munitions) for the United States Government, between points in the U.S.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 38707 Filed 11–24–80; 8:45 am]

BILLING CODE 7035–01–M

[Administrative Ruling No. 130]

Transportation of Toxic Waste

November 18, 1980.

In response to questions, the following ruling indicates what the Office of Consumer Protection considers to be the correct interpretation of the recodified Interstate Commerce Act. The ruling is tentative and in absence of Commission decisions.

Question: Is authority from this Commission required to transport toxic waste or hazardous materials for compensation in interstate or foreign commerce?

Answer: Yes.

Originally, the Commission held in *Long Island Nuclear Services Corp. Com. Car. Applic.,* 110 M.C.C. 398, 404 (1969) that "radioactive waste or contaminated materials" are considered "property" subject to Commission regulation.

In a second decision, *Nuclear Diagnostic Labs., Contr. Car. Applic.,* 129 M.C.C. 339, 344 (1978) the Commission reversed the above policy and held that radioactive material destined for burial did not constitute "property" subject to Commission jurisdiction.

However, as the result of a court proceeding, *Tri-State Motor Transit Co., v. United States of America et al,* civil action No. 78–1678 (1978), the Commission reopended the *Nuclear Diagnostic Labs., supra,* subject to approval of the Court of Appeals in order to modify that decision to conform with the prior decision in *U.S. Energy Research & Development Adm., v. Akron,* 359 I.C.C. 639 (1978).

In *Akron, supra,* the Commission found that the transportation of radioactive material is subject to Commission regulation, and that railroads have a common obligation to file appropriate tariffs and provide service.

In view of the foregoing, the Commission decided in the latest *Nuclear Diagnostic Labs., Contr. Car. Applica.,* 131 M.C.C. 578, 581 (1979), that hazardous materials destined for burial are "property."

The Commission concluded that "that economic value of hazardous materials, including radioactive waste destined for burial, should not be the sole criterion for determining whether these commodities are 'property' subject to the general jurisdiction of the Commission." *Id.* at 580.

Based on this conclusion, the Commission decided that in order "to promote safe, adequate, economical and efficient transportation," the public interest requires the application of the broader definition of 'property' in determining the Commission's jurisdiction" over the transportation of radioactive waste materials. Consequently, the Commission held that such transportation requires authorization.

In view of the foregoing, this Office follows the above position regarding the interstate or foreign transportation of hazardous materials or toxic waste, even though such materials are not radioactive. Authority from the Commission is necessary when a for-hire carrier transports hazardous materials or toxic wastes in interstate or foreign commerce.

This Office uses the general rule that those commodities which require protective disposal or burial are properly classified as hazardous materials or toxic wastes, and that such commodities require authority from this Commission when transported in interstate or foreign commerce by for-hire carriers.

Waste which is not toxic, radioactive or contaminated so as to be considered hazardous, and with no property value when transported in interstate or foreign commerce solely for purposes of disposal, has been held not subject to regulation by the Commission. In this respect see *Joray Trucking Corp. Common Carrier Application,* 99 M.C.C. 109, 110 (1965). Such waste is categorized as trash or debris and possesses only a "negative" property value in that it will be used in anything productive but must be discarded. This type of waste is discarded in ordinary landfills or dumping grounds. *Id.*

Hazardous wastes include any wastes posing a present or potential hazard to human health because of toxicity, nondegradability, persistence in nature or susceptibility to biological magnification.[1] They come in many forms (solids, sludges, slurries and liquids), and fall into categories that often overlap (inorganic toxic metals; salts, acids or bases; synthetic organics; flammables; explosives; pathological, biological and radioactive materials). See Rogers Environmental Law at Section 6.10 page 689.

We believe this interpretation is also in conformity with the Congressional declaration of the National Environmental Policy found in Title 42, Section 4331 of the United States Code.

Sec. 101. (a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

Also, the interstate or foreign transportation of discarded articles or waste which will be restored to their manufacturing cycle through recycling requires a special certificate of public convenience and necessity issued by the Commission. See Ex Parte No. MC–85, *Transportation of "Waste" Products for Reuse,* 114 M.C.C. 92, 109 (1971) and Ex Parte No. MC–85, *Transportation of "Waste Products for Reuse,* 124 M.C.C. 583, 611–13 (1976) and 49 CFR 1062.

In the event of disagreement with the above position, a petition may be filed in accordance with Section 5(d) of the Administrative Procedure Act [5 U.S.C. 554(e)(1964)], which permits the Commission in its discretion to issue declaratory orders to end controversies or remove uncertainties.

Robert S. Turkington,

Associate Director.

[FR Doc. 80–36708 Filed 11–24–80; 8:45 am]

BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment

V 45 N 025 80 UMI

resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F–74

THE FOLLOWING APPLICATIONS WERE FILED IN REGION 2. SEND PROTESTS TO: ICC, FEDERAL RESERVE BANK BLDG., 101 N. 7TH ST., ROOM 620, PHILADELPHIA, PA 19106.

MC 148400 (Sub-II–3TA), filed November 10, 1980. Applicant: ORVILLE E. VAUGHAN AND KATHLEEN V. VAUGHAN, d.b.a. SUN VALLEY TANK LINES, 64 Laporte Dr., Mars, PA 16046. Representative: William A. Gray, Esq., 2310 Grant Bldg., Pittsburgh, PA 15219. Contract; Irregular. General Commodities (except household goods as defined by the Commission and classes A and B explosives) between points in the US under continuing contract(s) with Jacob Stern & Sons, Inc.; Snow Commodities Co., Inc.; Acme Hardesty Co., Inc.; Kaber Commodities Company, and Murro Chemical Co., Inc,. all of Jenkintown, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s) There are 5 supporting shippers.

MC 116763 (Sub-II–84TA), filed November 4, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). *Scrap paper,* from points in IA and MO, to all points in IL, IN, OH and WI. Restricted to traffic originating at the facilities utilized by Donco Paper Supply Co. and Von Hoffmann Press, Inc. and destined to the indicated destinations, for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Donco Paper Supply Co. 919 North Michigan Ave. Chicago IL 60611, Von Hoffmann Press, Inc. 1000 Camera Ave. St. Louis, MO 63126.

MC 110683 (Sub-II–10TA), filed November 3, 1980. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Suite 502, 1000 16th St. N.W., Washington, D.C. 20036. *Common; regular: General commodities (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment)* serving the facilities of General Electric at or near Tyler, TX, as an off-route point in connection with carrier's regular routes for 270 days. Applicant intends to tack the authority sought herein with existing authority held under MC 110683. Applicant intends to interline at all present interchange points. An underlying ETA seeks 120 days authority. Supporting Shipper(s): General Electric Company, 2401 E. Sunshine, Springfield, MO 65805.

MC 115078 (Sub-II–1TA), filed November 3, 1980. Applicant: SINDALL TRANSPORT, INC., 102 North Custer Ave., New Holland, PA 17557. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K St. N.W., Washington, D.C. 20005. *Agricultural machinery, implements, accessories, and parts,* from the facilities of Sperry New Holland Division, Sperry Corporation at or near New Holland, Mountville and Belleville, PA to ports of entry on the international boundary line located in ME, restricted to traffic destined to the Canadian Provinces of New Brunswick, Nova Scotia, and Prince Edward Island for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Sperry New Holland, Sperry Corporation, 500 Diller Ave., New Holland, PA 17557.

MC 123540 (Sub-II–1TA), filed November 7, 1980. Applicant: WERLIN CORPORATION, 3415 Southside Ave., Cincinnati, OH 45204. Representative: Paul F. Berry, 275 E. State St,. Columbus, OH 43215. Contract, irregular: *Hydrochloric acid, in bulk, in tank trucks,* from Louisville, KY to Cincinnati, OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Sherwin Williams Co., 501 Murray Road, Cincinnati, OH 45217.

MC 79687 (Sub-II–3TA), filed November 6, 1980. Applicant: WARREN C. SAUERS COMPANY, INC., 200 Rochester Rd., Zelienople, PA 16063. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. *Containers, container accessories, equipment materials and supplies used in the manufacture of the above commodities* (except commodities in bulk) between the facilities of Hoover Universal, Inc. at or near Franklin, IN, and Columbus, OH to points in the US in and east of MN, IA, MO, KS, AR and LA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Hoover Universal, Inc., Rte. 2, Tri Port Rd., Georgetown, KY 47324.

MC 109124 (Sub-II–10TA), filed November 6, 1980. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad St., Suite 1800, Columbus, OH 43215. *Interior building products for walls, ceilings, and floors, and related supplies* (except commodities in bulk), from Westlake and Medina, OH; Baltimore, MD; and Red Lion, PA, to points in the United States, except AK and HI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Donn Corporation, 1000 Crocker Rd., Westlake, OH 44145.

MC 150724 (Sub-II–1TA), filed November 6, 1980. Applicant: DONALD SANTISI TRUCKING COMPANY, 340 Victoria Rd., P.O. Box 4145, Youngstown, OH 44515. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Liquid or dry plasticizers (except commodities in bulk),* from the facilities of Synthetic Products Company, at Cleveland, OH to points in AZ, CA, NV, OR, TX, and WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Synthetic Products Company, 16601 St. Clair, Cleveland, OH 44110.

MC 152581 (Sub-II–1TA), filed November 7, 1980. Applicant: YOUNG MOVING & STORAGE, INC., 4000 Mayflower Dr., Lynchburg, VA 24501. Representative: Alan F. Wohlstetter, 1700 K St, N.W., Washington, D.C. 20006. *Used Household Goods* between points in Highland, Bath, Alleghany, Rockbridge, Agusta, Albemarle, Nelson, Amherst, Appomattox, Buckingham, Fluvanna and Louisa Counties, VA., restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic for 270 days. Supporting shipper: Department of the Army, Fort Lee, VA 23801.

MC 114569 (Sub-II–33TA), filed November 13, 1980. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). *Boxed meat products,* from Seward County, KS, to points in the United States, (except AK and HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: National Beef Company, Box 978, Liberal, KS 67901.

MC 152641 (Sub-II–1–TA), filed November 12, 1980. Applicant: T LINE EXPRESS, INC., 4425 Rising Sun Avenue, Phila, PA. Representative: Ronald N. Cobert, 1730 M Street, N.W., Suite 501, Washington, D.C. 20036. Contract; Irregular: *Tires and Rubber Products* between Conshohocken and Frazier, PA, on the one hand, and, on the other, points in VA and NC under a

continuing contract or contracts with Lee Tire and Rubber Company of Conshohocken, PA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Lee Tire and Rubber Company, 1100 East Hector Street, Conshohocken, PA 19428.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 75840 (Sub-3–13–TA), filed November 10, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35222. Representative: Raymond Hamilton, Malone Freight Lines, Inc., 3400 Third Avenue South, Birmingham, AL 35222. *General Commodities* between Monroe and Lee Counties, MS on the one hand, and, on the other, points in the states of MA, CT, RI, VT, and NH. Supporting shipper: Kerr McGee Chemical Corporation, Kerr McGee Center, P.O. Box 25861, Oklahoma City, Oklahoma 73125.

MC 135895 (Sub-18TA), filed November 7, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, Wynn, Bogen & Mitchell, P.O. Box 1295, Greenville, MS 38701. *(1) Insulating materials and (2) equipment, materials and supplies used in the manufacture, sale and distribution of insulating materials (except commodities in bulk and those requiring special equipment)* between Fruita, CO and Grambling, LA, on the one hand and, on the other, points in the U.S. (except AK and HI); restricted to the transportation of traffic originating at or destined to the facilities of Pabco Insulation Division, Louisiana-Pacific Corporation. Supporting shipper(s): Pabco Insulation Division, Louisiana-Pacific Corporation, 1110 16 Road, Fruita, CO 81521.

MC 138882 (Sub-3–28TA), filed November 7, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC. P.O. Drawer 707, Troy, Alabama 36081. Representative: John J. Dykema (same address as applicant). *(1) Railroad/ Highway Grade Crossings, and (2) Materials, Equipment and Supplies used in the manufacture and distribution of commodities in (1) above* between points in the US (except AK and HI) restricted to transportation of traffic originating at or destined to the facilities of Szarka Enterprises, Inc., their suppliers and customers. Supporting shipper: Szarka Enterprises, Inc. P.O. Box 2027, Livonia, MI 48151.

MC 138308 (Sub-3–17TA), filed November 7, 1980. Applicant: KLM, INC., P.O. Box 6098, Jackson, MS 39208. Representative: Robert L. McArty, P.O. Box 22628, Jackson, MS 39205. *Fertilizing compounds, in containers* between points in the U.S. (except AK and HI), restricted to traffic originating at or desitned to facilities utilized by International Spike, Inc. Supporting shipper: International Spike, Inc., P.O. Box 1750, 817 E. Third Street, Lexington, KY 40593.

MC 107515 (Sub-3–85TA), filed November 7, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050 Representative: Alan E. Serby, Esq., 3390 Peachtree Rd., N.E., 5th Floor Lenox Towers South, Atlanta, GA 30326. *Liquid and Plastic Adhesives (except in bulk)* from Havre de Grace, MD to points in FL, OH, KY, SC, TN and TX. Supporting shipper: American Cyanamid Company, Berdan Avenue, Wayne. NJ 07470.

MC 147474 (Sub-3–5TA), filed November 7, 1980. Applicant: SOUTHWIRE COMPANY, Transportation Division, 126 Fertilla Street, Carrolltion, Georgia 30119. Representative: Mr. Theodore M. Forbes, Jr., 4000 First National Bank Tower, Atlanata, Georgia 30383. *General commodities (with usual exceptions)* from the states of AL, AR, CT, DE, FL, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV and WI to the states of AL, FL (on or West of U.S. Highway 319 & 98), GA, SC and TN. There are 14 statements of support attached to this application which may be reviewed at the Atlanta regional office.

MC 2934 (Sub-3–23TA), filed November 7, 1980. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same as above). *Kitchen cabinets, vanities, shelving units, hardwood flooring, and commodities used in the manufacturing thereof,* between the facilities of Triangle Pacific Corporation at: Springville, AL; Lakeland, FL; Nappanee, IN; Union City, IN (except to CT, DE, ME, MD, MA, NH, NJ, NY, PA and RI); Nashua, NH; Auburn, NE; Elizabeth City, NC (except to CT, DC, New Castle County, DE; ME, NH, NY, MA and PA); Carbondale, PA; Thompsontown, PA; Jackson, TN; Jefferson City, IN; Morristown, TN; Nashville, TN; Center, TX and Mckinney, TX: and AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, ND, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV and WI. Supporting shipper: Triangle Pacific Corporation, 16803 Dallas Parkway, Dallas, TX.

MC 143276 (Sub-3–5TA), filed November 7, 1980. Applicant: WEAVER TRANSPORTATION COMPANY, 5452 Oakdale Road, Smyrna, Ga 30080. Representative: Jack Weaver (Same address as applicant). *Prestressed and Precast Concrete and Prestressed and Precast Concrete Products,* from Clayton County, GA. on the one hand, and on the other points in FL. Supporting shipper: Atlanta Prestressed, Inc., P.O. Box 246, 1655 Noah's Ark Road, Jonesboro, GA 30236.

MC 152551 (Sub-3–1TA), filed November 7, 1980. Applicant: TRIPLE R TRANSPORT, INC., 3580 S.W. 46th Avenue, Ft. Lauderdale, FL 33314. Representative: Norman J. Bolinger, 3100 University Blvd. S., Suite 225, Jacksonville, FL 32216. *(1) iron and steel articles and (2) materials, equipment and supplies used in the manufacture, sale, and distribution of (1) above,* between points in FL, on the one hand, and, on the other, points in AL, FL, GA, MS, NC, SC, and TN, under continuing contracts(s) with Hubbell Steel Corporation, 11355 W. Franklin Avenue, Franklin Park, IL 60131. Supporting shipper: Hubbell Steel Corporation, 11355 W. Franklin Avenue, Franklin Park, IL 60131.

MC 145230 (Sub-3–2TA), filed November 3, 1980. Applicant: H & S TRUCKING, INC., P.O. Box 127, 456 Main Street, Wesson, MS 39191. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. *Wood burning stoves* between Charlotte, NC and points in the United States under a continuing contract or contracts for Bart Manufacturing Company.

MC 121654 (Sub-3–27TA), filed November 7, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representatives: Bruce E. Mitchell, Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. *Building Materials* from the facilites of Alsco Anaconda Co. at or near Bridgeport, NJ to points in CT, GA, MD, MA, NY, NC, PA, and VA. Supporting shipper: Alsco Anaconda Company, 501 Sharptown Road, Pureland, Bridgeport, NJ.

MC 121654 (Sub-3–26TA), filed November 7, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representatives: Bruce E. Mitchell, Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. *Chemicals and dyestuffs* between facilities of Sandoz Colors and

Chemicals at or near Martin, SC, on the one hand, and, on the other, Atlanta, GA; East Hanover, NJ; Fair Lawn, NJ;

Note.—Applicant intends to tack with docket number MC–133917 and subs at Chattanooga and to interline at Louisville.

paper and paper products between Austell, GA, on the one hand, and, on the other, points in AL, AR, FL, IL, IN,

Supporting shipper: Ore-Ida Foods, Inc., P.O. box 10, Boise, ID 83707.

35810. Representative: John P. Carlton, 727 Frank Nelson Bldg., Birmingham, AL

CELERYVALE TRANSPORT, INC., 1706 Rossville Avenue, Chattanooga, TN

Chemicals at or near Martin, SC, on the one hand, and, on the other, Atlanta, GA; East Hanover, NJ; Fair Lawn, NJ; and Charlotte, NC. Supporting shipper: Sandoz Colors & Chemicals, Highway 102, Martin, SC 29836.

MC 152059 (Sub-3-1TA), filed September 29, 1980. (republication)—originally published in **Federal Register** of 10-21-80 Page 69578, volume 45, No. 205. Applicant: RAPID TRANSFER & STORAGE, INC., 4725 NW 72d St., Miami, FL 33166. Representative: Richard B. Austin, 320 Rochester Building, 8390 53d St., Miami, FL 33166. *New and used furniture, crated, crated household goods, and automotive, industrial, tractor and engine parts, crated and uncrated,* from New York, NY, and Elizabeth and Newark, NJ to Miami, FL. Restricted to traffic having a continuing movement in foreign commerce at Miami, FL. Supporting shippers: Sleepworld Industries Inc., Miami, FL; Andes Express Packing & Shipping Corp., Jackson Heights, NY; Swiss-American Forwarders, Miami, FL; Embarques Mundo Packing & Shipping, Jackson Heights, NY.

MC 147148 (Sub-3-1TA), filed September 29, 1980. Republication—Originally published in the **Federal Register** of October 21, 1980, page 69577, volume 45, No. 205. Applicant: GOLDEN TRIANGLE TRANSPORTATION, INC., Highway 82 East, P.O. Box 2043, Columbus, MS 39701. Representative: John A. Crawford, P.O. Box 22567, Jackson, MS 39205. *Contract* carrier: irregular: *Steel pails and paint raw materials* between points in TX and LA, on the one hand, and, on the other, points in IL and OH, under continuing contract or contracts with Ribelin Sales, Inc. Supporting shipper: Ribelin Sales, Inc., 7786 Blakenship Dr., Houston, TX 77055.

MC 133917 (Sub-3-4TA), filed October 16, 1980. Republication—Originally published in the **Federal Register** of October 27, 1980, page 71002, volume 45, No. 209. Applicant: CARTHAGE FREIGHT LINE, INC., P.O. Box 315, Carthage, TN 37030. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, D.C. 20004. *General commodities (except classes A & B explosives, commodities of unusual value, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between Chattanooga, TN, and points in its commercial zone, on the one hand, and, on the other, points in GA. There are 70 statements in support to this application which may be examined at the ICC Regional office in Atlanta, GA.

Note.—Applicant intends to tack with docket number MC-133917 and subs at Chattanooga and to interline at Louisville, Nashville, Carthage, Chattanooga, Macon, Columbus, Augustus, Savannah and Atlanta.

MC 146222 (Sub-3-1TA), filed October 8, 1980. Republication—Originally published in the **Federal Register** of October 27, 1980, page 71000, volume 45, No. 209. Applicant: ILCO TRUCKING, INC., P.O. Box 528, Leads, AL 35094. Representative: H. G. Jackson, Jr. (same address as above). Contract; irregular; *Iron and steel articles (except commodities in bulk)* from points in the United States in and east of MT, WY, CO and NM to the facilities of Atlas Metals Company, Inc., located in or near Birmingham, AL. Supporting shipper: Atlas Metals Company, Inc., 2066 Montevallo Rd., SW, Birmingham, AL 35211.

MC 2934 (Sub-3-17TA), filed October 8, 1980. Republication—Originally published in the **Federal Register** of October 27, 1980, page 71000, volume 45, No. 209. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry (same address as above). *New hospital and laboratory equipment* from Two Rivers, WI to AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA and WV. Supporting shipper: American Hamilton, 1316 18th Street, Two Rivers, WI 54241.

MC 121568 (Sub-3-18TA), filed November 10, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Avenue, Nashville, TN 37210. Representative: James G. Caldwell (same address as applicant). *Cloth, cotton or synethetic fibre, or cotton or synthetic fibre and natural fibre combined, not woven, knitted or stitched, and the materials, supplies and equipment used in the manufacture and distribution of these commodities (except in bulk)* between points in Davidson County, TN on the one hand and on the other, points in the U.S. (except AK and HI). Supporting shipper: Xenon Inc., 1200 Bryan Street, Old Hickory, TN 37138.

Note.—Applicant intends to tack with existing authority and interline at Nashville, TN and Memphis TN.

MC 149218 (Sub-3-14TA), filed November 10, 1980. Applicant: SUNBELT EXPRESS INC., Highway 78 West, P.O. Box 604, Bremen, GA 30110. Representative: Pat H. Carden (same address as applicant). *Paper and paper products; and materials and supplies used in the manufacture, processing, conversion, sale and distribution of paper and paper products* between Austell, GA, on the one hand, and, on the other, points in AL, AR, FL, IL, IN, KY, LA, MO, MS, NC, OH, SC, TN, VA and WV. Supporting shipper: Austell Box Board, P.O. Box 157, Austell, GA 30001.

MC 144503 (Sub-3-7TA), filed November 10, 1980. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *(1) Bags, plastic, paper & burlap and containers in bales, rolls and packages (2) All equipment, materials and supplies used in the manufacture of (1) above,* (1) From Dowling Bag Company, Valdosta, GA to points in the United States, except AK and HI (2) From points in the United States, except AK and HI, to Dowling Bag Company, Valdosta, GA. Supporting shipper: Dowling Bag Company, P.O. Box 1768, Valdosta, GA 31601.

MC 75840 (Sub-3-12TA), filed November 10, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Raymond Hamilton (same address as above). *Lumber or Wood Products, except Furniture,* between points in North Carolina, on the one hand, and, on the other, points in the states of DE, GA, MD, NJ, NY, PA, OH, SC, VA and WV. Supporting shipper: McCoy Lumber Company, P.O. Box 22085, Greensboro, North Carolina 27420.

MC 144740 (Sub-3-2TA), filed November 10, 1980. Applicant: L. G. DEWITT, INC., P.O. Box 70, Ellerbe, NC 28338. Representative: Fred Daugherty (same as applicant). *Contract carrier;* irregular routes; *curtains and/or drapes* (1) from Bridgeport, CT to Pinebluff, NC; and (2) from Pinebluff, NC to Los Angeles, CA, under a continuing contract with Century Curtain Company, Inc. Supporting shipper: Century Curtain Company, Inc., Box 7, Highway 1 South, Pinebluff, North Carolina 28373.

MC 125868 (Sub-3-14TA), filed November 10, 1980. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. *Foodstuffs and Supplies* used by Ore-Ida Foods, Inc., Boise, ID, between the facilities located at or near Greenville, MI (Montcalm County), Plover, WI (Portage County), and Massillon, OH (Stark County), on the one hand, and, on the other, to AL, AR, CT, DC, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI. Supporting shipper: Ore-Ida Foods, Inc., P.O. box 10, Boise, ID 83707.

MC 152519 (Sub-3-1TA), filed November 4, 1980. Applicant: CENTRAL FLORIDA TRUCKING CO., INC., State Road 640 and Noralyn Mine Rd., Bartow, FL 33830. Representative: Dan R. Schwartz, 1729 Gulf Life Tower, Jacksonville, FL 32207. *Contract* carrier: irregular: *Phosphate rock, in bulk, in dump vehicles,* from points in DeSoto, Hardee, Hillsborough, Manatee, and Polk counties, FL to Port Manatee, FL. There will be a subsequent move by water. Supporting shipper: Beker Phosphate Corporation, 920 Manatee Ave., West, Suit 51, Bradenton, FL 33505.

MC 152544 (Sub-3-2TA), filed November 14, 1980. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams Street, Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *General Commodities (except household goods as defined by the Commission and classes A & B explosives) as described in Item 51 of the Standard Transportation Commodity Code Tariff, restricted to traffic originating or terminating at the facilities of Load King Manufacturing Co.,* between Jacksonville, FL on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Load King Manufacturing Co., 1357 W. Beaver Street, Jacksonville, FL.

MC 114562 (Sub-3-2TA), filed November 14, 1980. Applicant: WENDELL TRANSPORT CORPORATION, P.O. Box 100, Wendell, NC 27591. Representative: Ralph McDonald, Attorney at Law, P.O. Box 2246, Raleigh, NC 27602. *Streptomyces solubles* from Wilmington, NC to points in NC, SC, GA and FL. Supporting shipper(s): Ceva Laboratories, 10560 Barkley, Overland Park, KS 66212.

MC 141619 (Sub-3-2TA), filed November 14, 1980. Applicant: LOY E. SIGMON SR., d.b.a. NEW WAY TRANSPORTATION, Rt. 1, Box 392, Statesville, NC 28677. Representative: Loy E. Sigmon Sr. (same address as applicant). *Plastic and Plastic Articles, and Materials and Supplies used in the manufacture of Plastic Articles.* Between points in Iredell County, NC, on the one hand and points in the United States on the other. Supporting shipper: F*A*M*E Plastics Inc., I-40 & Old Mountain Road, Rt. 3, Box 167, Statesville, NC 28677.

MC 129623 (Sub-3-1TA), filed November 14, 1980. Applicant: FRANK E. HUGHES, d.b.a. HUGHES MOVING & STORAGE COMPANY, 6454 Stringfield Rd. NW., Huntsville, AL 35810. Representative: John P. Carlton, 727 Frank Nelson Bldg., Birmingham, AL 35203. *Used household goods,* Between Huntsville and Redstone Arsenal, AL, on the one hand, and, on the other, points in Hardin County, TN. Restricted to the transportation of traffic having a prior or subsequent movement in containers, beyond the points authorized and to the performance of pickup and delivery service in connection with packing, crating, and containerization, or unpacking, uncrating, and decontainerization of such traffic. The purpose of this application is to add Hardin County, TN, to the scope of applicant's present authority in TN, in the belief that such County was inadvertently omitted from MC-129623 (Sub 2) at the time of issuance of the same. There is no shipper support for this application.

MC 144827 (Sub-3-20TA), filed November 14, 1980. Applicant: DELTA MOTOR FREIGHT, INC., P.O. Box 18423, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *General commodities, with the usual exceptions,* from the facilities of Acme Fast Freight, Inc. at Charlotte, NC, to facilities of Acme Fast Freight, Inc. at Chicago, IL. Supporting shipper: Acme Fast Freight, Inc., 90 Terminal St., Memphis, TN 38109.

MC 151173 (Sub-3-3TA), filed November 14, 1980. Applicant: HARBET, INC., 7209 Tara Boulevard, Jonesboro, GA 30236. Representative: Bruce E. Mitchell, Suite 520, Lenox Towers South, 3390 Peachtree Rd. NE., Atlanta, GA 30326. *General commodities, except in bulk* between points in the US, restricted to the transportation of traffic originating out or destined to facilities of Rayloc, a Division of Genuine Parts Company of Atlanta, GA. Supporting shipper: Rayloc, a Division of Genuine Parts Company, 1020 Huff Road, N.W., Atlanta, GA 30318.

MC 152645 (Sub-3-1TA), filed November 14, 1980. Applicant: GASTON MOTOR LINES, INC., P.O. Box 3896, Gastonia, NC 28052. Representative: J.W. Stiles (same address as applicant). *Contract carrier:* irregular routes: *metal, metal products, wood stoves and components to comprise such,* from the facilities of Quality Metals Products, Inc., Gastonia, NC to Longmont, CO; Eugene, OR; and Memphis, TN, under a continuing contract(s) with Quality Metal Products, Inc. Supporting shipper: Quality Metal Products, Inc., Hwy. I-85, Gastonia, NC 28052.

MC 134105 (Sub-3-7TA), filed November 14, 1980. Applicant: CELERYVALE TRANSPORT, INC., 1706 Rossville Avenue, Chattanooga, TN 37408. Representative: James E. Elgin (same address as applicant). *Foodstuffs (except commodities in bulk, in tank vehicles) from the plantsite and storage facilities of Adam Packing Association, Inc. at or near Memphis, TN to points in the United States except Alaska and Hawaii. Supporting shipper: Adams Packing Association, Inc. P.O. Box 37 Auburndale, Florida 33823.*

MC 111545 (Sub-3-8), filed November 14, 1980. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road SE., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: J. Michael May (same address as applicant). *Lumber and wood products,* from Deschutes County, OR, to Rochester, NY and Landover, MD. Supporting shipper: Bear Springs Forest Products, Inc., P.O. Box 5193, Portland, OR 97208.

MC 152647 (Sub-3-1TA), filed November 14, 1980. Applicant: STANFORD W. CATO, d.b.a. CATO'S "LITTLE RED WAGON" TRUCK LINE, Route No. 3, Hydes Ferry Pike, Nashville, TN 37218. Representative: Stanford W. Cato (same address as above). *Water heaters, water heater parts* and *related items,* between Cheatham County, TN, on the one hand, and, on the other, points in IL, AZ, UT, NV, ID, WA, OR, CA, and TX. Between Clark County, NV, on the one hand, and, on the other, points in AZ, UT, ID, OR, IL, TN, OK, AR, WA, CA, and TX. Supporting shipper: State Industries, By Pass Rd., Ashland City, TN 37015.

MC 31389 (Sub-3-6TA), filed November 14, 1980. Applicant: McLEAN TRUCKING COMPANY, 1920 West First Street, Winston-Salem, NC 27104. Representative: Daniel R. Simmons, P.O. Box 213, Winston-Salem, NC 27102. *Common Carrier:* Regular: *General commodities (with the usual exceptions),* serving the facilities of Peck, Inc., located at or near Bloomington, IN as an intermediate point in connection with applicant's regular route operations. Supporting shipper: Peck, Inc., 516 Lafeyette Rd., St. Paul, MN 55101.

Note.—Applicant intends to tack with existing authority in MC 31389 and subs thereunder and to interline. The listing of interline points may be examined at the I.C.C. Regional Complaint/Authority Center in Atlanta, GA.

MC 52704 (Sub-3-11TA), filed November 12, 1980. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., Post Office Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite, 202, 2200

Century Parkway, Atlanta, GA 30345. (1) *Matches and ice cream sticks,* and (2) *materials, equipment and supplies used in the manufacture and distribution of matches and ice cream sticks,* between St. Charles Parish, LA, on the one hand, and, on the other, points in AL, FL, GA, KY, IN, MD, MO, NY, NC, SC, TN, and TX. Supporting shipper: Trans Match, Inc., P.O. Box 370, Kenner, LA 70063.

MC 144989 (Sub-3–2TA), filed November 13, 1980. Applicant: BLUE RIDGE MOUNTAIN CONTRACT CARRIER, INC., P.O. Box 1965, Dalton, GA 30720. Representative: S. H. Rich, 1600 Cromwell Court, Charlotte, NC 28205. *Contract* carrier: irregular routes: *Carpets, carpeting, carpet remnants or rugs; and yarn, material* and *supplies used in the manufacture of the foregoing commodities,* between Calhoun, GA and points in the United States (except AK and HI), under continuing contracts with Horizon Industries, Inc., P.O. Box 969, Calhoun, GA 30701. Supporting shipper: Horizon Industries, Inc., P.O. Box 969, Calhoun, GA 30701.

MC 126736 (Sub-3–5TA), filed November 13, 1980. Applicant: FLORIDA ROCK & TANK LINES, INC., 155 East 21st Street, Jacksonville, Florida 32201. Representative: L. H. Blow, 155 East 21st Street, Jacksonville, Florida 32201. *Ethanol,* in bulk, in tank vehicles, from points in Charleston, SC; N. Augusta, SC; Savannah, GA; and Jacksonville, FL to all points in AL, FL, FA, SC, NC, and VA. Supporting shipper: Phillips Petroleum Company, 844 Adams Bldg., Bartlesville, OK 74004.

MC 144069 (Sub-3–13TA), filed November 13, 1980. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: W. T. Trowbridge (same address as applicant). *Iron and steel articles* between Georgetown County, SC on the one hand and on the other points in and east of MS, TN, KY, IL, and WI. Supporting Shipper: Georgetown Steel Corporation, P.O. Box 619, Georgetown, SC 29440

MC 140176 (Sub-3–8TA), filed November 12, 1980. Applicant: POWELL TRUCKING CO., INC., P.O. Box 346, Sumrall, MS 39482. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. *Contract carrier:* Irregular routes: *Treated poles, posts, piling and wood products* between Posey County, IN on the one hand, and, on the other, points in the U.S. (except AK and HI) under a continuing contract or contracts with Crown Zellerbach Corporation. Supporting Shipper: Crown Zellerbach, P.O. Box 1060, Bogalusa, LA 70427.

MC 17000 (Sub-3–2TA), filed November 10, 1980. Applicant: HOHENWALD TRUCK LINES, INC., P.O. Box 196, Hohenwald, TN 38462. Representative: Robert L. Baker, 616 United American Bank Building, Nashville, TN 37219. *General Commodities (except household goods as defined by the Commission and classes A & B explosives),* between points in Davidson, Henderson, Lewis, Perry, Shelby, and Williamson, Decatur and Hickman Counties, TN, Crittenden County, AR, and DeSoto County, MS, on the one hand, and, points in the U.S., on the other. Applicant proposes to interline at all service points. There are 22 supporting shipper statements attached to this application. The supporting shipper statements and a list of applicant's proposed interline points may be examined at the Atlanta Regional Authority Center

MC 2900 (Sub-3–22TA), filed November 10, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road; P.O. Box 2408–R, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). *General Commodities in containers or trailers,* restricted to traffic having prior or subsequent movement by water between Norfolk, VA, on the one hand, and on the other, points and places in the state of VA. Supporting shippers: United States Lines, Inc., 7737 Hampton Boulevard, Norfolk, VA 23514; and Anders Williams Co., 2 Commercial Place, Norfolk, VA 23510.

MC 152142 (Sub-3–1TA), filed October 3, 1980. Republication—originally published in **Federal Register** of October 21, 1980, page 65980, volume 45, No. 205. Applicant: DALLAS M. CRONRATH, d.b.a. D & A TRANSPORT, P.O. Box 974, Ft. Pierce, FL 33450. Representative: Dallas M. Cronrath (same as above). *Contract carrier,* irregular routes; *PVC (plastic) fitting for plumbing and/or irrigation use and/or PVC granules, except in tank or bulk,* from Ft. Pierce, FL to CA, CO, OK, TX, IL, IN, MI, GA, SC, PA, NY and from Kalamazoo, MI; Baton Rouge, LA; Tiptonville, TN; New Castle and Delaware City, DE to Ft. Pierce, FL. Supporting shipper: Colonial Engineering, Inc., 4000 Metzger Rd., P.O. Box 699, Ft. Pierce, FL 33450.

MC 98039 (Sub-3–1TA), filed October 3, 1980. Republication—originally published in **Federal Register** of October 21, 1980, page 69575, volume 45, No. 205. Applicant: LENIOR TRANSFER COMPANY, INC., P.O. Box 696, Lenoir, NC 28645. Representative: C. Douglas Woods (same as above). *New furniture, parts and materials and supplies used in the manufacturing of furniture and furniture parts (except commodities in bulk),* from points in NC to Caldwell and Catawba Counties, NC, for subsequent movement in interstate commerce. Supporting shipper: Cook's Transfer & Storage Co., Inc., Lenoir, NC; Terminal Freight Cooperative Assoc., 1430 Branding Lane, Lane-Downers Grove, IL 60515 and Singer Furniture Co., P.O. Box 5337, Roanoke, VA 24012.

Note.—Applicant intends to interline with other carriers.

MC 128117 (Sub-3–5TA), filed November 12, 1980. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 896, Hickory, NC 28601. Representative: Francis J. Ortman, Esquire, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. *(a) (New furniture and furniture parts and (b) furniture parts, supplies, packaging and items used in the manufacturing and transportation of new furniture and furniture parts* (a) from Austin, TX to points in the states of AL, AZ, AR, CA, CO, FL, GA, KY, KS, LA, MS, MO, NE, NV, NM, NC, OK, SC, TN, VA, and UT, and (b) from points in Caldwell, Rutherford, Alexander, and Catawba counties, NC and from points in Washington county, VA and Lynchburg, VA (an independent city) to Austin, TX. Supporting shipper: Broyhill Industries, Broyhill Park, Lenoir, NC 28633.

MC 147787 (Sub-3–3TA), filed November 12, 1980. Applicant: SOUTHERN DRAYAGE, INC., P.O. Box 1983, Jackson, MS 39205. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. *Contract,* irregular. *Such commodities as are dealt in or used by retail and wholesale department stores (except commodities in bulk)* from North Bergen, NJ and points in its commercial zone to Baton Rouge and Shreveport, LA and points within their commercial zones. Supporting shippers: Selber Bros., Inc., 601 Milam, Shreveport, LA 71120; Goudchaux's, Inc., P.O. Box 3478, Baton Rouge, LA 70821.

MC 146782 (Sub-3–7TA), filed November 12, 1980. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Avenue, South, Nashville, Tennessee 37201. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Building, Nashville, Tennessee 37201. *Rough Iron and Steel Castings and Forgings,* between the facilities of the Budd Company in Washington County, TN, on one hand, and, on the other, points in KY, IA, MI, and WI. Restricted to traffic originating at or destined to the above named facilities. Supporting shipper: The Budd Company, 506 Milligan Highway, Johnson City, TN 37601.

(Hearing site: Nashville, TN or Johnson City, TN.)

MC 148320, (Sub-3–3TA), filed November 12, 1980. Applicant: MHB, INC., 204 E. North Street, Warsaw, NC 28398. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Malt beverages, related advertising materials, materials, supplies, and equipment used in the manufacture, sale, and distribution of malt beverages, and empty returned malt beverage containers,* between the Detroit, MI and Toledo, OH Commercial Zones, on the one hand, and, on the other, Fayetteville and Hamlet, NC and Brunswick and Savannah, GA. Supporting shipper: Sullivan Wholesale Company Inc., 954 Country Club Drive, Fayetteville, NC 28303.

MC 31675 (Sub 3–24), filed November 10, 1980. Applicant: NORTHERN FREIGHT LINES, INC., P.O. Box 34303, Charlotte, N.C. 28234. Representative: Jay R. Hanson (Same as above). *Copper tubes, pipes or coils and materials, equipment and supplies used in manufacture of the commodities* between Reading, PA, and points and places in the U.S. Supporting shipper(s): Reading Industries, P.O. Box 126, Reading, PA, 19603.

MC 136316 (Sub-3–1TA), filed November 10, 1980. Applicant: SMITH TRUCKING CO, INC., Rt. 4, Lancaster, S.C. 29720. Representative: Winston J. Smith (address same as applicant). *Contract Carrier,* Irregular routes. *Docket levelers and associated equipment,* from Milwaukee County, WI to points in NC and SC. Supporting shipper: Shanklin Equipment Inc., Rt. 1, Fort Mills, SC 29715.

MC 145559 (Sub-3–4TA), filed November 10, 1980. Applicant: NORTH ALABAMA TRANSPORTATION, INC., Post Office Box 38, Ider, AL 35981. Representative: William P. Jackson, Jr., Post Office Box 1240, Arlington, VA 22210. *Frozen vegetables,* from Richland and Chehalis, WA, to Crestview, Miami and Orlando, FL, Montgomery, AL, Memphis, and Nashville, TN, and points in TX. Restriction: Restricted to the transportation of shipments destined to facilities utilized by Church's Fried Chicken, Inc. Supporting shipper: H&L Sales, Inc., 410 S. Orchard, Suite 140, Boise, ID 83705.

MC 152604 (Sub-3–1TA), filed November 10, 1980. Applicant: SUNBELT TRANSPORT, INC., 1900 Emery Street, N.W., Atlanta, GA 30318. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237. *General Commodities (except those of unusual value, Classes A and B explosives, commodities in bulk, in tank vehicles and those requiring special equipment), in trailers or containers having a prior or subsequent movement by rail,* between points in GA. Supporting shippers: There are six statements in support of this application which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 121654 (Sub-3–12TA), filed October 6, 1980. Republication—originally published in **Federal Register** of October 21, 1980, page 69582, volume 45, No. 205. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd., N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *General Commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk, in tank vehicles)* between points in the states of AL, AR, CT, DE, LA, NH, FL, GA, MD, MA, MS, NJ, NY, OH, PA, RI, SC, TN, TX, VT, VA, WV and DC restricted to transportation of shipments originating at or destined to facilities of Owens-Corning Fiberglas Corporation. Supporting shipper: Owens-Corning Fiberglas Corp., Fiberglas Tower, Toledo, OH 43659.

MC 114334 (Sub-3–14TA), filed November 12, 1980. Applicant: BUILDERS TRANSPORTATION COMPANY, 3710 Tulane Road, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. *Iron and steel articles and aluminum articles* between Rosedale, MS and points in AL, LA, IN, IL, TN, AR, and Ga. Supporting shipper: Cives Steel Company, P.O. Box 609, Rosedale, MS 38769.

MC 146187 (Sub-3–2TA), filed November 10, 1980. Applicant: THE TEN WHEELERS, INC., Route 2, Gregory Road, Greenback, TN 37742. Representative: Edward C. Blank, II, P.O. Box 1004, Columbia, TN 38401. *Water heaters, solar units, and parts and accessories for water heaters and solar units, and materials and supplies used in the manufacture and distribution of these commodities (except commodities in bulk),* between Johnson City, TN, Cleveland, OH and its commercial zone, and Santa Monica, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Mor-Flo Industries, Inc., P.O. Box 1378, Johnson City, TN 37601.

MC 115162 (Sub-3–16TA), filed November 10, 1980. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). *Cement, in bags* from Okay Junction, AR to Baton Rouge, LA. Supporting shipper: Ideal Basic Industries; P.O. Box 8789; Denver, CO 80201.

MC 152614 (Sub-3–1TA), filed November 12, 1980. Applicant: WILLIAMSON TRUCK LINE, INC., Corner Thorne & Ralston Streets, Box 3485, Wilson, NC 27893. Representative: Peter A. Greene, 1920 N Street, N.W., Washington, D.C. 20036. Contract, irregular: *Cleaning compounds, disinfectants, softeners, insecticides (other than agricultural NOI and liquid), and materials, supplies and equipment used in the manufacture and distribution thereof (except commodities in bulk),* between points in the U.S., under a continuing contract(s) with Texize, Division of Morton Norwich. Supporting shipper: Texize, Division of Morton Norwich, P.O. Box 368, Greenville, SC 29602.

MC 114562 (Sub-3–1TA), filed November 13, 1980. Applicant: WENDELL TRANSPORT CORPORATION, P.O. Box 100, Wendell, NC 27591. Representative: Ralph McDonald, Attorney at Law, P.O. Box 2246, Raleigh, NC 27602. *Condensed molasses solubles and brewers' condensed solubles* from Baltimore, MD and Williamsburg, VA to Wilmington, NC. Supporting Shipper(s): Pacific Molasses Company, P.O. Box 739, Wilmington, NC 28402.

MC 144929 (Sub-3–1TA), filed November 12, 1980. Applicant: B & J TRUCKING, INC., Frontage Road, Rte. 3, Piedmont, SC 29673. Representative: Brian S. Stern, Stern & Jones, 5411–D Backlick Road, Springfield, VA 22151. Contract carrier: irregular: (1) *agricultural chemicals (except in bulk), and (2) products, supplies, and raw materials used in the manufacture, distribution, and sales of agricultural chemicals,* between points in AL, AZ, AR, CA, CO, FL, GA, IA, KS, KY, LA, MS, MO, NJ, NC, SC, OK, TN, TX, VA, and WV, under a continuing contract(s) with Monsanto Company, St. Louis, MO. Supporting shipper: Monsanto Company, 800 North Lindbergh Blvd., St. Louis, MO 63166.

MC 105813 (Sub-3–6TA), filed November 10, 1980. Applicant: BELFORD TRUCKING CO., INC., 1759 S.W. 12th Street, P.O. Box 270, Ocala, FL 32670. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. *Cat Litter,* from Jefferson County, GA to points in the U.S. in and east of ND, SD, NE, CO, OK, and TX. Supporting shipper: Shopwell Supermarkets; 400 Walnut Ave.; Bronx, NY 10462.

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MC 151651 (Sub-3–1TA), filed November 13, 1980. Applicant: INTERMODAL SERVICES INC., P.O. Box 668211, Charlotte, NC 28266. Representative: Richard T. Duckett, 6554–H Idlewild Rd., Charlotte, NC 28212. *Power hand tools and bedding* between Charlotte, NC on the one hand and Bryson City and Raleigh, NC on the other. Restricted to traffic having a prior or subsequent move by rail or motor carrier. Supporting shipper: Montgomery Ward and Co., 1 Montgomery Ward Plaza, Chicago, Illinois 60671.

MC 2900 (Sub-3–23TA), filed November 12, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). *General Commodities (except those of unusual value, Classes A and B explosives, commodities in bulk, those requiring special equipment and household goods as defined by the Commission),* between Dallas, TX, on the one hand, and, on the other, those points in TX west of a line beginning in Houston, TX, and extending southeasterly along Interstate Hwy 45 to Galveston, TX, and those points in TX on and south of a line from Houston, TX extending along Interstate Hwy 10 to Columbus, TX, then along TX Hwy 71 to Austin, TX, then along U.S. Hwy 290 to Fredericksburg, TX, and to those points in TX on and east of a line beginning at Fredericksburg, TX, extending along U.S. Hwy 87 to San Antonio, TX, then along U.S. Hwy 81 to Laredo, TX. Supporting shipper: None. The purpose of the application is to provide for an alternate gateway at Dallas, TX resulting in operational efficiencies as applicant presently holds authority to serve all points in this application via Houston, TX.

Note.—Applicant intends to tack with existing authority in MC–2900 and to interline at over 85 points throughout its system. A listing of the interline points may be examined at the ICC Regional Authority Center at Atlanta, GA.

MC 121664 (Sub-3–28TA), filed November 10, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, Alabama 36460. Representative: W. E. Grant, 1702 1st, Ave. South, Birmingham, Alabama 35233. *Roofing, roofing materials, materials and supplies used in the manufacture production, installation, distribution, and sales of the above,* between Frederick, MD and points in and east of ND, SD, NE, KS, OK, and TX.

MC 107515 (Sub-3–86TA), filed November 10, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd. NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. *Such commodities as are dealt in by manufacturers of infant care products (except in bulk)* from Royston, GA to Linden, NJ. Supporting shipper: Johnson & Johnson Baby Products Company, Grandview Road, Skillman, NJ 08558.

MC 2934 (Sub-3–24TA), filed November 10, 1980. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry, (same as above). *Television sets, stereos and related products, and commodities used in the manufacturing thereof,* from Chicago, IL; Springfiled, MO; Watsontown, PA; Benton Harbor, MI; McAllen, TX; Paris, IL; and Evansville, IN; to points in the U.S. Supporting shipper: Zenith Radio Corporation, 1900 North Austin Avenue, Chicago, IL 60639.

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 151482 (Sub-4–3), filed November 4, 1980. Applicant: ROCK VALLEY CONTRACT CARRIERS, INC., 3571 Merchandise Dr., Rockford, IL 61109. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract Irregular.* (1) *Machinery and machinery parts, materials and supplies* between S. Beloit, IL, on the one hand, and, on the other, Baltimore, MD, Las Vegas, NV, Jacksonville, FL, Los Angeles, CA, Dallas, TX and New York, NY under continuing contract(s) with Economics Lab. Inc. of S. Beloit, IL; (2) *Water pollution and waste water treatment equipment, material and supplies* between Beloit, WI, on the one hand, and, on the other Oklahoma City, OK, Big Springs, TX, York County, VA, Casper, WY, Trenton, MO, Houston, TX, Smyrna, TN, Ashland, KY, Overland Park, KS, Compton, CA, Grafton, MA, Topeka, KS, Olympia, WA, Willard, OH, Norfolk, NE, Colorado Springs, CO and Jerome, ID, under continuing contract(s) with Peabody-Welles Inc. of Beloit, WI; (3) *Printed material, materials and supplies* between Bloomfield, CT, on the one hand, and, on the other, Chicago, IL, and between Dallas, PA, on the one hand, and, on the other, Chicago and Mt. Morris, IL, under continuing contract(s) with Kable News Co. of Mt. Morris, IL; (4) *Cheese items* as used in gift merchandise distribution, between Monroe, WI, on the one hand, and, on the other, Atlanta, GA and all points in and west of IL, KY, MS, TN and WI, under continuing contract(s) with Swiss Colony Inc. of Monroe, WI. Supporting shippers: Economics Lab. Inc., S. Beloit, IL; Peabody-Welles Inc., Beloit, WI; Kable News Co., Mt. Morris, IL, Swiss Colony Inc., Monore, WI.

MC 108185 (Sub-4–10TA) filed November 4, 1980. Applicant: JACK COLE–DIXIE HIGHWAY COMPANY, 2625 Territorial Road, St. Paul, MN 55114. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Lumber, Building Materials; Posts and Poles, Wooden,* from the Plantsite of Timber Sales & Distributor at Phil Campbell, AL to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, PA, TN and WI. An underlying ETA seeks 120 days authority. Supporting shipper: Timber Sales & Distributors, P.O. Box 188, Phil Campbell, AL 35581.

MC 108185 (Sub-4–11TA) filed November 4, 1980. Applicant: JACK COLE–DIXIE HIGHWAY COMPANY, 2625 Territorial Road, St. Paul, MN 55114. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Steel tanks; conveyors; ovens and electric heating elements,* from the Plantsites of Holcroft Division of Thermo Electron at Decatur, AL and Livonia, MI to points in AZ, CA, CO, IL, IN, KS, KY, MI, MN, MT, NE, NM, NV, ND, OH, OK, PA, SD, TN, TX, UT, WI and WY. An underlying ETA seeks 120 days authority. Supporting shipper: Holcroft Division of Thermo Electron, 12068 Market St., Livonia, MI 48150.

MC 108185 (Sub-4–12TA) filed November 4, 1980. Applicant: JACK COLE–DIXIE HIGHWAY COMPANY, 2625 Territorial Road, St. Paul, MN 55114. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Lumber; Building Materials; Posts and Poles, Wooden,* from the plantsite of Associated Forest Materials at or near Hodges, AL to points in IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, PA, TN and WI. Supporting shipper: Associated Forest Materials, P.O. Box 36, Hodges, AL 35571.

MC 143002 (Sub-4–12TA) filed November 4, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding SE., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Contract;* irregular; *Products manufactured and/or distributed by the Gibson Appliance Corporation* between various points in the U.S. under continuing contract(s) with the Gibson Appliance Corporation. Supporting shipper: Gibson Appliance Corporation, Greenville-Appliance Center, Greenville, MI 48838.

MC 111812 (Sub-4–16TA) filed October 29, 1980. Applicant: MIDWEST

COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma, (same address as applicant). *Frozen foods* (except commodities in bulk), from the facilities of Pet, Inc., Frozen Foods Division, located at Lithonia, GA and public warehouses utilized by Pet, Inc., Frozen Foods Division, located at Atlanta, GA to all points in FL, NC, SC, and TN. An underlying ETA seeks 120 days authority. Supporting shipper: Pet, Inc., Frozen Foods Division, 400 South Fourth Street, St. Louis, MO 63102.

MC 108449 (Sub-4–6TA), filed November 4, 1980. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Representative: W. A. Myllenbeck, P.O. Box 43355, St. Paul, MN 55164. *General Commodities,* except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment (except those requiring temperature control) and those injurious or contaminating to other lading, serving points in WI located north and east of a line beginning at the MN/WI border and extending easterly along Interstate Highway 94 to its junction with Interstate Highway 90, thence southerly along Interstate Highway 90 to the IL–WI State Line, as off-route points in connection with carriers' present authorized regular routes. There are 23 supporting shippers.

MC 152314 (Sub-4–1TA), filed November 3, 1980. Applicant: WASCHER'S TRUCKING, INC., 210 Elm St., Box 88, Greenland, MI 49929. Representative: Agnes J. Hautamaki (same as above). *Contract;* Irregular: *Lumber, rough, planed, green, dried and kilndried,* from, to and between points in MI, WI and MN. Supporting shippers: Northern Hardwoods Div., Cooper Range, 300 W. Memorial, Houghton, MI 49931; Silver Forest Products, Inc., 322 Calumet St., Lake Linden, MI 49945; Marquette Timber Co., Box 369, Marquette, MI 49855. An underlying ETA seeks 120 days authority.

MC 152440 (Sub-4–1TA), filed November 3, 1980. Applicant: MOTOR EXPRESS, INC., 6501 West 65th Street, Chicago, IL 60638. Representative: Joel H. Steiner, 39 South LaSalle, Suite 600, Chicago, IL 60603. *Contract;* Irregular: *Paper and plastic cups, plates, bowls, caps, lids, straws, holders and dispensers; toothpicks; ice cream cones,* between points in the Chicago, IL commercial zone, on the one hand, and, on the other, points in IL, IN, IA, MI and WI. Supporting shippers: Sweetheart Cup, 7575 South Kostner, Chicago, IL 00052.

MC 114362 (Sub-4–2TA), filed November 4, 1980. Applicant: ROBERT J. ECKLUND, d.b.a., ECKLUND TRUCKING, P.O. Box 568, Kiester, MN 56051. Representative: John B. Van de North, Jr., Briggs and Morgan, 2200 First National Bank Building, St. Paul, MN 55101. *Feed ingredients (except commodities in bulk in tank vehicles),* from points in MN (except Mankato) to points in WY. Supporting shippers: Archer-Daniels-Midland Co., Box 74, Red Wing, MN 55066.

MC 52680 (Sub-4–2TA), filed November 4, 1980. Applicant: D.A. EXPRESS, INC., 11937 S. Page Blvd., Calumet Park, IL 60643. Representative: Daniel C. Sullivan, 10 S. LaSalle Street, Suite 1600, Chicago, IL 60603. *Iron and steel articles, wheels and hubs,* between points in Cook, DeKalb, DuPage, Kane, Lake, Putnam and Will Counties, IL and Lake and Porter Counties, IN, on the one hand, and, on the other, points in AL, AR, CO, DC, GA, IA, IL, IN, KS, KY, LA, MD, MI, MN, MO, MS, NE, NJ, NY, OH, TN, VA, WI and WV. An underlying ETA seeks 120 days authority. Supporting shippers: Schelling Steel Co., Inc., 14100 S. Western Ave., Posen, IL 60469; Jones & Laughlin Steel Corp., P.O. Box 325, Hennepin, IL 61327; Triumph-Metalsource Corp., 6687 S. 77th Street, Bridgeview, IL 60455; Ferraloy Corporation, 12550 S. Stoney Island, Chicago, IL; Interstate Steel Company, 401 Touhy Ave., Des Plaines, IL 60018; Metalock Corporation, 4640 West Fifth Ave., Chicago, IL; Abko Metals & Methods, Inc., 7000 West 60th Street, Chicago, IL 60638; and Welded Tube Company of America, 1855 E. 122nd Street, Chicago, IL 60633.

MC 151482 (Sub-4–4TA), filed November 4, 1980. Applicant: ROCK VALLEY CONTRACT CARRIER, 3571 Merchandise Dr., Rockford, IL 61109. Representative: Henry M. Wick, 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract; irregular:* (1) *Steel pipe and materials and supplies* from Aliquippa and Sharon, PA and Lorain, OH to Rockford, LaSalle and Peru, IL, under continuing contract(s) with J. D. Mott Co. of Rockford, IL; (2) *hardware, fasteners and related materials and supplies* between Rockford, IL, on the one hand, and, on the other, Greenville, NC and Sikeston, MO, under continuing contract(s) with National Lock of Rockford, IL; (3) *ground clay, materials and supplies* between Rockford, IL, on the one hand, and, on the other, Topeka, KS and McIntyre, Cartersville and Macon, GA, under continuing contract(s) with M. C. Chemical Co. of Rockford, IL; for 270 days. Supporting shippers: J. D. Mott Co., 3261 Forest View Rd., Rockford, IL; National Lock, 1902 7th St., Rockford, IL; and M. C. Chemical Co. 840 Cedar St., Rockford, IL.

MC 18459 (Sub-4–1TA), filed November 4, 1980. Applicant: BRITTON MOTOR SERVICE, INC., 740 Westminster St., St. Paul, MN 55101. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Common;* regular: *General commodities* (except classes A and B explosives and commodities in bulk), from Chicago, IL to Milwaukee, WI, over Hwy I94. There are (8) eight supporting shippers.

MC 103993 (Sub-4–24TA), filed November 4, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). *Common;* Irregular: *Lumber or wood products,* between Van Wert County, OH, on the one hand, and, on the other, points in IN, MI, IL, and WI. Supporting shipper: H & E Pallett Company, Inc., Middlepoint, OH 45863.

MC 103993 (Sub-4–23TA), filed November 4, 1980. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). *Common;* Irregular: *Trailers,* (except those designed to be drawn by passenger automobiles), between Erie County, PA, and Fulton County, OH, on the one hand, and, on the other, points in the U.S. Supporting shipper: Rogers Brothers, Inc., Albion, PA 16401.

MC 108859 (Sub-4–8TA), filed November 4, 1980. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Avenue, North, Escanaba, MI 49829. Representative: Deane F. Rude, P.O. Box 3548, Green Bay, WI 54303. *Cylinders, steel for shipping air, gases or liquids under pressure, NOIBN, new other than coppered or nickled,* between the facilities of Lee Cylinders, Inc., Division of Margo, Inc. located at Cambridge City, (Wayne Co.), IN, on the one hand, and, on the other, Freeport (Stephenson Co.), IL. An underlying ETA seeks 120 days authority. Supporting shipper: Lee Cylinders, Inc., Division of Margo, Inc., 610 East Church Street, Cambridge City, IN 47327.

MC 133689 (Sub-4–45TA), filed November 4, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West Saint Paul, MN 55118. *Noodles, and materials, supplies and equipment used in the manufacture of noodles,* between Cando, ND on the one hand, and, on the other, points in and

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east of KS, NE, OK, SD and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Noodles by Leonardo, Cando, ND 58324.

MC 152443 (Sub-4–4TA), filed November 3, 1980. Applicant: DAVID VOLKERT d.b.a. VOLKERT TRUCKING, 3181 170th Street, East, Rosemount, MN 55068. Representative: James Robert Evans, 145 West Wisconsin Avenue, Neenah, WI 54956. *Contract;* Irregular: *Such commodities as are dealt in or used by elevators, farms and feed mills* (except machinery), between Minneapolis, MN, and its commercial zone, on the one hand, and, on the other, points in IL, IA, and WI. Restricted to traffic moving under continuing contract with South St. Paul Feed, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: South St. Paul Feed, Inc., 500 Farwell Avenue, South St. Paul, MN 55075.

MC 152445 (Sub-4–1TA), filed November 3, 1980. Applicant: MATHEWS TRANSPORT, INC., Route 1, Box 47, Walworth, WI 53184. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Doors, door frames, components, and parts of doors and door frames, and materials, equipment and supplies* used or useful in the manufacture, sale or distribution of the above commodities between Linn Township, Walworth County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI), for 270 days. Supporting shipper: Wilson Industrial Doors, Inc., Route 1, Box 48, Walworth, WI 53184.

MC 114194 (Sub-4–10TA), filed November 3, 1980. Applicant: KREIDER TRUCK SERVICE, INC., 1600 Collinsville Ave., P.O. Box 147, Madison, IL 62060. Representative: Joseph R. Behnken, 1600 Collinsville Ave., P.O. Box 147, Madison, IL 62060. *Dry bulk sugar, from Rocky Ford Co., to Waco, TX.* An underlying ETA seeks 120 days authority. Supporting shipper: H. D. Fox Company, 666 Dundee Road, Suite 1102, Northbrook, IL 60062.

MC 147284 (Sub-4–4TA), filed November 3, 1980. Applicant: JAT EXPRESS, INC., 4002 N. Rosewood Ave., Muncie, IN 47304. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Meats, meat products and meat by-products* and *articles distributed by meat packing houses* from Dodge City, KS to points in the U.S. (except AK and HI). Supporting shipper: Hyplains Dressed Beef, Inc., P.O. Box 539, Dodge City, KS 61801.

MC 152439 (Sub-4–1TA), filed November 3, 1980. Applicant: WILLETT INTERSTATE SYSTEM, INC., 3901 S. Ashland Avenue, Chicago, IL 60609. Representative: Donald S. Mullins, 1033 Graceland Avenue, DesPlaines, IL 60016. *General commodities* between points in IL, and that portion of IN within the Chicago, IL, Commercial Zone, on the one hand, and, on the other, points in IL, IA, MI, MO, OH, and WI. 16 Supporting shippers.

MC 133689 (Sub-4–42), filed October 31, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *General commodities* (except Classes A and B explosives, and household goods as defined by the Commission), between points in the U.S. restricted to traffic originating at or destined to the facilities of Farmers Union Central Exchange. Supporting shipper: Farmers Union Central Exchange, P.O. Box 43089, St. Paul, MN 55164.

MC 133689 (Sub-4–44), filed October 31, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Razor, razor blades, toilet preparations, and related personal care products,* between St. Paul, MN; Andover, MA and LaGrange Park, IL on the one hand, and, points in and east of ND, SD, NE, KS, OK and TX on the other hand. Supporting shipper: The Gillette Company, Prudential Tower Building, Boston, MA 02199.

MC 133689 (Sub-4–43), filed October 31, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Kitchen cabinets, vanities and equipment, materials, and supplies used in the manufacture and distribution thereof,* between Lakeville, MN on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: Merillate Industries, Inc., Airlake Industrial Park, 21755 Cedar Ave. So., Lakeville, MN 55044.

MC 108449 (Sub-4–5TA), filed October 31, 1980. Applicant: INDIANHEAD TRUCK LINE, INC., 1947 West County Road C, St. Paul, MN 55113. Representative: W. A. Myllenbeck, P.O. Box 43355, St. Paul, MN 55164. *General commodities* except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment (except those requiring temperature control) and those injurious or contaminating to other lading, serving points in MN located south and west of a line beginning at the MN/ND border and extending southeasterly along U.S. Highway No. 52 to its junction with Interstate Highway 35, thence southerly along Interstate Highway 35 to the MN/IA border as off route points in connection with carriers' present authorized regular routes. There are 20 supporting shippers.

MC 124003 (Sub-4–1TA), filed October 31, 1980. Applicant: DAYS MOVING & STORAGE, INC., P.O. Box 668, Elkhart, IN 46515. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. *Materials, equipment, supplies, fixtures and appliances* used in the manufacture, assembly and furnishing of manufactured housing and recreational vehicles, from Elkhart County, IN to points in MN, WI, ND, SD, and IA. An underlying ETA seeks 120 days authority. Supporting shipper: Armstrong World Industries, Inc., P.O. Box: 3001, Lancaster, PA 17604.

MC 109449 (Sub-4–8TA), filed November 5, 1980. Applicant: KUJAK TRANSPORT, INC., 6366 W. 6th St., Winona, MN 55987. Representative: Gary Huntbatch (same address as applicant). *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment). (1) From St. Louis County, MN and Douglas County, WI to points in AR, IA, KS, LA, MO, NE, ND, OK, SD, and TX. (2) From points in AR, IL, IN, IA, KS, LA, MI, MO, NE, ND, OH, OK, SD, TX and WI to St. Louis County, MN and Douglas County, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Jeno's Inc., 525 Lake Avenue South, Duluth, MN 55802.

MC 152477 (Sub-4–1TA), filed October 31, 1980. Applicant: FISCHER MOTOR LINES, INC., 925 Louisiana, Detroit, MI 48205. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Paper and paper products and materials and supplies used in the manufacture of paper and paper products* between points in GA, IL, IN, KY, MI, MO, OH, TN, and WI. Supporting shipper: Great Lakes Paper Stock Corporation, 30615 Groesbeck Highway, Roseville, MI 48066.

MC 139156 (Sub-4–1TA), filed October 31, 1980. Applicant: FAITH TRUCK LINES, INC., 14326 S. Wood St., Dixmoor, IL 60426. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. *Acids and chemicals,* from Chicago and Lemont, IL; Hammond, IN, Montague, MI; and Niagara Falls, NY to points on and east of U.S. Hwy 85. Supporting shipper: Rowell Chemical Corp., Forest Park, IL.

MC 136268 (Sub-4–1TA), filed November 3, 1980. Applicant: WHITEHEAD SPECIALTIES, INC., 1017 Third Avenue, Monroe, WI 53566. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Such commodities as are dealt in or used by retail gift and curio shops, catalog distribution centers, and manufacturers of foodstuffs,* between Madison and Monroe, WI, on the one hand, and, on the other, Phoenix, AZ, Los Angeles, San Francisco, and Oakland, CA, Portland, OR, Denver, CO, Lawrence, Worcester, and Wilmington, MA, Maspeth, NY, Parsippany, NJ, Philadelphia and Pittsburgh, PA, Arbutus, MD, Charlotte, NC, Atlanta, GA, Jacksonville and Miami, FL, Shreveport, LA and their commercial zones. An underlying ETA seeks 120 days authority. Supporting shipper: Swiss Colony Stores, Inc. and Swiss Colony, Inc., 1112 Seventh Avenue, Monroe, WI 53566.

MC 40978 (Sub-4–10TA), filed November 4, 1980. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, 3521 South Business Drive, Sheboygan, WI 53081. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. (1) *Office equipment, parts, and filing supplies* from the facilities of Tab Products Company at Mayville, WI, and (2) *filing equipment and related parts* from Allenton, WI, to points in CT, DE, MD, NJ, NY, PA, and DC. Supporting shipper: Tab Products Company, P.O. Box 153 Mayville, WI 53050.

MC 145276 (Sub-4–3TA), filed November 4, 1980. Applicant: MINNESOTA EXPRESS, INC., 2400 Trott Avenue SW, Box 427, Willmar, MN 56201. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Such commodities as are dealt in or used by wholesale food distributors, and materials, equipment and supplies used in the manufacture and distribution thereof,* between points in MN, on the one hand, and, on the other, Minnehaha County, SD. Supporting shipper: Continental of South Dakota, A division of CFS, 1109 Zane Avenue North, Minneapolis, MN. 55422.

MC 149418 (Sub-4–2TA), filed November 3, 1980. Applicant: BATESVILLE CASKET COMPANY, INC., Highway 46, Batesville, IN 47006. Representative: Steve A. Oldham, Hillebrand Industries, Highway 46, Batesville, IN 47006. *Contract;* irregular: *Swimming pool covers and related equipment* between Salt Lake City, Utah and Indianapolis, Indiana. Restricted to traffic moving under continuing contract with Automatic Pool Covers, Inc. Supporting shipper: Automatic Pool Covers, Inc. 5335 N. Tacoma, Suite 14, Indianapolis, IN 46220.

MC 151738 (Sub-4–1), filed November 3, 1980. Applicant: CONCEPT, INC., c/o Jon Hildre, Cooperstown, ND 58425. Representative: Charles E. Johnson, P.O. Box 2478, Bismarck, ND 58502. *Such commodities as are dealt in, or used by, agricultural equipment, industrial equipment and lawn and leisure product manufacturers and dealers* (except commodities in bulk), from points in CO, KS, NE, WI, IL, IA, MN, and ND, to points in ND, SD, and MT, for 270 days. Supporting shippers: There are 14 shippers.

MC 95876 (Sub-4–6TA), filed November 4, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: William L. Libby (same address as applicant). (1) *Tractors,* NOIBN, and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities in (1) above, between Troup County, GA, on the one hand, and, on the other, points in the U.S. An underlying ETA has been filed. Supporting shipper: Whiting Corporation, 1602 Executive Drive, LaGrange, GA 30240.

MC 10373 (Sub-4–1TA), filed November 13, 1980. Applicant: HOWARD MARTIN, INC., 4315 Meyer Road, Fort Wayne, IN 46801. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. *Machinery and machine parts and commodities requiring special handling,* from the facilities utilized by the Eaton Corp. at Fort Wayne, IN to Laredo, TX. Supporting shipper: Eaton Corporation, 100 Erieview Plaza, Cleveland, OH 44114.

MC 144323 (Sub-4–3TA), filed November 13, 1980. Applicant: RICHARD P. CHARAPATA, d.b.a. CHARAPATA TRUCKING, N30 W26466 Peterson Drive, Pewaukee, WI 53072. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Contract;* irregular: *Meats, meat products and meat byproducts, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the facilities of Wisconsin Beef Industries at Eau Claire, WI, to points in CT, DE, FL, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, WV, and DC, under a continuing contract with Wisconsin Beef Industries of Eau Claire, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Wisconsin Beef Industries, 2715 Hogarth St., Eau Claire, WI 54700.

MC 147607 (Sub-4–1TA), filed November 12, 1980. Applicant: OFFUTT TRUCKING CO., Box 126, Glyndon, MN 56547. Representative: James B. Hovland, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55401. *Carpet* from points in GA to points in IL, IA and NE. Supporting shippers: Salem Carpet Mills, Inc., Box 220, Ringgold, GA 30736; Len-Dal Carpet & Rug, Inc., Box 39, Chatsworth, GA 30705; Progress Carpets, Inc., Box 787, Chatsworth, GA 30705; and Trend Carpet, a division of W.W.G. Industries, Box 162, Rome, GA 30161.

MC 144867 (Sub-4–1TA), filed November 12, 1980. Applicant: R & J TRANSPORT, INC., 929 North 24th Street, Manitowoc, WI 54220. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Construction materials and supplies* from points in AL, AR, CA, GA, ID, LA, MS, MT, OR, TX, WA, and WY to Green Bay, WI. An underlying ETA seeks 120 days authority. Supporting shipper: Amerhart Ltd., 2455 Century Road, Green Bay, WI 54303.

MC 147567 (Sub-4–1TA), filed November 12, 1980. Applicant: LANGE MOTOR EXPRESS, INC., 14510 Washington St., Woodstock, IL 60098. Representative: Geoffrey F. Walkington (same address as applicant). *Contract* irregular: *Iron and steel articles, materials, equipment and supplies used or useful in the manufacture, sales or distribution of iron or steel articles, (except in bulk),* between the facilities of Evans Products Company/Creco Division on the one hand, and, on the other, points in the Continental U.S. under a contract(s) with Evans Products Co. An underlying ETA seeks 120 days authority. Supporting shipper: Evans Products Company/Creco Division, 14512 Washington St., Woodstock, IL 60098.

MC 133689 (Sub-4–47), filed November 12, 1980. Applicant: OVERLAND EXPERESS, INC., 8651 Naples St. NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Household appliances, equipment, materials and supplies used in the manufacture and distribution thereof,* from, to or between the facilities of General Electric Company Major Appliance Business Group and all points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Supporting Shipper: General Electric Company, Appliance Park, Louisville, KY 40225.

MC 109724 (Sub-4–3TA), filed: November 10, 1980. Applicant: PAUL J.

V. 45 NO. 229 1980 UMI

SCHMIT, d.b.a. PAUL J. SCHMIT TRUCKING, 1480 Springdale Road, Waukesha, WI 53186. Representative: William C. Dineen, Attorney at Law, 710 N. Plankinton Avenue, Milwaukee, WI 53203. *Contract,* irregular; (A) *Sand,* from Troy Grove, IL and Bridgeman, MI to points in the U.S. in and east of ND, SD, NE, KA, OK, and TX under a contract(s) with Manley Bros. of Indiana, Inc. and (B) *Sand and Sand with additives,* from Oregon and Chicago, IL to points in the U.S. in and east of ND, SD, NE, KA, OK, and TX under contract(s) with Acme Resin Corporation. Supporting Shippers: Manley Bros. of Indiana, Inc., P.O., Box 538, Chesterton, IN, 46304 and Acme Resin Corporation, 1401 S. Circle Avenue, Forest Park, IL, 60130.

MC 109724 (Sub-4–2TA), filed: November 10, 1980. Applicant: PAUL J. SCHMIT, d.b.a. PAUL J. SCHMIT TRUCKING, 1480 Springdale Road, Waukesha, WI 53186. Representative: William C. Dineen, Attorney at Law, 710 N. Plankinton Avenue, Milwaukee, WI 53203. *Contract,* irregular; (A) *Sand,* From Fairwater, WI to points in IA, IL, IN, Upper Peninsula of MI and MN, under contract(s) with Faskure Coated Sand Division of Aurora Industries, Inc., and (B) *Sand,* from Fairwater, St. Marie, Taylor and Porterfield, WI to points in the U.S. (except AK and HI), under contract with Badger Mining Corporation. Supporting Shippers: Faskure Coated Sand Division of Aurora Industries, Inc., 1019 Jericho Rd., Aurora, IL, 60506 and Badger Mining Corporation, P.O. Box 97, Fairwater, WI, 53921.

MC 110420 (Sub-4–9TA), filed November 10, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW, Washington, DC 20004. *Non-Exempt Food or Kindred Products,* between Iberia and St. Mary Parish, LA and Defiance Co., OH on the one hand, and on the other, points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: Barclay Quality Products, Inc., 212 Covington Place, Schaumburg, IL 60194.

MC 135410 (Sub-4–15TA), filed November 10, 1980. Applicant: COURTNEY J. MUNSON d.b.a. MUNSON TRUCKING, P.O. Box 286, Monmouth, IL 61462. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. (a) *Air conditioners, heating equipment, air cleaners and humidifying equipment* and (b) *materials, equipment and supplies* used in the manufacture, distribution and repair of the commodities listed in (a) above, (1) between the facilities of Fedders Corporation at Effingham, IL and points in its commerical zone, on the one hand, and on the other, points in CT, DE, IN, IA, KY, MA, MN, MI, MD, MO, NJ, NY, OH, PA, RI, VA, WI, and WV and (2) from the facilities of Fedders Corporation at Edison, NJ and points in its commercial zone, to points in IN, IL, IA, MI, MO, MN, KS, KY, NE, OH and WI. Supporting shipper: Fedders Corporation, Woodbridge Ave., Edison, NJ 08817.

MC 143982 (Sub-4–1TA), filed November 10, 1980. Applicant: DONALD SCHIRR, Rural Route No. 2, Iuka, IL 62849. Representative: Leslieann G. Maxey, 907 South Fourth Street, Springfield, IL 62703. *General-oil field equipment and supplies* between the states of IL, OH, OK, TX, LA, WY, WV, IN, CA, and KS. Henry 1. Logue Pipe & Oil Field Supplies, P.O. Box 483, Route #1, Salem, IL 62881. Don Gordon Equipment Co., 1206 S. Morgan St., Olney, IL 62450, L & M Associates, Inc., P.O. Box 31, Graham, TX 76046. Goose Creek Oil Company, Inc., Route 50 West, Salem, IL 62881.

MC 111812 (Sub-4–17TA), filed November 10, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma (same address as applicant). *Foodstuffs (except commodities in bulk),* from points in WA to points in IN, MN and OH. Supporting shipper: Nalley's Fine Foods, 3303 South 35th Street, Tacoma, WA 98411.

MC 145680 (Sub-4–3TA), filed November 10, 1980. Applicant: C & R TRUCKING LTD., 2955 Packers Avenue, Madison, WI 53704. Representative: Curtis P. Jahn, 2955 Packers Avenue, Madison, WI 53704. *Chemicals, Non-Hazardous, in Barrels, Boxes, Bags or Packages* between Madison, WI, on the one hand, and on the other, points in the U.S. (except AK & HI). Supporting shipper: Gibco Diagnostics Invendex Division the Dexter Corp., 2801 Industrial Drive, Madison, WI 53713.

MC 143776 (Sub-4–11TA), filed November 6, 1980. Applicant: C.D.B., Inc., 155 Spaulding SE., Grand Rapids, MI 49506. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Textile mill products and equipment, materials, and supplies used in the manufacture, sale, and distribution of named commodities* between Gordon, Murray, and Whitfield Counties in GA on the one hand, and, on the other, points and places in the U.S. except AK and HI. Supporting shippers: There are 5 shippers.

MC 29886 (Sub-4–1TA), filed November 10, 1980. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314 39th Avenue, Kenosha, WI 53142. Representative: Fred C. Milloy (same address as applicant). *Trucks, truck tractors and truck chassis, and bodies, cabs and parts of, and accessories for such vehicles,* in initial movements, in truckaway service, from Seattle, WA to points in the U.S. (including AK, but excluding HI). Supporting shipper: Kenworth Truck Company, Kirkland, WA 98033.

MC 95876 (Sub-4–9TA), filed November 6, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Lumber, plywood and particleboard,* from Winnfield, Shreveport and Lillie, LA and Huttig, AR, to points in and east of the States of ND, SD, NE, KS, OK and TX. Supporting shipper: Manville Forest Products Corp., West Monroe, LA 71291.

MC 129166 (Sub-4–1), filed November 6, 1980. Applicant: RED WING TRANSPORTATION CORP., 3154 North Service Drive, Red Wing, MN 55066. Representative: Robert L. Cope, Suite 501, 1730 M Street NW., Washington, DC 20036. *Contract,* Irregular: *General Commodities* (except household goods as defined by the Commission and Classes A and B explosives) between all points in the U.S. under continuing contract(s) with Swift & Company. Supporting shipper: Swift & Company, 115 West Jackson Blvd., Chicago, IL 60604.

MC 143776 (Sub-4–12TA), filed November 10, 1980. Applicant: C.D.B., INC., 155 Spaulding SE., Grand Rapids, MI 49506. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Printed matter and equipment, materials, and supplies used in the manufacture, sale, and distribution of named commodity,* between Murray County, GA on the one hand, and, on the other, points and places in the U.S. except AK and HI. Supporting shipper: Georgia Samplebook, Inc., Hwy 41–S. Conn. 3, Dalton, GA 30720.

MC 143776 (Sub-4–13TA), filed November 10, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding SE., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *General commodities (except household goods as defined by the Commission and classes A and B explosives)* between

points in the U.S. restricted to the transportation of traffic originating at or destined to the facilities utilized by Brown Company. An underlying ETA seeks 120-day authority. Supporting shipper: Brown Company, 234 E. Paterson Street, Kalamazoo, MI 49007.

MC 143776 (Sub-4–14TA), filed November 10, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding SE., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. *Foodstuffs, canned, preserved or prepared, other than frozen, NOIBN* from Kenosha, WI, North Chicago and Chicago, IL and Eau Claire, MI and their respective commercial zones to various points in AR, KS, MS, MO, NM, OK, TN and TX. An underlying ETA seeks 120-day authority. Supporting shipper: Ocean Spray Cranberry Incorporated, 7800 South 60th Avenue, Kenosha, WI 43142.

MC 146643 (Sub-4–34TA), filed November 10, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60628. *Contract; irregular; Electrical wire, electrical cable and electrical cord, and materials, equipment and supplies used in the manufacture, sale or distribution thereof,* between Richmond and Fort Wayne, IN; Ivyland, PA; Franklin and Gastonia, NC; Monticello, Lawrenceburg and Tompkinsville, KY; Columbia, MO; Clinton and Dumas, AR; Memphis, TN; Pontotoc, MS; Jena, LA; Brunswick, NJ; Chicago, Peoria and Rockford, IL; Atlanta, GA; Houston, TX; Abingdon, VA; and Niles, MI; on the one hand, and, on the other, points in the U.S. (except AK and HI), An Under a contract(s) with Belden Corp. Supporting shipper: Belden Corporation, 2000 S. Batavia, Geneva, IL 60134. An underlying ETA seeks 120 days authority.

MC 146643 (Sub-35TA), filed November 10, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Contract; irregular;* (1) *Cathode Ray Tubes and materials, equipment and supplies used in the manufacture and distribution thereof,* between Ottawa, OH, and Rockford, IL, on the one hand, and, on the other, Joplin, MO, and (2) *Steel and steel articles,* between Niles, IL, on the one hand, and, on the other, Arcade, NY, under a contract(s) with Motorola, Inc. Supporting shipper: Motorola, Inc., Automotive & Industrial Electronics Division, 1299 E. Algonquin Rd., Schaumburg, IL 60196. An underlying ETA seeks 120 days authority.

MC 152441 (Sub-4–1TA), filed November 6, 1980. Applicant: WILSON LEASING, INC., 2014 14th Street NW., Rochester, MN 55901. Representative: James M. Christenson, 4444 IDS Center, Minneapolis, MN 55402. *Crushed granite* from: Stearns County, MN to Sioux Falls, SD. Supporting shipper: Gage Bros., 4301 West 12th, P.O. Box 1526, Sioux Falls, SD 57101.

MC 147264 (Sub-4–5TA), filed November 10, 1980. Applicant: JAT EXPRESS, INC., 4002 N. Rosewood Ave., Muncie, IN 47304. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Bananas* from Gulfport, MS to points in AR, OK and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Chiquita Brands, Inc., 15 Mercedes Dr., Montvale, NJ 07645.

MC 147264 (Sub-4–6), filed November 10, 1980. Applicant: JAT EXPRESS, INC., 4002 N. Rosewood Ave., Muncie, IN 47304. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Meats, meat products and meat by-products* and articles distributed by meat packing houses as described in Sections A and C of Appendix 1 to the report in Descriptions on Motor Carrier Certificates, 61 M.C.C. 209 and 755 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at Emporia, KS to points in the U.S. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, NE 68731.

MC 145394 (Sub-4–12TA), filed November 10, 1980. Applicant: A & B FREIGHT LINE, INC., 4805 Sandy Hollow Road, Rockford, IL 61109. Representative: James A. Spiegel, Esq., Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract; irregular; industrial and commercial air distribution and ventilation equipment* from Madison and Verona, WI, to points in IL, IN, IA, MI, MN, and MO. Restriction: restricted to transportation performed under a continuing contract(s) with Carnes Company, Division of Wehr Corp. An underlying ETA seeks 120 days authority. Supporting shipper: Carnes Company, Division of Wehr Corp., 448 South Main Street, Verona, WI 53593.

MC 133314 (Sub-4–2TA), filed November 10, 1980. Applicant: SILVAN TRUCKING CO., INC., R.R. 2, Box 137, Pendleton, IN 46064. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, IN 46204. *Office and institutional furniture, parts, supplies, and materials used in the manufacture* thereof between points in the U.S. Supporting shipper: Antco-Bell Corp., P.O. Box 608, Temple, TX 76501.

MC 128205 (Sub-4–10TA), filed November 10, 1980. Applicant: BULKMATIC TRANSPORT CO., 12000 So. Doty Street, Chicago, IL 60628. Representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, DC 20001. *Contract; irregular; lead products, and materials and supplies* used in the manufacture and distribution of lead products, in bulk, between points in the U.S. (except AK and HI), under continuing contract(s) with Hammond Lead Products, Inc., Hammond, IN. Supporting shipper: Hammond Lead Products, Inc., P.O. Box 308, Hammond, IN 43225.

MC 117730 (Sub-4–8TA), filed November 6, 1980. Applicant: KOUBENEC MOTOR SERVICE, INC., Route No. 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle Street, Chicago, IL 60602. *Canned goods,* from the facilities of Woldert Canning, Inc., at Lindale, TX to points in AL, AR, FL, GA, MS, NC, SC, TN, and VA. Supporting shipper: Woldert Canning, Inc., 818 W. Erwin St., Tyler, TX 75710.

MC 119767 (Sub-4–4TA), filed November 7, 1980. Applicant: BEAVER TRANSPORT CO., 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW, Washington, DC 20004. *Non-exempt food or kindred products,* between Defiance Co., OH and Lake County, IN, Cook, DuPage, Grundy, Kane, Kendall, Lake, McHenry, and Will Counties, IL on the one hand, and on the other, points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: Barclay Quality Products, Inc., 212 Covington Place, Schaumburg, IL 60194.

MC 65781 (Sub-4–1TA), filed, November 7, 1980. Applicant: BARRETT MOVING & STORAGE, INC., 710 Washington Avenue South, Eden Prairie, MN 55344. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Waterbeds and parts and accessories for waterbeds* from Salt Lake City, UT to Minneapolis, MN. Supporting shippers: Vern Tew Incorporated, 2111 NE Broadway, Minneapolis, MN 55413.

MC 133689 (Sub-4–46), filed, November 7, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE, Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Bicarbonate of Soda, washing compounds, cleaning compounds and scouring compounds,* from Onondaga

County, NY to points in that part of the U.S. and on East of a line beginning at

OH, Wethersfield, CT and West Chester, PA. An underlying ETA seeks

foundry castings and foundry products between Marinette and Waupaca, WI,

Milwaukee, WI; (5) Serving all points in the county of Sauk, WI, as off route

MC 105045 (Sub-R 4–22), filed November 13, 1980. Applicant: R. L.

one hand, and, on the other, points in the U.S. (except AK & HI). Supporting

County, NY to points in that part of the U.S. and on East of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction along the western boundary of Itasca City, MN, thence along the western boundaries of Itasca and Koochiching Counties, MN to the U.S.-Canada boundary line. Supporting shippers: Church & Dwight Company, Inc., 20 Kingsbridge Road, Piscataway, NJ 08854.

MC 30837 (Sub-4–7TA), filed, November 10, 1980. Applicant: KENOSHA AUTO TRANSPORT CORP., 4314–39th Ave., Kenosha, WI 53142. Representative: Fred C. Milloy (same address as applicant). *Trucks, truck tractors and truck chasses, and bodies, cabs and parts of, and accessories for such vehicles,* (1) in initial movements, from Kansas City, MO to points in AK. (2) in initial movements, in truckway service, from Kansas City, MO to points in the U.S. (excluding AK and HI). Supporting shippers: Kenworth Truck Co., P.O. Box 1000, Kirkland, WA 98033.

MC 128270 (Sub-4–6TA), filed, November 13, 1980. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley Street, East Gary, IN 46405. Representative: Richard A. Kerwin, 180 North LaSalle Street, Chicago, IL 60601. *Brick,* between AR, KS, MO, OK, and TX on the one hand, and on the other, points in AR, IA, IL, IN, KS, KY, LA, MI, MN, MO, NE, ND, OH, OK, SD, TN, TX and WI. Supporting shippers: Acme Brick Company, Div. of Justin Industries, Inc., Box 425, Ft. Worth, TX 76101.

MC 127812 (Sub-4–3TA), filed, November 13, 1980. Applicant: TYSON TRUCK LINES, INC., 185–5th Avenue S.W., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *General Commodities (except household goods as defined by the Commission and Classes A and B explosives),* between points in MN, ND, SD, and WI. An underlying ETA seeks 120 days authority. Supporting shippers: There are 30 statements of support attached.

MC 138890 (Sub-4–1), filed: November 13, 1980. Applicant: MOODIE, INC., 301 Acorn Street, Stevens Point, WI 54481. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. (1) *Foodstuffs* from Burley, ID, Ontario, OR, Greenville, MI, Massillon, OH, Wethersfield, CT and West Chester, PA to points within the U.S. (except AK and HI). (2) *Materials, equipment and supplies used or useful in the manufacture, sale or distribution of foodstuffs* from points within the U.S. (except AK and HI) to Burley, ID, Ontario, OR, Greenville, MI, Massillon, OH, Wethersfield, CT and West Chester, PA. An underlying ETA seeks 120 days authority. Supporting shipper: Ore-Ida Foods, Inc., 220 W. Parkcenter Blvd., Boise, ID.

MC 143776 (Sub-4–15TA), filed: November 12, 1980. Applicant: C.D.B., INC., 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *General Commodities,* between points in the U.S. on traffic originating and/or destined to facilities utilized by Northern Industrial Warehouse Corp. Supporting Shipper: Northern Industrial Warehouse Corp., 22nd & Commonwealth, N. Chicago, IL 60064.

MC 119726 (Sub-4–5TA), filed: November 13, 1980. Applicant: N.A.B. TRUCKING CO., Inc., 1644 West Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 300 E. Fall Creek Pkwy., Suite 403, Indianapolis, IN 46205. *Pasta Products,* from the plantsite of Noodles by Leonardo, Inc. at Cando, ND to Minneapolis and St. Paul, MN. Supporting Shipper: Noodles By Leonardo, Cando, ND 58324.

MC 145842 (Sub-4–4TA), filed: November 13, 1980. Applicant: SUNDERMAN TRANSFER, INC., P.O. Box 63, Windom, MN 56101. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Beef Carcass, hanging, and boxed meats,* from St. Cloud, MN, to points in IL, IN, IA, MI, NE, OH and WI. Supporting shipper: Landy Packing Co., P.O. Box 670, St. Cloud, MN 56301.

MC 135410 (Sub-4–16TA), filed: November 13, 1980. Applicant: COURTNEY J. MUNSON d.b.a. MUNSON TRUCKING, North 6th Street Road, Monmouth, IL 61462. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Building materials and accessories (except commodities in bulk),* between the facilities of Ultralum at Wadsworth, OH, Premium Building Products at West Salem, OH and Alside, Inc., in North Hampton township, OH, on the one hand, and, on the other, points in IA. IL, KS, MN, MO, ME and WI. Supporting shipper: Alside, Inc., P.O. Box 2010, Akron, OH 44309.

MC 150782 (Sub-4–2TA), filed November 13, 1980. Applicant: CHAIN O'LAKES EXPRESS, INC., Route 1, Otter Drive, Waupaca, WI 54981. Representative: James A. Spiegel, Esq., Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract;* Irregular: *Foundry castings and foundry products, and materials, equipment and supplies* used in the manufacture of foundry castings and foundry products between Marinette and Waupaca, WI, on the one hand, and, on the other hand, points in MI and OH. Restriction: restricted to transportation performed under a continuing contract(s) with Waupaca Foundry, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Waupaca Foundry, Inc., Tower Road, Waupaca, WI 54981.

MC 118696 (Sub-4–30), filed November 13, 1980. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46324. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. *Materials, equipment and supplies* used in the manufacture, sale, and distribution of new furniture, between Orange County, IN, on the one hand, and, on the other, Clark County, OH and Marion County, IL. Supporting shipper: Kimball Piano—Division of Kimball International, Inc., 1549 Royal Street, Jasper, IN 47546.

MC 142062 (Sub-4–4), filed November 13, 1980. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. *Contract;* Irregular: *Bakery goods,* from Louisville, KY, to points in MD, NC, PA and VA, restricted to the transportation of shipments under a continuing contract or contracts with Ralston Purina Company, Bremner Divsion. Supporting shipper: Ralston Purina Company, Bremner Division, 1001 Standiford Lane, Louisville, KY 40221.

MC 80430 (Sub-4–12TA), filed November 13, 1980. Applicant: GATEWAY TRANSPORTATION, INC., 455 Park Plaza Drive, La Crosse, WI 54601. Representative: Lem Smith, 455 Park Plaza Drive, La Crosse, WI 54601. *Common regular* routes, *General commodities,* except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) Serving all points in the counties of Waupaca and Outagamie, WI, as off route points in connection with carrier's regular route operation from and to Neenah, WI; (2) Serving all points in the counties of Calumet and Manitowoc, WI, as off route points in connection with carrier's regular route operation from and to Sheboygan, WI; (3) Serving all points in the counties of Kenosha and Racine, WI, as off route points in connection with carrier's regular route operation from and to Racine, WI; (4) Serving all points in the county of Washington, WI, as off route points in connection with carrier's regular route operation from and to

Milwaukee, WI; (5) Serving all points in the county of Sauk, WI, as off route points in connection with carrier's regular route operation from and to Madison WI. An underlying ETA seek 120 days authority. There are 25 supporting shippers.

MC 149500 (Sub-4–2), filed November 13, 1980. Applicant: INTERMODAL SERVICES, INC., 11650 Courthouse Blvd., Inver Grove Heights, MN 55075. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. *Polypropylene agricultural bailer twine,* from Albert Lea, MN, to all points in the U.S. (except AK and HI). Supporting shipper: Bridon Cordage, Inc., Albert Lea, MN.

MC 56270 (Sub-4–4TA), filed November 13, 1980. Applicant: LEICHT TRANSFER & STORAGE CO., 1401 State St., P.O. Box 2385, Green Bay, WI 54306. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. *Fabricated Metal Products* from points in Portage and Outagamie Counties, WI to points in the US in and east of ND, SD, KS, OK, and TX. Supporting shipper: Steel King Industries, Inc., 2700 Chamber Street, Stevens Point, WI 54481.

MC 151448 (Sub-4–2TA), filed November 13, 1980. Applicant: BERNS TRANSPORTATION, INC., 4585 South Harding Street, Indianapolis, IN 46217. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, 320 North Meridian Street, Indianapolis, IN 46204, (317) 639–4511. *(1) Such commodities as are dealt in by a manufacturer of pharmaceutical, cosmetic, packaging and agricultural products,* and *(2) materials and supplies used in the manufacture of the commodities in (1) above* (except commodities in bulk), between the plantsite and warehouse storage facilities utilized by Eli Lilly & Company in Vermillion, Marion and Tippecanoe Counties, IN, on the one hand, and, on the other, Randolph County (Moberly), MO, and points in GA. Supporting shipper: Eli Lilly & Co., 307 East McCarty Street, Indianapolis, IN 46225.

MC 140265 (Sub-4–4), filed November 13, 1980. Applicant: LARRY E. HICKOX, d.b.a. LARRY E. HICKOX TRUCKING, Box 95, Casey, IL 62420. Representative: Michael W. O'Hara, 300 Reisch Building, Springfield, IL 62701. *Contract* irregular: *Rubber hosing,* from Bellefontaine, OH to points in AZ, CA, FL, IL, MO, NV, and TX. Restricted to traffic moving under continuing contract with H. K. Porter Company, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: H. K. Porter Company, Inc., 1301 West Sandusky, Bellefontaine, OH 43078.

MC 105045 (Sub-R 4–22), filed November 13, 1980. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47731. Representative: Robert P. Cline (same address as above). *Construction and road building machinery,* between Richland Cty., SC, Spartinburg Cty, SC, Lexington Cty., SC and dealers of Champion Road Machinery Int'l Corp., in GA, FL, TN, MS, LA, TX, AZ, AL, NC, VA, MD, WV, IN, MO, and MN. An underlying ETA seeks 120 days authority. Support shipper: Champion Road Machinery Int'l Corp., W. Columbia, SC.

MC 15975 (Sub-4–17TA), filed November 13, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). *General commodities,* with the usual exceptions, between the facilities of Advanced Pool Distribution Co., at or near Royal Oak, MI, on the one hand, and, on the other, points in AL, AR, CA, GA, IN, MI, MS, OH, OR, NY, PA, and TX. An underlying ETA seeks 120 days authority. Supporting shipper: Advanced Pool Distribution Co., 710 E. Eleven Mile Road, Royal Oak, MI 48071.

MC 136635 (Sub-4–10TA), filed November 13, 1980. Applicant: UNIVERSAL CARTAGE, INC., 640 W. Ireland Road, South Bend, IN 46616. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Animal feed and animal feed supplements and materials, equipment, and supplies used in the manufacture of animal feed and animal feed supplements,* between Elkhart, IN on the one hand, and on the other, points in CT, IL, KY, MA, MI, MO, NY, OH, and PA. Supporting shipper: United Pet Food, Inc., Elkhart, IN. An underlying ETA seeks a 120 days.

MC 117730 (Sub-4–8TA), filed November 6, 1980. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 2027, 33 N. LaSalle St., Chicago, IL 60602. *Canned goods,* from the facilities of Woldert Canning, Inc., at Lindale, TX to points in AL, AR, FL, GA, MS, NC, SC, TN, and VA. Supporting shipper: Woldert Canning, Inc., 818 W. Erwin St., Tyler, TX 75710.

MC 145680 (Sub-4–3TA), filed November 10, 1980. Applicant: C & R TRUCKING LTD., 2955 Packers Avenue, Madison, WI 53704. Representative: Curtis P. Jahn, 2955 Packers Avenue, Madison, WI 53704. *Chemicals, Non-Hazardous, in Barrels, Boxes, Bags or Packages* between Madison, WI, on the one hand, and, on the other, points in the U.S. (except AK & HI). Supporting shipper: Cibco Diagnostics Invendex Division of Dexter Corp., 2801 Industrial Drive, Madison, WI 53713.

MC 111812 (Sub-4–17TA), filed November 10, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma (same address as applicant). *Foodstuffs (except commodities in bulk),* from points in WA to points in IN, MN, and OH. Supporting shipper: Nalley's Fine Foods, 3303 South 35th Street, Tacoma, WA 98411.

MC 135410 (Sub-4–15TA), filed November 10, 1980. Applicant: COURTNEY J. MUNSON d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. (a) *Air conditioners, heating equipment, air cleaners and humidifying equipment* and (b) *materials, equipment and supplies* used in the manufacture, distribution and repair of the commodities listed in (a) above, (1) between the facilities of Fedders Corporation at Effingham, IL and points in its commercial zone, on the one hand, and on the other, points in CT, DE, IN, IA, KY, MA, MN, MI, MD, MO, NJ, NY, OH, PA, RI, VA, WI, and WVA and (2) from the facilities of Fedders Corporation at Edison, NJ and points in its commercial zone, to points in IN, IL, IA, MI, MO, MN, KS, KY, NE, OH and WI. Supporting shipper: Fedders Corporation, Woodbridge Ave., Edison, NJ 08817.

MC 110420 (Sub-4–9TA), filed November 10, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. *Non-exempt food or kindred products,* between Iberia and St. Mary Parish, LA and Defiance Co., OH on the one hand, and, on the other, points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper: Barclay Quality Products, Inc., 212 Covington Place, Schaumburg, IL 60194.

MC 128270 (Sub-4–5TA), filed November 10, 1980. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley St., East Gary, IN 46405. Representative: Richard A. Kerwin, 180 North La Salle St., Chicago, IL 60601. *Scrap materials and metal articles,* between points in the U.S. in and west of MI, PA, KY, TN, GA and FL. Supporting shipper: Metal Exchange Corporation, 111 West Port Plaza, Suite 704, St. Louis, MO 63141.

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MC 145842 (Sub-4–3TA), filed November 10, 1980. Applicant: SUNDERMAN TRANSFER, INC., Box 63, Windom, MN 56101. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Meat and meat products, and articles distributed by meat packing houses,* from Liberal, KS, to points in CA, CO, FL, GA, IL, IN, IA, KS, KY, MI, MN, MO, NE, NM, ND, OH, SD, TN, TX and WI. Supporting shipper: National Beef Packing Company, Box 1358, Liberal, KS 67901.

MC 152620 (Sub-4–1TA), filed November 13, 1980. Applicant: CUSTOMIZED TRANSPORTATION, 999 North Main Street, Glen Ellyn, IL 60137. Representative: John H. King (same address as applicant). *Contract* irregular: *Commodities as are dealt in by wholesale, retail and chain grocery and food business houses and material, equipment and supplies used or useful in the manufacture, sale and distribution of such commodities* between points in the U.S. (except AK and HI) under a continuing contract(s) with General Foods Corporation. Supporting shipper: General Foods Corporation, 250 North St., White Plains, NY 10625.

MC 144927 (Sub-4–6TA), filed November 13, 1980. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Gerald R. Morlan, Box 315, U.S. 24 West, Remington, IN 47977. *Foodstuffs* for the account of the Pillsbury Company from, to, or between Springfield, IL; Terre Haute, IN; Lyndonville, NY; Kansas City, KS; St. Louis, MO; Glencoe, MN; Le Sueur, MN; Blue Earth, MN; Montgomery, MN; Winstead, MN; Buffalo, NY; Mechanicsburg, PA; Fort Wayne, IN; Peoria, IL; Minneapolis, MN; Milwaukee, WI; Chicago, IL; Belvidere, IL; Port Jersey, NJ; Cleveland, OH; and Parkesburg, PA. An underlying ETA seeks 120 days authority. Supporting shipper: The Pillsbury Co., 608 Second Ave. South, Minneapolis, MN 55402.

MC 152616 (Sub-4–1), filed November 12, 1980. Applicant: MORTEN TRUCKING INC., 1341 Edgerton Ave., St. Paul, MN 55101. Representative: Joseph J. Dudley, W–1260 First National Bank Bldg., St. Paul, MN 55101. *Contract* Irregular *Bottled Wine and Liquor* in case lots from points in MA, NJ, NY, PA, MD, and CA to points in Hennepin and Ramsey County, MN. Supporting shipper: Midwest Wine Inc., St. Paul, MN 55104.

MC 152617 (Sub-4–1TA), filed November 13, 1980. Applicant: A. R. CARRIERS, INC., P.O. Box 793, Jeffersonville, IN 47130. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Contract,* irregular, *railroad safety equipment,* from Louisville, KY, to points in the U.S. in and east of MI, IL, KY, MO, TN and MS. Supporting shipper: Safetran Systems Corp., 7721 National Turnpike, Louisville, KY 40214.

MC 127187 (Sub-4–2TA), filed November 12, 1980. Applicant: FLOYD DUENOW, INC., P.O. Box 86, Savage, MN 55378. Representative: William J. Gambucci, Suite M-20, 400 Marquette Ave., Minneapolis, MN 55401. *Lumber and lumber products,* from ports of entry on the boundary line between the U.S. and Canada located in ND and MN, to points in IA, IL, IN, MN, MO, ND, SD and WI. An underlying ETA seeks 120 days authority. Supporting shipper: T. W. Hager Lumber Company, 1545 Marquette SW, P.O. Box 9040, Grand Rapids, MI 49509.

MC 13777 (Sub-4–5TA), filed November 12, 1980. Applicant: AAA TRANSPORTATION, INC., 2957 S. East St., Indianapolis, IN 46206. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Contract: Irregular:* (1) *Building materials* and (2) *materials, equipment and supplies* used in the manufacture, installation and distribution of the commodities in (1) above (except commodities in bulk) between points in and east of MN, IA, MO, OK and TX under a contract(s) with Inland Pacific Forest Products, Inc., of Elgin, IL. Supporting shipper: Inland Pacific Forest Products, Inc., 164 Division St., Elgin, IL 60120.

MC 151087 (Sub-4–4TA), filed November 12, 1980. Applicant: AREA INTERSTATE TRUCKING INC., 15224 Dixie Highway, Harvey, IL 60426. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. *Contract, Irregular Iron and steel articles,* between points in IL, IN, OH, MI, WI, KY, MO, PA, NJ, NY, MD, VA, OK, AR, and TX, under continuing contract(s) with Lally Bros. Div., Fire-Trol Corp. Supporting shipper: Lally Bros. Div. Fire-Trol Corp. 10700 West 159th St., Orland Park, IL 60462.

MC 151299 (Sub-4–2TA), filed November 12, 1980. Applicant: DEPPE LUMBER CO., INC., d.b.a. DEPPE ENTERPRISES, 456 Lynn Street, Baraboo, WI 53913. Representative: Richard A. Westley, Attorney, 4506 Regent Street, Suite 100, Madison, WI 53705. *Contract Irregular, solar energy equipment and heat recovery systems, and materials, equipment and supplies used in the production and distribution of the aforementioned commodities.* Between points in Sauk County, WI on the one hand and, on the other hand all points in the U.S. (except AK and HI) under a continuing contract(s) with Sun Stone Company, Inc., Baraboo, WI. Corresponding ETA seeking up to 120 days authority. Supporting shipper: Sun Stone Company, Inc., 1532 East Street, Baraboo, Wisconsin 53913.

MC 144879 (Sub-4–2), filed November 12, 1980. Applicant: D AND J TRANSFER COMPANY, Highway 4 North, Sherburn, MN 56171. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *Tortillas* from Indianapolis, IN, and points in its commercial zone to the facilities of Chi Chi's, Inc., at or near Kansas City and Wichita, KS, Oklahoma City and Tulsa, OK. Supporting shipper: Chi Chi's, Inc., 4334 NW. Expressway, Suite 163, Oklahoma city, OK 73116. An underlying ETA seeks 120 days authority.

The following applications were filed in Region 5. Send Protests to: Consumer Assistance Center, Interstate Commerce Commission, P.O. Box 17150, Fort Worth, TX 76102.

MC 29910 (Sub-5–63TA), filed November 6, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). *Electrical transformers, parts and supplies, and materials used in the manufacture of transformers and parts;* between Shreveport, LA, and Hickory, NC, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: General Electric Company; P.O. Box 2188, Hickory, NC 28601.

MC 30844 (Sub-5–36TA), filed November 6, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. Part 1. *Such merchandise as is dealt in by wholesale and retail hardware stores except commodities in bulk and food stuffs,* between the facilities of Farwell, Ozmun, Kirk & Co. at or near So. St. Paul, MN and Russellville, AR, on the one hand, and, on the other, points in the United States, except AK and HI. Part 2. *Electrical raceways and associated fittings, flexible air ducts, auto loom and all associated component parts and raw material,* between the facilities of The Wiremold Company at West Hartford, CT; Rocky Hill, CT: Pico Rivera, CA and Atlanta, GA, on the one hand, and, on the other, points in the United States (except AK and HI). Restricted to traffic originating at and destined to the above named facilities.

Supporting shippers: Farwell, Ozmun, Kirk and Company, 411 Farwell Ave., So. St. Paul, MN 55075, The Wiremold Co., Woodlawn St., West Hartford, CT 06110.

MC 85451 (Sub-5–1), filed November 7, 1980. Applicant: BLUEBONNET EXPRESS, INC., 5009 Rusk Avenue, Houston, TX 77023. Representative: Joe G. Fender, 9601 Katy Freeway, Suite 320, Houston, TX 77024. *General commodities (except household goods as defined by the Commission and Classes A & B explosives)* restricted to traffic having a prior or subsequent movement by rail, water or motor vehicle between Houston, Galveston, and Dallas, TX, on the one hand, and on the other, points in the following TX counties:

Anderson	Hill
Angelina	Hood
Aransas	Hopkins
Archer	Houston
Atascosa	Hunt
Austin	Jack
Bastrop	Jackson
Bee	Jasper
Bell	Jefferson
Bexar	Jim Hogg
Blanco	Jim Wells
Bosque	Johnson
Bowie	Karnes
Brazoria	Kaufman
Brazos	Kendall
Brooks	Kennedy
Burleson	Kleberg
Caldwell	Lamar
Calhoun	LaSalle
Callahan	Lavaca
Cameron	Lee
Camp	Leon
Cass	Liberty
Chambers	Limestone
Cherokee	Live Oak
Clay	Madison
Collin	Marion
Colorado	Matagorda
Comal	McLennan
Cooke	McMullen
Coryell	Medina
Dallas	Milam
Delta	Montague
Denton	Montgomery
Dewitt	Morris
Duval	Nacogdoches
Eastland	Navarro
Ellis	Newton
Erath	Nueces
Falls	Orange
Fannin	Palo Pinto
Fayette	Panola
Fort Bend	Parker
Franklin	Polk
Freestone	Rains
Frio	Red River
Galveston	Refugio
Goliad	Robertson
Gonzales	Rockwall
Grayson	Rusk
Gregg	Sabine
Grimes	San Augustine
Guadalupe	San Jacinto
Hardin	San Patricio
Harris	Shelby
Harrison	Smith
Hays	Somerell
Henderson	Starr
Hidalgo	Tarrant
Taylor	Webb
Titus	Wharton
Travis	Wichita
Trinity	Willacy
Tyler	Williamson
Upshur	Wilson
Van Zandt	Wise
Victoria	Wood
Walker	Young
Washington	Zapata

Supporting Shippers: Eleven.

MC 105424 (Sub-5–1TA), filed November 6, 1980. Applicant: PLAGGE TRUCK LINE, INC., 251 18th Street SE., Mason City, IA 50401. Representative: Steven C. Schoenebaum, 1200 Register & Tribune Bldg., Des Moines, IA 50309. Contract, irregular. *Sugar (except liquid commodities in bulk or in tank vehicles)* from Mason City, Cedar Rapids and Marshalltown, IA to points in MO, NE, WI, MN and SD. Restricted to a transportation service to be performed under continuing contract(s) with International Distributing Corp. Supporting shipper: International Distributing Corp., 4240 Utah, St. Louis, MO 63116.

MC 107678 (Sub-5–2), filed November 7, 1980. Applicant: HILL & HILL TRUCK LINE, INC., 14942 Talcott Ave., Houston, TX 77015. Representative: Edward D. Brown, P.O. Box 9698, Houston, TX 77015. *Roofing Material, felspar, quartz, mica* and *crushed stone* from the facilities of Pacer Corporation at or near Custer, SD on the one hand, and on the other, points in AR, AZ, CA, CO, CT, IA, ID, IL, IN, KS, MA, ME, MI, MN, MO, MT, ND, NE, NH, NM, NV, NY, OH, OK, OR, PA, RI, SD, TX, UT, VT, WA, WI, and WY. Supporting shipper: Pacer Corporation, P.O. Box 912, Custer, SD 57730.

MC 113651 (Sub-5–28TA), filed November 6, 1980. Applicant: INDIANA REFRIGERATOR LINES, INC., 10838 Old Mill Road, Suite 4, Omaha, NE 68154. Representative: James F. Crosby & Associates, 7363 Pacific St., Suite 210B Omaha, NE 68114. *Plastic articles, and equipment, materials, and supplies used in the manufacture and distribution of plastic articles,* between points in Lorain County, OH, on the one hand, and, on the other, points in the US (except AK and HI). Supporting shipper: Hi-Mark Plastic Industries, Inc., 1885 Lake Avenue, Elyria, OH 44035.

MC 113908 (Sub-5–26TA), filed November 6, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 N. Packer Road, P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead (same address as applicant). *Foodstuff and feed, enhancers, flavorings and ingredients, non-exempt farm products; non-exempt food or kindred products; chemicals or allied products;* Between (Waldron), Scott County, AR, on the one hand, and, on the other, (Allentown), Lehigh County, PA; (Crete), Saline County, NE; (Muncie), Wyandotte and Johnson Counties, KS; (Topeka), Shawnee County, KS; (Kankakee), Kankakee County, IL; (Mattoon), Coles County, IL; (St. Joseph), Buchanan County, MO; (Jefferson), Jefferson County, WI. Supporting shipper: Bioproducts, Inc., P.O. Box 429, Warrenton, OR 97146.

MC 119774 (Sub-5–4TA). Applicant: EAGLE TRUCKING COMPANY, P.O. Box 471, Kilgore, TX 75662. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. *Crushed limestone, in bulk,* between points in Burnet County, TX, on the one hand, and, on the other, points in AR. Supporting shipper: Spears Carpet Mills, Inc., P.O. Drawer B, Hope, AR 71801.

MC 125535 (Sub-5–4), filed November 6, 1980. Applicant: NATIONAL SERVICE LINES, INC., OF NEW JERSEY, P.O. Box 1746, Maryland Heights, MO 63043. Representative: Donald S. Helm (same as applicant). *Contract;* Irregular: *(1) Tile, clay, earthenware, and china fixtures, and (2) commodities used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk in tank vehicles),* between Fayette, AL on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: American Olean Tile Company, 1000 Cannon Ave., Lansdale, PA 19446.

MC 126045 (Sub-5–4TA), filed November 6, 1980. Applicant: ALTER TRUCKING AND TERMINAL CORPORATION, P.O. Box 3122, Davenport, IA 52808. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. *Materials, equipment and supplies used in the manufacture, sale and distribution of office equipment,* from points in IL, IN and MO to points in Muscatine County, IA. Supporting shipper: The Hon Company, 200 Oak Street, Muscatine, IA 52761.

MC 126822 (Sub-5–33TA), filed November 7, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same as applicant). *Adhesives and cauge lking compounds, paint, lacquer, varnish, gum, resin, plastic, or adhesive increasing, reducing, removing, thickening or thinning compounds* between points in MA on the one hand, and points in the U.S. on the other, restricted to transportation of shipments for the 3–C Company, a Division of Continental Chemical and Coating

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Corporation. Supporting shipper: 3–C Company, 219 New Boston Street, Woburn, MA 01801.

MC 128932 (Sub-5–1), filed November 6, 1980. Applicant: COMMERCIAL STORAGE & DISTRIBUTION CO., 432 Richmond Road, Texarkana, TX 75501. Representative: Alan F. Wohlstetter, Denning & Wohlstetter, 1700 K Street, N.W., Washington, DC 20006. (a) *Beer,* from Fort Worth and Longview, TX to Texarkana, AR and (b) *Oil and lubricants in cases or drums,* from Shreveport, LA and Waco, TX to Texarkana, AR and Texarkana, TX. Supporting shipper: JJS Distributors, 512 East Road, Texarkana, AR 75501.

MC 134262 (Sub-5–1TA) filed, November 7, 1980. Applicant: FARMERS FEED AND SUPPLY TRANSPORTATION, INC., P.O. Box 385, Boyden, IA 51234. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Contract, Irregular. *Feed ingredients,* (a) from the Green Bay, WI, commercial zone, to the New York City, NY, commercial zone, and (b) from the New York City, NY, commercial zone, to points in IA. Supporting shipper: Farmers Feed and Supply, Inc., P.O. Box 385, Boyden, IA 51234.

MC 134922 (Sub-5–6TA) filed, November 6, 1980. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Diane Price, Traffic Manager, Route 6, Box 15, North Little Rock, AR 72118. *Such commodities as are dealt in and used by wholesale, retail, and discount stores and materials and supplies used in the manufacture and distribution thereof (except commodities in bulk and those which because of size or weight require the use of special equipment),* (1) between points in the United States in and east of ND, SD, NE, KS, OK and TX on the one hand, and, on the other, points in the United States in and west of MT, WY, CO, and NM (except AK and HI) and (2) between points in the United States in and east of ND, SD, NE, KS, OK and TX. There are no supporting shippers. Gateway eliminations only to conserve fuel.

MC 135678 (Sub-5–13TA) filed, November 6, 1980. Applicant: MIDWESTERN TRANSPORTATION, INC., 20 S.W. 10th, Oklahoma City, OK 73125. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. (1) *Common salt in individual packets, dry plates or film unexposed, groundpepper in individual packets, plastics other then expanded film sheeting, sugar in boxes,* (2) *Dry chemicals NOI, in sheets not further processed than cut to size; salt subsitutes in packets; table sauces other than dry; cheese; sugar substitutes or swing compound dry,* (3) *Paper or tissues impregnated other than on cards, in foil, machines, devices data processing or parts thereof, released value not exceeding $5/lb.; dining kits; paper napkins; plastic straws; plastic articles; and other articles rated some or lower,* (4) *Cream powder in packets; sodium bisulphite other than in glass, in boxes; sodium bisulphite other than in glass, in barrels; fertilizing compounds in boxes; dry beverage preparation not otherwise indexed,* between points in OK, on the one hand, and, on the other, points in AZ, CA, CO, NM, NV, TX and UT. Supporting shipper: Diamond Crystal Salt Company, 216 NE 12th St., Moore, OK 73160.

MC 140033 (Sub-5–11TA) filed, November 7, 1980. Applicant: COX REFRIGERATED EXPRESS, 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Chemicals, not in bulk,* between Dallas and Midlothian, TX on the one hand, and, points in the U.S. on the other, restricted to traffic originating at or destined to the facilities of Altantes Industries located at Dallas and Midlothian, TX. Supporting shipper: Altantes Industries, Inc., P.O. Box 921, Midlothian, TX 76065.

MC 140665 (Sub-5–46TA) filed, November 7, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. *Foodstuffs, (except commodities in bulk),* from Zeeland, MI to points in and west of MT, WY, CO, and NM. Supporting shipper: Acme Food Sales, 6276 Ellis Avenue So., P.O. Box 80525, Seattle, WA 98108.

MC 140709 (Sub-5–3), filed November 7, 1980. Applicant: Fankhauser Bros Inc., 139 Hillside, El Dorado, KS. 67042. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS. 66612. *Liquid feed ingredients,* Part 1) Between points in Wichita County, KS on the one hand and points in MO and CO on the other hand. Part 2) Between points in Jasper County, MO on the one hand and points in AR, OK and KS on the other hand. Supporting shippers: Standard Chemical Mfg Co. Inc., 701 S 42nd St., Omaha, NE 68102.

MC 144117 (Sub-5–5TA), filed November 6, 1980. Applicant: TLC LINES, INC., P.O. Box 1090, Fenton, MO 63026. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. *Dog and cat food,* from the facilities of Allied Mills, Inc., at Peoria, IL and points in its commercial zone, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT and WA. Supporting shippers: Allied Mills, Inc., 10 South Riverside Plaza, Chicago, IL 60606.

MC 144416 (Sub-5–2TA), filed November 7, 1980. Applicant: C. F. McGRAW, P.O. Box 498, Garden City, KS 67846. Representative: HERBERT ALAN DUBIN, Baskin and Sears, 818 Connecticut Ave., NW., Washington, DC 20006. *Foodstuffs* between the facilities of Freezer Services, Inc. of Kansas located at or near Garden City, KS, on the one hand, and, on the other, points in the US (except AK and HI). Supporting shippers: Freezer Services, Inc. of Kansas, P.O. Box 30220, Amarillo, TX 79120.

MC 144603 (Sub-5–28TA), filed November 6, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Raymond C. Dougherty (same address as applicant). *Machinery and supplies; pulp, paper, or allied products; textile mill products, and rubber or miscellaneous plastic products* from Memphis, Jackson, Bristol, TN; Pine Bluff, AR; Dallas, TX, and Atlanta, GA, and points in their respective commercial zones to points in the states of IL, IA, MO and IN. Supporting shippers: Midco Enterprises, Inc., 145 Grand Ave., Kirkwood, MO 63122.

MC 146340 (Sub-5–1TA), filed November 7, 1980. Applicant: D. L. WILLIAMS TRUCKING, INC., P.O. Drawer 818, Hillsboro, TX 76645. Representative: James W. Hightower, Hightower, Alexander and Cook, P.C., 5801 Marvin D. Love Freeway, No. 301, Dallas, TX 75237. *Copper pipe and tubing and scrap copper* between Hillsboro, TX, and Wynne, AR, on the one hand, and, on the other, points in AR, CA, IN, IL, OK, NJ, MI, and TX. Supporting shippers: Spartan Copper Products, Inc., Box 1138 Hillsboro, TX 76645.

MC 146517 (Sub-5–2TA), filed November 6, 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 NW. 63rd Street, Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12760, Oklahoma City, OK 73157. Contract, Irregular: *General Commodities (except household goods as defined by the Commission, Commodities in bulk, Commodities of unusual value, Classes A & B explosives, and Commodities requiring special equipment)* Between all points in the United States (except AK and HI) under continuing contract(s) with Phillips Petroleum Co., Bartlesville, OK. Supporting shipper: Phillips Petroleum

Co., 734 Adams Bldg., Bartlesville, OK 74004.

MC 151384 (Sub-5–7TA), filed November 6, 1980. Applicant: G and J TRUCKING, INC., 3701 Spradlin Ave., P.O. Box 4201, Ft. Smith, AR 72914. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. (1) *Foodstuffs and such items as are dealt in the wholesale, retail and chain grocery and food business houses,* from points in CA, OR, WA, ID and FL to points in AR; (2) *Paper and plastic containers* between Ft. Smith, AR, on the one hand, and, on the other, points in TX, LA and MS; (3) *circulating air or fuel pumps and materials and supplies used in the manufacture, and packaging circulating air or fuel pumps,* between Sallisaw, OK, on the one hand, and, on the other, points in MN, IA, MO, KS, AR, TX, LA, MS, AL, GA, SC, NC, TN, KY, IL, WS, IN, MI and OH; and (4) *Foodstuffs and such items as are dealt in the wholesale, retail and chain grocery and food business houses,* between the facilities of Griffin Grocery, Van Buren, AR, on the one hand, and on the other, points in CO, IL, IA, KS, KY, LA, MS, MO, NB, OK, TN, TX, IN, OH, AL, GA, and MI. Supporting shipper: American Can Company, 4411 Midland Blvd, Ft. Smith, AR 72904; Tankersley Frozen Food & Fish Co., 109 Grand Ave., Ft. Smith, AR 72904; Holley Special Products Division, 1300 South Opdyke, Sallisaw, OK 74955; and Griffin Grocery Company, P.O. Box 625, 3203 Industrial Park Road, Van Buren, AR 72956.

MC 151687 (Sub-5–3TA), filed November 7, 1980. Applicant: J L S TRUCKING, 614 East 4th Street, Fort Worth, TX 76102. Representative: A. William Brackett, 1108 Continental Life Building, Fort Worth, TX 76102. Contract; Irregular. *Paper, printed wrapping paper, paper bags, adhesives, ink, plastic articles and portable toilets,* between all points in the U.S. Supporting shipper: Dixico, Inc., P.O. Box 225116, Dallas, TX 75265.

MC 152021 (Sub-5–5TA), filed November 7, 1980. Applicant: IMPALA TRANSPORTATION SERVICES, INC., 1705 E. Irving Blvd., P.O. Box 676, Irving, TX 75060. Representative: Larry P. Cardin, President (same as applicant). Contract: Irregular. *Refractories, acid-proof building cements, building bricks,* between all points in the continental United States, under contract with Breshears and Associates, Inc., Houston, TX. Supporting shipper: Breshears and Associates, Inc., P.O. Box 94184, Houston, TX 77018.

MC 152197 (Sub-5–1TA), filed November 7, 1980. Applicant: SCENIC TRANSPORTATION, INC., 6353 Kingston Court, New Orleans, LA 70114. Representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. *Passengers and their baggage in charter service* from points in LA to all points in TX, LA, MS, AL, AR, GA, FL, and TN. Supporting shipper: 5.

MC 152436 (Sub-5–1), filed November 7, 1980. Applicant: EQUITABLE SHIPYARDS, INC., 3636 I–10 Service Road, P.O. Box 8001, New Orleans, LA 70182. Representative: James W. Hightower, Hightower, Alexander and Cook, P.C., 5801 Marvin D. Love Freeway, No. 301, Dallas, TX 75237. *Passengers, and their tools* between the facilities of Equitable Shipyards, Inc. at or near New Orleans, LA, and points in MS on the south of LA State Highway 26, beginning at the LA-MS state line to its intersection with U.S. Highway 98, thence U.S Highway 98 south and east to the MS-AL state line. Supporting shipper: Equitable Shipyards, Inc., 3636 I–10 Service Road, P.O Box 8001, New Orleans, LA 70182.

MC 152482 (Sub-5–1TA), filed November 7, 1980. Applicant: PREMIER TRUCKING CO. INC., P.O. Box 187, 409 Sixth St., Osawatomie, KS 66064. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, suite 110L, Topeka, KS 66612. *Oilfield machinery, equipment, materials and supplies,* between the Commercial Zone of Chanute, KS on the one hand and points in OH on the other. Supporting shipper: Ken Miller Supply, Inc., P.O. Box 785, 1537 Blashleyville Rd, Wooster, OH 44691.

MC 152535 (Sub-5–1TA), filed November 6, 1980. Applicant: H.T.C. TRUCKING, INC., P.O. Box 547, Bridgeport, TX. Representative: Thomas B. Staley, 1550 Tower Building, Little Rock, AR 72201. *Rock, Sand and Gravel,* between Merryville, LA, on the one hand, and, on the other, points in Tyler County, TX. Supporting shipper: J. A. Tobin Construction Company, Kansas City, KS.

MC 152537 (Sub-5–1TA), filed November 6, 1980. Applicant: WIN WILLIAMS TRUCKING CO., INC., 12942 FM 529, Houston, TX 77041. Representative: Win Williams (same as above). *Iron or steel articles and oilfield equipment* between points in AL, AZ, CO, KS, LA, MO, NM, OK, TX, and WY. Supporting shipper: Gensco, Inc., P.O Box 67, Uvalde, TX 78801; Gulf Steel Corp., P.O. Box 152, Houston, TX, 77020.

MC 3082 (Sub-5–7TA), filed November 10, 1980. Applicant: INMAN FREIGHT SYSTEM, INC., 321 North Spring Avenue, Cape Girardeau, MO 63701. Representative: G. H. Boles (same address as applicant). Common, Regular. *General commodities (except household goods as defined by the Commission, and classes A and B explosives)* between Owensboro, KY, and Mayfield, KY, (and commercial zones), serving all intermediate points: over US HWY 60 to JCT US HWY 45 near Paducah, then over US HWY 45 to Mayfield. Applicant intends to tack and interline. Supporting shippers: 30.

MC 29910 (Sub-5–64TA), filed November 10, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). *(1) Fabricated metal products (except ordnance); (2) machinery and materials; (3) equipment and supplies used in the manufacture, distribution and assembly of articles in (1) and (2),* between Kerrville, Houston, San Antonio, and Tyler, TX and their respective commercial zones, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Philco Industries, P.O. Box 950, Kerrville, TX.

MC 29910 (Sub-5–65TA), filed November 10, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (address same as applicant). *(1) Foodstuffs; equipment or supplies used in the process, manufacture, or distribution thereof;* between Dixon and Chicago, IL; St. Louis, MO; Cincinnati, OH: Dallas, Houston, Laredo and San Antonio, TX, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Liberto Specialty Co., 830 South Presa, San Antonio, TX 78210.

MC 30844 (Sub-5–37TA), filed November 10, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 4616 East 67th Street, Tulsa, OK 74121. Representative: Robert Kroblin, P.O. Box 21222, Tulsa, OK 74121. *Health care products,* (1) From Sumpter, SC to North Canaan, CT; (2) From North Canaan, CT to Atlanta, GA. Supporting shipper: Becton, Dickson & Co., Stanley Street, East Rutherford, NJ 07070.

MC 52979 (Sub-5–2TA), filed November 10, 1980. Applicant: HUNT TRUCK LINES, INC., West High Street, Rockwell City, IA 50579. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Common regular *General commodities (except Class A and B explosives, commodities in bulk and household goods,* between Rockwell City, IA, and Spencer, IA, serving all points in Clay County as off-route points, over regular routes, from

Rockwell City over U.S. Highway 20 to Junction U.S. Highway 71, then over U.S. Highway 71 to Spencer, and return over

MC 126118 (Sub-5–35TA), filed November 10, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box

and feed ingredients, in bulk, From the facilities of Kaiser Agricultural Chemicals at or new Pryor, OK on the

MC 136868 (Sub-5–1TA), filed November 10, 1980. Applicant: ROGERS VINEGAR COMPANY, INC., West Olive

Industries, Inc., 12221 Rivera Rd., Whittier, CA 90606.

76021. *Foodstuffs (except in bulk)* (1) Between the facilities of American Home Foods located at or near Milton

Rockwell City over U.S. Highway 20 to Junction U.S. Highway 71, then over U.S. Highway 71 to Spencer, and return over the same routes, serving on intermediate points. Applicant intends to tack and interline. Supporting shippers: 7.

MC 98614 (Sub-5–6TA), filed November 10, 1980. Applicant: ARKANSAS TRANSPORT COMPANY, P.O. Box 702, Little Rock, AR 72203. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. *Aviation Fuel,* from Ft. Worth, TX and its commercial zone to Crawfordsville and Little Rock, AR and the commercial zone of each. Supporting shipper: Texaco USA a division of Texaco, Inc., P.O. Box 52332, 1111 Rusk Ave., Room 1141, Texaco Building, Houston, TX 77052.

MC 100666 (Sub-5–10TA), filed November 10, 1980. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same as applicant). *Lumber, lumber products and wood products* from Mobile County, AL to points in GA, NC and SC. Supporting Shipper: Timbraz, P.O. Box 2844, Mobile, AL 36601.

MC 102567 (Sub-5–15TA), filed November 10, 1980. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Applicant's Representative: Joe C. Day, 13403 Northwest Fwy., Suite 130, Houston, TX 77040. *Chemicals, Pulp Mill Liquids and Allied Products,* in bulk, in tank vehicles, between Washington Parish, LA, on the one hand and, on the other, all points in the States of AL, AR, FL, GA, LA, MS, TN, and TX. Supporting Shipper: Crown Zellerbach Corp., P.O. Box 1060, Bogalusa, LA 70427.

MC 109397 (Sub-5–24TA), filed November 10, 1980. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs, (same address as applicant). *Wood or steel elevated flooring,* between points in the U.S. Supporting Shipper: D. L. Kropp & Associates, Inc., P.O. Box 916, 1120 S. Texas St., Lewisville, TX 75067.

MC 124813 (Sub-5–22TA), filed November 10, 1980. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, IA 50533. Applicant's Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Iron and steel articles,* from points in IL, IN, MN and NE to points in Wright County, IA. Supporting Shipper: Hagie Manufacturing Company, P.O. Box 273, Clarion, IA 50525.

MC 126118 (Sub-5–35TA), filed November 10, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Such commodities as are used by and dealt in by manufacturers of electrical wire, cable, and cord sets,* between Lauderdale County, AL and Providence County, RI, on the one hand, and, on the other, points in the U.S. (except AK, HI, ME, NH and VT). Supporting Shipper: International Telephone & Telegraph Royal Electric Division, James Steakem, Director of Distribution & Inventory, 95 Grand Avenue, Pawtucket, RI 02862.

MC 126118 (Sub-5–36TA), filed November 10, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Such merchandise as is used by and dealt in by retail and wholesale institutional suppliers (except commodities in bulk, in tank vehicles),* between Cookeville, TN and its commercial zone, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Institutional Wholesale Co., Inc., Jimmy W. Mackie, President, 25 S. Whitney Ave., P.O. Box 458, Cookeville, TN 38501.

MC 133655 (Sub-5–12TA), filed November 10, 1980. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 402535, Dallas, TX 75240. Representative: Matthew J. Reid, P.O. Box 2298, Green Bay, WI 54306. *General commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk)* between Lovelady, TX, and Grand Junction, TN, on the one hand and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Phillips Petroleum Company, 734 Adams Building, Bartlesville, OK 74004.

MC 134467 (Sub-5–14TA), filed November 10, 1980. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Jack B. Wolfe, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Foodstuffs (except in bulk),* from the facilities of Pennant Products, Inc., at Rochester, NY, to points in the United States in and east of TX, OK, KS, MO, IA and MN for 270 days. Supporting shipper: Pennant Products, Inc., P.O. Box 23630, Rochester, NY 14692.

MC 134620 (Sub-5–1TA), filed November 10, 1980. Applicant: WHITE CLOUD GRAIN COMPANY, INC., White Cloud, KS 66094. Representative: Erle W. Francis, 719 Capitol Federal Bldg., Topeka, KS 66603. *Dry Fertilizer and feed ingredients, in bulk,* From the facilities of Kaiser Agricultural Chemicals at or new Pryor, OK on the one hand and on the other all points and places in KS on and east of U.S. Hwy. 81 and all points in MO on and west of U.S. Hwy. 63. Supporting shipper: Kaiser Agricultural Chemicals, 1105 5th St., P.O. Box 65607, West Des Moines, IA 50265.

MC 135007 (Sub-5–10TA), filed November 10, 1980. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Contract irregular *Non-Exempt Food or Kindred Products as described in Item 20 of the Standard Transportation Commodity Code Tariff,* between points in the U.S. under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, NE 68731.

MC 135070 (Sub-5–30TA), filed November 10, 1980. Applicant: JAY LINES, INC., 3413 County Line Road, Grand Prairie, TX 75050. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. *Medical and hospital articles and supplies,* Between all points in the US (except AK and HI), restricted to traffic originating at or destined to the facilities of Medline, Inc. Supporting shipper: Medline Industries, Inc., 1825 Shermer Road, Northbrook, IL

MC 135797 (Sub-5–82TA), filed November 10, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esq. (Address same as applicant). *Cedar shakes and shingles,* from points in WA to points in the United States (except AK and HI). Supporting shipper: Sunshine Shakes, P.O. Box 1219, Forks, WA 98331.

MC 135797 (Sub-5–83TA), filed November 10, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esq. (Address same as applicant). *Carts, Market baskets, four wheeled, telescoped, or parts thereof,* between points in TN, PA and OK. Supporting shipper: Unarco Commercial Products, P.O. Box 24088, Oklahoma City, OK 73124.

MC 135797 (Sub-5–84TA), filed November 10, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant, Esq. (Address same as applicant). *Containers,* between Tarrant County, TX and points in the United States (except AK and HI). Supporting shipper: Dairypak-Champion International Corporation, 1902 Windsor Place, Ft. Worth, TX 76110.

MC 136668 (Sub-5–1TA), filed November 10, 1980. Applicant: ROGERS VINEGAR COMPANY, INC., West Olive at Frisco Tracks, Rogers, AR 72756. Representative: Michael H. Mashburn, Blair, Cypert, Waters & Roy, P.O. Box 869, Springdale, AR 72764. Contract; Irregular. *Flat glass—not bent,* from the plant site of Gateway Industries, a division of Double Seal Glass Company, located at Rogers, AR, to points in the states of OR, CA, MO, IL, IN, OH, and MI, and from points in the states of CA, MI, WV and TN to the plant site of Gateway Industries, a division of Double Seal Glass Company, located at Rogers, AR. Supporting shipper: Gateway Industries, a Division of Double Seal Glass Company, P.O. Box 417, Rogers, AR 72756.

MC 136328 (Sub-5–17TA), filed November 10, 1980. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I–80 & Hwy. 50, P.O. Box 37308, Omaha, NE 68137. Representative: Donna Ehrlich (same as applicant). *Petroleum products (except in bulk),* from Madison County, IL and St. Louis County, MO, to Douglas County, NE. Supporting shipper: Allied Oil & Supply, Inc., 2209 S. 24 St., Omaha, NE 68108.

MC 140665 (Sub-5–47TA), filed November 10, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. *Foodstuffs and commodities, materials and supplies used in the production or marketing of foodstuffs, (except commodities in bulk),* between the facilities utilized by Ore-Ida Foods, Inc., and its affilitated Companies located in the U.S., on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Ore-Ida Foods, Inc., 220 W. Parkcenter Blvd., P.O. Box 10, Boise, ID 83707).

MC 140665 (Sub-5–48TA), filed November 10, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. *Gum shellac or polishing compounds (except in bulk),* from Attleboro, MA to points in WA. Supporting shipper: Pace National Corporation, 500 Seventh Avenue South, Kirkland, WA. 98033.

MC 140665 (Sub-5–49), filed November 10, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: H. J. Anderson, P.O. Box 4208 Springfield, MO 65804. *Automotive Parts* between Los Angeles, CA and Chicago, IL, on the one hand, and on the other, points in the U.S. (except AK and HI). Supporting shipper: S & E Industries, Inc., 12221 Rivera Rd., Whittier, CA 90606.

MC 142167 (Sub-5–2), filed November 10, 1980. Applicant: MICHAELSEN TRUCK LINE, INC., 1619 South Garfield, Mason City, IA 50401. Representative: Steven C. Schoenebaum, 1200 Register & Tribune Bldg., Des Moines, IA 50309. Contract; irregular; (1) *soybean meal (except liquid commodities in bulk or in tank vehicles)* between the facilities of AGRI Industries at or near Mason City, IA, on the one hand, and on the other, Adams, Burnett, Dunn, Jackson, Juneau, Kenosha, LaCrosse, Langlade, Lincoln, Menominee, Milwaukee, Monroe, Ozaukee, Pepin, Pierce, Price, Rush, St. Croix, Sawyer, Trempealeau, Washburn, and Waukesha Counties, WI, and Becker, Blue Earth, Brown, Dakota, Fairbault, Goodhue, Jackson, Martin, McLeod, Nobles, Otter Tail, Rice, Sterns, Steele, Wabasha, and Watonwan Counties, MN. Restricted to a transportation service to be performed under continuing contract(s) with AGRI Industries. (2) *Meat scraps (except liquid commodities in bulk or in tank vehicles)* between the facilities of Mason City By-Products at or near Mason City, IA, on the one hand, and on the other, Becker, Blue Earth, Brown, Dakota, Fairbault, Goodhue, Otter Tail, Rice, Sterns, Steele, Wabasha, and Watonwan Counties, MN; and between Sioux Falls, SD, on the one hand, and, on the other, the facilities of Mason City By-Products at or near Mason city, IA. Restricted to a transportation service to be performed under continuing contract(s) with Mason City By-Products. Supporting shippers: AGRI Industries, 1605 19th Street, SW, Mason City, IA 50401; Mason City By-Products, 715 15th Street, North, Mason City, IA 50401.

MC 144622 (Sub-5–58TA), filed November 10, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Frozen meat* from Albert Lea, MN; Cedar Rapids, IA; Cherokee, IA; Chicago, IL; Davenport, IA; Des Moines, IA; Dubuque, IA; East Peoria, IL; Fort Dodge, IA; Kansas City, KS; Lincoln, NE; Logansport, IN; Mason City, IA; Minneapolis, MN; Omaha, NE; St. Louis, MO; St. Paul, MN; Sioux City, IA; Schuyler, NE; Waterloo, IA; Wichita, KS; and Worthington, MN to Greenville, MS. Supporting shipper: Distribuco, Inc., P.O. Box 280, Greenville, MS 38701.

MC 144622 (Sub-5–59TA), filed November 10, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Foodstuffs (except in bulk)* (1) Between the facilities of American Home Foods located at or near Milton, PA; La Porte, IN; and Vacaville, CA; (2) From the facilities of American Home Foods located at or near Vacaville, CA to TX, OK, and the Chicago, IL Commercial Zone; and (3) From the facilities of American Home Foods located at or near La Porte, IN to Ar, LA, MS, MT, and TN. Supporting shipper: American Home Foods Division of American Home Products Corporation, 685 Third Avenue, New York, NY 10017.

MC 144622 (Sub-5–60TA), filed November 10, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. *Electrical appliances, electrical equipment, and parts for electrical applicances and electrical equipment* from Florence, KY to Dallas, TX. Supporting shipper: Square D. Company, 8300 Burlington Pike, Florence, KY 41042.

MC 145441 (Sub-5–32TA), filed November 10, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury, Manager of Commerce and Traffic, P.O. Box 5130, North Little Rock, AR 72119. *Caulking and glazing compounds; adhesive paste chemicals and silicone chemicals; plastic materials and lubricating grease,* from the facilities of Dow Corning Corporation located in MI to points in CT and TX. Supporting shipper: Dow Corning Corp., P.O. Box 1592, Midland, MI 48640.

MC 145441 (Sub-5–33TA), filed November 10, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury, Manager of Commerce and Traffic, P.O. Box 5130, North Little Rock, AR 72119. *Paper and paper products; and plastic and plastic products and commodities used in the manufacture and distribution thereof, (except commodities in bulk),* from the plantsites and facilities of Crown Zellerbach at Greensburg, IN; Orange, TX; Florence, KY; St. Louis and Hazelwood, MO; and points located in AL, AR, CA, FL, GA, KY, MS, NC, OK, OR, SC, TN, TX, VA and WV. Supporting shipper: Crown Zellerbach Corp., One River Street, So. Glens Falls, NY 12801.

MC 146336 (Sub-5–6TA), filed November 10, 1980. Applicant: WESTERN TRANSPORTATION SYSTEMS, 1609 109th St., Grand Prairie, TX 75050. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Contract; irregular; *dental,*

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hospital and surgical supplies, between North Brunswick, NJ, Chicago, IL, and Sherman, TX, on the one hand, and, on the other, Menlo Park, CA. Supporting shipper: Johnson and Johnson Products, Inc., 501 George St., New Brunswick, NJ 08903.

MC 146457, (Sub-5–3TA), filed November 10, 1980. Applicant: PAISLEY TRUCKING, INC., P.O. Box 208, Durango, IA 52309. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Salt,* from the facilities of Domtar Industries, Inc., Sifto Salt Division, at Dubuque, IA to points in IL, MN, MO, and WI. Supporting shipper(s): Domtar Industries, Inc., Sifto Salt Division, 4825 North Scott Street, Shiller Park, IL 60176.

MC 148082 (Sub-5–1TA), filed November 10, 1980. Applicant: KEITH ASMUSSEN, d.b.a. ASMUSSEN RACING STABLES, P.O. Box 1861, Laredo, TX 78041. Representative: William E. Collier, 8918 Tesoro Drive, Suite 515, San Antonio, TX 78217. *Race and show horses, stable equipment and supplies and personal effects of attendants* between points in FL, on the one hand, and points in CA and KY, on the other. Supporting shippers: 13.

MC 148082 (Sub-5–2TA), filed November 10, 1980. Applicant: KEITH ASMUSSEN, d.b.a. ASMUSSEN RACING STABLES, P.O. Box 1861, Laredo, TX 78041. Representative: William E. Collier, 8918 Tesoro Drive, Suite 515, San Antonio, TX 78217. *Race and show horses, stable equipment and supplies and personal effects of attendants* between points in the following states: AZ, CA, CO, KS, KY, LA, NM, OK, SD, TX and WY. Supporting shippers: 11.

MC 148479 (Sub-5–3TA), filed November 10, 1980. Applicant: MIDWEST SOLVENTS COMPANY, INC., 1300 Main Street, Atchison, KS 66002. Representative: Bob W. Storey, Attorney at Law, 310 Columbian Title Building, 820 Quincy Street, Topeka, KS 66612, (913) 232–9383. *Contract* irregular *Paper products, chemicals, glass bottles, bulk and case alcoholic products, ceramic containers, rum, scotch and tequila, and machinery,* between Pekin, IL on the one hand, and all points and places within the U.S., except AK and HI, on the other. Supporting shipper: Midwest Solvents Co. of Illinois, South Front Street, Pekin, IL 61554.

MC 149026 (Sub-5–14TA), filed November 10, 1980. Applicant: TRANS-STATES LINES, INC., 633 Main Street, Van Buren, AR 72956. Representative: Larry C. Price, P.O. Box 1486, Van Buren, AR 72956. *(1) Fabricated metal products (except ordnance); (2) machinery and materials, and (3) equipment and supplies used in the manufacture, distribution and assembly of articles in (1) and (2) above,* between Kerrville, San Antonio, Houston and Tyler, TX and their respective commercial zones, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Philco Industries, Post Office Box 950, Kerrville, TX 78028.

MC 149155 (Sub-5–2TA), filed November 10, 1980. Applicant: JOHN PEPPER d.b.a. MIDWEST CARTAGE COMPANY, P.O. Box, Atchison, KS. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. *Non-exempt food or kindred products* between Atchison County, KS and points in the U.S. (except AK and HI). Supporting shipper: Lincoln Grain, Inc., P.O. Box 436, Atchison, KS 66002.

MC 150592 (Sub-5–5TA), filed November 10, 1980. Applicant: SUNFLOWER CARRIERS, INC., P.O. Box 561, York, NE 68467. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Paper and paper products,* between Blue Springs, MO and points in its commercial zone, on the other hand, and, on the other, points in NE. Supporting shipper: Alton Box Co., Frank Dyer, Shipping Supervisor, P.O. Box 70, Blue Springs, MO 64015.

MC 150660 (Sub-5–2TA), filed November 10, 1980. Applicant: BALVANZ TRUCKING, INC., Hubbard, IA 50122. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. (1) *Commercial heating and air conditioning systems, (2) Materials, equipment and supplies used in the manufacture, processing, sale and distribution of the commodities in (1) above,* between Eldora, IA on the one hand, and, on the other, points in the U.S. Supporting shipper: Donco Industries, 1201A Washington Street, Eldora, IA 50627.

MC 150783 (Sub-5–16TA), filed November 10, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth (same address as applicant). *Health food products* between the facilities of Shiloh Farms, Inc., Sulphur Springs, AR on the one hand and, on the other, facilities of Shiloh Farms, Martinsdale, PA. Supporting shipper: Shiloh Farms, Inc., Box 97, Sulphur Springs, AR 72728.

MC 150783 (Sub-5–17TA), filed November 10, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth (same address as applicant). *Paper and paper products, plastic articles, expanded, casual furniture, lighting fixtures, and equipment, materials and supplies used in the manufacture and distribution of the above products.* Between all points located in the states of AL, AR, DE, GA, IL, IN, KS, LA, MI, MS, MO, NJ, OH, OK, PA, TX, AND WI. Restricted to shipments originating at or destined to the facilities of Scott Paper Co. Supporting shipper: Scott Paper Co., Scott Plaza II, Philadelphia, PA 19113.

MC 150783 (Sub-5–18TA), filed November 10, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: Ronnie Sleeth (same address as applicant). *Such commodities as are dealt in or used by sholesale and retail discount and variety stores, (except in bulk).* From points in the United States (except AK and HI) to the facilities of Futurama-Saisa and/or Grandalia-Cofsa in TX. Supporting shipper: Futurama-Saisa and/or Grandalia-Cofsa, 525 Canal Street, El Paso, TX 79901.

MC 150949 (Sub-5–5TA), filed November 10, 1980. Applicant: NFI, INC., P.O. Box 664, Waxahachie, TX 75165. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78788. *Bicycles, bicycle parts and accessories used in the manufacture and distribution of bicycles,* from Ponca City, OK, to points in AR, KS, LA, NM and TX. Supporting shipper: Huffy Corporation, P.O. Box 2269, 2500 Huffy Road, Ponca City, OK.

MC 151154 (Sub-5–17TA), filed November 10, 1980. Applicant: LENERTZ, INC. OF IOWA, 1004 29th Street, Sioux City, IA 51104. Representative: Edward A. O'Donnell (same address as applicant). *Glass Bottles* from Shakopee, MN to Eden, NC and Muscatine, IA. Supporting shipper: Midland Glass Company, Inc., Hwy 101 and Scott Co. Rd. 83, Shakopee, MN 55379.

MC 151504 (Sub-5–3TA), filed November 10, 1980. Applicant: PHELCO, INC., 11841 Missouri Bottom Road, St. Louis, MO 63042. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105, 314–727–0777. *Pulp, Paper, or Allied Products,* between points and places in AL, AZ, AR, CA, CO, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NV, NH, NM, NY, NC, ND, OH, OK, SD, TN, TX, UT, VA, WI, and WY. Supporting shipper: Gilman Paper Company, P.O. Box 520, St. Marys, GA 31558.

MC 151750 (Sub-5–1TA), filed November 10, 1980. Applicant: ARK-LA MUD CO., INC., Route 3, Box 360, Magnolia, AR 71753. Representative: Joe D. Woodward, P.O. Box 727, Magnolia, AR 71753. *Drilling mud in packages and in bulk,* between the plantsite of Milchem, Inc., in or near Clinton, OK, on the one hand and all points and places in AR, LA, and TX on the other hand.

MC 152589 (Sub-5–1TA), filed November 10, 1980. Applicant: WHITELIGHTNIN' EXPRESS, INC., Post Office Box 167, Ft. Smith, AR 72902. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Extruded Aluminum Parts, Equipment and Supplies used in the manufacture, sale and distribution thereof,* between the facilities of Taber Metals, Inc., at or near Russellville, AR, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contracts with Taber Metals, Inc. Supporting shipper: Taber Metals, Inc., Post Office Box 1418, Russellville, AR 72801.

MC 4943 (Sub-5–1TA), filed November 12, 1980. Applicant: CENTRAL EXPRESS INC., 5601 West Waco Drive, Waco, TX 76703. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768. Common, regular *general commodities (except those of unusual value, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment);* Alternate Route, For Operating Efficiency Only: Between Freeport, TX, and Galveston, TX: From Freeport over State Hwy 288 to its junction with FM Road 2004, thence over FM Road 2004 to its junction with State Hwy 6, thence over State Hwy 6 to its junction with Interstate 45/U.S. Highway 75, thence over Interstate Hwy 45/U.S. Hwy 75 to Galveston, TX, and return over the same route, serving no intermediate points. There are no supporting shippers.

Note.—Applicant intends to tack and interline.

MC 83539 (Sub-5–3TA), filed November 12, 1980. Applicant: C & H TRANSPORTATION CO., INC., 9757 Military Parkway (P.O. Box 270535), Dallas, TX 75227. Representative: Mr. Thomas E. James, P.O. Box 370535, Dallas, TX 75227. *Wallboard, wallboard paper and starch,* between points in the States of AZ, CA, CO, KS, NV, NM, OK, TX and UT. *Restriction:* Restricted to shipments originating at or destined to the facilities of American Gypsum Company. Supporting shipper: American Gypsum Company, P.O. Box 6345—Station B, Albuquerque, NM 87197.

MC 93840 (Sub-5–1TA), filed November 12, 1980. Applicant: GLESS BROS., INC., P.O. Box 219, Blue Grass, IA 52726. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. *Caustic soda in bulk, in tank vehicles,* from Buffalo, IA to Ontonagon, MI. Supporting shipper: Vulcan Materials Company, P.O. Box 7689, Birmingham, AL 35253.

MC 113362 (Sub-5–17TA), filed November 12, 1980. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. *(1) Ice Machines, Refrigerators, and (2) Equipment, Materials, and Supplies used in the manufacture, sale and distribution of (1) above,* Between Albert Lea, MN and Fairfax, SC on the one hand, and, on the other pts. in the U.S. in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: King-Seeley Thermos Company, 505 Front Street, Albert Lea, MN 56007.

MC 113651 (Sub-5–29TA), filed November 12, 1980. Applicant: INDIANA REFRIGERATOR LINES, INC., 10838 Old Mill Road, Suite 4, Omaha, NE 68154. Representative: James F. Crosby, James F. Crosby & Associates, 7363 Pacific St., Suite 210B, Omaha, NE 68114. *Printing paper and paper products,* from the facilities of DataCom, Inc., Berwick, PA to points in FL, GA, KS, MN, MO, TX, and WI. Supporting shipper: DataCom, Inc., 2500 Maryland Avenue, Willow Grove, PA 19090.

MC 117119 (Sub-5–39TA), filed November 12, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (Same address as applicant). *Wall coverings* (a) from Buffalo, NY and Dayton, OH to Hayward, CA and (b) from Dayton, OH and Hayward, CA to points in the U.S. in and east of ND, SD, NE, CO and NM. Supporting shipper(s): Wallpapers To Go, 3131 Corporate Place, Hayward, CA 94545.

MC 117119 (Sub-5–40TA), filed November 12, 1980. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Cleaning and washing compounds, oven cleaners, sodium bicarbonate and sal soda (except in bulk)* from Syracuse, NY to points in AL, AZ, CA, FL, GA, IL, IN, MI, NV, NC, OR, SC, WA, and WI. Supporting shipper(s): Church & Dwight Co., Inc., 20 Kingsbridge Road, Piscataway, NY 08854.

MC 118142 (Sub-5–5TA), filed November 12, 1980. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. *Frozen Foods and Materials and supplies used in manufacture, distribution and sale of foodstuffs,* between all points in the U.S. on the one hand and Forest, MS and Traverse City, MI on the other. Supporting shippers(s): Chef Pierre, Inc., P.O. Box 1009, Traverse City, MI 49684.

MC 118959 (Sub-5–11TA), filed November 12, 1980. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 South LaSalle, Suite 600, Chicago, IL 60603. *Paper and paper products,* between the facilities of Gilman Paper Company at or near St. Louis, MO, on the one hand, and, on the other, points in IL, IN, MI, and WI. Supporting shipper: Gilman Paper Company, P.O. Box 520, St. Mary's, GA 31558.

MC 134755 (Sub-5–11TA), filed November 12, 1980. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Cristopher Wilson, P.O. Box 3772, Springfield, MO 65804. *General commodities, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* from all points east of the Mississippi River to the facilities of Kan-Mo Shippers Association and its' members in MO and Omaha, NE. Supporting shipper: Kan-Mo Shippers Association, 8300 Northeast Underground Drive, Kansas City, MO 64161.

MC 138686 (Sub-5–2TA), filed November 12, 1980. Applicant: L C W TRUCKING, INC., P.O. Box 728, Crowley, TX 76036. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Malt beverages and advertising materials,* from San Antonio, TX to points in OR and WA. Supporting shipper: Pearl Brewing Company, P.O. Box 1661, San Antonio, TX 78291.

MC 142145 (Sub-51TA), filed November 12, 1980. Applicant: LINDSAY TRANSPORTATION, INC., P.O. Box 97, Lindsay, NE 68644. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Contract, Irregular. (1) *Lumber, lumber products and building materials;* and (2) *Such commodities as are dealt in or used by distributors of the commodities named in (1) above,* From points in WA, OR, CA, ID, MT, WY, CO, SD, OK, TX, AR, LA, AL, MS, and MO, to points in SD, NE, KS, MO, IA, MN, WI, and IL, under a continuing contract(s) with Roberts & Dybdahl Inc. Supporting shipper: Roberts & Dybdahl Inc., P.O. Box 1908, Des Moines, IA 50306.

MC 143701 (Sub-5–5TA), filed November 12, 1980. Applicant: HODGES

VA; Roanoke, VA; Durham, NC; Greensboro, NC; Charlotte, NC;

MC 64189 (Sub-5–2TA), filed November 14, 1980. Applicant: TOPLIFF

Standard Liquor Corporation, 3629 North Hydraulic, Wichita, KS 67219.

La-Roche Inc., 340 Kingsland St., Nutley, NJ 07110.

1211 West 22nd Street, Oak Brook, IL 60521.

MC 143701 (Sub-5–5TA), filed November 12, 1980. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 20247, Kansas City, MO 64079. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. *Such commodities as are manufacutured, processed, distributed or dealt in by manufacturers or convertors of paper and paper products.* Between points and places in the U.S. Restricted to traffic moving for and on behalf of Westvaco Corporation. Supporting shipper(s): Westvaco Corporation, 299 Park Avenue, New York, NY 10171.

MC 144603 (Sub-5–29 TA), filed November 12, 1980. Applicant: F.M.S. Transportation, Inc., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Raymond C. Dougherty (Same address as applicant). *Non-exempt food or kindred products* between Centralia, Il and its commercial zone, on the one hand, and, on the other, states of AL, AR, CA, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, NO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, and WI (restricted to traffic to, from, or between facilities utilized by Hollywood Brands, Inc.) Supporting shipper: Hollywood Brands, Inc., 836 S. Chestnut St., Centralia, IL 62801.

MC 149408 (Sub-5–2TA), filed November 12, 1980. Applicant: PALTEX TRANSPORT CO., P.O. Box 296, Palestine, TX 75801. Representative: Mr. Kenneth R. Hoffman, P.O. Box 2165, Austin, TX 78768. *(1) Beverages; materials, equipment and supplies used in the manufacture, sale and distribution of beveragaes; except commodities in bulk* between San Antonio, TX, on the one hand, and, on the other, points in AL, AR, CO, GA, IN, KS, KY, LA, MS, MO, OK and TN *and (2) Recycleable Materials* from points in AL, AR, CO, GA, IN, KS, KY, LA, MS, MO, OK and TN to Palestine, TX. Supporting shipper: Pearl Brewing Co., 312 Pearl Parkway, San Antonio, TX 78215.

MC 151768 (Sub-5–6TA), filed November 12, 1980. Applicant: ARM TRANSPORTATION CORPORATION, P.O. Drawer 9480, Amarillo, TX 79105. Representative: A. J. Swanson, Att'y., Quaintance & Swanson, P.O. Box 1103, Sioux Falls, SD 57101. (1) *Air regulation equipment; Screws; Fasteners & Tools; Adhesives and Duct Sealer; Insulation Fasteners; Fasteners Machinery,* (2) *materials, equipment & supplies used in sale and distribution of (1) above, (except liquid in bulk),* between Farmingdale, N.Y.; Evandale, OH; Denver, CO; Vernon, CA; Dallas, TX; Wichita, KS; Richmond, VA; Lynchburg, VA; Roanoke, VA; Durham, NC; Greensboro, NC; Charlotte, NC; Middlesex, NJ; Brooklyn, NY; and Baltimore, Md. Supporting shipper: Duro Dyne Corporation, Route 110, Farmingdale, NY. 11735.

MC 152421 (Sub-5–1TA), filed October 10, 1980. Applicant: G. GULLEY TRUCK SERVICE, INC., 180 Arthur Drive, Shreveport, LA 71105. Representative: Edward A. Winter, 235 Rosewood Drive, Metairie, LA 70005. *General Commodities, in trailer loads (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* between railroad ramps located at Bossier City and Shreveport, LA, and points within 125 miles of Bossier City and Shreveport, LA not served by ramps, restricted to traffic having a prior or subsequent movement by rail in interstate commerce. Supporting shippers: Nabor's Trailers, Inc., P.O. Box 979, Mansfield, LA 71052. Illinois Central Gulf Railroad, P.O. Box 6098, Bossier City, LA 71111.

MC 152480 (Sub-5–1TA), filed November 12, 1980. Applicant: J. JACK WILMOTH, d.b.a. WILMOTH TRUCKING, 1518 NW 1st Street, Oklahoma City, OK 73106. Representative: J. Jack Wilmoth (same address as applicant). *Iron or steel articles* from OK to AR, AZ, CA, CO, LA, MS, MT, NM, NV, TX and WY. Supporting shipper: Robberson Steel Co., 1401 NW 3rd Street, Oklahoma City, OK 73125.

MC 24784 (Sub-5–2TA), filed November 14, 1980. Applicant: BARRY, INC., 463 South Water, Olathe, KS 66061. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. *Building, construction and roofing materials and such materials and supplies used in the manufacture, sale and distribution of such items* between Jackson County, MO, and points in the U.S. Supporting shipper: Derbigum America Corp., 4821 Chelsea, Kansas City, MO 64130.

MC 26825 (Sub-5–5TA), filed November 13, 1980. Applicant: ANDREWS VAN LINES, P.O. INC., Box 1609, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. *Lumber, lumber products and wood products (except commodities in bulk),* from points in AR, CA, ID, LA, MT, OR and WA to points in IA, MN, NE and SD. Supporting shippers: Hardware Wholesalers Incorporated, Lumber Division, P.O. Box 2209, Fort Wayne, IN 46801 and Walter T. Johnson Lumber Company, Inc., 7101 Mercy Road, Suite 308, Omaha, NE 68106.

MC 64189 (Sub-5–2TA), filed November 14, 1980. Applicant: TOPLIFF TRUCK LINE, INC., 746 North Santa Fe, Salina, KS 67401. Representative: Paul V. Dugan, 2707 West Douglas, Wichita, KS 67213. *Tires, tubes, rubber tread, and metal wheel rims* between Beloit, KS, on the one hand, and Memphis, TN; Warren, OH; Findlay, OH; and Dallas, TX, on the other hand. Supporting shipper: Thompson OK Tire Co. Inc., 110 E. 8th Street, Beloit, KS 67420.

MC 75320 (Sub-5–5TA), filed November 13, 1980. Applicant: CAMPBELL SIXTY-SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Common, regular. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* serving the facilities of AMF Wheel Goods at or near Olney, IL as an off-route point in connection with carrier's authorized regular route operations. Supporting shipper: AMF Wheel Goods, P.O. Box 344, Olney, IL 62450.

Note.—Applicant intends to tack and interline.

MC 107496 (Sub-5–38TA), filed November 13, 1980. Applicant: RUAN TRANSPORT CORP., 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, Attorney, 666 Grand Avenue, Des Moines, IA 50309. *Soda ash and phosphates, in bulk,* from Chicago Commercial Zone to points in Greene County, MO. Supporting shipper: K. O. Manufacturing, Inc., P.O. Box 378, 303 North 10th, Ozark, MO 65721.

MC 114211 (Sub-5–17TA), filed November 14, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., P.O. Box 420, Waterloo, IA 50704. *Iron and steel articles,* between points in OH, TX, IL, MN, OK, IA, MI, and CO, on the one hand, and, on the other, points in OH, TX, IL, IA, KS, MO, OK, NE, CO, SD, IN, MN, MI, AR, and WI. Supporting shipper: LaChar Enterprises, Inc., LaChar Steel Supply of Kansas Division, P.O. Box 861, 1236 Columbus Circle, Newton, KS 67114.

MC 114211 (Sub-5–18TA), filed November 14, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., P.O. Box 420, Waterloo, IA 50704. *Alcoholic liquor, wine and beer, from* points in IL, MI, IN, KY, NY, NJ, MD, FL, WI and CA, to points in KS. Supporting shipper: Standard Liquor Corporation, 3629 North Hydraulic, Wichita, KS 67219.

MC 114211 (Sub-5–19TA), filed November 14, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., P.O. Box 420, Waterloo, IA 50704. *Iron and steel articles,* from Tigard, OR, to Oakland, CA. Supporting shipper: Fought & Company, Inc., 14255 S.W. 72 Street, Tigard, OR 97223.

MC 114211 (Sub-5–20TA), filed November 14, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., P.O. Box 420, Waterloo, IA 50704. (1) *Cast iron pipe and fittings and accessories for cast iron pipe,* (a) from Lynchburg, VA, to points in the United States (except ND, SD, NE, MN, IA, WI, IL, TX, OK, KS, MO, MI, IN, OH, AR, LA, NJ, and DE), (b) from Florence, NJ, to points in AL, FL, DC, MD, DE, NJ, PA, NY, CT, RI, MA, NH, VT, and ME, and (c) from Council Bluffs, IA, to points in WA, OR, NV, and CA, and (2) *Materials, equipment and supplies used in the manufacture, distribution and installation of the commodities in (1) above,* (a) from points in the United States (except ND, SD, NE, MN, IA, WI, IL, TX, OK, KS, MO, MI, IN, OH, AR, LA, NJ, and DE), to Lynchburg, VA, and (b) from points in the United States to Florence, NJ. Supporting shipper: Griffin Pipe Products Co., 2000 Spring Road, Oak Brook, IL 60521.

MC 114284 (Sub-5–9), filed November 13, 1980. Applicant: FOX SMYTHE TRANSPORTATION CO., P.O. Box 82307, Oklahoma City, OK 73148. Representative: William B. Barker, 641 Harrison Street, P.O. Box 1979, Topeka, KS 66601. *Meats, Meat Products, Meat By-Products and articles distributed by Meat Packing Houses as described in Sections A & C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766,* From Cornett Packing Company, Oklahoma City, OK, to points in AR, CA, CO, IL, IA, KS, LA, MN, MO, NE, NV, SD, TX, and WI. Supporting shipper: Cornett Packing Company, 200 S.E. 8th Street, Oklahoma City, OK 73125.

MC 119493 (Sub-5–48TA), filed November 13, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, MO 64801. *Animal feed supplements* (except in bulk) from Ft. Worth, TX, to points in AL, LA, MS, GA, CO, FL, and TN. Supporting shipper: Robert Esbrandt, Rate Analyst, Hoffman La-Roche Inc., 340 Kingsland St., Nutley, NJ 07110.

MC 119493 (Sub-5–49TA), filed November 14, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone, Traffic Manager, Monkem Company, Inc., P.O. Box 1196, Joplin, MO 64801. *Metal and metal articles* from Houston, TX to PA and MI. Supporting shipper: Seyman Rubinson, General Manager, The Pesses Company, Southwest, 2301 S. Main Street, Ft., Worth, TX.

MC 119988 (Sub-5–27TA), filed November 13, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Larry Norwood, P.O. Box 1384, Lufkin, TX 75901. *Plastic and Zinc, Articles,* Between Cherokee County, TX on the one hand, and, on the other, points in the U.S. Supporting shipper: Nichols-Kusan, Inc., P.O. Box 1191 Jacksonville, TX 75766.

MC 119988 (Sub-5–28TA), filed November 13, 1980. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: Larry Norwood, P.O. Box 1384, Lufking TX 75901. *Plastics, plastic articles, materials, equipment and supplies used in the manufacture and distribution thereof,* between facilities utilized by Hancor, Inc., and its subsidiaries in the U.S., on the one hand, and, on the other, points in the U.S. Supporting shipper: Hancor, Inc., P.O. Box 392, Hallettsville, TX 77964.

MC 126116 (Sub-5–37TA), filed November 14, 1980. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker, P.O. Box 81228, Lincoln, NE 68501. *Rubber or miscellaneous plastic products and machinery and supplies,* between Kansas City, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Illig Industries, Inc., Mark Chase, Office Manager, 537 Central Avenue, Kansas City KS 66101.

MC 126822 (Sub-5–34TA), filed November 13, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same address as applicant). *Primary metal products, fabricated metal products, clay, concrete, glass or stone products, rubber and plastic products, and materials used in their manufacture,* between points in the U.S., restricted to the transportation of shipments from, to, or between the facilities of Clow Corporation. Supporting shipper: Clow Corporation, 1211 West 22nd Street, Oak Brook, IL 60521.

MC 129908 (Sub-5–36TA), filed November 13, 1980. Applicant: AMERICAN FARM LINES, INC., 8125 S.W. 15th St., Oklahoma City, OK 73147. Representative: John S. Odell, P.O. Box 75410, Oklahoma City, OK 73147. *Foodstuffs and kindred items,* between points in the U.S. Supporting shipper: Interstate Restaurant Supply, 901 East 31st St., Los Angeles, CA 90011.

MC 134755 (Sub-5–12), filed November 14, 1980. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Christopher Wilson, P.O. Box 3772, Springfield, MO 65804. *Soap, cleaning compounds, and such commodities as are dealt in by wholesale or retail grocery houses,* from Wyandotte County, KS, to points in TX. Supporting shipper: Colgate-Palmolive Company, 1806 Kansas Avenue, Kansas City, KS 66105.

MC 135263 (Sub-5–7) filed November 13, 1980. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, 432 South Stuhr Road, Grand Island, NE 68801. Representative: Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *(1) Frozen breaded vegetables and (2) materials and supplies used in the manufacture and distribution of frozen breaded vegetables (except in bulk)* between the facilities of Delicious Foods, Inc., at or near Grand Island and Lincoln, NE, on the one hand, and, on the other, all points in the United States. Supporting shipper: Delicious Foods, Inc, P.O. Box 730, Grand Island, NE 38801.

MC 141220 (Sub-5–1TA) filed November 13, 1980. Applicant: MOYER TRUCK LINE, INC., P.O. Box 253, Centralia, MO 54240. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068 (816) 781–6000. *Fertilizer and fertilizer ingredients,* between Lawrence, KS on the one hand, and, on the other, points in MO, IA and AR. Supporting shipper: Missouri Farmers Association, Inc., 201 South Seventh Street, Columbia, MO 65201.

MC 141865 (Sub-5–13TA) filed November 13, 1980. Applicant: ACTION DELIVERY SERVICE, IN., 2401 West Marshall Drive, Grand Prairie, TX 75051. Representative: A. William Brackett, 1108 Continental Life Building, Fort Worth, TX 76102. Contract, Irregular. *Fireplaces and component parts, accessories and equipment for fireplaces,* from the Heatilator Division of Vega Industries, Inc., Mt. Pleasant and Centerville, IA to points in CO, TX, CA, FL, GA, LA, TN, MS, OR, WA, AZ, AR, OK and NM. Supporting shipper:

V 45 N 0 25 80 0 UMI

Heatilator Division of Vega Industries, Inc., box 409, Mt. Pleasant, IA 52641.

MC 142288 (Sub-5-3) filed November 13, 1980. Applicant: HAMILTON TRUCKING COMPANY OF OKLAHOMA, INC., 12612 E. Admiral Place, Tulsa, OK 74115. Representative: Virginia Hamilton (same address as applicant). *Iron Ore*, between OK and TX. Supporting shipper: Martin Marietta Cement Mid-West Division, P.O. Box 45586, Tulsa, OK 74145.

MC 142431 (Sub-5-5TA) filed November 14, 1980. Applicant: WAYMAR TRANSPORT CORP., 1755 S.E. 108th Street, Runnells, IA 50237. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Paper products and bagged clay* from Babylon, NY, Fairfield, NJ, Chicago, IL, and McIntyre, GA, to Polk County, IA. Supporting shipper: Frye Copysystems, Inc., Box 854, Des Moines, IA 50304.

MC 143066 (Sub-5-1), filed November 12, 1980. Applicant: B.G.M. TRUCKING, INC., 12634 East Freeway, Houston, TX 77015. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768. *Bananas* from Galveston, TX; Mobile, AL; and Gulfport, MS; to points in OK, ND, SD, CO, NE, MN, AR, IL, IA, MO, KS and WI. Supporting shipper: Del Monte Banana Company, Miami, Florida.

MC 144505 (Sub-5-2), filed November 14, 1980. Applicant: DOYLE LOVE, d.b.a. LOVE TRUCKING, Route 1, Box 438, Mabank, TX 75147. Representative: Thomas L. Cook, Attorney, Hightower, Alexander & Cook, P.C., First Continental Bank Bldg. #301, 5801 Marvin D. Love Frwy., Dallas, TX 75237. *Motorcycles*, (1) Between Dallas and Tarrant Counties, TX, on the one hand, and, on the other, points in LA and KS; (2) Between Lincoln, NE, on the one hand and, on the other, points in KS, OK and TX; (3) Between Baton Rouge, LA, on the one hand, and, on the other hand, points in TX and KS. Supporting shippers: Five.

MC 146448 (Sub-5-14TA), filed November 14, 1980. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Timothy C. Miller, Polydoroff and Miller, P.C., Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. *Title and materials, equipment and supplies used in the installation, manufacture and sale of tile (except commodities in bulk)* between, on the one hand, Jackson, TN, and, on the other, points in the United States (except AK and HI). Supporting shipper: American Olean Tile Company, 1000 Cannon Avenue, Lansdale, PA 19446.

MC 146494 (Sub-5-2), filed November 13, 1980. Applicant: BILL JACKSON RIG COMPANY, INC., 1813 S.E. 25th Street, Oklahoma City, OK 73143. Representative: Wm. L. Peterson, Jr., 1109 Colcord Building, 15 North Robinson, Oklahoma City, OK 73102. *Oilfield Equipment and supplies*, between all points in the States of OK and TX. Supporting shippers: Mercury Drilling Company, 1701 S.E. 25th St., Oklahoma City, OK 73143.

MC 146778 (Sub-5-1TA), filed November 13, 1980. Applicant: SAENZ BROS. TRUCKING & TOMATO CO., INC., 1500 South Zarzamora Street, San Antonio, TX 78207. Representative: Kenneth R. Hoffman, P.O. Box 2165, Austin, TX 78768. *Building materials, doors and cabinets* from the U.S.-Mexico Border at or near Roma, TX, to points in TX, NM, AZ and CA. Supporting shipper: Igormex—SA, 215 Poniente, Colonia Del Valle Garza, Garcia Nuevo Leon Mexico.

MC 147388 (Sub-5-5), filed November 13, 1980. Applicant: EARLY BIRD FREIGHT LINES, INC., R.R. 1, Box 49, St. Libory, NE 68872. Representative Lavern R. Holdeman, P.O. Box 81849, Lincoln, NE 68501. *(1) Beverages (except in bulk), and (2) materials and supplies used in the manufactuere, sale or distribution of beverages, (except in bulk)*, (1) from points in IL, IN, and WY to Kearney, NE; and (2) between North Platte, NE, on the one hand, and, on the other, points in the states of CO, IL, IA, KS, OK, SD and WY. Supporting shippers: Keenan's Beverages, Inc., Box 398, Kearney, NE 68847; Great Plains Bottlers and Canners, Inc., P.O. Box 1026, North Platte, NE 69101.

MC 47522 (Sub-5-4TA), filed November 14, 1980. Applicant: CAJUN CARTAGE & WAREHOUSING CORP., P.O. Box 50262, New Orleans, LA 70150. Representative Donald A. Larousse (same as applicant). *General Commodities, (except household goods as defined by commission, and classes A and B explosives)*, between St. Mary Parish, LA and Orleans Parish, LA. Restricted to traffic having a prior or subsequent movement by rail or water. Supporting shippers: Lykes Bros. Steamship Co., Inc., 300 Poydras St., New Orleans, LA.

MC 147969 (Sub-5-3TA), filed November 14, 1980. Applicant: JOE S. BOWEN, INC., Highway 264 East, P.O. Box 262, Springdale, AR 72764. Representative John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Gove, AR 72753. *Furniture parts, metal products, and paper products, and materials, equipment, and supplies utilized in the manufacture, transportation, and installation thereof*, (1) From Carthage, Aurora, and Springfield, MO, on the one hand and, on the other, all points and places in AR, LA, MS, TN, TX, OK, KS, NB, IA, NM, AL, KY, IL, CA, OR, WA, UT, AZ, CO, MN, and MI; (2) From all points and places in CA to Portland, OR; Seattle, WA; Phoenix, AZ; Albuquerque, NM; El Paso, TX; and Denver, Co.; (3) From Phoenix, AZ; to all points and places in CO, NM, TX, OR, and WA. Restricted to traffic originating at or destined to the facilities of Leggett & Platt, Inc. or its affiliates. Supporting shipper: Leggett & Platt, Inc., P.O. Box 757, Carthage, MO 74836.

MC 150088 (Sub-5-11TA), filed November 14, 1980. Applicant: STERLING TRANSPORT DIVISION, INC., 801 Heinz Way, Grand Prairie, TX 75071. Representative Robert K. Frisch, 2711 Valley View Lane, Suite 101, Dallas, 75234. *(a) Merchandise dealt in or used by retail, chain grocery and food or feed business houses, soy products, dairy based products and (b) raw materials, equipment and supplies used in the manufacture, distribution and sales thereof* between the facilities of Ralston-Purina Company in Oklahoma, Canadian, Caddo, Cleveland and Pottawatomie Counties, OK, on the one hand, and points in Ar, CO, KS and MO, on the other hand. Supporting shipper: Ralston-Purina Company, 13700 North Lincoln Boulevard, Edmond, Oklahoma 73034.

MC 150231 (Sub-5-11TA), filed November 13, 1980. Applicant: MAVERICK TRANSPORTATION, INC., 1803 E. Broad Street, Texarkana, AR 75502. Representative: Steve Williams, 1803 E. Broad Street, Texarkana, AR 75502. *Iron and steel articles*, between points in the following states: AR, AL, IA, IL, IN, LA, MI, MN, MS, MO, KY, NE, OH, OK, TN, TX and WI. Restricted to shipments moving on bills of lading for the account of Barg Steel Company, Little Rock, AR.

MC 150578 (Sub-5-14TA), filed November 14, 1980. Applicant: STEVENS TRANSPORT, a division of STEVENS FOODS, INC., 2944 Motley Drive, Mesquite, TX 75150. Representative: S. Jackson Salasky, P.O. Box 45538, Dallas, TX 75245. *Meat, meat by-products, and articles distributed by meat packinghouses as described in Sections A & C to Appendix I to the Report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except commodities in bulk), frozen or unfrozen:* (1) from Amarillo, Hereford, Plainview, Dallas and Ft. Worth, TX and Oklahoma City, OK to Laredo, TX, Houston, TX, New Orleans, LA, Tampa and Miami, FL; (2) from IA, NE, MO, IL and KS to Laredo and Houston TX, New Orleans, LA, Tampa, Miami, FL; (3) from Ft. Worth, TX to St. Louis, MO, Chicago, IL, Detroit, MI, Philadelphia, PA, and Memphis, TN. Restricted to traffic originating or destined to the facilities of Republic Foods, H Bar K Meat Processors or their suppliers. Supporting shippers: Republic Foods, 2633 Swiss Ave., Dallas, TX, and H Bar K Meat Processors, Inc., P.O. Box 4401, Ft. Worth, TX 76106.

MC 150878 (Sub-5-15TA), filed November 14, 1980. Applicant: STEVENS TRANSPORT, a division of STEVENS FOODS, INC., 2944 Motley Drive, Mesquite, TX 75150. Representative: E. Lewis Coffey (same as above). *Such commodities as are dealt in by petroleum distributors (except commodities in bulk)* between points in TX, LA, and OK. Supporting shipper: Dalco Distributors, Inc., 2800 Logan Street, Dallas, TX 75215.

MC 150781 (Sub-5-2TA), filed November 14, 1980. Applicant: JAMES L. GRIGGS, 229 Dorris Drive, Grand Prairie, TX 75051. Representative: William M. Spruce, c/o ARCO Oil & Gas Company, P.O. Box 2819, Dallas, TX 75221. Contract; Irregular. *Motor vehicles, specially prepared, in any condition* between ARCO Oil and Gas Company locations in the states of AR, CO, KS, LA, NM, OK, TX and WY, under a continuing contract with ARCO Oil and Gas Company. Supporting shipper: ARCO Oil and Gas Company, P.O. Box 2819, Dallas, TX 75221.

MC 150783 (Sub-5-19TA), filed November 13, 1980. Applicant: SCHEDULED TRUCKWAYS, INC., Post Office Box 757, Rogers, Arkansas 72756. Representative: Ronnie Sleeth, Post Office Box 757, Rogers, Arkansas 72756. *Foodstuffs*. Between points in the United States. Restricted to the traffic of Growers, Processors, Manufacturers International Inc. and Forest Park Foods, Inc., Supporting shippers: Growers, Processors, Manufacturers International Inc., 115 Rogers Circle Drive, Springdale, Arkansas 72764. Forest Park Foods, Inc. Box 191, Springdale, Arkansas 72764.

MC 150949 (Sub-5-6TA), filed November 14, 1980. Applicant: NFI, INC., Box 664, Waxahachie, TX 75165. Representative: Gerald S. Duzinski, 71 West Park Avenue, Vineland, NJ 08360. *Such commodities as dealt in by retail auto supply and houseold supply stores;* Between points in the states of AZ, KS, NM, OK & TX. Restricted to traffic originating at or destined to the facilities of Western Auto Supply. Supporting shipper: Western Auto Supply Company, Kansas City, MO 64108.

MC 151819 (Sub-5-3TA), filed November 14, 1980. Applicant: CARGO MASTER, INC., 917 S. Harwood St., Dallas, TX 75201. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Artilces dealt in by wholesale, retail and discount stores (except commodities in bulk, meat and poultry)*, from the facilities of the Denton Sales Company, Inc. located at Dallas, TX, to points in the U.S. Supporting shipper: Denton Sales Company, Inc., 11210 Zodiac Lane, Dallas, Texas 75229.

MC 152391 (Sub-5-1TA), filed November 14, 1980. Applicant: LITTLE GINNY TRANSPORT SYSTEMS, INC., 824 27th Avenue, S.W., Cedar Rapids, IA 52404. Representative: Virginia A. Wilson (same as applicant). Contract, irregular: *Banking equipment and security systems, and parts, materials and supplies used thereof*, between Cedar Rapids, IA on the one hand, and, on the other, points in the U.S. (except AK & HI). Supporting shipper: LeFebure Corporation, 308 29th St., N.E., Cedar Rapids, IA 52406.

MC 152622 (Sub-5-1TA), filed November 13, 1980. Applicant: DARYL THOMASON TRUCKING, INC., 611 W. Circle Drive, Broken Bow, OK 74728. Representative: BILLY R. REID, 1721 Carl Street, Forth Worth, TX 76103. Contract, Irregular. *Lumber, wood products, building materials, and materials, equipment and supplies* used in the manufacture and distribution of such commodities, between points in the U.S. Supporting shipper: Thomason Lumber Co., P.O. Box 804, Broken Bow, OK 74728.

MC 152629 (Sub-5-1TA), filed November 13, 1980. Applicant: ATLAS WAREHOUSE COMPANY, P.O. Box 456, Burlington, IA 52601. Representative: Michael D. Bromley, 805 McLachlen Bank Bldg., 666 11th St., N.W., Washington, D.C. 20001. *Bakery goods*, from the facilities of Midwest Biscuit Co. at Burlington, IA, to points in the U.S. (except AK and HI). Supporting shipper: Midwest Biscuit Co., P.O. Box 888, Burlington, IA 52601.

MC 152643 (Sub-5-1TA), filed November 14, 1980. Applicant: JACK L. COLLINS, 1517 Valley Avenue, Hoxie, KS 67740. Representative: Michael H. Haas, Attorney at Law, 821 Main, Hoxie, KS 67740. *Iron and steel pipe, casings, fittings and accessories*. Between points in TX and OK on the one hand, and on the other, points in the Graham, Ellis, Rooks, Sheridan, Norton, Thomas, Decatur and Rawlins, counties, KS; and counties of Red Willow, Hitchcock, Frontier, Dundy, and Hayes, NE. Supporting shipper: Northwestern Pump & Supply Co., Inc., Box 220, Plainville, KS 67663.

MC 152648 (Sub-5-1), filed November 14, 1980. Applicant: ED RUTLEDGE d.b.a. ED RUTLEDGE TRUCKING, 1824 Ruth Street, Arlington, TX 76010. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Case goods*, from Grand Prairie, TX to points NM, TX, OK, AR, LA, MS, TN, AL, GA, FL, NC, SC, and VA. Supporting shipper: Texas Molding, Inc., P.O. Box 490, Grand Prairie, TX.

MC 152649 (Sub-5-1), filed November 14, 1980. Applicant: RIVERLAND TRUCKING CO., INC., West 10th Ave, Drawer E, Reserve, LA 70084. Representative: Harry M. England (same as above). Contract, Irregular *non-alcoholic beverages and materials, equipment and supplies used in manufacture, distribution or sale of non-alcoholic beverages*. Between Reserve, LA, on one hand, and on the other, points in AL, AR, FL, LA, MS, TN, TX, and GA. Supporting shippers: Coastal Canning Enterprises, Inc, West 10th Ave., Reserve, LA, Sewell Plastics, Inc., 501 W. 10th St., Reserve, LA.

MC 152650 (Sub-5-1TA), filed November 14, 1980. Applicant: SHAVER TRUCKING, INC., 3600 Highway #68 W, P.O. Box 104, Springdale, AR 72764. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. *Furniture parts, metal products, and paper products, and materials, equipment, and supplies utilized in the manufacture, transportation, and installation thereof*, (1) From Carthage, Aurora, and Springfield, MO, to Clearfield, UT; Phoenix, AZ; Portland, OR; Seattle, WA; and all points and places in CA; (2) From all points and places in CA to Clearfield, UT; Portland, OR; Seattle, WA; and Phoenix, AZ; (3) From Phoenix, AZ to Portland, OR; Seattle, WA; and Clearfield, UT. Restricted to traffic originating at or destined to the facilities of Leggett & Platt, Inc. or its affiliates. Supporting shipper: Leggett & Platt, Inc., P.O. Box 757, Carthage, MO 64836.

THE FOLLOWING APPLICATIONS WERE FILED IN REGION 6. SEND PROTESTS TO: INTERSTATE COMMERCE COMMISSION REGION 6 MOTOR CARRIER BOARD P.O. BOX 7413 SAN FRANCISCO, CA 9412.

MC 145034 (Sub-6-1TA), filed November 3, 1980. Applicant: SKY TRUCKING CO., 2163 Hancock, San Diego, CA 92110. Representative: Milton W. Flack, 8383 Wilshire Blvd., Beverly Hills, CA 90211. *General commodities* (except classes A and B explosives, commodities in bulk, commodities requiring special equipment, and articles

of unusual value) between points in Los Angeles, CA, and its Commercial Zone, Vista, CO 81144; Malouff's High Valley Paving Co., P.O. Box 120, Alamosa, CO

MC 107839 (Sub-6-4TA), filed November 3, 1980. Applicant: DENVER-

75266. John MacDonald Smith, 813 Southern Pacific Building, One Market

Supporting shipper: Canadian Wheel Industries, Ltd., 16825 111th Ave.,

and *Wood Products*, between points in the U.S., except AK and HI, for 270 days.

of unusual value) between points in Los Angeles, CA, and its Commercial Zone, restricted to the transportation of traffic having a prior or subsequent movement by water, for 270 days. Supporting shipper: Sea-Land Service, Inc., 669 Panorama Dr., Long Beach, CA 90801.

MC 141804 (Sub-6-92TA), filed November 3, 1980. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). *General Commodities* (except commodities in bulk, A & B explosives and those commodities requiring special equipment), from all points in the U.S. (except AK & HI) to the facilities of Lash-Tamaron Distributors/Division of Toys "R" Us in Compton and San Jose, CA; Kent, WA; Dallas and Houston, TX and their respective commercial zones, for 270 days. Supporting shipper: Lash-Tamaron Distributors, Division of Toys "R" Us, 395 W. Passaic, Rochelle Park, NJ 07662.

MC 152481 (Sub-6-1TA), filed November 4, 1980. Applicant: FUR BREEDERS AGRICULTURAL COOPERATIVE, P.O. Box 295, Midvale, UT 84047. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. *Contract carrier,* irregular routes: *Chemicals,* from points in CA, and Chicago Heights, IL, Woodstock, TN, Syracuse, NY, Chester, PA, Lawrence, KS, and Houston, TX to points in ID, NV, UT, and WY under a continuing contract with Van Waters & Rogers, a Division of Univar, for 270 days. Supporting shipper: Van Waters & Rogers, 650 West 8th South, Salt Lake City, UT 84104. The Applicant has filed an ETA seeking up to 120 days of authority.

MC 58166 (Sub-6-1TA), filed November 4, 1980. Applicant: GIBSON TRUCK LINES, La Jara, CO 81140. Representative: Nancy P. Bigbee, 1125 University Building, 910 Sixteenth Street, Denver, CO 80202. *General Commodities,* between points in Maricopa County, AZ; Santa Barbara and San Bernardino Counties, CA; Gallatin, Lewis and Clark, Missoula, and Yellowstone Counties, MT; Bernalillo, Colfax, Rio Arriba, Sandoval, San Juan, Santa Fe, Socorro, and Taos Counties, NM; Dallas County, TX; Salt Lake and Tooele Counties, UT; Carbon, Laramie, Natrona, and Sweetwater Counties, WY; and CO for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Southwest Distributors, Inc., 222 S. Date, Mesa, AZ 85201; Utah Salt Co., 1935 S. Main St., Salt Lake City, UT 84115; Quality Feed Service, Inc., 9186 S. Road 4 East, Monte Vista, CO 81144; Malouff's High Valley Paving Co., P.O. Box 120, Alamosa, CO 81101.

MC 135904 (Sub-6-2TA), filed November 3, 1980. Applicant: ALLTRANS LTD., 4878 Manor Street, Burnaby, BC, Canada, V5G 1B3. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. *Gas pipeline valves* between points on the international boundary line between the United States and Canada in WA on the one hand, and, on the other, Oakland, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Foothills Pipelines (Yukon) Ltd. 1600–205 Fifth Avenue SW, Calgary, Alberta, Canada T2P 2V7.

MC 152463 (Sub-6-1TA), filed November 3, 1980. Applicant: H & S TRUCKING, INC., 5119 South 302nd Place, Auburn, WA 98002. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. *General commodities* (excluding Class A&B explosives), restricted to shipments having a prior or subsequent movement by water, between points in the commercial zones of Seattle, Longview, Tacoma, and Bellingham, WA, Portland, Salem, Medford and Eugene, OR for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Bardahl Mfg. Inc., 4100 NW 52nd, Seattle, WA; Cedar Brook Mill and Tank, 12883 Northrup Way, Bellevue, WA; and Transwest Timber, Inc., 3196 Alki Avenue SW, Seattle, WA 98116.

MC 125650 (Sub-6-1), filed October 31, 1980. Applicant: MOUNTAIN PACIFIC TRUCKING CORPORATION, Route #2, Missoula, MT 59801. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. *Beverages in containers, except in bulk,* from point in MT to points in ID, OR, UT and WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Beverage Distributors, Inc., 2010 S. 3rd W. Missoula, MT 59801.

MC 148791 (Sub-6-6TA), filed October 30, 1980. Applicant: TRANSPORT-WEST, INC., 2125 N. Redwood Rd., Salt Lake City, UT 84116. Representative: William S. Richards, P.O.B. 2465, Salt Lake City, UT 84110. *Contract carrier,* Irregular routes: *Commodities as are dealt in or used by wholesale, discount and retail department, discount or variety stores,* from Ontario, CA and its commercial zone, to points in NV and AZ, for the account of K-Mart Corporation, for 270 days per Ex Parte MC-67 (Sub-9). Supporting shipper: K-Mart Corporation, 3100 W. Big Beaver Rd., Troy, MI 48084.

MC 107839 (Sub-6-4TA), filed November 3, 1980. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 2121 East 67th Avenue, Denver, CO 80216. Representative: David E. Driggers, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions to Motor Carriers Certificates, 61 MCC 209 and 766, from the facilities of Iowa Beef Processors, Inc., at or near Holcomb, KS to points in AL, FL, GA, MS, NC, SC and TN, for 270 days. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, NE.

MC 147012 (Sub-6-3TA), filed October 29, 1980. Applicant: T.B.T., INC., P.O. Box 8472, Stockton, CA 95208. Representative: Mark J. Hannon, 1884 West Willow Street, Stockton, CA 95203. *Contract carrier:* Irregular routes: (1) Prefabricated sheet metal ducting, from Stockton, CA to various points in OR, WA, ID, NV and AZ, for the account of United Sheet Metal, Division United McGill Corporation; for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: United Sheet Metal, Division United McGill Corporation, 1747 East Charter Way, Stockton, CA.

MC 111434 (Sub-6-2TA), filed November 3, 1980. Applicant: DON WARD, INC., 241 West 56th Ave., Denver, CO 80216. Representative: Steven E. Napper, 718—17th Street, Suite 1700, Denver, CO 80202. *Contract carrier,* Irregular routes: *Soda Ash,* from the Stauffer Chemical Plant located at Green River, WY, to the Public Service Company, San Juan Generating Station near Farmington, NM for the account of Public Service Company of NM, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Public Service Company of NM, 414 Silver Avenue, S.W., Albuquerque, NM 87102.

MC 145999 (Sub-6-6TA), filed November 5, 1980. Applicant: WESTERN DRYWALL TRANSPORT, INC., d.b.a. WESTERN DIRECT TRANSPORT, 2001 Broadway, Vallejo, CA 94590. Representative: Norman A. Sorensen (same address as applicant). *Drywall Joint Treatment and Texturing Compounds,* from Orange, CA to points in AZ, for 270 days. Supporting shipper: Hamilton Materials, Inc., 345 Meats Ave., Orange, CA 92665.

MC 152491 (Sub-6-1TA), filed November 3, 1980. Applicant: LOUIS HELLER, INC., P.O. Box 990, Burlingame, CA 94010. Representatives: Lloyd M. Roach, P.O. Box 226187, Dallas, TX 75266. John MacDonald Smith, 813 Southern Pacific Building, One Market Plaza, San Francisco, CA 94105. *Contract carrier,* irregular routes, *general commodities* (except household goods, as defined by the Commission, and Classes A and B explosives): Between points and places on the line of the St. Louis Southwestern Railway Co. in NM, OK, KS, TX, and MO, on the one hand, and, on the other hand, points in the U.S., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: St. Louis Southwestern Railway Co., Southern Pacific Building, One Market Plaza, San Francisco, CA 94105.

MC 1515 (Sub-6-7TA), filed November 5, 1980. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: R. L. Wilson (same address as applicant). *Common carrier,* regular routes, *passengers and their baggage and express and newspapers, in the same vehicle with passengers,* between (1) Oneonta, NY and the New York State Thruway at Exit 19 and (2) Cobleskill, NY and the New York State Thruway at Exit 21. For 270 days. An underlying ETA seeks 120 days authority. Applicant intends to tack with existing authority. Supporting shipper: There are 12 supporting shippers. Their statements may be examined at the Regional Office listed.

MC 152521 (Sub-6-1TA), filed November 4, 1980. Applicant: FORTRANS, INC., 2892 Foothill Blvd., Oroville, CA 95965. Representative: David P. Christianson, 707 Wilshire Blvd., Suite 1800, Los Angeles, CA 90017. Building materials, between CA, OR, WA, MT, ID, NV, AZ, UT, WY, CO, NM, TX, OK, KS, NE, AR, TN, IL, IN, MI, and OH, for 270 days. There are 7 supporting shippers. Their statements of support may be examined at the Regional Office listed.

MC 124735 (Sub-6-4TA), filed November 6, 1980. Applicant: R. C. KERCHEVAL, JR., 2214 4th S., Seattle, WA 98134. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier,* irregular routes: *Parts of mobile homes and utility trailers, automotive springs, suspensions and parts thereof, brake drums, brake assemblies and parts thereof, tailgate hoists and parts thereof, wheels and wheel attaching parts, and parts for motor vehicle chassis and motor vehicle undercarriage,* from points in IL, IN, IA, MO, MI, OH, WI to ports of entry on the U.S.-Canada International Boundary line in ID & WA, restricted to traffic moving in foreign commerce, for 270 days.

Supporting shipper: Canadian Wheel Industries, Ltd., 16825 111th Ave., Edmonton, Alberta, Canada.

MC 115523 (Sub-6-7TA), filed October 31, 1980. Applicant: CLARK TANK LINES COMPANY, 1450 No. Beck Street, Salt Lake City, Utah 84110. Representative: Melvin J. Whitear (same address as applicant). *Petroleum and Petroleum Products in Bulk,* between points in AZ, CO, ID, NV, NM, UT and WY for 270 days. Supporting shipper: H. S. Sowards & Sons, Inc., Vernal, Utah 84078.

MC 148184 (Sub-6-2TA), filed November 4, 1980. Applicant: SUMMIT TRUCK LINES, INC., 743 Appleway, Coeur d'Alene, ID 83814. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. *Advertising matter, magazines, periodicals and equipment, materials and supplies used in the printing and publishing business,* between Canton, OH on the one hand, and, on the other, points in and west of WI, IL, AR and LA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Danner Press Corporation, 1250 Camden Ave. S.W., Canton, OH 44711.

MC 135989 (Sub-6-4TA), filed November 6, 1980. Applicant: COAST EXPRESS, INC., 14280 Monte Vista Ave., Chino, CA 91710. Representative: William J. Lippman, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209. *Contract carrier,* irregular routes: *Petroleum products (except in bulk);* From Bradford and Petrolia, PA to points in AZ, CA, ID, NV, UT, MT, NM, and WA under continuing contract(s) with Kendall/Amalie and Sonneborn Divisions, Witco Chemical Corporation, for 270 days. Supporting shipper: Kendall/Amalie and Sonneborn Divisions, Witco Chemical Corporation, 77 North Kendall Ave., Bradford, PA 16701.

MC 152461 (Sub-6-1TA), filed November 6, 1980. Applicant: R. TOM SHEARER, d.b.a. SHEARER TRUCKING, 1905 Taft Avenue, Bremerton, WA 98310. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. *Mine ore and flue dust* from Butte, MT and Stanley, ID to Pierce County, WA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Precious Metal Expeditors, Inc., 13010 Northrup Way, Bellevue, WA 98005.

MC 152534 (Sub-6-1TA), filed November 6, 1980. Applicant: CALIFORNIA/AMERICAN TRUCKING, INC., P.O. Box 288, Grenada, CA 96038. Representative: Guy D. Dodge (same address as applicant). *Contract carrier:* irregular routes: *Lumber Mill Products* and *Wood Products,* between points in the U.S., except AK and HI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Hampton Lumber Sales Company, 400 Sunset Business Park, 9400 S.W. Barnes Road, Portland, OR 97225.

MC 124679 (Sub-6-34TA), filed November 6, 1980. Applicant: C. R. ENGLAND AND SONS, INC., 975 West 2100 S., Salt Lake City, UT 84119. Representative: Robert H. Cannon (same as applicant). *Cleaning compounds, lubricants, chemicals* and *such merchandise as is dealt in by wholesale, retail, variety and grocery stores,* except in bulk between points in the U.S., restricted to traffic originating at or destined to the facilities of the Southland Corporation, its affiliates, subsidiaries and vendors, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Southland Corporation, 5850 West Amelia Earhart Drive, Salt Lake City, UT 84116.

MC 127539 (Sub-6-2TA), filed November 5, 1980. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Ave. E., Tacoma, WA 98424. Representative: Michael D. Duppenthaler, 211 S. Washington St., Seattle, WA 98104. *Drugs, medicines and toilet preparations; plastic articles; beverages; dessert preparations and foodstuffs; health and beauty products and their equipment; washing, cleaning and scouring compounds; mops and brooms,* between the Seattle, WA commercial zone on the one hand, and, on the other, the Portland, OR commercial zone, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Bristol-Myers Company, 345 Park Ave., New York, NY 10022.

MC 133270 (Sub-6-1TA), filed November 3, 1980. Applicant: OREGON FOOD EXPRESS, INC., P.O. Box 17170, Portland, OR 97217. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201. *Foodstuffs* and such commodities as are dealt in by grocery and food business houses, in mechanically refrigerated equipment, from Portland and McMinnville, OR, to Spokane, WA, for 270 days. Supporting shipper(s): Swift and Company, 115 West Jackson Blvd., Chicago, IL 60604 and Interstate meat Dist., Inc., P.O. Box 298, Clackamas, OR 97015. Underlying ETA seeks 120 days' authority.

MC 63652 (Sub-6-12TA), filed November 4, 1980. Applicant: BN TRANSPORT INC., P.O. Box 22694—Wellshire Station, Denver, CO 80222. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50307.

(1) *Spices, seasonings, flavorings, mustard and mustard products* and (2) *machinery, equipment, lumber, aluminum and aluminum products used*

Portland, OR Supporting shipper: There are nine shippers. Their statements may

(same address as applicant). *Contract Carrier,* Irregular routes: *General*

shippers: There are five (5) shippers supporting the application. Their

Common carrier, regular routes, *passengers and their baggage and*

(1) *Spices, seasonings, flavorings, mustard and mustard products* and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distrubution of the commodities named in (1) above between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities utilized by The Baltimore Spice Company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Baltimore Spice Company, POB 5858, Baltimore, MD 21208.

MC 152526 (Sub-6–1TA), filed November 5, 1980. Applicant: PIGGYBACK TRANSPORT, INC., 1355 5th Street, Oakland, CA 94607. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. *General commodities* between points in: San Francisco, Alameda, San Mateo, Santa Clara, Contra Costa, Marin, Sonoma, Mendocino, Lake, Napa, Kings, Santa Cruz, Solano, Yolo, Sacramento, San Joaquin, Stanislaus, Monterey, San Benito, Merced, Madera, Fresno, Tulare, Amador and Kern Counties, CA, for 270 days. Restricted to traffic having a prior or subsequent movement by rail in interstate or foreign commerce. *Supporting shippers:* There are 15 supporting shippers. Their statements may be examined at the regional office listed.

MC 85255 (Sub-6–2TA), filed November 5, 1980. Applicant: PUGET SOUND TRUCK LINES, INC., P.O. Box 24526, Seattle, WA 98124. Representative: James F. Walker, 3720 Airport Way S., Seattle, WA 98134. *Mineral Fiber, Mineral Fiber Products and insulating materials,* Between the U.S. Cypsum Company located in Pierce County, WA and points in OR for 270 days. Supporting shipper: U.S. Gypsum Company, 101 So. Wacker Drive, Chicago, IL 60606.

MC 8758 (Sub-6–1TA), filed November 3, 1980. Applicant: CITIZENS TRANSPORTATION OF CALIFORNIA, INC., 1670 E. Holt Blvd., Ontario, CA 91761. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. *Shipper owned tank truck or trailer vehicles* in or on carrier's special equipment and by towing empty or loaded with water or with chemical compounds for field storage and dispensing: *bridge builders, contractors or graders outfits; electrical equipment and cable; iron or steel towers and parts; knocked down steel buildings or parts thereof; structural steel viz.: racks, frames, angles, beams and reinforcing steel and iron or steel articles used in construction and repair of construction; machinery, equipment, lumber, aluminum and aluminum products used in construction and repair of construction; supplies, materials and equipment used in the manufacture of aluminum building products; and door frames and doors complete, metal store fixtures, clothing display racks and materials used in the manufacture of such commodities* between points and places in AZ, CA, NM, and NV for 270 days. Supporting shipper: There are fourteen shippers. Their statements may be examined at the Regional office listed.

MC 152538 (Sub-6–1TA), filed November 3, 1980. Applicant: AMERICAN STREVELL TRANSPORT, INC., P.O. Box 26587 Salt Lake City, UT 84125. Representative: Eugene D. Anderson, 910 Seventeenth St., N.W., Suite 428, Washington, D.C. 20006. *Hides, green, salted or processed* from Boise, Idaho, and Oakland, Iowa, to points in Colorado, Nebraska, Oregon, and Washington, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Philadelphia Hide Brokerage Corporation, 249 South 24th St., Phila., PA 19103.

MC 7228 (Sub-6–1TA), filed November 3, 1980. Applicant: COAST TRANSPORT, INC., 1906 S.E. 10th Avenue, Portland, OR 97214. Representative: Jerry Cinnera (same as applicant). *Such merchandise as is dealt in by wholesale, retail and chain grocery and food business and materials, supplies and equipment used in the conduct of such businesses,* between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, for 270 days. Supporting shipper: North Pacific Canners & Packers Inc., P.O. Box 02133, Portland, OR 97214.

MC 31307 (Sub-6–1TA), filed November 3, 1980. Applicant: COLUMBIA RIVER TRUCK CO., INC., P.O. Box 1001, Camas, WA 98607. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Ave., Portland, OR 97210. *Common carrier:* regular routes: *General Commodities,* except those of ususual value, classes A and B explosives and household goods, between Home Valley, WA and Bingen, WA: From Home Valley over WA Hwy 14 to Bingen, and return over the same route, serving all intermediate points and off-route points of White Salmon and Lyle, WA; those in Klickitat County, WA west of the Klickitat River; and, those in Skamania County south of 46° N. latitude, for 270 days. Applicant proposes to tack with MC–31307 and subs and MC–F–13770F at Home Valley, WA; and proposes to interline with existing carriers at Portland, OR Supporting shipper: There are nine shippers. Their statements may be examined at the Regional office listed.

MC 732 (Sub-6–3TA), filed November 3, 1980. Applicant: ALBINA TRANSFER CO., INC., 4320 N. Suttle Rd., Portland, OR 97217. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. *Roofing* and *roofing materials,* (1) from Portland, OR to San Leandro, CA: and, (2) from Santa Clara, CA to points in OR and WA, for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Owens-Corning Fiberglas, 3750 N.W. Yeon, Portland, OR.

MC 139906 (Sub-6–46TA), filed November 3, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. *Foodstuffs canned or preserved and dry cereal,* from Canajoharie, NY, to points in TX for 270 days. Supporting shipper: Beech-Nut Foods Corporation, 2 Church Street, Canajoharie, NY 13317.

MC 134820 (Sub-6–1TA), filed November 6, 1980. Applicant: R.S. ALBRIGHT, INC., P.O. Box 81025, Seattle WA 98108. Representative: Jim Pitzer, 15 S. Grady Way—Suite 321, Renton, WA 98055. *Contract Carrier,* Irregular routes: *Paper and Paper Products and Equipment, Materials and Supplies used in the manufacture and distribution of Paper and Paper Products,* between WA and OR, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, for 270 days. Supporting shipper: Scott Paper Co., Scott Plaza, Philadelphia, PA 19113.

MC 152600 (Sub-6–1TA), filed November 10, 1980. Applicant: ROMUALD CHMURA d.b.a. ALL CONTINENTS TRAVEL, 5717 North 7th Street, Phoenix, Az. 85014. Representative: Romauld Chumura (same address as applicant). *Passengers with baggage* in same vehicle, Round Trip Charter and special operations from Maricopa County, AZ to Clark County, NV, Orange County, CA, Los Angeles County, CA, San Diego County, CA and return to Maricopa County, AZ, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: There are 7 supporting shippers. Their statements may be reviewed at the Region Office listed above.

MC 152601 (Sub-6–1TA), filed November 10, 1980. Applicant: APPLEGATE DRAYAGE CO., 325 N. 5th St., Sacramento, CA 95814. Representative: Michael T. Applegate

(same address as applicant). *Contract Carrier,* Irregular routes: *General commodities* between Washoe County, NV and Alameda County, CA for the account of Laird's, for 270 days. Supporting shipper: Laird's Business Forms, 345 Coney Island Dr., Sparks, NV.

MC 129414 (Sub-6–1TA), filed November 12, 1980. Applicant: BELL & MOONEY, P.O. Box 925, Gillette, WY 82716. Representative: Steven K. Kuhlmann, 2600 Energy Center, 717 17th St., Denver, CO 80202. *Petroleum and petroleum products,* between Scottsbluff, NE on the one hand, and, on the other, Gillette, WY, for 270 days. Supporting shipper: Farmers Co-operative Association of Gillette, Wy, P.O. Box 3001, Gillette, WY 82716.

MC 152584 (Sub-6–1TA), filed November 3, 1980. Applicant: BOWER TRANSPORTATION SERVICES, INC., P.O. Box 609, Vancouver, WA 98666. Representative: Jerry R. Woods, Suite 1600, One Main Place, 101 SW Main Street, Portland, OR 97204. *Contract carrier:* Irregular routes: *ceiling systems, insulation products, wallboard, and equipment, materials, and supplies used in the installation thereof (except commodities in bulk)* from Seattle, WA to points in OR, under continuing contracts with Armstrong World Industries, Inc., for 270 days. Supporting shipper: Armstrong World Industries, Inc., P.O. Box 3001, Lancaster, PA 17604.

MC 152238 (Sub-6–2TA), filed November 10, 1980. Applicant: CALIFORNIA-AMERICAN TRUCKING, INC., P.O. Box 288, Grenada, CA 96038. Representative: Guy D. Dodge (same as applicant). *(1) Roofing materials, (2) asbestos cement pipe, (3) plastic pipe,* (1) from Contra Costa County, CA to points in OR, WA, ID, UT, NV and AZ, (2) from San Joaquin County, CA to points in OR, WA, ID, UT, NV and AZ, (3) from Umatilla County, OR to points in CA, OR and WA, for 270 days. Supporting shipper: C. Adler, RTM, Johns-Manville Sales Corporation, 2600 Campus Dr., San Mateo, CA 94403.

MC 144951 (Sub-6–1TA), filed November 10, 1980. Applicant: RAYMOND G. AND BARBARA A. CEBULSKI, d.b.a. CEBULSKI TRUCKING, P.O. Box 103, Seeley Lake, MT 59868. Representative: John R. Davidson, Room 805—First Bank Building, Billings, MT 59101. *Lumber and wood products* from Missoula County, MT to points in the states of AZ, AR, CA, CO, ID, IL, IA, KS, MN, MO, NE, NV, ND, NM, OK, OR, SD, TX, UT, WA, WI, and WY, for 270 days. Restricted against the transporting of traffic originating at Missoula, MT. Supporting shippers: There are five (5) shippers supporting the application. Their statements may be examined at the Regional Office listed.

MC 140943 (Sub-6–1TA), filed November 6, 1980. Applicant: CHEYENNE ROAD TRANSPORT, LTD., 232 38th Ave., N.E., Calgary, Alberta, Canada T2E 2M2. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. *Lumber, lumber mill products, and wood products* from CA, OR, and WA to points along the international boundary line between the U.S. and Canada in WA, ID, MT, and ND, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: There are 8 shippers. Their statements of support may be examined at the Regional Office listed.

MC 152611 (Sub-6–1TA), filed November 10, 1980. Applicant: DANIEL P. DUKES, d.b.a. DAN DUKES TRUCKING, 6541 Sutter Ave., Carmichael, CA 95608. Representative: Donald R. Hedrick, Post Office Box 88, Norwalk, CA 90650. *Contract Carrier,* Irregular routes: *Lumber; and, wood products,* between Long Beach, CA and its commercial zone on the one hand, and, on the other, points in OR, WA, and ID, for the account of National Plywood Incorporated, for 270 days. Supporting shipper: National Plywood Incorporated, 2807 El Presidio, Long Beach, CA. 90810.

MC 152549 (Sub-6–1TA), filed November 7, 1980. Applicant: BOB GARCIA, d.b.a. B. GARCIA TRUCKING, 16234 Mallory Drive, Fontana, CA 92335. Representative: Donald R. Hedrick, Post Office Box 88, Norwalk, CA 90650. *Contract Carrier,* Irregular routes: *Aluminum ingots and scrap aluminum, having a subsequent movement by water,* from Fontana, CA to Los Angeles, CA and its commercial zone, for the account of U.S. Reduction Company, for 270 days. Supporting shipper: U.S. Reduction Company, 11600 Etiwanda Ave., Fontana, CA 92325.

MC 152242 (Sub-6–1TA), filed November 10, 1980. Applicant: STEVE W. GLEASON, 620 W. Market St., Aberdeen, WA 98520. Representative: Steve W. Gleason (same address as applicant). *Contract Carrier,* Irregular routes: *Liquid Sugar,* between Salem, OR and Olympia, WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Columbia Beverage Inc., P.O. Box 7545, Olympia, WA 98507.

MC 1515 (Sub-6–8TA), filed November 12, 1980. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: P. L. Wilson (same address as applicant). *Common carrier,* regular routes, *passengers and their baggage and express and newspapers,* in the same vehicle with passengers, between the junction of MI Hwy 3 and MI Hwy 59 near Mt. Clemens, MI, and the junction of MI Hwy 59 and Interstate Hwy 96 near Howell, MI: From the junction of MI Hwy 3 and MI Hwy 59 over MI Hwy 59 to junction Interstate Hwy 96 and return over the same route, serving all intermediate points for 270 days. Condition: This authority shall be of no further force and effect upon termination of the carrier's contract with the state of Michigan, Department of State Highways and Transportation. Supporting shipper: Michigan Department of Transportation, Bureau of Urban and Public Transportation, Intercity Division, 425 West Ottawa St., Lansing, MI 48909.

MC 110754 (Sub-6–1TA), filed November 10, 1980. Applicant: REX HARRIS, INC., Star Route 36, Box 80, Havre, MT 59501. Representative: Robert R. Harris (same as applicant). *Oilfield equipment* in all counties in ND west of and including: Emmons, Burleigh, Sheradin, Pierce and Rollette counties for 270 days. There are six supporting shippers. Their statements may be examined at the Regional Office listed.

MC 148979 (Sub-6–1TA), filed November 10, 1980. Applicant: ROBERT JOHN ENTERPRISES, INC. d.b.a. PACIFIC TRANSPORT CO., 24500 S. Vermont Ave., Harbor City, CA 90710. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Iron or steel articles,* (1) Between CO, NE, NM, TX, and UT, and (2) between AZ, CA, and NV, on the one hand, and, on the other, CO, NE, NM, TX, and UT, for 270 days. Supporting shipper: Crest Steel Corp., and Marcrest Pacific Co., Inc., 24724 S. Wilmington Ave., Wilmington, CA 90744.

MC 52298 (Sub-6–1TA), filed November 4, 1980. Applicant: KARST'S STAGE, 511 North Wallace, Bozeman, MT 59715. Representative: Richard Vollmer (same as applicant). *Passengers and their baggage and personal effects/equipment,* in same vehicle, in charter service, beginning and ending in Lewis & Clark County, MT to all points in the U.S. and/or the international boundary lines between the U.S., Canada, and Mexico for 270 days. Applicant intends to tack. Supporting shipper: Helena Senior Citizens, 201 South Main, Helena MT 59601.

MC 124735 (Sub-6–5TA), filed November 4, 1980. Applicant: R. C. KERCHEVAL, JR., 2214 4th So., Seattle, WA 98134. Representative: George R.

LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier,* Irregular routes: *Paper and Paper Products and Equipment, Materials and Supplies used in the manufacture and distribution of Paper and Paper Products,* between Ambridge, PA and points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, for 270 days. Supporting shipper: Scott Paper Co., Scott Plaza, Philadelphia, PA 19113.

MC 152602 (Sub-6–1TA), filed November 10, 1980. Applicant: ROBERT L. BOWMAN, d.b.a. BOWMAN TRUCKING, 1000 Bowman Rd., Modesto, CA 95351. Representative: Robert L. Bowman (same address as applicant). *Contract Carrier,* Irregular routes: *Lumber and wood products,* between Modesto, CA and its commercial zone on the one hand, and, on the other, points in OR, WA, and ID, for the account of National Plywood Incorporated, for 270 days. Supporting shipper: National Plywood Incorporated, 2807 El Presidio, Long Beach, CA. 90810.

MC 152603 (Sub-6–1TA), filed November 10, 1980. Applicant: ROBERT L. BOWMAN, d.b.a. BOWMAN TRUCKING, 1000 Bowman Rd., Modesto, CA 95351. Representative: Robert L. Bowman (same address as applicant). *Contract Carrier,* Irregular routes: *Lumber and wood products,* between Modesto, CA and its commercial zone on the one hand, and, on the other, points in OR, WA, and ID, for the account of Boise Cascade Corporation, for 270 days. Supporting shipper: Boise Cascade Corporation, P.O. Box 2906, Boise, ID 83703.

MC 152604 (Sub-6–1TA), filed November 10, 1980. Applicant: ROBERT L. BOWMAN, d.b.a. BOWMAN TRUCKING, 1000 Bowman Rd., Modesto, CA 95351. Representative: Robert L. Bowman (same address as applicant). *Contract Carrier,* Irregular routes: *Lumber and wood products,* between Modesto, CA and its commercial zone on the one hand, and, on the other, points in OR, WA, and ID, for the account of Trailer Express, Inc., P.O. Box 24908, Seattle, WA 98124.

brick, from Provo and Spring City, UT, to Olympia, WA, for 270 days. Representative: Bradford E. Kistler, P.O.B. 82028, Lincoln, NE 68501. *Wood* Federal Register of July 3, 1980, at 45 FR

LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier,* irregular routes: *General commodities (except Class A & B explosives, household goods as defined by the Commission, commodities in bulk, articles of unusual value, commodities which because of their size or weight require the use of special equipment),* from points in the U.S. (excluding AK and HI) to Seattle, WA, and its commercial zone, for 270 days. Supporting shipper: Puget Sound Shippers Assn., Room 220, Sea-Tac International Airport, Riverton Heights Branch, Seattle, WA 98188.

MC 121759 (Sub-6-1TA), filed November 12, 1980. Applicant: KIMKRIS TRUCKING CO., INC., 1101 Wright Avenue, Richmond, CA 94804. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. *Commodities as are dealt in by wholesale, retail and chain grocery and food business houses, and materials, equipment and supplies* utilized in the manufacturing, sale and distribution of such commodities (except commodities in bulk and frozen commodities) between points in Fairfield, San Francisco, Alameda and/or Richmond, CA, for 270 days. An underlying ETA seeks 120 day authority. Supporting shipper: Clorox Company, 1221 Broadway, Oakland, CA 94612.

MC 152554 (Sub-6-1TA), filed November 7, 1980. Applicant: LOBO, INC., 202 94th St., SW, Albuquerque, NM 87112. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, PA 19518. *Packaged petroleum products,* between points in LA, NM, and TX for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Trans-Mountain Oil Co., Inc., P.O.B. 513, Canutillo, TX 79835; Ever Ready Oil Co., Inc., 101 Anderson SE, Albuquerque, NM 87102; Wesley Martin Oil Co., Inc., P.O.B. 1166, Las Cruces, NM 88001.

MC 115648 (Sub-6-1TA), filed November 7, 1980. Applicant: LOCK TRUCKING, INC., P.O. Box 278, Wheatland, WY 82201. Representative: Ward A. White, P.O. Box 568, Cheyenne, WY 82001. *Lumber and lumber products* from points in ID and MT to points in IA, NE and KS for 270 days. Supporting shipper: Edward Hines Lumber Co., P.O. Box 308, Council Bluffs, IA 51502.

MC 142686 (Sub-6-21TA), filed November 7, 1980. Applicant: MID-WESTERN TRANSPORT, INC., 10506 S. Shoemaker Avenue, Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same as applicant). *Contract Carrier,* Irregular Routes: *Prefabricated metals and plastic articles, materials and supplies used in the manufacture thereof,* Between Ambridge, PA, Connorsville, IN, Zelienople, PA, Batayia, OH, Stockton, CA on the one hand, and, between points in the U.S., for 270 days. Supporting shipper: H. H. Robertson Co., Inc., 400 Holiday Drive, P.O. Box 2793, Pittsburgh, PA 15230.

MC 152608 (Sub-6-1TA), filed November 10, 1980. Applicant: NICHOLSON TRUCKING, INC., 1532 S. E. 3d Avenue, Portland, OR 97214. Representative: Paul C. Nicholson (same as applicant). *Contract Carrier:* irregular routes: (1) *Vanities, Tops, Bases and Tubs,* between points in Los Angeles County, CA; Newton County, MO; Mahoning County, OH; and points in the U.S., except AK and HI; (2) *Vehicle Parts, and Materials* used in their manufacture, between Multnomah County, OR and points in the U.S., except AK and HI; (3) *Stone Products, Particleboard, and materials* dealt in by distributors of stone products, between Linn County, OR; Platte County, WY; Missoula County, MT; St. Lawrence County, NY and points in the U.S., except AK and HI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: A. Merril Chaffin, SCS INDUSTRIES, INC., 12836 Arroyo Street, Sylmar, CA 91342; Merv I. Jahn, AMERICAN METAL PRODUCTS COMPANY, 1532 S E 3d Avenue, Portland, OR 97214; John A Mangold, MUSTARD SEED STONE & SUPPLY COMPANY, P.O. Drawer 4406, Orchards, WA 98662.

MC 151312 (Sub-6-4TA), filed November 6, 1980. Applicant: NORTHWEST FREIGHTLINES, INC., East 604 Montgomery Ave., Spokane, WA 99207. Representative: Donald A. Ericson, 708 Old National Bank Bldg., Spokane, WA 99201. *Contract Carrier: Irregular Routes: Used brick,* from points in MT, to points in CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers(s): Jensen Brick Company, P.O. Box 165, Clarkston, UT 84305.

MC 127539 (Sub-6-3TA), filed November 6, 1980. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Avenue, E. Tacoma, WA 98424. Representative: Michael D. Duppenthaler, 211 S. Washington Street, Seattle, WA 98104. *General commodities (except those of unusual value, Class A and B explosives, and commodities in bulk),* between points in the commercial zone of Seattle, WA on the one hand, and, on the other, points in CA, OR, WA, ID, UT, NV and AZ. Restricted to traffic having a prior or subsequent movement by water for 270 days. Supporting shipper: Totem Ocean Trailer Express, Inc., P.O. Box 24908, Seattle, WA 98124.

MC 140163 (Sub-6-1TA), filed November 10, 1980. Applicant: POST & SONS TRANSFER, INC., 2326 Milwaukee Road, Tacoma, WA 98421. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Lumber, wood products, roofing and insulation materials,* between points in CA, on the one hand, and points in OR and WA, on the other hand, for 270 days. There are 6 supporting shippers. Their statements may be examined at the Regional Office listed.

MC 152610 (Sub-6-1TA), filed November 10, 1980. Applicant: RAVEN DISTRIBUTORS, INC., 6705 E. Marginal Way S., Seattle, WA 98108. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055. *Contract carrier,* irregular routes. *Foodstuffs, frozen or dry, and restaurant and institutional food products, materials and supplies* between points in WA, OR, ID and CA. (Representative points, Seattle, Spokane, WA; Portland, Salem, OR; Boise, ID; Bay Area, Modesto, Fresno and Los Angeles, CA) for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Miller-Cascade, Inc., 4500 4th Ave. S., Seattle, WA 98108.

MC 152548 (Sub-6-1TA), filed November 7, 1980. Applicant: S & J WATERBEDS, INC., 3863 Valley View, Suite No. 6, Las Vegas, NV 89103. Representative: Sam Licitra, 4650 Koval Lane, Apt. 13-A, Las Vegas, NV 89109. *Common carrier,* regular routes. *General commodities,* to and from points in Las Vegas, Nevada and Los Angeles, California, for 270 days, using I-5, I-10, I-15, I-405, I-605; Routes 57, 60 and 91. Supporting shipper: Bucatti Enterprises Corp., 3863 Valley View, Suite No. 5, Las Vegas, NV 89103.

MC 124692 (Sub-6-24TA), filed November 6, 1980. Applicant: SAMMONS TRUCKING, P.O. 4347, Missoula, MO 59806. Representative: James B. Hovland, Suite M-20, 400 Marquette Ave., Minneapolis, MN 55401. *Lumber,* from points in Douglas county, NV to points in UT, WY, CO, AZ, NM, NE, AZ, OK, TX, MI, AR, WI, IL, IA, MO, IN, KY and OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: P.S.F., Inc., Box 739, Fair Oaks, CA, 95628.

MC 95920 (Sub-6-7TA), filed November 7, 1980. Applicant: SANTRY TRUCKING CO., 10505 N.E. 2d Avenue, Portland, OR 97211. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier:* irregular routes. *Fuel brick,* from Provo and Spring City, UT, to Olympia, WA, for 270 days. Supporting shipper: I. & B. Coal Sales, 5131 59th Court S.W., Olympia, WA 98502.

MC 152609 (Sub-6-1TA), filed November 10, 1980. Applicant: SHIPPERS FREIGHT SERVICES, INC., 6129 S.E. 47th, Portland, OR 97206. Representative: Lynn Murray, 4910 S.W. Red Wing Way, Lake Oswego, OR 97034. *Contract carrier,* irregular routes; *general commodities (except household goods),* between points in the U.S. for 270 days. Supporting shipper: General Products Manufacturing, Inc., Wilsonville, OR 97070.

MC 99463 (Sub-6-1TA), filed November 6, 1980. Applicant: SHIMA TRANSFER CO., 74 Mission Rock Street, San Francisco, CA 94107. Representative: Hiko Shimamoto (same as applicant). *General commodities* except used household goods, vehicles, livestock, commodities in bulk, commodities requiring specialized equipment, cement, logs, and commodities of unusal or extraordinary value between points in Marin, Sonoma, Napa, Yolo, and Solano counties, CA, for 270 days. Supporting shipper: Clipper Exxpress Company, 3871 San Pablo Ave., Emeryville, CA 94608.

MC 138875 (Sub-6-30TA), filed November 6, 1980. Applicant: SHOEMAKER TRUCKING CO., 11900 Franklin Road, Boise, ID 83709. Representative: Patricia A. Russell (same as applicant). *Paper and paper products and materials, equipment and supplies used in the manufacture and distribution thereof* (except commodities in bulk), between points in CA, WA and OR, on the one hand, and, on the other, all points in the states of AZ, CA, CO, ID, MT, NV, OR, UT, WA and WY, for 270 days. Supporting shipper(s): Scott Paper Company, Scott Plaza II, Philadelphia, PA 19113.

MC 150318 (Sub-6-2TA), filed November 12, 1980. Applicant: TAYLOR WAREHOUSE & TRUCKING CO., INC., 14615 Anson Ave., Santa Fe Springs, CA 90670. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. *Contract carrier,* Irregular routes: *Plastic bags and plastic film,* from Greensburg, IN, to City of Commerce, CA, for the account of Crown Zellerbach, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Crown Zellerbach, 5900 Sheila, City of Commerce, CA 90040.

MC 26396 (Sub-6-53TA), filed November 7, 1980. Applicant: THE WAGGONERS TRUCKING, P.O.B. 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O.B. 82028, Lincoln, NE 68501. *Wood molding and lumber,* from points in CA and OR to points in the U.S. (except AK and HI), for 270 days. Supporting shippers: Eagle Forest Products, P.O.B. 26264, Sacramento, CA 95826.

MC 123329 (Sub-6-7TA), filed November 10, 1980. Applicant: H. M. TRIMBLE & SONS LTD., P.O. Box 3500, Calgary, Alberta T2P 2P9. Representative: D. S. Vincent, P.O. Box 3500, Calgary, Alberta T2P 2P9. *Potassium in bulk,* From ports of entry on the US/Canada International Boundary Line located at Portal, KD to St. Clair County, MI, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Morton Salt Division of Morton-Norwich Products Inc., 110 North Wacher Drive, Chicago, IL 60606.

MC 152077 (Sub-6-1TA), filed November 3, 1980. Applicant: JACK C. CARPENTER AND BETH C. HANSON, d.b.a. TUDOR WAREHOUSE CO., 920 Tudor Road, Yuba City, CA 95991. Representative: Marshall G. Berol, 601 California St., Suite 1900, San Francisco, CA 94108. *Contract carrier,* Irregular route, *fertilizer,* between points in AZ, CA, ID, NV, OR, UT, WA for 270 days. Supporting shipper: Pacific Agri Chem, Inc., 1850 N. Gateway Blvd., Suite 134, Fresno, CA 93717.

MC 152607 (Sub-6-1TA), filed November 10, 1980. Applicant: KARL ARTHUR WEBER, P.O.B. 21142, Phoenix, AZ 85036. Representative: David Earl Tinker, 1000 Connecticut Avenue, NW., Suite 12, Washington, D.C. 20036. *Contract carrier,* Irregular Routes: *Building materials and equipement and lumber,* between points in AZ, NV, and TX, on the one hand, and points in CA, CO, ID, NM, OR, OK, UT and WA on the other, for 270 day. An underlying ETA seeks 120 days authority. Supporting shippers: Dallas Wholesale Builders Supply, 627 E. 15th St., Dallas, TX 75203; United Wholesale Distributors, 5150 Tom Murray Ave., Glendale, AZ 85301; Bath Lumber Co., P.O.B. 1290, Ely, NV 89301.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-36610 Filed 11-24-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45530.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before January 9, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. On or before January 26, 1981, an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1-075

Decided: Nov. 14, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

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MC 200 (Sub-511F), filed November 7, 1980. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 100, 215 W. Pershing Road, Kansas City, MO 64141. Representative: H. Lynn Davis (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., restricted to traffic originating at or destined to the facilities used by Morse Electro Products, its affiliates, suppliers, or vendors.

MC 531 (Sub-453F), filed November 3, 1980. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). Transporting *alcohol*, from Muscatine, IA, to points in the U.S.

MC 11220 (Sub-225F), filed November 5, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38191. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Transporting (1) *paper, paper products, plastic, plastic articles, and wood pulp*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk), between points in AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, OH, OK, PA, TN, TX, WV, AND WI, restricted to traffic originating at or destined to the facilities used by International Paper Company.

MC 63871 (Sub-8F), filed November 4, 1980. Applicant: ANDREWS & PIERCE, INC., 1431 Bedford St., North Abington, MA 02351.Representative: Joseph M. Klements, 84 State St., Boston, MA 02109. Transporting (1) *such commodities* as are dealt in by grocery and food business houses, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) between points in MA, NH, and ME.

MC 65491 (Sub-14F), filed October 31, 1980. Applicant: GEORGE W. BROWN, INC., 1475 East 222nd Street, Bronx, NY 10469. Representative: William Biederman, 371 Seventh Ave., New York, NY 10001. Transporting *iron and steel articles*, between Milford, CT, and Sharon, PA.

MC 68860 (Sub-52F), filed November 6, 1980. Applicant: RUSSELL TRANSFER, INC. 5259 Aviation Drive, NW, Roanoke, VA 24012. Representative: Liniel G. Gregory, Jr. (same address as applicant). Transporting (1) *malt beverages*, in glass or metal containers (except those requiring special equipment), and (2) *empty glass or metal containers* (except those requiring special equipment), from the facilities of the Stroh Brewery Company at (a) Detroit, MI and (b) Perrysburg, OH, to points in NC, SC, VA, GA, WV, NJ, PA, MD, DC, and OH.

MC 84450 (Sub-5F), filed November 3, 1980. Applicant: S.R.T. MOTOR FREIGHT, INC., 1801 South Pennsylvania Ave., Morrisville, PA 19067. Representative: Stephen R. Tranovich (same address as applicant). Transporting (1) *metal articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of metal articles, between Philadelphia, PA, New York, NY, and points in Fairfield County, CT, on the one hand, and, on the other, points in IL, IN, OH, VA, and WV.

MC 85970 (Sub-41F) filed November 6, 1980. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook St., Dyersburg, TN 38024. Representative: Larry Kilzer (same address as applicant). Transporting (1) *cleaning, scouring, washing, buffing and polishing compounds*, and (2) *food products*, from St. Louis, MO, to points in AR, GA, LA, MS, and TN.

MC 91811 (Sub-15F), filed October 31, 1980. Applicant: MILTON K. MORRIS, INC., 3768 Sipler Lane, Huntingdon Valley, PA 19006. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Transporting *meats, meat products, and meat by-products*, between points in the U.S., under continuing contract(s) with Acme Markets, Inc., of Philadelphia, PA.

MC 111231 (Sub-323F), filed November 3, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *building and roofing materials and supplies* (except commodities in bulk), from Stroud, OK, to points in the U.S. (except AK and HI).

MC 111231 (Sub-324F), filed November 3, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting (1) *lumber, lumber products*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Hamilton County, IL, on the one hand, and, on the other, points in KS, MO, OK and TN.

MC 118561 (Sub-21F), filed November 4, 1980. Appliant: HERBERT B. FULLER, d.b.a. FULLER TRANSFER COMPANY, 212 East Street, Maryville, TN 37801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting *such commodities* as are dealt in or used by grocery and food houses, between points in AL, TN, NC, SC, GA, WV, KY, VA, FL, LA, AR, MS, OH, IN, and MO.

MC 118811 (Sub-17F), filed November 3, 1980. Applicant: LAWRENCE McKENZIE TRUCKING SERVICE, INC., Route 5, Winchester, KY 40391. Representative: William L. Willis, Suite 708 McClure Bldg., Frankfort, KY 40601. Transporting (1) *mining and road building equipment*, and (2) *parts and accessories* for the commodities in (1) between points in Bourbon County, KY, on the one hand, and, on the other, points in AL, FL, GA, OH, TN, and TX.

MC 124211 (Sub-361F), filed November 3, 1980. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between the facilities used by the Purex Corporation, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 128521 (Sub-11F), filed November 3, 1980. Applicant: BIRMINGHAM-NASHVILLE EXPRESS, INC., P.O. Box 100417, Nashville, TN 37210. Representative: Robert S. Durrett (same address as applicant). Transporting (1) *alcoholic liquors*, and (2) *materials, equipment, and supplies* used in the manufacture and distrubution of alcoholic liquors (except in bulk, in tank vehicles), between Louisville and Paducah, KY, and Lynchburg, TN, on the one hand, and, on the other, New Orleans, Baton Rouge, Shreveport, and Lake Charles, LA, restricted to traffic originating at or destined to the facilities of Pan-American Import Co., Inc.

MC 129290 (Sub-5F), filed November 6, 1980. Applicant: CHIPPEWA TRANSPORT CO., a corporation, 1500 Pine St., Essexville, MI 48732. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. In foreign commerce only, transporting *cement*, between the facilities of Aetna Cement Corporation, at Essexville, MI, on the one hand, and, on the other, points along the international boundary line between the U.S. and Canada.

MC 135861 (Sub-86), filed October 31, 1980. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Transporting (1) *power transmission machinery and parts and attachments for power transmission machinery*, and (2) *materials equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S., under continuing contract(s) with T. B. Woods Sons Company, of Chambersburg, PA.

MC 141740 (Sub-13F), filed November 6, 1980. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Square D Company of Florence, KY.

MC 142161 (Sub-21F), filed November 3, 1980. Applicant: LIBERTY CONTRACT CARRIER, INC., 214 Hermitage Ave., Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *such commodities* as are dealt in or used by manufacturers of metal products, between points in the U.S., under continuing contract(s) with Cincinnati Sheet Metal and Roofing Company, of Nashville, TN.

MC 143311 (Sub-11F), filed October 28, 1980. Applicant: FAMCO TRANSPORT, INC., 6640 Ellis Ave. South, Seattle, WA 98108. Representative: William J. Albright (same address as applicant). Transporting *alcoholic beverages and fruit juices* (except commodities in bulk), between points in WA and CA.

MC 143411 (Sub-2F), filed October 31, 1980. Applicant: VALLEY CONTRACT CARRIERS, INC., P.O. Box 3479, McAllen, TX 78501. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. Transporting *fruit and vegetable juices and concentrates* (except commodities in bulk), between points in the U.S., under continuing contract(s) with Texsun Corporation, of Weslaco, TX, and Fresh-Pak Foods, Inc., of McAllen, TX.

MC 143760 (Sub-6F), filed November 6, 1980. Applicant: POINTS WEST TRUCKING, INC.,.20727 Santa Clara St., Canyon Country, CA 91351. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. Transporting *textile mill products* and *rubber or miscellaneous plastic products*, as described in Items 22 and 30 of the Standard Transportation Commodity Code Tariff, respectively, between points in the U.S., under continuing contract(s) with Hygiene Industries California, Inc.

MC 146320 (Sub-3F), filed November 7, 1980. Applicant: CHARLES A. STOECKLER, INC., 3 Spring St., Wilkes Barre, PA 18702. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Transporting (1) *paper stationery supplies*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1), between Berwick, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 146820 (Sub-8F), filed November 6, 1980. Applicant: B & G TRUCKING, INC., 579 High St., P.O. Box 581, Worthington, OH 43085. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *stove boards and stove board products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S., under continuing contract(s) with Hearth Products, Inc., of Columbus, OH.

MC 147311 (Sub-3F), filed October 31, 1980. Applicant: T & S TRANSPORTATION, INC., 7420 Ranco Road, P.O. Box 9729, Richmond, VA 23228. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Transporting *such commodities* as are dealt in or used by food business houses (except commodities in bulk), between Richmond, VA, on the one hand, and, on the other, points in the U.S.

MC 149510 (Sub-1F), filed November 3, 1980. Applicant: TOWER LINES, INC., P.O. Box 6010, Wheeling, WV 26003. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Wheeling Stamping Company of Wheeling, WV.

MC 150781 (Sub-1F), filed October 31, 1980. Applicant: JAMES L. GRIGGS, 229 Dorris Drive, Grand Prairie, TX 75051. Representative: William M. Spruce, 350 N. St. Paul St., P.O. Box 2819, Dallas, TX 75221. Transporting *automotive vehicles*, between points in the U.S., under continuing contract(s) with Arco Oil & Gas Company, of Dallas, TX.

MC 152260 (Sub-1F), filed October 31, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Transporting (1) *printed matter*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of printed matter, between points in the U.S. under continuing contract(s) with World Color Press, Inc., of Effingham, IL.

MC 152261 (Sub-1F), filed November 5, 1980. Applicant: M. W. ETTINGER, INC., 2711 Fairview Ave., North, Roseville, MN 55113. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in MN, on the one hand, and, on the other points in the U.S.

MC 152570F, filed November 3, 1980. Applicant: EMPAK TRANSPORTATION COMPANY, 1400 South Harrison, Olathe, KS 66061. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting (1) *chemicals and allied products*, and *petroleum or coal products* as described in Items 28 and 29 of the Standard Transportation Commodity Code Tariff, respectively, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Witco Chemical Corporation of New York, NY, and its subsidiaries.

Volume No. OP1-077

Decided: November 14, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 52460 (Sub-291F), filed November 6, 1980. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. Representative: Don E. Kruizinga (same address as applicant). Transporting *such commodities* as are dealt in by food business houses, between points in AL, AR, CO, FL, GA, KY, IL, IA, KS, LA, MS, MO, NC, NE, NM, OK, TN, TX, and SC.

MC 61440 (Sub-20F), filed October 31 1980. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 NW. 63rd St., Oklahoma City, OK 73116. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. Transporting *general comodities* (except classes A and B explosives, and household goods as defined by the Commission), between the facilities of Columbian Chemical Company at North Bend, LA, on the one hand, and, on the other, points in the U.S.

MC 83430 (Sub-15F), (republication), filed September 26, 1980., previously noticed in the FR issue of October 14, 1980. Applicant: ONEIDA MOTOR FRIEGHT, INC., Commercial Ave.,

Carlstadt, NJ 07072. Representative: William Biederman, 371 Seventh Ave., New York, NY 10001. Transporting *iron and steel articles*, between Milford, CT, and Sharon, PA.

MC 68860 (Sub-52F), filed November 6, 1980. Applicant: RUSSELL TRANSFER, INC. 5259 Aviation Drive, NW, Roanoke, VA 24012. Representative: Liniel G. Gregory, Jr. (same address as applicant). Transporting (1) *malt beverages*, in glass or metal containers (except those requiring special equipment), and (2) *empty glass or metal containers* (except those requiring special equipment), from the facilities of the Stroh Brewery Company at (a) Detroit, MI and (b) Perrysburg, OH, to points in NC, SC, VA, GA, WV, NJ, PA, MD, DC, and OH.

MC 84450 (Sub-5F), filed November 3, 1980. Applicant: S.R.T. MOTOR FREIGHT, INC., 1801 South Pennsylvania Ave., Morrisville, PA 19067. Representative: Stephen R. Tranovich (same address as applicant). Transporting (1) *metal articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of metal articles, between Philadelphia, PA, New York, NY, and points in Fairfield County, CT, on the one hand, and, on the other, points in IL, IN, OH, VA, and WV.

MC 85970 (Sub-41F) filed November 6, 1980. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook St., Dyersburg, TN 38024. Representative: Larry Kilzer (same address as applicant). Transporting (1) *cleaning, scouring, washing, buffing and polishing compounds*, and (2) *food products*, from St. Louis, MO, to points in AR, GA, LA, MS, and TN.

MC 91811 (Sub-15F), filed October 31, 1980. Applicant: MILTON K. MORRIS, INC., 3768 Sipler Lane, Huntingdon Valley, PA 19006. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. Transporting *meats, meat products, and meat by-products*, between points in the U.S., under continuing contract(s) with Acme Markets, Inc., of Philadelphia, PA.

MC 111231 (Sub-323F), filed November 3, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *building and roofing materials and supplies* (except commodities in bulk), from Stroud, OK, to points in the U.S. (except AK and HI).

MC 111231 (Sub-324F), filed November 3, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting (1) *lumber, lumber products*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in Hamilton County, IL, on the one hand, and, on the other, points in KS, MO, OK and TN.

MC 118561 (Sub-21F), filed November 4, 1980. Appliant: HERBERT B. FULLER, d.b.a. FULLER TRANSFER COMPANY, 212 East Street, Maryville, TN 37801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting *such commodities* as are dealt in or used by grocery and food houses, between points in AL, TN, NC, SC, GA, WV, KY, VA, FL, LA, AR, MS, OH, IN, and MO.

MC 118811 (Sub-17F), filed November 3, 1980. Applicant: LAWRENCE McKENZIE TRUCKING SERVICE, INC., Route 5, Winchester, KY 40391. Representative: William L. Willis, Suite 708 McClure Bldg., Frankfort, KY 40601. Transporting (1) *mining and road building equipment*, and (2) *parts and accessories* for the commodities in (1) between points in Bourbon County, KY, on the one hand, and, on the other, points in AL, FL, GA, OH, TN, and TX.

MC 124211 (Sub-361F), filed November 3, 1980. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between the facilities used by the Purex Corporation, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 128521 (Sub-11F), filed November 3, 1980. Applicant: BIRMINGHAM-NASHVILLE EXPRESS, INC., P.O. Box 100417, Nashville, TN 37210. Representative: Robert S. Durrett (same address as applicant). Transporting (1) *alcoholic liquors*, and (2) *materials, equipment, and supplies* used in the manufacture and distrubution of alcoholic liquors (except in bulk, in tank vehicles), between Louisville and Paducah, KY, and Lynchburg, TN, on the one hand, and, on the other, New Orleans, Baton Rouge, Shreveport, and Lake Charles, LA, restricted to traffic originating at or destined to the facilities of Pan-American Import Co., Inc.

MC 129290 (Sub-5F), filed November 6, 1980. Applicant: CHIPPEWA TRANSPORT CO., a corporation, 1500 Pine St., Essexville, MI 48732. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. In foreign commerce only, transporting *cement*, between the facilities of Aetna Cement Corporation, at Essexville, MI, on the one hand, and, on the other, points along the international boundary line between the U.S. and Canada.

MC 135861 (Sub-86), filed October 31, 1980. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Transporting (1) *power transmission machinery and parts and attachments*

Detroit and Muskegon, MI, over Interstate Hwy 96, (18) between South intermediate or off-route points, and (B) *over irregular routes*, between points in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier*

Carlstadt, NJ 07072. Representative: William Biederman, 371 Seventh Ave., New York, NY 10001. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Erie, Warren, McKean, Potter, Tioga, Bradford, Susquehanna and Wayne Counties, PA. on the one hand, and, on the other, Hartford, CT, points in NJ, NY, those in that part of CT on and south of a line beginning at the NY–CT State line, and extending along U.S. Hwy 6 to Sandy Hook, CT, then along CT Hwy 34 to New Haven, CT, and points in Bucks, Philadelphia, Delaware, and North Hampton Counties, PA.

Note—The purpose of this republication is to add NJ, and NY to the territorial description.

MC 106920 (Sub-110F) (republication), filed September 25, 1980, previously noticed in the FR issue October 14, 1980.Applicant: RIGGS FOOD EXPRESS, INC., West Monore St., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washinton, DC 20001. Transporting *salad dressings*, from Columbus, OH, to points in CT, DE, IL, IN, IA, KS, KY, MD, MA, MI, MN, MO, NE, NJ, NY, PA, RI, VA, WI, and DC.

Note.—The purpose of this republication is to indicate the correct designation state as NY in lieu of MY as previously publishes.

MC 109821 (Sub-70F), filed November 4, 1980. Applicant: TAYNTON FREIGHT SYSTEM, INC., 40 Main St., Wellsboro, PA 16901. Representative: Michael R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Transporting *general commodities* except classes A and B explosives, and household goods as defined by the commissions), between points in CT, DE, IN, NY, MD, MA, NJ, NY, OH, PA, RI, VA, WV, and DC.

MC 115331 (Sub-549F), filed October 27, 1980. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 11040 Manchester Rd., St Louis, MO 63122. Transporting *sulphuric acid*, in bulk, from points in LaSalle County, IL, to points in IL, IN, IA, MO, TN, KY, OH, MI and WI.

MC 117730 (Sub-82F), filed November 7, 1980. Applicant: KOUBENEC MOTOR SERVICE, INC., Route #47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 2027, 33 North LaSalle St., Chicago, IL 60602. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, a Division of Swift and Company, of Chicago, IL.

MC 145441 (Sub-122F), filed November 3, 1980. Applicant: A. C. B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as applicant). Transporting *chemicals*, and *materials, equipment and supplies* used in the manufacture of chemicals (except in bulk), between the facilities used by Velsicol Chemical Corporation at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 149570 (Sub-1F), filed November 6, 1980. Applicant: KMD, INC., 18628 72nd Ave. South, Kent, VA 98031. Representative: Rebecca L. Bogard, 2000 IBM Bldg., Seattle, WA 98101. Transporting *petroleum or coal products*, in containers, *rubber or miscellaneous plastic products*, in containers, and *containers, carriers or devices, shipping returned empty* as described in Items (29), (30), and (42) respectively, of the Standard Transportation Commodity Code Tariff, between points in WA, OR, CA, ID, MT, UT, NM, CO, AZ, NV, WY, and TX.

MC 152890 (Sub-1F), filed November 5, 1980. Applicant: MURRAY TRUCKING, INC., P.O. Box 2138, Calcutta, Branch, East Liverpool, OH 43920. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *iron and steel articles*, and (2) *materials, equipment* and *supplies* used in the manufacture of iron and steel articles, between points in Beaver County, PA, on the one hand, and, on the other, those points in and east of MN, IA, MO, AR, and LA.

MC 152430 (Sub-1F), filed November 3, 1980. Applicant: A. J. THOMAS & SON, INC., 840 So. Front St., Coos Bay, OR 97420. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting (1) *paper and paper products*, and (2) *materials, equipment*, and *supplies* used in the manufacture and distribution of paper and paper products, between points in Coos County, OR, on the one hand, and, on the other, points in CA.

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Decided: November 17, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 3151 (Sub-23F), filed November 5, 1980. Applicant: BENDER & LOUDON MOTOR FREIGHT, INC., 3024 Brecksville Road, Richfield, OH 44286. Representative: Rex Eames, 900 Guardian Bldg., Detroit, MI 48226. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), (A) *over regular routes*, (1) between Bay City, MI, and Cincinnati, OH, (a) over Interstate Hwy 75, and (b) from Bay City over Interstate Hwy 75 to junction U.S. Hwy 23, then over U.S. Hwy 23 to junction Interstate Hwy 475, then over Interstate Hwy 475 to junction Interstate Hwy 75, then over Intestate Hwy 75 to Cincinnati, and return over the same route; (2) between Jackson, MI, and Cincinnati, OH, over U.S. Hwy 127, (3) between Clare, MI, and Toledo, OH, from Clare over U.S. Hwy 27 to Lansing, MI, then over U.S. Hwy 127 to junction U.S. Hwy 223, then over U.S. Hwy 223 to Toledo, and return over the same route, (4) between Clare and Bay Cities, MI, over U.S. Hwy 10, (5) between Port Huron and Grand Rapids, MI, over U.S. Hwy 21, (6) between Port Huron and Bay City, MI, from Port Huron over MI Hwy 21 to Emmett, MI, then over MI Hwy 19 to Sandusky, MI, then over MI Hwy 46 to junction MI Hwy 53, then over MI Hwy 53 to Bad Axe, MI, then over MI Hwy 142 to junction MI Hwy 25, then over MI Hwy 25 to Bay City, and return over the same route, (7) between Port Huron, MI, and Hammond, IN, over Interstate Hwy 94, (8) between Hammond, IN, and Conneaut, OH, from Hammond over Interstate Hwy 90 to junction OH Hwy 7, then over OH Hwy 7 to Conneaut, and return over the same route, (9) between Hammond, IN and Youngstown, OH, from Hammond over Interstate Hwy 65 to junction U.S. Hwy 30, then over U.S. Hwy 30 to Canton, OH, then over U.S. Hwy 62 to Youngstown, and return over the same route, (10) between Flint, MI, and Fort Wayne, IN, over Interstate Hwy 69, (11) Grand Rapids, MI, and Fort Wayne, IN, from Grand Rapids over U.S. Hwy 131 to junction IN Hwy 13, then over IN Hwy 13 to junction U.S. Hwy 33, then over U.S. Hwy 33 to Fort Wayne, and return over the same route, (12) between Grand Rapids and Sandusky, MI, from Grand Rapids over U.S. Hwy 131 to junction MI Hwy 46, then over MI Hwy 46 to Sandusky, and return over the same route, (13) between Grand Rapids and Holland, MI, over Intrstate Hwy 196, (14) between Jackson, MI, and junction U.S. Hwys 30 and 31, from Jackson over MI Hwy 60 to Niles, MI, then over U.S. Hwy 31 to junction U.S. Hwy 30, and return over the same route, (15) between Niles and Detroit, MI, over U.S. Hwy 12, (16) between Niles, MI, and junction MI Hwy 51 and Interstate Hwy 94, over MI Hwy 51, (17) between Detroit and Muskegon, MI, over Interstate Hwy 96, (18) between South Bend, IN, and Muskegon, MI, from South Bend over U.S. Hwy 31 to St. Joseph, MI, then over Interstate Hwy 196 to Holland, MI, then over U.S. Hwy 31 to Muskegon, and return over the same route, (19) between Muskegon and Midland, MI, from Muskegon over MI Hwy 120 to Hesperia, MI, then over MI Hwy 20 to Midland, and return over the same route, (20) between Cincinnati and Chillicothe, OH, (a) over OH Hwy 28, and (b) from Cincinnati over OH Hwy 125 to Portsmouth, OH, then over U.S. Hwy 23 to Chillicothe, and return over the same route, (21) between Athens and Columbus, OH, from Athens over OH Hwy 346 to juncton OH Hwy 124, then over OH Hwy 124 to junction U.S. Hwy 23, then over U.S. Hwy 23 to Columbus, and return over the same route, (22) between Cleveland and Cincinnati, OH, over Interstate Hwy 71, (23) between Cleveland and Marietta, OH, from Cleveland over Interstate Hwy 77 to junction OH Hwy 7, then over OH Hwy 7 to Marietta, and return over the same route, (24) between Cleveland and Youngstown, OH, from Cleveland over U.S. Hwy 422 to Warren, OH, then over OH Hwy 46 to Youngstown, and return over the same route, (25) between Marietta and Toledo, OH, from Marietta over OH Hwy 505 to Athens, OH, then over U.S. Hwy 33 to Columbus, OH, then over U.S. Hwy 23 to Toledo, and return over the same route, (26) between Columbus and Toledo, OH, from Columbus over U.S. Hwy 23 to junction OH Hwy 15, then over OH Hwy 15 to junction Interstate Hwy 75, then over Interstate Hwy 75 to Toledo, and return over the same route, (27) between Toledo and Youngstown, OH, (a) from Toledo over OH Hwy 2 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Youngstown, and return over the same route, and (b) from Toledo over Interstate Hwy 280 to junction U.S. Hwy 20, then over U.S. Hwy 20 to Norwalk, OH, then over OH Hwy 18 to Akron, OH, then over Interstate Hwy 76 to Youngstown, and return over the same route, (28) between Ashtabula and Cambridge, OH, from Ashtabula over OH Hwy 11 to East Liverpool, OH, then over OH Hwy 7 to junction Interstate Hwy 70, then over Interstate Hwy 70 to Cambridge, and return over the same route, and (29) between Dayton and Cambridge, OH, over Interstate Hwy 70, serving in connection with routes (1) to (29) above, all points in OH, those in MI in and south of Oceana, Newaygo, Isabella, Midland, Bay, Tuscola, and Huron Counties, and those points in IN on and north of U.S. Hwy 30 as intermediate or off-route points, and (B) *over irregular routes*, between points in OH, those in MI in and south of Oceana, Newaygo, Isabella, Midland, Bay, Tuscola, and Huron Counties, and those points in IN on and north of U.S. Hwy 30.

Note.—Applicant intends to tack the sought rights in Part (A) above to its existing authority.

MC 17000 (Sub-25F), filed November 7, 1980. Applicant: HOHENWALD TRUCK LINES, INC., P.O. Box 196, Hohenwald, TN 38462. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *General commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Davidson, Henderson, Lewis, Perry, Shelby, Williamson, Decatur, and Hickman Counties, TN, Crittenden County, AR, and DeSoto County, MS, on the one hand, and, on the other, points in the U.S.

MC 29910 (Sub-293F), (republication) filed October 3, 1980, previously noticed in the **Federal Register** issue of October 21, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh Street, Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). Transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Santa Cruz, CA, Charleston SC, Cape Canaveral, FL, Simsbury, CT, and Crane, IN. Condition: To the extent that the certificate in this proceeding authorized the transportation of classes A and B explosives, it will expire 5 years from the date of issuance.

Note.—This republication includes the movement of classes A and B explosives.

MC 47171 (Sub-188F), filed November 3, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *chemicals* (except commodities in bulk), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities used by Zep Manufacturing Company, its divisions, and subsidiaries.

MC 52460 (Sub-292F), filed November 3, 1980. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. Representative: Don E. Kruizinga (same address as applicant). Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of National Beef Packing Co., Inc., at or near Liberal, KS, to points in AL, AR, GA, IA, LA, MS, MO, NC, OK, SC, and TX.

MC 68860 (Sub-53F), filed November 7, 1980. Applicant: RUSSELL TRANSFER, INCORPORATED, 5259 Aviation Drive, NW., Roanoke, VA 24012. Representative: Liniel G. Gregory, Jr. (same address as applicant). Transporting *salt and salt products*, in packages, from the facilities of Morton Salt Division of Morton-Norwich Products, Inc., at Rittman and Fairport, OH, to points in VA, NC, SC, and WV.

MC 75840 (Sub-140F), filed October 27, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in NC, AR, KY, and LA, on the one hand, and, on the other, points in GA, MS, TN, AL, SC, NC, VA, AR, KY, WV, MD, LA, DE, OH, NJ, PA, NY, and DC.

MC 75840 (Sub-141F), filed November 4, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35222. Representative: Raymond Hamilton, 3400 Third Ave., South, Birmingham, AL 35222. Transporting *paper*, between points in Jefferson County, AL, on the one hand, and, on the other, points in WI.

MC 88300 (Sub-36F), filed October 28, 1980. Applicant: DIXIE AUTO TRANSPORT COMPANY, a corporation, 1600 Talleyrand Ave., Jacksonville, FL 32206. Representative: Richard A. Kerwin, 180 North La Salle St., Chicago, IL 60601. Transporting *motor vehicles*, between points in FL and TX.

MC 114301 (Sub-110F), filed October 31, 1980. Applicant: DELAWARE EXPRESS CO., a corporation, P.O. Box 97, Elkton, MD 21921. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, DC 20005. Transporting *such commodities* as are dealt in or used by manufacturers of chemicals and plastic products, between those points in the U.S., in and east of MN, IA, MO, AR, and TX, restricted to traffic originating at or destined to the facilities used by the B. F. Goodrich Company, Chemical Group.

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MC 115841 (Sub-775F), filed November 6, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Richard L. Hollow (same address as applicant). Transporting *foodstuffs*, and *materials, equipment and supplies* used in the manufacture and distribution of foodstuffs, between points in GA, on the one hand, and, on the other, those points in and east of WI, IL, MO, AR and TX (except WI).

MC 115931 (Sub-118F), filed November 3, 1980. Applicant: BEE LINE TRANSPORTATION, INC., P.O. Box 3987, Missoula, MT 59801. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Transporting (1) *buildings, building panels, building parts, bins and tanks*, and (2) *materials, equipment and supplies* used in the manufacture, erection and installation of the commodities in (1) above, between points in Tulare County, CA, Knox County, IL, Jackson County, MO, and Hays County, TX, on the one hand, and, on the other, those points in the U.S., in and west of MI, IN, IL, MO, AR, and TX (except AK and HI).

MC 119741 (Sub-285F), filed November 13, 1980. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *wooden flush garage door sections*, from Fort Worth, TX, to points in CO, IL, IN, IA, KS, MI, MN, MO, MT, NE, ND, OH, OK, SD, WI, and WY.

MC 123670 (Sub-16F), filed November 11, 1980. Applicant: CROWELL TRUCKING, INC., 4671 N. Van Dyke, Almont, MI 48003. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Vlasic Foods, Inc., of West Bloomfield, MI.

MC 128021 (Sub-47F), filed November 3, 1980. Applicant: DIVERSIFIED TRUCKING CORP., 309 Williamson Ave., Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting *pet foods, and materials, equipment, and supplies* used in the manufacture and distribution of pet foods, between points in the U.S., under continuing contract(s) with Vulcan Pet, Inc., of Alabaster, AL.

MC 128290 (Sub-14F), filed November 6, 1980. Applicant: EARL HAINES, INC., P.O. Box 2557, Winchester, VA 22601. Representative: Bill R. Davis, Suite 101, Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339. Transporting (1) *fluorescent lamp ballasts*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, between points in Passaic County, NJ, Fairfield County, CT, Simpson and Copiah Counties, MS, and Mississippi County, AR, on the one hand, and, on the other, points in the U.S.

MC 135410 (Sub-106F), filed November 6, 1980. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, North 6th St. Rd., Monmouth, IL 61402. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting (1) *such commodities* as are dealt in or used by manufacturers of phosphates and cleaning compounds, and (2) *electro plating and metal finishing materials, equipment and supplies* (except commodities in bulk), between Morenci and Warren, MI, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, CO, OK, and TX, restricted to traffic originating at or destined to the facilities of Oxy Metal Industries Corporation.

MC 142181 (Sub-22F), filed November 6, 1980. Applicant: LILBERTY CONTRACT CARRIER, INC., 214 Hermitage Ave., Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *such commodities* as are dealt in or used by manufacturers of cosmetic and toiletry products, between points in the U.S., under continuing contract(s) with Avon Products, Inc., of New york, NY.

MC 142310 (Sub-30F), filed November 12, 1980. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54456. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. Transporting *such commodities* as are dealt in or used by drug stores and food business houses, from Chicago, IL, to points in MN, ND, SD, WI, and the Upper Peninsula of MI.

MC 142821 (Sub-2F), filed November 6, 1980. Applicant: ROY M. BROWN, R. R. #2, Galatia, IL 62935. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *coal*, between points in Coffee County, TN, on the one hand, and, on the other, points in Williamson County, IL.

MC 143600 (Sub-1F), filed November 7, 1980. Applicant: H. K. DELIVERY SYSTEMS, INC., 836 West North Avenue, Pittsburgh, PA 15233. Representative: Frederick L. Kiger, 7823 Mt. Carmel Road, Verona, PA 15147. Transporting (1) *household cleaning products* and (2) *materials and supplies* used in the distribution of the commodities in (1) above, between Pittsburg, PA, on the one hand, and, on the other, those points in OH on and east of a line beginning at Lake Erie and extending along OH Hwy. 306 to junction Interstate Hwy. 80, then along Interstate Hwy. 80 to junction OH Hwy. 11, then along OH Hwy. 11 to the OH–WV State line.

MC 147461 (Sub-3F), filed November 4, 1980. Applicant: FEDERAL ARMORED EXPRESS, INC., 7675 Canton Center Dr., Baltimore, MD 21203. Representative: Eugene T. Liip, Suite 1100, 1660 L Street, N.W., Washington, DC 20036. Transporting *currency, coin, securities, non-cash coupons, and other valuables*, between Pittsburgh, PA, on the one hand, and, on the other, points in Belmont, Monroe, and Jefferson Counties, OH, Brooke, Hancock, Marshall, Ohio, Tyler, and Wetzel Counties, WV, and Washington County, PA.

MC 150211 (Sub-4F), filed October 26, 1980. Applicant: ASAP EXPRESS, INC., P.O. Box 3250, Jackson, TN 38301. Representative: Jerry Ross (same address as applicant). Transporting *sheet steel laminations*, between Chicago, IL, on the one hand, and, on the other, points in TN, AR, MS, and AL.

MC 150741 (Sub-2F), filed November 3, 1980. Applicant: HUEY TRANSPORTATION CO., INC., 2802 Lomb Ave., Birmingham, AL 35208. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. Transporting (1) *metal products and machinery*, and (2) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with MCM Industries, Inc., of Birmingham, AL.

MC 150901 (Sub-1F), filed November 12, 1980. Applicant: MARKET EXPRESS, INC., 996 South Garfield St., Denver, CO 80209. Representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209. Transporting *malt beverages*, between points in the U.S., under continuing contract(s) with Mathieson Sales, Inc., of Kingman, AZ.

MC 151480 (Sub-1F), filed November 7, 1980. Applicant: SUNBELT EXPRESS, INC., P.O. Box 13008, Florence, SC 29504. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting *lumber, lumber mill products, forest products, and building materials*, between points in GA, NC, SC, and VA, on the one hand, and, on the other, those points in the U.S. in and east of OH, KY, TN, and MS.

MC 152470F, filed October 28, 1980. Applicant: DAVID J. PRUDHAM, d.b.a. MIDWEST DISTRIBUTORS TRANSPORT, SS–1–3–87, Lethbridge, Alberta, Canada T1J 4B3. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. In foreign commerce only, transporting *lime, fertilizers, and soil conditioners*, between ports of entry on the international boundary line between the U.S. and Canada in MT, ID, and WA, on the one hand, and, on the other, points in WA, OR, and ID.

MC 152471F, filed October 28, 1980. Applicant: PEBBLE CREEK LAND COMPANY, d.b.a. SKIWEST TOURS, INC., P.O. Box 1056, Pocatello, ID 83201. Representative: Billy B. Isley, Jr. (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Pocatello, ID, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, between points in ID, on the one hand, and, on the other, points in the U.S. (including AK, but excluding HI).

MC 152520F, filed October 17, 1980. Applicant: AUSTIN MOVING & STORAGE COMPANY, INC., 615 Poinsett Street, Greenville, SC 29604. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1112, Washington, DC 20036. Transporting *household goods*, as defined by the Commission, (1) between points in GA, SC, NC, and VA, and (2) between points in GA, SC, NC, and VA, on the one hand, and, on the other, points in CT, NY, NJ, PA, DE, MD, FL, AL, MS, TN, and DC.

MC 152531F, filed October 18, 1980. Applicant: J C & G CO., INC., P.O. Box 579, Pearce, AZ 85625. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. Transporting *silica sand* between points in the U.S., under continuing contract(s) with Duimich & Associates, of Mesa, AZ.

MC 152571F, filed November 5, 1980. Applicant: ECHO TRAVEL, INC., 373 South Schmale Road, Carol Stream, IL 60087. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. As a *Broker*, at Carol Stream, IL, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, in round-trip sightseeing or pleasure tours, between points in the U.S.

MC 152631F, filed November 12, 1980. Applicant: THE LEADER COMPANY, a corporation, P.O. Box 2142, Shelby, NC 28150. Representative: W. Franklin Howell, Jr. (same address as applicant). Transporting *construction machinery, materials and equipment*, between points in the U.S., under continuing contract(s) with Kalman Floor Company, of Charlotte, NC.

Volume No. OP2–098

Decided: November 14, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 109533 (Sub-132F), filed October 21, 1980. Applicant: OVERNITE TRANSPORTATION COMPANY, A Corporation, 1000 Semmes Ave., Richmond, VA 23224. Representative: John C. Burton, Jr. (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in Audrain, Boone, Callaway, Cole, Cooper, Howard, Miller, Morgan, and Randolph Counties, MO; as off-route points in connetion with carrier's otherwise authorized regular-route operations. NOTE: Applicant intends to tack the authority herein with authority presently held.

MC 111812 (Sub-743F), filed November 4, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: Lamoyne Brandsma (same address as applicant). Transporting *Frozed foods* (except commodities in bulk), from (a) the facilities of Pet, Inc., Frozen Foods Division, at Lithonia, GA, and (b) the facilities utilized by Pet, Inc., Frozen Foods Division, at Atlanta, GA, to points in FL, NC, SC, and TN.

MC 118202 (Sub-162F), filed November 10, 1980. Applicant: SCHULTZ TRANSIT, INC., 323 Bridge St., P.O. Box 406, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in Webb County, TX, on the one hand, and, on the other, points in the U.S.

MC 123993 (Sub-85F), filed November 3, 1980. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), between points, in LA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 128343 (Sub-62F), filed October 30, 1980. Applicant: C–LINE, INC., Tourtellot Hill Road, Chepachet, RI 02814. Representative: Ronald N. Cobert, 1730 M Street, NW, Suite 501, Washington, DC 20036. Transporting *general commodities* except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with George Mann & Company, Inc., of Providence, RI.

MC 128343 (Sub-63F), filed October 30, 1980. Applicant: C–LINE, INC., Tourtellot Hill Road, Chepachet, RI 02814. Representative: Ronald N. Cobert, 1730 M Street, NW, Suite 501, Washington, DC 20036. Transporting *general commodities* except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Bostitch, a division of Textron, Inc., of East Greenwich, RI.

MC 134243 (Sub-5), filed November 4, 1980. Applicant: MOORE BROS. TRANSPORTATION CO., INC., P.O. Box 5236, Greensboro, NC 27403. Representative: Steven L. Weiman, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *passengers and their baggage* in the same vehicle with passengers, in special and charter operations beginning and ending at points in Rowan, Davidson, Guilford and Alamance Counties, NC, and extending to points in the U.S.

MC 139663 (Sub-10F), filed October 24, 1980. Applicant: HASKINS & SON, INC., 815 Max Avenue, Lansing, MI 48915. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Transporting *scrap metal* between the facilities of General Motors Corporation, in MI, and points in IN.

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2)) or submit an affidavit indicating why such approval is unnecessary.

MC 14033 (Sub-92F), filed October 31, 1980. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, TX 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting (1) (a) *foodstuffs* and (b) *meats, meat products, and meat byproducts and articles* distributed by meat-packing houses (except foodstuffs) as described in Section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 except in (a) and (b) commodities in bulk, and (2) *materials,*

equipment and supplies used in the manufacture and distribution of

d.b.a. MIKE KAISER, Box 65, Alexander, construction thereof, from Waco, TX, to points in the U.S. except points in AL,

points in AR, KS, LA, MS, and OK. 20. *Prefabricated components of electrical*

WA, OR, CA, AZ, NV, UT, and IA. 26. *Corrosion proof materials, products and*

Chicago, IL, to points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, the Lower

equipment and supplies used in the manufacture and distribution of commodities in (1) above, between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, a Division of Swift & Company, of Chicago, IL.

MC 144622 (Sub-197F), filed October 22, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting *drugs, rubber articles, and plastic articles,* between Malvern, PA, on the one hand, and, on the other, Atlanta, GA, Buena Park, CA, Kent, WA, and Dallas, TX.

MC 146643 (Sub-62F), filed November 5, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th Street, Chicago, IL 60628. Representative: Marc J. Blumenthal, 39 S. LaSalle St., Chicago, IL 60603. Transporting *petroleum and coal products,* between points in the U.S., under continuing contract(s) with Valvoline Oil Company, Division of Ashland Oil, Inc., of Ashland, KY.

MC 146643 (Sub-63F), filed November 5, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th Street, Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle Street, Chicago, IL 60603. Transporting *food or kindred products,* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with The Hubinger Company, of Keokuk, IA.

MC 146892 (Sub-14F), filed November 4, 1980. Applicant: R & L TRANSFER, INC., P.O. Box 271, Wilmington, OH 45177. Representative: Boyd B. Ferris, 50 West Broad St., Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in OH, on the one hand, and, on the other, points in the U.S. Condition: Issuance of this certificate is subject to prior or coincidental cancellation at applicant's written request of all certificates, issued and pending.

MC 148512 (Sub-4F), filed November 3, 1980. Applicant: WESTERN TANK LINE, INC., 2222 North 11 Street, Omaha, NE 68110. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Transporting *acids and chemicals,* in bulk, between points in Woodbury County, IA, on the one hand, and, on the other, points in ND, SD, MN, NE and IA.

MC 151572 (Sub-1F), filed November 7, 1980. Applicant: MICHAEL W. KAISER, d.b.a. MIKE KAISER, Box 65, Alexander, IL 62601. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *iron and steel articles,* between points in the U.S., under continuing contract(s) with CBM Steel Corporation of St. Louis, MO.

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Decided: November 14, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Jones not participating.

MC 107295 (Sub-1001F), filed October 20, 1980. Applicant: PRE–FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Chandler L. van Orman, 1729 H St., Washington, DC 20006. Applicant holds Certificates in MC 107295 and various subs thereunder to transport the commodities stated below. By this application Pre-Fab seeks to remove from its certificates all restrictions which limit the quantity or scope of service it is authorized to perform. Pursuant to this application, Pre-Fab seeks authority to transport: 1. *Prefabricated metal grain storage buildings,* set up, knocked down, or in sections, from Sioux Falls, SD, to points in MI, IN, OH, IL, MD, NY, NC, and VA. 2. *Conduit* and *pipe, attachments, parts and fittings* therefor from Rootstown Township, Portage County, OH, to points in AL, KS, LA, MN, MS, and WV. 3. *Hardboard,* and *parts, materials, and accessories* related thereto, from Superior, WI, to points in AR, IL, IN, IA, KY, MI, MO, OH, and TN. 4. *Pipe and pipe fittings, couplings, connections,* and *accessories,* from Springfield, IL, to points in the United States except AZ, CA, CO, ID, IL, MT, NV, NM, ND, OR, UT, WA, WY, AK, and HI. 5. *Pipe, conduit,* and *tubing,* from points in Livingston County, IL, to points in AR, IN, NY, OH, TN, and the Lower Peninsula of MI. 6. *Iron and steel articles,* from Putnam County, IL, to points in AL, AR, GA, FL, KY, MS, MO, LA, OK, TN and TX; and *materials, equipment and supplies* used in the manufacture and processing of iron and steel articles, from points in AL, AR, GA, FL, KY, MS, MO, LA, OK, TN, and TX, to Putnam County, IL. 7. *Plywood,* from Chesapeake (Norfolk), VA, to points in AL, MS and TN. 8. *Wallboard, wallboard molding and aluminum molding, wallboard samples, adhesive cement,* and *plywood,* from Pittsburg, KS, to points in AL, AR, GA, IL, IN, KY, LA, MI, MS, OH, TN, TX and WI. 9. *Pipe,* from Doraville, GA, to points in KY and TN, east of U.S. Highways 31 and 31W. 10. *Stadiums, grandstands, portable bleachers,* and *materials, supplies, and fixtures,* used in the construction thereof, from Waco, TX, to points in the U.S. except points in AL, HI, and TX. 11. *Fencing, netting, iron and steel wire,* and when shipped therewith, *fence stretchers, gates and fence posts,* from Houston, TX, to points in IL, IN, IA, KY, MI, MN, MO, NE, ND, SD, TN, VA, WV and WI. 12. *Building boards,* and *composition boards,* from Marrero, LA., to points in AR, KS, MN, NE, ND, OK, PA, SD, TN, and TX. 13. *Steel windows, clips* and *anchors,* from Niles and Youngstown, OH to points in AL, CT, DE, FL, LA, ME, MD, MA,NM, MS, NE, NH, NJ, NY, OK, PA, RI, TX, VT, VA, WV and the District of Columbia. (a) *Steel building sections and panels,* and *steel building parts and accessories,* from Niles and Youngstown, OH, to points in AL, CT, FL, LA, ME, MA, MN, MS, NE, NH, OK, RI, TX, and VT. (b) *Reconsigned shipments* of steel windows, clips and anchors, between points in AL, CT, DE, FL, LA, ME, MD, MA, MN,, MS, NE, NH, NJ, NY, OK, PA, RI, TX, VT, VA, WV, and the District of Columbia. (c) *Reconsigned shipments* of steel building sections and panels, and steel building parts and accessories, between points in AL, CT, FL, LA, ME, MA, MN, MS, NE, NH, OK, RI, TX, and VT. 14. *Laminated wood products,* from Marion, WI to points in AR, IL, IN, IA, KY, MI, MO, ME, MA, MD, NH, NJ, NY, OH, PA, TN, RI, VT, VA, WV, and CT. 15. *Ceiling tile, sounding board, insulating materials and siding materials,* from International Falls, MN, to points in IL, IN, KY, MI, MO, NJ, NY, NC, OH, and PA.

16. *Prefabricated buildings, complete, knocked down, or in sections,* from Dallas, TX, to points in AZ, CO, IA, KS, MO, NM, and OK. 17. *Particle board, hardboard, plywood* and moldings, and *accessories* for particle board, hardboard, plywood and moldings, when shipped therewith, from Franklin Park and Chicago, IL, to points in AL, AR, CO, CT, DE, FL, IA, KS, KY, LA, ME, MD, MA, MS, NH, MO, NJ, NY, OK, PA, RI, TN, VT, WV, the District of Columbia, points in that part of OH east of Interstate Highway 71, and those in that part of VA north of U.S. Highway 460 and west of U.S. Highway 301 (except Richmond, VA, Commercial Zone as defined by the Commission) with no transportation for compensation on return except as otherwise authorized. 18. *Composition boards, and parts, materials,* and *accessories* incidental to the installation of composition boards, from Meridian, MS, to points in KS, LA, OK, and TX. 19. *Concrete products, and materials necessary for the erection and construction thereof,* from Dallas, TX, to points in AR, KS, LA, MS, and OK. 20. *Prefabricated components of electrical substations and towers,* except electrical equipment, from Newark, OH, to points in the U.S. (except AK, HI, CA, NC, SC, and those in that part of VA on and south of U.S. Highway 460 and on and east of U.S. Highway 301). 21. *Building mortar and flooring and curing compounds, and machinery and hand tools* used in the installation and application of the above-named commodities when shipped therewith, from Cleveland, OH, to points in AL, CT, FL, GA, IL, IN, KY, MD, MN, MS, MO, NE, NJ, NY, PA, RI, and TN. 22. *Prefabricated building parts* (except stone, marble, granite, or slate), and *accessories* used in the installation thereof, when shipped with such parts, from Connersville, IN, to points in the U.S. in and east of MT, WY, CO, and NM, and from Ambridge, PA, to points in the U.S. in and east of MT, WY, CO, and NM (except points in VA, NC, SC, FL, GA, and those in the Chicago, IL, commercial zone as defined by the Commission). 23. *Fencing posts, cloth, netting fabric, gates, tires, wire and wire products, and related wire specialities and accessories, fittings and parts* incidental to the completion, erection, and installation thereof, from Crawfordsville, IN, to points in AR, IA, MS, TN, OH (except Cincinnati and Columbus), KY (except Louisville and Henderson and those KY points located in the Cincinnati, OH Commercial Zone as defined by the Commission), and IL (except points in the Chicago Commercial Zone as defined by the Commission and points in that part of IL on and south of U.S. Highway 150 from the IN–IL State Line to Peoria, IL, thence on and east of IL Highway 29 to Springfield, IL, thence on and east of U.S. Highway 66 to East St. Louis, IL, thence on the north of U.S. Highway 40 to the IL–IN State Line, thence north along the State Line to the point of beginning). 24. *Steel doors, steel door frames, steel window frames and elevator cars,* and *accessories* incidental to the installation thereof, from the Borough of Brooklyn, NY, to points in AL, AR, CO, DE, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NJ, NM, ND, OH, OK, PA, SD, TN, TX, VA, WV, WI, and WY. 25. (a) *Pipe, cable, and conduit and fittings therefor,* from Glen Dale, WV, to points and places in OH, MI, IN, KY, TN, LA, AR, MO, IL, WI, MN, IA, ND, SD, NE, KS, OK, NM, CO, WY, and MT. (b) *Pipe, tubing and fittings and accessories therefor,* other than iron or steel pipe and tubing, from Footville, WI, to points and places in the U.S. except AK, HI, WA, OR, CA, AZ, NV, UT, and IA. 26. *Corrosion proof materials, products and supplies,* from Berea, OH, to Houston and Odessa, TX, New Orleans, LA, Tulsa, OK, and Denver, CO. 27. *Pipe, conduit, and metal, shapes and forms,* from Harvey, IL, to points in AR, CO, IN, KY, MN, TN, WI, LA, MS, NC, OK, SC, and TX, with no transportation for compensation on return except as otherwise authorized. 28. *Paint and varnish,* from Paterson, NJ, to points in OH, KY, TN, IN, MI, WI, IA, MO, and IL (except Cook County). 29. *Fencing, fencing fixtures and accessories, tubing, fence pipe, wire, and wire mesh,* from Rock Hill, SC, to points in AR, FL, KY, IA, IL, and MO. 30. *Ceiling systems, and wall systems,* from Erie County, NY, to points in the U.S. except MD, DE, PA, NJ, NY, RI, SC, NC, NE, VA, and CO, AK and HI. 31. *Plywood and plywood panels,* from Danville, VA, to points in MN, ND, SD, NE, KS, OK, TX, LA, ME, NH, and VT; from Norfolk, VA to points in MN, ND, SD, NE, KS, OK, TX, LA, CT, ME, MA, NH, RI and VT.

32. *Steel columns, steel joists, steel beams, steel roofing decks, steel shapes, and steel trusses,* from Canton and Fairhope, OH, to points in AL, AZ, CA, CO, CT, DE, FL, IA, KS, LA, ME, MD, MA, MN, MS, MT, NE, NV, NH, NJ, NM, NY, ND, OK, OR, PA, RI, SD, TX, UT, VT, WA, WV, WY, and the District of Columbia. 33. *Tubular steel products and window wells,* from Akron, OH, to points in IA and MN. 34. *Concrete planks or slabs,* from Erie County, NY, to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NC, ND, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, WY, and the District of Columbia. 35. *Ventilators and ventilator systems, and parts and equipment therefor,* (a) from Philadelphia, PA, to points in AR, IL, IN, IA, KS, KY, LA, MI, MN, MO, MS, NE, OH, OK, TN, TX, ND, SD, WV, and WI. (b) From Keyser, WV, to points in AR, IL, IN, IA, KS, KY, LA, MI, MN, MO, MS, NE, OK, TN, TX, ND, SD, and WI. (c) From Junction City, KY, to points in AR, IL, IN, IA, KS, LA, MI, MN, MO, MS, NE, OH, OK, TN, TX, ND, SD, WV, and WI. (d) From Keyser, WV, and Junction City, KY to Philadelphia, PA. 36. *Pontoons and panels and insulation,* from Columbus, OH, to points in the U.S. (except HI, OH and PA). 37. *Air ducts and fittings therefor,* from Rockford, IL, to points in AL, AZ, CA, CO, CT, DE, FL, GA, IA, KS, KY, LA, ME, MD, MA, MN, MS, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OK, OR, PA, RI, SC, SD, TX, UT, VT, VA, WA, WV, WY, and the District of Columbia. 38. *Ceiling suspension systems,* from Chicago, IL, to points in AL, AR, CO, FL, GA, IL, IN, IA, KS, KY, LA, the Lower Peninsula of MI, MS, MO, NE, NJ, NM, OH, OK, TN, TX, and WV, and to points in that part of VA north of U.S. Highway 460 and west of U.S. Highway 301. 39. *Roofing, siding, waterproofing, and insulating materials,* (a) from East St. Louis, IL, to points in IN, IA, KS, KY, MI, MS, MO, NE, and TN, and points in that part of AR west of U.S. Highway 67. (b) From Chicago Heights, IL, to points in AR, IN, IA, KY, the Lower Peninsula of MI, MN, MS, MO, and TN. (c) From Kansas City, MO, to points in IN, IA, MN, and OK. (d) Between Avery, OH, on the one hand, and, on the other, East St. Louis and Chicago Heights, IL, and Kansas City, MO. 40. *Oak flooring and millwork,* (a) from Memphis, TN, to points in GA, IN, KY, MD, MI, MN, NC, OH, PA, VA, WI, WV, NJ, NY, SC, IA, MO, and IL. *Oak flooring,* (b) from Grenada, MS, to points in GA, IN, KY, MD, MI, MN, NC, OH, PA, VA, WI, WV, NJ, NY, SC, IA, MO, and IL. *Prefinished plywood paneling and particle board,* (c) from Memphis, TN, to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NE, NH, NC, OH, OK, PA, TN, TX, VA, and WI. 41. *Gypsum products, composition boards; insulating materials; roofing and roofing materials; urethane and urethane products; and related materials, supplies and accessories* incidental thereto, (a) from points in Henry County, TN, to points in MT, WY, CO, NM, ND, SD, NE, KS, OK, TX, MN, IA, MO, AK, LA, WI, IL, IN, MI, OH, PA, NY, NJ, CT, RI, MA, NH, VT, ME, DE, MD, VA, WV, KY, TN, NC, and the District of Columbia. (b) From L'Anse, MI, to points in CO, NM, ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, IN, MI, OH, PA, NY, NJ, CT, RI, MA, NH, VT, ME, DE, MD, VA, WV, KY, TN, NC, SC, GA, AL, MS, FL, and the District of Columbia. (c) From Fort Dodge, IA, to points in CO, NM, ND, SD, NE, KS, OK, TX, IA, MO, AR, LA, WI, IL, IN, MI, OH, PA, NY, NJ, CT, RI, MA, NH, VT, ME, DE, MD, VA, WV, KY, TN, NC, SC, GA, AL, MS, FL, and the District of Columbia. (d) From Fort Dodge, IA, to points in MN. (e) From Port Clinton, OH, to points in MT, WY, CO, NM, ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, LA, WI, IL, IN, MI (except the lower peninsula), OH, NY, NJ, CT, RI, MA, NH, VT, ME, DE, MD, VA, WV, KY, TN, NC, AL, FL, GA, MS, SC, and the District of Columbia. (f) From Port Clinton, OH, to points in Bucks, Chester, Crawford, Delaware, Erie, Lehigh, Mercer, Monroe, Montgomery, Northampton, Philadelphia, Pike, and Wayne Counties, PA. (g) From Dubuque, IA, to points in CO, NM, ND, SD, NE, KS, OK, TX, MN,

IA, MO, AR, LA, WI, IL, IN, MI, OH, PA, NY, NJ, CT, RI, MA, NH, VT, ME, DE, MD, VA, WV, KY, TN, NC, AL, FL, GA, MS, SC, and the District of Columbia. 42. *Gypsum products, composition board, insulating materials, roofing and roofing materials, and urethane and urethane products,* (a) from San Antonio, TX, to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, VT, VA, WV, WI, WY, and the District of Columbia.

(b) From Hamlin, TX, to points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, MD, WV, VA, NC, SC, GA, FL, AL, OH, IN, MI, IL, WI, MO, IA, MN, NE, ND, SD, WY, MT, and the District of Columbia.

(c) From Marrero, LA, to points in ME, NH, VT, MA, RI, CT, NY, NJ, DE, MD, VA, WY, NC, SC, KY, OH, IN, MI, IL, WI, IA, MO, MT, WY, CO, NM, and the District of Columbia. (d) From Fairfield, AL, to points in ME, NH, VT, MA, CT, MI, WI, MN, IA, MO, AR, TX, OK, KS, NE, ND, WY, CO, and the District of Columbia. (e) From Fairfield, AL, to points in NY, NJ, PA, DE, MD, VA, WV, NC, SC, TN, KY, OH, IN, IL, LA, and SD. 43. *Gypsum products, composition board, insulating materials, roofing and roofing materials, and urethane and urethane products,* (a) From Lagro, IN, to points in AL, AR, CO, CT, DE, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, MH, NY (except on and east of Interstate Highway 81), NC, ND, OK, RI, SC, SD, TN, TX, VT, VA, WI, WY, and the District of Columbia. (b) From Camden, AR, to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, PA, RI, SC, SD, VT, VA, WY, WI, WY, and the District of Columbia. (c) From Chicago, IL, to points in AR, CT, DE, FL, IL, KS, KY, LA, ME, MA, MS, MO, NE, NH, ND, OK, RI, SC, SD, TN, TX, VT, WV, WY, and WI (except points in Milwaukee, Kewaunee, Brown, Baukesha, Racine, Calumut, Kenosha, Manitowoc, Washington, Sheboygan, and Osaukee Counties, WI). (d) From Peoria, IL, to points in AL, AR, CO, CT, DE, FL, GA, IL, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI (except points in Racine, Milwaukee, Waukesha and Kenosha Counties, WI), WY, and the District of Columbia. 44. *Accessories* used in the installation of drywalls, from Cleveland, OH, to points in CT, KY, MD, MA, NJ, RI, WV, points in that part of MI north of the Northern boundaries of Oceana, Newaygo, Mecosta, Isabella, Midland, Bay, and the Huron Counties, points in that part of NY on and east of a line beginning at Oswego, NY and extending east along U.S. Highway 104 to junction New York Highway 57, thence along New York Highway 57 to Syracuse, thence along U.S. Highway 11 to the NY–PA State Line, points in that part of IN south of U.S. Highway 40, points in that part of IL south of U.S. Highway 24, and WI. 45. *Heating and cooling systems* (except refrigerated showcases), from Kansas City, MO, to points in the U.S. (except AK, CA, HI, ID, MT, ND, OR, SD, WA, and WY). 46. *Glass glazing units,* (a) From Mason City, IA, to points in the U.S. except AK, HI, AZ, CA, IL, IA, ID, MN, NV, ND, SD, NE, OR, UT, and WA, and Kansas City, and St. Louis, MO, and their commercial zones as defined by the Commission. *Flat glass,* (b) From Ottawa, IL, to points in the U.S., except AK, HI, AZ, CA, ID, NV, OR, UT, and WA. *Flat glass, glass glazing units, and glass doors, and fittings,* (c) From Toledo, OH, to points in the U.S., except AK, HI, AZ, CA, ID, NV, OR, UT, and WA, and except Detroit, Pontiac, Monroe, Flint, Grand Rapids, Battle Creek, Benton Harbor, Holland, Jackson, Kalamazoo, and Muskegon, MI, Indianapolis, and South Bend, IN, Rock Falls and Rock Island, IL, and Milwaukee, WI, and their commercial zones as defined by the Commission, and Hammond, IN. 47. *Electric cable tray systems, and accessories, parts, and fittings* incidental to the completion, erection, and installation of such cable tray systems, from Florence, KY, to points in AL, AK, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, WY, and the District of Columbia. 48. *Wrought steel pipe and conduit,* from Baltimore, MD, to points in AR, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, OK, TX, TN, and points in that part of WI on and south of a line beginning at Milwaukee, WI, and extending west along Interstate Highway 94 to Madison, WI, thence along WI Highway 151 to the WI–IL State Line. 49. *Wrought electrical conduit and electrical metallic tubing,* from Ambridge, PA, to points in IL north of U.S. Highway 40 (except points in Cook DuPage, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will Counties, IL), AL, IA, KS, MI, (except points on and south of MI Highway 21), MN, MO, NE, and WI. 50. *Steel studding and steel faced plasterboard,* from Westlake, OH, to points in AR, CO, IL, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, NE, NH, NM, NY, ND, OK, RI, SD, TX, VT, VA, WV, and WI. 51. *Metal siding and guttering, and steel roofing, flooring, doors, windows, beams, channels, and lath,* used in the construction or repair of buildings, from Milwaukee, WI, to points in the U.S. (except points in AK, HI, WA, OR, ID, UT, NV, CA, MN, ND, SD, MT, WY, CO, the Upper Peninsula of MI, NC, SC, VA, WI, and NM). 52. *Buildings, building sections, building component parts, and building panels, and accessories* thereto, from Terre Haute, IN, to points in CO, NM, UT, NV, ID, MT, ND, SD, and WY. 53. *Doors and frames,* from Carlstadt, NJ, to points in AL, AZ, AR, CA, CO, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY. 54. *Prefinished wall panels, composition board, wallboard, plywood and moldings,* (a) From Pittsburg, KS, to points in ME, NJ, NH, VT, MA, RI, CT, NY, PA, DE, MD, VA, WV, NC, SC, FL, MN, ND, SD, NE, MT, WY, CO, NV, NM, AZ, UT, ID, WA, OR CA, and IA. *Prefinished wall panels and composition board,* (b) From Pittsburgh, KS, to points in IL, IN, MI, WI, OH, AR, KY, and TN. 55. *Air conditioning, cooling, and heating equipment, and accessories thereto,* from Harrisonburg, VA, to points in KY, TN, MI, IN, IL, WI, MO, AR, LA, TX, OK, KS, SD, and ND. 56. *Buildings,* complete, knocked down and in sections, from Houston, TX, to points in CA, CO, ID, NV, NM, NC, OR, UT, and WA. 57. *Bituminous fiber pipe,* from West Bend, WI, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and the District of Columbia. 58. *Storage racks, and pallet racks,* from Houston, TX, to points in the U.S. (except Birmingham, Selma, and Mobile, AL, Pensacola, FL, and Atlanta, GA, and except points in East Baton Rouge and West Baton Rouge, Parishes, LA, AK and HI).

59. *Floor systems and furniture,* from Laona, WI, to points in AL, AR, CT, DE, FL, GA, KS, KY, LA, ME, MD, MA, MS, MO, NH, NJ, NY, NC, OK, PA, RI, SC, TN, TX, VT, VA, WV, and Washington, DC. 60. *Wrought steel pipe,* from St. Louis, MO, to points in OK and WI. 61. *Buildings, in sections, mounted on wheeled undercarriages,* from Lawrenceville, VA, to points in SC. 62. *Structural steel, steel joists, steel bars, reinforcing bars, and fabricated steel,* from St. Louis, MO, to points in AL, AR, CO, FL, GA, IL, IN, KY, LA, MS, OH, TN, and TX. 63. *Concrete additives, flooring compounds, grouting compounds, and curing compounds,* except commodities in bulk, (a)(1) from Cleveland, OH, to points in the U.S. (except WA, OR, CA, NE, ID, UT, AZ, AK, HI, OH, WI, and the Upper Peninsula of Michigan). (2) from Buffalo, NY, to points in the U.S. (except WA, OR, CA, NV, ID, UT, AZ, AK, HI, and NY). (3) from Springfield, MO, to points in the U.S. (except WA, OR, CA, NV, ID, UT, AZ, AK, HI, and MO). *Structural floor supports,* (b) from Seville, OH, to points in MI, IN, IL, IA, KY, TN, WI, MO, and AR. *Corrosion-proof materials, products, and supplies,* (c) from Berea, OH, to points in the U.S. (except AK, HI, OH, WI, the Upper Peninsula of MI, NC, SC, GA, AL, MS, Houston and Odessa, TX, New Orleans, LA, Tulsa, OK, and Denver CO). 64. *Plywood,* over irregular routes, (a) from Cotton Plant, AR, to points in MS, LA, KY, and TN. *Hardwood flooring,* (b)(1) from Magnolia, AR, to points in CO, LA, MS, AL, GA, FL, IL, OH, VA, WV, MD, DE, PA, NJ, NY, CT, RI, MA, and the District of Columbia. (2) from Warren, AR, to points in NC, SC, GA, FL, AL, MS, TN, LA, MD, VA, WV, NE, CO, UT, NM, AZ, NV, CA, OR, WA, and the District of Columbia. *Composition board, fiberboard, and pulpboard,* (c) from Meridian, MS, to points in IL, IN, IA, KY, MI, MO, OH, PA, and WI. *Composition board,* (d) from Arkadelphia, AR, to points in the U.S. (except AL, AR, FL, GA, HI, MS, and TN). *Wallboard, moldings, paneling, composition board, and pulpboard,* (e) from Rotan, TX, to points in the U.S. (except AK, AZ, AR, HI, IL, IA, KS, LA, MS, MO, NE, NM, OK, TN, and UT). *Pulpboard and paper,* (f) from Livingston, AL, to points in the U.S. (except HI and AK). *Particleboard,* (g) from Silsbee, TX, to points in AL, AR, FL, GA, LA, MS, MO, NC, SC, OK, and TN. 65. *Prefabricated steel columns,* (a) from Orland Park, IL, to points in the U.S. (except points in AK, HI, IN, ID, IA, MN, MI, MT, NE, ND, OR, SK, UT, WA, WY, that part of OH west of a line beginning at the OH–MI State Line at Toledo, OH, and extending along U.S. Highway 23 to Columbus, OH, thence along U.S. Highway 62 to Washington Court House, thence along U.S. Highway 22 to Cincinnati, OH, at the OH–KY State Line, and points in Columbia, Crawford, Dane, Dodge, Fond du Lac, Grant, Green, IA, Jefferson, Lafayette, Kenosha, Ozaukee, Racine, Richland, Rock, Sheboygan, Walworth, Washington, and Waukesha Counties, WI). *Bathroom and shower doors, tubs, shower enclosures, shower stalls and parts and accessories thereof,* (b) from Chicago, IL, to points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI, and the District of Columbia. 66. *Doors, millwork, and accessories,* (a) from points in Lucas County, OH, to points in AR, IL, IN, IA, KY, MO, TN, WI, NC, SC, GA, points in that part of MI north and west of a line beginning at Port Huron, MI, and extending along MI Highway 21 to junction Interstate Highway 75, thence along Interstate Highway 75 to junction MI Highway 20, thence along MI Highway 20 to New Era, MI, thence along unnumbered highway to Lake MI (at or near Benona, Michigan), and points in that part of VA south of U.S. Highway 460 and on and east of U.S. Highway 301. *Roof deck and accessories,* (b) from Oregon, OH, to points in AR, IL, IN, IA, KY, MI, MO, WI, and TN, with no transportation for compensation on return except as otherwise authorized. 67. *Ceiling suspension systems, wall systems, venetian blinds, drapery hardware, and folding doors,* from Baltimore, MD, and Columbia, MD, to points in the U.S. (except AK, HI, DE, FL, GA, MD, NC, NJ, NY, PA, SC, VA, WV, and the District of Columbia).

68. *Aluminum pipe, aluminum billets, aluminum dross, aluminum fittings, and unfinished aluminum shapes,* (a) From Ellenville, NY, to points in MN, IA, NE, KS, MO, OK, and TX. *Steel conduit,* (b) From Bala-Cynwyd, PA, to points in IN, KY, and TN. 69. *Fencing, netting, wire, fence stretchers, gates, and posts,* (a) From Mt. Sterling, OH, to points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MI, MN, MO, NH, NJ, NY, PA, RI, VT, VA, WV, WI, and the District of Columbia. (b) From Houston, TX, to points in AL, AZ, AR, CA, CO, CT, DE, FL, GA, ID, KS, LA, ME, MD, MA, MS, MT, NE, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, UT, VT, WA, and WY, and Chicago, IL, St. Louis, MO, Kansas City, MO, Memphis, TN, and the District of Columbia. 70. *Roofing, wallboard, insulation materials and paving materials with accessories,* used in connection therewith, from Lockland, OH, to points in IL, IN, IA, KS, KY, MI, MN, MO, NY, PA, TN, WV, and WI. 71. *Siding made of aluminum or steel and accessories and tools used in the installation thereof,* from Milwaukee, WI, to points in WA, OR, ID, MT, WY, ND, SD, NE (except Omaha), KS, OK, TX (except Amarillo, Lubbock and El Paso), IA, MO, AR, LA, KY, TN (except Memphis), MS, AL, WV, that part of VA north of U.S. Highway 460 and west of U.S. Highway 301, and Galesburg, IL. 72. *Gypsum, gypsum products, and materials and supplies used in the installation and distribution thereof,* over irregular routes, (a) From Akron, NY to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NC, ND, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, WY, and the District of Columbia, and points in that part of VA north of U.S. Highway 460 and west of U.S. Highway 301. (c) From Grand Rapids, MI, to points in AR, CO, CT, DE, FL, IL, IN, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, MT, NE, NH, NJ, NM, NY, ND, OH, OK, PA, RI, SD, TN, TX, VT, WV, WI, WY, and the District of Columbia, and points in that part of Virginia north of U.S. Highway 360 and west of U.S. Highway 301 including Richmond, Petersburg, Roanoke, and Lynchburg, VA. (d) From points in Marshall County, KS, to points in AL, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MT, NH, NJ, NM, NY, NC, ND, OH, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, WY, and the District of Columbia, and points in that part of MO on and east of U.S. Highway 63. 73. *Building board, wallboard, and fiberboard, and parts and accessories used in the installation thereof,* (a) From Lockport, NY, to points in MI, TN, KY, WI, IN, IL, IA, MO, and AR. (b) From Bristol, IN, to points in OH, MI, TN, KY, WI, IL, IA, MO, and AR. 74. *Wall systems and doors,* from Merrill, WI, to points in the U.S. (except AK, HI, WI, and the Upper Peninsula of MI and Rockford and Chicago, IL, and points in their commercial zones as defined by the Commission located in IL). 75. *Hardboard flooring systems, hardwood flooring, lumber, lumber products and accessories used in the installation thereof,* from Ishpeming, MI, and White Lake, WI, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, NE (except the part west of U.S. Highway 81), and Washington, D.C. 76. *Hardwood flooring systems, wood flooring, lumber, lumber products and accessories* used in the installation thereof, from Dollar Bay, MI, to Washington, DC, and points in AL AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI. 77. *(A)* (1) *Buildings,* complete, knocked down, or in sections, (2) *materials, supplies and accessories,* for buildings, (3) *wood products,* (4) *composition wood products,* (5) *laminated products,* and (6) *parts and accessories* for the products in

(3), (4), and (5) above, from Waunakee and Madison, WI, to points in the U.S. (except WA, OR, AK, and HI). *(B)*

(3), (4), and (5) above, from Waunakee and Madison, WI, to points in the U.S. (except WA, OR, AK, and HI). *(B) Returned shipments of, and materials and supplies* used in the manufacture and distribution of the products authorized in part (A) above, from points in the U.S., to Waunakee and Madison, WI. 78. *Storage racks and storage rack parts,* from Quincy and Rock Island, IL, to points in the U.S. (except AK and HI). 79. *Lumber and lumber products,* from Memphis, Covington, TN, to points in MN, WI, IA, MO, AR, IL, MI, IN, KY, OH, GA, NC, SC, VA, WV, MD, PA, DE, NJ, NY, CT, RI, and MA.

80. *Lumber and lumber products,* from Bruce, MS, and Monterey, TN, and Jackson and Nashville, TN, to points in MN, WI, IA, MO, AR, IL, MI, IN, KY, OH, GA, NC, SC, VA, WV, MD, PA, DE, NJ, NY, CT, RI, and MA. 81. *Steel roofing,* (a) From Martin's Ferry, OH, to points in AR, IL, IA, KS, KY, LA, Upper Peninsula of MI, MN, MS, MO, NE, OK, TN, (except points on and east of U.S. Highways 31 and 31–W), and TX. *Steel roofing, steel lathing, steel studding, steel corner bead, steel channels, iron and steel furring, expanded metal concrete reinforcement, structure steel footwalks, column or floor concrete construction forms and accessories, (b)* From Beech Bottom, WV, to points in AR, IL, IA, KS, LA, Upper Peninsula of MI, MN, MS, MO, NE, OK, TN (except points on and east of U.S. Highways 31 and 31–W), TX, and WI. 82. *Roofing, siding, waterproofing, and insulating materials,* over irregular routes, from Chicago Heights, IL, to points in KS. 83. *Plywood paneling and cellulose building board,* from Oshkosh, WI to points in the U.S. (except AK, HI, and WI). 84. *Ventilators and ventilating systems, and parts and equipment thereof,* from Kokomo, IN, to points in AL, AR, CO, CT, DE, GA, IA, KS, KY, LA, ME, MD, MA, the Upper peninsula of MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, WY, Galesburg, IL, Washington Court House and Jamestown, OH, and the District of Columbia. 85. *Building panels,* from Houston, TX, to points in the U.S. (except AK and HI). 86. *Ventilators and ventilator systems and parts and equipment therefor,* from Junction City, KY, to points in NJ, NY, and PA. 87. *Fibreboard,* from Wheaton, IL, to points in OH, PA, IN, KY, IA, MO, MN, NE, KS, OK, AR, TN, the lower Peninsula of MI, and those points in WI, located on and south of U.S. Highway 10. 88. *Building board,* from Kalamazoo, MI, to points in the U.S. (except points in AK, GA, HI, IL, IN, IA, MI, NC, OH, SC, WV, WI, that part of NY north of U.S. Highway 6, that part of PA on and west of a line beginning at the PA–NY State Line and extending along Interstate Highway 81 to junction PA Highway 61, thence along PA Highway 61 to Reading, PA, and thence along PA Higway 10 to the PA–MD State Line, and St. Louis, MO, Omaha, NE, and Louisville, KY, and points within their respective commerical zones as defined by the Commission). 89. *Building materials,* from Ann Arbor, MI, to points in NY, MA, RI, CT, NH, VT, ME, MD, NJ, DE, PA, WV, and the District of Columbia. 90 *Grid wall systems,* from Lima, OH, to points in the U.S. (except AK and HI). 91. *Wire, nails, mesh, staples, gates, rods, reinforcement bars, corrugated sheets, billets, and fencing,* , from Kokomo, IN, to points in AR, KS, MN, NE, ND, SD, WV, and points in that part of the MI on the north of U.S. Highway 10, including points in the Upper Peninsula of MI. 92. (1) *Buildings, complete, knocked down, or im sections,* (a) from Paris, IL, to points in AZ, CA, CO, CT, ID, ME, MA, MT, NV, NH, NM, ND, OR, RI, SC, SD, UT, VT, WA, and WY. (2) *Wall systems, wall panels, parts and accessories, and parts of buildings,* (b) from Paris, IL, to points in the U.S. (except AK and HI). (3) *Returned shipments, and materials, equipment and supplies* used in the manufacturing and distribution of the products described in (1) and (3) above, (c) from points in the U.S., except AK and HI, to Paris, IL. 93. *Tile and bathroom accessories,* except plumbing fixtures, (a) 1. from Baltimore, MD, to points in KY and MN. 2. from New Orleans, LA, to points in TN. *Bathroom accessories,* except plumbing fixtures, (b) from Baltimore, MD, to points in IL, IN, MI, and OH. *Marble window stools,* and *marble saddles,* (c) from Baltimore, MD, to Cincinnati, OH. 94. (1) *Iron and steel articles,* (a) from Columbus, OH, to points in that part of the U.S. west of a line extending along the eastern boundaries of MN, IA, MO, AR, and MS (except AK and HI). (2) *Environmental control systems,* (b) from Columbus, OH, to points in the U.S. (except AK, HI, TN, NC, SC, AL, GA, FL, MA, CT, RI, those in NJ, and PA within 30 miles of Philadelphia, PA, including Philadelphia, PA, those in NJ within 30 miles of Jersey City, including Jersey City, and those in the NY within 30 miles of NYC. including NYC).

95. *Plumber's goods, kitchen, bathroom or lavatory fixtures, and accessories,* (a) From Springfield, OH, to points in the U.S. except AK, HI, AL, AR, FL, GA, IL, IN, IA, KS, KY, MI, NE, NC, OH, OK, PA, SC, that part of VA south of U.S. Highway 460 and east of U.S. Highway 301, and WI. (b) From Ford City and Scranton, PA, and Salem, OH, to points in IL, IA, KY, points in those parts of LA and MS on and east of U.S. Highway 61, the Upper Peninsula of MI, MN, TN, and WI. 96. *Lumber and lumber products,* from Grandville, MI, to points in IL, IN, and WI. 97. *Building materials,* from Emsworth, PA, and Cambridge, OH, to points in the U.S. (except AK, AZ, CA, CO, HI, ID, MT, NE, NV, NM, MD, OR, SD, UT, WA, and WY. 98. *Plywood,* from Chicago, IL, to points in IL, IN, IA, KY, MI, MN, MO, and WI. 99. *Dry portland cement and products thereof and chemical adhesives* in containers, from Kansas City, MO, to points in MI, MN, WI, IL, NE, IA, KS, OK, AR, CO, WY, IN, TN, KY, and PA. 100. *Insulation materials,* and *tools, materials, and supplies* used in the installation of insulation materials when moving in mixed loads with insulation materials, (a) from Cleveland, OH, to points in MI, IN, IL, OH, KY, TN, LA, MS, AL, NY, PA, WV, ME, NH, VT, MA, RI, CT, NJ, DE, MD, VA, and the District of Columbia. (b) From Minneapolis, MN, to points in KS, OK, TX, MO, AR, LA, MI, IN, OH, KY, TN, MS, AL, PA, WV, and VA. 101. *Wood fiberboard,* from Doswell, VA, to points in AR, IL, IN, IA, KY, MI, MO, OH, TN, WI, AL, CT, DE, LA, ME, MD, MA, MN, MS, NH, NJ, NY, NC, PA, RI, VT, WV, and the District of Columbia. 102. *Insulation materials,* (1) from Houston, TX, to points in AR, AZ, AL, LA, MS, MT, NM, NV, and UT, and (2) from Atlanta, GA, to points in LA, MS, and TX. 103. *Partitions, panels, doors, plastic laminates, flooring, environmental systems, air conditioning, and materials* used in the erection or installation of said commodities, from Grand Rapids, MI, to points in the U.S. (except AK and HI). 104. (1) *Lumber and lumber products,* (a) from Ashland, MT, to points in the U.S. (except AK, HI, SD, MN, WI, IL, IA, NE, CA, CO, WY, and MT. (2) *Lumber, lumber products, and construction board,* (b) from Dallas, Foster, Griggs, Lebanon, Sweet Home, Springfield, Redmond, Millersburg, Bend, Portland, and Albany, OR, and Sheldon and McCleary, WA, to points in that part of the U.S. east of the western boundaries of MT, WY, CO, and NM (except points in IL, IN, IA, KS, MO, WI, and WY). (c) From points in that part of CA located north of the northern boundaries of San Luis Obispo, Kern, and San Bernardino Counties, to points in that part of the U.S. east of the western boundaries of MT, WY, CO, and NM. (3) *Particleboard,* (d) from Missoula, MT, to

points in that part of the U.S. east of the western boundaries of MN, IA, MO, OK, and TX. 105. *Air-conditioning and ventilating machinery, equipment, parts, and components,* from Staunton and Verona, VA, to points in the U.S. (except AK, DE, FL, GA, HI, MD, NJ, NC, PA, SC, WV, VA, and the District of Columbia). 106. *Steel columns, steel joists, steel beams, steel roofing deck, steel shapes, and steel trusses,* from Canton and Fairhope, OH, to points in IL and WI. 107. *Plumbing fixtures and plumbing accessories,* from Ferguson, KY, to points in the U.S. except AK, AZ, CA, CO, HI, ID, MT, NV, NM, OR, UT, WA, and WY. 108. *Particleboard and plywood,* from Simsboro, LA, Minden, LA, Hunt, LA, and Ruston, LA, to points in the U.S. (except AK and HI). 109. *Fabricated structural steel,* from Wilmington, OH, to points in the U.S. (except AL, AK, CT, DE, FL, GA, HI, LA, ME, MD, MA, MS, NH, NJ, NC, RI, SC, VT, WV, and the District of Columbia. 110. *Glass,* from Monroe County, MI, to points in the U.S. (except AK, HI, IN, MI, and OH). 111. *Fabricated steel,* from Waco, Abilene, and Midland, TX, to points in AL, AZ, AR, CA, FL, GA, ID, KY, LA, MS, NM, NC, PA, SD, TN, UT, WV, and WY. 112. *Enameled steel silos, loading and unloading devices, waste storage tanks, livestock scales, livestock feed bunkers, forage metering devices, animal waste spreader tanks, livestock feeding system and parts and accessories* for the above, from Kankakee and Eureka, IL and Elkhorn, WI, to points in the United States (except AK, AZ, CA, HI, OR, and WA). 113. *Iron and steel fencing,* from Houston, TX, to points in WA, OR, CA, NV, AZ, UT, ID, MT, WY, OH, and the District of Columbia. 114. *Metal decking,* from Braddock, PA, to points in the U.S. (except points in AK, HI, VA, NC, SC, and GA). 115. *Ventilators, vents, louvers, shutters, suspension ceiling systems, ceiling grid, wall studding, channels, closet rods, caps, dampers, screens, grilles, glass frames, and stops,* from Tucker, GA, to points in AR, LA, MS, KY, ME, NH, and VT, points in that part of NY north of NY Highway 7, and Fort Worth, TX, and Mt. Carroll, IL. 116. (1) *Buildings,* complete, knocked down, or in sections, (2) *building sections* and *building panels,* (3)*parts and accessories* used in the installation and completion of commodities in (1) and (2) above, and (4) *metal prefabricated structural components* and panels and accessories used in the installation and completion thereof, from Fayette County, OH, to points in the U.S. (except OH, AK, and HI). 117. *Construction materials,* from Franklin Park, IL, to Atlanta and Tucker, GA, and points in CT, DE, FL, KS, KY, LA, ME, MD, MA, MS, MO, NV, NH, NJ, NY, NC, OK, PA, RI, SC, TN, UT, VT, VA, WV, and the district of Columbia. 118. *Metal flooring systems, frames, and storage racks,* from Pontiac, MI, to points in AK, AR, CO, DE, FL, ID, IA, KS, ME, MA, MI, MN, MT, NE, NV, NH, ND, OR, RI, SD, UT VT, VA, WA, WV, WI, and WY, and the District of Columbia. 119. *Wood Fiberboard, from Moncure, NC, to points* in IL, IN, KY, OH, MI, NJ, NY, and PA. 120. *Sheet metal products and materials and supplies* used in the installation thereof, (a) From Philadelphia, PA, to points in ME, NH, VT, NY, MA, CT, RI, OH, TN, WV, VA, NC, SC, GA, and FL. (b) From Dallas, TX to points in WY, CO, NM, KS, NE, OK, TX, MO, AR, LA, MS, AL, and FL. (c) From Arlington Heights, IL. to points in MT, ND, SD, NE, MN, WI, IA, MO, IL, IN, KY, TN, OH, and MI. 121. *Structural floor supports and tubular products,* from Seville, OH, to points in TX, OK, NE, SD, ND, NM, WY, MT, NC, SC, VA, MD, DE, NJ, WV, and the District of Columbia. 122. *Sheet metal products and materials and supplies* used in the installation thereof, from Philadelphia, PA, to points in the U.S. (except points in AK, FL, GA, HI, PA, and SC). 123. *Ceramic tile and face brick,* from Franklin County, OH, to points in IL, IN, WI, AR, IA, KY, MO, TN, and Traverse City, MI. 124. *Urethane and urethane products, roofing and roofing materials, composition board, and gypsum products,* from Charleston, IL, to points in that part of the U.S. in and east of MT, WY, CO, and NM, (except IL). 125. *Particle board, plywood, hardboard,* and when shipped therewith, *moldings and accessories,* from Franklin Park, IL, to points in IL, MI, TX, WI, and that part of Ohio on and west of Interstate Highway 71. 126. *Floor covering,* from Marcus Hook, Pa, and Trenton and Kearny, NJ, to points in IA, MN, MT, NE, ND, SD, and WI. 127. *Steel building, complete, knocked down, or is sections,* from Houston, TX, to points in CT, IN, IA, ME, MI, MO, NH, OH, and VT. 128. *Prefabricated metal building panels, metal building sections, metal structural components, and accessories thereof,* from Stafford, TX, to points in the U.S. (except AK, HI, AR, AL, FL, LA, MS, TN, OK, NM, and TX). 129. *Pollution control equipment and accessories,* from Roanoke, IL, to points in CT, DE, FL, IL, IN, IA, NY, ME, ND, MA, MI, MN, MS, MO, NE, NH, NJ, KY, NC, ND, OH, PA, RI, SC, SD, TN, VT, VA, WV, and WI. 130. *Pipe and metal shapes and forms,* from Harvey, IL, to points in IA, KS, MO, NE, ND, SD, and VA. 131. *Paper tubing and cores,* from Florence, KY to points in GA, KS, MA, MI (except Detroit), MO, NY, PA (except Pittsburgh and points within Allegheny, Beaver, and Washington County, PA), TN, WV (except those points west of U.S. Highway 119 and Wheeling) and WI. 132. *Urethane products,* from Elizabethtown, KY, to points in that part of the U.S. in and east of MT, WY, CO, and NM. 133. *Chimney assemblies, chimney pipe and venting, and accessories,* from Logan, OH, to points in AZ, CA, ID, NV, NM, OR, UT, and WA. 134. *Mortar cement, carpet amd linoleum paste cement, waterproof compounds, and cleaning compounds,* from Houston, TX, to points in AL, AR, GA, IL, IN, IA, KY, LA, MD, MI, MN, MS, MO, NC, OH, PA, SC, TN, VA, WV, and WI.

135. *Concrete roof tile,* from Vincennes, IN, to points in AL, AR, IL, IA, KS, KY, LA, MN, MO, NE, NJ, NY, TN, TX, and VT. 136. *Plastic pipe,* from Calhoun County, AR, to points in the U.S. (except AK and HI). 137. *Wire, nails, mesh, staples, gates, rods, reinforcement bars, corrugated sheets, billets, and fencing,* from Kokomo, IN, to points in IL, IA, LA, MS, MO, NY, OK, PA, TX, and WI. 138. *Steel tubing,* from Hamlet, IN, to points in AZ, CA, CO, IL, IA, KS, KY, MN, MO, NE, OK, TN, and TX. 139. *Roofing and roofing materials,* from Joliet, IL, to points in IA and WI. 140. *Roofing materials, and siding materials,* from St. Louis, MO, to points in AL, DE, FL, KY, MD, MA, NJ, NY, OH, PA, TN, (except Memphis), and WV. 141. *Iron and steel fencing,* from LaGrange, TX, to Louisville, KY, and points in MT, ID, WA, OR, CA, NV, IA, UT, WY, NE, CO, AZ, NM, OK, MO, KS, AR, ND, SD, MN, MI, WI, IN, IL, the District of Columbia, and that part of OH on, west, and north of a line beginning at a point on the OH–PA State Line near Sharon, PA, and extending along U.S. Highway 62 to Columbus, OH, thence along U.S. Highway 23 to Circleville, OH, and thence along U.S. Highway 22 to Cincinnati, OH. 142. *Fencing, netting, wire, fence stretchers, gates and posts,* from Mt. Sterling, OH, to points in AZ, AR, CA, CO, ID, LA, NE, NV, NM, OK, OR, TN, and TX. 143. *Pipe,* from Springfield, IL, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, WY, and ND. 144. *Steel tanks,* knocked down, (a) From Parsons, KS, to points in the U.S. (except AK, HI, IL, WI, and AR). *Steel access structures, loading racks, and towers,* (b) From Parsons, KS, to points in the U.S. (except AK and HI). *Iron and steel articles and fiberglass articles,* (c) From Shreveport-Bossier City, LA, to points in the U.S. (except AK and HI). 145. *Plywood paneling,* (a) From

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Camden, NJ, to points in OH and PA. *Hardwood paneling,* (b) From Stuttgart, AR, to points in MA, NJ, NY, PA, and RI. 146. *Game tables,* from Perrysburg, OH, to points in PA, MI, CO, MA, TX, UT, WI, IL, IN, MD, VA, WV, the District of Columbia, and NY (except NYC, and points in Weschester and Nassau Counties, NY). 147. *Insulation materials,* from Cleveland, OH, to points in NJ, NY, KY, MD, PA, WV, (except points within 50 miles of Steubenville, Ohio), IL, IN, and MI. 148. *Metal panels, building parts and accessories* used in the installation thereof, from Rankin, Pa. to points in the U.S. (except AK and HI). 149. *Enameled steel silos, loading and unloading devices, waste storage tanks, livestock scales, livestock feed bunkers, forage matering devices, animal waste spreader tanks, livestock feeding systems, and parts and accessories,* from DeKalb, IL, to points in the U.S. (except AK and HI). 150. *Wooden cabinets, counter tops, and sinks,* from Fenwick, Paw Paw, and Moorefield, WV, and Berryville and Winchester, VA, to points in CA and NV. 151. *Building board and insulating materials,* from Huntington, IN, to points in AZ, AR, CA, CO, CT, LA, ME, MA, MN, MS, MO, MT, NE, NV, NH, NM, ND, OK, OR, RI, SD, TN, TX, UT, VT, WA, WI, and WY. 152. *Buildings,* complete, knocked down, or in sections, and *component parts* thereof, from Youngsville, LA, to points in the U.S. (except AK and HI). 153. *Building materials,* between points in AR, IL, IN, IA, KY, MI, MO, OH, TN, and WI. 154. *Buildings,* complete, knocked down, and in sections, *building sections* and *buildings panels,* and *metal prefabricated structural components,* from Atlantic, IA, to points in AZ, CA, CO, ID, KS, MN, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY. 155. *Buildings, building panels, building parts, and materials, accessories, and supplies* used in the installation, erection and construction of buildings, building panels, and building parts, from Birmingham, AL, to points in the U.S. (except AL, AK, and HI). 156. *Buildings, building panels, building parts, and materials, accessories, and supplies* used in the installation, erection and construction of buildings, building panels, and building parts, from Galesburg, IL, to points in the U.S. (except AK, HI, and IL). 157. *Composition board,* from Marion, SC, to points in the U.S. on and east of the western boundaries of MN, IA, MO, AR, and LA. 158. *Plastic pipe, fittings, and flashings,* from Bakers Community (Union County), NC, to points in FL, WI, MN, IA, MO AR, MS, LA, ND, SD, NE, KS, OK, TX, NM, CO, WY, MT, ID, UT, AZ, NV, WA, OR, and CA. 159. *Plastic pipe, and vnyl siding,* from Williamsport, MD, to points in IL, OH, and WI. 160. *Industrial cleaning and washing machines,* from Paris, IL, to points in the U.S. in and east of MT, WY, CO, and NM, except points in IL. 161. *Concrete construction forms and open and closed top incinerators,* from Kansas City, MO, to points in the U.S. (except AK and HI). 162. (1) *Buildings,* (2) *building sections and panels,* (3) *parts and accessories* used in the installation and completion of buildings and building sections and panels, and (4) *metal prefabricated structural components and panels,* and accessories used in the installation and completion thereof, from EL Paso, IL, to points in AZ, CA, CO, CT, ID, ME, MA, MT, NV, NH, NM, ND, OR, RI, SD, UT, VT, VA, WA, WV, and WY. 163. *Such commodities* as are dealt in by manufacturers and distributors of panels, paneling, shelving, mantels, and beams, from Lodi, NJ, and Deer Park, NY, to points in AZ, AR, CA, CO, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TN TX, UT, WA, WI, and WY. 164. *Manufactured fireplace logs,* (a) From Montrose, CO, to points in AR, AZ, CA, IL, IN, IA, KS, KY, MI, MO, OH, TN, TX, and WI. *Wood paneling* from Montrose, CO, to points in KY and TN.

165. *Bleachers and grandstands, and bleacher and grandstand components,* from Three Rivers, MI, to points in AR, MO, IA, WI, TN, NY, MN, WV, KY, PA, IL, IN, MI, OH, and VA (except points in that portion of VA on and south of U.S. Highway 460 and on and east of U.S. Highway 301). 166. (1) *Lavatories, sinks, and faucets,* and (2) *materials, supplies and equipment* used in the manufacture, distribution and installation of the commodities in (1) above, between Paris, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI). 167. *Reinforcing steel,* from Bowie, MD, to points in WV, PA, OH, IN, KY, MI, RI, MA, NJ, and ME. 168. *Iron and steel articles,* from Lackawanna, NY, to points in IL, IN, the Lower Peninsula of MI, OH, and WI. 169. *Metal flooring systems,* frames and stroage racks, from Pontiac, MI, to points in AL, AZ, CA, CT, GA, IL, KY, LA, MD, MS, MO, NJ, NY, NC, TN, and TX. 170. (1) *Countertops, sinks, and sink frames, lighting louvers and window sills,* (a) from St. Louis County, MO, and Dallas, TX, to points in the U.S. (except AK and HI). (2) *Materials* used in the manufacturing of the commodities names in (1) above, (b) from points in the U.S. (except AK and HI) to St. Louis County, MO, and Dallas, TX. 171. *Building board,* from Meridian, MS, to New Orleans and Baton Rouge, LA. 172. *Canned goods (unfrozen),* from Hoopeston and Princeville, IL, and St. Francisville and Belle Deau, LA, to points in the U.S. in and east of MT, WY, CO, and NM. 173. *Crated cabinets, vanities, and cases,* from Jeffersonville, IN, to points in AR, IL, KY, LA, MI, MS, NM, NY, OH, PA, TN, and that part of WY south of Niobrara, Converse, Natrona, Fremont, Sublette, and Lincoln Counties. 174. (1) *Buildings,* complete, knocked down, or in sections, (2) *building sections and building panels,* (3) *parts and accessories* used in the installation and completion of commodities in (1) and (2) above, and (4) *metal prefabricated structural components and panels and accessories* used in the installation and completion thereof, from Gregg County, TX, to points in the U.S. (except AK and HI). 175. (1) *Iron and steel articles,* as defined in Appendix V to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209, (a) from Midlothian, TX, to points in AR, LA, MS, OK, and TN. (2) *Iron and steel scrap,* (b) From points in AR, LA, MS, OK, and TN, to Midlothian, TX. 176. *Shower stalls and bathtubs,* from Monroe, OH, to points in the U.S. in and east of ND, SD, NE, KS, OK, and TX (except OH). 177. *Sheet metal products and materials and supplies* used in the installation of sheet metal products, from Peoria, IL, to points in IA, IN, KY, MI, MN, MO, MT, NE, ND, OH, SD, TN, and WI. 178. *Overhead doors,* from Dallas, TX, to points in PA, IN, TN, MO, IA, IL, and KS. 179. *Roofing panels, structural panels, and exterior panel systems,* from Grand Rapids, MI, to points in the U.S. (except AK and HI). 180. *Roofing and roofing materials and accessories* used in the installation of roofing, from Memphis, TN, to points in AR, MO, MS, LA, and KY (except Louisville). 181. *fencing, netting wire, fence stretchers, gates, and posts,* from U.S. (except AK, HI, IL, IN, IA, KY, MI, MN, MO, NE, ND, SD, TN, TX, VA, WV, and WI). 182. *Structural and fabricated steel,* from Lufkin, TX, to points in the U.S. (except points in AK, AR, AZ, CA, CO, KS, LA, NM, OK, TN, and TX). 183. *(1)* (a) *iron, steel, zinc, lead and articles or products* thereof; (b) *building and construction materials, supplies, and equipment* (other than self-propelled), and, (c) *curing compounds,* from Kokomo, Fort Wayne, Elkhart, IN; Toledo and Columbus, OH, Lansing, and Grand Rapids, MI; Denver, CO; Albuquerque, NM; Centerville, IA; Blue Island, and Joliet, IL, to points in the United States (except AK and HI); and *(2) materials, equipment and supplies*

used in the manufacture and distribution of commodities in (1) above, from points in the U.S. (except AK and HI), to the origin points in (1) above. 184. *Modular mausoleum crypt systems,* from Bluffton, Allen County, OH, to points in the U.S. (except AK, HI, and OH). 185. *Plastic articles,* from Chesapeake, VA., to points in AL, AR, CT, DE, IL, IN, IA, KY, LA, ME, MD, MA, MN, MI, MS, MO, NH, NJ, NY, NC, OH, PA, RI, TN, VT, WV, and WI.

186. *Doors, composition board, hardboard, and particleboard,* from Union and Wright City, MO, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. 187. *Panels, materials, equipment and supplies* used in the manufacture and distribution of panels, between Washington Court House, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI). 188. *Wire products, fence posts and pipe,* from Del Rio, Eagle Pass, Laredo, Rio Grande City, Pharr and Brownsville, TX, to points in the U.S. (except AK, HI, AR, KS, LA, OK, and TN). 189. *Buildings, building panels, building parts, and materials, accessories,* and *supplies* used in the installation, erection, and construction of buildings, building panels, and buildings parts, from Annville, Lebanon County, PA, to points in CT, DE, KY, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, TN, VT, VA, and WV, and the District of Columbia. 190. *Laminated composition board, laminated flakeboard, and laminated particleboard,* from Grand Rapids and Kentwood, MI, to points in the U.S. (except MI, AK and HI). 191. *Hardwood flooring, hardwood flooring systems, and accessories* used in the installation of such system, from Amasa, MI, to points in the U.S. (except AK nd HI). 192. *Building and construction materials,* from Medina County, OH, to points in AR, CO, IL, IA, KS, LA, MD, MA, MN, MS, MO, NE, NH, NM, NY, OK, PA, RI, TX, VA, and WV. 193. (1) *Buildings,* complete, knocked down, or in sections, (2) *building sections, building panels, and building parts,* (3) *accessories* used in the installation and completion of (1) and (2) above, and (4) *prefabricated structural components, panels, and parts and accessories* used in the installation and completion thereof from Renton, WA, to points in the U.S. (except AK, CA, HI, ID, OR, and WA. 194. *Composition board and plywood,* from Lucas County, OH, to points in the U.S. in and east of ND, SD, NE, CO, OK, and TX (except OH). 195. *Pipe or conduit* (except iron and steel) and *fittings and accessories,* from West Chicago, IL, to points in the U.S. (except AK and HI). 196. *Millwork,* from Peru, IL, to points in AR, CA, CT, DE, ID, IL, IN, KY, LA, ME, MD, MA, MI, NV, NH, NJ, NY, NC, OH, OR, PA, UT, VT, VA, WA, WV, and WI. 197. (1) *Buildings, building panels,* and *building parts,* and (2) *materials, accessories,* and *supplies* used in the construction, installation, and erection of the commodities set out in (1) above, from Laurinburg, NC, to points in the U.S. (except AK and HI). 198. *Plastic cellular expanded or foamed boards or shapes,* from Cincinnati, OH, to points in the U.S., except AK and HI. 199. *General Commodities* (except those of unusual value, commodities in bulk, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), between points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. 200. (1) *Fabricated aluminum products* and (2) *parts, attachments, and accessories* for the aforementioned commodities, in (1), from Bristol, IN, to points in DE, ME, NH, NJ, RI, VT, and WV and the District of Columbia. 201. *Roofing, roofing materials, and siding,* from Pulaski County, AR, to points in AL, FL, GA, IL, IN, IA, KS, KY, LA, MS, MO, OK, TN, and TX. 202. (1) *Siding and materials, equipment and supplies* used in the manufacture, distribution or installation of siding, (a) From Southfield, MI, to points in the U.S. (except CO, ID, MT, NV, ND, OR, SD, UT, WA, and WY); and (2) *materials, equipment and supplies* used in the manufacture, distribution or installation of siding, (b) from points in IL, IN, OH, ME, MN, MI, MO, MD, NY, IA, PA, and WV, to Southfield, MI. 203. (1) *Insulation materials,* (a) From Bridgeton, MO, to points in the U.S. in and east of MT, WY, CO, and NM (except AR, IL, IA, the lower peninsula of MI). (2) *Insulation materials,* (b) from Solon, OH, to points in the U.S. in and east of AR, IA, MN, LA, and MO. 204. (1) *Roofing, building, and insulating materials,* (a) From Granville County, NC, to points in AL, CT, DE, the District of Columbia, FL, GA, IL, IN, KY, MD, MA, the lower peninsula of MI, MS, NJ, NY, NC, OH, PA, RI, SC, TN, VA and WV. (2) *Materials, equipment and supplies* used in the manufacture, installation and distribution of roofing and building materials, (b) from points in the destination territory described in (1) above to Granville County, NC. (3) *Roofing, building and insulating materials* and *materials, equipment and supplies* used in the manufacture, installation and distribution of roofing and building materials.

(c) Between Clarke and Chatham Counties, GA; Cook and St. Clair Counties, IL; Scott County MN; Jackson County, MO; Erie County, OH; Mayes County, OK; York County, PA; and Dallas County TX. 205. *Materials, accessories, and supplies* used in the manufacture and/or construction of buildings, modular housing and mobile homes, from Mira Loma, CA, to points in AZ, CO, MT, NV, NM, UT, and WY. 206. *Cabinets, sinks, and contertops,* from Cucamonga, CA, to points in the U.S. (except AK and HI) 207. *Doors and door sections,* from Dalton, OH, to points in the U.S. (except AK and HI). 208. *Plastic building materials, tile flooring and molding,* from Union, MO, to points in the U.S. (except AK and HI). 209. *Building mortar and flooring and curing compounds, adhesives, and machinery and hand tools* used in the installation and application of the above-named commodities when shipped therewith, from Cleveland, OH, to points in AR, CO, DE, District of Columbia, IA, KS, LA, ME, MA, MI, NH, NC, ND, OK, SC, SD, TX, VT, VA, WV, and WI. 210 (1) *Fireplaces, barbecue grills, and parts and accessories* for fireplaces and barbecue grills, (a) from Shelbyville, KY, to points in the U.S. (except AK and HI). (2) *Materials, equipment, and supplies* used in the manufacture or distribution of the commodities in (1) above, (b) from points in the U.S. (except AK and HI) to Shelbyville, KY. (3) *Fireplaces, barbecue grills, parts and accessories* for fireplaces and barbecue grills, and *materials, equipment and supplies* used in the manufacture or distribution of fireplaces and barbecue grills, (c) from Santa Fe Springs, CA, to Shelbyville, KY. (4) *Materials, equipment, and supplies* used in the manufacture or distribution of fireplaces and barbecue grills, (d) from Shelbyville, KY, to Santa Fe Springs, CA. 211. (1) *Gypsum, gysum products, and building materials,* and (2) *materials and supplies* used in the manfacture, installation and distrubtion of the commodities in (1) above, between Southard, OK on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, IA, KY, ME, MD, MA, MI, MN, NS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and WI. 212. *Printed matter and materials,* equipment and supplies used in the manufacture, sale and distribution of printed matter, between Hammond, IN; Indianapolis, IN; Lexington, KY; Versailles, KY; Taunton, MA; Chicago, IL; Ossining, NY; and Nashville, TN; on the one hand, and on the other, points in the U.S. (except AK and HI). 213. *Construction materials and supplies,* from Conyers, GA, to points in the U.S. (except AK and HI). 214. (1) *Lumber and lumber products,* from (a) Flagstaff, McNary and Eagar, AZ, and (b) South Fork, CO, to points in

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AR, MO, NM and OK; (2) *poles, posts and pilings,* (b) from Prescott, AZ to points in AR, MO, NM, OK, and TX, and (3), *molding,* (c) from McNary, AZ to points in IL, IN, TX, and WI. 215. (1) *Construction materials,* (a) from Texarkana, AR, to points in the U.S. (except AK and HI), and (2) *Materials and supplies* used in the manufacture of and/or the distribution of commodities named in (1) above, (b) from the destination territory named in (1) above, to Texarkana, AR. 216. *Buildings, building panels, building parts and materials, accessories, and supplies* used in the installation, erection, and construction of buildings, building panels, and building parts, from Annville, PA, to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SC, SD, TX, UT, WA, WI and WY. 217. *Pipe and pipe fittings,* from Greencastle, PA, to points in MI, OH, and NY. 218. (1)*Roofing, roofing materials, and siding,* from (a) Meridian, MS, to points in IL, IA, IN, KS, MO, OH, OK, and TX, and (b) at points in Pulaski County, AR, to points in NC, OH, SC, VA, and WV, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk, from points in AL, AR, FL, GA, IL, IN, IA, KS, KY, MS, MO, NC, OH, OK, SC, TN, TX, VA, and WV, to the origins named in (1) (a) and (b) above. 219. *Lumber,* between Thomson, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI). 220. *Pipe, pipe fittings, hydrants, and valves,* from Bessemer and Birmingham, AL, to points in AR, MO, OK, and TX. 221. (1) *Equipment, materials, and supplies* used in the manufacture and distribution of the building materials listed in *Appendix VI to the Report in Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and (2) *wallboard, hardboard, insulation, padding, and cushioning materials, mulch, firewood and nonwoven fabrics,* from points in AL, AR, FL, GA, IL, IN, KS, LA, MI, MS, MO, NE, NC, OH, OK, SC, TN, TX, and WI, to Cloquet, MN. 222. *Iron and steel articles,* except pig iron and scrap metal, from Canfield, Martin's Ferry, Mingo Junction, Steubenville, and Yorkville, OH; Benwood, Beechbottom, Wheeling and Follansbee, WV; and Allenport and Monessen, PA: to points in AR, AL, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, OK, TN, and TX. 223. *Pipe, Pipe fittings, and accessories* for pipe and pipe fittings, from Birmingham, AL, to points in IA, KS, MO, and NE. 224. (A) (1) *Solar energy heating and cooling systems,* (2) *parts and accessories* used in the operation of the systems in (1) above, and (3) *wood burning heating appliances, irrigation systems, pipe tubing, light poles and light pole accessories,* from Valley, NE, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX; and (B) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (A) above, from those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, to Valley, NE. 225. (1) *Buildings,* complete, knocked down, or in sections, (2) *building sections and building panels,* (3) *parts and accessories* used in the installation thereof and (4) *metal prefabricated structural components and panels,* from Spanish Forks, UT, to points in the U.S. (except AK and HI). 226. *Iron and steel articles,* from Houston, TX, and Muskogee, OK, to all points in the U.S. (except AK and HI). 227. (1) *Iron and steel articles,* and (2) *materials* used in the manufacture of the comodities in (1) above, (a) from Staunton, IL, and Hazelwood, MO, to points in the U.S. (except AK and HI), and (b) from points in OH, to Staunton, IL, and Hazelwood, MO. 228. (1) *Construction materials,* and (2) *materials and supplies* used in the manufacture and distribution of construction materials, between Russellville, AL, on the one hand, and, on the other, points in the U.S. (except AK and HI). 229. *Iron and steel articles,* from East Chicago, IN, to points in IL, KY, MN, MO, TN, WI, and MS. 230. *Materials, equipment,and supplies* used in the manufacture and distribution of metal buildings and metal building parts, from points in OH, IL, and IN, to (a) Annville, PA: (b) Birmingham, AL: (c) Galesburg, IL, and (d) Laurinburg, NC. 231. (1) *Buildings,* complete, knocked down, or in sections, (2) *building sections and building panels,* (3) *parts and accessories* used in the installation and completion of commodities in (1) and (2) above, and (4) *metal prefabricated structural components and panels and accessories* used in the installation and completion of such commodities, from Hanford, CA, to points in WA, OR, ID, NV, UT, AZ, CO, MT, WY, ND, SD, NE, KS, OK, NM, and TX. Condition: Issuance of a certificate is subject ot prior or coincidental cancellation of Certificate No. 107295 and subs thereunder.

Note.—Applicant relies on operating econimies and traffic studies in lieu of shipper support.

MC–151224–F, filed October 9, 1980, previously noticed in the FR issue of November 4, 1980. Applicant: NORTHERN STEEL TRANSPORT, CO., a corporation, 6041 Benore Rd., Toledo, OH 43612. Representative: Michael M. Briley, P.O. Box 2088, Toledo, OH 43603. Transporting (1) *primary metal products, including galvanized* (except coating or other allied processing), and *fabricated metal products* (except ordnance), as described in Items 33 and 34, respectively, of the Standard Transportation Commodity Code Tariff, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1), between points in IL, IN, KY, Lower Peninsula of MI, OH, TN, WV, PA on and west of U.S. Hwy 219, St. Louis, Jefferson, Franklin, Warren, Osage, Cole, Callaway, Audrain, Montgomery, Lincoln, St. Charles, Pike, Gasconade, Ste. Genevieve, St. Francois, Washington, Crawford, Phelps, Maries, Perry, Cape Girardeau, Bollinger, Madison, Iron, Reynolds, Dent, Monroe, Marion, and Ralls Counties, MO, and Chautauqua, Niagara, Cattaraugus, Orleans, Monroe, Genesee, Wyoming, Allegany, Steuben, Chemung, Schuyler, Tioga, Broome, Tompkins, Cortland, Cayuga, Yates, Livingston, Ontario, Seneca, Onondaga, and Oswego Counties, NY.

Note.—This republication corrects the territorial description.

Volume No. OP4–124

Decided: November 13, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill. Member Fortier not participating.

MC 2017 (Sub-9F), filed November 3, 1980. Applicant: ALTO'S EXPRESS, INC., P.O. Box 45, Riverton, NJ 08077. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. & Cottman St., Jenkintown, PA 19046. Transporting (1) *such commodities* as are dealt in by grocery and food business houses, and (2) *equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC.

MC 30837 (Sub-500F), filed November 3, 1980. Applicant: KENOSHA AUTO TRANSPORT CORP., 4314 39th Ave., Kenosha, WI 53142. Representative: Paul F. Sullivan, 711 Washington, Bldg., Washington, DC 20005. Transporting: *trucks, truck tractors, and truck chassis* (in driveaway or truckaway service), between points in Wagnor County, OK, on the one hand, and, on the other, points in the U.S.

MC 42487 (Sub-1000F), filed October 31, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: W. R.

Oldenburg, P.O. Box 3062, Portland, OR 97208. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), serving Monticello, IA, as an off-route point in connection with carrier's otherwise authorized operations.

Note.—Applicant intends to tack the above authority with its existing authority.

MC 13777 (Sub-8F), filed November 3, 1980. Applicant: AAA TRANSPORT, INC., 2957 S.E. Rd., Indianapolis, IN 46206. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Transporting *machinery, equipment, materials and supplies* used in connection with the production, construction, operation, repair, service, maintenance, dismantling and transmission of air, water, and sewage systems or installations, between those points in the U.S. in and east of MN, IA, MO, AR, TX, restricted to traffic originating at or destined to the facilities of The Clow Corp.

MC 105566 (Sub-236F), filed October 31, 1980. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of heating and cooling systems, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Lennox Industries, Inc. and its subsidiaries.

MC 107107 (Sub-489F), filed October 31, 1980. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 N.W. 42nd Ave., Opa Locka, FL 33054. Representative: Sidney Alterman (same address as applicant). Transporting *such commodities* as are dealt in or used by grocery business houses (except commodities in bulk), between those points in the U.S. in and west of TX, OK, KS, NE, ND, and SD, on the one hand, and, on the other, points in AL, FL, GA, LA, MS, NC, and SC.

MC 108937 (Sub-69F), filed October 31, 1980. Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Rd., St. Paul, MN 55113. Representative: Jerry E. Hess, P.O. Box 43640, St. Paul, MN 55164. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Select Magazines, Inc., at or near Franklin, KY as an off-route point in connection with carrier's otherwise authorized regular-route operations.

MC 117786 (Sub-114F), filed October 21, 1980. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85014. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. Transporting *alcoholic beverages* and *materials, equipment, and supplies* used in the manufacture and distribution of alcoholic beverages (except commodities in bulk), from points in Armstrong County, PA, Coffee County, TN, Dearborn County, IN, Franklin and Jefferson Counties, KY, and Fresno County, CA, to points in the U.S.

MC 120737 (Sub-3F), filed October 31, 1980. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of plastic and cast iron products (except in bulk, in tank vehicles), between points in the U.S.

MC 123407 (Sub-650F), filed November 3, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). Transporting *metal building products,* from Tulsa, OK, to those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 123407 (Sub-652F), filed November 3, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). (1)(a) *pipe and connections and hardware for pipe* and (1)(b) *iron or steel manhole covers or frames,* from West Bend, WI, to points in the U.S. in and west of PA, MD, VA, NC, SC, GA, and FL (except AK and HI).

MC 129166 (Sub-3F), filed November 5, 1980. Applicant: RED WING TRANSPORTATION CORPORATION, 3154 North Service Dr., Red Wing, MN 55066. Representative: Robert L. Cope, 1730 M St., N.W., Washington, DC 20036. Transporting (1) *meats, meat products, and meat by-products, and articles distributed by meat packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (2) *foodstuffs,* and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between points in the U.S., under continuing contract(s) with Swift & Company, of Chicago, IL.

MC 141597 (Sub-13F), filed November 3, 1980. Applicant: RIVERSIDE TRUCK LINE, INC., 919—4th Ave., South, Denison, IA 51442. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *meats, meat products, and meat byproducts, and articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in the U.S., under continuing contract(s) with Dubuque Packing Co., of Denison, IA.

MC 143607 (Sub-30F), filed October 31, 1980. Applicant: BAYWOOD TRANSPORT, INC., 2611 University Parks Dr., Waco, TX 76706. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S., under continuing contract(s) with Leaver Brothers Company, of New York, NY.

MC 146646 (Sub-125F), filed October 31, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting *mechanic creepers, and materials and supplies* used in the manufacture of mechanic creepers, (1) from Westville, NJ to Greenwood, MS, St. Paul, MN, W. Jordan, UT, Memphis, TN, and Atlanta, GA, and (2) from points in SC to Westville, NJ.

MC 149406 (Sub-5F), filed November 4, 1980. Applicant: E. W. WYLIE CORPORATION, P.O. Box 1188, Fargo, ND 58107. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. Transporting *lumber, wood products, timbers, posts and poles,* (a) from the facilities of Timber Wholesalers, Inc., at or near Willmar, MN to points in WI, IL, IA, NE, SD, ND, MT, and WY, and (b) from points in WA, OR, ID, MT, ND, SD, and WY, to the facilities of Timber Wholesalers, Inc., at or near Willmar, MN.

MC 151087 (Sub-3F), filed November 3, 1980. Applicant: AREA INTERSTATE TRUCKING, INC., 15224 Dixie Hwy., Harvey, IL 60426. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in

bulk), between points in the U.S., under continuing contract(s) with Land-O-

and distribution of the commodities in (1) above (except commodities in bulk),

explosives, household goods as defined by the Commission, commodities in bulk

MC 142086 (Sub-2F), filed September

continuing contract(s) with Maccaferri

person will appear, and a brief outline of

bulk), between points in the U.S., under continuing contract(s) with Land-O-Frost, Inc., of Lansing, IL.

MC 151407 (Sub-2F), filed November 3, 1980. Applicant: T & T TRUCKING, INC., 274 N.W. 37th St., Miami, FL 33127. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting *general commodities* (except household goods and classes A and B explosives), between points in the U.S., under continuing contract(s) with Burger King, Inc.

MC 152057 (Sub-1F), filed November 7, 1980. Applicant: LANDSMAN CAR CARRIER SERVICE, INC., 5601 Reisterstown Rd., Baltimore, MD 21215. Representative: Harold E. Mesirow, 1333 New Hampshire Ave., N.W., Washington, DC 20036. Transporting *motor vehicles*, in secondary movements, in truckaway service, between points in AR, DC, FL, GA, IL, IN, IA, KS, LA, MD, MA, MI, MO, NJ, NM, NY, NC, OH, OK, PA, SC, TN, TX, VA, ME, KY, WV, MS, AL, restricted against movements of new motor vehicles having an immediate prior movements by water or rail.

Volume No. OP4–127

Decided: Nov. 10, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 123407 (Sub-649F), filed October 26, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, RT 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). Transporting *new shipping devices*, from Neenah, WI, to points in the U.S. (except AK, HI, and WI).

MC 144926 (Sub-12F), filed October 28, 1980. Applicant: E. W. WYLIE CORPORATION, P.O. Box 1188, 222 40th St., SW., Fargo, ND 58107. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. Transporting (1) *metal products, paper and paper products, lumber, lumber mill products, and construction materials*, (2) *gypsum, gypsum products, and joints compound*, and (3) *material and supplies* used in the application of the commodities in (2) aboye, between points in the U.S., under continuing contract(s) with Georgia-Pacific Corporation, of Portland, OR.

MC 151277 (Sub-1F), filed October 21, 1980. Applicant: COCHRAN TRANSPORTATION SERVICE, INC., 75 Grosvenor St., Athens, OH 45701. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. Transporting (1) *paper and paper products*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between Athens, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP4–128

Decided: Nov. 13, 1980.

By the Commission, Review Board Number 3, Members Parkers, Fortier and Hill.

MC 217 (Sub-26F), filed October 21, 1980. Applicant: POINT TRANSFER, INC., 5075 Navarre Rd., S.W., Canton, OH 44708. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *primary metal products*, including galvanized (except coating or other allied processing), *fabricated metal products* (except ordnance), and *machinery* (except electrical) as described in items 33, 34, and 35 of the Standard Transportation Commodity Code, respectively, between points in IL, IN, KY, MI, OH, PA, and WV.

MC 11207 (Sub-573F), filed October 31, 1980. Applicant: DEATON, INC., 317 Ave. W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, 7101 Wisconsin Ave., Suite 1010, Washington, D.C. 20014. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between the facilities of United States Gypsum Company at points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 70267 (Sub-17F), filed November 3, 1980. Applicant: ECKERT TRUCKING, INC., 1090 East Springettsbury Ave., York, PA 17405. Representative: Norman T. Petow, 43 No. Duke St., York, PA 17401. Transporting (1) *refractory brick and refractory products*, from the facilities of America in West Manchester Township, York County, PA, to points in the U.S. (except AK), and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction. Condition: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation, at applicant's written request, or authority held in MC 70267 Sub-14, which duplicates in full or in parts, the authority herein.

MC 97836 (Sub-28F), filed October 28, 1980. Applicant: SOLAR TRUCKING COMPANY, INC., 1 Charles St., Springfield, MA 01104. Representative: James M. Burns, 1382 Main St., Springfield, MA 01103. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between points in CT and MA. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation at applicant's written requests of Certificate of Registration in MC 97836 (Sub-2).

MC 108676 (Sub-162F), filed October 20, 1980. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Ave., N.E., Knoxville, TN 37917. Representative: Michael S. Teets, (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between points in the U.S., under continuing contract(s) with PPG Industries, Inc., at its subsidiaries, of Pittsburgh, PA.

MC 124887 (Sub-123F), filed October 30, 1980. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting (1) *rubber or miscellaneous plastic products* as described in Item 30 of the Standard Transportation Commodity Code and (2) *clay, concrete, glass or stone products* as described in Item 32 of the Standard Transportation Commodity Code and (3) *primary metal products* as described in Item 33 of the Standard Transportation Commodity Code and (4) *fabricated metal products* as described in Item 34 of the Standard Transportation Commodity Code, between points in Upshur County, WV; Coshocton and Tuscawaras Counties, OH; Manaska County, IA; Boone County, MO; Jefferson and Talladega Counties, AL; Boone County, KY, on the one hand, and, on the other, points in U.S. in and east of ND, SD, KS, NE, OK and TX.

MC 133566 (Sub-167F), filed October 2, 1980, previously noticed in the **Federal Register** issue of October 15, 1980, and republished this issue. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, IN 46947. Representative: Daniel O. Hands, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting (1) *printed matter, printing equipment, and globes*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. (except AK and HI), restricted to traffic originating at or desticned to the facilities of Rand McNally & Company.

Note.—The propose of this republication is to correctly state the shipper's facility.

MC 142086 (Sub-2F), filed September 29, 1980, previously noticed in the **Federal Register** of October 16, 1980.Applicant: JERRY A JACOBS, d.b.a. JOY MOTOR FREIGHT, 1616 East 26th, Tacoma, WA 98421. Representative: Jack R. Davis, 1100 IBM Bldg., Seattle, WA 98101. Transporting *general commodities* (except classes A and B explosives, and commodities in bulk), between points in King, Pierce, Mason, and Thurston Counties, WA, and points in the Seattle and Tacoma, WA Commercial Zones.

Note.—The purpose of this republication is to delete the restriction.

MC 143956 (Sub-19F), filed October 27, 1980. Applicant: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, SC 29488. Representative: Steven W. Gardner, 3574 Piedmont Rd., Atlanta, GA 30305. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Trojan Shippers Association in Miami County, OH, to points in the U.S. (except AK and HI).

MC 144966 (Sub-2F), filed November 4, 1980. Applicant: T.C.E. CORPORATION, P.O. Box 128, Hazlet, NJ 07730. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland, NJ 08904. Transporting *electrical goods*, and *materials, equipment and supplies* used in the manufacture and distribution of electrical goods (except commodities in bulk), between points in the U.S. under continuing contract(s) with Brownell Electric, Inc., of South Plainfield, NJ.

MC 150567 (Sub-10F), filed November 3, 1980. Applicant: TRAVIS TRANSPORTATION, INC., 123 Coulter Ave. Ardmore, PA 19003. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217. Transporting (1)(a) *lumber or wood products*, as described in Item 24 of the Standard Transportation Commodity Code and (1)(b) *building materials*, between points in the U.S., under continuing contract(s) with Hampton Lumber Sales Co., of Portland, OR.

MC 151416 (Sub-1), filed October 21, 1980. Applicant: GABION CONSTRUCTION, INC., Governors Lane Blvd., Box 43A, Williamsport, MD. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Transporting (1) *gabions, and building materials*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Maccaferri Gabions, of Williamsport, MD.

MC 151477 (Sub-1F), filed October 31, 1980. Applicant: APOLLO FOREST TRANSPORTATION COMPANY, a corporation, 6843 Goodson Rd., P.O. Box 737, Union City, GA 30291. Representative: Alan E. Serby, 3390 Peachtree Rd., N.E., 5th Fl. Lenox Towers So., Atlanta, GA 30326. Transporting (1) *lumber and lumber products* (except in bulk) and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities in (1) above, between points in the U.S., under continuing contract(s) with Apollo Forest Products of Union City, GA.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36708 Filed 11-24-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under Section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and Section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on December 16–17, 1980 in Room C5515, Seminar Room #6, Frances Perkins Department of Labor Building, Washington, D.C. 20210. The meeting is open to the public and will begin at 9:00 a.m.

The agenda for this meeting will include the swearing in of Committee members, a review of OSHA activities as they relate to the construction industry, discussion of proposed OSHA program directives that are relevant to the construction industry, and a general discussion of construction safety and health matters.

Written data, views or arguments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the chairman depending on the extent to which time permits. Communications may be mailed to: Ken Hunt, Committee Management Officer, Office of Information and Consumer Affairs, OSHA, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Room N–3635, Washington, D.C. 20210, phone (202) 523–8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C. this 20th day of November, 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-36716 Filed 11-24-80; 8:45 am]

BILLING CODE 4510-26-M

National Advisory Committee on Occupational Safety and Health; Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on December 18 and 19, 1980 at the Frances Perkins Department of Labor Building, Room C5515, Seminar Room #4, Third Street and Constitution Avenue, Northwest, Washington, D.C. The meetings will begin at 9:30 a.m.

The public is invited to attend.

The National Advisory Committee was established under Section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health, Education, and Welfare on matters relating to the Administration of the Act.

The meeting agenda will include: reports on OSHA and NIOSH activities; planning for the NACOSH Subgroup on safety and health hazards associated with synfuel production; a discussion of the NIOSH reproductive hazards program; and a discussion of the Education Resource Centers.

Written data or views concerning these agends items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies, will be presented to the Committee and included in the official record of the proceedings.

Anyone who wishes to make an oral presentation should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear, and a brief

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outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairman of the Committee to the extent which time permits.

For additional information contact: Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room, N-3635, Third Street and Constitution Avenue, NW., Washington, D.C. 20210, telephone 202-523-8024.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C. this 20th day of November, 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-36717 Filed 11-24-80; 8:45 am]

BILLING CODE 4510-28-M

Office of the Secretary

[TA-W-9942]

American Motors Sales Corp., Overland Park, Kans.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 11, 1980, in response to a worker petition received on July 25, 1980 which was filed on behalf of workers and former workers selling cars and jeeps at the Overland Park, Kansas Zone Office of the American Motors Sales Corporation.

The investigation revealed another petition (TA-W-9702) had already been filed. Since the identical group of workers is the subject of the ongoing investigation (TA-W-9702), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 17th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-36718 Filed 11-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,522]

American Motors Sales Corp., Minneapolis, Minn.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 2, 1980 in response to a worker petition received on August 25, 1980 which was filed on behalf of workers selling cars and jeeps at the Minneapolis, Minnesota Zone Office of the American Motors Sales Corporation.

The investigation revealed that another petition (TA-W-9698) had already been filed. Since the identical group of workers is the subject of the ongoing investigation (TA-W-9698), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 17th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-36719 Filed 11-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,575]

B&C Machine Co., Inc., Barberton, Ohio; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 8, 1980 in response to a worker petition received on August 26, 1980 which was filed on behalf of workers and former workers producing automotive parts at B&C Machine Company, Incorporated, Barberton, Ohio.

On August 18, 1980, an investigation (TA-W-10,283) was initiated on behalf of the same group of workers as TA-W-10,575.

Since the identical group of workers is the subject of the ongoing investigation TA-W-10,283, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 17th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-36720 Filed 11-24-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-7868]

Goodyear Tire and Rubber Co., Gadsden, Alabama; Negative Determination Regarding Application for Reconsideration

By an application dated October 15, 1980, the petitioner requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing tire flaps at Goodyear's Gadsden, Alabama plant. The determination was published in the **Federal Register** on September 19, 1980 (45 FR 62589).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioner claims that the tire flaps produced at Goodyear's Gadsden, Alabama plant were integrated into the production of earthmover tires at Goodyear's Topeka, Kansas plant. Workers at Topeka producing earthmover tires were certified eligible for trade adjustment assistance, TA-W-6845.

The Department's review showed that the tire flap workers at Gadsden did not meet the increased import criterion of the Trade Act of 1974. U.S. imports of tire flaps are negligible.

The Department found that the degree of integration of Gadsden's tire flaps into the production of Goodyear's earthmover tires at Topeka was not significant. Therefore, the certification of Goodyear's earthmover tire workers could not serve as a basis for the certification of workers producing tire flaps. Virtually all of Goodyear's Gadsden plant tire flap production is for truck tires not earthmover tires.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. The application is, therefore, denied.

Signed at Washington, D.C., this 14th day of November 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-36721 Filed 11-24-80; 8:45 am]

BILLING CODE 4510-28-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period November 10-14, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA-W-10,636; Edward Corporation, Warren, OH

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-10,607; Lustre Plating Company, Detroit, MI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-9493; Great Lakes Container Corp., Pontiac, MI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-9585; Moore Iron Works, Flint, MI

Investigation revealed that criterion (3) has not been met. U.S. imports of material handling equipment are negligible.

TA-W-7806; James D. House Logging, Inc., Aberdeen, WA

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of logs are negligible.

TA-W-7675; Simpson Industries, Inc., Simpson Mfg. Div., Litchfield, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-7890; Detroit Engineering and Machine Co., Detroit, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8031; Barley Erhart Co., Portland, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8092; Allison Manufacturing Co., Allentown, PA

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8145; Coventry Pattern Ltd., Troy, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8172; L and I Sportswear Inc., New York, NY

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8333; Dyna Quik Corp., Sterling Heights, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker

TA-W-8350; GEL, Inc., Livonia, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8408; Caro Products Inc., Caro, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of material handling containers are negligible.

TA-W-8591; C. Cowles & Company, New Haven, CT

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8785; Equipment Manufacturing, Inc., Detroit, MI

Investigation revealed that criterion (3) has not been met. U.S. imports of material handling containers are negligible.

TA-W-8903; Heublein, Inc., Spirits Group, Allen Park, MI

Investigation revealed that criterion (3) has not been met. Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA-W-9561; Tygem Tool and Die Co., Inc., Detroit, MI

Investigation revealed that criterion (3) has not been met. U.S. imports of tools and dies are negligible.

TA-W-9643; AM General Corp., Indianapolis, IN

Investigation revealed that criterion (3) has not been met. A substantial portion of the stampings produced by the Indianapolis facility supplied plants not covered by active adjustment assistance certifications.

TA-W-10,260; Jones and Laughlin Corp., Louisville, OH

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of stainless steel, sheet, and strip did not increase as required for certification.

TA-W-10,491; Natco Products Corp., West Warwick, RI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

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TA–W–10,666 & 10,679; Eastern Associated Coal Corp., Keystone #1 and Wharton #2—Mines #1, McDowel County, WV and Bald Knob, WV

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA–W–10,661; Falcon Industries, Inc., Warren, MI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–11,216; Great Lakes Carbon Corp., St. Louis, MO

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA–W–8032; Lobdell-Emery Mfg. Co., Alma, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–7833; Sealed Power Corp., St. Johns, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–9235; Youngstown and Northern Railroad Co., Youngstown, OH

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–9571; Air Monitoring, Inc., Royal Oak, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of exhaust emission testers are negligible.

TA–W–9280; Sewell Coal Company, Nettie, WV

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA–W–8881; Regent Manufacturing Corp., Hialeah, FL

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of nightwear did not increase as required for certification.

Affirmative Determinations

TA–W–9183; Eaton Corp., Industrial Truck Division, Philadelphia, PA

With respect to workers in Department 910, the investigation revealed that criterion (3) has not been met. Workers in Department 910 are engaged in the final production operations on imported lift trucks and therefore cannot be adversely affected by increased import competition.

With respect to workers not employed in Department 910, a certification was issued applicable to all such workers on or after October 1, 1979.

TA–W–7946; Litton Ind., Inc., New Britain and Newington, CT

A certification was issued applicable to all workers at the subject firm separated on or after August 13, 1979.

TA–W–9051; Bethlehem Steel Corp., Sparrows Point, MD

With respect to workers producing pipe, a certification was issued applicable to all such workers separated on or after January 1, 1980.

With respect to workers producing plate, cold rolled sheet, galvanized sheet and rods, the investigation revealed that criterion (3) has not been met. A survey of customers of the facility revealed that increased imports did not contribute importantly to separations of workers producing such products at the Sparrows Point plant.

With respect to workers producing hot rolled sheet, wire and wire products and tin plate products, a determination will be issued at a future date.

TA–W–10,215; Crouse-Hinds Arrow Hart, Inc., Arrow Hart Div., Lewiston, ME

A certification was issued applicable to all workers at the subject firm separated on or after December 1, 1979.

TA–W–10,535; Robert-Hart, Inc., Keene, NH

A certification was issued applicable to all workers at the subject firm separated on or after May 5, 1979.

TA–W–7427; Lear Siegler, Inc., Morristown, TN

A certification was issued applicable to all workers at the subject firm separated on or after May 6, 1979.

TA–W–8173; Anwelt Corp., Fitchburg, MA

A certification was issued applicable to all workers at the subject firm separated on or after January 31, 1980.

I hereby certify that the aforementioned determinations were issued during the period November 10–14, 1980. Copies of these determinations are available for inspection in Room S–5314, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Dated: November 17, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistant.

[FR Doc. 80-36714 Filed 11-24-80; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a sustantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 17th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: (Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Beede Electrical Instrument Co. (workers)	Penacook	11/7/80	11/5/80	TA-W-11,661	Electrical meters.
Bethlehem Steel Corp., Printary Department (USWA).	Bethlehem, PA	11/6/80	11/2/80	TA-W-11,661	Printed forms.
Davis Heliarc (workers)	Columbus, OH	11/10/80	11/7/80	TA-W-11,663	Fabricate stainless steel.
Diane Handbags, Inc. (ILGPNW)	Newburgh, NY	11/6/80	11/3/80	TA-W-11,664	Vinyl handbags.
Hoover Universal, Inc. (workers)	Georgetown, KY	11/10/80	11/3/80	TA-W-11,665	Volkswagon "Rabbit" seats.
Kenwood Knitting Mills Division of Donmoor (ACTWU).	Babylon, NY	11/10/80	11/5/80	TA-W-11,666	Children's knitted shirts.
Leader Metal Products, Inc. (workers)	Masury, OH	11/7/80	11/4/80	TA-W-11,667	Truck parts.
Printing Plant Legislative Service Bureau (workers).	Lansing MI	11/6/80	11/28/80	TA-W-11,668	Printing service for Michigan State government.
Regal Bag (ILGPNWU)	Newburgh, NY	11/6/80	11/3/80	TA-W-11,669	Ladies' handbags.
Regal Bag S.W. (ILGPNWU)	Newburgh, NY	11/6/80	11/3/80	TA-W-11,670	Ladies' handbags.
S.W.S. Silicones Corp. (USWA)	Adrain, MI	11/7/80	11/3/80	TA-W-11,671	Silicon products.
All Seasons (ILGWU)	Paterson, NJ	11/10/80	11/6/80	TA-W-11,672	Ladies' coats.
Automated Automation, Inc. (workers)	Noblesville, TN	11/10/80	11/24/80	TA-W-11,673	Spring and wire form detangling and feeding systems.
Baron Fashion (ILGWU)	W. Paterson, NJ	11/10/80	11/6/80	TA-W-11,674	Ladies' coats.
Clover Fashions (company)	Newark, NJ	11/10/80	11/6/80	TA-W-11,675	Ladies' outerwear.
E & M Coat (ILGWU)	Paterson, NJ	11/10/80	11/5/80	TA-W-11,676	Ladies' coats.
Erie Mining Co. (USWA)	Hoyt Lakes, MN	11/10/80	11/5/80	TA-W-11,677	Iron ore pellets.
H & D (ILGWU)	W. Paterson, NJ	11/10/80	11/6/80	TA-W-11,678	Ladies' coats.
Lebanon Garment Co. (company)	Lebanon, TN	11/13/80	11/10/80	TA-W-11,679	Men's and boy's work pants.
Marine Optical Inc. (workers)	Brockton, MA	11/10/80	11/7/80	TA-W-11,680	Eyeglass frames.
Spatz Industries. Inc. (company)	Atlanta, GA	11/10/80	11/3/80	TA-W-11,681	Men's three piece suits, pants, jackets.
AAA Punch and Die Products, Inc. (workers)	Ferndale, MI	11/12/80	11/6/80	TA-W-11,682	Punches and die buttons.
Alpine H & S, Inc. (workers)	Bellingham, WA	11/10/80	11/7/80	TA-W-11,683	Contract logging for other firms.
Char-lin Handbags, Inc.	New Haven, CT	11/10/80	11/6/80	TA-W-11,684	Vinyl and fabric, women's handbags.
Lawrence Manufacturing Co., Inc. (workers)	Walnut Ridge, AR	11/12/80	11/8/80	TA-W-11,685	Ladies' sportswear and dresses.
Leslie Fashions, Inc. (workers)	Newark, NJ	11/10/80	11/4/80	TA-W-11,686	Ladies' rain wear.
Lord's Caseware (Teamsters)	Porter, IN	11/10/80	11/7/80	TA-W-11,687	Brief cases.
Marion Power Shovel (workers)	Marion, OH	11/12/80	11/10/80	TA-W-11,688	Mining equipment.
N.E.B. Jean & Sportswear Co., Inc. (ILGWU)	Cambridge, MD	11/12/80	11/10/80	TA-W-11,689	Ladies' dresses and sportswear.
Sam Brutin & Co. (company)	Paterson, NJ	11/12/80	11/5/80	TA-W-11,690	Ladies' outerwear.
U.S. Steel Corp., American Bridge Division (Iron Workers).	Fairfield, AL	11/15/80	11/9/80	TA-W-11,691	Fabricated structural steel.
Armco, Inc. (USWA)	Ashland, KY	11/10/80	11/6/80	TA-W-11,692	Carbon flat rolled steel products.
Boeing Vertol Co., Service Transportation (UAW).	Philadelphia, PA	11/10/80	11/5/80	TA-W-11,693	Rail cars.
Bush Hog-Continental Gin, Division of Bush Hog Agricultrual Equipment Co. (workers).	Prattville, AL	11/10/80	11/6/80	TA-W-11,694	Parts and equipment.,
Fenway Manufacturing Co. (workers)	Lowell, MA	11/12/80	11/6/80	TA-W-11,695	Men's and ladies' outerwear.
G.T.E. Products Corp. (UE)	Emporium, PA	11/12/80	11/10/80	TA-W-11,696	Receiving tubes.
Lone Star Industries (UCLCW)	St. Stephens, AL	11/12/80	11/7/80	TA-W-11,697	Raw materials for cement.
McGregor Sportswear, Coalport plant (workers).	Coalport, PA	11/12/80	11/10/80	TA-W-11,698	Men's outerwear jackets.
Mighty Mac, Inc. (workers)	Gloucester, MA	11/10/80	11/7/80	TA-W-11,699	Jackets and outerwear.
Monk Fur Co. Inc. (FLMWU)	Jim Thorpe, PA	11/10/80	11/6/80	TA-W-11,700	Dressing of rabbit furs.
Reid Meredith (company)	Lawrence, MA	11/10/80	11/5/80	TA-W-11,701	Women's and men's hairpieces.
Al Tech Specialty	Watervliet, NY	11/12/80	11/10/80	TA-W-11,702	Stainless and tool steel.
AMF Wheel Goods Div., Warehouse (USWA)	Little Rock, AR	11/13/80	11/10/80	TA-W-11,703	Light weight bicycles.
AMF Wheel Goods Div. (USWA)	Little Rock, AR	11/13/80	11/10/80	TA-W-11,704	Light weight bicycles.
General Electric Co., Photo Lamp Dept. (IUE)	Cleveland, OH	11/13/80	11/10/80	TA-W-11,705	Christmas, holiday lights, photo lamps and bulbs.
General Electric Co., Miniature Lamp (IUE)	Cleveland, OH	11/13/80	11/10/80	TA-W-11,706	Light bulbs and filament for different types of lamps.
General Elkectric Co., Pitney Glass (IUE)	Cleveland, OH	11/13/80	11/10/80	TA-W-11,707	Light bulbs for auto industries painting for other types of light bulbs.
General Electric Co., Willoughby Quartz Plant (IUE).	Willoughby, OH	11/13/80	11/10/80	TA-W-11,708	Ceramic lamp tubes and quartz products.
General Electric Co., Cleveland Equipment Plant (IUE).	Cleveland, OH	11/13/80	11/10/80	TA-W-11,709	Parts and assembles machines for manufacturing light bulbs.
General Electric Co., Fluorescent Systems Dept. (IUE).	Cleveland, OH	11/13/80	11/10/80	TA-W-11,710	Pilot operation, engineering ideas for fluorescent lamps.
Vanscot Industries, Inc. (workers)	Clarence, NY	11/13/80	11/11/80	TA-W-11,711	Honing Stones.
Chippewa Shoe Co. (UFCW)	Chippewa Falls, WI	11/13/80	11/12/80	TA-W-11,712	Men's work shoes.

[FR Doc. 80-36715 Filed 11-24-80; 8:45 am]

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NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities Grant Program Announcement 1981–1982

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Introduction to the Endowment

The National Endowment for the Humanities is an independent Federal grant-making agency created in 1965 by Congress to support projects of research, education and public activity in the humanities.

The establishment of the agency resulted from an increased awareness that it is appropriate and necessary for the Federal government to complement and assist the support for the humanities provided by state and local governments and private sources.

In it authorizing act, Congress gave these reasons for founding the Endowment:

• The encouragement and support of national progress and scholarship in the humanities is an appropriate matter for Federal concern.

• A high civilization must not limit its efforts to science and technology alone, but must give full value and support to man's scholarly and cultural activity, in order to achieve a better understanding of the past, a better analysis of the present, and a better view of the future.

• Democracy demands wisdom and vision in its citizens and it must therefore foster and support a form of education designed to make men masters of their technology and not its unthinking servant.

• It is necessary and appropriate for the Federal government to assist humanities programs conducted by local and state organizations and by private agencies.

• It is appropriate for the Federal government to sustain a climate enouraging freedom of thought, imagination, and inquiry and the material conditions facilitating the release of creative talent in the humanities.

• The world leadership which has come to the United States must be founded upon worldwide respect for this nation's high qualities as a leader in the realm of ideas and of the spirit.

• These broad purposes have been translated into four specific Endowment goals:

—To promote the public understanding of the humanities, and of their value in thinking about the current conditions of national life;

—To improve the quality of teaching in the humanities and its responsiveness to new intellectual currents and changing social concerns;

—To strengthen the scholarly foundation for humanistic study, and to support research activity which enriches the life of the mind in America; and

—To nurture the future well-being of those essential institutional and human resources which make possible the study of the humanities.

Congress stated that the term "humanities" includes, but is not limited to, the study of the following:

Language; linguistics; literature; history; jurisprudence; philosophy; archaeology; comparative religion; ethics; the history, criticism and theory of the arts; those aspects of the social sciences which have humanistic content and employ humanisitic methods; and the study and application of the humanities to the human environment, with particular attention to the relevance of the humanities to the current conditions of national life.

Congress established the endowment as a part of the National Foundation on the Arts and the Humanities. The foundation also includes the National Endowment for the Arts and the Federal Council on the Arts and the Humanities. Each Endowment is directed by a Chairman appointed by the President for a four-year term, subject to Senate confirmation. The two Endowments are autonomous and have separate budgets and staffs.

The Federal Council is composed of 14 senior government officials including the Chairmen of the Endowments and is concerned with information exchange among government agencies which fund cultural programs.

The Chairman of NEH is advised by the National Council on the Humanities, a body of 26 distinguished citizens appointed by the President with the advice and consent of the Senate. The Chariman of the Endowment is presiding officer of the Council.

The Endowment is accountable to congress and is dependent for its continued legal exisfence and authority to dispense funds on periodic congressional reauthorization. This takes place at intervals of approximately five years. In addition, an appropriations bill is adopted annually. The first appropriation for program support, in Fiscal Year 1966, was $2.5 million (plus $3 million to match private donations). In Fiscal 1980, the NEH appropriation for programs was $100.3 million, plus $11.4 million in matching funds and $27 million for the Challenge Grants program.

Who is Eligible for Endowment Support

The Endowment welcomes applications for support from individuals and nonprofit institutions and organizations engaged in projects involving the humanities. Applicants may be United States citizens or nationals (such as native residents of American Samoa), or foreign nationals who have been living in the United States or its territories for at least three years at the time of application.

Equal Opportunity

The Code of Federal Regulations, Title 45, Part 1110, which effectuates provisions of Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973 and the Age Discrimination Act of 1975 provide that:

Under the above-cited statutes, the National Endowment for the Humanities is responsible for implementing compliance with and enforcement of public laws prohibiting discrimination because of race, color, national origin, sex, handicap and age in programs and activities receiving Federal assistance from the National Endowment for the Humanities.

Any person who believes he or she has been discriminated against in any program, activity or facility or desires further information regarding Federal assistance should write immediately to: Director, Office of Equal Opportunity, National Endowment for the Humanities, 806 15th Street, NW., M.S. 256, Washington, D.C. 20506.

Areas Not Funded

The Endowment does not provide support for:

Predoctoral fellowships, except insofar as they may be integral parts of a broader program and requested by the institution undertaking such a program;

Research or study undertaken in pursuit of an academic degree, or

Individual requests for travel to professional meetings. (Requests for aid in traveling abroad to international meetings should be addressed to the American Council of Learned Societies, which has a small grant from the Endowment for that purpose.)

The following categories will be considered only under the Challenge Grants Program:

Construction or restoration costs, except for limited amounts necessary to carry out other purposes of an application;

Museum or library acquisitions, except for limited amounts needed to achieve other purposes of an application;

Costs of permanent equipment which is not essential to complete a broader program or project.

Support for Projects in the Arts

The Endowment does not offer support for creative, original works in the arts or for performance or training in the arts. Historical, theoretical, and critical studies in the arts are, however, eligible for Endowment support.

Projects dealing with appreciation of the arts may also be suitable for support if they clearly relate art appreciation to other fields of the humanities rather than to fields of the creative and performing arts.

A project designed to develop a broader perspective of a culture by examining the values reflected in its arts might qualify for support while a project focusing on the arts as such probably would not.

Federal support for the creative and performing arts is the responsibility of the National Endowment for the Arts.

The Endowment's Divisions

The Endowment's operations are primarily carried out through its six divisions.

The *Division of Education Programs* offers support for projects which strengthen the nation's teaching potential in the humanities. Programs are conducted for elementary and secondary education and for higher education, including continuing education.

The *Division of Fellowships and Seminars* supports individuals in their work as scholars, teachers, and interpreters of the humanities. These awards are designed to enable individual scholars, teachers and practitioners of the professions to undertake full-time study or research for periods ranging from two months to one year.

The *Division of Public Programs* supports projects which draw upon the resources of cultural institutions and the electronic media to involve the general public in the work of the humanities. Typical projects include temporary and permanent museum exhibits which interpret the social and cultural setting of works of art; programs which explain the significance of historic sites; activities which encourage greater public use of the humanities resources of libraries, and films and television and radio programming on themes in literature, anthropology, languages, and history.

The *Division of Research Programs* supports scholarship in the humanities and conservation of essential resources for such scholarship. Many of its grants are for long-term projects involving several scholars and result in publications.

The *Division of Special Programs* through its Youth Programs, Special Projects and Program Development offices seeks to reach constituents not traditionally involved in humanities activities, to test innovative programming models, to fund efforts which cut across other categories of NEH support, and to develop programs in areas of interest to the Endowment. The program in Science, Technology and Human Values not only underscores the NEH's interest in this area of inquiry, but enables the Endowment to cooperate in the funding of activities with the National Science Foundation and other Federal agencies. The Challenge Grants Program, by requiring matching funds from non-Federal sources, stimulates giving for the support and strengthening of humanities resources.

The *Division of State Programs* makes annual grants to humanities committees in the 50 states, Puerto Rico, and the District of Columbia. The committees, in turn, regrant these funds to provide humanities programs at the local level, usually for the out-of-school adult public. Groups and individuals interested in receiving funds under this program should apply to state committees directly.

In addition to awards made through its six divisions, the Endowment, through the Office of Planning and Policy Assessment, supports studies and surveys designed to collect and analyze information about the problems, status, and trends of important sectors of humanistic activity.

How to Apply

If you plan to seek a grant from the endowment, you should request guidelines and application forms for the program in which you are interested. Contact the Public Affairs Office, Mail Stop 351, National endowment for the Humanities, 806 15th St. NW., Washington, D.C. 20506.

Applicants are urged to consult with NEH staff members in the early stages of developing their proposals. Names and telephone numbers of senior staff members are listed on page 40 of this booklet. Staff members are glad to react to preliminary drafts and to suggest questions which may be raised by panelists and reviewers. Many applicants who are not funded when they submit their first proposals often resubmit them. Staff members provide comments made by reviewers and panelists as a basis for revision, and a strengthened proposal often is funded after resubmission.

Program deadlines are listed on pages 31–35. If you plan to begin a project by a particular date you should submit your proposal well in advance, in order to ensure against possible delays in the processing or announcing of grants.

The Grant Review Process

NEH awards grants for projects in the humanities on a competitive basis. A careful review of every application is undertaken to insure that grants are made impartially on the basis of individual merit. The review process also helps identify those projects most likely to make a significant contribution to the humanities using the Endowment's limited grant funds.

While there are variations in the review process among the six NEH divisions (Research, Fellowships, Education, Public Programs, Special Programs, and State Programs), the basic procedure for evaluation of applications is generally the same.

The procedure follows four steps: 1. Receipt of the application by the NEH; 2. review by panelists and, in many cases, by outside specialist; 3. consideration by the National Council on the Humanities; 4. final action by the NEH Chairman.

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Receipt by NEH

When a grant application is received by an NEH division on or before the program deadline, it is assigned a number and reviewed by program staff. Staff review assures that all necessary information has been supplied by the applicant and that general eligibility requirements have been met. This review also gives the staff the opportunity to determine the areas of expertise required of panelists in the next stage of the application review process.

In many NEH programs, submission of preliminary applications, narratives, or inquiries well in advance of program deadlines are encouraged so that Endowment staff can advise prospective applicants of their project's eligibility and competitiveness.

Review by Panelists

All six NEH divisions use *ad hoc* panels for review of grant applications within their programs. The divisions are responsible for selecting, organizing, and conducting these panels, which serve as a group for only one application round.

Panelists are selected from a computerized databank of over 20,000 names of qualified scholars, teachers, administrators, librarians, archivists, curators, media producers, writers, and numerous other professionals in the humanities and members of the public from outside the Federal government.

Panels are composed of four to a dozen or more members who are familiar with the scholarly or professional field of the applications under consideration, or with the types of institutions, organizations, or groups involved in the proposed project. Over the course of a year, Endowment panels have memberships reflecting the pluralistic nature of our nation's institutions and population.

Panelists are expected to read the applications assigned to them and to prepare written evaluations before the panel meeting at the Endowment offices in Washington, D.C. Each one- or two-day meeting is chaired by a senior NEH staff member whose function is essentially to provide information and clarify Endowment policies and procedures. At the meeting, the panel members discuss the individual an relative merits of each proposal and make a recommendation about funding, which is forwarded to the National Council on the Humanities.

In some cases, the panel may suggest deferral of an application pending further information, or it may recomment a small grant for additional development of the proposal before giving consideration to the principal request.

Many applications, especially those that are extensive in scope or which deal with a specialized subject matter, are sent to outside specialists who volunteer to provide a written commentary. These individual reviewers are selected from the endowment's computerized databank, from specialized directories, and, in some programs, from names submitted by the applicant. They are chosen on the basis of their expertise in the specific subject, profession, type of institution, or group involved in the proposal. Their evaluations of an application are provided by NEH staff to the National Council and, in some programs, to the panel reviewing that application.

Consideration by Council

The National Council is composed of 26 men and women who are appointed by the President with the consent of the Senate to advise the Chairman of the Endowment on policy and program matters.

The full Council meets four times annually (February, May, August, and November) to consider grant applications. On the first day of the two-day session, the Council divides into committees which review applications in individual divisions. During their review, Council members, who have read the supporting materials in advance of the meeting, consider the applications carefully, paying particular attention to the evaluations submitted by review panels and outside specialists.

On the second day, the full council meets to consolidate the committee reviews into a set of funding recommendations to the NEH Chairman for all applications in that session. IN giving their advice, the Council members act as representatives of the public and as humanities generalists. They are primarily concerned with the fairness of the review process and the priorities, emphasis, and pattern of Endowment funding.

The Council recommendtion may differ from that of panelists or other reviewers, though this occurs infrequently. The Council may also call for deferral of an application pending refinements or receipt of further information.

Final Action

After considering the recommendations or reviewers, panelists, staff, and the National Council The Chairman of the endowment makes the final funding decision, as required by law.

Because of the large number of good proposals received by the endowment, it is seldom possible to provide support for all those that are recommended by panels or specialist reviewers. Many proposals demonstrate a potential for strength but may need further work on critical elements. Submission of a revised proposal is always possible, and failure to gain support in one application round does not prejudice a proposal's chances for reconsideration. At the applican't request, staff of each program area will provide information on the comments of outside reviewers and panels in order to held the applicant determine whether or not to submit a revised proposal.

Division of Education Programs

The Division of Education Programs supports projects and programs through which institutions endeavor to renew and strengthen the impact of teaching in the humanities in elementary and secondary schools and in liberal arts, vocational, and professional curricula in higher education.

Endowment-sponsored projects address the humanities content of education, and are thus distinguished from the efforts of other agencies and foundations that support projects focusing on educational theory, tests and measurements, cognitive psychology, student assistance, or the administration of education systems.

Endowment support typically makes possible two types of activity:

1. the sharing of knowledge about the humanities with teachers or faculty members through extended workshops and institutes and
2. the development of new humanities courses or materials for courses.

There are three divisional programs, one for elementary and secondary school projects and two for projects in higher education, including graduate and continuing education.

Elementary and Secondary Education Grants

This program offers support for projects designed to strengthen the teaching of the humanities in elementary and secondary schools. Eligible projects include the development of curricula and curricular materials, extended teacher institutes, and demonstration projects that will have regional or national impact on the teaching of the humanities.

Extended teacher institutes bring together teachers to learn about new developments in the humanities and to plan curricula to incorporate these

developments. For example, an institute might concentrate on ways to use local history, local buildings, and local events as a means to bring students knowledge as well as content of history.

Grants are also made to create improved classroom materials)e.g., in foreign languages and literatures); or to establish relationships between the schools and nearby museums or other cultural institutions; or to develop curricula in newer fields such as studies of comparative cultures or the study of ethical systems.

Elementary and secondary education grants typically involve cooperation between schools and college or university faculty and almost always involve both teacher training and curriculum development.

Higher Education/Individual Institution Grants

The intent of the three grant categories in this program is to improve the teaching of the humanities within particular institutions of higher education including community colleges and other two-year institutions, four- and five-year colleges, technical institutes, and universities. The three categories represent stages in the improvement of teaching in the humanities. Both the development of new humanities courses and the modification of existing programs may provide the focus for an application.

Consultant Grants. These grants provide to an institution the services of a person selected from the National Board of Consultants, an NEH register of outstanding reviewers and project directors who are familiar with all types of educational institutions and issues involved in the teaching of the humanities. Such a consultant works with the college of university for as long as two years to help with whatever problem the applicant has identified.

Pilot Grants. With these grants institutions undertake the initial implementation and evaluation of new courses in the humanities. These new courses can be in any field of the humanities or a combination of them; they can be for students at the undergraduate or graduate level; they can be for programs of continuing education. Pilot Grants may not exceed $50,000 or extend beyond two years.

Implementation Grants. These grants help colleges and universities introduce new programs. Funds may be used to develop a specific area of the humanities curriculum or revisions of the humanities curriculum broadly. Institutions applying for Implementation Grants are expected to have undertaken previously the study, planning, and testing of the new program and are expected to give evidence of strong institutional commitment to continuing the program after the grant ends. The applicant must already have received the necessary approval for the courses or program from faculty committees, administrative offices, and governing boards.

The Individual Institution Grants programs seek to help an institution help itself. The Endowment offers no model of what is correct or useful or of what is needed; instead, these grants enable institutions to determine these matters for themselves and to move ahead at the tempo that seems best for them.

Higher Education/Regional and National Grants

Regional and National Grants encourage the development and testing of imaginative approaches by supporting humanities institutes and exemplary curiculum development or curriculum materials projects. These grants differ from grants to individual institutions in that they focus on the development of models and materials for widespread use.

Humanities institutes bring together at a host institution faculty from a number of colleges and universities to participate in seminars and joint curriculum planning. The emphasis of these institutes is placed on the collaborative development and analysis of humanities courses. In this way, the institutes differ from the Endowment's Summer Seminars program (see the section on the Division of Fellowships), which is designed to further the individual scholarly growth of the faculty participants.

The program supports two other kinds of activities dealing with the dissemination of curriculum or curricular materials. First, it supports the development, testing, and dissemination of model activities that address a particular need in the teaching of the humanities which can be expected to have an impact on the curriculum in educational institutions throughout the country.

Grants typically are planned and implemented by small groups of faculty who need not be at the same institution. Projects may include programs which promote interdisciplinary cooperative teaching in traditional fields of study, such as history, or on timely topics in which the combined insights of disciplines in the humanities may add new depth and dimension, such as medical ethics. A project may seek to develop curriculum programs in new fields of study or in uncommonly taught subjects.

Development of programs may be accomplished through the sharing of resources among colleges or universities or through collaboration among them and cultural institutions such as libraries and museums.

The program also supports the creation of curriculum materials in print and other media form. Applicants must stress the need for such teaching materials, the necessity for producing them in this form, and the competency, both scholarly and technical, to carry out such a project.

These projects may vary in size and scope, but usually last from one to three years.

The Regional and National Grants program also offers support for a few curriculum conferences on nationally significant topics each year. (Support for conferences related to scholarly research is available through the Endowment's Division of Research Programs.)

**For additional information, see the Education Division Guidelines available from the Public Affairs Office, Mail Stop 351, NEH, 806 15th St., N.W., Washington, D.C. 20506. You may also wish to contact the staff members listed at the end of this Announcement.*

Division of Fellowships and Seminars

The Division of Fellowships and Seminars makes awards to help support individuals in their work as scholars, teachers, and interpreters of the humanities. The Division also supports humanities seminars for members of the non-teaching professions which may be productively related to their carreer work. These programs provide periods of uninterrupted time, ranging from one to 12 months, for humanistic study, research, and writing.

The Division's seven programs serve individuals of widely varying interests, backgrounds, and circumstances: Established scholars writing books; younger scholars in the early years of their careers; interpretive writers both outside and inside academia; faculty members in two-year, four-year, and five-year colleges whose interests are focused primarily upon their teaching; and persons in the non-teaching professions, such as doctors, lawyers, and journalists.

The kinds of projects supported through the Division's programs are as diverse as the individuals served: study and research directed toward publication, personal study projects without publication in view, or projects to enhance an applicant's teaching.

Applications are submitted directly by individuals, whether to the Endowment or to seminar directors, and stipends are

awarded and paid directly to individuals. Support is offered only for

teaching loads and limited means for research. The purpose of this program is

wide-ranging programs of personal study, and for specialized research.

Stanford University and 12 at the University of Michigan. Fellows

expected to reach, the presence of well-

The Program can assist in the

awarded and paid directly to individuals. Support is offered only for study not related to pursuit of a degree, although applicants need not have advanced degrees. Recipients are required to devote full time to their fellowship projects.

The Division's programs are all competitive. Over 9,000 persons apply for some 2,600 fellowship and seminar opportunities each year. Over 4,000 of these apply directly to the Endowment; the others apply to seminar directors or to the centers for advanced study. The application-award ratio ranges from nearly nine to one for Fellowships for Independent Study and Research to a little over two to one in the Summer Seminar program. Thus, although many opportunities are available, there are always much larger numbers of individuals well qualified to use them effectively.

Kinds of Fellowships

The Division offers fellowships for either independent study or residential, collegial study. Both kinds of awards are offered either for six to 12 months of tenure or for one or two months of summer study. Independent study opportunities are offered through three programs:

- Fellowships for Independent Study and Research
- Fellowships for College Teachers
- Summer Stipends

Opportunities for collegial or seminar study are offered through four programs:

- Summer Seminars
- Residential Fellowships for College Teachers
- Fellowships at Centers for Advanced Study
- Fellowships and Seminars for the Professions

Fellowships for Independent Sudy and Research

These ae fellowships for scholars and others who have made significant contributions to humanistic thought and knowledge, or who stand at the beginning of careers that promise such contributions. They provide up to $22,000 for 12 months of tenure or up to $11,000 for six. Senior scholars often use their awards to make up the difference between sabbaticals and full salary so that they have a full year free for their work. About ten percent of these fellowships go to non-academic applicants.

Fellowships for College Teachers

These fellowships are intended for teachers in undergraduate colleges and universities and in two-year colleges, especially teachers who have heavy teaching loads and limited means for research. The purpose of this program is to extend opportunities to these teachers to pursue full-time study and research that will enable them to develop their knowledge and understanding of their fields. Work proposed may range from general study connected with their courses to specialized research that bears only indirectly on their teaching, whatever will serve best to enhance their abilities as teachers and interpreters of the humanities.

Summer Stipends

Summer Stipends provide $2,500 for two months of summer study and research. Their purpose is to free college and university teachers from the necessity of summer employment and to provide support for travel and other research expenses so that they can devote this period to concentrated study. Because of a ceiling of three applications from any single institution, these awards are broadly distributed and a large proportion go to teachers in small colleges and other primarily undergraduate institutions. This enables these teachers to develop or continue their research interests and provides a stepping stone to more ambitious endeavors.

Summer Seminars

This program also provides $2,500 for two months of summer study and research, but it is limited to teachers at undergraduate and two-year colleges. Recipients participate in seminars directed by distinguished scholars at institutions with libraries suitable for advanced study. Approximately 120 seminars of 12 participants are offered each summer in all disciplines of the humanities and humanistic social sciences, so that 1,400 college teachers attend these seminars yearly. The basic purpose of this program is to provide opportunity for intellectual revitalization to teachers who have limited time to pursue specialized study.

Residential Fellowships for College Teachers

Analogous to Summer Seminars, this program provides academic-year fellowships of up to $20,000 to teachers in two-year and undergraduate colleges, enabling them to participate in seminars directed by distinguished scholars at designated universities. In addition to participation in the seminar, Fellows pursue personal study or research projects of their own choosing. Seven seminars are offered each year, two of them open only to teachers in two-year colleges. Applicants see these fellowships as opportunities both for wide-ranging programs of personal study, and for specialized research.

Fellowships at Centers for Advanced Study

In this program, the Endowment provides funds to centers for advanced study, research libraries, and other equivalent institutions independent of universities to enable them to offer fellowships for study and research in the humanities. The fellowships offer unique opportunities for humanists to pursue their own studies and at the same time to benefit from stimulating interaction with colleagues in similar and different fields. These fellowships may run from six to 12 months. They are awarded and administered by the centers.

Seminars and Fellowships for the Professions

The Division offers summer seminars of two kinds for the professions: Seminars for practitioners and seminars for professional-school teachers.

Seminars for Practitioners. These seminars bring together practitioners in professions outside of teaching for one month of full-time study in seminars directed by distinguished humanists. Their purpose is to advance public understanding and use of the humanities in clarifying fundamental values and goals by giving participants opportunities to stand back from their work and explore a wide range of issues. Seminars are being offered for business executives; labor leaders; journalists; lawyers and judges; physicians, nurses, and other health care practitioners; public administrators; and school administrators. Each seminar enrolls 12 to 15 participants. Stipends approximate government *per diem* allowances: $1,200 plus a travel allowance.

Seminars for Professional-School Teachers. These provide opportunities to teachers in law schools and in schools of medicine and other schools of health care to study in four- to six-week seminars directed by distinguished scholars. These seminars enable teachers to sharpen their understanding of the humanistic foundations of their fields and improve their ability to convey these to their students and colleagues. Three seminars for law-school teachers and five for teachers in schools of medicine and health care, each for 12 participants, were offered in 1980. The stipend rate is the same as in the Summer Seminar program.

Through its Professions Program, the Division also supports two fellowships programs for journalists: 12 nine-month academic year fellowships are offered annually for study in residence at Stanford University and 12 at the University of Michigan. Fellows participate in a common seminar and also pursue programs of individual study in the humanities. The stipend is $18,000.

**Information and application forms pertaining to each of the programs described above may be obtained from the Public Affairs Office, Mail Stop 351, NEH, 806 15th Street, NW., Washington, D.C. 20506. You may also wish to contact program officers of the Division whose names are listed at the end of this Announcement.*

Division of Public Programs

The Division of Public Programs provides support for activities in the humanities for the adult public conducted through museums, historical organizations, libraries, television, radio and film.

Grants are made for specific projects involving humanities themes and resources, not for general organizational support or for activities which are a part of the ongoing services of an institution. Typical formats for NEH-funded projects include interpretive exhibits (either temporary or permanent) in museums, reading and discussion programs in libraries, and the production of individual programs or multi-part series for television or radio broadcast.

Three program areas are included in the Division. They are Humanities Projects in Museums and Historical Organizations; Humanities Projects in Media; and Humanities Projects in Libraries. Each program receives grant applications twice a year, in July and January. Grants are available both for planning and for carrying out project activities, with the normal grant period being about a year and a half. Grantees are expected to share part of the cost of a project, although there is no strict formula for matching. Most grantees contribute at least 20 percent of project costs, either in cash or in kind.

Grants may be awarded only to non-profit organizations, not to individuals. Typical expenses reimbursable through NEH grants include the cost of project administration, consultants, speakers, travel, supplies, and print materials. With few exceptions, grant funds may not be used to buy equipment, to buy or to renovate facilities, or to acquire books, art objects or other resources for cultural institutions.

Although Public Programs grants are administered through categories which reflect institutional capabilities (media, museums, libraries), the criteria on which proposals are evaluated depend mainly on the strength of the project theme, its appeal to the audience it is expected to reach, the presence of well-qualified people among project staff and consultants, and the reasonableness of the proposed budget. Project themes or topics can come from any discipline of the humanities, or can involve interdisciplinary collaboration. Scholars in the humanities need not be the only experts involved in the project; in fact, a successful program usually calls for the participation of people from many different backgrounds.

Humanities Projects in Museums and Historical Organizations

The grants program for Humanities Projects in Museums and Historical Organizations funds activities that convey ideas and stimulate learning through the use of artifacts, documents, objects of art, specimens or living collections. Museums, historical organizations, historic sites and other similar cultural institutions can draw upon their own holdings or other collections and resources to develop programs which interpret humanities themes for the broad general public.

Among the categories of support are:

Temporary Interpretive Projects, such as short-term exhibitions and educational programs related to exhibitions. Support is available both for planning and for implementing such projects.

Permanent Interpretive Projects, including the reinstallation and updating of the interpretation of permanent collections. Both planning and implementation support is available. Permanent interpretive projects can also include sequential courses relating to the organization's collections, as well as the sharing of seldom exhibited or stored collections with other institutions.

Self-Study Planning Grants, provide assistance in developing or evaluating long-term public humanities programming goals of museums and historical organizations.

Humanities Projects in Media

The Media Program provides support for innovative television, radio and cable projects. Unlike other organizations or funding sources with general interest in production support or the development of media technology, the Endowment's funding in this area is solely concerned with project ideas which make substantial use of research and information in the humanities and which focus on subjects and issues that are central to the humanities. Through such projects, the program seeks to stimulate understanding of the continuity and diversity of our cultural heritage as a people.

The Program can assist in the development of humanities projects by providing support for planning, scripting and/or production.

Planning Grants. The purpose of planning grants is to encourage the preparation of innovative projects in areas of the humanities where relatively little has been presented to the public. These grants usually result in program outlines or treatments.

Script-Writing Grants. These grants are to support the actual writing of one or more scripts or, in the case of certain documentaries, detailed program treatments.

Production Grants. These grants can help support the production costs of a single program, a pilot program, or a series.

All applications for production must include a basic public information or promotion plan. Production proposals should include plans to reach groups in the population which traditionally are not reached.

Humanities Projects in Libraries

The Program of Humanities Projects in Libraries welcomes proposals that explore ways to spark the public's interest in the humanities resources of libraries and stimulate their use through thematic programs, exhibits, media, publications, and other library activities.

To be eligible for funding, a project must:

1. Focus on the humanities or use the resources of the humanities to examine a public issue or topic.
2. Include public participation in project activities.
3. Involve the use of the humanities resources unique to a library—its books, services, and staff, with a view to continued and increased use of these library resources once the project is completed.
4. Include knowledgeable and appropriate resources people in the planning and implementation of the program, such as librarians familiar with the library's resources and services, subject specialists who have training and experience in the humanities disciplines, technical experts for specific aspects of the project and community representatives form the project's defined audience.
5. Include plans for a detailed evaluation.

Applicants are advised to confer with program staff before submitting a grant application, because experience has shown that this more often leads to submission of an eligible proposal.

**For more detailed information, you may request the guidelines for each of the Division's programs from the Public*

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Affairs Office, Mail Stop 351, NEH, 806 15th Street, NW., Washington, D.C. 20506. You may wish to contact program officers of the Division whose names are listed in the directory at the end of this Announcement.

Division of Research Programs

The Division of Research Programs supports activities which concentrate on the support of scholarship in the humanities and the conservation of essential facilities and resources for such scholarship. Most of the awards made through the Division are for long-range, multi-year projects involving several scholars. A very high proportion of these grants leads to published products, often of interest to the general reader and suitable for classroom use.

These results of research grants range from dictionaries of American Indian languages to state histories written for the general reader. Documents processed and made accessible for study may be collections of old photographs, Egyptian papyri, or personal papers of historical significance. Translations may be of a Russian journal of early 19th-century Alaska or a medieval treatise on philosophy in Latin. The meaning of the Constitution in the last third of this century is as much the Endowment's concern as the question whether semiotics is a special category of linguistics or a multidisciplinary approach to all human undestanding.

The programs of the Division are organized into three broad areas, described below.

Research Resources

The Research Resources Program helps make sources needed for scholarly research in the humanities more accessible for use. If funds projects to place previously unavailable material in public repositories; to facilitate access by preparing catalogs, inventories, registers, guides, bibliographies and other finding aids; and to improve the ways in which librarians, archivists, and others care for and make available research materials. Grants are of four major types: Collection development, access, consultants, and preservation and conservation projects.

One category of collection development is microfilming projects. Grants can be made both to microfilm materials in foreign repositories of interest to American humanists and to microfilm collections of unpublished materials in American repositories which attract a high level of scholarly use but which should no longer be consulted in the original because of their fragile condition. The program also makes a few grants to supplement a strong archival collection with data collected through oral history techniques. (The Divisions of Public and Special Programs also support some oral history projects.) Two kinds of surveys are also supported by the program. The first type locates and describes manuscripts or published sources in a number of repositories in order to prepare a specialized guide to research materials dealing with a broad subject area. The second type aims to locate materials of use to advanced humanistic research that have not yet been deposited in an institution.

A number of grants are made to support projects which address major national problems in the library and archival fields. Many grants have also been made for the preparation of bibliographies and guides, to catalog, inventory, arrange, describe, or otherwise organize significant research collections of both print and non-print materials in primary and secondary sources.

Consultant Grants assist institutions with significant holdings of research materials to analyze and develop their capabilities to administer and make accessible their resources.

The program also provides support for a small number of model conservation and preservation projects.

Research Materials

Grants from this program, for research tools and reference works, editions, translations, and publications, share a common purpose: To provide support for the preparation of reference works considered of first importance for advanced research in the humanities and of demonstrable significance to the student and general reader.

Grants for research tools and reference works are made for such purposes as the creation of dictionaries, atlases, encyclopedias, concordances, *catalogues raisonnés*, calendars, linguistic grammars, descriptive catalogs, and data bases. The program also encourages applications to conduct surveys for establishing the kinds of research materials thought to be most urgently needed by scholars working in a specific field in the humanities. The program is also providing grants for states to achieve bibliographic control of their newspaper holdings and for the selective microfilming of endangered newspaper files.

Grants are made for the editorial preparation of editions in all fields of the humanities. the program also will accept applications for consultant grants in editing to give advice about the problems posed by an editorial project.

The Translations Program provides support for annotated, scholarly, translations of classical or modern works that contribute to an understanding of the history, intellectual achievements, or contemporary social or political development of other cultures and serve as tools for further disciplinary or comparative research. Translations from any language, on any topic relative to the humanities, are eligible.

The Publications Program aids the publication and dissemination of works of scholarly distinction in all fields of the humanities. Proposals from publishers requesting subvention for such works, whether or not they have resulted from prior Endowment grants, will be considered if it can be shown that their publication would otherwise entail a serious deficit.

General Research

The General Research Program provides support for a wide range of scholarship in the humanities in three major areas: Basic Research, including archaeological projects; State, Local and Regional Studies; and Research Conferences. A high proportion of the grants in the program lead to published products that are of interest to the general reader as well as specialists.

The purpose of the Basic Research area is to develop knowledge in all fields of the humanities. Collaborative, interdisciplinary scholarship involving the efforts of several individuals at the professional, assistant, and clerical levels is encouraged, as well as the use of innovative methodologies.

Support is provided for American and foreign archaeology, excavations, materials analysis, and curatorial, research and prepublication work. Area studies, international studies, and cross-disciplinary studies in all fields are especially appropriate for consideration. Projects that relate the values of the humanities to developments in science and technology are encouraged as are projects that undertake to present the humanities to a general readership.

Through its State, Local, and Regional Studies category, the General Research Program supports projects that foster understanding and knowledge of the history and customs of regions and communities in the United States. Projects involving the cooperation of scholars and other citizens in developing and using new humanistic knowledge about state, local, and regional communities are encouraged. Projects may draw upon various disciplines in the humanities, such as economics, history, politics, languages and literature, folklore, archaeology, and art history.

The Division supports a limited number of conferences, symposia and workshops to enable scholars to discuss and advance the current state of research on a particular topic or to consider means of improving conditions for research or inquiry.

**You may obtain further information by requesting a copy of the Division's guidelines from the Public Affairs Office, Mail Stop 351, NEH, 806 15th St., NW., Washington, D.C. 20506. You may also contact program officers of the Division whose names are listed in the directory at the end of this Announcement.*

Division of Special Programs

The Division of Special Programs was created to bring together and to coordinate NEH programs which deal with non-traditional constituencies for the humanities, which seek to create new kinds of programming and formats for humanities activity, and which combine and forge links between various kinds of humanities activity. The program areas within the Division have the mission of making the humanities more accessible to the general public, particularly those portions not often involved in the humanities; focusing scholarly attention on critical national problems; and testing new ideas or activities which cut across divisional lines.

The programs in this Division are Youth Programs; Program Development and Special Projects; Science, Technology and Human Values; and Challenge Grants.

Youth Programs

The purpose of Youth Programs is to stimulate the active participation of young people in humanities projects. There are two program lines:

Youth Projects' Planning and Pilot awards and Major Project awards reach large numbers of young persons through the educational activities of national youth groups, museums, libraries and other institutions. Project activities are participatory in nature and are extracurricular involving the collaboration of youth, resource people in the humanities, educators and community leaders.

Youthgrants are made on a highly competitive basis to individual young persons on the strength of projects they design themselves. Youthgrants provide support directly and only for the work of young persons in the humanities. Most applicants are between 16 and 24. The projects they propose range over the whole gamut of NEH-funded activity.

Program Development

Program Development Grants are the chief means for bringing humanities programming to new groups in the population, such as labor unions, ethnic groups, and national adult membership organizations. Program Development Grants have also been used to extend the humanities resources of urban cultural and educational institutions to non-traditional audiences in cities, and to bring humanities considerations to bear on public policy concerns.

Special Projects

The Special Projects Program traditionally has considered projects that fall outside the Endowment's established guidelines, or that involve activities which cut across one or more NEH programs. Projects funded in the Special Projects category comprise a wide variety of unique, emergency, experimental or other special activities. Some may aid a particular group and some may support a consortium of diverse types of institutions attempting to mount an integrated program of scholarly, educational, and public activities. While the Special Projects funded by the Endowment are perhaps the most diverse of any NEH program category, they are regularly categorized by the bringing together of resources not ordinarily joined to produce direct links between scholarly research and a broad national audience. Examples include a series of international symposia focusing on individual foreign countries, and "Brooklyn Rediscovery," a project combining new research, curricular development, archival work and public programs.

Science, Technology and Human Values

In response to growing concern with the ethical and value implications of developments in science and technology, the Endowment has supported studies in this area through its Science, Technology and Human Values Program. Since its first such awards in 1970, NEH has granted through its various divisions more than $24 million to support over 300 projects in research, fellowships, education, and public programs to advance the understanding of these issues by American citizens. The Endowment has also supported scholarly work in the disciplines which underlay the science-values field: the history, philosophy, and sociology of science, and the emerging fields of the history and philosophy of technology.

The Endowment is particularly interested in programs which go beyond the analysis of specific conflicts to look at the philosophical and historical underpinnings of the scientific and technical activity in this and other cultures, and how these relate to other currents of belief and practice. The Endowment wishes to encourage the creation of archival collections and other resources which will sustain research in these areas in the future.

The program collaborates with the "Ethics and Values in Science and Technology" program at the National Science Foundation, and the two agencies have jointly funded projects involving humanists and scientists in interdisciplinary work. The fruitfulness of this relationship has encouraged the Endowment to explore similar relationships with other Federal agencies.

Challenge Grants

In response to the increasing financial difficulties of the nation's cultural institutions, a new method of funding devised to aid institutions that store, research, or disseminate the humanities was authorized by Congress in 1976. This mechanism, Challenge Grants, is designed to help institutions increase and broaden their bases of individual and corporate support by offering one Federal dollar to match at least three non-Federal dollars raised by the institution, either from new sources or from increases beyond the regular contributions of traditional sources.

Challenge Grants differ substantially from traditional Endowment grants, which support only specific projects with a defined scope, duration, and result, in that they are intended to improve an institution's financial base, administration, and managerial structure so that it will be able to perform its functions for the humanities.

**For further information about these programs, contact the Public Affairs Office, Mail Stop 351, NEH, 806 15th St., N.W., Washington, D.C. 20506. You may also wish to contact the program officers whose names are listed in the directory at the end of the Announcement.*

Division of State Programs

The Division of State Programs provides support for state humanities councils which in turn support humanities projects at the local and state level. The Endowment's grants to state councils make possible programs and activities which equal in number and outreach those of the entire NEH itself.

Begun in 1970, state programs concentrate their efforts on projects which make the insights and values of one or more of the humanistic disciplines accessible to the adult, out-

of-school public. By 1975, a state humanities program was organized and active in each of the 50 states. Programs

and human resources—which helps assess the status of and trends in important sectors of the humanities or

specialists in the field, and those proposing to undertake the study.

While it is not mandatory, given the

Deadlines For Grant Applications (Listed by Program)—Continued

V 45 NO 229 25 80 UMI

of-school public. By 1975, a state humanities program was organized and active in each of the 50 states. Programs have subsequently been launched in Puerto Rico and the District of Columbia.

Their budgets vary in size. All programs are under the jurisdiction of a board or committee of approximately 20 individuals, half of whom are affiliated with professional and institutional humanistic organizations and half of whom represent a broad spectrum of public and civic interests. Most programs have one office in each state, with a full time staff of three or four people. Most state councils concentrate their efforts on projects which relate the humanities to matters of broad public interest and affect public policy. Many states also undertake work in the areas of local and social history, with distinctive programs in oral and ethnic history. Community forums, interpretive exhibits, documentaries, traveling projects, films, and other formats have been used to bring the humanities out of the classroom.

Individuals or groups wishing to apply to a state humanities program for a grant should contact the office in each state and ask for guidelines, deadlines, and explanatory materials which specify when and how each state processes applications, and what subjects, themes, or emphases are encouraged or disallowed. Many states conduct workshops or program development seminars across the state to acquaint audiences with their grant programs. All states require that the humanities be centrally involved in each funded project.

**A list of the state councils and their addresses is at the end of this Announcement. You may also wish to contact program officers of the Division whose names are listed in the directory at the end of this Announcement.*

Office of Planning and Policy Assessment:

Planning and Assessment Studies

The Endowment's role entails a commitment to foster research and development that results in more information about conditions in the humanities. Support is provided for studies and experiments designed to:

- Collect and analyze data—including information about financial, material, and human resources—which helps assess the status of and trends in important sectors of the humanities or which explore significant emerging issues concerning the humanities; and
- Develop models, techniques, and tools helpful in conducting policy research and analysis and in evaluating the effectiveness of institutional programs in the humanities.

How to Apply

Because of the limited funds available, only a small number of planning and assessment studies can be supported each year. These projects are normally funded only after careful preparation and extensive consultation between staff, knowledgeable specialists in the field, and those proposing to undertake the study.

While it is not mandatory, given the nature of the projects supported, applicants have found it useful to share an outline or draft of their proposed studies with program staff. An outline as brief as two or three pages is usually sufficient to describe the study's purpose and need, general methodology planned, duration, and cost. Staff will also review more complete statements that are closer to being actual proposals.

Inquiries and preliminary proposals should be sent to:

Planning and Assessment Studies, Office of Planning and Policy Assessment, Mail Stop 303, National Endowment for the Humanities, 806 15th Street, NW., Washington, D.C. 20506.

Deadlines For Grant Applications (Listed by Program)

Division	Deadline for receipt of applications	For projects beginning after
EDUCATION PROGRAMS		
Elementary and secondary education	Apr. 1, 1981	Oct. 1981.
	November 1, 1981	Apr. 1982.
Higher education/individual institutions:		
Consultants	Dec. 1, 1980	Mar. 1981.
	Mar. 1, 1981	June 1981.
	June 1, 1981	Oct. 1981.
	Dec. 1, 1981	Mar. 1982.
Pilot	Oct. 1, 1980	Apr. 1981.
	Apr. 1, 1981	Oct. 1981.
	Oct. 1, 1981	Apr. 1982.
Implementation	June 1, 1981	Jan. 1982.
Higher education/regional-national	Jan. 2, 1981	July 1981.
FELLOWSHIP PROGRAMS		
Fellowships for independent study and research	June 1, 1981	Jan. 1, 1982.
Fellowships for college teachers	June 1, 1981	Jan. 1, 1982.
Residential fellowships for college teachers	Nov. 9, 1980	Fall 1981.
	Nov. 10, 1981	Fall 1982.
Summer stipends for 1981	Oct. 13, 1980	Summer 1981.
	Oct. 12, 1981	Summer 1982.
Summer seminars for college teachers:		
Directors: For seminars held in the summer of 1982	July 1, 1981	Summer 1982.
Participants: For seminars held in the summer of 1981	Apr. 1, 1981	Summer 1981.
Fellowships for the professions:		
Fellowships for journalists	Mar. 2, 1981	Fall 1981.
Seminars for the professions	Apr. 13, 1981	Summer 1981.
Seminars for professional school teachers	Mar. 2, 1981	Summer 1981.
Centers for Advanced Study	Feb. 1, 1981	Fall 1982.
PUBLIC PROGRAMS		
Libraries projects	Jan. 15, 1981	July 1, 1981.
	July 15, 1981	Jan. 1, 1982.
Media projects	Jan. 8, 1981	July 1, 1981.
	July 10, 1981	Jan. 1, 1982.
Museums and historical organizations projects	Jan. 15, 1981	July 1, 1981.
	July 1981	Jan. 1, 1982.
RESEARCH PROGRAMS		
General research program:		
Basic research	Apr. 1, 1981	Dec. 1, 1981.
Basic research/Archaeological projects	Oct. 15, 1980	Apr. 1, 1981.
	Oct. 15, 1981	Apr. 1, 1982.
State, local, and regional studies	Mar. 1, 1981	Sept. 1981.
	Sept. 1, 1981	Mar. 1, 1982.
Research conferences	Nov. 15, 1980	Mar. 1, 1981.
	Feb. 15, 1981	June 1, 1981.
	Sept. 15, 1981	Dec. 1, 1981.
	Nov. 15, 1981	Mar. 1, 1982.
Research materials program:		
Research tools and reference works; and editions	Oct. 1, 1981	June 1, 1982.
Translations	July 1, 1981	Mar. 1, 1982.
Publications	May 15, 1981	Sept. 1, 1981.
	Nov. 15, 1981	Mar. 1, 1982.

Deadlines For Grant Applications (Listed by Program)—Continued

Division	Deadline for receipt of applications	For projects beginning after
Research resources	June 1, 1981	Mar. 1, 1982.
SPECIAL PROGRAMS		
Challenge grants:		
(a) Applicant's notice of intent	Mar. 15, 1981	
(b) Formal application	May 1, 1981	Fall 1981.
Program development and special projects	Jan. 15, 1981	June 1981.
Youth programs:		
Youth grants:		
(a) Applicant's preliminary narrative	Oct. 15, 1981	May 1, 1982.
(b) Formal application	Nov. 15, 1980	May 1, 1981.
	Nov. 15, 1981	May 1, 1982.
Youth projects:		
(1) Major Project Grants:		
(a) Applicant's preliminary proposal	Dec. 1, 1980	July 1, 1981.
	Dec. 1, 1981	July 1, 1982.
(b) Formal application	Jan. 15, 1981	July 1, 1982.
	Jan. 15, 1982	July 1, 1982.
(2) Planning and pilot grants	Apr. 15, 1981	Oct. 1, 1981.
State programs	Contact the Committee Office in your State (*See addresses beginning on page 36*).	
Office of Planning and Policy Assessment: Planning and assessment studies	Feb. 1, 1981	June 1, 1981.
	Aug. 1, 1981	Dec. 1, 1981.

Calendar of Deadlines for Receipt of Applications (*Listed by Date*)

For projects beginning after	Division/program
1980	
December:	
1	*July 1, 1981*... Special Programs: Youth Projects—Major Project Grants (applicant's preliminary proposal).
1	*Mar. 1981*..... Education: Consultant.
1981	
January:	
2	*July 1981*..... Education: Higher Education/Regional-National.
8	*July 1, 1981*... Public Programs: Media Projects.
15	*June 1981*..... Special Programs: Program Development and Special Projects.
15	*July 1, 1981*... Special Programs: Youth Projects—Major Project Grants (formal application)
15	*July 1, 1981*... Public Programs: Library Projects.
15	*July 1, 1982*... Public Programs: Museums and Historical Organizations Projects.
February:	
1	*June 1, 1981*. OPPA: Planning and Assessment Studies.
1	*Fall 1982*..... Fellowships: Centers for Advanced Study.
15	*June 1, 1981*. Research: Research Conferences.
March:	
1	*June 1981*..... Education: Consultant Grants.
1	*Sept. 1, 1981*. Research: State, Local, & Regional Studies.
2	*Summer 1981* Fellowships: Seminars for Professional School Teachers.
2	*Fall 1981*..... Fellowships for Journalists.
15	*Fall 1981*..... Special Programs: Challenge Grants (applicant's notice of intent)
April:	
1	*Oct. 1981*..... Education: Elementary & Secondary Education.
1	*Oct. 1981*..... Education: Higher Ed/Individual Institutions Pilot Grants.
1	*Dec. 1, 1981*.. Research: Basic Research.
1	*Summer 1981* Fellowships: Summer Seminars For College Teachers, Participants, for Seminars held in the summer of 1981.
13	*Summer 1981* Fellowships: Seminars for the Professions.
15	*Oct. 1, 1981*.. Special Programs: Youth Projects, Planning and Pilot Grants.
May:	
1	*Fall 1981*..... Special Programs: Challenge Grants (formal application)
15	*Sept. 1, 1981*. Research: Publications.
June:	
1	*Oct. 1981*..... Education: Consultant Grants.
1	*Mar. 1, 1982*.. Research: Research Resources.
1	*Jan. 1, 1982*.. Fellowships: Fellowships for Independent Study and Research.
1	*Jan. 1, 1982*.. Fellowships: Fellowships for College Teachers.
1	*Jan. 1982*..... Education: Implementation.
July:	
1	*Mar. 1, 1982*.. Research: Translations.
1	*Summer 1982* Fellowships: Summer Seminars For College Teachers, Directors, for seminars held in the summer of 1982.
10	*Jan. 1, 1982*.. Public Programs: Media Projects.
10	*Jan. 1, 1982*.. Public Programs: Museums & Historical Organizations Projects.
10	*Jan. 1, 1982*.. Public Programs: Library Projects.

Calendar of Deadlines for Receipt of Applications (*Listed by Date*)—Continued

For projects beginning after	Division/program
1982	
January:	
1	*Jan. 1982*..... Education: Implementation.
1	*Jan. 1, 1982*.. Fellowships: Fellowships for Independent Study and Research.
1	*Jan. 1, 1982*.. Fellowships: Fellowships for College Teachers.
1	*Jan. 1, 1982*.. Research: Research Resources.
1	*Jan. 1, 1982*.. Research: Translations.
1	*Summer 1982* Fellowships: Summer Seminars For College Teachers, Directors, for seminars held in the summer of 1982.
10	*Jan. 1, 1982*.. Public Programs: Media Projects.
10	*Jan. 1, 1982*.. Public Programs: Museums & Historical Organizations Projects.
10	*Jan. 1, 1982*.. Public Programs: Library Projects.

New Hampshire

New Hampshire Council for the

South Dakota

South Dakota Committee on the

Congressional Liaison—Channing Phillips, 724–0361
Public Affairs Office—Barry D. Wenger,

Kentucky

Kentucky Humanities Council, Ligon

Calendar of Deadlines for Receipt of Applications (*Listed by Date*)—Continued

	For projects beginning after	Division/program
August:		
1	*Dec 1, 1981*	OPPA: Planning and Assessment Studies
September:		
1	*Mar. 1, 1982*	Research: State, Local, & Regional Studies
15	*Dec. 1, 1981*	Research: Research Conferences.
October	*May 1, 1982*	Special Programs: Youth grants (applicant's preliminary narrative)
1	*Apr. 1982*	Education: Pilot Grants.
1	*June 1, 1982*	Research: Research Tools and Reference Works; and Editions
13	*Summer 1982*	Fellowships: Summer Stipends for 1982.
15	*Apr. 1, 1982*	Research: Basic Research/Archaeological Projects.
November:	*May 1, 1982*	Special Programs, Youth grants (formal application)
10	*Fall 1982*	Fellowships: Residential Fellowships for College Teachers
15	*Mar. 1, 1982*	Research: Publications.
15	*Mar. 1, 1982*	Research: Research Conferences
December:		
1	*Mar 1982*	Education: Consultant Grants.

State Humanities Councils

Alabama

The Committee for the Humanities in Alabama, Box 700, Birmingham-Southern College, Birmingham, AL 35204, (205) 324–1314.

Alaska

Alaska Humanities Forum, 429 D Street, Room 211, Loussac Sogn Building, Anchorage, AK 99501, (907) 272–5341.

Arizona

Arizona Humanities Council, 112 North Central Ave., Suite 304, Phoenix, AZ 85004, (602) 257–0335.

Arkansas

Arkansas Endowment for the Humanities, University Tower Building, 12th & University, Suite 1019, Little Rock, AR 72204, (501) 663–3451.

California

California Council for the Humanities, 312 Sutter Street, Suite 601, San Francisco CA 94108, (415) 391–1474.

Colorado

Colorado Humanities Program, 855 Broadway, Boulder, CO 80302, (303) 442–7298.

Connecticut

Connecticut Humanities Council, 195 Church Street, Wesleyan Station, Middletown, CT 06457, (203) 347–6888, 347–3788.

Delaware

Delaware Humanities Forum, 2600 Pennsylvania Avenue, Wilmington, DE 19806, (302) 738–8491.

District of Columbia

D.C. Community Humanities Council, 1341 G Street, N.W., Suite 620, Washington, DC 20005, (202) 347–1732.

Florida

Florida Endowment for the Humanities, LET 360 University of South Florida, Tampa, FL 33620, (813) 974–4094.

Georgia

Committee for the Humanities in Georgia, 1589 Clifton Road, N.E., Emory University, Atlanta, GA 30322, (404) 329–7500.

Hawaii

Hawaii Committee for the Humanities, 2615 South King Street, Suite 211, Honolulu, HI 96826, (808) 947–5891.

Idaho

The Association for the Humanities in Idaho, 1403 W. Franklin Street, Boise, ID 83702 (208) 345–5346.

Illinois

Illinois Humanities Council, 201 W. Springfield Avenue, Suite 205, Champaign, IL 61820, (217) 333–7611.

Indiana

Indiana Committee for the Humanities, 4200 Northwestern Avenue, Indianapolis, IN 46205, (317) 925–5316.

Iowa

Iowa Board for Public Programs in the Humanities, Oakdale Campus, University of Iowa, Iowa City, IA 52242, (319) 353–6754.

Kansas

Kansas Committee for the Humanities, 112 West Sixth Street, Suite 509, Topeka, KS 66603, (913) 357–0359.

Kentucky

Kentucky Humanities Council, Ligon House, University of Kentucky, Lexington, KY 40508, (606) 258–5932.

Louisiana

Louisiana Committee for the Humanities, 4426 S. Robertson, New Orleans, LA 70115, (540) 865–9404.

Maine

Maine Council for the Humanities and Public Policy, P.O. Box 7202, Portland, ME 04112, (207) 773–5051.

Maryland

The Maryland Committee for the Humanities, 330 North Charles Street, Room 306, Baltimore, MD 21202, (301) 837–1938.

Massachusetts

Massachusetts Foundation for the Humanties and Public Policy, 237–E Whitmore Administration Bldg., University of Massachusetts, Amherst, MA 01003, (413) 545–1936.

Michigan

Michigan Council for the Humanities, Nisbet Building, Suite 30, Michigan State University, East Lansing, MI 48824, (517) 355–0160.

Minnesota

Minnesota Humanities Commission, Metro Square, Suite 282, St. Paul, MN 55101, (612) 224–5739.

Mississippi

Mississippi Committee for the Humanities, 3825 Ridgewood Road, Room 111, Jackson, MS 39211, (601) 982–6752.

Missouri

Missouri State Committee for the Humanities, Loberg Building, Suite 202, 1145 Dorsett Road, St. Louis, MO 63043, (314) 889–5940.

Montana

Montana Committee for the Humanities, P.O. Box 8036, Hellgate Station, Missoula, MT 59807, (406) 243–6022.

Nebraska

Nebraska Committee for the Humanities, Cooper Plaza, Suite 405, 211 N. 12th Street, Lincoln, NB 68508, (308) 234–2110.

Nevada

Nevada Humanities Committee, P.O. Box 8065, Reno, NV 89507, (702) 784–6587.

New Hampshire

New Hampshire Council for the Humanities, 112 South State Street, Concord, NH 03301, (603) 224–4071.

New Jersey

New Jersey Committee for the Humanities, Rutgers, The State University, CN 5062, New Brunswick, NJ 08903, (201) 932–7726.

New Mexico

New Mexico Humanities Council, 1805 Roma N.E., The University of New Mexico, Albuquerque, NM 87131, (505) 277–3705 (Albuquerque); (505) 646–1945 (Las Cruces).

New York

New York Council for the Humanities, 33 West 42nd Street, New York, NY 10036, (212) 354–3040.

North Carolina

North Carolina Humanities Committee, 112 Foust Bldg., UNC-Greensboro, Greensboro, NC 27412, (919) 379–5325.

North Dakota

North Dakota Committee for the Humanities and Public Issues, Box 2191, Bismarck, ND 58501, (701) 663–1948.

Ohio

The Ohio Program in the Humanities, 760 Pleasant Ridge Avenue, Columbus, OH 43209, (614) 236–6879.

Oklahoma

Oklahoma Humanities Committee, Executive Terrace Building, 2809 Northwest Expressway, Suite 500, Oklahoma City, OK 73112, (405) 840–1721.

Oregon

Oregon Committee for the Humanities, 418 S.W. Washington, Room 410, Portland, OR 97201, (503) 241–0543.

Pennsylvania

Public Committee for the Humanities in Pennsylvania, 401 N. Broad Street, Philadelphia, PA 19108, (215) 925–1005.

Puerto Rico

Fundacion Puertorriquena de las Humanidades, Box 4307, Old San Juan, PR 00904, (809) 723–2087.

Rhode Island

Rhode Island Committee for the Humanities, 86 Weybosset Street, Room 307, Providence, RI 02903, (401) 521–6150.

South Carolina

South Carolina Committee for the Humanities, 17 Calendar Court, Columbia, SC 29206, (803) 799–1704.

South Dakota

South Dakota Committee on the Humanities, University Station, Box 35, Brookings, SD 57006, (605) 688–4823.

Tennessee

Tennessee Committee for the Humanities, 1001 18th Avenue South, Nashville, TN 37212, (615) 320–7001.

Texas

Texas Committee for the Humanities, 1604 Nueces, Austin, TX 78701, (512) 473–8585.

Utah

Utah Endowment for the Humanities, 10 West Broadway, Broadway Building, Suite 900, Salt Lake City, UT 84101, (801) 531–7868.

Vermont

Vermont Council on the Humanities and Public Issues, Grant House, P.O. Box 58, Hyde Park, VT 05655, (802) 888–5060.

Virginia

Virginia Foundation for the Humanities and Public Policy, One-B West Range, University of Virginia, Charlottesville, VA 22903, (804) 924–3296.

Washington

Washington Commission for the Humanities, Olympia, WA 98505, (206) 866–6510.

West Virginia

The Humanities Foundation of West Virginia, Box 204, Institute, WV 25112, (304) 768–8869.

Wisconsin

Wisconsin Humanities Committee, 716 Langdon Street, Madison, WI 53706, (608) 262–0706.

Wyoming

Wyoming Council for the Humanities, Box 3274, University Station, Laramie, WY 82701, (307) 766–6496.

Senior Staff of the Endowment

(All numbers are in Area Code 202)

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Deputy Chairman, Management—John Whitelaw, 724–0650
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Special Assistant to the Chairman—Leonard P. Oliver, 724–0297
Special Assistant to the Chairman—James G. McCargar, 724–0657
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Office of Planning and Policy Assessment—Armen Tashdinian, Director, 724–0344
Program Planning—Bruce Carnes 724–0344
Evaluation and Assessment Studies—Stanley Turesky, 724–0369
Division of Education Programs—Geoffrey Marshall, Director, 724–0351; Myron Marty, Deputy Director, 724–0351
Elementary and Secondary Education—Francis Roberts, 724–0373
Higher Education/Individual Institutions—H. Gene Moss, 724–0393
Higher Education/Regional-National—Blanche Premo, 724–0311
Division of Public Program—Martin Sullivan, Director, 724–0231; Shirley H. Sun, Deputy Director, 724–0231
Humanities Projects in Libraries—Thomas Phelps, 724–0760
Humanities Projects in Media—Stephen Rabin, 724–0318
Humanities Projects in Museums and Historical Organizations—Cheryl McCLenney, 724–0327
Division of Fellowships and Seminars—James Blessing, Director, 724–0236; Guinevere Griest, Deputy Director, 724–0236
Fellowships for Independent Study and Research—David Coder, 724–0333
Fellowships for College Teachers—Karen Fuglie, 724–0333
Residential Fellowships for College Teachers—Morton Sosna, 724–0376
Summer Stipends—724–0376
Summer Seminars for College Teachers—Dorothy Wartenberg, 724–0376
Fellowships for the Professions—Julian F. MacDonald, 724–0376
Centers for Advanced Studies—Morton Sosna, 724–0376
Division of Research Program—Harold Cannon, Director, 724–0226; Marjorie Berlincourt, Deputy Director, 724–0226
General Research—John Williams, 724–0276
Research Materials—George Farr, 724–1672
Research Resources—Margaret Child, 724–0141
Division of Special Programs—Carole Huxley, Director, 724–0261
Challenge Grants—Stephen Goodell, 724–0207
Program Development/Special Projects—Lynn Smith, 724–0398
Youth Programs—Marion C. Blakey, 724–0396
Science, Technology and Human Values—Richard Hedrich, 724–0354
Division of State Programs—B. J. Stiles, Director, 724–0286; Donald D. Gibson, Deputy Director, 724–0286

Joseph D. Duffey,
Chairman.

[FR Doc. 80–36706 Filed 11–24–80; 8:45 am]
BILLING CODE 7536–01–M

NATIONAL SCIENCE FOUNDATION

Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

V 45 N 0 2 5 8 0 UMI

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978. Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357–7934.

SUPPLEMENTARY INFORMATION: On October 7, 1980, the National Science Foundation published a notice in the **Federal Register**, page 66534, of permit applications received. On November 10, 1980 permits were issued to: David G. Ainley, Robert W. Risebrough, and Wayne Trivelpiece.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 80–36732 Filed 11–24–80; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50–313 and 50–368]

Arkansas Power & Light Co., Issuance of Amendments To Facility Operating Licenses

The U.S. Nuclear regulatory Commission (the Commission) has issued Amendments Nos. 47 and 17 to Facility Operating Licenses Nos. DPR–51 and NPF–6, issued to Arkansas Power & Light Company (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One, Units Nos. 1 and 2 (ANO–1&2) located in Pope County, Arkansas. The amendments are effective as of the date of issuance.

The amendments modify the ANO–1&2 Appendices A and B Technical Specifications dealing with Arkansas Power & Light Company management organization structure.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the licensee's application dated September 29, 1980, as supplemented on October 16, 1980, (2) Amendment No. 47 to License No. DPR–51 and Amendment No. 17 to License No. NPF–6, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Arkansas. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 14th day of November 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80–36750 Filed 11–24–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–170]

Armed Forces Radiobiology Research Institute (AFRRI); Consideration of Application for Renewal of Amended Facility License

The United States Nuclear Regulatory Commission (the Commission) is considering renewal of Facility License No. R–84, issued to the Armed Forces Radiobiology Research Institute (AFRRI) (the licensee), for operation of the TRIGA-type research reactor located on the National Naval Medical Center site in Bethesda, Maryland.

The renewal would extend the expiration date of Facility License No. R–84 to November 8, 2000, in accordance with the licensee's timely application for renewal dated October 3, 1980.

Prior to a decision to renew the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By December 26, 1980, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity.

Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 324–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to James R. Miller: (petitioner's name and telephone number); (date petition was mailed); (Armed Forces Radiobiology Research Institute) and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Captain Paul Taylor, Armed Forces Radiobiology Research Institute, National Naval Medical Center, Bethesda, Maryland 20014.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(i)–(v) and § 2.714(d).

For further details with respect to this action, see the application for renewal dated October 3, 1980, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Dated at Bethesda, Maryland this 18th day of November 1980.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 80–36745 Filed 11–24–80; 8:45 am]

BILLING CODE 7590–01–M

[Docket No.: 50–157]

Cornell University; Consideration of Application for Renewal of Amended Facility License

The United States Nuclear Regulatory Commission (the Commission) is considering renewal of Facility License No. R–80, issued to Cornell University (the licensee), for operation of the TRIGA-type research reactor located on the University's Campus in Ithaca, New York.

The renewal would extend the expiration date of Facility License No. R–80 to June 29, 2000, in accordance with the licensee's timely application for renewal dated May 27, 1980, as supplemented on September 15, 1980.

Prior to a decision to renew the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By December 26, 1980, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition wihout requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity.

Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 324–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to James R. Miller: (petitioner's name and telephone number); (date petition was mailed); (Cornell University) and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Dean Paul McIssac, College of Engineering, Carpenter Hall, Cornell University, Ithaca, New York.

Nontimely filings or petitions for leave to intervene, amended petitions, supplemental petitions and/or requests

for hearings will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a)(i)–(v) and § 2.714(d).

For further details with request to this action, see the application for renewal dated May 27, 1980, as supplemented on September 15, 1980, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

Dated at Bethesda, Maryland this 18th day of November 1980.

For the Nuclear Regulatory Commission.

James R. Miller,

Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 80-36744 Filed 11-24-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-269, 50-270, and 50-287]

Duke Power Co.; Issuance of Amendments to Facility Operating Licenses and Granting of Relief From ASME Section XI Inservice Inspection Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 88, 88 and 85 to Facility Operating Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, issued to Duke Power Company (the licensee), which revised Technical Specifications for operation of the Oconee Nuclear Station, Units Nos. 1, 2 and 3, located in Oconee County, South Carolina. The amendments are effective as of the date of issuance.

The amendments replace the current inservice inspection Technical Specifications with an inservice inspection program that meets the requirements of 10 CFR 50.55a.

By letter dated November 7, 1980, as supported by the related Safety Evaluation, the Commission has also granted to the licensee relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components". The relief relates to the inservice inspection program for the Station. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The applications for the amendments and requests for relief comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments, and letter granting relief. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments and the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this action.

For further details with respect to this action, see (1) the applications for amendments dated October 1, 1976, and July 8, 1977, as combined in the application dated May 30, 1979, and as supplemented May 26, 1977, September 21, 1977, and June 11, 1979, and the application dated March 24, 1980, (2) Amendments Nos. 88, 88 and 85 to Licenses Nos. DPR-38, DPR-47 and DPR-55, respectively, (3) the Commission's related Safety Evaluation, and (4) the Commission's letter to the licensee dated November 7, 1980. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Oconee County Library, 201 South Spring Street, Walhalla, South Carolina. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 7th day of November 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4. Division of Licensing.

[FR Doc. 80-36751 Filed 11-24-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-321]

Georgia Power Company, et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 80 to Facility Operating License No. DPR-57, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1 (the facility) located in Appling County, Georgia.

This amendment was authorized by phone on October 29, 1980. It revises the Technical Specifications for the Service Water System. This revision changes the operability requirements to reflect the availability of an alternate cooling water source to diesel generator 1B. The amendment was issued on an expedited basis because the existing Technical Specifications (1) were different for Hatch Unit No. 2, (2) did not specifically cover the situation at the Unit and (3) were overly restrictive in view of the lack of a safety issue.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated October 29, 1980, (2) the Commission's letter to the licensee dated November 3, 1980, (3) Amendment No. 80 to License No. DPR-57, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia 31513. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 13th day of November 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80-36745 Filed 11-24-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275 & 50-323]

Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2); Request for Action

By letter of October 17, 1980, David Fleischaker, Esq., requested on behalf of the joint intervenors in the Diablo Canyon operating license proceeding that the Director of Nuclear Reactor Regulation take action to have prepared a supplemental environmental impact statement on the environmental consequences of Class 9 accidents at the Diablo Canyon Nuclear Power Plants. Mr. Fleischaker's letter was supported by the affidavit of Mr. Richard B. Hubbard. Mr. Fleischaker asks that this action be taken prior to issuance of either a low or full power license for the plants.

Mr. Fleischaker's request is being treated under 10 CFR 2.206 of the Commission's regulations. The request is similar to a request filed by the Friends of the Earth, which was recently denied under 10 CFR 2.206. DD-80-22, 11 NRC 919 (June 1980). Nonetheless, the Staff will review Mr. Fleischaker's letter and Mr. Hubbard's affidavit to determine whether the requested relief should be granted under 10 CFR 2.206. Action on the request will be taken within a reasonable time.

Copies of the letter and affidavit are available for public inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document room at the California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Bethesda, Maryland, this 19th day of November, 1980.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 80-36747 Filed 11-24-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-339]

Virginia Electric and Power Co.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to the Facility Operating License No. NPF-7, issued to Virginia Electric and Power Company for the North Anna Power Station, Unit No. 2, which changes a Technical Specification contained in Facility Operating License NPF-7. The amendment is effective as of its date of issuance.

The amendment changes one Technical Specification regarding leak testing of certain pressure isolation valves prior to entering Mode 2 rather than Mode 4.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Virginia Electric and Power Company letter dated November 4, 1980, (2) Amendment No. 1 to Facility Operating License No. NPF-7, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Board of Supervisor's Office, Louisa County Courthouse, Louisa, Virginia 23093 and at the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 17th day of November 1980.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 80-36752 Filed 11-24-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on December 4–6, 1980, in Room 1046, 1717 H Street, NW, Washington, D.C. Notice of this meeting was published in the **Federal Register** on October 24, 1980.

The agenda for the subject meeting will be as follows:

Thursday, December 4, 1980

8:30 A.M.–8:45 A.M.: Opening Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

8:45 A.M.–1:00 P.M.: Three Mile Island Nuclear Station Unit 1 (Open)—The Committee will hear and discuss the report of its Subcommittee and consultants who may be present regarding proposed operation of the Three Mile Island Nuclear Station Unit 1. The Committee will also hear and discuss presentations from the NRC Staff, the licensee, and members of the public who may have an interest in the matters being discussed.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

2:00 P.M.–3:00 P.M.: New Safety Concepts for Future Nuclear Plant Designs (Open)—The Committee members will discuss a proposed interim report to the NRC regarding new safety concepts for future nuclear power plant designs.

3:00 P.M.–5:00 P.M.: Generic Items Applicable to Light-Water Reactors (Open)—The Committee will hear and discuss reports from designated subcommittee chairmen regarding the status of generic items applicable to light-water reactors.

5:00 P.M.–6:00 P.M.: Reports of ACRS Subcommittees on Safety Related Matters (Open) The committee will hear and discuss the reports of subcommittees on proposed NRC Guides regarding utility management structure and technical support, and consideration of Class 9 accidents in the licensing process.

Friday, December 5, 1980

8:30 A.M.–11:30 A.M.: Waste Storage and Disposal (Open)—The Committee will hear and discuss the report of its Subcommittee on Waste Management and consultants who may be present regarding those matters needing further consideration in connection with the NRC proceeding to determine the degree

of confidence that radioactive wastes produced by nuclear facilities will be safely stored and ultimately disposed of.

during this meeting. The Committee will also discuss a proposed report to NRC regarding the performance of hydraulic

opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call

TMI-2 accident. Notice of this meeting was published Nov. 13.

**Advanced Reactors*, December 2, Washington, DC. The Subcommittee will discuss preparation of appropriate chapters of the ACRS Annual Report to

**Emergency Core Cooling Systems*, January 15, 1981, Albuquerque, NM. The Subcommittee will meet to discuss

of confidence that radioactive wastes produced by nuclear facilities will be safely stored and ultimately disposed of.

The Committee will also hear a status report from the ACRS Subcommittee regarding proposed criteria for the geologic disposal of radioactive wastes.

The Committee will hear and discuss reports and comments from representatives of the NRC Staff, the Department of Energy, and the nuclear industry and from members of the public who may have an interest regarding this matter.

11:30 A.M.–12:30 P.M.: Reactor Operating Experience (Open)—The Committee will hear and discuss a report from the NRC Staff regarding the October 17, 1980 incident at the Indian Point Generating Station Unit 2 which released large quantities of service water inside the containment. The current status of the plant will also be discussed.

1:30 P.M.–2:00 P.M.: Discuss ACRS Position Regarding Items to be Discussed with the NRC Chairman and Commissioners (Open)—The Committee members will discuss proposed comments regarding items to be discussed with the NRC Chairman and other Commissioners who may have an interest. These topics will include proposed ACRS review of the procedures for certification of shipping containers for radioactive materials, ACRS review of the proposed NRC Long-Range Safety Research Program, and ACRS consideration of design criteria for advanced nuclear power plants.

2:00 P.M.–2:45 P.M.: Meeting with NRC Chairman and other Commissioners (Open)—The Committee will meet with the NRC Chairman and other Commissioners who may have an interest to discuss the items noted above.

2:45 P.M.–6:00 P.M.: North Anna Nuclear Generating Station Unit 2 (Open)—The Committee will hear and discuss reports from the NRC Staff and the Licensee regarding strengthening of the operating staff, the results of the augmented low power test program, steam generator tube integrity, probabilistic assessment of plant features and suggested changes for improved decay heat removal capability.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

Saturday, December 6, 1980

8:30 A.M.–12:30 P.M: Proposed ACRS Reports to NRC (Open)—The Committee members will discuss proposed reports to NRC regarding items considered during this meeting. The Committee will also discuss a proposed report to NRC regarding the performance of hydraulic scram systems in BWR nuclear plants and clarification of its report to NRC on Anticipated Transients Without Scram.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to these matters.

1:30 P.M.–2:15 P.M.: Reports of ACRS Subcommittees (Open)—The Committee will hear the reports of ACRS Subcommittees regarding the status of their activities in designated areas including evaluation of Licensee Evaluations Reports, ACRS Procedures and a Passive Containment System proposed for licensing.

2:15 P.M.–4:00 P.M.: Concluding Session (Open)—The Committee will discuss the future schedule for ACRS activities and proposed ACRS comments/positions on safety related matters considered during this meeting.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 7, 1980 (45 FR 66535). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) P.L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M. EST.

Dated: November 20, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-36740 Filed 11-24-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published Oct. 24, 1980 (45 FR 70606). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m., and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the December 1980 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3267, ATTN: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

**Three Mile Island Nuclear Power Plant, Unit No. 1,* November 28–29, 1980, Washington, DC. The Subcommittee will review the modifications made to TMI–1 in preparation for a restart following the

TMI–2 accident. Notice of this meeting was published Nov. 13.

**Advanced Reactors,* December 2, 1980, Washington, DC. The Subcommittee will review the current proposal for the NRC Reactor Safety Research Program Budget for FY–82 in preparation of the ACRS Annual Report to Congress, and matters related to the establishment of quantitative safety criteria. Notice of this meeting was published Nov. 17.

**Reactor Operations,* December 2, 1980 (afternoon), Washington, DC. The Subcommittee will discuss NRC guidelines for utility management structure and technical resources. Notice of this meeting was published Nov. 17.

**Regulatory Activities,* December 3, 1980, Washington, DC. CANCELLED. Notice of this meeting was published Oct. 24.

**Reliability and Probabilistic Assessment,* December 3 (morning), 1980, Washington, DC. The Subcommittee will review the NRC Safety Research Program Budget for the FY–82 Decision Unit on Systems and Reliability Analysis (SARA), and related items on the use of risk assessment in the licensing process. Notice of this meeting was published Nov. 17.

**Reactor Safety Research Program,* December 3, 1980, Washington, DC. The Subcommittee will discuss new developments in NRC Reactor Safety Research Programs since the issuance of the ACRS Report to NRC (NUREG–0699); NRC's long-range Reactor Safety Research Program plans; preliminary draft chapters or sections of the ACRS Annual Report to Congress on the NRC's FY–82 Reactor Safety Research Program Budget; and the Department of Energy's Light-Water Reactor Safety Technology Program and the associated budget. Notice of this meeting was published Nov. 17.

**Procedures and Administration,* December 3, 1980 (afternoon), Washington, DC. The Subcommittee will discuss proposed procedures and guidelines for ACRS review of safety related standards and criteria consistent with the memo of understanding between the EDO and ACRS regarding ACRS participation in the NRC rulemaking process and the Atomic Energy Act Section 29. Notice of this meeting was published Nov. 18.

**Emergency Core Cooling Systems,* December 10–11, 1980, San Jose, CA. The Subcommittee will review NRC research programs related to transients, LOCA and ECCS. Notice of this meeting was published Oct. 24.

Reactor Radiological Effects and Site Evaluation, December 11, 1980, Washington, DC. The Subcommittee will discuss preparation of appropriate chapters of the ACRS Annual Report to Congress regarding the NRC Reactor Safety Research Program Budget. Notice of this meeting was published Oct. 24.

**Reactor Radiological Effects,* December 12, 1980, Washington, DC. The Subcommittee will discuss the state-of-the-art in the area of radiation standards and dose limits to radiation workers. Notice of this meeting was published Oct. 24.

**Site Evaluation and Reactor Radiological Effects,* December 13, 1980, Washington, DC. The Subcommittees will discuss the Generic Environmental Impact Statement on Class-9 Accidents at nuclear power plants. Also, the Subcommittees will discuss and summarize the previous two days meetings on the ACRS Annual Report to Congress regarding the NRC Reactor Safety Research Program Budget, and the discussion on radiation standards for workers. Notice of this meeting was published Oct. 24.

**Combination of Dynamic Loads,* December 16–17, 1980, Washington, DC. The Subcommittee will continue its review regarding the use of dynamic load combinations as a design basis for nuclear power plants. Notice of this meeting was published Oct. 24.

**Babcock and Wilcox Water Reactors,* December 18, 1980, Washington, DC. The Subcommittee will review the Feb. 26, 1980 event at Crystal River, Unit 3 to determine if there are any significant features or causes that are generic to Babcock and Wilcox water reactors. Notice of this meeting was published Nov. 10.

**AC/DC Power Systems Reliability,* Mid-December (date to be announced), Washington, DC. The Subcommittee will discuss the expected NRC Report on DC Power Systems Reliability and the NRC plans for future work.

**Regulatory Activities,* January 6, 1981, (tentative) Washington, DC. The Subcommittee will review regulatory guides and revisions to existing regulatory guides; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation.

**Metal Components,* January 7, 1981, Washington, DC. The Subcommittee will discuss inservice inspection techniques as applied to the reactor coolant pressure boundary. Notice of this meeting was published Oct. 24.

Reactor Safety Research Program, January 7, 1981, Washington, DC. The Subcommittee will discuss draft chapters of the ACRS Annual Report to Congress on NRC's FY–82 Reactor Safety Research Program Budget.

**Emergency Core Cooling Systems,* January 15, 1981, Albuquerque, NM. The Subcommittee will meet to discuss progress in the NRC Reactor Safety Research Programs on ECCS/LOCA, and Transient Code development.

**Consideration of Class-9 Accidents,* January 16, 1981, Albuquerque, NM. The Subcommittee will discuss the research programs at Sandia Laboratories on steam explosions and H_2 mitigation features.

**Fort St. Vrain Nuclear Power Plant,* January 27, 1981 (Tentative), at plant site near Longmont, CO. The Subcommittee will review operating experience, degree of success in eliminating the core power fluctuations, test results above 70% of rated power, core performance (fuel and structural), and plans for future operations, modifications, and refueling.

**Extreme External Phenomena,* January 29–30, 1981, Los Angeles, CA. The Subcommittee will discuss the status of the Seismic Safety Margins Program. It is expected that Phase 1 of this Program will have been completed by the time of this meeting.

**Indian Point Nuclear Power Plant, Unit 2, and Metal Components,* January, 1981, (date to be announced), Washington, DC. The Subcommittee will review the containment leakage accident and will discuss the possible pressure vessel degradation caused by the accident.

**Regulatory Activities,* February 3, 1981, Washington, DC. The Subcommittee will review regulatory guides and revisions to existing regulatory guides; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation.

Reactor Safety Research Program, February 4, 1981 (tentative), Washington, DC. The Subcommittee will discuss the draft ACRS Annual Report to Congress on the NRC's FY–82 Reactor Safety Research Program Budget.

ACRS Full Committee Meetings

December 4–6, 1980

A. **Three Mile Island Nuclear Power Station, Unit 1*—Proposed restart and operation of this Unit.

B. **North Anna Nuclear Power Station, Unit 2*—Discuss matters related to plant staffing, results of the augmented low-power test program, steam generator tube integrity, and decay heat removal capability.

C. **Generic Items Applicable to Light-Water Reactors*—Discuss proposed revision of ACRS report regarding the status of unresolved generic items applicable to light-water reactors.

D. **Proposed NRC Guidelines Regarding Utility Management*

by members of the Subcommittee, its consultants, and Staff. Persons desiring

authority for such closure is 5 U.S.C.

and suggestions in connection with (1) items for inclusion in guides currently

Office of Personnel Management.

Beverly M. Jones,

the Office of Science and Technology Policy announces the following meeting:

V45 N025 80 UMI

D. **Proposed NRC Guidelines Regarding Utility Management Structure and Technical Support*—Discuss proposed NRC guidelines.

E. **BWR Hydraulic Scram Systems*—Discuss proposed ACRS report regarding design and performance of these systems.

F. **Indian Point Nuclear Power Station, Unit 2*—Discuss incident of Oct. 17, 1980 in which a large quantity of service water was released into the containment from piping system leaks.

G. **Meeting with NRC Chairman and Commissioners*—Discuss items related to the NRC regulatory process and nuclear plant safety.

H. **Reports of ACRS Subcommittees Regarding Various Safety Related Matters*—Waste management and disposal, improved engineered safety features, consideration of Class-9 Accidents in nuclear power plant design, and evaluation of nuclear power plant operating experience.

I. The Committee will also consider and discuss:

(1) *The conceptual design for a *Passive Containment System* proposed for licensing.

(2) *Clarification of its report of April 16, 1980 to NRC regarding *Anticipated Transients Without Scram.*

(3) *The schedule for ACRS consideration of items at future meetings.

January 8–10, 1981: Agenda to be announced.

February 5–7, 1981: Agenda to be announced.

Dated: November 20, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-35741 Filed 11-24-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittees on Reactor Radiological Effects and Site Evaluation; Meeting

The ACRS Subcommittees on Reactor Radiological Effects and Site Evaluation will meet at 8:30 a.m., December 11, 1980, in room 1046, 1717 H Street, NW, Washington, DC to discuss preparation of appropriate chapters of the ACRS Annual Report to Congress regarding the NRC Reactor Safety Research Program Budget.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss specific NRC FY 1982 budget proposals. One or more closed sessions may be necessary to discuss such information. (Sunshine Act Exemption (9)(B)). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows:

Thursday, December 11, 1980

8:30 a.m. until the conclusion of business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to Mr. Garry G. Young, ACRS Staff (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST. The cognizant Designated Federal Employee for this meeting is Mr. John C. McKinley.

The ACRS is required by Section 5 of the 1978 NRC Authorization Act to review the NRC Reactor Safety Research Program and Budget and to report the results of the review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussions with members of the NRC Staff and such discussions would not be possible if held in public sessions. I have determined, therefore, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Public Law 92–463), that, should such sessions be required, it is necessary to close portions of this meeting to prevent frustration of the above stated aspect of the ACRS' statutory responsibilities. The authority for such closure is 5 U.S.C. 552b(c)(9)(B).

Dated: November 20, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-36743 Filed 11-24-80; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, TP 102–5 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Safety Features of Gauges Containing Radioactive Material" and is intended for Division 6. "Products." It is being developed to provide terminology acceptable to the NRC staff for use by applicants and licensees in describing radiation safety features of gauges containing radioactive material possessed and used under portions of the Commission's regulations. The guide will endorse the terminology provided in ANSI N538–1979, "Classification of Industrial Ionizing Radiation Gauging Devices."

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by January 23, 1981.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 17th day of November 1980.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Standards, Office of Standards Development.

[FR Doc. 80-36753 Filed 11-24-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Renewal of the Committee on Private Voluntary Agency Eligibility

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management is renewing the charter for the Committee on Private Voluntary Agency Eligibility (the Committee). This action is taken in accordance with provisions of the Federal Advisory Committee Act which require the rechartering of advisory committees at least every two years as a means of insuring against the continuation of committees which are no longer carrying out the purposes for which they were established. The Committee will continue in its advisory role to the Director of the Office of Personnel Management in matters pertaining to the eligibility of national voluntary agencies to solicit on the job in Federal installations and certain other matters relating to fund-raising appeals.

EFFECTIVE DATE: November 16, 1980.

FOR FURTHER INFORMATION CONTACT: Jeffrey M. Wisoff, 202–632–4471.

Committee on Private Voluntary Agency Eligibility—Charter

A. *Official Designation.* The Committee on Private Voluntary Agency Eligibility was established by the Director of the Office of Personnel Management under authority of Executive Order 10927.

B. *Objectives and Scope.* The purpose of the Committee is to insure through prior review of applications and supplementary financial and accounting data that only responsibile and worthy national voluntary agencies are authorized to solicit on the job in Federal installations, and to make recommendations regarding certain other matters relating to fund-raising appeals when requested. The Committee is composed of Federal officials and representatives from recognized employee organizations.

C. *Duration.* The duration of this Committee is indefinite. A new determination as to its needs will be made not more than 60 days nor less than 30 days prior to November 13, 1982.

D. *Responsible Agency and Official.* The Eligibility Committee advises the Director of the Office of Personnel Management.

E. *Agency Providing Support.* The Office of Personnel Management provides the necessary support for the Eligibility Committee.

F. *Committee Responsibilities.* The Committee is responsible for recommending to the Director of the Office of Personnel Management eligibility determinations on national voluntary agencies. Upon request by the OPM Director, the Committee may also provide advice on other matters relating to the Federal fund-raising program.

G. *Estimated Annual Operating Costs.* Approximately $1,500 and 1/20th staff year.

H. *Meetings.* The Committee meets on the average of once a year, to consider applications of national voluntary organizations for participation in the Federal fund-raising program.

I. *Date Filed.* November 14, 1980.

[FR Doc. 80-36656 Filed 11-24-80; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Weather Modification Advisory Group; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the Office of Science and Technology Policy announces the following meeting:

Name: Weather Modification Advisory Group.

Date: December 11, 12, 1980.

Time: 9 a.m. to 5 p.m. on December 11, 9 a.m. to 12 noon on December 12.

Place: Room 4830, Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Type of meeting: Open.

Contact person: Mr. John Houghton, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202/395–3732.

Summary minutes: May be obtained from the Office of Science and Technology Policy, Washington, D.C. 20500.

Purpose of Advisory Committee: In late 1979, the Secretary of Commerce delivered to the President and the Congress a report on national weather modification programs and policies pursuant to the National Weather Modification Policy Act of 1976. The report indicates that well-coordinated research and development programs carried out by a number of Federal agencies can contribute to advances in weather modification science and technology. A Weather Modification Subcommittee under the Committee on Atmospheres and Oceans, Federal Coordinating Council for Science, Engineering, and Technology, has been established to ensure that Federal research is carried out in the context of a coherent, long-term research plan. The Weather Modification Advisory Committee will ensure close public scrutiny and involvement in the planning and conduct of the Federal Program, including the Weather Modification Subcommittee, as it is carried forward.

Agenda: 9 a.m. to 5 p.m.—Welcoming, committee organization, and review of draft national weather modification plan. 9 a.m. to 12 noon—Continued review of weather modification plan.

William J. Montgomery,

Executive Officer.

[FR Doc. 80-36768 Filed 11-24-80; 8:45 am]

BILLING CODE 3170-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 21796; 70–6131]

Arkansas Power & Light Co.; Post-Effective Amendment Regarding Proposed Transactions Related to Financing of Pollution Control Facilities

November 19, 1980.

Notice is hereby given that Arkansas Power & Light Company ("Arkansas") First National Building, Little Rock, Arkansas 72203, an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed with this Commission a post-

effective amendment to the application in this proceeding pursuant to sections

price, together with interest thereon, payable in semi-annual installments

that 30 years from the first day of the month in which they are initially issued

Light Company Project) ("Pope Series 1980 Bonds") pursuant to a Second

Pope Series 1980 Bonds will be exempt from federal income taxes, and it has

[Rel. No. 11446; 812–474]

effective amendment to the application in this proceeding pursuant to sections 9(a) and 10 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transactions.

Arkansas has constructed, or is in the process of constructing, two coal-fired generating units known as White Bluff Unit Nos. 1 and 2 ("White Bluff Plant"), presently estimated to have a capability of 750 MW each, and located near Redfield, in Jefferson County, Arkansas, and a second unit (912 MW) at its nuclear generating station known as Arkansas Nuclear One ("ANO"), located near Russellville, in Pope County, Arkansas. In order to comply with prescribed federal, state, or local standards with respect to air or water quality or disposal of sewage or solid waste, it has been and will be necessary to construct certain facilities for pollution control purposes at the White Bluff Plant and ANO. Arkansas Electric Cooperative Corporation, City Water and Light Plant of the City of Jonesboro, Arkansas, the City of Conway, Arkansas, and the City of West Memphis, Arkansas own undivided interests of 35%, 5%, 2%, and 1%, respectively, in the White Bluff Plant.

By orders in this proceeding dates August 3, 1978, and August 24, 1978 (HCAR Nos. 20659 and 20681), Arkansas was authorized to conduct certain transactions related to the financing of pollution control facilities at the White Bluff Plant and ANO. The post-effective amendment relates to additional costs of construction of certain pollution control facilities at the White Bluff Plant and ANO. Such facilities were disposed of and are being reacquired by Arkansas pursuant to authorization from this Commission (See File Nos. 70–5642, 70–6037, and 70–6131).

I. White Bluff Plant

Arkansas proposes to enter into a Second Supplemental Installment Sale Agreement (Pollution) ("1980 Jefferson Supplemental Agreement"), with Jefferson County, Arkansas, amending and supplementing the Installment Sale Agreement (Pollution), dated as of October 1, 1977, as previously amended and supplemented (Jefferson Sale Agreement"), pursuant to which, among other things, (i) Jefferson County agreed to sell to Arkansas, subject to the retention of a lien and security interest, and Arkansas agreed to purchase from Jefferson County, certain pollution control facilities at the White Bluff Plant ("Jefferson Facilities"), for a purchase price, together with interest thereon, payable in semi-annual installments over a term of years and (ii) Jefferson County agreed to issue its Pollution Control Revenue Bonds, Series 1977 ("Series 1977 Bonds") and its Pollution Control Revenue Bonds, Series 1978 ("Jefferson Series 1978 Bonds"), the net proceeds of which are being used to defray a portion of the Cost of Construction, as defined in the Jefferson Sale Agreement ("Jefferson Cost of Construction"), of the Jefferson Facilities. Under a Trust Indenture (Pollution) between Jefferson County and Simmons First National Bank of Pine Bluff, as Trustee ("Jefferson Trustee"), dated as of October 1, 1977, as amended ("Jefferson Indenture"), Jefferson County issued the Series 1977 Bonds in the aggregate principal amount of $46,000,000 and the Jefferson Series 1978 Bonds in the aggregate principal amount of $9,200,000, which amounts were then estimated to be sufficient to cover the Jefferson Cost of Construction.

It has been determined, however, that the proceeds of the Series 1977 Bonds and the Jefferson Series 1978 Bonds will not be sufficient to cover the total Jefferson Cost of Construction. Consequently, to cover additional Jefferson Cost of Construction, Jefferson County proposes to issue up to an additional $20,000,000 principal amount of its Pollution Control Revenue Bonds, Series 1980 (Arkansas Power & Light Company Project) ("Jefferson Series 1980 Bonds") pursuant to a Second Supplemental Trust Indenture (Pollution) to the Jefferson Indenture ("1980 Jefferson Supplemental Indenture"), and Arkansas proposes to enter into the 1980 Jefferson Supplemental Agreement to provide for additional payments of purchase price, together with interest thereon, for the Jefferson Facilities sufficient (together with other moneys held by the Jefferson Trustee under the Jefferson Indenture, as to be amended, and available therefor) to pay the principal of, and interest and premium, if any on the Jefferson Series 1980 Bonds, as the same become due and payable.

Arkansas will have options to prepay all, or any portion of, the additional purchase price, together with interest thereon, of the Jefferson Facilities, on the terms and as provided in the Jefferson Sale Agreement, as to be amended.

It is intended that the Jefferson Series 1980 Bonds will be issued as either serial bonds ("Jefferson Serial Bonds") or term bonds ("Jefferson Term Bonds"), or a combination thereof. The Jefferson Term Bonds, if any, will mature not later that 30 years from the first day of the month in which they are initially issued and will be subject to a mandatory cash sinking fund. The Jefferson Serial Bonds, if any, will mature at various times prior to the maturity of the Jefferson Term Bonds. The effect of the mandatory cash sinking fund of the Jefferson Term Bonds, if any, together with the serial maturities of the Jefferson Serial Bonds, if any, will be calculated to retire no less than 25% of the aggregate principal amount of the Jefferson Series 1980 Bonds prior to the ultimate date of maturity of the Jefferson Series 1980 Bonds.

II. ANO

Arkansas also proposes to enter into a Second Supplemental Installment Sale Agreement ("Pollution") ("1980 Pope Supplemental Agreement") with Pope County, Arkansas, amending and supplementing the Installment Sale Agreement, dated as of September 1, 1976, as previously amended and supplemented ("Pope Sale Agreement"), pursuant to which, among other things, (i) Pope County agreed to sell to Arkansas, subject to the rentention of a lien and security interests, and Arkansas agreed to purchase from Pope County, certain pollution control facilities at ANO ("Pope Facilities") for a purchase price, together with interest thereon, payable in semi-annual installments over a term of years and (ii) Pope County agreed to issue its Pollution Control Revenue bonds, Series 1976 ("Series 1976 Bonds") and its Pollution Control Revenue Bonds, Series 1978 ("Pope Series 1978 Bonds"), the net proceeds of which are being used to defray a portion of the Cost of Construction as defined in the Pope Sale Agreement ("Pope Cost of Construction") of the Pope Facilities. Under a Trust Indenture between Pope County and The First National Bank in Little Rock, as Trustee ("Pope Trustee"), dated as of September 1, 1976, as amended ("Pope Indenture"), Pope County issued the Series 1976 Bonds in the aggregate principal amount of $16,000,000 and the Pope Series 1978 Bonds in the aggregate principal amount of $1,900,000, which amounts were then estimated to be sufficient to cover the Pope Cost of Construction.

It has been determined, however, that the proceeds of the Series 1976 Bonds and the Pope Series 1978 Bonds will not be sufficient to cover the total Pope Cost of Construction. Consequently, Pope County proposes to issue, to cover additional Pope Cost of Construction, up to an additional $3,000,000 principal amount of its Pollution Control Revenue Bonds, Series 1980 (Arkansas Power & Light Company Project) ("Pope Series 1980 Bonds") pursuant to a Second Supplemental Trust Indenture to the Pope Indenture ("1980 Pope Supplemental Indenture"), and Arkansas proposes to enter into the 1980 Pope Supplemental Agreement to provide for additional payments of the purchase price, together with interest thereon, for the Pope Facilities sufficient (together with other moneys held by the Pope Trustee under the Pope Indenture, as to be amended, and available therefor) to pay the principal of, and interest and premium, if any, on, the Pope Series 1980 Bonds, as the same become due and payable.

Arkansas will have options to prepay all, or any portion of, the additional purchase price, together with interest thereon, of the Pope Facilities, on the terms and as provided in the Pope Sale Agreement, as to be amended.

It is intended that the Pope Series 1980 Bonds will be issued as either serial bonds ("Pope Serial Bonds") or term bonds ("Pope Term Bonds"), or a combination thereof. The Pope Term Bonds, if any, will mature not later that 30 years from the first day of the month in which they are initally issued and will be subject to a mandatory cash sinking fund. Pope Serial Bonds, if any, will mature at various times prior to the maturity of the Pope Term Bonds. The effect of the mandatory cash sinking fund of the Pope Term Bonds, if any, together with the serial maturities of the Pope Serial Bonds, if any, will be calculated to retire no less tha 25% of the aggregate principal amount of the Pope Series 1980 Bonds prior to the ultimate date of maturity of the Pope Series 1980 Bonds.

It is contemplated that the Jefferson Series 1980 Bonds and the Pope Series 1980 Bonds will be sold by the respective counties pursuant to underwriting arrangements with Stephens Inc. In accordance with the laws of the State of Arkansas, the interest rate to be borne by the Jefferson Series 1980 Bonds and the Pope Series 1980 Bonds will be fixed by the respective counties. Arkansas will not be a party to the underwriting arrangements; however, the Jefferson Sale Agreement and the Pope Sale Agreement provide that the terms of the Jefferson Series 1980 Bonds and the Pope Series 1980 Bonds and their sale by the respective counties shall be satisfactory to the company. Arkansas understands that interest payable on the Jefferson Series 1980 Bonds and the Pope Series 1980 Bonds will be exempt from federal income taxes, and it has been advised that the annual interest rates on obligations, interest on which is so tax exempt, have been and can be expected to be 4% to 5% lower than the rates of obligations of like tenor and comparable quality, interest on which is fully subject to federal income tax.

It is stated that Arkansas Public Service Commission and the Tennessee Public Service Commission have taken jurisdiction over the proposed transactions and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the matters proposed. The fees and expenses incident to the proposed transactions are to be filed by amendent.

Notice is further given that any interested person may, not later than December 16, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc 80-36688 Filed 11-24-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 11446; 812-474]

Municipal Fund for Temporary Investment, Inc.; Filing of Application

November 17, 1980.

Notice is hereby given that Municipal Fund for Temporary Investment, Inc. ("Applicant") Suite 204, Webster Building, Concord Plaza, 3411 Silverside Road, Wilmington, Delaware 19810, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on October 1, 1980, and an amendment thereto on November 13, 1980, requesting an order of the Commission, Pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share, for the purposes of effecting sales, redemptions and repurchases of its shares, according to the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it was organized by Shearson Loeb Rhoades Inc. as a companion to two "money-market" funds, and was intended to offer institutions using money market funds the alternative of earning tax-exempt income on the investment of their short-term cash reserves. Applicant further states that it seeks to achieve its investment objective of providing as high a level of current interest income exempt from Federal income taxes as is consistent with relative stability of principal by investing in short-term obligations issued by or on behalf of states, territories and possessions of the United States and the District of Columbia, or their political subdivisions, agencies, instrumentalities or authorities, the interest from which, in the opinion of counsel to the issuer, is exempt from Federal income tax ("Municipal Bonds"). In addition, Applicant states that it does not seek profits through short-term trading but intends to hold its portfolio securities to maturity. According to the application, Applicant may not purchase taxable obligations, and during defensive periods or when suitable investments are not available, it may hold uninvested cash reserves.

Applicant represents that pursuant to an earlier order of the Commission dated December 5, 1979 (Investment Company Act Release No. 10972) it

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presently computes its net asset value per share to the nearest one cent on a share value of one dollar using the "penny rounding" method of valuation. As stated in the application, all portfolio securities having more than 60 days to maturity are valued on the basis of available market information, and portfolio securities with remaining maturities of 60 days or less are valued on an amortized cost basis as permitted by the Commission's interpretation of Rule 2a–4 under the Act contained in Investment Company Act Release No. 9786, May 31, 1977 ("Release No. 9786"). The order requested herein would exempt Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 under the Act to the extent necessary to permit its assets to be valued according to the amortized cost valuation method. Applicant states that under the amortized cost valuation method, portfolio securities are valued at cost on the date of acquisition and the difference betweeen cost and the face amount of the instrument is amortized over the maturity of the instrument. For example, Applicant represents that if an instrument is acquired at a discount from its face value, the discount would be amortized to maturity, resulting in Applicant's realizing income in a steady flow of equal increments. Applicant asserts that by valuing its portfolio securities at amortized cost and declaring dividends daily, its net asset value per share will remain constant in the absence of unusual market conditions.

In addition to its request to permit the use of the amortized cost method of valuation, Applicant has filed an application (File No. 812–4469) seeking an order of the Commission pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 12(d)(3) of the Act and amending a prior order exempting Applicant from the provisions of Rules 2a–4 and 22c–1 under the Act, to the extent necessary to permit Applicant to acquire rights to sell its portfolio securities to brokers or dealers, such rights being commonly referred to as "puts." However, in considering the appropriateness of the relief requested in the instant application, the issue of the appropriateness of such puts is not being considered or determined. Applicant states that such "puts," which it terms "Stand-by Commitments," would be acquired for the sole purpose of improving portfolio liquidity. Applicant further states that the acquisition or exercisability of such Stand-by Commitments would not affect the valuation or assumed maturity of its underlying Municipal Bonds and that for purposes of calculating the dollar-weighted average maturity of its portfolio, the Stand-by Commitments would always by valued at zero. A further description of the features of and limitations on such Stand-by Commitments is contained in the above application on file with the Commission.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by an investment company's board of directors. Rule 22c–1 provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 provides, as here relevant, that the current net asset value of a redeemable security issued by a registered investment company used in computing its price for the purpose of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by an investment company's board of directors. Prior to the filing of the application, the Commission expressed its view that, among other things, Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and it would be inconsistent generally with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis. Release No. 9786.

Section 6(c) of the Act provides, in part that upon application the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of its request, Applicant submits that it believes that Applicant's shareholders would be unfairly treated if it were forced to price its portfolio instruments in a manner which would produce artificial price and yield volatility for instruments which Applicant expects to hold until maturity. Applicant believes that potential investors in its shares are not concerned with the theoretical differences which might occur between the yield achieved through market pricing and the yield computed on the basis of amortized cost as described above. Applicant further believes that such potential investors are vitally concerned that (1) the net asset value of their shares remain stable; and (2) that the daily net income declared on their investment be steady and not exhibit the volatility which can occur when changes in market prices cause changes in yield on a daily or weekly basis.

Applicant further states that by maintaining a portfolio of high quality money market instruments of short maturities, it believes that it will be possible to provide the required stability to investors. Applicant states that it, with the advice of its Adviser and based on its Adviser's experience, has determined that maintaining an average portfolio maturity of 120 days or less will accomplish the aims of its investors by reducing the risk of significant volatility in the value of portfolio instruments while at the same time producing a yield on portfolio instruments commensurate with yields available in the short-term, tax-exempt money market.

Applicant further states that its request for exemption is based on its existing and proposed management policies described in this application and its prospectus. Applicant has agreed that the following conditions may be imposed in any order of the Commission granting the exemptive relief requested:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Directors undertakes—as a particular responsibility within its overall duty of care owed to Applicant's shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objective, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $1.00 per share.

2. Included within the procedures to be adopted by the Board of Directors shall be the following duties and responsibilities:

(a) Review by the Board of Directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $1.00 amortized cost price per share, and the maintenance of records of such review.[1]

(b) In the event such deviation from Applicant's $1.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the Board of Directors will promptly consider what action, if any, should be initiated by it.

(c) Where the Board of Directors believes that the extent of any deviation from Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which may include: redeeming shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten Applicant's average portfolio maturity; withholding or reducing dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will neither (a) purchase any instrument with a remaining maturity of greater than one year, nor (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days.[2]

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will include in the minutes of Board of Directors' meetings and will record, maintain and preserve for a period of not less than six year (the first two years in an easily accessible place) a written record of the Board's considerations and actions taken in connection with the discharge of its responsibilities, as set forth above. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those United States dollar-denominated instruments which the Board of Directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board.[3]

6. Applicant will include in each of its quarterly reports, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter and, if any such action was taken, will describe the nature and circumstances of such action.

Applicant represents that prior to changing from the penny-rounding to the amortized cost method of valuation, its Board of Directors will determine in good faith that, in light of the characteristics of Applicant, absent unusual or extraordinary circumstances, the amortized cost method of valuing portfolio securities will reflect the fair value of such securities. On the basis of the foregoing, Applicant submits that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 12, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–36689 Filed 11–24–80; 8:45 am]

BILLING CODE 8010–01–M

[1] To fulfill this obligation, Applicant states that it intends to use actual quotations or estimates of market value reflecting current market conditions chosen by its Board of Directors in the exercise of its discretion to be appropriate indicators of value, which may include among others, (i) quotations or estimates of market value for individual portfolio instruments, or (ii) values obtained from yield data relating to classes of money market instruments published by reputable sources.

[2] In fulfilling this condition, if the disposition of a portfolio security results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce the dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable. In addition, in fulfilling this condition and subject to the receipt of the exemptive orders requested in Applicant's pending application (File No. 812–4469), the maturity of a portfolio security shall not be considered shortened or otherwise affected by any Stand-by Commitment to which such security is subject, and all Stand-by Commitments held by Applicant shall be valued at zero.

[3] Subject to the receipt of the exemptive orders requested by Applicant in a pending application (File No. 812–4469), Applicant may also acquire Stand-by Commitments with respect to its portfolio securities.

[Rel. No. 11450; 812–4755]

Pacific American Liquid Assets, Inc.; Filing of Application

November 19, 1980.

Notice is hereby given that Pacific American Liquid Assets, Inc., ("Applicant") 707 Wilshire Boulevard, Los Angeles, California 90017, an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on October 27, 1980, requesting an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder, to the extent necessary to permit Applicant to compute its net asset value per share using the amortized cost method of valuation. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicant states that a registration statement on Form N–1 under the Securities Act of 1933 has been filed

with the Commission on September 23, 1980, but has not yet become effective.

condition, if the disposition of a portfolio instrument results in a dollar-

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with the Commission on September 23, 1980, but has not yet become effective. Applicant represents that it is a "money market" fund, designed as an investment vehicle for investors who desire to place assets in money market investments where the primary considerations are safety, liquidity and, to the extent consistent with the foregoing, a high income return. Applicant further states that it seeks to provide a means of investing short-term funds where direct purchase of money market instruments may be undesirable or impractical.

According to the application, Applicant's portfolio may be invested exclusively in a variety of the following instruments: marketable securities issued or guaranteed by the United States government or its agencies or instrumentalities; certificates of deposit, including those issued by domestic banks, London branches of domestic banks, and savings and loans and similar associations; bankers' acceptances; repurchase agreements; and high-grade commercial paper. The application states that Applicant's portfolio must consist of obligations maturing within one year from the date of acquisition, and average maturity of all its investments, on a dollar weighted basis, will be 120 days or less.

As here pertinent, Section 2(a)(41) of the Act defines value to mean: (1) with respect to securities for which market quotations are readily available, the market value of such securities, and (2) with respect to other securities and assets, fair value as determined in good faith by the board of directors. Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Prior to the filing of the application, the Commission expressed its view that, among other things: (1) Rule 2a–4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a–4 for a "money market" fund to value its portfolio instruments on an amortized cost basis (Investment Company Act Release No. 9786, May 31, 1977).

Applicant states that experience indicates that two qualities are helpful in attracting investments in a fund such as the Applicant: (1) stability of principal and (2) steady flow of investment income. Applicant asserts that by maintaining a portfolio of high quality money market instruments of short maturities, it can provide these features to investors. According to the application, experience in the management of other funds has shown that, given the nature of Applicant's policies and operations, there will normally be a negligible discrepancy between prices obtained by the amortized cost method and those obtained by a market valuation method. Applicant represents that its board of directors has determined in good faith, in light of the characteristics of the Applicant, that the amortized cost method of valuing portfolio securities is appropriate and preferable for the Applicant and reflects fair value of such securities. Accordingly, Applicant requests exemptions from Section 2(a)(41) of the Act and Rules 2a–4 and 22c–1 thereunder to the extent necessary to permit Applicant to value its portfolio by means of the amortized cost method of valuation.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision under the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant expressly consents to the imposition of the following conditions in any order granting the relief it requests:

(1) In supervising the Applicant's operations and delegating special responsibilities involving portfolio management to the Applicant's investment adviser, the Applicant's board of directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into acount current market conditions and the Applicant's investment objectives, to stabilize the Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase at $1.00 per share.

(2) Included within the procedures to be adopted by the board of directors shall be the following:

(a) Review by Applicant's board of directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from the Applicant's $1.00 amortized cost price per share, and maintenance of records of such review.[1]

(b) In the event such deviation from the $1.00 amortized cost price per share exceeds ½ of 1%, Applicant's board of directors will promptly consider what action, if any, should be initiated.

(c) Where Applicant's board of directors believes the extent of any deviation from the Applicant's $1.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or to reduce to the extent reasonably practicable such dilution or unfair results, which action may include: redemption of shares in kind; the sale of portfolio securities prior to maturity to realize capital gains or losses, or to shorten the Applicant's average portfolio maturity; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

(3) Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity at the date of acquisition of greater than one year, or (b) maintain a dollar weighted average portfolio maturity in excess of 120 days. In fulfilling this condition, if the disposition of a portfolio instrument results in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

(4) Applicant will record, maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in condition 1 above, and Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of Applicant's board of directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the board of directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

(5) Applicant will limit its portfolio investments, including repurchase agreements, if any, to those United States dollar-denominated instruments which Applicant's board of directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by Applicant's board of directors.

(6) Applicant will include in each quarterly report, as an attachment to Form N–1Q, a statement as to whether any action pursuant to condition 2(c) was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

Notice is further given that any interested person may, not later than December 12, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon, any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–36687 Filed 11–24–80; 8:45 am]

BILLING CODE 8010–01–M

[1] To fulfill this condition, Applicant will use actual quotations or estimates or market value reflecting current market conditions selected by its board of directors in the exercise of its discretion to be appropriate indicators of value, which may include, *inter alia*, (1) quotations or estimates of market value for individual portfolio instruments, or (2) values obtained from yield data relating to classes of money market instruments furnished by reputable sources.

[Release No. 34–17300; File No. SR–NSCC–80–32]

Self-Regulatory Organizations; Proposed Rule Change by National Securities Clearing Corporation

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. 94–29, 16 (June 4, 1975), notice is hereby given that on October 31, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows: Statement of the Terms of Substance of the Proposed Rule Change.

The proposed change to the Rules of National Securities Clearing Corporation ("NSCC") is as follows:

Signature Distribution Service

Rule 17. The Corporation may maintain or participate in one or more services for the purpose of distributing authorized signatures of Members to transfer agents or corporations acting as their own transfer agent to facilitate the acceptance, upon execution, of powers of substitution, signature guarantees and such other similar endorsements as may be incident to the transfer or delivery of securities.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to facilitate the acceptance, upon execution, of endorsements incident to the transfer or delivery of securities without obtaining the guarantee of a third party by NSCC Members who are not participants in a signature guarantee program of another entity.

The proposed rule change will facilitate the prompt and accurate clearance and settlement of securities transactions for which NSCC is responsible by providing a vehicle to assist Members in meeting turn around times.

Comments on the proposed rule change have been solicited. Comments received by NSCC will be forwarded to the Commission.

NSCC does not perceive that the proposed rule change would constitute a burden on competition.

Within 35 days of the date of publication of this notice in the **Federal Register**, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 16, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–36646 Filed 11–24–80; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Dated: November 10, 1980.

Harold A. Theiste,

Dated: November 19, 1980.

Peter F. McNeish,

specific research topics or to learn special techniques. This type of grant will have a maximum term of three

third floor, Madrid 28, telephone 256.0408), or from Ms. Gloria Gaston-

7 is approved. This rule will not apply to the first quarter payment.

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1950]

New Jersey; Declaration of Disaster Loan Area

Atlantic, Cape May, Cumberland and Salem Counties and adjacent counties within the State of New Jersey constitute a disaster area as a result of damage caused by heavy rains, gale force winds, high tides and flooding which occurred on October 25, 1980. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on January 15, 1981, and for economic injury until the close of business on August 14, 1981, at: Small Business Administration, District Office, 970 Broad Street, Room 1635, Newark, New Jersey 07102, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 14, 1980.

Paul D. Sullivan,

Acting Administrator.

[FR Doc. 80-36858 Filed 11-24-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1915; Amendment No. 1]

Tennessee; Declaration of Disaster Loan Area

The above numbered Declaration (see 45 FR 65101) is amended by adding the following counties:

County	Natural disaster(s)	Date(s)
Clay	Drought	6/1/80-8/14/80
Greene	Drought	6/1/80-9/23/80
Henderson	Drought	6/1/80-9/10/80
Henry	Drought	6/26/80-8/26/80
Houston	Drought	6/1/80-8/31/80
Lawrence	Drought	7/1/80-9/23/80
Macon	Drought	7/1/80-8/31/80
Morgan	Drought	6/1/80-8/31/80
Pickett	Drought	5/29/80-9/10/80
Tipton	Drought	6/29/80-8/26/80
Wayne	Drought	6/1/80-9/25/80
Williamson	Drought	6/15/80-8/26/80

and adjacent counties within the State of Tennessee as a result of natural disaster as indicated. All other information remains the same, i.e., the termination date for filing applications for physical damage is close of business on March 23, 1981, and for economic injury until the close of business on June 23, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 10, 1980.

Harold A. Theiste,

Acting Administrator.

[FR Doc. 80-36857 Filed 11-24-80; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council Executive Board; Public Meeting

The Small Business Administration Region I Advisory Council Executive Board will hold a public meeting from 1:00 to 4:00 p.m. on Tuesday, December 2, 1980, in the Conference Room, 60 Batterymarch Street, 10th Floor, Boston, Massachusetts, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Albert P. Cardarelli, Regional Advocate, U.S. Small Business Administration, 60 Batterymarch Street, Boston, Massachusetts 02110—(617) 223-4495.

Dated: November 19, 1980.

Michael B. Kraft,

Deputy Advocate for Advisory Councils.

[FR Doc. 80-36770 Filed 11-24-80; 8:45 am]

BILLING CODE 8025-01-M

Small Business Investment Co.; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.301(c) sets forth the SBA Regulation governing the maximum annual cost of money to small business concerns for Financing by small business investment companies.

Section 107.301(c)(2) requires that SBA publish from time to time in the **Federal Register** the current Federal Financing Bank (FFB) rate for use in computing the maximum annual cost of money pursuant to § 107.301(c)(1). It is anticipated that a rate notice will be published each month.

13 CFR 107.301(c) does not supersede or preempt any applicable law that imposes an interest ceiling lower than the ceiling imposed by that regulation. Attention is directed to new subsection 308(i) of the Small Business Investment Act, added by section 524 of Pub. L. 96-221, March 31, 1980 (94 Stat. 161), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

Effective December 1, 1980, and until further notice, the FFB rate to be used for purposes of computing the maximum cost of money pursuant to 13 CFR 107.301(c) is 13.075% per annum.

Dated: November 19, 1980.

Peter F. McNeish,

Deputy Associate Administrator for Investment.

[FR Doc. 80-36771 Filed 11-24-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 729]

Certification

In accordance with Section 502B of the Foreign Assistance Act of 1961, as amended (the Act), I have reviewed the international security assistance programs of the United States for the fiscal year 1981 in order to assure that:

(1) all security assistance programs are consistent with the provisions of Section 502B of the Act concerning the promotion and advancement of human rights and the avoidance of United States identification with human rights violations, and

(2) with respect to those countries where human rights conditions give rise to the most serious concerns, the security assistance provided by the United States is warranted in each case by extraordinary circumstances involving the national security interests of the United States.

On the basis of this review, I certify that these security assistance programs are in compliance with the requirements of Section 502B of the Act.

This certification shall be reported to the Congress and published in the **Federal Register** as required by law.

Dated: October 23, 1980.

Warren Christopher,

The Deputy Secretary.

[FR Doc. 80-36730 Filed 11-24-80; 8:45 am]

BILLING CODE 4710-10-M

[Public Notice 730]

United States-Spain Joint Committee for Scientific and Technological Cooperation—Postdoctoral Research and Short Term Travel Grants

The United States-Spain Joint Committee for Scientific and Technological Cooperation, established under the Treaty of Friendship and Cooperation with Spain (TIAS 8360; signed at Madrid January 24, 1976), announces the availability of postdoctoral research grants for U.S. scientific research personnel for the purpose of carrying out research in Spain. The term of the grant will be from six to twelve months. Preference will be given to recent doctorate degree recipients. In addition, short term travel grants will be awarded to qualified U.S. scientists in order that they may travel to Spain to exchange information on

specific research topics or to learn special techniques. This type of grant will have a maximum term of three months and a minimum of one month (30 days).

1. *Scope of Grants*

Grants are available in the following areas of research:

(a) Agriculture.
(b) Natural resources.
(c) Oceanography.
(d) Environment.
(e) Urban and regional planning.
(f) Industrial technology.
(g) Energy.
(h) Biomedical sciences.
(i) Basic sciences.

For postdoctoral research grants, the grant period will begin between September 1, 1981 and January 31, 1982; in special circumstances, the Joint Committee may authorize a grant period to begin at an earlier or later date.

Short term travel grants may begin any time between September 1, 1981 and April 1, 1982.

2. *Requirements*

Applicants must meet the following requirements:

(a) Be a U.S. citizen or be a regular member of the U.S. scientific community.
(b) Possess a Doctoral degree, or have equivalent experience.
(c) Have knowledge of written and spoken Spanish.
(d) Submit proof of acceptance by the Spanish University or research center where the applicant wishes to carry out his/her work.
(e) Not be the recipient of any other financial aid or grant for the same purpose.

3. *Amount and Nature of Grants*

The grant award will include:

(a) Round-trip airfare (economy class) on a U.S. Carrier between the grantee's usual residence and his/her final destination in Spain by the most direct route.
(b) Health and accident insurance in Spain during the grantee's stay on the grant (for post-doctoral grants only).
(c) Subsistence at the rate of $1,000 per month, prorated for shorter periods.

Outbound travel will not be paid for those persons who, upon initiating the grant activity, are already in Spain.

When two grantees are married and reside in the same city in Spain during the period of their grants,the monthly stipend of one of them will be reduced by 50 percent.

4. *Presentation of Applications*

Application forms may be obtained from the Executive Secretariat of the United States-Spanish Joint Committee for Scientific and Technological Cooperation (Calle Cartagena. 83-85, third floor, Madrid 28, telephone 256.0408), or from Ms. Gloria Gaston-Shapiro, Bureau of Oceans and International Environmental and Scientific Affairs, Room 4330, Department of State, Washington, D.C. 20520. *Three copies of the form and any accompanying documents (with the exception of reference 5—see below) must be submitted to the Executive Secretariat within three months of the date of publishing of this Notice in the* **Federal Register.**

5. *Documents to be presented.*

(a) Application form completed and signed.
(b) Professional résumé.
(c) Description of the planned research.
(d) Written evidence of acceptance as referenced in paragraph 2(d).
(e) Certification of knowledge of Spanish as referenced in paragraph 2(c).
(f) Proof of possession of doctorate degree (or academic transcripts for non-doctorate holders).
(g) Two letters of reference or directed research done by applicant in his/her field. These letters should be submitted directly to the Executive Secretariat by the authors at the same time the grant application is submitted.

6. *Selection*

Applications will be evaluated by a joint United States-Spanish panel appointed by the co-chairmen of the United States-Spain Joint Committee for Scientific and Technological Cooperation.

The Spanish side of the panel may consult with the Comision Asesora de Investigacion Cientifica y Tecnica of the Presidencia del Gobierno.

The panel may request additional information concerning any application and conduct personal interviews with the applicant.

The panel will send to the Joint Committee a list of applicants which it recommends for grants. On the basis of this recommendation, the Joint Committee will make the final award of grants.

7. *Certain Obligations of Grantees*

(a) To conduct his/her activity on the research project in accordance with the practices of the host institution.
(b) To submit to the Executive Secretariat of the Joint Committee on a quarterly basis (or at the end of the stay if the grant period is shorter) a report of the work carried out and the results obtained. This report should be signed by the department head or supervising scientist at the host institution.

8. *Payment Schedule*

The grant stipend will be paid before the start of each quarter after the quarterly report referenced in paragraph 7 is approved. This rule will not apply to the first quarter payment.

9. *Early Termination of Grant*

If a grantee terminates his/her research before expiration of the grant, he/she should immediately notify the Executive Secretariat in writing. The Joint Committee will examine the reasons for the early termination and if it finds the reasons unjustifiable it may require the grantee to reimburse the Joint Committee for the amounts paid to him/her (including the cost of air fare).

Dated: November 14, 1980.

Thomas R. Pickering,

Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs.

[FR Doc. 80-36734 Filed 11-24-80; 8:45 am]

BILLING CODE 4710-09-M

Sunshine Act Meetings

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listed below from the list of items scheduled for the November 25th Special Open Meeting. This previously

CHANGES IN THE MEETING: The following item has been added to the open meeting: Mutual Capital Certificates

MATTERS TO BE DISSCUSSED: Executive Session (Closed meeting Sec. 1703.202

Sunshine Act Meetings

Federal Register
Vol. 45, No. 229
Tuesday, November 25, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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[M-300, November 19, 1980]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9 a.m., November 26, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.
2. Docket 38939, Dallas-Ft. Worth-Yucatan Service Proceeding. Instructions to the staff. (BIA, OGC)
3. Docket 29044, Amendments to the Board's smoking rule, Part 252. (Memo No. 369, OGC, BCP, BDA)
4. Dockets 33361, 32643 and 32644, *Former Large Irregular Air Service Investigation,* Application of Peninsular Air Transport, Inc. (OGC, BCP)
5. Service of Automatic Market Entry applications. (OGC, BDA)
6. Procedure for designating additional small communities as eligible points under section 419(b). (BDA, OGC, OCCR)
7. EAS-388, Petition for Modification of the Essential Air Service Determination of Lewiston, Idaho/Clarkston, Washington. (Memo No. 077, BDA, OGC, OCCR)
8. Dockets EAS-336 and 338; Appeals of Essential Air Service Determinations for Kingman and Prescott, Arizona. (Memo No. 067, OGC, OCCR, BDA)
9. Dockets EAS-549, EAS-552, and 36140, Ponca City's appeal and Enid's comments on their essential air transportation determinations and Air Midwest's notice of its intention to suspend service at Enid and Ponca City, Oklahoma. (Memo No. 080, OGC, OCCR, BDA)
10. Dockets 36800 and 38802, Republic Airlines' 90-day notices to suspend certain air service at Gadsden, Alabama and Eglin Air Force Base, Florida. Dockets 38799 and 38801, Republic Airlines' applications for exemption authority to suspend service before the expiration of the 90-day notice period. (BDA)
11. Docket 34291, Revised Certificates for Trunk and Local Service Carriers, Petition of the Greensboro-High Point Airport Authority for Review of Staff Action in issuing Order 80-5-41 which, inter alia, de-hyphenated Greensboro-High Point from Winston-Salem. (Memo No. 064, BDA)
12. Docket 20051; Agreements for the Establishment of Airline Scheduling Committees; Petition of New York Air for Declaratory Order or other relief. (BDA)
13. Dockets 38669, EDR-384, 36119, Flying Tiger/Seaboard application for exemption on pick-up and delivery tariffs in foreign air transportation. (Memo No. 076, BDA)
14. Docket 38758, Proposed increase in prepaid ticket advice charge proposed by Western Airlines. (Memo No. 079, BDA)
15. Docket 36497, EDR-387/PSDR-68, NOtice of Proposed Rulemaking to implement competitive pricing for mail transportation by establishing zones of rates within which carriers and Postal Service would be free to contract. (OGC)
16. Docket 34564, ATC agreement amending rules on default declaration by individual carriers (Agreements CAB 27001-A20, 27004-A5 and 28217-A3) and Docket 32705, Motion of Popular Latin Travel Agency to reexamine the ATC agreements on declaration and liability for lost or stolen tickets. (BDA)
17. Proposed rulemaking to replace the requirements of section 402 of the Act for Canadian Charter air taxi operators with a simple registration procedure. (Memo No. 086, BIA, OGC, BDA, BCP, BALJ)
18. Docket 36419, Texas-Alberta-Alaska Case; Docket 38757, Application of Western Air Lines, Inc. to Postpone Inauguration of Service. (BIA, OGC, BALJ)
19. Docket 38775, Application of The Department of International Affairs of the General Administration of Civil Aviation of China d/b/a CAAC for an initial foreign air carrier permit. (BIA, OGC, BALJ)
20. Docket 38728, Cancellation of the foreign air carrier permits held by Air Halifax Limited, Aircadia Limited, Airspan Flight Charter Limited, Canadian Voyageur Airlines Limited, Cross Canada Flights Limited, J.V. Aviation Limited, Leavens Brothers Limited, and Survair Limited. (BIA, OGC)
21. Docket 37951, Application of Pan American World Airways, Inc. to amend its certificate of public convenience and necessity for Route 132 to include Bombay, India. Docket 31934, Application of Pan American World Airways, Inc. for an exemption pursuant to section 416 of the Act to serve Bombay, India. (BIA, OGC, BLJ)
22. Docket 32629, Application of Saudi Arabian Airlines Corporation for renewal of its foreign air carrier permit to carry property only between Saudi Arabia and New York, Houston, Dallas/Ft. Worth. (BIA, OGC, BALJ)
23. Docket 29977, Petition of Transamerica Airlines, Inc. for review of staff action in Order 79-12-205, which granted a blanket Statement of Authorization to various foreign air carriers permitting them to operate off-route charters. (BIA, BDA, OGC)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-2151-80 Filed 11-21-80; 3:21 pm]
BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Tuesday, November 25, 1980.

CHANGES IN THE MEETING: Foreign Traders and Brokers discussion has been changed 2 p.m. on November 25, 1980.

[S-2146-80 Filed 11-21-80; 2:17 p.m.]
BILLING CODE 6351-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission held an emergency closed meeting on Tuesday, November 18, 1980, following the Regular Open Meeting, at 1919 M Street, N.W., Washington, D.C. on the following subject:

Internal Personnel Matters.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: November 19, 1980.
Federal Communications Commission.
William J. Tricarico,
Secretary.

[S-2148-80 Filed 11-21-80; 2:31 pm]
BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission announced on November 19, 1980, Commission Meeting Agenda Notice (#01823), the deletion of the item listed below from the list of items scheduled for the November 25th Special Open Meeting. This previously deleted item *will* be considered at this meeting, instead of being rescheduled for the meeting of December 4, 1980.

Agenda, Item Number, and Subject

Common Carrier—4—In re Applications of RCA American Communications, Inc. and Southern Satellite Systems, Inc. under Section 214 for a satellite channel of communication. Before the Commission are Section 214 applications filed by RCA American and Southern Satellite seeking three year authorization of a communication channel via Cable Net I.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this matter.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Federal Communications Commission.
Issued: November 21, 1980.
William J. Tricarico,
Secretary.

[S-2149-80 Filed 11-21-80; 2:31 pm]
BILLING CODE 6712-01-M

CHANGES IN THE MEETING: The following item has been added to the open meeting: Mutual Capital Certificates.

[S-2144-80 Filed 11-21-80; 1:09 pm]
BILLING CODE 6720-01-M

7

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

November 20, 1980.

TIME AND DATE: 10 a.m., Wednesday, November 26, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Penn Allegh Coal Company, Docket No. PENN 81-6-R. (Petition for Discretionary Review; issues include the interpretation of the regulation at 30 CFR § 75.316.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-2147-80 Filed 11-21-80; 2:22 pm]
BILLING CODE 6820-12-M

8

FEDERAL RESERVE SYSTEM.

Board of Governors.

TIME AND DATE: 10 a.m., Monday, December 1, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed changes to the Plans administered under the Federal Reserve System's employee benefits program.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:
M. Joseph R. Coyne, Assistant to the Board, (202) 462-3204.

Dated: November 21, 1980.
Theodore E. Allison,
Secretary of the Board.

[S-2152-80 Filed 11-21-80; 3:29 pm]
BILLING CODE 6210-01-M

9

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

TIME: 11:30 a.m.-12:30 p.m.

DATE: December 12, 1980.

PLACE: Mayflower Hotel, Washington, D.C.

STATUS: Closed.

MATTERS TO BE DISSCUSSED: Executive Session (Closed meeting Sec. 1703.202 (2) and (6) of the Code of Federal Regulations, 45 CFR, Part 1703).

CONTACT PERSON FOR MORE INFORMATION: Mary Alice Hedge Reszetar, Associate Director, NCLIS, Area Code 202-653-6252.

Mary Alice Hedge Reszetar,
Associated Director.

November 18, 1980.

[S-2143-80 Filed 11-24-80; 10:30 am]
BILLING CODE 7527-01-M

10

NUCLEAR REGULATORY COMMISSION.

DATE: Week of November 24, (Revised).

STATUS: Public.

MATTERS TO BE CONSIDERED: Tuesday, November 25:

10 a.m.

Discussion of Proposed Rulemaking to Amend 10 CFR 50 Concerning Anticipated Transients Without Scram (ATWS) Events (approximately 1½ hours, public meeting) (additional item).

2 p.m.

Discussion of Instructions to Board on Indian Point Proceeding (approximately 1½ hours, public meeting) (additional item).

Wednesday, November 26:

10 a.m.

Discussion and Vote on Final Rule—10 CFR 60—Disposal of High Level Radioactive Waste in Geologic Repositories—Licensing Procedures (approximately 1 hour, public meeting) (additional item).

2 p.m.

1. Briefing on Environmental Releases at NFS-Erwin and Other Fuel Cycle Plants (approximately 1 hour, public meeting) (as announced).
2. Affirmation Session (approximately 10 minutes, public meeting) (as announced):
   a. Idemnification of Licensees for Offsite Fuel Storage.
   b. Protection of Unclassified Safeguards Information.
   c. Petition for Rulemaking from Public Citizen Litigation Group on Required Levels of Financial Protection.
   d. Reappointment of ACRS Member.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-

Those planning to attend a meeting should reverify the status on the day of the meeting.

V45 NO 225 80 UMI

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,
Office of the Secretary.

S-2145-80 Filed 11-21-80; 1:50 pm
BILLING CODE 7590-01-M

11

[OPO401]

PAROLE COMMISSION.

TIME AND DATE: 9:30 a.m.-6 p.m., Thursday, December 11, 1980.

PLACE: Room 724, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commissioner of approximately 15 cases decided by the National Commissioners pursuant to a reference under 28 CFR § 2.17 and appealed pursuant to 28 CFR § 2.27. These are all cases originally heard by examiner panels wherein inmates of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSONS FOR MORE INFORMATION: Linda Wines Marble, Chief Case Analyst, (202) 724-3094.

[S-2150-80 Filed 11-21-80; 3:20 pm]
BILLING CODE 4410-01-M

12

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of November 24, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, November 25, 1980, at 10:00 a.m. An open meeting will be held on Tuesday, November 25, 1980, at 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Commissioners Loomis, Evans, Friedman and Thomas determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, November 25, 1980, at 10:00 a.m., will be:

Regulatory matter bearing enforcement implications.
Regulatory matter regarding financial institutions.

The subject matter of the open meeting scheduled for Tuesday, November 25, 1980, at 2:30 p.m. will be:

Consideration of whether to approve proposed rule changes submitted by Bradford Securities Processing Services, Inc. and National Securities Clearing Corporation that would establish systems for the automated comparison and clearance of municipal securities transactions. For further information, please contact C. Eston Singletary at (202) 272-2893.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Wojtas at (202) 272-2178.

November 20, 1980.
[S-2139-80 Filed 11-20-80; 1:31 pm]
BILLING CODE 8010-01-M

13

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:
45 FR 75417, NOVEMBER 14, 1980.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Wednesday, November 12, 1980.

CHANGES IN THE MEETING: Additional items. The following additional items will be considered at a closed meeting scheduled for Thursday, November 20, 1980, following the 2:30 p.m. open meeting:

Access to investigative files by Federal, State, or Self-Regulatory authorities.
Formal order of investigation.
Chapter X proceeding.

Commissioners Loomis, Evans, Friedman, and Thomas determined that Commission business required the above changes and the no earlier notice there of was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Marcia MacHarg at (202) 272-2468.

November 20, 1980.
[S-2140-80 Filed 11-20-80; 4:32 pm]
BILLING CODE 8010-01-M

12

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES.

TIME AND DATE: 8 a.m, December 12, 1980.

PLACE: Uniformed Services University of the Health Sciences, Room D3-001, 4301 Jones Bridge Road, Bethesda, Maryland 20014.

STATUS: Open.

MATTERS TO BE CONSIDERED: 8 a.m., meeting—Board of Regents:

(1) Swearing-in of New Members; (2) Approval of Minutes, May 24, 1980; (3) Report—Executive Committee Meeting, October 9, 1980; (4) Report—Chairman, Board of Regents; (5) Faculty Appointments; (6) Report—Admissions; (7) Financial Report; (8) Report—Acting President; (9) Report—Dean, School of Medicine—(a) Faculty Recruitment; (b) Student Activities; (c) USUHS Awards; (d) General Procedures & Delegations of the Board of Regents; (e) Revised Appointment, Promotion, and Tenure Document.
New Business.
Scheduled meetings: March 2, 1980.

CONTACT PERSON FOR MORE INFORMATION: Frank M. Reynolds, Executive Secretary of the Board, 202/295-3025.

November 20, 1980.

M. S. Healy,
OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[S-2153-80 Filed 11-21-80; 3:39 pm]
BILLING CODE 3810-70-M

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.** A complete cumulative listing through Public Law 96–483 was published in the **Reader Aids** section of the issue of Wednesday, November 5, 1980.

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11-25-80
Vol. 45—No. 228

Book 2 of 2 Books
Tuesday, November 25, 1980

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Just Released

Code of Federal Regulations

Revised as of July 1, 1980

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federal register

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November 25, 1980

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federal register

Tuesday
November 25, 1980

Part II

Office of Personnel Management

Privacy Act of 1974; Annual Publication of Systems of Records

OFFICE OF PERSONNEL MANAGEMENT

May 2, 1980 (45 FR 29454);
May 6, 1980 (45 FR 29947); and

internal notices for such records, the system will continue in existence until

emergency conditions and formation of

Individuals must furnish the following

agency responsible for investigating,

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Annual Publication of Notices of Systems of Records

AGENCY: Office of Personnel Management.

ACTION: Notice; Annual publication of notices of systems of records.

SUMMARY: The purpose of this notice is to meet the requirement of the Privacy Act of 1974 regarding the annual publication of an agency's notices of systems of records.

COMMENT DATE: Interested parties may submit written comments regarding any of the changed or new routine uses in these notices. To be considered, comments must be received on or before December 26, 1980.

ADDRESS: Address comments to: Deputy Assistant Director for Work Force Information, Agency Compliance and Evaluation (Room 6429), Office of Personnel Management, 1900 E Street, N.W. Washington, D.C. 20415. Comments received will be available for public inspection between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: William H. Lynch, Work Force Information Division, (202) 254–9790/9793.

SUPPLEMENTARY INFORMATION: With the creation of the Office of Personnel Management (OPM) by Reorganization Plan No. 2 of 1978 (43 FR 36037), it became necessary for OPM to publish notices of the Privacy Act systems of records it maintains. These system notices were published on the following dates:

December 28, 1978 (43 FR 60983);
May 29, 1979 (44 FR 30836);
July 6, 1979 (44 FR 39659);
October 12, 1979 (44 FR 59024);
October 19, 1979 (44 FR 60450); and
October 26, 1979 (44 FR 61702).

The complete text of OPM's system notice also appears in the Privacy Act Issuances–1979 Compilation, Volume IV, page 3154.

Since that time, OPM has published notice of one new system of records and made changes in several of the existing systems. The new system notice appeared in the **Federal Register** of March 28, 1980 (45 FR 20601) and is included in this notice as OPM/CENTRAL–12, Survey Information Records.

Changes appeared in the **Federal Register** on the following dates:

February 26, 1980 (45 FR 12563);
March 28, 1980 (45 FR 20601);
May 2, 1980 (45 FR 29454);
May 6, 1980 (45 FR 29947); and
June 20, 1980 (45 FR 41743).

As a matter of convenience to users and in compliance with the requirement to annually publish notices of systems of records, including the requirements (where changes to the notice have occurred since appearing in the annual compilation) to publish the complete text of the notices that have undergone changes, the complete text of all but one of OPM notices of systems of records appear below. One of OPM's system notices, OPM/GOVT–2, Grievance Records is not being included for the reasons discussed below. In some cases, no changes have been made to the notice and in some cases only slight, administrative changes have occurred, e.g., a change in system manager, location of records, or retention schedule. In several systems, there have been administrative changes to the categories of records section to better describe covered records and to the routine use section of the notice that reflect a rewording of the routine use, the division of one routine use into two or three separate and more detailed routine uses, or the addition of a new routine use. Changes in each of the notices are identified in italics. Interested parties are invited to provide comment on the new or revises routine uses.

Based on agency comments received, OPM has decided to discontinue one Government-wide system of records. The system to be discontinued is OPM/GOVT–2, Grievance Records. This system covers records that result from an employee filed grievance, both under the agency's negotiated and administrative grievance procedures. OPM believes that records under negotiated procedures are under the sole control of the agency and not subject to OPM rules and instructions and, therefore, more appropriately belong in agency internal systems. Although the files created under administrative grievance procedures are prescribed by 5 CFR 771 and OPM may review the agencies' procedures, including a review of individual files, OPM believes that these records should also be part of an agency internal system. As required by 5 CFR 297.406(c) of OPM's Privacy Act regulations, agencies shall designate OPM as a routine user of grievance files. This system notice appears in the May 29, 1979 (44 FR 30836), **Federal Register** and was amended in an October 26, 1979 (44 FR 61702), **Federal Register** notice. By agreement with the Office of Management and Budget, and to allow additional time for agencies to publish internal notices for such records, the system will continue in existence until December 31, 1980, when it will be obsoleted, without further notice. A notice to the effect, rather than the complete text of the system notice, is included in this package.

The Office Management and Budget, in a memorandum to agencies, has decided that where an agency merely modifies the former OPM/GOVT–2, Grievance Records notice, to cover agency grievance records, no Report on New Systems is required. The text of OPM's notices of systems of records appears below.

Office of Personnel Management.

Beverly M. Jones

Issuance System Manager.

OPM/INTERNAL–1

SYSTEM NAME:

Defense Mobilization Emergency Cadre Records.

SYSTEM LOCATION:

Office of Management, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, and OPM regional administrative offices. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Office of Personnel Management employees who are members of the Defense Mobilization Cadre.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records contain the name, address, telephone number, date of birth, physical description, and private automobile information on each member of the Defense Mobilization Cadre.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Civil Defense Act of 1950 and Executive Order 11490.

PURPOSE(S):

These records serve to identify and register members of the various emergency cadres, both basic and supplemental. The originals and one copy of the records are maintained in the OPM's Mobilization Office files (alphabetically and by cadre) for administrative purposes. The third copy is sent to the OPM Relocation Site for use in granting access to the site in the event cadre members must relocate under emergency conditions. Under emergency conditions, the records are a source of personal data for preparation of Emergency Assignee Indentification Cards, carried by basic cadre members to facilitate necessary travel under

emergency conditions and formation of carpools as might be practical in the event of an emergency.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

c. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

e. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained on cards.

RETRIEVABILITY:

Records are retrieved by individual name and emergency cadre.

SAFEGUARDS:

Records are maintained in a secured area and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records are maintained as long as the individual is an emergency cadre member. Expired records are burned.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Management, Office of Personnel Management, 1900 E Street, N.W., Washington, D. C. 20415.

NOTIFICATION PROCEDURE:

Office employees wishing to inquire whether this system of records contains information about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

RECORD ACCESS PROCEDURE:

Office employees wishing to request access to records about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Since all record information is provided by the individual employee who is the subject of the record, most record corrections can be handled through established administrative procedures for updating the records. However, Office employees wishing to contest records about them under provisions of the Privacy Act should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

An individual requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information is provided by the individual Office employee who is the subject of the record.

PURPOSE(S):

These records are used to process an employee's grievance filed under a negotiated grievance procedure.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records and information in these records may be used:

a. By the Department of Labor in carrying out its functions regarding labor management relations in the Federal service.

b. To disclose information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

c. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of a violation or potential violation of civil or criminal law or regulation.

d. To disclose information to any source from which additional information is requested in the course of resolving a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

OPM/Internal–2

SYSTEM NAME:

Negotiated Grievance Procedure Records.

SYSTEM LOCATION:

Office of Personnel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, and OPM regional administrative offices. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former OPM employees who file grievances under a negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains a variety of records relating to an employee's grievance filed under procedures established by labor-management negotiations. The records may include information such as: employee's name, social security number, grade, job title, employment history, arbitrator's decision or report, record of appeal to Federal Labor Relation Authority, and a variety of employment and personnel records associated with the grievance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7121, title 5, U.S. Code.

e. To provide information to a congressional office from the record of an individual in response to a request from that congressional office made at the request of that individual.

f. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

g. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 USC 2904 and 2906.

h. By the Office of Personnel Management in the production of summary descriptive statistics and

analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

i. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

j. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

k. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

l. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are located in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

Records on grievances processed under the negotiated grievance procedure are disposed of three years after closing action on the case.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals involved in a negotiated grievance are aware of that fact and have been provided access to the record. They may however, contact the system manager indicated above, or the OPM regional office where the grievance was processed, regarding the existence of such records about them. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth
c. Approximate date of closing of the grievance.
d. Organizational component involved.

RECORD ACCESS PROCEDURES:

Individuals who file a grievance under a negotiated grievance procedure are aware of that fact and have been provided access to the record. However, after the grievance has been closed, an individual may request access to the official copy of the grievance record by writing the appropriate system manager or OPM regional office, as indicated in the "Notification procedure" section. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth
c. Approximate date of closing of the grievance.
d. Organizational component involved.

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have previously been or could have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency or administrative body ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment of their records to correct factual errors should contact the appropriate system manager or OPM regional office indicated in the "Notification procedure" section. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Approximate date of closing of the grievance.
d. Organization component involved.

Individuals requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The individual on whom the record is maintained;
b. Testimony of witnesses;
c. Union officials;
d. Office of Personnel Management officials; or
e. Department of Labor, Federal Labor Relations Authority, or arbitration officials involved in the grievance.

OPM/INTERNAL—3

SYSTEM NAME:

Security Office Control Files.

SYSTEM LOCATION:

Office of Management, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415 and OPM Regional Offices. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Central office and regional employees of the Office of Personnel Management and individuals being considered for possible employment by the Office.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of disks, cards, and file folders of active, inactive, and pending employees filed alphabetically, containing date of birth, Social Security Number, classification as to position sensitivity, types and dates of investigations, investigative reports, dates and levels of clearances, and names of agencies and the reasons why they were provided clearance information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450 and Executive Order 12065.

PURPOSE(S):

These records are used exclusively by OPM Security Officers and the employees of Security Offices for administrative reference in connection with controlling position sensitivity and personnel clearances.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES FOR SUCH USES:

a. *To disclose information to an agency in the executive, legislative, or judicial branch, or the District of Columbia Government, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.*

b. *To provide information to a congressional office from the record of on individual in response to an inquiry from that congressional office made at the request of that individual.*

c. *To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.*

d. *To disclose information to the security office of an agency in the executive, legislative, or judicial branch, or the District of Columbia Government, in response to its request for verification of security clearance, to enable Office employees to have access to classified data or areas where their official duties require such access.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are stored on disks, cards, and in file folders.

RETRIEVABILITY:

Records are retrieved by the name and date of birth of the individuals on whom they are maintained.

SAFEGUARDS:

The disks, cards, and file folders are stored in fire-resistant safes contained within a secured area, in lockable metal file cabinets, or in secured rooms. The disks, cards, and file folders do not leave the security office.

RETENTION AND DISPOSAL:

Most records are retained for five years after the individual leaves the Office and then are disposed of by erasing the disks or burning the cards. Folders containing investigative reports are transferred with the employee when reassigned in OPM or returned to the Office's Division of Personnel Investigations when the individual leaves OPM.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Management, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415 for Central office employees. Regional Directors (see list of OPM regional office addresses in the Appendix) for regional office employees.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them should contact the appropriate system manager indicated above. Individuals must furnish the following information for their record to be located and identified:

a. Full name.
b. Date of birth.

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the appropriate system manager indicated above. Individuals must furnish the following information for their record to be located and identified:

a. Full name.
b. Date of birth.

An individual requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

a. The individual to whom the information applies.

b. The Office's investigative files maintained by the Division of Personnel Investigations.

c. Employment information maintained by the Office's Director of Personnel or regional personnel offices.

d. Officials of the Office of Personnel Management.

OPM/INTERNAL—4

SYSTEM NAME:

Employee Occupational Health Program Records.

SYSTEM LOCATION:

Associate Director for Compensation, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, and OPM Mid-Continent Regional Office. (See address of Mid-Continent OPM Regional Office in the Appendix.) Other OPM regional and area office health unit services are provided by other agencies, such as the Public Health Service or the General Services Administration.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered are those of the following who have received health services under the Federal Employee Occupational Health Program:

OPM central office:

a. Office of Personnel Management Central Office employees (whether actually employed at 1900 E Street, N.W. or elsewhere in the Washington, D.C. area), who have received health services at the OPM Health Unit.

b. Employees of other organizations located in the OPM Building at 1900 E Street, N.W., who have received health services at the Office of Personnel Management Health Unit. These organizations include the Presidential Committee on White House Fellowships, and the Presidential Committee on Personnel Interchange.

Mid-Continent Regional Office:

a. Mid-Continent regional office employees who have received health services at the Mid-Continent Federal Employee Health Clinic.

b. Employees of other Mid-Continent area Federal installations that participate in the Mid-Continent Federal Employee Health Clinic located at 1520 Market Street, St. Louis, Missouri, who have received health services.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is comprised of records developed as a result of employee utilization of services provided under the Office's Occupational Health program. These records contain the following information:

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a. Medical history and other biographical data on those individuals requesting employee health maintenance physical examinations.

b. Test reports and medical diagnosis based on employee health maintenance physical examinations or health screening program tests (tests for single medical conditions or diseases).

c. History of complaint, diagnosis, and treatment of injuries and illnesses cared for at Health Unit.

d. Vaccination Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7901, as further defined in OMB Circular No. A–72.

PURPOSE(S):

These records document employee utilization of health services provided under the Office's Occupational Health Program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

These records and information in these records may be used:

a. To refer information required by applicable law to be disclosed to a Federal, State, or local public health service agency, concerning individuals who have contracted certain communicable diseases or conditions. Such information is used to prevent further outbreak of the disease or condition.

b. To disclose information to the appropriate Federal, State, or local agency responsible for investigation of an accident, disease, medical condition, or injury as required by pertinent legal authority.

c. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

d. To disclose to the Office of Workers' Compensation Programs in connection with a claim for benefits filed by an employee.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

f. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained on cards and in folders.

RETRIEVABILITY:

These records are retrieved by the name of the individual to whom they pertain, and, in the Mid-Continent Federal Employee Health Clinic, by employing agency and the individual's name.

SAFEGUARDS:

These records are maintained in a secured room, with access limited to Health Unit personnel whose duties require access.

RETENTION AND DISPOSAL:

Records of the OPM Central Office Health Unit are maintained up to 6 years from the date of the last entry. Employees are given records at request upon separation; otherwise, records are burned approximately three months after separation.

Records maintained by the Mid-Continent Federal Employee Health Clinic are retained until the employee terminates employment with a participating agency and 5 years have elapsed since the date of last entry. Expired records are shredded or burned.

SYSTEM MANAGER(S) AND ADDRESS:

a. For records maintained at the Office's Health Unit in Washington, D.C.: Chief, Medical Division, Compensation Group, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

b. For records maintained at the Mid-Continent Federal Employee Health Clinic: Regional Director, Office of Personnel Management, Mid-Continent OPM Regional Office. (See regional office address in the Appendix.)

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Any former name.

c. Date of birth.

d. Name of employing agency and dates of employment (for records held by the Mid-Continent Federal Employee Health Clinic.)

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Any former name.

c. Date of birth.

d. Name of employing agency and dates of employment (for records held by the Mid-Continent Federal Employee Health Clinic.)

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Any former name.

c. Date of birth.

d. Name of employing agency and dates of employment (for records held by the Mid-Continent Federal Employee Health Clinic.)

An individual requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

a. The individual to whom the information pertains.

b. Laboratory reports and test results.

c. OPM Health Unit physicians, nurses and other medical technicians who have examined, tested, or treated the individual.

d. The individual's coworkers or supervisors.

e. The individual's personal physician.

f. Other Federal employee health units.

OPM/INTERNAL—5

SYSTEM NAME:

Pay, Leave, and Travel Records.

SYSTEM LOCATION:

Office of Personnel, office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415, and OPM office where the individual is currently employed, for use by timekeeper, budget and finance, or travel personnel. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains various records relating to pay, leave, and travel. This includes information such as: name, date of birth, social security number, home address, grade, employing organization, timekeeper number,

salary, pay plan, number of hours worked, leave accrual rate, usage, and balance; Civil Service Retirement contributions; FICA withholdings; Federal, State, and local tax withholdings; Federal Employee's Group Life Insurance withholdings; Federal Employee's Health Benefits withholdings; charitable deductions; allotments to financial organizations; garnishment documents; savings bonds allotments; union and management association dues withholding allotments; and travel expenses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 66a; 5 U.S.C. 5501 et seq., 5525 et seq., 5701 et seq., and 6301 et seq.; Executive Order 9397.

PURPOSE(S):

These records are used to administer the pay, leave and travel requirements of the Office of Personnel Management. These records may also be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. By the Department of Labor in connection with a claim filed by an employee for compensation due to a job-connected injury or illness.

b. By the Department of the Treasury to issue checks and U.S. Savings Bonds.

c. By State offices of unemployment compensation in connection with claims filed by former Office employees for unemployment compensation.

d. By Federal Employees' Group Life Insurance or Health Benefits carriers in connection with survivor annuity or health benefits claims or records reconciliations.

e. To diclose information to the Internal Revenue Service and State and Local tax authorities.

f. To provide officials of labor organizations recognized under 5 U.S.C. Chapter 71 with information as to the identity of Office employees contributing union dues each pay period and the amount of dues withheld from each contributor.

g. To disclose information to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

h. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

i. To disclose information to any source from which additional information is requested relevant to an Office determination concerning an individual's pay, leave, or travel expenses, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

j. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a suitability or security investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

k. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

l. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

m. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

n. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

o. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

p. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

q. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206; or as may be authorized by law.*

r. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

s. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

t. *To disclose, annually, pay data to the Social Security Administration and the Department of the Treasury as required.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders and loose leaf binders and on cards and magnetic tapes.

RETRIEVABILITY:

These records are retrieved by the names, Social Security Numbers, or Office of Personnel Management employee identification numbers of the individuals on whom they are maintained.

SAFEGUARDS:

These records are located in lockable metal filing cabinets or in a secured facility and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

These records are maintained for varying periods of time, in accordance with GSA General Records Schedule 2. Disposal of manual records is by shredding or burning; magnetic tapes are erased.

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SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Management, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to determine whether this system of records contains information on them should contact the system manager indicated above, or the OPM regional office where the individual is or was employed. Individuals must furnish the following for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Social Security Number.
d. Office of Personnel Management employment identification number.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about them should contact the system manager indicated above, or the OPM regional office where the individual is or was employed. Individuals must provide the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Social Security Number.
d. Office of Personnel Management employment identification number.

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of records about them should contact the system manager indicated above, or the OPM regional office where the individual is or was employed. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Social Security Number.
d. Office of Personnel Management employment identification number.

Individuals requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

a. The individual to whom the record pertains.
b. Office of Personnel Management officials responsible for pay, leave, and travel requirements.
c. Other official personnel documents of the Office.

OPM/INTERNAL—6

SYSTEM NAME:

Appeal and Administrative Review Records.

SYSTEM LOCATION:

Office of Personnel, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415, or OPM regional offices. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Office of Personnel Management.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to various appeal or administrative review procedures available to OPM employees. These appeals or administrative review procedures include adverse action appeals initiated prior to September 9, 1974 which were processed under the Office's internal appeals system; reconsiderations of acceptable level of competence determinations for within-grade increases; impartial reviews of performance ratings; and internal appeals of position classification decisions. The system also contains records and documentation of the action upon which the appeal or review procedure was based (e.g., 90-day notices of warning of unsatisfactory performance rating).

Note: This system does *not* include:

a. Appeal or complaint records covered by the Merit Systems Protection Board's system of Appeals Records; or

b. *Records for grievances processed under OPM's administrative grievance procedure or under the grievance system negotiated by the Office and a recognized labor organization, which are covered under the OPM/INTERNAL–14 and OPM/INTERNAL–3 systems of records.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, 4305, 5115, 5335, 7501, 7512, and Executive Order 10577.

PURPOSE(S):

These records are used to process the various appeals or administrative reviews available to the Office employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CASTEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71, when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

b. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

c. To disclose information to any source from which additional information is requested in the course of processing an appeal or administrative review procedure, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

d. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

f. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

g. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

h. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

i. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

j. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

k. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Section Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

l. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Services Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

Adverse action appeals initiated prior to September 9, 1974 which were processed under the Office's internal appeals system are retained for 7 years after the closing of the case. Other records in the system are maintained for a maximum of 4 years after the closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals involved in appeals and administrative review procedures are aware of that fact and have been provided access to the record. They may, however, contact the system manager indicated above, or the OPM regional office where the action was processed, regarding the existence of such records about them. They must furnish the following information for their records to be located and identified.

a. Name.
b. Date of birth.
c. Approximate date of closing of the case and kind of action taken.
d. Organizational component involved.

RECORD ACCESS PROCEDURES:

Individuals involved in appeals and administrative review procedures are aware of that fact and have been provided access to the record. However, after the action has been closed, an individual may request access to the official copy of an appeal or administrative review procedure record by contacting the system manager or appropriate OPM regional office as listed in the Appendix. Individuals must provide the following information for their records to be located and identified:

a. Name.
b. Date of birth.
c. Approximate date of closing of the case and kind of action taken.
d. Organizational component involved.

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have previously been or could have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency or administrative body ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment of their records to correct factual errors should contact the system manager or appropriate OPM regional office as listed in the Appendix. Individuals must furnish the following information for their records to be located and identified:

a. Name.
b. Date of birth.
c. Approximate date of closing of the case and kind of action taken.
d. Organizational component involved.

Individuals requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

a. The individual to whom the records pertain.
b. OPM officials involved in the appeal or administrative procedure.
c. Other official personnel records of the Office.

OPM/INTERNAL—7

SYSTEM NAME:

Complaints and Inquiries Records

SYSTEM LOCATION:

Office of Personnel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415 and OPM regional personnel offices. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current OPM employees about whom complaints or inquiries have been received.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information or correspondence concerning an individual's employment status or conduct while employed by the Office. Examples of these records include: correspondence from Federal employees, Members of Congress, or members of the public alleging misconduct of an OPM employee; miscellaneous debt correspondence received from creditors; and miscellaneous complaints not covered by the Office's formal or informal grievance procedure.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11222.

PURPOSE(S):

These records are used to take action on or respond to a complaint or inquiry concerning an OPM employee or to counsel the employee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local

to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

CONTESTING RECORD PROCEDURES:

Office employees wishing to request amendment of their records should

being part of the employing agency's internal system of records covering agency employees.

information pertaining to an individual with a history of alcohol or drug abuse must be

An individual must also follow the Office's Privacy Act regulations

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and identify the type of information requested), where necessary to obtain information relevant to an OPM decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit.

c. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

e. By the National Archives and Records Service (General Services Aministration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

f. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

g. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

h. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

i. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on cards and in file folders which are separate from the employee's Official Personnel Folder.

RETRIEVABILITY:

These records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

These records are located in lockable metal filing cabinets with access limited to personnel whose official duties require access.

RETENTION AND DISPOSAL:

These records are disposed of upon the transfer or separation of the employee or after 1 year, whichever is earlier. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Office employees wishing to inquire whether this system contains information about them should contact the system manager or the appropriate OPM reginal personnel office as listed in the Appendix. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

RECORD ACCESS PROCEDURES:

Office employees wishing to request access to their records should contact the system manager or the appropriate OPM regional personnel office as listed in the Appendix. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Office employees wishing to request amendment of their records should contact the system manager or the appropriate OPM regional personnel office as listed in the Appendix. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

Individuals must also comply with the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The individual to whom the information pertains.

b. Federal employees, Members of Congress, creditors, or members of the public who submitted the complaint or inquiry.

c. Office officials.

d. Other sources from whom information was requested regarding the complaint or inquiry.

OPM/INTERNAL—8

SYSTEM NAME:

Employee Counseling Services Program Records.

SYSTEM LOCATION:

Office of Personnel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, and OPM Regional Offices.

Note.—*In order to meet the statutory requirement that agencies provide appropriate prevention, treatment, and rehabilitation programs and services for employees with alcohol or drug problems, and to better accommodate establishment of a health service program to promote employees' physical and mental fitness, it may be necessary for an agency to negotiate for use of the counseling staff or another Federal, State, or local government, or private sector agency or institution. This system also covers records on OPM employees that are maintained by another Federal, State, or local government, or private sector agency or institution under such a negotiated agreement.*

When one or more Federal agencies wish to jointly make similar arrangements for employees, in order to ensure compliance with the law and to promote the agency health service program, the Office may, on behalf of the participating agencies, negotiate an agreement that provides such services through another Federal, State or local government, or private sector agency or institution. However, when such is the case, this system will not cover records pertaining to employees of other participating agencies. Such records are considered by the Office as being part of the employing agency's internal system of records covering agency employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Office employees who have been counseled or othrwise treated regarding alcohol or drug abuse or for personal or emotional health problems.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system include documentation of visits to employee counselors (Federal, State, local government, or private) and the diagnosis, recommended treatment, results of treatment, and other notes or records of discussions held with the employee made by the counselor. Additionally, records in this system may include documentation of treatment by a therapist at a Federal, State, local government, or private institution.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3301 and 7901, 21 U.S.C. 1101 and 1108, 42 U.S.C. 4541 and 4561, and 44 U.S.C. 3101.

PURPOSE(S):

These records are used to document the nature of the individual's problem and progress made and to record an individual's participation in and the results of community or private sector treatment or rehabilitation programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose information to the Department of Justice or other appropriate Federal agencies in defending claims against the United States, when the claim is based upon an individual's mental or physical condition and is alleged to have arisen because of activities of the Office in connection with the individual.

b. To disclose information to qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report or otherwise disclose patient identities in any manner (when such records are provided to qualified researchers employed by OPM, all patient identifying information shall be removed).

Note.—*Disclosure of these records beyond officials of the Office having a bona fide need for them or to the person to whom they pertain, is rarely made as disclosures of information pertaining to an individual with a history of alcohol or drug abuse must be limited in compliance with the restrictions of the confidentiality of Alcohol and Drug Abuse Patient Records regulations, 42 CFR Part 2. Records pertaining to the physical and mental fitness of employees are, as a matter of Office policy, afforded the same degree of confidentiality and are generally not disclosed.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

These records are maintained in locked file cabinets with access strictly limited to employees directly involved in the Office's alcohol and drug abuse prevention function (as that term is defined in 42 CFR Part 2).

RETENTION AND DISPOSAL:

Records are maintained for three to five years after the employee's last contact with the Office's prevention function or until the employee's separation or transfer, whichever comes first. Records are destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Office employees wishing to inquire whether this system of records contains information about them should contact the OPM Employee Counseling Services Program coordinator who arranged for counseling or treatment. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of Birth.

RECORD ACCESS PROCEDURES:

Office employees wishing to request access to records pertaining to them should contact the OPM Employee Counseling Services Program Coordinator who arranged for counseling or treatment. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of Birth.

An individual must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORDS PROCEDURES:

Office employees wishing to request amendment to these records should contact the OPM Employee Counseling Services Program Coordinator who arranged for counseling or treatment.

Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of Birth.

An individual must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies, the supervisor of the individual if the individual was referred by a supervisor, the Employee Counseling Services Program staff member who records the counseling session, and therapists or institutions providing treatment.

OPM/INTERNAL—9

SYSTEM NAME:

Employee Locator Card Files.

SYSTEM LOCATION:

Personnel and administrative offices of the Office of Personnel Management, 900 E. Street, N.W., Washington, D.C. 20415, and OPM regional and area offices. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Office of Personnel Management.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains information regarding the organizational location and telephone extension of individual Office employees. The system also contains the home address and telephone number of the employee, and the name, address, and telephone number of an individual to contact in the event of a medical or other emergency involving the employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301

PURPOSE(S):

Information is collected for this system for use in preparing telephone

directories of the extensions of Office

SYSTEM MANAGER(S) AND ADDRESS:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

RETENTION AND DISPOSAL:

Records are retained for 3 years and

Notification procedure section. Individuals must furnish the following

PURPOSE(S):

Records are maintained in this system

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directories of the extensions of Office employees. The record also serves to identify an individual for Office officials to contact, should an emergency of a medical or other nature involving the employee occur while the employee is on the job. These records may be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

b. To disclose information to another Federal agency or to a court when the Government is party to a suit before the court.

c. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not certain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

d. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrtative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DIPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained on cards.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in secured areas and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records are maintained as long as the individual is an employee of the Office of Personnel Management. Expired records are destroyed by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel, Office of Personnel Management, 1900 E. Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Office employees wishing to inquire whether this system contains information about them should contact the appropriate OPM administrative officer where employed. Individuals must supply the following information for their records to be located and identified:

a. Full name.

RECORD ACCESS PROCEDURES:

Office employees wishing to request access to records about them should contact the appropriate OPM administrative officer where employed. Individuals must supply the following information for their records to be located and identified:

a. Full name.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.2.01 and 297.203).

CONTESTING RECORD PROCEDURES:

Office employees may amend information in these records at any time by resubmitting the cards. Individuals wishing to request amendment of their records under the provisions of the Privacy Act should contact the appropriate OPM administrative officer where employed. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

Individuals requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information is provided by the individual who is the subject of the record.

OPM/INTERNAL—10

SYSTEM NAME:

Employee Production Records.

SYSTEM LOCATION:

Central operating offices of the Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415; the OPM Investigations Support Branch, Boyers, Pa. 16018; OPM regional Transcription Centers at the OPM regional office addresses listed in the Appendix; and OPM regional operating offices at the addresses listed in the Appendix.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All OPM employees whose position duties require a daily average production rate, e.g., dictating machine transcribers and employees involved in processing retirement claims.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system is comprised of records of daily average production rates for each affected employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

PURPOSE(S):

These records are maintained for purposes of determining eligibility for promotions to grade levels which require certain minimum average production rates. They may be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose information to another Federal agency or to a court when the Government is a party to a judicial proceeding before the court.

b. By the National Archives and Records Service (General Services Administration) for records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

c. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained in looseleaf notebooks and file folders.

RETRIEVABILITY:

Retirement employee records are retrieved by GS grade and by the name of the individual on whom they are maintained; other records (on transcriber, clerical and other personnel) are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in lockable drawers with access limited to the emloyee's supervisor or other management officials whose duties require access.

RETENTION AND DISPOSAL:

Records are retained for 3 years and are destroyed by burning, shredding, or pulp maceration.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Compensation, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415 for production records on employees of that office; Chief, OPM Regional Investigations Divisions (see OPM regional office addresses listed in the Appendix) for Transcription Center records and records on Investigations employees; Director of the OPM Regional Office at the addresses listed in the Appendix, for other production records maintained in the regions; Deputy Associate Director of Personnel Investigations, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415, for production records on employees of that office; and appropriate Associate or Assistant OPM Directors, for records maintained in the Central offices other than the Division of Personnel Investigations.

NOTIFICATION PROCEDURE:

Current employees of the Division of Personnel Investigations wishing to inquire whether this system contains records on them should contact the superviser to whom assigned or the chief of the Investigations Branch where employed.

Other current and all former OPM employees wishing to inquire whether this system contains records on them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. *Full name.*

b. *GS grade.*

RECORDS ACCESS PROCEDURE:

Individuals wishing to request access to records about them should contact the appropriate office and individual in the Notification procedure section. Individuals must provide the following information for their records to be located and identified:

a. *Full name.*

b. *GS grade.*

Individuals requesting access must also follow the Office's Privacy Act regulations regarding vertification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURE:

Individuals wishing to request amendment of records about them should contact the appropriate office and individual set forth in the Notification procedure section. Individuals must furnish the following information for their records to be located and identified:

a. *Full name.*

b. *GS grade.*

Individuals requesting amendment must also follow the Office's Privacy Act regulations regarding vertification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Records are derived from production counts maintained by the employee and from the employee's supervisor.

OPM/INTERNAL—11

SYSTEM NAME:

Investigator Performance Records.

SYSTEM LOCATION:

These records are located at Office of Personnel Management regional investigations offices, the Investigations Branch Washington and at the duty stations of supervisory investigators. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEMS:

Current and former Office of Personnel Management investigators (includes investigative records officers and supervisory investigators) and investigative technicians.

CATEGORIES OF RECORDS IN THE SYSTEMS:

These records contain the following kinds of information: Work performance records; their analysis and evaluation; records of training completed and projected training needs; records of counselling; special assignment and travel records; availability and qualifications for special assignments; motor vehicle accident records; authorization for travel, for use of government-owned vehicles, and other special authorizations; commendations, awards, and deficiencies; personal and locator data for locator purposes; salary; records of miscellaneous expenses and mileage; and work progress and production records.

At supervisory locations remote from the Official Personnel Folder, these files may also include the following kinds of records: statements of experience and qualifications; past and present grades; and copies of personnel actions including appointments, reassignments, demotions, details, promotions, transfers, and separations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 1302, 4118, 4303, 4506.

PURPOSE(S):

Records are maintained in this system to accomplish the following purposes:

a. The effective management of the Office's investigations program;

b. The proper assignment, transfer, promotion, detail, training, and reassignment of investigators;

c. The completion of required performance ratings and appraisals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. By an agency, office, or other establishment in the executive, legislative, or judicial branch of the Federal Government, or the District of Columbia Government, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

b. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

c. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

d. To any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and identify the type of information requested), where necessary to obtain information relevant to an Office decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit.

e. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation,

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or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

f. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

g. To the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

h. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

i. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

j. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, an dto otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

k. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders; locator information may be on file cards.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Records are located either in cabinets equipped with drop bar and combination locks; in three-position lock reinforced metal cabinets; or in key lock file cabinets. Access is restricted to the supervisory and management investigative staff or to those employee assigned to act in support of this staff.

RETENTION AND DISPOSAL:

Generally, the record is maintained during the period of the individual's service with the Office's investigations program and is destroyed by burning or shredding one year after separation from the program. Items in an individual's record having continuing uses such as statements of special qualifications, training, or awards, are maintained for the life of the file. Items reflecting the individual's status, such as salary or special authorizations, are maintained while timely. Items that report appraisals and evaluations, information supporting those appraisals and similar items are retained for two years plus the current year and are then destroyed. Records of routine travel, expenses, and work progress are destroyed after six months.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Associate Director, Division of Personnel Investigations, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURES:

Individuals wishing to inquire whether this system contains a record on them should contact the appropriate office as follows:

a. Current OPM non-supervisory investigators should contact the supervisory investigator to whom assigned.

b. *Former OPM investigators and current OPM supervisory investigators should contact as appropriate the Chief of Investigations to whom last or currently assigned at the OPM regional offices (see OPM regional office addresses in the Appendix) or the Chief, Investigations Washington Branch, Presidential Building, 6525 Belcrest Road, Suite 600, Hyattsville, Md. 20782, if last or currently employed at that branch.*

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of last investigations assignment.

c. Duty location of last or present investigations duty station.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the appropriate office and individual set forth in the "Notification procedure" section. Individuals must supply the following information for their records to be located and identified:

a. Full name.

b. Date of last investigations assignment.

c. Duty location of last or present investigations duty station.

Individuals requesting access must also comply with the Office's Privacy Act regulation regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment to their records should contact the appropriate office and individual set forth in the "Notification procedure section." Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of last investigations assignment.

c. Duty location of last or present investigations duty station.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The individual on whom the record is maintained.

b. Supervisory and other observations of work performance.

c. Official notices of personnel actions.

d. Correspondence from persons with whom the individual has had work contact.

OPM/INTERNAL—12

SYSTEM NAME:

Speaker Resume and Clearance Records.

SYSTEM LOCATION:

Associate Director for Workforce Effectiveness and Development, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415, and OPM Regional Training Managers. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Faculty members, subject matter experts, consultants, and teachers with whom the Office may contract to deliver training courses or portions thereof.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include resumes, faculty data sheets, and verification of any individual's investigation conducted by OPM's Division of Personnel Investigation (DPI). The records may include name and address(es) of the individual, date and place of birth, date of security clearance, courses taught, with date, location, and amount paid in chronological order. Records maintained centrally by the Office contain only name, date and place of birth, home address, occupation, date of clearance, and the training center or region which requested clearance.

Note.—Any detailed investigative records are maintained by DPI. See the notice for the OPM/CENTRAL–9 system, Personnel Investigations Records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4107.

PURPOSE(S):

These records are used to identify and contact potential speakers and instructors of Office of Personnel Management training programs. Prior to issuance of a speaker contract, the speaker clearance file is checked to determine if the individual has been cleared to speak at regional or central office training courses.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the surce of the purpose of the request, and identify the type of information requested), where necessary to obtain information relevant to an Office decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit.

c. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

d. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

f. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

g. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

h. To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

i. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as a promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

j. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

k. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained on index cards, or in file folders and binders.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Records are located in lockable metal filing cabinets or in secured rooms with access limited to personnel whose official duties require access.

RETENTION AND DISPOSAL:

Records are retained as long as the individual is actively utilized in the training program. Clearances are valid for 3 years, and records are reviewed at that time for reclearance. Records on speakers not used during the three years are retained for a maximum of 2 more years, then are destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

a. For records maintained centrally: Associate Director for Workforce Effectiveness and Development, Office of Personnel Management, 1900 E Stree, N.W., Washington, D.C. 20415.

b. For records maintained by Regional Training Centers: Manager, Regional Training Center at which individual is being considered for speakership or contract. (See list of OPM regional office addresses in the Appendix.)

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Place of birth.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the appropriate system manager indicated above. Individuals must furnish the

following information for their records to be located and identified:

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

included in the study may be structured in such a way as to make the data

Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

employees: Contact the OPM Regional Director of the region in which

PURPOSE(S):

following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Place of birth.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Place of birth.

Individuals requesting amendment of their records must also comply with the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

a. The individual to whom the information applies.

b. The OPM investigative files maintained by the Personnel Investigations Division.

OPM/INTERNAL—13

SYSTEM NAME:

Motor Vehicle Operator and Accident Report Records.

SYSTEM LOCATION:

Director, Office of Management, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, and OPM regional administrative offices. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the Office of Personnel Management.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains documents related to the authorization and issuance to an individual of a Government motor vehicle operator's permit; also included are reports, correspondence, and fiscal documents concerning automobile accidents occurring in a Government owned or leased automobile or in a privately owned vehicle while on official business.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Chapter 171 of Title 28, United States Code.

PURPOSE(S):

These records serve to document issuance of a Government motor vehicle operator's permit; accident reports and related documents may be used in claims settlement litigation regarding an accident involving a Government motor vehicle or privately owned vehicle while being used on official business.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and identify the type of information requested), where necessary to obtain information relevant to an Office decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a grant or other benefit.

c. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

e. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

f. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

g. To disclose accident report record information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

h. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation, the classifying of jobs, or the award of a contract, license, grant, or other benefit.

i. To disclose information to the General Services Administration about accidents involving Government-owned or leased automobiles.

j. To disclose information to insurance carriers about accidents involving privately-owned vehicles.

k. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders and on indexed application cards.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in a secured area with access limited to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Motor vehicle operator records are maintained for three years after the separation of the employee (operator) and are destroyed by shredding. Accident reports are maintained for six years after the date of the report and are destroyed by shredding, except in cases involving litigation. In cases involving litigation, these records are to be maintained for seven years.

SYSTEM MANAGER(S) AND ADDRESS:

a. For motor vehicle operator records: Director, Office of Management, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

b. For accident report records: Office of the General Counsel, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate office as follows:

a. For accident report records: Contact the system manager for these records indicated above;

b. Motor vehicle operator records for current or former OPM Central Office employees: Contact the system manager indicated above;

c. Motor vehicle operator records for current and former OPM Regional employees: Contact the OPM Regional Director of the region in which employed (see list of OPM regional office addresses in the Appendix).

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

An individual requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

a. The individual to whom the record pertains.

b. OPM employees and other parties involved in the accident.

c. Witnesses to the accident.

d. Police reports and reports of investigations conducted by OPM investigators.

e. Officials of the Office of Personnel Management and the General Services Administration.

OPM/INTERNAL—14

SYSTEM NAME:

Grievance Records.

SYSTEM LOCATION:

These records are located in the personnel or other designated office, OPM Central and Regional offices (see list of OPM regional office addresses in the Appendix) where the grievance was filed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former Office employees who have filed grievances, under OPM's administrative grievance procedures in accordance with part 771 of the Office's regulations (5 CFR 771).

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains records relating to grievances filed by OPM employees under administrative procedures and in accordance with part 771 of the Office's regulations. These case files contain all documents related to the grievance including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original decision, and related correspondence and exhibits. This system does not include files and records of any grievance filed under negotiated procedures with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 CFR 771.

PURPOSE(S):

These records are used to process grievances submitted by OPM employees, for personal relief in a matter of concern or dissatisfaction which is subject to the control of agency management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

c. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to requesting the agency's decision on the matter.

d. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

e. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

g. By the Office in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

h. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Council, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations investigations of alleged or possible prohibited personnel practices, and such other functions as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

i. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

j. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

k. To disclose in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of 3 years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Personnel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. They may, however, contact the personnel or designated office where the action was processed, regarding the existence of such records on them. They must furnish the following information for their records to be located and identified:

a. Name.
b. Date of birth.
c. Approximate date of closing of the case and kind of action taken.
d. Organizational component involved.

RECORDS ACCESS PROCEDURES:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. However, after the action has been closed, an individual may request access to the official copy of the grievance file by contacting the personnel or designated office where the action was processed. Individuals must provide the following information for their records to be located and identified:

a. Name.
b. Date of birth.
c. Approximate date of closing of the case and kind of action taken.
d. Organizational component involved.

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 or 297.203).

CONTESTING RECORD PROCEDURES:

Review of requests from individual's seeking amendment of their records which have been the subject of a judicial or quasijudicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment to their records to correct factual errors should contact the personnel or designated office where the grievance was processed. Individuals must furnish the following information for their records to be located and identified:

a. Name.
b. Date of birth.
c. Approximate date of closing of the case and kind of action taken.
d. Organizational component involved.

Individuals requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records is provided:

a. By the individual on whom the record is maintained.
b. By testimony of witnesses.
c. By agency officials.
d. From related correspondence from organizations or persons.

OPM/CENTRAL—1

SYSTEM NAME:

Civil Service Retirement and Insurance Records.

SYSTEM LOCATION:

Associate Director for Compensation, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415. For category of records "f," the following OPM regional offices: Northwest, Western, Southeast, Great Lakes, and Mid-Atlantic. (See list of OPM regional office addresses in the Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Former Federal employees and Members of Congress who performed service subject to the Civil Service Retirement (CSR) system.

b. Current Federal employees who have:

(1) Performed Federal service subject to the CSR system other than that with their present agency; or

(2) Filed a designation of beneficiary for benefits payable under th CSR system; or

(3) Requested the Office to review claims for health benefits made under the Federal Employees Benefits Program; or

(4) Filed a service credit application in connection with former Federal service; or

(5) Filed an application for disability retirement with the Office and are awaiting final decision, or whose disability retirement application has been disapproved by the Office.

c. Former Federal employees who died subject to or who retired under the CSR system, or their surviving spouses and/or children, who have received or are receiving CSR benefits, Federal Employees Group Life Insurance benefits, or Federal Employees Health Benefits.

d. Former Federal employees who died subject to or who retired under a Federal Government Retirement system other than the CSR system, or their surviving spouses and/or children, who have received or are receiving Federal Employees Group Life Insurance benefits and/or Federal Employees Health Benefits.

e. Applicants for Federal employment found unsuitable for employment on medical grounds.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system is comprised of those retirement service history records of employees' service in the Federal government other than that for the agency in which they may presently be employed. It also contains information developed in support of claims for benefits made under the retirement, health benefits, and life insurance programs for Federal employees which the Office of Personnel Management administers. Also included are medical records and supporting evidence on those individuals found medically unsuitable for Federal employment. These records contain the following information:

a. Documentation of Federal service subject to the CSR system.

b. Documentation of service credit and refund claims made under the CSR system.

c. Documentation of voluntary contributions made by eligible individuals.

d. Retirement and death claims files, including documents supporting the retirement application, health benefits and life insurance eligibility, medical records supporting disability claims (after receipt by the Office of Personnel Management) and designations of beneficiary.

e. Claim review files pertaining to requests that claims made under the Federal Employees Health Benefits Program be reviewed by the Office.

f. Suitability determination files on applicants for Federal employment found unsuitable for employment on medical grounds.

g. Documentation of continuing coverage for life insurance and health benefits for annuitants and their survivors under a Federal Government retirement system other than the CSR system, or for compensationers and their survivors under the Office of Workers' Compensation Programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 3301, and chapters 83, 87, and 89 of title 5, United States Code; Public Laws 83–598, 84–356, and 86–724; and Executive Order 9397.

PURPOSE(S):

These records provide information and verification on which to base entitlement and computation of Civil Service Retirement and survivors benefits, Federal Employees Health Benefits and enrollments, and Federal Employees Group Life Insurance benefits. These records also serve to review rejection of applicants for Federal employment on medical suitability grounds. These records also may be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose, to the following recipients, information needed to adjudicate a claim for benefits under the Office's or the recipient's benefits program(s), or information needed to conduct an analytical study of benefits being paid under such programs: Office of Workers' Compensation Programs; Veterans Administration Pension Benefits Program; HHS's Social Security Old Age, Survivor and Disability Insurance and Medical Programs, Health Care Financing Administration, and Supplemental Security Income Program; military retired pay programs; Federal civilian employee retirement programs (other than the Civil Service Retirement system); or other national, State, county, municipal, or other publicly recognized charitable or social security administrative agency.

b. To disclose to the Federal Employees Group Life Insurance Office information necessary to verify election, declination, or waiver of regular and/or optional life insurance coverage or eligibility for payment of a claim for life insurance.

c. To disclose to health insurance carriers contracting with the Office to provide a health benefits plan under the Federal Employees Health Benefits Program, information necessary to identify the enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination for benefits provisions of such contracts.

d. To disclose to any inquirer, if sufficient information is provided to assure positive identification of an individual on whom a department or agency maintains retirement or insurance records, the fact that an individual is or is not on the retirement rolls and, if so, the type of annuity (employee or survivor, but not retirement or disability) being paid, or if not, whether a refund has been paid.

e. When an individual to whom a record pertains dies, to disclose to any person possibly entitled in the order of precedence for lump sum benefits, information in the individual's record which might properly be disclosed to the individual, and the name and relationship of any other person whose claim to benefits takes precedence or who is entitled to share the benefits payable. When a representative of the estate has not been appointed, the individual's next of kin may be recognized as the representative of the estate.

f. To disclose to the Internal Revenue Service, Department of the Treasury, information as required by the Internal Revenue Code of 1954 as amended.

g. To disclose to the Department of the Treasury information necessary to issue benefit checks.

h. To disclose information to any person who is responsible for the care of the individual to whom a record pertains and who is found by a court or an Office of Personnel Management Medical Officer to be incompetent or under other legal disability information necessary to assure payment of benefits to which the individual is entitled.

i. To disclose to the Parent Locator Service of the Department of Health and Human Services, upon its request, the present address of an annuitant survivor annuitant, or former employee, for the purpose of enforcing child support obligations against such individual.

j. In connection with an examination ordered by the agency under:

(1) Fitness for duty examination procedures; or

(2) Agency-filed disability retirement procedures.

To disclose to the agency-appointed representative of an employee all notices, decisions, other written communications, or any pertinent medical evidence *other* than medical evidence that a prudent physician would hesitate to inform the individual of; such medical evidence will be disclosed only to a licensed physician, designated in writing for that purpose by the individual or his or her representative.

k. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

l. To disclose information to any source from which additional information is requested relevant to an Office determination concerning an individual's eligibility for or entitlement to coverage under the retirement, life insurance, and health benefits program, to the extent necessary to identify the

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individual and to identify the type of information requested.

m. To disclose information to the Office of Management and Budget at any state of the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

n. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

o. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

p. To disclose to a Federal agency, in response to its request, information in connection with (1) the hiring, retention, separation, or retirement of an employee, (2) the issuance of a security clearance, (3) the reporting of an investigation of an employee, (4) the letting of a contract, (5) the classification of a job, or (6) the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the Office determines that the information is relevant and necessary to the requesting agency's decision on the matter.

q. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

r. To provide an official of another Federal agency information needed in the performance of official duties related to reconciling or reconstructing data files, compiling descriptive statistics, and making analytical studies in support of the function for which the records were collected and maintained.

s. By the Office of Personnel Management, in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

t. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

u. To disclose to another agency, or to an instrumentality of any governmental jurisdiction within or under the control of the United States, for a civil or criminal law enforcement activity, if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the Office of Personnel Management specifying the particular portion(s) of the record desired (including an address) and the law enforcement activity for which the record is sought.

v. To disclose to a Federal agency, in response to its request, the address of any annuitant or applicant for refund of retirement deductions, if the agency requires that information in order to provide reconsideration in connection with the collection of a debt due the United States.

w. To disclose in valid emergency situations when consent cannot readily be obtained and instant action is required, to persons who have a need to know, if the particulars of the disclosure then are transmitted to the data subject's last known address.

x. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

y. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

z. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

aa. *To disclose to a Federal agency, in response to its request, the present address of a former employee and any other information the agency needs in order to contact the former employee concerning a possible threat to his or her health or safety.*

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained on magnetic tapes, discs, and in folders.

RETRIEVABILITY:

These records are retrieved by the name, Social Security Number, date of birth and/or claim number of the individual to whom they pertain.

SAFEGUARDS:

Records are kept in lockable metal file cabinets or in a secured facility with access limited to those whose official duties require access. Personnel screening is employed to prevent unauthorized disclosure.

RETENTION AND DISPOSAL:

All records relating to a claim for retirement, life insurance, and health benefits are maintained permanently. Medical suitability records are maintained for 18 months. Requests for review of health benefits claims are maintained up to 3 years. Disposal of manual records is by shredding or burning; magnetic tapes and discs are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Compensation, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire if this system contains information about them should contact the system manager indicated above, or if the inquiry concerns medical suitability records, the medical officer of the appropriate OPM regional office as follows (See list of OPM regional office addresses in Appendix):

a. for cases adjudicated in the Rocky-Mountain, Mid-Continent, or Northwest Region, the Northwest Regional Office;

b. for cases adjudicated in the Southwest, Eastern, or New England Region, the system manager; or

c. for cases adjudicated in the Western, Southeast, Great Lakes, or Mid-Atlantic Region, the Regional Office which handled the case.

Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.

b. Date of birth.

c. Social Security Number.

d. Name and address of office in which currently and/or formerly employed in the Federal service.

e. Annuity, service credit, or voluntary contributions account number, if assigned.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records in this system should contact the system manager indicated above, or if the inquiry concerns medical suitability records, the medical officer of the appropriate OPM regional office, as indicated in the "Notification procedures section." Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.

b. Date of birth.

c. Social Security Number.

d. Name and address of office in which currently and/or formerly employed in the Federal service.

e. Annuity, service credit, or voluntary contributions account number, if assigned.

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment to their records in this system should contact the system manager indicated above, or if the inquiry concerns medical suitability records, the medical officer of the appropriate OPM regional office, as indicated in the "Notification procedures section." Individuals must furnish the following information for their records to be located and identified:

a. Name, including all former names.

b. Date of birth.

c. Social Security Number.

d. Name and address of office in which currently and/or formerly employed in the Federal service.

e. Annuity, service credit, or voluntary contributions account number, if assigned.

Individuals requesting amendment of their records must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

The information in this system is obtained from the following sources:

a. The individual to whom the information pertains.

b. Agency pay, leave, and allowance records.

c. GSA National Personnel Records Center.

d. Federal civilian retirement systems other than the Civil Service Retirement System.

e. Military retired pay system records.

f. Office of Workers' Compensation Benefits Programs.

g. Veterans Administration Pension Benefits Program.

h. Social Security Old Age, Survivor and Disability Insurance and Medicare Programs.

i. Health insurance carriers and plans participating in the Federal Employee Health Benefits Program.

j. The Office of Federal Employees Group Like Insurance.

k. Office of Personnel Management Government-wide system (OPM/GOVT–1) covering Official Personnel Folders.

l. The individual's co-workers and supervisors.

m. Physicians who have examined or treated the individual.

OPM/CENTRAL—2

SYSTEM NAME:

Complaints and Inquiries Records.

SYSTEM LOCATION:

Assistant Director for Agency Compliance and Evaluation, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, and OPM regional offices. (See list of regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal employees, who have filed complaints or submitted an inquiry about conditions of the agency or agency personnel actions affecting the individuals, e.g., allegations of improper promotion actions, reduction-in-force procedures, or Fair Labor Standards Act (FLSA) procedures.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to the processing and adjudication of a complaint made to the Office under its regulations. The records may include information and documents regarding the actual personnel action of the agency in question and the decision or determination rendered by an agency regarding the issue rasied.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C., Sections 1302, 3502; Executive Orders 9830, 10577, and 11491; and Public Law 93–259.

PURPOSE(S):

The principal purpose for which these records are established is to retain a record of correspondence with an individual, over a complaint or inquiry, as a reference should that individual again contact the office.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information is these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency (the Office of Personnel Management) becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

c. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to any source from which additional information is requested in the course of adjudicating an appeal or complaint, to the extent necessary to indentify the individual, inform the source of the purpose(s) of the request, and to indentify the type of information requested.

e. To disclose information to a Federal agency or to a court when the Government is a party to a judicial proceeding before the court.

f. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

g. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

These records are maintained in executive files, in file folders, binders, or on index cards.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are located in lockable metal filing cabinets or in a secured room, with access limited to those persons whose official duties require such access.

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RETENTION AND DISPOSAL:

1. Records related to most complaints or inquiries about conditions at an agency or an agency's personnel actions affecting an individual, are maintained for two years after closing action on the complaint.

2. Records related to Fair Labor Standards Act complaints are maintained indefinitely.

3. All records are destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director for Agency Compliance and Evaluation, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager indicated above, WITH THE FOLLOWING EXCEPTION: Individuals who have filed complaints or inquiries with an OPM regional office should contact that regional office at the address listed in the Appendix. Individuals must furnish the following information for their records to be located and identified:

a. *Full name.*

b. *If appropriate, the agency in which employed when complaint or inquiry was filed and the approximate date.*

c. *Kind of response received.*

RECORD ACCESS PROCEDURES:

Individuals who have filed a complaint or inquiry about an agency personnel action or about conditions existing in an agency will receive a response and, if necessary, be provided access to any other pertinent record. After a response to a complaint or inquiry has been received, an individual may request access to the offical copy of the correspondence record by writing the system manager or OPM regional office indicated in the Notification procedures section. Individuals must furnish the following information for their records to be located and identified:

a. *Full name.*

b. *If appropriate, the agency in which employed when complaint or inquiry was filed and the approximate date.*

c. *Kind of response received.*

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their correspondence file records will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the nature of the complaint or inquiry, the identity of the individual, and the response furnished. Individuals must furnish the following information for their records to be located and verified:

a. *Full name.*

b. *If appropriate, the agency in which employed when complaint or inquiry was filed and the approximate date.*

c. *Kind of response received.*

Individuals requesting amendment of their records must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

a. *Individual to whom the record pertains.*

b. *Agency and/or Office of Personnel Management.*

c. *Official documents relating to the complaint.*

d. *Related correspondence from organizations or persons.*

OPM/CENTRAL—3

SYSTEM NAME:

Federal Executive Development Program Records.

SYSTEM LOCATION:

Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal employees at the GS–15 or equivalent level, who applied and were nominated by their agency for the Federal Executive Development Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain demographic information and background data on the experience, education, awards, and career interests of nominees, their agency recommendations for the Program, and supervisory evaluations. Also included are records of the evaluation process used by the selection panel in choosing the finalists and data on assignments and progress under the Program.

Note.—This system does not include records containing applications and related information on employees who were not nominated by their employing agencies to the Office for the Federal Executive Development Program. These records which never come to the Office, are agency records, and may be published as an agency system of records subject to the Privacy Act.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 11315, 12027, and 9397.

PURPOSE(S):

These records are maintained and used by the Office to select final candidates for the Federal Executive Development Program, to arrange the work assignments of those selected, and to track their progress on assignments under the Program. The Office may use these records to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose information to individuals responsible for making the final selection of candidates for the Program.

b. To disclose information to agencies in which the selected employee is or will be performing work assignments under the Program.

c. To disclose information to the individual's employing agency regarding his or her nomination, work assignments, progress under the Program, and for necessary personnel administrative purposes (pay matters, personnel actions, etc.).

d. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

f. To disclose information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

g. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

h. By the National Archives and Records Service (General Services

Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

i. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

j. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

k. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

l. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Services Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

When not in use records are kept in locked cabinets. Records are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records are retained for 5 years. Disposal is by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Executive Personnel and Management Development, Office of Personnel Management, 1900 E Street, N.W., Washingon, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. Program year (Year nominated or selected for program).

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about themselves should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. Program year (Year nominated or selected for program).

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. Program year (Year nominated or selected for program).

An Individual requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom the record pertains, his or her supervisors and other management officials, the selection panel, or is obtained from agency records.

OPM/CENTRAL—4

SYSTEM NAME:

Executive Assignment System and Executive Inventory Records.

SYSTEM LOCATION:

Associate Director for Executive Personnel and Management Development, Office of Personnel Management, 1900 E Street, NW., Washington, D.C. 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Current and former incumbents of positions at grades GS–16 through GS–18 under the Executive Assignment System, or current and former incumbents of positions at equivalent levels over which the OPM exercises at least partial approval authority.

b. Current and former incumbents of career or schedule C positions compensated under the Executive Schedule.

c. Current and former incumbents of positions at grades GS–16 through GS–18, or equivalent levels, when the individual noncompetitively acquires status under Civil Service Rule III.

d. In addition to the individuals indicates in "a" above, other current and former employees in the executive branch currently or formerly in grades GS–15 through GS–18 under the General Schedule, or at equivalent pay levels under other salary systems who are not specifically excepted from inventory coverage.

Note.—The principal groups of employees who are excepted from inventory coverage, and thus are not covered by this system, include:

(1) employees in commissioned services systems;

(2) Administrative Law Judges at grade GS–15;

(3) employees of the Panama Canal Company, the Canal Zone Government, the Soldiers' Home, the Federal Reserve Board, TVA, and the White House Office;

(4) employees involved in intelligence matters where the release of personnel information would be detrimental to national security;

(5) foreign nationals employed outside the United States;

(6) employees hired on a consultant, part-time, or intermittent basis;

(7) employees of the United States Postal Service; and,

(8) employpees in the Department of Medicine and Surgery, Veterans Administration, appointed under title 38 of the United States Code as physicians, dentist, nurses, podiatrists, and optometrists.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include:

a. Demographic information including minority data and background data on experience, education, publications, awards, and career interests of employees in the inventory.

b. A record of referral indicating individuals referred and the position and agencies to which the individuals were referred.

c. Information about the qualifications of appointees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

g. To disclose information to the appropriate Federal, State, or local

RETRIEVABILITY:

Records are retrieved by the name

Act regulations regarding verification of identity and amendment of records (5

made under the Intergovernmental Personnel Act (IPA), and to assure that

the request, and to identify the type of information requested), where necessary

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, 3309, 3313, 3318, 3324, 3325, 3326, 5114, 5311, 5333, 5532, 5723; 10 U.S.C. 1581; P.L. 81–691, P.L. 85–728; and E.O. 11315 and 9397.

PURPOSE(S):

These records are used to assist the Office in carrying out its responsibilities under title 5, United States Code, and the Office Rules and Regulations promulgated thereunder, with regard to the establishment and filling of positions at grades 16 through 18 under the General Schedule, positions under the Executive Schedule, or equivalent levels under other salary systems; and to provide data used in policy formulation, program planning, research studies, and statistical reports. The Office may use these records to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To identify and refer qualified current or former Federal employees to Federal agencies for vacancies at grades GS–16 through GS–18, or equivalent levels.

b. To refer qualified current or former Federal Employees or retirees to State and local Governments and international organizations for employment consideration.

c. To provide an employing agency with extracts from the records of that agency's employees in the inventory.

d. To provide information required in the annual report to Congress mandated by 5 U.S.C. 5114, regarding positions at GS–16, GS–17, and GS–18 levels, and the incumbents of these positions and by 5 U.S.C. 3104 regarding incumbents of scientific or professional positions.

e. To provide information to a congressional office from the record of an individual in reponse to an inquiry from that congressional office made at the request of that individual.

f. By the Office of Personnel Management to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

g. To disclose information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

h. To the national Archives and Records Service (General Services Administration) for records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

i. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

j. To disclose, in response to a request for discovery of for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

k. *To disclose information to officials of the Merits Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

l. *To disclose information to the equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

m. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, and on magnetic tapes, punched cards, and microfiche.

RETRIEVABILITY:

Records are retrieved by the name and social security number of the individual to whom they pertain.

SAFEGUARDS:

Records are maintained in lockable metal filing cabinets or automated media, in a secured room, with access limited to those whose official duties require access. Access to minority data is restricted to specially designated OPM personnel.

RETENTION AND DISPOSAL:

Records are retained so long as the individual continues to occupy a covered position and are destroyed five years after they leave Federal service. Manual records are shredded or burned while magnetic disks and tapes are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Executive Personnel and Management Development, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about themselves should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Social Security Number.

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Social Security Number.

An individual requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information is provided by the individual named in the record and his or her employing agency, and is also obtained from official documents of the Office.

OPM/CENTRAL—5

SYSTEM NAME:

Intergovernmental Personnel Act Assignment Records.

SYSTEM LOCATION:

Assistant Director for Intergovernmental Personnel Programs, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415. Courtesy copies of mobility assignment agreements may be sent to regional offices of the Office of Personnel Management for information purposes.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Current and former Federal employees who have completed or are presently on an assignment in a State or local government agency, an educational institution, or an Indian tribal government, or other organizations under the provisions of the Intergovernmental Personnel Act (IPA); or,

b. Current or former State or local government or educational institution employees, employees of Indian tribal governments, or other organizations who have completed or are presently on an assignment in a Federal agency under the provisions of the Intergovernmental Personnel Act (IPA).

CATEGORIES OF RECORDS IN THE SYSTEM:

These records are comprised of a copy of the individual's IPA assignment agreement between a Federal agency and a State or local government, educational institution, Indian tribal government, or other organization; biographical and background information about the assignees; and records of interviews with assignee(s) which may be conducted after the IPA assignment has been completed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Intergovernmental Personnel Act of 1970 (84 Stat. 1909), 5 U.S.C. 3371–3376, and E.O. 11589.

PURPOSE(S):

These records are maintained to document and track mobility assignments (including extensions, modifications, and terminations thereof) made under the Intergovernmental Personnel Act (IPA), and to assure that the provisions of the IPA Grant Program are properly administered. Internally, the Office may use these records to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

c. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

e. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

f. By the Office of Personnel Management to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

g. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), where necessary to obtain information relevant to an Office decision regarding possible termination of an assignment or a grant under the IPA program.

h. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

i. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

j. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

k. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OR RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on cards and in file folders.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in a secured area with access limited to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records are retained for 5 years from the signing of the agreement. Records are destroyed by shredding.

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SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director for Intergovernmental Personnel Programs, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identifier:

a. *Full name.*

b. *Federal agency involved in the assignment.*

c. *Non Federal organization involved in the assignment.*

d. *Date of each assignment.*

RECORD ACCESS PROCEDURE:

Individuals wishing to request access to records about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identifier:

a. *Full name.*

b. *Federal agency involved in the assignment.*

c. *Non Federal organization involved in the assignment.*

d. *Date of each assignment.*

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.208).

CONTESTING RECORD PROCEDURES:

Individuals wishing to inquire whether this system contains information about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identifier:

a. *Full name.*

b. *Federal agency involved in the assignment.*

c. *Non Federal organization involved in the assignment.*

d. *Date of each assignment.*

Individuals requesting amendment of their records must also follow the Office's Privacy Act regulations regarding verification of identity and amendmentt of records (5 CFR 297.201 and 297.203).

RECORD SOURCE CATEGORIES:

Information in these records is provided by the individual subject of the records, by officials in the agencies, educational institutions, Indian tribal governments or other organization where the individual is employed and where the individual is serving on the IPA assignment, or is obtained from agency personnel files and records.

OPM/CENTRAL—6

SYSTEM NAME:

Administrative Law Judge Application Records.

SYSTEM LOCATION:

Associate Director for Executive Personnel and Management Development, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied for Administrative Law Judge postions in the Federal service, or who are edmployees or former employees in Administrative Law Judge postiions in the Federal service.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information relating to the education and training; employment history and earnings; appraisals of past performance; convictions for offenses against the law; results of written tests; appraisals of potential; rating and ranking determinations and appeals of such determinations; honors, awards, or fellowships; and other background and biographical data on persons who have applied for Administrative Law Judge positions in the Federal service, or who are or were employees in Administrative Law Judge positions in the Federal service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1305, 3105, and 3344.

PURPOSE(S):

These records serve as a basis for rating and ranking applicants for Administrative Law Judge positions in the Federal service, for documenting the rating and ranking assigned, for processing an appeal of a rating or ranking determination, and for referring the ranked candidates to Federal agencies for employment consideration. The Office may use these records to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To refer applicants to Federal agencies for employment consideration for Administrative Law Judge positions.

b. To refer current and former Administrative Law Judges to Federal agencies for consideration for transfer, reassignment, or reinstatement, as applicable.

c. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing, a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violations of civil or criminal law or regulation.

d. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), where necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit.

e. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

f. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

g. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

h. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

i. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

j. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

k. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems; review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

l. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

m. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on cards, lists, forms and in file folders.

RETRIEVABILITY:

Records are retrieved by the name of the individual to whom they pertain.

SAFEGUARDS:

Records are maintained in a secured area and are available only to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records are maintained for 7 years. Expired records are shredded or burned.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Executive Personnel and Management Development, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

RECORD ACCESS PROCEDURES:

Specific materials in this system have been exempted from Privacy Act requirements at 5 U.S.C. 552a(c)(3) and (d), regarding access to records. The section of this notice titled "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of materials exempted and the reasons for exempting them from access. Individuals wishing to request access to other, non-exempt records about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Specific materials in this system have been exempted from Privacy Act requirements regarding amendment of records at 5 U.S.C. 552a(d). The section of this notice titled "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of materials exempted and the reasons for exempting them from amendment. Individuals wishing to request amendment of other, non-exempt records should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

An individual requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies or is derived from information he or she supplied, except for information on vouchers which are:

(1) supplied by references listed by the applicant; or

(2) supplied by other sources whom the Office believes have information relevant to a decision regarding the qualifications, ratings, or ranking of the applicant.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system contains investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment. The Privacy Act, at 5 U.S.C. 552a(k)(5), permits an agency to exempt such material from certain provisions of the Act. Materials may be exempt to the extent that release of the material to the individual whom the information is about would:

a. reveal the identity of a source who furnished information to the Government under an express promise (granted on or after September 27, 1975) that the identity of the source would be held in confidence; or,

b. reveal the identity of a source who, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

For material in this system meeting these criteria, the Office has claimed the (k)(5) exemption from the following provisions of the Act:

a. 5 U.S.C. 552a(c)(3)—This provision concerns providing an accounting of disclosures to the individual whom the records are about;

b. 5 U.S.C. 552a(d)—This provision regards access to an amendment of records.

This system contains testing and examination materials used solely to determine individual qualifications for appointment in the Federal Service. The Privacy Act, at 5 U.S.C. 552a(k)(6), permits an agency to exempt all such testing and examination material and information, when the disclosure of the material would compromise the objectivity or fairness of the testing or examination process. The Office has claimed exemptions from the requirements of 5 U.S.C. 552a(d), which relate to access to and amendment of records.

OPM/CENTRAL—7

SYSTEM NAME:

Litigation and Claims Records.

SECURITY CLASSIFICATION:

No security classification is assigned to the system as a whole; however, items of record within the system may bear a national defense/foreign policy classification of Confidential or Secret.

V45 NO 025 80 0 UMI

SYSTEM LOCATION:

Office of the General Counsel, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Individuals who file civil actions against the Office, its officials, and employees;

b. Individuals who are parties to actions in which the Government is involved, but in which the Office's role is advisory to another agency;

c. Individuals who file claims with the Office under the Federal Tort Claims Act; and

d. Individuals who make claims under the Military Personnel and Civilian Employees Claims Act of 1964.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes the following kinds of records: administrative appeals; investigative reports; retirement records; official personnel records; documentation of litigation including complaints, answers, motions, briefs, orders, and decisions; claims and supporting documentation submitted under the Federal Tort Claims Act and the Military Personnel and Civilian Employees Claims Act, together with correspondence and records of settlement; and final administrative determinations.

AUTHORITY FOR MAINTENANCE OF THE RECORDS:

5 U.S.C. 1301–1308; 28 U.S.C. 2672; 31 U.S.C. 241; and EO 10577.

PURPOSE(S):

These records are maintained to defend the Office against lawsuits and to settle administrative claims brought against the Office.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be used to disclose information:

a. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To any source where necessary to obtain information relevant to an Office decision or action involved in one of the purposes for maintenance of the system.

c. To a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

d. To a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

e. To a Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. To the National Archives and Records Service (General Services Administration) for records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

g. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

h. To the insurance carrier of an employee of, or a claimant against, the Office under the Federal Tort Claims Act or the Military Personnel and Civilian Employees Claims Act in order to determine the proper assignment of any liability.

i. In response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

j. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

k. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

l. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained and, for litigation records, by civil action number.

SAFEGUARDS:

Records are available only to authorized personnel of the General Counsel's office.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the General Counsel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains a record about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Description of type of record.
d. Court action number if applicable.

RECORD ACCESS PROCEDURES:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(c)(3) and (d), regarding access to records. The section of this notice titled "System exempted from certain provisions of the Act", which appears below, indicates the kinds of materials exempted and the reasons for exempting them from access.

Individuals who wish to obtain access to their records must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Description of type of record.
d. Court action number if applicable.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORDS PROCEDURES:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding amendment of records. The section of this notice titled "System exempted from certain provisions of the Act", which appears below, indicates the kinds of materials exempted and the reasons for exempting them from amendment.

Review of requests from individuals seeking amendment of their records which have previously been or cold have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency or administrative body ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individual wishing to request amendment of their records to correct factual errors should contact the appropriate system manager indicated above. Individuals must furnish the following for their records to be located and identified:

a. Full name.
b. Date of birth.
c. Description of type of record.
d. Court action number if applicable.

Individuals requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identify and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The individual on whom the record is maintained.
b. Agency officials and records.
c. Records of administrative and court proceedings including statements of witnesses and documents.
d. Law enforcement agencies.
e. Witnesses.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

When litigation occurs, information from other systems of records may be incorporated into the case file. In certain instances, the incorporated information may be material which the Privacy Act, at 5 U.S.C. 552a(k)(1), (2), (3), (5), and (6), permits an agency to exempt from certain provisions of the Act. To the extent that such exempt material is incorporated into a litigation file, the appropriate exemption ((k)(1), (2), (3), (5), and (6)) has also been claimed for the material as it appears in this system. The Office of the General Counsel, pursuant to 5 U.S.C. 552a(d)(5), reserves the right to refuse access to information compiled in reasonable anticipation of a civil action or proceeding.

Collection of information from other Office files may be necessary during litigation. Therefore, it is possible that this system may contain the following types of information.

a. Properly classified information, obtained from another Federal agency during the course of an investigation, which pertains to national defense and foreign policy. The Privacy Act, at 5 U.S.C. 552a(k)(1), permits an agency to exempt such materials from certain provisions of the Act.

b. Investigatory material compiled for law enforcement purposes in connection with the administration of the merit system. The Privacy Act, at 5 U.S.C. 552a(k)(2), permits an agency to exempt such materials from certain provisions of the Act. Materials may be exempted to the extent that release of the material to the individual whom the information is about, would:

1. impair the effectiveness of the investigative process;

2. reveal the identity of a source who furnished information to the Government under an express promise (granted on or after September 27, 1975) that the identity of the source would be held in confidence; or

3. reveal the identity of a source who, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

c. Investigatory material maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18. The Privacy Act, at 5 U.S.C. 552a(k)(3), permits an agency to exempt such materials from certain provisions of the Act.

d. Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civil service employment. The Privacy Act, at 5 U.S.C. 552a(k)(5), permits an agency to exempt such material from certain provisions of the Act. Materials may be exempted to the extent that release of the material to the individual whom the information is about, would:

1. reveal the identity of a source who furnished information to the Government under an express promise (granted on or after September 27, 1975) that the identity of the source would be held in confidence; or,

2. reveal the identity of a source who, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

e. Testing and examination materials, compiled during the course of a personnel investigation, that are used solely to determine individual qualifications for appointment or promotion in the Federal service. The Privacy Act, at 5 U.S.C. 552a(k)(6), permits an agency to exempt all such testing or examination material and information from certain provisions of the Act, when disclosure of the material would compromise the objectivity of fairness of the testing or examination process.

The Office of Personnel Management has claimed these exemptions from the requirements of 5 U.S.C. 552a(c)(3) and (d). These requirements relate to providing an accounting of disclosures to the individual whom the records are about and access to and amendment of records.

OPM/CENTRAL–6

SYSTEM NAME:

Privacy Act/Freedom of Information Act (PA/FOIA) Case Records.

SYSTEM LOCATION:

a. Offices of the Offfice of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415;

b. Regional and area offices of the Office of Personnel Management. (See list of OPM regional office addresses in the Appendix.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records and related correspondence on individuals who have filed with the Office:

a. requests for information under the provisions of the Freedom of Information Act (5 U.S.C. 552), including requests for review of initial denials of such requests; and

b. requests under the provisions of the Privacy Act (5 U.S.C. 552a) for records about themselves, including:

(1) requests for notification of the existence of records about them;

(2) requests for access to these records;

(3) requests for amendment of these records; and

(4) requests for review of initial denials of such requests for notification, access, and amendment.

Note.—Since these PA/FOIA case records contain inquiries and requests regarding any of the Office's other systems of records subject to the Privacy Act, information about individuals from any of these other systems

may become part of this PA/FOIA Case Records system.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains correspondence and other documents related to requests, made by individuals to the Office for:

a. Information under the provisions of the FOI Act (5 U.S.C. 552), including requests for review of initial denials of such requests; and

b. Information under provisions of the Privacy Act (5 U.S.C. 552a) and requests for review of initial denials of such requests made under of the Office's Privacy Act regulations including requests for:

(1) Notification of the existence of records about them;

(2) Access to records about them;

(3) Amendment of records about them;

(4) Review of initial denials of such requests for notification, access, or amendment; and

(5) Requests for an accounting of disclosure of records about them.

AUTHORITY FOR MAINTENANCE OF THEY SYSTEM:

The Privacy Act of 1974 (5 U.S.C. 552a), the Freedom of Information Act, as amended (5 U.S.C. 552), and 5 U.S.C. 301.

PURPOSE(S):

These records are maintained to process individual's requests made under the provisions of the Freedom of Information and Privacy Acts. The records are also used by the Office to prepare its annual reports to OMB and Congress required by the Privacy and Freedom of Information Acts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

b. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

c. To disclose information to a Federal agency or to a court when the Government is a party to a judicial proceeding before the court.

d. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

e. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

f. To disclose information to an agency, subject to law, rule, or regulation enforced by the Office, having been found in violation of such law, rule, or regulation, in order to achieve compliance with Office instructions.

g. To disclose information to Federal agencies (e.g., Department of Justice) in order to obtain advice and recommendations concerning matters on which the agency has specialized experience or particular competence, for use by the Office in making required determinations under the Freedom of Information Act or the Privacy Act of 1974.

h. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose of the request, and to identify the type of information requested), where necessary to obtain information relevant to an Office decision concerning a Privacy or Freedom of Information Act request.

i. To disclose to the Federal agency involved, an Office decision on an appeal from an initial denial of a request involving Office-controlled records.

j. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

k. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency (Office of Personnel Management) becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

l. *To disclose information to officials of the Merit System Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

m. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possibe discrimination complaints in the Federal sector, examination of Federal Affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

n. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practice or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained as a paper copy of correspondence in file folders, binders, and on index cards.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained and year of the request.

SAFEGUARDS:

These records are located in lockable metal filing cabinets or in a secured room, with access limited to personnel whose duties require access.

RETENTION AND DISPOSAL:

These records will be disposed of 5 years after the date of final office action on the case. Records are destroyed by shredding, burning, or the equivalent.

SYSTEM MANAGER(S) AND ADDRESS:

The appropriate Associate or Assistant Director, or Regional Director, Office of Personnel Management, is system manager for Privacy Act/Freedom of Information Case Records maintained in that office. Associate and Assistant Director's Offices are located at: Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 10415. For regional offices, see the list of OPM regional office addresses in the Appendix.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager at the appropriate office or region where their original

Privacy Act or Freedom of Information Act requests were sent, or from where they received responses to such request. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate dates of Privacy Act/FOI Act correspondence between OPM and the individual.

RECORD ACCESS PROCEDURES:

Material from other Office systems of records which are exempt from certain Privacy Act requirements may be included in this system as part of a PA/FOIA case record. Such material retains its exemption if it is included in this system of records. The section of this notice titled "Systems exempted from certain provisions of the Act," which appears below, explains, the exemptions for this system. Individuals wishing to request access to their records should contact the system manager at the appropriate office or region where their original Privacy Act or Freedom of Information Act request was sent, or from which they received responses to such requests. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate dates of Privacy Act/FOI Act correspondence between OPM and the individual.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 or 297.203).

CONTESTING RECORD PROCEDURES:

Material from other Office systems of records which are exempt from certain Privacy Act requirements may be included in this system as part of a PA/FOIA case record. Such material retains its exemption if it is included in this system of records. The section of this notice titled "Systems exempted from certain provisions of the Act," which appears below, explains the exemptions for this system. Individuals wishing to request amendment to their records should contact the system manager at the appropriate office or region where their original Privacy Act or Freedom of Information Act request was sent, or from which they received responses to such requests. Individuals must funish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate dates of Privacy Act/FOI Act correspondence between OPM and the individual.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 or 297.208).

Note.—The amendment provisions for this system are not intended to permit an individual a second opportunity to request amendment of a record which was the subject of the initial Privacy Act amendment request which created the record in this system. That is, after an individual has requested amendment of a specific record in an office system under provisions of the Privacy Act, that specific record may itself become part of this system of Privacy Act/FOI Act Case Records. An individual may not subsequently request amendment of that specific record again, simply because a copy of the record has become part of this second system of Privacy Act/FOI Act Case Records.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from:

a. The individual who is the subject of the records.

b. Office officials who respond to Privacy Act/FOI Act requests.

c. Official personnel documents of the Office, including records from any other Office system of records included in this notice.

d. Other sources whom the Office believes have information pertinent to an Office decision on a Privacy Act or Freedom of Information Act request.

e. Other agencies referring the request to the Office.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Office of Personnel Management has claimed exemptions for several of its other systems of records under 5 U.S.C. 522a(k)(1), (2), (3), (5), and (6). During the course of a PA/FOIA action, exempt materials from those other systems may become part of the case record in this system. To the extent that copies of exempt records from those other systems are entered into these PA/FOIA Case Records, the Office has claimed the same exemptions for the records as they have in the original primary systems of records of which they are a part.

OPM/CENTRAL—9

SYSTEM NAME:

Personnel Investigations Records.

SECURITY CLASSIFICATION:

None for the system. However, items or records within the system may have national defense/foreign policy classifications up through secret.

SYSTEM LOCATION:

a. *Primary system: Deputy Associate Director, Division of Personnel Investigations, Office of Personnel Management, Washington, D.C. 20415, and the Federal Records Center, Suitland, Maryland.*

b. Decentralized segments: copies of these records may exist temporarily in agencies on current employees, former employees, or on contractor employees. These copies may be located in the personnel security office or other designated offices responsible for suitability, security clearance, access, or hiring determinations on the individual. ("Agency" as used throughout this system is deemed to include legislative and judicial branch establishments as well as those in the Executive Branch).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Current and former employees or applicants for employment in the Federal service, including agency offices of establishments in the executive, legislative, and judicial branches, and in the Govenment of the District of Columbia.

b. American citizens who are current or former employees or applicants for employment with International Organizations.

c. Individuals considered for access to classified information or restricted areas and/or security determinations as contractors, experts, instructors, and consultants to Federal programs.

d. Individuals considered for assignment as representatives of the Federal Government in volunteer programs.

e. Individuals who are neither applicants nor employees of the Federal Government, but who are or were involved in Federal programs under a co-operative assignment or under a similar agreement.

f. Individuals who are neither applicants nor employees of the Federal Government, but who are or were involved in matters related to the administration of the merit system.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain investigative information regarding an individual's character, conduct, and behavior in the community where he or she lives or lived; arrests and convictions for violations against the law; reports of interviews with present and former supervisors, coworkers, associates, educators, etc.; reports about the qualifications of an individual for a specific position and correspondence files and index cards relating to adjudication matters; reports of

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inquiries with law enforcement agencies, employers, educational institutions attended; reports of action after OPM or FBI Section 8(d) Full Field Investigation; Notices of Security Investigation; and other information developed from the above.

Note.—This system does not include those agency records of a personnel investigative nature that do not come to the Office of Personnel Management.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authorities for maintenance of the system are indicated below:

a. Section 2, Civil Service Act of 1883—original authority.

b. Title 5, CFR Part 5.

c. Sections 1303, 1304, and 3301, title 5, U.S.C.

d. Sections 7, 8(b), 8(c), 9(a), 9(c), and 14 of Executive Order 10450.

e. Section 7701, title 5, U.S.C. (formerly Section 14 of the Veterans Preference Act of 1944, as amended).

f. Public Law 92–261 and 5 CFR 713.216 and 713.220.

g. Section 2165, title 42, U.S.C. (formerly the Atomic Energy Act of 1954, as amended).

h. Section 2585, title 22, U.S.C. (formerly P.L. 87–297).

i. Executive Order 10422, as amended.

j. Executive Order 9397.

k. Section 1434, title 22, U.S.C. (formerly P.L. 80–402).

l. *Section 686, title 31, U.S.C.*

m. *Section 2455, title 42, U.S.C. (formerly P.L. 85–568).*

n. *P.L. 82–298.*

o. *Section 1874(c), title 42, U.S.C. (former section 15(c), National Science Foundation Act of 1950 as amended).*

p. *Section 2519, title 22, U.S.C. (formerly P.L. 87–293).*

q. In addition to the provisions cited above, there are various acts of Congress that contain implied authority for the Office to investigate, such as laws prohibiting the purchase and sale of office, holding of two offices, conspiracy and other prohibitory statutes.

PURPOSE(S):

The purposes of this system are:

a. To provide investigatory information for determinations concerning compliance with Federal personnel regulations and for individual personnel determinations including suitability and fitness for Federal employment, access and security clearances, evaluations of qualifications, loyalty to the U.S., and evaluations of qualifications and suitability for performance of contractual services for the U.S. Government;

b. To document such determinations;

c. To provide information necessary for the scheduling and conduct of the required investigations;

d. To otherwise comply with mandates and Executive orders; and

e. These records may also be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES FOR SUCH USES:

These records and information in these records may be used in disclosing information:

a. To designated officers and employees of agencies, offices, and other establishments in the executive, legislative, and judicial branches of the Federal Government, and the District of Columbia Government, having an interest in the individual for employment purposes, including a security clearance or access determination, and the need to evaluate qualifications, suitability, and loyalty to the United States Government.

b. To designated officers and employees of agencies, offices, and other establishments in the executive, legislative, and judicial branches of the Federal Government, and the District of Columbia Government, when such agency, office, or establishment conducts an investigation of the individual for the purpose of granting a security clearance, or for the purpose of making a determination of qualifications, suitability, or loyalty to the United States Government, or access to classified information or restricted areas.

c. To designated officers and employees of agencies, offices, and other establishments in the executive, legislative, and judicial branches of the Federal Government, and the District of Columbia Government, having the responsibility to grant clearances, make a determination regarding access to classified information or restricted areas, or to evaluate qualifications, suitability, or loyalty to the United States Government, in connection with performance of a service to the Federal Government under a contract or other agreement.

d. To the intelligence agencies of the Department of Defense, the National Security Agency, the Central Intelligence Agency, and the Federal Bureau of Investigation for use in intelligence activities.

e. To any source from which information is requested in the course of an investigation, to the extent necessary to identify the individual, inform the source of the nature and purpose of the investigation, and to identify the type of information requested.

f. To the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where the Office of Personnel Management becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

g. To an agency, office, or other establishment in the executive, legislative, or judicial branches of the Federal Government, or the District of Columbia Government, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

h. To Federal agencies as a data source for management information through the production of summary descriptive statistics and analytical studies in support of the functions for which the records are maintained or for related studies.

i. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

j. To another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

k. To the National Archives and Records Service (General Services Administration) for records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

l. To the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

m. To respond to a request for discovery or for appearance of a witness, when relevant to the subject matter involved in a pending judicial or administrative proceeding.

n. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

o. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employmnent programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

p. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and on index cards.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained.

SAFEGUARDS:

Folders are maintained in a room with a manipulation-proof combination lock and an intrusion alarm system; or in metal file cabinets secured by three position combination locks. The index to the system and those records which are maintained on index cards are contained in covered and locked rotary Wheeldex machines. All employees are required to have an appropriate security clearance before they are allowed access to the records.

RETENTION AND DISPOSAL:

a. Index cards which show the existence of the file folder record, and the files in folders, are retained for 20 years plus the current year from the date of the most recent investigative activity. Other index cards which show no investigative record other than the completion of a clear National Agency Check or a clear National Agency Check and Inquiry, and where no investigative file folder exists, are retained for two years plus the current year.

b. Reports of action after OPM or FBI section 8(d) Full Field investigation are retained for the life of the investigative file.

c. Notices of Security Investigations are retained for 20 years. Records are destroyed by burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Associate Director, Division of Personnel Investigations, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system contains information about them should contact the system manager indicated above, in writing. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. Signature.

e. Any available information regarding the type of record involved.

f. The category of covered individuals under which the requester believes he or she fits.

RECORD ACCESS PROCEDURES:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(c)(3) and (d), regarding access to records. The section of this notice titled "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of material exempted and the reasons for exempting them from access. Individuals wishing to request access to their records should contact the system manager indicated above, in writing. Requests should be directed only to the system manager, whether the record sought is in the primary system or in a decentralized segment. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. Signature.

e. Any available information regarding the type of record involved.

f. The category of covered individuals under which the requester believes he or she fits.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding amendment to records. The section of this notice titled "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of material exempted and the reasons for exempting them from amendment. Individuals wishing to request amendment to their non-exempt records should contact the system manager indicated above, in writing. Requests should be directed only to the system manager, whether the record sought is in the primary system or in a decentralized segment. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. Signature.

e. Any available information regarding the type of record involved.

f. The category of covered individuals under which the requester believes he or she fits.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

Note.—Where an agency retains the decentralized copy of the investigative report provided by OPM, requests for access to or amendment of such reports will be forwarded to the system manager for processing.

RECORD SOURCE CATEGORIES:

Information contained in the system was obtained from the following categories of sources:

a. Applications and other personnel and security forms furnished by the individual.

b. Investigative and other record material furnished by Federal agencies.

c. Notices of personnel actions furnished by Federal agencies.

d. By personnel investigation or written inquiry from sources such as employers, educational institutions, references, neighbors, associates, police departments, courts, credit bureaus, medical records, probation officials, prison officials, newspapers, magazines, periodicals, and other publications.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system may contain the following types of information:

a. Properly classified information, obtained from another Federal agency during the course of a personnel investigation, which pertains to national defense and foreign policy. The Privacy Act, at 5 U.S.C. 552a(k)(1), permits an agency to exempt such materials from certain provisions of the Act.

b. Investigatory material compiled for law enforcement purposes in connection

with the administration of the merit system. The Privacy Act, at 5 U.S.C. 552a(k)(2), permits an agency to exempt such material from certain provisions of the Act. Applications of exemption (k)(2) may be necessary to preclude the data subject's access to and amendment of the record.

c. Investigatory material maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18 of the U.S. Code. The Privacy Act at 5 U.S.C. 552a(k)(3), permits an agency to exempt such material from certain provisions of the Act.

d. Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment. The Privacy Act, at 5 U.S.C. 552a(k)(5), permits an agency to exempt such material from certain provisions of the Act. Materials may be exempted to the extent that release of the material to the individual whom the information is about would:

1. reveal the identity of a source who furnished information to the Government under an express promise (granted on or after September 27, 1975) that the identity of the source would be held in confidence; or,

2. reveal the identity of a source who, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

e. Testing and examination materials, compiled during the course of a personnel investigation, that are used solely to determine individual qualifications for appointment or promotion in the Federal service. The Privacy Act, at 5 U.S.C. 552a(k)(6), permits an agency to exempt all such testing or examination material and information from certain provisions of the Act, when disclosure of the material would compromise the objectivity or fairness of the testing or examination process.

The Office of Personnel Management has claimed these exemptions from the requirements of 5 U.S.C. 552a(c)(3) and (d). These requirements relate to providing an accounting of disclosures to the individual whom the records are about and access to and amendment of records.

OPM/CENTRAL—10

SYSTEM NAME:

Director of Federal Executive Institute Alumni.

SYSTEM LOCATION:

Federal Executive Institute, Office of Personnel Management, Route 29 North, Charlottesville, Va. 22903.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Federal, State, and local government employees (both current and former), international executives, former faculty and staff, and Fellowship students who have attended long term programs at the Federal Executive Institute.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains the name, position title, office address and phone number, agency, FEI program attended and, with the approval of the individual, home address and telephone number, of alumni of FEI programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Sections 301 and 4117.

PURPOSE(S):

The Director is used by FEI alumni to maintain contact with other alumni and to provide them with information to continue their educational experiences. Copies of the Directory are made available to FEI alumni to allow them to maintain relationships developed at the Institute in order to continue educational experiences and to promote intergovernmental cooperation. These records may be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose information to Federal agencies to assist them in planning for executive development programs.

b. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

c. *To provide information to the Federal Executive Institute (FEI) Alumni Association for the purpose of mailing association materials to an alumni's home or business address.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

In addition to its appearance in the Directory, information will be maintained on FEI mailing lists, on forms used to collect the data, and on automated media.

RETRIEVABILITY:

Records are retrieved by the name of the individual on whom they are maintained. Records may also be retrieved by agency, location, and FEI program.

SAFEGUARDS:

Records kept by FEI officials are maintained in a secured area with access limited to those authorized personnel at FEI whose duties require access. Because home addresses and phone numbers are included in the Directory, distribution of the Directory is limited to FEI Alumni, and the listed routine users. Those users are notified by a notice placed in the Directory not to make it available for commercial purposes. In addition:

a. At the request of the individual, his or her home address and phone number will not be included in the Directory;

b. At the request of the employing agency, information relating to the individual's status (i.e., position title) will be excluded from the Director.

RETENTION AND DISPOSAL:

Obsolete information will be deleted from automated records.

SYSTEM MANAGER(S) AND ADDRESS:

Registrar, Federal Executive Institute, Office of Personnel Management, Route 29 North, Charlottesville, Va. 22903.

NOTIFICATION PROCEDURE:

All individuals included in the system receive a copy of the Directory. Individuals requiring additional information about their inclusion in the system should contact the system manager named above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Agency.

c. FEI program(s) attended and date(s).

RECORD ACCESS PROCEDURES:

All record information in the system is included in the Directory. Individuals wishing to request access to other forms in the system which contain the same information should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Agency.

c. FEI program(s) attended and date(s).

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of records about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Agency.

c. FEI program(s) attended and date(s).

Individuals requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

All information in the system comes from the individuals to whom the records pertain.

OPM/CENTRAL—11

SYSTEM NAME:

Presidential Management Intern Program Record.

SYSTEM LOCATION:

Assistant Director for Intergovernmental Personnel Programs, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former interns and students pursuing graduate degrees in public management who have been nominated by their universities for consideration under the Presidential Management Intern Program.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain information about the covered individuals relating to name, social security number, date of birth, academic background, home address, home telephone number, employment history, veteran preference, and other personal history information needed during the evaluation and selection process. This system will also contain evaluation statements from the nominating universities and confidential information developed during the regional screening process and final panel evaluations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Orders 12008 and 9397.

PURPOSE(S):

These records are used by Program personnel for the following reasons:

a. To determine basic program eligibility and to evaluate the nominees in a regional screening process conducted by OPM regional officials with the participation of agency managers, and State and local government representatives;

b. To group the nominees into various categories (finalists, alternates, and non-selectees) and then make a final determination as to those candidates who will be referred to the agencies for employment consideration; and

c. For program evaluation functions to determine the effectiveness of the program and to improve program operations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To refer candidates to Federal agencies for employment consideration.

b. To refer candidates to State and local governments, congressional offices, international organizations, and other public offices with permission of the candidates, for the purpose of employment consideration.

c. To refer interns for consideration for reassignment and promotion within the employing agencies.

d. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel research functions or manpower studies, or to locate individuals for personnel research.

e. To refer pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order where there is an indication of a violation or potential violation of civil or criminal law or regulation.

f. To request information from a Federal, State, of local agency maintaining civil, criminal, or other information relevant to an agency decision concerning the hiring or retention of a candidate.

g. To provide an educational institution with information on an appointment of a recent graduate to a Federal position at a certain grade level.

h. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

i. To disclose information to another Federal agency or to a court when the Government is party to a suit before the court.

j. To disclose, in response to a request for discovery or for an appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

k. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

l. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Fedral sector examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

m. *To disclose infromation to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Services Impasses Panel.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained on forms, lists, punched cards, and magnetic tape.

RETRIEVABILITY:

Records are indexed by name of nominee, school, State of legal residence, Social Security Number, and any combination of the above.

SAFEGUARDS:

Records are maintained in lockable metal file cabinets and in a computerized system accessible to only those program managers whose official duties necessitate such access. Confidential passwords are required for access to these automated records.

RETENTION AND DISPOSAL:

Automated records are retained for up to ten years. Manual records ared retained for up to five years. Tapes are

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erased and manual records are burned or shredded.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director for Intergovernmental Personnel Programs, Office of Personnel Management, 1900 E. Street, N.W., Wasington, D.C. 20415.

NOTIFICATION PROCEDURE:

Inquiries, including name, address, and nominating university should be addressed to the system manager named above.

RECORD ACCESS PROCEDURES:

Specific material in this system has been exempted from Privacy Act provisions at 552a(d), regarding access to and amendment of records. The section of the notice titled "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of materials exempted and the reasons for exempting them from access. Current or former Presidential Management Interns or nominees who wish to gain access to their non-exempt records should direct such a request in writing to the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Address.
c. Academic year of nomination.
d. Nominating University.

Individuals must also comply with the Office's Privacy Act Regulations regarding verfication of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Specific material in this system has been exempted from Privacy Act provisions at 552a(d), regarding access to and amendment of records. The section of the notice titled "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of materials exempted and the reasons for exempting them from amendment. Current or former Presidential Management Interns or nominees, wishing to request amendment of their non-exempt records should contact the system manager named above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Address.
c. Academic year of nomination.
d. Nominating University.

Individuals must also comply with the Office's Privacy Act Regulations regarding verfication of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of record originates from the individual to whom it applies, nominatig university deans, Federal, State and local officials involved in the screening and selection process, and employing agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system contains testing and examination materials that are used solely to determine individual qualifications for appointment or promotion in the Federal service. The Privacy Act at 5 U.S.C. 552a(k)(6), permits an agency to exempt all such testing or examination material and information from certain provisions of the Act when disclosure of the material would compromise the objectivity or fairness of the testing or examination process. The Office of Personnel Management has claimed exemptions from the requirements of 5 U.S.C. 552a(d), which relate to access to and amendment of records, for any such testing or examination materials in the system.

OPM/CENTRAL—12

SYSTEM NAME:

Survey Information Records

Subsystem A: Assessment of the Impact of the Civil Service Reform Act.

Subsystem B: Federal Employee Attitude Survey.

Subsystem C: Comparative Assessment of Upward Mobility Programs.

SYSTEM LOCATION:

Records in this system may be located at any of the Office of Personnel Management's central or regional offices or with private sector contractors participating in the conduct of the survey.

Subsystem A: Records are retained by the contractors, i.e., University of California at Irvine, University of Michigan, and Case Western Reserve University.

Subsystem B: Records are retained by the Contractor, Westinghouse Learning Corporation Division, Iowa City, Iowa.

Subsystem C: Records are retained by the contractor, the Granville Corporation, Washington, D.C.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Subsystem A: Current and former Federal employees and members of the public who are recipients of Federal services or products.

Subsystem B: Current Federal employees.

Subsystem C: Current and former Federal employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information in this system, both manual and automated, includes:

a. Demographic data, e.g., including but not limited to name, home or business address, age, sex, employment and educational history data, description of present assignment and duties (current Federal employees), and a description of the nature of association with a Federal agency (non-Federal recipients of Federal services and products).

b. Responses to questionnaires that call for specific details regarding the implementation of agency programs and their impact on the respondents' duties, work environment, performance, or other work related issues (current Federal employees) or on the actual manner and method by which services or products are provided as well as any improvement or deterioration in these areas (recipient of services/products).

c. Responses that call for opinions or judgements on the part of respondents concerning their perception on how new procedures have affected agency perfomance, employee moral, mission accomplishment, and service to the public.

d. Self-identification as to race, sex, ethnicity, or handicap where appropriate.

Although it is not possible to foresee all information to be collected, these data elements would constitute what is sought for the majority of surveys conducted. Where the survey seeks significant additional data, the Federal Register notice for the survey will identify the specific information to be maintained beyond that identified here.

Subsystem A: This subsystem will contain no additional records beyond those listed in the "Categories of records" section.

Subsystem B: This subsystem will contain no additional records beyond those listed in the "Categories of records" section for Federal employees.

Subsystem C: This subsystem will contain no additional records beyond those listed in the "Categories of records" section for Federal employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Office of Personnel Management is authorized to regulate (and thus to survey the impact of those regulations) various aspects of the personnel management practices and policies of Federal agencies under various sections of title 5 of the U.S. Code, including sections 1104, 1302, 3136, 3502, 3595, 4118, 4305, 4315, 4702, 4706, 5115, 5338, 5385, 5405, 6311, 7504, 7514, 8347, 8716, and 8913. Additionally sections, 7105, 7118, and 7132 provide for an Office role in the functions described therein.

Subsystem A: One or more of the authorities cited, above.

Subsystem B: 5 U.S.C. 4702.

Subsystem C: 5 U.S.C. 4702.

PURPOSE(S):

Information in this system will be used to develop statistical reports on agency personnel management practices and policies. Information will also be used to determine the impact of Office regulations in those areas, as well as the impact of changes in the Federal civil service mandated by statute or Executive order. Maintenance of a system of records as defined by the Privacy Act is necessary so that longitudinal surveys of Federal employees and non-Federal recipients of Federal services/products can be made.

Subsystem A: The purpose of this subsystem is to assess the impact of the Civil Service Reform Act on personnel management.

Subsystem B: The purpose of this subsystem is to assess the attitudes of supervisors/managers and senior level executives toward the recent reforms in the civil service system.

Subsystem C: The purpose of this subsystem is to determine and compare the effectiveness of Upward Mobility Programs and to ascertain the perceptions of the value of these programs by participants and their supervisors/managers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

By the Office of Personnel Management or the contractor in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

Subsystem A: None, other than as shown above.

Subsystem B: None, other than as shown above.

Subsystem C: None, other than as shown above.

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

For all subsystems, records will be stored as a manual, automated, or hybrid system.

Manual records are maintained in file folders, on questionnaires, lists, and forms. Automated records are maintained in computer processible storage media.

Subsystem A: A hybrid system.
Subsystem B: A hybrid system.
Subsystem C: A hybrid system.

SAFEGUARDS:

For all subsystems, records are to be stored in locked file cabinets or secured rooms. Access to manual or automated records is limited to specially designated OPM or contractor personnel.

Subsystem A: These survey records are available for review only by contractor personnel.

Subsystem B: These survey records are available for review only by contractor personnel.

Subsystem C: These survey records are available for review only by OPM and contractor personnel.

RETENTION AND DISPOSAL:

In each subsystem, individually identifiable information may be destroyed in a relatively short period of time, e.g., as soon as practicable after aggregate statistics are compiled or after any followup request for an individual's voluntary participation in the survey.

Computized records and statistical reports based on the data collected with all identifiers removed may be retained indefinitely. Other records are retained up to one year after completion of the survey.

Manual records are burned or shredded while automated records are erased.

Subsystem A: This subsystem will continue for a period of 4 years and some records will last the duration of the survey.

Subsystem B: the records in this subsystem will be destroyed at the completion of the survey, approximately July 1981.

Subsystem C: The records in this subsystem will be destroyed at the completion of the survey, approximately March 1982.

Note.—Where the Office, in conducting a survey, contracts with non-Federal parties, the contracts shall stipulate agreement to the above procedures on the part of the contractor.

SYSTEM MANAGER(S) AND ADDRESS:

For all subsystems, the system manager is (unless changed in the notice for the subsystem) the Chief, CSRA Evaluation Management Division, Office of Planning and Evaluation, Office of Personnel Management (Room 3305), 1900 E Street NW., Washington, D.C. 20415.

Subsystem A: As shown above.
Subsustem B: As shown above.
Subsystem C: As shown above.

NOTIFICATION PROCEDURE:

For all subsystems, individuals wishing to inquire whether this system of records contains information about them should contact:

a. The OPM office conducting the survey, if known, of the system manager;

b. When the survey is being conducted by a non-Federal contractor, the specific contractor involved; or

c. The office specified in the Federal Register notice announcing the subsystem if different from "a." or "b." of this section.

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Nature participation (Federal employee or non-Federal employee).

c. Agency where employed (if appropriate) when the survey was conducted.

d. Approximate date and nature of the survey.

e. Any additional identifiers as shown in the Federal Register announcement of the subsystem.

RECORD ACCESS PROCEDURES:

Unless otherwise specified in the Federal Register notice for the subsystem, any individuals wishing to request access to their records should contact the OPM sponsoring office, the system manager, or the contractor as appropriate. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Nature of participation (Federal employee or non-Federal employee).

c. Agency where employed (if appropriate) when the survey was conducted.

d. Approximate date and nature of the survey.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Unless otherwise specified in the Federal Register notice for the

subsystem, individuals wishing to request amendment to their records

e. Information relating to participants (current and former) in the sabbatical

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF

investigations of alleged or possible prohibited personnel practices, and such

RETENTION AND DISPOSAL:

Records are retained so long as the

designated office of the local installation of the Department or Agency which

subsystem, individuals wishing to request amendment to their records should contact the OPM sponsoring office conducting the survey, the system manager, or the contractor as appropriate. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Nature of participation (Federal employee or non-Federal employee).

c. Agency where employed (if appropriate) when the survey was conducted.

d. Approximate date and nature of the survey.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Unless specified in the Federal Register notice announcing the subsystem, all subsystems obtain information from individual participants of the survey, from Office or agency personnel records, and from labor organizations.

OPM/CENTRAL—13

SYSTEM NAME:

Senior Executive Service Records.

SYSTEM LOCATION:

Associate Director for Executive Personnel and Management Development, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former appointees in the Senior Executive Service and civil service applicants for such postions whose applications have been submitted to OPM or agencies for a determination of executive (managerial) qualifications.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include:

a. Demographic, appointment, and assignment information (e.g., name, date of birth, Social Security Number, race and ethnic designation, title of position, pay rate, and type of appointment);

b. Background data on work experience, educational experience, publications or awards, and career interests;

c. Determinations on nominees for Meritorious and Distinguished Executive ranks;

d. Determinations concerning executive (managerial) qualifications (i.e., Qualification Review Board records);

e. Information relating to participants (current and former) in the sabbatical leave program (e.g., dates of participation and reasons for the leave);

f. Applications from individuals who, within the 90-day period provided for under 5 U.S.C. 3593(b), seek reemployment in the Senior Executive Service;

• g. Information concerning the reason(s) why an individual leaves the SES (e.g., to enter private industry, to work for a State government, or removed during probation or after, because of performance); and

h. Information about the recruitment of individuals for SES positions (e.g., recruited from another Federal agency or from outside the Federal service).

Note.—Automated and manual duplicates of records in this system, maintained by agencies for purposes of actual administration of the SES, along with other records agencies have on SES covered individuals are not considered part of this system. Such records are considered general personnel records and are covered by the OPM/GOVT–1, General Personnel Records system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S. Code, Sections 2101a; 3131 through 3136; 3391 through 3397; 3591 through 3595; 4311 through 4315; 4507; 5381 through 5385; 5752; and 7541 through 7543.

PURPOSE(S):

The records are used to: (1) assist the Office in carrying out its responsibilities under title 5, U.S. Code, and Office rules and regulations promulgated thereunder, including the establishment of SES positions by agencies, development of qualification standards for SES positions, establishment and operation of one or more qualifications review boards, establishment of programs to develop candidates for and incumbents of the SES, and development of performance appraisal systems; (2) pursuant to section 415 of the Civil Service Reform Act, assist the Office in meeting its mandate to evaluate the effectiveness of the Senior Executive Service and the manner in which such Service is administered; (3) provide data used in policy formulation, program planning research studies, and required reports regarding the Governmentwide SES program; and (4) locate specified groups of individuals for personnel research (while protecting their individual privacy).

Race and ethnic data are collected for statistical use only.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To identify and refer qualified current or former Federal employees to Federal agencies for vacancies in the Senior Executive Service.

b. To refer qualified current or former Federal employees or retirees to State and local governments and international organizations for employment consideration.

c. To provide an employing agency with extracts from the records of that agency's employees in the system.

d. To provide information required in the annual report to Congress mandated by 5 U.S.C. 3135 and elsewhere, regarding positions in the SES and the incumbents of these positions.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

f. By the Office of Personnel Management to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published studies do not contain individual identifiers, in some instances the selection of elements of data.

g. To disclose information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

h. To the National Archives and Records Service (General Services Administration) for records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

i. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

j. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

k. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations,

investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

l. To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

m. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

n. *To disclose information to any member of an agency's Performance Review Board or other board or panel (e.g., one convened to select or review nominees for awards of merit pay increases), when the member is not an official of the employing agency; information would then be used for the purposes of approving or recommending selection of candidates for executive development programs, issuing a performance appraisal rating, issuing performance awards, nominating for Meritorious and Distinguished Executive ranks, and removal, reduction-in-grade, and other personnel actions based on performance.*

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained in file folders, and on magnetic disk and tape, punched cards, and microfiche.

RETRIEVABILITY:

Records are retrieved by the name and social security number of the individual to whom they pertain.

SAFEGUARDS:

Manual records are maintained in lockable metal filing cabinets or in a secured room with access limited to those whose official duties require access. Access to computerized records is limited to those whose official duties require access. Access to race and ethnic data is restricted to specially designated OPM personnel.

RETENTION AND DISPOSAL:

Records are retained so long as the individual remains in a covered position and for 5 years after they leave Federal service.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Executive Personnel and Management Development, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Social Security Number.

c. Address where employed.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to records about themselves should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Social Security Number.

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Social Security Number.

An individual requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information is provided by the individual named in the record, his or her employing agency, and is also obtained from official documents of the Office.

OPM/GOVT—1

SYSTEM NAME:

General Personnel Records.

SYSTEM LOCATION:

Records on current Federal employees are located at the Personnel Office or designated office of the local installation of the Department or Agency which currently employs the individual. Records on former Federal employees are located at the National Personnel Records Center, General Services Administration, 111 Winnebago Street, St. Louis, Missouri 63118.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal employees *as defined in 5 U.S.C. 2105.*

CATEGORIES OF RECORDS IN THE SYSTEM:

All categories of records include identifying information such as name(s) date of birth, home residence, mailing address, Social Security Number, and home telephone. This system includes contents of the Official Personnel Folder as specified in Federal Personnel Manual Supplement 293–31. Records in this system are:

a. Records reflecting work experience, educational level achieved, and specialized education or training occurring outside of Federal service.

b. Records reflecting Federal service and documenting work experience and specialized education or training received while employed. Such records contain information about: past and present positions held; grades, salaries, and duty station locations; commendations, awards, or other data reflecting special recognition of an employee's performance and supporting documentation; and notices of all personnel actions such as: appointments, transfers, reassignments, details, promotions, demotions, reductions in force, resignations, separations, suspensions, Office approval of disability retirement applications, retirement and removals.

c. Information relating to enrollment or declination of enrollment in the Federal Employees Group Life Insurance Program and Federally sponsored health benefit programs, as well as forms showing designation of beneficiary.

d. Information of a medical nature including records compiled during an agency initiated fitness for duty examination or request for approval of disability retirement. Such medical records are to be retained in separate envelopes from the Official Personnel Folder OPF and include records of medical examinations that are to remain as a permanent record in the OPF (see "Retention and disposal" section below).

Note.—This system does not cover agency dispensary records or records of drug or alcohol abuse counseling or other such counseling records.

e. Information relating to an

documentation issued in connection

offices in screening qualifications of employees; determining status,

health benefits plan under the Federal Employees Health Benefits Program

grant, or other benefit by the requesting

of a witness, information that is relevant

e. Information relating to an Intergovernmental Personnel Act assignment of Federal-private exchange program.

Note.—Some of these records may also become part of the OPM/CENTRAL—7 Intergovernmental Personnel Act Assignment Records system.

f. Information relating to participation in an agency Federal Executive or SES Candiate Development Program.

Note.—Some of these records may also become part of the OPM/CENTRAL—5 Federal Executive Development Program Records or OPM/CENTRAL—13 Senior Executive Service Records systems.

g. Records relating to Government sponsored training or participation in an agency's Upward Mobility Program or other personnel programs designed to broaden an employee's work experiences and for purposes of advancement (e.g., an administrative interm program).

h. Information contained in the Central Personnel Date File (CPDF) maintained by the Office and exact representations thereof in agency noted personel information systems. These data elements include many of the above records along with handicap and minority group designator codes. A definitive list of CPDF data elements is contained in Federal Personnel Manual Supplement 292–1.

i.Records connected with the Senior Executive Service, maintained by agencies for use in making decisions affecting incumbents of these positions, e.g., relating to sabbatical leave programs, training, reassignments, and details, that are perhaps unique to the SES and which may or may not be filed in the employee's Official Personnel Folder. These records may also serve as the basis for reports submitted to OPM's Executive Personnel and Management Development Group for purposes of implementing the Office's oversight responsibilties concerning the SES.

j. *Information concerning an employee's activities on behalf of the labor organization representing agency employees, including accounting of official time spent and documentation in support of per diem and travel expenses. (Note: such records may also be retained by an agency payroll office, subject to the agency's internal Privacy Act system for payroll records.)*

k. Performance appraisal records including: appraisal forms and supporting documentation issued under employee (including SES employees) appraisal systems; recommendations for personnel actions; Performance Review Board or Executive Resource Borad records; forms and supporting documentation issued in connection with removal actions; letters of commendation, reprimands, adomishments, cautions, or warnings and supporting documentation; and documents certifying satisfactory completion of probationary periods or recommendations for within grade or merit pay actions.

l. To the extent that the records listed here are also maintained in an agency automated personnel records system, these automated versions of the above records are considered to be covered by this system notice. Record categories beyond those described here and any additional copies of paper documents (expect for performance apprasial related documents maintained by first line supervisors and managers) maintained by agencies are not considered part of this system and must be covered by an agency specific internal system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 2951, 3301, 3372, 4118, 4303, 8347, 5 CFR 432 of OPM regulations; and Executive Orders 9397, 9830, and 12107.

PURPOSE(S):

The Official Personnel Folder (OPF) and other general personnel records files are the official repository of the records, reports of personnel actions, and the documents and papers required in connection with these actions effected during an employee's Federal service. The personnel action reports and other documents, some of which are filed as permanent records in the OPF, give legal force and effect to personnel transactions and establish employee rights and benefits under the pertinent laws and regulations governing Federal employment.

These files are maintained by agencies for the Office and in accordance with Office regulations and instructions. The Official Personnel Folder is maintained for the period of the employee's service in the agency and is then transferred to the National Personnel Records Center for storage or, as appropriate, to the next employing agency. Other records are either retained at the agency for various lengths of time in accordance with General Services Administration records schedules or destroyed when they have served their purpose or when the employee leaves the agency. They provide the basic source of factual data about a person's Federal employment while in the service and after his or her separation. Records in the folder are used primarily be agency personnel offices in screening qualifications of employees; determining status, eligibility, and employee's rights and beneifits under pertinent laws and regulations governing Federal employment; computing length of service; and for other information needed in providing personnel services. These records and their automated equivalents may also be used to locate individuals for personnel research.

Temporary documents on the left side of the OPF may lead (or have led) to a formal action, but do not constitute a record of it, nor make a substantial permanent contribution to the employee's record.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

These records and information in these records may be used:

a. to disclose information to Government training facilities (Federal, State, and local) and to non-Government training facilities (private vendors of training courses or programs, private schools, etc.) for training purposes.

b. To disclose information to educational institutions on appointment of a recent graduate to a position in the Federal service, and to provide college and university officials with information about their students working under the Cooperative Education, Volunteer Service, or other similar programs where necessary to a student's obtaining credit for the experience gained.

c. To disclose information to officials of foreign governments for clearence before a Federal employee is assigned to that country.

d. To disclose information to: the Department of Labor; Veterans Administration, Social Security Administration; Department of Defense; Federal agenices that have special civilian employee retirement programs; or a national, state, county, municipal, or other publicly recognized charitable or Social Security Adminstration agency (e.g., State unemployment compensation agencies), where necessary to adjudicate a claim under the retirement, insurance or health benefits program(s) of the Office of Personnel Management or an agency cited above, or to conduct an analytical study of benefits being paid under such programs.

e. To disclose to the Office of Federal Employees Group Life Insurance information necessary to verify election, declination, or waiver of regular and/or optional life insurance coverage or eligibility for payment of a claim for life insurance.

f. To disclose to health insurance carriers contracting with the Office of Personnel Management to provide a health benefits plan under the Federal Employees Health Benefits Program, information necessary to identify enrollment in a plan, to verify eligibility for payment of a claim for health benefits, or to carry out the coordination or benefit provisions of such contracts.

g. To disclose information to a Federal, State, or local agency for determination of an individual's entitlement to benefits in connection with Federal Housing Administration programs.

h. To consider and select employees for incentive awards and other honors and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee awards or honors.

i. To consider employees for recognition through quality step increases, and to publicize those granted. This may include disclosure to other public and private organizations, including news media, which grant or publicize employee recognition.

j. To disclose information to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions.

k. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

l. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), where necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit.

m. To disclose information to an agency in the executive, legislative, or judicial branch, or the District of Columbia Government, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

n. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

o. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

p. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

q. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

r. By the agency maintaining the records or by the Office to locate individuals for personnel research or survey response, and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

s. To provide an official of another Federal agency information he or she needs to know in the performance of his or her official duties related to reconciling or reconstructing data files, in support of the functions for which the records were collected and maintained.

t. When an individual to whom a record pertains is mentally incompetent or under other legal disability, information in the individual's record may be disclosed to any person who is responsible for the care of the individual, to the extent necessary to assure payment of benefits to which the individual is entitled.

u. To disclose to the agency-appointed representative of an employee all notices, determinations, decisions, or other written communications issued to the employee, in connection with a psychiatric examination ordered by the agency under:

(1) fitness-for-duty examination procedures; or

(2) agency-filed disability retirement procedures.

v. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

w. *To disclose to a requesting agency, organization, or individual the home address and other relevant information concerning those individuals who, it is reasonably believed, might have contracted an illness, been exposed to, or suffered from a health hazard while employed in the Federal work force.*

x. To disclose specific civil service employment information required under law by the Department of Defense on individuals identified as members of the Ready Reserve, to assure continuous mobilization readiness of Ready Reserve units and members.

y. To disclose information to the Department of Defense, National Oceanic and Atmospheric Adminstration, United States Public Health Service, and the United States Coast Guard needed to effect any adjustments in retired or retained pay required by the dual compensation provisions of section 5532 of title 5, United States Code.

z. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

aa. *To disclose information to the equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

bb. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

cc. To disclose to prospective non-Federal employers, the following information about a current or former Federal employee:

(1) Tenure of employment;

(2) Civil service status;

(3) Length of service in the agency and the Government; and

individual is employed with that agency. Medical records are kept separate from

NOTIFICATION PROCEDURE:

Individuals wishing to inquire

records on former Federal employees in this system, those records remain the property of

OPM/GOVT—3

b. To disclose pertinent information to

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(3) Length of service in the agency and the Government; and

(4) When separated, the date and nature of action as shown on the Notification of Personnel Action, Standard Form 50.

dd. *To disclose information on employees of Federal health care facilities to private sector (i.e., non-Federal, State, or local government) agencies, boards, or commissions (e.g., the Joint Commission on Accreditation of Hospitals). Such disclosures will be made only where the disclosing agency determines that it is in the government's best interest (e.g., to assist in the recruiting of staff in the community where the facility operates or to avoid any adverse publicity that may result from a public criticism of the facility's failure to obtain such approval) to obtain accreditation or other approval rating and only to the extent that the information disclosed is relevant and necessary for that purpose.*

ee. *To disclose information to any member of an agency's Performance Review Board or other board or panel (e.g., one convened to select or review nominees for awards of merit pay increases), when the member is not an official of the employing agency; information would then be used for the purposes of approving or recommending selection of candidates for executive development programs, issuing a performance appraisal rating, issuing performance awards, nominating for Meritorious and Distinguished Executive ranks, and removal, reduction-in-grade, and other personnel actions based on performance.*

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders, on lists and forms, microfilm and in computer processible storage media.

RETRIEVABILITY:

These records are retrieved by various combinations of name, birth date, social security number, or identification number of the individual on whom they are maintained.

SAFEGUARDS:

These records are located in lockable metal file cabinets or in secured rooms with access limited to those personnel whose official duties require access.

RETENTION AND DISPOSAL:

a. Permanent Records. The Official Personnel Folder (OPF) is retained by the employing agency as long as the individual is employed with that agency. Medical records are kept separate from the OPF while the individual is employed by an agency. When the individual transfers to another Federal agency or to another appointing office, the OPF, with permanent medical records inserted therein in a separate envelope, is sent to that agency or office. Other medical records covered by this system, i.e., fitness for duty examinations, are considered temporary in nature. Such records, when not submitted to the Office for retention in a disability retirement file (or submitted, but the Office does not approve retirement), shall be destroyed no later than six months after closing action on the case or sooner at the discretion of the agency.

Within 90 days after the individual separates from the Federal service, the OPF is sent to the National Personnel Records Center for permanent storage. In the case of a retired employee or one who dies in service, the OPF is sent to the Records Center within 120 days.

b. Other Records. These records are retained for varying periods of time. Generally these records are maintained for a minimum of one year, or until the employee transfers or separates. Letters of caution, warning, admonishment, or for similar disciplinary actions are maintained for a maximum of two years, but they may be disposed of at any time before the end of the two year period when: (1) it is decided through an administrative procedure that the action was unwarranted; (2) management determines that the letter has served its purpose, (i.e., caused improvement in the employee's performance); (3) the head of the agency or designee determines that the letter should be removed; or (4) at the discretion of the issuing authority. Obsolete performance ratings and appraisals are disposed of when a new rating or appraisal is completed, usually on a yearly basis. Some appraisal records are retained for five years (pertaining to an employee in an SES covered position) and some for three years, e.g., in support of a merit pay action.

c. Records contained on computer processible media within the Central Personnel Data File (and in agency automated personnel records) may be retained indefinitely as a basis for longitudinal work history statistical studies.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Assistant Director for Work Force Information, Agency Compliance and Evaluation, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate OPM or agency office, as follows:

a. Current Federal employees should contact the Personnel Officer or other responsible official (as designated by the employing agency), Department or Agency with which employed, Local Agency Installation, regarding records in this system.

b. Former Federal employees should contact the system manager indicated above, one of the Office's regional or area offices (see list of regional office addresses in the Appendix), or, as explained in the Note below, the National Personnel Records Center (Civilian), 111 Winnebago St., St Louis, Missouri 63118, regarding the records in this system.

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. Last employing agency (including duty station) and approximate date of the employment (for former Federal employees).

e. Signature.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the appropriate OPM or agency office, as specified in the "notification procedures" section. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. Last employing agency (including duty station) and approximate date of the employment (for former Federal employees).

e. Signature.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

Note.—An individual who is a former Federal employee may direct a request to the National Personnel Records Center (NPRC) only for a transcript of his or her own employment history. The transcript includes the individual's name; date of birth; Social Security Number; past and present grades, position titles, duty stations, and salaries; and dates of personnel actions.

Under no circumstances shall an individual direct a request for access to copies of records in this system to the NPRC. Though NPRC stores and services some of the records on former Federal employees in this system, those records remain the property of the Office Personnel Management, and for the access provisons of the Privacy Act, will be handled and processed by the Office.

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment to their records should contact the appropriate agency (for current employees) or to the system manager indicated above (for former Federal employees). Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Social Security Number.

d. Last employing agency (including duty station) and approximate date of the employment (for former Federal employees).

e. Signature.

Individuals requesting amendment must also comply with the Office's Privacy Act regulations regarding verification of identity and amendments of records (5 CFR 297.201 and 297.208).

Note.—Under no circumstances shall an individual direct a request for amendment to records in this system to the NPRC. Though NPRC stores and services some of the records on former Federal employees in this system, those records remain the property of the Office of Personnel Management, and for the amendment provisions of the Privacy Act, will be handled and processed by the system manager at the Office.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The Individual on whom the record is maintained.

b. Physicians examining the individual.

c. Educational institutions.

d. Agency officials.

e. Other sources of information for permanent records maintained in an employee's OPF, in accordance with Federal Personnel Manual Chapter 293.

OPM/GOVT—2

SYSTEM NAME:

Grievance records.

Note.—The text of this notice appears in the **Federal Register** of May 29, 1979, (44 FR 30884), as amended by **Federal Register** notice of October 26, 1979 (44 FR 61708), and in the Privacy Act Issuances—1979 Compilation, Volume IV, page 3180. This system will remain operational until December 31, 1980, to allow time for agencies to establish agency specific systems to cover these records, at which time it will be discontinued without further notice.

OPM/GOVT—3

SYSTEM NAME:

Adverse Action Records.

SYSTEM LOCATION:

These records are located in personnel or designated offices in Federal agencies in which the actions were processed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current of former Federal employees (including Senior Executive Service employees) against whom such an action has been proposed or taken in accordance with Parts 752 or 754 of the Office's regulations (5 CFR 752 or 5 CFR 754).

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records and documents related to the processing of an adverse action. The records include copies of the notice of proposed action; materials relied on by the agency to support the reasons in the notice; replies by the employee; statements of witnesses; hearing notices; reports; and decisions.

Note.—This system does not include records, including the action file itself, compiled when such actions are appealed to the Merit Systems Protection Board (MSPB) or become part of a discrimination complaint record at the Equal Employment Opportunity Commission (EEOC). Such appeal and discrimination complaint file records are covered by the appropriate MSPB or EEOC system of records. Records maintained in connection with actions based on unacceptable performance and taken under 5 CFR 432 are presently covered by the OPM/GOVT–1 General Personnel Records system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7504 and 7514.

PURPOSE(S):

These records result from the proposal, processing, and documentation of adverse actions taken by the Office or agencies against agency employees in accordance with Parts 752 or 754 of the regulations (5 CFR 752 and 5 CFR 754).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To provide information to officials of labor organizations recognized under 5 U.S.C. Chapter 71 when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

b. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

c. To disclose information to any source from which additional information is requested in the course of processing an adverse action, appeal, or administrative review procedure, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

d. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, or the classifying of jobs, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

f. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

g. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

h. By the agency maintaining the records or the Office to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

i. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

j. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations,*

investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

k. To disclose information to the equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.

l. To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.

m. To provide an official of another Federal agency information he or she needs to know in the performance of his or her official duties related to reconciling or reconstructing data files, in support of the functions for which the records were collected and maintained.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

Records documenting an adverse action are disposed of 4 years after the closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Workforce Effectiveness and Development, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals receiving notice of a proposed adverse action must be provided access to all documents supporting the notice. At any time thereafter, individuals subject to the action will be provided access to the completed record. Individuals should contact the agency personnel or designated office where the action was processed regarding the existence of such records on them. They must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

RECORD ACCESS PROCEDURES:

Individuals involved in such actions must be provided access to the record. However, after the action has been closed, an individual may request access to the official copy of an adverse action file by contacting the agency personnel or designated office where the action was processed. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identify and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have or could have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment to their records to correct factual errors should contact the agency personnel or designated office where the action was processed. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organizational component involved.

Individuals requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identify and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records is provided:

a. By the individual on whom the record is maintained.

b. By testimony of witnesses.

c. By agency officials.

d. From related correspondence from organizations or persons.

CSC/GOVT—4

SYSTEM NAME:

Executive Branch Public Financial Disclosure Records.

SYSTEM LOCATION:

Director, Office of Government Ethics, Office of Personnel Management, 1717 H Street, N.W., Washington, D.C. 20419, and designated agency ethics officals.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records on: The President, Vice President and candidates for those offices; officers and employees, including special Government employees, whose positions are classified at grades GS–16 and above or at an equivalent rate under another pay schedule; officers or employees in a positon determined by the Director of the Office of Government Ethics to be of equal classification to GS–16; Administrative Law Judges; employees in the excepted service in positions which are of a confidential or policymaking nature unless an employee or groups of employees are exempted by the Director of the Office of Government Ethics; each member of a uniformed service whose pay grade is at or in excess of 0–7 under section 201 of title 37, United States Code; the Postmaster General, the Deputy Postmaster General, Governor of the Board of Governors of the U.S. Postal Service, and each office or employee of the United States Postal Service whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed for GS–16; the Director of the Office of Government Ethics and officials designated to act as agency ethics officers (designated agency ethics officials); and nominees for positions requiring Senate confirmation. This system includes both former and current employees in these catagories who have filed financial disclosure statements under the requirements of the Ethics in Government Act of 1978, as amended.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains: financial information such as salary, dividends, receipts from the purchase or sale of land, exchange of property, spouse's and children's interest earnings, funds from trust accounts, gifts, reimbursements, interest on property, and compensation for duties performed; information relating to liabilities in excess of $10,000; information about positions as an officer, director, trustee, partner, proprietor, representative, employee, or consultant of any corporation, company, firm, partnership, or other business, non-profit organizations, labor organizations, or educational institution; information about non-Government employment agreements, such as leaves of absence to accept Federal service, continuation of payments by non-Federal former employers, and participation in prior non-Federal employer welfare and benefit plans; and information about assets placed in trust pending disposal.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 95–521, Ethics in Government Act of 1978 as amended.

PURPOSE(S):

These records are maintained to meet the requirements of the Ethics in Government Act of 1978, Public Law 95–521 as amended, regarding the filing of financial status reports and reports concerning certain agreements between the covered individual and any prior private sector employer. Such statements and related records are required to assure compliance with the Act and to preserve and preserve and promote the integrity of public officials and institutions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose any and all of the information furnished by the reporting official, in accordance with provisions of section 205 of the Ethics in Government Act of 1978, to any requesting person.

b. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulations, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

c. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

d. To disclose information to any source where necessary to obtain information relevant to a conflict-of-interest investigation or determination.

e. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

f. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

g. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are generally maintained for a period of six years after filing, except when filed by a nominee for an appointment requiring confirmation by the Senate where the nominee is not appointed and Presidential and Vice-Presidential candidates who are not elected. In these cases the record is destroyed one year after the date the individual ceased being under Senate consideration for appointment or is no longer a candidate for office. Destruction is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

The system managers are:

1. For records filed directly with the Office of Government Ethics, the system manager is the Director, Office of Government Ethics, Office of Personnel Management, 1717 H Street, N.W., Washington, D.C. 20419;

2. For records filed with designated agency ethics officials or the Secretary concerned, the system manager is: Designated Agency Ethics Officials, Headquarters, Department or Agency, Washington, D.C., (ZIP code); and

3. *For records filed with the Federal Election Commission by candidates for President or Vice-President, the system manager is the Staff Director, Federal Election Commission, 1325 K Street, N.W., Washington, D.C. 20463.*

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name

b. Department or agency and component with which employed or proposed to be employed.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name

b. Department or agency and component with which employed or proposed to be employed.

Individuals requesting access to information not generally available to the public under the Act, must also comply with OPM's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Since the information in these records is updated on a periodic basis, most record corrections can be handled through established administrative procedures for updating the records. However, individuals can obtain information on the procedures for contesting the records under the provisions of the Privacy Act by contacting the appropriate system manager indicated above.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The subject individual or by a designated person such as a trustee, attorney, accountant, or relative;

b. Federal officials who review the statements to make conflict of interest determinations;

c. Persons alleging conflicts of interests and persons contacted during any investigation of the allegations.

OPM/GOVT—5

SYSTEM NAME:

Recruiting, Examining, and Placement Records.

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SYSTEM LOCATION:

Associate Director for Staffing Services, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415, OPM regional and area offices (see list of OPM regional office addresses in the Appendix), Office of Personnel Management Job Information Centers, and personnel or other designated offices of Federal agencies that are authorized to make appointments and to act for the Office by delegated authority.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have applied to the Office of Personnel Management or agencies for Federal employment and current and former Federal employees submitting applications for other positions in the Federal service.

CATEGORIES OF RECORDS IN THE SYSTEM:

In general, all records in this system contain identifying information including: name, date of birth, Social Security Number, and home address. These records pertain to assembled and unassembled examining procedures and contain information related to both competitive examinations and to certain noncompetitive actions such as determinations of time-in-grade restriction waiver, waiver of qualification requirement determination, and variations in regulatory requirements in individual cases. This system includes such records as:

a. Applications for employment that contain information on work and educational experience; convictions for offenses against the law; military service, and indications of specialized training or receipt of awards or honors. These records may also include copies of correspondence between the applicant and the Office or agency.

b. Results of written exams and indications of how information in the application was rated. These records also contain information on the ranking of an applicant, on his/her placement on a list of eligibles, on what certificates applicants' names appeared on an agency's request for Office approval of the agency's objection to an eligible's qualification and OPM's decisions in the matter, on an agency's request for Office approval for the agency to pass over an eligible and OPM's decision in the matter, and on an agency's decision to object/pass over an eligible where the agency has authority to make such decisions under agreement with OPM.

c. Records regarding OPM's final decision regarding an agency's decision to object/pass over an eligible for suitability or medical reasons or where the objection/pass over decision applies to a compensable preference eligible with 30 percent or more disability.

d. Responses to and results of approved personality or similar tests administered by the Office or agency.

e. Records relating to rating appeals filed with the Office or agency.

f. Registration sheets completed by displaced employees or displaced employee control cards and related documents regarding such individuals.

g. Records concerning non-competitive action cases referred to the Office for decision. These files include such records as waiver of time in grade requirements, decision on superior qualification appointments, temporary appointments outside a register, and waiver of requirement to reduce retired pay. Authority for making decisions on many of these actions has also been delegated to agencies. The records retained by the Office on such actions and copies of such files retained by the agency submitting the request to OPM, along with records that agencies maintained as a result of OPM's delegation of authorities are considered part of this system of records.

h. Records retained to support Schedule A appointments of severely phyically handicapped individuals, both retained by OPM and agencies acting under OPM delegated authorities, are part of this system.

i. Agency applicant supply file systems (where the agency retains applications, resumés, and other related records for hard to fill or unique positions, for future consideration), along with any pre-employment vouchers obtained in connection with an agency's processing of an application, are included in this system.

j. Records derived from OPM-developed assessment center exercises.

Note.—To the extent that an agency utilizes an automated medium in connection with maintenance of this system or records, the automated versions of these records are considered covered by this system of records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5 U.S.C., Sections 1302, 3109, 3301, 3302, 3304, 3306, 3307, 3309, 3313, 3317, 3318, 3319, 3326, 4103, 5532, 5533, and 5723; Executive Order 9397.

PURPOSE(S):

The records are used to consider individuals who have applied for positions in the Federal service by making determinations of qualifications including medical qualifications, for positions applied for, and to rate and rank applicants applying for the same or similar positions. They are also used to refer candidates to Federal agencies for employment considerations, including appointment, transfer, reinstatement, reassignment, or promotion. Records derived from OPM-developed assessment center exercises may be used to determine training needs of participants. These records may also be used to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To refer applicants including current and former Federal employees to Federal agencies for employment consideration for employment, transfer, reassignment, reinstatement, or promotion.

b. With the permission of the applicant, to refer applicants to State and local governments, congressional offices, international organizations, and other public offices for employment consideration.

c. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation

d. To disclose information to any source from which additional information is requested (to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested), where necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of positions, the letting of a contract, or the issuance of a license, grant, or other benefit.

e. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of positions, the letting of a contract, or the issuance of license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

f. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

g. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

h. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

i. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

j. By the agency maintaining the records by the Office to locate individuals for personnel research or survey response, and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

k. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.*

l. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

m. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

n. To disclose, in response to a request for discovery or for an appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on magnetic tapes, discs, punched cards, microfiche, cards, lists, and forms.

RETRIEVABILITY:

Records are retrieved by the name, date of birth, or Social Security Number of the individual on whom they are maintained.

SAFEGUARDS:

Records are maintained in a secured area with access limited to authorized personnel whose duties require access.

RETENTION AND DISPOSAL:

Records in this system are retained for varying lengths of time, ranging from a few months to five years. Most records are retained for a period of one or two years. Some records, such as individual applications, become part of the person's permanent official records when hired, while some records, e.g., non-competitive action case files, are retained for five years. Some records are destroyed be shredding or burning while magentic tapes of disks are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Staffing Services, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the agency or OPM office where application was made, or where an examination was taken. Resource specialists should contact the OPM Area Office which provides examining and rating assistance. Individuals must provide the following information for their records to be located and identified:

a. Name.
b. Date of birth.
c. Social Security Number.
d. Identification number (if known).
e. Approximate date of record.
f. Title of examination or announcement with which concerned.
g. Geographic area in which consideration was requested.

RECORD ACCESS PROCEDURES:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(c)(3) and (d), regarding access to records. The section of this notice title "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of materials exempted and the reasons for exempting them from access. Individuals wishing to request access to their non-exempt records should contact the agency or OPM office where application was made, or where an examination was taken. Resource specialists should contact the OPM Area Office providing examining and rating assistance. Individuals must provide the following information for their records to be located and identified:

a. Name.
b. Date of birth.
c. Social Security Number.
d. Identification number (if known).
e. Approximate date of record.
f. Title of examination or announcement with which concerned.
g. Geographic area in which consideration was requested.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding amendment of records. The section of the notice title "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of materials exempted and the reasons for exempting them from amendment. An individual may contact the agency or an OPM office where his or her application is filed at any time to update qualifications, education, experience, or other data maintained in the system. Such regular administrative updating of records should not be requested under the provisions of the Privacy Act. However, individuals wishing to request amendment of their records under the provisions of the Privacy Act should contact the agency or OPM office where application was made, or where an examination was taken. Resource specialists should contact the OPM Area Office providing examining or rating assistance. Individuals must provide the following information for their records to be located and identified:

a. Name.
b. Date of birth.
c. Social Security Number.
d. Identification number (if known).
e. Approximate date of record.
f. Title of examination or announcement with which concerned.
g. Geographic area in which consideration was requested.

Individuals requesting amendment must also comply with the Office's

f. *Assessment center summary reports.*

examinations in the total employee selection process and by the Office in

d. To disclose, in response to a request for discovery or for appearance

c. If known, the title, time, and /or place of test validation research study in

RECORD SOURCE CATEGORIES:

Individual Federal, State, or local

Individuals requesting amendment must also comply with the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies or is derived from information the individual supplied, except reports from medical personnel on physical qualifications; results of examination which are made known to applicants; and vouchers supplied by references or other sources which the applicant lists or which are developed.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system contains investigative materials that are used solely to determine the appropriateness of a request for approval of an objection to an eligible's qualifications for Federal civilian employment or vouchers received during the processing of an application. The Privacy Act, at 5 U.S.C. 552a(k)(5), permits an agency to exempt such investigative material from certain provisions of the Act, to the extent that release of the material to the individual whom the information is about would:

1. reveal the identity of a source who furnished information to the Government under an express promise (granted on or after September 27, 1975) that the identity of the source would be held in confidence; or,

2. reveal the identity of a source who, prior to September 27, 1975, furnished information to the Government under an implied promise that the identity of the source would be held in confidence.

This system contains testing and examination materials used solely to determine individual qualifications for appointment or promotion in the Federal service. The Privacy Act, at 5 U.S.C. 552a(k)(6), permits an agency to exempt all such testing or examination material and information from certain provisions of the Act, where disclosure of the material would compromise the objectivity or fairness of the testing or examination process. The Office of Personnel Management has claimed exemptions from the requirements of 5 U.S.C 552a(d), which relate to access to and amendment of records.

The specific materials exempted include but are not limited to the following:

a. *Answer keys.*
b. *Assessment center exercises.*
c. *Assessment center exercise reports.*
d. *Assessor guidance material.*
e. *Assessment center observation reports.*
f. *Assessment center summary reports.*
g. *Item analyses and similar data which contain test keys.*
h. *Ratings given for the purpose of validating examinations.*
i. *Rating schedules, including crediting plans and scoring formulas for other selection procedures.*
j. *Rating sheets.*
k. *Test booklets, including the written instructions for their preparation.*
l. *Test item files.*
m. *Transmutation tables.*
n. *Test answer sheets.*

OPM/GOVT—6

SYSTEM NAME:

Personnel Research and Test Validation Records.

SYSTEM LOCATION:

Personnel Research and Development Center (PRDC), Office of Personnel Management, Room 3H30, 1900 E Street, N.W., Washington, D.C. 20415, OPM regional offices (see list of regional office addresses in the Appendix), and agency personnel offices (or other designated offices) conducting such programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal employees; applicants for Federal employment; current and former State and local government employees; applicants for State and local government employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include information on education and employment history, test scores, responses to test items and questionnaires, interview data, and ratings of supervisors regarding the individuals to whom the records pertain. Additional information (race, national origin, disability status, and background) is collected from applicants for certain examinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S.C. Sections 1303 and 3301.

PURPOSE(S):

These records are collected, maintained, and used by the Office or agencies for the construction, analysis, and validation of written tests, and for research on and evaluation of personnel-organizational measurement and selection methods. Such research includes studies extending over a period of time (longitudinal studies). Race and national origin data are used by agencies to evaluate the role of examinations in the total employee selection process and by the Office in assessing agency compliance with this and other requirements of the Uniform Guidelines on Employee Selection Procedures. Use of these race and national origin data is limited to such evaluation and oversight projects conducted by the agencies or the Office.

The records also may be used by the Office or employing agencies to locate individuals for personnel research. Data are collected on a project-by-project basis under conditions assuring the confidentiality of the information. No personnel actions or selections are made using these research records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Under normal circumstances, no individually identifiable records will be provided. However, under those unusual circumstances where an individually identifiable record is required, proper safeguards will be maintained to protect the information collected from unwarranted invasion of personal privacy. Such protection must be specified in writing by the requestor and to the satisfaction of the agency official responsible for maintaining the data that the proposed use of the data is in compliance with the letter and spirit of the Privacy Act. Under these circumstances, the routine uses are as follows:

a. By the Office or employing agency maintaining the records to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

b. *To furnish personnel records and information to the Equal Employment Opportunity Commission for use in determining the existence of adverse impact in the total selection program, in reviewing allegations of discrimination, or in assessing the status of compliance with Federal law.*

c. *To furnish information to the Merit Systems Protection Board, including the Office of the Special Counsel, in connection with actions by offices relating to allegations of discriminatory practices on the part of an agency or one of its employees.*

d. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to subject matter involved in a pending judicial or administrative proceeding.

e. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. To provide information to a congressional office from the record of an individual in response to a request from that congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders and on punched cards, disks, and magnetic tape.

RETRIEVABILITY:

Records are generally maintained by project. Presonal information can be retrieved by name or personal identifier only for certain research projects such as those involving longitudinal studies.

SAFEGUARDS:

Records are kept in locked files in a locked room with access limited to authorized staff. Access to tape, disk, and other files used in data processing will be only by authorized staff.

RETENTION AND DISPOSAL:

Records are retained for two years after completion of the project unless needed in the course of litigation or other administrative actions involving a research or test validation survey. Manual records are destroyed by shreading or burning and magnetic tapes or disks are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Research and Development Center, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the system manager above, the OPM regional office servicing the State where they are employed (see list of OPM regional office addresses in the Appendix), or their employing agency's personnel office. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. If known, the title, time, and /or place of test validation research study in which individual participated.
d. Social Security Number.
e. Signature.

RECORD ACCESS PROCEDURES:

Specific material in this system has been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding access to records. The section of this notice titled "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of materials exempted and the reasons for exempting them from access. Individuals wishing to request access to non-exempt records should contact the system manager indicated above, the OMB regional office, or their agency personnel or other designated office, as appropriate. Individuals must furnish the following information for their records to be located and identified:

a. Full name.
b. Date of birth.
c. If known, the title, time, and/or place of test validation research study in which individual participated.
d. Social Security Number.
e. Signature.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verifications of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Specific material in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding amendment of records. The section of the notice titled "Systems exempted from certain provisions of the Act," which appears below, indicates the kinds of materials exempted and the reasons for exempting them from amendment. Individuals wishing to request amendment of any non-exempt records should contact the system manager indicated above, the OPM regional office, or their agency personnel or other designated office, as appropriate. Individuals must furnish the following for their records to be located and identified.

a. Full name.
b. Date of birth.
c. If known, the title, time, and/or place of test validation research study in which individual participated.
d. Social Security Number.
e. Signature.

Individuals requesting amendment must also compy with the Office's Privacy Act regulations regarding verification of identity and amendment of records. (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Individual Federal, State, or local employees or applicants, supervisors, assessment center assessors, agency or Office personnel files and records (e.g., race, sex, national origin, and disability status data from OPM/GOVT–1 and OPM/GOVT–7 systems of records).

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The system contains testing and examination materials that are used solely to determine individual qualifications for appointment or promotion in the Federal service. The Privacy Act, at 5 U.S.C. 55a(k)(6), permits an agency to exempt all such testing and examination material and information from certain provisions of the Act, when the disclosure of the material would compromise the objectivity of fairness of the testing or examination process. The Office of Personnel Management has claimed exemptions from the requirements of 5 U.S.C. 552a(d), which relate to access to and amendment of records.

The specific materials exempted include but are not limited to the following:

a. *Answer keys.*
b. *Assessment center exercises.*
c. *Assessment center exercise reports.*
d. *Assessor guidance material.*
e. *Assessment center observation reports.*
f. *Assessment center summary reports.*
g. *Item analyses and similar data which contain test keys.*
h. *Ratings given for the purpose of validating examinations.*
i. *Rating schedules, including crediting plans and scoring formulas for other selection procedures.*
j. *Rating sheets.*
k. *Test booklets, including the written instructions for their preparation.*
l. *Test item files.*
m. *Transmutation tables.*
n. *Test answer sheets.*

OP/MGOVT–7

SYSTEM NAME:

Applicant Race, Sex, National Origin, and Disability Status Records.

SYSTEM LOCATION:

Records in this system may be located in the following offices:

1. Personnel Research and Development Center (PRDC), Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415;

2. Office of Affirmative Employment Programs, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415;

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3. OPM Regional Offices (see list of OPM regional office addresses in the Appendix) and any register-holding area offices under the jurisdiction of a regional office; and

4. Agency Personnel, Equal Employment Opportunity, or Federal Equal Opportunity Recruitment Program offices or other designated offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Federal employees and individuals who have applied for Federal employment, including:

1. Applicants for examinations administered either by OPM or by agencies.

2. Applicants on registers or in inventories maintained by OPM and subject to its regulations.

3. Applicants for positions in agencies having direct hire authority and using their own examining procedures in compliance with OPM regulations;

4. Applicants whose records are retained in an agency Equal Opportunity Recruitment file (including any file an agency maintains on current employees from under-represented groups); and

5. Applicants (including current and former Federal employees) who apply for vacancies announced under an agency's merit promotion plan.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include the individual's name, Social Security Number, date of birth, statement of major field of study, type of current or former Federal employment status (e.g., career or temporary), applications showing work and education experience, and race, sex, national origin, and disability status data.

Note.—The race, national origin, and disability status information in this system differs from that which is maintained in the OPM/GOVT–1, General Personnel Records system. In this system, the information is obtained by two alternative methods: (1) use of OPM Form 1386, Background Survey Questionnaire 79–2, where individuals, who may or may not currently be Federal employees, identify themselves as to race and national origin and indicate whether they have a disability; (2) for applicants who are current Federal employees, at the agency's option from the OPM/GOVT–1 system, where race and national origin are recorded by visual observation while disability status is obtained by use of Standard Form 256, Self Identification of Medical Disability, which allows for a description by self identification of the handicap. Further, race and national origin are defined on OPM Form 1386 in accordance with the Department of Commerce's Statistical Policy Directive 15, while the definitions of race and national origin used for the OPM/GOVT–1 system are as shown in FPM Chapter 713, subchapter 3.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7201; Sections 4A, 4B, 15A (1) and (2), 15B(11), and 15D(11), Uniform Guideline on Employee Selection Procedures (1978), 43 FR 38297 *et seq.* (August 25, 1978); 29 CFR 1613.301; and 5 CFR 720.301.

PURPOSE(S):

These records are used by OPM and agencies to:

1. Evaluate personnel/organizational measurement and selection methods;

2. Implement and evaluate agency affirmative employment programs;

3. Implement and evaluate agency Federal Equal Opportunity Recruitment Programs (including establishment of minority recruitment files);

4. Enable the Office to meet its responsibility to assess an agency's implementation of the Federal Equal Opportunity Recruitment Program.

5. Determine adverse impact in the selection process as required by the Uniform Guidelines cited in the "Authority" section above. (See also "Questions and Answers," on those Guidelines published at 44 FR 11996, March 2, 1979); and

6. Locate individuals for personnel research.

Note.—These data are maintained under conditions that ensure that the individual's identification as to race, sex, national origin, or disability status, does not accompany that individual's application nor is otherwise made known when the individual is under consideration by a selecting official.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. To disclose information to the Equal Employment Opportunity Commission (EEOC), in response to its request for use in the conduct of an examination of an agency's compliance with affirmative action plan instructions and the Uniform Guidelines on Employee Selection Procedures (1978), or other requirements imposed on agencies under EEOC authorities promulgated in Reorganization Plan No. 1 of 1978, in connection with agency Equal Employment Opportunity programs.

b. To disclose information to the Merit Systems Protection Board, including the Office of the Special Counsel, in response to its request in connection with the processing of appeals, special studies relating to the civil service and other merit systems in the executive branch, investigations into allegations of prohibited personnel practices, and such other functions, e.g., as prescribed in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

c. By the Office or employing agency maintaining the records to locate individuals for personnel research or survey response and in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

d. To disclose information to a Federal agency in response to its request for use in its Federal Equal Opportunity Recruitment Program, to the extent that the information is relevant and necessary to the agency's efforts in identifying possible sources for minority recruitment.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

f. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

g. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders, on magnetic tape, and on disks.

RETRIEVABILITY:

Records are retrieved by the name and Social Security Number of the individuals on whom they are maintained.

SAFEGUARDS:

Records are retained in lockable metal filing cabinets in a secured room or in a computerized system accessible by confidential passwords issued only to specific personnel.

RETENTION AND DISPOSAL:

Records are generally retained for two years, except when needed to process applications or to prepare adverse impact and related reports, or for as long as an application is still under consideration for selection purposes. Where records are needed in the course of an administrative procedure or litigation they may be maintained until the administrative procedure or litigation is completed. Manual records are shredded or burned and magnetic tapes or disks are erased.

Note.—Where an agency retains an automated version of any of the records in this system, maintenance of that record beyond the above retention schedules is permitted for historical or statistical analysis, but only so long as the record is not used in a determination directly affecting the individual about whom the record pertains after the prescribed destruction date.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Research and Development Center (PRDC), Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Those individuals wishing to inquire if this system contains information about them should contact the system manager listed above, OPM regional offices (see list of OPM regional office addresses in the Appendix) covering the State wherein the application for Federal employment was directly filed with an OPM office, or the Personnel, Equal Employment Opportunity, or Federal Equal Employment Opportunity Recruitment office or other designated office at the agency where they filed an application or where they are employed. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Social Security Number.

c. Title of examination, position, or vacancy announcement for which they filed.

d. The OPM or agency office where they are employed or submitted the information.

e. Signature.

RECORDS ACCESS PROCEDURES:

Individuals wishing to request access to records about themselves should contact the appropriate office shown in the "Notification procedure" section. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Social Security Number.

c. Title of examination, position, or vacancy announcement for which they filed.

d. The OPM or agency office where they are employed or submitted the information.

e. Signature.

An individual requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Individuals wishing to request amendment of their records should contact the appropriate office shown in the "Notification procedure" section. Individuals must furnish the following information for their records to be located and identified:

a. Name.

b. Social Security Number.

c. Title of examination, position, or vacancy announcement for which they filed.

d. The OPM or agency office where they are employed or submitted the information.

e. Signature.

An individual requesting amendment must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

RECORD SOURCE CATEGORIES:

Information is provided by the individual to whom the record pertains, on Personnel Research Questionnaire 79–1 (OPM Form 1377) or Background Survey Questionnaire 79–2 (OPM Form 1386), or is obtained from other agency or Office records (e.g., race, sex, national origin, and disability status data may be obtained from the OPM/GOVT–1 General Personnel Records system).

OPM/GOVT—8

SYSTEM NAME:

Confidential Statements of Employment and Financial Interests.

SYSTEM LOCATION:

Office of Government Ethics, Office of Personnel Management, 1717 H Street NW., Washington, D.C. 20419 and designated agency ethics offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Certain Presidential appointees in the Executive Office of the President, the head of each agency, Presidentially appointed full-time members of committees, boards, or commissions and other officers and employees who are required by their agency under Executive Order 11222 and 5 CFR Part 735 to file such statements. The system includes both former and current employees in these categories.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records contain statements of personal and family holdings and other interests in business enterprises and real property; listings of creditors and outside employment; opinions of counsel; confirmation material; and other information related to conflict of interest determinations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11222.

PURPOSE(S):

These records are maintained to meet requirements of Executive Order 11222 regarding the filing of employment and financial interest statements. Such statements are required to assure compliance with the standards of conduct for Government employees contained in the Executive Order and title 18 of the U.S. Code, and to determine if a conflict of interest exists between the employment of individuals by the Federal Government and their personal employment and financial interests. To enable the Director, Office of Government Ethics, to ensure that these purposes are met, agency maintained records are to be made available to that office on request.

Note.—When an agency is requested to furnish such records to the Director, Office of Government Ethics, such a disclosure is to be considered as made pursuant to provisions of the Privacy Act (5 U.S.C. 552a(b)(1)).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: *The statements and amended statements required by or pursuant to Executive Order 11222, Part IV, are to be held in confidence and no information shall be disclosed except:*

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

c. To disclose information to any source where necessary to obtain information relevant to a conflict-of-interest investigation or determination.

d. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

e. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

f. To disclose, in response to a request for discovery or for appearance of a

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witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are located in lockable metal file cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of 5 years after the date they are filed by the individual. Disposal is by burning or shredding.

SYSTEM MANAGER(S) AND ADDRESS:

The system managers are:

1. *For records filed directly with the Office of Government Ethics, the system manager is the Director, Office of Government Ethics, Office of Personnel Management, 1717 H Street NW., Washington, D.C. 20419; and*

2. *For records filed with designated agency ethics officials the system manager is: Designated Agency Ethics Official, Headquarters, Department or Agency, Washington, D.C., (ZIP code).*

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Department or agency and component with which employed.

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should contact the appropriate system manager indicated above. Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Department or agency and component with which employed.

Individuals requesting access must also comply with the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Since the information in these records is updated on a periodic basis, most record corrections can be handled through established administrative procedures for updating the records. However, individuals can obtain information on the procedures for contesting the records under the provisions of the Privacy Act by contacting the appropriate system manager indicated above.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

a. The subject individual or by a designated person such as a trustee, attorney, accountant, or relative;

b. Federal officials who review the statements to make conflict of interest determinations.

c. *Persons alleging conflicts of interests and persons contacted during any investigation of the allegations.*

OPM/GOVT—9

SYSTEM NAME:

File on Position Classification Review Requests (Appeals) and Grade and Pay Retention Appeals.

SYSTEM LOCATION:

These records are located at the Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415, OPM's regional offices (see list of OPM regional office addresses in the Appendix), agency personnel offices (or other designated offices), and Federal records centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Current and former Federal employees who have filed requests for review of a position classification decision with Agency Compliance and Evaluation, Office of Personnel Management, an OPM regional office, or with their agency.

b. Current and former Federal employees who have filed a retained grade and rate of pay appeal with Agency Compliance and Evaluation, Office of Personnel Management.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains information or documents relating to the processing adjudication of a request for review of a position classification decision or retained grade and rate of pay appeal. The records may include information and documents regarding a personnel action of the agency involved, and the decision or determination rendered by an agency regarding the classifying of a position on whether an employee is to remain in a retained grade and rate of pay category. This system may also include transcripts of agency hearings and statements from agency employees.

Note.—*Agency files created when an employee requests review of a position classification decision, when the review decision is not subsequently forwarded to OPM for antoher review, are also covered by this system notice. If an agency creates a file when its employee submits a grade and pay retention appeal to OPM, that file maintained by the agency is also covered by this notice.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 5115 and 5366 of title 5, U.S. Code.

PURPOSE(S):

These records are primarily used to document the processing and adjudication of a request for review of a position classification or a retained grade and rate of pay appeal action. Internally, the Office may use these records to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to the Office of Management and Budget at any stage in the legislative coordination and clearance process in connection with private relief legislation as set forth in OMB Circular No. A–19.

c. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

d. To disclose information to any source from which additional information is requested in the course of adjudicating an appeal or request for a position classification review to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and to identify the type of information requested.

e. To disclose information to a Federal agency, in response to its request, in connection with the hiring, retention, or assignment of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

f. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

g. By the Office of Personnel Management or an agency in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

h. By the National Archives and Records Service [General Services Administration] in records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

i. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

j. *To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel, when requested in connection with appeals, special studies of the civil service and other merit systems, review of Office rules and regulations, investigations of alleged or possible prohibited personnel practices, and such other functions, e.g., as promulgated in 5 U.S.C. 1205 and 1206; or as may be authorized by law.*

k. *To disclose information to the Equal Employment Opportunity Commission when requested in connection with investigations into alleged or possible discrimination practices in the Federal sector, examination of Federal affirmative employment programs, compliance by Federal agencies with the Uniform Guidelines on Employee Selection Procedures, or other functions vested in the Commission by the President's Reorganization Plan No. 1 of 1978, and to otherwise ensure compliance with the provisions of 5 U.S.C. 7201.*

l. *To disclose information to the Federal Labor Relations Authority or its General Counsel when requested in connection with investigations of allegations of unfair labor practices or matters before the Federal Service Impasses Panel.*

POLICIES AND PRACTICES OF STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

These records are maintained in file folders and binders and on index cards, magnetic tape, and microfiche.

RETRIEVABILITY:

These records are retrieved by the subject individual's name, and the name of the employing agency of the individual on whom the record is maintained.

SAFEGUARDS:

These records are located in lockable metal filing cabinets or in a secured room, with access limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

Records related to a request for review of a position classification decision and retained rate of pay appeal files are maintained for seven years after closing action on the case. Some records are destroyed by shredding or burning while magnetic tapes are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director for Agency Compliance and Evaluation; Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415.

NOTIFICATION PROCEDURE:

Individuals wishing to inquire whether this system of records contains information about them should contact:

a. *For records pertaining to grade and pay retention appeals, the system manager shown above or the appropriate OPM regional office;*

b. For records pertaining to requests for review of an agency position classification decision, where the request for review was made only to the Office, the system manager shown above or the OPM regional office, as appropriate. (See list of OPM regional office addresses in the Appendix.)

c. For records pertaining to requests for a position classification review filed with an agency, whether or not a request for a review of the agency decision is filed with the Office, the agency personnel officer or other designated officer.

Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Date of birth.

c. Agency in which employed when the request for review or appeal was filed and the approximate dates of the closing of the case.

d. Kind of action (e.g., position classification review or retained grade and rate of pay appeal).

RECORD ACCESS PROCEDURES:

Individuals who have filed a position classification review request or a grade and pay retention appeal, must be provided access to the record. However, after the review or appeal has been closed, an individual may request access to the official copy of the record by writing the official indicated in the "Notification procedures section." Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Agency in which employed when the request for review or appeal was filed and the approximate date of the closing of the case.

c. Kind of action (e.g., position classification review or grade and pay retention appeal).

Individuals requesting access must also follow the Office's Privacy Act regulations regarding verification of identity and access to records (5 CFR 297.201 and 297.203).

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have previously been or could have been the subject of a judicial or quasijudicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the agency or administrative body ruling on the case, and will not include a review of the merits of the action, determination, or finding. Individuals wishing to request an amendment to their records to correct factual errors should contact the appropriate official indicated in the "Notification procedures section." Individuals must furnish the following information for their records to be located and identified:

a. Full name.

b. Agency in which employed when the request for review of appeal was filed and the approximate date of the closing of the case.

c. Kind of action (e.g., position classification review or retained grade and rate of pay appeal).

Individuals requesting amendment of their records must also follow the Office's Privacy Act regulations regarding verification of identity and amendment of records (5 CFR 297.201 and 297.208).

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RECORD SOURCE CATEGORIES:

a. Individual to whom the record pertains.

b. Agency and/or Office records related to the action.

c. Statements from employees or testimony of witnesses.

d. Transcript of hearings.

Appendix

An individual can obtain information regarding the location of systems of records that may contain personal information on him or her by contacting in person or in writing one of the offices indicated below that is nearest to where he or she resides.

Office of Personnel Management

Regional and Area Offices

Southeast Region

Richard B. Russell Federal Building, 75 Spring Street, S.W., Atlanta, Georgia 30303

Area Offices

Southerland Building, 806 Governors Dr. S.W., Huntsville, Alabama, 35801

Federal Building, 80 N. Hughey Avenue, Orlando, Florida 32801.

Federal Office Building, 275 Peachtree St., N.E., Atlanta, Georgia 30303.

600 Federal Place, Louisville, Kentucky 40202.

802 N. State St., Jackson, Mississippi 39201.

310 New Bern Ave., Raleigh, North Carolina 27601.

Federal Office Building, 334 Meeting St., Charleston, South Carolina 29403.

100 N. Main St., Memphis, Tennessee 38103.

New England Region

John W. McCormack Post Office and Courthouse Building, Boston, Massachusetts 02109.

Area Offices

Federal Building, 450 Main St., Hartford, Connecticut 06103.

Federal Building, Augusta, Maine 04330.

3 Center Plaza, Boston, Massachusetts 02108.

Federal Building, Portsmouth, New Hampshire 03801.

Federal-Post Office Building, Kennedy Plaza, Providence, Rhode Island 02903.

Federal Building, Burlington, Vermont 05401.

Great Lakes Region

Federal Office Building, 29th Floor, 230 South Dearborn St., Chicago, Illinois 60604.

Area Offices

219 S. Dearborn St., Chicago, Illinois 60604

U.S. Courthouse and Federal Building, 46 E. Ohio St., Indianapolis, Indiana 46204.

477 Michigan Ave., Room 565, Detroit, Michigan 48226.

Federal Building, Room 196, Fort Snelling, Twin Cities, Minnesota 55111.

U.S. Courthouse and Federal Building, Room 507, 200 W. 2nd Street, Dayton, Ohio 45402.

161 W. Wisconsin Ave., Milwaukee, Wisconsin 53203.

Southwest Region

1100 Commerce St., Dallas, Texas 75242.

Area Offices

Federal Building, 610 South St., New Orleans, Louisiana 70130.

421 Gold Ave., S.W. Albuquerque, New Mexico 87102.

210 NW. 6th St., Oklahoma City, Oklahoma 73102.

1100 Commerce St., Room 6B4, Dallas Texas 75242.

643 E. Durango Blvd., San Antonio, Texas 78206.

Rocky Mountain Region

Building 20, Denver Federal Center, Denver, Colorado 80225.

Area Offices

U.S. Post Office Building, 1845 Sherman Street, Denver, Colorado 80203.

130 Neill Ave., Helena, Montana 59601.

657 2nd Ave. North, Fargo, North Dakota 58102.

Federal Building-U.S. Courthouse, Room 201, 515 9th St., Rapid City, South Dakota 57701.

350 S. Main St., Room 484, Salt Lake City, Utah 84101.

1805 Capitol Avenue, P.O. Box 967, Cheyenne, Wyoming 82001.

Eastern Region

New Federal Building, 26 Federal Plaza, New York, New York 10007.

Area Offices

970 Broad St., Newark, New Jersey 07102.

26 Federal Plaza, New York, New York 10007.

U.S. Courthouse and Federal Bldg., 100 S. Clinton St., Syracuse, New York 13202.

U.S. Courthouse and Federal Office Building, Carlos A. Chardon St., Hato Rey, Puerto Rico 00918.

Mid-Atlantic Region

William J. Green, Jr., Federal Building, 600 Arch St., Philadelphia, Pennsylvania 19106.

Area Offices

Federal Office Building, 844 King St., Wilmington, Delaware 19801.

Federal Building, Lombard St. and Hopkins Place, Baltimore, Maryland 21201.

William J. Green, Jr., Federal Building, 600 Arch St., Philadelphia, Pennsylvania 19106.

Federal Building, 1000 Liberty Ave., Pittsburgh, Pennsylvania 15222.

Atlantic National Bank Building, 415 St. Paul Blvd., Norfolk, Virginia 23510.

Federal Building, 500 Quarrier St., Charleston, West Virginia 25301.

Mid-Continent Region

1256 Federal Building, 1520 Market St., St. Louis, Missouri 63103.

Area Offices

120 S. Market St., Wichita, Kansas 67202.

601 E. 12th St., Kansas City, Missouri 64106.

1520 Market St., St. Louis, Missouri 63103.

Western Region

525 Market Street, San Francisco, California 94105.

Area Offices

522 North Central Ave., Phoenix, Arizona 85004.

845 S. Figueroa Street, 3rd Floor, Los Angeles, California 90017.

650 Capitol Mall, Sacramento, California 95814.

880 Front Street, San Diego, California 92188.

525 Market Street, San Francisco, California 94105.

300 Ala Moana Boulevard, Book 50028, Honolulu, Hawaii 96850.

50 S. Virginia St., Box 3296, Reno, Nevada 89505.

Northwest Region

Federal Building, 26th Floor, 915 Second Avenue, Seattle, Washington 98174.

Area Offices

701 C Street, Box 22, Anchorage, Alaska 99513.

Federal Building, Room 376, 1220 S.W. 3rd St., Portland, Oregon 97204.

Federal Building, 26th Floor, 915 Second Ave., Seattle, Washington 98174.

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federal register

Tuesday
November 25, 1980

Part III

Environmental Protection Agency

Receipt of Seventh Report of the Interagency Testing Committee to the Administrator; Request for Comments on Priority List of Chemicals

V 45 N 025 80 UMI

V 45 NO 229 80 UMI

ENVIRONMENTAL PROTECTION AGENCY

[OPTS 41006; TSH-FRC 1680-1]

Seventh Report of the Interagency Testing Committee to the Administrator; Receipt of Report and Request for Comments Regarding Priority List of Chemicals

AGENCY: Environmental Protection Agency, (EPA).

ACTION: Notice.

SUMMARY: The Interagency Testing Committee (ITC), established under section 4(e) of TSCA, transmitted its Seventh Report to the Administrator of EPA on October 24, 1980. This report, which revises and updates the Committee's priority list of chemicals, adds two chemicals and two chemical categories to the list for priority consideration by EPA in the promulgation of test rules under section 4(a) of the Act and deletes one chemical that was icluded on the previous list. The Seventh Report is included in this Notice and the Agency invites interested persons to submit comments on the Report.

DATE: Comments should be submitted by December 26, 1980.

ADDRESS: Send comments to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20406, Toll Free 800-424-9065; in Washington, D.C. 554-1404.

SUPPLEMENTARY INFORMATION:

Background

Sec. 4(a) of TSCA authorizes the Administrator of EPA to promulgate regulations requiring testing of chemical substances in order to develop data relevant to determining the risks that such chemical substances may present to health and the environment.

Sec. 4(e) of TSCA established an Interagency Testing Committee to make recommendations of chemical substances to the Administrator of EPA for priority consideration for proposing test rules under Sec. 4(a). The Committee may at any one time designate up to 50 of its recommendations for special priority consideration by EPA. Within 12 months of that designation, EPA must initiate rulemaking to require testing or publish in the **Federal Register** its reasons for not doing so.

The Committee's initial recommendations to the priority list, of four substances and six categories of substances, were published in the **Federal Register** of October 12, 1977 (42 FR 55028). EPA's response to the initial recommendations appeared in the **Federal Register** of October 26, 1978, (43 FR 50134). The ITC's revisions to the initial list appeared in the Committee's Second Report and were published in the **Federal Register** of April 19, 1978 (43 FR 16684). Those revisions were the addition of four substances and four categories of substances to the priority list. EPA responded to the Second ITC Report on May 14, 1979 (44 FR 28095). In its Third Report, published in the **Federal Register** of October 30, 1978 (43 FR 50631), the Committee recommended the addition of one chemical substance and two categories of chemical substances to the priority list. In its Fourth Report the Committee recommended the addition of 11 individual chemicals and one category to its priority list, each designated for priority consideration by EPA. The ITC's Fifth Report was received by the Administrator on November 7, 1979. In its Fifth Report, the Committee recommended the addition of two individual chemicals and three categories of chemicals to its priority list, each designated for priority consideration by EPA. The ITC's Sixth Report was received by the Administrator on April 15, 1980. In the Sixth Report the Committee recommended the addition of one category of chemicals to its priority list. The ITC's Seventh Report was received by the Administrator on October 24, 1980.

EPA proposed health effects testing for chloromethane and chlorinated benzenes and tentatively decided not to require health effects testing of acrylamide. Notice of these actions appeared in the **Federal Register** of July 18, 1980 (45 FR 48510). In the notice proposing testing of chloromethane, EPA addressed all of the concerns of the ITC; thus chloromethane has been removed from the ITC Priority List. Acrylamide and the higher and lower chlorinated benzenes remain on the list because the ITC recommended environmental effects testing for these chemicals and EPA has not yet addressed the ITC's environmental testing recommendations.

Public Comments

The ITC's Seventh Report follows. EPA invites interested persons to submit comments on the ITC's new recommendations. The Agency requests comments be submitted no later than December 26, 1980. All comments received by that date will be considered by the Agency in determining whether to propose test rules in response to the Committee's new recommendations.

EPA also intends to hold a public meeting concerning the ITC report shortly after the conclusion of the comment period. A notice of the date, time and place of the meeting providing more details concerning its intended scope, will be published in the **Federal Register** at a later date. The meeting is intended to be a scoping conference to provide an early opportunity for the academic community, labor, industry, environmental groups, and the general public to make additional information available to EPA and to raise issues that are significant for a determination as to whether to propose testing.

Comments should bear the identifying notation OPTS-41006 and should be submitted to the Document Control Officer, Room 447, East Tower, Office of Pesticides and Toxic Substances, (TS-793), EPA, 401 M St., SW., Washington, D.C., 20460. All written comments will be available for public inspection in Room 447, East Tower at the same address, between 8:00 a.m. and 4:00 p.m., weekdays, except legal holidays.

Dated: November 13, 1980.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

Toxic Substances Control Act, Interagency Testing committee

Member agencies: Council on Environmental Quality, Department of Commerce, Environmental Protection Agency, National Cancer Institute, National Institute of Environmental Health Sciences, National Institute for Occupational Safety and Health, National Science Foundation, Occupational Safety and Health Administration.

Liaison agencies: Consumer Product Safety Commission, Department of Agriculture, Department of Defense, Department of the Interior, Food and Drug Administration, National Toxicology Program.

October 24, 1980.

The Honorable Douglas M. Costle,
Administator, U.S. Environmental Protection Agency, Washington, DC.

Dear Mr. Costle: I am pleased to present to you the seventh report of the TSCA Interagency Testing Committee. This report meets the statutory requirement under Section 4(e)(1)(B) of TSCA, which stipulates that the Committee shall make revisions in the Priority List, as it determines to be necessary, at least every six months.

In the Committee's seventh report, two chemicals (i.e., benzyl butyl phthalate and butyl glycolyl butyl phthalate) and two categories of chemicals (i.e., alkyltin compounds, and fluoroalkenes) are added to the Priority List. Based on your response to the Committee's earlier designation of chlormethane, this chemical is deleted from the Priority List. Although you have also responded to the Committee's designation of acrylamide and chlorinated benzenes, these chemicals remain on the Priority List for environmental effects testing. As a result of these actions, the Priority List now contains a total of 42 entries.

The Committee hopes that this seventh report is helpful to the EPA in its efforts to control toxic substances.

Sincerely yours,

James M. Sontag,

Chairman.

Seventh Report of the Toxic Substances Control Act Interagency Testing Committee to the Administrator, Environmental Protection Agency

October 1980.

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a. Alkyltin compounds
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c. Butly glycolyl butyl phthalate
d. Fluoroalkenes

Summary

Section 4 of the Toxic Substances Control Act of 1976 (TSCA, Pub. L. 94-469) provides for the testing of chemicals in commerce which may present an unreasonable risk of injury to health or the environment. It also provides for the establishment of a Committee, composed of representatives from eight designated Federal Agencies, to recommend chemical substances or mixtures to which the Administrator of the U.S. Environmental Protection Agency (EPA) should give priority consideration for the promulgation of testing rules. The Committee makes such revisions in the list (the Section 4(e) Priority List) as it determines to be necessary and transmits them to the EPA Administrator at least every six months.

As a result of its deliberations, the Committee is revising the TSCA Section 4(e) Priority List by the removal of one chemical and the addition of two chemicals and two categories of chemicals. Cholromethane is being removed from the list. The chemicals and categories of chemicals being added to the list are presented alphabetically, together with the types of testing recommended, as follows:

Chemical or category	Recommended studies
Alkyltin Compounds	Carcinogenicity, mutagenicity, reproductive effects, teratogenicity, developmental effects, chronic health effects, epidemiology, and environmental effects.
Benzyl butyl phthalate	Carcinogenicity, reproductive effects, and environmental effects.
Butyl glycolyl butyl phthalate	Reproductive effects, mutagenicity and other short-term tests for genotoxic effects, and environmental effects.
Fluoroalkenes	Carcinogenicity, mutagenicity, teratogenicity, reproductive effects, and other toxic effects.

Each of the new recommendations is being designated by the Committee for action by the EPA within twelve months of the date of this Seventh Report, as stipulated by TSCA.

TSCA Interagency Testing Committee

Statutory Member Agencies and Representatives

Council on Environmental Quality
No Representative
Department of Commerce
Orville E. Paynter, Member
Bernard Greifer, Alternate member
Environmental Protection Agency
Joseph Seifter, Member
Carl R. Morris, Alternate member [1]
National Cancer Institute
James M. Sontag, Member and Chairperson
National Institute of Environmental Health Sciences
Warren T. Piver, Member [2]
Dorothy Canter, Alternate member [3]
National Institute for Occupational Safety and Health
Vera W. Hudson, Member and Vice Chairperson
Alfred N. Milbert, Alternate member [4]
National Science Foundation
Sidney Draggan, Member
Occupational Safety and Health Administration
Patricia Marlow, Member [5]
Lucille Adamson, Alternate member [6]

Liaison Agencies and Representatives

Consumer Product Safety Commission
Joseph McLaughlin
Department of Agriculture
Homer E. Fairchild and Fred W. Clayton
Department of Defense
Bernard P. McNamara
Department of the Interior
Charles R. Walker
Food and Drug Administration
Allen H. Heim and Winston deMonsabert
National Toxicology Program
Dorthy Canter [3]

Committee Staff

Martin Greif, Executive Secretary [7]
Vacant, Administrative Technician

Support Staff

Ellen Siegler—Office of the General Counsel, EPA
Edward Zillioux—Office of Toxic Substances, EPA

The Committee acknowledges and is grateful for the assistance and support given to it by Bruce Means, EPA Office of Toxic Substances, and the staff of Enviro Control, Inc. (technical support contractor).

Seventh Report of the Toxic Substances Control Act Interagency Testing Committee to the Administrator, Environmental Protection Agency

October 1980.

Chapter 1. Introduction.

1.1 *Background.* The TSCA Interagency Testing Committee (Committee) was established under section 4(e) of the Toxic Substances Control Act of 1976 (TSCA, Pub. L. 94-469). The specific mandate of the Committee is to identify and recommend to the Administrator of the U.S. Environmental Protection Agency (EPA) chemcial substances or mixtures in commerce which should be tested to determine their potential hazard to human health and/or the environment. The Act specifies that the Committee's recommendations shall be in the form of a Priority List, which is to be published in the **Federal Register**. The Committee is directed to make revisions to the List, as it determines to be necessary, and to transmit such revisions to the EPA Administrator at least every six months after submission of the Initial List.

The Committee is comprised of representatives from eight statutory member agencies, five liaison agencies, and one national program. The specific representatives and their affiliations are named in the front of this report. The Committee's chemical review procedures and prior recommendations are described in previous reports (Ref. 1 through 7).

1.2 *Committee's activities during this reporting period.* The Committee

[1] Dr. Morris replaced Dr. Amy Rispin as the Alternate member on August 21, 1980.

[2] Dr. Piver changed from the Alternate member to the Member on May 15, 1980.

[3] Dr. Canter joined the Committee as the Alternate member of the National Institute of Environmental Health Sciences and as the Liaison representative of the National Toxicology Program on May 15, 1980.

[4] Dr. Milbert replaced Dr. Michael Blackwell as the Alternate member on April 24, 1980.

[5] Dr. Marlow replaced Dr. David Logan as the Alternate member on May 15, 1980, and was appointed the Member, replacing Dr. Victor Alexander, on July 17, 1980.

[6] Dr. Adamson replaced Dr. Patricia Marlow as the Alternate member on July 17, 1980.

[7] Mr. Greif joined the Committee Staff as Executive Secretary on July 28, 1980.

has continued to review chemicals from its second round of scoring (see Ref. 2 for methodology). A third round was completed in July 1980. In this latest scoring effort the Committee utilized, for the first time, the public (non-confidential) portion of the TSCA Chemical Substance Inventory for 1977. Essentially the same method for scoring chemicals was used in the third round as in earlier ones. Only high production chemicals reported in the public portion of the Inventory (i.e., those with annual production known to be in excess of 2 million pounds) were considered. Chemicals scored previously were excluded.

1.3 *Committee's previous reports.* Six previous Reports to the EPA Administrator have been issued by the Committee and published in the **Federal Register** (Ref. 2 through 7). A total of 39 entries (i.e., chemicals and categories of chemicals) has been designated for priority consideration by the EPA Administrator in those reports.

1.4 *The TSCA Section 4(e) Priority List.* The Committee is removing chloromethane from the Priority List because the EPA Administrator has responded to the Committee's recommendations (Ref. 8).

The EPA Administrator has responded to the Committee's recommendations for health effects testing of acrylamide (Ref. 9, 10). However, acrylamide remains on the List because the EPA has not yet responded, as required by section 4(e)(1)(B) of TSCA, to the environmental effects testing recommendation of the Committee.

The EPA Administrator has responded to the health effects testing recommendations of the Committee on the chlorinated benzenes (mono-, di-, tri-, tetra-, and penta-) (Ref. 8). However, the chlorinated benzenes remain on the List because the EPA has not yet responded, as required by section 4(e)(1)(B) of TSCA, to the environmental effects testing recommendation of the Committee.

With the removal of one chemical from the Priority List and the designation of two new chemicals and two new categories of chemicals, the Section 4(e) Priority List now contains 42 entries. The entries and the dates of their designation by the Committee are presented in Table 1. The deletion from the Priority List and the date of its deletion by the Committee are presented in Table 2.

Table 1.—*The TSCA Section 4(e) Priority List*

Entry	Date of designation
1. Acetonitrile	April 1979.
2. Acrylamide	April 1978.[b,4]
3. Alkyl epoxides	October 1977.[a]
4. Alkyl phthalates	October 1977.[a]
5. Alkyltin compounds	October 1980.
6. Aniline and bromo, cloro and/or nitro anilines.	April 1979.
7. Antimony (metal)	April 1979.
8. Antimony sulfide	April 1979.
9. Antimony trioxide	April 1979.
10. Aryl phosphates	April 1978.[b]
11. Benzidine-based dyes	November 1979.
12. Benzyl butyl phthalate	October 1980.
13. Butyl glycolyl butyl phthalate	October 1980.
14. Chlorinated benzenes, mono- and di-	October 1977.[a,c]
15. Chlorinated benzenes, tri-, tetra- and penta-	October 1978.[c]
16. Chlorinated naphthalenes	April 1978.[b]
17. Chlorinated paraffins	October 1977.[a]
18. Cresols	October 1977.[a]
19. Cyclohexanone	April 1979.
20. *o*-Dianisidine-based dyes	November 1979.
21. Dicholoromethane	April 1978.[b]
22. 1,2-Dichloropropane	October 1978.
23. Fluoroalkenes	October 1980.
24. Glycidol and its derivatives	October 1978.
25. Halogenated alkyl epoxides	April 1978.[b]
26. Hexachloro-1,3-butadiene	October 1977.[a]
27. Hexachlorocyclopentadiene	April 1977.
28. Hydroquinone	November 1979.
29. Isophorone	April 1979.
30. Mesityl oxide	April 1979.
31. 4,4'-Methylenedianiline	April 1979.
32. Methyl ethyl ketone	April 1979.
33. Methyl isobutyl ketone	April 1979.
34. Nitrobenzene	October 1977.[a]
35. Phenylenediamines	April 1980.
36. Polychlorinated terphenyls	April 1978.[b]
37. Pyridine	April 1978.[b]
38. Quinone	November 1979.
39. *o*-Tolidine-based dyes	November 1979.
40. Toluene	October 1977.[a]
41. 1,1,1-Trichloroethane	April 1978.[b]
42. Xylene	October 1977.[a]

[a] Responded to by the EPA Administrator in 43 FR 50134–50139.
[b] Responded to by the EPA Administrator in 44 FR 28095–28097.
[c] Responded to by the EPA Administrator in 45 FR 48524–48564.
[d] Responded to by the EPA Administrator in 45 FR 48510–48512.

Table 2.—*Removal from the TSCA Section 4(e) Priority List*

Removal	Date of removal
1. Chloromethane [a]	Oct. 1980.

[a] Responded to by the EPA Administrator in 45 FR 48524–48564.

References

1. Preliminary List of Chemical Substances for Further Evaluation. Toxic Substances Control Act Interagency Testing Committee, July 1977.

2. Initial Report to the Administrator, Environmental Protection Agency, TSCA Interagency Testing Committee, October 1, 1977. Published in the **Federal Register**, Vol. 42, No. 197. Wednesday, October 12, 1977. pp. 55026–55080. Corrections published in **Federal Register**, Vol. 42, November 11, 1977. pp. 58777–58778. The report and supporting dossiers also were published by the Environmental Protection Agency, EPA 560–10–78/001. January 1978.

3. Second Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, April 1978. Published in the **Federal Register**, Vol. 43, No. 76, Wednesday, April 19, 1978. pp. 16684–16688. The report and supporting dossiers also were published by the Environmental Protection Agency, EPA 560–10–78/002, July 1978.

4. Third Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, October 1978. Published in the **Federal Register**, Vol. 43, No. 210, Monday, October 30, 1978. pp. 50630–50635. The report and supporting dossiers also were published by the Environmental Protection Agency, EPA 560–10–79/001, January 1979.

5. Fourth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, April 1979. Published in the **Federal Register**, Vol. 44, No. 107, Friday, June 1, 1979. pp. 31866–31889.

6. Fifth Report of the TSCA Interagency Committee to the Administrator, Environmental Protection Agency, TSCA Interagency Testing Committee, November 1979. Published in the **Federal Register**, Vol. 44, No. 237, Friday, December 7, 1979. pp. 70664–70674.

7. Sixth Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency. TSCA Interagency Testing Committee, April 1980. Published in the **Federal Register**, Vol. 45, No. 104, Wednesday, May 28, 1980. pp. 35897–35910.

8. Chloromethane and Chlorinated Benzenes Proposed Test Rule: Amendment to Proposed Health Effects Standards. Published in the **Federal Register**, Vol. 45, No. 140, Friday, July 18, 1980. pp. 48524–48564.

9. Acrylamide: Response to the Interagency Testing Committee. Published in the **Federal Register**, Vol. 45, No. 140, Friday, July 18, 1980. pp. 48510–48512.

10. Assessment of Testing Needs: Acrylamide, Support Document for Decision Not to Require Testing for Health Effects, U.S. Environmental Protection Agency, Washington, D.C. 20460, EPA–560/11–8016, July 1980.

Chapter 2. Recommendations of the Committee

2.1 *Chemical substances and categories designated for action by the EPA.* As directed by section 4(e)(1)(B) of TSCA, the Committee is adding two chemical substances and two categories to the Section 4(e) Priority List. The designation of these entries was determined after considering the factors identified in section 4(e)(1)(A) and other available relevant information, as well as the professional judgment of Committee members. The recommended studies for these entries and the rationales to support the recommendations are given in section 2.2 of this report. In accordance with section 4(e) of TSCA, the Committee designates these entries for action by the EPA within twelve months of the date of this seventh Committee report.

2.2 *Recommendations and rationales.*

2.2.a *Alkyltin Compounds.*

Recommended Studies

Health.

Carcinogenicity
Mutagenicity
Teratogenicity
Reproductive effects
Developmental effects
Other chronic effects
Epidemiology

Environmental:

Environmental effects.

The recommended studies are conditional, based upon the considerations discussed below.

Studies for carcinogenic and mutagenic effects. One dialkyltin compound (i.e., dibutyltin diacetate) has been studied for carcinogenicity. The results of the study were inconclusive and the compound should be retested. Before long-term bioassay studies are recommended for other members of this category, short-term screening tests should be performed to determine and assess other genotoxic effects and to identify those compounds having a potential for causing mutations or otherwise altering genetic material.

Studies for reproductive, teratogenic, and developmental effects. Certain members of this category have produced reproductive effects in laboratory animals. Studies of these category members indicate that they reach and are transported across the blood-placental and blood-testicular organ barriers. Transport to and across these blood-organ barriers can affect reproduction and cause teratogenic and post-natal developmental effects. Studies of other members of this category are needed to assess their capacity to be transported across the relevant blood-organ barriers to determine their effect on reproduction, teratogenicity, and postnatal development.

Chronic health effects studies. Chronic health effects studies with laboratory animals have been performed on a limited number of the alkyltin compounds in this category. These studies indicate that exposure to certain members of this category caused adverse effects on the liver, lungs, kidney, and central nervous system. For those compounds tested, the observed response appeared to be related to the number of alkyl groups covalently bonded to the tin atom and the chemical composition of the alkyl group. Additional studies, however, are needed on the untested members of this category to determine their toxic effects on target organ systems. For those compounds that have been tested, observed systemic effects are a strong function of absorption, distribution, and retention at target organs. Therefore, attention should be given to different routes of exposure. In addition to these studies on target organ toxicity, biochemical studies are required to determine metabolic pathways, binding affinities to proteins and other macromolecules, and the ability of these chemicals to inhibit enzymatic processes necessary to cellular and organ function.

Epidemiological studies. No epidemiological studies on people engaged in the production of category members have been found in the open literature. Because of the known toxicity of several members of this category, retrospective and prospective studies are needed to determine the effects of occupational exposure to category members through inhalation and eye and skin contact.

Environmental studies. The discharge of members of this category to aquatic environments and the impact of this release on exposed plants and animals, either directly or indirectly, have not been adequately studied. Because these compounds are insoluble in water and have a very low vapor pressure, studies are needed to determine mechanisms for their transport, partitioning, and accumulation in food-chain organisms, and the transformation of category members by chemically and biologically mediated processes. In addition, studies with both the parent compounds and their transformed products are needed to determine the ranges of sensitivities for a wide variety of aquatic plants and animals, including representative invertebrates.

Category Identification

The general formula for compounds that comprise this category is:

R_nSnY_{4-n}

Where:

R represents an alkyl group containing one to eight carbon atoms covalently bonded to the tin atom.
n represents the number of alkyl groups covalently bonded to the tin atom; n can have a value between 1 and 4.
Y represents a singly charged anion or anionic organic group bonded to the tin atom.
Sn is the chemical symbol for the element tin.

The alkyl groups of commercially important alkyltin compounds are methyl, ethyl, *n*-butyl, and *n*-octyl groups. Table 1 lists these important compounds along with their production histories. Table 2 lists selected physical and chemical data for these compounds and their major commercial uses. Additional members of this category that have commercial value, but on which only limited data on their uses and production could be found, are presented in Table 3. The chemicals listed in Table 3 were derived from a report prepared for NIOSH (NIOSH, 1978) and from the TSCA Chemcial Substance Inventory.

BILLING CODE 5560-01-M

V 45 N 025 80 UMI

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Table 3 ADDITIONAL SELECTED COMMERCIALLY IMPORTANT ALKYLTIN COMPOUNDS

Reasons for recommendations

Act. A large body of literature exists on

In rats, skin absorption of a tributyltin

Table 1 ESTIMATED ANNUAL U.S. PRODUCTION HISTORY OF SELECTED ALKYLTIN COMPOUNDS (MILLION POUNDS PER YEAR)(a)

Year	Bu IOMA	Me IOMA	Bu LM	Bu Maleate	Oct. IOMA	Oct. Maleate	DBTDL	DBTH	TBTO	TBTF	Total
1965	2.3	--	1.0	0.22	--	--	0.6	--	0.86	--	5.0
1966	4.6	--	1.0	0.22	--	--	0.9	--	0.93	--	7.6
1967	4.9	--	0.9	0.48	--	--	1.2	--	1.20	--	8.7
1968	6.2	--	0.9	0.52	0.16	0.02	1.6	--	1.32	--	10.7
1969	7.1	--	0.9	0.57	0.20	0.03	2.0	--	1.50	--	12.3
1970	8.3	0.7	1.1	0.59	0.32	0.05	2.4	--	1.67	0.01	15.2
1971	8.2	1.4	1.1	0.62	0.37	0.06	2.8	--	1.97	0.02	16.6
1972	10.5	2.9	1.3	0.26	0.56	0.08	2.5	0.8	1.61	0.05	20.6
1973	10.1	4.0	1.3	0.22	0.62	0.08	3.0	0.9	1.98	0.08	22.8
1974	9.3	4.5	1.3	0.21	0.37	0.07	3.5	1.1	2.07	0.12	22.5
1975	7.0	4.0	1.0	0.20	0.50	0.07	3.0	0.9	1.40	0.30	18.4
1976	9.0	4.5	1.1	0.22	0.60	0.07	4.3	1.0	2.30	0.50	23.0
Total	87.5	22.0	12.9	4.33	3.70	0.53	27.8	4.7	18.81	1.08	183.4

Key to Notation:

Symbol	Chemical Name	Formula	CAS No.
Bu IOMA	Butyltin-tris(isooctylmercaptoacetate)	$C_4H_9\ Sn(SCH_2COOC_8H_{17})_3$ plus blends	25852-70-4
Me IOMA	Methyltin-tris(isooctylmercaptoacetate	$CH_3\ Sn(SCH_2COOC_8H_{17})_3$ plus blends	54849-38-6
Bu LM	Dibutyltin-bis(laurylmercaptide)	$(C_4H_9)_2\ Sn(SC_{12}H_{25})_2$	1185-81-5
Bu Maleate	Dibutyltin-bis(isooctylmaleate)	$(C_4H_9)_2\ Sn(O_2CCH = CHCO_2C_8H_{17})_2$	29575-02-8
Oct. IOMA	Di(n-octyl)tin-S,S'-bis(isooctylmercaptoacetate)	$(C_8H_{17})_2\ Sn(SCH_2COOC_8H_{17})_2$	26401-97-8
Oct. Maleate	Di(n-octyl)tin maleate polymers	$[(C_8H_{17})_2\ Sn(O_2CCH = CHCOO)]_x$	16091-18-2
DBTDL	Dibutyltin dilaurate	$(C_4H_9)_2\ Sn(O_2CC_{11}H_{23})_2$	77-58-7
DBTH	Dibutyltin-bis(2-ethyl hexoate)	$(C_4H_9)_2\ Sn(O_2CCH(C_2H_5)C_4H_9)_2$	2781-10-4
TBTO	Bis(tributyltin) oxide	$[(C_4H_9)_3\ Sn]_2O$	56-35-9
TBTF	Tributyltin fluoride	$(C_4H_9)_3\ SnF$	1983-10-4

(a) Midwest Research Institute, 1977.

Table 2 SELECTED PHYSICAL PROPERTIES AND PRODUCT USES OF SELECTED ORGANOTIN COMPOUNDS(a)

Compound	Appearance	Solubility		Product Uses			
		H_2O	Organic Solvents	Catalyst	Stabilizer	Biocide	Other
Monomethyltin-tris(isooctylmercaptoacetate)	Liquid				X		
Monobutyltin-tris(isooctylmercaptoacetate)	Liquid				X		
Dibutyltin-bis(laurylmercaptide)	Clear pale liquid	Insol.	Sol.		X		
Dibutyltin dilaurate	Liquid or low m.p. solid	Insol.	Sol.	X			5
Dibutyltin-bis(isooctylmaleate)	White powder	Insol.	Insol. in almost all solvents	X	X		5
Di(n-octyl)tin-S,S'-bis-(isooctylmercaptoacetate)	Clear yellow liquid	Insol.	Sol.		X		
Di(n-octyl)tin maleate polymers	Powder	Insol.	Sol.		X		
Bis(tributyltin) oxide	Yellow liquid	Insol.	Sol.	X		X	1,2,3,4,5,6
Tributyltin fluoride	White powder	Insol.	Sol.			X	
Dibutyltin-bis(2-ethyl hexoate)	Waxy white solid	Insol.	Sol.	X		X	

Other Use Code: 1. Flame resistant polymer 2. Wood preservative 3. Spreading coefficient of solder
4. Water repellent coating 5. Antioxidant or corrosion inhibitor 6. Adhesives preservative

(a) Source: Taken from Midwest Research Institute, 1977, which used the following references:
NIOSH, Occupational Exposure to Organotin Compounds, U. S. Department of HEW, No. 77-115, November 1976.
Kirk-Othmer Encyclopedia of Chemical Technology, 2nd ed., Vol. 20, John Wiley and Sons, New York, 1969.
M & T Chemicals, Inc., Rahway, New Jersey.
Tin Research Institute, Greenford, Middlesex, ENGLAND.

Table 3 ADDITIONAL SELECTED COMMERCIALLY IMPORTANT ALKYLTIN COMPOUNDS FOR WHICH PRODUCTION AND USE DATA WERE NOT COMPLETE[a]

Chemical Name	CAS Number	Formula
Monobutyltin trichloride	1118-46-3	$C_4H_9SnCl_3$
Monomethyltin trichloride	993-16-8	CH_3SnCl_3
Dibutyltin dichloride	683-18-1	$(C_4H_9)_2SnCl_2$
Dibutyltin dibutoxide	3349-36-8	$(C_4H_9)_2Sn(OC_4H_9)_2$
Dibutyltin-bis(laurylmaleate)	7324-75-6	$(C_4H_9)_2Sn(O_2CCH{=}CHCO_2C_{12}H_{25})_2$
Dibutyltin dinonylate	4731-77-5	$(C_4H_9)_2Sn(O_2CC_8H_{17})_2$
Dibutyltin dimethoxide	1067-55-6	$(C_4H_9)_2Sn(OCH_3)_2$
Dibutyltin oxide	818-08-6	$(C_4H_9)_2SnO$
Dimethyltin dichloride	753-73-1	$(CH_3)_2SnCl_2$
Dimethyltin oxide	2273-45-2	$(CH_3)_2SnO$
Dioctyltin oxide	870-08-6	$(C_8H_{17})_2SnO$
Dioctyltin dichloride	3542-36-7	$(C_8H_{17})_2SnCl_2$
Dimethyltin-bis(isooctylmercapto-acetate)	26636-01-1	$(CH_3)_2Sn(SCH_2COOC_8H_{17})_2$
Dimethyltin-bis(dodecylmercaptide)	51287-84-4	$(CH_3)_2Sn(SC_{12}H_{25})_2$
Tributyltin (2-hydroxypropyl maleate)	4342-30-7	$(C_4H_9)_3Sn(O_2CCH{=}CHCO_2CH_2CH(OH)CH_3)$
Tributyltin chloride	1461-22-9	$(C_4H_9)_3SnCl$
Tributyltin hydroxide	1067-97-6	$(C_4H_9)_3SnOH$
Tributyltin (2-methyl-2-propenoate)	2155-70-6	$(C_4H_9)_3Sn(O_2CC(CH_3){=}CH_2)$
Triethyltin hydroxide	994-32-1	$(C_2H_5)_3SnOH$
Trimethyltin chloride	1066-45-1	$(CH_3)_3SnCl$
Tetrabutyltin	1461-25-2	$(C_4H_9)_4Sn$
Tetraethyltin	597-64-8	$(C_2H_5)_4Sn$
Tetraoctyltin	3590-84-9	$(C_8H_{17})_4Sn$

(a) Sources: NIOSH, The Development of a List of Organometallics Found in the Workplace, Contract No. 210-76-0146. 1978.
EPA, TSCA Chemical Substance Inventory for 1977.

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Reasons for recommendtions

The alkyl groups covalently bonded to the tin atom of category members enhance the solubility of these compounds in organic solvents, increase their volatility, and facilitate their penetration of biological tissues. The chain length and number of alkyl groups bonded to the tin influence the physical-chemcial properties of these compounds and their rates of absorption, distribution, metabolism, excretion, retention, and accumulation in target organs. The role of anionic groups in the toxicity of these compounds is unknown.

Routes of exposure. The manufacture and uses of the category members represent the major routes of direct exposure. Most of the compounds listed in Table 1 occur as liquids and waxy solids, so exposure would occur by dermal or eye contact and by inhalation of aerosols. Several of the lower molecular weight compounds listed in Table 3 are volatile and exposure to them would occur by inhalation. Depending on the method of synthesis, commercial alkyltin category members may contain mono-, di-, tri-, and tetra-alkyltin compounds as impurities (Midwest Research Institute, 1977). In the United States there are two synthetic routes for the manufacture of alkyltin compounds, the Grignard method and the direct method. It is estimated that a total of 30,000 workers are exposed to all of the compounds that make up this category (NIOSH, 1976).

During synthesis and purification of final product compounds, workers may be exposed to the final products, intermediates, by-products, and reaction aids required for synthesis.

Unintentional exposure to category members may occur as a result of commercial uses of these compounds. For example, exposure may occur by the migration of these compounds from medical devices that are in contact with biological fluids (Guess and Haberman, 1968; Guess, 1970; Duke and Vane, 1968) and the migration from containers and packaging materials that are in contact with foods (Carr, 1969; Woggan et al., 1969).

Toxic effects of alkyltin compounds. In this discussion of toxic effects, only data for alkyltin compounds are presented. Other commercially important organometallic compounds of tin contain covalently bonded aromatic groups. Because these aryltin compounds are used primarily as fungicides, bactericides, and herbicides, they are regulated under the Federal Insecticide, Fungicide, and Rodenticide Act. A large body of literature exists on the toxic effects of the aryltin compounds (Kimbrough, 1976; NCI, 1978; Innes et al., 1969; Klimmer, 1964; Pate and Hays, 1968; Newton and Hays, 1968).

Toxic effects in humans. The chlorides of dibutyltin and tributyltin were reported to be highly irritating to the skin and eyes of workers employed as product material handlers (Lyle, 1956). Workers engaged in spray painting with latex paints containing bis(tributyltin) oxide reported eye irritation and irritation of the respiratory tract (Landa et al., 1973).

Much of the research on alkyltin compounds resulted from a poisoning incident that occurred in France in 1954 and claimed the lives of over 100 people. Death was linked to the ingestion of the drug Stalinon (Barnes and Stoner, 1959), taken for the systemic treatment of staphylococcal infections of the skin. The active ingredient in the drug was diethyltin diiodide, but it was discovered that the probable cause of death was the presence of triethyltin iodide, an impurity. Autopsied victims showed marked interstitial edema of the brain white matter, but with no apparent Wallerian degeneration of the nervous system tissues.

Experimental animal studies. Depending on their chemical composition and route of exposure, alkyltin compounds differ in the severity of their acute effects and the organs they affect. The trialkyltin compounds appear to be the most toxic, followed by the dialkyltin compounds, and finally the monoalkyltins. The tetraalkyltins are metabolized to their trialkyltin counterparts (Cremer, 1958), so their toxicity is dependent on their rate of metabolism. The trialkyltin compounds appear to affect the central nervous system in all animals species studied (Magee et al., 19570. The dialkyltin compounds do not affect all animal species in the same way (Barnes and Stoner, 1958; Calley et al., 1967; Verschuuren et al., 1966; Klimmer, 1964), but liver damage appears to be the most common effect. Exposure to high oral doses of monoalkyltins (4000 mg/kg) caused fatty degeneration and hyperemia in the kidneys of rats (Pelikan and Cerny, 1968a, 1970a, 1970b; Pelikan et al., 1970).

Inhalation studies with triethyltin bromide, tripropyltin bromide, and tributyltin bromide caused death by pulmonary edema in mice (Glass et al., 1942). Inhalation by rats of tributyltin bromide caused bronchitis and bronchogenic pneumonia (Igarashi, 1959).

In rats, skin absorption of a tributyltin compound produced liver damage, as well as a slight edema of the skin at the site of application (Pelikan and Cerny, 1968, 1969). Possible liver and kidney damage occurred in rabbits after dermal applications of tributyltin chloride, bromide, and iodide (Kawai, 1962).

Biochemical studies. In vitro studies have been conducted with several trialkyltin compounds. Their purpose was to study the inhibition of enzyme function and alterations of metabolic processes in an attempt to understand the relationship of these biochemical changes to observed disease endpoints.

It was suggested that, after exposure to triethyltin iodide, the edematous lesion in the white matter of the brain was due to interference in ATP utilization and inhibition of oxidative phosphorylation (Magee et al., 1957; Barnes and Magee, 1958; Cremer, 1970; Aldridge and Street, 1970). Inhibition of oxidative phosphorylation was thought to be due to the uncoupling of this process. This supposition is supported by studies on the binding of triethyltin to histidine molecules that comprise the "proton conducting tube" necessary for oxidative phosphorylation to occur (Rose and Lock, 1970). The capacity for other alkyltin compounds to inhibit enzymatic functions has not been examined adequately.

In studies with rats (Joo et al., 1969), exposure to triethyltin produced collapse of the blood-brain barrier. Its collapse was a function of the triethyltin concentration. the triethyltin compound may have caused increased permeability of the barrier and/or resulted in metablic disturbances in the brain.

Metabolism of alkyltin compounds occurs in the liver microsomes by the monooxygenase system (Kimmel et al., 1977). Metabolism involves the progressive dealkylation of these comounds, with the final liberation of Sn^{+4}. Inorganic tin appears to accumulate preferentially in the bone, with other sites being the lung, liver, and kidney (Hiles, 1974).

Carcinogenicity and mutagenicity. A carcinogenicity study of dibutyltin diacetate in rats and mice was inconclusive (NCI, 1979). No data on the mutagenicity of alkyltin compounds were found for bacterial assay systems. However, studies designed to use inhibition of bacterial growth as an indicator of mutagenicity gave negative results for the inorganic forms of tin that represent the +2 (stannous) and +4 (stannic) oxidation states (Nishioka, 1975; Kanematsu and Kada, 1978). The bacterial system was a recombination-deficient of *Bacillus subtilis* strains H17

(Rec$^+$, arg$^-$, and trp$^-$) and M45 (Rec$^-$, arg$^-$, and trp$^-$).

Reproductive, teratogenic, and developmental effects. Few studies were found on reproductive, teratogenic, and developmental effects resulting from exposure to alkyltin compounds. After inhalation exposure to tributyltin bromide, no effects were observed in the sex organs of male rats, but a marked atrophic destruction of the glandular epithelium and an increase in interstitial connective tissues of the uterus were observed in female rats (Iwamoto, 1960). No changes were observed in the ovaries. In a study with dioctyltin-S,S'-bis(isooctylmercaptoacetate), an increased number of resorptions and fetal deaths were observed as a result of oral administration of the compound to pregnant rats (Nikonorow et al., 1973).

Environmental Effects. No data were found in the open literature on the environmental degradation of alkyltin compounds.

Soil mobility tests have been conducted to determine the capacity of certain category members to be transported from land burial sites (Midwest Research Institute, 1977). Leaching tests indicated that the compounds are tightly bound by clay and organic matter in soil and are immobilized, but a complete analysis of all soil factors that influence transformation and transport of these compounds into ground water was not reported.

Many species of fresh-water fish are sensitive to low levels of tributyltin compounds. For example, the 24-hour LC_{50} for rainbow trout to tributyltin oxide is reported to be 0.027 ppm (EPA, 1973). Other aquatic organisms may be tolerant to low levels of these alkyltin compounds, but they have not been identified. Before the impact of exposure to low levels of these compounds can be understood, acute toxicity data are needed for a broader range of aquatic organisms. Such data will identify sensitive and tolerant species and narrow the number of important food-chain species that need additional bioaccumulation and chronic toxicity studies.

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2.2.b. *Benzyl Butyl Phthalate.*

Recommended Studies

Health:

Carcinogenicity.
Reproductive effects.

Environmental:

Environmental effects.

Substance Identification: CAS No. 85–68–7.

Reasons for Recommendations

The evidence from one study suggests that an increased incidence of leukemias in female rats may have been related to their exposure to benzyl butyl phthalate (BBP). The parallel study in male rats was inadequate due to excessive toxicity and mortality among the animals treated with BBP. These results indicate a need for a more thorough evaluation of the potential carcinogenicity of BBP.

Toxicity data suggest that BBP may influence mammalian reproductivity. Other phthalate esters have been reported to produce testicular effects in both male rats and mice and decreased fertility in male mice. These findings indicate the need to test BBP for its potential reproductive effects.

Little information is available on the environmental effects of BBP. Structurally similar phthalate esters, however, are toxic to aquatic organisms in the parts per billion range and accumulate in aquatic plant and animal tissues. This information indicates the need for further environmental monitoring and testing of BBP. Chronic toxicity to aquatic organisms and potential effects on reproduction should be emphasized.

Production, usage, and exposure. The BBP production for 1977 was reported in the public portion of the TSCA Chemical Substance Inventory to be in the range of 101 million to 510 million pounds. It is used primarily as a plasticizer in medical and dental devices, synthetic leather, and sealing and coating applications. The National Occupational Hazards Survey (NOHS) estimates that 68,500 workers are exposed to BBP (NIOSH, 1980).

Carcinogenicity. An elevated incidence of leukemias was reported in female rats treated with BBP (NCI, 1980a). The report stated that BBP "* * * was not clearly carcinogenic for female F344 rats; however, existing evidence suggests that the leukemias of the hematopoietic system may have been related to the administration of the test chemical." In the same study, the test in male rats was considered to be inadequate because of excessive toxicity and mortality among the treated animals. In the male rats, however, abnormal effects in the hematopoietic system was observed. No carcinogenic effect was found in the male or female mice treated with BBP. In another study, di(2-ethylhexyl)phthalate was reported to be carcinogenic in rats and mice (NCI, 1980b).

In the strain A mouse pulmonary adenoma induction system, BBP failed to produce a significant incidence of lung tumors among the treated animals (Theiss et al., 1977).

In view of the inconclusive findings in the long-term rat study, the Committee recommends that a more thorough evaluation of the potential carcinogenicity of BBP be undertaken.

Reproductive effects. A slight reduction in testicular weight was observed in male mice treated with BBP (Calley et al., 1966). Other phthalate esters have been reported to produce testicular atrophy in both male rats and mice (Carter et al., 1977; NCI, 1980b) and decreased fertility in male mice (Oishi and Hiraga, 1980). Based on these findings, the Committee recommends that BBP be tested for its potential reproductive effects.

Environmental effects. A study of the toxicity of BBP on aquatic organisms demonstrated that BBP affects the reproduction of *Daphnia magna* and the growth rates of algae, diatoms, and daphnids (Gledhill et al., 1980). The extent to which BBP affects these organisms is important since many fish and shellfish are dependent on their availability as a food source.

A bioconcentration factor of 663 was observed for BBP at equilibrium in bluegills exposed to the compound (Borrows et al., in press, as quoted in Gledhill et al., 1980).

The log of the octanol/water partition coefficient for BBP (4.8) approximates the log K_{ow} of di(2-ethylhexyl)phthalate (DEHP). DEHP has been shown to bioaccumulate rapidly in a number of aquatic plants and animals and to biodegrade slowly in algae, diphnids, mosquito larvae, snails, and clams (Metcalf et al., 1973). Low pH and anaerobic conditions prolong environmental degradation, which suggests that phthalic acid esters may persist in aquatic sediments (Bower et al., 1970; Habermann et al., 1968).

For the above reasons, and because of BBP's high production volume, environmental effects testing is recommended. Because of BBP's likely persistence in the environment, chronic toxicity to aquatic organisms and potential reproductive effects in terrestrial animals should be emphasized, although this recommendation is not limited only to these areas.

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2.2.c. *Butyl glycolyl lbutyl phthalate.*

Recommended Studies

of chromatid gaps, chromosomal breaks,

Mayer et al., 1977; Mayer and Sanders,

male rats. Bull. Environ. Contam. Toxicol. 21:65–67.

short-term studies are necessary to clarify the genotoxic effect of members

Recommended Studies

Health:

Mutagenicity and other short-term tests for genotoxic effects.
Reproductive effects.

Environmental:

Environmental effects.

Substance Identification: CAS No. 85–70–1

Reasons for Recommendations

A significant number of chromatid gaps in Chinese hamster cells in vitro was reported in one study of butyl glycolyl butyl phthalate (BGBP). In another study, increased incidences of chromatid gaps, chromosomal breaks, and translocations in vitro were reported. The results of these studies indicate the need for further evaluation of BGBP in short-term studies for potential genotoxic effects.

Little information is available on the potential reproductive effects of BGBP. Data on other phthalate esters suggest toxicity that may influence mammalian reproductivity, including testicular effects in both male rats and mice and decreased fertility in male mice. These data indicate the need to determine the potential reproductive effects of BGBP.

No information was found on the environmental effects of BGBP. Structurally similar phthalate esters, however, are toxic to aquatic organisms in the parts per billion range and accumulate in aquatic plant and animal tissues. Such information indicates the need for further environmental monitoring and testing of BGBP. Chronic toxicity to aquatic organisms and potential effects on reproduction should be emphasized.

Production, usage, and exposure. BGBP production for 1977 was reported in the public portion of the TSCA Chemical Substance Inventory to be in the range of 1 million to 10 million pounds. It is used primarily as a plasticizer fopr polyvinyl resins. Plastics containing BGBP are used for building and construction materials, home furnishings, and medical and dental devices, including PVC tubing, plastic storage bags, and acrylic dentures. The National Occupational Hazards Survey (NOHS) estimates that 5,500 workers are exposed to BGBP (NIOSH, 1980).

Mutagenicity and other short-term tests for genotoxic effects. Chromatid gaps were observed in Chinese hamster cells exposed in vitro to BGBP (Odashima and Ishidate, 1975, as quoted by Omori, 1976; the original publication of the results could not be located for review). In another study (Ishidate and Idashima, 1977), an increased incidence of chromatid gaps, chromosomal breaks, and translocations was observed in Chinese hamster cells exposed in vitro to BGBP. The results were considered suspicious by the authors, but not conclusive of a treatment-related effect.

Neither DNA repair damage nor mutagenic effects were observed following exposure of *Bacillus subtilis* or *Escherichia coli* to BGBP (Kurata, 1975). These results are inconclusive because of inadequacies in the test design. Other phthalate esters have been reported not to be mutagenic in bacterial assay systems. Benzyl butyl phthalate was reported not to be mutagenic for *E. coli* (Kurata, 1975), while the carcinogenic di(2-ethylhexyl)phthalate was not mutagenic for *Salmonella typhimurium* (Simmon et al., 1977).

In view of the above findings, the Committee recommends that additional short-term studies be conducted to evaluate the genotoxicity of BGBP.

Reproductive effects. BGBP was reported to increase the percentage of resorptions of rate embryos following intraperitoneal injection on the 5th, 10th, and 15th days of gestation (Singh et al., 1972). Fetus weight decreased at all dose levels. In the same study, administration of BGBP to female rats did not interfere with fertility, as reflected by the ratio of corpora lutea to implantation sites.

Available data on other phthalate esters suggest toxicity that may influence mammalian reproductivity. These esters have been shown to produce testicular atrophy in both male rats and mice (Carter et al., 1977; NCI, 1980), decreased fertility in male mice (Oishi and Huiraga, 1979), reduced testicular weight in male mice (Calley et al., 1966), and increased relative testicular weight in male mice (Oishi and Hiraga, 1980).

The above findings indicate the need to test BGBP for its potential reproductive effects.

Environmental effects. The log of the octanol/water partition coefficient for BGBP (4.4) approximates the log k_{ow} of di(2-ethylhexyl) phthalate (DEHP). DEHP has been shown to bioaccumulate rapidly in a number of aquatic plants and animals and to biodegrade slowly in algae, daphnids, mosquito larvae, snails, and clams (Metcalf et al., 1973). Low pH and anaerobic conditions prolong environmental degradation, which suggests that phthalic acid esters may persist in aquatic sediments (Bower et al., 1970; Habermann et al., 1968).

The literature on other phthalate esters indicates that some of them can produce adverse effects in aquatic organisms at concentrations in the parts per billion range (Johnson et al., 1977; Mayer et al., 1977; Mayer and Sanders, 1973).

Because of the lack of environmental effects data on BGBP and because of its structural similarity to phthalate esters that persist and/or are toxic at low concentrations, environmental effects testing is recommended. Particular attention should be given to effects on reproduction in terrestrial animals and to chronic toxicity in aquatic organisms, although this recommendation is not limited only to these areas.

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2.2.d. *Fluoroalkenes.*

Recommended Studies

Health:

Carcinogenicity.
Mutagenicity.
Teratogenicity.
Reproductive Effects.
Other Toxic Effects.

Category Indentification

This category is defined as fluoroalkenes of the general formula:

$C_nH_{2n-x}F_x$

Where n equals 2 or 3 and x equals 1 to 6. Six fluoroalkenes, meeting the category definition, were identified in the public portion of the TSCA chemical Substance Inventory. This category includes those six fluoroalkenes (shown below) but is not limited to them:

Chemical	CAS No.
Tetrafluoroethene	116–14–3
Trifluoroethene	359–11–5
Vinylidine fluoride (VDF)	75–38–7
Vinyl fluoride (VF)	75–02–5
Hexafluoropropene	116–15–4
Trifluoromethylethene	677–21–4

Reasons for Recommendations

There is little information on the toxicity of compounds in this category. The testing of vinyl fluorides has generally been given low priority because of the lack of reactivity of compounds with the carbonfluorine bond. However, the substitution of additional fluorines onto the vinyl carbon leaves it susceptible to nucleophilic attack and thereby capable of direct alkylation, possibly of DNA and other cellular constituents.

Since several vinyl halides have been reported to be carcinogenic, vinyl halides are generally regarded as suspect. A recent report described VDF as a carcinogen in rats. Other studies are needed to clarify the carcinogenicity of category members.

Mutagenicity experiments were found on only two compounds. Additional short-term studies are necessary to clarify the genotoxic effect of members of this category.

Other studies have shown that certain category members act as weak anesthetics, release fluoride ion, and cause kidney damage. The toxic effects in experimental animals of acute inhalation of VF and VDF are enhanced after induction of liver enzymes. Given the demonstration of adverse health effects by certain category members, along with the strong suspicion engendered from analogy with other vinyl halides, appropriate members of this category should be tested in the recommended studies.

Production, usage, and exposure. A substructure search was made of the public portion of the TSCA Chemical Substance Inventory for chemicals within the category definition. A total of six chemcials was identified in the Inventory (Table 1). Data on production volume were not available on four chemicals and were incomplete for the other two.

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Chemicals in this category are used primarily in the synthesis of polymers

$(CF_2)_2C=CF_2 > CF_2CF=CF_2 > CF_2=CF_2 > HFC=CF_2 > H_2C=CF_2 > H_2C=CHF$

In a study of the ability of VDF to transform BALB/3T3 cells, one set of

Table 1 SELECTED CHEMICAL AND ECONOMIC INFORMATION ON CATEGORY MEMBERS

Name CAS No.	Structure	Molecular Weight	Boiling Point(1)	Consumption lb/yr U.S. Production(2)	Occupational Exposure(3)	Major Uses (4)
Tetrafluoroethene 116-14-3	$F_2C=CF_2$	100.2	-76°C	10-50 million	5,000	Monomer for polytetrafluoroethylene.
				2 manufacturers(5)	No information	No information
Trifluoroethene 359-11-5	$HFC=CF_2$	82.0	-51	2 manufacturers(5)	19,000	Monomer for polyvinylidine fluoride. Also copolymerized with other monomers.
Vinylidine fluoride (1,1-difluoroethene) 75-38-7	$H_2C=CF_2$	64.0	-82	1 manufacturer(5)	No information	Monomer for polyvinyl fluoride. Also copolymerized with other monomers.
Vinyl fluoride (fluoroethene) 75-02-5	$H_2C=CHF$	46.0	-72	1-10 million Some imported	224	Monomer for copolymerization, to impart nonflammability and nonoxidizing characteristics. Intermediate in organic synthesis
Hexafluoropropene (1,1,2,3,3,3-hexafluoro-1-propene) 116-15-4	$F_2C=CF-CF_3$	150.0	-29	1 manufacturer(5)	No information	No information
Trifluoromethylethene (3,3,3-trifluoro-1-propene) 677-21-4	$F_2C=CH-CF_3$	96.0	-16(-18)	1 manufacturer(5)	No information	No information

NOTES:
(1) Lovelace et al., 1958
(2) TSCA Chemical Substance Inventory (EPA, 1977)
(3) NIOSH, 1980
(4) Matheson Gas Data Book. 5th ed. 1971; West and Holcomb, 1979
(5) No production data provided in the public portion of the TSCA Chemical Substance Inventory (EPA, 1977)

BILLING CODE 6560-01-C

Chemicals in this category are used primarily in the synthesis of polymers and copolymers with high resistance to heat and corrosion. The usage patterns of the polymers (e.g., in the automotive industry and in pollution control) would indicate an increasing demand for these chemcials (West and Holcomb, 1979).

The United States has no occupational exposure limits for category members. A Russian study showed that the workplace concentration of fluorinated aliphatic hydrocarbons, including tetrafluoroethene and polymers based on these compounds, exceeded that country's acceptable limits by significant amounts (Filicheva, 1975).

The Committee concludes that the lack of exact production and usage information on some category members is insufficient cause to defer designation of the category. The fact that certain members are known to be produced in large volumes, the potential health effects of these chemicals, and the widespread use of products derived from these monomers necessitate an adequate assessment of the toxicity of members of this category.

Chemical and biochemical considerations related to toxicity. The tendency of halogenated alkenes to undergo chemical transformation to epoxides is a function of both the electron-withdrawing characteristic of the halogen constituents and their locations relative to the olefinic linkage. The enzymatic formation of epoxides is believed to be an important step in the activation of halogenated alkenes to a form that can alkylate active sites on nucleotides and peptides. It has been observed, however, that increasing the electron-withdrawing strength of a halogen substituent results in a decrease in the susceptibility of the olefinic linkage to epoxidation. Among the halogens, fluorine exerts the greatest electron-withdrawing strength. Thus, as the number of substituent fluorines is increased, the ease of epoxidation would be expected to decrease. However, as the number of fluorines is increased, it has been observed that the potential for nucleophilic attack at the olefinic carbon and the order of observed reactivity increase with intermediate carbanion stability (Cook and Pierce, 1973). For example, the following order of nucleophilic susceptibility would be expected: [1]

$(CF_3)_2C=CF_2 > CF_3CF=CF_2 > CF_2=CF_2 > HFC=CF_2 > H_2C=CF_2 > H_2C=CHF$

This rank order has been reported to follow that of the acute toxicities of these compounds (Cook and Pierce, 1973; Chambers and Mobbs, 1965; Clayton, 1977). One report on vinyl fluorides describes the ease with which the carbon-fluorine bond can be broken (Chambers and Mobbs, 1965). For example, fluoro-olefins react quite readily with amines, thiols, and, in the presence of a base, with alcohols to give saturated and unsaturated products. It has been suggested that the high susceptibility of perfluoroisobutene to nucleophilic attack might give rise to its extremely high toxicity (Clayton, 1977).

In summary, category members may be biologically reactive by alkylation through epoxide formation and through direct displacement of the fluorine ion.

Carcinogenicity. One report describes the experimental evidence for the carcinogenicity of VDF in rats (Maltoni and Tovoli, 1979). Although tumors of fat tissue were found in the treated animals, certain features of the study are questionable. In another study, VDF was reported to produce premalignant hepatocellular lesions in rats (Stockle et al., 1979).

Two reports presented evidence showing that, in rats pretreated with PCB, VF caused liver toxicity similar to that of vinyl chloride (Conolly and Jaeger, 1977; Conolly et al., 1978). Pretreatment with trichloropropane epoxide enhanced VF toxicity. These findings suggest that the toxicity of VF may be mediated through epoxide intermediates.

The Committee concludes that the above studies raise concern about the potential carcinogenic activity of category members. The Committee, therefore, recommends that members of this category be tested for carcinogenicity.

Mutagenicity. Both VF and VDF have been reported to be mutagenic, without metabolic activation in *Escherichia coli*, producing a response of up to 100 times the spontaneous mutation rate (Landry and Fuerst, 1968). In another study, VF was found to cause a marginal increase over the spontaneous mutation frequency of *Salmonella typhimurium* TA–100 (Bartsch et al., 1979). In a third study, VF was reported not to be mutagenic in *S. typhimurium* strains TA–1535, TA–1537, TA–1538, TA–98, and TA–100, with and without metabolic activation (Mortelmans and Riccio, 1979). VDF was found to exhibit mutagenicity in *S. typhimurium* TA–1535, both with and without metabolic activation (Jagannath and Brusick, 1977).

In a study of the ability of VDF to transform BALB/3T3 cells, one set of test plates showed a series of increased numbers of transformed colonies (Matheson and Brusick, 1978). However, the authors concluded that VDF was inactive in this study.

Based on these varying and inconclusive findings, the Committee recommends that appropriate short-term tests be undertaken to assess the genotoxic effects of members of this category.

Teratogenic and reproductive effects. No reports were found of studies investigating the teratogenic and reproductive effects of fluoroalkenes. Based on the biological activity of members of this category and the lack of information on these effects, the Committee recommends that appropriate tests for teratogenic and reproductive effects be undertaken.

Other toxic effects. The acute inhalation toxicity of fluoroalkenes varies widely (Clayton 1962, 1967, 1968, 1977). Tetrafluoroethene and hexafluoropropene were reported to impair renal function in rats.

Five fluoroalkenes [2] were reported to be metabolized when inhaled by male rats (Dilley et al., 1974). A cyclic excretion of fluoride ion 4–6 and 12–14 days post-exposure was observed. The fluoroalkene exposure produced an increase in urinary potassium ion and diuresis, which persisted for 2 weeks. Chronic exposure to fluoroalkenes may be of concern since the fluoride ion release affects the kidney, causing potassium depletion which may eventually affect the cardiovascular system. Based on these reports, the Committee recommends that members of this category be assessed for chronic health effects, with particular emphasis on the renal and cardiovascular systems.

Environmental Effects. No data on environmental effects were found in the literature. However, from data on structure-activity relationships, the 96-hour LC_{50} to fathead minnows of VDF has been estimated to be greater than 100 mg/l (Veith, 1980; EPA, 1980). This estimated low acute toxicity suggests that aquatic testing is not warranted. The high volatility and other chemical characteristics of the category members indicate that persistence and bioaccumulation are not of concern in aquatic environments.

When released into the atmosphere, fluoroalkene molecules degrade at a moderate rate. For example, the half-life

[1] The position of $CF_2CH=CH_2$ in this rank order is not readily apparent.

[2] Hexafluoropropene, tetrafluoroethene, trifluoroethene, vinylidene fluoride, and vinyl fluoride.

of VDF, calculated from rate constants, is slightly less than one week (Howard, 1976). The reactive atmospheric components (ozone, hydroxyl radicals, and atomic oxygen) attack the fluoroalkenes by adding to or cleaving the molecule at the double bond to produce products such as carbonyl fluoride (Huie et al., 1972). Based on the above considerations, the Committee does not recommend environmental effects studies for category members.

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Part IV

Environmental Protection Agency

Clean Air Act Emission Warranties; Voluntary Aftermarket Part Self-Certification Regulations

V 45 N O 225 80 0 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 85

[EN-FRL 1647]

Clean Air Act Emission Warranties; Voluntary Aftermarket Part Self-Certification Regulations

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: These regulations establish a voluntary aftermarket part self-certification program (hereinafter "Part Certification Program") as required by Section 207(a)(2) of the Clean Air Act. The primary purpose of the Part Certification Program is to reduce the potential adverse economic impact on the automotive aftermarket industry that could result from implementation and enforcement of the section 207 Clean Air Act emission warranties, while at the same time assuring that certified parts do not cause vehicles to exceed Federal emission standards.

The Part Certification Program should accomplish this goal by enabling part manufacturers, on the basis of quick and inexpensive, but reliable means, to serve notice to the public that there parts are equivalent to the original equipment parts with respect to their impact on emissions, and further that no emission warrantly claim may be denied by a vehicle manufacturer on the basis of the ues of that part.

Thus, the Part Certification Program should allow full implementation of the emission warranties without disrupting the competitive structure of the automotive aftermarket industry.

DATES: These regulations shall become effective December 26, 1980.

ADDRESS:

Public Docket: Copies of materials relevant to this rule are contained in Public Docket EN-79-8 at the Central Docket Section of the U.S. Environmental Protection Agency, West Tower Gallery One, Waterside Mall, 401 "M" Street, SW., Washington, D.C. 20460, and are available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Mr. David M. Feldman, Field Operation and Support Division (EN-397), U.S. Environmental Protection Agency, 401 "M" Street, SW., Washington, D.C. 20460, (202) 472-9350.

SUPPLEMENTARY INFORMATION:

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I. Explanatory Statement

A. Background

Section 207(a) of the Clean Air Act, 42 U.S.C. 7541, requires the Environmental Protection Agency (hereinafter "EPA" or "the Agency") to promulgate regulations under which a manufacturer of aftermarket parts may certify that installation of their parts will not cause a vehicle to fail to comply with applicable emission standards. Proposed regulations to establish the Part Certification Program were published on August 8, 1979 at 44 FR 46686 (hereinafter "Proposal"). The Proposal was issued after numerous consultations with the affected industries. In fact, the Proposal itself was based in great part upon a Part Certification Program proposed to EPA by the Automotive Liaison Council (ALC) and the Automotive Products Emissions Committee (APEC). Although these groups consist primarily of representatives of the automotive aftermarket part manufacturing and service industries, they invited and received participation by vehicle manufacturers. In addition, prior to issuing the Proposal, the Agency considered comments received in response to a voluntary questionnaire that was circulated to the affected industry and published on July 9, 1973, at 38 FR 18264 and in response to an Advance Notice of Proposed Guidelines for a voluntary part certification program that was published on November 14, 1974, at 39 FR 40192.

The Agency invited both oral and written comments on the Proposal. A public hearing on the Proposal was held in Chicago, Illinois on October 3 and 4, 1979. In addition, the Proposal stated that EPA would accept written comments received on or before November 12, 1979. Although this comment period was in excess of that required by the Act, the Agency later granted requests by representatives of the automotive aftermarket industry for an extension of time to comment on the Proposal. See 44 FR 62915 (November 1, 1979). The extended period ended on January 15, 1980.

The Agency considered all comments received during the comment period. A summary and analysis of the comments may be found at VI-1, Public Docket EN-79-8. In addition, the major comments are discussed in the relevant sections of this preamble.

As previously stated, the primary purpose of the Part Certification Program is to reduce the potential adverse economic impact on the automotive aftermarket industry that could result from implementation and enforcement of the Section 207 emission warranties, while at the same time assuring that certified parts do not cause vehicle emissions to exceed Federal standards. The following is a brief explanation of the potential anticompetitive impacts of the warranties and a discussion of how the Part Certification Program will accomplish the above stated purpose.

Section 207(a)(1) of the Clean Air Act (herinafter "Act") requires all vehicle manufacturers to warrant that each new vehicle is free from defects in materials and workmanship which cause the vehicle to fail to meet applicable emission-related regulations for its useful life. In addition, Section 207(b) of the Act requires the Agency to promulgate regulations requiring vehicle manufacturers to warrant the emission control devices and systems of each new vehicle such that if the vehicle, although maintained and used in accordance with the manufacturer's written instructions, fails an EPA-approved emission short test, the cost of repairing the emission control devices or systems will be borne by the vehicle manufacturer. These regulations have been promulgated at 45 FR 34829 (May 22, 1980) and took effect beginning with 1981 model year vehicles.

The use of inferior quality parts can cause a vehicle to exceed emission standards in one of two ways. First, a part, such as a catalytic converter, can directly cause the vehicle to exceed emission standards by failing to perform in the same manner as the original equipment part (hereinafter "OE part"). Second, a part can indirectly cause emission standards to be exceeded by operating in a manner adversely affecting another part, which in turn causes vehicle emissions to increase.

Vehicle manufacturers, in order to protect themselves from being required to pay for warranty repairs necessitated by the use of inferior parts, have

specified in the maintenance and use instructions provided to new vehicle owners that vehicles should be maintained and repaired with only OE parts or parts equivalent to OE parts. Further, these instructions have stated that the vehicle manufacturers will not be responsible for any emission warranty repairs necessitated by the installation of a non-equivalent part.

Prior to the issuance of these regulations, there was no way for vehicle owners to identify parts that were equivalent to OE parts from an emission standpoint. Therefore, although vehicle owners did not necessarily lose emission warranty coverage by using equivalent replacement parts, absent the Part Certification Program, the only way a car owner could be absolutely certain that his or her vehicle remained eligible for free emission warranty repairs was to use OE parts.

As a result of the situation discussed above, in December 1974, the House Subcommittee on Environmental Problems Affecting Small Business found that the maintenance and use instructions, coupled with the emission warranties, created a psychological and financial tie-in between the new car owner and OE parts for 5 years or 50,000 miles.[1] On the basis of this finding, the Subcommittee concluded that the 5 year/50,000 mile warranty provisions of the Act were anticompetitive and provided the means by which the major vehicle manufacturers could monopolize the authomotive aftermarket part industry to the serious detriment of the over 1,700 independent parts manufacturers and 22,000 wholesalers and distributors.

Because of Congress concern that the emission warranties could have an anticompetitive effect, Section 207(a) of the Act was amended in August 1977, to require EPA to promulgate regulations establishing an aftermarket part certification program under which part manufacturers could assure vehicle owners that use of their parts would not void the vehicle's emission warranties. These Part Certification Regulations fulfill that mandate.

B. General Comments

Many commenters supported the general concept of the Part Certification Program, although many of them objected to one or more of the particular provisions. On the other hand, a number of commenters criticized the concept of the Part Certification Program. Many of these parties, especially individual part manufacturers or service facilities, objected to the idea of government regulation extending to aftermarket parts. Much of their objection appeared to be based upon a belief that the Part Certification Program would be mandatory and might put significant portions of the automotive aftermarket parts industry out of business.

The Part Certification Regulations should not put any party out of business. The Part Certification Program will be voluntary. No party will be required to comply with any of the requirements of the Part Certification Program unless it choses to do so. No penalty will be assessed against any party choosing not to certify.

Some commenters, such as the Automotive Service Industry Association, allege that despite the fact that EPA will not require part manufacturers to certify parts, the Part Certification Program will still be compulsory. To support this assertion, these commenters point to the different treatment provided to certified parts and uncertified parts under the emission performance warranty regulations. Under the emission performance warranty, vehicle manufacturers are required to perform warranty repairs when the need for such repairs results from the use of a certified automotive aftermarket part. However, vehicle manufacturers may deny emission warranty claims when a repair is necessitated by a non-certified aftermarket part. This they state, will result in part manufacturers' being required to certify their parts to stay competitive with those manufacturers that do choose to certify their parts.

The Agency agrees that consumers who choose to use certified parts will receive protection beyond that provided to consumers who chose to buy non-certified parts. Moreover, the Agency agrees that this additional protection may result in vehicle owners' choosing to purchase certified parts over non-certified parts. However, the Agency does not agree that this amounts to making participation in the Part Certification Program mandatory rather than voluntary, as Congress had intended. As stated above, no party is required to certify their parts. Parties choosing not to certify may continue to sell their parts as they have before. As such, the program is not "compulsory."

The Clean Air Act states that no emission performance warranty may be invalid on the basis of use of a certified part. However, the Act is silent as to the effect of non-certified parts on the warranty. Therefore, EPA believes Congress intended for additional protection to be provided to consumers that purchase certified parts, while other parts are treated as they were prior to the regulations.

The Agency has reason to believe that the installation of a certified part will not cause a vehicle to exceed Federal emission standards, as any part tested as meeting the requirements of these regulations should not adversely impact vehicle emissions. On the other hand, the Agency has no basis upon which to judge the emission impact of a non-certified part installed on a vehicle. Therefore, the Agency believes that the different treatment afforded certified and uncertified parts in the emission performance warranty regulations is valid and in accord with the Act.

Each part manufacturer will, of course, use its own judgment whether to certify its parts. However, EPA has purposefully structured the program so that any party who manufactures sound parts and uses reasonable quality control should be able to certify with minimal expense or difficulty.

EPA's Section 207(b) emission performance warranty regulations prohibit vehicle manufacturers from denying warranty claims on the basis of certified parts. The vehicle manufacturers argued in their comments to this rulemaking that this prohibition is contrary to the Act and asserted that EPA placed too much significance on the Part Certification Program. In particular, the vehicle manufacturers argued that Congress did not intend that they be held responsible for certified parts which cause individual vehicles to exceed emission standards. The Agency does not agree. Section 207(b) of the Act clearly provides that no emission warranty claim shall be invalid on the basis of the use of a certified part. The rationales for this requirement, as well as its benefits, have been fully discussed during the rulemaking for the emission performance warranty cited above and are summarized at a later point in this document.

Some of the parties who supported the proposed ALC/APEC program in general believed that EPA departed from the spirit of the program by adopting certification requirements in the proposal that were additional to or different from those recommended in the ALC/APEC program. EPA realized that some of its proposed revisions to the ALC/APEC program were significant. However, the Agency made these changes in an effort to protect consumers who purchase the certified parts, and also to minimize the possibility that the use of these parts will cause in-use vehicles to exceed

[1] Subcommittee of the Permanent Select Committee on Small Business in a Report on the "Monopolistic Tendencies of Auto Emission Warranty Provisions" H.R. Rep. No. 628, 93d Cong., 2nd Sess. 30 (1974).

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A. General Applicability

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emission standards. EPA has carefully studied the comments relating to its revisions, and has made modifications in the final rule where appropriate. A discussion of the individual revisions is contained in the relevant sections of this preamble.

Some parties, particularly representative of the tire industry, also questioned EPA's decision that this regulation does not require a full Regulatory Analysis pursuant to the President's Executive Order 12044. Under the Executive Order, EPA would be required to prepare a full Regulatory Analysis if the regulation would have annual costs associated with it of more than $100 million for any of the first five years from the effective date, or if the regulation would cause a 5 percent increase in the cost of any item.

As stated in the Economic Analysis prepared in support of the Proposal, the costs associated with this program will be insignificant and are such that a Regulatory Analysis is not required. Further, the commenters failed to supply any significant economic data supporting their statements. If the costs of the program are as significant as alleged by certain members of the industry, then it is unlikely that any party will choose to certify its parts and, therefore, these costs will not be incurred. In any case, EPA has made modifications to the Proposal which should satisfy many of the cost-related concerns that were raised in the comments. These modifications are discussed in the appropriate sections of this preamble.

The Agency has made every attempt to minimize any burdens of the program on the affected industry. With minor modifications, the emission critical parameters and test procedures specified for demonstrating compliance with these parameters were developed by APEC. EPA believes that most, if not all, of this testing is little more than is presently being performed by much of the industry as sound quality control.

C. Outline of Certification Procedure.

The Part Certification Program is basically the same as that contained in the Proposal. The certification of parts pursuant to this program will be voluntary. Moreover, it will be a self-certification program. That is, all testing and evaluations necessary for certifying a part will be conducted by the part manufacturer. EPA will have only an oversight role. However, in its oversight role EPA may randomly purchase certified parts from retail outlets and perform the necessary tests on preselected parts to assure that these parts were properly certified.

Certification by the part manufacturer will be made on the basis of completion of the tests and analyses which demonstrate compliance with the applicable Emission Critical Parameters set forth in the regulations or on the basis of back-to-back emission testing. Once a manufacturer has complied with the requirements of these procedures, it may represent the applicable parts to the public as "certified to EPA standards." The use of parts certified in accordance with these regulations will assure continued emission warranty coverage.

Although the certification will be made by the part manufacturer and not EPA forty-five days prior to selling a part as certified, a part manufacturer will be required to send a notice of its intent to certify the part to EPA. EPA will put a copy of this notice in Public Docket EN–79–8. During the forty-five day period, EPA may object to the intent to certify, in which case more information will be required to be submitted to EPA. If EPA takes no action, or the part manufacturer adequately addresses all questions raised, the part manufacturer will be able to sell the part as certified without any further communication with the Agency. Thus, part certification will normally be automatic.

Because this is a self-certification program in which EPA, under normal circumstances, will not be directly involved, part manufacturers will be required to establish and maintain records which contains descriptions and results of all certification tests performed on the parts, as well as other information relating to the integrity of the parts and the certification procedures utilized. This information shall be available to EPA upon written request and may be considered by EPA when making determinations of whether a part should be decertified. The regulations provide criteria and procedures whereby EPA may decertify parts it determines are not in compliance with these regulations.

II. Specific Provisions

The major sections of the regulations are discussed below. Included in these discussions are the major comments made concerning each section, as well as the changes brought about by those comments. In addition, a summary and analysis of comments may be found at V1–1 Public Docket EN–79–8. A more detailed discussion of the basic provisions appears in the preamble to the Proposal, 44 FR 46686 (August 8, 1979).

A. General Applicability

Under the Proposal, any automotive aftermarket part that affects emissions, including tires, would have been eligible for certification. EPA received a great deal of negative comment on this broad applicability provision. Most of the comment concerned the inadvisability of certifying tires. Some commenters asserted that if tires could be certified, then surely mirrors which impact on wind resistance, shoud be eligible for part certification. Inclusion of such parts, the commenters stated, would complicate the program and lead to the entire program becoming ineffective.

Although virtually all of the commenters agreed that the proposed eligibility provision was too broad, they differed over exactly which components should be eligible for certification. The vehicle manufacturers took an extremely narrow view of what should be covered under the warranty. General Motors Corporation (hereinafter "GMC") asserted that certification should be limited to those parts covered by the Section 207(b) warranty for a vehicle's full useful life. GMC appears to have confused the intent of Congress in limiting the definition of "emission control devices and systems" for the purpose of emission performance warranty coverage under Section 207(b) with Congressional intent regarding eligibility under the Part Certification Program. Contrary to GMC's assertion, there is nothing in the Act or its legislative history indicating that Congress intended that the Part Certification Program should cover only those parts warranted for the full emission performance warranty period. Rather it is clear that Congress was well aware that other items, such as spark plugs, air cleaner elements, etc., impact upon a vehicle's ability to meet applicable emission standards and might be cited as a basis for denying an emission warranty claim at any time during a vehicle's useful life. Certainly Congress intended for these parts to be eligible for the certification program.

The Agency believes that to carry out the purpose of Section 207(b) it is important that no parts affecting emissions be excluded from the Part Certification Program. The Agency believes that if a part is of a kind that could fail in a manner that would cause a vehicle to exceed applicable emission standards, as adjudged by an applicable short test, then it should be eligible for certification. Otherwise, it could be argued that a vehicle owner would, in effect, be forced into purchasing an OE part or facing a possible warranty claim denial by a vehicle manufacturer on the

basis that his or her vehicle failed an emission short test as the result of a non-equivalent replacement part, rather than as a result of a failed "emission control device or system." The Agency believes that this is exactly the choice that Congress does not want the consumer to have to make.

Therefore, all emission-related components are eligible for the certification program. However, the final regulations have been revised to permit only parts for which EPA has identified Emission Critical Parameters to be certified.[2] This will prevent any potential abuse of the program by manufacturers of parts with no impact on emissions. More importantly, however, this limitation will prevent vehicle manufacturers from automatically certifying all emission-related components on a vehicle at time of sale and, thereby, obtaining a market advantage over independent part manufacturers who, without the availability of a simple and inexpensive bench test will be forced to conduct a full Federal Test Procedure to certify their parts or risk having car owners purchase only OE certified parts. (The vehicle manufacturers could have done this by asserting that the vehicle certification emission tests satisfy the emission-testing requirements of these regulations.) The Agency realizes that only a few parts presently have identified Emission Critical Parameters, but the Agency decided that this limitation is necessary to avoid the above-mentioned potential anticompetitive situation which could frustrate the "pro-competitive" intent of Section 207(a)(2) of the Act. The Agency hopes that APEC, individual part manufacturers, vehicle manufacturers or other interested parties will assist the Agency in developing standards for additional parts.

For the present, "add-on" and "modified" parts are not included in the Part Certification Program. This is because at present there are no Emission Critical Parameters identified for such parts. The Agency received numerous objections to the inclusion of these parts. Vehicle manufacturers do not believe they should be held responsible for such parts under the emission warranty. In addition, EPA also received comment from representatives of the add-on part industries indicating that full Federal testing would be so time-consuming and expensive that absent an alternative method of certification, the Proposal did not provide a realistic opportunity for the certification of add-on or modified parts. Therefore, the Agency has deleted, for the present, such parts from the program. The Agency has not, however, made a final determination to exclude such parts from the Part Certification Program. Rather, EPA will reserve judgment on this issue until such time as a quick and inexpensive but reliable test for emission impacts of add-on parts is identified. The Agency notes, however, that its policy will be that any party installing any part, including an add-on part, that has successfully been emission tested in accordance with Section 85.2114, will not be considered to have tampered with a vehicle in violation of section 203(a)(3) of the Act.

Another issue raised by the commenters concerns the first model year for which parts may be certified. Some commenters argue that Section 207(a)(2) of the Act indicates that the purpose of the Part Certification Program is to carry out the purposes of Section 207(b) of the Act. These commenters assert that since the Section 207(b) emission performance warranty will not be in effect for pre-1981 model year vehicles, no part should be eligible for certification for pre-1981 model year vehicles. Although this interpretation has some appeal, the Agency continues to believe that part manufacturers should be able to certify parts for vehicles not covered by the Section 207(b) emission performance warranty. First, since 1977, the Act has required vehicle manufacturers to include a statement with their written instructions for proper maintenance and use that "" * * maintenance, replacement, or repair of the emission control devices or systems may be performed by any automotive repair establishment or individual using any automotive part which has been certified as provided in subsection (a)(2)." Since Congress, although apparently aware that the warranty could not possibly be implemented until the 1979 or 1980 model year, still required the language beginning with the 1977 model year, presumably it intended that vehicles not covered by the emission performance warranty have certified parts available as replacements. Otherwise, Congress could have specifically required that only vehicles covered by the section 207(b) emission performance warranty contain the above quoted statement.

Finally, this interpretation makes sense because although the primary purpose of the Part Certification Program is to carry out the purpose of Section 207(b), the program offers additional benefits. For instance, it provides consumers with additional information concerning automotive aftermarket parts. This information could be especially useful to owners of vehicles that are covered by the Section 207(a) emission design and defect warranty. Although a Section 207(a) warranty claim may be denied if a part failure results from a defective certified part, vehicle owners will at least be able to ascertain which parts are equivalent to the OE parts and thus avoid the situation where a part, such as a catalyst, fails because of a non-equivalent replacement part, such as a non-equivalent spark plug. In addition, repair facilities that install certified parts can do so without fear of violating the tampering prohibition of section 207(a)(3) of the Act. The Agency believes Congress intended that such benefits as these be available for parts manufactured for pre-1981 model year vehicles. Moreover, since vehicles manufacturers will not incur emission performance warranty liability for such parts prior to the 1981 model year, the decision to allow certification of parts for use in earlier model year vehicles should not cause the vehicle manufacturers any harm.

For the above reasons, the regulations provide that a part may be certified for 1968 or later model year vehicles, 1968 being the first model year for which vehicle emissions were regulated by the Federal Government.

A final issue is whether heavy-duty and motorcycle parts may be certified. The regulations provide only for the certification of light-duty vehicle and light-duty truck parts. This is because the Agency has not presently considered all the ramifications of establishing a program for motorcycle and heavy-duty engine part certification. In addition, there is presently no Section 207(b) emission performance warranty for these parts. The Agency, however, is interested in receiving input from representatives of these industries. EPA may propose amendments to the regulations in the future to allow for the certification of motorcycle and heavy-duty engine parts.

B. Definitions

Some of the definitions contained in the Proposal have been modified or deleted. First, since only parts for which emission critical parameters have been identified may be certified, and since at present there are no such parameters

[2] The regulations will still provide that parts having emission-critical parameters may be certified via emission testing rather than via compliance with emission-critical parameters. This will allow manufacturers of functionally-equivalent parts to certify. As such, these regulations will not stifle innovations in the automotive aftermarket.

identified for add-on parts, the regulations speak only in terms of

of the automotive aftermarket. Certainly Congress was aware that such an

and analyses necessary to assure that their parts will be durable. In many

correlate with NO_x emissions which are regulated under section 202 of the Act.

Agency may review this requirement with respect to those parts.

interval requirements, while allowing replacement parts to be certified that do

identified for add-on parts, the regulations speak only in terms of "Aftermarket Parts" and do not distinguish between different types of aftermarket parts. The Agency has, therefore, adopted the definitions of "Aftermarket Part" as well as "Certified Aftermarket Part" that were contained in the ALC proposed program.

The Agency has also amended the definition of "Emission Critical Parameters." The Agency believes that the language provided by APEC in its testimony at the hearings is in accord with the Agency's original intention. That is, the Agency believes that conformance to the "Emission Critical Parameters" should establish that a part is equivalent to the OE part from an emissions standpoint. Since much of the automotive aftermarket industry is apparently more comfortable with the definition supported by APEC, and because it is in accord with EPA's intent, the Agency has adopted the APEC definition.

C. Basis of Certification

Under the proposal, as in the final rule, part manufacturers will be offered two means to certify their parts: (1) Tests and analyses which demonstrate compliance with the applicable Emission Critical Parameters; or (2) back-to-back emission testing.

Some commenters, including some of the vehicle manufacturers, asserted that in order to comply with the Clean Air Act mandate, only parts which have been subjected to full emission testing, including durability testing, and utilizing the full Federal Testing Procedure, should be allowed to be certified. They claimed that the proposed Emission Critical Parameters, as well as the test procedures set forth to demonstrate compliance with these parameters, were not rigorous enough to assure compliance with the Act's requirement that use of a certified part not cause a vehicle to exceed the applicable standards under section 202.

The Agency does not believe that Congress intended that part manufacturers be required to undergo extensive and prohibitively costly emission testing prior to certifying their parts. The Agency believes that Congress was aware of the ANPG, which devised a program very similar to this one when it included the aftermarket part certification provisions in the Clean Air Act, and that it intended EPA to establish a similar program by these regulations. The Agency further believes that Congress, by including the aftermarket part certification provisions, was attempting to preserve the competitive marketplace of the automotive aftermarket. Certainly Congress was aware that such an attempt would be futile if in order to certify their parts the part manufacturers were forced to conduct the full Federal Test Procedure and also conduct the same durability testing that is required of vehicle manufacturers. Few manufacturers, especially small manufacturers of inexpensive parts, would ever choose to participate in such a program.

The Agency believes that compliance by part manufacturers with the Emission Critical Parameters set forth in the final rule represents the type of burden Congress itended to be placed upon part manufacturers, yet will still provide reasonable assurance that the parts do not cause vehicles to exceed applicable emission standards. The Emission Critical Parameters, as well as the relevant test procedures, have been slightly modified from the Proposal. The modifications are based upon comments received by vehicle manufacturers and the automotive aftermarket industry. A discussion of the comments received on the standards and test procedures is contained in a separate support document at Public Docket EN–79–8.

The vehicle manufacturers were particularly concerned that compliance by part manufacturers with the requirments of the Proposal would not assure that parts are reliable or durable. On the other hand, representatives of the automotive aftermarket industry asserted that it was improper for the Agency to establish any durability requirements for most parts. Rather, these representatives asserted that because of the unknown condition of a vehicle in which a part is to be installed, it would be impossible to guarantee durability. Therefore, these parties asserted that the part manufacturer should be required to show no more than that a new part, in an otherwise properly operating vehicle, would meet the Emission Critical Parameters.

The Agency believes that it is imperative that only durable parts be certified. Otherwise it would be possible for properly certified parts to deteriorate in use so as to cause a vehicle to exceed standards and perhaps cause the failure of other components. If this were to happen, vehicle manufacturers could incur unwarranted (although reimbursable) emission warranty expenses. On the other hand, EPA does not believe that it must set elaborate procedures for assuring durability similar to the durability procedure prescribed in 40 CFR Part 86. The Agency does expect, and requires, that part manufacturers perform such tests and analyses necessary to assure that their parts will be durable. In many instances EPA believes that the durability aspects of a part could be somewhat of an issue in-use. For these parts EPA has set our specific durability requirements. However, in some instances, the Agency believes that setting specific durability testing requirements is unnecessary. In those instances the Agency believes that market pressures, the warranty requirement, and the Agency's ability to decertify a part which is not durable are sufficient to assure that certified parts are, in fact, durable.

Some commenters suggested that the Agency allow part manufacturers to certify parts on the basis of "short tests" rather than the full Federal Test Procedure. These parties stated that since vehicle manufacturers will incur Section 207(b) emission performance warranty liability only when a vehicle fails an EPA-approved short test utilized in a state or local emission inspection and maintenance program, and since the primary direction from Congress for the Part Certification Program is to carry out the purposes of Section 207(b) of the Act, it makes sense that part manufacturers should be required to show no more than that use of a part will not result in the failure of a vehicle to pass a short test. Moreover, the commenters point out that any EPA-approved short test will have been found by the Agency to correlate with the Full Federal Test Procedure.

While this argument has considerable appeal, a closer analysis of the implications of allowing part manufacturers to certify parts using any of the existing emission short tests demonstrates that such an approach would be unwise. First, although the EPA-approved short tests correlate with the full Federal Test Procedure in that if a vehicle fails a short test it will almost certainly fail the full Federal Test Procedure, the short tests do not, in themselves, demonstrate compliance with Federal Emission Standards. The tests are designed only to catch excessively polluting vehicles. In some instances vehicles which exceed one or more applicable emission standard will pass emission short tests. Therefore, mere compliance with a short test would not allow a manufacturer to certify "that use of such part will not result in a failure of the vehicle or engine to comply with emission standards promulgated under section 202" as is set forth in the Act. This is particularly true since presently none of the EPA-approved short tests have been demonstrated to correlate with NO_x emissions which are regulated under section 202 of the Act.

Consequently, the Agency will not allow a part to be certified on the basis of the short tests approved to date. The Agency is still, however, interested in the development of a short test that could be used as a basis for part certification.

The Agency realizes the time and expense associated with conducting the full Federal Test Procedure. EPA, therefore, requested comments on whether portions of it could be deleted during part certification testing. The Agency received no workable suggestions. However, in an effort to lessen the burden of certifying parts on the basis of emission testing, the Agency has decided to adopt the comment of the Specialty Equipment Manufacturers Association and reduce the number of required tests for each part from four to two. Moreover, the tests will only be required to be performed on a vehicle in which the part has been installed, rather than additionally requiring the test to be performed on the vehicle with the original equipment part installed. As explained below, the Agency believes that this procedures provides a sufficient basis upon which to assure that a part will not cause a vehicle to exceed applicable emission standards, while providing a more realistic opportunity for a part manufacturer to certify a part. Moreover, it is unlikely that any part so certified, especially if merely a replacement part, would cause any change in vehicle emissions.

As a result of this change it will be possible for a part manufacturer to demonstrate only that proper installation of a certified part will not cause vehicle emissions to exceed standards, rather than showing also that use of the part will not cause vehicle emissions to be increased as would have been required under the Proposal. The Agency realizes that under this approach it is theoretically possible that use of a part so certified could cause emissions to increase slightly, and that use of a number of such parts (each causing a slight increase in emissions) in a single vehicle could cause the vehicle to exceed emission standards and perhaps fail a short test. However, as discussed below, the Agency believes that the emission-testing requirement is stringent enough so that such a possibility is not great and is certainly offset by the cost savings of requiring only two emission tests rather than four. Therefore, the Agency has decided to require only two tests on one vehicle. If parts other than replacement parts are later included in the program, the Agency may review this requirement with respect to those parts.

The Agency believes that this change will not result in vehicle manufacturers' incurring additional warranty expenses. This is particularly true given the fact that the current emission short tests that trigger emission warranty liability are not as stringent as the Federal Test Procedure. It is unlikely that the cumulative impact of parts certified in accordance with the specified emission test procedures would cause a vehicle to fail applicable emission standards, much less to result in a failure of these current short tests.

There seems to be some confusion by the commenters as to how manufacturers of original equipment parts may certify their replacement parts. In cases where a replacement part is truly identical to the part used in the assemblyline, testing to determine compliance with the emission critical parameters would be unnecessary. Therefore, the manufacturers of such parts could certify with no testing. However, this does not mean that a manufacturer of original equipment parts or vehicle manufacturers may automatically certify replacement parts that are not identical to those parts installed on the assemblyline. For those parts, vehicle manufacturers, or their suppliers would have to perform tests necessary to show compliance with these regulations. Moreover, the fact that a replacement part is equivalent to an OE part, such that no additional emission-related testing is necessary, does not exempt the manufacturer of the part from any other requirements of these regulations including labeling, sending a notification to EPA, or warranty responsibility.

Many representatives of aftermarket part manufacturers objected to the provision of the proposal which would require that no part having a shorter service or maintenance interval could be certified if any EPA regulation establishes a minimum replacement or service interval for a part during vehicle certification. These parties focused on the condition of in-use vehicles and differences between in-use and certification vehicles. Thus, they stated, it is unreasonable to hold automotive aftermarket parts to intervals required of OE parts on certification vehicles.

The Agency believes that all present minimum certification maintenance interval requirements are achievable on in-use vehicles, because they have been achieved on in-use vehicles for some time. Moreover, as stated in the Preamble to the Proposal, the Agency believes that holding vehicle manufacturers to specific maintenance interval requirements, while allowing replacement parts to be certified that do not meet such requirements, would defeat the purposes of the regulations. For instance, one such purpose is to assure that maintenance is not required to be performed at intervals so frequent that an owner is unlikely to comply. Therefore, the final rule provides that no part may be certified that requires servicing or replacement more frequently than any minimum interval specified for that part in 40 CFR Part 86.

Another objection of some of the automotive aftermarket industry concerns the requirements in the regulations that certified parts not severely degrade vehicle performance or contribute to an unsafe driving condition. According to these commenters, the Part Certification Program should concern itself only with emission characteristics of parts.

The Agency does not agree. The Agency believes that to allow an unsafe part to be certified would be contrary to the public interest. Moreover, if a part contributes to poor vehicle performance, such poor performance could provide an incentive for a person to alter emission control devices and systems in an attempt to obtain improved performance. This could have a negative air quality impact.

D. Notification of Certification

As previously stated, the Agency normally will not be directly involved in the part certification process. However, because it is important for EPA, as well as other interested parties, to be aware of which parts are certified and for which vehicles the parts are certified, the regulations require a notification of intent to certify a part to be sent to EPA by the part manufacturer 45 days prior to the proposed date of sale of the part as certified.

As proposed, the part manufacturers would have been required to submit the notices of intent to certify 60 rather than 45 days prior to sale of the part as certified. Some commenters felt that this was too long a time period, perhaps so great as to be anticompetitive. The Agency does not agree that the 60-day period would necessarily have been anticompetitive. The Agency notes that the parts may be sold even if not certified. Moreover, the regulations allow for the certification of existing stock. Therefore the 60-day period would not cause a delay in getting parts on the market. However, the Agency does not want to force undue delays in the sale of certified parts. Therefore, the Agency limited the period to 45 days, a period in which the Agency believes it can properly review the notices for

completeness, become alerted to potential problems, and notify a part interested in reviewing the notices can do so.

However, there are other comments which should be discussed at this point.

the information required under the supplied to different parties who, in

G. Maintenance and Submittal of

completeness, become alerted to potential problems, and notify a part manufacturer of any potential problems, if necessary.

Some of the vehicle manufacturers suggested a longer period between receipt by EPA of the notice of intent to certify and sale of parts as certified. However, this request appears to be based upon a belief that vehicle manufacturers should be able to test each part prior to its sale as certified. The Agency does not believe that it is necessary for vehicle manufacturers to do so. The vehicle manufacturers do not approve the certification of parts. Although a vehicle manufacturer, like any other party, can provide information to EPA regarding a certified part, the vehicle manufacturer has no direct role in the part certification process, and therefore cannot block a part from being certified. Rather the vehicle manufacturers can check a notice of intent to certify and if an obvious problem is found, such as an inadequate test procedure, or if the vehicle manufacturer believes that the part has in the past caused vehicle problems, including adverse impacts on vehicle emissions, the Agency expects that the vehicle manufacturer would inform EPA. If EPA believed that the vehicle manufacturer had a legitimate concern, then it would request further information from the part manufacturer prior to the part being sold as certified. If EPA disagreed, then the part could be sold as certified at the end of the 45-day period. As a result of this procedure, part manufacturers would not have to delay certification of a part pending testing of the part by a vehicle manufacturer or approval of the part by a vehicle manufacturer. This procedure is consistent with the legislative history of the part certification provision, which makes clear that vehicle manufacturers would not be directly involved in the part certification process. S. Rep. No. 95–127, 95th Cong., First Sess. 81 (1977).

Not all of the vehicle manufacturers expressed a desire to test certified parts. GMC stated that it did not even want to receive copies of the notices of intent to certify. GMC argued that if they received such notice and did not object to it, such could be construed as an approval, which for a number of reasons GMC is not prepared to give.

The Agency, therefore, has eliminated the provision requiring a copy of the notice of intent to certify to be sent to vehicle manufacturers. The Agency will, however, place all such notices received in a public docket so that any party, including vehicle manufacturers, interested in reviewing the notices can do so.

In response to comments that the information required to be covered by the notice was too extensive, the Agency has modified the requirements somewhat. The Agency believes that all information required to be submitted by the final rule is necessary and that the requirement is not burdensome.

One major change in the notice is that the final regulations require a person to sign the notice and attest to its correctness. This should help prevent fraudulent certifications by part manufacturers, as the person signing the notice would be liable under section 113 of the Clean Air Act, as well as 18 U.S.C. 1001, for submitting false documents to the government should that person knowingly represent that a part complies with the terms and conditions of these regulations when in fact it does not. This should satisfy some of the concerns of the vehicle manufacturers who expressed a view that although the majority of the automotive aftermarket is reputable, the regulations provided an opportunity for a small minority of unscrupulous parts manufacturers to take advantage of the system.

E. Objections to Certification

Section 85.2116 of the final rule is virtually identical to that of the Proposal. Anytime during the 45-day period between receipt by the Agency of a notice of intent to certify and the intended first day of sale of that part, the Agency may notify the part manufacturer that the part may not be sold as certified, pending further investigation. Sections 85.2116(a)(1)–(6) set forth the bases upon which the Agency will send such notices.

Interested parties, including the part manufacturer, will have an opportunity to comment in writing to the Director of the Manufacturer's Operations Division on any EPA letter objecting to a part certification. In addition, the Director may allow oral presentations. After deciding whether the part in question may be certified, the Director will notify, in writing, the part manufacturer and any other identified interested party of the decision. Any interested party adversely affected by such decision may appeal to the Deputy Assistant Administrator for Mobile Source, Noise and Radiation Enforcement.

The major comments on this provision, such as those on the Agency's authority to disallow a part from being certified for reasons other than a part's impact on vehicle emissions, have been discussed in the previous section of the preamble and will not be repeated here. However, there are other comments which should be discussed at this point.

Some parties noted that once EPA objected to the certification of a part, there was no time deadline in which EPA would be required to make a final decision. They asserted that the Agency could delay a decision for an unreasonable period of time and in the interim, the manufacturer of such part would not be able to certify the part and might lose its ability to compete for sales of that type part. Therefore, these parties stated that a time deadline should be set in which EPA would be required to make such decisions.

The Agency has decided to set time periods during which the Director and the Deputy Assistant Administrator will be required to act. The Director will render a decision within 30 days from the date he or she has received all necessary information from the part manufacturer or other interested parties. The Deputy Assistant Administrator will likewise have 30 days to act, in cases that are appealed. The Agency will make all such decisions as quickly as possible and does not expect that the full 30 working days will be necessary in most instances. In the meantime, the Agency notes that even if an objection to certification is pending, the parts may be sold as before, although not sold as certified.

A few parties asserted that neither the Director nor the Deputy Assistant Administrator are neutral parties in matters of whether a part should be allowed to be certified, and that a neutral party should be the arbiter. The Agency does not agree that the Director and the Deputy Assistant Administrator are interested parties such that they will not make their respective determinations fairly. Moreover, the Agency believes that only these parties will have enough familiarity with the part certification program to be able to make timely decisions as to a part's eligibility.

F. Labelling Requirement

Perhaps the most widely objected to provisions of the Proposal were those containing the proposed labelling requirements. Virtually all parties criticized the amount of labelling that would have been required for each certified part. At the public hearing, parts were displayed that were extremely small. The persons displaying these parts questioned whether these parts could in fact be labelled in accordance with the proposed requirements. In addition, these parties asserted that the packaging for these parts would have to be disproportionately large to display all of

the information required under the Proposal.

The Agency has reviewed the comments regarding the labelling requirements and has reduced the requirements significantly.

The Agency received numerous comments pointing out that, in the past, the aftermarket parts industry has successfully used parts catalogs and service manuals to provide engine application and installation instructions to all segments of the service industry. These parties asserted that if the Part Certification Program is to be workable, the final regulations must be written to utilize these effective aftermarket methods.

Although GMC was one such commenter, it also presented a series of catalogs showing the part numbers and their application to model years and vehicle models to depict the magnitude of the current problem involving the cross referencing of GMC aftermarket parts and applications alone. This problem, GMC asserts, would drastically increase if it is required to catalog all certified aftermarket parts.

For the reasons pointed out by GMC, EPA desires that, to the extent practicable, all certified parts be marked "certified to EPA standards." This way vehicle manufacturers could quickly determine whether a part was certified and in most circumstances would not have to check the manuals to determine that fact. However, due to the objections of the various parties to requiring individual parts to be labelled, the Agency has decided to omit this requirement from the final rule, providing the parts are marked as discussed below. The Agency does not believe that this change will cause vehicle manufacturers much difficulty.

First, the Agency expects that aftermarket parts will not frequently be the cause of a properly maintained and used vehicle's failure to pass a short test. Second, in those few cases where they are the cause, it should not be difficult for the vehicle manufacturer to check a catalog to see if the part in question is certified.

In order for a vehicle manufacturer to make such a check, it is important that the part manufacturer include information in its catalogs on which parts are certified and for which vehicles the part is to be used. In addition, it is important that each part be marked in a manner such that it can be identified. Such marking should include the manufacturer identification and part number.

The Agency realizes that there are situations where one part manufacturer produces identical parts which are supplied to different parties who, in turn, market the parts in different packages under their own brand names. The final rule does not require that such parts be marked differently, provided they are all sold as certified (even if certified by different parties), and the original manufacturer or some other responsible party agrees to be responsible for in-use provisions of these regulations.

The information required on the package of a certified part remains substantially the same with a few significant exceptions. First, a package need not list all model vehicles for which a part is certified if that information is provided in a catalog rather than on the package, provided access to the catalog is readily available to purchasers of the part. It makes little sense to require parts to be certified unless one is able to determine for which vehicles the part is certified. Therefore, the Agency requires that such information be available to the purchasers of such parts.

Second, the packages no longer need to have a general warranty disclaimer, as EPA believes that it may have overestimated the owner confusion that could result absent such a disclaimer.

The Agency believes that all of the required labelling information is important.

The statement "certified by (name of manufacturer) to EPA standards" is important. This is because consumers should be informed that the parts are certified by the part manufacturer and not by EPA.

If a part has a service interval which is shorter than the service interval for the OE part it is replacing or requires maintenance beyond that required of such OE part, it is important that the vehicle owner be apprised of such. Otherwise, the owner is likely to follow the instructions in the owner's manual and the part is likely to fail in a manner that could cause the vehicle to exceed emission standards and could, in some instances, cause serious and costly vehicle damage which would only be repaired at the owner's cost. Therefore the regulations require that information on any servicing required by a replacement part which goes beyond that required by the OE part replaced must be provided to the vehicle owner.

For the same reasons, if a part is to be installed in a manner different from the OE part, it is important that the instructions for proper installation be available.

G. Maintenance and Submittal of Records

Because this is a self-certification program, questions may arise as to whether a part was properly certified initially or should subsequently be decertified. Therefore, any part manufacturer who chooses to certify parts is required to establish and maintain records regarding each certified part. These records must be made available to EPA upon request.

The Agency believes that all of the specified records are necessary to determine the adequacy and validity of the bases upon which parts have been certified and to assure that all parts sold as certified are equivalent to the parts which were used to determine whether a part should be certified. As stated in the Proposal, most of the data that would be required to be maintained would be generated during the process of certifying the parts. In addition, the final rule reduces from the Proposal the requirements for maintaining records concerning in-use emission-related problems. The final rule requires only that the part manufacturers maintain records of any design, production, or in-service emission-related problems associated with more than 25 of a particular in-use certified part.

Some parties objected to the length of time the Proposal would have required the records to be kept. These parties asserted that due to the great number of parts and the 5-year period in which the records would have to be kept, the files of the part manufacturers would be overloaded with records and the maintenance of such records would be costly.

The Agency realizes the cost and inconvenience associated with maintaining records and as a result desires to minimize all recordkeeping requirements to the extent possible. However, should in-use certified parts be the suspected cause of vehicle emission-related problems, it is important that the Agency have access to the records required to be kept by this rule. The Proposal required the records to be kept for five years because vehicle manufacturers are subject to warranty liability for up to 5 years for each model vehicle, and it is during this period of time that problems with certified parts are most likely to be detected. The Agency notes, however, that some parts will be certified for vehicles which are no longer covered by the warranty or for which the remaining emission warranty period is less than 5 years. For such parts, the part manufacturer will be required only to maintain the records for only 3 years or until the part

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manufacturer determines that approximately 80% of all vehicles for which the part has been certified are outside the period of warranty coverage, whichever is longer. However, no records must be kept for more than 5 years. The Agency realizes that, in some cases, the records may not be available for parts on some vehicles that might still need an emission warranty repair. However, in most cases the Agency should have been alerted to problems with parts during the required period. Moreover the lack of records will not prevent a vehicle manufacturer from seeking reimbursement from a part manufacturer. Rather, it may only limit the part manufacturer's ability to demonstrate that the part was properly determined to be eligible for certification.

H. Decertification

The decertification provisions of the final rule have remained substantially unchanged from the Proposal.

Decertification will not occur until the Agency has made a final decision that the part should be decertified. No final decision will be made until after the Agency has provided the part manufacturer with an opportunity to present information and data to the Agency in support of continued certification of that part.

The decertification process will commence when written notice is provided to the part manufacturer indicating the Agency's basis for considering possible decertification of a part. If the part manufacturer wishes to contest this decision, it may provide a written statement addressing why the part should remain certified. Similar to the hearings under § 85.2116, an opportunity to present oral arguments may be granted at the discretion of the Director. In addition, a party adversely affected by a decertification decision shall also have an appeal right similar to the one provided in § 85.2116.

The parties making determinations of whether a part should be decertified are the Director and the Deputy Assistant Administrator. The Agency believes that, contrary to the assertions of some commenters, these parties will be able to make unbiased decisions of whether or not to decertify a part. The Agency encourages part manufacturers to participate in the program. EPA has no reason to try to prevent proper parts from being certified. Moreover, the Agency believes that only these parties will have a sufficient background to make determinations in a timely manner. The Agency believes that improperly certified parts must be decertified as quickly as possible to prevent vehicles from polluting, to prevent vehicle owners from needlessly failing I/M tests, and to prevent vehicle manufacturers from incurring unreasonable (although reimbursable) warranty expenses or from spending too much time handling warranty claims. Since the Agency will not require a part to be decertified until a final decision is made, the Agency believes it is important that the decisionmakers be parties capable of making proper decisions in as short a period of time as possible.

Once a final decision to decertify a part is received by the part manufacturer, the part manufacturer is required to notify its immediate customers (other than retail customers) and offer to replace the decertified parts remaining in the possession of the immediate purchaser with properly certified parts. If no properly certified parts are available, then the part manufacturer must offer to repurchase the decertified parts. This requirement will limit the number of vehicles which will exceed emission standards and fail I/M tests as a result of the decertified part. The Agency realizes that some improperly certified parts will remain on in-use vehicles and in the marketplace. However, in the Agency's opinion, as well as a number of commenters, any replacement or repurchase of parts beyond the immediate customers would become complicated and ineffective.

Regardless of whether a part is eventually decertified, any part previously sold by the part manufacturer as certified will remain certified for purposes of the Section 207(b) warranty. In other words, no Section 207(b) emission warranty claim may be denied on the basis of the use of that part. The part manufacturer, of course, will be liable to vehicle manufacturers for any warranty claims honored where the part is the reason for the failure.

I. Warranty on Certified Parts

Section 207(b) of the Act provides that no emission performance warranty shall be invalid on the basis of a certified part. Based upon this provision, as well as its legislative history, the Agency included a provision in the Section 207(b) emission performance warranty regulations prohibiting vehicle manufacturers from denying emission performance warranty claims resulting from the installation or use of a certified part. A full discussion of this requirement is contained in the preamble to the final emission performance warranty regulations and the comment summary accompanying the final rule. Both of these documents can be found in Public Docket EN–79–6. However, the Agency believes that it is appropriate to repeat some of the discussion here.

The Agency believes that Congress intended that consumers be able to purchase certified parts without having to be concerned about their emission performance warranty coverage. If the Agency were to allow vehicle manufacturers to deny claims by asserting that a certified aftermarket part was the cause of the problem, then vehicle owners would not have this assurance. Rather, vehicle owners would fear that a vehicle manufacturer would merely allege that the part is defective or otherwise improper and deny the claim. This could encourage vehicle owners to use only original equipment, contrary to the legislative intent.

Even if the manufacturers of certified parts warrant that they will reimburse a vehicle owner for repairs that would have been covered under the emission performance warranty had the certified part not been defective, the problem would not be remedied. It will sometimes be difficult for owners to determine whether an aftermarket part caused a vehicle to fail an I/M test because it is defective or because it is not actually equivalent to the OE part it replaced. This could result in neither the vehicle or part manufacturer assuming liability for the repair. If a consumer may be forced to go back and forth between parts manufacturers and vehicle manufacturers, he or she may simply not risk the use of any parts other than OE parts, whether they are certified or not.

In fact, prior to the 1977 Amendments to the Act, EPA had proposed guidelines for a voluntary aftermarket part self-certification program. However, because EPA had no authority to make certification of a part binding on a vehicle manufacturer, the program was considered by many to be anticompetitive and anticonsumer, even if the part manufacturer provided its own warranty with its certified parts. The Senate Select Subcommittee on Environmental Problems Affecting Small Business, in its Report on the Monopolistic Tendencies of Auto Emission Warranty Provisions, H.R. Rep. No. 93–1628, 93rd Cong. 2nd Sess. 31 (December 18, 1974), commenting upon those proposed guidelines, stated:

> The parts certification program merely proliferates the number of warranties without providing any mechanism for adequately determining why the emission control system failed. Thus, should the parts manufacturer dispute the franchised dealer's assertion that the replacement part caused the failure, the consumer is left with no means to resolve the dispute, other than the court action which would probably be so time consuming as to be prohibitive.

For these reasons the Agency does believe that a Parts Certification Program that did not take the consumer out of such dispute entirely would tend to inhibit the use of certified parts and would not carry out the legislative intent.

Although the Agency requires that a vehicle manufacturer honor an emission performance warranty claim necessitated by a failing certified part, the Agency does not believe it would be equitable unless the Agency provides a means for the vehicle manufacturer to be reimbursed by the manufacturer of the certified part. Therefore, the Proposal provided that as a condition to certification, part manufacturers would have to agree to reimburse vehicle manufacturers for all emission performance warranty costs resulting from repairs necessitated by defective or nonequivalent certified parts.

Some commenters agreed that vehicle manufacturers must never deny an emission performance warranty claim on the basis of the use of a certified aftermarket part. However, little support was given to the manner in which the Proposal set forth the certified aftermarket part manufacturer's obligation to reimburse a vehicle manufacturer for warranty expenses incurred as a result of a certified part. Some vehicle manufacturers did not believe that the Proposal would provide them with any real legal remedy against parts manufacturers for expenses incurred as a result of certified parts. However, Ford Motor Company suggested that perhaps the notice of intent to certify could be viewed as being a third party beneficiary contract, with the vehicle manufacturer being the beneficiary.

Some commenters from the aftermarket industry believed that the Proposal would have required manufacturers of certified parts to reimburse vehicle manufacturers on demand, without any opportunity to inspect the part or the vehicle to determine whether the certified part was actually the cause of a vehicle's failing an I/M test. Moreover, these commenters believed that a part manufacturer who refuses to reimburse a vehicle manufacturer in any case, however justified, will risk decertification of its parts.

Several commenters suggested that EPA require, as a condition of certification, that a part manufacturer provide a warranty stating that the part, in and of itself, when properly installed in a vehicle engine (in which all other emissions-related parts are properly functioning) will not cause the vehicle or engine to exceed applicable exhaust emission standards for the certified interval or the remainder of the Section 207(b) emission performance warranty period, whichever occurs first. This warranty would allow any party, including vehicle owners and manufacturers, to make a claim for reimbursement. This warranty, however, would be subject to the following conditions: (1) A nonconformity of the vehicle or engine which should be covered under the emission performance warranty must exist; (2) the certifier's obligation would be limited to the cost of repair or replacement of the certified part, and would not include consequential damages; and (3) the warranty would be limited to the emission-related characteristics of the part as determined by the certification procedures applicable at the time of certification.

The idea of having part manufacturers provide warranties under which any parties having incurred valid warranty expenses may recover has considerable appeal. First, it would provide vehicle manufacturers with a legal remedy for reimbursement, namely, breach of warranty. Second, although this point was not specifically commented on by any party, presumably under such an approach vehicle owners would be free to bring their vehicles to repair facilities of their choosing rather than a vehicle manufacturer's designated warranty outlet and still be reimbursed for warranty claims necessitated by certified parts. This could lessen the potential anticompetitive effect of the warranty perceived by certain members of the automotive aftermarket industry. In addition, vehicle owners would likely find this convenient.

The Agency believes that there are some problems with the recommended warranty scheme. For instance, as stated in an earlier letter from APEC, such a warranty could be disproportionately burdensome to small part manufacturers who may be unable to set up a system dealing with individual consumers. In addition, the Agency believes that the second condition is too limiting. It is unreasonable to expect a vehicle manufacturer to bear the cost of the repair of a part, such as a catalytic converter, which failed as a result of a defective certified part and to be reimbursed only for the cost of repairing or replacing the certified part. Rather, it is only reasonable for the part manufacturer to reimburse the vehicle manufacturer for all valid emission performance warranty expenses, including administrative costs, incurred as a result of a certified part.

The Agency has therefore decided that in order to carry out the purposes of Section 207(b) it is necessary to require as a condition to certification that a part manufacturer warrant that its parts, if properly installed, will not cause a vehicle to fail Federal emission standards, as adjudged by an EPA approved emission short test. The minimum obligation under this warranty shall be to reimburse vehicle manufacturers for all reasonable costs, including handling and other administrative costs, incurred under the emission performance warranty as a result of the certified part. However, EPA encourages part manufacturers to expand their obligation under this warranty to include reimbursement to other parties such as individual vehicle owners or independent repair facilities.

EPA has received a staff opinion from the Bureau of Consumer Protection of the Federal Trade Commission concurring with the conclusion of EPA that since this warranty is governed by Federal law, it is exempt from the requirements of the Magnuson-Moss Act. Therefore, although the Agency encourages part manufacturers to comply with the Magnuson-Moss Act and the regulations issued thereunder, the Agency does not believe that they are required to do so.

The vehicle manufacturers asserted that some part manufacturers inevitably would go out of business or otherwise not be in a position to live up to their obligations to reimburse vehicle manufacturers for warranty expenses. Some suggested that part manufacturers be required to post bonds covering potential claims by vehicle manufacturers. These commenters asserted that vehicle manufacturers', need to be protected from incurring non-reimbursable warranty expenses resulting from use of parts other than their own.

The Agency believes that these arguments are far too speculative. Therefore, the Agency is not persuaded that it is necessary to require any showing of financial stability or bonding prior to a part manufacturer's being allowed to certify parts. Moreover, no data was brought to the Agency's attention of situations where part manufacturers have sold a great number of parts that have caused extensive damage to cars and then pulled out of the market leaving consumers no recourse for recovery of damages. Although the regulations presently require no showing of an ability to

reimburse vehicle manufacturers when appropriate, the Agency will consider amending the regulations if evidence is

Agency agrees with these comments and, therefore, has modified the temperatures specified.

regulation" requiring the preparation of a Regulatory Analysis under Executive Order 12044.

(4) A party that licenses others to sell its parts.

(d) "Agency" means the

certified aftermarket part will not cause the vehicle to fail to meet any applicable Federal emission requirements under

(1) A part that replaces more than one part may be certified in accordance with

reimburse vehicle manufacturers when appropriate, the Agency will consider amending the regulations if evidence is presented that suggests significant problems could occur or are occurring.

K. Emission-Critical Parameters

The Agency received comments regarding the individual emission-critical parameters and suggested test procedures for the 18 parts set out in the Proposal. As a result of these comments, the Agency has modified slightly many of the emission-critical parameters and/or their related test procedures. In addition, commenters raised such significant concerns regarding engine valves, camshafts, pistons, electronic inductive ignition system and components and electronic inductive distributors that the Agency has decided not to promulgate final emission-critical parameters for these parts. In particular, the Agency is concerned about whether more stringent durability requirements for these parts are necessary.

Most of the comments concerning the 13 parts for which final emission-critical parameters have been promulgated recommended increased specified durability requirements. Most of the recommendations, however, were unrealistic and far too severe to reflect real world conditions. In addition, many were far more severe than Society of Automotive Engineers (SAE) testing procedures. The Agency believes that requiring burdensome and unrealistic tests would unduly discourage participation in the program. Therefore, except in a few instances, the standards were not changed to include more elaborate durability requirements. The Agency notes, however, that this does not relieve part manufacturers of their responsibility to determine that their parts are, in fact, durable. Rather, the Agency, at least in some instances, is allowing individual part manufacturers to determine that their parts are durable in the manner they deem best. The Agency will, however, act to assure that certified parts are capable of functioning adequately for their useful life. The Agency may decertify and prevent the certification of non-durable parts. Moreover, the certifying part manufacturer is required to warrant its parts as set forth in § 85.2117.

One change adopted by the Agency was in response to comments that the temperatures set out in the Proposal for testing carburetor accelerator pumps, breaker points, capacitors/condensers, distributor caps and/or rotors, inductive system coils, primary resistors, and breaker point distributors were so severe as to be unrepresentative of the expected environments of the parts. The Agency agrees with these comments and, therefore, has modified the temperatures specified.

In addition to this change, the Agency also modified the standards and/or test procedures for particular parts. A more detailed discussion of the comments received for individual part standards and related test procedures are discussed in a separate support document located at VI—2 in Public Docket EN–79–8.

Evaluation Plan

EPA intends to review the effectiveness and need for continuation of the provisions contained in this action within five years. In particular, the Agency will solicit comments from the affected parties concerning how well the program is serving the purpose of limiting the anticompetitive effects of the emission warranties. In addition, the Agency will be interested in determining the consumer protection implications of the program as well as the effect the program is having on in-use compliance of motor vehicles with emission standards, including any increase or decrease in burdens the program may be putting on motor vehicle manufacturers.

Reporting and Recordkeeping Requirements

These regulations do impose new reporting and recordkeeping requirements on aftermarket part manufacturers that choose to take advantage of the certification program. EPA prepared a Reports Impact Analysis which is included in the Public Docket. As previously stated, the Agency does not believe the reporting requirement is burdensome.

Under EPA's new "sunset" policy for reporting requirements in regulations, the reporting requirements in this regulation will automatically expire five years from today's date unless EPA takes affirmative steps to extend them. To accomplish this, a provision automatically terminating the reporting requirements at that time has been included in the text of the final regulations.

Under Section 307(b)(1) of the Clean Air Act, 42 U.S.C 7607, judicial review of this action is available *only* by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of November 25, 1980. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

Note.—The Agency has determined that this document is not a "significant regulation" requiring the preparation of a Regulatory Analysis under Executive Order 12044.

Dated: November 13, 1980.

Douglas M. Costle,

Administrator.

Accordingly, Subpart V of Part 85 of Title 40 of the Code of Federal Regulations is amended by adding the sections set forth below.

Subpart V—Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program

Sec.

85.2112 Applicability.
85.2113 Definitions.
85.2114 Basis of Certification.
85.2115 Notification of Intent to Certify.
85.2116 Objections to Certification.
85.2117 Warranty.
85.2118 Changes After Certification.
85.2119 Labelling Requirements.
85.2120 Maintenance and Submittal of Records.
85.2121 Decertification.
85.2122 Emission-Critical Parameters.
Appendix: Recommended Test Procedures and Test Criteria and Recommended Durability Procedures to Demonstrate Compliance With Emission Related Standards.

Authority: Secs. 207, 208, 301(a), Clean Air Act, as amended (42 U.S.C. 7541, 7542(a), 7601(a))

Subpart V—Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program

§ 85.2112 Applicability.

The provisions of §§ 85.2112 through 85.2122 apply to all automotive aftermarket parts (a) for which emission-critical parameters have been set forth in § 85.2122, and (b) which are to be installed in or on 1968 and later model year vehicles.

§ 85.2113 Definitions.

As used in this subpart, all terms not defined shall have the meaning given them in the Act:

(a) "Act" means Part A of Title II of the Clean Air Act, 42 U.S.C. 7421 *et seq.* (formerly 42 U.S.C. 1857 *et seq.*) as amended.

(b) "Aftermarket Part" means any part offered for sale for installation in or on a motor vehicle after such vehicle has left the vehicle manufacturer's production line.

(c) "Aftermarket Part Manufacturer" means

(1) A manufacturer of an aftermarket part or

(2) A party that markets aftermarket parts under its own brand name, or

(3) A rebuilder of original equipment or aftermarket parts, or

(4) A party that licenses others to sell its parts.

(d) "Agency" means the Environmental Protection Agency.

(e) "Deputy Assistant Administrator" means the Deputy Assistant Administrator for Mobile Source, Noise and Radiation Enforcement of the Agency or his or her delegate.

(f) "Certified Aftermarket Part" means any aftermarket part which has been certified pursuant to this subpart.

(g) "Director" means the Director of the Manufacturer's Operations Division of the Office of Enforcement of the Agency or his or her delegate.

(h) "Emission Warranty" means those warranties given by vehicle manufacturers pursuant to section 207 of the Act.

(i) "Emission-Related Standards" or "Emission-Critical Parameters" means those critical parameters and tolerances which, if equivalent from one part to another, will not cause the vehicle to exceed applicable emission standards with such parts installed.

(j) "Engine Family" means the basic classification unit of a vehicle's product line for a single model year used for the purpose of emission-data vehicle or engine selection and as determined in accordance with 40 CFR 86.078–24.

(k) "Vehicle or Engine Configuration" means the specific subclassification unit of an engine family as determined by engine displacement, fuel system, engine code, transmission and inertia weight class as applicable.

§ 85.2114 Basis of Certification.

(a) An automotive aftermarket part manufacturer may certify a part either:

(1) On the basis of demonstrating conformance of that part with all of the relevant Emission-Critical Parameters set forth for that part in § 85.2122; or

(2) On the basis of performing emission tests in each applicable vehicle configuration for which the part is to be certified in accordance with the requirements of this section.

(b) The only emission test on which certification can be made pursuant to paragraph (a)(2) of this section is the Federal Test Procedure as set forth in the applicable portions of 40 CFR Part 86 (except as provided in paragraph (b)(3)).

(1) At least two emission tests are required in order to certify an aftermarket part pursuant to paragraph (a)(2). These tests shall be performed according to the Federal Test Procedure on a vehicle set to the vehicle manufacturer's specifications and in which the part to be certified has been installed.

(2) The test results must demonstrate that the proper installation of the certified aftermarket part will not cause the vehicle to fail to meet any applicable Federal emission requirements under section 202 of the Act.

(3) The following portions of the Federal Test Procedure are not required to be performed when certifying a part in accordance with paragraph (a)(2):

(i) Compliance with evaporative emissions standard if the manufacturer of that part has a reasonable basis for believing that the use of the part has no effect on the vehicle's evaporative emissions.

(ii) Compliance with exhaust emissions standard if the part manufacturer has a reasonable basis for believing that the part affects only the evaporative emissions of a vehicle, and

(iii) Other portions therein which the part manufacturer believes are not relevant provided that the part manufacturer has requested and been granted a waiver in writing by the Director for excluding such portion.

(4) For the purpose of certifying parts on the basis of emission testing for use in vehicle or engine configurations other than those tested under paragraph (a)(2), the certifier may apply the results of tests performed under paragraph (a)(2) upon a showing set out in the notification of intent to certify that the configuration tested represents the "worst case" with respect to emissions of those configurations for which the results are to be applicable.

(i) Such a showing shall include:

(A) A technical discussion that supports the conclusion that the configuration tested represents the worst case, and

(B) All data that support the above conclusion. (ii) The worst case configuration shall be that configuration which is least likely to meet the applicable emission standards among those configurations for which the emission test results under paragraph (a)(2) are to be applied. This determination:

(*1*) Shall be based on a technical judgment of the impact of the particular design or calibration of a particular parameter or combination of parameters and/or an analysis of appropriate data, and

(*2*) Shall only be applicable for configurations that are required to meet the same or less stringent (higher) emission standards than those applicable to the configuration tested.

(c) An aftermarket part may be certified in accordance with § 85.2114(a)(1) only if the part's emission-critical parameters as set forth in § 85.2122(a) are equivalent to those of the original equipment part it is to replace.

(1) A part that replaces more than one part may be certified in accordance with § 85.2114(a)(1) only if the part meets the applicable parameters of § 85.2122 for each part or parts which the part is to replace. If a part is to replace more than one part or an entire system, compliance must be deomonstrated for all emission critical parameters involved, except those which relate solely to the interface between the parts being replaced by the modified part.

(2) Compliance with the Emission-Critical Parameters may be demonstrated by compliance with the relevant Test Procedure and Criteria specified in the Appendix to this Subpart V. An aftermarket part manufacturer may choose to utilize other tests and methods to demonstrate compliance with § 85.2114(a)(1) provided that the tests and methods are of equal validity and reliability to those provided in the Appendix.

(3) An aftermarket part manufacturer may certify a part on the basis of conformance with all Emission-Critical Parameters only after the part manufacturer has performed such tests, analyses, or other procedures necessary to ascertain with a high degree of certainty the emission-critical parameter specifications and tolerances for the original equipment part for which a certified part is to be a replacement.

(i) If information is available to identify the applicable emission-critical parameters, the prospective certifier must use such information.

(ii) If sampling and analysis of original equipment parts is relied upon, the prospective certifier must use sound statistical sampling techniques to ascertain the mean and range of the applicable emission parameters.

(4) Certification in accordance with § 85.2114(a)(1) or (2) must be based upon tests utilizing representative production aftermarket parts selected in a random manner in accordance with accepted statistical procedures.

(d) Before a part may be certified pursuant to this subpart, evidence must exist to demonstrate that the part will not cause a vehicle to exceed emission standards during the full interval for which the part is to be certified.

(1) For parts without a scheduled replacement, this interval shall be the useful life of the motor vehicle or motor vehicle engine.

(2) If a Recommended Durability Procedure is contained in the Appendix to this Subpart V for a part, then that test or another test of equivalent validity and reliability shall be used to demonstrate the durability of the part.

(3) An aftermarket part manufacturer may use reasonable engineering

analyses or testing to demonstrate

(vi) The service intervals of the part,

(5) Use of the certified part could

subsection, any party may file a written

analyses or testing to demonstrate durability for all parts for which no Recommended Durability Procedure is contained in the Appendix.

(4) If any provision of 40 CFR Part 86 establishes a minimum replacement or service interval for a part during vehicle or engine certification, then no aftermarket part of that type may be certified with a shorter replacement or service interval.

(e) Installation of any certified part shall not result in the removal or rendering inoperative of any original equipment component, require the readjustment of any component to other than the original manufacturer specifications, cause or contribute to an unreasonable risk to the public health, welfare or safety, or result in any additional range of parameter adjustability or accessibility to adjustment than that of the vehicle manufacturer's parts.

§ 85.2115 Notification of Intent To Certify.

(a) At least 45-days prior to the sale of any certified automotive aftermarket part, notification of the intent to certify must be received by the Agency.

(1) The notification shall include:

(i) Identification of each part to be certified.

(ii) Identification of all vehicle or engine configurations for which the part is being certified including make(s), model(s), year(s), engine size(s) and all other specific configuration characteristics necessary to assure that the part will not be installed in any configuration for which it has not been certified.

(iii) A description of the tests and methods utilized to demonstrate compliance with §§ 85.2114(a)(1) and 85.2114(c); *except that*, if the procedure utilized is recommended in the Appendix, then only a statement to this effect is necessary. If certification is sought in accordance with § 85.2114(a)(2), the results of all emission tests performed shall be included. A description of all statistical methods and analyses used to determine the emission-critical parameters of the original equipment parts and compliance of the certified part(s) with those parameters including numbers of parts tested, selection criteria, means, variance, etc.

(iv) A statement that the aftermarket part manufacturer accepts, as a condition of certification, the obligation to provide and comply with the warranty contained in § 85.2117;

(v) A statement of commitment and willingness to comply with all the relevant terms and conditions of this subpart;

(vi) The service intervals of the part, including maintenance and replacement intervals in months and/or miles, as applicable, if different than the original equipment requirements;

(vii) A statement, if applicable, that the part will not meet the labelling requirements of § 85.2119(a) and a description of the markings the aftermarket manufacturer intends to put on the part in order to comply with § 85.2119(b);

(viii) The information required pursuant to § 85.2114(b)(4) if applicable; and

(ix) The office or officer of the part manufacturer authorized to receive correspondence regarding certification requirements pursuant to this subpart.

(2) The notification shall be signed by an individual attesting to the accuracy and completeness of the information supplied in the notification.

(3) Notification to the Agency shall be by certified mail or another method by which date of receipt can be established.

(4) The notification shall be submitted to: Director, Manufacturer's Operations Division (EN–340), 401 "M" Street SW., Washington, D.C. 20460.

(b) A part may be sold as certified 45 days after the receipt by the Agency of the notification given pursuant to this subsection provided that the Agency has not notified the part manufacturer otherwise.

§ 85.2116 Objections to Certification.

(a) At any time prior to the end of the 45-day period after a notification of intent to certify an aftermarket part is received as specified in § 85.2115, the Director may notify the manufacturer of the aftermarket part that such aftermarket part may not be certified pending further investigation. The basis upon which this notification shall be made may include, but not be limited to, information or test results which indicate:

(1) Compliance with the applicable emission-critical parameters was not achieved or that the testing methods used to demonstrate compliance with the emission-critical parameters were inadequate;

(2) The part is to be certified on the basis of emission testing, and the procedure used in such tests was not in compliance with those portions of the Federal Test Procedure not waived pursuant to § 85.2114(b);

(3) Use of the certified part may cause a vehicle to exceed any applicable emission requirements;

(4) The durability requirement of § 85.2114(c) has not been complied with;

(5) Use of the certified part could cause or contribute to an unreasonable risk to public health, welfare or safety in its operation or function;

(6) Installation of the certified part requires procedures or equipment which would likely cause it to be improperly installed under normal conditions or would likely result in a vehicle being misadjusted; or

(7) Information and/or data required to be in the Notification of intent to certify § 85.2115 have not been provided.

(b) The aftermarket part manufacturer must respond in writing to the statements made in the notification by the Director, or the aftermarket part manufacturer shall withdraw its notification of intent to certify.

(1) Any party interested in the outcome of a decision as to whether a part may be certified may provide the Director with any relevant written information up to ten days after the manufacturer responds to the Director's objection.

(2) Any interested party may request additional time to respond to the information submitted by the part manufacturer. The Director upon a showing of good cause by the interested party may grant an extension of time to reply up to 30 days.

(3) The part manufacturer may reply to information submitted by interested parties. Notification of intent to reply shall be submitted to the Director within 10 days of the date information from interested parties is submitted to the Director.

(4) The Director may, at his or her discretion, allow oral presentations by the aftermarket manufacturer or any interested party in connection with a contested part certification.

(c) If an objection has been sent to an aftermarket part manufacturer pursuant to paragraph (a) of this section, the Director shall, after reviewing all pertinent data and information, render a decision and inform the aftermarket part manufacturer in writing as to whether such part may be certified and, if so, under what conditions the part may be certified. The written decision shall include an explanation of the reasons therefor.

(1) The decision by the Director shall be provided to the manufacturer within 30 working days of receipt of all necessary information by the manufacturer or interested parties, or of the date of any oral presentation regarding the certification, whichever occurs second.

(2) A copy of the decision shall be sent to all identified interested parties.

(3) Within 20 days of receipt of a decision made pursuant to this subsection, any party may file a written appeal to the Deputy Assistant Administrator. The Deputy Assistant Administrator may, in his or her discretion, allow additional oral or written submissions, prior to rendering a final decision. The schedule for such submission shall be in accordance with the schedule specified in § 85.2116(b).

(4) If no party files an appeal with the Deputy Assistant Administrator within 20 days, then the decision of the Director shall be final.

(5) The Deputy Assistant Administrator shall make a final decision regarding the certification of a part within 30 working days of receipt of all necessary information by the part manufacturer or from the date of any oral presentation, whichever occurs later.

(6) A copy of all final decisions made under this section shall be published in the Federal Register.

§ 85.2117 Warranty.

(a) As a condition of certification, the aftermarket part manufacturer shall warrant that if the certified part is properly installed it will not cause a vehicle to exceed Federal emission requirements as adjudged by an emission short test approved by EPA under section 207(b)(1) of the Act.

(b) The aftermarket part manufacturer's minimum obligation under this warranty shall be to reimburse vehicle manufacturers for all reasonable expenses incurred as a result of honoring a valid emission performance warranty claim which arose because of the use of the certified aftermarket part.

(c) Nothing in this section precludes a part manufacturer from expanding its warranty to include reimbursement to any additional parties it desires.

§ 85.2118 Changes after certification.

The aftermarket part manufacturer shall be required to recertify any part which:

(a) Was certified pursuant to § 85.2114(a)(1) and to which modifications are subsequently made which could affect the results of any test or judgment made that the part meets all of the applicable Emission-Critical Parameters;

(b) Was certified pursuant to § 85.2114(a)(2) and to which modifications are made which are likely to affect emissions or the capability of the part to meet any other requirement of this subpart; or

(c) Was certified and is subsequently modified in a manner affecting the durability of the part or any emission control device, engine or the vehicle upon which such part is installed.

§ 85.2119 Labelling requirements.

(a) Except for those components specified in paragraph (b) of this section, each part certified pursuant to these regulations shall have "Certified to EPA Standards" and the name of the aftermarket part manufacturer or other party designated to determine the validity of warranty claims placed on the part.

(b) In lieu of the information contained in paragraph (a) of this section, the part may contain identification markings that can be used to refer to the information required in paragraph (a) of this section. A description of the marking and notification that such marking is intended in lieu of the information required above, must be made to the Agency in the Notification of Intent to Certify.

(c) The package in which the certified aftermarket part is contained must have the following information conspicuously placed thereon:

(1) The statement "Certified by (name of manufacturer or warranter) to EPA Emission Standards".

(2) A list of the vehicles or engines (in accordance with § 85.2115(a)(1)(ii)) for which the part has been certified,

(3) A statement of the maintenance or replacement interval for which the part has been certified, if the interval is of a shorter duration than the interval specified in the written instructions for proper maintenance and use for the original equipment,

(4) A description of the maintenance necessary to be performed on the part in the proper maintenance and use of the part, if such maintenance is in addition to or different from that maintenance necessary on the original equipment part, and

(5) The instructions for proper installation if different from the vehicle manufacturer's recommended installation instruction for that part.

(d) The information required by paragraphs (c)(4) and (5) of this section may be provided on a written insert with the certified aftermarket part if the insert also contains the information required in paragraphs (c)(1), (2) and (3) of this section.

(e) The information required by paragraph (c)(2) of this section may be provided in a catalog rather than on the package or on an insert: *Provided*, That access to the catalog is readily available to purchasers and installers of the part.

(f) When an aftermarket part manufacturer desires to certify existing in-service stocks of its products, it may do so provided:

(1) The part does not differ in any operational or durability characteristic from the aftermarket parts specified in the notification made pursuant to § 85.2115, and

(2) A supplemental information sheet is made available to all parties selling the part.

(i) The supplemental sheet shall be made available in sufficient quantities so that it can be provided with all parts sold as certified, and

(ii) The supplemental sheet shall contain all of the information specified in paragraph (c) of this section.

§ 85.2120 Maintenance and Submittal of Records.

(a) For each certified aftermarket part, the aftermarket part manufacturer must establish, maintain and retain for 5 years the following adequately organized and indexed records:

(1) Detailed production drawings showing all dimensions, tolerances, performance requirements and material specifications and any other information necessary to completely describe the part;

(2) A description of the testing program, including all production part sampling techniques used to verify compliance of the certified aftermarket part with the applicable Emission-Critical Parameters and durability requirements;

(3) All data obtained during testing of the part and subsequent analyses based on that data, including the milege and the vehicle or engine configuration determinants if emission testing is utilized as the basis for certification;

(4) All information used in determining those vehicles for which the part is represented as being equivalent from an emissions standpoint to the original equipment part;

(5) A description of the quality control plan used to monitor production and assure compliance of the part with the applicable certification requirements;

(6) All data taken in implementing the quality control plan, and any subsequent analyses of that data;

(7) A description of all the methodology, analysis, testing and/or sampling techniques used to ascertain the emission critical parameter specifications of the originial equipment part; and

(8) All in-service data, analyses performed by the manufacturer and correspondence with vendors, distributors, consumers, retail outlets or vehicle manufacturers regarding any design, production or in-service

problems associated with 25 or more of

(i) A description of the noncomplying

(e) If a final decision is made to

(2) *Carburetor Choke Thermostats.* (i)

(4) *Positive Crankcase Ventilation*

(A) "Flashover" means the discharge

problems associated with 25 or more of any certified part.

(b) The records required to be maintained in paragraph (a) of this section shall be made available to the Agency upon the written request of the Director.

(c) For parts certified only for vehicles with less than 5 years of emission performance warranty coverage remaining, records must be kept for 3 years or until they determine that approximately 80% of the applicable vehicles are outside the warranty period, whichever occurs second.

(d) This section shall expire 5 years from the effective date of this regulation unless renewed prior to that date.

§ 85.2121 Decertification.

(a) The Director may notify an aftermarket part manufacturer that the Agency has made a preliminary determination that one or more parts should be decertified.

(1) Such a preliminary determination may be made if there is reason to believe that the part manufactured has failed to comply with §§ 85.2112 through 85.2122. Information upon which such a determination will be made includes but is not limited to the following.

(i) Tests required to be performed to demonstrate compliance of the part with the applicable Emission-Critical Parameters

(A) Were not performed on the part(s), or

(B) Were insufficient to demonstrate compliance;

(ii) The part was certified on the basis of emission tests, and

(A) The procedures used in such tests were not in substantial compliance with a portion or portions of the Federal Test Procedure which were not waived pursuant to § 85.2114(b)(4); or

(B) The emission results were not in compliance with the requirements of § 85.2114(b);

(iii) Use of the certified part is causing vehicle emissions to exceed emission requirements for any regulated pollutant;

(iv) Use of the certified part causes or contributes to an unreasonable risk to public health, welfare or safety or severely degrades drivability operation or function;

(v) The part has been modified in a manner requiring recertification pursuant to § 85.2118; or

(vi) The manufacturer of such part has not established, maintained or retained the records required pursuant to § 85.2120.

(2) Notice of a preliminary determination to decertify shall contain:

(i) A description of the noncomplying part(s);

(ii) The basis for the Director's preliminary decision; and

(iii) The date by which the manufacturer must

(A) Terminate the sale of the part as a certified part, or

(B) Make the necessary change (if so recommended by the Agency), and

(C) Request an opportunity in writing to dispute the allegations of the preliminary decertification.

(b) If the aftermarket part manufacturer requests an opportunity to respond to the preliminary determination, the manufacturer and other parties interested in the Director's decision whether to decertify a part may, within 15 days of the date of the request, submit written presentations, including the relevant information and data, to the Director. The Director, in his or her discretion, may provide an opportunity for oral presentations.

(1) Any interested party may request additional time to respond to the information submitted by the part manufacturer. The Director upon a showing of good cause by the interested party may grant an extension of time to reply up to 30 days.

(2) The part manufacturer may have an extension of up to 30 days to reply to information submitted by interested parties. Notification of intent to reply shall be submitted to the Director within 10 days of the date information from interested parties is submitted to the Director.

(c) If a part manufacturer has disputed the allegations of the preliminary decisions, the Director shall, after reviewing any additional information, notify the aftermarket part manufacturer of his or her decision whether the part may continue to be sold as certified. This notification shall include an explanation upon which the decision was made and the effective date for decertification, where appropriate.

(d) Within 20 days from the date of a decision made pursuant to paragraph (c) of this section, any adversely affected party may appeal the decision to the Deputy Assistant Administrator.

(1) A petition for appeal to the Deputy Assistant Administrator must state all of the reasons why the decision of the Director should be reversed.

(2) The Deputy Assistant Administrator may, in his or her discretion, allow additional oral or written testimony.

(3) If no appeal is filed with the Deputy Assistant Administrator within the permitted time period, the decision of the Director shall be final.

(e) If a final decision is made to decertify a part under paragraph (d) of this section, the manufacturer of such part shall notify his immediate customers (other than retail customers) that, as of the date of the final determination, the part in question has been decertified. The part manufacturer shall offer to replace decertified parts in the customer's inventory with certified replacement parts or, if unable to do so, shall at the customer's request repurchase such inventory at a reasonable price.

(f) Notwithstanding the requirements of paragraph (e) of this section, a part purchased by a vehicle owner as certified, shall be considered certified pursuant to this subpart.

§ 85.2122 Emission-Critical Parameters.

(a) The following parts may be certified in accordance with § 85.2114(a)(1):

(1) *Carburetor Vacuum Break (Choke Pull-Off).* (i) The emission-critical parameters for carburetor vacuum breaks are:

(A) Diaphragm Displacement
(B) Timed Delay
(C) Modulated Stem Displacement
(D) Modulated Stem Displacement Force
(E) Vacuum Leakage

(ii) For the purposes of this paragraph:

(A) "Diaphragm Displacement" means the distance through which the center of the diaphragm moves when activated. In the case of a non-modulated stem, diaphragm displacement corresponds to stem displacement.

(B) "Timed Delay" means a delayed diaphragm displacement controlled to occur within a given time period.

(C) "Modulated Stem Displacement" means the distance through which the modulated stem may move when actuated independent of diaphragm displacement.

(D) "Modulated Stem Displacement Force" means the amount of force required at start and finish of a modulated stem displacement.

(E) "Vacuum Leakage" means leakage into the vacuum cavity of a vacuum break.

(F) "Vacuum Break" ("Choke Pull-off") means a vacuum-operated device to open the carburetor choke plate a predetermined amount on cold start.

(G) "Modulated Stem" means a stem attached to the vacuum break diaphragm in such a manner as to allow stem displacement independent of diaphragm displacement.

(H) "Vacuum Purge System" means a vacuum system with a controlled air flow to purge the vacuum system of undesirable manifold vapors.

(2) *Carburetor Choke Thermostats.* (i) The emission-critical parameters for all Choke Thermostats are:

(A) Thermal Deflection Rate
(B) Mechanical Torque Rate
(C) Index Mark Position

(ii) The emission-critical parameters for Electrically-Heated Choke Themostats are:

(A) Those parameters set forth in subparagraph (2)(i) of this paragraph
(B) Time to rotate coil tang when electrically energized
(C) Electrical circuit resistance
(D) Electrical switching temperature

(iii) For the purpose of this paragraph:

(A) "Choke" means a device to restrict air flow into a carburetor in order to enrich the air/fuel mixture delivered to the engine by the carburetor during cold-engine start and cold-engine operation.

(B) "Thermostat" means a temperature-actuated device.

(C) "Electrically-heated Choke" means a device which contains a means for applying heat to the thermostatic coil by electrical current.

(D) "Thermostatic Coil" means a spiral-wound coil of thermally-sensitive material which provides rotary force (torque) and/or displacement as a function of applied temperature.

(E) "Thermostatic Switch" means an element of thermally-sensitive material which acts to open or close an electrical circuit as a function of temperature.

(F) "Mechanical Torque Rate" means a term applied to a thermostatic coil, defined as the torque accumulation per angular degree of deflection of a thermostatic coil.

(G) "Thermal Deflection Rate" means the angular degrees of rotation per degree of temperature change of the thermostatic coil.

(H) "Index or Index Mark" means a mark on a choke thermostat housing, located in a fixed relationship to the thermostatic coil tang position to aid in assembly and service adjustment of the choke.

(I) "PTC Type Choke Heaters" means a positive termperature coefficient resistant ceramic disc capable of providing heat to the thermostatic coil when electrically energized.

(3) *Carburetor Accelerator Pumps.* (i) The emission-critical parameter for accelerator pumps (plungers or diaphragms) is the average volume of fuel delivered per stroke by the pump within prescribed time limits.

(ii) For the purpose of this paragraph an "Accelerator Pump (Plunger or Diaphragm)" means a device used to provide a supplemental supply of fuel during increasing throttle opening as required.

(4) *Positive Crankcase Ventilation (PCV) Valves.* (i) The emission-critical parameter for a PCV valve is the volume of flow as a function of pressure differential across the valve.

(ii) For the purposes of this paragraph a "PCV Valve" means a device to control the flow of blow-by gasses and fresh air from the crankcase to the fuel induction system of the engine.

(5) *Breaker Points.* (i) The emission-critical parameters for breaker points are:

(A) Bounce
(B) Dwell Angle
(C) Contact Resistance

(ii) For the purposes of this paragraph:

(A) "Breaker Point" means a mechanical switch operated by the distributor cam to establish and interrupt the primary ignition coil current.

(B) "Bounce" means unscheduled point contact opening(s) after initial closure and before scheduled reopening.

(C) "Dwell Angle" means the number of degrees of distributor mechanical rotation during which the breaker points are conducting current.

(D) "Contact Resistance" means the opposition to the flow of current between the mounting bracket and the insulated terminal.

(6) *Capacitors/Condensers.* (i) The emission-critical parameters for capacitors/condensers are:

(A) Capacitance
(B) Series Resistance
(C) Breakdown Voltage

(ii) For the purposes of this paragraph:

(A) "Capacitance" means the property of a device which permits storage of electrically-separated charges when differences in electrical potential exist between the conductors and measured as the ratio of stored charge to the difference in electrical potential between conductors.

(B) "Series Resistance" means the sum of resistances from the condenser plates to the condenser's external connections.

(C) "Breakdown Voltage" means the voltage level at which the capacitor fails.

(D) "Capacitor/Condenser" means a device for the storage of electrical energy consisting of two oppositely charged conducting plates separated by a dielectric and which resists the flow of direct current.

(7) *Distributor Caps and/or Rotors.* (i) The emission-critical parameters for distributor caps and/or rotors are:

(A) Physical and Thermal Integrity
(B) Dielectric Strength
(C) Flashover

(ii) For the purposes of this paragraph:

(A) "Flashover" means the discharge of ignition voltage across the surface of the distributor cap and/or rotor rather than at the spark plug gap.

(B) "Dielectric Strength" means the ability of the material of the cap and/or rotor to resist the flow of electric current.

(C) "Physical and Thermal Integrity" means the ability of the material of the cap and/or rotor to resist physical and thermal breakdown.

(8) *Spark Plugs.* (i) The emission critical parameters for spark plugs are:

(A) Heat Rating
(B) Gap Spacing
(C) Gap Location
(D) Flashover
(E) Dielectric Strength

(ii) For the purposes of this paragraph:

(A) "Spark Plug" means a device to suitably deliver high tension electrical ignition voltage to the spark gap in the engine combustion chamber.

(B) "Heat Rating" means that measurement of engine indicated mean effective pressure (IMEP) value obtained on the engine at a point when the supercharge pressure is 25.4mm (one inch) Hg below the preignition point of the spark plug, as rated according to SAE J549A Recommended Practice.

(C) "Gap Spacing" means the distance between the center electrode and the ground electrode where the high voltage ignition arc is discharged.

(D) "Gap Location" means the position of the electrode gap in the combustion chamber.

(E) "Dielectric Strength" means the ability of the spark plug's ceramic insulator material to resist electrical breakdown.

(F) "Flashover" means the discharge of ignition voltage at any point other than at the spark plug gap.

(9) *Inductive System Coils.* (i) The emission-critical parameters for inductive system coils are:

(A) Open Circuit Voltage Output
(B) Dielectric Strength
(C) Flashover
(D) Rise Time

(ii) For the purposes of this paragraph:

(A) "Coil" means a device used to provide high voltage in an inductive ignition system.

(B) "Flashover" means the discharge of ignition voltage across the coil.

(C) "Dielectric Strength" means the ability of the material of the coil to resist electrical breakdown.

(D) "Rise Time" means the time required for the spark voltage to increase from 10% to 90% of its maximum value.

(10) *Primary Resistors.* (i) The emission-critical parameter for primary resistors is the DC resistance.

(ii) For the purpose of this paragraph, a "Primary Resistor" means a device

(C) "Light-off Time" or "LOT" means the time required for a catalytic

temporarily sealed during this test when applicable.

the original equipment value. The initial

shall at room temperature deliver a

d. The data observed with the

(ii) For the purpose of this paragraph, a "Primary Resistor" means a device used in the primary circuit of an inductive ignition system to limit the flow of current.

(11) *Breaker Point Distributors.* (i) The emission-critical parameters for breaker point distributors are:

(A) Spark Timimg

(*1*) Centrifugal Advance Characteristics

(*2*) Vacuum Advance Characteristics

(B) Dwell Angle

(C) Breaker point contact operation

(D) Electrical resistance to ground

(E) Capacity for compatibility with generally available original equipment and certified replacement parts listed in § 85.2112(a) (5), (6), (7), and (9).

(ii) For the purposes of this paragraph:

(A) "Distributor" means a device for directing the secondary current from the induction coil to the spark plugs at the proper intervals and in the proper firing order.

(B) "Distributor Firing Angle" means the angular relationship of breaker point opening from one opening to the next in the firing sequence.

(C) "Dwell Angle" means the number of degrees of distributor mechanical rotation during which the breaker points are capable of conducting current.

(12) Engine Valves [Reserved]

(13) Camshafts [Reserved]

(14) Pistons [Reserved]

(15) *Oxidizing Catalytic Converter*

(i) The emission-critical parameters for oxidizing catalytic converters are:

(A) Conversion Efficiency

(B) Light-off Time

(C) Mechanical and Thermal Integrity

(ii) For the purposes of this paragraph including the relevant test procedures in the Appendix:

(A) "Catalytic Converter" means a device installed in the exhaust system of an internal combustion engine that utilizes catalytic action to oxidize hydrocarbon (HC) and carbon monoxide (CO) emissions to carbon dioxide (CO_2) and water (H_2O).

(B) "Conversion Efficiency" means the measure of the catalytic converter's ability to oxidize HC/CO to CO_2/H_2O under fully warmed-up conditions stated as a percentage calculated by the following formula:

$$\frac{\text{Inlet conc.} - \text{outlet conc.}}{\text{Inlet conc.}} \times 100$$

(C) "Light-off Time" or "LOT" means the time required for a catalytic converter (at ambient temperature 68–86°F) to warm-up sufficiently to convert 50% of the incoming HC and CO to CO_2 and H_2O.

(D) "Peak Air Flow" means the maximum engine intake mass air flow rate measure during the 195 second to 202 second time interval of the Federal Test Procedure.

(E) "Feed Gas" means the chemical composition of the exhaust gas measured at the converter inlet.

(F) "Aged Catalytic Converter" means a converter that has been installed on a vehicle or engine stand and operated thru a cycle specifically designed to chemically age, including exposure to representative lead concentrations, and mechanically stress the catalytic converter in a manner representative of in-use vehicle or engine conditions.

(G) "Mechanical and Thermal Intergrity" means the ability of a converter to continue to operate at its previously determined efficiency and light-off time and be free from exhaust leaks when subject to thermal and mechanical stresses representative of the intended application.

(16) *Air Cleaner Filter Element.* (i) The emission-critical parameters for Air Cleaner Filter Elements are:

(A). Pressure drop

(B). Efficiency

(ii) For the purpose of this paragraph:

(A) "Air Cleaner Filter Element" means a device to remove particulates from the primary air that enters the air induction system of the engine.

(B) "Pressure Drop" means a measure, in kilopascals, of the difference in static pressure measured immediately upstream and downstream of the air filter element.

(C) "Efficiency" means the ability of the air cleaner or the unit under test to remove contaminant.

(17) *Electronic Inductive Ignition System and Components* [Reserved]

(18) *Electronic Inductive Distributors* [Reserved]

(b) Additional part standards. [Reserved]

A. Carburetor Vacuum Break (Choke Pull-Off)

1. *Test Procedure and Criteria*

a. Vacuum leakage: Apply 457 ± 13mm (18.0 ± 0.5 inches) Hg. vacuum to the vacuum unit to achieve full diaphragm displacement. Seal vacuum source to unit. There shall be no visible loss of diaphragm displacement or drop in vacuum gauge reading after a 15 second observation. Vacuum purge system and diaphragm displacement adjusting screw holes should be temporarily sealed during this test when applicable.

b. Diaphragm displacement: At stabilized temperature of − 29°C and 121°C (− 20°F and 250°F) with 457 ± 13mm (18.0 ± 0.5 inches) Hg. vacuum applied to unit, the diaphragm displacement shall be within ± 1mm (0.04 inches) of the nominal original equipment displacement. The vacuum purge system must be open during this test when applicable. Adjusting screws that limit displacement should be temporarily removed and adjusting screw holes temporarily sealed during this test.

c. Timed delay (when applicable): With 457 ± 13mm (18.0 ± 0.5 inches) Hg. applied to the unit, the vacuum break diaphragm displacement shall occur within ± 20% of the original equipment time over the specified range of displacement. The diaphragm displacement shall be timed over the same distance for the original equipment as the replacement part and shall not be less than 60% of the total displacement range. The vacuum purge system must be open and the adjusting screw holes should be temporarily sealed during this test when applicable.

d. Modulated stem displacement (when applicable): With a force sufficient to extend the modulated stem to its full displacement, the displacement shall be within ± 0.8mm (± 0.03 inches) of the original equipment specification.

e. Modulated stem displacement force (when applicable): The force required to start and finish the modulated stem displacement shall be within ± 35% of the original equipment specification for forces up to 142 grams (5 ounces) and shall be within ± 20% of the original equipment specification for forces exceeding 142 grams (5 ounces).

2. *Durability Procedures:* After 250,000 full displacement cycles (from atmospheric pressure to a minimum of 530mm (21 inches) Hg. vacuum at a temperature of 79°C (175°F)) in air, the following conditions shall be met:

a. Diaphragm displacement shall not degrade more than 10% from the original test measurements of paragraph 1.b. above.

b. Timed delay shall not degrade more than 10% from the original test measurement in paragraph 1.c. above.

c. Following these tests, the units must be free of visible defects.

B. Carburetor Choke Thermostats

1. *Test Procedures and Criteria*

a. All chokes

i. *Thermal deflection rate*

When tested on a suitable fixture, the deflection rate shall be within ±6% of the original equipment value. The initial temperature and final temperature for purposes of this test may vary but shall exhibit a test temperature range of at least 44°C (80°F). Recommended test equipment, test procedures, and associated calculations are outlined in ASTM B389 (latest revision) or American National Standards Institute Z155–20.

ii. *Mechanical torque rate*

When tested on a suitable fixture, the torque rate shall be within ±12% of the mean original equipment value. Recommended test equipment, test procedures, and associated calculations are outlined in ASTM B362 (latest revision) or American National Standards Institute Z155–18 (latest revision).

iii. *Index mark position*

When stabilized for four hours at room temperature, the relative position of the thermostatic coil outer tang or loop and the index mark, when corrected to 24°C (75°F), shall be within ±5 angular degrees of the mean original equipment positions.

b. Electrically-heated Chokes

i. *Time to rotate coil tang*

When tested on a suitable fixture, the time to rotate through a prescribed angle at a prescribed temperature and prescribed voltage, for the specfic choke device under test shall be within ±12 seconds or ±25% of the mean original equipment value whichever is greater.

ii. *Electrical circuit resistance*

In an electrically-heated choke utilizing PTC type choke heater, the circuit resistance shall be within ±1.5 ohms of the mean original equipment value at 24±3°C (75°±5°F) unenergized.

iii. *Electrical switching temperature*

In an electrically heated choke thermostat utilizing a thermostatic disc switch in the electrical circuit, the temperature to open the circuit shall be within ±5.5°C (10°F) and the temperature to close the circuit shall be within ±11°C (20°F) of the mean original equipment value. Circuit opening temperature shall be measured on a decreasing temperature change, and the circuit closing temperature shall be measured on an increasing temperature change.

C. Carburetor Accelerator Pumps

1. *Test Procedure and Criteria*

a. Expose plunger or diaphragm assembly to temperatures of −30°C (−20°F) for 70 hours and at 70°C (158°F) for 24 hours, with a commercial grade fuel or equivalent.

b. Within one hour after temperature exposure of 1.a. above, each plunger or diaphragm assembly, when installed in an applicable carburetor or test fixture, shall at room temperature deliver a volume of test fluid (Stoddard solvent or equivalent) from a 10 stroke cycle,* within ±30% of the volume from a 10 stroke cycle of an original equipment plunger or diaphragm assembly.

2. *Durability Procedure:* After 250,000 operational cycles, at approximately 30 cycles per minute at room temperature in test fluid, the output of the plunger/diaphragm shall not drop below 90% of the low limit as established in 1.b.

D. Positive Crankcase Ventilation (PCV) Valve

1. *Test Procedure and Criteria*

a. Measure the flow of the PCV valve in standard cubic feet per minute (SCFM) vs. pressure differential across the valve over a range of operating pressures from 4–22 inches Hg., at standard atmospheric conditions (21.1° C (70° F) at 755mm (29.92 inches).

b. A PCV valve shall flow within the vehicle manufacturer's specifications or shall meet the following criteria: Whenever the mean of the original equipment flow curve is below 1 SCFM, a maximum deviation of the mean replacement PCV valve shall not exceed ± 0.1 SCFM. Whenever the mean original equipment curve is equal to or greater than 1 SCFM, a maximum deviation of the mean of the replacement PCV valve shall not exceed ± 10%. The total flow tolerance of the replacement valve shall not exceed the original equipment variation from the mean, at any pressure differential.

2. *Durability Procedure:* The flow of any specific PCV valve must not deviate from the flow curve of the original equipment PCV valve by more than the total original allowable tolerance when each is similarly operated in the intended vehicle application over the service interval stated by the certifier.

E. Breaker Points

1. *Test Procedures and Criteria*

a. Set up test system circuit and equipment per Figure 1 with an OE breaker point assembly. Connect the primary to a 14 ± .5 V DC regulated power supply.

b. Record dwell angle and open-circuit output voltage at 300 and 500 distributor rpm and at 500 rpm intervals up to the maximum speed of the intended application.

c. Insert the replacement part in the test system and repeat the observations per b above under identical test conditions.

d. The data observed with the replacement part in the system must meet the following criteria:

(1) The dwell angle change: Not to exceed that of the original equipment by more than ± 2° at all measured rpm intervals.

10 stroke cycle: 10 strokes from closed throttle plate position to wide open throttle plate position occurring within a 15–25 second time period.

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(2) The open circuit output voltage

d. (1) Measure capacitance after 4

f. The output voltages measured with

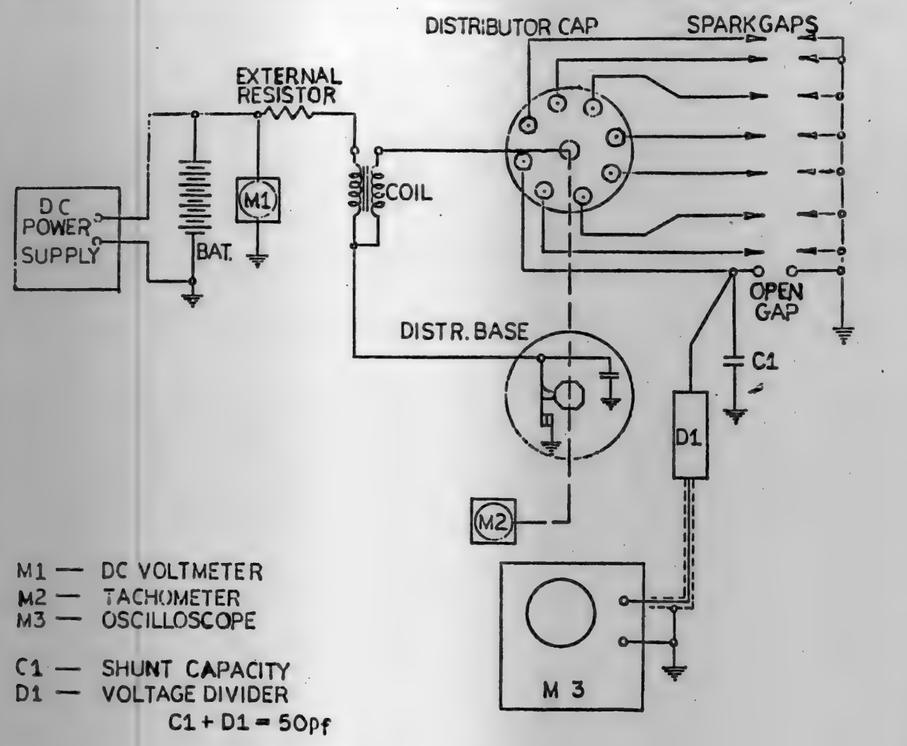

FIGURE 1

BILLING CODE 6560-23-C

(2) The open circuit output voltage (M–3): Not less than 90% of the OE breaker point assembly at any measured rpm.

e. Repeat step c above at −40°C (−40°F) and 100°C (212°F).

f. The breaker points shall operate without evidence of point bounce at all test speeds and temperatures and shall operate easily without binding when operated manually.

2. *Durability Procedures*

a. Set up a bench ignition system using an applicable distributor or electro-mechanical equivalent.

b. Install the breaker point assembly under test in the distributor, lubricate and adjust per applicable vehicle manufacturer's specifications. Use applicable coil, primary resistor, capacitor, cap and rotor.

c. Connect the primary of the test system with a power supply regulated at 14±0.5 V DC for a 12V system.

d. The secondary portion of the test system is to be connected to a 12±2KV spark gap.

e. An external heat source shall generate an ambient temperature of 70° (158°F) for the distributor.

f. Drive the distributor at 1750±50 rpm for 200 hours. After each 50 hour interval, run the distributor for 5 minutes with one open circuit spark gap instead of a 12KV gap.

g. The replacement breaker point assembly must have the capability of performing throughout the duration of the test without evidence of any failure resulting in loss of spark in the 12KV spark gap.

h. After the 200 hours repeat step 1.c. above. The open circuit output voltage must be at least 90% of that measured in 1.c.

F. Capacitors/Condensers

1. *Test Procedures and Criteria*

a. The electrostatic capacitance of the replacement condenser shall be within ±20% of the value of the original part at 20±3°C (68±5°F). The capacitance is to be measured on a capacitance bridge having an accuracy of ±1% at 1 KHz frequency.

b. Set up the test system in accordance with Figure 1. The condenser series resistance shall be such that the output voltage at 500 distributor rpm with the replacement condenser shall not be less than 90% of the output voltage (M–3) with the original equipment condenser.

c. The capacitor must be able to withstand a minimum test voltage of 500V DC for a minimum of 0.1 seconds without failure.

d. (1) Measure capacitance after 4 hours minimum soak at 70° (158°F).

(2) After one hour at room temperature, place capacitor at −18°C (0°F) for 4 hours minimum and measure capacitance.

(3) Place capacitor at room temperature for 4 hours minimum and measure capacitance.

e. After thermal cycling, repeat 1.a. and b. The results must be within ±10 percent of the intital measurements.

2. *Durability Procedure*

a. Set up a bench ignition system using an applicable distributor or an electro-mechanical equivalent.

b. Install the capacitor under test in the distributor adjusted to applicable vehicle manufacturer's specifications. Use applicable coil, primary resistor, breaker points, cap and rotor.

c. Connect the primary of the test system with a power supply regulated at 14±0.5V DC for 12V system.

d. The secondary portion of the test system is to be connected to a 12±2KV spark gap.

e. An external heat source shall generate an ambient temperature of 70°C (158°F) for the distributor.

f. Drive the distributor at 1750±50 rpm for 200 hours. After each 50 hour interval, run the distributor for 5 minutes with one open circuit spark gap instead of a 12KV gap.

g. The replacement part must have the capability of performing throughout the duration of the test without evidence of any failure resulting in loss of spark in the 12KV spark gap.

h. After the 200 hours, the condenser shall be within 10 percent of the capacitance and voltage measured in 1.a. and b. respectively.

G. Distributor Caps and/or Rotors

1. *Test Procedures and Criteria*

a. Set up test system in accordance with the circuit and equipment per Figure 1 with OE distributor cap and/or rotor. Connect the primary to a 14±.5V DC regulated power supply.

b. Record open circuit output voltage (M–3) at 300 and 500 distributor rpm and at intervals of 500 distributor rpm up to the maximum speed of the intended application.

c. Insert the intended replacement part(s) in the system and repeat step b. above under identical test conditions.

d. Subject the intended replacement part to the following thermal sequence through five complete cycles:

1. 12 hours at −40°C (−40°F)
2. 2 hours at room temperature
3. 4 hours at 100°C (212°F)
4. 2 hours at room temperature.

e. Repeat step b. above with the replacement part(s).

f. The output voltages measured with the replacement part(s) in the system must be at least 90% of the output voltage with the OE cap and/or rotor.

2. *Durability Procedures*

a. Set up test system in accordance with circuit and equipment per Figure 1.

b. Install the cap and/or rotor under test in distributor, lubricate and adjust per applicable vehicle manufacturer's specifications. Use equivalent coil, primary resistor, breaker points and capacitor.

c. Connect the primary of the test system with a power supply regulated at 14±0.5 V D.C.

1. In breaker point operated systems, connect secondary to a 12 KV±2 KV gap.

2. In electronic ignition systems, connect secondary to a gap equivalent to at least 50% of peak open-circuit voltage.

d. An external heat source shall generate an ambient temperature of 70° (158° F) for the distributor.

e. Distributor shall be driven at 1750±50 rpm for 200 hours. After each 50 hours interval, run the distributor for 5 minutes with one open-circuit spark gap instead of a 12KV gap.

f. The replacement part(s) must have the capability of performing throughout the duration of the test without evidence of any failure resulting in loss of spark at the spark gap.

g. Repeat step 1.c. above. The open circuit output voltage must be at least 90% of that measured in step 1.c.

h. The replacement cap and/or rotor must be free of any visual cracks, arcing or melting.

H. Spark Plugs

1. *Test Procedures and Criteria*

a. Heat rating: When comparatively rated in the SAE 17.6 Spark Plug Rating engine according to the SAE J549A Recommended Practice, the comparative average rating of at least five (5) replacement spark plugs shall be within 15 percent of the average IMEP of at least five (5) OE spark plugs.

b. Gap spacing: The electrode spark gap shall be equivalent or adjustable to the recommended gap for the original equipment spark plug.

c. Gap location: The electrode gap position in the chamber shall be the same as specified by the vehicle manufacturer.

d. Flashover: The spark plug terminal end, with the properly fitted connecting boot, shall not flash-over at peak anticipated voltage for the intended application when electrode gap is 15% larger than vehicle manufacturer's gap specifications.

I. Inductive System Coils

b. With the original equipment coil installed, record the predominant

open-circuit output voltage (M–3) at least 90% of the OE coil output voltage

	LOT	Conversion efficiency

warranted life of the original equipment converter.

pressure drop in (i) and absolute filter weight in (ii) must be equal to or less

I. Inductive System Coils

1. *Test Procedures and Criteria*

a. Set up the circuit in accordance with Figure 1. Operate the circuit by an applicable distributor or equivalent triggering device and applicable primarly resistor with a 50 pf load at 14.0±0.50 volts DC input as applicable and stabilized at an ambient temperature of 20°C±3°C (68°F±5°F).

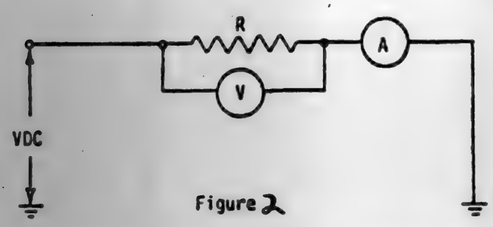

Figure 2

Current A to be maintained at 2.5 amps for duration of test.

b. Operate the circuit with a regulated power supply of 14.0 ± .5 volts DC connected to the primary at an ambient temperature of 70°C (158°F) at 1750 ± 50 distributor rpm for a duration of 200 hours. After each 50 hour interval, run the distributor for 5 minutes with one open-circuit spark gap instead of a 12KV gap.

c. The ignition coil shall perform throughout the test without any evidence of coil failure which would result in the loss of the spark in the 12 KV spark gap.

d. Repeat Step 1.c. above. The open-circuit output voltage must be at least 90% of that measured in 1.c.

J. Primary Resistors

1. *Test Procedures and Criteria.*

a. Configure the circuit shown in Figure 2, using the original equipment resistor.

b. At 20 ± 3°C (68 ± 5°F), apply voltage for 15 minutes; maintain current at 2.5 amps. At conclusion of 15 minutes, read voltage and current. Calculate resistance using the relationship

R=E/I,
where:
R=Resistance in ohms,
E=Voltage (V) in volts,
I=Current (A) in amps.

c. Replace OE test sample with part to be certified and repeat step b. above.

b. With the original equipment coil installed, record the predominant minimum peak voltage and rise time at 300 and 500 distributor rpm, and at 500 rpm intervals up to the maximum intended operating speed. The measurement is to be taken after 4 minutes operation at each speed.

c. Install the replacement coil to be tested and repeat step b. above.

d. The replacement coil shall have an open-circuit output voltage (M-3) at least 90% of the OE coil output voltage and a rise time not to exceed 110% of original equipment coil at each distributor test speed.

2. *Durability Procedure*

a. Install the replacement ignition coil in the ignition system using the applicable rotor, cap, capacitor, breaker points, and primary resistor.

d. Resistance of the part shall be within ± 20% of original equipment resistance.

2. *Durability Procedure.*

a. Using the circuit shown in Figure 1, apply current at 70°C (150°F), for 200 hours.

b. After 200 hours retest as in step 1.c. above, and verify that resistance is within ± 20% of the value as measured in step 1.b. above.

K. Distributors—Breaker Point

1. *Test Procedures and Criteria.*

a. Using an appropriate test installation, operate the distributor through its intended speed range.

b. The advance mechanism shall function within the tolerance of the vehicle manufacturer's original specification over the speed range of the intended application as to vacuum and centrifugal advance.

c. The advance mechanism shall repeatedly return to the zero setting ± 0.5 distributor degrees after advancing and retarding through the operating range.

d. The distributor firing angle accuracy shall remain within the originally specified tolerances throughout the speed range of the intended application.

e. The distributor shall be capable of maintaining the dwell angle of the original equipment specification with ±2 degrees throughout the speed range of the intended application.

f. The distributor shall be capable of open-circuit output voltage (M-3) equal to at leat 90 percent of the voltage produced by the original equipment system over the speed range of the intended application.

2. *Durability Procedure.*

a. At an ambient temperature of 70° C (150° F), operate the distributor at 1750 ± 50 rpm for 200 hours.

b. The distributor must meet the requirements of paragraph 1.b. through f. after the 200 hours.

L. Reserve for Engine Valves

M. Reserved for Camshafts

N. Reserved for Pistons

O. Oxidizing Catalytic Converters

1. *Test Procedures and Criteria.*

(a) The fresh and aged conversion efficiencies of the replacement oxidizing catalytic converter shall be equal to or exceed those of the original equipment converter for CO and HC emissions. The fresh and aged Light-off Time (LOT) of the replacement converter shall be equal to or less than those of the original equipment converter for CO and HC emissions. These parameters shall be determined for both fresh and aged converters under the same conditions using the following steady state feed gas concentrations and conditions for LOT and Conversion Efficiency respectively:

	LOT	Conversion efficiency
Exhaust mass flow rate.	See note (2)	See note (1).
Total hydrocarbons.	See note (3)	See note (3).
Carbon monoxide	1.0 to 2.5%	1.0 to 2.5%.
Hydrogen	0.33×% CO maximum.	0.33×% CO maximum.
Oxygen	1.5×% CO minimum.	1.5×% CO minimum.
Converter inlet gas temperature.	850°F to 850°F	650°F to 850°F.

Note 1.—Not less than peak air flow of the vehicle or engine configuration being certified for. If more than one vehicle or engine application is to be covered by a generic converter, the greatest peak vehicle or engine air flow shall be used.

Note 2.—Between 0.10 and 0.40 times the value determined in Note 1.

Note 3.—500–2000 parts per million by volume minimum based on Methane calibration. If a non-engine simulator gas source is used, a mixture ratio of 10% propane to 90% propylene by volume will constitute an acceptable synthetic for total exhaust hydrocarbons.

(i) LOT tests shall be conducted by exposing the converter to a step change in temperature, from ambient to that specified above: 650°–850°F. Converter inlet and outlet exhaust emissions as measured. Light-off Time is then determined by recording the time required for the converter to reduce the outlet emissions (HC and CO) to 50% of the inlet emissions, on a volumetric concentration basis, measured from the step temperature change.

(ii) Conversion efficiency measurements shall be obtained by passing stabilized-feed gas through the converter (at conditions specified above) and making simultaneous measurements of inlet and outlet emission volume concentrations. The conversion efficiency for CO and HC is then calculated.

(iii) The particular conditions for which LOT and conversion efficiency are measured (i.e., exhaust mass flow rate, total hydrocarbons, carbon monoxide, hydrogen, oxygen, and converter inlet temperature) for the replacement converter and original equipment converter tests must not vary from one another by more than 10%.

(b) Fresh and aged catalytic converters may be obtained by operating the converter on individual vehicle or engine application for which it is intended on the Federal Test Procedure road durability driving cycle. A fresh converter results when the converter has operated between 2000 and 5000 miles or equivalent hours. An aged converter results when the converter has been operated for the warranted life of the original equipment converter.

(c) Where one generic converter is intended to cover multiple vehicle or engine configurations, converter aging may be obtained per Paragraph (b) above, on a vehicle or engine which represents the greatest peak air flow of the group of vehicle configurations to be covered, and whose calibration and feed gas concentrations are representative of the vehicle or engine configurations being certified for.

2. *Other Considerations.*

(a) Replacement converter must fit within the width and length space envelope of the original equipment converter. Converter spacing from the underbody and for ground clearance must be the same or greater than the original equipment converter application.

(b) Pressure drop measured between inlet and outlet pipe interconnecting points on the replacement converter shall be within ±25% of similar measurements for the original equipment converter being replaced, when measured at each of three flow conditions 50 SCFM, 100 SCFM, and 150 SCFM with a suitable fluid medium such as air. Maximum allowable exhaust gas leakage from the replacement coverter shall be 0.4 cubic feet per minute measured at 4.0 pounds per square inch differential. All measurements must be normalized to equal density conditions.

(c) Converter skin temperature shall be measured during the converter efficiency test. The skin temperature for the replacement converter must equal or be less than that for the original equipment converter.

P. Air Cleaner Filter Element

1. *Test Procedures and Criteria.*

(a) Using test equipment and procedures specified in SAE–J726c, perform:

(i) Air Flow and Pressure Drop Test (2.3) at 200 SCFM, record test conditions and pressure drop.

(ii) Efficiency Test (2.4) to measure full life efficiency at 200 SCFM to a total pressure drop of 9 inches of water, record test conditions and test duration from first to last addition of standard dust, weigh test element and absolute filter at end of test using three randomly selected original equipment air filter elements.

(b) Perform tests as in (a) above, under conditions controlled to within ±10% of the corresponding original equipment test conditions, for three randomly selected replacement air filter elements.

(c) The replacement air filter element average recorded test results. The pressure drop in (i) and absolute filter weight in (ii) must be equal to or less than those average results for the original equipment test results. The replacement air filter averaged test results for element weight in (ii) must be equal to or larger than averaged result for the original equipment averaged test results.

2. *Durability Procedure.*

(a) After use in the intended vehicle or engine application for the recommended service interval, the replacement element shall evidence an increase in pressure drop (as measured in 1 (a)(i) above) equal to or less than that of the original equipment air filter element tested in the identical manner.

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Part V

Architectural and Transportation Barriers Compliance Board

Compliance With Standards for Access to and Use of Buildings by Handicapped Persons; Final Rules

ARCHITECTURAL AND TRANSPORTATION BARRIERS

the purpose of judicial review. The 1978 Act also provides that any complainant

additional 10 days, making a total of 30 days to render his decision which is

in this regulation after A&TBCB

Another comment was that the

paragraphs (c) and (d) were

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1150

Compliance With Standards for Access to and Use of Buildings by Handicapped Persons

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Final rules.

SUMMARY: The Architectural and Transportation Barriers Compliance Board is revising its regulation relating to Compliance with Standards for Access to and Use of Buildings by Handicapped, 36 CFR Part 1150. The changes adopted are designed to conform the regulation to the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95–602 (hereinafter referred to as the 1978 Act) and reflect technical and clarifying improvements based on experiences with the regulation since its adoption in December, 1976, as well as to make the regulation more readily understandable.

EFFECTIVE DATE: September 9, 1980.

FOR FURTHER INFORMATION CONTACT: Charles D. Goldman, General Counsel, (202) 245–1601 (Voice or TDD).

SUPPLEMENTARY INFORMATION:

Background

The Architectural and Transportation Barriers Compliance Board (hereinafter referred to as A&TBCB) was established under section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 391. Section 502(d) (29 U.S.C. 792(d)) provides that the A&TBCB shall hold hearings and issue orders it deems necessary to ensure compliance with standards of buildings and facilities issued under the Architectural Barriers Act of 1968, Pub. L. 90–480, as amended, 42 U.S.C. 4151 *et seq.* The provisions of Subchapter II of Chapter 5 and Chapter 7 of Title 5, United States Code apply to the A&TBCB procedures. An order of compliance issued by A&TBCB is a final order of compliance for purposes of judicial review. Pub. L. 93–516, 88 Stat. 1621, the Rehabilitation Act Amendments of 1974, provides that an order of compliance may include the withholding or suspension of Federal funds with respect to any building found not to be in compliance with the applicable standards.

The 1978 Act provides that an order of compliance issued by an administrative law judge shall be deemed an order of the Board and shall be a final order for the purpose of judicial review. The 1978 Act also provides that any complainant or participant may obtain review of a final order. The 1978 Act vests in the Executive Director on behalf of the A&TBCB the final authority with respect to the investigation of alleged noncompliance in the issuance of formal complaints. The 1978 Act also authorizes the A&TBCB to direct the Executive Director to bring court actions to enforce compliance orders.

The A&TBCB in 1976 adopted procedures to enable it to implement its enforcement responsibility with respect to buildings subject to section 502. 41 FR 55441 (1976). This regulation has been in effect for almost four years. A review of the regulation was precipitated by enactment of the 1978 Act. On April 30, 1980, revisions were proposed to various sections of the regulation. 45 FR 28969–28977. Comments were invited until June 30, 1980.

A total of eight written comments were received containing suggestions.

Summary of Changes

In the revised regulation the terms "complaint" and "building or facility" have been defined to more clearly show the applicability of the regulation to all instances of alleged violation coming to the attention of the Executive Director concerning structures. Circumstances, including but not limited to a formal complaint, showing the Executive Director an alleged violation are all that is necessary to set in motion the resolution process. The period of informal resolution has been extended from 60 to 90 days in keeping with the actual practice of the Board and responding parties. Within 10 days after the end of the 90 day period the Executive Director is to issue a formal citation of alleged noncompliance or determination not to proceed to litigation, though he/she may act before the expiration of the 90 day informal resolution period if circumstances merit or after the expiration of the 10 day period. Provision has also been added for the complaint to be deemed closed if action is not taken by the Executive Director in response to a request by the complainant or affected agencies or persons for a litigation decision. In general, the Board's overall goal of resolving complaints within 180 days has been met. That goal should not be affected by the revisions.

"Compliance" is showing no violation exists, correcting the alleged violation, agreeing to correct it, or timely implementing a compliance plan approved by the Executive Director. Under the revised regulation the administrative law judge is given an additional 10 days, making a total of 30 days to render his decision which is reviewable in Federal court, and not by the A&TBCB. Provisions relating to the A&TBCB functioning as an appellate tribunal in compliance cases have been deleted to implement the 1978 Act. A new provision relates to the authorization of court enforcement of A&TBCB compliance orders. The provisions relating to expedited relief have been consolidated.

To enhance the readability of the regulation other revisions have been made. Words which are not commonly used, except perhaps by lawyers, were, for the most part, eliminated from the text. Reorganization of sections or paragraphs was undertaken to ease access to these rules of procedures. For purposes of clarity, other nonsubstantive editorial changes were made.

Discussion of Major Comments

1. *Definitions*

Concern was expressed over the definition of certain terms, particularly "alteration," "building," "construction," and "facility."

Subsequent to the April 30, 1980, publication of the proposed revised 36 CFR Part 1150, many of these terms were subject to review by the A&TBCB in connection with consideration of the proposed minimum guidelines and requirements for accessibility standard 45 FR 55009 et seq. Those guidelines will be the basis of revised accessibility standards under the Architectural Barriers Act, which are also to be enforced under these provisions. This provision applies to all covered buildings subject to standards, including those of the U.S. Postal Service—current and revised—under the Architectural Barriers Act. The definitions in these procedures should be consistent with the definitions in the minimum guidelines.

Accordingly, the terms "building or facility," "construction," and "alteration" have been revised to be consistent with the proposed minimum guidelines. *See* 36 CFR 1150.4. This is reflective of the most current A&TBCB thinking on these terms. It is also responsive to the comments on the proposed compliance procedures which came from members of the A&TBCB or their agencies. The phrase "or leased" is not included in revised 36 CFR 1150.2(d). It is included in the comparable provision of the proposed minimum guidelines. See proposed 36 CFR 1190.2(d). This does not affect any change in the substantive coverage of the Architectural Barriers Act. These terms may be subject to further revision in this regulation after A&TBCB adoption of its minimum guidelines.

It must be noted that buildings required to be "accessible to the public," 36 CFR 1150.3 and 1150.4, encompasses buildings which are open to the general public on a permanent or limited basis, such as to perform a specific function, e.g., attend a lecture, as well as for employment or residential purposes. It is not limited to the so called "public" areas, e.g., entrances. Nor is it limited to "public" buildings, e.g., government offices, libraries. In general, if a building is open to the able-bodied public and otherwise subject to standards under the Architectural Barriers Act, it must be accessible to, and usable by, disabled persons.

The definition of the term "agency", has been revised to be more consistent with the Public Buildings Act of 1959. *See* 40 U.S.C. 612(3), 41 CFR Ch. 101 Parts 17 and 19.

It must also be noted in response to one State transportation agency commentor that the term "building or facility" does not extend to vehicles as equipment. *See Michigan Paralyzed Veterans of America* v. *Coleman*, 451 F. Supp 7 (E.D. Mich 1977).

2. *Parties*

There were several comments on this subject.

Concern was expressed that a user or tenant government agency would have to needlessly and expensively extend itself even though it may have no real control over the elimination of the accessibility barrier. *See* 36 CFR 1150.41 and 1150.42.

It is the A&TBCB practice to serve a copy of the complaint on all interested agencies, including tenant agencies. In previous proceedings the A&TBCB has encountered instances where the actions of the tenant agency have contributed to the presence and elimination of the barrier. *See* In re Compliance, Social Security Administration (A&TBCB Decision of Administrative Law Judge, February 1, 1979); In re Compliance Hubert H. Humphrey Building, (A&TBCB Decision of Administrative Law Judge, December 10, 1979).

The A&TBCB shares the commentors desire to have innocent persons avoid unnecessary expense. The A&TBCB experience has been to join the user agency as a party to formal proceedings when that agency may have been responsible for the erection or perpetuation of a barrier or has authority to bring a facility or building into compliance. Relatively few user agencies served with the compliant have been ultimately served with a citation. Thus, the current practice is actually responsive to the comment.

Another comment was that the complainant should be sent a copy of a settlement agreement approved by the judge. Such an agreement, it is the A&TBCB experience, has been a part of the final order of the judge. Accordingly, it is already within § 1150.12(e), and no revision has been made to that paragraph. It is noted that the complainant is not required to participate in the proceedings.

3. *Initiation of Proceedings*

The current practice of having the Executive Director being the official who is responsible for the intitiation of formal administrative proceedings has been continued. 36 CFR 1150.42. One commentor felt that it should be the A&TBCB which authorizes the issuance of a citation. Whether or not the 1978 amendments pertinent to the Executive Director's authority to initiate complaints would preclude the commentor's proposed practice, it must be recognized that case processing is a day-to-day operation of the A&TBCB staff. The Executive Director has ongoing, statutory supervisory responsibility for the staff and its activities. For the Executive Director to have to obtain the approval of the A&TBCB before commencing administrative proceedings is not practicable. The members of the A&TBCB exercise general supervisory control of the A&TBCB Executive Director and staff. Members meet periodically to focus on high level policy issues and to provide broad direction. Also, the A&TBCB experience has been that the potential of the Executive Director initiating proceedings has facilitated achievement of accessibility.

4. *Closing of Cases*

In response to the public comment on the need for bringing greater certainty to the complaint process, provision has been added in 36 CFR 1150.41(i) whereby the complainant or agencies or persons receiving a copy of the compliant may, after expiration of the period of informal resolution, request the Executive Director to issue a citation or determination not to proceed. Failure of the Executive Director to timely respond shall be deemed a closure of the case.

This prevents a compliant from languishing indefinitely. Also, it will not overburden the A&TBCB staff with unnecessary paperwork in instances where the matter is still under active investigation and all concerned are so knowledgeable.

5. *Reports*

There was public comment that in § 1150.41(c) definite periods should be established for timely filing of reports. Another comment was that in § 1150.41, paragraphs (c) and (d) were unauthorized and inconsistent with the spirit on informal resolution. No authority for this comment was given.

It must be noted that A&TBCB practice is that all requests for reports provide a time when the information requested must be received. This varies depending on the nature of the problem and status of its resolution.

Paragraphs (c) and (d) are reasonably related to the statutory function of ensuing compliance with the accessibility standards. 29 U.S.C 792(b). The provisions are similar to other regulations currently in effect under which no major difficulties have been encountered. Inclusion of these particular provisions will enable the A&TBCB to most readily implement memoranda of understanding being developed with the Department of Health and Human Services and the Department of Education to coordinate implementation of sections 502 and 504 of the Rehabilitation Act. *See* 45 CFR 80.6, 34 CFR 100.6.

6. *Affidavits*

There were some general comments on the use and restrictions on affidavits in 36 CFR 1150.80. The A&TBCB proposed to follow the practice utilized for several years by the Department of Health and Human Services, formerly the Department of Health, Education, and Welfare, which practice has not encountered major difficulties. *See* 45 CFR 81.75. The A&TBCB will utilize the provision it proposed, recognizing its provision gives latitude to the administrative law judge. In previous A&TBCB proceedings there have been no problems encountered utilizing affidavits.

7. *Attorneys Fees*

The A&TBCB received one extensive comment from a disabled persons' advocacy group strongly urging the provisions of attorneys fees pursuant to 29 U.S.C. 792 and 794a(b) for interested persons or groups who participate in compliance proceedings.

The A&TBCB is not adopting this suggestion at this time so that it can fully study this matter. The A&TBCB will be reviewing the statutes and will publish a proposed rule on this subject if it decides to further consider adopting such a provision.

The A&TBCB currently pays witness fees under 36 CFR 1150.73, a provision which has not been burdensome, as one commentor suggested could happen.

This statement in this preamble should not be interpreted as endorsing a position in favor of or against provision for attorney fees if such fees are authorized in A&TBCB administrative proceedings.

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Therefore, Title 36, CFR Part 1150, is hereby revised as follows.

PART 1150—PRACTICE AND PROCEDURES FOR COMPLIANCE HEARINGS

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Authority: Sec. 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, as amended, 87 Stat. 391 (29 U.S.C. 792).

Subpart A—General Information

§ 1150.1 Purpose.

Purpose. The purpose of the regulations in this part is to implement section 502(b)(1) of the Rehabilitation Act of 1973, Pub. L. 93–112, 29 U.S.C. 792, *as amended by* the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, Pub. L. 95–602, section 118, 92 Stat. 2979, by establishing rules of procedure for public hearings which ensure compliance with standards issued under the Architectural Barriers Act of 1968, Pub. L. 90–480, as amended, 42 U.S.C. 4151 *et seq.* (including standards of the U.S. Postal Service).

§ 1150.2 Applicability: Buildings and facilities subject to guidelines and standards.

(a) *Definitions.* As used in this section, the term:

"Constructed or altered on behalf of the United States" means acquired by the United States through lease-purchase arrangement, constructed or altered for purchase by the United States, or constructed or altered for the use of the United States.

"Primarily for use by able-bodied military personnel" means expected to be occupied, used, or visited principally by military service personnel. Examples of buildings so intended are barracks, officers' quarters, and closed messes.

"Privately owned residential structure" means a single or multi-family dwelling not owned by a unit or subunit of Federal, state, or local government.

(b) *Buildings and facilities covered.* Except as provided in paragraph (c) of this section, the standards issued under the Architectural Barriers Act of 1968, Pub. L. 90–480, as amended, 42 U.S.C. 4151 *et seq.* (including standards of the United States Postal Service) apply to any building or facility—

(1) The intended use for which either—

(i) Will require that such building or facility be accessible to the public, or

(ii) May result in employment or residence therein of physically handicapped persons; and

(2) Which is—

(i) To be constructed or altered by or on behalf of the United States;

(ii) To be leased in whole or in part by the United States—

(A) After August 12, 1968, and before January 1, 1977, after construction or alteration in accordance with plans and specifications of the United States; or

(B) On or after January 1, 1977, including any renewal of a lease entered into before January 1, 1977, which renewal is on or after such date;

(iii) To be financed in whole or in part by a grant or loan made by the United States after August 12, 1968, if the building or facility may be subject to standards for design, construction, or alteration issued under the law authorizing the grant or loan; or

(iv) To be constructed under the authority of the National Capital Transportation Act of 1960, the National Capital Transportation Act of 1965, or Title III of the Washington Metropolitan Area Transit Regulation Compact.

(c) *Buildings and facilities not covered.* The standards do not apply to—

(1) Any privately owned residential structure, unless it is leased by the Federal government on or after January 1, 1977, for subsidized housing programs; or

(2) Any building or facility on a military installation designed and constructed primarily for use by military personnel.

(d) Any covered building or facility, as provided in this section, which is designed, constructed, or altered after the effective date of a standard issued which is applicable to the building or facility, shall be designed, constructed, altered, or leased in accordance with the standard. For purposes of this section, any design, construction, alteration or lease for which bids or offers are received before the effective date of an applicable standard, in response to an invitation for bids or request for proposals, is not subject to that standard.

§ 1150.3 Policy of amicable resolution.

The policy of the Architectural and Transportation Barriers Compliance Board is to maximize the accessibility and usability of buildings, and facilities through amicable means. To this end, the Architectural and Transportation Barriers Compliance Board encourages voluntary and informal resolution of all complaints.

§ 1150.4 Definitions.

"A&TBCB" means the Architectural and Transportation Barriers Compliance Board.

"Agency" means Federal department, agency or instrumentality as defined in sections 551(1) and 701(b)(1) of Title 5, United States Code, or an agency official authorized to represent the agency. It includes any executive department or independent establishment in the Executive Branch of the government, including wholly owned government corporations, and any establishment in the legislative or judicial branch of the government, except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction.

"Alteration" means any change in a building or facility or its permanent fixtures or equipment. It includes, but is not limited to, remodeling, renovation, rehabilitation, reconstruction, changes or rearrangement in structural parts, and extraordinary repairs. It does not include normal maintenance, reroofing, interior decoration, or changes to mechanical systems.

"Architectural Barriers Act" means the Architectural Barriers Act of 1968, Pub. L. 90–480 , as amended, 42 U.S.C. 4151 *et seq.*

"Building or facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, parks, sites, or other real property or interest in such property.

"Chairperson" means the Chairperson of the A&TBCB.

"Complaint" means any written notice of an alleged violation, whether from an individual or organization, or other written information reasonably indicating to the Executive Director a violation of the standard.

"Construction" means any section of a new building or an addition to an existing building.

"Day" means calendar day.

"Executive Director" means the A&TBCB Executive Director.

"Extraordinary Repair" means the replacement or renewal of any element of an existing building or facility for purposes other than normal maintenance.

"Judge" means an Administrative Law Judge appointed by the A&TBCB and assigned to the case in accordance with either section 3105 or 3314 of Title 5, Unted States Code.

"PER" means Provisional Expedited Relief.

"Respondent" means a party answering the citation, including PER Citation.

"Section 502 of the Rehabilitation Act" means section 502 of the Rehabilitation Act of 1973, Pub. L. 93–112, 29 U.S.C. 792, as amended.

"Standard" means any standard for accessibility and usability prescribed under the Architectural Barriers Act.

§ 1150.5 Scope and interpretation of rules.

(a) These rules shall govern all compliance proceedings held before a judge and all alleged violations coming to the Executive Director as a complaint.

(b) In the absence of a specific provision in these rules, procedure shall be in accordance with the Administrative Procedure Act, Subchapter II of Chapter 5 and Chapter 7, of Title 5, United States Code, and the Federal Rules of Civil Procedure, in that order.

(c) These rules and regulations shall be liberally construed to effectuate the purposes and provisions of the Architectural Barriers Act and section 502 of the Rehabilitation Act.

(d) The rules shall be applied to secure fairness in administration and elimination of unjustifiable expense and delay and to ascertain the truth.

(e) Words importing the singular number may extend and be applied to a plural and vice versa.

§ 1150.6 Suspension of rules.

Upon notice to all parties, the judge, with respect to matters pending before him/her, may modify or waive any rule in these regulations upon determination that no party will be unduly prejudiced and that the end of justice will be served.

Subpart B—Parties, Complainants, Participants

§ 1150.11 Parties.

(a) The term parties includes (1) any agency, state or local body, or other person named as a respondent in a notice of hearing or opportunity for hearing, (2) the Executive Director and (3) any person named as a party by order of the judge.

(b) The Executive Director has the sole authority to initiate proceedings by issuing a citation under § 1150.42, on the basis of (1) a complaint from any person or (2) alleged violations coming to his/her attention through any means.

§ 1150.12 Complainants.

(a) Any person may submit a complaint to the A&TBCB alleging that a building or facility does not comply with applicable standards issued under the Architectural Barriers Act. Complaints must be in writing and should be sent to:

Executive Director, Architectural and Transportation Barriers Compliance Board, Washington, D.C. 20202.

Complaints may, but need not, contain (i) the complainant's name and where he/she may be reached, (ii) the facility or building and, if known, the funding agency and (iii) a brief description of the barriers. A complaint form is available at the above address.

(b) The A&TBCB shall hold in confidence the identity of all persons submitting complaints unless the person submits a written authorization otherwise.

(c) The A&TBCB shall give or mail, by certified mail, return receipt requested, to the complainant a copy of these regulations.

(d) A complainant is not a party to the proceedings as a matter of course, but may petition the judge to participate under § 1150.13.

(e) The A&TBCB shall send the complainant a copy of the final order issued by the judge. The complainant has standing to obtain judicial review of that order.

§ 1150.13 Participation on petition.

(a) By petitioning the judge, any person may be permitted to participate in the proceedings when he/she claims an interest in the proceedings and may contribute materially to their proper disposition. A complainant shall be permitted to participate in the proceeding when he/she petitions the judge.

(b) The judge may, in his/her discretion, determine the extent of participation of petitioners, including as an intervening party or participant. The judge may, in his/her discretion, limit participation to submitting documents and briefs, or permit the introduction of evidence and questioning of witnesses.

§ 1150.14 Appearance.

(a) A party may appear in person or by counsel or other representative and participate fully in any proceedings. An agency, state or local body, corporation or other association, may appear by any of its officers or by any employee it authorizes to appear on its behalf.

(b) A representative of a party or participant shall be deemed to control all matters respecting the interest of such party or participant in the proceedings.

(c) This section shall not be construed to require any representative to be an attorney-at-law.

(d) Withdrawal of appearance of any representative is effective when a

written notice of withdrawal is filed and served on all parties and participants.

§ 1150.24 [Reserved]

the Executive Director shall either (i) issue a citation under § 1150.42 or (ii)

(c) The citation shall contain (1) a concise jurisdictional statement reciting

separate document, may request a hearing. Failure of a respondent to

written notice of withdrawal is filed and served on all parties and participants.

Subpart C—Form, Execution, Service and Filing of Documents for Proceedings on Citations

§ 1150.21 Form of documents to be filed.

Documents to be filed under the rules in this part shall be dated, the original signed in ink, shall show the docket number and title of the proceeding and shall show the title, if any, and address of the signatory. Copies need not be signed; however, the name of the person signing the original, but not necessarily his/her signature, shall be reproduced. Documents shall be legible and shall not be more than 8½ inches wide.

§ 1150.22 Signature of documents.

The signature of a party, authorized officer, employee or attorney constitutes a certification that he/she has read the document, that to the best of his/her knowledge, information, and belief there is a good ground to support it, and that it is not interposed for delay. If a document is not signed or is signed with intent to defeat the purpose of this section, it may be stricken as sham and false and the proceeding may proceed as though the document had not been filed.

§ 1150.23 Filing and service.

(a) *General.* All notices, written motions, requests, petitions, memoranda, pleadings, briefs, decisions, and correspondence to the judge, from a party or a participant or vice versa, relating to a proceeding after its commencement shall be filed and served on all parties and participants.

(b) *Filing.* Parties shall submit for filing the original and two copies of documents, exhibits, and transcripts of testimony. Filings shall be made in person or by mail, with the hearing clerk at the address stated in the notice of hearing or notice of opportunity for hearing, during regular business hours. Regular business hours are every Monday through Friday (Federal legal holidays excepted) from 9 a.m. to 5:30 p.m. Standard or Daylight Savings Time, whichever is effective in the city where the office of the judge is located at the time.

(c) *Service.* Service of one copy shall be made on each party and participant by personal delivery or by certified mail, return receipt requested, properly addressed with postage prepaid. When a party or participant has appeared by attorney or other representative, service upon the attorney or representative is deemed service upon the party or participant.

§ 1150.24 [Reserved]

§ 1150.25 Date of service.

The date of service shall be the day when the matter is deposited in United States mail or is delivered in person, except that the date of service of the initial notice of hearing or opportunity for hearing shall be the date of its delivery, or the date that its attempted delivery is refused.

§ 1150.26 Certificate of Service.

The original of every document filed and required to be served upon parties to a proceeding shall be endorsed with a certificate of service signed by the party making service or by his/her attorney or representative, stating that such service has been made, the date of service, and the manner of service, whether by mail or personal delivery.

Subpart D—Time

§ 1150.31 Computation.

In computing any period of time under these rules or in any order issued under them, the time begins with the day following the act, event, or default, and includes the last day of the period, unless it is a Saturday, Sunday, or Federal legal holiday, in which event it includes the next following business day. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and Federal legal holidays shall be excluded from the computation.

§ 1150.32 Extension of time or postponement.

(a) Requests for extension of time shall be addressed to the judge and served on all parties and participants. Requests should set forth the reasons for the application.

(b) If made promptly, answers to requests for extension of time are permitted.

(c) The judge may grant the extension upon a showing of good cause by the applicant.

Subpart E—Proceedings Prior to Hearings; Pleadings and Motions

§ 1150.41 Informal resolution

(a) The A&TBCB immediately shall serve copies of complaints on all interested agencies and persons. In addition, the A&TBCB shall apprise any person who might become a party to compliance proceedings of the alleged instances of noncompliance and afford him/her a reasonable opportunity to respond or submit pertinent documents.

(b) The Executive Director or his/her designee shall seek the cooperation of persons and agencies in obtaining compliance and shall provide assistance and guidance to help them comply voluntarily.

(c) Upon request of the Executive Director, interested agencies or persons, including, but not limited to, occupant agencies recipients of assistance, and lessors, shall submit to the Executive Director or his/her designee timely, complete, and accurate reports concerning the particular complaint. Reports shall be completed at such times, and in such form containing all information as the Executive Director or his/her designee may prescribe.

(d) The Executive Director, or his/her designee, shall have access during normal business hours to books, records, accounts and other sources of information and facilities as may be pertinent to ascertain compliance. Considerations of privacy or confidentiality asserted by an agency or person may not bar the Executive Director from evaluating such materials or seeking to enforce compliance. The Executive Director may seek a protective order authorizing the use of allegedly confidential materials on terms and conditions specified by the judge.

(e) Complaints should be resolved informally and expeditiously, by the interested persons or agencies. If compliance with the applicable standards is not achieved informally or an impasse concerning the allegations of compliance or noncompliance is reached, the Executive Director will review the matter, including previous attempts by agencies to resolve the complaint, and take actions including, but not limited to, surveying and investigating buildings, monitoring compliance programs of agencies, furnishing technical assistance, such as standard interpretation, to agencies, and obtaining assurances, certifications, and plans of action as may be necessary to ensure compliance.

(f) All actions to informally resolve complaints under paragraphs (a) through (e) of this section shall be completed within ninety (90) days after receipt of the complaint by all affected agencies and persons. A complaint shall be deemed informally resolved if the person or agencies responsible for the alleged violation either (1) demonstrates to the Executive Director that no violation has occurred or (2) corrects the violation or (3) agrees in writing to implement specific compliance action within a definite time agreed to by the Executive Director or (4) are timely implementing a plan for compliance agreed to by the Executive Director. No later than ten (10) days after the termination of the ninety (90) day period the Executive Director shall either (i) issue a citation under § 1150.42 or (ii) determine in writing that a citation will not be issued at that time and the reasons that it is considered unnecessary.

(g) A determination not to issue a citation shall be served in accordance with § 1150.23 on all interested agencies and persons upon whom a citation would have been served if it had been issued. Except as otherwise provided in paragraph (i) of this section, the failure of the Executive Director to take action within the ten (10) day period after termination of the ninety (90) day informal resolution period shall not preclude the Executive Director from taking action thereafter.

(h) Nothing in paragraphs (a)–(g) of this section shall be construed as precluding the Executive Director before the termination of the ninety (90) day informal resolution period from (1) issuing a citation if it is reasonably clear that informal resolution cannot be achieved within that time, or (2) determining not to issue a citation if it is reasonably clear that compliance can be achieved or that issuance of a citation is not otherwise warranted.

(i) At any time after the expiration of one hundred (100) days after receipt of the complaint by all affected agencies and persons, any person or agency receiving a copy of the complaint, or the complainant, may serve a written request on the Executive Director to issue a citation or determination not to proceed within thirty (30) days. If the Executive Director fails to serve a written response within thirty (30) days of receipt of such a request, the complaint shall be deemed closed.

§ 1150.42 Citations.

(a) If there appears to be a failure or threatened failure to comply with a relevant standard, and the noncompliance or threatened noncompliance cannot be corrected or resolved by informal means under § 1150.41, the Executive Director on behalf of the A&TBCB may issue a written citation, requesting the ordering of relief necessary to ensure compliance with the standards or guidelines and requirements. The relief may include the suspension or withholding of funds and/or specific corrective action.

(b) The citation shall be served upon all interested parties, as appropriate, including but not limited to the complainant, the agency having custody, control, or use of the building or facility, and the agency funding by contract, grant, or loan, the allegedly noncomplying building or facility.

(c) The citation shall contain (1) a concise jurisdictional statement reciting the provisions of section 502 of the Rehabilitation Act and Architectural Barriers Act under which the requested action may be taken, (2) a short and plain basis for requesting the imposition of the sanctions, (3) a statement either that within fifteen (15) days a hearing date will be set or that the agency or affected parties may request a hearing within fifteen (15) days from service of the citation, and (4) a list of all pertinent documents necessary for the judge to make a decision on the alleged noncompliance, including but not limited to, contracts, invitations for bids, specifications, contract or grant drawings, and correspondence.

(d) The Executive Director shall file copies of all pertinent documents listed in the citation simultaneously with filing the citation.

§ 1150.43 Answers.

(a) Answers shall be filed by respondents within fifteen (15) days after receipt of a citation.

(b) The answer shall admit or deny specifically and in detail, matters set forth in each allegation of the citation. If the respondent is without knowledge, the answer shall so state and such statement shall be deemed a denial. Matters not specifically denied shall be deemed admitted. Failure to file a timely answer shall constitute an admission of all facts recited in the citation.

(c) Answers shall contain a list of additional pertinent documents not listed in the citation when respondent reasonably believes these documents are necessary for the judge to make a decision. Copies of the listed documents shall be filed with the answer.

(d) Answers may also contain a request for a hearing under § 1150.45.

§ 1150.44 Amendments.

(a) The Executive Director may amend the citation as a matter of course before an answer is filed. A respondent may amend its answer once as a matter of course, but not later than five (5) days after the filing of the original answer. Other amendments of the citation or the answer shall be made only by leave of judge.

(b) An amended citation shall be answered within five (5) days of its service, or within the time for filing an answer to the original citation, whichever is longer.

§ 1150.45 Request for hearing.

When a citation does not state that a hearing will be scheduled, the respondent, either in a separate paragraph of the answer, or in a separate document, may request a hearing. Failure of a respondent to request a hearing within fifteen (15) days from service of the citation shall be deemed a waiver of the right to a hearing and shall constitute consent to the making of a decision on the basis of available information.

§ 1150.46 Motions.

(a) Motions and petitions shall state the relief sought, the authority relied upon, and the facts alleged.

(b) If made before or after the hearing, these matters shall be in writing. If made at the hearing, they may be stated orally or the judge may require that they be reduced to writing and filed and served on all parties.

(c) Except as otherwise ordered by judge, responses to a written motion or petition shall be filed within ten (10) days after the motion or petition is served. An immediate oral response may be made to an oral motion. All oral arguments on motions will be at the discretion of the judge.

(d) A reply to a response may be filed within within five (5) days after the response is served. The reply shall address only the contents of the response.

§ 1150.47 Disposition of motions and petitions.

The judge may not sustain or grant a written motion or petition prior to expiration of the time for filing responses, but may overrule or deny such motion or petition without awaiting response, *Providing however,* That prehearing conferences, hearings, and decisions need not be delayed pending disposition of motions or petitions. All motions and petitions may be ruled upon immediately after reply. Motions and petitions not disposed of in separate rulings or in decisions will be deemed denied.

§ 1150.48 PER: Citation, answer, amendment.

(a) Unless otherwise specified, other relevant sections shall apply to PER proceedings.

(b) In addition to all other forms of relief requested, the citation shall request PER when it appears to the Executive Director that immediate and irreparable harm from noncompliance with the standard is occurring or is about to occur. Citations requesting PER shall recite specific facts and include the affidavit or the notarized complaint upon which the PER request is based. Citations requesting PER shall recite that a hearing regarding PER has been scheduled to take place eight (8) days after receipt of the citation. Citations

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requesting PER may be filed without prejudice to proceedings in which PER is not requested and without prejudice to further proceedings if PER is denied. The time and place of hearing fixed in the citation shall be reasonable and shall be subject to change for cause.

(c) Answers to citations requesting PER shall be in the form of all answers, as set forth in § 1150.43, and must be filed within four (4) days after receipt of the citation. Answers shall recite in detail, by affidavit or by notarized answer, why the PER requested should not be granted.

(d) When a citation contains both a request for relief to ensure compliance with a standard and a request for PER, an answer to the PER request shall be filed in accordance with paragraph (C) of this section and an answer to a request for other relief shall be filed in accordance with § 1150.43.

(e) Citations and answers in PER proceedings may not be amended prior to hearing. Citations and answers in PER proceedings may be amended at the hearing with the permission of the judge.

Subpart F—Responsibilities and Duties of Judge

§ 1150.51 Who presides.

(a) A judge assigned to the case under section 3105 or 3344 of Title 5, United States Code (formerly section 11 of the Administrative Procedure Act), shall preside over the taking of evidence in any hearing to which these rules of procedure apply.

(b) The A&TBCB shall, in writing, promptly notify all parties and participants of the assignment of the judge. This notice may fix the time and place of hearing.

(c) Pending his/her assignment, the responsibilities, duties and authorities of the judge under these regulations shall be executed by the A&TBCB, through the Chairperson or another member of the A&TBCB designated by the Chairperson. A Board member shall not serve in this capacity in any proceeding relating to the member, his/her Federal agency, or organization of which he/she is otherwise interested.

§ 1150.53 Authority of judge.

The judge shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, and maintain order. He/she shall have all powers necessary to effect these ends, including (but not limited to) the power to:

(a) Arrange and issue notice of the date, time, and place of hearings previously set.

(b) Hold conferences to settle, simplify, or fix the issues in proceedings, or to consider other matters that may aid in the expeditious disposition of the proceedings.

(c) Require parties and participants to state their position with respect to the various issues in the proceedings.

(d) Administer oaths and affirmations.

(e) Rule on motions, and other procedural items on matters pending before him/her.

(f) Regulate the course of the hearing and conduct of counsel.

(g) Examine witnesses and direct witnesses to testify.

(h) Receive, rule on, exclude or limit evidence.

(i) Fix time for filing motions, petitions, briefs, or other items in matters pending before him/her.

(j) Issue decisions.

(k) Take any action authorized by the rules in this part or the provisions of sections 551 through 559 of Title 5, United States Code (the Administrative Procedure Act).

§ 1150.54 Disqualification of judge.

(a) A judge shall disqualify himself/herself whenever in his/her opinion it is improper for him/her to preside at the proceedings.

(b) At any time following appointment of the judge and before the filing of the decision, any party may request the judge to withdraw on grounds of personal bias or prejudice either against it or in favor of any adverse party, by promptly filing with him/her an affidavit setting forth in detail the alleged grounds for disqualification.

(c) If, in the opinion of the judge, the affidavit referred to in paragraph (b) of this section is filed with due diligence and is sufficient on its face, the judge shall promptly disqualify himself/herself.

(d) If the judge does not disqualify himself/herself, he/she shall so rule upon the record, stating the grounds for his/her ruling. Then, he/she shall proceed with the hearing, or, if the hearing has closed, he/she shall proceed with the issuance of the decision.

Subpart G—Prehearing Conferences and Discovery

§ 1150.61 Prehearing conference.

(a) At any time before a hearing, the judge on his/her own motion or on motion of a party, may direct the parties or their representative to exchange information or to participate in a prehearing conference for the purpose of considering matters which tend to simplify the issues or expedite the proceedings.

(b) The judge may issue a prehearing order which includes the agreements reached by the parties. Such order shall be served upon all parties and participants and shall be a part of the record.

§ 1150.62 Exhibits.

(a) Proposed exhibits shall be exhanged at the prehearing conference, or otherwise prior to the hearing if the judge so requires. Proposed exhibits not so exchanged may be denied admission as evidence.

(b) The authenticity of all proposed exhibits will be deemed admitted unless written objection to them is filed prior to the hearing or unless good cause is shown at the hearing for failure to file such written objection.

§ 1150.63 Discovery.

(a) Parties are encouraged to engage in voluntary discovery procedures. For good cause shown under appropriate circumstances, but not as a matter of course, the judge may entertain motions for permission for discovery and issue orders including orders—(1) to submit testimony upon oral examination or written interrogatories before an officer authorized to administer oaths, (2) to permit service of written interrogatories upon the opposing party, (3) to produce and permit inspection of designated documents, and (4) to permit service upon the opposing parties of a request for the admission of specified facts.

(b) Motions for discovery shall be granted only to the extent and upon such terms as the judge in his/her discretion considers to be consistent with and essential to the objective of securing a just and inexpensive determination of the merits of the citation without unnecessary delay.

(c) In connection with any discovery procedure, the judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression or undue burden or expense, including limitations on the scope, method, time and place for discovery, and provisions for protecting the secrecy of confidential information or documents. If any party fails to comply with a discovery order of the judge, without an excuse or explanation satisfactory to the judge, the judge may decide the fact or issue relating to the material requested to be produced, or the subject matter of the probable testimony, in accordance with claims of the other party in interest or in accordance with the other evidence available to the judge, or make such other ruling as he/she determines just and proper.

Subpart H—Hearing Procedures

§ 1150.71 Briefs.

The judge may require parties and participants to file written statements of position before the hearing begins. The judge may also require the parties to submit trial briefs.

§ 1150.72 Purpose of hearing.

Hearings for the receipt of evidence will be held only in cases where issues of fact must be resolved. Where it appears from the citation, the answer, stipulations, or other documents in the record, that there are no matters of material fact in dispute, the judge may enter an order so finding, vacating the hearing date, if one has been set, and fixing the time for filing briefs.

§ 1150.73 Testimony.

(a) Formal rules of evidence shall not apply, but rules or principles designed to assure production of the most probative evidence available do apply. Testimony shall be given orally under oath or affirmation; but the judge, in his/her discretion, may require or permit the direct testimony of any witness to be prepared in writing and served on all parties in advance of the hearing. Such testimony may be adopted by the witness at the hearing and filed as part of the record.

(b) All witnesses shall be available for cross-examination and, at the discretion of the judge, may be cross-examined without regard to the scope of direct examination as to any matter which is relevant and material to the proceeding.

(c) When testimony is taken by deposition, an opportunity shall be given, with appropriate notice, for all parties to cross-examine the witness. Objections to any testimony or evidence presented shall be deemed waived unless raised at the time of the deposition.

(d) Witnesses appearing before the judge shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Witnesses whose depositions are taken and the persons taking the same shall be entitled to the same fees as are paid for like services in the courts of the United States. Witness fees and mileage shall be paid by the party requesting the witness to appear, and the person taking a deposition shall be paid by the party requesting the taking of the deposition.

§ 1150.74 Exclusion of evidence.

The judge may exclude evidence which is immaterial, irrelevant, unreliable, or unduly repetitious.

§ 1150.75 Objections.

Objections to evidence or testimony shall be timely and may briefly state the grounds.

§ 1150.76 Exceptions.

Exceptions to rulings of the judge are unnecessary. It is sufficient that a party at the time the ruling of the judge is sought, makes known the action which he/she desires the judge to take, or his/her objection to an action taken, and his/her grounds for it.

§ 1150.77 Official notice.

Where official notice is taken or is to be taken of a material fact not appearing in the evidence of record, any party on timely request, shall be afforded an opportunity to question the propriety of taking notice or to rebut the fact noticed.

§ 1150.78 Public documents.

When a party or paticipant offers, in whole or in part, a public document, such as an official report, decision, opinion, or published scientific or economic statistical data issued by any of the executive departments, or their subdivisions, legislative agencies or committees or administrative agencies of the Federal government (including government-owned corporations), or a similar document issued by a State or local government or their agencies, and such document (or part thereof) has been shown by the offeror to be reasonably available to the public, such document need not be produced or marked for identification, but may be offered for official notice, as a public document by specifying the document or its relevant part.

§ 1150.79 Offer of proof.

An offer of proof made in connection with an objection taken to a ruling of the judge rejecting or excluding proffered oral testimony shall consist of a statement of the substance of the evidence which counsel contends would be adduced by such testimony. If the excluded evidence consists of evidence in documentary or written form or refers to documents or records, a copy of the evidence shall be marked for identification and shall accompany the record as the offer of proof.

§ 1150.80 Affidavits.

An affidavit is not inadmissible as such. Unless the judge fixes other time periods, affidavits shall be filed and served on the parties not later than fifteen (15) days prior to the hearing. Not less than seven (7) days prior to hearing, a party may file and serve written objections to any affidavit on the ground that he/she believes it necessary to test the truth of its assertions at hearing. In such event the assertions objected to will not be received in evidence unless the affiant is made available for cross-examination, or the judge determines that cross-examination is not necessary for the full and true disclosure of facts referred to in such assertions. Not withstanding any objection, however, affidavits may be considered in the case of any respondent who waives a hearing.

§ 1150.81 Consolidated or joint hearing.

In cases in which the same or related facts are asserted to constitute noncompliance with standards or guidelines and requirements, the judge may order all related cases consolidated and may make other orders concerning the proceedings as will be consistent with the objective of securing a just and inexpensive determination of the case without unnecessary delay.

§ 1150.82 PER proceedings.

(a) In proceedings in which a citation, or part of one, seeking PER has been filed, the judge shall make necessary rulings with respect to time for filing of pleadings, the conduct of the hearing, and to all other matters. He/she shall do all other things necessary to complete the proceeding in the minimum time consistent with the objective of securing an expeditious, just and inexpensive determination of the case. The times for actions set forth in these rules shall be followed unless otherwise ordered by the judge.

(b) The judge shall determine the terms and conditions for orders of PER. These orders must be consistent with preserving the rights of all parties so as to permit the timely processing of the citation, or part of it, not requesting PER, as well as consistent with the provisions and objectives of the Architectural Barriers Act and Section 502 of the Rehabilitation Act. In issuing an order for PER, the judge shall make the following specific findings of fact and conclusions of law (1) The Executive Director is likely to succeed on the merits of the proceedings; (2) the threatened injury or violation outweighs the threatened harm to the respondent if PER is granted; and (3) granting PER is in the public interest.

(c) The judge may dismiss any citation or part of a citation seeking PER when the judge finds that the timely processing of a citation not requesting PER will adequately ensure the objectives of section 502 of the Rehabilitation Act and that immediate and irreparable harm caused by noncompliance with the standards or

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guidelines and requirements is not occurring or about to occur.

Subpart I—The Record

§ 1150.91 Record for decision.

The transcript of testimony, exhibits and all papers, documents and requests filed in the proceeding, including briefs and proposed findings and conclusions, shall constitute the record for decision.

§ 1150.92 Official transcript.

The official transcripts of testimony, and any exhibits, briefs, or memoranda of law filed with them, shall be filed with the judge. Transcripts of testimony in hearings may be obtained from the official reporter by the parties and the public at rates not to exceed the maximum rates fixed by the contract between the A&TBCB and the reporter. Upon notice to all parties, the judge may authorize corrections to the transcript as are necessary to reflect accurately the testimony.

Subpart J—Posthearing Procedures; Decisions

§ 1150.101 Posthearing briefs; proposed findings.

The judge shall fix the terms, including time, for filing post-hearing statements of position or briefs, which may contain proposed findings of fact and conclusions of law. The judge may fix a reasonable time for such filing, but this period shall not exceed thirty (30) days from the receipt by the parties of the transcript of the hearing.

§ 1150.102 Decision.

(a) The judge shall issue a decision within thirty (30) days after the hearing ends or, when the parties submit posthearing briefs, within thirty (30) days after the filing of the briefs.

(b) The decision shall contain (1) all findings of fact and conclusions of law regarding all material issues of fact and law presented in the record, (2) the reasons for each finding of fact and conclusion of law, and (3) other provisions which effectuate the purposes of the Architectural Barriers Act and section 502 of the Rehabilitation Act. The decision may direct the parties to take specific action or may order the suspension or withholding of Federal funds.

(c) The decision shall be served on all parties and participants to the proceedings.

§ 1150.103 PER: Posthearing briefs, decision.

(a) No briefs or posthearing statements of position shall be required in proceedings seeking PER unless specifically ordered by the judge.

(b) In proceedings seeking PER the decision may be given orally at the close of the hearing and shall be made in writing within three (3) days after the hearing.

§ 1150.104 Judicial review.

Any complainant or participant in a proceeding may obtain judicial review of a final order issued in a compliance proceeding.

§ 1150.105 Court enforcement.

The Executive Director, at the direction of the Board, shall bring a civil action in any appropriate United States district court to enforce, in whole or in part, any final compliance order. No member of the A&TBCB shall participate in any decision of the A&TBCB concerning a proceeding relating to the member, his/her Federal agency, or organization to which he/she is a member or in which he/she is otherwise interested.

Subpart K—Miscellaneous Provisions

§ 1150.111 Ex parte communications.

(a) No party, participant or other person having an interest in the case shall make or cause to be made an ex parte communication to the judge with respect to the case.

(b) A request for information directed to the judge which merely inquiries about the status of a proceeding without discussing issues or expressing points of view is not deemed an ex parte communication. Communications with respect to minor procedural matters or inquires or emergency requests for extensions of time are not deemed ex parte communications prohibited by paragraph (a) of this section. Where feasible, however, such communications should be by letter, with copies delivered to all parties. Ex parte communications between a party or participant and the Executive Director with respect to securing compliance are not prohibited.

(c) In the event an ex parte communication occurs, the judge shall issue orders and take action as fairness requires. A prohibited communication in writing received by the judge shall be made public by placing it in the correspondence file of the docket in the case and will not be considered as part of the record for decision. If the prohibited communication is received orally, a memorandum setting forth its substance shall be made and filed in the correspondence section of the docket in the case. A person referred to in this memorandum may file a comment for inclusion in the docket if he/she considers the memorandum to be incorrect.

§ 1150.112 Post-order proceedings.

(a) Any party adversely affected by the compliance order issued by a judge may make a motion to the judge to have such order vacated upon a showing that the building or facility complies with the order.

(b) Notice of motions and copies of all pleadings shall be served on all parties and participants to the original proceeding. Responses to the motion to vacate shall be filed within ten (10) days after receipt of the motion unless the judge for good cause shown grants additional time to respond.

(c) Oral arguments on the motion may be ordered by the judge. The judge shall fix the terms of the argument so that they are consistent with the objective of securing a prompt, just, and inexpensive determination of the motion.

(d) Within ten (10) days after receipt of all answers to the motion, the judge shall issue his/her decision in accordance with § 1150.102 (b) and (c).

§ 1150.113 Amicable resolution.

(a) Amicable resolution is encouraged at any stage of proceedings where such resolution is consistent with the provisions and objectives of the Architectural Barriers Act and section 502 of the Rehabilitation Act.

(b) Agreements to amicably resolve pending proceedings shall be submitted by the parties and shall be accompanied by an appropriate proposed order.

(c) The Executive Director is authorized to resolve any proceeding on behalf of the A&TBCB unless otherwise specifically directed by the A&TBCB and afterwards may file appropriate stipulations or notice that the proceeding is discontinued.

§ 1150.114 Effect of partial invalidity.

If any section, subsection, paragraph, sentence, clause or phrase of these regulations is declared invalid for any reason, the remaining portions of these regulations that are severable from the invalid part shall remain in full force and effect. If a part of these regulations is invalid in one or more of its applications, the part shall remain in effect in all valid applications that are severable from the invalid applications.

Issued in Washington, D.C. on November 17, 1980.

Max Cleland,

Chairperson, Architectural and Transportation Barriers Compliance Board.

[FR Doc. 80-36565 Filed 11-24-80; 8:45 am]

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Tuesday
November 25, 1980

Part VI

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

State of Indiana; Approval in Part and Disapproval in Part of the Permanent Program Submission Under the Surface Mining Control and Reclamation Act of 1977; Proposed Rules

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Approval in Part and Disapproval in Part of the Permanent Program Submission From the State of Indiana Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: On March 3, 1980, the State of Indiana submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of the submission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program regulations, 30 CFR Chapter VII. After providing opportunities for public comment and a thorough review of the program submission, the Secretary of the Interior has determined that the Indiana program meets in part the minimum requirements of SMCRA and the Federal permanent program regulations. Accordingly, the Secretary of the Interior has approved in part and disapproved in part the Indiana program. Indiana will not assume primary jurisdiction until all parts of its program receive approval.

DATE: Indiana has until January 26, 1981, to submit revisions of the disapproved portions of the program for the secretary's consideration.

ADDRESSES: Copies of the Indiana program and the Administrative Record on the Indiana program are available for inspection and copying during business hours at:

Indiana Department of Natural Resources Division of Reclamation, 309 West Washington Street, Suite 201, Indianapolis, Indiana 46204. Telephone: 317–232–1555

Office of Surface Mining Reclamation and Enforcement, Region III, 5th Floor, U.S. Courthouse and Federal Building, 46 East Ohio Street, Indianapolis, Indiana 46204. Telephone: 317–269–2629

Office of Surface Mining Reclamation and Enforcement, Room 153, Interior South Building, 1951 Constitution Avenue, Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT:

Mr. Carl C. Close, Assistant Director State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue NW., Washington, D.C. 20240. Telephone: 202–343–4225

SUPPLEMENTARY INFORMATION:

Introduction

This notice is organized to assist understanding of the findings underlying the Secretary's decision. It is divided into seven major parts:

A. General Background on the Permanent Program
B. General Background on State Approval Process
C. Background on the Indiana Program Submission
D. Secretary's Findings and Explanation
E. Disposition of Comments
F. The Secretary's Decision
G. Additional Findings

Part A sets forth the statutory and regulatory framework of the environmental protection regulatory scheme under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

Part B sets forth the general statutory and regulatory scheme applicable to all States which wish to obtain primary jurisdiction to implement the permanent program on non-Indian and non-Federal lands within their borders.

Part C summarizes the steps undertaken by Indiana and officials of the Department of the Interior, beginning with Indiana's program submission and leading to the decision being announced today.

Part D contains the findings the Secretary has made and the reasons for them.

Part E summarizes the significant public comments received on the Indiana program during the public comment period and discusses the Secretary's disposition of them.

Part F identifies those parts of the Indiana program which have been approved, and those which are disapproved, and the effect of this action.

Part G summarizes the Secretary's findings with regard to regulatory analysis and environmental impact of the decision.

A. General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501–503 of SMCRA, 30 U.S.C. 1251–1253. The initial program became effective on February 3, 1978, for new coal mining operations on non-Federal and non-Indian lands which received State permits on or after that date, and effective on May 3, 1978, for all coal mines existing on that date. The initial program rules were promulgated by the Secretary on December 13, 1977, under 30 CFR Parts 710–725, 42 FR 62639.

The permanent program will become effective in each State upon the approval of a State program by the Secretary of the Interior or implementation of a Federal program within the State. If a State program is approved, the State, rather than the Federal government, will be the primary regulator of activities subject to SMCRA. The Federal regulations for the permanent program, including procedures for States to follow in submitting State programs and minimum standards and procedures the State programs must include to be eligible for approval, are found in 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064), and Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published March 13, 1979 (44 FR 15312–15463). Errata notices were published March 14, 1979 (44 FR 15485), August 24 1979 (44 FR 49673–49687), September 14, 1979 (44 FR 53507–53509), November 19, 1979 (44 FR 66195), April 16, 1980 (45 FR 26001), June 5, 1980 (45 FR 37818) and July 15, 1980 (45 FR 47424). Amendments to the regulations were published October 22, 1979 (44 FR 60969), as corrected December 19, 1979 (44 FR 75143), December 19, 1979 (44 FR 75302–75303), December 31, 1979 (44 FR 77440–77447), January 11, 1980 (45 FR 2626–2629), April 16, 1980 (45 FR 25998–26001), May 20, 1980 (45 FR 33926–33927), June 10, 1980 (45 FR 39446) and August 6, 1980 (45 FR 52306). Portions of these regulations which have been suspended, pending further rulemaking were published on November 27, 1979 (44 FR 67942), December 31, 1979 (44 FR 77447–77454), January 30, 1980 (45 FR 6913) and August 4, 1980 (45 FR 51547–51549).

B. General Background on State Program Approval Process

Any State wishing to assume primary jurisdiction for the regulation of coal mining under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission. The Federal regulations governing State program submissions are found at 30 CFR Parts 730–732. After review of the submission of OSM and other agencies, an opportunity for the State to make additions or modifications to the program and an opportunity for public comment, the Secretary may either approve the program, approve it conditioned upon minor deficiencies being corrected in accordance with a specified timetable, or disapprove the program in whole or in part. Actions of the Secretary relate to each part of the program. That is, the Secretary will either approve or disapprove each specific part of the program. If any part of a program is disapproved, the State may submit a revision to correct the items that need to be changed to meet the requirements of SMCRA and the applicable Federal regulations. if the revised program or a part thereof is also disapproved, SMCRA requires the Secretary of the Interior to establish a Federal program in that State. The State may again resubmit a revised program to gain approval to assume primary jurisdiction after the Federal program has been implemented.

The procedure and timetable for the Secretary's review of State programs was initially published March 13, 1979 (44 FR 15326), to be codified at 30 CFR Part 732.

Section 732.11(d) required that States make any modifications and additions by November 15, 1979. That section stated:

> Program submissions that do not contain all required and fully enacted laws and regulations by November 15, 1979, will be disapproved puruant to the procedures for the Secretary's initial decision in Section 732.13.

As a result of litigation in the U.S. District Court for the District of Columbia, the deadline for States to submit proposed programs was extended from August 3, 1979, to March 3, 1980 and the November 15, 1979, date in 30 CFR 732.11(a) and 732.12(b)(2) became obsolete as a result.

On May 20, 1980, 30 CFR 732.11(d) and 732.12(b)(2) were amended to change the November 15, 1979, date to the 104th day after program submission. Other minor adjustments were made to the timetables for comments and hearings (45 FR 33927). The Indiana program was submitted to OSM on March 3, 1980. The 104th day after March 3 was June 16, 1980. As of June 16, 1980, Indiana did not have fully enacted regulations to implement its program.

In a May 2, 1980, notice announcing that the original Indiana submission was incomplete, the Regional Director informed the public that this rule would apply in Indiana. See 45 FR 24310, Col. 3.

The Secretary's rules for the review of State programs implement his policy that industry, the public, and other agencies of government should have a meaningful opportunity to participate in his decisions. The Secretary also has a policy that a State should be afforded the maximum opportunity possible to change its program when necessary, to cure any deficiencies in it.

To accomplish both of these policy objections the Secretary determined that the laws and rules upon which the State bases its program must be finalized at the beginning of the public comment period. By identifying the laws and rules in effect on the 104th day as the basis of his program approval decision, the Secretary assists commenters by informing them of program elements which should be reviewed. Meaningful public comment would be undermined if the program elements were constantly changing up until the day before the Secretary's decision.

The 104 day rule affords the State 3½ months following submission within which it may modify its laws and rules. In addition, after the Secretary's initial program decision, the States have additional opportunities to revise their laws and regulations.

All program elements other than laws and rules, including Attorney General's opinions program narratives, descriptions and other information, may be revised by the State at any time prior to program approval. The Secretary will provide opportunity for public comment on those changes, as appropriate.

The Secretary, in reviewing State programs, is using the criteria of Section 503 of SMCRA (30 U.S.C. 1253), and 30 CFR 732.15. In reviewing the Indiana program, the Secretary has followed the Federal rules as corrected, amended, and suspended in the **Federal Register** notices cited above under "General Background on the Permanent Program" and as affected by three recent decisions of the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144). That litigation is a consolidation of several lawsuits challenging the Secretary's permanent regulatory program.

Because of that complex litigation, the court has issued its decision in two "rounds." The Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but resulted in the suspension or remanding of all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, denied additional generic attacks on the regulations, but remanded some 40 additional parts, sections or subsections of the regulations. The court ordered the Secretary to "affirmatively disapprove, under Section 503 (of SMCRA), those segments of a State program that incorporate suspended or remanded regulations" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the court stayed this portion of its opinion. The effect of this stay is to allow the Secretary to approve State program provisions equivalent to remanded or suspended Federal provisions in the circumstances described in paragraph one below. Therefore, the Secretary is applying the following standards to the review of State program submissions:

1. The Secretary need not affirmatively disapprove State provisions similar to those Federal regulations which have been suspended or remanded by the District Court where the State has adopted such provisions in a rulemaking or legislative proceeding which occurred either: (1) Before the enactment of SMCRA, or, (2) after the date of the Round II District Court decision, since such State regulations clearly are not based solely upon the suspended or remanded Federal regulations. (3) The Secretary need not affirmatively disapprove provisions based upon suspended or remanded Federal rules if a responsible State official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove to the extent required by the court's decision, all provisions of a state program which incorporate suspended or remanded Federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the State's regulations is that the requirements of that section are not enforceable in the permanent program at the Federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the Federal courts and no Federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under State law and State courts. Accordingly, these provisions are not being pre-empted or superseded, although the Secretary may have the power to do so under Section 504(g) of SMCRA and 30 CFR 730.11.

3. A State program need not contain provisions to implement a suspended regulation and no State program will be disapproved for failure to contain a suspended regulation.

4. A State must have the authority to implement all permanent program

provisions of SMCRA, including those provisions of SMCRA upon which the Secretary bases the remanded or suspended regulations including any provision upon which a suspended regulation was based.

5. A State program may not contain any provision which is inconsistent with a provision of SMCRA.

6. Programs will be evaluated only as to provisions other than the provisions that must be disapproved because of the court's order. The remaining provisions will be unconditionally approved, conditionally approved, or disapproved in whole or in part, in accordance with 30 CFR 732.13.

7. Upon promulgation of new regulations to replace those that have been suspended or remanded, the Secretary will afford States that have approved or conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process.

A list of the regulations suspended or remanded as the result of the Round I and Round II litigation was published in a **Federal Register** on July 7, 1980 (45 FR 45604). Because Indiana's regulations were not fully enacted on the 104th day after program submission, June 16, 1980, the Secretary is disapproving all the proposed State regulations at this time. Accordingly, he need not separately disapprove any State rules to comply with the court's order.

To codify decisions on State programs, Federal programs, and other matters affecting individual States, OSM has established a new Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Indiana will be found in 30 CFR Part 914 once Indiana's resubmission has been approved or finally disapproved after opportunity for resubmission, or if Indiana does not resubmit its program at the appropriate time.

C. Background on the Indiana Program Submission

On March 3, 1980, OSM received a proposed regulatory program from the State of Indiana. The program was submitted by the Indiana Department of Natural Resources, the agency designated as the primary regulatory authority under the Indiana permanent program. On March 7, 1980, Indiana amended its original submittal by requesting that Engrossed Bill No. 98, submitted on March 3, 1980, be replaced by the State's fully enacted statute, Indiana enrolled Act No. 98 (IC. 13–4.1).

Notice of receipt of the submittals of March 3, 1980, and March 7, 1980, was published in the March 11, 1980, **Federal Register** (45 FR 15580–15581) and in newspapers of general circulation in Indiana. The announcement disclosed the availability of the program documents and invited public participation in the review process as it related to the regional director's determination of completeness.

In order to offer Indiana maximum opportunity to correct any inadequacies, OSM reviewed the Indiana statutes and expressed its concern over possible inadequacies in a letter to the State dated April 7, 1980 (Administrative Record No. (ARN) IND–0044).

On April 10, 1980, the regional director held a public review meeting in Indianapolis, Indiana, concerning the completeness of the program submission. The public comment period on completeness began on March 12, 1980, and closed April 15, 1980.

On May 2, 1980, the regional director published notice in the **Federal Register** (45 FR 29309–29310) announcing that the Indiana program submission had been determined to be incomplete. The notice specified that the submission was missing nine required elements.

On May 22, 1980, OSM provided initial comments to Indiana on the Indiana statutes and program narratives submitted by the State. (Administrative Record No. IND–0065)

On June 4, 1980, Indiana submitted to OSM Region III proposed permanent program regulations and the Indiana administrative procedures handbook. On June 16, 1980, Indiana further amended its submittal package with a legal opinion from the State Attorney General's office and additions to the program narrative.

On June 26, 1980, the regional director published notice in the **Federal Register** (45 FR 43223–43224) and in newspapers of general circulation within the State a summary of the amended State program, the times and locations for public review of the program, and procedures for the public hearing and comment period on the substance of the Indiana program.

On July 11, 1980, OSM invited comment on a tentative list of Indiana program provisions which appeared to incorporate suspended and remanded Federal Regulations (45 FR 46822).

Public hearings regarding the Indiana permanent program submission were held in Indianapolis, Indiana, on July 23, 1980, and Evansville, Indiana, on July 24, 1980.

On July 30, 1980, Indiana informed the regional director that the Indiana circuit court of Marion County had enjoined it (on July 29, 1980) for a period of one year from any further action it might wish to take to submit or resubmit its State program. See discussion below under "Effect of This Action."

On August 4, 1980, the regional director completed his program review and forwarded the public hearing transcripts, written presentation, exhibits and copies of all comments to the Director with a recommendation that the program be initially disapproved.

On August 12, 1980 (45 FR 53489), the Secretary publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture and the heads of other Federal agencies.

On August 22, 1980 (Administrative Record No. IND–0172), the Director communicated to Indiana the August 15, 1980, court opinion staying its earlier order to "affirmatively disapprove" segments of a State program incorporating suspended or remanded Federal regulations. The State was asked to inform OSM if there were any such provisions in its program that Indiana wished the Secretary *not* to affirmatively disapprove. No reply has been received from the State; in any event, all draft State regulations are being initially disapproved since they were not fully promulgated by the 104th day after program submission.

On September 4, 1980 the Administrator of the Environmental Protection Agency transmitted his written concurrence on the portions of the Indiana program that the Secretary has approved.

On September 10, 1980, the Director recommended to the Secretary that the Indiana program be approved in part and disapproved in part. Concurrently with the publication of this notice, a letter announcing the Secretary's decision to approve in part and disapprove in part the Indiana program was conveyed to Governor Bowen, and to the regulatory authority. In addition, the Director of the Office of Surface Mining is transmitting detailed findings on the unenacted Indiana regulations to the regulatory authority.

D. Secretary's Findings and Explanation

Note on Findings

Since the Secretary is approving part of the Indiana statute and disapproving other parts, the State will have the opportunity to resubmit its program and provide information to satisfy the Secretary's concerns on those parts of the statute being disapproved. For those sections, the Secretary's finding that they are disapproved may be remedied in the resubmission either by a change

in the provisions or by other information being provided which demonstrates why they are acceptable in their current form. The Secretary is disapproving all of Indiana's rules because they were not fully promulgated by June 16, 1980, the 104th day following program submission. Accordingly, the particular provisions of the proposed state rules are not discussed below in the findings. However, the Secretary has reviewed the proposed Indiana rules and his tentative evaluation of their adequacy and an explanation of deficiences identified during the review, is being sent to the state and will be available for public review at the places listed above under addresses.

Section 503 Findings

In accordance with Section 503(a) of SMCRA, the Secretary makes Findings 1–11 below.

(1) The Secretary finds that the State of Indiana does not have a State law which provides in full for regulation of surface coal mining and reclamation operations in accordance with the requirements of SMCRA. The reasons underlying this finding are found in discussions relating to statutory provisions which are set forth specifically under Findings 12 through 30 below. With respect to each section of the State law submitted by Indiana, except IC 13–4.1–1–1, the Secretary is either approving or disapproving the section for the reasons set forth in these findings. With respect to IC 13–4.1–1–1, the Secretary is neither approving nor disapproving the provision which is non-substantive in nature and repeats positions Indiana has taken in litigation against the Secretary, to the effect that Indiana opposes SMCRA. The Secretary is in no way endorsing or agreeing to the position of Indiana as set forth in IC 13–4.1–1–1.

(2) The Secretary finds that Indiana does not have a State law which fully provides sanctions for violations of State laws, regulations or conditions of permits concerning surface coal mining and reclamation operations and which meet the minimum requirements of SMCRA including criminal sanctions, forfeiture of bonds, suspensions, revocations, and withholding of permits and the issuance of cease and desist orders by the State regulatory authority or its inspectors. See discussions specifically set forth under Findings 18, 19, and 20 below.

(3) The Secretary finds that Indiana does not have a State regulatory authority with sufficient administrative and technical personnel and sufficient funding to enable the State to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA for the reasons set forth below under Finding 30.

(4) The Secretary finds that Indiana does not have a State law which fully provides for the effective implementation, maintenance, and enforcement of a permit system meeting the requirements of SMCRA for the regulation of surface coal mining and reclamation operations for non-Indian and non-Federal coal on lands within the State, for the reasons set forth more specifically under Finding 14 below.

(5) The Secretary finds that the State program does not adequately provide for establishment of a process for designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA for the reasons specifically set forth below under Finding 21.

(6) The Secretary finds that the State program fails to provide for the establishment for purposes of avoiding duplication of a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other Federal or State permit processes applicable to the proposed operations.

(7) The Secretary finds that the State of Indiana does not have rules and regulations fully consistent with the regulations issued by the Secretary pursuant to SMCRA because the State did not have fully enacted regulations on June 16, 1980, as required under 30 CFR 732.11(d).

(8) The Secretary solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed Indiana program.

(9) The Secretary obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Indiana program being approved today and which relate to air or water quality standards promulgated under the authority of the Clean Water Act, 33 U.S.C. 1151–1175, and the Clean Air Act, 42 U.S.C. 7401 *et seq.*

(10) The Secretary, through OSM, held a public review meeting in Indianapolis, Indiana, on April 10, 1980, to discuss the Indiana program submission and its completeness and held public hearings in Indianapolis, Indiana, on July 23, 1980, and in Evansville, Indiana, on July 24, 1980, on the substance of the Indiana program submission.

(11) The Secretary finds that the State of Indiana does not have the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII, for the reasons set forth below under Finding 30.

30 CFR 732.15 Findings

In accordance with 30 CFR 732.15, the Secretary further finds, on the basis of information in the Indiana program submission, public comments and testimony and written presentations at the public hearings and other relevant information, that:

Finding 12

The Indiana permanent program submission does not provide complete authority for the State to assume responsibility for regulation of coal exploration and surface coal mining and reclamation operations as required by SMCRA and the Secretary's regulations. This finding is made under § 732.15(a). For detailed discussion of the bases underlying it, see Findings 13–30 below. Indiana has not chosen to propose alternative approaches pursuant to 30 CFR 731.13; therefore, no findings are made regarding alternative provisions.

Finding 13

The Secretary finds that Indiana does not have adequate authority under enacted Indiana laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations, and that the Indian program submission does not include the necessary provisions to fully implement, administer and enforce all applicable requirements consistent with Subchapter K of 30 CFR Chapter VII. This finding is made under 30 CFR 732.15(b)(1) and is based on the failure to enact the necessary regulations as well as on the items listed below.

13.1 Section 512(a)(2) provides for reclamation in accordance with the performance standards in Section 515. The Indiana statute (IC 13–4.1–7–3(3)) does not require that all of the performance standards equivalent to those found in Section 515 of SMCRA apply to these operations. It excludes the requirements of Section 515(b)(15) dealing with the use of explosives and thus is less stringent than SMCRA.

13.2 Section 515(b)(3) of SMCRA requires backfilling to achieve approximate original contour while the Indiana statute (IC 13–4.1–8–1(3)) would limit this requirement to those instances where it is advisable to insure stability or to prevent leaching of toxic materials. The Indiana statute is less stringent than the Federal requirement.

13.3 Section 515(b)(7) of SMCRA requires that specifications for all prime

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farmlands for soil removal, storage, replacement and reconstruction shall be established by the United States Secretary of Agriculture while the Indiana statute (IC 13–4.1–8–1(7)) would have such requirements established by its Commission and thus is inconsistent with SMCRA.

13.4 Section 515(b)(13) of SMCRA requires that coal mine waste piles used as dams or embankments be in accordance with standards approved by the Secretary of the Interior with the concurrence of the Chief of Engineers. The Indiana statute (IC 13–4.1–8–1(13)) would require compliance with standards established by the Chief of Engineers rather than by the Secretary of the Interior and is thus inconsistent with SMCRA.

13.5 Section 515(b)(20) of SMCRA refers to applicable five or ten year periods of responsibility for revegetation in connection with a long term intensive agricultural post mining land use. The ten year period is applicable only in those areas or regions of the country where the annual average precipitation is 26 inches or less which would exclude Indiana. The Secretary finds that the mention of the ten year period in the Indiana statute (IC 13–4.1–8–1(20)) is not inconsistent with SMCRA; it simply would not be applicable in Indiana.

13.6 Section 515(b)(25) of SMCRA requires that an undistrubed natural barrier be retained in place as a barrier to slides and erosions. The Indiana statute (IC 13–4.1–8–1(24)) does not contain the specific language "shall be retained in place", but at a public meeting held on June 4, 1980, representatives of the State of Indiana indicated that its law would have the same effect at SMCRA (ARN IND–0088). The Secretary agrees that the barrier would have to be retained in place in order to continue to be a barrier as required by the Indiana law, and accordingly finds the Indiana statute to be consistent with the Federal law in this regard.

13.7 Section 516(b)(5) of SMCRA requires that the Secretary of the Interior establish certain standards with regard to waste piles with the concurrence of the Chief of Engineers. The Indiana statute (IC 13–4.1–9–1(5)) would provide for use of standards established by the Chief of Engineers rather than by the Secretary of the Interior and thus is inconsistent with SMCRA.

13.8 Section 711 of SMCRA provides for experimental practices. The Indiana statute (IC 13–4.1–3–5) provides for such practices consistent with SMCRA. SMCRA does state that departures from performance standards promulgated under Section 515 and 516 may be authorized as long as the experimental practices are at least as environmentally protective as those required by, and do not reduce public health and safety below that provided by, the "promulgated standards." Indiana allows such departures if they are at least as environmentally protective as those required by, and do not reduce public health and safety below that provided by, "commission regulations governing this section." The proposed Indiana regulations concerning experimental practices (§ 785.13) are in accord with the Federal rules.

Finding 14

The Secretary finds that Indiana does not have full authority under enacted Indiana laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations, and that the Indiana program submission does not include the necessary provisions to implement fully, administer, and enforce applicable requirements consistent with Subchapter G of 30 CFR Chapter VII and prohibit surface coal mining and reclamation operations without a permit issued by the State. This finding is made under 30 CFR 732.15(b)(2) and is based on the failure fully to enact the necessary regulations as well as the items listed below.

14.1 Section 506(a) of SMCRA requires that no person shall engage in surface coal mining operations unless the person has obtained a permit issued by the regulatory authority. The Indiana statute does not contain this requirement and thus is less stringent than SMCRA.

14.2 Section 506(b) of SMCRA limits the term of permits to a maximum of five years and provides a longer term if the applicant demonstrates it is needed to obtain financing for equipment and the opening of the operations. The Indiana statute, IC 13–4.1–5–1(b), requires the applicant to show additional time is needed to obtain financing for either equipment or the opening of the mine. Also, the Indiana statue, IC 13–4.1–5–1(a) and (c), provides for a life of mine permit, not provided in SMCRA. Accordingly, the Indiana statue is inconsistent with SMCRA because longer permits can be issued on lesser showings, thus reducing public and agency review of proposed mining operations.

14.3 Section 506(d)(1) of SMCRA requires fulfillment of the public notice requirements of Section 513 and 514 of SMCRA prior to issuance of a renewal permit. The Indiana statue, IC 13–4.1–3–3(a)(3), limits this requirement to permits held since 1970 and requires the statement only on the first application with provision for updating on subsequent applications, and thus provides a lesser standard than the Federal law.

14.4 Section 507(b)(11) of SMCRA provides that a permit shall not be approved until the hydrologic information is available and is incorporated into the application, while the Indiana statute, IC 13–4.1–3–3(a)(11), allows permit approvals when the required information is not available and thus appears inconsistent with SMCRA.

14.5 IC 13–4.1–4–3(a)(1) of the Indiana statute, concerning reclamation plans, is less stringent than Section 508(a)(1) of SMCRA because it requires less information from the permit applicant, since it limits identification to life of the "permit" instead of "operations" and omits identification of subareas.

14.6 IC 13–4.1–43–4(a)(7) of the Indiana statute is less stringent than Section 508(a)(5) of SMCRA because it requires an estimate of reclamation costs only if requested by the Director of the Indiana Department of Natural Resources, while SMCRA requires such an estimate in every instance. This standard is less than that prescribed by SMCRA.

14.7 IC 13–4.1–3–4(a)(13) of the Indiana statute is inconsistent with Section 508(a)(11) of SMCRA concerning information on interest in lands contiguous to the area to be covered by the permit, because the Indiana statute makes this information confidential and SMCRA requires it to be public. The Indiana scheme thus provides less opportunity for meaningful public participation.

14.8 IC 13–4.1–6–1 of the Indiana statute is less stringent than Section 509(a) of SMCRA by omitting the phrase " and the permit" concerning performance bonds. This could result in a bond that is not conditioned upon any special requirements contained in the permit.

14.9 IC 13–4.1–4–3(a)(6) of the Indiana statute is inconsistent with Section 510(c) of SMCRA because it limits violations to be considered to those "pertaining to air or water environmental protection." By contrast, SMCRA also provides for consideration of violations of SMCRA and any law, rule, or regulation of the United States.

14.10 Indiana Section IC 13–4.1–4–3(d) is not consistent with Section 510(d)(2) of SMCRA. The Indiana provision would appear to allow an operator that held a permit on August 3, 1977, continually to renew and revise the permit to increase the acreage covered by the permit. This increased acreage would be subject to the prime farmland "grandfather" exemption from strict environmental protection standards otherwise required to be met. This issue has also been addressed in the recent decision of the United States Court of Appeals for the District of Columbia Circuit (D.C. Civil Action No. 78–0162, pages 26–31). That opinion recognized that at some point there must be an end to the area that can be added to a "grandfathered" pemit through renewals and revisions.

14.11 IC 13–4.1–3–3(a)(15) is inconsistent with SMCRA Section 507(b)(15) in that the Indiana provision does not require that any waiver concerning the statement of results for test boring and core sampling be made with respect to the specific application and by a written determination that such requirements are unnecessary.

14.12 IC 13–4.1–3–4(a)(2) (A) and (B) is inconsistent with SMCRA Section 508(a)(2) (A) and (B) in that the Indiana provisions limit the applicability of information required in the reclamation plan concering the condition of the land prior to any mining to only "coal mining." This change has the effect of potentially eliminating reporting requirements on vast quantities of land, and is therefore less stringent than the Federal requirement.

Finding 15

The Secretary finds that Indiana does not have full authority under enacted Indiana laws pertaining to coal exploration and surface coal mining and reclamation operations or the necessary regulations and the necessary program provisions to regulate coal exploration consistent with 30 CFR Parts 776 and 815 and to prohibit coal exploration that does not comply with 30 CFR Parts 776 and 815. This finding is made under 30 CFR 732.15(b)(3) and is based on the failure fully to enact the necessary regulations as well as the item listed below.

15.1 Section 512(c) of SMCRA requires that any person who conducts any coal exploration activities which substantially disturbs the natural land surface in violation of it or any regulation issued pursuant to it shall be subject to the penalty provisions of Section 518 of SMCRA. Under the Indiana statute, IC 13–4.1–7–1 and –3, it is not clear that the Indiana Natural Resources Commission or the Indiana Department of Natural Resources by regulation could subject an operator who is in violation to the penalty provisions of the State statute, and is thus inconsistent with SMCRA.

Finding 16

The Secretary finds that Indiana does not have full authority under State laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations and the State program does not include the necessary provisions fully to require that persons extracting coal incidental to government financed construction maintain information on site consistent with 30 CFR Part 707. This finding is made under 30 CFR 732.15(b)(4) and is based on the failure fully to enact the necessary regulations.

Finding 17

The Secretary finds that the State does not have the full authority under State laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations and the State program does not include the necessary provisions to enter, inspect and monitor all coal exploration and surface coal mining and reclamation operations on non-Indian and non-Federal land within the State consistent with the requirements of Section 517 of SMCRA and Subchapter L of 30 CFR Chapter VII. This finding is made under 30 CFR 732.15(b)(5) and is based on the failure to enact the necessary regulations, as well as the items below.

17.1 The Indiana statutes, proposed regulations, and narratives do not appear to give field inspectors the authority and the direction to issue notices of violation and cessation orders and therefore are inconsistent with Section 521 of SMCRA and 30 CFR Part 843.

17.2 The Indiana statute (IC 13–4.1–11–1) is inconsistent with SMCRA because it fails to contain the requirements of Section 517(b)(1) (B), (C), (D), and (E) that the regulatory authority require the permittee to make monthly reports; install, use, and maintain monitoring equipment or methods; evaluate results; and provide other reasonable and necessary information.

17.3 The Indiana statute IC 13–4.1–3–3(a)(11) and (14)(4) is inconsistent with Section 517(b)(2) of SMCRA because it fails to contain the hydrologic monitoring requirements for operations which remove or disturb strata that serve as aquifers.

17.4 The Indiana statute, IC 13–4.1–11–1(b)(3), is inconsistent with Section 517(b)(3)(A) of SMCRA because it fails to include right of entry to premises where records are kept.

17.5 The Indiana statute, IC 13–4.1–11–1(b)(1), is inconsistent with SMCRA because it provides for a delay in allowing access to records not allowed by Section 517(b)(3)(B) of SMCRA.

17.6 The Secretary is unable to find the Indiana statute, IC 13–4.1–11–1(b)(3), to be consistent with Section 517(b)(3) of SMCRA, because it is applicable to "surface coal mining and reclamation premises", an undefined phrase, while SMCRA is applicable to a specifically defined "surface coal mining and reclamation operations." The Secretary is concerned that inspectors have access to all parts of a mining and reclamation operation in order to be able to carry out their duties.

17.7 The Indiana statute, IC 13–4.1–11–2(b), is inconsistent with SMCRA Section 521(a)(1) in that while it would allow persons to accompany the director on an inspection, it would absolve the operator or permittee from any liability. There is no similar provision in SMCRA and this would appear to absolve operators and permittees from common law duties and could have a chilling effect on citizen participation.

17.8 The Indiana statutes, IC 13–4.1–11–3(a) and IC 13–4.1–11–4, are inconsistent with Section 517(e) of SMCRA because they do not require that each inspector upon detection of each violation notify the operator in writing and report in writing any such violation to the regulatory authority. Adequate enforcement depends in large part, on prompt notification to alleged violators and to the regulatory authority.

17.9 The Indiana statute, IC 13–4.1–11–3(b), is inconsistent with the public participation guarantees of Section 517(f) of SMCRA because it fails to require that the materials referenced in this section be made immediately and conveniently available to the public at central and sufficient locations in the county, multi-county and state area of mining.

17.10 The Indiana statute is inconsistent with Section 517(h) of SMCRA since it omits the right of any person adversely affected by a surface coal mining operation to notify the regulatory authority of any violation, the right to a review of a refusal to issue a citation, the right to written reasons for final disposition, the right to notify the regulatory authority of a failure to inspect, and the right to written reasons for the final determination.

Finding 18

The Secretary finds that Indiana does not have the full authority under enacted Indiana laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations and that the Indiana program submission does not include the necessary provisions fully to implement,

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administer and enforce a system of performance bonds and liability insurance, or other equivalent guarantees, consistent with the requirement of Subchapter J of 30 CFR Chapter VII. This finding is made under 30 CFR 732.15(b)(6) and is based on the failure of Indiana to enact the necessary regulations, as well as the item listed below.

18.1 Indiana statute 13–4.1–6–7 is inconsistent with Section 519(a)–(g) of SMCRA in that SMCRA requires that planning agencies and others be notified of bond release applications, while the Indiana statute makes it optional.

Finding 19

The Secretary finds that the State Regulatory Authority does not have full authority under State laws and regulations to provide civil and criminal sanctions for violations of the State law, regulations and conditions of permits, and exploration approvals including civil and criminal penalties in accordance with Section 518 of SMCRA and consistent with 30 CFR Part 845, including the same or similar procedural requirements. This finding is made under 30 CFR 732.15(b)(7) and is based on the failure fully to enact the necessary regulations, as well as items below.

19.1 The Indiana statute, IC 13–4.1–12–1(b)(1), is inconsistent with Section 518(a) of SMCRA because it fails to provide penalties in the amount of $5,000 "per violation" as required by the Federal law.

19.2 Based on the material submitted, it is unclear as to whether or not the Indiana statute, IC 13–4.1–12–2, provides a criminal fine consistent with the fine provided by Section 518 (e) and (g) of SMCRA.

19.3 The Indiana statute, IC 13–4.1–12–1(b), is inconsistent with Section 518(h) of SMCRA because it provides that the allotted time period for the correction of a violation and, therefore, issuance of a cessation order for non-abatement, extends "until all proceedings challenging the violation are final," in contrast to SMCRA which requires that the time permitted for correction may be stayed only when "* * * the Secretary orders, after an expedited hearing, the suspension of the abatement requirements of the citation after determining that the operator will suffer irreparable loss or damage from the application of those requirements, or until the entry of an order of the court, in the case of any review proceedings * * * or wherein the court order suspension of the abatement requirements * * *." In other words, in some circumstances where the Federal statute requires a cessation order be issued, the Indiana statute would not.

19.4 The Indiana statute, IC 13–4.1–12–4, is inconsistent with Section 518(f) of SMCRA in that it is not clear that the violation of a permit condition is covered in this section as is required by SMCRA. This same situation exists in reference to the Indiana statute sections discussed in findings 19.1, 19.2, and 19.3.

19.5 The Indiana statute, IC 13–4.1–12–1(b), and proposed rules are inconsistent with Section 518(h) of SMCRA and 30 CFR 845.15(b) because they fail to provide a minimum penalty of $750 for each day during which a failure to abate a violation continues.

19.6 Section 521(c) of the SMCRA authorizes the Secretary to request the Attorney General to institute a civil action against a permittee whenever that permittee "violates *or fails or refuses to comply with* any order or decision issued by the Secretary or his authorized representatives." The Indiana statute, IC 13–4.1–11–10(l), deletes the phrase "or fails or refuses to comply with." As a result of this difference, the Indiana law could be construed to require an affirmative act of "violation." The Federal law clearly authorizes criminal and civil actions for acts of "omission" as well. Accordingly, this provision of the Indiana law is found to be inconsistent with SMCRA.

Finding 20

The Secretary finds that the State regulatory authority does not have full authority under State laws and regulations to issue, modify, terminate and enforce notices of violations, cessation orders, and show cause orders in accordance with Section 521 of the Act and consistent with the requirements of Subchapter L of 30 CFR Chapter VII, including the same or similar procedural requirements. This finding is made under 30 CFR 732.15(b)(8) and is based on the failure fully to enact the necessary regulations, as well as the items below.

20.1 The Indiana statute, IC 13–4.1–11–5(a), is inconsistent with Section 521(a)(2) of SMCRA in that it does not provide that a cessation order shall be issued whenever it is determined that a "condition or practice" creates an imminent danger to the health or safety of the public or is causing a significant, imminent, environmental harm.

20.2 The Indiana statute, IC 13–4.1–11–7, limits the authority to issue, modify, vacate, and terminate notices of violation and cessation orders to the Director. This is inconsistent with Section 521(a)(2) and (3) of SMCRA which provide authorized representatives (inspectors) with this authority.

20.3 The Indiana statute, IC 13–4.1–11–6, is inconsistent with section 521(a)(4) of SMCRA because it fails to apply to violations of permit conditions.

Finding 21

The Secretary finds that Indiana does not have the required authority under enacted Indiana laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations, and that the Indiana program submission does not include required provisions to designate areas as unsuitable for surface coal mining consistent with Subchapter F of 30 CFR Chapter VII. This finding is made under 30 CFR 732.15(b)(9) and is based on the failure to fully enact the necessary regulations, as well as the items below.

21.1 Indiana Sections 13–4.1–14–4 and 5 are inconsistent with Section 522(a) of SMCRA. The Indiana statute does not provide a planning process separate from the petition process. The Indiana statute also does not provide a data base and inventory system.

21.2 Indiana Section 13–4.1–14–2 is inconsistent with Section 522(c) of SMCRA. The Indiana statute changes the Federal language "which would tend to establish the allegations" to "establishing" the allegations in 13–4.1–14–2(a) and (b). This places a much stronger burden on a petitioner seeking an unsuitability designation. Further, the Indiana Administrative Adjudication Act (AAA), IC 4–22–1, provides for adjudicatory hearings rather than the legislative hearing required in Section 522(c) of SMCRA.

21.3 Indiana Section IC 13–4.1–14–1(a) appears to be inconsistent with Section 522(e) of SMCRA. The Indiana phrase "surface coal mining and reclamation" would appear to prohibit reclamation activities on lands covered by Section 522(e).

Finding 22

The Secretary finds that Indiana does not have the full authority under enacted laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations, and that the Indiana program submission does not include the necessary provisions to provide for public participation in the development, revision and enforcement of State regulations and the State program, consistent with public participation requirements of SMCRA and 30 CFR Chapter VII. This finding is made under 30 CFR 732.15(b)(10) and is based on the failure fully to enact the necessary

regulations, as well as the items listed below.

22.1 The Indiana Code Section 13–4.1–5–4 omits the public notice requirements of Section 506(d) of SMCRA with regard to permit renewal and therefore is inconsistent with SMCRA.

22.2 Indiana Code Section 13–4.1–4(A)(B) is inconsistent with Section 508(a)(11) of SMCRA in that it would make information confidential which is public under the Federal section.

22.3 Indiana Section 13–4.1–5–5(b) is inconsistent with Section 511(a)(2) of SMCRA. The Indiana statute does not require that any revisions which propose significant alterations in the reclamation plan shall at a minimum be subject to notice and hearing requirements as does SMCRA.

22.4 Indiana Section 13–4.1–4–1 is inconsistent with section 513(a) of SMCRA. It deletes the requirement that the applicant submit a copy of his advertisement to the regulatory authority as required by SMCRA. Further, the section does not require that the advertisement contain the "ownership, precise location, and boundaries of the land to be affected." This appears substantially less conducive to public participation than the Federal requirement.

22.5 The Indiana statute omits from IC 13–4.1–4–5 the requirement of Section 514(f) of SMCRA that appeals filed under this section be in accordance with Section 526 (a)(2) of SMCRA which provides a thirty (30) day period for judicial review. By not having a similar reference, the Indiana statute is less stringent and provides a lesser degree of public and operator rights than set forth in SMCRA.

22.6 Indiana Code Section 13–4.1–1–11–3(b) is inconsistent with Section 517(f) of SMCRA. The locations and availability of the records, reports, inspection materials and information required by the Indiana section appear to be insufficient and inconsistent with the Federal requirements in that Indiana only requires this information to be available "at the department," and not in sufficient locations so that they are conveniently available to residents in the area of mining.

22.7 Indiana Code Section 13–4.1–6–7 is inconsistent with Section 519(a)–(g) of SMCRA for the reasons explained in Finding 18.1.

22.8 Indiana Section 4–22–1–21 (Administrative Adjudication Act) is inconsistent with Section 519(h) of SMCRA. SMCRA authorizes inspection of the land affected and other surface coal mining operations carried on by the applicant in the general vicinity. The Indiana section omits this requirement.

22.9 Indiana Code Section 13–4.1–11–11 is inconsistent with Section 520 of SMCRA in that it fails to allow the Secretary of the Interior to intervene as of right in a suit to compel compliance with SMCRA. Indiana does not explain the limitations included in Indiana Code section 13–4.1–11–11(a)(2). The Indiana statute also does not provide that the Secretary gets notification of such suit. It does not contain the requirement similar to that of Section 520(e) of SMCRA that nothing restricts any right of any person to seek enforcement of any of the provisions of SMCRA and the regulations thereunder, or to seek other relief. Further the Indiana statute does not contain a requirement of Section 520(f) of SMCRA that a person who is injured through a violation by any operator may sue for damages only in the judicial district in which the surface coal mining operation is located. This omission could allow for "forum shipping" by injured parties and therefore is inconsistent with the Federal section.

22.10 Indiana Section 13–4.1–14–2 is inconsistent with Section 522(c) of SMCRA. It appears that it provides for adjudicatory hearings rather than the legislative type hearings required by SMCRA. Also see findings 21.2.

22.11 Indiana Sections 13–4.1–4–2(a) and 13–4.1–4–4(a)(b) are inconsistent with Section 513(b) of SMCRA in that Indiana provides for a "hearing" instead of an "informal conference" concerning an application for a permit. This could adversely affect public participation in the decisionmaking process.

22.12 During the development of the Indiana statutes, the Indiana Interim Study Committee on Coal Mining held public meetings on July 10, August 10, September 14 and 21, and November 16, 1979 to receive comments from interested parties. Once comments were received and considered, the Indiana statute was submitted to the General Assembly and was passed according to the requirements of State law. This meets with the public participation requirements of SMCRA and the Federal rules for development of State program statutes.

22.13 During the development of the Indiana rules, a committee composed of people from the coal industry, consultants and the Indiana Department of Natural Resources reviewed and commented on each section. Further, as part of the promulgation process, the Indiana Department of Natural Resources held a public hearing on July 22, 1980 at Vincennes, Indiana to allow the public an opportunity to comment on the Indiana regulations. The public comment period was kept open after this hearing to allow public comment on its program. The Indiana rules are still in the promulgation process. The steps taken so far are consistent with requirements for public participation in one development of State program rules.

Finding 23

The Secretary finds that Indiana does not have the full authority under enacted Indiana laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations and that the Indiana program submission does not include the necessary provisions to monitor, review and enforce the prohibition against indirect or direct financial interest from coal mining operations by employees of the State regulatory authority consistent with 30 CFR Part 705. This finding is made under 30 CFR 732.15(b)(11) and is based on the failure to fully enact the necessary regulations.

Finding 24

The Secretary finds that the State of Indiana did not address requirement regarding the training, examination and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with section 719 of SMCRA. Although no state program is required to implement the regulatory provisions until six months after final Federal regulations for this matter are promulgated and such regulations have not been issued as yet, the State does have to have the statutory authority to implement the eventual regulations. This finding is made under 30 CFR 732.15(b)(12).

Finding 25

The Secretary finds that Indiana does not have the full authority under enacted Indiana laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations, and that the Indiana program submission does not include the necessary provisions to provide for small operator assistance consistent with 30 CFR Part 795. This finding is made under 30 CFR 732.15(b)(13) and is based on the failure to fully enact the necessary regulations.

Finding 26

The Secretary finds that Indiana does not have the full authority under enacted Indiana laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations and that the Indiana program submission does not include the necessary provisions to provide for the

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protection of State employees of the regulatory authority in accordance with the protection afforded Federal employees under Section 704 of SMCRA. This finding is made under 30 CFR 723.15(b)(14) and is based on the failure fully to enact necessary regulations, as well as item listed below.

26.1 Indiana Section 13–4.1–12–3 does not appear consistent with Section 704 of SMCRA. Although the Indiana language in this section is substantially the same as that of the Federal section, it is not clear that this protection is afforded to all employees. The Indiana statute seems to allow for protection of only the Director, but does not specifically provide protection for any other employee.

Finding 27

The Secretary finds that the State regulatory authority does not have full authority under enacted State laws and regulations to provide administrative and judicial review of State program actions in accordance with Sections 525 and 526 of SMCRA and Subchapter L of 30 CFR Chapter VII. This finding is made under 30 CFR 732.15(b)(15) and is based on the failure fully to enact the necessary regulations, as well as items listed below.

27.1 The Indiana Section, IC 13–4.1–13, is inconsistent with Section 526(a)(2) of SMCRA because it fails to provide for judicial review within 30 days from the date of order or decision in a civil penalty proceeding or other proceeding.

27.2 The Indiana statute, IC 13–4.13–13, is inconsistent with Section 526(b) of SMCRA because it fails to provide for standards of judicial review of regulatory actions equivalent to that found in SMCRA. The Secretary believes that without such standards, regulatory authority decisions could be overturned in Indiana courts in circumstances where they would be upheld under the Federal requirements.

Finding 28

The Secretary finds that the State does not have full authority under enacted Indiana laws and regulations pertaining to coal exploration and surface coal mining and reclamation operations, and that the Indiana program submission does not include the necessary provisions to cooperate and coordinate with and provide documents and other information to the office of Surface Mining in accordance with the provisions of 30 CFR Chapter VII. This finding is made under 30 CFR 732.15(b)(1) and is based on the failure fully to enact the necessary regulations.

Finding 29

The Secretary finds that the Indiana laws and regulations and program may contain provisions which would interfere with or preclude implementation of SMCRA and 30 CFR Chapter VII. This finding is made under 30 CFR 732.15(c).

29.1 It is not clear that the disclaimer at the beginning of the Indiana Statute 1C 13–4.1–1–5(b) and (c) would not have the effect of voiding the entire Statute if any Section of SMCRA is found to be unconstitutional.

29.2 It is not clear that the Indiana Administrative Adjudication Act is consistent with and does not preclude the hearing and notice requirements of SMCRA and 30 CFR Chapter VII. This would be inconsistent with SMCRA and the Federal rules.

29.3 It is noted that some of the discrepancies between the Indiana laws and rules, and SMCRA and the Federal rules might be explained in the State Attorney General's opinion. The submitted opinion from the office of the Indiana Attorney General does not contain a complete section-by-section comparison of the Indiana Act and proposed rules and SMCRA and the Federal rules and does not contain any explanation of the differences between these as is required by 30 CFR 731.14(c).

29.4 The opinion from the Indiana Attorney General's office may not fulfill the requirements of 30 CFR 731.14(c) in that it is not clear that under the State's present law any person other than the Attorney General has the authority to sign a legal opinion. Further, it is not clear that the Attorney General has the authority to delegate this power. This should be clarified in the resubmitted program.

Finding 30

The Secretary finds that Indiana has not demonstrated adequately that the Division of Reclamation and other agencies having a role in the program would have sufficient legal, technical, and administrative personnel, and sufficient funds to implement, administer and enforce the provisions of the program, the requirements of 30 CFR 732.15(b), and other applicable State and Federal laws. Indiana has failed fully to demonstrate through descriptions, systems, statistical data, and supporting agreements, its administrative and financial capability adequately to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA. This finding is made under 30 CFR 732.15(d).

30.1 The Indiana program provisions describing the existing and proposed structural organization of the regulatory authority and of other applicable agencies which will have duties in the State program and indicating the coordination system between these agencies and the lines of authority and staffing functions within each agency and between agencies appears to be inadequate and inconsistent with the requirements of 30 CFR 731.14(i)–(m). The organizational charts submitted do not include sufficient data on personnel to allow for a determination of the capability of the agency to perform assigned missions. No information was provided about means of coordination or mechanisms for dealing with intra-agency or inter-agency staffing. Only the existing organizational charts have been submitted; no proposed organizational structures were identified.

30.2 30 CFR 731.14(f) requires submission of a copy of supporting agreements between agencies which will have duties in the State program. The Indiana submission of March 3, 1980, contained no supporting agreements between agencies. On June 16, 1980, the 104th day after initial program submittal, the State furnished copies of proposed supporting agreements between the Indiana Department of Natural Resources and the Indiana Stream Pollution Control Board, the Indiana Air Pollution Control Board, U.S. Department of Agriculture, Soil Conservation Service, and the U.S. Corps of Engineers. These proposed agreements were not signed or in effect at the time of submission, nor was there any indication when they would be. Therefore, they do not provide an adequate basis upon which the Secretary could approve the program's narrative.

30.3 30 CFR 731.14(i) requires a summary table of the existing and proposed State program staff showing job functions, titles, and required job experience and training. The Indiana program provisions do not satisfy this requirement. The Indiana submittal contains only one set of tables with no explanation about whether it is current or proposed.

30.4 The Indiana submission does not describe sufficiently how the staffing for the State program will be adequate to carry out the identified administrative, technical, permitting, or enforcement elements. There is no demonstration that the number or variety of technical specialists relates in any way to the workload as required by 30 CFR 731.14(j).

30.5 30 CFR 731.14(k) requires a summary table of the existing and proposed State program staff, showing job functions, titles, and required job

experience and training. The Indiana submission provides only one set of tables which does not distinguish between present and proposed staffing. The Indiana submission does not describe sufficiently how the staffing for the State program will be adequate to carry out the identified administrative, technical, permitting, or enforcement elements.

30.6 30 CFR 731.14(l) requires a description of the actual capital and operating budget used or proposed to administer the State program. Budget data provided by Indiana are insufficient to allow a reasonable determination of the capability of Indiana to operate a permanent program.

30.7 30 CFR 731.14(m) requires a description of the existing and proposed physical resources for use in the program. The Indiana submission lacks physical resource information sufficient to allow evaluation of the State's preparedness in this area.

E. Disposition of Comments

The comments received on the Indiana program during the public comment periods described under "Background on Indiana Program Submission" raised several issues. The Secretary considered these comments in evaluating Indiana's program, as indicated below.

Department of the Interior

1. The Geological Survey (GS) (Administrative Record Number (ARN): IND–0077) commented that the State should briefly address State procedures for processing any proposed exploration, mining plans, or permits that include Federal lands. Jurisdiction for processing exploration and/or mining permits on Federal lands lies solely with the Secretary. A State may develop a cooperative agreement with the Secretary to administer and enforce the program on Federal lands. However, to date Indiana has not chosen to enter into such an agreement and therefore is not required to discuss Federal land impacts in its program.

2. The GS (ARN:IND–0077) recommended that the State be informed about the existing Bureau of Land Management/GS/OSM Memorandum of Understanding (MOU) on the management of Federal coal. A reference to the MOU in the State program was suggested as being needed to inform the general public and the State regulatory authority. There is no obligation for the State to do so, but a copy of the MOU has been sent to the State and may be referenced in its program if the State desires.

3. The National Park Service (NPS) (ARN: IND–0096) commented that it should be allowed to participate in permitting decisions in cases where NPS units may be affected. Indiana proposed regulation 761.12(d) provides joint approval of a mine permit by the Indiana Department of Natural Resources and the agency having jurisdiction over a park. This would seem to provide NPS with adequate involvement.

4. The NPS (ARN: IND–0096) also commented that it should have the authority to be involved in setting bond amounts for surface mining activities which may impact a NPS unit. The Indiana rules provide opportunity for interested entities, including NPS, to participate in decisions setting bond amounts in the context of permit application review. See Indiana proposed § 787.11.

5. The NPS (ARN: IND–0096) requested the opportunity to participate in developing criteria for designating lands unsuitable for surface coal mining near NPS units and to be allowed to participate in protecting all resources on lands under its jurisdiction from mining in adjacent areas. Indiana's proposed regulation 762.11, identifying the criteria for designating lands as unsuitable, appears consistent with 30 CFR 762.11 and the Secretary cannot require the State to adopt additional criteria. The petition process included in Indiana's proposed regulation 764.13 provides the opportunity for any person having an interest that is or may be adversely affected to petition to have an area designated as unsuitable for mining. This approach appears to provide the NPS with the opportunity it seeks to protect lands in the National Park System.

The Secretary has instructed the Park Service not to seek criteria in State programs which would establish "buffer zones" adjacent to National Parks as automatically unsuitable for coal mining, unless these lands meet one or more of the other specific criteria for designation. On June 4, 1979, the Secretary made final decisions on the Federal Coal Management Program. Included in those decisions were numerous changes in the proposed unsuitability criteria for Federal lands. The Secretary chose to delete the automatic "buffer zone" language for national parks and certain other Federal lands from the first criterion (43 CFR 3461.1(a)). Instead, he stated lands adjacent to a national park should only be found unsuitable if they are covered by one of the other specific criteria (43 CFR 3461.1(b)–(t)). This instruction to the Park Service assures that that agency's approach to State unsuitability criteria will be compatible with the Secretary's policy on Federal unsuitability criteria.

6. The NPS (ARN: IND–0096) commented that it should be allowed to participate in inspections where a NPS unit may be affected, especially inspections in response to a petition or notification of violation or for bond release. Indiana statute IC 13–4.1–1–11–2(b) provides that if an inspection results from information from any person, that person may accompany the director on the inspection. The NPS can avail itself of this opportunity. Also, 30 CFR 807.11(e) has been remanded with instruction from the Court to include a provision for citizen access to the mine site for bond release. Indiana is being informed of this requirement.

7. The Heritage Conservation and Recreation Service (HCRS) (ARN: IND–0095) commented that the Indiana Division of Outdoor Recreation should be consulted about potential impacts of mining on parks and recreation areas. The Secretary agrees that the information provided regarding coordination with other divisions and departments having duties in the State program appears to be insufficient. Indiana proposed rule 786.11(b) provides that written notifications of permit applications be provided to State agencies with jurisdiction over or an interest in the area of proposed operation; however, no additional information concerning the Indiana Division of Outdoor Recreation was provided.

8. The Fish and Wildlife Service (FWS) (ARN: IND–0066) commented that the regulatory authority must consult with the FWS regarding threatened and endangered species. Section 770.12(C) of the proposed Indiana rules incorporates the applicable provisions of the Endangered Species Act of 1973, as amended, and the Fish and Wildlife Coordination Act, as amended.

9. The FWS (ARN: IND–0066 and IND–0167) also commented that there was a need for a mechanism in the Indiana program to assure equal consideration for fish and wildlife resources. The Secretary agrees that the information provided regarding coordination with other divisions and departments having duties in the State program is insufficient to enable him to find such consideration is assured. (See finding 30.1)

10. The FWS (ARN: IND–0117) commented that the wildlife biologist with the Indiana Division of Reclamation should have specific training and knowledge relating to

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threatened and endangered species. The Secretary has noted that the Division of Reclamation has not adequately demonstrated that it has sufficient technical personnel. However, the Federal rules do not require specific training or knowledge in this area. (See finding 30.3)

11. The FWS (ARN: IND–0117) commented that the criteria for designating lands as unsuitable in the Indiana program be augmented to include wording which would protect threatened and endangered species or their critical habitats. Section 762.11(b)(2) of the proposed Indiana regulations corresponds to 30 CFR 762.5 in that the term "fragile lands" includes such critical habitat (see § 701.10—Indiana definition of fragile lands).

12. The FWS (ARN: IND–0117) commented that the Indiana program should contain a process to determine how a mining or exploration operation may affect threatened or endangered species and designation of the authority to implement the process. Indiana proposed rule 786.19(o) specifies that the director of the regulatory authority will make this determination.

13. The FWS (ARN: IND–0117) commented that the Indiana program should specify that Indiana will provide copies of all its decisions on threatened and endangered species and notices concerning mining and exploration applications to the FWS Bloomington, Indiana Field Office. The proposed Indiana system narrative, § 731.14(g)(10), specifies that the FWS Bloomington Field Office will be consulted on review of permit applications. The Endangered Species Act, as amended, contains a requirement for State agencies to contact FWS regarding threatened and endangered species and Indiana proposed rule 770.12 incorporates the requirements of that Act. Also, Indiana proposed rule 786.11(b)(1) specifies that notices of permit applications will be sent to fish and wildlife agencies.

14. The FWS (ARN: IND–0117) commented that the Indiana program should contain a provision for Section 7 consultation with FWS. This requirement is contained in the Endangered Species Act, as amended, which Indiana has incorporated in proposed rule 770.12.

15. The FWS (ARN: IND–0117) expressed concern over the exemption from the regulation process of mines of less than two acres in size. This exemption is contained in Section 528 of SMCRA and 30 CFR 700.11 and States are not required to do more than the Federal act and rules require.

16. The FWS (ARN: IND–0167) commented that Indiana proposed rule 779.20 should have specific information items identified. 30 CFR 779.20 concerning fish and wildlife information is not presently required in the State program since it has been remanded by the Court. (*In Re: Permanent Surface Mining Regulations Litigation*, No. 79–1141, February 26, 1980.)

17. The FWS (ARN: IND–0167) commented that Indiana proposed rule 780.16 should delineate specific requirements for the fish and wildlife plan. 30 CFR 780.16 concerning a fish and wildlife plan is not presently required in the State program since it has been remanded by the Court. (*In Re: Permanent Surface Mining Regulations Litigation*, No. 79–1141, February 26, 1980.)

18. The FWS (ARN: IND–0167) commented that Indiana proposed rule 783.20 should have specific information items identified. 30 CFR 783.20 has been remanded by the Court and is not presently required in the State program. (*In Re: Permanent Surface Mining Regulations Litigation*, No. 79–1141, February 26, 1980.)

19. The FWS (ARN: IND–0167) commented that Indiana proposed rule 784.21 is ambiguous. 30 CFR 784.21 has been remanded by the Court and is not presently required in the State program. (*In Re: Permanent Surface Mining Regulations Litigation*, No. 79–1141 February 26, 1980.)

20. The FWS (ARN: IND–0167) commented that the State regulatory authority must send the FWS a copy of its determination prepared under Section 786.19 related to threatened and endangered species. The State will provide such determinations to OSM and OSM will provide the determinations to FWS in accord with the Memorandum of Understanding.

21. The FWS (ARN: IND–0167) commented that a clear-cut, concise and consolidated discussion on interagency coordination is needed in the Indiana program. The Secretary agrees with this comment. (See finding 30.1)

22. The FWS (ARN: IND–0066) commented that a description of fish and wildlife habitat and species utilization should be included in Section 13–4.1–3–3(14) of the Indiana statute. Section 507(b)(14) of SMCRA contains no requirement for a description of fish and wildlife habitat and the States are not obligated to do more than the Federal act and rules require.

23. The FWS (ARN: IND–0066) commented that Section 13–4.1–3–4(a) should have a provision for each permit to include a fish and wildlife mitigation and/or enhancement plan. Section 508(a) of SMCRA has no such provision and the State is not obligated to do more than the Federal Act and rules require.

24. The FWS (ARN: IND–0066) commented that the term "fish and wildlife" be added to Section 13–4.1–11–5(b) of the Indiana statute after the word "air." Section 521(a)(2) of SMCRA does not contain the term "fish and wildlife"; therefore the State is not required to add the term.

25. The FWS (ARN: IND–0066) commented that the term "including fish and wildlife" be added after the word "environment" to Section 13–4.1–14–3(3) of the Indiana statute. Since Section 522(d)(iii) of SMCRA does not contain such a term, the State is not required to add the term.

26. The Bureau of Mines (BOM) (ARN: IND–0067) commented that several of the required sections of the Indiana program were omitted in the March 3, 1980, submittal. On June 16, 1980, Indiana submitted additions to the program narrative.

Department of Agriculture

27. The Soil Conservation Service (SCS) (ARN: IND–0070) commented that Indiana's submittal needs language for reclamation research and demonstration and proposes a new section to be added to 30 CFR Part 780. The Forest Service (FS) (ARN: IND–0057, IND–0068, IND–0144, and IND–0151) further commented that early release of performance bonds for research areas would encourage reclamation research. Neither of these provisions is authorized under the Federal rules. However, these issues are currently being considered by the Secretary in conjunction with the petition of the USDA, RECLAM Coordinating Committee (45 FR 41166–41169, June 18, 1980).

28. SCS (ARN: IND–0153) commented that Indiana's proposed rule 823.14(a) should be changed to require a minimum depth of reconstructed soil and soil material to 60 inches in lieu of the specified 48 inches. Four reprints were submitted as illustration that some of the more productive soils have a rooting depth of more than 48 inches. Section 823.14(a) of the Indiana proposed rule is identical to 30 CFR 823.14(a). The State is not obligated to do more than the Federal rules require.

29. SCS (ARN: IND–0150) commented that the wording in §§ 779.2(a)(2) and 783.21(a)(2) of Indiana's proposed rules should be changed from "soil identification" to "soil identification legend." The term "soil identification" is used in the Federal rules and the State is not obligated to do more than the Federal rules require. The Secretary notes that 30 CFR 779.21 and 783.21 have been remanded to the extent that soil survey information is required for more than those lands which a reconnaissance inspection suggests may be prime farmland.

30. SCS (ARN: IND–0150) commented that Section 785.17(c)(3) of Indiana's proposed rules should be expanded to provide that moist bulk density be shown for each soil horizon for each soil and submitted suggested wording. The moist bulk density standard for soil compaction in 30 CFR 785.17(b)(3) was suspended to allow further public comment on December 31, 1979 (44 FR 77455). Until a standard is proposed and adopted, the permanent program prime farmland standards will be implemented by requiring that prime farmland permit applications demonstrate and operators mine so that excessive compaction is avoided.

31. SCS (ARN: IND–0150) commented that § 785.17(c)(9) should be reworded to include "equivalent or higher levels of yield" in lieu of "equivalent levels of yield"; to apply to "soil map unit" in lieu of "soil type"; to relate to "equivalent levels of management" in lieu of "equivalent management practices"; and to change the reference to the Indiana proposed rules from § 785.17(b)(1) to §§ 785/17(c)(1) and 785.17(c)(8). The Indiana proposed rule 785.17(c([9) is identical to 30 CFR 785.17(b)(9) and the State is not obligated to do more than the Federal rules require.

32. SCS (ARN: IND–0150) commented that Indian proposed rules 816.22(d) and 817.22(a) be expanded to include a suggested example. Further, SCS commented that §§ 816.22(e)(1)(i) and 817.22(e)(1)(i) be amended to include organic matter content among the specified chemical and physical analyses of overburden and topsoil. These sections of the Indiana proposed rules are identical to 30 CFR 816.22(d) and 816.22(e)(1)(i) and a State is not obligated to do more than the Federal rules require.

33. SCS (ARN: IND–0150) commented that §§ 816.111(b)(4A) and 817.111(b)(4) of the INdiana proposed rules be amended to read "planting of row (intertilled) crops"in lieu of "planting of the crops." These sections of the Indiana proposed rules are identical to 30 CFR 816.111(b)(4) and 817.111(b)(4) and a State is not obligated to do more than the federal rules require.

34. SCS (ARN: IND–0150) suggested entirely new wording for § 823.14(c) of the Indiana proposed rules concerning excess compaction. This will not now be required, since 30 CFR 823.14(c) has been suspended, (44 FR 77455), to allow further public comment.

35. SCS (ARN: IND–0150) commented that Indiana proposed rule 823.15(b) should have the phrase "but not to exceed 10 years" added to the end of the first sentence. The SCS also commented that the commonly grown crops specified be limited to corn, soybeans or other crops commonly grown on surrounding prime farmland. Also, the sentence concerning approval of the use of perennial plants for hay would be deleted. 30 CFR 823.15(b) has been remanded and this information cannot be required at present. (*In Re: Permanent Surface Mining Regulation Litigation*, No. 79–1141, February 26, 1980

36. SCS (ARN: IND–0070) commented that prime farmland soils in Indiana should be reconstructed to a depth of five feet, that crops grown to demonstrate productivity be limited to corn and soybeans and that physical and chemical properties of reconstructed prime farmland soils should be addressed in the Indiana program. The relevant prime farmland provisions of the Federal rules have been incorporated into the Indiana program, and a State is not obligated to do more than the Federal rules require.

37. SCS (ARN: IND–0070) commented that conservation systems may be needed on the slopes in row crop (tillable) land to eliminate excessive erosion. Since neither SMCRA nor Federal rules specify the use of conservation systems on tillable land, a State is not required to specify the use of these systems.

38. The Forest Service (FS) (ARN: IND–0057) suggested a Memorandum of Understanding (MOU) with the FS covering mining on lands administered by the FS where mineral rights are outstanding. A MOU is being formulated between OSM and the FS at the present time. Since Indiana has not requested a cooperative agreement with the Department of the Interior to regulate on Federal land, a MOU between Indiana and the FS is not necessary at this time.

39. FS (ARN: IND–0068) suggested that a MOU be established between the Indiana Division of reclamation and the Indiana Division of Forestry to grow seedlings for reclamation and to provide technical expertise on species selection, timber utilization on mining sites, and the preservation of unique forest stands. Since both divisions are part of the Indiana DNR, a MOU appears to be unnecessary. The suggested arrangement could be worked out within the DNR. The Forest Services's suggestion has been sent to the State.

40. FS (ARN: IND–0068) expressed concern that the State's program adequately address the need to maintain the forestry "base" in Indiana. This comment has been forwarded to the Indiana Division of Reclamation.

41. FS (ARN: IND–0057and IND–0068) commented that the surface owner should be notified when application for release of bond occurs. It also asked for provisions to be made to invite surface owners to field inspections for evaluating reclamation on the area proposed rule provides for notification for surface owners consistent with the Federal rule. However, the Indiana submittal contains no provisions for the surface owner to participate in the bond release inspection as required by 30 CFR 807.11(d).

42. The FS (ARN: IND–0068) commented that a recent aerial photo should be required to insure that the previous land use is documented in Sections 13–4.1–3–3(9) of the Indiana statute. Section 779.22, "Land Use Information," of the State proposed rules requires submission of an aerial photograph as part of application.

43. The FS (ARN: IND–0057) commented that the State Forester should be a designated member of the Natural Resources Advisory Council. The Secretary does not believe it is necessary to require such an arrangement to make the Indiana program fulfill the minimum requirements of SMORA and 30 CFR Chapter VII.

44. The FS (ARN: IND–0144 and IND–0151) commented that the phrase "surface water drainage ways" as used in Indiana's proposed rules, 816.117(a)(d) and 817.117(a)(3), could be misinterpreted and suggested changing the phrase to "surface water areas." The corresponding Federal rules, 30 CFR 816.117(a)(3) and 817.117(a)(3), also use the phrase "surface water drainage ways," and the Secretary believes that this phrase is acceptable.

45. The FS (ARN: IND–0144 and IND–0151) suggested that the sentence "Woody materials may be clipped and distributed over the surface as mulch." be added to Indiana rules 816.114 and 817.114. The corresponding sections of the Federal rules, 30 CFR 816.114 and 817.114, do not contain such a sentence and a State is not obligated to do more than the Federal rules require.

Department of Labor

46. The Mine Safety and Health Administration (MSHA) (ARN: IND–0158) commented that the Indiana proposed regulations do not contain many of the required references to MSHA regulations. The Secretary agrees with this comment.

47. MSHA (ARN: IND–0158) further commented that only a registered

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engineer must be able to certify plans for structures under Indiana rules 780.25(a)(1)(i) and 784.16(a)(1)(i). The corresponding Federal rules, 30 CFR 780.25(a)(1)(i) and 784.16(a)(1)(i), allow a professional geologist also to certify such plans. The Indiana provision is the same as the Federal rule and thus is acceptable.

48. MSHA (ARN: IND–0158) also commented that only a registered engineer must be able to certify plans for structures under Indiana's proposed rules 780.25(a)(2)(i) and 784.16(a)(2)(i). The Secretary agrees with this comment.

49. MSHA (ARN: IND–0158) commented that Indiana's proposed rules 816.92 and 817.92 should require diversions to be designed to carry a peak runoff from a 100-year, 6-hour precipitation event. The corresponding Federal rules, 30 CFR 816.92 and 817.92, require diversions to be designed to a 100-year, 24-hour precipitation event. The Indiana rule is consistent with this requirement.

Environmental Protection Agency

50. The Environmental Protection Agency (EPA) (ARN: IND–0097) commented that the Indiana program does not adequately address air resources protection. 30 CFR 816.95 and 817.95 concerning air resources protection have been remanded and thus can not be required at present to the extent they apply to pollution caused by erosion. (*In Re: Permanent Surface Mining Regulations Litigation*, No. 79–1141, May 16, 1980.) Indiana statute (IC 13–4.1–3–4(a)(11)) requires that each reclamation plan include the steps to be taken to comply with the applicable air quality laws and rules. Also 30 CFR 780.15 and 784.26 require an air pollution control plan. Because Indiana does not require such a plan, the proposed Indiana rules are inconsistent with these Federal rules.

51. EPA (ARN: IND–0047 and IND–0097) commented that several sections of the Indiana program submitted on March 3, 1980, were incomplete. In particular, State regulations and an Attorney General's opinion were missing. On June 4 and 16, 1980, Indiana submitted additions to its program including proposed rules (ARN: IND–0114) and an opinion from the Attorney General's office (ARN: IND–0115). The Secretary notes that the opinion does not appear to contain a complete section-by-section comparison of the Indiana Act and proposed rules and the Federal Act and rules and does not contain any explanation of the differences.

52. The EPA (ARN: IND–0047) commented that Indiana has not demonstrated that it has personnel qualified to deal with toxic materials and other pollutants as required in the Federal regulations. The Secretary agrees that the Indiana submission does not describe sufficently the adequacy of technical staffing. (See findings 30.4 and 30.5)

53. EPA (ARN: IND–0047) further commented that more specific information regarding the projected number of permits, inspections and legal actions is needed to determine whether staffing is adequate. The Secretary agrees that the information submitted in response to 30 CFR 731.14(j) was insufficient to demonstrate the adequacy of staffing. (See finding 30.4)

54. EPA (ARN: IND–0047) also commented that there is no discussion or description of laboratory space in Section 731.14(m) of the Indiana submittal. The Secretary agrees that the information submitted in response to 30 CFR 731.14(m) regarding physical resources was insufficient to allow evaluation. (See finding 30.7)

55. The EPA (ARN: IND–0097) commented that the information provided in response to 30 CFR 731.14(f), supporting agreements between agencies, was inadequate. The Secretary agrees that the information submitted for this section was inadequate. (See finding 30.2)

56. EPA (ARN: IND–0097) commented that the information submitted by Indiana in response to 30 CFR 731.14(g)(9), coordinating issuance of permits, did not describe how permits will be coordinated with EPA and local agencies. The Secretary agrees that more information is needed in this section.

Other Public Comments

57. Save Our Irreplaceable Land (SOIL) (ARN: IND–0085) expressed concern that IC 13–4.1–8–2, 3 and 4 of the Indiana statute do not meet the requirements of SMCRA for return to approximate original contour. These sections of the Indiana statute appear to be substantially the same as the corresponding Sections 515(c), (d) and (e) in SMCRA, and the Secretary has found these Indiana sections to be acceptable.

58. SOIL (ARN: IND–0085) was concerned that the Indiana Department of Natural Resources had not established a "planning process" for making "objective decisions" for designating lands unsuitable for mining as identified in Section 522(a)(1) of SMCRA. The Secretary agrees that the State's planning process in this regard needs further definition. (See finding 21.1)

59. SOIL commented (ARN: IND–0085) that the Indiana statute does not adequately cover requirements in Section 517(h) of SMCRA concerning informal review. The Indiana statute does not contain a section corresponding to 517(h) of SMCRA. (See finding 17.10)

60. SOIL commented (ARN: IND–0085) that the Indiana statute does not adequately cover requirements set out in Section 521(a)(1) of SMCRA concerning citizens accompanying inspectors on inspections. In particular, SOIL questioned whether a violation is a precondition for a citizen to accompany an inspector. The Indiana statute, IC 13–4.1–11–2(b), provides that if the inspection results from information provided by any person, that person may accompany the director on the inspection, whether or not a violation has occurred. This section appears to be acceptable except for the use of the word "director".

61. SOIL (ARN: IND–0156) commented that the Attorney General's opinion submitted by Indiana on June 16, 1980, does not constitute the required legal authorization. The Secretary agrees that the opinion appears not to contain a complete section-by-section comparison of the Indiana Act and proposed rules and SMCRA and the Federal rules and does not contain any explanation of the differences. (See findings 29.3 and 29.4)

62. SOIL (ARN: IND–0156) commented that the Indiana staff is inadequate in resources and personnel. The Secretary agrees that the submitted material is inadequate to determine if sufficient personnel and resources are present. (See findings 30.4, 30.5, and 30.6)

63. SOIL (ARN: IND–0156) and the Ohio Township Homeowners Association (OTHA) (ARN: IND–0146) specify that it was their position that Indiana should not be granted primacy and that the Indiana program be disapproved. The Secretary is only partially approving Indiana's program at this time.

64. SOIL (ARN: IND–0132 and IND–0156) and OTHA (ARN: IND–0146) pointed out that Indiana's proposed rules have not been lawfully promulgated and therefore the Indiana submission is incomplete. The Secretary agrees that Indiana does not have fully enacted rules.

65. Two commenters (ARN: IND–0149), suggested that coal operators: (1) Should not be allowed to blast within ½ mile of dwellings; (2) should be required to post bond in the amount of value of buildings within one mile of operations; and (3) after a given period of time they should have to sell stripped and reclaimed land if they cannot show they intend to restrip in the future. These proposed requirements go beyond the scope of the Federal rules and the State is not obligated to do more than the Federal regulations require. It should be pointed out that 30 CFR 816.65, which prohibits blasting within 1,000 feet of a building, has been remanded by the Court. (*In Re: Permanent Surface Mining Regulations Litigation*, No. 79–1141, May 16, 1980.)

66. Several commenters (ARN: IND–0149, IND–0146, IND–0156, IND–0098, IND–0133, and IND–132) complained of blasting problems with surface coal operations. The sections on blasting in the Indiana statute appear to be consistent with SMCRA, while Indiana's proposed rules covering blasting appear to have certain inconsistencies with the Federal rules.

67. One commenter (ARN: IND–0132) suggested that Indiana limit blasting to eight hundred feet from a dwelling. 30 CFR 816.65 which prohibits blasting within 1,000 feet of a building has been remanded by the Court insofar as it restricts blasting at distances greater than 300 feet. (*In Re: Permanent Surface Mining Regulations Litigation*, No. 79–1142 May 16, 1980.) Indiana, therefore, is not required at present to restrict blasting at distances greater than 300 feet.

68. One commenter (ARN: IND–0132) suggested that mining a maximum of two acres without requiring a permit be increased to six or seven acres. This suggestion is contrary to Section 528(2) of SMCRA.

69. One commenter (ARN: IND–0132) commented that highwalls and final-cut lakes should not be allowed to be left after mining is completed. Both SMCRA and the Federal rules require that the highwall be eliminated. However, SMCRA and the Federal regulations do allow permanent water impoundments, but only under specific conditions. Indiana proposed rule 785.23 provides variances for water impoundments and box-cut spoil areas not provided for in the Federal rules.

70. The Mayor of Terre Haute, Indiana (ARN: IND–0147) and the Vigo County Board of Commissioners (ARN: IND–0152) commented that highwalls should be retained under certain circumstances and expressed support for Indiana Section 310 IAC 12–1–17(10) and 12–2–6(59). Both SMCRA and the Federal regulations require that the highwall be eliminated. Furthermore, the referenced Section could not be located in the Indiana program submittal.

71. The Izaak Walton League of America (ARN: IND–0159) commented that the Indiana program should provide for long term funding, staffing and cooperation with the Indiana Attorney General's Office. The Secretary agrees with this comment. (See findings 30.1 and 30.6)

72. The Izaak Walton League (ARN: IND–0159) commented that to the extent Senate Enrolled Act 98 supersedes IC 13–6–1–1, it must provide at least equivalent opportunities for citizen participation in enforcement proceedings. Since SMCRA sets the standard for citizen participation, the Secretary cannot require provisions other than those consistent with SMCRA and his rules. Certain aspects of public participation are inconsistent. (See finding 22)

73. The Izaak Walton League (ARN: IND–0159) expressed concern about assessment of costs of judicial proceedings in IC 13–4.1–11–9. This provision appears consistent with Section 525(e) of SMCRA in which the Secretary makes the determination, because the Indiana provision seems to limit the determination of costs to the Director.

74. The Izaak Walton League commented (ARN: IND–0159) that a description of existing wildlife habitat should be required in the permit application. The Federal provisions requiring a permit application to contain a study of fish and wildlife and a fish and wildlife reclamation plan (30 CFR 779.20, 780.16, 783.20 and 784.21) have been remanded by the court and such information cannot be required at present. (*In Re: Permanent Surface Mining Regulations Litigation*, No. 79–1141, February 26, 1980.)

75. The Izaak Walton League commented (ARN: IND–0159) that in disputes between parties involved in any mining or reclamation plan or permit that would impact upon the environment, the Secretary rather than the State should retain authority for ultimate approval. Section 503 of SMCRA provides that a State shall have primary jurisdiction if its program to regulate mining is approved. However, the Secretary retains enforcement power to ensure that the State program is properly carried out under Section 521 of SMCRA.

76. A member of the Indiana Division of the Izaak Walton League of America (ARN: IND–0133) commented that her organization would like OSM to retain an oversight role in the administration of the Indiana program, particularly if there were disputes concerning the final configuration of the land and in the reclamation program itself. Areas of concern mentioned by the commenter included conservation of fish and wildlife, pollution control, and the return of land to the best possible use. The OSM will maintain an oversight role in accordance with 30 CFR Part 733 to ensure enforcement of Federal and State laws and regulations when the State of Indiana obtains primacy over the regulation of surface coal mining.

77. The same member of the Indiana Division of the Izaak Walton League (ARN: IND–0133) suggested that a description of fish and wildlife habitat should be included in the permit application and that the reclamation plan, which is part of the permit application, should include possibilities for enhancing fish and wildlife habitat. The Federal provisions requiring a permit application to contain a study of fish and wildlife and a fish and wildlife reclamation plan (30 CFR 779.20, 780.16, 783.20, and 784.21) have been remanded by the court and such information cannot be required at this point. (*In Re: Permanent Surface Mining Regulations Litigation*, No. 79–1141, February 26, 1980.)

78. The same member of the Indiana Division of the Izaak Walton League (ARN: IND–0133) stated that agreement on reclamation plans should be reached by the Indiana Division of Reclamation, the Indiana Division of Fish and Wildlife, the Office of Surface Mining, the U.S. Fish and Wildlife Service and the applicant. OSM should have final approval in cases where the plan is disputed. The Federal rule, 30 CFR 786.11(c), and State proposed rule 786.11(b), only require permit approval by the State regulatory authority, which is the Indiana Division of Reclamation except in special cases. However, the Indiana proposed rules do provide for notification of permit applications to the mentioned agencies.

79. A commenter (ARN: IND–0133) suggested that logs and drill records are privileged information which should be kept confidential and not a matter of record for OSM or the Department of Natural Resources. It is assumed that the commenter is referring to Indiana proposed rule 779.14(b) which requires that each suface mining permit application contain a statement of result of test borings or core samplings from the permit area. 30 CFR 786.15(a)(1) requires that information on test borings and core samplings included in permit applications shall be made available for inspection and copying to any person with an interest which is or may be adversely affected by the proposed surface mine. Indiana proposed rule 786.15(a) also requires that such information be made publicly available and any departure from this requirement would be inconsistent with the Federal rule.

80. A commenter (ARN: IND–0133) opposed § 776.11(b) of Indiana's proposed rules which requires persons who intend to conduct coal exploration by core drilling to file with the Director a written notice of intention to explore prior to conducting it. 30 CFR 776.11 requires that a written notice of intention to explore be filed with the State regulatory authority. Indiana's proposed rule 776.11(b) on coal exploration is consistent with the

corresponding Federal rule.

81. Two commenters (ARN: IND–0133 and ARN: IND–0148) objected to the prepayment of penalties for violations of surface mining regulations contained in Indiana proposed rule 895.15(e) and (f). These proposed rules are consistent with the corresponding Federal rules and SMCRA.

82. A commenter (ARN: IND–0133) objected to the whole concept of the OSM program because he believed the State of Indiana already had a good, workable program. The Office of Surface Mining was established under Pub. L. 95–87 to administer programs to regulate surface coal mining operations which are required by SMCRA and to assist the States in the development of State programs by which they could achieve primacy under SMCRA. When the State of Indiana enacts a program, including a surface mining law and regulations, which are consistent with and no less stringent than the Federal Act and rules, it will assume primacy for the regulation of surface coal mining in the State.

83. Snell Environmental Group (ARN: IND–0157) expressed support for Indiana proposed rules 785.23, 816.107, 817.107, 785.17, and 762.13 and provided a copy of "A Study of Ultimate Postmining Land Uses on Prime Agricultural Lands in S.W. Indiana." All of these rules provide variances not provided in the corresponding Federal rules and Indiana has not identified any of these sections as "State Windows."

84. The Environmental Policy Institute (ARN: IND–0166) suggested that the last sentence of IC–13–4.1–3–1 be amended to read " * * * without first holding a valid surface coal mining and reclamation permit issued in accordance with this Act and regulations" to ensure that operators who plan to mine after eight months of an approved State program file an application that complies with the permanent program. This provision is comparable to Section 502(d) of SMCRA. Section 5 of Senate Enrolled Act No. 98 of the Indiana statute provides that permittees who expect to continue coal operations eight months after the date of the State program approval shall apply for a permit not later than two months after program approval. This provision corresponds to Section 502(d) of SMCRA.

85. The Environmental Policy Institute (ARN: IND–0166) commented that Indiana provision IC 13–4.1–5–1, –2 which compares to 506(b) of SMCRA improperly extends the life of a permit beyond five years. The Secretary agrees. (See finding 14.2)

86. The Environmental Policy Institute (ARN: IND–0166) commented that the Indiana statute contains no provision corresponding to Section 517(b)(2) of SMCRA concerning monitoring of the hydrologic balance in the permit area. The Secretary agrees with this comment. (See finding 17.3)

87. The Environmental Policy Institute (ARN: IND–0166) commented that the Indiana statute at IC 13–4.1–4–3(c) allows the State discretion to deny a permit upon finding a demonstrated pattern of willful violations. Since the State has discretion in making a finding concerning a pattern of willful violations under Section 510(c) of SMCRA, the Indiana language "the commission may not issue a permit * * * if they find" appears to be equivalent to the Federal language "no permit shall be issued * * * after a finding."

88. The Environmental Polciy Institute (ARN: IND–0166) commented that the language "Article 13 of the Indiana Code" (IC–13.4.1–3–3(a)(20)) is not equivalent to "The Act" in Section 510(c). The word "Article" refers to Article 4.1 of the Indiana Code which contains the provisions comparable to SMCRA. However, because IC 13–4.1–4–3(a)(6) limits violations to be considered to those "pertaining to air or water environmental protection," the Indiana provision is inconsistent with Section 510(c) of SMCRA. (See finding 14.9)

89. The Environmental Policy Institute (ARN: IND–0166) commented that IC 13–4.1–4–3(d) concerning grandfathering of operations affecting prime farmlands is too broad. The corresponding Federal provision is Section 510(d)(2). Indiana was informed (ARN: IND–0065) that this provision is inconsistent with SMCRA. (See finding 14.10)

90. The Environmental Policy Institute (ARN: IND–0166) commented that Indiana has no statutory provision comparable to 514(f) of SMCRA providing judicial review of regulatory authority decisions on permits. The Secretary agrees. (See finding 22.5)

91. The Environmental Policy Institute (ARN: IND–0166) commented that Indiana provides that specification for soil removal, storage, replacement and reconstruction on prime farmland be established by the commission, IC 13–4.1–8–1(7), whereas Section 515(b)(7) of SMCRA requries specification be established by the U.S. Secretary of Agriculture. The Secretary agrees. (See finding 13.3)

92. The Environmental Policy Institute (ARN: IND–0166) commented that IC 13–4.1–11–3(a) and (4) is inconsistent with SMCRA because it does not require that inspectors will have the power to issue NOV's for all observed violations in the field. The Secretary agrees. (See finding 17.1)

93. The Environmental Policy Institute (ARN: IND–0166) commented that Indiana allows a court to require bond if a temporary restraining order or preliminary injunction is sought in a civil action (IC 13–4.1–11–11(e)). This provision appears to be consistent with Section 520 of SMCRA.

94. The Environmental Policy Institute (ARN: IND–0166) commented that IC 13–4.1–11–5(a), 6(a) and 7(a) do not give inspectors field authority to issue notices of violation (NOV's). Further, suspension or revocation is not required "forthwith" where applicable as in Section 521 of SMCRA. The Secretary does not believe that the deletion of "forthwith" results in the Indiana statute being inconsistent with SMCRA. The Indiana statute (IC 13–4.1–11–6(a) requires the issuance of "show cause" orders and provides for the suspension or revocation of a permit. (See finding 17.1)

95. The Environmental Policy Institute (ARN: IND–0166) commented that no quantitative justification was provided by Indiana on the adequacy of its inspection staff. The Secretary agrees with this comment. (See finding 30).

96. The Environmental Policy Institute (ARN: IND–0161) commented that Indiana did not have fully enacted regulations by the 104th day and that the Deputy Attorney General's opinion was submitted on the 104th day. The Secretary agrees.

97. The Environmental Policy Institute (ARN: IND–0161) commented that Indiana provision IC 13–4.1–4–(A)(B)(1) extends confidentially beyond the provision of Section 508(a)(11) SMCRA. The Secretary agrees. (See finding 22.2)

98. The Environmental Policy Institute (ARN: IND–0161) commented that permits should not be issued where data are unavailable as provided by IC 13–4.1–3–3(a)(11). This provision appears inconsistent with the requirements of Section 507(b)(11) of SMCRA. (See finding 14.4)

99. The Environmental Policy Institute (ARN: IND–0161) commented that there is no Indiana provision equivalent to Section 514(f) of SMCRA concerning right to appeal. The Secretary agrees that the Indiana program does not have this provision. (See finding 22.5)

100. The Environmental Policy Institute (ARN: IND–0161) commented that the Indiana provision, IC 13–4.1–8–1(3), concerning backfilling to achieve approximate original contour, is inconsistent with Section 515(b)(3) of SMCRA. The Secretary agrees with this comment. (See finding 13.2)

101. The Environmental Policy Institute (ARN: IND–0161) commented that Indiana has no provision comparable to Section 517(h) of SMCRA concerning the right of any person adversely affected by a surface coal mining operation to notify the regulatory authority of any violation, and the right to review for a refusal to issue a citation. The Secretary agrees with this comment. (See finding 17.10)

102. The Environmental Policy Institute (ARN: IND–0161) commented that the Indiana provision, IC 13–4.1–12–1, concerning penalties is inconsistent with Section 518(a) of SMCRA. The Secretary agrees with this comment. (See finding 19.1)

103. The Environmental Policy Institute (ARN: IND–0161) commented that Indiana has no procedure for public hearing prior to bond release. (See finding 18)

104. A commenter (ARN: IND–0132) suggested that the Indiana submission fully complies with the purpose of SMCRA as expressed in Section 102. The Secretary does not agree with this comment for all the reasons stated in Sections D and E of this notice.

105. Peabody Coal Company (ARN: IND–0132) commented that Indiana has made use of the "State Window" concept and that Peabody is in general agreement with the box cut and water impoundment "State Window." Indiana proposed rules 785.23, 816.107 and 817.107 provide for variances for water impoundments and box cut spoils not contained in the Federal rules. Indiana has not identified these as "State Windows" and has not submitted them in accordance with 30 CFR 731.13. (See also comment 107 below)

106. Old Ben Coal Company (ARN: IND–0148) stated that the Indiana program, with some modification, will protect the environment, public welfare and commerce as devised and mandated by Pub. L. 95–87 and that Indiana should be granted primacy. The Secretary agrees that modifications are necessary as set forth in the above Findings.

107. Old Ben Coal Company (ARN: IND–0148) expressed concurrence with Indiana proposed rules 785.23, 816.107 and 817.107 which provide variances for water impoundments and box cut spoil areas. There are no corresponding variances in the Federal rules and Indiana has not identified these proposed sections as "State Windows." The Indiana rules would appear to be inconsistent with the Federal regulations.

108. Old Ben Coal Company (ARN: IND–0148) expressed support for Indiana proposed rules 816.22(e) and 817.22(e) concerning topsoil removal and topsoil substitutes and supplements. These proposed rules appear to be inconsistent with the corresponding. Federal rules. A detailed discussison of the Indiana proposed rules will be sent in a letter to the regulatory authority from the Director, OSM, and will be availble in the administrative record at the locations specified under "Addresses" above.

109. Old Ben Coal Co. (ARN: IND–0148) supported Indiana proposed rule 816.51 concerning protection of ground water. The commenter particularly recommended the added language, "For areas determined not to have significant ground water resources under § 779.15(b), the following shall not apply." The Indiana program provides no definition for "significant ground water resources" and this addition could result in a lesser degree of environmental protection than provided for in the Federal rules.

110. Old Ben Coal Co. (ARN: IND–0148) concurs with the modifications made to Indiana proposed rule 816.57(a) which adds the qualifier "any other stream with a watershed greater than five square miles" to a stream with a biological immunity. This modification would limit the protection afforded biological communities in those streams with a watershed of more than five square miles and would not be consistent with the Federal rules.

111. Old Ben Coal Co. (ARN: IND–0148) recommended that Indiana proposed rule 780.37 be revised to allow the operator to submit the detailed description of each road six months prior to construction. Indiana proposed rule 780.37 is consistent with the corresponding Federal rule and the proposed change would make in inconsistent.

112. Old Ben Coal Co. (ARN: IND–0148) recommended that Indiana proposed rules 816.81, 816.82, 816.83, 816.85, 817.81, 817.82, 817.83 and 817.85 be rewritten so as not to apply to all waste disposal areas including mine workings and excavations. These proposed rules are consistent with the corresponding section of the Federal rules except for the deletion of compaction standards from 816.85(c) and 817.85(c).

113. Old Ben Coal Company (ARN: IND–0148) expressed concern about the lack of flexibility in the uniform civil penalty amounts which could be assigned under Indiana proposed rule 845.13. The Company also felt that the economic effect on the company should be included as a consideration. Indiana's system appears consistent with SNCRA in that it considers that four section 518(a) criteria. Section 518(a) does not include economic effect as a consideration.

114. Old Ben Coal Company (ARN: IND–0148) commented that the proposed rules should be amended to enable the alleged violator to provide information prior to any penalty being assessed and that the State should provide an informal conference similar to OSM's conference. The Indiana System appears to provide procedures similar to those in SMCRA Section 518 (except as noted in the above Findings).

F. The Secretary's Decision

Approval in Part and Disapproval in Part

Pursuant to Section 503 of SMCRA and 30 CFR Part 732, the Secretary initially approves the Indiana proposed regulatory program in part and disapproves in part. The following sections of the Indiana Statute are approved:

IC 13–4.1–1–2
IC 13–4.1–1–3(2)
IC 13–4.1–1–3(3)
IC 13–4.1–1–3(4)
IC 13–4.1–1–3(5)
IC 13–4.1–1–3(6)
IC 13–4.1–1–3(7)
IC 13–4.1–1–3(8)
IC 13–4.1–1–3(9)
IC 13–4.1–1–3(10)
IC 13–4.1–1–3(11)
IC 13–4.1–1–3(12)(a)
IC 13–4.1–1–3(12)(b) with the understanding that the Secretary believes the meaning of "mining activities" is the same as the meaning of "such activities" in Section 701(28)(B) of the SMCRA.
IC 13–4.1–1–3(13)
IC 13–4.1–1–4
IC 13–4.1–1–5(g)
IC 13–4.1–1–6
IC 13–4.1–2–1
IC 13–4.1–2–2
IC 13–4.1–2–3
IC 13–4.1–2–4
IC 13–4.1–3–1
IC 13–4.1–3–2
IC 13–4.1–3–3(a)(1)
IC 13–4.1–3–3(a)(2)
IC 13–4.1–3–3(a)(4)
IC 13–4.1–3–3(a)(5)
IC 13–4.1–3–3(a)(7)
IC 13–4.1–3–3(a)(8)
IC 13–4.1–3–3(a)(9)
IC 13–4.1–3–3(a)(10)
IC 13–4.1–3–3(a)(12)
IC 13–4.1–3–3(a)(13)
IC 13–4.1–3–3(a)(14)
IC 13–4.1–3–3(a)(16)
IC 13–4.1–3–3(a)(17)
IC 13–4.1–3–3(a)(18)
IC 13–4.1–3–3(a)(19)
IC 13–4.1–3–3(a)(20)
IC 13–4.1–3–3(b)
IC 13–4.1–3–3(c)
IC 13–4.1–3–3(d)
IC 13–4.1–3–4(a)(2)(C)
IC 13–4.1–3–4(a)(3)
IC 13–4.1–3–4(a)(4)
IC 13–4.1–3–4(a)(5)
IC 13–4.1–3–4(a)(6)
IC 13–4.1–3–4(a)(8)
IC 13–4.1–3–4(a)(9)
IC 13–4.1–3–4(a)(10)
IC 13–4.1–3–4(a)(11)
IC 13–4.1–3–4(a)(12)
IC 13–4.1–3–4(a)(14)
IC 13–4.1–3–4(a)(15)
IC 13–4.1–3–4(a)(16)
IC 13–4.1–3–4(b)
IC 13–4.1–3–5
IC 13–4.1–2(b)
IC 13–4.1–4–3(a)(1)
IC 13–4.1–4–3(a)(2)
IC 13–4.1–4–3(a)(3)

IC 13–4.1–4–3(a)(4)
IC 13–4.1–4–3(a)(5)

disapproved. See finding paragraph 22.4
IC 13–4.1–3–3(a)(11), finding paragraph 14.4

sixty days from the date of this decision to submit additions or revisions to its

applicable in this instance, and by

program under Section 502 is being

and reclamation operations as amended

IC 13-4.1-4-3(a)(4)
IC 13-4.1-4-3(a)(5)
IC 13-4.1-4-3(b)
IC 13-4.1-4-3(c)
IC 13-4.1-4-5(a)
IC 13-4.1-4-6
IC 13-4.1-5-2
IC 13-4.1-5-3
IC 13-4.1-5-5(a)
IC 13-4.1-5-6
IC 13-4.1-6-2
IC 13-4.1-6-3
IC 13-4.1-6-4
IC 13-4.1-6-5
IC 13-4.1-6-6
IC 13-4.1-6-8
IC 13-4.1-7-1
IC 13-4.1-7-2
IC 13-4.1-7-3(1)
IC 13-4.1-7-3(2)
IC 13-4.1-7-4
IC 13-4.1-8-1(1)
IC 13-4.1-8-1(2)
IC 13-4.1-8-1(4)
IC 13-4.1-8-1(5)
IC 13-4.1-8-1(6)
IC 13-4.1-8-1(8)
IC 13-4.1-8-1(9)
IC 13-4.1-8-1(10)
IC 13-4.1-8-1(11)
IC 13-4.1-8-1(12)
IC 13-4.1-8-1(14)
IC 13-4.1-8-1(15)
IC 13-4.1-8-1(16)
IC 13-4.1-8-1(17)
IC 13-4.1-8-1(18)
IC 13-4.1-8-1(19)
IC 13-4.1-8-1(20)
IC 13-4.1-8-1(21)
IC 13-4.1-8-1(22)
IC 13-4.1-8-1(23)
IC 13-4.1-8-1(24)
IC 13-4.1-8-1(25)
IC 13-4.1-8-1(26)
IC 13-4.1-8-2
IC 13-4.1-8-3
IC 13-4.1-8-4
IC 13-4.1-9-2
IC 13-4.1-9-3
IC 13-4.1-10-1
IC 13-4.1-10-2
IC 13-4.1-11-2(a)(c)
IC 13-4.1-11-8
IC 13-4.1-11-9
IC 13-4.1-11-10(2)-(6)
IC 13-4.1-14-1(b)
IC 13-4.1-14-3

Section 5 (Senate Enrolled Act No. 98)

The remainder of the program is disapproved for the reasons set forth in Findings 1–30. The entire set of regulations submitted in the program is disapproved because the regulations were not fully enacted on the 104*th* day following the program submission. The following provisions of the Indiana statute are disapproved for the reasons and to the extent set forth in the paragraphs identified following each provision's section number:

IC 13-4.1-1-3(1), finding paragraph 13.8
IC 13-4.1-1-5(b)(c), finding paragraph 29.1
IC 13-4.1-3-3(a)(3), finding paragraph 14.3
IC 13-4.1-3-3(a)(6), because it refers to Section IC 13-4.1-4-1, which is disapproved. See finding paragraph 22.4
IC 13-4.1-3-3(a)(11), finding paragraph 14.4
IC 13-4.1-3-3(a)(15), finding paragraph 14.11
IC 13-4.1-3-4(a)(1), finding paragraph 14.5
IC 13-4.1-3-4(a)(2)(A), finding paragraph 14.12
IC 13-4.1-3-4(a)(2)(B), finding paragraph 14.12
IC 13-4.1-3-4(a)(7), finding paragraph 14.6
IC 13-4.1-3-4(a)(13), finding paragraph 14.7
IC 13-4.1-4-1, finding paragraph 22.4
IC 13-4.1-4-2(a), finding paragraph 22.11
IC 13-4.1-4-3-(a)(6), finding paragraph 14.9
IC 13-4.1-4-3(d) finding paragraph 14.10
IC 13-4.1-4-4(a), (b), finding paragraph 22.11
IC 13-4.1-4-5(b), finding paragraph 22.5
IC 13-4.1-5-1, finding paragraph 14.2
IC 13-4.1-5-4, finding paragraph 22.1
IC 13-4.1-5-5(b), finding paragraph 22.3
IC 13-4.1-6-1, finding paragraph 14.8
IC 13-4.1-6-7, finding paragraphs 18.1 and 22.7
IC 13-4.1-7-1, finding paragraph 15.1
IC 13-4.1-7-3(3), finding paragraph 15.1
IC 13-4.1-8-1(3), finding paragraph 13.2
IC 13-4.1-8-1(7), finding paragraph 13.3
IC 13-4.1-8-1(13), finding paragraph 13.4
IC 13-4.1-9-1(5), finding paragraph 13.7
IC 13-4.1-11-1, finding paragraph 17.2
IC 13-4.1-11-1(b)(3), finding paragraph 17.4
IC 13-4.1-11-1(b)(1), finding paragraph 17.5
IC 13-4.1-11-2(b), finding paragraph 17.7
IC 13-4.1-11-3(a) finding paragraph 17.8
IC 13-4.1-11-3(b), finding paragraphs 17.9 and 22.6
IC 13-4.1-11-4, finding paragraphs 17.1 and 17.8
IC 13-4.1-11-5, finding paragraph 17-1
IC 13-4.1-11-5(a), finding paragraph 20.1
IC 13-4.1-11-6, finding paragraph 20.3
IC 13-4.1-11-7, finding paragraph 20.2
IC 13-4.1-11(10)(1), finding paragraph 19.6
IC 13-4.1-11-11, finding paragraph 22.9
IC 13-4.1-12-1, finding paragraphs 19.1, 19.3 and 19.5
IC 13-4.1-12-2, finding paragraph 19.2
IC 13-4.1-12-3, finding paragraph 26.1
IC 13-4.1-12-4, finding paragraph 19.4
IC 13-4.1-13, finding paragraph 27.1
IC 13-4.1-14-1(a), finding paragraph 21.3
IC 13-4.1-14.2, finding paragraphs 21.2 and 22.10
IC 13-4.1-14-4, finding paragraph 21.1
IC 13-4.1-14-5, finding paragraph 21.1

In addition, the Indiana statute is disapproved to the extent it does not contain provisions identified in the following paragraphs:

finding paragraph 14.1 (provisions concerning the necessity of a permit)
finding paragraph 17.1 (provisions concerning the power of inspectors to issue NOV'S and Cessation orders)
finding paragraph 17.2 (provisions concerning permittee requirements)
finding paragraph 22.5 (provisions concerning 30 day period for an aggrieved party to appeal)

Effects of This Action

Indiana is not now eligible to assume primary jurisdiction to implement the permanent program. Under normal circumstances, Indiana would be given sixty days from the date of this decision to submit additions or revisions to its proposed program to correct those parts of the program being disapproved.

However, on July 30, 1980, (ARN: IND–0169), the Indiana Department of Natural Resources delivered to OSM Region III a letter stating that "* * * the Indiana Department of Natural Resources was enjoined from submitting or resubmitting to the Department of the Interior or to the Director of the Office of Surface Mining, a state program for a period of one (1) year * * *. Pursuant to § 730.13(b) * * * this letter serves notice to the Director, OSM of the issuance of such an injunction."

Because of the injunction, the Secretary must now determine whether Section 503(d) of the Act is relevant to establishing the timing of an opportunity for Indiana to resubmit its program. Section 503(d) reads as follows:

(d) For the purpose of this section and section 504, the inability of a State to take any action the purpose of which is to prepare, submit or enforce a State program, or any portion thereof, because the action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not result in a lost of eligibility for financial assistance under titles IV and VII of this Act or in the imposition of a Federal program. Regulation of the surface coal mining and reclamation operations covered or to be covered by the State program subject to the injunction shall be conducted by the State pursuant to section 502 of this Act, until such time as the injunction terminates or for one year, whichever is shorter, at which time the requirements of sections 503 and 504 shall again be fully applicable.

The Secretary has determined that except in extraordinary circumstances, the running of the sixty-day period for resubmission is suspended by the issuance of an injunction against resubmission. Such suspension would continue until the injunction in question terminates, or for one year from the date the injunction is issued, whichever comes first. The legislative history of Section 503(d) indicates that its purpose is to avoid penalizing states which make good faith efforts to comply with the Act but are prevented by court action from achieving full compliance. Where, however, attendant circumstances reveal that an injunction has not been validly obtained or maintained, or that the State has failed to make a good faith effort to comply with the Act, Section 503(d) does not apply. Section 503(d) was not intended to allow a delay in the implementation of the permanent program where compliance with the Act is prevented through invalid or collusive litigation.

The Secretary has not determined, at this time, that Section 503(d) is applicable in this instance, and by separate notice published today, has requested public comment on the issues bearing upon the applicability of Section 503(d). If, after review, the Secretary determines that Section 503(d) is inapplicable to Indiana under the circumstances, Indiana will have sixty days from the date of such determination within which to resubmit an acceptable state program. If it fails to do so, the Secretary will implement a Federal program for Indiana in accordance with Section 504 of the Act. Until a determination is made, the Secretary will presume that Section 503(d) applies, and thus will suspend the running of the resubmission period provided by Section 503(c).

Section 503(d) also says that a State which is subject to a valid injunction is required to regulate surface coal mining and reclamation operations pursuant to Section 502 of the Act (the interim program) until such time as the injunction terminates or until one year after the injunction is entered, whichever comes first. The Secretary construes Section 503(d) of the Act to authorize him to implement a Federal program if a State fails to implement Section 502 during the term of an injunction. Thus, while the Secretary fully endorses the intent of the Congress to have the States assume regulatory primacy under the Act, he also is required to implent a Federal program in cases where that becomes necessary because of a State's failure to carry out its responsibilities under Section 502.

Because of the above reasons, as well as to ensure that there is no delay in implementation of the permanent program should Indiana ultimately fail to obtain an approved program, the Secretary believes that he must now begin to prepare a Federal program for Indiana. Actual implementation of a Federal program for Indiana, of course, would depend upon the factors discussed above, and would not occur while Indiana still has a valid opportunity to receive State program approval upon resubmission, in accordance with the Act. Accordingly, in the spearate Notice of Intent published in the **Federal Register** on this date, the Secretary is also soliciting public comments on the preparation of a Federal program for Indiana.

In the meantime, the Secretary has instructed the Director of the Office of Surface Mining to make every effort during the period of the injuction (1) to work with the State towards correcting the remaining deficiencies in their proposed program to the extent the State can participate in such an effort, given the existence of the injunction; (2) to ensure that the Federal enforcement program under Section 502 is being diligently pursued in order to obtain compliance with the provisions of the Act and the interim program regulations; and (3) to ensure that Indiana is adequately carrying out its responsibilities under Section 502 of the Act.

This approval in part and disapproval in part applies only to the permanent regulatory program under Title V of SMCRA. This partial approval does not constitute approval or disapproval of any provisions related to the implementation of Title IV of SMCRA, the abandoned mine lands (AML) reclamation program. In accordance with 30 CFR Part 884 (State Reclamation Plans), Indiana may submit a State AML reclamation plan at any time. Final approval of an AML plan, however, cannot be given by the Director of OSM until the State has an approved permanent regulatory program.

This decision has no effect on Federal or Indian lands in Indiana.

No rules will be promulgated in 30 CFR Part 914 until the Indiana program has been either approved, conditionally approved, or disapproved following opportunity for resubmission, unless the Secretary determines, in accordance with the conditions discussed above, that a Federal program should be implemented.

C. Additional Findings

The Secretary has determined that, pursuant to Section 702(d) of Pub. L. 95–87, 30 U.S.C. 1292(d), no Environmental Impact Statement will be prepared on this disapproval.

Note.—The Secretary has determined that this document is not a significant rule under E.O. 12044 or 43 CFR Part 14, and no regulatory analysis is being prepared on this disapproval.

Dated: November 10, 1980.

Joan Davenport,

Assistant Secretary, Energy and Minerals.

[FR Doc. 80-36587 Filed 11-24-80; 8:45 am]

BILLING CODE 4310-05-M

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30 CFR Part 914

Surface Coal Mining and Reclamation and Enforcement Under Federal Program for Indiana

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of intent; Announcement of public comment period.

SUMMARY: Today the Secretary of the Interior has announced in a separate **Federal Register** notice his approval in part and disapproval in part of the State of Indiana's proposed State program for the regulation of surface coal mining and reclamation operations as amended on June 4, 1980, and June 16, 1980. Because the Office of Surface Mining Reclamation and Enforcement (OSM) was advised by the State of Indiana of the existence of an injunction issued on July 29, 1980 by the Circuit Court of Marion County, Indiana, enjoining the State from submitting or resubmitting a State program to the Department of the Interior for a period of one year, the Secretary of the Interior is initiating action to prepare a Federal program for the regulation of surface coal exploration, mining and reclamation on non-Federal and non-Indian lands in Indiana. This program will not be implemented before July 29, 1981, so long as the injunction is in effect. Public comment is being sought on the preparation of a Federal program for Indiana. OSM is also seeking public comment on Indiana's actions under the interim program.

DATE: Public comments must be received by OSM by 5:00 p.m., on December 26, 1980.

ADDRESSES: Information and comments should be sent to: Office of Surface Mining, Room 153, South Interior Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, OSM, State and Federal Programs, 1951 Constitution Avenue NW., U.S. Department of the Interior, Washington, D.C. 20240, (202) 343–4225.

SUPPLEMENTARY INFORMATION: Under the Surface Mining Control and Reclamation Act of 1977, a State which seeks to regulate surface coal mining and reclamation operations within its border may apply to the Secretary of the Interior for approval of a State program. In order for a program to be approved, a State must develop a program which contains laws and regulations which are consistent with the Act and the regulations of the Secretary of the Interior. The Act says that once a State makes a program submission, the Secretary of the Interior has six months in which to consider the States application. At the end of that six-month period the Secretary has to decide whether to approve, conditionally approve, approve in part and disapprove in part, or disapprove the State program submission. If the Secretary only partially approves or fully disapproves the State program submission, the State, under normal conditions, has sixty days to resubmit its program. The statute gives the Secretary sixty days to consider the resubmitted program and to make a final decision. If after the end of this ten-month period, the Secretary is unable to approve or conditionally

approve the State program he is to put into place a Federal program. As announced in the accompanying **Federal Register** notice, the Secretary of the Interior has reviewed the State of Indiana's Initial Program Submission and has determined to partially approve and partially disapprove that program. Normally, the Secretary would give the State of Indiana sixty days during which the State could prepare revisions to its program and resubmit it to the Secretary.

In a letter dated July 29, 1980, Joseph D. Cloud, Director of the Department of Natural Resurces of the State of Indiana informed the Office of Surface Mining that the Indiana Department of Natural Resources was enjoined on that date by the Circuit Court of Marion County Indiana from submitting or resubmitting to the Office of Surface Mining a State program for the regulation of surface coal mining and reclamation operations.

Section 503(d) of the Surface Mining Control and Reclamation Act provides:

> * * * [T]he inability of State to take any action the purpose of which is to prepare, submit or enforce a State program, or any portion thereof, because the action is enjoined by the issuance of an injunction by any court of competent jurisdiction shall not result * * * in the imposition of a Federal Program. Regulations of the surface coal mining and reclamation operations covered or to be covered by the State program subject to the injunction shall be conducted (emphasis added) by the State pursuant to Section 502 of this Act, until such time as the injunction terminates or for one year, whichever is shorter, at which time the requirements of Sections 503 and 504 shall again be fully applicable.

The Secretary has completed all the actions in the review of the Indiana State program that can be done without further participation by the State of Indiana. Because the Secretary of the Interior has received notification that the State of Indiana is enjoined from taking further action, as explained in the accompanying **Federal Register** notice, the Secretary is suspending the State program approval process for Indiana.

There are two basic effects of this suspension beyond the effect on Indiana's obligation to resubmit. First, the Secretary will continue to inspect all mines in Indiana at least twice a year and to enforce the interim program in that State. Second, Indiana will not be eligible to receive approval of a State Reclamation Plan for abandoned mine lands under Section 405(c) of the Act. 30 U.S.C. 1235(c), 30 CFR Part 884.

Another effect of this injunction, if it runs its full term, is to delay the permanent program in Indiana for a period of approximately eight to twelve months beyond that applicable to most other States in the country. In addition, if Indiana is ultimately unsuccessful in obtaining approval of its program the Secretary will then have to adopt a Federal program for that State. This will cause additional delay of six months or more.

To minimize the delay in the application of the Permanent Surface Coal Mining Reclamation Program in Indiana, and to prevent coal companies in surrounding States from being placed at a competitive disadvantage during the period they are forced to comply with the permanent program requirements while the interim program remains effective in Indiana, the Secretary has decided to begin preparation of a Federal program at this time. The Secretary will not actually implement this program until Indiana has been given sixty days to resubmit its program and the State program process has been completed.

The purpose of this notice is to seek public comment on preparing a Federal program in Indiana and to receive specific suggestions for how the Secretary of the Interior ought to adopt or modify the permanent program regulations to meet the local conditions in the State of Indiana. Section 504(a) of the Act and 30 CFR 736.22(a)(1) require that each Federal program consider the nature of the topography soils, climate and biological, chemical, geological, hydrological, agronomic and other physical conditions of the State involved.

For important information, the reader is referred to "General Background on the Permanent Program" and "Criteria for Promulgating Federal Programs" previously published in 45 FR 32328 (May 16, 1980). This notice explains how the Secretary will consider unique conditions in Indiana, how existing State laws will be considered, and what standards will be used in adopting regulations. The reader should also refer to the Secretary's decision concerning the Indiana program published today in the **Federal Register.**

The Secretary has also begun an investigation into the compliance by the State of Indiana with Section 502 of the Surface Mining Control and Reclamation Act and the regulations issued by the Department of the Interior related to Section 502 (the initial program). Section 503 of the Surface Mining Act does give a State relief from submitting or resubmitting a State program if enjoined from doing so. The statute goes on to say, however, that as a condition for maintaining the injunction, a State must enforce the provisions of Section 502. After receipt of public comments and completion of this preliminary investigation, the Secretary will decide what further steps are necessary and should be taken. At that time, he may conclude that there is no basis for further investigation because the State of Indiana is adequately enforcing the requirements of Section 502 of the Act; alternatively, he may decide there is the need for a public hearing or additional public comment. If the Secretary ultimately determines there is a lack of compliance, he will recommence the State program review process after appropriate notice to Indiana.

Finally, the Secretary is also investigating the circumstances under which the injunction was entered and the competence of the court to hear the matter and expressly reserves the right to take appropriate action if he concludes that the circumstances surrounding the entry of the injunction warrant doing so. It is the Secretary of the Interior's view that the relief available under Section 503 is limited to those States who are seeking in good faith to pursue and adopt a permanent surface coal mining and reclamation program. Section 503 is not meant to be used as an artifice or device to avoid the requirements of the Surface Mining Act. The Secretary believes that Section 503 was intended to cover situations where all or part of a State program is invalidated as a result of deficiencies in the adoption of the laws or regulations. It is not a general authority to extend the statutory time frames. Comment is also requested on this issue.

This action of proposing the preparation of the contingency Federal program for Indiana is not significant under the criteria of Executive Order 12044 and 43 CFR Part 14 and does not require preparation of regulatory analysis, nor is this action a major Federal action significantly effecting the environment under the National Environmental Policy Act.

PUBLIC COMMENT PERIOD: The comment period announced in this notice will extend until December 26, 1980. All written comments must be received at the address given above by 5:00 p.m. on that date. Comments on the preparation of a Federal program received after that hour will not be considered in drafting the proposed Federal program; they will be considered to the extent applicable in subsequent actions under that program.

Dated: November 18, 1980.

Joan Davenport,

Assistant Secretary, Energy and Minerals.

[FR Doc. 80-36568 Filed 11-24-80; 8:45 am]
BILLING CODE 4310-05-M

federal register

Tuesday
November 25, 1980

Part VII

Department of Housing and Urban Development

Office of the Assistant Secretary for Community Planning and Development

Funding Allocation System for the Distribution of Section 312 Funds for Fiscal Year 1981

DEPARTMENT OF HOUSING AND

Section 312 operations to meet national

that the locality met quarterly goals of Section 312 fund use. Each locality

formally target funds to localities and

objectives, including findings made in

Area Offices may establish informal

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-80-1045]

Funding Allocation System for the Distribution of Section 312 Funds for Fiscal Year 1981

AGENCY: Department of Housing and Urban Development (HUD), Office of Community Planning and Development.

ACTION: Notice of Funding Allocation System.

SUMMARY: This Notice promulgates the funding allocation system for distributing Section 312 rehabilitation loan funds from the national level to Area Offices and also from Area Offices to localities for Fiscal Year 1981.

For Fiscal Year 1981, Section 312 funds will be assigned to Area Offices in the following two main categories:

1. General Use Funds—These funds are for the rehabilitation of single-family, urban homesteading (single-family), and nonresidential properties and for mixed-use properties having from one to four dwelling units. General Use funds can be used in any area eligible for Section 312 loans, including HUD-approved Section 810 Urban Homesteading areas.

2. Multifamily—These funds are for the repair of residential properties having five or more dwelling units and for mixed-use properties having five or more dwelling units. These funds are to be used in areas eligible for Section 312 loans that are also low-moderate income areas as defined in 24 CFR 570.302(d)(2)(i) and/or for projects in which a majority of the tenants will be low- and moderate-income persons (having an income at or below 95 percent of the median income for the area, adjusted for family size).

FOR FURTHER INFORMATION CONTACT: Craig S. Nickerson, Director, Rehabilitation Management Division, HUD/Community Planning and Development, 451 Seventh Street SW, Washington, D.C. 20410, Telephone: (202) 755-5970. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

A national system for allocating Section 312 funds is used (1) to facilitate an equitable distribution of funds; (2) to provide a reasonable degree of certainty of funding levels in order to enable localities to more realistically plan and staff for rehabilitation; and (3) to provide incentives for efficient local Section 312 operations to meet national program goals.

A funding allocation system was first used in fiscal year 1979 and again in fiscal year 1980 to target Section 312 funds on the basis of community development and housing need, local priority for rehabilitation and capacity to use Section 312.

In fiscal year 1979 and fiscal year 1980 Section 312 funds were allocated in three categories: (1) General Use, (2) Multifamily, and (3) Urban Homesteading. General Use funds were provided for the rehabilitation of single-family properties, mixed-use properties having from one to four dwelling units after rehabilitation and nonresidential properties.

Multifamily loan funds were provided for the rehabilitation of residential or mixed-use properties having five or more dwelling units after rehabilitation.

Section 312 funds allocated for support of Section 810 Urban Homesteading Programs were provided for the rehabilitation of properties transferred under Section 810 for homesteading or for the repair of other single-family and/or nonresidential properties in the HUD approved homesteading area.

A. General Use Funds

In fiscal years 1979 and 1980, Section 312 General Use funds were allocated to Area Offices and in turn from Area Offices to localities by a formula with three equally weighted factors as follows:

1. Community Development and housing need as measured by the Community Development Block Grant (CDBG) formula for the most recent year.

2. Local priority for rehabilitation measured by the jurisdiction's share of CDBG funds allocated for housing rehabilitation, as indicated by the CDBG rehabilitation loan and grant budget item for the two most recent fiscal years.

3. Capacity to rehabilitate housing with Section 312 funds as measured by the amount of Section 312 General Use funds obligated in the two most recent fiscal years.

Generally, Area Offices were required to allocate at least 75 percent of their General Use funds to particular communities. For the most part, this meant that many localities received a "target" or specific set-aside of Section 312 funds for General Use. Area Offices selected localities that they believed should receive a "target" allocation of funds during the fiscal year. The "target" is the amount that a locality could reasonably expect to receive during the course of the year provided that the locality met quarterly goals of Section 312 fund use. Each locality receiving a formal "target" was also informed of a "ceiling," which was the maximum amount of Section 312 General Use funds that the locality could receive during the year. The ceiling was from 110 to 130 percent of the target amount. In FY 1980 if a CDBG entitlement locality's share based on this three-part formula was at least $120,000, then that locality was entitled to a target amount of Section 312 funds.

The formula described above gave each locality a base amount of funding for the year. In addition, in allocating funds for FY 1980, adjustments were made in individual locality allocations based on performance in such areas as reducing delinquencies, adhering to the program objective of giving priority for loans to low- and moderate-income persons, and implementing an efficient local rehabilitation management operation. Allocations were also adjusted based on whether the locality qualified as distressed under the Urban Development Action Grant (UDAG) criteria.

CDBG entitlement localities that would have received less than the minimum amount of $120,000 could not receive a target amount of Section 312 funds but could participate in the remaining 25 percent of the Area Office's allocation. The remaining 25 percent is referred to as the discretionary amount. Any locality that did not receive a target amount of funds could participate on a first-come, first-served basis from the discretionary amount. However, for ease of fund management and to provide indications of funds available to non-targeted localities, some Area Offices targeted their discretionary funds by providing informal allocations to those localities.

B. Section 312 Funds for Urban Homesteading

For the last two years a separate allocation of Section 312 single-family funds was provided for Section 810 Urban Homesteading Programs. Allocations to Area Offices were based on the number of existing programs within their jurisdictions and on the anticipated need of new cities expected to participate in the homesteading program.

C. Multifamily Loan Funds

In FY 1980, the allocations of multifamily loan funds from the HUD Central Office to Area Offices were made on the basis of the same three part formula used for allocating General Use funds. Hower, Area Offices did not formally target funds to localities and thus adjustment factors were not used.

FY 1981 Funding Allocation System

A. General Use Funds

Allocations to Area Offices

During FY 1981 the procedures used to allocate funds for General Use will be essentially the same as in FY 1979 and FY 1980. However, in FY 1981 in conjunction with the Department's policy to provide assistance where it is most needed, more emphasis will be placed on providing funds to distressed localities. Therefore, HUD has revised the first factor of the formula for allocating Section 312 funds to reflect economic and physical distress more directly. While the first factor of the formula which measures need is still based on the CDBG allocation, instead of using the overall CDBG allocation which was used for the last two years, for FY 1981 only the second CDBG formula (Formula B) will be used. The Formula B allocation is based on the age of housing (50 percent weight), poverty (30 percent weight), and population growth lag (20 percent weight) (See Section 106(b)(1)(B) and (b)(2)(B) of the Housing and Community Development Act of 1974, as amended).

The other two factors, representing priority for rehabilitation and capacity to use Section 312 funds, remain the same as for the two prior fiscal years with a slight modification in the capacity factor as described below.

In summary, the allocation of General Use funds to Area Offices for FY 1981 is based on the following equally weighted factors:

1. The total FY 1980 CDBG Formula B amount for metro cities, urban counties and small cities' balances in an Area Office jurisdiction as a percentage of the total CDBG Formula B amount for all Area Offices in the nation.

2. Local priority for rehabilitation as measured by the Area Office jurisdiction's percentage of the national total of CDBG funds allocated for rehabilitation of private properties, as indicated in the CDBG rehabilitation loan and grant budget item for the two most recent fiscal years.

3. Capacity to rehabilitate housing with Section 312 funds as measured by the Area Office's percentage of the total national amount of the Section 312 funds obligated for General Use and Urban Homesteading in both FY 1979 and FY 1980.

The Central Office reserves the right to make adjustments in Area Office allocations based on the performance of Area Offices in meeting program priority objectives, including findings made in monitoring reviews.

Allocation of Funds by Area Offices to Localities

Area Offices shall use the same three-part formula—based on housing and community development need, priority for rehabilitation and capacity to use Section 312—for allocating Section 312 funds to localities.

As in FY 1979 and FY 1980, the majority of General use funds shall be assigned through a system of targets and ceilings. Each Area Office shall assign at least 75 percent of its General Use funds to entitlement and small city comprehensive grantee localities that receive target allocations, unless the Area Office receives specific permission from Headquarters to assign a lower proportion.

To give priority for funding to distressed localities, each Area Office is directed to establish a goal that at least 75 percent of the Section 312 General Use funds obligated during FY 1981 in each Area Office will be obligated in distressed localities. Distressed localities are those which qualify as distressed under the Urban Development Action Grant Program (UDAG), pursuant to 24 CFR Part 570, Subpart G. The goal for each office will be 75 percent of General Use funds available (including those for urban homesteading properties) unless a lower goal is specifically approved by the Central Office because of a low incidence of distressed localities in the Area Office's jurisdiction. Area Office performance in meeting the goal will be monitored by the Central Office.

In developing the "target" figures for localities, very low targets are discouraged. Area Offices have flexibility to respond to the needs of small users through the discretionary fund. We have, therefore, established a minimum target of $120,000, for both entitlement cities and for small cities with comprehensive programs. Area Offices may want to use an even higher minimum figure based upon their assessment of local conditions.

It should be emphasized that targets and ceilings are not legally binding commitments of Section 312 funds from HUD to localities, nor are they HUD reservations of Section 312 funds. Target amounts may be reduced during the fiscal year if localities are not meeting quarterly fund use goals or if less money is appropriated than originally anticipated. However, ceiling amounts established at the beginning of the year will not be changed and localities will not be permitted to exceed ceilings.

Area Offices may establish informal targets for cities receiving allocations out of the Area Office discretionary fund. Such informal targets will be managed by Area Offices and need not conform strictly to the target/ceiling system established.

Should the combination of minimum targets of $120,000 for entitlement cities and small cities receiving comprehensive grants and the requirement that at least 75 percent of funds be allocated by targets result in an unfair allocation of too much funding to only a few cities, Area Offices may request permission from the Central Office to use a higher percentage for the discretionary fund than the 25 percent maximum set in this Notice.

In each Area Office in FY 1981, targets and ceilings shall be established for two classifications of localities. First, an amount will be established for selected CDBG entitlement cities. Second, there will be an amount established for selected small city comprehensive programs. Area Offices should attempt to provide as many localities as is reasonable with targets (without setting them below the aforementioned $120,000 level).

All other localities will receive Section 312 funds from the discretionary fund. Because of the high administrative costs associated with the program and the limited funds available, Area Offices, as a rule, should not make Section 312 funds available to communities which will have fewer than five Section 312 loans approved during the year or which will obligate less than $50,000 in Section 312 funds during the year.

Since there will not be a separate allocation of Section 312 funds to Area Offices for support of Section 810 Urban Homesteading Programs as there was in FY 1979 and FY 1980, before dividing General Use allocations among entitlement cities, small city comprehensive grantees and discretionary cities, Area Offices should, in consultation with the Central Office, set aside a reasonable amount of funds for support of Urban Homesteading Programs, in the following manner.

After calculations are made to determine amounts of funding for target localities, Area Offices should then add funds from the Urban Homesteading set-aside to increase amounts for targeted localities if they have a Section 810 Urban Homesteading Program. Although the locality's projected timetable for and its past performance in utilizing Section 312 loans for homesteading properties should be considered, there is no specific formula for allocating Section

312 funds for an Urban Homesteading Program, and the supplement for homesteading is left to the judgment of the Area Office staff. In addition, there is no formal requirement that localities must use the supplemental allocation in Urban Homesteading areas. However, localities with HUD-approved Urban Homesteading Programs must assure that adequate rehabilitation funds (whether from Section 312 or other sources) will be available to support the homesteading program. Failure to carry out an effective homesteading program in one year would generally result in no additional funds being provided to a city in future years for homesteading.

The target amount for any city with an Urban Homesteading Program will include the additional amount for homesteading. As stated previously in this Notice, the General Use funds provided to a locality can be used for the rehabilitation of single-family properties (including urban homesteading properties) and for nonresidential properties and mixed-use properties having from one to four residential units, provided that such properties are in areas eligible for Section 312 loans. Loans for the rehabilitation of all these types of properties will count against a city's target and ceiling amounts of General Use funds.

Step-by-Step Procedures

After receiving its FY 1981 General Use allocation, each Area Office shall:

1. Determine in consultation with the Central Office the amount of the allocation to be set-aside for support of Urban Homesteading Programs if there are homesteading programs in the Area Office jurisdiction.

In determining a reasonable set-aside, Area Offices should consider the number of localities with existing HUD-approved Section 810 Urban Homesteading Programs, the amount of Section 312 funds obligated by those localities for urban homesteading loans in FY 1980, and those localities' projected timetables for making Section 312 loans in their urban homesteading applications. Funding for localities with new homesteading programs will be provided by the Central Office as needed subject to fund availability.

2. Determine the proportion of funds to be allocated to (a) targets for entitlement localities, (b) targets for localities with small city comprehensive grant programs, and (c) the discretionary fund for non-targeted localities.

No more than 25 percent may be left in the discretionary fund without Central Office approval.

3. For CDBG entitlement localities, each Area Office is to calculate the formula share for each city based on the three-part formula described below.

In order to determine the proper allocation of funds for each locality in accordance with the goals of this Notice (including the $120,000 minimum target amount, the urban homesteading set-aside and the 75 percent goal for distressed communities), Area Offices should work the formula with several different amounts of funds available for each of the three categories and varying selections of localities to receive target allocations. The formula share for each of the selected localities will be based on the following three-part formula:

a. Using the printout of the Entitlement Master List for FY 1980 (to be provided to each Area Office by the Central Office), each Area Office shall determine the FY 1980 amount of CDBG Formula B funds for each selected locality. By adding the total Formula B amounts for all the selected localities, and, using that amount as 100 percent, the Area Office shall determine each locality's percentage share of the total.

b. Using the printout of the CDBG Program Units of Government with Rehabilitation of Private Properties for FY 1978 and FY 1979 (to be provided separately by the Central Office), each Area Office shall follow a similar process to determine each locality's percentage share of CDBG funds programmed for rehabilitation (using the amounts for rehabilitation of private properties for FY 1978 and 1979 budget combined).

c. Using the amount of Section 312 funds obligated for General Use and Urban Homesteading (single-family program) by the community in FY 1979 and FY 1980, calculate the percentage share of funds used in FY 1979 and FY 1980 for each selected locality as a percent of all selected localities.

The three percentages for each selected locality should then be averaged to determine the locality's percentage share of the amount of funds allocated for entitlement cities. The formula share in dollars should then be determined for each selected locality.

4. Make Performance Adjustments of Target Allocations.

Upward and downward adjustments for the formula share are to be made based on Area Office review of relative local standing in meeting Section 312 program priority objectives. The total of upward adjustments must be offset by the total of downward adjustments so that there is no net change in the total amount available for entitlement localities. The performance adjustments provide the Department with a management tool to support localities that are performing well, including adherence to program priority objectives, and to penalize localities for poor performance. Adjustments in the level of funding for target localities should be significant enough to clearly indicate to participating localities the importance of adequately carrying out the above program priority objectives. The procedures and steps for adjustments are described below. Area Offices are required to make performance adjustments as part of their management of HUD sponsored, rehabilitation programs.

a. *Loan Delinquency.* An adjustment shall be made by Area Offices on the basis of delinquency rate information (to be provided by the Central Office), the willingness and ability of localities to assist the Department in resolving Section 312 loans that have become seriously delinquent and returned to the Department from the servicer for direct servicing and other relevant quantitative and qualitative information available to the Area Office.

b. *Priority for Low- and Moderate-Income Persons.* A similar dollar adjustment shall be made based upon statistical data (to be provided by the Central Office) and other relevant information available to the Area Office with respect to local adherence to the statutory priority for loans to low- and moderate-income owner-occupants. As with the performance adjustments for delinquency, adjustments in meeting the priority for low- and moderate-income owner-occupants should be based upon Area Office knowledge as to the soundness of the justification for the local strategy for providing Section 312 assistance. For example, if, in the opinion of the Area Office, the locality has thoughtfully established a rehabilitation assistance strategy which results in participation by a lower percentage of low- and moderate-income owners than the national average, a reduction may not necessarily be justified. Conversely, a locality which has an overall percentage which is good many have issued 10 percent of the loan funds to higher income persons without adequate justification and, hence, might deserve a reduction in Section 312 funding for the year. Localities will have funds added to or subtracted from formula shares based on compliance with this program objective.

c. *Quality and Efficiency of Local Rehabilitation Management.* On the basis of the best judgment of the Area Office, relying particularly on monitoring reviews of Section 312 *and CDBG rehabilitation activities.* Area Offices shall make additional adjustments of the formula share based upon the relative quality and efficiency of local rehabilitation management. The factors to be taken into account should include: Quality of workmanship in rehabilitation, effective use of rehabilitation as a community development program element, efficiency in management and processing of rehabilitation activities and adherence to program requirements and procedures.

While it is not necessary that the total of the adjustments for each factor described above net to zero, the total of all adjustments for CDBG entitlement localities should net to zero.

5. Establish Ceilings.

As was also done in FY 1979 and FY 1980 for each entitlement locality, the Area Office shall determine a ceiling which will be the maximum amount of funds which the locality will be permitted to use should funds be available through reallocation from other localities, other Area Offices, or from discretionary funds. The ceiling will be between 110 percent and 130 percent of the target amount and will be based upon the Area Office's judgment of the ability of the locality to make effective use of Section 312 funds in FY 1981.

6. Determine Amount for Small City Comprehensive Grantees.

Because of the smaller amount of funding involved, the staggered approval of CDBG comprehensive small city grants and the variety of small cities programs, it is not possible to design a uniform, national system as explicitly as was done above for CDBG entitlement cities. Each Area Office must, therefore, design its own procedures, adhering as much as possible to the following characteristics:

a. Appropriate localities, selected by the Area Office, which are already receiving small city comprehensive grants will be provided their target and ceiling figures on the same timing schedule as for entitlement cities. That is, for FY 1981, each such city will be informed of its tentative annual target and ceiling prior to the beginning of the fiscal year.

b. Both capacity to use Section 312 funds and need for such funds shall be reflected in the funding decisions.

c. For localities continuing to receive small cities comprehensive grants, adjustments will be made for performance using the same program priority objectives identified above as adjustment criteria for CDBG entitlement cities.

d. No comprehensive program small city shall be given a target of less than $120,000 for the entire fiscal year.

e. The ceiling shall be between 110 percent and 130 percent of the target amount and will be based upon the Area Office's judgment of the locality's ability to make effective use of Section 312 funds in FY 1981.

Each locality receiving a target allocation shall develop a quarterly schedule of fund use with the concurrence of the Area Office. Each fund use schedule should normally provide for fund use spread evenly throughout the year. Plans which project disproportionate rates of obligations late in the fiscal year are generally unacceptable and should be discouraged by Area Offices.

Localities are hereby notified that funds may be reallocated at any time if, in the opinion of the Area Office, funds are not being committed in accordance with the previously agreed-upon schedule. Funds recaptured by reduction of target allocations may be used to increase the funds allocated to other localities up to the ceilings previously established for those localities. Funds that have been recaptured may also be used to increase the general discretionary funds available to the Area Office. Conversely, funds available for general discretionary use by the Area Office may also be used to increase local target allocations for either entitlement localities or small cities comprehensive program localities. Regional Offices will continue to have the authority to reallocate funds among Area Offices in their jurisdictions when the Area or Regional Office determines that funds are not being utilized by localities according to their quarterly use schedules. Furthermore, Headquarters reserves the authority to reassign such unutilized funds among Regional Offices as determined to be appropriate.

B. Section 312 Multifamily Loan Funds.

The allocation system described previously in this Notice for allocation of General Use funds does not include funds for rehabilitating multifamily properties. For assigning Section 312 funds to Area Offices for the rehabilitation of multifamily properties and mixed-use properties containing five or more residential units, the Department will generally use the same type of formula used to distribute General Use funds to Area Offices. However, the third factor of the formula—capacity to use Section 312 funds—would include only multifamily loan funds obligated in the last two fiscal years. Area Offices with localities participating in the multifamily homesteading demonstration will receive additional multifamily funds commensurate with projected demand.

The Department does not require Area Offices to provide allocations of multifamily loan funds to cities as it does for the General Use funds. Area Offices may: (1) choose to approve loans for multifamily projects based on an assessment of the merits of individual projects, rather than allocating funds to specific localities; (2) allocate a specific set-aside of multifamily loan funds to a few localities based on projects identified as in the pipeline; or (3) allocate a portion of funds to a few localities that the Area Office thinks should participate that have experience in multifamily processing, regardless of whether individual projects are in the pipeline.

(Sec. 312, United States Housing Act of 1964 (42 U.S.C 1452b), and sec. 7(d), Department of Housing and Urban Development Act (42 US.C. 3535(d))

Issued at Washington, D.C., November 18, 1980.

Robert C. Embry, Jr.

Assistant Secretary for Community Planning and Development.

[FR Doc. 80-36654 filed 11-24-80 8:45am]

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Part VIII

Department of Housing and Urban Development

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

Nondiscrimination in Programs and Activities Receiving Assistance Under Title I of the Housing and Community Development Act of 1974

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

requirements of this regulation and an appropriate cross-reference.

funded in whole or in part with funds under Title I of the Housing and

sex in any program or activity funded in whole or in part with community

person that has testified, assisted or participated in any manner in an

recipient designed to remedy a finding

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

24 CFR Part 144

[Docket No. R-80-873]

Nondiscrimination in Programs and Activities Receiving Assistance Under Title I of the Housing and Community Development Act of 1974

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed Rule.

SUMMARY: This proposed rule sets forth procedures and policies to assure nondiscrimination based on race, color, national origin or sex in programs and activities receiving assistance from the Department of Housing and Urban Development under Title I of the Housing and Community Development Act of 1974.

COMMENTS DUE DATE: Comments are invited from the public and other Federal agencies. They must be received on or before January 26, 1981, in the Office of the Rules Docket Clerk.

ADDRESS: Comments should be sent to the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Laurence D. Pearl, Director, Office of HUD Program Compliance, Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, 451 7th Street, S.W., Room 5230, Washington, D.C. 20410. (202) 755-5904.

SUPPLEMENTARY INFORMATION:

Background

The Housing and Community Development Act of 1974 was enacted in August 1974. Section 109 of that Act prohibits discrimination on the ground of race, color, national origin or sex in any program or activity funded in whole or in part with Community Development Block Grant (CDBG) funds.

The initial Department regulations under the CDBG program, issued on June 9, 1975, 40 FR 24693, contained a section on nondiscrimination (570.601) which repeated the language of Section 109 and listed a number of specific prohibitions, which were substantially similar to those in the Department's regulation under Title VI of the Civil Rights Act of 1964 (24 CFR Part 1, especially 24 CFR 1.4). The material in § 570.601 is being incorporated into this new proposed regulation issued by the Office of Fair Housing and Equal Opportunity. When this regulation is issued in final form, the Department will, by separate regulation, revise § 570.601 by replacing the current provisions with a brief summary of the requirements of this regulation and an appropriate cross-reference.

Following promulgation of HUD's final Section 109 regulation, the Department will issue a Section 109 Handbook.

Summary of the Proposed Rule

Subpart A of the Proposed Rule Sets Forth General Policies and Definitions for the Implementation of Section 109

Section 144.10 Purpose.

The purpose of this part is to implement the provisions of Section 109 of the Housing and Community Development Act of 1974, as amended.

Section 144.20 Definitions.

(a) General.—Except to the extent modified in this section, the Department proposes to utilize the definitions contained in Part 570 of this Title to apply to this part.

(b) Section 144.20(b)(1) revises the definition of "program or activity" now contained in 24 CFR 570.601.

This revision would clarify that (1) functions not funded under Title I are nevertheless covered by the nondiscrimination requirements of Section 109 if conducted by an administrative or organizational unit carrying out Title I-funded activities; (2) the term "program or activity" covers certain privately-financed UDAG activities; and (3) administrative services provided in support of a "program or activity" are covered by Section 109 requirements.

Example: A recipient's recreation department uses CDBG funds to repair a park. All programs of the recreation department would be subject to the nondiscrimination requirements of Section 109 and this part.

Example: A national hotel chain identified by a City and named in the City's application for UDAG funds is to carry out certain specified activities connected with a UDAG project. The hotel chain thus becomes a participating party in the UDAG project and, as such, is accountable to the recipient for carrying out the nondiscrimination requirements of Section 109 and this part.

Example: The Corporation Counsel's Office of a City reviews CDBG Contracts for legal sufficiency. No CDBG funds are budgeted for this activity. The Corporation Counsel's Office is subject to the nondiscrimination requirements of Section 109 and this part.

(c) Section 144.20(b)(2) "Funded in whole or in part with community development funds" means that community development funds in the form of grants, loans, loan subsidies, proceeds from HUD guaranteed loans or other income from Title I activities have been disbursed for a program or activity.

Section 144.30 Applicability.

Section 144.30 makes the rule applicable to any program or activity funded in whole or in part with funds under Title I of the Housing and Community Development Act of 1974, as amended, including Community Development Block Grants, Urban Development Action Grants, Secretary's Discretionary Fund Grants, Small Cities Program Grants, Financial Settlement Grants and Community Development Loan Guarantees.

Subpart B of the Proposed Rule Sets Forth Covered Conduct, Discrimination Prohibited and Specific Discriminatory Actions Prohibited.

Section 144.40 General.

As used in this subpart the term "recipient" includes a state or unit of general local government or any political subdivision or instrumentality thereof and any public or private agency, institution, organization or other entity or any individual to whom assistance is extended directly or through another recipient for any program or activity including any successor, assignee, or transferee thereof. Such term does not include any ultimate beneficiary under such program or activity.

Section 144.50 Discrimination prohibited—facilities, services, financial aid and other benefits.

Section 144.50(b)(1)–(4) lists specific discriminatory actions that are prohibited on the basis of race, color, national origin and sex. This section is similar to Section 1.4(b) of HUD's Title VI Regulation. Section 144.50(b)(5) discusses the limited circumstances in which CDBG funds may be used to provide facilities or services exclusively to members of one sex. The necessity to provide the services separately, and the availability of services to members of the other sex, if there is a need for such services, are the principal factors to be considered in justifying single sex services or facilities.

Section 144.50(c)(1) states that the recipient has an obligation to take reasonable action to remove or overcome the consequences of past discrimnatory practices or usage. Section 144.50(c)(2) provides that even in the absence of past discrimination a recipient should take affirmative action to overcome the effects of conditions which would otherwise result in limiting participation by persons of a particular race, color, national origin or sex. These sections are derived from §§ 1.4(b)(i) and (ii) of HUD's Title VI Regulations. Section 144.50(c)(3) provides that the recipient shall not be prohibited from taking any actions to ameliorate an imbalance where the purpose of such action is to overcome prior discriminatory practice or usage.

Section 144.60 Discrimination prohibited—employment.

Section 144.60(a) prohibits discrimination in employment on the basis of race, color, national origin or sex in any program or activity funded in whole or in part with community development funds. Section 144.60(b)—In reviewing employment practices of CDBG recipients the Assistant Secretary for Fair Housing and Equal Opportunity shall be guided by the policies of the Equal Employment Opportunity Commission issued pursuant to EEOC's authority under Title VII of the Civil Rights Act of 1964.

Section 144.70 Contractual and regulatory requirements.

This section places an obligation on state or local government recipients to secure compliance with the requirements of this Subpart by other recipients with respect to whom they have a contractual relationship or regulatory control. Thus, for example, a local government executing a contract with a private developer in connection with a UDAG project would be obligated to include provisions in the contract requiring compliance by the developer with Subpart B's prohibitions and requirements. Failure of the local government to impose or secure compliance with these requirements would constitute a violation of Section 109 by the local government. In this manner, compliance with Section 109 by private entities not subject to Section 109 sanctions may be effected.

Section 144.100 Compliance data and reports.

Section 144.100(a)–(d) requires that government recipients maintain, report and provide access to demographic, racial, ethnic and gender data pursuant to § 570.907(f) of this title. Participating parties in the UDAG program must, on request of the recipient, collect data reflecting who benefits from Title I assistance and report such data on request.

Section 144.110 Complaints and investigation.

Section 144.110 provides that a person may file a written complaint within 180 days of the alleged discrimination, and that the Assistant Secretary for Fair Housing and Equal Opportunity shall conduct a prompt investigation of complaints.

The language in this Section was taken directly from Sections 1.7(b) and (c) of HUD's Title VI Regulations.

Section 144.120 Compliance reviews.

Section 144.120 requires the Secretary from time to time to review the practices of the recipient to determine whether they are complying with this part. The language in this Section was taken directly from Section 1.7(a) of HUD's Title VI Regulations.

Section 144.130 Intimidatory or retaliatory acts.

Section 144.130 prohibits the recipient or any representative thereof from taking any intimidatory or retaliatory action against any complainant or any person that has testified, assisted or participated in any manner in an investigation, proceeding or hearing under this part. Section 144.130 also requires that the name of a complainant shall be kept confidential, except to the exent necessary to carry out the purpose of this Part. Language in this section was derived from Section 1.7(e) of HUD's Title VI Regulation.

Section 144.135 Disclosure of compliance data and findings.

Section 144.135 prohibits the disclosure by a HUD officer or employee of any data or findings gathered in the course of an investigation or compliance review, prior to notification of the recipient pursuant to § 144.145.

Section 144.140 Definition of recipient.

For purposes of formal enforcement proceedings under Section 109, only government recipients of Title I assistance may be charged with violations and subject to sanctions.

Subpart C of the Proposed Rule Sets Forth Compliance and Enforcement Procedures

Section 144.145 Notification of findings.

Section 144.145(a)–(b) requires that in the event of a finding of apparent noncompliance the Assistant Secretary for Fair Housing and Equal Opportunity shall notify the Governor or chief executive officer of the finding of apparent noncompliance and request the Governor or chief executive officer to secure compliance. If no action is warranted the Assistant Secretary for Fair Housing and Equal Opportunity will so inform the recipient and the complainant, if any, in writing.

Section 144.150 Response to notification.

Section 144.150(a)–(d) delineates the options to a recipient following receipt of a notice of apparent noncompliance. Those options are (1) to show that the Department's findings are incorrect or incomplete; (2) to show a valid reason for the apparent noncompliance which is not related to race, color, national origin or sex; (3) to take immediate corrective action or; (4) to submit a written voluntary compliance plan acceptable to HUD.

Section 144.155 Evaluation of recipient's response.

Section 144.155 requires the Assistant Secretary for Fair Housing and Equal Opportunity to evaluate the sufficiency of the recipient's response and determine whether further action is warranted by the recipient.

Section 144.160 Compliance agreement.

Section 144.160 (a)–(e) contains the appropriate provisions to be included in a compliance agreement submitted by a recipient designed to remedy a finding of apparent noncompliance with this part.

Section 144.170 Procedure for effecting compliance.

Section 144.170 prescribes the time limit which a recipient has to comply with this part and the remedies available to the Assistant Secretary with the concurrence of the Secretary, in the event the recipient does not comply with this part.

Section 144.180 Sanctions for noncompliance.

If compliance with this Part is not achieved, Section 144.180 provides for the Assistant Secretary for Fair Housing and Equal Opportunity, with the approval of the Secretary, to provide for a hearing, which may result in:

(1) Termination, suspension, or refusal to grant payments to the recipient;

(2) Reduction of payments to the recipient; or

(3) Limiting the availability of payments to programs, projects, or activities not affected by such failure to comply.

Section 144.190 Agreements between agencies.

Section 144.190 (a) and (b) directs the Assistant Secretary for Fair Housing and Equal Opportunity to endeavor to enter into cooperative agreements with officials of other Federal Departments and agencies to effectuate the purpose of this part and suggests the contents of those agreements.

Section 144.200 Effect on other regulations.

Section 144.200(a) and (b) provides that no person shall be relieved of any obligation pursuant to HUD regulations prior to the effective date of this Regulation and no recipient shall be relieved of any responsibility to comply with the provisions of Departmental regulations applicable to assistance received under Title I of the Housing and Community Development Act of 1974, as amended.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk from 8:45 a.m. to 5:15 p.m. at the U.S. Department of Housing and Urban Development 451 7th Street, S.W., Room 5218, Washington, D.C. 20410. This rule is listed as No. FHEO-13-78 on the Department's Semiannual agenda regulation issued pursuant to Executive Orders 12044 and 12221. Accordingly, 24 CFR, Subtitle A is proposed to be

amended by adding a new Part 144 reading as set forth below.

organizations, such as Boy's Club and Girl Scout organizations where both

amended by adding a new Part 144 reading as set forth below.

PART 144—NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES RECEIVING ASSISTANCE UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974

Subpart A—General Information

Sec.

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144.20 Definitions.
144.30 Applicability.

Subpart B—Covered Conduct

144.40 General.
144.50 Discrimination prohibited—facilities, services, financial aid and other benefits.
144.70 Contractual and regulatory requirements.
144.100 Compliance data and reports.
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144.120 Compliance reviews.
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144.135 Disclosure of compliance data and findings.

Subpart C—Compliance and Enforcement

144.140 Definition of recipient.
144.145 Notification of findings.
144.150 Response to notification.
144.155 Evaluation of recipient's response.
144.160 Compliance agreements.
144.170 Procedure for effecting compliance.
144.180 Sanctions for noncompliance.
144.190 Agreements between agencies.
144.200 Effect on other regulations.

Authority: Title I of the Housing and Community Development Act of 1974 (Pub. L. 93–383; and sec. 7(d), Department of Housing and Urban Development (42 U.S.C. 3535(d)).

Subpart A—General Information

§ 144.10 Purpose.

The purpose of this part is to implement the provisions of Section 109 of Title I of the Housing and Community Development Act of 1974 so that no person shall on the ground of race, color, national origin or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under Title I of the Housing and Community Development Act of 1974.

§ 144.20 Definitions.

(a) General. Except to the extent modified in this section, the definitions contained in Part 570 of this title shall apply to this part.

(b) As used in this part:

(1) The term "program or activity" includes any function (whether or not funded under Title I) which is conducted by either an identifiable administrative unit of a public entity or by an identifiable organizational unit of a private entity, carrying out community development functions funded in whole or in part with funds provided under Title I; such term includes any project, as defined in § 570.451(b), within an Urban Development Action Program, as described in § 570.456(c)(3), and also includes adminstrative services (legal, finance, personnel etc.) provided by an administrative unit of a public entity in support of any program or activity as defined herein.

(2) "Funded in whole or in part with community development funds" means that community development funds in any amount in the form of grants, loans, loan subsidies, proceeds from HUD-guaranteed loans, or other program income generated by Title I activities have been disbursed for a program or activity.

(3) "Title I" means Title I of the Housing and Community Development Act of 1974, as amended.

§ 144.30 Applicability.

This part applies to any program or activity funded in whole or in part with funds under Title I of the Housing and Community Development Act of 1974 including Community Development Block Grants, Urban Development Action Grants, Secretary's Discretionary Fund Grants, Small Cities Program Grants, Financial Settlement Grants and Community Development Loan Guarantees.

Subpart B—Covered Conduct

§ 144.40 General.

As used in this subpart the term "recipient" includes a state or unit of general local government or any political subdivision or instrumentality thereof and any public or private agency, institution, organization or other entity or any individual to whom assistance is extended directly or through another recipient for any program or activity or who otherwise participates in carrying out such program or activity including any successor, assignee, or transferee thereof. Such term does not include any ultimate beneficiary under any such program or activity.

§ 144.50 Discrimination prohibited—facilities, services, financial aid and other benefits.

(a) *General.* No person in the United States shall on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program, or activity funded in whole or in part with community development funds made available pursuant to the Act.

(b) *Specific Discriminatory Actions Prohibited.* (1) A recipient may not under any program or activity funded in whole or in part with community development funds, directly or through contractual or other arrangements, on the grounds of race, color, national origin or sex:

(i) Deny any facilities, services, financial aid or other benefits under the program or activity.

(ii) Provide any facilities, services, financial aid or other benefits which are different, or are provided in a different manner, from those provided to others under the program or activity.

(iii) Subject a person to segregated or disparate treatment in any facility in, or in any matter or process related to receipt of any service or benefit under, the program or activity.

(iv) Restrict in any way access to, or receipt of any advantage or privilege enjoyed by others in connection with facilities, services, financial aid or other benefits under the program or activity.

(v) Treat an individual differently from other in determining whether the individual satisfies any admission, enrollment, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any facilities, services, financial aid, or other benefits provided under the program or activity.

(2) A recipient may not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination on the basis of race, color, national origin, or sex, or have the effect of defeating or substantially imparing accomplishment of the objectives of the program or activity with respect to individuals of a particular race, color, national origin, or sex.

(3) A recipient, in determining the site or location of housing or facilities may not make selections of such site or location which have the effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program or activity funded in whole or in part with community development funds on the ground of race, color, national origin, or sex; or which have the purpose of effect of defeating or substantially impairing the accomplishment of the objectives of Section 109 and of this part.

(4) Notwithstanding anything to the contrary in this section, nothing contained herein shall be construed to prohibit selectivity on the basis of sex when institutional or custodial services can be performed only by a member of the same sex as the recipients of the services.

(5) Under certain limited circumstances CDBG funds may be used by a recipient for facilities or services to be provided separately or exclusively to member of one sex. Among the factors to be considered in determining whether an activity is permitted under this section are the necessity of providing services or facilities separately or exclusively to members of one sex, and the availability, where appropriate, of comparable services or facilities to members of the other sex. For example, separate residential, institutional or custodial facilities, such as battered women's shelters or halfway houses for teenage boys meeting these criteria would be permissible. Likewise, a recipient may provide funding to traditionally single-sex youth organizations, such as Boy's Club and Girl Scout organizations where both sexes have substantially the same services or facilities available to them (where appropriate) whether or not provided or funded by the recipient.

(c) *Affirmative Action.* The following affirmative action requirements are also provided in the Department's regulation at 24 CFR 1.4(b)(6)(i) and (ii) promulgated pursuant to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and are applicable to the programs covered in this regulation.

(1) In administering a program or activity funded in whole or in part with community development funds regarding which the recipient has been found to have previously discriminated against persons on the ground of race, color, national origin or sex, the recipient must take affirmative action to overcome the effects of past discrimination.

(2) Even in the absence of past discrimination, a recipient, in administering a program or activity funded in whole or in part with community development funds should take affirmative action to overcome the effects of conditions which would otherwise result in limiting participation by persons of a particular race, color, national origin or sex.

Where previous discriminatory practices or usage tends, on the ground of race, color, national origin or sex, to exclude individuals from participation in, to deny them the benefits of, or to subject them to discrimination under any program or activity funded in whole or in part with community development funds, the recipient has an obligation to take reasonable action to remove or overcome the consequences of the past discriminatory practice or usage, and to accomplish the purpose of Section 109.

(3) A recipient shall not be prohibited by this part from taking any action to ameliorate an imbalance in services or facilities provided to any geographic area or specific group of persons within its jurisdiction, where the purpose of such action is to overcome prior discriminatory practice or usage.

§ 144.60 Discrimination prohibited—employment.

(a) *General.* A recipient may not, under any program or activity funded in whole or in part with community development funds, directly or through contractual agents or other arrangements, subject a person to discrimination on the ground of race, color, national origin, or sex in the terms and conditions or employment including recruitment, recruitment advertising, hiring, layoff, termination, upgrading, demotion, transfer, rates of pay, fringe benefits, training or other forms of compensation and the use of facilities.

(b) *Determination of compliance.* In the review of employment practices to which Section 109 of the Act applies, the Assistant Secretary for Fair Housing and Equal Opportunity shall follow the guidelines and policies of the Equal Employment Opportunity Commission issued pursuant to EEOC's authority under Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.).

§ 144.70 Contractual and regulatory requirements.

State and local governments which are recipients shall impose, and shall take such action as may be necessary to effectuate, appropriate contractual and regulatory provisions, in order to secure compliance by recipients, contractors, lessors, lessees and other recipients with the requirements of this subpart.

§ 144.100 Compliance data and reports.

(a) *General.* Demographic, racial, ethnic and gender data required in § 70.907(f) of this title shall be maintained by a recipient state or unit of general local government. Any entity carrying out a project, as defined in § 570.451(b) shall, on request from the recipient, collect and maintain data reflecting the race, national origin, and gender of persons who benefit from assistance made available under Title I.

(b) *Access to data and other sources of information.* Each recipient shall permit access by authorized representatives of HUD and the Department of Justice during normal business hours to such of its facilities, books, records, accounts, personnel, and other sources of information as may be relevant to a determination of whether the recipient is complying with this part. The fact that data, reports or information required are in the exclusive possession of any other agency, institution, or person, and that such agency, institution, or person has failed or refused to furnish the data, reports or information does not satisfy the responsibilities and obligations imposed in this section and, in such case, the recipient may be found in noncompliance with this part.

(c) *Reports.* Recipients shall submit to the Assistant Secretary for Fair Housing and Equal Opportunity timely, complete, and accurate reports at such time and in such form and containing such information as may be determined to be necessary to enable the Assistant Secretary for Fair Housing and Equal Opportunity to ascertain compliance with this part.

§ 144.110 Complaints and investigations.

(a) *Complaints.* Any person who believes that he or she or any specific class of persons has been subjected to discrimination prohibited by this Part 144 may personally, or by a representative, file with the Department a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by the Assistant Secretary for Fair Housing and Equal Opportunity.

(b) *Investigations.* The Assistant Secretary for Fair Housing and Equal Opportunity shall make a prompt investigation whenever a report, complaint, or any other information indicates a possible failure to comply with this part. The investigation should include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient has failed to comply with this part.

§ 144.120 Compliance reviews.

The Assistant Secretary for Fair Housing and Equal Opportunity shall from time to time review the practices of recipients to determine whether they are complying with this part.

§ 144.130 Intimidatory or retaliatory acts.

No representative of a recipient nor any of its agencies shall intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by Section 109 of the Act or this part because that person has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purpose of this part, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

§ 144.135 Disclosure of compliance data and findings.

A HUD officer or employee shall not, directly or indirectly, disclose any data gathered in the course of an investigation or compliance review, or any findings based on such data, to the recipient, a complainant, or any non-Federal employee prior to notification of the recipient pursuant to § 144.145.

Subpart C—Compliance and Enforcement

§ 144.140 Definition of recipient.

As used in this Subpart the term "recipient" is a state or unit of local government receiving assistance under Title I.

§ 144.145 Notification of findings.

(a) Whenever the Assistant Secretary for Fair Housing and Equal Opportunity determines (on the basis of a complaint investigation or compliance review), that a state or unit of general local government which is a recipient of assistance under the Act has apparently failed to comply with the provisions of this part, he or she shall notify the Governor of such state or the chief executive officer of such unit of general local government of the findings of apparent noncompliance and shall request the Governor or the chief

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executive officer to secure compliance.

(b) If an investigation or compliance review does not warrant action pursuant to paragraph (a) of this section, or if subsequent to receipt of a notice of apparent noncompliance, the state or unit of general local government establishes its compliance with Section 109 and this part, the Assistant Secretary for Fair Housing and Equal Opportunity will so inform the recipient and the complainant, if any, in writing.

§ 144.150 Response to notification.

No later than 60 days after receipt of notification of apparent noncompliance the recipient shall take one or more of the following actions:

(a) Present documentary information which demonstrats that the Department's findings are factually incorrect or incomplete;

(b) Present documentary information which demonstrates that there is a valid reason for the apparent noncompliance which is not related to race, color, national origin or sex;

(c) Take immediate corrective action and demonstrate to the Department the results of such action;

(d) Submit a written plan for voluntary compliance as defined in § 144.160 acceptable to HUD.

§ 144.155 Evaluation of recipient's response.

The Assistant Secretary for Fair Housing and Equal Opportunity shall evaluate the sufficiency of the response to the notification and determine if the response has brought the recipient into compliance or if further action is required.

§ 144.160 Compliance agreements.

In any case of apparent noncompliance pursuant to § 144.145(a), in which the recipient does not establish its compliance pursuant to § 144.150, compliance shall be secured, if possible, by informal means in the form of a compliance agreement which shall:

(a) Be in writing signed by the Assistant Secretary for Fair Housing and Equal Opportunity or designee and the Governor or the chief executive officer of the recipient concerned.

(b) Cover all matters that constitute the failure to comply with the requirements of the Act or this part.

(c) Contain the terms and conditions with which the state or unit of local government has agreed to comply in order to:

(1) Overcome the effects of past acts or practices constituting apparent noncompliance; and (2) prevent future noncompliance with the Act or this part.

(d) Include appropriate numerical or other programmatic goals, targets and timetables so that achievements under the agreement can be measured.

(e) Include appropriate reporting requirements so that the recipient and the Department can monitor progress under the compliance agreement.

Such terms and conditions may include the payment of restitution to persons injured by the failure of the recipient to comply with § 144.60(a).

§ 144.170 Procedure for effecting compliance.

If the Governor or the chief executive officer of the unit of local government refuses to secure compliance or if he or she fails to secure compliance within the sixty day period allowed under § 144.150, the Assistant Secretary for Fair Housing and Equal Opportunity, with the concurrence of the Secretary, is authorized to utilize any one of the following procedures: (a) Refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (b) exercise the powers and functions provided by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d); (c) exercise the powers and functions provided for in Section 111(a) of the Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301 et seq.) or (d) take such other action as may be provided for by law. When a matter is referred to the Attorney General pursuant to the preceding sentence, or whenever the Attorney General has reason to believe that a state government or unit of general local government is engaged in a pattern or practice in violation of the provisions of § 144.50 or § 144.60, he or she may bring a civil action in an appropriate United States District Court for such relief as may be appropriate, including injunctive relief.

§ 144.180 Sanctions for noncompliance.

A recipient's failure to comply with Section 109 of the Housing and Community Development Act of 1974, as amended, or this part after reasonable notice and opportunity for hearing can be cause for the Assistant Secretary for Fair Housing and Equal Opportunity, with the approval of the Secretary, to:

(1) Terminate, suspend, or refuse to grant payments to the recipient; or

(2) Reduce payments to the recipient by an amount equal to the amount of such payments which were not expended in accordance with this part; or

(3) Limit the availability of payments to programs, projects, or activities not affected by such failure to comply. Provided, however, that the Secretary may on due notice revoke the recipient's letter of credit in whole or in part at any time after the initial finding of failure to comply, pending such hearing and a final decision of the Department, to the extent the Secretary determines such action necessary to preclude the further expenditure of funds for activities affected by such failure to comply.

Procedures to be used to remedy noncompliance with this part are provided for in §§ 1.8–1.12, 2.1–2.131 and 570.913 of this title, as appropriate.

§ 144.190 Agreements between agencies.

(a) *Purpose of agreements.* The Assistant Secretary for Fair Housing and Equal Opportunity shall endeavor to enter into cooperative agreements with officials of other Federal Departments and agencies to effectuate the purposes of this part, including the achievement of effective coordination within the Executive Branch in the implementation of Section 109 of the Act and Title VI and VII of the Civil Rights Act of 1964 (42 U.S.C. 2000d; 2000e).

(b) *Content of agreements.* The agreements between the Assistant Secretary for Fair Housing and Equal Opportunity and other agencies or officials shall describe the cooperative efforts to be undertaken, which may include:

(1) The conduct of joint investigations and compliance reviews;

(2) Designation of a single agency to conduct investigations or reviews of joint interest;

(3) The sharing of information filed by recipients with either agency;

(4) Reciprocal notification of findings of apparent noncompliance or enforcement actions against recipients alleging violation of Federal civil rights statutes or regulations issued thereunder.

(c) *Publication of agreements.* Any agreement between HUD and another Federal Department or agency shall be published in the **Federal Register.**

§ 144.200 Effect on other regulations.

(a) Nothing contained in this Part 144 shall be deemed to relieve any person of any obligation assumed or imposed pursuant to HUD regulations prior to the effective date of this regulation.

(b) Nothing contained in this Part 144 shall be deemed to limit the responsibility of recipients to comply with the provisions of Departmental regulations applicable to assistance received under the Act.

(Title I of the Housing and Community Development Act of 1974 (Pub. L. 93–383; and sec. 7(d), Department of Housing and Urban Development (42 U.S.C. 2535(d))).

Issued at Washington, D.C., September 19, 1980.

Weldon H. Latham,

General Deputy Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 80-38650 Filed 11-24-80; 8:45 am]

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federal register

Tuesday
November 25, 1980

Part IX

Department of Health and Human Services

Food and Drug Administration

Cimetidine, Clofibrate, and Propoxyphene; Prescription Drug Products That Require Patient Package Inserts and Final Guideline Patient Package Inserts

DEPARTMENT OF HEALTH AND

certain items of information must be filled in by the person responsible for

name of the drug or drug class and the effective date on which the patient

because of the many other active ingredients in those combinations; other

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 203

[Docket No. 79N-0186]

Prescription Drug Products That Require Patient Package Inserts; Cimetidine, Clofibrate, and Propoxyphene

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends its patient package insert regulations to list cimetidine, clofibrate, and propoxyphene as drugs that must be dispensed with patient package inserts. Elsewhere in this issue of the **Federal Register**, FDA announces the availability of final guideline patient package inserts for these drugs and applies the agency's patient package insert regulations to them.

EFFECTIVE DATE: May 25, 1981.

FOR FURTHER INFORMATION CONTACT: Stephen C. Groft, Bureau of Drugs (HFD-107), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-433-4893.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 12, 1980 (45 FR 60754), FDA adopted final regulations establishing requirements and procedures for the preparation and distribution of patient package inserts for prescription drugs for human use. The agency also published in that issue of the **Federal Register** (45 FR 60785) 10 draft guideline patient package inserts for the following drugs and drug classes: ampicillins, benzodiazepines, cimetidine, clofibrate, digoxin, methoxsalen, propoxyphene, phenytoin, thiazides, and warfarin.

Under § 203.30(a) (21 CFR 203.30(a)), FDA's patient package insert regulations apply to a drug or drug class 180 days after the agency publishes a notice in the **Federal Register** announcing the applicability of the requirements to the drug or to a drug class. Elsewhere in this issue of the **Federal Register**, FDA is publishing a notice making available final guideline patient package inserts for cimetidine, clofibrate, and propoxyphene and applying the agency's patient package insert regulations to those drugs. Use of the guidelines by manufacturers, distributors, and dispensers constitutes compliance with the agency's patient package insert regulations governing the content of the inserts, except that certain items of information must be filled in by the person responsible for preparing the actual patient package inserts dispensed to patients. Use of the guideline patient package inserts is not required, however. This final rule adds new § 203.31 (21 CFR § 203.31) to list cimetidine, clofibrate, and propoxyphene as drugs that require patient package inserts.

A trade association objected to FDA's procedure for applying the patient package insert regulations. The association argued that publication of a notice in the **Federal Register** applying the patient package insert regulations to a particular drug or drug class does not provide the public with an opportunity to comment on the application of the regulations, and that the procedure is inconsistent with FDA's past practice of requiring patient package inserts for drug products like estrogens, where FDA used notice and comment rulemaking. The association also argued that any amendment to § 203.31 to list a drug or drug class in the agency's patient package insert regulations must be made through notice and comment rulemaking. Finally, the association contended that FDA has not adequately explained why it is applying the patient package insert regulations to the 10 drugs or drug classes identified in the September 12, 1980 notice of draft patient package inserts guidelines.

FDA does not agree. The final patient package insert regulations published on September 12, 1980, after full notice and opportunity for comment, establish general requirements for patient package inserts for all prescription drugs, and set forth the procedure, publication of notice in the **Federal Register**, that would be used to indicate at what point in time these regulations would become effective for individual drugs. (A notice published elsewhere in this issue of the **Federal Register** establishes the effective date of the agency's patient package inserts guidelines for cimetidine, clofibrate, and propoxyphene.) Because the regulations are applicable to all drugs, FDA does not believe that a new formal proposal and comment period, providing additional opportunity for comment, is required when the regulations are to become effective for individual drugs. This final rule simply adds text to § 203.31 to list cimetidine, clofibrate, and propoxyphene in the agency's patient package insert regulations, providing a permanent inventory in the Code of Federal Regulations to help persons who review the regulations determine to which drugs and drug classes they apply. The list contains the name of the drug or drug class and the effective date on which the patient package insert regulations apply to the drug.

Although FDA has established some patient package inserts requirements for specific drugs by enacting a specific regulation for each drug, the agency does not agree that its patient package inserts program must be restricted to that approach. As stated in the final rule published September 12, 1980 (45 FR 60754), general requirements are amply justified by data demonstrating substantial noncompliance by patients with drug therapy, that providing patients with information about drugs increases the degree to which they use them properly, and that existing drug-dispensing mechanisms are not adequately providing the information to patients.

Finally, the proposal published July 6, 1979 (44 FR 40016), identified four criteria the agency proposed to use to select the drugs and drug classes to which the agency would initially apply the regulations. As stated in the final rule (45 FR 60773), the agency used those criteria to select the drugs and drug classes for initial application of the regulations. Thus, the agency has fully explained its application of the final patient package insert regulations to those drugs and drug classes.

The agency has also received requests for clarification of the applicability of the patient package insert regulations to nonoral dosage forms of drugs and to drug products containing two or more active drug ingredients, that is, combination drug products. Although the regulations apply to all drugs and drug classes, the agency intends to implement patient package inserts initially for only a few drugs and evaluate the program further before applying the requirements to additional drugs. Nevertheless when the agency applies the regulations to a drug or drug class, the agency will generally apply them to all dosage forms and to both single-entity and combination products, unless the notice under § 203.30(a) specifically limits the applicability of the regulations. By not specifically limiting the application of the initial 10 draft guidelines to single-entity drug products or specific dosage forms, the agency intended, except for single-entity thiazides, that those guidelines apply to all drug products and all dosage forms that contain a drug to which the regulations apply. The agency does not intend to apply during the initial implementation period the patient package insert regulations to combination drugs containing thiazides because of the many other active ingredients in those combinations; other active ingredients which themselves would require the development of additional guidelines and enlarge significantly the scope of the agency's initial application of the regulations. In the list in § 201.31, the agency has clarified that the guidelines apply to both single-entity and combination drug products and all dosage forms.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 503, 505, 506, 507, 701, 52 Stat. 1041 as amended, 1050–1053 as amended, 1055–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 321, 352, 353, 355, 356, 357, 371)) and the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 203 is amended by adding new § 203.31 to read as follows:

§ 203.31 Drugs which require patient package inserts.

The patient package insert regulations in this part apply on and after the date given in the list below to each drug product that contains a drug listed below or a drug within a drug class listed below. Unless otherwise stated in the list, the regulations apply to all dosage forms of the drug or member of the drug class, either as a single active ingredient or in combination with one or more additional active ingredients.

Drug or drug class	Effective
Cimetidine	May 25, 1981.
Clofibrate	Do.
Propoxyphene	Do.

Effective date. This regulation becomes effective May 25, 1981.

(Secs. 201, 502, 503, 505, 506, 507, 701, 52 Stat. 1041 as amended, 1050–1053 as amended, 1055–1056 as amended, 55 Stat. 851, 59 Stat. 463 as amended (21 U.S.C. 321, 352, 353, 355, 356, 357, 371)); (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262))

Dated: November 18, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80-36669 Filed 11-24-80; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80N-0370]

Prescription Drugs; Final Guideline Patient Package Inserts for Cimetidine, Clofibrate, and Propoxyphene

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is establishing final guideline patient package inserts for drug products containing cimetidine, clofibrate, or propoxyphene. The use of the final guideline patient package inserts by manufacturers, distributors, and dispensers will constitute compliance with the agency's regulations requiring the dispensing of patient package inserts for these drugs. Elsewhere in this issue of the **Federal Register** FDA amends its patient package insert regulations to list these drugs as ones that must be dispensed with patient package inserts.

EFFECTIVE DATE: May 25, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Stephen C. Groft, Bureau of Drugs (HFD-107), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4693.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is issuing final guideline patient package inserts for cimetidine, clofibrate, and propoxyphene and thereby applying to these drugs FDA's patient package insert regulations in Part 203 (21 CFR Part 203), published in the **Federal Register** of September 12, 1980 (45 FR 60754). The regulations apply to all dosage forms of these drugs, both single entity and combination drug products (drug products that contain on of the affected drugs and one or more other active ingredients). Elsewhere in this issue of the **Federal Register** the agency is amending § 203.31 (21 CFR 203.31) to list cimetidine, clofibrate, and propoxyphene as drugs for which patient package inserts are required. Under § 203.30(a) the patient package inserts requirements apply to drug products containing cimetidine, clofibrate, or propoxyphene on and after May 25, 1981.

Use of FDA's final guideline patient package inserts constitutes compliance with the regulations governing the content of the inserts, except that certain items of information must be filled in by the person responsible for preparing the particular insert. Thus, the guidelines do not contain the following: (1) The name and place of business of the manufacturer, packer, distributor, or dispenser, (2) information about routes of administration for drug products that are not for oral use, (3) a statement about special handling or storage conditions, and (4) the date of the most recent revision of the insert. This information is dependent upon a particular person or product. The guideline patient package inserts for cimetidine, clofibrate, or propoxyphene also do not contain statements generally required by the underlying regulations about the use of the drugs during labor and delivery or statements about the specific pediatric indications or hazards. None of the drugs have a recognized use during labor or delivery nor do they have specific pediatric indications or known serious hazards that are specific for pediatric patients.

The agency has revised the patient package insert guidelines to make them clearer and more understandable. The agency has also made the following changes in specific guidelines.

Cimetidine. The "Summary" and "How to take Cimetidine" sections have been revised to state that ulcer pain may decrease within a few days after starting cimetidine and to state that cimetidine should be taken with meals. These changes make the guideline more consistent with the drug's professional labeling. The "Side Effects" section of the labeling has also been revised to reflect better the professional labeling for the drug. The revisions help clarify that only a few men and women have reported slight breast enlargement and sore breasts from the use of the drug. The statement "antacids help the ulcer to heal and control its symptoms" has been deleted because antacids, while used for symptomatic relief of ulcer pain, are not indicated for ulcer healing. Information about the use of cimetidine during pregnancy and breast feeding, which was stated in the "General Cautions" section of the draft guideline, has been placed under a heading entitled "Pregnancy and Breast Feeding." This change conforms the cimetidine guideline to the agency's other patient package insert guidelines.

Clofibrate. Contraindications to taking clofibrate have been placed under a section entitled "Before Taking Clofibrate." Information about the use of clofibrate during pregnancy and breast feeding has been placed under a specific section entitled "Pregnancy and Breast Feeding," which has been revised to state that clofibrate should not be used by pregnant or nursing women. These changes make the clofibrate guideline more consistent with the drug's professional labeling and conform the clofibrate guideline to the agency's other patient package insert guidelines. The explanation of the risks of taking clofibrate has been revised to reduce the emphasis on the raw data from studies of clofibrate. The agency has decided that the data are too technical to be useful in a draft guideline.

Propoxyphene. The agency has added to the final propoxyphene patient package insert guideline a new section, "Uses of Propoxyphene," that states that propoxyphene is used to treat mild to moderate pain and may be marketed as a combination drug with aspirin or acetaminophen. Information about the use of propoxyphene during pregnancy and breastfeeding has been placed under a section entitled "Pregnancy and Breast Feeding." These changes conform the propoxypherie guideline to the agency's other patient package insert guidelines. The agency has also revised the propoxyphene guideline to caution against, instead of prohibiting, the use of propoxyphene and aspirin combination drug products in patients with ulcers and patients taking anticoagulants and to add to the "How to Take Propoxyphene" section a statement that refills of propoxyphene prescriptions may be limited because the patient may become dependent upon the drug. These changes make the propoxyphene guideline more consistent with the drug's professional labeling.

General Comments

1. In response to the agency's request for comments on its guideline patient package inserts, several manufacturers submitted copies of patient package inserts they had prepared that differed from the agency guidelines. The manufacturers asked whether the agency considered their patient package inserts to comply with the regulations.

The agency advises that it does not have sufficient resources to approve patient package inserts for manufacturers in advance of effective dates. As stated in the final rule and the notice of draft patient package insert guidelines, use of the agency's guidelines is not required. As long as the manufacturer's patient package insert complies with the final regulations, it can deviate from the agency's guideline. Manufacturers should be able to achieve compliance without difficulty, even if

they depart from published guidelines, on the basis of the content requirements of the regulations and the guideline patient package inserts. Manufacturers and distributors of prescription drug products that are subject to premarket approval by the agency, and who are required to supplement or amend their new drug applications or antibiotic forms to include their patient package inserts, will have their labeling reviewed as part of that process, although under the final patient package insert regulations the labeling may be put into use before approval. The timing of any changes in patient package inserts required by the approval process will take into account manufacturers' expenditures on labeling supplies and the agency's inability to review the material before its use.

2. Smith Kline and French Laboratories (SKF), Philadelphia, PA, the sole marketer of cimetidine, asked that FDA postpone publication of its final guideline patient package insert for cimetidine without delaying the effective date of the patient package insert requirement for cimetidine. SKF urged that the delay in publication of the final guideline would provide time to study further alternative texts for the patient package insert and would permit FDA and SKF to produce a uniform text for FDA's guideline and SKF's patient package insert.

FDA does not believe a delay in the publication of the final cimetidine patient package insert guideline is warranted. Under the regulation, SKF may deviate from FDA's guideline and prepare a patient package insert based on its own studies of alternative texts as long as its labeling complies with the regulation. Moreover, a delay in publication of the final guideline without a delay in the implementation of the patient package insert requirement for cimetidine would give distributors and dispensers who wish to develop their own cimetidine patient package insets. less time to do so.

This notice is issued under § 10.90(b) (21 CFR 10.90(b)), which provides for the use of guidelines to establish procedures of general applicability that are not legal requirements but are acceptable to the agency and under § 203.30(a) which provides for applying FDA's patient package insert regulations to prescription drugs and drug classes. The agency advises that the patient package insert guidelines comply with FDA's patient package insert regulations in Part 203 and can be relied upon by any person to meet those requirements. Under § 203.30(c) (21 CFR 203.30(c)), the guideline labeling may be used before approval of a supplement to a new drug application. A person may choose to use alternative labeling statements that are not provided for in the guideline.

These guidelines are effective May 25, 1981. Section 10.97(b)(7) (21 CFR 10.90(b)(7)) provides that a notice of guideline shall state that interested persons may submit written comments on the guideline. Although the present guidelines have been subject to full notice and comment proceedings before issuance, consistent with the regulations and past agency practice, interested persons may submit written comments on the final guidelines to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. As in the case of any final guideline, FDA does not view itself obligated to respond formally to these comments; they will be considered, however, in determining whether future revisions of the guidelines are warranted or desirable. Comments should be in four copies except that individuals may submit single copies, indentified with the docket number found in the brackets in the heading of this document. The guideline and received comments may be seen in the Dockets Mangement Branch's office between 9 a.m. and 4 p.m., Monday through Friday.

The guideline patient package inserts for cimetidine, clofibrate, and propoxyphene follow:

Dated: November 18, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

BILLING CODE 4110-03-M

On rare occasions, patients taking cimetidine have

Cimetidine

(pronounced: sye-MET-i-deen)

Summary

Cimetidine is commonly used to treat duodenal ulcers and in certain cases to prevent them from recurring. It may take several weeks for the ulcer to heal completely, although the ulcer pain may decrease within a few days after treatment begins. Do not stop taking the drug unless your doctor tells you to stop. You may also need to take antacids between doses of cimetidine to relieve ulcer pain.

The rest of this leaflet gives you more information about cimetidine and ulcers. Please read it and keep it for future use.

Uses of Cimetidine

Cimetidine helps heal intestinal ulcers by decreasing the amount of acid made by the stomach. Ulcers and the pain they cause are often relieved by decreasing the amount of acid produced. With proper treatment, most ulcers heal within 6 to 8 weeks.

Cimetidine is also used to prevent ulcers from recurring. When used for this reason, the drug is taken at a lower dose and only at bedtime. Cimetidine may also be used for other conditions as determined by your doctor.

How To Take Cimetidine

Cimetidine should be taken with meals and at bedtime. Your doctor may tell you to take antacids in addition to cimetidine.

Although the healing effects of cimetidine begin soon after treatment begins, you must take the drug for several weeks. This allows your ulcer to have a chance to heal completely. Do not stop taking cimetidine without first checking with your doctor. If ulcer pain lasts or worsens while you are taking the drug, call your doctor.

If you miss a dose, take it as soon as you remember. Take the day's remaining doses at the scheduled time. Do not take two doses at the same time.

Pregnancy and Breast Feeding

You should not take cimetidine during pregnancy unless your doctor knows you are pregnant and nevertheless advises you that cimetidine is necessary. Cimetidine enters the bloodstream of the unborn child, and the immediate or delayed effects (if any) on the unborn child are not known. As a general principle no drug should be taken during pregnancy unless it is clearly necessary.

If cimetidine is taken by a nursing mother, it is not known if it passes to the child in breast milk. Because many drugs are passed to the child in human milk, it is safer not to breast feed a child if you are taking this drug.

General Cautions

When taking cimetidine do not use any other drugs, including nonprescription drugs, unless your doctor knows and approves of their use. Drugs to be especially careful about are:

- Aspirin or arthritis drugs—they may irritate your ulcer and cause more pain.
- anticoagulants (blood thinners)—cimetidine may increase the effect of anticoagulants. Your doctor may need to reduce the dose of the anticoagulant to prevent bleeding.
- drugs used to treat anxiety (tranquilizers such as Valium [diazepam] or Librium [chlordiazepoxide])—cimetidine can prolong the action of these drugs and your doctor may need to reduce their dose.

You may find that certain foods and drinks irritate your ulcer. For example, alcohol, coffee, tea, cola drinks and highly acidic foods (such as tomatoes) may cause some pain. Cigarette smoking can delay ulcer healing.

Side Effects

The most frequently reported side effects of taking cimetidine are: diarrhea, rash, dizziness, and muscle pain, each of which has been reported by about one patient out of every 100 who took cimetidine. Headache or fever occur more rarely.

A few men and women have reported slight breast enlargement and sore breasts.

Mental confusion can occur, especially in elderly and severely ill patients. These effects usually are not severe, and they disappear if the drug is stopped. If any of these or other side effects bother you, call your doctor.

On rare occasions, patients taking cimetidine have had serious blood disorders. Symptoms of these disorders include tiredness, weakness, pale appearance, increased occurrence of infection, fever, sore throat, and easy bruising or bleeding. If you develop these symptoms you should contact your doctor immediately. A few cases of kidney and liver disease have also been reported.

Other Information

For cimetidine to help you, take it as directed on the label. This drug has been prescribed specifically for you and your present condition. Do not give it to others even if they have similar symptoms. Also, do not use it yourself for any condition other than the one for which it was prescribed.

If you think you have taken an overdose or if you think someone else has taken an overdose, contact your poison control center, doctor, pharmacist or nearest hospital emergency room immediately. KEEP THIS DRUG AND ALL DRUGS OUT OF THE REACH OF CHILDREN.

If you want more information about cimetidine, ask your doctor or pharmacist. They have a more technical leaflet (called the professional labeling) you may read.

Clofibrate

(pronounced: kloe-FYE-brate)

Summary

Clofibrate is used to lower the amount of fatty substances in the blood, namely, cholesterol and triglycerides. People with high levels of fats in their blood have a greater risk of heart disease, and clofibrate, along with diet and exercise, is intended to reduce this risk. However, clofibrate may at the same time increase your risk of having gallbladder trouble or getting tumors.

Therefore, clofibrate is not for everyone with high cholesterol and triglycerides. It should be used only by people who have not responded to diet, weight loss, exercise, or other measures prescribed by their doctor.

It is important for patients taking clofibrate to have regular blood tests. The rest of this leaflet gives you more information about clofibrate. Please read it and keep it for future use.

Why Reduce Cholesterol and Triglycerides?

When large amounts of fatty substances are in the blood, they can harden and build up along the walls of the arteries (blood vessels coming from the heart). This process is called atherosclerosis, and it can decrease the flow of blood to vital organs by narrowing the arteries. This in turn can cause heart disease, such as angina (chest pain), heart attack, or stroke. These are among the leading causes of death in the United States.

People with high levels of cholesterol and triglycerides in their blood have a higher risk of heart attack than people with lower levels. If you have a high level of these fatty substances in the blood, it has been assumed wise to attempt to reduced these high levels with diet, exercise, and (in some patients) drugs. However, the benefit of clofibrate, if any, in reducing the risk of heart attacks is not certain at this time. In one large study, of clofibrate, for example, there was a 33 percent decrease in *nonfatal* heart attacks for patients whose cholesterol levels were reduced by the drug but there was no decrease in *fatal* heart attacks. In another large study of patients who had had at least one heart attack, neither clofibrate nor other drugs that lower cholesterol decreased the rate of subsequent fatal heart attacks.

Before Taking Clofibrate

Before taking clofibrate, tell your doctor if you:

- are taking an anticoagulant drug (a blood thinner). Your doctor may have to decrease the dose of the blood thinner.
- have diabetes. If you can control diabetes by diet or drugs, your cholesterol and triglyceride levels may also be controlled. Therefore you may not need to take clofibrate.
- have a stomach or intestinal ulcer. Taking clofibrate may make your ulcer worse.
- have had jaundice or liver disease. Your doctor may switch to another drug.

How To Take Clofibrate

If a change in diet or exercise does not lower cholesterol, or if other drugs do not reduce cholesterol, clofibrate may be prescribed. If clofibrate is prescribed for you, it is important to take it on the schedule that your doctor has advised.

If you miss a dose, take it as soon as you remember. Take the day's remaining doses at the scheduled time. Do not take two doses at the same time.

Pregnancy and Breast Feeding

Side Effects

Propoxyphene

under 12 years of age.

Pregnancy and Breast Feeding

You should not take clofibrate if you are pregnant or nursing a child. Women capable of becoming pregnant should practice some form of birth control while taking clofibrate. Women who plan to become pregnant should stop taking clofibrate several months before trying to become pregnant.

Risks of Taking Clofibrate

Two very large studies have indicated that taking clofibrate for several years presents important risks. These studies show a doubling of the risk of getting gallstones or an inflamed gallbladder. For people taking clofibrate for 5 years, about 1 patient in 100 may require gallbladder surgery.

One of the studies also suggested that people who take clofibrate have an increased risk of getting cancer. For people taking clofibrate for 5 years, this study suggested that an additional 1 person out of 400 would be expected to get cancer during the 5 year period; this is about a 30% increase above the expected cancer rate. Mice and rats given clofibrate at five to eight times the human dose showed an increased number of liver tumors, some of which were cancerous. This further supports the evidence that clofibrate may produce cancer in humans.

Several other problems relating to the heart and circulation of blood were noticed in the other study. These include heart arrhythmias (abnormal heart beat), blood clotting, angina (chest pain) and blood circulation problems (noticed by pain in the legs).

Because of these risks and the uncertain benefits of this drug, (and others used to treat high cholesterol and triglycerides), relatively few patients should take clofibrate continuously. Your doctor will advise you on whether you may be one of those patients.

General Cautions

If your doctor has suggested a certain diet or exercise program, follow these plans closely while taking clofibrate. You should have regular blood tests to find out if clofibrate is working. In addition, you may need to have other tests to find out if clofibrate is causing any harmful effects. Your doctor may decide to stop prescribing clofibrate after a few months if the cholesterol and triglycerides in your blood have not decreased. To make sure your doctor can tell how well it is working, it is important to take clofibrate on the schedule prescribed.

Side Effects

In addition to the risks already mentioned, there are some side effects that can occur while you are taking clofibrate. Most of these are not too serious.

You may get "flu-like" symptoms such as muscle aches, soreness, or cramping. Some other side effects include stomach problems (such as nausea, diarrhea, vomiting, and bloating); skin reactions (such as itching, rash); loss of hair and dry, brittle hair; headache; dizziness; increased appetite and weight gain; decreased sexual desire; painful or difficult urination; liver problems; anemia; or a decrease of white blood cells. If any of these or other side effects bother you, call your doctor.

Other Information

For clofibrate to help you, take it as directed on the label. This drug has been prescribed specifically for you and your present condition. Do not give it to others even if they have similar symptoms. Also, do not use it yourself for any condition other than the one for which it was prescribed.

If you think you have taken an overdose or if you think someone else has taken an overdose, contact your poison control center, doctor, pharmacist or nearest hospital emergency room immediately. KEEP THIS DRUG AND ALL DRUGS OUT OF THE REACH OF CHILDREN.

If you want more information about clofibrate, ask your doctor or pharmacist. They have a more technical leaflet (called the professional labeling) you may read.

Propoxyphene
(pronounced: proe-POX-i-feen)

Summary

Propoxyphene is used to relieve pain. However, it can be dangerous when taken with other drugs or alcohol. LIMIT YOUR INTAKE OF ALCOHOL WHILE TAKING THIS DRUG. ALSO DO NOT TAKE ANY TRANQUILIZERS, SLEEP AIDS, ANTIDEPRESSANTS, ANTIHISTAMINES, OR ANY OTHER DRUGS THAT MAKE YOU SLEEPY UNLESS YOUR DOCTOR TELLS YOU TO DO SO. COMBINING ANY OF THESE WITH PROPOXYPHENE MAY LEAD TO AN OVERDOSE.

Propoxyphene may make you sleepy. Use care driving a car or using machines until you see how the drug affects you. Do not take more of the drug than your doctor prescribed. You may become dependent on propoxyphene if you take it for a long period of time at a dose greater than recommended.

The rest of this leaflet gives you more information about propoxyphene. Please read it and keep it for future use.

Uses of Propoxyphene

Propoxyphene is used to treat mild to moderate pain. It may be given alone or in combinations that, in addition to propoxyphene, contain aspirin or acetaminophen.

Before Taking Propoxyphene

Make sure your doctor knows if you have ever had an allergic reaction to any ingredient of the product prescribed (propoxyphene, aspirin, or acetaminophen).

Propoxyphene-aspirin combination products usually should not be used if you have an ulcer or if you are taking an anticoagulant (blood thinner). The aspirin may irritate the ulcer and cause it to bleed. In a small group of people, aspirin may cause an asthma attack. If you are one of these people, be sure your drug does not contain aspirin.

The use of propoxyphene in ***children under 12*** has not been sufficiently studied. Therefore it is recommended that propoxyphene not be given to children under 12 years of age.

How To Take Propoxyphene

Follow your doctor's directions exactly. Do not increase the amount you take unless your doctor approves. If you miss a dose of the drug, do ***not*** take twice as much the next time.

Staying on propoxyphene for long periods of time can cause certain problems (see "Dependence" section). Therefore, your doctor may limit the number of times this prescription may be refilled.

Pregnancy and Breast Feeding

You should not take propoxyphene during pregnancy unless your doctor knows you are pregnant and nevertheless advises you that propoxyphene is necessary. If a mother has been taking large does of propoxyphene for a long time before delivery of her child, the child may be born dependent on this drug (see "Dependence" section). As a general principle no drug should be taken during pregnancy unless it is clearly necessary.

If propoxyphene is taken by a nursing mother, small amounts may pass to the child in breast milk. Although no negative effects have been reported, you should talk to your doctor about taking this drug while breast feeding.

General Cautions

Combining excessive doses of propoxyphene, alcohol, and tranquilizers is dangerous. Make sure your doctor knows you are taking tranquilizers, sleep aids, antidepressant drugs, antihistamines, or any other drugs that make your sleepy. The use of these drugs with propoxyphene increases their sedative effects and may lead to overdosage symptoms, and even death (see "Overdose" below). LIMIT YOUR INTAKE OF ALCOHOL WHILE TAKING PROPOXYPHENE.

Propoxyphene may cause drowsiness or impair your mental and/or physical abilities; therefore, use caution when driving a vehicle or operating dangerous machinery. DO NOT perform any hazardous task until you have seen your response to this drug.

Dependence

You can become dependent on propoxyphene. Dependence is a feeling of need for the drug and a feeling that you cannot perform normally without it. Depend-

ence may occur in people who have taken larger than

Other Information

ence may occur in people who have taken larger than recommended doses of propoxyphene over a long period of time. When dependent people stop taking it, they may develop withdrawal symptoms such as cramps, sweating, runny nose, yawning, shivering, diarrhea, and irritability.

Overdose

Because of an increase in the drug's sedative effects if it is used alone at higher then recommended doses or if it is used in combination with alcohol or other drugs an overdose of propoxyphene is possible. It may cause extreme drowsiness, weakness, breathing difficulties, and confusion. A large overdose may lead to unconsciousness and death.

When the drug also contains acetaminophen, symptoms of an overdose may include nausea, vomiting, lack of appetite, and abdominal pain. An overdose of this drug may lead to liver damage, coma, and death.

When the drug also contains aspirin, symptoms of an overdose due to aspirin may include headache, dizziness, ringing in the ears, difficulty hearing, dim vision, confusion, drowsiness, sweating, thirst, rapid breathing, nausea, vomiting, and occasionally, diarrhea.

If you think you have taken an overdose or if you think someone else has taken an overdose contact your poison control center, doctor, pharmacist or nearest hospital emergency room. GET EMERGENCY HELP IMMEDIATELY.

KEEP THIS DRUG AND ALL DRUGS OUT OF THE REACH OF CHILDREN.

Side Effects

When propoxyphene is taken as directed, side effects are infrequent. Among those reported are drowsiness, dizziness, nausea, and vomiting. If these effects occur, it may help to lie down and rest.

Less frequently reported side effects are constipation, abdominal pain, skin rashes, lightheadedness, headache, weakness, minor visual disturbances, and feelings of excitement or discomfort.

If any of these or other side effects bother you, call your doctor.

Other Information

For propoxyphene to help you, take it as directed on the label. This drug has been prescribed specifically for you and your present condition. Do not give it to others even if they have similar symptoms. Also, do not use it yourself for any condition other than the one for which it was prescribed.

If you want more information about propoxyphene, ask your doctor or pharmacist. They can give you a more technical leaflet (called the professional labeling) you may read.

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Part X

Environmental Protection Agency

Hazardous Waste Management System: Clarification of Regulations on Hazardous Waste in Containers; Exemption of Certain Treated-Wood Wastes; Final List of Commercial Products Which Are Hazardous Wastes if Discarded (S261.33); Exclusions in Response to Delisting Petitions

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261, 262, and 265

[SWH-FRL 1680-3]

Hazardous Waste Management System: General Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final amendment and interim final amendments to rule and request for comments.

SUMMARY: These amendments modify 40 CFR 261.33(c) and add a new section, 40 CFR 261.7, to EPA's May 19, 1980, hazardous waste management regulations. This new section and the change to § 261.33(c) clarify the situations in which residues of hazardous waste that are contained in drums, barrels, tank trucks or other types of containers must be managed as hazardous wastes under 40 CFR Parts 261 through 265 and 122 through 124.

DATES:

Effective dates: The effective date for § 261.7 is November 19, 1980.

The effective date for the amendments to § 261.33, § 265.173 and to § 262.51 is May 25, 1981.

Comment date: Today's amendments, with the exception of § 261.7(b)(3), which is merely a recodification, are being promulgated as interim final rules. EPA will accept comments on them until January 26, 1981.

Compliance dates: See Supplementary Information for details on compliance dates.

ADDRESSES: Comments of these amendments should be sent to Docket Clerk (Docket No. 3001), Office of Solid Waste (WH–565), U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Alfred W. Lindsey, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (202) 755–9185.

SUPPLEMENTARY INFORMATION:

I. Authority

These amendments are issued under the authority of Sections 1006, 2002(a), and 3001 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6905, 6912(a), and 6921.

II. Compliance Dates

EPA does not consider new § 261.7 to be a "revision" of the Section 3001 regulations within the meaning of Section 3010(b) of RCRA. It is merely a clarification of the May 19, 1980, regulations and does not subject any person to regulatory control who was not already subject to the May regulations. All such persons, of course, should have already notified EPA of their hazardous waste activities on or before August 18, 1980, and if they are hazardous waste treatment, storage or disposal facilities must submit a Part A permit application to EPA on or before November 19, 1980.

Today's amendment to § 261.33(c), which clarifies that EPA considers as hazardous wastes container residues of acutely hazardous materials that are discarded, and does not consider the containers themselves to be hazardous wastes when they are discarded, will require additional persons to notify EPA that they handle these acutely hazardous wastes and will require any treatment, storage or disposal facility which wants to continue to handle such wastes also to submit a Part A permit application and qualify for interim status.

A. Notification

Persons who generate, transport, treat, store or dispose of wastes which are newly subject to regulation under Parts 261 through 265, 122 and 124 because of today's revision to § 261.33(c) are not required to notify EPA so long as they previously notified the Agency that they handle a hazardous waste and received an EPA identification number.[1] Persons who have not previously notified EPA and who now generate or handle the wastes newly included by the amendment to § 261.33(c) must now notify EPA of their activities under Section 3010 no later than January 26, 1981. Notification instructions are set forth in 45 FR 12746 (February 26, 1980).

B. Part A Permit Applications

The owners or operators of all existing hazardous waste management facilities (see the definition of "existing HWM facility" in 40 CFR 122.3, 45 FR 33421 (May 19, 1980) and 45 FR 67756 (October 14, 1980)) which treat, store or dispose of wastes newly included in these regulations by the amendment to § 261.33(c), and who wish to qualify for interim status under Section 3005(e) of RCRA, must file a notification by January 26, 1981, unless they have notified previously (as described in II.A. above), and must file a permit application by May 25, 1981 (see 40 CFR 122.23(a)(1) and (2), 45 FR 33434 (May 19, 1980)).

Owners or operators of facilities who have qualified for interim status and who wish to manage wastes newly included in these regulations by the amendment to § 261.33(c) must submit an amended permit application by May 25, 1981 (see 40 CFR 122.23(c)(1), 45 FR 33434 (May 19, 1980)).

Owners or operators who do not comply with the notification or permit application requirements are precluded from managing these wastes after May 25, 1981 until they have obtained an RCRA permit under Part 122.

C. Compliance With the Requirements of Parts 262 Through 265, 122 and 124

Beginning on May 25, 1981, persons handling wastes newly included by today's amendment to § 261.33(c) must comply with all applicable standards for hazardous waste generators, transporters, and owners and operators of hazardous waste management facilities set forth in 40 CFR Parts 262 through 265, 122 and 124 with respect to these wastes.

III. Background

In May of 1980, EPA promulgated regulations implementing Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"). These regulations, among other things, identify and list hazardous waste (Part 261), establish standards for generators and transporters of hazardous waste (Parts 262 and 263), and set management and permit requirements for owners and operators of facilities that treat, store or dispose of hazardous waste (Parts 264 and 265 and Parts 122 and 124). 45 FR 33066 (May 19, 1980). These regulations are designed to ensure the proper handling and management of hazardous wastes from their generation through their ultimate disposition.

Hazardous wastes are often stored or transported in containers.[2] Some of these containers may be full, others partially full. Depending on how a particular hazardous waste is to be managed and whether a container is to be re-used, some containers may be emptied, leaving a residue in the container. Other containers may be

[1] EPA's authority for this action is the recent amendment to Section 3010(a) of RCRA contained in the Solid Waste Disposal Act Amendments of 1980 (Pub. L. 96–452, (October 21, 1980)) which leaves the requirements for notification following revision of the Section 3001 regulations to the discretion of the Administrator.

[2] "Container" is defined in 40 CFR 260.10 as "any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled."

cleaned, perhaps creating a rinsate containing hazardous waste.

EPA has received numerous questions about the extent to which partially full, "empty" and cleaned containers, or more precisely, the waste or waste residues in such containers, are regulated under RCRA. Specifically,

(1) What is an "empty container?"

(2) Under what circumstances is a container that has held hazardous waste, but is now "empty," controlled under the RCRA hazardous waste regulations?

(3) How do the small quantity provisions (§ 261.5) and the use, re-use, recycling and reclamation provisions (§ 261.6) apply to container management?

(4) Are container cleaning operations subject to the RCRA facility and permitting requirements?

In response to these questions, EPA is modifying its hazardous waste regulations to better explain the circumstances under which a container which has held hazardous waste (including any of the chemicals listed in § 261.33 (e) and (f), when they are wastes) remains subject to the requirements of Parts 261 through 265, 122 and 124, and the notification requirements of Section 3010 of RCRA. The Agency is doing this by adding a new section of Part 261, § 261.7, which deals exclusively with the issue of when residues in containers will be subject to regulation. This new section will enable persons who deal with container residues to look to one section of the regulations to determine whether they are regulated.

IV. The Control of Residues in Empty Containers and the Definition of Empty Container

In the May 1980 regulations the only specific references to containers of hazardous waste in Part 261, which identifies those wastes subject to regulation, are in §§ 261.33(c) and 261.5(c)(3)–(4). Section 261.33(c) provides that any container or inner liner from a container that has been used to hold any acutely hazardous commercial chemical product or manufacturing chemical intermediate listed in § 261.33(e) is a hazardous waste when it is discarded or intended to be discarded, unless it has been triple rinsed or otherwise appropriately cleaned. Sections 261.5(c)(3) and 261.5(c)(4), part of the special requirements for hazardous waste generated by small quantity generators, excluded from regulation certain small containers and a certain amount of inner liners from containers identified in § 261.33(c). Otherwise, the May 1980 Part 261 regulations are silent on the control of "empty" containers and hazardous waste residues in "empty" containers.

A. Full or Partially Full Containers

Under Part 261, all solid waste that is identified or listed as hazardous waste is subject to regulation under Parts 261 through 265, 122 and 124. Thus, the May 19, 1980, regulations clearly regulate hazardous wastes in full or partially full containers.

B. "Empty" Containers

The typical emptying of a container by pouring, pumping, aspirating or other common emptying methods is not capable of removing all residues. So-called "empty" containers hold small amounts of residue unless they have been thoroughly rinsed or otherwise cleaned to remove such residues. Many persons have concluded that unless hazardous waste residues in "empty" containers are excluded by the small quantity generator exclusion of § 261.5, all such residues are fully controlled as hazardous wastes and thus persons handling such containers would, because of the residues have to ship such containers accompanied by a manifest and have a permit (or interim status) for the treatment, storage or disposal of the residues.

The Agency did not intend, however, to regulate hazardous waste residues in "empty" but unrinsed containers, except where the hazardous waste is an acutely hazardous material listed in § 261.33(e). See the preamble discussion at 45 FR 33116, May 19, 1980. EPA believes that, except where the hazardous waste is an acutely hazardous material listed in § 261.33(e), the small amount of hazardous waste residue that remains in individual empty, unrinsed containers does not pose a substantial hazard to human health or the environment. If there are certain situations where this presumption is unjustified, the Agency will consider amendments to the regulations to accommodate them. See the discussion below in section IV.E. of this preamble.

In making this presumption, the Agency considered the amounts of hazardous waste residues contained in "empty" containers from which all hazardous wastes have been removed by common methods of emptying containers: Dumping, pouring, pumping and aspirating and, for containers of contained gas, allowing the pressure in the container to reach atmospheric. Although EPA officials have explained in many public meetings that the only residues in "empty" containers that the Agency intended to regulate were those of acutely hazardous materials listed in § 261.33(e), (see 40 CFR 261.33(c), 45 FR 33124, (May 19, 1980)), the Agency did not articulate this in the regulations.

To rectify this omission, the Agency is amending the regulations to expressly specify that the hazardous waste remaining in an "empty" container is not subject to the regulations. See § 261.7(a). On the other hand, the hazardous waste residue in any container that is not considered empty is subject to full regulation as a hazardous waste unless any of the special requirements or exclusions in Part 261 or § 262.34 apply. To implement this clarification EPA is also amending the regulations to provide a definition of "empty container." See § 261.7(b). This definition is in three parts and is keyed to the type of waste in the container, i.e., the methods that must be used to remove the residue from a container for it to be considered empty under § 261.7(b) depend on the material that the container held. What should be clear from § 261.7, however, is that no "empty" containers are subject to regulatory control because no "empty" containers hold residues that are considered hazardous wastes for regulatory purposes.

1. *Containers that have held hazardous wastes other than gases and acutely hazardous materials.* The first part of the definition of "empty container" deals with containers that have held hazardous wastes other than compressed gases and acutely hazardous materials listed in § 261.33(e). For such containers, the definition provides that an empty container is one from which all wastes or other materials have been removed that can be removed using the practices commonly employed to remove materials from that type of container. The definition further provides that no more than 2.5 centimeters (one inch) of residue may remain on the bottom of the container for it to be considered empty. The Agency recognizes that this part of the definition is not perfectly precise and may be subject to interpretation in difficult cases. For example, if the hazardous waste is a two-phase mixture of a liquid and a non-viscous solid or semi-solid and is contained in a drum with a sealed top (with only bung holes provided for filling and emptying the drum), it is very possible that common emptying methods will not remove all of the waste. Common emptying methods might remove the liquid phase and leave the solids or semi-solids adhering to the sides so that there is less than 2.5 centimeters of waste on the bottom of the container. In this example, the Agency would not view the container as an empty container because the total

amount of material in the container would be greater than a 2.5 centimeter

health and the environment because residues that remained in empty

§ 261.33 to clarify that it is the hazardous material residue in a

that has held an acutely hazardous material listed in § 261.33(e) is to be re-

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amount of material in the container would be greater than a 2.5 centimeter layer on the bottom. In spite of its imperfection, the Agency believes this definition is useful and can be made to work with only occasional interpretation for unusual situations. The Agency will render such interpretations when necessary to implement this definition and the related regulatory provisions. Even so, the Agency is open to any advice on how to improve this definition and specifically solicits such advice during the comment period provided for this interim final rule.

2. *Compressed gas containers.* For compressed gas containers, the second part of the definition provides that an empty container is one which has been opened to atmospheric pressure.

3. *Containers that have held acutely hazardous materials.* For containers that have held any of the acutely hazardous materials listed in § 261.33(e), the third part of the definition provides that an empty container is one that has been triple rinsed with an appropriate solvent, or cleaned using another method shown to achieve equivalent removal or, in the case of a container, has had the inner liner removed. This part of the definition of empty container has been shifted from 40 CFR 261.33(c)(1)–(3) in order to combine in one section of the regulations all provisions dealing with the issue of when container residues must be managed as hazardous waste. It was explained in the preamble to the May 19, 1980, regulations. See 45 FR 33115–16.

C. Interim Final Promulgation

Because the first two parts of the definition of empty container (§ 261.7(b)(1)–(2)) are new regulatory provisions, EPA is promulgating them in interim final form and will accept comments on them for 90 days. Section 261.7(a), which clarifies when container residues must be managed as hazardous wastes, also is new and also is being promulgated in interim final form with a 90 day comment period. EPA believes that use of advance notice and comment procedures for these amendments would be impracticable and contrary to the public interest, and therefore finds that good cause exists for adopting these regulations in interim final form (see 5 U.S.C. 553(b)(B)). Section IV.D. below, entitled "Effective Date," discusses the confusion and disruption that would result were EPA not to promulgate these amendments in interim final form with a November 19, 1980, effective date.

The third part of the definition of empty container, § 261.7(b)(3), is merely recodified and is being promulgated as a final regulation.

D. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this requirement is to allow persons handling hazardous wastes sufficient lead time to prepare to comply with major new regulatory requirements. For the new § 261.7 promulgated today, however, the Agency believes that an effective date six months after promulgation would cause substantial and unnecessary disruption in the implementation of the regulations and would be counterproductive for the regulated community and the public.

The regulatory provisions that these amendments modify take effect on November 19, 1980. Beginning on that date, in the absence of the effectuation of these amendments, all hazardous waste residues down to very minute quantities arguably would have to be managed as hazardous wastes. The clarifications in § 261.7 have been requested by the regulated community and will eliminate the confusion that has existed concerning when container residues must be managed as hazardous wastes. Section 261.7 does not subject any persons or activities to regulation which were not covered by the May 19 regulations. The section only serves to exclude certain residues of hazardous waste from regulatory control. Persons handling excluded residues thus need not comply with any hazardous waste management requirements for those residues. In the absence of this new section, these persons arguably would have to comply with all applicable regulations in Parts 261 through 265, 122 and 124 on November 19, 1980. This lessening of regulatory requirements surely is not the type of revision to regulations that Congress had in mind when it provided a six-month delay between the promulgation and the effective date of revisions to regulations. Consequently the Agency is setting an effective date of November 19, 1980.

E. Options Under Consideration for Regulating Hazardous Waste Residues in "Empty" Containers

As discussed in section IV.B. of this preamble, EPA believes that the small amount of hazardous waste residue that remains in individual empty, unrinsed containers does not pose a substantial hazard to human health or the environment. EPA is concerned, however, that drum reconditioners and other facilities that clean large numbers of "empty" containers may accumulate and treat or dispose of significant amounts of unregulated residues which may pose a substantial hazard to human health or the environment. EPA is currently considering three options to deal with this possible problem.

1. *Triple rinsing for all containers.* The option which EPA considers the most equitable and which appears to offer the greatest protection to human health and the environment is to require that all containers be triple rinsed before they are considered empty. This would ensure that the only residues that would be unregulated under the Part 262 through 265, 122 and 124 regulations would be trace amounts that would remain in a container after triple rinsing or an equivalent cleaning operation. If a container that hadn't been triple rinsed were transported, it would have to be accompanied by a manifest, unless the residue in the container were excluded from regulation by the small quantity generator exclusion (§ 261.5) or by the use, re-use, recycling or reclamation provisions of § 261.6, and could only be shipped to a treatment, storage or disposal facility with a permit or interim status. Under § 261.7(a), as promulgated today, container residues (other than those of acutely hazardous materials listed in § 261.33(e)) of less than an inch are not subject to the RCRA Subtitle C requirements. If all containers had to be triple rinsed before the remaining residue were not regulated, the potential for environmental and health problems that exists under the current version of § 261.7 could be eliminated.

2. *Regulation of the residue when it is removed from the container.* Another option EPA is considering is to add the words "until it is removed from the container" to § 261.7(a)(1) so that the section would read: "Any hazardous waste remaining in a container or an inner liner removed from a container that is empty, as defined in paragraph (b) of this section, is not subject to regulation under Parts 261 through 265, Part 122 or 124 of this chapter or to the notification requirements of Section 3010 of RCRA until it is removed from the container."

Such language would mean that the hazardous waste residue in an empty container could be transported, treated, stored or disposed of without being subject to RCRA regulation while it remained in the container, but that the residue would be regulated if it were removed from the container. This solution would be less burdensome to the regulated community than requiring triple rinsing of all containers that have held hazardous waste, but it would not offer as much protection of human health and the environment because residues that remained in empty containers would be unregulated. It would require facilities about which EPA is most concerned, i.e., those container cleaning facilities which accumulate large amounts of container residues, to properly manage the residues as hazardous wastes once they were removed from the container. EPA would consider the person who removed the waste to be the generator. Persons who removed only small quantities of residues could qualify for the small quantity generator exclusion, if they also did not have large quantities of other hazardous wastes. One problem with this approach, though, would be how persons removing residues from empty containers that had been shipped to them would receive notice that the residues were hazardous wastes because, until their removal, the residues would be unregulated, and thus could be shipped without a manifest while they remained in their containers.

3. *Limitation on the amount of unregulated residue.* A third option EPA is considering is to regulate only persons who handle large amounts of hazardous waste residue in, or removed from, empty containers. The Agency could accomplish this by limiting the amounts of unregulated residue a person could manage during a particular period of time without becoming subject to hazardous waste management controls. All container residues handled by persons who regularly deal with large amounts of such residues could be regulated.

EPA solicits comments and data on whether the residues left unregulated by § 261.7 may pose a substantial hazard to human health or the environment and, if so, whether commenters favor one of the three options outlined above, or some other alternative to deal with the problem.

V. Clarification of 40 CFR 261.33

Section 261.33(c) lists containers that hold residues of certain acutely hazardous commercial chemical products, manufacturing chemical intermediates, and off-specification products as hazardous wastes if and when they are discarded or intended to be discarded. EPA is making certain clarifying changes to this section.

A. Clarifying Changes Including Regulation of Residues Rather Than Containers

First, as mentioned above, today's amendments move the provisions of § 261.33(c)(1)–(3) to § 261.7(b). Second, EPA also is changing the remaining wording of § 261.33(c) and the title of § 261.33 to clarify that it is the hazardous material residue in a container, rather than the container itself, that is controlled under the regulations if and when the residue is discarded or intended to be discarded. This avoids the problems that can result from a literal reading of the regulations if the container, rather than the residue, is considered a hazardous waste. Read literally, for example, § 262.34(a) would require that a container, if the container itself were considered a hazardous waste, be placed within another container for temporary accumulation.

This change to the wording of § 261.33(c), although merely a clarification of the Agency's intent in the May 19, 1980, regulations, does alter the substance of the requirement in one respect. Although § 261.33(a) implies that any amount of a listed acutely hazardous material is a hazardous waste when it is discarded or intended to be discarded, § 261.33(c) in the May 19 regulations implies that a container or liner that previously held an acutely hazardous material listed in § 261.33(e) becomes a hazardous waste only if and when the container or liner—as opposed to the hazardous waste residue—is "discarded or intended to be discarded." Under one reasonable interpretation of § 261.33(c), a container which is re-used by anyone or sent to a reconditioner for cleaning and subsequent re-use would not be subject to the hazardous waste management regulations because it was not "intended to be discarded." When the residue, rather than the container, is considered the hazardous waste, as it is under the amended § 261.33(c), a container holding a regulated residue, i.e., a container that is not "empty," that is sent to a reconditioner for cleaning and re-use must be accompanied by a manifest and may only be sent to a person with a RCRA permit or interim status for the treatment, storage or disposal of the waste in question. Because this amendment to § 261.33(c) may extend regulatory control to some persons whose activities were not previously regulated under RCRA, EPA is providing time for these persons to notify under Section 3010 of RCRA and to submit permit applications pursuant to 40 CFR Part 122. See the discussion above in section II of this preamble entitled "Compliance Dates."

On the other hand, if the residue of an acutely hazardous waste listed in § 261.33 itself is to be beneficially used, re-used, recycled or reclaimed, it is not being discarded and it never becomes a hazardous waste and thus is not subject to the hazardous waste management regulations. For example, if a container that has held an acutely hazardous material listed in § 261.33(e) is to be re-used to contain the same material listed in § 261.33(e) that it previously held (and the initial residue is not discarded), or to contain some other material where the mixing of the other material with the residue of the § 261.33(e) material constitutes a beneficial use or re-use of that residue, then the acutely hazardous residue in the container or liner is not discarded and thus is not a hazardous waste. EPA has added a "comment" to § 261.33(c) to remind readers of the regulation that unless residues are beneficially used or re-used, or legitimately recycled or reclaimed, or are being accumulated, stored, transported or treated prior to such use, re-use, recycling or reclamation, EPA considers the residue to be intended for discard and thus a hazardous waste.

B. Interim Final Promulgation

EPA believes that use of advance notice and comment procedures for the clarification to § 261.33(c) would be impracticable and contrary to the public interest, and therefore finds that good cause exists for adopting this change in interim final form (see 5 U.S.C. 553(b)(B)). Delay in promulgating this clarification could cause significant harm to the regulated community and the general public. Without this clarification, confusion exists over whether the provisions of § 261.33(a) or § 261.33(c) govern container residues of acutely hazardous materials that are discarded or intended to be discarded. EPA intended that all such residues be controlled as hazardous wastes, but, as discussed above, one reasonable interpretation of § 261.33(c) is that such residues are not considered hazardous wastes if the containers that hold such residues are not discarded. To give notice to the regulated community of how EPA intended § 261.33(c) to work, and to protect the public against the possible mismanagment of the acutely hazardous material residues that may remain in unrinsed containers that are re-used, EPA is promulgating its clarification to § 261.33(c) in interim final form. EPA will accept comments on this change for 90 days and will make any further changes deemed necessary as a result of those comments.

C. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this requirement is to allow persons handling hazardous wastes sufficient lead time to prepare to comply with major new regulatory requirements. EPA

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agrees that the amendment to § 261.33(c) should take effect six months after its promulgation. The amendment will subject some people to the hazardous waste management regulations whose activities were not subject to regulation under the May 19, 1980, regulations. Two classes of people may be brought under regulation for the first time by this amendment. The first class of people are those who for the first time will be considered generators. These are people whose only hazardous wastes are container residues of acutely hazardous materials (that are discarded) from containers that are re-used. Although it was not EPA's intent to allow these residues to go unregulated under the May 19 regulations, EPA agrees that a reasonable reading of § 261.33(c) would so allow. Thus, the change to that section will bring some people under the hazardous waste management regulatory system for the first time as generators and these persons need time to plan to meet the regulatory requirements of Part 262.

The other class of people affected by today's amendment are owners and operators of container cleaning facilities which receive containers which are not considered empty under new § 261.7, i.e., which hold residues of regulated acutely hazardous materials. They will, under the interpretation of § 261.33(c) discussed above, be considered treatment, storage or disposal facilities for the first time under today's amendment. The owners and operators of these facilities will have to prepare to meet the applicable Part 265 standards, if they are eligible for interim status.

The effective date for today's amendment to § 261.33(c) is May 25, 1981. Section II of this preamble, entitled "Compliance Dates" sets forth the dates by which persons who are subject to regulation for the first time by today's amendment to § 261.33(c) or who wish to handle wastes newly regulated by today's clarification must notify EPA and submit a new or revised Part A permit application.

Until the amendment to § 261.33(c) is effective, the provisions of § 261.33(c), as promulgated on May 19, 1980, will remain in effect. Until the amendment to § 261.33(c) is effective, persons handling residues of acutely hazardous materials in containers that are not discarded or intended to be discarded will not be considered subject to Part 262 through 265, 122 and 124 requirements.

VI. Special Small Quantity Provisions

If any container is not considered empty under § 261.7(b), then the hazardous waste remaining in the container is subject to full regulation unless the generator of the waste qualifies for the special requirements for hazardous waste generated by small quantity generators established in § 261.5 or for one of the other special provisions in the regulations.

In response to numerous comments and questions on § 261.5, EPA has amended it in a separate rulemaking. Containers and inner liners are no longer specifically mentioned in the amended § 261.5 because of the change to § 261.33(c) discussed above. Because EPA considers the residue of the acutely hazardous material, rather than the container or inner liner, to be the hazardous waste, § 261.5 no longer specifies a number of containers or an amount of inner liners containing § 261.33(e) residues that a small quantity generator may generate and still come within the special requirements. See § 261.5(c)(3) and § 261.5(c)(4), May 19, 1980.

Under amended § 261.5, a generator with § 261.33(c) container residues is subject to full Subtitle C regulation if the amount of such hazardous waste residue he generates in a calendar month exceeds an exclusion level specified in § 261.5. If the sum of all of his acutely hazardous waste, including his § 261.33(c) residues, is less than 1 kilogram, that waste is excluded from regulation unless he generates more than 1000 kilograms of other hazardous waste in a calendar month, in which case all of his acutely hazardous waste is also subject to regulation that month. If he generates more than one kilogram of acutely hazardous waste in a calendar month, including § 261.33(c) residues, all of that hazardous waste is regulated. Container residues of other than § 261.33(e) materials that are subject to regulation because they measure more than one inch in an individual container (see § 261.7) must be counted toward the 1000 kilogram exclusion in § 261.5. The preamble to the amendments to § 261.5 discusses the application of that section in further detail.

VII. Use, Re-use, Recycling and Reclamation Provisions

There is an important distinction to be drawn between wastes listed in § 261.33 and other listed wastes, with respect to the re-use provisions of the regulations. The use, re-use, recycling, and reclamation provisions of § 261.6 do not apply to any materials listed in § 261.33, including container residues, because § 261.6 only applies to hazardous waste, and materials listed in § 261.33 become hazardous wastes only when they are discarded or are intended to be discarded. Thus, these materials are not hazardous wastes if they are used, re-used, recycled or reclaimed.

On the other hand, hazardous waste container residues, other than those listed in § 261.33, which are regulated because they are in containers that are not empty, i.e., which don't meet the provisions of § 261.7(b) (1) or (2), can qualify for the special requirements in § 261.6 just as any other hazardous waste can.

VIII. Container Cleaning Operations

Some persons have read the definition of treatment in § 260.10 to encompass all container cleaning operations. Commenters were particularly concerned that the triple rinsing or other cleaning operations prescribed in § 261.33(c) (1) and (2) constituted treatment of the hazardous waste which adhered to the container.

A. Triple Rinsing

Triple rinsing, a procedure sanctioned in the regulations, is carried out with the express purpose of removing the waste from the container. The usual intent is simply to remove the waste and not to treat it, and the procedure is not usually "designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize . . ." it. Therefore, most triple rinsing does not meet the definition of treatment in Section 1004 of RCRA and § 260.10, and is, therefore, not subject to the requirements of Parts 264 and 265. The rinsate, however, is a hazardous waste if it meets one of the characteristics or if it contains a listed waste which remains subject to regulations via the mixing rule. See § 261.3(a)(2)(ii). Also, any treatment of the rinsate would almost certainly meet the definition of treatment in RCRA and such secondary treatment operations would be subject to the requirements of Parts 264 and 265.

B. Other Forms of Container Cleaning

Forms of container cleaning other than triple rinsing may constitute treatment because the intent and design of the operations involve not only removal of the waste from the container but also modification of the physical or chemical composition or character of the waste to render it less hazardous or non-hazardous. This is the case where drums are incinerated or "burned out." In this case, the burning operation is designed to remove and destroy the wastes. In other cases, chemicals are added to drums, again, not only to remove the waste, but to react with the wastes and destroy or detoxify them. These processes meet the RCRA definition of "treatment" and are thus subject to the requirements of Parts 264 and 265.

C. Facilities Which Handle Only "Empty" Containers

Section 261.7 clarifies that container cleaning facilities which handle only "empty" containers are not currently subject to regulation unless they generate a waste that meets one of the characteristics in Subpart D. The mixture rule (§ 261.3(a)(2)(ii)) is inapplicable to any residues excluded from regulation by 261.7(a)(1), which would be the only residues with which a facility that handles only "empty" containers would deal.

D. Facilities Which Handle "Non-Empty" containers

Any facility that handles any "non-empty" containers, i.e., containers which don't meet the definition of "empty" in 261.7(b), is managing regulated hazardous waste.

If the facility is the generator of the hazardous waste, i.e., the container residue, then the small quantity generator exclusion (§ 261.5) and the non-permitted accumulation time provision (§ 262.34) are available to the facility as a generator. Unless one of those provisions is applicable, though, all treatment, storage and disposal of regulated residues must be carried out in accordance with all applicable Part 264 or 265 standards at a facility with a permit or interim status. Note also that any regulated residue of a listed hazardous waste is subject to the mixture rule, so that rinse waters or solvents containing these residues also are considered hazardous wastes, unless they have been delisted in accordance with the procedures in §§ 260.20 and 260.22.

IX. Request for Comments

EPA invites comments on all aspects of the interim final amendments promulgated today and all of the issues discussed in this preamble. The Agency is providing a 90-day comment period and will carefully consider all comments received during that period.

X. Regulatory Impacts

The clarification to § 261.33(c) will bring a small number of additional persons under regulation as generators, transporters, or owners or operators of treatment, storage or disposal facilities. EPA is unable to estimate the number of such persons and thus cannot accurately estimate the increased impacts of the clarification.

The effect of the promulgation of § 261.7 is to reduce the overall costs, economic impact and reporting and recordkeeping impacts of EPA's hazardous waste management regulations. This is achieved by clarifying that container residues of hazardous waste, measuring an inch or less, except residues of certain acutely hazardous materials, are not subject to the regulations. The Agency is unable to estimate these cost and impact reductions.

Dated: November 19, 1980.

Douglas M. Costle,

Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is amended as follows:

1. Add the following new section to Part 261:

§ 261.7 Residues of hazardous waste in empty containers.

(a)(1) Any hazardous waste remaining in either (i) an empty container or (ii) an inner liner removed from an empty container, as defined in paragraph (b) of this section, is not subject to regulation under Parts 261 through 265, or Part 122 or 124 of this chapter or to the notification requirements of Section 3010 of RCRA.

(2) Any hazardous waste in either (i) a container that is not empty or (ii) an inner liner removed from a container that is not empty, as defined in paragraph (b) of this section, is subject to regulation under Parts 261 through 265, and Parts 122 and 124 of this chapter and to the notification requirements of Section 3010 of RCRA.

(b)(1) A container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified in § 261.33(c) of this chapter, is empty if:

(i) all wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, *e.g.*, pouring, pumping, and aspirating, and

(ii) no more than 2.5 centimeters (one inch) of residue remain on the bottom of the container or inner liner.

(2) A container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric.

(3) A container or an inner liner removed from a container that has held a hazardous waste identified in § 261.33(c) of this chapter is empty if:

(i) the container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;

(ii) the container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

(iii) in the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container, has been removed.

2. Revise the title of § 261.33 and paragraph (c) to read as follows:

§ 261.33 Discarded commercial chemical products, off-specification species, container residues, and spill residues thereof.

The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded:

* * * * *

(c) Any residue remaining in a container or an inner liner removed from a container that has held any commercial chemical product or manufacturing chemical intermediate having the generic name listed in paragraph (e) of this section, unless the container is empty as defined in § 261.7(b)(3) of this chapter. [Comment: Unless the residue is being beneficially used or reused, or legitimately recycled or reclaimed; or being accumulated, stored, transported or treated prior to such use, re-use, recycling or reclamation, EPA considers the residue to be intended for discard, and thus a hazardous waste. An example of a legitimate re-use of the residue would be where the residue remains in the container and the container is used to hold the same commercial chemical product or manufacturing chemical intermediate it previously held. An example of the discard of the residue would be where the drum is sent to a drum reconditioner who reconditions the drum but discards the residue.]

§ 265.173 [Amended]

3. Delete the first sentence of the "Comment" to § 265.173.

§ 262.51 [Amended]

4. Change the reference for triple rinsing in § 262.51 from "§ 262.33(c)" to "§ 261.7(b)(3)."

[FR Doc. 80-36682 Filed 11-24-80; 8:45 am]

BILLING CODE 6560-30-M

40 CFR Part 261

SUPPLEMENTARY INFORMATION:

I. Introduction

Office of Pesticide Programs is reviewing the risks and benefits

261.32. In a separate notice, the Agency in fact has announced that it will not treated wood or wood products for the woods' intended end use.

for adopting this regulation in interim final form (*see* 5 U.S.C. § 553(b)(B)).

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40 CFR Part 261

[SWH-FRL 1680-4]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final amendment to rule and request for comments.

SUMMARY: The Environmental Protection Agency is amending the hazardous waste management regulations (40 CFR 261.4) to provide that arsenical-treated wood or wood products which are generated by persons who utilize such treated wood or wood products for the woods' intended end use, and which wood constitutes hazardous waste solely because it fails the test for the characteristic of Extraction Procedure toxicity, is not subject to regulation under 40 CFR Parts 262 through 265 or Parts 122 through 124 or the requirements of Section 3010 of RCRA until the Agency's Office of Pesticide Programs has made further progress in its pending review of arsenical wood preservatives. This amendment is being made as a result of public comments.

DATES: Effective date: November 19, 1980.

Comment date: The Agency will accept comments on this amendment until January 26, 1981. Any person may request a hearing on this interim final rule by filing a request with John P. Lehman, whose address appears below, by December 16, 1980. The request must contain the information prescribed in § 260.20(d) of this chapter.

ADDRESSES: Comments on this amendment should be sent to Docket Clerk, Docket No. "3001/Arsenical-Treated Wood," Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Requests for hearing should be addressed to John P. Lehman, Director, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, Washington, D.C. 20460.

The public docket for this interim final rule is located in Room 2711, U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. The public docket is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Matthew A. Straus, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202) 755-9187.

SUPPLEMENTARY INFORMATION:

I. Introduction

On May 19, 1980, as part of its initial regulations implementing Section 3001 of the Resource Conservation and Recovery Act (RCRA), the Agency promulgated rules governing the identification and listing of hazardous wastes. Among other things, these rules identified four characteristics of hazardous wastes which are to be used by all persons generating solid waste to determine if the solid waste is hazardous. (See 40 CFR Part 261, Subpart C.) Pursuant to 40 CFR Part 261, a solid waste is a hazardous waste if it is not excluded by a provision of 40 CFR 261.4(b) and it exhibits one or more of the characteristics of hazardous waste identified in Subpart C of 40 CFR Part 261.

One of the characteristics which EPA has determined makes a solid waste a hazardous waste is described as "Extraction Procedure Toxicity" or "EP Toxicity" and appears at 40 CFR 261.24. In December, 1978, the Agency proposed the EP toxicity characteristic as a criterion for identifying hazardous waste. No comments relating to arsenical-treated wood or wood products were submitted in response to the proposal. In May, 1980, the Agency promulgated the EP toxicity characteristic as a final regulation. In July, 1980, approximately one and one-half years after the initial proposal of the EP toxicity characteristic, the American Wood Preservers Institute (AWPI) first brought to the Agency's attention the possibility that some wood treated with arsenical-based preservatives exhibits the characteristic of EP toxicity and, therefore, might be classified as hazardous waste when disposed of. AWPI requested a delay in the regulations' effective date with respect to arsenical-treated wood.

II. AWPI Comments Relating to Arsenical-Treated Wood

AWPI has requested that the Agency delay action to classify treated wood as a hazardous waste and to "clarify its regulations to indicate that all types of preserved wood, including arsenical treated wood, do not constitute hazardous wastes when disposed." AWPI's request is based on two arguments:

(1) the method of disposing of wood treated with arsenical preservatives is identical to registered uses of the treated wood in place—ground contact; and (2) the Office of Solid Waste should await the outcome of the Agency's Office of Pesticide Programs' pending examination of wood preservatives. The Office of Pesticide Programs is reviewing the risks and benefits associated with the use of arsenical wood preservatives as part of the Federal Insecticide, Fungicide and Rodenticide Rebuttable Presumption Against Registration (RPAR) process. (Arsenical wood preservatives are pesticides under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) because they are applied to control fungi and termites.) The RPAR review will determine whether pesticide registrations of arsenical wood treatments should be modified or canceled.

AWPI commented that application of EPA's hazardous waste regulations to arsenical preservative-treated wood on November 19, 1980, would have unintended consequences. For example, construction companies, utility companies, and other buyers of treated wood could become generators of hazardous waste. AWPI supported its request that the Agency await the completion of the RPAR review by pointing out that the RPAR review would "examine all the environmental effects of the use of treated wood, including ground and marine installation of arsenical-treated wood, such as utility poles and pilings." AWPI contended that the RPAR review would reveal that ground-contact uses of arsenical-treated wood would present no environmental hazard and, consequently, that disposal of arsenical-treated wood by land burial presents no hazard.

III. Amendments to 40 CFR 261.4 With Respect to Arsenical-Treated Wood and Wood Products

The Agency does not believe that implementation of RCRA regulations that affect toxic chemicals that are undergoing review for possible regulation by a program administered by EPA other than the Office of Solid Waste necessarily should await the conclusion of the other program's review. In particular, the Agency believes that substantial differences in the statutory mandates of RCRA and of FIFRA militate against deferring RCRA regulation until the completion of RPAR reviews. RPAR reviews do not include analyses of waste streams and, thus, do not relate directly to concerns about hazardous waste. For example, information relating to the risks associated with the use of creosote- and pentachlorophenol-based wood preservatives would have little direct relevance to the hazards of disposal of wastewater treatment sludges from wood preserving processes that use creosote and/or pentachlorophenol. These wastes are listed in 40 CFR 261.32. In a separate notice, the Agency in fact has announced that it will not wait until the completion of the RPAR review of wood preservatives before proceeding with regulation of these wastes under RCRA. 45 FR 74885, 74888-89 (November 12, 1980). The Agency recognizes, however, that in unusual instances it may be appropriate to defer action under RCRA while RPAR reviews are generating information.

The Agency agrees with AWPI that the RPAR review of wood preservatives could provide meaningful information with respect to the risks presented by disposal of arsenical-treated wood and that it is appropriate for the Agency to defer temporarily the full impact of characterizing arsenical-treated wood as a hazardous waste until the pending RPAR review has progressed further. As AWPI has pointed out, ground-contact uses of arsenical-treated wood present risks similar to the risks associated with land burial of discarded arsenical-treated wood. Therefore, the RPAR review, which will analyze to some extent the risks associated with ground-contact uses of arsenical-treated wood, is likely to produce information directly relevant to the risk associated with disposal of arsenical-treated wood by land burial. In addition, the RPAR review may provide guidance with respect to waste management procedures which might be specifically appropriate to disposal of arsenical-treated wood.

Although the Agency believes it appropriate to await further progress of the RPAR review of wood preservatives before making Subtitle C requirements completely applicable to disposal of arsenical-treated wood, the Agency believes that Subtitle C requirements should apply immediately to arsenical-containing wood wastes such as wastes generated by sawmills or by facilities at which arsenical preservatives are applied to wood. These arsenical-treated wood wastes are likely to be generated and managed in larger, more concentrated quantities than wastes generated by ultimate users of arsenical-treated wood. Moreover, these generators' wastes might be in a form—such as sawdust—which presents risks dissimilar to those which the RPAR review will analyze. In addition, disposal of freshly-treated wood by sawmills or processors is likely to present greater hazards than wood which has been treated years prior to use and disposal. For these reasons, today's action provides a temporary exclusion from Subtitle C only for arsenical-treated wood wastes generated by persons who utilize such treated wood or wood products for the woods' intended end use.

For the reasons set forth above, the Agency has decided to defer, for an estimated three to six-month period, applying RCRA Subtitle C requirements to discarded arsenical-treated wood or wood products following these materials' intended end use. It should be noted, however, that the decision to await further progress of the RPAR review does not signify that discarded arsenical-treated wood and wood products will be excluded permanently from all Subtitle C requirements if the Agency's Office of Pesticide Programs determines that certain ground uses of arsenical wood preservatives do not present unreasonable risks. Such a determination under FIFRA does not necessarily mean that the pesticide is not hazardous; it may mean that the economic benefits of a pesticide are great enough that the risk should be tolerated. This conclusion—if it is reached by the Agency's Office of Pesticide Programs—would not necessarily indicate that the disposal of arsenical-treated wood at the expiration of its useful life should not be subject to safeguards imposed under RCRA.

IV. Interim Final Promulgation

This temporary exclusion from Subtitle C requirements is being promulgated in interim final form. Thus, discarded arsenical-treated wood or wood products following these materials' intended end use is no longer subject to Subtitle C requirements on the basis of the arsenical treatments. This amendment is final for purposes of the 90-day petition deadline under Section 7006 of RCRA. The Agency, however, is soliciting comments on the amendment.

The Agency is making this amendment effective immediately because public comment has been submitted and because delay in promulgating the temporary exclusion could cause significant harm to the regulated community. Since it was public comment which prompted the Agency to promulgate this amendment, the policy underlying solicitation of comments prior to the effectiveness of regulations has been substantially satisfied. The purpose of the temporary exclusion is to defer imposing the full Subtitle C requirements for only a few months to await further development of pertinent information. During this period, the most likely sources of possible hazard—entities such as sawmills—will be subject to Subtitle C. Thus, the Agency believes that there will be sufficient protection of public health. Accordingly, good cause exists for adopting this regulation in interim final form (*see* 5 U.S.C. § 553(b)(B)).

V. Solicitation of Public Comments

The Agency invites further public comments with respect to any aspect to today's action. In particular, the Agency would welcome comments relevant to the following issues:

1. What percentage of these wastes fail the test for the characteristic of EP toxicity? Do any particular types of arsenical-treated wood products fail more that others? What are the results of particular EP toxicity tests for arsencial-treated wood products? (These data should be currently available, in light of generators' obligations under 40 CFR § 262.11 to determine whether their waste is hazardous.) [1]

2. What are the usual disposal practices for these wastes? What percentage of this material is reused, what are the types of reuses, and what percentage of reuses constitute direct land application of the material?

3. How many generators which are not subject to the small generator exclusion (40 CFR 261.5) would become generators of hazardous waste but for the promulgation of today's exclusion? What is the volume of waste that they generate?

4. What modifications, if any, in the waste management standards established in 40 CFR Part 264 and 40 CFR Part 265 should be made if the Agency were to conclude that the disposal of arsenical-treated wood by all generators should be subject to regulation under Subtitle C?

Dated: November 19, 1980.

Douglas M. Costle,

Administrator.

Title 40 CFR Part 261 amended as follows:

1. In § 261.4, Exclusions, add the following paragraph (b)(8):

§ 261.4 [Amended]

(b) * * *

(8) Solid waste which consists of discarded wood or wood products which fails the test for the characteristic of EP toxicity and which is not a hazardous waste for any other reason if the waste is generated by persons who utilize the arsenical-treated wood and

[1] Today's action, of course, does not excuse generators of these wastes from their past obligation to determine if their wastes are hazardous and, in the case of large quantity generators, to have notified the Agency as of August 18, 1980.

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wood products for these materials' intended end use.

[FR Doc. 80-36683 Filed 11-24-80; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL 1681-7]

Hazardous Waste Management System: Identification and Listing of Hazardous Waste

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is today finalizing its lists of commercial chemical products, off-specification products, and intermediates that, when disposed of, are considered to be hazardous wastes (40 CFR 261.33). These lists were initially promulgated in interim final form on May 19, 1980 (45 FR 33124–33127). In addition, the Agency is deleting ethylenediamine (Hazardous Waste No. P053), N-nitrosodiphenylamine (Hazardous Waste No. P083), oleyl alcohol condensed with 2 moles of ethylene oxide (Hazardous Waste No. P086), 1,2-propanediol (Hazardous Waste No. P100), and chlorodibromomethane (Hazardous Waste Nos. U040 and U065) from the list of generically-named chemicals in § 261.33 (e) and (f), and making a number of technical changes in the listing descriptions of other listed, generically-named chemicals. Appendix VIII of Part 261 is being amended to reflect these deletions, and to add one compound whose name was omitted.

The Agency also is removing all trade names from the lists of § 261.33 (e) and (f), but clarifying that the scope of § 261.33 (e) and (f) includes in addition to the commercially pure grades of the chemicals, all technical grades, and all formulated products in which the listed chemical is the sole active ingredient. Finally, the Agency is responding to certain questions regarding the interpretation of § 261.33, and indicating that additional questions will be answered in a forthcoming Regulatory Interpretation Memoranda (RIM).

DATES: Effective Date: November 19, 1980. However, persons handling materials covered by this regulation which are formulated products in which a listed chemical is the sole active ingredient, and who have not yet notified the Agency due to a misunderstanding of the scope of the listings must do so by February 23, 1980. Facilities managing such wastes still may qualify for interim status if they submit a Part A permit application by May 25, 1981 (or, in the case of facilities which already have applied to manage other identified or listed hazardous wastes, if they submit an amended Part A application by that date). Interim status standards for all such facilities become effective on May 25, 1981.

ADDRESSES: The public docket for this regulation is located in Room 2711, U.S. Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, and is available for viewing from 9 a.m. to 4 p.m. Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: For general information, contact David Friedman, Office of Solid Waste, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 755–9187.

For information in implementation contact:

Region I—Denis Huebner, Chief, Waste Management Branch, John F. Kennedy Building, Boston, Massachusetts 02203, (617) 223–5777.

Region II—Dr. Ernest Regna, Chief, Solid Waste Branch, 26 Federal Plaza, New York, New York 10007, (212) 264–0504/5.

Region III—Robert L. Allen, Chief, Hazardous Materials Branch, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597–0980.

Region IV—James Scarbrough, Chief, Residuals Management Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365, (404) 881–3016.

Region V—Karl J. Klepitsch, Jr., Chief, Waste Management Branch, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6148.

Region VI—R. Stan Jorgensen, Chief, Solid Waste Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270, (214) 767–2645.

Region VII—Robert L. Morby, Chief, Hazardous Materials Branch, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 374–3307.

Region VIII—Lawrence P. Gazda, Chief, Waste Management Branch, 1860 Lincoln Street, Denver, Colorado 80203, (303) 837–2221.

Region IX—Arnold R. Den, Chief, Hazardous Materials Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556–4606.

Region X—Kenneth D. Feigner, Chief, Waste Management Branch, 1200 6th Avenue, Seattle, Washington 98101, (206) 442–1260.

SUPPLEMENTARY INFORMATION: On May 19, 1980, as part of its final and interim final regulations implementing Section 3001 of RCRA, the Agency promulgated as § 261.33 of the regulations a list of 361 commercial chemical products or manufacturing chemical intermediates which are hazardous wastes if they are discarded or intended to be discarded. (45 FR 33124–33127.) Section 261.33 also lists as hazardous wastes off-specification variants and the residues and debris from the clean-up of spills of these 361 chemicals, if discarded or intended to be discarded (§ 261.33 (b) and (d)). Finally, § 261.33 lists as hazardous wastes the containers and inner liners of containers that have held 122 of these chemicals (those listed in paragraph (e)), if they are discarded or intended to be discarded, unless they have been triple rinsed with an appropriate solvent or have been decontaminated in an equivalent manner. (§ 261.33(c).) The regulation also covers materials not specifically listed by name, so long as they "have the generic name listed in paragraphs (e) or (f) . . . ." (§ 261.33 (a), (b), (c), and (d).)

The Agency received a large number of comments on this regulation. The comments for the most part challenged the Agency's decision to list particular substances as hazardous wastes. Some questions also were raised regarding the scope of the regulation, particularly with respect to trade products containing a listed chemical but not specifically listed themselves. Comments also were submitted concerning the difficulty of determining the chemical constituents of unlisted trade name products. Finally, many questions have been received regarding the interpretation of § 261.33.

We are setting forth in this preamble our disposition of all listings of particular substances, and a summary of the basis for our decision.[1] We also are clarifying the scope of coverage of trade products, and providing guidance as to how to determine whether a given tradename product is regulated under this section. We also are responding to certain of the interpretative questions raised regarding § 261.33. Additional questions will be answered in a forthcoming Regulatory Interpretation Memoranda (RIM).

[1] We also are indicating the appropriate conforming amendments to Appendix VIII to Part 261.

I. Finalization of Chemical Product Names in § 261.33 (e) and (f)

A. The changes made in response to comments on specific listings are described summarily below. More detailed explanations are contained in the revised Background Document.

EPA hazardous waste No.	Compound name	Action taken	Reason
P019 and U160	2-Butanone peroxide (Methyl ethyl ketone peroxide)	Deleted from § 261.33(e). Remains in § 261.33(f). Added (R) designation.	2-Butanone peroxide and methyl ethyl ketone peroxide, synonyms for the same compound, were mistakenly included in both the § 261.33 (e) and (f) lists. This compound does not meet the criteria for listing as an acutely hazardous waste. However, the compound's oral (rat) LD50 of 484 mg/kg qualifies it for continued inclusion in § 261.33(f). Moreover, the compound is reactive, since it is an oxidizer.
P025	1-(p-Chlorobenzoyl)-5-methoxy-2-methylindole-3-acetic acid.	Moved from § 261.33(e) to § 261.33(f)	After evaluating the data supplied by the commenter which indicated that the correct oral (rat) LD50 value for the subject compound (also known as indomethacin) is 1100 mg/Kg, not the cited 12 mg/Kg, the Agency concluded that waste does not pose an acute hazard. However, since the Agency's Carcinogen Assessment Group has concluded that substantial evidence of carcinogenicity exists for indomethacin, the waste will remain listed under § 261.33(f) as U245.
P032	Cyanogen bromide	Moved from § 261.33(e) to § 261.33(f)	The LC50 value cited in the May 19th Background Document was incorrect. According to new data, the compound does not meet the criteria for listing as an acutely toxic waste. However, cyanogen bromide's inhalation (rat) LC50 of 4.35 mg/l/hr—only slightly less toxic than the standard for an acutely hazardous waste—qualifies it for inclusion as a hazardous waste. It thus remains listed under § 261.33(f) as U246.
P035	2,4-Dicholorophenoxyacetic acid [2,4-D]	Moved from § 261.33(e) to § 261.33(f) and listing clarified.	Re-evaluation of this listing in light of data received during the comment period indicates that the compound does not meet the criteria for listing as an acute hazard. Since the toxicity of 2,4-D is well recognized (for example, it is a National Interim Primary Drinking Water Standard pollutant), the compound is listed as a hazardous waste under § 261.33(f) as U240. The active pesticide ($C_6H_3(Cl_2)OCH_2COO$ moiety) is marketed commercially in a number of chemical forms. To clarify that the listing is meant to cover these various forms, the listing description has been clarified by explicitly including 2,4-D's salts and esters.
P052	Ethylcyanide	Deleted	Listing duplicated P101 listing.
P053	Ethylenediamine	Deleted	LDLo value cited in the May 19th Background Document was incorrect. New data indicates that the compound is unlikely to pose a substantial hazard to human health or the environment even if the waste is mismanaged, so the waste therefore has been deleted from § 261.33.
P061	Hexachloropropene	Moved from § 261.33(e) to § 261.33(f)	The LC50 value cited in the May 19th Background Document was incorrect. According to new data, the compound does not meet the criteria for listing as an acutely toxic waste. However, hexachloropropene's inhalation (rat) LC50 of 2.4 mg/l/hr—only slightly less toxic than the standard for an acutely hazardous waste—qualifies it for inclusion as a hazardous waste. It thus remains listed under § 261.33(f) as U243.
P079	Nitrogen peroxide	Deleted	Listing duplicated P078 listing.
P083	N-Nitrosodiphenylamine	Deleted	The LD50 value cited in the May 19th Background Document was incorrect. No information is presently available which shows that the waste poses a significant threat to human health or the environment even if it was mismanaged and it therefore has been deleted from § 261.33.
P086	Oleyl alcohol condensed with 2 moles of ethylene oxide.	Deleted	The LD50 value cited in the May 19th Background Document was incorrect. New data indicates that the compound is unlikely to pose a significant threat to human health or the environment even if the waste is mismanaged. This conclusion is supported by the decision of the Food & Drug Administration to permit the use of this compound as an indirect food additive.
P090	Pentachlorophenol	Moved from § 261.33(e) to § 261.33(f)	After reviewing in more detail the available studies, the Agency has concluded that pentachlorophenol does not meet the criteria for an acutely hazardous waste (see Listing Background Document for Wood Preserving, response to comments, November 1980). However, its toxicity is well recognized and the waste will remain listed under § 261.33(f) as U242.
P100	1,2-Propenediol	Deleted	The LD50 value cited in the May 19th Background Document was incorrect. New data indicates that the compound is unlikely to pose a significant hazard to either human health or the environment even if the waste is improperly managed. This decision is further supported by the Food & Drug Administration's approval of this compound as a direct food additive.

I. *Finalization of Chemical Product Names in § 261.33 (e) and (f)*—Continued

A. The changes made in response to comments on specific listings are described summarily below. More detailed explanations are contained in the revised Background Document.

EPA hazardous waste No.	Compound name	Action taken	Reason
P117	Thiuram	Moved from § 261.33(e) to § 261.33(f) and listing changed to clarify the specific waste being regulated.	According to the NIOSH "Registry of Toxic Effects of Chemical Substances", thiuram is a synonym for bis(dimethylthiocarbamoyl) disulfide. Comments were received which indicated that other compounds were also known as "thiurams". We have accordingly changed the listing "thiuram" to clarify that the intended compound is "bis(dimethylthiocarbamoyl) disulfide". Secondly, the LDLo data cited in the May 19th Background Document was incorrect. According to the new data, the waste does not meet the standard for an acutely hazardous waste. However, bis(dimethylthiocarbamoyl) disulfide's synergistic action with alcohol could pose a substantial hazard to human health if the waste was mismanaged and, as a result, contaminated drinking water. Thus the compound has been listed in § 261.33(f) as U244.
U040 and U065	Chlorodibromomethane and Dibromochloromethane	Deleted	After reevaluating the available environmental and toxicological information, the Agency has concluded that the information is not conclusive enough to justify retaining the listing. Pending receipt of additional data, the waste has been removed from inclusion under § 261.33.
U044	Chloroform	Deleted (I) designation	Mistakenly included. Chloroform does not have a flash point below 60°C.
U100	Dimethylnitrosamine	Deleted	Acutely toxic and remains listed as P082.
U104	2,4-Dinitrophenol	do	Acutely toxic and remains listed as P048.
U154	Methanol	Changed to (I) designation	After considering the comments received, the Agency has concluded that it has insufficient information to justify listing methanol for toxicity. However, since it has a flash point of 11°C, it will remain listed under § 261.33(f) as an ignitable waste.
U161	Methyl isobutyl ketone	Changed to (I) designation	After considering the comments received, the Agency has concluded that it has insufficient information to justify listing methyl isobutyl ketone for toxicity. However, since it has a flash point of 22.8°C, it will remain listed under § 261.33(f).
U197	Quinones	Changed to p-benzoquinone	As the May 19th Background Document indicated, the Agency's available toxicological data referred to p-benzoquinone only. The original listing of "Quinones" thus was over-inclusive. We are accordingly revising the listing description. Appendix A to the May 19th listing Background Document summarizes adverse health and environmental effects associated with p-benzoquinone.
U202	Saccharin	Added to listing ". . . and salts."	The May 19th Background Document was intended to include both the parent and its salts, since normal commercial use includes (and is known to include) both forms. In light of this common usage, we do not believe that any notice and comment issues are present. The arguments that saccharin is not carcinogenic were not deemed persuasive enough by the Agency to warrant deletion from § 261.33 list. That saccharin poses a significant carcinogenic hazard is amply demonstrated by the warnings that are required by the Food & Drug Administration to appear on any food to which saccharin is added.
U121	Trichlorofluoromethane	Deleted	Listing duplicated U121 listing.
U238	Urethane	Listing description modified	The original listing of urethane has been changed to read "ethyl carbamate (urethan)" to indicate more clearly that the listing does not refer to either the polymers commonly known as "polyurethanes" or their precursors.
U239	Xylene	Changed to (I) designation	Xylene was mistakingly listed as toxic instead of as ignitable. While xylene does not appear to pose a sufficient toxicity hazard for listing as a toxic waste, as the May 19th Background Document indicated, xylene is an ignitable waste due to its flash point of 27°C.

B. In addition to the above changes made in response to comments, the following changes, described summarily below, have been made as a result of the Agency's review of the interim final regulations.

EPA hazardous waste No.	Compound name	Action taken	Reason
P006	Aluminum phosphide	Added (T) designation	In addition to its reactivity toward water (indicated in the May 19th Background Document), the waste is also acutely toxic because of its toxicity. The (T) designation had been omitted inadvertently.
P030	Cyanide salt mixtures not otherwise specified	Modified listing description	Clarify the meaning of the term "cyanides" in light of a comment which indicated that the listing might be misunderstood.
P055	Ferric cyanide	Deleted	Listing duplicated P030 listing.

I. *Finalization of Chemical Product Names in § 261.33 (e) and (f)*—Continued

EPA hazardous waste No.	Compound name	Action taken	Reason
P065	Mercury fulminate	Added (R) designation	The (R) designation was omitted inadvertently. While mercury fulminate is toxic (as the May 19th Background Document points out), it is also acutely hazardous because of mercury fulminate's explosive properties.
P076	Nitrogen tetroxide	Deleted	Listing duplicated P078 listing.
P091	Phenyl dichloroarsine	Deleted	Listing duplicated P036 listing.
P097	Phosphorothioic acid, O,O-dimethyl ester, O-ester with N,N-dimethyl benezene sulfonamide.	Listing corrected	The Agency had mistakenly listed this compound. It does not exist. The correct compound is "Phosphorothioic acid, O,O-dimethyl O-[p-((dimethylamino)-sulfonyl)phenyl] ester."
P112	Tetranitromethene	Changed to (R) designation	The (R) designation was inadvertently omitted. While tetranitromethane is toxic (as the May 19th Background Document points out), it is acutely hazardous because of tetranitromethane's explosive properties.
U001	Acetaldehyde	Changed to (I) designation	This compound does not pose a sufficient hazard for listing because of toxicity. However, acetaldehyde's flash point of −37.8°C classes it as a hazardous waste by reason of ignitability.
U006	Acetyl chloride	Added (R) designation	The reactivity designation was mistakenly omitted from the listing, although the May 19th Background Document cited reactivity as a reason for listing.
U012	Aniline	Added (T) designation	In addition to aniline's ignitable properties, it is also toxic with an oral (rat) LD50 of 440 mg/kg (Merck Index).
U019	Benzene	Added (I) designation	As well as being toxic, this compound is highly flammable (10–12°C). (Merck Index.)
U033	Carbonyl fluoride	Added (R) designation	In addition to carbonyl fluoride's toxic properties, as the May 19th Background Document indicates, it also poses a hazard due to its reactivity.
U052	Cresylic acid	Deleted	Listing duplicated U052 listing, which now reads cresol and cresylic acid.
U055	Cumene	Changed to (I) designation	This compound does not pose a sufficient hazard for listing because of toxicity. However, cumene poses an ignitability hazard due to its flash point of 44°C.
U074	1,4-Dichloro-2-butene	Added (I) designation	A review of the literature indicated that as well as being toxic, this compound is highly flammable (flash point of 27°C).
U085	1,2:3,4-Diepoxybutane	Listing corrected	Clarification, prefix omitted by mistake.
U117	Ethyl ether	Changed to (I) designation	This compound does not pose a sufficient hazard for listing because of toxicity. However, ethyl ethers flash point of −45°C classified it as an ignitable waste.
U140	Isobutyl alcohol	Added (I) designation	This ignitability designation was mistakenly omitted. As the F005 Listing indicated, the waste posses a flash point of 26°C. (See discussion in section I. C. of this preamble.)
U152	Methacrylonitrile	Added (I) designation	As well as being toxic, this compound is highly flammable (12°C).
U153	Methanethiol	Added (I)	As well as being toxic, this compound is highly flammable (−18°C).
U156	Methyl chlorocarbonate	Added (I) designation	This designation was mistakenly omitted although the May 19th Background Document indicated that the waste presents a hazard due to ignitability. The waste in fact has a flash point of 12°C.
U162	Methyl methacrylate	Added (I) designation	This designation was mistakenly omitted from the regulation, although the May 19th Background Document indicates that the compound is ignitable. The waste, in fact, possesses a flash point of 10°C.
U175	N-Nitrosodi-n-propylamine	Deleted	Listing duplicated U111 listing
U194	n-Propylamine	Added (T) designation	The toxic designation was omitted mistakenly. Further discussion is contained in section I. C. of this preamble.
U223	Toluene diisocyanate	Added (R) designation	As well as being toxic, this compound is highly reactive. See discussion in 2. C. of this preamble.
U244	Toxaphene	Moved from § 261.33(f) to § 261.33(e)	Material has an oral (rat) LD50 of 40 mg/Kg; thus meeting the standards for an acutely hazardous waste. Its new hazardous waste number is P123.

C. Several comments were received which argued against the listing of a specific compound but were judged by the Agency to be nonpersuasive. These comments are summarized below along with the reason for our decision to retain the chemical in the § 261.33 lists.

EPA hazardous waste No.	Compound name	Reason
PO 56	Fluorine	This chemical was listed as intended. The hazardous material is flourine, the diatomic molecule F_2, not the polynuclear aromatic "fluorene" discussed in the comment. Since flourine has a reported inhalation (human) TCLo of .00035 mg/l/hr, which falls within the standards for an acutely hazardous waste, it will remain listed under § 261.33(e).
P107	Strontium sulfide	While the oral (rat) LD50 data cited in the May 19th Background Document was incorrect, the correct oral (human) TCLo data which was cited by the commenter—50 mg/Kg (Letter from Chemcial Products Corp., dated August 18, 1980)—confirms the agency's original classification of this waste as acutely hazardous.

EPA hazardous waste No.	Compound name	Reason

EPA hazardous waste No.	Compound name	Action taken	Reason

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EPA hazardous waste No.	Compound name	Reason
U007	Acrylamide	The Agency admits that the Health and Environmental Effects profile for acrylamide was unavailable for comment when the regulations were promulgated. However, the Agency strongly believes that sufficient information on the toxicity/carcinogenicity of this compound was presented in the listing Background Document for waste K014 to support the continued inclusion of acrylamide under § 261.33.
U030	4-Bromophenyl phenyl ether	The commenter claims that this compound is not in commerical use. Pending verification of the claim the compound will remain listed under § 261.33.
U037	Chlorobenzene	As was discussed in the Health and Environmental Effects Profile cited in the May 19th Background Document, chlorobenzene is absorbed from the gastrointestinal tract and is in part metabolized to chlorinated phenols. Although its acute toxicity is not very high, many chronic effects have been noted. Continued administration at low doses inhibits red blood cell formation, induces eosinophilia, and chromosome changes in the rat. Decreased spermatogenesis and other gonadal effects were also noted in male dogs and in female rats exposed to low doses. Chlorobenzene has also been found to be mutagenic in certain short term bioassays.
U075	Dichlorodifluoromethane	Commenter did not present any data to argue against the continued listing of dichlorodifluoromethane and the waste thus will remain listed. It should be noted that the Agency's overriding concern with this compound, as with all chlorinated fluorocarbons, relates to the fact that chlorinated fluorocarbons may indirectly cause skin cancer by depletion of the stratopheric ozone. For further information, the reader is referred to the Listing Background Document "Spent Halogenated and Non-Halogenated Solvents and Still Bottoms/Sludges From The Recovery Of Those Solvents."
U080	Dichloromethane	The Agency disagrees with the comment that dichloromethane does not pose a hazard if mismanged. Although the NCI sponsored bioassy studies have not been completed, EPA has found suggestive evidence of its carcinogenicity. Therefore, while the Agency is revising the Background Document to indicate that dichloromethane is only a suspect carcinogen, it cannot ignore this preliminary finding particularly in light of the large quantity of this material in use and the likelihood of its being discarded. For further information the reader is referred to the Listing Background Document "Spent Halogenated and Non-Halogenated Solvents and the Still Bottoms/Sludges From the Recovery of these Solvents."
U102 and U107	Dimethyl phthalate (U102) and Di-n-octyl phthalate (U107).	While these compounds are not acutely toxic to man, they have been found to be teratogenic in rats, causing fetal resorbtion, gross abnormalities, and decreased fetal weight. Dimethyl phthalate is mutagenic in microbial assay systems. In addition, a recent report (Water Quality Criteria Document: Phthalate Esters, NTIS PB No. 81-117780) indicated that neurotoxic effects have been observed in workers exposed to mixtures of phthalates.
U121	Fluorotrichloromethane	Fluorotrichloromethane has been listed because of the danger it poses to the earth's ozone layer and thus its removal from the list of toxic chemicals under § 307 of the Clean Water Act is not germane to the reason it was listed as a hazardous waste.
U140	Isobutyl Alcohol	The Health and Environmental Effects Profile cited in the May 19, 1980 Background Document (Appendix A of the Listing Background Document) discusses and supports the listing of this waste as toxic. More specificially, oral administration in rats of relatively high concentrations of this substance resulted in biochemical and histologic liver changes. Liver carcinomas and sarcomas as well as mycloid leukemia have also been produced in this species. Additionally, this compound should also have been listed as ignitable in § 261.33(f), since the May 19, 1980 listing of waste F005 clearly indicates that the compound is ignitable. The waste, in fact, possesses a flash point 28°C. Isobutyl alcohol also will be added to Appendix VII of Part 261, from which it was omitted inadvertently.
U184	Pentachloroethane	Contrary to claims of the commenter, a Health and Environmental Effects Profile for this compound was published (Appendix A of §§ 261.31 and 261.32 Listing Background Documents, pp. 435-453. According to this profile, release of pentachloroethane to the environment poses a potential hazard to aquatic ecosystems. For example, according to the recent Water Quality Criteria Document (U.S. EPA, Ambient Water Quality Criteria: Chlorinated Ethanes. EPA 440/5-80-029. October 1980.), the maximum concentration that can be present in surface waters without danger to the exosystem is 38-87 μg/l. Pentachloroethane also is bioaccumulative, a futher reason for its continued listing.
U188	Phenol	The Agency strongly disagrees with the comment that mismanagement of waste phenol does not pose a hazard to human health. While the carcinogenicity of phenol has not been firmly established, both liver and kidney damage to humans will result from chronic exposure to phenol with death a potential consequence. In addition, the acute toxicity of phenol results in central nervous system depression with symptoms severe enough to earn phenol a toxicity rating of 'High' in Sax (*Dangerous Properties of Industrial Materials*, Fifth Edition, 1979, Van Nostrand Reinhold Co., New York). This standard reference indicates that "death or permanent injury may occur due to exposure at normal use . . .". Therefore, the Agency will continue to include phenol under § 261.33(f).
U194	n-Propylamine	While the commenter believes that compounds, such as this one, having an oral (rat) LD50 of 570 mg/kg are not toxic, the Agency disagrees. Other standard sources support the Agency's viewpoint. For example, "Clinical Toxicology of Commercial Products", (3rd ed.) considers compounds which have an oral LD50 (as determined using rats) in the range of 500 mg/kg to 5000 mg/kg to be toxic to moderately toxic; however, it should be noted that this compound is at the higher end of the range and would tend to be considered toxic rather than moderately toxic.
U207	Tetrachlorobenzene	The Health and Environmental Effects Profile cited in the May 19th Backgound Document discusses and supports the listing of all waste commercial chlorinated benzenes. Among the specific toxic effects of tetrachlorobenzene are its aquatic toxicity (14.5 μg/l) and bioconcentration factor (1800X). Since the commenter did not present any specific evidence or reasons for the Agency not to list tetrachlorobenzene as a hazardous waste, it will remain listed under § 261.33(f).
U212	2,3,4,6-Tetrachlorophenol	As stated in the Health Effects Profile for this compound, 2,3,4,6-Tetrachlorophenol is fetotoxic in rats, and inhibits both carbohydrate metabolism and the liver oxidase system. It also is bioaccumulative (bioaccumulation factor 1100). EPA has established 1 μg/l as the ambient water quality criterion based on organoleptic effects; 440 μg/l was established for the protection of aquatic life.
U220	Toluene	While toluene has a relatively low acute toxicity (oral [rat] LD50 of 5000 mg/Kg), as described in the cited Health and Environmental Effects Profile, low level chronic exposure to toluene has caused chromosome damage in humans and has led to the development of neuro-muscular disorders. Toluene has also reported to cause reproductive problems to female workers during occupational exposure.
U223	Toluene diisocyanate	The Agency believes that toluene diisocyanate (TDI) should continue to be listed as a hazardous waste when discarded. TDI exposure produces respiratory sensitization, and decreased lung function. Exposure to high concentrations can result in pulmonary edema and death. Additionally, the reaction of free isocyanate groups with water usually occurs very rapidly, is exothermic, and results in a possibly explosive release

EPA hazardous waste No.	Compound name	Action taken	Reason
U226	1,1,1-Trichloroethane		of toxic and potentially carcinogenic aromatic chemicals. Damage incidents of this type actually have occurred in waste management practice (see listing Background Document on Toluene Diisocyanate Production). No data was presented by the commenter to justify the contention that waste 1,1,1-trichloroethane does not pose a health hazard and should not be listed. As the bioassays described in the May 19th Appendix A Health and Environment Effects Profile indicate increased tumor production was noted in animels treated with 1,1,1-trichloro-ɛ-ethane. In addition, *in vitro* transformation of rat embryo cells and subsequent firbosarcoma production by these cells when injected *in vivo*, also indicates that 1,1,1-trichloroethane has carcinogenic potential. It should also be noted that the Agency recently determined that 1,1,1-Trichloroethane should continue to be listed as a toxic pollutant under § 307(a) of the Clean Water Act.
U232 and U233	2,4,5-Trichlorophenoxyacetic acid and 2,4,5-Trichlorophenoxypropionic acid.		One commenter questioned the presence of these constituents on the § 261.33 list when the waste constituents are among the parameters measured by the characteristic of Extraction Procedure Toxicity (EP). We believe the concern is largely academic since discarded commercial chemical products consisting of these pesticides will undoubtedly contain concentrations many orders of magnitude above the EP levels.

D. The Agency received several comments indicating that a mistake had been made in converting from one set of units to another during the computation of inhalation toxicity values. We acknowledge that for a number of the compounds listed for acute inhalation toxicity, the conversions were erroneous so that the values given in the May 18th Background Document were incorrect. After recalculating the toxicity values, it was found that the following compounds still meet the criteria for lising as an acutely hazardous waste [inhalation (rat) LC50≤ 2 mg/l/hr or inhalation (human) LCLo ≤ 2 mg/l]. The recalculated raw data and the correct values are presented below. The formulas used in converting inhalation toxicity values are:

$ppm = mg/m^3 \times (22.4/MW)$
$mg/l = (mg/m^3)/1000$
$mg/l = (MW)(ppm)/(22.4)(1000)$
(mg/l/minute)/80 = mg/l/hour
(mg/l/hour[s]) × (hour[s] = mg/l/hour
MW = Molecular weight

EPA hazardous waste No.	Compound name	Molecular weight	Cited value (mg/l/hr)	Correct value (mg/l/hr)	Published value [source of data]
P005	Allyl alcohol	[illegible]	[illegible]	0.06	TCLo(hum) 25ppm [N]
P016	Bis(chloromethyl) ether	115	[illegible]	[illegible]	LC50(rat) 7ppm/7 hr [S]
P017	Bromoacetone	137	[illegible]	0.53	TCLo(hum) 3.2mg/l/10min [D]
P026	alpha-Chlorotoluene	127	[illegible]	1.70	LC50(rat) 150ppm/2hr [S]
P031	Cyanogen	52	0.16	[illegible]	LC50(rat) 350ppm/hr [S]
P033	Cyanogen chloride	61	0.59	[illegible]	TCLo(hum) 10mg/m³ [S]
P056	Flourine	38	1.85	0.03	LC50(rat) 185ppm/hr [S]
P064	Isocyanic acid, methyl ester	41	[illegible]	0.004	TCLo(hum) 2ppm [N]
P066	Methomyl	162	0.77	0.56	LC50(rat) 77ppm [N]
P068	Methyl hydrazine	46	2.96	[illegible]	LC50(rat) 74ppm/4hr [S]
P073	Nickel carbonyl	171	0.73	0.12	LC50(rat) 240mg/m³/30mn [S]
P096	Phosphine	34	0.44	[illegible]	LC50(rat) 11ppm/4hr [S]
P110	Tetraethyl lead	324	1.58	[illegible]	LC50(rat) 6ppm [S]
P118	Trichloromethanethiol	[illegible]	[illegible]	0.45	

[1] Listed in oral exposure column of Backgound Document instead of inhalation exposure column.
[N] = NIOSH Registry, [S] = Sax, [D] = DOT.

E. The Agency also received a number of inquiries regarding the specific nomenclature used in listing the generic chemical names, expressing confusion in certain cases because these compounds often go by a number of different names. In order to eliminate any confusion, the Agency has revised the listing descriptions in § 261.33 (e) and (f). The new lists contain only the International Union for Pure and Applied Chemistry (IUPAC) name and, where available, a cross-reference to the compound's commonly-used generic name. Since the IUPAC name is the one employed in *Chemical Abstracts*, the premier guide to the world's chemical literature, the Agency believes that the new listing descriptions will permit unambiguous compound identification.

In compiling the new regulation, we have listed each identified substance in alphabetical order but have retained the hazardous waste number used in the May 19th, interim final regulation. As a result, the § 261.33 (e) and (f) lists no longer numbered consecutively. Furthermore, where a generic name and the IUPAC name are cross-referenced, both will be listed under the same hazardous waste number, but will not appear consecutively in the regulation. We have chosen this method of organization because we believe additional (and unnecessary) confusion would result if new hazardous waste numbers were assigned to each waste, and because the existing numbers

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already have been used for notification purposes.[2]

F. Asbestos.

The Asbestos Information Association submitted extensive comments arguing that the interim final listing of discarded asbestos (as hazardous waste U013) was procedurally defective for want of prior notice, and substantively unjustified because disposal is already regulated under the National Emission Standard for Asbestos (NESHAP) program (40 CFR Part 61).

We disagree that the interim final promulgation of the asbestos listing was procedurally defective. In our view, the opportunity to comment prior to any regulatory effect of § 261.33 cures any possible procedural deficiencies. The situation here thus is distinguishable from those in such cases as *U.S. Steel Corp.* v. *EPA*, 595 F.2d 207 (5th Cir., 1979), and *State of New Jersey* v. *EPA*, —— F.2d —— (D.C. Cir., 1980), where interim final regulations became effective prior to opportunity for comment.

We are, however, more impressed with the commenter's substantive argument. Certainly, duplicative regulation should be avoided where possible. We therefore are temporarily deferring final promulgation of the listing of asbestos while we investigate further the relationship of the NESHAP and the RCRA management standards, and the extent to which NESHAP facilities afford comparable environmental protection in managing waste asbestos. One possible approach would be to grant NESHAP facilities a RCRA permit by rule, and apply substantive RCRA standards to discarded asbestos up until the point of disposal. (See § 265.1(c) (1) and (2) and § 122.26 (a) and (b) where the Agency has adopted a comparable approach for hazardous wastes also subject to regulation under the Marine Protection, Research, and Sanctuaries Act, and the Underground Injection Control program approved or promulgated under the Safe Drinking Water Act). Another approach would be integration of the Toxic Substances Control Act asbestos-in-the-schools program, the NESHAP program, and RCRA standards into a single regulatory program. The NESHAP program will serve as a safeguard against pollution problems resulting from asbestos disposal pending final determination of this issue.

[2] The Agency has not, however, used IUPAC names in Appendix VIII of Part 261, in large part because no questions have been raised about the identity of the Appendix VIII compounds. The Agency will consider using IUPAC names in Appendix VIII if the regulated community believes that such a change is warranted.

II. Trade Names Included in the List and Scope of Coverage of the Regulation

A. The May 19th regulation applied to all discarded commercial chemical products, manufacturing chemical intermediates, off-specification species, and container and spill residues thereof "having the generic name listed in paragraphs (e) or (f) . . . ." [3] (§ 261.33(a), (b), (d).) The regulation thus clearly included more materials than those listed specifically in § 261.33(e) and (f). A footnote to both § 261.33(e) and (f) likewise indicated that the scope of coverage of these provisions was broader than materials listed by name: "The Agency included those trade names of which it was aware; an omission of a trade name does not imply that the omitted material is not hazardous. The material is hazardous if it is listed under its generic name."

Included in this list of generically-named materials were several hundred trade name products (for example, RAT AND MICE BAIT, RO–DETH, and SPOR–KIL). As the above-cited footnote indicates, these trade names are illustrative, and not the exclusive list of hazardous discarded trade name products. However, the form of the list confused a number of commenters, who questioned why other similarly-constituted products were not named. Other commenters complained that the lists in (e) and (f) operated in a commercially discriminatory manner because their products were included by name, while other comparable products were included only by reference.

In order to eliminate this confusion, the Agency has decided to remove all trade names from the list of generic names in § 261.33(e) and (f). Since no trade names now will appear in the regulation, the footnote to these provisions also will be deleted. As before, all trade name products having a listed generic name are included within the scope of the regulation.

B. Questions also have been raised as to the precise meaning of the regulatory language "having the generic name listed in paragraphs (e) or (f)." The Agency intends that this language include the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. This scope of coverage was expressed in the May 19th regulation where hundreds of such products were listed by name in § 261.33(e) and (f).[4] We also believe that this reading conforms to usual understanding. Commercial chemicals are almost never sold in pure form. Generally, a chemical need not be present at full strength for a product to have its intended effect, and so is diluted to the desired concentration. For practical purposes, however, the product is considered to be the chemical comprising its active portion. For example, persons purchasing the fungicide pentachlorophenol (U–242) do not normally receive a pure chemical, but rather a formulation (e.g., Permatox DP–2) in which the fungicide pentachlorophenol is the active ingredient. There is no doubt, however, that this trade product formulation is identified with the active chemical constituent. Another more homely example is the functional identity of aspirin and acetylsalicylic acid even though an aspirin is not pure active acetylsalicylic acid [5]

This understanding likewise is reflected in the principal journals cataloguing chemical substances. The NIOSH Registry (National Institute of Occupational Safety and Health, *Registry of Toxic Effects of Chemical Substances* (1978 ed.)), for instance, lists generic chemical names along with the synonymous commercial product trade name, explaining that "commercial product trade names are included . . . when they represent a single active chemical entity . . . ." (*id.* at xvii.) *The Farm Chemicals Handbook* (Meister Publishing Co., 1979 ed.), probably the basic reference source for information on the agricultural chemicals industry, likewise lists all trade products having a generically-named chemical as the sole active ingredient as "other names" for that chemical. Similarly, manufacturers of trade name products, in complying with reporting obligations under the Toxic Substances Control Act, voluntarily and routinely report trade names as synonyms for the pure generically-named chemical even though the trade product does not consist of the chemical in its pure form. See, e.g., Toxic Substances Control Act Chemical Substance Inventory, Volume II, p. 111 (Arasan, Arasan 70, Arasan 75, Arasan-M, Arasan 425, Arasan-SF, and Arasan 70–S Red listed as synonyms for thiuram); p. 113 (Arsodent listed as synonym for arsenic trioxide).

Public comment on the interim final regulation likewise reflected an understanding that discarded products containing a generically-named chemical as the sole (or in some cases even the principal) active ingredient were included by the regulation. The Dow Chemical Company, for instance, commented that the "same generic material" generally is sold under many different trademarks, listing as an example 38 chemical names, trade name products, and synonyms for 1,1,1-trichloroethane, widely-used as a solvent. Almost all of these trade names are not the pure chemical, but rather contain the chemical as the (or an) active ingredient.[6] USS Agri-Chemicals, another commenter, also indicated that trade products need not be identical in chemical composition to the generically-named chemical to be thought of as that chemical.

The approach outlined above—that products containing a generically listed chemical as the sole active ingredient are included within the scope of the regulation—has a number of significant advantages. First, the approach seems to reflect normal commercial understanding. Further, a potential unintended loophole for diluted formulations of generically-listed chemicals is eliminated. In addition, the regulation would have little practical effect, and would be at odds with usual understanding, if it were read as applying only to pure chemicals, since 100% pure chemicals are used only rarely in commercial practice.

There should be little question that single active ingredient products containing a generically-listed chemical as its active ingredient will usually and frequently be toxic and thus hazardous waste when discarded. The toxicity data contained in the May 19th Background Document indicates that most of the chemicals need be present in only low concentrations for the product to have toxic effects. We further believe that products which are identified with the generically-listed chemical because the chemical is the sole active ingredient will normally contain concentrations of the chemical far higher than necessary to produce toxic effects or will be present in combination with so-called inert ingredients which tend to magnify its toxic effects (*e.g.*, solvents and surfactants). The products mentioned as synonyms for 1,1,1 trichloroethane in Dow's comments, for example, contain over 90% of the generically-listed chemical. We also note that many of the trade products regulated under this section are pesticides or fungicides, produced for the express purpose of destroying plant or animal life. It is evident that such a substance, when discarded, meets the RCRA definition of hazardous waste.

We recognize that this regulation is deficient in its failure to address products containing mixtures of chemicals listed in § 261.33 as their ingredients. Because these products are normally not thought of as having a 1:1 relationship to a listed compound, we do not think that we can address the problems by means of final or interim final Agency action. We do intend, however, in the near future to propose an amendment to § 261.33 to cover active ingredient mixtures.

We also recognize that some persons legitimately may not have realized the intended scope of coverage of § 261.33 and thus may have not notified the Agency that they generate these materials, nor, in the case of treaters, storers or disposers, filed a permit application as required by sections 3010 and 3005(e) of RCRA. Since this failure is, at least in part, due to an ambiguity in EPA's regulations, we do not believe it fair to penalize persons who thus far have failed to comply. Consequently, persons handling products covered by §261.33 which consist of a listed chemical as the sole active ingredient, and who have not yet notified the Agency, must do so by February 23, 1981.[7] Facilities managing these wastes still may qualify for interim status if they submit a Part A permit application (or an amended Part A application, in the case of facilities which already have applied to manage other identified or listed hazardous wastes) by May 25, 1981.

C. A number of comments indicated that trade name products listed specifically in the May 19th interim final regulation do not contain a generically-named chemical as the sole active ingredient, or (in some cases) do not refer to any specific product formulation but rather to a family of products. Since § 261.33 as promulgated and finalized applies only to sole active ingredient formulations, these products are not presently hazardous wastes when discarded. Trade name products in this category are D–CON (formerly listed as waste P001), PERMATOX (formerly listed as waste P090) and SANTOPHEN (formerly listed as waste P090). The Agency notes, however, that a number of products marketed under these general trademarks are in fact products which consist of a compound listed in § 261.33(e) or (f) as its sole active ingredient, and where this is the case, that trade name product is a hazardous waste when discarded. Examples are PERMATOX DP–2 (technical grade pentachlorophenol), and SANTOPHEN–20 (sole active ingredient pentachlorophenol).

Comments also reflected confusion about two of the other trade name products listed in the May 19th regulation. Even though trade names are now being removed from the text of the regulation, we believe it is important to clarify our intent. One commenter indicated that it handles a product called 'METAFOS 164', a trademark for the surfactant sodium hexametaphosphate. The commenter believed this product was included under the May 19th listing of 'METAFOS', a trade product listed in both the NIOSH Registry and the *Farm Chemicals Handbook* as a synonym for methyl parathion (P071). In fact, the similiarity of product names appears coincidental. The Agency, as stated, intends to regulate only trade products containing a listed chemical (in this case methyl parathion) as the sole active ingredient, so that the product METAFOS 164 would not be a hazardous waste when discarded.

A second, similar situation arose with respect to another listed product, 'THIONEX'. THIONEX is a trade product name for the pesticide endosulfan (waste P050) (*Farm Chemicals Handbook*), and so is a hazardous waste when discarded. According to a commenter, however, an identically-named but chemically very different product also exists. Obviously, only the product consisting of the pesticide endosulfan is a hazardous waste when discarded. Confusion caused by name similarity should be addressed by determining the identity of a product's active ingredient.

III. The Problem of Identifying Which Discarded Trade Name Products Are Hazardous

The Agency is aware that many persons handling commercial products have found it difficult to determine whether these materials are hazardous wastes when discarded because the product's chemical composition is not always readily obtainable. Manufacturers in many cases have been reluctant or have refused to divulge this information, in part because of concern

[3] Containers and liners are included insofar as they held a material "having the generic name listed in paragraph (e)." § 261.33(c).

[4] We are, however, adding appropriate clarifying language to the comment to § 261.33.

[5] Needless to say, neither aspirin nor acetylsalicylic acid are hazardous wastes when discarded.

[6] Dow also commented that discarded products containing chemicals measured by the characteristic of EP toxicity should not be listed in § 261.33, again reflecting an understanding that products containing a § 261.33 (e) or (f) chemical as an active ingredient are covered by the regulation, since the comment would have little point if a pure chemical was involved (*viz.* a material containing 100% 2,4,5-T would always fail the test for the characteristic of EP toxicity).

[7] Under Section 3010 of RCRA, persons who already have notified that they handle any identified or listed hazardous waste are not required to notify again.

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for revealing proprietary data. In the face of these difficulties, some commenters went so far as to suggest that generators not be responsible for complying with the regulations unless they have actual knowledge of the product's chemical composition.

The Agency is taking a number of steps to deal with this problem. First, we are now preparing a directory of chemical products [8] which are hazardous wastes when discarded. The Directory will include generic names, other names by which the chemicals are known (e.g., myrbane oil for nitrobenzene) and the names of trade products which are regulated under § 261.33 as well as the applicable hazardous waste number. The Directory will be advisory, not part of the regulation itself, so that a defendant in an enforcement proceeding will still be able to show that a waste listed in the Directory is not a waste listed in § 261.33. By the same token, absence of a product name from the Directory is not a defense. The Agency will expand the Directory over time to try and provide as complete a list as possible.

A second form of Agency guidance is the recently-implemented RCRA Industry Assistance Hotline. Persons unsure whether the trade name product they are discarding is a hazardous waste may call this toll-free number and provide the name of the product. The Agency will then provide advice as to whether the product is a hazardous waste and its basis for the determination. As with the Directory, the Agency's response will be advisory, not a formal regulatory action. The hotline telephone number is 800–424–9346 (in Washington, D.C., 554–1404).

We also expect that persons unsure of the hazardousness of a given product will call the manufacturer of the product. Although manufacturers may not want to give out the formula for their products, the Agency believes it is reasonable to expect suppliers to inform customers if disposal of the product is regulated under either § 261.33(e) or § 261.33(f). Customers of course have the option of refusing to deal further with a supplier who will not divulge this information.

We disagree strongly with the suggestion that generators lacking actual knowledge of a product's chemical composition remain unregulated. Such a standard provides a strong incentive for generators not to determine whether discarded products are hazardous wastes. One purpose of RCRA is to require closer attention and inquiry into the potentially hazardous nature of discarded materials, and generators of discarded trade products are no exception. Suggestions for further means of dealing with the question of identity are, however, solicited.

[8] SW–884. "Directory of Trade Name Products and Synonyms" will be available from Mr. Ed Cox, Solid Waste Information, U.S. Environmental Protection Agency, 26 West St. Clair St., Cincinnati, Ohio 45268 (telephone number 513–684–5362).

IV. Interpretative Issues

As noted above, most interpretative questions involving § 261.33 will not be resolved until publication of a forthcoming RIM. Certain questions, however, can be dealt with in this preamble.

A. Are solid wastes that contain one or more of the chemicals listed in § 261.33 hazardous wastes by virtue of containing these materials?

Solid wastes which simply contain one of the chemicals listed in § 261.33 are not thereby hazardous. Where EPA intends to list such wastes, it will do so by listing them in §§ 261.31 and 261.32. This intention is in fact clearly expressed in the comment to § 261.33(d) which is part of the promulgated regulation. The purpose of § 261.33 is to regulate only the listed chemical products and intermediates and their trade name equivalents (and certain off-specification variants, emptied containers [9] and spill residues and debris thereof) as hazardous wastes when they are discarded or intended to be discarded.

However, when a solid waste is mixed with one of these discarded materials, the resulting mixture is a hazardous waste until delisted (with certain exceptions set forth in § 261.5(b)). See § 261.3(a)(2)(ii). As set out in § 261.3(b)(2), the solid waste becomes a hazardous waste when the mixing of the § 261.33 chemical takes place either as an act of discarding that chemical or the time the chemical is intended for later discard (*i.e.*, at the time the § 261.33 substance becomes a hazardous waste).

There are many situations where a solid waste becomes a hazardous waste by virtue of the actual or intended discarding of materials listed in § 261.33. Some of these situations are:

1. Where excess, expired or otherwise unwanted commercial chemical products or manufacturing chemical intermediates are discarded by discharging them into a wastewater stream or are discarded by being mixed into other solid wastes.

2. Where off-specification materials that, if they met specification, would be commercial chemical products or manufacturing chemical intermediates, are discarded by being discharged into a wastewater stream or discarded by being mixed into other solid wastes.

Where contaminated residues or debris from the clean-up of spills of listed chemicals are discarded by being mixed into other solid wastes.

B. Are the commercial products and manufacturing chemical intermediates listed in § 261.33 subject to regulation if they are used, reused, recycled or reclaimed in lieu of being discarded?

No. A commercial chemical product or manufacturing chemical intermediate listed in § 261.33 is a hazardous waste only if discarded or intended to be discarded. If it continues to be used or sold, it is not being discarded and therefore is not a hazardous waste. If it is an off-specification material and is reprocessed, recycled or reclaimed it is not being discarded and therefore is not a hazardous waste. Thus the provisions of § 261.6(b) are not intended to apply to reuses of § 261.33 materials, since in such cases the materials are never discarded. The reference in § 261.6(b) to wastes "listed in subpart D" is confusing. Wastes listed in §§ 261.31 and 261.32 are the only wastes intended to be included.

There are numerous situations where the above interpretations apply. Some of these are:

1. Where a customer receives an off-specification product listed in § 261.33 and returns it to the manufacturer for reprocessing, the product is not being discarded and is not a hazardous waste.

2. Where a commercial product becomes excess inventory or outlives its expiration date in a wholesale or retail outlet or in the hands of a user and the supplier takes the product back for resale or reprocessing, the product is not being discarded by the wholesaler, retailer or user and is not a hazardous waste.

3. Where there is breakage of containers holding § 261.33 chemicals and the supplier takes back the affected chemicals, including recovered spilled chemicals, for repackaging or reprocessing, the chemicals are not being discarded and are not hazardous wastes. If, however, some of the spilled chemicals are discarded or intended to be discarded because they cannot be returned (*e.g.*, they are mixed with dirt or other materials), these spilled chemicals (and associated spill cleanup residues and debris) are hazardous wastes.

These are examples of common practice which EPA believes should be encouraged because they avoid discarding valuable materials and

[9] Regulation of containers which formerly held § 261.33 chemicals is addressed elsewhere in this Part X of the Federal Register.

thereby conserve resources, while at the same time avoiding the potential hazards associated with discarding of hazardous chemicals. The above practices also avoid causing many thousands of wholesalers, retailers and users from becoming generators of hazardous wastes because they will be able to return the materials for reuse instead of possibly discarding them. The Agency believes that many of these persons will be unfamiliar or not well acquainted with the regulations and may fail to properly perform the responsibilities of a generator if they have to discard the materials.

It is quite likely that, in some cases, a manufacturer or supplier will find it necessary to discard some portion of the materials returned to him because he is unable to reprocess, repackage, resell or use it. Where this occurs, that portion which is discarded becomes a hazardous waste when it is discarded or when a decision is made to discard the material. In this situation the manufacturer or supplier is the generator of a hazardous waste because he is the "person . . . whose act . . . produces hazardous waste . . ." (see the definintion of "generator" in § 260.10).

C. Are manufactured articles (such as battery and mercury vapor lights) that contain any of the chemicals listed in § 261.33 hazardous wastes by definition if they are discarded or intended to be discarded?

EPA intends that the materials listed in § 261.33 include only those commerical chemical products and manufacturing chemical intermediates that are known by the generic name of the chemicals listed in paragraphs (e) and (f) of that section. Manufactured articles that contain any of the chemicals listed in paragraphs (e) and (f) are rarely, if even, known by the generic name of the chemical(s) they contain and, therefore, are not covered by the § 261.33 listings. Should the Agency find it necessary to list any manufactured articles as hazardous wastes, it will initiate rulemaking to add these articles to § 261.33.

Date: November 20, 1980.

Douglas M. Costle,

Administrator.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

Title 40, Part 261 of the Code of Federal Regulations is amended as follows:

1. Revise § 261.33 to read as follows:

§ 261.33 Discarded commercial chemical products, off-specification species, containers, and spill residues thereof.

The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded:

(a) Any commercial chemical product, or manufacturing chemical intermediate having the generic name listed in paragraphs (e) or (f) of this section.

(b) Any off-specification commercial chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in paragraphs (e) or (f) of this section.

(c) Any container or inner liner removed from a container that has been used to hold any commercial chemical product or manufacturing chemical intermediate having the generic name listed in paragraph (e) of this section, unless:

(1) The container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate; or

(2) The container or inner liner has been cleansed by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

(3) In the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container, has been removed.

(d) Any residue or contaminated soil, water or other debris resulting from the cleanup of a spill, into or on any land or water, of any commercial chemical product or manufacturing chemical intermediate having the generic name listed in paragraphs (e) or (f) of this Section. [Comment: The phrase "commercial chemical product or manufacturing chemical intermediate having the generic name listed in . . ." refers to a chemical substance which is manufactured or formulated for commercial or manufaoturing use which consists of the commercially pure grade of the chemical, any technical grades of the chemical that are produced or marketed, and all formulations in which the chemical is the sole active ingredient. It does not refer to a material, such as a manufacturing process waste, that contains any of the substances listed in paragraphs (e) or (f). Where a manufacturing process waste is deemed to be a hazardous waste because it contains a substance listed in paragraphs (e) or (f), such waste will be listed in either §§ 261.31 or 261.32 or will be identified as a hazardous waste by the characteristics set forth in Subpart C of this Part.]

(e) The commercial chemical products or manufacturing chemical intermediates, referred to in paragraphs (a) through (d) of this section, are identified as acute hazardous wastes (H) and are subject to the small quantity exclusion defined in § 261.5(e). [Comment: For the convenience of the regulated community the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), and R (Reactivity). Absence of a letter indicates that the compound only is listed for acute toxicity.] These wastes and their corresponding EPA Hazardous Waste Numbers are:

Hazardous waste No.	Substance
P023	Acetaldehyde, chloro-
P002	Acetamide, N-(aminothioxomethyl)-
P057	Acetamide, 2-fluoro-
P058	Acetic acid, fluoro-, sodium salt
P066	Acetimidic acid, N-[(methylcarbamoyl)oxy]thio-, methyl ester
P001	3-(alpha-acetonylbenzyl)-4-hydroxycoumerin and salts
P002	1-Acetyl-2-thiourea
P003	Acrolein
P070	Aldicarb
P004	Aldrin
P005	Allyl alcohol
P006	Aluminum phosphide
P007	5-(Aminomethyl)-3-isoxazolol
P008	4-Aminopyridine
P009	Ammonium picrate (R)
P119	Ammonium vanadate
P010	Arsenic acid
P012	Arsenic (III) oxide
P011	Arsenic (V) oxide
P011	Arsenic pentoxide
P012	Arsenic trioxide
P038	Arsine, diethyl-
P054	Aziridine
P013	Barium cyanide
P024	Benzenamine, 4-chloro-
P077	Benzenamine, 4-nitro-
P028	Benzene, (chloromethyl)-
P042	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino)ethyl]-
P014	Benzenethiol
P028	Benzyl chloride
P015	Beryllium dust
P016	Bis(chloromethyl) ether
P017	Bromoacetone
P018	Brucine
P021	Calcium cyanide
P123	Camphene, octachloro-
P103	Carbamimidoselenoic acid
P022	Carbon bisulfide
P022	Carbon disulfide
P095	Carbonyl chloride
P033	Chlorine cyanide
P023	Chloroacetaldehyde
P024	p-Chloroaniline
P026	1-(o-Chlorophenyl)thiourea
P027	3-Chloropropionitrile
P029	Copper cyanides
P030	Cyanides (soluble cyanide salts), not elsewhere specified
P031	Cyanogen
P033	Cyanogen chloride
P036	Dichlorophenylarsine
P037	Dieldrin
P038	Diethylarsine
P039	O,O-Diethyl S-[2-(ethylthio)ethyl] phosphorodithioate
P041	Diethyl-p-nitrophenyl phosphate
P040	O,O-Diethyl O-pyrazinyl phosphorothioate
P043	Diisopropyl fluorophosphate
P044	Dimetilosate
P045	3,3-Dimethyl-1-(methylthio)-2-butanone, O-[(methylamino)carbonyl] oxime
P071	O,O-Dimethyl O-p-nitrophenyl phosphorothioate

Hazardous waste No.	Substance
P082	Dimethylnitrosamine
P048	alpha, alpha-Dimethylphenethylamine
P047	4,6-Dinitro-o-cresol and salts
P034	4,6-Dinitro-o-cyclohexylphenol
P048	2,4-Dinitrophenol
P020	Dinoseb
P085	Diphosphoramide, octamethyl-
P039	Disulfoton
P049	2,4-Dithiobiuret
P109	Dithiopyrophosphoric acid, tetraethyl ester
P050	Endosulfan
P088	Endothall
P051	Endrin
P042	Epinephrine
P046	Ethanamine, 1,1-dimethyl-2-phenyl-
P084	Ethenamine, N-methyl-N-nitroso-
P101	Ethyl cyanide
P054	Ethylenemine
P097	Famphur
P056	Fluorine
P057	Fluoroacetamide
P058	Fluoroacetic acid, sodium salt
P065	Fulminic acid, mercury(II) salt (R,T)
P059	Heptachlor
P051	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,endo-1,4:5,8-dimethanonaphthalene
P037	1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,exo-1,4:5,8-dimethanonaphthalene
P060	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo, endo-dimethanonaphthalene
P004	1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo,exo-dimethanonaphthalene
P060	Hexachlorohexahydro-exo,exo-dimethanonaphthalene
P062	Hexaethyl tetraphosphate
P116	Hydrazinecarbothioamide
P068	Hydrazine, methyl-
P063	Hydrocyanic acid
P063	Hydrogen cyanide
P096	Hydrogen phosphide
P064	Isocyanic acid, methyl ester
P007	3(2H)-Isoxazolone, 5-(aminomethyl)-
P092	Mercury, (acetato-O)phenyl-
P065	Mercury fulminate (R,T)
P016	Methane, oxybis[chloro-
P112	Methane, tetranitro- (R)
P118	Methanethiol, trichloro-
P059	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-
P066	Methomyl
P067	2-Methylaziridine
P068	Methyl hydrazine
P064	Methyl isocyanate
P069	2-Methyllactonitrile
P071	Methyl parathion
P072	alpha-Naphthylthiourea
P073	Nickel carbonyl
P074	Nickel cyanide
P074	Nickel(II) cyanide
P073	Nickel tetracarbonyl
P075	Nicotine and salts
P076	Nitric oxide
P077	p-Nitroaniline
P078	Nitrogen dioxide
P076	Nitrogen(II) oxide
P078	Nitrogen(IV) oxide
P081	Nitroglycerine (R)
P082	N-Nitrosodimethylamine
P084	N-Nitrosomethylvinylamine
P050	5-Norbornene-2,3-dimethanol, 1,4,5,6,7,7-hexachloro, cyclic sulfite
P085	Octamethylpyrophosphoramide
P087	Osmium oxide
P087	Osmium tetroxide
P088	7-Oxabicyclo[2.2.1]heptane-2,3-dicarboxylic acid
P089	Parathion
P034	Phenol, 2-cyclohexyl-4,6-dinitro-
P048	Phenol, 2,4-dinitro-
P047	Phenol, 2,4-dinitro-6-methyl-
P020	Phenol, 2,4-dinitro-6-(1-methylpropyl)-
P009	Phenol, 2,4,6-trinitro-, ammonium salt (R)
P036	Phenyl dichloroarsine
P092	Phenylmercuric acetate
P093	N-Phenylthiourea
P094	Phorate
P095	Phosgene
P096	Phosphine
P041	Phosphoric acid, diethyl p-nitrophenyl ester
P044	Phosphorodithioic acid, O,O-dimethyl S-[2-(methylamino)-2-oxoethyl]ester
P043	Phosphorofluoric acid, bis(1-methylethyl)-ester
P094	Phosphorothioic acid, O,O-diethyl S-(ethylthio)methyl ester
P089	Phosphorothioic acid, O,O-diethyl O-(p-nitrophenyl) ester
P040	Phosphorothioic acid, O,O-diethyl O- pyrazinyl ester
P097	Phosphorothioic acid, O,O-dimethyl O-[p-((dimethylamino)-sulfonyl)phenyl]ester
P110	Plumbane, tetraethyl-
P098	Potassium cyanide
P099	Potassium silver cyanide
P070	Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl]oxime
P101	Propanenitrile
P027	Propanenitrile, 3-chloro-
P069	Propanenitrile, 2-hydroxy-2-methyl-
P081	1,2,3-Propanetriol, trinitrate- (R)
P017	2-Propanone, 1-bromo-
P102	Propargyl alcohol
P003	2-Propenal
P005	2-Propen-1-ol
P067	1,2-Propylenimine
P102	2-Propyn-1-ol
P008	4-Pyridinamine
P075	Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts
P111	Pyrophosphoric acid, tetraethyl ester
P103	Selenourea
P104	Silver cyanide
P105	Sodium azide
P106	Sodium cyanide
P107	Strontium sulfide
P108	Strychnidin-10-one, and salts
P018	Strychnidin-10-one, 2,3-dimethoxy-
P108	Strychnine and salts
P115	Sulfuric acid, thallium(I) salt
P109	Tetraethyldithiopyrophosphate
P110	Tetraethyl lead
P111	Tetraethylpyrophosphate
P112	Tetranitromethane (R)
P062	Tetraphosphoric acid, hexaethyl ester
P113	Thallic oxide
P113	Thallium(III) oxide
P114	Thallium(I) selenite
P115	Thallium(I) sulfate
P045	Thiofanox
P049	Thioimidodicarbonic diamide
P014	Thiophenol
P116	Thiosemicarbazide
P026	Thiourea, (2-chlorophenyl)-
P072	Thiourea, 1-naphthalenyl-
P093	Thiourea, phenyl-
P123	Toxaphene
P118	Trichloromethanethiol
P119	Vanadic acid, ammonium salt
P120	Vanadium pentoxide
P120	Vanadium(V) oxide
P001	Warfarin
P121	Zinc cyanide
P122	Zinc phosphide (R,T)

(f) The commercial chemical products or manufacturing chemical intermediates, referred to in paragraphs (a), (b), and (d) of this section, are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity exclusion defined in § 261.5(a) and (f). [Comment: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability) and C (Corrosivity). Absence of a letter indicates that the compound is only listed for toxicity.] These wastes and their corresponding EPA Hazardous Waste Numbers are:

Hazardous Waste No.	Substance
U001	Acetaldehyde (I)
U034	Acetaldehyde, trichloro-
U187	Acetamide, N-(4-ethoxyphenyl)-
U005	Acetamide, N-9H-fluoren-2-yl-
U112	Acetic acid, ethyl ester (I)
U144	Acetic acid, lead salt
U214	Acetic acid, thallium(I) salt
U002	Acetone (I)
U003	Acetonitrile (I,T)
U004	Acetophenone
U005	2-Acetylaminofluorene
U006	Acetyl chloride (C,R,T)
U007	Acrylamide
U008	Acrylic acid (I)
U009	Acrylonitrile
U150	Alanine, 3-[p-bis(2-chloroethyl)amino]phenyl-, L-
U011	Amitrole
U012	Aniline (I,T)
U014	Auramine
U015	Azaserine
U010	Azirino(2',3':3,4)pyrrolo(1,2-a)indole-4,7-dione, 6-amino-8-[((aminocarbonyl)oxy)methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-,
U157	Benz[j]acenanthrylene, 1,2-dihydro-3-methyl-
U016	Benz[c]acridine
U016	3,4-Benzacridine
U017	Benzal chloride
U018	Benz[a]anthracene
U018	1,2-Benzanthracene
U094	1,2-Benzanthracene, 7,12-dimethyl-
U012	Benzenamine (I,T)
U014	Benzenamine, 4,4'-carbonimidoylbis[N,N-dimethyl-
U049	Benzenamine, 4-chloro-2-methyl-
U093	Benzenamine, N,N'-dimethyl-4-phenylazo-
U158	Benzenamine, 4,4'-methylenebis(2-chloro-
U222	Benzenamine, 2-methyl-, hydrochloride
U181	Benzenamine, 2-methyl-5-nitro
U019	Benzene (I,T)
U038	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy, ethyl ester
U030	Benzene, 1-bromo-4-phenoxy-
U037	Benzene, chloro-
U190	1,2-Benzenedicarboxylic acid anhydride
U028	1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl)] ester
U069	1,2-Benzenedicarboxylic acid, dibutyl ester
U088	1,2-Benzenedicarboxylic acid, diethyl ester
U102	1,2-Benzenedicarboxylic acid, dimethyl ester
U107	1,2-Benzenedicarboxylic acid, di-n-octyl ester
U070	Benzene, 1,2-dichloro-
U071	Benzene, 1,3-dichloro-
U072	Benzene, 1,4-dichloro-
U017	Benzene, (dichloromethyl)-
U223	Benzene, 1,3-diisocyanatomethyl- (R,T)
U239	Benzene, dimethyl-(I,T)
U201	1,3-Benzenediol
U127	Benzene, hexachloro-
U056	Benzene, hexahydro- (I)
U188	Benzene, hydroxy-
U220	Benzene, methyl-
U105	Benzene, 1-methyl-1-2,4-dinitro-
U106	Benzene, 1-methyl-2,6-dinitro-
U203	Benzene, 1,2-methylenedioxy-4-allyl-
U141	Benzene, 1,2-methylenedioxy-4-propenyl-
U090	Benzene, 1,2-methylenedioxy-4-propyl-
U055	Benzene, (1-methylethyl)- (I)
U169	Benzene, nitro- (I,T)
U183	Benzene, pentachloro-
U185	Benzene, pentachloro-nitro-
U020	Benzenesulfonic acid chloride (C,R)
U020	Benzenesulfonyl chloride (C,R)
U207	Benzene, 1,2,4,5-tetrachloro-
U023	Benzene, (trichloromethyl)-(C,R,T)
0234	Benzene, 1,3,5-trinitro- (R,T)
U021	Benzidine
U202	1,2-Benzisothiazolin-3-one, 1,1-dioxide
U120	Benzo[j,k]fluorene
U022	Benzo[a]pyrene
U022	3,4-Benzopyrene
U197	p-Benzoquinone
U023	Benzotrichloride (C,R,T)
U030	1,2-Benzphenanthrene
U085	2,2'-Bioxirane (I,T)
U021	(1,1'-Biphenyl)-4,4'-diamine
U073	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dichloro-
U091	(1,1'-Biphenyl)-4,4'-diamine, 3,3'-dimethoxy-

Hazardous Waste No.	Substance
U095	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-
U024	Bis(2-chloroethoxy) methane
U027	Bis(2-chloroisopropyl) ether
U244	Bis(dimethylthiocarbamoyl) disulfide
U028	Bis(2-ethylhexyl) phthalate
U246	Bromine cyanide
U225	Bromoform
U030	4-Bromophenyl phenyl ether
U128	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
U172	1-Butanamine, N-butyl-N-nitroso-
U035	Butanoic acid, 4-[Bis(2-chloroethyl)amino]-benzene-
U031	1-Butanol (I)
U159	2-Butanone (I,T)
U160	2-Butanone peroxide (R,T)
U053	2-Butenal
U074	2-Butene, 1,4-dichloro- (I,T)
U031	n-Butyl alcohol (I)
U136	Cacodylic acid
U032	Calcium chromate
U238	Carbamic acid, ethyl ester
U178	Carbamic acid, methylnitroso-, ethyl ester
U178	Carbamide, N-ethyl-N-nitroso-
U177	Carbamide, N-methyl-N-nitroso-
U219	Carbamide, thio-
U097	Carbamoyl chloride, dimethyl-
U215	Carbonic acid, dithallium(I) salt
U156	Carbonochloridic acid, methyl ester (I,T)
U033	Carbon oxyfluoride (R,T)
U211	Carbon tetrachloride
U033	Carbonyl fluoride (R,T)
U034	Chloral
U035	Chlorambucil
U036	Chlordane, technical
U026	Chlornaphazine
U037	Chlorobenzene
U245	1-(p-Chlorobenzoyl)-5-methoxy-2-methylindole-3-acetic acid
U039	4-Chloro-m-cresol
U041	1-Chloro-2,3-epoxypropane
U042	2-Chloroethyl vinyl ether
U044	Chloroform
U046	Chloromethyl methyl ether
U047	beta-Chloronaphthalene
U048	o-Chlorophenol
U049	4-Chloro-o-toluidine, hydrochloride
U032	Chromic acid, calcium salt
U050	Chrysene
U051	Creosote
U052	Cresols
U052	Cresylic acid
U053	Crotonaldehyde
U055	Cumene (I)
U246	Cyanogen bromide
U197	1,4-Cyclohexadienedione
U056	Cyclohexane (I)
U057	Cyclohexanone (I)
U130	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-
U058	Cyclophosphamide
U240	2,4-D, salts and esters
U059	Daunomycin
U060	DDD
U061	DDT
U142	Decachlorooctahydro-1,3,4-metheno-2H-cyclobuta[c,d]-pentalen-2-one
U062	Diallate
U133	Diamine (R,T)
U221	Diaminotoluene
U063	Dibenz[a,h]anthracene
U063	1,2:5,6-Dibenzanthracene
U064	1,2:7,8-Dibenzopyrene
U064	Dibenz[a,i]pyrene
U066	1,2-Dibromo-3-chloropropane
U069	Dibutyl phthalate
U062	S-(2,3-Dichloroallyl) diisopropylthiocarbamate
U070	o-Dichlorobenzene
U071	m-Dichlorobenzene
U072	p-Dichlorobenzene
U073	3,3'-Dichlorobenzidine
U074	1,4-Dichloro-2-butene (I,T)
U075	Dichlorodifluoromethane
U192	3,5-Dichloro-N-(1,1-dimethyl-2-propynyl) benzamide
U080	Dichloro diphenyl dichloroethane
U061	Dichloro diphenyl trichloroethane
U078	1,1-Dichloroethylene
U079	1,2-Dichloroethylene
U025	Dichloroethyl ether
U081	2,4-Dichlorophenol
U082	2,6-Dichlorophenol
U240	2,4-Dichlorophenoxyacetic acid, salts and esters
U083	1,2-Dichloropropane
U084	1,3-Dichloropropene
U085	1,2:3,4-Diepoxybutane (I,T)
U108	1,4-Diethylene dioxide
U086	N,N-Diethylhydrazine
U087	O,O-Diethyl-S-methyl-dithiophosphate
U088	Diethyl phthalate
U089	Diethylstilbestrol
U148	1,2-Dihydro-3,6-pyradizinedione
U090	Dihydrosafrole
U091	3,3'-Dimethoxybenzidine
U092	Dimethylamine (I)
U093	Dimethylaminoazobenzene
U094	7,12-Dimethylbenz[a]anthracene
U095	3,3'-Dimethylbenzidine
U096	alpha,alpha-Dimethylbenzylhydroperoxide (R)
U097	Dimethylcarbamoyl chloride
U098	1,1-Dimethylhydrazine
U099	1,2-Dimethylhydrazine
U101	2,4-Dimethylphenol
U102	Dimethyl phthalate
U103	Dimethyl sulfate
U105	2,4-Dinitrotoluene
U106	2,6-Dinitrotoluene
U107	Di-n-octyl phthalate
U108	1,4-Dioxane
U109	1,2-Diphenylhydrazine
U110	Dipropylamine (I)
U111	Di-N-propylnitrosamine
U001	Ethanal (I)
U174	Ethanamine, N-ethyl-N-nitroso-
U067	Ethane, 1,2-dibromo-
U076	Ethane, 1,1-dichloro-
U077	Ethane, 1,2-dichloro-
U114	1,2-Ethanediylbiscarbamodithioic acid
U131	Ethane, 1,1,1,2,2,2-hexachloro-
U024	Ethane, 1,1'-[methylenebis(oxy)]bis[2-chloro-
U003	Ethanenitrile (I, T)
U117	Ethane,1,1'-oxybis- (I)
U025	Ethane, 1,1'-oxybis[2-chloro-
U184	Ethane, pentachloro-
U208	Ethane, 1,1,1,2-tetrachloro-
U209	Ethane, 1,1,2,2-tetrachloro-
U218	Ethanethioamide
U227	Ethane, 1,1,2-trichloro-
U043	Ethene, chloro-
U042	Ethene, 2-chloroethoxy-
U078	Ethene, 1,1-dichloro-
U079	Ethene, trans-1,2-dichloro-
U210	Ethene, 1,1,2,2-tetrachloro-
U173	Ethanol, 2,2'-(nitrosoimino)bis-
U004	Ethanone, 1-phenyl-
U006	Ethanoyl chloride (C,R,T)
U112	Ethyl acetate (I)
U113	Ethyl acrylate (I)
U238	Ethyl carbamate (urethan)
U038	Ethyl 4,4'-dichlorobenzilate
U114	Ethylenebis(dithiocarbamic acid)
U067	Etylene dibromide
U077	Ethylene dichloride
U115	Ethlene oxide (I,T)
U116	Ethylene thiourea
U117	Ethyl ether (I)
U076	Ethylidene dichloride
U118	Ethylmethacrylate
U119	Ethyl methanesulfonate
U139	Ferric dextran
U120	Fluoranthene
U122	Formaldehyde
U123	Formic acid (C,T)
U124	Furan (I)
U125	2-Furancarboxaldehyde (I)
U147	2,5-Furandione
U213	Furan, tetrahydro- (I)
U125	Furfural (I)
U124	Furfuran (I)
U206	D-Glucopyranose, 2-deoxy-2[3-methyl-3-nitrosoureido]-
U126	Glycidylaldehyde
U163	Guanidine, N-nitroso-N-methyl-N'nitro-
U127	Hexachlorobenzene
U128	Hexachlorobutadiene
U129	Hexachlorocyclohexane (gamma isomer)
U130	Hexachlorocyclopentadiene
U131	Hexachloroethane
U132	Hexachlorophene
U243	Hexachloropropene
U133	Hydrazine (R,T)
U086	Hydrazine, 1,2-diethyl-
U098	Hydrazine, 1,1-dimethyl-
U099	Hydrazine, 1,2-dimethyl-
U109	Hydrazine, 1,2-diphenyl-
U134	Hydrofluoric acid (C,T)
U134	Hydrogen fluoride (C,T)
U135	Hydrogen sulfide
U096	Hydroperoxide, 1-methyl-1-phenylethyl- (R)
U136	Hydroxydimethylarsine oxide
U116	2-Imidazolidinethione
U137	Indeno[1,2,3-cd]pyrene
U245	Indomethacin
U139	Iron dextran
U140	Isobutyl alcohol (I,T)
U141	Isosafrole
U142	Kepone
U143	Lasiocarpine
U144	Lead acetate
U145	Lead phosphate
U146	Lead subacetate
U129	Lindane
U147	Maleic anhydride
U148	Maleic hydrazide
U149	Malononitrile
U150	Melphalan
U151	Mercury
U152	Methacrylonitrile (I,T)
U092	Methanamine, N-methyl- (I)
U029	Methane, bromo-
U045	Methane, chloro- (I,T)
U046	Methane, chloromethoxy-
U068	Methane, dibromo-
U080	Methane, dichloro-
U075	Methane, dichlorodifluoro-
U138	Methane, iodo-
U119	Methanesulfonic acid, ethyl ester
U211	Methane, tetrachloro-
U121	Methane, trichlorofluoro-
U153	Methanethiol (I,T)
U225	Methane, tribromo-
U044	Methane, trichloro-
U121	Methane, trichlorofluoro-
U123	Methanoic acid (C,T)
U036	4,7-Methanoindan, 1,2,4,5,6,7,8,8-octachloro-3a,4,7,7a-tetrahydro-
U154	Methanol (I)
U155	Methapyrilene
U154	Methyl alcohol (I)
U029	Methyl bromide
U186	1-Methylbutadiene (I)
U045	Methyl chloride (I,T)
U156	Methyl chlorocarbonate (I,T)
U226	Methylchloroform
U157	3-Methylcholanthrene
U158	4,4'-Methylenebis(2-chloroaniline)
U132	2,2'-Methylenebis(3,4,6-trichlorophenol)
U068	Methylene bromide
U080	Methylene chloride
U122	Methylene oxide
U159	Methyl ethyl ketone (I,T)
U160	Methyl ethyl ketone peroxide (R,T)
U138	Methyl iodide
U161	Methyl isobutyl ketone (I)
U162	Methyl methacrylate (I,T)
U163	N-Methyl-N'-nitro-N-nitrosoguanidine
U161	4-Methyl-2-pentanone (I)
U164	Methylthiouracil
U010	Mitomycin C
U059	5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-[(3-amino-2,3,6-trideoxy-alpha-L-lyxo-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-
U165	Naphthalene
U047	Naphthalene, 2-chloro-
U166	1,4-Naphthalenedione
U236	2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl-(1,1'-biphenyl)-4,4'diyl)-bis (azo)bis(5-amino-4-hydroxyl)-,tetrasodium salt
U166	1,4,Naphthaquinone
U167	1-Naphthylamine
U168	2-Naphthylamine
U167	alpha-Naphthylamine
U168	beta-Naphthylamine
U026	2-Naphthylamine, N,N'-bis(2-chloro-methyl)-
U169	Nitrobenzene (I,T)
U170	p-Nitrophenol
U171	2-Nitropropane (I)
U172	N-Nitrosodi-n-butylamine
U173	N-Nitrosodiethanolamine
U174	N-Nitrosodiethylamine
U111	N-Nitroso-N-propylamine
U176	N-Nitroso-N-ethylurea
U177	N-Nitroso-N-methylurea
U178	N-Nitroso-N-methylurethane

V 45 N O 229 80 UMI

Hazardous Waste No.	Substance
U179	N-Nitrosopiperidine
U180	N-Nitrosopyrrolidine
U181	5-Nitro-o-toluidine
U193	1,2-Oxathiolane, 2,2-dioxide
U058	2H-1,3,2-Oxazaphosphorine, 2-[bis(2-chloro- ethyl)amino]tetrahydro-, oxide 2-
U115	Oxirane (I,T)
U041	Oxirane, 2-(chloromethyl)-
U182	Paraldehyde
U183	Pentachlorobenzene
U184	Pentachloroethane
U185	Pentachloronitrobenzene
U242	Pentachlorophenol
U186	1,3-Pentadiene (I)
U187	Phenacetin
U188	Phenol
U048	Phenol, 2-chloro-
U039	Phenol, 4-chloro-3-methyl-
U081	Phenol, 2,4-dichloro-
U082	Phenol, 2,6-dichloro-
U101	Phenol, 2,4-dimethyl-
U170	Phenol, 4-nitro-
U242	Phenol, pentachloro-
U212	Phenol, 2,3,4,6-tetrachloro-
U230	Phenol, 2,4,5-trichloro-
U231	Phenol, 2,4,6-trichloro-
U137	1,10-(1,2-phenylene)pyrene
U145	Phosphoric acid, Lead salt
U087	Phosphorodithioic acid, 0,0-diethyl-, S-methylester
U189	Phosphorous sulfide (R)
U190	Phthalic anhydride
U191	2-Picoline
U192	Pronamide
U194	1-Propanamine (I,T)
U110	1-Propanamine, N-propyl- (I)
U066	Propane, 1,2-dibromo-3-chloro-
U149	Propanedinitrile
U171	Propane, 2-nitro- (I)
U027	Propane, 2,2'oxybis[2-chloro-
U193	1,3-Propane sultone
U235	1-Propanol, 2,3-dibromo-, phosphate (3:1)
U126	1-Propanol, 2,3-epoxy-
U140	1-Propanol, 2-methyl- (I,T)
U002	2-Propanone (I)
U007	2-Propenamide
U084	Propene, 1,3-dichloro-
U243	1-Propene, 1,1,2,3,3,3-hexachloro-
U009	2-Propenenitrile
U152	2-Propenenitrile, 2-methyl- (I,T)
U008	2-Propenoic acid (I)
U113	2-Propenoic acid, ethyl ester (I)
U118	2-Propenoic acid, 2-methyl-, ethyl ester
U162	2-Propenoic acid, 2-methyl-, methyl ester (I,T)
U233	Propionic acid, 2-(2,4,5-trichlorophenoxy)-
U194	n-Propylamine (I,T)
U083	Propylene dichloride
U196	Pyridine
U155	Pyridine, 2-[(2-(dimethylamino)-2-thenyla- mino]-
U179	Pyridine, hexahydro-N-nitroso-
U191	Pyridine, 2-methyl-
U164	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-
U180	Pyrrole, tetrahydro-N-nitroso-
U200	Reserpine
U201	Resorcinol
U202	Saccharin and salts
U203	Safrole
U204	Selenious acid
U204	Selenium dioxide
U205	Selenium disulfide (R,T)
U015	L-Serine, diazoacetate (ester)
U233	Silvex
U089	4,4'-Stilbenediol, alpha,alpha'-diethyl-
U206	Streptozotocin
U135	Sulfur hydride
U103	Sulfuric acid, dimethyl ester
U189	Sulfur phosphide (R)
U205	Sulfur selenide (R,T)
U232	2,4,5-T
U207	1,2,4,5-Tetrachlorobenzene
U208	1,1,1,2-Tetrachloroethane
U209	1,1,2,2-Tetrachloroethane
U210	Tetrachloroethylene
U212	2,3,4,6-Tetrachlorophenol
U213	Tetrahydrofuran (I)
U214	Thallium(I) acetate
U215	Thallium(I) carbonate
U216	Thallium(I) chloride
U217	Thallium(I) nitrate
U218	Thioacetamide

Hazardous Waste No.	Substance
U153	Thiomethanol (I,T)
U219	Thiourea
U244	Thiram
U220	Toluene
U221	Toluenediamine
U223	Toluene diisocyanate (R,T)
U222	O-Toluidine hydrochloride
U011	1H-1,2,4-Triazol-3-amine
U226	1,1,1-Trichloroethane
U227	1,1,2-Trichloroethane
U228	Trichloroethene
U228	Trichloroethylene
U121	Trichloromonofluoromethane
U230	2,4,5-Trichlorophenol
U231	2,4,6-Trichlorophenol
U232	2,4,5-Trichlorophenoxyacetic acid
U234	sym-Trinitrobenzene (R,T)
U182	1,3,5-Trioxane, 2,4,5-trimethyl-
U235	Tris(2,3-dibromopropyl) phosphate
U236	Trypan blue
U237	Uracil, 5[bis(2-chloromethyl)amino]-
U237	Uracil mustard
U043	Vinyl chloride
U239	Xylene (I)
U200	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxybenzoyl)oxy]-, methyl ester,

Appendix VIII [Amended]

2. In Appendix VIII of Part 261, delete the following compounds:

-Ethylenediamine

-N-Nitrosodiphenylamine

-.Oleyl alcohol condensed with 2 moles ethylene oxide

-1.2 Propanediol

Appendix VIII [Amended]

3. In Appendix VIII of Part 261, add the following constituent alphabetically:

-Iso butyl alcohol

These regulations are issued under the authority of Sections 1006, 2002(a) and 3001 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 USC 6905, 6912(a) and 6921.

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BILLING CODE 6560-30-M

40 CFR Part 261

[SWH-FRL 1680-5]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: U.S. Environmental Protection Agency.

ACTION: Grant of temporary exclusions and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) is today temporarily excluding solid wastes generated at several particular generating facilities from hazardous waste status. These temporary exclusions respond to delisting petitions submitted under 40 CFR 260.20 and 260.22 and are granted pursuant to 40 CFR 260.22(m). The effect of this action is to temporarily exclude certain wastes generated at these facilities from listing as hazardous wastes under 40 CFR 261, and from the management standards issued by EPA under Sections 3002 through 3006 of RCRA (40 CFR Parts 262 through 265 and 122 through 124 of this Chapter).

DATES: Effective date: November 19, 1980.

EPA will accept public comments on these temporary exclusions until January 26, 1981. Any person may request a hearing on these temporary exclusions by filing a request with John P. Lehman, whose address appears below, by December 17, 1980. The request must contain the information prescribed in § 260.20(d) of this chapter.

ADDRESSES: Comments should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Requests for hearing should be addressed to John P. Lehman, Director, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, Washington, D.C. 20460. Communications should identify the regulatory docket number "Section 3001/Delisting Petitions."

The public docket for these temporary exclusions is located in Room 2711, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460 and is available for viewing from 9 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Myles Morse, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C., (202) 755-9187.

SUPPLEMENTARY INFORMATION: On July 16, 1980 and November 12, 1980 as part of its final and interim final regulations implementing Section 3001 of RCRA, EPA published lists of hazardous wastes from non-specific and from specific sources. See 40 CFR §§ 261.31 and 261.32 (45 FR 47832-47836 and 74890-74892). These wastes were listed as hazardous because they typically and frequently exhibit either any of the characteristics of hazardous wastes identified in Subpart C of Part 261 (ignitability, corrosivity, reactivity and EP toxicity) or meet the criteria for listing contained in §§ 261.11(a)(2) or 261.11(a)(3).

The Agency, however, recognizes that individual waste streams may vary depending on raw materials, industrial processes and other factors. Thus, while a type of waste described in these regulations generally is hazardous, a specific waste meeting the listing description from an individual facility may not be hazardous. For this reason, §§ 260.20 and 260.22 provide a delisting procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be listed. To be delisted, petitioners must show that the waste produced at their facilities does not meet any of the criteria under which the waste was listed, and, in the case of an acutely hazardous waste, that it also does not meet the criterion of § 261.11(a)(3). (See § 260.22(a).) Wastes which are delisted may, however, still be hazardous if they exhibit any of the characteristics of a hazardous waste and generators remain obligated to make this determination.

In addition to wastes listed as hazardous in §§ 261.31 and 261.32, waste mixtures containing a listed hazardous waste and residues from the treatment, storage, or disposal of listed hazardous wastes also are eligible for delisting (and in fact remain hazardous wastes until delisted). (See §§ 261.3(a)(2)(ii), (c), and (d)(2).) Again, the substantive standard for delisting is that the waste not meet any of the criteria for which the waste was listed originally. Where the waste is a mixture of solid waste and one or more listed hazardous wastes, or is derived from one or more listed hazardous wastes, the demonstration may be made with respect to each constituent listed waste, or the waste mixture as a whole. (See § 260.22(b).) Like other delisted wastes, delisted mixtures and delisted hazardous waste treatment, storage or disposal residues remain subject to subpart C of Part 261, and so may be hazardous if they exhibit any of the characteristics of hazardous waste.

EPA recognizes as well that there will be circumstances where immediate action on delisting petitions is appropriate. Therefore, upon Agency review of a submitted petition, the Administrator may under § 260.22(m) grant a temporary exclusion if there is substantial likelihood that an exclusion will finally be granted.

The Agency to date has received 30 delisting petitions. Based on EPA's review of these petitions, seven temporary exclusions have been granted as indicated by today's publication. To allow the Agency to concentrate its efforts on petitions relating to waste listings becoming effective on November 19, 1980, the Agency has deferred action on five petitions which involve the interim final waste listings of July 16, 1980 (which become effective on January 16, 1981). An additional eight petitions have been mooted by amendments of the May 19, interim final hazardous waste listings (see 45 FR 74036 (October 30, 1980) and 45 FR 74884 (November 12, 1980)). Five other petitioners have been notified that the data supplied is insufficient and that additional information would be necessary in order to process their petitions. The remaining petitions were submitted too recently for the Agency to complete its evaluation by November 19, 1980. Additional temporary exclusions may be granted when our evaluation is completed.

It should be noted that the Agency has not run spot checks on the test data submitted to date in delisting petitions. The Agency believes that the sworn affidavits submitted with each petition sufficiently bind the petitioners to ensure presentation of truthful and accurate test results. The Agency may, however, spot sample and analyze wastes and/or groundwater before a final decision is made whether to exclude any particular waste from the hazardous waste regulations.

We also note that the temporary exclusions granted today apply only to the Federal hazardous waste management system established under the RCRA. States remain free to take any action they deem appropriate with regard to these wastes.

The temporary exclusions published today involve the following petitioners: The Stablex Corporation, Radnor, Pennsylvania, for its proposed waste treatment/stabilization facility in Groveland Township, Oakland County, Michigan; the Firestone Wire and Cable Company, Danville, Kentucky; the Fosbrink Machine Company, Connellsville, Pennsylvania; the General Electric Company/Lighting Business Group, Conneaut, Ohio; John Deere Des Moines Works, Des Moines, Iowa; Johnson Steel and Wire Company, Inc., Worcester, Massachusetts; and Dresser Industries, Inc./Tool Group, Johnson City, Tennessee. The Agency has determined as a result of analysis of treatment processes, waste constituent and leachate test data, and specific product formulation lists, that these petitioners may receive final exclusions for their wastes and therefore, that the granting of temporary exclusions is appropriate. The final decision, to exclude the wastes described above, will be made after the Agency receives additional testing and operational data (as specified in this publication) and reviews the comments submitted in response to this notice.

Discussion of Specific Temporary Exclusions

I. Stablex Corporation

A. *Petition for Delisting.* The Stablex Corporation (Stablex) plans to operate several hazardous waste treatment facilities, utilizing industrial waste treatment processes and stabilization techniques which are designed to produce a solid cementitious landfill material. Stablex presently is applying for the necessary state and federal permits to construct and operate a hazardous waste treatment facility in the State of Michigan. In anticipation of treatment of industrial wastes, Stablex has petitioned the Agency (as required by § 261.3(d)(2)) to delist the treatment residue produced by the Stablex treatment process for the following hazardous wastes:

Inorganic Pigments

K002 Wastewater treatment sludge from the production of chrome yellow and orange pigments.

K003 Wastewater treatment sludge from the production of molybdate orange pigments.

K004 Wastewater treatment sludge from the production of zinc yellow pigments.

K005 Wastewater treatment sludge from the production of chrome green pigments.

K006 Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated).

K007 Wastewater treatment sludge from the production of iron blue pigments.

K008 Oven residues from the production of chrome oxide green pigments.

Petroleum Refining

K050 Heat exchanger bundle cleaning sludge from the petroleum refining industry.

K052 Tank bottoms (leaded) from the petroleum refining industry.

Leather Tanning and Finishing

K053[1] Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.

K054[1] Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.

K055[1] Buffing dust generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/ retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.

K056[1] Sewer screenings generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet

[1] The Agency has deleted these wastes from the hazardous waste list in finalizing the May 19, 1980 interim final regulations (see 45 FR 72036 (October 30, 1980) and 45 FR 74884 (November 12, 1980)) so that the petition for delisting residues from treatment of these wastes is moot.

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finish; no beamhouse; through-the-blue; and shearing.

K057[1] Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beamhouse; through-the-blue; and shearing.

K058[1] Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry; hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.

K059[1] Wastewater treatment sludges generated by the following subcategory of the leather tanning and finishing industry; hair save/non-chrome tan/retan/wet finish.

Metals Recovery

F013[1] Flotation tailings from selective flotation from mineral metals recovery operations.

F014 Cyanidation wastewater treatment tailing pond sediment from mineral metals recovery operations.

F015 Spent cyanide bath solutions from mineral metals recovery operations.

Scrubber Sludges

F016[1] Dewatered air pollution control scrubber sludges from coke ovens and blast furnaces.

Electroplating

F006[2] Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.

F007[2] Spent cyanide plating bath solutions from electroplating operations (except for precious metals electroplating spent cyanide plating bath solutions).

F008[2] Plating bath sludges from the bottom of plating baths from electroplating operations where cyanides are used in the process (except for precious metals electroplating plating bath sludges).

F009[2] Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process (except for precious metals electroplating spent stripping and cleaning bath solutions).

Metal Heat Treating

F010[2] Quenching bath sludge from oil baths from metal heat treating operations where cyanides are used in the process (except for precious metals heat treating quenching bath sludges).

F011[2] Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations (except for precious metals heat treating spent cyanide solutions from salt bath pot cleaning).

F012[2] Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process (except for precious metals heat treating quenching wastewater treatment sludges).

Organic Chemicals

K021 Aqueous spent antimony catalyst waste from fluoromethanes production.

Iron and Steel

K060 Ammonia still lime sludge from coking operations

Commercial Chemical Products

P010 Arsenic Acid.
P011 Arsenic pentoxide.
P012 Arsenic trioxide.
P013 Barium cyanide.
P029 Copper cyanide.
P030 Cyanides.
P032 Cyanogen bromide.
P055 Ferric cyanide.
P098 Potassium cyanide.
P099 Potassium silver cyanide.
P104 Silver cyanide.
P106 Sodium cyanide.
P107 Strontium sulfide
P120 Vanadium pentoxide.
P121 Zinc cyanide.
U013[3] Asbestos.

Stablex argues that the residue (called "stablex material") from treatment of these hazardous wastes should be delisted because many of the hazardous constituents of each waste stream are present only in an immobilized, non-hazardous form, or are destroyed during the treatment process, leaving only negligible concentrations in the final stabilized material. Stablex therefore claims that its stabilized treatment sludge no longer meets the criteria for listing contained in 40 CFR §§ 261.11(a)(2) and 261.11(a)(3).

B. *Support for delisting.* Stablex claims that in operating its facilities it uses a prescreening program which accepts only wastes that can be fixed successfully by the Stablex process—predominately metal and cyanide-containing wastes. The Stablex process combines various hazardous waste treatment processes (including metal hydroxide precipitation, acid/alkaline neutralization, cyanide destruction via hypochlorite oxidation, and hexavalent chromium reduction and precipitation) with a waste fixation/stabilization process. The stabilization process is a mixed batching system which combines the treated waste sludges with cement and fly ash. The stablex material is pumped (as a sludge) to specified landfill sites. This fill material begins to set in 24 hours. The resulting stabilized product, the petitioner claims, is characterized by the formation of silicate lattices with "polymer-like" bonds, creating a cementitious material having compressive strength similar to an industrial grout (200–800 psi).

Stablex has been treating hazardous industrial wastes which are very similar in composition to the prospective U.S. wastes at its several existing English and Japanese facilities. These wastes includes sludge from the production of paint pigments, still lime sludge from coking operatings, sludge from metals recovery operations, quenching sludge from metal heat treating operations, and assorted sludges from electroplating operations. Automotive industry wastes also have been treated frequently.

In order to characterize the claimed non-hazardous nature of the stablex product, Stablex has submitted leachate tests on U.S., Japanese and English stabilized wastes. Total constituent analyses of the stablex material and groundwater and surface water run-off monitoring data (from active overseas operations) also were submitted. Waste streams from a typical range of processes in the U.S. automotive industry were tested, including plating operations (principle constituents nickel, chromium and copper); paint priming (principle constituent zinc phosphate); and waste treatment sludges from painting and metal preparation processes. Specific parameters measured in each EP toxicity test included arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver, copper, iron, manganese, zinc, nickel, aluminum and cyanide.

EP toxicity tests were performed on stablex material which was ground to a fine powder to maximize the surface area available to the leaching action of the acidic solutions of these tests. EP toxicity tests performed on stabilized prospective U.S. wastes produced the following leachate results:

Leachate Concentration

Constituent	Parts per million
Arsenic	.02
Barium	1.4
Cadmium	0.01
Chromium	0.27
Cyanide	0.6
Lead	0.05
Mercury	0.004
Selenium	0.003
Silver	0.01

Note.—Total constituent analysis of the stablex material revealed cyanide concentrations of 1 ppm.

In addition, groundwater and surface water run-off monitoring data were submitted from the Stablex facility in Thurrock, England which indicate that the concentration of the constituents of concern in groundwater were below the levels established by the U.S. interim primary drinking water standards. Maximum cyanide levels in groundwater were reported as 0.11 ppm. The Agency notes, however, that the low levels of hazardous constituents reported in groundwater are not necessarily satisfactory indicators of the long term fixation characteristics of a stabilized material (since particular landfill design features may impede groundwater contamination). Indeed, since the Thurrock facility has been operational only since 1978, high levels of contaminants in the groundwater would not be expected at this time unless particularly poor disposal practices were employed.

In addition to submitting analytic data, Stablex also offers a number of short-term safeguards to prevent environmental insult while the Agency reviews additional data before making a final decision on whether to grant a final delisting. Stablex has agreed with the Michigan Department of Natural Resources and the EPA to manage the stablex material as if it were a hazardous waste for the initial two year period of facility operation. During this period, the stablex material will be deposited within a demonstration cell containing a double underdrain/double compacted clay bottom liner and a PVC sidewall liner. The lower liner will consist of 4 feet of compacted clay, (with a permeability factor of 10^{-7}) while the upper liner will consist of 1 foot of compacted clay. A minimum separation of 12 feet between the bottom liner and the groundwater level will be maintained. During rain and winter conditions the stablex material will be placed in enclosed cylindrical molds within the lined demonstration cell to assure proper curing. Leachate monitoring systems will be constructed beneath the stablex material and the bottom liner of the demonstration cell and will incorporate sampling sumps for leachate withdrawal. In addition, monitoring wells will be placed along the perimeter of the placement area. A monitoring program involving analysis of leachate and storm run-off will be established during the demonstration period to determine the stability of the stablex product and the migratory potential of the leachate from the site.

C. *Agency analysis and action.* The Agency's function under RCRA includes the establishment of a national program to improve solid waste management and promotion of environmentally sound hazardous waste treatment and disposal practices. Historically-tested stabilization processes could assume an important role in properly managing hazardous wastes, particularly in view of the scarcity of hazardous waste disposal sites.

The Agency has reviewed the monitoring data submitted by the Stablex Corporation from its facility in Thurrock, England. Groundwater samples extracted from the Thurrock, England placement site revealed all EP toxic constituents to be at levels below the U.S. interim primary drinking water standards. The maximum reported cyanide concentration of 0.11 ppm in groundwater is one half that of the U.S. Public Health Service's suggested drinking water standard. However, the absence of high levels of these constituents in the groundwater below a very new landfill does not in itself indicate long-term inertness of the landfill material.

The Agency also has reviewed the leachate tests submitted from the facilities in England and Japan and domestic laboratories. Analysis of the EP toxic constituents in these waste extracts revealed concentrations well below the EP maximum toxicity levels for each waste stream tested. In addition, cyanides were present in the stablex material only in concentrations below 1 ppm, apparently indicating the effectiveness of the cyanide-destruction process.

Therefore, based predominately on the test data submitted on prospective U.S. wastes, the Agency is granting the Stablex Corporation's facility in Groveland Township, Oakland County, Michigan, a temporary exclusion for the stablex material produced using the treatment techniques described in its petition, from the following wastes listed in Subpart D of the hazardous waste regulations:

Inorganic Pigments

K002 Wastewater treatment sludge from the production of chrome yellow and orange pigments.

K003 Wastewater treatment sludge from the production of molybdate orange pigments.

K004 Wastewater treatment sludge from the production of zinc yellow pigments.

K005 Wastewater treatment sludge from the production of chrome green pigments.

K006 Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated).

K007 Wastewater treatment sludge from the production of iron blue pigments.

K008 Oven residues from the production of chrome oxide green pigments.

Electroplating

F006 Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and miling of aluminum.

F007 Spent cyanide plating bath solutions from electroplating operations (except for precious metals electroplating spent cyanide plating bath solutions).

F008 Plating bath sludges from the bottom of plating baths from electroplating operations where cyanides are used in the process (except for precious metals electroplating plating bath sludges).

F009 Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process (except for precious metals electroplating spent stripping and cleaning bath solutions).

Metal Heat Treating

F010 Quenching bath sludge from oil baths from metal heat treating operations where cyanides are used in the process (except for precious metals heat treating quenching bath sludges).

F011 Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations (except for precious metals heat treating spent cyanide solutions from salt bath pot cleaning).

F012 Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process (except for precious metals heat treating quenching wastewater treatment sludges).

Metals Recovery

F014 Cyanidation wastewater treatment tailing pond sediment from mineral metals recovery operations

F015 Spent cyanide bath solutions from mineral metals recovery operations

Commercial Chemical Products

P010 Arsenic acid.

[1] These descriptions reflect the finalized listing description in 40 CFR 261.31 and 261.32 (45 FR 74890–74892 (November 12, 1980).]

[2] The Agency will delete asbestos from the hazardous waste list in finalizing the May 19, 1980 interim final regulations so that the petition for delisting residues from treatment of this waste is moot.

P011 Arsenic pentoxide.
P012 Arsenic trioxide.

test data previously mentioned in section D of this publication, as well as

step. The rinse waters are piped directly to the effluent pretreatment plant. The

safety features, including transfer pumps automatically triggered by alkali/

drinking water standards. These low leachate levels indicate that the

leachate tests of their sludge for chromium, cadmium, nickel and

P011 Arsenic pentoxide.
P012 Arsenic trioxide.
P013 Barium cyanide.
P029 Copper cyanide.
P030 Cyanides.
P032 Cyanogen bromide.
P055 Ferric cyanide.
P098 Potassium cyanide.
P099 Potassium silver cyanide.
P104 Silver cyanide.
P106 Sodium cyanide.
P121 Zinc cyanide.

We remained concerned, however, with the long-term leaching characteristics of the stablex material (and residue from other waste stablization processes). The Agency, as discussed further below, may find it necessary to have these long-term characteristics addressed before a final delisting is granted. Stablex' two year management pledge, however, is a safeguard during that period.

D. *Wastestreams for which Stablex submitted insufficient data.* The Agency has deferred action on the stablex material produced from the treatment of the following wastes due to submission of insufficient test data:

Organic Chemicals

K021 Aqueous spent antimony catalyst waste from fluoromethanes production.

Iron and Steel

K060 Ammonia still lime sludge from coking operations.

Petroleum

K050 Heat exchanger bundle cleaning sludge from the petroleum refining industry.
K052 Tank bottoms (leaded) from the petroleum refining industry.

Commercial Chemical Products

P107 Strontium sulfide.
P120 Vanadium pentoxide.

Stablex has been notified of these deficiencies and is presently testing for the additional characterization of the total naphthalene, phenolics, carbon tetrachloride, chloroform, antimony, strontium sulfide, and vanadium pentoxide concentrations in the stablex material. If this data indicates that these constituents are either destroyed or immobilized as part of the treatment process, the Agency expects to grant a temporary exclusion for these waste streams as well. Data has also been requested characterizing the effects of organics present in petroleum refining wastes on the leaching characteristics of the metal constituents and on the overall stability of the stablex material.

E. *Agency information needs for final delisting.* The Stablex Corporation has been notified of a number of information needs before a final delisting can be granted. This information includes all test data previously mentioned in section D of this publication, as well as four repetitions of the EP Toxicity test for metals and cyanide, on each prospective U.S. waste on both cured and uncured stablex material; submission of a complete set of borehole monitoring data throughout placement areas in England and Japan, and a detailed description of the process and of the safety and monitoring features incorporated into each pretreatment operation. In addition, data addressing the long-term leaching characteristics of the stablex material should be presented. The Agency also may condition any final exclusion upon performance of certain operating standards such as continuous groundwater monitoring.

II. Firestone Wire and Cable Company

A. *Petition for delisting.* The Firestone Wire and Cable Company (Firestone), involved in the manufacture of high strength wires and strands, has petitioned the Agency to delist its wastewater treatment sludge, presently listed as EPA Hazardous Waste No. F006 (Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acide anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.[4] Cadmium, chromium, nickel, and cyanide are the hazardous constituents of this waste. Firestone has petitioned to delist its waste because it does not meet the criteria for which Hazardous Waste F006 was listed in Part 261, Subpart D. Firestone utilizes the processes of wire drawing, heat treating, acid and alkali cleaning, electroplating, electrochemical displacement deposition and twisting, in its production of steel wire and strands. Firestone indicates that since its electroplating process uses brass (copper and zinc) and bronze (copper and tin), its waste cannot contain hazardous levels of cadmium and chromium. Firestone further states that the cyanide destruction process eliminates all but negligible levels of cyanide in the sludge.

Firestone's brass and bronze cleaning and plating operations use hydrochloric and sulfuric acids, sodium hydroxide, copper and zinc cyanide, and copper and tin sulfate. These chemicals are rinsed from the wire after each process step. The rinse waters are piped directly to the effluent pretreatment plant. The pretreatment plant operation of acid neutralization utilizes alkali addition for pH adjustment, while the cyanide destruction process involves oxidation by chlorination. The sludge cake produced by flocculation, clarification, and filtration consists primarily of the hydroxides of iron, copper, zinc and tin.

B. *Support for delisting.* The Firestone Wire and Cable Company has submitted a detailed description of its sludge pretreatment system, results of influent sludge composition analyses, EP toxicity test results, distilled water leachate tests for cyanides, and total consituent analyses of sludge samples for chromium, cadmium, nickel and cyanide. Samples were obtained over a three month period to represent the uniformity of constituent concentrations in the waste.

The total constituent analyses revealed concentrations of cyanides in finished sludge of <2 ppm, while leachate tests produced cyanide leachate concentrations of <0.08 ppm. EP toxicity tests involving cadmium, chromium and nickel produced leachate levels of <0.1, <0.1, and <1 ppm respectively.

C. *Agency analysis and action.* The constituents of concern for Hazardous Waste No. F006 are cadmium, chromium, nickel and cyanide. Firestone does not use cadmium, chromium or nickel in its electroplating process. Cyanides however, are used and therefore may be present in the sludge. Firestone has, however, sufficiently demonstrated that its sludge pretreatment system removes the majority of cyanides from its waste, leaving residue concentrations of less than 2 ppm in the sludge. The cyanide leachate values of <0.08 ppm are well below the Public Health Service's recommended drinking water standard.

Total constituent levels of cadmium, chromium and nickel concentrations in the sludge of <1, 13, and 48 ppm respectively support the fact that the Firestone process does not use these metals in their plating operation. They apparently appear only as contaminants in other process solutions. Leachate concentrations of <0.1, <0.1, and 1 ppm for cadmium, chromium and nickel respectively, indicate that these elements also are present in essentially an immobile form.

Firestone therefore has presented sufficient data indicating the non-hazardous levels of cadmium, chromium, nickel, and cyanide in their waste. The Agency also acknowledges that the cyanide pretreatment operation is effective and employs satisfactory

[4] This listing reflects the finalized listing 40 CFR Part 261, Subpart D, November 12, 1980.

safety features, including transfer pumps automatically triggered by alkali/chlorination sensors, and a standard sampling operating procedure prior to the transfer of wastes to the pH adjustment tank. The Agency therefore has granted a temporary exclusion to Firestone's Danville, Kentucky facility for their electroplating wastewater treatment sludge, as described in its petition, from its listing under EPA Hazardous Waste No. F006.

III. Fosbrink Machine Company Incorporated

A. *Petition for delisting.* The Fosbrink Machine Company (Fosbrink), involved in the manufacture of wire and wire products, has petitioned the Agency for the delisting of its sludge, formerly listed as EPA Hazardous Waste No. K063, sludge from lime treatment of spent pickle liquor from steel finishing operations.[5] Fosbrink has petitioned to delist their waste because it does not meet the criteria for listing.

The Fosbrink Machine Company utilizes the processes of cold drawing, pickling and lime treatment in the production of wire from wire rods. Its waste treatment process for spent pickle liquor rinse and overflow wastes involves neutralization, oxidation, flocculation, settling, drying and recycling of the liquid waste stream component. They claim their sludge is environmentally stable and non-hazardous, and specifically that its sludge does not contain hazardous levels of chromium and lead, the constituents of concern in the spent pickle liquor of hazardous waste K062.

Fosbrink has submitted a detailed description of their sludge treatment system, and EP toxicity test results for all toxic constituents specified in Section 261.24 of the regulations. The sludge samples were taken over a one month period to represent sufficiently the uniformity of constituent concentrations in the waste. EP toxicity tests involving chromium and lead produced leachate levels of <0.04 and <0.03 ppm, respectively.

B. *Agency analysis and action.* The constituents of concern in this waste, are chromium and lead. EP extracts from sludge samples analyzed by Fosbrink show lead and chromium consistently below the national interim primary drinking water standards. These low leachate levels indicate that the constituents are present in essentially an immobile form. The Agency therefore, has granted temporary exclusion to the Fosbrink's facility in Connellsville, Pennsylvania for its treated pickling rinse and overflow wastes, as described in its petition.

IV. General Electric Company

A. *Petition for delisting.* The General Electric Company/Lighting Business Group's, Conneaut Base Plant (General Electric), involved in the production of light bulbs, has petitioned the Agency to delist its wastewater treatment sludge, presently listed as EPA Hazardous Waste No. F006, (Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.)[6] General Electric has petitioned to delist their waste because it does not meet the criteria for which Hazardous Waste F006 was listed in Part 261, Subpart D of the regulations.

The General Electric Company uses a "bright-dip" etching and stamping process for its light bulb bases which is characterized as an electroplating operation under Hazardous Waste F006. General Electric claims that the chemical etch or "bright-dip" process employed this facility does not use any of the hazardous constituents for which Waste No. F006 are listed. Instead, an aluminum and brass (copper and zinc) chemical etching process utilizing nitric and sulfuric acids is used. The stamping process generates a light diluting cutting oil as a waste stream. General Electric further states that its wastewater treatment process combines the streams for these two operations, and as a result, cracks the oils from the stamping process (due to the action of the etching acid wastes). The addition of sodium hydroxide, it is claimed, neutralizes these acids, rendering the waste non-hazardous.

General Electric has submitted a detailed description of the etching and stamping processes utilized at this facility to indicate that the listed hazardous waste constituents of Hazardous Waste No. F006 are not used in its operation. General Electric has also submitted constituent analyses and leachate tests of their sludge for chromium, cadmium, nickel and cyanide. Total constituent analyses revealed concentrations of <10, <22, <8 and $<.005$ ppm for chromium, cadmium, nickle and cyanide, respectively. EP toxicity tests produced leachate concentrations of <0.01, <0.02, and 0.08 ppm for chromium, cadmium, and nickel respectively. The levels of cadmium, chromium and nickel which appeared in these wastes are attributed to unknown sources, since they are not used intentionally in the process.

B. *Agency analysis and action.* The hazardous waste constituents for which EPA Hazardous Waste No. F006 is listed are cadmium, chromium, nickel and cyanide. General Electric has submitted sufficient evidence that the wastewater treatment sludge produced in its chemical etching process does not contain hazardous levels of these constituents. Concentrations of cadmium, chromium and nickel in EP extracts of the sludge were consistently below the national interim primary drinking water standards. The low leachate levels indicate that the constituents of concern are present in an immobile form. Cyanide concentrations of <0.005 ppm in the sludge are considered negligible. The low concentrations of these constituents are probably a result of unknown minor sources of contamination and background levels, rather than direct use of these constituents in the process. The Agency therefore, has granted a temporary exclusion to the General Electric Company, Conneaut Base Plant, for the wastes generated by its "bright-dip" chemical etching and stamping process as described in its petition, listed under EPA Hazardous Waste No. F006.

V. Dresser Industries, Incorporated

A. *Petition for delisting.* Dresser Industries, Inc. (Dresser), involved in the manufacture of hand tools, has petitioned the Agency to delist its sludge, formerly listed as EPA Hazardous Waste No. K063 (sludge from lime treatment of spent pickle liquor from steel finishing operations).[7] Dresser has petitioned to delist their waste because it does not meet the criteria for listing.

Dresser utilizes the processes of sulfuric acid pickling, phosphate coating

[5] On November 12, 1980 (45 FR 74884), EPA removed waste K063 from the hazardous waste list (§ 261.32). However, since these lime treatment sludges are generated from the treatment of a listed hazardous waste (K062), they still are considered to be a hazardous waste (§ 261.3(c)(2)). Further, they remain hazardous wastes until they no longer meet any of the characteristics of hazardous wastes and are delisted (§ 261.3(d)(2)).

[6] This listing reflects the finalized listing 40 CFR Part 261, Subpart D, November 12, 1980.

[7] On November 12, 1980 (45 FR 74884), EPA removed waste K063 from the hazardous waste list (§ 261.32). However, since these lime treatment sludges are generated from the treatment of a listed hazardous waste (K062), they still are considered to be a hazardous waste (§ 261.3(c)(2)). Further, they remain hazardous wastes until they no longer meet any of the characteristics of hazardous wastes and are delisted (§ 261.3(d)(2)).

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and cold extrusion of medium carbon non-alloyed steel in the production of hand tools. Its waste treatment process for spent pickle liquor, pickling rinse and overflow wastes involves neutralization (using lime and sodium hydroxide), flocculation, settling, and filtration. Dresser claims that its sludge is environmentally stable and non-hazardous, and specifically that it does not contain hazardous levels of chromium and lead, the constituents of concern in the spent pickle liquor waste K062.

Dresser submitted a detailed description of their sludge treatment system, and EP toxicity test results for all toxic constituents specified in § 261.24 of the regulations. The samples were taken over a one month period to represent sufficiently the uniformity of constituent concentrations in the waste. EP toxicity tests performed on the waste produced chromium and lead leachate levels of <0.01 and <0.58 ppm, respectively.

B. *Agency analysis and action.* The constituents of concern is this waste are chromium and lead. EP extracts from sludge samples analyzed by Dresser show lead and chromium consistently well below the maximum EP toxicity levels. These low leachate levels indicate that the constituents are present in essentially an immobile form. The Agency, therefore, has granted temporary exclusion to Dresser's facility in Johnson City, Tennessee for its treated spent pickle liquor and pickling rinse waste sludge, as described in its petition.

VI. Johnson Steel & Wire Company, Inc.

A. *Petition for delisting.* The Johnson Steel and Wire Company (JS&W), involved in the manufacture of specialty ferrous wire, has petitioned the Agency to delist its sludge, formerly listed as EPA Hazardous Waste No. K063, (sludge from lime treatment of spent pickle liquor from steel finishing operations).[8] JS&W has petitioned to delist their waste because it does not meet the criteria for listing.

JS&W utilizes the processes of cold drawing, hydrochloric acid pickling, and replacement coating of tin, bronze and phosphate in the production of ferrous wire. Its waste treatment process for spent pickle liquor rinse and overflow wastes involves neutralization, lime and polymer flocculation, settling, and pressed filtration. They claim their sludge is environmentally stable and non-hazardous, and specifically that the sludge does not contain hazardous levels of chromium and lead, the constituents of concern in the spent pickle liquor of waste K062.

JS&W submitted a detailed decription of their sludge treatment system, and EP toxicity test results for all toxic constituents specified in § 261.24 of the regulations. The samples were taken over a one month period to represent sufficiently the uniformity of constituent concentrations in the waste. EP toxicity tests revealed chromium and lead levels in the waste extract of 0.07 and 0.04 ppm, respectively.

B. *Agency analysis and action.* The constituents of concern in this waste, are chromium and lead. EP extracts from sludge samples analyzed by JS&W show lead and chromium consistently well below the maximum EP toxicity levels. These low leachate levels indicate that the constituents are present in essentially an immobile form. The Agency therefore, has granted a temporary exclusion to the JS&W's facility in Worcester, Massachusetts for its treated spent pickle liquor, as described in its petition.

VII. John Deere Des Moines Works

A. *Petition for delisting.* John Deere Des Moines Works (John Deere), a company manufacturing farm equipment and machinery, has petitioned the Agency to delist its wastewater treatment sludge, presently listed as EPA Hazardous Waste No. F006 (Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum).[9] John Deere has petitioned to delist its sludge because it does not meet the criteria for which it was listed in Part 261, Subpart D, of the regulations.

John Deere utilizes the processes of metal cleaning, metal machining, electroplating of chromium and zinc, and metal heat treating in the production of farm machinery. It claims that its waste treatment process is successful in generating a non-hazardous sludge cake, with cadmium and chromium present at non-hazardous levels and in essentially an immobile form. In addition, John Deere states that nickel and cyanide are not used in its electroplating processes.

John Deere submitted a detailed description of its waste treatment system; EP toxicity test results for cadmium, chromium, and nickel; and total and amenable cyanide analyses of its sludge.

John Deere utilizes a lime/cationic polymer, pH regulated, precipitation waste treatment system. EP toxicity tests for cadmium, chromium and nickel performed on the resulting sludge cake produced maximum leachate concentrations of 0.08, .37, and 0.66 ppm, respectively. The total concentration of nickel and cyanide in sludge were reported at 10.6 and <0.13 ppm, respectively. The concentration of cyanide amenable to chlorination (free cyanide) was determined to be <0.007 ppm.

B. *Agency analysis and action.* The hazardous waste constituents for which Waste No. F006 is listed are cadmium, chromium, nickel and cyanide. Although John Deere does not use nickel and cyanide in its electroplating process, cadmium and chromium are used and are present in the sludge. These constituents appear, however, to be present in an immobile form.

EP toxicity test leachate results for cadmium and chromium are well below the EP maximum toxicity levels and indicate the immobile nature of these constituents. The low levels of nickel and cyanide in the sludge (10.6 and 0.13 ppm respectively) indicate that these constituents are not used in John Deere's electroplating process but are probably a result of known minor sources of contamination and background levels. The levels of cyanide found in the sludge are below the U.S. Public Health Service's suggested drinking water standard, and the low levels of free cyanide indicate that levels of mobile cyanide are even lower. The Agency therefore, has granted a temporary exclusion to the John Deere Des Moines Works, facility for its treated electroplating waste sludge, as described in its petition, listed under EPA Hazardous Waste No. F006.

Dated: November 13, 1980.

Eckardt C. Beck,

Assistant Administrator.

[FR Doc. 80-36684 Filed 11-24-80; 8:45 am]

BILLING CODE 6560-30-M

[8] On November 12, 1980 (45 FR 74884), EPA removed waste K063 from the hazardous waste list (§ 261.32). However, since these lime treatment sludges are generated from the treatment of a listed hazardous waste (K062), they still are considered to be a hazardous waste (§ 261.3(c)(2)). Further, they remain hazardous wastes until they no longer meet any of the characteristics of hazardous wastes and are delisted (§ 261.3(d)(2)).

[9] The listing reflects the finalized listing 40 CFR Part 261, Subpart D, November 12, 1980.

federal register

Tuesday
November 25, 1980

Part XI

Department of Health and Human Services

Public Health Service

National Guidelines for Health Planning; Proposed Rules

V 45 N 025 80 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 121

National Guidelines for Health Planning

AGENCY: Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice proposes to add national health planning goals to the National Guidelines for Health Planning under section 1501 of the Public Health Service Act. These goals concern health status outcomes, disease prevention and health promotion and personnel resources and systems of care. They supplement Subparts A and C of the Guidelines published as final regulations on March 28, 1978, which addressed standards for nine types of health services and facilities. Later issuances will provide additional goals and standards.

DATE: Comments must be received not later than February 23, 1981.

ADDRESS: Written comments and recommendations should be submitted to: Office of Planning, Evaluation, and Legislation, Health Resources Administration, Center Building, Room 10–22, 3700 East-West Highway, Hyattsville, Maryland 20782. All materials received in response to this Notice will be available for public inspection and copying at the above location during regular business hours.

FOR FURTHER INFORMATION CONTACT: James W. Stockdill, Associate Administrator for Planning, Evaluation and Legislation, Health Resources Administration, Center Building, Room 10–22, 3700 East-West Highway, Hyattsville, Maryland 20782, (301) 436–7270.

SUPPLEMENTARY INFORMATION:

A. Overview

The Assistant Secretary for Health, with the approval of the Secretary of Health and Human Services, proposes to add Subpart B to Part 121 of Title 42 of the Code of Federal Regulations to implement section 1501 of the Public Health Service Act, as amended by the Health Planning and Resources Development Amendments of 1979 (Pub. L. 96–79). This section requires the Secretary to issue, by regulation, Guidelines concerning national health planning policy. Guidelines must include:

(1) Standards respecting the appropriate supply, distribution, and organization of resources, and

(2) National health planning Goals developed after considering the National health priorities established by Congress in Section 1502 of the Act. To the maximum extent practicable, the Goals must be expressed in quantitative terms.

The Guidelines proposed here constitute statements of national health planning goals pursuant to Section 1501 (b)(2) of the Act. A statement of resource standards with respect to certain acute inpatient resources and services, issued pursuant to Section 1501 (b)(1) was published as a final regulation on March 28, 1978 (42 CFR Part 121; 43 FR 13040).

The House Committee reporting on the Health Planning and Resources Development Amendments of 1979 noted, "the purpose of the Guidelines is to help clarify and coordinate national health policy and to assist HSAs (Health Systems Agencies) in developing required health systems plans." The proposed goals, in line with this Congressional intent, are designed to serve this purpose. First, they serve as a statement of health goals for national achievement. All persons and organizations interested in better health for the people of the nation should contribute to the furtherance of the accomplishment of the goals. Second, they should assist health systems agencies (HSAs) established under Section 1512 of the Public Health Service Act in setting goals for their areas as they develop the Health Systems Plans required by the Act. In turn, these local experiences are expected to contribute to further development of the goals and national health policy in general. Thus, the Guidelines can serve as a bridge between national policy and State and local planning efforts.

Since the achievement of the goals will depend upon the efforts of entire communities, the HSAs should work with residents to stimulate, monitor, shape, and coordinate these efforts. The national health planning goals are intended to guide and assist HSAs, communities, and the nation as a whole in improving the health care system and health status.

This proposal is divided into three categories. Category I proposes goals with respect to health status outcomes. Category II proposes goals with respect to disease prevention and health promotion. Category III proposes goals with respect to institutional and personnel resources and systems of care. The national goals take a broad approach to health and are not limited to reductions in morbidity and mortality, but are also concerned with reductions in disability and dysfunction and improvements in the quality of life.

While these goals focus on a limited number of topics, when fully developed over time the Guidelines will present a comprehensive statement of national health goals and cover the full range of health care issues. Additional statements and proposed changes will be based on reviews of HSPs, Annual Implementation Plans (AIPs), and State Health Plans (SHPs), as well as on new research findings and analyses and other experience gained in developing and applying the goals. The development of the National Guidelines will be a long term process. Section 1501 of the Act requires that the Guidelines be reviewed each year.

Section 1501 also requires the Secretary to consider the seventeen national health priorities in section 1502 when developing the national health planning goals. Goals related to these priorities are marked with an asterisk. Other factors which were considered in selecting goals include: (1) potential for improving the health of the population; (2) relevance to the statutory mission of improving access, potential for increasing the quality of care, and constraining costs; (3) reference to an important health problem; (4) relation to other health policy statements in Federal laws or regulations and (5) potential for achievement.

In keeping with the statute, the proposed goals are expressed in quantified terms wherever possible. However, when quantified statements are not feasible, they are expressed in more general, qualitative terms.

The Notice invites all interested parties to submit written comments and recommendations concerning the proposed National Guidelines for Health Planning. After consideration of the material received in response to this Notice, the Secretary of Health and Human Services will, by regulation, issue the final Guidelines concerning national health planning goals.

B. Application

According to section 1513(b)(2) of the Act, HSAs must give "appropriate consideration" to the National Guidelines for Health Planning when developing their HSPs. In addition, HSAs, are expected to mobilize community efforts to accomplish the goals contained in these Guidelines.

Section 1513(b)(2) of the Act, as enacted by P.L. 93–641, called for the HSPs to give "appropriate consideration to" the National Guidelines (both goals and standards) and "be consistent with" the standards respecting the appropriate supply, distribution and organization of

health resources, which were published in Subpart C of Part 121. Subpart A, "General Provisions", reflects the former statutory requirements of consistency with the standards. The Health Planning and Resources Development Amendments of 1979 (P.L. 96–79) which amended Title XV of the Act, deleted the requirement for consistency with the resource standards, and Subpart A will accordingly be revised to reflect the statutory change. However, according to the Amendments (P.L. 96–79), if the goals of the HSP are not consistent with the National Guidelines—both goals and standards—the HSA must provide the State Health Planning and Development Agency (SHPDA) and the Secretary, with a detailed statement explaining the inconsistency. In addition, the HSA is required to report this statement when making its HSP available to the Statewide Health Coordinating Council (SHCC) under section 1524(c)(2)(A). The following are among the reasons why inconsistencies may exist: (1) the goal addresses a problem not prevalent within the health service area; (2) the problems unique to the area are of greater concern; and (3) the goal cannot be achieved within the time frame specified or with the resources available to the community.

When considering the goals, HSAs should be sensitive to the special needs, resources and priorities of their areas. Problems unique to specific geographic areas and population subgroups should be identified and addresses as HSPs are prepared and implemented. While HSPs should address each of the proposed goals, they also should address other issues of importance within their areas. Since local needs and resources vary, HSAs may differ in their priorities and, consequently, in their schedules and strategies for achieving the national health planning goals. It is expected that HSAs will acquire and analyze data on the application of goals to local circumstances, and will address in their HSPs the relationships between local experiences and aspirations and the national goals.

Except where otherwise noted, the goals are set for achievement in five years. However, HSAs should establish their own deadlines for goals which reflect local priorities and resources. Because substantial increase in the scope of many HSPs may be needed to address all the issues addressed in the proposed goals, HSAs may choose to phase the national health planning goals into their plans over a three-year period. All plans established after one year from the date the Secretary issues final regulations must, at a minimum, include a plan for when all the national goals will be addressed. This plan should be developed in consultation with the SHPDA and SHCC. All HSPs established after three years from the date of final regulations must address all the goals. Revised "Guidelines on the Development of Health Systems Plans and Annual Implementation Plans" will be issued as program guidance regarding further HSA responsibilities in applying the goals.

Each State Health Plan develcped under section 1523(c)(2)(A) of the Act must be "made up of" the HSPs of the HSAs within the State, revised by the SHCC, or by the SHPDA in preparing the preliminary State Health Plan, to coordinate HSPs or deal more effectively with Statewide health needs. Since each HSP must consider the national goals, the State Health Plan will reflect them accordingly.

When setting priorities and developing strategies, State and local agencies should attempt to relate the cost of meeting their objectives to the benefits the goals are expected to produce they should also seek to identify public and private resources which can also be used to help achieve the goals.

While changes in health status are viewed as desirable longrange outcomes of improvements in institutional and personnel resources and systems of care, it is recognized that such gains will result not only from the implementation of Health Systems Plans, but also from a complex array of individual and societal factors not always directly susceptible to modification by Health Systems Agencies or even by the health care system.

The programs for Certificate of Need (CON), the review of new institutional health services, review and approval of proposed uses of Federal funds, and review for appropriateness of existing institutional health services, should be used to help achieve these goals. A range of voluntary and community actions also will be needed, and HSAs in particular should work as facilitators and catalysts, coordinating the efforts of those who are affected by planning decisions and who have resources to contribute toward implementing efforts. This group will include providers, State and local health departments, other State and local officials, hospitals, health care insurers and community agencies. In many instances, it will be necessary to coordinate a broad array of services—health, education, social and community support services, housing, transportation and recreation—to develop and achieve desired goals. Further strides in meeting the health-related needs of the elderly and those suffering from chronic illness and disabilities will depend upon such efforts.

The Department recognizes that all the actions required to achieve the proposed goals are not directly susceptible to HSA and SHPDA influence. The HSAs and SHPDAs do not have control over the performance of the health system. The changes they propose in their plans are usually recommendations and thus are not binding. Those who operate and finance the health care system have a more direct impact. Moreover, it is not yet possible to measure the effects of HSA decisions on systems performance. The link between systems change and health status outcome is even more tenuous. Finally, definitive indications of impact take a long period to measure, often a minimum of five years. Thus, the planning agencies cannot be held accountable for the actual achievement of the goals.

Nevertheless, in keeping with its responsibilities under section 1535 of the Act, the Department is interested in assuring that the statutory mandate for considering the goals is met. HSAs are responsible for working with their communities in setting health status and health systems goals, mobilizing community efforts to implement their plans, and stimulating community actions which will improve the health care system within their areas. The Department will review the efforts by the agencies in implementing their plans and stimulating community actions to make needed improvements in resources, systems of care and health status, and will hold the agencies accountable for performing these functions.

The Federal Government has, in the past, contributed significantly to progress on many of the proposed goals and can be expected to continue to do so. Agencies established under the Public Health Service Act, Community Mental Health Centers Act, Drug Abuse Office and Treatment Act, and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitaton Act of 1970, and other Acts have helped develop these proposed goals and their programs will provide program support for their achievement. Federal activities however, are not expected to be the central factor. The achievement of these goals will require a full partnership of effort involving consumers and professionals, State and local government, and those in the voluntary and private sectors.

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C. Process of Development

As required by the 1979 planning amendments, the Department has developed these Guidelines in consultation with HSAs, SHPDAs, SHCCs, associations and specialty societies representing medical and other health care providers, and the National Council on Health Planning and Development. The Department also solicited the views of consumers and other interested individuals and organizations.

The goals in this document reflect recommendations obtained during an extensive process of public consultation. This process began on June 12, 1975, with a notice in the **Federal Register** (40 FR 25080) requesting comments on developing Guidelines. In addition, agencies and organizations such as the Center for Disease Control, the Harvard School of Public Health, and the American Health Planning Association brought groups of interested individuals together to assist in identifying and analyzing issues that should be addressed. Many papers prepared in connection with these activities have been published in three volumes of "Background Papers on the National Health Guidelines."

In July 1976, an initial draft of 24 potential national health planning goals was distributed for comment. In October 1976, a more extensive draft of potential goals and standards was made available for public review and comment. These drafts were sent to State and local health planning agencies, more than 100 medical and other health professional associations, and interested consumer groups. Each DHHS regional office also organized a series of public meetings on the draft Guidelines at the local, State or regional level. Altogether, the Department received and analyzed 1,300 individual comments on the draft material.

On October 19, 1979, a Notice of Availability of Draft Regulations published in the **Federal Register** (44 FR 60342) announced that an advanced draft of the goals was now available. Like earlier drafts, copies were provided to HSAs, SHPDAs, SHCCs, Centers for Health Planning, a number of associations and specialty societies representing medical and other health care providers, consumer organizations, and the National Council on Health Planning and Development.

When the 45-day public comment period provided by the Notice of Availability ended on December 3, 1979, the Department had received a total of 388 written comments from a wide range of individuals and organizations. All comments were then categorized and presented to the National Council. The National Council on Health Planning and Development's Subcommittee on National Guidelines Goals, Standards and Priorities, also heard public testimony on the draft in Los Angeles, California on November 8–9, 1979.

In line with its statutory responsibilities, the National Council on Health Planning and Development has played a major role in providing advice and recommendations to the Department on draft goals since its establishment. The Council has emphasized the importance of developing a set of goals broad enough to provide a comprehensive framework for the development of HSPs and SHPs. The Council also has stressed the importance of (1) developing strategies for achieving high priority goals involving the combined efforts of the public and private sectors and (2) initiating selected projects which focus on a limited set of goals which can be measured and which can be achieved quickly.

The Council believes that joint public/private efforts can marshall broad support from the resources of industry, labor, third party payors, educational institutions, the health care industry and others to achieve common goals. In developing demonstration projects it has tentatively chosen seven goals as priorities for the demonstration projects. These relate to (1) reducing infant mortality, (2) reducing deaths from preventable communicable disease, (3) immunizing children, (4) regionalization, (5) developing strategies for strengthening preventive health services, (6) developing strategies for reducing or preventing alcoholism and related disabilities, and (7) new technology. Comments are solicited on these priorities. The Council recently established a Subcommittee on National Guidelines Goals, Standards and Priorities to review the national experience in these areas. With respect to health planning goals, the Subcommittee will identify those goals which should receive priority attention; investigate demonstration projects related to priority goals; study research needs appropriate to the develoment and refinement of the Guidelines; develop improved indicators to assess their impacts; and make recommendations on the need for further development and refinement of the Guidelines.

D. Major Issues

The major issues which emerged from the Notice of Availability, the public testimony, and the recommendations of the National Council on Health Planning and Development, are summarized below. A detailed analysis of the public comments and the Council recommendations are available upon request.

1. *Health Planning and Resources Development Amendments of 1979.*

Many of the written comments requested that this document list the seven new national health priorities added to section 1502 by the Health Planning and Resources Development Amendments of 1979. They are as follows:

(9) ". . . the development and use of cost saving technology."

(12) "The identification and discontinuance of duplicative or unneeded services and facilities."

(13) "The adoption of policies which will (A) contain the rapidly rising costs of health care delivery, (B) insure more appropriate use of health care services, and (C) promote greater efficiency in the health care delivery system."

(14) "The elimination of inappropriate placement in institutions of persons with mental health problems and the improvement of the quality of care provided those with mental health problems for whom institutional care is appropriate."

(15) "Assurance of access to community mental heath centers and other mental health care providers for needed mental health services to emphasize the provision of outpatient as a preferable alternative to inpatient mental health services."

(16) "The promotion of those health services which are provided in a manner cognizant of the emotional and psychological components of the prevention and treatment of illness and maintenance of health."

(17) "The strengthening of competitive forces in the health services industry wherever competition and consumer choice can constructively serve, in accordance with subsection (b), to advance the purposes of quality assurance, cost effectiveness and access."

Each of these new priorities is reflected in the proposed goals.

2. *Relationship to Other Federal Efforts.*

Healthy People, The Surgeon General's Report on Health Promotion and Disease Prevention, released in July 1979, proposed five major public health goals for each major age group in the society. The goals specified improvements in the health of infants, children, adolescents and young adults, adults and older adults which were to be achieved by 1990. The report also outlined the health promotion, health protection and disease prevention strategies which should be undertaken to accomplish these goals.

Many written comments sought clarification about the relationship between the proposed national health planning goals and the longer range goals in the Surgeon General's Report. These proposed goals now incorporate the 1990 targets from the Surgeon General's Report.

Other questions were raised as to the relationship between the goals and the draft "Objectives for the Nation" released for public comment in August 1979, and the "Model Standards for Community Preventive Health Services issued in August, 1979, as a Report to Congress. Each of the documents is of a different scope and is designed to serve a different purpose. The proposed national goals provide a set of goals dealing with a broad range of issues related to changes in health status, and the health system. The draft "Objectives" set more specific targets to be achieved by 1990 in 15 areas of prevention and health promotion activities and the Model Standards are intended to provide models for State and local health agencies to use in setting standards within their areas.

Further, the DHHS Office of Professional Standards Review Organization (PSRO) has drafted a statement of Proposed National Professional Standards Review Organization Goals. These draft goals address problems of inappropriate variations in hospital utilization, medical and surgical procedures, medically unnecessary use of ancillary services, and substandard quality care. The PSRO national goals have also been incorporated into Goal III.B.5. on the Quality of Health Services.

3. *Special Needs of Rural Areas.*

While a number of the proposed goals relate to problems found in rural areas, a number of commenters called for additional attention to special circumstance and problems which exist in rural areas and which must be taken into account in applying national health planning goals. These include:

a. The chronic inequities in the distribution of medical care resources which are particularly severe in the 1,800 counties with populations of less than 25,000.

b. The health status of rural residents, which is poorer than that of residents of metropolitan areas when measured by such indicators as infant mortality rates, disability bed days and instances of chronic health conditions. Those living in rural areas with the greatest need for medical attention have the least access when measured by the supply of resources.

c. Poverty which increases the need for medical care while it decreases the ability to purchase care. In 1976, the percentage of the rural population without health insurance was almost double that of the urban population.

d. Low population density, which often precludes "economies of scale." People in rural areas also must often travel long distances to obtain care.

e. Cost control associated with using existing resources more efficiently, which tends not to be an issue in rural areas because residents there often face a more basic problem: the availability of a minimal level of health and medical care services, including emergency care.

f. Health education which may play a more significant role in rural areas since rural populations, for a variety of reasons, may be required to assume a greater responsibility for their own care.

g. Environmental and occupational health problems which are unique to rural areas. The inappropriate use of fertilizers and pesticides and their impact on the health of rural residents through air and water pollution is an important environmental issue. Occupational health services may need to be upgraded to account for the high incidence of accidents, injury and disability in such rural occupations as agriculture, forestry, construction and mining.

h. Some areas of the country face unique health problems resulting from rapid growth due to energy development. In addition to problems traditional to rural areas, the health problems in these areas become greatly magnified with energy development. Among the problems are: lack of adequate primary care; increased pressure on basic human services; the "bust" phenomenon which follows the "boom"; the long time period for development of health facilities and the presence of excess facilities when they are no longer needed; the unique environmental problems; and a high incidence of mental illness, alcoholism, and drug abuse. Given that sixty percent of natural energy reserves lie on or near Indian reservations, an effort must be made to protect these potentially vulnerable populations from such developmental problems.

i. Traditional guidelines regarding the efficiency of health care institutions which may not always be applicable in rural areas. An influx of migrant agricultural workers or tourists may create dramatic seasonal changes in the population.

Particular attention should be devoted to these distinct characteristics of rural areas.

4. *Levels of Specificity.*

Many commenters expressed concern that the goals were too general and urged that they be more specific and quantitative. General statements, it was pointed out, can limit the usefulness of the goals because they provide no way to measure progress. Moreover, many HSAs pointed out that the Department required them to be more quantitative in their own planning efforts than the Department itself had been when developing these goals.

Others, including the National Council on Health Planning and Development, felt the level of specificity was appropriate. They saw the goals as an expression of desirable aspirations for improving both health status and health care, and as a foundation for more substantive public discussions. They felt that highly specific goals could create major problems for communities for whom the goals were inappropriate or unattainable.

As indicated earlier, section 1501 requires that the goals be expressed in quantified terms to the maximum extent practicable. The Department has decided that the current level of specificity is appropriate for an initial statement of national health planning goals. Given the diversity that exists in this nation, it was judged not advisable to set goals which created a uniform standard for every area and community in the country. HSAs, however, are encouraged to quantify goals for their areas wherever possible. At the very least, local planning agencies should attempt to set numerical objectives when implementing the goals.

5. *Financing.*

Many commenters asked how local planning agencies, health care institutions and others should go about implementing national health goals, given the current structure of financing and reimbursement systems. These systems will play an important role in determining the resources available to implement the goals in any given community. While reimbursement mechanisms should be adjusted or developed to support the achievement of these goals, the lack of immediate reimbursement should not become a reason for failing to take actions leading to their implementation. Communities and health institutions should work towards developing ways of meeting the proposed goals which do not require the immediate availability of new funding.

6. *Specific Changes in the Goals.*

Some specific recommendations were received for restructuring the document. In line with these recommendations, several goals have been combined and the structure has been changed to include three categories of goals. The first is health status outcomes which represent the long range objectives (I). These are to be achieved by goals relating to increased health promotion

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and prevention activities (II), and changes in institutional and personnel resources and systems of care (III).

A number of comments suggested additional goals. Goals addressing low birth weight infants and environmental and occupational health have been added. The goal on teenage pregnancy has been broadened to encompass all unintended pregnancies, with particular attention to certain high risk groups, such as teenagers. A new section, Category III.C., has been added on Coordinating Community Resources, which addresses issues of access for the disabled, and the availability and coordination of a broad array of health and human services. Goals related to alcoholism have been separated from those for drug abuse. Amphetamine and marijuana use have been added. The quantitative targets in many goals have been adjusted to reflect recent trends and experiences.

A statement has been added regarding the availability of a wide range of organizational and financial options for health care services and the goal on prepaid health care has been broadened to include not only federally-qualified HMOs but also similarly constituted ones.

With respect to Goal III.A.2 (Primary Care), many commenters criticized the concept that a certain number of nurse practitioners and physicians' assistants could be regarded as the full or partial equivalent of a physician. The commenters acknowledged that nurse practitioners and physicians' assistants could increase availability by providing limited medical care in the absence of a physician, but pointed out that they could not relieve the need for the kind of care a physician provides. In light of these concerns, the concept of equivalency has been dropped.

Many comments criticized an earlier draft goal which encouraged all individuals to seek a second opinion before undergoing elective surgery. Questions were raised about the evidence that indicated unnecessary surgery was occurring and whether the benefits of second opinion programs had been sufficiently documented. Nevertheless, there is growing evidence to indicate that certain elective surgical procedures are not always necessary or in the best interests of the patient's health. Moreover, Blue Cross/Blue Shield and other commercial insurers now routinely reimburse "second opinion" services and strongly advocate that their policy-holders seek second opinions prior to choosing elective surgery. Similarly, within the medical profession there is a noticeable trend towards supporting second opinion and peer review with respect to elective surgery. In addition, Federal agencies have found second opinion programs to be cost-effective and have approached this subject from the dual perspective of cost-savings and consumer (patient) education/awareness.

Other commenters including the National Council on Health Planning and Development when it considered the goals at their January 11, 1979, meeting, felt the goal on second opinion related more to questions of the clinical practice of medicine than to health systems considerations. In view of this concern, the goal on second opinion has been revised to focus on problems of inappropriate variations in surgical procedures, and incorporated in Goal III.B.5. on Quality of Health Services.

The concept of uniform cost accounting contained in the goal on management procedures also received substantial criticism. Many recommended that this be replaced with uniform cost reporting. Uniform cost reporting, the commenters contended, would meet the objectives of comparable data and information while providing greater flexibility without unnecessarily burdening providers and increasing administrative costs. Goal III.B.6 (Management Procedures) has been revised in line with this suggestion.

It is therefore proposed to add a new Subpart B to 42 CFR Part 121 as set forth below.

Dated: September 3, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

Approved: October 30, 1980.

Patricia Roberts Harris,

Secretary.

PART 121—NATIONAL GUIDELINES FOR HEALTH PLANNING

Subpart B (§ 121.101) is added to Part 121 to read as follows:

Subpart B—National Health Planning Goals

§ 121.101 Scope of the subpart.

(a) The goals proposed below as Supplements A and B to this section set forth National Health Planning Goals issued as part of the National Guidelines For Health Planning pursuant to Section 1501(b)(2) of the Public Health Service Act. They supplement the National Standards respecting certain acute inpatient resources and services issued March 28, 1978 (42 CFR Part 121, 43 FR 13040).

(b) The House Committee reporting on the Health Planning and Resources Development Amendments of 1979 noted, "the purpose of the Guidelines is to help clarify and coordinate national health policy and to assist HSAs (Health Systems Agencies) in developing required health systems plans." The proposed goals, in line with this Congressional intent, are designed to serve this purpose. First, they serve as a statement of health goals for national achievement. All persons and organizations interested in better health for the people of the nation should contribute to the furtherance of the accomplishment of the goals. Second, they should assist health systems agencies (HSAs) established under Section 1512 of the Public Health Service Act in setting goals for their areas as they develop the Health Systems Plans required by the Act. In turn, these local experiences are expected to contribute to further development of the goals and national health policy in general. Thus, the Guidelines can serve as a bridge between national policy and State and local planning efforts.

(c) The national goals take a broad approach to health and are not limited to reductions in morbidity and mortality, but are also concerned with reductions in disability and dysfunction and improvements in the quality of life.

(d) While these goals focus on a limited number of topics, when fully developed over time the Guidelines will present a comprehensive statement of national health goals and cover the full range of health care issues. Additional statements and proposed changes will be based on reviews of HSPs, Annual Implementation Plans (AIPs), and State Health Plans (SHPs), as well as on new research findings and analyses and other experience gained in developing and applying the goals. The development of the National Guidelines will be a long-term process. Section 1501 of the Act requires that the Guidelines be reviewed each year.

(e) This proposal is divided into three categories. Category I proposes goals with respect to health status outcomes. Category II proposes goals with respect to disease prevention and health promotion. Category III proposes goals with respect to institutional and personnel resources and systems of care.

(f) The goals are first summarized below and then discussed in full.

SUPPLEMENT A TO § 121.101—SUMMARY STATEMENT OF GOALS

Part I: Health Status Outcomes

1. *Health Status Improvements.* Health status should be improved in all parts of the country and among all population groups, especially among medically underserved populations.

2. *Infant Health.* The health of infants should be improved by:

a. Reducing the incidence of low birth weight infants (prematurely born, or small-for-age infants weighing less than 2,500 grams) for every subgroup of the population (as defined by socioeconomic, ethnic and geographic characteristics) below the lowest reported current rate for such a subgroup; and

b. Reducing the infant mortality rate to less than 11 deaths per 1,000 live births by 1985 and to less than 9 deaths per 1,000 live births by 1990.

3. *Child Health.* Child health and development should be improved and death rates for those ages 1–14 reduced to less than 39 per 100,000 by 1985 and to less than 34 deaths per 100,000 by 1990.

4. *Preventable Communicable Diseases.* The incidence of preventable communicable diseases should be reduced, with a mortality rate of less than 22 deaths per 100,000 persons. Diseases and deaths preventable by routine childhood vaccination should approach zero. Measles should be eliminated as an endemic disease in the United States. Tuberculosis in children should be eliminated.

5. *Adolescent Health.* The health of adolescents and young adults should be improved and death rates for those aged 15 to 24 reduced to less than 105 per 100,000 by 1985 and to less than 93 deaths per 100,000 by 1990.

6. *Adult Health.* The health of adults should be improved and death rates for those aged 25–64 reduced to less than 472 per 100,000 by 1985 and to less than 400 per 100,000 by 1990.

7. *Older Adult Health.* The health and quality of life of older adults should be improved by:

a. Reducing the average annual number of days of restricted activity due to acute and chronic conditions for those age 65 and older to less than 33 days per year by 1985 and to less than 30 days per year by 1990; and

b. Reducing the average annual number of days of bed disability due to acute and chronic conditions for those age 65 and older to less than 13.0 days per year by 1985 and to less than 11.6 days per year by 1990.

8. *Alcoholism.* The prevalence of alcoholism and related disabilities and deaths should be reduced by at least 5 percent.

9. *Drug Abuse.* Drug abuse should be reduced by:

a. Reducing the proportion of youths age 12–17 years of age using marijuana and phencyclidine (PCP) to below 1977 levels;

b. Decreasing by at least 20 percent the use of barbiturates and other potentially harmful sedatives used for the treatment of insomnia; and

c. Reducing the annual number of amphetamine prescriptions written for the treatment of weight reduction by 20 percent.

10. *Oral Health.* Oral health status should be improved so that (1) for persons 17 years of age, at least 65 percent retain all of their permanent teeth and (2) for persons 55 to 64 years of age, at least 60 percent retain some natural teeth.

11. *Heart Disease, Cancer and Stroke.* Age-adjusted death rates for heart disease should be reduced to 156 per 100,000 persons and for stroke to 29 per 100,000 persons by 1985. Efforts should be directed toward improvements in survival rates through detection and treatment for all types of cancer.

Part II. Disease Prevention and Health Promotion

1. *Extension of Disease Prevention and Health Promotion.** Health promotion and disease prevention should be extended through both individual and community actions with emphasis on high risk populations, and be an integral component of care provided by health care and other community institutions.

2. *Consumer Information**. People should be better informed as to how, when, and where to get health care of an appropriate kind and quality at a reasonable cost.

3. Prenatal, Maternal and Perinatal Care*. Programs should be established to assure that all pregnant women receive adequate prenatal, puerperal and post partum care and that newborns receive adequate perinatal care.

4. *Unitended Pregnancy**. The rate and adverse consequences of unintended pregnancy should be reduced, particularly among teenagers and other high risk groups.

5. *Immunization**. An immunization level of at least 90 percent should be maintained for all children under 15 years of age, and newborns immunized at the earliest appropriate time against polio, measles, rubella, diphtheria, mumps, pertussis, and tetanus.

6. *Environmental and Occupational Health**. Environmental and occupational related morbidity and mortality should be reduced through the protection from and reduction of environmental and occupational hazards..

7. *Accidents**. Accidents in the home, during recreation, at work and on the highway should be prevented. Particular efforts should be made to reduce accidents involving children.

8. *Fluoridation**. Community water supplies containing insufficient natural fluoride should be fluoridated to optimal levels for the prevention of dental caries. In areas where community water fluoridation is not feasible, other appropriate fluoride measures should be implemented.

9. *Nutrition**. People should be informed about what constitutes good nutrition and should be encouraged and aided in obtaining a proper diet.

10. *Smoking**. Communities, working through all available institutions and media, should strive to discourage the initiation of the smoking habit among young people, and to break the habit among those who smoke.

Part III: Institutional and Personnel Resources and Systems of Care

A. *Service Delivery.*

1. *Access to Care**. Every person should have access to the full range of health care services. Equal access to needed health care services for all population subgroups (including racial and ethnic minorities, the elderly, the handicapped, and low income persons) should be fostered through the elimination of financial, physical, geographic, transportational, organizational and other barriers unrelated to the need for care. Planning and review decisions must take into account the specific health care needs of these groups and should give a priority to projects which seek to address these needs.

2. *Primary Care**.

a. *Supply.* The supply of primary care physicians in a health service area should be at least one physicain per 2,000 population under certain circumstances, services should be enhanced through more effective utilization of other health personnel including physicians' assistants and nurse practitioners.

b. *Balance Among Medical Specialties.* To the extent that shortages or excesses of primary care personnel or medical specialties exist and are documented, these imbalances should be corrected.

c. *Integration of Mental Health.* The integration of mental health services in general health care delivery programs should be increased through in-service mental health training of primary care providers and placement of mental health professionals in primary care programs.

3. *Mental Health**. An increasing proportion of mentally ill persons should be restored to productive living by:

a. developing community-based services for unserved, underserved, or inappropriately served populations, especially children and youth, the aged, the chronically mentally ill, racial and ethnic minorities, poor persons, and persons in rural areas.

b. minimizing unnecessary or inappropriate institutionalization and ensuring that persons requiring long-term residential care due to mental illness or disability receive such care in the least restrictive settings which assure high quality care and services appropriate to the patient's needs, and

c. providing economical and high quality health facilities for chronic mental patients who require prolonged periods of care.

4. *Child Mental Health**. Services should be available to improve the level of social and cognitive functioning for children identified as "most in need" of mental health services.

5. *Alcoholism and Drug Abuse**. Alcoholism and drug abuse services should be organized in ways that further the development of comprehensive community-based prevention and treatment services, and which are integrated into the mainstream of health care.

6. *Dental Services**. Dental services should be available to all persons who would seek dental care if it were reasonably accessible; an increasing proportion of persons should regularly seek and obtain adequate dental services.

B. *Systems of Care.*

1. *Regionalization**. Providers of health services should be organized into regionalized networks which assure that various types and levels of services are linked together to form comprehensive and efficient systems of care. These networks

*Goals marked with an asterisk grow out of the National Health Priorities contained in section 1502 of the Statute. They will be identified as such in the text following the goal statements.

should work to improve access to health

SUPPLEMENT B TO § 121.101—NATIONAL HEALTH PLANNING GOALS

through October 1979 shows a rate of 13.1 deaths per 1,000 live births, a reduction of 3.7

Canada. Alcohol use by pregnant women has also been found to represent a potential

factors associated with heart disease:

must be directed towards the poor, blacks

should work to improve access to health services, eliminate unnecessary duplication of services, and improve quality.

2. *Multi-Institutional Systems and Shared Services**. Efficiency and productivity of health care institutions should be furthered through the development of multi-institutional arrangements for the sharing of clinical, administrative and support services.

3. *Emergency Medical Systems**. Networks of emergency medical services systems should be developed and improved in order to effectively coordinate the delivery of emergency medical care to all who require it.

4. *Options for Care**. Every resident within the health service area should have available the widest possible range of options for health care services with respect to both the organizational model for delivery and financing mechanisms.

a. The option of joining a federally-qualified or similarly constituted health maintenance organization should be available to every resident.

b. The number of group practice arrangements for the delivery of medical care should be substantially increased.

5. *Quality of Health Services**. The quality of health services should be improved by:

a. Reducing inappropriate variations in hospital utilization;

b. Reducing inappropriate variations in the incidence of surgical procedures;

c. Reducing inappropriate and medically unnecessary utilization of ancillary services;

d. Identifying and eliminating substandard care; and

e. Health planning and review decisions taking into account the results of quality assessment and utilization reviews.

6. *Manogment Procedures**. Efficiency and productivity of health care institutions should be furthered through the adoption of uniform cost reporting, equitable reimbursement arrangements, utilization reporting systems and improved management reporting procedures.

7. *New Technology**. When found safe and effective, the introduction of new procedures and equipment should take place in ways that enhance economy, equity and quality. Reimbursement policies should foster the appropriate use of all technology.

8. *Energy Conservation**. Efforts should be made to promote an effective energy conservation and fuel conservation program for health service institutions to reduce the rate of growth of demand for energy.

C. *Coordinating Community Resources.*

1. *Access to Support Services for the Chronically Ill and Handicapped.* A full agray of support services should be accessible to those with chronic or prolonged illnesses and/or physical or mental handicaps.

2. *Services Coordination and Case Management.* There should be close coordination among the various health, social, rehabilitative and other human services which those with chronic or prolonged disabilities often require. Case management should be available to the chronically ill and handicapped to direct them to needed health and support services.

SUPPLEMENT B TO § 121.101—NATIONAL HEALTH PLANNING GOALS

Part I: Health Status Outcomes

Goal I.1 *Health Status Improvements.*

HEALTH STATUS SHOULD BE IMPROVED IN ALL PARTS OF THE COUNTRY AND AMONG ALL POPULATION GROUPS, ESPECIALLY AMONG MEDICALLY UNDERSERVED POPULATIONS

Health status in the United States has shown dramatic improvements. Life expectancy, which was only 47 years in 1900, now averages more than 73 years. Death rates are at their lowest in history and now stand at 882 deaths per 100,000 persons.

There have also been setbacks. The age-adjusted death rate for cancer is on the rise, from 130.2 per 100,000 persons in 1968 to 133.2 per 100,000 in 1978 (provisional). Deaths from suicide and homicide are at high levels among young adults. Sexually-transmitted diseases are again on the rise. Alcoholism and drug addiction continue to be serious problems. Drug-resistant tuberculosis is an emerging public health problem.

The ten leading causes of death are diseases of the heart, malignant neoplasms, cardiovascular diseases, accidents, influenza and pneumonia, diabetes mellitus, cirrhosis of the liver, arteriosclerosis, suicide, and certain causes of mortality in early infancy. (See Tables 2 and 3).

Significant differences in health status exist by geographic area. These also reflect variations in age distributions, death rates for specific age groups, and variations in rates for individual causes of death. Different environmental influences, health-related human behavior, socio-economic status, the availability of health services and the distribution of the population by age and density also contribute to substantial differences in morbidity and mortality rates. For example, life expectancy at birth in 1978 for white males and females respectively (provisional) was 70.2 and 77.8 years while for non-whites these figures were 65.0 and 73.6 years, respectively.

A number of other very significant health problems, such as mental illness, tuberculosis, arthritis, childhood infectious diseases, dental diseases and conditions, or visual problems, though not major killers for Americans, cause considerable suffering, sickness and economic loss.

Goal I.2. *Infant Health.*

THE HEALTH OF INFANTS SHOULD BE IMPROVED BY:

a. REDUCING THE INCIDENCE OF LOW BIRTH WEIGHT INFANTS (PREMATURELY BORN OR SMALL-FOR-AGE INFANTS WEIGHING LESS THAN 2,500 GRAMS) FOR EVERY SUBGROUP OF THE POPULATION (AS DEFINED BY SOCIOECONOMIC, ETHNIC AND GEOGRAPHIC CHARACTERISTICS) BELOW THE LOWEST REPORTED CURRENT RATE FOR SUCH A SUBGROUP: AND

b. REDUCING THE INFANT MORTALITY RATE TO LESS THAN 11 DEATHS PER 1,000 LIVE BIRTHS BY 1985 AND TO LESS THAN 9 DEATHS PER 1,000 LIVE BIRTHS BY 1990.

Infant mortality rates in the U.S. are at their lowest point in history. Provisional data through October 1979 shows a rate of 13.1 deaths per 1,000 live births, a reduction of 3.7 percent from 1978 (Table 6). In October 1979 alone, infant mortality dropped to 12.9 percent, or 4.4 percent lower than in October 1978. These improvements have been due primarily to better nutrition, better housing and such factors as improved prenatal, obstetrical and pediatric care. If current trends continue, a rate of 11 deaths per 1,000 live births by 1985 and 9 deaths per 1,000 live births by 1990, the goal established in *Healthy People*, the Surgeon General's Report on Disease Prevention and Health Promotion, is attainable.

Nonetheless, among industrialized nations the United States ranked twelfth in infant mortality in 1977, and the first year of life continues to be the most hazardous period a person faces until he or she reaches age 65.

Low birth weight is the most likely explanation for the high infant mortality rate in the United States. In 1976, about 7 percent of all new-borns weighed less than 2,500 grams (5.5 pounds). In Sweden, this figure was 4 percent. At the present time, two-thirds of all infant deaths in this country occur among infants weighing less than 2,500 grams at birth. Infants below this weight are more than twenty times as likely to die within the first year after birth.

Lowering the number of low birth weight infants should result in substantial reductions in infant mortality, and thus should be a major public health goal. This effort should also narrow the present gap in infant mortality among different population groups. The 1977 rate for white infants for example, was 12.3 deaths per 1,000 live births, but was 21.7 deaths per 1,000 for other infants, or about 76 percent higher. Black infants are nearly twice as likely to die before their first birthday as whites. The rate also varies considerably in different parts of the country (Tables 5, 7). Particular attention needs to be paid to health service areas and population groups where the infant mortality rate is higher than 11 per 1,000 live births.

Many maternal factors are associated with low infant birth weight. They include infectious diseases, lack of prenatal care, poor nutrition, smoking, alcohol and drug abuse, age (especially youth of the mother), marital status, and social and economic background.

An expectant mother who receives no prenatal care is three times as likely to have a low birth weight child, especially since these mothers are likely to have other risk factors working against them. Regular prenatal care reduces this risk not only because medical and obstetrical services benefit mother and child, but also because the expectant mother is more likely to receive social and family support services as well.

Nutrition is another critical factor. Pregnant women lacking proper nutrition have a greater chance of bearing either a low birth weight or stillborn infant. Maternal cigarette and alcohol consumption also are hazardous for the child. Smoking slows fetal growth, doubles the chance of low birth weight and increases the risk of stillbirth. Some studies suggest that smoking may be a significant contributing factor in 20 to 40 percent of low birth weight infants born in the U.S. and

Canada. Alcohol use by pregnant women has also been found to represent a potential hazard to the development of the fetus. Heavy alcohol use has been associated with a variety of birth anomalies, including a cluster of distinctive physical and mental impairments known as the Fetal Alcohol Syndrome. Reports in the literature have placed this disorder as the third leading cause of birth defects with associated mental retardation—following Down's Syndrome and spina bifida—and the only one of the three that is preventable. In addition, increased risk for a range of less severe birth anomalies has been noted for women who reported drinking between 1 and 2 ounces of absolute alcohol per day (2–4 standard drinks).

Maternal age and marital status are other determinants of infant health. Teenage and unmarried mothers (who are most likely to be in their teens) are twice as likely as others to have infants of low birth weight.

Low birth weight is twice as common among blacks and some other minorities, regardless of income level. Low birth weight is associated with socioeconomics status as well as race. (See Table 5)

Many other conditions and diseases also contribute to the high rates of infant mortality which exist in the U.S. They include birth defects, such as congenital physical defects; mental retardation; genetic diseases; injuries at birth; sudden infant death syndrome; accidents; pneumonia viral and other bacterial infections; inadequate diets; and poor prenatal care. Not all problems of infant health, however, are reflected in mortality and mobidity figures. It is also important to foster early detection of developmental disorders during the first year of life so as to maximize the benefits of care. The first year is a significant period for laying the foundation for sound mental health as well. Programs are needed to increase parent-infant bonding and improve familial relationships with infants as well as programs to increase parental knowledge of normal infant/child development and appropriate infant/child care procedures.

Goal I.3. *Child Health.*

CHILD HEALTH AND DEVELOPMENT SHOULD BE IMPROVED AND DEATH RATES FOR THOSE AGES 1–14 REDUCED TO LESS THAN 39 PER 100,000 BY 1985, AND TO LESS THAN 34 DEATHS PER 100,000 BY 1990

Although there have been significant improvements in child health and the impact of communicable diseases on this age group is only a small fraction of what it has been in the past, these diseases still have a major impact on the health of children. In 1977, for example, approximately 40 percent of the nation's children, ages one to four, were inadequately immunized against communicable diseases, and 20 million of the 52 million young people under the age of 15 were not protected against the diseases for which vaccines are available.

Habits and attitudes developed during this period can provide early antecedents to adult disease and disability. As many as 40 percent of school children aged 11 to 14 have been estimated to have one or more of the risk factors associated with heart disease: overweight, high blood cholesterol, cigarette smoking, hypertension, poor physical fitness, or diabetes. Parents and school children should learn to recognize and deal with these factors.

A wide variety of other problems may substantially affect a child's well-being, including problems related to nutrition, dental caries, mental or emotional retardation, and growth and development. Children under 18 years of age, especially those eligible for Medicaid, should be brought into a system of ongoing and comprehensive primary health services which offer preventive, diagnostic, and treatment services, as appropriate for each age.

Episodes of acute illness constitute the most common morbidity problem among children. Respiratory illnesses and childhood diseases result in a large volume of short-term disability and medical care use.

Death rates for children decreased from a rate of 330 child deaths per 100,000 in 1925 to 90 per 100,000 in 1950 to approximately 43 in 1978 (provisional). Despite these improvements, significant variations among different population groups remain. Minority children have a 46 percent higher death rate (56.4 per 100,000), and minority preschool children have a 50 percent higher death rate than do white children. In addition, the overall rate of decline in child mortality has slowed. Special attention is needed in areas where the death rates for children between 1 and 14 years of age rise above 39 per 100,000.

The Surgeon General's Report on Disease Prevention and Health Promotion set as its goal a 20 percent reduction by 1990 from 1977 child death rates. Reducing by one-half the number of fatal accidents in this age group alone would achieve the reduction. Accidents cause 45 percent of all childhood deaths and are the major cause of death among children. Cancer, birth defects, influenza and pneumonia, and homicide are other leading causes.

The goals contained in this document are based on both the Surgeon General's Report and the potential impact of the various interventions currently available. A ten percent reduction in child mortality to 39 deaths per 100,000 is to be achieved by 1985. A 20 percent reduction to 34 deaths per 100,000 is sought by 1990.

Goal I.4 *Preventable Communicable Diseases.*

THE INCIDENCE OF PREVENTABLE COMMUNICABLE DISEASES SHOULD BE REDUCED, WITH A MORTALITY RATE OF LESS THAN 22 DEATHS PER 100,000 PERSONS. DISEASES AND DEATHS PREVENTABLE BY ROUTINE CHILDHOOD VACCINATION SHOULD APPROACH ZERO. MEASLES SHOULD BE ELIMINATED AS AN ENDEMIC DISEASE IN THE UNITED STATES. TUBERCULOSIS IN CHILDREN SHOULD BE ELIMINATED

Achievement of this goal represents a one-third reduction from 1977 mortality rates. In 1977, four States were below the target level of 22, and seven States were approaching it. All States could reach the desired levels by intensifying communicable disease prevention efforts. (Table 9) Special attention must be directed towards the poor, blacks and other minorities who remain at higher risks for all preventable diseases because of lower immunization levels.

There were approximately 69,000 deaths from preventable communicable diseases in 1977, or 32 per 100,000 persons, including infectious and parasitic diseases, acute bronchitis, and influenza and pneumonia for all ages. (Table 10)

Disease of childhood which cause significant morbidity but contribute little to the overall infectious disease mortality rate include diphtheria, pertussis, polio, measles, rubella, mumps and tuberculosis. If all children were adequately immunized or treated preventively, many of the permanent physical handicaps these diseases can cause would be virtually eliminated. A reduction in the present rates of morbidity and mortality and the ultimate attainment of as close as possible to no cases of childhood diseases which can be prevented by vaccination is a desirable and achievable goal for every community. But, each year more than 3 million infants are born who must be immunized early to prevent a recurrence of the diseases and their long-term effects.

Measles is now considered the most severe contagious childhood disease. Its frequent complications include pneumonia, ear infections, deafness, encephalitis, permanent brain damage, and mental retardation. About one of every 10,000 children with measles will die, usually as a result of complications. All children should be vaccinated against rubella (German measles) before puberty. Because severe damage to unborn children can occur if the mother is affected early in pregnancy, all susceptible females who are not pregnant also should be vaccinated.

Tuberculosis is a serious disease of children because of the potential complications of meningitis which may lead to severe brain damage and death. Because of its severity, special efforts should be directed towards eliminating tuberculosis among children.

Because incidence and mortality rates vary significantly due to epidemics, the most recent five-year average rates should be used as a basis for monitoring achievement of this goal.

Goal I.5. *Adolescent Health.*

THE HEALTH OF ADOLESCENTS AND YOUNG ADULTS SHOULD BE IMPROVED AND DEATH RATES FOR THOSE AGED 15 TO 24 REDUCED TO LESS THAN 105 PER 100,00 BY 1985 AND TO BE LESS THAN 93 DEATHS PER 100,000 BY 1990

Despite improvements over the past 75 years, death rates for adolescents and young adults are now increasing. Death rates were 106 per 100,000 in 1960, and 117 per 100,000 in 1977. Preliminary 1978 statistics show an increase to 120 per 100,000.

The goal of less than 93 deaths per 100,000 is consistent with *Healthy People*, the Surgeon General's Report on Health Promotion and Disease Prevention. It represents a 20 percent reduction by 1990 from current adolescent death rates. This goal is attainable with increased efforts, particularly in accident, alcohol and drug abuse control and homicide and suicide

prevention. The goal of 105 deaths per 100,000 represents 10 percent reduction in 1977

of the recent decreases in mortality. In addition to the various causes of death,

to control. Health, social, day care, medical and dental services should be provided to

more people. Alcohol-related deaths accounted for nearly 11% of the total deaths

performance, accidents, aggression and violence, disturbed interpersonal

necessary skills and maturity to cope with later adult responsibilities

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prevention. The goal of 105 deaths per 100,000 represents 10 percent reduction in 1977 adolescent mortality rates, to be reached by 1985, and is consistent with the 1990 target date.

The principal health problems for adolescents and young adults include violent death and injury, sexually transmitted diseases, unwanted pregnancies, alcohol and drug abuse, dental diseases, and emotional problems. Violent deaths such as those resulting from accidents, homicides and suicides account for three-fourths of all deaths among adolescents and young adults. Sexually transmitted diseases (STD) cause considerable morbidity in this age group. Pelvic inflammatory disease is a major consequence of STD in women, with subsequent risks of ectopic pregnancy and lifelong impairment of fertility. Special consideration should be given to the needs and problems, both physical and psychological, of individuals in this age group.

There is substantial variation in death rates among different population groups. Traumatic deaths occur three to four times as frequently for males as for females. Deaths caused by motor vehicle accidents are more likely to occur among white youth. Young blacks of either sex are at least five times as likely to be murdered as young whites. Homicide is the leading cause of death for young blacks, ranking slightly ahead of accidents.

Goal I.6. *Adult Health.*

THE HEALTH OF ADULTS SHOULD BE IMPROVED AND DEATH RATES FOR THOSE AGED 25–64 REDUCED TO LESS THAN 472 PER 100,000 BY 1985 AND TO LESS THAN 400 PER 100,000 BY 1990

Although death rates for adults ages 25 to 64 have increased from 640 deaths per 100,000 in 1960 to 657 per 100,000 in 1970, there has been an average annual decrease of 2.6 percent since 1970. The 1977 adult death rate was 540 per 100,000, and preliminary data shows a further 2.2 percent decrease to 528 for 1978. This varies by area, and particular attention should be given to areas and population groups where the mortality rate of adults is high.

The goal of less than 400 deaths per 100,000 population represents a 25 percent reduction by 1990 from current adult death rates and is consistent with the goal set in *Healthy People*, the Surgeon General's Report on Health Promotion and Disease Prevention. This goal is attainable provided the steady drop in adult mortality which has been observed since 1970 continues. The goal of 472 deaths per 100,000 represents an approximate 12.5 percent reduction in current adult mortality rates, to be reached by 1985, and is consistent with the 1990 target rate.

The leading causes of death in this age group are heart disease, cancer, stroke and cirrhosis of the liver. Accidents are a prominent problem for the younger members of this group, but overall the chronic diseases predominate. More than one-third of all deaths in this group are due to cardiovascular diseases, principally coronary artery disease and stroke. However, such deaths have declined in recent years and account for most of the recent decreases in mortality. In addition to the various causes of death, dental diseases and disability from mental illness present major health problems for this age group.

Goal I.7. *Older Adult Health.*

THE HEALTH AND QUALITY OF LIFE OF OLDER ADULTS SHOULD BE IMPROVED BY:

A. REDUCING THE AVERAGE ANNUAL NUMBER OF DAYS OF RESTRICTED ACTIVITY DUE TO ACUTE AND CHRONIC CONDITIONS FOR THOSE AGE 65 AND OLDER TO LESS THAN 33 DAYS PER YEAR BY 1985 AND TO LESS THAN 30 DAYS PER YEAR BY 1990; AND

B. REDUCING THE AVERAGE ANNUAL NUMBER OF DAYS OF BED DISABILITY DUE TO ACUTE AND CHRONIC CONDITIONS FOR THOSE AGE 65 AND OLDER TO LESS THAN 13.0 DAYS PER YEAR BY 1985 AND TO LESS THAN 11.6 DAYS PER YEAR BY 1990.

More Americans are living to an older age than ever before. In 1900, there were only 3.1 million people aged 65 and over in the United States, and they accounted for only four percent of the population. The 65 and over group is the fastest growing segment of the population. By the year 2030, there will be more than 50 million Americans 65 years or older, and they will represent nearly 17 percent of the population.

In 1900, the average life span was 47 years. By 1978, it had increased to more than 73 years. Eighty percent of the elderly have one or more chronic conditions, and their medical treatment accounts for 29 percent of the nation's health care expenditures. The elderly have 50 percent more physician visits, and have more and longer hospital admissions. The leading cause of death for this age group are heart disease, cancer, stroke, influenza, and pneumonia.

In 1976, about 9.9 million of the 21.8 million persons aged 65 or older, or 45 percent, had some activity limitations due to chronic conditions. Some limitations are associated with mental disabilities, but most are due to physical handicaps caused by heart conditions, arthritis and rheumatism, hearing loss, and visual impairments among others (Table 111). Up to 20 percent of older people (between one-third and one-half of those with any activity limitations) are limited in their ability to move about freely.

One measure of the impact of illness, both chronic and acute, is the total number of restricted bed days per person per year, a subset of restricted activity days. The average number of days an older person's activities are limited, regardless of the reason, has not changed much in the past ten years, ranging from 31 to 38 days per person per year. Bed disability days, however, has shown a constant increase from 12.9 days per person over age 65 per year in 1969 to 14.3 in 1974 and 14.5 in 1978.

In meeting the needs of the elderly, it is important to consider not only the need to increase longevity or to reduce death rates, but to allow each individual to seek an independent and rewarding life in old age, unlimited by the variety of health and social problems that are within his or her capacity to control. Health, social, day care, medical and dental services should be provided to prevent the loss of functional abilities, minimize the effect of the loss when it occurs, and rehabilitate to the maximum extent feasible. Special attention needs to be paid to the poor and minority elderly.

Studies have shown that the elderly have improved feelings of well-being, and significantly decreased disease and disability, when they are allowed to take as much control and responsibility for their own day-to-day care as possible. Programs to encourage the exercise of self-responsibility in such settings as nursing homes, and to teach stress management techniques to the elderly, can have positive effects on physical and emotional health, as well as personal and social happiness.

A critical problem is to match each individual to that setting which will allow the most appropriate type and level of care. Access to noninstitutionalized services which reduce dependency and allow individuals the opportunity to function in their normal environment promotes both mental and physical health and preserves individual dignity. Alternatives to institutionalization include: day health care centers, outpatient clinics, community care organizations, and mobile health units. Since more than half of those over 65 with incomes below the poverty line live alone, these services could be a valuable adjunct to maintaining independent living arrangements.

The goal of an average of less than 30 days of restricted activity per year due to acute and chronic conditions to be reached by 1990 is consistent with *Healthy People*, the Surgeon General's Report on Health Promotion and Disease Prevention. This is a 20 percent decrease from the 1977 rate of days of restricted activity. The goal of 33 days of restricted activity per year due to acute and chronic conditions to-be reached by 1985 represents a 10 percent reduction in current rates and is in line with the longer range target.

In recent years, annual rates have shown significant year-to-year variation not indicative of overall trends. For this reason, multiple-year averages of annual rates of days of restricted activity should be employed where possible as a basis for monitoring goal achievement.

The goal of an average of 11.6 days of bed disability is also consistent with reductions in the Surgeon General's Report, representing a 20 percent decrease from the 1977 rate of 14.5 days of bed disability. The target of 13.0 days of bed disability per year to be reached by 1985 represents a 10 percent reduction in current rates, and is in line with the longer range target.

Goal I.8 *Alcoholism.*

THE PREVALENCE OF ALCOHOLISM AND RELATED DISABILITIES AND DEATHS SHOULD BE REDUCED BY AT LEAST 5 PERCENT

The disease of alcoholism and the associated problems of alcohol abuse constitute a very significant health problem.

Approximately 10 million persons aged 18 years and over are problem drinkers and their drinking affects the lives of 40 million more people. Alcohol-related deaths accounted for nearly 11% of the total deaths in the United States in 1975, and clinical studies have consistently found that abusive alcohol consumption is associated with mortality and morbidity rates that are 2 to 6 times higher than rates for the general population. A significant number of traffic and other accidents have been attributed to alcohol use. Alcohol has been found to be significantly involved in half of all motor vehicle traffic fatalities and one third of all traffic injuries.

Studies have found that up to 40 percent of fatal industrial accidents, 83 percent of drownings, 87 percent of fire fatalities, and 70 percent of fatal falls were alcohol related. Alcohol use has frequently been implicated in homicides and assaultive behaviors, including spouse and child abuse, and studies have found that more than one third of all suicides involve alcohol.

In terms of medical and health problems, alcohol has been found to impact on a wide range of physiologic systems and biomedical disorders. Although the rate of deaths from cirrhosis has been gradually decreasing, liver cirrhosis, which is predominantly associated with alcohol use, still ranked as the seventh leading cause of death in 1975. Alcohol is directly related to certain neuropsychiatric diseases, such as Wernicke-Korsakoff's syndrome, and is frequently associated with a range of emotional and mental problems such as depression. The use of alcohol has been found to be associated with malnutrition, increased infection (e.g., pneunomia), and a variety of gastronintestinal problems including pancreatitis and inflammatory and bleeding lesions of the stomach.

Alcohol use by pregnant women has been found to impair the development of the fetus. Heavy alcohol use has been associated with a variety of birth anomalies, including a cluster of distinctive physical and mental impairments known as the Fetal Alcohol Syndrome. In addition, increased risk for a range of less severe birth anomalies has been noted for women who reported drinking between 1 and 2 ounces of absolute alcohol per day (2–4 standard drinks).

Alcohol has been found to be associated with a variety of cardiovascular problems, including a specific cardiomyopathy, cardiac arrhythmias, and depressed myocardial contractility. Moreover, there is evidence that alcohol can act to increase the risk of developing certain cancers, particularly in combination with tobacco use. Heavy alcohol consumption has been associated with increased risk for cancers of the tongue, mouth, pharynx, esophagus, larynx, and liver. These constitute 6 to 9 percent of all cancers in the white population in the United States and 12 percent of cancers in the Black population.

Seventy percent of today's teenagers have tried alcoholic beverages. Of the 16.9 million people in the 14 to 17 age group, 3.3 million are estimated to be problem drinkers. Alcohol problems among youth tend to be acute rather than chronic. More specifically, alcohol problems among youth typically involve consumption of large amounts of alcohol, followed by impaired driving performance, accidents, aggression and violence, disturbed interpersonal relationships, property damage and impaired school and/or job performance.

An estimated 24 percent of the adult problem drinking population is female, and this estimate is probably low. Few treatment facilities provide care targeted to this population, as reflected in the fact that only 17.5 percent of the population in treatment are women.

The far-reaching consequences of alcoholism affect all aspects of American life, affecting the non-drinker as well as the drinker. For example, the total cost to the Nation was estimated to be over $42 billion in 1975. Of special concern is the estimate that approximately $12.7 billion of this amount was expended on alcohol-related health and medical problems. The $8.4 billion spent for hospital care was nearly 20 percent of all hospital expenditures for adults during 1975. (Table 12)

Since alcoholism is a very complex but treatable illness, a wide range of prevention programs and treatment services need to be available. Health Systems Agencies need to encourage alcohol services as a routine and integral component with existing services. To obtain data on the prevalence of alcoholism and related disabilities HSAs are encouraged to contact their State alcoholism authority.

Evidence from epidemiologic research indicates that the greatest amount of chronic, damaging drinking occurs among employed persons and their families. A large proportion of the 10 million problem drinkers in the nation are found in the work force.

Strategies to minimize the health and economic costs of alcoholism should involve the development of occupational alcoholism programs and early identification and treatment of individuals with alcohol problems likely to produce other health consequences such as cirrnosis of the liver. Prevention programs should be aimed at all youth but particularly those who drive while intoxicated. Prevention programs should also be aimed at women. Both populations have been underserved.

Goal I.9. *Drug Abuse.*

DRUG ABUSE SHOULD BE REDUCED BY:

a. REDUCING THE PROPORTION OF YOUTH AGE 12–17 YEARS OF AGE USING MARIJUANA AND PHENCYCLIDINE (PCP) TO BELOW 1977 LEVELS;

b. DECREASING BY AT LEAST 20 PERCENT THE USE OF BARBITURATES AND OTHER POTENTIALLY HARMFUL SEDATIVES USED FOR THE TREATMENT OF INSOMNIA; AND

c. REDUCING THE ANNUAL NUMBER OF AMPHETAMINE PRESCRIPTIONS WRITTEN FOR THE TREATMENT OF WEIGHT REDUCTION BY 20 PERCENT.

Marijuana and PCP

Drug abuse among young people is a continuing public health concern. Society discourages any use of psychoactive substances during adolescence because of the adverse effects such use could have on a young peron's physical and emotional development. Disruption of these critical processes could leave a youth without the necessary skills and maturity to cope with later adult responsibilities.

Recent survey data (The National Survey on Drug Abuse: 1977, and Drug Use Among American High School Students: 1975 to 1977) suggest that there is abundant reason for concern about adolescent drug use. Most noteworthy among the findings of these surveys is the rapid increase between 1974 and 1977 in marijuana use both among 12 to 17 year olds in the general population and among high school seniors. The relatively stable trends reported for other drugs indicate this increase was not simply part of a general trend toward increased psychoactive drug use of all types.

Increased marijuana use among young people is worrisome for two reasons. First, our understanding of the long-term impact of marijuana use during the important developmental years of adolescence is incomplete. We simply do not know what the long-term effects of marijuana use will be during this period. Second, there is increasing evidence that marijuana is a "gateway" drug for many individuals who later become involved in dysfunctional drug use. The implication here is not that marijuana inevitably leads to more serious drug involvement; rather, marijuana use is seen as a stage—a "gateway"—through which those who eventually become dysfunctional drug users may pass. Thus, prevention efforts in connection with marijuana should focus on young people who are as yet minimally involved in drug abuse experimentation.

Assuming continuation of current conditions (i.e., that marijuana remains illegal, but with a continuing relaxation of criminal sanctions against possession for personal use), and assuming no major changes in the available evidence regarding health hazards associated with the drug, "current" marijuana use levels for the 12–17 population are projected at 22.2 percent in 1985. Since the projection is based on limited data which may not reflect stable, long-term trends, periodic recalculation will be required to reflect data that will become available during the next few years. The 15 percent reduction target sets the 1985 use at 18.9 percent. This can be achieved by employing a variety of health promotion and drug prevention strategies which encompass information, education, alternatives, and intervention.

A drug whose use has increased four-fold from 1976–1978 is phencyclidine (PCP). Known on the street as "Angel Dust" and by a variety of other names, PCP can be synthesized relatively easily from widely available precursor chemicals. The many industrial uses of these chemicals reduce the effectiveness of law enforcement efforts in controlling the drug's availability. As a result, PCP, like marijuana, is widely and readily available at a price that young people can afford. The effects of PCP use are unpredictable, and chronic use is associated with a variety of negative consequences. Overdose symptoms range from an inability to coordinate one's movements, catatonic staring and assaultiveness to convulsions, respiratory depression, and, in extreme cases, coma and death. Although present data systems underestimate the frequency of PCP-

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related emergencies (due to the frequent misrepresentation of PCP as other drugs), available data suggest a startling increase in the number of PCP emergencies during the past two years.

Reduction to 1977 levels of marijuana and PCP usage can be achieved through increased drug prevention efforts in and out of schools. These include but are not limited to school and community health education and the encouragement of alternatives to drug abuse. It is believed that information on the health hazards of PCP use can have an impact on levels of use if the information is accurate and disseminated widely. The achievement of these goals requires active involvement and cooperation between education, health, criminal justice and employment services. Health Systems Agencies can foster such coordination.

Barbiturates

In recent years, there also has been increased concen about the risks associated with the use of sedative-hypnotics, in particular "short-acting" barbiturates and some of the non-barbiturate, nonbenzodiazepine drugs, whose potential for abuse is well documented. They are the second most common group of drugs associated with deaths. Equally effective and safe alternative drugs are available.

During the past few years, various Federal agencies have reviewed the risks and benefits associated with sedative-hypnotic drugs as a general class and with the barbiturates in particular. The Federal Government has been concerned about the barbiturates since the early 1970s when high morbidity and mortality levels resulted in a tightening of legal controls on the manufacture and distribution of barbiturates. The number of deaths in which barbiturates were identified as the underlying cause has declined markedly from over 2,600 in 1970 to under 1,300 in 1976.

While a substantial number of deaths involving barbiturates are of a suicidal nature, many also result from ignorance of the potentially lethal effects of barbiturates used in combination with other central nervous system depressants such as alcohol. The mortality associated with barbiturate use could be reduced by a concerted effort to educate physicians and patients about the risks associated with the use of barbiturates in combination with other drugs.

The 20 percent reduction in use of barbiturates and other potentially harmful sedatives used in the treatment of insomnia can be achieved with increased efforts over the next few years. These efforts should include physician education to reduce the total availability of these drugs, public information and education, the encouragement of alternative treatment methods, and promoting drug abuse prevention and treatment as a routine and integral component of existing health and other human services.

Amphetamines

Two national reporting systems (the Drug Abuse Warning Network—DAWN, and the Client-Oriented Data Acquisition Process—CODAP) of the National Institute of Drug Abuse (NIDA) reveal that amphetamines are common drugs of abuse among persons seen at emergency rooms and drug treatment facilities. Other national drug abuse survey data clearly indicate widespread nonmedical use of amphetamines. (The three medically-approved uses of amphetamines are for minimum brain dysfunction, narcolepsy, and obesity). While a dramatic decline occurred in amphetamine prescriptions between 1970 and 1974, the number has remained essentially unchanged since then, following a reclassification of amphetamines from Schedule III to Schedule II by the Controlled Substances Act of 1970. The National Prescription Audit data also shows a similar decline in amphetamine prescriptions between 1970 and 1974, but little change in the numbers of amphetamine prescriptions between 1974 and 1976. This information suggests an amphetamine-associated morbidity with the numbers of prescriptions written for these drugs over the last several years.

Amphetamines are prescribed primarily for obesity. A number of nonamphetamine anorectics are equally effective, yet they apparently lack the appeal of amphetamines as drugs of abuse, as they are seldom implicated in drug-associated morbidity, recreational or compulsive use. Study findings reveal that the choice of a particular drug to use on a weight reduction program is largely a matter of individual preference of the prescribing physician. Through increased efforts at both physician and public education, the goal of a 20 percent reduction in such prescribing can be achieved.

The National Disease and Therapeutic Index and/or the National Prescription Audit, a proprietary index, can be used to monitor progress towards the achievement of reducing the annual number of amphetamine prescriptions.

Goal I. 10. *Oral Health.*

ORAL HEALTH STATUS SHOULD BE IMPROVED SO THAT (1) FOR PERSONS 17 YEARS OF AGE, AT LEAST 85 PERCENT RETAIN ALL OF THEIR PERMANENT TEETH AND (2) FOR PERSONS 55 TO 64 YEARS OF AGE, AT LEAST 80 PERCENT RETAIN SOME NATURAL TEETH

Optimal oral health is characterized by a full complement of functional natural teeth and supporting tissues free of disease. Virtually every person experiences tooth decay (dental caries), and most persons also develop periodontal disease. Based on current knowledge, each of these diseases usually can be prevented or controlled. If either disease is neglected tooth loss results.

Dental caries is localized, progressive destruction of the tooth initiated by acid demineralization of tooth enamel. It can be prevented through (1) reduction of bacteria on the teeth through a proper personal oral hygiene regimen and regular prophylaxes given by a dental hygienist or dentist; (2) avoidance of highly cariogenic foods and snacks, particularly refined sugar, which react with the bacteria to form acid on the teeth; and (3) optimum intake of fluoride from birth to provide the tooth surface with optimal resistance to acid dissolution.

Caries begins in early childhood by attacking the primary teeth and is a continuing problem in the permanent teeth. By the time children reach 17 years of age, 94 percent have experienced caries in their permanent teeth. Many adults also develop new caries and have continuing dental problems resulting from the effects of caries experienced during childhood.

Periodontal disease is an inflammatory disease which progressively affects the gingival tissues (gums) which surround the teeth and then the alveolar bone supporting the teeth. The most common type of periodontal disease, gingivitis or inflammation of the gum, affects both children and adults. If not controlled, gingivitis usually develops into periodonitis, the chronic destructive stage of the disease, which mostly affects adults and is most common in persons 45 years of age and older. Preventive measures include (1) a proper personal oral hygiene regimen, (2) regular prophylaxes given by a dental hygienist or dentist, and (3) prompt treatment when the disease occurs.

The total number of persons who have experienced periodontal disease is not known; however, the extensiveness of the disease is reflected in findings of the national health examination survey conducted during 1971–1974. Among children, 14 percent of the 6–11 years olds and 32 percent of the 12–17 year olds had gingivitis at the time they were examined. Among adults who still had some of their natural teeth, 44 percent of the 18–44 year olds, 56 percent of persons 45–64 years of age, and 64 percent of those 65–74 years old had either gingivitis or destructive periodontal disease.

Regular dental checkups to detect caries and periodontal disease and prompt therapy when they are diagnosed are the major factors in controlling these diseases and in preventing tooth loss. Yet, only one half of the population visits a dentist each year and nearly two-thirds of the population has unmet needs for treatment of dental diseases, primarily dental caries and periodontal disease.

Because of the inevitability of tooth loss if dental caries and periodontal disease are not controlled, a useful and easily determined indicator of progress being made toward improving the oral health status of a population is the percent of persons who retain their permanent teeth. By establishing two goals on tooth retention, one for 17 year olds and one for persons 55–64 years of age, short-term progress in oral health improvement can be monitored for both the child and the adult populations.

In the early 1970's, only 62 percent of the 17 year olds retained all of their permanent teeth (Table 17). The children's goal aims five years hence to decrease by slightly more than one half the percentage of 17 year olds who are missing one or more permanent teeth.

The percentage of adults retaining at least some of their natural teeth decreases rapidly with age (Table 18). The decrease is particularly sharp for the 55–64 year age group. In the early 1970's only 66 percent of this age group still had some natural teeth present, as compared with 83 percent for the 45–54 age group. The adult goal aim five years hence to increase the percentage of persons aged 55–64 years who retain some of their natural teeth to about the experience of 45–54 year olds in the early 1970's, thereby at least postponing total tooth loss to an older age.

Due to the progressive nature of dental caries and periodontal disease, the oral health status of adults to a large extent is the result of the preventive and therapeutic services they received as children and of the total hygiene practices and dietary habits they develop during childhood and continue into their adult lives. Therefore, the beneficial impact of newly developed dental preventive or treatment services resources on the overall oral health status of a population is not fully realized for a considerable time. Accordingly, attainment of the short-term goals started here will be only a step toward assuring optimum oral health for all.

Measures to help attain the short-term goals, such as improving accessibility of dental services to underserved population groups, as well as measures which will produce long-range results in improving the overall oral health status of a population, such as community water fluoridation, need to be initiated now.

Goal I. 11. *Heart Disease, Cancer and Stroke.*

AGE-ADJUSTED DEATH RATES FOR HEART DISEASE SHOULD BE REDUCED TO 156 PER 100,000 PERSONS AND FOR STROKE TO 29 PER 100,000 PERSONS BY 1985. EFFORTS SHOULD BE DIRECTED TOWARD IMPROVEMENTS IN SURVIVAL RATES THROUGH DETECTION AND TREATMENT FOR ALL TYPES OF CANCER

Nearly four of every 10 deaths during 1978 were attributed to heart disease, the leading cause of death for over fifty years. While age-specific death rates have decreased by approximately 19 percent between 1968 and 1978 as a result of improved methods of prevention, detection and treatment, the proportion of deaths due to heart disease has remained stable due to the increasing age of the population. The mortality rate for heart disease is higher for blacks than for whites.

The greatest possibilities for control of heart disease lie with preventive actions for reducing risks and promoting a healthful environment. Lifestyles and behavioral patterns, including an unhealthy diet, cigarette consumption, lack of exercise, obesity and psychological stress and most importantly, hypertension, have been associated with putting an individual at greater risk for heart disease.

Cancer is the second ranking cause of death in America. It has recently been estimated that one of four Americans will develop some form of cancer during their lifetime, and one of five will die from cancer.

Cancer affects every age group, both sexes, and every part of the body. For women, cancers of the breast, colon and rectum, uterus, lung, pancreas, and stomach, plus leukemia, account for more than 70 percent of cancer deaths. The principal fatal cancers among men are lung, colon and rectum, prostate, stomach, pancreas, leukemia and bladder. Among non-white adult males, there has been a startling increase in cancer deaths for some groups, possibly due to the large migration to industrial cities followed by employment-related exposure to carcinogenic chemicals and limited access to health care. Cancer mortality rates are twice as high for blacks as for whites.

Lung cancer, a disease with enormous potential for prevention, is responsible for the greatest number of cancer deaths. A strong causal association has been found between lung cancer and cigarette smoking. The average male smoker is 10 times more likely to develop lung cancer than is a nonsmoker.

An HEW Task Force recently concluded that, "Probably over 90 percent of malignant neoplasms are induced, maintained, or promoted by specific environmental factors." Recently, it was found that at least 20 percent of all cancers in the U.S. may be work-related.

The long latency periods characteristic of cancer etiology make it desirable to use a health status measure sensitive to short-term shifts in cancer trends, such as five-year survival rates, in measuring progress to 1985. This measures the proportion of cancer patients surviving to the fifth year following detection of their disease. The national experience indicates that dramatic improvements in five-year survival rates for many types of cancer are possible with improved detection and treatment modalities. While apparent improvements in survival rates for some cancers can be explained by earlier diagnosis, and thus no real health status change occurs, there are significant exceptions. For male prostate cancer, survival rates increased 11 percent for whites and 20 percent for blacks among those people diagnosed between 1967 and 1973 compared to those diagnosed between 1960 and 1966. Among both groups, the percent of cases in which the cancer was localized, a factor which indicates the stage of disease at the time of detection, remained unchanged. Case management must be considered a critical factor in this improvement.

HSAs should encourage the expansion of screening and self-examination programs, as well as the development of improved case management for all types of cancer. Particular attention should be directed to cancer types of major impact for subgroups of the population, such as leukemia among those under 15, and lung and prostate cancer among black males.

Stroke is a leading cause of disability and is the third leading cause of death. In 1978, it accounted for 9 percent of all mortality. Minorities and males are the primary populations at risk, as indicated by the 1977 age-adjusted death rates. (Tables 19, 20)

Over one-half of the estimated one-half million people who suffer their first stroke each year survive their first 30 days. Only 10 percent of those 500,000 people, however, recover without a discernible disability. This high disability percentage underscores the importance of access to and utilization of rehabilitation therapy and long-term care.

While more knowledge is needed regarding the personal and environmental factors associated with increasing the risk of stroke, there is sufficient evidence that hypertension, pre-existing cardiovascular disease, age and diabetes make a person more susceptible to stroke.

Hypertension (high blood pressure) is one of the most significant risk factors for both heart disease and stroke and thus represents a major health concern. It affects approximately 18 percent of the adult population and is found more frequently among minorities and older adults. (Table 21) Since hypertension is without distinctive physical or psychological symptoms, its victims are not alerted to seek medical care, and thus may suffer serious physical damage. Periodic screening programs and an effective system for referral, treatment and follow-up should be undertaken to identify and treat hypertensive persons, particularly for that 25 percent of the population which does not see a physician each year. The National Heart, Lung, and Blood Institute has developed a program that seeks to reduce by one-half every five years the number of people whose diastolic blood pressure is 105 or higher. A diastolic pressure of 90 is considered normal.

If the trends of 1968–1978 continue the expected age-adjusted mortality rate for heart disease in 1985 will be 173/100,000 and for stroke will be 33/100,000. The targets for heart disease and stroke represent a 10 percent reduction from each of these projected levels for 1985. They may be achieved through a broad array of prevention, health program, and detection strategies. The potential for improvements in survival rates for all types of cancer is underscored by substantial improvements in these rates since the early 1960s for patients with 7 of the 10 most common forms of cancer in the U.S., accounting for nearly 65 percent of all cancers.

Part II: Disease Prevention and Health Promotion

Goal II. 1. *Extention of Disease Prevention and Health Promotion *.*

HEALTH PROMOTION AND DISEASE PREVENTION SHOULD BE EXTENDED THROUGH BOTH INDIVIDUAL AND COMMUNITY ACTIONS WITH EMPHASIS ON HIGH RISK POPULATIONS, AND BE AN INTEGRAL COMPONENT OF CARE PROVIDED BY HEALTH CARE AND OTHER COMMUNITY INSTITUTIONS

The early detection of diseases, the creation of a safe environment, and the promotion of healthful ways of living can extend the duration and improve the quality of life and reduce the long-term costs of health care.

Health promotion and disease prevention depend upon both individual and community actions. Because lifestyle and daily practices are important factors in determining how well and how long we live, planned educational strategies for improving the personal choices people make regarding health-related behavior are an essential part of a health program. These require efforts aimed at increasing the awareness of risks, facilitating behavior change and creating a social climate condutive to healthful behaviors.

For people who smoke, abuse alcohol or other drugs, or have other unwise health behaviors, awareness of the personal health risks associated with these action is a first step. Specific programs should be available to help them make the desired behavior changes. Community actions to prevent illness, disability and diseases can support

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and supplement individual actions. Home, workplace, school and community should be safer and more conducive to healthful living.

A broad range of personnel, including physicians, dentists, dental hygienists, nurses, pharmacists, and other health professionals, should be involved in educating the public. Knowledge about health promotion, however, does not automatically lead to a change in behavior. Health education can employ a variety of educational strategies to help an individual bridge the gap between information and practice, ultimately aimed at helping the individual become an active participant in his own health care, not merely a passive recipient of information.

For this reason, health promotion and preventive health services need to be integrated into existing health care and community programs in order to provide the full range of services necessary to enhance the qualtiy of life and prevent or delay illness.

In addition to those agencies with major health responsibilities, educational and social agencies, employers, and others, should be encouraged to include health promotion and preventive health services in their respective programs. Preventive programs, for example, might include screening for hypertension, occupational assistance programs for alcoholism and drug abuse problems or dental health education. Wherever they are located, prevention programs should be aimed at providing members of the public with knowledge and attitudes that encourage them to choose to improve their behaviors related to health, personal health status and the appropriate use of health services.

Altering the various public and private reimbursement systems would encourage expansion of existing programs of health promotion and preventive health service and the establishment of new programs in these areas. Current reimbursement patterns generally constitute a disincentive to health promotion and disease prevention.

It is important to monitor the cost effecitveness of these programs, because improvement in health status or health practices may not occur just because health education programs are offered.

Congressional interest in these efforts is indicated in Priorities 8, 10, and 13 of section 1502:

(8) "The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services."

(10) "The development of effective methods of educating the general public concerning proper personal (including preventive) health care and methods for effective use of available health services * * *"

(13) "The adoption of policies which will * * * (B) insure more appropriate use of health care services * * *"

Title XVII of the Public Health Service Act, the Health Promotion and Health Information Program (P.L. 94-317) also is aimed at strengthening activities in this field.

Goal II. 2. *Consumer Information*.

PEOPLE SHOULD BE BETTER INFORMED AS TO HOW, WHEN, AND WHERE TO GET HEALTH CARE OF AN APPROPRIATE KIND AND QUALITY AT A REASONABLE COST

Health care consumers must be instructed to know when and how to seek health care services. They should also know how to care for themselves and their families and when not to use the health care system. An increasing number of individuals are becoming actively involved in their own health care.

More informed and more cost-conscious consumers may help stimulate the greater competition among providers of health services which Congress cited as a priority under section 1502:

(17) "The strengthening of competitive forces in the health services industry wherever competition and consumer choice can constructively serve . . . to advance the purposes of quality assurance, cost effectiveness and access."

Congressional concern for this issue is also indicated in the following National Health Priority:

(10) "The development of effective methods of educating the general public concerning proper personal (including preventive) health care and methods for effective use of available health services."

Goal II. 3. *Prenatal, Maternal and Perinatal Care*.

PROGRAMS SHOULD BE ESTABLISHED TO ASSURE THAT ALL PREGNANT WOMEN RECEIVE ADEQUATE PRENATAL, PUERPERAL AND POSTPARTUM CARE AND THAT NEWBORNS RECEIVE ADEQUATE PERINATAL CARE

All women receive prenatal care during the first three months of pregnancy and thereafter at regular intervals. However, nearly 23 percent of white women and 41 percent of black women who gave birth in 1977 received no prenatal care during the first trimester of pregnancy, the period in which approximately 80 percent of high risk pregnancies can be identified. The women who are least likely to receive adequate prenatal care are those who are poor, non-white and under 20. Infants of mothers who had late and infrequent prenatal care experience a mortality rate that is three times higher and have significantly higher morbidity rates than infants of mothers who started prenatal care during the first trimester of pregnancy.

Adequate prenatal care has been shown to contribute to the prevention of premature birth, and of fetal and neonatal health problems and post partum care programs should be available to all pregnant women. These should include active community outreach programs, public education, residential care for pregnant adolescents, screening and prompt referral as part of the regionalization of perinatal services and other services to enable pregnant adolescents to remain in school or at work. Special attention should be given to nutrition counseling, emotional needs, and health education regarding the use of alcohol and other substances. The provision of prenatal care services for women living in rural areas should receive particular emphasis.

Although most women experience uncomplicated childbirth, about 20% have some problems during labor. Because these problems require prompt intervention, preventive care during pregnancy should also focus on the birth process itself and include education about childbirth and the preparation of both parents. Attention should also be given to adequate puerperal care for the mother, which is care in the period of confinement immediately following labor.

Once a baby is born, prospects for good health can be enhanced by a number of preventive services. These include immunizations, regular growth and development assessments, and screening for metabolic disorders with referrals as necessary and desired. Although not major causes of death, problems created by the lack of proper infant care can have a significant impact on health.

Emphasis on the provision of adequate prenatal care is in line with the following National Health Priority:

(8) "The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services."

Goal II. 4. *Unintended Pregnancy*.

THE RATE AND ADVERSE CONSEQUENCES OF UNINTENDED PREGNANCY SHOULD BE REDUCED, PARTICULARLY AMONG TEENAGERS AND OTHER HIGH RISK GROUPS

Family planning is an important public health measure. It allows individuals to make their own decisions regarding reproduction and to implement those decisions. Unintended pregnancies, on the other hand, often impose psychological and social costs that can continue throughout the lifetime of both mother and child.

Thirty-five percent of infants born to married American women between 1973 and 1976 were unintended. Tweny-five percent of these pregnancies would have been postponed to a future time.

Women who are poor, have language barriers, are illegal immigrants, live in rural areas or on Indian reservations or are teenagers have disproportionately high incidences of unwanted pregnancy and childbearing. These same women frequently have problems of access to all health services, including family planning. The proportion of unwanted births is twice as high among poor families than among families which are not poor. A 1973 survey reported that one of every four births by black women had been unintended whereas only one in every ten births by white women had been unintended.

Teenagers are by far the population subgroup most in need of family planning services. When compared to the pregnancies of older women, teenage pregnancies are associated with markedly increased risks of maternal morbidity and mortality and a greater probability of divorce, unemployment, welfare dependency and interruptions in education. Teenagers also have more infants who are premature or low birth weight, who then have reduced chances of surviving infancy and high rates of neurological impairment.

Teenage pregnancies are more likely to be unintended. One-fourth of American teenage women have had at least one pregnancy by age nineteen. Every year about one million adolescents under the age of nineteen become pregnant, including perhaps 300,000 who are under fifteen. This represents an annual rate of ten percent of all teenage women. Twenty-five percent of these women will again become pregnant within one year. Two-thirds of this group still will be unmarried. Current fertility rates for women less than eighteen years of age are near the highest ever observed in this country and exceed rates in more than a dozen developed countries and several developing countries. At least three of every ten elect to terminate their pregnancies. Of the more than one million American women who have pregnancies terminated by abortion each year, some 300,000 occur in the teenage population.

The major underlying problem which urgently needs addressing, especially in the teenage group, is inadequate knowledge of, and access to, information on sexual behavior, family planning and the responsibilities of being a parent. In 1976, an estimated forty percent of unmarried teenage women aged fifteen to nineteen (two-thirds by age nineteen) had engaged in sexual intercourse. Twenty-five percent never used any form of contraception. Birth control methods currently prevent an estimated 750,000 unintended pregnancies among teenagers annually. If all sexually active young people who do not want to have children were to use some effective form of contraception regularly, it is estimated that premarital pregnancies would drop by more than 300,000 a year.

Reducing the rate and adverse consequences of unintended pregnancy is in line with the following National Health Priorities:

(8) "The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services."

(10) "The development of effective methods of educating the general public concerning proper personal (including preventive) health care and methods for effective use of available health services."

Goal II. 5. *Immunization*.

AN IMMUNIZATION LEVEL OF AT LEAST 90 PERCENT SHOULD BE MAINTAINED FOR ALL CHILDREN UNDER 15 YEARS OF AGE, AND NEWBORNS IMMUNIZED AT THE EARLIEST APPROPRIATE TIME AGAINST POLIO, MEASLES, RUBELLA, DIPHTHERIA, MUMPS, PERTUSSIS AND TETANUS

Immunization against disease has provided one of the most dramatic measures for reducing death and disability. As a result, many major diseases are no longer leading causes of death.

However, recent epidemics of measles and pertussis and occasional outbreaks of diphtheria and polio, indicate that reduction in disease incidence is temporary, and immunization must be continually emphasized. In 1977, for example, more than a third of all United States children under the age of 15 were not adequately immunized. Between 1976 and 1977 disease incidence increased for measles (up 39 percent), rubella (up 63 percent), and whooping cough (up 115 percent). Declines in incidence then were observed in 1978. Measles was down 53 percent, rubella down 13 percent and whooping cough down 8 percent.

More recently, an intensive, nationwide campaign was carried out to immunize children against vaccine-preventable diseases, ending in October, 1979. With more than 90 percent of school children protected, reported cases of all the diseases were at an all time low in 1979. The task now is to insure that all newborn and preschool aged children are immunized at the earliest appropriate age. All health care providers should adopt a system to track the immunization status of children under their care and should work with local school officials to see that immunization requirements are enforced.

The poor, blacks, other minorities, and migrant workers, remain at higher risk for all preventable diseases because of lower immunization levels. Special emphasis and immunization programs should be designed for persons who are highly mobile or who are determined by immunization survey data to reside in areas of increased disease incidence and/or low immunization levels.

To attain and sustain adequate immunization levels, a coordinated approach by parents, health departments, hospitals, physicians, and school officials is needed. Moreover, immunization services and education programs should be integrated with other existing health care services and resources, such as prenatal and postpartum care programs, teenage pregnancy programs and other programs which deal specifically with new mothers and young children.

Immunization is in line with the Congressional interest in preventive activities as indicated in the following National Health Priorities:

(1) "The provision of primary care services for medically underserved populations, especially those which are located in rural or economically depressed areas."

(3) "The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services.

Goal II. 6. *Environmental and Occupational Health*.

ENVIRONMENTAL AND OCCUPATIONAL RELATED MORBIDITY AND MORTALITY SHOULD BE REDUCED THROUGH THE PROTECTION FROM AND REDUCTION OF ENVIRONMENTAL AND OCCUPATIONAL HAZARDS

Although the cause and effect relationship of environmental exposure is not always clearly established, environmental agents are generally associated with nonfatal acute and chronic disease, injury and disability. The effects of environmental influences on mortality, however, are significant. Therefore, environmental health plays a significant role in the prevention of illnesses among the U.S. population.

The President's Council on Environmental Quality recently stated: "The adverse effects from chemical contaminants in our environment have become a significant determinant of human health and life expectancy." According to a task force report of the National Conference of Preventive Medicine, an estimated 60 to 90 percent of all cancers are related to environmental factors. Currently, more than 2,300 specific chemicals are suspected carcinogens. For another 20 chemicals and compounds, there is convincing epidemiologic evidence of a carcinogenic effect in humans. In addition, more than 20 agents are known to be associated with birth defects in humans.

Especially today, occupational illness and injury also are major health problems. Occupational exposure to toxic chemicals and physical hazards such as noise, radiation, vibration and ambient cigarette smoke can produce lung disease, cancers, sensory loss, degenerative diseases in a number of vital organ systems, birth defects, stillbirths and spontaneous abortion, reduced fertility, sterility and genetic changes, as well as acute poisonings. These toxic effects may be acute or chronic. Toxic effects have been reported for nearly 34,000 chemicals which are thought to appear in the workplace. As already mentioned, more than 2,300 are potential carcinogens. The most recent estimates on occupational illness, found in the 1972 President's Report on Occupational Safety and Health, estimated that 100,000 Americans die from occupational illnesses each year and that nearly 400,000 new cases of occupational disease are recognized. Therefore, occupational health and safety is considered a priority program.

Recent accounts of leaking abandoned chemical dumpsites such as the Love Canal in New York and the Valley of the Drums in Kentucky, have focused attention on the vast quantities of hazardous wastes being improperly disposed. The Environmental Protection Agency estimates that there are 32,250 sites which contain wastes which could cause adverse effects on public health and the environment. EPA also estimates that there are more than 3,500 spills of hazardous materials every year. These conditions extend the exposures suffered in the workplace to the community at large through contamination of water supplies, air and foods.

Attention should also be focused on those environmental health problems where local activity can produce a significant change that will enhance the health status of the community. The publications *Healthy People* and Preventing Disease and Promoting Health: Objectives for the Nation, produced in 1979 by DHHS, lay the foundation for those changes. Areas of local level environmental health concern include the following program areas:

Water supplies, food sanitation, waste water disposal, accident prevention, institutional environmental health, hazardous substances and product safety, housing, land use planning, recreational areas and waters

Water supplies, food and dairy products, and hospitals are sources of infectious diseases. In a typical year more than 1,500 infectious disease outbreaks occur throughout the country, according to the

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Center for Disease Control. Better education of operators and managers, inspection of facilities and investigation and surveillance are needed to minimize these preventable diseases.

In 1977, work accidents resulted in 13,000 deaths and 2.3 million disabling injuries. Eighty thousand were permanently disabling. About one of every ten workers in private industry experiences an occupational injury. Because many vehicles and implements used on the farm lack basic safety features, particular attention should be paid to preventing accidents associated with farm work.

Linkages need to be developed with other agencies to urge action on environmental matters of high priority for health. Besides local and State agencies, this includes the Environmental Protection Agency (EPA), the Labor Department's Occupational Safety and Health Administration (OSHA), Department of Housing and Urban Development (HUD), and within DHHS, the Food and Drug Administration (FDA), the National Institutes of Health (NIH) and the Center for Disease Control (CDC).

Congressional interest in environmental and occupational health is expressed in the following National Health Priority:

(6) "The promotion of activities for the preventive of disease including studies of environmental factors affecting health and the provision of preventive care health services."

Goal II. 7. *Accidents**.

ACCIDENTS IN THE HOME, DURING RECREATION, AT WORK AND ON THE HIGHWAY SHOULD BE PREVENTED. PARTICULAR EFFORTS SHOULD BE MADE TO REDUCE ACCIDENTS INVOLVING CHILDREN.

Accidents are the leading cause of death among Americans between the ages of one and 14 years and the fourth leading cause of death for all age groups combined. More than 100,000 persons die from accidents each year and more than 61 million are injured. The highest death rates from accidents are among the elderly.

Children are particularly susceptible to accidents. Provisional data indicate that in 1978 over 9,750 children between the ages of one and 14 were killed in accidents. This was nearly five times as many as the number who died of cancer, the second leading cause of death for this age group.

Accidents during recreational activities are responsible for many childhood injuries. These injuries may be long-lasting and expensive. Accidental childhood poisoning due to the ingestion of drugs, cleaning agents, pesticides, and lead products constitute the most common pediatric medical emergency, primarily among children under five years of age. Accidents associated with the use of alcohol or drugs is a major problem. Pharmacists and other health professionals can play a crucial role in educating the public on the dangers of accidental poisoning and serve as a referral source on poison control.

More than 100,000 Americans lost their lives from accidental injuries in 1977, nearly half of them from motor vehicle accidents, the rest from firearms, falls, burns, poisonings, and others. Many of these accidents are preventable and the toll is made more significant when viewed in terms of years of life lost. A life taken at an early age due to an accident may differ from a life taken by cancer by as many a 50–60 years.

Most accidents are attributable to correctable environmental and occupational hazards, to inappropriate product design, to product defects or to careless or uninformed consumer behavior.

Prevention requires changing certain behaviors as well as promoting safety measures which can reduce the risk factors associated with accidents.

Goal II. 8. *Fluoridation**.

COMMUNITY WATER SUPPLIES CONTAINING INSUFFICIENT NATURAL FLUORIDE SHOULD BE FLUORIDATED TO OPTIMUM LEVELS FOR THE PREVENTION OF DENTAL CARIES. IN AREAS WHERE COMMUNITY WATER FLUORIDATION IS NOT FEASIBLE, OTHER APPROPRIATE FLUORIDE MEASURES SHOULD BE IMPLEMENTED.

Tooth decay (dental caries) affects virtually every person in the United States and is the leading chronic disease in children. The caries susceptibility of teeth is significantly reduced by the optimum intake of fluoride from birth. For persons who do not obtain sufficient fluoride as it occurs naturally in their drinking water, fluoride measures are needed. The ingestion of fluoride from birth provides the greatest benefit and is accomplished most easily through the fluoridation of drinking water supplies. Community water fluoridation provides protection to the greatest number of people while requiring no conscious effort on their part, and it is the most effective and least expensive public health measure for preventing tooth decay.

Dental, medical, and statistical evidence and over 30 years of community experience show that the adjustment of the fluoride content of drinking water which is deficient in naturally-occurring fluoride to the optimum level for dental health is a safe and beneficial procedure that does not produce harmful effects. Among children who drink fluoridated water from birth, the rate of tooth decay can be reduced by as much as two-thirds, tooth loss can be minimized, and certain orthodontic problems prevented. The cost of providing dental care for children in fluoridated communities can be less than one-half the cost of children's dental care in fluoride-deficient communities. Reduction in the incidence of caries during childhood also can reduce the need for caries-related treatment and tooth loss in adulthood.

Most community water systems in the United States use water supplies that are fluoride-deficient in the natural state. The optimum fluoride concentration in this country ranges from 0.7 to 1.2 parts of fluoride per million parts of water (ppm) depending on a community's maximum average annual air temperature. For most communities the optimum is 1.0 ppm. Since 1945, more than 6,600 communities have initiated fluoridation. However, many thousands of communities which need to fluoridate have not yet done so.

Approximately 17 percent of the population, however, lives in areas that are not served by community water systems and many of these persons have fluoride-deficient independent home water supplies. School water fluoridation is appropriate for elementary and secondary schools that (1) are not served by community water systems, (2) are located in fluoride-deficient areas and (3) are attended by children with fluoride-deficient drinking water at home. Reductions of up to 40 percent in the prevalence of dental caries can be expected in children benefiting from school fluoridation. Because children drink school water only part of the time, the recommended fluoride concentration for school fluoridation is 4.5 times the optimum concentration for community fluoridation in the same area.

Once community and school fluoridation systems are implemented, they must be properly operated and monitored regularly in order to ensure that optimum fluoride levels for the most effective caries reduction are constantly maintained. State-administered fluoridation surveillance systems serve to assure that the results from monitoring each fluoridated water system, as collected over a period of time, are in compliance with the optimum fluoride concentration recommended for each system.

Self-administered fluoride measures also exist for use in community programs. Dietary fluoride supplements, usually taken in tablet form, and fluoride mouthrinses are easily administered in the school setting. However, these measures should not be implemented as a substitute for community or school water fluoridation because their benefits are not as great and they cost more, but they can be used in schools served by community water systems until such time as fluoridation can be implemented.

To obtain maximum results in preventing tooth decay in children, the fluoride measure most appropriate for each community should be complemented by effective school-based dental health education programs that instruct children and their parents in the importance of having sound teeth and motivate children to follow a proper personal oral hygiene regimen, to avoid highly-cariogenic foods and snacks particularly those containing refined sugars, and to have regular dental checkups. The prevention of dental caries through community water fluoridation and other measures is in line with the following National Health Priority (8) "The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services.

Goal II. 9. *Nutrition**.

PEOPLE SHOULD BE INFORMED ABOUT WHAT CONSTITUTES GOOD NUTRITION AND SHOULD BE ENCOURAGED AND AIDED IN OBTAINING A PROPER DIET

Adequate diets are critical in promoting health, preventing disease, and facilitating recovery and rehabilitation from illness or injury. Poor dietary habits may be linked with health problems such as heart disease, obesity, tooth decay, and possibly some types of cancers. An adequate diet should be determined in accordance with the Dietary Guidelines for Americans developed by the Department of Health and Human Services and the Department of Agriculture.

The two major nutritional problems in our society are undernutrition caused by inadequate diets and obesity resulting from overeating and improper eating habits. Poor nutrition impairs an individual's ability to learn, work and function in other ways.

Obesity is the most prevalent and serious form of malnutrition and it occurs in all segments of the population. Obesity is a progenitor of other serious health problems. If it occurs in conjunction with hypertension, hyperglycemia, or hypercholesterolemia, it significantly increases the risk of developing heart disease. Moreover, statistics indicate that 80 to 95 percent of those who lose weight eventually regain it. Other forms of malnutrition are less prevalent but may have serious consequences for health and survival. Poor nutrition among pregnant women can increase their chances of delivering a low birth weight infant and increase the possibility that the infant's physical and mental develpment will be retarded. The failure of older people to receive a daily complement of essential nutrients can lead to malnourishment and debilitation. Poor oral health or improperly fitting dentures can contribute to this problem.

Malnutrition exists in the U.S. for reasons that are complex and highly interrelated with other socio-economic problems. Access to an adequate diet of nutritious food is limited by income, knowledge of what nutrients are wholesome and essential, and access to nutrition counseling services.

Consumer awareness of the relation between obesity, food consumption, and the incidence of disease needs to be increased. So should the ability to select (and prepare) more healthful diets. In particular, healthy eating habits need to be established at home and in schools. Educational programs for expectant parents and consultive programs for overweight children and their parents should be available. Weight reduction and weight maintenance programs should include psychological and social supports.

Promoting sound nutritional behavior is in line with the following National Health Priorities:

(8) "The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services."

(10) "The development of effective methods of educating the general public concerning proper personal (including preventive) health care and methods for effective use of available health services."

Goal II. 10. *Smoking**.

COMMUNITIES, WORKING THROUGH ALL AVAILABLE INSTITUTIONS AND MEDIA, SHOULD STRIVE TO DISCOURAGE THE INITIATION OF THE SMOKING HABIT AMONG YOUNG PEOPLE, AND TO BREAK THE HABIT AMONG THOSE WHO SMOKE.

Cigarette smoking is the largest single preventable cause of illness and premature death in the United States. Smokers have a 70 percent greater rate of death from all causes than do nonsmokers, and tobacco is associated with an estimated 320,000 deaths annually. Among those diseases for which cigarette smoking is a causal or major risk factor are coronary heart disease, chronic bronchitis and other respiratory diseases, cancers of lung, oral cavity, larynx, pharynx, pancreas, kidney, urinary bladder, and peptic ulcers.

Other data also point to the interaction of smoking and various agents in increasing the risk of serious illness. These include oral contraceptives, alcohol, and such occupationally prevalent agents as asbestos. Finally, cigarette smoking has been linked to increased infant mortality, spontaneous abortion, and other complications of pregnancy.

Survey data suggests that the smoking habits of teenage and early-youth are major determinants of lifelong cigarette consumption. Since 1965, there has been a doubling of the rate at which 12- to 18-year-old women smoke. In a 1979 survey, the National Institute of Education reported that for the first time teenage women outnumbered teenage men as smokers. Smoking rates for women aged 17 to 24 also have risen and now exceed those for men. This trend has serious implications since mortality rates from all causes are significantly higher among those who initiate smoking earlier in life. It suggests that the teenage "experimental" phase of cigarette smoking may be the critical point for successful health intervention.

Communities should work together with business, government and voluntary groups on informational campaigns stressing specific health consequences, the effects of "passive smoking" (being in the same room with a person who is smoking), and the immediate benefits of cessation. The most significant benefits are the decline in the risk of lung cancer and heart disease, and the achievement of overall mortality levels comparable to those of people who never smoked. More emphasis also could be placed on enforcing no-smoking rules in public places, such as restaurants, grocery stores, offices, schools, work places, public area, and mass transit.

Campaigns directed at teenage smoking should focus on combating peer pressures, stressing the immediate physical, cosmetic and aesthetic consequences, and making use of research findings that show "significant adults" such as health professionals, coaches, parents and peers are powerful influences on teenage smoking. This could be accomplished via the school system or youth organizations. In particular, specialized programs of women should be introduced via social and health organizations.

The goal is in line with the following National Health Priorities:

(8) "The promotion of activities for the prevention of diseases, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services."

(10) "The development of effective methods of educating the general public concerning proper personal (including preventive) health care and methods for effective use of available health services."

Part III. Institutional and Personnel Resources and Systems of Care

A. Service Delivery.

Goal III.A.1. *Access to Care**.

EVERY PERSON SHOULD HAVE ACCESS TO THE FULL RANGE OF HEALTH CARE SERVICES. EQUAL ACCESS TO NEEDED HEALTH CARE SERVICES FOR ALL POPULATION SUBGROUPS (INCLUDING RACIAL AND ETHNIC MINORITIES, THE ELDERLY, THE HANDICAPPED, AND LOW INCOME PERSONS) SHOULD BE FOSTERED THROUGH THE ELIMINATION OF FINANCIAL, PHYSICAL, GEOGRAPHIC, ORGANIZATIONAL AND OTHER BARRIERS UNRELATED TO THE NEED FOR CARE. PLANNING AND REVIEW DECISIONS MUST TAKE INTO ACCOUNT THE SPECIFIC HEALTH CARE NEEDS OF THESE GROUPS AND SHOULD GIVE A PRIORITY TO PROJECTS WHICH SEEK TO ADDRESS THESE NEEDS.

Access is the ability of a population or a segment of the population to obtain appropriate health services on the basis of need. The services available should include health promotion and protection, prevention and detection, diagnosis and treatment, habilitation and rehabilitation, and maintenance. The ability to obtain care, however, is often affected by economic and cultural factors, by transportation difficulties, language barriers, a lack of information, and exclusionary referral systems. Moreover, different population groups often confront such barriers as racial discrimination, geography, limitations on admissions, the actuel availability of services and the emphasis placed on cost containment.

In directing efforts toward eliminating barriers to access, particular attention should be paid to discrimination against minorities, elderly, and handicapped persons as well as to children and persons living in rural areas. Attention should also be paid to population subgroups who because of cultural differences seek alternate kinds of care, such as traditional medicine congressional interest in assuring access is indicated in setting as a priority in session 1600 of P.L. 93–641:

"The provision of primary care services for medically underserved populations, especiälly those which are located in rural or economically depressed areas."

A. *Discrimination.*

All health services must be provided on a non-discriminatory basis that assures access to quality health care for persons with limited or no ability to pay for services, for minorities and for the handicapped.

The problem of discrimination is compounded by inadequate housing, poor nutrition, high rates of unemployment and other economic and social factors, and contributes to different rates of illness, disability and death for minorities and the handicapped. Given these problems, access to health care is particularly important for disadvantaged populations.

Barriers to access because of race or national origin are not acceptable in the United States. Neglect and insensitivity have established these barriers to access. Proper concern for equal health care can remove them.

The denial of access resulting from historical patterns of discrimination based on race, national origin, and subtle factors

related to socioeconomic status are reflected

clinics and emergency rooms, for example,

either productivity or the availability of

TO THE EXTENT THAT SHORTAGES OR

resources to treat mental disorders be viewed

Goal III.A.3. *Mental Health**.

related to socioeconomic status are reflected in many ways, such as the construction of facilities away from public transportation or the relocation of hospital facilities to suburban areas with a corresponding decrease of services to inner city communities. By being alert to these patterns, Health Systems Agencies can act to counter them and thereby avoid their negative consequences.

B. *Geographic Barriers.*

Geographic proximity for minorities, elderly, and handicapped persons should be maintained in hospital site relocation.

Transportation services should exist to assure access to health care facilities, particularly for minorities, elderly and handicapped persons. They should be developed, as necessary, when medical services are relocated.

C. *Admissions Limitations.*

Equal access to appropriate health care shall be available regardless of the patient's method of payment. Preadmission deposits should not prohibit access to health care for minorities, elderly or handicapped persons.

Patient or provider referral systems shall not prohibit access to health care for minorities, elderly or handicapped persons.

Admission to hospitals shall be accessible to all in need of services. Utilization by minorities, elderly, children, and handicapped persons should be proportionate to their identified health needs.

Arrangements for staff privileges shall assure equal access to all community facilities for both physicians and patients while assuring qualified staff selection.

Arrangements shall be made to ensure that there is appropriate access from freestanding and community clinics into secondary and tertiary facilities. This is especially important in rural areas.

The number of minorities, elderly, children, handicapped persons and Medicare/Medicaid recipients served by health care facilities shall be proportionate to the identified health needs of such groups who reside in the facilities, service area.

D. Availability of Services.

Every facility certified as Medicare/Medicaid eligible should provide all services available within the facility to Medicare/Medicaid recipients

Bilingual services (interpretors, dual language notices, etc.) should be provided to assure accessibility of services in those facilities to persons of limited English-speaking ability.

Special assistance should be provided for handicapped individuals to assure availability of services.

Where public and other hospitals close or decrease their services, access to necessary services should be maintained by other facilities within the community. This is particularly important for health care services in rural areas.

E. Cost Containment.

Some efforts at controlling health care costs may pose special adverse consequences for low-income and minority persons. Cutbacks directed toward hospital outpatient clinics and emergency rooms, for example, may deprive them of their only means of obtaining primary care services.

Cost containment efforts should be directed toward services or facilities, which if curtailed or diminished, will not disrupt access to care for medically underserved populations including the poor, minorities, the handicapped, the elderly, or other disadvantaged groups.

GOAL III.A.2. *Primary Care*.*

a. *Supply.*

THE SUPPLY OF PRIMARY CARE PHYSICIANS IN A HEALTH SERVICE AREA SHOULD BE AT LEAST ONE PHYSICIAN PER 2,000 POPULATION. UNDER CENTAIN CIRCUMSTANCES SERVICES SHOULD BE ENHANCED THROUGH MORE EFFECTIVE UTILIZATION OF OTHER HEALTH PERSONNEL, INCLUDING PHYSICIANS' ASSISTANTS AND NURSE PRACTITIONERS

A ratio of at least one primary care physician to 2,000 persons is needed to provide a minimum level of primary care services. A primary care physician has been defined for this purpose to include general and family practitioners, internists, obstetricians-gynecologists, and pediatricians. Deliberate measures should be taken to bring resources up to this goal in medically underserved areas.

The goal of at least one primary care physician per 2,000 population is based upon the analyses of a joint Health Resources Administration—Health Services Administration Task Force reviewing primary health care needs in health manpower shortage areas. The Task Force concluded that a ratio of one primary care physician per 3,500 persons should be used in designating an area as a primary care health manpower shortage area. This ratio represents the lowest quartile of the United States in 1974 in terms of primary care physicians and now is used as a basis for justifying Federal intervention through a placement of National Health Service Corps personnel. Following intervention, efforts are directed toward improving the ratio to a level of one primary care physician per 2,000 population. When the ratio is better than one per 2,000, the physician/population ratio is considered to be adequate.

The ratio was based upon a range of views and practices with regard to the availability of health manpower. In 1974, for example, the median ratio for primary care physician to the population was approximately one to 2,500. On the other hand, large Health Maintenance Organizations reportedly averaged about one primary care physician per 1,500 enrollees and one primary care physician for every 1,200 enrollees who actually use the services. Studies of fee-for-service primary care practices in some rural areas indicated a ratio of one per 2,000 was adequate. Other studies indicated that a greater ratio may be needed when the age and productivity of the physician were considered.

The ration of one primary care physician per 2,000 people thus constitutes a minimum standard and does not necessarily indicate either productivity or the availability of primary care to all population groups on an equivalent basis. Cultural, racial, socioeconomic and geographic barriers may, in fact, leave part of the population without a primary care physician while other segments of the population enjoy a surplus.

Each HSA should be responsible for determining whether the needs of different population groups within its area are being met. Poor health indices could be one indicator of unmet needs. Particular attention should be given to the adequacy of coverage to meet the needs generated by seasonal population shifts with the influx of agricultural workers and tourists into rural areas.

The Graduate Medical Education National Advisory Committee (GMENAC) was established in 1976 to make recommendations to the Secretary on the present and future supply of, and requirements for, physicians; their specialty and geographic distribution; and methods to finance graduate medical education. Part of its work also includes an analysis of primary care physicians. The final report, due in 1980, may be helpful in further refining this goal.

Physicians' assistants and nurse practitioners enhance the range of primary care services offered and can help increase the overall availability of health care services when a shortage is projected, especially in rural areas. The number of graduates of nurse practitioner and physicians' assistant programs has been increasing in recent years, and the use of these graduates should be encouraged. Experience has demonstrated that nonphysicians health care provides have been accepted both by patients and by the physicians who work with them; that nonphysician providers can provide a cost-effective mechanism for expanding services in a number of settings; that the quality of their service is satisfactory; and that there are some services, such as patient education, which may be better carried out by nonphysicians.

Nurse practitioners and physicians' assistants should work within the limits of existing State medical practice laws. However, in some States, overly restrictive laws continue to inhibit the exercise of the full range of capabilities for which these types of personnel are trained. States should review their medical practice laws and make appropriate recommendations.

The concern of the Congress about primary care and the training and employment of nonphysician primary care personnel is expressed in their setting as National Health Priorities:

(1) "The provision of primary care services for medically underserved populations, especially those which are located in rural or economically depressed areas."

(4) "The training and increased utilization of physicians' assistants, especially nurse clinicians."

Goal III.A.2. *Primary Care.**

b. *Balance Among Medical Specialties.*

TO THE EXTENT THAT SHORTAGES OR EXCESSES OF PRIMARY CARE PERSONNEL OR MEDICAL SPECIALTIES EXIST AND ARE DOCUMENTED. THESE IMBALANCES SHOULD BE CORRECTED

The problems of rising costs, restricted access, and proliferation of inappropriate services will continue if a balance is not struck between the medical service needs of a health service area and the specialty and geographic distributions of medical service providers. The trend in medicine until very recently has been towards the development of highly trained subspecialists and the subsequent lack of physicians in general practice.

Until the early 1970s, a shortage in the supply of medical manpower was considered to be the major manpower problem. More recently, the problems have shifted to those of specialty and geographic maldistribution. Minorities, the elderly and other underserved groups, such as people in rural areas, face significant problems because of the maldistribution of primary care physicians. Accordingly, Federal policy has shifted its emphasis from increasing the number of physicians to producing a different mix of medical practitioners and encouraging their locations in areas of relative shortages.

Increasing the availability of primary care personnel; decreasing residencies and third party payments in certain specialty areas; and increasing residencies and the availability of third party reimbursement to primary care practitioners are among the measures which should be considered to correct these imbalances.

The 1980 final report of GMENAC mentioned in the discussion of the preceding goal, should be valuable in providing further direction for achieving this goal.

Efforts to assure an appropriate balance among medical specialties are in line with the following National Health Priorities:

(1) "The provision of primary care services for medically underserved populations, especially those which are located in rural or economically depressed areas."

(13) "The adoption of policies which will (A) contain the rapidly rising costs of health care delivery, (B) insure more appropriate use of health care services, and (C) promote greater efficiency in the health care delivery system."

Goal III. A. 2. *Primary Care.**

c. *Integration of Mental Health.*

THE INTEGRATION OF MENTAL HEALTH SERVICES IN GENERAL HEALTH CARE DELIVERY PROGRAMS SHOULD BE INCREASED THROUGH IN-SERVICE MENTAL HEALTH TRAINING OF PRIMARY CARE PROVIDERS AND PLACEMENT OF MENTAL HEALTH PROFESSIONALS IN PRIMARY CARE PROGRAMS

Of the total number of people affected by mental disorders only about 20 percent were estimated to be seen in the specialty mental health sector. About 54 percent are seen in the health sector (but not in the specialty mental health sector); and 6 percent are seen in both. The remaining 20 percent are either seen in other human service sectors, or they are not seen at all. It is imperative, therefore, that the need and demand for human resources to treat mental disorders be viewed in the context of the entire health/mental care system.

Mental health training of general health care personnel and the use of mental health personnel in primary health care settings both should be increased to open up opportunities for effective mental health care and treatment. In order to improve mental health, prevent mental illness and insure the provision of appropriate, effective, high-quality treatment and rehabilitative services in the least restrictive setting for persons of all ages and cultural backgrounds, it is important to develop a partnership in the delivery of mental health, health services and other support services. Particular attention should be paid to the development of community-based mental health services in rural areas where the population base is limited and costs may be greater.

Mental illness contributes substantially to disability among adults in this country. Growth of community mental health services in recent decades has made resources for mental health promotion more available in local communities. But close relationships between mental health and other health and support services need to be fostered. The diverse problems of those with mental illness require a broad range of mental health services.

Prevention efforts can be improved by improving the ability of health, social service and other support service personnel to recognize and prevent mental illness. This first contact recognition can take place within the health service system. Chronically mentally ill children and adults need mental health services and support systems to assist them in living productive lives outside traditional institutional settings.

The quality of mental health care depends ultimately on the knowledge, skills and sensitivity of those providing it. Although there has been a marked increase in the number of professional and paraprofessional mental health practitioners, there still is a shortage of trained personnel especially in rural and poor urban areas and for dealing with children, adolesents, the elderly, and minority groups. Efforts should be directed towards assuring that personnel are trained to be culturally sensitive, and that personnel are employed whose own cultural and linguistic backgrounds are appropriate in light of the person to whom services are provided. Curricula and training materials should be developed and information disseminated to all health manpower dealing with mental health. These should be relevant to the group being trained and to the priority area in the community. Substantial increases in the training and retraining of such personnel are necessary for quality mental health care to be delivered throughout the health care system.

The integration of mental health services in general health care delivery programs is in line with the following National Health Priority:

(16) "The promotion of those health services which are provided in a manner cognizant of the emotional and psychological components of the prevention and treatment of illness and maintenance of health."

Goal III. A.3. *Mental Health*.*

AN INCREASING PROPORTION OF MENTALLY ILL PATIENTS SHOULD BE RESTORED TO PRODUCTIVE LIVING BY:

a. DEVELOPING COMMUNITY-BASED SERVICES FOR UNSERVED, UNDERSERVED OR INAPPROPRIATELY SERVED POPULATIONS, ESPECIALLY CHILDREN AND YOUTH, THE AGED, THE CHRONICALLY MENTALLY ILL, RACIAL OR ETHNIC MINORITIES, POOR PERSONS, AND PERSONS IN RURAL AREAS,

b. MINIMIZING UNNECESSARY OR INAPPROPRIATE INSTITUTIONALIZATION AND ENSURING THAT PERSONS REQUIRING LONG-TERM RESIDENTIAL CARE DUE TO MENTAL ILLNESS OR DISABILITY RECEIVE SUCH CARE IN THE LEAST RESTRICTIVE SETTING WHICH ASSURE HIGH QUALITY CARE AND SERVICES APPROPRIATE TO THE PATIENT'S NEEDS, AND

c. PROVIDING ECONOMICAL AND HIGH QUALITY HEALTH FACILITIES FOR CHRONIC MENTAL PATIENTS WHO REQUIRE PROLONGED PERIODS OF CARE.

Larger numbers of mentally disabled people are now living outside of mental hospitals. Reliance on hospitals for long-term care of such persons is expected to continue to diminish. These costs of hospitalization are too high and the human and civil rights issues too complex to maintain traditional patterns of institutional care.

For severely emotionally disabled persons to benefit from being released from mental institutions, they must have long-term access to rehabilitative and supportive services in the community, including assistance with living arrangements, jobs, and other problems of everyday life.

In spite of successes with deinstitutionalization programs, there will continue to be a residual population needing protection and residential care for prolonged periods of time. The size of this population is still undetermined, but it will number in the thousands and be housed in State hospitals and nursing homes. The HSA must address the needs of these people and assure that they continue to receive appropriate care and rehabilitative services at a reasonable cost in the least restrictive setting.

In development of standards for long-term care of the mentally ill, it is necessary to make the following assumption: all mentally ill patients requiring long-term care do not need the same level of care nor should all care be provided in the same type of facility.

The goals of providing appropriate care and treatment, rehabilitative and supportive services, and education and re-training should be provided in the least retrictive setting and at a reasonable cost. Selection of the appropriate facility should be based upon an assessment of the individual's short and long-term goals, the type of treatment and other resources required, and the services needed to assist patients in attaining their maximum potential for independent living, whether within or outside the facility setting. The physical well-being and the personal and emotional welfare of the individual should be the prime concern of those who make decisions about the adequacy,

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appropriateness and timeliness of the care and treatment being provided.

Estimates are that the chronic care population currently exceeds 1.5 million persons. At present though, thousands of mentally disabled persons remain in State hospitals or continue to enter and reenter them, primarily because few community programs are available. Many thousands more have been and continue to be released with inadequate provision for their care in the community. In other instances, people may return to State hospitals because they are inappropriately treated and/or released to the community too soon.

A variety of community-based living arrangements linked with mental health, health and other human services must be developed on a much broader scale than is presently available. Services must also be available for individuals who require inpatient care.

In line with efforts to assure access to appropriate care for the mentally ill, HSAs should seek to (1) reduce the admission rate to State and county mental hospitals to less than 180/100,000; (2) reduce the average length of stay in State and county mental hospitals to less then 25 days per episode; and (3) reduce the number of resident patients in State and county mental hospitals to less than 70/100,000.

The National Institute of Mental Health developed these targets by using National averages for 1977, the last year for which National data was available. In working toward these targets, HSAs should be aware of any extenuating circumstances which exist in their area and also take note of the fact that most State mental hospitals serve areas that are larger than a single HSA.

The goals are in line with the following National health Priorities:

(14) "The elimination of inappropriate placement in institutions of persons with mental health problems and the improvement of the quality of care provided those with mental health problems for whom institutional care is appropriate."

(15) "Assurance of access to community mental health centers and other mental health care providers for needed mental health services to emphasize the provision of outpatient as a preferable alternative to inpatient mental health services."

(16) "The promotion of those health services are provided in a manner cognizant of the emotional and psychological components of the prevention and treatment of illness and maintenance of health."

GOAL III. A. 4. *Child Mental Health* *.

SERVICES SHOULD BE AVAILABLE TO IMPROVE THE LEVEL OF SOCIAL AND COGNITIVE FUNCTIONING FOR CHILDREN IDENTIFIED AS "MOST IN NEED" OF MENTAL HEALTH SERVICES.

The President's Commission on Mental Health (PCMH) called for an increased commitment of resources to the underserved, a group which includes children, adolescents, and the chronically mentally ill. Within this group, children who have a combination of mental health, developmental and physical problems are among the most neglected of all in the services system, and therefore, qualify as those children "most in need" of mental health services.

Between 1.5 and 2.0 million children suffer from psychotic or affective disorders, or have severe problems adapting to the social environment, or suffer from other conditions that impede growth and development (such as chronic handicapping conditions, poor nutrition and disruptive family structures.) These children also experience serious access problems to services. They comprise 2 to 3 percent of the total child population. While this represents a comparatively small group in terms of the overall number of children and youth who experience all forms of psychiatric disorders, this group requires the most services and resources over time, has serious effects on family members and the community, and experience chronic conditions that can become the precursors to more serious adult mental health disorders.

Providing services to this particular group requires that may different resources be organized and coordinated. Yet at the present time, such basic items as clear entry points into service systems on behalf of children are difficult to identify. Often one is confronted with such a maze of programs and services, which themselves are fragmented and discontinuous, that they constitute the epitome of a "non-system." Coordinated working relationships between service components at any level—community, State, Federal—are as unusual as the cooperative uses of available funds and professional resources. Lack of well-prepared, competent personnel appropriate to a service need is another general barrier to the delivery of services. Sometimes services are simply not available.

The particular target population for this proposal will include children aged 5 to 17 who can not be identified, and whose mental health status can be tracked through the requirements of P.L. 94–142 (Education for all Handicapped Children). Under this legislation, an individual Education Plan will be developed for each handicapped child, including the seriously emotionally disturbed. This will provide baseline data for the "most in need" target group.

Experience with these interventions allows us to anticipate that social and cognitive functions will improve for these children identified as "most in need".

This goal is in line with the following National Priorities:

(14) "The elimination of inappropriate placement in institutions of persons with mental health problems and the improvement of quality of care provided provided those with mental health problems for whom institutional care is appropriate."

(15) "Assurances of access to community mental health centers and other mental health care providers for needed mental health services to emphasize the provision of outpatient as a preferrable alternative to inpatient mental health services."

(16) "The promotion of those health services which are provided in a manner cognizant of the emotional and psychological components of the prevention and treatment of illness and maintenance of health."

Goal III. A. 5. *Alcoholism and Drug Abuse* *

ALCOHOLISM AND DRUG ABUSE SERVICES SHOULD BE ORGANIZED IN WAYS THAT FURTHER THE DEVELOPMENT OF COMPREHENSIVE COMMUNITY-BASED PREVENTION AND TREATMENT SERVICES WHICH ARE INTEGRATED INTO THE MAINSTREAM OF HEALTH CARE

The availability of adequate alcoholism treatment resources should be increased, and accessibility to those resources facilitated as a routine part of health care. Efforts are currently under way to expand coverage of alcoholism treatment by third party payors. Insurance generally covers approximately 65 percent of the costs of diseases other than alcoholism. Similar coverage for alcoholism treatment should be provided.

Health care professionals in all treatment settings should be responsible for assuring that alcoholism is treated as a routine part of health care and that there is no discrimination against the alcoholic patient. This requires increased emphasis on integrating alcohol education into the curriculum and training programs for health providers and allied professionals. The trend toward outpatient treatment should be maintained and encouraged.

There is also a need for increased awareness among the health care community of the relation between alcohol consumption and a variety of medical disorders (including cardiovascular problems, malnutrition, cirrhosis, pancreatitis, gastritis, certain cancers, Wernicke-Korsakoff's Syndrome, depression, and fetal defects) in addition to the disease of alcoholism itself. Health care providers should consider the drinking patterns of their patients when diagnosing their presenting complaints and developing treatment plans, so as to ensure that the cause and any complicating factors as well as the symptom are being dealt with. In addition, particular care should be paid when prescribing drugs for individuals who also drink alcoholic beverages. Alcohol is known to interact in an adverse and sometimes life-threatening manner with many of the most frequently prescribed drugs. In addition, the use of alcohol can alter the expected therapeutic and/or adverse medical effects of many commonly prescribed medications.

Of the more than 92 million people in the work force, more than 6 percent are estimated to have problems with alcohol. Occupational programs have proven extremely effective in dealing with this problem.

In occupational programs funded by the National Institute on Alcohol Abuse and Alcoholism, results 180 days after treatment have shown that approximately 70 percent of patients are improved. Measures include 51 percent decrease in "impairment;" an 11 percent decrease in absenteeism; a 73 percent decrease in the number of days when alcohol was consumed; and 16 percent increase in days worked.

In terms of cost savings, the U.S. Postal Service reports saving $1,869 per person per year in sick leave and leave without pay since beginning its occupational program. The Federal Civil Service estimates that an expenditure of $5 per Federal employee or approximately $15 million a year, will result in savings ranging from $135 to $280 million.

There is growing evidence of alcohol associated problems among women and youth. Special attention should be developed to the treatment needs of these population groups.

In the area of drug abuse, treatment and rehabilitation services should be strengthened by also assuring that drug abuse services are routinely available and that an organized program of comprehensive drug abuse services exist for all residents of the health service area. Because of the failure of our traditional systems to provide such care, the drug abuse treatment system has evolved almost entirely during the past decade.

Goal III. A. 6. *Dental Services* *

DENTAL SERVICES SHOULD BE AVAILABLE TO ALL PERSONS WHO WOULD SEEK DENTAL CARE IF IT WERE REASONABLY ACCESSIBLE; AN INCREASING PROPORTION OF PERSONS SHOULD REGULARLY SEEK AND OBTAIN ADEQUATE DENTAL SERVICES

To maintain optimal oral health, every person from about age three throughout life needs to have regular dental checkups and to receive prompt treatment of oral diseases and conditions as they occur. Yet, each year only one half of the population visits a dentist and some of these persons seek less than adequate care. Almost 10 percent of the population has never been to a dentist.

Accordingly, the unmet dental treatment needs of the population are extensive. In the early 1970's, 64 percent of persons 1–74 years of age had unmet dental treatment needs. Among age groups, the percentage of persons needing dental treatment ranged from 73 percent among persons 18–44 years of age to 17 percent among children under age six. About 69 percent of persons whose family incomes were below $10,000 had unmet treatment needs, as compared to 62 percent of persons with family incomes of $10,000–$14,999 and 54 percent among persons with higher family incomes.

There are a variety of reasons why persons do not routinely seek dental care. Many persons cannot affort it. Unlike medical care which is largely financed through private and public third-party payment mechanisms, dental care is a direct out-of-pocket expense for most of the population. Many persons do not comprehend the importance of oral health and the need for regular dental care. Even among high-income persons and persons eligible for dental care under public or private third-party plans, many are not motivated to seek dental care.

In addition, many persons encounter other barriers which prevent or discourage them from seeking dental care. Rural and inner-city residents often find it too time-consuming, expensive or inconvenient to travel to the nearest dental facility. Some parents cannot afford to take time off work to take their children to a dentist or they do not appreciate the importance of doing so. Handicapped persons frequently encounter architectural barriers to entering a dental facility or within the dentist's operatory. Elderly and handicapped persons often have difficulty in locating a dentist who is trained to provide the special patient-management and clinical services they require. Dental services are not available to many persons who reside in institutions or to most who are homebound.

Comprehensive dental care services should be equally available to all persons who would seek care if a dentist was reasonably accessible. All of the barriers to the receipt of dental care can be addressed in the health planning process. Areas with adequate but maldistributed dental manpower resources need to develop community measures to make the existing dental services resources more accessible to and utilized by underserved population groups. For example, school-based programs can be developed to motivate parents to seek dental care for their children and to arrange transportation for children to visit dental offices or clinics. Dentists can be encouraged to work part time in community health facilities that are nearer to underserved population groups and to accept patients covered by third-party plans. In areas where dental services resources are not sufficient to serve the potential demand of the general population, measures are needed to encourage new dentists to locate in the area and dentitsts already there to increase their service load through, for example, more effective utilization of auxiliary personnel. Other measures appropriate to all areas include development of dental health education programs to inform the general public of the importance of dental health and to motivate more persons to seek dental care on a regular basis, and measures to coordinate and facilitate dental services for all persons who are eligible under third-party programs.

Dental treatment services are provided by a dentist or by a dental auxiliary under the supervision of a dentist. Recent data indicate there are an estimated 36,770 dental hygienists, 144,700 dental assistants, and 45,000 dental lab technicians working with the approximately 123,500 dentists. For most areas designated as having a personnel shortage sufficient to justify the placement of National Health Service Corps dentists, a ratio of one dentist to 5,000 persons has been adopted. Nationally, there is one dentist for every 1,912 persons. Most dental services are provided in private dental practices; however, services can be made more accessible to underserved persons by establishing dental programs in hospital out-patient clincis, community health centers, National Health Service Corps sites and other community-based settings.

In determining the need to improve the availability and accessibility of an area's dental services resources, the adequacy of existing dental manpower resources needs to be assessed in light of the requirements of the population and other local considerations. Assessment of an area's dentist resources includes consideration of factors such as the amount of time the dentists devote to their practices, the geographic distribution of the dentists within the area, the dental treatment needs of the population, the potential demand for dental care, and the availability and utilization of dental auxiliary personnel.

Dental treatment needs vary from area to area depending upon factors such as the prevalence of oral diseases (primarily dental caries and periodontal disease), the age and ethnic composition of the population, and the adequancy of care received by the population in the past. The need for dental care in a population can be decreased over time through implementation of appropriate preventive measures and provision of comprehensive care to more persons.

Current potential demand for dental care is greater than utilization because it also reflects the treatment needs of persons who would seek and obtain care if dental services were reasonably accessible. Potential demand can be increased by motivating persons to seek regular dental care, improving the distribution of dentists within an area, and eliminating other barriers to access.

The effective utilization of dental auxiliaries is essential to increasing dentists' productivity and making limited dentist resources available to more people. The appropriate mix of dental auxiliaries in a private practice or a dental clinic creates a dental care team that can increase the quantity and comprehensiveness of services a dentist can provide and has the potential for maintaining or lowering the cost of care. Improving access to dental services is in line with the following National Health Priority:

(1) "The provision of primary care services for medically underserved populations, especially those which are located in rural or economically depressed areas."

B. *Systems of Care*

Goal III.B.1. *Regionalization* *.

PROVIDERS OF HEALTH SERVICES SHOULD BE ORGANIZED INTO REGIONALIZED NETWORKS WHICH ASSURE THAT VARIOUS TYPES AND LEVELS OF SERVICES ARE LINKED TOGETHER TO FORM COMPREHENSIVE AND EFFICIENT SYSTEMS OF CARE. THESE NETWORKS SHOULD WORK TO IMPROVE ACCESS TO HEALTH SERVICES, ELIMINATE UNNECESSARY DUPLICATION OF SERVICES, AND IMPROVE QUALITY.

The health care system is a complex arrangement of medical and human services subsystems, personnel, institutions, and organizational arrangements. It includes a great number and variety of individuals and institutions providing primary, secondary, and tertiary care.

"Regionalization" of health services refers to a process which brings providers and consumers together within a defined geographic area by linking functionally-related facilities and services together in a formal, structured and coordinated manner in terms of the complexity of care required. Coordinating all the obstetrical or pediatric care within a given area would be an example of regionalization.

There is a growing consensus that regionalization represents a major step toward improving access, efficiency and quality of care. Regionalization can increase access by pooling resources. Communications links among providers can improve access by making it possible for providers to have more services and information available for individual patients and to better coordinate patient care. Regionalization also provides a greater asset base from which to develop new services and thus can reduce provider risk. Regionalized systems can improve the

quality of care by eliminating low volume services where appropriate or assuring that

EFFICIENCY AND PRODUCTIVITY OF HEALTH CARE INSTITUTIONS SHOULD

Affiliation—An arrangement in which two or more institutions agree to share parts of a

then progresses through periods of increasing sophistication. The goal of the system is to

Service Act recognizes basically three models of HMOs, the staff, medical group or

wherever competition and consumer choice can constructively serve . . . to advance the

quality of care by eliminating low volume services where appropriate or assuring that the individuals who provide a limited amount of special services are qualified to perform this particular work. Improved access to basic levels of care also can be achieved in rural areas through regionalized networks.

When fully developed, a regionalized system of health care should establish minimum standards of care; emphasize decentralized delivery of primary care services; and limit unnecessary inpatient care and the inappropriate duplication of services within an immediate area, thereby releasing resources for other needed health-related uses.

The organizational relationships and the conditions and responsibilities involved in a regionalized network should encompass the services of both public and private institutions.

Regionalization could have the inadvertent effect of decreasing access to care for medically underserved populations. It is important that regionalized systems be carefully planned to increase access to basic levels of care while concentrating complex services in the most appropriate and accessible institutions.

In developing regionalized networks, mechanisms should be developed that assess the health needs of the population within a given area and to organize an appropriate response in terms of personnel, facilities and equipment. Local and State planning agencies should work with local health care institutions to update and develop, in more detail, demographic and epidemiologic information about the population to be served, their health care needs, and the available resources.

Public discussion of health care priorities should be undertaken to gain a clear idea of regional health care needs and to pinpoint major deficiencies in the delivery system. Planning and health care institutions should explore new ways for public and private groups to cooperate in planning and developing regionalized systems and in establishing quality control and accountability systems.

Strong Congressional interest in developing organized systems of care is indicated in the following National Health Priorities:

(2) "The development of multi-institutional systems for coordination or consolidation of institutional health services (including obstetric, pediatric emergency medical, intensive and coronary care and radiation therapy services.)"

(7) "The development by health services institutions of the capacity to provide various levels of care (including intensive care, acute general care, and extended care) on a geographically integrated basis."

(12) "The identification and discontinuance of duplicative or unneeded services and facilities."

(13) "The adoption of policies which will (A) contain the rapidly rising costs of health care delivery, (B) insure more appropriate use of health care services, and (C) promote greater efficiency in the health care delivery system."

Goal III.B.2. *Multi-Institutional Systems and Shared Services*.*

EFFICIENCY AND PRODUCTIVITY OF HEALTH CARE INSTITUTIONS SHOULD BE FURTHERED THROUGH THE DEVELOPMENT OF MULTI-INSTITUTIONAL ARRANGEMENTS FOR THE SHARING OF CLINICAL, ADMINISTRATIVE AND SUPPORT SERVICES.

The continuing escalation in health care costs, and the widespread recognition that unnecessary duplication of facilities and services contributes to this escalation, has led many institutions to take an increased interest in shared services and other cooperative efforts. "Sharing" may include the buying and selling of services; agreements that particular institutions will specialize in particular services; or the joint production of services among health care organizations.

The hospital literature of recent years has reflected a high level of interest in, and experience with, the sharing of both clinical and support services. Support and administrative services, such as laundry and data processing, have been shared by American hospitals for several decades. During the 1970s, sharing has occurred in such clincial areas as emergency medicine, obstetrics, pediatrics, respiratory care, and cardiac intensive care.

Sharing, particularly if implemented through an arrangement involving centralized management of multiple institutions, may offer a number of benefits. These include cost savings through economies of scale as well as improvements in access and/or the quality of services. Multi-institutional systems, which should facilitate shared services, may also provide benefits such as the more efficient use of capital; the ability to afford a range of specialized managers and other professionals whose cost would preclude their frequent use by small hospitals acting alone; the financial ability to sustain hospitals that are needed for reasons of access, but whose income is insufficient to maintain a completely independent institution; more comprehensive, efficient data systems and computer support than many institutions could obtain by themselves; and improved capability to monitor the quality of medical and other key personnel.

Even though these arrangements may or may not involve organizational or staffing changes, any of them, when broadly defined, may be considered a "multi-institutional system," In other words, multi-institutional arrangements can range from a purely informal approach in which a group of hospital administrators meet periodically to discuss issues of mutual interest, to a full merger in which at least one institution changes its legal status.

The following are among the types of sharing arrangements which HSAs should consider:

Association—A group with voluntary membership which meets to discuss mutual concerns, and where the main purpose is broad representation. The metropolitan hospital council is an example.

Consortium—An entity created by a group of hosptials to coordinate institutional planning. An early example was the Capital Area Health Consortium in Hartford, Connecticut.

Affiliation—An arrangement in which two or more institutions agree to share parts of a program, such as student rotations and systems for patient referral.

Multiple Unit System or Multiple Hospital Management—An arrangement in which two or more legally separate hospitals are managed by a single corporate entity.

Contract Services—Arrangements in which an outside organization provides, under contract, a support or administrative service such as laundry, food or plant operations.

Contract Management—An arrangement in which the owner or board of trustees of a health institution contracts with an outside organization to manage the institution on a day-to-day basis, although the manged institution retains its legal responsibility and ownership.

Merger—The legal integration of two or more formerly separate organizations.

Strong Congressional interest in the development of multi-institutional arrangements and the sharing of services in this manner is indicated in the following four National Health Priorities:

(2) "The development of multi-institutional systems for coordination or consolidation of institutional health services (including obstetric, pediatric, emergency medical, intensive and coronary care and radiation therapy services."

(3) "The development of medical group practices (especially those whose services are appropriately coordinated or integrated with institutional health services), health maintenance organizations, and other organized systems for the provision of health care."

(5) "The development of multi-institutional arrangements for the sharing of support services necessary to all health service institutions."

(7) "The development of health service institutions of the capacity to provide various levels of care (including intensive care, acute general care, and extended care) on a geographcially integrated basis."

(12) "The identification and discontinuance of duplicative or unneeded services and facilities."

Goal III.B.3. *Emergency Medical System*.*

NETWORKS OF EMERGENCY MEDICAL SERVICES SYSTEMS SHOULD BE DEVELOPED AND IMPROVED IN ORDER TO EFFECTIVELY COORDINATE THE DELIVERY OF EMERGENCY MEDICAL CARE TO ALL WHO REQUIRE IT

Until a few years ago, those who were critically ill or injured often were beyond emergency medical help. Today many of these lives can be saved if both initial and rehabilitative care are given in time and the patient is moved through an organized system and provided with essential medical care.

The passage of the Emergency Medical Services Systems (EMSS) Act of 1973 (P.L. 93–154), as amended by Congress in 1976 (P.L. 94–573) and again in 1979 (P.L. 96–142), has provided the mechanism and funds for communities to develop regional emergency medical services systems across the country.

The development of an Emergency Medical Services System (EMSS) usually starts with an initial upgrading of existing resources and

then progresses through periods of increasing sophistication. The goal of the system is to meet the needs of all patients requiring urgent care in the system's service area, but particularly to meet the needs of the most critical emergencies. The function of the regional EMS operational and organizing unit is to intergrate EMS services within an entire medical-geographical area in order to provide the best possible emergency care to the people living in that region.

Considerable improvements are now being made in the delivery of emergency medical care through the application of Federal and National consensus standards to EMS systems. Regional EMS programs have begun to categorize hospitals with respect to their capabilities in handling general emergency patients, and with respect to the facilities, equipment, and staff available to meet the needs of the most critical patients in such areas as trauma, spinal cord injury, burn, poisoning, acute cardiac failure, high risk infants, and behavioral emergencies.

This Goal is in line with the following National Health Priority:

(2) "The development of multi-institutional systems for coordination or consolidation of institutional health services (including obstetric, pediatric, emergency medical, intensive and coronary care, and radiation therapy services)."

Goal III.B.4. *Options for Care*.*

EVERY RESIDENT WITHIN THE HEALTH SERVICE AREA SHOULD HAVE AVAILABLE THE WIDEST POSSIBLE RANGE OF OPTIONS FOR HEALTH CARE SERVICES WITH RESPECT TO BOTH THE ORGANIZATIONAL MODEL FOR DELIVERY AND FINANCING MECHANISMS

a. THE OPTION OF JOINING A FEDERALLY-QUALIFIED OR SIMILARY CONSTITUTED HEALTH MAINTENANCE ORGANIZATION, SHOULD BE AVAILABLE TO EVERY RESIDENT.

b. THE NUMBER OF GROUP PRACTICE ARRANGEMENTS FOR THE DELIVERY OF MEDICAL CARE SHOULD BE SUBSTANTIALLY INCREASED.

Residents of any given community should have the option of choosing the type of health care system most sutiable for their individual needs. To make such choices possible, federally-qualified or similary constituted HMOs should be available within each health service area.

The opportunity for consumer choice should cause competing delivery systems to function in a manner that will help achieve goals of the Health Planning Act which are intended to improve the health status of all Americans. HSAs should actively encourage the development of HMOs in a cost-effective manner within their service areas in order to assure the existence of alternatives to the traditional free-for-service delivery system.

HMOs have received extensive public support within the past decade. As of June 1979, 8,226,053 Americans were enrolled in prepaid health plans, with 5,646,554 of them enrolled in federally "qualified" HMOs. These are HMOs which have met all the requirements of Title XIII of the Public Health Service Act. Title XIII of the Public Health Service Act recognizes basically three models of HMOs, the staff, medical group or individual practice association (IPA). Both the staff and medical group or models deliver services at one or more locations through contract with a group of physicians or through its own physicians, who are employees of the HMO. The IPA delivers services through physicians who usually practice in their own offices and see HMO members there.

HMOs are both a financing mechanism and a delivery system. For fixed periodic fee, they provide their enrolled members with the health care services they need, without regard to the cost of the service required. As a delivery system, HMOs assume the responsibility for arranging or directly providing care to a voluntarily enrolled membership.

A variety of incentives exist within the structure to control costs and assure the most appropriate use of health care services. Because the HMO directs and coordinates the health care services received by the enrolled membership, the HMO is able to determine the most apropriate location of service and the most suitable level of treatment. Unnecessary inpatient care is avoided through the HMO's ability to provide care on an ambulatory basis, usually in its own facilities. Mid-level Practitioners may be employed to assure that needed care is rendered by personnel trained at a level indicated by the patient's particular condition.

HMOs have demonstrated an ability to effect desirable changes in the delivery of health care services as well. They have achieved lower hospitalization and surgery rates for their patients, as compared to patients covered by other health insurance plans. Because services are prepaid, patients are more likely to seek care early in the cycle of illness, when curative measures may be most effective. It is important that all consumer including medically underserved populations have the opportunities to benefit from these comprehensive prepaid services. These programs emphasize preventive health maintenance as well as therapeutic and curative measures. In doing so, they serve to reduce the overall cost of care.

Particular attention should be given to the development of HMOs in rural areas. At a minimum, the feasibility of establishing these alternative systems of health care in rural areas should be explored. So too should the feasibility of developing multi-specialty and multi-disciplinary group practices. At the very least, there is a need for research in developing HMOs and other group practice arrangements for rural areas.

Congressional interest in fostering competition and the development of HMOs, medical group practices organized systems of care is expressed in the following National Health Priorities:

(3) "The development of medical group practices (especially those whose services are appropriately coordinated or integrated with institutional health services), health maintenance organizations, and other organized systems for the provision of health care."

(17) "The strengthening of competitive forces in the health services industry wherever competition and consumer choice can constructively serve . . . to advance the purposes of quality assurance, cost effectiveness, and access."

Goal III. B. 5. *Quality of Health Services*.*

THE QUALITY OF HEALTH SERVICES SHOULD BE IMPROVED BY:

(a) REDUCING INAPPROPRIATE VARIATIONS IN HOSPITAL UTILIZATION;

(b) REDUCING INAPPROPRIATE VARIATIONS IN THE INCIDENCE OF SURGICAL PROCEDURES;

(c) REDUCING INAPPROPRIATE AND MEDICALLY UNNECESSARY UTILIZATION OF ANCILLARY SERVICES;

(d) IDENTIFYING AND ELIMINATING SUBSTANDARD CARE; AND

(e) HEALTH PLANNING AND REVIEW DECISIONS TAKING INTO ACCOUNT THE RESULTS OF QUALITY ASSESSMENT AND UTILIZATION REVIEWS.

Health care professionals, public officials and hospitals and other institutional providers have long been interested in monitoring and enhancing the quality of health services. Traditionally, the most common quality control approaches have involved setting standards for health provider education and licensure as well as for facility accreditation, licensure and certification. Utilization reviews, medical audits, tissue specimen reports and other means of assessing quality also have been prominent within the medical care system. In addition, the assurance of ongoing provider competence through continuing education and testing arrangements has received growing attention.

Increasing attention is being devoted to variations in hospital utilization as a common measure of quality of care, although the presence of utilization variations does not necessarily indicate inappropriate utilization.

Another indicator of quality is the incidence of surgical procedures. Surgery of all kinds increased 23 percent between 1970 and 1975. In 1975, 14.2 million or 41.7 percent of all patients discharged from short-stay hospitals underwent surger. Variations in surgical rates have been documented for different parts of the country and for different population groups. These variations have been found to relate closely to the number of available surgeons in the area rather than the apparent need for surgery. While more knowledge is necessary regarding the extent of the problem and its cost implications, it is generally recognized that substantial unnecessary surgery is occurring. Given the apparent extent of the problem of needless surgery, second opinions should be excouraged for all elective surgery, that is, for all surgery which does not involve an emergency or a threat to life and which is subject to the choice or decision of the patient and physician.

There is increasing evidence that ancillary services delivery is a major area of both over-utilization and questionable quality. Recent studies indicate that some services which are provided routinely at admission may be inappropriate and indicate that many ancillaries provided during patient stays are untimely and of questionable value. Areas which do not yet have available data on

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ancillaries should strive to develop data in these areas.

Quality of care is directly affected by the quality of the individual providing the care. Continuing education is an important measure in addressing this concern. Although the number of providers and practitioners who deliver sub-standard care is relatively small, the importance of eliminating such care in terms of impact on health and well being of the recipients of such care is substantial.

A major Federal program aimed at promoting the quality of health care is Professional Standards Review Organization (PSROs) developed following the Social Security Amendments of 1972. The law calls for close coordination between planning agencies and PSROs in order to link quality assurance and resource allocation. The importance of improving the quality of health care is recognized in priority 6 of section 1502 which urges:

(6) "The promotion of activities to achieve needed improvements in the quality of health services, including needs identified by the review activities of Professional Standards Review Organization under Part B of Title XI of the Social Security Act."

Guided by this priority, planning agencies and PSROs are to develop Letters of Agreement to specify possible areas and structures for cooperation and for the exchange of vital information. Moreover, section 1532(c)(14) of the 1979 Health Planning Act requires that planning and review decisions take into account the results of quality assessment and utilization review activities. Thus, the development of plans for meeting the area-wide needs of residents, as well as decisions under Certificate of Need and other mandated reviews, should reflect any findings of over-utilization and/or poor quality of care. Further efforts should also be undertaken to improve and/or develop improved quality assessment tools that are applicable to area-wide health planning decisions.

In matters relating to quality of care issues, planning agencies should base their decisions on the findings and results of organizations and groups judged to have expertise in this area. This shall include, in addition to PSROs, professional standards as established by the medical community, and standards developed by the Joint Commission on Accreditation of Hospitals (JCAH).

Goal III.B.6. *Management Procedures*.*

EFFICIENCY AND PRODUCTIVITY OF HEALTH CARE INSTITUTIONS SHOULD BE FURTHERED THROUGH THE ADOPTION OF UNIFORM COST REPORTING, EQUITABLE REIMBURSEMENT ARRANGEMENTS, UTILIZATION REPORTING SYSTEMS, AND IMPROVED MANAGEMENT REPORTING PROCEDURES

Important opportunities exist to improve the efficeincy and productivity of health care institutions. Rapidly rising health care costs are focusing new attention on methods of more efficient operations.

The adoption of improved uniform cost reporting and utilization reporting systems will establish a method for obtaining comparable information for health facilities which can be used to: (1) develop a more rational and equitable reimbursement system; (2) enable longitudinal and inter-institutional comparisons of cost and utilization data in order to identify trends and facilitate policy analysis; (3) develop more effective approaches to cost containment; (4) improve the capacity to detect fraud and abuse; and (5) assist local, State and Federal agencies formulate health planning goals and decisions. The adoption of such improved data systems also will aid health facilities in their own planning and management processes.

Health planning agencies should maintain current knowledge of reimbursement issues, including identification of services that are needed but uncovered for some or all of the population. Agencies should seek to increase the awareness of third party payors and the public concerning health costs and methods for improving reimbursement systems.

Congressional interest in this matter is indicated in the following National Priorities:

(9) "The adoption of uniform cost accounting, simplified reimbursement, and utilization reporting systems and improved management procedures for health service institutions and the development and use of cost saving technologies."

(13) "The adoption of policies which will (A) contain the rapidly rising costs of health care delivery, (B) insure more appropriate use of health care services, and (C) promote greater efficiency in the health care delivery system."

Goal III.B.7. *New Technology*.*

WHEN FOUND SAFE AND EFFECTIVE, THE INTRODUCTION OF NEW PROCEDURES AND EQUIPMENT SHOULD TAKE PLACE IN WAYS THAT ENHANCE ECONOMY, EQUITY AND QUALITY. REIMBURSEMENT POLICIES SHOULD FOSTER THE APPROPRIATE USE OF ALL TECHNOLOGY

The effectiveness and safety of clinical procedures, the proliferation of new technology, and new medical practices should be monitored at the National level on a continuous basis. New procedures and specialized equipment are being introduced at an increasing rate, and many have the potential for important advances in the prevention and control of disease.

In addition, the rapid growth of new procedures and special equipment has accounted for over one-third of the increase in medical costs in recent years. The introduction of these new practices and procedures often has led to wasteful and expensive duplication of resources and sometimes has exposed consumers to undesirable and unnecessary risks.

Clearly, a coordinated policy to deal with the problems of determining the relative benefit and cost-effectiveness of new technology is needed. The goal of such a policy should be to (1) assure that only appropriate, necessary, and cost-effective technology will be transferred to health practice, (2) set forth the economic, educational and social impacts of those innovations whose effectiveness and safety have been established clinically, and (3) assure that new technology which meets the first two criteria will be placed in those institutions which are accessible to the entire population that would benefit from that new technology.

Rigorous assessments of medical and surgical practices already in widespread use also are essential. Subjecting common practices to such evaluation offers important opportunities to validate the effectiveness of specific forms of clinical interventions, to use this information to eliminate waste, and to achieve cost effective allocations of limited resources.

The National Center for Health Care Technology was established to coordinate the introduction of new methods and the evaluation of established techniques for prevention, diagnosis, and treatment of disease. This agency is responsible for assembling, analyzing, evaluating, and disseminating information with respect to the need for medical technologies and their utilization and costs in the health system. These and other Federal agency efforts at technology assessment must deal with both low and high cost technologies, diagnostic versus curative technologies, the ease of capital formation for the development and purchase of medical technologies, reviews of reimbursement mechanisms governing the market dissemination of medical technologies, and social issues of access and equity.

Capital regulation now provides planning agencies with a mechanism to limit the growth of the cost of medical care through regulation of capital expenditures for new services, equipment, or facilities. This type of regulation discourages the duplication of services and rationalizes the planning for new services. Financing mechanisms should take into account the need to facilitate the introduction and acceptance of clinically necessary and economically efficient medical technology but they should not promote the spread of unnecessary new practices and equipment. Planning agencies, in assessing new technology, should balance the economic and social costs of new procedures against the medical, educational, social, and economic benefits of their development and introduction.

This goal is in line with the following National Health Priorities:

(9) "The adoption of uniform cost accounting, simplified reimbursement, and utilization reporting systems and improved management procedures for health service institutions and the development and use of cost saving technologies."

(13) "The adoption of policies which will (A) contain the rapidly rising costs of health care delivery, (B) insure more appropriate use of health care services, and (C) promote greater efficiency in the health care delivery system."

Goal III.B.8. *Energy Conservation*.*

EFFORTS SHOULD BE MADE TO PROMOTE AN EFFECTIVE ENERGY CONSERVATION AND FUEL CONSERVATION PROGRAM FOR HEALTH SERVICE INSTITUTIONS TO REDUCE THE RATE OF GROWTH OF DEMAND FOR ENERGY

All planning activities should focus attention on the need to prevent fuel shortages from interrupting the delivery of services and the importance of providing health services in the most energy efficient manner possible in order to contain health care costs and decrease the nation's dependence on imported energy. HSAs, SHPDAs and other organizations which play a role in the health planning process should take steps to increase the use of alternate energy forms, such as solar, geothermal and biomass.

Hospitals and other institutions delivering direct patient care should take a leadership role within communities in terms of energy conservation. There should be vigorous demonstration programs to encourage the health sector to adopt new energy saving technologies or renewable energy resources. Reimbursement systems, both Federal and private, should develop incentives to promote energy savings and conservation. In addition, each health facility should have a written energy conservation program. Applications for new construction projects should contain architectural and engineering designs that are energy efficient. A small increase in front end spending in this area can yield large dollar and energy savings during the lifetime of a facility.

Since a cost-effective health delivery system should address the issue of projected energy costs, Health Plans should reflect the projected or future energy supplies of the region. Planning bodies should obtain the assistance of the State energy policy office in monitoring those energy decisions which will impact their region.

Congressional interest in energy conservation in health facilities is expressed in the following National Health Priority:

(11) "The promotion of an effective energy conservation and fuel efficiency program for health service institutions to reduce the rate of growth of demand for energy."

C. *Coordinating Community Resources*

Goal III. C. 1. *Access to Support Services for the Chronically Ill and Handicapped.*

A FULL ARRAY OF SUPPORT SERVICES SHOULD BE ACCESSIBLE TO THOSE WITH CHRONIC OR PROLONGED ILLNESSES AND/OR PHYSICAL OR MENTAL HANDICAPS

A substantial number of persons experience serious handicaps and chronic illnesses. About 14 percent of the noninstitutional population report some limitation of activity, and about 11 percent report being limited in a major activity. These percentages include persons of all ages, children as well as the elderly, who suffer from limitations arising from hereditary and congenital conditions, accidents, illness and other causes. The chronically ill and handicapped also include those who suffer from chronic mental illness, drug addiction, and alcoholism.

Eye and vision problems are the second most prevalent chronic health problem in the United States. Although approximately 50 percent of the population needs some form of eye/vision care, only one-half of those needing care are receiving it from any source. Comprehensive vision screening and follow-up services for all children should be available. This should be part of a larger vision conservation program which has as its aim prevention of vision conditions which may preclude an individual from reaching his full personal or educational potential or performing satisfactorily in his environment. Untreated eye/vision conditions can result in a loss of personal productivity, social maladjustments, and reduced quality of life.

Tuberculosis is a chronic condition which still affects approximately 30,000 Americans and their family members annually. This is a particular problem among adults and older adults, refugee populations, medically underserved, economically depressed, and native American populations.

There are an estimated 1.5 million adults with chronically disabling mental health problems. This estimate does not include those who may have a combination of physical and mental problems such as the frail elderly. It also does not include the mentally retarded, mentally ill children, alcoholics and drug addicts. Thus the 1.5 million figure is a conservative estimate.

Those with chronic illnesses and handicaps have particular needs for support services and assistance. Such services include home health care, homemaker services, day care, special housing and rehabilitation programs. They also include transportation, recreation, therapy, and social and employment services. Dental care is an essential service required by all chronically ill and handicapped persons.

Even when such supportive services are available, many barriers exist which prevent people with chronic or prolonged disabilities and their families from receiving the assistance they need. These barriers include the financial costs of obtaining support services as well as cultural and emotional inhibitions against using available assistance. Frequently, they include architectural and communications barriers as well. Another barrier is the basic lack of knowledge about handicapped and disabled people among those who regularly are in contact with them, such as teachers, employers, and medical care personnel.

Making support services accessible to the chronically ill and handicapped by reducing such barriers allows individuals the opportunity to function in their normal environment, in turn, promote both mental and physical health and help to preserve an individual's dignity. Making support services accessible also helps avoid unnecessary and costly institutionalization.

GOAL III.C.2. *Services Coordination and Case Management.*

THERE SHOULD BE CLOSE COORDINATION AMONG THE VARIOUS HEALTH, SOCIAL, REHABILITATIVE AND OTHER HUMAN SERVICES WHICH THOSE WITH CHRONIC OR PROLONGED DISABILITIES OFTEN REQUIRE. CASE MANAGEMENT SHOULD BE AVAILABLE TO THE CHRONICALLY ILL AND HANDICAPPED TO DIRECT THEM TO NEEDED HEALTH AND SUPPORT SERVICES

The provision of sevices to the chronically ill and handicapped is uncoordinated, fragmented, and generally unresponsive to the total needs of the individual. While a large number of agencies and institutions provide services and funding, comprehensive planning, monitoring and management usually is lacking.

In addition, day-to-day decisions about program operations often are divorced from decisions regarding program funding and policy direction, while some critical services such as dental services often are either neglected or insufficiently developed. The chronically ill or handicapped, or members of their families, often have no place they can turn to in order to obtain information about the kinds of services available in a community and the eligibility requirements for those services.

Case management or referral services for the handicapped and the chronically ill also often are lacking or poorly developed in most communities. As a result, the chronically ill and the handicapped frequently must find their way through the maze of health and social programs provided by different agencies on their own. Not only does this inhibit early detection and prevention; it also means individuals with acute needs frequently remain unaware of important services that are available to them.

Case management should be provided to identify and coordinate all the services a handicapped or chronically ill person needs. Case managers should be knowledgeable about both government and private programs which provide employment, rehabilitation, therapy, health care, social services, housing, transportation, and recreation. Such managers should be familiar with the activities of support networks within a community, such as churches, clubs and self-help groups.

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Relationship Between National Health Priorities Sec. 1502 and Draft National Health Planning Goals

National priorities	National goals
"(1) The provision of primary care services for medically underserved populations, especially those which are located in rural or economically depressed areas."	II.5. *Immunization.* III.A.1. *Access to Care.* III.A.2.a. *Primary Care—Supply.* III.A.2.b. *Primary Care—Balance Among Medical Specialties.* III.A.6. *Dental Services.*
"(2) The Development of multi-institutional systems for coordination or consolidation of institutional health services (including obstetric, pediatric, emergency medical, intensive and coronary care, and radiation therapy services)."	III.B.1. *Regionalization.* III.B.2. *Multi-Institutional Systems and Shared Services.* III.B.3. *Emergency Medical Systems.*
"(3) The development of medical group practices (especially those whose services are appropriately coordinated or integrated with institutional health services), health maintenance organizations, and other organized systems for the provision of health care."	III.B.2. *Multi-Institutional Systems and Shared Services.* III.B.4. *Options for Care.*
"(4) The training and increased utilization of physicians' assistants, especially nurse clinicians."	III.A.2.a. *Primary Care—Supply.*
"(5) The development of multi-institutional arrangements for the sharing of support services necessary to all health service institutions."	III.B.2. *Multi-Institutional Systems and Shared Services.*
"(6) The promotion of activities to achieve needed improvements in the quality of health services, including needs identified by the review activities of Professional Standards Review Organizations under part B of title XI of the Social Security Act."	III.B.5. *Quality of Health Services.*
"(7) The development of health service institutions of the capacity to provide various levels of care (including intensive care, acute general care, and extended care) on a geographically integrated basis."	III.B.2 *Multi-Institutional Systems and Shared Services.*
"(8) The promotion of activities for the prevention of disease, including studies of nutritional and environmental factors affecting health and the provision of preventive health care services."	II.1. *Extension of Disease Prevention and Health Promotion.* II.3. *Prenatal, Maternal and Perinatal Care.* II.4. *Unintended Pregnancy.* II.5. *Immunization.* II.6. *Environmental and Occupational Health.* II.7. *Accidents.* II.8. *Fluoridation.* II.9. *Nutrition.* II.10 *Smoking.*
"(9) The adoption of uniform cost accounting, simplified reimbursement, and utilization reporting systems and improved management procedures for health service institutions, and the development and use of cost saving technology."	III.B.6 *Management Procedures.* III.B.7. *New Technology.*
"(10) The development of effective methods of educating the general public concerning proper personal (including preventive) health care and methods for effective use of available health services."	II.1. *Extension of Disease Prevention and Health Promotion.* II.2. *Consumer Information.* II.4. *Unintended Pregnancy.* II.7. *Accidents.* II.9. *Nutrition.* II.10 *Smoking.*
"(11) The promotion of an effective energy conservation and fuel efficiency program for health service institutions to reduce the rate of growth of demand for energy."	III.B.8. *Energy Conservation.*
"(12) The identification and discontinuance of duplicative or unneeded services and facilities."	III.B.1. *Regionalization.* III.B.2. *Multi-Institutional Systems and Shared Services.*
"(13) The adoption of policies which will (A) contain the rapidly rising costs of health care delivery, (B) insure more appropriate use of health care services, and (C) promote greater efficiency in the health care delivery system."	II.1. *Extension of Disease Prevention and Health Promotion.* III.A.2.b. *Primary Care—Balance Among Medical Specialties.* III.B.1. *Regionalization.* III.B.6. *Management Procedures.* III.B.7. *New Technology.*
"(14) The elimination of inappropriate placement in institutions of persons with mental health problems and the improvement of the quality of care provided those with mental health problems for whom institutional care is appropriate."	III.A.3. *Mental Health.* III.A.4. *Child Mental Health.* III.A.5. *Alcoholism and Drug Abuse.*
"(15) Assurance of access to community mental health centers and other mental health care providers for needed mental health services to emphasize the provision of outpatient as a preferable alternative to inpatient mental health services."	III.A.3. *Mental Health.* III.A.4. *Child Mental Health.* III.A.5. *Alcoholism and Drug Abuse.*
"(16) The promotion of those health services which are provided in a manner cognizant of the emotional and psychological components of the prevention and treatment of illness and maintenance of health."	III.A.2.c. *Primary Care—Integration of Mental Health.* III.A.3. *Mental Health.* III.A.4. *Child Mental Health.* III.A.5. *Alcoholism and Drug Abuse.*

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TABLE 1

I: Health Status Outcomes

DEATH RATES BY AGE: UNITED STATES, SELECTED YEARS 1900 - 1977

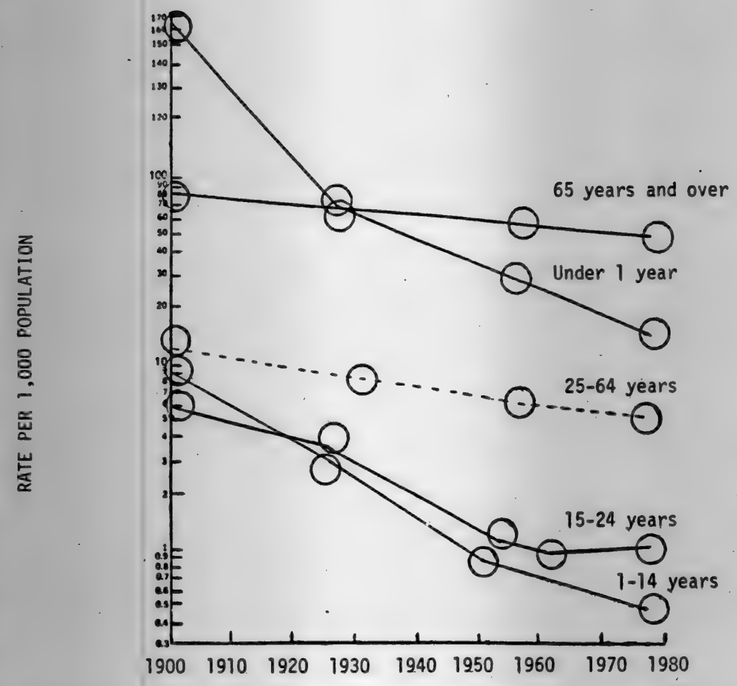

NOTE: 1977 data are provisional, data for all other years are final. Selected years are 1900, 1925, 1950, 1960 (for age group 15-24 years only), and 1977.

SOURCE: National Center for Health Statistics.

TABLE 2

GOAL I.1. - Health Status Improvements

DEATH RATES FOR 15 LEADING CAUSES OF DEATH: UNITED STATES, 1978

Rank[1]	Cause of death	Death rate (per 100,000 population)	Percent of total deaths
	All causes	882.3	100.0
1	Diseases of heart	333.9	37.8
2	Malignant neoplasms, including neoplasms of lymphatic and hematopoietic tissues	181.6	20.6
3	Cerebrovascular diseases	79.1	9.0
4	Accidents	49.5	5.6
...	Motor vehicle accidents	24.6	2.7
...	All other accidents	24.9	2.8
5	Influenza and pneumonia	26.7	3.0
6	Diabetes mellitus	15.0	1.7
7	Cirrhosis of liver	13.7	1.6
8	Arteriosclerosis	13.4	1.5
9	Suicide	12.6	1.4
10	Certain causes of mortality in early infancy	10.1	1.1
11	Bronchitis, emphysema, and asthma	10.0	1.1
12	Homicide	9.7	1.1
13	Congenital anomalies	5.9	0.7
14	Nephritis and nephrosis	3.7	0.4
15	Septicemia	3.6	0.4
...	All other causes	113.8	12.9

[1] Rank based on number of deaths

Source: National Center for Health Statistics
Division of Vital Statistics, Mortality Statistics Branch,
Provisional 1978 data

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TABLE 3

GOAL I.1 - Health Status Improvements

AGE-ADJUSTED DEATH RATES[1] FOR 15 LEADING CAUSES OF DEATH AND PERCENT CHANGE FROM PREVIOUS YEAR: UNITED STATES, 1978

Rank[2]	Cause of death	Age-adjusted death rate (per 100,000 population)	Percent change from 1977 to 1978
	All causes	605.5	-1.1
1	Diseases of heart	207.3	-1.5
2	Malignant neoplasms, including neoplasms of lymphatic and hematopoietic tissues	133.2	0.1
3	Cerebrovascular diseases	44.4	-7.9
4	Accidents	45.3	3.4
...	Motor vehicle accidents	24.0	7.1
...	All other accidents	21.3	-0.4
5	Influenza and pneumonia	15.4	8.5
6	Diabetes mellitus	10.1	-2.9
7	Cirrhosis of liver	12.4	-5.3
8	Arteriosclerosis	6.1	-1.6
9	Suicide	12.2	-5.2
10	Certain causes of mortality of early infancy	n.a.[3]	n.a.[3]
11	Bronchitis, emphysema, and asthma	6.8	-5.6
12	Homicide	9.9	3.1
13	Congenital anomalies	n.a.[3]	n.a.[3]
14	Nephritis and nephrosis	2.5	-7.4
15	Septicemia	2.6	8.3
...	All other causes	80.8	...

[1] Standard to which rates are adjusted is the 1940 U.S. enumerated population.

[2] Rank based on number of deaths

[3] Inasmuch as deaths from these causes occur almost entirely among infants, rates adjusted to the total population of the United States in 1940 are not shown.

Source: National Center for Health Statistics: Division of Vital Statistics, Mortality Statistics Branch, Provisional 1978 data.

TABLE 4

GOAL I.2.a. - Infant Health

LIVE BIRTHS BY BIRTH WEIGHT AND RACE: UNITED STATES, 1977

Birth Weight	Total United States		White		Black	
	Number	Percent	Number	Percent	Number	Percent
TOTAL	3,326,632	100	2,691,070	100	544,221	100
500 grams or less	3,040	0.09	1,884	0.07	1,096	0.2
501-1500 grams	34,562	1.0	21,939	0.8	11,820	2.2
1501-2500* grams	197,282	5.9	135,521	5.0	56,560	10.4
2501 grams or more	3,085,263	92.7	2,526,632	93.9	473,583	87.0
Not stated	6,485	0.2	5,094	0.2	1,162	0.2

*Upper limit for low-birth weight status

Source: National Center for Health Statistics, Division of Vital Statistics, Natality Statistics Branch, 1977 accumulated data.

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TABLE 5

GOAL I.2.a. - Infant Health

PERCENT LOW BIRTH WEIGHT* BY EDUCATION ATTAINMENT OF MOTHER, MONTH OF PREGNANCY PRENATAL CARE BEGAN, AND RACE, 1977**

Years of School Completed	Race and Month of Pregnancy Prenatal Care Began																			
	TOTAL			1st - 2nd			3rd			4th - 6th			7th - 9th			No Prenatal care			Not Stated		
	ATT	W	B	ATT	W	B	ATT	W	B	ATT	W	B	ATT	W	B	ATT	W	B	ATT	W	B
TOTAL	7.2	6.0	12.9	6.2	5.4	11.9	6.7	5.6	12.2	8.6	6.9	12.9	8.5	7.1	11.9	21.1	17.3	27.2	10.5	8.4	15.9
0-8 years	9.6	8.3	14.7	8.8	7.8	13.5	9.0	7.8	13.8	9.9	8.3	14.8	8.4	7.0	13.2	18.8	17.0	25.1	12.2	10.4	18.3
9-11 years	10.2	8.4	14.6	9.2	7.8	14.0	9.6	8.0	14.2	10.2	8.5	13.7	9.8	8.2	13.1	23.8	20.0	28.5	13.7	10.9	18.4
12 years	6.7	5.6	12.0	6.0	5.3	11.4	6.3	5.4	11.4	7.9	6.1	12.2	7.7	6.5	10.5	19.2	15.2	25.1	9.9	8.0	14.6
13-15 years	5.7	4.9	10.9	5.4	4.8	10.6	5.3	4.6	10.0	6.6	5.2	10.8	7.2	5.4	11.3	18.7	14.5	25.2	9.0	7.8	12.4
16 years & over	4.8	4.4	9.0	4.8	4.4	8.8	4.4	4.0	8.2	4.9	4.2	9.3	4.9	4.5	6.9	13.4	11.8	18.1	7.4	6.3	13.5
Not Stated	9.7	7.5	16.2	8.1	6.7	15.7	8.4	6.5	14.4	11.1	8.3	15.3	10.4	9.2	13.1	26.4	18.3	39.4	9.6	7.6	16.1

*Low birth weight defined as 2,500 grams or less.

**Total of 41 reporting States and the District of Columbia

Source: National Center for Health Statistics, Division of Mortality Statistics Branch, 1977 data.

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Table 6.—*Goal I.2.b.—Infant Health—Infant Mortality Rates,[1] 1966–1979*

Calendar year	Rate	Percent reduction from previous year
1979[2]	13.1	3.68
1978 (provisional)	13.6	3.55
1977	14.1	7.24
1976	15.2	5.59
1975	16.1	3.59
1974	16.7	5.65
1973	17.7	4.32
1972	18.5	3.14
1971	19.1	4.50
1970	20.0	4.31
1969	20.9	4.13
1968	21.8	2.68
1967	22.4	5.49
1966	23.7	(3)

[1] Per 1,000 live births.
[2] Ten month period ending October 1979.
[3] Not applicable.
Source: National Center for Health Statistics, Division of Vital Statistics, Mortality Statistics Branch, 1979 Data.

Table 7.—*Goal I.2.b.—Infant Health—Frequency of Infant Mortality Rates[1] by State, 1978*

Rate	Number of States	Percent
8.0–10.9	8	15.7
11.0–13.9	23	45.1
14.0–16.9	16	31.4
17.0–19.9	3	5.9
20.0 and above	1	2.0

[1] Rate is per 1,000 live births.
Source: National Center for Health Statistics, Division of Analysis, Accumulated Data.

Table 8.—*Goal I.2.b.—Infant Health—Infant Mortality Rates[1] by State, 1978*

State	Rate
Alabama	16.4
Alaska	16.3
Arizona	15.0
Arkansas	14.3
California	11.6
Colorado	11.9
Connecticut	9.6
Delaware	12.0
District of Columbia	23.1
Florida	14.2
Georgia	14.7
Hawaii	11.8
Idaho	9.7
Illinois	14.7
Indiana	12.2
Iowa	11.8
Kansas	11.5
Kentucky	12.0
Louisiana	17.8
Maine	9.2
Maryland	14.4
Massachusetts	9.7
Michigan	13.4
Minnesota	12.3
Mississippi	17.1
Missouri	16.0
Montana	10.0
Nebraska	13.8
Nevada	11.3
New Hampshire	8.3
New Jersey	11.8
New Mexico	14.5
New York	16.3
North Carolina	16.3
North Dakota	13.1

Table 8.—*Goal I.2.b.—Infant Health—Infant Mortality Rates[1] by State, 1978*—Continued

State	Rate
Ohio	13.0
Oklahoma	13.8
Oregon	13.2
Pennsylvania	14.8
Rhode Island	15.7
South Carolina	18.5
South Dakota	12.0
Tennessee	16.1
Texas	13.8
Utah	12.0
Vermont	11.4
Virginia	13.3
Washington	11.5
West Virginia	15.1
Wisconsin	9.8
Wyoming	11.0

[1] Rate is per 1,000 live births.
Source: National Center for Health Statistics, Division of Analysis, Provisional Data.

Table 9.—*Goal I.4.—Preventable Communicable Diseases—Frequency and Percentage Distributions of Mortality Rates for Selected Preventable Communicable Diseases[1] by State, 1977*

Rate per 100,000	Number of States	Percent
15.2–21.9	4	7.8
22.0[2]–26.9	7	13.7
27.0–31.9	16	31.4
32.0–36.9	18	35.3
37.0 and above	6	11.8

[1] See Eighth Revision International Classification of Diseases, Adopted, 1965: codes 000–136, 466, 470–474, and 480–486. In order, these groupings represent: tuberculosis, poliomyelitis, measles, infectious hepatitis, and other infective and parasitic diseases; acute bronchitis and bronchiolitis; influenza; and pneumonia.
[2] Target for achievement.
Source: National Center for Health Statistics: Division of Vital Statistics, unpublished 1977 data (accumulated).

Table 10.—*Goal I.4.—Preventable Communicable Diseases*

[Number of deaths and mortality rates for selected preventable communicable diseases,[1] by State, 1977]

State	Deaths by disease classification No.				Total	Rate per 100,000
	000–136	466	470–474	480–486		
Alabama	178	16	75	854	1,273	34.5
Alaska	23	2		38	63	15.5
Arizona	217	7	7	518	749	27.6
Arkansas	232	9	27	523	791	38.8
California	1,353	74	96	4,169	5,692	23.1
Colorado	156	3	13	502	674	23.1
Connecticut	219	6	5	653	883	27.8
Delaware	54			93	127	21.8
District of Columbia	119	2		214	335	60.6
Florida	705	33	43	2,112	2,893	35.0
Georgia	174	12	44	1,282	1,876	37.2
Hawaii	60	2	2	150	223	24.9
Idaho	41	4	0	156	212	24.7
Illinois	730	30	52	2,970	3,723	33.1
Indiana	366	20	33	1,101	1,540	29.9
Iowa	166	10	24	799	1,001	34.8
Kansas	168	7	23	547	751	30.2
Kentucky	298	15	22	934	1,269	35.7
Louisiana	473	11	31	815	1,330	33.9
Maine	62	10	6	264	342	32.1
Maryland	366	7	5	653	1,031	24.9
Massachusetts	487	13	10	1,872	2,382	41.2
Michigan	695	23	21	1,636	2,375	25.0
Minnesota	226	13	24	959	1,222	30.7
Mississippi	251	7	20	556	844	35.3
Missouri	434	13	35	1,287	1,769	34.2
Montana	63	2	8	112	185	25.6
Nebraska	86	8	20	427	545	34.9
Nevada	34		1	95	130	20.5
New Hampshire	56	1	8	196	257	31.1
New Jersey	509	33	30	1,617	2,274	31.0
New Mexico	105	5	3	235	348	29.2
New York	1,284	71	43	5,358	6,756	37.7
North Carolina	555	27	77	1,263	1,922	37.0
North Dakota	38	1	4	150	193	29.6
Ohio	723	29	33	2,271	3,082	28.8
Oklahoma	252	10	11	780	1,045	37.2
Oregon	142	9	22	534	707	33.6
Pennsylvania	1,158	35	40	2,731	3,964	33.5
Rhode Island	57	4		144	205	21.9
South Carolina	270	11	52	627	970	33.9
South Dakota	27	4	7	173	211	30.6
Tennessee	394	8	40	1,024	1,458	33.3
Texas	1,126	54	68	2,686	3,914	30.5
Utah	77	2	7	214	300	23.7
Vermont	41	3		128	172	35.6
Virginia	442	14	33	1,096	1,575	30.7
Washington	193	12	35	776	1,020	31.8
West Virginia	163	7	8	524	702	38.8
Wisconsin	240	25	65	987	1,365	28.8
Wyoming	21	1	8	87	114	24.1
Total	16,930	697	1,304	49,889	68,820	31.8

[1] See Eighth Revision International Classification of Diseases, Adapted, 1965: codes 000–136, 466, 470–474, and 480–486. Groupings include a number of nonpreventable communicable diseases. See first footnote, Table 9.
Source: National Center for Health Statistics: Division of Vital Statistics, unpublished 1977 data.

Table 11.—*Goal I.7.—Older Adult Health*

[Selected chronic conditions causing limitation of activity by age: United States, 1976[1]]

Table 11.—*Goal I.7.—Older Adult Health*

[Selected chronic conditions causing limitation of activity by age: United States, 1976[1]]

	Both sexes, all ages	17–44 yrs	45–64 yrs	65 yrs and over
Number of persons limited in activity	30,175,062	7,512,474	10,504,689	9,891,204
	Percent of persons limited in activity			
Chronic conditions:				
Arthritis and rheumatism	16.8	6.0	19.6	24.9
Heart conditions	15.7	4.8	19.0	23.4
Hypertension without heart involvement	6.9	3.4	8.0	8.9
Diabetes	5.1	2.3	6.8	6.9
Mental and nervous conditions	4.9	5.5	5.7	3.9
Asthma	4.8	5.6	3.4	2.1
Impairments of back and spine	7.5	13.9	7.9	3.3
Impairments of lower extremities and hips	6.1	5.0	5.6	5.0
Visual impairments	5.4	4.2	4.0	8.2
Hearing impairments	2.5	2.7	1.9	2.4

[1] Data are based on household interviews of a sample of the civilian noninstitutionalized population.

Source: Division of Health Interview Statistics, National Center for Health Statistics: Data from the Health Interview Survey.

Table 12.—*Sub-Goal 1 E—Alcoholism*—Estimated National Health Expenditures as a Result of Alcohol Abuse in 1975, According to Type of Expenditure

Type of expenditure	Total adult population expenditures (billion)	Expenditures resulting from alcohol abuse (billion)	Expenditures resulting from alcohol abuse as a percentage of total expenditures
Health Service/Supplies:			
Hospital care	$42.3	$8.40	19.9
Physicians' services	17.9	1.30	7.3
Dentists' services	6.2		
Other prof. services	1.7	0.12	7.3
Drug & Drug sundries	7.9	0.25	3.2
Eyeglasses/ Appliances	2.0		
Nursing home care	8.6	0.19	2.2
Expenses for prepayment & administration	3.9	0.78	19.9
Government public health services	2.5	0.33	13.1
Other health services	3.0	0.33	13.1
Research & medical facilities construction	6.1	0.78	13.1
Training & education	2.3	0.17	7.3
Total	105.6	12.74	12.1

Source: Berry, R. Jr., Boland, J., Smart, C., and Kanak, J., "The Economic Cost of Alcohol Abuse/1975, Report prepared for the National Institute on Alcohol Abuse and Alcoholism, Contract No. ADM 281–76–0016, 1977.

Table 13.—*Goal I.9. Drug Abuse—Percentage of Youth (Ages 12–17) Reporting Use of Selected Drugs During the 30 Days Prior to Interviewing, 1974–1977*

Drug	Percentage reporting use			
	1974	1976	1977	74–77 change
Marijuana and/or hashish	11.6	12.4	16.1	+4.5
Inhalants	.7	.9	.7	0.0
Hallucinogens	1.3	.9	1.6	+0.3
Cocaine	1.0	1.0	.8	−0.2
Nonmedical use of:				
—Stimulants (Rx)	1.0	1.2	1.3	+0.1
—Sedatives (Rx)	1.0	*	.8	−0.2
—Tranquilizers (Rx)	1.0	1.1	.7	−0.3
Alcohol	34.0	32.4	31.2	−2.8
Cigarettes	25.0	23.4	22.3	−2.7

*Less than 0.5%.

Source: Adapted from Abelson, Herbert; Fishburne, Patricia; and Cisin, Ira, *National Survey on Drugs Abuse: 1977*, National Institute on Drug Abuse, Table 10, page 30.

Table 14.—*Goal I.9. Drug Abuse—Percentage of High School Seniors Reporting Use of Selected Drugs During the 30 Days Prior to Interview: 1975–1977*

Drug	Percent reporting use			
	1975	1976	1977	75–77 change
Marijuana and/or Hashish	27.1	32.2	35.4	+8.3
Inhalants	n/a	0.9	1.3	n/a
Hallucinogens	4.7	3.4	4.1	−0.6
Cocaine	1.9	2.0	2.9	+1.0
Nonmedical use of:				
—Stimulants	8.5	7.7	8.8	+0.3
—Sedatives	5.4	4.5	5.1	−0.3
—Tranquilizers	4.1	4.0	4.6	+0.5
Alcohol	68.2	68.3	71.2	+3.0
Cigarettes	36.7	36.6	38.4	+1.7

N/A—Data not available.

Source: Adapted from Johnson, Lloyd; Bachman, J.; and O'Malley, P.M., *Drug Use Among American High School Students: 1975 to 1977*, Table 1–5.

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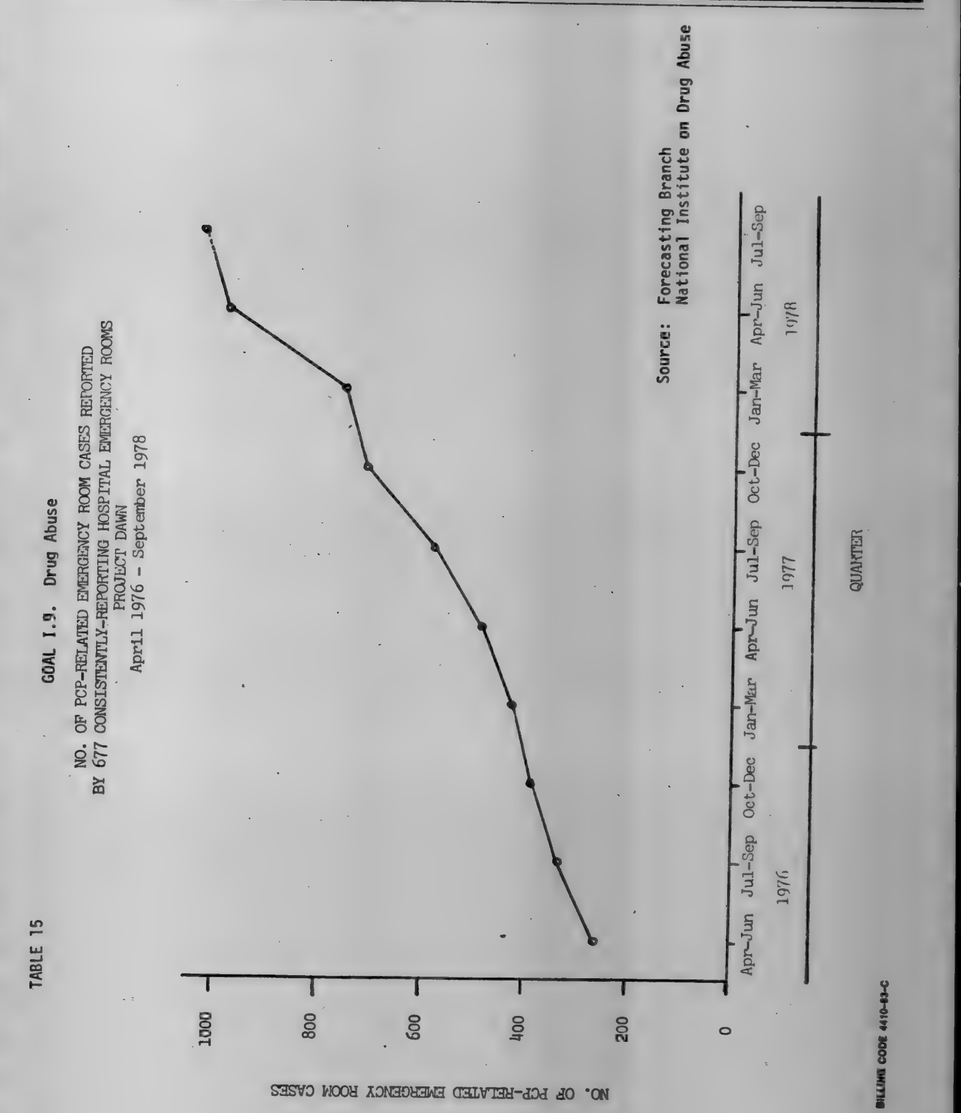

Table 16.—*Goal I.9.—Drug Abuse—Number* **Table 17.—*Goal I.10—Oral Health—Tooth*** **Table 19.—*Goal I.11—Heart Disease, Cancer*** **and Stroke—Age Adjusted Death Rates[1] for**

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Table 16.—*Goal I.9.—Drug Abuse—Number of Drug Related Deaths, U.S., 1974–1977*

Year	1977	1976	1975	1974
Total	6,681	7,906	8,003	7,623
Dependance	551	1,143	1,358	1,174
Accident	2,214	2,679	3,132	2,742
Suicide	3,125	3,002	3,078	2,904
Undetermined intention [1]	791	874	935	803
Death Rate per 100,000	3.09	3.68	3.99	3.61

[1] Unknown whether accidental, homicidal, or suicide.

Source: Greenberg, National Center for Health statistics: Division of Vital Statistics.

Table 17.—*Goal I.10—Oral Health—Tooth Loss Due to Dental Caries for Persons Aged 17 Years, U.S., 1971–74*

Number of permanent teeth lost due to caries	Percent of persons examined
No Mission Teeth	61.6
With Missing Teeth	38.4
1 Tooth	11.4
2 Teeth	6.3
3 Teeth	6.9

Table 17.—*Goal I.10—Oral Health—Tooth Loss Due to Dental Caries for Persons Aged 17 Years, U.S., 1971–74* —Continued

Number of permanent teeth lost due to caries	Percent of persons examined
4 or More Teeth	13.8

Source: National Center for Health Statistics: Division of Health Interview Statistics, Health and Nutrition Examination Survey.

Table 18.—*Goal I.10—Oral Health—Percent of Adults Who Retain at Least Some Natural Teeth, by Age Groups, U.S., 1971–74*

Age group	Percent of persons who retain at least some natural teeth
25–34	96.3
35–44	90.0
45–54	82.8
55–64	66.4
65–74	52.8

Source: Data derived from National Center for Health Statistics: Division of Health Interview Statistics, Health and Nutrition Examination Survey.

Table 19.—*Goal I.11—Heart Disease, Cancer and Stroke—Age Adjusted Death Rates [1] for the Three Leading Causes of Death, by Color and Sex, U.S., 1977*

	Total	White	Other
Diseases of the Heart:			
Both	210.4	206.8	237.8
Male	294.7	294.0	297.8
Female	142.9	137.2	188.7
Cancer:			
Both	133.0	130.0	159.3
Male	164.5	160.0	205.4
Female	110.0	108.3	122.4
Stroke:			
Both	48.2	45.3	73.4
Male	53.5	50.4	79.8
Female	44.2	41.5	56.6

[1] Rates based on age-specific death rates per 100,000 estimated mid-year population in specified group. Standard to which rates are adjusted is the 1940 U.S. enumerated population.

Source: National Center for Health Statistics, Division of Vital Statistics, Final 1977.

Table 20.—*Subgoal 1D—Health Disease, Cancer, and Stroke*

[Death rates [1] for the three leading causes of death, by age, sex, and color, 1976]

Cause of death, color, and sex	Total	Under 1 yr	1–4 yrs	5–14 yrs	15–24 yrs	25–34 yrs	35–44 yrs	45–54 yrs	55–64 yrs	65–74 yrs	75–84 yrs	85 plus yrs
Heart disease:	337.2	23.1	1.8	0.9	3.6	8.5	30.6	139.6	552.4	1,286.9	3,263.7	7,384.3
Male	383.5	26.1	2.1	0.9	3.4	12.0	50.1	317.7	840.6	1,847.6	4,136.7	8,274.9
Female	293.4	20.1	1.6	0.8	1.9	5.1	22.9	89.5	293.9	856.2	2,731.1	6,965.4
White	351.3	19.0	1.6	0.8	2.1	6.9	45.7	188.4	534.5	1,272.0	3,295.2	7,701.7
Male	399.4	22.4	1.9	0.8	2.8	10.0	74.2	307.7	829.6	1,857.6	4,221.0	8,602.8
Female	305.5	15.5	1.4	0.8	1.4	3.8	18.1	75.7	268.6	824.0	2,738.7	7,244.5
All Other	244.8	43.6	2.6	1.4	5.6	19.4	85.7	290.9	720.6	1,428.2	2,912.7	4,400.0
Male	276.5	44.6	3.5	1.5	6.9	28.6	124.9	401.3	948.5	1,755.1	3,289.7	4,826.5
Female	215.9	42.6	2.2	1.3	4.4	13.2	53.5	195.0	526.2	1,166.6	2,640.4	4,160.3
Cancer	175.8	3.2	5.3	5.0	8.5	14.5	51.5	182.0	436.4	786.3	1,248.8	1,441.5
Male	195.5	3.4	5.6	5.8	8.0	14.0	46.6	187.8	520.4	1,060.1	1,782.1	2,042.0
Female	156.0	3.1	5.0	4.1	5.1	15.0	56.2	176.5	364.9	576.0	922.9	1,159.0
White	180.2	3.3	5.6	5.1	8.6	14.4	49.1	173.4	424.7	776.9	1,248.0	1,482.7
Male	199.2	3.1	5.9	6.1	8.0	14.0	43.8	175.5	496.8	1,042.8	1,784.4	2,110.9
Female	162.0	3.6	5.3	4.1	5.2	14.8	54.2	171.4	360.0	573.4	925.7	1,192.8
All other	147.1	2.8	4.1	4.3	6.2	15.4	58.2	251.3	566.8	975.6	1,254.7	1,054.5
Male	179.2	4.7	4.2	4.7	7.7	13.7	67.4	292.0	750.1	1,219.0	1,759.0	1,473.5
Female	117.8	0.8	4.0	3.9	4.8	16.9	48.9	215.8	410.2	800.7	890.4	819.0
Stroke	97.0	4.4	0.7	0.6	1.2	3.4	11.5	31.4	85.8	260.1	1,014.0	2,586.8
Male	77.1	4.5	0.8	0.6	1.4	3.5	11.3	33.3	99.0	334.7	1,098.9	2,574.4
Female	86.0	4.3	0.7	0.5	1.1	3.3	11.6	29.6	73.9	228.1	962.1	2,592.6
White	86.9	3.9	0.7	0.6	1.1	2.8	8.9	25.4	74.5	259.1	1,006.5	2,684.0
Male	76.8	4.3	0.7	0.6	1.2	2.8	8.6	26.7	87.0	313.3	1,094.4	2,678.6
Female	100.5	3.4	0.8	0.5	1.0	2.8	9.1	24.2	63.2	217.6	953.6	2,686.4
All other	90.9	6.7	1.1	0.5	2.2	7.9	29.6	79.4	191.9	478.1	1,097.3	1,673.0
Male	79.3	5.0	1.2	0.6	2.5	8.2	31.7	85.1	214.9	531.3	1,144.0	1,714.7
Female	82.3	8.4	1.0	0.5	1.9	6.8	27.9	71.6	172.4	435.6	1,063.6	1,645.6

[1] Rates per 100,000 estimated population in specified group.

Source: National Center for Health Statistics; Division of Vital Statistics, published and unpublished data.

Table 21.—*Goal I. 11—Heart Disease, Cancer and Stroke—Age-Adjusted Death Rates [1] for Hypertensive Disease, by Color and Sex, U.S., 1977*

	Total	White	Other
Hypertension:			
Both	1.6	1.3	4.1
Male	1.9	1.6	4.6
Female	1.4	1.1	3.6
Hypertensive Heart Disease:			
Both	2.1	1.7	5.6
Male	2.1	1.7	5.4
Female	2.0	1.6	5.4
Hypertensive Heart and Renal Disease:			
Both	0.9	0.8	1.8
Male	1.1	0.9	2.0
Female	0.7	0.7	1.6

[1] Rates based on age-specific death rates per 100,000 estimated mid-year population in specified groups. Standard to which rates are adjusted is the 1940 U.S. enumerated population.

Source: National Center for Health Statistics, Division of Vital Statistics, Final 1977 data.

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federal register

Tuesday
November 25, 1980

Part XII

Department of Energy

Economic Regulatory Administration

Newly Discovered Crude Oil Rule Amendments and Verification Requirements; Final Rule

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Administration, 2000 M Street, N.W., Room B110, Washington, D.C. 20461

The test for newly discovered crude oil status under the existing rule is

a one-time basis to each purchaser that a property is eligible for treatment as a

Comments were sought as to whether standards, which OHA would apply in

to determine the amount of market level new crude oil for each month in the

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DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 211 and 212

[Docket No. ERA-R-78-26-A]

Newly Discovered Crude Oil Rule Amendments and Verification Requirements

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") hereby gives notice of a final rule that revises the regulations concerning newly discovered crude oil, heavy crude oil, and market level new crude oil and that adds a definition of the term "produced and sold."

The rule makes certain amendments in the existing newly discovered crude oil ceiling price rule. First, eligibility for the newly discovered crude oil price rule will be dependent on production of crude oil from a "newly discovered crude oil property," which is defined to be a property from which crude oil was not produced and sold in commercial quantities in calendar year 1978. Second, the regulations concerning unitized properties that include newly discovered crude oil properties is revised to lessen any disincentives to form such units. Third, a producer will be permitted to certify on a one-time basis a newly discovered crude oil property and also the volume of imputed newly discovered crude oil from a unitized property. Fourth, a producer of newly discovered crude oil will be required to identify newly discovered crude oil properties to DOE and to maintain certain records and supporting documentation for each newly discovered crude oil property or each unitized property from which newly discovered crude oil is imputed.

With respect to heavy crude oil properties, the rule specifies the treatment of unitized properties that include heavy crude oil properties. In addition, express certification and recordkeeping requirements are set forth for producers of heavy crude oil and market level new crude oil.

The rule also adds a definition of "produced and sold" that will be applicable to the provisions of Part 212, Subparts C and D.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT:

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William Carson or Douglas Harnish (Office of Regulatory Policy), Economic Regulatory Administration, 2000 M Street, N.W., Room 7304, Washington, D.C. 20461 (202) 653-4290.

Ben McRae (Office of General Counsel), Department of Energy, 1000 Independence Avenue, S.W., Room 6A-127, Washington, D.C. 20585 (202) 252-6739.

SUPPLEMENTAL INFORMATION:

I. Background
II. Discussion of Comments
III. Amendments Adopted
A. Newly Discovered Crude Oil Amendments
1. Definition of Newly Discovered Property
2. Unitized Properties
3. Certification and Recordkeeping Requirements
a. First Purchaser
b. DOE
B. Heavy Crude Oil Amendments
1. Unitized Properties
2. Certification Requirements
3. Recordkeeping Requirements
C. Market Level New Crude Oil Amendments
1. Certification Requirements
2. Recordkeeping Requirements
D. Conforming Amendments
E. Definition of Produced and Sold
IV. Procedural Requirements

I. Background

On June 16, 1980, we proposed several changes to the crude oil price regulations concerning newly discovered crude oil, heavy crude oil and market level new crude oil. We also proposed a definition for the term "produced and sold." (45 FR 42222, June 23, 1980, "June 23 Notice")

Most of the proposed changes concerned newly discovered crude oil. Currently, § 212.79(b) defines newly discovered crude oil to be domestic crude oil which is produced from a new lease on the Outer Continental Shelf or from a property from which no crude oil was produced in calendar year 1978. Since newly discovered crude oil status is entirely dependent on the production history of the property from which crude oil is produced, we decided that it would be appropriate to adopt a definition of a "newly discovered crude oil property" and to structure the regulations concerning newly discovered crude oil around that definition.[1] Accordingly, we proposed a definition of "newly discovered crude oil property."

The test for newly discovered crude oil status under the existing rule is whether there was *no production* in calendar year 1978 from the applicable property.[2] We proposed, however, a definition of a newly discovered crude oil property for which the test would be whether there was no crude oil produced *and sold* in calendar year 1978. We decided to base the definition of newly discovered crude oil property on "produced and sold" for several reasons. Since the concept of "produced and sold" has been used extensively throughout the crude oil price regulations, producers are familiar with the term and our interpretation of it and, thus, should have no difficulty in determining whether a property qualifies as a newly discovered crude oil property.[3] In addition, "produced and sold" would establish a more enforceable standard as production and sales records can be verified with information reported to DOE by first purchasers, whereas similar information concerning only production is not readily available to DOE. Another important consideration was that this definition would not exclude any crude oil eligible for newly discovered crude oil status under the existing rule.

We also proposed an alternative definition of a newly discovered crude oil property that would be based on whether no crude oil had been *produced and sold in commercial quantities* in calendar year 1978. Even though the addition of "in commerical quantities" would expand the scope of the newly discovered crude oil rule to include some properties that produced and sold crude oil in calendar year 1978, we decided such a definition should be considered since the Internal Revenue Service ("IRS") might adopt a definition based on production in commerical quantities for purposes of the Windfall Profit Tax. Since the concept of "in commerical quantities" does not have a well-established meaning, we specifically requested comments concerning a definition for it.

In connection with the proposed definition of a "newly discovered crude oil property", we proposed revising the crude oil certification regulations concerning newly discovered crude oil. Under this proposed revision, a producer would be allowed to certify on

[1] Stripper well crude oil and heavy crude oil status are also dependent on the production history of a property. The existing regulations concerning those types of crude oil are based on definitions of "stripper well property" and "heavy oil property", respectively. *See* 10 CFR 212.54 and 212.59.

[2] Ruling 1980-3 (45 FR 48577, July 21, 1980) discusses the meaning of production with respect to the existing newly discovered crude oil rule.

[3] Any possible misunderstanding as to what "produced and sold" means should be eliminated by our adoption elsewhere in this Notice of a definition of "produced and sold" that will set forth in the regulations our long-standing interpretation of that term.

a one-time basis to each purchaser that a property is eligible for treatment as a newly discovered crude oil property. Similarly, where crude oil produced and sold from a unitized property is sold to a single purchaser, a producer would be allowed to certify on a one-time basis to the purchaser the number of barrels of imputed newly discovered crude oil. This treatment would be consistent with the certification procedures used in relation to crude oil produced from a stripper well property, and was not intended to remove the responsibility for proper certification from the producer. In order to promote proper certifications, we proposed to permit a purchaser to require a producer to certify the basis on which the property or the unitized property qualified as a newly discovered crude oil property.

We also proposed pre-certification filing and verification recordkeeping requirements for newly discovered crude oil properties by which we could determine whether the certification was proper. Under the proposal, a producer of crude oil would be requried (1) to file pre-certification information with the appropriate DOE office at least 60 days before it could certify to a first purchaser that a property or unitized property is a newly discovered crude oil property or that any crude oil is imputed newly discovered crude oil; and (2) to prepare and maintain certain records, in a central location, verifying that a property or a unitized property qualifies as a newly discovered crude oil property or that a unitized property qualifies to have newly discovered crude oil imputed. If a producer did not comply with these requirements for a property, that property would be denied newly discovered status.

The June 23 Notice also proposed to clarify the amount of imputed newly discovered crude oil produced from a unitized property that included only newly discovered crude oil properties. The definition of "imputed newly discovered crude oil" would be revised to make clear that all crude oil produced and sold from such unitized property would qualify as imputed newly discovered crude oil.

We also address another issue concerning imputed newly discovered crude oil in the June 19 Notice. Application of the existing definition of imputed newly discovered crude oil understates the amount of imputed newly discovered crude oil production attributable to a property with a production history of less than 12 months. Currently, the Office of Hearings and Appeals (OHA) deals with this situation on a case-by-case basis. Comments were sought as to whether standards, which OHA would apply in such case-by-case determinations, should be established through a rulemaking, or whether OHA should formulate an adjudicatory standard for application on a case-by-case basis. We specifically requested comments as to the feasibility of shortening the 12-month period currently required for a producer to determine how much crude oil produced and sold from a unitized property should be imputed newly discovered crude oil.

The June 23 Notice also contained three proposals concerning heavy crude oil. As with stripper well properties and newly discovered crude oil properties, the price regulations could provide a discentive for creating unitized properties containing heavy crude oil properties. To minimize such a disincentive, we proposed to provide for imputed heavy crude oil production from a unitized property that was formed in whole or in part from heavy crude oil properties. The amount of imputed heavy crude oil would be determined in the same manner as imputed newly discovered crude oil.

We also proposed to require a producer of heavy crude oil or imputed heavy crude oil to maintain certain records which would set forth the basis on which it determined the heavy crude oil status of any property or unitized property from which it sells crude oil certified as heavy crude oil or imputed heavy crude oil. These records would document the weighted average gravity of the crude oil produced and sold from a particular property during the first month prior to July 1979 in which crude oil was produced and sold from that property. Additionally, with respect to each heavy crude oil property into which a diluent had been injected, a producer would be required to maintain records which set forth the amounts of diluent injected and the dates of injection.

As with newly discovered crude oil, we proposed to require a producer to certify to a purchaser on a one-time basis that crude oil was produced from a heavy crude oil property and, if requested by the purchaser, the basis on which the property qualifies as a heavy crude oil property. Imputed heavy crude oil would be certified by volume to the first purchaser.

The June 23 Notice also proposed that market level new crude oil be added as an express category of crude oil to be certified to the purchaser. In those cases where a one-time certification for a property was permitted, a producer would be required to certify on a one-time basis the market level factor used to determine the amount of market level new crude oil for each month in the period January 1980 through September 1981. Similar treatment was proposed for unitized properties.

We also proposed to require producers to maintain records with respect to crude oil certified as market level new crude oil. These records would set forth the volume of crude oil so certified for each month, the names of the purchasers of such oil and the volumes that they purchased.

Finally, in light of the decision in *Tenneco Oil Company* v. *FEA*, —— F2d —— (TECA, December 3, 1979), the June 23 Notice contained a proposed definition of "produced and sold". This definition would constitute a regulatory definition of what DOE and its predecessor agencies have interpreted the term "produced and sold" to mean.

II. Discussion of Comments

We held public hearings on the proposals contained in the June 23 Notice in Washington, D.C., and Houston, Texas, on July 22, 1980, and July 15, 1980, respectively. We accepted written comments on these proposals through August 23, 1980.

We received over 393 comments on these proposals. The great majority (317) only address the proposal to establish pre-certification filing and verification recordkeeping requirements for newly discovered crude oil properties. In all, 382 comments addressed this proposal and they unanimously opposed its adoption. The reason most often cited for opposition was the administrative and financial burden that these requirements would place on producers of newly discovered crude oil. Independent producers were most emphatic that their operations would be strained severely by the imposition of these requirements for which they possessed only limited resources with which to comply. It should be noted, however, that many of the opposing comments also indicated that, if requested by DOE with respect to a particular property, there would be no difficulty in supplying the information specified in the proposed pre-certification filing and verification recordkeeping requirements. Another frequently cited objection to the proposal was the sixty day waiting period after the pre-certification filing before a producer could certify crude oil as newly discovered crude oil. The comments stated that this waiting period, in combination with the prohibition against recertifying crude oil more than two months after its sale, could result in a producer's not being able to receive the market price for

other than exception relief from OHA for the imputation problem of newly

request by DOE. This requirement addresses our need for information

unitized property has been defined as

some of its early production from a newly discovered crude oil property.

The proposed definition of a newly discovered crude oil property was the other issue on which we received a substantial number of comments. All but one of these comments favored adoption of the "commercial quantities" alternative proposal on the grounds that production prior to well completion or test production in calendar year 1978 should not deny newly discovered crude oil status to a property. The comments suggested various tests for determining when production in commercial quantities begins. These tests include producing for seven consecutive days, obtaining a production allowable from a state commission, hooking up to a pipeline, or installing permanent tank batteries. Finally, some comments suggested that the definition of a newly discovered crude oil property should be adopted on a retroactive basis to June 1, 1979.

Some of the comments considered the proposals concerning unitized properties. No comment opposed the general proposal to establish "imputed heavy crude oil." Those comments that considered the proposals for units comprised entirely of heavy crude oil properties or newly discovered crude oil properties favored the objective of those proposals. Some comments, however, suggested that it would be simpler to include such units in the definitions of newly discovered crude oil property or heavy crude oil property. Those comments that considered the problem of computing the volume of imputed newly discovered crude oil or imputed heavy crude oil for units containing properties with production histories of less than twelve months favored a solution that did not involve obtaining exception relief from OHA.

Those comments that considered the proposals concerning certifications for production from a newly discovered crude oil property or heavy crude oil property favored the proposals. Several comments objected to the provision that would allow a purchaser to request the basis for a certification. Those comments that considered the proposal concerning certification of market level new crude oil did not object to such certification, although several comments thought the certification of the market level factor for each month to be unnecessary.

Those comments that considered the recordkeeping requirements for heavy crude oil properties and market level new crude oil did not oppose these requirements. In fact, some comments suggested that these requirements be adopted for newly discovered crude oil properties.

Several comments addressed the proposed definition of "produced and sold." In general, those comments opposed adoption of such a definition. Some comments viewed the definition as unnecessary, while other comments characterized the proposal as an attempt to undercut the outcome of the *Tenneco* case.

III. Amendments Adopted

A. Newly Discovered Crude Oil Amendments

1. *Definition of newly discovered property.* We are adding a definition of a "newly discovered crude oil property" to § 212.79(b) and revising the definition of "newly discovered crude oil" in § 212.79(b) to be based on this new definition. The effect of the definition of "newly discovered crude oil property" will be to exempt a property's production from the ceiling price limitations if no crude oil was "produced and sold in commercial quantities" from that property in calendar year 1978. The overwhelming majority of the comments concerning the definition of "newly discovered crude oil property" favored inclusion of the term "in commercial quantities." We agree that the term should be included in the definition. Its inclusion should result in a similar meaning for newly discovered crude oil under our regulation and under whatever regulations that the IRS ultimately adopts for purposes of the Windfall Profit Tax. Such similarity will lessen the burden on producers and purchasers of complying with our regulations and those of the IRS.

Our review of the comments indicates that production in commercial quantities can be equated with production on a continuing basis since a producer makes the decision to produce on a continuing basis by looking at economic factors. Installation of production facilities, such as a tank battery, a hook-up to a pipeline, or a gathering system, ordinarily indicates a decision by a producer to produce on a continuing basis. Accordingly, in consideration of the comments concerning the meaning of "commercial quantities," the definition of newly discovered crude oil property will provide that a commercial quantity of crude oil is produced and sold from a property if crude oil is produced on a continuing basis from that property. Furthermore, the definition will provide that crude oil will be deemed to be produced on a continuing basis from a property if a producer has begun to install a production facility, such as a tank battery, a hook-up to a pipeline, or a gathering system.[4]

This definition will include as a newly discovered crude oil property any unitized property that is created entirely from properties that qualify as newly discovered crude oil properties. Several comments suggested that such a provision would have the same effect as our proposal on computing imputed newly discovered crude oil production from such properties and would be simpler. After considering this suggested provision, we agree that it has the same effect as our proposal and will reduce the potential for confusion concerning the treatment of such properties.

This definition will be effective January 1, 1981. Several of the comments had requested that it be made effective retroactively to June 1, 1979, the effective date of the existing newly discovered crude oil rule. For such action to be effective, however, we would have to relax the prohibition against recertifying crude oil more than two months after the month of its sale. Sufficient reasons were not presented in the comments to justify the disruption that relaxation of the recertification rule would cause.

2. *Unitized properties.* We are revising the definition of "imputed newly discovered crude oil" in § 212.75(b) to provide a special rule for a unitized property that includes a newly discovered crude oil property from which crude oil was produced and sold for less than 12 months after calendar year 1978. Under this rule the 12-month period currently required for a producer to make the determination as to how much crude oil produced and sold from a unitized property should be imputed newly discovered crude oil would be shortened to the number of days in the months in which crude oil had been produced and sold from a property prior to its inclusion in the unit. We are adopting this special rule in response to the comments that urged a solution

[4] Several comments stated that crude oil production that is incidental to the drilling of a well should not be the basis for disqualifying a property as a newly discovered property. The adopted definition does not make such production the basis for disqualifying a property since a producer cannot make a decision to produce on a continuing basis until a well reaches a depth at which a producer reasonably can expect to produce crude oil in commercial quantities. In this regard, it also should be noted that Ruling 1980-3 discusses the situation in which crude oil is borrowed or purchased from another property and pumped into a well to stimulate production or to prepare the well for operation. The Ruling states that "the recovery of such oil used to 'frac' or 'wash' a well on a property does not in itself constitute production of crude oil from that property". Accordingly, neither the original nor the adopted definition makes the recovery of such crude oil the basis for disqualifying a property.

other than exception relief from OHA for the imputation problem of newly discovered crude oil properties with a production history of less than 12 months. Although this special rule will not eliminate the need for exception relief in all cases, it should reduce very greatly the necessity of seeking exception relief from OHA.

3. *Certification and recordkeeping requirements.* a. *First purchaser.* We are adding a new provision to paragraph (a) of § 212.131 which provides that crude oil produced from a newly discovered crude oil property after December 1980 will not be certified as newly discovered crude oil. Rather it will be certified as having been produced from a newly discovered crude oil property. Under this provision, a producer will be allowed to certify on a one-time basis to each purchaser that a property is eligible for treatment as a newly discovered crude oil property. This provision is consistent with the certification procedures used in relation to crude oil produced from a stripper well property, and does not remove the responsibility for proper certification from the producer.

We have decided not to require producers to inform purchasers of the basis of a property for certification as a newly discovered crude oil property. As noted in many of the comments, such a procedure could be disruptive and would add only marginally to the reliability of certifications.

b. *DOE.* We are not adopting the pre-certification filing and verification requirements that we proposed in the June 23 Notice. Instead, we are adopting modified certification and recordkeeping requirements that eliminate much of the burden to which the comments objected. Specifically, the requirements which we are adopting do not include a pre-certification filing and, thus, will not create the potential conflict (about which many of the comments complained) between the sixty-day review period and the prohibition against recertification more than two months after the month in which crude oil is sold. Rather, a producer may certify crude oil immediately as newly discovered crude oil provided that within a specified time period it files an identification report containing substantially less information than would have been required for the pre-certification filing report. Producers will be required to keep records concerning newly discovered crude oil properties. However, in place of the proposed central verification file, producers will only be required to grant access to these records within 20 working days of a request by DOE. This requirement addresses our need for information promptly in an audit and also the concerns raised in the comments to assembling such information for each newly discovered crude oil property regardless of whether that property is ever audited.

Accordingly, § 212.79 is being revised by the addition of a new paragraph (c) which will require a producer to identify each newly discovered crude oil property and to state briefly the basis for classifying each property as a newly discovered crude oil property. This report must include: (1) The type of legal instrument which establishes the property and its effective date; (2) the date on which crude oil first was produced and sold from a property; (3) the date on which crude oil first was produced and sold in commercial quantities from a property; (4) where appropriate, evidence of reservoir designation by the appropriate governmental authority and the basis for the designation; (5) where appropriate, the amount of crude oil to be certified as imputed newly discovered crude oil; and (6) the location of the producer's main place of business. The 34 major refiners will file these reports at the DOE Office of Special Counsel in Dallas, Texas, while all other producers will file at the ERA Office of Enforcement in Washington, D.C. This information must be filed by February 1, 1981 or the sixtieth day after newly discovered crude oil is first produced and sold from a property, whichever date is later.

We also are revising § 212.128 by the addition of a new paragraph (d) that will require a producer to prepare and maintain with respect to each newly discovered crude oil property (or unitized property for which newly discovered crude oil is imputed) records that contain information verifying its determination. The records must be sufficient to provide a detailed description of the property or the unitized property, including (1) the lease name, the operating number, the state-supplied identification number, and all other information that uniquely describes the property or the unitized property; (2) the exact geographical location of the property or the unitized property; (3) a copy of the original lease or farm-out assignments and copies of all amendments, restrictions, extensions and revisions of the original lease or farm-out assignment or any other applicable legal instrument concerning the right to produce; (4) where either a drilling unit or any other unit has been formed, a copy of the unitization agreement; (5) where the property or the unitized property has been defined as part of a larger lease tract, the area limits of the property and supporting documentation for such a definition; (6) where the property is a reservior that is to be certified as a newly discovered crude oil property, a description of the reservoir designation by the appropriate governmental regulatory authority and the basis upon which the reservoir qualifies together with supporting documentation; (7) where applicable on either a depth or a formation basis, the vertical or geological limits of a property or a unitized property and supporting documentation for such a definition; and (8) where newly discovered crude oil is imputed from a unitized property, a description of that part of the unitized property that qualifies for such treatment and the basis upon which it qualifies together with supporting documentation.

The records also must contain information concerning the production history of the property or the unitized property, including: (1) The date drilling or reworking of the controlling initial well was commenced; (2) a record of the drilling and the date the controlling initial well was completed or recompleted; (3) the date of the first production and sale of crude from the property or unitized property; (4) the beginning date of installation of production facilities, such as a tank battery, a hook-up to a pipeline, or a gathering system; (5) the date of the first production and sale of crude oil in commercial quantities from the property or the unitized property; (6) the name of the initial first purchaser of crude oil produced and sold from the property or the unitized property; (7) the name of the initial first purchaser of crude oil produced and sold in commercial quantities form the property or the unitized property; and (8) where the property or the unitized property produced crude oil before but not during calendar year 1978 and for which crude oil production was reestablished after December 31, 1978, the date of the last production before calendar year 1978.

We are not requiring these records to be maintained in a single location. However, at a minimum, access to such records must be granted to DOE auditors within 20 working days of the date of a request by DOE. These records must be made available at a single location at the time of the audit. If a producer fails to grant access to such records within 20 working days of a request by DOE, the crude oil produced from the property or unitized property to which the records relate will be subject to the ceiling price limitations set forth

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in 10 CFR Part 212, Subpart D, during any month that the producer does not comply with the request. Any extension of time required to assemble records will be handled on a case-by-case basis.

B. Heavy Crude Oil Amendments

1. *Unitized properties.* We are amending § 212.75 to provide for imputed heavy crude oil production from a unitized property that was formed partly from heavy crude oil properties. The amount of imputed heavy crude oil from such properties will be determined in the same manner as imputed newly discovered crude oil. In addition, we are revising the definition of a heavy crude oil property to include unitized properties which are formed entirely from heavy crude oil properties. Our reasons for this revision are the same as for the similar provision in the definition of a newly discovered crude oil property.

2. *Certification requirements.* We are adding a new provision to § 212.131(a) to require a producer to certify to a purchaser that crude oil was produced from a heavy crude oil property. This provision is identical to the provision that we are adopting today for the certification of newly discovered crude oil properties. Imputed heavy crude oil will be certified by volume to the first purchaser.

3. *Recordkeeping requirements.* We also are amending § 212.128 by adding a paragraph (e) to require producers of heavy crude oil or imputed heavy crude oil to maintain certain records. Specifically, a producer of heavy crude oil or imputed heavy crude oil will be required to maintain records which set forth the basis on which it determined the heavy crude oil status of any property or unitized property from which it sells crude oil certified as heavy crude oil or imputed heavy crude oil. These records will document the weighted average gravity of the crude oil produced and sold from a particular property during the first month prior to July 1979 in which crude oil was produced and sold from that property. Additionally, with respect to each heavy crude oil property into which a diluent has been injected, a producer will be required to maintain records which set forth the amounts of diluent injected and the dates of injection.

C. Market Level New Crude Oil Amendments

1. *Certification requirements.* We are revising § 212.131(a) to include market level new crude oil as an express category of crude oil to be certified. In those cases where § 212.131(a) permits a one-time certification for a property, we have decided not to require a producer to certify on a one-time basis the market level factor used to determine the amount of market level new crude oil for each month in the period January 1980 through September 1981. As noted in several comments, such a requirement is unnecessary since a purchaser can determine the market level factor by looking at the definition of market level new crude oil set forth in § 212.72. Similar treatment will be provided for unitized properties.

2. *Recordkeeping requirements.* We also are amending § 212.128 to require producers to maintain records with respect to crude oil certified as market level new crude oil. These records will set forth the volume of crude oil so certified for each month and the names of the purchasers of such oil and the volumes that they purchased.

D. Conforming Amendments

In connection with the previously discussed changes to the price rules for newly discovered crude oil, heavy crude oil and market level new crude oil, we are making conforming amendments to the Entitlements Program (10 CFR 211.67) and the certification rule for resellers (10 CFR 212.131(b)(1)). Specifically, subparagraphs (b)(2), (g)(2) and (i)(4) of § 211.67 will be amended to include newly discovered crude oil, heavy crude oil and market level new crude oil among the express categories of crude oil that receive market prices.[5] This change will have no effect on the actual operation of the Entitlements Program.

With respect to certifications by producers, paragraph (a) of § 212.131 will be revised to provide for the certification of newly discovered crude oil properties, heavy crude oil properties, imputed heavy crude oil and market level new crude oil. The addition of these provisions to the existing paragraph (a) of § 212.131 would increase its length and number of repetitious phrases and thus make it more cumbersome. Accordingly, we have rewritten the entire paragraph so as to add these provisions, to clarify its existing provisions, and to delete unnecessary phrases. This revised paragraph (a) does not substantively alter any currently effective provision of paragraph (a) of § 212.131, except as expressly discussed in this Notice. We specifically have added paragraph (a)(6) in order to consolidate in one provision the requirements with respect to the timing of certifications by producers.

With respect to certifications by resellers, subparagraph (b)(1) of § 212.131 will be amended to require express certifications of crude oil as newly discovered crude oil, heavy crude oil or market level new crude oil. This replaces the current requirement that such crude oil be certified as crude oil the first sale of which is exempt from the ceiling price limitations of Subpart D of Part 212. This change is consistent with a reseller's obligation to preserve the integrity of crude oil certifications.

E. Definition of "Produced and Sold"

We are adopting a definition of "produced and sold" to be added to 10 CFR 212.72. This definition of "produced and sold" will provide that crude oil is produced and sold from a property when the crude oil is first sold, transferred, or otherwise disposed of for value or benefit by the producer or the royalty owner. Crude oil will be deemed to be produced and sold when the produced crude oil leaves the property or is disposed of or consumed on the property, whichever occurs first. Thus, the term "produced and sold" will include all dispositions of produced oil for which value or benefit is directly or indirectly received, including the disposal or consumption of crude oil in any manner on the property from which it is produced. As such, this definition constitutes a regulatory definition of what DOE and its predecessor agencies have interpreted the term "produced and sold" to mean. *See, e.g., Phillips Petroleum Co.*, Interpretation 1977–12 (42 FR 31148, June 20, 1977).

The effective date for this definition is January 1, 1981. Thus, contrary to the opinion expressed in several comments, it will have no effect on the issues decided in the *Tenneco* case.

IV. Procedural Matters

A. Section 404 of the DOE Act

Pursuant to the requirements of section 404 of the Department of Energy Act, a copy of the proposed rule was sent to the Federal Energy Regulatory Commission (FERC) for review. The FERC determined that this rule would not significantly affect any of its functions.

B. National Environmental Policy Act

It has been determined that this rule does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, and therefore an environmental

[5] In this regard, we note that crude oil produced from a marginal property (as defined in 10 CFR 212.72) must be certified as either lower-tier or upper-tier crude oil, except to the extent that it qualifies as market level new crude oil.

assessment or an environmental impact statement is not required by NEPA and the applicable DOE regulations for compliance with NEPA.

C. Executive Order 12044

ERA has decided that the preparation of a regulatory analysis under Executive Order No. 12044, entitled "Improving Government Regulations" (43 FR 12661, March 24, 1978), is not required for this rule. A detailed explanation of the basis for this decision may be found in the June 23 Notice.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, Pub. L. 95–70, Pub. L. 95–619, and Pub. L. 96–30; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91, Pub. L. 95–509, Pub. L. 95–619, Pub. L. 95–620, and Pub. L. 95–621; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, we propose to amend Parts 211 and 212 of Chapter II, Title 10 of the Code of Federal Regulations, as set forth below, effective January 1, 1981.

Issued in Washington, D.C., November 18, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

1. Section 211.67 is amended by revising paragraphs (b)(2), (g)(2), and (i)(4) to read as follows:

§ 211.67 Allocation of domestic crude oil.

* * * * *

(b) *Required purchase of entitlements by refiners.* * * *

(2) To caluclate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for purposes of the the definition of national domestic crude oil supply ratio in § 211.62, paragraph (b)(1) of this section, and paragraph (c) of this section shall be calculated as follows: (i) Each barrel of old oil shall be equal to one barrel of deemed old oil; (ii) Each barrel of upper tier crude oil (except ANS upper tier crude oil) shall constitute that fraction of a barrel of deemed old oil, the numerator of which is equal to the reported weighted average cost per barrel to refiners of imported crude oil, stripper well crude oil (as defined in Part 212 of this chapter), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), heavy crude oil (as determined pursuant to § 212.59), newly discovered crude oil (as determined pursuant to § 212.79), market level new crude oil (as determined pursuant to § 212.74), and other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter for that month, less such weighted average cost per barrel to refiners of ANS upper tier crude oil, and the denominator of which is the entitlement price for that month.

(g) *Exchanges of crude oil.* * * *

(2) Subject to the provisions of paragraph (g)(3) of this section, volumes of domestic crude oil deemed to be retained by a refiner under the provisions of paragraph (g)(1) above shall be (i) included in that refiner's crude oil receipts at the time the crude oil acquired pursuant to the related exchange or purchase and sale transaction constitutes a crude oil receipt under § 211.62 of this subpart to that refiner, or (ii) certified as old oil, upper tier crude oil, ANS crude oil, stripper well crude oil (as defined in Part 212 of this chapter), heavy crude oil (as determined pursuant to § 212.59), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), newly discovered crude oil (as determined pursuant to § 212.79) market level new crude oil (as determined pursuant to § 212.74), or any other domestic crude oil the first sale of which is exempt from Part 212 of this chapter, as the case may be, under the provisions of § 212.131 of Part 212 when the crude oil acquired pursuant to the related exchange or purchase and sale transactions is sold to another firm.

* * * * *

(i) *Issuance and transfer of entitlements.* * * *

(4) The price at which entitlements shall be sold and purchased shall be fixed by the ERA for each month and shall be the exact differential between the weighted average cost per barrel to refiners of old oil and such weighted average cost of imported crude oil, stripper well crude oil (as defined in Part 212 of this chapter), heavy crude oil (as determined pursuant to § 212.59), incremental tertiary crude oil (as determined pursuant to § 212.78), tertiary incentive crude oil (as determined pursuant to § 212.78), newly discovered crude oil (as determined pursuant to § 212.79), market level new crude oil (as determined pursuant to § 212.74), and other domestic crude oils the first sale of which is exempt from the provisions of Part 212 of this chapter, such costs to be equivalent to the delivered costs to the refinery.

* * * * *

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

2. Section 212.59 is amended by adding a new paragraph (h) and by revising paragraphs (b), (c) and (d) to read as follows:

§ 212.59 Heavy crude oil.

* * * * *

(b) Heavy crude oil means all crude oil produced from any property during a period when the property qualified as a heavy crude oil property.

(c) For the period August 17, 1979 through December 20, 1979, heavy crude oil property means any property from which the crude oil produced and sold during the base month had a weighted average gravity of 16.0° API or less, corrected to 60° Fahrenheit.

(d) On and after December 21, 1979, heavy crude oil property means any property from which the crude oil produced and sold during the base month had a weighted average gravity of 20.0° API or less, corrected to 60° Fahrenheit.

* * * * *

(h) Any unitized property that includes only properties that prior to inclusion within the unit qualified as heavy crude oil properties shall qualify as a heavy crude oil property.

* * * * *

3. Section 212.72 is amended to add a definition of "Produced and sold" to read as follows:

§ 212.72 Definitions.

* * * * *

establishment of a unit base production control level for the unitized property

5. Section 212.79 is amended by revising paragraph (b) to add the

reports must include the following information:

to any property from which it sells market level new crude oil, prepare and

qualifies together with supporting documentation; and

§ 212.72 Definitions.

* * * * *

"Produced and sold" means, for purposes of subparts C and D of this part, the production and first sale, transfer of custody (including transfers between affiliated entities), or any other disposition for which value or benefit is directly or indirectly received by the producer or royalty owner, including the disposal or consumption of crude oil in any manner on the property from which it is produced. Crude oil is deemed to be produced and sold at the time that the produced crude oil leaves the property or is disposed of or consumed on the property, whichever occurs first.

* * * * *

4. Section 212.75(b) is amended by revising paragraph (b) to delete the definition of "Newly discovered crude oil property," to revise the definition of "Imputed newly discovered crude oil," and to add a definition of "Imputed heavy crude oil," to read as follows:

§ 212.75 Crude oil produced and sold from unitized properties.

* * * * *

(b) *Definitions.* For purposes of this section—

* * * * *

"Imputed heavy crude oil" means, with respect to a unitized property for which a unit base production control level was established after August 16, 1979, in a particular month, either (1) a number of barrels of crude oil equal to the total number of barrels of crude oil produced and sold in that particular month from all properties that constitute that unitized property, multiplied by the total number of barrels of crude oil produced during the 12-month period immediately preceding the establishment of a unit base production control level for that unitized property from all properties that consitute the unitized property which qualified as heavy oil properties prior to inclusion within the unit, divided by the sum of (i) the total number of barrels of crude oil produced and sold during the 12-month period immediately preceding the establishment of a unit base production control level for the unitized property from all properties that constitute the unitized property, plus (ii) the total number of barrels of crude oil produced during that period from all crude oil properties that constitute the unitized property which qualified as heavy crude oil properties prior to inclusion within the unit, or (2) a number of barrels of crude oil equal to the total number of barrels of crude oil produced during the 12-month period preceding the establishment of a unit base production control level for the unitized property from all properties other than newly discovered crude oil properties that constitute the unitized property, plus (ii) the total number of barrels of crude oil produced and sold during that period from all newly discovered crude oil properties that constitute the unitized property; or (2) a number of barrels of crude oil equal to the total number of barrels of crude oil produced and sold during the 12-month period preceding the establishment of a unit base production control level for the unitized property from all newly discovered crude oil properties that constitute the unitized property, divided by the number of days in that 12-month period, and multiplied by the number of days in that particular month, whichever is greater. For purposes of this definition, the 12-month period prior to the inclusion of a newly discovered crude oil property within a unit may be reduced to the number of days in the months in that period in which newly discovered crude oil was produced and sold from that property.

"Imputed newly discovered crude oil" means with respect to a unitized property for which a unit base production control level was established after January 1, 1979, in a particular month, either (1) a number of barrels of crude oil equal to the total number of barrels of crude oil produced and sold in that particular month from all properties that constitute the unitized property, multiplied by the total number of barrels of crude oil produced and sold during the 12-month period immediately preceding the establishment of a unit base production control level for the unitized property from all newly discovered crude oil properties that constitute the unitized property, divided by the sum of (i) the total number of barrels of crude oil produced and sold during the 12-month period immediately preceding the establishment of a unit base production control level for the unitized property from all properties other than newly discovered crude oil properties that constitute the unitized property, plus (ii) the total number of barrels of crude oil produced and sold during that period from all newly discovered crude oil properties that constitute the unitized property; or (2) a number of barrels of crude oil equal to the total number of barrels of crude oil produced and sold during the 12-month period preceding the establishment of a unit base production control level for the unitized property from all newly discovered crude oil properties that constitute the unitized property, divided by the number of days in that 12-month period, and multiplied by the number of days in that particular month, whichever is greater. For purposes of this definition, the 12-month period prior to the inclusion of a newly discovered crude oil property within a unit may be reduced to the number of days in the months in that period in which newly discovered crude oil was produced and sold from that property.

* * * * *

5. Section 212.79 is amended by revising paragraph (b) to add the definition of "Newly discovered crude oil property," and to revise the definition of "Newly discovered crude oil," and by adding a new paragraph (c), to read as follows:

§ 212.79 Newly discovered crude oil ceiling price rule.

* * * * *

(b) *Definitions.* For purposes of this section—

"New lease" means any lease entered into on or after January 1, 1979, of an area from which no crude oil was produced and sold in commercial quantities in calendar year 1978.

"Newly discovered crude oil" means: (1) Prior to January 1981, domestic crude oil which is (i) produced from a new lease on the Outer Continental Shelf, or (ii) produced (other than from the Outer Continental Shelf) from a property from which no crude oil was produced in calendar year 1978; or (2) after December 1980, domestic crude oil which is produced from a newly discovered crude oil property.

"Newly discovered crude oil property" means: (1) A new lease on the Outer Continental Shelf; or (2) a property (not on the Outer Continental Shelf) from which no crude oil was produced and sold in commercial quantities in calendar year 1978; or (3) any unitized property that includes only properties that prior to inclusion within the unit qualified as newly discovered crude oil properties. For purposes of this definition, crude oil is produced and sold in commercial quantities from a property if crude oil is produced from that property on a continuing basis. Crude oil shall be deemed to be produced on a continuing basis from a property if installation of a production facility for the crude oil produced from that property has begun.

"Outer Continental Shelf" means Outer Continental Shelf as defined under section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

(c) *Identification of newly discovered crude oil properties.*—(1) *Filing requirements.* By February 1, 1981 or 60 days after newly discovered crude oil is first produced and sold from a property, whichever is later, a producer must prepare and file with the appropriate DOE office a report identifying each property from which it has produced and sold newly discovered crude oil and the basis on which that property qualifies as a newly discovered crude oil property or on which imputed newly discovered crude oil is computed. These reports must include the following information:

(i) The type of legal instrument which establishes the property and its effective date;

(ii) The date on which crude oil first was produced and sold from the property;

(iii) The date on which crude oil first was produced and sold in commercial quantities from the property;

(iv) Where the property is a reservoir that is to be or has been designated as a newly discovered crude oil property, evidence of the reservoir designation by the appropriate governmental authority and the basis upon which the reservoir qualifies;

(v) Where the property is an unitized property, the amount of production that will be certified as imputed newly discovered crude oil and the name of the unitized property; and

(vi) The location of the producer's main place of business.

(2) *Failure to file.* Notwithstanding the provisions of this § 212.79 and of § 212.131, a producer may not obtain prices exempt from the ceiling price limitations of Subpart D of this part for crude oil produced and sold from a newly discovered crude oil property or from any unitized property from which newly discovered crude oil is imputed in any month after January 1981 during which the report required by this paragraph (c) has not been filed with the DOE.

6. Section 212.128 is amended to revise paragraph (a) and to add new paragraphs (d) and (e) to read as follows:

§ 212.128 Recordkeeping.

(a) *Producers of crude oil.* Each producer of crude oil shall, with respect to each property, prepare and maintain at its principal place of business, (1) a reasonable description of the property concerned, (2) a statement of the property's base production control level and how determined, and (3) documentation of the highest posted prices used to determine any sales of upper and lower tier crude oil from the property, specifying the reference field and posting and the basis for its selection. Each producer of crude oil shall, with respect to any stripper well property, prepare and maintain at its principal place of business, records on a well-by-well basis, of production, including records to indicate each time that production was significantly curtailed by reason of mechanical failure, or other disruption in production, for the period during which the property qualified as a stripper well lease. Each producer of crude oil shall, with respect to any property from which it sells market level new crude oil, prepare and maintain at its principal place of business records as to amounts of market level new crude oil sold from that property during any particular month and the names and addresses of each purchaser of such crude oil and the amounts of such crude oil that each purchased.

* * * * *

(d) *Producers of newly discovered crude oil*—(1) *Records.* Each producer of crude oil shall, with respect to each newly discovered crude oil property or each unitized property from which newly discovered crude oil is imputed, prepare and maintain records that provide a reasonable description of the property concerned and the basis on which it determined the property to be a newly discovered crude oil property or eligible to have newly discovered crude oil imputed. These records should include the following information:

(i) A detailed description of the property or the unitized property, including—

(A) The lease name, the operating number, the state-supplied identification number, and all other information that uniquely describes the property or the unitized property;

(B) The exact geographical location of the property or the unitized property;

(C) A copy of the original lease or farm-out assignment and copies of all amendments, restrictions, extensions and revisions of the original lease or farm-out assignment or any other applicable legal instrument concerning the right to produce;

(D) Where either a drilling unit or any other unit has been formed, a copy of the unitization agreement;

(E) Where the property or the unitized property has been defined as a part of a larger lease tract, the area limits of the property and supporting documentation for such a definition;

(F) Where the property is a reservoir that is to be or has been certified as a newly discovered crude oil property, a description of the reservoir designation by the appropriate governmental regulatory authority and the basis upon which the reservoir qualifies together with supporting documentation;

(G) Where applicable on either a depth or a formation basis, the vertical or geological limits of the property or the unitized property and supporting documentation for such a definition;

(H) Where newly discovered crude oil is imputed from a unitized property, a description of that part of the unitized property that qualifies for such treatment and the basis on which it qualifies together with supporting documentation; and

(ii) The records of production from the property or the unitized property, including—

(A) The date drilling or reworking of the controlling initial well was commenced;

(B) A record of the drilling and the date the controlling initial well was completed or recompleted;

(C) The date of the first production and sale of crude oil from the property;

(D) The date of installation of production facilities (such as a tank battery, a hook-up to a pipeline or a gathering system) for the property;

(E) The date of the first production and sale of crude oil in commercial quantities from the property;

(F) The name of the initial first purchaser of crude oil from the property;

(G) The name of the initial first purchaser of crude oil produced in commercial quantities from the property or imputed newly discovered crude oil from the unitized property;

(H) Where the property or the unitized property produced crude oil before but not during calendar year 1978 and for which crude oil production was reestablished after December 31, 1978, the date of the last production before calendar year 1978.

(2) *Failure to grant access to records.* Notwithstanding the provisions of § 212.79 and of § 212.131, a producer may not obtain prices exempt from the ceiling price limitations of Subpart D of this part, for crude oil produced and sold from a newly discovered crude oil property or from a unitized property from which newly discovered crude oil is imputed, during any month that it fails to provide DOE with access at a single location to records required by this paragraph (d) within 20 working days of the date of receipt of a request by DOE. DOE may permit a producer more than 20 working days in which to assemble and provide access to the records required by this paragraph (d).

(e) *Producers of heavy crude oil.* Each producer of heavy crude oil or imputed heavy crude oil shall, with respect to each property from which it produces heavy crude oil or imputed heavy crude oil, prepare and maintain at its principal place of business, (1) a reasonable description of the property concerned and (2) the basis on which it determined the property to be a heavy crude oil property or eligible to have heavy crude oil imputed. Each producer of heavy crude oil which injects a diluent into a particular heavy crude oil property shall prepare and maintain records as to the amounts of diluent injected into that

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property and the dates of any such injections.

7. Section 212.131 is amended to revise existing subparagraphs (a)(2)(i) and (ii), (a)(3)(i) and (ii), (a)(6) and (b)(1); to add new paragraphs (a)(3) and (a)(4); and to renumber existing paragraphs (a)(3), (a)(4) and (a)(5), to read as follows:

§ 212.131 Certification of domestic crude oil sales.

(a)(1) *Stripper well properties.* With respect to each stripper well property, the producer shall certify in writing once to each purchaser of crude oil produced from that property:

(i) That the property concerned has qualified as a stripper well property; and

(ii) The average daily production per well for the 12-month period during which the property qualified as a stripper well property.

(2) *Newly discovered crude oil properties.* With respect to each newly discovered crude oil property, the producer shall certify in writing once to each purchaser of crude oil produced from that property that the property concerned has qualified as a newly discovered crude oil property.

(3) *Heavy crude oil properties.* With respect to each heavy crude oil property, the producer shall certify in writing once to each purchaser of crude oil produced from that property that the property concerned has qualified as a heavy crude oil property.

(4) *Other properties.* (i) With respect to each sale of crude oil from a property (other than a stripper well property, a newly discovered crude oil property, or a heavy crude oil property), the producer shall certify in writing to each purchaser the number of barrels, if any, of—

(A) Lower-tier ("old") crude oil (separately identifying any California lower-tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(B) Upper-tier ("new") crude oil (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California upper tier crude oil at the time of the sale), excluding any crude oil transported through the trans-Alaska pipeline;

(C) Crude oil transported through the trans-Alaska pipeline (separately identifying ANS upper tier crude oil and ANS crude oil that is not subject to the ceiling price limitations of this Part);

(D) Incremental tertiary crude oil as determined pursuant to § 212.78;

(E) Tertiary incentive crude oil as determined pursuant to § 212.78;

(F) Market level new crude oil as determined pursuant to § 212.74;

(G) Imputed stripper well crude oil determined pursuant to § 212.75(b);

(H) Imputed newly discovered crude oil determined pursuant to § 212.75(b);

(I) Imputed heavy crude oil determined pursuant to § 212.75(b); and

(J) Other domestic crude oils, the first sale of which is exempt from Part 212.

(ii) With respect to each property which has not been certified to a purchaser as a stripper well property, a newly discovered crude oil property, or a heavy crude oil property, the producer shall certify in writing once to each purchaser of crude oil produced and sold from that property:

(A) The highest posted price at 6 a.m., local time, May 15, 1973, for transactions in that grade of crude oil in that field, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted; and

(B) The highest posted price on September 30, 1975 for transactions in that particular grade of crude oil in that field in September 1975, or if there was no posted price in that field for that grade of domestic crude oil, the related price for that grade of domestic crude oil which is most similar in kind and quality in the nearest field for which prices were posted.

(a)(5) *One-Time certifications.* (i) Except as provided for in paragraphs (a)(5) (ii) and (iii) of this section, with respect to any property (except a unitized property) from which crude oil is sold to only one purchaser, the requirements of paragraph (a)(4)(i) of this section may be complied with by a one-time written certification to the purchaser of the property's monthly base production control level determined pursuant to § 212.72, whether based upon production and sale of crude oil in 1972 or upon production and sale of old crude oil in 1975, or upon production and sale of old crude oil during the six-month period ending March 31, 1979, and, if applicable, either the property's adjusted base production control level determined pursuant to § 212.76 or the information necessary to compute such adjusted base production control level pursuant to § 212.76.

(ii) Except as provided for in paragraph (a)(5)(iii) of this section, with respect to any unitized property for which the producer has determined a unit base production control level and from which crude oil is sold to only one purchaser, the requirements of paragraph (a)(4)(i) of this section may be complied with by a one-time written certification to the purchaser of—

(1) The monthly unit base production control level, determined pursuant to § 212.75(b);

(2) The number of barrels of "imputed new crude oil," if any, determined pursuant to § 212.75(b), excluding any crude oil transported through the trans-Alaska pipeline;

(3) The number of barrels of crude oil transported through the trans-Alaska pipeline (separately identifying ANS upper tier crude oil and ANS crude oil that is not subject to the ceiling price limitations of this part), if any;

(4) The number of barrels of imputed newly discovered crude oil, if any, determined pursuant to § 212.75(b);

(5) The number of barrels of imputed stripper well crude oil, if any, determined pursuant to § 212.75(b); and

(6) The number of barrels of imputed heavy crude oil, if any, determined pursuant to § 212.75(b).

(iii) Notwithstanding the provisions of paragraphs (a)(5)(i) and (ii) of this section, a producer shall certify in writing to each purchaser: (A) In each sale the amounts and gravity of California lower tier crude oil and California upper tier crude oil; (B) in each sale the amount of crude oil that is being sold as teritiary incentive crude oil pursuant to § 212.78(a)(2) and shall identify whether this amount would have been lower-tier crude oil or upper-tier crude oil except for its certification as tertiary incentive crude oil; and (C) once, if tertiary incremental crude oil may be sold from a property pursuant to § 212.78(a)(1), the amounts of non-incremental crude oil production from that property for each month, as determined pursuant to § 212.78.

(iv) With respect to U.S.-owned crude oil sold pursuant to the Naval Petroleum reserves Production Act of 1976 (Pub. L. 94–258), the producer may comply with the requirements of paragraph (a)(4)(i) by certifying in writing once to each purchaser of such crude oil produced and sold from a property that the first sale of such crude oil from that property is exempt from the provisions of this Part.

(6) *Time of certifications.* Certifications required or authorized by this paragraph (a) to be made once shall be made within the consecutive two-month period immediately following the first month that the oil in question is produced and sold. Certifications required by this paragraph (a) to be made with respect to each sale shall be made within the consecutive two-month period immediately following the month in which that sale is made. After the close of the two-month period immediately succeeding the month in which crude oil is produced and sold, no certification, other than a certification for lower-tier ("old") crude oil, shall be effective with respect to the purchaser of that crude oil, except where such certification explicitly is required or permitted by DOE order, interpretation or ruling.

(b)(1) *Reseller certification.* Each seller of domestic crude oil, other than a producer of domestic crude oil covered by paragraph (a) of this section, shall, with respect to each sale of domestic crude oil other than an allocation sale pursuant to § 212.65 of Part 211, or a sale in which no volumes of domestic crude oil are deemed to have been transferred pursuant to § 211.67(g) of Part 211, certify in writing to the purchaser (i) that the price charged for the domestic crude oil is not greater than the maximum price permitted pursuant to this part and (ii) the respective volumes of and respective per barrel prices for the—

(A) Lower-tier ("old") crude oil (separately identifying any California lower tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California lower tier crude oil at the time of the sale);

(B) Upper-tier ("new") crude oil (separately identifying any California upper tier crude oil, as defined in § 211.62 of Part 211 of this chapter, and the gravity in degrees API of such California upper tier crude oil at the time of the sale), exclusive of any crude oil transported through the trans-Alaska pipeline;

(C) Crude oil transported through the trans-Alaska pipeline (separately identifying ANS upper tier crude oil and ANS crude oil that is not subject to the ceiling price limitations of this part);

(D) Stripper well crude oil;

(E) Incremental tertiary crude oil;

(F) Tertiary incentive crude oil;

(G) Newly discovered crude oil;

(H) Market Level new crude oil;

(I) Heavy crude oil; and

(J) Other domestic crude oils the first sale of which is exempt from the provisions of this part—included in the volume of domestic crude oil so sold.

(2) *Time of certifications.* Each seller of domestic crude oil, other than a producer of domestic crude oil, shall make the certification required by this paragraph as soon as practicable after receipt of the required certifications from its sellers, but in no event later than 30 days following such receipt. However, if the domestic crude oil is not sold until after the expiration of the thirty-day period, the certification required by this paragraph shall be made within ten days following the sale of the domestic crude oil.

(3) *Actual volumes.* All certifications required by this paragraph shall relate only to the actual volumes of crude oil included in any mixed blend of crude oil and other refined petroleum products and residual fuel oil.

(c) *Certification required for purchase or sale of crude oil.* No firm may sell domestic crude oil unless it provides the certification required by this section. No firm may knowingly purchase domestic crude oil for which there is no certification as required by this section; *Provided, however,* That the provisions of this paragraph do not apply to the sale of domestic crude oil to a firm under circumstances of economic or other coercion in which the buyer, because of its need for crude oil had no reasonable alternative but to purchase the domestic crude oil for which there is no certification, and such firm promptly reports the purchase to the Department of Energy for investigation.

(d) *Form of certification.* All certifications required by this section shall be in writing, either upon an invoice or billing or by separate instrument, and shall be effective only when delivered to and received by the purchaser of domestic crude oil.

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Tuesday
November 25, 1980

Part XIII

Department of Energy

Protection of Human Subjects; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Part 745

Protection of Human Subjects

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: Executive Order 12044 sets forth a program of regulatory reform to be followed by all executive departments. One element of that program is periodic review of existing regulations. The Department of Energy is committed to review all of its existing regulations within five years, on schedule set forth in the **Federal Register** for May 8, 1980, 45 FR 30448.

As part of that commitment, the Department has reexmained the regulations contained in 10 CFR Part 745. These regulations deal with the protection of human subjects in research activities supported by the Department. In this notice, we are proposing regulations that will supersede the existing requirements. These proposed regulations are intended substantially to duplicate the policies and procedures proposed by the Department of Health and Human Services on August 14, 1979 (44 FR 47688). The primary responsibility for adequate review and approval to protect human subjects of research activities sponsored by the Department of Energy is placed on the institution that receives, or is accountable to the Department, for the funds awarded.

DATE: Written comments on the proposed rules are requested and should be received on or before November 29, 1980, if they are to be given full consideration.

ADDRESS: Written comments or requests for additional information should be sent to: Joseph R. Blair, M.D., Human Health and Assessments Division, EV–32 (GTN), Office of Health and Environment Research, U.S. Department of Energy, Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT: Joseph R. Blair, M.D., (301) 353–5355.

SUPPLEMENTARY INFORMATION: The proposed regulation for the protection of human research subjects continues the major thrust of DOE's existing regulations by providing protection for human subjects of research conducted or supported by DOE, and requiring Institutional Review Board (IRB) review and approval of DOE-supported research involving human subjects. However, the proposed regulation is designed to update and improve upon the existing DOE regulation by developing basic elements of informed consent that are a necessary prerequisite to research subject participation, and by requiring that IRB membership consist of individuals of diverse backgrounds, including at least one non-scientist such as a lawyer or a clergyman.

The proposed regulation will allow institutions with an approval general assurance on file with the Department of Health and Human Services (DHHS) to comply with DOE's regulations by submitting a document to DOE stating that they have an approved general assurance on file with DHHS.

The Department has reviewed this proposed regulation in accordance with Executive Order 12044 and DOE Order 2030.1. It was determined that this proposed regulation is not a significant regulation, nor will it have a major economic impact. Thus, the preparation of a Regulation Analysis is not required. The Department also has determined that the proposed regulation clearly will not have a significant impact on the human environment so that no environmental assessment or environmental impact statement is required.

Existing Part 745 of Chapter III, Title 10, of the Code of Federal Regulations is proposed to be superseded by the following rule, as set forth below.

Issued in Washington, D.C., November 12, 1980.

Ruth C. Clusen,

Assistant Secretary for Environment.

PART 745—PROTECTION OF HUMAN SUBJECTS

Sec.

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745.21 Early termination of awards; evaluation of subsequent applications and proposals.
745.22 Conditions.

Authority: Sec. 105(a) Energy Reorganization Act of 1974. Pub. L. 93–433.

§ 745.1 Applicability.

(a) The regulations in this part are applicable to all Department of Energy (DOE) agreements including, but not limited to, grants and contracts supporting research, development, and related activities within the United States and its territories in which human subjects are involved.

(b) For agreements supporting activities outside the United States and its territories in which human subjects are involved, the requirements of this part shall apply to the maximum extent practicable as determined by the Secretary on a case-by-case basis, taking into account the relevant laws and practices of the foreign nation in which the activity will be conducted.

(c) The Secretary may, from time-to-time, determine in advance whether specific programs, methods, or procedures to which this part is applicable place subjects at risk, as defined in § 745.3(b). Such determinations will be published as notices in the **Federal Register** and will be included in an appendix to this part.

§ 745.2 Policy.

(a) Safeguarding the rights and welfare of human subjects in activities supported under DOE agreements is primarily the responsibility of the institution which receives, or is accountable to DOE for the funds awarded for the support of the activity. In order to provide for the adequate discharge of this institutional responsibility, it is the policy of DOE that no activity involving human subjects within the United States and its territories supported by DOE agreements shall be undertaken unless an Institutional Review Board (IRB) has reviewed and approved such activity, and the institution has submitted to DOE certification of such review and approval, in accordance with the requirements of this part.

(b) This review shall determine whether these subjects will be placed at risk, and, if risk is involved, whether:

(1) The risks to the subject are so outweighed by the sum of the benefit to the subject and the importance of the knowledge to be gained as to warrant a decision to allow the subject to accept these risks;

(2) The rights and welfare of any such subjects will be adequately protected;

(3) Legally effective informed consent will be obtained by adequate and appropriate methods in accordance with the provisions of this part, and

(4) The conduct of the activity will be reviewed at timely intervals.

(c) No agreement involving human subjects shall be awarded to an individual unless he is affiliated with or sponsored by an institution which can and does assume responsibility for the subjects involved.

§ 745.3 Definitions.

(a) "Institution" means any public or private institution or agency (including Federal, State, and local government agencies).

(b) "Subject at risk" means any individual who may be exposed to the possibility of injury, including physical, psychological, or social injury, as a consequence of participation as a subject in any research, development, or related activity which departs from the application of those established and accepted methods necessary to meet his needs, or which increases the ordinary risks of daily life, including the recognized risks inherent in a chosen occupation or field of service.

(c) "Informed consent" means the knowing consent of an individual or his legally authorized representative so situated as to be able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion. The basic element of information necessary to such consent include:

(1) A fair explanation of the procedures to be followed and their purposes, including identification of any procedures which are experimental;

(2) A description of any attendant discomforts and risks reasonably to be expected;

(3) A description of any benefits reasonably to be expected;

(4) A disclosure of any appropriate alternative procedures that might be advantageous for the subject;

(5) An offer to answer any inquiries concerning the procedures; and

(6) An instruction that the person is free to withdraw his consent and to discontinue participation in the project or activity at any time without prejudice to the subject.

(d) "DOE" means the Department of Energy.

(e) "Secretary" means the Secretary of Energy or any other officer or employee of DOE to whom authority has been delegated.

(f) "Agreement" means a grant, contract, cooperative agreement, or any other instrument under which DOE provides funds or other resources for projects or efforts involving human subjects.

(g) "DHHS" means the Department of Health and Human Services.

(h) "Approved assurance" means a document that fulfills the requirements of this part and is approved by the Secretary of Energy or the Secretary of Health and Human Services.

(i) "Human subject" means an individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the person, or (2) identifiable information.

(j) "Certification" means the official institutional certification to DOE in accordance with the requirements of this part that a project or activity involving human subjects at risk has been reviewed and approved by the institution in accordance with the "approved assurance" on file at DOE or DHHS.

(k) "Legally authorized representative" means an individual or judicial, or other body authorized under applicable law to consent on behalf of a prospective subject to such subject's particpation in the particular activity or procedure.

§ 745.4 Submission of assurances.

(a) Except as provided in paragraph (b) of this section, recipients or prospective recipients of DOE support under any agreement involving human subjects shall provide written assurance acceptable to the Secretary that they will comply with DOE requirements as set forth in this part, including the requirement that:

(1) A statement of compliance with DOE requirements for initial and continuing Institutional Review Board review of the supported activities; and

(2) A set of implementing guidelines, including identification of the Board and a description of its review procedures; or in the case of special assurance concerned with single activities or projects; a report of initial findings of the Board and of its proposed continuing review procedures.

(b) Recipients or prospective recipients of DOE support under any agreement involving human subjects who have on file with DHHS an approved general assurance pursuant to 45 CFR Part 46 will be considered to have an approved general assurance on file with DOE. Those recipients meeting this requirement shall, in lieu of the requirements of paragraph (a) of this section, submit a document to DOE stating that they presently have an approved general assurance on file with DHHS.

(c) Such assurance under paragraph (a) of this section or document under paragraph (b) of this section shall be executed by an individual authorized to act for the institution and to assume on behalf of the institution the obligations imposed by this part, and shall be filed in such form and manner as the Secretary may require.

§ 745.5 Types of assurances.

(a) General assurance. A general assurance is a comprehensive plan for implementation procedures applicable to all DOE-supported activities conducted by an institution, regardless of the number, location, or types of its components or field activities. General assurances will be required from institutions having a significant number of concurrent DOE-supported projects or activities involving human subjects.

(b) Special assurances. A special assurance describes the review and implementation procedures applicable to and reports the findings of the Institutional Review Board on an activity or project. A special assurance will not be solicited or accepted from an institution which has on file with DOE or DHHS an approved general assurance.

(c) No individual may receive Department support for research covered by these regulations unless he or she is affiliated with or sponsored by an institution which assumes responsibility for the research under an assurance satisfying the requirements of this part.

§ 745.6 Minimum requirements for general assurances.

General assurances shall be submitted in such form and manner as the Secretary may require. In order to satisfy the requirements of these regulations, a general assurance shall provide specifically for the following:

(a) A statement of principles which will govern the institution in the discharge of its responsibilities for protecting the rights and welfare of subjects. This may include appropriate existing codes, declarations, or statements of basic ethical principles formulated by the institution itself. It is to be understood that no such principles supersede DOE policy or applicable law.

(b) An Institutional Review Board or Board structure which will conduct initial and continuing reviews in accordance with the policy outlined in

§ 745.2. Such a Board or Board structure shall meet the following requirements:

(c) Procedures which the Board will follow:

(4) Provision for meeting space and sufficient staff to support the Board's

§ 745.8 Evaluation and disposition of assurances.

representative must be given adequate opportunity to read it. This document is

covered by this part (or in a separate document submitted with such

§ 745.2. Such a Board or Board structure shall meet the following requirements:

(1) The Board must be composed of not less than five persons with varying backgrounds to assure complete and adequate review of activities commonly conducted by the institution. The Board must be sufficiently qualified through the maturity, experience, and expertise of its members, and sufficient diversity of the members as to racial and cultural backgrounds, to promote respect for its advice and counsel for safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific activities, the Board must be able to ascertain the acceptability of applications and proposals in terms of institutional commitments and regulations, applicable law, standards of professional conduct and practice, and community attitudes. The Board must, therefore, include persons knowledgeable in these areas. If a Board regularly reviews research that has an impact on a vulnerable category of subjects, then the Board should have one or more individuals who are primarily concerned with the welfare of these subjects.

(2) The Board members shall be identified to DOE by name; earned degrees, if any; position or occupation; representative capacity; and by other pertinent indications of experience, such as certification, licenses, etc. sufficient to describe each member's chief anticipated contributions to the Board's deliberations. Any employment or other relationship between each member and the institution shall be identified, i.e., full-time employee, part-time employee, member of governing panel or board, paid consultant, or unpaid consultant. Changes in the Board membership shall be reported to DOE in such form and at such times as the Secretary may require.

(3) Each Board shall include at least one licensed physician, one scientist, and at least one individual whose primary concerns are in a nonscientific area (e.g., a lawyer or a member of the clergy).

(4) No member of a Board shall be involved in either the initial or continuing review of an activity in which he has a conflicting interest, except to provide information requested by the Board.

(5) No Board shall consist entirely of persons who are officers, employees, or agents of, or are otherwise associated with the institution, apart from their membership on the Board.

(6) No Board shall consist entirely of members of a single professional group, nor entirely of men, nor entirely of women.

(c) Procedures which the Board will follow:

(1) Conducting its initial and continuing review of research and reporting its findings and actions to the investigator and the institution, (i) for determining which projects require review more often than annually and which projects need verification from sources other than the researchers that no material changes have occurred since initial Board review, (ii) to insure prompt reporting to the Board of proposed changes in an activity and of unanticpated problems involving risks to subjects or others, and (iii) to insure that any such problems, including adverse reactions to biologicals, drugs, radioisotope labelled drugs, or medical devices, are promptly reported to the Department. These procedures may be promulgated by the institution or by the Board, if this authority is delegated to it by the institution.

(2) Board review of proposed research at convened meetings at which a majority of the members of the Board are present, including at least one member whose primary concerns are in nonscientific areas, except when an approved expedited review procedure is utilized. In order for the research to be approved, it must receive the approval of a majority of those members present af the meeting. The Board shall notify investigators and the institution in writing of its decision to approve or disapprove the proposed research activity, or of modifications required to secure Board approval of the activity. If the Board decided to disapprove a research activity, it shall include in its written notification a statement of the reasons for its decision and give the investigator an opportunity to respond in person or in writing.

(3) Maintenance of appropriate records, including information on Board members required by paragraph (c)(2) of this section, copies of proposals reviewed and approved, sample consent forms, minutes of Board meetings, progress reports submitted by investigators, reports of injuries to subjects, and records of continuing review activities. These records must be accessible for inspection by DOE representatives and retained for at least five years after completion of the research, or such longer period as may be specified by program requirements. Minutes must be in sufficient detail to show attendance at Board meetings, the number of members voting for and against these actions, and the basis for the actions (including a written summary of the discussion of substantive issues and their resolution).

(4) Provision for meeting space and sufficient staff to support the Board's review and recordkeeping duties.

(5) The quorum of the Board shall be defined, but may in no event be less than a majority of the total membership duly convened to carry out the Board's responsibilities under the terms of the assurance.

(d) Procedures which the institution will follow to maintain an active and effective Board and to implement its recommendations.

§ 745.7 Minimum requirments for special assurances.

In order to satisfy the requirements of these regulations, an acceptable special assurance shall:

(a) Identify the specific agreement involved by its full title and by the name of the activity or project director, principal investigator, fellow, or other person immediately responsible for the conduct of the activity.

(b) Include a statement, executed by an appropriate institutional official, indicating that the institution has established an Institutional Review Board satisfying the requirements of § 745.6(b).

(c) Describe the makeup of the Board and the training, experience, and background of its members as required by § 745.6(b)(2).

(d) Describe the risks to subjects that the Board recognizes as inherent in the activity, and if subjects will be placed at risk, justify its decision that these risks are so outweighed by the sum of the benefit to the subject, and the importance of the knowledge to be gained, as to warrant the Board's decision to permit the subject to accept these risks.

(e) If subjects will be placed at risk, describe the informed consent procedures to be used, and attach samples of the documentation to be required under § 745.10.

(f) Describe procedures which the Board will follow to insure prompt reporting to the Board of proposed changes in the activity, and of any unanticipated problems involving risks to subjects or others, to insure that any such problems, including adverse reactions to biologicals, drugs, radioisotope-labelled drugs, or to medical devices, are promptly reported to DOE.

(g) Indicate at what time intervals the Board will meet to provide for continuing review. Such review must occur no less than annually.

(h) Be signed by the individual members of the Board and be endorsed by an appropriate institutional official.

§ 745.8 Evaluation and disposition of assurances.

(a) All assurances submitted in accordance with §§ 745.6 and 745.7 shall be evaluated by the Secretary through such officers and employees of DOE as he determines to be appropriate. The Secretary's evaluation shall take into consideration, among other pertinent factors, the adequacy of the proposed Institutional Review Board in light of the anticipated scope of the applicant institution's activities and the types of subject populations likely to be involved, the appropriateness of the proposed initial and continuing review procedures in light of the probable risks, and the size and complexity of the insitution.

(b) On the basis of his evaluation of an assurance, pursuant to paragraph (a) of this section, the Secretary shall approve or disapprove the assurance, or enter into negotiations to develop approvable assurance. With respect to approved assurances, the Secretary may determine the period during which any particular assurance or class of assurances shall remain effective or otherwise condition or restrict his approval. With respect to negotiations, the Secretary may, pending completion of negotiations for a general assurance, require an institution, otherwise eligible for such an assurance, to submit special assurances.

§ 745.9 Obligation to obtain informed consent; prohibition of exculpatory clauses.

Any institution proposing to conduct research involving subjects at risk is obligated to obtain and document legally effective informed consent. No such informed consent, oral or written, obtained under an assurance provided pursuant to this part shall include any exculpatory language through which the subject is made to waive, or to appear to waive, any of his legal rights, including any release of the institution or its agents from liability for negligence.

§ 745.10 Documentation of informed consent.

The actual procedure utilized in obtaining legally effective informed consent and the basis for Institutional Review Board determinations that the procedures are adequate and appropriate shall be fully documented. The documentation of consent will employ one of the following three forms:

(a) Provision of a written consent document embodying all of the basic elements of informed consent. This may be read to the subject or to his legally authorized representative, but in any event he or his legally authorized representative must be given adequate opportunity to read it. This document is to be signed by the subject or his representative. Sample copies of the consent form, as approved by the Board, are to be retained in its records.

(b) Provision of a "short form" written consent document indicating that the basic elements of informed consent have been presented orally to the subject or his legally authorized representative. Written summaries of what is to be said to the subject are to be approved by the Board. The short form is to be signed by the subject or his legally authorized representative and by a witness to the oral presentation and to the subject's signature or that of his representative. A copy of the approved summary, annotated to show any additions, is to be signed by the persons officially obtaining the consent and by the witness. Copies of the form and the summary shall be supplied to the subject or to his representative. Sample copies of the consent form and of the summaries as approved by the Board are to be retained in the Board's records.

(c) Modification of either of the primary procedures outlined in paragraphs (a) and (b) of this section. Granting of permission to use modified procedures imposes additional responsibility upon the Board and the institution to establish: (1) That the risk to any subject is minimal, (2) That use of either of the primary procedures for obtaining informed consent would surely invalidate objectives of considerable immediate importance, and (3) That any reasonable alternative means for attaining these objectives would be less advantageous to the subjects. The Board's reasons for permitting the use of modified procedures must be individually and specifically documented in the minutes and in reports and Board actions to the files of the institution. All such modifications should be regularly reconsidered as a function of continuing review and as required for annual review, with documentation of reaffirmation, revision, or discontinuation, as appropriate.

(d) In those cases when new information is provided to the subject during the course of the research, the information shall be reviewed and approved by the Board and a copy retained in its records.

§ 745.11 Submission and certification of applications and proposals—general assurances.

(a) Timely review. Any institution having an approved general assurance shall indicate in each application or proposal for support of activities covered by this part (or in a separate document submitted with such application or proposal) that it has on file with DOE or DHHS such an assurance. In addition, no DOE funds will be awarded for a proposal until the institution has certified that the research proposal has been reviewed and approved by the Institutional Review Board. In the event the Secretary provides for the performance of institutional review of an application or proposal after its submission to DOE, processing of such application or proposal by DOE will under no circumstances be completed until such institutional review and approval has been certified.

(b) In order to give its approval, the Institutional Review Board must determine that all of the following requirements are satisfied:

(1) The research methods are appropriate to the objectives of the research and the field of study.

(2) Selection of subjects is equitable, taking into account the purposes of the research.

(3) Risks to subjects are minimized by using the safest procedures consistent with sound research design.

(4) Risks to subjects are reasonable in relation to anticipated benefits to subjects and to maintain the confidentiality of data.

(5) There are adequate provisions to protest the privacy of subjects and to maintain the confidentiality of data.

(c) Except where the institution determines that human subjects are not involved, the application or proposal should be appropriately certified in the space provided on forms, or the following certification, should be typed on the lower or right-hand margin of the page bearing the name of an official authorized to sign or execute applications or proposals for the institution.

Human Subjects: Reviewed. Approved. Signed—Date

(d) Applications and proposals not certified. Applications and proposals not properly certified, or submitted as not involving human subjects and found by the operating agency to involve human subjects, will be returned to the institution concerned.

§ 745.12 Submission and certification of applications and proposals—special assurances.

(a) Except as provided in paragraph (b) of this section, institutions not having an approved general assurance shall submit in or with each application or proposal for support of activities covered by this part a separate special

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assurance and certification of its review and approval of the research by the Institutional Review Board.

(b) If the Secretary so provides, the assurance which must be submitted in or with the application or proposal under paragraph (a) of this section need satisfy only the requirements of § 745.7 (a) and (b). Under such circumstances, processing of such application or proposal by DOE will not be completed until a further assurance satisfying the remaining requirements of § 745.7 has been submitted to DOE.

(c) An assurance and certification prepared in accordance with this part and approved by DOE shall be considered to have met the requirement for certification for the initial agreement period concerned. If the terms of the agreement recommend additional support periods, each application or proposal for continuation or renewal of support must satisfy the requirements of this section or § 745.11 whichever is applicable at the time of its submission.

§ 745.13 Applications and proposals lacking definite plans for involvement of human subjects.

Certain types of applications or proposals are submitted with the knowledge that subjects are to be involved within the support period, but definite plans for this involvement would not normally be set forth in the application or proposal. These include such activities as (a) institutional-type grants where selection of projects is the responsibility of the institution, (b) training grants where training projects remain to be selected, and (c) research, pilot, or developmental studies in which human subjects' involvement depends upon such things as the completion of instruments, prior animal studies, or upon the purification of compounds. These applications need not be reviewed by an Institutional Review Board before an award may be made. However, no human subjects may be involved in any project supported by these awards until the project has been reviewed and approved by the Institutional Review Board as provided in these regulations, and certification submitted to DOE.

§ 745.14 Applications and proposals submitted with the intent of not involving human subjects.

If an application or proposal does not anticipate involving or intend to involve human subjects, no certification should be included with the initial submission of the application or proposal. In those instances, however, when later it becomes appropriate to use all or part of awarded funds for one or more activities which will involve subjects, each such activity shall be reviewed and approved by the Institutional Review Board, as provided in these regulations. In addition, no such activity shall be undertaken until the institution has submitted to DOE: (a) A certification that the activity has been reviewed and approved in accordance with this part, and (b) A detailed description of the proposed activity (including any protocol, revised statement of work or similar document). Also, where support is provided by project grants or contracts, subjects shall not be involved prior to certification and institutional receipt of DOE approval and, in the case of contracts, prior to negotiation and formal amendment of the contract statement of work.

§ 745.15 Evaluation and disposition of applications and proposals.

(a) Notwithstanding any prior review, approval, and certification by the institution, all applications or proposals submitted to DOE involving human subjects at risk shall be evaluated by the Secretary for compliance with this part through such officers and employees of DOE as he determines to be appropriate. For applications or proposals involving aubjects at risk, this evaluation shall take into account, among other pertinent factors, the apparent risks to the subjects, the adequacy of protection against these risks, the potential benefits of the activity to the subjects and to others, and the importance of the knowledge to be gained.

(b) Disposition. On the basis of his evaluation of an application or proposal, pursuant to paragraph (a) of this section, and subject to such approval or recommendation by or consultation with appropriate councils, committees, or other bodies as may be required by law, the Secretary shall approve or disapprove the application or proposal, or enter into negotiations to develop an approvable one. With respect to any grant or contract award or other agreement, the Secretary may impose conditions, including restrictions on the use of certain procedures or certain subject groups, or requiring use of specified safeguards or informed consent procedures when in his judgment such conditions are necessary for the protection of human subjects.

§ 745.16 Cooperative activities.

Cooperative activities are those which involve institutions in addition to the institution having an agreement with DOE (herein referred to as, though not limited to, a grantee or prime contractor). Examples of cooperative activities are those of a contractor under a grantee or of a subcontractor under a prime contractor. If, in such instances, the grantee or prime contractor obtains access to all or some of the subjects involved through one or more cooperating institutions, the basic DOE policy applies and the grantee or prime contractor remains responsible for safeguarding the rights and welfare of the subjects.

(a) *Institutions with approved general assurances.* Initial and continuing review by the institution may be carried out by one or a combination of procedures:

(1) *Cooperating institution with approved general assurance.* When the cooperating institution has on file with DOE or DHHS an approved general assurance, the grantee or prime contractor may, in addition to its own review, request the cooperating institution to conduct an independent review, and to report its recommendations on those aspects of the activity that concern individuals for whom the cooperating institution has responsibility under its own assurance to the grantee's or prime contractor's Institutional Review Board. The grantee or prime contractor may, at its discretion, concur with or further restrict the recommendations of the cooperating institution. It is the responsibility of the grantee or prime contractor to maintain communication with the Boards of the cooperating institution. However, the cooperating institution shall promptly notify the grantee or contracting institution whenever the cooperating institution finds the conduct of the project or activity within its purview to be unsatisafactory.

(2) *Cooperating institution with no approved general assurance.* When the cooperating institution does not have an approved general assurance on file with DOE or DHHS, DOE may require the cooperating institution to follow the procedure outlined in the preceding subparagraph.

(3) *Interinstitutional joint review.* The grantee or prime contracting institution may wish to develop an agreement with cooperating institutions to provide for an Institutional Review Board with representatives from cooperating institutions. Representatives of cooperating institutions may be appointed as ad hoc members of the grantee or contracting institution's existing Institutional Review Board or, if cooperating is on a frequent or continuing basis, as between a medical school and a group of affiliated hospitals, appointments for extended

periods may be made. All such cooperative arrangements must be approved by DOE or DHHS as part of a general assurance, or as an amendment to a general assurance.

(b) *Institutions with special assurances.* While responsiblity for initial and continuing review necessarily lies with the grantee or prime contracting institution, DOE may also require approved assurance from those cooperating institutions having immediate responsibility for subjects. If the cooperating institution has on file with DOE or DHHS an approved general assurance, the grantee or prime contractor shall request the cooperating institution to conduct its own independent review of those aspects of the project or activity which will involve human subjects for which it has responsibility. Such a request shall be in writing and should provide for direct notification of grantee's or prime contractor's Institutional Review Board in the event that the cooperating insitution's Board finds the conduct of the activity to be unsatisfactory. If the cooperating institution does not have an approved general assurance on file with DOE or DHHS, it must submit to DOE a general or special assurance which is determined by DOE to comply with the provisions of this part.

§ 745.17 Investigational new drug 30-day delay requirement.

Where an institution is required to prepare or to submit a certification under these regulations, and the application or proposal involves an investigational new drug within the meaning of the Food, Drug, and Cosmetic Act, the drug shall be identified in the certification, together with a statement that the 30-day delay required by 21 CFR 312.1(a)(2) has elapsed and the Food and Drug Administration has not, prior to expiration of such 30-day interval, requested that the sponsor continue to withhold or to restrict use of the drug in human subject; or that the Food and Drug Administration has waived the 30-day delay requirement provided, however, that in those cases in which the 30-day delay interval has neither expired nor been waived, a statement shall be forwarded to DOE upon such expiration, or upon receipt of a waiver. No certification shall be considered acceptable until such statement has been received.

§ 745.18 Institution's executive responsibility.

Specific executive functions to be conducted by the institution include policy development and promulgation and continuing indoctrination of personnel. Appropriate administrative assistance and support shall be provided for the Board's functions. Implementation of the Board's recommendations through appropriate administrative action and follow-up is a condition of DOE approval of an assurance. Board approvals, favorable actions, and recommendations are subject to review and to disapproval or further restriction by the institution officials. Board disapprovals, restrictions, or conditions cannot be rescinded or removed except by action of a Board described in the assurance approved by DOE or DHHS.

§ 745.19 Institution's records; confidentiality.

(a) Copies of all documents presented, or required for initial and continuing review by the Institutional Review Board, and documents such as Board minutes, records of subject's consent, transmittals on actions, instructions, and conditions resulting from Board deliberations addressed to the activity director, are to be retained by the institution permanently unless permission is obtained from the Secretary to destroy specific records.

(b) Except as otherwise provided by law, information in the records or possession of an institution acquired in connection with an activity covered by this regulation, which information refers to or can be identified with a particular subject, may not be disclosed except:

(1) With the consent of the subject or his legally authorized representative, or

(2) As may be necessary for the Secretary to carry out his responsibilities.

§ 745.20 Reports.

Each institution with an approved assurance shall provide the Secretary with such reports and other information as the Secretary may, from time-to-time, prescribe.

§ 745.21 Early termination of awards; evaluation of subsequent applications and proposals.

(a) If, in the judgment of the Secretary, an institution has failed materially to comply with the terms of these regulations with respect to a particular DOE agreement, the Secretary may require that said agreement be terminated or suspended.

(b) In evaluating applications or proposals for support of activities covered by this part, the Secretary may take into account, in addition to all other eligibility requirements and program criteria, such factors as: (1) Whether the applicant has been subject to a termination or suspension under paragraph (a) of this section; (2) whether the applicant, offeror, or the person who would direct the scientific and technical aspects of an activity has, in the judgment of the Secretary, failed materially to discharge his, her, or its responsibility for the protection of the rights and welfare of subjects in his, her, or its care (whether or not DOE funds were involved); and (3) whether, where past deficiencies have existed in discharging such responsibility, adequate steps have, in the judgment of the Secretary, been taken to eliminate these deficiencies.

§ 745.22 Conditions.

The Secretary may, with respect to any agreement or any class of agreements, impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary for the protection of human subjects.

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November 25, 1980

Part XIV

Department of Energy

Bonneville Power Administration

Record of Decision for the Buckley-Summer Lake 500-kV Transmission System in Central Oregon

DEPARTMENT OF ENERGY

Bonneville Power Administration

Record of Decision for the Buckley-Summer Lake 500-kV Transmission System in Central Oregon

Decision Summary

The Bonneville Power Administration (Bonneville), in accordance with the procedural requirements of the National Environmental Policy Act (40 CFR Part 1505), has decided to build the proposed 156-mile, 500,000-volt (500-kV) Buckley-Summer Lake transmission line. Bonneville will also develop terminal facilities, identified as Buckley and Summer Lake Substations, at both ends of the new line. Bonneville will consequently operate and maintain these facilities in a manner which assures reliable service to its customers.

Background

Bonneville, under the provisions of the Bonneville Project Act of 1937 and the Federal Columbia River Transmission System Act of 1974, has conducted power marketing and power flow studies in order to identify facilities which would facilitate the transfer of power from the Federal Columbia River Transmission System (FCRTS) to Bonneville's customers in southern Idaho and Utah. The Buckley-Summer Lake transmission line is the initial phase of a two-phase plan of service which, through interconnections with transmission lines of the Idaho Power Company (IPC) and Pacific Power & Light Company (PP&L), will serve this objective. This plan will also allow power generated in Wyoming to be delivered to the Pacific Northwest, including southwest Oregon; it will reinforce the existing Pacific Northwest-Pacific Southwest Intertie within the State of Oregon, and it will provide additional transmission capacity which can be utilized for wheeling services and other power transactions in the region.

The second phase of the plan of service involves the installation of a 500-kV transmission line between the Idaho Power Transmission System and Bonneville's system in eastern Oregon. This line is proposed for the late 1980's and will be discussed in a separate location phase environmental impact statement (EIS).

As the proposed action was considered likely to have a significant effect on the environment, Bonneville prepared an environmental impact statement. A tiered EIS procedure was followed. The Buckley-Summer Lake transmission line was initially discussed within a draft and final planning level EIS DOE/EIS-0005-FS-2). This EIS discussed the need for the project, several alternative electrical system plans by which these needs could be satisfied, and the probable environmental impacts of these alternatives. The final planning level EIS was filed on September 24, 1979, and served as a basis for Bonneville's decision to include the project in Bonneville's Congressional Budget for the Fiscal Year 1979 program and the decision on which electrical plan was preferable.

Following completion of the planning phase EIS (DOE/EIS-0005-FS-2), a location phase EIS (DOE/EIS-0050-FS) was prepared for the Buckley-Summer Lake line. This EIS provides a more detailed, site-specific analysis of environmental impacts, and alternative transmission line designs as well as operation and maintenance impacts. The title of Bonneville's location phase EIS is as follows:

Final Supplement—Final Environmental Impact Statement, Bonneville Power Administration, Proposed Fiscal Year 1979 Program, Facility Location Supplement, Southwest Oregon Area Service Buckley-Summer Lake 500-kV Line, U.S. Department of Energy, July 25, 1980.

Following discussions further describe Bonneville's decisions for the Buckley-Summer Lake project. Upon filing in the **Federal Register** this record of decision will be distributed to all agencies, organizations, and public who were on the official project mailing list.

Description of Decisions

BPA will build a 156-mile 500-kV transmission line extending in a north-south direction through Central Oregon (Attachment 1). The line will begin at the intersection of four existing BPA 500-kV transmission lines, 10 miles east of Maupin, Oregon, in Wasco County. From this point the line, which is adjacent to the east side of two existing 500-kV transmission lines, will extend south through Jefferson, Crook, and Deschutes Counties, to its southern terminus in Lake County, Oregon. The southern terminus is located about 10 miles south of Oregon State Highway 31 at the intersection of PP&L's Midpoint-Malin 500-kV transmission line (under construction) and the BPA and Portland General Electric (PGE) 500-kV AC Intertie lines near Summer Lake.

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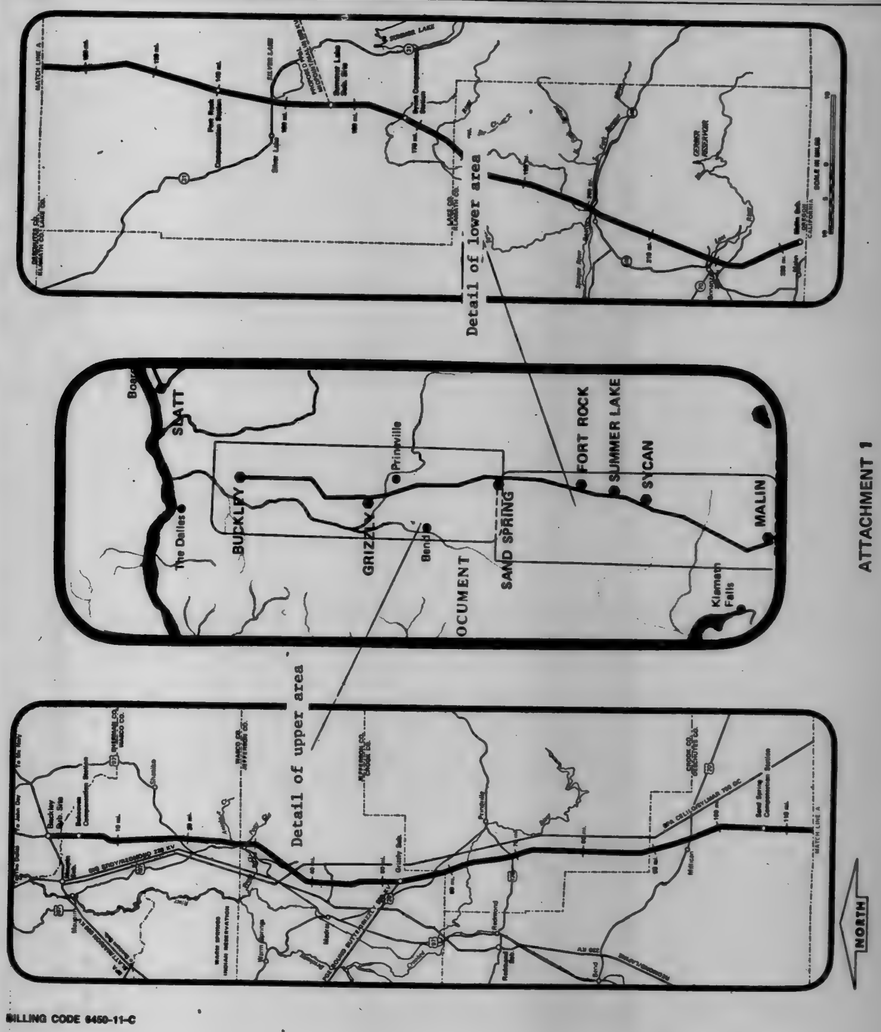

ATTACHMENT 1

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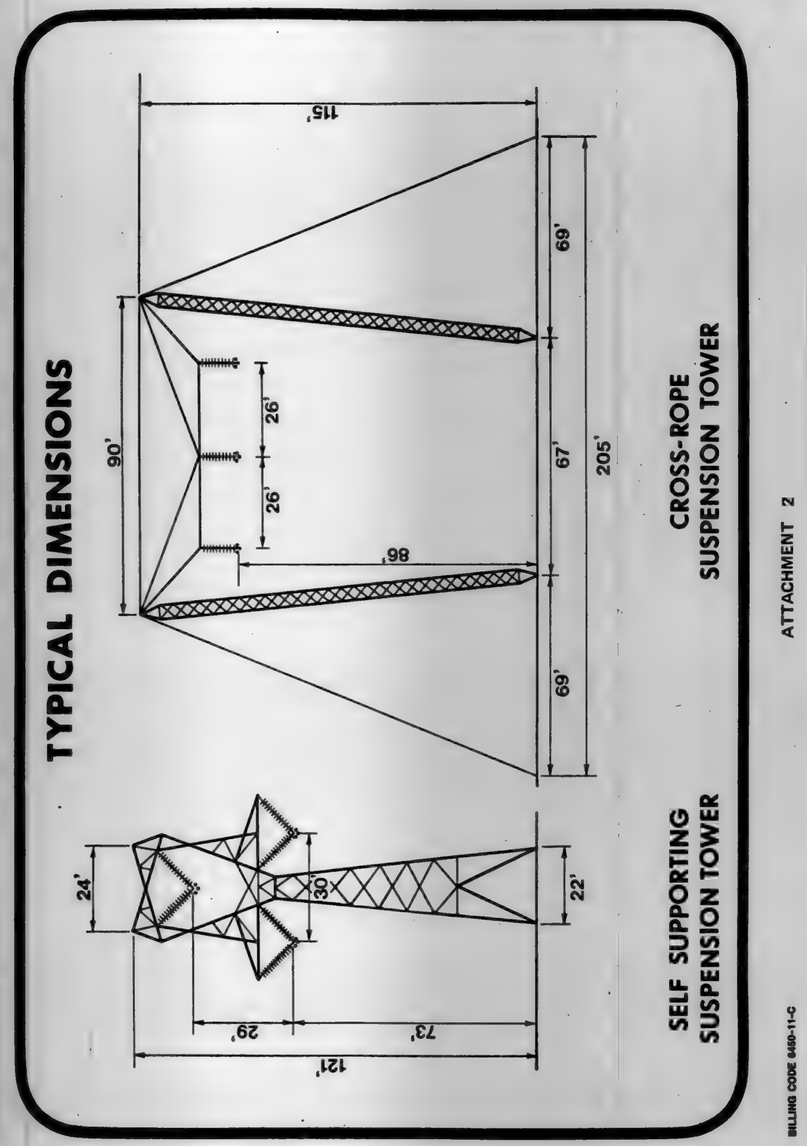

ATTACHMENT 2

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supporting structures are used, 77.5 feet right-of-way easement will be acquired. of right-of-way easement will be At cross-rope tower sites an additional acquired. Where cross-rope towers are easement of 220 feet (200 feet in length) used (23 miles) an additional 150 feet of will be acquired.

The line will utilize two types of transmission towers, lattice steel "delta" configuration self-supporting suspension towers and cross-rope suspension towers (Attachment 2). Where self-

Only minor access road construction and improvement will be required, as the roads acquired or constructed for the two existing lines will serve the new line over most of the route.

Approximately 10 acres of land will be acquired for the Buckley Substation. About 3,000 feet of access road will be developed. Although full site development at Buckley Substation will be completed initially, installation of electrical equipment will be minimal. Full development of the substation will not occur for several years.

Bonneville will develop the Summer Lake Substation during the same time period as the transmission line. The site is located ¼ mile north of the intersection of PP&L's Midpoint-Malin Line and the AC Intertie lines. The Summer Lake station will occupy a 35-acre site. In order to provide access to this site, about 8 miles of existing U.S. Forest Service access road will be upgraded and about 0.5 mile of new road will be constructed.

The total estimated cost for the project is $48.0 million. The Buckley-Summer Lake line is estimated to cost $35.8 million. Buckley and Summer Lake Substations are estimated to cost $7.4 and $4.8 million respectively.

Once constructed, Bonneville will operate and maintain these facilities. Maintenance actions such as routine and emergency repairs to electrical equipment within the substations and to the transmission line, and vegetation management, will ensure continued reliable operation.

Maintenance activities for Bonneville's transmission lines are being analyzed in a separate environmental impact statement on Bonneville's maintenance program. Vegetation management for the Buckley-Summer Lake transmission line will be very infrequent since growth rates are very slow in this area and few species will grow high enough to become a hazard to the line.

Description of Alternatives

The alternatives considered by Bonneville in reaching its decision were:

1. Nonconstruction Alternatives.
   a. No Action.
   b. Energy Conservation and Load Management.
2. Construction Alternatives.
   a. Transmission Line Route Alternatives.
   b. Transmission Line Design Alternatives.
   c. Substation Location Alternatives.
   d. Substation Design Alternatives.

Basis of Decision

The existing transmission system will not be adequate to meet requirements by the early 1980's. Bonneville evaluated several alternative solutions to this problem. Plans for several alternate combinations of transmission line additions were evaluated and discussed within the Southwest Oregon Service planning EIS (DOE/EIS–0005–FS–2) and a decision to upgrade the transmission system was subsequently made. Each of these alternatives analyzed in the planning EIS required the Buckley-Summer Lake transmission line; thus this facility is common to all known transmission construction alternatives.

Two nonconstruction options were evaluated. The first of these is the no action alternative. If the Buckley-Summer Lake line is not constructed, the electric utilities in the affected areas, primarily PP&L and BPA, will not be able to supply their load adequately. Local power deficits may result in brownouts or blackouts under certain system outage conditions. The lack of sufficient transmission caspacity to deliver power to these areas will prevent BPA from meeting some of its contractual commitments. BPA would be unable to serve its southern Idaho loads without purchase of power either within or adjacent to that region. No such power source (surplus to other utilities' needs) appears to be available.

After PP&L's Midpoint-Malin-Medford line is constructed, southern Oregon loads will be served adequately as long as the line is interconnected at Malin. However, because of this interconnection, an outage of the Midpoint-Malin section would result in a reduction of Intertie transfer capacity, since the Intertie would then be used to serve southern Oregon loads. The overall reliability of the Pacific Northwest/Pacific Southwest power system could be severely weakened. Construction of the Buckley-Summer Lake line would maintain Intertie transfer capability while providing backup to southern Oregon service as well as providing for future service to BPA central Oregon loads.

The other nonconstruction alternative considered was energy conservation and load management. Bonneville and other Northwest utilities have embarked on a multifaceted energy conservation program. Although these efforts are expected to reduce energy consumption, they will not forestall the need for the Buckley-Summer Lake line or fulfill the purposes and needs for which this facility is proposed.

The above considerations led to the decision that construction of the Buckley-Summer Lake project was the best solution. The location and design of the transmission line as well as the Buckley and Summer Lake Substations received consideration in the location phase EIS (DOE/EIS–005–FS). The bases of the location and design decisions are summarized below.

Only a parallel transmission line route was considered for the Buckley-Summer Lake transmission line. It is Bonneville's policy to avoid creating new transmission line corridors by placing new lines adjacent to existing lines or replacing lower-voltage lines with larger ones when possible. An existing 500-kV transmission line corridor extended the full distance between the proposed terminals of the Buckley-Summer Lake line. Environmental studies conducted by Bonneville staff uncovered no environmental conditions which warranted the analysis of a new and less environmentally sensitive route. Significant environmental benefits such as reduced access road requirements, reduced right-of-way clearing, and comparatively less visual and ecological impact were attributed to a parallel location. Consequently no alternative transmission line routes were evaluated.

The transmission line structures which will be used on the line are of two basic types. The self supporting tower design (illustrated in Attachment 2) is a standard BPA 500-kV design. This structure requires a particularly narrow right-of-way. It was designed for use where existing low-voltage lines are removed and replaced with a 500-kV line on the same right-of-way. This design will be used for most of the line.

Newly designed transmission structures referred to as "cross-rope" structures will be used between miles 40 and 63 of the line. Economics and research motives were primary factors in this decision. The design was developed by the electric power industry to reduce transmission structure costs. It requires only four towers per mile as compared to five for conventional towers. Bonneville decided to utilize these structures on a portion of its line in order to gain experience with this design. Resource conservation benefits will also occur, as steel requirements are reduced. Tower visibility will also be lower, with the use of fewer and smaller members.

Decisions on location of the Buckley and Summer Lake Substations were restricted due to necessary interconnections with existing transmission lines. Three alternative sites were evaluated for Buckley Substation. After extensive discussions with landowners, a site was selected which was most acceptable tol the

landowners and would minimize impacts to farm operations. Where possible, transmission towers in the vicinity of the substation were placed on rocky outcroppings which were unsuitable for crops. The access road was rerouted to minimize its impact on tillable land. Bonneville has decided to install a gas-insulated station at Buckley in order to keep the size of the site to a minimum. This type of station requires one-third the acreage of a conventional air-insulated station.

The site selected for Summer Lake Substation is located near the junction of PP&L's new Midpoint-Malin line and the existing transmission line corridor which the Buckley-Summer Lake line will follow. Environmental conditions are fairly homogenous in the area. The availability of an existing access road to the site was a major factor in its selection. Bonneville's proposal to locate a substation at this site did not elicit any public comment.

The Summer Lake Substation will be an air-insulated substation designed to minimize the need for plowing snow inside the substation. This reduces the need for paving inside the substation and minimizes the impact of construction at the site. A gas-insulated substation was found to be impractical because of weather conditions.

Providing access for construction and maintenance of the transmission line will require less than 1 mile of new road construction and improvement of about 2 miles of existing roads outside of the right-of-way. Most of the route will be served by roads acquired or constructed for the two existing lines. Buckley Substation will require the construction of about 3,000 feet of access road. Summer Lake Substation will require upgrading of about 8 miles of existing forest service access road, and about 2,500 feet of new access road.

Environmentally Preferred Alternative

Bonneville defines the "environmentally preferred alternative" as that alternative which best meets the purposes of NEPA Section 101. The provisions of NEPA Section 101 direct agencies of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to conduct their actions in a manner that:

1. Fullfills the responsibilities of each generation as trustee of the environment for succeeding generations;
2. Assures for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;
3. Attains the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
4. Preserves important historic, cultural, and natural aspects of our national heritage, and maintains, wherever possible, an environment which supports diversity, and variety of individual choice;
5. Achieves a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
6. Enhances the quality of renewable resources and approaches the maximum attainable recycling of depletable resources.

In response to these considerations, Bonneville determined that the selected alternative was environmentally preferable. Environmental studies concluded that a parallel transmission line route would have the least environmental impact. Therefore, no alternative routes were evaluated. Selection of the environmentally preferred alternative is thus based on comparison of Bonneville's proposal and the no action alternative.

Although the proposal results in adverse environmental effects, these are within established limits, and Bonneville's mitigation commitments establish adequate means by which to avoid or minimize environmental harm. Public review and comment on the project EIS did not uncover facts suggesting that unsatisfactory effects on public health, welfare or environmental quality would result from the Buckley Summer Lake project.

A number of beneficial impacts would result from this project. The proposal will assure reliable electrical service to customers of both PP&L and Bonneville in the affected areas. The proposed facilities will prevent brownouts or blackouts under certain outrage conditions as well as provide sufficient transmission capacity for Bonneville to meet its contractual commitments. The proposal also assures that transfer capability over the Pacific Northwest/Pacific Southwest Intertie is maintained while providing for future service to Central Oregon loads.

The proposed action thus assures environmental protection while attaining the widest range of beneficial uses of the environment. A balance is achieved between population and resources use that will permit high standards of living and a wide sharing of life's amenities.

The no action alternative, although avoiding the identified adverse impacts to the natural environment, would not provide the beneficial impacts attributatable to the proposal. With respect to the purposes of NEPA, as expressed in Section 101, the no action alternative does not attain the widest range of beneficial uses of the environmental nor does it achieve a balance between resources use that permits a high standard of living or a sharing of life's amenities.

On balance, it is Bonneville's conclusion that the environmentally preferred alternative is to have the line and its benefits.

Impact Mitigation and Monitoring Actions

All practicable means to avoid or minimize environmental harm have been adopted. As descriped in the final Buckley-Summer Lake EIS, Bonneville will take the following actions to minimize environmental impacts:

1. Bonneville will implement, through its contruction representatives and the construction contractor, the environmental quality protection provisions set forth in the Tranmission Engineering Standard Construction Specifications, 1978, Bonneville Power Administration, U.S. Department of Energy.
2. Bonneville, the course of its environmental studies, identified four historic sites and 37 archaeological sites along the transmission line which are potentially eligible for the National Register of Historic places. Site testing of the archaeological sites and consultation with the Oregon SHPO is still in progress. In the meantime Bonneville will take no actions having adverse effects on these archaeological sites. Where adverse impact cannot be avoided, mitigation and/or excavation actions will first be undertaken in accordance with Section 106 of the National Historic Preservation Act and with the guidance of the State Historic Preservation Officer.
3. In accordance with the Bonneville/U.S. Forest Service Memorandum of Understanding, a joint-project plan will be completed for line and facility locations on U.S. Forest Service lands. The plan will be prepared to develop the land-use grant and will assist in coordinating BPA contractor and Forest Service actions. A right-of-way management plan will be jointly prepared by the Forest Service and BPA prior to completion of construction. It will define methods to be used in right-of-way maintenance which protect the environment as well as assure operational realibility of the line.
4. Bonneville construction representatives will review soil erosion measures with local soil and water control districts.
5. Right-of-way clearing will be limited to that which is necessary to construct the line and to assure its reliable operation.
6. To limit dust and localized air pollution, Bonneville will minimize soil disturbance, will limit the type of construction equipment and allowable speeds, will surface unpaved roads in sensitive areas with crushed rock and will comply with Oregon State Department of Environmental Quality (DEQ) regulations regarding slash disposal.
7. Vehicle access will be limited to specific work areas and designated roads. Activities such as road construction and grading will be kept to a minimum. Prior to the start of construction, an access road plan will be prepared which establishes a single travel route for use during construction. This plan will be incorporated in the construction specifications and enforced by Bonneville construction representatives.
8. Access roads will avoid steep slopes to the maximum extent possible and when not possible water bars will be installed and exposed soils seeded or stabilized by other appropriate methods.
9. Disposal of excess earth and rock will be limited to areas of minimum impact. Site approval will be made by Bonneville's construction representative and will follow Federal, State and local regulations as well as good environmental practices.
10. Crushed rock and other road and fill material will be obtained only from environmentally approved sites. Site approval will be made by Bonneville's construction representative and will follow Federal, State and local regulations as well as good environmental practices.
11. Construction in areas susceptable to high wind or water erosion would be timed to avoid seasonal periods of high wind or intense rain.
12. Impact on ecologically sensitive areas including wetland areas will be avoided by careful tower and access road locations. At a minimum, disturbance in such areas will be avoided immediately prior to spring run-off.
13. Construction schedules within the Crooked River National Grasslands (miles 40–63) will be coordinated with the Deschutes National Forest.
14. Access roads required in forested lands will follow cleared areas and removal of trees will be avoided to the extent practicable.
15. Construction activities will be limited in the vicinity of Silver Lake during the waterfowl and upland bird nesting which occurs during March, April, and May.
16. Construction across identified deer/antelope winter ranges near Silver Lake (miles 95–120) will be coordinated with the Lakeview District of the Oregon State Department of Game.
17. Footing installation and tower erection in the Prineville area will be completed between October and mid-February to reduce crop damage.
18. BPA or its contractor will cooperate with property owners to minimize crop and property damage. BPA or its contractors will pay fair compensation for damages incurred including modifications to sprinkler systems made necessary by tower locations.
19. Visual impacts to Antelope Creek, Pony Creek, and the Crooked River, will be minimized to the extent possible by selecting topographically screened tower locations and minimizing ground disturbance.
20. To minimize impacts to agricultural lands, transmission line towers will be placed at field edges or in uncultivated areas when practicable.
21. Roads previously used for logging or construction of the adjacent transmission line will be used whenever practicable to avoid additional ground disturbance.
22. If the new facilities cause television or radio interference, mitigation in accordance with Bonneville policy will be undertaken. Similiarly, if railroad or telephone interference are created, mitigation actions will be implemented.
23. Near Madras, Oregon, the transmission line is parallel to a pipeline. If necesary, Bonneville will utilize mitigation measures to minimize induced current in this pipeline.
24. In areas where ground disturbance causes an erosion problem, non-palatable species will be planted. Where practicable, grazing will be deferred for at least 3 years to enhance recovery.

The above provisions will be incorporated in Bonneville's construction specifications and enforced by Boneville's construction representatives as part of Bonneville's monitoring and enforcement program. A monthly project environmental progress report will describe the status of environmental mitigation measures. Periodic field inspections in sensitive areas will be made by BPA environmental specialists if determined to be appropriate.

Other Determinations

Floodplain determination—Bonneville, in response to Executive Order 11988—*Floodplain Management* and Department of Energy's *Compliance With Floodplain/Wetlands Environmental Review Requirements* (10 CFR 1022.15), evaluated in the draft and final EIS, the potential effects of the Buckley-Summer Lake project on floodplains. The transmission line crosses the Crooked River Valley at a point where the 100-year floodplain is narrow in width (about 350 feet). The transmission line will span both the river and the floodplain. As no transmission structures or access roads will be located within the floodplain, this is not a floodplain action within the meaning of DOE Floodplain/Wetland Environmental Review Requirements. Bonneville did; however, review in the final EIS the environmental impacts of crossing the floodplain. Visual impact on the area's scenic qualities was the primary impact. Use of an alternative route that would avoid crossing the floodplain would substantially increase the length of the line, significantly increase costs, and no doubt create impacts to other resources. For these reasons, Bonneville has determined that there is no practicable alternative to crossing the Crooked River floodplain.

Preservation of Farmlands—The Buckley-Summer Lake transmission line crosses farmlands in several locations, some of which are termed "prime and unique" by the U.S. Department of Agriculture. The Buckley Substation is located on wheatland. It is estimated that transmission tower bases may remove as much as 0.6 acres of prime and unique farmland from production. About 14.2 acres of agricultural land (not classified prime) would be converted to other use following construction of the Buckley Substation, the access road for Buckley Substation, and transmission tower bases.

The location and design of the Buckley Substation was coordinated with the landowner to minimize impact on agricultural uses. Several substation sites were evaluated. The use of these sites would have required construction of additional transmission line across farmlands. Transmission lines costs would also be greater. The selected site has the lowest overal effect on agriculture of those considered.

The Buckley-Summer Lake line follows an existing transmission line which crosses agricultural lands. Parallel location will reduce argicultural impacts. Careful tower placement will minimize disruption of agricultural operations.

The national interest is served both by preservation of agricultural lands as well as providing for electrical service. There are no practicable alternatives which would allow both of these interests to be served without conversion of that agricultural land

described above. All practicable means to minimize agricultural impacts have

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described above. All practicable means to minimize agricultural impacts have been adopted by Bonneville.

Rare and Endangered Species—Bonneville has consulted with the U.S. Fish and Wildlife Service (USFWS) pursuant to the Endangered Species Act of 1973. Bonneville prepared a biological assessment which concluded that the Buckley-Summer Lake project would have no impact on rare and endangered species. The USFWS concurred with Bonneville's biological assessment on April 18, 1980.

Wetlands Protection—The Buckley-Summer Lake transmission line will cross several marshy areas that are adjacent to slow moving rivers and streams. These wetland areas are linear in configuration and there is not practicable alternative to crossing them. Bonneville will avoid placing towers or access roads within wetlands.

Intergovernmental Cooperation—In accordance with the procedures outlined by the Office of Management and Budget (OMB) Circular No. A–95, Bonneville transmitted its draft and final environmental impact statements to involved Federal, State and local clearinghouses. It is Bonneville's determination that the Buckley-Summer Lake project is consistent and compatible with State, area and local development plans. This record of decision will be distributed to A–95 clearinghouses to notify them of actions to be taken.

Dated at Portland, Oregon, this 10th day of November, 1980.

Ray Foleen,

Acting Administrator.

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Briefings on How To Use the Federal Register—For details on briefings in **Washington, D.C.**, see announcement in the **Reader Aids** section at the end of this issue.

78615 **Death of John W. McCormack** Executive Order

78617 **Upland cotton impact quota** Presidential Proclamation

78962 **Education** ED proposes amending regulations for the Bilingual Education Training Projects Program and gives notice of closing date for new projects under the Bilingual Education Act; comments by 1–12–81, various closing dates (Part IV of this issue) (4 documents)

78918 **Improving Government Regulations** Commerce publishes semiannual agenda of significant regulations (Part III of this issue)

78755 **Grant Programs—Education** ED extends closing dates for the fund for the Improvement of Postsecondary Education Program; new dates 12–2–80 and 1–21–81

78798 **Clean Air** EPA publishes notice regarding motor vehicle recall

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

78700 **Grant Programs—Energy** DOE/SOLAR extends comment period to 12-8-80 on energy audit training and certification grants

78624 **Credit Unions** NCUA publishes proposal regarding State chartered Federally insured credit unions as most favored lenders; effective 11-19-80

78980 **Environmental Protection** EPA proposes standards limiting emissions of volatile organic compounds from new, modified, and reconstructed beverage can surface coating operations; comments by 2-5-81 (Part VI of this issue)

78726 **Old-age, Survivors and Disability Insurance** HHS/SSA proposes continued payment of benefits to individuals under Vocational Rehabilitation plans

78735 **Grant Programs—Withdrawal** HHS/PHS withdraws notice of decision to develop regulations to cover formula grants for preventive health service programs; effective 11-26-80

78630 **Safety** CPSC exempts child-protection packaging requirements for sodium fluoride drug preparations, including liquid and tablet forms; exemption effective 11-26-80

78624 **Banking** FRS publishes regulations regarding changes in discount rates

78689 **Television** FCC publishes regulations regarding type acceptance of broadcasting equipment; effective various dates

78633 **Income Tax** Treasury/IRS provides regulations relating to definition of "land used in farming" for purpose of determining whether soil and water conservation expenditures are deductible; effective taxable years beginning after 1953

78902 **Surface Mining** Interior/BLM publishes regulations regarding surface management of Public Lands under U.S. Mining Laws; effective 1-1-81 (Part II of this issue)

78727, 78747-78749 **Privacy Act Documents** DOD (5 documents)

78851 **Sunshine Act Meetings**

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Federal Register
Vol. 45, No. 230
Wednesday, November 26, 1980

Presidential Documents

Title 3—
The President

Executive Order 12252 of November 24, 1980

The Honorable John William McCormack

As a mark of respect to the memory of the Honorable John William McCormack, former Speaker of the United States House of Representatives and a Representative of the State of Massachusetts, it is hereby ordered, pursuant to the provisions of Section 4 of Proclamation 3044 of March 1, 1954, as amended, that until interment, the flag of the United States shall be flown at half-staff on all buildings, grounds and naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions. I also direct that the flag shall be flown at half-staff for the same length of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

Jimmy Carter

THE WHITE HOUSE,
November 24, 1980.

[FR Doc. 80-37047
Filed 11-24-80; 2:55 pm]
Billing code 3195-01-M

Presidential Documents

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Presidential Documents

Proclamation 4805 of November 24, 1980

Special Limited Global Import Quota for Upland Cotton

By the President of the United States of America

A Proclamation

1. Section 103(f)(1) of the Agricultural Act of 1949, as added by Section 602 of the Food and Agriculture Act of 1977 (the Act) (91 Stat. 913, 934; 7 U.S.C. 1444(f)(1)), provides that whenever the Secretary of Agriculture determines that the average price of Strict Low Middling one and one-sixteenth inch cotton (micronaire 3.5 through 4.9), hereinafter referred to as "Strict Low Middling Cotton," in the designated United States spot markets for a month exceeded 130 per centum of the average price of such quality of cotton in such markets for the preceding thirty-six months, notwithstanding any other provisions of law, the President shall immediately establish and proclaim a special limited global import quota for upland cotton. A quota, effective from April 3 through July 2, 1980, was placed in effect by Proclamation No. 4742.

2. When a special quota has been established during the preceding twelve months, the amount of the next quota is to be the smaller of twenty-one days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent three months for which data are available or the amount required to increase the supply to 130 percent of the demand. The quota is to remain in effect for a ninety-day period.

3. The Secretary of Agriculture has informed me that he has determined that the average price of Strict Low Middling Cotton in the designated spot markets for the month of September 1980 has exceeded 130 per centum of the average price of such cotton in such markets for the preceding thirty-six months. The Secretary's determination was based upon the following data:

(a) The average price of Strict Low Middling Cotton in the designated spot markets for the month of September 1980 was 87.1 cents per pound.

(b) The average price of Strict Low Middling Cotton in the designated spot markets for the thirty-six months preceding the month of September 1980 (September 1977 through August 1980) was 62.85 cents per pound.

4. Twenty-one days of domestic mill consumption of upland cotton, which is any variety of the Gossypium hirsutum species of cotton, at the seasonally adjusted rate of the most recent three months for which data are available (June 1980 through August 1980) is 238,633,920 pounds.

5. On the basis of computations made in accordance with Section 103(f)(1) of the Act, a quantity of 261,757,920 pounds of upland cotton is required to increase the supply of such cotton to 130 percent of the demand therefor.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by the Constitution and Statutes of the United States of America, including Section 103(f)(1) of the Agricultural Act of

1949, as added by Section 602 of the Food and Agriculture Act of 1977, and in

Rules and Regulations

1949, as added by Section 602 of the Food and Agriculture Act of 1977, and in order to establish a special ninety-day limited global import quota for 238,633,920 pounds of upland cotton, do proclaim that the temporary provision set forth in item 955.07 of Part 3 of the Appendix to the Tariff Schedules of the United States is hereby amended to read as follows:

"Item	*Article*	*Quota Quantity (in pounds)*
955.07	Notwithstanding any other quantitative limitations on the importation of cotton, upland cotton, if accompanied by an original certificate of an official of a government agency of the country in which the cotton was produced attesting to the fact that cotton is a variety of the Gossypium hirsutum species of cotton, may be entered during the 90-day period November 28, 1980 through February 25, 1981	238,633,920 pounds".

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of November, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80-37129
Filed 11-25-80; 10:39 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 45, No. 230
Wednesday, November 26, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

Cherries Grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland; Revision of Interest Rate

AGENCY: Agricultural Marketing Service, USDA

ACTION: Final rule.

SUMMARY: This action changes the interest rate charged on delinquent assessments from one percent to one and one-half percent per month. The action is necessary to bring the interest rate more into line with current comparable rates.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202-447-5975. The Final Impact Analysis relative to this action is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and is classified "not significant." Notice was published in the October 29, 1980, issue of the **Federal Register** (45 F.R. 71571) that the Department was considering a proposal to change the interest rate charged handlers for delinquent assessments from one percent to one and one-half percent per month. A 15-day comment period was provided. No comments were received.

This action was unanimously recommended by the Cherry Administrative Board under § 930.41(b) of marketing Order No. 930 (7 CFR Part 930). The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Board is the agency established under the order to administer its terms and conditions. Under the marketing order, the Board may charge interest on assessments not paid by handlers within a prescribed time after billing. The current interest charge of one percent per month on the unpaid balance has been in effect since 1972. This action will revise the charge to one and one-half percent per month to reflect a rate more in line with current comparable rates.

It is hereby found that this action will tend to effectuate the declared policy of the act. Therefore, paragraph (b) of § 930.107 Subpart—Rules and Regulations (7 CFR 930.101-930.591) is revised to read as follows:

§ 930.107 Assessment procedure.

* * * * *

(b) Each handler shall pay interest of one and one-half percent per month on any unpaid balance beginning 30 days after date of billing.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674))

Dated: November 21, 1980, to become effective January 1, 1981.

D. S. Kuryloski,

Deputy Director Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-38938 Filed 11-25-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 966

Tomatoes Grown in Florida; Approval of Amendment No. 1 to Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment extends through June 13, 1981, the minimum grade, size, pack, container, marking and inspection requirements effective from October 12 through November 30, 1980, for tomatoes grown in certain counties in Florida. It promotes orderly marketing of such tomatoes and keeps less desirable sizes and qualities from being shipped to consumers.

EFFECTIVE DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447-2615. The Final Impact Statement relative to this final rule is available on request from Mr. Porter.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant."

Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR Part 966) regulate the handling of tomatoes grown in designated counties of Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Florida Tomato Committee, established under the order, is responsible for its local administration.

Notice of proposed rulemaking was published in the October 20, 1980, **Federal Register** (45 FR 69245) inviting comments by November 19, 1980. None was filed.

The amendment is based upon recommendations made by the committee at its public meeting in Palm Beach, Florida, on September 5, 1980.

The recommendations of the committee reflect its appraisal of the composition of the 1980-81 crop of Florida Tomatoes and the marketing prospects for this season. The regulation

is similar to those issued during past

Florida production areas close to urban

compliance with this section should not

(3) *Containers.* (i) Tomatoes shall be

appeal to the committee for

is similar to those issued during past seasons and to the temporary regulation in effect during October 12 through November 30, 1980. The grade and size requirements are necessary to prevent tomatoes of lower quality and undesirable size from being distributed in fresh market channels. Such tomatoes are usually of negligible economic value to producers. This will provide consumers with tomatoes of good quality and size throughout the season consistent with the overall quality of the crop. During past seasons, some problems were encountered in properly sizing varieties that have a tendency towards an oblong shape when grown under unfavorable weather conditions. This season, as in the previous one, a 2/32 inch overlap of sizes is permitted to help alleviate the problem. The requirements, including those of containers, container net weights, and size classifications, are intended to standardize shipments in the interest of orderly marketing and to improve returns to growers.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Shipments may be allowed to certain special purpose outlets without regard to minimum grade, size, container or inspection requirements provided that safeguards are used to prevent such tomatoes from reaching unauthorized outlets. Tomatoes for canning are exempt under the legislative authority for this part. Since no purpose would be served by regulating tomatoes used for relief, experimental or charity purposes such shipments are also exempt. Because export requirements differ materially, on occasion, from domestic market requirements such shipments are exempt.

The following types of tomatoes are exempt from these regulations: elongated types commonly referred to as pear shaped or paste tomatoes, cerasiform type tomatoes commonly referred to as cherry tomatoes, hydroponic tomatoes and greenhouse tomatoes. Such types are generally of good quality, readily identifiable either by their distinctive shapes or container markings and usually comprise a very small part of the total crop. Only tomatoes shipped outside the regulated area are being regulated because of an increase in the U-pick type of harvest in Florida production areas close to urban areas and resulting difficulty in obtaining compliance with regulations. The minimum quantity exemption permits persons to handle up to 60 pounds of tomatoes per day without regard to the requirements of this part. This reduces the problem of enforcement on small shipments of essentially noncommercial nature. The requirements concerning special pack shipments are intended to help handlers in the production area compete on an equal basis with those outside the area by not requiring reinspection of previously inspected and certified tomatoes when repacked in consumer size packages.

Occasionally individual fruit of several new varieties, including Flora-Dade, may be elongated in shape. This characteristic may be exaggerated by adverse growing conditions. It is anticipated that handlers packing these varieties usually will be able to comply with all provisions of the regulation. However, if situations arise in which the incidence of tomatoes not of the normal globular shape makes sizing in accordance with present grade standards infeasible, the affected varieties may be exempted from the size requirements of the regulation.

Findings. After consideration of all relevant matters presented, including the above proposal recommended by the Florida Tomato Committee, established pursuant to said marketing agreement and order, it is hereby found and determined that the amendment to the handling regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) and that (1) shipments of the 1980–81 crop tomatoes grown in the production area have begun and the regulation should become effective on the effective date herein to maximize benefits to producers; (2) information regarding the provisions of the recommendation by the committee has been disseminated among the growers and handlers of tomatoes in the production area; (3) a temporary regulation with identical requirements is effective for the period October 12 through November 30, 1980; and (4) compliance with this section should not require any special preparation on the part of handlers subject thereto which cannot be completed by such effective date.

Section 966.319 (45 FR 67298, October 10, 1980) is amended as follows:

§ 966.319 Handling regulation.

During the period December 1, 1980, through June 13, 1981, no person shall handle any lot of tomatoes for shipment outside the regulated area unless they meet the requirements of paragraph (a) of this section or are exempted by paragraphs (b) or (d) of this section.

(a) *Grade, size, container and inspection requirements.*—(1) *Grade.* Tomatoes shall be graded and meet the requirements specified for U.S. No. 1, U.S. Combination, U.S. No. 2, or U.S. No. 3, of the U.S. Standards for Grades of Fresh Tomatoes. When not more than 15 percent of tomatoes in any lot fail to meet the requirements of U.S. No. 1 grade and not more than one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than one percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U.S. No. 1 grade.

(2) *Size.* (i) Tomatoes shall be at least 2$^{3}/_{32}$ inches in diameter and be sized in one or more of the following ranges of diameters. Measurement of diameters shall be in accordance with the methods prescribed in § 2851.1859 of the U.S. Standards for Grades of Fresh Tomatoes.

Size Classification	Inches	
	Minimum diameter	Maximum diameter
7x7	2$^{3}/_{32}$	2$^{9}/_{32}$
6x7	2$^{7}/_{32}$	2$^{11}/_{32}$
6x6	2$^{11}/_{32}$	2$^{25}/_{32}$
5x6 and larger	2$^{15}/_{32}$	

(ii) Tomatoes of designated sizes may not be commingled unless they are over 2$^{15}/_{32}$ inches in diameter and each container shall be marked to indicate the designated size.

(iii) Only numerical terms may be used to indicate the above listed size designations on containers of tomatoes, except when tomatoes are commingled the containers can be marked 6x6 & Lgr. or 5x6 & Lgr.

(iv) To allow for variations incident to proper sizing, not more than a total of ten (10) percent, by count, of the tomatoes in any lot may be smaller than the specified minimum diameter or larger than the maximum diameter.

(3) *Containers.* (i) Tomatoes shall be packed in containers of 20, 30 or 40 pounds designated net weights and comply with the requirements of § 2851.1863 of the U.S. tomato standards.

(ii) Each container shall be marked to indicate the designated net weight and must show the name and address of the shipper in letters at least one-fourth (¼) inch high.

(iii) If the container in which the tomatoes are packed is not clean and bright in appearance without marks, stains, or other evidence of previous use, the lid of such container shall be marked in a principal display area at least 2½ inches high and 4¼ inches long with the words "USED BOX" in letters not less than 1¼ inches high and the name of the shipper and point of origin in letters not less than ⅜ inch high.

(4) *Inspection.* Tomatoes shall be inspected and certified pursuant to the provisions of § 966.60. Each handler who applies for inspection shall register with the committee pursuant to § 966.113. Handlers shall pay assessments as provided in § 966.42. Evidence of inspection must accompany truck shipments.

(b) *Special purpose shipments.* The requirements of paragraph (a) of this section shall not be applicable to shipments of tomatoes for canning, experimental purposes, relief, charity or export if the handler thereof complies with the safeguard requirements of paragraph (c) of this section. Shipments for canning are also exempt from the assessment requirements of this part.

(c) *Safeguards.* Each handler making shipments of tomatoes for canning, experimental purposes, relief, charity or export in accordance with paragraph (b) of this section shall:

(1) Apply to the committee and obtain a Certificate of Privilege to make such shipments.

(2) Prepare on forms furnished by the committee a report in quadruplicate on such shipments authorized in paragraph (b) of this section.

(3) Bill or consign each shipment directly to the designated applicable receiver.

(4) Forward one copy of such report to the committee office and two copies to the receiver for signing and returning one copy to the committee office. Failure of the handler or receiver to report such shipments by signing and returning the applicable report to the committee office within ten days after shipment may be cause for cancellation of such handler's certificate and/or receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of any such certificate, the handler may appeal to the committee for reconsideration.

(d) *Exemption*—(1) *For types.* The following types of tomatoes are exempt from this regulation: Elongated types commonly referred to as pear shaped or paste tomatoes and including but not limited to San Marzano, Red Top and Roma varieties; cerasiform type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes.

(2) *For minimum quantity.* For purposes of this regulation each person subject thereto may handle up to but not to exceed 60 pounds of tomatoes per day without regard to the requirements of this regulation but this exemption shall not apply to any shipment or any portion thereof of over 60 pounds of tomatoes.

(3) *For special packed tomatoes.* Tomatoes which met the inspection requirements of paragraph (a)(4) of this section which are resorted, regraded and repacked by a handler who has been designated as a "Certified Tomato Repacker" by the committee are exempt from (i) the tomato grade classifications of paragraph (a)(1), (ii) the size classifications of paragraph (a)(2) except that the tomatoes shall be at least 2$^{3}/_{32}$ inches in diameter and (iii) the container weight requirements of paragraph (a)(3).

(4) *For varieties.* Upon recommendation of the committee, varieties of tomatoes that are elongated or otherwise misshapen due to adverse growing conditions may be exempt by the Secretary from the provisions of paragraph (a)(2) *Size.*

(e) *Definitions.* "Hydroponic tomatoes" means tomatoes grown in solution without soil; "greenhouse tomatoes" means tomatoes grown indoors. A "Certified Tomato Repacker" is a repacker of tomatoes in the regulated area who has the facilities for handling, regrading, resorting and repacking tomatoes into consumer size packages and has been certified as such by the committee. "U.S. tomato standards" means the revised United States Standards for Grades of Fresh Tomatoes (7 CFR 2851.1855–2851.1877), effective December 1, 1973, as amended, or variations thereof specified in this section. Other terms in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amended, and this part, and the U.S. tomato standards.

(f) *Applicability to imports.* Under Section 8e of the act and Section 980.212 "Import regulations" (7 CFR 980.212) tomatoes imported during the effective period of this section shall be at least U.S. No. 3 grade and at least 2$^{3}/_{32}$ inches in diameter. Not more than 10 percent,

by count, in any lot may be smaller than

Kelly M. Harrison, General Sales

§ 1493.9 Payment of loss.

in 9 CFR Part 82, as amended. Therefore,

Done at Washington, D.C. this 20th day of

benefit to affected persons. It does not

by count, in any lot may be smaller than the minimum specified diameter.

(Secs. 1–10, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated November 21, 1980 to become effective December 1, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-36830 Filed 11-25-80; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1493

[Amdt. 1]

Export Credit Guarantee Program (GSM–102); Guaranteeing Against Defaults by Foreign Banks

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the CCC Export Credit Guarantee Program—Subpart A—Guaranteeing Against Defaults by Foreign Banks (7 CFR Part 1493) to make it clear that (1) CCC will not, for any actions, omissions or statements made by an exporter over which the assignee has not control, reduce its liability or annul its coverage under a payment guarantee to an assignee for any commodities shipped, and (2) CCC will not withhold any portion of the proceeds that may become due and payable to the assignee under the payment guarantee even if an exporter has obtained other coverage for such loss.

EFFECTIVE DATE: November 25, 1980. Comments by January 26, 1981.

FOR FURTHER INFORMATION CONTACT: L. T. McElvain or Thomas Pomeroy, Export Credits, Foreign Agricultural Service, U.S. Department of Agriculture, 14th Street and Independence Avenue SW, Washington, D.C. 20250, telephone (202) 447–3224. Actions of this kind were anticipated under the provisions of 7 CFR Part 1493 and are specifically considered in the Final Impact Statement prepared for that part. That Final Impact Statement which describes the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individuals.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 120446, and has been classified as "not significant".

Kelly M. Harrison, General Sales Manager, FAS has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action because CCC has received a number of inquiries from state and national banks concerning the assignee's protection under the CCC Export Guarantee Program.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedures with respect to this emergency final action are impracticable and contrary to the public interest, and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendment required can be published in the **Federal Register** as soon as possible.

The amendment will make clear to assignees of payment guarantees that, where commodities have been exported, CCC does not intend to hold them responsible or take any action or raise any defense against any assignee for any action, omission or statement made by an exporter, over which the assignee has no control, provided the exporter submits the report required under 7 CFR 1493.7 and the exporter or the assignee provides the statements and documents specified in Section 1493.8. However, CCC still retains its rights to annul the payment guarantee with respect to commodities which have not been shipped in the situation above-described.

The amendment will also assure that CCC will not withhold any portion of the amount due from CCC to the assignees under CCC's payment guarantee where the exporter has obtained other coverage for the same loss. CCC's rights are protected in this regard since the exporter is required under Section 1493.10 to turn over to CCC any monies received from any source for the defaulted payment.

Accordingly, 7 CFR Part 1493, CCC Export Credit Guarantee Program (GSM–102), Subpart A—Guaranteeing Against Defaults by Foreign Banks, is amended as follows:

Section 1493.9 is amended by revising paragraph (b) and adding a new paragraph (d) to read as follows:

§ 1493.9 Payment of loss.

* * * * *

(b) CCC's maximum liability will be limited to the lesser of (1) the guaranteed value as shown in the payment guarantee plus eligible interest or (2) the percentage of the exported value as specified in the payment guarantee plus eligible interest.

* * * * *

(d) Notwithstanding any other provision of the regulations set forth in this Subpart to the contrary, with regard to commodities shipped to which the payment guarantee is applicable CCC will not hold the assignee responsible or take any action or raise any defense against the assignee for any action, omission or statement by the exporter over which the assignee has no control provided that (1) the exporter complies with the reporting requirements under § 1493.7 and (2) the exporter or the exporter's assignee furnishes the statements and documents specified in § 1493.8.

(Sec. 5(f), 62 Stat. 1072 (15 U.S.C. 714c(f)))

Signed at Washington, D.C. on November 18, 1980.

Fred C. Welz,

Acting Vice President, Commodity Credit Corporation and General Sales Manager, Foreign Agricultural Service.

[FR Doc. 80-36691 Filed 11-25-80; 8:45 am]

BILLING CODE 3410-10-M

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Harris County in Texas, from areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the area quarantined.

EFFECTIVE DATE: November 20, 1980.

FOR FURTHER INFORMATION CONTACT: C. G. Mason, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, 6505 Belcrest Road, Federal Building, Room 751, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: This amendment excludes a portion of Harris County in Texas, from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded area.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect.

In § 82.3(a)(3), relating to the State of Texas, paragraph (v) relating to the premises of Exotex, Inc., (David Allen), 5720 Bingle Road, Houston, Harris County is deleted.

* * * * *

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

This amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by E. C. Sharman, Acting Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C. this 20th day of November, 1980.

Norvan L. Meyer,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-36866 Filed 11-25-80; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Area Released From Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release a portion of Hawaii County in Hawaii, from areas quarantined because of exotic Newcastle disease. Surveillance activity indicates that exotic Newcastle disease no longer exists in the area quarantined.

EFFECTIVE DATE: November 20, 1980.

FOR FURTHER INFORMATION CONTACT: C. G. Mason, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, 6505 Belcrest Road, Federal Building, Room 751, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: This amendment excludes a portion of Hawaii County in Hawaii, from the areas quarantined because of exotic Newcastle disease under the regulations in 9 CFR Part 82, as amended. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded area.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect.

In § 82.3(a)(13), relating to the State of Hawaii, paragraph (i) relating to the premises of Avian Distributions, Inc., (John L. Sobel), Makuu Road, Keaau, Hawaii County is deleted.

* * * * *

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

This amendment relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by E. C. Sharman, Acting Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 20th day of November 1980.

Norvan L. Meyer,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-36739 Filed 11-25-80; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

Licensing Requirements for the Storage of Spent Fuel in an Independent Fuel Spent Storage Installation; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: In a **Federal Register** document published on November 12, 1980 (45 FR 74693), the NRC added a new Part 72 to its regulations to cover the specific licensing requirements for the storage of spent fuel in an independent spent fuel storage installation (ISFSI). The effective date was inadvertently printed as November 28, 1980. This document corrects the

error and publishes the effective date of

§ 201.51 Short term adjustment credit for

§ 201.53 Emergency credit for other than

from a credit union and a trade

The first question, then, is how should

the "rate allowed" is different from the

V 45 N 230 26 80 UMI

error and publishes the effective date of December 12, 1980.

DATE: Part 72 is effective December 12, 1980.

FOR FURTHER INFORMATION CONTACT:
John D. Philips, Chief, Rules and Procedures, Office of Administration, Nuclear Regulatory Commission, Washington, DC 20555, (301) 492–7086.

Dated at Bethesda, Maryland this 20th day of November, 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,
Secretary of the Commission.

[FR Doc. 80-36863 Filed 11-26-80; 8:45 am]
BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 201

Extensions of Credit by Federal Reserve Banks; Changes in Discount Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit by Federal Reserve Banks," for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country. In addition, the Board adopted a surcharge of 2 percentage points on frequent use of the discount window by large borrowers.

EFFECTIVE DATE: The changes were effective on the date specified below.

FOR FURTHER INFORMATION CONTACT:
Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452–3257).

SUPPLEMENTARY INFORMATION: Pursuant to the authority of 5 U.S.C. Sec. 553(b)(3)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good cause found that current economic and financial considerations required that these amendments must be adopted immediately.

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357, Part 201 is amended as set forth below:

1. Section 201.51 is revised to read as follows:

§ 201.51 Short term adjustment credit for depository institutions.

The rates for short term adjustment credit provided to depository institutions § 201.3(a) of Regulation A are:

Federal Reserve Bank of—	Rate	Effective
Boston	12	Nov. 17, 1980.
New York	12	Nov. 17, 1980.
Philadelphia	12	Nov. 17, 1980.
Cleveland	12	Nov. 17, 1980.
Richmond	12	Nov. 17, 1980.
Atlanta	12	Nov. 17, 1980.
Chicago	12	Nov. 17, 1980.
St. Louis	12	Nov. 17, 1980.
Minneapolis	12	Nov. 17, 1980.
Kansas City	12	Nov. 17, 1980.
Dallas	12	Nov. 17, 1980.
San Francisco	12	Nov. 17, 1980.

A 2 percent surcharge is imposed additionally on borrowings for short-term adjustment purposes of institutions with deposits of $500 million or more.

2. Section 201.52 is revised to read as follows:

§ 201.52 Extended credit to depository institutions.

(a) The rates for seasonal credit to depository institutions under § 201.3(b)(1) of Regulation A are:

Federal Reserve Bank of—	Rate	Effective
Boston	12	Nov. 17, 1980.
New York	12	Nov. 17, 1980.
Philadelphia	12	Nov. 17, 1980.
Cleveland	12	Nov. 17, 1980.
Richmond	12	Nov. 17, 1980.
Atlanta	12	Nov. 17, 1980.
Chicago	12	Nov. 17, 1980.
St. Louis	12	Nov. 17, 1980.
Minneapolis	12	Nov. 17, 1980.
Kansas City	12	Nov. 17, 1980.
Dallas	12	Nov. 17, 1980.
San Francisco	12	Nov. 17, 1980.

(b) The rates of other extended credit provided to depository institutions where there are exceptional circumstances or practices involving a particular institution under § 201.3(b)(2) of Regulation A are:

Federal Reserve Bank of—	Rate	Effective
Boston	13	Nov. 17, 1980.
New York	13	Nov. 17, 1980.
Philadelphia	13	Nov. 17, 1980.
Cleveland	13	Nov. 17, 1980.
Richmond	13	Nov. 17, 1980.
Atlanta	13	Nov. 17, 1980.
Chicago	13	Nov. 17, 1980.
St. Louis	13	Nov. 17, 1980.
Minneapolis	13	Nov. 17, 1980.
Kansas City	13	Nov. 17, 1980.
Dallas	13	Nov. 17, 1980.
San Francisco	13	Nov. 17, 1980.

3. Section 201.53 is revised to read as follows:

§ 201.53 Emergency credit for other than depository institutions.

The rates for emergency credit to individuals, partnerships, or corporations other than depository institutions under § 201.3(c) of Regulation A are:

Federal Reserve Bank of—	Rate	Effective
Boston	15	Nov. 17, 1980.
New York	15	Nov. 17, 1980.
Philadelphia	15	Nov. 17, 1980.
Cleveland	15	Nov. 17, 1980.
Richmond	15	Nov. 17, 1980.
Atlanta	15	Nov. 17, 1980.
Chicago	15	Nov. 17, 1980.
St. Louis	15	Nov. 17, 1980.
Minneapolis	15	Nov. 17, 1980.
Kansas City	15	Nov. 17, 1980.
Dallas	15	Nov. 17, 1980.
San Francisco	15	Nov. 17, 1980.

(12 U.S.C. 248(i). Interprets or applies (12 U.S.C. 357))

By order of the Board of Governors, November 19, 1980.

Jefferson A. Walker,
Assistant Secretary of the Board.

[FR Doc. 80-36894 Filed 11-25-80; 8:45 am]
BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 741

[IRPS 80–11]

Statement of Interpretation and Policy; State Chartered Federally Insured Credit Unions As Most Favored Lenders

AGENCY: National Credit Union Administration.

ACTION: Statement of interpretation and policy.

SUMMARY: This document states that Section 205(g)(1) of the Federal Credit Union Act grants most favored lender status to a state chartered federally insured credit union. It also states that Section 205(g)(1) applies only when a credit union is granting a loan other than a first mortgage loan, a business loan of $1,000 or more, or an agricultural loan of $1,000 or more. As a result, when the interest rate a credit union could normally charge on such a loan is less than one percent over the discount rate for 90-day commercial paper, the credit union can charge an interest rate of up to one percent plus the discount rate *or* it can charge any interest rate any other lender (such as a bank or a savings and loan association) could charge on the same loan under state law. This interpretation and policy statement is being issued in response to requests

from a credit union and a trade association.

EFFECTIVE DATE: November 19, 1980.

ADDRESS: National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:
John L. Culhane, Jr., Attorney Advisor, Office of General Counsel, at the above address. Telephone: (202) 357–1030.

SUPPLEMENTARY INFORMATION: Under the National Bank Act, a national bank is authorized to charge interest at the rate allowed by the laws of the state where it is located *or* 1 percent in excess of the discount rate on 90-day commercial paper in effect at the Federal reserve district where it is located, whichever is greater, 12 U.S.C. 85. Because national banks can under certain circumstances charge any rate allowed to any other lender under state law, they have been said to have most favored lender status.

Recently, the Office of General Counsel of the Federal Home Loan Bank Board ruled that Section 521 of the Depository Institutions Deregulation and Monetary Control Act of 1980 also grants most favored lender status to federally insured savings and loan associations. After this ruling was issued, a credit union and a trade association asked NCUA to review Section 205(g)(1) of the Federal Credit Union Act to determine if a state chartered federally insured credit union also has most favored lender status.

Section 205(g)(1) was added to the Federal Credit Union Act by Title V of the Depository Institutions Deregulation and Monetary Control Act of 1980. Title V contains three parts overriding state usury laws. Part A applies to first mortgage loans. As amended, Part B applies to business and agricultural loans on $1,000 or more. Part C applies to all other loans. Under Part C, Section 523 amended the Federal Credit Union Act by adding Section 205(g)(1). 12 U.S.C.A. 1785(g)(1).

Section 205(g)(1) reads as follows:

> If the applicable rate prescribed in this subsection exceeds the rate an insured credit union would be permitted to charge in the absence of this subsection, such credit union may, notwithstanding any State, constitution or statute which is hereby preempted for the purposes of this subsection, take, receive, reserve, and charge on any loan, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve District where such insured credit union is located or at the rate allowed by the laws of the State, territory, or district where such credit union is located, whichever may be greater.

The first question, then, is how should the phrase "the applicable rate prescribed in this subsection," be interpreted. Although the phrase is not entirely clear, NCUA believes the rate referred to is one percent over the discount rate for 90-day commercial paper. That rate is the only rate specifically set out in the Section 205(g)(1). As a result, if the interest rate a state chartered federally insured credit union could normally charge on a loan is *less* than one percent over the discount rate for 90-day commercial paper, then the credit union can either charge up to one percent over the discount rate *or* "the rate allowed by the laws of the State, territory, or district where the credit union is located."

The next question, therris how should the phrase "the rate allowed by the laws of the State . . . where the [financial institution] is located" be interpreted. Under the National Bank Act, such language has been interpreted as granting most favored lender status to the financial institution. *See Tiffany* v. *National Bank of Missouri*, 85 U.S. 409, 413 (1974), *cited with approval, Marquette National Bank* v. *First Omaha Corp.*, 439 U.S. 299, 314 (1978).

Another interpretation would be that the "rate allowed" is the same as the rate "permitted," i.e. the "rate allowed" is the interest rate that normally applies to loans made by a state chartered federally insured credit union under state law (for example, the interest rate set out in the state credit union act). Under this interpretation the credit union could charge either the interest rate it normally charges on loans under state law or up to one percent over the discount rate on 90-day commercial paper. However, NCUA believes that interpreting the phrase "rate allowed" to grant most favored lender status to state chartered federally insured credit unions is the better interpretation.

Under the most favored lender interpretation a credit union has the option to charge up to one percent over the discount rate or to charge the same rate any other lender (such as a bank or a savings and loan association) could charge on the loan under state law. Such an interpretation is more consistent with the language of Section 205(g)(1); it would give meaning to the final clause, "whichever may be greater." The different options are only triggered if the "rate permitted" is less than one percent over the discount rate, but this rate would always be the lesser if the "rate permitted" and the "rate allowed" are the same. The phrase "whichever may be greater" is redundant unless unless the "rate allowed" is different from the "rate permitted."

Not only does the statutory language support this interpretation, but so does the legislative history. Even though the legislative history of Section 205(g)(1) is sparse, there is some indication that Congress intended to grant most favored lender status to state chartered federally insured credit unions. In discussing the Conference Report on H.R. 4986, Senator Bumpers expressed his approval of the provisions permitting state chartered federally insured credit unions to charge either 1 percent over the discount rate or the rate permitted by state law (if that rate is higher), notwithstanding state usury laws. He indicated he supported the change because it would remove the competitive advantage National banks have by virtue of the most favored lender status they enjoy under 12 U.S.C. 85. 126 Cong. Rec. S 3177 (daily ed. March 27, 1980).

For these reasons, NCUA has determined to interpret Section 205(g)(1) to grant most favored lender status to state chartered federally insured credit unions. In reaching this decision NCUA is also mindful of the fact that as of August 1, 1980 one state had authorized an interest rate ceiling of 10 percent for its state chartered credit unions, at least ten states had authorized interest rate ceilings for state chartered credit unions of 15 percent or less, and one other state authorized an interest rate ceiling of 16 percent.

State chartered federally insured credit unions are cautioned that a different Section, Section 525 of the Depository Institutions Deregulation and Monetary Control Act of 1980, permits a state to elect not to have Section 205(g)(1) apply in that state. Before granting loans under the authority of this interpretive ruling, a state credit union should contact the state supervisory agency to determine whether or not Section 205(g)(1) has been superceded.

Text of Statement of Interpretation and Policy [IRPS 80–11]

Section 205(g)(1) of the Federal Credit Union Act states that:

> If the applicable rate prescribed in this subsection exceeds the rate an insured credit union would be permitted to charge in the absence of this subsection, such credit union may, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this subsection, take, receive, reserve, and charge on any loan, interest at a rate of not more than 1 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve District where the insured credit union is located or at the rate allowed by the laws of the State,

territory, or district where such credit union is located, whichever may be greater.

NCUA interprets this Section to grant most favored lender status to state chartered federally insured credit unions. Whenever one per centum in excess of the discount rate on ninety-day commercial paper at the Federal Reserve bank in the Federal Reserve District where such credit union is located is higher than the interest rate the credit union could normally charge on any loan (other than a mortgage loan, a business loan of $1000 or more, or an agricultural loan of $1000 or more), then the credit union has two options. The credit union may charge either up to one per centum in excess of that discount rate *or* it may charge any rate any other lender could charge on that loan under state law, whichever is greater.

Rosemary Brady,

Secretary, NCUA Board.

November 21, 1980.

[FR Doc. 80-36890 Filed 11-25-80; 8:45 am]

BILLING CODE 7535-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 1

Oral Presentations Before the Commission and Communications With Commissioners and Their Staffs in Trade Regulation Rulemaking Proceedings

AGENCY: Federal Trade Commission.

ACTION: Final rules.

SUMMARY: The Federal Trade Commission amends its procedures governing oral presentations before the Commission and communications with Commissioners and their staffs in trade regulation rulemaking proceedings in accordance with the provisions of section 18 of the FTC Act, as amended by section 12 of the FTC Improvements Act of 1980, Pub. L. No. 96–252.

EFFECTIVE DATE: These rules are effective on November 24, 1980.

FOR FURTHER INFORMATION CONTACT: Jerome Tintle, (202) 523–3487, Office of General Counsel, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On July 31, 1980 (at 45 FR 50814), the Commission published for comment proposed amendments to Commission Rules 1.13(i) and 1.18 (a) and (c) implementing the provisions of Section 18 of the FTC Act, as amended by Section 12 of the FTC Improvements Act of 1980, Pub. L. No. 96–252. Interested parties were given until September 29, 1980, later extended to October 20, 1980 (45 FR 67359), to submit written comments. After reviewing the comments, the Commission has determined to promulgate as final rules the proposed amendments with a revision of Rule 1.18(a) as suggested by the comments.

Communications by Outside Parties

(1) Two comments object to the Commission's proposal to retain in Rule 1.18(c)(1) the provision requiring the placement of timely oral communications on the rulemaking record and untimely ones on the public record. The objection is based upon the language of subsection 18(j) of the FTC Act which states that transcriptions or summaries of meetings with outside parties "shall be * * * included in the rulemaking record."

In its July 31, 1980, Notice, the Commission noted that a literal interpretation of subsection 18(j) could result in the placement on the rulemaking record of communications which, if made in the course of the proceeding, would be untimely, thereby subverting the orderly rulemaking process. 45 FR at 50815. It further observed that the problem of untimely communications could be resolved by a rule limiting the period for meetings between Commissioners and outside parties to the initial comment period—an approach which would substantially reduce the period of time now available for such meetings. *Id.* One comment also objects to the latter approach on the grounds that it would conflict with Congress' intent "to encourage the Commissioners to meet with outside parties." Report of the Senate Committee on Commerce, Science, and Transportation on S. 1991, S. Rep. No. 96–500, 96th Cong., 1st Sess. 22 (1979) (hereinafter cited as "Senate Report").

The Commission continues to believe that the more reasonable alternative would be to interpret subsection 18(j) as requiring placement of communications from outside parties on the rulemaking record when appropriate. We find no indication in the legislative history that Congress intended subsection 18(j) to afford outside parties the opportunity to submit information for the record after established deadlines and thereby subvert the orderly rulemaking process and create a privileged status for meetings between Commissioners and outside parties. On the contrary, the legislative history of subsection 18(j) indicates that Congress intended to make the Commission's current rules governing *ex parte* contacts by outside parties "statutory." Senate Report at 4 and 22.[1] Accordingly, Rule 1.18(c)(1) retains the provisions specifying that oral communications will be placed on the rulemaking record only if they comply with the applicable requirements for written submissions at that stage of the proceeding, and that noncomplying oral communications will be placed on the public record.

(2) One comment suggests that the advance notice requirement of proposed Rule 1.18(c)(1)(ii) be restricted to face-to-face communications between a Commissioner and outside parties. The rationale given is that subsection 18(j) speaks only in terms of "meetings" between Commissioners and outside parties and that to impose the requirement upon other forms of oral communications (such as by telephone) would be contrary to Congress' intent. The Commission disagrees. The advance notice requirement of subsection 18(j) is intended to enable Commissioners to meet with outside parties "[w]ithout the fear that they may be susceptible to charges of improper ex parte *contacts.*" Senate Report at 22 (emphasis added). The Senate Report's reference to "contacts" clearly suggests that Congress intended subsection 18(j) to apply to any oral communication, whether face-to-face or otherwise. A restrictive interpretation of the term "meeting" would defeat the purpose for which Congress imposed the advance notice requirement.

(3) The comments concerning the alternative methods for recording meetings with outside parties vary. One recommends that all meetings be transcribed verbatim. Others favor summaries in all cases. One suggests that the rules be amended to provide for verbatim transcription only in exceptional cases and to require persons seeking contact with Commissioners to bring a summary with them. The Commission has determined to retain both options as proposed and not to amend the rules to limit verbatim transcription to exceptional cases. The Commission also believes that in cases where Commissioners determine to

[1] The Senate Report at page 22 describes the Commission's rules which were in effect at that time as requiring meetings with outside parties to be "on the record." We assume, however, that when the Senate Committee on Commerce, Science, and Transportation wrote its report on S. 1991 in November 1979, it knew that the Commission's rules, which had been promulgated in March 1979 (44 FR 16366–68 (Mar. 19, 1979)), permitted only timely communications to be placed on the rulemaking record and required untimely ones to be placed on the public record. Hence, the Committee's use of the phrase "on the record" in that context must refer to the Commission's then existing practice of placing timely communications on the rulemaking record and untimely communications on the public record.

permit summaries, the substance of a meeting is best summarized after the meeting, although an individual Commissioner may at his or her discretion require a summary to be submitted by the outside party in advance of, or at the time of, the meeting.

(4) One comment recommends that the rules be amended to provide an exception to the notice and recordation requirements where an oral communication unexpectedly occurs in the course of a chance encounter (*e.g.*, at professional or social functions) and where the outside party does not intend to circumvent the rules. The Commission believes that the exception would be impractical to implement since its application would depend upon a Commissioner's knowing the intent of the outside party. The Commission acknowledges the possibility of chance encounters with persons who are unaware of the limitations on communications about a rulemaking proceeding and the possibility that such persons may say something of relevant substance before the Commissioner can alert him or her to the limitations. In such instances, the Commissioner will make every effort to cut off inadvertent oral communication and determine whether anything of relevance to the merits of the rulemaking proceeding was communicated and thus should be recorded.

Communications by Commission Staff Members

(1) Several comments suggest that proposed Rule 1.18(c)(2) be amended to require the disclosure of all *ex parte* communications from the rulemaking staff, charging either that proposed Rule 1.18(c)(2)'s adoption *in haec verba* of the language of subsection 18(k) defeats the purpose of the subsection or that the Commission's interpretation of subsection 18(k) is far more restrictive than Congress intended. Other comments support proposed Rule 1.18(c)(2) and suggest that the Commission expand and clarify its explanation for the proposed rule.

Comments opposed to proposed Rule 1.18(c)(2) rely upon certain statements contained in the Senate Report to the effect that S. 1991 would require "any" meeting between Commissioners and the rulemaking staff to be "on the record," Senate Report at 4, and that it was "intended to treat the staff and other persons equally for the purpose of ex parte contacts * * *." Senate Report at 23. However, those statements pertain to a provision of S. 1991 that was dropped by the Senate in favor of the much less restrictive provision of subsection 18(k). The statements therefore do not reflect the intent of Congress in adopting the latter.

The version of S. 1991 introduced by Senator Ford on November 8, 1979,[2] and reported out by the Senate Committee on Commerce, Science, and Transportation on November 20, 1979, included a provision which would have required the Commission to promulgate a rule prescribing disclosure of "any communication relevant to the merits" of a rulemaking proceeding from a member of the rulemaking staff to a Commissioner. 125 Cong. Rec. S16486 (daily ed. Nov. 9, 1979); S. 1991, 96th Cong., 1st Sess. § 11 (1979).

In December 1979, however, Senator Ribicoff introduced an amendment to S. 1991 which would substitute for the broad restriction on intra-agency communications a provision requiring disclosure only of a staff communication of "any fact relevant to the merits" of the rulemaking proceeding "that is not on the rulemaking record." 125 Cong. Rec. S19069 (daily ed. Dec. 18, 1979). During consideration of S. 1991 by the full Senate, Senator Ford on February 7, 1980, offered an amendment to S. 1991 that was substantially identical to Senator Ribicoff's and he explained that the amendment "would require that when the Commissioners communicate with the rulemaking staff *on matters not in the record* concerning a pending rulemaking that a summary of those conversations be kept." 126 Cong. Rec. S1231 (daily ed. Feb. 7, 1980) (emphasis added). Senator Ribicoff, noting that Senator Ford had agreed to his amendment, stated that the amendment would "[l]imit the ex parte restrictions on communications between Commissioners and staff *to those matters which are new and not already on the public record.*" 126 Cong. Rec. S1232 (daily ed. Feb. 7, 1980) (italic added).

The narrow restriction on intra-agency *ex parte* contacts was thereupon adopted by the Senate as part of its amendments to H.R. 2313.[3] *Id.* The provision as passed by the Senate was included in the conference substitute on H.R. 2313 [4] and was enacted into law as subsection 18(k) of the FTC Act. The portion of the Conference Report which discusses that section states that the Senate amendment would require the FTC to promulgate rules providing "that contacts between the Commissioners and the rulemaking staff be 'on the record' *when discussing facts relevant to the rulemaking but which are not in the rulemaking record.*" H.R. Rep. No. 96–917, 96th Cong., 2d Sess. 32 (1980) (emphasis added). Thus, it is clear both from the language of subsection 18(k) and its legislative history that Congress intended to require the disclosure only of such communications from the rulemaking staff as discuss new facts which are not already on the rulemaking record.

(2) One comment, while acknowledging that subsection 18(k) imposes only a limited disclosure requirement as respects intraagency *ex parte* contacts, suggests that the Commission nevertheless take this opportunity to expand its regulations so as to provide for equal treatment of the rulemaking staff and outside parties (a) by requiring disclosure of all staff communications with the Commission, (b) by requiring all meetings between Commissioners and staff to be noticed in advance, (c) by establishing a cut off point on all *ex parte* contacts by the staff like that imposed on outside parties by Rule 1.18(c)(i)(ii), and (d) by limiting meetings between the Commission and staff to the same period provided for meetings between the Commission and outside parties under Rule 1.13(i). The rationale for the suggested changes is that FTC rulemaking is "hybrid" in form, incorporating many elements of APA adjudicatory procedures, that rulemaking staff members function as "advocates" in rulemaking proceedings, and that fairness requires that outside parties be given the opportunity to respond to the position taken by staff "advocates."

The fact that trade regulation rulemaking incorporates quasi-adjudicatory procedures "does not * * * convert rulemaking into quasi-adjudication." *Ass'n of Nat'l Advertisers, Inc.* v. *FTC*, No. 79–1117, slip op. at 18 (D.C. Cir. Dec. 27, 1979); *United Steelworkers of America* v. *Marshall*, No. 79–1048, slip op. at 29–30 (D.C. Cir. Aug. 15, 1980). Even if it is assumed for the sake of argument that a rulemaking staff member does function as an "advocate," as long as his conduct remains "within the general boundaries of the *deliberative* process" and his communications with the Commission "[remain] within the boundaries of *deliberative* material" and do not involve "new hard data off the record," his role as a staff advocate does not violate due process. *United Steelworkers of America* v. *Marshall*, *supra*, at 27. See also *Katharine Gibbs School (Inc.)* v. *FTC*, 612 F.2d 658 (2d

[2] 125 Cong. Rec. S16297 (daily ed. Nov. 8, 1979).

[3] H.R. 2313 was considered by the Senate in lieu of S. 1991 and was amended by the Senate to be consistent with S. 1991. 126 Cong. Rec. S1241–42 (daily ed. Feb. 7, 1980).

[4] The House version of H.R. 2313 did not include a provision on *ex parte* contacts.

Cir. 1979); *Association of Nat'l Advertisers, Inc.* v. *FTC*, CCH 1979–2

(4) One comment suggests that communications from the rule-making

§ 1.13 Rulemaking proceeding.

Communications with respect to the

oral communications relating to such

communication is made available to the

Cir. 1979); *Association of Nat'l Advertisers, Inc.* v. *FTC, CCH 1979–2 Trade Cas. ¶ 62950 (D.C. Cir. 1979); Hercules, Inc.* v. *EPA,* 598 F.2d 91 (D.C. Cir. 1978); *Environmental Defense Fund* v. *EPA,* 598 F.2d 62 (D.C. Cir. 1978). The decision in *United Steelworkers of America, supra,* also reaffirmed the guidance first announced in *Hercules, supra,* that the question of separation of functions in rulemaking is "one for Congress or the agencies to resolve." Slip op. at 35. With respect to the Federal Trade Commission, Congress has, of course, resolved the issue by enacting subsection 18(k). Finally, in connection with the promulgation of its original version of Rule 1.18(c), the Commission set forth its reasons for allowing staff communications:

> Staff communications serve a positive function by allowing Commissioners, in reviewing what are often massive records that have not been shaped by a clearcut adversarial process, to receive assistance from those persons in the Commission who are most familiar with the record. To seek assistance from staff members who have not participated in the rulemaking proceeding, as some comments suggest, would result in a misallocation of resources by ignoring the people best-suited to aid the Commission. 42 FR at 60562 (Nov. 28, 1977).

Accordingly, the Commission has determined not to expand Rule 1.18(c)(2) beyond the requirements imposed by subsection 18(k).

(3) Some comments propose that Rule 1.18(c)(2) be expanded to include guidelines or criteria for use in determining whether a staff communication constitutes a factual communication within the meaning of subsection 18(k) and the Commission's rule. The determination whether or not a particular communication from the staff is subject to disclosure under subsection 18(k) and the Commission's rule will necessarily have to be made on a case-by-case basis. In general, however, the Commission interprets the phrase "any fact which is relevant to the merits of such proceeding and which is not on the rulemaking record" to include both specific, adjudicative-type facts and broad, legislative-type facts which are not already part of the rulemaking record. On the other hand, the Commission does not interpret the phrase as requiring the disclosure of communications from the staff which constitute advice on matters of law, strategy, policy, or procedure or which review, analyze, evaluate, or summarize the evidence in the record so long as such communications do not discuss facts, specific or general, that are not already on the rulemaking record.

(4) One comment suggests that communications from the rule-making staff be transcribed verbatim if the content of those communications is not already accurately reflected in the rulemaking record. The Commission believes that this suggestion would be costly and burdensome to implement because it would necessitate verbatim recordation of all communications from the rulemaking staff in order to assure the transcription of the limited category of communications required to be disclosed by subsection 18(k).

(5) Two comments recommend amendments to proposed Rule 1.18(a). One suggests that the rule be amended to include in the definition of "rulemaking record" a reference to staff communications required by subsection 18(k) to be placed on the rulemaking record. The Commission agrees with this suggestion and has amended Rule 1.18(a) to include a reference to communications placed on the rulemaking record pursuant to § 1.18(c). Another comment proposes: (1) that the phrase "summary and findings of the presiding officer," be substituted for the phrase "recommended decision of the presiding officer" which the comment claims causes uncertainty over whether the presiding officer's report would include his findings and conclusions; and (2) that the comma between the words "presiding officer" and "and the staff recommendations" be deleted so as to make clear that public comments on both the presiding officer's recommended decision and the staff recommendations would become part of the rulemaking record. The phrase "recommended decision of the presiding officer" was adopted on May 29, 1980 (45 FR at 36341), so as to conform the Commission's rules with subsection 18(c) of the Federal Trade Commission Act, as amended by section 9 of the FTC Improvements Act. Since Rule 1.13(g) as adopted on May 29, 1980 (45 FR at 36341), incorporates the language of new subsection 18(c)(1) requiring the presiding officer to make a "recommended decision based upon [his] findings and conclusions * * * as to all relevant and material evidence * * *," no uncertainty is caused by Rule 1.18(a)'s mere reference to "recommended decision." The Commission, however, does agree with the comment's second suggestion and has amended Rule 1.18(a) to delete the comma between "presiding officer" and "and the staff recommendations."

Accordingly, the Commission amends 16 CFR Chapter I as follows:

1. By revising § 1.13(i) to read as follows:

§ 1.13 Rulemaking proceeding.

* * * * *

(i) *Commission review of the rulemaking record.*—The Commission shall review the rulemaking record to determine what form of rule, if any, it should promulgate. During this review process, the Commission may allow persons who have previously participated in the proceeding to make oral presentations to the Commission, unless it determines with respect to that proceeding that such presentations would not significantly assist it in its deliberations. Presentations shall be confined to information already in the rulemaking record. Requests to participate in an oral presentation must be received by the Commission no later than the close of the comment period under § 1.13(h). The identity of the participants and the format of such presentations will be announced in advance by the Office of Public Information in the Commission's *Weekly Calendar and Notice of "Sunshine" Meetings* and in accordance with the applicable provisions of 5 U.S.C. 552(b) and § 4.15 of the Commission's Rules of Practice. Such presentations will be transcribed verbatim or summarized at the discretion of the Commission and a copy of the transcript or summary and copies of any written communications and summaries of any oral communications relating to such presentations shall be placed on the rulemaking record.

2. By revising §§ 1.18(a) and 1.18(c) in its entirety to read as follows:

§ 1.18 Rulemaking record.

(a) *Definition.*—For purposes of these rules the term "rulemaking record" includes the rule, its Statement of Basis and Purpose, the verbatim transcript of the informal hearing, written submissions, the recommended decision of the presiding officer and the staff recommendations as well as any public comment thereon, verbatim transcripts or summaries of oral presentations to the Commission, any communications placed on the rulemaking record pursuant to § 1.18(c), and any other information which the Commission considers relevant to the rule.

* * * * *

(c) *Communications to Commissioners and Commissioners' personal staffs.*—(1) *Communications by outside parties.*—Except as otherwise provided in this subpart or by the Commission, after the Commission votes to issue an initial notice of proposed rulemaking, comment on the proposed rule should be directed to the presiding officer pursuant to § 1.13.

Communications with respect to the merits of that proceeding from any outside party to any Commissioner or Commissioner advisor shall be subject to the following treatment:

(i) *Written communications.*—Written communications, including written communications from members of Congress, received within the period for acceptance of initial written comments shall be forwarded promptly to the presiding officer for placement on the rulemaking record. Written communications received after the time period for acceptance of initial written comments but prior to any other deadline for the acceptance of written submissions will be forwarded promptly to the presiding officer, who will determine whether such communications comply with the applicable requirements for written submissions at that stage of the proceeding. Communications that comply with such requirements will be promptly placed on the rulemaking record. Noncomplying communications and all communications received after the time periods for acceptance of written submissions will be placed promptly on the public record.

(ii) *Oral Communications.*—Oral communications are permitted only when advance notice of such oral communications is published by the Commission's Office of Public Information in its *Weekly Calendar and Notice of "Sunshine" Meetings* and when such oral communications are transcribed verbatim or summarized at the discretion of the Commissioner or Commissioner advisor to whom such oral communications are made and are promptly placed on the rulemaking record together with any written communications and summaries of any oral communications relating to such oral communications. Transcripts or summaries of oral communications which occur after the time period for acceptance of initial written comments but prior to any other deadline for the acceptance of written submissions will be forwarded promptly to the presiding officer together with any written communications and summaries of any oral communications relating to such oral communications. The presiding officer will determine whether such oral communications comply with the applicable requirements for written submissions at that stage of the proceeding. Transcripts or summaries of oral communications that comply with such requirements will be promptly placed on the rulemaking record together with any written communications and summaries of any oral communications relating to such oral communications. Transcripts or summaries of noncomplying oral communications will be promptly placed on the public record together with any written communications and summaries of any oral communications relating to such oral communications. No oral communications are permitted subsequent to the close of the postrecord comment period, except as provided in § 1.13(i). If an oral communication does otherwise occur, the Commissioner or Commissioner advisor will promptly place on the public record either a transcript of the communication or a memorandum setting forth the contents of the communication and the circumstances thereof; such transcript or memorandum will not be part of the rulemaking record.

(iii) *Congressional communications.*—The provisions of paragraph (c)(1)(ii) of this section do not apply to communications from members of Congress. Memoranda prepared by the Commissioner or Commissioner advisor setting forth the contents of any oral congressional communications will be placed on the public record. If the communication occurs within the initial comment period and is transcribed verbatim or summarized, the transcript or summary will be promptly placed on the rulemaking record. A transcript or summary of any oral communication which occurs after the time period for acceptance of initial written comments but prior to any other deadline for the acceptance of written submissions will be forwarded promptly to the presiding officer, who will determine whether such oral communication complies with the applicable requirements for written submissions at that stage of the proceeding. Transcripts or summaries of oral communications that comply with such requirements will be promptly placed on the rulemaking record. Transcripts or summaries of noncomplying oral communications will be placed promptly on the public record.

(2) *Communications by certain officers, employees, and agents of the Commission.*—Any officer, employee, or agent of the Commission with investigative or other responsibility relating to any rulemaking proceeding within any operating bureau of the Commission is prohibited from communicating or causing to be communicated to any Commissioner or to the personal staff of any Commissioner any fact which is relevant to the merits of such proceeding and which is not on the rulemaking record of such proceeding, unless such communication is made available to the public and is included in the rulemaking record. The provisions of this subsection shall not apply to any communication to the extent such communication is required for the disposition of *ex parte* matters as authorized by law. (Sec. 6(g), 38 Stat. 721 (15 U.S.C. 46); 80 Stat. 383, as amended (5 U.S.C. 552).)

By direction of the Commission, dated November 20, 1980. Chairman Pertschuk and Commissioner Pitofsky concurred and submitted a separate statement.

Carol M. Thomas,
Secretary.

Statement of Chairman Pertschuk

As Commissioner Pitofsky's concurring statement indicates, the Commission has already taken various steps to respond to concerns about fairness in our rulemaking proceedings. I support the measures that have been taken thus far. At the same time, I continue to believe that the rulemaking staff is capable of providing a balanced analysis of the record as well as its recommendations based on that analysis. The present procedures, in my opinion, safeguard against undue influence. Moreover, it is important to emphasize, as Commissioner Pitofsky does, that the rulemaking staff possesses a knowledge of the record that is absolutely vital to the Commission's understanding and resolution of issues presented in rulemaking proceedings. The Commission recognized this asset at its meeting last July when it made the decision not to alter the fundamental responsibility of the rulemaking staff for objectively analyzing and interpreting the record. I believe we must continue to have full and informal access to the rulemaking staff's valuable knowledge of the record, and should be cautious in considering changes that would reduce the rulemaking staff's involvement in our review process.

Statement of Commissioner Robert Pitofsky

Several comments urged that the Commission amend its proposed Rule 1.18(c)(2) so as to require that the Commission's rulemaking staff deal with the Commission only on an "on-the-record" basis. *Ex parte* communications between Commissioners and staff would be prevented not only with respect to a "fact which is relevant to the merits of [the] proceeding which is not on the rulemaking record"—a requirement now imposed by the FTC Improvements Act of 1980—but to all staff summaries and interpretations of the record and to policy advice. In effect, under their

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proposal, the staff would be placed on the same *ex parte* footing as people outside the agency.

I agree that Congress did not require such treatment of staff in subsection 18(k) of the FTC Improvement Act of 1980. On the other hand, I have become increasingly concerned about the fairness of off-the-record staff communications with Commissioners in our rulemaking proceedings and the perception that such communications create.

The records in our rulemaking proceedings often have been of enormous length (averaging 50,000 pages and running up to 500,000 pages) and factual and policy issues are extremely complex. Staff members who have worked for years on these proceedings develop valuable knowledge about the record and sophisticated views about key policy questions. As a result, the staff is in a position to influence greatly the Commission's final proposals. The length of these records and the complexity of underlying issues create competing concerns. On the one hand, it would be extremely difficult for the Commission to address rulemaking questions in an informed way without the uninhibited and continuous assistance of the rulemaking staff. On the other hand, staff devotion to a single project over a period of years and the adversary clashes that often develop during the proceeding can generate in some rulemaking projects a will-to-win in the staff which influences their view of the record and their recommendations.

Rulemaking proposals by regulatory staffs usually do offer a balanced view of the issues, and, of course, Commissioners are not helpless even in the hands of a rulemaking staff committed to its own recommendations. Senior staff members at the Commission, Bureau of Economics personnel, the Presiding Officer, industry representatives, and the Commissioners' personal staffs all have an opportunity to review and comment upon staff proposals. In fact, I believe this multi-faceted review usually has enabled the Commission to have before it a full range of policy proposals and factual analysis.

I am convinced that the imposition of strict *ex parte* limitations on communications from agency staffs is not the best way to address this problem, but I believe the issue of a proper staff role in our rulemaking deserves our continuing attention. I can concur in today's Commission action, however, because of my understanding that the Commission, in future rulemaking, will make efforts through various procedural experiments to address the issue of the dual role of the staff as advocates and as advisors to the Commission. For example, at the Commission's July 1980 rulemaking policy review session, a consensus was reached that the Presiding Officer should play a more important role in assessing staff recommendations. The Commission has amended its rules to require that the staff report precede the Presiding Officer's report, and the Commission is committed to ensuring that the Presiding Officer's office has the necessary resources to carry out the expanded function of measuring staff conclusions against the record.

In addition to these changes, I hope that future consideration will be given on a rule by rule basis to segregating the staff, so that one group advocates the rule during the rulemaking process and another group interprets the record and works with the Commission in its review function. While this approach is expensive and may cause some delay, it may be the best way of proceeding when there is reason to believe at the outset that a long and bitter adversary process is likely.

The staff's role in rulemaking is an important regulatory issue and the Commission is closer to it than reviewing judges or members of Congress. It is important that the Commission, through careful experimentation, seek additional ways to preserve an effective staff role which in appearance and reality is fair to all interested parties.

[FR Doc. 80-36997 Filed 11-24-80, 12:06 pm]
BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Human Prescription Drugs in Oral Dosage Forms; Exemption of Sodium Fluoride Drug Preparations, Including Liquid and Tablet Forms, Containing No More Than 264 Milligrams of Sodium Fluoride Per Package From Child-Protection Requirements

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Commission issues an exemption from child-protection packaging requirements for sodium fluoride drug preparations, including liquid and tablet forms, containing no more than 264 milligrams (mg) of sodium fluoride per package and containing no other substances subject to the requirements for special packaging under the Poison Prevention Packaging Act of 1970.[1] An exemption for aqueous solutions of sodium fluoride containing no more than 264 mg of sodium fluoride per package is currently in effect. The Commission believes that child-protection packaging for all generic forms of sodium fluoride containing no more than 264 mg of sodium fluoride per package is unnecessary to protect children from serious illness or injury, based upon the low toxicity of sodium fluoride and the lack of serious adverse human experience associated with ingestion of the drug. The Upjohn company, manufacturer of a multiple vitamin product in chewable tablet form containing 221 mg of sodium fluoride per package, petitioned the Commission to exempt its sodium fluoride-containing product.

DATE: The exemption is effective November 26, 1980.

FOR FURTHER INFORMATION CONTACT: Charles Jacobson, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6400.

SUPPLEMENTARY INFORMATION:

Background

On March 19, 1980, the Commission proposed an exemption from the child-resistant packaging regulations under the Poison Prevention Packaging Act of 1970 (PPPA) for sodium fluoride drug preparations, including liquid and tablet forms, containing no more than 264 milligrams (mg) of sodium fluoride per package, (45 FR 17593). The Commission took that action in response to a petition (PP 79-2) from the Upjohn Company requesting an exemption for sodium fluoride tablet preparations containing no more than 221 mg of sodium fluoride per package. The petitioner's product is a multiple vitamin that uses sodium fluoride as an anticaries agent (for the prevention of dental decay) and is a prescription drug that is regulated under the PPPA solely on the basis of its fluoride content. Another main use of sodium fluoride is as an insecticide/rodenticide.

[1] A majority of Commissioners—Chairman King and Commissioners David Pittle and Stuart Statler—approved issuance of the final exemption for sodium fluoride drug preparations containing not more than 264 mg of sodium fluoride per package. Commissioner Sam Zagoria voted to grant the petitioner's request and issue an exemption for sodium fluoride tablets containing not more then 221 mg of sodium fluoride per package. Commissioner Edith Sloan dissented from the decision to issue a final exemption and has issued a separate opinion which is on file in the Office of the Secretary of the Commission.

Aqueous solutions of sodium fluoride containing no more than 264 mg of sodium fluoride per package are currently exempted from the Commission's child-protection packaging requirements at 16 CFR 1700.14(a)(10)(vii). This exemption was based upon the Commission finding that 264 mg of sodium fluoride is less than an acutely toxic dose (42 FR 62363-4, December 12, 1977). In addition, the exemption was based upon the safety recommendation of the American Dental Association that no more than 264 mg of sodium fluoride be dispensed at one time.

Although the petitioner requested an exemption only for its chewable tablet preparation of sodium fluoride containing a maximum of 221 mg of sodium flouride per package, the Commission recognized in the proposal document the fact that the oral toxicity of sodium fluoride is not significantly affected by the dosage form. In other words, the toxicity of sodium fluoride in tablet preparations is considered by the Commission to be no greater than the toxicity of equivalent dosages of the currently exempted liquid preparations.

For this reason, the Commission decided to propose an exemption for sodium fluoride drug preparations, including liquid and tablet forms, containing no more than 264 mg of sodium fluoride per package and containing no other substance subject to the special packaging regulations. The Commission noted in the proposal document that there are currently sodium fluoride tablet preparations containing up to 264 mg of sodium fluoride per package. In this document the Commission, therefore, is revising the existing exemption for aqueous solutions of sodium fluoride by extending the exemption to all generic forms of sodium fluoride drug prescriptions but maintaining the maximum dosage level at 264 mg of sodium fluoride per package.

Grounds for Exemption

As was noted in the proposed exemption, the Upjohn Company contends that the same fact, lack of toxicity, which justified an exemption for aqueous solutions containing no more than 264 mg of sodium fluoride per package supports the current request. The petitioner also cites as justification for an exemption the lack of adverse human experience data associated with ingestion of its sodium fluoride-containing product. From 1965 until January, 1979, only one report of an accidental ingestion of the product by a child 5 years of age or younger has been received by the petitioner. This report involved a 3 year old child who ingested 15 tablets, for a maximum of 33.15 mg of sodium fluoride, without symptomatology.

An examination of the most current data sources available to the Commission confirms that there is a continued lack of serious adverse reaction by young children who have accidentally ingested sodium fluoride.

The National Clearinghouse for Poison Control Centers (NCPCC) reported, for 1977-1979, a total of 398 ingestions of medicinal products containing sodium fluoride by children under 5. Of these, 54 exhibited symptoms, and one was hospitalized.

The NCPCC data from 1969 through 1976 reported 1,496 ingestions by children under 5 years of age of anticaries products which contain no more than 264 mg of sodium fluoride per package. Fifty-two of the 1,496 cases exhibited symptoms. The symptoms ordinarily exhibited were nausea, vomiting, abdominal pain, diarrhea, headache, and a fever of more than 101°F. Nineteen of the 1,496 cases resulted in hospitalizations which were generally of an unspecified duration. One death of a one year old child as a result of ingesting sodium fluoride was also reported in the NCPCC data from 1969 through 1976. This death was listed under the chemical name "sodium fluoride" and tabulated under the general heading of "chemicals," which indicates that the product involved may have been an insecticide/rodenticide or a pure entity rather than an anticaries agent.

The Commission's Poison Control Center contract data for 1976 and 1977 reveal 254 ingestions by children under 5 years of age of anticaries products which contain no more than 264 mg of sodium fluoride per package. Twenty-seven of these cases exhibited symptomatology such as nausea, vomiting, diarrhea and lethargy. In addition, there was one 2-day hospitalization.

The Commission's National Electronic Injury Surveillance System (NEISS) for 1977 and 1978 reports 18 ingestions by children under 5 years of age of anticaries products containing no more than 264 mg of sodium fluoride per package. All of the 18 children were treated and released from the reporting hospital emergency room. Data reported through NEISS for 1979 reveal 4 incidents of ingestion by children under 5 associated with products containing sodium fluoride. Three of the children were treated and released; one was hospitalized. During the period of January 1, 1980 to August 1, 1980, 3 incidents of ingestion by children under 5, associated with sodium fluoride, were reported. The three children were treated and released.

The Commission's National Injury Information Clearinghouse currently has on file 4 in-depth investigations of ingestions by children under 5 years of age of anticaries tablets containing sodium fluoride. These incidents occurred in 1976, 1977, 1978 and 1979. All 4 children were treated in hospital emergency rooms and released. As of August 7, 1979, there were no death certificates or consumer complaints on file with the National Injury Information Clearinghouse that were associated with anticaries tablets containing sodium fluoride.

The Commission also conducted a toxicological evaluation of sodium fluoride. The Commission concurs with the petitioner that the toxicity of tablets containing sodium fluoride is similar to the toxicity of aqueous solutions containing sodium fluoride. The existing Commission exemption of aqueous solutions containing no more than 264 mg of sodium fluoride was based upon the Commission finding that 264 mg of sodium fluoride is less than an acutely toxic dose.[2] In addition, the exemption conformed with the safety recommendation of the American Dental Association that no more than 264 mg of sodium fluoride be dispensed at one time.

A general review by the Commission staff of the scientific and medical literature reveals that most of the reported sodium fluoride poisonings have resulted from its usage as an insecticide/rodenticide rather than its usage as a human oral prescription anticaries drug. However, the literature search did reveal 3 reported fatalities of children under 5 years of age from the ingestion of dosage levels of fluoride preparation which are considerably greater than the maximum level of this proposed exemption. The symptoms most commonly presented in acute sodium fluoride ingestions include nausea, vomiting, diarrhea, abdominal pain, salivation, muscular weakness, tremors, convulsions, hypotension, nephritis, and, in fatal cases, respiratory paralysis and cardiac arrest.

Information available to the Commission indicates that the lethal dose of sodium fluoride is about 5 grams in adults and about 3 grams in children. The Commission notes that an important factor in limiting severe toxic reactions is that sodium fluoride, in even moderately large doses, is a gastric and intestinal irritant which tends to induce vomiting and diarrhea. If such vomiting

[2] See 42 FR 62363-4, December 12, 1977.

occurs at an early stage following the sodium fluoride ingestion, which it

PPPA exemption requests, the major consideration remains the toxic

reports of accidental ingestions of these

Findings

Technical Advisory Committee on

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occurs at an early stage following the sodium fluoride ingestion, which it usually does, then the risk of injury is considerably reduced. The Commission is aware, however, that the ingestion of 1 gram of sodium fluoride by a child would be likely to result in severe symptomatology or even lethality if vomiting were not to occur or if medical treatment were significantly delayed.

The Commission notes that there is a relatively low incidence (about one percent) of adverse reactions associated with normal dosages of sodium fluoride. These adverse reactions, which include gastrointestinal hemorrhages, exzema, dermatitis and uticaria type reactions, are a result of hypersensitivity to fluoride. These reactions cease upon termination of sodium fluoride therapy. It appears that the problem most often associated with the normal sodium fluoride usage as an anticaries agent is a chronic one and involves mottling of the teeth (fluorosis).

The Commission solicited the opinion of its Technical Advisory Committee (TAC) on Poison Prevention Packaging. Of the 14 TAC members who commented on the petition, 9 members recommended granting the exemption, 4 members recommended denial, and one member abstained.

The 9 members who recommended granting the exemption cited the current exemption of aqueous solutions containing no more than 264 mg of sodium fluoride; these members also stated that the marketing history, toxicology, and human experience for sodium fluoride-containing drugs demonstrate that there is a limited risk of severe toxic reaction from accidental ingestion.

The 4 TAC members who recommended denial of the petition cited the following considerations: (1) sodium fluoride should not be exempt from the special packaging regulations, the previous exemption notwithstanding; (2) there is a lack of adequate justification for the exemption, such as a lifesaving urgency requiring rapid access to the product; (3) flavored chewable sodium fluoride tablets provide more of an incentive for children to accidentally ingest the product than the currently exempted liquid forms; (4) an accidental ingestion could be a traumatic experience for the victim and his/her parents; and (5) increasing numbers of exemptions are likely to confuse pharmacists and result in greater noncompliance with special packaging regulations.

The Commission notes that while such considerations as product form, flavoring, and need for rapid access may enter into the evaluation of certain PPPA exemption requests, the major consideration remains the toxic potential of the exempted package and the human experience data.

The Commission also reviewed the medical literature that was cited by some of the TAC members in support of their recommendations to deny the exemption request. The review revealed that such literature was not directly related to the issues involved in the petition; one article involved the symptomatology associated with accidental ingestion of hydrofluoric acid, which is far more toxic than sodium fluoride, and another article involved the symptomatology associated with ingestion of sodium fluoride by cancer and leukemia patients, who probably have lowered fluoride tolerance. The Commission notes that individual variability in tolerance to fluoride cannot be used to predict toxicity in a normal population. In the case of fluoride therapy, information available to the Commission indicates that the incidence of adverse reactions is low and that those reactions that do occur subside upon termination of therapy. The Commission also notes that there is no scientific rationale for predicting a greater incidence of adverse reactions in children, whether due to intolerance or other factors. In fact, human experience data and the medical literature indicate very few adverse reactions, particularly in children.

The one TAC member who abstained noted what appeared to be a discrepancy in the drug's toxicity and its dosage regimen. The dosage regimen is based upon normal fluoride intake through drinking water. The Commission staff notes that the cautionary note accompanying the product limits use of the drug when certain amounts of fluoride are found in the daily drinking water. Fluoride supplementation is indicated only when the fluoride level of normal drinking water falls below certain limits. These cautions are designed to preclude the development of chronic fluoride overdosage (fluorosis).

The Commission also solicited the opinion of the Food and Drug Administration (FDA) on the exemption request. The Agency states that it previously had recommended granting the current exemption of liquid fluoride-containing products based on scientific literature which indicated that 264 mg of sodium fluoride was less than an acutely toxic dose. While observing that the product form is different, FDA states that the composition of sodium fluoride-containing tablets is not significantly different from currently exempted products, and that there is a lack of reports of accidental ingestions of these products resulting in serious toxic effects. Based upon the lack of reported substantial hazard, FDA concluded that the exemption request should be granted.

Response to Comments

The Commission received two comments, from the American Society of Hospital Pharmacists and from an interested person, in response to the proposed exemption.

The Society expressed support for exemption of sodium fluoride drug preparations containing no more than 264 mg of sodium fluoride per package.

The other commenter stated that sodium fluoride preparations are potentially toxic to young children and that, in cases where multiple dosages of the drug are prescribed for use in a single household, this potential is compounded. This commenter also suggested that flavored sodium fluoride tablets entice young children to ingest them.

The Commission notes that a toxicological evaluation of sodium fluoride, conducted by the staff and discussed above, concludes that 264 mg is unlikely to be a toxic dose in young children. Most of the reported sodium fluoride poisonings have resulted from its use as an insecticide/rodenticide rather than from its use as a human oral prescription anticaries drug. Three fatalities of children under five, reported in the literature, resulted from the ingestion of dosage levels of sodium fluoride drug preparations which were considerably greater than the maximum level (264 mg) of the proposed and this final exemption. In addition, the Commission points out that substantial human experience data reveal a low incidence of adverse reaction from ingestion of normal dosages of either flavored or unflavored preparations of this drug.

As to the issue of multiple dispensing of the drug, the Commission notes that human experience data do not support the contention that young children are likely to be poisoned from ingestion of this drug as the result of either single or multiple dispensings. Despite this lack of data concerning any poisonings from multiple dispensings, the Commission has, as an additional precaution, included language in this preamble (see below) urging medical and dental practitioners and pharmacists to observe the American Dental Association recommendation that no more than 264 mg of sodium fluoride be dispensed at one time. (Similar language was contained in the preamble to the proposed rule).

Findings

Based on currently available information showing the low toxicity of sodium fluoride and the lack of serious adverse human experience reported from ingesting sodium fluoride, the Commission finds that sodium fluoride drug preparations, including liquid and tablet forms, containing no more than 264 mg of sodium fluoride per package, do not pose a risk of serious personal illness or serious injury to children. The Commission emphasizes that this exemption level is partly based on the American Dental Association safety recommendation that no more than 264 mg of sodium fluoride be dispensed at one time. The Commission urges that medical and dental practitioners and pharmacists observe this recommended limitation in the interest of protecting young children from potentially toxic ingestions as a result of exposure to excessive amounts of sodium fluoride-containing preparations. The Commission also emphasizes that this exemption is limited to sodium fluoride-containing products which contain no other substances subject to the requirements for special packaging under 16 CFR 1700.14(a)(10).

Environmental Considerations

The Commission's interim rules for carrying out its responsibilities under the National Environmental Policy Act (see CFR Part 1021; 42 FR 25494) provide that exemptions to an existing standard that do not alter the principal purpose or effect of the standard normally have no potential for affecting the environment and that, therefore, environmental review of exemptions is generally not required (§ 1021.5(b)(1)). The rules also state that environmental review of rules requiring poison prevention packaging is generally not required (§ 1021.5(b)(3)).

With respect to this exemption of sodium fluoride drug preparations containing no more than 264 mg of sodium fluoride from poison prevention packaging, the Commission finds that the rule will have no significant effect on the human environment and that no environmental review is necessary.

Conclusion and Promulgation

Having considered the petition, the comment on the proposal, the poison control statistics from the National Clearinghouse for Poison Control Centers and from six poison control centers under contract with the Commission, medical and scientific literature and other Commission data sources, and having consulted, pursuant to section 3 of the Poison Prevention Packaging Act (PPPA) of 1970, with the Technical Advisory Committee on Poison Prevention Packaging established in accordance with section 6 of the Act, the Commission concludes that an exemption from the special packaging requirements for sodium fluoride drug preparations containing no more than 264 mg of sodium fluoride per package should be issued as set forth below. Accordingly, under the provisions of the Poison Prevention Packaging Act of 1970 (Pub. L. 91-601, sections 2(4), 3, 5; 84 Stat. 1670-72; 15 U.S.C. 1471 (4), 1472, 1474) and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92-572, sec. 30(a); 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission amends 16 CFR 1700.14 by revising paragraph (a)(10)(vii), as follows:

§ 1700.14 Substances requiring special packaging.

(a) * * *

(10) *Prescription Drugs.* Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug shall be packaged in accordance with the provisions of § 1700.15 (a), (b), and (c), except for the following:

* * * * *

(vii) Sodium fluoride drug preparations, including liquid and tablet forms, containing no more than 264 milligrams of sodium fluoride per package and containing no other substances subject to this § 1700.14(a)(10).

Dated: November 20, 1980.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 80-36863 Filed 11-25-80; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Coverage of Employees of State and Local Governments; Interim Regulations

Correction

In FR Doc. 80-33811 appearing on page 72110 in the issue of Friday, October 31, 1980, make the following correction.

On page 72111, center column, in paragraph (c)(2) of § 404.1255a put "45 FR 72110, October 31, 1980" in the line reading "(insert FR citation and date this material is published)".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7740]

Income Tax; Soil and Water Conservation Expenditures

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the definition of the phrase "land used in farming" for purposes of determining whether soil and water conservation expenditures are deductible. The Internal Revenue Service has reconsidered its prior interpretation of that phrase in light of court decisions that found the interpretation overly restrictive. The regulations set forth a new interpretation of the phrase for the guidance of taxpayers making soil and water conservation expenditures.

DATES: The regulations are effective for taxable years beginning after 1953.

FOR FURTHER INFORMATION CONTACT: Paul A. Francis of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

On February 27, 1980, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 175 of the Internal Revenue Code of 1954 (45 FR 12850). The amendments were proposed to set forth a new interpretation of the phrase "land used in farming" for purposes of determining whether expenditures for soil and water conservation are deductible. No public hearing on the proposed amendments was requested, and accordingly none was held. After consideration of all comments regarding the proposed amendments, those amendments are adopted without change by this Treasury decision.

Purpose of Amendments

These amendments reflect Service consideration of the holdings with respect to the deductibility of soil and

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water conservation expenditures in *Behring v. Commissioner*, 32 T.C. 1256 (1959), acq. withdrawn and acq. in result substituted, 1972–1 C.B. 1, *Estate of Straughn v. Commissioner*, 55 T.C. 21 (1970), acq., 1976–2 C.B. 3, and *Duda & Sons, Inc. v. United States*, 383 F. Supp. 1303 (M.D. Fla. 1974), *rev'd on other grounds*, 560 F. 2d 669 (5th Cir. 1977).

One of the conditions for deduction of soil and water conservation expenditures under Code section 175 is that the expenditures be in respect of "land used in farming". Section 175 (c)(2) defines "land used in farming" as land used (before or simultaneously with the expenditures) by the taxpayer or a tenant of the taxpayer for the production of crops, fruits or other agricultural products or for the sustenance of livestock.

The regulations deal with two issues raised in the cited cases with respect to the meaning of the phrase "land used in farming". The first issue is the application of section 175(c)(2) in the case of a taxpayer with newly acquired farmland. The second is the application of that provision to a tract of land only a part of which is actually used in farming.

Newly Acquired Farmland

Section 175(c)(2) makes no reference to a taxpayer who has newly acquired land which was used in farming by a predecessor. Regulation § 1.175–4(a)(2) provides that such a taxpayer may deduct soil and water conservation expenditures made before the taxpayer actually begins to farm the land only if the use of the land by the taxpayer is substantially a continuation of the use by the predecessor.

In *Straughn* the Internal Revenue Service argued that a new owner could not deduct conservation expenditures because the use of the land by the new owner for growing grapes was not substantially a continuation of its prior use for growing wheat and cotton. The Tax Court rejected the distinction drawn by the Service between different types of agricultural products and held that the taxpayer could deduct the expenditures. The United States District Court for the Middle District of Florida found the *Straughn* decision persuasive and also permitted deductions under similar circumstances in the *Duda* case.

The regulations adopted by this Treasury decision provide that any type of farming use of the land by the taxpayer may satisfy the requirement that the use of the land be substantially a continuation of its prior use in farming. Thus, a taxpayer who plants crops on land previously used for grazing livestock would be entitled to deduct conservation expenditures if the other conditions of section 175 are met.

Part of Tract Used in Farming

In *Duda* and in *Behring* taxpayers contended that use of any part of a tract of land in farming made the entire tract "land used in farming" within the meaning of section 175(c)(2). Under that view conservation expenditures in respect of a previously unfarmed part of a tract could be deductible if some other part of the tract was actually used in farming. The court in *Behring* accepted the taxpayer's theory, but the court in *Duda* rejected it and denied the claimed deductions.

The regulations adopted by this document provide that conservation expenditures are deductible only to the extent that they are allocable to land actually used in farming. The regulations provide rules for the allocation of conservation expenditures that benefit both land used in farming and other land of the taxpayer that does not qualify as "land used in farming".

Comments Received

The only comment relating to the issue of deductibility where only a part of a tract is used in farming requested that the regulations follow the *Behring* opinion rather than the *Duda* opinion. The Internal Revenue Service believes that the *Duda* opinion correctly states the law on this point.

Other comments with respect to the notice of proposed rulemaking urged that the regulations permit deductions under section 175 when land is being prepared for its first use in farming. The suggested rule, however, would be inconsistent with the explicit requirement in section 175(c)(2) that the land be used in farming simultaneously with or before the soil and water conservation expenditures. Note also that Congress has specifically provided for deduction of land clearing expenditures under section 182.

Review

The Treasury Department will review these regulations from time to time in light of comments received from offices within the Treasury Department or from other sources.

Drafting Information

The principal author of these regulations was Paul A. Francis of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

The amendments to 26 CFR Part 1 published as a notice of proposed rulemaking in the **Federal Register** for February 27, 1980 (45 FR 12850), are hereby adopted as proposed.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: November 12, 1980.

Donald C. Lubick,
Assistant Secretary of the Treasury.

26 CFC Part 1 is amended as follows:

§ 1.175 [Deleted]

Paragraph 1. Section 1.175 is deleted.

Par. 2. Paragraph (a)(1) of § 1.175–2 is amended by adding at the end thereof the following new sentence:

§ 1.175–2 Definition of soil and water conservation expenditures.

(a) *Expenditures treated as a deduction.* (1) * * * For rules relating to the allocation of expenditures that benefit both land used in farming and other land of the taxpayer, see § 1.175–7. * * * * * *

Par. 3. Section 1.175–4 is amended to read as follows:

§ 1.175–4 Definition of "land used in farming.

(a) *Requirements.* For purposes of section 175, the term "land used in farming" means land which is used in the business of farming and which meets both of the following requirements:

(1) The land must be used for the production of crops, fruits, or other agricultural products, including fish, or for the sustenance of livestock. The term "livestock" includes cattle, hogs, horses, mules, donkeys, sheep, goats, captive fur-bearing animals, chickens, turkeys, pigeons, and other poultry. Land used for the sustenance of livestock includes land used for grazing such livestock.

(2) The land must be or have been so used either by the taxpayer or his tenant at some time before or at the same time as, the taxpayer makes the expenditures for soil or water conservation or for the prevention of the erosion of land. The taxpayer will be considered to have used the land in farming before making such expenditure if he or his tenant has employed the land in a farming use in the past. If the expenditures are made by the taxpayer in respect of land newly acquired from one who immediately prior to the acquisition was using it in farming, the taxpayer will be considered to be using the land in farming at the time that such expenditures are made, if the use which is made by the taxpayer of the land from the time of its acquisition by him is substantially a continuation of its use in farming, whether for the same farming use as that of the taxpayer's predecessor or for one of the other uses specified in paragraph (a)(1) of this section.

(b) *Examples.* The provisions of paragraph (a) of this section may be illustrated by the following examples:

Example (1). A purchases an operating farm from B in the autumn after B has harvested his crops. Prior to spring plowing and planting when the land is idle because of the season, A makes certain soil and water conservation expenditures on this farm. At the time such expenditures are made the land is considered to be used by A in farming, and A may deduct such expenditures under section 175, subject to the other requisite conditions of such section.

Example (2). C acquires uncultivated land, not previously used in farming, which he intends to develop for farming. Prior to putting this land into production it is necessary for C to clear brush, construct earthen terraces and ponds, and make other soil and water conservation expenditures. The land is not used in farming at the same time that such expenditures are made. Therefore, C may not deduct such expenditures under section 175.

Example (3). D acquires several tracts of land from persons who had used such land immediately prior to D's acquisition for grazing cattle. D intends to use the land for growing grapes. In order to make the land suitable for this use, D constructs earthen terraces, builds drainage ditches and irrigation ditches, extensively treats the soil, and makes other soil and water conservation expenditures. The land is considered to be used in farming by D at the time he makes such expenditures, even though it is being prepared for a different type of farming activity than that engaged in by D's predecessors. Therefore, D may deduct such expenditures under section 175, subject to the other requisite conditions of such section.

(c) *Cross reference.* For rules relating to the allocation of expenditures that benefit both land used in farming and other land of the taxpayer, see § 1.175–7.

Par. 4. The following new section is added immediately after § 1.175–6:

§ 1.175–7 Allocation of expenditures in certain circumstances.

(a) *General rule.* If at the time the taxpayer paid or incurred expenditures for the purpose of soil or water conservation, or for the prevention of erosion of land, it was reasonable to believe that such expenditures would directly and substantially benefit land of the taxpayer which does not qualify as "land used in farming," as defined in § 1.175–4, as well as land of the taxpayer which does so qualify, then, for purposes of section 175, only a part of the taxpayer's total expenditures is in respect of "land used in farming."

(b) *Method of allocation.* The part of expenditures allocable to "land used in farming" generally equals the amount which bears the same proportion to the total amount of such expenditures as the area of land of the taxpayer used in farming which it was reasonable to believe would be directly and substantially benefited as a result of the expenditures bears to the total area of land of the taxpayer which it was reasonable to believe would be so benefited. If it is established by clear and convincing evidence that, in the light of all the facts and circumstances, another method of allocation is more reasonable than the method provided in the preceding sentence, the taxpayer may allocate the expenditures under that other method. For purposes of this section, the term "land of the taxpayer" means land with respect to which the taxpayer has title, leasehold, or some other substantial interest.

(c) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). A owns a 200-acre tract of land, 80 acres of which qualify as "land used in farming." A makes expenditures for the purpose of soil and water conservation which can reasonably be expected to directly and substantially benefit the entire 200-acre tract. In the absence of clear and convincing evidence that a different allocation is more reasonable, A may deduct 40 percent (80/200) of such expenditures under section 175. The same result would obtain if A had made the expenditures after newly acquiring the tract from a person who had used 80 of the 200 acres in farming immediately prior to A's acquisition.

Example (2). Assume the same facts as in example (1), except that A's expenditures for the purpose of soil and water conservation can reasonably be expected to directly and substantially benefit only the 80 acres which qualify as land used in farming; any benefit to the other 120 acres would be minor and incidental. A may deduct all of such expenditures under section 175.

Example (3). Assume the same facts as in example (1), except that A's expenditures for the purpose of soil and water conservation can reasonably be expected to directly and substantially benefit only the 120 acres which do not qualify as land used in farming. A may not deduct any of such expenditures under section 175. The same result would obtain even if A had leased the 200-acre tract to B in the expectation that B would farm the entire tract.

[FR Doc. 80-36826 Filed 11-21-80; 4:36 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

Approval of Program Amendments From the State of Texas Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: The State of Texas has proposed to alter the Texas permanent program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) by amending two regulations relating to the designation of areas as unsuitable for surface coal mining. Part 943 is hereby amended to reflect the approval of these amendments to the Texas permanent program.

DATE: The approval of these amendments is effective on November 26, 1980.

ADDRESSES: Copies of the full text of the Texas program, including the amendments, are available for inspection during regular business hours at the OSM Headquarters Office and the Region IV Office and the central office and field offices of the Texas Railroad Commission at the addresses listed below:

U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Room 153, South Interior Building, Washington, D.C. 20240;
Office of Surface Mining Reclamation and Enforcement, Region IV, 5th Floor, Scarritt Building, 818 Grand Avenue, Kansas City, Missouri 64106;
Texas Railroad Commission, Surface Mining and Reclamation Division, 1124 S. Inter-Regional Highway, Austin, Texas 78704;
Texas Railroad Commission, Surface Mining and Reclamation Division, Field Office, Woodgate Office Park, Suite 125, 1121 East SW. Loop 323, Tyler, Texas 75703;
Texas Railroad Commission, Surface Mining and Reclamation Division, Field Office, Shank Office Building, 1419 3rd Street, Floresville, Texas 78114.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343–4225.

SUPPLEMENTARY INFORMATION:

Background on Texas Program

concerning interpretation of documents that convey mineral rights.

During the review of the Texas program, prior to the Secretary's

The HCRS comment did not

30 CFR Part 950

Office of Surface Mining Reclamation

SUPPLEMENTARY INFORMATION:

Background on Texas Program Submission and the Secretary's Approval

On July 20, 1979, OSM received a proposed regulatory program from the State of Texas. The program was submitted by the Texas Railroad Commission, the State regulatory authority. The Texas permanent program was approved conditionally, effective February 16, 1980, in accordance with 30 CFR 732.13(i). The conditional approval was published under 30 CFR 943.11, on February 27, 1980, (45 FR 13008). The Texas program was subsequently amended to satisfy the condition of the approval and 30 CFR 943.11 was amended to reflect the approval of the Texas program without condition on June 18, 1980 (45 FR 41136–41137).

Submission of Amendments

On March 27, 1980, OSM received a proposal from the Texas Railroad Commission containing three amendments to the state regulations. One of the three related to the award of costs, including attorneys' fees in administrative proceedings, and satisfied the condition of the approval of the Texas program. On June 18, 1980, the Secretary approved this amendment (to Texas Rule 051.07.04.023) and removed the condition of the approval of the Texas program (45 FR 41136–41137).

The remaining two amendments contained in the March 27, 1980, letter pertained to Texas Rule 051.07.04.070 concerning the State process for designating areas unsuitable for mining and are the subject of this notice. The amendments affect the provisions that interpret "valid existing rights" and "the close of public comment period" relative to petitions to designate areas unsuitable for mining. The procedures for review of proposed permanent program amendments are contained in 30 CFR 732.17 (44 FR 15328, March 13, 1979).

Discussion of Amendments

(a) "Valid existing rights" provision:

Texas has proposed an amendment to its definition of "valid existing rights" by adding a new subsection to that definition in Texas Rule 051.07.04.070, relating to the interpretation of the document used to establish valid existing rights.

On February 6, 1980 (45 FR 8244), OSM proposed to amend subsection (c) of the definition of valid existing rights in 30 CFR 761.5, to add the option of relying upon applicable state case law concerning interpretation of documents that convey mineral rights.

In the preamble to that proposed rule, OSM stated:

> In order to implement what the Secretary believes is Congress' intent that state case law on the subject not be overruled, the Secretary is proposing that Subsection (c) of Part 761.5 be changed to provide an alternative basis for valid existing rights determinations. Where a state has case law establishing some other standard for interpreting documents which convey mineral rights, this law will be used to interpret documents executed in that state.

The Texas program that was approved conditionally on February 16, 1980, did not contain a provision similar to 30 CFR 761.5(c) relating to the interpretation of the terms of the document relied upon to establish valid existing rights.

The Secretary determined that the absence of this provision did not prevent the approval of the Texas program; however, OSM did advise Texas that this aspect of its program could be improved by adding a provision similar to 30 CFR 761.5(c). Accordingly, Texas proposed such a program amendment. The proposed amendment is consistent with OSM's proposed rule (*See* 45 FR 8244). Texas added a new subsection (c) to Rule 051.07.04.070, and the original subsection (c) has been re-designated subsection (d).

The proposed Texas amendment reads as follows:

"Rule 051.07.04.070 is supplemented by the following language after paragraph (b)(2) under *valid existing rights.*

(c) "Interpretation of the terms of the document relied upon to establish valid existing rights shall be based upon Texas case law concerning the interpretation of documents conveying mining rights. When no Texas case law exists, interpretation shall be based upon the usage and custom at the time and place where the document came into existence and upon a showing by the applicant that the parties to the document actually contemplated a right to conduct the same underground or surface mining activities for which the applicant claims a valid existing right.

(d) "Valid existing rights does *not* mean mere expectation of a right to conduct surface coal mining. (Examples of rights that alone do not constitute valid existing rights include, but are not limited to, coal exploration permits or licenses, applications or bids for leases, or where a person has only applied for a State or Federal permit.)"

(b) "Close of public comment period" provision:

During the review of the Texas program, prior to the Secretary's conditional approval on February 16, 1980, OSM advised Texas that its Rule 051.07.04.070 could lead to confusion as to when the public comment period actually closes during the process for designating lands unsuitable for coal mining because of the ambiguous language of the regulation. Although this was determined not to be a significant problem that would prevent approval of the Texas program, OSM did suggest that Texas clarify this language at some future time. Texas agreed that the language of Rule 051.07.04.070 could have been clearer and has accordingly proposed to amend that language by adopting the following regulation:

"Rule 051.07.04.070 is amended as follows:

"*Close of public comment period* means the close of a public hearing on a surface mining permit application. When no public hearing is held, this time shall be 30 days after the last publication of the newspaper notice required by section .207(a)."

Background on Approval Process

On July 2, 1980, the regional director published notice in the **Federal Register** announcing receipt of the program amendments (45 FR 44967–44969). The notice announced a public comment period through July 30, 1980, and that a public hearing would be held if requested of the regional director by July 15, 1980, and contained the full text of the program amendments.

The regional director did not receive any requests for a public hearing, so none was held. The one written comment was considered by OSM and is addressed below under the section entitled "Disposition of Comment."

On September 17, 1980, the regional director recommended to the Director of OSM that the program amendments be approved

Director's Findings

Pursuant to 30 CFR 732.15(b)(9) and 732.17(f)(2), the Director finds that the proposed program amendments are consistent with SMCRA and the provisions of 30 CFR Chapter VII, Subchapter F, for the designation of areas as unsuitable for surface coal mining.

Disposition of Comment

The Heritage Conservation and Recreation Service (HCRS) suggested that upon completion, the Memorandum of Agreement between OSM and the Advisory Council on Historic Preservation be made part of the Texas program.

The HCRS comment did not specifically address the two proposed amendments to the Texas program; however, a copy of the completed memorandum will be provided to Texas.

Approval of Amendments

The amendments to the Texas permanent program are hereby approved. A new section 30 CFR 943.15 is added to include approved amendments to the Texas program. 30 CFR 943.15(a), specifically, is added to include the approval of the two amendments of March 27, 1980, and is effective on November 26, 1980.

Additional Findings

Pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval.

This document is not a significant rule under Executive Order 12044 or 43 CFR part 14, and no regulatory analysis is being prepared on this approval.

This approval does not require the concurrence of the Administrator of the Environmental Protection Agency. On January 28, 1980, the Administrator of the Environmental Protection Agency transmitted written concurrence on the Texas permanent program. The amended regulatory provisions approved in this document are not aspects of the Texas permanent program that relate to air or water quality standards promulgated under the authority of the Clean Water Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 U.S.C. 1857 *et seq.*).

The effective date of the conditional approval of the Texas permanent program (February 16, 1980) shall be used to compute any time requirements that commence with program approval.

Dated: November 20, 1980.

Walter N. Heine,

Director, Office of Surface Mining.

PART 943—TEXAS

A new section, 30 CFR 943.15, is added to read as follows:

§ 943.15 Approval of Regulatory Program Amendments.

(a) The Texas permanent regulatory program amendments received by OSM on March 27, 1980, are approved effective November 26, 1980.

[FR Doc. 80-36941 Filed 11-25-80; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 950

Conditional Approval of the Permanent Program Submission From the State of Wyoming Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: On August 15, 1979, the State of Wyoming submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). After opportunity for public comment and thorough review of the initial program submission, the Secretary of the Interior determined that certain parts of the Wyoming program met the minimum requirements of SMCRA and the Federal permanent program regulations and others did not. Accordingly, the Secretary of the Interior approved the Wyoming program in part on February 15, 1980. Notice of that decision and the Secretary's findings were published in the **Federal Register** on March 31, 1980 (45 FR 20930–20982). The State of Wyoming resubmitted its program for approval by the Secretary on May 30, 1980. The resubmitted program included those portions of the initial submission not approved by the Secretary on February 15, 1980. After opportunity for public comment and thorough review of the program resubmission, the Secretary of the Interior determined that the Wyoming program, including the resubmission, does, with minor exceptions, meet the requirements of SMCRA and the Federal permanent program regulations. Accordingly, the Secretary of the Interior has conditionally approved the Wyoming program.

EFFECTIVE DATE: November 26, 1980.

ADDRESSES: Copies of the Wyoming program submission and the administrative record on the Wyoming program submission are available for public inspection and copying during business hours at:

Wyoming Department of Environmental Quality, Land Quality Division, Hathaway Building, Cheyenne, Wyoming 82002.

Wyoming Department of Environmental Quality, Land Quality Division, Field Office, 30 East Grinnell Street, Sheridan, Wyoming 82801.

Wyoming Department of Environmental Quality, Land Quality Division, Field Office, 933 Main Street, Lander, Wyoming 82520.

Office of Surface Mining Reclamation and Enforcement, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

Office of Surface Mining, Room 153, Interior South Building, 1951 Constitution Avenue, Washington, DC 20240, Telephone (202) 343–4728.

FOR FURTHER INFORMATION CONTACT:

Mr. Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, N.W., Washington, DC 20240; telephone (202) 343–4225.

Mr. Donald Crane, Regional Director, Region V, Office of Surface Mining, Brooks Tower, 1020 15th Street, Denver, Colorado 80202; telephone (303) 837–5421.

SUPPLEMENTARY INFORMATION:

Introduction

This notice is organized to assist understanding of the findings underlying the Secretary's decision. It is divided into six major parts:

A. General Background on the Permanent Program
B. General Background on the State Program Approval Process
C. General Background on the Wyoming Program
D. Secretary's Findings
E. Explanation of the Secretary's Findings
F. Approval

Part A sets forth the statutory and regulatory framework of the Surface Mining Control and Reclamation Act of 1977 (SCMRA).

Part B sets forth the general statutory and regulatory scheme applicable to all States which wish to obtain primary jurisdiction to implement the permanent program within their borders.

Part C summarizes the steps undertaken by Wyoming and officials of the Department of the Interior, beginning with Wyoming's initial program submission and its program resubmission, and leading to the decision being announced today.

Part D contains the findings the Secretary has made with respect to each of the thirty (30) criteria for evaluation of a State program found in SMCRA and the Secretary's regulations.

Part E contains the reasons for each finding in Part D and the disposition of comments from the public and governmental agencies. For most findings, only the significant differences between Federal laws and rules and resubmitted portions of the Wyoming program are discussed and evaluated. Part E omits detailed discussions of

differences between Federal laws and rules and the Wyoming program, and

primary regulator of activities on non-Federal and non-Indian lands subject to

request approval to assume primary

The court also ordered the Secretary to "affirmatively disapprove, under

disapproved. That is, no cause of action for enforcement of the provisions, to the

relating to Wyoming's program are found in 30 CFR Part 950.

differences between Federal laws and rules and the Wyoming program, and detailed analysis of relevant public comments, which were discussed and approved in the Secretary's partial approval of the initial program submission as published in the **Federal Register** on March 31, 1980 (45 FR 20930–20982).

Part F identifies those parts of the Wyoming program which are conditionally approved.

It should be noted that these findings are an important part of the record for use as future indicators as to why Wyoming's program was deemed equivalent to SMCRA and consistent with applicable Federal regulations.

It should also be noted that Wyoming's program does not yet apply on Federal lands. Numerous mines in Wyoming conduct operations, in whole or in part, on "Federal lands" containing Federal mineral rights, surface rights, or both. Section 523(c) of SMCRA provides that a State may elect to enter into a cooperative agreement with the Secretary to provide for State regulation of surface coal mining and reclamation operations on Federal lands within the State. Pursuant to this authority, Wyoming has submitted a proposed cooperative agreement, which was published in the **Federal Register** on July 8, 1980 (45 FR 45927–45931), and public comment was invited. On October 1, 1980, OSM published a notice of proposed rulemaking (45 FR 64971). A public hearing was held in Cheyenne, Wyoming on October 30, 1980, and the public comment period expired on November 7, 1980. A final rule concerning the proposed Wyoming cooperative agreement is forthcoming. Because it is not yet final, however, this conditional approval does not include the cooperative agreement, which is subject to a separate rulemaking.

A. General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501–503 of SMCRA (30 U.S.C. 1251–1253). The initial program has been in effect since December 13, 1977, when the Secretary of the Interior promulgated initial program rules, 30 CFR Parts 710–725, 42 FR 62639.

The permanent program will become effective in each State upon the approval of a State program by the Secretary of the Interior or implementation of a Federal program within the State. If a State program is approved in full, the State will be the primary regulator of activities on non-Federal and non-Indian lands subject to SMCRA, rather than the Federal government.

The Federal rules for the permanent program, including procedures for States to follow in submitting State programs and minimum standards the State programs must meet to be eligible for approval, are found in 30 CFR Parts 700–797 and 730–865. Part 705 was published October 20, 1977 (42 FR 56084). Parts 795 and 865 (originally Part 860) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published March 13, 1979 (44 FR 15312–15463). Errata notices were published March 14, 1979 (44 FR 15484), August 24, 1979 (44 FR 49673–49687), September 14, 1979 (44 FR 53507–53509), November 19, 1979 (44 FR 66195), April 16, 1980 (45 FR 2600), June 5, 1980 (45 FR 37818), and July 15, 1980 (45 FR 47424). Amendments to the rules have been published October 22, 1979 (44 FR 60969), as corrected December 19, 1979 (44 FR 75143), December 19, 1979 (44 FR 75302), December 31, 1979 (44 FR 77440–77447), January 11, 1980 (45 FR 2626–2629) and August 6, 1980 (45 FR 52306–52324). Portions of these rules have been suspended, pending further rulemaking, on November 27, 1979 (44 FR 67942), December 31, 1979 (44 FR 77447–77454), December 31, 1979 (44 FR 77454–77455), January 30, 1980 (45 FR 6913), and August 4, 1980 (45 FR 51547–51550).

B. General Background on State Program Approval Process

Any State wishing to assume primary jurisdiction over the regulation of coal mining within its borders may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission.

The Federal rules governing State program submissions are found at 30 CFR Parts 730–732. After review of the submission by OSM and other agencies, opportunity for the State to add to or modify the program, and opportunity for public comment, the Secretary may approve the program unconditionally, approve it conditioned upon minor deficiencies being corrected in accordance with the timetable set by the Secretary, or disapprove the program in whole or in part. If any parts of the program are disapproved, the State may submit a revision correcting the items which did not meet the requirements of SMCRA and applicable Federal regulations. If any of these revised program parts are also disapproved, SMCRA requires the Secretary of the Interior to establish a Federal program in that State. The State may again request approval to assume primary jurisdiction after the Secretary implements the Federal program. A State may not assume primary jurisdiction until all parts of its program have been approved.

Different criteria apply to various elements of a State program for the purpose of determining whether they can be approved by the Department. The three categories of potential program elements, each with its own standard of review, are discussed in the March 31, 1980, **Federal Register** (45 FR 20930 et seq.).

The special requirements under SMCRA and 30 CFR Chapter VII for anthracite mines in Pennsylvania are not applicable in Wyoming.

Before Wyoming made its initial program submission and subsequent resubmission, challenges to the Secretary's permanent program regulations were brought by representatives of industry, two States, and several environmental groups in the U.S. District Court for the District of Columbia. These suits were consolidated and heard in a single lawsuit, *In re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144).

The Secretary, in reviewing State programs, is complying with the provisions of Section 503 of SMCRA, 30 U.S.C. 1253, and 30 CFR 732.15. In reviewing the Wyoming program, the Secretary has adhered to the Federal rules as cited in "General Background on the Permanent Program," above, and as affected by the U.S. District Court for the District of Columbia in *In re: Permanent Surface Mining Regulation Litigation.*

In response to the arguments raised in the challenges, the Secretary voluntarily suspended several of the permanent program regulations. These suspensions were announced in the **Federal Register** on November 7, 1979 (44 FR 67942), December 31, 1979 (44 FR 77447) and January 30, 1980 (45 FR 6913).

Because of the litigation's complexity, the court has issued its decision in two "rounds." The Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but suspended or remanded all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, denied additional generic attacks on the regulations, but suspended or remanded some forty additional parts, sections or subsections of the regulations. A listing of all the suspended and remanded regulations was published in the **Federal Register** on July 7, 1980 (45 FR 45604–45609).

The court also ordered the Secretary to "affirmatively disapprove, under Section 503 of SMCRA, those segments of a state program that incorporate a suspended or remanded regulation" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the court stayed this portion of its opinion. One effect of this stay is to allow the Secretary, when requested by a State, to allow the inclusion in the State program of provisions equivalent to remanded or suspended Federal provisions. In making its resubmission, Wyoming was aware of the regulations suspended by the Secretary and the regulations remanded by the court and made modifications to several of its regulations in light of the suspensions and remands. (See the May 28, 1980, Memorandum from Nancy Wood to the Environmental Quality Council in the Wyoming resubmission (Vol. 3A).) Governor Herschler has requested that the Secretary not disapprove such provisions in the Wyoming program. (See Administrative Record Document Nos. WY–220 and WY–233.) Accordingly, the Secretary is approving provisions which, though they contain language from suspended and remanded Federal regulations, are otherwise acceptable.

In view of the three court decisions, the Secretary is applying the following standards to the review of State program submissions:

1. The Secretary need not affirmatively disapprove State provisions similar to those Federal regulations which have been suspended or remanded by the district court where the State has adopted such provisions in a rulemaking or legislative proceeding which occurred either (1) before the enactment of SMCRA, or (2) after the date of the Round II district court decision, since such State regulations clearly are not based solely upon the suspended or remanded Federal regulations. The Secretary also need not affirmatively disapprove provisions based upon suspended or remanded Federal rules if a responsible State official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove all provisions of a State program which incorporate suspended or remanded Federal rules and which do not fall into one of the three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a State provision is that the requirements of that provision are not enforceable in the permanent program at the Federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the Federal courts, and no Federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under State law and in State courts. Accordingly, these provisions are not being pre-empted or suspended, although the Secretary may have the power to do so under Section 504(g) of SMCRA and 30 CFR 730.11.

3. A State program need not contain provisions to implement a suspended or remanded regulation and no State program will be disapproved for failure to contain a suspended or remanded regulation.

4. Nonetheless, a State must have authority to implement all permanent program provisions of SMCRA, including those provisions of SMCRA upon which the Secretary based remanded or suspended regulations.

5. A State program may not contain any provision which is inconsistent with a provision of SMCRA.

6. Programs will be evaluated only on the basis of provisions other than those that must be disapproved because of the court's order. The remaining provisions will be unconditionally approved, conditionally approved, or disapproved in whole or in part, in accordance with 30 CFR 732.13.

7. Upon promulgation of new regulations to replace those that have been suspended or remanded, the Secretary will afford States that have approved or conditionally approved programs a reasonable opportunity to amend their programs as appropriate. In general, the Secretary expects that 30 CFR 732.17, concerning State program amendments, will govern this process.

On July 10, 1980, the United States Court of Appeals for the District of Columbia Circuit ruled that State programs need not contain minimum permit application requirements beyond those specified in sections 507 and 508 of SMCRA.

(*In re: Permanent Surface Mining Regulation Litigation*, No. 80–1308). On August 25, 1980, that court agreed to rehear the case, and vacated its earlier opinion. Accordingly, that decision presently has no effect on the Secretary's conditional approval of the Wyoming program.

To codify decisions on State programs, Federal programs, and other matters affecting individual states, OSM has established Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of Parts 900 through 950. Provisions relating to Wyoming's program are found in 30 CFR Part 950.

C. Background on the Wyoming Program Submission

Initial Submission

On August 15, 1980, the Secretary of the Interior received a proposed regulatory program from the State of Wyoming. Notice of receipt of the submission initiating the program review was published in the August 22, 1979, **Federal Register** (44 FR 49313–49314) and in newspapers of general circulation within the State. The announcement invited public participation in the initial phase of the review process relating to the regional director's determination of whether the submission was complete.

On September 10, 1979, a public review meeting on the Wyoming program was conducted by the Governor of Wyoming in Cheyenne. A transcript of this meeting was placed in the administrative record on September 20, 1979 (Administrative Record No. WY–17).

On September 20, 1979, a public review meeting on the program and its completeness was held by the regional director in Cheyenne, Wyoming; September 20 was also the close of the public comment period on completeness (Administrative Record No. WY–24). On October 24, 1979, the regional director published notice in the **Federal Register** (44 FR 61266–61267) that he had determined the program submission to be complete.

On October 26, 1979, the Wyoming Department of Environmental Quality submitted an amendment to its program submission, containing a **Federal Register** notice and a letter relating to the regional director's finding of completeness (Administrative Record No. WY–36).

On December 11, 1979, the regional director published notice in the **Federal Register** (44 FR 71798–71799) and in newspapers of general circulation within the State setting forth procedures for the public hearing and comment period on the substance of the Wyoming program. The public comment period was scheduled to close January 7, 1980. On January 7, 1980, a public hearing on the Wyoming submission was held in Cheyenne, Wyoming, by the regional director.

During the period from January 2 through January 21, 1980, various meetings were held between the Secretary and his representatives, on one hand, and the Governor of Wyoming and various other State officials, on the other, concerning draft

amendments to the Wyoming program. (Administrative Record No. WY–3), as Wyoming program be conditionally

amendments to the Wyoming program. Minutes and notes of these meetings are in the public record and were the subject of a **Federal Register** notice on January 15, 1980, (45 FR 2912) and public comment period. None of those draft materials was made an official part of the initial submission. Discussion of those items in the March 31, 1980, **Federal Register** (45 FR 20930–20982) was for general guidance to both the State and the public and did not bind the Secretary in making the decision announced today. Discussions of the draft materials and their location in the administrative record may be found in Part C of the March 31, 1980, **Federal Register** (45 FR 20933–20934).

On January 28, 1980, the regional director submitted to the Director of OSM his analysis of the Wyoming program, noting numerous differences between the program and the Federal regulations, and copies of the transcript of the public meeting and the public hearing, written presentations, exhibits, copies of all public comments received, and other documents comprising the administrative record. The regional director recommended to the Director that the Wyoming program be approved in part.

On February 14, 1980, OSM published in the **Federal Register** (45 FR 10046–10047) a notice of the availability of the views on the Wyoming program submitted by the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed State program.

On February 15, 1980, the Administrator of the Environmental Protection Agency transmitted his written concurrence with the Secretary's approval of those parts of the Wyoming program approved in the initial decision.

On February 15, 1980, the Director of OSM recommended to the Secretary that the Wyoming program be partially approved. The Secretary accepted that recommendation and approved the Wyoming program, in part.

The Secretary informed the State of his decision in a letter to Governor Herschler on February 15, 1980, which included the Secretary's findings on both the approved and disapproved parts of the formal Wyoming program. The public announcement of the decision was published in the **Federal Register** on March 31, 1980 (45 FR 20930–20982). A copy of the letter to Governor Herschler is available for review in the administrative record. The February 15, 1980, decision was based on the formal submission of August 15, 1979, (Administrative Record No. WY–3), as amended on October 26, 1979.

Resubmission

On May 30, 1980, Wyoming resubmitted for approval by the Secretary those portions of its program that were not approved by the Secretary on February 15, 1980. Notice of receipt of the resubmission and notice of a public hearing were published in the **Federal Register** on June 4, 1980 (45 FR 37697–37699). A public hearing was held in Cheyenne, Wyoming, on June 19, 1980, and the record was open for public comment until June 24, 1980.

On July 9, 1980, OSM officials discussed eighteen issues raised during review of the Wyoming resubmission with Wyoming officials by telephone (Administrative Record No. WY–204). On July 25, 1980, notice was published in the **Federal Register** (45 FR 49595–49599) that the record on the Wyoming resubmission was being reopened to allow the public to comment on the eighteen issues and on the provisions of the Wyoming regulations which tentatively had been identified as containing suspended or remanded Federal regulations, as discussed in "General Background on State Program Approval Process," above. The record remained open for comment until August 8, 1980.

On August 5, 1980, the State provided OSM with a letter responding to the eighteen issues discussed by telephone on July 9, 1980 (Administrative Record No. 220). Those responses are referred to, where appropriate, in the findings under Parts D and E of this notice.

The regional director submitted to the Director of OSM his analysis of the Wyoming program resubmission, together with copies of the transcript of the public hearing, written presentations, exhibits, copies of all public comments received, and other documents comprising the administrative record. On August 29, 1980, the regional director recommended to the Director that the Wyoming program be conditionally approved.

On August 21, 1980, OSM published in the **Federal Register** (45 FR 55767–55768) a notice of the availability of the views on the Wyoming program resubmission submitted by the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies.

On August 4, 1980, the Administrator of the Environmental Protection Agency transmitted his written concurrence with the Secretary's conditional approval of the Wyoming program.

On September 3, 1980, the Director recommended to the Secretary that the Wyoming program be conditionally approved. The Secretary accepted that recommendation and conditionally approved the Wyoming program on September 18, 1980. A copy of the letter to Governor Herschler announcing that decision is available for review in the administrative record.

Throughout the Wyoming State program review process, the Secretary and OSM have had frequent contact with the Governor of Wyoming and the staff of the Wyoming Land Quality Division. Discussions of the State program submission and resubmission were held among various State and Federal officials. Minutes or notes of these discussions were placed in the administrative record and made available for public review and comment.

All contacts between officials and staff of the Interior Department and the State of Wyoming have been conducted in accordance with the Department's guidelines for such contacts published September 19, 1979 (44 FR 54444.54445).

D. Secretary's Findings

In accordance with Section 503(a) of SMCRA, the Secretary finds that Wyoming has the capability to carry out the provisions of SMCRA and to meet its purposes, in the ways and to the extent set forth in Findings 1 through 7 below:

1. The Wyoming Environmental Quality Act (EQA), the regulations adopted thereunder, and the Wyoming Administrative Procedures Act, provide for the regulation of surface coal mining and reclamation operations on non-Indian and non-Federal lands in Wyoming in accordance with Section 503(a)(1) of SMCRA;

2. The Wyoming EQA provides sanctions for violations of Wyoming laws, regulations or conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of Sections 503(a)(2), 517, 518 and 521 of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, and withholding of permits, and the issuance of cease-and-desist orders by the Land Quality Division or its inspectors;

3. The Wyoming Land Quality Division has sufficient administrative and technical personnel and sufficient funds to regulate surface coal mining and reclamation operations, in accordance with the requirements of Section 503(a)(3) of SMCRA;

4. Wyoming law provides for the effective implementation, maintenance, and enforcement of a permit system that meets the requirements of Sections 506, 507, and 508 of SMCRA for the regulation of surface coal mining and reclamation operations on non-Indian and non-Federal lands within Wyoming;

5. Wyoming has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA;

6. Wyoming has established, for the purpose of avoiding duplication, a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other Federal and State permit processes applicable to the proposed operations. This finding corresponds to Section 503(a)(6) of SMCRA;

7. Wyoming has enacted regulations consistent with regulations issued pursuant to SMCRA except for those minor inconsistencies discussed below.

As required by Section 503(b)(1)–(3) of SMCRA, 30 USC 1253(b)(1)–(3), and 30 CFR 732.11–732.13, the Secretary has, through OSM, fulfilled the requirements set forth in Findings 8 through 10 below:

8. Solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed Wyoming program;

9. Obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those parts of the Wyoming program being approved which relate to air or water quality standards promulgated under the authority of the Federal Clean Water Act, as amended (33 USC 1151–1175), and the Clean Air Act, as amended (42 USC 7401 *et seq.*); and

10. Held a public review meeting in Cheyenne, Wyoming, on September 20, 1979, to discuss the initial Wyoming program submission and its completeness and held public hearings in Cheyenne, Wyoming, on January 7, 1980, on the substance of the initial submission and June 19, 1980, on the substance of the resubmission;

11. In accordance with Section 503(b)(4) of SMCRA, 30 USC 1253(b)(4), the Secretary finds that the State of Wyoming has the legal authority and sufficient qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII.

In accordance with 30 CFR 732.15, the Secretary makes Findings 12 through 30, below, on the basis of information in the Wyoming program submission, including the side-by-side comparison of the Wyoming law and regulations with SMCRA and 30 CFR Chapter VII, the Wyoming program resubmission, public comments, testimony and written presentations at the public hearings, and other relevant information. Specific references to State rules and more detailed discussions of the "State window" alternatives may be found in Part E.

12. The Wyoming program provides for Wyoming to carry out the provisions and meet the purposes of SMCRA and 30 CFR Chapter VII through certain provisions of the State program which, as alternatives to certain Federal regulatory requirements, are in accordance with the applicable portions of SMCRA and are consistent with the regulations. Pursuant to 30 CFR 731.13, The Secretary makes Findings 12.1 through 12.15 below with respect to Wyoming's proposed alternative approaches ("State window" items) to the requirements of 30 CFR Chapter VII.

12.1 Wyoming's alternative approach to 30 CFR 780.23 (description of postmining land use contained in reclamation plans) is in accordance with the provisions of SMCRA and is consistent with 30 CFR Chapter VII.

12.2 Wyoming's alternative approach to 30 CFR 785.14 and Part 824 (special requirements for mountaintop removal operations) is in accordance with the provisions of SMCRA and consistent with 30 CFR Chapter VII.

12.3 Wyoming's alternative approach to 30 CFR 785.15, 785.16, and Part 826 (special provisions for operations on steep slopes) is in accordance with SMCRA and consistent with 30 CFR Chapter VII. See discussion in Part E, Findings 12.3 and 13.S.

12.4 Wyoming's alternative approach to 30 CFR 785.19(c), (d), and (e) (identification of alluvial valley floors and evaluation of the effect that mining on alluvial valley floors has on farming) is in accordance with the provisions of SMCRA and is consistent with 30 CFR Chapter VII.

12.5 Wyoming's alternative approach to 30 CFR 816.22 (identification of topsoil to be removed) is in accordance with the provisions of SMCRA and is consistent with 30 CFR Chapter VII.

12.6 Wyoming's alternative approach to 30 CFR 816.44(d) (requirements for permanent diversions and reconstruction of channels temporarily diverted) is in accordance with the provisions of SMCRA and is consistent with 30 CFR Chapter VII.

12.7 Wyoming's alternative approach to 30 CFR 816.57 (identification of streams for which authorization is necessary to mine within 100 feet) is in accordance with the requirements of SMCRA and is consistent with 30 CFR Chapter VII, based on clarification of Wyoming's intent to measure aquatic systems, wherever they support fish, provided on August 5, 1980 (Administrative Record No. WY–220). See discussion in Part E, Finding 12.7.

12.8 Wyoming's alternative approach to 30 CFR 816.72 (valley fill requirements) is in accordance with the requirements of SMCRA and is consistent with 30 CFR Chapter VII.

12.9 Wyoming's alternative approach to 30 CFR 816.73 (head-of-hollow fill requirements) is in accordance with the provisions of SMCRA and is consistent with 30 CFR Chapter VII.

12.10 Wyoming's alternative approach to 30 CFR 816.74 (requirements for durable rock fills) is in accordance with the requirements of SMCRA and is consistent with 30 CFR Chapter VII.

12.11 Wyoming's alternative approach to 30 CFR 816.104 (restoration of contour where thin overburden exists) is in accordance with SMCRA and is consistent with 30 CFR Chapter VII.

12.12 Wyoming's alternative approach to 30 CFR 816.105 (provisions for restoration of contour where thick overburden exists) is in accordance with SMCRA and is consistent with 30 CFR Chapter VII.

12.13 Wyoming's alternative approach to 30 CFR 816.42(a)(2) and 816.46(u) (removal of sedimentation ponds when revegetation has met the liability period—usually 10 years in Wyoming) is in accordance with SMCRA and is consistent with 30 CFR Chapter VII. The program did not clearly show that baseline water quality data and data comparison techniques will be adequate to ensure accurate and proper decisions by the regulatory authority. By letter dated August 5, 1980 (Administrative Record No. WY–220), the State provided acceptable assurances that the data will be required. See discussion in Part E, Finding 12.13.

12.14 Wyoming's alternative approach to 30 CFR 701.5 and 816.150—816.176 (road classification) is in accordance with the technical requirements of SMCRA.

12.15 Wyoming's alternative approach to exploration activities is addressed in Finding 15.B since it was not presented with the other "State window" alternatives and was not proposed pursuant to 30 CFR 731.13.

13. The Land Quality Division has the authority under Wyoming laws and regulations to implement, administer, and enforce all applicable requirements consistent with 30 CFR Chapter VII, Subchapter K (performance standards), and the Wyoming program includes provisions adequate to do so, except for the minor inconsistencies discussed in Part E, Finding 13.

14. The Land Quality Division has the authority under Wyoming laws and

the same or similar procedural requirements.

29. The Wyoming EQA and Wyoming Land Quality Rules and Regulations, as

in Wyoming's initial program submission. After review of these two

Wyoming's resubmission. The conclusions expressed with respect to

findings for materials submitted by Wyoming in response to requests for

14. The Land Quality Division has the authority under Wyoming laws and regulations and the Wyoming program includes adequate provisions to implement, administer and enforce a permit system consistent with 30 CFR Chapter VII, Subchapter G (permits), except for those minor deficiencies discussed in detail in Part E, Finding 14.

15. The Land Quality Division has the authority to regulate coal exploration consistent with 30 CFR Parts 776 and 815 (coal exploration) and to prohibit coal exploration that does not comply with 30 CFR Parts 776 and 815, and the Wyoming program includes provisions adequate to do so.

16. The Land Quality Division has the authority under Wyoming laws and the Wyoming program includes provisions to require that persons extracting coal incidental to government-financed construction maintain information on site, consistent with 30 CFR Part 707.

17. The Land Quality Division has the authority, and the Wyoming program includes provisions to enter, inspect, and monitor all coal exploration and surface coal mining and reclamation operations on non-Indian and non-Federal land within Wyoming, consistent with the requirements of Section 517 of SMCRA (inspections and monitoring) and 30 CFR Chapter VII, Subchapter L (inspection and enforcement).

18. The Land Quality Division has the authority under Wyoming laws and the Wyoming program includes provisions to implement, administer, and enforce a system of performance bonds and liability insurance, or other equivalent guarantees consistent with 30 CFR Chapter VII, Subchapter J (performance bonds), with the exception of the minor deficiency discussed in Part E, Finding 18.

19. The Land Quality Division has the authority under Wyoming laws and the Wyoming program provides for civil and criminal sanctions for violations of Wyoming law, regulations and conditions of permits and exploration approvals including civil and criminal penalties, in accordance with Section 518 of SMCRA (penalties) and consistent with 30 CFR 845 (civil penalties), including the same or similar procedural requirements.

20. The Land Quality Division has the authority under Wyoming laws and the Wyoming program contains provisions to issue, modify, terminate and enforce notices of violations, cessation orders and show-cause orders in accordance with Section 521 of SMCRA (enforcement) and consistent with 30 CFR Chapter VII, Subchapter L (inspection and enforcement), including the same or similar procedural requirements.

21. The Land Quality Division has the authority under Wyoming laws and the Wyoming program contains provisions to designate areas as unsuitable for surface coal mining consistent with 30 CFR Chapter VII, Subchapter F (designation of lands unsuitable for mining).

22. The Land Quality Division has the authority under Wyoming laws and the Wyoming program provides for public participation in the development, revision and enforcement of Wyoming laws and regulations and the Wyoming program, consistent with the public participation requirements of SMCRA and 30 CFR Chapter VII, with the exception of the minor deficiencies discussed in Part E, Finding 22.

23. The Land Quality Division has the authority under Wyoming laws and the Wyoming program includes provisions to monitor, review, and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Land Quality Division consistent with 30 CFR Part 705 (restrictions on financial interests of State employees).

24. The Land Quality Division has the authority under Wyoming laws and the program includes provisions to require the training, examination, and certification of persons engaged in, or responsible for, blasting and the use of explosives in accordance with Section 719 of SMCRA, to the extent required for approval of its program.

25. The Land Quality Division has the authority under Wyoming laws and the Wyoming program provides for small operator assistance consistent with 30 CFR Part 795.

26. The Land Quality Division has the authority under Wyoming laws and the Wyoming program provides for protection of employees of the Land Quality Division in accordance with the protection afforded Federal employees under Section 704 of SMCRA.

27. Wyoming has the authority under its laws and the Wyoming program provides for administrative and judicial review of State program actions in accordance with Sections 525 and 526 of SMCRA (review of decisions) and 30 CFR Chapter VII, Subchapter L (inspection and enforcement).

28. The Land Quality Division has the authority under Wyoming laws and the Wyoming program contains provisions to cooperate and coordinate with, and provide documents and other information to, the Office of Surface Mining under the provisions of 30 CFR Chapter VII.

29. The Wyoming EQA and Wyoming Land Quality Rules and Regulations, as currently in effect, contain no provisions which would interfere with or preclude implementation of SMCRA and 30 CFR Chapter VII. The Wyoming Administrative Procedures Act, Wyoming Water Quality Rules and Regulations, Wyoming Air Quality Rules and Regulations, Wyoming Water Laws, Wyoming State Engineer Regulations and Instructions, Department of Environmental Quality Rules of Informational Practices, Wyoming Public Records Law, Wyoming Open Meeting Law and other laws and regulations of Wyoming do not contain provisions which would interfere with or preclude implementation of the provisions of SMCRA and 30 CFR Chapter VII.

30. The Land Quality Division and other agencies having a role in the program will have sufficient legal, technical, and administrative personnel and sufficient funds to implement, administer, and enforce the provisions of the program, the requirements of 30 CFR 732.15(b) (program requirements), and other applicable State and Federal laws.

E. Explanation of the Secretary's Findings

The discussion in this section is based on a review of the Wyoming program resubmission of May 30, 1980, supplemented by comments received on the resubmission and information submitted by the State on August 5, 1980 (Administrative Record No. WY–220). Throughout, the discussion also refers to materials considered by the Secretary in making his February 15, 1980, decision as published in the **Federal Register** on March 31, 1980 (45 FR 20930 *et seq.*). The discussion in Part E of the Secretary's findings of March 31, 1980, was based on a review of the Wyoming program submitted August 15, 1979, and amended October 26, 1979, as well as material Wyoming subsequently made available to the Department, described in Part C of the March 31, 1980, **Federal Register** notice (45 FR 20930 *et seq.*). The program submission and material subsequently added by the State included enacted laws and regulations and various proposed amendments to those laws and regulations. None of the amendments had been enacted at the time of Departmental review. In accordance with 30 CFR 732.11(d), the failure to have all necessary laws and regulations fully enacted required that the Secretary not approve the program in full or conditionally at that time.

Two versions of the Land Quality Rules and Regulations were contained in Wyoming's initial program submission. After review of these two versions by OSM, other governmental agencies and members of the public, Wyoming discussed a third version of rules. This third version was presented to the Department of the Interior in the form of a "Regulatory Memorandum" (Administrative Record No. WY–99). It was modified after discussions on January 2–5, 1980, between representatives of the Department of the Interior and the State of Wyoming. The modifications were incorporated into the fourth version of the rules, given to the Department of the Interior on January 9, 1980 (Administrative Record No. WY–119).

Because the Land Quality Division proposed to make extensive modifications in its rules, the Secretary disapproved the entire body of rules. Accordingly, a set of fully enacted Land Quality Rules and Regulations was made part of Wyoming's resubmission on May 30, 1980.

The discussion of particular issues in the March 31, 1980, findings (45 FR 20930 *et seq.*) reflected a review of all four versions of rules which were before the Department of the Interior and the public during the period of consideration of Wyoming's initial program submission. Comments by other Federal agencies and the public were based on review of the first two versions of the rules. Analysis and disposition of those comments reflected, where appropriate, later versions of Wyoming's rules. In the discussion of specific findings in the March 31, 1980, notice (45 FR 20930 *et seq.*), references to particular rules were, for the most part, to the January 9, 1980, proposed rules.

Any indication in the Secretary's March 31, 1980, findings (45 FR 20930 *et seq.*) of the adequacy or inadequacy of those portions of Wyoming's initial program submission that were not approved was tentative and subject to modification upon further review by the Department, the public, and other agencies in the program resubmission review process. The discussions below reflect the results of the Department's final review and consideration of public comments on both the program submission and resubmission.

In addition, only sections of the Wyoming EQA which were in accordance with SMCRA and which were fully enacted were approved in the Secretary's February 15, 1980, decision. Discussions of proposed amendments to the EQA were included in the March 31, 1980, findings (45 FR 20930 *et seq.*) as guidance for Wyoming, other government agencies, and the public in the development and review of Wyoming's resubmission. The conclusions expressed with respect to such amendments were not necessarily final.

Part E is divided into two sections. The first section is entitled "Department's Findings." The second section is entitled "Disposition of Comments Received." In the March 31, 1980, notice (45 FR 20930 *et seq.*), the comments of other governmental agencies and the public were integrated with the Department's analysis. To maintain clarity and avoid redundancy, the Department's discussions of the resubmission and comments on the resubmission are now separated, with cross-references provided where necessary.

Where the detailed findings are numerous and complex, they are divided into two general categories. The first category includes those findings on statutes enacted and rules promulgated by Wyoming in close or exact accordance with the Secretary's tentative findings in the March 31, 1980, notice (45 FR 20930 *et seq.*). The basis for the Secretary's tentative findings was discussed under Part E of that notice (45 FR 20936 *et seq.*). The Secretary's tentative findings were compared with the program resubmission to assure that the State had enacted or promulgated the same language that was considered by the Secretary in making the tentative findings and that the resubmission had been subject to an opportunity for review and comment by government agencies and the public.

The Department has evaluated the provisions in the resubmission, assured that the enacted or promulgated language is essentially the same as that considered in the tentative findings, and considered comments by government agencies and the public. Where Wyoming did enact or promulgate the same language and where the Secretary has not changed his tentative finding on the basis of government agency or public comments, the final approval of those provisions is included in this notice. This notice does not, however, repeat the bases upon which the Secretary found these provisions approvable. These may be found in the March 31, 1980, notice (45 FR 20936 *et seq.*) and the finding number is cited below in this notice to facilitate reference to the March 31, 1980, notice.

The second category includes the Secretary's findings for the remaining provisions of the resubmission that differ from the initial submission and from documents described in Part C of this notice that were subsequently submitted. This category includes findings for materials submitted by Wyoming in response to requests for additional information or findings of unacceptability made in the March 31, 1980, notice (45 FR 20930 *et seq.*); findings on provisions where Wyoming enacted or promulgated language different from that which the Secretary tentatively found acceptable in the March 31, 1980, notice; and findings on any new provisions included in the resubmission. Additional analyses of the resubmission of issues which had not been discussed in the March 31, 1980, notice, but which required detailed discussion in these findings, are also included. Findings in the second category generally required more analysis than did those in the first category. The findings under this category are organized by the general finding number followed by a letter. Where applicable, the finding number from the March 31, 1980, notice is also included in the discussion to facilitate reference to discussions in that earlier notice. Unless otherwise noted, all references to the EQA are to that Act as amended by the 1980 Wyoming legislature, and as it appears in Exhibit A.1. of the resubmission.

For Findings 13 (environmental performance standards), 14 (permit system), and 15 (coal exploration), a brief description is provided of the provisions being approved under this category. The description is provided because citations were changed by the State during the process of enacting the statutory provisions and promulgating the regulations.

Department's Findings

Finding 1

The Secretary finds that the Wyoming Environmental Quality Act (EQA), the regulations and guidelines adopted thereunder, the Wyoming Administrative Procedures Act, and the State Engineer's regulations provide for the regulation of surface coal mining and reclamation operations on non-Indian and non-Federal lands in Wyoming in accordance with SMCRA, subject to the discussions in Findings 13.F, 13.P, 14.A, 14.C, 18.A, 22.C and 22.D, below. This finding corresponds to Section 503(a)(1) of SMCRA, 30 U.S.C. 1253(a)(1). An analysis of the issues underlying this finding is found in the detailed discussions of Findings 6 and 12 through 30, below.

Finding 2

The Secretary finds that the Wyoming EQA provides sanctions for violations of Wyoming laws, regulations or conditions of permits concerning surface

coal mining and reclamation operations.

Included with Exhibit F.4. is an MOU

modification of the term "adjacent area"

regulations issued pursuant to SMCRA,

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coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, and withholding of permits, and the issuance of cease-and-desist orders by the Land Quality Division or its inspectors. This finding corresponds to Section 503(a)(2) of SMCRA (30 U.S.C. 1253(a)(2)). An analysis of the issues underlying this finding is found in the detailed discussions of Findings 18, 19 and 20, below.

Finding 3

The Secretary finds that the Land Quality Division has sufficient administrative and technical personnel and sufficient funds to enable Wyoming to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA. This finding corresponds to Section 503(a)(3) of SMCRA (30 U.S.C. 1253(a)(3)). An analysis of the issues underlying this finding is found in the detailed discussion of Finding 30, below.

Finding 4

The Secretary finds that Wyoming law provides for the effective implementation, maintenance, and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Indian and non-Federal lands within Wyoming, subject to the discussions in Findings 14.A and 14.C below. This finding corresponds to Section 503(a)(4) of SMCRA (30 U.S.C. 1253(a)(4)). An analysis of the issues underlying this finding is found in the detailed discussion of Finding 14, below.

Finding 5

The Secretary finds that Wyoming has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA. This finding corresponds to Section 503(a)(5) of SMCRA (30 U.S.C. 1253(a)(5)). An analysis of the issues underlying this finding is found in the detailed discussion of Finding 21, below.

Finding 6

The Secretary finds that Wyoming has established, for the purpose of avoiding duplication, a process for coordinating and reviewing permit applications with other governmental agencies. This finding corresponds to Section 503(a)(6) of SMCRA. In addition to the following paragraphs in this finding, discussion of the analysis underlying this finding is found in Findings 13 and 14, below.

Wyoming has identified in its program submission seven State agencies having related responsibilities for elements of permitting and inspection of surface and underground coal mining operations. These are the Land, Air, and Water Quality Divisions of the Department of Environmental Quality, the State Engineer, the Recreation Commission, the Game and Fish Department, and the Wyoming State Inspector of Mines. The related responsibilities are coordinated through five Memoranda of Understanding (MOUs). In these MOUs, the agencies agree to review elements of applications, provide technical assistance to the principal agency (the Land Quality Division, which serves as the "regulatory authority"), and to apply certain environmental protection performance standards to permit applications (Exhibits F–1 through F–5 of resubmission).

The MOUs between the three divisions of the Department of Environmental Quality and the MOU between the Land Quality Division and the State Engineer contain certain standards and require plans to meet certain engineering and environmental requirements. This information is required to be in permit applications for surface (or underground) coal mining operations pursuant to promulgated Rule II 3a(5) of the resubmitted program. A permit can be approved only with this information included; otherwise the requirements of Rule II 3a(5) and W.S. 35–11–406(n)(i) (complete application) would not be met. Once a permit is approved, the permittee must comply with the measures in the application. Thus, the requirements of the Water Quality and Air Quality Divisions, and the requirements of the State Engineer, are enforceable under the provisions of Wyoming's program.

The MOUs divide important functions among the Land, Air, and Water Divisions of the Department of Environmental Quality and provide a strong vehicle for addressing their respective concerns. The MOUs reached with other entities such as the State Engineer and the Game and Fish Department also establish protocols and identify authorities. While coordination will require on-going attention, the Land Quality Division staff has worked under the MOUs successfully and should provide proper coordination. Use of guidelines is discussed further in Finding 14.22 in this notice.

6.1 The MOU between the three divisions of the Department of Environmental Quality (Exhibit F.1) has been resubmitted with some changes. The exhibit was signed by all participants and approved as to form and execution by the Attorney General on April 18, 1980. The changes are in all sections, but principally reflect editorial rather than substantive changes. Exceptions are (1) a change in the Water Quality Division's effluent limits for total suspended solids, (2) additional provisions allowing separate, but conditional, inspections by the various divisions, and (3) identification of W.S. 35–11–437 as the sole enforceable basis for the permit conditions, Article IV, and the Land Quality Division's rules.

The first change is addressed under Finding 13.C (13.14) in this notice, which contains an explanation by the State that the Secretary finds acceptable. The second change in the MOU is acceptable since it minimizes duplicative inspections, and yet allows the regulatory authority to conduct independent inspections. The third change, that of relying on W.S. 35–11–437 as the limiting mechanism to identify the scope of enforcement authority by the Land Quality Division in matters involving other divisions' rules, is logical since that section of the statute contains the enforcement authority for surface coal mining operations.

Accordingly, the Secretary finds the Department of Environmental Quality MOU (Exhibit F–1) to be acceptable.

6.2 The MOU between the Wyoming State Engineer and the Department of Environmental Quality regarding reservoirs (Exhibit F.4) has been modified in the resubmission. The MOU is signed by all parties and was approved by the Wyoming Attorney General as to form and execution on March 4, 1980. The MOU contained in the resubmission is accompanied by an "Appendix A" which is titled "Proposed Regulations for Surface Coal Mining Operations." Thus the MOU contains materials which do not appear to be in effect through the authority of the MOU. Further, the material in "Appendix A" includes requirements previously found by the Department to be inconsistent with SMCRA. (See Finding 13.28.) By letter dated August 5, 1980 (Administrative Record No. WY–220), the State indicated that the Appendix A attached to the MOU is the wrong appendix and that Appendix A attached to the State Engineer's regulations in Volume 5, Exhibit B.9, is the correct appendix. The Appendix A in Exhibit B.9 corrects the deficiencies discussed in Figure 13.28 and is acceptable.

The other changes in the MOU relate to administrative procedures designed to enhance coordination between the two State agencies and are acceptable.

Included with Exhibit F.4. is an MOU between the State Engineer and the Department of Environmental Quality which addresses "wells." This MOU was approved by the Attorney General on May 25, 1980. The resubmission contains only editorial changes and is acceptable.

6.3 The resubmission contains a new Wildlife Guideline (No. 5, exhibit not labeled in the resubmission, but should be Exhibit G.1.e.). Criteria identical to the Federal requirements of 30 CFR 816.97(c) (powerline construction) have been added to Section VI of the guideline; this is briefly discussed in Finding 13.64. Other changes include designation of the study area as including the permit area and the adjacent area, addition of requirements for collection of surface water quality data, reduction of the time period for trapping small mammals, adding walking transect observations to methods of assessing the presence of predators, and addition of a requirement to include wildlife monitoring data in the annual report. Appendices 1 and 2 and the references in the guideline have also been enhanced to improve black-footed ferret surveys and data presentation.

The Secretary finds Guideline No. 5 for wildlife acceptable as consistent with similar Federal requirements. (For further explanation see Finding 12.7, below.)

6.4 The resubmission contains a new Hydrology Guideline (No. 8, Exhibit G.1.g). Important changes to the guideline as resubmitted are (1) the addition of a part describing the hydrologic data to be provided in the annual report, (2) change of term "ground water recharge rates" to "ground water recharge areas," (3) change of terminology in Part IV to include more descriptive geologic and hydrologic terms, (4) recommendation of three-day pump tests and expansion of the description of the pumping tests, (5) specification of water quality analysis including requiring a major cation-major anion balance, (6) requirement for supporting geophysical or lithological logs, (7) addition of water rights information, (8) identification of proposed results of the monitoring program, (9) a discussion of complementary computer modeling, and (10) the addition of Appendix 2 which lists water quality parameters for hydrologic investigations. The Secretary finds this guideline acceptable as consistent with Federal requirements.

6.5 The resubmission contains a new Alluvial Valley Floor Guideline (No. 9, Exhibit G.1.h.). The changes in the resubmitted guideline are (1) modification of the term "adjacent area" to correspond to Rule I 2(3), (2) deletion of the term "agricultural activities," (3) redefinition of the term "alluvial saturated zone" to include hydrologic principles, (4) inclusion of a standard definition of "animal unit," (5) modification of the term "essential hydrologic functions" to correspond to Rule I 2(24), (6) addition of the Rule I 2(48) definition of "natural damage to the quantity or quality of water," (7) addition of the Rule I 2(89) definition of "subirrigation or flood irrigation agricultural activities," (8) expansion of the term "unconsolidated stream laid deposits" to include terrace and flood plain deposits consonant with Rule I 2(101), (9) inclusion of the Rule I 2(104) definition of "undeveloped rangeland," (10) addition of the Rule I 2(105) definition of "upland areas," (11) editing of subirrigation and flood irrigation criteria in Section II, (12) addition of the requirement to map unconsolidated, stream laid deposits, (13) addition of aerial imaginery and diurnal fluctuations of water table as indicators of subirrigation, (14) addition of flood frequency to determinants of the suitability of periodic flood flows for enhanced plant production, (15) modification of the procedures for evaluating artificial flood irrigation and irrigation potential, (16) addition of subirrigation or flood irrigation agricultural activities to the alluvial valley floor identification criteria, (17) reduction in the time period for which changes in ownership/tenancy and management practices are to be provided in the application, (18) deletion of authority to permit landowner/tenant to claim confidentiality for land use and other data, (19) restriction in the use of the "importance to agriculture" formula to agree with Rule III 2d, (20) restriction of the determination of natural drainage to areas important to farming consistent with the district court ruling, (21) addition of a requirement for a cumulative assessment of surface and ground water changes and the effects on the productive capability of off-site alluvial valley floors, (22) requirement to assess the capability to re-establish essential hydrologic functions of off-site affected alluvial valley floors and (23) numerous editorial changes.

The Secretary finds the Alluvial Valley Floor Guideline consistent with 30 CFR 785.19 and that Wyoming has established methods for identifying, evaluating, and protecting alluvial valley floors.

Finding 7

The Secretary finds that Wyoming has enacted regulations consistent with regulations issued pursuant to SMCRA, subject to the discussions in Findings 13.F, 13.P, 14.A, 14.C, 18.A, 22.C, and 22.D, below.

Finding 8

The Secretary has, through OSM, solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other Federal agencies concerned with or having special expertise pertinent to the proposed Wyoming program. This finding corresponds to Section 503(b)(1) of SMCRA (30 U.S.C. 1253(b)(1)). This finding is based upon the facts set forth in the two **Federal Register** notices inviting and announcing public availability of these comments. See 45 FR 10046–10047 and 45 FR 55767–55768.

Finding 9

The Secretary has, through OSM, obtained the written concurrence of the Administrator of the Environmental Protection Agency (EPA) with respect to those parts of the Wyoming program approved on February 15, 1980, and those parts for which this notice announces approval which relate to the air or water quality standards promulgated under the authority of the Federal Clean Water Act, as amended (33 U.S.C. 1151–1175), and the Clean Air Act, as amended (42 CFR 7401 *et seq.*). This finding corresponds to Section 503(b)(2) of SMCRA (30 U.S.C. 1253(b)(2)). The finding is based on the two letters transmitted by the Administrator of EPA to the Secretary. A copy of each letter has been placed in the Administrative Record.

Finding 10

The Secretary, through the OSM regional director for Region V, held a public review meeting in Cheyenne, Wyoming, on September 20, 1979, to discuss the Wyoming program submission and its completeness and held public hearings in Cheyenne, Wyoming, on January 7 and June 19, 1980, on the substance of the Wyoming program submission and resubmission. This finding corresponds to Section 503(b)(3) of SMCRA (30 U.S.C. 1253(b)(3)).

Finding 11

The Secretary finds that the State of Wyoming has the legal authority and has sufficient qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII. This finding corresponds to Section 503(b)(4) of SMCRA (30 U.S.C. 1253(b)(4)).

Finding 12

eliminates having to discuss the

exists within the permit area or adjacent

valley floors (Administrative Record No.

approximates premining stream channel

considering the other provisions of the

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Finding 12

The Secretary finds that the Wyoming program provides for Wyoming to carry out the provisions and meet the purposes of SMCRA and 30 CFR Chapter VII, subject to the discussions in Findings 13.F, 13.P, 14.A, 14.C, 18.A, 22.C, and 22.D below. This finding corresponds to the first half of 30 CFR 732.12(a); it is based on Findings 1 through 11 and 12.1 through 30. Analyses of the issues underlying those findings are found throughout this section.

12.1–12.15 Wyoming proposed in its resubmission a total of fourteen alternative approaches to Federal regulations (termed "State windows") pursuant to 30 CFR 731.13. These are presented in Exhibit G.6 of the resubmission. The Secretary found, in the Federal Register publication of March 31, 1980, that one of the items, relating to mountaintop removal, was acceptable as presented. (See Finding 12.2.)

The resubmission includes two additional "State window" items, one dealing with timing and criteria for removing sedimentation ponds, and the other addressing certain light-use classifications of roads. The resubmission also includes a fifteenth item, a discussion of coal exploration requirements which, while submitted in Exhibit G.6 with the other "State windows," was cited in the resubmission as not being based on 30 CFR 731.13 (the "State window" provisions of the Federal regulations). That particular element of the resubmission is addressed briefly in Finding 12.15. Each of the "State window" items is discussed and the Secretary's findings described in Findings 12.1 through 12.15, below.

12.1 Wyoming has promulgated Rule II 3b(12)(b) to require a discussion of postmining land use only when the proposed postmining land use is different from the premining use. Wyoming chooses to rely on discussions of the existing (premining) land use required by Rules II 2a(1) and II 2a(1)(a) and Rule II 3a(6)(d) which, using the last-cited rule as an example, requires such information as (1) a thorough discussion of major past and present uses of the permit and adjacent areas, (2) an analysis of the capability of the land to support a variety of uses, and (3) any land use classification existing in the permit and adjacent areas.

The lack of exact equivalents in the resubmission to the Federal requirements of 30 CFR 780.23 applicable where there is no change in land use is considered to be an administrative modification that eliminates having to discuss the postmining land use twice: once as the existing land use and a second time as the proposed postmining land use. Duplicative discussion would occur whenever all the pre- and postmining land uses were the same.

Wyoming has also enacted W.S. 35–11–406(b)(xi) and (xii) to require owner consent or order from the Environmental Quality Board in lieu of consent, and promulgated Rule II 3b(12)(iii)(A) to require, where applicable, concurrence of the owner of record with changes in land use. Rule XIII 1a(2)(b) requires sending notices to governmental agencies. Thus, the postmining land use will be subjected to analysis and approved by the regulatory authority coordinated with other affected parties. The Secretary finds Wyoming's alternative provisions for describing postmining land use to be consistent with the Federal requirements of 30 CFR 780.23 in the context of 30 CFR 731.13.

12.2 Wyoming has neither defined mountaintop mining nor promulgated regulations for variances from approximate original contour requirements for mountaintop mining operations. Conditions for mountaintop mining are non-existent in the major known coal resource areas of Wyoming. The Secretary has found this alternative approach consistant with SMCRA and acceptable since the Wyoming program does not provide a variance and is, as a result, more stringent than the Federal permanent regulatory program. Under Section 515(c) of SMCRA, implementation of mountaintop removal provisions is optional, and a State program need not include them.

12.3 Wyoming has enacted W.S. 35–11–103(e)(xxi) to define "steep slope surface coal mining operation" and has promulgated Rule I 2(86) to define steep slopes. The Secretary finds that Wyoming will ban mining on steep slopes until the Wyoming Environmental Quality Council has promulgated rules and regulations establishing steep slope mining performance standards. This is discussed more fully in Findings 13.S (13.126), below.

12.4 Wyoming has promulgated rules that include special permit information requirements and performance requirements for alluvial valley floors (Rules III 2 and V 2, respectively). The alternative rules to the Federal regulations in the State program resubmission use comprehensive terms to summarize the requirements listed in more detail in the Federal regulations. Wyoming has promulgated Rule III 2a(4) to require "such other information that the administrator shall require to identify whether an alluvial valley floor exists within the permit area or adjacent areas and its extent, if any." This permits the regulatory authority to detail the information requirements to a greater degree than exist in Rule III 2, when necessary. This same authority is provided in newly-promulgated Rule III 2b(11) and Rule III 2c(5).

Wyoming has promulgated Rule III 2 with somewhat different language from that used in the original submission. In particular, in Rule III 2a, requiring affirmative demonstration of the premining absence of an alluvial valley floor, the term "alluvial valley floors" apparently has been limited to "alluvial valley floors containing areas of subirrigation or flood irrigation agricultural activities." In Rule III 2a(3) the requirement for written views of the local conservation district regarding flood irrigation potential has become a discretionary element. No explanation of these changes is offered.

These changes have the potential of being important with respect to identification of *potential* alluvial valley floors in that they could eliminate investigations of areas with a potential for flood irrigation. However, the Secretary finds that the State program will comply with the requirements of 30 CFR 785.19(c)(2)(ii) (A) and (B) to identify historical flood irrigation and future flood irrigation potential because Guideline No. 9 of the resubmission requires identification of potential flood irrigated alluvial valley floors (Part II.C.2.b of the guideline). Accordingly, the changes cited above do not result in provisions which are inconsistent with SMCRA and 30 CFR Chapter VII, when the entire body of alluvial valley floor identification provisions in the Wyoming program is considered.

Wyoming has deleted the requirement for water quality data over one year and substituted the requirement for such data to show seasonal variations (Rule III 2b(6)). This change is consistent with the district court's ruling of February 26, 1980, p. 50. See discussion above under "General Background."

In a manner similar to that used in Rule III 2a, Wyoming has added to Rule III 2c the qualifying phrase discussed above regarding subirrigation and flood irrigation and further added the phrase "which are important to farming." Since Rule III 2c(2) addresses only material damage subject to Section 510(b)(5) of SMCRA, this change is also consistent with the district court ruling (*Id.* at 52–53).

Wyoming has added requirements to Rule III 2c for a monitoring plan in accordance with Rule V 2e and, by letter dated August 4, 1980, has clarified its intent to monitor all affected alluvial

valley floors (Administrative Record No. WY–220).

Wyoming modified Rules V 2c and d(1) to apply the criteria of material damage and interruption, discontinuance and preclusion to alluvial valley floors "of importance to farming." This is also in accordance with the district court rulings. Rule V 2d(3) has been added by Wyoming to provide the grandfather clause contained in 30 CFR 785.19(e)(1)(i).

Additional elements of Wyoming's alluvial valley floor provisions are discussed in Finding 13.116.

The Secretary finds, based on the above discussion, that Wyoming's alternative provisions for identifying alluvial valley floors are consistent with the Federal requirements.

12.5 Wyoming has promulgated Rules I 2(79) (defining "soil horizons"), I 2(97) (defining "topsoil"), and IV 2c and IV 3b (performance standards for removing, protecting and replacing soils). Wyoming has promulgated the cited rules to provide for automatic consideration of all soils present at a site as potentially suitable plant growth media rather than initially restricting the analysis to the A horizon as could occur pursuant to 30 CFR 816.22(b). The Wyoming alternative provides the same assurance of suitable plant growth media as contained in 30 CFR 816.22(e). Wyoming has also promulgated Rule IV 3b(1) which requires the A or more organic horizons of topsoil to be segregated from the B and C horizons where such practice would enhance revegetation. This is equivalent to 30 CFR 816.22(d).

Wyoming has proposed the alternatives to take into account the highly variable soil at most Wyoming mine sites. The Secretary finds that these soil protection provisions are consistent with the Federal requirements of 30 CFR 816.22.

The definition of topsoil is also addressed in Findings 13.3, 13.5 and 13.6. Segregation of soil horizons is discussed in Finding 13.4.

12.6 Wyoming has promulgated Rule IV 3e(2)(b) to require that permanent diversions or stream channels be constructed to establish or restore stream characteristics to approximate premining stream channel characteristics and to establish and restore erosionally stable stream channels and flood plains. This is a substitute for the Federal requirements to establish the stream to its naturally meandering slope of an environmentally-acceptable gradient, and to establish or restore a longitudinal profile and cross-section that approximates premining stream channel characteristics (30 CFR 816.44(d)).

The resubmission takes into account that there are numerous variables in stream flow systems and that the topographic and geomorphic changes attendant to mining require careful analysis to achieve proper erosional balances in postmining surface water systems. The Secretary finds that the alternative standards incorporate the Federal requirements to restore a naturally stable channel and flood plain and that the alternative will result in streams and diversions being restored properly, considering topography, soils, and watersheds in the region of the mine.

12.7 Wyoming has promulgated Rule IV 3p(2) to apply the buffer zone concept of 30 CFR 816.57(a) to perennial and intermittent streams as opposed to perennial streams and streams with biological communities meeting the criteria of 30 CFR 816.57(c). Wyoming perceives problems with enforcing a provision based on an assessment of the biological community. Therefore, it has selected, as the criteria for considering buffer zones, the hydrologic definition of those streams that are likely to support aquatic biologic systems to some degree. Thus perennial and intermittent streams would automatically receive close scrutiny regarding the need for buffer zones.

Concern has arisen as to whether the elimination of biological communities as a determinant for buffer zones would weaken protection of the aquatic ecosystem. This is also discussed in Finding 13.39 below. To counter this concern, the Wyoming program contains several provisions to assure protection of the aquatic ecosystem: Rule II 3a(6)(e), which requires studies of fish and their habitats, at the level of detail required after consultation with State and Federal game and fish agencies; Rule II 3b(4), which requires a plan to minimize adverse impacts to fish and related environmental values, including wildlife and fish habitats of high value; the Wildlife Guideline (No. 5), which requires surveys and evaluations of water quality and aquatic (fish) habitat and standard procedures for assessing fish and fish habitat using measurements of the biological community in the same manner as 30 CFR 816.57; and Rule IV 3p(2), which includes the two types of streams supporting biological communities defined in 30 CFR 816.87(c). (See Finding 13.G below.)

The Secretary finds the substitution of intermittent and perennial streams for buffer zone requirements to provide equivalent protection of stream biota, considering the other provisions of the Wyoming program which require definition and protection of the aquatic system and the assurance provided by the State on August 5, 1980. The State gave assurance that premining studies, as described in Guideline 5, will be conducted on streams within or adjacent to the permit area which are expected to be important to fisheries (Administrative Record WY–220). The Secretary assumes that the phrase "important to fisheries" includes streams that support biological communities as defined in 30 CFR 816.57(c), whether or not the streams support fish populations. Based on that assumption, the Secretary finds the State's explanation acceptable.

12.8 Wyoming has promulgated Rule IV 3c(1)(b), which prohibits placement of excess spoil in areas (1) with an overall slope of 20 degrees or (2) in areas of springs, seeps, or drainages. This, excess spoil cannot be placed in an area which would qualify as a "valley fill," "head-of-hollow fill," or "durable rock fill" as defined in 30 CFR 701.5. ("Durable rock fill" is a variant of valley or head-of-hollow fills.) The prohibition of Rule IV 3c(1)(b)(ii) also eliminates the need for underdrains (see Finding 13.46).

Since coal resource areas conducive to surface mining operations in Wyoming are conducted on relatively flat terrain, adequate room exists to place any excess spoil out of drainages and steep slope valleys. As discussed in Finding 12.3 above, Wyoming currently plans to prohibit mining on steep slope areas, thus prohibiting placement of excess spoil in steep slope areas.

The Secretary finds the Wyoming rules will achieve more stringent environmental protection than the Federal regulations, since they prohibit construction of valley fills.

12.9 Wyoming has, as discussed in Finding 12.8 above, prohibited placement of excess spoil in topographic locations which, as a result of steepness, require construction as "head-of-hollow fills" (see 30 CFR 816.73). Thus, the Secretary finds the proposal to prohibit construction of head-of-hollow fills to be acceptable as providing more stringent environmental protection than the Federal regulations.

12.10 As discussed in Findings 12.8 and 12.9 above, Wyoming prohibited placement of excess spoil in "valley fills" or "head-of-hollow fills." "Durable rock fills" permitted by the Federal regulations (30 CFR 816.74) are prohibited in the State program resubmission since these are essentially "valley" or "head-of-hollow" fills containing durable rock and designed to alternative standards. The Secretary

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finds the prohibition of durable rock fills by the Wyoming program to be acceptable as providing more stringent environmental protection than the comparable Federal regulations.

12.11 Wyoming has promulgated Rule IV 3a(5) to define "thin overburden" as existing where (1) operations are carried out continuously in the same limited permit area for more than one year and (2) the volume of all available spoil and suitable waste material over the life of the mine is demonstrated not to be sufficient to achieve the approximate original contour. The second part of the definition differs from that of 30 CFR 816.104 in that it does not use a numerical ratio. The alternative language in the Wyoming rule is essentially the same as that in Section 515(b)(3) of SMCRA.

Wyoming considers the single ratio to neglect site-specific considerations where all material should be returned to the mined area to achieve approximate original contour regardless of whether the dimensional criterion of 30 CFR 816.104 is met. The Secretary finds the alternative rule to be consistent with SMCRA and acceptable as an alternative to 30 CFR 816.104 because it requires that all material be returned to the pit regardless of the numercial factor to assure that the land is returned to approximate original contour consistent with the approved postmining land use.

12.12 Wyoming has promulgated Rule IV 3a(6) to apply to situations addressed in 30 CFR 816.105 as "thick overburden." This rule requires that spoil demonstrated to be in excess of that necessary to achieve approximate original contour be disposed of in accordance with the State rule for "excess spoil" (Rule IV 3c(1)). The language of the rule approaches the language of Section 515(b)(3) of SMCRA, but does not use the numerical criterion provided in 30 CFR 816.105.

Wyoming reasons that bulking ratios for spoil are not constant and that natural compaction processes occurring after grading are not well understood. Therefore, Wyoming considers that a standard ratio is not sufficiently flexible to account for geologic variability in the coal resource areas of Wyoming. When evaluating proposed postmining topography on a site-specific basis, Wyoming considers the suitability of the topography for promoting revegetation and hydrologic stability. Evaluations of approximate original contour are based on support of the postmining land use, revegetation, and hydrologic stability. The Secretary assumes that only that spoil which, if placed back on the mined area, would lead to hydrologic instability or revegetation problems or both would be determined to be excess. Based on that assumption, the Secretary finds the alternative rule to be consistent with SMCRA and acceptable as an alternative to 30 CFR 816.105, since it encourages emphasis on achieving hydrologic stability and supporting vegetation when considering postmining topography in the coal resource areas of Wyoming.

12.13 Wyoming has also promulgated Rule IV 3g(1) to require retention of sedimentation ponds or sedimentation control devices until the affected lands have been restored and until the untreated drainage from such lands will not degrade the quality of receiving water. While this was proposed by Wyoming as an alternative to the requirements of 30 CFR 816.42(a)(2) and 816.46(u), the Secretary finds it consistent with the Federal requirements without consideration of the "State window" alternatives procedure. However, even if 30 CFR 816.42(a)(2) and 816.46(u) were interpreted to require retention of sediment ponds throughout the entire period for measuring revegetation success (i.e., 10-years in arid areas like Wyoming), the Wyoming proposal for earlier removal is approved under the "State window" criteria. The need to preserve water and avoid the evaporation loss resulting from sediment ponds in Wyoming justifies pond removal whenever the background level of sediment discharges has been achieved without regard to complete revegetation success. This is also discussed in Finding 13.B (13.13, 13.25), below.

In response to the Secretary's initial finding that the word "restored" in Rule IV 3g(1) was identical in meaning to the term "restored and revegetated," the State clarified its intention to, in fact, not require that the revegetation bond period be terminated prior to removal of sediment control facilities but rather to require that facilities be removed when "disturbed land channels are relatively stable and the monitoring of untreated runoff shows that water quality has been reduced to baseline conditions" (Exhibit G.6, counterpart to 30 CFR 816.46(u) of resubmission). The word "restored" is discussed by Wyoming in the resubmission as meaning that the disturbed area is sufficiently stabilized that runoff is restored to background water quality conditions and to projected flow conditions. Once water quality has returned to baseline levels, it could be reasoned that the revegetated area would, in general, have adequate vegetation to control erosion at premining levels (or "baseline conditions").

Wyoming states, in the resubmission, that "[t]his alternative provision is sought on the basis of local requirements, which necessitate that unnecessary detention and evaporation loss of surface runoff be minimized so as to reduce adverse impacts on senior downstream water rights in an environment where surface runoff is limited and demands for this resource are high."

Wyoming states that baseline conditions will be established prior to drainages being disturbed. This is most important since baseline conditions, both water quality and quantity, are highly variable in surface water streams in Wyoming. Wyoming's rules for gathering baseline surface water information (Rule II 3a(6)(h)(i)) did not appear to be implemented in the Hydrology Guideline (No. 8) to the degree necessary to ensure that adequate baseline information will be obtained to allow a quantitative determination by the regulatory authority that runoff from reclaimed lands meets baseline conditions. (See Section III A of Guideline). The State therefore emphasized that it will require baseline data sufficient to characterize seasonal variation on all drainage that will receive runoff from affected lands (Administrative Record No. WY-220). These data will, of course, have to be statistically valid.

The Secretary finds that Wyoming's proposed alternative is acceptable and should be adequate to enforce the requirement to obtain surface water flow and quality data either from reference basins located in the general area, or from the undisturbed drainages of the permit area, and to show what types of comparisons of data will be (1) feasible and (2) necessary to show that "disturbed lands are relatively stable and the type of monitoring of untreated runoff necessary to show that water quality has been [restored] to baseline conditions." The Secretary finds the alternative to achieve the purposes of, and be consistent with, the pertinent Federal requirements.

12.14 Wyoming includes in Rule I 2(71)(c)(ii) in the resubmission, a definition of "non-constructed light use road" for a class of roads or road segments that do not require blading, cutting, or filling and which would be used by light-duty vehicles, but which would be used for more than six months. Wyoming also includes, in Rule IV 3j(3)(d), performance standards for those light-use roads. The Federal regulations for roads were remanded by the district court. [Opinion of May 16, 1980, at 32–36; see discussion under "General Background," above.) However, the rules for these "non-constructed light use roads" are no less stringent than the performance standards in Sections 515 and 516 of SMCRA.

12.15 Wyoming submitted material describing its program to regulate exploration in Appendix G.6 ("State windows" pursuant to 30 CFR 731.13). However, the explanation indicates the State did not develop its rules for exploration based on the criteria of 30 CFR 731.13. Therefore, this material is discussed under Finding 15 (exploration) rather than under "State windows."

Finding 13

The Secretary finds that the Land Quality Division has the authority under Wyoming laws and regulations to implement, administer, and enforce applicable mining and reclamation requirements consistent with 30 CFR Chapter VII, Subchapter K (performance standards), and that the Wyoming program includes provisions adequate to do so, subject to the discussions in Findings 13.F and 13.P below. This finding is made under 30 CFR 732.15(b)(1).

Wyoming incorporates provisions corresponding to Section 515, 516, 527, 711, and 717 of SMCRA and Subchapter K of 30 CFR Chapter VII in Wyoming Statutes 35–11–103, 401, 402, 404, 406, 407, 411, 415, 428, 429, 430, and 601 and in Wyoming Land Quality Division Rules and Regulations Chapters I, II, III, IV, V, VI, VII, VIII, IX, XXI, XXIII, and other pertinent rules and regulations of other Wyoming State agencies. Volume 1, Part G.8, of the program submission contains a discussion of Wyoming's administrative and enforcement procedures for performance standards.

Discussion of significant issues raised during review of the Wyoming provisions for environmental performance standards follows:

In the March 31, 1980, notice (45 *FR* 20930 *et seq.*), the Secretary tentatively found certain provisions in Finding 13 acceptable subject to promulgation of rules, enactment of statutes, and review and comment by government agencies and the public. The Secretary has reviewed those provisions in the Wyoming program resubmission. The Secretary finds that the language previously considered has been promulgated or enacted, has considered government agency and public comments, and approves the provisions of the Wyoming program discussed in the following findings which have the same numbers as the tentative findings on the same provisions in the March 31, 1980, notice:

13.1 The State has provided adequate regulations for signs in Rules IV 2c(1)(b), IV 2c(1)(d), IV 3m, IV 2c(3)(c), and VI 1(d) as required by 30 CFR 816.11.

13.2 The State has provided for temporary sealing of drilled holes and/or protective devices in Wyoming Statute 35–11–404 and Rules IV 3n and XV 3a(2)(a) as required by 30 CFR 816.13 through 816.15.

13.3 The State has provided a definition of topsoil in Rule I 2(97) which includes all soil horizons suitable as a plant growth medium. This is also discussed and found acceptable under Finding 12.5, since the definition was proposed as part of a "State window" alternative to 30 CFR 816.22(c).

13.4 Rule IV 3b(1) allows the regulatory authority to require segregation of the A horizon or more organic horizon of the topsoil where such practice would enhance revegetation. This satisfies the requirements of 30 CFR 816.22(d).

13.5 The State has promulgated a series of definitions which result in "topsoil" being more restrictively defined than subsoil. These are discussed under Findings 12.5 and 13.3 and are found acceptable.

13.6 The State has provided adequate distinction between subsoil and spoil and for chemical analyses of subsoil and spoil in Rules IV 2c(3), IV 3a, and IV 3c(1), which regulate spoil handling and separation of spoil, subsoil, and topsoil.

13.7 The State has removed the phrase "in accordance with applicable Federal and State air quality standards" from Rule IV 3o. This makes the rules consistent with 30 CFR 816.21 through 816.24 for topsoil protection and air resource protection under applicable regulations since topsoil will be protected even if quantitative "pollutant level" standards are not violated.

13.8 The State has promulgated a rule requiring scarification prior to topsoiling (IV 3b(2)). This is considered preferable to 30 CFR 816.24(a) in consideration of the soil protection provisions of Wyoming's rules and the characteristics of soils in Wyoming where mixing of undersirable spoils and scarce soils should be avoided where possible.

13.9 See Finding 13.A below.

13.10 The State has required that topsoil information be provided in accordance with the standards of the National Cooperative Soil Survey of the U.S. Department of Agriculture (see Rule II 3a(6)(f)) and thus satisfied the comments of the U.S. Forest Service by requiring a soil survey to be conducted and graded in a manner consistent with the Federal requirements.

13.11 The State has promulgated a definition of "hydrologic balance" which includes short-term and long-term changes (Rules I 2(40)). Thus, when used in combination with Rules IV 3c(3)(a), IV 3f(2), IV 3i, and other rules, authority equivalent to that in 30 CFR 816.41(a) is provided to prevent long-term adverse changes to the hydrologic balance.

13.12 The State has promulgated a series of rules to ensure that acid-forming and toxic-forming materials are selectively placed where necessary to control and minimize water pollution. These rules include IV 3c(3)(a), IV 3c(3)(d), and IV 3a(2). In this manner, the requirements of 30 CFR 816.41(d)(2)(vii) are satisfied.

13.13 See Finding 13.B below.

13.14 See Finding 13.C below.

13.15 The State has promulgated Water Quality Division rules which require a detention time for the 10-year 24-hour event (Rule X 8 and Appendix A). Further, the MOU between divisions of the Department of Environmental Quality in the resubmission includes a requirement to design for a minimum 24-hour theoretical detention time for the 10-year 24-hour event. However, the Federal counterpart, 30 CFR 816.46(c), was remanded by the court. See discussion above under "General Background." The rules and MOU are, however, no less stringent than the performance standards of Sections 515 and 516 of SMCRA.

13.16 Rule IV 3i will require ground water monitoring to determine the extent of disturbance to the hydrologic balance. The State has adequate authority to require additional wells when necessary to determine the extent of disturbance. Thus, Rule IV 3i is consistent with 30 CFR 816.52(a)(3).

13.17 W.S. 35–11–406(n)(iii) will require an approvable plan to affirmatively demonstrate that proposed operations are designed to prevent material damage to the hydrologic balance outside the permit area. Further, the requirements of W.S. 35–11–406(b)(xviii) to minimize disturbance to the prevailing hydrologic balance and Rules II 3b(10) and XXIII 2a(1) require the determination of probable hydrologic consequences of mining. Thus, the State program now satisfies the general requirements of 30 CFR 816.42 through 816.53 for protection of the hydrologic balance. The State has also promulgated Rules IV 3e, IV 3g, IV 3c(3), IV 3h, IV 3f, and IV 3i to be consistent with the varied Federal requirements for protection of the hydrologic balance in all activities.

13.18 The State has developed an MOU between the Water Quality and Land Quality Divisions and has promulgated rules for the Water Quality Division which incorporate effluent

limitations for manganese consistent

(see State Engineer Regulations V 8b(5)).

hydrologic balance outside the mine

underground mine which is more

excess spoil piles and is therefore

supporting coal processing wastes).

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limitations for manganese consistent with 30 CFR 816.42(a)(7) (see Section 7 of Wyoming DEQ MOU and Rule X 4a of Water Quality Division Rules and Regulations). Finding 13.18 has been satisfied by incorporation of manganese. See also Finding 13.C (13.14) for a discussion of the quantitative limits for manganese set in the resubmission and additional clarification provided by the State on August 5, 1980 (Administrative Record No. WY–220).

13.19 Rule I 2(1) defines "acid drainage" in terms of both pH and total alkalinity-acidity consistent with the definition in 30 CFR 701.5.

13.20 The State has promulgated rules including ephemeral streams in the requirements for diversions (see Rules IV 3e(1) and IV 2(e)). Thus, the State program is equivalent to 30 CFR 816.43.

13.21 Rule IV 2f(5) will require that permanent diversions and restored stream channels be designed to be erosionally stable and consistent with the role of the fluvial system. This rule provides the same protection as does 30 CFR 816.44(d)(2). This is also discussed in Findings 12.6 and 13.23.

13.22 See Finding 13.D below.

13.23 See Finding 13.21 above.

13.24 Rule IV 3g(7) includes the following as sediment control measures: limiting the extent of disturbed areas and stabilizing, diverting, treating, or "otherwise" controlling runoff. In combination with other rules, such as IV 3d(3) (mulching) and IV 3a(3) (compacting), the requirements of 30 CFR 816.45(b) are met.

13.25 See Finding 13.B below.

13.26 The State has promulgated Water Quality Division rules requiring computations showing the detention time, to include sediment storage, for the 10-year 24-hour precipitation event (Appendix A to Rule X 8). This requirement is repeated in Section 7 of the DEQ MOU. However, the Federal counterpart, 30 CFR 816.46(c), has been remanded by the court. See discussion above under "General Background." The rules and MOU, however, are no less stringent than the performance standards in Sections 515 and 516 of SMCRA.

13.27 The State has promulgated rules requiring that all permanent impoundments meet, at a minimum, the specifications of U.S. Soil Conservation Service Technical Release No. 60 and the SCS Practice Manual No. 378 (Rule IV 3h(2)(f)). Thus, the State requires compliance with Pub. L. 83–566 through such references. The resubmitted State Engineer regulations now also meet the Federal requirement that the crest of the emergency spillway be at least one foot above the crest of the principal spillway (see State Engineer Regulations V 8b(5)). Thus, this portion of the State program is now consistent with 30 CFR 816.46(i).

13.28 The State program resubmission shows that the size of the impoundments requiring special spillway, embankment, barrier, and MSHA specifications was changed from 50 to 20 acre-feet in the Land Quality and State Engineer's rules as required by the Secretary. Thus, the State resubmission is in compliance with 30 CFR 816.46(q) with respect to using the same criteria for more stringent standards. The remaining requirements of 30 CFR 816.46(q) are met by a combination of Rules V 8b(7) and (8) of the State Engineer and Rules IV 3h(2)(f) and IV 3h(2)(e) of the Land Quality Division.

That the requirements of 30 CFR 816.46(t) are assured is included in a statement in the side-by-side analysis which indicates that the "routine inspection" required for the smaller sedimentation ponds by Rule IV 3(h)(2)(d) would be conducted at least quarterly and would be reported annually while larger ponds would be inspected "routinely." The MSHA requirements of 30 CFR 77.216–3 are for inspections each 7 days and these inspections will be required by MSHA in any case. The OSM requirements allow for reduction of inspections of smaller dams to quarterly. The State requirements are considered consistent with Federal requirements in that MSHA inspections are required and all impoundments will be "routinely inspected."

13.29 See Finding 13.E below.

13.30 Rules IV 2c(3)(f), IV 3c(3)(a) and IV 3c(3)(b) ensure proper disposal of spoil that is toxic- or acid-forming or which would prevent adequate reestablishment of vegetation. Thus, the program is consistent with 30 CFR 816.48.

13.31 Rules IV 3h, II 3b(9), II 3b(11), and IV 3h(1), in addition to W.S. 35–11–406(n)(iii), W.S. 41–3–301, 41–3–302, and 35–11–416(b), ensure that water impoundments shall not affect the water of adjacent and surrounding landowners. This is consistent with 30 CFR 816.49(a)(4).

13.32 Rules IV 3c(3)(a) and IV 3c(3)(d) provide controls over acid-forming and toxic materials in terms of ground water pollution in a manner equivalent to the requirements of 30 CFR 816.50(b). These rules are based on W.S. 35–11–406(b)(xviii), which requires a plan to minimize the disturbances to the prevailing hydrologic balance, and W.S. 35–11–406(n)(iii), which requires that permits be approved only if the proposed operations have been designed to prevent material damage to the hydrologic balance outside the mine site.

13.33 Rules II 2b(3)(d), II 3a(5)(a)(ii)(B), and IV 3i, in addition to the Water Quality Division's requirements for monitoring point source discharges, provide an acceptable equivalent to the Federal requirements of 30 CFR 816.52. In addition, Guideline No. 8 provides advice on the design of elements of a hydrologic monitoring program.

13.34 The State has noted that reporting requirements are established in the Water Quality Division's regulations (Chapter X, Section 5), which require reporting at least quarterly. The MOU among the DEQ divisions requires reports such as the NPDES permit report to be furnished to all other appropriate divisions (see Section 10 of MOU). Thus, the requirements of 30 CFR 816.52(b)(iii) will be satisfied.

13.35 Rule IV 3i(1) will require that all hydrologic monitoring be adequate to determine the extent of disturbance to the hydrologic balance and to plan for necessary modifications to the operations. This would include periodic monitoring as required by 30 CFR 816.52(a)(2). Further, Rule II 3b(9) requires a plan to ensure protection of the quantity and quality of, and rights to, surface and ground water. Thus, aquifers will be further protected. Spoil analysis to assess potentials for leaching is required in Rule IV 2c(3)(e). Thus, all requirements of 30 CFR 816.52(a)(2) are met.

13.36 Rule II 3a(5)(iv) incorporates the Wyoming State Engineer's regulations for wells; Rule IV 3n(1) ensures that the transfer of wells does not relieve the mine operator of the responsibility to prevent pollution or the operator's responsibility for capping, sealing, or plugging drill holes during exploration; W.S. 41–3–905 and 41–3–930 require registration of wells and permits for construction of wells.

These rules and statutes provide protection equivalent to that provided by 30 CFR 816.53. W.S. 41–3–930 does exempt small production, non-commercial wells from the State Engineer's permit requirement. Such exempted wells are to be used for stock, household use, or noncommercial irrigation when the area irrigated does not exceed one acre and the flow does not exceed 25 gpm and provided the water right has been correctly filed. However, Rule II 3a(5)(a)(iv) provides the same requirements as 30 CFR 816.53 for removal of water wells, regardless of size.

13.37 Rule IV 3e(3)(c) allows no discharge of surface water into an underground mine which is more stringent than 30 CFR 816.55, and is therefore acceptable. Rules VII 2a(5) and (b) apply performance standards for hydrologic protection to underground mines. Rule VII 2b(2) requires all underground mining activities to be placed and conducted to prevent or control gravity discharges and that any discharges not violate State or Federal water quality standards. Rule II 3b(11) requires an evaluation of the impact on the hydrologic system for any type of mining. The State does not provide for the water quality "variance" of 30 CFR 817.55(c) for discharges of certain types of wastes.

Discharges from one underground mine to another would have to be evaluated to meet the requirements of Rule II 3b(11), the effluent limits of the Water Quality Division, and Rule IV 3r (MSHA approval of operations within 500 feet of an underground mine). Thus, protection equivalent to that of 30 CFR 817.55 would be afforded. This is also discussed in Finding 13.107.

13.38 Rule IV 3e(2)(c) requires renovation of permanent diversions and streams to approved standards. Similarly, Rule IV 3h(4) requires renovation of all permanent impoundments to approved standards. Thus, the State program resubmission in this regard to equivalent to 30 CFR 816.56.

13.39 See Finding 13.F below.

13.40 Rule IV 3t requires maximum utilization and conservation of the coal resource so as to minimize reaffecting the land. As standard practice, Wyoming requires recovery of rider coal seams wherever possible and requires analysis of mining deeper seams. Thus, the State rules and practice provide the same authority as does 30 CFR 816.59.

13.41 Rule VI 2a requires that properly requested preblasting surveys be conducted by personnel approved by the regulatory authority and that the operator or applicant be responsible for conducting the survey or for having the survey conducted. Rules VI 3a(4) and VI 5a(3) provide for audible warning signals. The State program is consistent with 30 CFR 816.62.

13.42 Rule VI 5a(6) incorporates the Federal permanent program requirements of 30 CFR 816.65(e) for maximum airblast levels.

13.43 Rule VI, performance standards for blasting, is consistent with 30 CFR 816.61 through 816.68.

13.44 Rule VI 5b(5) contains the scaled distance equation required by 30 CFR 816.65(e)(1).

13.45 Rule IV 3c(1)(d)(ii) includes a "long-term static safety factor" of 1.5 for excess spoil piles and is therefore consistent with 30 CFR 816.71(f).

13.46 Rule IV 3c(1)(b)(ii) prohibits placement of excess spoil in areas of springs, seeps, drainages, croplands, or important wildlife habitat. See discussion of prohibition of valley fills, head-of-hollow fills, or durable rock fills in Findings 12.8, 12.9, 12.10.

13.47 Rules IV 3t and XIII 1a(8)(d) restrict the operations to be conducted within 500 feet of an active or abandoned underground mine and require MSHA approval. Rule IV 3t requires minimizing future affects of mining. The State program is thus consistent with 30 CFR 816.79.

13.48 Rule IV 3c(2)(a) prohibits disposal of coal processing wastes in the construction of dams, embankments, or diversion structures. Therefore, the State program is more stringent than the Federal program, and the requirements of 30 CFR 816.91 through 816.93 need not be exactly replicated since coal processing wastes will not be used in dams or embankments. Coal processing wastes are to be disposed of in accordance with excess spoil disposal requirements of the State program plus additional requirements contained in Rule IV 3c(2). Construction of dams and embankments to impound coal processing wastes is regulated by Rule IV 3c(2)(d) of the resubmission. This rule is similar to the requirements of 30 CFR 816.93. However, no coal processing wastes may be used in such a dam or embankment if the structure would be located in a flood plain, channel, or area of seepage. (See Findings 13.50 and 13.51 below and 13.46 above.)

13.49 Rule IV 3c(2)(c)(vii) requires that, if a potential hazard is found to exist at a coal processing waste pile, the regulatory authority shall be immediately notified and that, if no remedial measures can be formulated, the appropriate emergency agencies shall be notified of the hazard to protect the public. The State resubmission is consistent with the requirements of 30 CFR 816.82(b).

13.50 Rule IV 3c(2)(c)(iii) keeps coal processing wastes outside areas of flood plains or seepage. This exclusion is in addition to that of Rule IV 3c(1)(b)(ii) for excess spoils which also applies and prohibits location in areas of springs, seeps, drainages, croplands, or important wildlife habitat. This provides for more stringent controls over placement of coal processing wastes than do the Federal regulations.

13.51 Rule IV 3e(3)(a) controls discharge from coal processing waste dams and embankments (i.e., dams or embankments contructed of native earth materials for the purpose of retaining or supporting coal processing wastes). Discharges are to be controlled to in turn control erosion and minimize disturbance to the hydrologic balance. Further, the State has promulgated rules for sedimentation ponds to control discharges and meet effluent limitations (IV 3g(1)). The State provisions are equivalent to those of 30 CFR 816.83(d).

13.52 Rule IV 3c(2)(c)(i) requires construction of coal processing waste piles in 24-inch layers compacted as necessary to achieve a static safety factor of 1.5 and to prevent spontaneous combustion. The Wyoming rule gives the regulatory authority discretion to set a compaction density minimum of 90 percent of maximum dry density which is required in all cases under 30 CFR 816.85(c)(2).

Wyoming Rule IV 3c(2)(a) prohibits use of coal wastes in the construction of dams, embankments, or diversion structures. Therefore, the provisions of Rule IV 3c(2)(c)(i) apply only to coal waste disposal piles; thus, consideration of protection to the hydrologic balance and public safety is not as critical as that of dams or embankments in determining whether Wyoming's provision is adequate. Rather, consideration of Wyoming's provision is based on the prevention of spontaneous combustion and stability of the piles since the 1.5 static safety factor for stability is required in all cases.

As discussed in Finding 14.120 below, the Secretary is not requiring that the Wyoming program require a pyrite analysis because of the low sulfur content in coal in Wyoming. Pyrite is one primary contributing factor to spontaneous combustion in coal waste piles. (See Administrative Record No. WY–234.) Since the 1.5 static factor is required and the chance of spontaneous combustion is minimal, the Secretary does not believe that it is necessary for Wyoming to achieve the required 90 percent maximum dry density determined by AASHTOT99–74 in all cases. The Secretary assumes, however, that Wyoming will require compaction of coal waste piles to that density or its equivalent in any case where there is a potential for spontaneous combustion or instability.

Rule IV 3c(2)(c)(vii) requires at least quarterly inspections of coal processing waste banks by a registered professional engineer or other qualified person approved by the regulatory authority. Such inspections will facilitate changing density specifications to ensure stability and control of combustion.

The State program resubmission is consistent with 30 CFR 816.85(c), since the appropriate density will be required

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wherever necessary to prevent combustion or to achieve mass stability.

13.53 The Secretary found in the March 31, 1980, notice, that the provisions of 30 CFR 816.87 for utilization of burned coal processing wastes were not specifically required in the Wyoming program since coal processing wastes are not now produced in Wyoming and any future piles are to be constructed to prevent combustion. The State has not specifically addressed the Federal requirement for burned coal processing wastes. If such wastes were removed during surface coal mining operations, approval of the regulatory authority would be required to ensure compliance with Wyoming's statutes and rules requiring all mining operations to be planned and approved (W.S. 35–11–401(a)). All coal wastes generated would have to be placed within a permit area. Therefore, their removal would have to be regulated until such time as the performance bond was released. The resubmission remains consistent with the Federal requirements.

13.54 Rule II 3a(5)(a)(iii) requires that a plan for any industrial solid land waste disposal facility be included in the mining and reclamation plan. The State program resubmission contains the DEQ MOU which incorporates Chapter I, Section 11 c of the Land Quality Division's Solid Waste Rules. These rules require approval of coal waste disposal by the Land Quality Division and cover of such material with at least two feet of non-combustible material. Further, no disposal is to take place within 8 feet of any coal outcrop or storage area. The State program submission is consistent with the Federal requirements of 30 CFR 816.89 for disposal of non-coal wastes.

13.55 Rule II 3a(5)(a)(iii) incorporates the requirements of Rule I 11c(1)(c) and (e) of the Solid Waste Rules to apply hydrologic controls in solid waste disposal sites associated with coal mining. Further, Rule II 3b(10) requires an assessment of the probable hydrologic consequences of proposed operations, and W.S. 35–11–406(b)(xviii) requires operations to be conducted to minimize disturbance to the hydrologic balance. The State resubmission is therefore consistent with these specific requirements of 30 CFR 816.89(b).

13.56 Rules IV 3b(3)(c), IV 3c(2)(c)(v), and IV 3o control wind erosion of soils, coal processing wastes, and other disturbed areas. The resubmitted State program includes an MOU between DEQ divisions (Exhibit F.1) which applies to fugitive dust control. However, the Federal counterpart, 30 CFR 816.95, was remanded by the district court to the extent the regulation would control fugitive dust not caused by erosion. See discussion above under "General Background." The rules and MOU are no less stringent than Section 515(b)(4) of SMCRA.

13.57 See Finding 13.56 above.

13.58 See Finding 13.56 above.

13.59 See Finding 13.56 above.

13.60 See Finding 13.56 above.

13.61 See Finding 13.56 above.

13.62 Rule IV 3e(2)(b) requires reestablishment of aquatic habitats and natural riparian vegetation. Rule II 3b(4)(b)(iii) protects or requires reestablishment of habitats of unusually high value for fish and wildlife, such as wetlands. Guideline No. 5 considers aquatic and wildlife habitat. Thus, the State program resubmission is equivalent to 30 CFR 816.97(d)(5).

13.63 Rule II 3b(12)(b)(iii)(h) ensures that wherever postmining land uses are to be changed, approval of measures to prevent or mitigate adverse effects on wildlife or fish will be obtained from appropriate State and Federal fish and wildlife management agencies. Further, Rule IV 3p(1)(f) requires the use of vegetation to enhance interspersion of habitats. The requirements of 30 CFR 816.97(d)(10) and (11) for interspersing wildlife habitat will therefore be enforced by the regulatory authority, under the resubmitted program, as required by State or Federal fish and wildlife management agencies.

13.64 The State program resubmission contains revised Guideline No. 5 for wildlife, which incorporates references to the same two documents incorporated in 30 CFR 816.97(c). (This is also discussed in Finding 6.3) Wyoming has also promulgated Rule II 3b(4)(b)(iii) to protect habitats of high value. Consideration of wildlife in postmining land uses is discussed in Finding 13.63 above. The state program resubmission is consistent with 30 CFR 816.97(c).

13.65 The State has promulgated adequate rules to meet the requirements of 30 CFR 816.97 for protection of fish, wildlife, and related environmental values. Specificity for most wildlife surveys is added in Guideline No. 5 (Wildlife).

13.66 Rule IV 3a(1) requires rough backfilling and grading to follow contour and area strip mining on the time and space schedules identified in 30 CFR 816.101(a)(1) and (3). The State program resubmission therefore is consistent with 30 CFR 816.100 and 816.101(a). Rule IV 1 requires Section 3 of Rule IV to control for surface coal mining operations if a conflict develops between Rules IV 2 and IV 3 for "contemporaneous as practicable" backfilling and grading.

13.67 Rule IV 3a(3) requires backfilling and grading to approximate original contour and Rule I 2(6) defines "approximate original contour" as that configuration which complements the drainage pattern of the surrounding terrain. Thus, the requirements of 30 CFR 816.101(b)(1) to return areas to approximate original contour are met.

13.68 Rule IV 3a(7) requires that all spoil that may result from a permanent impoundment be regraded in accordance with the general backfilling requirements. Thus, such spoil would not automatically be considered excess but would only be considered "excess" if a "thick overburden" existed (see Rule IV 3a(6)). The resubmission is consistent with 30 CFR 816.102.

13.69 Rule IV 3a and, in particular, Rules IV 3a(3) and (4) require backfilling and grading to approximate original contour and elimination of highwalls. Thus, the State has provided authority in rules equivalent to 30 CFR 816.102. The regulation authority is based on W.S. 35–11–415(b)(v) (contouring operations), and the Secretary believes that authority exists to enforce the rules regardless of whether statutes contain the same language. (See Wyoming Attorney General's opinion dated May 19, 1980.) Therefore, the requirements of the Wyoming program rules to backfill and grade to meet approximate original contour requirements, which requirements (and a definition of "approximate original contour") are not contained in Wyoming statutes, have the same authority as the rules would have if the identical language were in the statutes. "Approximate original contour" is suitably defined in Rule I 2(6).

13.70 Rule IV 3a(8) (cut-and-fill terraces) is consistent with the Federal requirements of 30 CFR 816.102(b).

13.71 Rules IV 3a(5) and (6) distinguish between thin and thick overburdens. This is discussed in detail under "State window" Findings 12.11 and 12.12.

13.72 Rule IV 3b(4) requires removal and stabilization of any rills or gullies in excess of 6 inches which are inconsistent with the postmining land use. The resubmission is consistent with and generally more stringent than the 9-inch requirement of 30 CFR 816.106, though the State requirement combines the lesser depth with the allowance for rills and gullies to form under natural non-disruptive conditions where the postmining land use and vegetation are not adversely affected.

13.73 Rule IV 3d(1) requires the operator to establish, on all affected lands, a diverse, permanent vegetative cover consistent with 30 CFR 816.111.

13.74 The State has promulgated a number of rules related to the requirements of 30 CFR 816.112. These include Rules IV 3d and IV 2d. In particular, Rule IV 2d(5) requires field trials to justify more suitable reclamation species. Rule IV 3d(1) requires establishment of species native to the area or which will support the approved postmining land use. Rule IV 3d(2) permits the use of introduced species only to achieve a stabilizing cover for the approved postmining land use. Thus, use of introduced species must be approved based on the demonstrated capability to meet the standards for revegetation.

13.75 Rule IV 3p(1)(f) will ensure that plant species are selected to enhance fish and wildlife habitat consistent with 30 CFR 816.112(c).

13.76 See Finding 13.G below.

13.77 See Finding 13.G below.

13.78 The State has promulgated Rule IV 2d(6) to require sampling at any time a determination of revegetation success is made. Thus, confusion as to whether control areas should be periodically sampled to show trends no longer exists. In fact, such areas will be routinely sampled to show trends and forecast any needs for corrective measures. The resubmission is consistent with 30 CFR 816.116(a).

13.79 See Finding 13.H below.

13.80 Rule IV 2d(6) requires that cover and productivity be at least equal to that existing on the area before mining. Guideline No. 2 provides that information on the statistical significance with which the premining and postmining vegetation communities should be compared. The Wyoming program resubmission provides for determinations of revegetation success in cover and productivity in a manner similar to that of 30 CFR 816.116(b). (See Finding 13.140 for additional discussion.)

13.81 Rule IV 3d(6) includes the 10-year liability period for revegetation success consistent with the Federal requirements for arid and semiarid areas of 30 CFR 816.116(b)(1)(ii). The initiation of the bond liability period is discussed in Findings 13.140, 18.3, and 18.10.

13.82 Rule IV 3d(6)(b) specifies that when the approved postmining land use is to be commercial forest, the standards for measuring success will be established prior to approval of the plan. Thus, no permits approving reforestation may be granted until the State has promulgated rules equivalent to 30 CFR 816.117 and in accordance with State and Department of the Interior procedures under 30 CFR 732.17. It is not expected that any coal mining will occur on commercial forest lands in Wyoming in the near future since most of the commercial forest land is not located in the major coal resource areas.

13.83 Rules IV 2d(5) and IV 3d(2) restrict the use of introduced seed species to those shown to be of superior value through field test plots and, where necessary, to stabilize and control erosion or to achieve the approved postmining land use. As noted in Finding 13.81, Rule IV 3d(6) requires the 10-year bond liability period for revegetation. Thus, the State resubmission is consistent with the requirements of 30 CFR 816.112 and 816.116(b)(ii).

13.84 The Secretary's notice of March 31, 1980, inadvertently skipped the number 13.84 in listing his findings. There is no Finding 13.84.

13.85 See Finding 13.82 above.

13.86 Rule IV 3s requires that, if temporary cessation will extend past 30 days, the operator must submit the equivalent of an annual report (W.S. 35–11–411) to the regulatory authority. The annual report requires an identification of the extent of mining and reclamation operations in acres and the progress of all reclamation work. The report is also to include a revised schedule of operations. Any other information required by the regulatory authority must also be submitted (W.S. 35–11–411(a)(ii)). Thus, the requirements of 30 CFR 816.131 to submit a notice of intent to temporarily suspend operations and to provide other information are fulfilled by the State's requirements.

13.87 Rules IV 2k and IV 21 require removal of structures unless approved as beneficial to the approved postmining land use, and require reclamation to begin within 180 days. Also, Rule IV 3a(1) places time and space constraints on reclamation (backfilling and grading in particular). Thus, in the event of permanent cessation of operations, reclamation must continue under Wyoming's regulatory program. The resubmission is consistent with 30 CFR 816.132.

13.88 See Finding 13.I below.

13.89 Rule II 3b(12)(b)(iii)(H) requires approval of measures to prevent or mitigate adverse effects on wildlife or fish by State and Federal fish and wildlife authorities if the land use is to be changed. The State program submission also included an MOU between the Land Quality Division and the Wyoming Game and Fish Department (Exhibit F.2) which requires the Game and Fish Department to be notified of the need for Land Quality Division (the regulatory authority) assistance in reviewing mining and reclamation plans. Though the time for comments is not specified in the State program as it is in 30 CFR 816.133(c)(8), the State permitting procedures (Rule XIII 1a(2)) and the MOU ensure that Wyoming Game and Fish Department comments will be obtained and that at least 60 days will elapse from receipt of the plan to the time action is taken on it.

The U.S. Fish and Wildlife Service offered consultation services to Wyoming in an undated letter included in the State program submission as Exhibit G.9. The U.S. Fish and Wildlife Service will also have the opportunity to review all plans involving Federal coal lands. This will include most of the coal mines in Wyoming. The Secretary finds the Wyoming provisions adequate in providing the opportunity for agencies with fish and wildlife management responsibilities to review all mining and reclamation plans, including plans proposing changes in land use.

13.90 The State has promulgated a series of rules to provide general provisions for roads consistent with the Federal requirements. However, the Federal counterparts, 30 CFR 816.150–816.176 have been remanded by the district court. See discussion above under "General Background." The Wyoming rules are no less stringent than the performance standards in Sections 515 and 516 of SMCRA.

13.91 See Finding 13.90 above.

13.92 See Finding 13.90 above.

13.93 See Finding 13.90 above.

13.94 See Finding 13.90 above.

13.95 See Finding 13.90 above.

13.96 The State has promulgated Rule IV 3g(1) which requires all surface drainage to be passed through a sedimentation pond unless the drainage comes from sediment pond areas themselves, diversion ditch areas themselves, or road disturbances. Therefore, as in 30 CFR 816.42(a)(4), drainage from roads does not always have to pass through sedimentation ponds to be in compliance with the Wyoming program and the Wyoming program is consistent with Federal requirements.

13.97 See Finding 13.90 above.

13.98 See Finding 13.90 above.

13.99 Rule IV 3j(5)(a)(i) requires control of additional contributions of suspended solids to streams or runoff and damage to fish and wildlife using the best technology currently available, and is thus consistent with 30 CFR 816.180 and 30 CFR 816.181 for railroad and other transportation and mine facilities.

13.100 Rule VII 2 provides performance standards for underground mines in addition to those required for surface mines. These Rule VII 2 standards limit backfilling and grading requirements to those in Rule IV 2b

13.121 Rule I 2(39) contains a Part C above which formed the basis of

(reestablish the "contour of the land in a manner consistent with the proposed future use of the land") rather than including Rule IV 3a (requiring sealing and backfilling of shafts and adits, and all subsidence features occurring within 5 years of completion of mining to be appropriately reclaimed). The rule also provides for gravity discharge and subsidence controls. The State has promulgated Rule VII 2(a)(5), which incorporates "all applicable performance standards of Rule IV and W.S. 35–11–101, *et seq.*" into the underground mining and reclamation standards. The resubmission has adopted language to correspond to the district court rulings concerning 30 CFR 817.54, 817.101(b)(1), and 817.102 (Opinion of May 16, 1980, at 36–37, and 17–18). The resubmission is consistent with the remaining Federal requirements for the permanent regulatory program.

13.101 Rule VII 2(b)(3) provides the State with authority to prohibit all types of underground mining as necessary to prevent subsidence, and thus is acceptable as more stringent than 30 CFR 817.121(a).

13.102 Rule VII 2b requires that underground mining activities be planned and conducted to prevent material damage caused by subsidence. Further, Wyoming has clarified its intent to require that all perennial streams and impoundments be evaluated on the basis of detailed subsurface information prior to approving mining beneath them (Administrative Record No. WY–220). Thus, the perennial stream and impoundment criteria of 30 CFR 817.126(a) are accounted for, since mining causing an adverse, permanent effect on streams or impoundments would cause material damage to the land surface. Under both the Federal and State requirements, streams or impoundments can be undermined if there will be no material damage (see 30 CFR 817.126(a)). Rule VII 2b also provides controls on mining under parks, cemeteries, public buildings, acquifers, and in urbanized areas in a manner consistent with 30 CFR 817.126.

13.103 Rule II 3a(5) requires listing of MSHA identification numbers and applicable approvals. Rule VII 2(a) refers both to the U.S. Bureau of Mines and to "appropriate Federal and State laws" in the context of sealing shafts and adits. Thus, MSHA requirements must be met in a manner consistent with the Federal requirements since MSHA enforces Federal requirements. Further, Rule IV 3r requires MSHA approval of any operations within 500 feet of an underground mine. This would also apply to all shaft sealing.

13.104 Rules VII 1a, 1b, 2a(5), and 2b(8) incorporate all applicable portions of the surface mining rules (Chapters II, IV, and V) in the underground mining rules. As a result, Rule III is also incorporated (as required by Rule V). Rule VI would apply to any surface blasting. In effect, a comprehensive set of permit requirements and performance standards for underground mines has been promulgated by Wyoming and thus the State resubmission is consistent with 30 CFR Part 817.

13.105 Rule VII 2a(5) (underground mining) incorporates (1) Rule IV 3g, which requires use of sedimentation ponds, (2) Rule IV 3e, which requires use of diversions, (3) Rule IV 3c(3), which requires special handling of acid-forming and toxic-forming materials, and (4) Rule IV 3d which requires revegetation. Rule VII 1c(3) also requires a subsidence control plan and VII 2b(2) requires prevention or control of gravity discharges. Thus, the requirements of 30 CFR 817.41(d) are included in the resubmission. Further, W.S. 35–11–406(b)(xviii) requires a plan to minimize disturbance to the prevailing hydrologic balance, as in 30 CFR 817.41(b).

13.106 Rule IV 3g(7) requires that appropriate sediment control measures be designed, constructed, and maintained using the best control technology available. This rule is incorporated into underground mining requirements through Rule VII 2a(5). The Wyoming program has authority through these rules to specify that sumps be used to control sediment in underground mining operations in a manner consistent with 30 CFR 817.45(h).

13.107 Rules VII 1c(2) and 2b(2) require a plan that demonstrates prevention or control of potential gravity discharges when such discharges might be in excess of State or Federal water quality standards. 30 CFR 817.50(b) requires that effluent limitations be met by such discharges, including the effluent limitations contained in 30 CFR 817.50(b)(1)(i) and 817.50(b)(2)(ii). This was also discussed in Finding 13.37.

13.108 Rule VII 2b(1) requires that underground development wastes be disposed of in compliance with Rule IV 3c, which governs (1) excess spoil, (2) coal processing wastes, and (3) acid-forming and toxic-materials. Thus, requirements for overburden (spoil) from surface mines and underground development wastes are provided consistent with 30 CFR 817.71 and other Federal requirements for hauling and disposing of development wastes and spoils.

13.109 Rule VII 2a(5) incorporates Rule IV 3p and all fish, wildlife and related standards promulgated for surface mining in the underground mining rules, consistent with the requirements of 30 CFR 817.97.

13.110 Rules III 4 and XIII 1a(7) specify permit processing requirements for concurrent surface and underground mining operations. Rule IV 3r requires maintenance of a 500-foot barrier and Rule V 4 requires that a safe vertical distance be maintained between concurrent surface and underground operations. Thus, requirements of 30 CFR Part 818 are met in the resubmission

13.111 Rules IV 3r and V 4 are consistent with 30 CFR 818.15 (a) and (b) in terms of maintaining 500 feet between concurrent surface and underground operations, unless otherwise approved by MSHA.

13.112 See Finding 13.111 above.

13.113 Rule V 5(c) incorporates dimensional specifications for undisturbed areas of coal to be left after auger mining operations are completed, consistent with 30 CFR 819.11(a).

13.114 Rule V 5b provides authority to limit or prohibit auger mining if environmental impacts cannot be prevented or corrected, which is consistent with 30 CFR 819.11(e).

13.115 Rule V 5d requires plugging of auger holes that discharge water containing acid- or toxic-forming material within 72 hours of completion, consistent with 30 CFR 819.11(c)(1).

13.116 Rule V 2 and guideline provide for protection of alluvial valley floors. See Finding 12.4 for a more detailed discussion regarding the manner in which the State program resubmission provides adequate protection for alluvial valley floors.

13.117 W.S. 35–11–103(e)(xviii) provides a definition of "alluvial valley floors" which is essentially identical to that of Section 701(1) of SMCRA and 30 CFR 701.5.

13.118 See Finding 13.J below.

13.119 Rule V 2d incorporates monitoring requirements for operations in or adjacent to alluvial valley floors, which, with the clarification received (Administrative Record Document WY–220) and as discussed in Finding 13.0 (13.118) below, are consistent with 30 CFR 822.14.

13.120 Rule V(1) provides for regulation of operations on prime farmland consistent with 30 CFR Part 823. Wyoming has also promulgated rules equivalent to those incorporated by reference in Part 823 of 30 CFR and has modified its rules to correspond with the modification of the Federal requirements specified in 44 *FR* 77455 (December 15, 1979). These modifications are discussed in Finding 14.69.

13.121 Rule I 2(39) contains a definition of "history of intensive agricultural use." The term is used in Rule II 3a(6)(g)(i) in the context of identifying prime farmland. The term is more detailed than, but consistent with, the Federal definition of "historically used for cropland" (30 CFR 701.5), and is not related to the time of the lease or lease option for surface coal mining as is the Federal term.

13.122 Rule III 1a(5) requires identification of the moist bulk density of major soil horizons for prime farmland but contains no requirements equivalent to 30 CFR 823.14(c) for use of moist bulk density as a criterion for reconstruction (see Rule V 1a(3)(c)). This is an appropriate change since OSM has suspended the moist bulk density standard for soil compaction (44 *FR* 77455, December 31, 1979). Instead, the Wyoming program resubmission requires soil replacement in a manner that avoids excessive compaction, creates pore spaces favorable for rooting zone, minimizes erosion, and restores available water holding capacity consistent with the premining soil condition. This is consistent with the requirements of 30 CFR 823.14(e).

13.123 See Finding 13.K below.

13.124 See Finding 13.L below.

13.125 See Finding 13.M below.

13.126 See Finding 13.N below.

13.127 W.S. 35–11–401(m) prohibits steep slope mining until State program rules are promulgated. See Finding 13.S (13.126) below for a more detailed discussion of this finding.

13.128 W.S. 35–11–103(e)(xx) defines "surface coal mining operations" as including "leaching or other chemical or physical processing, and the cleaning, concentrating, or other processing or preparation, and the loading of coal."

There are no distance limits on the inclusion of coal loading. Therefore, all performance standards and permit application requirements are applied to all processing plants and all coal loading facilities. The State program thus fulfills the requirements of 30 CFR Part 827, and is more stringent in that it applies to coal loading facilities located off the mine site.

Wyoming has two distinct sets of regulations governing in situ operations. One set pertains to *all* in situ operations (Rule XXI 2a) and the other pertains only to in situ coal operations (Rule V 3a(5)). Between the two, all requirements of 30 CFR 785.22 and Part 828 are included in the Wyoming program.

Following are the Secretary's findings on all provisions of the resubmission that differ from the initial submission and subsequent documents described in Part C above which formed the basis of his initial decision published in the March 31, 1980, notice (45 FR 20930, *et seq.*). Also included are findings that have undergone more detailed analysis by the Department.

13.A In Finding 13.9, the Secretary suggested that the Wyoming program resubmission should provide for certification of laboratories for soils analyses. The Federal regulations require that soils tests conducted to determine nutrient levels, chemical constituents, and need for soil amendments should be performed by a qualified laboratory using standard methods approved by the regulatory authority (30 CFR 816.25).

The State has responded that it sees no reason to be in the business of certifying laboratories to conduct soils analyses in Wyoming. Wyoming has included, as part of the program submission, two guidelines addressing, in part, soils (Guidelines No. 1 and No. 3) which provide references or directives for conducting analyses of pH, conductivity, saturation percent, texture class, sodium absorption ratios, $CaCO_3$, selenium, boron, nitrate, organic matter, molybdenum, acid base potential, exchangable sodium, lead, phosphorous, potassium, and arsenic. This is in addition to the guidelines' directions on soil sampling, sample preparation, and presentation of field descriptions.

As represented in Wyoming Administrative Record Document No. WY–99, OSM tentatively acccepted the State's position on the need for soils laboratory certification during the public comment period. Reanalysis of the issue indicates that the Wyoming soils guidelines are expanded to show standard methods for all pertinent measurements. With the guidelines, the program will be adequate in terms of obtaining accurate soils data in practice, since methodologies are standardized, thus eliminating the need for laboratory certification. The pertinent elements of Wyoming's program are acceptable.

13.B In Findings 13.13 and 13.25, the Secretary found that the Wyoming equivalent to 30 CFR 816.42(a)(2) was generally consistent with the Federal requirement since the term "restored" was considered equivalent to meeting the revegetation requirements of 30 CFR 816.111–816.117. However, Wyoming stated in its resubmission that, in fact, they would not require retention of sedimentation ponds until the requirements of 30 CFR 816.111–816.117 have been met if untreated runoff from the restored lands, at the time of considering removal of ponds or other facilities, would not degrade receiving waters. This proposal is submitted as a "State window" pursuant to 30 CFR 731.13 and, thus, is discussed in detail in Finding 12.13 which the Secretary finds acceptable.

13.C In Finding 13.14, the Secretary found that Wyoming's proposed use of the term "daily average" for measuring total suspended solids was consistent with 30 CFR 816.42(a)(7). However, in the State program resubmission, the values for total suspended solids, iron and manganese listed under the heading "Instantaneous Maximum" are incompatible with Footnotes 4 and 6 to the Effluent Limitations Table in the Federal regulations. As presented in the submission, all values are too high to meet the Federal requirements. By letter dated August 5, 1980 (Administrative Record No. WY–220), the State explained that the Wyoming provision was consistent with the Federal requirement because "daily maximum" is considered to be a "representative sample." In addition, the standard for "instantaneous maximum" in the Water Quality Division regulation represents one grab sample, but is not a "representative sample." The State confirmed this interpretation with the Environmental Protection Agency (EPA). Based on this explanation, the Wyoming provision is acceptable.

13.D In Finding 13.22, EPA noted that the initial Wyoming program submission did not discuss the necessity of modifying downstream water treatment facilities once a stream channel diversion protecting the facility was removed. The Wyoming program resubmission indicated that water treatment facilities, of the type contemplated by 30 CFR 816.44(c) and EPA, are not found in the permit area and that protection for offsite areas is provided in Rules IV 3e and IV 3g. Under Rule IV 3e(2)(b)(ii), diversions are to be reclaimed in a manner that reestablishes approximate premining stream channel characteristics. Under Rule IV 3g(1), sedimentation ponds are to be retained until the affected lands have been restored. Thus, it is suggested that the stream drainage system will be reestablished so as not to affect downstream water treatment facilities. However, the rules do not require the specific consideration of downstream water treatment facilities.

On the other hand, Wyoming's Rule II 3b(11) requires evaluation of off-site hydrologic effects, and if there are adverse effects on water supplies or water systems, the application must identify alternative sources of water supply. Thus, downstream water treatment facilities must be considered in the regulatory authority's assessment.

The Secretary finds that Wyoming's

consistent with the approved postmining

The Secretary finds this consistent

environmental monitoring in accordance

permit review regulations and will

the State, contain new special

The Secretary finds that Wyoming's statutes (e.g., 35–11–406(n)(iii)) and Rule II 3b(11) ensure consideration and protection of downstream water treatment facilities in a manner consistent with 30 CFR 816.44(c).

13.E As discussed in finding 13.29, the State, in its program resubmission, has explained that substitution of the word "lethal" for the word "detrimental" in the State's definition of "toxic materials" (Rule I 2(98)) was based on the objective of establishing stringent, well defined controls for materials that may be introduced into the environment. The State indicated in the resubmission that protection was also given by Rules IV 2c(3)(e), IV 2c(3)(f), and IV 3a(2) and by W. S. 35–11–415(b)(iv). These provisions address identifying spoil as a source of water pollution, disposal of toxic overburden or spoil, minimizing adverse effects on ground water, and covering or disposing of toxic materials constituting a hazard to health and safety or posing a threat of water pollution. The State thus equates detrimental (adverse effect) to terms such as "water pollution," "adverse effect," or "hazardous to health and safety" and believes the word "lethal" sets more stringent controls than does "detrimental."

The Secretary believes that there is a potential for confusion between State and Federal requirements for protection of biota and water uses unless the State assures that "lethal doses" will actually reflect *all* detrimental effects. By letter dated August 5, 1980 (Administrative Record No. WY–220), the State stated its intent to propose an amendment to the regulation defining "toxic materials" which would substitute "detrimental" for "lethal." Until this rule is promulgated, the Secretary cannot find this Wyoming provision consistent with the Federal requirement, but will make promulgation of the regulation a condition of approval of the Wyoming program.

13.F In Finding 13.39 the Secretary found that the Wyoming program submission appeared to have properly documented the elimination of "biological community" from State rule IV 3p(2), which is otherwise equivalent to 30 CFR 816.57(a). Additional questions have arisen during review of the resubmission. The State has promulgated Rule IV 3p(2) and Rule II 3a(6)(e), which require studies of fish, wildlife, and their habitats in coordination with State and Federal fish and wildlife protection agencies, and Rule IV 3p(1), which requires the operator to use, to the extent possible, the best technology currently available, consistent with the approved postmining land use, to protect, restore, and enhance habitats of high value to fish and wildlife. The State has also promulgated Rule II 3b(4), requiring a plan to minimize impacts to fish and high value habitats, and Rule II 3b(12)(b)(iii)(H), which requires postmining land use plans to obtain approval of mitigation measures to protect fish if the land use is to be changed.

Sections I, E, K, and L of Guideline No. 5 describe techniques to be used to measure fish habitat, benthic invertebrates, and periphyton in systems supporting fish. Recognizing that sampling of biological communities is an essential element of fish and aquatic habitat investigations (see, for example, Hynes, H.B.N., 1970, *The Ecology of Running Waters*, pp. 112–271; Reid and Wood, 1976, *Ecology of Inland Waters and Estuaries*, pp. 337–369; Odum, Eugene P., 1971, *Fundamentals of Ecology* (3rd Ed.), pp. 316–320; and Kendeigh, Charles S., 1961, *Animal Ecology*, pp. 42–58, Administrative Record No. WY–224), the Secretary believes that all streams with a potential to support a biological community will be required to be investigated under the requirements of the resubmitted Wyoming State program and that all such streams and bilogical communities will be appropriately protected. As discussed in Finding 12.7, the State provided assurance on August 5, 1980 (Administrative Record No. WY–220), that makes the Wyoming provision consistent with the Federal requirement.

13.G The State deleted Rule IV 3d(6) and the grazing requirement contained therein in response to the district court ruling concerning 30 CFR 816.115 (Opinion of February 26, 1980, at 58–59). The State resubmission is acceptable for indicating how the range and pasture land will be measured, since the vegetation guideline (No. 2, Part 3) requires specified testing methodology for adequacy of reclamation, including adequate cover for soil protection, suitable species composition for forage or shelter, and adequate productivity for forage.

13.H The State program resubmission responded to the Secretary's question in Finding 13.79 regarding the term "reasonably good husbandry practices" used in Rule IV 2d(6) as follows:

> The State regards only those practices which are characteristic of the land practices normally conducted in the region for unmined lands having uses similar to the approved postmining land use to be "reasonably good husbandry practices."

The Secretary finds this consistent with 30 CFR 809.13(b)(3), which was promulgated on August 4, 1980 (45 *FR* 51547–51550).

13.I In Finding 13.88 the Secretary found that Wyoming's use of the language "previous [land] use which was of greatest economic or social value to the community area; or must have a use which is of more economic or social value than all of the other previous uses" to be a more stringent judgment of "higher and better uses" than in 30 CFR 816.133(a)(2). In the resubmission, the State indicated that the postmining land use would be evaluated on the basis of the feasibility of backfilling, grading, reestablishing a hydrologic system, soils protection and capability to revegetate in support of the postmining land use. Wyoming's statement regarding incorporation of determinations of the feasibility of meeting specific reclamation requirements in the course of making findings of "highest previous use" will provide analyses under the State program consistent with those needed to comply with 30 CFR 816.133(a)(2).

13.J In Finding 13.118, the Secretary found that the State program submission did not provide a "grandfather" clause for the protection requirement of "significant" alluvial valley floors for mining operations approved prior to August 3, 1977, as does 30 CFR 822.12(d) and, therefore, was more stringent.

The State has enacted W.S. 35–11–406(n)(v)(B) which replicates the "grandfather" clause exempting certain mines from consideration necessary under Section 510(b)(5) of SMCRA. Thus, the "grandfather" clause of the State program provides the exemption privileges of Section 510(b)(5) of SMCRA pertaining to alluvial valley floors of significance to farming.

State Rule V 2d(3), however, provides that "[m]onitoring *may be* required in accordance with subsection E of this section." (emphasis added) This appears to make the mandatory requirements of 30 CFR 822.14 discretionary in the Wyoming resubmission. The Secretary notes that monitoring must be required for all mines encountering alluvial valley floors.

While the type and extent of monitoring is to be determined by the regulatory authority based on site-specific considerations, some type of monitoring is required. In fact, the Wyoming program requires surface and ground water monitoring in all operations (Rule IV 3i); thus, the apparent exemption in Rule V 2d(3) seems meaningless.

It would appear that Wyoming intended to limit the objectives of

environmental monitoring in accordance with the "grandfather" clause. That is, operations qualifying for the Section 510(b)(5) (of SMCRA) exemption would not be concerned about interruption, discontinuance, or preclusion of farming on "grandfathered" alluvial valley floors (AVF's) and thus would not have to monitor for such effects on those AVFs. However, if the mine were operating in or adjacent to an alluvial valley floor, monitoring would likely be necessary to ensure that essential hydrologic functions were reestablished.

By letter dated August 5, 1980 (Administrative Record No. WY–220), the State provided assurance that Rules III 2b(9) and c(4) require environmental monitoring for all alluvial valley floors, except for those operations that fall within the "grandfather" clause provided by Section 510(b)(5) of SMCRA. The State also assured that it will require monitoring in accordance with the standard that existing operations restore the essential hydrologic functions where mining on or adjacent to alluvial valley floors occurs. This requirement is through Rule V 2e. This assurance makes the program provisions acceptable.

13.K In Finding 13.123 the Secretary found Wyoming's proposed rule for determining revegetation success on prime farmland (Rule V 1b(3)) adequate, provided the State ensures that the reference area used to determine success for prime farmland will be monitored in terms of estimated yields under a high level of management. However, in apparent response to the district court rulings (Opinion of May 16, 1980, at 4–5), the resubmission indicates the State has promulgated Rule V 1b(2) (which requires revegetation success on prime farmlands) to be based on vegetation on non-mined prime farmlands *"under equivalent levels of management."* (Italic added.)

Complicating the analyses is the appearance of language in the side-by-side of State and Federal provisions (page 154) which reports the same rule (V 1b(2)) as defining success in terms of *"capability* of prime farmlands to support premining productivity." The latter proposal is in concert with the court rulings. The regulations that appear to be promulgated in Rule V do not show the change which corresponds to the district court rulings. The side-by-side language is promulgated in Rule XIII 1a(6)(a) ("the postmining land use of prime farmland will be capable of supporting crop yield equivalent to the surrounding non-mined prime farmland under equivalent levels of management.") This provision is in the permit review regulations and will prevail in actions on permit applications. Rule XVI 6a(2)(b)(ii) specifies that bond release will be at the time soil productivity will have returned to non-mined levels consistent with good management practices. It is apparent that actual performance may still be based on estimated yields, as it must to accurately reflect the capability while soil productivity will be a surrogate basis for bond release. The Secretary finds that, until new Federal requirements are promulgated, Rule V 1b(2) shown in the side-by-side analysis which bases performance on the capability of prime farmlands to support premining productivity, and Rule XIII 1a(6)(a) which bases permit approval on capability, are acceptable.

13.L In Finding 13.124 the Secretary found that further clarification was required in order to evaluate the proposed State rules for special bituminous coal mines. Wyoming has provided a discussion and clarification in the resubmission which is evaluated in Finding 13.M below.

13.M In Finding 13.125 the Secretary found that questions remained regarding the State's intended meaning of the term "new special bituminous coal mines." The resubmission explains that Wyoming intends to classify the Kemmerer Coal Company I-U-D mine permit areas as the only "*existing* special bituminous coal mine" (emphasis added) in Wyoming since only that operation can qualify under the State equivalent to 30 CFR 825.11 (Rule VIII 1a(1)(g)) (i.e., only that operation was in existence prior to January 1, 1972). Wyoming intends to allow separate mine pits within this mine, upon adequate showings of compliance with Rule VIII 1a(1).

The critical criteria for determining qualifications as an existing special bituminous coal mine would include the mining of more than one coal seam (Rule VIII 1a(1)(c)) and production of coal since January 1, 1972 (Rule VIII 1a(1)(g)). Thus, anywhere within the total permit area, as that area is specified when a permit is issued under the permanent regulatory program, any multi-seam pits which have been producing coal since January 1, 1972, may qualify as existing special bituminous coal mines.

Wyoming intends to classify other mines as "*new* special bituminous coal mines" (emphasis added) if the mine permit area is located on lands immediately adjacent to the Kemmerer Coal Company's mine permit area. Again, permit areas would be defined in the permit issued pursuant to the permanent regulatory program. The two permit areas that could, in the opinion of the State, contain new special bituminous coal mines are shown to the south and north of the Kemmerer Mine permit area in the map titled "Map No. 1 Special Bituminous Coal Mines," which is contained in the resubmission.

The State indicates, in the resubmission, that the FMC Skull Point operation will be a "new special bituminous coal mine" as could any plan for mining operations in the location of Rocky Mountain Energy Company's Twin Creek Mine (provided all applicable criteria of Rule VIII 1a(2) were met). No other plans are expected to meet the criteria for new special bituminous coal mines, according to the information provided in the resubmission.

In order to reach the conclusion that Section 527 of SMCRA authorizes the State program provisions for special bituminous coal mines as resubmitted, the Secretary has assumed that the term "special bituminous coal mine" refers to an entire mine permit area which may encounter, in one or more locations within that mine, areas of more than one coal seam dipping more than 15 degrees where the operator chooses to mine those seams in one or more separate mine pits which are to remain open to facilitate mining. In other words, the Wyoming program interprets the term "special bituminous coal mine" to apply to the entire mine permit area, which area could include other types of mining in addition to open pit mining.

Once a permit area is designated a special bituminous coal mine, there can be any number of pits within the permit area which may be exempted from backfilling and grading requirements. The provisions of the Wyoming statutes and rules for special bituminous coal mines apply to any eligible pits within the permit area, but *only* to the pits and, under Wyoming's program, the associated spoil piles. And, a *new* special bituminous coal mine need not be immediately adjacent to a pit; rather it must be adjacent to a mine permit area of the entire operation as far as it may extend during successive permit terms.

The Wyoming program further interprets the term "which may be developed," used in Section 527(b) of SMCRA to identify new special bituminous coal mines, to mean "opening of a new mine, continuing the development of an ongoing operation, or redeveloping an area that has been mined in the past." This becomes important in defining the FMC operation as a new special bituminous coal mine since the pit at that mine was opened after 1972 and before 1977.

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The Secretary finds that Wyoming properly interprets the term "special bituminous coal mine" to involve a total mine permit area including one or more pits which specifically qualify for exemptions equivalent to those of Section 527 of SMCRA.

The Secretary also finds that the word "develop" is permissibly used by Wyoming in the resubmission to include both continuation of mining and opening of new pits within the mine permit area designated as a new or existing special bituminous coal mine. This finding is based on common definitions of the word "develop" from *Merriam-Websters Third New World International Dictionary*, Unabridged, 1976, p. 618.

The word "develop" means, in a mining engineering sense, "To open up a coal seam * * * as by sinking shafts and driving drifts, as well as installing the requisite equipment."

(*A Dictionary of Mining, Mineral, and Related Terms*, Bureau of Mines, DOI, 1968, Administrative Record No. 231.) The Internal Revenue Service views development of mineral deposits to involve expenditures made after exploration and before mining. The expenditures would be for "driving shafts, tunnels or galleries and similar operations undertaken to make ore accessible for production (26 CFR 1.616-1a, IRS Code, Administrative Record No. 232). Thus, a difference exists, for tax purposes, between exploration, development, and mining.

The Wyoming resubmission concludes that "develop" includes both "development" and "mining." Again, this is important in determining whether the pit of the existing FMC coal mining operation qualifies the entire FMC permit area as a new special bituminous coal mine and whether that pit is eligible for exemptions.

Based on the Secretary's analysis, there is no evidence that the word "developed" used in Section 527 of SMCRA was used in consideration of the more complex definitions peculiar to mining. It is reasonable to assume that the term "developed" was used as defined in Webster's or other commonly recognized dictionaries. Further, the House Report accompanying H.R. 2 (Conference Report No 95-943, July 12, 1977, page 112) states that "State laws, regulations and decisions made by State regulatory authorities are to be protected" in the issuance, by the Secretary, of regulations. Therefore, the State of Wyoming's considerations are to be protected to the degree consistent with SMCRA. Accordingly, the Secretary finds Wyoming's interpretation of the term "developed" to be suitable and in accordance with SMCRA.

The State resubmission may cause some confusion when trying to distinguish, however, between the words "mine" and "pit." The resubmission provides promulgated rules for backfilling and grading of special bituminous coal mines. Rule VIII 3c indicates that pits not covered under VIII 3a above (*existing* special bituminous coal mines) must comply only with backfilling and grading requirements of Rule IV 2b (as opposed to IV 2b and IV 3a). There is a possibility that operators will interpret this to mean that a variance will be given for any pit within the permit area, regardless of whether it qualifies for an exemption.

It is the Secretary's understanding that Wyoming will first classify mine permit areas as "existing" or "new" and then will apply standards for "existing" special bituminous mines only to qualifying pits within the "existing" mines (and likely will find only one such pit). Standards for "new" special bituminous coal mines will be applied to any eligible pits within a "new " mine and any new pits within an "existing" mine.

Wyoming has promulgated Rule VIII 4a, which requires compliance with all other performance standards to the degree they "do not preclude the benefit intended." The Secretary initially determined that this provision was too extensive since Section 527(c) of SMCRA limited the alternative regulations to standards governing "on site handling of spoils, elimination of depressions capable of collecting water, creation of impoundments, and regrading to the approximate original contour." Thus, all performance standards regarding topsoil, hydrology, wildlife, erosion, revegetation, and certain other performance standards would still apply.

The State has provided evidence that ensures proper compliance with all applicable performance standards and permit requirements (Administrative Record No. WY-220). Wyoming has stated that Section 4 of Chapter VII of the rules applies only if the special bituminous surface coal mine operator affirmatively demonstrates that compliance with a specific performance standard requires utilizing impracticable backfilling and grading, resulting in more stringent standards than described in Chapter VII, Section 3.b. Thus the exemption applies only to backfilling and grading and this portion of the program is consistent with the Federal requirements.

13.N In Finding 13.126, the Secretary found that Wyoming needed to enact a definition of "steep slopes" as well as a ban on mining steep slopes until regulations were prepared. Wyoming has promulgated Rule I 2(66) to define "steep slopes" as any slope of more than 20 degrees or such lesser slopes as may be designated * * *." Wyoming has also promulgated Rule IV 3c(1)(b)(i) to prohibit the placement of excess spoil (i.e., excess of regrading requirements) on an overall slope that exceeds 20 degrees. However, the definition relating to steep slopes within enacted W.S. 35-11-103(e)(xxi) differs in that it defines "steep slope surface coal mining operation" as that occurring on steep slopes generally "exceeding twenty (20) degrees and which, because of the steepness of the terrain, requires special spoil handling procedures." This term, defined in W.S. 35-11-103(e)(xxi), is then used in W.S. 35-11-401(m), which Wyoming has enacted to prohibit mining operations on steep slopes until adequate rules are promulgated.

Under the Wyoming program, Rule IV 3c(1)(b)(i) prevails to prohibit placement of spoil on downslopes exceeding 20 degrees. This is consistent with the special performance standards of 30 CFR 826.12(a)(i) and (d) and thus satisfies the Federal requirements for protecting the environment. In effect, the Wyoming rules do not use the term "steep slope." Rather the rules prohibit excess spoil in steep slope situations. On the other hand, the statute is designed to prohibit steep slope mining gradations themselves, albeit using a different definition of "steep slope." The Secretary finds that Wyoming intends to prohibit steep slope mining until additional rules are promulgated (Exhibit C.6 for sections 785.15 and 826 in resubmission). This issue was also discussed in Finding 12.3.

13.O In Finding 13.142, the Federal requirements for ground water protection in 30 CFR 816.50 are contained in promulgated Rule IV 3c(3)(d) which requires acid or toxic materials used as backfill to be placed to prevent leaching into surface or subsurface waters, and in Rule IV 3a(2) which requires placement of all backfilled materials in a manner which minimizes adverse effects on ground water. These requirements are all reinforced by W.S. 35-11-406(b)(xviii) which requires a plan that minimizes the disturbances to the prevailing hydrologic balance. The State resubmission is consistent with the Federal requirements.

13.P Rule IV 2d(6) will require that a bond be held until the revegetated area is capable of renewing itself under natural conditions and the productivity is at least equal to that existing prior to mining. The standards of the rule are to be met for two consecutive years. 30 CFR 816.116(b)(1)(ii) requires that the standards be met for "the *last* two consecutive years of the responsibility period." (Italic added.) The State rules do not specify the time during the ten year period that the two years of measurement will take place. An operator could then measure the vegetation at the end of the initial planting and irrigation, when productivity is high, and meet the requirements of the rule and not take into acount decline in cover and productivity that may occur before the end of the bond release period.

Although this difference in the rules could be resolved by an explicit discussion of timing of bond release measurements in Guideline No. 2, a modification to the regulation is preferable. This change has been made a condition of Wyoming program approval.

13.Q Wyoming has promulgated Rule IV 3g(4)(b) to require that one year of sediment storage be designed into ponds. This rule has been changed in response to the district court ruling (May 16, 1980, Opinion, at p. 21). In making the change in the resubmission, Wyoming also eliminated the surface performance standard requirement for removal of stored sediment in 30 CFR 816.42(b). While this oversight in the resubmission does not provide the same language as do the Federal regulations at present, reasonable design of sedimentation ponds under Wyoming's program will automatically require sediment removal. And, in fact, Rule II 3b(9)(b) requires "a plan for sediment removal and disposal."

Removal will occur since, if sediment accumulated in excess of the design amount, a violation of Water Quality Division Rule X, Appendix A, (which requires a "detection time to include storage") would also occur.

The Secretary finds that the current State program provides all necessary requirements for sediment removal necessary to maintain the approved (and safe) pond design in comparison to the Federal regulations currently in effect.

Finding 14

The Secretary finds that the Land Quality Division has the authority under Wyoming laws and regulations and the Wyoming program does include provisions to implement, administer and enforce a permit system consistent with 30 CFR Chapter VII, Subchapter G (permits), subject to the discussions in Findings 14.A and 14.C below. This finding is made under 30 CFR 732.15(b)(2).

Wyoming incorporates provisions corresponding to Sections 506, 507, 508, 510, 511 and 513 of SMCRA and Subchapter G of 30 CFR Chapter VII in Wyoming Statute 35-11-103, 401, 402, 405, 406, 408, 409, 410, 426, 427, 428, 429, 601, 801, and 802, and Wyoming Rules I, II, III, IV, VII, VIII, IX, XIII, and XIV. Part G.1 of the first volume of the program submission contains discussions of the systems for (1) mining permit review and approval, (2) amendments, (3) renewals, (4) revisions, (5) transfers and (6) licenses.

Discussion of significant issues raised during the review of the Wyoming permit provisions follows.

In the March 31, 1980, notice (45 *FR* 20930 *et seq.*), the Secretary tentatively found certain provisions in Finding 14 acceptable subject to promulgation of rules, enactment of statutes, and review and comment by government agencies and the public. The Secretary has reviewed those provisions in the Wyoming program resubmission. The Secretary finds that the language previously considered has been promulgated or enacted, has considered government agency and public comments, and approves the provisions of the Wyoming program discussed in the following findings which have the same numbers as the tentative findings on the same provisions in the March 31, 1980, notice.

14.1 See Finding 14.A below.

14.2 W.S. 35-11-406(n)(i) requires that no permit may be issued unless the application is "accurate and complete." W.S. 35-11-406(j) requires that public notice of a "complete" application be given to correspond with 30 CFR 786.11(a). Thus, an incomplete application must be denied consonant with 30 CFR 786.19(a). The exact meaning of the word "complete" in the Wyoming program is discussed in Finding 14.A (14.1) below.

14.3 The State has promulgated Rule XIII 1a(8)(c) to require the coal mining operation to be conducted in compliance with any other applicable State or Federal law. The State program resubmission also contains MOUs for State agencies with designated responsibilities for implementing other acts (see Finding 6). The rules also contain coordination requirements for the Endangered Species Act and Fish and Wildlife Coordination Act (see Rules II 2a(1)(b)(iv), II 3a(6)(e), II 3b(4), and IV 3p).

The Wyoming State program provides for the identification of historic and archeological resources, which would include sites eligible for listing in the National Register of Historic Places. The survey information required by applicants would be evaluated, under the Wyoming program, by the Wyoming State Historic Preservation Officer pursuant to the MOU developed between Wyoming DEQ and the Wyoming Recreation Commission (Exhibit F.3).

Wyoming requires, under Rule XIII 1a(5), that the applicant provide a plan which would demonstrate the capability to mitigate the adverse impacts of mining on areas prohibited for mining pursuant to Section 522(e) of SMCRA (e.g., including sites *listed* on the National Register).

14.4 Finding 14.4 relates to the cooperative agreement under the Federal lands program. See discussion under "Introduction" above.

14.5 Rule II 2a(1)(b)(iv) requires identification of endangered or threatened plant species on any State or Federal list; Rule II 3a(6)(e) requires coordination of fish and wildlife studies; Rule II 3b(4)(b)(i) requires protection of threatened or endangered wildlife species listed pursuant to 16 U.S.C. 1531 *et seq.*; and rule IV 3p(1)(g) requires a report of threatened endangered species and golden eagles. The State rules are consistent with the Federal requirements to protect threatened and endangered plant and wildlife species and golden eagles. See Finding 14.93 for further discussion.

14.6 The State program resubmission shows that Rules XIII 1a(2)(b) and XVIII 3b(1) require applications and petitions to be disseminated to government agencies. Further, public notices of receipt of these are required by W.S. 35-11-406. Thus, Federal agencies will be notified of the permit application and petition process, and the concerns of the National Park Service expressed during review of the original submission are satisfactorily accounted for.

14.7 Rule XIII 1a(2)(b) requires that public notices be sent to Federal agencies with jurisdiction over, or an interest in, the permit area. Rule II 3a(5)(b) requires information for any other permits or approvals pertinent to the proposed operations. Rule II 3b(1)(b)(iv) requires the location and design for diversions, channels, erosion control, and discharge (among other) facilities. Further, Rule XIII 1a(8)(c) requires that operations be conducted in a manner which prevents violation of other applicable laws and, thus, requires an applicant to have obtained the requisite approvals prior to operations. Thus, the State has ensured that dredge and fill operations will be accounted for

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both by notification to the Corps of Engineers and by review by the regulatory authority.

14.8 See Finding 14.B below.

14.9 W.S. 35–11–401(d) provides guidance for continued operations after timely submission of a complete application equivalent to that provided by 30 CFR 771.13(b) and thus is consistent with the Federal allowances for continued operations in the event of administrative delays.

14.10 The State included a guideline (No. 6) in its submission which addresses organization of a permit. In Part III, Section II of the guideline, ranges in scales for maps are specified. The map scales range from 1:4800 to 1:24000. Surface and underground mine maps in mine plans for Federal lands in Wyoming are generally 1:4800 or 1:6000 scale. This observation is based on OSM's analysis of mine plans for Federal lands in Wyoming on file in the Region V OSM offices. The State program, therefore, adequately provides the authority to obtain, and in practice the Wyoming regulatory authority does obtain, maps of proper scale to allow site-specific analyses by the regulatory authority, even through the Wyoming rules do not specify the scale (1:6000 or larger) of maps of the permit area as does 30 CFR 771.23(e)(1).

14.11 Rule II 1b requires information in the application to set forth references to technical material as well as the entities responsible for collecting and analyzing data. Rule II 3a(5)(a)(ii)(B) incorporates the Water Quality Division's standards, which, in turn, specifically incorporates EPA's water quality analytical procedures. The State resubmission is consistent with the requirements of 30 CFR 771.23(c) for identification of preparers of technical data and identification of analytical procedures.

14.12 W.S. 35–11–406(a)(xii) establishes a permit fee not to exceed $2,000, which is consistent with 30 CFR 771.25.

14.13 Rule I 2(3) presumptively limits the "adjacent area" to one-half mile of the proposed permit (mine plan) area unless otherwise specified by the regulatory authority. The Secretary finds this consistent with the Federal requirements, since the limitation will be varied according to the potential adverse effects of the proposed operation and is merely used to provide some quantitative indication of the area to be surveyed as early as possible in the environmental monitoring program. It is recognized that the distance will almost always be greater in some direction from the proposed operations for hydrologic effects of mining.

14.14 Rule II 3a(5) includes the Mine Safety and Health Administration (MSHA) identification number and is, therefore, consistent with 30 CFR 778.13(f).

14.15 Rule II 3a(2)(b) and W.S. 35–11–406(a)(xiv) require a listing of "notices of violation *which resulted in enforcement action* of this act, any law, rule, or regulation of the United States * * * pertaining to air and water environmental protection" (italic added). The Secretary understands that the emphasized language is designed to exclude from the listing notices of violation under present State law which are merely informative and do not necessarily require action by the operator (Administrative Record WY–99). Under this interpretation, the State program resubmission is consistent with 30 CFR 778.14(c).

14.16 Rule II 3a(3) requires right-of-entry statements and documents which clearly explain and support the legal rights claimed by the applicant. W.S. 35–11–406(a)(ii) and (b)(xi) requires a sworn statement as to the legal right and power by legal estate to mine and, if the application was filed after March 1, 1975, an instrument of consent from the resident or agricultural landowner granting permission to enter and mine. The State provisions are consistent with 30 CFR 778.15.

14.17 Finding 14.17 relates to the cooperative agreement under the Federal lands program. See discussion under "Introduction" above.

14.18 See Finding 14.16 above.

14.19 Rule II 2b(1)(b) requires a map showing the yearly progression of mining and reclamation during the life of the mine. Rule II 2b(2) requires a time schedule for each major step in the reclamation plan in order to coordinate the reclamation plan with the mining plan. Thus, the State program is consistent with 30 CFR 778.17(a).

14.20 W.S. 35–11–406(a)(xiii) requires a certification that a public liability insurance policy exists or that there is evidence of meeting other State or Federal self-insurance requirements. Rule XIII 2b requires that the liability insurance be adequate prior to permit approval. The State resubmission is consistent with the requirements of 30 CFR 778.16.

14.21 Rule II 3a(5) requires a list of permits or approvals needed and copies or numbers of permits obtained from DEQ or the State Engineer. Thus, the requirements of 30 CFR 778.19 are met since the number and type of permits are adequate for a "description" and since the actual permits can easily be obtained from other State or Federal agencies once the type and number of the permits are identified.

W.S. 35–11–406(d) requires the applicant to file a copy of the permit application for public inspection at the office of the regulatory authority and in the office of the appropriate county clerk. Rule XIII 1b(1)(b) requires evidence of public notice. The public notice must contain information regarding the location of the plan for review (W.S. 35–11–406(j)). Thus, the requirements of 30 CFR 778.20 for identification of the public review office are also met.

The State cannot, under its program, approve an application unless the applicant has complied with W.S. 35–11–406(a)(xv) (has provided "such other information as the administrator deems necessary or as good faith compliance with the provisions of this act require"). Thus, if any other information is required for the analysis, including information contained in other permits, the application must contain that information.

14.22 See Finding 14.C below.

14.23 Rule II 3a(6)(k) requires hydrologic and geologic information for the adjacent and general areas. Rules II 3a(6)(a), (b), (h), and (j) require geologic and hydrologic data on the permit area and other related areas. Rule XXIII 3a addresses the availability of information. The State program does not use the term "mine plan area." Rather, "permit area" is defined (Rule I 2(56)) to include all operations on the entire life of the mine. W.S. 35–11–406 requires information covering the full extent of proposed operations. W.S. 35–11–405(b) specifies that the permit remains in force until the termination of all mining and reclamation operations. (See W.S. also 35–11–103(e)(xi) for definition of "mining permit" covering *all* operations.) The resubmission is consistent with 30 CFR 779.13 and other geologic and hydrologic requirements of the Federal permanent regulatory program.

14.24 See Finding 14.23 above and promulgated Rule XXIII 3.

14.25 Rules II 32b(10) and XXIII 2 require a determination of the probable hydrologic consequences of the proposed operation on the hydrologic regime and an assessment by the regulatory authority of the probable cumulative hydrologic impacts of all anticipated mining in the general area. These requirements are consistent with 30 CFR 780.21(c) and 786.19(c).

14.26 W.S. 35–11–406(n)(i) and (ii) require the regulatory authority to find in writing that an application is complete and that the proposed reclamation can be achieved. Further,

Rule II 3a(6)(b) requires test borings on core samples of overburden. Under Rule XXIII 2a(2), the regulatory authority must find in writing that the test borings and core samples are adequate to characterize the overburden.

14.27 Rule II 3a(6)(h) includes manganese as a water quality parameter for which base line data must be provided. The State program resubmission is consistent with 30 CFR 779.16(b)(2) in terms of including the requirement for baseline manganese data. This effluent limitation for discharges has also been discussed in Finding 13.c (13.14).

14.28 Rules II 2a(1)(j)(i) (listing of all known adjudicated and appropriated water rights), II 2(1)(j)(ii) (listing of wells), and VII 1a (which incorporates permit requirements for surface mines in the underground mining regulations) provide requirements for descriptions of known uses of water consistent with 30 CFR 779.15(a)(3), 779.16, and 779.17.

14.29 Rules II 2a(1)(c) and (d) require the applicant to obtain precipitation and wind data. The State program does not contain a rule equivalent to 30 CFR 779.18(a)(3) for seasonal temperature data. Rather, the State proposes to depend on published temperature records and general knowledge of seasonal temperature ranges. In view of the fact that specific temperature ranges will be obtained from other sources in the Wyoming program, as required, the Secretary finds the resubmission adequate with respect to 30 CFR 779.18(a)(3).

14.30 Rule II 3a(6)(d)(ii) requires a map of vegetation reference areas and a "delineation" of existing vegetation types within the permit and adjacent areas. The State has submitted a vegetation guideline (No. 2) which requires mapping of vegetation (see the "General Procedures" in that guideline) and a permit organization guideline (No. 6) which specifies map scales (1:4800 to 1:7200) for vegetation maps. Thus, the resubmission is consistent with 30 CFR 779.19 in that vegetation maps will be obtained. See Finding 14.10 for additional discussion of map scales. Vegetation maps should correspond to both soils and mining operations maps.

14.31 Rules II 2a(1)(e) and II 3a(6)(e) require adequate wildlife data in the permit application. The State program resubmission also includes a wildlife guideline (No. 5) which provides additional details for the applicant to follow as "good practice." Rule II 3b(4)(b)(i) requires a plan to minimize adverse impacts to threatened or endangered species (Federal-and State-listed species). However, the Federal counterparts, 30 CFR 779.20 and 780.16, have been remanded by the district court. See discussion under "General Background" above. These rules and the guideline, however, are no less stringent than Section 515(b)(24) of SMCRA.

14.32 Rule II 3a(6)(e) requires consultation with State and Federal fish and wildlife management agencies regarding the extent of pre-mining studies. The submission also contains a letter of agreement to contribute expertise from the U.S. Fish and Wildlife Service (Appendix G.9). An MOU between the Wyoming Game and Fish Department and the Land Quality Division identifies administrative coordination procedures to obtain technical reviews and assistance from the State Game and Fish Department. These provisions, along with other rules of the State program, satisfy the requirements of 30 CFR 731.14(g)(10) (consultations with fish and wildlife authorities). See Finding 14.31 above for analysis in light of the district court order.

14.33 Rule II 3a(6)(d)(iii) requires a description of uses of land preceding mining and thus is consistent with 30 CFR 779.22(b)(5).

14.34 Rule II 3b(12)(b)(iii)(D) includes the requirement that proposals for designation of cropland as a new postmining land use shall be supported with a demonstration of a reasonable likelihood of sustaining the cropland. A firm, written commitment is no longer required. This is consistent with the district court's ruling regarding 30 CFR 816.133(c)(9)(i) (Opinion of February 26, 1980, at 63–63).

Rule XVI 6a addresses schedules of bond releases. The bond release schedule in this rule "may" be recommended by the regulatory authority. However, the maximum amounts to be released and the phases of release are mandatory. The discretion lies only in retaining additional amounts of bond or retaining the bond for longer periods. These provisions are consistent with current Federal requirements.

14.35 Rule II 3a(6)(n) requires, in the application, locations of existing man-made features within the permit area. In Rule II 3b(3)(a), the State program requires a blasting plan showing how compliance with Rule VI is to be achieved. In Rule VI 5a(7)(a), the resubmission shows that blasting may be limited in areas within ½ mile (rather than 1,000 feet) of a dwelling. In Rule VI 5a(7)(b), the 500-foot limitation for certain facilities such as flammable facilities and water lines is stated. The resubmission is consistent with 30 CFR 779.24(d) since the information needed to make a finding of compliance with Rule VI must be contained in the application in order to make the application complete and approvable. However, the 1,000-foot and 500-foot requirements of 30 CFR 816.65(f)(1) and (2) were remanded by the district court (opinion of May 16, 1980, at 26). See discussion under "General Background" above. Rule VI 5a(7) is no less stringent than Sections 515(b)(15) and 522 (e)(5) of SMCRA.

14.36 W.S. 35–11–406(n)(iv) covers Section 522(e) of SMCRA and thus the resubmission is consistent with the requirements of the Federal program for analysis of unsuitability. This is also discussed in Finding 21.

14.37 Rule II 2a(1)(k) requires a "description of any significant" artifacts, fossils, or other articles of cultural, historical, archeological, or paleontological value. Thus, the resubmission is consistent with 30 CFR 779.12(b). (See also Finding 14.3.)

14.38 Rule II 3b(3) requires a blasting plan showing, among other requirements, how the applicant intends to comply with Rule VI. The resubmission is consistent with 30 CFR 780.13.

14.39 Rules II 2b and II 3b require various maps. The resubmissions also contains Guideline No. 6 which identifies maps (and map scales) to be used in permit applications. The requirements of 30 CFR 780.14 are included in the State program. The requirement for map scales was discussed in Finding 14.10.

14.40 W.S. 35–11–406(n) requires written findings and Rule II 3b(1)(b)(iv) allows "typical design" for surface water and ground water hydrologic control methods. Thus, conceptual designs for hydrologic control measures may be permissible, provided a written finding of compliance is supported. The Wyoming regulatory authority will, of course, have to ensure that all applications contain adequate information to support a written technical analysis showing that water flow and water quality will be regularly protected. These designs, combined with the findings required by W.S. 35–11–406(n), make the resubmission consistent with Federal requirements.

14.41 Rules II 2b(1)(b) and II 3b(1)(a) require only a reasonable number of maps. Accordingly, the concerns expressed by Kemmerer Coal Company and discussed in Finding 14.41 in the March 31, 1980, **Federal Register** notice (45 *FR* 20959) have been adequately addressed and the Secretary does not believe that the map requirements under Wyoming's program are inconsistent with SMCRA.

14.42 See Finding 14.31 above.

14.43 Rules II 3b(4) and IV 3p(1)

requirements for underground mines are

30 CFR 784.20(b) are included in Rule

14.66 The State has addressed steep

involving prime farmlands. Thus, the

Valley Floors", which also incorporates

14.43 Rules II 3b(4) and IV 3p(1) require the operator to show the practicality of enhancing, and incorporate measures to enhance, fish and wildlife values. this requirement is consistent with SMCRA. The district court remanded 30 CFR 780.16(a)(2). See Finding 14.31 above for effect of the remand.

14.44 Rules II 2 and II 3, and in particular II 3b(10), which incorporates Rule XXIII 2, require analysis of the probable cumulative hydrologic impacts of all anticipated mining on the hydrologic regime consistent with 30 CFR 780.21.

14.45 Rules II 2b(3)(a), II 3b(7), and IV 3c(3) require a plan to meet standards for handling and controlling acid-forming and toxic materials consistent with 30 CFR 780.18(b)(7).

14.46 Rules II 3b(10) and XXIII 2a(1) require the assessment of probable hydrologic consequences specified in 30 CFR 780.21(c). Rule II 3a(6)(h) requires baseline data describing seasonal fluctuations of water quantity and quality. The State resubmission is consistent with the Federal requirements for such assessments.

14.47 Rule I 2(46) defines "land use" as specific uses or management-related activities consistent with 30 CFR 701.5.

14.48 The State considers it unnecessary to readdress the postmining land use if it is to be the same as the premining land use (Rule II 3b(12)(b)). As discussed under Finding 12.1, this is considered equivalent to the Federal requirements.

14.49 Rules II 2b(3)(b)(iii) and II 3b(1)(b)(iv) for permanent water impoundments are consistent with the requirements of 30 CFR 780.25(a).

14.50 Rule II 3b(1)(h)(iv) requires the maps and cross sections for diversions as specified in 30 CFR 780.29. Rule II 2b(3)(d) also obtains diversion design information in the permit application. The resubmission is consistent with the Federal requirements.

14.51 Rule II 3a(6)(c)(vi) requires identification of locations where mining is prohibited pursuant to Rule XIII 1a(5), and Rule XIII 1a(5)(c) limits mining in public parks and historic places listed in the National Register of Historic Places. The resubmission is consistent with 30 CFR 780.31.

14.52 Rules VII 1a and VII 1b(1) require baseline information on all environmental characteristics required under 30 CFR 783.11 (except overburden to the extent that the requirement was remanded by the district court decision of May 16, 1980, at 12), for areas disturbed either by surface activities related to an underground mine or by subsidence. The Wyoming information requirements for underground mines are the same as those for surface mines but additionally require information on subsidence and other environmental characteristics sensitive or pertinent to the effects of underground mining. This is consistent with 30 CFR 783.11. See discussion above under "General Background" concerning the decision on Wyoming provisions based on remanded Federal provisions. These rules are no less stringent that Sections 507 and 508 of SMCRA.

14.53 W.S. 35–11–415(b)(xii) requires replacement of the water supply of an owner of interest in "accordance with State water law," in order to mesh with State water law. The Secretary finds this combination of administrative and regulatory responsibilities acceptable and consistent with the permanent Federal regulatory program.

14.54 Rules VII 1c(1), VII 1a, amd VII 1b require a general operations plan consistent with 30 CFR 784.11. Rule VII 1c(1) adds mine development wastes to the list of "facilities" to be discussed. All other requirements are met by the incorporation by reference of Rule II into the underground mining rules. The State resubmission is therefore consistent with the Federal requirements.

14.55 Rules VII 1c(2) and VII 2b(1) provide protection equivalent to 30 CFR 784.14(d) against uncontrolled or polluting gravity discharges. This has been discussed previously in Findings 13.37 and 13.107.

14.56 The State has promulgated rules to require that underground mine waste be disposed of in a manner that ensures stability. Rule VII 1c(1) requires a narrative of mine waste disposal methods. Rules VII 1a and VII 1b apply all pertinent parts of Rule II to underground mining. Rule VII 2a(5) applies Rules IV to underground mining. Rule II 2b(3)(b)(v) requires that backfilling and grading plans demonstrate the adequacy of procedures for assuring stability. Rule IV 3c(1)(d)(iv) requires development wastes (excess spoil) to be disposed of in stable structures, which requires geotechnical analysis. The resubmission is consistent with the requirements of 30 CFR 784.19 for design, operation, maintenance and reclamation of underground development of waste piles.

14.57 Rule VII 1c(3) requires a subsidence control plan which includes "measures to be taken in the mine to reduce the likelihood of subsidence, including backfilling of voids and leaving areas in which no coal is removed" (VII 1c(3)(c)). This includes the pertinent requirements of 30 CFR 784.20(b). The remaining requirements of 30 CFR 784.20(b) are included in Rule VII 1c(3)(d).

14.58 Rules VII 1a(1) and VII lb require descriptions of the land and effects of subsidence in compliance with the similar requirements of 30 CFR 784.20. The Wyoming program does not limit analyses to renewable resource lands and therefore could provide more stringent requirements for the lands that may potentially be affected, if any of these lands were not renewable resource lands. It is likely, however, that all lands laying over underground mine workings are renewable resource lands in terms of vegetation and water supplies (see definition of renewable resource lands in 30 CFR 701.5).

14.59 Rule II 3b(13)(b) contains an exclusion from the requirements for hydrologic monitoring (using wells) if backfilled material is placed pneumatically. This is consistent with the requirements of 30 CFR 784.25(e).

14.60 Rules VII 1b and II 3a(5)(a)(i) require an air quality control plan for underground mining operations consistent with 30 CFR 784.26. Air quality controls are also discussed in Finding 13.56.

14.61 Rule VII defines the special case of surface coal mining operations designated "special bituminous coal mines." This special class of mine is subjected to the same procedural requirements, including a written finding, as are all other types of mines (see Rule VIII 2a which requires the application to contain all information required by the Act). The resubmission is consistent with 30 CFR 785.12 in this regard. Performance standards for special bituminous coal mines are addressed in Finding 13.R (13.125).

14.62 See Finding 14.D below.

14.63 Rule IX 2a requires approval of the Director of OSM for any experimental "variance" or practice consistent with 30 CFR 785.13(d).

14.64 The State did not promulgate rules to provide for an "operator window" or variance from the rules, as originally proposed, based on unusually harsh conditions, since such conditions are not a valid basis for variances. Thus, a potential conflict between the State and Federal requirements did not materialize and the resubmission is consistent with Federal requirements.

14.65 Rule IX 1a(2)(b)(i) implements W.S. 35–11–601(q), which limits experimental practice to that number, area or size required to determine effectiveness, and Rule IX 1a(2)(b)(iv), which imposes special monitoring requirements on experimental practices. The resubmission is consistent with the Federal requirements of 30 CFR 785.13(e)(3) and (e)(5).

14.66 The State has addressed steep slope mining as a "State window" and has prohibited coal mining operations on steep slopes. See discussions in Findings 12.3 and 13.S (13.126).

14.67 Rule I 2(86) defines "steep slope" in a manner consistent with 30 CFR 701.5. The resubmission prohibits placement of excess spoil on an overall slope that exceeds 20 degrees (Rule IV 3c(1)(b)(i)). This was also discussed in Finding 13.S (13.126).

14.68 Rules II 3a(6)(g)(i), III 1b, V 1b(3), and XIII 1a(6)(b) specifically include the Department of Agriculture in prime farmland determinations. Rule II 3a(6)(g)(i) requires that negative determinations regarding prime farmland be conducted according to the Soil Conservation Service regulations (7 CFR 657). Rule III 1b states that the Soil Conservation Service is considered to function as the Secretary of Agriculture's representative in accordance with the Memorandum of Understanding between the State Soil Conservation District and the U.S. Department of Agriculture. Rule V 1b(3) includes the Soil Conservation Service in "Small acreage exclusion" determinations. Rule XIII 1a(6)(b) requires adequate consideration of Soil Conservation Service recommendations on soil reconstruction revisions. The resubmission is consistent with 30 CFR 785.17(c) and 785.17(d)(2). This is also discussed below in Finding 14.114.

14.69 Rule V 2b(3) exempts areas permitted prior to August 3, 1977, from prime farmland reconstruction standards in a manner consistent with Section 510(d)(2) of SMCRA. This is also mentioned in Finding 13.120.

The Wyoming program requires prime farmland information in any case where prime farmland soils exist (Rule II 3a(6)(g)) within the permit area. The Wyoming program also requires compliance with performance standards for all prime farmland except where (1) there are small acreages determined to be uneconomical to mine and (2) "where permits were issued prior to August 3, 1977" (Rule I 28). The permit includes all operations conducted during the "entire life of the operation," and thus the areas exempted should include those involving contiguous operations and normal renewals or revisions of existing "permits" in the Federal program.

The Secretary believes that the State has adequately considered the current Federal requirements and that the State program resubmission is consistent with the Federal requirements.

14.70 As noted in Finding 14.68 above, the State has promulgated rules requiring consultation with the U.S. Soil Conservation Service in matters involving prime farmlands. Thus, the types of soil surveys required (see 30 CFR 785.17(b)(1)) will be subject to USDA review. Further, the State incorporated a soils guideline (No. 1) in its submission. This guideline requires, as good practice, soil surveys in accordance with the National Cooperative Soil Survey (USDA Handbooks 436 and 18). The resubmission is consistent with the requirements of 30 CFR 785.17(b)(1) through the use of the guidelines which are an integral part of the program.

14.71 Rule V 4a requires combined surface and underground mines to comply with the requirements of Rules IV and VII. Rules IV 3c(1) (a) and (b) require off-site storage of spoil ("excess spoil") to be in compliance with the State equivalents of 30 CFR 816.71–816.74. The resubmission is consistent with the requirements of 30 CFR 785.18(c)(7) for off-site storage of spoil.

14.72 Rule XIII 1a(7) ensures that the regulatory authority will make appropriate findings regarding variances for delays in contemporaneous reclamation. W.S. 35–11–406(n) requires the regulatory authority to make findings, regarding permit approvals, in writing. The resubmission is consistent with the appropriate parts of 30 CFR 785.18(d).

14.73 W.S. 35–11–403(a)(ii) empowers the regulatory authority to fix bond amounts. The amount of bonds is established pursuant to Rule XIII 2a(1). The bond amount is to be based on all costs expedient or incidental to proper reclamation. W.S 35–11–410(c) requires the regulatory authority to determine the bond amount for the first year and to receive the bond prior to issuing a license to mine. The State resubmission is consistent with 30 CFR 785.18(d)(8).

14.74 W.S. 35–11–411 requires annual reports on the status of mining and reclamation and which should contain reports on the status of variances. Rule IV 2b requires the operator to report the results of special monitoring in the annual report. The resubmission is consistent with 30 CFR 785.18(e).

14.75 Rule XIII 1a(1) identifies the two criteria that will be used to make alluvial valley floor assessments. These two—unconsolidated, streamlaid material and sufficient water for irrigating—are consistent with the Federal requirements of 30 CFR 785.19.

14.76 Rule III 2b(11) requires "such other information which the administrator shall require to determine the importance of the alluvial valley floor to farming and to characterize the essential hydrologic functions." The State program resubmission incorporates Guideline No. 9 ("Alluvial Valley Floors", which also incorporates OSM's draft Alluvial Valley Floor Technical Guidelines dated August 25, 1978). The guidelines are to be used as indicators of "good faith" compliance with Wyoming's Act. The use of guidelines was discussed in Finding 14.22. The resubmission is consistent with 30 CFR 785.19.

14.77 The State has modified Guideline No. 9 (Alluvial Valley Floors) to require "analysis of anticipated changes to suface waters and ground waters * * * (which) should include consideration of the accumulation (sic) effect * * * and also include an estimation of the potential changes that may occur in productivity, soil conditions and availability of water * * *." Wyoming intends this guidance to provide access to, and to require, when appropriate, the "Crop Salt Tolerance" technique reported by Maas and Hoffman (30 CFR 785.19(e)(3)(i)). This approach is consistent with 30 CFR 785.19(e) (ii) and (iii).

14.78 Rule III 2d was modified to limit the use of the equation $p = 3 + 0.0014 x$ to farms with total production of less than 5,000 animal units (or an equivalent measure of capacity) and to use another criterion of 10 percent of the farm's total agricultural production for larger farms. In view of the district court's remand of 30 CFR 785.19(e)(2), (the Federal definition of "significance on farming"), the Wyoming resubmission provides detail not currently in the Federal regulations. The resubmission is more specific than the current Federal regulations and therefore may, on occasion, be more stringent than the Federal requirements. See discussion above under "General Background" concerning remanded Federal regulations. The rule is, however, consistent with Section 510(b)(5) of SMCRA.

14.79 Rules III 5a (1) and (2) require applications for permits to conduct auger mining to contain appropriate technical information on the coal resource and to determine whether the resources have been depleted or are limited in thickness or extent, and compliance with the environmental protection performance standards of Rule V 5, which provides the necessary additional standards. The resubmission is in compliance with 30 CFR 785.20. The Federal requirement for findings to be in writing (30 CFR 785.20(c)) is fulfilled by W.S. 35–11–406(n).

14.80 W.S. 35–11–103(e)(xx) defines surface coal mining operations to include "leaching or other chemical or physical processing, and the cleaning, concentrating or other processing, preparation * * * or coal." Thus, all

applications involving coal processing

Department of Environmental Quality,

14.91 Rule I 2(100) defines "trade

environmental performance standards

on solid waste land disposal facilities.

14.112 Rule XIII 1a(5)(d) reiterates

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applications involving coal processing and support facilities must comply with Rule II 3b(2) and will thus be within a permit area since all operations affecting lands and water must be within the permit area (see Rule I 2(56) for definition of "permit area"). The Wyoming program does not provide a special permit information category for coal processing facilities as in 30 CFR 785.21, but rather requires the same information through the definition of "surface coal mining operations." This rule also incorporates Rule IV 3k requirements (protection of the environment) into the standards for coal processing facilities.

14.81 See Finding 13.129 above.

14.82 Rule XVII 2d(1)(a) defines "willful violation" as proposed in the initial State program submission. The State has not promulgated a definition of "irreparable damage to the environment," nor was such proposed in the original submission. Rather, the common meaning of the term will be used and this meaning is consistent with the Federal definition in 30 CFR 786.5.

14.83 W.S. 35–11–406(j) requires that public notice of a complete application be given for four consecutive weeks, starting within fifteen days of filing the completed application. Based on Wyoming's resubmission, Wyoming is providing a four week notice of the filing of a "complete application." A "complete application" is defined in W.S. 35–11–103(e)(xxii) to mean an application "acceptable for further review rather than approvable" as in 30 CFR 770.5. W.S. 35–11–406(k) provides 30 days after the last (fourth) publication for filing of comments and is consistent with the Federal requirements. These provisions are consistent with the Federal requirements. See Finding 14.A (14.1) for further discussion of the definition of "complete application."

14.84 Rule XIII 1a(2)(b) requires the regulatory authority to send the public notice required by W.S. 35–11–406(j) to Federal agencies with jurisdiction over, or an interest in, the proposed operation or permit area. This rule is consistent with the requirements of 30 CFR 786.11(c)(1). Further, the resubmission specifically requires consultation in the course of scoping fish, wildlife, and habitat studies with State and Federal fish and wildlife agencies (Rule II 3a(6)(e)), which will involve the U.S. Fish and Wildlife Service (when that agency has jurisdiction).

14.85 Rules XIII 1a(2)(b) and II 3a(5) comply with 30 CFR 786.11(c)(4). The State has also provided MOUs between the Land Quality Division and the Water Quality and Air Quality Divisions of the Department of Environmental Quality, the State Engineer, the Wyoming Recreation Commission and the Wyoming Game and Fish Department. These MOUs further ensure coordination. The MOUs were discussed in Finding 6.

14.86 W.S. 35–11–406(n)(iv) ensures that permits will not be issued in conflict with Section 522(e) of SMCRA (Section 522(e) is incorporated by reference in the Wyoming statutes). Rule XIII 1a(5) reiterates this provision. Rule XIII 1a(5)(a) prohibits mining in national parks. Rule II 3a(5), as noted in Finding 14.85 above, requires consultation with permitting and approving authorities such as those responsible for air and water qulaity, while Rule XIII 1a(2)(b) requires notice to be sent to Federal agencies. The resubmission is consistent with SMCRA requirements for notice and coordination with the National Park Service.

14.87 W.S. 35–11–406(k) does not limit filing of written comments on applications to objections but will accept other comments. The State does not intend the term "file written objections" to prohibit the filing of written comments that may not be objections (Vol. 3A of the resubmission, p. 229). This interpretation satisfies the requirements of 30 CFR 786.12 and 786.13, and is consistent with the Federal requirements.

14.88 W.S. 35–11–406(k) allows 30 days for filing comments (Finding 14.87), and is thus consistent with 30 CFR 786.13(a).

14.89 Rule III 1f, in the Department of Environmental Quality's Rules of Practice and Procedure, involves applicability of the rules to, and maintaining a record of, informal conferences. Rule III 3a (Rules of Practice and Procedure) allows the conference to be held at the locality of the operation or at the State capitol and implies, at a minimum, that the requestor may ask to have the informal conferences held at either location. The Federal requirements mandate holding the conference at the mine site if so requested (30 CFR 786.14(b)(1)). Rule III 3a is logically read to require hearings in the locality of the mine site if requested. The Secretary assumes that if a request were made for the hearing to be held in the locality, the regulatory authority would honor the request and this portion of the State program is consistent with pertinent Federal requirements.

14.90 Chapter I, Section 3, of the Wyoming Rules of Practice and Procedure provides that the applicant or any interested person may obtain a hearing.

14.91 Rule I 2(100) defines "trade secrets" consistent with both 30 CFR 786.15, which specifies confidentiality criteria for permit applications, and 30 CFR 776.17(b) criteria for making available information contained in coal exploration applications.

14.92 See Finding 14.E below.

14.93 See Finding 14.F below.

14.94 Rule II 3(b)(10) requires information supporting a determination of probable hydrologic consequences on the hydrologic regime, as was proposed in the initial submission. The State resubmission is consistent with 30 CFR 786.19(c) and 30 CFR 780.21(c).

14.95 Rule XXIII 2a(1) provides guidance to control the effects of the proposed operation on ground and surface water quality and quantity, and Rule I 2(47) defines "material damage to the hydrologic balance" to mean a "long term or permanent adverse change to the hydrologic regime." Thus, the Wyoming provisions are consistent with 30 CFR 786.19(c), concerning prevention of material damage to the hydrologic balance outside the permit area.

14.96 W.S. 35–11–401(d) requires submission of permanent program permit applications within 2 months, consistent with the Federal requirements. Enacted W.S. 35–11–406(e) requires the regulatory authority to make a determination of completeness within sixty days. This time is generally adequate when only a few plans are submitted at any time. The Secretary need make no finding at this time as to whether this schedule would be appropriate for Federal lands where an environmental impact statement or environmental assessment may be required. This issues is being considered in the context of the rulemaking on Wyoming's proposed permanent program cooperative agreement. See discussion above under "Introduction."

14.97 Rule XIII 1a(4) requires that proposed operations be consistent with other surface coal mining and reclamation operations proposed or contemplated in pending or approved mining permits. This is consistent with the requirements of 30 CFR 786.19(j) in that it prohibits partitioning of a mine tract into land ownership segments which, while interdependent, are separated to try to circumvent analysis of cumulative effects.

14.98 Rule II 3b(2) requires a description of existing structures and an explanation of whether they meet the requirements of Rule IV (performance standards). There is no specific requirement for reconstruction to meet environmental protection performance standards. Rather Rule II 3b(2) requires that the structures meet the

environmental performance standards of Rule IV, or removal of the structures, or a plan for modifying the structures to meet the standards. The district court opinion that pre-existing structures which meet performance standards shall be exempted from reconstruction design requirements is complied with in that there is no requirement, in the State program, to modify such structures, unless they do not comply with the standards. The resubmission is in compliance with 30 CFR 786.21 and 701.11.

14.99 This finding is contained in the March 31, 1980, notice at 45 FR 20965.

14.100 Rule XIII 1a(2)(b) requires that the notice of decision concerning a permit application be sent to governmental officials in local jurisdictions and to persons who filed comments. The resubmission is consistent with the requirements of 30 CFR 786.23(e).

14.101 W.S. 35–11–401(d) established the time period for filing permit applications as proposed in Administrative Record Documents WY–99 and WY–119. The statute is equivalent to the Federal requirement. The statutory requirement includes the requirement to file within 2 months of State program approval.

14.102 W.S. 35–11–801(a) allows imposition of necessary conditions in approvals of permits, and Rule XIII 1a(8) implements W.S. 35–11–801(a) and requires right of entry as described by W.S. 35–11–109 as another condition of the permits. In Rule XVII 1c the State has limited the number of persons that may accompany an inspector to "a manageable number of members of that group" as proposed in the original submission. (See 30 CFR 786.27(b)(2) for comparison where "private persons" are permitted to accompany the inspector). The resubmission is consistent with 30 CFR 786.27 since the appropriate permit conditions are to be imposed and since large groups of people are not generally expected and, if they occur, can be subdivided into "manageable groups."

14.103 Rule XIII 1a(8)(d) requires, as a permit condition, that the operator take all possible steps to minimize adverse impact to the environment or public health and safety. The resubmission is therefore consistent with 30 CFR 786.29(a).

14.104 Rule XIII 1a(8)(a) requires the permittee to conduct all activities in compliance with a plan; Rules IV 3c(2)(a) and IV 3c(2)(g) require coal processing wastes to be disposed of in a stable, nonpolluting manner; Rule IV 3c(3) establishes standards for handling of acid-forming and toxic materials; and Rule II 3a(5)(a)(iii) requires information on solid waste land disposal facilities. Thus, the resubmission provides control of solids, sludges, filter backwash, or pollutants removed in the course of treatment or control of emissions equivalent to that required by 30 CFR 786.29(b).

14.105 See Finding 14.G below.

14.106 Rule I 2(57) defines "permit transfer" as a change in ownership or control. Therefore, the program encompasses the requirements of 30 CFR 788.19.

14.107 W.S. 35–11–411 requires an annual report for all operations. W.S. 35–11–411(d) requires the regulatory authority to review the report within 60 days. The resubmission is consistent with the Federal requirements of 30 CFR 788.11.

14.108 W.S. 35–11–405(e) requires that successive renewals be given only if the operation is in compliance with applicable laws and regulations. Since such compliance would include compliance with permit terms and conditions (Rule XIII 1a(8)) and performance standards (W.S. 35–11–406(n)(ii)), the resubmission is consistent with 30 CFR 788.16(a).

14.109 Rule XIV 1a ("permit revisions") incorporates the definition given in Rule I 2(70) for "revised mining or reclamation operations" into the term "permit revisions" used in Rule XIV. Rule XIV 2b defines "significant deviations" in the context of identifying when notice and opportunity for public hearing is required (for all types of mining). However, Rule XIV 6a limits permit revisions for coal mines to incidental boundary changes to the 5-year mining area and requires more significant boundary changes to be processed as new permit applications. The resubmission is consistent with 30 CFR 788.12(a).

14.110 Rule XIII 1b requires "all procedural requirements of the Act and the regulations" for review, public participation, and action on applications to apply to permit renewals. Rule XIII 1b(1) specifies that information equivalent to that listed in 30 CFR 788.14(a) must be provided for permit renewals and that applications for renewals be made at least 120 days prior to expiration of the permit term as does 30 CFR 771.21(b)(2). The State's provisions are consistent with those of the Federal program.

14.111 Rule XIII 1b requires that all procedural requirements of the Act apply to permit revisions, amendments, renewals, and transfers. This then requires all findings to be in writing pursuant to W.S. 35–11–406(n) and thus the resubmission is consistent with 30 CFR 788.16(a).

14.112 Rule XIII 1a(5)(d) reiterates the prohibition of 30 CFR 786.19(d)(4) and the requirements of W.S. 35–11–406(n)(iv) that no mining can be approved within 100 feet of the outside right-of-way of any public road (unless other requirements are first met). The necessary information must be in a plan pursuant to Rules II 3a(6)(c)(vi) and III 1a(5)(d). This is consistent with the requirements of 30 CFR 780.33(a).

14.113 W.S. 35–11–406(b)(vi) requires an estimate of the total cost of reclamation, Rule II 2b requires that the information specified in the statute (Section 406(b)) be in the application, and Rule XIII 2a(1) requires that the bond estimate include all costs necessary, expedient, or incidental to proper reclamation. Thus, Wyoming obtains estimates of the cost of reclamation with the application. The information obtained under the Wyoming program is consistent with the requirements of 30 CFR 780.18(b)(2).

14.114 With respect to 30 CFR 785.17(c) and 785.17(d)(2) (consultation with the Secretary of Agriculture on permits and incorporation in the permit of any suggestions made by the Secretary of Agriculture), the submission does not require direct consultation with the Secretary. Rather the program depends on the Soil Conservation Service (SCS) and the local conservation districts that operate under a Memorandum of Understanding between the Secretary and the Governor of the State. Thus, the Secretary is represented by the SCS in discussions on permits involving lands mapped as prime farmlands using the Department of Agriculture's criteria. See also Findings 14.68 and 14.70.

14.115 W.S. 35–11–410(b)(i) requires that an application for a license to mine contain the name and address of the applicant. W.S. 35–11–406(a)(i) requires an application for a permit to contain the name and address of the applicant and managers, partners and executives responsible for operations. These State program requirements are consistent with 30 CFR 786.11(a)(1) for a business address. (The information is required in the plan pursuant to Rule II 2b and the forms used to obtain the "mailing addresses" are contained in Exhibits G.1.j. and G.1.k. of the program submission.)

14.116 35–11–406(j) identifies the notice to be provided, which is equivalent to that required by 30 CFR 786.11(a). All Federal requirements for the notice are outlined in the Wyoming statute. In addition, rule XIII 1a(2) ensures that the notice will contain detailed location information and that the notice is issued prior to taking action

on the submission. The definition of a "complete application," since that

Air Act. The air and water monitoring requirements and standards apply to all

capability for the regulatory authority to obtain the necessary information to

purpose of W.S. 35–11–406(n)(i) and

seven guidelines in the program

incorporate a rule based on the Attorney General's statement, and makes

on the submission. The definition of a "complete application," since that precipitates the notice, is discussed in Finding 14.A (14.1). In general, the State definition is adequate for initial notification of the public but is not adequate for identification of an application that satisfies all State requirements for an application as discussed in Finding 14.A.

14.117 Wyoming does not specify, as an approval criterion, that proof must be submitted indicating that all abandoned mine land reclamation fees have been paid as is required by 30 CFR 786.19(h). The Secretary finds this omission unacceptable and makes promulgation of a State requirement a condition of approval of this program.

14.118 Wyoming requires that any "surface coal mining operations" (as completely defined in W.S. 35–11–103(e)(xx)) be permitted prior to conducting operations, through W.S. 35–11–401(a). Specifically, W.S. 35–11–401(a) states that no mining of solid minerals may take place unless the mining is incidental to government highway construction (see W.S. 35–11–401(e)(ii) for highway construction exemptions) conducted in compliance with Wyoming's statutes. W.S. 35–11–401(d) requires all surface coal mining operators to apply for permits as does SMCRA. Wyoming has no exemptions from the requirements of permits for mining as expressed in 30 CFR 700.11. The Wyoming statute applies, by virtue of 35–11–401(a), to coal mined from any location and thus would include coal mined from a coal waste pile (Rule I 2(94)). Since Wyoming has no authority over coal mining on Indian lands, the State program cannot apply to Indian lands even though the program has no counterpart to 30 CFR 700.11(f). Accordingly, the Wyoming program is consistent with 30 CFR 700.11.

14.119 Wyoming requires the information regarding air and water pollution control facilities specified in 30 CFR 780.11(b)(6) to be submitted with a permit application through Rule II 3b(2) (requiring location and plans for all control facilities to be used), Rule II 3b(1)(b)(i) (requiring water treatment and monitoring facilities), and the MOU between Divisions within the Department of Environmental Quality (see Section 4 of MOU requiring descriptions and other information on locations and duration of proposed operations necessary for evaluations). For example, the Air Quality Division must review all information necessary to find compliance with the standards listed in Section 6 of the MOU, in addition to the requirements of the Clear Air Act. The air and water monitoring requirements and standards apply to all types of "surface coal mining operations" as that term is defined in W.S. 35–11–103(e)(xx).

A question arises as to whether air quality monitoring for in-situ operations pursuant to 30 CFR 785.11 is required by Wyoming. In-situ operations must comply with all requirements of the Wyoming statute for surface coal mining operations pursuant to the statute and promulgated Rule V 3a(5). W.S. 35–11–428(a)(i) specifically requires meteorological information for in-situ operations. Thus baseline air quality and meteorological data would be required for in-situ operations, as would air quality monitoring. The Wyoming program is consistent with the Federal requirements in this regard.

14.120 Wyoming requires, through Rule II 2a(1)(f)(iv), analysis of all mineral seams including the rock or mineral type. Wyoming also requires analyses of the coal seam (Rule II 3a(6)(b)(iv) and the lithological characteristics of each coal seam (in addition to the chemical properties of each stratum within the overburden). Acid-forming and toxic materials must be identified in order to comply with the burial or treating requirements of Rule IV 3c(3), and Rule IV 3c(3)(b) requires covering of coal seams. The Wyoming program also contains a guideline for soils and overburden information which specifies information requirements for a complete plan.

The State program does not contain specific requirements for sulfide mineral analyses of the coal as does 30 CFR 779.14(b)(1)(v). The Secretary found the lack of specific requirements for pyrite and marcasite analyses in the Montana program to be acceptable based on the low sulfur content of coals in the region. (See 45 FR 21564.) This general lack of acid-forming conditions in most of the western coal resource areas, including Wyoming (Administrative Record No. WY–230, pp. 2–5 and 2–6), complemented by the authority of the regulatory authority to require sulfide analysis when necessary, make the alternative acceptable.

The State of Wyoming does require analyses of plant growth materials to determine acidity, and requires adequate hydrologic measurements to enable a careful and thorough analysis of the potential effect of mining and reclamation on the hydrologic system through the rules cited above. Since the Wyoming coal resource areas are similar to the coal resources of Montana, that is, the sulfur content of the coal is quite low, the Secretary finds that Wyoming has provided adequate capability for the regulatory authority to obtain the necessary information to identify potential acid problems. The resubmission is therefore consistent with the requirements of 30 CFR 779.14(b)(1)(v).

14.121 W.S. 35–11–406(a)(iv) requires an application to contain the names and addresses of surface and mineral owners of lands on the permit area, while 35–11–406(a)(v) requires the names and addresses of surface owners of land contiguous to the permit area. The Wyoming statute does not specifically require similar identification of mineral owners adjacent to the permit areas as does 30 CFR 778.13(e). However, Part I of Guideline No. 6, Organization of Permit Application, requires the information concerning mineral owners adjacent to the permit area. The Secretary finds this acceptable.

Following are the Secretary's findings on all provisions of the resubmission that differ significantly from the initial submission and subsequent documents described in Part C above which formed the basis of his initial decision published in the March 31, 1980, notice (45 FR 20930 *et. seq.*). Also included are findings that have undergone more detailed analysis by the Department:

14.A Finding 14.1 the Secretary discusses the fact that Wyoming had prepared a definition of "complete application" in W.S. 35–11–103(e)(xxii). That definition has now been enacted. It specifies that a complete application "contains all the essential and necessary elements and is acceptable for further review for substance and compliance * * *." In comparison to 30 CFR 770.5, which defines a "complete application" as one containing "all information required under the Act * * * and the regulatory program," the statutory definition for the Wyoming program is not as stringent as the Federal definition. The State resubmission also specifies (W.S. 35–11–406(e)) that a period of 60 days will be used to make a first determination of "completeness," as defined in W.S. 35–11–103(e)(xxi). Then a second determination of completeness is scheduled to comply with W.S. 35–11–406(n)(1). For this second determination, the State has indicated that "complete application" will mean "that the application contains all information required by the Act and Land Quality Division regulations." The Secretary finds this language to be consistent with the Federal permanent program requirements.

However, the resubmission did not provide clear evidence that a definition of "complete application" for the purpose of W.S. 35–11–406(n)(i) and complying with 30 CFR 770.5 was promulgated. By letter dated August 5, 1980 (Administrative Record No. WY–220), Wyoming indicated its intent to promulgate a definition of "complete application" for purposes of W.S. 35–11–406(n)(i). Therefore, the Secretary cannot approve these provisions of the Wyoming program as resubmitted until that rule is fully promulgated. Promulgation of this rule is being made a condition of approval of this program.

14.B In Finding 14.8, the Secretary disagreed with a commenter's suggestion that the permit application requirements only become operational upon "full" approval of the Wyoming program by the Secretary. The Secretary did determine that the operator "should not be required to review and submit applications until it is clear once and for all that the State has a fully approved program." Although the State has not adopted the commentor's suggestion, W.S. 35–11–401(d) requires "final approval" by the Secretary prior to the requirement for new applications. By letter dated August 5, 1980 (Administrative Record No. WY–220), Wyoming stated that "* * * any approval, conditional or otherwise, would be the final, appealable decision by the Secretary." The State goes on to say that a "* * * *final* decision * * * makes the new law on submitting permit applications effective." Therefore, the two month period for filing new permit applications should begin upon the date the conditional approval of the Wyoming program is effective (i.e., the date this notice is published in the **Federal Register**).

14.C As discussed in Finding 14.22, the State has promulgated a series of rules and enacted W.S. 35–11–406(a)(xv) to require environmental information for the permit area and for other areas that may be affected by operations or which are important in making assessments of the effect of proposed operations. Examples of these rules are Rule II 3a(6)(e) (fish and wildlife in those areas identified by the regulatory authority), Rule II 3a(6)(g)(ii) (surface water for the permit and adjacent areas), Rule II 3a(6)(k) (hydrology and geology in the adjacent and general area), and Rule II 3a(6)(l) (alluvial valley floors in the permit or adjacent areas). The requirements of 30 CFR Parts 779 and 780, particularly for hydrologic data adequate to assess compliance with the performance standards of SMCRA, are met by the State's permanent program resubmission.

The State program is further strengthened by the incorporation of seven guidelines in the program resubmission. These guidelines are intended to specify, for most cases, the types of information and the performance required in support of a good-faith effort on the part of an operator. While departures from the guidelines are allowed, the Wyoming resubmission states that "[d]epartures from the guideline requirements are authorized where the agency could support a similar objective from regulatory requirements."

W.S. 35–11–406(a)(xv) requires applications to contain "such other information as the administrator deems necessary or as good faith compliance with the provisions of this act require." It is therefore pertinent that the Wyoming resubmission states (p. 183, in the analysis of findings) "the application is not complete if it does not contain the information required by good faith compliance with the act." The guidelines represent the State regulatory authority's position on what information should be included in an application for good faith compliance with that Act. Thus, "good reasons for a departure must exist or the Department's decision will be subject to challenge on judicial review as arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."

Once the guideline information is required by the regulatory authority in the course of reviewing and correcting permit applications, the requirements become part of the approved plan and are further enforceable as part of the plan through W.S. 35–11–415(b)(ii), which requires every operator to conduct activities in compliance with the approved plan. The resubmission states that any private person may object to the lack of use of guidelines requirements on the basis that (1) the regulatory authority acted on an incomplete application, or (2) the proposed reclamation cannot be achieved without use of the guideline requirements. Thus the State intends to use the guidelines to specify the contents of the applications.

By letter dated August 5, 1980 (Administrative Record No. WY–220), Wyoming submitted a statement dated August 4, 1980, of the Attorney General's position on the enforceability of guidelines. While the State has explained its intent in using the guidelines, the program still does not contain adequate assurance that the guidelines would be enforceable if an operator or other person sought to attack them. Therefore, the Secretary finds that the State should amend the Land Quality Division's regulations to incorporate a rule based on the Attorney General's statement, and makes promulgation of the regulation a condition of approval of this program.

14.D In Finding 14.62 the Secretary found that Rule IX 1a of the State submission inappropriately extended the experimental practice concept to agricultural land, in contrast to the Federal requirement. Rule IX 1a(2)(a) has been promulgated to make Rule IX (variances for surface coal mining operations) applicable only to "a State standard that is more stringent than the corresponding Federal regulation" or "when the proposal promotes experimental practice" or "allowing a postmining land use in an experimental basis" (IX 1a(2)(b)).

Section 711 of SMCRA and 30 CFR 785.13(e)(2)(ii) specify that the only land uses appropriate for experimental practices are "industrial, commercial, residential, or public use (excluding recreational facilities)." Agricultural use is not included in either SMCRA or the Federal regulations. It would appear that the congressional exclusion was purposeful. The Wyoming program resubmission does not limit the land use in Rule IX 1a(2)(b) as do SMCRA and 30 CFR 785.13(e)(2)(ii). However, the appropriate limitation is reflected in W.S. 35–11–601(q). Therefore, variances are limited to land uses identical to the Federal limits.

The Secretary finds Rule IX 1a(2)(b) to be inconsistent with W.S. 35–11–601(q). Application of the land use criteria of Rule IX 1a(2)(b) is approved only as it is stated in W.S. 35–11–601(q). The implication that Rule IX 1a(2)(b) emcompasses agricultural uses is being preempted and superseded as inconsistent with Federal law under the authority of Section 504(g) of SMCRA. In any event, the Director could not approve any practice for an agricultural use, so none would occur.

14.E In Finding 14.92 the Secretary found that the lack of a State counterpart to 30 CFR 786.17(c)(2) (evidence of a good faith effort to comply) did not appear to reduce the degree of environmental protection or opportunity for public participation, but kept the record open for any additional information. Wyoming provided additional analysis in its resubmission.

Wyoming stated (p. 234 of resubmission) that W.S. 35–11–406(n)(vii) requires that no permit be approved unless "any violation has been or is in the process of being corrected to the satisfaction of the authority, department, or agency which has jurisdiction over the violation." This is the language of 30 CFR 786.17(c)(1). Wyoming does not request, in the rules,

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a showing of good faith appeals as does 30 CFR 786.17(c)(2). Thus, the Secretary agrees with Wyoming that the resubmission contains requirements which could be considered more stringent in this case than the Federal regulations, since a showing of good faith is subjected to review by the regulatory authority and cannot stand alone.

14.F Rule II 3b(4)(b)(i) requires a plan for minimizing adverse impacts by protecting or enhancing "threatened or endangered species * * * under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.) and their critical habitat." Rule II 3b(12)(b)(iii)(H) requires a complete application to contain "approval of measures to prevent or mitigate adverse effects on wildlife or fish * * * from appropriate State and Federal fish and wildlife management agencies." W.S. 35–11–406(n)(i) requires that the regulatory authority deny approval of a permit if the application is not complete. Therefore, if an application does not contain a plan to minimize adverse impacts, including a plan to protect or enhance threatened or endangered species and their critical habitats (Rule II 3b(4)(b)(i)), the permit cannot be issued. This was discussed in Finding 14.93 and also in Finding 14.5.

The Federal regulations require the regulatory authority to find that the proposed activities "would not affect the continued existence of endangered or threatened species or result in the destruction or adverse modification of their habitat as determined under the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*)" (see 30 CFR 786.19(o)) prior to issuing a permit. Again, W.S. 35–11–406(n)(i) requires the regulatory authority to deny approval if the plan is not complete. A complete plan must be judged against all applicable elements of Rule II, including the plan for protecting or enhancing threatened or endangered species and their critical habitat.

Since Rule II 3b(4) requires a plan which includes minimizing adverse impacts, it appears to be less stringent than the Federal requirement, which is directed more to prohibition than minimization. By letter dated August 5, 1980 (Administrative Record No. WY–220), Wyoming stated that the provisions of W.S. 35–11–406(n)(i) and Rule II 3b(4) "* * * are the equivalent of the finding in 30 CFR 786.19(o)." The Secretary finds that the Wyoming provisions are as stringent as the requirement in 30 CFR 786.19(o). This finding is based on Wyoming's statement that the State's counterpart provisions are "equivalent," which the Secretary interprets to mean that the State will not issue any permits for mining operations that would affect the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat, and the State will make an appropriate written finding for each permit application.

14.G In Finding 14.105 the Secretary found that the State should provide evidence that temporary relief from decisions on permit applications is provided in the State program. The State program resubmission has done so. It contains Rule III 3B (Rules of Practice and Procedures), which provides for the Environmental Quality Council to grant temporary relief identical to 30 CFR 787.11(b)(2), and is thus consistent with the Federal requirements.

14.H The Wyoming regulations appear to contain several inconsistencies concerning timing of review of permit renewals. Under Rule XIII 1b, Wyoming requires 120 days to file a permit renewal application. This deadline could be difficult to meet due to the other requirements found in W.S. 35–11–406(f) and Rule XIII 1a. Rule XIII 1a requires the placement of an advertisement in a newspaper once a week for four consecutive weeks (22 days) commencing within 15 days after filing of an application. W.S. 35–11–406(k) requires that the filing of a request for an informal conference be no later than 30 days after the last publication of a newspaper advertisement, and that information on the date, time and location of the hearing be advertised two weeks prior to the hearing. W.S. 35–11–406(p) requires action within 60 days from the close of the hearing. This could add up to over 127 days, which is a longer period than specified by Wyoming. The Secretary assumes that Wyoming plans to reduce the 60-day period allowed for a decision after an informal conference is held in order to meet the specified time period allowed for a decision, rather than limit the public participation opportunities under W.S. 35–11–406(g), 35–11–406(j), 35–11–406(k), and Rule XIII 1a(2). Therefore, the Wyoming provisions are acceptable.

Finding 15

The Secretary finds that the Land Quality Division has the authority to regulate coal exploration consistent with 30 CFR Parts 776 and 815 (coal exploration) and to prohibit coal exploration that does not comply with 30 CFR Parts 776 and 815, and the Wyoming program includes provisions adequate to do so. This finding is made under 30 CFR 732.15(b)(3).

The Wyoming program incorporates provisions corresponding to Section 512 of SMCRA and 30 CFR Parts 776 and 815 (as related to coal exploration) in Wyoming Statute 35–11–402 and Wyoming rules Chapters X, XI and IV. Part G.1 of the first volume of the program as resubmitted includes a discussion of the system for exploration license review and approval.

A discussion of significant issues raised in the review of Wyoming's coal exploration provisions follows.

In the March 31, 1980, notice (45 FR 20930 *et seq.*), the Secretary tentatively found certain provisions in Finding 15 acceptable, subject to promulgation of rules, enactment of statutes, and review and comment by government agencies and the public. The Secretary has reviewed those provisions in the Wyoming program resubmission. The Secretary finds that the language previously considered has been promulgated or enacted, has considered government agency and public comments, and approves the provisions of the Wyoming program discussed in the following findings which bear the same numbers as the tentative findings on the same subject in the March 31, 1980 notice:

15.1 Rule XI 5k provides for minimizing disturbance to the prevailing hydrologic balance and sediment control in coal exploration activities consistent with 30 CFR 815.15(j).

15.2 Rules XI 5 d and m are consistent with 30 CFR 815.15 (f), (j) and (i) concerning revegetation and facility removal. Rule XI 1b(5) requires coal exploration operations of 250 tons or less to comply with Rule XI 5 when there will be substantial disturbance of the land surface. Rule XI 5 contains the necessary cross-references to other vegetation and sediment control requirements.

15.3 Rule XI 1b(5) does not contain map requirements in coal exploration of 250 tons or less. This is consistent with the district court ruling against requiring a map or evidence of right of entry (Opinion of May 16, 1980, at 54). However, Rule XI 2b(1) for coal exploration hole drilling requires areas to be explored to be shown generally on a 1:24000 map. The exploration drilling rule does not distinguish between operations removing more or less than 250 tons.

15.4 Rule XI 3a requires notices for exploration removing more than 250 tons to be posted in the district office of the regulatory authority, and thus is consistent with 30 CFR 776.12(b).

15.5 Rules I 2(100) and XI 3 are consistent with 30 CFR 776.17(b) concerning confidential information in that "trade secret" pertains only to certain coal properties or characteristics and privileged communications or financial information relating to competitive rights.

15.6 Rules XI 5m and XI 5k are consistent with 30 CFR 815.15(c)(3)(ii), (f) and (j) concerning facility removal and protection of the hydrologic balance.

15.7 No revision to the State program was required. See Finding 14.3.

15.8 Rule XI 4a(2) provides protection to historic, archeological, or cultural resources consistent with 30 CFR 776.13(b)(3). The rule does not distinguish between "listed sites" and sites "eligible for listing" and thus is not affected by changes made by OSM to delete "eligible for" pursuant to the district court decision (Opinion of February 26, 1980, at 23).

15.10 Rule XI 5 provides for compliance with environmental performance standards consistent with 30 CFR Part 815, which requires application of the performance standards to coal exploration which substantially disturbs the land surface. The requirements of 30 CFR 776.11(b)(6) for a description of environmental protection activities for operations which do not remove more than 250 tons are contained in Rule XI 1b(5).

Following are the Secretary's findings concerning all provisions of the resubmission that differ from the initial submission and subsequent documents described in Part C above, which formed the basis of his initial decision published in the March 31, 1980, notice (45 FR 20930 *et seq.*):

15.A In Finding 15.9, the Secretary suggested that the definition of coal exploration should be revised to be as inclusive as the Federal definition in 30 CFR 701.5. Wyoming promulgated a new definition in Rule I 2(9) which is consistent with the Federal definition since it includes mapping, geophysical data, and environmental data collection.

15.B Wyoming has promulgated rules to provide less stringent standards for "developmental drilling" operations than for exploration activities. This new element of the program is discussed in Exhibit G.6 of the program submission ("State windows"), but is not proposed as a "State window" according to the discussion. Instead, it is proposed as being no less stringent than the applicable provisions of SMCRA. Rule I 2(18) defines "developmental drilling" as drilling into the lowest coal seam within 500 feet of an active mine pit. Rule I 2(9) excludes developmental drilling from the definition of coal exploration (as well as exploration drilling specifically approved under a permit). Rule II 3b(8) excludes development drilling holes that will be mined through (within one year) from the description of procedures to seal or manage, and rather requires compliance with W.S. 35–11–404 (the rule is mistyped to read 35–11–407). W.S. 35–11–404 requires plugging of artesian flow, sealing with a column of mud if ground water is encountered, capping and backfilling. Rule IV 3n also cites W.S. 35–11–404 for developmental drill holes to be mined through within one year. This rule also requires temporary sealing and use of protective devices, at a minimum, for developmental drill holes.

Developmental drilling comes after exploration and before mining (if mineable coal is found). The bases for the request to allow such drilling under coal standards was that such activity occurs within a developing mine and that notice requirements are not of value and, since the holes will usually be mined through within one year, there is no justification for applying the general abandonment standards. If the drilling exceeds depths equivalent to the deepest coal seam to be mined or extends past 500 feet from the active pit, or is not mined through within one year, or is not included as analyzed in the approved plan, the drilling must be treated as exploratory. Developmental drilling must be described and analyzed to an adequate degree regarding general location, spacing, drilling methods, pollution control methods, data expected to be obtained, and must include measures to comply with W.S. 35–11–404.

The Secretary finds that the concept of developmental drilling requiring less onerous standards is valid, provided the depth, distance, time and plugging (safety and hydrology) constraints are maintained. Thus, the provisions equivalent to portions of 30 CFR 701.5, 780.18(b)(8) and 816.13–816.15 are acceptable.

Finding 16

The Secretary finds that the Land Quality Division has the authority under Wyoming laws and the Wyoming program includes provisions to require that persons extracting coal incidental to government-financed construction maintain information on site consistent with 30 CFR Part 707. This finding is made under 30 CFR 732.15(b)(4).

Provisions corresponding to 30 CFR Part 707 (exemptions for coal extraction incidental to government-financed highway and other construction) are found in Wyoming statute W.S. 35–11–401 and Wyoming regulation Chapter I.

Wyoming has promulgated Rule I 3b(3) to require that information be kept on-site as in 30 CFR 707.12. The regulatory authority can demand proof of the exemption and close the operation if the proof is not supplied.

Finding 17

The Secretary finds that the Land Quality Division has the authority and the Wyoming program includes provisions to enter, inspect, and monitor all coal exploration and surface coal mining and reclamation operations on non-Indian and non-Federal land within Wyoming consistent with the requirements of Section 517 of SMCRA (inspection and monitoring) and 30 CFR Chapter VII, Subchapter L (inspection and enforcement). This finding is made pursuant to 30 CFR 732.15(b)(5).

Provisions corresponding to Section 517 of SMCRA and Subchapter L of 30 CFR Chapter VII for inspection and monitoring of operations are found in Wyoming regulations Chapters IV and XVII, Volume I, Part G.4, of the program resubmission contains a description of the inspection program to be carried out by the Land Quality Division.

Discussion of significant issues raised in the review of the Wyoming provisions for inspection and monitoring follows:

In the March 31, 1980, notice (45 *FR* 20930 *et seq.*), the Secretary tentatively found certain provisions in Finding 17 acceptable, subject to promulgation of rules, enactment of statutes, and review and comment by government agencies and the public. The Secretary has reviewed those provisions in the Wyoming program resubmission. The Secretary finds that the language previously considered has been promulgated or enacted, has considered government agency and public comments, and approves the provisions of the Wyoming program discussed in the following tentative findings in the March 31, 1980, notice: Findings 17.1, 17.3, 17.5, 17.6, 17.8, 17.9, and 17.10.

Following is the Secretary's findings on all provisions of the resubmission that differ from the initial submission and subsequent documents described in Part C above which formed the basis of his initial decision published in the March 31, 1980 notice (45 *FR* 20930 *et seq.*):

17.A In Finding 17.7 the Secretary requested assurance by Wyoming that inspections will be made on an irregular basis, including operations which are open on nights, weekends or holidays. The State has provided this assurance in its comment in the side-by-side to this finding, and the Secretary finds it acceptable.

17.B In Finding 17.4, the Secretary requested that Wyoming provide an explanation that inspectors will conduct

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field enforcement for all violations observed. In a letter dated August 5, 1980 (Administrative Record No. WY-220), the State indicates that it will conduct field enforcement for all violations observed. The Secretary finds that inspectors will take all required actions based upon this discussion.

Finding 18

The Secretary finds that the Land Quality Division has the authority under Wyoming laws and the Wyoming program includes provisions to implement, administer, and enforce a system of performance bonds and liability insurance, or other equivalent guarantees consistent with 30 CFR Chapter VII, Subchapter J (performance bonds), subject to the discussion in Finding 18.A below. This finding is made under 30 CFR 732.15(b)(6).

Provisions corresponding to Sections 509 and 519 of SMCRA (performance bonds and insurance) and to Subchapter J of 30 CFR Chapter VII are incorporated in Wyoming statute 35-11-406, 410, 411, 417, 418, 421 and 424 and Wyoming rules Chapters XII, XIII, and XVI. Volume 1, Part G.3, of the program submission contains a narrative describing the reclamation performance bond and liability insurance requirements for the State.

Discussion of significant issues raised in the review of Wyoming's bonding and insurance provisions follows.

In the March 31, 1980, notice (45 FR 20930 *et seq.*), the Secretary tentatively found certain provisions in Finding 18 acceptable, subject to promulgation of rules, enactment of statutes, and review and comment by government agencies and the public. The Secretary has reviewed those provisions in the Wyoming program resubmission. The Secretary finds that the language previously considered has been promulgated or enacted, has considered government agency and public comments, and approves the provisions of the Wyoming program discussed in the following tentative findings in the March 31, 1980, notice:

18.3 Rule IV 3d(6) covers the requirements of 30 CFR 805.13 regarding the period of bond liability. The period of liability is to be initiated at the completion of seeding, fertilizing, irrigation, or other work to ensure revegetation. The State program is consistent with the Federal requirements for the period of liability.

18.8 Rule XVI 4a requires inspections and evaluations of mining and reclamation work within 60 days of receipt of notification, "conditions permitting." This ensures that inspections will be conducted when conditions allow the proper information to be gathered. This is consistent with the Federal requirements of 30 CFR 807.11(d), especially in view of the short growing season in Wyoming.

18.11 Under Rule XVI 6a, the bond is released in three phases as provided for by 30 CFR 807.12(b). Somewhat less bond than the Federal amount is released at each phase under the Wyoming program. The full bond is not released until the 10 year liability period has expired and the revegetation and other commitments are met.

Following is the Secretary's findings on all provisions of the resubmission that differ from the initial submission and subsequent documents described in Part C above which formed the basis of his initial decision published in the March 31, 1980, notice (45 FR 20930 *et seq.*):

18.A In Findings 18.1, 18.5, 18.6 and 18.7 the Secretary found the Wyoming self-bonding provisions as initially proposed probably inconsistent with 30 CFR 806.11 and requested clarification in the resubmission. Of the differences noted in the initial finding, some remained and some were removed in the resubmission. As adjusted, the Secretary approves the Wyoming self-bonding submission under Section 509(c) of SMCRA as an alternative to the Federal system.

The first difference noted in the initial finding is that the Wyoming regulations do not require the operator to grant the right immediately to attach, without foreclosure, any property given as collateral. The Wyoming provisions still do not authorize such attachment. However, the Wyoming Land Quality regulations in Rule XII 2(a)(11) do provide full authority for the regulatory authority to protect its interest in any collateral.

The second difference noted in the initial finding was that under the Wyoming self-bonding provisions the administrator is given discretion to require proof of a mortgagor's possession and title to real property, whereas no such discretion exists in the Federal regulations. This difference still exists. However, the Wyoming regulations provide full authority for the regulatory authority to ascertain the value of any collateral, which would include ascertaining title and possession.

The third difference noted in the initial finding was that, as initially submitted, the Wyoming self-bonding provisions did not specify a ten year history of business operation as a requirement. Wyoming has changed its regulations to make its self-bonding provisions consistent with the ten year requirement of the Federal provisions. See Wyoming Land Quality Rule XII 2(a)(8).

The initial finding also noted that the Wyoming program did not expressly require the operator to submit a statement listing any notices issued by the Securities and Exchange Commission, or a listing of proceedings alleging failure to comply with any public disclosure or reporting requirements under the Federation securities laws. Wyoming adjusted its self-bonding provisions to make them consistent with this Federal provision. See Rule XII 2(a)(10).

The Federal self-bonding provisions at present impose four basic requirements: (1) indemnity by the operator and agency within the State for service of process, (2) a financial statement showing a ten year history of operation and financial solvency, (3) net worth of at least six times the amount of all self-bonds and (4) 100 percent collateral. The Wyoming self-bonding provisions require (1) and (2) above and *either* (3) *or* (4). See Wyoming Land Quality Rules XII and XIII 2a(3).

The Secretary finds that the Wyoming provisions meet the requirements of Section 509(c) of SMCRA and 30 CFR 806.11(c), which provide that the Secretary may approve as part of a State program an alternative bonding system if it will achieve the objectives and purposes of the bonding provisions of the Act. Such alternatives must provide (1) that should the operator fail to complete reclamation there will be sufficient resources for the regulatory authority to complete the reclamation, and (2) a substantial economic incentive for the permittee to comply with all reclamation provisions

As noted in the State program submission and this notice, the Wyoming coal mining industry is, in all but one or two cases, made up of very large mines owned and operated by the largest coal mining and energy companies in the country. Their history of operation and solvency and their assets are clearly sufficient to meet the tests of the statute and regulations. Even the one or two smaller operations are large by national standards. The substantial requirements of the Wyoming self-bonding provision, coupled with the unusual profile of the Wyoming coal mining industry, makes this alternative approvable in Wyoming.

OSM is currently studying its own self-bonding regulations and the economic and regulatory issues of self-bonding. When the study is completed, OSM expects to initiate a rulemaking to adjust its current self-bonding regulations. After doing so and after close study with Wyoming of the implementation of this alternative, OSM and the State will review Wyoming's alternative system here approved.

18.B The Secretary found, in Finding 18.2, that the language Wyoming proposed in Rule XIII 2a(1) apparently would be consistent with the requirements of 30 CFR 800.11 concerning the bond amount for land which may reasonably be affected prior to filing a renewal bond. Wyoming promulgated language in Rule XIII 2a(1) that was different from that on which the Secretary made the tentative finding. The promulgated language, however, is consistent with the Federal requirements.

18.C The Secretary made several tentative findings in Finding 18.4. W.S. 35–11–417(c) provides for a minimum bond amount of $10,000 consistent with 30 CFR 805.12; Rule IV 3d(6) provides for a minimum 10–year revegetation bond period consistent with 30 CFR 816.116(b)(1). Rule XVI 2b provides procedures to request bond release consistent with 30 CFR 807.11. In promulgating Rule XVI 3a, Wyoming promulgated language different from the January 9, 1980, draft regulations on which the Secretary based his tentative finding. Rule XVI 3a, as promulgated, deletes all provisions for informal conferences on bond releases. This deletion does not make Rule XVI 3a inconsistent with the Federal requirements since 30 CFR 807.11(e) does not require that informal conferences on bond releases be included in the program.

18.D In Finding 18.9, the Secretary asked Wyoming to provide for citizen access to the mine site for informal conferences on proposed bond releases. These informal conferences are described in 30 CFR 807.11(e) and, as therein described, were remanded by the district court to incorporate, in their entirety, the *informal* conference procedures of Section 513(b) of SMCRA (Opinion of February 26, 1980, at 41–42). As discussed in Finding 18.C above, Wyoming has deleted requirements for an informal conference on proposed bond releases from Rule XVI 2b(8). Since 30 CFR 807.11(e) and Section 519(g) give discretionary authority to grant informal conferences, this is in accordance with SMCRA and consistent with the Federal regulations.

Rule XVI 2b(8) permits requests for hearings on bond deposit releases. Wyoming states in the resubmission that informational proceedings pursuant to Rule III 3a of the Department of Environmental Quality's Rules of Practice and Procedure can be held and, if held, that the regulatory authority will grant mine site access in accordance with the court's directive to include such provisions if informal hearings are held. The only difference between the initial submission and the promulgated language is deletion of the reference to informal conferences.

18.E Rule XVI 6a(3) specifies that, where the approved postmining land use is industrial development or residential, release of the bond or deposit can be made when the operator has successfully completed all surface coal mining and reclamation operations in accordance with the operator's responsibilities under the approved plan. This requirement is designed as Wyoming's counterpart to 30 CFR 807.12(d) which, in part, requires the regulatory authority to retain sufficient bond to complete any additional work which would be required to achieve compliance with the general standards for revegetation "in the event the permittee fails to implement the approved postmining land use plan within the two years required by [30 CFR] 816.116(b)(3)(ii)" (the cited section requires a ground cover of living plants not less than that required to control erosion).

While 30 CFR 816.116(b) has been remanded by the district court (Opinion of February 26, 1980, at 55–56), it was remanded because of the requirement for this extended bond liability period to start when the ground cover equals the approved standard rather than starting immediately after the last year of augmented seeding, fertilizing, irrigation or other work and thus 816.116(b)(3)(ii) should not be affected. Wyoming's modified Rule IV 3d(6) is consistent with section 515(b)(20) of SMCRA. Wyoming's requirements would mean that the provisions of Rule IV 3d(5), to stabilize industrial development or residential land or, if development is delayed for more than two years, revegetation in accordance with Rule II, would have to be implemented immediately after the last year of augmented seeding, fertilizing, irrigation or other work. Thus, the State resubmissiou is consistent with the present Federal program requirements.

18.F In Finding 18.12, the Secretary found the proposed bond forfeiture provisions to appear adequate. Wyoming enacted the statutory provisions which the Secretary tentatively found adequate in Finding 18.12. The statute citations are different from those in Finding 18.12. The Secretary however, finds that W.S. 35–11–401(e)(vii), W.S. 35–11–406(m)(ix), and W.S. 35–11–421(a), as enacted, are consistent with 30 CFR 808.11, regarding bond forfeiture.

18.G In Finding 18.14 the Secretary requested assurance that funds forfeited will be available for reclamation. This assurance is provided in the "Side-by-Side with the Secretary's Findings" (Volume 3A, p. 293) of the resubmission.

There it is stated that all monies are delivered to an interest-bearing trust and agency account and are used solely for reclamation purposes, since these are "earmarked" accounts. The Wyoming statutory provisions cited in Finding 18.14 were enacted and are consistent with 30 CFR 808.14.

Finding 19

The Secretary finds that the Land Quality Division has the authority and the Wyoming program provides for civil and criminal sanctions for violations of Wyoming law, regulations and criminal penalties consistent with Section 518 of SMCRA (penalties) including the same or similar procedural requirements. This finding is made pursuant to 30 CFR 732.15(b)(7).

Provisions corresponding to Section 518 of SMCRA and to 30 CFR Part 845 are incorporated in W.S. 9–2–505 and 35–11–901 and Wyoming Rule XVII. Part G.5 of Volume I of the Wyoming program submission contains descriptions of the methods and procedures by which the State will enforce the administrative civil and criminal sanctions of State laws and regulations.

Discussion of significant issues raised in the review of Wyoming's provisions for civil and criminal sanctions follows.

In the March 31, 1980, notice (45 *FR* 20930 *et seq.*), the Secretary tentatively found certain provisions in Finding 19 acceptable subject to promulgation of rules, enactment of statutes, and review and comment by government agencies and the public. The Secretary has reviewed those provisions in the Wyoming program resubmission. The Secretary finds that the language previously considered has been promulgated or enacted, has considered government agency and public comments, and approves the provisions of the Wyoming program discussed in the following tentative finding in the March 31, 1980, notice: Findings 19.2, 19.5, and 19.6.

Following are the Secretary's findings on all provisions of the resubmission that differ from the initial submission and subsequent documents described in Part C above which formed the basis of his initial decision published in the March 31, 1980, notice (45 FR 20930 *et seq.*):

19.A In Finding 19.3 the Secretary stated that he would review Wyoming's for notices of violation and cessation orders follows:

Secretary finds that this rule, although

affected by a notice or order or by any

Following are the Secretary's findings

deleted the requirements for information

19.A In Finding 19.3 the Secretary stated that he would review Wyoming's alternative to the civil penalty system in light of the district court's decision. Additionally, the Secretary stated in Finding 19.10 that he would review the information by the State regarding the assessment of civil penalties. The district court, in its second round decision (see discussion in "General Background on State Program Review Process"), indicated that, while Section 518(i) of the Act requires a State to incorporate the penalties, the four criteria, and the procedures explicated in Section 518, the Secretary does not have authority to require States to adopt a system that will result in penalties at least as stringent as those imposed under OSM's point system.

Based on the district court's ruling, the Secretary finds the Wyoming alternative to the penalty point system acceptable.

19.B In Finding 19.4, the Secretary asked Wyoming to make it clear that an operator may be relieved of an abatement requirement only by a granting of temporary relief pursuant to Rule XVII 2f. In the side-by-side, the State makes this point clear, and because of enactment of W.S. 35–11–901(n) and the promulgation of this rule, the Secretary finds that the Wyoming program is consistent with Section 518(h) of SMCRA.

Finding 20

The Secretary finds that the Land Quality Division has the authority under Wyoming laws, and the Wyoming program contains provisions to issue, modify, terminate and enforce notices of violation, cessation orders and show cause orders consistent with Section 521 of SMCRA (enforcement) and with 30 CFR Chapter VII, Subchapter L (inspection and enforcement), including the same or similar procedural requirements. This finding is made pursuant to 30 CFR 732.15(b)(8).

Provisions corresponding to Section 521 of SMCRA and to Subchapter L of 30 CFR Chapter VII are included in Wyoming Statute W.S. 35–11–901 and 35–11–437 and in Wyoming Rules Chapter XVII. Volume I, Part G.5, of the program submission contains a description of the methods and procedures by which the State will enforce the administrative civil and criminal sanctions of State laws and regulations. Volume I, Part G.6, of the program submission contains a discussion of Wyoming's administrative and enforcement procedures for performance standards.

Discussion of significant issues raised in the review of Wyoming's provisions for notices of violation and cessation orders follows:

In the March 31, 1980, notice (45 FR 20930, *et seq.*), the Secretary tentatively found certain provisions in Finding 20 acceptable, subject to promulgation of rules, enactment of statutes, and review and comment by government agencies and the public. The Secretary finds that the language previously considered has been promulgated or enacted, has considered government agency and public comments, and approves the provisions of the Wyoming program discussed in the following tentative findings in the March 31, 1980, notice: Findings 20.1, 20.3, 20.7, 20.8, 20.9, 20.10, 20.12, 20.14, 20.15, 20.16, 20.18, and 20.19.

Following are the Secretary's findings on all provisions of the resubmission that differ from the initial submission and subsequent documents described in Part C above which formed the basis of his initial decision published in the March 31, 1980, notice (45 FR 20930, *et seq.*):

20.A In Finding 20.2, the Secretary asked Wyoming to clarify its provision for immediate issuance of cessation orders. In the side-by-side of Federal and State provisions, the State makes it clear that W.S. 35–11–437(a) and the regulations implementing that statute mandate an immediate issuance of a cessation order in circumstances which are the same as those in Section 521(a)(2) of SMCRA. The Secretary, therefore, finds the Wyoming provision acceptable.

20.B In Finding 20.4, the Secretary stated that W.S. 35–11–437(c) should be changed to replace the term "continued" with the term "affirmed." As enacted, the statute incorporates this change and, therefore, it is clear that the total time for abatement of a violation may not exceed 90 days. The Secretary finds this provision acceptable.

20.C In Finding 20.6, the Secretary states that an Attorney General's memorandum which describes the power of the State Attorney General may be acceptable as consistent with Section 521(c) of SMCRA and 30 CFR 843.19. The Secretary finds that this memorandum reveals that Wyoming has powers which are broader than those of OSM and, therefore, the State program is consistent with Section 521(c) of SMCRA and 30 CFR 843.19.

20.D In Finding 20.11, the Secretary states that he will reexamine Wyoming's provisions for service of notices of violation, cessation orders, and show cause orders upon resubmission of the program. First, the State asserts in the side-by-side that Rule 4 of the Wyoming Rules of Civil Procedure, regarding service, applies to its program. The Secretary finds that this rule, although not exactly the same as 30 CFR 843.14, provides for adequate service and is, therefore, the same or similar to 30 CFR 843.14.

20.E The Secretary notes that the language which he originally considered in Findings 20.16 and 20.19 differs somewhat in its enacted form from that which was proposed. However, the enacted language does satisfy the concerns expressed in these two findings.

The State, however, omits any provision comparable to 30 CFR 843.14(d) by which Wyoming may furnish copies of notices and orders to certain persons. Since the Federal provision is permissive rather than mandatory, the Secretary finds that the State is not required to have such a provision.

20.F Wyoming Rule XVII 2d(1), which defines "willful violation" for purposes of the section of its regulations dealing with suspension or revocation of permits for patterns of violation, provides:

> Willful violation means an act or omission which violates this Act or any regulation, and which is committed or omitted with knowledge or reason to know of its unlawfulness.

The comparable definition in OSM regulations at 30 CFR 843.13(a) is:

> Willful violation means an act or omission which violates the Act, this Chapter, the applicable program * * * committed by a person who intends the result which actually occurs.

The Wyoming definition adds the component "knowledge or reason to know of its unlawfulness."

The Secretary finds these two definitions consistent and determines that the Wyoming definition is a part of a "similiar procedural requirement" within the meaning of Section 521(d) of SMCRA. Under Wyoming law, a person is presumed to know what the law is (*Closson v. Closson*, 215, p. 485, Sup. Ct. Wyom., 1923). Moreover, the permittee and his employees actively engaged in the business of mining have "reason to know" of Wyoming's laws and regulations dealing with coal mining and with the terms of their permit which apply those laws and regulations to the particular mine. The Secretary assumes that these intepretations will prevail in the implementation of the Wyoming program. Because of this assumption, the Secretary finds that the two definitions are consistent.

20.G Section 525(a)(1) of SMCRA provides for administrative review at the request of any person having an interest which is or may be adversely affected by a notice or order or by any modification, vacation, or termination of such notice or order. The comparable Wyoming provisions are W.S. 35–11–437 (c)(ii) and Chapter XVII. Under the Wyoming language, persons who may be adversely affected by a notice or order may request review. The Wyoming law and rules do not explicitly refer to persons who may be affected by a "modification, vacation or termination of such order."

The Secretary believes that the absence of this specific language does not narrow the circumstances under which any person may request review of an action in connection with a notice or order. The Secretary interprets the language to allow persons who may be adversely affected by any regulatory authority action in connection with a notice or order to apply for review if the permittee could, and that is all the Federal statute and rules require.

Finding 21

The Secretary finds that the Land Quality Division has the authority and the Wyoming Program contains provisions to designate areas as unsuitable for surface coal mining consistent, in part, with 30 CFR Chapter VII, Subchapter F (designations of areas unsuitable for mining). This finding is made under 30 CFR 732.15(b)(9).

Provisions corresponding to Section 522 of SMCRA and to Subchapter F of 30 CFR Chapter VII are included in W.S. 35–11–406 and 425 and Wyoming Rule XVIII. Volume 1, Part G.11, of the program submission describes the system by which petitions for designating areas unsuitable for surface coal mining will be received and processed and the establishment of a data base and inventory system.

A discussion of significant issues raised in the review of Wyoming's provisions for unsuitability designations follows.

In the March 31, 1980, notice (45 *FR* 20930, *et seq.*), the Secretary tentatively found certain provisions in Finding 21 acceptable, subject to promulgation of rules, enactment of statutes, and review and comment by government agencies and the public. The Secretary has reviewed those provisions in the Wyoming program submission. The Secretary finds (after considering government agency and public comments) that the language previously considered has been promulgated or enacted and approves the provisions of the Wyoming program discussed in the following tentative findings in the March 31, 1980, notice: Findings 21.2, 21.3, 21.8, 21.9, 21.10, 21.11, 21.12, 21.13, 21.14, 21.15, 21.16, 21.17, 21.18.

Following are the Secretary's findings on all provisions of the resubmission that differ from the initial submission and subsequent documents described in Part C above which formed the basis of his initial decision published in the March 31, 1980, notice (45 *FR* 20930 *et seq.*):

21.A In Finding 21.1, the Secretary responded to a comment by the Public Lands Institute concerning inclusion of certain definitions equivalent to definitions in 30 CFR 761.5. In that finding, it was concluded that the terms "occupied dwelling," "public building," public park," and "cemetery" are sufficiently common to not require definition in Wyoming's program.

Wyoming's promulgated regulations for another two of those definitions differ from the language upon which Finding 21.1 was based. Those definitions are for "valid existing rights" (Rule I 2(106) and "public roads" (Rule I 2(63). Both definitions were remanded by the district court (Opinion of February 26, 1980, at 20–23). "Valid existing rights" is defined to include a good faith effort to obtain all permits while "public roads" is defined to require use by and maintenance with government funds. The changes are consistent with the court opinion and with SMCRA. See discussion above under "General Background" concerning remanded regulations.

21.B In Finding 21.4, the Secretary requested that the Wyoming program ensure that notice of a petition will be published in the State register. Wyoming does not have a State register. Rule XVIII 3b(2), however, requires that notice will be placed in the offices of the county clerks of the counties in which the area covered by the petition is located. This is acceptable and consistent with 30 CFR 764.15 (b)(2).

21.C. In Finding 21.5, the Secretary asked that the Wyoming program be revised to assure that governmental agencies and persons with other than a "property" interest be given notice of a public hearing on a petition. Rule XVIII 4b requires the notice to be sent to "all petitioners, intervenors, local, State and Federal agencies which may have an interest in the decision on the petition, and persons identified as having interests affected by the proposed designation or termination." This State rule is consistent with 30 CFR 764.17(b), since those with a "property interest" will be included under these with an "interest."

21.D In Finding 21.7 the Secretary found certain requirements for information to be more burdensome for the petitioner than is required by 30 CFR 764.13(b). In the resubmission the State deleted the requirements for information on persons contributing to the expense of the petition. The other requirements, "a precise description of the boundary of the area covered by the criterion or criteria on which the proposed designation rests, allegations of fact which tend to establish the criterion or criteria * * *, and a specific identification of the sources of supporting evidence on which the allegations of fact rest," in Finding 21.7 were retained in Wyoming Rule XVIII 2b, and three of the above requirements were retained in XVIII 2c. Also in Finding 21.7, the requirement that property interests *known to the petitioner* be identified was tentatively found to be consistent with Federal requirements. The Secretary assumes, therefore, that Wyoming will limit informational requirements to that known by or reasonably available to the petitioner, and thus finds these provisions acceptable.

Finding 22

The Secretary finds that the Land Quality Division has the authority under Wyoming laws, and the Wyoming program provides for public participation in the development, revision and enforcement of Wyoming laws and regulations and the Wyoming program is consistent with the public participation requirements of SMCRA and 30 CFR Chapter VII, subject to the discussions in Findings 22.C and 22.D below. This finding is made pursuant to 30 CFR 732.15(b)(10).

Provisions corresponding to public participation requirements in SMCRA and 30 CFR Chapter VII are included throughout Wyoming State statutes and rules submitted as part of the program. Volume 1, Part G.14, of the program submission describes the procedures to ensure that adequate public participation is provided throughout the development and functioning of the State program. Discussion of significant issues raised in the review of Wyoming's public participation provisions follows.

In the March 31, 1980, notice (45 *FR* 20930, *et seq.*), the Secretary tentatively found certain provisions in Finding 22 acceptable, subject to promulgation of rules, enactment of statutes, and review and comment by government agencies and the public. The Secretary has reviewed those provisions in the Wyoming program resubmission. The Secretary finds that the language previously considered has been promulgated or enacted, has considered government agency and public comments, and approves the provisions of the Wyoming program discussed in

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the following tentative findings in the March 31, 1980, notice: Findings 22.2, 22.3, 22.4, 22.5, 22.6, 22.7, 22.10, 22.11, 22.12, 22.13, 22.14, 22.15, 22.17, and 22.18.

Following are the Secretary's findings on all provisions of the resubmission that differ from the initial submission and subsequent documents described in part C above which formed the basis of his initial decision published in the March 31, 1980, notice (45 *FR* 20930 *et seq.*):

22.A In Finding 22.1, the Secretary found that Wyoming's provisions for holding informal conferences on permit applications and providing for access to the mine area were not adequate. Rule III 3a of the Rules of Practice and Procedures is consistent with 30 CFR 784.14 concerning informal conferences. Under W.S. 35–11–406(K), an informal conference will be held if the administrator determines that the nature of the complaint or the position of the complainants indicates that an informal conference is preferable to a contested case proceeding.

22.B In Finding 22.8, the Secretary found that the Wyoming program did not contain a provision for prompt citizen complaint inspection. The State has enacted W.S. 35–11–701(b), which calls for a prompt citizen complaint inspection and, therefore, is the same or similar to 30 CFR 842.12(d).

22.C In Finding 22.9, the Secretary found that the State had not proposed or promulgated any rules which are consistent with 43 CFR Part 4 regarding the award of attorneys fees. The State has failed in its resubmission to promulgate any such rules. The Secretary finds this omission unacceptable. However, by letter dated August 5, 1980 (Administrative Record No. WY–220), Wyoming stated its intent to promulgate such rules. Promulgation of these rules is being made a condition of approval of the Wyoming program.

22.D In Finding 22.16, the Secretary found that the Wyoming provisions concerning citizen intervention in administrative proceedings might not be as broad as under Federal regulations. The Wyoming resubmission contains a proposed change to Chapter II, Section 7 of the Department's Rules of Practice and Procedure, which, if promulgated, would provide rights of intervention as broad as those in 43 CFR Section 4.1110. The State, however, failed to promulgate this rule and the Secretary finds this omission unacceptable. By letter dated August 5, 1980 (Administrative Record No. WY–220), Wyoming has stated its intent to promulgate a rule consistent with 43 CFR 4.1110 concerning intervention. Promulgation of this rule is being made a condition of approval.

Finding 23

The Secretary finds that the Land Quality Division has the authority under Wyoming laws and the Wyoming program includes provisions to monitor, review, and enforce the prohibition against indirect or direct financial interests in coal mining operations by employees of the Wyoming Land Quality Division consistent with 30 CFR Part 705 (restrictions on financial interests of State employees). This finding is made under 30 CFR 732.15(b)(11).

Provisions corresponding to Section 517(g) of SMCRA and 30 CFR Part 705 are incorporated in the Wyoming program through Wyoming Personnel Rules PPM 3.01. Volume I, Part G.12, of the program submission describes the procedures by which the Department of Environmental Quality will implement provisions for financial interest control. Discussion of the significant issues raised in the review of Wyoming's conflict of interest provisions follows.

In the March 31, 1980, notice (45 *FR* 20930 *et seq.*), the Secretary tentatively found Wyoming's provisions acceptable subject to review and comment by government agencies and the public. The secretary has reviewed the Wyoming program resubmission, has considered government agency and public comments, and approves the provisions of the Wyoming program discussed in the following tentative findings in the March 31, 1980, notice: Finding 23.1 and 23.2.

Finding 24

The Secretary finds that the Land Quality Division has the authority under Wyoming laws and the Wyoming program includes provisions to require the training, examination, and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with Section 719 of SMCRA, to the extent required for approval of its program. This finding is made pursuant to 30 CFR 732.15(b)(12).

Provisions corresponding to Section 719 of SMCRA are incorporated in W.S. 35–11–415. No regulations are required at this time.

Volume 1, Part G.13, of the program submission contains a description of the cooperative effort between the State Inspector of Mines and the Department of Environmental Quality.

Finding 25

The Secretary finds that the Land Quality Division has the authority under Wyoming laws and the Wyoming program provides for small operator assistance consistent with 30 CFR Part 795 (small operator assistance). This finding is made pursuant to 30 CFR 732.15(b)(13).

Provisions granting authority supporting Section 507(c) of SMCRA and 30 CFR Part 795 are incorporated in W.S. 35–11–109 and 110. Volume 1, Part G.16, of the State program submission contains a description of the small operator assistance program within the State.

Discussion of significant issues raised in the review of Wyoming's small operator assistance program follows.

In the March 31, 1980, notice (45 *FR* 20930 *et seq.*), the Secretary tentatively found certain provisions in Finding 25 acceptable subject to promulgation of rules and review and comment by government agencies and the public. The Secretary has reviewed those provisions in the Wyoming program resubmission. The Secretary finds that the language previously considered has been promulgated, has considered government agency and public comments, and approves the provisions of the Wyoming program discussed in the following tentative finding in the March 31, 1980, notice: Finding 25.1.

Following is the Secretary's finding on the provision of the resubmission that differed from the initial submission and subsequent documents described in Part C above which formed the basis of his initial decision published in the March 31, 1980, notice (45 *FR* 20930 *et seq.*):

In Finding 25.2, the Secretary requested a clarification of the phrase "qualified personnel," as it is used at Rule XXIII 3b(6) of Wyoming's Land Quality Division regulations, to assure that OSM, the State regulatory authority, and laboratory personnel would logically be included. The State has provided clarification in its comment in the side-by-side to this finding, and the Secretary finds this clarification acceptable.

Finding 26

The Secretary finds that the Land Quality Division has the authority under Wyoming laws and the Wyoming program provides similar protection to that afforded Federal employees under Section 704 of SMCRA. This finding is made pursuant to 30 CFR 732.15(b)(14).

Provisions corresponding to Section 704 of SMCRA are incorporated in W.S. 35–11–901. While there is no specific reference to protection of State employees in the presentation of systems in the State program submission, the Secretary finds that incorporation of the appropriate authority is sufficient.

In Finding 26, published by the Secretary on March 31, 1980, the Secretary indicated that the enactment of W.S. 35–11–901(m), as proposed, would be acceptable. This statute has been enacted, and the Secretary finds the Wyoming program consistent with Section 704 of SMCRA.

Finding 27

The Secretary finds that Wyoming has the authority under its law and the Wyoming program provides for administrative and judicial review of State program actions in accordance with Sections 525 and 526 of SMCRA (review of decision) and 30 CFR Chapter VIII, Subchapter L (inspection and enforcement). This finding is made pursuant to 30 CFR 732.15(b)(15).

Provisions corresponding to Sections 525 and 526 of SMCRA and to Subchapter L of 30 CFR Chapter VII are incorporated in W.S. 35–11–406 and 437; Wyoming Rules of Civil Procedure, Rule 27.1; Wyoming Department of Environmental Quality Rules of Practice and Procedure, Chapter 2; Wyoming Administrative Procedures Act, W.S. 9–4–107 and 114; and Wyoming rules Chapters XVII and XVIII. Volume 1, Part G.4, of the program submission contains a description of the administrative and judicial procedures which are available for the review of administrative decisions, actions and refusals to act. Additional provisions are included in Volume 1, Part G.4, of the program submission, which sets out administrative and judicial review of inspection and enforcement actions.

Discussion of significant issues raised in the review of Wyoming's administrative and judicial review provisions follows:

In the March 31, 1980, notice (45 *FR* 20930 *et seq.*), the Secretary tentatively found certain provisions in Finding 27 acceptable subject to promulgation of rules, enactment of statutes, and review and comment by government agencies and the public. The Secretary has reviewed those provisions in the Wyoming program resubmission. The Secretary finds that the language previously considered has been promulgated or enacted, has considered government agency and public comments, and approves the provisions of the Wyoming program discussed in the following tentative findings in the March 31, 1980, notice: Finding 27.1 and 27.2.

The Secretary notes that rather than enacting the language in W.S. 35–11–437(g), discussed in Finding 27.1, the State added the phrase "for other than surface coal mining operations" in enacted W.S. 35–11–701(c), which resolves the concern raised.

Finding 28

The Secretary finds that the Land Quality Division has the authority under Wyoming laws and the Wyoming program contains provisions to cooperate and coordinate with and provide documents and other information to the Office of Surface Mining under the provisions of 30 CFR Chapter VII. This finding is made pursuant to 30 CFR 732.15(b)(16).

Wyoming Rules XIII, XIV, and XVII were promulgated and, as discussed in the March 31, 1980, **Federal Register** notice, provide for notice of applications for permits and notice of inspection and enforcement activities. In addition, the Wyoming Administrative Procedures Act ensures that information is publicly available.

Finding 29

The Secretary finds that the Wyoming laws and regulations and the Wyoming program do not contain provisions which would interfere with or preclude implementation of those in SMCRA and 30 CFR Chapter VII. That finding was made pursuant to 30 CFR 732.15(c). An analysis of that finding is included in the March 31, 1980, **Federal Register** notice (45 FR 20979).

Finding 30

The Secretary finds that the Land Quality Division and other agencies having a role in the program would have sufficient legal, technical and administrative personnel and would have sufficient funds to implement, administer, and enforce the provisions of the program, the requirements of 30 CFR 732.15(b) (program requirements), and other applicable State and Federal laws. This finding is made pursuant to 30 CFR 732.15(d).

Volume 1, Parts I and J, contain descriptions of existing and proposed staff, and how such staff will be adequate to carry out the functions for the projected workload to ensure that coal exploration and surface coal mining and reclamation requirements of SMCRA and the Federal regulations are met. Volume 1, Part L, contains a description of the actual capital and operating budget to administer the State program for the prior and current fiscal years, and the projected annual budget for the next two fiscal years.

Wyoming's Land Quality Division has a staff of 36 full-time persons assigned to regulate coal and other minerals. The coal program consumes approximately 16.34 full-time persons from the division and 6.43 full-time persons from other agencies, i.e., Division of Water Quality, Division of Solid Waste, the Attorney General's Office, Wyoming Fish and Game Department, and the Department of Environmental Quality's Administrative Section.

The Department's analysis of Wyoming's initial program submission reflected a total workload requirement of 21.47 full-time equivalents or person-years to implement the program. Resubmission data provided by Wyoming indicate a total program personnel capacity of 22.77 full-time equivalents or person years, which satisfies total program staffing needs as required by 30 CFR 731.14(e), (f), (i), (j).

Government Agency and Public Comments on the Wyoming Program Resubmission

C.1 The Fish and Wildlife Service (FWS) commented that Wyoming's resubmission failed to define the word "person" in its statute in a manner which would give the FWS status afforded to "persons." This word is clearly defined in the State's revised act (WS 35–11–103) to include "an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility cooperative, municipality, or any other political subdivision of the state, or any interstate body, or any other legal entity." Thus, certainly, the Fish and Wildlife Service is included.

C.2 The Environmental Protection Agency (EPA) notes that Wyoming, in its counterpart to 30 CFR 816.42(a)(7) (see Section 7 of Wyoming DEQ MOU and Rule X 4a of Water Quality Division Rules and Regulations) in its resubmission, has changed its maximum allowable total suspended solids (TSS) effluent limitation from 45 m/l in the original submission to 70 m/l. This change, EPA concludes, makes Wyoming's effluent limitation exceed the legal limitations established by EPA in Title 40.434.22. Wyoming explained these changes in a letter dated August 5, 1980. The explanation is discussed in Finding 13.C.

C.3 It is also noted by EPA that Wyoming, in the resubmission's counterpart to 30 CFR 817.126(a), has changed its regulation as originally submitted so that underground mining activities appear to be permitted beneath or adjacent to any perennial stream regardless of the circumstances. EPA expresses the belief that Wyoming should reinstate its original language which allows such mining *only* if the regulatory authority, on the basis of detailed subsurface information, determines that subsidence will not

cause material damage to streams, water bodies and associated structures.

on level of study should be sought in Section 2 a(1), that the vegetative type

Quality Division and the Wyoming Game and Fish Department (Exhibit F.2.

("For surface coal mining operations, if

review and comment on the issues

complete table of man-hour estimates by

cause material damage to streams, water bodies and associated structures.

The Secretary finds that Rule VII 2b(3) promulgated by the State provides authority for protection of all perennial streams and all impoundments consistent with 30 CFR 817.126(a), by requiring that underground mining activities be planned and conducted to prevent subsidence from causing material damage to the land surface (see Finding 13.102).

C.4 The Bureau of Land Management (BLM) was concerned that the size of the staff of the Wyoming Department of Environmental Quality was not sufficient to administer the program in a timely manner. BLM has reviewed the Wyoming resubmission and they now feel that the total staff capability is adequate. A similar conclusion has been reached by the Secretary in Finding 30.

C.5 Concern was expressed by the Fish and Wildlife Service (FWS) that Wyoming, in its analogue to 30 CFR 776.13, fails to clarify whether threatened and endangered species are from the Federal list or a State list.

The resubmission contains Rule II 3b(4)(b)(i), which requires an application, in order to be complete and therefore eligible for approval, to have a plan for minimizing adverse impacts to fish, wildlife and related environmental values within and adjacent to the permit area including "threatened or endangered species of plants or animals listed by the Secretary under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) and their critical habitat." Thus, it is certain that the Federal list will be consulted. This rule requires that these plans must be adhered to and that the regulatory authority must enforce the protection of species and their critical habitats as identified by the Secretary. The FWS citation of the Wyoming rules could not be verified since the page cited in the resubmission related to special permit application requirements for alluvial valleys floors. Apparently, the FWS meant to cite Rule II 2a(1)(e) (i)–(iii) which does refer to an "endangered species list" of the Wyoming Game and Fish Department (page 20 of the Land Quality Division rules). Thus, both the Federal list and the State list must be consulted. This is also discussed in Finding 14.5.

C.6 The FWS stated that Wyoming's resubmission fails to include requirements of 30 CFR 779.20 and 783.20. Specifically, FWS comments that Wyoming's Guideline No. 5 should be required and should include habitat mapping, that the Federal list of threatened and endangered species should be consulted, that consultation on level of study should be sought in Section 2 a(1), that the vegetative type maps in Guideline No. 2 should be a requirement rather than a guideline, and, lastly, that reference to a surface water map is needed.

The Federal rules referred to by the FWS were remanded in the district court's February 26, 1980, opinion, so the State need not include analogous provisions. However, the court also ruled that the State may include these analogous provisions if they so desire. (Civil Action No. 79–1144, August 15, 1980, (Partial Stay Order of May 16, 1980, Memorandum Decision).)

Wyoming's resubmission does contain promulgated Rule II 3a(6)(e) to ensure that studies of fish and wildlife, and their habitats, are developed in consultation with Federal agencies having related responsibilities. It is certain that the FWS will be consulted. Thus, to reiterate requirements in Guideline No. 5 is not required. Wildlife habitat mapping (Rule II 3b(4)(b)(iii)) and vegetation community mapping (Rule II 3b(4)(a)) all ensure vegetation mapping in a manner reflecting wildlife habitat. Wildlife use of surface water is addressed in Rule II 2a(1)(g)(ii)(B). Thus, rules adequate to address the FWS concerns exist.

Guideline No. 5 represents those efforts the applicant should undertake to make the necessary good faith effort to comply with the State statutes (see discussion under Finding 14.C).

Wyoming has agreed to provide equivalent emphasis on investigations of the aquatic habitat in this guideline (see Findings 12.7 and 13.F (13.39)). The guideline appears to provide useful and professional directives on wildlife surveys including habitat mapping (see Section I A3 for vertebrate fauna). This is discussed in Findings 14.30 and 14.31. The Secretary has not identified reasons for further changes in the State program in this regard, since there is nothing inconsistent with SMCRA in these guidelines.

C.7 The FWS indicates that in its resubmission Wyoming's counterpart to 30 CFR 786.11–786.14 fails to provide for fish and wildlife agency notification.

The Federal requirements to notify general governmental agencies, fish and wildlife and historic preservation agencies (30 CFR 786.11(c)(1)) of receipt of a complete application are covered by Rule XIII 1a(2)(b), which requires that public notice be sent to Federal, State and local governmental agencies "with jurisdiction over or an interest in the proposed operation or permit area." While the FWS is not cited by name, if it has jurisdiction, it must be notified. Further, the MOU between the Land Quality Division and the Wyoming Game and Fish Department (Exhibit F.2. in the resubmission) requires the regulatory authority to notify the Wyoming Game and Fish Department of the need for technical assistance in evaluation of the submission.

Further, the resubmission contains correspondence between the regulatory authority and the FWS (Exhibit G.9) which identifies the area manager as the official contact point for all requests. For all Federal lands in Wyoming, FWS is contacted by OSM and OSM will maintain this procedure. This is also discussed in Finding 14.84. The Secretary believes that proper notification will be given to the FWS.

C.8 Concern was expressed by the FWS that Wyoming's analogue to 30 CFR 786.19 (m) and (o) in its resubmission contains no provision to require approval of measures affecting fish, wildlife, environmental values, and threatened or endangered species as provided in 30 CFR 816.133 or 817.133.

The Federal requirements are for (1) postmining land uses to be approved (30 CFR 786.19(m)) and (2) the regulatory authority to find that the activities would not affect the continued existence of endangered or threatened species or result in destruction or adverse modification of their critical habitat (30 CFR 786.19(o)). The resubmission contains the first requirement for approval of measures to prevent or mitigate adverse effects on wildlife or fish from the appropriate State and Federal fish and wildlife management agencies (Rule II 3b(12)(b)(iii)(H)) if there is to be a change in the postmining land use. The Secretary finds this equivalent to 30 CFR 816.133(c)(8). See discussions in Findings 13.89 and 14.84.

Concerning the second requirement, W.S. 35–11–406(n)(i) requires that a plan be complete to be approvable and the rule (II 3b(4)) requires a plan to show how such species and habitat will be protected. By letter dated August 5, 1980 (Administrative Record No. WY–220), Wyoming has provided assurance that it interprets its provisions to be equivalent to 30 CFR 786.19(o). The Secretary finds this consistent with the Federal provisions. See Finding 14.F.

C.9 The FWS pointed out that Wyoming's regulation IV 2a(2), analogous to 30 CFR 816.97, appears to be weakened by a revision which now allows the administrator to determine what restoration is possible on public as well as private lands.

The FWS cited Rule "IV 2(s)(2)." It is presumed they were referring to Rule IV 2a(2), which does not apply to coal lands by virtue of the conflict with Rule IV 3p, which prevails under Rule IV 1

("For surface coal mining operations, if the requirements of Section 2 and Section 3 conflict, Section 3 shall be controlling."). This has been the source of much confusion to reviewers. The end result is that Section 2 of Rule IV applies to mining other than coal in this case. Thus, the program is not affected by the rule change cited by the FWS and the provision has not been weakened. An ancillary issue is discussed in Finding 13.63.

C.10 The FWS stated that Wyoming's Rules IV 2d(5) and IV 3d(2), analogous to 30 CFR 816.112, are still deficient as they appear in the State's resubmission. The State's analogue, FWS believes, neither encourages nor requires the use of native plant species compatible with the plant and animal species of the region.

The FWS' concerns are eliminated by Rule IV 3p which requires selection of plant species and shrubs to enhance the nutritional and cover aspects of fish and wildlife habitat when such habitat is part of the postmining land use, and Rules IV 2d (4) and (5), which team to generally require native species unless more suitable species are shown, by revegetation test plots, to be of superior value for reclamation purposes (which purposes include self-renewing, diverse, productive, and seasonal variety). This is also discussed in Finding 13.83.

C.11 The FWS comments that Wyoming's Rules IV 3d(6), analogous to 30 CFR 816.116, in its resubmission is deficient. The establishment period to measure revegetative success is shorter in the State regulation than it is in the Federal regulation, FWS notes, and the term "populated density" is undefined.

This is discussed in Findings 13.81 and 13.82. The Secretary found the resubmission adequate with respect to these two requirements.

In its comments FWS notes that Wyoming, in its resubmission, has no analogue to 30 CFR 817.97 regarding the protection of fish and wildlife and related environmental values as applicable to underground mining activities.

This is the complex cross-referencing issue that has been discussed in Finding 13.109. As pointed out there, the resubmission contains Rule VII 2a(5) which applies all requirements of Chapter IV to underground operations, and Rules VII 1 a and b, which apply Rule II to underground operations. The States analogue to 30 CFR 817.97 then becomes Rule IV 3p and other portions of Rules II and IV.

C.12 The U.S. Soil Conservation Service (SCS) was concerned by the apparent obligation of local conservation districts and the SCS to review and comment on the issues which involve prime farmland. The SCS further commented that the program is not clear on how the local conservation districts and the SCS will coordinate on prime farmland determinations. The SCS would like to know how much time will be required to carry out their program obligations.

The Wyoming Department of Environmental Quality (DEQ) must notify the local conservation district and the SCS that written determinations on prime farmland subjects are requested. The local conservation district shall make recommendations, suggestions, or decisions only with input and required concurrence of the SCS. The Memorandum of Understanding between the Secretary of Agriculture and the Governor of Wyoming shall determine the procedure the State and Federal conservationists shall follow in making recommendations, suggestions, or decisions. Findings 14.68 and 14.114 give an explanation of how the Department of Agriculture will be included in specific prime farmland determinations.

In regard to time and workload questions posed by the commentor, OSM can only estimate these at this time. Wyoming regulations include the SCS in four facets of review processes. SCS will be involved in the following:

(1) Negative determinations for prime farmland on pre-application investigations of proposed permit areas;

(2) Review of mineplan applications in prime farmland areas for topsoil handling, revegetation techniques, soil moisture bulk density measurements, pre-mining productivity measurements, etc.;

(3) Small acreage exemptions from prime farmland requirements for uneconomical croplands; and

(4) Soil reconstruction methods or requirements included as stipulations to regular mineplan requirements.

The State program projects five new mineplan reviews for 1980 and three mine plan amendment reviews. For 1981, at least three new mine plan reviews are anticipated by DEQ. OSM Region V has made estimates of man-hours needed for mineplan reviews. Subjects dealing with prime farmland take from two to eight hours with an average of four hours for a mineplan completeness review. A technical and environmental analysis takes from two to seven hours with an average of four hours on prime farmland subjects. These estimates are for prime farmland subjects only, while topsoil and revegetation topics require an average of 132 man-hours for a complete mineplan review and environmental analysis. OSM can furnish a more complete table of man-hour estimates by job function on mineplan review upon request.

C.13 The Public Lands Institute (PLI) noted that Wyoming's Rule XVII 1a(1) in the State's resubmission provides for an inspection of every operation "every month, averaging at least one [complete inspection] quarterly." PLI asserts that Section 517(c) of SMCRA and 30 CFR 840.11 require three partial and one complete inspection quarterly. Wyoming explains in Part G.4 that monthly inspections will be conducted during each month *not* covered by a quarterly inspection. The Secretary finds that Wyoming proposes to conduct the requisite number of complete and partial inspections.

C.14 PLI pointed out that the Secretary has stated that, "[a]n explanation * * * is needed to clarify Wyoming's provision that inspectors will conduct field enforcement and will pursue enforcement actions for all violations observed," but that Wyoming, in its side-by-side comparison, only refers to Part G.5 of the narrative. The narrative, the commenter continues, does not clarify this matter but merely restates the statutory provision requiring issuance of citations when the necessary "determination" is made and does not state that inspectors are required to make that determination in the field. Under W.S. 35–11–437, the issuance of notices of violation and cessation orders is mandatory for violations observed by inspectors. Officials of OSM discussed this issue with Wyoming officials by telephone on July 9, 1980, and were provided an oral assurance by the State (Administrative Record No. WY–211). The PLI asserted that such oral assurance was not acceptable. In a letter dated August 5, 1980 (Administrative Record No. WY–220), the State indicates that it will conduct field enforcement. The Secretary finds this written assurance acceptable. See Finding 17.B

C.15 In their comments, PLI, the Environmental Policy Institute (EPI), and the Powder River Basin Resource Council (PRBRC) stated that the Wyoming regulations do not require all inspections *per se* to be unannounced, but permit advance notice "as the representative deems necessary." PLI asserts that Section 517 of the Act and 30 CFR Part 840 absolutely prohibit advance notice, and that Wyoming cannot deviate from this requirement.

In the March 31, 1980, **Federal Register** notice, in Finding 17.5, the Secretary stated that Wyoming regulations require that all inspections be unannounced. Prior notice is to be given only in special circumstances such as during the annual

inspection when all records are made available for complete review. The Secretary, therefore, finds Wyoming Rule XVII 1a(1) to be acceptable.

C.16 PLI indicated that Wyoming has not met its burden of demonstrating that its civil penalty assessment system meets the requirements of SMCRA 503(a) and 518(i), i.e., the State does not demonstrate that civil penalties will be assessed in the same circumstances they would be assessed under Federal law, nor does it guarantee a level of fines as high as would be assessed under Federal law. PLI asserted that the opinion *In re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144, May 16, 1980), on this matter is incorrect as a matter of law, and that if the decision is reversed, Wyoming will be required to make numerous changes in its civil penalty provisions to meet the requirements of the Act.

The Secretary is convinced that the civil penalty assessment system proposed by Wyoming is consistent with Federal requirements and is acceptable pursuant to the court's decision with which the Secretary is complying (see Finding 19.A).

C.17 It is asserted by PLI that the Wyoming provision for a civil penalty bond, rather than prepayment into escrow, is illegal. The commenter stated that escrow payments are required under Section 518(c) of SMCRA, and pursuant to Section 518(i), the same or similar procedure is required for Wyoming.

The Secretary is convinced that the State's use of a bond, as opposed to placing the amount of the contested penalty in escrow, provides the same degree of certainty that an assessed penalty will eventually be paid by a violator if the State prevails in a contested action. (See Finding 19, above and Finding 19.9 in the March 31, 1980, **Federal Register** notice.)

C.18 PLI expressed concern that Wyoming has combined the discretionary and mandatory show cause orders in 30 CFR 843.13 into one provision, W.S. 35–11–409(c), thereby reducing the range of possible permit suspension and revocation situations. PLI contended that this scheme does not meet the Federal requirement that the State suspension or revocation provision be at least as stringent as the Federal provisions in 30 CFR 843.13 and Section 521(a)(4) of SMCRA.

Wyoming's Rule XVII 2d(2) states that the Director of the Department of Environmental Quality shall explain in writing if he or she fails to issue a show cause order where the director finds that there are violations of the same or related requirements during three or more inspections in any 12-month period. Thus, a presumption is created that the director will find that a pattern of violations exists in such circumstances (See Finding 20.9 in the March 30, 1980, **Federal Register** notice.)

C.19 PLI contended the W.S. 35–11–437(a), which imposes affirmative obligations when "necessary," is not adequate since it does not prescribe when such obligations are necessary as in SMCRA Section 521(a) and 30 CFR Part 843.

The Secretary found in the March 30, 1980, **Federal Register** notice, Finding 20.16, that W.S. 35–11–437(a) and Rules I 2(16) and Rules XVII 2(a) taken together are consistent with Federal requirements because affirmative obligations will be included in a cessation order when they would be required under the Federal standards.

C.20 PLI noted that Wyoming does not provide an automatic right to informal permit conferences, as required by 30 CFR 840.15.

In Finding 22.A, above, the Secretary found that Wyoming's provisions for holding informal conferences on permit applications and for providing access to the mineplan areas are acceptable. Under W.S. 35–11–406(k), an informal conference will be held if the administrator determines that the nature of the complaint or the position of the complainants indicates that an informal conference is preferable to a contested case proceeding. Wyoming has promulgated language in Rule III 3a of the Rules of Practice and Procedure which are consistent with 30 CFR 784.14 concerning informal conferences.

C.21 PLI and EPI noted that Wyoming provides for publication of a "notice of intended action" rather than proposed rules. PLI asserted that this scheme is not in accordance with SMCRA 501, which requires proposed rules to be published, and that this practice will interfere with the public's right to comment on proposed regulations.

Wyoming's notice of intended action is in fact similar to proposed rules in that it sets forth the text or substance of the rulemaking. While Wyoming does not publish a document similar to the **Federal Register**, the State publishes a "notice of intended action" in a newspaper of general circulation, and sends copies of such notices to county clerks and individuals who request such mailings for the purpose of public comment. (See Administration Record No. WY–211.) The Secretary finds the Wyoming practice consistent with Section 501 of SMCRA.

C.22 PLI pointed out that under 30 CFR 842.12(a) a citizen has the right to orally request an inspection which is followed by a written statement. Wyoming, however, allows only written complaints, thus allegedly restricting citizen rights and, in the event of an imminent hazard, endangering the public and the environment.

The Secretary finds Wyoming Rule XVII 1b to be consistent with 30 CFR 842.12(as) as further explained in Finding 22.7 in the March 31, 1980, **Federal Register** notice. Both Federal and State processes require a written statement.

C.23 PLI contended that Wyoming provides only for a "prompt" inspection in response to citizen complaints. PLI stated that an outer time limit of 10 days to inspect and 15 days to deny an inspection should be established as required by 30 CFR 842.12(d), to insure that there is no question of what constitutes a "prompt" response.

The Secretary believes that such time limits need not be set for the Wyoming program to be consistent with the Federal requirements, since it is unlikely that a period longer than 10 or 15 days would be deemed a "prompt" response. In any case, "prompt" may be a more stringent test than 10 days.

C.24 PLI noted that 30 CFR 842.15 and SMCRA 517(h)(1) require that the informal review of citizen complaints results in a written determination with an explanation of the underlying reasons, but that Wyoming provides only that the citizen be informed of the "results" of the review.

The Secretary believes that Wyoming Rule XVII 1c will operate in a manner that is consistent with the Federal requirements in that the citizen will be informed of the results of the inspection and may proceed to appeal, if he or she so desires.

C.25 In its comments, PLI noted that the Secretary has stated that Wyoming's failure to provide implementing regulations consistent with 43 CFR 4.1290 *et seq.*, regarding the award of costs and expenses in administrative proceedings, "may create an inconsistency with the Federal requirements." PLI contended that this failure will result in a serious inconsistency and, to obtain approval, a State program not only must authorize the award of fees, as does Section 525(e) of SMCRA, but also must contain provisions similar to those contained in 43 CFR 4.1290 *et seq.* To date, the comment concludes, Wyoming has made no attempt to promulgate rules consistent with the Federal regulation and, thus, has set *no* standards for the award of such fees.

In Finding 22.9 in 45 FR 20830 (March 31, 1980), the Secretary found that the State had not proposed or promulgated any rules which are consistent with 43 CFR Part 4 regarding the award of attorneys fees. The State has failed in its resubmission to promulgate any such rules. The Secretary found this portion of the resubmission unacceptable, and explains that a correction of this deficiency will be a condition of approval. (See Finding 22.C.)

C.26 PLI indicated that the Wyoming citizen suit provision is deficient in several respects. First, under W.S. 35–11–902, the 60 day notice of intent to sue provision applies not only to suits against the State for failure to enforce (as in SMCRA 520(a)(2)) but also to suits for violations (such as SMCRA 520(a)(1)). Under the Federal scheme, notice of intent to sue is required only in the non-enforcement situation (Section 520(b)), and Wyoming cannot restrict access to State court.

The commenter incorrectly stated that the 60 day notice applies only to Section 520(a)(2) under SMCRA. Section 520(b) applies the 60 day notice period to all citizen actions under Section 520(a), with the exception of an imminent threat to health or safety of the plaintiff or an immediate effect on a legal interest of the plaintiff. W.S. 35–11–902(c)(i) parallels the Federal section and is consistent with it.

Second, PLI contended that the State must make it clear that Wyoming's standing provision, "any person having an interest which is or may be adversely affected," is as broadly interpreted as it is under Federal law.

Neither SMCRA nor the Wyoming statute contains a definition of "person having an interest which is or may be adversely affected." The Wyoming regulatory definition in Rule XVIII 1(5) appears to be as broad as OSM's regulatory definition in 30 CFR 700.5.

Third, PLI and EPI noted that Wyoming must make it clear that attorney's fees can be awarded against citizens or citizen groups only if the action is initiated or pursued in bad faith.

The proposed program, W.S. 35–11–902(e), provides for the award of attorney fees. SMCRA is silent on the circumstances under which attorney fees may be assessed against citizens, and the Secretary has no reason to believe that the State will not award attorneys fees consistent with the Federal standards. As discussed in Finding 22.C, promulgation of rules concerning the award of attorneys fees in administrative hearings is being made a condition of this approval.

Fourth, PLI claimed that Wyoming "impermissibly" restricts the operation of its citizen suit provision to the status of Federal law on August 3, 1977, stating that, as the body of Federal law grows, especially with respect to SMCRA 520, States likewise must be able to grow to conform, if their program is not to become less stringent than required and be subject to withdrawal of approval or repeated amendment. Therefore, PLI concludes, the phrase "only to the extent" should be changed to "at least to the extent."

The Secretary is evaluating the Wyoming program on the basis of what the Federal requirements are today. PLI has indicated no change in the law since August 3, 1977, that would make the Wyoming requirement inconsistent with the Federal requirement.

The Secretary will require appropriate changes in the State provisions if such changes are required by Act of Congress or by other developments.

C.27 The PLI and EPI contended that it should be made clear in Rule II 7b of the DEQ Rules of Practice and Procedure that interest in the "outcome" of the proceeding includes an interest in a significant legal determination which may be reached and which might affect the person's ability to protect his interest in subsequent proceedings (43 FR 34378 (August 3, 1978)). PLI also noted that it should be made clear that intervention at less than full party status is permissible only upon request of the person seeking intervention, at least for mandatory intervention. In the March 31, 1980, **Federal Register** notice, the Secretary found this rule did not provide broad enough rights of intervention in administrative proceedings. As discussed in Finding 22.D, promulgation of rules for intervention is being made a condition of this approval.

C.28 Concern was expressed by PLI that Wyoming permits council members to have a financial interest, direct or indirect, in matters before it. Regardless of the Secretary's regulations on conflict of interest, PLI contended that the Secretary cannot approve any State program which, unlike the Federal program, violates the constitutional due process right to an impartial decisionmaker. Council members with any interest whatsoever in the outcome, or even the appearance of any interest, cannot participate, under prevailing constitutional case law, the comment concluded.

In a letter dated August 5, 1980 (Administrative Record No. WY–220), the State indicates that council members with any interest or the appearance of any interest in the outcome of a proceeding cannot participate in such proceeding.

C.29 It is noted by the EPI and PRBRC that in Rule XVII 2e, a cessation order may be mailed to an operator. PRBRC noted that the State is required to deliver such an order immediately by hand to the operator.

The State has indicated in a letter dated August 5, 1980 (Administrative Record No. WY–220) that it will conduct field enforcement. The Secretary finds that Wyoming will immediately hand-deliver such an order as part of its field enforcement. (See Finding 20.A, above.)

C.30 Regarding Rule I 6 of Wyoming's Rules of Practice and Procedure, PRBRC and EPI expressed the opinion that the Environmental Quality Council should not be permitted to charge an interested citizen for the cost of a hearing transcript. Such an expense, it is contended, effectively dissuades the average citizen from exercising his or her constitutional right to petition the government for redress of grievances.

Nothing in SMCRA (Title V) or the regulations (30 CFR Chapters G or L) would require the State to provide copies of hearing transcripts to interested citizens free of charge. The Secretary notes that States are required under 30 CFR 700.14 to make such transcripts available for public inspection, and the cost of a transcript could be covered under W.S. 35–11–902(e) and W.S. 35–11–437(f) regarding the award of costs.

C.31 EPI asserted that the changes in the narrative on public participation, which Wyoming agreed to in its January 15, 1980, memorandum must be formally incorporated into the State program through a detailed description, as required by 30 CFR 731.14(g)(14), and, where appropriate, through regulatory changes.

Wyoming agreed to send copies of proposed statutory and regulatory changes to all interested parties in response to previous public comments (Administrative Record WY–99 and WY–211). Wyoming promulgated rulemaking procedures in its Rules of Practice and Procedure. The Wyoming program provides all of the citizen access required by the Act in the key areas identified in the preamble at 44 FR 14965. The Secretary believes that Wyoming has adequately provided for public participation in the development and revision of the State regulations and the State program and that it is not necessary for the State to provide a detailed description or make regulatory changes.

C.32 EPI contended that Wyoming should be required to publish in the

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State register, a notice of the receipt of a complete petition to designate land unsuitable, as required by 30 CFR 764.15(b)(2).

The Secretary finds that the publication of a notice of a petition in the offices of the county clerks of the counties in which the petition is concerned satisfies the Federal requirements of 30 CFR 764.15(b)(2), since the State does not have a State register and all other public notification requirements meet the Federal requirements.

C.33 It is asserted by EPI that, regarding 30 CFR 764.13(b) (designation of lands unsuitable for coal mining), Wyoming still has not provided adequate assurances that the requirement that a petitioner identify specific sources of supporting evidence on which allegations of fact rest are to apply only to the extent known and that it cannot serve as a basis for the rejection of a petition as incomplete. EPI also contended that XVIII 2d(4), requiring the identification of the criterion on which the proposed designation rests, is more burdensome on the petitioner than the Federal requirements.

As noted above in Finding 21.D of this notice, the Secretary finds that the criteria or criterion and supporting evidence to the criteria, would be limited to the information known to the petitioner.

C.34 EPI argued that Wyoming has not presented adequate justification that their enforcement personnel numbers are sufficient to carry out the projected work load under their State program, as required under 30 CFR 731.14(i) and (j).

Wyoming has resubmitted data which indicates a total program personnel capacity of 22.77 full-time employees. The Secretary found on the basis of this resubmitted data that the total program staffing needs as required by 30 CFR 731.14(e), (f), (i), and (j) are met (see Finding 30).

C.35 PRBRC expressed concern with Wyoming's definition of "adjacent area," which the State limits to one-half mile beyond the proposed permit boundaries. PRBRC commented that groundwater hydrology is unlikely to respect a presumptive limitation of one-half mile and contended that the definition is arbitrary and unjustified.

The Secretary has found Wyoming's definition of "adjacent area" in Rule I 2(3) to be consistent with the Federal definition in 30 CFR 701.5. See Finding 14.13, above. The presumptive limit provides some initial indication of the extent of information-gathering activities. The PRBRC is correct that it is unlikely that all groundwater effects will occur only within the one-half mile limit. However, the effects of mining on groundwater will often extend less than one-half mile (e.g., up gradient along the potentiometric surface). In addition, Wyoming has promulgated Rule II 3a(6)(k) to require hydrologic and geologic information for the adjacent and general areas sufficient to assess the probable hydrologic consequences. The Secretary has found (Findings 14.13 and 14.23) the promulgated rules consistent with the Federal requirements.

C.36 The PRBRC noted that Rule II 2a(1)(j)(ii) of the Wyoming resubmission requires a permit applicant to list all existing water wells, including all wells filed with the State Engineer, PRBRC suggested that the State Engineer's records may not be current, and that applicants should be required to undertake serious research into existing local water wells.

The cited rule requires submission of a list of "all existing water wells on the proposed permit area and adjacent area, including all wells filed with the State Engineer's office three miles or less from the proposed permit area." Thus, any wells that may be affected must be inventoried, regardless of whether they are listed in the State Engineer's records. The Secretary believes that the concerns of the PRBRC have been taken into account.

C.37 Referring to the same section of Wyoming's rules, PRBRC commented that surveys of premining water levels should be mandatory, rather than optional, as provided in the Wyoming resubmission. It is essential that a premining data base be established, the comment contended, in order to assess the cumulative effects of coal surface mining on groundwater hydrology.

Again, Rules II 3b(10) and (11) require adequate information to evaluate the hydrologic impacts of the proposed operations. Wyoming's Guideline No. 8 (hydrology), in Section IV A, 2, requires a description of the potentiometric surface which includes premining surveys of water levels wherever the proposed operations may affect groundwater. The surveys are, therefore, mandatory.

C.38 Concern was expressed by the PRBRC regarding the formula used by Wyoming for determining the importance of an alluvial valley floor to farming. PRBRC expressed the belief that this formula, which appears in Wyoming's analogue to 30 CFR 822.12, is difficult for the layman to understand, is capriciously based on ownership, and fails to consider the maximum productive potential of the alluvial valley floor.

The formula represented in Rule III 2d ($P=3.+0.0014x$) is an alternative measure of the significance of an alluvial valley floor and, as such, considers the maximum productive potential of an alluvial valley floor. The formula is used only on small farms, where the total agricultural production or its equivalent is 5000 animal units or less. On these small farms, the total agricultural units of production represent "x" in the formula. The "P" value represents the maximum number of animal units that could be affected by the removal of an alluvial valley floor by mining and still be considered insignificant. In those cases then where mining would adversely affect the productivity of a small farm (i.e., where the "P" value would be exceeded) mining would be prohibited.

The Federal regulation for determining "significance" (30 CFR 785.19(e)(2)) has been remanded by the district court (Opinion of February 26, 1980, at 51–52). Accordingly, there are no Federal minimum standards with which to compare Wyoming's specific test. The court found that the Federal regulations emasculate the statutory exemption of Section 510(b)(5)(A) of SMCRA, specifically, the "small acreage" exemption, and directed the Secretary to allow mining on an alluvial valley floor that results in a negligible impact on the farm's production. The State program allows mining on alluvial valley floors where the above formula shows a negligible impact consistent with Section 510(b)(5)(A) of SMCRA.

The Wyoming provisions for alluvial valley floors are addressed in Findings 12.4 and 13.116. The Secretary has found these provisions consistent with the Federal requirements.

C.39 The PRBRC asserted that a provision should be added to Wyoming's rules and regulations requiring a permit application to include specific plans for the entire coal surface mining facility, including haul roads, loadout facilities, and waste and refuse areas. PRBRC contended that the State appears to have taken the position that all facilities involved in the mining operation must be permitted, but not necessarily at the same time. Requiring an applicant to present all necessary facilities at once would help to eliminate poorly-planned development and its associated disruptions.

Wyoming has defined the term "permit area" to mean the entire area of land and water affected during the "entire life of the operation" (Rule I 2(56)). Thus, all operations included within the defined term "surface coal mining operation" (W.S. 35–11–103(e)(xx)) are included within the permit area.

C.40 The PRBRC is concerned that mining operations may be permitted without review of the necessary facilities and cites the Ash Creek mine in Wyoming as an example. According to PRBRC, this mine has been inactive for one and one-half years because it was permitted without any transportation facilities.

W.S. 35–11–405(d) requires termination of a permit if permitted operations have not been initiated within 3 years (unless good cause exists). Rule IV 3s requires a complete plan for reclamation if the operation is ceased for more than 30 days. While Rule IV 3a(1)(c) allows additional time for backfilling and grading, additional time is permissible only if it is demonstrated to be necessary on the basis of mining conditions. Thus, while it is not possible to completely ensure that all mining operations continue to completion, the type of problem described by the commenter would have to be resolved to allow reclamation. The Secretary does not believe Wyoming needs to place an additional requirement in its program.

C.41 The Belle Fourche Pipeline Company (BFPC) contended that Wyoming's resubmission does not adequately insulate lawful surface users, such as oil, gas and water wells, oil, gas and coal slurry pipelines, and various other public interest users from possible damage or expense caused by surface mining operations.

In particular, BFPC contends the State program should define "surface owner" to include one with interests such as easements or tenancies in the surface. The Wyoming rules do require that "all operations be conducted so as to minimize disruption of any services provided by facilities located on, under or through the permit area," unless otherwise approved (Rule IV 3k). The Wyoming statutes also provide for surface owner protection (W.S. 35–11–416). W.S. 35–11–406(b)(xiii) requires the operator to avoid endangering property. Rule II 3a(6)(n) requires a complete application to show the location of man-made features such as pipelines, water, oil or gas wells, and public or private rights-of-way or easements.

Neither the Federal regulations nor the Wyoming program defines "surface owner." Although the commenter cited 30 CFR 742.13, that section of the Federal program pertains to Federal lessee protection on Federal lands only and is not required of the State for non-Federal lands.

The Secretary believes that the concerns of the commenter appear properly addressed by the State program and other applicable laws, and that damage to the property interests described by the commenter will be avoided or compensated for wherever appropriate.

C.42 The Pittson Coal Company disagrees with Finding 14.18 that W.S. 35–11–406(b)(xi) is similar to Section 510(b)(6) of SMCRA. Although W.S. 35–11–406(b)(xi) is different from the Federal statute, it is not inconsistent with Federal program requirements.

Federal law requires consent of the surface owner to the extraction of coal by surface mining methods only if the owner of the mineral estate does not already have that right by conveyance or operation of State law. Wyoming requires consent of the surface owner to the extraction of coal by surface methods *and* that a mining and reclamation plan be approved before the State may issue a permit, if the landowner meets the definition of "resident or agricultural landowner" in W.S. 35–11–406(xi)(A) and (B). In this case, the Wyoming statutes have included a provision that is additional to the Federal requirements.

Section 505(b) of SMCRA states that any State law which provides for more stringent land use and environmental controls and regulation of surface coal mining and reclamation operations than do the provisions of SMCRA shall not be construed to be inconsistent with the Act. The Wyoming requirement that "resident or agricultural landowners" consent to mining operations on their land is a more stringent land use and environmental control. The Secretary, therefore, finds that W.S. 35–11–406(b)(xi)(A) and (B) are not inconsistent with the Federal requirements.

C.43 The Pittson Coal Company further commented that W.S. 35–11–406(b)(xi), which allows certain landowners to veto mining and reclamation plans, would effectively result in depriving the mineral estate owner of his constitutional protection against a taking of his property without just compensation or due process of law.

The statutes of the Environmental Quality Act that the commenter is questioning became effective in Wyoming on July 1, 1973. The issue raised by the commenter is not a direct result of the passage of SMCRA or of the State program review. The Secretary believes that under Section 505(a) of SMCRA the Wyoming provisions are not inconsistent with the provisions of the Federal Act.

C.44 The Pittson Coal Company also requests clarification on parts of W.S. 35–11–406(b)(xi) and (xii). The company questions (a) whether or not W.S. 35–11–406(b)(xi) is subject in all respects to W.S. 35–11–406(b)(xii), (b) whether or not W.S. 35–11–406(b)(xii)(c) imposes a condition that may override new subsection (E), and (c) whether or not subsection (c) also imposes a condition that may override the legal authority which the mineral estate owner has under the conveyance he holds.

The Secretary suggests that the commenter contact the Wyoming Department of Environmental Quality to obtain clarification on the exact function of W.S. 35–11–406. This comment is not pertinent to the Secretary's approval of Wyoming's program. See comment 43.

C.45 Three Wyoming coal operators, Kerr McGee, Sunedco, and Amax, have asked that the Secretary disapprove portions of the Wyoming program containing provisions remanded or suspended in the district court decisions.

The May 16, 1980, memorandum order *In re: Permanent Surface Mining Regulation Litigation* [Civil Action No. 79–1144] required the Secretary to affirmatively disapprove those segments of a State program that incorporate suspended or remanded regulations. On August 15, 1980, the court stayed its decision to allow the Secretary, upon the voluntary request of a State, to approve a State program which incorporates suspended or remanded regulations. The court also clarified that its May 16 memorandum did not affect the validity of provisions in a State program based on State law adopted prior to the SMCRA or provisions adopted by rulemaking proceedings conducted subsequent to the court's ruling. A State may independently adopt a regulation that the court has ruled the Secretary is without power to require.

In a letter dated August 5, 1980 (Administrative Record No. WY–220), the Governor of Wyoming voluntarily requested that the Secretary not disapprove any of the State's regulations on the basis of the decision in *In re: Permanent Surface Mining Regulation Litigation*. Therefore, pursuant to the stay order, the Secretary will not disapprove any of Wyoming's regulations on the basis that they are counterparts to remanded or suspended Federal regulations.

C.46 The Amax Coal Company states that Section 4 of the 1980 amendment to the Wyoming Environmental Quality Act limits the addition of conditions to the final program approval. Additionally, the commenter states that the use of any such conditions could jeopardize the triggering to the permit application process.

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The Secretary disagrees with the commenter's analysis of Section 4 of the 1980 amendment to the Wyoming Environmental Quality Act concerning "final" approval of the State program. Governor Herschler stated, in response to OSM comments, that "any approval, conditional or otherwise, would be the final, appealable decision by the Secretary. Under the recently promulgated statutes governing surface coal mining operations, a *final* decision under Pub. L. 95–87 makes the new law on submitting permit applications effective." (Administrative Record No. WY–220). The Secretary has relied upon this interpretation in conditionally approving the Wyoming program.

C.47 Sunedco comments specifically on the State's adoption of the remanded Federal effluent standards that apply to runoff from reclaimed lands released as point source discharges from required sedimentation ponds. The company believes the State's use of these effluent standards for runoff from reclaimed lands is unjustified in light of the lack of current research data and in light of the district court opinion, *In re: Permanent Surface Mining Regulation Litigation* (May 16, 1980, Opinion at pp. 19–20).

Wyoming has, and will continue to use, these effluent limits as long as point source discharges from sediment ponds exist. This procedure is based on W.S. 35–11–301. However, Wyoming has promulgated Rule IV 3g(1), which will effectively make the effluent limitation applicable until baseline water quality is achieved in runoff from revegetated areas. The Secretary is not required to disapprove this State provision (*In re: Permanent surface Mining Reclamation Litigation, Civil Action No. 79–1144, August 15, 1980 (Partial Stay of May 16, 1980 Opinion)).*

F. Secretary's Decision

Background on Conditional Approval

The Secretary is fully committed to two key aims which underlie SMCRA. The Act calls for comprehensive regulation of the effects of surface coal mining on the environment and public health and safety and for the Secretary to assist the States in becoming the primary regulators under the Act. To enable the States to achieve that primacy, the Secretary has undertaken many activities of which several are particularly noteworthy.

The Secretary has worked closely with several State organizations such as the Interstate Mining Compact Commission, the Council of State Governments, the National Governors Association and the Western Interstate Energy Board. Through these groups OSM has frequently met with State regulatory authority personnel to duscuss informally how the Act should be administered, with particular reference to unique circumstances in individual States. Often these meetings have been a way for OSM and the States to test new ideas and for OSM to explain portions of the Federal requirements and how the States might meet them. Alternative State regulatory options, and the "State window" concept, for example, were discussed at several meetings of the Interstate Mining Compact Commission and the National Governors Association.

The Secretary has dispensed over $6.9 million in program development grants and over $37.6 million in initial program grants to help the States to develop their programs, to administer their initial programs, to train their personnel in the new requirements, and to purchase new equipment. In several instances OSM detailed its personnel to States to assist in the preparation of their permanent program submissions. OSM has also met with individual States to determine how best to meet the Act's environmental protection goals.

Equally important, the Secretary structured the State program approval process to assist the States in achieving primacy. He voluntarily provided his preliminary views on the adequacy of each State program to identify needed changes and to allow them to be made without penalty to the State. The Secretary adopted a special policy to insure that communication between him and the States remained open and uninhibited at all times. This policy was critical to avoiding a period of enforced silence with a State after the close of the public comment period on its program and has been a vital part of the program review process (see 44 FR 54444, September 19, 1979).

The Secretary has also developed in his regulations the critical ability to approve conditionally a State program. Under the Secretary's regulations, conditional approval gives full primacy to a State even though there are minor deficiencies in a program. This power is not expressly authorized by the Act; it was adopted through the Secretary's rulemaking authority under 30 U.S.C. 201(c), 502(b), and 503(a)(7).

The Act expressly gives the Secretary only two options—to approve or dissapprove a State program. Read literally, the Secretary would have no flexibility; he would have to approve those programs that are letter-perfect and disapprove all others. To avoid that result and in recognition of the difficulty of developing an acceptable program, the Secretary adopted the regulation providing the authority to approve conditionally a program.

Conditional approval has a vital effect for programs approved in the Secretary's initial decision: It results in the implementation of the permanent program in a State months earlier than might otherwise be anticipated. While this may not be significant in States that already have comprehensive surface mining regulatory programs, in many States that earlier implementation will initiate a much higher degree of environmental protection. It also implements the rights SMCRA provides to citizens to participate in the regulation of surface coal mining through soliciting their views at hearings and meetings and enabling them to file requests to designate lands as unsuitable for mining if they are fragile, historic, critical to agriculture, or simply cannot be reclaimed to their prior productive capability.

The Secretary considers three factors in deciding whether a program qualifies for conditional approval. First is the State's willingness to make good faith efforts to effect the necessary changes. Without the State's commitment, the option of conditional approval may not be used.

Second, no part of the program can be incomplete. As the preamble to the regulations says, the program, even with deficiencies, must "provide for implementation and administration for all processes, procedures, and systems required by the Act and these regulations" (44 FR 14961). That is, a State must be able to operate the basic components of the permanent program: the designation process; the permit and coal exploration systems; the bond and insurance requirements; the performance standards; and the inspection and enforcement systems. In addition there must be a functional regulatory authority to implement the other parts of the program. If some fundamental component is missing, conditional approval may not be used.

Third, the deficiencies must be minor. For each deficiency or group of deficiencies, the Secretary considers the significance of the deficiency in light of the particular State in question. Examples of deficiencies that would be minor in virtually all circumstances are correction of clerical errors and resolution of ambiguities through an attorney general's opinion, revised regulations, policy statements, and changes in the narrative or the side-by-side.

Other deficiencies require individual consideration. An example of a deficiency that would most likely be major would be a failure to allow

meaningful public participation in the permitting process. Although this would not render the permit system incomplete because permits could still be issued, the lack of any public participation could be such a departure from a fundamental purpose of the Act that the deficiency would most likely be major.

The use of a conditional approval is not and cannot be a substitute for the adoption of an adequate program. Section 732.13(i) of Title 30 of the regulations gives the Secretary little discretion in terminating programs where the State, in the Secretary's view, fails to fulfill the conditions. The purpose of the conditional authority power is to assist States in achieving compliance with SMCRA, and not to excuse them from that responsibility.

Conditional Approval

The Wyoming program is in compliance with and has fulfilled all the requirements of SMCRA and in all other respects meets the criteria for approval, except for those deficiencies listed below.

1. Wyoming has failed to promulgate a definition of "complete application" for purposes of its determination in the permit process that all parts of the application are acceptable and the application is ripe for public notice, public comment and final decision. This definition is important because of its relation to the thoroughness and efficiency of the State review. The necessity of adopting such a definition results from procedural aspects of Wyoming's permit system which the Secretary did not impose. Wyoming's failure to adopt the definition was an oversight on its part. While the absence of this definition should be remedied, it is not so major as to require disapproval because the permit process can proceed for 270 days after program approval without the definition. The State has agreed to conduct rulemaking to promulgate such a rule; it would prefer ordinary but will undertake emergency rulemaking to make the rule effective immediately, if necessary.

2. Wyoming Rule I 2(98) defines toxic materials as those having "lethal" effects, while the Federal rule (30 CFR 701.5) uses the test of "detrimental" effects. This definition is important because it forms the basis for special treatment of various materials uncovered during mining. If the material is toxic then it must be kept away from water and ultimately buried rather than left on or near the surface. If the test is "lethal," there is too great a risk to fish and wildlife. While the difference between the tests merits correction, it is not so major as to require disapproval of the program. In most circumstances the results would be the same and the borderline cases in which the definition would make a difference are not likely to occur before the change is made. The State has agreed to promulgate by ordinary rulemaking an amendment to the Wyoming rule which would make it consistent with the Federal rule.

3. The existing Wyoming rules are inconsistent with the Federal regulations allowing intervention and the awarding of attorneys' fees in administrative proceedings. Both of these Federal regulations implement the strong public participation requirements of the Act. Attorneys' fees are specifically provided for in the Act in both administrative and judicial proceedings. However, this deficiency does not require disapproval; it is very unlikely that any circumstances will arise, before the State makes the correction, that will lead to inconsistent results. The State has agreed to undertake an ordinary rulemaking to promulgate an amendment to the Wyoming rule which would make it consistent with the Federal rule and, prior to final promulgation, to the extent possible, to interpret its existing administrative intervention rules to be consistent with the broad right of intervention in the Federal regulations.

4. Wyoming must require permit applicants to compy with certain portions of its permit application guidelines in order for Wyoming's program to be consistent with portions of the Federal Act and regulations. Without the authority to require compliance with its guidelines, the State could not legally insist on certain permit application information necessary, for instance, to identify fully alluvial valley floors and assure the protection of their hydrological function. The State has failed to demonstrate adequately that it may require compliance with its guidelines. While this deficiency should be corrected, it can be corrected by emergency rulemaking prior to the filing of permit applications and the State has agreed to exercise its discretion to obtain the information in the meantime if the need should arise. Wyoming has also agreed to promulgate a regulation by emergency rulemaking that would demonstrate its authority to require the necessary information.

5. The Wyoming provision for release of bonds at the conclusion of reclamation does not require that the revegetation measurements be made during the last two years of the bond period. This is important because revegetation can sometimes be successful immediately after fertilizing and watering but fail several years later when unaided. Thus, if success were measured in the early rather than last two years, bonds might be released despite revegetation failure. While this should be corrected, it is not so major a deficiency as to require disapproval. There is more than ample time to make the adjustment before any revegetation measurement or bond releases occur. The State has agreed to undertake an ordinary rulemaking to make its rule consistent with the Federal requirement that successful revegetation be measured during the two years immediately preceding bond release.

6. Wyoming has failed to require that, prior to approval of a permit, the applicant demonstrate that all reclamation fees required by 30 CFR Chapter VII, Subchapter R, have been paid. This is necessary to assure that the applicant has paid the tonnage fees on mined coal to the Abandoned Mine Reclamation Fund.

7. Wyoming has no provision governing judicial granting of temporary relief in accordance with Section 526(c) of SMCRA. Title 30 CFR 732.15(b)(15) provides that a State program may be approved only if it "[p]rovides for administrative and judicial review of State program actions, in accordance with sections 525 and 526 of the Act and subchapter L of this chapter." This omission in the State program may be corrected through rulemaking or through a demonstration that applicable State law is in accordance with Sections 525 and 526 of SMCRA.

Given the nature of these deficiencies and their magnitude in relation to all the provisions of the Wyoming program, the Secretary has concluded that they are minor deficiencies. Accordingly, the program is eligible for conditional approval under 30 CFR 732.13(i) because:

1. The deficiencies are of such a size and nature as to render no part of the Wyoming program incomplete since all other aspects of the program meet the requirements of SMCRA and 30 CFR Chapter VII and these deficiencies, which will be promptly corrected, will not directly affect environmental performance at coal mines;

2. Wyoming has initiated and is actively proceeding with steps to correct the deficiencies; and

3. Wyoming has agreed, by letter dated September 15, 1980, to correct regulation deficiencies 1, 2, 3, and 5, 6, and 7 within 4 months and deficiency 4 within 30 days.

Accordingly, the Secretary is conditionally approving the Wyoming program. This approval shall terminate

if the seven deficiencies identified are not corrected by the above times

§ 950.1 Scope.

Since the current regulations were

same SO_2 emission rate, the increase in

consecutive years of the responsibility

The means of determining compliance

if the seven deficiencies identified are not corrected by the above times.

This approval is effective November 26, 1980. Beginning on that date, the Wyoming Department of Environmental Quality shall be deemed the regulatory authority in Wyoming and all surface coal mining and reclamation operations on non-Federal and non-Indian lands and all coal exploration on non-Federal and non-Indian lands in Wyoming shall be subject to the permanent regulatory program.

On non-Federal and non-Indian lands in Wyoming the permanent regulatory program consists of the State program approved by the Secretary.

On Federal lands, the permanent regulatory program consists of the Federal rules made applicable under 30 CFR Chapter VII, Subchapter D, Parts 740–745. As discussed above under "Introduction," consideration of a Federal/State cooperative agreement for the Federal lands program is the subject of a separate rulemaking.

The Secretary's approval of the Wyoming program relates at this time only to the permanent regulatory program under Title V of SMCRA. The approval does not constitute approval of any provisions related to implementation of Title IV, the abandoned mine lands reclamation program. In accordance with 30 CFR Part 884, Wyoming may submit a State reclamation plan now that its permanent program has been approved. At the time of such a submission, all provisions relating to abandoned mine reclamation will be reviewed by the Secretary.

Additional Findings

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this approval.

The Secretary has determined that this document is not a significant rule under Executive Order 12044 or 43 CFR Part 14, and no regulatory analysis is being prepared on this approval.

Dated: November 20, 1980.

Joan M. Davenport,

Assistant Secretary of the Interior.

A new Part, 30 CFR Part 950, is adopted to read as follows:

PART 950—WYOMING

Sec.
950.1 Scope.
950.10 State program approval.
950.11 Conditions of State program approval.

Authority: Pub. L. 95–87, Section 503 (30 U.S.C. 1253).

§ 950.1 Scope.

This Part contains all rules applicable only within the State of Wyoming which have been adopted under the Surface Mining Control and Reclamation Act of 1977.

§ 950.10 State program approval.

The Wyoming State program, as submitted on August 15, 1979, and resubmitted on May 30, 1980, is approved, effective November 26, 1980. Copies of the approved program are available at:

Wyoming Department of Environmental Quality,
Land Quality Division,
Hathaway Building,
Cheyenne, Wyoming 82002.
Wyoming Department of Environmental Quality, Land Quality Division, Field Office, 30 East Grinnell Street, Sheridan, Wyoming 82801.
Wyoming Department of Environmental Quality, Land Quality Division, Field Office, 933 Main Street, Lander, Wyoming 82520.
Office of Surface Mining, Brooks Tower, 1020 15th Street, Denver, Colorado 80202; telephone: (303) 837–5421.
Office of Surface Mining, Department of the Interior, Room 153, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

§ 950.11 Terms and conditions of State program approval.

The approval of the State program will terminate unless the following conditions are fulfilled by the dates indicated:

(a) On or before four months after November 26, 1980, Wyoming must assure the Secretary that it is implementing a definition of "complete application" for purposes of W.S. 35–11–406, which is consistent with 30 CFR 770.5.

(b) On or before four months after November 26, 1980, Wyoming must promulgate an amendment to its rule defining toxic materials, to require only a showing of "deterimental" effects, or make other changes in its program to achieve the same result.

(c) On or before four months after November 26, 1980, Wyoming must establish requirements which are consistent with the Federal attorneys' fees and intervention regulation in 43 CFR Part 4.

(d) On or before 30 days after November 26, 1980, Wyoming must make its guidelines as enforceable as its rules.

(e) On or before four months after November 26, 1980, Wyoming must require revegetation productivity measurements in the *last* two consecutive years of the responsibility period, consistent with 30 CFR 816.116(b)(1)(ii).

(f) On or before four months after November 26, 1980, Wyoming must require that applicants for a permit demonstrate that all reclamation fees required by 30 CFR Chapter VII, Subchapter R, have been paid.

(g) On or before four months after November 26, 1980, Wyoming must demonstrate that its law and practice is in accordance with Section 526(c) of SMCRA with respect to its judicial grant of temporary relief, or, if it cannot so demonstrate, change its law or regulations to make them in accordance with Section 526(c).

[FR Doc. 80-36780 Filed 11-25-80; 8:45 am]
BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1680-7]

Approval and Promulgation of Implementation Plans, Ohio

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action revises the Federally promulgated Ohio State Implementation Plan for sulfur dioxide as it applies to the Ohio Edison North Avenue Plant in Mahoning County. This emission limitation revision is based upon ambient monitoring and emissions data provided by the Ohio Environmental Protection Agency and submitted to USEPA by the Ohio Edison Company. The ambient monitoring and emissions data demonstrate that the revised emission limitation will ensure the attainment and maintenance of the National Ambient Air Quality Standards.

EFFECTIVE DATE: December 26, 1980.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 886–6039.

SUPPLEMENTARY INFORMATION: On August 27, 1976 (41 FR 36324), the USEPA promulgated regulations establishing a State Implementation Plan (SIP) for the control of sulfur dioxide (SO_2) in Ohio. This final rule will amend that SIP as is applies to the Ohio Edison North Avenue Plant in Mahoning County.

Since the current regulations were promulgated, there has been a substantial reduction in the SO_2 emissions in the Mahoning River Valley (Mahoning and Trumbull Counties) with a significant improvement in the air quality. Consequently, on October 9, 1979 (44 FR 57929), the USEPA redesignated Mahoning and Trumbull Counties as attainment areas for sulfur dioxide.

On March 18, 1980, the Ohio Edison Company requested a revision to the sulfur dioxide plan for its North Avenue steam heating plant in Mahoning County, Ohio. Since the National Ambient Air Quality Standards are currently being protected, Ohio Edison requested a limit that reflects status quo emissions. This request was supported by ambient monitoring and emissions data for the area which were provided by the Ohio Environmental Protection Agency. The data, which compares emissions with air quality data in the years 1974 and 1978, indicates that the reduction in SO_2 ground-level ambient air quality concentrations is commensurate with the reduction in SO_2 emissions. Therefore, the current attainment status of the area will not be threatened by regulating the North Avenue Plant at status quo emissions. Further, the data demonstrates that the 24 hour and annual primary standards are more constraining than the 3 hour secondary standard. Thus, an emission limitation designed to protect the primary standards will also protect the secondary standard.

Section 163 of the Clean Air Act contains specific allowable deterioration increments for increases in ambient sulfur dioxide concentrations in attainment areas. Since the existing SIP is based on a rollback analysis, a screening based on rollback techniques was made to approximate PSD increment consumption. This analysis indicates that the SIP revision will not consume all of the available PSD increment. As discussed below, a modeling analysis was not performed because of source-terrain interaction problems.

On July 25, 1980, USEPA proposed approval of this revision (45 FR 49599). A 30 day public comment period was provided. During the public comment period, one comment was received which addressed several issues. Each issue raised in this comment is addressed below.

1. Coal Consumption

The commentor was concerned about the USEPA's claim that the proposed limit reflects status quo emissions. The commentor argued that to maintain the same SO_2 emission rate, the increase in emission limitation must be offset by a reduction in the amount of coal consumed. The commentor claimed that the only effective way to ensure a reduction in the quantity of fuel burned is by operation below capacity. The commentor maintained that a reduction through a curtailment in the hours of operation is not acceptable, since there could still be periods with the source emitting above current emission levels (e.g., operation at full load using 4.75 lbs/MMBTU coal). Thus, to ensure the same lbs/hr emission level, the increase in the lbs/MMBTU limit should be balanced by a decrease in the MMBTU/hr value.

The USEPA appreciates the commentor's concern but wishes to point out that although the proposed revision constitutes a paper relaxation in SO_2 emissions, it does not represent a change in actual emissions. In other words, the revision seeks to change the allowable emission level to reflect the actual emission level. This can be seen by examining two factors: fuel characteristics and fuel consumption.

The proposed emission limitation is based on monthly average fuel data from 1977, 1978, and 1979. The chosen limit (i.e., 4.75 lbs/MMBTU) reflects the typical percent sulfur and BTU/lb values of the coal burned over this three-year period. Thus, the source is being regulated at their typical status quo fuel characteristics. (Note, even though the limit was based on monthly averages, the limit was evaluated and will be enforced as a 24-hour average value.)

Although the revised regulation does not address coal consumption, the USEPA's analysis of SO_2 emissions and monitoring data considered the maximum annual coal usage in recent years. Recent coal usage figures were used since no increase in consumption is anticipated as a result of this revision. This analysis demonstrated that the NAAQS will be protected at the proposed limit even with the North Avenue Plant burning its maximum actual amount of coal.

A fuel monitoring requirement would serve little purpose in light of the expected maintenance of current coal consumption. Thus, the USEPA feels that it is unnecessary to apply strict monitoring requirements on the amount of coal burned.

2. Interim Enforcement Policy

The commentor questioned how the USEPA's Enforcement Policy for Sulfur Dioxide Emission Limitations in Ohio (published February 11, 1980, 45 FR 9101) affects this emission limitation. The means of determining compliance with emission limits under the SIP is still a stack test conducted in accordance with 40 CFR Part 60, Appendix A, Method 6. The purpose of the enforcement policy is to focus resources on those sources presenting the greatest environmental threat. The policy represents a screening process for prioritizing cases in need of Federal enforcement action. This enforcement policy is not intended to modify the SO_2 emission limits applicable to any source. Thus, the enforceable emission limit for the North Avenue Plant is 4.75 lbs/MMBTU.

3. Use of Rollback Techniques

The commentor objected to the use of rollback techniques in establishing emission limitations since adequate modeling techniques are available to account for the source-terrain interaction problems in this area.

USEPA disagrees that appropriate reference modeling techniques exist for this area. In developing the original Federal SO_2 SIP for Ohio, an attempt was made to apply the CDM model to Youngstown. An acceptable calibration, however, could not be achieved.

Consequently since no other reference models were determined to be appropriate, dispersion modeling could not be used to set emission limitations in the Youngstown area. In lieu of appropriate modeling methodology, USEPA guidelines permit the use of rollback techniques. Thus, the application of rollback for the North Avenue Plant is approvable, since appropriate reference modeling methodology is not available or applicable.

Based upon the Agency's review of the technical documentation submitted, USEPA has determined that approval of this SIP revision will not jeopardize the attainment and maintenance of the National Ambient Air Quality Standards. Therefore, USEPA is revising the emission limitation of the Ohio Edison North Avenue Plant.

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations, "specialized". I have reviewed this proposed regulation pursuant to the guidance in USEPA's response to Executive Order 12044, "Improved Environmental Regulations," signed March 29, 1979 by the Administrator and I have determined that it is a specialized regulation not

subject to the procedural requirements of Executive Order 12044.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(Sec. 110, Clean Air Act as amended (42 U.S.C. 7410))

Dated: November 18, 1980.

Douglas Costle,

Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart KK—Ohio

1. Section 52.1881 is amended by revising paragraph (b)(40)(iv) as follows:

§ 52.1881 Control Strategy: Sulfur Oxides (sulfur dioxide).

* * * * *

(b) Regulations for the control of sulfur dioxide in the State of Ohio

* * * * *

(40) in Mahoning County

* * * * *

(iv) The Ohio Edison Company or any subsequent owner or operator of the North Avenue Steam Plant located in Mahoning County shall not cause or permit the emission of sulfur dioxide from any stack at the North Avenue Steam Plant in excess of 4.75 pounds of sulfur dioxide per million BTU of actual heat input.

* * * * *

[FR Doc. 80-36885 Filed 11-25-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 180

[PH-FRL 1683-1; PP OF2277/R276]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; 1-Naphthaleneacetic Acid

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of the plant growth regulator 1-naphthaleneacetic acid to permit application of either 1-naphthaleneacetic acid or the ethyl ester of 1-naphthaleneacetic acid in or on the raw agricultural commodities apples and pears at 1.0 ppm and olives at 0.1 ppm. Tolerances have previously been established for 1-naphthaleneacetic acid on apples and pears at 1.0 ppm and olives at 0.1 ppm. This regulation was requested by Union Carbide Co. This regulation will permit the use of the ethyl ester of 1-naphthaleneacetic acid in or on apples, pears, and olives.

EFFECTIVE DATE: Effectice on November 26, 1980.

ADDRESSES: Written objections may be submitted to the: Hearing Clerk, Environmental Protection Agency, Rm. 3708 (A–110), 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–359, 401 M St. SW., Washington, D.C. 20460 (202–755–2196).

SUPPLEMENTARY INFORMATION: EPA issued a notice that was published in the **Federal Register** of December 4, 1979 (44 FR 69726) that Union Carbide Co., Inc., 300 Brookside Avenue, Amber, PA 19002, had filed a pesticide petition (OF2277) with the EPA. The petition proposed the establishment of tolerances for residues of the plant regulator 1-naphthaleneacetic acid in or on the raw agricultural commodities apples and pears at 1.0 ppm, and olives at 0.1 ppm resulting from the application of 1-naphthaleneacetic acid or the ethyl ester of 1-naphthaleneacetic acid.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data evaluated included an acute oral LD_{50} rat (1–NAA) with a LD_{50} of 1 milligram (mg)/kilogram(kg); an I.P. LD_{50} (rat) (1–NAA) with a LD_{50} of 100 mg/kg; a 3-generation mouse (methyl ester of 1–NAA) with a no-observable-effect-level (NOEL) of 600 ppm (highest dose); a 90-day rat feeding study (1–NAA) with a NOEL of 100 mg/kg; a 90-day dog feeding (1–NAA) with a NOEL of 10 mg/kg; a 2-year rat feeding study (methyl ester of 1–NAA) with a NOEL of 2,500 ppm; several mutagenicity tests including an Ames test and a dominant lethal assay (all negative); a teratology study (rat) (technical 1–NAA) with a NOEL of 50 mg/kg/day; an eye irritation study (rabbits) (technical ethyl ester of NAA)—washed and unwashed eyes scored 0.0 on the Draize Scale; an acute inhalation LC_{50} study (rats) (technical ethyl ester of NAA) with a LC_{50} of greater than 206.5 mg/liter(1); an acute dermal LD_{50} study (rabbits) (technical ester of NAA) with a LD_{50} greater than 5,000 mg/kg; an acute oral LD_{50} study (rats) (technical ethyl ester of NAA) with a LD_{50} of 3,580 mg/kg; an acute dermal LD_{50} study (rabbits) (formulation) with a LD_{50} greater than 5,000 mg/kg; an eye irritation study (rabbits) (formulation) showing corneal opacity, iritis, and conjunctivitis in washed and unwashed eyes at day 7; an acute inhalation LC_{50} study (rats) (formulation) with a LC_{50} greater than 217.1 mg/l; an acute oral LD_{50} study (rats) (formulation) with a LD_{50} of 5,585 mg/kg; an oncogenicity study (mice) (1–NAA) which was negative at 215 mg/kg; a 90-day feeding (rats) (technical NAA) with a NOEL of 150 mg/kg/day; and a 6-month dog feeding study (NAA technical) which did not show a NOEL.

Data desirable but lacking are a repeat of the 6-month dog study and a teratology study on a second species. These studies are not necessary for this action because the current tolerance is being amended by the inclusion of an additional formulation, the ethyl ester, of 1-naphthaleneacetic acid in the tolerance regulation and new tolerances are not being proposed. The 6-month dog study will be necessary for any new or additional tolerances.

Tolerances have previously been established for 1-naphthaleneacetic acid on apples, pears, and quinces at 1.0 ppm and olives at 0.1 ppm. A tolerance of 0.05 has been established on pineapples resulting from the application of the sodium salt. This regulation permits use of the ethyl ester of 1-naphthaleneacetic acid on apples, pears, and olives. The published tolerances utilize 14.18 percent of the maximum permissible daily intake (MPI). Because no new tolerances are being added, the (MPI) does not change with this action. The allowable daily intake (ADI) of 0.005 mg/kg/day is based on the 90-day feeding study with a 2,000-fold safety factor.

There are no regulatory actions pending against the continued registration of this chemical, and the nature of the residue is adequately understood. An adequate analytical method (liquid chromatography and ultraviolet absorption) is available for enforcement. Since no residues are expected in feed items, it is concluded that no residues are likely to occur in eggs, milk, and meat of livestock. It is concluded that the tolerances will protect the public health. Therefore, 40 CFR Part 180 is amended as set forth below.

Any person adversely affected by this regulation may, on or before December 26, 1980, file written objections with the Hearing Clerk, EPA, Rm. M–3708 (A–110), 401 M St. SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. If a hearing is granted, the objections must be legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: November 26, 1980.

(Sec. 408(e) 68 Stat. 514, (21 U.S.C. 346a(e)))

Dated: November 19, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by revising the introductory text under § 180.155 to read as follows:

§ 180.155 1-Naphthaleneacetic acid; tolerances for residues.

Tolerances are established for residues of the plant growth regulator 1-naphthaleneacetic acid in or on the raw agricultural commodities applies and pears at 1.0 ppm and olives at 0.1 ppm resulting from the application of 1-naphthaleneacetic acid or the ethyl ester of 1-naphthaleneacetic acid.

* * * * *

[FR Doc. 80-36881 Filed 11-25-80; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PP OF2305/R266; PH–FRL 1683–2]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Nuclear-Polyhedrosis Virus of Heliothis Zea

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of the microbial insecticide *Nuclear Polyhedrosis Virus* of *Heliothis zea* in or on all growing crops attacked by larvae of *Heliothis zea* or *Heliothis virescens*, including: beans, corn, lettuce, okra, pepper, sorghum, soybeans, tobacco, and tomatoes. The regulation was requested by Sandoz, Inc. This regulation eliminates the need to establish a maximum permissible level for residues of *Nuclear Polyhedrosis Virus* of *Heliothis zea* of *Heliothis virescens*.

EFFECTIVE DATE: Effective on November 26, 1980.

ADDRESSES: Written objections may be filed with the: Hearing Clerk, Environmental Protection Agency, Rm. M–3708 (A–110), 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–341, 401 M St., SW., Washington, D.C. 20460, (202–755–1150).

SUPPLEMENTARY INFORMATION: EPA issued a notice that was published in the **Federal Register** of August 5, 1980 (45 FR 51854) that Sandoz, Inc., 480 Camino Del Rio South, San Diego, CA 92108, had filed a pesticide petition (PP OF2305) with EPA. This petition proposed an extension of an exemption from the requirement of tolerance for residues of the *Nuclear Polythedrosis Virus* of *Heliothis zea* or *Heliothis virescens* for use in or on all growing crops including: beans, corn, lettuce, okra, pepper, sorghum, soybeans, tobacco, and tomatoes. No comments or request for referral to an advisory committee were received in response to this notice of proposed rulemaking.

The data submitted or referenced in this petition, as well as related petitions (3F1304, 8F0697, and 8G0697) and other relevant material have been evaluated. The toxicological data considered in support of the proposed exemption from requirement of a tolerance included:

(a) Oral, Subcutaneous and Respiratory Exposure of Rhesus Monkeys to *Heliothis Nuclear Polyhedrosis Virus* (H/NPV) (26 weeks). No adverse effects.

(b) Two-year Mouse Chronic Feeding Study. No carcinogenic potential.

(c) Health monitoring of personnel associated with virus production. No health hazards found; negative clinical and serological data, lack of hypersensitivity, or x-ray examination.

(d) Teratology study in rats. No teratogenesis observed.

(e) Ninety-day studies in rats and dogs exposed to H/NPV by the oral and inhalation routes, and by subcutaneous injection. No adverse effects.

(f) Tissue culture studies. Primary African green monkey kidney cells, human embryo kidney cells, Hela-cells, and WI–38 cells were exposed to H/NPV. No cytopathic effects noted.

(g) Human feeding studies. No adverse effects following feeding H/NPV for a 5-day period.

(h) Toxicity-pathogenicity to mice and guinea pigs exposed to H/NPV by feeding. Free virions were also administered to guinea pigs by the Interperitional route and to mice intravenously and intracerebrally (60–90-day studies). No adverse effects.

(i) Acute rat feeding studies with H/NPV. Feces, urine, blood and stomach content were examined frequently following exposure. No adverse effects.

The *Heliothis* NPV only infects caterpillars of the genus *Heliothis*. Six species of *Heliothis* are known to be susceptible to the H/NPV: *H. Virescens, H. armingera, H. Phoxiphaga, H. punctigera*, and *H. Obtectus*, and *H. zea*.

The NPV of *Heliothis* sp. is the first NPV insecticide to be granted an exemption from the requirement of a tolerance, and consequently was subjected to safety testing to determine the human risk potential in accordance with the testing guidelines for conventional pesticides. The agency will shortly issue proposed guidelines for registering "biorational" pesticides in the United States. These new guidelines will, in most cases, reduce the testing requirements for biorational pesticides in accordance with a tier system of testing. A biorational pesticide which yields a negative toxicity potential and a negative infectivity potential in the first tier of testing, which includes acute oral infectivity, acute dermal infectivity, acute inhalation infectivity, acute intravenous infectivity, primary dermal irritation, hypersensitivity, and cellular immune response studies and tissue culture tests, will be eligible for registration without further testing.

No effect could be detected as a result of administration of NPV except a greater frequency of hyperplasia of lymph nodes in the treated animals (2/6 controls and 13/15 treated animals). Hyperplasia of the spleen was also observed somewhat more frequently in treated animals (2/4 control; 10/13 treated). Lymphoid tissue was analyzed in a bioassay (neonatal larva test) for the presence of NPV but isolation of infectious inclusion bodies did not occur.

No new toxicity data were submitted with the present application. Sandoz, Inc. states that toxicity data presented in 3F1304, 8F0697, and 8G0697 which resulted in the granting of a permanent exemption from tolerance for the NPV of *Heliothis zea* for bollworm and budworm on cotton would be adequate to allow expansion of the tolerance exemption to include all growing crops attacked by larvae of *Heliothis zea* or

Heliothis virescens. Crops included in agricultural commodities including: corn,

SUPPLEMENTARY INFORMATION: The

FEDERAL COMMUNICATIONS

March 12, 1980, comprising

the 12.7–13.20 GHz band, and,

Heliothis virescens. Crops included in the proposed expanded tolerance exemption were: beans, corn, lettuce, okra, peppers, sorghum, soybeans, tobacco, and tomatoes.

The toxicity studies previously submitted with 3F1304, 8F0697, and 8G0897, demonstrate the lack of human hazard associated with expansion of the exemption from the requirement of a tolerance for *Heliothis zea* NPV to all growing crops attacked by larvae of *Heliothis zea* of *Heliothis virescens*, including beans, corn, lettuce, okra, pepper, sorghum, soybeans, tobacco, and tomatoes.

Any person adversely affected by this regulation may, on or before December 26, 1980, file written objections with the Hearing Clerk, EPA, 401 M St. SW., Rm. 3708 (A–110), Washington, D.C. 20460. Such objections should be permitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issue for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: November 26, 1980.

(Sec. 408(e), 68 Stat. 514, (21 U.S.C. 346a(e)))

Dated: November 19, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart D of 40 CFR Part 180 is amended by revising paragraph (c) under § 180.1027 to read as follows:

§ 180.1027 Nuclear polyhedrosis virus of Heliothis zea; exemption from the requirement of a tolerance.

* * * * *

(c) Exemptions from the requirement of a tolerance are established for the residues of the microbial insecticide *nuclear polyhedrosis virus* of *Heliothis zea*, as specified in paragraphs (a) and (b) of this section, in or on all raw agricultural commodities including: corn, cottonseed, beans, lettuce, okra, peppers, sorghum, soybeans, tobacco, and tomatoes.

[FR Doc. 80-36880 Filed 11-25-80; 8:45 am]

BILLING CODE 6560-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5777

[I-3823]

Idaho; Withdrawal of Snake River Birds of Prey Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws approximately 64,865 acres from operation of the mining laws, but not the mineral leasing laws, and approximately 417,775 acres from operation of the agricultural land laws and State selection statutes, to protect the Snake River Birds of Prey Area in Ada, Canyon, Elmore and Owyhee Counties, Idaho.

EFFECTIVE DATE: November 26, 1980.

FOR FURTHER INFORMATION CONTACT:

Dave Almand, Division of Wildlife and Endangered Species, Bureau of Land Management, U.S. Department of the Interior, Washington, D.C. 20240, (202) 343–6792; or

Guy Baier, Chief, Division of Resources, Idaho State Office, Bureau of Land Management, Room 398, Federal Bldg., 550 West Fort Street, Box 042, Boise, Idaho 83724, (208) 384–1484.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is hereby ordered as follows:

1. Subject to valid existing rights, the essential nesting habitat of the Snake River Birds of Prey Area, as depicted on a map entitled "Snake River Birds of Prey National Conservation Area" dated March 12, 1980, comprising approximately 64,865 acres in Ada, Canyon, Elmore, and Owyhee Counties, Idaho, is withdrawn from location or entry under the Mining Law of 1872, as amended and supplemented (30 U.S.C. 22 et seq.).

2. Subject to valid existing rights, the remaining portions of the Snake River Birds of Prey Area, as depicted on a map entitled "Snake River Birds of Prey National Conservation Area" dated March 12, 1980, comprising approximately 417,775 acres in Ada, Canyon, Elmore, and Owyhee Counties, Idaho, are withdrawn from entry, application, or selection under the Desert Land Act (43 U.S.C. 351 et seq.), the Carey Act (43 U.S.C. 641), the State of Idaho Admissions Act (26 Stat. 215), Revised Statute section 2775, as amended (43 U.S.C. 851), and Revised Statute section 2776 (43 U.S.C. 852).

3. The map referred to in the preceding paragraphs is on file with the aforementioned Bureau of Land Management, Division of Wildlife and Endangered Species, Washington, D.C. 20240; the Bureau of Land Management Idaho State Office, Division of Resources, Boise, Idaho 83724; and with the Bureau of Land Management, Boise District Office, 230 Collins Road, Boise, Idaho 83702.

4. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Cecil D. Andrus,

Secretary of the Interior.

November 21, 1980.

[FR Doc. 80-36880 Filed 11-25-80; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL MARITIME COMMISSION

46 CFR Part 500

Statements of Employment and Financial Interest; Supplementary Statements

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is amending its regulations to change the filing date for supplementary statements of employment and financial interest from December 31 of each year to May 15 of the year following the reporting period. Experience has shown that the present deadline of December 31 of each year does not allow enough time for those affected employees to compile last minute data, thus causing delays in the filings. This new date will allow the employees more time to put together this last minute data and thus should obviate the necessity of filing additional statements.

EFFECTIVE DATE: November 26, 1980.

FOR FURTHER INFORMATION CONTACT:

Thomas Panebianco, Ethics Counselor, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523–5740.

SUPPLEMENTARY INFORMATION: The Commission's regulations prescribing procedures for statements of employment and financial interests establish at 46 CFR 500.735–33 that annual supplementary statements shall be filed as of December 31 of each year. It has been the experience of the Commission that this filing deadline, which falls on the last day of the reporting period (*i.e.*, the calendar year), has caused a hardship on some employees resulting in inevitable delays in filing the supplementary statements. Some employees require additional time following the reporting period to accumulate the necessary data reflecting their financial holdings as of the final day of the reporting period. Also, employees who file their statements a few weeks prior to December 31, occasionally have to file additional statements for the same period to reflect employment or financial interest changes in the last days of the calendar year. Thus, it is apparent that a filing date some time after the end of the reporting period would be sensible.

The May 15 date has been chosen to coincide with the filing date of Standard Form 278, which is required of certain agency employees under the Ethics in Government Act of 1978 (5 U.S.C. 201). It is the Commission's opinion that identical filing dates will be more convenient for those Commission employees who must file both statements every year.

Therefore, it is ordered that 46 CFR 500.735–33 is amended as follows:

§ 500.735–33 Supplementary Statements.

Changes in, or additions to, employment and financial interests shall be reported in a Supplementary Statement to be filed no later than May 15 of each year, the reporting period being the previous calendar year, except that Special Government Employees shall submit such Supplementary Statements no later than 15 calendar days following any change in, or addition to, their employment and financial interests. If no changes or additions occur, a negative report must nevertheless be filed as of May 15 of each year.

By the Commission November 12, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-36825 Filed 11-25-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 74 and 78

[Docket No. 21505; RM–2536; FCC 80–604]

Cable Television Relay Service and Television Auxiliary Broadcast Service; Type Acceptance of Broadcasting Equipment

AGENCY: Federal Communications Commission.

ACTION: Final rule (Second Report and Order).

SUMMARY: The FCC has adopted certain rules requiring transmitting equipment used in TV auxiliary broadcast stations be "type accepted" for the first time. (Type acceptance is an equipment authorization issued by the Commission for equipment to be used pursuant to a station authorization.) Equipment is type accepted to certain standards to ensure the efficient use of the radio spectrum. Because the standards adopted are generally a reflection of equipment now being marketed, it is not evisioned that this requirement will be burdensome to any party. Type acceptance for newly manufactured equipment will become effective October 1, 1981.

Also, similar technical standards for transmitting equipment used in the band allocated to TV auxiliary broadcast and Cable Television Relay stations were adopted to minimize the potential to cause harmful interference. In addition, standards were adopted to control the directivity of radiation from transmitting antennas operating in that band.

DATES: Effective Date: December 12, 1980, except for §§ 74.655(e) and 78.107(b)(1) which are effective October 1, 1981; and, § 74.655(f) which is effective October 1, 1985.

FOR FURTHER INFORMATION CONTACT:

Melvin Murray, Spectrum Utilization Branch, Office of Science and Technology, Federal Communications Commission, Washington, D.C. 20554, (202) 653–8168.

In the matter of amendment of Parts 2 and 78 of the Commission's rules and regulations to expand the frequencies available for use by Cable Television Relay Service Stations and, amendment of Parts 74 and 78 of the Commission's rules and regulations to set aside 13.15–13.20 GHz for usage by Television and Cable Television Relay Service Pickup Stations on a co-equal basis, Docket No. 21505, RM–2208; and an inquiry to determine public interest and need to establish similar technical standards for both the Cable Television Relay Service and the Broadcast Auxiliary Service in the 12.7–13.20 GHz band, and, amendment of Subpart F of Part 74 to require type acceptance of equipment used in television auxiliary broadcast stations, RM–2536.

Second Report and Order

Adopted: October 21, 1980.

Released: November 14, 1980.

1. A Notice of Proposed Rule Making and Notice of Inquiry in Docket No. 21505 was adopted by the Commission on December 21, 1977.[1] In that Notice, the Commission proposed expanding the Cable Television Relay Service (CARS) from 12.7–12.95 GHz to 12.7–13.20 GHz with co-equal sharing of the entire band with TV Auxiliary Broadcast Stations (Subpart F of Part 74). This allocation (12.7–13.20 GHz) was adopted May 17, 1979, by the Commission in the First Report and Order in Docket 21505.[2] The Inquiry section of the Notice of Proposed Rule Making and Notice of Inquiry in Docket 21505 requested that the public submit information relative to the merits of establishing like technical standards for both the Cable Television Relay and TV auxiliary Broadcast services. A *Further Notice of Proposed Rule Making*,[3] adopted May 17, 1979, considered comments submitted relative to the *Inquiry* section and proposed type acceptance for transmitters used in Television Auxiliary Broadcast stations operating in bands A, B, and D, pursuant to Section 74.602, and certain technical standards for both Cable Television Relay and Television Auxiliary Broadcast Services. This Second Report and Order accordingly adopts rules which establish similar technical standards for both the Cable Television Relay and TV Auxiliary Broadcast services as well as requires equipment used in Television Auxiliary Broadcast stations (Subpart F of Part 74) to be type accepted.

Frequency Coordination

2. In the *Further Notice* we proposed that all applicants for Cable Television relay and TV auxiliary Broadcast stations undertake frequency coordination by submitting a statement indicating all entities with which the technical proposal was coordinated. The intent of such a proposed rule was to reduce, as much as possible, the likelihood of harmful interference to existing, or proposed facilities.

3. Comments received in response to the *Further Notice* indicate difficulties in coordinating stations in congested areas. In contrast, a group of 24 cable

[1] 43 FR 9500, March 8, 1978.

[2] 44 FR 32377, June 6, 1979.

[3] 44 FR 32420, June 6, 1979.

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system operators (hereinafter "Respondents") suggest that frequency coordination procedures as proposed are unnecessary in uncongested, rural areas and would prove burdensome to cable operators. Telepromper (TPT) recommended that an applicant be required only to submit a statement certifying that there would be no harmful interference with other systems and to set forth the basis for such a determination.

4. In the *Memorandum, Opinion and Order* in this proceeding we indicated that our present rules state that each grant of authorization to operate either a CARS or TV Auxiliary station is subject to the condition that no harmful interference is caused to other CARS or TV Auxiliary stations authorized at the time of such grants. Accordingly, applicants are to cooperate with existing licensees and/or other applicants to coordinate their facilities so that the level of any interference will not be harmful to others. We believe this procedure to be practical. It will ease the burden on both the Commission and the applicants. Consequently, we are not adopting any additional frequency coordination procedure; and we are modifying §§ 74.604 and 78.19 accordingly.

Power Limitations

5. *Fixed stations.* For TV Auxiliary bands A (1990–2500 MHz) and B (6875–7125 MHz), we proposed in this proceeding a limit of 20 watts; for the shared band: TV Auxiliary and CARS (12.7–13.20 GHz) a 5 watt limit was proposed. In an associated paragraph of that proposed rule we indicated that a higher output power, up to fifty (50) watts, would be authorized provided sufficient justification for it was supplied. Several parties submitting comments interpreted this proposal to mean that our intent was to set the limits at 50 watts. However, our intent is that applicants use the least amount of power for reliable communications so as to minimize interference to others; therefore, to discourage the use of higher transmitter output powers, we are deleting this proposal. In cases where permission is sought to operate with a power higher than the limit set out in the Rules, a request for waiver will be entertained.[4] Accordingly, the power limits as proposed for fixed stations are herein adopted. (See §§ 74.636 and 78.101.)

6. *Mobile stations.* For TV Auxiliary bands A and B a 20 watt limit was proposed. A 250 milliwatt limit was proposed for the shared 12.7–13.20 GHz band. In reviewing the licenses of TV Auxiliary Mobile stations now operating in bands A and B, we find that most are operating at levels of 12 watts or less. Since we see no need to raise this level to that proposed, we are accordingly setting the power limit for mobile stations which operate in bands A and B at 12 watts. We received numerous comments on the power limit of 250 milliwatts for the shared 12.7–13.20 GHz band. Only NCTA agreed that the proposed limit is sufficient. All others suggested that the limit be raised. They contend that higher power is necessary to overcome attenuation from operating over long path lengths and frequently from buildings which are used to reflect the signal. Several parties indicated that multi-band operation in already congested bands A and B would be necessary if a higher power limit were not allowed for band D. CBS recommended a power limit of one watt for pickup stations.

7. We concur with the submitted comments and believe that the power limit would be raised from the proposed 250 milliwatt level. We are adopting 1.5 watts (transmitter output power) as the limit for mobile (i.e., pickups) TV auxiliary and CARS transmitters; this limit, we feel, should be sufficient to permit the transmission of signals over path lengths appropriate for mobile operations.

8. For purposes of conforming the technical standards of Part 74 with those of Part 78, several changes were proposed. In § 74.637, entitled *Emission and Bandwidth* the reference level for measuring the attenuation of emissions was proposed to be changed from "decibels below the unmodulated carrier" to "decibels below the mean power of emission." NBC filed the only comment opposing the proposed rule change claiming the existing rules provide a very simple means of measuring the performance of the transmission system on an absolute basis. It contends the alternative proposed by the Commission is dependent upon the type of emission employed and would be quite difficult to apply in practice. NBC states "the existing method works well and there is no valid reason to tamper with it."

9. The method of measurement, as proposed, is not difficult to apply in practice. It is used in measurements of equipment requiring type acceptance under other radio services including CARS. Accordingly, we are changing the reference level to read "the mean power of the emissions" for purpose of conformance.

Frequency Stability

10. It was proposed to upgrade the stability from 0.02% to 0.005% for FM equipment used in CARS. No objections were received; it is accordingly adopted. With respect to Section 74.661(a) which proposed that the licensee maintain the operating frequency of its TV auxiliary broadcast station so that 99 percent of the sideband energy falls within the assigned channel. CBS filed comment contending this measurement may prove impractical. CBS feels that a "more meaningful method would be require all emissions outside of the allocated channel to be consistent with the proposed requirements of § 74.637."

11. Section 74.661(a) requires a measurement to show that the transmitter's occupied bandwidth meets or exceeds the definition set out in § 2.202(a). In contrast, § 74.637 requires a measurement to determine that the transmitter's spectral output is attenuated sufficiently outside the assigned channel. Each measurement is required to accomplish a different objective. The former measurement is to assure that the transmitter's output energy is conformed to a given standard; while the latter is to assure that generated spurious emissions are attenuated to another given standard. These proposed rules are accordingly adopted.

Modulation Limits

12. In § 74.663(a) we proposed to limit negative modulation peaks to 100% for equipment using amplitude modulation. In its comments, NAB pointed out that it is impossible to achieve anything greater than 100 percent negative modulation. We agree that negative modulation cannot exceed 100 percent, which would be zero carrier, or carrier cut off. The proposed rule, however, applies to *peaks* of the modulating signal producing negative modulation. If the modulating signal drives the RF (radio frequency) signal into carrier cutoff, then harmonics are generated which would cause interference to adjacent channels. Since this is an undesirable condition, § 74.663(a) is being adopted as proposed.

13. Regarding proposed § 74.663(b), NAB stated it appeared that this rule was redundant with proposed § 74.637. The former proposed rule required stations using FM transmission to maintain the total excursion of the RF carrier under modulation and the maximum modulation frequency such that the authorized bandwidth is not exceeded in operation. Proposed § 74.637, entitled "Emissions and Emission Limitations", set certain levels

[4] See § 1.3 of the Commission's rules.

for suppression of spurious emissions. We concur that if a transmitter meets or exceeds the standards required by § 74.637, then the requirements proposed in § 74.663(b) are redundant. As suggested then, we have deleted § 74.663(b); similarly, § 78.115(b) also has been deleted.

Antenna Requirements

14. For TV auxiliary broadcast and CARS stations we proposed that the radiation pattern of the corresponding antenna system conform to certain specified limits. In areas of congestion, use of a more directive category "A" antenna would be employed; whereas in other less congested areas, a less directive category "B" antenna would be allowed. No performance standards were proposed for pickup stations except that they employ directional antennas. Also addressed was the matter of periscope antenna systems. We proposed that their radiation characteristic in a horizontal plane meet or exceed standards proposed for conventional antennas. A time period of ten years was proposed after which all such stations would be required to be in compliance.

15. Comment regarding the proposed antenna requirements was received from various broadcast and cable interests. NAB felt that more definite guidelines were needed for applicants to determine whether a particular area is frequency congested or not. We have attempted to resolve this matter by qualifying the proposed rule. A licensed station will be permitted continued usage of a category "B" antenna in any area until an applicant for a new TV auxiliary broadcast or CARS station or another licensee makes a showing indicating that the use of the existing category "B" antenna limits a proposed project because of interference and that the use of a category "A" antenna would remedy the interference thus allowing the project to be realized.

16. CBS and NBC felt that non-standard antennas should be allowed in exceptional cases based on a well-documented showing of need. Both cite as an example the World Trade Center in New York City where separation between the main columns of the buildings' outer walls is 28 inches. This physical restraint accordingly prohibits the use of a category "A" antenna. We agree that in certain circumstances it may not be possible to install the required category antenna. As an exception then to using antenna systems that do not comply with the standards we are adopting herein, we will individually entertain requests for exceptions where the applicant has clearly indicated in detail why an antenna system complying with the required standards cannot be installed and demonstrating that frequency coordination, pursuant to § 74.604 or § 78.19, as appropriate, has been carried out.

17. Regarding pickup stations, the majority of comments requested that non-directional antennas be allowed. It was contended that flexibility to meet the varying exigencies of ENG operations would be impaired if the proposed rule requiring directional antennas were adopted. As examples, the employment of helicopters, blimps and back pack cameras often necessitate the use of omnidirectional antennas. We agree with the comments and are adopting a rule exempting pickup stations from using directional antennas. However, we caution licensees that pickup stations generally operate on a secondary basis; accordingly, they should take measures to protect primary stations from receiving any harmful interference due to their operations.

18. The issue concerning periscope antenna drew much comment. Opposition to the rule proposing that such antennas systems meet or exceed the standards proposed for conventional antennas came primarily from cable television operators. They indicated that rural areas will never have the degree of frequency usage that would require use of a category "A" or "B" antenna. A group of cable operators, hereafter called "Respondents", claim that associated interference problems resulting from a lack of antenna standards could be worked out during the coordination period. Gabriel Electronics, a manufacturer of antennas used in TV auxiliary and CARS supports *in toto* the proposed technical standards. A manufacturer of periscope antenna systems, Microflect, claims its products comply with the proposed technical standards for category "A" antennas. As a compromise, Teleprompter and Viacom have suggested that licensing of new periscope antenna systems be prohibited except upon submission of a specific showing that no frequency congestion exists in the area of proposed use. To protect against future congestion and interference, each authorization permitting use of a periscope antenna could be expressly conditioned to require conversion to a conventional antenna if and when congestion occurs.

19. It is our intention *not* to impose economic burdens upon licensees by adopting standards that require antenna systems that are costly. Our desire is to provide standards now to avert future difficulties resulting from a greater number of licensees operating within the same spectrum space. Accordingly, we are adopting the standards as proposed; but, we are also providing exceptions as suggested in the comments. In particular, under § 74.641(b) and § 78.105(b), requests for use of periscope antenna systems may be approved where a persuasive showing is made that no frequency congestion exists in the area of proposed use. Approvals will be conditioned so as to require use of a standard antenna when an applicant of a new TV auxiliary broadcast or Cable Television Relay station indicates that the use of the existing antenna system will cause interference and the use of a category "A" or "B" antenna will remedy the interference.

Type Acceptance

20. In the Further Notice of Proposed Rule Making we proposed implementation of type acceptance for equipment used in TV auxiliary stations to assure certain technical standards are met. As we pointed out, adherence to the proposed standards would minimize interference to other users and maximize the use of the radio frequency spectrum. In its comments ABC contends that deregulatory licensing policies should be adopted. It explains that ENG operations should be licensed as an overall system rather than on a unit by unit basis. It continues, "For example, an applicant could ask for an authorization permitting five to ten TV pickup units to be activated as circumstances require so long as all equipment has been type accepted. This sensible deregulatory action would help alleviate current backlog problems being experienced in this service and eliminate the unnecessary paper work for licensees". Secondly, it suggests that the Commission allocate sufficient staff resources to handle any increased workload. It states, "Such measures would help assure that new regulations are not accompanied by increased regulatory delays".

21. We are not considering these comments at this time as they do not appear pertinent to the proposal.

22. In its comments, CBS Inc, requested the Commission to grandfather all equipment that would be operational prior to the date on which type acceptance would be required. It also recommended that an elapse of one year be allowed before the requirement for type acceptance becomes effective. "This would allow manufacturers sufficient time in which to file for and receive type acceptance". In the

proposed rules provision was made for the use of non-type accepted equipment by the licensee or its successors or assignees; however, no provision was made for the marketing of such equipment after the rules were to become effective.

23. In reviewing this matter we are choosing not to burden ourselves with the establishment of a grandfather list, as was suggested, but are adopting a procedure that is equitable and should be acceptable to all. Accordingly, to allow manufacturers sufficient time to comply with the new standards herein being adopted, type acceptance requirements will not become effective until October 1, 1981. Non-type accepted equipment which was manufactured and/or marketed before October 1, 1981, may be marketed until October 1, 1985, to permit the depletion of existing inventories. After that date, it may not be further marketed; however, the licensee may continue to use the equipment, as long as it does not cause interference. We feel this change will permit manufacturers sufficient time to deplete existing stock and then to design equipment to comply with the standards being adopted herein. Users are accordingly being allowed about five years to either sell and replace existing equipment with equipment that will be type accepted to the standards herein adopted or continue to use existing equipment subject to the provisions that it does not cause harmful interference due to its failure to comply with the technical standards and that it may not be marketed for reuse under Parts 74 or 78.

24. Also proposed was a rule that would have permitted the immediate use of equipment under Part 74 provided the equipment had been previously type accepted under other part(s) of the Rules. In reviewing this proposal, we envision the possibility that changes in the standards for TV broadcast auxiliary equipment (i.e., Part 74) may be different in the future from those required for equipment used in other services. Accordingly, we have not adopted this rule.

25. However, a manufacturer desiring to acquire type acceptance under Part 74 for equipment previously type accepted under other parts of the Rules need not file a new type acceptance application for inclusion under Subpart F of Part 74 if the equipment meets or exceeds all the technical standards adopted herein and other requirements as appropriate. Instead, FCC Form 731 requesting the addition of Subpart F of Part 74 to their existing grant of type acceptance should be sent to the FCC, Office of Science and Technology, P.O. Box 429, Columbia, Maryland 21045. If upon examination the equipment is found to be in compliance, a new grant of type acceptance which includes Subpart F of Part 74 will be issued.

26. As an exemption to the requirement for type acceptance, pickup stations operating in excess of 250 mW licensed pursuant to applications accepted for filing prior to October 1, 1980, may continue operation subject to periodic renewal. NAB suggested that this "grandfather" provision should also appear under the rule sections entitled "Power limitations". We do not believe that such redundancy is necessary. This provision accordingly appears only under the rule sections entitled "Type acceptance".

27. In its comments NBC recommended that low-powered equipment (i.e., 250 mW or less output power) be exempted from type acceptance requirements for TV auxiliary broadcast bands "A" and "B" just as we proposed a similar exemption for Band "D". We feel this is a reasonable request as we don't expect these lower-power equipments to significantly cause harmful interference; accordingly we have adopted that recommendation herein.

28. In a separate petition for rule making (RM–2536), Fletcher, Heald, Rowell, Kenehan and Hildreth, a communications law firm, requested that equipment used under Subpart F of Part 74 be subject to type acceptance requirements. It contended that administrative requirements would be simplified. Since this proceeding provides for this request, the Petition as filed is herein being granted.

29. Accordingly, pursuant to authority contained in Section 4(i) and 303 of the Communications Act of 1934, as amended, it is ordered that Parts 74 and 78 are amended as shown in Appendix B. It is further ordered that proceedings in Docket 21505 are terminated.

30. For additional information contact: Mel Murray, Federal Communications Commission, Office of Science and Technology, 2025 "M" Street, NW., Washington, D.C. 20554. Telephone (202) 653–8168.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

I. The following parties, arranged into three groups for convenience, filed comments in response to the Further Notice of Proposed Rule Making in Docket No. 21505:

A. *Broadcast Interests*

American Broadcasting Companies, Inc. (ABC)
CBS Inc. (CBS)
National Association of Broadcasters (NAB)
National Broadcasting Company, Inc. (NBC)

B. *Cable Interests*

Gabriel Electronics Incorporated
Joint comments—24 parties—(Respondents)
Microflect
National Cable Television Association (NCTA)
Teleprompter Corporation (TPT)
Viacom International Inc.

II. Reply comments in the proceeding were filed by: American Broadcasting Companies, Inc.

Appendix B

Parts 74 and 78 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

1. Section 74.604 (a) is revised as follows:

§ 74.604 Frequency selection to avoid interference.

(a) Applicants for new television pickup, television STL, television intercity relay and television translator relay stations shall endeavor to select frequency assignments which will be least likely to result in mutual interference with other licensees in the same area since the FCC itself does not undertake frequency coordination. Consideration should be given to the relative locations of receiving points, normal transmission paths, and the nature of the contemplated operation.

* * * * *

2. Section 74.636 is revised to read as follows:

§ 74.636 Power limitations.

Transmitter peak output power shall not be greater than necessary, and in any event, shall not exceed the power listed in the table below:

Band	Power limit	Class of station
A	30 Watts	Fixed.
	12 Watts	Mobile.
B	20 Watts	Fixed.
	12 Watts	Mobile.
D	15 Watts	Fixed.
	3.5 Watts	Mobile.

3. Section 74.637 headnote and text are revised to read as follows:

§ 74.637 Emissions and emission limitations

(a) TV auxiliary broadcast stations operating on frequencies above 1,000 MHz may be authorized to employ any type of emission suitable for the transmission of the visual and aural and operational signals as may be permitted under the rules of this subpart. Continuous radiation of the carrier without modulation is permitted provided harmful interference is not caused to other authorized stations.

(b) The channels assigned to TV auxiliary broadcast stations are designated by upper and lower frequency limits. Emissions outside of these frequency limits shall be attenuated as follows:

(1) Any emission appearing on a frequency above the upper channel limit or below the channel limit by between zero and 50% of the assigned channel width shall be attenuated at least 25 dB below the mean power of the emission.

(2) Any emission appearing on a frequency above the upper channel limit or below the channel limit by between 50% and 150% of the assigned channel width shall be attenuated at least 35 dB below the mean power of the emission.

(3) Any emission appearing on a frequency above the upper channel limit or below the lower channel limit by more than 150% of the assigned channel width shall be attenuated at least 43 + 10 $\log_{10}$ (power in watts) dB below the mean power of the emission.

(c) In the event that interference to other stations is caused by emissions outside the authorized channel, the FCC may require greater attenuation than that specified in paragraph (b) of this section.

4. A new § 74.641 is added to read as follows:

§ 74.641 Antenna Systems

(a) For fixed stations operating in Band D the following rules apply:

(1) Fixed TV auxiliary broadcast stations shall use directional antennas that meet the performance standards indicated in the following table. Upon adequate showing of need to serve a larger sector, or more than a single sector, greater beamwidth or multiple antennas may be authorized. Applicants shall request, and authorization for stations in this service will specify the polarization of each transmitted signal.

Antenna Standards

Frequency (in megahertz)	Category	Maximum beam-width to 3 dB (included angle in degrees)	Minimum radiation suppression at angle in degrees from centerline of main beam in decibels— 5° to 10°	10° to 15°	15° to 20°	20° to 30°	30° to 100°	100° to 140°	140° to 180°
12,700 to 13,200	A	1.0	23	28	35	39	41	42	50
	B	2.0	20	25	28	30	32	37	47

NOTE.—Stations in this service must employ an antenna that meets the performance standards for cagetory A, except that, in areas not subject to frequency congestion antennas meeting standards for category B may be employed. Note, however, that the Commission may require the use of a high performance antenna where interference problems can be resolved by the use of such antennas.

(2) New periscope antenna systems will be authorized upon a certification that the radiation, in a horizontal plane, from an illuminating antenna and reflector combination meets or exceeds the antenna standards of this section. This provision similarly applies to passive repeaters employed to redirect or repeat the signal from a station's directional antenna system.

(3) The choice of receiving antennas is left to the discretion of the licensee. However, licensees will not be protected from interference which results from the use of antennas with poorer performance than identified in the table of this section.

(4) The transmitting antenna system of stations employing maximum equivalent isotropically radiated power exceeding +45 dBW in the frequency band between 12.70 and 12.75 GHz shall be orientated so that the direction of maximum radiation of any antenna shall be at least 1.5° away from the geostationary satellite orbit taking into account the effect of atmospheric refraction.[1]

(5) Pickup stations are not subject to the performance standards herein stated. The provisions of this paragraph are effective for all new applications accepted for filing after October 1, 1981.

(b) Any fixed station licensed pursuant to applications accepted for filing prior to October 1, 1981, may continue to use its existing antenna system, subject to periodic renewal until October 1, 1991. After October 1, 1991, all licensees are to use antenna systems in conformance to the standards of this section. TV auxiliary broadcast stations located in areas subject to frequency congestion are to employ a category A antenna when:

(1) a showing by an applicant of a new TV auxiliary broadcast station or Cable Television Relay Service (CARS) station, which shares the 12.7–13.20 GHz band with TV auxiliary broadcast, indicates that use of a category B antenna limits a proposed project because of interference, and

(2) that use of a category A antenna will remedy the interference thus allowing the project to be realized.

(c) As an exception to the provisions of this Section, the FCC may approve requests for use of periscope antenna systems where a persuasive showing is made that no frequency conflicts exist in the area of proposed use. Such approvals shall be conditioned to a standard antenna as required in paragraph (a) of this section when an applicant of a new TV auxiliary broadcast or Cable Television Relay station indicates that the use of the existing antenna system will cause interference and the use of a category A or B antenna will remedy the interference.

(d) As a further exception to the provision of paragraph (a) of this section, the Commission may approve antenna systems not conforming to the technical standards where a persuasive showing is made that:

(1) indicates in detail why an antenna system complying with the requirements of paragraph (a) of this section cannot be installed, and

(2) includes a statement indicating that frequency coordination as required in § 74.604 (a) was accomplished.

5. A new § 74.655 is added to read as follows:

§ 74.655 Type acceptance.

(a) Type acceptance is *not* required for transmitters used in conjuction with TV pickup stations operating with a peak output power not greater than 250 mW. Pickup stations operating in excess of 250 mW licensed pursuant to applications accepted for filing prior to October 1, 1980, may continue operation subject to periodic renewal. If operation of such equipment causes harmful interference the FCC may, at its

[1] See Chapter I, Article 1, Section III of the (International) Radio Regulations (Geneva, 1959), as amended, for Technical Characteristics Term and Definitions. Additional information and methods for calculating azimuths to be avoided may be found in the following: Report 393, International Radio Consultative Committee (C.C.I.R.); "Geostationary Orbit Avoidance Computer Program, "Report CC–7202, Federal Communications Commission, available from the National Technical Information Service, Springfield, VA 22151, in printed form (PB–211 500) or source card deck (PB–211 501).

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discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

(b) The licensee of a TV auxiliary station may replace transmitting equipment with type accepted equipment, without prior FCC approval, provided the proposed changes will not depart from any of the terms of the station or system authorization or the Commission's technical rules governing this service, and also provided that any changes made to type accepted transmitting equipment is in compliance with the provisions of Part 2 of the FCC rules concerning modification to type accepted equipment.

(c) Any manufacturer of a transmitter to be used in this service may apply for type acceptance following the procedure set forth in Part 2 of the FCC Rules.

(d) An applicant for a TV auxiliary broadcast station may also apply for type acceptance for an individual transmitter by following the type acceptance procedure set forth in Part 2 of the FCC Rules and Regulations. Individual transmitters which are type accepted will not normally be included in the FCC's Radio Equipment List.

(e) Type acceptance by the FCC is required for all transmitters first licensed, or marketed as specified in § 2.803 of the FCC Rules, except as provided for in paragraph (a) (Refer to subpart I of Part 2 of the Commission's Rules and Regulation). This paragraph is effective October 1, 1981.

(f) All transmitters marketed for use under this Subpart must be type accepted by the Federal Communications Commission. TV auxiliary broadcast station transmitting equipment authorized to be used pursuant to an application accepted for filing prior to October 1, 1985, may continue to be used by the licensee or its successors or assignees, provided, that if operation of such equipment causes harmful interference due to its failure to comply with the technical standards set forth in this subpart, the FCC may, at its discretion require the licensee to take such corrective action as is necessary to eliminate the interference. However, such equipment may *not* be further marketed for reuse under Parts 74 or 78. This paragraph is effective October 1, 1985.

(g) Each instrument of authority which permits operation of a TV auxiliary broadcast station or system using equipment which has not been type accepted will specify the particular transmitting equipment which the licensee is authorized to use.

6. Section 74.661, paragraph (a) is revised to read as follows:

§ 74.661 Frequency tolerance

(a) The licensee of a TV auxiliary broadcast station shall maintain the operating frequency of its station so that 99% of the sideband energy shall fall within the assigned channel.

* * * * *

7. Section 74.663, headnote and text are revised to read as follows:

§ 74.663 Modulation limits.

If amplitude modulation is employed, negative modulation peaks shall not exceed 100%.

8. In § 74.665 paragraphs (d)(1) and (d)(2) are revised to read as follows:

§ 74.665 Operator requirements.

* * * * *

(d) TV pickup stations may be operated in accordance with the following:

(1) Stations operating on frequencies in Bands A, B, or D with less than 250 mW, may be operated by any person whom the licensee shall designate. Pursuant to this provision, the designated person shall perform as the licensee's agent and proper operation of the station shall remain the licensee's responsibility.

(2) Television pickup stations operating in Band A, B, or D with nominal transmitter power in excess of 250 mW, may be operated by any person whom the licensee shall designate, provided a person holding a valid radio-telephone first-class or radiotelephone second-class license is on duty at the receiving end of the circuit to supervise operation and immediately institute measures sufficient to assure prompt correction of any condition of improper operation that is observed.

* * * * *

9. A new § 74.669 is added to read as follows:

§ 74.669 Station inspection.

The licensee of each TV auxiliary broadcast station shall make the station available for inspection by representatives of the Commission at any reasonable hour.

PART 78—CABLE TELEVISION RELAY SERVICE

1. Section 78.19(a) is revised to read as follows:

§ 78.19 Interference.

(a) Applications for CARS stations shall endeavor to select an assignable frequency or frequencies which will be least likely to result in interference to other licensees in the same area since the FCC itself does not undertake frequency coordination.

* * * * *

2. In § 78.101, paragraphs (a) and (b) are revised to read as follows and paragraph (c) is removed.

§ 78.101 Power limitations.

(a) With the exception of pickup stations, transmitter peak output power shall not be greater than necessary, and in no event, shall exceed 5 watts on any channel. For CARS pickup stations, the transmitter peak output power shall not exceed 1.5 watts.

(b) LDS stations shall use for the visual signal-vestigial sideband AM transmission. When vestigial sideband AM transmission is used the peak power of the visual signal on all channels shall be maintained within 2 dB of equality. The mean power of the aural signal on each channel shall not exceed a level of 7 dB below the peak power of the visual signal.

3. In § 78.104, paragraph (b)(1) is revised to read as follows and paragraph (b)(2) is removed and reserved.

§ 78.104 Authorized bandwidth and emission designator.

* * * * *

(b) * * *

(1) The frequency stability of the transmitting equipment to be used will permit compliance with § 78.103(b)(1) and, additionally, will permit 99 percent of the total radiated power to be kept within the frequency limits of the assigned channel.

(2) [Reserved.]

(c) * * *

4. Section 78.105, headnote and text are revised to read as follows:

§ 78.105 Antenna systems.

(a) For fixed stations the following rules apply:

(1) Fixed CARS stations shall use directional antennas that meet performance standards indicated in the following table. Upon adequate showing of need to serve a larger sector, or more than a single sector, greater beamwidth or multiple antennas may be authorized. Applicants shall request and authorization for the stations in this service will specify the polarization of each transmitted signal.

Antenna Standards

Frequency (in megahertz)	Category	Maximum beam-width to 3 dB (included angle in degrees)	Minimum radiation suppression to angle in degrees from centerline of main beam in decibels— 5° to 10°	10° to 15°	15° to 20°	20° to 30°	30° to 100°	100° to 140°	140° to 180°
12,700 to 13,200	A	1.0	23	26	35	39	41	42	50
	B	2.0	20	25	28	30	32	37	47

NOTE.—Stations in this service must employ an antenna that meets the performance standards for category A, except that, in areas not subject to frequency congestion antennas meeting standards for category B may be employed. Note, however, that the Commission may require the use of a high performance antenna where interference problems can be resolved by the use of such antennas.

(2) New periscope antenna systems will be authorized upon a certification that the radiation, in a horizontal plane, from an illuminating antenna and reflector combination meets or exceeds the antenna standards of this section. This provision similarly applies to passive repeaters employed to redirect or repeat the signal from a station's directional antenna system.

(3) The choice of receiving antennas is left to the discretion of the licensees. However, licensees will not be protected from interference which results from the use of antennas with poorer performance than defined in paragraph (a) of this section.

(4) The transmitting antenna system of stations employing maximum equivalent isotropically radiated power exceeding +45 dBW in the frequency band between 12.70 and 12.75 GHz shall be oriented so that the direction of maximum radiation of any antenna shall be at least 1.5° away from the geostationary satellite orbit, taking into account the effect of atmospheric refractions.[1]

(5) Pickup stations are not subject to the performance standards herein stated. The provisions of this paragraph are effective for all new applications accepted for filing after October 1, 1981.

(b) Any fixed station licensed pursuant to applications accepted for filing prior to October 1, 1981, may continue to use its existing antenna system, subject to periodic renewal until October 1, 1991. After October 1, 1991, all licensees are to use antenna systems in conformance to the standards of this Section. CARS stations located in areas subject to frequency congestion are to employ a category A antenna when:

(1) A showing by an applicant of a new CAR service or TV auxiliary broadcast, which shares the 12.7–13.20 GHz band with CARS, indicates that use of a category B antenna limits a proposed project because of interference, and

(2) That use of a category A antenna will remedy the interference thus allowing the project to be realized.

(c) As an exception to the provisins of this Section, the FCC may approve requests for use of periscope antenna systems where a persuasive showing is made that no frequency conflicts exist in the area of proposed use. Such approvals shall be conditioned to require conversion to a standard antenna as required in paragraph (a) of this section when an applicant of a new TV auxiliary broadcast or Cable Television Relay station indicates that the use of the existing antenna system will cause interference and the use of a category A or B antenna will remedy the interference.

(d) As a further exception to the provision of paragraph (a) of this section the Commission may approve antenna systems not conforming to the technical standards where a persuasive showing is made that:

(1) Indicates in detail why an antenna system complying with the requirements of paragraph (a) of this section cannot be installed, and

(2) Includes a statement indicating that frequency coordination as required in § 78.18a was accomplished.

5. In § 78.107, paragraphs (b), (c) and (d) are revised and a new paragraph (e) is added, to read as follows:

§ 78.107 Equipment and installation.

(a) * * *

(b) Applications for new cable television relay stations will not be accepted unless the equipment specified therein has been type accepted for use pursuant to the provisions of this subpart.

(1) All transmitters first licensed or marketed shall comply with technical standards of this subpart. This paragraph (b)(1) is effective October 1, 1981.

(2) Type acceptance is not required for transmitters which have a output power not greater than 250 mW used in a CARS pickup station operating in the 12.7–13.20 GHz band and for transmitters used under a developmental authorization.

(c) Cable television relay station transmitting equipment authorized to be used pursuant to an application accepted for filing prior to October 1, 1981, may continue to be used, provided, that if operation of such equipment causes harmful interference due to its failure to comply with the technical standards set forth in this subpart the Commission may, at its discretion, require the licensee to take such corrective action as is necessary to eliminate the interference.

(d) The installation of a CARS station shall be made by or under the immediate supervision of a qualified engineer. Any tests or adjustments requiring the radiation of signals and which could result in improper operation shall be conducted by or under the immediate supervision of an operator holding a valid first- or second-class radio-telephone operator license.

(e) Simple repairs such as the replacement of tubes, fuses, or other plug-in components which require no particular skill may be made by an unskilled person. Repairs requiring replacement of attached components or the adjustment of critical circuits or corroborative measurements shall be made only by a person with required knowledge and skill to perform such tasks.

6. In § 78.111 the table is removed and the text is revised to read as follows:

§ 78.111 Frequency tolerance.

(a) Cable television relay stations shall maintain the operating frequency so that 99% of the sideband energy shall fall within the assigned channels.

(b) Cable television relay stations shall maintain the carrier frequency of each authorized transmitter within 0.005% of the operating frequency.

(c) Cable television relay stations that employ vestigial sideband AM transmission shall maintain their operating frequency within 0.0005% of the visual carrier, and the aural carrier shall be 4.5 MHz±1 kHz above the visual carrier frequency.

[1] See Chapter I, Article 1, Section III of the (International) Radio Regulations (Geneva, 1959), as amended, for Technical Characteristics Terms and Definitions. Additional information and methods for calculating azimuths to be avoided may be found in the following: Report 393, International Radio Consultative Committee (C.C.I.R.); "Geostationary Orbit Avoidance Computer Program," Recrt CC-7220, Federal Communications Commission, available from the National Technical Information Service, Springfield, VA 22151, in printed form (PB-211 500) or source card deck (PB-211 501).

§ 78.115 [Amended]

7. In § 78.115 paragraph (b) is removed.

[FR Doc. 80-36781 Filed 11-25-80; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 2

[FCC 80-547]

Frequency Allocations and Radio Treaty Matters; Convenient Method for Handling Frequency Assignments for Space Research Earth Stations in a Certain Frequency Band

AGENCY: Federal Communications Commission.

ACTION: Final rule and order.

SUMMARY: Footnote US 111 to the Table of Frequency Allocations allows Government use of a certain frequency band on a secondary basis. It lists nine locations utilized by the National Aeronautics and Space Administration (NASA) space research earth stations for tracking, ranging and telecommand purposes. In addition, it specifies eleven frequencies as being authorized at these locations.

This area of research is a dynamically changing one, resulting in rapid outdating of specific frequencies and locations. New frequencies and locations require constant changes to US 111 through the rule making process. This is time consuming and cumbersome to administer. To achieve a greater measure of Administrative economy, NASA has requested, and the FCC has agreed to, a revision of US 111 to delete the listing of specific frequencies and locations.

EFFECTIVE DATE: November 13, 1980.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Eugene J. Cea, Office of Science and Technology, 2025 M Street NW., Washington, D.C. 20554, (202) 653-8177, Room 7328.

Order

Adopted: September 25, 1980.

Released: October 31, 1980.

In the matter of Amendment of Footnote US 111 in Part 2 of the Commission's Rules and Regulations to provide a more convenient method for handling frequency assignments for space research earth stations in the band 1990-2120 MHz.

By the Commission:

1. Footnote US 111 to the Table of Frequency Allocations allows Government use of the band 1990-2120 MHz on a secondary basis. It lists nine locations utilized by the National Aeronautics and Space Administration (NASA) space research earth stations for tracking, ranging and telecommand purposes. In addition, it specifies eleven frequencies in the band 1990-2120 MHz, as well as the band segment 2110-2120 MHz as being authorized at these locations.

2. This area of research is a dynamically changing one, resulting in rapid outdating of specific frequencies and locations. New frequencies and locations require constant changes to US 111 through the rule making process. This is time-consuming and cumbersome to administer. To achieve a greater measure of administrative economy, NASA has requested a revision of US 111 to delete the listing of specific frequencies and locations.

3. NASA concurs that authorizations for specific frequencies and locations will continue to be coordinated with the FCC through the Government's Frequency Assignment Subcommittee mechanism on a case-by-case basis with appropriate conditions applied as necessary. Further, such authorizations shall be secondary to present and future non-Government use of this band and NASA will, if necessary, discontinue transmissions causing interference to licensees.

4. Under the conditions imposed, there should be no adverse present or future impact on non-Government licensees. We, therefore, anticipate no comments in this matter. For these reasons, prior notice and effective date provisions of the Administrative Procedures Act, 5 U.S.C. 533 are found to be unnecessary. Accordingly, pursuant to authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, IT IS Ordered that, effective November 13, 1980, Footnote US 111 to the Table of Frequency Allocations, § 2.106 of the Commission's Rules, IS Amended as set forth in the Appendix.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 2 of Chapter I of Title 47 of Code of Federal Regulations is amended as follows:

In § 2.106, Footnote US 111 is revised to read as follows:

§ 2.106 [Amended]

* * * * *

US 111 In the band 1990-2120 MHz, Government space research earth stations may be authorized to use specific frequencies at specific locations for earth-to-space transmissions. Such authorizations shall be secondary to non-Government use of this band and subject to such other conditions as may be applied on a case-by-case basis.

[FR Doc. 80-36942 Filed 11-25-80; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-73; RM-3263]

FM Broadcast Stations in Central City, Nebr., and Yankton, S. Dak.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns a Class C FM channel to Central City, Nebraska, and substitutes one Class C channel for another at Yankton, South Dakota, in response to a petition filed by Nebraska Rural Radio Association. The station could render significant first and second service to the rural areas in addition to providing Central City with its first fulltime local aural broadcast service.

EFFECTIVE: Date: December 26, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Central City, Nebr., and Yankton, S. Dak.), BC Docket No. 80-73, RM-3263.

Report and Order—Proceeding Terminated

Adopted: November 10, 1980.

Released: November 24, 1980.

1. The Commission has under consideration a *Notice of Proposed Rule Making*, 45 FR 13147, published February 28, 1980, proposing the reassignment of Channel 262 from Yankton, South Dakota, to Central City, Nebraska, and the substitution of Class C FM Channel 226 for Channel 262 at Yankton, in response to a petition filed by Nebraska Rural Radio Association ("petitioner"), licensee of Stations KRVN(AM) and KRVN-FM, Lexington, Nebraska. Petitioner submitted supporting comments reaffirming its intent to apply for the channel, if assigned. Sorenson Broadcasting Corp., permittee for a new station on Channel 262 at Yankton, filed comments.

2. Central City (pop. 2,803),[1] seat of Merrick County (pop. 8,751), is located in the east central portion of Nebraska, approximately 168 kilometers (105 miles) west of Omaha. It has no local aural broadcast service.

3. Petitioner asserts that Central City, the county's largest community, showed a population increase of 16.5% from 1960 to 1970, with a projection of continuing growth. It further states that the proposed station would bring first FM service to 8,330 persons, a second FM service to 10,890 persons, a first nighttime aural service to 1,570 persons, and a second nighttime aural service to 7,040 persons.

4. Sorenson Broadcasting Corp. has raised no objection to the proposal provided its permit for Channel 262 is modified to specify Channel 226.

5. We have given careful consideration to the proposal and believe that Channel 262 should be assigned to Central City, and Channel 226 substituted for Channel 262 at Yankton. The Yankton site is restricted 16 kilometers (10 miles) to the south. Although a community the size of Central City is not normally assigned a Class C channel, the proposed assignment would provide substantial first and second service. As stated in the *Notice*, Stanton, Nebraska would be precluded as a result of the assignment of Channel 226 to Yankton. However, since there has been no interest in a station at Stanton, and it receives service from two stations in Norfolk, Nebraska, we believe that that fact should not foreclose a needed first local service to Central City.

6. Accordingly, pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules, it is ordered, that effective December 26, 1980, the FM Table of Assignments (§ 73.202(b) of the Commission's Rules) is amended with respect to the communities listed below:

City	Channel No.
Central City, Nebr.	262
Yankton, S. Dak.	226,281

7. It is further ordered, that effective December 26, 1980, pursuant to Section 316(a) of the Communications Act of 1934, as amended, the outstanding permit held by Sorensen Broadcasting Corp. for Channel 262, Yankton, South Dakota, is modified to specify operation on Channel 226 subject to the following:

(a) The permittee shall inform the Commission in writing by no later than December 26, 1980, of its acceptance of this modification;

(b) At least 30 days before operation on Channel 226, the permittee shall submit to the Commission the technical information normally required of an applicant for a construction permit on Channel 226;

(c) At least 10 days prior to commencing operation on Channel 226, the permittee shall submit the measurement data required of an applicant for an FM broadcast station license; and

(d) The permittee shall not commence operation on Channel 226 without prior Commission authorization.

8. It is further ordered, that this proceeding is terminated.

9. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-36887 Filed 11-25-80; 8:45 am]
BILLING CODE 6712-01-M

[1] Population figures are taken from the 1970 U.S. Census.

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47 CFR Part 73

[BC Docket No. 80-147; RM-3424]

FM Broadcast Station in Manchester, Vt.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns FM Channel 274 to Manchester, Vermont, in response to a petition filed by Northshire Communications, Inc. The station would provide a first local aural broadcast service to Manchester and a first and second FM service to the surrounding area.

EFFECTIVE DATE: December 26, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 73.202(b) *Table of Assignments*, FM Broadcast Stations (Manchester, Vermont), BC Docket No. 80-147, RM-3424.

Report and Order—Proceeding Terminated

Adopted: November 10, 1980.

Released: November 20, 1980.

1. On April 7, 1980, the Commission adopted a *Notice of Proposed Rule Making*, 45 FR 28774, published April 30, 1980, in response to a petition filed by Northshire Communications, Inc. ("petitioner"), which proposed the assignment of FM Class B Channel 274 to Manchester, Vermont, as that community's first FM assignment. Supporting comments were filed by North County Communications, Inc., in which it stated its intent to apply for the channel, if assigned.

2. Manchester (pop. 2,919)[1] in Bennington County (pop. 29,282), is located approximately 149 kilometers (93 miles) south of Burlington, Vermont. It has no local aural broadcast service.

3. As stated in the *Notice*, a wide area coverage Class B facility would permit expanded FM service to unserved areas by providing a first FM service to 9,235 persons, a second FM service to 50,448 persons and a second nighttime aural service to 9,235 persons.

4. Although a community of this size is not normally assigned a Class B channel, the proposed assignment would provide significant first and second services to a substantial population. Therefore, we believe it would be in the public interest to assign Channel 274 to Manchester, Vermont, as its first FM channel assignment. Although petitioner has not replied to our *Notice*, we do have an expression of interest in the channel from another party.

5. This assignment has been agreed to by Canada as a specially negotiated short-spaced allocation.

6. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and § 0.281 of the

[1] Population figures are taken from the 1970 U.S. Census.

Proposed Rules

Commission's rules, it is ordered, that effective December 26, 1980, the FM Table of Assignments (§ 73.202(b) of the Commission's rules) is amended with regard to the community listed below:

City	Channel No.
Manchester, Vt	274

7. It is further ordered, that this proceeding is terminated.

8. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–9660.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307))

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-36868 Filed 11-25-80; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 45, No. 230
Wednesday, November 26, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 95

Wool, Hair, and Bristles; Import Restrictions

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document would amend certain restrictions applicable to the importation of wool, hair, or bristles taken both from live animals and animals at the time of slaughter. The amendment would permit the unrestricted importation of hair and Bristles removed from live animals when such products are free fom animal manure; it would restrict the importation of wool taken from live animals to wool taken from the upper part of the body of such live animals, and it would permit the importation of wool, hair, and bristles taken from animals that have been slaughtered when such wool, hair and bristles are free from animal manure. This action would be necessary to clarify the regulations and achieve uniform interpretation of the requirements for the entry of such products into the United States. The intended effect of this action would be to revise and clarify the regulations by deleting terms and provisions which are confusing.

DATE: Comments on or before January 26, 1981.

ADDRESS: Written comments to Deputy Administrator, USDA, Aphis, VS, Room 815, Federal Building, 6505, Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. J. C. Davidson, USDA, APHIS, VS, Federal Building, Room 824, 6505 Belcrest Road, Hyattsville, MD 20782. (301) 436–8379. A Draft Impact analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from Program Services Staff, VS, APHIS, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8695.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to section 2 of the Act of February 2, 1903, as amended; and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 US.C. 111, 134a, 134b, 134c, and 134f), the Animal and Plant Health Inspection Service is considering amending Part 95, Title 9, Code of Federal Regulations. This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified as "not significant".

The regulations presently in 9 CFR 95.7(b) provide that wool or hair clipped from live animals or pulled wool or hair may be imported without restrictions provided the said wool or hair is reasonably free from animal manure in the form of dung locks or otherwise. Use of the term "reasonably" has caused confusion and lact of uniformity in interpretation of the requirement. To clairfy the intent of the regulation and to eliminate questions as to what constitutes "reasonably," the term "reasonably" would be deleted. Further, to simplify the regulation the terms "clipped" and "pulled" would be changed to "taken," and the phrase "in the form of dung locks or otherwise" would be deleted. Also, the term "bristles" would be added to clarify that hair includes bristles, and the body area from which wool could be taken for unrestricted entry would be specified.

Additionally, section 95.7(b) would be separated into two parts (b) (1) and (2), to reflect the difference in the restrictions on the importation of wool from live animals as opposed to the restrictions on the importation of hair and bristles from live animals. The amendment proposes to modify the regulation so that wool which is clipped from the area of the animal to which manure mormally adheres, i.e., the belly or underparts, may not be imported into the United States without further restriction. It is proposed not to allow wool from the lower part of the body of the live animals to be imported because the wool being nautrally greasy, becomes contaminated with manure when the live animals lie on the ground. It is proposed to require that a certificate be issued by a National Government official having jurisdiction over the health of animals in the country of origin to certify that the wool was only taken from the upper part of the body of the animals. Such certified wool would be subject to inspection at the port of entry to verify compliance with this restriction. Wool found to contain manure would be subject to the handling and treatment provisions of § 95.8 (9 CFR 95.8).

The current entry procedcure on what is called "greasy" ("unscoured") wool from countries declared affected by foot-and-mouth disease or rinderpest is to perform a visual inspection. Any wool which is "reasonably free" of animal manure is allowed to enter. Enforcement problems arise for two reasons: the individual inspector in each case must determine what constitutes a "reasonably free" level, and often the shipments are packaged in such a way that discovery of manure in the wool is quite difficult. Consequently, shipments contaminated by large amounts of manure have been inadvertently permitted entry and appear to constitute an unacceptable risk of introduction of foot-and-mouth disease into the United States. The regulations in 9 CFR 95.7(c) that provide for the importation of wool, hair, or bristles taken from sheep, goats, cattle, or swine when such animals were slaughtered in a specified abattoir and were free from anthrax, foot-and-mouth disease, and rinderpest at the time of slaughter and that a certificate accompany such products certifying that the specified requirements were met would be amended to provide that unrestricted entry would be permitted only if such products are free from animal manure.

The proposed action, restricting imports of wool from upper portions of the body of live animals to which manure does not normally adhere, and to require other wool, hair, and bristles to be free of animal manure would reduce the risk of disease transmission while providing minimum inteference with international trade.

Accordingly, Part 95 Title 9, Code of Federal Regulations, would be amended in the following respects:

1. In § 95.7, paragraph (b), would be revised to read:

V 45 N 026 80 UMI

§ 95.7 Wool, hair, and bristles; requirements for unrestricted entry.

* * * * *

(b)(1) Hair or bristles taken from live animals may be imported if free from animal manure.

(2) Wool taken from live animals may only be imported when accompanied by an offical certificate issued by a National Government official having jurisdiction over the health of aimals in the country of origin in which the wool originated. The certificate shall show that the wool was only taken from the upper part of the body of the animal (wool known in the trade as "full skirted" or "farm skirted"). Notwithstanding such certifcation, inspection shall be made at the port of entry of all wool imported under the provisions of this Part.

2. Section 95.7(c) would be amended to add the phrase "when such wool, hair or bristles are free from animal manure," in lieu of the phrase "without further restriction" in the 16th line of the section.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 824, Hyattsville, Maryland, during regular hours of business (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue of the **Federal Register.**

Done at Washington, D.C., this 20th day of November 1980.

Norvan L. Meyer,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-36861 Filed 11-25-80; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Petitions for Rulemaking; Issuance of Quarterly Report

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of quarterly report.

SUMMARY: The Nuclear Regulatory Commission has issued the September 30, 1980, Quarterly Report on Petitions for Rulemaking. This report is issued in accordance with 10 CFR 2.802 and is a quarterly summary of petitions for rulemaking that are pending final action.

ADDRESSES: A copy of this report, designated NRC Petitions for Rulemaking—September 30, 1980, is available for inspection and copying at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Requests for single copies of this report, or a request to be placed on an automatic distribution list for single copies of future reports, should be made in writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Office of Administration, Telephone 301–492–7060.

Dated at Bethesda, Md., this 19th day of November, 1980.

For the Nuclear Regulatory Commission.

J. M. Felton,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 80-36749 Filed 11-25-80; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Part 31

NRC's Jurisdiction Over Persons Using Byproduct, Source and Special Nuclear Material in Offshore Waters Beyond Agreement States' Territorial Waters; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule; Correction.

SUMMARY: In a **Federal Register** document published on October 30, 1980 (45 FR 71807), the NRC proposed to amend § 31.6 General license to install devices generally licensed in § 31.5. The word "general" was inadvertently used in the first line of proposed text when the word "specific" was intended. This document corrects this error and republishes the proposed text of § 31.6 as it should appear.

FOR FURTHER INFORMATION CONTACT: John D. Philips, Chief, Rules and Records, Office of Administration, Nuclear Regulatory Commission, Washington, DC 20555, (301) 492–7086.

SUPPLEMENTARY INFORMATION: The proposed revision of the introductory text of § 31.6 appearing at 45 FR 71809 (October 30, 1980) as corrected, reads as follows:

§ 31.6 General license to install devices generally licensed in § 31.5.

Any person who holds a specific license issued by an Agreement State authorizing the holder to manufacture, install, or servie a device described in § 31.5 within such Agreement State is hereby granted a general license to install and service such device in any non-Agreement State or in offshore waters beyond Agreement States' territorial waters and within the area of the U.S. Outer Continental Shelf; Provided, that:

* * * * *

Dated at Washington, D.C., this 20th day of November, 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-36882 Filed 11-25-80; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 457

[Docket No. CAS-RM-80-120]

Energy Auditor Training and Certification Grants; Extension of Comment Period for Proposed Rule

AGENCY: Department of Energy.

ACTION: Extension of comment period of proposed rule.

DATES: In response to requests for additional time for review, DOE has extended the comment period to December 8, 1980, 4:30 p.m. e.s.t.

SUMMARY: On October 8, 1980, the Department of Energy published a proposed rulemaking in the **Federal Register.** The rulemaking (45 FR 66970) related to implementing the Energy Auditor Training and Certification Program pursuant to subtitle F of Title V of the Energy Security Act (Pub. L. 96–294). This rulemaking provided for a comment period to end November 24, 1980.

FOR FURTHER INFORMATION CONTACT: James R. Tanck, Acting Director, Building Conservation Services Division, Department of Energy, 1000 Independence Avenue S.W., Room GH–068, Washington, D.C. 20585 (202) 252–9161

Issued in Washington, D.C., November 21, 1980.

Frank DeGeorge,

Principal Deputy Assistant Secretary, Conservation and Solar Energy.

[FR Doc. 80-36858 Filed 11-24-80; 11:10 am]

BILLING CODE 6450-01-M

10 CFR Part 474

[Docket No. CAS-RN-80-202]

Electric and Hybrid Vehicle Research, Development, and Demonstration Program; Equivalent Petroleum-Based Fuel Economy Calculation; Cancellation of Public Hearing

AGENCY: Department of Energy.

ACTION: Notice of Proposed Rulemaking for Electric and Hybrid Vehicle Research, Development, and Demonstration Program; cancellation of public hearing.

SUMMARY: The Department of Energy hereby cancels the public hearing on the Equivalent Petroleum-Based Fuel Economy Calculation for the Electric and Hybrid Vehicle Research, Development, and Demonstration Program scheduled for Tuesday, November 25, 1980, in Washington, D.C. The public hearing is cancelled due to lack of public interest in making oral presentations at the hearing.

DATES: As stated in the notice of proposed rulemaking issued on October 30, 1980 (FR 73684, November 6, 1980), written comments on the Equivalent Petroleum-Based Fuel Economy Calculation must be received by the Department by close of business, January 5, 1981.

FOR FURTHER INFORMATION CONTACT: Robert S. Kirk, Electric and Hybrid Vehicles Division, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585 (202) 252–8032

Issued in Washington, D.C., November 21, 1980.

Frank DeGeorge,

Principal Deputy Assistant Secretary Conservation and Solar Energy.

[FR Doc. 80-36852 Filed 11-24-80; 11:02 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76 (Colorado-7)]

High-Cost Gas Produced From Tight Formations; Ceiling Prices

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions that present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas subject to an incentive price (18 CFR 271.703). The rule establishes procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Colorado Oil and Gas Conservation Commission that the Dakota Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on December 19, 1980.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on December 4, 1980.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357.8299 or Victor Zabel, (202) 357–8559.

Issued November 19, 1980.

I. Background

On November 10, 1980, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's final regulations (45 FR 56034, August 22, 1980), that the Dakota Formation located in La Plata County, Colorado be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Dakota Formation be designated a tight formation should be adopted. The United States Geological Survey concurs with Colorado's recommendation. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation lies entirely within La Plata County, Colorado and underlies an area located on the north flank of the San Juan Basin and east of the city of Durango, Colorado. It is bounded on the south by the Southern Ute Indian Reservation boundary line and bounded on the north by the outcrop pattern of the Dakota and Mesaverde Formations. The recommended area contains approximately 118,238 acres, of which 27 percent is Federal, 5 percent State and 68 percent fee. The vertical limit to the top of the Dakota Formation ranges from 7500 to 8000 feet and averages 7600 feet. The vertical limit of the base of the Dakota Formation is defined by the top of the Morrison Formation. The Dakota Formation ranges from approximately 210 to 230 feet in thickness.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG–10, convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilizied production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that Rule 317 of the Colorado Oil and Gas Conservation Commission's Rules and Regulations assures that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Dakota Formation, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before December 19, 1980. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (Colorado–7), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to

whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than December 4, 1980.

(Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301–3342)

Accordingly, the Commission proposes to amend the regulations in Part 271, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703(d) is amended by adding a new subparagraph (20) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79-76, as subindexed below, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

* * * * *

(2) through (19) [Reserved]

(20) *Dakota Formation in Colorado*

(i) *Delineation of formation.* The Dakota Formation is found in La Plata County, Colorado. RM79–76 (Colorado–7)

(ii) *Depth.* The Dakota Formation is defined as that formation, the depth to the top of which ranges from 7500 to 8000 feet, and the bottom of which is defined by the top of the Morrison Formation.

[FR Doc. 80-36857 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-85-M

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18 CFR Part 271

[Docket No. RM 79-76 (Colorado-8)]

High-Cost Gas Produced From Tight Formations; Ceiling Prices

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions that present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas subject to an incentive price (18 CFR 271.703). The rule establishes procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Colorado Oil and Gas Conservation Commission that the Sanastee Formation and the Dakota Formation each be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on December 19, 1980.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on December 4, 1980.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8299 or Victor Zabel, (202) 357–8559.

Issued: November 19, 1980.

I. Background

On November 10, 1980, the Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's final regulations (45 FR 56034, August 22, 1980), that the Sanastee and Dakota Formations located in La Plata and Archuleta Counties, Colorado each be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that these formations be designated tight formations should be adopted. The United States Geological Survey concurs with Colorado's recommendation. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formations lie within La Plata and Archuleta Counties, Colorado in an area which is located on the north flank of the San Juan Basin, southeast of the City of Durango, Colorado, and south of the Southern Ute Indian Reservation boundary line. The recommended area is approximately 62,867 acres, of which 27 percent is Federal, 16 percent Indian, 2 percent state and 55 percent fee. The Sanastee Formation is found at intervals of 7550 to 7700 feet and is approximately 105 to 120 feet thick. The Dakota Formation is found at a depth of approximately 7600 feet and is approximately 210 to 230 feet thick.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG–11 convened by Colorado on this matter demonstrates, for each formation, that:

(1) The average *in situ*, gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stablilized production rate, against atmospheric pressure, of wells completed for production from the recommended formations, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formations is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that typical casing design of wells drilled in the area protects fresh water aquifers in the area, as required by the rules and regulations of the Colorado Oil and Gas Conservation Commission.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado, that the Sanastee Formation and Dakota Formation, as described and delineated in Colorado's recommendation as filed with the Commission, each be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before December 19, 1980. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (Colorado-8) and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concernig the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than December 4, 1980.

(Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703(d) is amended by adding new subparagraphs (21) and (22) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79–76, as subindexed below, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

* * * * *

(2) through (20) [Reserved].

(21) *Sanastee Formation in Colorado*

(i) *Delineation of formation.* The Sanastee Formation is found in La Plata and Archuleta Counties, Colorado. It is located southeast of the City of Durango, Colorado, and is bounded on the north by the southern boundary of the Southern Ute Indian Reservation. RM79–76 (Colorado–8)

(ii) *Depth.* The Sanastee Formation is defined as that formation occurring within the Mancos shale at intervals from approximately 7500 to 7700 feet.

(22) *Dakota Formation in Colorado*

(i) *Delineation of formation.* The Dakota Formation is found in La Plata and Archuleta Counties, Colorado. It is located southeast of the City of Durango, Colorado, and is bounded on the north by the southern boundary of the Southern Ute Indian reservation. RM79–76 (Colorado-8)

(ii) *Depth.* The Dakota Formation is defined as that formation the depth to the top of which averages approximately 7600 feet and the base of which is defined by the top of the Morrison Formation.

[FR Doc. 80-36858 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-85-M

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18 CFR Part 271

[Docket No. RM79-76 (Colorado-9)]

High-Cost Gas Produced From Tight Fountains; Ceiling Prices

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978 to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions that present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas subject to an incentive price (18 CFR 271.703). The rule establishes procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This notice of proposed rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Colorado Oil and Gas Conservation Commission that the Corcoran Formation and the Cozzette Formation each be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on December 22, 1980.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on December 5, 1980.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8299 or Victor Zabel, (202) 357–8559.

Issued November 20, 1980.

I. Background

On November 10, 1980, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's final regulations (45 FR 56034, August 22, 1980), that the Corcoran and Cozzette Formations located in Mesa and Garfield Counties, Colorado be designated as tight formations. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Colorado's recommendation that the Corcoran and Cozzette Formations be designated as tight formations should be adopted. The United States Geological Survey concurs with Colorado's recommendation. Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formations lie within Mesa and Garfield Counties, Colorado in an area which is located on the southwest flank of the Piceance Basin, northeast of the city of Grand Junction, Colorado. The area, known locally as the Wagon Track Tight Gas Sand area, includes part of the Shire Gulch Field and all of Horseshoe Canyon, Winter Flats and Hancock Gulch Units. The recommended area is approximately 150,176 acres, of which 93 percent is Federal, and 7 percent is fee. The average depth to the producing interval of the Cozzette Formation is 2,478 feet. The Cozzette Formation is approximately 175 feet thick. The Corcoran Formation is found at a depth of approximately 2,673 feet and is approximately 150 feet thick. The Corcoran and Cozzette Formations consist of one or more sandstone benches and have been identified as members of the Mount Garfield Formation of the Mesaverde Group.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information

and testimony presented at a public hearing in Cause No. NG–12, convened

reviewed the proposals to revise and

necessary to update the regulations to

the regulations on a part-by-part basis

and testimony presented at a public hearing in Cause No. NG–12, convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that typical casing design of wells drilled in the area protects fresh water aquifers in the area, as required by the rules and regulations of the Colorado Oil and Gas Conservation Commission.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Colorado that the Corcoran Formation and the Cozzette Formation as described and delineated in Colorado's recommendation as filed with the Commission, be designated as tight formations pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before December 22, 1980. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76 (Colorado–9), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing that they wish to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than December 5, 1980.

(Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Colorado's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Section 271.703(d) is amended by adding new subparagraphs (23) and (24) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* The following formations are designated as tight formations. A more detailed description of the geographical extent and geological parameters of the designated tight formations is located in the Commission's official file for Docket No. RM79–76, as subindexed below, and is also located in the official files of the jurisdictional agency that submitted the recommendation.

* * * * *

(5) through (22) [Reserved].

(23) *Cozzette Formation in Colorado*

(i) *Delineation of formation.* The Cozzette Formation is found in Mesa and Garfield Counties, Colorado. It is located northeast of the city of Grand Junction, Colorado, and occupies an area known locally as the Wagon Track Tight Gas Sand area. RM79–76 (Colorado—9)

(ii) *Depth.* The Cozzette Formation is defined as that formation occurring within the Mount Garfield Formation of the Mesaverde Group and which is found at an average measured depth of 2,478 feet.

(24) *Corcoran Formation in Colorado*

(i) *Delineation of formation.* The Corcoran Formation is found in Mesa and Garfield Counties, Colorado. It is located northeast of the city of Grand Junction, Colorado, and occupies an area locally known as the Wagon Track Tight Gas Sand area. RM79–76 (Colorado—9).

(ii) *Depth.* The Corcoran Formation is defined as that formation occurring within the Mount Garfield Formation of the Mesaverde Group and which is found at an average depth of 2,673 feet.

[FR Doc. 80–36859 Filed 11–25–80; 8:45 am]
BILLING CODE 6450–85–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 148

Personal Declarations and Exemptions

Correction

In FR Doc. 80–33213 appearing on page 70476 in the issue for Friday, October 24, 1980, make the following correction:

On page 70477, in the first column, under "Date", the comments closing period was incorrectly given as "November 23, 1980". It should be given as "December 23, 1980".

BILLING CODE 1505–01–M

RAILROAD RETIREMENT BOARD

20 CFR Parts 208, 210, 216, 217, 219, 221, 230, 232, 237, and 238

Annuities Under the Railroad Retirement Act

AGENCY: Railroad Retirement Board.

ACTION: Proposed rules.

SUMMARY: The Railroad Retirement Board proposes to amend several parts of its regulations concerning annuities under the Railroad Retirement Act. Amendment of the regulations is a part of an on-going project of the Railroad Retirement Board to review, revise and reorganize its regulations. The amendments have been written in plain English in accordance with EO 12044, as amended and should be more usable and understandable.

DATES: Comments must be submitted on or before January 12, 1981.

ADDRESS: Comments should be sent in duplicate to R. F. Butler, Secretary, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, where they will be made available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: Marilyn Berg or Eloise Sandle, Bureau of Retirement Claims, Railroad Retirement Board, Room 943, 844 Rush Street, Chicago, Illinois 60611, (312) 751–4818 (FTS 387–4818).

SUPPLEMENTARY INFORMATION: In accordance with the Board's report under E.O. 12044, as amended, the Board's Chief Executive Officer reviewed the proposals to revise and develop regulations on annuity eligibility, applications, evidence, and jurisdiction, and determined that the regulations would not constitute significant regulations under the criteria established in the Board's report. However, in the spirit of E.O. 12044, as amended, the Board has determined to issue the regulations first as proposed rules and allow the public a 60-day period to comment on the proposed rules.

The Board proposes to amend the following regulations:

(1) Regulations on eligibility for annuities to be designated as Part 216;

(2) Regulations on applications for benefits to be designated as Part 217;

(3) Regulations on evidence required for payment of benefits to be designated as Part 219; and

(4) Regulations on determinations of Railroad Retirement Board jurisdiction to pay benefits to be designated as Part 221.

The proposed new Part 216 contains the basic eligibility requirements for the various types of annuities provided under the Railroad Retirement Act of 1974. The proposed amendment to the annuity eligibility regulations is necessary to update the regulations to the requirements imposed under the Railroad Retirement Act of 1974. The current regulations were issued under the Railroad Retirement Act of 1937 and are, in certain respects, obsolete. In addition, the proposed Part 216 has been written in plain English in accordance with E.O. 12044, as amended, and the eligibility requirements for the various types of annuities, which under current regulations are spread over several parts, have been consolidated under a single part to make these regulations more usable and understandable.

The proposed Part 217 sets forth and explains the requirements for the filing of applications for benefits under the Railroad Retirement Act of 1974. Substantial changes to the current regulations were made in 217.9(b), to provide that a disability application will not be denied if the claimant becomes disabled before a final decision is made; in § 217.16, to provide for the use of the date an application was mailed as the filing date, if it will prevent the loss of benefits; and in §§ 217.20 and 217.21, to allow a filing date to be established based on a written or verbal statement. In addition, the new part explains when, how, and where to file an application, details how and when an application may be cancelled, and sets forth the reasons why applications may be denied. The proposed amendment to the annuity application regulations is necessary to update the regulations to the requirements imposed under the Railroad Retirement Act of 1974. The current regulations were issued under the Railroad Retirement Act of 1937 and are, in certain respects, obsolete. In addition, the proposed Part 217 has been written in plain English in accordance with E.O. 12044, as amended, and the application requirements, which under current regulations are spread over several parts, have been consolidated under a single part to make these regulations more usable and understandable.

The proposed Part 219, Evidence Required for Payment, which would replace the current Part 239, Proofs Required in Support of Claims for Benefits, describes the amount and type of evidence required by the Board for the payment of the different benefits provided under the Railroad Retirement Act of 1974. The proposed amendment to the evidence regulations is necessary to update the regulations to the requirements imposed under the Railroad Retirement Act of 1974. The current regulations were issued under the Railroad Retirement Act of 1937 and are, in certain respects, obsolete. In addition, the proposed Part 219 has been written in plain English in accordance with E.O. 12044, as amended, and should be more usable and understandable.

The proposed Part 221, Jurisdiction Determination, is totally new. There is no similar part under current regulations. The proposed part explains the factors involved in deciding whether the Railroad Retirement Board or the Social Security Administration will pay benefits to a railroad employee, and the employee's family, both before and after death. The proposed Part 221 is necessary to administer the Railroad Retirement Act of 1974 and explains in a simple, straightforward manner how determinations on Railroad Retirement Board jurisdiction are made.

Amendment of the above-described regulations is a part of an ongoing project of the Railroad Retirement Board to review, revise and reorganize its regulations. As a result, the proposed new parts were written to be an integral part of the revised and reorganized regulations and may, in certain cases, refer to parts or sections of regulations which are not currently in effect. A substantial part of this regulation project should be completed in calendar year 1981, and therefore, the problems presented by publishing revised parts as they are completed should be largely alleviated by the end of 1981. The Board believes that the minor inconveniences that may arise as a result of publishing the regulations on a part-by-part basis are outweighed by the benefits derived from publishing current, more easily usable and understandable regulations.

Title 20, Chapter II, is amended as follows:

PART 208—DISABILITY

§§ 208.1, 208.2, § 208.5, and 208.7 [Removed]

1. Part 208 is amended by (a) revising the title of this part from "Eligibility for An Annuity" to "Disability," and (b) removing §§ 208.1, 208.2, 208.5, and 208.7.

PART 210—[Removed]

2. Part 210 is removed.

3. The current Part 216 is revised to read as follows:

PART 216—ELIGIBILITY FOR AN ANNUITY

Subpart A—General

Sec.

216.1 Introduction.
216.2 Definitions.
216.3 Other regulations related to this part.

Subpart B—Employee Annuity

216.5 Who is eligible for an age annuity.
216.6 Who is eligible for a disability annuity.
216.7 What is required for payment.
216.8 What work may affect eligibility.
216.9 Giving up the right to return to work.

Subpart C—Supplemental Annuity

216.11 Introduction.
216.12 Who is entitled to a supplemental annuity.
216.13 Supplemental annuity closing date.
216.14 Relationship between supplemental annuity and other benefits.
216.15 What is a private pension.

Subpart D—Spouse Annuity

216.20 Who is eligible for a spouse annuity.
216.21 What is required for payment.
216.22 Who is the employee's wife or husband.
216.23 When a spouse is living with an employee.
216.24 Contributing to support, defined.
216.25 One-half support, defined.

Subpart E—Surviving Spouse Annuity

216.30 Who is eligible for a surviving spouse annuity.
216.31 What is required for payment.
216.32 Who is the employee's surviving spouse.
216.33 Marriage defined.
216.34 Relationship as wife, husband, widow or widower under state law.
216.35 Deemed marriage.
216.36 "Child in care" when child is living with wife or surviving spouse.
216.37 "Child in care" when child is not living with wife or surviving spouse.
216.38 Disability period for surviving spouse.

Subpart F—Child's Annuity

Sec.
216.45 General.
216.46 Who is eligible for a child's annuity.
216.47 What is required for payment of a child's annuity.
216.48 Who may be reentitled to a child's annuity.
216.49 Child defined.
216.50 Relationship as a child under State law.
216.51 Who is the employee's natural child.
216.52 Who is the employee's legally adopted child.
216.53 Who is the employee's stepchild.
216.54 Who is the employee's grandchild or stepgrandchild.
216.55 Who is the employee's equitably adopted child.
216.56 When a child must be dependent.
216.57 When a natural child is dependent.
216.58 When a legally adopted child is dependent.
216.59 When a stepchild is dependent.
216.60 When a grandchild or stepgrandchild is dependent.
216.61 When a equitably adopted child is dependent.
216.62 When a child is living with an employee.
216.63 When a child is a full-time student.
216.64 When a child is a full-time student during a period of non-attendance.

Subpart G—Parent's Annuity

216.70 Who is eligible for a parent's annuity.
216.71 What is required for payment.
216.72 Who is the employee's parent.

Subpart H—Dual Benefit Windfall

216.80 Introduction.
216.81 Types of windfall benefits.
216.82 When an employee's annuity can be increased for a windfall benefit.
216.83 When a spouse annuity can be increased for a windfall benefit.
216.84 When a surviving spouse annuity can be increased for a windfall benefit.
216.85 Dependency requirement for a windfall benefit as a widower.
216.86 What is needed to be permanently insured under the Social Security Act.

Subpart I—Eligibility for More Than One Annuity

216.90 Employee and spouse or survivor annuity.
216.91 Spouse and survivor annuity.
216.92 Two survivor annuities.

Subpart J—Current Connection With the Railroad Industry

216.95 General.
216.96 When required.
216.97 Regular current connection test.
216.98 Special current connection test.
216.99 What is regular non-railroad employemnt.
216.100 What amount of regular non-railroad employment will break a current connection.
216.101 Regular non-railroad employment that will not break a current connection.

Authority: Sec. 2, Pub. L. 93-445, 88 Stat. 1312-1319 (45 U.S.C. 231a), unless otherwise noted. Subpart J also issued under sec. 1, Pub. L. 93-445, 88 Stat. 1311 (45 U.S.C. 231). Sec. 7, Pub. L. 93-445, 88 Stat. 1339 (45 U.S.C. 231f).

Subpart A—General

§ 216.1 Introduction.

This part explains when a person is eligible for a monthly annuity under the Railroad Retirement Act.

(a) *Regular annuity.* A regular monthly annuity is provided for—

(1) An employee who retires because of age or disability;

(2) An employee's wife or husband (spouse); and

(3) The widow, widower, child, or parent of an employee who died.

(b) *Supplemental annuity.* A supplemental annuity is provided for an employee who is entitled to an age or disability annuity.

§ 216.2 Definitions.

As used in this part—

"Apply" means to sign a form or statement that the Railroad Retirement Board accepts as an application for an annuity under the rules set out in Part 217.

"Current Connection" means that the employee was working in or was considered to be working in the railroad industry when he or she became entitled to an annuity or died. An employee has a current connection if he or she meets the conditions described in Subpart J of this part.

"Eligible" means that a person would meet all the requirements for payment of an annuity for a period of time but has not yet applied.

"Entitled" means that a person has applied and has proven his or her right to have the annuity begin.

§ 216.3 Other regulations related to this part.

This part is related to several other parts. Part 217 tells how to apply for an annuity. Part 218 sets the beginning and ending dates of an annuity. Part 219 sets out what evidence is necessary to prove eligibility. Parts 225–228 describe the computation of an annuity. Part 229 tells when and how an employee and spouse annuity can be increased under the social security overall minumum provision.

Subpart B—Employee Annuity

§ 216.5 Who is eligible for an age annuity.

(a) *General.* An employee is eligible for an age annuity if he or she stops all work for pay as described in § 216.8, and is—

(1) Age 65 or older and has completed 10 years of service; or

(2) Age 60 or older and under 65 and has completed 30 years of service; or

(3) Age 62 or older and under 65 and has completed 10 years but less than 30 years of service. This type of annuity is reduced for each month the employee is entitled before he or she becomes 65 years old. The reduction is described in Part 226 of this chapter.

(b) *Change from employee disability to age annuity.* A disability annuity that is paid through the end of the month before the employee becomes 65 years old automatically becomes an age annuity beginning with the month he or she is 65 year old. However, the age annuity cannot be paid until the employee gives up the right to return to work as described in § 216.7.

§ 216.6 Who is eligible for a disability annuity.

The Railroad Retirement Act provides two types of disability annuities. One type is where the employee's disability prevents work in his or her regular railroad occupation. The other type is where the employee's disability prevents work in any regular employment.

(a) *Disabled for work in regular occupation.* An employee is eligible for a disability annuity if he or she is disabled for work in his or her regular occupation, as defined in Part 220 of this chapter, is under age 65, stops all work for pay, has a current connection with the railroad industry, and either—

(1) Has completed 20 years of service; or

(2) Has completed 10 years of service and is 60 years old or older.

(b) *Disabled for work in any regular employment.* An employee is eligible for a disability annuity if he or she is disabled for work in any regular employment, as defined in Part 220 of this chapter, is under 65, stops all work for pay, and has completed 10 years of service.

§ 216.7 What is required for payment.

The following conditions are necessary for payment of an employee annuity:

(a) An eligible employee must apply to be entitled to an annuity.

(b) If the employee applies for an age annuity, he or she must give up the right to return to work before any annuity to which he or she is entitled can be paid.

(c) If the employee applies for a disability annuity, the annuity may be paid without the need to give up the right to return to work. However, the annuity cannot be paid, beginning with the month the annuitant is 65 years old, until the annuitant gives up the right to return to work. The disability annuitant must give up the right to return to work before he or she is 65 years old to permit payment of a supplemental annuity under subpart C of this part or a spouse annuity under subpart D of this part.

The disabled employee can give the Board the authority to give up the right to return to work for him or her when it is required.

§ 216.8 What work may affect eligibility.

Most types of work for pay must be stopped before an employee is eligible for an age or disability annuity, as explained below:

(a) *Work an employee must stop.* Except as shown in paragraph (b) of this section the employee must stop working for—

(1) Any employer under the Railroad Retirement Act; and

(2) Any non-railroad employer.

(b) *Work an employee need not stop.* The employee may continue the following work and still be eligible for an age or disability annuity:

(1) Work for a local lodge or division of a railway organization if the pay is under $25 a month unless the work performed is solely for the purpose of collecting insurance premiums.

(2) Self-employment, as defined in paragraph (c).

(3) Work as an elected public official of the United States, a State, or any political subdivision of a State.

(c) *Self-employment, defined.* Self-employment is work performed in a person's own business, trade, or profession, rather than for an employer. A person is not self-employed, for purposes of this section, if he or she works in an incorporated business. In that case, the corporation is the person's employer. An independent contractor or consultant is considered to be self-employed only if he or she is not supervised by an employer and is not a regular member of the employer's staff. The following factors indicate that a person working as a contractor or consultant may be self-employed:

(1) The person has an office separate from that of an employer.

(2) The person performs similar services for several employers.

(3) The person is free to choose his or her own working hours.

(4) The person performs specific services for a limited time on a particular project.

(5) The person receives payment for a particular project, rather than on a regular basis.

§ 216.9 Giving up the right to return to work.

The employee must give up the right to return to work before an annuity can be paid as explained in § 216.7.

(a) *What return to work rights must be given up.* Except for the type of work shown in § 216.8(b), the employee must give up any seniority or other rights to retun to work for—

(1) Any employer under the Railroad Retirement Act; and

(2) Any non-railroad employer with whom the employee—

(i) Last worked before the annuity beginning date; or

(ii) Has the right to return to work on the annuity beginning date; or

(iii) Stopped working to permit the annuity to begin.

(b) *When the right to return to work ends.* An employee's right to return to work for a railroad or non-railroad employer ends when—

(1) The employer reports to the Board that the employee no longer has that right; or

(2) The employee or an authorized agent of the employee gives the employer an oral or written notice of the employee's wish to give up that right and—

(i) The employee certifies to the Board that the right has been given up;

(ii) The Board notifies the employer of the employee's certification; and

(iii) The employer either confirms the employee's right has been given up or fails to reply within 10 days following the day the Board mailed the notice to the employer; or

(3) An event occurs which under the established rules or practices of the employer automatically ends that right; or

(4) The employer or the employee or both take an action which clearly and positively ends that right; or

(5) The employee never had that right and permanently stops working; or

(6) The Board gives up that right for the employee, having been authorized to do so by the employee; or

(7) The employee dies.

Subpart C—Supplemental Annuity

§ 216.11 Introduction.

A career railroad employee may qualify for a supplemental annuity in addition to the regular employee annuity. Supplemental annuities are paid out of a separate trust fund established through employer taxes. The Board reduces a supplemental annuity if the employee receives a private pension based on contributions from a railroad employer. Supplemental annuities are subject to federal income tax.

§ 216.12 Who is entitled to a supplemental annuity.

An employee is entitled to a supplemental annuity, if he or she—

(a) Does not work past his or her supplemental annuity closing date as shown in § 216.13; and

(b) Is entitled to the payment of an employee annuity under subpart B of this part; and

(c) Has a current connection with the railroad industry when the employee annuity begins; and either

(d) Is age 65 or older, has completed 25 years of service, and the employee annuity begins on or after July 1, 1966; or

(e) Is age 60 or older and under age 65, has completed 30 years of service, and the employee annuity begins on or after July 1, 1974. If that annuity is a disability annuity, the annuitant must give up the right to return to work as shown in §§ 216.7 and 216.9 before any supplemental annuity due him or her can be paid.

§ 216.13 Supplemental annuity closing date.

(a) *General.* An employee's supplemental annuity closing date is the last day the employee can work for a railroad employer and still be entitled to a supplemental annuity. There are two types of closing dates—the regular closing date for most career employees and the special closing date for an employee who did not complete the 25 years of service required to qualify for a supplemental annuity on his or her regular closing date.

(b) *Regular closing date.* If the employee has completed 25 years of railroad service or is eligible for an old-age benefit under section 202(a) of the Social Security Act, the regular closing date is the last day of the month after the month he or she becomes 65 years old. However, various closing dates were established if the employee became 65 years old in or before 1973. If the employee was—

(1) 65 years old in 1973, the closing date was January 31, 1974;

(2) 66 years old in 1973, the closing date was the last day of the month after the month he or she was 66 years old;

(3) 66 years old in 1972, the closing date was January 31, 1973;

(4) 67 years old in 1972, the closing date was the last day of the month after the month he or she was 67 years old;

(5) 67 years old in 1971, the closing date was January 31, 1972;

(6) 68 years old in 1971, the closing date was the last day of the month after the month he or she was 68 years old; or

(7) 68 years old before 1971, the closing date was January 31, 1971.

(c) *Special closing date.* If the employees has completed at least 23 years of service but less than 25 years of service and is not eligible for an old-age benefit under section 202(a) of the Social Security Act on his or her regular closing date, the employee's special closing date is the earliest of the following dates:

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(1) The last day of the month before the employee becomes eligible for an old-age benefit under section 202(a) of the Social Security Act; or

(2) The last day of the first month in which the employee has enough months of railroad service to be entitled to a supplemental annuity (see § 216.12).

§ 216.14 Relationship between supplemental annuity and other benefits.

(a) *Employee annuity.* A supplemental annuity that begins after December 31, 1974 does not affect the payment of a regular employee annuity.

(b) *Employer pension.* A supplemental annuity is reduced for any private pension the employee is receiving based on a railroad employer's contributions. The reduction is equal to the amount of the pension based on the employer's contributions, less any amount the private pension is reduced because of the supplemental annuity. The supplemental annuity is not reduced for the amount of a private pension paid for by the employee's contributions. Private pension is defined in § 216.15.

(c) *Spouse or survivor annuity.* The payment of a supplemental annuity does not affect the amount of a spouse or survivor annuity.

(d) *Residual lump sum.* The amount of a supplemental annuity is not deducted from the gross residual lump-sum benefit. See Part 236 of this chapter for an explanation of the residual lump-sum benefit.

§ 216.15 What is a private pension.

The Board determines whether a pension established by a railroad employer is a private pension that will cause a reduction in the employee's supplemental annuity. A private pension is based on a pension plan that—

(a) Is a written plan or arrangement which is communicated to the employees to whom it applies; and

(b) Is established and maintained by a railroad employer for a defined group of employees; and

(c) Provides for the regular payment of benefits to employees under a set formula over a period of years.

Subpart D—Spouse Annuity

§ 216.20 Who is eligible for a spouse annuity.

A person is eligible for a spouse annuity if the person—

(a) Is the wife or husband, as defined in § 216.22, of an employee who is entitled to an annuity under subpart B of this part;

(b) Stops the same type of work for pay that an employee must stop, as described in § 216.8; and

(c) Meets the age requirements. The spouse's age requirement depends upon when the employee's annuity begins and the employee's age, as follows:

(1) If the employee's annuity begins July 1, 1974 or later, the employee has completed 30 years of railroad service and the employee is 60 years old or older, the spouse must be—

(i) 60 years old or older; or

(ii) Less than 60 years old and a wife with the employee's child who is under 18 years old or disabled in her care. "In care" is defined in §§ 216.36 and 216.37. Subpart F of this part tells who is the employee's child.

(2) If the employee's annuity begins January 1, 1975 or later, the employee has completed less than 30 years of railroad service and the employee is 62 years old or older, the spouse must be—

(i) 65 years old or older; or

(ii) Less than 65 years old and a wife with the employee's child who is under 18 years old or disabled in her care; or

(iii) 62 years old or older and under 65. This type of annuity is reduced for each month the spouse is entitled before he or she becomes 65 years old. The reduction is described in Part 226 of this chapter.

(3) If the employee's annuity began before July 1, 1974, or it began in the period after June 30, 1974 and before January 1, 1975, the employee has less than 30 years of railroad service, and the employee is 65 years old or older, the spouse must be—

(i) 65 years old or older; or

(ii) Less than 65 years old and a wife with the employee's child who is under 18 years old or disabled in her care; or

(iii) 62 years old or older and under 65. This type of annuity is reduced for each month the spouse is entitled before he or she becomes 65 years old. The reduction is described in Part 226 of this chapter.

§ 216.21 What is required for payment.

An eligible spouse must—

(a) Apply to be entitled to an annuity; and

(b) Give up the right to return to work as described in § 216.9, in the same manner as if the spouse were an employee, before any annuity to which he or she is entitled can be paid.

§ 216.22 Who is the employee's wife or husband.

An employee's wife or husband is a person who—

(a) Is married to the employee, as described in § 216.33;

(b) Is living with the employee, as defined in § 216.23, on the date the spouse applied for the annuity; and

(c) Has been married to the employee, for at least one year before the date the spouse applied for the annuity; or

(d) Is the natural parent of the employee's child; or

(e) Was entitled to or, if the spouse had applied and been old enough he or she could have been entitled to, an annuity as a surviving spouse, a parent, or a disabled child under this part in the month before he or she married the employee.

§ 216.23 When a spouse is living with an employee.

(a) *General.* A spouse is living with the employee if—

(1) The employee and spouse are members of the same household; or

(2) The employee is contributing to the support of the spouse, as shown in § 216.24; or

(3) The employee is under court order to contribute to the spouse's support.

(b) *Members of the same household.* The employee and spouse are members of the same household if they normally live together as husband and wife in the same home. The employee and spouse are also considered members of the same household when they live apart but they expect to continue living together after a temporary separation. A temporary separation may be caused by military service, working away from home, hospitalization, or imprisonment. A separation of six months or less for any one of the above reasons or a separation of any length because of military service will be considered a temporary separation unless there is evidence that the employee and spouse do not intend to continue living together. A separation for more than six months, for other than military service, will be considered temporary only if there is evidence that the employee and spouse expect to live together in the near future. In general, a separation will not be considered temporary if the employee and spouse reside in different countries.

§ 216.24 Contributing to support, defined.

An employee is contributing to the support of a person if the employee gives some of his or her own cash, goods, or services to help support the person. Support includes food, clothing, housing, routine medical care, and other ordinary items needed for a person's well being. Contributions must be made regularly and must be large enough to meet an important part of a person's ordinary living costs. Benefits the persons receives based on the employee's military service record and spouse benefits under the Railroad Retirement Act are contributions to the person's support. A spouse social security benefit on the employee's earnings record is a contribution toward the spouse's support only if the spouse

met one of the "living with" requirements shown in § 216.23 when the spouse application was filed. The employee's contributions must be made on a regular basis. However, temporary interruptions caused by circumstances beyond the employee's control, such as illness or unemployment, are disregarded unless someone else takes over responsibility for supporting the person on a permanent basis.

§ 216.25 One-half support, defined.

The employee is providing one-half support to a person if the employee makes regular contributions to the person's support and the amount of the contributions is equal to or more than one-half of the person's ordinary living costs. Ordinary living costs are the costs for necessities such as food, clothing, housing, and routine medical care. A contribution may be in cash, goods, or services. The employee is providing one-half support only if he or she has done so for reasonable period of time. Ordinarily a reasonable period is the 12-month period immediately before the time the one-half support requirement must be met, as shown in §§ 216.58–216.60, 216.70, 216.82(c), 216.83(c) and 216.85 of this chapter. A shorter period will be considered reasonable if—

(a) The employee started providing one-half or more of person's support sometime during the 12-month period and intends to continue doing so on a permanent basis; or

(b) The employee provided one-half or more of a person's support for at least 3 months of the 12-month period, and—

(1) The employee had to stop or reduce the amount of the contributions because of circumstances beyond his or her control, such as illness or unemployment; and

(2) No other person took over the responsibility for providing one-half support on a permanent basis.

Subpart E—Surviving Spouse Annuity

§ 216.30 Who is eligible for a surviving spouse annuity.

A person is eligible for a surviving spouse annuity if the person—

(a) Is the widow or widower, as defined in § 216.32, of an employee who has completed 10 years of railroad service and had a current connection with the railroad industry when he or she died;

(b) Has not remarried; and

(c) Meets one of the following conditions—

(1) Is 60 years old or older;

(2) Is 50 years or older and under 60 years old and he or she has a disability as defined in Part 220 of this chapter that began before the end of the period described in § 216.36. A surviving spouse annuity that is paid on the basis of disability up to the month the annuitant is 60 years old automatically becomes an age annuity beginning with the month he or she is 60 years old;

(3) Is under 65 years old and has "in care" the deceased employee's child who is entitled to an annuity under subpart F of this part because he or she is under 18 years old or is disabled. §§ 216.36 and 216.37 describe when a child is "in care."

§ 216.31 What is required for payment.

An eligible widow or widower must apply to be entitled to an annuity.

§ 216.32 Who is the employee's surviving spouse.

A surviving spouse is the deceased employee's widow or widower who—

(a) Was married to the employee for at least nine months before the day the employee died; or

(b) Was married to the employee less than nine months before the employee died but, at the time of marriage, the employee was reasonably expected to live for nine months, and—

(1) The employee's death was accidental; or

(2) The employee died in the line of duty while he or she was serving on active duty as a member of the armed forces of the United States; or

(3) The surviving spouse was previously married to the employee for at least nine months; or

(c) Is the natural parent of the employee's child; or

(d) Was married to the employee when either the employee or the surviving spouse legally adopted the other's child or they both legally adopted a child who was then under 18 years old; or

(e) Was, in the month before the month of marriage, entitled to or, if the surviving spouse had applied and been old enough, he or she could have been entitled to—

(1) A widow's, widower's, father's, mother's, wife's, parent's or disabled child's benefit under section 202 of the Social Security Act; or

(2) A widow's, widower's, parent's or disabled child's annuity under this part.

§ 216.33 Marriage defined.

Marriage is a relationship based on—

(a) A "deemed marriage" which may be established as described in § 216.35; or

(b) The laws of the state in which the employee has a permanent home. The employee's permanent home is his or her true and fixed home (legal domicile). It is the place to which a person intends to return whenever he or she is absent. A valid marriage under State law may be established if—

(1) The employee and spouse are married in a civil or religious ceremony; or

(2) The spouse could inherit a wife's, husband's, widow's, or widower's share of the employee's personal property if the employee were to die without leaving a will; or

(3) The employee and spouse live together in a common-law marriage relationship which is recognized under State law.

§ 216.34 Relationship as wife, husband, widow or widower under State law.

To decide a person's relationship as the wife or husband of an employee, the Board applies the laws of the State where the employee had a permanent home when the spouse applied for his or her annuity. To decide a person's relationship as the widow or widower of an employee, the Board applies the laws of the State where the employee had a permanent home when the employee died. If the employee's permanent home is not in one of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa, the Board applies the laws of the District of Columbia. See § 216.33(b) for a definition of "permanent home."

§ 216.35 Deemed marriage.

(a) *General.* If a marriage relationship cannot be established under State law, as shown in § 216.33, a person may be eligible for an annuity based on a deemed marriage. A person is deemed to be the wife, husband, widow, or widower of an employee if the person's marriage to the employee would have been valid under State law except for a legal impediment (see paragraph (b) of this section) and all of the following requirements are met:

(1) The person married the employee in a civil or religious ceremony.

(2) The person went through the marriage ceremony in good faith and did not know of the legal impediment at the time of the marriage. Good faith means that the person believes the marriage is legal.

(3) The person was living in the same household with the employee when he or she applied for the spouse annuity or when the employee died. "Living in the same household" is defined in paragraph (c) of this section.

(4) At the time the person applies for his or her annuity, no other person has a relationship under state law, as shown in § 216.33(b), as the employee's wife, husband, widow or widower and is or

has been entitled to an annuity based on that relationship.

(b) *Legal impediment.* A legal impediment means that there was a defect in the procedure followed in the marriage ceremony or that a previous marriage of the employee or spouse had not ended at the time of the ceremony.

(c) *Living in the same household.* A husband and wife are "living in the same household" if they are "members of the same household" as shown in §216.23(b).

§ 216.36 "Child in care" when child is living with wife or surviving spouse.

A child who has been living with a person for at least 30 consecutive days is in that person's care if—

(a) The child is under 18 years old; or

(b) The child is 18 years old or older with a mental disability and the person supervises the child's activities and makes important decisions about the child's needs either alone or with another person; or

(c) The child is 18 years old or older with a physical disability and the person performs personal services for the child. Personal services are such services as dressing, feeding, and managing money, which the child cannot do alone because of a disability; and

(d) The child is not in active military service.

§ 216.37 "Child in care" when child is not living with wife or surviving spouse.

(a) *When child in care.* A child living apart from a person is in that person's care if—

(1) The child lives apart or is expected to live apart from the person for not more than 6 months; or

(2) The child is under 18 years old, the person supervises the child's activities and makes important decisions about his or her needs, and one of the following circumstances applies:

(i) The child is living apart because of school but spends a vacation of at least 30 consecutive days with the person each year, unless some event makes the vacation unreasonable. If the person and the child's other parent are separated, the school must look to the person for decisions about the child's welfare.

(ii) The child is living apart because of the person's employment but the person makes regular and substantial contributions to the child's support. "Contributing to support" is defined in § 216.24.

(iii) The child is living apart because of the child's or the person's physical disability; or

(3) The child is 18 years old or older and is mentally disabled and the person supervises the child's activities, makes important decisions about the child's needs, and helps in the child's upbringing and development.

(b) *Child not in care.* A child living apart from a person is not in the person's care if—

(1) The child is in active military service; or

(2) The child is living with his or her other parent; or

(3) A court order removed the child from the person's custody and control; or

(4) The child is 18 years old or older, does not have a mental disability, and has been living apart or expects to live apart from the person for more than 6 months; or

(5) The person gave the right to custody and control of the child to someone else.

§ 216.38 Disability period for surviving spouse.

A surviving spouse who has a disability as defined in Part 220 of this chapter is eligible for an annuity only if the disability began before the end of a period which—

(a) Begins with the later of—

(1) The month in which the employee died; or

(2) The last month the surviving spouse was entitled to an annuity for having the employee's child "in care"; or

(3) The last month the surviving spouse was entitled to a previous annuity based on disability; and

(b) Ends with the earlier of—

(1) The month before the month in which the surviving spouse is 60 years old; or

(2) The last day of the 84th month (7 years) following the month in which the period began.

Subpart F—Child's Annuity

§ 216.45 General.

The Railroad Retirement Act provides an annuity for the child of a deceased employee but not for the child of a living employee. However, the Act does provide that the child of a living employee can establish eligibility for a spouse annuity, or cause an increase in the annuity of an employee and spouse. The eligibility requirements described in this subpart for the annuity of a child of a deceased employee apply also for the following purposes, except as otherwise indicated in this part:

(a) To establish annuity eligibility for a wife under § 216.20 if she has the employee's eligible child "in care"; and

(b) To provide an increase in the employee's annuity under the social security overall minimum provision by including the eligible child. (See Part 229 of this chapter).

§ 216.46 Who is eligible for a child's annuity.

A person is eligible for a child's annuity if the person—

(a) Is a child, as defined in § 216.49, of an employee who has completed 10 years of railroad service and had a current connection with the railroad industry when he or she died;

(b) Is not married at the time the application is filed;

(c) Is dependent upon the employee as defined in §§ 216.56–216.61; and

(d) Meets one of the following at the time the application is filed—

(1) Is under 18 years old;

(2) Is 18 years old or older and either—

(i) Has a disability as defined in Part 220 of this chapter that began before the child became 22 years old; or

(ii) Is under 22 years old and is a full-time student as defined in § 216.63 and § 216.64; or

(iii) Becomes 22 years old in a month in which he or she is a full-time student and has not completed the requirements for, or received, a degree from a 4-year college or university.

§ 216.47 What is required for payment of a child's annuity.

An eligible child of a deceased employee must apply to be entitled to an annuity.

§ 216.48 Who may be reentitled to a child's annuity.

If a person's entitlement to a child's annuity has ended, the person may be reentitled if he or she has not married and he or she applies to be reentitled. The reentitlement may begin with—

(a) The first month the person is a full-time student if he or she is under 22 years old or is 22 years old and has not completed the requirements for, or received a degree from, a 4-year college or university; or

(b) The first month the person is disabled, if the disability began before he or she became 22 years old; or

(c) The first month the person is under a disability that began before the end of the 84th month after the month in which the previous spouse or child's annuity ended or the person was no longer included as a disabled child under the social security overall minimum (see Part 229 of this chapter) because he or she was no longer disabled.

§ 216.49 Child defined.

As used in this chapter, child means—

(a) The natural or legally adopted child of the employee; or

(b) The stepchild of the employee; or

(c) The grandchild or stepgrandchild of the employee or spouse; or

(d) The equitably adopted child of the employee.

§ 216.50 Relationship as a child under State law.

To decide a person's relationship as the child of an employee, the Board applies the laws of the State in which the employee has a permanent home when the wife applies for a spouse annuity for having the employee's child "in care," when the employee's annuity can be increased under the social security overall minimum provision, or when the employee dies, if the person is applying for a child's annuity. If the employee's permanent home is not in one of the 50 States, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa, the Board applies the laws of the District of Columbia. See § 216.33(b) for a definition of "permanent home."

§ 216.51 Who is the employee's natural child.

A person may be eligible as an employees' natural child if one of the following conditions is met:

(a) The child could inherit, under State law, a share of the employee's personal property as the employee's natural child if the employee were to die without leaving a will.

(b) The child's mother or father entered into "a deemed marriage" with the employee, before the child's birth, as described in § 216.35.

(c) The child's mother has not married the employee, but—

(1) The employee has stated in writing that the person is his child; or

(2) A court order states that the employee is the father of the child; or

(3) A court ordered the employee to contribute to the child's support because the employee is the child's father.

(d) The child's mother has not married the employee, but—

(1) The person has acceptable evidence othe than that shown in paragraph (c) of this section, that the employee is his or her father; and

(2) The employee was living with the child or contributing to the child's support, as shown in § 216.62 and § 216.24, when—

(i) The wife applied for her annuity for having the employee's child "in care;" or

(ii) The employee's annuity can be increased under the social security overall minimum provision as explained in Part 229 of this chapter; or

(iii) The employee died, if the person is applying for a child's annuity.

§216.52 Who is the employee's legally adopted child.

A person may be eligible as the employee's child if the employee adopted the child under the State laws which apply, as shown in § 216.50. A child adopted by the surviving spouse after the employee's death is considered the employee's child if—

(a) The child is adopted within two years after the day the employee died;

(b) The employee began proceedings to adopt the child before death; and

(c) The child is living in the employee's household at the time of the employee's death; and

(d) The child is not receiving regular support contributions from any person other than the employee or spouse at the time of the employee's death.

§ 216.53 Who is the employee's stepchild.

A person may be eligible as an employee's stepchild if—

(a) The child's natural or adoptive parent married the employee after the child's birth; and

(b) There is a marriage relationship between the employee and the child's parent as shown in § 216.33; and

(c) The employee and the child's parent were married at least one year before the date the wife applies for her annuity for having the employee's child "in care" or before the date the employee's annuity can be increased under the social security overall minimum provision; or

(d) The employee and the child's parent were married at least nine months before the date the employee died, if the person is applying for a child's annuity. If they were married less than nine months, the conditions described in § 216.32(b) must be met.

§ 216.54 Who is the employee's grandchild or stepgrandchild.

A person may be eligible as the grandchild or stepgrandchild of an employee or of an employee's spouse if the requirements in (a) and either (b) or (c) are met:

(a) The person is the natural child, legally adopted child, or stepchild of the child of an employee or employee's spouse as defined in §§ 216.51–216.53 or in § 216.55.

(b) The person's natural or adoptive parents are deceased or are disabled as defined in section 223(d) of the Social Security Act in the month in which—

(1) The employee, who is entitled to an annuity under subpart B of this part, would be entitled to an age benefit under section 202(a) or a disability benefit under section 223 of the Social Security Act if his or her railroad service were wages under that Act; or

(2) The employee dies; or

(3) The employee's period of disability begins, if he or she is entitled to an annuity and has a period of disability which continues until he or she could be entitled to a social security benefit as described in paragraph (1) of this subsection. "Period of disability" is explained in Part 220 of this chapter.

(c) The person was legally adopted in the United States by the employee's surviving spouse after the employee's death and the child's natural or adoptive parent or stepparent was not living in the employee's household and making regular contributions to the child's support at the time the employee died.

§ 216.55 Who is the employee's equitably adopted child.

A person may be eligible as the equitably adopted child of an employee if the employee had agreed to adopt the child but the adoption did not occur. The agreement to adopt must be recognized under State law so that the child could inherit a share of the employee's personal property as the employee's child if the employee were to die without leaving a will. The State law to be followed is explained in § 216.50.

§ 216.56 When a child must be dependent.

(a) *Employee is alive.* A child must be dependent upon the employee in the month in which—

(1) The wife's annuity as described in § 216.45 (a) begins; or

(2) The employee's annuity can be increased as described in § 216.45(b); or

(3) The employee's period of disability begins or the employee could become entitled to a social security benefit as described in § 216.54(b)(1), if the employee has a period of disability that continues until he or she could become entitled to that benefit.

(b) *Employee is dead.* A child must be dependent upon the employee in the month in which—

(1) The employee dies; or

(2) The employee's period of disability begins or the employee could become entitled to a social security benefit as described in § 216.54(b)(1), if the employee has a period of disability that continues until he or she could become entitled to that benefit or dies.

§ 216.57 When a natural child is dependent.

The employee's natural child, as defined in § 216.51, is considered dependent on the employee at the time shown in § 216.56. However, if the child is legally adopted by another person during the employee's lifetime, the child is considered dependent on the employee only if the employee was

living with the child or contributing to the support of the child at one of the times shown in § 216.56.

§ 216.58 When a legally adopted child is dependent.

(a) *General.*— (1) *During employee's lifetime.* If an employee legally adopts a child before the employee could become entitled to a social security benefit as described in § 216.54 (b)(l), and no other person adopts the child during the employee's lifetime, the child is considered dependent on the employee at the time shown in § 216.56(a). If the employee adopts a child who is not his or her natural child or stephild after the employee could become entitled to a social security benefit, as described in § 216.54(b)(l), the child is considered dependent on the employee only if the requirements in paragraph (b) of this section are met. If another person adopts the child during the employee's lifetime, the child is considered dependent on the employee as shown in § 216.57.

(2) *After employee's death.* If an employee legally adopted a child, including a natural child, stepchild, or grandchild, and no other person adopted the child during the employee's lifetime, the child is considered dependent on the employee at the time shown in § 216.56(b). If a surviving spouse adopted a child after the employee's death, the child is considered dependent on the employee if the requirements in § 216.52 are met. If another person adopted the child during the employee's lifetime, the child is considered dependent on the employee as shown in § 216.57.

(b) *Child adopted after employee could become entitled to a social security benefit.* A child who is not the employee's natural child, stepchild, grandchild or stepgrandchild, and who is adopted by an employee after the employee could become entitled to a social security benefit as described in § 216.54(b)(l), is considered dependent on the employee during the employee's lifetime only if the requirements in items (1), (2), and either (3) or (4) are met:

(1) The child is adopted in the United States.

(2) The child began living with the employee before the child became age 18.

(3) The child is living with the employee in the United States and receives at least one-half of his or her support from the employee for the year before—

(i) The employee could become entitled to a social security benefit, as described in § 216.54(b)(1); or

(ii) The employee becomes entitled to a period of disability that continues until he or she could become entitled to a social security benefit as described in § 216.54(b)(1); or

(4) A child born in the one-year period mentioned in item (3) lives with and receives at least one-half of his or her support from the employee for "substantially all" of the period that begins on the date the child is born. "Substantially all" means—

(i) The child is living with and receiving one-half support from the employee when the employee could become entitled to a social security benefit, as described in § 216.54(b)(1), or a period of disability; and

(ii) Any period during which the child was not living with or receiving one-half support from the employee is not more than one-half the period from the child's birth to the employee's date of entitlement or three months, whichever is less.

(c) *Grandchild adopted after employee could become entitled to a social security benefit.* If an employee legally adopts his or her grandchild or the spouse's grandchild after the employee could become entitled to a social security benefit, as described in § 216.54(b)(1), the grandchild is considered dependent on the employee during the employee's lifetime only if the requirements in items (1), (2), and (3) or (4) are met:

(1) The grandchild is adopted in the United States.

(2) The grandchild began living with the employee before the grandchild became age 18.

(3) The grandchild is living with the employee in the United States and receives at least one-half of his or her support from the employee for the year before—

(i) The employee's annuity can be increased under the social security overall minimum (see Part 229 of this chapter) by including the grandchild; or

(ii) The employee could become entitled to a social security benefit, as described in § 216.54(b)(1); or

(iii) The employee becomes entitled to a period of disability that continues until he or she could become entitled to a social security benefit, as described in § 216.54(b)(1).

(4) A grandchild born in the one-year period mentioned in item (3) lives with and receives at least one-half of his or her support from the employee for "substantially all" of the period that begins on the date the grandchild is born. "Substantially all" is defined in paragraph (b)(4) of this section.

§ 216.59 When a stepchild is dependent.

An employee's stepchild, as described in § 216.53, is considered dependent on the employee if the stepchild is living with or receiving at least one-half of his or her support from the employee at one of the times shown in § 216.56.

§ 216.60 When a grandchild or stepgrandchild is dependent.

An employee's grandchild, as described in § 216.54 is considered dependent on the employee if the requirements in (a) and (b) or (c) are met:

(a) The grandchild or stepgrandchild began living with the employee before the grandchild or stepgrandchild became age 18.

(b) The grandchild or stepgrandchild is living with the employee in the United States and receives at least one-half of his or her support from the employee for the year before—

(1) The employee could become entitled to a social security benefit as described in § 216.54(b)(1); or

(2) The employee dies; or

(3) The employee becomes entitled to a period of disability that lasts until he or she could become entitled to a social security benefit, as described in § 216.54(b)(1), or dies. "Period of disability" is explained in Part 220 of this chapter.

(c) A grandchild or stepgrandchild born in the one-year period mentioned in paragraph (b) lives with and receives at least one-half of his or her support from the employee for "substantially all" of the period that begins on the date the grandchild or stepgrandchild is born. "Substantially all" is defined in § 216.58(b)(4).

§ 216.61 When an equitably adopted child is dependent.

(a) *During employee's lifetime.* An employee's equitably adopted child, as defined in § 216.55, is not considered dependent on the employee during the employee's lifetime if the adoption takes place after the employee could become entitled to a social security benefit, as described in § 216.54(b)(1). If the equitable adoption took place before the employee could become entitled to a social security benefit, the child is considered dependent on the employee if the employee was living with or contributing to the support of the child at one of the times shown in § 216.56.

(b) *After Employee's Death.* An employee's equitably adopted child, as defined in § 216.55 is considered dependent on the employee if the employee was living with or contributing to the support of the child when the employee died.

§ 216.62 When a child is living with an employee.

A child is living with the employee if the child normally lives in the same home with the employee and the employee has parental control and authority over the child's activities. The child is considered to be "living with" the employee while they are living apart if they expect to live together again after a temporary separation. A temporary separation may include the employee's absence because of active military service, working away from home, hospitalization, or imprisonment. However, the employee must have parental control and authority over the child during the period of temporary separation. A child who is in active military service or in prison is not "living with" the employee, since the employee does not have parental control over the child.

§ 216.63 When a child is a full-time student.

A full-time student is a person who is in full-time attendance at an educational institution. A person is not a full-time student if he or she is paid while attending an educational institution by an employer who has requested or required that the person attend the educational institution.

(a) *Full-time attendance, defined.* Full-time school attendance means that a student is enrolled in a non-correspondence course which is considered full-time for day students under the practices and standards of the educational institution. If the student is enrolled in a junior college, college, or university, the course must last at least 13 weeks. If the student is enrolled in any other educational institution, the course must last at least 13 weeks and the student's scheduled rate of attendance must be at least 20 hours a week. A student whose full-time attendence either begins or ends in a month is in full-time attendance for the entire month. A student is in full-time attendence in the month he or she graduates if classes end in the month before graduation. A student is not in full-time attendance after his or her classes end if they end two or more months before the month of graduation.

(b) *Educational institution, defined.* An educational institution is a school (including a technical, trade, or vocational school), junior college, college, or university that meets any one of the following requirements:

(1) It is operated or directly supported by the United States, by any State or local government, or by a political subdivision of a State or local government.

(2) It is approved by a State or accredited by a State or nationally-recognized accrediting body. Approval by a State means that a State agency or local governmental unit recognizes a school, college, or university as an eductional institution or approves one or more of the courses offered by a school, college, or university. A State-recognized accrediting body is one designated or recognized by a State as the proper authority for accrediting schools, colleges, or universities. A nationally-recognized accrediting body is one that has been recognized by the U.S. Commissioner of Education.

(3) It is a nonaccredited school, college, or university but its credits are accepted by at least 3 educational institutions that have been accredited by a State or nationally-recognized accrediting body.

§ 216.64 When a child is a full-time student during a period of nonattendance.

A student who has been in full-time attendance at an educational institution is considered a full-time student during a period of non-attendance (including part-time attendance) if—

(a) The period of nonattendance is 4 consecutive months or less; and

(b) The student shows the Board that he or she intends to return or the student does return to full-time attendance at the end of the period; and

(c) The student has not been expelled or suspended from the educational institution.

Subpart G—Parent's Annuity

§ 216.70 Who is eligible for a parent's annuity.

A person is eligible for a parent's annuity if there is no surviving spouse or child who is or who could ever be entitled to an annuity under Subpart E or F of this part and the person—

(a) Is a parent as defined in § 216.72 of a deceased employee who had completed 10 years of railroad service and had a current connnection with the railroad industry when he or she died;

(b) Is 60 years old or older;

(c) Has not married since the employee died; and

(d) Was receiving at least one-half support from the employee when he or she died. One-half support is defined in § 216.25.

§ 216.71 What is required for payment.

An eligible parent must apply to be entitled to an annuity.

§ 216.72 Who is the employee's parent.

An employee's parent is a person who—

(a) Is the natural mother or father, who is considered the employee's parent under the laws of the state where the employee had a permanent home when he or she died; or

(b) Is a person who legally adopted the employee before the employee became 16 years old; or

(c) Is a stepparent who married the employee's natural or adoptive parent before the employee became age 16. The marriage must be valid under the laws of the state where the employee had a permanent home when the employee died. See § 216.33(b) for a definition of permanent home.

Subpart H—Dual Benefit Windfall

Authority: Sec. 3, Pub. L. 93–445, 88 Stat. 1323–1325 (45 U.S.C. 231b). Sec. 4, Pub. L. 93–445, 88 Stat. 1329–1332 (45 U.S.C. 231c). Sec. 7, Pub. L. 93–445, 88 Stat. 1339 (45 U.S.C. 231f). Sec. 216.86 also issued under sec. 1, Pub. L. 93–445, 88 Stat. 1311 (45 U.S.C. 231).

§ 216.80 Introduction.

Under the 1937 Railroad Retirement Act, an employee working in employment covered by that Act and the Social Security Act could get the full benefit of both Acts. The 1974 Railroad Retirement Act, which restructured the annuity into several components called tiers, eliminated this advantage, requiring that the first tier (the social security component) be reduced by the full amount of the social security benefit. However, an employee who is insured under the Social Security Act based on earnings before 1975, and meets certain other requirements, is entitled to a dual benefit windfall. This additional amount replaces, to a certain extent, the offset for the social security benefit in the first tier of the annuity. Similar provisions are made for a spouse and surviving spouse. This subpart describes the eligibility requirements for the windfall benefit. Parts 226–228 of this chapter describe how the windfall benefit is computed. Part 218 of this chapter explains when the windfall benefit begins and ends.

§ 216.81 Types of windfall benefits.

(a) *Employee and spouse.* The windfall benefit for an employee or spouse is equivalent to the type of social security benefit it is intended to replace:

(1) *Employee.* An employee windfall benefit is a replacement for:

(i) An old age or disability insurance benefit; or

(ii) A wife, husband, widow or widower insurance benefit.

(2) *Spouse.* A spouse windfall benefit is a replacement for:

(i) An old age or disability insurance benefit; or

(ii) A wife or husband insurance benefit.

(ii) He or she has a current connection with the railroad industry on December

§ 216.83 When a spouse annuity can be increased for a windfall benefit.

(2) The date the husband can become

Subpart I—Eligibility for More Than One Annuity

(5) The lump-sum death payment

(ii) A wife or husband insurance benefit.

(b) *Surviving spouse.* The windfall benefit for a surviving spouse is a guarantee that the surviving spouse will not get less in total benefits under the 1974 Act than he or she would have received under the 1937 Act as a widow or widower who was also entitled to an old age or disability insurance benefit under the Social Security Act.

§ 216.82 When an employee's annuity can be increased for a windfall benefit.

(a) *Old age or disability windfall benefit.* An employee's annuity can be increased for a windfall benefit based on his or her own earnings record if the employee—

(1) Has completed at least 10 years of railroad service before 1975;

(2) Is eligible for an old age or disability benefit under section 202(a) or 223(a) of the Social Security Act as in effect on December 31, 1974;

(3) Meets one of the following conditions:

(i) He or she worked for a railroad employer or as an employee representative in 1974;

(ii) He or she has a current connection with the railroad industry on December 31, 1974 or on the beginning date of his or her annuity; or

(iii) He or she has completed a total of at least 25 years of railroad service before 1975; and

(4) Is permanently insured under the Social Security Act on his or her own earnings record on December 31, 1974, as described in § 216.86; or

(5) Meets the requirements in paragraphs (a) (1) and (2) of this section but does not meet any of the conditions in paragraph (a)(3) and is permanently insured under the Social Security Act on his or her own earnings record on December 31 of the year before 1974 in which the employee last worked in the railroad industry, as described in § 216.86

(b) *Spouse or surviving spouse windfall benefit.* An employee's annuity can be increased for a windfall benefit as the spouse or surviving spouse of another person if the employee—

(1) Has completed at least 10 years of railroad service before 1975;

(2) Is eligible for a benefit as a spouse or surviving spouse under section 202 (b), (c), (e), (f) or (g) of the Social Security Act as in effect on December 31, 1974;

(3) Meets one of the following conditions:

(i) He or she worked for a railroad employer or as an employee representative in 1974;

(ii) He or she has a current connection with the railroad industry on December 31, 1974 or on the beginning date of his or her annuity; or

(iii) He or she has completed a total of at least 25 years of railroad service before 1975; and

(4) Is the spouse or surviving spouse of a person who—

(i) Is permanently insured under the Social Security Act on December 31, 1974, as described in § 216.86; and

(ii) If alive, is entitled to an old age or disability benefit under section 202(a) or 223(a) of the Social Security Act; or

(5) Meets the requirements in paragraphs (b)(1) and (2) of this section but does not meet any of the conditions in paragraph (b) (3) and is the spouse or surviving spouse of a person who—

(i) Is permanently insured under the Social Security Act on December 31 of the year before 1974 in which the employee last worked in the railroad industry, as described in § 216.86; and

(ii) If alive, is entitled to an old age or disability benefit under section 202(a) or 223(a) of the Social Security Act.

(6) Meets the dependency requirement in paragraph (c), if the employee is a male.

(c) *Dependency requirement for a windfall benefit as a husband or widower.* An employee who meets the requirements in paragraph (b) of this section and is the husband or widower of a permanently insured person must also have been receiving one-half of his support from that person at one of the times shown in this paragraph. One-half support is defined in § 216.25. A husband or widower must be eligible for benefits under section 202(c) or (f) of the Social Security Act as in effect on December 31, 1974, to be entitled to a windfall benefit. On that date, the Social Security Act required that a husband or widower must have been receiving one-half of his support from his wife at one of the following points in time:

(1) If she had a period of disability which continued until she became entitled to an old age or disability benefit or until her death—

(i) At the beginning of her period of disability; or

(ii) When she became entitled to an old age or disability benefit; or

(iii) When she died.

(2) If she did not have a period of disability which continued as described in paragraph (c) (1) of this section—

(i) When she became entitled to an old age or disability insurance benefit; or

(ii) When she died.

§ 216.83 When a spouse annuity can be increased for a windfall benefit.

(a) *Old age or disability windfall benefit.* A spouse annuity can be increased for a windfall benefit based on the spouse's own earnings record if—

(1) The employee has completed at least 10 years of railroad service before 1975 and he or she meets one of the following conditions:

(i) He or she worked for a railroad employer or as an employee representative in 1974;

(ii) He or she has a current connection with the railroad industry on December 31, 1974 or on the beginning date of the employee annuity; or

(iii) He or she has completed a total of at least 25 years of railroad service before 1975; and

(2) The spouse—

(i) Is permanently insured under the Social Security Act on his or her own earnings record on December 31, 1974, as described in § 216.86; and

(ii) Is eligible for an age or disability benefit under section 202(a) or 223(a) of the Social Security Act as in effect on December 31, 1974; or

(3) The employee has completed at least 10 years of railroad service before 1975 but does not meet any of the other conditions described in paragraph (a) (1) of this section and the spouse—

(i) Is permanently insured under the Social Security Act on his or her own earnings record on December 31 of the year before 1974 in which the employee last worked for the railroad industry, as described in § 216.86; and

(ii) Is eligible for an age or disability benefit under section 202(a) or 223(a) of the Social Security Act as in effect on December 31, 1974.

(b) *Spouse windfall benefit.* A spouse annuity can be increased for a windfall benefit based on the employee's earnings record if—

(1) The employee's annuity was increased for a windfall benefit under § 216.82(a);

(2) The spouse is 62 years old or older or is a wife with the employee's child who is under 18 years old or disabled in her care; and

(3) The spouse annuity cannot be increased for a windfall benefit under paragraph (a) of this section.

(c) *Dependency requirement for a husband.* A spouse who meets the requirements or paragraph (a) of this section and is the husband of the railroad employee must also have been receiving one-half of his support from the employee, as defined in § 216.25, on the later of—

(1) The beginning date of the spouse annuity; or

(2) The date the husband can become entitled to a windfall benefit based on his own earnings record, as shown in paragraph (a) of this section.

§ 216.84 When a surviving spouse annuity can be increased for a windfall benefit.

A surviving spouse annuity can be increased for a windfall benefit if—

(a) The deceased employee completed at least 10 years of service before 1975; and

(b) The surviving spouse—

(1) Is permanently insured under the Social Security Act on this or her own earnings record on December 31, 1974, as described in § 216.86; and

(2) Is entitled to an old age or disability benefit under section 202(a) or 223(a) of the Social Security Act.

§ 216.85 Dependency requirement for a windfall benefit as a widower.

A surviving spouse who meets the requirements in § 216.84 and is the widower of the deceased employee must also have been receiving one-half of his support from the deceased employee when the employee died or on the beginning date of the employee's annuity. One-half support is defined in § 216.25. A widower must be eligible for an annuity under section 5(a) of the Railroad Retirement Act of 1937, as in effect on December 31, 1974, to be entitled to a windfall benefit. Since a widower who was not receiving one-half of his support from his wife was not eligible for an annuity under the Railroad Retirement Act of 1937, he is not entitled to a windfall benefit.

§ 216.86 What is needed to be permanently insured under the Social Security Act.

"Permanently insured" is similar to "fully insured" under section 214(a) of the Social Security Act. To be permanently insured, a person needs the same social security earnings that he or she would need to be insured under the Social Security Act when or or she becomes 62 years old or dies, whichever is earlier. To be permanently insured as of December 31, 1974, the person must have enough social security earnings through December 31, 1974, to be fully insured under the Social Security Act. To be permanently insured as of December 31 of the year before 1974 in which the employee last worked in the railroad industry, the person must have enough social security earnings through that date to be fully insured under the Social Security Act.

Subpart I—Eligibility for More Than One Annuity

§ 216.90 Employee and spouse or survivor annuity.

Under the 1937 Act, a person receiving an employee annuity who was also entitled to an annuity as a spouse or survivor could receive both annuities. Under section 2(h)(3) of the 1974 Act, if a person is entitled to both an employee annuity and a spouse or survivor annuity, the spouse or survivor annuity must be reduced by the amount of the employee annuity. However, this reduction does not apply if the employee or the person on whose wage record the spouse or survivor benefit is payable worked for a railroad employer or as an employee representative before January 1, 1975.

§ 216.91 Spouse and survivor annuity.

If a person is entitled to both a spouse and survivor (child's or parent's) annuity only the larger of the two annuities will be paid. However, if the person chooses, he or she can receive the smaller of the two annuities.

§ 216.92 Two survivor annuities.

If a person is entitled to two survivor (surviving spouse, child's, or parent's) annuities, only the larger of the two annuities will be paid. However, if the person chooses, he or she can receive the smaller of the two annuities.

Subpart J—Current Connection With the Railroad Industry

§ 216.95 General.

A current connection with the railroad industry is clear in most cases where entitlement or death immediately follows continuous years of railroad employment. However, there are cases in which the employee did not work for a railroad employer for a period of time before entitlement or death. In this situation, a test is provided to determine whether the employee can be considered to have a current connection with the railroad industry.

§ 216.96 When required.

(a) A current connection is required to qualify a person for the following types of railroad retirement benefits:

(1) An employee occupational disability annuity as described in § 216.6(a).

(2) A supplemental annuity, as described in subpart C of this part.

(3) An employee or spouse windfall benefit, as described in §§ 216.82 and 216.83.

(4) A survivor annuity, as described in subparts E, F, and G of this part.

(5) The lump-sum death payment described in Part 235 of this chapter.

(b) A current connection established when an employee's annuity began is effective for—

(1) Any annuity under this part for which the employee later becomes eligible; and

(2) Any survivor annuity under this part or a lump-sum death payment under Part 235 of this chapter.

§ 216.97 Regular current connection test.

An employee has a current connection with the railroad industry if he or she meets one of the following requirements:

(a) The employee works in creditable railroad service in at least 12 of the 30 consecutive months immediately before the earlier of—

(1) The month his or her annuity begins; or

(2) The month he or she dies.

(b) The employee works in creditable railroad service in at least 12 months in a period of 30 consecutive months and does not work in any regular non-railroad employment in the interval between the month the 30-month period ends and the earlier of—

(1) The month his or her annuity begins; or

(2) The month he or she dies.

§ 216.98 Special current connection test.

An employee who does not have a current connection under the regular test has a current connection only to qualify a person for a survivor annuity if—

(1) The employee would not be fully or currently insured under section 214 of the Social Security Act if his or her railroad service after 1936 were treated as social security earnings; or

(2) The employee has no quarters of coverage as defined in section 213 of the Social Security Act.

§ 216.99 What is regular non-railroad employment.

Regular non-railroad employment is full- or part-time employment for pay but not any of the following types of employment:

(a) Self-employment.

(b) Temporary work provided as relief by an agency of a Federal, state, or local government.

(c) Service inside or outside the United States, for an employer under the Railroad Retirement Act, even if the employer does not conduct the main part of its business in the United States.

(d) Involuntary military service not creditable under the Railroad Retirement Act.

(e) Employment with the following agencies of the United States Government:

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(1) Department of Transportation.
(2) Interstate Commerce Commission.
(3) National Mediation Board.
(4) Railroad Retirement Board.

§ 216.100 What amount of regular non-railroad employment will break a current connection.

The amount of regular non-railroad employment needed to break a current connection depends on when the 30-month period described in § 216.97 ends, as follows:

(a) If the 30-month period ends in the year before or in the same year as the month the annuity begins or the month the employee dies, the current connection is broken if the employee—

(1) Works in each month in the interval after the end of the 30-month period and before the month the annuity begins or the employee dies; or

(2) Works and earns at least $200 in wages in any three months within the interval described in paragraph (a)(1) of this section.

(b) If the 30-month period ends more than a year before the year in which the annuity begins or the employee dies, the current connection is broken if the employee—

(1) Works in any two consecutive years wholly or partially within the interval after the end of the 30-month period and before the month the annuity begins or the employee dies; and

(2) Earns at least $1,000 in wages in any year wholly or partially within the interval described in paragraph (b)(1) of this section, even if that year is not one of the two consecutive years described in paragraph (b)(1) of this section.

§ 216.101 Regular non-railroad employment that will not break a current connection.

Regular non-railroad employment will not break an employee's current connection if it is performed during the 30-month period described in § 216.97(b), in or after the month the annuity begins, or in the month the employee dies.

PART 217—[REDESIGNATED AS PART 230]

4. The current Part 217 is redesignated as Part 230. A new Part 217 is added to read as follows:

PART 217—APPLICATION FOR ANNUITY OR LUMP SUM

Subpart A—General

Sec.
217.1 Introduction.
217.2 Definitions.
217.3. Need to file an application.

Subpart B—Applications

217.5 When an application is a claim for an annuity or lump sum.
217.6 What is an application filed with the Board.
217.7 Claim filed with the Social Security Administration.
217.8 When one application satisfies the filing requirement for other benefits.
217.9 Effective period of application.
217.10 Application filed after death.
217.11 "Good cause" for delay in filing application or in providing proof of support.

Subpart C—Filing an Application

217.15 Where to file.
217.16 Filing date.
217.17 Who may sign an application.
217.18 When application is not acceptable.
217.19 Representative of the claimant selected after application is filed.
217.20 When a written statement is used to establish the filing date.
217.21 Deterred from filing.

Subpart D—Cancellation of Application

217.25 Who may cancel an application.
217.26 How to cancel an application.
217.27 Effect of cancellation.

Subpart E—Denial of Application

217.30 Reasons for denial of application.
217.31 Applicant's right to appeal denial.

Authority: Sec. 5, Pub. L. 93–445, 88 STAT. 1332 (45 U.S.C. 231d). Sec. 7, Pub. L. 93–445, 88 STAT. 139 (45 U.S.C. 231f).

Subpart A—General

§ 217.1 Introduction.

This part describes how to apply for an annuity or lump-sum payment under this chapter. It contains the rules for the filing and cancellation of an application and the period of time the application is in effect.

§ 217.2 Definitions.

The following definitions are used in this part.

"Applicant" means a person who signs an application for an annuity or lump sum for himself or herself or for some other person.

"Application" refers only to a form described in § 217.6.

"Apply" or "File" means to sign a form or statement that the Railroad Retirement Board accepts as an application.

"Award" means to process a form to make a payment. An annuity is awarded on the date the payment form is processed.

"Claimant" means a person who files for an annuity or lump sum for himself or herself or the person for whom an application is filed.

§ 217.3 Need to file an application.

In addition to meeting other requirements, a person must file an application to become entitled to an annuity or lump sum. Filing an application will—

(a) Permit a formal decision on whether the person is entitled to an annuity or lump sum;

(b) Protect a person's entitlement to an annuity for as many as 12 months before the application is filed; and

(c) Provide the right to appeal if the person is dissatisfied with the decision (see Part 260 of this chapter).

Subpart B—Applications

§ 217.5 When an application is a claim for an annuity or lump sum.

An application is a claim for an annuity or lump sum if it meets all of the following conditions.

(a) It is based on an application form completed and filed with the Board as described in § 217.6;

(b) It is signed by the claimant or by someone described in § 217.17 who can sign the application for the claimant;

(c) It is filed with the Board on or before the date of death of the claimant. (See § 217.10 for limited exceptions.)

§ 217.6 What is an application filed with the Board.

(a) *General.* An application filed with the Board is generally one that is filed on a form set up by the Board for that purpose. See Part 200 of this chapter for a list of application forms.

(b) *Claim filed with the Social Security Administration.* An application filed for benefits under Title II of the Social Security Act on one of the forms set up by the Social Security Administration for that purpose (except an application for a disability insurance benefit that terminated before the employee completed his or her 120th month of creditable railroad service) is also considered an for an annuity or lump sum if it is filed as shown in § 217.7.

(c) *Claim filed with the Veterans Administration.* An application filed with the Veterans Administration on one of its forms for survivor benefits under section 3005 of Title 38, United States Code, is also considered an application for a survivor annuity.

§ 217.7 Claim filed with the Social Security Administration.

(a) *Claim is for life benefits.* An application for life benefits under Title II of the Social Security Act is an application for an annuity if the conditions either in paragraphs (a)(1), (a)(2), and (a)(3) or in paragraph (a)(4) of this section are met:

(1) The application was filed because the applicant did not know he or she was eligible for an annuity under the Railroad Retirement Act. The Board must have or receive evidence indicating why the applicant thought

that he or she lacked eligibility for an annuity.

(2) The claimant would have been entitled to and would currently be entitled to an annuity under subparts B or D of Part 216 of this chapter if the applicant had applied for the annuity on the date the social security application was filed.

(3) The applicant asks the Board in a written statement to consider the application for social security benefits as an application for an employee or spouse annuity.

(4) The application was filed because the employee had less than 10 years of creditable railroad service, and having established entitlement to social security benefits and continued working in railroad service, subsequently acquired 10 years of railroad service.

(b) *Claim is for death benefits.* An application for death benefits under Title II of the Social Security Act is an application for an annuity or lump sum if—

(1) The application is filed based on the death of an employee and the Board has jurisdiction for the payment of survivor benefits based on the compensation record of the deceased employee; and

(2) The claimant is eligible for an annuity or a lump-sum death payment on the date the application is filed.

§ 217.8 When one application satisfies the filing requirement for other benefits.

An annuity application filed with the Board is generally considered as an application for other benefits to which a person is or may be eligible. Therefore a claimant does not need to file another application to be entitled to any of the following types of benefits:

(a) An employee age annuity if—

(1) The employee's application for a disability annuity is formally denied and the employee is eligible for the age annuity on the date the application is filed or on the date the application is denied; or

(2) The employee is entitled to a disability annuity in the month before the month he or she is 65 years old.

(b) An accrued employee or supplemental annuity, or a residual lump sum, if a claimant is eligible for one of these payments when he or she files an application for a survivor annuity or lump-sum payment under this chapter.

(c) A surviving spouse annuity if he or she is entitled to a spouse annuity in the month before the month the employee died.

(d) A child's annuity if the wife of the employee had the child "in care" and was entitled to a spouse annuity in the month before the month the employee died.

(e) A surviving spouse annuity based on age, if the surviving spouse was entitled to a surviving spouse annuity based on disability in the month before the month he or she is 60 years old.

(f) A surviving spouse annuity based on age or disability if a widow, who was receiving an annuity under § 216.30(c)(3) of this chapter because she had the employee's child in her care, is eligible for an age or disability annuity when she no longer has an eligible child in her care.

(g) A spouse annuity based on age if a wife, who was receiving an annuity because she had the employee's child in her care, is eligible for an unreduced age annuity when she no longer has an eligible child in her care.

(h) A surviving spouse annuity under § 216.30(c)(3) of this chapter if during the time the surviving spouse is entitled to an annuity based on disability, he or she has "in care" a child of the deceased employee.

(i) A benefit under Title II of the Social Security Act unless the applicant restricts the application only to an annuity.

§ 217.9 Effective period of application.

(a) *When effective period ends.* The effective period of an application ends on the date of the notice of an initial decision denying the claim. If a timely appeal is made (see Part 260 of this chapter) the effective period of the application ends on the date of the notice of the decision of the referee, on the date of the notice of the final decision of the Board, or when court review of the denial has been completed. After the effective period of an application ends, the person must file a new application for any annuity or lump sum to which the claimant believes he or she is eligible.

(b) *Application filed before claimant is eligible.* (1) *General rule.* Except as shown in paragraph (b)(2) of this section, an application for an annuity must be denied if it is filed with the Board more than three months before the date an annuity can begin.

(2) *Application for disability annuity.* If the Board determines that a claimant for a disability annuity is disabled under Part 220 of this chapter, beginning with a date after the application is filed and before a final decision is made, the application is treated as though it was filed on the date the claimant became disabled. The claimant may be an employee, surviving spouse, or surviving child.

(c) *Application filed after the claimant is eligible.* (1) *Application for lump-sum death payment.* An application for a lump-sum death payment under Part 234 of this chapter must be filed within two years after the death of the employee. This period may be extended under the Soldiers' and Sailors' Civil Relief Act of 1940, or when the applicant can prove "good cause" under § 217.11 of this chapter for not filing within the time limit.

(2) *Application for annuity unpaid at death.* An application for an annuity due but unpaid at death under Part 234 of this chapter must be filed within two years after the death of the person entitled to the annuity. This period may be extended under the Soldiers' and Sailors' Civil Relief Act of 1940, or when the applicant can prove "good cause" under § 217.11 of this chapter for not filing within the time limit.

(3) *Application for residual lump sum.* An application for a residual lump sum under Part 234 of this chapter may be filed at any time after the death of the employee.

§ 217.10 Application filed after death.

The claimant must generally be alive when an application is filed. The following are exceptions to this rule:

(a) A survivor eligible for an annuity or lump sum under this chapter may file an application to establish a period of disability if the employee dies before filing an application for a disability annuity. A period of disability is defined in Part 220 of this chapter. The application must be filed within three months after the month the employee died.

(b) A person who could recieve payment for the estate of a person who paid the burial expenses of the deceased employee may file an application if the person who paid the burial expenses dies before applying for the lump-sum death payment under Part 234 of this chapter. The application must be filed within the two-year period shown in § 217.9(c)(1).

(c) A surviving spouse may file an application for a spouse annuity after the death of the employee if the surviving spouse was eligible for a spouse annuity in the month before the month the employee died.

§ 217.11 "Good cause" for delay in filing application or in providing proof of support.

(a) An applicant has "good cause" for a delay in the filing of an application for a lump-sum death payment or an annuity unpaid at death, as shown in § 217.9(c) (1) and (2), or for a delay in providing proof of support, as shown in § 219.31, if the delay was due to—

(1) Circumstances beyond the applicant's control, such as extended

illness, mental or physical incapacity, or communication difficulties; or

(2) Incorrect or incomplete information furnished by the Board; or

(3) Efforts by the applicant to secure evidence without realizing that evidence could be submitted after filing an application or proof of support; or

(4) Unusual or unavoidable circumstances which show that the applicant could not reasonably be expected to have been aware of the need to file an application or proof of support within the set time limit.

(b) An applicant does not have good cause for a delay in filing or providing proof of support if he or she was informed of the need to file or provide proof of support within the set time limit but neglected to do so or decided not to file.

Subpart C—Filing an Application

§ 217.15 Where to file.

(a) *Applicant in U.S. or Canada.* An applicant who lives in the United States or Canada may file an application at any Board office in person or by mail. An applicant may also give the application to any Board field employee who is authorized to receive it at a place other than a Board office.

(b) *Application Outside U.S.* An applicant who lives outside the United States or Canada may file an application at any United States Foreign Service office. An applicant may also send the application to an office of the Board.

§ 217.16 Filing date.

An application filed in a manner and form acceptable to the Board is officially filed with the Board on the earliest of the following dates:

(a) On the date it is received at a Board office.

(b) On the date it is delivered to a field employee of the Board as described in § 217.15.

(c) On the date it is received at any office of the U.S. Foreign Service.

(d) On the date the application was mailed, as shown by the postmark, if using the date it is received will result in the loss or reduction of benefits.

(e) On the date the Social Security Administration considers the application filed, if it is filed with the Social Security Administration or the Veterans Administration.

§ 217.17 Who may sign an application.

An application may be signed according to the following rules:

(a) A claimant who is 18 years old or older, competent (able to handle his or her own affairs), and physically able to sign the application, must normally sign in his or her own handwriting. However, a parent or a person standing in place of a parent may sign an application for a student under 22 years old. A parent or a person standing in place of a parent must sign the application if a child who is not yet 18 years old, except as shown in item (d).

(b) A claimant who is unable to write must make his or her mark. A Board representative or two other persons must sign as witnesses to a signature by mark.

(c) A claimant's representative, as described in Part 266 of this chapter, must sign the application if the claimant is incompetent (unable to handle his or her own affairs).

(d) A claimant who is a child between the ages of 16 and 18, is competent, as defined in paragraph (a) of this section, has no court appointed representative, and is not in the care of any person, may sign the application.

§ 217.18 When application is not acceptable.

(a) *Not properly signed.* The Board will ask the applicant to prepare a corrected application if—

(1) The original application was signed by someone other than the claimant or a person described in § 217.17; or

(2) The signature has been changed; or

(3) The signature is not readable or does not appear to be authentic.

(b) *Incomplete or not readable.* The Board will ask the applicant to prepare a supplement application with certain items completed if—

(1) Any entries on the application are not readable or appear to be incorrect; or

(2) An important part of the application was not completed.

(c) *Obtaining corrected application.* If an application is not properly signed, the applicant must prepare a new application with a corrected signature. If the Board receives the corrected application within 30 days after the applicant is asked to prepare it, the Board will use the filing date of the original application to pay benefits. If the Board receives the corrected application more than 30 days after the notice to the applicant, the Board will use the filing date of the corrected application to pay benefits.

§ 217.19 Representative of the claimant selected after application is filed.

(a) *Before benefits awarded.* If the Board selects a representative for an incompetent claimant (see Part 266 of this chapter) after an application is filed but before the benefit is awarded, a new benefit application must be filed by the representative. However, benefits will be paid using the filing date of the original benefit application.

(b) *After benefits awarded.* If the Board selects a representative after a monthly annuity was awarded to another person, the representative must apply as a substitute payee on a form specifically designed for that purpose. A new annuity application is not required.

§ 217.20 When a written statement is used to establish the filing date.

(a) *Statement filed with the Board.* A written statement indicating an intent to file a claim for an annuity or lump sum, filed with the Board as provided in §§ 217.15 and 217.16, can establish the filing date of an application. A form set up by the Board to obtain infomation about persons who may be eligible for an annuity or lump sum in a particular case is not by itself considered a written statement for the purpose of this section. The Board will use the filing date of the written statement if all of the following requirements are met:

(1) The statement gives a person's clear and positive intent to claim an annuity or lump sum for himself or herself or for some other person.

(2) The claimant or a person described in § 217.17 signs the statement.

(3) The person who signed the statement files an application with the Board on one of the forms described in Part 200 of this chapter within 90 days after the date a notice is sent advising the person of the need to file an application.

(4) The claimant is alive when the application is filed except as provided in § 217.10.

(b) *Statement filed with the Social Security Administration.* A written statement filed with the Social Security Administration can be used to establish the filing date of an application if, assuming the statement were an application, the conditions under § 217.7 are met and—

(1) The statement gives a clear and positive intent to claim benefits under Title II of the Social Security Act;

(2) The claimant or a person described in § 217.17 signs the statement;

(3) The statement is sent to the Board by the Social Security Administration;

(4) The person who signed the statement files an application with the Board on one of the forms described in Part 200 of this chapter within 90 days after the date a notice is sent advising the person of the need to file an application; and

(5) The claimant is alive when the application is filed except as provided in § 217.10.

§ 217.21 Deterred from filing.

A person who telephones or visits a Board office stating that he or she wishes to file for an annuity or lump sum, but puts off filing because of an action or lack of action by an employee of the Board, can establish a filing date based on that oral notice if the following conditions are met:

(a) The employee of the Board failed to—

(1) Tell the person that it was necessary to file an application on the proper form; or

(2) Tell the person that a written statement could protect the filing date; or

(3) Give the person the proper application form; or

(4) Correctly inform the person of his or her eligibility.

(b) The person files an application on one of the forms described in Part 200 of this chapter within 90 days after the date a notice is sent advising the person of the need to file an application.

(c) The claimant is alive when the application is filed except as provided in § 217.10.

Subpart D—Cancellation of Application

§ 217.25 Who may cancel an application.

An application may be cancelled by the claimant or a person described in § 217.17. If the claimant is deceased, the person who is or could be eligible for any annuity accrual under Part 234 of this chapter may cancel the application for the annuity.

§ 217.26 How to cancel an application.

An application may be cancelled under the following conditions:

(a) *Before an annuity is awarded.* The application may be cancelled if—

(1) The applicant files a written request with the Board at a place described in § 217.15 asking that the application be cancelled or stating that he or she wants to withdraw the application.

(2) The claimant is alive on the date the written request is filed or the claimant is deceased and the rights of no person other than the person requesting the cancellation will be adversely affected; and

(3) The applicant files the written request on or before the date the annuity is awarded.

(b) *After an annuity is awarded.* The application may be cancelled if—

(1) The conditions in paragraph (a) (1) and (2) of this section are met;

(2) Any other person who would lose benefits because of the cancellation consents to the cancellation in writing; and

(3) All annuity payments already made based on the application being cancelled are repaid or will be recovered.

§ 217.27 Effect of cancellation.

When a person cancels an application the effect is the same as though an application was never filed. When an employee cancels his or her application, any application filed by the employee's spouse is also cancelled. However, a request to cancel a survivor's application will cancel only the application of the survivor named in the written request. A person who cancels an application may reapply by filing a new application under this part.

Subpart E—Denial of Application

§ 217.30 Reasons for denial of application.

The Board will deny each application filed by or for an employee, spouse or survivor for one or more of the following reasons:

(a) The claimant does not meet the eligibility requirements for an annuity or lump sum under this chapter.

(b) The applicant files an application for other than a disability annuity more than three months before the date on which the eligible person's annuity can begin.

(c) The applicant does not submit the evidence required under this chapter to establish eligibility for an annuity or lump sum.

§ 217.31 Applicant's right to appeal denial.

Each applicant is given the right to appeal the denial of his or her application if he or she does not agree with the Board's decision. The appeals process is explained in Part 260 of this chapter.

5. A new Part 219 is added to read as follows:

PART 219—EVIDENCE REQUIRED FOR PAYMENT

Subpart A—General Evidence Requirements

Sec.
219.1 Introduction.
219.2 Definitions.
219.3 Who is responsible for furnishing evidence.
219.4 When and where to furnish evidence.
219.5 Failure to furnish requested evidence.
219.6 Original records or copies as evidence.
219.7 How the Board decides what is convincing evidence.
219.8 Preferred evidence and other evidence.

Subpart B—Evidence of Age, Marriage and Death
219.10 When evidence of age is required.
219.11 Types of evidence to prove age.
219.12 Evidence to prove death.
219.13 Evidence of presumed death.
219.14 When evidence of marriage is required.
219.15 Evidence of a valid ceremonial marriage.
219.16 Evidence of a common-law marriage.
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Authority: Sec. 7(b)(1), Pub. L. 93–455 [45 U.S.C. 231f(b)(1)].

Subpart A—General Evidence Requirements

§ 219.1 Introduction.

This part contains the basic rules for the evidence which is required to support a person's claim for monthly or lump-sum benefits under the Railroad Retirement Act as described in Parts 216 and 234 of this chapter and Medicare coverage (see Parts 270–271 of this chapter) under title XVIII of the Social Security Act. Special evidence requirements for disability annuities are found in Part 220 of this chapter.

§ 219.2 Definitions

As used in this subpart—

"Applicant" means the person who signs an application for an annuity or lump sum for himself, herself or for some other person.

"Apply" means to sign a form or statement that the Board accepts as an application.

"Benefits" means any employee

person files the application. Persons

§ 219.4 Preferred evidence and other

with the records of highest value listed

prove the death of persons other than

"Benefits" means any employee annuity, spouse annuity, survivor annuity, or lump-sum payment under the Act.

"Convincing evidence" means one or more pieces of evidence that proves to the satisfaction of the Board that an individual meets a requirement for eligibility. See § 219.7 for the guides the Board uses in deciding whether evidence is convincing.

"Eligible" means a person meets all of the requirements for payment of an annuity, a lump-sum or a benefit under section 202 of the Social Security Act but has not yet applied.

"Entitled" means that a person has applied and has proven his or her rights to benefits.

"Evidence" means any record, document or signed statement that helps to show whether a person is eligible for benefits. It may also be used to establish whether the person is still entitled to benefits.

§ 219.3 Who is responsible for furnishing evidence.

When evidence is required to prove a person's eligibility for, or right to continue to receive, annuity payments, that person or his or her representative (See Part 266 of this chapter) is responsible for obtaining the evidence and submitting it to the Board. An employee of the Board will advise each applicant what is needed and how to get it. If the evidence submitted is a foreign-language record or document, the Board will have it translated. All evidence and documents given to the Board are kept confidential and are not disclosed to anyone but the person who submitted them, except under the rules described in Part 262.16 of this chapter. Section 13 of the Railroad Retirement Act provides criminal penalties for any persons who misrepresent the facts or make false statements to obtain retirement benefits for themselves or someone else.

§ 219.4 When and where to furnish evidence.

When a person applies for benefits, the Board will ask that person for evidence to prove that he or she is eligible for the benefits.

After a person establishes entitlement to an annuity, the Board may ask for evidence to show that the person may continue to be entitled to an annuity or that his or her annuity payments should not be reduced or stopped. See Part 218 of this chapter for a list showing when annuity payments must be reduced or stopped. A person who lives inside the United States shall give his or her evidence to an employee of the Railroad Retirement Board office where the person files the application. Persons who live in an area where there is no Board office or persons who are unable to travel to a Board office may send evidence to the Board office closest to where they live. Persons who live outside the United States may take evidence to the Foreign Service Office closest to where they live, or send it to the headquarters office of the Board.

§ 219.5 Failure to furnish requested evidence.

(a) *Evidence to prove initial eligibility.* Usually the Board will ask a person to furnish specific kinds of evidence or information by a certain date, to prove initial eligibility for benefits. If the evidence or information is not received by that date, the Board may decide that the person is not eligible for benefits and will deny his or her application. The effects of denying an application are explained in Part 217 of this chapter.

(b) *Evidence to prove continued entitlement.* When a person is already receiving an annuity, a Board employee may ask that person to produce by a certain date information needed to decide whether that person can continue to receive an annuity or whether the annuity should be reduced or stopped. If the information is not received by the date given, the Board may decide that the person is no longer entitled or that his or her annuity should be stopped or reduced under the Act.

(c) *What to do when required evidence will be delayed.* When the required evidence cannot be furnished within the specified time, the person who was asked to give the evidence or information should notify the Board and explain why there will be a delay. If this delay is caused by illness, failure to receive the information from another source, or a similar situation, the person will be given additional time to secure the evidence or information. If the information is not received within a reasonable time, as determined by the Board, the person who was asked to give the evidence or information will be notified of the effect that his or her failure to furnish the evidence or information will have on his or her receiving or continuing to receive benefits.

§ 219.6 Original records or copies as evidence.

(a) *General.* An applicant or an annuitant may be asked to show an original document or record as evidence to prove eligibility or continued entitlement to benefits. A Board employee will make a photocopy or transcript of these original documents or records and return the documents to the person who furnished them. A person may also submit copies of original records that are properly certified and some uncertified birth notifications. These types of records are described below in this section.

(b) *Certified copies of original records.* The Board will accept copies of original records or extracts from records if they are certified as true and exact copies of the original by—

(1) The official custodian of the record;

(2) A Board employee who is authorized to certify copies;

(3) A Veterans Administration employee, if the evidence was given to that agency to obtain veteran benefits;

(4) A Social Security Administration employee, if the evidence was given to that agency to obtain social security benefits;

(5) A United States Consular Officer or employee of the Department of State authorized to certify evidence received outside the United States; or

(6) An employee of a State agency or State Welfare Office authorized to certify copies of original records in the agency's or office's files.

(c) *Uncertified copies of original records.* The Board may accept uncertified photo copies of birth registration notifications as evidence when it is the practice of the local birth registrar to issue them in this manner.

§ 219.7 How the Board decides what is convincing evidence.

When the Board received evidence, a Board employee examines it to see if it is convincing evidence. If it is, no other evidence is needed. In deciding whether the evidence is convincing, the Board employee decides whether—

(a) The information contained in the evidence was given by a person in a position to know the facts;

(b) There was any reason to give false information when the evidence was created;

(c) The information contained in the evidence was given under oath or in the presence of witnesses, or with the knowledge that there was a penalty for giving false information;

(d) The evidence was created at the time took place or shortly after;

(e) The evidence has been altered or has any erasures on it; and

(f) The information contained in the evidence agrees with other available evidence, including existing Board records.

§ 219.8 Preferred evidence and other evidence.

When a person submits the type of evidence shown as "preferred" in §§ 219.11(a); 219.12(a)(1) and (a)(2); 219.15(b)(1), (b)(2), and (b)(3); 219.16(b); 219.17(b); 219.18(b); 219.21(a); 219.23(b); 219.24(b); or 219.33(c) of this part, the Board will generally find it is convincing evidence. This means that unless there is information in the Board's records that raises a doubt about the evidence, other evidence to prove the same fact will not be needed. If preferred evidence is not available, the Board will consider any other evidence a person furnishes. If the other evidence consists of several different records or documents which all show the same information, the Board may determine that it is convincing evidence even though it is not "preferred" evidence. If the other evidence is not convincing by itself, the person will be asked to submit additional evidence. If the additional evidence shows the same information, all the evidence considered together may be convincing evidence. When the Board has convincing evidence of the facts that must be proven, or when it is clear that the evidence provided does not prove the necessary facts, the Board will make a formal decision about the applicant's rights to benefits.

Subpart B—Evidence of Age, Marriage, and Death

§ 219.10 When evidence of age is required.

(a) Evidence of age is required when the employee applies for an annuity under the Railroad Retirement Act or for Medicare coverage under title XVIII of the Social Security Act.

(b) Evidence of age is also required from a person who applies for a spouse's annuity, widow's, widower's, parent's or child's annuity under the Railroad Retirement Act, or for Medicare coverage under title XVIII of the Social Security Act.

§ 219.11 Types of evidence to prove age.

(a) *Preferred evidence.* The best type of evidence to prove a person's age is—

(1) A birth certificate or hospital birth record recorded before age 5;

(2) A church record of birth or baptism recorded before age 5; or

(3) Notification of registration of birth made before age 5.

(b) *Other evidence of age.* If an individual cannot obtain "preferred" evidence of age, he or she will be asked to submit other convincing evidence to prove age. The other evidence may be one or more of the following records with the records of highest value listed first; they are.

(1) Physician's or Midwife's birth record;

(2) Bible or other family record;

(3) Naturalization record;

(4) Military record;

(5) Immigration record;

(6) Passport;

(7) Census record or World War I draft registration;

(8) School record;

(9) Vaccination record;

(10) Insurance record;

(11) Labor Union or fraternal record;

(12) Employer's record; or

(13) A statement signed by the individual giving the reason why he or she cannot obtain other convincing evidence of age and the sworn statements of two other persons who have personal knowledge of the age that the individual is trying to prove.

§ 219.12 Evidence to prove death.

(a) *When evidence of the employee's death is required.* Evidence to prove the employee's death is always required for payment of any type of survivor benefit based on the deceased employee's record. See Part 216 for types of survivor benefits payable.

(1) Preferred evidence of death. The best evidence of a person's death is—

(i) A certified copy of or extract from the public record of death, coroner's report of death, or verdict of the coroner's jury of the state or community where death occurred; or a certificate by the custodian of the public record of death; or a certificate or statement of death issued by a local registrar public health official;

(ii) A signed statement of the funeral director, attending physician, or intern of the institution where death occurred;

(iii) A certified copy of, or extract from, an official report or finding of death made by an agency or department of the United States; or

(iv) If death occurred outside the United States, an official report of death by a United States Consul or other employee of the State Department; or a copy of the public record of death in a foreign country.

(2) Other evidence of death. If the "preferred" evidence of death cannot be obtained, the individual who must furnish evidence of death will be asked to explain why and submit other convincing evidence such as sworn statements of two persons who have personal knowledge of the death. These persons must be able to swear to the date, time, place and cause of death.

(b) *When evidence to prove death of other persons is required.* Evidence to prove the death of persons other than the employee is required when—

(1) A person, who is eligible for survivor benefits, dies after the employee;

(2) A residual lump sum (See Part 234 of this chapter) is payable and a person whom the employee named to receive all or part of this benefit dies before the employee; or dies after the employee but before receiving his or her share of the benefit;

(3) The spouse in a joint and survivor annuity election case (See Part 231 of this chapter) dies before the employee; or

(4) Any other case where there is reasonable doubt of the death of—

(i) Any person who, if alive, has priority over the applicant;

(ii) Any spouse whose death is alleged to have ended a previous marriage; or

(iii) Any person whose end of entitlement would increase benefits to other entitled persons.

§ 219.13 Evidence of presumed death.

When a person cannot be proven dead but evidence of death is needed, the Board may presume he or she died at a certain time if the Board receives the following evidence:

(a) A certified copy of, or extract from, an official report or finding by an agency or department of the United States that a mining person is "presumed" to be dead as stated in Federal law (5 U.S.C. 5565). Unless other evidence is submitted showing an actual date of death, the Board will use the date on which the person was reported missing as the date of death.

(b) Signed statements by those in a position to know the facts and other records which show that the person has been absent from his or her residence for no apparent reason and has not been heard from for at least 7 years. If there is no evidence available that he or she is still alive, the Board will use as the date of death either the date he or she left home, the date ending the 7-year period, or some other date depending upon what the evidence shows is the most likely date of death.

(c) When a person has been missing for less than 7 years but may be presumed dead due to drowning or common disaster, (fire, accident, etc.), the Board will ask for signed statements from the applicant and individuals who know the circumstances surrounding the person's disappearance. The best evidence is statements from individuals who witnessed the drowning or saw the missing person at the scene of the accident shortly before it happened.

(d) If the applicant is the employee's grandchild or stepgrandchild but the

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evidence does not identify a parent, the grandchild or stepgrandchild's parent will be presumed to have died in the first month in which the employee became entitled to benefits.

§ 219.14 When evidence of marriage is required.

Documentary evidence of marriage is required when an applicant for a monthly annuity, lump-sum death payment, residual lump sum or Medicare coverage, claims to be the wife, husband, widow, widower or stepparent of the employee. An applicant may also be required to submit evidence of another person's marriage when that person's marriage is necessary to determine the applicant's entitlement to benefits under the Railroad Retirement Act. In deciding whether the marriage to the employee is valid or not in a life case, the Board will follow the law of the State where the employee had a permanent home when the applicant filed an application; in a death case, the Board will follow the law of the State where the employee had a permanent home when he died. See § 219.36 for description of permanent home. What evidence will be required depends on whether the employee's marriage was a ceremonial marriage, a commonlaw marriage, or a marriage that can be deemed to be valid.

§ 219.15 Evidence of a valid ceremonial marriage.

(a) *Definition of valid "ceremonial marriage."* A valid "ceremonial marriage" is one that follows procedures set by law in the State or foreign country where the ceremony takes place. These procedures cover who may perform the marriage ceremony, what licenses or witnesses are needed and similar rules. A ceremonial marriage can be one that follows certain tribal Indian custom, Chinese custom or similar traditional procedures.

(b) *Preferred evidence.* Preferred evidence of a ceremonial marriage is—

(1) A copy of the public record of the marriage, certified by the custodian of the record or by a Board employee;

(2) A copy of the church record of the marriage certified by the custodian of the record or by a Board employee; or

(3) The original certificate of marriage.

(c) *Other evidence of a ceremonial marriage.* If preferred evidence of a ceremonial marriage cannot be obtained, the applicant must state why, in writing, and submit either—

(1) A sworn statement of the clergyman or official who performed the marriage ceremony; or

(2) Other convincing evidence such as the sworn statements of two persons who have knowledge of the marriage; preferably eyewitnesses to the marriage ceremony.

§ 219.16 Evidence of a common-law marriage.

(a) *Definition of "common-law marriage."* A "common-law" marriage is one considered valid under the law of certain States even though there was no formal ceremony. It is a marriage based upon an agreement to be married between two persons free to marry, who consider themselves married, and who live together as husband and wife. In some states certain other requirements (as dictated by the laws of the state) must be met.

(b) *Preferred evidence.* Evidence of a common-law marriage must give the reasons why the informant believes that a marriage exists. If the information described in this paragraph is not furnished on a form provided by the Board, it must be submitted in the form of a sworn statement. Preferred evidence of a common-law marriage is one of the following:

(1) If both the husband and wife are alive, each shall sign a statement and get signed statements from one blood relative of each. The statement of another individual may be submitted for each statement the husband or wife is unable to get from a relative. Each signed statement should show that—

(i) The husband and wife have a present agreement to be married and that they believe they are married; and

(ii) The husband and wife present themselves to the public as husband and wife.

(2) If either the husband or wife is dead, the surviving spouse shall sign a statement and get signed statements from two blood relatives of the dead spouse. The surviving spouse's statement should show that he or she and the dead spouse had an agreement that they believed themselves to be married and that they presented themselves to the public as husband and wife. The statments from relatives of the dead spouse should support the surviving spouse's statement.

(3) If both husband and wife are dead, the applicant shall get a signed statement from one blood relative of each dead spouse. Each statement should show that the husband and wife had an agreement that they believed themselves to be married and that they presented themselves to the public as husband and wife.

(4) Statements by relatives and other individuals described in paragraphs (b)(1), (2), (3) of this section are not required when—

(i) The husband and wife entered into a ceremonial marriage which was void because of a legal impediment to the marriage. See § 216.35 for definition of legal impediment;

(ii) After the impediment was removed the husband and wife continued to live together as man and wife until the employee filed an application or one of them died; and

(iii) A valid common-law marriage was established, under the law of the State in which they lived, by their continuing to live together as man and wife.

(c) *Other evidence of common-law marriage.* When preferred evidence of a common-law marriage cannot be obtained, the applicant will be asked to explain why and to furnish other convincing evidence of the marriage.

§ 219.17 Evidence of a deemed valid marriage.

(a) *Definition of "deemed valid marriage."* A "deemed valid marriage" is a ceremonial marriage entered into in good faith which would be valid if a legal impediment did not exist. An applicant may be the deemed spouse or widow or widower only if the applicant lives in the same household and no other person has been or is entitled to benefits as the legal spouse, widow, or widower.

(b) *Preferred evidence.* Preferred evidence of a deemed valid marriage is—

(1) Evidence of the ceremonial marriage as described in § 219.15(b);

(2) If both the employee and spouse are alive, the spouse's signed statement that he or she went through the ceremony in good faith and his or her reasons for believing the marriage was valid; or if the employee is dead, the widow or widower's signed statement that he or she went through the marriage ceremony in good faith and his or her reasons for believing it was valid;

(3) If required to remove a reasonable doubt, the signed statements of other persons who might have information about what the parties knew about any previous marriage or other facts showing whether the parties went through the marriage ceremony in good faith; and

(4) Evidence that the parties were living in the same household, if the employee is alive, when he or she applied for benefits or, if the employee is dead, when he or she died. See § 219.30(c) for the evidence required to demonstrate living in the same household.

(c) *Other evidence of a deemed valid marriage.* If preferred evidence of a deemed valid marriage cannot be obtained, the applicant must explain why and submit other convincing evidence of the marriage.

§ 219.18 Evidence that a marriage has ended.

(a) *When evidence is required.* Evidence of how a previous marriage ended may be required to determine whether a later marriage is valid. If a widow or widower remarried after the employee's death and that marriage was annulled, evidence of the annulment is required.

(b) *Preferred evidence.* Preferred evidence that a marriage has ended is—

(1) A certified copy of the decree of divorce or annulment; or

(2) Evidence of the death (See § 219.12(b)) of a party to the marriage.

(c) *Other evidence that a marriage has ended.* If preferred evidence that the marriage has ended cannot be obtained, the applicant must explain why and submit other convincing evidence that the marriage has ended.

Subpart C—Evidence for Child's and Parent's Benefits

§ 219.20 When evidence of a parent or child relationship is required.

A person who applies for parent's or child's benefits or for Medicare coverage is required to submit evidence of his or her relationship to the deceased employee. A spouse, under age 60, who applies for a spouse annuity because she has a child of the employee in care, is required to submit evidence of the child's relationship to the employee. The evidence the Board will request depends on whether the person is the employee's natural child, adopted child, stepchild, grandchild or stepgrandchild; or whether the person is the employee's natural parent or adopting parent.

§ 219.21 Evidence of natural parent or child relationship.

(a) *Preferred evidence.* If the eligible person is the natural parent of the employee, preferred evidence of the relationship is a copy of the employee's public or religious birth record. If the eligible person is the natural child of the employee, preferred evidence of the relationship is a copy of the child's public or religious birth record.

(b) *Other evidence of parent or child relationship.* When preferred evidence of a parent or child relationship cannot be obtained, the Board may ask the applicant for evidence of the employee's marriage or of the marriage of the employee's parents if that is needed to remove any reasonable doubt of the relationship. To show that a person is the child of the employee the person may be asked for evidence that he or she would be able to inherit the employee's personal property under State law where the employee had a permanent home (See § 219.31). When a spouse applies for benefits because of a child in care, the employee may be asked for a copy of any court order showing that he has been declared to be the natural parent of the child or a court order requiring the employee to contribute to the child's support because the child is his son or daughter.

§ 219.22 Evidence of stepparent or stepchild relationship.

If the eligible person is a stepparent or stepchild of the employee, the Board will ask for the evidence described in § 219.21 or § 219.23 which shows the person's natural or adoptive relationship to the employee's husband, wife, widow or widower. The Board will also ask for evidence of the husband's, wife's, widow's, or widower's marriage to the employee. (See § 219.14–219.17).

§ 219.23 Evidence of relationship by legal adoption—parent or child.

(a) *Definition of legally adopted child.* A child who is legally adopted by the employee under applicable State law is a "child" of the employee. Legal adoption is different from equitable adoption in that the adoption proceedings are completed under applicable State law and are not defective. A child adopted after the employee's death by the widow or widower, under certain conditions is deemed to be the employee's child. (See Part 216 Subpart H of this chapter).

(b) *Preferred evidence.* Preferred evidence of legal adoption is—

(1) A copy of the decree or order of adoption, certified by the custodian of the record;

(2) A photocopy of the decree or order of adoption; or

(3) If the widow or widower adopted the child after the employee's death, the evidence described in paragraph (b)(1) of this section; the widow's or widower's statement as to whether the child was living in the same household with the employee when he or she died (See § 219.30); what support the child was getting from another person or organization; and if the widow or widower had a deemed valid marriage with the employee, and evidence of that marriage (See § 219.17).

(c) *Other evidence of legal adoption.* In some States, the record of adoption is sealed and cannot be obtained without a court order. In this event, the Board will accept as proof of adoption an official notice received by the adopting parents at the time of adoption that the adoption has been completed; or a birth certificate issued as a result of the adoption proceeding.

§ 219.24 Evidence of relationship by equitable adoption.

(a) *Definition.* An equitably adopted child is a child who cannot qualify as a legally adopted child because the adoption proceedings are defective under State law; or a contemplated adoption was never completed. In some states, the law will consider a person to be the child of another if the other person agreed to adopt the child, the natural parents or the person caring for the child agreed to the adoption, the person and the child then lived together as parent and child, and certain other requirements are met.

(b) *Preferred evidence.* If the applicant is a child who had this type of relationship to the employee (or to the employee's wife, widow or husband), as defined in paragraph (a) of this section, the Board will ask for evidence of the agreement if it is in writing. The Board will also ask for written statements from the child's natural parents.

(c) *Other evidence.* If the agreement to adopt was not in writing, the Board will ask for other convincing evidence about the child's relationship to the adopting parents.

§ 219.25 Evidence of relationship of grandchild or stepgrandchild.

If the child is the grandchild or stepgrandchild of the employee, the Board will require the kind of evidence described in §§ 219.21–219.22 that shows the child's relationship to his or her parents and his or her parent's relationship to the employee.

§ 219.26 Evidence of a child's dependency.

(a) *When evidence of a child's dependency is required.* Evidence of a child's dependency on the employee is required when–

(1) The employee is receiving an annuity that can be increased under the Social Security Act Overall Mininum (See Part 229 of this chapter) by including a child, grandchild or a spouse who has a child in her care;

(2) A wife under age 65 applies for a full spouse annuity because she has a child or a grandchild of the employee in her care; or

(3) A child or someone in behalf of a child applies for a child's annuity based on the deceased employee's record.

(b) *When the dependency requirement must be met.* Usually the dependency requirement must be met at the time the employee became disabled or died or at

the time the child's annuity application was filed.

Board or other form acceptable to the Board) the following evidence:

(4) If the employee and spouse, widow or widower were not living in the same

(b) The male spouse's or widower's

home or burial expenses of the

person, only one of the persons will be

the time the child's annuity application was filed.

(c) *Natural or adopted child.* If the child is the employee's natural or adopted child the Board may ask for the following evidence:

(1) A signed statement by someone who knows the facts that confirms this relationship and which shows whether the child was legally adopted by someone other than the employee. If the child was adopted by someone else while the employee was alive but the adoption was annulled, the Board may require a certified copy of the annulment decree or other convincing evidence of the annulment.

(2) A signed statement by someone in a position to know showing when and where the child lived with the employee and when and why they may have lived apart; and showing what contributions the employee made to the child's support and how the contributions were made.

(d) *Stepchild.* If the child is the employee's stepchild, the Board may ask for the following evidence:

(1) A signed statement by someone in a position to know showing when and where the child lived with the employee and when and why they may have lived apart.

(2) A signed statement by someone in a position to know showing that the child received at least one-half of his or her support from the employee or the one-year before the employee became entitled to benefits or to a period of disability, (See Part 220 Subpart B of this chapter), died, and the income and support the child received in this period from any other source.

(e) *Grandchild or stepgrandchild.* If the child is the employee's grandchild or stepgrandchild, the Board will ask for evidence described in paragraph (d) of this section showing that the child was living with the employee and receiving at least one-half of his or her support from the employee for the year before the employee became entitled to benefits or to a period of disability (See Part 220 Subpart B of this chapter), or died. The Board will also ask for evidence of the employee's death or disability.

§ 219.27 Evidence of school attendance for child age 18 or older.

If a child age 18 or older, applies for benefits as a student the Board will ask for evidence that the child is attending school. After the child has started his or her school attendance the Board will also ask (twice yearly) for evidence that he or she is continuing to attend school full-time. The child will be asked to submit (on a form furnished by the Board or other form acceptable to the Board) the following evidence:

(a) A signed statement that he or she is attending school full-time and is not being paid by an employer to attend school.

(b) A statement from an official of the school verifying that the child is attending school full-time. The Board will also accept as evidence a letter of acceptance from the school, receipted bill or other evidence show that the child has enrolled or been accepted at that school or is continuing in full-time attendance.

Subpart D—Other Evidence Requirements

§ 219.30 Evidence of "living with."

(a) *Definition of "living with."* A spouse, widow or widower is "living with" the employee if—

(1) He or she and the employee are living in the same household together;

(2) The employee is contributing to the spouse's, widow's or widower's support (see § 216.24 of this chapter); or

(3) The employee is under court order to contribute to the spouse's, widow's or widower's support.

(b) *When evidence of "living with" is required.* Evidence of living with" is required when—

(1) The employee's spouse applies for a spouse's annuity; or

(2) The employee's legal widow or widower applies for a lump-sum death payment or residual lump sum on the basis of that relationship; or the employee's "deemed" widow or widower applies for a widow's or widower's annuity.

(c) *Types of evidence to prove "living with."* The following evidence may be required:

(1) If the employee is alive, both the employee and his or her spouse must sign a statement that they are living together in the same household when the spouse applies for a spouse's annuity.

(2) If the employee is dead, the widow or widower must sign a statement showing whether he or she was living with the employee when the employee died.

(3) If the employee and spouse, widow or widower were temporarily living apart, a signed statement is required explaining where each was living, how long the separation lasted, and the reason for the separation. If more evidence is required to remove any reasonable doubt about this, the Board may ask for signed statements of other persons in a position to know the facts or for other convincing evidence of "living with."

(4) If the employee and spouse, widow or widower were not living in the same household, the Board may ask for evidence that the employee was contributing to or under court order to contribute to the support of his or her spouse, widow or widower. Evidence of contributions or a certified copy of the order for support may be requested. The court order for support must be in effect on the day the spouse applies for a spouse's annuity or if the employee is dead, the day of the employee's death. This type of evidence does not apply for a "deemed" widow or widower (see § 219.17) because he or she must have been living in the same household as the employee.

§ 219.31 Evidence of a parent's support.

If a person applies for a parent's annuity, the Board will ask for evidence to show that the parent received at least one-half support from the employee in the one-year period before the employee died. The Board may also ask the parent for signed statements from other people who know the facts about his or her sources of support. The Board will ask for the following evidence:

(a) The parent's signed statement showing his or her income, any other sources of support, and the amount from each source during the one-year period; and

(b) The parent's signed statement showing his or her expenses during the one-year period.

(c) If the statement described in paragraphs (a) and (b) of this section cannot be obtained, other convincing evidence that the parent received one-half of his or her support from the employee.

§ 219.32 Evidence of a male spouse's or widower's dependence.

In the case of *Kalina* vs. *Railroad Retirement Board,* the Supreme Court ruled that a male spouse or widower need not be dependent on the deceased employee to be eligible for a spouse's or widower's annuity. However, a male spouse or widower must be dependent on the employee to be entitled to a windfall (see § 226.27 of this chapter for description of windfall). The male spouse or widower will be asked for evidence that he was dependent on the employee for at least one-half his support at the time of his annuity beginning date or if earlier the date he became entitled to a windfall or at the time of the employee's death. The Board will ask for the following evidence:

(a) The male spouse's or widower's signed statement showing his income, any other sources of support and the amount from each source.

(b) The male spouse's or widower's signed statement showing his expenses.

(c) If the statement described in paragraphs (a) and (b) of this section cannot be obtained, other convincing evidence that the spouse or widower received one-half support from the employee.

§ 219.33 Evidence of having a child in care.

(a) *Definition.* "Child in care" means that the mother or father exercises parental control and responsibility for the welfare and care of a child under age 18 or a mentally incompetent child age 18 or over or performs personal services for a mentally competent child age 18 or over who is disabled.

(b) *When evidence of having a child in care is required.* A person under age 65 who applies for a spouse's annuity on the basis of caring for a child, or for a mother's or father's annuity as a widow or widower, is required to furnish evidence that he or she has in care an eligible child of the employee as described in §§ 216.36–216.37. What evidence the Board will ask for depends on whether the child is living with the applicant or with someone else.

(c) *Preferred evidence of having a child in care.* Preferred evidence of having a child in care is—

(1) If the child is living with the applicant, the applicant's signed statement showing that the child is living with him or her.

(2) If the child is living with someone else—

(i) The applicant's signed statement showing with whom the child is living and why. The applicant must also show when the child last lived with him or her, how long the separation will last and what care and contributions he or she provides for the child; and

(ii) The signed statement of the person with whom the child is living showing what care the applicant provides and the sources and amounts of support received by the child. If the child is in an institution, an official there should sign the statement. If there is a court order or written agreement showing who has custody of the child, the Board will ask for a copy of this.

(d) *Other evidence.* If the preferred evidence described in paragraph (c)(2)(ii) of this section cannot be obtained, the Board will ask for other convincing evidence that the applicant has the child in care.

§ 219.34 Evidence of responsibility for or payment of burial expenses.

(a) *When evidence of burial expenses is required.* If a person applies for the lump-sum death payment because he or she is responsible for paying the funeral home or burial expenses of the employee or because he or she has paid some or all of these expenses, the Board will ask for evidence of this.

(b) *Type of evidence required.* The Board will ask for the following evidence:

(1) The applicant's signed statement showing—

(i) That he or she accepted responsibility for the funeral home expenses or paid some or all of these expenses or other burial expenses; his or her relationship to the employee; and if not related by blood or marriage, why he or she accepted responsibility for, or paid these expenses;

(ii) Total funeral home expenses and, if necessary, the total of other burial expenses; and if someone else paid part of the expenses, the person's name, address, relationship to the employee and the amount he or she paid;

(iii) The amount of cast or property the applicant expects to receive as repayment for any burial expenses he or she paid; and whether anyone has applied for any burial allowance from the Veterans Administration or other governmental agency for these expenses; and

(iv) If the applicant is owner or official of a funeral home, a signed statement from anyone, other than an employee of the home, who helped make the burial arrangements showing whether he or she accepted responsibility for paying the burial expenses.

(2) Unless the person is applying as an owner or official of a funeral home, a signed statement from the owner or official and, if necessary, from those supplied other burial goods or services which shows—

(i) The name, address, and relationship to the employee of everyone who accepted responsibility for, or paid any part of, the burial expenses; and

(ii) Information which the owner or official of the funeral home and, if necessary, the supplier has about the expenses and payments mentioned in paragraphs (b)(1)(ii) and (b)(1)(iii) of this section.

§ 219.35 Evidence of relationship of a person other than a parent or child.

When any person other than a child or parent applied for benefits due because of the employee's death or because of the death of a beneficiary, the Board may ask the applicant for evidence of relationship. The type of evidence requested is dependent upon the amount of benefit payable and the applicant's relationship to the decreased employee or beneficiary. If there is more than one person eligible for the benefit, and all eligible persons agree on the relationship of each other eligible person, only one of the persons will be asked to furnish proof of relationship.

§ 219.36 Evidence of where the employee has a permanent home.

(a) *When evidence of the employee's permanent home is required.* The Board may ask for evidence to prove where the employee has a permanent home at the time his or her spouse filed an application or if earlier, the time the employee died if—

(1) The entitled person is applying for benefits as the employee's wife, husband, widow, widower, parent or child; and

(2) The entitled person's relationship to the employee depends upon the laws of the State where the employee has his or her permanent home when his or her wife or husband applied for benefits or when the employee died.

(b) *What evidence is required.* The Board will ask for the following evidence to establish the employee's permanent home.

(1) The eligible person's signed statement showing what the employee considered to be his or her permanent home.

(2) If the statement in paragraph (b)(1) of this section or other evidence of record raises a reasonable doubt in establishing the employee's permanent home, evidence of where the employee paid personal property taxes, or real estate taxes, or income taxes; or voted; or other convincing evidence may be required.

§ 219.37 Evidence of "good cause".

The principle of "good cause" is applied by the Board in determining whether to allow an application which is submitted after the statutory time limits to be acceptable for the lump-sum death payment.

(a) *When evidence of "good cause" is required.* The Board may ask for evidence the applicant had "good cause" for delay as defined in Part 217 of this chapter when the applicant is applying for the lump-sum death payment described in Part 234 of this chapter more than two years after the employee died.

(b) *What evidence is required to establish "good cause".* The Board will ask for the following evidence of "good cause":

(1) The applicant's signed statement explaining why he or she did not submit proof of support or the application for lump-sum death payment within the specified 2-year period.

(2) If the statement in paragraph (b)(1) of this section or other evidence raises a reasonable doubt whether there was good cause, other convincing evidence to establish "good cause".

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6. A new Part 221 is added to read as follows:

PART 221—JURISDICTION DETERMINATIONS

Sec.
221.1 Introduction.
221.2 Railroad Retirement Board jurisdiction.
221.3 Social Security Administration jurisdiction.
221.4 When a jurisdiction decision may be reversed.

Authority: Sec. 7(b)(1), Pub. L. 94–547 (45 U.S.C. 231f(b)(1)).

§ 221.1 Introduction.

This part explains the factors involved in deciding whether the Social Security Administration or the Railroad Retirement Board will pay benefits to a railroad employee, and his or her eligible family members, both before and after the employee's death. The agency that has jurisdiction over the payment of benefits also has jurisdiction of the applicant's medicare coverage (see Part 270 of this chapter). The Board is responsible for making this decision.

§ 221.2 Railroad Retirement Board jurisdiction.

(a) *Life cases.* The Board has jurisdiction to pay monthly benefits to each living employee who has completed at least ten years (120 months) of creditable service under the Railroad Retirement Act, and to his or her eligible spouse. Creditable service is described in Part 220 of this chapter.

(b) *Death cases.* The Board has jurisdiction to pay monthly benefits or lump-sum death benefits to eligible survivors of a deceased employee, when the deceased employee has at least ten years (120 months) of service that is creditable under the Railroad Retirement Act and a current connection as described in Part 216 of this chapter. Lump-sum death benefits are described in Part 234 of this chapter. The Board also has jurisdiction to pay any residual benefits that may become payable at the death of an employee. Residual benefits are described in Part 234 of this chapter. The Board retains jurisdiction to pay any residual that may be payable even after jurisdiction has been transferred to the Social Security Administration as described in § 221.3.

§ 221.3 Social Security Administration jurisdiction.

The Board transfers jurisdiction (railroad service and compensation credits earned by the employee which the Social Security Administration considers in determining benefits payable) to the Social Security Administration when—

(a) *Life and death cases.* A living or deceased employee has less than 120 months of service that is creditable under the Railroad Retirement Act; or

(b) *Death cases.* A deceased employee has at least 120 months of service that is creditable under the Railroad Retirement Act (see Part 220 of this chapter) but does not have a current connection with the railroad industry as described in Part 216 of this chapter.

§ 221.4 When a jurisdiction decision may be reversed.

The Board may reverse a jurisdiction decision whenever evidence is received by the Board indicating that the original decision was incorrect.

PART 230—[REDESIGNATED FROM PART 217]

7. Former Part 217 titled Months Annuities Not Payable by Reason of Work is redesignated as Part 230. A new Part 217 titled Application for Annuity or Lump Sum was added (as explained in item 4 above).

PART 232—SPOUSE'S ANNUITIES

Subpart A—[Removed]

§§ 232.201–232.204 [Removed]

8. Part 232 is amended by removing Subpart A and §§ 232.201 through 232.204 of Subpart B.

PART 237—INSURANCE ANNUITIES AND LUMP SUMS FOR SURVIVORS

Subparts C and H—[Removed]

§§ 237.401, 237.404, and 237.406–237.410 [Removed]

9. Part 237 is amended by removing Subpart C, §§ 237.401, 237.404, and 237.406 through 237.410 of Subpart D, and Subpart H.

PART 238—RESIDENTIAL LUMP-SUM PAYMENTS

§ 238.5 [Removed]

10. Part 238 is amended by removing § 238.5.

Dated: November 14, 1980.

By Authority of the Board.

R. F. Butler,

Secretary of the Board.

[FR Doc. 80-36031 Filed 11-25-80; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Continued Payment of Disability Benefits to Individuals Under Vocational Rehabilitation Plans; Decision to Develop

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Social Security Administration plans to publish proposed regulations to provide that disability benefits will not be terminated or suspended because a person's physical or mental impairment has ceased if he or she is participating in an approved State vocational rehabilitation program.

These changes will implement a provision of Pub. L. 96–265 (The "Social Security Disability Amendments of 1980") which amends sections 225 and 1631(a) of the Social Security Act to continue benefits after the impairment ceases if the beneficiary is participating in an approved rehabilitation program. The Commissioner of Social Security must determine that participation in the program will increase the likelihood that the person may be permanently removed from the disability benefit rolls.

The changes will require revision to Subparts D, J, and P of Part 404 and Subparts I and N of Part 416 of Title 20 of the Code of Federal Regulations. The Department of Health and Human Services has classified these regulations as policy significant.

FOR FURTHER INFORMATION CONTACT:

Russell C. Brown, Social Security Administration, Room 3–C–7 Operations, 6401 Security Boulevard, Baltimore, Maryland 21235 Telephone 301–594–3784.

Dated: November 5, 1980.

William J. Driver,

Commissioner of Social Security.

[FR Doc. 80-36040 Filed 11-25-80; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 505

[Army Reg. 340–21]

Personal Privacy and Rights of Individuals Regarding Personal Records; Exemptions

AGENCY: Department of the Army, DOD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Army proposes to delete 2 exemption rules for two systems of records formerly subject to the Privacy Act. It was proposed to delete these two systems of records at 45 FR 75734, November 17, 1980.

DATE: Comments must be received on or before December 16, 1980.

ADDRESS: Comments may be sent to Headquarters, Department of the Army, The Adjutant General's Office, Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Christian, telephone: (202) 693–0973.

SUPPLEMENTARY INFORMATION:

Department of the Army exemption rules were published in the Federal Register of September 28, 1977 at 42 FR 51502.

§ 505.9b [Amended]

Accordingly, § 505.9b of 32 CFR Part 505 is proposed to be amended by deleting the exemptions for record systems A0508.09 DAPE, entitled FBI Criminal Type Reporting File (42 FR 51507; September 28, 1977) and A0720.04b DAPE, entitled Individual Correctional Treatment Files (42 FR 51511; September 28, 1977).

M. S. Healy,

OSD Federal Register Liaison Officer, Washington, Headquarters Services, Department of Defense.

November 20, 1980.

[FR Doc. 80-36784 Filed 11-25-80; 8:45 am]

BILLING CODE 3710-08-M

32 CFR Part 505

[Army Reg. 340–21]

Personal Privacy and Rights of Individuals Regarding Their Personal Records

AGENCY: Department of the Army DoD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of the Army proposes to amend the regulations pertaining to processing systems of records notices under the Privacy Act of 1974. The proposed amendment is necessary to conform to the current requirements of the Office of Management and Budget and the Department of Defense.

DATE: Comments must be received on or before December 26, 1980.

ADDRESS: Comments may be submitted to Headquarters, Department of the Army, The Adjutant General's Office, Washington, D.C. 20310.

FOR FURTHER INFORMATION CONTACT:

Mr. Guy B. Oldaker, telephone (area code: 202) 693–0973.

SUPPLEMENTARY INFORMATION:

Department of the Army policy and procedures implementing the Privacy Act of 1974 were published in the Federal Register on November 28, 1975 (40 FR 55551) and are contained in 32 CFR Part 505.

Accordingly, it is proposed to revise § 505.5 of 32 CFR to read as follows:

§ 505.5 System of records.

(a) *Section I. General Provisions.* (1) *Standards.* (i) This chapter prescribes general standards for, and restrictions in, the establishment and maintenance of systems of records. It requires the publication of notices in the Federal Register for all systems of records and of advance reports to the Congress and the Office of Management and Budget for those meeting the criteria in Section II. Section 505.6 details instructions for preparing system notices.

(ii) A "system of records", as defined in the Privacy Act, must meet all of the following criteria:

(A) It must consist of "records".

(B) It must be "under the control of" an agency.

(C) It must consist of records that are retrieved by reference to and individual name or some other personal identifier.

(iii) Some systems of records may be exempt from certain provisions of the Act; however, none are automatically exempt. Procedures for claiming exemptions are in § 505.7.

(2) *Retrieval practices.* Whether records are subject to the Act depends on how they are retrieved. To be subject to the Act, the records must be retrieved by use of an individual identifier; it is not enough that a capability or potential for retrieval exists or that retrieval is possible solely because of human memory.

(i) Existing file series shall not be rearranged so as to permit retrieval by name, social security number, or other individual identifier unless a system notice is published in the Federal Register.

(ii) Files may be rearranged, however, so as to prevent retrieval by person identifier and, thus, remove them from the system notice requirements. This procedure shall not be used, however, to circumvent the requirements of the Act by such devices as designating a file by a general overall title (e.g., "reassignment actions") when, in fact, the documents are retrieved by individual identifiers.

(3) *Relevance and necessity.* Only such personal information as is relevant and necessary to accomplish a purpose or mission required by Federal statute or Executive Order of the President shall be maintained in systems of records. The specific provision of law or Executive Order which provides authority for maintenance of information in each system of records must be identified. Statutory authority, or the regulatory authority derived therefrom, to establish and maintain a system of records does not convey unlimited authority to collect and maintain all information which may be useful or convenient, as opposed to that which is relevant and necessary.

(4) *Standards of accuracy.* Except for certain statistical records which are not used in making a determination about an individual, most records could be used in making a determination about an individual's rights, benefits, or privileges, including employment. To ensure accuracy, information to be included in a system of records should be obtained directly from the individual concerned whenever practicable. All records in systems of records which are used in making any determinations about any individual will be maintained with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in any determination.

(5) *First Amendment rights.* No record describing how an individual exercises rights guaranteed by the First Amendment will be maintained unless expressly authorized by Federal statute, by the individual about whom the record pertains, or unless pertinent to and within the scope of an authorized law enforcement activity. The exercise of these rights includes, but is not limited to, religious and political beliefs, freedom of speech and the press, and the right of assembly and to petition.

(6) *System evaluation.* System managers will evaluate information contained in their systems of records for relevance and necessity during the development phase of a new system of records or when an amendment to an existing system is proposed. In addition, system managers will evaluate their existing systems prior to the Annual Report (see § 505.1(k)). This evaluation should consider:

(i) Relationship of each item of information to the statutory or regulatory purpose for which the system is maintained.

(ii) Specific adverse consequences of not collecting each category of information.

(iii) Possibility of meeting the information requirement through use of information not individually identifiable or through sampling techniques.

(iv) Length of time the information is needed and, where appropriate, techniques for purging parts of the record.

(v) Financial cost of maintaining the data compared to risk or adverse consequences of not maintaining it.

(vi) Necessity and relevance of the information to the mission. When certain information is no longer required, it should be excised, if feasible. This requirement does not authorize destruction of records which are required to be retained in accordance with disposal authorizations granted under the Federal Records Act of 1950, as amended.

(7) *Government contractors.* When the Army contracts for the operation, use, or maintenance of a system of records to accomplish a function of the Army, such system of records will be deemed to be maintained by the Army and is subject to this regulation and the Defense Acquisition Regulation. Contractors are obligated to comply with the requirements of the Privacy Act in the collection, use, maintenance, and dissemination of information contained in the system of records. The contractor will be required to establish and maintain procedures which ensure that the confidentiality of records is maintained at all times and that information is disclosed only as permitted by the Privacy Act and Army regulations in the 340–21 series. The disclosure of records between the Army and its contractors will not require the consent of the individual to whom the record pertains or the maintenance of a disclosure accounting record. In this regard, disclosure of personal information between the Army and the contractor is considered to be the same as between those officers and employees of the Army who have a need for the records in the performance of their duties.

(8) *Safeguarding personal information in systems of records.* Personal information which is not routinely required to be released under the Freedom of Information Act (see § 505.3(b)(2)) must be safeguarded to preclude unauthorized disclosure and dissemination or misuse. Unauthorized access will be controlled by appropriate administrative, technical, and physical safeguards compatible with the sensitivity of the information. As a minimum, records will be accorded the protection prescribed by AR 340–16. Classified records must be safeguarded as prescribed in AR 380–5. Safeguarding information in automated systems is subject to the risk assessment requirements of Chapter 10 and Appendix L, AR 380–380.

(b) *Section II. Reporting Requirements for New or Altered Systems.* (1) *Narrative report.* The Privacy Act requires that an advance report of a new or altered system, meeting the requirements set forth in paragraph (b)(3) of this section, must be staffed with the Congress and the Office of Management and Budget. This will permit an evaluation of the probable and/or potential effect of such proposal on the privacy and other personal or property rights of individuals. It will also permit evaluation of the disclosure of information relating to such individuals and its effect on the preservation of the constitutional principles of federalism and separation of powers.

(2) *Criteria.* A report is required under the following conditions:

(i) *When a new system of records is proposed.* A new system is one for which no system notice is currently published in the **Federal Register.**

(ii) When an alteration is proposed to an existing. published system of records which meets the following criteria:

(A) Increases or changes the number or types of individuals on whom records are maintained. Changes involving the number—rather than the type—of individuals about whom records are maintained need only be reported when that change significantly alters the character or purpose of the system of records; e.g., normal increases attributed to normal population growth patterns need not be reported. On the other hand, when a system which covered only a portion of the workforce is expanded to cover all individuals, a report is required; e.g., a system which covered only a command portion of enlisted members is expanded to cover the entire enlisted force of the Department of the Army. The change would affect the "categories of individuals covered by the system" element of the system notice.

(B) Expands the types or categories of information maintained. For example, expansion of an employee payroll file to include data on education and training must be reported since the purpose of a payroll does not encompass education or training. This change would affect the "categories of records in the system" element of the system notice.

(C) Alters the manner in which the records are organized, indexed, or retrieved so as to change the nature or scope of the records. An example would be the combining of two or more existing systems, or splitting an existing system into two or more different systems such as might occur in a centralization/decentralization of organizational responsibilities; this would require a report.

(D) Alter the purpose(s) for which the information is used. For example: a proposal that military service records currently used for historical purposes, are to be used to make determinations on eligibility for disability benefits, would require a report. A proposal to change or establish a new "routine use" does not necessarily require a report if that use is compatible with the purposes for which the system is maintained; i.e., does not in effect create a new purpose.

(E) Changes the equipment configuration, software, and/or procedures so as to create the potential for either greater or easier access. Examples of such changes would be the conversion of a manual system to an automated one or the addition of a telecommunications capability to a system which did not have one. Another example would be the direct linking into a system by remote terminals of a new category of offices, such as might occur if a field office which had previously accessed a file by calling the headquarters office were to acquire direct terminal access. Software releases, such as operating systems and system utilities that provide for easier access, would require a report if used by applications that process personal information.

(*1*) The addition of an on-line capability to a previously batch-oriented system would require a report.

(*2*) The addition of peripheral devices such as tape drives, disk drives, card readers, printers, and the like to an existing equipment configuration does not constitute an altered system under the Privacy Act so long as the existing security posture is preserved; i.e., no report is required.

(*3*) An equipment configuration that currently has an on-line capability is not subject to the reporting requirement if it satisfies the following criteria:

(*i*) The equipment configuration changes in such a way that its existing security posture is preserved, i.e., the addition of terminals in a closed shop environment.

(*ii*) The addition of terminals does not exceed the capability of the current operating system and the existing security posture is preserved.

(3) *Content.* (i) The narrative report will consist of (A) transmittal letter, (B) narrative statement, and (C) supporting documentation. It will bear the Reports Control Symbol DD (A&AR) 1379.

(ii) The transmittal letter should include information not appropriate to either the narrative statement or the system notice, i.e., request for waiver (see paragraph (b)(3)(iv)(D) of this section), and be addressed to HQDA (DAAG–AMR–R).

(iii) The narrative statement primarily accomplishes staffing with the Congress and the Office of Management and Budget. It must include the following items:

(A) System Identification and Name: (e.g., A0708.02DAPC Official Military Personnel File);

(B) Responsible Official: (Name, title, and address of official to whom inquiries/comments may be directed);

(C) Purpose(s) of the System: (for new system only), or Nature of the Change(s) Proposed: (for altered system);

(D) Authority for the System: (Cite the specific provision of Federal statute or Executive Order which authorizes or provides a legal basis for maintenance of the information);

(E) Number or estimate of individuals on whom records will be maintained;

(F) Information on First Amendment Activities: (must include basis for maintaining, from Federal statute);

(G) Measures to Assure Information Accuracy: (Describe procedures to insure accuracy, relevance, timeliness, and competeness of the information if the system is to be used to make determinations about the rights, benefits, or entitlements of individuals);

(H) Other Measures to Assure System Security: (Describe administrative, technical, and physical safeguards to protect confidentiality of information against unauthorized access and threat. Automated systems require risk assessment pursuant to AR 380–380 and compliance with the privacy safeguards of Appendix L thereto); and

(I) Relations to State/Local Government Activities: (either source or recipient).

(iv) *Supporting documentation:* Attach the following inclosures:

(A) The proposed new (or altered) system notice prepared in accordance with § 505.6(i).

(B) An advance copy of proposed exemption rules if the System Manager plans to claim exemptions permitted by the Privacy Act for the new or altered system. (This action requires approval of the Secretary of the Army.)

(C) When either computer systems, word processing, or microform systems are used in processing a system of records under the Privacy Act, a brief description must be provided addressing (*1*) the process, (*2*) physical and technical safeguards, (*3*) information storage, and (*4*) data retrievability. At a minimum:

(i) State whether the automation is done in a batch or on-line equipment.

(ii) Describe in general terms the physical safeguards of the computer site and state if a site risk analysis was performed.

(iii) If an on-line system is being described, state whether dial-up or hard wired terminal support the system. Describe the controls used in accessing the system via the terminals, e.g., controlled area, key locks on hard wired terminals, password protection for dail-up terminals, etc.

(iv) State the location where the primary computer media is stored. Generally, computer media is stored at a Data Processing Installation which, in most instances, is not the System Location.

(v) Describe the technical procedures used to protect on-line data from unauthorized disclosures. In cases where Data Base Management Systems and/or retrieval languages are part of a computer system, describe the control procedures for insuring that the information accessed is in conformity with the published system notice, e.g., an ad-hoc query retrieving a record by SSN when SSN was not specified as a retrieval field in the published system notice.

(D) Request for waiver of the 60 day advance notice requirement may be submitted when:

(*1*) a delay of 60 days in establishing the system would not be in the public interest, with detailed justification (*i*) showing how the public interest would be adversely affected if the waiver were not granted (i.e., effect on the public of delaying implementation of the system), and (*ii*) explaining why an earlier notice was not provided; or

(*2*) the system of records was in existence prior to September 27, 1975; failure to provide the required notice was due to administrative oversight; and suspending operation of the system would adversely affect the public interest.

(When such waiver is approved, it has the net effect of waiving only the 30 days required by the Congress and Office of Management and Budget for review; it does not obviate the requirement to publish in the **Federal Register** for 30 days' public comment.)

(v) *Constraints.* Report on a proposed new or altered system of records must be submitted no later that the following dates, whichever is earlier;

(A) Ninety days before any issuance of data collection forms and/or instructions;

(B) Ninety days before entering any personal information into the new or altered system.

(C) Ninety days before any public issuance of a Request for Proposal or an Invitation to Bid for computer and/or communication system. (NOTE: Requests for delegation of procurement authority may be submitted to General Services Administration in accordance with Public Law 89–306 and regulations issued pursuant to that law prior to expiration of the 90 day limitation, but will include language stipulating that the System Manager has reviewed requirements of the Privacy Act for filing a report on a new system and concluded that the report is (is not) applicable to such procurement.)

(vi) *Procedure.* (A) Report of a proposed new or altered system of records must be submitted to The Adjutant General, ATTN: DAAG–AMR–R, at least 90 days before the system is to become operational to permit internal review and coordination, staffing at DOD, and a minimum of 30 days' review by the Congress and Office of Management and Budget.

(B) Following the aforementioned 30 days' review, notice for the new/altered system will be published in the **Federal Register** for 30 days' public comment. Any approved exemption rule which applies to the system will be published concurrently, but in a separate section of the **Federal Register,** first for 30 days' review and comment, and secondly, as a final rule. An exemption may not be invoked until it has been published as a final rule.

(C) New/altered system notices which have been published in the **Federal Register** will be included in subsequent revisions to the AR 340–21 series.

M. S. Healy,

OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 80-36776 Filed 11-25-80; 8:45 am]

BILLING CODE 3710-08-M

V 45 N 026 80 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1682-1]

State and Federal Administrative Orders Revising the Michigan State Implementation Plan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rulemaking.

SUMMARY: On December 10, 1979, the State of Michigan submitted to the U.S. Environmental Protection Agency (USEPA) a proposed revision to the Michigan State Implementation Plan (SIP). The revision is a Final Order issued by the Michigan Air Pollution Control Commission (Commission) which extends the compliance date until January 1, 1985 for the Consumers Power Company's B.C. Cobb plant to meet the State of Michigan's sulfur dioxide (SO_2) emission limitations. The purpose of this notice is to invite public comment on USEPA's proposed approval of this revision to the Michigan SIP.

DATE: Written comments must be received by December 26, 1980.

ADDRESS: Please send comments to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

The State Order, supporting materials and public comments received in response to this notice may be inspected and copied (for appropriate charges) during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Judy Kertcher, Regulatory Analysis Section, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6036.

SUPPLEMENTARY INFORMATION: The Cobb Plant is located in Muskegon, Michigan on Muskegon Lake, approximately five miles east of Lake Michigan. Muskegon, Michigan is designated as attaining the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide at 40 CFR Part 81. The Cobb Plant consists of five coal-fired steam electric generating units having a total rating of 510 megawatts. The plant's emissions were discharged through five 76.2 meter (m) stacks until August 1975 when a new 198.2 m stack was constructed for the discharge of the combined emissions from all five units. In September 1978, the Company requested an extension from January 1, 1980 until January 1, 1985 for the B.C. Cobb Plant to meet the SO_2 emission limitation in Michigan Rule 336.1401. For the purpose of demonstrating attainment and maintenance of the SO_2 NAAQS, a good engineering practice (GEP) stack height of 163.1 m was used in the dispersion modeling analysis submitted to USEPA. The GEP stack height was calculated using the formula proposed by USEPA on January 12, 1979 (44 FR 2608).

The Michigan Air Pollution Control Commission (Commission) and the Company entered into a Stipulation for Entry of a Consent Order which was incorporated into a Final Order of the Commission. On December 10, 1979, Michigan submitted the Final Order to the USEPA as a revision to the Michigan SIP.

The proposed SIP revision, Final Order APC No. 6-1979, extends the compliance date for the B.C. Cobb Plant from January 1, 1980 to January 1, 1985 for meeting the sulfur dioxide emission limitations in Tables 41 and 42 of MAPCC Rule 336.1401. Any Order which has been issued to a major source and extends the SIP compliance date for meeting the sulfur dioxide emission limitations must be approved by USEPA before it becomes effective as a SIP revision under the Clean Air Act. The proposed revision allows a five year extension of the compliance date of the Michigan SIP Rule 336.1401 for the five units at the B.C. Cobb Plant.

The Order contains the following provisions:

A. Sulfur Dioxide Emission Limitations:

(1) Beginning on January 1, 1980 and continuing to January 1, 1985 fuel burned at the Cobb Plant shall not:

(a) On an annual average exceed 2.5 percent sulfur content by weight at 12,000 BTU/pound of coal.

(b) Result in sulfur dioxide emissions not greater than 386 tons on any calendar day. This emission limitation is the equivalent of burning coal which averages 3.5 percent sulfur content by weight at 12,000 BTU/pound of coal and 510 megawatts net load for 24 hours.

(c) On a daily average result in emissions of sulfur dioxide not greater than a rate of 7.0 pounds per million BTU heat input.

(2) After January 1, 1985 emissions of sulfur dioxide from the Cobb Plant shall not exceed the levels prescribed in Tables 3 and 4 of Rule 336.49 (Tables 41 and 42 of revised Rule 336.1401, effective January 17, 1980), unless an alternate date for compliance with the levels is established by the Commission.

B. Sulfur Dioxide Control Program:

(1) By January 1, 1980 the Company shall submit to the Commission an acceptable control strategy which shall provide for compliance with Section A(2) of the Order.

(2) If the Company elects to burn low sulfur coal as the method of control, the Company shall by January 1, 1981 and by each January 1 for the following three (3) years:

(a) Notify the Commission that it has under contract or contract option the low sulfur coal necessary to meet the requirements of Section A(2) of the Order; or

(b) Notify the Commission, with acceptable explanation, that adequate quantities of low sulfur coal are available for acquisition for use in the Cobb Plant by January 1, 1985.

(3) If low sulfur coal is chosen as the method of control, the Company shall notify the Commission of the signing of any contracts for such coal within thirty (30) days for their signing.

(4) If the Company elects a control strategy othe than low sulfur coal burning, a report on the method of control (including increments of progress) shall be provided to the Commission by January 1, 1980. If a control strategy other than low sulfur coal burning is submitted, it is the intent of the Company and the Commission to incorporate the elements of the Control strategy into either a new or amended order.

(5) By January 1, 1981 and by each January 1 for the following three (3) years, the Company shall submit to the Commission a report of the Company's progress toward complying with the Order. Any developments which would preclude compliance with any provision of the Order shall be immediately reported in writing to the Commission.

C. monitoring and Data Reporting:

(1) The Company shall operate four (4) ambient sulfur dioxide monitors around the Cobb Plant in such manner and at such locations as reasonably specified by the Chief of the Air Quality Division of the Department of Natural Resources (hereinafter "Staff").

(2) The Company shall perform a weekly sulfur analysis of fuel burned in the Cobb Plant in accordance with the procedures specified in Appendix A.

(3) The Company shall by January 1, 1980 install and place in operation stack gas emission monitor(s) for measuring sulfur dioxide that meets the performance specifications of Appendix B of 40 CFR Part 60 (1977).

(4) The Company shall demonstrate the adequacy of the stack gas sulfur dioxide monitor(s) in accordance with the procedures specified in Appendix B of 40 CFR Part 60 (1977).

(5) For each calendar day during which the stack gas sulfur dioxide monitor(s) has been inoperative for 12 consecutive hours, the Company shall conduct a daily analysis of the coal burned at the Cobb Plant according to the procedures specified in Appendix A. This daily analysis shall be discontinued only after the stack gas sulfur dioxide monitor(s) has operated acceptably for 12 consecutive hours during a calendar day.

(6) The Company shall report to the Staff sulfur dioxide emissions in terms of pounds of sulfur dioxide per million BTU heat input in accordance with the procedures specified in Appendix B of 40 CFR Part 60 (1977).

(7) The Company shall submit to the Staff data from the aforementioned ambient air quality monitors, stack gas monitor(s), and fuel sulfur analysis in such format and at such intervals as reasonably specified.

(8) During the first quarter of 1980 and at approximately 18-month intervals thereafter, the Company shall conduct periodic particulate emission tests for each unit of the Cobb Plant. The tests shall be conducted in accordance with Commission approved procedures.

(9) The monitoring and reporting requirements specified in or pursuant to Subsections C(1) through (8) shall be, upon request of the Company, reviewed by the Commission and modified if the Commission finds such modifications are justified.

The Final Order contained the following appendix:

Appendix A—Fuel Analysis Procedures

1. Weekly Fuel Analysis:

a. A minimum of three equally spaced grab samples of the coal burned at the Cobb Plant shall be taken each calendar day.

b. A weekly composite coal sample shall be prepared for analysis from the grab samples according to ASTM or equivalent methods for each calendar day that the daily fuel analysis is required.

c. The composite coal sample shall be analyzed for sulfur heat (BTU) content according to ASTM or equivalent methods approved by the Chief of the Air Quality Division.

An air quality study was submitted to the USEPA on behalf of Consumers Power Company. The study used non-reference modeling techniques and employed a point source gaussian plume air quality model developed by Consumers Power Company's consultant. The model used in the analysis is not included as a reference model in GUIDELINE ON AIR QUALITY MODELS (EPA 450/2-78-027), April, 1978. Consequently, USEPA performed an air quality modeling analysis to ensure that approval of the variance for B.C. Cobb will not cause or contribute to a violation of the SO_2 National Ambient Air Quality Standards (NAAQS). Based on its analysis employing a reference model (MPTER) with five years of meteorological data (1973-1977), USEPA concluded that the SIP revision for B.C. Cobb will not cause or contribute to a violation of the NAAQS. The State has indicated that it is relying upon fuel analysis to determine the Company's compliance with the Order. This is acceptable to USEPA.

Under the revised stack height policy, published June 24, 1980 (45 FR 42279), sources seeking credit for raising existing stacks will be required to provide a fluid modeling or field study demonstration that the stack height increase is necessary to avoid excessive concentrations due to downwash, wakes and eddies. Consumers Power did not submit an adequate demonstration that the stack height increase from 76.2m to 198.2m is necessary to avoid aerodynamic downwash at the B.C. Cobb Plant. Therefore, USEPA performed an additional air quality analysis using the 76.2m height of the old stack and the stack design parameters associated with the new stack (198.2m). The modeling analysis demonstrated that no additional stack height credit was necessary to demonstrate attainment of the SO_2 NAAQS. Therefore, fluid modeling is not required to support the revision to the Michigan SIP.

USEPA proposes to approve this revision to the Michigan SIP, and solicits public comment on the revision and on USEPA's proposed approval. All interested persons are invited to submit comments to the address listed in the front of this notice. Public comments received on or before (30 days from date of publication) will be considered in USEPA's final rulemaking. All comments received will be available for inspection at the Region V Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois, 60604. After the public comment period, the Administrator of USEPA will publish in the **Federal Register** the Agency's final action on the proposed SIP revision. Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels proposed regulations as "specialized." I have reviewed these proposed regulations pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator and I have determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

This proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act (42 U.S.C. 7410).

Dated: October 31, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-36898 Filed 11-25-80; 8:45 am]

BILLING CODE 6560-26-M

40 CFR Part 52

[A-5-FRL 1681-5]

Approval and Promulgation of Implementation Plan: Minnesota

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: The U.S. Environmental Protection Agency (USEPA) today proposes approval of revisions to the Minnesota State Implementation Plan (SIP) for the Twin Cities and Rochester sulfur dioxide nonattainment areas. The State submitted these proposed revisions to USEPA to satisfy the requirements of Part D of the Clean Air Act (Act). The State transmitted the Twin Cities sulfur dioxide plan on May 7, 1980 and amended it on June 17, 1980. The State submitted the Rochester sulfur dioxide plan on July 15, 1980. On August 4, 1980 the State resubmitted both sulfur dioxide plans and the June 17, 1980 submission. A correction to the August 4, 1980 submission was submitted to USEPA on September 4, 1980.

The purpose of today's notice is to discuss the results of USEPA's review of the proposed revisions; to propose approval and to invite public comment.

DATE: Comments on this revision and on the proposed USEPA action on the revisions are due by December 26, 1980.

ADDRESSES: Copies of the proposed SIP revision are available at the following addresses for inspection:

United States Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

United States Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460

Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota 55113.

FOR FURTHER INFORMATION CONTACT: Richard Clarizio, U.S. Environmental Protection Agency, Air Programs Branch, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6035.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962) and October 5, 1978 (43 FR 45993), pursuant to the requirements of section 107 of the Clean Air Act (Act) as amended, USEPA designated certain areas in each state as not meeting the primary and/or secondary National Ambient Air Quality Standards (NAAQS) for total suspended particulates, sulfur dioxide, carbon monoxide, photochemical oxidants, and nitrogen dioxide.

In Minnesota, Air Quality Control Region 131 and the City of Rochester were designated primary nonattainment areas for sulfur dioxide. Air Quality Control Region 131 (the Twin Cities urban area) contains the following counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington. There were no designated secondary nonattainment areas and all other portions of the State were designated either better than the NAAQS or unclassifiable.

Part D of the Act, which was added by the 1977 Amendments, requires each State to revise its SIP to meet specific requirements for areas designated as nonattainment. Section 172 of the Act specifies these requirements. These SIP revisions must demonstrate attainment of the primary NAAQS as expeditiously as practicable, but not later than December 31, 1982. Under certain conditions that date may be extended to December 31, 1987 for ozone and/or carbon monoxide. On March 25, 26, and 27, 1980 the State notified the public that adoption of the Twin Cities sulfur dioxide plan would be considered at the Minnesota Pollution Control (MPC) Board's, April 22, 1980 meeting. All interested parties were invited to comment on the plan at that time. On April 22, 1980, after hearing the testimony presented at the meeting, the MPC Board adopted the Twin Cities sulfur dioxide plan. The State submitted the Twin Cities sulfur dioxide plan on May 7, 1980 and amended it on June 17, 1980.

For the Rochester nonattainment area the State, on May 24, 1980, notified the public that adoption of the sulfur dioxide plan would be considered at the MPC Board's June 24, 1980 meeting. All interested parties were invited to comment on the plan at that time. On June 24, 1980, after hearing the testimony presented at the meeting the MPC Board adopted the Rochester sulfur dioxide plan. The State submitted the Rochester sulfur dioxide plan on July 15, 1980. On August 4, 1980, the State resubmitted both sulfur dioxide plans. A correction to the August 4, 1980 submission was submitted to USEPA on September 4, 1980.

The measures proposed for promulgation today will be in addition to, and not in lieu of, existing SIP regulations. The present emission limitations for any source will remain applicable and enforceable to prevent a source from operating without controls, or under less stringent controls, while it is moving toward compliance with the new requirements, or if it chooses, challenging the new requirements. In some instances, the present emission control requirements contained in the federally approved SIP are different from the requirements currently being enforced by the State. In these situations, the present federally approved SIP will remain applicable and enforceable until there is compliance with the newly promulgated and federally approved requirements. Failure of a source to meet applicable pre-existing requirements will result in appropriate enforcement action, including assessment of noncompliance penalties. Furthermore, if there is any instance of delay or lapse in the applicability or enforceability of the new requirements, because of a court order or for any other reason, the pre-existing requirements will be applicable and enforceable.

The only exception to this rule is in cases where there is a conflict between the new requirements and the requirements of the existing regulations such that it would be impossible for a source to comply with the pre-existing SIP while moving toward compliance with the new requirements. In these situations, the State may exempt a source from compliance with the pre-existing regulations. Any exemptions granted will be reviewed and acted on by USEPA either as part of these promulgated requirements or as a future SIP revision.

The requirements for an approvable SIP are described in a **Federal Register** notice published on April 4, 1979 (44 FR 20372), and are not repeated in this notice. Supplements to the April 4, 1979, notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 59371), September 17, 1979 (44 FR 53761) and November 23, 1979 (44 FR 67182), discussing among other things, additional criteria for SIP approval.

USEPA's proposed rulemaking action may take one of the following three forms: approval, disapproval, or conditional approval. USEPA will conditionally approve the plan if the State proposal contains minor deficiencies, and if the State provides assurances that it will submit corrections on a specified schedule. The schedules must be negotiated between the USEPA Regional Office and the State prior to final rulemaking on these revisions. The negotiated schedules will be announced for public comment in a separate Notice of Proposed Rulemaking. A conditional approval means that the restrictions on new major source construction do not apply unless the State fails to submit the necessary revisions by the scheduled date, or if the revisions are not approved by USEPA.

USEPA solicits comments from all interested parties on both the proposed SIP revisions and the proposed approval of these revisions. Presented below is a brief synopsis of each urban area's plan and USEPA's evaluation and proposed rulemaking action. A more detailed analysis of the plans is available for inspection, upon request, at the USEPA, Region V office.

Nonattainment Area Plan Description

In accordance with section 109 of the Act, USEPA established a primary and a secondary NAAQS for sulfur dioxide. The primary NAAQS is designed to protect public health and the secondary NAAQS is designed to protect the public welfare. A violation of the primary sulfur dioxide NAAQS occurs either: a) when the monitored or modeled annual arithmetic mean concentration of sulfur dioxide exceeds 80 micrograms per cubic meter of air (80 ug/m^3) or b) when the average 24-hour monitored or modeled concentration of sulfur dioxide exceeds 365 ug/m^3 of air, more than once in a calendar year. A violation of the secondary sulfur dioxide NAAQS occurs when the 3-hour average monitored or modeled concentration of sulfur dioxide exceeds, more than once in a calendar year, 1300 ug/m^3.

Based on ambient air quality monitoring conducted in 1976 in the Twin Cities and in the City of Rochester, violations of the primary sulfur dioxde NAAQS were detected. Therefore, in the March 3, 1978 **Federal Register** (43 FR 8962), USEPA desigated these two urban areas as nonattainment for sulfur dioxide.

The Clean Air Act requires the State to submit a revised SIP which demonstrates attainment of the primary sulfur dioxide NAAQS by December 31, 1982. The revised SIP must contain a strategy with the specific measures which the State will implement to reduce sulfur dioxide emissions. To determine which measures will be effective, the State must have an accurate and complete inventory of sulfur dioxide emissions and meteorological and air quality data for the area. With this data, the State can utilize air pollution simulations (dispersion models) and statistical analyses to determine the cause of the original sulfur dioxide problem and to predict the effectiveness of the proposed measures on future air quality.

For the Twin Cities urban area and the City of Rochester, the State performed modeling analyses for the annual, 24-hour and 3-hour averaging time periods. In both areas, the State utilized the Climatological Dispersion Model (CDMQC) to conduct the annual air quality analyses. The CDMQC and Larsen's models were used in the screening analysis for the 3-hour and 24-hour studies to determine areas of expected maximum impact. Refined 3-hour and 24-hour analyses were performed using the urban version of RAM.

For the annual analyses in the Twin Cities area, the base year emissions (1976) and representative meteorological data for the year 1976 were used in CDMQC to obtain a regional mapping of the sulfur dioxide concentrations. The CDMQC results were compared with actual air quality levels in 1976 and adjustments were made to the modeled output results so that the model would more accurately project sulfur dioxide concentrations for the area. Once the base year annual air quality was calculated and the model calibrated for the Twin Cities area, two more air quality analyses were performed. One analysis was performed assuming that all the sources in the area were in compliance with the State's current regulations. Another analysis was performed for the attainment year 1982. This analysis considered the impact of the proposed control strategy and of projected new source growth. For the Rochester area, the same three annual air quality analyses were conducted. The CDMQC model was not calibrated, however, because of the insufficient number of monitors in the area.

For the 24-hour and 3-hour analyses, the State compiled point and area source emissions inventories for both nonattainment areas. These inventories were based on 1976 maximum allowable emissions. The meteorological data used for both areas were hourly surface observations for Minneapolis-St. Paul, Minnesota and upper air data for St. Cloud, Minnesota for the year 1976. Surface meteorological data for Rochester were not available at the time the modeling analysis was performed. With this information and the following modelling procedures, the State performed the 24-hour and 3-hour air quality analyses for the base year.

The modelling procedure for both areas consisted of utilizing the CDMQC with a receptor coverage sufficient to asses air quality impact for all major point sources in these areas. The CDMQC analysis used a 1.0 km receptor grid resolution. Larsen's model was than applied to locate potential short-term hot spots. These hot spots were subsequently analyzed individually using urban RAM in a 5 by 6 km area around each hot spot with 0.5 km receptor grid resolution.

Once the base year analyses were performed for both the 24-hour and 3-hour time periods, two more analyses were conducted for both time periods. One analysis was performed assuming that all the sources in the area were in compliance with the State's current regulations. Another analysis was performed for the attainment year 1982. This last analysis took into consideration the impact of the proposed control strategy and of any new source growth which might occur.

For both areas, the modeled results for all three time periods indicated that compliance with present regulations would not be sufficient to achieve attainment of the sulfur dioxide NAAQS by December 31, 1982. The State projects that attainment of the primary and secondary NAAQS can be achieved in these areas if sulfur dioxide emissions are reduced from a few sources in each area. Specifically, the State projects that attainment can be achieved if the following sources are required to comply with the following emission limitations:

Source	Emission limitation
Twin Cities Urban Area	
1. Northern States Power Company's Inver Hills Generating Plant.	1.1 pounds of sulfur dioxide (SO2)/million British Thermal Units (MMBTU).
2. St. Paul Ammonia Products, Division of N-Ren Corporation.	2.0 pounds of SO2/MMBTU.
3. North Star Chemicals, Division of N-Ren Corporation.	(a) Increase stack height 39.58 m. (b) 30 pounds of SO2/ton sulfuric acid produced and a limit of 294 tons of sulfuric acid.
4. Koch Refining	Burn low sulfur refinery fuel oil (1.75% sulfur by weight) and a facility-wide emission rate of 32.5 tons of SO2/day.
City of Rochester	
1. City of Rochester Public Utility Department (CRPUD).	Boiler 1, 2, 4,—3.2 pounds of SO2/MMBTU.
Silver Lake Generating Plant	Boiler 3—2.3 pounds of SO2/MMBTU.
2. CRPUD North Broadway Plant.	Coal fired mode—2.3 pounds of SO2/MMBTU. Both coal and oil-fired modes available. Load restrictions allow for the equivalent of one coal-fired boiler to be operated at any time.
3. Rochester State Hospital	Oil-fired—2.5 pounds of SO2/MMBTU with a load restriction that the equivalent of one of three boilers be operated on residual oil at any given time.
4. Associated Milk Producers, Incorported.	Boilers, 1, 2, 3, or 4—3.0 pounds of SO2/MMBTU.

The State performed modeling analyses for each nonattainment area using the revised emission limitations listed above. The modeling analyses demonstrate that these new emission limitations provide a sufficient reduction in sulfur dioxide emissions to ensure attainment of the sulfur dioxide NAAQS by 1982. To ensure that the emission limitations specified above are adhered to and enforceable, the State has issued revised operating permits for these sources under the existing authority of Minnesota Air Pollution Control Regulation.

The State of Minnesota has made an adequate commitment of financial and manpower resources to implement these sulfur dioxide plans. USEPA's review of these plans indicates that attainment of the sulfur dioxide NAAQS will be achieved by December 31, 1982 and that in the interim reasonable further progress will be made to ensure attainment of the NAAQS by this date. USEPA, therefore, proposes to approve these plans as meeting the criteria for an approvable Part D SIP.

It should be noted, however, that sections 172 and 173 of the Act require a program for the review of permits for the construction and operation of new or modified stationary sources wishing to locate in a designated nonattainment area. The State of Minnesota will submit its New Source Review (NSR) program in the near future. At that time USEPA will review the program and propose rulemaking action on it. Until final approval of a NSR program, the Act prohibits the construction of any new or modified stationary source in nonattainment areas.

All interested persons are invited to comment on these revisions to the Minnesota SIP and on USEPA's proposed action. Comments should be submitted to the address listed at the beginning of this notice. Public comments received on or before December 26, 1980, will be considered in USEPA's final rulemaking.

A thirty day public comment period is being provided because USEPA has a

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responsibility under the Clean Air Act to take final action as soon as possible after July 1, 1979 on SIP revisions addressing the Part D requirements.

All comments received will be available for inspection at the USEPA Region V Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois, 60604.

Under Executive Order 12044, USEPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized developmental procedures.

USEPA labels these other regulations "specialized." I have reviewed this regulaiton and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of sections 110 and 172 of the Clean Air Act (42 U.S.C. §§ 7410, 7502).

Dated: October 24, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-36897 Filed 11-25-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-5-FRL 1681-8]

State and Federal Administrative Orders Revising the Michigan State Implementation Plan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule: Proposed approval of revision.

SUMMARY: The U.S. Environmental Protection Agency (USEPA) proposes to approve a revision to the Michigan State Implementation Plan (SIP). The revision is a Final Order (Order) issued by the Michigan Air Pollution Control Commission (Commission) to the Union Camp Corporation (Company). The Order extends from January 1, 1980 until January 1, 1985 the date by which the Company is required to comply with the sulfur dioxide emission limitations contained in the federally approved Michigan SIP. The purpose of this notice is to invite public comment on USEPA's proposed approval of the Order dated January 3, 1980.

DATE: Written comments must be received by December 26, 1980.

ADDRESSES: Please send comments to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6029.

The State Order, supporting material and public comments received in response to this notice may be inspected and copied (for appropriate charges) during normal business hours at the above address or State Order and supporting materials available at address below: Michigan Department of Natural Resouces, Air Quality Division, State Secondary Complex, General Office Building, 7150 Harris Drive, P.O. Box 30028, Lansing, Michigan 48909.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6037.

SUPPLEMENTARY INFORMATION: Union Camp Corporation operates a paper mill in Monroe County, Michigan. The Monroe facility is located 35 miles southwest of Detroit, Michigan and 20 miles northeast of Toledo, Ohio. The area is designated as attaining the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO_2). The paper mill produces 300 tons/day of paperboard products and has one 300 MBTU/hr stoker coal-fired boiler.

Under Michigan Air pollution Control commission (Commission) Rule 336.49, approved as part of the Michigan State Implementation Plan on May 31, 1972, and recodified as Rule 336.1401, the source is required to burn coal with a maximum sulfur content of 1.5 percent effective July 1, 1978. On January 8, 1980, the Commission entered into the record a Stipulation for Entry of Consent Order and Final Order APC No. 14-1979. Under the Order, the source was permitted to burn 2.7% sulfur(S) fuel on an annual average and 4.0% S fuel on a daily average between January 1, 1980 and July 1, 1980. Beginning July 1, 1980 until July 1, 1982, Union Camp may burn 2.5% S (annual average) and 4.0% S (daily average) fuel. Beginning July 1, 1982 until January 1, 1985, Union Camp is allowed to burn 2.2% S (annual average) and 3.5 S (daily average) fuel. After January 1, 1985, Union Camp must comply with the existing SIP limitations of 1.5% S in Rule 336.49 (recodified as 336.1401) unless an order granting an additional extension of time or setting a new limitation has been submitted to and approved by USEPA as a SIP revision.

An air quality analysis was performed to demonstrate that the National Ambient Air Quality Standards (NAAQS) and Prevention of Significant Deterioration (PSD) increments will be protected throughout the delayed compliance period (January 1, 1980 to January 1, 1985). The modeling analysis demonstrated that the Union Camp SIP revision will not cause or contribute to a violation of the applicable NAAQS or consume the PSD increment.

The Order contains the following provisions:

A. Sulfur Dioxide Emission Limitations

(1) Beginning on January 1, 1980, and continuing to July 1, 1980, fuel burned at the mill shall not:

(a) On an annual average exceed 2.70 percent sulfur content by weight at 12,000 Btu/pound of coal.

(b) On a daily average exceed 4.00 percent sulfur content by weight at 12,000 Btu/pound of coal.

(2) Beginning on July 1, 1980, and continuing to July 1, 1982, fuel burned at the mill shall not:

(a) On an annual average exceed 2.50 percent sulfur content by weight at 12,000 Btu/pound of coal.

(b) On a daily average exceed 4.00 percent sulfur content by weight at 12,000 Btu/pound of coal.

(3) Beginning on July 1, 1982, and continuing to January 1, 1985, fuel burned at the mill shall not:

(a) On an annual average exceed 2.20 percent sulfur content by weight at 12,000 Btu/pound of coal.

(b) On a daily average exceed 3.50 percent sulfur content by weight at 12,000 Btu/pound of coal.

(4) After January 1, 1985, emissions of sulfur dioxide from the mill shall not exceed the levels prescribed in Tables 3 and 4 of Rule 336.49 (new rule 336.1401) unless an alternate date for compliance with the levels is established by the Commission.

B. Sulfur Dioxide Control Program

(1) If low sulfur coal is chosen as the method of control, the Company shall notify the Commission of the signing of any contracts for such coal within thirty (30) days of their signing.

(2) If the Company elects a control strategy other than low sulfur coal burning, a report on the method of control (including increments of progress) shall be provided to the Commission by January 1, 1983. If a control strategy other than low sulfur coal burning is submitted, it is the intent of the Company and the Commission to incorporate the elements of the control strategy into either a new or amended Order.

(3) By January 1, 1983, and by January 1, 1984, the Company shall submit to the Commission a report of the Company's progress toward complying with the Order. Any developments which would preclude compliance with any provision of this Order shall be immediately reported in writing to the Commission.

C. Monitoring and Data Reporting

(1) The Company shall operate one (1) ambient sulfur dioxide monitor around the mill in such manner and at such location as reasonably specified by the Chief of the Air Quality Division of the Department of Natural Resources (hereinafter "Staff").

(2) The Company shall perform a daily sulfur analysis of fuel burned in the mill in accordance with the procedures specified in Appendix A. Such daily sulfur analysis of fuel burned in the mill shall continue until such time as the Company has received written approval from Staff that an alternate sampling frequency is acceptable. Such approval shall be based on an acceptable demonstration that the alternate sampling frequency is sufficient to assure that the daily sulfur dioxide emission limitations are being met.

(3) The Company shall submit to the Staff data from the aforementioned ambient air quality monitors and fuel sulfur analysis in such format and at such intervals as reasonably specified.

(4) By January 1, 1980, the Company shall conduct a particulate emission test on the boiler at the mill. The test shall be conducted in accordance with Commission approved procedures.

USEPA has reviewed the Order and concluded that extension of the compliance date for the Union Camp Corporation from January 1, 1980 until January 1, 1985 will not threaten or prevent the attainment and maintenance of the SO_2 NAAQS and PSD increments. In addition, the State has indicated that it is relying on fuel analysis to determine the Company's compliance with the Order. This is acceptable to USEPA. Therefore, USEPA proposes approval of the Order as a revision to the Michigan SIP.

All interested persons are invited to comment on this revision to the Michigan SIP and on USEPA's proposed action. Comments should be submitted to the address listed in the front of this notice. Public comments received on or before December 26, 1980, will be considered in USEPA's final rulemaking.

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures.

USEPA labels proposed regulations as "specialized." I have reviewed these proposed regulations pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator and I have determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

This proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act (42 U.S.C. 7410).

Dated: October 31, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-36884 Filed 11-25-80; 8:45 am]

BILLING CODE 6560-38-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

42 CFR Ch. I

Formula Grants to States for Preventive Health Service Programs

AGENCY: Center for Disease Control, Public Health Service, HHS.

ACTION: Withdrawal of notice of decision to develop regulations.

SUMMARY: The Public Health Service withdraws the Notice of Decision to Develop Regulations, published in the Federal Register on May 1, 1979 (44 FR 25476), to cover formula grants for preventive health service programs authorized under Section 315 of the Public Health Service Act. Since there were no funds appropriated for these programs, regulations will not be developed at this time.

EFFECTIVE DATE: November 26, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis D. Tolsma, Office of the Director, Center for Disease Control, PHS, HHS, Atlanta, Georgia 30333, telephone (404) 329-3243 or FTS: 236-3243.

SUPPLEMENTARY INFORMATION: Section 203 of the Health Services and Centers Amendments of 1978 (Pub. L. 95-626) established a new Section 315 under Title III of the Public Health Service Act. The provisions of this legislation authorized grants to States beginning in the fiscal year which ends September 30, 1980, to assist them in planning for, developing, and providing preventive health service programs designed to prevent or reduce the five leading causes of death.

On May 1, 1979, the Public Health Service proposed to develop regulations (44 FR 25476) to cover grant applications and awards for these grants. However, no funds were appropriated in fiscal year 1980. In addition, the President's fiscal year 1981 revised budget did not include funding for this program. Therefore, the Notice of Decision to Develop Regulations published in the Federal Register on May 1, 1979 (44 FR 25476), is withdrawn.

Dated: October 6, 1980.

Julius B. Richmond,

Assistant Secretary for Health.

[PR Doc. 80-36822 Filed 11-25-80; 8:45 am]

BILLING CODE 4110-86-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-725; RM-3648]

FM Broadcast Station in Los Lunas, New Mexico; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposed the assignment of a Class A FM channel to Los Lunas, New Mexico, in response to a petition filed by Frieda Brasher and Michael, Paul and Perkins Brasher. The proposed channel could provide a first local aural broadcast service to Los Lunas.

DATES: Comments must be filed on or before December 30, 1980, and reply comments on or before January 19, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b) *Table of Assignments* FM Broadcast Stations (Los Lunas, New Mexico), BC Docket No. 80-725, RM-3640.

Adopted: November 10, 1980.

Released: November 24, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by Freida Brasher, and Michael, Paul and Perkins Brasher ("petitioners"), proposing the assignment of FM Channel 272A to Los Lunas, New Mexico, as that community's first FM assignment.

(b) The channel can be assigned to Los Lunas in compliance with the minimum distance separation requirements.

(c) Petitioners state they will apply for the channel, if assigned.

[1] Public Notice of the petition was given on May 7, 1980. Report No. 1227.

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2. *Community Data*—(a) *Locatoin.* Los

Federal Communications Commission.

6. *Public inspection of filings.* All filings

the issuance of this proposed

Detroit, Duluth and Cheyenne won't

3. Two-obstacle paths exhibit no such

2. *Community Data*—(a) *Locatoin.* Los Lunas, seat of Valencia County is located approximately 32 kilometers (20 miles) south of Albuquerque, New Mexico.

(b) *Population. Los Lunas—973,*[2] Valencia County—40,539.

(c) *Local Aural Broadcast Service.* None.

3. Petitioners assert that Los Lunas has shown a continued growth pattern since 1970, and estimates its 1978 population at 3,000 persons (taken from a local community profile). Sufficient economic and demographic information with respect to Los Lunas, has been submitted to demonstrate the need for an FM assignment.

4. In view of the fact that the proposed FM channel assignment could provide a first full-time local aural broadcast service, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Rules, with regard to Los Lunas, New Mexico, as follows:

City	Channel No.	
	Present	Proposed
Los Lunas, N. Mex.		272A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before December 30, 1980, and reply comments on or before January 19, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632–9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

[2] Population figures are taken from the 1970 U.S. Census.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80–725 RM–3648]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 80–36869 Filed 11–25–80; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Parts 1, and 73

[BC Docket No. 80–499; FCC 80–545]

Table of Television Channel Allotments; Correction

AGENCY: Federal Communications Commission.

ACTION: Errata to BC Docket No. 80–499.

SUMMARY: On November 3, 1980, a Notice of Proposed Rulemaking in BC Docket No. 80–499, re Table of Television Channel Allotments, was published in the **Federal Register** at 45 FR 72902. Inadvertently, a portion of Commissioner Abbott Washburn's dissenting statement was omitted. The purpose of this errata is to now publish that statement in its entirety.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jim Warwick (202) 632–7116.

William J. Tricarico,

Secretary.

Dissenting Statement of Commissioner Abbott Washburn

Notice of Proposed Rulemaking re: Table of Television Channel Allotments

Adverse Impact on UHF

The executive Summary of the Report of the Comparability Task Force (approved by the Commission on September 18, 1980) speaks of the goal of "a fully competitive and prosperous UHF service". Its closing sentence reads ". . . this goal is now beginning to be achieved. . . ."

In direct contrast, this Notice on page 29 states ". . . UHF is now sufficiently mature and viable to compete directly against VHF. . . ."

The first statement is the correct one. UHF has begun to turn the corner. It should not now be subjected to additional hazards. Many UHF stations are still marginal. UHF channels remain available to be applied for and to be activated.

This rulemaking, in proposing to do away with the minimum mileage separations and substituting so-called "equivalent protection", is an abrupt reversal of the Commission's long-standing policy of bending every effort to assist the development of UHF. With the issuance of this proposed rulemaking, the continued healthy growth of UHF will be stifled. Entrepreneurs will prefer to opt for the short-spaced "V's". In my judgment we should not now propose such a drastic change of direction.

"Equivalent Protection" Approach Seriously Flawed

The Notice states that "the proposed approach will eliminate much of the uncertainty . . . of the current procedure." In point of fact the opposite will be the case. In place of today's clear-cut mileage separations, the "flexible criteria" here proposed will lead to greater uncertainty. There will be costly arguments in television markets throughout the country as to whether or not specific applications for short-spaced VHF stations will provide the required "equivalent protection". Engineers and lawyers will reap a harvest contesting and defending these applications. Rather than shortening the process, the proceedings resulting from this approach will be as long or longer than those we now have.

Adding to the disruption and uncertainty is the definition of "equivalent protection". The use of the F(50, 50) and the F(50, 10) curves to define "equivalent protection" in specific instances is a misapplication of the engineering principle underlying the derivation of these curves. In paragraph 91, on page 43, the authors of the Notice recognize this:

> These curves were derived from many measurements on different stations under varying conditions and therefore represent average values; they are intended for allocation purposes and general studies and *will likely prove inaccurate in individual cases that deviate significantly from the norm.* (Emphasis added.)

Statistically, 68 percent of the data points will fall within plus or minus 9 dB of the interference curve. 32% of them will fall more than 9 dB outside of the curve. Thus, in almost one third of the cases the use of the curve to allot a channel produces an unrealistic and unfair result: either penalizing the drop-in station by imposing a power limit that is too low to enable it to serve its market, or allowing too high a power level causing serious interference to the existing station. (In the latter case an exceedingly heavy burden-of-proof rests on the existing station.) The curves, therefore, are neither a fair nor a workable tool. To attempt to so use them can only cause uncertainty and contention.

It is like taking a mean January temperature for 100 U.S. cities of 50° and concluding from this that motorists in Detroit, Duluth and Cheyenne won't need snow tires and chains next winter.

In addition to the unsound use of the curves to predict service or interference in specific situations, the Notice relegates several significant elements to the status of mere "safety factors". For example, in paragraph 104 on page 58 *receiving antenna directivity* is not incorporated into the "equivalent protection" criteria.[1] Likewise in paragraph 111, page 60, *terrain shielding* is relegated to an additional "safety factor" and does not enter into the protection standard. These considerations are of over-riding importance in specific drop-in situations and should be factored into the allotment methodology as such.

A More Accurate Recommended Procedure

In any specific case there are three possible types of propagation paths from the interfering transmitter to the protected receiver. Each of these three paths has distinct characteristics. However, in the derivation of the FCC curves they have necessarily been averaged, which explains the wide variability associated with those curves. The three categories of propagation paths are:

1. Line of sight between the transmitter and the receiver, normally limited to relatively short paths (less than 50–60 miles).

2. Paths with one obstacle where the transmitter and receiver essentially share the same horizon. These paths are normally of an intermediate distance, and in some of the short-spaced stations envisioned here this type of path applies. These one-obstacle paths can either offer shielding or they can result in significant gain over the average values depicted in the FCC curves. Where these paths exhibit gain they are known as knife-edge diffraction paths and this phenomenon was originally described by Bullington.[2] The situation where the knife-edge diffraction results in significant gain can occur in as may as three quarters of a random sample of one-obstacle paths. Furthermore, these knife-edge diffraction paths exhibit a greater stability over time than do other propagation paths. Where this type of transmission is present it would seem risky to rely on the FCC curves alone.

3. Two-obstacle paths exhibit no such gain but only shielding effects. These paths generally occur at greater distances and usually obtain under the present rules where minimum distance separations of 170 miles or more are required.

Additionally, there are certain cases where there is very flat terrain between the interfering transmitter and the protected receiver where the terrain roughness factor described in the FCC rules is slightly positive. Today's Notice of Proposed Rulemaking attempts to treat terrain solely as a "safety factor". this is appropriate only insofar as terrain provides attenuation or shielding. It is not appropriate to consider it solely as a "safety factor" if the terrain shielding factor is positive nor is it appropriate to disregard knife-edge diffraction gain in those single-obstacle paths where it applies.

While I would prefer that each drop-in proposal be supported by its own unique measured data and calculations, I recognize that such a policy might be unduly cumbersome and expensive for the applicant and the Commission. However, I find that the variability in the simplistic use of the average FCC curves, as proposed, entails too much risk of significant interference. Accordingly I would suggest that, as a minimum, consideration be given to augmenting the use of the curves by having the drop-in applicant furnish appropriate path profiles and some minimum amount of measured data. It has been estimated that very minimal supplementary measurements[3] would reduce the variability in the FCC curves from 9 or 10 dB without measurements to around 4 to 6 dB.

For a nominal cost we could thereby obtain significant assurance that the drop-in would not cause widespread interference. I solicit comments on this alternative procedure and would be particularly interested in a precise description of the path-loss measurements that would be required and the benefits to be gained.

Demand For More Vs Not Demonstrated

The Notice perceives an inexorable demand by the public for more TV service facilities. Yet the studies it cites as evidence are flimsy and not on point. The econometric studies, for example, done in 1971, '72, '73, '74, and '76 rely largely on data collected in the '60s. This research utilized mostly cable-TV data.

[1] Notwithstanding the uncertainties highlighted in paragraph 105, page 58, front-to-back ratios of "typical" home rooftop antennas are required to be added to the near impossible showing under the *Carroll* doctrine (see footnote 72 page 31) by those who file in opposition to the drop-in.

[2] K. Bullington, "Radio Propagation Fundamentals," Bell System Technical Journal, vol. 36, no. 3, Fig. 7, AT&T.

[3] For a fuller explanation of how to obtain improved prediction by measurements, see National Bureau of Standards Technical Note No. 102, August 1961.

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and the cable systems were almost all in rural areas.

Comsat's 1979 press release announcing its intent to file an application for a direct-to-the-home-broadcast-satellite service is cited in the Notice as evidence of consumer demand. There is, as of now, no evidence whatsoever of public demand for DBS.

There *is*, of course, consumer demand for programming—e.g. commercial-free movies and sports on MDS—but this is quite different from demand for facilities. Unused UHF channels remain available at the Commission. This would not be the case if a shortage of facilities existed. We should wait until existing UHF availabilities have been applied for before short-spacing more VHFs.

[FR Doc. 80-36690 Filed 11-25-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[Docket No. 21474; RM-1968; RM-2610; RM-2976]

Amendment of Broadcast Equal Opportunity Rules and FCC Form 395; Order Extending Time To File Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment and reply comment period.

SUMMARY: Action taken herein extends time for filing comments and reply comments in response to a Notice of Proposed Rule Making concerning modifications to the FCC's model equal employment opportunity ("EEO") program for broadcast applicants and licensees.

DATE: Comments must be filed on or before October 30, 1980, and reply comments must be filed on or before December 1, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steven A. Bookshester, Broadcast Bureau (202) 653-7586.

SUPPLEMENTARY INFORMATION:

Adopted: October 22, 1980.

Released: October 23, 1980.

By the Chief, Policy and Rules Division:

1. On June 4, 1980, the Commission adoped a *Second Further Notice of Proposed Rule Making* concerning the above-captioned proceeding, FCC 80-328, 45 Fed. Reg. 42729, published June 25, 1980. The dates initially established for filing comments and reply comments were August 25, 1980, and September 25, 1980, respectively.

2. By *Order* released August 15, 1980, 45 Fed. Reg. 56116, published August 22, 1980, the Commission granted the request of the National Association of Broadcasters ("NAB") and extended the filing dates for comments and reply comments to October 24, 1980, and November 24, 1980, respectively. NAB had stated that it intended to conduct a study of the costs of compliance with the Commission's present and proposed EEO requirements, and would also solicit licensees' suggestions as to various EEO alternatives, including those proposed in the *Further Notice*.

3. Presently before the Commission is a motion filed on October 17, 1980, by the Broadcast Financial Management Association ("BFM"), seeking a further extension of time for the filing of comments and reply comments to January 10, 1981, and February 10, 1981, respectively. BFM states that it has authorized an outside consultant to conduct a study to determine specific problem areas which station personnel will encounter with the proposed revisions to the model EEO program and instructions, and additional time is necessary to collect and analyze data for this study.

4. Also before the Commission is a motion filed by NAB on October 21, 1980, requesting an extension for the filing of comments until November 3, 1980, or, in the alternative, October 30, 1980. In support of its motion, NAB states that the raw date from its survey of 300 stations, which was conducted by an outside firm, was not received until the weekend of October 18-19, 1980, and analysis cannot be completed by the present October 24, 1980, deadline.[1]

5. The Commission is of the view that the grant of an extension to October 30, 1980, so that NAB may complete its data analysis, would not unduly delay this proceeding, and would serve the public interest through its possible contribution to the development of a more complete record. On its own motion, the Commission will, concurrently, extend the date for filing reply comments to December 1, 1980, so that all parties may fully respond to the initial pleadings. Further extensions of time are not contemplated.

6. Additionally, the Commission is not persuaded that the extension of time requested by BFM is warranted. Four months has already been provided for the filing of comments in this proceeding. An additional month remains for the filing of reply comments. We are of the view that the comment period provided, extended as discussed in paragraph 5 above, has been more than adequate, and the public interest would not be served by the further delay of more than two additional months requested by BFM.[2]

7. Accordingly, it is ordered, That the Motion for Extension of Time for filing comments in this proceeding filed by the National Association of Broadcasters is granted in part, to and including October 30, 1980, and is in all other respects denied.

8. It is further ordered, That the date for filing reply comments is hereeby extended to and including December 1, 1980.

9. It is further ordered, That the motion for extension of time filed by the Broadcast Financial Management Association is granted to the extent stated herein and is in all other respects denied.

10. This action is taken pursuant to authority found in Sections 4(i), and 5(d)(1) and 303(r) of the Communications Act of 1934, as amended and Section 0.281 of the Commission's Rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau

[FR Doc. 80-36778 Filed 11-25-80; 8:45 am]
BILLING CODE 6712-01

[1] Section 1.46(b) of the Commission's Rules requires that such motions be filed at least seven days prior to the filing date, but permits us to consider late-filed motions such as NAB's when there are extenuating circumstances.

[2] BFM may still avail itself of the December 1, 1980, date for the filing of reply comments. Additionally, should BFM believe this matter of sufficient importance, it may wish to submit late-filed comments with a request for acceptance.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

Atlantic Bluefin Tuna; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Notice of public hearings.

SUMMARY: The National Marine Fisheries Service (NMFS) will hold public hearings for the purpose of public input on amendments to the regulations for the Atlantic bluefin tuna fishery. NMFS is concerned that future longline activities in the Atlantic bluefin tuna fishery may pose a threat to the health of the resource, and compromise the United States' commitments developed within the International Commission for the Conservation of Atlantic Tunas. Proposed regulations are being developed which will address the problem. These will be published in the **Federal Register** prior to the hearing dates. Copies of the proposed regulations will be available by contacting the Regional Director at the following address: Mr. Allen E. Peterson, Regional Director, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930; telephone: (617) 281-3600.

DATES: Written comments on the amendments to the regulations for Atlantic bluefin tuna from members of the public may be submitted no later than December 29, 1980. Individuals or organizations wishing to comment on the amendments also may do so at public hearings to be held as follows:

December 8, 1980—Madiera Beach, Florida;
December 9, 1980—Ft. Pierce, Florida;
December 10, 1980—Corpus Christie, Texas;
December 11, 1980—Kenner, Louisiana;
December 16, 1980—Peabody, Massachusetts; and
December 18, 1980—Newark, New Jersey.

All of the above hearings will start at 7:00 p.m. and end at 9:30 p.m.

ADDRESS: Send comments to: Mr. Allen E. Peterson at the above address.

Public Hearing Locations:

Date and Location

December 8, 1980: City Hall, City of Madiera Beach, Madiera Beach, Florida 33738; Tel: (813) 391-9951.
December 9, 1980: Best Western Executive Inn, 3224 South U.S. 1, Ft. Pierce, Florida 33450; Tel: (305) 465-7000.
December 10, 1980: Texas A&M Research Center, Highway 44, Corpus Christie, Texas 78408; Tel: (512) 265-9201.
December 11, 1980: Best Western Int'l Hotel, 2610 Williams Blvd., Kenner, Louisiana 70062; Tel: (504) 466-1401.
December 16, 1980: Holiday Inn, Route 1, 1 Newbury Street, Peabody, Massachusetts 01960; Tel: (617) 535-4600.
December 18, 1980: Holiday Inn, 160 Holiday Plaza, Newark, New Jersey 07114; Tel: (201) 589-1000.

FOR FURTHER INFORMATION CONTACT: Mr. William Jerome or Mr. Arnet R. Taylor, National Marine Fisheries Service, State Fish Pier, 14 Elm Street, Gloucester, Massachusetts 01930; Telephone: (617) 281-3600.

Dated: November 21, 1980.

Robert K. Crowell,

Deputy Executive, Director National Marine Fisheries Service.

[FR Doc. 80-37042 Filed 11-25-80; 8:45 am]
BILLING CODE 3510-22-M

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Notices

Federal Register
Vol. 45, No. 230
Wednesday, November 26, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Northern California Subcommittee of the Pacific Crest National Scenic Trail Advisory Council; Meeting

The Northern California subcommittee of the Pacific Crest National Scenic Trail Advisory Council Will Meet at 10:00 a.m. on Friday, January 23, 1981. The Meeting location Will Be Room 539, Appraiser's Building, 630 Sansome Street, San Francisco, California.

The purpose of the meeting is to review the alternatives for the pending Pacific Crest National Scenic Trail Comprehensive Plan for acquisition, management, development, and use of the trail. Other policy matters concerning the trail may also be considered.

The meeting will be open to the public. Persons who wish additional information should contact Alan Lamb, Recreation Staff, Pacific Southwest Region, Forest Service, 630 Sansome Street, San Francisco, California 94111. Phone (415) 556–6883.

Dated: November 18, 1980.

Zane G. Smith, Jr.,

Regional Forester, Pacific Southwest Region.

[FR Doc. 80–36876 Filed 11–25–80; 8:45 am]

BILLING CODE 3410–11–M

Office of the Secretary

Meat Import Limitations, First Quarterly Estimate

Pub. L. 88–482, approved August 22, 1964, as amended by the Meat-Import Act of 1979, (hereinafter referred to as the "Act"), provides for limiting the quantity of fresh, chilled, or frozen meat of cattle, sheep except lamb, and goats (TSUS 106.10, 106.22, and 106.25), and certain prepared or preserved beef and veal products (TSUS 107.55, 107.61, and 107.62), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of articles provided for in TSUS 106.10, 106.22, 106.25, 107.55 and 107.62 (hereinafter referred to as "meat articles"), in the absence of limitations under the Act during such calendar year, would equal or exceed 110 percent of the estimated quantity of meat articles prescribed by Section 2(c) of the Act.

In accordance with the requirements of the Act, the following first quarterly estimates for 1981 are published.

1. The estimated aggregate quantity of meat articles prescribed by Section 2(c) of the Act during the calendar year 1981 is 1,315 million pounds.

2. The estimated aggregate quantity of meat articles which would, in the absence of limitations under the Act, be imported during calendar year 1981 is 1,458 million pounds.

Done at Washington, D.C. this 24th day of November 1980.

Bob Bergland,

Secretary.

[FR Doc. 80–37058 Filed 11–24–80; 3:13 am]

BILLING CODE 3410–10–M

Soil Conservation Service

Great Plains Conservation Program

AGENCY: Soil Conservation Service (SCS), USDA.

ACTION: Notice of decision to designate additional counties for participation in the Great Plains Conservation Program (GPCP).

SUMMARY: The Chief of the Soil Conservation Service designates 49 counties for participation in the Great Plains Conservation Program (GPCP). The counties are listed in Supplementary Information.

EFFECTIVE DATE: October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Guy D. McClaskey, SCS, P.O. Box 2890, Washington, D.C. 20013, telephone 202–447–2324.

SUPPLEMENTARY INFORMATION: Under section 16(b)(1) of the Soil Conservation and Domestic Allotment Act, as amended 16 U.S.C. 590p(b)(1), and SCS regulations, 7 CFR Part 631.2, the Chief of SCS, USDA, gives notice that he has designated the following 49 counties for participation in the GPCP effective October 1, 1980:

Montana	
Lewis and Clark	
Oklahoma	
Kay	Cleveland
Noble	Pottawatomie
Logan	Garvin
Payne	Murray
Lincoln	Carter
Oklahoma	Love
McClain	
South Dakota	
Marshall	Kingsbury
Day	Miner
Clark	
Texas	
Val Verde	Frio
Edwards	Atascosa
Real	Dimmit
Kerr	La Salle
Bandera	McMullen
Kendall	Live Oak
Kinney	Webb
Uvalde	Duval
Medina	Zapata
Bexar	Jim Hogg
Maverick	Starr
Zavala	Hidalgo
Wyoming	
Park	Washakie
Big Horn	Fremont
Hot Springs	Sweetwater

The review process established by the Office of Management and Budget in Circular A–95 is not applicable since this action will not have a significant impact on area or community development.

(Catalog of Federal Domestic Assistance Program No. 10.900, Great Plains Conservation Program, Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is not applicable.)

Norman A. Berg,

Chief.

[FR Doc. 80–36882 Filed 11–25–80; 8:45 am]

BILLING CODE 3410–16–M

CIVIL AERONAUTICS BOARD

[Docket 38019 and 38961]

Wien Air Alaska, Mainline and Bush Mail Rates Investigation; Intra-Alaska Class Service Mail Rates; Conference

By Orders 80–11–81 and 80–11–82, the Board provided for a preliminary conference of the parties to these proceedings, as well as other carriers holding certificates to provide intra-Alaska mail service, to be held on December 2, 1980. The Board directed that statements of position and issues be filed on or before November 21.

By letter dated November 14, 1980, counsel for Alaska International Air confirmed a duly authorized extension of the deadline for the referenced statements until November 24, 1980. In the same letter, counsel requested postponement of the conference until December 3, 1980 to accommodate parties travelling from Alaska.

Given the absence of objections, this request is granted. Accordingly, the Bureau of Domestic Aviation will hold a conference in the above referenced matters on December 3, 1980 at 10 a.m. in Room 910, Universal Building, 1825 Connecticut Ave. N.W., Washington, D.C.

Parties should be prepared to discuss revised procedural dates for the submission of data and arguments. Revised dates will be set at the conference.

Parties who have not already served the persons on the attached service list with copies of statements of positions and issues are requested to do so.

The conference will be open to the public, but only parties or Board staff will be permitted to participate. Persons not on the service list who wish to assume party status should contact Mr. Barry Molar (202) 673–5371. The provisions contained in 14 C.F.R. 302.313 and 14 C.F.R. 302.314 will not apply to the conference.

This notice will be published in the **Federal Register.**

Mark S. Kahan,

Assistant Director, Fares, Rates and Tariffs.

Service List for Administrative Conference

Alaska International Air, Inc., Box 60029, Airport Annex, Fairbanks, AK 99706.
Leonard N. Bebchick, Martin, Whitfield, Smith & Bebchick, 1701 Pennsylvania Ave., N.W., Suite 1102, Washington, D.C. 20006.
Raymond J. Vecci, Vice President, PLanning & Assistant to the President, Alaska Airlines, Inc., Seattle-Tacoma International Airport, Seattle, Washington 98188.
Marshall S. Sinick, Fisher, Gelband and Sinick, Suite 440, 2020 K Street, N.W., Washington, D.C. 20006.
Air North d.b.a. Yukon Air Service, Box 60054, Fairbanks, AK 99701.
Michael J. Roberts, Verner, Liipfert, Bernhard & McPherson, Suite 1100 1660 L Street, N.W., Washington, D.C. 20036.
Kodiak-Western Alaska Airlines, Inc., Mr. Robert L. Hall, P.O. Box 2457, Kodiak, Alaska 99615.
Kodiak-Western Alaska Airlines, Inc., Mr. Jerrold Scoutt, Zuckert, Scoutt & Rasenberger, 888 17th Street, N.W., Washington, D.C. 20006.

Reeve Aleutian Airways, Inc., Mr. R. D. Reeve, 4700 W-International Airport Road, Anchorage, Alaska 99502.
Reeve Aleutian Airways, Inc., Mr. Lee Hydeman, Hydeman, Mason & Goodell, 1220 19th Street, N.W., Washington, D.C. 20036.
Munz Northern Airlines, Inc., P.O. Box 790, Nome, AK 99763.
James J. Flood, President, Wien Air Alaska, Inc., 4100 W. International Airport Road, Anchorage, Alaska 99520.
Theodore I. Seamon, Seamon, Wasko & Ozment, 1211 Connecticut Avenue, N.W., Suite 300, Washington, D.C. 20036.
Larry Ledlow, President, Western Yukon Air, P.O. Box 131, St. Marys, Alaska 99558.
Edwin O. Bailey, Kirkland and Ellis, 1776 K Street, N.W., Washington, D.C. 20006.
Robert A. Sherr, Room 9417, U.S. Postal Service, Washington, D.C. 20260.

[FR Doc. 80–36912 Filed 11–25–80; 8:45 am]

BILLING CODE 6320–01–M

[Docket 38803]

Application of Sun Pacific Airlines for Certificate Authority Under Subpart Q

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order 80–11–107, application of Sun Pacific Airlines under Subpart Q for a Certificate of Public Convenience and Necessity for authority between and among San Francisco, Fresno, Bakersfield, Las Vegas, Los Angeles and Ontario (Docket 38803).

SUMMARY: The Board is proposing to grant a certificate of public convenience and necessity to Sun Pacific Airlines to authorize it to provide service in the markets listed in its application, subject to a favorable determination of its fitness (Docket 38865). The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below no later than December 22, 1980, a statement of objections together with a summary of testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections should be filed in Docket 38803, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Steven B. Farbman, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5340.

SUPPLEMENTARY INFORMATION: Objections should be served upon the civic officials and airport managers at San Francisco, Bakersfield, Fresno, Los Angeles, Las Vegas and Ontario; the Governors of California and Nevada; the California Department of Transportation; the California Public Utilities Commission; the Nevada Department of Transportation; Sun Pacific Airlines; Swift Aire Lines; Inland Empire Airlines; Air California; and Gem Investors, d/b/a Golden Gate Airlines.

The complete text of Order 80–11–107 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 80–11–107 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: November 19, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80–36911 Filed 11–25–80; 8:45 am]

BILLING CODE 6320–01–M

CIVIL RIGHTS COMMISSION

Colorado Advisory Committee; Amendment of Meeting Notice

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a meeting of the Colorado Advisory Committee to the Commission originally scheduled for December 2, 1980, at the St. John's Baptist Rectory, 315 4th Avenue, Longmont, Colorado 80501 (FR Doc. 80–35294) has been changed.

The meeting now will be held on December 2, 1980, beginning at 7:00 p.m., and will end at 10:00 p.m., at 1020 Fifteenth Street, Brooks Towers, Suite 2235, Denver, Colorado 80202. The purpose of the meeting is to listen to concerns about excessive police force, community relations in smaller Northern Colorado towns.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Minoru Yasui, 1150 South Williams, Denver, Colorado 80210, (303) 575–2821 or the Rocky Mountain Regional Office, 1020 Fifteenth Street, Suite 2235, Denver, Colorado, (303) 837–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 19, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80–36902 Filed 11–25–80; 8:45 am]

BILLING CODE 6335–01–M

District of Columbia Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the District of Columbia Advisory Committee will convene at 2 p.m., and will end at 4 p.m., on December 11, 1980, at 2120 L Street NW., Lower Level Conference Room, Washington, D.C. 20037. The purpose of the meeting is to discuss concept papers on project ideas in the areas of equal employment opportunity and equal protection of the laws for Handicapped Americans.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Rev. Ernest Gibson, 1239 Vermont Avenue NW., Washington, D.C. 20005, (202) 638–1077 or the Mid-Atlantic Regional Office, 2120 L Street NW., Suite 510, Washington, D.C., 20037, (202) 254–6717.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 19, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-36903 Filed 11-25-80; 8:45 am]

BILLING CODE 6335-01-M

Florida Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida Advisory Committee to the Commission will convene at 4 p.m., and will end at 6 p.m., on December 7, 1980, at the Hotel Everglades (Suite to be designated later), 3rd and Biscayne, Miami, Florida 33132. The purpose of the meeting is a briefing by the Office of General Counsel Staff on the Commission Hearing.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mr. Ted Nichols, University of Miami, Coral Gables, Florida 33124, (305) 284–3064 or the Southern Regional Office, Citizens Trust Bank Building, Room 362, 75 Piedmont Ave. NE., Atlanta, Georgia 30303, (404) 242–4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 19, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-36905 Filed 11-25-80; 8:45 am]

BILLING CODE 6335-01-M

Maine Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maine Advisory Committee to the Commission will convene at 6 p.m., and will end at 8 p.m., on December 17, 1980, at the Maine Teachers Association, 35 Community Drive, Augusta, Maine. The purpose of the meeting is to review the final draft of the annual report on civil rights in Maine; report on the progress of sexual harassment projects and review proposals for new projects on women in nontraditional jobs, rights of the handicapped, domestic violence, and use of Medicaid funds.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Ms. Madeleine D. Giguere, 35 Orange Extension, Lewiston, Maine 34240 (207) 780–4100 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223–4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 21, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-36901 Filed 11-25-80; 8:45 am]

BILLING CODE 6335-01-M

Wyoming Advisory Committee; Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wyoming Advisory Committee to the Commission will convene at 10 a.m., and will end at 12 p.m., on December 6, 1980, at the Federal Building, 100 East B. Street, Room 3116, Casper, Wyoming 82601. The purpose of the meeting is to report on SAC chairs conference in Washington, D.C., and an update on the progress of research into working conditions for women and minorities in mineral extraction industries.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Mrs. Jamie C. Ring, 520 Parkview Drive, Casper, Wyoming 82601, (307) 237–9504 or the Rocky Mountain Regional Office, 1020 Fifteenth Street, Suite 2235, Denver, Colorado 80202, (303) 837–2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 19, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-36904 Filed 11-25-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Exemption of Foreign Air Carriers From Customs Duties and Taxes; Request for Finding of Reciprocity (Cuba)

Notice is hereby given that the Department of Commerce is undertaking to determine whether, pursuant to sections 309 and 317 of the Tariff Act of 1930, as amended (19 U.S.C. 1309 and 1317), and section 4221 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 4221), the Government of Cuba allows substantially reciprocal customs and tax exemptions to aircraft of U.S. registry in connection with international commercial operations to those exemptions granted to aircraft of foreign registry under the aforementioned statutes. The basis of this undertaking is a request on behalf of Empresa Consolidada Cubana de Aviacion (Cubana) for a finding of such reciprocity.

The above-cited statutes provide exemptions for aircraft of foreign registry from payment of import duties and certain internal revenue taxes on the import or purchase of supplies in the United States for such aircraft in connection with their international commercial operations. "Supplies" as used in this context indicates a wide range of articles used by aircraft in international operations, including fuel and lubricants, spare parts, consumable supplies, and ground handling and support equipment. These exemptions apply upon a finding by the Secretary of Commerce, or his designee, and communicated to the Department of the Treasury, that such country allows, or will allow, "substantially reciprocal priviledges" to aircraft of U.S. registry with respect to imports or purchases of such supplies in that country.

Interested parties are invited to submit their views and comments in writing concerning this matter to Mr. Abraham Katz, Assistant Secretary for International Economic Policy, Room 3830 B, U.S. Department of Commerce, Washington, D.C. 20230. All submissions should be made in five copies and should be received no later than December 23, 1980.

Copies of all written comments received will be available for public inspection between the hours of 8:30 a.m. and 5 p.m., Monday through Friday, in the Freedom of Information Records Inspection Facility, International Trade Administration, Room 3102, Department of Commerce, Washington, D.C.

It is suggested that those desiring additional information contact Mr. C. William Johnson, International Services Division, Office of International Finance, Investment and Services, Room 2204, Washington, D.C. 20230, or call area code 202/377–5012.

Abraham Katz,

Assistant Secretary for International Economic Policy.

[FR Doc. 80-36925 Filed 11-25-80; 8:45 am]

BILLING CODE 3510-25-M

Massachusetts Institute of Technology; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No.: 80–00240. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Article: Klystron Oscillator, Type VRB–2113B. Manufacturer: Varian of Canada, Canada. Intended use of article: The article is intended to be used in radioastronomy investigations which will involve observing the emission of various rotational-state spectral line emissions, including the silicon monoxide line at 43.0 GHz as well as a variety of other known and hypothesized lines in the region between 38.0 and 44.0 GHz. The phenomena to be investigated will include: (a) the distribution of such emission in the sky to determine its association with celestial objects; and (b) its variation with frequency and time to improve the understanding of the physics of the objects and in some cases the mechanism of emission, where such mechanism is not obviously the usual thermal-equilibrium excited-line radiation. Application received by Commissioner of Customs: March 17, 1980.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a center frequency of 87.0 gigahertz. The National Bureau of Standards advises in its memorandum dated September 15, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-36914 Filed 11-25-80; 8:45 am]

BILLING CODE 3510-25-M

Sandia National Laboratories; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80–00200. Applicant: Sandia National Laboratories, Kirtland Air Force Base East, P.O. Box 5800, Albuquerque, NM 87185. Article: Image Converter Camera, 790. Manufacturer: John Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used for photo-optical measurements necessary for the study of generation of electrical discharges at threshold voltages and threshold ignition of explosive components. Application received by Commissioner of Customs: February 20, 1980.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket Number 79–00317 which was denied without prejudice to resubmission on December 17, 1979 for informational deficiencies. The foreign article provides up to 50 frames per event. The National Bureau of Standards advises in its memorandum dated June 5, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-36913 Filed 11-25-80; 8:45 am]

BILLING CODE 3510-25-M

San Diego State University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80–00250. Applicant: San Diego State University, Dept. of Civil Engineering, San Diego, CA 92182. Article: Geonor Consolidometer. Manufacturer: Geornor, Norway.

V 45 N 230 2680 UMI

Intended use of article: The article is intended to be used in accomplishing required laboratory experiments in the courses: CE–462 (Soil Mechanics), CE–463 (Soil Mechanics Laboratory), CE–562 (Applied Soil Mechanics and Foundation Engineering), CE–579 (Highway Materials), CE–797 (Research). Application received by Commissioner of Customs: March 26, 1980.

Comments: No comments have been received with respect to this application.

Decision: Application approved: No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a combination wide range (up to 1000 kilograms) loading frame and consolidometer. The National Bureau of Standards advises in its memorandum dated August 26, 1980 that (1) the combination of capabilities of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign ariticle, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-36815 Filed 11-25-80; 8:45 am]

BILLING CODE 3510-25-M

San Diego Veteran's Medical Center; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80–00206. Applicant: San Diego Veteran's Medical Center, 3350 La Jolla Village Drive, San Diego, CA 92161. Article: Nanoliter Microperfusion Pump. Manufacturer: Wolfgang Hampel, West Germany. Intended use of article: The article is intended to be used for the investigation of tubulo-glomerular feedback in the kidney. Some studies will be performed on early proximal tubular reabsorption in tubules in the Munich-Wista rat kidney *in vivo*. Other studies examine the effect of distal tubular flow and fluid composition on proximal tubules. Application received by commissioner of Customs: February 26, 1980.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides perfusion rates in the zero to 50 nanoliters per minute range. the Department of Health and Human Services advises in its memorandum dated June 25, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank Creel.

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-36816 Filed 11-25-80; 8:45 am]

BILLING CODE 3510-25-M

Bethesda Hospital & Deaconess Association; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 80–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m., and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket Number: 80–00249. Applicant: Bethesda Hospital & Deaconess Association, 619 Oak Street, Cincinnati, Ohio 45206. Article: Octoson Multiple Transducer Echoscope. Manufacturer: Ausonics Ltd., Australia. Intended use of article: The article is intended to be used to expand both the technique and anatomical range of diagnostic ultrasonic imaging of breast, testicles, children's head, abdomen, thyroid, and heart. The article will also be used to enhance educational programs for trainees in the Radiology Department. Application received by Commissioner of Customs: March 26, 1980.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufacturered in the United States.

Reasons: The foreign article is equipped with eight transducers which provide a large field of view and compound scanning. The Department of Health and Human Services advises in its memorandum dated August 7, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-36819 Filed 11-25-80; 8:45 am]

BILLING CODE 3510-25-M

Duke University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review

between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number: 80–00207. Applicant: Duke University, Durham, North Carolina 27710. Article: Replicator Head, 60 Well. Manufacturer: Biotec Aktiengesellschaft, Switzerland. Intended use of article: The article is intended to be used for precurosor analysis of immune cells. Application received by Commissioner of Customs: February 26, 1980.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article replicates simultaneously sixty small volume samples of less than 25 microliters. The Department of Health and Human Services advises in its memorandum dated July 17, 1980 that (1) the capability of the foreign described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-36917 Filed 11-25-80; 8:45 am]

BILLING CODE 3510-25-M

Research Foundation of CUNY; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number: 80–00182. Applicant: Research Foundation of CUNY, Department of Psychology, Queens College of CUNY, Flushing, New York 11367. Article: Anomaloscope. Manufacturer: The Rayner Optical Co. Ltd., United Kingdom. Intended use of article: The article is intended to be used for research on certain types of colorblind subjects, in order to discern the type of cone mechanisms (present in the normal subject, but absent in some colorblind subjects) which interact with rods. Application received by Commissioner of Customs: February 6, 1900.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides the capabilities for reproducibly testing, detecting, and quantitatively assessing color vision and night blindness defects. The Department of Health and Human Services advises in its memorandum dated June 25, 1980 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-36921 Filed 11-25-80; 8:45 am]

BILLING CODE 3510-25-M

San Diego State University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number: 80–00241. Applicant: San Diego State University, Systems Ecology Research Group, San Diego, CA 92182. Article: Infrared Gas Analyzer (CO_2), ADC Type 225 Mk II. Manufacturer: Analytical Development Co., United Kingdom. Intended use of article: The article is intended to be used for studies of photosynthesis of higher plants in mediterranean ecosystems. Experiments will include CO_2 exchange of laboratory and in situ Chapparal plants, under varied regimes of soil and air temperature, light water availability, and nutrient concentration. Application received by Commissioner of Customs: March 17, 1980.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foregin article has single gas calibration and an accuracy of ± 1% full scale reading when operated on the irregular frequency of a portable generator (60±3 Hertz). The Department of Health and Human Services advises in its memorandum dated August 7, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose end (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Program Staff.

[FR Doc. 80-36918 Filed 11-25-80; 8:45 am]

BILLING CODE 3510-25-M

University of California, Berkeley; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c)

of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket Number: 80–00248. Applicant: University of California, Berkeley, Purchasing Department, 2405 Bowditch Street, Berkeley, California 94720. Article: Excimer Laser, Model TE–861 and Accessories. Manufacturer: Lumonics Ltd., Canada. Intended use of article: The article is intended to be used to study a variety of organic molecules in the gas phase, liquid phase, solid state and chemi-sorbed or physi-sorbed on surfaces. The objective is to unveil new chemical and physical properties of material and to develop novel laser devices. This system will allow innovative long shots and high risk experiments to be performed in an efficeint way. Application Received by Commissioner of Customs: March 24, 1980.

Comments: No comments have been received with respect to this application.

Decison: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a maximum pulse energy per pulse of 250 milijoules and a high repetition rate of 75 hertz, both using krypton fluoride. The National Bureau of Standards advises in its memorandum dated August 27, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-36929 Filed 11-25-80; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

Federal Information Processing Standards 60–1, 61, 62, 63; Editorial Changes

Under the provisions of Pub. L. 89–306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform automatic data processing standards. On February 16, 1979, notice was given in the **Federal Register** (44 FR 10098–10101) announcing that the Secretary of Commerce had approved three input/output (I/O) Federal Information Processing Standards (FIPS): (1) I/O Channel Interface, (2) Channel Level Power Control Interface, and (3) Operational Specifications for Magnetic Tape Subsystems, designated Federal Information Processing Standards Publication (FIPS PUB) 60 (which has been redesignated as 60–1), FIPS PUB 61, and FIPS PUB 62, respectively. On August 27, 1979, notice was given in the **Federal Register** (44 FR 50078–50079) announcing that the Secretary had approved a fourth I/O channel level interface standard, Operational Specifications for Rotating Mass Storage Subsystems, designated FIPS PUB 63.

These standards were the subject of corrections and revisions announced in the **Federal Register** on August 27, 1979 (44 FR 50079–50080), August 31, 1979 (44 FR 51294) and December 3, 1979 (44 FR 69317). An interim revision of FIPS PUBS 60–1 through 63 regarding verification procedures and guidance concerning technical interface implementation approaches was announced in the **Federal Register** on June 25, 1980 (45 FR 42783–42784).

Now it has been determined that FIPS PUBS 60–1, 61, 62, and 63 require several editorial changes.

A. The following editorial changes are made to FIPS PUBS 60–1:

Page 2 insert the following new paragraph after 4th paragraph: Regulations concerning the specific use of this standard in Federal procurement will be issued by the General Services Administration to be a part of the Federal Property Management Regulations.

Page 18, 6th full paragraph: Delete "or 'address in' " after " 'select in' " and change " 'operation in'," after "and" to " 'operational in' ,."

Page 21, last paragraph, third line: Change "48" before the word signal to "72."

Page 26, first paragraph designated as paragraph 2, 6th line: Change "with" to "within" after the word "address."

Page 30, paragraph 2.5.3: Delete last sentence. Substitute in its place: "Any status (except zero status presented in response to a command other than test I/O) presented by a control unit in any interface sequence (except the control-unit-busy sequence) may be stacked."

Page 40, second paragraph of paragraph 2.8.3.2: Delete the second line in the paragraph, and substitute in its place: "control unit power is off and electrical bypassing is effective. For control units, the internal resistence."

Page 46, following the first paragraph of paragraph 3.3.1: Insert "The receiver should not be damaged by:"

Page 50, bottom row of pin assignment diagram: Reverse the two diagrams so that "Control Unit in Connector 3 ('B' Style)" appears in the right-hand column with "B" group, and "Channel/Control Unit out Connector 3 ('A' Style)" appears in the left-hand column with the "A" group.

B. The following editorial changes are made to FIPS PUB 61:

Page 11, Figure 3: In left-hand column of figure 3: Change "System Power-On Contracts" to "System Power-On Contacts."

Page 17, Figure 8: Change ".345" to ".395" in the Typical Single Circuit Receptacle Housing group.

C. The following editorial changes are made to FIPS PUB 62:

Page 10, Figure 2: The top portion of the right-hand box at the top of the figure should read: "Channel Switch 1"

Page 11, paragraph 1.5.4: Delete "as specified by document ANSI X3B1/556–1972, entitled Magnetic Tape for Information Interchange"

Page 21, paragraph 3.1, Bit 4 entry: Delete second sentence under Interpretation column and substitute the following new sentence in its place: "Channel End is set in ending status for burst commands (e.g., Read, Write, and Sense) and in initial status for motion control and non-motion control commands (e.g., Rewind, Backspace Block, and Mode Set)."

D. The following editorial change is made to FIPS PUB 63:

Page 43, paragraph 3.2.2, line 4: Change "0, 2 and 3" to "1, 2 and 3." Line 6: Change "1, 4, 5 and 6," to "0, 4, 5 and 6,."

Questions regarding these editorial changes should be addressed to Steve A. Recicar, System Components Division, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921–3723.

Dated: November 20, 1980.

Ernest Ambler,

Director.

[FR Doc. 80-36820 Filed 11-25-80; 8:45 am]

BILLING CODE 3810-13-M

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; Amendments to Systems of Records

AGENCY: Department of the Army, DOD.

ACTION: Notice of addition and deletions of systems of records.

SUMMARY: The Department of the Army proposes to amend its inventory of systems notices by adding 1 and deleting 2 systems of records subject to the Privacy Act of 1974. The system being added relates to grievances filed by Army employees under part 771 of regulations issued by the Office of Personnel Management (OPM). The case files contain all documents related to the grievance, including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original correspondence and exhibits. The system also includes files and records of internal grievance and arbitration systems established through negotiations with recognized labor organizations. Records are to be maintained in the servicing civilian personnel office for each Army installation or activity.

EFFECTIVE DATE: 1 December 1980.

ADDRESS: Mr. Richard S. Christian, The Adjutant General's Office (DAAG–AMR–R), 1000 Independence Avenue, SW, Washington, DC 20310; telephone 202/693–0973.

SUPPLEMENTARY INFORMATION: The Department of the Army has been advised by the Office of Management and Budget that OPM plans to delete, effective January 1, 1981, the Government-wide system "OPM/GOVT–2, Grievance Records" because it has been decided that such records would be more appropriately maintained in individual agency systems of records. Information called for in the system set forth below duplicates the information in the OPM system. Thus, the proposed Army system is not a new system of records and no report thereon is necessary. The OPM system was published in the **Federal Register** of May 29, 1979 (44 FR 30884), and was amended by a notice published in the **Federal Register** of October 26, 1979 (44 FR 61708).

Department of the Army systems of records have been published in the following editions of the **Federal Register:**

FR Doc. 79–37052 (44 FR 73729) December 17, 1979
FR Doc. 80–594 (45 FR 1658) January 8, 1980
FR Doc. 80–3891 (45 FR 8399) February 7, 1980
FR Doc. 80–7515 (45 FR 15736) March 11, 1980
FR Doc. 80–9633 (45 FR 20992) March 31, 1980
FR Doc. 80–10014 (45 FR 21673) April 2, 1980
FR Doc. 80–150501–M (45 FR 26117) April 17, 1980
FR Doc. 80–13708 (45 FR 29390) May 2, 1980
FR Doc. 80–18501 (45 FR 41478) June 19, 1980
FR Doc. 80–20779 (45 FR 46842) July 11, 1980
FR Doc. 80–21847 (45 FR 48936) July 22, 1980
FR Doc. 80–29170 (45 FR 62875) September 22, 1980
FR Doc. 80–32460 (45 FR 68996) October 17, 1980
FR Doc. 80–33133 (45 FR 70298) October 23, 1980
FR Doc. 80–34706 (45 FR 73728) November 6, 1980
FR Doc. 80–35825 (45 FR 75734) November 17, 1980

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

November 19, 1980.

Addition

AO§12.03DAPE

SYSTEM NAME:

812.03 Grievance Records

SYSTEM LOCATION:

Records are located in the servicing civilian personnel offices for each Army activity or installation.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former employees of the Department of the Army who have submitted grievances in accordance with part 771 of the regulations of the office of Personnel Management (5 CFR 771) or through a negotiated grievance procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records relating to grievances filed by Army employees under part 771 of regulations issued by the Office of Personnel Management. The case file contains all documents related to the grievance, including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original and final decisions, and related correspondence and exhibits. The system includes files and records of internal grievance and arbitration systems established through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, E.O. 10577, 3 CFR 1954–1958 Comp., p. 218, E.O. 10987, 3 CFR 1959–1963 Comp., p. 519, agency employees, for personal relief in a matter of concern or dissatisfaction which is subject to the control of agency management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To disclose pertinent information to the appropriate Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the agency becomes aware of an indication of a violation of potential violation of civil or criminal law or regulation.

b. To disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify the individual, inform the source of the purpose(s) of the request, and identify the type of information requested.

c. To disclose information to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuing of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

d. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

e. To dislcose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

f. By the National Archives and Records Service (General Services Administration) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

g. By the Department of the Army or by the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published statistics and studies do not contain individual identifiers, in some instances the

selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

h. To disclose information to officials of the Merit Systems Protection Board, including the Office of the Special Counsel; the Federal Labor Relations Authority and its General Counsel, or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

i. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

j. To provide information to officials of labor organizations reorganized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS FOR THE SYSTEM:

STORAGE:

Maintained in file folders.

RETRIEVABILITY:

By the names of the individuals on whom the records are maintained. (Records may also be filed by bargaining unit.)

SAFEGUARDS:

Records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are destroyed 7 years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Civilian Personnel, Office of the Deputy Chief of Staff for Personnel, Room 2C–681, The Pentagon, Washington, DC 20310.

NOTIFICATION PROCEDURE:

It is required that individuals submitting grievances by provided a copy of the record under the grievance process. They may, however, contact the Army personnel or designated office where the action was processed regarding the existence of such records on them. They must furnish the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing the case and kind of action taken.

d. Organization and activity where employed at time grievance was initiated.

RECORDS ACCESS PROCEDURES:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. However, after the action has been closed, and individual may request access to the official copy of the grievance filed by contacting the personnel or designated office where the action was processed.

Individuals must provide the following information for their records to be located and identified:

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organization and activity where employed at time grievance was initiated.

Individuals requesting access must also follow the Privacy Act regulations of the Office of Personnel Management regarding access to records and verification of identity (5 CFR 297.203 or 297.201).

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determining if the record accurately documents the action of the Army's ruling on the case, and will not include a review of the merits of the action, determination, or finding.

Individuals wishing to request amendment to their records to correct factual errors should contact their servicing civilian personnel office. Individuals must furnish the following information for their records to be located and identified.

a. Name.

b. Date of birth.

c. Approximate date of closing of the case and kind of action taken.

d. Organization and activity where employed at time grievance was initiated.

Individuals requesting amendment must also follow the Privacy Act regulations of the Office of Personnel Management regarding amendment to the records and verification of identity (5 CFR 297.208 and 297.201).

RECORD SOURCE CATEGORIES:

Information in this system of records is provided:

a. By the individual on whom the record is maintained.

b. By testimony of witnesses.

c. By officials of the Department of the Army.

d. From related correspondence from organizations or persons.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Deletions

AO807.09aDAPE

System name:

807.09 Grievances and Appeals Under Negotiated Grievance Procedures (44 FR 73912), December 17, 1979.

Reason:

Records are described in system of records AO812.03DAPE, being added herein.

AO812.04DAPE

System name:

812.04 NAF Complaint, Appeal & Grievance Case Files (44 FR 73917), December 17, 1979.

Reason:

Records are described in system of records AO812.03DAPE, being added herein.

[FR Doc. 80-36775 Filed 11-25-80; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Privacy Act of 1974; Deletion of Systems of Records

AGENCY: Department of the Navy (DON).

ACTION: Notice of deletion to systems of records.

SUMMARY: The Department of the Navy is deleting two systems of records which were formerly subject to the Privacy Act of 1974.

DATES: The systems are deleted as of December 26, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Rhoads, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP–09B1P), Department of the Navy, The Pentagon, Washington, D.C. 20350, telephone: 202–694–2004.

SUPPLEMENTARY INFORMATION: The Navy systems of records notices as prescribed by the Privacy Act of 1974, Title 5, U.S.C., Section 552a (P.L. 93–579) have been published in the **Federal Register** as follows:

FR Doc 79–36400 (44 FR 67703) November 27, 1979

FR Doc 79–36798 (44 FR 68947) November 30, 1979

FR Doc 79–37052 (44 FR 74553) December 17, 1979

FR Doc 80–6599 (45 FR 13794) March 3, 1980

FR Doc 80–14965 (45 FR 32037) May 15, 1980

FR Doc 80–15427 (45 FR 33679) May 20, 1980

FR Doc 80–17286 (45 FR 38099) June 6, 1980

FR Doc 80–19603 (45 FR 43841) June 30, 1980

FR Doc 80–20317 (45 FR 43938) July 8, 1980

FR Doc 80–23111 (45 FR 50851) July 31, 1980

FR Doc 80–24237 (45 FR 53508) August 12, 1980

FR Doc 80–26396 (45 FR 57514) August 28, 1980

FR Doc 80–26960 (45 FR 58651) September 4, 1980

FR Doc 80–27976 (45 FR 59936) September 11, 1980

FR Doc 80–29172 (45 FR 62876) September 22, 1980

FR Doc 80–29774 (45 FR 63898) September 26, 1980

FR Doc 80–33134 (45 FR 70301) October 23, 1980

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

November 20, 1980.

Deletions

N00015.ONI53–1A

System name:

Status of Downed Naval Aviation Personnel, Southeast Asia Operations (44 FR 74579) December 17, 1980.

Reason:

This system has been discontinued.

N62932 COMSYSTOSHOPRE

System name:

Commissary Store Monetary Allowance Records (44 FR 74633) December 17, 1980.

Reason:

This system has been discontinued.

[FR Doc. 80-36773 Filed 11-25-80; 8:45 am]

BILLING CODE 3810-71-M

Department of the Navy

U.S. Marine Corps

Privacy Act of 1974; Deletion and Amendments to Systems of Records

AGENCY: Department of the Navy (U.S. Marine Corps).

ACTION: Notice of deletion and amendments to systems of records.

SUMMARY: The U.S. Marine Corps proposes to delete one and amend four systems of records subject to the Privacy Act of 1974. The specific changes to the systems being amended are set forth below, followed by the system published in its entirety, as amended.

DATES: The system shall be amended as proposed without further notice on December 26, 1980 unless comments are received on or before December 26, 1980 which result in a contrary determination.

ADDRESS: Send comments to the system manager identified in the record system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. B. L. Thompson, Privacy Act Coordinator, Headquarters, U.S. Marine Corps, Washington, D.C. 20380, telephone: 202–694–4115

SUPPLEMENTARY INFORMATION: The Marine Corps systems of records notices as prescribed by the Privacy Act of 1974, Public Law 93–579 (5 U.S.C. 552a) have been published in the **Federal Register** as follows:

FR Doc 79–36297 (44 FR 68946) November 30, 1979

FR Doc 79–37052 (44 FR 74495) December 17, 1979

FR Doc 80–4470 (45 FR 9316) February 19, 1980

FR Doc 80–5182 (45 FR 10840) February 19, 1980

FR Doc 80–5420 (45 FR 11523) February 21, 1980

FR Doc 80–6233 (45 FR 13182) February 28, 1980

FR Doc 80–15426 (45 FR 33677) May 20, 1980

FR Doc 80–16549 (45 FR 37254) June 2, 1980

FR Doc 80–26959 (45 FR 58646) September 4, 1980

FR Doc 80–32461 (45 FR 69280) October 20, 1980

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of a new or altered system report.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

November 19, 1980.

Deletion

MMN00024

System name:

Absentee Processing File (44 FR 74543) December 17, 1979.

Reason:

This system has been incorporated into system MMN00001 appearing in this edition.

Amendment

MMN00001

System name:

Deserter Inquiry File (44 FR 74530) December 17, 1979.

Changes:

System name:

Delete the entire entry and substitute: "Absentee Processing and Deserter Inquiry File."

System location:

Delete the entire entry and substitute: "Primary System—Absentee and Deserter Section, Manpower Plans and Policy Division, Manpower Department (Code MP), Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

Decentralized Segments—U.S. Marine Corps commands to which the absentee or deserter is assigned for duty or administration of official records. See the organizational elements of the U.S. Marine Corps as listed in the Directory of the Department of the Navy Mailing Addresses."

Categories of individuals covered by the system:

At the end of the paragraph, delete the words "within the last 90 days."

Categories of records in the system:

Delete the entire entry and substitute: "File contains personal identification data, parent command, notations of arrests, nature and dispositions of criminal charges, and other pertinent information which is necessary to monitor, control and identify absentees and deserters."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

In the first paragraph, delete the words "Manpower Plans and Policy Division" and add the following before the beginning of the paragraph:

"Internal:

Headquarters, U.S. Marine Corps, Marine Corps commands, activities, and organizations—To coordinate the identification, apprehension and return of Marine absentees and deserters in accordance with current regulations."

Delete paragraph four in its entirety. Add the following as the second paragraph under internal users: "The Department of Defense (DOD)—To coordinate with other components of DOD as may be required to report, identify, apprehend and return Marine absentees and deserters to Marine Corps control."

Add the following word before the beginning of the second paragraph: *"External:"*

Delete the last paragraph in its entirety.

Storage:

Routine uses of records maintained in

MMN00023

(IUMPS/MMS) (45 FR 59647) September

convicted absentees and deserters who

his authorized representatives in

Storage:

Delete the entire entry and substitute the following: "Records are stored on magnetic tapes and disks, microform, and file folders."

Retrievability:

Delete the entire entry and substitute the following: "Records may be accessed by name and social security number."

Retention and disposal:

Delete the entire entry and substitute the following: "Records vary in the period of time retained. Records on magnetic tapes and disks are destroyed by erasing after disposition of the individual's case. Paper records are maintained only as long as necessary to transfer information to the official personnel record, then they are destroyed."

Record access procedures:

Delete the second paragraph in its entirety and substitute the following: "Written requests for information should contain full name of the individual, date and place of birth, social security number and signature.

System manager(s) and address:

Add after the phrase "The Commandant of the Marine Corps" the words "(Code MP)".

Systems exempted from certain provisions of the act:

Delete the entire entry and substitute the word: "None."

MMN00022

System name:

Vehicle Control System

Changes:

Categories of records in the system:

Delete the entire entry and substitute: "File contains records of each individual who has registered a vehicle on the installation concerned to include decal data, insurance information, state of registration, auto license plate information, and personal history data required for vehicle registration and identification. File also contains notations of traffic violations, citations, suspensions, application for government vehicle operator's I.D. card, operator qualifications and record licensing examination and performance, record of failures to qualify for Government Motor Vehicle Operator's permit, record of government motor vehicle and other vehicle accidents, information on student driver training, and identification for parking control."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute the following:

"Internal:

Headquarters, U.S. Marine Corps, Marine Corps commands, activities and organizations—For car pool locator service, vehicle registration, parking control, insurance information, verification and identification of vehicles. Records on official government drivers relating to their ability to operate a motor vehicle are used to manage a safe and responsive motor transport organization. Certain information is used to conduct accident prevention programs, revoke or suspend government motor vehicle permits and in disciplinary proceedings.

Department of Defense—By officials and employees of DOD in the performance of their official duties relating to vehicle control.

External:

Federal, state and local government agencies—By officials and employees to assist in the official execution of their duties when disclosure of such records is warranted."

Safeguards:

Delete the entire entry and substitute: "Records are maintained in areas accessible only to authorized personnel. Areas are locked during nonduty hours and buildings are protected by security guards."

Retention and disposal:

Delete the entire entry and substitute: "Records are maintained for one year after transfer or separation from the installation concerned. Paper records are then destroyed and records on magnetic tapes are erased."

Notification procedures:

Delete the entry and substitute: "Information may be obtained from the system manager. Written requests should contain full name and social security number. Individuals visiting the installation concerned should provide proper identification such as military identification, driver's license or other suitable identification."

Record access procedures:

Delete the entire entry and substitute: "Requests for access should be addressed to the system manager. Written requests should contain full name and social security number. Individuals visiting the installation should provide proper identification."

MMN00023

System name:

Prisoner Records (44 FR 74543) December 17, 1979

Changes:

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Add the following to the beginning of the first paragraph:

"Internal:

Headquarters, U.S. Marine Corps, Marine Corps commands, activities, and organizations—"

Delete paragraph three in its entirety. Add the following as the second paragraph under internal users: "Department of Defense and its components—By officials and employees of the Department of Defense in the performance of their official duties."

Add the following word before the beginning of the second paragraph: *"External:"*

Safeguards:

Delete the entire entry and substitute "Records are maintained in areas accessible only to authorized personnel. Areas are locked during nonduty hours and buildings are protected by security guards."

Retention and disposal:

Delete the entire entry and substitute: "Records are maintained at varying lengths of time. Paper records are destroyed at the end of the appropriate retention period and magnetic tapes are erased."

Notification procedures:

Delete the entry and substitute: "Information may be obtained from the system manager. Written requests should contain full name and social security number. Individuals visiting the installation concerned should provide proper identification such as military identification, driver's license or other suitable identification."

Record access procedures:

Delete the entry and substitute: "Requests for access should be addressed to the system manager. Written requests should contain full name and social security number. Individuals visiting the installation should provide proper identification."

MFD00003

System name:

Joint Uniform Pay Military System/ Manpower Management System

(JUMPS/MMS) (45 FR 58647) September 4, 1980

Changes:

Categories of individuals covered by the system:

Add the following to the end of the sentence ". . . certain civilians and other service personnel who have attended formal Marine Corps schools."

Categories of records in the system:

Add the following to the end of the last sentence: ". . . promotional data."

Routine uses of records maintained in the system, including catagories of users and the purpose of such uses:

Add the following word before the beginning of the first paragraph: *"Internal:"*

Add the following word before the beginning of the third paragraph: *"External:"*

Retention and disposal:

Delete the first sentence and substitute: "Magnetic records are maintained on all military personnel and certain civilians while they are in service or employed by the service and for a period of 6 months after separation.

Add the following words to the end of the second sentence: ". . . then they are destroyed."

Record source categories:

After the word "individual" delete the word "Marine".

MMN00001

SYSTEM NAME:

Absentee Processing and Deserter Inquiry File

SYSTEM LOCATION:

Primary System: Absentee and Deserter Section, Manpower Plans and Policy Division, Manpower Department (Code MP), Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

Decentralized Segments—U.S. Marine Corps commands to which the absentee or deserter is assigned for duty or administration of official records. See the organizational elements of the U.S. Marine Corps as listed in the Directory of the Department of the Navy Mailing Addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Marine Corps absentees and deserters; Marines in hands of civil authorities, foreign and domestic; Marines who fail to comply with orders to new duty stations; suspected and convicted absentees and deserters who have returned to military control.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains personal identification data, parent command, notation of arrests, nature and dispositions of criminal charges, and other pertinent information which is necessary to monitor, control and identify absentees and deserters.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S. Code 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal:

Headquarters, U.S. Marine Corps, Marine Corps commands, avtivities, and organizations—To coordinate the identification, apprehension and return of Marine absentees and deserters in accordance with current regulations. To record and monitor deserter/absentee cases entered into the National Crime Information Center's Wanted Persons File; to monitor and assign absentees upon their return to military control, to ensure that absentees are formally charged in accordance with the Uniform Code of Military Justice prior to expiration of the Statute of Limitations; to monitor Marine absentees and deserters believed to be located in foreign countries; to monitor Marines who have failed to comply with permanent change of station (PCS) orders or orders to travel and report without escort; to ensure correspondence pertaining to absentees and deserters received by the Marine Corps is processed in a timely manner; to ensure that appropriate action is taken within the Manpower Management System to join or drop absentees to desertion; to provide periodic management reports concerning absentees and deserters as directed by higher authority.

The Department of Defense (DOD)—To coordinate with other components of DOD as may be required to report, identify, apprehend and return Marine absentees and deserters to Marine Corps control.

External:

Comptroller General of the U.S.—To respond to the Comptroller General or any of his authorized representatives in the course of the performance of duties of the General Accounting Office relating to Marine Corps Manpower Management Programs.

The Attorney General of the U.S.—To coordinate with the Attorney General or his authorized representatives in connection with litigation, law enforcement or other matters under the direct jurisdiction of the Department of Justice as carried out as the legal representative of the Executive Branch.

Civilian Law Enforcement Agencies—To coordinate with appropriate federal, state, and local law enforcement agencies as may be required to report, identify, apprehend and return Marine absentees and deserters to Marine Corps control.

Courts—To respond to court orders in connection with matters before a court.

Congress of the U.S.—To respond to inquiries of the Senate or the House of Representatives of the United States or any committee or subcommittee thereof or any joint committee or joint subcommittee of the Congress on matters within their jurisdiction as may be requested of the Marine Corps.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tapes and disks, microform, and in file folders.

RETRIEVABILITY:

Records may be accessed by name and social security number.

SAFEGUARDS:

Building employs security guards. Computer terminals and records are located in areas accessible only to authorized personnel that are properly screened, cleared and trained. Use of terminals requires knowledge of passwords.

RETENTION AND DISPOSAL:

Records vary in the period of time retained. Records on magnetic tapes and disks are destroyed by erasing after disposition of the individual's case. Paper records are maintained only as long as necessary to transfer information to the official personnel record, then they are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

The Commandant of the Marine Corps (Code MP), Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

NOTIFICATION PROCEDURE:

Information may be obtained from: The Commandant of the Marine Corps (Code MP), Headquarters, U.S. Marine Corps, Washington, D.C. 20380, Telephone: Area Code (202) 694–2927.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: The Commandant of the Marine Corps (Code MP), Headquarters,

U.S. Marine Corps, Federal Office Building 2, Washington, D.C. 20380.

CONTESTING RECORD PROCEDURES:

The Marine Corps rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the Commandant of the Marine Corps (Code MP), Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

RECORD SOURCE CATEGORIES:

Individual, Marine Corps records, and reports from civilian law enforcement agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

MMN00002

SYSTEM NAME:

Motor Vehicle Registration System

SYSTEM LOCATION:

Primary System: Provost Marshal's Office, Marine Corps Base, Camp Lejeune, North Carolina 28542.

Decentralized Segments—Provost Marshal's Office, Marine Corps Air Station, New River, North Carolina 28545.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel, civilian employees, and dependents who have registered a vehicle on the installation concerned.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains records of each individual who has registered a vehicle on the installation concerned to include decal data, insurance information, state of registration, auto license plate information, and personal history data required for vehicle registration and identification. File also contains notations of traffic violations, citations, suspensions, applications for

Restoration or Clemency, Court-martial Progress Report, Prisoner Identification

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND

SYSTEM LOCATION:

U.S. Marine Corps, Federal Office Buiiding 2, Washington, D.C. 20380.

Written requests for information should contain the full name of the individual, date and place of birth, social security number and signature.

For personal visits, the individual should be able to provide military identification card, driver's license or other type of identification bearing picture or signature or by providing verbal data sufficient to ensure that the individual is the subject of the inquiry.

CONTESTING RECORD PROCEDURES:

The rules for contesting contents and appealing initial determination may be obtained from the Commandant of the Marine Corps (Code JA), Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

RECORD SOURCE CATEGORIES:

Information in the system is obtained from the Marine Corps Military Personnel Records; from the individual's commanding officer, officer-in-charge, federal, state and local law enforcement agencies, lawyers, judges, Members of Congress, relatives of the individual and private citizens, the Veterans' Administration and the individuals themselves.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

SYSTEM NAME:

Vehicle Control System.

SYSTEM LOCATION:

Organizational elements of the U.S. Marine Corps as listed in the Directory of the Department of the Navy Activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals who have motor vehicles, boats, or trailers registered at a particular Naval installation on either a permanent or temporary basis.

All individuals who apply for a Government Motor Vehicle Operator's license.

All individuals who possess a Government Motor Vehicle Operator's license with authority to operate government motor vehicles.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contains records of each individual who has registered a vehicle on the installation concerned to include decal data, insurance information, state of registration, auto license plate information, and perrsonal historyu data required for vehicle registration and identification. File also contains notations of traffic violations, citations, suspensions, applications for Government Vehicle Operator's I.D. card, operator qualifications and record licensing examination and performance, record of failures to qualify for government motor vehicle operator's permit, record of government motor vehicle and other vehcile accidents, information on students driver training and identification for parking control.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S. Code 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal:

Headquarters, U.S. Marine Corps, Marine Corps commands, activities and organizations—For car pool locator service, vehicle registration, parking control, insurance information, verification and identification of vehicles. Records on official government drivers relating to their ability to operate a motor vehicle are use to manage a safe and responsive motor transport organization. Certain information is used to conduct accident prevention programs, revoke or suspend government motor vehicle permits and in disciplinary proceedings.

Department of Defense—By officials and employees of DOD in the performance of their official duties relating to vehicle control.

External:

Federal, state and local government agencies—By officials and employees to assist in the official execution of their duties when disclosure of such records is warranted.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, card files, punched cards, magnetic tapes.

RETRIEVABILITY:

Name, social security number, case number, organization, decal number, state license plate number, vehicle description.

SAFEGUARDS:

Records are maintained in areas accessible only to authorized personnel. Areas are locked during nonduty hours and buildings are protected by security guards.

RETENTION AND DISPOSAL:

Records are maintained for one year after transfer or separation from the installation concerned. Paper records are then destroyed and records on magnetic tapes are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding Officer of the activity in question. See Directory of Department of the Navy Mailing Addresses.

NOTIFICATION PROCEDURE:

Information may be obtained from the system manager. Written requests should contain full name and social security number. Individuals visiting the installation concerned should provide proper identification such as military identification, driver's license or other suitable identification.

RECORD ACCESS PROCEDURES:

Requests for access should be addressed to the system manager. Written requests should contain full name and social security number. Individuals visiting the installation should provide proper identification.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determination by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual concerned, other records of the activity, investigators, witnesses, correspondents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

MMN00023

SYSTEM NAME:

Prisoner Records.

SYSTEM LOCATION:

Organizational elements of the U.S. Marine Corps as listed in the Directory of the Department of the Navy Activities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military personnel who are confined in a detailed, adjudged or sentenced status.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information contained in the Manpower Management System data base, personal history to include civilian and military legal status, confinement progress reports and medical related information. Such other records as: Prisoner Conduct Record, Prisoner Confinement and Release Order, Prisoners Request for Restoration or Clemency, Prisoner Waiver of

Restoration or Clemency, Court-martial Progress Report, Prisoner Identification Badge, Prisoner Data Card, Work and Training Report, Mail and Visiting List, Segregation Data Card, Prisoner Refusal to Eat Report, Prisoner Initial Contact Sheet, Prisoner Personal History, Prisoner Spot Evaluation Report, Counselor Continuation Sheet, Disciplinary Report, Prisoner Request Form, Prisoner Request for Funds Form, Prisoner Request for Pastoral Counseling, Prisoner Visiting Officer Form, Telephone and/or Visit Authorization Form, Receipt for Deposit Form, Prisoner Credit Chit, Prisoner Identification Form, Clothing/Health and Comfort Inventory Form, Work Program Request, Library Card, Psychiatric Evaluation and Medical Reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S. Code 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal:

Headquarters, U.S. Marine Corps, Marine Corps commands, activities, and organizations—To provide an all inclusive file on each individual prisoner, to assist facility staff evaluation of personnel, to assign prisoners to programs, to assign custodial classification, to provide psychiatric and medical treatment, to provide a proper mixture of individual and group counseling in the preparation of the prisoner for further military service, or to prepare him for his future adjustment to civilian life. Routinely used by local correctional personnel in the day-to-day management of prisoners within established programs, by medical personnel, local commanders and higher headquarters in the management and implementation of correctional programs.

Department of Defense and its components—By officials and employees of the Department in the performance of their official duties.

External:

Congress of the U.S.—By the Senate or House of Representatives of the U.S. or any committee or subcommittee thereof on matters within their jurisdiction requiring disclosure of the files.

The Comptroller General of the U.S.—By the Comptroller General or any of his authorized representatives in the course of the performance of the duties of the General Accounting Office relating to the Marine Corps.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, card files, punched cards, magnetic tapes.

RETRIEVABILITY:

Name, social security number, case number, organization.

SAFEGUARDS:

Records are maintained in area accessible only to authorized personnel. Areas are locked during nonduty hours and buildings are protected by security guards.

RETENTION AND DISPOSAL:

Records are maintained at varying lengths of time. Paper records are destroyed at the end of the appropriate retention period and magnetic tapes are erased.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding Officer of the activity in question. See Directory of Department of the Navy Mailing Addresses.

NOTIFICATION PROCEDURE:

Information may be obtained from the system manager. Written requests should contain full name and social security number. Individuals visiting the installation concerned should provide proper identification such as military identification, driver's license or other suitable identification.

RECORD ACCESS PROCEDURES:

Requests for access should be addressed to the system manager. Written requests should contain full name and social security number. Individuals visiting the installation should provide proper identification.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determination may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual concerned, other records of the activity, investigators, witnesses, correspondents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

MFD0003

SYSTEM NAME:

Joint Uniform Military Pay System/ Manpower Management System (JUMPS/MMS)

SYSTEM LOCATION:

Primary System—Marine Corps Central Design and Programming Activity, 1500 East 95th Street, Kansas City, Missouri 64131; Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197.

Decentralized Segments—There are nine Satellite/Command Data Processing Installations (SDPI/CDPI) which maintain files with similar records at the following locations: SDPI 02, Marine Corps Base, Camp Lejeune, NC 28542; SDPI 03, Marine Corps Base, Camp Pendleton, CA 92055; SDPI 06, FMF Pacific, FPO San Francisco, CA 96610; SDPI 09, Headquarters U.S. Marine Corps, Washington, D.C. 20380; SDPI 11, Marine Corps Recruit Depot, Parris Island, SC 29905; SDPI 15, Marine Corps Recruit Depot, San Diego, CA 92140; SDPI 17, Marine Corps Base, Quantico, VA 22134; SDPI 27, Marine Corps Base, Camp S. D. Butler, FPO Seattle, WA 98773; First Marine Brigade, FPO San Francisco, CA 96615; SDPI 16, Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Marine Corps military personnel on active duty for 31 days or longer, certain civilians and other service personnel who have attended formal Marine Corps schools.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains personnel and pay data which includes: Name, grade, SSN, date of birth, citizenship, marital status, home of record, dependents information, record of emergency data, enlistment contract or officer acceptance form information, duty status, population group, sex, ethnic group, duty station/ personnel assignment and unit information, security investigation, military pay record data such as information contained on the Leave and Earnings Statement which may include base pay/allowances/allotments/bond authorization, health care coverage, special pay and bonus data, Federal and State Withholding/Income Tax Data, Federal Indemnity Compensation Act Tax Withholding Data, Serviceman's Group Life Insurance Deductions, leave account, wage and tax summaries, separation document code, test scores/ information, language proficiency, military/civilian/off-duty education, training information, awards, combat tour information, aviation/pilot/flying time data, lineal precedence number, limited duty officer/warrant officer footnotes, TAD data, power of attorney, moral code, conduct and proficiency

marks, years in service, promotional data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10 and 37, U.S. Code Section 5031 and 5201.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Internal:

Headquarters, U.S. Marine Corps and Marine Corps commands, activities and organizations—By officials and employees of the Marine Corps in the performance of their assigned duties in matters relating to a Marine's automated personnel and/or pay record.

Department of Defense and its components—By officials and employees of the Department in the performance of their official duties.

External:

The Attorney General of the U.S.—By officials and employees of the Office of the Attorney General in connection with litigation, law enforcement of other matters under the direct jurisdiction of the Department of Justice or as carried out as the legal representative of the Executive Branch agencies.

Courts—By officials of duly established local, state and federal courts as a result of court order pertaining to matters properly within the purview of said court.

Congress of the U.S.—By the Senate or the House of Representatives of the U.S. or any committee or subcommittee thereof, any joint committee or Congress or subcommittee or joint committee on matters within their jurisdiction requiring disclosure of the files.

The Comptroller General of the U.S.—By the Comptroller General or any of his authorized representatives in the course of performance of duties of the General Accounting Office relating to the Marine Corps.

The American Red Cross and the Navy Relief Society—By officials and employees of the American Red Cross and the Navy Relief Society in the performance of their duties. Access will be limited to those portions of the members record required to effectively assist the member.

Federal, state and local government agencies—By officials and employees of federal, state and local government through official request for information with respect to law enforcement investigatory procedures, criminal prosecution, civil court action and regulatory order.

To provide information to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States which has been authorized by law to conduct law enforcement activities pursuant to a request that the agency initiate criminal or civil action against an individual on behalf of the U.S. Marine Corps, The Department of the Navy, or the Department of Defense.

To provide information to individuals pursuant to a request for assistance in a criminal or civil action against a member of the U.S. Marine Corps by the U.S. Marine Corps, the Department of the Navy, or the Department of Defense.

Department of Health and Human Services (DHHS)—Disclosure of the name, rank or grade, and Social Security Account Number of each Marine Corps active duty military member to the Inspector General of DHHS for the specific purpose of comparison with appropriate rolls reflecting recipients of Aid to Families with Dependent Children (AFDC).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data is recorded on magnetic records and disks, punch cards, computer printouts, microform, file folders, and other documents.

RETRIEVABILITY:

The data contained in magnetic records can be displayed on cathode-ray tubes, it can be computer printed on paper, and it can be converted to microform for information retrieval; the data in the supporting file folders and other manual records is retrieved manually. Computerized and conventional indices are required to retrieve individual records from the system. Normally, all types of records are retrieved by Social Security Number and name.

SAFEGUARDS:

Building management employs security guards; building is locked nights and holidays. Authorized personnel may enter and leave the building during nonworking hours but must sign in and out. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

Access to personal information is limited to authorized personnel with a need-to-know. Access is restricted to specific applications programs, records, and files to which personnel have a specific and recorded need-to-know. On line data sets (both tape and disk) pertaining to personal information are password protected, areas are controlled and access lists are used. The files are also protected at a level appropriate to the type of information being processed.

RETENTION AND DISPOSAL:

Magnetic records are maintained on all military personnel and certain civilians while they are in service, or employed by the service and for a period of 6 months after separation. Paper and film records are maintained for a period of 10 years after the final transaction, then they are destroyed. End calendar and fiscal year "snapshots" of the MMS data base are maintained indefinitely in magnetic form at headquarters, U.S. Marine Corps.

SYSTEM MANAGER(S) AND ADDRESS:

Commandant of the Marine Corps, Codes FD/MP, Headquarters, U.S. Marine Corps, Washington, D.C. 20380.

NOTIFICATION PROCEDURE:

Requests from individuals for information concerning pay related matters should be addressed to the Commandant of the Marine Corps (Code FD). Requests from individuals for information concerning personnel matters should be addressed to the Commandant of the Marine Corps (Code MP).

Requesting individual must supply full name and Social Security Number. The requester may visit the Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197 to obtain information on whether the system contains records pertaining to him or her.

In order to personally visit the above address and obtain information, individuals must present a military identification card, a driver's license, or other suitable proof of identity.

RECORD ACCESS PROCEDURES:

Information on JUMPS may be obtained from the member's local disbursing officer. Information on MMS may be obtained for the member's immediate commanding officer. Requests for information from persons no longer in service should be signed by the person requesting the information. Dates of service, Social Security Number, and full name of requester should be printed or typed on the request. It should be sent to the Marine Corps Finance Center, 1500 East 95th Street, Kansas City, Missouri 64197

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Recruiting offices, disbursing offices, administrative offices, and the individual Marine are the prinicpal sources of the information contained in the JUMPS/MMS record for that person.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-36774 Filed 11-25-80; 8:45am]

BILLING CODE 3810-71-M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Force Enhancement Sub-Panel of the Chief of Naval Operations (CNO) Executive Panel Advisory Committee will meet on December 10–11, 1980, from 8:00 a.m. to 5:00 p.m. each day, at 2000 N. Beauregard St., Alexandria, VA. All sessions will be closed to the public.

The entire agenda for the meeting will consist of discussions of cover and deception systems and procedures and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in Section 552b(c)(1) of Title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Commander Catherine Z. Becker, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 N. Beauregard Street, Room 392, Alexandria, VA 22311. Phone (703) 756–1205.

P. B. Walker,

Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

November 24, 1980.

[FR Doc. 80-36955 Filed 11-24-80; 11:16 am]

BILLING CODE 3810-71-M

DEPARTMENT OF EDUCATION

Fund for the Improvement of Postsecondary Education; Closing Date for Transmittal of Applications for Fiscal Year 1981

AGENCY: Department of Education.

ACTION: Change in Closing Date for Transmittal of Applications for Fiscal Year 1981.

SUMMARY: Two closing dates are extended for the Fund for the Improvement of Postsecondary Education Program. These program announcements were contained in the "Direct Grant Program Application Notices for Fiscal Year 1980," published in the **Federal Register** on October 7, 1981 (45 FR 66564—66618). The New closing dates are as follows:

84.116D Fund for the Improvement of Postsecondary Education. New Closing Date—December 2, 1980.

84.116K Fund for the Improvement of Postsecondary Education. New Closing Date—January 21, 1981.

Applicants should refer to the **Federal Register** announcement on October 7 for the necessary information to apply.

FOR FURTHER INFORMATION CONTACT:

For 84.116D, Diana Hayman (202) 245–8091; for 84.116K, Lynn De Meester (202) 245–8091.

F. James Rutherford,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 80-36746 Filed 11-25-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

National Petroleum Council, Hazardous Wastes Task Group of the Committee on Environmental Conservation; Meeting

Notice is hereby given that the Hazardous Wastes Task Group of the Committee on Environmental Conservation will meet in December 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Environmental Conservation will analyze the environmental problems of the oil and gas industries and the impact of current environmental control regulations on the avilability and costs of petroleum products and natural gas. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Hazardous Wastes Task Group meeting follows:

The Hazardous Wastes Task Group will hold its first meeting on Wednesday, December 3, 1980, starting at 1:00 p.m., in the Conference Room of the National Petroleum Council, 1625 K Street, N.W., Washington, D.C.

The tentative agenda for the meeting follows:

1. Review Task Group assignment from the NPC Committee on Environmental Conservation.
2. Discuss Task Group study approach and individual assignments.
3. Discuss Task Group Schedule.
4. Discuss any other matters pertinent to the overall assignment of the Hazardous Wastes Task Group.

The meeting is open to the public. The Chairman of the Hazardous Wastes Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Hazardous Wastes Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633–8383, prior to the meeting and reasonable provision will be made for their appearance of the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room IE–190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on November 20, 1980.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development & Operations, Resource Applications.

November 20, 1980.

[FR Doc. 80-36930 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-01-M

Action on Consent Order With the Gulf Oil Corporation

AGENCY: Department of Energy.

ACTION: Adoption of Proposed Consent Order as final.

SUMMARY: The Office of Special Counsel for Compliance (OSC) hereby gives the notice required by 10 CFR 205.199J that it has adopted the Consent Order with the Gulf Oil Corporation, executed on November 21, 1979, and published in 45 FR 6158, January 25, 1980.

As required by the regulation cited above, OSC has solicited comments on the Consent Order for a period of not less than 30 days following publication of the notice cited above. No comments were received. OSC has determined that the Consent Order should be made final without modification. The Consent

V. 45 NO 226 80 UMI

Order is effective as an order at the Department of Energy (DOE) on November 26, 1980.

FOR FURTHER INFORMATION CONTACT: Elizabeth D. Sampath, Esq. Department of Energy, OSC, 1421 Cherry Street, Philadelphia, PA 19102.

Copies of the Consent Order may be obtained by written request at the freedom of Information Reading Room, Forrestal Building, 1000 Independence Ave. SW., Room 6A152.

Issued in Washington, D.C. on the 16th day of June, 1980.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 80-36829 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-01-M

Compliance With the National Environmental Policy Act; Final Guidelines

AGENCY: Department of Energy.

ACTION: Adoption of special procedures for major system acquisition projects involving the competitive procurement process.

SUMMARY: The Department of Energy (DOE) hereby adopts the special procedures for major system acquisition projects involving the competitive procurement of a site and/or process as previously proposed in its final guidelines for compliance with the National Environmental Policy Act (NEPA). The procedures are applicable to all organizational units of DOE, except the Federal Energy Regulatory Commission (FERC) which is an independent regulatory commission within DOE not subject to the supervision or direction of the other parts of DOE.

EFFECTIVE DATE: November 26, 1980.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert J. Stern, Acting Director, NEPA Affairs Division, Office of Environmental Compliance and Overview, Room 4G-064, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585

Stephen H. Greenleigh, Esq., Assistant General Counsel for Environment, Room 6D-033, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585 (202) 252-6947

SUPPLEMENTARY INFORMATION:

The DOE published its final guidelines for compliance with NEPA in the **Federal Register** on March 28, 1980 (45FR 20694). In the final guidelines DOE specifically requested public comment on Paragraph B.3.(c)(2), which was added and published as interim procedures to provide for NEPA compliance for major system acquisition projects involving the competitive procurement of a site and/or process. The competitive procurement process has confidentiality requirements established pursuant to 18 U.S.C. 1905 which prohibits DOE from disclosing business, confidential or trade secret information. The special procedures provide for compliance with NEPA to the fullest extent possible.

The environmental impact analysis required by the special procedures will ensure consideration of environmental factors in selection decisions between competing sites and/or processes. If selected sites and/or processes are likely to have significant effects on the quality of the human environment the special procedures provide that DOE will prepare an EIS before making a go/no-go decision.

A 30-day period was established for public comment on the special procedures which are reprinted below. No written comments were received during the public comment period and accordingly, DOE hereby adopts the interim special procedures as final.

Issued in Washington, D.C. on November 19, 1980.

Ruth C. Clusen,

Assistant Secretary for Environment.

DOE NEPA Guidelines Paragraph B.3.(c)(2)

(c) *Project level decisionmaking.* At this level of decisionmaking, DOE is deciding on specific actions to execute a program or to perform a regulatory responsibility. Project level decisions are generally represented by the approval or projects, by the approval of disapproval of applications, or by the decisions on applications rendered in adjudicatory proceedings.

(1) * * *

(2) For major system acquisition projects involving selection of sites and/or processes by competitive procurement, DOE will:

(i) Require that environmental data and analyses be submitted as a discrete part of an offeror's proposal. (The level of detail required for environmental data and analyses will be specified by DOE for each applicable procurement action. The data will be limited to that reasonably available to offerors.)

(ii) Independently evaluate and verify the accuracy of environmental data and anlyses submitted by offerors.

(iii) For proposals in the competitive range, prepare and consider before the selection of sites and/or processes an environmental impact analysis in accordance with the following:

(a) In order to Comply with 18 U.S.C. 1905 which prohibits DOE from disclosing business, confidential, or trade secret information, the environmental impact analysis will be subject to the confidentiality requirements of the competitive procurement process and therefore exempt from mandatory public disclosure.

(b) The environmental impact analysis will be based on the environmental data and analyses submitted by offerors and on supplemental information developed by DOE as necessary for a reasoned decision.

(c) The environmental impact analysis will focus on environmental issues that are pertinent to a decision on proposals in the competitive range and will include:

(1) A brief discussion of the purpose of each proposal including any site or process variations having environmental implications.

(2) For each proposal, a discussion of the salient characteristics of the proposed sites and/or processes as well as alternative sites and/or processes reasonably available to the offeror or to DOE.

(3) A brief comparative evaluation of the environmental impacts of the proposals. This evaluation will focus on significant environmental issues and clearly identify and define the comparative environmental merits of the proposals.

(4) A discussion of the environmental impacts of each proposal. This discussion will address direct and indirect effects, short-term and long-term effects, proposed mitigation measures, adverse effects which cannot be avoided, areas where important environmental information is incomplete or unavailable, unresolved environmental issues, and practicable mitigating measures not included in the proposal.

(5) To the extent known for each proposal, a list of Federal, State, and local government permits, licenses, and approvals which must be obtained in implementing the proposal.

(iv) Document the consideration given to environmental factors in a publicly-available selection statement to record that the relevant environmental consequences of reasonable alternatives have been evaluated in the selection process. The selection statement will not contain business, confidential, trade secret or other information the disclosure of which is prohibited by 18 U.S.C. 1905 or the confidentiality requirements of the competitive procurement process. The selection statement will be filed with the Environmental Protection Agency.

(v) If the selected sites and/or processes are likely to have significant effects on the quality of the human environment, phase subsequent contract work to allow publicly available EIS's to be prepared, considered and published in full conformance with the requirements of 40 CFR Parts 1500-1508 and in advance of a go/no-go decision.

[FR Doc. 80-36815 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the supply of 438.55 grams of uranium, enriched to 2.38% in U-235, to be used as standard reference material by the Japan Nuclear Fuel Company, Ltd.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material under Contract Number S-JA-288 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 20, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-36816 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the sale of .55 grams of natural uranium and .55 grams of thorium to the CEA, France for use as standard reference materials.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material under Contract Number S-EU-669 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteeen days after the date of publication of this notice.

For the Department of Energy.

Dated: November 20, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs International Nuclear and Technical Programs.

[FR Doc. 80-36819 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 80-CERT-037]

National Steel Corp., Recertification of Eligible Use of Natural Gas To Displace Fuel Oil

On October 21, 1980, National Steel Corporation (National Steel), Weirton Steel Division, Three Springs Drive, Weirton, West Virginia 26062, filed an application with the Administrator of the Economic Regulatory Administration (ERA) pursuant to 10 CFR Part 595 for recertification of an eligible use of 3,000 Mcf of natural gas per day, which is estimated to displace approximately 600,000 gallons (14,286 barrels) of No. 6 fuel oil (1.4 percent sulfur) per month at National Steel's Weirton Steel Division located in Weirton, West Virginia. The eligible seller of the natural gas is David S. Towner Enterprises and the gas will be transported by the Columbia Gas Transmission Corporation. Notice of that application was published in the **Federal Register** (45 FR 73730, November 6, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

On June 21, 1979, National Steel received the original certification (ERA Docket No. 79-CERT-003) of an eligible use of natural gas for use at the Weirton facility for a period of one year. The original certificate expired on June 20, 1980, but the applicant did not file for recertification until October 21, 1980.

The ERA has carefully reviewed National Steel's application for recertification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that National Steel's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the recertification and transmitted that recertification to the Federal Energy Regulatory Commission. More detailed information including a copy of the application, transmittal letter, and the actual recertification are available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, RG-55, 2000 M Street NW., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C. November 20, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-36816 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-01-M

Peterson Petroleum, Inc.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and on potential claims against the refunds deposited in an escrow action established pursuant to the Consent Order.

DATE: Effective date: October 27, 1980.

COMMENTS BY: December 26, 1980.

ADDRESS: Send comments to: Herbert Maletz, New York Audit Director, Northeast District, 252 Seventh Avenue, New York, New York 10001, (212) 620-6705.

FOR FURTHER INFORMATION CONTACT:

Herbert Maletz, New York Audit Director, Northeast District, 252 Seventh Avenue, New York, New York 10001, (212) 620-6706.

SUPPLEMENTARY INFORMATION: On October 27, 1980, the Office of Enforcement of the ERA executed a Consent Order with Peterson Petroleum, Inc. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

extended or until the FERC confirms and substitute rates, on a final basis." The

Eklutna Project, Alaska—Schedule A-N7

I. The Consent Order

Peterson Petroleum, Inc. (Peterson), with its home offices located in Hudson, New York, is a firm engaged in the resale of motor gasoline and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Peterson, the Office of Enforcement of the ERA, and Peterson entered into a Consent Order, the significant terms of which are as follows:

1. During the period May 1, 1979 through June 30, 1979 (audit period), Peterson allegedly overcharged its wholesale class of purchaser in the resale of motor gasoline.

2. It is alleged that Peterson incorrectly computed its maximum legal selling price in its sales of motor gasoline to the classes of purchaser listed above during the audit period. As a result, Peterson charged prices in excess of those permitted under 10 CFR 212.93(a).

3. This Consent Order constitutes neither an admission by Peterson that it has violated the Mandatory Petroleum Price Regulations nor a finding by ERA that Peterson has violated such regulations.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Peterson to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $32,816.16.

In order to accomplish the refund of overcharges, Peterson will issue, during the refund period, certified checks made payable to the United States Department of Energy and delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the Peterson refund amount in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the Peterson refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.299l(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the Peterson refund amounts should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to this refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Herbert Maletz, New York Audit Director, Northeast District, 252 Seventh Avenue, New York, New York 10001. You may obtain a free copy of this Consent Order by writing to the same address or by calling (212) 620-6706.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Peterson Petroleum, Inc. Consent Order". We will consider all comments we receive by 4:30 p.m., local time, on (30 days from publication). You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Philadelphia, Pennsylvania on the 3d day of November 1980.

Edward Momorella,

Northeast District Manager of Enforcement.

[FR Doc. 80-36817 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-01-M

Alaska Power Administration

[Rate Order No. APA-4]

Eklutna Project; Order Confirming and Approving an Extension of Power Rates on an Interim Basis

AGENCY: Alaska Power Administration, Department of Energy.

ACTION: Notice of extension of power rates on an interim basis—Eklutna Project, Alaska.

SUMMARY: Notice is given of a Rate Order, No. APA-4, of the Assistant Secretary for Resource Applications, extending power rates on an interim basis for power marketed by the Alaska Power Administration from the Eklutna Project, Alaska.

FOR FURTHER INFORMATION CONTACT:

James A. Braxdale, Office of Power Marketing Coordination, Department of Energy, Room 3349, 12th and Pennsylvania Avenue, NW, Washington, D.C. 20461 (202) 633-8338.

Gordon J. Hallum, Chief, Power Division, Alaska Power Administration, Department of Energy, P.O. Box 50, Juneau, Alaska 99802 (907) 586-7405.

SUPPLEMENTARY INFORMATION: By Delegation Order No. 0204-33, effective January 1, 1979 (43 FR 60636, December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis. The same delegation order delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation.

Pursuant to the delegation order, on December 4, 1979, the Assistant Secretary issued Rate Order No. APA-2 (44 FR 70861 December 10, 1979) confirming and approving on an interim basis, effective January 1, 1980, Rate Schedules A-F8 and A-N7 for power marketed by the Alaska Power Administration from the Eklutna Project. The rates are to remain in effect for a period of 12 months unless the period is extended or until the FERC confirms and approves them, or substitute rates, on a final basis. The rates were submitted to the FERC for confirmation and approval on a final basis on December 4, 1979.

The FERC has not yet acted on the rates, and the purpose of Rate Order No. APA-4 is to extend the power rates for another 12 months (through December 31, 1981) unless further extended or until the FERC confirms and approves them, or substitute rates, on a final basis.

Issued in Washington, D.C., November 20, 1980.

Ruth M. Davis,

Assistant Secretary, Resource Applications.

Assistant Secretary for Resource Applications, Department of Energy

In the Matter of: Alaska Power Administration—Eklutna Project Power Rates; Rate Order No. APA-4.

Order Confirming and Approving an Extension of Power Rates on an Interim Basis

November 20, 1980.

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95-91, 91 Stat. 565, the functions of the Secretary of the Interior and the Federal Power Commission under the Eklutna Project Act of July 31, 1950, 64 Stat. 382, as amended were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204-33, effective January 1, 1979, 43 FR 60636 (December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. This rate order is issued pursuant to the delegation to the Assistant Secretary.

Background

Pursuant to Delegation Order No. 0204-33, on December 4, 1979, the Assistant Secretary for Resource Applications issued Rate Order No. APA-2 (44 FR 70861, December 10, 1979) confirming and approving on an interim basis, effective January 1, 1980, Rate Schedules A-F8 and A-N7 for power marketed by the Alaska Power Administration's Eklutna Project. The rate order stated that the rates "* * * shall remain in effect on an interim basis for a period of 12 months unless such period is extended or until the FERC confirms and approves them, or substitute rates, on a final basis." The rate schedules were submitted to the FERC for confirmation and approval on a final basis by the Assistant Secretary's letter of December 4, 1979.

Discussion

Inasmuch as the Federal Energy Regulatory Commission is not expected to complete its confirmation and approval of the Eklutna Project power rate by December 31, 1980, a further extension of the interim rate is necessary.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective January 1, 1981, an extension of existing Rate Schedules A-F8 and A-N7. These rates shall remain in effect through December 31, 1981, unless extended, or until the FERC confirms and approves them, or substitute rates, on a final basis.

Issued in Washington, D.C., November 20, 1980.

Ruth M. Davis,

Assistant Secretary, Resource Applications.

Eklutna Project, Alaska—Schedule A-F8

Schedule of Rates for Wholesale Firm Power Service

Effective: January 1, 1980.

Available: In the area served by the Eklutna Project, Alaska.

Applicable: To wholesale power customers for general power service.

Character and Conditions of Service: Alternating current, sixty cycles, three-phase, delivered and metered at the low-voltage side of substation.

Monthly Rate:

Capacity Charge: None.

Energy Charge: All energy at 12.5 mills per kilowatt-hour.

Minimum Annual Capacity Charge: None.

Billing Demand: Not applicable.

Adjustments For Transformer Losses: If delivery is made at the high-voltage side of the customer's substation but metered at the low-voltage side, the meter readings will be increased 2 percent to compensate for transformer losses.

For Power Factor: None. The customer will normally be required to maintain a power factor at the point of delivery of between 90 percent lagging and 90 percent leading.

For Auxiliary Power Service: Auxiliary power supplies may be used in conjunction with the service hereunder if the parties hereto, prior to the Contractor's utilization of any such auxiliary power supply, have entered into a written operating agreement defining the procedure by which the amount of power and energy supplied by the United States will be determined.

Eklutna Project, Alaska—Schedule A-N7

Schedule of Rates for Nonfirm Service

Effective: January 1, 1980.

Available: In the area served by the Eklutna Project, Alaska.

Applicable: To firm power customers normally maintaining generating facilities or other sources of energy sufficient to supply their requirements.

Character and Conditions of Service: Alternating current, sixty cycles, three-phase, delivered and metered at points of delivery and voltage to be determined by the Alaska Power Administration.

Monthly Rate:

Demand Charge: None.

Energy Charge: 6.0 mills per kilowatt-hour for all energy under this schedule.

Minimum Bill: None.

Adjustments For Character and Conditions of Service: None.

For Transformer Losses: If delivery is made at the high-voltage side of the customer's substation but metered at the low-voltage side, the meter readings will be increased 2 percent to compensate for transformer losses.

[FR Doc. 80-36828 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Advisory Committee on Revision of Rules of Practice and Procedure, Subcommittee on Review of Commission Decisional Process; Meeting

November 20, 1980.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Subcommittee on Review of the Commission Decisional Process of the Advisory Committee on Revision of Rules of Practice and Procedure will meet Thursday, December 4, 1980, from 2:00 p.m. to 5:00 p.m., at the Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Room 9306, Washington, D.C.

The purpose of the meeting is to discuss alternative means by which the Commission may permit natural gas pipelines, local distribution companies, and end-users of natural gas to buy and sell surplus entitlements of natural gas.

The meeting is open to the public. A transcript of the meeting will be available for public review and copying at FERC's Division of Public Information, Room 1000, 825 N. Capitol Street NE., between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday except Federal holidays. In

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addition, any person may purchase a copy of the transcript from the reporter.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36794 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3523]

Atlantic Power Development Corp.; Application for Preliminary Permit

November 19, 1980.

Take notice that Atlantic Power Development Corporation (Applicant) filed on October 2, 1980, and application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3523 to be known as the Monongahela Lock and Dam No. 8 Hydroelectric Project located on the Monongahela River in Fayette County., Pennsylvania. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas F. Nolan IV, Attorney at Law, 401 C Street N.E., Washington D.C. 20002. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing Corps of Engineers' Monongahela River Lock and Dam No. 8 and would consist of a powerhouse with one or more generating units having a total rated capacity of 5,900 kW, and a transmission line. The project would be capable of generating up to 33,100 MWh annually saving the equivalent of 55,000 barrels of oil.

Purpose of Project—Energy generated at the project would be sold to the local electric public utility.

Proposed Scope and Cost of Studies under Permit—The work proposed under the preliminary permit would include economic analysis environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $88,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 23, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 24, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). AS competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 23, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", OR "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3523. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36800 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3521]

Atlantic Power Development Corp.; Application for Preliminary Permit

November 19, 1980.

Take notice that Atlantic Power Development Corporation (Applicant) filed on October 2, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3521 to be known as the Monongahela Lock and Dam No. 7 Hydroelectric Project located on the Monongahela River in Fayette County, Pennsylvania. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas F. Nolan IV, Attorney at Law, 401 C Street NE., Washington, D.C. 20002. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing Corps of Engineers' Monongahela River Lock and Dam No. 7 and associated reservoir and would consist of a powerhouse with one or more generating units having a total rated capacity of 8,200 kW, and a transmission line. The Applicant estimates that the average annual energy output would be 46,000 MWh annually, saving the equivalent of 76,000 barrels of oil.

Purpose of Project—Energy generated at the project would be sold to the local public utility.

Proposed Scope and Cost of Studies under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $95,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 23, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 24, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rule of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comment does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 23, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments", "Notice of Intent to file Competing Application", "Competing Application", "Protest", or "Petition to Intervene", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3521. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36801 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER79-370]

Consolidated Edison Company of New York, Inc.; Order Accepting Rates for Filing, Granting Waiver of Notice Requirements, Granting Waiver of Regulations and Allowing Intervention

Issued November 19, 1980.

On September 26, 1980, Consolidated Edison Company of New York (Con Ed) completed its filing of two proposed supplements to its Transmission Agreement with the Power Authority of the State of New York (PASNY) for the transmission of power to PASNY retail customers located in Con Ed's service area.[1] The proposed transmission charges would increase revenues for a twelve month period ending March 31, 1980 by approximately $5.2 million (20%). Con Ed has requested waiver of the notice requirements to permit an effective date of April 24, 1979 for its Supplement No. 5 and July 21, 1979 for its Supplement No. 6 to correspond with the effective dates approved by the New York Public Service Commission for Con Ed's retail rates for the PASNY customers. Con Ed has also requested waiver of provisions of Section 35.13 of the Commission's regulations to allow Con Ed to submit a Period I study employing cost of service data based on calendar year 1977.

Notice of the filing was issued on May 21, 1979, with protests or petitions to intervene due on or before June 11, 1979. On June 11, 1979, PASNY filed a petition to intervene. In support of its petition, PASNY states that the proposed rates will be passed on directly to its retail customers and that its interests in this docket are not adequately represented by any other party. PASNY has not requested a hearing.

Background

Con Ed originally submitted for filing in the instant docket one supplement to its Transmission Agreement with PASNY on May 15, 1979. Con Ed requested in the filing that the Commission waive its regulations which required the company to file a case-in-chief, noting that the proposed rates represented PASNY's proportionate share of a retail rate increase granted to Con Ed by the New York Public Service Commission. Con Ed's proposed rate schedules contained rates that consisted of the company's charges to PASNY's retail customers without any breakdown between charges for transmission (jurisdictional) services and distribution and metering (non-jurisdictional) services. By letter dated July 18, 1979, the Secretary informed Con Ed that its submittal was deficient with respect to Sections 35.1 and 35.13 of the Commission's regulations and directed Con Ed to submit appropriate case-in-chief materials along with rate schedules that clearly and specifically set forth the company's jurisdictional transmission charges. On November 19, 1979, Con Ed was informed by the Director of the Office of Electric Power Regulations that its May 15, 1979 submittal remained deficient and was directed to comply with the July 18, 1979

[1] Con Ed's filing was originally submitted by the company on May 15, 1979 and found to be deficient, as discussed below.

letter order of the Commission within fifteen days. Con Ed did not comply

the Commission staff to perform an adequate evaluation of the Con Ed's

application should be directed to: Mr. J. A. McElwain, President, the Montana

must submit to the Commission, on or before January 26, 1981, either the

David E. Piper, Pacific Northwest Generating Company, 8383 N.E. Sandy

must submit to the Commission, on or before January 23, 1981, either the

letter order of the Commission within fifteen days. Con Ed did not comply within fifteen days. Instead, on December 3, 1979, Con Ed filed a letter requesting the Commission to reconsider its submittal and again requested waiver of the regulations. At a March 12, 1980 Commission meeting, the Commission, in considering Con Ed's motion for reconsideration, requested its staff to meet with representatives of Con Ed in the hope that efforts could be made to resolve the problems relating to Con Ed's submittals. Conferences and discussions were subsequently held between the Commission Staff and Con Ed. The instant submittal containing the revised rate form is the result of these conferences and discussions.

The problems which the Commission has been faced with as a result of Con Ed's filing are not new to this Commission. In Docket No. ER77–52, Con Ed's proposed rate schedules were accepted for filing by letter order. However, the letter order provided that Con Ed was to file transmission rates to PASNY derived from a specific cost-of-service study within six months, in compliance with Section 35.13 of the Commission's regulations. in Docket Nos. ER78–6 and ER78–365, Con Ed also failed to file in compliance with the Commission's regulations. The filing in Docket No. ER78–6 was rejected while the filing in Docket No. ER78–365 was twice made deficient for failure to comply with the regulations.

Discussion

Con Ed has proposed a wheeling charge of $1.763/kW or .494 cents/kWh under its Supplement No. 5 and $1.778/kW or .498 cents/kWh under Supplement No. 6. The rate design allows Con Ed to bill on either a kW or kWh basis depending on available metering. The Commission's review of Con Ed's filing in this case indicates that the rates proposed by the company for jurisdictional service would not result in excess revenues. The Commission will therefore accept the rates for filing as ordered below. The Commission will also grant Con Ed's request for waiver of the notice requirements as well as the applicable provisions of Section 35.13 of the regulations. Such waivers will be granted, however, with the clear understanding that Con Ed will submit its future filings in a manner which clearly and specifically sets forth the rates for service to PASNY subject to the Commission's jurisdiction in compliance with the Commission's regulations.

Prior to the instant revised submittal, Con Ed's filings have patently failed to provide the information necessary for the Commission staff to perform an adequate evaluation of the Con Ed's jurisdictional rates to PASNY. Even in the present filing, the Commission has waived its regulations in several respects in consideration of the unusual situation involved in the Con Ed/PASNY service arrangement and the regulatory burdens as would follow from insistence on full compliance with our filing requirements. It is understood that information adequate to our task will be provided with respect to future filings, recognizing that similar waivers may be proper to future filings, and might be granted upon appropriate application by Con Ed at the time of such filing.

The Commission orders:

(A) Waiver of the notice requirements of § 35.3 of the Commission's regulations is hereby granted.

(B) Con Ed's submittal is hereby accepted for filing with Supplement No. 5 to become effective as of April 24, 1979 and Supplement No. 6 to become effective July 21, 1979, as requested.

(C) Waiver of the filing requirements under section 35.13 is hereby granted.

(D) PASNY's petition to intervene is granted.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38802 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Project Nos. 5, 2776]

Montana Power Co. and Confederated Salish and Kootenai Tribes of the Flathead Reservation; Competing Applications for New Major License for Constructed Project

November 18, 1980.

Take notice that the Montana Power Company (MPC) filed on June 1, 1976, and the Confederated Salish and Kootenai Tribes (Tribes) of the Flathead Reservation filed on June 2, 1976, competing applications for a new major license [pursuant to the Federal Power Act, 16 U.S.C. § 791(a)–825(r)] for the constructed Kerr Project, located on the Flathead River in Flathead and Lake Counties, Montana. FERC Project No. 5 has been assigned to MPC's Application while FERC Project No. 2776 has been assigned to the Tribes Application. The original license for Project No. 5 expired on May 22, 1980. The license for Kerr Project No. 5 is currently operating under an annual license. Correspondence concerning MPC's application should be directed to: Mr. J. A. McElwain, President, the Montana Power Company, 40 East Broadway, Butte, Montana 59701, with copies to Lee S. Sherline, Leighton & Sherline, Suite 406, 1701 K Street, NW., Washington, D.C. 20006. Correspondence concerning the Tribes' application should be directed to: Richard Anthony Baenen, Esquire, Wilkinson, Cragun & Baker, 1735 New York Avenue, NW., Washington, D.C. 20006, with copies to Major Fred J. Houk, Jr., Tribal Secretary, the Confederated Salish and Kootenai Tribes of the Flathead Reservation, Dixon, Montana 59831.

Project Description—The Kerr Project consists of: (1) a 204-foot high by 381-foot long concrete arch dam with 14 overflow spillway sections each 21 feet long and 27 feet high; (2) Flathead Lake, a natural lake, with storage capacity of 1.2 million acre-feet between elevations 2883 feet and 2893 feet; (3) two intake structures; (4) three 23-foot diameter concrete lined horseshoe power tunnels, each about 800 feet long; (5) serving a powerhouse containing three Francis-type turbine-generating units each rated at 60 Mw; (6) a substation, which is an extension of the powerhouse, containing the main power transformers; (7) three 1,500-foot long, 115-kV transmission lines connecting the powerhouse to the Kerr switchyard (Kerr switchyard is a part of MPC's interconnected transmission system); and (8) appurtenant facilities.

Available recreation activities at the project include hunting, fishing, camping, hiking, boating, swimming, and winter sports. Several private, commercial, and public facilities are available at the project. A park and a scenic overlook is provided, at the project, by MPC. Neither MPC nor the Tribes proposed to construct additional recreational facilities at the project.

Accoridng to MPC's application: (1) the project output is incorporated into MPC's transmission distribution system for use within its service area; (2) the estimated net investment in the project is $17.1 million as of May 22, 1980, which is less that its estimate of fair value of $76.4 million; (3) the estimated severence damages in the event of takeover by the United States is $350 million; (4) the taxes paid by the company for the fiscal year 1975–76 amounted to $543,000. According to the Tribes' application the use of the power generated by the project would be the same if the Tribes were to receive the license for the Kerr Project. The Tribes state that they would operate wholly in the State of Montana.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 26, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than May 26, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c),)*as amended* 44 *Fed. Reg.* 61328, October 25, 1979). A competing application must conform with the requirements of 18 CFR, 4.33(a) and (d), (*as amended,* 44 FR 61328, October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petitions to intervene must be filed on or before January 26, 1981. The Commission's address is: 825 North Capitol Street, NE., Washington D.C. 20426. The application is on file with the Commssion and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38796 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3468]

Pacific Northwest Generating Co.; Application for Preliminary Permit

November 19, 1980.

Take notice that Pacific Northwest Generating Company (Applicant) filed on September 15, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3468 to be known as Owyhee Tunnel No. 1 Project located on the Owyhee River in Malheur County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. David E. Piper, Pacific Northwest Generating Company, 8383 N.E. Sandy Blvd., Portland, Oregon 97220. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) construction of a new intake structure at the existing intake for Tunnel No. 1; (2) an underground powerhouse with a rated capacity of 8.0 MW; (3) a 200-foot long tailrace tunnel discharging into the existing Tunnel No. 1; and (4) a transmission line extending to an existing substation near the right abutment of Owyhee Dam.

The Applicant estimates that the average annual energy output would be 23,600 MWh.

Purpose of Project—Power produced by the project would be used to meet the needs of the Pacific Northwest Generating Company's members.

Proposed Scope and Cost of Studies under Permit—Applicant would undertake a study of the technical, environmental, economic, and financial feasibility of the project. If the project is determined to be feasible, a preliminary design and environmental study would be conducted to allow Applicant to prepare and file an application for license. The cost of the feasibility study is estimated at $75,300.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 23, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 24, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 23, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3468. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory application, application, or petition to intervene must also be served upon each

representative of the Applicant specified

[Docket No. TC81-6-000]

representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36805 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3467]

Pacific Northwest Generating Co.; Application for Preliminary Permit

November 19, 1980.

Take notice that Pacific Northwest Generating Company (Applicant) filed on September 15, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3467 to be known as Owyhee Dam Project located on the Owyhee River in Malheur County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. David E. Piper, Pacific Northwest Generating Company, 8383 N.E. Sandy Blvd., Portland, Oregon 97220. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) replacing one or two of the needle valves on the dam with gate valves; (2) a 130-foot long steel penstock; (3) a powerhouse at the toe of the dam with a rated capacity of 5.5 MW; and (4) a transmission line extending to an existing substation near the right abutment of the dam.

Purpose of Project—Power produced by the project would be used to meet the needs of the Pacific Northwest Generating Company's members.

Proposed Scope and Cost of Studies Under Permit—Applicant would undertake a study of the technical, environmental, economic, and financial feasibility of the project. If the project is determined to be feasible, a preliminary design and environmental study would be conducted to allow Applicant to prepare and file an application for license. The cost of the feasibility study is estimated at $61,300.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 23, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 24, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 23, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTESTS", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for perliminary permit for Project No. 3467. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street., NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36806 Filed 11-24-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CI81-22-000]

Southern Union Gathering Co.; Petition for Declaratory Order

November 19, 1980.

Take notice that on October 20, 1980, Southern Union Gathering Company (Petitioner), 1800 First International Building, Dallas, Texas 75270, filed in Docket No. CI81-22-000 a petition pursuant to Section 16 of the Natural Gas Act and § 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7(c)) for an order declaring that Petitioner's exchanges of natural gas constitute field gathering operations and are thus exempt from the jurisdiction of the Commission under Section 1(b) of the Natural Gas Act, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that it participates in exchange arrangements of natural gas on a gas-for-gas basis with Northwest Pipe Line Corporation (Northwest) under an agreement dated December 1, 1976, and with El Paso Natural Gas Company (El Paso) under an agreement dated May 1, 1975. It is stated that the exchanges are at the wellhead with imbalance volumes to be corrected by deliveries at points of interconnection of the companys' gathering systems. It is stated that Petitioner operated under an agreement with El Paso dated January 1, 1962, but that on January 31, 1974, pursuant to an order by the U.S. District Court for the District of Colorado, Northwest acquired from El Paso title to certain gathering facilities in the San Juan Basin of New Mexico and Colorado. Petitioner asserts that the 1976 agreement with Northwest was essentially a continuation of the prior exchange with El Paso except that a sales arrangement for imbalances was dropped.

It is stated that in Docket Nos. CP76-116, *et al.*, Northwest obtained a certificate of public convenience and necessity for its participation in the 1976 exchange agreement with Petitioner. Believing itself aggrieved by the orders which asserted jurisdiction over the agreement, Petitioner states, it filed a petition for review with the U.S. Court of Appeals for the Fifth Circuit in *Southern Union Gathering Company* v. *Federal Energy Regulatory Commission*, No. 79-3051. It is stated that the case is now in abeyance pending this petition for a declaratory order.

Petitioner states that the purpose in filing the petition is to determine Petitioner's responsibility for obtaining authorization from the Commission for the exchange of gas with Northwest and El Paso. Furthermore, Petitioner states that due to El Paso's uncertainty as to the jurisdictional nature of that agreement the imbalance of the El Paso-Petitioner gas exchange progressively worsens. Petitioner, therefore, requests a declaratory order stating that both exchange agreements constitute field gathering operations and are therefore exempt from the Commission's jurisdiction.

Any person desiring to be heard or to make any protest with reference to said petition should on or before December 17, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36807 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. TC81-9-000]

Texas Gas Transmission Corp.; Informal Settlement Conference Regarding Curtailment Plan

November 20, 1980.

Take notice that an informal conference in the above captioned Docket will be held on December 3, 1980, at 2 p.m. at the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. All parties should be prepared to discuss the technical aspects and possible settlement of the proposal noticed in the **Federal Register** on October 7, 1980 (45 FR 68445-6). All persons are invited to attend; however, mere attendance and/or participation in this conference will not serve to make such persons formal parties to this proceeding. Copies of this notice are also being served on all parties to the former Texas Gas curtailment proceeding, Docket No. RP72-64.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36808 Filed 11-25-80; 8:45 am]

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[Volume 320]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

November 19, 1980.

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION								
*THE MAURICE L BROWN COMPANY					RECEIVED: 11/03/80 JA: KS			
8104594	K 80-0076	1505520365	103		B M MAUNE #4	HUGOTON	109.5	KANSAS-NEBRASKA NATU
LOUISIANA OFFICE OF CONSERVATION								
*BASS ENTERPRISES PRODUCTION CO					RECEIVED: 11/03/80 JA: LA			
8104776	80-3774	1711122421	102		CV DAVIS RB SUP CUNTING FOREST #1	MIDDLEFORK	73.0	UNITED GAS PIPELINE
*CARMET OIL INC					RECEIVED: 11/03/80 JA: LA			
8104745	80-3741	1703121207	103		BOISE SOUTHERN #2	GRAND CANE	0.0	LOUISIANA INTRASTATE
8104746	80-3742	1703121282	103		BOISE SOUTHERN #3	GRAND CANE	0.0	LOUISIANA INTRASTATE
*CEKA GAS CORP					RECEIVED: 11/03/80 JA: LA			
8104788	80-3788	1711122001	108		HSC NO 6	MONROE	5.4	INTERNATIONAL MINERA
*DANIEL OIL COMPANY					RECEIVED: 11/03/80 JA: LA			
8104763	80-3760	1710922287	103		C L & F #3 SERIAL #16831	BAYOU PENCHANT FIELD	270.0	TENNESSEE GAS PIPELI
8104762	80-3759	1710922288	103		C L & F #4 SERIAL #16832	BAYOU PENCHANT FIELD	270.0	TENNESSEE GAS PIPELI
*GEORGE R SCHURMAN					RECEIVED: 11/03/80 JA: LA			
8104759	80-3756	1703121209	103		HUNTER #2	SPIDER	72.0	LOUISIANA INTRASTATE
8104760	80-3757	1703121337	103		HUNTER #3	SPIDER	110.0	LOUISIANA INTRASTATE
*GULF OIL CORPORATION					RECEIVED: 11/03/80 JA: LA			
8104720	80-3716	1707522486	103		QUARANTINE BAY SL 195 QQ #287	QUARANTINE BAY	730.0	UNITED GAS PIPELINE
*8104723	80-3719	1707522573	103		S L 192 PP NO 139	WEST BAY	67.5	TEXAS EASTERN TRANSM
*8104724	80-3720	1707522651	103		SL 192 PP NO 140-D	WEST BAY	135.0	TEXAS EASTERN TRANSM
*HARVEY BROYLES					RECEIVED: 11/03/80 JA: LA			
8104744	80-3740	1701320415	103		SLI RA SUB T A LOE EST #3-D	BEAR CREEK	300.0	SOUTHERN NATURAL GAS
*KERR-MCGEE CORPORATION					RECEIVED: 11/03/80 JA: LA			
8104778	80-3778	1772620198	103		BRS 20 6900 RA SU B L 2000 NU 58-D	BRETON SOUND BLOCK 20	8.0	SOUTHERN NATURAL GAS
8104777	80-3777	1772620186	103		BRS 20 6900 RASU SL 2000 NU 53-D	BRETON SOUND BLOCK 20	4.0	SOUTHERN NATURAL GAS
*M T HERBST					RECEIVED: 11/03/80 JA: LA			
8104722	80-3718	1707321052	108		WEST VIRGINIA #1	MONROE GAS ROCK	3.5	CITY OF MONROE
8104721	80-3717	1707320870	108		WEST VIRGINIA #2	MONROE GAS ROCK	0.6	CITY OF MONROE
*MARATHON OIL COMPANY					RECEIVED: 11/03/80 JA: LA			
8104753	80-3750	1711900802	108		CVSU SUNRAY MCCOOK & MIBBLEN #2	COTTON VALLEY	3.0	UNITED GAS PIPE LINE
*MARSHALL EXPLORATION INC					RECEIVED: 11/03/80 JA: LA			
8104769	80-3767	1703120905	108		FBG RA SU 110 SANDERS #1	LOGANSPORT	13.0	TENNESSEE GAS PIPELI
8104772	80-3770	1703120893	108		FBG RA SU 131 MARY WALLACE #1	LOGANSPORT	6.0	TENNESSEE GAS PIPELI
8104771	80-3769	1703120898	108		FBG RA SU 132 WALLACE #1	LOGANSPORT	9.0	TENNESSEE GAS PIPELI
8104770	80-3768	1703120899	108		FBG RA SU 145 KATIE ROBINSON #1	LOGANSPORT	10.0	TENNESSEE GAS PIPELI
8104768	80-3766	1703120810	108		FBG RA SU 68 MRS TATE YARBROUGH #1	LOGANSPORT	22.0	TENNESSEE GAS PIPELI
*MID LOUISIANA GAS COMPANY					RECEIVED: 11/03/80 JA: LA			
8104752	80-3749	1711121921	103		MLGC FEE GAS NO 909	MONROE FIELD	11.8	
8104787	80-3787	1711122535	103		MLGC FEE GAS NO 907	MONROE FIELD	36.0	

JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8104786	80-3786	1711122537	103		MLGC FEE GAS NO 909	MONROE FIELD	32.4	
8104785	80-3785	1711122568	103		MLGC FEE GAS NO 923	MONROE FIELD	36.7	
8104784	80-3784	1711122569	103		MLGC FEE GAS NO 924	MONROE FIELD	36.4	
8104783	80-3783	1711122571	103		MLGC FEE GAS NO 926	MONROE FIELD	108.0	
8104782	80-3782	1711122584	103		MLGC FEE GAS NO 927	MONROE FIELD	51.1	
8104781	80-3781	1711122585	103		MLGC FEE GAS NO 928	MONROE FIELD	30.9	
8104780	81-3780	1711122587	103		MLGC FEE GAS NO 930	MONROE FIELD	87.8	
*MOBIL EXPLORATION INC					RECEIVED: 11/03/80 JA: LA			
8104719	80-2834	1702321486	102		FREMEAUX NO 1	CAMERON CANAL FIELD	0.0	
*NIP NI TUCK MINERALS INC					RECEIVED: 11/03/80 JA: LA			
8104767	80-3765	1706721559	103		PIPES #9	MONROE GAS FIELD	80.0	LOUISIANA GAS SERVIC
*PLACID OIL COMPANY					RECEIVED: 11/03/80 JA: LA			
8104761	80-3758	1701320377	103		VUG BODCAW NO 4	LUCKY	200.0	TEXAS EASTERN TRANSM
*RELIANCE TR-JV					RECEIVED: 11/03/80 JA: LA			
8104748	80-3745	1711122286	103		E JOHNSON #2	MONROE	30.0	TEXAS GAS TRANSMISSI
8104756	80-3753	1711122158	108		M D GREEN #1	MONROE GAS FIELD	12.6	TEXAS GAS TRANSMISSI
8104757	80-3754	1711122224	108		M D GREEN #3	MONROE GAS FIELD	5.5	TEXAS GAS TRANSMISSI
8104749	80-3746	1711122669	103		J D TAYLOR #2	MONROE	40.0	TEXAS GAS TRANSMISSI
8104751	80-3748	1711122611	103		J D TAYLOR #3	MONROE GAS FIELD	40.0	TEXAS GAS TRANSMISSI
8104750	80-3747	1711122227	103		J D TAYLOR #5	MONROE	40.0	TEXAS GAS TRANSMISSI
8104765	80-3763	1711122190	103		OLINKRAFT #11	MONROE	30.0	TEXAS GAS TRANSMISSI
8104766	80-3764	1711122191	103		OLINKRAFT #12	MONROE	30.0	TEXAS GAS TRANSMISSI
8104764	80-3762	1711122192	103		OLINKRAFT #13	MONROE	30.0	TEXAS GAS TRANSMISSI
8104790	80-3744	1711122705	103		R L EDWARDS #3	MONROE	40.0	TEXAS GAS TRANSMISSI
8104747	80-3743	1711122617	103		T BAKER #1	MONROE	30.0	TEXAS GAS TRANSMISSI
*ROY M TEEL					RECEIVED: 11/03/80 JA: LA			
8104755	80-3752	1711120823	108		EXXON 29-7	MONROE GAS ROCK FIELD	25.4	LOUISIANA POWER & LI
*SAWYER DRILLING & SERVICE INC					RECEIVED: 11/03/80 JA: LA			
8104754	80-3751	1703121187	103		MOSS RA SU DD YOUNG #1	BETHANY-LONGSTREET	400.0	LOUISIANA INTRASTATE
*SHELL OIL CO					RECEIVED: 11/03/80 JA: LA			
8104779	80-3779	1772120313	103		SPB 27 M6 RA SU SL 1012 NO 292	SOUTH PASS BLOCK 27	53.0	TENNESSEE GAS PIPELI
*TENNECO OIL COMPANY					RECEIVED: 11/03/80 JA: LA			
8104743	80-3739	1701320419	103		E F LESTER NO 1	LAKE BISTINEAU	250.0	
*TEXACO INC					RECEIVED: 11/03/80 JA: LA			
*8104732	80-3728	1710922156	102		CI LWR 15000 RO10 SU SL 188 691	CAILLOU ISLAND	109.0	KAISER ALUMINUM & CH
*8104775	80-3773	1710922273	102		CI LWR 15000 RO10 SU SL 188 695	CAILLOU ISLAND	115.0	KAISER ALUMINUM & CH
*8104726	80-3722	1710921969	107		LB LM-2 SU LB U-39 24	LAKE BARRE	10.0	HOOKER CHEMICALS & P
*8104739	80-3735	1705120507	103		LFT NVUR RIGOLETS C F CO 161	LAFITTE	90.0	KAISER ALUMINUM & CH
*8104741	80-3737	1700720251	103		P M NORMAN ET AL 8-D	GRAND BAYOU	2555.0	KAISER ALUMINUM & CH
*8104740	80-3736	1710922065	103		SL 2705 33	CAILLOU ISLAND	25.0	KAISER ALUMINUM & CH
*8104727	80-3723	1710922213	103		SL 301 TERREBONNE BAY 354	CAILLOU ISLAND	155.0	KAISER ALUMINUM & CH
*8104737	80-3733	1705721305	103		SL 370 CATFISH LAKE 111	GOLDEN MEADOW	1.0	KAISER ALUMINUM & CH
8104725	80-3721	1709920789	103		ST MARTIN PARISH SCH BD 20	PLUMB BOB	7.0	UNITED GAS PIPE LINE
*8104731	80-3727	1710922001	103		VUM-3 BSE U-3 53	BAY ST ELAINE	5.0	KAISER ALUMINUM & CH
*8104730	80-3726	1710921981	103		VU-7 BSE U-7 30	BAY ST ELAINE	1.0	KAISER ALUMINUM & CH
*8104728	80-3724	1710922029	103		VU-7 BSE U-7 32	BAY ST ELAINE	1100.0	KAISER ALUMINUM & CH
*8104729	80-3725	1710922068	103		VU-8 BSE U-8 16	BAY ST ELAINE	1500.0	KAISER ALUMINUM & CH
*8104734	80-3730	1710922141	103		VUF LP U-6 38	LAKE PELTO	90.0	KAISER ALUMINUM & CH
*8104742	80-3738	1710921969	103		VUG LP U-7 40	LAKE PELTO	15.0	KAISER ALUMINUM & CH
*8104735	80-3731	1710922000	103		VUG LP U-7 43	LAKE PELTO	30.0	KAISER ALUMINUM & CH
8104758	80-3755	1710922170	103		VUM OGL U-13 99	DOG LAKE	10.0	TEXAS GAS TRANSMISSI
*8104738	80-3734	1710922057	103		VUM LP U-13 68	LAKE PELTO	1385.0	KAISER ALUMINUM & CH

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JD NO	JA DAT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
*8104733	80-3729	1710921942 103	168 M832 VUA LP U-7 36	LAKE PELTO	5,0	KAISER ALUMINUM & CH
*8104734	80-3732	1710921969 103	17 M832 VUA LP U-6 36	LAKE PELTO	50,0	KAISER ALUMINUM & CH
-UNION OIL COMPANY OF CALIF		RECEIVED: 11/03/80 JA: LA				
8104769	80-3769	1710922300 103	LL&E B NO 49	LAKE MATCM	158,0	COLUMBIA GAS TRANSMI
-VIKING RESOURCES		RECEIVED: 11/03/80 JA: LA				
8104774	80-3772	1707321467 103	SPADES NO 1	MONROE	27,0	PETRO-LEWIS FUNDS IN
8104773	80-3771	1707322155 103	SPADES NO 3	MONROE	31,0	PETRO-LEWIS FUNDS IN

NORTH DAKOTA GEOLOGICAL SURVEY

-NORTHWEST EXPLORATION COMPANY		RECEIVED: 11/03/80 JA: ND				
8104591	296	3310500861 102	PEDERSON NO 1	TEMPLE BAY	114,0	AMINOIL USA
8104592	288	3310500813 102	RYE #1	WILD CAT RED RIVER	182,0	AMINOIL USA INC

NEW MEXICO DEPARTMENT OF ENERGY & MINERALS

-AMERADA HESS CORPORATION		RECEIVED: 11/05/80 JA: NM				
8104832		3002526535 103	STATE L GAS COMM #3	EUMONT	156,0	NORTHERN NATURAL GAS
8104833		3002526548 103	STATE ME B #6	EUMONT	93,0	EL PASO NATURAL GAS
8104831		3002526549 103	STATE ME F #4	EUMONT	377,0	EL PASO NATURAL GAS
-EL PASO NATURAL GAS COMPANY		RECEIVED: 11/05/80 JA: NM				
8104835		3003922311 103	RINCON UNIT #21A	BLANCO MESAVERDE	70,0	EL PASO NATURAL GAS
8104829		3003922065 103	SAN JUAN 29-7 UNIT #31A	BLANCO MESAVERDE	220,0	EL PASO NATURAL GAS
-ELLIOTT A RIGGS		RECEIVED: 11/04/80 JA: NM				
8104813		3004500000 108	#1 MARTIN	AZTEC FRUITLAND	14,9	EL PASO NATURAL GAS
-GETTY OIL COMPANY		RECEIVED: 11/05/80 JA: NM				
8104834		3002526025 103	STATE AP NO 1	VACUUM ABO REEF	97,0	PHILLIPS PETROLEUM C
-SUPRON ENERGY CORPORATION		RECEIVED: 11/05/80 JA: NM				
8104836		3004523943 103	PAYNE 3-A	BASIN DAKOTA	336,0	SOUTHERN UNION GAS C
8104837		3004523943 103	PAYNE 3-A	BLANCO MESAVERDE	517,0	SOUTHERN UNION GAS C
-UNION TEXAS PETROLEUM		RECEIVED: 11/03/80 JA: NM				
8104593		3004522366 103	MADDOX COM NO 1-A	BLANCO MESAVERDE	182,0	EL PASO NATURAL GAS
-YATES PETROLEUM CORPORATION		RECEIVED: 11/05/80 JA: NM				
8104830		3001523304 103	SRC KZ STATE #7	PENASCO DRAW SA YESO (AS	0,0	TRANSWESTERN PIPELIN

OKLAHOMA CORPORATION COMMISSION

-BOBBY J DARNELL		RECEIVED: 11/04/80 JA: OK				
*8104792	06040	3507322170 103	HUDSON #1	SOONER TREND	25,0	EXXON CORP
8104793	06039	3508321064 103	LULU WILLIAMS #1	WEST LAVRIE	37,0	EASON OIL CO
-EL PASO NATURAL GAS COMPANY		RECEIVED: 11/04/80 JA: OK				
8104809	08987	3514920064 107	MELVIN #1	ELK CITY SPRINGER	5475,0	EL PASO NATURAL GAS
-HARDWALL OIL CORP		RECEIVED: 11/04/80 JA: OK				
8104798	06034	3513721797 103	ELLISON #1	STAGE STAND	73,0	ARKANSAS LOUISIANA G
-OMNI OIL & GAS INC		RECEIVED: 11/04/80 JA: OK				
8104811	05938	3507322390 103	MURPHY 1 NO 1	SOONER TREND	182,5	CITIES SERVICE GAS C
-PHILLIPS PETROLEUM COMPANY		RECEIVED: 11/04/80 JA: OK				
8104812	05744	3513900000 108	LEB #1	OKLAHOMA HUGOTON	28,0	PANHANDLE EASTERN PI
8104807	06015	3501721371 103	MCCARTHY B #1	N CONCHO	0,0	PANHANDLE EASTERN
8104808	06072	3501721355 102	MCCARTHY C #1	N CONCHO	0,0	PANHANDLE EASTERN
8104806	06016	3501721366 105	MCCARTHY D #1	N CONCHO	0,0	PANHANDLE EASTERN
8104805	06017	3501730012 103	SCHROEDER B #1	N CONCHO	0,0	PANHANDLE EASTERN

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JD NO	JA DAT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
8104804	06019	3501721312 103	WIENEL B #1	N CONCHO	0,0	PANHANDLE EASTERN PI
-SHAR-ALAN OIL CO		RECEIVED: 11/04/80 JA: OK				
8104794	06038	3507322282 103	CUPPS #2	SOONER TREND	134,0	PHILLIPS PETROLEUM C
-SOUTHLAND ROYALTY CO		RECEIVED: 11/04/80 JA: OK				
8104796	06036	3515120977 102	MARIE #1-11	FREEDOM 7L	75,0	PANHANDLE EASTERN PI
-SOUTHPORT EXPLORATION INC		RECEIVED: 11/04/80 JA: OK				
8104795	06037	3509321679 103	E MONGOLD NO 1-1	ORION	55,0	PHILLIPS PETROLEUM C
8104797	06035	3505920883 103	NIGHSWUNGER NO 1-36	BELMAN	0,0	MICHIGAN-WISCONSIN P
-SUN OIL COMPANY (DELAWARE)		RECEIVED: 11/04/80 JA: OK				
8104801	05972	3501900000 108	RICKETTS NO 4	SHO-VEL-TUM	1,0	MOBIL OIL CORP
8104803	05966	3513700000 108	TOM BRYANT NO 1	SHO-VEL-TUM	11,0	MOBIL OIL CORP
-TENNECO OIL COMPANY		RECEIVED: 11/04/80 JA: OK				
8104802	02863	3508336067 108	E COLUMBIA OSWEGO LIME UT #12-2	COLUMBIA EAST	3,0	EASON OIL CO
8104799	02868	3507336127 108	E COLUMBIA OSWEGO LIME UT #2-1	COLUMBIA EAST	3,0	EASON OIL CO
8104800	02867	3507336132 108	E COLUMBIA OSWEGO LIME UT #8-2	COLUMBIA EAST	3,0	EASON OIL CO
-UNIVERSAL RESOURCES CORPORATION		RECEIVED: 11/04/80 JA: OK				
8104791	03041	3501120482 108	GOFORTH #1-30	OKEENE NORTHWEST	18,0	DELHI GAS PIPELINE C
-WALTER A KELLY JR		RECEIVED: 11/04/80 JA: OK				
8104810	05474	3511900000 103	OLIVE EAGLES (CASSIE SNELL) #5	SEC 29-19N-9E NORTH MANC	4,4	COLORADO GAS COMPRES

UTAH DIVISION OF OIL,GAS, & MINING

-TEXAS OIL & GAS CORP		RECEIVED: 11/03/80 JA: UT				
8104590	M-12B-1	4301930634 103	TEXAS PACIFIC STATE #1	WILDCAT	365,0	NORTHWEST PIPELINE C
-TEXAS OIL & GAS CORP		RECEIVED: 11/04/80 JA: UT				
8104814		4301930670 103	TEXAS PACIFIC STATE #2	SAN ARROYO	456,0	NORTHWEST PIPELINE C

VIRGINIA DEPARTMENT OF LABOR & INDUSTRY

-TEXAS INTERNATIONAL PET CORP		RECEIVED: 11/03/80 JA: VA				
8104586		4502720259 103	ISLAND CREEK #1	KEEN MOUNTAIN	30,0	
8104587		4502720275 103	ISLAND CREEK #10	KEEN MOUNTAIN FIELD	73,0	
8104585		4502720280 103	ISLAND CREEK #14	KEEN MOUNTAIN FIELD	23,0	
8104589		4502720261 103	ISLAND CREEK #3	KEEN MOUNTAIN	71,0	
8104588		4502720269 103	ISLAND CREEK #6	KEEN MOUNTAIN	0,0	

WEST VIRGINIA DEPARTMENT OF MINES

-ALLEGHENY & WESTERN ENERGY CORP		RECEIVED: 11/03/80 JA: WV				
8104596		4703501508 108	ROBERT L PARSONS FARM #1	WASHINGTON	10,0	COLUMBIA GAS TRANSMI
8104600		4703501509 108	ROBERT L PARSONS FARM #2	WASHINGTON	10,0	COLUMBIA GAS TRANSMI
8104598		4703501503 108	WENDELL O CASTO FARM #2	WASHINGTON DISTRICT	5,0	COLUMBIA GAS TRANSMI
8104597		4703501504 108	WENDELL O CASTO FARM #3	WASHINGTON DISTRICT	5,0	COLUMBIA GAS TRANSMI
8104599		4703501501 108	WENDELL O CASTO FARM #4	WASHINGTON DISTRICT	5,0	COLUMBIA GAS TRANSMI
-ALLEGHENY LAND & MINERAL COMPANY		RECEIVED: 11/03/80 JA: WV				
8104652		4709701901 103	A-781	WASHINGTON	0,0	CONSOLIDATED GAS SUP
-APPALACHIAN EXPLORATION & DEVEL INC		RECEIVED: 11/03/80 JA: WV				
8104700		4701501201 108	CARPER DORSEY #1	PLEASANT	11,0	CABOT CORP
8104662		4701900406 102	ELI DEWS #1	MT COVE	36,0	EQUITABLE GAS CO
8104649		4707900911 108	G W SMITH #2	UNION	15,8	CABOT CORP
8104699		4701900384 108	GOAD GAS UNIT #2	MT COVE	20,0	EQUITABLE GAS CO
8104698		4707900862 108	MCLEAN HEIRS A-7	UNION	19,0	CABOT CORP
8104622		4708100394 108	PINEY COKING COAL A-49	SLAB FORK	18,9	CABOT CORP

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JO NO	JA DAT	API NO	SEC	D	WELL NAME
8104636		4708103399	108		PINEY COKING COAL A-50
8104635		4708104400	108		PINEY COKING COAL A-51
8104630		4708100397	108		PINEY COKING COAL A-63
8104650		4707900869	108		PUTNAM LAND COMPANY B-6
8104701		4701900311	108		STANLEY O FOX #1
*BAILEY GAS CO					RECEIVED: 11/03/80 JA: WV
8104661		4709920903	108		BAILEY GAS CO #1
*BLANKENSHIP GAS CO					RECEIVED: 11/03/80 JA: WV
8104660		4709921452	108		BLANKENSHIP GAS CO #1
*CITIES SERVICE COMPANY					RECEIVED: 11/03/80 JA: WV
8104619		4708100161	108		DICKINSON A-6
8104618		4708100176	108		DICKINSON A-7
8104637		4708100125	108		DICKINSON C-1
8104634		4703902099	108		HARDY A NEWBURG #25
8104633		4708100053	108		ROWLAND LAND CO A-10
8104632		4708100049	108		ROWLAND LAND CO A-14
8104621		4708100123	108		ROWLAND LAND CO A-21
8104620		4708100128	108		ROWLAND LAND CO A-22
8104617		4708100185	108		ROWLAND LAND CO A-30
8104631		4708100189	108		ROWLAND LAND CO A-31
*COLUMBIA GAS TRANSMISSION CORP					RECEIVED: 11/03/80 JA: WV
8104653		4705900880	108		CENTRAL TRUST CO 820300
8104696		4705900058	108		HORSE CREEK L & M 805274
*CONSOLIDATED GAS SUPPLY CORPORATION					RECEIVED: 11/03/80 JA: WV
8104614		4703301200	108		C M LANG 12312
8104613		4704501018	108		CHARLESTON NATIONAL BANK 12511
8104612		4704700706	108		CONSOLIDATED COAL CO 12377
8104694		4709100103	108		JOHN M GRIMES 11839
8104615		4702102920	108		LOHAN-PEARCY 12352
8104611		4705500062	108		POCAHONTAS LAND CORP 12366
8104616		4700501070	108		SIDNEY WHITE 12421
*DAMSON OIL CORPORATION					RECEIVED: 10/27/80 JA: WV
8104595		4701500800	108		ELK RIVER #17
*EARL STEWART					RECEIVED: 11/03/80 JA: WV
8104642		4708503524	108		HARRIS #3
8104651		4708503526	108		HARRIS #4
8104645		4708503535	108		KUHN #3
8104643		4708503530	108		PRUNTY #1
8104644		4708503532	108		PRUNTY #2
8104646		4708503595	108		PRUNTY #3
*ENERGEX CORP					RECEIVED: 11/03/80 JA: WV
8104602		4710700490	108		FRANCES CARTER #1
8104601		4710700718	108		FRANCES CARTER #2
*GIL CO W VA O & G JT VENT					RECEIVED: 11/03/80 JA: WV
8104695		4702102534	108		CONALLY 25
*JAMES F SCOTT					RECEIVED: 11/03/80 JA: WV
8104641		4703301085	108		B BROWN (B-219)
*N G & K E BUSCH					RECEIVED: 11/03/80 JA: WV
8104638		4710520273	108		M RICHTER NO 17
*N G & K E BUSCH DBA RICHTER OIL CO					RECEIVED: 11/03/80 JA: WV
8104606		4710520339	108		M RICHTER NO 8
*ONE MILE GAS CO					RECEIVED: 11/03/80 JA: WV

FIELD NAME	PROD	PURCHASER
SLAB FORK	18,9	CABOT CORP
SLAB FORK	18,9	CABOT CORP
SLAB FORK	18,9	CABOT CORP
UNION	18,9	CABOT CORP
MT COVE	12,0	EQUITABLE GAS CO
SOUTHERN WEST VIRGINIA	1,0	GAS SUPPLY CORP
SOUTHERN WEST VIRGINIA	18,0	GAS SUPPLY CORP
CLEARFORK	2,6	COLUMBIA GAS TRANSMI
CLEARFORK	5,2	COLUMBIA GAS TRANSMI
CLEARFORK	5,3	COLUMBIA GAS TRANSMI
DAVIS CREEK	13,5	COLUMBIA GAS TRANS C
CLEARFORK	2,6	COLUMBIA GAS TRANSMI
CLEARFORK	6,6	COLUMBIA GAS TRANSMI
CLEARFORK	13,2	COLUMBIA GAS TRANSMI
CLEARFORK	6,5	COLUMBIA GAS TRANSMI
CLEARFORK	8,3	COLUMBIA GAS TRANSMI
CLEARFORK	3,3	COLUMBIA GAS TRANSMI
WEST VIRGINIA FIELD AREA	16,0	
WEST VIRGINIA FIELD AREA	3,6	
WEST VIRGINIA OTHER A857	21,0	GENERAL SYSTEM PURCH
PINEVILLE FIELD AREA A59	21,0	GENERAL SYSTEM PURCH
PINEVILLE A59442	7,0	GENERAL SYSTEM PURCH
W VA OTHER A 83772	6,0	GENERAL SYSTEM PURCH
WEST VIRGINIA OTHER A857	9,0	GENERAL SYSTEM PURCH
PINEVILLE A59442	2,0	GENERAL SYSTEM PURCH
WEST VIRGINIA OTHER A857	2,0	GENERAL SYSTEM PURCH
	20,2	EQUITABLE GAS CO
TURTLE RUN	1,7	CARNEGIE NATURAL GAS
TURTLE RUN	1,7	CARNEGIE NATURAL GAS
TURTLE RUN	1,3	CARNEGIE NATURAL GAS
TURTLE RUN	0,6	CARNEGIE NATURAL GAS
TURTLE RUN	5,0	CARNEGIE NATURAL GAS
TURTLE RUN	0,6	CARNEGIE NATURAL GAS
FRANCES CARTER TRACT	0,0	CONSOLIDATED GAS SUP
FRANCES CARTER TRACT	0,0	CONSOLIDTED GAS SUPP
RICH BOTTOM	2,1	CONSOLIDATED GAS COR
COAL DISTRICT	16,0	CONSOLIDATED GAS SUP
BURNING SPRINGS DISTRICT	0,5	PENNZOIL CO
BURNING SPRINGS DISTRICT	0,5	PENNZOIL CO

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JO NO	JA DAT	API NO	SEC	D	WELL NAME
8104697		4704320304	108		L R SWEETLAND #2
*PATRICK M CUNNINGHAM					RECEIVED: 11/03/80 JA: WV
8104640		4703301712	108		JOHN MUSTEAD #1
*PENNZOIL COMPANY					RECEIVED: 11/03/80 JA: WV
8104676		4708703035	108		CHAMBERS HEIRS #10
8104679		4708703033	108		CHAMBERS HEIRS #11
8104680		4708703049	108		CHAMBERS HEIRS #12
8104681		4708703036	108		CHAMBERS HEIRS #13
8104677		4708703052	108		CHAMBERS HEIRS #3
8104678		4708702994	108		CHAMBERS HEIRS #6
8104682		4708703030	108		DAVID SIMMONS #10
8104683		4708702988	108		DAVID SIMMONS #12
8104684		4708703053	108		DAVID SIMMONS #14
8104685		4708703048	108		DAVID SIMMONS #15
8104686		4708703045	108		DAVID SIMMONS #17
8104687		4708703031	108		DAVID SIMMONS #23
8104688		4708702986	108		DAVID SIMMONS #24
8104689		4708702746	108		DAVID SIMMONS #8
8104691		4702101283	108		F B WILT #6
8104639		4702102084	108		F B WILT #7
8104629		4702102165	108		FRED WILT #8
8104625		4702103290	108		G C FISHER #1
8104692		4702100013	108		GAINER-URPMAN #1
8104626		4702101847	108		GAINER-URPMAN #2
8104690		4702101850	108		GAINER-URPMAN #3
8104623		4702103401	108		M A GAINER #1
8104665		4703301765	108		HALL & WHITE #1
8104624		4702103312	108		I N HARDMAN #2
8104628		4702102193	108		O M GUMM #1
8104627		4702103267	108		W F WEAVER #1
8104664		4704500180	108		YANKEY-FREEMAN #108
8104663		4704500161	108		YANKEY-FREEMAN #98
*R & B PETROLEUM INC					RECEIVED: 11/03/80 JA: WV
8104610		4700100883	108		E MATHAWAY #1
8104607		4700100885	108		E MATHAWAY #2
8104609		4700100886	108		E MATHAWAY #3
*ROCKWELL PETROLEUM COMPANY					RECEIVED: 11/03/80 JA: WV
8104648		4701702303	108		WEBBER #1
*SOUTHEASTERN GAS COMPANY					RECEIVED: 11/03/80 JA: WV
8104647		4704302400	108		LEE BANSOM #15
*SPARTAN GAS CO					RECEIVED: 11/03/80 JA: WV
8104693		4707900920	108		ESTAL BURNS 1-8-198
*SPARTAN GAS COMPANY					RECEIVED: 11/03/80 JA: WV
8104702		4701120600	108		SYLVIA EDWARDS 1-8-199
*SQUAW OIL CO					RECEIVED: 11/03/80 JA: WV
*8104659		4708501568	108		LAURA CUNNINGHAM #1
*UNION DRILLING INC					RECEIVED: 11/03/80 JA: WV
8104673		4709701474	108		CLYDE M WINEMILLER #1 - 1299
8104668		4709701726	108		O F HUFFMAN #1 - 1353
8104674		4709701769	108		EXANNA P BUTCHER #1 - 1409
8104666		4709701768	108		EXANNA P BUTCHER #1 - 1410
8104655		4709701818	108		GLEN & JANIE MARSH #1 - 1455

FIELD NAME	PROD	PURCHASER
SHERIDAN DISTRICT	6,0	PENNZOIL CO
EAGLE	20,0	CONSOLIDATED GAS SUP
SMITHFIELD	1,6	CONSOLIDATED GAS SUP
SMITHFIELD	1,6	CONSOLIDATED GAS SUP
SMITHFIELD	1,6	CONSOLIDATED GAS SUP
SMITHFIELD	1,6	CONSOLIDATED GAS SUP
SMITHFIELD	1,6	CONSOLIDATED GAS SUP
SMITHFIELD	1,6	CONSOLIDATED GAS SUP
SMITHFIELD	1,6	CONSOLIDATED GAS SUP
SMITHFIELD	1,6	CONSOLIDATED GAS SUP
SMITHFIELD	1,6	CONSOLIDATED GAS SUP
SMITHFIELD	1,6	CONSOLIDATED GAS SUP
SMITHFIELD	1,6	CONSOLIDATED GAS SUP
SMITHFIELD	1,6	CONSOLIDATED GAS SUP
SMITHFIELD	1,6	CONSOLIDATED GAS SUP
SMITHFIELD	1,6	CONSOLIDATED GAS SUP
TANNER	1,0	CONSOLIDATED GAS SUP
TANNER	2,1	CONSOLIDATED GAS SUP
TANNER	2,1	CONSOLIDATED GAS SUP
TANNER	2,0	CONSOLIDATED GAS SUP
TANNER	2,9	CONSOLIDATED GAS SUP
TANNER	2,9	CONSOLIDATED GAS SUP
TANNER	2,9	CONSOLIDATED GAS SUP
TANNER	1,1	CONSOLIDATED GAS SUP
WOLF SUMMIT	0,3	CONSOLIDATED GAS SUP
TANNER	4,7	CONSOLIDATED GAS SUP
TANNER	16,1	CONSOLIDATED GAS SUP
TANNER	0,0	CONSOLIDATED GAS SUP
YANKEY-FREEMAN	16,5	CONSOLIDATED GAS SUP
YANKEY-FREEMAN	18,2	CONSOLIDATED GAS SUP
VALLEY	14,2	PETRO-LEWIS FUNDS IN
VALLEY	14,2	PETRO-LEWIS FUNDS IN
VALLEY	14,2	PETRO-LEWIS FUNDS IN
TOMS FORK	8,0	COLUMBIA GAS TRANSMI
SHERIDAN	1,5	PENNZOIL CO
CURRY	7,0	PENNZOIL CO
GRANT	9,0	PENNZOIL CO
	2,3	HOPE NATURAL GAS CO
BANKS DISTRICT	21,0	COLUMBIA GAS TRANS C
BANKS DISTRICT	17,8	COLUMBIA GAS TRANS C
BANKS DISTRICT	5,4	COLUMBIA GAS TRANS C
MEADE DISTRICT	11,5	COLUMBIA GAS TRANS C
MEADE DISTRICT	20,3	COLUMBIA GAS TRANS C

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JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
8104658		4709701778	108	GLENN MADDIX #1 - 1413	BANKS DISTRICT	11.3	COLUMBIA GAS TRANS C
8104656		4709701819	108	HANIFAN & GEORGE #1 - 1439	WASHINGTON DISTRICT	21.4	COLUMBIA GAS TRANS C
8104656		4709701817	108	J B & NINA MARSH #1 - 1432	MEADE DISTRICT	12.8	COLUMBIA GAS TRANS C
8104671		4709701643	108	MILDRED C POTTER #2 - 1366	MEADE DISTRICT	17.5	COLUMBIA GAS TRANS C
8104672		4709701478	108	MYRTLE M WARNER #1 - 1297	MEADE DISTRICT	20.0	COLUMBIA GAS TRANS C
8104675		4709701770	108	PAUL & JUANITA WINANS #1 - 1407	UNION DISTRICT	12.2	COLUMBIA GAS TRANS C
8104667		4709701728	108	R F NESBITT #1 - 1398	UNION DISTRICT	7.5	COLUMBIA GAS TRANS C
8104657		4709701815	108	R & SMALLRIDGE #1 - 1436	BANKS DISTRICT	12.6	COLUMBIA GAS TRANS C
8104670		4709701653	108	RUTH Y HALL #1 - 1369	MEADE DISTRICT	19.0	COLUMBIA GAS TRANS C
8104669		4709701722	108	S C RUBMIBELL #2 - 1392	UNION DISTRICT	15.0	COLUMBIA GAS TRANS C
*W & J OIL AND GAS PRODUCERS				RECEIVED: 11/03/80 JA: WY			
8104606		4702101786	108	C O RADCLIFF #1			
8104605		4702101705	108	E B YOUNG #1	TROY FIELD	2.5	EQUITABLE GAS CO
8104603		4702101583	108	VIDA WINCE NO 1	TROY FIELD	4.0	CONSOLIDATED GAS SUP
8104604		4702101676	108	VIDA WINCE NO 2	TROY FIELD	1.0	CONSOLIDATED GAS SUP
					TROY FIELD	1.0	CONSOLIDATED GAS SUP

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WYOMING OIL & GAS CONSERVATION COMMISSION

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*AMOCO PRODUCTION CO				RECEIVED: 11/06/80 JA: WY			
8104815	NG 131-80	4902320291	103	CHAMPLIN 149 AMOCO D #1	BRUFF	250.0	CITIES SERVICE GAS C
8104816	NG 132-80	4903721226	102	CHAMPLIN 265 AMOCO D #1	FABIAN DITCH	350.0	CITIES SERVICE GAS C
8104820	NG-136-80	4904120228	102	CLARENCE LUNHAM #1			
8104821	NG 137-80	4904120267	102	RYCKMAN CREEK UNIT #27	YELLOW CREEK	800.0	MOUNTAIN FUEL SUPPLY
*BELCO PETROLEUM CORPORATION				RECEIVED: 11/06/80 JA: WY	RYCKMAN CREEK	62.0	NORTHWEST PIPELINE C
8104828	NG 144-80	4903520552	103	ELSU 27-32			
*CITIES SERVICE COMPANY				RECEIVED: 11/06/80 JA: WY	EAST LA BARGE	222.0	NORTHWEST PIPELINE C
8104819	NG 135-80	4900525489	102	CHRISTENSEN F-1			
*DAVIS OIL COMPANY				RECEIVED: 11/06/80 JA: WY	PUMPKIN BUTTES	10.0	
8104824	NG 141-80	4900921620	102	#1 BABE			
8104826	NG-143-80	4900921593	102	#2 M E		9.6	PHILLIPS PETROLEUM C
8104817	NG 133-80	4900921584	102	EBERSPECHER #3	WILDCAT	23.2	PHILLIPS PETROLEUM C
8104827	NG 145-80	4900921596	102	MORTON SCOTT #1		148.0	PHILLIPS PETROLEUM C
8104825	NG-142-80	4900921487	102	MORTONS #1	SCOTT FIELD	8.2	PHILLIPS PETROLEUM C
8104818	NG-134-80	4900720525	102	WINDY HILL #1	WILDAT	14.6	PHILLIPS PETROLEUM C
*MARATHON OIL COMPANY				RECEIVED: 11/06/80 JA: WY	FILMORE	123.6	PANHANDLE EASTERN PI
8104823	NG 139-80	4900720458	102	STANDARD DRAW #3-16			
8104822	NG 138-80	4903721422	102	WAMBUTTER UNIT A #10	STANDARD DRAW	0.0	
					WAMBUTTER	483.0	COLORADO INTERSTATE

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** U.S. GEOLOGICAL SURVEY - CASPER,WY

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*SHELL OIL CO				RECEIVED: 11/03/80 JA: MT S			
8104713	M 32-0	2508321262	102	USA 11X-12	CRANE	69.5	MONTANA DAKOTA UTILI
*TRICENTROL UNITED STATES INC				RECEIVED: 11/03/80 JA: MT S			
8104714	M-167-0	2500521881	108	US 13-4-T26N-R19E	SHERARD UNIT	15.0	NORTHERN NATURAL GAS
8104704	M152-0	2500522115	103	US 27-36-T31N-R15E	TIGER RIDGE UNIT	190.0	NORTHERN NATURAL GAS
*BROWNLIE WALLACE ARMSTRONG & BANDER				RECEIVED: 11/03/80 JA: ND S			
8104717	ND 178-0	3305300985	102	ALLEN-FEDERAL #2-41	MONDAK	7.5	MONTANA DAKOTA UTILI
8104718	ND 179-0	3305300936	102	FEDERAL #11-44	MONDAK	7.5	MONTANA DAKOTA UTILI
*JOSEPH J C PAINE AND ASSOCIATES				RECEIVED: 11/03/80 JA: ND S			
8104711	ND 87-0	3301100278	103	FEDERAL #1-10	LITTLE MISSOURI	1.7	MONTANA DAKOTA UTILI
8104712	ND 86-0	3301100239	102	FEDERAL #2-23	LITTLE MISSOURI	11.0	MONTANA DAKOTA UTILI
*TENNECO OIL COMPANY				RECEIVED: 11/03/80 JA: ND S			

The above notices of determination were received from the indicated

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JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
8104708	ND 129-0	3300700401	102	BENJAMIN USA 1-18	BIG STICK	155.0	WESTERN GAS PROCESSU
8104710	ND 96-0	3300700345	102	STUART USA 21-31	WILDCAT	128.0	WESTERN GAS PROCESSU
*DAVIS OIL COMPANY				RECEIVED: 11/03/80 JA: WY S			
8104716	W 160-0	4900920246	103	BLACKJACK UNIT #3	WILDCAT	10.9	PANHANDLE EASTERN PI
*PACIFIC TRANSMISSION SUPPLY COMPANY				RECEIVED: 11/03/80 JA: WY S			
8104706	W 158-0	4900720491	102	PTS 3-10 FEDERAL	ECHO SPRINGS	180.0	PACIFIC GAS AND ELEC
8104705	W 157-0	4900720461	102	PTS 3-18A FEDERAL	ECHO SPRINGS	1000.0	PACIFIC GAS AND ELEC
8104709	W-175-0	4903721358	102	PTS 3-24A FEDERAL	SIBERIA RIDGE	80.0	
*TEXACO INC				RECEIVED: 11/03/80 JA: WY S			
8104707	W 114-0	4903721482	103	GOVERNMENT R M DONLEY (NCT-1) #1	BRUFF	803.0	MOUNTAIN FUEL SUPPLY
8104715	W-163-0	4903721510	107	TABLE ROCK UNIT NO 43	TABLE ROCK	1500.0	COLORADO INTERSTATE
*UNION OIL COMPANY OF CALIF				RECEIVED: 11/03/80 JA: WY S			
*8104703	W-154-0	4900525284	103	JAYSON UNIT #3-10	WILIGHT	140.0	MCCULLOCH GAS PROCES

OTHER PURCHASERS VOLUME NO 1320

8104659	HOPE NATURAL GAS CO
8104703	PHILLIPS PETROLEUM CO
8104723	UNITED GAS P L CO
8104724	UNITED GAS P L CO
8104726	AMERICAN CYANAMID CO
8104727	AMERICAN CYANAMID CO
8104728	AMERICAN CYANAMID CO
8104729	AMERICAN CYANAMID CO
8104730	AMERICAN CYANAMID CO
8104731	AMERICAN CYANAMID CO
8104732	AMERICAN CYANAMID CO
8104733	AMERICAN CYANAMID CO
8104734	AMERICAN CYANAMID CO
8104735	AMERICAN CYANAMID CO
8104736	AMERICAN CYANAMID CO
8104737	AMERICAN CYANAMID CO
8104738	AMERICAN CYANAMID CO
8104739	AMERICAN CYANAMID CO
8104740	AMERICAN CYANAMID CO
8104741	AMERICAN CYANAMID CO
8104742	AMERICAN CYANAMID CO
8104775	AMERICAN CYANAMID CO
8104792	PANHANDLE EASTERN

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 11, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36797 Filed 11-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Volume 321]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

November 19, 1980.

JD NO	JA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
CALIFORNIA DEPARTMENT OF CONSERVATION						
*BUTTES RESOURCES CO			RECEIVED: 11/07/80			
#910870	AO6-0014	0401120136	102	POUNDSTONE 19-1	JAI CA	102.5 PACIFIC GAS & ELECTR
-CONTAL Dpt & GAS CORP						
#910873	AO6-0018	0401120126	102	ARBUCKLE ROAD #1	JAI CA	1101.0 PACIFIC GAS & ELECTR
-MCFARLAND ENERGY INC			RECEIVED: 11/07/80			
#910872	AO6-0019	0406720137	102	POPPY RIDGE #1	JAI CA	200.0
#910876	AO6-0020	0406720149	102	POPPY RIDGE #2		100.0
-MCOR OIL & GAS CORP			RECEIVED: 11/07/80		JAI CA	707.0 PACIFIC GAS & ELECTR
#910877	AO6-0016	0409520378	102	HASTINGS RANCH #1-22		8737.0 PACIFIC GAS & ELECTR
#910890	AO6-0015	0409520390	102	HCCULLOCH NO 1-21 HASTINGS		2190.0 PACIFIC GAS AND ELEC
#910895	AO6-0017	0409520395	102	HCCULLOCH NO 2-21 HASTINGS		
NEW MEXICO DEPARTMENT OF ENERGY & MINERALS						
-ADAMS EXPLORATION CO		3001520536	103	RECEIVED: 11/06/80	JAI NM	190.0 EL PASO NATURAL GAS
#910882				ANN COM #1		
-AMOCO PRODUCTION CO			RECEIVED: 11/06/80		JAI NM	
#910873		3002526713	103	GRIZZELL B #4		60.0 GETTY OIL CO
#910883		3002526338	103	MCQUATTERS #4		35.7 GETTY OIL CO
#910884		3002526531	103	MCQUATTERS #5		20.1 GETTY OIL CO
#910885		3002526531	103	MCQUATTERS #5		3.6 GETTY OIL CO
#910874		3002526109	103	STATE C TRACT 11 #9		18.8 GETTY OIL CO
#910881		3001523202	103	STATE IC COM #1		822.0 EL PASO NATURAL GAS
#910875		3001523349	103	STATE IL COM #1		207.0 EL PASO NATURAL GAS
-ARCO OIL AND GAS COMPANY		3001523198	103	STATE IE COM #1		950.0 EL PASO NATURAL GAS
#910878			RECEIVED: 11/06/80		JAI NM	
#910879		3002526882	103	FREDERICK M CURRY WN NO 4		53.0 EL PASO NATURAL GAS
-DEPCO INC		3002526527	103	W F MANAGAN NO 5		3.0 EL PASO NATURAL GAS
#910887			RECEIVED: 11/06/80		JAI NM	
-EL PASO NATURAL GAS COMPANY		3005000000	103	MESA STATE COM #1		21.9
#910869		3003962065	103	RECEIVED: 11/06/80	JAI NM	
-ENERGEN EXPLORATION INC			RECEIVED: 11/06/80		#31A	100.0 EL PASO NATURAL GAS
#910871		3005506675	103	SAN JUAN 29-7 UNIT	JAI NM	
-GETTY OIL COMPANY			RECEIVED: 11/06/80			216.0
#910866		3002512432	108	J G O'BRIEN NO 1	JAI NM	
#910880		3004100000	108	HOBBS A WELL NO 6		8.0 EL PASO NATURAL GAS
#910865		3002506163	108	HOBBS T NO 12		1.0 CITIES SERVICE CO
#910891		3002500000	108	J M HATKINS WELL NO 1		6.7 PHILLIPS PETROLEUM C
#910868		3002510676	108	LOVINGTON SAN ANDRES NO 10		1.0 PHILLIPS PETROLEUM
				SKELLY PENROSE B UNIT WELL NO 57		1.4 GETTY OIL CO

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8104867		3002510581	108		SKELLY PENROSE B UNIT WELL NO 9	LANGLIE-MATTIX	2,6	GETTY OIL CO
8104890		3002500000	108		STATE P UNIT WELL NO 6	LOVINGTON PADDOCK	1,0	PHILLIPS PETROLEUM C
*MIXON DEVELOPMENT COMPANY					RECEIVED: 11/06/80 JA: NM			
8104863		3004524323	103		SAM JACKSON STATE COM WELL NO 1	WAW-FRUITLAND-PC	22,7	EL PASO NATURAL GAS
8104886		3004524224	103		VIRGINIA STATE WELL NO 3	WAW-FRUITLAND-PC	2,6	EL PASO NATURAL GAS
*MADDOX ENERGY CORPORATION					RECEIVED: 11/06/80 JA: NM			
8104870		3001500000	103		SPENCER COM	ATOKA PENN	73,0	TRANSWESTERN PIPELIN
*MARALO INC					RECEIVED: 11/06/80 JA: NM			
8104877		3002500000	103		MARALO 16 STATE #10	SIOUX TANSILL YATES	11,0	EL PASO NATURAL GAS
*NORTHWEST PIPELINE CORPORATION					RECEIVED: 11/03/80 JA: NM			
*8104861		3004523539	103		MADDOX #1A PC	BLANCO PICTURED CLIFF	22,0	EL PASO NATURAL GAS
*NORTHWEST PIPELINE CORPORATION					RECEIVED: 11/06/80 JA: NM			
*8104864		3004523539	103		MADDOX #1A MV	BLANCO MESAVERDE	190,0	EL PASO NATURAL GAS
*PENNZOIL COMPANY					RECEIVED: 11/06/80 JA: NM			
8104888		3001500000	108		MOORE COM #1 CA SW 810	SOUTH CARLSBAD	14,0	EL PASO NATURAL GAS
*PHILLIPS PETROLEUM COMPANY					RECEIVED: 11/06/80 JA: NM			
8104872		3002526758	103		LEAMEX NO 25	UNDESIGNATED LEAMEX (NOL	55,0	EL PASO NATURAL GAS
*WESTERN RESERVES OIL COMPANY					RECEIVED: 11/03/80 JA: NM			
8104860		3000500000	103		WESTERN MOLLY 32 STATE NO 2	TOM-TOM (SAN ANDRES)	10,0	TRANSWESTERN PIPELIN
*YATES PETROLEUM CORPORATION					RECEIVED: 11/06/80 JA: NM			
8104879		3001523409	103		NORTH MILLMAN UNIT NO 2	SOUTH MILLMAN MORROW	0,0	TRANSWESTERN PIPELIN
8104880		3001523353	103		RIO PENASCO KD COM NO 2	BOYD MORROW	0,0	TRANSWESTERN PIPELIN

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OHIO DEPARTMENT OF NATURAL RESOURCES

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*APPALACHIAN PETROLEUM CORP					RECEIVED: 11/07/80 JA: OH			
8104945		3416725247	103		RODGERS ET AL #1	ADAMS	3,5	COLUMBIA GAS TRANSMI
*BELDEN & BLAKE & CO 74					RECEIVED: 11/07/80 JA: OH			
8104956		3415123330	103		M & J PRINCEHORN 1-960	TUSCARAWAS	36,5	
*BELDEN & BLAKE CO L P NO 75					RECEIVED: 11/07/80 JA: OH			
8104957		3415123318	103		J & D GLICK COMM #1-992	TUSCARAWAS	36,5	
8104958		3415123300	103		M & M KAYLOR COMM #2-993	SUGARCREEK	36,5	
*BERRESFORD ENTERPRISES INC					RECEIVED: 11/07/80 JA: OH			
8104946		3416725207	103		MAINES #1	WATERFORD	6,0	
8104949		3416725060	103		MILDRED EPLER #1	ADAMS	6,0	
8104948		3416725154	103		MILDRED EPLER #2	ADAMS	6,0	
8104947		3416725205	103		PAUL DIETZ #1	WATERFORD	6,0	
8104953		3416723810	103		WILLIAM BONAR #1	DUNHAM	3,0	
*BROILCO INC					RECEIVED: 11/07/80 JA: OH			
8104925		3410322219	103		PEEBLES #2	MINCKLEY	20,0	
*BUCKEYE CRUDE EXPLORATION INC					RECEIVED: 11/07/80 JA: OH			
8104943		3416725725	103		OLLIE WAGNER #3	ADAMS	21,9	
8104942		3416725730	103		OLLIE WAGNER #4	ADAMS	20,1	
*BUCKMORN OIL COMPANY INC					RECEIVED: 11/07/80 JA: OH			
8104913		3407522616	103		TAYLOR #2	KILLBUCK	20,0	COLUMBIA GAS TRANSMI
*CHESTNUT MEADOWS DEVELOPMENT CO					RECEIVED: 11/07/80 JA: OH			
8104924		3410322218	103		CHESTNUT MEADOWS #3	WADSWORTH	2,0	EAST OHIO GAS CO
*EDLICO INC					RECEIVED: 11/07/80 JA: OH			
8104920		3408923833	103		YOUNG #1	EDEN	20,0	COLUMBIA GAS TRANSMI
*FORAKER PRODUCING COMPANY INC					RECEIVED: 11/07/80 JA: OH			
8104929		3411925335	103		C MOORE #4	NEWTON	8,0	
*GASEARCH INC					RECEIVED: 11/07/80 JA: OH			

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8104955		3415521446	103		HAGOOD UNIT #2	VIENNA	20,0	
*MILLTOP DEVELOPMENT CORP					RECEIVED: 11/07/80 JA: OH			
8104922		3408923877	103		#2 LICKING VALLEY SCHOOL BOARD	MADISON	14,0	NATIONAL GAS & OIL C
*INLAND DRILLING CO INC					RECEIVED: 11/07/80 JA: OH			
8104902		3400721458	103		BALL #1	CHERRY VALLEY	0,5	
8104941		3413321980	103		CLAPP-STROUP UNIT #1	NELSON	1,1	
8104940		3413321979	103		CLAPP-ZUVAR #1	NELSON	1,1	
8104965		3413322159	103		DAVIES #1	NELSON	1,1	
8104899		3400721032	103		MARGAS #1	NEW LYME	0,5	
8104966		3413322080	103		KLINE UNIT #1	FREEDOM	1,1	
8104939		3413321896	103		LEE #3	FREEDOM	0,1	
8104961		3413322354	103		LENTZ #1	FREEDOM	107,4	
8104964		3413322146	103		MCCOY #1	NELSON	1,1	
8104967		3413322060	103		VINE-SEMAN #2	NELSON	1,1	
*JIMMY HAMILTON GAS & OIL					RECEIVED: 11/07/80 JA: OH			
8104950		3416705044	103		ELMER MEARN WELL NO 144	LUDLOW	15,0	COLUMBIA GAS TRANSMI
8104952		3416704885	103		HAZEL EDWARDS WELL NO 138	LUDLOW	22,5	COLUMBIA GAS TRANSMI
8104926		3411121910	103		MARY CLINE WELL NO 140	WASHINGTON	15,0	COLUMBIA GAS TRANSMI
8104951		3416704886	103		WILBUR RINARD WELL NO 136	LUDLOW	45,0	COLUMBIA GAS TRANSMI
*JOHN C MASON					RECEIVED: 11/07/80 JA: OH			
8104915		3407522703	103		ANDY & MARY ERB #4	MECHANIC	30,0	COLUMBIA GAS TRANS C
8104914		3407522702	103		ANDY & MARY ERB #5	MECHANIC	30,0	COLUMBIA GAS TRANS C
*L & M PETROLEUM					RECEIVED: 11/07/80 JA: OH			
8104944		3416725659	103		ALBERT PEPPEL #1	LIBERTY	12,8	COLUMBIA GAS TRANSMI
*MERIT OIL & GAS CO					RECEIVED: 11/07/80 JA: OH			
8104919		3408322650	103		KENNETH & MARJORIE SWENDAL #4	BROWN	4,0	
8104918		3408322649	103		KENNETH E & MARJORIE SWENDAL #5	BROWN	4,0	
8104916		3408322647	103		KENNETH SWENDAL #1	BROWN	4,0	
8104917		3408322648	103		STANTON & HARRIETT SAPP #1	BROWN	3,6	
*NEWPORT OIL & GAS CO LTD					RECEIVED: 11/07/80 JA: OH			
8104923		3410322028	103		MOURAD #1	GRANGER	25,0	COLUMBIA GAS TRANSMI
*ONEAL PRODUCTIONS INC					RECEIVED: 11/07/80 JA: OH			
8104927		3411521903	103		ADKINS #1	WINDSOR	62,0	COLUMBIA GAS TRANSMI
*PARTNERS OIL COMPANY					RECEIVED: 11/07/80 JA: OH			
8104911		3405922740	103		BROWN #1-80A	WESTLAND	20,0	EAST OHIO GAS CO
8104904		3405921831	103		ENOCHS #1-80A	KNOX	20,0	COLUMBIA GAS TRANSMI
8104921		3400923862	103		MCKEE #2-80A	BOWLING GREEN	20,0	COLUMBIA GAS TRANSMI
8104938		3412724783	103		WINEGARDNER #2-80A	THORN	20,0	NATIONAL GAS & OIL C
*PETROLEUM ENERGY DEVELOPMENT CORP					RECEIVED: 11/07/80 JA: OH			
8104903		3403124064	103		ALBERT R MAINES #2	TIVERTON	30,0	
8104930		3411925380	103		JOHN REVENNAUGH #1	RICH HILL	30,0	
*POI ENERGY INC					RECEIVED: 11/07/80 JA: OH			
8104900		3400721401	103		ROTH JEFFERSON #1	COLEBROOK	30,0	EAST OHIO GAS CO
8104901		3400721402	103		ROTH JEFFERSON #2	COLEBROOK	30,0	EAST OHIO GAS CO
*RAY C CHUTE					RECEIVED: 11/07/80 JA: OH			
8104912		3407322312	103		HAROLD & EDNA KNAPP #1	GREEN	0,3	COLUMBIA GAS TRANSMI
*RICHARD C POLING					RECEIVED: 11/07/80 JA: OH			
8104931		3411925394	103		KIRKBRIDE #1	NEWTON	5,0	
*TEMPLE OIL & GAS CO					RECEIVED: 11/07/80 JA: OH			
8104928		3411522088	103		WILLIAM GOUDE #3	YORK	10,0	
*THE CARTER JONES LUMBER CO					RECEIVED: 11/07/80 JA: OH			
8104937		3412122394	103		D PARRISH UNIT #3	OLIVE TOWNSHIP	15,0	
*TOWNER PETROLEUM CO					RECEIVED: 11/07/80 JA: OH			

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8104907		3405922074	108		APPERSON G-13		1.5	COLUMBIA GAS
8104936		3412122077	108		C MILL PPG-61		3.0	JONES & LAUGHLIN STE
8104910		3405922495	108		DEAN #1 PPG-62		11.0	JONES & LAUGHLIN STE
8104933		3412121757	108		J CROCK #1 G-6		6.0	EAST OHIO GAS CO
8104909		3405922226	108		JOHNSON H-35		4.0	HIERTON STEEL CO
8104935		3412121811	108		L GATES #1 OH-4		0.4	EAST OHIO GAS CO
8104934		3412121801	108		PARRY #1 B-2		5.0	EAST OHIO GAS CO
8104906		3405922070	108		SECREST G-12		8.7	COLUMBIA GAS
8104905		3405922032	108		SMITH PPG-6		2.0	PPG INDUSTRIES INC
8104932		3412121603	108		W PRYON #1		4.0	EAST OHIO GAS CO
8104908		3405922076	108		YONTZ G-10		4.5	COLUMBIA GAS
*VIKING RESOURCES CORP					RECEIVED: 11/07/80 JA: OH			
8104960		3415123283	103		GRIMES/ZELLER UNIT #1	WASHINGTON	30.0	
8104959		3415123284	103		GRIMES/ZELLER UNIT #2	WASHINGTON	30.0	
8104963		3413322336	103		SULLIVAN UNIT #1	DEERFIELD	30.0	
8104962		3413322337	103		SULLIVAN UNIT #2	DEERFIELD	30.0	
*WILLIAM N TIPKA					RECEIVED: 11/07/80 JA: OH			
8104954		3415723531	103		P DEBOER #1 WELL	WASHINGTON	20.0	EAST OHIO GAS CO

OKLAHOMA CORPORATION COMMISSION

*ANDOVER OIL COMPANY					RECEIVED: 11/06/80 JA: OK			
8104840	06082	3501721113	103		JENSEN #2-1	WILDCAT	185.0	DELMI GAS PIPELINE C
*APACHE CORPORATION					RECEIVED: 11/06/80 JA: OK			
8104841	06082	3512920444	102		MERRICK #6-31		730.0	MICHIGAN-WISCONSIN P
*BEARD OIL COMPANY					RECEIVED: 11/06/80 JA: OK			
8104858	06078	3511921054	105		BENTLEY #1	SOUTHEAST PARADISE	75.0	CITIES SERVICE GAS C
*BOBBY J DARNELL					RECEIVED: 11/06/80 JA: OK			
8104859	06079	3508321037	103		DUNSMORE #3	SOUTH MULHALL	13.0	EASON OIL CO
*CHASE EXPLORATION CORP					RECEIVED: 11/06/80 JA: OK			
*8104842	06063	3507121281	103		BERRIE 2-8		11.2	CITIES SERVICE GAS C
*8104843	06062	3507121271	103		BRANDON 1-3		32.6	CITIES SERVICE GAS C
*8104844	06061	3507121895	103		BRAZELTON 1-29		56.0	CITIES SERVICE GAS C
*8104845	06060	3507121167	103		MANN #1-16		12.2	CITIES SERVICE GAS C
*DALCO PETROLEUM INC					RECEIVED: 11/06/80 JA: OK			
8104846	06044	3507322275	103		HOFFMAN #1	SOONER TREND	91.2	DALCO PETROLEUM UB L
*KAISER-FRANCIS OIL COMPANY					RECEIVED: 11/06/80 JA: OK			
8104857	06074	3515120199	108		GASKILL #1	TEAGARDEN	4.0	PANHANDLE EASTERN PI
*KERR-MCGEE CORPORATION					RECEIVED: 11/06/80 JA: OK			
8104838	06168	3512120669	102		LEE SCOTT 1-31		0.0	
*L & T OIL & GAS INC					RECEIVED: 11/06/80 JA: OK			
8104856	05694	3510320894	103		CAMPBELL 34 NO 1	ORLAND	365.0	AMINOIL USA INC
8104855	05693	3507322258	103		FOX 31 NO 1	SOONER TREND	36.5	PHILLIPS PETROLEUM
8104847	05696	3507322241	103		FRANK 29 NO 1	SOONER TREND	36.5	PHILLIPS PETROLEUM C
8104853	05691	3507322281	103		HILL 28 NO 1	SOONER TREND	36.5	PHILLIPS PETROLEUM
8104852	05690	3507322202	103		KING 14 NO 1	SOONER TREND	18.5	PHILLIPS PETROLEUM
8104848	05695	3507322415	103		VILHAUER 4 NO 1	SOONER TREND	182.5	CITIES SERVICE GAS C
8104854	05692	3507322240	103		YOUNG 21	SOONER TREND	73.0	PHILLIPS PETROLEUM
*L G WILLIAMS OIL COMPANY INC					RECEIVED: 11/06/80 JA: OK			
*8104849	08988	3512920471	107		BESSIRE #29-1	W REYDON	0.0	MICHIGAN WISCON PIPE
*NOVA ENERGY CORPORATION					RECEIVED: 11/06/80 JA: OK			
8104839	06144	3505120069	102		S M TRUST #1-22	S E MINCO	0.0	DELMI GAS PIPELINE C
*TEEL PRODUCTION CO					RECEIVED: 11/06/80 JA: OK			

BILLING CODE 6450-85-C

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8104850	01355	35121000000	108		FEARS #4	WIRTH	2.8	PUBLIC SERVICE CO
8104851	01356	35121000000	108		FEARS #5	WIRTH	3.4	PUBLIC SERVICE CO

OTHER PURCHASERS VOLUME NO 8321

8104a42	CHASE GATHERING SYSTEMS, INC.
8104a43	CHASE GATHERING SYSTEMS INC
8104a44	CHASE GATHERING SYSTEMS INC
8104a45	CHASE GATHERING SYSTEMS INC
8104a49	EL PASO NATURAL GAS COMPANY
8104a61	NORTHWEST P L COMP
8104a64	NORTHWEST P L COMP
8104a73	EL PASO NATURAL GAS CO
8104a74	EL PASO NATURAL GAS CO
8104a83	EL PASO NATURAL GAS CO
8104a84	EL PASO NATURAL GAS CO
8104a85	EL PASO NATURAL GAS CO

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 11, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to those determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36798 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 322]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

November 20, 1980.

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**********************************************************************
   PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES
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=ADOBE OIL & GAS CORPORATION          RECEIVED: 11/10/80  JA: PA
 8104986   5831        3706521992 103   ALVIN E HOLPH #1                  CORSICA              20.0
 8104992   5837        3706522005 103   FORD A COOPER #1                  HANSAN               21.0
 8104985   5830        3712921580 103   FRANK R RANDOLPH #1               SALTSBURG            36.0
 8104970   5879        3712921440 103   FREDERICK B TRUXAL #1             UNITY                36.0
 8104991   5836        3706521991 103   HARRY J MITCHELL #1               REYNOLDSVILLE        36.0
 8104984   5829        3706522013 103   HERMAN E FROST #1                 MCCALMONT            36.0
 8104988   5833        3712921582 103   JAMES R CUNNINGHAM #1             SALTSBURG            36.0
 8104989   5834        3712921453 103   RONALD B YUVAN #1                 IRWIN                36.0
 8104987   5832        3706324873 103   VERA WALACH #1                    MCINTYRE             36.0
 8104990   5835        3706521826 103   WARREN R REYNOLDS #1              REYNOLDSVILLE        36.0
=BOYD & SHRIVER                       RECEIVED: 11/10/80  JA: PA
 8105002   5850        3706500000 108   150=REITZ                         ROSE                  1.0 NATIONAL FUEL GAS SU
 8105001   5849        3706500000 108   153=REITZ                         ROSE                  1.0 NATIONAL FUEL GAS SU
 8105000   5848        3706500000 108   156=REITZ                         ROSE                  1.2 NATIONAL FUEL GAS SU
 8104999   5847        3706500000 108   162=REITZ                         ROSE                  1.2 NATIONAL FUEL GAS SU
 8104998   5846        3706500000 108   165=JOINER                        ROSE                  1.0 NATIONAL FUEL GAS SU
=CONSOLIDATED GAS SUPPLY CORPORATION  RECEIVED: 11/10/80  JA: PA
 8104997   5845        3706322012 108   LOY R VITE WN=1263                BIG RUN=ROCHESTER MILLS  5.0 GENERAL SYSTEM PURCH
=ENERGY PRODUCTION CO                 RECEIVED: 11/10/80  JA: PA
 8104995   5840        3706325026 103   EARL PIPER NO 2                   PURCHASE LINE           86.4 COLUMBIA GAS TRANSMI
=FELMONT OIL CORPORATION              RECEIVED: 11/10/80  JA: PA
 8104976   5817        3706325263 103   DEE F BENNETT #1 F=257            SOUTH PINE             146.0
 8104977   5818        3706325210 103   I R SMITH #2 F=255                SOUTH PINE               0.0
 8104975   5816        3706325264 103   RAYMOND OFMAN #1 F=259            SOUTH PINE               0.0
 8104972   5813        3706325402 103   RONALD M LITTLE #1 F=265          SOUTH PINE             118.0
 8104971   4183        3706324715 103   RUSSELL E FOX #1 F=239            SOUTH PINE               0.0 COLUMBIA GAS TRANSMI
 8104974   5815        3706325265 103   WILLIAM R BENNETT #1 F=258        SOUTH PINE             141.0
 8104973   5814        3706325441 103   WILLIS R GRIFFITH #2 F=266        SOUTH PINE             365.0
=FRED J RUSSELL DBA LOUDEN PROPERTIE  RECEIVED: 11/10/80  JA: PA
 8104996   5842        3712921638 103   F O KEISTER 997=1                                        30.0 COLUMBIA GAS OF PENN
=MERIDIAN OIL & GAS ENT INC           RECEIVED: 11/10/80  JA: PA
 8104980   5825        3703920403 108   C J LORAINE WELL #1                                      5.0 NATL FUEL GAS DISTRI
 8104981   5826        3703920427 108   C J LORAINE WELL #2                                      2.5 NATL FUEL GAS DISTRI
 8104982   5827        3703920424 108   EARL R MICOLLS WELL #1                                   3.5 NATL FUEL GAS DISTRI
 8104979   5824        3703920390 108   F SCHWELLER WELL #1                                      2.0 NATL FUEL GAS DISTRI
 8104993   5838        3706342792 108   J A ARCHIBALD WELL #1                                    1.0 T W PHILLIPS GAS & O
 8104994   5839        3706342812 108   J A ARCHIBALD WELL #2                                   11.0 T W PHILLIPS GAS & O
 8104983   5828        3703920423 108   W H MAEMER WELL #4                                       2.0 NATL FUEL GAS DISTRI
 8104969   3553        3703940531 108   MICHAEL KOSS WELL #1                                     4.0 NATL FUEL GAS DISTRI
 8104978   5823        3703920389 108   R A MCCLINTON WELL #1                                    2.0 NATL FUEL GAS DISTRI
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 JD NO    TA DKT       API NO       SEC D WELL NAME                   FIELD NAME                PNOU  PURCHASER
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=UGI DEVELOPMENT CO                   RECEIVED: 11/10/80  JA: PA
 8104988   5842        3705322214 108   3188=17                       DEADMAN CORNERS             1.0 UGI CORP
**********************************************************************
   TEXAS RAILROAD COMMISSION
**********************************************************************
=AMARILLO OIL COMPANY                 RECEIVED: 11/10/80  JA: TX
 8105229   03845       4217900000 108   ZUEB #12 (026633)             PANHANDLE EAST             14.7 PIONEER NATURAL GAS
=AMERADA HESS CORPORATION             RECEIVED: 11/10/80  JA: TX
 8105063   00870       4216500823 108   ADAIR SAN ANDRES UNIT 02307   ADAIR                       0.3 PIONEER NATURAL GAS
 8105173   00923       4216500000 108   ADAIR SAN ANDRES UNIT 02308   ADAIR                       0.1 PIONEER NATURAL GAS
 8105172   00922       4244500000 108   ADAIR WOLFCAMP UNIT 01301     ADAIR                       2.6 PIONEER NATURAL GAS
 8105201   01615       4232900000 108   TEX=HARVEY SPRABERRY UNIT 0412 SPRABERRY TREND            0.1
 8105200   01613       4217300000 108   TEX=HARVEY SPRABERRY UNIT 0991 SPRABERRY TREND            0.0
=AMERICAN PETROFINA COMPANY OF TEXAS  RECEIVED: 11/10/80  JA: TX
 8105276   03367       4205730978 103   D W MEEKS ET AL NO 1          EAST SHERIFF (6800)       568.0 UNITED TEXAS TRANSMI
=AMOCO PRODUCTION CO                  RECEIVED: 11/10/80  JA: TX
 8105038   03138       4219500000 108   ARTHUR BERNSTEIN #3           SHAPLEY                     3.0 PHILLIPS PETROLEUM C
 8105030   03688       4230530890 103   CARTHAGE GAS UNIT 15 WELL NO 9 CARTHAGE (TRAVIS PEAK) 819.0 TENNESSEE GAS PIPELI
=8105080   00337       4203931366 103   FANNIE DRAKE #27              HASTINGS WEST              37.0 AMOCO GAS CO
 8105022   00035       4235531199 103   G H MCCANN NO 34              LUBY (G)                   84.0 VALLEY GAS TRANSMISS
 8105056   03472       4213533278 103   MIDLAND FARMS /AV/ #5         FASKEN/PENN/               35.0 PIONEER NATURAL GAS

 8105081   07978       4221530801 103   SOUTH WESLACO GAS UNIT NO 20  WESLACO SOUTH (6400)       10.0 C-T RANCHES LTD
=ANDERSON PETROLEUM INC               RECEIVED: 11/10/80  JA: TX
 8105285   03614       4210532368 103   FRANK WHITE A #1-85           OZONA (CANYON SAND)        20.0 ANDERSON PIPELINE CO
=ARCO OIL AND GAS COMPANY             RECEIVED: 11/10/80  JA: TX
 8105204   03817       4234100000 108   M L RUSSELL #1                WEST PANHANDLE             18.0 PANHANDLE EASTERN PI
=8105190   01450       4250131758 103   WILLARD UNIT WELL #2=B        HASSON                     23.4 SHELL OIL COMPANY
=8105192   01454       4250131769 103   WILLARD UNIT WELL #5=BX       HASSON                     30.0 SHELL OIL COMPANY
=8105191   01452       4250131756 103   WILLARD UNIT WELL #7=B        HASSON                     35.4 SHELL OIL COMPANY
=ARMLA EXPLORATION COMPANY            RECEIVED: 11/10/80  JA: TX
 8105182   01224       4236530806 102   FENDER #1                     CARTHAGE (COTTON VALLEY)  365.0 ARKANSAS LOUISIANA G
 8105194   01479       4236531007 102   GRIFFITH #1                   CARTHAGE (COTTON VALLEY)  180.0 ARKANSAS LOUISIANA G
 8105186   01229       4236530977 102   JOE WEDGEWORTH #1             CARTHAGE (COTTON VALLEY)  130.0 ARKANSAS LOUISIANA G
 8105181   01223       4236530932 102   M L DAVIS #1                  CARTHAGE (COTTON VALLEY)  365.0 ARKANSAS LOUISIANA G
 8105183   01225       4236530950 102   M MCJIMSEY #1                 CARTHAGE (COTTON VALLEY)  250.0 ARKANSAS LOUISIANA G
 8105184   01227       4236530883 102   PAGE #1                       CARTHAGE (COTTON VALLEY)  275.0 ARKANSAS LOUISIANA G
 8105185   01228       4236530904 102   SOAPE #1                      CARTHAGE (COTTON VALLEY)  450.0 ARKANSAS LOUISIANA G
 8105187   01230       4236530807 102   SOUTHLAND PAPER #1            CARTHAGE (COTTON VALLEY)  365.0 ARKANSAS LOUISIANA G
=BARBEE OIL EXPLORATION INC           RECEIVED: 11/10/80  JA: TX
 8105212   03320       4233700000 108   BANNER GREGG NO 1             SHARE B E (MORROW LOWER)   21.0 TRANSWESTERN PIPELIN
 8105213   03321       4233700000 108   BEATRICE CONNER NO 1 WELL     SHARE (MORROW UPPER)       16.0 TRANSWESTERN PIPELIN
=BILL FORNEY INC                      RECEIVED: 11/10/80  JA: TX
 8105220   02714       4229732074 102   NO 1 SUE HOUDMANN             CHANLINE (FORNEY 7)       700.0 TRANSCONTINENTAL GAS
 8105220   02714       4229732074 103   NO 1 SUE HOUDMANN             CHANLINE (FORNEY 7)       700.0 TRANSCONTINENTAL GAS
=BILL J GRAHAM                        RECEIVED: 11/10/80  JA: TX
 8105257   03482       4200300000 108   UNIVERSITY P #2 ARC 041971    SHAFTER LAKE YATES         18.0 PIONEER NATURAL GAS
=BLAIR OIL COMPANY                    RECEIVED: 11/10/80  JA: TX
 8105039   03868       4206530699 103   GREG WELL #1                  PANHANDLE CARBON            0.0 PANHANDLE EASTERN PI
=CHAMPLIN PETROLEUM COMPANY           RECEIVED: 11/10/80  JA: TX
 8105288   03610       4243130610 103   A M DUFF ESTATE NO 7          DOVE CREEK (CANYON D)      91.0 NORTHERN NATURAL GAS
 8105289   03369       4243130850 103   R L COPE NO 1                 CONGER SW (PENN)           60.0 NORTHERN NATURAL GAS
=CHAPARROSA OIL CO                    RECEIVED: 11/10/80  JA: TX
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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8105026	11050	4250730914	102		B K JOHNSON #5 ID #74303	EL BANO (SAN MIGUEL)	153,1	LOVACA GATHERING CO
8105024	11050	4250730914	103		B K JOHNSON #5 ID #74303	EL BANO (SAN MIGUEL)	153,1	LOVACA GATHERING CO
					RECEIVED: 11/10/80 JAI TX			
*CHAPMAN OIL CO								
8105082	19448	4233900000	102		PLATTE NO 1 WELL	SPLENDORA (YEGUA) FIELD	174,0	
8105082	19448	4233900000	103		PLATTE NO 1 WELL	SPLENDORA (YEGUA) FIELD	174,0	
					RECEIVED: 11/10/80 JAI TX			
*CHARLES L WALKER								
*8105253	23439	4200331850	102		FISHER 3 #1	BLOCK A-36 (SAN ANDRES)	30,2	PHILLIPS PETROLEUM C
*8105253	23439	4200331850	103		FISHER 3 #1	BLOCK A-36 (SAN ANDRES)	30,2	PHILLIPS PETROLEUM C
					RECEIVED: 11/10/80 JAI TX			
*CLAYTON W WILLIAMS JR								
8105028	13790	4247531850	103		BARBARA M WILLIAMS NO 1	SCOTT (DELAWARE)	185,0	TRANSWESTERN PIPELIN
					RECEIVED: 11/10/80 JAI TX			
*CLOVER ENERGY CORP								
8105240	23151	4226531202	102		KITTIE CLARK ESTATE #1	CLARK (FRIO 3050)	0,0	TEXAS EASTERN TRANSM
8105216	22387	4245730316	103		RICE INSTITUTE NO 2 (ID #85808)	MILLISTER EAST (WILCOX 8	180,0	HOUSTON PIPE LINE CO
					RECEIVED: 11/10/80 JAI TX			
*CONINCO AMERICAN INC								
8105163	20142	4235730796	103		CUDD #2	MCGEE (MURROW UPPER)	158,0	PANHANDLE EASTERN PI
					RECEIVED: 11/10/80 JAI TX			
*CONOCO INC								
8105166	20224	4217900000	108		CARRIE WRIGHT #7	GRAY-WHEELER	0,0	PHILLIPS PETROLEUM C
8105158	19786	4211500000	108		EAST ACKERLY DEAN UNIT #1 ID #60687	ACKERLY	7,4	TEXACO
8105046	18707	4210532443	108		EAST ACKERLY DEAN UNIT #47	ACKERLY / DEAN SAND	0,4	TEXACO
8105243	23293	4222700000	108		G O CHALK E #15 ID #02689	HOWARD GLASSCOCK	0,6	PHILLIPS PETROLEUM C
8105045	18536	4231700000	108		ODESSA DAVENPORT C #1 ID #16451	ACKERLY / DEAN	0,3	TEXACO INC
8105244	23294	4200330466	108		UNIVERSITY 5 #8 ID #01652	FUHRMAN-MASCHO	0,2	PHILLIPS PETROLEUM C
					RECEIVED: 11/10/80 JAI TX			
*DAVID A SCHLACHTER OIL & GAS								
8105003	03559	4230100000	108		WHEAT-RAMSEY TRACT A WELL #3	WHEAT FIELD	4,0	PHILLIPS PETROLEUM
					RECEIVED: 11/10/80 JAI TX			
*DELMI OIL CORP & NRM								
8105259	23484	4217130523	102		BDD RANCH NO 1	PEACH CREEK (AUSTIN CHAL	3650,0	TIPPERARY CORP
8105262	23487	4217100000	102		KELLEY UNIT NO 1	PEACH CREEK (AUSTIN CHAL	3650,0	TIPPERARY CORP
8105260	23485	4217130518	102		LANG NO 1	PEACH CREEK (AUSTIN CHAL	3650,0	TIPPERARY CORP
8105261	23486	4217130543	102		SIMPER UNIT NO 1	PEACH CREEK (AUSTIN CHAL	3650,0	TIPPERARY CORP
8105263	23488	4217130535	102		THORNTON UNIT NO 1	PEACH CREEK (AUSTIN CHAL	3650,0	TIPPERARY CORP
					RECEIVED: 11/10/80 JAI TX			
*DELTA DRILLING CO								
8105167	20367	4236500000	103		GUILL #2 ID #85694	CARTHAGE (COTTON VALLEY)	161,3	UNITED GAS PIPE LINE
8105202	21705	4236500000	102		J M TURNER #1	CARTHAGE (COTTON VALLEY)	73,0	UNITED GAS PIPELINE
8105202	21705	4236500000	103		J M TURNER #1	CARTHAGE (COTTON VALLEY)	73,0	UNITED GAS PIPELINE
*EL PASO NATURAL GAS COMPANY					RECEIVED: 11/10/80 JAI TX			
8105302	23816	4208726187	108		MC MURTRY A #1	PANHANDLE EAST-BROWN DUL	22,0	EL PASO NATURAL GAS
					RECEIVED: 11/10/80 JAI TX			
*ELF AQUITAINE INC								
8105252	23405	4247932151	102		CARR #1	CARR (WILCOX) (PROPOSED)	73,0	UNITED TEXAS TRANSMI
8105251	23404	4247932409	102		CARR #2	CARR (LOBO)(PROPOSED)	183,0	UNITED TEXAS TRANSMI
					RECEIVED: 11/10/80 JAI TX			
*ENERGY DEVELOPMENT CORPORATION								
8105210	22202	4205730914	102		PONDERMORN RANCH NO 2	PONDERMORN SW (FRIO 1020	1100,0	DOW CHEMICAL CO
8105210	22202	4205730914	103		PONDERMORN RANCH NO 2	PONDERMORN SW (FRIO 1020	1100,0	DOW CHEMICAL CO
					RECEIVED: 11/10/80 JAI TX			
*ENSERCH EXPLORATION INC								
8105169	20683	4249700000	108		CRAFT WATER BOARD UNIT 19 NO 1	BOUNSVILLE	9,0	LONE STAR GAS CO
8105250	23302	4226531457	102		M A POML NO 2	WORD N	562,0	VALERO TRANSMISSION
					RECEIVED: 11/10/80 JAI TX			
*ESTATE OIL & GAS CORP								
8105242	23175	4220330694	102		IVY WILLIAMS HEIRS GAS UNIT NO 2-T	LANSING NORTH (TRAVIS PE	777,4	TEJAS GAS CORP
					RECEIVED: 11/10/80 JAI TX			
*EXXETER PETROLEUM CORP								
8105210	22506	4247900000	102		MAIZLIP #2	LAREDO N (WILCOX)	60,0	TRANSCONTINENTAL GAS
					RECEIVED: 11/10/80 JAI TX			
*EXXON CORPORATION								
8105179	21122	4226100500	102		C M ARMSTRONG 54-F (86011)	CANDELARIA (J-20)	507,0	NATL GAS P/L CO OF A
8105204	23612	4216531707	103		EUBANKS CLFK UNIT #14	ROBERTSON N (CLFK 7100)	3,0	PHILLIPS PETROLEUM C

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8105199	P1363	4216531710	103		EXXON FEE EUBANKS GA #13	ROBERTSON N (CLFK 7100)	2,0	PHILLIPS PETROLEUM C
8105198	P1364	4200332111	103		FULLERTON CLFK UNIT #1325	FULLERTON	9,0	PHILLIPS PETROLEUM C
*8105197	P1363	4200332137	103		FULLERTON CLFK UNIT #1635	FULLERTON	1,3	PHILLIPS PETROLEUM C
8105275	P3562	4208130831	103		IAB UNIT #516	IAB (MENIELLE PENN)	50,0	SUN GAS CO
8105277	P3564	4210332441	103		J B TUBB A/C 1 #216U	BAND MILLS (JUDKINS)	28,0	EL PASO NATURAL GAS
8105205	P2004	4210332184	103		J B TUBB C #21L	BAND MILLS (TUBB)	93,0	EL PASO NATURAL GAS
8105206	P2005	4210332184	103		J B TUBB C #21U	BAND MILLS (MCKNIGHT)	31,0	EL PASO NATURAL GAS
8105283	P3611	4210332212	103		J B TUBB C #22U	BAND MILLS (MCKNIGHT)	59,0	EL PASO NATURAL GAS
8105281	P3609	4210332217	103		J B TUBB F #17L	BAND MILLS (TUBB)	58,0	EL PASO NATURAL GAS
8105274	P3560	4210332217	103		J B TUBB F #17U	BAND MILLS (MCKNIGHT)	36,0	EL PASO NATURAL GAS
8105161	P0123	4200331709	108		J E PARKER A/C 9 #88	THREE BAR (YATES)	11,0	NORTHERN NATURAL GAS
8105177	P1065	4224730913	102		MRS A M K GABB 42-D (09474)	KELSEY DEEP (ZONE 19-A S	6,0	TRUNKLINE GAS CO
8105273	P3559	4216531734	103		ROBERTSON CLFK UNIT #2502	ROBERTSON N (CLFK 7100)	16,0	PHILLIPS PETROLEUM C
8105272	P3558	4216531773	103		ROBERTSON CLFK UNIT #4702	ROBERTSON N (CLFK 7100)	16,0	PHILLIPS PETROLEUM C
8105178	P1130	4226130411	102		BOGU 138-D (09481)	BARITA (16-C W)	730,0	NATL GAS P/L CO OF A
8105276	P3563	4246131496	103		VINA VANCE #1	SPRABERRY (TREND AREA)	41,0	EL PASO NATURAL GAS
*F WILLIAM CARR					RECEIVED: 11/10/80 JAI TX			
8105034	16458	4229732013	102		GEORGE WEST ESTATE NO 3-L	GEORGE WEST WEST (8500)	120,0	TEXAS EASTERN TRANSM
8105034	16458	4229732013	103		GEORGE WEST ESTATE NO 3-L	GEORGE WEST WEST (8500)	120,0	TEXAS EASTERN TRANSM
8105035	16459	4229732013	102		GEORGE WEST ESTATE NO 3-U	GEORGE WEST WEST (8300)	700,0	TEXAS EASTERN TRANSM
8105035	16459	4229732013	103		GEORGE WEST ESTATE NO 3-U	GEORGE WEST WEST (8300)	700,0	TEXAS EASTERN TRANSM
*FAIRFIELD AM INC					RECEIVED: 11/10/80 JAI TX			
8105266	P3500	4235330883	103		GUEST A NO 3	ARLEDGE (PENN SAND)	150,0	SUN GAS CO
*FORCED GAS CO					RECEIVED: 11/10/80 JAI TX			
8105171	P0829	4226500000	108		FOERSTER JULIUS WELL NO 1	VIENNA (8400)	13,0	TEXAS EASTERN TRANSM
*GETTY OIL COMPANY					RECEIVED: 11/10/80 JAI TX			
8105286	P3632	4235300000	108		BOYD B NO 12	DORA NORTH	8,4	BID RICHARDSON CARBO
8105279	P3594	4237100000	103		MENDEL ESTATE 36 #8	GOMEZ (WOLFCAMP)	264,0	VALERO TRANSMISSION
8105280	P3598	4237100000	103		MENDEL 26 #1	GOMEZ (WOLFCAMP)	10,0	VALERO TRANSMISSION
8105264	P3498	4226531455	103		ROBERT HELMAN WELL #1	WORD	380,0	VALERO TRANSMISSION
8105247	P3335	4249531110	107		UNIVERSITY 7-H1 NO 1	WILDCAT	548,0	NATURAL GAS PIPELINE
*GILLRING OIL CO					RECEIVED: 11/10/80 JAI TX			
8105225	P3792	4235500000	108		ANDERSON L 3 (36184)	AGUA DULCE /5450/ FIELD	21,0	TENNESSEE GAS PIPELI
*GULF COAST MINERALS CO INC					RECEIVED: 11/10/80 JAI TX			
8105028	13998	4213132937	102		RUBEN SMITHWICK NO 1	JAM (1820)	720,0	UNITED GAS PIPELINE
*GULF OIL CORPORATION					RECEIVED: 11/10/80 JAI TX			
8105043	17118	4221120081	108		C J COOK #1	COOK = GEM / MORROW UPPE	15,0	CITIES SERVICE GAS C
8105155	19716	4223300000	108		C L DIAL ET AL NO 100	PANHANDLE HUTCHINSON	0,3	PHILLIPS PETROLEUM C
8105192	19712	4223300000	108		C L DIAL ET AL NO 103	PANHANDLE HUTCHINSON	3,0	PHILLIPS PETROLEUM C
8105154	19714	4223300000	108		C L DIAL ET AL NO 107	PANHANDLE HUTCHINSON	0,6	PHILLIPS PETROLEUM C
8105122	19672	4223300000	108		C L DIAL ET AL NO 122	PANHANDLE HUTCHINSON	1,0	PHILLIPS PETROLEUM C
8105121	19671	4223300000	108		C L DIAL ET AL NO 123	PANHANDLE HUTCHINSON	1,0	PHILLIPS PETROLEUM C
8105119	19669	4223300000	108		C L DIAL ET AL NO 124	PANHANDLE HUTCHINSON	1,0	PHILLIPS PETROLEUM C
8105126	19677	4223300000	108		C L DIAL ET AL NO 131	PANHANDLE HUTCHINSON	0,1	PHILLIPS PETROLEUM C
8105091	19634	4223300000	108		C L DIAL ET AL NO 138	PANHANDLE HUTCHINSON	0,1	PHILLIPS PETROLEUM C
8105090	19633	4223300000	108		C L DIAL ET AL NO 139	PANHANDLE HUTCHINSON	0,1	PHILLIPS PETROLEUM C
8105089	19632	4223300000	108		C L DIAL ET AL NO 141	PANHANDLE HUTCHINSON	0,1	PHILLIPS PETROLEUM C
8105088	19631	4223300000	108		C L DIAL ET AL NO 152	PANHANDLE HUTCHINSON	2,0	PHILLIPS PETROLEUM C
8105125	19676	4223300000	108		C L DIAL ET AL NO 156	PANHANDLE HUTCHINSON	3,0	PHILLIPS PETROLEUM C
8105085	19628	4223300000	108		C L DIAL ET AL NO 166	PANHANDLE HUTCHINSON	1,7	PHILLIPS PETROLEUM C
8105084	19627	4223300000	108		C L DIAL ET AL NO 170	PANHANDLE HUTCHINSON	2,0	PHILLIPS PETROLEUM C
8105123	19673	4223300000	108		C L DIAL ET AL NO 181	PANHANDLE HUTCHINSON	1,7	PHILLIPS PETROLEUM C

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8109133	19713	4223300000	108		C L DIAL ET AL NO 183	PANHANDLE MUTCHINSON	1.7	PHILLIPS PETROLEUM C
8109142	19699	4223300000	108		C L DIAL ET AL NO 184	PANHANDLE MUTCHINSON	0.1	PHILLIPS PETROLEUM C
8109124	19675	4223300000	108		C L DIAL ET AL NO 202	PANHANDLE MUTCHINSON	1.7	PHILLIPS PETROLEUM C
8109086	19629	4223300000	108		C L DIAL ET AL NO 203	PANHANDLE MUTCHINSON	1.7	PHILLIPS PETROLEUM C
8109087	19630	4223300000	108		C L DIAL ET AL NO 204	PANHANDLE MUTCHINSON	1.7	PHILLIPS PETROLEUM C
8109145	19700	4223300000	108		C L DIAL ET AL NO 212	PANHANDLE MUTCHINSON	1.7	PHILLIPS PETROLEUM C
8109146	19701	4223300000	108		C L DIAL ET AL NO 221	PANHANDLE MUTCHINSON	1.7	PHILLIPS PETROLEUM C
8109147	19702	4223300000	108		C L DIAL ET AL NO 222	PANHANDLE MUTCHINSON	1.7	PHILLIPS PETROLEUM C
8109148	19703	4223300000	108		C L DIAL ET AL NO 223	PANHANDLE MUTCHINSON	1.7	PHILLIPS PETROLEUM C
8109149	19704	4223300000	108		C L DIAL ET AL NO 225	PANHANDLE MUTCHINSON	1.7	PHILLIPS PETROLEUM C
8109150	13705	4223300000	108		C L DIAL ET AL NO 237	PANHANDLE MUTCHINSON	1.7	PHILLIPS PETROLEUM C
8109120	19670	4223300000	108		C L DIAL ET AL NO 238	PANHANDLE MUTCHINSON	1.7	PHILLIPS PETROLEUM C
8109140	19694	4223300000	108		C L DIAL ET AL NO 239	PANHANDLE MUTCHINSON	1.7	PHILLIPS PETROLEUM C
8109141	19695	4223300000	108		C L DIAL ET AL NO 240	PANHANDLE MUTCHINSON	1.7	PHILLIPS PETROLEUM C
8109110	19668	4223300000	108		C L DIAL ET AL NO 25	PANHANDLE MUTCHINSON	1.7	PHILLIPS PETROLEUM C
8109143	19696	4223300000	108		C L DIAL ET AL NO 257	PANHANDLE MUTCHINSON	1.5	PHILLIPS PETROLEUM C
8109144	19697	4223300000	108		C L DIAL ET AL NO 263	PANHANDLE MUTCHINSON	2.0	PHILLIPS PETROLEUM C
8109102	19650	4223300000	108		C L DIAL ET AL NO 266	PANHANDLE MUTCHINSON	0.1	PHILLIPS PETROLEUM C
8109103	19651	4223300000	108		C L DIAL ET AL NO 268	PANHANDLE MUTCHINSON	0.1	PHILLIPS PETROLEUM C
8109104	19652	4223300000	108		C L DIAL ET AL NO 269	PANHANDLE MUTCHINSON	0.1	PHILLIPS PETROLEUM C
8109151	9711	4223360082	108		C L DIAL ET AL NO 272	PANHANDLE MUTCHINSON	0.1	PHILLIPS PETROLEUM C
8109117	19667	4223300000	108		C L DIAL ET AL NO 30	PANHANDLE MUTCHINSON	1.5	PHILLIPS PETROLEUM C
8109116	19666	4223300000	108		C L DIAL ET AL NO 36	PANHANDLE MUTCHINSON	1.5	PHILLIPS PETROLEUM C
8109115	19664	4223300000	108		C L DIAL ET AL NO 39	PANHANDLE MUTCHINSON	1.5	PHILLIPS PETROLEUM C
8109092	19635	4223300000	108		C L DIAL ET AL NO 4	PANHANDLE MUTCHINSON	1.7	PHILLIPS PETROLEUM C
8109114	19663	4223300000	108		C L DIAL ET AL NO 40	PANHANDLE MUTCHINSON	3.0	PHILLIPS PETROLEUM C
8109113	19662	4223300000	108		C L DIAL ET AL NO 42	PANHANDLE MUTCHINSON	3.0	PHILLIPS PETROLEUM C
8109112	19661	4223300000	108		C L DIAL ET AL NO 43	PANHANDLE MUTCHINSON	2.0	PHILLIPS PETROLEUM C
8109111	19660	4223300000	108		C L DIAL ET AL NO 44	PANHANDLE MUTCHINSON	0.3	PHILLIPS PETROLEUM C
8109110	19659	4223300000	108		C L DIAL ET AL NO 45	PANHANDLE MUTCHINSON	1.7	PHILLIPS PETROLEUM C
8109109	19658	4223300000	108		C L DIAL ET AL NO 48	PANHANDLE MUTCHINSON	1.0	PHILLIPS PETROLEUM C
8109108	19657	4223300000	108		C L DIAL ET AL NO 49	PANHANDLE MUTCHINSON	1.0	PHILLIPS PETROLEUM C
8109127	19678	4223300000	108		C L DIAL ET AL NO 50	PANHANDLE MUTCHINSON	1.0	PHILLIPS PETROLEUM C
8109101	19648	4223300000	108		C L DIAL ET AL NO 62	PANHANDLE MUTCHINSON	0.3	PHILLIPS PETROLEUM C
8109100	19647	4223300000	108		C L DIAL ET AL NO 63	PANHANDLE MUTCHINSON	0.3	PHILLIPS PETROLEUM C
8109099	19646	4223300000	108		C L DIAL ET AL NO 64	PANHANDLE MUTCHINSON	0.3	PHILLIPS PETROLEUM C
8109098	19644	4223300000	108		C L DIAL ET AL NO 67	PANHANDLE MUTCHINSON	0.3	PHILLIPS PETROLEUM C
8109107	19656	4223300000	108		C L DIAL ET AL NO 68	PANHANDLE MUTCHINSON	0.1	PHILLIPS PETROLEUM C
8109097	19643	4223300000	108		C L DIAL ET AL NO 70	PANHANDLE MUTCHINSON	0.1	PHILLIPS PETROLEUM C
8109096	19642	4223300000	108		C L DIAL ET AL NO 71	PANHANDLE MUTCHINSON	0.1	PHILLIPS PETROLEUM C
8109095	19641	4223300000	108		C L DIAL ET AL NO 73	PANHANDLE MUTCHINSON	0.3	PHILLIPS PETROLEUM C
8109094	19640	4223300000	108		C L DIAL ET AL NO 74	PANHANDLE MUTCHINSON	0.3	PHILLIPS PETROLEUM C
8109093	19639	4223300000	108		C L DIAL ET AL NO 75	PANHANDLE MUTCHINSON	0.7	PHILLIPS PETROLEUM C
8109106	19655	4223300000	108		C L DIAL ET AL NO 79	PANHANDLE MUTCHINSON	3.0	PHILLIPS PETROLEUM C
8109105	19654	4223300000	108		C L DIAL ET AL NO 80	PANHANDLE MUTCHINSON	0.3	PHILLIPS PETROLEUM C
8109139	19693	4223300000	108		C L DIAL ET AL NO 81	PANHANDLE MUTCHINSON	0.3	PHILLIPS PETROLEUM C
8109138	19691	4223300000	108		C L DIAL ET AL NO 82	PANHANDLE MUTCHINSON	0.7	PHILLIPS PETROLEUM C
8109137	19690	4223300000	108		C L DIAL ET AL NO 83	PANHANDLE MUTCHINSON	0.1	PHILLIPS PETROLEUM C
8109136	19688	4223300000	108		C L DIAL ET AL NO 85	PANHANDLE MUTCHINSON	0.3	PHILLIPS PETROLEUM C
8109135	19687	4223300000	108		C L DIAL ET AL NO 86	PANHANDLE MUTCHINSON	0.3	PHILLIPS PETROLEUM C
8109134	19686	4223300000	108		C L DIAL ET AL NO 87	PANHANDLE MUTCHINSON	0.3	PHILLIPS PETROLEUM C
8109133	19685	4223300000	108		C L DIAL ET AL NO 88	PANHANDLE MUTCHINSON	0.3	PHILLIPS PETROLEUM C
8109132	19684	4223300000	108		C L DIAL ET AL NO 89	PANHANDLE MUTCHINSON	0.3	PHILLIPS PETROLEUM C

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8109131	19682	4223300000	108		C L DIAL ET AL NO 93	PANHANDLE MUTCHINSON	0.1	PHILLIPS PETROLEUM C
8109130	19681	4223300000	108		C L DIAL ET AL NO 94	PANHANDLE MUTCHINSON	0.1	PHILLIPS PETROLEUM C
8109129	19680	4223300000	108		C L DIAL ET AL NO 97	PANHANDLE MUTCHINSON	0.1	PHILLIPS PETROLEUM C
8109128	19679	4223300000	108		C L DIAL ET AL NO 98	PANHANDLE MUTCHINSON	1.0	PHILLIPS PETROLEUM C
*8109289	P3747	4240300000	108		CLARK J D C #2	PANHANDLE EAST	10.0	TRANSWESTERN PIPE LI
*8109290	P3748	4240300000	108		CLARK J D D #1	PANHANDLE EAST	8.0	TRANSWESTERN PIPE LI
*8109291	P3749	4240300000	108		GARDNER IDA #2	PANHANDLE EAST	2.5	TRANSWESTERN PIPE LI
8109056	18828	4223300000	108		MAILE /B/ #10	PANHANDLE MUTCHINSON	4.3	GETTY OIL CO
8109055	18829	4223300000	108		MAILE /B/ #12	PANHANDLE MUTCHINSON	4.3	GETTY OIL CO
8109054	18830	4223300000	108		MAILE /B/ #13	PANHANDLE MUTCHINSON	4.3	GETTY OIL CO
8109057	18838	4223300000	108		MAILE /B/ #17	PANHANDLE MUTCHINSON	4.3	GETTY OIL CO
8109048	18822	4223300000	108		MAILE /B/ #7	PANHANDLE MUTCHINSON	4.3	GETTY OIL CO
8109049	18823	4223300000	108		MAILE /B/ #8	PANHANDLE MUTCHINSON	4.3	GETTY OIL CO
8109051	18825	4223300000	108		MAILE /B/ #9	PANHANDLE MUTCHINSON	4.3	GETTY OIL CO
8109047	18821	4223300000	108		MAILE /C/ #6	PANHANDLE MUTCHINSON	4.3	GETTY OIL CO
8109050	18824	4223300000	108		MAILE /C/ #8	PANHANDLE MUTCHINSON	3.5	GETTY OIL CO
8109052	18826	4223300000	108		MAILE /C/ #9	PANHANDLE MUTCHINSON	3.5	GETTY OIL CO
8109066	18870	4223300000	108		MAILE /D/ #1	PANHANDLE MUTCHINSON	3.5	GETTY OIL CO
8109074	18878	4223300000	108		MAILE /D/ #10	PANHANDLE MUTCHINSON	4.5	GETTY OIL CO
8109073	18879	4223300000	108		MAILE /D/ #12	PANHANDLE MUTCHINSON	4.5	GETTY OIL CO
8109076	18880	4223300000	108		MAILE /D/ #13	PANHANDLE MUTCHINSON	4.5	GETTY OIL CO
8109077	18881	4223300000	108		MAILE /D/ #14	PANHANDLE MUTCHINSON	4.5	GETTY OIL CO
8109078	18882	4223300000	108		MAILE /D/ #15	PANHANDLE MUTCHINSON	4.5	GETTY OIL CO
8109067	18871	4223300000	108		MAILE /D/ #2	PANHANDLE MUTCHINSON	4.5	GETTY OIL CO
8109068	18872	4223300000	108		MAILE /D/ #3	PANHANDLE MUTCHINSON	4.5	GETTY OIL CO
8109069	18873	4223300000	108		MAILE /D/ #4	PANHANDLE MUTCHINSON	4.5	GETTY OIL CO
8109070	18874	4223300000	108		MAILE /D/ #5	PANHANDLE MUTCHINSON	4.5	GETTY OIL CO
8109071	18875	4223300000	108		MAILE /D/ #6	PANHANDLE MUTCHINSON	4.5	GETTY OIL CO
8109072	18876	4223300000	108		MAILE /D/ #7	PANHANDLE MUTCHINSON	4.5	GETTY OIL CO
8109073	18877	4223300000	108		MAILE /D/ #9	PANHANDLE MUTCHINSON	4.5	GETTY OIL CO
8109060	18860	4223300000	108		MAILE /E/ #1	PANHANDLE MUTCHINSON	4.5	GETTY OIL CO
8109065	18869	4223300000	108		MAILE /E/ #10	PANHANDLE MUTCHINSON	3.5	GETTY OIL CO
8109059	18859	4223300000	108		MAILE /E/ #12	PANHANDLE MUTCHINSON	3.5	GETTY OIL CO
8109061	18861	4223300000	108		MAILE /E/ #2	PANHANDLE MUTCHINSON	3.5	GETTY OIL CO
8109062	18862	4223300000	108		MAILE /E/ #3	PANHANDLE MUTCHINSON	3.5	GETTY OIL CO
8109063	18863	4223300000	108		MAILE /E/ #4	PANHANDLE MUTCHINSON	3.5	GETTY OIL CO
8109064	18864	4223300000	108		MAILE /E/ #5	PANHANDLE MUTCHINSON	3.5	GETTY OIL CO
8109053	18827	4223300000	108		MAILE A #10	PANHANDLE MUTCHINSON	3.5	GETTY OIL CO
8109058	18835	4217900000	108		MARRAH #8	PANHANDLE GRAY	4.0	GETTY OIL CO
*8109292	P3753	4240300000	108		MING MYRTLE #1	PANHANDLE EAST	11.0	TRANSWESTERN PIPE LI
*8109293	P3755	4240300000	108		MABBAY R A D #1	PANHANDLE EAST	9.0	TRANSWESTERN PIPE LI
*8109294	P3756	4240300000	108		MABBAY R A ET AL A #1	PANHANDLE EAST	8.0	TRANSWESTERN PIPE LI
*8109295	P3757	4240300000	108		MABBAY R A ET AL C #1	PANHANDLE EAST	8.0	TRANSWESTERN PIPE LI
*8109296	P3758	4240300000	108		MABBAY R A I & J #2	PANHANDLE EAST	8.0	TRANSWESTERN PIPE LI
8109040	16987	4206530609	103		B B BURNETT #107	PANHANDLE CARBON	3.0	PHILLIPS PETROLEUM C
8109041	16988	4206530608	103		B B BURNETT NO 108	PANHANDLE CARBON	3.0	PHILLIPS PETROLEUM C
*8109297	P3759	4240300000	108		BITTER B W D #1	PANHANDLE EAST	8.0	TRANSWESTERN PIPE LI
*8109298	P3760	4240300000	108		BITTER B W G #1	PANHANDLE EAST	3.0	TRANSWESTERN PIPE LI
*8109299	P3761	4240300000	108		WINBO B #2	PANHANDLE EAST	9.0	TRANSWESTERN PIPE LI
*8109300	P3762	4240300000	108		WUEBBER RUBY #1	PANHANDLE EAST	3.0	TRANSWESTERN PIPE LI
=H & L OPERATING COMPANY		RECEIVED: 11/10/80 JAS TX						
8109208	P2141	4219530706	103		LABATER #1 RRC #86210			
=H=M OIL Co		RECEIVED: 11/10/80 JAS TX						
8109217	P2440	4217531324	103		MARY ELIZABETH MARTIN #3			
=H E BRYAN		RECEIVED: 11/10/80 JAS TX						
8109163	P0179	4206530602	103		GRIMES NO 1-A			
=H L BROWN JR		RECEIVED: 11/10/80 JAS TX						
8109215	P2355	4231732103	103		SLAUGHTER-HANCOCK NO 3 WELL			
=HNG OIL COMPANY		RECEIVED: 11/10/80 JAS TX						

FIELD NAME	PROD	PURCHASER
HANSFORD (MORROW UPPER)	130.0	PANHANDLE EASTERN PI
WILDCAT (ABOVE 4000)	100.0	DELHI GAS PIPELINE C
PANHANDLE WEST	180.0	NORTHERN NATURAL GAS
SULPHUR DRAW (DEAN 3790)	36.9	GETTY OIL CO

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JD NO	TA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
8105033	16396	4235500000 103	CHAPMAN HEIRS A 844-2 72196	ARNOLD-DAVID M (FRIO LOW	9.0	HOUSTON PIPE LINE CO
8105033	16396	4235500000 108	CHAPMAN HEIRS A 844-2 72196	ARNOLD-DAVID M (FRIO LOW	9.0	HOUSTON PIPE LINE CO
8105856	p3483	4245530314 102	TEMPLE #3 86692	APPLE SPRINGS (GLEN ROSE	37.0	COLUMBIA GAS TRANSMI
8105856	p3483	4245530314 103	TEMPLE #3 86692	APPLE SPRINGS (GLEN ROSE	37.0	COLUMBIA GAS TRANSMI
*HOOVER & BRACKEN ENERGIES			RECEIVED: 11/10/80 JAS TX			
*8105162	p0136	4221131047 103	CAMPBELL #1-39	RED DEER CREEK SOUTH (MD	365.0	COLORADO INTERSTATE
*HOUSTON OIL & MINERALS CORPORATION			RECEIVED: 11/10/80 JAS TX			
8105814	p2323	4238331535 103	ELLEN MCDONNELL NO 2	SPRABERRY (TREND AREA)	0.0	UNION TEXAS PETROLEU
8105854	p3447	4238331537 103	MERCHANT ESTATE 16 #3	SPRABERRY (TREND AREA)	40.0	UNION TEXAS PETROLEU
*INLAND OCEAN INC			RECEIVED: 11/10/80 JAS TX			
8105038	j6748	4213100000 102	ROOS #2	LABBE B (WILCOX UP) FIEL	365.0	
8105038	j6748	4213100000 103	ROOS #2	LABBE B (WILCOX UP) FIEL	365.0	
*JAKE L HAMON			RECEIVED: 11/10/80 JAS TX			
8105251	p3020	4219031299 102	A R & S BRADLEY FEE #1	BRADLEY B	300.0	SOUTHWEST GATHERING
*JAMES M ROBBINS			RECEIVED: 11/10/80 JAS TX			
8105246	p3365	4245930444 103	VERA ROSE ETAL GAS UNIT WELL NO 1	ROSEWOOD (ROBBINS-COTTON	0.3	ADVANCE TRANSPORT AM
*JAY M FLOYD JR & ROBERT C FLOYD			RECEIVED: 11/10/80 JAS TX			
8105025	j3613	4232900000 103	DAVENPORT #4 07323	CALVIN (DEAN)	0.0	UNION OF TEXAS OIL C
*JENNINGS EXPLORATION CO			RECEIVED: 11/10/80 JAS TX			
8105246	p3333	4250731079 102	ELAINE BAND OIL UNIT II NO 1 05644	CEBOLLA (3660)	0.0	VALERO TRANSMISSION
*JOMAR-O'BRYEN INCORPORATED			RECEIVED: 11/10/80 JAS TX			
8105193	p1460	4207330377 102	B L STOCKTON #1	PERCY WHEELER (TRAVIS PE	548.0	UNITED GAS PIPE LINE
*KERR-MCGEE CORPORATION			RECEIVED: 11/10/80 JAS TX			
8105271	p3932	4223320759 103	COCKRELL WELL NO 20	PANHANDLE	7.0	GETTY OIL CO
*KILROY CO OF TEXAS INC			RECEIVED: 11/10/80 JAS TX			
8105189	p1439	4236130306 102	TEMPLE LUMBER CO NO 1	SHANNON (NODOSARIA)	365.0	UNITED TEXAS TRANSMI
*L E MINDHAM			RECEIVED: 11/10/80 JAS TX			
8105157	j6845	4213500000 108	J E PARKER A (EO) NO 3	HARPER	1.6	PHILLIPS PETROLEUM C
8105174	j6846	4213500000 108	J E PARKER A (EO) NO 4	HARPER	1.6	PHILLIPS PETROLEUM C
8105156	j6847	4213500000 108	J E PARKER A (EO) NO 5	HARPER	1.6	PHILLIPS PETROLEUM C
*LADD PETROLEUM CORPORATION			RECEIVED: 11/10/80 JAS TX			
8105006	n5567	4236731064 103	DURHAM UNIT #2	TOTO	211.7	LONE STAR GAS CO
*MEMBOURNE OIL COMPANY			RECEIVED: 11/10/80 JAS TX			
8105235	p3069	4229530749 103	PEERY #7 ID #04432	PEERY (HARNATON)	36.0	TRANSWESTERN PIPELIN
*MITCHELL ENERGY CORPORATION			RECEIVED: 11/10/80 JAS TX			
*8105081	j6417	4229330480 103	ARTHUR CLIFTON GAS UNIT #1 ID# N/A	PERRYMVILLE NORTH (CUTTO	100.0	LONE STAR GAS CO
*MOBIL OIL CORP			RECEIVED: 11/10/80 JAS TX			
8105032	j6275	4200331360 108	LETA JONES NO 4	FUHRMAN/MASCHO	7.1	PHILLIPS PETROLEUM C
*MOBIL PROD TEXAS & NEW MEXICO INC			RECEIVED: 11/10/80 JAS TX			
8105239	p3135	4217900000 108	BRADFORD UNIT NO 1	PANHANDLE WEST	16.0	NORTHERN NATURAL GAS
8105241	p3166	4217900000 108	E B REEVES #1	PANHANDLE EAST	20.4	COLTEXO CORP
8105236	p3090	4221932807 103	NORTH CENTRAL LEVELLAND UNIT #331	LEVELLAND	2.0	AMOCO PRODUCTION CO
8105270	p3528	4221932805 103	NORTH CENTRAL LEVELLAND UNIT NO 332	LEVELLAND	5.1	AMOCO PRODUCTION CO
8105245	p3304	4247531981 103	STATE AM NO 1	CAPRITO (DELWARE MIDDLE)	14.0	LONE STAR GAS CO
*PARAFFINE OIL CORP			RECEIVED: 11/10/80 JAS TX			
8105222	p2737	4205730962 102	P H WELDER D 1-U	KATIE WELDEN (L-7)	365.0	SEAGULL PIPELINE COR
8105222	p2737	4205730962 103	P H WELDER D 1-U	KATIE WELDEN (L-7)	365.0	SEAGULL PIPELINE COR
*PENNZOIL PRODUCING COMPANY			RECEIVED: 11/10/80 JAS TX			
8105195	p1506	4236530976 103	HULL UNIT NO B-2	CARTHAGE/COTTON VALLEY/	650.0	UNITED GAS PIPE LINE
8105265	p3499	4236530874 103	LILLY UNIT NO 2-C	CARTHAGE/TRAVIS PEAK	269.0	UNITED GAS PIPE LINE
*PETROLEUM TECHNICAL SERVICE CO			RECEIVED: 11/10/80 JAS TX			
8105029	j5526	4213533138 103	E F COWDEN 33 NO 1	COWDEN SOUTH	67.9	ODESSA NATURAL CORP
*PETRUS OPERATING CO INC			RECEIVED: 11/10/80 JAS TX			
8105196	p1527	4224500000 102	GALLAGHER NO 2	WILDCAT FIELD	365.0	
8105196	p1527	4224500000 103	GALLAGHER NO 2	WILDCAT FIELD	365.0	
*PHILLIPS PETROLEUM COMPANY			RECEIVED: 11/10/80 JAS TX			
8105224	p2813	4246103630 108	(03913) N PEMBROOK SPRABERRY 79-02	SPRABERRY (TREND AREA)	1.0	NORTHERN NATURAL GAS
8105227	p2813	4213507567 108	(08461) KLOH-B NO 11	COWDEN NORTH (DEEP)	3.0	AMOCO PRODUCTION CO

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JD NO	TA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
8105225	p2811	4213520284 108	(21556) N PENWELL NO 103	PENWELL	4.0	EL PASO NATURAL GAS
8105226	p2812	4213520048 108	(21556) N PENWELL NO 89	PENWELL	3.0	EL PASO NATURAL GAS
8105305	p7210	4219530301 108	MITCH F #3	MITCHLAND W	10.0	PANHANDLE EASTERN PI
8105042	j4937	4219530301 103	MITCH F NO 3	MITCHLAND W	180.0	PANHANDLE EASTERN PI
*8105284	p3644	4234100000 108	MOORE 66 #2	PANHANDLE = MOORE	8.4	EL PASO NATURAL GAS
*8105303	p3857	4242100000 108	STARNES G NO 1	TEXAS HUGOTON	20.0	EL PASO NATURAL GAS
8105207	p2056	4213533276 103	VINA BAGLEY NO 19	FOSTER	8.0	ODESSA NATURAL GASOL
*QUINTIN LITTLE CO			RECEIVED: 11/10/80 JAS TX			
8105170	p0811	4214903041 102	BALD EAGLE A-81	GIDDINGS (AUSTIN CHALK =	0.0	PHILLIPS PETROLEUM C
8105170	p0811	4214903041 103	BALD EAGLE A-81	GIDDINGS (AUSTIN CHALK =	0.0	PHILLIPS PETROLEUM C
8105079	j0300	4214930357 102	VICTORY HILLS UNIT #2	GIDDINGS (AUSTIN CHALK)	0.0	RESERVE GAS SYSTEMS
8105079	j0300	4214930357 103	VICTORY HILLS UNIT #2	GIDDINGS (AUSTIN CHALK)	0.0	RESERVE GAS SYSTEMS
*R C BLACK			RECEIVED: 11/10/80 JAS TX			
8105164	p0162	4249500000 108	BROWN & ALTMAN A/C #16	EMPEROR	14.9	WEST TEXAS GATHERING
*R E KIBBE			RECEIVED: 11/10/80 JAS TX			
8105044	j6020	4213133625 103	H A & M E MOOS #1-A	LA HUERTA NW (NEW YEARS)	182.5	VALLEY GAS TRANSMISS
*R H DIEGERT INC			RECEIVED: 11/10/80 JAS TX			
8105266	p3507	4249700000 108	R L MORRIS -A- (06978) NO 11	CHICO WEST (CADDO CONGL	0.0	NATURAL GAS PIPELINE
8105269	p3508	4249700000 108	R L MORRIS -A- (06978) NO 14	CHICO WEST (CADDO CONGL	0.0	NATURAL GAS PIPELINE
8105267	p3505	4249700000 108	R L MORRIS -A- (06978) NO 5	CHICO WEST (CADDO CONGL	0.0	NATURAL GAS PIPELINE
*R L BURNS CORP			RECEIVED: 11/10/80 JAS TX			
8105139	j0862	4243530168 108	L W HICKS #1	SAWYER (CANYON) FIELD	6.9	LOVACA GATHERING CO
*RICHARD & NEVILE BACK			RECEIVED: 11/10/80 JAS TX			
8105287	p3662	4217900000 108	KATE MORGAN ID #26457 #2	EAST PANHANDLE	15.0	PHILLIPS PETROLEUM
*ROBERT L VERETT ET AL OIL & GAS CO			RECEIVED: 11/10/80 JAS TX			
8105009	n5934	4217900000 108	WEBB A WELL #13 RRC #01393	PANHANDLE FIELD	1.3	PHILLIPS PETR CO
8105013	n5786	4217900000 108	WEBB A WELL #14 RRC #01718	PANHANDLE FIELD	1.3	PHILLIPS PET CO
8105015	n5788	4217900000 108	WEBB A WELL #15 RRC #01718	PANHANDLE FIELD	1.3	PHILLIPS PETRO CO
8105014	n5787	4217900000 108	WEBB A WELL #16 RRC #01718	PANHANDLE FIELD	1.3	PHILLIPS PETR CO
8105004	n5938	4217900000 108	WEBB A WELL #17 RRC #01393	PANHANDLE FIELD	1.3	PHILLIPS PETR CO
8105010	n5782	4217900000 108	WEBB A WELL #24 RRC #00558	PANHANDLE FIELD	1.3	PHILLIPS PETROLEUM C
8105011	n5784	4217900000 108	WEBB A WELL #25 RRC #00558	PANHANDLE FIELD	1.3	PHILLIPS PETR CO
8105016	n5799	4217900000 108	WEBB A WELL #26 RRC #01718	PANHANDLE FIELD	1.3	PHILLIPS PETR CO
8105012	n5785	4217900000 108	WEBB A WELL #28 RRC #00558	PANHANDLE FIELD	1.3	PHILLIPS PET CO
8105008	n5935	4217900000 108	WEBB A WELL #3 RRC #00558	PANHANDLE FIELD	1.3	PHILLIPS PETR CO
8105007	n5933	4217900000 108	WEBB A WELL #5 RRC #00558	PANHANDLE FIELD	1.3	PHILLIPS PETR CO
8105008	n5936	4217900000 108	WEBB A WELL #8 RRC #00558	PANHANDLE FIELD	1.3	PHILLIPS PETR CO
8105017	n5800	4217900000 108	WEBB A WELL #9 RRC #00558	PANHANDLE FIELD	1.3	PHILLIPS PETROLEUM C
*ROBERT M WYNNE			RECEIVED: 11/10/80 JAS TX			
8105209	p2197	4215100000 103	COX #1	CLAYTONVILLE CANYON SAND	0.0	
*RODMAN PETROLEUM CORP			RECEIVED: 11/10/80 JAS TX			
8105301	p3773	4210500000 108	ADA PIERCE NO 1	V I P (CLEARFORK)	13.0	NORTHERN NATURAL GAS
*SAMEDAN OIL CORPORATION			RECEIVED: 11/10/80 JAS TX			
8105168	p0593	4222530301 103	E FT TRINIDAD DEXTER C UT #5-2	EAST FORT TRINIDAD	110.0	LONE STAR GAS CO
*SHELL OIL CO			RECEIVED: 11/10/80 JAS TX			
8105232	p3030	4242731364 103	JUDD ESTATE-STATE NO 8	LACOPITA (VICKSBURG Z)	36.5	TENNESSEE GAS PIPELI
8105233	p3032	4236300000 108	RICKER 25 #2	SPRABERRY TREND	11.0	EL PASO NATURAL GAS
*SOUTHLAND ROYALTY CO			RECEIVED: 11/10/80 JAS TX			
8105186	p1240	4243500000 108	SHURLEY RANCH A #1	SHURLEY RANCH	18.0	EL PASO NATURAL GAS
8105160	p0000	4210300000 108	SOUTHLAND A #1	ATAPCO	0.1	PSP GAS PRODUCTS INC
*SOUTHWEST EXPLORATION INC			RECEIVED: 11/10/80 JAS TX			
8105180	p1132	4210100000 103	KREAGER NO 1	RIFENBURG 9400 DAVIS 910	80.0	CHEVRON USA INC
*SUN OIL COMPANY (DELAWARE)			RECEIVED: 11/10/80 JAS TX			
8105031	j6192	4216300000 108	C BROWN NO 13	EAST TEXAS	0.4	MOBIL OIL CORP
8105211	p2272	4208130637 103	CENTRAL NATIONAL BANK A NO 9	LYDAY	57.0	LONE STAR GAS CO
8105237	p3116	4210500000 108	NAN D GRIMMER NO 1	OZONA (CANYON SAND)	11.0	NORTHERN NATURAL GAS
8105203	p1615	4213500000 108	PAUL ROSS UNIT WELL# NO 100	COWDEN SOUTH	1.5	ODESSA NATURAL CORP
8105206	p1616	4213500000 108	PAUL ROSS UNIT WELL# NO 96	COWDEN SOUTH	1.5	ODESSA NATURAL CORP
8105219	p2669	4239131331 103	THOMAS OCONNOR NO 6	GRETA (4400)	40.0	UNITED TEXAS TRANSMI

The above notice of determination and for permission and approval to Commission's Rules of Practice and

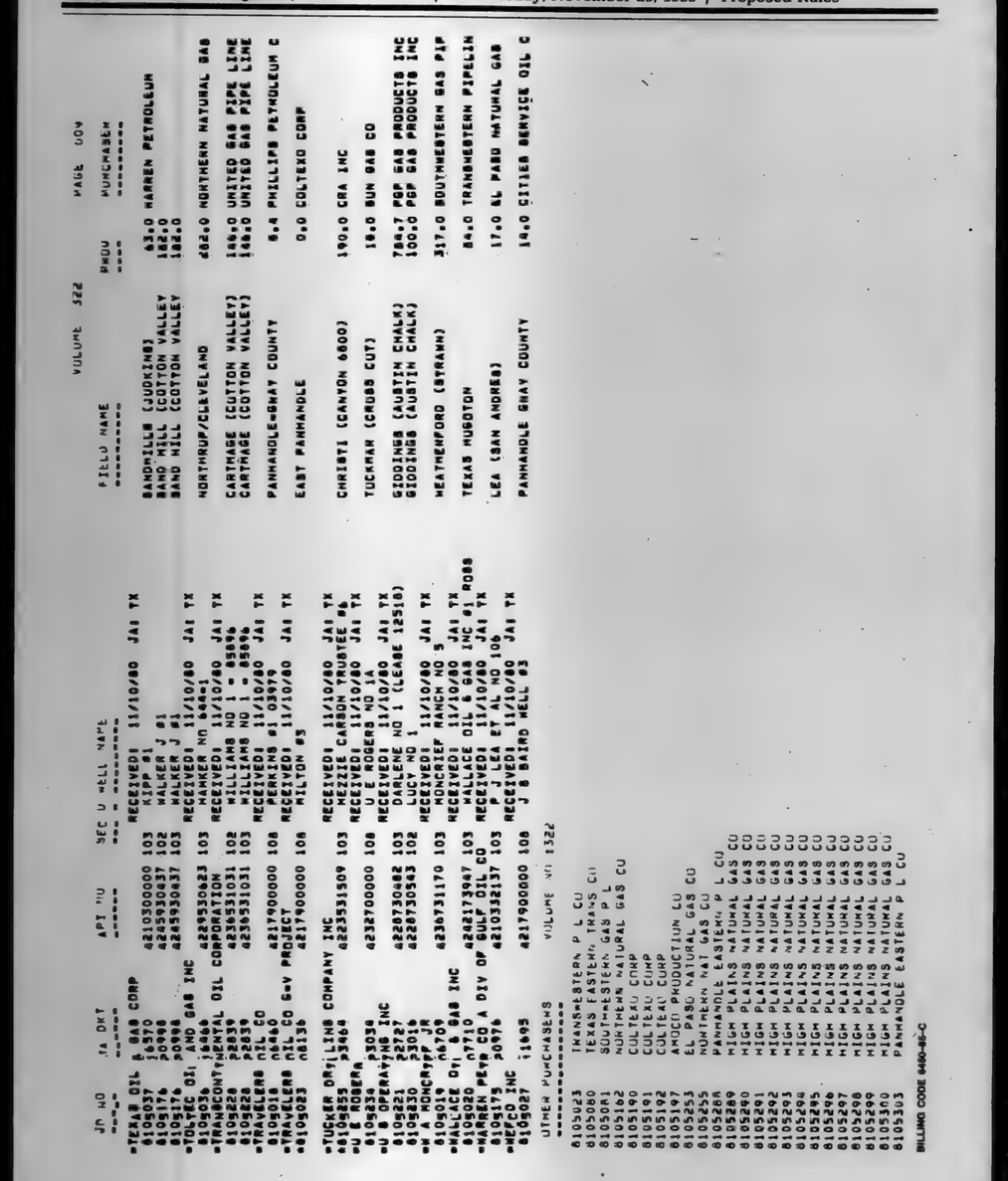

JD NO	DA DKT	API NO	SEC D WELL NAME	VOLUME SRC	PROD	PURCHASER
			FIELD NAME			
*TEXAS OIL & GAS CORP				RECEIVED: 11/10/80		
6109037	j6570	4210300000	103 KIPP #1		63.0	HARREN PETROLEUM
6109176	p0998	4245930837	102 WALKER J #1		182.0	
6109176	p0998	4245930837	103 WALKER J #1		182.0	
			BAND MILL (COTTON VALLEY			
*TOLTEC OIL AND GAS INC				RECEIVED: 11/10/80		
6109036	j6466	4229530823	103 HANKER NO 6404-1		602.0	NORTHERN NATURAL GAS
			NORTHRUP/CLEVELAND			
*TRANSCONTINENTAL OIL CORPORATION				RECEIVED: 11/10/80		
6109220	p2039	4236531031	102 WILLIAMS NO 1 - 9506L		140.0	UNITED GAS PIPE LINE
6109220	p2039	4236531031	103 WILLIAMS NO 1 - 9506L		140.0	UNITED GAS PIPE LINE
			CARTHAGE (COTTON VALLEY)			
*TRAVELERS OIL CO				RECEIVED: 11/10/80		
6109018	d6460	4217900000	106 PERKINS #1 03979		6.4	PHILLIPS PETROLEUM C
*TRAVELERS OIL CO GAS PROJECT				RECEIVED: 11/10/80		
*6109023	a8135	4217900000	106 MILTON #3		0.0	COLTEXO CORP
			EAST PANHANDLE			
*TUCKER DRILLING COMPANY INC				RECEIVED: 11/10/80		
*6109255	p3464	4223531509	103 MEZZIE CARBON TRUSTEE #6		190.0	CRA INC
			CHRISTI (CANYON 6800)			
*U E ROGERS				RECEIVED: 11/10/80		
6109234	p3039	4232700000	108 U E ROGERS NO 1A		18.0	SUN GAS CO
			TUCKMAN (CROSS CUT)			
*U S OPERATING INC				RECEIVED: 11/10/80		
6109221	p2727	4220730482	103 DARLENE NO 1 (LEASE 12518)		786.7	PGP GAS PRODUCTS INC
6109230	p3016	4220730543	102 LUCY NO 1		100.0	PGP GAS PRODUCTS INC
			GIDDINGS (AUSTIN CHALK)			
*W A MONCRIEF JR				RECEIVED: 11/10/80		
6109019	a6709	4230731170	103 MONCRIEF RANCH NO 5		317.0	SOUTHWESTERN GAS PIP
			HEATHENFORD (STRAWN)			
*WALLACE OIL & GAS INC				RECEIVED: 11/10/80		
6109020	n7710	4242173967	103 WALLACE OIL & GAS INC #1 ROSS		84.0	TRANSWESTERN PIPELIN
			TEXAS HUGOTON			
*WARREN PETR CO A DIV OF GULF OIL CO				RECEIVED: 11/10/80		
6109173	p0976	4210332137	103 P J LEA ET AL NO 106		17.0	EL PASO NATURAL GAS
			LEA (SAN ANDRES)			
*WEPCO INC				RECEIVED: 11/10/80		
6109027	j1695	4217900000	106 J B BAIRD WELL #3		14.0	CITIES SERVICE OIL C
			PANHANDLE GRAY COUNTY			

OTHER PURCHASERS VOLUME NO 8322

6109023	TRANSWESTERN P L CU		
6109060	TEXAS EASTERN TRANS CU		
6109061	SOUTHWESTERN GAS P L		
6109162	NORTHERN NAT GAS CU		
6109190	COLTEXO CORP		
6109191	COLTEXO CORP		
6109192	COLTEXO CORP		
6109197	AMOCO PRODUCTION CU		
6109253	EL PASO NATURAL GAS CU		
6109255	NORTHERN NAT GAS CU		
6109268	PANHANDLE EASTERN P L CU		
6109289	HIGH PLAINS NATURAL GAS CU		
6109290	HIGH PLAINS NATURAL GAS CU		
6109291	HIGH PLAINS NATURAL GAS CU		
6109292	HIGH PLAINS NATURAL GAS CU		
6109293	HIGH PLAINS NATURAL GAS CU		
6109294	HIGH PLAINS NATURAL GAS CU		
6109295	HIGH PLAINS NATURAL GAS CU		
6109296	HIGH PLAINS NATURAL GAS CU		
6109297	HIGH PLAINS NATURAL GAS CU		
6109298	HIGH PLAINS NATURAL GAS CU		
6109299	HIGH PLAINS NATURAL GAS CU		
6109300	HIGH PLAINS NATURAL GAS CU		
6109303	PANHANDLE EASTERN P L CU		

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 11, 1980.

Please reference the FERC Control Number (JD No) n all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36780 Filed 11-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. CP81-42-000]

Florida Gas Transmission Co., Application

November 19, 1980.

Take notice that on November 3, 1980, Florida Gas Transmission Company (Applicant), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP81-42-000 an application pursuant to Section 7 of the Natural Gas Act and paragraphs (c), (e) and (g) of Section 157.7 of the Regulations thereunder (18 CFR 157.7(c), 157.7(e) and 157.7(g)) (1) for a certificate of public convenience and necessity authorizing the construction, during the period, January 7, 1981, through December 31, 1981, and operation of facilities to make miscellaneous rearrangements on its system; (2) for permission and approval to abandon, during the period, January 7, 1981, through December 31, 1981, direct sales service and facilities no longer required for deliveries of natural gas to Applicant's customers; and, (3) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon for the period, January 7, 1981, through December 31, 1981, and operation of various field compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application pursuant to § 157.7(c) of the Regulations is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the transportation and sales service presently rendered by Applicant. Applicant stated that the total cost of the proposed miscellaneous rearrangements would not exceed $390,000 which would be financed from internally generated funds.

The states purpose of this budget-type application pursuant to § 157.7(e) of the Regulations is to augment Applicant's ability to act with reasonable dispatch in abandoning service and removing direct sales measuring, regulating, and related facilities. Applicant states that it would abandon service and facilities only when deliveries to any one direct sales customer would not have exceeded 100,000 Mcf of natural gas during the last year of service.

The application further states that Applicant would not abandon any service unless it would have received a written request or written permission from the customer to terminate service. In the event such request or permission could not be obtained, a statement certifying that the customer has no further need for service would be filed with the Commission.

The stated purpose of this budget-type application pursuant to § 157.7(g) of the Regulations is to enable Applicant to act with reasonable dispatch in constructing and abandoning facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application. Applicant states that the total cost of proposed construction and abandonment would not exceed $4,000,000 and no single project would exceed $970,000. Applicant states said cost would be financed from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 10, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificates and permission and approval for the proposed abandonments are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36803 Filed 11-25-80; 8:45 am]
BILLING CODE 6450-85-M

[Project No. 3473]

Jack M. Fuls; Application for Preliminary Permit

November 18, 1980.

Take notice that Mr. Jack M. Fuls of Portland, Oregon (Applicant) filed on September 16, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)-825(r)] for proposed Project No. 3473 to be known as Bend Diversion Dam Power Project located on the Deschutes River in Deschutes County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Jack M. Fuls, 4420 N.W. Malhuer Ave., Portland, Oregon 97229, or Mr. Erling T. Soli, Haner, Ross & Sporseen, Inc., 220 S.W. Alder St., Portland, Oregon, 97204. Any person who wishes to file a

response to this notice should read the entire notice and must comply with the

must submit to the Commission, on or before January 23, 1981, either the

Applicant specified in the first paragraph of this notice.

grant rehearing on any substantitive issues

published the Initial Inventory on June 1,

complying with other applicable

response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (a) the existing 35-foot high, 184-foot long concrete gravity Bend Diversion Dam across the Deschutes River; (b) an existing intake structure within the east abutment of the diversion dam; (c) an existing 300-foot long canal section; (d) a 300-foot long penstock; (e) a powerhouse containing two generating units with a rated capacity of 1,250 kW each (total capacity for the project: 2,500 kW); and (f) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 6.9 million kWh.

Purpose of Project—Project energy would be sold to a local utility company.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 36-month permit to prepare a project report including preliminary designs, results of geological, environmental, and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with the Federal, State, and local agencies, preparing a license application, conducting final field surveys, and preparing designs is estimated by the Applicant to be $40,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for licenses while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 23, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 24, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1)980).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR, 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 23, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests or petitions to intervene must bear in all capital letters the title "Comments", "Notice of Intent To File Competing Application", "Competing Application", "Protest", or "Petition to Intervene", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3473. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to:

Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36785 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-558]

Kanawha Valley Power Co.; Order Granting Rehearing for Further Consideration

Issued: November 19, 1980.

On July 31, 1980, Kanawha Valley Power Company (Kanawha) submitted a proposed increase in rates for the sale of power to its parent company, Appalachian Power Company (Appalachian). The proposed rates provided for increased revenues of approximately $570,498 for the twelve-month period ending December 31, 1980. Kanawha requested an effective date of October 1, 1980, for the revised rates. By order issued September 30, 1980, the Commission accepted the rates for filing and suspended them for five months to become effective March 1, 1981, subject to refund. No petitions to intervene were received in response to public notice of the filing.

On October 20, 1980, pursuant to § 1.34 of the Commission's regulations, Kanawha filed an application seeking reconsideration of the Commission's imposition of a five month suspension. Kanawha requested that the Commission Review its determination regarding the appropriate effective date in light of a settlement in principle which Kanawha expected to formalize and file with the Commission.

On October 24, 1980, Kanawha filed an offer of settlement under § 1.18(e) of the regulations. The settlement proposal has been executed by both Kanawha and its sole customer under the proposed rates. The settlement offer, which is predicated on an effective date of November 1, 1980, would reduce the proposed rate increase by approximately $106,382, for the test period.

In order to afford additional time for consideration of the application for rehearing in light of the proposed settlement, we shall grant rehearing for the limited purpose of further consideration. This also will enable the Commission to make an informed evaluation of the settlement offer and any comments which may be filed. Under § 1.34(d) of the Commission's regulations, no answers to the application for rehearing will be entertained since this order does not grant rehearing on any substantitive issues.

The Commission orders:

(A) Rehearing of Kanawha's application for rehearing is hereby granted for the limited purpose of further consideration.

(B) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36804 Filed 11-25-80; 8:45 am]

BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51174; TSH FRL 1682-2]

Certain Chemicals, Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of six PMN's and provides a summary of each.

DATES: Written comments by December 26, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460, (202-755-8050).

FOR FURTHER INFORMATION CONTACT: George Bagley, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-210, 401 M St., SW., Washington, DC 20460, (202-426-3936).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 505444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use, the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before December 26, 1980, submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-51174]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: November 18, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80-295

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period.

January 25, 1981.

Manufacturer's Identity.

Claimed confidential business information. Generic information provided:

Annual sales—In excess of $500 million.

Manufacturing site—Northeast U.S.

V 45 N 0 26 80 0 UMI

Specific Chemical Identity.

Claimed confidential business information. Generic name provided: Disubstitutednitrobenzene. *Use.* Chemical intermediate.

Production Estimates.

The manufacturer estimates that 25–100 kg of the new substance will be produced during each of the first three years.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (unit: mg/m³)	
			Hours/day	Days/year	Average	Peak
Manufacture	Dermal, inhalation.	[1]18	16	250	1–10	10–100
Processing	Dermal, inhalation.	[1]21	16	250	1.10	10–100

[1] Total all shifts.

Disposal. The manufacturer states that less than 60 kg of the substance will be released to the environment and that all liquid and solid wastes generated, apart from wastewater streams approved for discharge into the publicly owned treatment plants (POTW), will be drummed for destruction in a licensed thermal oxidizer or for disposal in a licensed chemically secure landfill, or for treatment or recovery.

PMN 80–296.

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 25, 1981.

Manufacturer's Identity. Claimed confidential business information. Generic information provided:

Annual sales—In excess of $500 million.

Manufacturing site—Northeast U.S.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (unit: mg/m³)	
			Hours/day	Days/year	Average	Peak
Manufacture	Inhalation, Dermal.	[1]3	8	250	0–1	0–1
Processing	Inhalation, Dermal.	[1]28	24	250	0–1	0–1
Use	Inhalation, Dermal.	[1]25	24	250	0–1	0–1

[1] Total all shifts.

Physical/Chemical Properties.

Melting point—<0°C.
Density—>1.1 gm/cc.

Vapor pressure—Betwen 10 and 100 torr at 87°C.

Boiling point—>200°C.

Toxicity Data.

No data were submitted.

Environmental Release/Disposal.

Manufacture:

Media—Amount of chemical release (kg/yr).
Air—<10.
Land—<10–100.
Water—<10.

The manufacturer states that: Wastes generated, apart from those waste-water streams approved for discharge into the POTW, will be drummed for destruction in a licensed thermal oxidizer or for disposal in a licensed chemically secure landfill, or for treatment or recovery; waste-water streams are treated in an on-site waste treatment plant before release to the POTW, including floculation and clarification.

PMN 80–297

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 25, 1981.

Manufacturer's Indentity. Claimed confidential business information. Generic information provided:

Annual Sales—In excess $500 million.

Manufacturing site—Northeast U.S.

Specific Chemical Indentity. Claimed confidential business information. Generic name provided. Ethyl, substituted, methylheteropolycycle tosylate.

Use. Chemical intermediate.

Production Estimates. The manufacturer estimates that 25–100 kg of the new substance will be produced during each of the first three years.

Physical/Chemical Properties.

Melting point is >100°C.

Toxicity Data. No data were submitted

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Ethyl, substituted, (((sulfopropyl) heteropolycyclic)methyl) alkenyl heteropolycycle.

Use. Claimed confidential business information. Generic information provided: The manufacturer states that the new substance will be produced and processed in a way that will release less than 50 kg of the substance to the environment per year; that the end-use will involve incorporation of the chemical into consumer article.

Production Estimates. The manufacturer estimates that 25–100 kg of the new substance will be produced during each of the first three years.

Physical/Chemical Properties.

Melting point is >100°C.

Toxicity Data. No data were submitted.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (unit: mg/m³)	
			Hours/day	Days/year	Average	Peak
Manufacture	Inhalation, Dermal.	[1]3	8	250	0–1	0–1
Processing	Inhalation, Dermal.	[1]3	8	250	0–1	0–1

[1] Total all shifts.

Environmental Release/Disposal. The manufacturer states that less than 30 kg of the new substance will be released to the environment per year and that all liquid and solid wastes generated, apart from those waste-water streams approved for discharge into the POTW, will be drummed for destruction in a licensed thermal oxidizer or for disposal in a licensed chemically secure landfill, or for treatment or recovery.

PMN 80–298.

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period.

January 25, 1981.

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (unit: mg/m³)	
			Hours/day	Days/year	Average	Peak
Manufacture	Inhalation, dermal.	[1]3	8	250	0–1	0–1
Processing	Inhalation, dermal.	[1]3	8	250	0–1	0–1

[1] Total all shifts

Environmental Release/Disposal.

The manufacturer states that less than 30 kg of the new substance will be released to the environment per year and that all liquid and solid wastes generated, apart from those wastewater streams approved for discaharge into the POTW will be drummed for destruction in a licensed thermal oxidizer or for disposal in a licensed chemicaly secure landfill, or for treatment or recovery.

PMN 80–299.

The following summary is taken from data submitted by the importer in the PMN.

Close of Review Period.

January 25, 1981.

Importer's Identity.

Claimed confidential business information. Generic information provided:

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (unit: mg/m³)	
			Hours/day	Days/year	Average	Peak
Processing	Dermal; inhalation.	[1]18	16	250	1–10	10–100

[1] Total all shifts.

Manufacturer's Identity.

Claimed confidential business information. Generic name provided: Substituted, methylheteropolycycle.

Use.

Chemical intermediate.

Production Estimates.

The manufacturer estimates that 25–100 kg of the new substance will be produced during the first three years.

Physical/Chemical Properties.

Vapor pressure—Between 1 and 10 torr at 83°C.

Density—>1.0 gm/cc.

Toxicity Data.

No data were submitted.

Annual sales—In excess of $500 million.

Specific Chemical Identity.

Claimed confidential business information. Generic name provided: Disubstituted benzene.

Use.

Chemical intermediate.

Import Estimates.

The importer estimates that 25–100 kg of the new substance will be imported during each of the first three years.

Physical/Chemical Properties

Density—1.1.
Melting point—<0°C.
Boiling point—Between 50°C and 100°C.

Toxicity Data.

No data were submitted.

Environmental Release/ Disposal.

The manufacturer states that less than 30 kg of the new substance will be released to the environment per year and that all liquid and solid wastes generated by this processing, apart from those waste-water streams which are approved for discharge into the POTW, will be drummed for destruction in a licensed thermal oxidizer or for disposal in a licensed chemically secure landfill, or for treatment or recovery.

PMN 80–300

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period.

January 25, 1981. Manufacturer's Identity. Claimed confidential business information. Generic information provided:

Annual Sales—In excess of $500 million.

Manufacturing site—Northeast U.S.

Specific Chemical Identity.

Claimed confidential business information. Generic name provided: Bis(Nitro, substituted-phenyl) substituent.

Use.

Chemical intermediate.

Production Estimates.

The manufacturer estimates that 25–100 kg of the new substance will be produced during each of the first three years.

Physical/Chemical Properties.

Melting point is>100°C.

Toxicity Data.

No data were submitted.

Exposure.

4. A maximum of six applications is

17. All applicable directions, restrictions, and precautions on the

162.6). Notice of receipt of this application does not indicate a decision

Ohio. The experimental use permit is effective from October 8, 1980 to June 30

Exposure.

Activity	Exposure route	Maximum number exposed	Maximum duration		Concentration (unit: mg/m³)	
			Hours/day	Days/year	Average	Peak
Manufacture	Inhalation, dermal.	Site	Dependent		1–10	10–100
Processing	Inhalation, dermal.	Site	Dependent		1–10	10–100

Environmental Release/Disposal.

The manufacturer states that less than 30 kg of the new substance will be released to the environment per year and that all liquid and solid wastes generated, apart from those waste-water streams approved for discharge into the POTW, will be drummed for destruction in a licensed thermal oxidizer or for disposal in a licensed chemically secure landfill, or for treatment or recovery.

[FR Doc. 80-36846 Filed 11-25-80; 8:45 am]

BILLING CODE 6560-31-M

[OPP-180524; PH-FRL 1682-3]

Connecticut; Issuance of Specific Exemption for Fenvalerate on Cabbage and Cauliflower

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted permission to the Connecticut Department of Environmental Protection (hereafter referred to as the "Applicant") to use fenvalerate to control the cabbage looper and cabbageworm on 2,000 acres of cabbage and cauliflower in Connecticut. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on November 30, 1980.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Registration Division (TS–767), Office of Pesticide Programs, Evironmental Protection Agency, Rm: E–124, 401 M St., SW., Washington, D.C. 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: According to the Applicant, the cabbage looper is a serious economic pest of commercially produced cabbage. The cabbage looper is the most difficult cabbage pest to control, and occurs annually in destructive numbers. Effective control is needed throughout the season since poor control during any portion resulst in more adults to attack before the crop has matured. Connecticut grows cabbage for the fresh market only; therefore, the Applicant states, heads with damage must be destroyed. In addition, Connecticut farmers double-crop their cabbage due to the long growing season for this crop. The Applicant states that heavy infestations are already destroying the first crop. The second crop will be planted with heavy infestations of the pest already present. The Applicant estimates a loss of 14 to 85 percent of the cabbage and cauliflower crops, if an effective control program is not available this season. Use of fenvalerate is expected to cut losses from 80 to 5 percent.

The Applicant states that with the possible exception of Monitor, none of the currently registered compounds has been effective and they are not providing adequate control. While Monitor generally controls the pests., the Applicant reports, it may not be used within 35 days of harvest. This pre-harvest interval is a critical period for cabbage and cauliflower due to the unusually high infestation of the cabbage looper.

The Applicant proposed to apply fenvalerate at a rate of 0.05 to 0.1 pound per acre using the product Pydrin, manufactured by Shell Chemical Company.

EPA had determined that residues of fenvalerate from the proposed use should not exceed 2.0 parts per million (ppm) in cabbage or 1.0 ppm in cauliflower. These levels have been judged by the EPA to be adequate to protect the public health. EPA has also determined that the proposed use should not have an unreasonable adverse effect on the environment.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until November 30, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Pydrin (EPA Reg. No. 201–401) manufactured by Shell Chemical Company may be used.
2. Total acreage of cabbage and cauliflower may not exceed 2,000 acres.
3. A maximum of 1,200 pounds of active ingredient may be applied at a maximum rate of 0.05 to 0.1 pound active ingredient per acre.
4. A maximum of six applications is authorized.
5. A seven-day pre-harvest interval is imposed.
6. All applications must be made by State-certified commercial applicators or by qualified growers.
7. Root crops may not be planted in treated fields for 12 months after application. A 60-day crop rotation restriction is imposed for any other crop.
8. Fenvalerate will be applied by ground equipment in a spray volume of 20 to 100 gallons per acre.
9. Fenvalerate may be applied to cabbage or cauliflower fields when fields are to be harvested within 45-days and a State entomologist has determined that:
   a. A major infestation of cabbage loopers or cabbageworms exists.
   b. Registered pesticides are not controlling the cabbage looper or cabbageworm.
   c. Significant economic losses to cabbage or cauliflower growers will occur.
10. It is recommended that fenvalerate not be applied any closer to fish-bearing fresh waters than 100 feet (at the 0.05 lb. a.i. rate) and 200 feet (at the 0.1 lb. a.i. rate). Application closer than these may result in fish and/or other aquatic organism kills.
11. Participants are to be notified of their obligation to report any and all adverse effects on non-target organisms arising from the use of this product. The EPA shall be immediately informed of any adverse effects resulting from the proposed use.
12. Precautions must be taken to avoid or minimize spray drift to non-target areas.
13. This product is highly toxic to bees exposed to direct treatment or to residues on crops or weeds in bloom on which significant numbers of bees are actively foraging. Protective information may be obtained from the State Cooperative Agriculture Extension Service.
14. Fenvalerate is extremely toxic to fish and aquatic invertebrates. It must be kept out of lakes, streams, ponds, tidal marshes and estuaries. Care must be taken to prevent contamination of water by cleaning of equipment or disposing of waste.
15. Cabbage with residues of fenvalerate not exceeding 2 ppm and cauliflower with residues of fenvalerate not exceeding 1 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, had been advised of this action.
16. Cabbage trimmings from treated fields must not be fed to livestock.
17. All applicable directions, restrictions, and precautions on the product label must be adhered to.
18. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a final report summarizing the results of this program by February 26, 1981.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: November 19, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-36847 Filed 11-25-80; 8:45 am]

BILLING CODE 6560-30-M

[OPP-C30193; PH-FRL 1682-6]

Herculite Products, Inc.; Application to Conditionally Register Pesticide Product Containing a New Active Ingredient

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Herculite Products, Inc. has submitted an application to conditionally register a pesticide product CHECKMATE, which contains the active ingredient (*Z*)–9–dodecenyl acetate at 6.72 percent and (*E*)–9–dodecenyl acetate at 1.68 percent, which has not been included in any previously registered pesticide product.

DATE: Comments must be received on or before December 26, 1980, and should bear a notation indicating the EPA registration number.

ADDRESS: Written comments to: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–341, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee (202–755–1150).

SUPPLEMENTARY INFORMATION: Herculite Products, Inc., 1107 Broadway, New York, NY 10010, has submitted an application to register the pesticide product CHECKMATE (EPA Registraton No. 8730–EN) containing (*Z*)–9–dodecenyl acetate and (*E*)–9–dodecenyl acetate. The application proposes that the product be conditionally registered to disrupt the mating of western pine shoot borers. The proposed classification is for general use.

This application is made pursuant to the provisions of the Federal insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) and the regulations thereunder (40 CFR 162.6). Notice of receipt of this application does not indicate a decision by the agency on the application. Interested persons are invited to submit written comments on the application referred to in this notice.

Notice of approval or denial of this application will be announced in the **Federal Register**. Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) and the regulations thereunder (40 CFR 162.6), the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved.

(Sec. 3(c) 86 Stat. 972 (7 U.S.C. 136a))

Dated: November 18, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-36849 Filed 11-25-80; 8:45 am]

BILLING CODE 6560-23-M

[OPP-50508; PH-FRL- 1682-7]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: The designated product manager at the telephone number given in each permit at the following address: Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

40546–EUP–1. Fisons Inc., Two Preston Court, Bedford, MA 01730. This experimental use permit allows the use of 2,300 pounds of the pesticide Norton in the following mixtures: Norton Flowable—Ethofumesate in tank mix with Betanal—Phenmedipham and/or Betanex—Desmedipham for evaluation of postemergence weed control in sugar beets. A total of 2,300 acres are involved. The program is authorized only in the States of California, Colorado, Idaho, Michigan, Minnesota, Montana, Nebraska, North Dakota, and Ohio. The experimental use permit is effective from October 9, 1980 to June 30, 1982. Permanent tolerances have been established for Ethofumesate under 40 CFR 180.345, Phenmedipham under 40 CFR 180.278, and Desmedipham under 40 CFR 180.353. (PM 23, Richard F. Mountfort, Rm. E–351, 202–755–1397).

239–EUP–83. Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804. This experiment use permit allows the use of 3,300 pounds of the insecticide, acephate on almond orchards to evaluate control of the navel orangeworm. A total of 1,000 acres are involved. The program is authorized only in the State of California. The program is effective from October 6, 1980 to October 6, 1981. A temporary tolerance has been established for residues of acephate in or on almonds. (PM 16, William H. Miller, Rm. E–343, 202–426–9458).

524–EUP–53. Monsanto Co., 1101 17th St. NW., Washington, D.C. 20036. This experimental use permit allows the use of 8,745 pounds of the herbicide glyphosate on noncrop, fallow, or State seedbeds prior to planting barley, cotton, oats, rye, and wheat to evaluate control of weeds. A total of 11,660 acres are involved. The program is authorized only in the States of California, Colorado, Idaho, Kansas, Montana, Nebraska, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Washington, and Wyoming. This experimental use permit is effective from October 9, 1980 to October 9, 1982. A permanent tolerance has been established for residues of glyphosate in or on the above raw agricultural commodities under 40 CFR 180.364. (PM 25, Robert J. Taylor, Rm. E–359, 202–755–2196).

Persons wishing to review these experimental use permits are referred to the designated product manager cited in each permit. Inquiries regarding these permits should be directed to the persons listed above. It is suggested that interested persons call before visiting the EPA Headquarters office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819 as amended; (21 U.S.C. 136))

Dated: November 14, 1980.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 80-36850 Filed 11-25-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180525; PH FRL 1682-8]

1. The product Difolantan 4F, EPA

determined may present unreasonable

individuals may submit single copies of

[OPP-180525; PH FRL 1682-8]

New Jersey; Issuance of Specific Exemption for Captafol on Eggplants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the New Jersey Department of Environmental Protection (hereafter referred toas the "Applicant") for the use of captafol to control phytophthora blight and fruit rot on a maximum of 1,020 acres of eggplant in New Jersey. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on November 15, 1980.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS-767), Office of Pesticide Programs, Enviromental Protection Agency, Room E-107, 401 M St., SW., Washington, D.C. 20460, (202-426-0223).

SUPPLEMENTARY INFORMATION: The fungus *Phytophthora capsici* causes serve plant loss and fruit rot to eggplants. The Applicant claims that presently registered fungicides, including C-O-C-S, copper tetra calcium oxychloride, and zineb, have been used for many years but have not been effective in control. Ridging has also been used in the past and will provide effective control, but only of the collar rot phase, not the foliage blight and fruit rot phases, according to the Applicant. The Applicant claims that without the use of captafol, direct losses could reach $4, $450,000.

The applicant proposed to use a maximum of 4,500 pounds of the active ingredient (a.i.) captafol. A maximum of 5 applications of Difolatan 4F, applied by State-certified applicators using ground or aerial equipment, was proposed.

EPA has determined that residues of captafol in or on eggplants should not exceed 10 parts per million (ppm) from the proposed use. This residue level has been judged adequate to protect the public health. This use of captafol is not expected to pose an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until November 15, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Difolantan 4F, EPA Reg. No. 239-2211, may be used. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label.

2. A maximum of 5 applications may be made at a rate of 3 pints of formulation (1.5 pounds a.i.) per acre.

3. The first application may be made when the disease is predicted to occur. Subsequent applications may be made at 10-day intervals.

4. No application will be made within 4 days of harvest.

5. A maximum of 1,020 acres of eggplant may be treated.

6. A maximum of 4,500 pounds a.i. may be used.

7. Applications will be made by State-certified applicators using either ground or aerial equipment.

8. Residue levels of captafol and its metabolites from the above application are not expected to exceed 10 ppm in or on eggplants. Eggplants with residues not in excess of this level may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been advised of this action.

9. All applicable precautions, directions, and restrictions on the EPA-registered product label must be adhered to.

10. The EPA must be immediately informed of any adverse effects resulting from the use of captafol in connection with this exemption.

11. The Applicant is responsible for ensuring that all of the provisions of this exemption are followed and must submit a final report summarizing the results of this program by February 28, 1981.

(Sec. 18 as amended 92 Stat. 819; [7 U.S.C. 136])

Dated: November 19, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-36851 Filed 11-25-80; 8:45 am]

BILLING CODE 6560-32-M

[OPTS-59041; TSH FRL 1682-4]

Modified Polyester Based on Carbomonocyclic Anhydride Alkenediols; Premanufacture Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person intending to manufacture or import a new chemical substance for a commercial purpose in the United States to submit a premanufacture notice (PMN) to EPA at least 90 days before he commences such manufacture or import. Under section 5(h) the Agency may, upon application, exempt any person from any requirement of section 5 to permit such person to manufacture or process a chemical for test marketing purposes. Section 5(h)(6) requires EPA to issue a notice of receipt of any such application for publication in the **Federal Register**. This notice announces receipt of applications for an exemption from the premanufacture reporting requirements for test marketing purposes and requests comments on the appropriateness of granting the exemption.

DATE: The Agency must either approve or deny the application by December 12, 1980. Persons should submit written comments on the applications no later than December 11, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E-447, 401 M St., SW, Washington, DC 20460, (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Mary Cushmac, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E-221, Washington, DC 20460, (202-426-3980).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA before the manufacture or import begins. A "new" chemical substance is any chemical substance that is not on the Inventory of existing chemical substances compiled by EPA under Section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** on May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

Section 5(a)(1) requires each PMN to be submitted in accordance with section 5(d) and any applicable requirement of chemical substances that are subject to testing rules under section 4. Section 5(b)(2) requires additional information in PMN's for substances which EPA, by rules under section 5(b)(4), has determined may present unreasonable risks of injury to health or the environment.

Section 5(h), "Exemptions," contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorized EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b) to permit the persons to manufacture or process a chemical substance for test marketing purposes. To grant such an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and the Agency must publish a notice of its disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Under section 5(h)(6), EPA must publish in the **Federal Register** a notice of receipt of an application under section 5(h)(1) immediately after the Agency receives the application. The notice identifies and briefly describes the application (subject to section 14 confidentiality restrictions) and gives interested persons an opportunity to comment on it and whether EPA should grant the exemption. Because the Agency must act on the application within 45 days, interested persons should provide comments within 15 days after the notice appears in the **Federal Register**.

EPA has proposed Premanufacture Notification Requirements and Review Procedures published in the **Federal Register** of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764) containing proposed premanufacture rules and notice forms. Proposed 40 CFR 720.15 (44 FR 2268) would implement section 5(h)(1) concerning exemptions for test marketing and includes proposed 40 CFR 720.15(c) concerning the section 5(h)(6) **Federal Register** notice. However, these requirements are not yet in effect. In the meantime EPA has published a statement of Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) which applies to PMN's submitted prior to promulgation of the rules and notice forms.

Interested persons may, on or before December 11, 1980, submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Rm. E-447, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS-59041]". Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: November 18, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

TM-80-46

The following summary is taken from data submitted by the manufacturer in the test marketing exemption application.

Close of Review Period. December 12, 1980.

Manufacturer's Identity. Claimed confidential business information. Generic information provided:

Annual sales—$500,000,000 and up.

Manufacturing site—Mid-Atlantic.

Standard Industrial Classification Code—285, "Paints, Varnishes, Lacquers, Enamels, and Allied Products".

Specific Chemical Identity. Claimed confidential business information. Generic name provided. Modified polyester based on carbomonocyclic anhydride alkenediols.

Use. Claimed confidential business information. Generic information provided: The manufacturer states that the product involved in the test market will release less than 50 kilograms to the environment and that articles fabricated from the test-market quantity would not be expected to reach consumers but would be used to evaluate the physical characteristics of the final product.

Production Estimates. The manufacturer estimates a production of 5,000 to 6,000 kilograms of the substance for test market pruposes to be produced in five days will be provided four customers for evaluation.

Physical/Chemical Properties.

Acid value (on solids)—20-30.

Viscosity (60% in 2-ethoxyethanol)—I+.

Toxicity Data. The manufacturer submitted data on the acute toxicity of thermal decomposition products of an article containing the new chemical substance. The amount of sample required to produce sufficient smoke resulting in 50% mortality (LC_{50}) under specified conditions was 32.1 g. According to the submitter, the results of the testing method show that the formulation using the new chemical substance is classified "as toxic as wood", under identical test conditions.

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Exposure.

Site activity	Exposure route(s)	Maximum number exposed	Maximum duration		Concentration (unit: mg/m³)	
			Hours/day	Days/year	Average	Peak
Manufacture	Skin, eye, inhalation.	6	3	4	0–1	0–1
Typical User (Major Use)	Skin, eye, inhalation.	6	8	2	0–1	0–1

Environment Release/Disposal

[Amount/duration of chemical release (kilogram per year)]

Activity/media—manufacturer media:	
Air	<10
Water	<10
Land	<10
Typical user (major use):	
Air	[1] <10
Water	<10
Land	<10

[1] 16 hours per day; 2 days per year.

[FR Doc. 80-36848 Filed 11-25-80; 8:45 am]

BILLING CODE 6560-01-M

[EN-FRL 1681-6]

Motor Vehicle Recalls Under the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final agency actions.

SUMMARY: This notice announces final EPA actions taken in conjunction with its motor vehicle recall program.

FOR FURTHER INFORMATION CONTACT: Mary T. Smith, Manufacturers Operations Division (EN–340), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460 (202–472–9425).

SUPPLEMENTARY INFORMATION: Under section 307(b)(1) of the Clean Air Act, judicial review of these actions are available *only* by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of November 26, 1980. Under section 307(b)(2) of the Clean Air Act, these final actions and the bases for them, which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these actions.

The following EPA actions regarding the recall of motor vehicles under 40 CFR Part 85 for failure to meet applicable Federal emission standards have become final:

1. In accordance with § 85.1804(a), EPA, in a letter of June 17, 1980, conditionally approved, pending the incorporation of some modifications, a plan submitted by American Motors Corporation (AMC) to remedy the oxides of nitrogen (NOx) nonconformity in its 1976 vehicles with eight cylinder engines. By letter of June 26, 1980, AMC assented to EPA's suggested modifications. Therefore, on June 26, 1980, EPA's approval of AMC's remedial plan for 1976 vehicles with eight cylinder engines became final.

2. In accordance with § 85.1804(a), EPA, in a letter of June 23, 1980, conditionally approved, pending the incorporation of some minor modifications, General Motors' (GM) remedial plan of February 15, 1978, insofar as it remedied, at GM's expense, 1975 Cadillacs of engine family 60V43 with carburetor part number 7045230 (230 carburetor) which would still be within their useful lives (defined under section 202(d) of the Clean Air Act to be 5 years or 50,000 miles, whichever occurs first) at the time of their repair. On July 11, 1980, GM assented to EPA's suggested modifications. Therefore, on July 11, 1980, EPA's approval of GM's remedial plan for 1975 Cadillacs of engine family 60V43 with the 230 carburetor which will still be within their useful lives at the time of their repair became final.

In addition, in its letter of June 23, 1980, EPA disapproved, in accordance with § 85.1804(a), that portion of GM's plan of February 15, 1978, which pertained to 1975 Cadillacs of engine family 60V43 with the 230 carburetor which would be beyond their useful lives at the time of their repair because GM has refused to remedy these vehicles at its expense. GM was also encouraged in this letter to submit a plan within 20 days to remedy, at its expense, 1975 Cadillacs of engine family 60V43 with the 230 carburetor beyond their useful lives. GM did not submit such a plan. Therefore, on July 13, 1980, EPA's disapproval of GM's remedial plan for 1975 Cadillacs of engine family 60V43 with the 230 carburetor which will be beyond their useful lives at the time of their repair became final.

3. On February 14, 1980, the Administrator of EPA ordered the recall of 1977 GM Buick vehicles of engine family 740J2 for failure to meet applicable Federal emission standards. In a letter of August 1, 1980, in accordance with § 85.1804(a), EPA approved a plan submitted by GM to remedy the nonconformities. Therefore, on August 1, 1980, EPA's approval of GM's remedial plan for 1977 GM Buick vehicles of engine family 740J2 became final.

4. On June 20, 1980, the Administrator ordered the recall of 1977 GM vehicles of engine family 730H2U and 1976 and 1977 Cadillac Sevilles for their failure to comply with the applicable Federal emission standard for NOx. Under § 85.1807, a manufacturer who disagrees with the Administrator's finding of nonconformity may file a request for a public hearing with the Administrator within 45 days after the receipt of the Administrator's notification of nonconformity. GM has not made a request for a public hearing and, therefore, the recall orders of June 20, 1980, are now final.

5. In a letter of October 18, 1979, Ford submitted a plan to remedy the carbon monoxide (CO) nonconformity in certain 1977 Granada/Monarch vehicles with 250 cubic inch displacement (CID) engine, calibration 7–29A–R1. After subsequent changes to this plan were agreed upon by EPA and Ford, EPA approved in a letter of September 15, 1980, in accordance with § 85.1804(a), a plan to remedy the CO nonconformity in these 1977 vehicles. Therefore, on September 15, 1980, EPA's approval of Ford's remedial plan for certain 1977 Granada/Monarch vehicles with 250 CID engines, calibration 7–29A–R1 became final.

Dated: November 19, 1980.

Jeffrey Miller,

Acting Assistant Administrator for Enforcement.

[FR Doc. 80-37001 Filed 11-25-80; 8:45 am]

BILLING CODE 6560-33-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

EEOC Senior Executive Service Performance Review Boards

The purpose of this Notice is to establish Performance Review Boards (PRB) and appoint their membership.

The Civil Service Reform Act of 1978 requires each agency to establish one or more PRB's (Section 4314(c)(1), Chapter 43, Title 5, U.S.C.). The PRB's for the Equal Employment Opportunity Commission (EEOC) will make recommendations to the Chair, this agency's appointing authority, on performance ratings (Sec. 4314 of Chapter 43, Title 5, U.S.C.) and performance awards (Sec. 5384 of Chapter 53, Title 5, U.S.C.) in the Senior Executive Service (SES). The Chair shall issue performance appraisals only after considering PRB recommendations (Sec. 4314(c)(3), Chapter 43, Title 5, U.S.C.). Membership of the PRB must include a majority of SES career appointees when the appraisal of a career SES member is under review (Sec. 4314(c)(5), Chapter 43, Title 5, U.S.C.). Members of a PRB may be from within or outside the agency. Federal employees or not, but generally should be in positions equivalent to SES positions (Sec. II(c) of attachment 1, Federal Personnel Manual System Bulletin 920–9, March 15, 1979).

Effective with this Notice, two PRB's are established for EEOC, one to review performance appraisals of headquarters SES members and one to review field SES members' appraisals. The PRB for headquarters will have two EEOC officials as Alternate Chairpersons (one an SES member, the other not), but with membership from other Federal agencies and outside Government to ensure objectivity and avoid the appearance of any conflict of interest. The Chairperson and members of the PRB for the field will be SES members from the headquarters office of EEOC.

The members of the PRB for headquarters are: Preston David, EEOC Executive Director, and Leroy Clark, EEOC General Counsel (Atlternate Chairperson); Terry Banks, Chief, Opinions and Review, Federal Communications Commission; Charlotte Frank, Deputy Commissioner, Administration on Aging, Department of Health and Human Services; Harriett Jenkins, Director of Equal Opportunity Programs, National Aeronautics and Space Administration; and Luis Alvarez, President, National Urban Fellows, Inc., New York City.

The members of the PRB for the field, all in EEOC, are: Francesta Farmer, Director, Office of Interagency Coordination (Chairperson); Robert Amoruso, Director, Office of Administration; Nestor Cruz, Director, Office of Review and Appeals; James Finney, Associate General Counsel (Trial Division); and Constance Dupre, Associate General Counsel (Legal Counsel Division).

The Performance Review Boards established for EEOC will implement and maintain a program of performance appraisal review, system monitoring, and recommendations for action by the Chair that will ensure consistency, stability, and objectivity in performance appraisal.

Dated: November 19, 1980.

Eleanor Holmes Norton,

Chair, Equal Employment Opportunity Commission.

[FR Doc. 80-36779 Filed 11-25-80; 8:45 am]

BILLING CODE 6570-06-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. A–20]

TV Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: November 18, 1980.

Cut-Off Date: December 29, 1980.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. They will be considered to be ready and available for processing after December 29, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on December 29, 1980, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C. no later than the close of business on December 29, 1980.

Petitions to deny any application on this list must be on file with the Commission not later than the close of business on December 29, 1980.

Applications for new stations may not be filed against any application on the attached list which is designated by an asterisk (*).

Federal Communications Commission.

William J. Tricarico,

Secretary.

*BPCT–800929KN (WATU–TV), Augusta, Georgia, WATU Television, Inc., Channel 26, Increase ERP Vis. to 1,700 kW; reduce HAAT to 1,590 feet.

BPCT–801022KE (new), Anchorage, Alaska, Totem Broadcasting Corporation, Channel 4, ERP: Vis. 42.5 kW; HAAT: −17 feet.

BPET–801023KE (new), Dickinson, North Dakota, Prairie Public Television, Inc., Channel 9, ERP: Vis. 265.5 kW; HAAT: 806 feet.

BPCT–801023KG (new), Irving, Texas, CELA, Inc., Channel 49, ERP: Vis. 1,277.6 kW; HAAT: 695 feet.

BPCT–801023KF (new), Lake Charles, Louisiana, Holt-Robinson Television of Louisiana, Inc., Channel 29, ERP: Vis. 710 kW; HAAT: 700 feet.

BPCT–801021KH (new), Arecibo, Puerto Rico, Arecibo Video Corporation, Channel 54, ERP: Vis. 1,178 kW; HAAT: −219 feet.

BPCT–801021KE (new), San Juan, Puerto Rico, JEM Communications, Inc., Channel 24, ERP: Vis. 4,384 kW; HAAT: 1,161 feet.

BPCT–801010KE (new), Orange Park, Florida, Clay Television, Inc., Channel 25, ERP: Vis. 2,060.63 kW; HAAT: 496 feet.

BPET–801029KF (new), Bellingham, Washington, The University of Washington, Channel 34, ERP: Vis. 1,230 kW; HAAT: 2,376 feet.

BPCT–801024KE (new), Bluefield, West Virginia, Channel 40, Inc., Channel 40, ERP: Vis. 1,110 kW; HAAT: 2,503.6 feet.

[FR Doc. 80-36874 Filed 11-25-80; 8:45 am]

BILLING CODE 6712-01-M

[FCC 80–586; CC Docket No. 80–633]

ITT World Communications Inc., Required Rate of Return; Memorandum Opinion and Order Instituting Investigation

Adopted: October 9, 1980.

Released: November 14, 1980.

1. The Commission has under consideration the results of our audit of the international carriers in Docket No. 20778 (75 FCC 2d 726 (1980)), and financial data for the major International Record Carriers (IRCs) filed in recent reports to the Commission.[1] On the basis of the audit and these data, and other information

[1] The International Record Carriers referred to herein are FTC Communications, Inc. (FTCC), ITT World Communications Inc. (ITTWC), RCA Global Communications, Inc. (RCAGC), TRT Telecommunications Corp. (TRT), Western Union International, Inc. (WUI) and U.S.-Liberia Radio Corp. (U.S.-Liberia).

set forth below, we are initiating a formal hearing into the required rate of

provided data which, the staff noted, were possibly unreliable. Rates of return

to start a hearing on those tariff filings, it appears that the carriers are not

II. Selection of ITTWC

measure up in the competitor's race will be rewarded." *The Western Union*

RCAGC—10%
WUI—11%

set forth below, we are initiating a formal hearing into the required rate of return of ITT World Communications Inc. (ITTWC). We are also calling upon ITTWC to file with the Chief, Common Carrier Bureau, data as to its rate base and expenses. However, we do not propose to investigate cost of individual services at this time

I. Background

2. In the *Memorandum Opinion and Order* instituting Docket No. 20778 (59 FCC 2d 240 (1976)),[2] we noted that the issues of rates and rates of return for the IRCs had not been considered by the Commission since 1958. See, *Western Union Telegraph Company*, 25 FCC 536 (1958). We provided that the Common Carrier Bureau should first conduct an audit and study of the IRC operations, and that costs should be allocated to major service categories to determine the extent to which there might be unlawful cross-subsidization among the services or between operating areas (59 FCC 2d at 241). The results of the audit and studies were before us for decision less than one year ago. By Order released January 29, 1980 (75 FCC 2d 726), we made the staff's report therein available for public inspection, and terminated the docket without undertaking any formal ratemaking proceedings. We stated that the staff report indicated that the IRCs were earning excessive rates of return. However, we did not make any findings as to the legal implications of the experienced rates of return because of the questionable reliability of the data provided by the carriers. It appeared that contemporaneous decisions in the international arena would eliminate barriers to entry and help create a competitive market structure, and that these industry structure changes made it unnecessary to begin a formal proceeding at that time. While we emphasized that we were not eliminating our regulatory efforts in the international area, we stated that we would monitor the effects of those decisions and provide for informal conferences with and reports by the carriers to assure that they are complying with Commission rules pertaining to the reporting of financial data.[3]

3. Four methods of computation were used in the audit report to assess the rates of return of each of the IRCs under consideration, based upon 1976 carrier-provided data which, the staff noted, were possibly unreliable. Rates of return were computed overall and for the three major service categories, Telex, Public Message Service, and Leased Channel.[4]

ITTWC demonstrated the highest overall rate of return under each method of computation and for each service category except Leased Channel. The overall rate of return earned by ITTWC appears to have substantially increased since the audit was undertaken. Staff studies of data in the Annual Reports to the Commission filed by ITTWC for 1978 and 1979 show rates of return in excess of 20% after taxes, regardless of the method of computation used (see note 4, *supra*). Although we make no findings herein as to the rate of return level which ITTWC requires, we believe that these computed data compel a preliminary observation that ITTWC's earnings may be excessive. Thus, we are today instituting a hearing so that we will be able to conclusively resolve this matter. Further, to improve the reliability of rate base, expense and earnings information, we are requiring ITTWC to file updated information reflecting the improved accounting procedures deemed necessary in the staff audit. See 75 FCC 2d at 729.

4. There are other factors which lead us to start this formal ratemaking proceeding now. Most importantly, we have discerned no significant alteration or downward trend in IRC rate levels since our actions in the international area last December. We are particularly concerned with the lack of any significant downward movement in Telex rates. Further, we recently started a paper hearing to investigate the trariff revisions filed by the IRCs purporting to unbundle international Telex rates (CC Docket No. 80-339, FCC 80-386, released August 8, 1980). We stated in the Memorandum Opinion and Order therein that the data were incomplete for the purposes of determining whether transmission charges have been fully and properly reduced by the unbundling of terminal equipment, access lines and supplies. Because we found it necessary to start a hearing on those tariff filings, it appears that the carriers are not voluntarily reducing international Telex transmission charges even though that rate element appears to be generating relatively excessive return levels. The hearing that we are commencing in this Order will provide a comprehensive review of the applicable rate of return of ITTWC, which has evidenced a higher overall and Telex rate of return than its major competitors. Should we later decide as a result of this proceeding to prescribe a rate of return for ITTWC which is lower than its actual rate of return, we expect the impact of our action would be to lower the rates of all the international record carriers. In the meantime, we will continue CC Docket 80-339 in accordance with the existing schedule to develop the type of rate structure data needed for our decision on the lawfulness of the unbundling proposals.

5. Another consideration leading to our designation of a hearing herein is the recent decision by the United States Court of Appeals regarding Western Union's participation with foreign carriers in the offering of international Telex service. See *ITT World Communications Inc.* v. *F.C.C.*, Nos. 79-4220 et al. (2d Cir. August 25, 1980). In that decision, the Court vacated our authorization to Western Union to transmit Telex messages from Western Union subscribers to overseas subscribers by interconnecting with Mexican and Canadian carriers, rather than by interconnection with the United States IRCs.[5] The conclusion of the Court that Section 222 of the Communications Act bars Western Union from providing an interconnected service with foreign carriers for international communications appears to foreclose a potential source of competition in the international communications market. Given the elimination of this potential source of competition to the IRCs, the possibility that Section 222 will not be modified or repealed to allow the competition which we envisioned, and the expanded operational opportunities available to the IRCs as a result of our authorization of additional points of operation in the United States,[6] it is now appropriate to undertake further formal rate regulatory efforts.

[2] Docket No. 20778 also considered the earnings of the international voice carriers such as AT&T. That part of the investigation will not be reviewed in this order.

[3] The staff report raised serious questions as to the carriers' compliance with our accounting rules.

[4] The methods of computation used were:
(1) An earned rate of return based on operating plant in service, plant held for future use, earth station investment and their applicable reserves. These are normally the largest components of the carrier's rate base.
(2) An earned rate of return based on all components of rate base as determined in the decisions of Dockets 19129 and 16070, which excluded plant under construction.
(3) An earned rate of return based on all components of rate base determined in Docket 16258, which included plant under construction.
(4) An earned rate of return based upon the carrier's cost data as submitted without any staff adjustments.

[5] *Western Union Telegraph Co.*, 75 FCC 2d 461 (1980).

[6] *International Record Carriers*, 76 FCC 2d 115 (1980), review pending sub nom. *Western Union Telegraph Co.* v. *F.C.C.*, Case No. 79-2492 (D.C. Cir.).

II. Selection of ITTWC

6. As noted, we have decided to examine the rate of return of ITTWC rather than that of each IRC because ITTWC has earned the highest rate of return overall and for its major services, including Telex, in recent years, based upon staff analysis of carrier-supplied data. We stated in the International Audit Order that there were indications that the major IRCs were earning excessive rates of return based on 1976 data. These rates of return have increased since that date. Thus, the need for a formal rate of return hearing focusing upon the carrier with the highest rate of return—ITTWC—has become compelling. For this reason alone, it is important to take a closer look at ITTWC's rate of return. In addition, we note that ITTWC serves sufficient points so that we expect any action we take concerning ITTWC's rate of return to have a significant beneficial industry-wide impact. In other words, should our action here result in an order that ITTWC adjust its rates to earn a lower rate of return, we expect that each of its competitors would follow suit. Nevertheless, we remain free to initiate further proceedings as to the rates of return of other IRCs if this action appears necessary or desirable.

7. Through rate regulation of a single carrier, the Commission can regulate pricing in the entire industry by setting the maximum rates that that carrier may charge to receive a fair rate of return. This approach recognizes that there will result an essential uniformity of rates among carriers, accompanied by a constant pressure upon the other carriers to improve the efficiency of their operations. In this instance, ITTWC's rates would become, in effect, the industry-wide maximums. A carrier which exceeds these rates will lose business. A carrier matching these rates will operate at a less profitable level than ITTWC unless it improves its efficiency.

8. Despite our decision to go forward at this time with a rate of return proceeding concerning only one IRC, we are aware that this course of action may work some hardship. Other rate regulatory solutions are, however, either infeasible or not in the public interest. It would not make sense to set allowable rates of return individually. The less efficient carriers would not be able to set prices at a high enough level to achieve the allowable return. Alternatively, if the allowable rate of return were set upon an industry-wide basis, such a policy would be "a guarantee to the less competent or less efficient operator that his failure to measure up in the competitor's race will be rewarded." *The Western Union Telegraph Company*, 25 FCC 535, 580 (1958). Further, to offset any unfairness to other IRCs, we will scrutinize unusual situations involving particular points of service or facility configurations. However, these exceptions appear to be few and, therefore, in the context of our action here, will be considered only after the termination of this proceeding.

9. The *Audit Report* in Docket No. 20778, and more recent statistical compilations, indicate that ITTWC leads the industry in both efficiency of operations and rate of return. In the past we have examined the rate of return of a single carrier, rather than of the whole industry, under a bellwether approach to ratemaking. *The Western Union Telegraph Company*, 25 FCC 535 (1958). While we are not necessarily limiting our review to ITTWC, we are satisfied that at a minimum ITTWC is the appropriate carrier to undergo initial scrutiny. In the past, predominance in market share, revenues, and service points were major criteria for choosing a carrier, although efficency was also a factor. 25 FCC at 582. Under a modern-day bellwether approach for this industry, we would rely more heavily upon factors showing efficent operation, since three carriers now occupy predominant positions in the provision of international service. The following tables compare ITTWC's place in the market, efficiency of operations and overall and Telex rates of return, with its major rivals.

1. *International Points Served* [6]
   ITTWC—85
   RCAGC—92
   WUI—75
   Industry Total—118
2. *Overall Service Revenues*
   ITTWC—34% or $158 M
   RCAGC—38% or $172 M
   WUI—22% or $101 M
   Industry Total—$455 M
3. *Telex Revenues*
   ITTWC—35% or $94 M
   RCAGC—36% or $95 M
   WUI—23% or $64 M
   Industry Total—$267 M
4. *Net Income After Taxes*
   ITTWC—$36 M
   RCAGC—$26 M
   WUI—$17 M
5. *Operating Revenue Per Dollar of Expenses* [7]
   ITTWC—$1.56
   RCAGC—$1.22
   WUI—$1.35
6. *Overall Rate of Return After Taxes* [8]
   ITTWC—15%
   RCAGC—10%
   WUI—11%
7. *Rate of Return—Telex Service*
   ITTWC—36%
   RCAGC—28%
   WUI—22%

[6] Source: Items 1–4, *Statistics of Communications Common Carriers*; FCC; year ended 12/31/78.

[7] Source: Item 5, *Statistics of Communications Common Carriers*; FCC; Year ended 12/31/78.

[8] Source: Items 6–7, *Audit Report*, 75 FCC 2d 726.

10. The efficiency and rate of return criteria set forth above are based upon financial measures—measures which relate revenues, expenses, and plant investment. We recognize that other measures, such as those based upon engineering or operational considerations, can also be employed—e.g., fill on major truck routes or switching costs per line termination. However, these efficiencies will ultimately be translated into some measure of financial performance. under each of the efficiency measures, ITTWC shows a clear margin of greater operational efficiency. Further, the tables disclose market share and scope of operations by ITTWC comparable with RCAGC and WUI. Thus, we can conclude that ITTWC is the appropriate carrier for review when assessed by the twin criteria of broadness of service coverage and operational efficiency.

III. The Hearing

11. As we have noted, this proceeding will determine the rate of return which we will prescribe for ITTWC to earn on its rate base. This inquiry will require an examination into ITTWC's capital structure, its cost of debt and cost of equity. At the conclusion, the presiding officer shall prepare an initial decision on the rate of return issue, and parties may take exception thereto. Should we decide to go forward with a formal proceeding on rate base and expenses, we will use the above rate of return to compute ITTWC's revenue requirement. A separated Trial Staff will participate in the rate of return proceeding in a manner similar to its participation in other rate of return cases.

12. Since ITTWC has sole access to important information necessary to this rate of return determination, ITTWC has the burden of proof in the proceeding designated herein. Preliminary calculations show that ITTWC's rate of return may significantly exceed its fair rate of return. In our last investigation of the IRC earnings, we found that a fair rate of return for the bellwether carrier was 7.5 to 8.5%, and we prescribed rates accordingly. ITTWC and the other carriers have been earning considerably above this level. Given the passage of time it is incumbent upon ITTWC to show what its present rate of return should be under current economic conditions.

13. We will not now consider rate base and expense issues in this

V 45 N 0 26 80 UMI

proceeding. However, as a separate matter we will require ITTWC to file with the Chief, Common Carrier Bureau, by January 14, 1980, such rate base and expense data as it would offer as its direct case in a ratemaking proceeding where those elements are being considered. We expect ITTWC to provide sufficient rate base and expense information and underlying documentation for calendar year 1979 and an estimate for calendar year 1980 to allow for thorough Staff evaluation. In preparing this submission, ITTWC will be required to separately state all joint or common costs shared with affiliated companies and provide the rationale and justification for allocating any portion of such costs to ITTWC. The final results (preferably audited) for calendar year 1980, with underlying documentation, shall be filed by no later than March 31, 1981. We require ITTWC to provide in writing to the Chief, Common Carrier Bureau, by December 4, 1980, a full description of the substance and type of underlying documentation it intends to submit with its rate base and expense figures. We shall also require it to cooperate with the Bureau Chief in submitting any further information or underlying documentation that may be requested by him.

14. Accordingly, it is ordered, That pursuant to the provisions of Sections 4(i), 4(j), 201, 202, 205, 213(e), 213(f), 215(a), 218, 219, 220(c) and 403 of the Communications Act of 1934, as amended, an investigation and hearing is instituted into the authorized rate of return of ITT World Communications Inc.

15. It is further ordered, That this proceeding will include consideration of the following issues:

(a) The cost of embedded debt;

(b) The cost of equity capital;

(c) The cost of other sources of financing;[9]

(d) The appropriate capital structure to be used for ratemaking purposes and the weights to be accorded the above costs of capital; and

(e) The authorized rate of return.[10]

16. It is further ordered, that included within its Final Decision herein, consideration may be given to what action, if any, should be taken by the Commission to effect such rate adjustments as may be warranted on the basis of the record and such order or orders will issue as may be appropriate to this end.

17. It is further ordered, that the hearings in this investigation shall be held at the Commission's offices in Washington, D.C. at a time to be specified, before an Administrative Law Judge to be designated.

18. It is further ordered, that the Administrative Law Judge shall, upon closing of the record, prepare and issue an initial decision which shall be subject to the submission of exceptions and requests for oral argument, as provided in §§ 1.276 and 1.277 of the Commission's rules, 47 C.F.R. 1.276 and 1.277, after which the Commission shall issue its decision as provided in § 1.282 of these rules, 47 C.F.R. 1.282.

19. It is further ordered, that a separated Trial Staff of the Common Carrier Bureau will participate in this rate of return proceeding. The Chief, Hearing Division, and his staff will be separated in accordance with § 1.1209 of the Commission's rules, 47 C.F.R. 1.1209.[11]

20. It is further ordered, that ITT World Communications Inc. is named party Respondent and any ohter interested party wishing to actively participate in this proceeding shall file a notice of its intention to do so on or before December 26, 1980.

21. It is further ordered, that the Secretary shall send a copy of this order by certified mail, return receipt requested to ITT World Communications Inc., and shall cause a copy to be published in the Federal Register.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-36875 Filed 11-25-80; 8:45 am]

BILLING CODE 6712-01-M

[9] This issue will include consideration, as necessary, of the sources of funds and intercompany relationships described in para. 4 of our designation order in the AT&T rate of return proceeding, CC Docket 79-63 (73 FCC 2d 689 (1979)).

[10] We are not designating any issue regarding the measurements of ITTWC's rate base and expenses or the measurement or inclusion of specific elements therein.

[11] The Trial Staff has the authorization under the Communications Act and our Rules to utilize all investigatory powers in developing a full and fair record in this proceeding. See Sections 213(e)-(f), 215(a), 218, and 220(c) of Communications Act of 1934, as amended, 47 U.S.C. sections 213(e)-(f), 215(a), 218 and 220(c). Although the formal discovery provisions of our Rules are not applicable to rulemaking proceeding of this nature, information requests may be made on a continuing basis throughout the trial of this case. See *American Telephone and Telegraph Co.*, 73 FCC 2d 689, 694 (1979).

FEDERAL COMMUNICATIONS COMMISSION

[Canadian List No. 396]

Notification List

October 10, 1980.

List of new stations, proposed changes in existing stations, deletions, and correction in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

Call letters	Location	Power kW	Antenna	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of commencement of operation
CFJC	Kamloops, British Columbia, N. 50°38'34", W. 120°27'28" (now in operation on new frequency).	25D/5N	DA-2	550 kHz U	III	.....	.....	.....	
CFJC	Spaniard's Bay/Harbour, Grace, Newfoundland, N. 47°39' 36" W. 53°15' 14" (correction of geographical co-ordinates)	5	DA-1	550 kHz U	II	.....	.....	.....	April 11, 1981.
CFJC	Kamloops, British Columbia, N. 50°43' 24" W. 120°20' 26" (delete)	10D/1N	ND-187	910 kHz U	III	.....	.....	.....	
CFTJ	Cambridge, Ontario, N. 43°20' 55" W. 80°14' 48" (now in operation with DA-1 antenna system).	1	DA-1	960 kHz U	III	.....	.....	.....	

Notification List—Continued

Call letters	Location	Power kW	Antenna	Schedule	Class	Antenna height (feet)	Ground system: Number of radials	Ground system: Length (feet)	Proposed date of commencement of operation
CFYQ	Gander, Newfoundland, N. 48°58' 30" W. 54°36' 47" (PO 1350 kHz).	5	ND-175	1010 kHz U	II	156	120	283	October 10, 1981.
New	Ashcroft, British Columbia, N. 50°45' 30" W. 121°17' 47"	1D/0.25N	ND-180	1340 kHz U	IV	125	120	294	October 10, 1981.
CFYQ	Gander, Newfoundland, N. 48°58' 30" W. 54°36' 47" (*vice 1010 kHz*).	1	ND-165	1350 kHz U	III	175	120	283	

Richard J. Shiben,

Chief, Broadcast Bureau, Federal Communications Commission.

[FR Doc. 80-36000 Filed 11-25-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than December 19, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. MANUFACTURERS HANOVER CORPORATION, New York, New York (mortgage banking and servicing activities; Minnesota): to engage through its subsidiary, Manufacturers Hanover Mortgage Corporation, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a mortgage company; and servicing any such loans and other extensions of credit for any person. These activities would be conducted from the *de novo* office of Manufacturers Hanover Mortgage Corporation located in St. Louis Park, Minnesota and serving Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, Washington, Chisago and Wright Counties located in Minnesota.

2. MANUFACTURERS HANOVER CORPORATION, New York, New York (mortgage banking and servicing activities; Florida): to engage through its subsidiary, Manufacturers Hanover Mortgage Corporation, in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a mortgage company; and servicing any such loans and other extensions of credit for any person. These activities would be conducted from the *de novo* office of Manufacturers Hanover Mortgage Corporation located in St. Petersbury, Florida and serving the Tampa Standard Metropolitan Statistical Area, which includes Hillsborough, Pinnellas and Pasco Counties.

3. THE CHASE MANHATTAN CORPORATION, New York, New York (mortgage banking, loan servicing, and investment advisory activities; Florida): to solicit, make, acquire and service loans and other extensions of credit, either secured or unsecured, for its own account or for the account of others; to act as an issuer, broker and/or dealer in respect of securities guaranteed by the Government National Mortgage Association; and to act as investment or financial adviser on real estate matters to the extent of furnishing general economic information and advice as well as portfolio investment advice on real estate matters. This application is for the relocation of an existing office in Jacksonville, Florida. Comments on this application must be received by December 22, 1980.

B. *Federal Reserve Bank of Dallas (Anthony J. Montelaro, Assistant Vice President) 400 South Akard Street, Dallas, Texas 75222:*

MERCANTILE TEXAS CORPORATION, Dallas, Texas, to engage, through its subsidiary John Rathmall & Company, Inc., in having supervisory responsibility over agents and brokers on behalf of insurance companies with regard to the following types of insurance: (1) all types of property, casualty and liability insurance which are needed by the present and future banking subsidiaries of Applicant, including group protection to their employees and insurance in connection with extensions of credit (excluding credit life and accident and health insurance) made by them including: (a) single interest insurance, (b) blanket bond insurance, (c) comprehensive fire, theft and extended coverage for property owned by such banking subsidiaries, and (d) personal liability insurance for such banking subsidiaries; (2) group employee benefit coverage for employees of the present and future banking subsidiaries of Applicant including hospitalization, group term life, accident and death and dismemberment. These activities will be conducted from an office in Dallas, Texas, serving the State of Texas.

C. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

FIRST HAWAIIAN, INC., Honolulu, Hawaii (industrial banking and insurance agency activities; Hawaii): to engage through its subsidiary, Hawaii Thrift & Loan, Incorporated, in operating

an industrial loan company as authorized by Hawaii law, including making loans upon individual credit, the pledge or mortgage of real or personal property, issuing and selling certificates for the payment of money at any time; and selling property, casualty, life, accident and health insurance directly related to its extensions of credit. These activities will be conducted from an office in Kailua—Kona, Hawaii, serving the Kona, Hawaii area. Comments on this application must be received by December 22, 1980.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, November 20, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36840 Filed 11-25-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8)) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Govenors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than December 18, 1980.

A. *Federal Reserve Bank of St. Louis* (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

Citizens Fidelity Corporation, Louisville, Kentucky (leasing activities; Missouri, Illinois, Western Kentucky, Kansas City area): to engage, through its subsidary, Citizens Fidelity Leasing Corporation, in the leasing of personal property and equipment and acting as agent, broker or advisor, in the leasing of such property, in a manner such that the leasing would serve as a functional equivalent of an extension of credit and subject to the limitations and restrictions specified in 12 CFR 225.4(a)(6). These activities would be conducted from an office in St. Louis, Missouri, serving the states of Missouri, including the greater Kansas City area, Western Kentucky, and Illinois. Comments on this application must be received by December 16, 1980.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Security Pacific Corporation, Los Angeles, California (industrial loan, financing and credit-related insurance activities; California): to engage in financing and industrial loan corporation activities through its subsidary Security Pacific Finance Money Center Inc., including making, acquiring and servicing loans and other extensions of credit; selling and issuing investment certificates; and acting as agent for the sale of credit-related life, credit-related accident and health and credit-related property insurance, all as authorized by California law. These activities would be conducted from offices of Security Pacific Finance Money Center Inc. in the cities of Santa Barbara, San Bernardino, Modesto and Oxnard, California, serving the State of California.

C. *Other Federal Reserve Banks:* None.

Board of Govenors of the Federal Reserve System November 18, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36841 Filed 11-25-80; 8:45 am]

BILLING CODE 6210-01-M

Finance Ohio Company; Formation of Bank Holding Company

Finance Ohio Company, Martins Ferry, Ohio, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90 per cent or more of the voting shares of the Peoples Savings Bank Company, Martins Ferry, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 12, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 19, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36843 Filed 11-25-80; 8:45 am]

BILLING CODE 6210-01-M

First City Bancorporation, Inc.; Acquisition of Bank

First City Bancorporation, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares less directors' qualifying shares of Windsor Park Bank, San Antonio, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 20, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36837 Filed 11-25-80; 8:45 am]

BILLING CODE 6210-01-M

First City Bancorporation of Texas, Inc.; Acquisition of Bank

First City Bancorporation of Texas, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares, less directors' qualifying shares, of The Bank of South Texas, Alice, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 19, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36838 Filed 11-25-80; 8:45 am]

BILLING CODE 6210-01-M

First Palm Beach International Bank; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as First Palm Beach International Bank, Miami, Florida. First Palm Beach International Bank would operate as a subsidiary of First National Bank in Palm Beach, Palm Beach, Florida. The factors that are considered in acting on the application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than December 18, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 18, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36834 Filed 11-25-80; 8:45 am]

BILLING CODE 6210-01-M

First State Holding Company of Prescott, Formation of Bank Holding Company

First State Holding Company of Prescott, Prescott, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring at least 98.3 per cent of the voting shares of Bank of Prescott, Prescott, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 19, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36842 Filed 11-25-80; 8:45 am]

BILLING CODE 6210-01-M

Houston County Agency, Inc.; Proposed Continuation of General Insurance Agency Activities as Caledonia Insurance Agency

Houston County Agency, Inc., St. Paul Minnesota, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to continue to engage in general insurance agency activities as Caledonia Insurance Agency.

Applicant states that it would continue to engage in the activities of acting as agent for the sale of general insurance in a community having a population not exceeding 5,000 inhabitants. These activities would be performed from offices of Applicant's subsidiary bank in Caledonia, Minnesota, and the geographic area to be served is Caledonia, Minnesota. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 19, 1980.

Board of Governors of the Federal Reserve System, November 19, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36835 Filed 11-25-80; 8:45 am]

BILLING CODE 6210-01-M

New Salem Bancorporation, Inc.; Formation of Bank Holding Company

New Salem Bancorporation, Inc., New Salem, North Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 88.3 per cent or more of the voting shares of Security State Bank of New Salem, New Salem, North Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or

at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 20, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36844 Filed 11-25-80; 8:45 am]

BILLING CODE 6210-01-M

Security National Corp.; Acquisition of Bank

Security National Corporation, Sioux City, Iowa, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 94 percent or more of the voting shares of First State Bank, Mapleton, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 19, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36838 Filed 11-24-80; 8:45 am]

BILLING CODE 6210-01-M

Summit Bancorp.; Acquisition of Bank

The Summit Bancorporation, Summit, New Jersey, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire all the voting shares of Maplewood Bank and Trust Company, Maplewood, New Jersey. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 19, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-36839 Filed 11-25-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules; Diversified Industries, Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Diversified Industries, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all stock of Florida Wire & Cable Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Diversified. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: November 7, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-36810 Filed 11-25-80; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; General Electric Co.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: General Electric Company is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of Tucson Electric Power Company and Public Service Company of New Mexico. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by all parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C., (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary,

[FR Doc. 80-36813 Filed 11-25-80; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Kentucky Investors, Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules..

SUMMARY: Kentucky Investors, Inc. is granted early termination of the waiting period provided by law and the premerge notification rules with respect to the proposed acquisition of all stock of Citadel Life Insurance Company from Barclays Bank International Ltd. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Kentucky Investors. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: November 4, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-36811 Filed 11-25-80; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; MAPCO, Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: MAPCO, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all stock of Earth Resources Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by MAPCO, Inc. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: November 12, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-36809 Filed 11-25-80; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Regie Nationale des Usines Renault

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Regie Nationale des Usines Renault is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain stock of American Motors Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by American Motors. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE:

ADDRESS: November 10, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvement Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-36812 Filed 11-25-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Annual Report; Availability of Filing

Notice is hereby given that pursuant to Section 13 of Pub. L. 92–463 (5 U.S.C. Appendix I), the fiscal year 1980 annual report for the following Federal advisory committee utilized by the Centers for Disease Control has been filed with the Library of Congress: Safety and Occupational Health Study Section.

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, S.E., Washington, D.C. (telephone: 202/287–6310). Additionally, on weekdays between 9:00 a.m. and 4:30 p.m. copies will be available for inspection at the Department of Health and Human Services, Department Library, HHS North Building, Room 1436, 300 Independence Avenue, S.W., Washington, D.C. (telephone: 202/245–6791).

Dated: November 20, 1980.

Donald R. Hopkins,

Acting Director, Centers for Disease Control.

[FR Doc. 80-36879 Filed 11-25-80; 8:45 am]

BILLING CODE 4110-86-M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Executive Director's Procedures for Review of Proposals for Treatment of Archeological Properties; Supplementary Guidance

I. Introduction

Under the authority of 36 CFR 800.14, the Executive Director of the Advisory Council on Historic Preservation issues the following supplementary guidance, to interpret elements of the Council's regulations to assist Federal agencies and State Historic Preservation Officers in meeting their responsibilities. This supplementary guidance was developed with the assistance of the Council's Archeology Task Force, and endorsed by the full Council at its November 1980, quarterly meeting.

The following procedures will be used by the Executive Director of the Council in review of projects involving treatment of archeological properties. They are based on the Council's "Principles in the Treatment of Archeological Properties" (Appendix A). They do not amend or modify the duties of Federal agencies under Section 106 of the National Historic Preservation Act and the implementing regulations (36 CFR Part 800), but agency cognizance of them will make consultation under the regulations easier.

Archeological properties are those properties included in, determined eligible for, or potentially eligible for, the National Register, whose significance lies wholly or partly in the archeological data they contain. Archeological data are data embodied in material remains (artifacts, structures, refuse, etc.) utilized purposely or accidentally by human beings, in the spatial relationship among such remains, and in the environmental context of such remains. Archeological data include historic, prehistoric, and scientific data as defined by the Department of the Interior in accordance with Public Law 93–291 (cf. 36 CFR Part 1210).

An expanded version of this guidance, including the Council's "Recommendations for Archeological Data Recovery," "Principles in the Treatment of Archeological Properties," and explanatory appendices, is available from the Executive Director under the title, *Treatment of Archeological Properties.*

II. Identification and Evaluation of Archeological Properties

1. 36 CFR 800.4 establishes that "it is the primary responsibility of each Agency Official requesting Council comments to conduct the appropriate studies and to provide the information necessary for an adequate review of the effect a proposed undertaking may have on a National Register or eligible property, as well as the information necessary for adequate consideration of modifications or alterations to the proposed undertaking that could avoid, mitigate, or minimize any adverse effects. It is the responsibility of each Agency Official requesting consultation with a SHPO under this section to provide the information that is necessary to make an informed and reasonable evaluation of whether a property meets National Register criteria and to determine the effect of a proposed undertaking on a National Register or eligible property." Identification is the obvious first step to be taken by an Agency in defining its responsibility with respect to archeological and other historic properties.

In evaluation of proposals for treatment of archeological properties, the Executive Director may review field surveys and other identification efforts that have been conducted as part of the Agency's planning process, to determine whether:

A. The identification effort appears to be consistent with the scale and expected impacts of the proposed project;

B. The identification effort appears to be conducted at a sufficient level of intensity in relation to the numbers and types of archeological properties expected to occur in the areas; and,

C. The data recovery proposal submitted for Council consideration appears consistent with the results of the identification effort.

2. The Executive Director will use 36 CFR Part 1210, appendix B, as a general standard for reviewing identification efforts.

3. The Executive Director will encourage recognition of the difference between "testing" archeological sites for identification and evaluation and excavating them for purposes of data recovery. Testing is usually conducted in order to answer questions about an archeological site's eligibility for the National Register, or to obtain data needed to make decisions about how to mitigate project impacts on a site already determined eligible or placed on the Register. Such testing is directed toward determining the site's boundaries, the depth of its deposits, and/or its basic nature and condition. Only a very small sample of the site need be disturbed in order to make such determinations. Excavation for data recovery, on the other hand, is directed toward recovering as much of the important information in the site as possible, given time and other constraints. Unlike testing, excavation for data recovery is seldom simply directed at defining the size, depth, nature and condition of the site; it is directed at answering or contributing to research questions. Excavation for data recovery may result in very extensive—even complete—disturbance of a site. While it is impossible to define a point, applicable in all instances, at which testing ends and data recovery begins, a rule of thumb is that testing is completed when sufficient information has been gathered to make a determination of eligibility or a management decision. Since testing is done, in most cases, before the fate of the site has been determined through the consultation process, it should be kept to the absolute minimum necessary for eligibility determination and/or management purposes. "Testing" that destroys large portions of a site forecloses the Council's opportunity to comment, and circumvents the intent of Section 106. The Executive Director will discourage such "testing," and will notify the Secretary of the Interior, pursuant to P.L. 93–291 Sec. 4(a), in instances where such "testing" threatens the irrevocable loss of scientific, prehistoric, historic, or archeological data.

III. Consideration of In-Place Preservation

In review of projects involving archeological properties, the Executive Director will seek to ensure that all due consideration is given to practical methods of preserving such properties in place.

IV. Consideration of Non-archeological Interests

In review of projects involving archeological properties, the Executive Director will seek to ensure that all due consideration is given to whatever non-archeological historical and cultural values the properties may represent. For example, if an archeological property is also valuable to a local community for cultural reasons, the Executive Director will seek to ensure that this value is considered and given appropriate weight in decisionmaking.

V. Data Recovery Directed to Research Questions

Where it is concluded through the consultation process that preservation in place is not practical, and that data recovery is appropriate, the Executive Director will seek to ensure that the data recovery effort addresses defined and defensible research questions. Such questions should relate to issues of importance in the sciences or humanities, or to matters of importance to local communities with historical connections to the property or properties. It is expected, however, that the specificity of research questions, and their relationship to larger issues, will vary with the character and quality of prior archeological work in the area, the state of existing knowledge of the property, the nature of local, regional, and topical research efforts pertinent to the property, and the quality of the State Historic Preservation Plan in force in the state at the time the project is undertaken.

VI. Sacrifice of Properties Without Data Recovery

Where an archeological property cannot practically be preserved in place, and the responsible agency proposes to destroy or damage it without data recovery, the Executive Director will seek to ensure that all reasonable consideration has been and is given to the property's potential to yield information relevent to important research questions. The Executive Director will not support or sanction the recovery of data simply because they exist, nor will the Executive Director support arbitrary destruction of data.

VII. Efficiency of Data Recovery

Where data recovery is to be undertaken, the Executive Director will seek to ensure that it is conducted in the most efficient manner possible, in the context of an appropriate data recovery plan. Data recovery programs should be organized to extract, digest, and make available the pertient data in the most efficient manner possible, taking into account local conditions, the potential for unexpected discoveries, non-archeological concerns, and other relevent factors. The kinds of techniques, tools, and expertise required in a given data recovery program are dependent on the kinds of data to be recovered and analyzed. Although all archeological projects share certain basic principles, there is no single, standard way to conduct archeological fieldwork. As a rule, the Executive Director will seek to ensure that the fastest, most economical methods are used that will achieve the desired research result.

VIII. Consideration of Guidance

Where data recovery is to be undertaken, the Executive Director will seek to ensure that due consideration has been given to the Council's "Recommendations for Archeological Data Recovery" and 36 CFR Part 1210 ("Recovery of Scientific, Prehistoric, Historic, and Archeological Data: Methods, Standards, and Reporting Requirements").

IX. Budgets

To the extent feasible given Council and staff priorities and agency contracting policy, the Executive Director will provide advice to agencies, seeking to ensure that budgets developed for data recovery and other archeological activities are reasonable and cost-effective.

X. Negating Adverse Effect: Documenting "No Adverse Effect" Determinations

1. Undertakings that result directly or indirectly in the disturbance of an archeological property clearly have adverse effects on that property. In some cases, however, this adverse effect can be essentially negated through data recovery; in such cases a determination of "no adverse effect," pursuant to 36 CFR 800.4(c), may be appropriate. When an agency makes such a determination, the Executive Director's review will focus on the extent to which the adverse effect will in fact be negated by the data recovery effort. The ability to negate adverse effect depends upon (a) the nature of the affecting action, (b) the nature of the archeological property, and (c) the quality of the data recovery effort proposed.

2. To determine whether a data recovery program will negate the adverse effects of an undertaking, the agency, in consultation with the State Historic Preservation Officer (SHPO), should answer the following questions:

A(1) Does the significance of the property, as documented in the nomination to or determination of eligibility for the National Register, lie primarily in the data it contains, so that retrieval of the data in an appropriate manner may preserve this significance? If so:

A(2) Does it appear that preservation in place would be more costly, or otherwise less practical, than data recovery? If so:

B(1) Will the effects of the undertaking be minor relative to the size and nature of the property? Examples of such effects include:

(a) Marginal disturbance to an extensive archeological site by construction along one edge.

(b) Minor disruption of the surface of an archeological site whose primary valuable information lies in subsurface deposits, where this disruption is unlikely to have long-range effects on subsurface conditions (e.g., by causing erosion, etc.).

B(2) Is the property subject to destruction regardless of the undertaking, so the agency's action is only slightly hastening an inevitable process? Examples of such a condition include:

(a) Disturbance of an archeological site on a rapidly eroding cliff, where measures to halt erosion are not practical.

(b) Disturbance of an archeological site that is being vandalized or clearly will be subject to vandalism, where there is no practical way to deter the vandals;

(d) Disturbance of an archeological site on land that has great potential for non-Federal development, where no mechanisms (zoning, State or local preservation ordinances, easements) are likely to be employable for protection.

B(3) Is the property *not:*

(a) A National Historic Landmark, a National Historic Site in non-Federal ownership, or a property of national historical significance so designated within the National Park System;

(b) Important enough to fulfillment of purposes set forth in the State Historic Preservation Plan to require its protection in place;

(c) In itself, or as an element of a larger property, significantly valuable as an exhibit in place for public understanding and enjoyment;

(d) Known or thought to have historic, cultural, or religious significance to a community, neighborhood, or social or ethnic group that would be impaired by its disturbance, or

(e) So complex, or containing such complicated data, that currently available technology, funding, time, or expertise are insufficient to recover the significant information contained in it.

3. If the agency and the SHPO agree that questions A(1) and A(2), and questions B(1), B(2) *or* B(3) are answered in the affirmative, and if the agency establishes a data recovery program consistent with the Council's "Recommendations for Archeological Data Recovery" and 36 CFR Part 1210, the agency has grounds for concluding that the data recovery program will negate the adverse effect, and can hence determine that the undertaking will have No Adverse Effect on the property.

4. In documenting a determination of No Adverse Effect based on this conclusion, pursuant to 36 CFR 800.4(c) and 800.13(a), the agency should:

(A) Report clearly and concisely how it has reached its conclusion;

(B) Document the concurrence of the SHPO and, if pertinent, consultation with, and the opinions of, other specialists and authorities concerned with the property, concerned social and

ethnic groups, local government, and the

include or refer directly to data recovery

analysis, curation, and dissemination of

or licenses) the Council's regulations (36

Principle VI: Eligibility for the National

Department of the Interior. Accordingly,

ethnic groups, local government, and the public;

(C) Provide a copy of the data recovery plan; and,

(D) Show that sufficient time and funds have been allocated to execute the data recovery plan.

5. The Executive Director will review the documentation provided in accordance with 36 CFR 800.6(a) to determine whether (a) the property is shown to be valuable primarily for the information it contains, or whether other public interests are involved, and whether (b) it appears that the adverse effects of the undertaking will in fact be negated, thereby justifying a determination of No Adverse Effect.

XI. Preliminary Case Reports

1. Where it is determined that the undertaking will have an adverse effect on historic properties, the Preliminary Case Report developed by the agency pursuant to 36 CFR 800.4(d)(1) should:

A. document consideration of alternatives that would preserve the archeological property in place, and give reasons for rejecting those alternatives not preferred;

B. Where data recovery is proposed, provide a data recovery plan consistent with the Council's "Recommendations for Archeological Data Recovery" and with 36 CFR Part 1210.

C. Where data recovery is not proposed, explain why it is not proposed. An agency may demonstrate that loss of an archeological property without data recovery is acceptable by showing that:

(1) There is no reasonable way to protect the property in place; and,

(2) Having made a good-faith effort to identify research questions of the kinds discussed in Appendices A and B of the Council's *Treatment of Archeological Properties,* to which the recovery of data from the property would contribute, the agency has been unable to identify such questions. In seeking to identify such questions, the agency should utilize available literature in archeology, anthropology, history, and other disciplines, consult with the State Historic Preservation Officer, and consult with State, regional, and local archeological and historical organizations. The Executive Director will review closely the documentation of such efforts, and may suggest additional research questions or sources of advice to be considered.

XII. Memoranda of Agreement

1. Ordinarily, Memoranda of Agreement executed pursuant to 36 CFR 800.6(c) that provide for data recovery from archeological properties should include or refer directly to data recovery plans consistent with the Council's "Recommendations for Archeological Data Recovery" and 36 CFR Part 1210. Exceptions to this rule may include, but are not necessarily limited to:

A. A Programmatic Memorandum of Agreement, which may provide for preparation and review of such plans in the context of an ongoing programs;

B. A Memorandum of Agreement that covers a planning process, which may provide for preparation and review of a data recovery plan at a subsequent stage in the agreed-upon process; and,

C. A memorandum of Agreement that provides for archeological monitoring or other forms of data recovery as guards against uncertain discovery possibilities (for example, where there is some possibility that archeological data will be discovered when a building is demolished). In such an instance, it may not be feasible to develop a detailed data recovery plan because the nature of the possible discovery situation is too uncertain.

2. The purpose of the data recovery plan is to ensure that the data are recovered in an effective manner using the best applicable professional standards under the circumstances. Technical assistance in developing data recovery plans is available from the State Historic Preservation Officer and Interagency Archeological Services, heritage Conservation and Recreation Service, Department of the Interior. The Executive Director will give data recovery plans the same level of professional review afforded to architectural designs, plans for adaptive reuse, development plans, etc.

3. Memoranda of Agreement may provide for phased data recovery. An example of phased data recovery is:

A. Phase 1: Testing of archeological sites and other research leading to development of a detailed date recovery work plan. The Memorandum of Agreement should set forth guidelines for the testing and other research.

B. Phase 2: Development of a data recovery plan. The Memorandum of Agreement should provide for appropriate technical review of the plan, usually by the SHPO and the Council, and where needed, through peer review by outside parties.

C. Phase 3: Selection of a contractor. The Memorandum of Agreement should ensure that the agency provides a reliable mechanism for obtaining the best qualified contractor(s) for the project at the most reasonable cost, consistent with satisfactory work performance.

D. Phase 4: Conduct of the work plan, typically including recovery of data, analysis, curation, and dissemination of results.

4. In developing Memoranda of Agreement including provisions for data recovery, the Executive Director will attempt to ensure that the data recovery plan in fact is the best feasible method of addressing the archeological value of the property in the public interest. An agency can facilitate development of such Memoranda by notifying the Council of the steps it has taken to develop its data recovery plan, by identifying the parties consulted during its preparation, by ensuring that all concerned parties have had an opportunity to contribute to its preparation, and by articulating the plan as clearly and concisely as possible.

XIII. Programmatic Memoranda of Agreement

Where appropriate under 36 CFR 800.8, the Executive Director will consider execution of Programmatic Memoranda of Agreement with agencies to cover archeological data recovery activities and other activities discussed in this guidance. Such a Programmatic Memorandum of Agreement should specify or stipulate a process for establishing:

1. Conditions in a given State or region, or with reference to the agency's specific types of undertakings, in which data recovery would be appropriate.

2. Guidelines for data recovery, taking into account conditions in a State or region, and/or the agency's types of undertakings and planning/development stages.

3. Methods for procuring appropriate specialists, and controlling costs, and

4. Consultation methods, establishing how the SHPO and other appropriate authorities will be involved in decisionmaking.

XIV. Counterpart Regulations

The Executive Director will use this guidance in reviewing and helping prepare guidelines, standards, and other measures as part of Counterpart Regulations authorized by 36 CFR 800.11.

XV. Archeology for Research

1. When archeological excavations are conducted on Federal land for research purposes, and the only Federal involvement in the excavations is issuance of a permit under the Archeological Resources Protection Act of 1979 (P.L. 96-95) the comments of the Council need not be sought (16 U.S.C. 470cc(i).

2. If Federal actions are involved in the research besides issuance of an ARPA permit (eg., funding, other permits or licenses) the Council's regulations (36 CFR Part 800) apply.

A. Research projects to which the regulations apply, that involve the physical disturbance of archeological properties, should in most cases be considered to have adverse effects on the properties; the responsible agency should seek the Council's comments in accordance with 36 CFR Sec. 800.4, or programmatically in accordance with 36 CFR 800.8.

B. Projects that address management needs as well as research interests may be taken to have no adverse effect on the properties they disturb, if the facts warrant. Generally, the Executive Director will concur in a "no adverse effect" determination when the following conditions exist:

(1) The research project addresses management needs, such as:

(a) Excavation of a site that is subject to uncontrollable vandalism;

(b) Excavation of a site that is subject to serious natural erosion;

(c) Recording of a site or structure that is deteriorating;

(d) Stabilizing a deteriorating or endangered site or structure.

(2) The determination has been made following Sec. X ("Negating Adverse Effect") of this part of the Supplementary Guidance,

(3) The project will be conducted under the supervision of persons meeting, at a minimum, the qualifications set forth in 36 CFR Part 1210, Appendix C; and,

(4) The project will be conducted in accordance with a research design that takes into account the Council's "Recommendations for Archeological Data Recovery Projects."

John M. Fowler,

Acting Executive Director.

November 21, 1980.

Appendix A—Principles in the Treatment of Archeological Properties

In consulting with Federal agencies and State Historic Preservation Officers regarding archeological properties, the Executive Director will observe the following principles.

Principle I: Archeological research, addressing significant questions about the past, is in the public interest.

Principle II: Archeological properties may be sites, buildings, structures, districts and objects.

Principle III: Archeological properties are important wholly or in part because they may contribute to the study of important research problems.

Principle IV: Not all research problems are equally important; hence not all archeological properties are equally important.

Principle V: Treatment of an archeological property depends on its value for research, balanced against other public values.

Principle VI: Eligibility for the National Register suggests, but does not define, how an archeological property should be treated.

Principle VII: If an archeological property can be practically preserved in place, it should be.

Principle VIII: If an archeological property is to be preserved in place, extensive excavation of the property is seldom appropriate.

Principle IX: Both data recovery and destruction without data recovery may be appropriate treatments for archeological properties.

Principle X: Once a decision is made to undertake data recovery, the work should be done in the most thorough, efficient manner.

Principle XI: Data recovery should be based on firm background data and planning.

Principle XII: Data recovery should relate positively to the development of State Historic Preservation Plans.

Principle XIII: Completion of an approved data recovery plan consummates an agency's data recovery responsibilities.

[FR Doc. 80-36808 Filed 11-25-80; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Irrigation Operation and Maintenance Charges; Water Charges and Related Information on the Wapato Irrigation Project, Washington

This notice of proposed operation and maintenance rates and related information is published under the authority delegated to the Assistant Secretary—Indian Affairs by the Secretary of the Interior in 230 DM 1 and redelegated by the Assistant Secretary—Indian Affairs to the Area Director in 10 BIAM 3.

This notice is given in accordance with Section 191.1(e) of Part 191, Subchapter I, Chapter I, of Title 25 of the Code of Federal Regulations, which provides for the Area Director to fix and announce the rates for annual operation and maintenance assessments and related information on the Wapato Irrigation Project for Calendar Year 1981 and subsequent years. This notice is proposed pursuant to the authority contained in the Acts of August 1, 1914 (38 Stat. 583) and March 7, 1938 (45 Stat. 210).

The purpose of this notice is to announce an increase in the assessment rates commensurate with actual operation and maintenance costs on the Wapato Irrigation Project. The proposed assessment increases for 1981 amount to $2.00 per acre on the Wapato-Satus Unit.

The public is welcome to participate in the rule making process of the Department of the Interior. Accordingly, interested persons may submit written comments, views or arguments with respect to the proposed rates and related regulations to the Area Director, Portland Area Office, Bureau of Indian Affairs, Post Office Box 3785, Portland, Oregon 97208, no later than December 26, 1980.

Wapato Irrigation Project—General

Administration

The Wapato Irrigation Project, which consists of the Ahtanum Unit, Toppenish-Simcoe Unit, and Wapato-Satus Unit within the Yakima Indian Reservation, Washington, is administered by the Bureau of Indian Affairs. The Project Engineer of the Wapato Irrigation Project is the Officer-in-Charge and is fully authorized to carry out and enforce the regulations, either directly or through employees designated by him. The general regulations are contained in Part 191, Operation and Maintenance, Title 25—Indians, Code of Federal Regulations (42 FR 30362, June 14, 1977).

Irrigation Season

Water will be available for irrigation purposes from April 1 to September 30 each year. These dates may be varied as much as 20 days when weather conditions and the necessity for doing maintenance work warrants doing so.

Request for Water Delivery and Changes

Requests for water delivery and changes will be made at least 24 hours in advance. Not more than one change will be made per day. Changes will be made only during the ditchrider's regular tour. Pump shut-down, regardless of duration, without the required notice will result in the delivery being closed and locked. Repeated violations of this rule will result in strict enforcement of rotation schedules. Water users will change their sprinkler lines without shutting off more than one-half of their lines at one time. Sudden and unexpected changes in ditch flow results in operating difficulties and waste of water.

Time for Payment of Water Charges

The assessments fixed by these regulations shall become due April 1 of each year and are payable on or before that date. To all charges assessed against lands in patent in fee ownership, and those paid by lessees of Indian lands direct to the project office, remaining unpaid on July 1 following the due date, there shall be added a penalty of one and one-half percent for each

month, or fraction thereof, from the due

Wapato-Satus Unit

Bureau of Land Management

undersigned authorized officer of the Bureau of Land Management

Dated: November 12, 1980.

Harold A. Berends

at the above address. Please refer to the file number when submitting comments.

month, or fraction thereof, from the due date until the charges are paid.

Charges for Special Services

Charges will be collected for various special services requested by the general public, water users and other organizations during the Calendar Year 1981 and subsequent years until further notice, as detailed below:

(1) Requests for Irrigation Accounts and Status Reports, Per Report, $15.00

(2) Requests for Verification of Account Delinquency Status, Per report, 10.00

(3) Requests for Splitting of Operation and Maintenance Bills (in addition to minimum billing fee), Per Bill, 10.00

(4) Requests for Billing of Operation and Maintenance to Other than Owner or Lessee of Record (in addition to minimum billing fee), Per Bill, 10.00

(5) Requests for Other Special Services Similar to the above, when appropriate, Per Report, 10.00

(6) Requests for elimination of lands from the Project. In the event that the elimination is approved, a portion of the fee will be used to pay the Yakima County Recording Fee ($10.00).

Ahtanum Unit

Charges

(a) The operation and maintenance rate on lands of the Ahtanum Irrigation Unit for the Calendar Year 1981 and subsequent years until further notice, is fixed at $6.25 per acre per annum for land to which water can be delivered from the project works.

(b) In addition to the foregoing charges there shall be collected a minimum charge of $5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus $5.

Toppenish-Simcoe Unit

Charges

(a) The operation and maintenance rate for the lands under the Toppenish-Simcoe Irrigation Unit for the Calendar Year 1981 and subsequent years until further notice, is fixed at $6.25 per acre per annum for land for which an application for water is approved by the Project Engineer.

(b) In addition to the foregoing charges there shall be collected a minimum charge for $5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus $5.

Wapato-Satus Unit

Charges

(a) The basic operation and maintenance rates on assessable lands under the Wapato-Satus Unit are fixed for the Calendar Year 1981 and subsequent years until further notice as follows:

(1) Minimum charge for all tracts, $20.50

(2) Basic rate upon all farm units or tracts for each assessable acre except Additional Works lands, 20.50

(3) Rate per assessable acre for all lands with a storage water rights, known as "B" lands, in addition to other charges per acre, 2.20

(4) Basic rate upon all farm units or tracts for each assessable acre of Additional Works lands, 21.60

(b) In addition to the foregoing charges there shall be collected a minimum charge for $5 for the first acre, or fraction thereof, on each tract of land for which operation and maintenance bills are prepared. The minimum bill issued for any area will, therefore, be the basic rate per acre plus $5.

Assessable Lands

The assessable lands of the Wapato-Satus Unit are classified under these regulations as follows:

(a) All Indian trust (A and B) land designated as assessable by the Secretary of the Interior, except land which has never been cultivated if in the opinion of the Project Engineer the cost of preparing such land for irrigation is so high as to preclude its being leased at this time for agricultural purposes.

(b) All Indian trust (A or B) land not designated as assessable by the Secretary of the Interior for which application for water is pending or on which assessments had been charged the preceding year.

(c) All patent in fee land covered by a water right contract, except on land that because of inadequate drainage is no longer productive. The adequacy of the drainage is determined by the Project Engineer.

(d) At the discretion of Project Engineer and upon the payment of charges, patent in fee land for which an application for a water right or modification of a water right contract is pending.

W. D. Babby,

Acting Area Director.

November 17, 1980.

[FR Doc. 80-36782 Filed 11-25-80; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[OR 25306]

Oregon; Proposed Withdrawal and Reservation of Lands

The Fish and Wildlife Service, U.S. Department of the Interior, on November 3, 1980, filed application Serial No. OR 25306 for the withdrawal and reservation of the following described lands:

Willamette Meridian, Oregon

All of the unsurveyed rocks and islands above mean high water elevation offshore from the coast of Oregon in Federal ownership, except (1) those lands already included in the National Wildlife Refuge System; (2) those lands included in a pending Fish and Wildlife Service application for addition to the Oregon Islands National Wildlife Refuge, Serial No. OR 11517; and (3) the following described lands which will be retained for administration by the Bureau of Land Management:

Name	Description
Squaw Island, 1 acre	(T. 26 S., R 14 W., offshore from Sec. 4) 43°20' N., 124°22'W.
Two unnamed islands, 2 acres.	(T. 26 S., R. 14 W., offshore from Sec. 8) 43°20' N., 124°22'W.
Fish Rock, 0.5 acre	(T. 29 S., R. 14 W., offshore from Sec. 2) 43°05' N., 125°25'45"W.
North Sisters Rocks (3 rocks), 3 acres.	(T. 34 S., R. 14 W., offshore from Sec. 30) 42°37'04" N., 124°24'50"W.
Pistol River and Myers Creek Rocks (8 rocks), 4 acres.	(T. 38 S., R. 14 W., offshore from Sec. 7) 42°18' N., 124°24'50"W.
Lone Ranch Beach Rocks, 3 acres.	(T. 40 S., R. 14 W., offshore from Sec. 22) 42°06'02" N., 124°20'40"W.
Harris Island and unnamed rock, 2 acres.	(T. 40 S., R. 14 W., offshore from Sec. 36) 42°03'50" N., 124°18'30"W.
Zwegg Island, 2.86 acres	T. 41 S., R. 13 W., Sec. 6 Lot 9; Sec. 7, Lot 2.
Table Rock, 0.5 acre	(T. 41 S., R. 13 W., offshore from Sec. 6) 42°02'55" N., 124°17'25"W.

(Legal descriptions appearing in parentheses indicate unsurveyed lands. Acreage is approximate, except Zwegg Island which has been surveyed.) The lands to be retained under Bureau of Land Management administration are further identified on maps labeled "Coastal Islands Not Within the Oregon Islands NWR," submitted by the Fish and Wildlife Service with the application and on file in this office.

The lands included in the application consist of about 1,100 rocks, small islands, and island groups aggregating approximately 100 acres, in Clatsop, Tillamook, Lincoln, Lane, Douglas, Coos, and Curry Counties, Oregon. The Fish and wildlife Service proposes that these rocks and islands, whose principal value is for marine bird and mammal habitat, be added to and made a part of the Oregon Islands National Wildlife Refuge.

On or before January 5, 1981, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the undersigned before January 5, 1981. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register**, giving the time and place of such hearing. Public hearings are scheduled and conducted in accordance with BLM Manual, Sec. 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will ensure that the area sought is the minimum essential to meet the desired needs while providing for the maximum concurrent utilization of the lands for other purposes.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested. The determination of the Secretary on the application will be published in the **Federal Register.**

The lands included in the proposed withdrawal will be managed so as not to impair their suitability for preservation as wilderness, pending completion by the Fish and Wildlife Service of a wilderness review in accordance with sections 3(c) and 3(d) of the Wilderness Act. Subject to valid existing rights, the lands are temporarily segregated from the operation of the public land laws, including the mining laws, but not the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. The segregative effect of this proposed withdrawal shall continue for a period of two years from the date of publication of this notice in the **Federal Register**, unless sooner terminated by action of the Secretary of the Interior.

All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 2965, Portland, Oregon 97208.

Dated: November 12, 1980.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 80-36788 Filed 11-25-80; 8:45 am]

BILLING CODE 4310-84-M

Salmon, Idaho, District Grazing Advisory Board, Meeting; Correction

The following correction is made in FR Doc. 45-213 appearing on 72297 in the issue of October 31, 1980:

On page 72297 at the bottom of column one, the date "November 2, 1980" is corrected to read "December 2, 1980".

Harry R. Finlayson,

District Manager.

[FR Doc. 80-36877 Filed 11-25-80; 8:45am]

BILLING CODE 4310-84-M

California Wilderness Program; Correction

Correction Notice to California's Final Wilderness Inventory Notice printed November 14, 1980, on page 75583 of the **Federal Register.**

Due to printing delays the protest period for California's interstate inventory units identified in the above notice has been extended through December 29, 1980. Protests received after that date will not be accepted unless postmarked on or before December 29, 1980.

Roland A. Rush,

Acting State Director.

[FR Doc. 80-36889 Filed 11-25-80; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Application

Applicant: Abbey Gardens, 4620 Carpinteria Ave., Carpinteria, CA 93013.

The applicant requests a permit to sell in interstate commerce seed grown or artifically propagated specimens of endangered and threatened cacti.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-7301. Interested persons may comment on this application within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: November 21, 1980.

Fred L. Bolwahnn,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc 80-36888 Filed 11-25-80; 8:45 am]

BILLING CODE 4310-55-M

Intent To Prepare Environmental Impact Statement on Wildlife Grassland Habitat Restoration Program for Intensively Farmed Region of Ohio

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Service intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) on an Ohio Department of Natural Resources (DNR) proposal to restore wildlife habitat in the intensively farmed region of the State. The Ohio DNR, Division of Wildlife, proposes to acquire and/or lease and manage the vegetative cover on the lands for the purpose of providing missing habitat components for eight species of grassland nesting birds. The necessary habitat is currently lacking on the intensively farmed lands. To accomplish that goal, acquiring effective habitat management control on approximately 25 acres per square mile will be needed in 202 townships where that habitat does not exist. Existing adequate habitat will also be used to reach the goal of 182,000 acres.

Federal involvement in the proposed action would be reimbursement to the Ohio DNR by the Fish and Wildlife Service (FWS), U.S. Department of the Interior, through funds appropriated under the Federal Aid in Wildlife Restoration Act.

A public meeting will be held regarding this proposal and the preparation of an EIS. This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATE: Written comments should be received by December 30, 1980. A public meeting will be held in Columbus, Ohio, January 7, 1981, at the Ohio Department of Natural Resources headquarters, Building C, first floor conference room at 10:00 a.m.

ADDRESS: Comments should be addressed to: Regional Director, U.S. Fish and Wildlife Service (FA), Federal Building, Fort Snelling, Twin Cities, Minnesota 55111, Attn.: Dale N. Martin.

FOR FURTHER INFORMATION CONTACT: David Urban, Assistant Administrator Wildlife Management and Research, Division of Wildlife, Fountain Square, Columbus, Ohio 43224 (614/466–3610).

SUPPLEMENTARY INFORMATION: Mr. David Urban is the primary author of this document. The Fish and Wildlife Service, Department of the Interior, proposes to assist the Ohio Wildlife Division through reimbursement of land acquisition and habitat development project costs.

Purpose and Need: Loss of wildlife habitat approaches two million acres annually in the United States. Aggravating this loss are land management practices which have lowered the quality of much of the remaining wildlife habitat. Intensification of agricultural production in Ohio without conservation guidelines has resulted in severe habitat losses in both quality and quantity. The loss of federally diverted acres and acres on which grass and legumes were grown for seed has been catastrophic to ground nesting birds. These acres provided the highest quality nesting habitat because they were usually undisturbed during the nesting period. Alfalfa is a preferred nesting cover for farmland wildlife; the frequency at which it is cut leads to high destruction of nests, young, and nesting adults. The acreage of unpastured and unharvested grass/legume cover decreased 90 percent in Ohio between 1964 and 1978.

The Division of Wildlife has conducted wildlife habitat programs on private lands since 1928. Technical assistance on wildlife management to private landowners has been a part of the Division of Wildlife's program since 1940.

This proposal will supplement current Ohio Division of Wildlife Programs:

In 1979, six biologists were assigned full-time to work with private landowners. During the first 10 months wildlife management plans were completed on 16,000 acres of private land. Management plans encompassing 25,800 acres can be completed yearly at current level of staffing.

Food plot seed mixtures are provided to landowners who are willing to plant them. In 1979, 2,400 packets were supplied.

To maintain undisturbed nesting cover for farmland wildlife, the Division of Wildlife began providing pheasants for stocking to those landowners willing to provide this habitat component. Pheasants are allotted on the basis of the amount of nesting cover provided. In the summer of 1980, 24,000 acres of undisturbed nesting cover were provided by cooperating landowners.

Vicinity Description: Buying, taking long-term easements, and/or leasing of land would occur in the glaciated, intensively farmed region of Ohio. This area consists of 65.4% tilled cropland, 8.1% pasture, 3.8% in hay production, 5.5% wooded and the remaining 17% urbanized.

Table 1 identifies the Ohio Counties and townships where the action is proposed.

Concerns, Issues and Opportunities: A primary concern is that increased wildlife populations may cause increased trespass on private land in the area where habitat will be developed. To circumvent this concern, the Division of Wildlife will increase enforcement patrols where problem areas develop. Landowners will also be encouraged to participate in the Cooperative Hunting Program. Under this program the hunter must obtain a permit from the landowner before hunting.

A concern among farmers is that acquisition and easement sites may offer a haven for the spread of noxious weeds. All areas will be planted with vegetation known to out compete noxious weeds. When necessary, mechanical and chemical treatment will be used to control weeds.

There is concern that prime farmland may be acquired and that its management may result in temporary removal from tillage. This would not result in an irreversible loss of potential crop production from these acres.

Management of these areas will be by existing wildlife work unit personnel and by contract with local landowners.

The number of wildlife observers are increasing each year and this activity can be enjoyed by all ages, at all seasons, in all regions. In 1975, 86,817,000 recreation days were spent in wildlife observation and 10,363,000 recreation days were spent hunting small game in Ohio.

This proposal is designed to prevent the extinction in Ohio of some grassland dependent species.

The following alternatives have been identified:

1. No action.

2. Maintain current level of activity of providing wildlife habitat on private land.

3. Provide only technical assistance to landowners for the development of wildlife habitat.

4. Mandatory regulation by law to provide minimum wildlife habitat on intensively farmed land.

5. Develop and subsidize a rest rotation system of grazing using warm-season grasses so that undisturbed wildlife nesting cover is developed.

6. Change the U.S. Department of Agriculture farm policy so that farmland wildlife is recognized as an important agricultural crop and provide econmically viable incentives for those practices that benefit wildlife and economic disincentive for those practices which are detrimental to wildlife.

7. Lease through short-term contract enough land to restore missing habitat components on intensively farmed land.

8. Develop wildlife habitat on roadside to provide nesting habitat.

9. Acquire management rights from willing sellers through fee simple acquisition and long-term easements on agricultural land in the intensively farmed region of Ohio.

The scoping process for the DEIS will be initiated by letter to interested Federal, State, and local agencies and those private organizations and affected parties who have expressed interest in the proposal. Anyone else who has an interest in participating in the scoping process and the development of the DEIS is invited to do so and should contact the Regional Director on or before December 30, 1980.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act (40 CFR, Parts 1500–1508), other appropriate Federal regulations, and FWS procedures for compliance with those regulations.

We estimate the DEIS will be made available to the public by March, 1981.

Dated: November 14, 1980.

James C. Gritman,

Acting Regional Director, North Central Region, Fish and Wildlife Service.

Table 1.—*Ohio Counties and Townships Proposed for Grassland Wildlife Habitat Restoration Program*

Allen Co.	Richland Township
Ashland Co.	Vermillion Township
Ashtabula Co.	Cherry Valley Township
Auglaize Co.	Washington Township
Champaign Co.	All Townships
Clark Co.	All Townships
Clinton Co.	Wayne Township
Columbiana Co.	Unity Township
Crawford Co.	Bucyrus Township
Darke Co.	Richland Township
Defiance Co.	Farmer Township
Delaware Co.	Radnor Township
Erie Co.	Milan Township
Fairfield Co.	Amanda Township
Fayette Co.	All Townships
Fulton Co.	Pike Township
Geauga Co.	Chardon Township
Greene Co.	Cedarville Township
Hancock Co.	All Townships
Hardin Co.	Washington Township

Table 1.—*Ohio Counties and Townships Proposed for Grassland Wildlife Habitat Restoration Program*—Continued

Henry Co.	All Townships
Highland Co.	Madison Township
Huron Co.	Clarksfield Township
Knox Co.	Liberty Township
Licking Co.	Hartford Township
Logan Co.	Washington Township
Lorain Co.	Rochester Township
Madison Co.	All Townships
Mahoning Co.	Beaver Township
Marion Co.	Green Camp Township
Medina Co.	Chatham Township
Mercer Co.	Union Township
Miami Co.	Newton Township
Montgomery Co.	Clay Township
Morrow Co.	Chester Township
Ottawa Co.	Bay Township
Paulding Co.	All Townships
Pickaway Co.	All Townships
Portage Co.	Suffield Township
Preble Co.	Harrison Township
Putnam Co.	All Townships
Richland Co.	Case Township
Ross Co.	Buckskin, Concord, Deerfield, Union, Green Townships
Sandusky Co.	Woodville, Madison, Washington, Rice, Sandusky, Riley, Scott, Jackson, Ballville, Green Creek Townships
Seneca Co.	Jackson, Liberty, Pleasant, Loudon, Hopewell, Clinton, Big Spring, Seneca, Eden Townships
Shelby Co.	Loramie Township
Stark Co.	Marlboro Township
Trumbull Co.	Hartford Township
Union Co.	Dover Township
Van Wert Co.	Jackson Township
Warren Co.	Clear Creek Township
Wayne Co.	Clinton, Chippewa, Baughman Townships
Williams Co.	Springfield Township
Wood Co.	All Townships
Wyandot Co.	Mifflin Township

Geological Survey

General Mining Order; Intention To Develop an Order for Environmental Protection and Reclamation Standards for Uranium Exploration and Mining on Federal and Indian Permits, Leases, and Contracts

AGENCY: Department of the Interior Geological Survey.

ACTION: Proposed Issuance of General Mining Order.

SUMMARY: In carrying out lease management responsibilities under the provisions of the Mineral Leasing Acts, as amended, the Conservation Division (CD), Geological Survey, must assure conservation of Federal and Indian solid leasable minerals, prevention of waste and damage to other minerals and resources, and reclamation of the permit and lease areas disturbed by exploration, mining, and mineral processing operations. The CD supervises exploration and mining operations to properly balance development, conservation, and environmental concerns. Environmental protection, conservation, and reclamation procedures have been required by the CD to be included in exploration and mine plans in the past. The development of general mining orders incorporating environmental and reclamation standards for specific commodities and areas by CD represents a new thrust to ensure that the Nation's resources are developed with due regard for the most up-to-date and economically efficient methods and administration. Solicitation of public comment as an integral step in reviewing existing mining reclamation and environmental protection practices is part of this initiative. Accordingly, the CD proposes to develop a General Mining Order for environmental protection and reclamation standards for uranium exploration and mining on Federal and Indian permits, leases, and contracts for New Mexico and Washington. Written comments and views are requested from interested persons on the content of the Order.

DATES: All concerned parties and the general public are invited and encouraged to submit comments and suggestions as to the content of the proposed General Mining Order. Written comments and suggestions must be received on or before January 30, 1981.

ADDRESS: Comments should be directed to: Mr. Charles L. Sours, Chief, Branch of Rules and Procedures, U.S. Geological Survey, National Center, Mail Stop 650, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Paul J. Buff, Branch of Solid Minerals Management, U.S. Geological Survey, National Center, MS 650, Reston, Virginia 22092. Telephone: 703–860–7506.

SUPPLEMENTARY INFORMATION: Notice is given, under "Operating Regulations for Exploration, Development, and Production," published in 30 CFR Part 231 (37 FR 11041; June 1, 1972), in particular, §§ 231.3(a) and 231.3(c)(9), the Chief, CD, intends to develop a General Mining Order for specific environmental protection and reclamation standards for exploration and mining of uranium on Federal and Indian lands in specific geographic areas and solicits views of interested persons on the content of the Order.

The requirements of this Order would complement existing laws regarding pollution and environmental protection and allow the GS to assure that its regulatory responsibility was being met. It is the intention of the GS that the Order not interrupt interaction between agencies given responsibility for the various environmental and pollution laws.

The GS supervises nine uranium mining operations in New Mexico, including one pilot project for in situ mining; two in Washington; and one in Wyoming. Exploration for uranium on Federal acquired and Indian lands is also supervised by the GS.

The GS presently has regulatory responsibility for approximately 15 percent of the San Juan Basin uranium production (approximately 8 percent of the Nation's production). Demand for uranium may increase above present levels, requiring additional production from lands where the GS has responsibility for regulatory operations. By soliciting public input, the GS intends the Order to reflect interested parties' knowledge and concerns regarding evironmental protection and reclamation for present and possible higher future levels of uranium mining.

Comments on the need for public meetings regarding the Order are solicited. Public meetings will be held if a significant number of responses request them and indicate interest in participation. Probable location for the meetings, if desired, would be Albuquerque, New Mexico; and Spokane, Washington. The Bureau of Indian Affairs, tribes, and State agencies having regulatory responsibilities for mineral development would also be encouraged to participate.

Exploration for, and mining of, uranium presents unique reclamation problems. Comments and suggestions should primarily be concerned with the following:

1. Reclamation procedures that mitigate radiological contamination of water, air, and soil.

2. Procedures for drill hole plugging.

3. Procedures for shaft abandonment.

4. Erosion abatement.

5. Procedures for pit abandonment.

6. Procedures for operation of water treatment and tailings ponds and their abandonment.

7. Procedures for operation of waste dumps (ore and nonore associated overburden) and low grade and ore piles, and their abandonment.

8. Revegetation procedures.

9. Procedures for in situ site abandonment and aquifer restoration.

10. Procedures for environmental protection during in situ mining.

Many of the above items are interrelated. They can be approached in general terms or with specific engineering or scientific principles and criteria. Comments on alterate regulatory approaches to achieving the results are also solicited.

Public input in developing the content of this Order is solicited.

Dated: November 19, 1980.

John L. Doggett,

153. Interior South, Washington, D.C. 20240, OSM Regional Office, Division of

OSM has completed the required consultation and has been authorized by

applicant has demonstrated its proposed

which no one package exceeds 100

for the U.S. Government, between points

Dated: November 19, 1980.

John J. Dragonetti,

Deputy Division

Chief, Onshore Minerals Regulation.

[FR Doc. 80-36676 Filed 11-25-80; 8:45 am]

BILLING CODE 4310-21-M

Office of Surface Mining Reclamation and Enforcement

Petition to Designate Certain Federal Lands in Southern Utah Unsuitable for Surface Coal Mining Operations; Availability of Final Combined Petition Evaluation and Environmental Impact Statement

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, Washington, D.C. 20240.

ACTION: Notice of availability of the final combined petition evaluation and environmental impact statement (EIS) document evaluating whether certain lands in southern Utah abutting Bryce Canyon National Park are unsuitable for surface coal mining and reclamation operations.

SUMMARY: The Office of Surface Mining, with the assistance of several Federal agencies and the State of Utah, has prepared a final evaluation of the petition to designate certain Federal lands in southern Utah unsuitable for all or certain types of surface coal mining and reclamation operations, together with a final environmental impact statement.

Copies of the combined final statement are being made available today. OSM has arranged for expedited delivery to assure maximum availability prior to the Secretary's scheduled decision on the petition.

Additional information on this petition may be found in **Federal Register** notices of January 17, 1980 (Receipt of a Complete Petition for Designation of Lands Unsuitable for Surface Coal Mining Operations, 45 FR 3396–99), and April 24, 1980 (Intent to Prepare Coal Resources, Demand, and Impact Statement and Draft Environmental Impact Statement, Scoping Meeting 45 FR 27836–37).

DATES: An accelerated schedule has been approved by the Council on Environmental Quality in concurrence with the Environmental Protection Agency. The Secretary of the Interior will make a decision regarding the petition on or after December 12, 1980.

ADDRESSES: Copies of the final document are available at the following locations: OSM Headquarters Office, 1951 Constitution Avenue, NW, Room 153. Interior South, Washington, D.C. 20240, OSM Regional Office, Division of State and Federal Programs, Region V, 2nd Floor, Brooks Towers, 1020 15th Street, Denver, CO 80202; and Bureau of Land Management, 320 North 100 East, Kanab, UT 84741. All comments received on the documents, transcripts of all hearings, and the file on the petition are available for inspection at the OSM Regional Office in Denver, CO.

FOR FURTHER INFORMATION CONTACT:

Paul Bodenberger, Division of Technical Analysis and Research, Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, CO 80202 (telephone 303–837–5856).

SUPPLEMENTARY INFORMATION: The final combined petition evaluation and environmental impact statement document presents an analysis of the allegations made in the petition. The document summarizes available information on the petition area (including related NEPA reviews) as well as material from new studies. The document also contains discussions of the potential coal resources in the area, the demand for coal resources, the impact of designation on the environment, the economy and the supply of coal, and the impacts of alternatives available to the Secretary.

Controversial issues raised by the petitioners, the intervenors, the public and other agencies include air quality, visibility, visual intrusions, noise, deep ground water, reclaimability, blasting effects, and impacts on the local economy. Concern was also expressed on the relationship of the Alton coal to the Allen-Warner Valley Energy System.

Public hearings to solicit comments concerning the draft document were held at Kanab, Utah, in two sessions on September 29, 1980, and in one session on October 10, 1980; and at Panguitch, Utah, in one session on September 30, 1980. Responses to the hearings testimony and written comments on the draft document have been prepared and are published in the final document.

The Council on Environmental Quality's (CEQ's) regulations for implementing the National Environmental Policy Act require that agencies normally wait 30 days after publication of the EPA notice of availability before making a decision (40 CFR 1506.10(b)). However, these waiting periods may be reduced in consultation with CEQ, the Environmental Protection Agency (EPA) and the Assistant Secretary for Policy, Budget, and Administration, Department of the Interior. (See 40 CFR 1506.10(d) and 45 FR 27547, April 23, 1980, Section 4.24B.)

OSM has completed the required consultation and has been authorized by CEQ and EPA to reduce the waiting period on this final statement to 13 days. (See letter from Walter Heine, Director, OSM, to Nicholas Yost, General Counsel, CEQ, dated May 2, 1980, and letter from Nicholas Yost to Walter Heine, dated June 9, 1980. See also letters of November 17, 1980 from Paul Reeves, Deputy Director, OSM to Foster Knight, Acting General Counsel, CEQ, and to William Hedeman, Director, Office of Environmental Review, EPA. Copies of this correspondence are available in the Administrative Record of this proceeding in the OSM Region V Office in Denver, CO.) As noted above, OSM will distribute copies of the final statement by the fastest means possible in order to provide maximum time for public review.

Dated: November 20, 1980.

Heather L. Ross,

Deputy Assistant Secretary of the Interior.

[FR Doc. 80-36623 Filed 11-25-80; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before January 12, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP4–130

Decided: November 19, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 1117 (Sub-35F) filed October 27, 1980. Applicant: M.G.M. TRANSPORT CORPORATION, 70 Maltese Drive, Totowa, NJ 07512. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. As a *broker* to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 152476F, filed October 20, 1980. Applicant: COMBINED TRANSPORTATION SERVICES, INC. 8300 Bletzer Rd., Baltimore, MD 21222. Representative: Barry Weintraub, Suite 800, 8133 Leesburg Pike, Vienna, VA 22180. Transporting (1) *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the Unites States Government, and (2) *shipments weighing* 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 147156 (Sub-1F), filed October 22, 1980. Applicant: MANUFACTURERS' MOBILE HOME TRANSPORT, INC., P.O. Box 1519, Athens, TX 75751. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 152536F, filed October 30, 1980. Applicant: LARRY L. MILLER, 36 W. Eighth St., Bloomsburg, PA 17815. Representative: Larry L. Miller, 265 E. Eighth St., Bloomsburg, PA 17815. Transporting *food and other edible products (including edible-byproducts but excluding alcoholic beverages and drugs), intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers*, by the owner of the motor vehicle in such vehicle, between points in the U.S.

Volume No. OP5–062

Decided: Nov. 17, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 97699 (Sub-50F), filed November 12, 1980. Applicant: BARBER TRANSPORTATION CO., a corporation, P.O. Box 2047, Rapid City, SD 57701. Representative: Leslie R. Kehl, Suite 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 127278 (Sub-7F), filed October 20, 1980. Applicant: PACIFIC VAN & STORAGE CO., INC., 1415 West Torrance Boulevard, Torrance, CA 90501. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1112, Washington, DC 20036. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 151129 (Sub-1F), filed October 21, 1980. Applicant: BRONC ENTERPRISES, INC., 14315 West Hardy, Houston, TX 77088. Representative: C. W. Ferebee, 720 North Post Oak, Suite 230, Houston, TX 77024. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 152128 (Sub-2F), filed November 3, 1980. Applicant: STATE TRANSPORT SERVICE, INC., 13209 Market St., Houston, TX 77015. Representative: C. W. Ferebee, 720 North Post Oak, Suite 230, Houston, TX 77024. Transporting *general commodities* except used household goods as defined by the Commission, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S.

MC 152429 (Sub-1F), filed October 20, 1980. Applicant: C R & S TANK LINES, INC., P.O. Box 871, Benicia, CA 94510. Representative: Robert J. Gallagher, 1000 Connecticut Ave. NW., Suite 1112, Washington, DC 20036. Transporting general commodities (except household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 152499F, filed October 24, 1980. Applicant: LOUVELL E. CRAWFORD, T/A, CRAWFORD TRUCK BROKERS, Maryland Wholesale Produce Market, Building A, Unit 14, Jessup, MD 20794. Representative: Bernard F. Goldberg, 3691 Park Ave., Ellicott City, MD 21043. To arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

Volume No. OP5–057

Decided: Nov. 13, 1980

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 25399 (Sub-17F), filed October 24, 1980. Applicant: A-P-A TRANSPORT CORP., 2100 88th St., North Bergen, NJ 07047. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *shipments* weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 123389 (Sub-58F), filed October 16, 1980. Applicant: CROUSE CARTAGE COMPANY, P.O. Box 151, Carroll, IA 51401. Representative: William S. Rosen, 630 Osborn Bldg., St. Paul, MN 55102. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 123389 (Sub-57F), filed October 16, 1980. Applicant: CROUSE CARTAGE COMPANY, P.O. Box 151, Carroll, IA 51401. Representative: William S. Rosen, 630 Osborn Building, St. Paul, MN 55102. Transporting *general commodities*,

between Santa Rosa, Tucumcari, Logan, Maravisa, and Endee, MN; Stratford, Liberty, Stockton, Davenport, Clinton, Fairfield, Keosauqua, South Burlington,

control, fitness, water carrier dual operations, or jurisdictional questions)

Manufacturing Company (3M), of St. Paul MN,

Hwy 59, then over U.S. Hwy 59 to junction Interstate Hwy 30, then over

GA, KY, LA, MS, NC, SC, and TN; and (2) *materials, equipment and supplies*

between Santa Rosa, Tucumcari, Logan, Maravisa, and Endee, MN; Stratford, Genrio, Adrian, Vega, Wildorado, Amarillo, Alanreed, McLean, Shamrock, St. Francis, Fritch, Sunray, Etter, Brum, Wilco, Stinnett, Pringle, Morse, Gruver, Dalhart, Irving, Dallas, Waxahachie, Corsicana, Teagur, Newby, Normangee, Tomball, Houston, Texas City, Galveston, Fort Worth, Graham, Jacksboro, Bowie, Ringgold, and Mexia, TX; Texalo, Sayre, Elk City, Clinton, Weatherford, Bridgeport, Texhoma, Hitchland, Hardesty, Guymon, Mangum, Grantie, Hobart, Carnegie, Anadarko, Apache, Chickasha, Marlow, Duncan, Comanche, Homestead, Alva, Ingersoll, Enid, Binnings, Ponca City, Augusta, Kingfisher, El Reno, Oklahoma City, Shawnee, Seminole, Wewoka, Holdenville, McAlester, Haileville, Hartshorne, Wilburton, Wister, Howe, Medford, Warren, Geary, Okenne, Fort Bill, Verden, Lawton, Walter, Temple, Waurika, and Terral, OK; Eunice, Lecompte, Alexandria, Winnfield, Jonesboro, Hodge, Ruston, Dubach, Bernice, and Junction City, LA; Eldorado, Camden, Crossett, Hermitage, Mace, Banks, Kingman, Fordyce, Carthage, Sparkman, Malvern, Hot Springs, Haskell, Benton, Little Rock, Bauxite, North Little Rock, Carlisle, Hazen, Des Arc, Mesa, DeValls Bluff, Brinkley, Wheatley, Forest City, West Memphis, Edmondson, Stuttgart, Roland, Bigelow, Perry, Cla, Bonneville, Mansfield, and Hartford, AR; Kansas City, Southlea, Pleasant Hill, Windsor, Hay, Versaille, Eldon, Meta, Gasconde, Belle, Owensville, Union, Labadie, St. Louis, Liberty, Excelsior Springs, Polo, St. Joseph, Clarksdale, Maysville, Wetherby, Altamont, Coburn, Trenton, and Princeton, MO; Caldwell, Wellington, Wichita, Peabody, Marion, Harrington, Liberal Plains, Meade, Fowler, Mineola, Bucklin, Dodge City, Greensburg, Pratt, Hutchinson, Medora, McPherson, Salina, White City, Alta Vista, Goodland, Colby, Norton, Phillipsburg, Smith Center, Mankato, Belleville, Cuba, Clyde, Clifton, Clay Center, Riley, Manhattan, McFarland, Topeka, Holton, Horton, Troy, Atchison, and Kansas City, KS; Burlington, Stratton, Flaglea, Arriba, Limon, Simla, Roman, Calhan, Colorado Springs, and Denver, CO; Thompson, Ruskin, Deshler, Hebron, Fairbury, Jansen, Witt, Lincoln, South Bend, Omaha, and Beatrice, NE; Council Bluffs, Shelby, Oakland, Avoca, Audubon, Walnut, Menlo, Stuart, Winterest, Indianola, Chariton, Corydon, Allerton, Seymore, Centerville, Eldon, Ottumwa, Evans, Pella, Monroe, Des Moines, Colfax, Newton, Grinnell, Brooklyn, Marengo, Iowa City, West Liberty, Stockton, Davenport, Clinton, Fairfield, Keosauqua, South Burlington, Buffalo Center, Burlington, Mount Zion, Keokik, Washington, Ainsworth, Columbus Junction, Nichols, Muscatine, Wilton, Elmira, Cedar Rapids, West Union, Oelwein, Vinton, Waterloo, Cedar Falls, Nevada, McCallsburg, Renwick, Iowa Falls, Hampton, Mason City, Maysfield, Manly, Dows, Belmond, Titonka, Armstrong, Northwood, Emmetsburg, Estherville, Spirit Lake, Lake Park, Gowrie, Hanson, Pocohontas, Hartley, and Sibley, IA; Elsworth, Worthington, Lismore, Albert Lea, Hollandale, Clarks Grove, Owatonna, Faribault, Northfield, Farmington, West St. Paul, and St. Paul, MN; Rock Island, Milan, Moline, East Moline, Silvis, Colona, Geneseo, Sheffield, Bureau, Tonlon, Henry, Chillicothe, Peoria, Pekin, Lasalle, Ottawa, Joliet, Elwood, and Chicago, IL, on the one hand, and, on the other, points in the U.S.

Note.—The purpose of this application is to substitute motor carrier service for complete abandonment rail carrier service.

MC 131069F, filed October 14, 1980 Applicant: RONALD WILLIAMSON, 153 Larchmont, Bloomington, IL 60108. Representative: Ronald Williamson (same address as applicant). To arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-36863 Filed 11-25-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier; Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before January 12, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP3-077

Decided: Nov. 14, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 15975 (Sub-39F), filed October 28, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). Transporting *wire shelving and parts for wire shelving*, (1) from Farmington, MI, to Pierceton, Greenfield and Lafayette, IN, and (2) from Pierceton, Greenfield and Lafayette, IN, to Bridgeton, MO.

MC 16985 (Sub-9F), filed October 28, 1980. Applicant: FRANKLIN TRUCKING, INC., 210 E. Washington St., Hartford City, IN 47348. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *plastic products*, between points in the U.S., under continuing contract(s) with Minnesota Mining & Manufacturing Company (3M), of St. Paul MN.

MC 29674 (Sub-1F), filed November 6, 1980. Applicant: R. F. CLEMENS & SON, INC., R.F.D. No. 1 Munyan Rd., Putnam, CT 06260. Representative: Sidney L. Goldstein, 109 Church St., New Haven, CT 06510. Transporting *household goods*, as defined by the Commission, between points in Windham, Tolland, and New London Counties, CT, Worcester County, MA, Burrillville, Glocester and Foster Counties, RI, on the one hand, and, on the other, points in NH, VT, ME, NJ, and PA.

MC 73165 (Sub-535F), filed October 31, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35222. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting *paper and paper products*, between points in Jefferson County, AR, and Richmond County, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 106074 (Sub-449F), filed November 3, 1980. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy 221, S., P.O. Box 727, Forest City, NC 28043. Representative: John J. Capo, P.O. Box 720434, Altanta, GA 30328. Transporting *general commodities* (except household goods as defined by the Commission, Classes A and B explosives, commodities in bulk, articles of unusual value, and those requiring the use of special equipment), between points in Hardemann County, TN and Houston County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 110325 (Sub-165F), filed October 17, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. Over regular routes, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), (1) between Brownsville, TX and Atlanta, GA, from Brownsville over U.S. Hwy 77 to junction U.S. Hwy 59, then over U.S. Hwy 59 to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction Interstate Hwy 65, then over Interstate Hwy 65 to junction Interstate Hwy 85, then over Interstate Hwy 85 to Atlanta, and return over the same route; (2) between Brownsville, TX and Laredo, TX, over U.S. Hwy 83; (3) between Laredo, TX and Memphis, TN, from Laredo over Interstate Hwy 35 to junction TX Hwy 31, then over TX Hwy 31 to junction U.S. Hwy 259, then over U.S. Hwy 259 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction U.S. Hwy 59, then over U.S. Hwy 59 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis and return over the same route; (4) between Victoria, TX and Waco, TX, over U.S. Hwy 77; (5) between McAllen, TX and Denver, CO, from McAllen over U.S. Hwy 281 to junction Interstate Hwy 10, then over Interstate Hwy 10 to junction Interstate Hwy 25, then over Interstate Hwy 25 to Denver, and return over the same route; (6) between Victoria, TX and Raton, NM, over U.S. Hwy 87; (7) between San Antonio, TX and Birmingham, AL, from San Antonio over Interstate Hwy 10 to junction U.S. Hwy 59, then over 59 to junction Interstate Hwy 20, then over Interstate Hwy 20 to Birmingham, and return over the same route; (8) between junction Interstate Hwy 35 and U.S. Hwy 79 and junction U.S. Hwy 79 and Interstate Hwy 20, over U.S. Hwy 79; (9) between junction U.S. Hwy 96 and Interstate Hwy 10 and junction U.S. Hwys 96 and 59, over U.S. Hwy 96; and (10) serving all intermediate points in routes (1) through (9) above.

MC 116544 (Sub-227F), filed November 3, 1980. Applicant: ALTRUK FREIGHT SYSTEMS, 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. Transporting (1) *foodstuffs;* and (2) *materials, equipment and supplies used in the manufacture and distribution of foodstuffs*, betweeen points in FL and those in Monterey and Monrovia Counties, CA; and Spartanburg County, SC., on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 117765 (Sub-304F), filed November 3, 1980. Applicant: HAHN TRUCK LINE, INC., 1100 S. MacArthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). Transporting (1) *recreational equipment*, (2) *heating and air conditioning equipment*, and (3) *materials, equipment, and supplies* used in the manufacture, installation and distribution of the commodities in (1) and (2) above, between the facilities of The Coleman Company, Inc., on the one hand, and, on the other, points in AL, AR, IA, IL, IN, KS, KY, LA, MN, MO, MS, NE, ND, OK, SD, TN, TX, and WI.

MC 133604 (Sub-11F), filed October 16, 1980. Applicant: LYNN TRANSPORTATION COMPANY, INC., 712 South 11 St., Oskaloosa, IA 52577. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting (1) *foodstuffs*, from the facilities of Geo. A. Hormel & Co., at or near Davenport, IA, to points in AL, FL, GA, KY, LA, MS, NC, SC, and TN; and (2) *materials, equipment and supplies* used in the manufacture of gelatin products, in the reverse direction.

MC 134645 (Sub-38F), filed October 31, 1980. Applicant: LAKE STATE TRANSPORT, INC., P.O. Box 944, St. Cloud, MN 56301. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting (1) *meats, meat products, and meat byproducts, and articles distributed by meat packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions of Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Macon, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141914 (Sub-93F), filed October 30, 1980. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in ME, on the one hand, and, on the other, points in the U.S., (except AK and HI). Condition: Issuance of this certificate is subject to prior or coincidental cancellation, at applicant's written request, of MC 141914 Subs 10, 13, 19, 21, 22, 25, 35, 37, 38, and 59.

Note.—Applicant relies on traffic studies in lieu of shipper support.

MC 145915 (Sub-5F), filed November 4, 1980. Applicant: EAGLE TRANSPORT, INC., P.O. Box 189, Montpelier, ID 83254. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. Transporting *oil drilling mud compounds*, (1) between points in Uinta County, WY, on the one hand, and, on the other, points in Lander and Nye Counties, NV, and those in Box Elder, Cache Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake Summit, Weber and Wasatch Counties, UT; and (2) from points in Lander and Nye Counties, NV, to points in Bear Lake County, ID.

MC 151275 (Sub-1F), filed October 20, 1980. Applicant: CHICAGO SURBURBAN EXPRESS, INC., 1500 W. 33rd St., Chicago, IL 60608. Representative: Philip A. Lee, 120 W. Madison St., Chicago, IL 60602. Transporting *chemicals*, between Chicago, IL, on the one hand, and, on the other, Milwaukee, Racine, and Kenosha, WI.

MC 151534 (Sub-1F), filed October 21, 1980. Applicant: R&D

V 45 NO 26 80 UMI

TRANSPORTATION CORPORATION, P.O. Box 1906, Des Moines, IA 50306. Representative: Donald B. Strater, 1350 Financial Center, Des Moines, IA 50309. Transporting *food or kindred products* as described in Item 20 of the Standard Transportation Commodity Code Tariff, from points in IA, NE, IL, MO, KS, ND, SD, MN, and WI, to points in the U.S.

MC 152085 (Sub-1F), filed October 17, 1980. Applicant: MITCHELL TRANSPORT, INC., 6500 Pearl Rd., P.O. Box 30248, Cleveland, OH 44130. Representative: J. A. Kuntz, 1100 National City Bank Bldg., Cleveland, OH 44114. Transporting *coal, limestone, and sand,* between points in the U.S., under continuing contract(s) with Alpha Portland Cement Company, of Frederick, MD.

MC 152225 (Sub-1F), Filed October 27, 1980. Applicant: RICK PERRONE TRANSPORTATION, INC., 39 Depot St., Broad Brook, CT 06016. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Transporting *electronic cable, plastic pellets, and materials, equipment, and supplies* used in the manufacture and installation of electronic cable and wire plastic insulation, from South Hadley, MA, to Nogales, AZ, and from Nogales, AZ, to points in the U.S. (except AK and HI).

MC 152325 (Sub-1F), filed October 20, 1980. Applicant: BOWDEN TRANSFER COMPANY, INC., P.O. Box 343, Lewisburg, TN 37901. Representative: Robert E. Campbell, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), (A) over regular routes, between Lewisburg and Nashville, TN, over Alternate U.S. Hwy 31, serving all intermediate points; and (B) over irregular routes, between Lewisburg, TN, on the one hand, and, on the other, points in the U.S.

MC 152395 (Sub-1F), filed October 22, 1980. Applicant: KRUEGER TRUCKING, INC., 1330 Bellevue St., Green Bay, WI 54305. Representative: Norman A. Cooper, 145 West Wisconsin Ave., Neenah, WI 54956. Transporting (1) *furniture and fixtures,* and (2) *materials, supplies, and equipment used in the manufacture and distribution of the commodities in (1),* between points in the U.S., under continuing contract(s) with Krueger Metal Products, Inc., and its subsidiaries. Condition: Applicant must submit a statement indicating how it proposes to satisfy the statutory criteria of contract carriage furnishing transportation services designed to meet the distinct need of the shipper. In particular applicant must describe briefly the distinct need for which transportation services have been designed. The statement will be examined by a review board prior to issuance of any permit.

Volume No. OP4–129

Decided: November 19, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 60066 (Sub-22F), filed November 3, 1980. Applicant: BEE LINE MOTOR FREIGHT, a corporation, 1804 Paul St., Omaha, NE 68106. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. Transporting *automobile parts and accessories,* between points in Platte County, NE and Cook County, IL.

MC 70557 (Sub-38F), filed November 7, 1980. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 W. Homer St., Chicago, IL 60639. Representative: Carl L. Steiner, 39 S. LaSalle St., Chicago, IL 60603. Transporting (1)(a) *paper and paper products* and (b) *plastic articles and containers* and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities in (1)(a) and (b), (except commodities in bulk), between points in AL, DE, FL, GA, IN, KY, MO, NC, NJ, NY, OH, OK, PA, TN, and TX, restricted to traffic originating at or destined to the facilities of Container Corporation of America.

MC 75627 (Sub-3F), filed October 20, 1980. Applicant: PERILLO MOTOR LINES, INC., 499 Central Ave., New Providence, NJ 07974. Representative: Nicholas J. Perillo (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC. Condition: Issuance of a certificate in this proceeding is subject to the prior or coincidental cancellation, at applicant's written request, of authority held in MC–75627 and subs thereunder which duplicate, in full or in part, the authority herein.

MC 77016 (Sub-22F), filed October 31, 1980. Applicant: BUDIG TRUCKING CO., a corporation, 1100 Gest St., Cincinnati, OH 45203. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Columbia and Centralia, MO, (a) from Columbia over U.S. Hwy 63 to junction MO Hwy 22, then over MO Hwy 22 to Centralia, and return over the same route, serving no intermediate points, and (2) between Centralia and Mexico, MO, over MO Hwy 22, serving no intermediate points.

MC 99946 (Sub-3F), filed November 12, 1980. Applicant: FOOTHILLS EXPRESS, INC., 2510 Evergreen ave., West Sacramento, CA 95691. Representative: Michael S. Rubin, 256 Montgomery St., 5th Floor, San Francisco, CA 94104. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in CA and NV.

MC 107456 (Sub-25F), filed October 31, 1980. Applicant: HARRY L. YOUNG AND SONS, INC., 542 W. Sixth So., Salt Lake City, UT 84104. Representative: Lon Rodney Kump, 333 E. Fourth So., Salt Lake City, UT 84111. Transporting (1) *iron and steel articles,* and (2) *commodities* because of size or weight requires the use of special equipment, and (3) *machinery parts and contractors' materials and supplies,* in mixed loads with the commodities in (2) and (4) *general commodities* (except motor vehicles, motor vehicle cabs and bodies, and classes A and B explosives), in mixed loads with the commodities in (2) above, and (5) *self-propelled vehicles* (except motor vehicles and vehicles moving in drive-away service), and (6) *construction materials,* between points in UT.

MC 107576 (Sub-32F), filed November 4, 1980. Applicant: SILVER WHEEL FREIGHTLINES, INC., 1321 S.E. Water Ave., Portland, OR 97214. Representative: Ronald D. Browning (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Cowlitz County, WA, on the one hand, and, on the other, points in OR, WA, and ID.

MC 113406 (Sub-17F), filed November 6, 1980. Applicant: DOT LINES, INC., 1000 Findlay Rd., Lima, OH 45802. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. Transporting (1) *auto parts,* and (2) *materials, equipment, and supplies* used in the manufacture of auto parts (except commodities in bulk), between Lima, OH, on the one hand, and, on the other, points in the Lower Peninsula of MI.

MC 114457 (Sub-580F), filed November 4, 1980. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Ave., St. Paul, MN 55114. Representative: James C. Hardman, 33 North LaSalle St., Suite 2108, Chicago, IL

60602. Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, in tank vehicles, and those requiring special equipment), between points in the U.S.

MC 119777 (Sub-507F), filed November 6, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85—East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting (1) *sealant, fireproofing, acoustical, and insulating products,* (2) *building and construction materials,* and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) between points in Sussex County, NJ, Jefferson County, AL, Orange County, CA, Huntington County, IN, and Fredericksburg, VA, on the one hand, and, on the other, points in the U.S.

MC 123407 (Sub-651F), filed November 6, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr., (same address as applicant). Transporting (1) *chemical compounds,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of chemical compounds, between St. Louis, MO, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO, and NM.

MC 123407 (Sub-653F), filed November 3, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). Transporting (1) *prefabricated metal buildings,* knocked down or in sections, and (2) *parts and accessories* used in the installation of the commodities in (1) from Madison, WI, to points in the U.S. (except AK and HI).

MC 125777 (Sub-304F), filed November 3, 1980. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Ave., Gary, IN 46403. Representative: Carl L. Steiner, 39 So. LaSalle St., Chicago, IL 60603. Transporting *such commodities* as are usually transported in dump vehicles, between points in the U.S.

MC 129166 (Sub-4F), filed November 5, 1980. Applicant: RED WING TRANSPORTATION CORPORATION, 3154 No. Service Dr., Red Wing, MN 55066. Representative: Robert L. Cope, 1730 M St., NW. Suite 501, Washington, D.C. 20036 Transporting *general commodities* except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with S. B. Foot Tanning Co., of Red Wing, MN.

MC 135007 (Sub-87F), filed November 6, 1980. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" St., Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *chemicals or allied products* as described in Item 28 of Standard Transportation Commodity Code Tariff, between points in the U.S, under continuing contract(s) with Thompson, Hayward Chemicals Company, of Des Moines, IA.

MC 138157, (Sub-257F), filed October 31, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 S. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn (same as above). Transporting *lighting fixtures and materials, equipment, and supplies* used in the manufacture, and distribution of lighting fixtures, between points in Erie and Lorain Counties, OH on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 138157 (Sub-258F), filed October 31, 1980. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 So. Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn, (same address as applicant). Transporting *fans, heaters, and stands and materials, equipment, and supplies* used in the manufacture, and distribution of fans, heaters, and stands, between points in Tarrant County, TX; Williamson County, TN; and Lancaster and Chester Counties, PA, on the one hand, and, on the other, points in the U.S. restricted to traffic originating at or destined to the facilities of Lasko Metal Products.

MC 139077 (Sub-3F), filed November 5, 1980. Applicant: LOOP FLEET SERVICE, INC., 1818 N. Commerce St., Milwaukee, WI 53212. Representative: James L. Sernovitz (same address as applicant). Transporting (1) *hides, skins and splits,* between points in NE, MN, KS, MO, KY, MI and IN; (2) *leathers and materials* used to make shoes and boots, between points in WI and El Paso, TX; and (3) *general commodities* (except used household goods), between points in WI and Chicago, IL, restricted to traffic having a prior or subsequent movement by rail or water.

MC 14126 (Sub-10F), filed October 31, 1980. Applicant: FOAM TRANSPORT, INC., 201 Ballardvale St., Wilmington, MA 01887. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. Transporting (1) *rubber balls, plastic balls and sponge balls,* (2) *rubber automotive parts,* and (3) *materials and supplies* used in the manufacture of the foregoing commodities (except commodities (in bulk), between points in the U.S., under continuing contract(s) with Barr, Inc., of Sandusky, OH.

MC 142546 (Sub-2F), filed October 15, 1980. Applicant: MER–LOU TRANSPORTATION, INC., P.O. Box 247, 401 DuPont Hwy., Millsboro, DE 19966. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. Transporting *foodstuffs* (except commodities in bulk), between New York, NY, and points in Camden and Cumberland Counties, NJ, Sussex County, DE, Caroline, Dorchester, Talbot, and Wicomico Counties, MD, Accomack and Northampton Counties, VA, on the one hand, and, on the other, points in the U.S.

MC 142556 (Sub-1F), filed October 27, 1980. Applicant: GIGUERE'S SUPER MARKET, a corporation, Western Ave., Box 710, Augusta, ME 04330. Representative: Robert J. Daviau, One Center St., Waterville, ME 04901. Transporting *such commodities* as are dealt in or used by chain grocery stores, between points in the U.S., under continuing contract(s) with New England Grocer Supply Co., of Northboro, MA.

MC 144416 (Sub-7F), filed November 4, 1980. Applicant: C. F. McGRAW, and individual, P.O. Box 498, Garden City, KS 67846. Representative: Herbert Alan Dubin, 818 Connecticut Ave., NW., Washington, DC 20006. Transporting *foodstuffs,* between points in Finney County, KS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145676 (Sub-6F), filed October 31, 1980. Applicant: JOHN BREITWEISER TRUCKING, INC., P.O. Box 217, Jerseyville, IL 62022. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting (1) *carbonated beverages,* and (2) *materials and supplies* used in the manufacture and distribution of carbonated beverages, between points in the U.S., under continuing contract(s) with Taylor Beverages, Inc., of Hazelwood, MO.

MC 146146 (Sub-9F), Filed October 31, 1980. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Lilly Metal Products, Inc., of Palm Beach Gardens, FL.

MC 146656 (Sub-59F), filed November 5, 1980. Applicant: KEY WAY

and oil filters, between points in the U.S., under continuing contract(s) with

between Chicago, IL, on the one hand, and, on the other, points in IN, KY, MI

Portland, OR, on the one hand, and, on

Commodity Code tariff between points

MC 118959 (Sub-254F), filed October

MC 146656 (Sub-59F), filed November 5, 1980. Applicant: KEY WAY TRANSPORT, INC., 820 So. Oldham St., Baltimore, MD 21224. Representative: Gerald K. Gimmel, 4 Professional Dr., Suite 145, Gaithersburg, MD 20760. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Key Warehouse Services, a division of Cowan Enterprises, Inc., of Baltimore, MD.

MC 146656 (Sub-60F), filed November 6, 1980. Applicant: KEY WAY TRANSPORT, INC., 820 S. Oldham St., Baltimore, MD 21224. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *polyurethane foam*, between points in the U.S., under continuing contract(s) with William T. Burnett & Company, Inc., of Baltimore, MD.

MC 148886 (Sub-1F), filed October 31, 1980. Applicant: A & A TRUCKING, INC., P.O. Box 538, Stephens, AR 71764. Representative: Joe D. Woodward, P.O. Box 727, Magnolia, AR 71753. Transporting (1) *roofing and roofing products*, and (2) *materials and supplies* used in the manufacture of roofing and roofing products, between the facilities of the Elk Corporation at Stephens, AR, on the one hand, and, on the other, points in AL, KY, LA, MO, OK, TN, TX, and MS.

MC 151087 (Sub-2F), filed October 31, 1980. Applicant: AREA INTERSTATE TRUCKING, INC., 15344 Dixie Hwy., Harvey, IL 60426. Representative: Michael R. Werner, 167 Fairfield, P.O. Box 1409, Fairfield, NJ 07006. Transporting *new furniture and materials, supplies, and equipment*, used in the manufacture and distribution of new furniture, between points in the U.S., under continuing contract(s) with Harris Hub Co., Inc., of Harvey, IL 60426.

MC 151137 (Sub-1F), filed November 4, 1980. Applicant: RAPIDO FREIGHT LINES, INC., 1744 Hacienda Pl., El Cajon, CA 92020. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *bananas*, from Wilmington, CA, to points in AR, AZ, CA, CO, ID, IL, IA, KS, LA, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, WI, and WY.

MC 151176 (Sub-1F), filed October 31, 1980. Applicant: EDD EUBANKS, d.b.a. EDD EUBANKS TRUCKING COMPANY, Box 204 (Hwy 25 N), Dexter, MO 63841. Representative: Edd Eubanks (same address as applicant). Transporting (1) *automotive air and oil filters*, and (2) *parts* for automotive air and oil filters, between points in the U.S., under continuing contract(s) with Campbell Filter Company, of Dexter, MO.

MC 151527 (Sub-1F), filed November 7, 1980. Applicant: STEWART ENTERPRISE, INC., Route 4, Box 231A, Duncan, OK 73533. Representative: James Stewart (same address as applicant). Transporting *chemicals*, between points in the US (except AK and HI), under continuing contract(s) with Sun Petroleum Products Company of Tulsa, OK.

MC 152067 (Sub-1F), filed October 28, 1980. Applicant: JOHN H. WINSLOW, d.b.a. JOHN WINSLOW TRUCKING, 2660 Knollwood, MO 63031. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. Transporting *foodstuffs and paper products*, between Granite City, IL, Memphis and Jackson, TN, Tupelo, MS, West Memphis, AR and Forest City, AR.

MC 152226 (Sub-1F), filed October 14, 1980. Applicant: C. G. TRUCKING CORP., 4200 N. Oracle Rd., Tucson, AZ 85705. Representative: Al Stamper (same address as applicant). Transporting *confectionery*, between Bloomington, IL, on the one hand, and, on the other, Los Angeles, West Covina, and San Francisco, CA.

MC 152227 (Sub-1F), filed October 15, 1980. Applicant: DAVID BENDER d.b.a. DAVE'S TOWING SERVICE, Rt. #22 & Mercer St., Somerville, NJ 08876. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *disabled and replacement motor vehicles*, in truckaway service, between points in CT, DE, MD, MA, NC, NJ, NY, OH, PA, RI, VA, WV, and DC.

MC 152566 (Sub-F), filed November 3, 1980. Applicant: ONEDIN LINE, INC., 6021 Bapst St., Toledo, OH 43615. Representative: Keith D. Warner, 5732 W. Rowland Rd., Toledo, OH 43613. Transportating *malt beverages*, between points in the U.S., under continuing contract(s) with Seaway Beverage Company of Toledo, OH.

Volume No. OP5-055

Decided: November 13, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 908 (Sub-20F), filed October 27, 1980. Applicant: CONSOLIDATED CARTAGE COMPANY, INC., P.O. Box 171, Argo, IL 60501. Representative: Eugene L. Cohn, One North LaSalle St., Rm. 2255, Chicago, IL 60602. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, and commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in IN, KY, MI, MO, OH, PA, TN, and WI.

MC 1459 (Sub-11F), filed October 22, 1980. Applicant: ROYAL MOTOR EXPRESS, INC., 240 Harmon Ave., Lebanon, OH 45036. Representative: Richard H. Brandon, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between points in the U.S. (except AK and HI) under continuing contract(s) with the Standard Oil Company, of Clevèland, OH and its subsidiaries, BP Oil, Inc., Boron Oil Co., Montaineer Carbon Co., Sohio Petroleum Co., Old Ben Coal Co., Division of Sohio Petroleum Co., Sohio Pipeline Company and Vistron Corporation.

MC 25399 (Sub-16F), filed October 24, 1980. Applicant: A-P-A TRANSPORT CORP., 2100 88th St., North Bergen, NJ 07047. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk in tank vehicles, and those requiring special equipment), between points in PA, NJ, NY, CT, MA, RI, NH, VT, ME, DE, MD, VA, WV, and DC. Condition: Any certificate issued in this proceeding is subject to the prior or coincidental cancellation, at applicant's written request, of MC 25399 and Subs 5, 6, 7, 8, 10, 11, and 14, and dismissal of the pending modification requests of each of the above certificates.

MC 78118 (Sub-57F), filed October 21, 1980. Applicant: W. H. JOHNS, INC., 35 Witmer Rd., Lancaster, PA 17602. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Transporting (1) *water treating chemicals and activated carbon*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1), between points in the U.S. in and east of MI, IN, KY, TN, and MS (except points in NY, ME, NH, VT, MA, and RI), restricted to traffic originating at or destined to the facilities of Calgon Corporation, a subsidiary of Merck and Co., Inc.

MC 85718 (Sub-17F), filed October 28, 1980. Applicant: SEWARD MOTOR FREIGHT, INC., P.O. Box 126, Seward, NE 68434. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Transporting *automotive parts, accessories, and tools*, between

Portland, OR, on the one hand, and, on the other, points in WA and ID.

MC 96769 (Sub-11F), filed October 24, 1980. Applicant: LIBERTY TEX-PACK EXPRESS, INC., Suite 508, Regal Plaza Bldg., 1499 Regal Row, Dallas, TX 75249. Representative: Thomas F. Sedberry, P.O. Box 2165, Austin, TX 78768. Over regular routes transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between Dallas, TX, and Oklahoma City, OK, over Interstate Hwy. 35 and U.S. Hwy. 77, serving Ardmore, OK, as an intermediate point, restricted (1) against the transportation of packages or articles weighing more than 100 pounds and (2) against the transportation of packages or articles weighing in the aggregate more than 500 pounds, from one consignor at one location, to one consignee at one location in any one day.

MC 97998 (Sub-3F), filed October 22, 1980. Applicant: REFRIGERATED TRANSPORT, INC., P.O. Box 225299, Dallas, TX 75265. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116. Transporting (1) *such commodities* as are dealt in or used by grocery stores, discount stores, retail department stores, and drug stores, (2) *foodstuffs*, other than those in (1), and (3) *equipment, materials, and supplies* used in the manufacture and distribution of commodities in (1) and (2), between points in TX, restricted to traffic having an immediately prior or subsequent movement in interstate or foreign commerce.

MC 103798 (Sub-52F), filed October 28, 1980. Applicant: MARTEN TRANSPORT, LTD., Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *foodstuffs* and *materials, equipment, and supplies* used in the manufacture of foodstuffs, between points in AZ, AR, CA, CO, ID, IL, IN, IA, KS, LA, MI, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, TN, TX, UT, WA, WI, and WY.

MC 106398 (Sub-1083F), filed October 23, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). Transporting *chemicals or allied products*, As described in Item 28, *clay, concrete, glass or stone products*, as described in Item 32, and *primary metal precut products;* including galvanized; except coating or other allied processing, as described in Item 33, of the Standard Transportation Commodity Code tariff between points in Fairfield County, CT, Henrico County, VA, Taylor County, GA, Montgomery County, OH, Lake County, IL, Smith County, TX, Denver County, CO, King County, WA, San Bernardino County, CA, Erie County, NY, and Greene County, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 107478 (Sub-78F), filed October 21, 1980. Applicant: OLD DOMINION FREIGHT LINE, INC., 1791 Westchester Drive, P.O. Box 2006, High point, NC 27261. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Transporting *electrical storage batteries*, between points in Tazewell County, VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 107478 (Sub-79F), filed October 17, 1980. Applicant: OLD DOMINION FREIGHT LINE, INC., 1791 Westchester Drive, Post Office Box 2006, High Point, NC 27261. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Transporting *(1) fabricated metal products (except ordnance)* as described in Item 34 of Standard Transportation Commodity Code tariff and *(2) equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) between points in Beaufort, Pitt, and Sampson Counties, NC, and Guernsey County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 109708 (Sub-102F), filed October 22, 1980. Applicant: INDIAN RIVER TRANSPORT CO., INC., P.O. Box AG, Dundee, FL 33838. Representative: John J. Harned (same address as applicant). Transporting *food or kindred products*, as described in Item 20 of the Standard Transportation Commodity Code Tariff, (1) between points in the U.S. in and east of MN, IA, MO, AR, and TX, and (2) between points in CA, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR, and TX. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation of certificate NO. MC 109708 Subs-2, 50, 53, 55, 56, 59, 62, 65, 74, 76, 77, 79, 84, 85, 86, 87, 89, 92, and 95.

MC 112989 (Sub-131F), filed October 20, 1980. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). Transporting *recycleable waste products*, between points in AZ, on the one hand, and, on the other, points in CA and TX.

MC 118959 (Sub-254F), filed October 17, 1980. APPLICANT: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, MO 63701. REPRESENTATIVE: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. Transporting (1) *vinyl and vinyl products, chipboard and chipboard products, polyethylene and polyethylene products, labels, specialty die cutting and packaging supplies* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) between Cape Girardeau and Scott City, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 119399 (Sub-137F), filed October 28, 1980. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Blvd., Joplin, MO 64801. Representative: Don D. Lacy (same address as applicant). Transporting (1) *paper and paper products*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk and commodities which because of size or weight require special equipment), between the facilities of St. Regis Paper Co., Southland Division, at or near Herty and Sheldon, TX, on the one hand, and, on the other, points in AR, IL, IA, KS, KY, MO, OK, and TN.

Volume No. OP5-056

Decided: Nov. 13, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill

MC 65658 (Sub-6F), filed October 22, 1980. Applicant: H. E. WAMSLEY TRUCKING, INC., 16600 Jefferson Davis Hwy., Colonial Heights, VA 23834. Representative: Donald M. Schubert, 200 West Grace St., Suite 415, Richmond, VA 23220. Transporting *fabricated structural steel, paint, and iron and steel articles*, between points in the U.S., under continuing contract(s) with Mack's Iron Company, Incorporated, of Colonial Heights, VA.

MC 120378 (Sub-6F), filed October 21, 1980. Applicant: FINDLAY TRUCK LINE, INC., 420 Trenton Ave., Findlay, OH 45840. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. Transporting *general commodities* (except household goods and classes A and B explosives), between points in Allen, Ashland, Auglaize, Crawford, Cuyahoga, Erie, Hardin, Hancock, Holmes, Huron, Lorain, Lucas, Medima, Ottawa, Putnam, Richland, Sandusky, Seneca, Summit, Wayne, Wood, and Wyandot Counties, OH; and Monroe and Lenawee Counties,

MI, on the other hand, and, on the other, points in the U.S.

MC 124078 (Sub-1035F), filed October 20, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th St., Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Transporting *petroleum products*, from points in Milwaukee County, WI to points in MI, IL, IN, and MN.

MC 124489 (Sub-14F), filed October 23, 1980. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer Street, Chicago, IL 60639. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60609. Transporting *general commodities* (except household goods as defined by the Commission, commodities in bulk, and classes A and B explosives) between points in the U.S. (except AK and HI) under continuing contract(s) with Ralston Purina Company of St. Louis, MO.

MC 125299 (Sub-12F), filed October 17, 1980. Applicant: WITTE BROTHERS EXCHANGE, INC., 690 East Cherry St., Troy, MO 63379. Representative: B. W. Tourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S. (except points in WA, OR, CA, NV, ID, MT, WY, UT, AZ, NM, and CO).

MC 125708 (Sub-207F), filed October 21, 1980. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 1473 Ripley Road, P.O. Box 5216, Lake Station, IN 46405. Representative: Edward F. V. Pietrowski, 3300 Birney Avenue, Moosic PA 18507. Transporting *nonferrous metals and nonferrous metal products*, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 126899 (Sub-132F), filed October 20, 1980. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, Pasucah, KY 42001. Representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601. Transporting *asphalt*, in bulk, in tank vehicles, from Kuttawa, KY, to those points in that part of IL in an area and on a line beginning at the MO–IL State line and extending along U.S. Hwy 50 to the IL–IN State line, then along the IL–IN State line to ——— junction U.S. Hwy 36, then along U.S. Hwy 36 to the IL–MO State line, then along the IL–MO State line to junction U.S. Hwy 50.

MC 142999 (Sub-27F), filed October 16, 1980. Applicant: TRANSPORT MANAGEMENT SERVICE CORPORATION, P.O. Box 39, Burlington, NJ 08016. Representative: Ronald N. Cobert, Suite 501, 1730 M Street NW., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives) between points in the U.S. under continuing contract(s) with National Starch and Chemical Corporation, of Bridgewater, NJ.

MC 143328 (Sub-36F), filed October 28, 1980. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2730, Missoula, MT 59806. Representative: David A. Sutherland, 1150 Connecticut Ave. NW., Suite 400, Washington, DC 20036. Transporting *mineral water*, between points in CA, on the one hand, and, on the other, points in AZ, AR, CO, LA, NM, NV, TX, and WA.

MC 143369 (Sub-4F), filed October 28, 1980. Applicant: SMITH AND SMITH, INC. P.O. Box 71355, 4361 Headquarters Road, Charleston Heights, SC 29405. Representative: Frank A. Graham, Jr., P.O. Box 11864, Columbia, SC 29211. Transporting *coal* between points in SC, restricted to traffic having a prior or subsequent movement in interstate or foreign commerce.

MC 144029 (Sub-7F), filed October 31, 1980. Applicant: CUMBERLAND TRANSPORTATION CORP., 5950 Fisher Rd., East Syracuse, NY 13057. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Transporting (1) *containers and container closures, paper and paper products*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) between points in the U.S. under continuing contract(s) with International Paper Company, of New York, NY. Condition:Applicant must submit a statement indicating how it proposes to satisfy the statutory criteria of contract carriage, i.e., either by (1) furnishing transportation service through the assingment of motor vehicles for a continuing period of time to the exclusive use of each person served, or (2) furnishing transportation services designed to meet the distinct need of each individual customer, and if the latter, applicant must describe briefly the distinct need for which transportation services have been designed. The statement will be examined by a review board prior to issuance of any permit.

MC 144188 (Sub-24F), filed October 20, 1980. Applicant: P. L. LAWTON, INC. P.O. Box 325, Berwick, PA 1603. REPRESENTATIVE: J. Bruce Walter, P.O. Box 1146, 410 North Third St., Harrisburg, PA 17108. Transporting (1) *building sections, panels, curtain wall units, doors, and frames*, (2) *parts and accessories* for the commodities in (1), (3) *moldings and architectural shapes*, (4) *scrap aluminum* produced in the manufacture of the commodities in (1), (2), and (3) and (5) *materials, equipment, and supplies* used in the manufacture, storage, and distribution of the commodities in (1), (2), and (3), between points in the U.S. (except AK, AZ, CA, HI, ID, NV, OR, UT, and WA).

MC 150088 (Sub-4F), filed October 27, 1980. Applicant: STERLING TRANSPORT DIVISION, INC., 801 Heinz Way, Grand Prairie TX 75071. Representative: Robert K. Frisch, 2711 Valley View Lane, Suite 101, Dallas, TX 75234. Transporting (1) *canned and preserved foodstuffs*, between the facilities of Heinz U.S.A. at points in Dallas and Tarrant Counties, TX, on the one hand, and, on the other, points in LA, AR, OK, and NM, and (2) *carpet*, from points in Hempstead County, AR, to points in Dallas and Tarrant Counties, TX.

Volume No. OP5–058

Decided: Nov. 17, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 2428 (Sub-32F), filed November 4, 1980. Applicant: H. PRANG TRUCKING CO., INC., 112 New Brunswick Ave., Hopelawn (Perth Amboy), NJ 08861. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *such commodities* as are dealt in or used by manufacturers of building materials (except commodities in bulk), between points in the U.S., under continuing contract(s) with Bird & Son, Inc., of East Walpole, MA.

MC 5688 (Sub-54F), filed October 21, 1980. Applicant: MID-AMERICAN LINES, INC., 127 West Tenth Street, Kansas City, MO 64105. Representative: Tom Zaun (same address as applicant). Transporting *expanded metal products* between Hopkins, MN on the one hand, and, on the other, points in the U.S. (except AK and HI)

MC 31389 (Sub-312F), filed October 31, 1980. Applicant: MCLEAN TRUCKING COMPANY, a corporation, 1920 West First Street, Winston-Salem, NC 27104. Representative: Daniel R. Simons, PO Box 213, Winston-Salem, NC 27102. Transporting *pipe and pipe fittings*, from Hoboken and Harrison, NJ, to Manchester (Adams County), OH.

MC 42828(Sub-22F), filed October 28, 1980. Applicant: THEODORE ROSSI TRUCKING CO., INC., 9 South Vine St., Barre, VT 05641. Representative: William L. Rossi, P.O. Box 332, Barre, VT 05641. Transporting *stone, stone products, and materials, equipment, and supplies* used by manufacturers of stone products, between points in ME, MA, NH, VT, CT, RI, NY, NJ, and PA, on the one hand, and, on the other, points in and east of TX, OK, KS, NE, SD, and ND.

MC 48958 (Sub-215F), filed November 4, 1980. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Ave., Denver, CO 80216. Representative: Morris G. Cobb, P.O. Box 950, Amarillo, TX 79189. Transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S. (except AL and HI). Condition: Any certificate issued in this proceeding to the extent it authorizes transportation of classes A and B explosives shall be limited in point of time to a period expiring 5 years from the date of issuance of this certificate.

MC 55778 (Sub-21F), filed November 6, 1980. Applicant: MOTORFRATE DISPATCH, INC., 16360 Broadway Ave., Maple Hts, OH 44137. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *such commodities* as are dealt in by grocery, hardware and drug stores, (2) *cleaning and building materials and supplies*, (3) *chemicals*, and (4) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1), (2), and (3) between points in the U.S. (except AK and HI), under continuing contract(s) with Purex Corporation, of St. Louis, MO.

MC 61788 (Sub-41F), filed November 3, 1980. Applicant: GEORGIA-FLORIDA-ALABAMA TRANSPORTATION COMPANY, P.O. Box 2268, Dothan, AL 36302. Representative: Maurice F. Bishop, 601–09 Frank Nelson Bldg., Birmingham, AL 35203. Regular routes, transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between Atlanta, GA and Phenix City, AL; from Atlanta over Interstate Hwy 85 and/or U.S. Hwy 29 to LaGrange, GA, thence over U.S. Hwy 27 to Columbus, GA, thence over U.S. Hwy 80 to Phenix City, and return over the same route, serving all intermediate points and points in Russell County, AL, and Muscogee, Fulton, DeKalb, Clayton, Douglas, Gwinnett, Fayette, Henry and Cobb Counties, GA, as off-route points in connection with applicant's authorized regular route authority.

MC 108859 (Sub-85F), filed October 31, 1980. Applicant: CLAIRMONT TRANSFER CO., 1803 Seventh Ave., North Escanaba, MI 49829. Representative: Elmer J. Wery, P.O. Box 3548, Green Bay, WI 54303. Over regular transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives) (1) between Green Bay, WI, and Milwaukee, WI, over U.S. Hwy 41, (2) between St. Paul, MN and Forest Junction, WI, over U.S. Hwy 10, (3) between Minneapolis, MN and Milwaukee, WI, over Interstate Hwy 94, (4) between Chicago, IL and junction Interstate Hwy 90 and Interstate 94, over Interstate Hwy 94, (5) serving points in Fond du Lac, Outagamie, St. Croix and Winnebago Counties, WI as intermediate or off-route points in connection with carrier's authorized regular route operations.

Note.—Applicant intends to tack this authority with its existing authorities in NO. MC–108859.

MC 112989 (Sub-135F), filed November 7, 1980. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). Transporting *iron and steel articles*, from points in CA to points in TX, AZ, NM, and NV.

MC 151788 (Sub-5F), filed October 21, 1980. Applicant: ARM TRANSPORTATION CORPORATION, P.O. Drawer 9480, Amarillo, TX 79105. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. Transporting *foodstuffs* (except in bulk, in tank vehicles), from points in Shelby County, TN, to points in the U.S.

MC 151959 (Sub-1F), filed October 31, 1980. Applicant: TRANS-COPPER EXPRESS, CO., 512–514 State Fair Blvd., Syracuse, NY 13204. Representative: Donald G. Hichman, R.D. No. 1, Box 7, Union Springs, NY 13160. Transporting (1)*candles and decorative hardware items*, and (2) *materials and supplies* used in the manufacture and distribution of candles (except commodities in bulk) between points in Onondaga County, NY, on the one hand, and, on the other, points in CT, IL, IN, KS, MA, MI, MO, OH, PA, RI, and WI.

MC 152308 (Sub-1F), filed October 28, 1980. Applicant: KENNETH WOODWARD, d.b.a. KEN WOODWARD TRUCKING, 4239 N.E. Simpson, Portland, OR 97218. Representative: Louis A. Santiago, 1200 SW Main Bldg., Portland, OR 97205. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in OR and WA.

MC 152409 (Sub-1F), filed October 17, 1980. Applicant: COASTAL TOURS, INC., 14809 El Vista Avenue, Oak Forest, IL 60452. Representative: Douglas J. Watson (same address as applicant). To engage in operations in interstate or foreign commerce as a *broker* at Oak Forest, IL, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in special and charter operations, beginning and ending at points in IL, IN, WI, and IA, and extending to points in the U.S. (except AK and HI).

MC 152509F, filed October 24, 1980. Applicant: CONTRACT TRANSPORTATION SYSTEMS CO., a corporation, 1370 Ontario St., Cleveland, OH 44101. Representative: Leonard A. Jaskiewicz, 1730 M St., NW., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with (a) The Sherwin-Williams Company, of Cleveland, OH, and (b) United Freight, Inc., of Morrow, Ga.

Volume No. OP5–059

Decided: November 17, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 56679 (Sub-175F), filed October 22 1980. Applicant: BROWN TRANSPORT CORP., 352 University Ave. SW., Atlanta, GA 30310. Representative: Leonard S. Cassell (same address as applicant). General commodities (except Classes A and B explosives and household goods, as defined by the Commission), over the following regular routes: 1) Between Houston, TX and Des Moines, IA, from Houston over Interstate Hwy 45 (also over US Hwy 75) to Dallas, then over Interstate Hwy 35 to Des Moines, and return over the same route. 2) Between Baton Rouge, LA and Galveston, TX, from Baton Rouge, over Interstate Hwy 10 to Houston, TX, then over US Hwy 75 to Galveston, and return over the same route; 3) Between Jackson, MS and Ft. Worth, TX over Interstate Hwy 20; 4) Between Dallas, TX and Knoxville, TN, from Dallas, over Interstate Hwy 30 to Little Rock, AR, then over Interstate Hwy 40 to Knoxville, and return over the same route; 5) Between Little Rock, AR and Oklahoma City, OK over Interstate Hwy 40; 6) Between Oklahoma City, OK and Chicago, IL, from Oklahoma City over Interstate Hwy 44 (also over US Hwy 66) to St. Louis, MO, then over Interstate Hwy 55 (also over US Hwy 66) to

Chicago, and return over the same route; between Scranton, PA, and Knoxville, above, between points in the U.S., under

Box 2088, Toledo, OH 43613. County, NY, on the one hand, and, on MC 146829 (Sub-3F), filed November 3,

Chicago, and return over the same route; 7) Between Kansas City, MO and Omaha, NE over Interstate Hwy 29; 8) Between Baton Route, LA and Kansas City, MO, from Baton Rouge over US Hwy 190 to jct US Hwy 71, then over US Hwy 71 to Kansas City, and return over the same route; 9) Between Kansas City, KS and Chattanooga, TN, From Kansas City, over Interstate Hwy 70 to St. Louis, MO, then over Interstate Hwy 64 to jct US Hwy 41, then over US Hwy 41 (also over Interstate Hwy 24) to Chattanooga, TN and return over the same route; 10) Between Decatur, AL and Indianapolis, IN over Interstate Hwy 65; 11) Between Memphis, TN and St. Louis, MO over Interstate Hwy 55; 12) Between St. Louis, MO and Davenport, IA over US Hwy 61; 13) Between jct US Hwy 65 and Interstate Hwy 70 and jct US Hwy 65 and Interstate Hwy 20 over US Hwy 65; 14) Between Houston, TX and Texarkana, AR over US Hwy 59; 15) Between Indianapolis, IN and St. Louis, MO over Interstate Hwy 70; 16) Between Cincinnati, OH and Evansville, IN, from Cincinnati over Interstate Hwy 71 to Louisville, KY and then over Interstate Hwy 64 to Evansville, and return over the same route; 17) Between Louisville, KY and Knoxville, TN, from Louisville over Interstate Hwy 64 to Lexington, KY, then over Interstate Hwy 75 to Knoxville, and return over the same route; 18) Between Bridgeport, and Pittsburgh, PA over Interstate Hwy 70; 19) Between Norfolk, and Salem, VA, from Norfolk over Interstate Hwy 64 to jct US Hwy 360, then over US Hwy 360 to junction US Hwy 460, then over US Hwy 460 to Salem, and return over the same route, (20) between Baltimore, MD, and Pittsburgh, PA, from Baltimore over Interstate Hwy 70, (21) between Chicago, IL, and Toledo, OH, over US Hwy 20, (22) between Toledo, OH, and Detroit, MI, over Interstate Hwy 75, (23) between Chicago, IL, and Newark, NJ, from Chicago over US Hwy 6 to Cleveland, OH, then over Interstate Hwy 90 to Albany, NY, then over Interstate Hwy 87 to Sufferen, NY, then over NY Hwy 17 to the NY–NJ State line, then over NJ Hwy 17 to Newark, and return over the same route, (24) between Syracuse, NY, and Harrisburg, PA, over Interstate Hwy 81, (25) between Scranton, PA, and Newark, NJ, from Scranton over Interstate Hwy 380 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction PA Hwy 33 to junction Interstate Hwy 78, then over Interstate Hwy 78 to junction Interstate Hwy 287, then over Interstate Hwy 287 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Newark, and return over the same route, (26) between Scranton, PA, and Knoxville, TN, from Scranton over Interstate Hwy 81 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Knoxville, and return over the same route, serving all intermediate points in routes (1) through (26) and serving (a) Port Arthur, TX, Peoria, IL, Topeka, KS, Beaver Falls, PA, Boston, MA, Hot Springs, AR, Mobile, and Phenix City, AL, and (b) points within 20 miles of the points named in (a), as off route points in routes (1) through (26) above.

Note.—Applicant intends to tack with its otherwise authorized authority.

MC 129609 (Sub-4TA), filed October 22, 1980. Applicant: KENWOOD'S MOVING & STORAGE, INC., Sharron Ave., P.O. Box 429, Plattsburgh, NY 12901. Representative: Alvin Altman, 888 Seventh Ave., New York, NY 10106. Transporting *used household goods*, between Plattsburgh, NY, on the one hand, and, on the other, points in VT.

MC 143059 (Sub-140TA), filed October 24, 1980. Applicant: MERCER TRANSPORTATION CO., a corporation, P.O. Box 35610, Louisville, KY 40232. Representative: James L. Stone (same address as applicant). Transporting *iron and steel articles*, between points in the U.S. Condition: Any certificate issued in this proceeding is subject to the prior or coincidental cancellation, at applicant's written request, of certificates in MC 143059 Subs 3, 20, 21, 25, 27, 34, 40, 44, 49, 60, 65, 71, 75, 77, 111 and 114, and certificates that may be issued in the following pending applications, MC 143059 Subs 95, 106, 107 and 108.

Note.—Applicant relies on traffic studies rather than shipper support for the authority sought.

MC 143059 (Sub-141TA), filed October 31, 1980. Applicant: MERCER TRANSPORTATION CO., a corporation, P.O. Box 35610, Louisville, KY 40232. Representative: Kenneth W. Kilgore (same address as applicant). Transporting (1) *iron and steel articles*, and (2) *materials, equipment and supplies* used in the manufacture of iron and steel articles, between points in Mahoning, Belmont and Jefferson Counties, OH, Washington and Westmoreland Counties, PA, and Ohio, Marshall and Brooke Counties, WV, on the one hand, and, on the other, points in the U.S.

MC 144428 (Sub-13TA), filed October 31, 1980. Applicant: TRUCKADYNE, INC., Rt. 16, P.O. Box 308, Mendon, MA 01756. Representative: Joseph A. Reed (same address as applicant). Transporting (1) *foodstuffs* and (2) *materials and supplies* used in the manufacture, processing, and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Nabisco, Inc., of Cambridge, MA.

MC 144989 (Sub-23TA), filed October 28, 1980. Applicant: WHEATON CARTAGE CO., a corporation, 3rd and "G" Streets, Millville, NJ 08332. Representative: Laurance J. DiStefano, Jr., 1101 Wheaton Ave., Millville, NJ 08332. Transporting (1) *aluminum and aluminum products*, and (2) *materials, equipment, and supplies* used in the manufacture of aluminum and aluminum products (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Alcan Aluminum Corporation.

MC 147038 (Sub-3F), filed November 6, 1980. Applicant: CLAYTON STRANGE, d.b.a. STRANGE TRUCKING CO., Route 2, Box 38, Wallace, MI 49893. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. Transporting (1) *foundry products*, and (2) *materials, equipment and supplies* used in the manufacture of foundry products, between points in the U.S., under continuing contract(s) with Waupaca Foundry, Inc., of Waupaca, WI.

MC 151009 (Sub-1F), filed October 26, 1980. Applicant: ATLANTA CARRIERS, INC., 1260 Southern Road, Morrow, GA 30206. Representative: Bruce E. Mitchell, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, NE., Atlanta, GA 30326. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S.

MC 151419 (Sub-1F), filed October 22, 1980. Applicant: GORDON JOHNSON, Box 252, Fredericktown, OH 43019. Representative: L. S. Witherspoon, 88 E. Broad St., Columbus, OH 43215. Transporting (1) *lawn and garden tools and farm implements*, between points in Franklin County, OH, and points in NY; (2) *household appliances* and *household appliance parts*, between points in Marion County, OH, and points in NJ and NY; and (3) *such commodities* as are dealt in or used by manufacturers of packaging products (except commodities in bulk, in tank vehicles, and those which because of size or weight require the use of special equipment), between points in Holmes County, OH, and points in CT, MA, NJ, NY, and RI.

MC 151438 (Sub-1F), filed October 18, 1980. Applicant: MID AMERICA TRANSPORT CO., a corporation, 6041 Benore Rd., Toledo, OH 43612. Representative: Michael M. Briley, P.O. Box 2088, Toledo, OH 43613. Transporting (1) *steel and aluminum articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of steel and aluminum articles, between points in the U.S., under continuing contract(s) with (a) Heidtman Steel Products, Inc., of Toledo, OH, (b) Enterprise Metal Services, Inc., of Toledo, OH, (c) Stateline Steel Corporation, of Erie, MI, and (d) Bedford Steel Processing, Inc., of Erie, MI.

MC 152138 (Sub-1F), filed November 5, 1980. Applicant: D & J TRANSPORTATION SPECIALISTS, INC., Truckstop 7, 107 7th North Street, Liverpool, NY 13088. Representative: Michael R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Transporting *waste* and *hazardous waste* for destruction or disposal only, between points in the U.S.

MC 152238 (Sub-1F), filed October 21, 1980. Applicant: CALIFORNIA-AMERICAN TRUCKING, INC., P.O. Box 288, Grenada, CA 96038. Representative: Guy D. Dodge (same address as applicant). Transporting (1) *paper bags and wrapping paper*, and (2) *materials and supplies* used in their manufacture between points in Multnomah County, OR, and Kings County, CA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY.

MC 152318 (Sub-1F), filed November 4, 1980. Applicant: ATLANTIC TRUCK LINES, INC., 168 Town Line Rd., Kings Park, NY 11745. Representative: Morton E. Kiel, Two World Trade Center, Suite 1832, New York, NY 10048. Transporting (1) *such commodities* as are dealt in or used by food business houses and drug and variety stores, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1), between points in Suffolk, Nassau, Queens, and Kings County, NY, Chatham County, GA, Los Angeles County, CA, and Dallas, TX, on the one hand, and, on the other, points in the U.S., restricted in (1) and (2) against the transportation of commodities in bulk.

Volume No. OP5–060

Decided: November 17, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 77129 (Sub-12F), filed November 4, 1980. Applicant: RAYMOND H. PUFFER, INC., Box 15, RD 1, Vernon, VT 05354. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *malt beverages*, between points in Onondaga County, NY, on the one hand, and, on the other, points in VT.

MC 78228 (Sub-183F), filed October 26, 1980. Applicant: J MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Transporting *iron and steel articles*, and *materials, equipment, and supplies* used in the manufacture of iron and steel articles, between Beaver Falls, Ambridge, and Koppel, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 106398 (Sub-1085F), filed October 23, 1980. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). Transporting *machinery* (except electrical) as described in Item 35 of the Standard Transportation Code Tariff, between points in Crittenden County, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 110988 (Sub-434F), filed October 22, 1980. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Appleton, WI 54911. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. Transporting *such commodities* as are dealt in or used by manufacturers or distributors of emulsifiers, between points in the U.S.

MC 112989 (Sub-132F), filed October 21, 1980. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr. (same address as applicant). Transporting *lumber and lumber mill products*, from points in AZ and UT to points in the U.S.

MC 143419 (Sub-1F), filed October 15, 1980. Applicant: SUMMIT FOODS TRANSPORTATION COMPANY, a corporation, P.O. Box 1937, Breckenridge, CO 80424. Representative: John T. Wirth, 717 17th St., Suite 2600, Denver, CO 80202. Transporting *foodstuffs, and materials, equipment, and supplies* used in the manufacture, and distribution of foodstuffs between points in the U.S. under continuing contract(s) with Summit Foods Company of Breckenridge, CO (hearing site: Denver, CO or Breckenridge, CO.

MC 146076 (Sub-33F), filed October 22, 1980. Applicant: CAL-ARK, INC., 854 Moline, P.O. Box 610, Malvern, AR 72104. Representative: John C. Everett, 140 E. Buchanan, P.O. Box A, Prairie Grove, AR 72753. Transporting (1) *metal shelving*, and (2) *parts and accessories* for metal shelving, from points in OH to points in TX.

MC 146829 (Sub-3F), filed November 3, 1980. Applicant: MURRAY TRUCK LINE, INC., P.O. Box 172, Pleasanton, KS 66075. Representative: William A. Murray (same address as applicant). Transporting *steel pipe* from points in TX and OK, to the facilities of Northwestern Pump & Supply Co., Inc., at Hill City, Plainville, and Hays, KS, Trenton, and Indianola, NE.

MC 146828 (Sub-2F), filed November 6, 1980. Applicant: LEONARD ALLEN and GARY ARIOTI, d./b./a., ALLEN TRUCKING, 112 Manzanita Dr., West Covina, CA 91791. Representative: Leonard Allen (same address as applicant). Transporting *such commodities* as are dealt in or used by manufactureres of cosmetics and cleaning compounds (except commodities in bulk), between points in the U.S., under continuing contract(s) with (a) Avon Products, Inc., of Pasadena, CA, and (b) Amway Corporation, of Santa Ana, CA.

MC 146598 (Sub-6F), filed November 3, 1980. Applicant: BATROCK, INC., U.S. Hwy 127 North, P.O. Box 220, Lawrenceburg, KY 40342. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602. Transporting *footwear and accessories*, and *materials and supplies* used in the distribution of footwear and accessories, between Danville, KY, on the one hand, and, on the other, points, in AL, AR, GA, IL, IN, MO, NC, OH, SC, and TN. NOTE: The person or persons which appear to be in common control of applicant and another regulated carrier must either file an application for approval of common control under 49 U.S.C. § 11343, or submit an affidavit indicating why such approval is unnecessary.

MC 146808 (Sub-2F), filed October 20, 1980. Applicant: WAREHOUSE TRANSPORTATION COMPANY, INC., P.O. Box 84, Urbana, OH 43078. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. Transporting (1) *toilet preparations*, (2) *hair spray*, and (3)(a) *such commodities* as are dealt in or used by retail and wholesale department, hardware, drug and food stores, and (b) *materials, equipment, and supplies* used in the conduct of the business described in (3)(a), between points in the U.S., under continuing contract(s) with Redken Laboratories, of Florence, KY.

MC 149118 (Sub-3F), filed November 4, 1980. Applicant: BEST WAY TRANSPORT, INC., d./b./a., BEST TRANSPORT, INC., 3841 North Columbia Blvd., Portland, OR 97217. Representative: Michael D. Crew, 1700 Standard Plaza, Portland, OR 97204.

V 45 N 0 2 6 8 0 UMI

Transporting *commodities*, the transportation of which because of size or weight, require the use of special equipment, between points in OR and WA.

MC 150088 (Sub-5F), filed October 27, 1980. Applicant: STERLING TRANSPORT DIVISION, INC., 801 Heinz Way, Grand Prairie, TX 75071. Representative: Robert K. Frisch, 2711 Valley View Lane, Suite 101, Dallas, TX 75234. Transporting *such commodities* as are dealt in or used by retail variety and department stores, (1) between the facilities used by Target Stores, Division of Dayton Hudson Corp., in Dallas and Tarrant Counties, TX, on the one hand, and, on the other, the facilities used by Target Stores, Division of Dayton Hudson Corp., in TX, restricted to traffic having an immediately prior or subsequent movement by rail or motor carrier in interstate commerce, and (2) between Oklahoma City, OK, points in Pulaski County, AR, and points in LA and TX, restricted to traffic originating at or destined to facilities used by Target Stores, Division of Dayton Hudson Corp.

MC 151209 (Sub-1F), filed October 16, 1980. Applicant: GULF WESTERN EXPRESS, INC., P.O. Box 2653, Natchitoches, LA 71457. Representative: John Williams (same address as applicant). Transporting *floor tile*, between points in the U.S., under continuing contract(s) with Uvalde Rock Asphalt Company, of San Antonio, TX.

MC 151768 (Sub-4F), filed October 21, 1980. Applicant: ARM TRANSPORTATION CORPORATION, P.O. Drawer 9480, Amarillo, TX 79105. Representative: A. J. SWANSON, P.O. Box 1103, Sioux Falls, SD 57101. Transporting (1) *household and recreational equipment*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk), between points in OH, OK, and CA, on the one hand, and, on the other, points in the U.S.

Volume No. OP5–061

Decided: Nov. 17, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 113459 (Sub-141F), filed November 4, 1980. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, OK 73143. Representative: J. MICHAEL ALEXANDER, First Continental Bank Bldg., Suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237. Transporting *lumber or wood products* (except furniture), as described in Item 24 in the Standard Transportation Commodity Code, from points in WY, to points in OK, AR, TX, IL, IA, MI, OH, and IN.

MC 113908 (Sub-516F), filed November 3, 1980. Applicant: ERICKSON TRANSPORT CORP., 2255 North Packer Rd., P.O. Box 10068 G.S., Springfield, MO 65804. Representative: B. B. Whitehead (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and class A and B explosives), between points in Vernon County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 118838 (Sub-70F), filed October 31, 1980. Applicant: GABOR TRUCKING, INC., RR #4, Detroit Lakes, MN 56501. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg, Minneapolis, MN 55402. Transporting (1) *gypsum, gypsum wallboard, and joint systems*, and (2) *materials and supplies* used in the installation of the commodities in (1), between points in Big Horn County, WY, on the one hand, and, on the other, points in OR and WA.

MC 119019 (Sub-6F), filed October 31, 1980. Applicant: B.N.M. FERTILIZER TRANSPORT, INC., 6414 E Houston Road, Houston, TX 77026. Representative: Joe G. Fender, 9601 Katy Freeway, Suite 320, Houston, TX 77024. Transporting *potash*, in bulk, from points in Lea and Eddy Counties, NM, to points in TX.

MC 119399 (Sub-138F), filed October 26, 1980. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Boulevard, Joplin, MO 64801. Representative: Don D. Lacy (same address as applicant). Transporting (1) *glass, glassware, and containers*, (2) *closures*, for containers, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) (except commodities in bulk), between points in the U.S. (except AK and HI). Condition: Prior or coincidental cancellation, at applicant's written request, of its certificates in MC-119399 subs 7, 18, 36, 45, 46, 56, 65, 66, 81, 83, 101, and 128

MC 120758 (Sub-2F), filed October 23, 1980. Applicant: SAV-MOR TRANSPORTATION, INC.,37 Mystic St., Everett, MA 02149. Representative: Anthony J. Zarrella (same address as applicant.). Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Wilmington, MA, on the one hand, and, on the other, points in NY and NJ .

MC 121309 (Sub-2F), filed October 23, 1980. Applicant: P. A. JOHNSON & CO., a corporation, P.O. Box 152, Summit, IL 60501. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, PA 19518. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, those of unusual value, and household goods as defined by the Commission), between points in Boone, Bureau, Cass, Champaign, Cook, Dewitt, Dekalb, DuPage, Ford, Fulton, Grundy, Henry, Iroquois, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Logan, Macon, Marshall, McHenry, McLean, Menard, Ogle, Peoria, Piatt, Putman, Rock Island, Sangamon, Stark, Stephenson, Tazewell, Vermilion, Whiteside, Will, Winnebago, and Woodford Counties, IL, Lake, La Porte, Marshall, Porter, St. Joseph, and Starke Counties, IN, and Dane, Green, Jefferson, Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, and Waukesha Counties, WI.

MC 121568 (Sub-61F), filed October 21, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37210. Representative: James G. Caldwell (same address as applicant). Over regular routes, transporting *general commodities* (except classes A and B explosives), and household goods as defined by the Commission, (1) between Little Rock, AR, and Tyler, TX, (a) from Little Rock over Interstate Hwy 30 to junction U.S. Hwy 259, then over U.S. Hwy 259 to junction TX Hwy 155, then over TX Hwy 155 to junction U.S. Hwy 271, then over U.S. Hwy 271 to Tyler, and return over the same route, serving no intermediate points, (b) from Little Rock over Interstate Hwy 30 to junction U.S. Hwy 271, then over U.S. Hwy 271 to Tyler, and return over the same route, serving no intermediate points, (2) between Little Rock, AR, and Sherman, TX, from Little Rock over Interstate Hwy 40 to junction U.S. Hwy 69, then over U.S. Hwy 69 to Sherman, and return over the same route, serving no intermediate points, (3) between Fort Smith, AR, and Tyler, TX, over U.S. Hwy 271, serving no intermediate points, (4) between Fort Smith, AR, and Sherman, TX, (a) from Fort Smith over Interstate Hwy 40 to junction U.S. Hwy 69, then over U.S. Hwy 69 to junction U.S. Hwy 75, then over U.S. Hwy 75 to Sherman, and return over the same route, serving no intermediate points, (b) from Fort Smith over Interstate Hwy 40 to juntion Interstate Hwy 35, then over Interstate Hwy 35 to junction U.S. Hwy 82, then over U.S. Hwy 82 to Sherman, and return over the same route, serving

no intermediate points, and (5) serving points in Grayson and Smith Counties, TX, as off-route points in connection with applicant's otherwise authorized routes.

Note.—Applicant intends to track with its existing authority.

MC 128738 (Sub-3F), filed October 20, 1980. Applicant: JOE N. QUNICE, d.b.a., QUINCE UNLOADING & FREIGHT HANDLING, P.O. Box 595, Beloit, WI 53511. Applicant: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. Transporting (1) *food and kindred products* as described in Item 20 of the Standard Transportation Code Tariff, from the facilities used by Geo. A. Hormel & Co. at Beloit, WI to points in MI, OH, IN, and IL, and (2) *materials, equipment and supplies* used in the production of foodstuffs in the reverse direction.

MC 138469 (Sub-253F), filed November 5, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75354, Oklahoma City, OK 73107. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. Transporting *printed matter*, between Oklahoma City, OK, on the one hand, and, on the other, points in NE and TX.

MC 140458 (Sub-1), filed November 5, 1980. Applicant: V. F. WARNER & SON, INC., 706 Anthony Dr., Champaign, IL 61820. Representative: Keith D. Warner, 5732 West Rowland Rd., Toledo, OH 43613. Transporting *such commodities* as are dealt in or used by a manufacturer of scientific equipment, between points in the U.S., under continuing contract(s) with Kewaunee Scientific Equipment Corporation of Statesville, NC.

MC 142288 (Sub-9F), filed October 20, 1980. Applicant: HAMILTON TRUCKING COMPANY OF OKLAHOMA, INC., 12612 E. Admiral Place, Tulsa, OK 74115. Representative: Virginia Hamilton (same address as applicant). Transporting *iron ore*, between points in OK and TX.

MC 143059 (Sub-143F), filed November 5, 1980. Applicant: MERCER TRANSPORTATION CO., a corporation, P.O. Box 35610, Louisville, KY 40232. Representative: Janice K. Taylor (same address as applicant). Transporting (1) *forest products*, (2) *clay, concrete, glass or stone products*, and (3) *fabricated metal products* as described in Items 8, 32, and 34 of the Standard Transportation Code Tariff, respectively, between points in Elbert County, GA and points in ND, SD, MT, WY, CO, ID, UT, WA, OR, and NV.

MC 144069 (Sub-24F), filed November 4, 1980. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, NC 28225. Representative: W. T. Trowbridge (same address as applicant). Transporting *iron and steel articles*, between points in Guilford County, NC, on the one hand, and, on the other, points in the U.S. in and east of MS, TN, KY, IL and WI.

MC 144166 (Sub-6F), filed November 3, 1980. Applicant: R. E. GARRISON TRUCKING, INC., P.O. Box 186, Cullman, AL 35055. Representative: Michael M. Knight (same address as applicant). Transporting (1) *such commodities* as are dealt in by grocery and drugstores (except foodstuffs), and (2) *foodstuffs* between points in AL, GA, FL, TN, CA, AZ, TX, LA, MS, NC, SC, IA, IN IL, KY, MI, OH, WI, MA, PA, CT, NY, NJ, OR, WA and NV.

Volume No. OP5–063

Decided: November 13, 1980.

By the Commission, Review Board Number 2, Member Chandler, Eaton, and Liberman.

MC 96769 (Sub-10F), filed October 9, 1980. Applicant: LIBERTY TEX-PACK EXPRESS, INC., Suite 508, Regal Plaza, 1499 Regal Row, Dallas, TX 75247. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Over regular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Dallas and Celina, TX, over TX Hwy. 289, (2) between Celina and Pilot Point, TX, over F. M. Road 455, (3) between Pilot Point and Whitesboro, TX, over U.S. Hwy. 377, (4) between Whitesboro and Honey Grove, TX, over U.S. Hwy. 82, (5) between Dallas and Denison, TX, over U.S. Hwy. 75, (6) between Dallas and Mt. Pleasant, TX, over U.S. Hwy 67, (7) between Greenville and Paris, TX, over TX Hwy. 24, (8) between Greenville and Bonham, TX, from Greenville over U.S. Hwy. 69 to junction TX Hwy. 78, then over TX Hwy. 78 to Bonham, and return over the same route, (9) between Dallas and Marshall, TX, from Dallas over Interstate Hwy. 20 to junction U.S. Hwy. 80, then over U.S. Hwy. 80 to Marshall, and return over the same route, (10) between Longview and Gilmer, TX, over F. M. Road 1403, (11) between Gilmer and Atlanta, TX, over TX Hwy. 155, (12) between Daingerfield and Ore City, TX, over U.S. Hwy. 259, (13) between Daingerfield and Linden, TX, over TX Hwy. 11, (14) between (a) Linden and Marshall, TX, and (b) Carthage and Garrison, TX, over U.S. Hwy. 59, (15) between Longview and Carthage, TX, over TX Hwy. 149, (16) between Carthage and Henderson, TX, over U.S. Hwy. 79, (17) between Beckville, TX, and junction F. M. Road 124 and U.S. Hwy. 79, over F. M. Road 124, (18) between Wills Point and Henderson, TX, over TX Hwy. 64, (19) between Mineola and Tyler, TX, over U.S. Hwy. 69, (20) between Tyler and Kilgore, TX, over TX Hwy. 31, (21) between Troup and Gladewater, TX, from Troup over TX Hwy. 135 to junction U.S. Hwy. 271, then over U.S. Hwy. 271 to Gladewater, and return over the same route, (22) between (a) Kilgore and Longview, TX, and (b) Henderson and Mt. Pleasant, TX, (a) over U.S. Hwy. 259, and (b) from Henderson over U.S. Hwy. 259 to junction U.S. Hwy. 67, then over U.S. Hwy. 67 to Mt. Pleasant, and return over the same route, (23) between Mt. Enterprise and Garrison, TX, from Mt. Enterprise over U.S. Hwy. 84 to junction F. M. Road 95, then over F. M. Road 95 to Garrison, and return over the same route, (24) between Timpson and Center, TX, over TX Hwy. 87, (25) between (a) Tenaha and San Augustine, TX, (b) Bronson and Jasper, TX, and (c) Kirbyville and Silsbee, TX, over U.S. Hwy. 96, (26) between San Augustine and Miam, TX, over TX Hwy. 21, (27) between Milam and Bronson, TX, from Milam over TX Hwy. 87 to junction F. M. Road 184, then over F. M. Road 184 to Bronson, and return over the same route, (28) between Jasper and Newton, TX, from Jasper over U.S. Hwy. 96 to junction U.S. Hwy. 190, then over U.S. Hwy. 190 to Newton, and return over the same route, (29) between Newton and Kirbyville, TX, from Newton over TX Hwy. 87 to junction TX Hwy. 363, then over TX Hwy. 363 to Kirbyville, and return over the same route, (30) between Kountze and Nome, TX, over TX Hwy. 326, (31) between Silsbee and Kountze, TX, from Silsbee over TX Hwy. 327 to junction U.S. Hwy. 69, then over U.S. Hwy. 69 to Kountze, and return over same route, (32) between Paris and Texarkana, TX, over U.S. Hwy. 82, (33) between Pittsburg and Paris, TX, over U.S. Hwy. 271, (34) between Clarksville and Bogata, TX, over TX Hwy. 37, (35) between Pittsburg and Commerce, TX, over TX Hwy. 11, (36) between Honey Grove and Greenville, TX, from Honey Grove over TX Hwy. 34 to junction TX Hwy. 50, then over TX Hwy. 50 to Greenville, and return over the same route, serving the intermediate point of Wolfe City, (37) between Mt. Pleasant and Texarkana, TX, over U.S. Hwy. 67, (38) between (a) Wolfe City and Honey Grove, TX, and (b) between Greenville and Terrell, TX, over TX Hwy. 34, (39) between Quinlan and Point, TX, over F. M. Road 35, (40) between Greenville and Mineola, TX, over U.S. Hwy. 69, (41) between Ladonia and Cooper, TX, over

V 45 NO26 80 UMI

F. M. Road 64, (42) between Petty and Paris, TX, over F. M. Road 137, (43) between Honey Grove and Petty, TX, over U.S. Hwy. 82, (44) between Mineola and Winnsboro, TX, over TX Hwy. 37, (45) between Emory and Sulphur Springs, TX, over TX Hwy. 19, (46) between Quitman and Sulphur Springs, TX, over TX Hwy. 154, (47) between Alba and Quitman, TX, over TX Hwy. 182, (48) between (a) Van and Tyler, TX, and (b) Tyler and Troup, TX, over TX Hwy. 110, (49) between Tyler and Chandler, TX, over TX Hwy. 31, (50) between Kilgore and Price, TX, over TX Hwy. 42, (51) between Henderson and Overton, TX, over TX Hwy. 323, (52) between junction U.S. Hwy. 271 and TX Hwy. 155 and Big Sandy, TX, over TX Hwy. 155, (53) between junction TX Hwy. 149 and TX Hwy. 322 and Lakeport, TX, over TX Hwy. 149, (54) between Carthage and Panola, TX, over U.S. Hwy. 79, (55) between Marshall and DeBerry, TX, over F.M. Road 31, (56) between Marshall, TX, and junction F.M. Road 134 and TX Hwy. 43, over TX Hwy. 43, (57) between Karnack and Jonesville, TX, over F.M. Road 134, (58) between Karnack and Uncertain, TX, over an unnumbered county road, (59) between Marshall and Waskom, TX, over U.S. Hwy. 80, (60) between Marshall and Waskom TX, over Interstate Hwy. 20, (61) between Waskom and Panola, TX, over F.M. Road 9, (62) between Marshall, TX, and junction F.M. Roads 1998 and 134, over F.M. Road 1998, (63) between Marshall and Gilmer, TX, over TX Hwy. 154, (64) between Gladewater and Pittsburg, TX, over U.S. Hwy. 271, (65) between Longview and Lone Star, TX, over U.S. Hwy. 259, (66) between Pittsburg and Daingerfield, TX, over TX Hwy. 11, (67) between Queen City and Bloomburg, TX, over F.M. Road 74, (68) between Atlanta and Bivins, TX, over TX Hwy. 43, (69) between Linden and Bivins, TX, over F.M. Road 1841, (70) between Center and Shelbyville, TX, over TX Hwy. 87, (71) between Center and Haslam, TX, over TX Hwy. 7, (72) between Tenaha and Haslam, TX, over U.S. Hwy. 84, (73) between Paxton and Center, TX, over F.M. Road 699, (74) between (a) Texarkana and Corley, TX, and (b) Omaha and Mt. Pleasant, TX, over U.S. Hwy. 67, (75) between Como and Dike, TX, over F.M. Road 69, (76) between junction F.M. Road 1537 and TX Hwy. 19 and junction F.M. Roads 1537 and 69, over F.M. Road 1537, (77) between New Boston and Corley, TX, over TX Hwy. 8, (78) between Paris and Arthur City, TX, over U.S. Hwy. 271, (79) between Arthur City and Chicota, TX, over F.M. Road 197, (80) between Bonham and Ivanhoe, TX, over F.M. Road 273, (81) between Bonham, TX, and junction F.M. Road 1396 and TX Hwy. 78, over TX Hwy. 78, (82) between junction F.M. Road 1396 and TX Hwy. 78, and junction F.M. Road 1396 and F.M. Road 273, over F.M. Road 1396, (83) between junction TX Hwy. 78 and F.M. Road 1753 and Ravena, TX, over F.M. Road 1753, (84) between Denison and Pottsboro, TX, over F.M. Road 120, (85) between Leonard and Bells, TX, over U.S. Hwy. 69, (86) between Whitewright and Ector, TX, from Whitewright over F.M. Road 898 to junction F.M. Road 3297, then over F.M. Road 3297 to Ector, and return over the same route, (87) between Savory, TX, and junction F.M. Roads 898 and 1752, over F.M. Road 1752, (88) between Greenville and McKinney, TX, over U.S. Hwy. 380, (89) between Rockwall, TX, and junction TX Hwy. 205 and TX Hwy. 78, over TX Hwy. 205, (90) between Lavon and Caddo Mills, TX, over F.M. Road 6, (91) between Royse City and Josephine, TX, over F.M. Road 1717, and (92) between Alba and Yantis, TX, from Alba over F.M. Road 17 to junction F.M. Road 514, then over F.M. Road 514 to Yantis, and return over the same route; serving all intermediate points the routes above, the routes above, except route (36), restricted to the transportation of packages or articles not exceeding 100 pounds per package, and not exceeding 500 pounds per shipment.

MC 145108 (Sub-24F), filed September 15, 1980, previously noticed in **Federal Register** issued of October 15, 1980. Applicant: BULLET EXPRESS, INC., PO Box 289, Bay Ridge Station, Brooklyn, NY 11220. Representative: Terrence D. Jones, 2033 K Street, NW., Washington, DC 20006. Transporting (1) *electric motors electric controls, electric components, electric appliance, and electric fixtures,* and (2) *Materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S., under continuing contract(s) with Fasco Industries, Inc., of Ozark, MO.

Note.—This republication clarifies the commodity description.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-36867 Filed 11-25-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247).

These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after November 26, 1980.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions or 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act.)

In the absence of legally sufficient petitions for intervention, filed on or before December 26, 1980 (or, if the applicant later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 376

Decided: October 23, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 150640 (Sub-1F), (republication), filed April 23, 1980, and previously noticed in the **Federal Register** issues of July 15, 1980, and August 26, 1980. Applicant: EMERSON EXPRESS CO., INC., 545 Lyell Ave., Rochester, NY 14606. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. *Contract carrier,* transporting *scrap materials, metals, stainless steel, batteries,* and *reconditioned steel containers,* including *tubs,* between points in Monroe County, NY, on the one hand, and, on the other, New York, NY, points in Nassau and Suffolk Counties, NY, and points in AL, CT, IL, IN, KY, MA, MI, MO, NJ, OH, PA, and TN, under continuing contract(s) with (1) Krieger Waste Paper Co., (2) Genesee Scrap & Tin Bailing Corp. (3) Atkin's Waster Materials, Inc., and (4) L. Atkin's Sons, all of Rochester, NY.

Note.—The purpose of this republication is to add the contracting shippers listed in (2)–(4) above.

Volume No. 379

Decided: November 18, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman. Member Chandler not participating in part.

MC 143790 (Sub-10F), filed June 2, 1980, and previously noticed in **Federal Register** issue of August 5, 1980. Applicant: FEDERAL FREIGHT SYSTEMS, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43212. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of plastic articles and rubber products (except commodities in bulk), between the facilities used by Goldsmith & Eggleton, Inc. at points in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI).

Note.—This republication clarifies the territorial description.

MC 145651 (Sub-4F), filed February 4, 1980, and previously noticed in **Federal Register** issue of April 15, 1980. Applicant: DUNCAN & SONS, INC., P.O. Box 775, Lewis, CO 81327. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. Transporting *petroleum products* (except in bulk, in tank vehicles), from Los Angeles, CA, to points in AZ, CO, NM, and UT.

Note.—This republication shows NM as a destination state, in lieu of MN.

MC 151221 (Sub-1F), filed May 28, 1980. Applicant: HUDSON VALLEY BULK SERVICE, INC., Twinbrook Farm Rd., East Chatham, NY 12060. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528. Transporting *precast cellular concrete,* between Philmont, NY, on the one hand, and, on the other, points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, and VT, under continuing contract(s) with Nicolon Corporation of Norcross, GA.

Volume No. 380

Decided: November 19, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 59570 (Sub-46F), filed June 10, 1980, and noticed in **Federal Register** issue of August 21, 1980. Applicant: HECHT BROTHERS, INC., 2075 Lakewood Road, Toms River, NJ 08753. Representative: Jean R. Hecht (same address as applicant). Transporting *salt, salt products, salt with additives, pepper and mineral mixtures,* (1) from the facilities of Morton Salt, at Perth Amboy, NJ, to points in ME, MI, NC, NH, OH, VA, WV, and VT, and (2) from the facilities of Morton Salt, at Silver Spring, NY, to points in CT, DE, ME, MD, MA, NC, NH, NJ, NY PA, RI, VA, VT, WV, and DC.

Note.—This republication adds *salt* as a commodity, and, in part (1) shows MI as a destination State in lieu of MA.

MC 107460 (Sub-80F), filed March 31, 1980. Applicant: WILLIAM D. GETZ, INC., 3055 Yellow Goose Road, P.O. Box 566, Lancaster, PA 17604. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Transporting (1) *metal roofing and siding and fabricated metal products,* and (2) *materials and supplies* used in the manufacture and distribution

of the commodities in (1) above,

Adams St., P.O. Box 238, Milton, MA

CONN TRANSPORTATION SERVICE,

No. MC 142114 (Sub-1-4TA), filed

of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Fabral-Alcan Building Products, Division of Alcan Aluminum Corporation, of Lancaster, PA.

Note.—This is modified to reflect the Motor Carrier Act of 1980.

MC 148751 (Sub-6F), (partial republication), filed February 2, 1980, and previously noticed in **Federal Register** issue of September 16, 1980. Applicant: LINCOLN FREIGHT LINES, INC., P.O. Box 427, Lapel, IN 46051. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting (A)(1) *glass containers* (b) from the facilities of Universal Glass-National Bottling Corp., at Joliet, IL, to points in OH and PA, (M) *paper and paper products,* from the facialities of Willamette Industries, Inc., Western Craft Paper Group, at or near Hawesville, KY, to points in AL, CT, DE, FL, GA, IA, IL, IN, MA, MD, ME, MI, MN, MO, MS, NC, NJ, NY, OH, PA, RI, SC, TN, VA, WI, WV, and DC, (P)(1)(a) *iron articles, steel articles, zinc articles, and lead articles,* (b) *springs,* and (c) *construction equipment, materials, and supplies* (except commodities in bulk), from the facilities used by Penn-Dixie Industries, Inc., Pen-Dixie Steel Corp., and Stevens Spring, Inc., at or near (i) Blue Island and Joliet, IL, (ii) Cicero, Elkhart, Fort Wayne, and Kokomo, IN, (iii) Centerville, IA, (iv) Grand Rapids and Lansing, MI, (v) Jackson, MS, and (vi) Columbus and Toledo, OH, to points in AL, AR, GA, IA, IL, IN, KY, MD, MI, MO, MS, NC, OH, PA, TN, VA, WI, and WV, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), in the reverse direction, (Q)(1)(a) *non-carbonated, fruit-flavored beverages,* in cans, (b) *dry beverage preparations,* and (c) *juices,* in cans, from the facilities of Penny Products, Inc., at or near Trafalgar, IN, to points in IL, KY, MI, MN, MO, OH, TN, VA, WI, and WV, and (2) *materials, equipment, and supplies,* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction, (R)(1)(a) *moulded wood pulp articles,* from Gary and Hammond, IN, to points in AL, AR, CT, DE, FL, GA, IA, IL, KS, KY, LA, MA, MI, MN, MO, MS, NC, NE, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, WI, WV, and DC, and (b) *plastic articles,* from Troy, OH and Memphis, TN, to points in AL, AR, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, MI, MN, MO, MS, NC, NE, NJ, NY, OH, PA, RI, SC, TX, VA, WI, WV, and DC, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction, restricted in (R) to traffic originating at or destined to the facilities of Keyes Fibre Company, and (S)(1) *transmissions and transmission parts,* from the facilities of or used by Warner Gear Division, Borg-Warner Corp., at or near Muncie, IN, to Chicago, IL, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), in the reverse direction.

Note.—This republicaton shows PA as a destination state in (A)(1)(b), shows WI as a destination point in (M), shows springs as the commodity in (P)(1)(b), shows MD as a destination state in (P)(1)(c)(vi), shows MN as an origin state in (Q)(1)(c), shows NY as a destination state in (R)(1)(a), shows MI as a destination state in (R)(1)(b), and shows Muncie, IN as an origin point and Chicago, IL, as a destination point in (S)(1).

Passenger

MC 150771F, filed May 6, 1980, and previously noticed in **Federal Register** issue of August 13, 1980. Applicant: ARIZONA BUS TOURS, DIVISION OF WILLETT CORPORATION, 4646 East University Dr., Phoenix, AZ 85034. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. Transporting *passengers and their baggage,* in special and charter operations, beginning and ending at Sun City, Sun City West, Phoenix, Scottsdale, Tempe, Peoria, Glendale, Mesa, Apache Junction, Chandler, Goodyear, Carefree and Fountain Hills, AZ, and extending to points in the U.S. (except AK and HI).

Note.—This republication shows that applicant will be performing special as well as charter operations.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-36804 Filed 11-25-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the appication is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.— All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-75

The following applications were filed in region 1. Send Protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 152278 (Sub-1-1TA), filed November 14, 1980. Applicant: REALI BUS SERVICE, 4 Daisy Street, W. Warwick, RI 02893. Representative: Victor E. Reali, 4 Daisy Street, W. Warwick, RI 02893. *Common carrier:* regular route: *Passengers and their baggage,* between E. Natick, RI and Plainfield, CT, via Routes 2, 115, 33, 117 and 14 in RI and Routes 14 and 52 in CT serving intermediate points thereon. Supporting shipper(s): There are 29 individuals as supporting shippers whose statements may be examined at the I.C.C. Regional Office in Boston, MA.

MC 142114 (Sub-1-3TA), filed November 6, 1980. Applicant: RETAIL EXPRESS, INC., 9 Stuart Road, Chelmsford, MA 01824. Representative: Frank M. Cushman, 36 South Main Street, Sharon, MA 02067. *Contract carrier:* irregular: *Alcoholic beverages bottled for retail distribution* between points in KY, NJ, NY, OH, and TN. Supporting shipper: Reitman Industries, Inc., 10 Patton Drive, West Caldwell, NJ 07006.

MC 138950 (Sub-1-1TA), filed November 10, 1980. Applicant: FOR-TRUCKS, INC., P.O. Box 297, Henniker, NH 03243. Representative: John F. O'Donnell, Barrett and O'Donnell, 60

Adams St., P.O. Box 238, Milton, MA 02187. *Contract carrier:* irregular routes: *Pressure treated wooden transmission poles* between points in Orange County, NY, under contract(s) with George McQueston Co., Inc. For-Tek Division, Iron Horse Park, Billerica, MA 01862. Supporting shipper: George McQuestion Co., Inc., For-Tek Division, Iron Horse Park, Billerica, MA 01862.

MC 61942 (Sub-1-1TA), filed November 3, 1980. Applicant: JAMES J. McCABE, JR., d.b.a., J. McCABE & SON, 38 Greenhalge Avenue, Everett, MA 02149. Representative: James L. Sullivan or Edward D. Rapacki, 23 Bow Street, Somerville, MA 02143. *Household goods, new and used, as defined by the Commission* between points in the US. Supporting shipper: Jordan Marsh Company, 500 Commander Shea Blvd, North Quincy, MA 02171.

MC 147 (Sub-1-2TA), filed November 7, 1980. Applicant: CENTENNIAL TRUCK LINES, INC., 301 Broadway, Jersey City, NJ 07306. Representative: Thomas F. X. Foley, P.O. Box F, Colts Neck, NJ 07722. *Plastic sheets, rods and tubes,* between Cornwall Heights, PA and New York, NY, on the one hand, and, on the other, Baltimore, MD, Birmingham, AL, Bloomfield, CT, Chicago, IL, Clearwater, FL, Cleveland, OH, Columbia, SC, Dallas, TX, Farmingdale, NY, Ft. Worth, TX, Gardena, CA, Gastonia, NC, Houston, TX, Hyattsville, MD, Indianapolis, IN, Jacksonville, FL, Knoxville, TN, Las Vegas, NV, Miami, FL, Newark, NJ, New York, NY, Orange, CT, Orlando, FL, Philadelphia, PA, Pittsburgh, PA, Pleasantville, NJ, Providence, RI, Raleigh, NC, Richmond, VA, Salt Lake City, UT, Santa Clara, CA, Somerville, MA, Syracuse, NY, Trenton, NJ, Warren, MI. Supporting shipper: Commercial Plastics Supply Corporation, 1642 Woodhaven Drive, Cornwall Heights, PA 19020.

MC 98542 (Sub-1-2TA), filed November 3, 1980. Applicant: COLLINS & SIMMONS, INC., P.O. Box 134, Wolcott, NY 14590. Representative: Raymond A. Richards, 35 Curtice Park, Webster, NY 14580. *Such commodities as are dealt in and distributed by retail and wholesale grocery outlets; also, materials, equipment and supplies used in the manufacture, sale and distribution of above commodities,* between points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, PA, RI, VT, VA, and DC. Supporting shipper(s): Gerber Products Co., 445 State St., Fremont, MI 49412; Purex Corp., 1445 N. Radcliffe St., Bristol, PA 19007.

MC 150698 (Sub-1-1TA), filed November 3, 1980. Applicant: WEST-CONN TRANSPORTATION SERVICE, INC., Anarock Drive, Somers, NY 10589. Representative: Sidney J. Leshin, Esq., 575 Madison Avenue, New York, NY 10022. *Contract carrier:* irregular routes: *Passengers and their baggage,* between points and places in the counties of Westchester, Putnam and Dutchess, NY and Fairfield County, CT, on the one hand, and the office and plant facilities of American Telephone & Telegraph Co., located in the City of White Plains, NY, on the other hand, under continuing contract with AT&T Employees Group, Patterson, NY. Supporting shipper: American Telephone and Telegraph Employees Group, Patterson, NY.

MC 128343 (Sub-1-17TA), filed November 4, 1980. Applicant: C-LINE, INC., 340 Jefferson Blvd., Warwick, RI 02888. Representative: Ronald N. Cobert, 1730 M Street, NW., Washington, DC 20036. *Contract carrier:* irregular routes: *General commodities (except household goods as defined by the Commission, and Classes A and B explosives),* between all points in the U.S., under continuing contract with the Okonite Company of Ramsey, NJ. Supporting shipper: The Okonite Company 100 Hilltop Road, Ramsey, NJ 07446.

MC 152459 (Sub-1-1TA), filed November 4, 1980. Applicant: SUNSHINE TRANSPORTATION, INC., 112 Lehigh Drive, Fairfield, NJ 07007. Representative: Frank M. Cushman, 36 South Main Street, Sharon, MA 02067. *Contract carrier:* irregular routes: *Such commodities as are dealt in by retail department stores (except commodities in bulk and frozen foodstuffs)* from, to or between points in AL, AR, DE, FL, GA, IL, IN, IA, KY, LA, MD, MI, MT, NE, NH, NJ, NY, NC, ND, OH, PA, SC, SD, TN, VT, VA, WV, and WI. Supporting shipper: Jefferson Stores, Inc., 15800 N.W. 13th St., Miami, FL 33169.

MC 145914 (Sub-1-7TA), filed November 12, 1980. Applicant: COASTAL TRUCKLINE, INC., How Lane, P.O. Box 600, New Brunswick, NJ 08903. Rrepresentative: Zoe Ann Pace, Esq., Zelby, Burstein, Hartman & Burstein, One World Trade Center, Suite 2373, New York, NY 10048. *Contract carrier:* irregular routes: *General commodities (except household goods as defined by the Commission) and Class A & B explosives* from the facilities of Econocraibe Consolidators, Inc. at or near Dade County, FL to points and places in the States of NJ and NY, under continuing contract with Econocaribe Consolidtors, Inc. Supporting Shipper: Econocaribe Consolidators, Inc., 2929 NW 73rd St., Miami, FL 33147.

No. MC 142114 (Sub-1-4TA), filed November 12, 1980. Applicant: RETAIL EXPRESS, INC., 9 Stuart Road, Chelmsford, MA 01824. Representative: Frank M. Cushman, 36 South Main Street, Sharon, MA 02067. *Contract carrier:* Irregular: *such commodities as are dealt in by retail department stores (except commodities in bulk and frozen foodstuffs)* from, or to between points in CT, DE, FL, IN, KY, LA, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, TN, TX, VA. Supporting shipper: King's Department Stores, Inc., 150 California Street, Newton, MA 02158.

MC 151639 (Sub-1-4TA), filed November 12, 1980. Applicant: COMMAND TRANSPORTATION, INC., 280 Eastern Avenue, Chelsea, MA 02150. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 01208. *Beer,* from Baltimore, MD to Norwood, Lawrence, Marlboro, Fairhaven and West Roxbury, MA. Supporting shipper: United Liquors, Ltd. 99 Rivermmor Street, West Roxbury, MA 02132.

MC 146046 (Sub-1-3TA), filed November 12, 1980. Applicant: INTERCOASTAL LINES, LTD., 200 Foxhunt Crescent, Syosset, NY 11791. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract carrier:* irregular routes: *Such commodities as are dealt in or used by a manufacturer and distributor of store fixtures and store furnishings,* between Maspeth, NY. and points in CA and TX, under contract(s) with Richter & Ratner Corporation of Maspeth, NY Supporting shipper(s): Richter & Ratner Contracting Corporation, 55-05 Flushing Avenue, Maspeth, NY 11378.

MC 140986 (Sub-1-1TA), filed November 12, 1980. Applicant: GREAT NORTHERN TRUCK LINES, Bank Street, Netcong, NJ 07857. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* irregular routes: *Medical devices, pharmaceuticals, drugs, chemicals and pharmaceuticals accessories (except in bulk),* between Parsippany, NJ on the one hand, and, on the other, points in the US. Supporting shipper: Isomedix, Inc., 80 South Jefferson Road, Whippany, NJ 07981.

MC 143127 (Sub-1-27TA), filed November 12, 1980. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Road, Victor, NY 14564. Representative: Linda A. Calvo, 6070 Collett Road, Victor, NY 14564. *(1) Such commodities as are dealt in by grocery and food business houses (except in bulk) and (2) materials, supplies and equipment used in the manufacture and distribution of commodities in (1) (except in bulk),*

between points in the U.S. Supporting shipper: Victory Wholesale Grocers

Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904.

and distribution of foodstuffs (except

Representative: Gary V. Dixon, 2620 Old Egg Harbor Road, Lindenwold, NJ 08021

all intermediate points and off route points located in MD and DE, from

Manzanitia Drive, West Covina, CA 91791. Representative: Leonard Allen

between points in the U.S. Supporting shipper: Victory Wholesale Grocers, d.b.a. Brothers Trading Co., Inc., Suite 170, 333 West First St., Dayton, OH 45402.

MC 150295 (Sub-1-2TA), filed November 12, 1980. Applicant: K & M DIESEL SERVICE, INC., 10-12 East Maple Avenue, Cedarville, NJ 08311. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Contract carrier, irregular routes *Electric Wire and Cable and Steel Wire Rope* between NJ, on the one hand, and, on the other, points in CT, DE, FL, GA, IL, ME, MD, MA, NJ, NJ, NY, NC, OH, PA, SC, TX, VT, and VA for 270 days. Supporting shipper(s): Bridgeton Transfer Point, Inscon Cable Co., Manhattan Electric Corp., and Petro Cable Corp., P.O. Box 440, Bridgeton, NJ 08303.

MC 121342 (Sub-1-1TA), filed November 3, 1980. Applicant: GALLO CONSTRUCTION CO., 845 Sandwich Rd., Sagamore, MA 02561. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Salt, in bulk,* from Boston and Taunton MA, to points in ME, NJ, VT, MA, CT, and RI. Supporting shipper: Cargill, Inc., P.O. Box 150, Watkins Glen, NY 14891.

MC 143143 (Sub-1-2TA), filed November 7, 1980. Applicant: RICHARD L. HODGES, INC., P.O. Box 141, Unity, ME 04988. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *Contract carrier:* irregular routes: *General commodities (except household goods as defined by the Commission and commodities of unusual value),* between points in CT, DC, DL, GA, MA, ME, NH, NJ, NY, NC, PA, RI, SC, VT, VA, and WV under continuing contracts with Conwed Corporation and Campbells Soup Company. Supporting shippers: Conwed Corporation, P.O. Box 190, Riverside, NJ 08075, and Campbells Soup Company, 100 Market Street, Camden, NJ 08101.

MC 127524 (Sub-1-6TA), filed November 3, 1980. Applicant: QUADREL BROS. TRUCKING CO., INC., 1603 Hart Street, Rahway, NJ 70765. Representative: David L. Middleton, 1603 Hart Street, Rahway, NJ 07065. *Acetonitrile in bulk marineized tank trailers* from the facility of Upjohn Manufacturing Company, Lima, OH to Baltimore, MD. Supporting shipper: Upjohn Manufacturing Company, P.O. Box 445, Barceloneta, Puerto Rico 00617.

MC 151783 (Sub-1-1TA), filed November 3, 1980. Applicant: S. GOSKI & SONS, INC., 318 Massachusetts Street, Westfield, NJ 07090. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* irregular routes: *Nonexempt food and kindred products* between points in the States of NJ, PA on and east of Interstate 81, and NY on and east of Interstate 209 and Interstate 87. Supporting shipper: Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 152516 (Sub-1-1TA), filed November 7, 1980. Applicant: PETER J. DiGIOVANNI, d.b.a. GUARANTEED MOTOR TOWING SERVICE, P.O. Box 1, New Brunswick, NJ 08873. Representative: James F. Flint, Suite 406, 918 16th Street, NW., Washington, DC 20006. *Motor vehicles and trailers transported by wrecker or towing equipment* between North Brunswick, NJ on the one hand, and, on the other, points in VA, WV, MD, DC, DE, PA, NY, CT, RI, MA, NH, VT, and ME, restricted to traffic originating at or destined to the facilities of Frito-Lay, Inc. Supporting shipper: Frito-Lay, Inc., 1846 US HWY 1, North Brunswick, NJ 08902.

MC 101219 (Sub-1-1TA), filed November 3, 1980. Applicant: MERIT DRESS DELIVERY, INC., 292 Eleventh Avenue, New York, NY 10001. Representative: Norman Weiss, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. *Department store merchandise, when moving in the same vehicle and at the same time with shipments of wearing apparel on hangers,* between points in New York, NY Commercial Zone, CT (except Middletown, CT), ME, MA, NH and RI. Supporting shipper: Associated Dry Goods Corp., 417 Fifth Avenue, New York, NY 10016.

MC 119552 (Sub-1-8TA), filed November 7, 1980. Applicant: J.T.L., INC., 49 Rosedale Street, Providence, RI 02903. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, NW., Washington, DC 20036. *Contract carrier:* irregular routes: *General commodities (except household goods as defined by the Commission and Classes A and B explosives)* between the commercial zone of Dallas, TX, on the one hand, and, on the other, CA, OH, MO, IL, NM, OK, AR, LA, NV, UT, CO, KS, NE, IA, IN, KY, TN, AL, MS, under continuing contract(s) with Thompson Can Company. Supporting shipper: Thompson Can Company, Box 340259, Dallas, TX.

MC 145085 (Sub-1-1TA), filed November 7, 1980. Applicant: SID'S, INC., P.O. Box D, Jonesport, ME 04649. Representative: James E. Mahoney, 148 State Street, Boston, MA 02109. *Foodstuffs and materials, supplies and equipment used in the manufacture, sale and distribution of foodstuffs (except commodities in bulk, in tank vehicles),* between points in ME, NH, VT, MA, RI, CT, NY, FL and CA, on the one hand, and, on the other, all points in the US; tires, batteries and accessories between points in ME, on the one hand, and, on the other, points in the US in and east of MN, IA, MO, OK and TX. Supporting shipper(s): There are 7 statements in support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 143668 (Sub-1-2TA), filed November 7, 1980. Applicant: LONG ISLAND AIRPORTS LIMOUSINE SERVICE CORP., 25 Newton Place, Hauppauge, NY 11787. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *Passengers and their baggage, in round-trip charter and special operations,* beginning and ending at points in Nassau and Suffolk Counties, NY and extending to points in Atlantic County, NJ. Supporting shipper(s): There are 27 statements in support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 2860 (Sub-1-21TA), filed November 7, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Representative: Gerald S. Duzinski, 71 West Park Avenue, Vineland, NJ 08360. *Plastic articles, and equipment and supplies used in the manufacture and distribution of plastic articles,* between points in the US. Restricted to traffic originating at or destined to the facilities of Mobil Chemical Company. Supporting shipper: Mobil Chemical Company, Macedon, NY 14502.

MC 152449 (Sub-1-1TA), filed November 3, 1980. Applicant: OMNI EXPRESS, INC., 70 West Elder Avenue, Floral Park, NY 11001. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract Carrier:* irregular routes: *Laboratory and hospital equipment and parts* between South Plainfield, NJ, and Tarrytown and Orangeburg, NY, on the one hand, and, on the other, points in NJ, and New York, NY, and Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester Counties, NY, and points in Bucks, Delaware, Lebanon, Lehigh and Montgomery Counties, PA, and Philadelphia, PA Commercial Zone. Supporting shipper: Technicon Instruments Corporation, 511 Benedict Ave., Tarrytown, NY 10591.

MC 148632 (Sub-1-6TA), filed November 7, 1980. Applicant: DIXON MOTOR FREIGHT, INC., 2620 Old Egg Harbor Road, Lindenwold, NJ 08021.

Representative: Gary V. Dixon, 2620 Old Egg Harbor Road, Lindenwold, NJ 08021. *Corrugated asphalt, roofing and accesories (including nails and washers) rudge rolls, skylite sheets and filler strips,* between Spotsylvania County, VA and AR, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY. Supporting shipper: Orduline USA, Inc., Route 9, Box 195, Fredricksburg, VA 22401.

MC 152202 (Sub-1-2TA), filed November 10, 1980. Applicant: ARGO TRANSPORT LTD., 1570 Montarville Street, Boucherville, Quebec, CD J7B 1Z5. Representative: Me Adrien R. Paquette, Q.C., 200 St. James Street West, Suite 900, Montreal, Quebec, CD H2Y 1M1. *General commodities in containers having a prior or subsequent movement by water (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodity in bulk and those requiring special equipment),* between the ports of entry on the International Boundary line between the US and CD located in NY, VT, NH, and ME on the one hand, and, on the other, points in VT, NH, MA, CT, ME, NY, NJ, DE, MD, RI, PA, OH, IN, IL. Supporting shipper: Midland Container Terminal, Waterloo, Quebec, CD.

MC 152592 (Sub-1-1TA), filed November 10, 1980. Applicant: D.S. LEASING CORPORATION, Eight John Street, Montvale, NJ 07645. Representative: Paul D. Borghesani, Katz & Borghesani, Suite 300, Communicana Bldg., 421 So. Second Street, Elkhart, IN 46516. *Contract carrier:* irregular routes: *(1) Tape and tape products and (2) materials, equipment and supplies used in the manufacture of commodities listed in (1)* between Waterveliet, NY on the one hand, and, on the other, the Chicago, IL Commercial Zone and points in NJ. Restricted to traffic moving under continuing contract with Nashua Corp. Supporting shipper: Nashua Corp., 2600 7th Avenue, Watervelist, NY 12189.

MC 3753 (Sub-1-7TA), filed November 10, 1980. Applicant: AAA TRUCKING CORP., 3630 Quaker Bridge Road, P.O. Box 8042, Trenton, NJ 08650. Representative: Zoe Ann Pace, Esq., Zelby, Burstein, Hartman & Burstein, One World Trade Center—Suite 2373, New York, NY 10048. *Common carrier:* regular routes: *General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment* between Washington, DC and Hagerstown, MD; Washington, DC and Baltimore, MD, and Washington, DC and Dover, DE, serving all intermediate points and off route points located in MD and DE, from Washington, DC to Baltimore, MD over Interstate Hwy 95 and return over the same routes; from Washington, DC to Dover, DE over US Hwy 50 to Junction MD Hwy 404, thence MD Hwy 404 to US Hwy 13, thence US Hwy 13 to Dover, DE and return over the same route; from Washington, DC to Hagerstown MD over Interstate Hwy 495 to Junction Interstate Hwy 270, thence Interstate Hwy 270 to Junction Interstate Hwy 70, thence Interstate Hwy 70 to Junction Interstate Hwy 81, thence Interstate Hwy 81 to Hagerstown, MD and return over the same route. Supporting shipper(s): There are 18 shippers in support of this application whose statements may be examined at the I.C.C. Regional Office in Boston, MA.

MC 147841 (Sub-1-3TA), filed November 10, 1980. Applicant: CENTENNIAL TRUCK LINES, INC., 301 Broadway, Jersey City, NJ 07306. Representative: Thomas F. X. Foley, P.O. Box F, Colts Neck, NJ 07722. *Unfinished attache cases, and materials and supplies used in the manufacture of unfinished attache cases,* between New York, NY, on the one hand, and, on the other, Baltimore, MD, Los Angeles, CA, Denver, CO, Washington, MO, Chicago, IL, Richmond, VA, Orlando, FL, Columbus, OH, Utica, NY, Pittsburgh, PA, Indianapolis, IN, Portland, OR, Providence, RI, Norton, MA, Hartford, CT, Greensville, NC, Johnson City, TX, Westville, NJ. Supporting shipper: Glassman Box Co., 2343 41st Street, Long Island City, NY 11105.

The following protest was filed in Region 5. Send protests to: Consumer Assistance Center, Intersate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 115669 (Sub-5-4TA), filed November 3, 1980. Applicant: DAHLSTEN TRUCK LINE, INC., 101 W. Edgar St., P.O. Box 95, Clay Center, NE 68933. Representative: Wilbur G. Hoyt (same address as applicant). *Salt and salt products,* from Lyons and Reno County, KS, to points in WV. Supporting shippers: American Salt Co., 3142 Broadway, Kansas City, MO 64111. Carey Salt Div. of Processed Minerals, Inc., 1800 Carey Blvd., Hutchinson, KS 67501.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 148328 (Sub-6-2TA), filed November 14, 1980. Applicant: LEONARD ALLEN and/or GARY ARIOTTI, d.b.a. ALLEN TRUCKING, 112 Manzanitia Drive, West Covina, CA 91791. Representative: Leonard Allen (same address as applicant). *Contract carrier,* Irregular routes: (1) *Commodities used, sold or distributed by a manufacturer of Cosmetics* (except commodities in bulk), Between Pasadena, CA, and points in the states of AZ, ID, NV, OR, UT and WA, for the account of Avon Products, Inc., for 270 days. Supporting shipper: Avon Products, Inc., 2940 E. Foothill Blvd., Pasadena, CA 91121.

MC 146360 (Sub-6-1TA), filed November 17, 1980. Applicant: ALL FREIGHT TRANSPORTATION, INC., P.O. Box 6699, Boise, ID 83707. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Contract carrier,* Irregular routes: *Frozen Foodstuffs, except commodities in bulk* between points in the United States, except AK and HI. Restricted to traffic originating at or destined to the faiclities utilized by Ore-Ida Foods, Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ore-Ida Foods, Inc., 220 W. Parkcenter, Blvd., Boise, ID.

MC 152680 (Sub-6-1TA), filed November 17, 1980. Applicant: ALLIANCE FREIGHTWAYS INC., P.O. Box 2295, Los Angeles, CA 90051. Representative: W.G. Reese, Registered Practitioner, 623 E. Artesia, Carson, CA 90746. *Paper, paper products and supplies used in the manufacture thereof,* Excepting commodities in bulk. Between San Francisco, CA and its commercial zone on the one hand, and, on the other points and places in the states of NY, PA, NJ, and IL, for 270 days. Supporting shipper: Velo-Bind Inc. 650 Almanor Ave., Sunnyvale, CA 94086.

MC 116544 (Sub-6-22TA), filed November 17, 1980. Applicant: ALTRUK FREIGHT SYSTEMS INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O.B. 10061, Palo Alto, CA 94303. *Batteries, flashlights, store display racks, electrical equipment and parts, and anti-freeze (except in bulk)* from the facilities of Union Carbide Corporation at or near Asheboro & Greenville, NC; Cleveland & Fremont, OH; Maryville, MO; Red Oak, IA; Alsip & Chicago, IL; Texas City, TX; and Torrance, CA to all points in the U.S. (except AK and HI), for 270 days. Supporting shipper: Union Carbide Corporation, 270 Park Ave., New York, NY. 10017.

MC 152691 (Sub-6-1TA), filed November 12, 1980. Applicant: SANTOS RICO, d.b.a. AUTO TRANSPORTES, 1102 E. Francis, Corona, CA 91720. Representative: Santos Rico (same as applicant). *Contract carrier:* Irregular

routes: (1) *Magnetic recording tape,

CASCADE EXPRESS, INC., 1315 D NE.

INC., 4810 Pontiac Street, Commerce

in the manufacture and distribution of

paper, (2) *sanitary tissue stock or health*

for 270 days. An underlying ETA seeks

routes: (1) *Magnetic recording tape, typewriter tape parts and electronic parts and (2) Electronics, electronic parts, instruments and parts and supplies used in the above,* between points in Orange County, CA and Mexicali, Mexico for 270 days. Supporting shipper: (1) Certron Corp.; 1701 S. State College Blvd., Anaheim, CA and (2) Beckman Instruments, Inc., 2500 Harbor Blvd., Fullerton, CA 92634.

MC 138322 (Sub-6-4TA), filed November 12, 1980. Applicant: BHY TRUCKING, INC., 9231 Whitmore St., El Monte, CA 91733. Representative: Robert Fuller, 13215 E. Penn St., Suite 310, Whittier, CA 90602. *Oilfield machinery, materials, equipment and supplies,* and *pipe and well casing,* between (1) points in CA, on the one hand, and, on the other, points in AR, CO, KS, LA, MT, NM, OK, TX and Wy, and (2) between points in TX, on the one hand, and, on the other, points in CO, MT and WY, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: There are 10 shippers. Their statements may be examined at the Regional Office listed.

MC 152681 (Sub-6-1TA), filed November 17, 1980. Applicant: FRANK BATY, 2045 Tulare Way, Upland, CA 91786. Representative: Frank Baty (same as applicant). *Contract Carrier,* Irregular routes: *Beer* moving in foreign commerce, from Detroit, MI and commercial zone to CA, for the account of Passino Distributors, Inc., for 270 days. Supporting shipper: Passino Distributors, Inc., 1515 West Mission Road, Alhambra, CA.

MC 152670 (Sub-6-1TA), filed November 12, 1980. Applicant: CANNON MOVING & STORAGE, INC., 18335 Iona Ave., Lemoore, CA 93245. Representative: Trucia Hedge (same address as applicant). *Used Household Goods* in a pack-and-crate operation for the United States Government, in and between points in Kings County, CA, Tulare County, CA, and Fresno County, CA, for 270 days. There are no supporting shippers.

MC 138624 (Sub-6-2TA), filed November 14, 1980. Applicant: CARGO TRANSPORT, INC., Route 1, Box 510, Corvallis, MT 59828. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Salt, in bulk,* from the facilities of Morton Salt at or near Saltair, UT to points in OR and WA, for 270 days. An underlying ETA seeks 120 days authority. Supporting Shipper: Morton Salt Division of Morton-Norwich Products, Inc., 110 North Wacker Drive, Chicago IL 60606.

MC 152687 (Sub-6-1TA), filed November 12, 1980. Applicant: CASCADE EXPRESS, INC., 1315 D NE. 134th, Vancouver, WA 98665. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Foodstuffs,* (1) from points in WA to points in OR; (2) from WA and OR to points in CA, restricted to traffic moving for the account of, or to or from the facilities of North Pacific Canners and Packers, Inc., for 270 days. Supporting shipper: North Pacific Canners and Packers, Inc., 5200 S.E. McLoughlin Blvd., Portland, OR.

MC 152688 (Sub-6-1TA), filed November 17, 1980. Applicant: CHEMICAL DISPOSAL CO., INC., P.O. Box 397, Rillito, AZ 85246. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Hazardous waste and hazardous waste materials,* from points in AZ to Beatty, NV; Grand View, ID; West Covina and Kettleman City, CA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Arizona Public Service Company, P.O. Box 21666, Phoenix, AZ 85036.

MC 140943 (Sub-6-2TA), filed November 14, 1980. Applicant: CHEYENNE ROAD TRANSPORT, LTD., 232 38th Ave., N.E., Calgary, Alberta, Canada T2E 2M2. Representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. *Drilling mud, and drilling mud additives* from MT, WY, and Gray's Harbor County, WA to points along the international boundary line between the U.S. and Canada in WA, ID, MT, and ND, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: Superior Mud Sales, Ltd., 600-608 7th St., S.W., Calgary, Alberta, Canada; Apex Mud Service, Ltd., 322-706 7th Ave., S.W., Calgary, Alberta, Canada; Hollimex Products, Ltd., 5830 87th St., Edmonton, Alberta, Canada; Canamara Supply, Ltd., 126 Acheson Road, Winterburn, Alberta, Canada.

MC 42487 (Sub-6-43TA), filed November 13, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Contract carrier,* irregular routes: *General commodities, (except household goods as defined by the Commission, and Classes A and B explosives),* from Shelley, ID and Clearfield, UT to Clearfield, UT, Jersey City, NJ, Cockeysville, MD and points in WI, MO, IL, MI, IN, and OH, for the amount of R. T. French Co., for 270 days. Supporting shipper: R. T. French Co., 434 S. Emerson, Shelley, ID 83274.

MC 113678 (Sub-6-27TA), filed November 13, 1980. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same as above). *Photographic paper and supplies and materials and equipment related thereto,* between Denver, Co; Hastings, MN; Billings, MT; Omaha, NE; Fargo, ND; Richardson, TX; Salt Lake City, UT; and Chehalies and Spokane, WA, and points in the commercial zones of each of the cities listed above for 270 days. Supporting shipper: Trans America Film Service Corp., 433 W. Lawndale Dr., Salt Lake City, UT.

MC 136605 (Sub-6-21TA), filed: November 13, 1980. Applicant: DAVIS TRANSPORT, INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same as applicant). *Package shipments of house logs, windows, shakes, shingles, dimensional lumber and insulation,* from Payette County, ID to points in and west of WI, IL, MO, AR, LA, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Homestead Log Company, P.O. B. 161 Industrial Park, Payette, ID 83661.

MC 128685 (Sub-6-1TA), filed November 14, 1980. Applicant: DIXON BROS., INC., P.O.D. 8, Newcastle, WY 82701. Representative: Jerome Anderson, 100 Transwestern Bldg., Billings, MT 59101. *Petroleum or coal products and crude petroleum, natural gas or gasoline,* between points in WY, SD, NB, CO and MT for 270 days. Supporting shippers: There are eight supporting shippers. Their statements may be examined at the Regional office listed.

MC 121762 (Sub-6-1TA), filed November 17, 1980. Applicant: DRISKELL TRUCKING, INC., 4739 Durfee Ave., Pico Rivera, CA 90660. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633. *Contract Carrier,* Irregular routes: *Upholstered, Rattan, Metal and Wood Furniture; and, Air Filtering Equipment,* From points in Los Angeles and Orange Counties, CA to points in UT, NM, AZ, NV, OR, WA, ID, CO, CA and TX, and, from points in OR and TX to points in AZ, NV, CA, UT, and ID, for 270 days. Supporting shippers: There are six shippers. Their statements may be examined at the Regional office listed.

MC 121762 (Sub-6-2TA), filed November 17, 1980. Applicant: DRISKELL TRUCKING, INC., 4739 Durfee Ave., Pico Rivera, CA 90660. Representative: Richard C. Celio, 2300 Camino Del Sol, Fullerton, CA 92633. *Contract Carrier,* Irregular routes: *Furniture of rattan, metal or wood construction; air filtering equipment; paper and paper products; and, equipment, materials and supplies used in the manufacture and distribution of the above commodities, except commodities in bulk,* Between the Facilities of Scott Paper Company located in the states of CA, OR, and WA, on the one hand, and, on the other, all points located in the states of AZ, CO, ID, NV, OR, TX, and WA, for 270 days. Supporting shipper: The Scott Paper Company, Scott Plaza II, Philadelphia, Pa. 19113.

MC 152683 (Sub-6-1TA), filed November 17, 1980. Applicant: RICK ENDRESEN COMPANY, 709 S. Lane, Seattle, WA 98104. Representative: R. Patrick McGreevy, Ballard Building, Suite 210, Seattle, WA 98107. *Contract carrier:* Irregular Routes: (1) *Alcoholic beverages,* moving in bond, from the storage facilities of Cloud Trading Company, Inc., at Seattle, to ports in WA and OR, for 270 days. Supporting shipper: Cloud Trading Company, Inc., 1035 22nd Avenue, Oakland, CA 94606.

MC 151191 (Sub-6-3TA), filed November 17, 1980. Applicant: ESPENSCHIED TRANSPORTATION CORPORATION, 322 South 600 East, Centerville, UT 84014. Representative: Lee E. Lucero, 450 Capitol Life Center, Denver, CO 80203. *Contract carrier,* irregular routes: *Merchandise dealt in by retail department stores,* between points in CO, ID, MT, UT and WY for 270 days. Supporting shipper: Spiegel, Inc., 1515 West 22nd St., Oak Brook, IL 60521.

MC 125433 (Sub-6-40TA), filed November 17, 1980. Applicant: F-B TRUCK LINE COMPANY, 1945 So. Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same as applicant). (1) *Paper,* except building paper, (2) *Sanitary tissue stock;* (3) *wrapping paper, wrappers* and *coarse paper;* (4) *sanitary tissue* and *health products;* (5) *containers and boxes, paperboard, fiberboard and pulpboard,* (6) *Drug, Bio Products, Medical Chemicals,* and *Pharmaceutical preparations;* (7) *Soaps, detergents* and *cleaning preparations, cosmetics and other toilet preparations* except electrical, and miscellaneous parts and supplies incidental to the manufacture, distribution of the above commodities, between points in the U.S., restricted to traffic moving between the facilities of Scott Paper Company, for 270 days. Supporting shipper: Scott Paper Company, Scott Plaza I, Philadelphia, PA 19113.

MC 125433 (Sub-6-41TA), filed November 17, 1980. Applicant: F-B TRUCK LINE COMPANY, 1945 So. Redwood Rd., Salt Lake City, UT 84104. Representative: John B. Anderson (same as applicant). (1) *Paper, except building paper,* (2) *sanitary tissue stock or health products,* (3) *paper bags, wrapping paper and coarse paper* by Major Industries Code—Class 26—Pulp, Paper and Allied Products, between at or near Flagstaff, AZ, Pryor, OK, St. Helens, OR and LaPalma, CA, on the one hand, and on the other, points in the U.S. for 270 days. Supporting shipper: Orchid Paper Company, 5911 Fresca Drive, LaPalma, CA 90623.

MC 116457 (Sub-6-3TA), filed November 13, 1980. Applicant: GENERAL TRANSPORTATION INCORPORATED (P.O. Box 6484), Phoenix, AZ 85005. Representative: D. Parker Crosby (same as applicant). *Laminated wood beams, roof structure materials and materials, equipment and supplies used in the manufacture and distribution thereof* (except in bulk in tank vehicles), between points in Apache County, AZ and points in and west of LA, AR, MO, IA and MN, for 270 days. Supporting shipper: Madera Lumber Sales, Inc., P.O. Box 2551, Mesa, AZ 85204.

MC 144880 (Sub-6-2TA), filed November 14, 1980. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, DC 20006. *Contract carrier,* irregular routes, *copying, duplicating or reproducing machines and materials, supplies, parts and accessories used in the manufacture, distribution, installation or operation of copying, duplicating, or reproducing machines,* between points in the U.S. under continuing contracts with the Xerox Corporation for 270 days. Supporting shippers: Xerox Corporation, 800 Phillips Road, Building 214B, Webster, NY 14580.

MC 126996 (Sub-6-3TA), filed November 12, 1980. Applicant: GOLDEN TRANSPORTATION, INC., P.O. Box 26908, Salt Lake City, UT 84125. Representative: Stanley C. Olsen, Jr., 7400 Metro Boulevard, Suite 411, Edina, MN 55435. *Non-exempt foods and kindred products,* from Steele County, MN, on the one hand, and, on the other, points in AZ, CA, CO and UT for 270 days. Supporting shipper: Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912.

MC 150726 (Sub-6-4TA), filed November 17, 1980. Applicant: HILGO TRANSPORT, INC., P.O. Box 149, Selma, CA 93662. Representative: Thomas M. Loughran, 100 Bush St., 21st Floor, San Francisco, CA 94104. (A) *air and entraining agent solution,* (B) *concrete or masonry plasticizer and water reducing compound, and,* (C) *lignin, liquor,* in bulk and tank vehicles, from Los Angeles, CA to Phoenix, AZ for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: W. R. Grace Co., 7237 E. Gage Ave., Los Angeles, CA 90040.

MC 110639 (Sub-6-7TA), filed November 17, 1980. Applicant: INCO EXPRESS, INC., 3600 South 124th ST., Seattle, WA 98168. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101. *Cardboard containers and paper products* from points in Los Angeles and Orange Counties, CA to points in OR and WA, for 270 days. Supporting shipper: McCabe Quality Meats, 13650 N.E. Whitaker Way, Portland, OR 97220; California Stocktab Co., 11937 Woodruff Avenue, Downey, CA 90241.

MC 139906 (Sub-6-47TA), filed November 13, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O.B. 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O.B. 81849, Lincoln, NE 68501. *Bakery products,* from the facilities of Interbake Foods, Inc., at or near Tacoma, WA to North Sioux City, SD for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Interbake, Inc., P.O.B. 27487, Richmond, VA 23261.

MC 139906 (Sub-6-48TA), filed November 13, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O.B. 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O.B. 81849, Lincoln, NE 68501. *(1) Medical and surgical equipment and supplies, and (2) parts, materials and supplies used in the manufacture, sale or distribution of the commodities listed in (1) above,* (except in bulk) between the facilities of the Bard-Parker Division of Becton Dickinson and Company at or near Los Gatos, CA and Ocala, FL; and (2) between the facilities listed in (1) above on the one hand, and, on the other, the facilities of Automated Moulding Company at or near Pamona, CA the facilities of the Bard-Parker Division of Becton Dickinson and Company at or near Hancock, NY and Salt Lake City, UT; and (3) from the facilities listed in (1) above to Benecia, CA; Atlanta, GA; Itasca, IL; Fairfield, NJ; Dallas, TX; and points in their respective commercial zones, for 270 days. Supporting shipper: Becton Dickinson and Co., Stanley St., East Rutherford, NJ 07070.

MC 125952 (Sub-6-8TA), filed November 14, 1980. Applicant: INTERSTATE DISTRIBUTOR CO., 8311 Durango St. SW., Tacoma, WA 98499. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract carrier,* irregular routes: *(1) such merchandise as is dealt in by*

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wholesale, retail, chain grocery and food business houses and agricultural feed business houses and soy products, and (2) materials, equipment and ingredients and supplies used in the development, manufacture, distribution and sale of the items in (1) above (except in bulk), between the facilities of Ralston Purina Company at or near Denver, CO, and points in AZ, for 270 days. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188.

MC 152528 (Sub-6-1TA), filed November 17, 1980. Applicant: KERWIN F. JENSEN, P.O. Box 308, Cleveland, UT 84518. Representative: Harry D. Pugsley, 1283 East South Temple #501, Salt Lake City, UT 84102. *Contract carrier,* Irregular routes: *Coal,* in bulk, from the Pinnacle Mine in Deadman Canyon in Carbon County, UT to railheads in Carbon County, UT for the account of Tower Resources, Inc., for 270 days. Supporting shipper: Tower Resources, Inc., P.O. Box 1027, Price, UT 84501.

MC 140827 (Sub-6-3TA), filed November 13, 1980. Applicant: MARKET TRANSPORT, LTD., 110 North Marine Drive, Portland, OR 97217. Representative: Nick I. Goyak, 555 Benjamin Franklin Plaza, One Southwest Columbia, Portland, OR 97258. (1) *Paper and paper products;* and (2) *Equipment, materials and supplies such as are used in the production, manufacture, packaging, marketing and distribution of the commodities named in (1) above,* from Toledo, OR to points in CA for 270 days. An underlying ETA seeks 120 days. Supporting shipper: Georgia-Pacific Corporation, 900 SW. Fifth Avenue, Portland, OR 97204.

MC 152678 (Sub-6-1TA), filed November 17, 1980. Applicant: JOHN MATTOS, d.b.a. J. MATTOS TRUCKING, 1088 Belford Drive, San Jose, CA 95132. Representative: Philip J. Bovero, 3798 Flora Vista Ave., Santa Clara, CA 95051. (1) *Foods, foodstuffs, food treating compounds, chemicals, preservatives and additives;* (2) *Groceries and grocers' supplies;* (3) *Materials, supplies, equipment and advertising material* used in the manufacture, sale and distribution of commodities described in (1) and (2) above (except in bulk) between San Jose, CA and Reno, NV including the commercial zones thereof, for 270 days. Supporting shipper: Compass Trading Company, Inc., 975 Yosemite Drive, Milpitas, CA 95035.

MC 152685 (Sub-6-1TA), filed November 12, 1980. Applicant: RON NOBACH TRUCKING, INC., 7404 44th Ave. NE., Marysville, WA 98270. Representative: James T. Johnson, 1610 IBM Bldg., Seattle, WA 98101. *Cheese and cheese products,* from Mt. Vernon, WA to Logan, UT., for 270 days. Supporting shipper: Dairy Marketing-Washington Cheese, P.O. Box 1267, Mt. Vernon, WA.

MC 1977 (Sub-6-8TA), filed November 12, 1980. Applicant: NORTHWEST TRANSPORT SERVICE, INC., 5601 Holly St., Commerce City, CO 80022. Representative: Leslie R. Kehl, 1660 Lincoln St., Suite 1600, Denver, CO 80264. *Contract carrier; Irregular Routes; General Commodities* (except household goods as defined by the Commission). Between points in the U.S. under continuing contract(s) with the Port of Seattle for 270 days. Supporting shipper: The Port of Seattle, P.O. Box 1209, Seattle, WA 98111.

MC 124692 (Sub-6-25TA), filed November 13, 1980. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Representative: James B. Hovland, Suite M-20, 400 Marquette Ave., Minneapolis, MN 55401. *Reinforced fiberglass products,* from Seguin and Houston, TX; Anaheim, CA and Cleveland, OH to points in the U.S. (except AK and HI), for 270 days. Supporting shipper: Xerxes Fiberglass, Inc., 7901 Xerxes Avenue South, Bloomington, MN 55431.

MC 126514 (Sub-6-9TA), filed November 17, 1980. Applicant: SCHAEFFER TRUCKING, INC., 5200 West Bethany Home Rd., Glendale, AZ 85301. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. *Such commodities as are dealt in or used by manufacturers of electrical products,* between the facilities of the General Electric Company, Los Angeles, CA, Ontario, CA, and Seattle, WA on the one hand, and on the other, points in the U.S. for 270 days. Supporting shipper: General Electric Company, 234 East Main St., Ontario, CA 91761.

MC 152682 (Sub-6-1TA), filed November 12, 1980. Applicant: THOUSAND TRAILS, INC., 4800 S. 188th Way, Seattle, WA 98188. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Passengers and their baggage* in special and charter round trip operations between points in WA, on the one hand, and points in the U.S., excluding HI, on the other, for 180 days.

MC 144846 (Sub-6-3TA), filed November 14, 1980. Applicant: TRANSTATES, INC., 2761 East White Star, Anaheim, CA 92806. Representative: David P. Christianson, 707 Wilshire Boulevard, Suite 1800, Los Angeles, CA 90017. *Paper and paper products; plastic articles, expanded; and equipment, materials, and supplies used in the manufacture and distribution of the above products (except commodities in bulk),* between all points in the United States (except AK and HI), restricted to shipments originating at or destined to the facilities of Scott Paper Company, for 270 days. Supporting shipper: Scott Paper Company, Scott Plaza II, Philadelphia, PA 19113.

MC 143775 (Sub-6-31TA), filed November 14, 1980. Applicant: PAUL YATES, INC., P.O. Box 1059, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). *Foodstuffs* (except in bulk), from Los Angeles, CA, and its commercial zone, to Phoenix, AZ, Columbus, GA, Chicago, IL, Emporia, KS, Hutchinson, KS, Kansas City, KS, Wichita, KS, New Orleans, LA, Dallas, TX, Houston, TX, San Antonio, TX, and Milwaukee, WI, and their respective commercial zones, for 270 days. Supporting shipper: Southern Foods, 5353 Downing Street, Vernon, CA 90058.

MC 115523 (Sub-6-8TA), filed November 17, 1980. Applicant: CLARK TANK LINES COMPANY, 1450 N. Beck St., Salt Lake City, UT 84110. Representative: Melvin J. Whitear (same as applicant). *Potash,* from Potash, UT (near Moab, UT), to AZ, CA, CO, ID, NM, NV, MT, OR, WY, and WA, for 270 days. Supporting shipper: Van Waters & Rogers division of UNIVAC, 84110.

MC 143336 (Sub-6-1TA), filed November 18, 1980. Applicant: BAY RAPID TRANSIT COMPANY, INC., P.O. Box 3258, Salinas, CA 93912. Representative: John Paul Fischer, 256 Montgomery Street, San Francisco, CA 94104. *Passengers and their baggage* in (1) charter operations originating at points in Monterey, San Benito and Santa Cruz Counties, CA, extending to points in OR, WA, CA, ID, UT, NM, AZ, MT, WY and CO; (2) charter operations originating at points in Santa Clara County, CA, and extending to points in OR, WA, CA, ID, UT, NM, AZ, MT, WY, CO and NV; and (3) special operations originating at points in Monterey, San Benito, Santa Cruz and Santa Clara Counties, CA, and extending to points in OR, WA, CA, ID, UT, NM, AZ, MT, WY, CO and NV, for 180 days. A corresponding ETA seeks 90 days authority. Supporting shippers: There are fourteen (14) shippers. Their statements may be examined at the Regional office listed.

MC 138875 (Sub-6-3TA), filed November 17, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, 11900 Franklin Rd., Boise, ID 83709. Representative: Patricia A. Russell (same as applicant). *Structural wood products and accessories* (except commodities in bulk), from Eugene, OR to points in IA, IL, IN, KS, MI, MN, MO, NE, OH and WI, for 270 days. Supporting shipper(s): Trus Joist Corporation, 195 Bertelsen Road, Eugene, OR 97402.

MC 151028 (Sub-6-44TA, filed November 18, 1980. Applicant: CONSOLIDATED FREIGHTWAYS, CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. *Contract carrier,* Irregular routes: *Salt, in packages and blocks,* from Clearfield, UT to points in IL, IA, IN, MO, KS, MN and WI, under a continuing contract or contracts with Great Salt Lake Minerals & Chemical Corporation, for 270 days. Supporting shipper(s): Great Salt Lake Minerals & Chemical Corporation, P.O.B. 1190, Ogden, UT 84402.

MC 152170 (Sub-6-1TA), filed November 13, 1980. Applicant: PUTNAM MOVING & STORAGE, INC., 302 Via Del Norte, Oceanside, CA 92054. Representative: Patrick Collins, (same as applicant). *Used household goods and unaccompanied baggage* in connection with a pack-and-crate operation between points in San Diego and Orange Counties, CA, for the account of the Department of Defense, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Camp Pendleton Marine Corps Base, Traffic Management Officer, Base Materiel Btn., P.O.B. 1430, Oceanside, CA 92054.

Agatha L. Mergenovich,
Secretary.

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BILLING CODE 7035-01-M

[Directed S.O. No. 1398]

Kansas City Terminal Railway Co.—Directed To Operate Over—Chicago, Rock Island and Pacific Railroad Co., Debtor (William M. Gibbons, Trustee); Accounting Report—Instructions Concerning Final Accounting Procedures and Reports

AGENCY: Interstate Commerce Commission.

ACTION: Decision.

SUMMARY: On July 22, 1980, the Kansas City Terminal Railway Company (KCT), as directed rail carrier over the lines of the Rock Island Railroad (KCT-DRC), requested instructions from the Commission regarding the final settlement of the accounting associated with directed service. The Commission has selected a cut-off date for the filing of accounting charges and other claims against KCT-DRC and has ordered all railroads and railroad labor organizations to notify KCT of their willingness to meet the cut-off dates. The Commission has also specified the format of KCT's final report.

DATE: This decision is effective on November 18, 1980.

FOR FURTHER INFORMATION CONTACT: William Moss (202) 275-7510 or Richard Schiefelbein (202) 275-0826.

SUPPLEMENTARY INFORMATION: On July 22, 1980, the Kansas City Terminal Railway Company (KCT) petitioned the Commission for instructions on the proper handling of various accounting functions related to the KCT's operation of the Rock Island Railroad (RI) under directed service (KCT-DRC). Directed service terminated on March 24, 1980, with limited wind-down operations continuing over RI lines until March 31, 1980. In its petition, KCT outlined several standard railroad accounting rules which permit inter-railroad billings for a movement to occur long after the date of the movement. In the case of damage to another railroad's equipment, billing can be as much as five years after the car is damaged. Most of the accounting rules cited in KCT's petition involve time frames of 2-3 years after a movement occurred.

We are deeply concerned about the public costs which would be involved if a large accounting staff were maintained by KCT to handle accounting claims for several years. We are, at the same time, interested in assuring that all valid accounting claims are handled properly and that all directed service responsibilities to other carriers and to the public are concluded in an equitable manner.

In order to balance these goals, we analyzed the railroad accounting rules and practices to determine a reasonable cut-off date for claims against the KCT-DRC. Our intention was to develop a cut-off date which provided railroads and other parties with claims against the KCT-DRC sufficient time to prepare and submit those claims, while at the same time avoiding a multi-year extension of directed service subsidization by the federal government.

We have selected March 1, 1981 as a reasonable cut-off date for the filing of claims by other railroads, railway labor organizations, and other creditors against the KCT-DRC as directed carrier over the RI. The failure to file a claim by March 1, 1981 will not prevent ultimate payment of an otherwise valid claim. However, claimants should be aware that they may face substantial delays in the processing and payment of claims filed after the cut-off date.

We are ordering KCT-DRC to expedite the handling and settlement of all claims received by the cut-off date. After those claims are precessed and settled, we intend, at a minimum, to reduce the KCT-DRC directed service accounting force to a minimum staffing level. If feasible, we will eliminate all accounting functions.

We remind parties with claims against KCT-DRC that the costs of directed service have virtually exhausted the Commission's $80 million appropriation for directed service. After the appropriation is exhausted, payment on any subsequent claims may require an additional Congressional appropriation.

Because railroad accounting rules are agreements among the railroads, we are not in a position to modify those rules directly. We are, however, ordering the chief accounting officer of each railroad to notify the KCT-DRC within 20 days of service of this order indicating to the KCT-DRC whether or not that railroad will comply with the established cut-off date for claims. We are similarly ordering the representatives of the railway labor organizations to notify KCT-DRC of their willingness to meet the March 1, 1981 cut-off date for the filing of claims.

We are ordering KCT-DRC to notify us of the responses received from the railroads and labor organizations. We are also ordering KCT-DRC to cancel any transit tonnage which has not moved from the transit point by January 1, 1981. In addition, due to the reduction in accounting staff anticipated after March 1, 1981, it would be extremely difficult to respond within the time frames required by certain claims. Therefore, the time periods specified in any accounting rules or collective bargaining agreements which require KCT-DRC to respond to a claim within a certain period will not be applicable after March 1, 1981.

We have also provided that shippers filing claims, such as overcharge claims, after March 1, 1981, will look only to KCT-DRC for payment, even on interline movements, so long as the other railroad involved in the movement filed all its claims by the March 1, 1981 cut-off date.

We have reviewed the report format specified in the directed service regulations, § 1126.2 of Title 49 of the Code of Federal Regulations. That reporting format is better suited to a limited directed service operation, and is not useful in accounting for the operation of a major railroad system, such as the Rock Island. We are specifying a different reporting format

for the KCT-DRC directed service

By the Commission, Chairman Gaskins,

Kansas City Terminal Railway Company,

for the KCT–DRC directed service operations; that format is presented in the Appendix to this order.

We are also establishing two reporting dates for the operations. KCT–DRC is being ordered to file an unaudited interim report on November 20, 1980, covering the period through July 31, 1980. KCT–DRC is being ordered to file its final accounting report, covering the same period, by May 31, 1981.

It is ordered:

1. Each railroad and railway labor organization which has a claim against KCT–DRC shall notify the Chief Accounting Officer of KCT–DRC within 20 days of the service date of this order of its willingness to file all claims against KCT–DRC by March 1, 1981.

2. Any claims filed by shippers subsequent to March 1, 1981 will be the sole responsibility of KCT–DRC, even if the claim applies to an interline movement, so long as the other railroad involved in the movement filed all its claims by March 1, 1981.

3. KCT shall notify the Commission in writing within 30 days of the service date of this order of the responses it has received from the railroads, railway labor organizations, and creditors.

4. KCT shall cancel any KCT–DRC transit tonnage which has not been moved from the transit point by January 1, 1981.

5. After March 1, 1981, any accounting rules or collective bargaining agreements which require KCT–DRC to respond to a claim within a specified time period shall not be applicable.

6. KCT shall expedite the processing and settlement of all claims filed by March 1, 1981.

7. KCT shall file its directed service accounting report required by 49 CFR 1126.2 in the format specified in the appendix to this order. KCT shall file its unaudited interim report of revenues, expenses and income as of July 31, 1980 no later than November 20, 1980. KCT shall file its final accounting report as of July 31, 1980, no later than May 31, 1981. KCT shall separate transactions between directed service through July 31, 1980 and subsequent accounting wind-down costs. KCT's accounting report must contain standard required footnotes under generally accepted accounting principles.

This decision does not significantly affect the quality of the human environment, or the conservation of energy resources.

Decided: November 17, 1980.

(49 U.S.C. 10321 and 11125)

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix—Kansas City Terminal Railway Company, Directed Rail Carrier of Chicago, Rock Island and Pacific Railroad Company, Union Station, Kansas City, Missouri 64106

Directed Service Order No. 1398—Report of Revenues, Expenses and Income

For the Period Beginning _____ and Ending _____.

Line	Nearest whole dollar
Operating revenues: [1]	
1. Freight	
2. Passenger	
3. All other operating revenues	
4. Total	
5. Passenger service subsidy (RTA)	
6. Total railway operating revenues	
Operating expenses:	
7. Way and structures	
8. Equipment	
9. Transportation	
10. General and administrative	
11. Total railway operating expenses	
12. Loss from railway operations	
Other expenses (income):	
13. Other income	
14. Other deductions	
15. Kansas City Terminal Railway Co.—Allowance for profit	
16. Loss (deficit from operations)	

[1] Operating revenue is to exclude ICC funding.

Note: See accompanying accounting policy disclosures and notes to financial statements.

Kansas City Terminal Railway Company, Directed Rail Carrier of Chicago, Rock Island and Pacific Railroad Company, Union Station, Kansas City, Missouri 64106

Directed Service Order No. 1398—Balance Sheets

For the Period Ending _____.

Line	Nearest whole dollar
Current assets:	
1. Cash and temporary cash investments	
2. Special deposits	
3. Accounts receivable—interline and customers—net	
4. Accounts receivable (Wm. M. Gibbons, Trustee, Rock Island) net	
5. Materials and supplies	
6. Other current assets	
7. Total current Assets	
Other assets:	
8. Total assets	
Current liabilities:	
9. Accounts and wages payable	
10. Accounts payable (Wm. M. Gibbons, Trustee, Rock Island) net	
11. Other current liabilities	
I.C.C. funding received:	
12. I.C.C. funds received	
13. Loss from railway operations	
14. Total I.C.C. funding and losses	

Note: See accompanying accounting policy disclosures and notes to financial statements.

Kansas City Terminal Railway Company, Directed Rail Carrier of Chicago, Rock Island and Pacific Railroad Company, Union Station, Kansas City, Missouri 64106

Directed Service Order No. 1398—Reconciliation of I.C.C. Funds Received

For the Period Ending _____.

Line	Nearest whole dollar
1. Net loss from railway operations	
Less non-cash charges (future cash requirement):	
2. Accounts and wages payable	
3. Casualty reserves	
4. Estimated vacation liability	
5. Accounts payable (Wm. M. Gibbons—Trustee—Rock Island)	
6. Other accrued liabilities	
7. Total cash applied to operations	
Add other cash provided (future cash collections):	
8. Accounts receivable—Customers and other	
9. Accounts receivable (Wm. M. Gibbons—Trustee—Rock Island)	
10. Prepayments	
11. Other current assets	
12. Total other cash applied	
13. Total Cash applied	
14. Cash in banks	
15. Total I.C.C. funds received	

Note: See accompanying accounting policy disclosures and notes to financial statements.

Kansas City Terminal Railway Company, Directed Rail Carrier of Chicago, Rock Island and Pacific Railroad Company, Union Station, Kansas City, Missouri 64106

Directed Service Order No. 1398—Notes to Financial Statements

Additional Comments

BILLING CODE 7035-01-M

VERIFICATION

The foregoing report shall be verified by the oath of the officer having control of the accounting of the respondent. This report shall also be verified by the oath of the president or other chief officer of the respondent, unless the respondent states that such officer has no control over the respondent's accounting and reporting.

OATH

(To be made by the officer having control of the accounting of the respondent)

State of _____

County of _____

_____ makes oath and says that he is _____
(Insert here name of the affiant) (Insert here the official title of the affiant)

Of _____
(Insert here the exact legal title or name of the respondent)

that it is his duty to have supervision over the books of accounts of the respondent and to control the manner in which such books are kept; that he knows that such books have been kept in good faith during the period covered by this report; that he knows that the entries contained in this report relating to accounting matters have been prepared in accordance with the provisions of the Uniform System of Accounts for Railroads and other accounting and reporting directives of this Commission; that he believes that all other statements of fact contained in this report are true, and that this report is a correct and complete statement, accurately taken from the books and records, of the business and affairs of the above-named respondent during the period of time from and including

_____, 19___, to and including _____, 19___

_____
(Signature of affiant)

Subscribed and sworn to before me, a _____ in and for the State and county above named, this _____ day of _____, 19___

My commission expires _____

Use an L.S. impression seal

_____
(Signature of officer authorized to administer oaths)

SUPPLEMENTAL OATH

(By the president or other chief officer of the respondent)

State of _____

County of _____

_____ makes oath and says that he is _____
(Insert here name of the affiant) (Insert here the official title of the affiant)

Of _____
(Insert here the exact legal title or name of the respondent)

that he has carefully examined the foregoing report; that he believes that all statements of fact contained in the said report are true, and that the said report is a correct and complete statement of the business and affairs of the above-named respondent and the operations of its property during the period of time from and including

_____, 19___, to and including _____, 19___.

_____
(Signature of affiant)

Subscribed and sworn to before me, a _____ in and for the State and county above named, this _____ day of _____, 19___

My commission expires _____

Use an L.S. impression seal

_____
(Signature of officer authorized to administer oaths)

[FR Doc. 80-36855 Filed 11-25-80; 8:45 am]

BILLING CODE 7035-01-C

V 45 N 0 226 80 0 UMI

[Docket No. AB-156 (Sub-No. 9F)]

Delaware and Hudson Railway Co.—Abandonment—In the Towns of Balston and Milton, NY; Findings

Notice is hereby given pusuant to 49 U.S.C. 10903 that by a Certificate and Decision decided September 30, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Oregon Short Line R. Co.—Abandoment Goshen, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Delaware and Hudson Railway Company of its line of railroad known as the Ballston Spa Industrial Track which extends from milepost A 31.32 to milepost 31.79, a distance.47 miles. A certificate of public convenience and necessity permitting abandonment was issued to the Delaware and Hudson Railway Company. Since the investigation has been completed, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than December 8, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall be become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36856 Filed 11-25-80; 8:45 am]

[Docket No. AB-55 (Sub-35F)]

Seaboard Coast Line Railroad Co.—Abandonment—Near S & E Junction at Beck Hammock, FL; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a decision decided September 8, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the public convenience and necessity permit the abandomment by the Seaboard Coast Line Railroad Company of its line of railroad known as the S & E/Beck Hammock segment, which extends from milepost 770 in the City of Sanford, FL, to milepost 773.93 known as Beck Hammock, in Seminole County, FL, subject to the conditions for the protection of employees discussed in *Oregon Short Line R. Co.—Abandonment Goshen,* 360 I.C.C. 91 (1979). A certificate of abandonment will be issued to the Seaboard Coast Line Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice (December 26, 1980)), unless within 15 days from the date of publication (December 11, 1980), the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued. The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed. An offer may request the Commission to set conditions and amount of compensation within 30 days after an offer is made. If no agreement is reached within 30 days of an offer, and no request is made on the Commission to set conditions or amount of compensation, a certificate of abandonment will be issued no later than 50 days after this notice is published. Upon notification to the Commission of the execution of an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in 49 U.S.C. 10905 (as amended by the Staggers Rail Act of 1980, Pub. L. 96-448, effective October 1, 1980). All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-36862 Filed 11-25-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL TRADE COMMISSION

[332-119]

Background Study of the Economies and International Trade Patterns of the Countries of North America (Including Central America and the Caribbean)

AGENCY: United States International Trade Commission.

ACTION: Notice is hereby given that the United States International Trade Commission, following receipt on October 10, 1980, of a request from the United States Trade Representative at the direction of the President, has instituted an investigation under Section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) with respect to the economies and international trade patterns of the countries of North America (including Central America and the Caribbean.)

EFFECTIVE DATE: November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Martin F. Smith, Trade Reports Division, Office of Economics, United States Internationl Trade Commission, 701 E Street NW., Washington, D.C. 20436 (202) 724-0092.

SUPPLEMENTARY INFORMATION: Section 1104 of the Trade Agreements Act of 1979 (Pub. L. 96-39) directs the President to study the desirability of entering into trade agreements with countries in the northern portion of the Western Hemisphere to promote the economic growth of the United States and such countries and the mutual expansion of market opportunities and to report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate his findings and conclusions. The President's study will include, inter alia, chapters on the economic structures and international trade patterns of North American countries. The Commission investigation will provide materials for these chapters.

Written Submissions

The Commission has no public hearings scheduled for this investigation. Written submissions from interested parties are therefore invited concerning any phase of the Commission's study on the economic structures and international trade patterns of North American countries. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be ensured of consideration by the Commission in this study, written statements should be submitted at the earliest practicable date, but no later than December 10, 1980. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

COMPLETION DATE: The Commission plans to complete its study and submit its report to the United States Trade Representative not later than January 31, 1981.

Issued: November 19, 1980.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-36832 Filed 11-25-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-91]

Certain Mass Flow Devices and Components Thereof; Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 14, 1980, and amended on October 31, 1980, November 5, 1980, and November 12, 1980 under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Tylan Corp., 19220 South Normandie Avenue, Torrance, Calif. 90220, alleging that unfair methods of competition and unfair acts exist in the importation into the United States of certain mass flow devices and components thereof, or in their sale, by reason of: (1) Infringement by such mass flow devices of claims 1-5 and 7-10 of U.S. Letters Patent 3,650,505, claims 1-10 of U.S. Letters Patent 3,851,526, and claims 1-5 of U.S. Letters Patent 3,938,384; (2) misappropriation of trade secrets; (3) misappropriation of trade dress; (4) misappropriation of trade nomenclature; and (5) passing off. The amended complaint (hereinafter referred to as the complaint) alleges that the effect or tendency of the unfair methods of competition and unfair acts is to substantially injure an industry, efficiently and economically operated, in the United States.

Complainant requests permanent exclusion from entry into the United States of the imports in question after full investighation, or, alternatively, that a cease and desist order be issued.

Having considered the complaint, the Commission, on November 13, 1980, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), an investigation be instituted to determine whether there is a violation of subsection (a) of this section in the unlawful importation of certain mass flow devices, components thereof, and products incorporating said devices into the United States, or in their sale, by reason of the alleged—

(a) Infringement by such mass flow devices of—

(i) Claims 1-5 and 7-10 of U.S. Letters Patent 3,650,505,

(ii) Claims 1-10 of U.S. Letters Patent 3,851,526, and

(iii) Claims 1-5 of U.S. Letters Patent 3,938,384, and

(b) Unfair conduct comprising any one or a combination of—

(i) Misappropriation of trade secrets,

(ii) Misappropriation of trade dress and/or trade nomenclature, and

(iii) Passing off,

the effect or tendency of which is to substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Tylan Corp., 19220 South Normandie Avenue, Torrance, Calif. 90220.

(b) The respondents are the following companies alleged to be involved in the unlawful importation of such mass flow devices, components thereof, and products incorporating said devices into the United States, or in their sale, and are the parties upon which the complaint shall be served:

Advanced Semiconductor Materials, B.V., Soestdijkseweg 328, Bilthoven, The Netherlands.

Advanced Semiconductor Materials America, Inc., 4302 East Broadway Road, Phoenix, Ariz. 85040.

(c) Talbot S. Lindstrom, Chief, Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall name the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge Donald K. Duvall, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436, shall designate the presiding officer.

The phrase "and products incorporating said devices" has been added to paragraphs (1) and (2)(b) above on the basis of informal investigatory activities by the Commission which revealed that mass flow devices of the type alleged to be involved in the aforesaid unfair acts can be imported as mass flow devices, components thereof, and products incorporating said devices.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's rules of practice and procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than twenty (20) days after the date of service of the complaint. Extensions of the time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to such respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, except for the confidential information contained therein, is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

Issued: November 21, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-36835 Filed 11-25-80; 8:45 am]

BILLING CODE 7020-02-M

V 45 N 0 26 80 0 UMI

[Investigation No. 337-TA-74]

Certain Rotatable Photograph and Card Display Units, and Components Therefor; Commission Determination and Order

Notice is hereby given that, upon consideration of the presiding officer's recommended determination and the record in this proceeding (investigation No. 337-TA-74, Certain Rotatable Photograph and Card Display Units, and Components Therefor), the Commission has unanimously determined that there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation or sale of certain rotatable photograph and card display units which infringe (1) the claim of U.S. Letters Patent 3,218,743, (2) the claim of U.S. Letters Patent 3,791,059, (3) U.S. Trademark Registration No. 838,394, and (4) the common-law trademark "Roto-Photo" and has ordered that infringing devices be excluded from entry into the United States during the lives of said patents or registered trademark or during the use of the common law trademark, except under license. The Commission also ordered that these devices are entitled to entry into the United States under bond in the amount of 200 percent ad valorem during the period that this action is pending before the President.

Notice is also given that the Commission has granted motions Nos. 74-8 and 74-9 to terminate this investigation as to respondents American Consumer, Inc., and Dan-Dee Imports, Inc., on the basis of settlement agreements between complainants and those respondents.

This Commission order is effective on November 26, 1980. Any party wishing to petition for reconsideration must do so within fourteen (14) days of service of the Commission determination. Such petitions must be in accord with § 210.56 of the Commission's rules (19 CFR 210.56). Any person adversely affected by a final Commission determination may appeal such determination to the United States Court of Customs and Patent Appeals.

Copies of the Commission's Determination, Order, and Memorandum Opinion USITC Publication 1109, November 1980) are available to the public during official working hours at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161. Notice of the institution of the Commission's investigation was published in the **Federal Register** of November 21, 1979 (44 FR 66997).

Issued: November 21, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-36936 Filed 11-25-80; 8:45 am]

BILLING CODE 7020-02-M

Change in Scope of Investigation No. 731-TA-7 (Final); Certain Electric Motors From Japan

AGENCY: U.S. International Trade Commission.

ACTION: Change in scope of final antidumping investigation.

EFFECTIVE DATE: November 20, 1980.

FOR FURTHER INFORMATION CONTACT: Bruce Cates, Senior Investigator, Office of Investigations, telephone 202-523-0368.

SUPPLEMENTARY INFORMATION: On June 20, 1980, the Department of Commerce published with respect to AC, polyphase electric motors from Japan a notice of "preliminary determination of sales at less than fair value." This notice advised the public that, with the exception of submersible well-pump motors which had been excluded from the investigation, there was reason to believe or suspect that certain industrial electric motors, of greater than 5 but not greater than 500 horsepower, from Japan are being, or are likely to be, sold in the United States at less than fair value.

On October 29, 1980, the Department of Commerce determined, pursuant to section 735(a) of the Tariff Act of 1930 (19 U.S.C. 1673d), that AC, polyphase electric motors of not less than 150 horsepower and not greater than 500 horsepower from Japan are being sold in the United States at less than fair value.

As to AC, polyphase electric motors of greater than 5 horsepower and less than 150 horsepower, on October 29, 1980, pursuant to section 734 of the Tariff Act of 1930 (19 U.S.C. 1673c), the Depart of Commerce accepted an agreement from Toshiba and TIC (the principal importer) to limit the exportation of such motors to the United States. Under the agreement, Toshiba and TIC agree to cease, within 6 months, exports of AC, polyphase electric motors of greater than 5 hp and less than 150 hp, except for oil-well-pump and explosion-proof motors, and to revise prices to completely eliminate any sales at less than fair value of imported oil-well-pump and explosion-proof motors greater than 5 and less than 150 horsepower.

As a result of the agreement, the Department of Commerce, pursuant to section 734(f)(1) of the Tariff Act of 1930 (19 U.S.C. 167c), suspended it investigation with respect to AC, polyphase electric motors of greater than 5 horsepower and less than 150 horsepower. Under section 734(f)(2)(A) of the act, the liquidation of entries of small motors, effective June 20, 1980 (45 FR 41687), is terminated. Any cash deposits, bonds, or other security deposited on entries of small motors pursuant to suspension of liquidation will be refunded. As to the large motors, those of not less than 150 horsepower and not greater than 500 horsepower, the suspension of liquidation shall continue until further notice.

Pursuant to the requirements of section 734(f)(1)(b) of the Tariff Act of 1930, (19 U.S.C. 1673c) the Commission is also suspending that portion of its investigation on certain electric motors from Japan inv. No. 731-TA-7 (Final), that pertains to AC, polyphase electric motors of greater than 5 horsepower but less than 150 horsepower.

Issued: November 20, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-36937 Filed 11-25-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-84]

Chlorofluorohydrocarbon Drycleaning Process, Machines and Components Therefor; More Complicated Designation

AGENCY: U.S. International Trade Commission.

ACTION: Designation of this investigation as more complicated within the meaning of 19 U.S.C. 1337(b)(1) and 19 CFR 210.15.

AUTHORITY: The authority for Commission designation is contained in section 337(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1337(b)(1)) and in Rule 210.15 of the Commission's *Rules of Practice and Procedure* (19 CFR 210.22).

SUPPLEMENTARY INFORMATION:

Background—

Upon receipt of a complaint filed by Research Development Co., of Minneapolis, Minn., the U.S. International Trade Commission instituted an investigation on April 17, 1980, to determine whether there is a violation of section 337(a) of the Tariff Act of 1930 (19 U.S.C. 1337(a)) in the importation into the United States of chlorofluorohydrocarbon drycleaning machines, or in their sale, by reason of the alleged infringement of claims 1, 3, and 4, of U.S. Letters Patent 3,728,074, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Notice of the Commission's investigation was published in the **Federal Register** of June 11, 1980 (45 FR 39580).

On October 8, 1980, the complainant filed a motion (Motion 84-9) to designate the investigation "more complicated," within the meaning of section 337(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1337(b)(1)) and Rule 210.15 of the Commission's *Rules of Practice and Procedure*. The motion was supported in a response from the Commission investigative attorney, filed October 17, 1980. The motion was opposed in a response from Macchine Suprema, filed October 21, 1980. On October 24, 1980, the presiding officer certified to the Commission the recommendation that Investigation No. 337-TA-84 be designated more complicated.

Discussion—

In determing whether an investigation is more complicated, the Commission must find that it "is of an involved nature owing to the subject matter, difficulty in obtaining information, or large number of parties involved." 19 CFR 210.15. In the present case, two parties were recently joined as respondents and joinder of a third (E.I. duPont de Nemours & Co., Inc.) is proposed. DuPont has admitted that it has caused to be imported machinery which allegedly infringes the subject patent. Since these allegations must be investigated and further discovery must taken place, there is clearly a present difficulty in obtaining information.

In addition, the recent joinder of the two respondents and the proposed joinder of duPont increases the number of parties to the investigastion. Since the record indicates that the interests of the various parties are not coincident, the respondents cannot be expected to consolidate their actions. Under these circumstances, the Commission believes that there is now a large number of parties in this investigation.

For these reasons, the Commission concludes that this investigation must be designated more complicated. The practical effect of this determination is that the deadline for making a final determination in this investigation will be extended from June 11, 1981, to December 11, 1981.

Copies of the Commission's action and order and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0493.

Issued: November 17, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-36933 Filed 11-25-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 377-TA-84]

Chlorofluorohydrocarbon Drycleaning Process, Machines and Components Therefor; Addition of a Party Respondent

AGENCY: U.S. International Trade Commission.

ACTION: Addition of party respondent: E. I. duPont de Nemours & Co., Inc., 1007 Market Street, Wilmington, Delaware 19898.

AUTHORITY: The authority for Commission disposition of the subject motion is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in 19 CFR 210.22.

SUPPLEMENTARY INFORMATION: Upon receipt of a complaint filed by Research Development Co., of Minneapolis, Minn., the U.S. International Trade Commission instituted an investigation on April 17, 1980, to determine whether there is a violation of section 337(a) of the Tariff Act of 1930 (19 U.S.C. 1337(a)) in the importation into the United States of chlorofluorohydrocarbon drycleaning machines, or in their sale, by reason of the alleged infringement of claims 1, 3, and 4 of U.S. Letters Patent 3,728,074, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. Notice of the Commission's investigation was published in the **Federal Register** of June 11, 1980 (45 FR 39580).

On September 26, 1980, E. I. duPont de Nemours & Co., Inc. (hereinafter "duPont"), filed a motion to intervene (motion 84-8), pursuant to rule 210.6 of the Commission's *Rules of Practice and Procedure*, as a non-party intervenor.

On October 14, 1980, the Commission investigative attorney's response to motion 84-8 was redesignated motion 84-12 to amend the complaint and notice of investigation by addition of E. I. duPont de Nemours & Co., Inc. as a party respondent. On October 27, 1980, the motion was certified to the Commission by the presiding officer, who recommended that the motion be granted. Copies of the Commission's action and order and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0493.

Issued: November 17, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-36934 Filed 11-25-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 79-24]

Metro Substance Abatement Program, Inc.; Revocation of Registration

On December 18, 1979, the Administrator of the Drug Enforcement Administration [DEA] issued to Metro Substance Abatement Program, Inc. [Respondent], of Detroit, Michigan, an Order to Show Cause proposing to revoke the Respondent's DEA Certificates of Registration. Simultaneously, citing his preliminary finding of imminent danger to the public health and safety, the Administrator ordered that the Respondent's registrations be immediately suspended pending a final determination in these proceedings. The Order to Show Cause and the self-executing Immediate Suspension of Registration were served on the Respondent on December 20, 1979. The Respondent sought relief from the Immediate Suspension in the U.S. District Court for the Eastern District of Michigan. The Honorable Ralph M. Freeman, of that Court, issued a temporary restraining order on December 22, 1979. On January 4, 1980, after a hearing, Judge Freeman issued a preliminary injunction which enjoined the Administrator from suspending the Respondent's registrations pending a full hearing in these administrative proceedings.

The Respondent, on December 28, 1979, requested an administrative hearing on the issues raised by the Order to Show Cause. On January 4, 1980, Government counsel requested

that the hearing be held as soon as possible in light of the entry of the preliminary injunction in the U.S. District Court in Detroit. The Administrative Law Judge acceded to this request and, after conferring with counsel for both sides, set the hearing to begin in Detroit on January 24, 1980. Due to the hospitalization of the Administrative Law Judge, this hearing date was cancelled. The hearing was reset to commence on March 11, 1980 in Detroit. Due to various factors, the hearing could not be concluded in the two days set aside for it. Therefore, it was recessed on March 12 and reconvened on April 29, 1980, again in Detroit. The taking of testimony was completed the following day. The Honorable Francis L. Young, Administrative Law Judge, presided throughout these proceedings.

On October 1, 1980, Judge Young issued his opinion and recommended ruling, findings of fact, conclusions of law and decision in this matter. In compliance with 21 CFR § 1316.65(b), copies of the Administrative Law Judge's opinion were served on counsel for both sides. Counsel for the Respondent filed exceptions to Judge Young's findings and counsel for the Government filed a letter requesting that this matter be submitted for the Administrator's consideration as soon as the regulations permitted. On October 27, 1980, Judge Young transmitted the record of these proceedings to the Administrator. The record included, *inter alia*, the Administrative Law Judge's report or opinion; the transcript of the four days of hearing testimony; all of the exhibits which had been placed in the record; the proposed findings of fact and conclusions of law, or briefs, submitted by counsel for both sides; the Respondent's exceptions; and all other post-hearing correspondence.

The Administrator has considered this record in its entirety and, pursuant to 21 CFR § 1316.67, hereby issues his final order in this matter, based upon findings of fact and conclusions of law as hereinafter set forth.

The Administrator considers the issues in this matter to be the following, as set forth by the Administrative Law Judge in his opinion:

Whether the Respondent has failed to comply with the standards established by the Attorney General with respect to the security of stocks of narcotic drugs used in the Respondent's detoxification and maintenance treatment programs and with respect to the maintenance of records on such drugs. (See 21 U.S.C. 823(g); 21 CFR §§ 1301.72, 1301.73, 1301.74, 1304.28 and 1304.29)

Whether, therefore, there is a lawful or statutory basis for the revocation of the Respondent's DEA registrations pursuant to 21 U.S.C. 824(a), as amended by the Narcotic Addict Treatment Act of 1974 (P.L. 93–281; May 14, 1974).

Whether, if such lawful or statutory basis is found to exist, the Administrator, in the exercise of his discretion, should order the revocation of the Respondent's registrations.

Whether the Respondent has taken immediate and adequate corrective measures to provide and maintain adequate security for the dispensation and administration of narcotic controlled substances used in its detoxification program, so as to prevent further losses of methadone.

The Administrative Law Judge recommended 91 separate findings of fact, covering 24 pages of his opinion. These recommended findings were supported by evidence received in this case. They trace the Respondent's problems with security and recordkeeping from 1977 through 1979. They summarize the evidence clearly and fairly. Although some of Judge Young's recommended findings are repeated or paraphrased in this final order, the Administrator has adopted the recommended findings of fact and conclusions of law in their entirety.

The Respondent is registered under 21 U.S.C. 823(g) as a narcotic treatment program authorized to dispense narcotic drugs to addicted persons for detoxification and maintenance purposes. Its registration, PM0120294, also permits it to "compound" bulk quantities of methadone into individual dosage units and to distribute these dosage units to other treatment programs. The Respondent holds a second DEA registration, PM0154334, adjunctive to the first, which registration authorized the Respondent to operate as a researcher in order to use a Schedule I substance, 1-alpha-acetylmethadol (LAAM) in addition to methadone in its treatment program.

The Respondent has suffered a number of losses or suspected losses of methadone and there has been at least one instance in which the security of methadone was seriously compromised. There were at least eight such incidents during 1979. This is an unusually high number of such incidents by comparison with other narcotic treatment programs in the Detroit area.

While the Administrator views any loss or compromise of methadone as an extremely serious matter, some of the incidents which reflect upon the manner in which the Respondent handled its narcotic drugs ought to be recounted in this final order. On February 2, 1979, Mr. Andrew W. Petress, Jr., the Respondent's executive director, and Mr. Eural Johnson, the program's administrator, placed 272 dosage units of methadone, totalling 1,016.5 grams of methadone, into the trunk of a vehicle leased by the firm and assigned to Mr. Johnson. This was done preparatory to delivering the methadone to Care Clinic, a sattelite treatment program operated by the Respondent, located about 15 miles distant from the Metro facility. While Mr. Petress and Mr. Johnson were otherwise engaged inside the Metro clinic, the vehicle was repossessed by the leasing company. The methadone was subsequently turned over to the Detroit Police Department by the leasing company and was ultimately returned to the Respondent. Although this compromise was initially reported to DEA by telephone, the required written report was not submitted to the agency. Numerous loss, or suspected loss, incident reports were initiated by the Respondent's pharmacist, Mr. Lethel Dillard, and then not reported to DEA as required by 21 CFR § 1301.74(c). Such reports were not obtained by DEA until they were seized on December 20, 1979, in connection with the execution of the immediate suspension order. Among the papers so obtained was one in which Mr. Dillard's assistant noted that a liter bottle of methadone was missing. The note contains the following postscript: "P.S. I didn't say nothing to no-one."

The most severe loss of methadone from the Respondent's facility occurred on December 1, 1979, when a night-time burglary resulted in the loss of eight one-liter bottles of methadone. Again, although the Respondent reported the theft to the police department and to DEA, at least verbally or telephonically, the required written report was not submitted until February 21, 1980, well after the commencement of these proceedings.

During 1979, the Respondent has lost, had stolen, or could not account for, the equivalent of almost eleven and one-half one-liter bottles of methadone hydrochloride. The illicit demand for methadone is well documented. One Government witness in the hearing estimated that a single dosage unit bottle of methadone, one containing 20 to 25 milligrams of the drug, could be sold for $25.00; a bottle containing 60 to 80 milligrams would bring $40.00; and a one-liter bottle of undiluted methadone, such as the eight which were stolen from the Respondent's facility on December 1, 1979, would be worth at least $5,000.00, or whatever the traffic would bear.

By way of comparison, the Detroit Health Department's Division of Pharmacy, which serves as compounder for sixteen narcotic treatment programs, has lost but eight unit doses of methadone, totalling approximately 200 milligrams, during the ten-year period from March 1970 through March 1980. During this period, the city's compounding facility provided daily methadone doses for between 2,000 and 3,600 patients. A smaller program, that of Detroit's Lafayette Clinic, which handles about 50 patients, as compared to the Respondent's 245, has never experienced a theft of methadone and has never had an instance in which the drug was missing or unaccounted for.

There are 51 narcotic treatment programs within the jurisdiction of DEA's Detroit District Office. During 1979, only two of these programs, other than the Respondent's, filed reports of theft or loss of methadone. Each of these programs reported one incident. In one of the cases, it was found that there was no actual loss of methadone. In the other, the loss totalled 290 milligrams of the drug.

A persistent problem encountered by narcotic treatment programs is the diversion of methadone by patients who "mouth" or "palm" the medication. To discourage this practice, the Detroit city programs employ security guards to prevent the patients from leaving without having first ingested the methadone. The Lafayette Clinic adds fruit juice to the medication and then fills the dosage bottles to the top, making it very difficult for the patient to hold the substance in his or her mouth without swallowing. The evidence in this hearing reveals that the Respondent took no effective measures to curb such diversion. Indeed, when the Respondent's clients were referred to the city program during the brief suspension of the Respondent's DEA registration, an unusually high number of such patients were caught trying to "mouth" or "palm" their medication.

In terms of the dosage strength of methadone dispensed, the Respondent's average daily dosage per patient was nearly double that of the average for all of the patients in the clinics served by the city's pharmacy division. Nevertheless, when the Respondent's clients were referred to the city treatment program, they were given the exact dosage of methadone which the Respondent's records indicated that they had been receiving. A few of these individuals "nodded" after receiving their medication, suggesting that they may have actually been receiving somewhat less methadone than the Respondent's records showed them to be taking.

A number of the Respondent's clients were receiving as much as 80 milligrams of methadone per day. The chief pharmacist for the city programs testified that she could recall only one patient who had ever received that much methadone. That patient was an elderly man who had been an addict since he was a young boy. Attempts had been made to reduce this patient's intake of methadone, but these had proved unsuccessful due to his advanced age.

The Detroit Police Department received numerous complaints of illicit drug activity outside of, and in the vicinity of, the Respondent's facility. People selling methadone and other drugs were arrested in the same area. While this activity could not be tied directly to the Respondent's clientele, such complaints and arrests rarely occurred near similar drug treatment programs in Detroit. Early this year, a DEA compliance investigator and her partner were about to enter the Respondent's building on official business when they were approached by an individual who asked whether they had any methadone to sell.

An in-depth regulatory compliance inspection of the Respondent's recordkeeping and physical security was conducted in 1977; both were found to, be inadequate. As a result of that inspection, an informal hearing was held and subsequent to that, Mr. Petress executed an agreement in which he undertook to abide by the requirements of the Controlled Substances Act and the regulations thereunder. Mr. Petress agreed, in essence, to make, keep and maintain records which would provide for the strict accountability of the methadone dispensed by the clinic.

Subsequent to the issuance of the Order to Show Cause in the instant proceeding, another accountability audit was performed. Completion of the audit was complicated because relevant records were either missing or not located on the Respondent's premises and because the Respondent had not timely filed reports of its various losses of methadone. The audit of the Respondent's methadone compounding function, using only primary records actually on hand at the facility, revealed an accountability shortage of 412,060 milligrams, the equivalent of 41.2 liters of methadone. Using various secondary records, thus giving the Respondent the benefit of records which the investigators were not required to examine, and applying more lenient standards than are required by the regulations, the shortage was reduced to 218,300 milligrams or 21.8 liters of methadone. Serious overages and shortages were found in the other functions involving the dispensing of methadone and LAAM. The Respondent's records, which were supposed to be meticulously kept, were very poorly maintained despite Mr. Petress' earlier promise to maintain complete and accurate records as required by the law and the regulations.

In 1978, the United States House of Representatives, Select Committee on Narcotics Abuse and Control published a report titled *Methadone Diversion*. In this document, the Committee reported that it had found a high and most disturbing rate of methadone diversion from clinics into the black market. A number of identifiable deficiencies in methadone treatment programs made it relatively easy for methadone to be diverted. Several factors were so identified, including loose or careless evaluation; admission and treatment of patients; overly generous or heavy dosage dispensing of the drug; inadequate recordkeeping and physical security; unqualified staff or inadequate facilities; and operations beyond the capacity of the staff and facilities. A study of methadone deaths and diversion, done by the U.S. General Accounting Office (GAO), found that in poorly operated treatment programs, lack of control due to negligence or ignorance could result in methadone finding its way into the illicit traffic. Failure to adequately safeguard and account for methadone supplies facilitated employee theft and patient diversion of the drug.

The Respondent's narcotic addict treatment program has suffered an inordinate number of thefts and losses of methadone. It has not adequately accounted for its supplies of the drug. Its recordkeeping has been inadequate and slipshod. In some cases, according to its records, it dispensed overly generous dosages of methadone. In short, the Respondent's program has suffered from the very deficiencies which the Select Committee and the GAO found result in the diversion of methadone into illicit channels.

The Narcotic Addict Treatment Act of 1974 (P.L. 93–281) authorized DEA to register methadone treatment programs under the general umbrella of the Controlled Substances Act; to establish strict security and recordkeeping standards for such programs; and to revoke or suspend the registrations of such programs when it is found that they have failed to comply with these standards. Congress enacted the Narcotic Addict Treatment Act after it had found that the rapid and widespread use of methadone in these programs had brought with it a proportional increase in the diversion of methadone for illegal use and sale. The

DEA regulation and supervision of these programs is intended to prevent the loss revocation must be effective immediately.

Inquiries may be addressed to Mr. David F. Nemecek, Committee

Humanities Act of 1965, as amended, including discussion of information

NUCLEAR REGULATORY COMMISSION

Regulatory Guide; Issuance and

DEA regulation and supervision of these programs is intended to prevent the loss and diversion of methadone.

DEA inspections of the Respondent's program have revealed serious deficiencies in security, recordkeeping and accountability. Methadone which could have been worth $110,000 on the illicit market was not accounted for. Judge Young found that the evidence received in this proceeding was, as a whole, indicative of a casual indifference to the subject of methadone security and to the important of keeping records so as to account for all supplies of the drug. He also found that the record did not provide a basis for reasonable assurance that the failures of the past will not be continued. He recommended that the Respondent's registrations should be revoked, effective immediately. The Administrator agrees.

After a thorough review of the record of this proceeding, the Administrator finds that the Respondent, Metro Substance Abatement Program, Inc., has failed to comply with the standards established pursuant to the Controlled Substances Act and the Narcotic Addict Treatment Act. The Respondent's casual indifference to its obligation to provide adequate security, to keep complete and accurate records, and to properly account for its supplies of narcotic drugs has resulted in the loss of methadone and, presumably, its diversion into illicit channels. There is, therefore, a lawful or statutory basis for the revocation of the Respondent's DEA registrations. Furthermore, on the basis of the record in this proceeding, the Administrator concludes, as did the Administrative Law Judge, that there is no reason to believe that the Respondent will act more responsibly in the future than it did in the past. The integrity of the controlled substances distribution system, particularly where highly abusable, dangerous, and much sought-after drugs such as methadone are concerned, is too important a consideration to be left to speculation. To hope that the Respondent will operate responsibly in the future, in light of its well-documented past performance, would be speculative at best. The Narcotic Addict Treatment Act provides for, and mandates a remedy for cases such as this one. The Respondent's registrations must be revoked. Having concluded that revocation is an appropriate remedy in this matter, and having determined that the Respondent cannot be entrusted to handle methadone and LAAM without an unacceptable risk of further loss, the revocation must be effective immediately.

Accordingly, pursuant to the authority vested in the Attorney General by Title 21, United States Code, Section 824(a), and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that Certificates of Registration PM0120294 and PM0154334, previously issued to Metro Substance Abatement Program, Inc., be, and they hereby are, revoked, effective immediately.

Dated: November 24, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-37070 Filed 11-25-80; 8:45 am]

BILLING CODE 4410-09-M

Federal Bureau of Investigation

Advisory Policy Board National Crime Information Center, Meeting

The Advisory Policy Board of the National Crime Information Center (NCIC) will meet on December 10 and December 11, 1980, from 9:00 a.m. until 5:00 p.m. in the Executive Hotel, San Diego, California.

The major topics to be discussed include:

(1) NCIC access by government regional dispatch centers.

(2) The proposed implementation of the Pilot Project of the Interstate Identification Index designed to decentralize storage of criminal history records.

(3) The presentation of proposals recommended by local and state users of the NCIC System to improve the effectiveness of the System and the quality of records within the System.

The meeting will be open to the public with approximately 30 seats available for seating on a first-come first-served basis. Any member of the public may file a written statement with the Advisory Policy Board before or after the meeting. Anyone wishing to address a session of the meeting should notify the Advisory Committee Management Officer, Mr. W. A. Bayse, FBI, at least twenty-four hours prior to the start of the session. The notification may be by mail, telegram, cable or hand-delivered note. It should contain the name, corporate designation, consumer affiliation or Government designation, along with a capsulized version of the statement and an outline of the material to be offered. A person will be allowed not more than 15 minutes to present a topic, except with the special approval of the Chairman of the Board.

Inquiries may be addressed to Mr. David F. Nemecek, Committee Management Liaison Officer, NCIC, Federal Bureau of Investigation, Washington, D.C. 20535, telephone number 202-324-2606.

Dated: November 21, 1980.

William H. Webster,

Director.

[FR Doc. 80-36907 Filed 11-25-80; 8:45 am]

BILLING CODE 4410-02-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Humanities Panel, Meetings

Correction

In FR Doc. 80-35633, appearing on page 75369, in the issue of Friday, November 14, 1980, make the following corrections:

1. In the second column, the date in 30th line now reading "Date: December 18, 1980" should read "Date: December 16, 1980".

2. In the third column, the phone number in the second line now reading "(202) 274-0367" should read "(202) 724-0367."

BILLING CODE 1505-01

Humanities Panel, Meetings

Correction

In FR Doc. 80-35878, appearing on page 76276, in the issue of Tuesday, November 18, 1980, make the following correction:

In the second cloumn, the 19th line should have read "Date: December 15, 1980".

BILLING CODE 1505-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Media Arts Panel (In Residence/ Workshop); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Panel (In Residence/Workshop) to the National Council on the Arts will be held on December 15-16, 1980, from 9:00 a.m.-5:30 p.m., in the 12th floor screening room, Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Dated: November 19, 1980.

John H. Clark,

Director, Office of Council and Panel Operation, National Endowment for the Arts.

[FR Doc. 80-36787 Filed 11-25-80; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Panel (Drawing/ Printmaking/Artists Books); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Panel (Drawing/ Printmaking/Artists Books) to the National Council on the Arts will be held on December 15-16, 1980, from 9:00 a.m.-5:30 p.m., in room 1426, Columbia Plaza Office Complex, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

Dated: November 19, 1980.

John H. Clark,

Director, Office of Council and Panel Operation, National Endowment for the Arts.

[FR Doc. 80-36786 Filed 11-25-80; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Reactor Radiological Effects; Meeting

The ACRS Subcommittee on the Reactor Radiological Effects will hold a meeting at 8:30 a.m. on December 12, 1980 in Room 1046, 1717 H Street, NW, Washington, DC to discuss the state-of-the-art in the area of radiation standards and dose limits of radiation workers.

In accordance with the procedures outlined in the Federal Register on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Friday, December 12, 1980; 8:30 a.m. Until the Conclusion of Business.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to Mr. Garry G. Young (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EST. The cognizant Designated Federal Employee for this meeting is Mr. John C. McKinley.

Dated: November 20, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-36854 Filed 11-25-80; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.11.1, "Operational Inspection and Surveillance of Embankment Retention Systems for Uranium Mill Tailings," provides detailed guidance acceptable to the NRC staff for developing an appropriate inservice inspection and surveillance program for earth and rock fill embankments used to retain uranium mill tailings. It supplements the general guidance in this area provided in Regulatory Guide 3.11, "Design, Construction, and Inspection of Embankment Retention Systems for Uranium Mills."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 18th day of November 1980.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 80-36853 Filed 11-25-80; 8:45 am]

BILLING CODE 7590-01-M

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UNITED STATES RAILWAY ASSOCIATION

[Docket 211-27]

Consolidated Rail Corp.; Application for a Loan

Subsection (h) of Section 211 of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 721) (the Act), authorizes the United States Railway Association (Association) to enter into loan agreements with the Consolidated Rail Corporation (Conrail), the National Railroad Passenger Corporation, and any profitable railroad to which rail properties are transferred or conveyed pursuant to Section 303(b)(1) of the Act under conditions and for purposes set forth in this Subsection. Subsection (b) of Section 211 requires that the Association publish notice of the receipt of any application thereunder in the **Federal Register** and afford interested parties an oportunity to comment thereon.

Conrail submitted a Borrowing Application dated November 18, 1980 requesting new borrowings of $934,000.00. Conrail states that it will use the funds to pay nonemployee injury claims of the Penn Central Transportation Company. The Borrowing Application includes the certification and exhibits required by the Loan Procedures.

Interested parties are invited to submit written comments relevant to this application. Any such submissions must identify by its Docket No., the application to which it relates, and must be filed with the Office of General Counsel, United States Railway Association, 955 L'Enfant Plaza North, S.W., Washington, D.C. 20595, on or before December 10, 1980, to enable timely consideration by USRA. The docket containing the original application shall be available for public inspection at that address Monday through Friday (holidays excepted) between 8:30 a.m. and 5:00 p.m.

Dated at Washington, D.C. this 21st day of November 1980.

David Kleyps,

Assistant Secretary, United Railway Association.

[FR Doc. 80-36826 Filed 11-25-80; 8:45 am]

BILLING CODE 8240-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-20]

American Home Assurance Co.; Hearing on Proposed Action

Pursuant to Section 304(b)(1) of the Trade Act of 1974, as amended, the United States Trade Representative by this notice requests interested parties to present their views on proposed recommendations to the President for action in relation to the petition (see 44 FR 75246) filed under section 301 of the Trade Act of 1974 (19 U.S.C. 2411) on November 5, 1979 on behalf of American Home Assurance Co.

Under section 301(a) of the Trade Act of 1974, the President is required to take all appropriate and feasible action within his power to obtain the elimination of any act, policy or practice of a foreign government which is determined to be unjustifiable, unreasonable or discriminatory and which burdens or restricts U.S. commerce. The U.S. Trade Representative, after considering the advice of the 301 Committee recommends appropriate action to the President. Under section 304 of the Trade Act of 1974, the recommendation of the USTR must be made with respect to this matter on or before December 19, 1980.

The 301 Committee is therefore considering whether the Korean practices 1) of prohibiting American Home Assurance Co. from writing marine insurance in Korea; 2) of prohibiting American Home from joining the Korean Fire Pool or writing most forms of joint venture fire insurance; and 3) of discriminating against American Home with respect to the granting of retrocessions from the Korean Reinsurance Corporation are actionable under section 301 and what, if any, action the USTR should recommend that the President take in response. The following actions have been proposed by the petitioner for consideration as an appropriate action to obtain elimination of these practices:

Denial of the right to enter U.S. ports to Korean vessels owned by shipping companies related to Korean insurance companies by denying Certificaties of Financial Responsibility required under the Federal Pollution Control Act.

Imposition of substantial fees on Korean vessels owned and operated by entities related to Korean insurance companies.

Disqualification of Korean construction companies related to Korean insurance companies from bidding on U.S. government contracts other than contracts related to the support of U.S. forces in Korea.

Imposition of additional duties on imports of products manufactured by affiliates of companies related to Korean insurance companies.

Written briefs submitted by interested parties which present comments on these recommendations, suggestions for other recommendations, and all other aspects of the case will be considered if received on or before December 9, 1980. Regulations concerning the submission of briefs can be found in 15 CFR 2006.8 (45 FR 34872). Briefs should be sent, in twenty (20) copies, to Chairman, Section 301 Committee, Room 715, 1800 G Street, NW, Washington, D.C. 20506.

Jeanne S. Archibald,

Chairman, Section 301 Committee.

[FR Doc. 80-36947 Filed 11-24-80; 10:49 am]

BILLING CODE 3190-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 230
Wednesday, November 26, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Items
Commodity Futures Trading Commission	1
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1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, December 5, 1980.

PLACE: 2035 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2157-80 Filed 11-24-80; 12:48 pm]

BILLING CODE 6351-01-M

2

COUNCIL ON ENVIRONMENTAL QUALITY.

November 24, 1980.

TIME AND DATE: 11:30 a.m., December 4, 1980.

PLACE: Conference room, 722 Jackson Place NW., Washington, D.C. 20006.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Old Business.
2. Status of the Chemical Substance Information Network.
3. Current Staff Research on Ecology of Blue Crabs.

CONTACT PERSON FOR MORE INFORMATION: John F. Shea III, (202) 395-4616.

[S-2154-80 Filed 11-24-80; 10:25 pm]

BILLING CODE 3125-01-M

3

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

TIME:

8:00 p.m.-10:00 p.m.
8:30 a.m.-10:00 p.m.
8:30 a.m.-3:00 p.m.

DATE: December 11-13, 1980.

PLACE: Mayflower Hotel, Washington, D.C.

STATUS: Open.

MATTERS TO BE DISCUSSED: Public/Private Sector Task Force Progress Report (Dec. 11, 8:00 p.m.-10:00 p.m.)

Introductions.
Approval of Minutes.
Review of Agenda.
Discussion of Public/Private Sector Report & Implications.
Executive Session (closed) December 12, 11:30 a.m.-12:30 p.m.
Discussion of:
- President's Message concerning WHCLIS Report.
- Supplemental Request to OMB.
- Possible Congressional and Administrative Action(s).
- Institute for Information Policy and Research.

Standing Committee Reports.
Project Reports.
Executive Director and Staff Reports.
1981 and 1982 Meeting Dates.
Old/New Business.
Summary and Conclusions.

CONTACT PERSON FOR MORE INFORMATION: Mary Alice Hedge Reszetar, Associate Director, NCLIS, Area Code 202 653-6252.

Mary Alice Hedge Reszetar,

Associate Director, NCLIS.

November 20, 1980.

[S-2158-80 Filed 11-24-80; 3:35 pm]

BILLING CODE 7527-01-M

4

POSTAL SERVICE.

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to meet at 11 a.m. on Monday, December 1 and at 9 a.m. on Tuesday, December 2, 1980, at Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260. Except as indicated in the following paragraph, the meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245-4632.

On November 6, 1980, the Board of Governors voted to close to public observation a portion of its next meeting. Each of the members of the Board voted in favor of closing this meeting, which is expected to be attended by the following members: Governors Wright, Hardesty, Babcock, Camp, Ching, Hughes, Jenkins and Sullivan; Postmaster General Bolger; Deputy Postmaster General Benson; Senior Assistant Postmaster General Ulsaker; Counsel to the Governors Joseph A. Califano; and Secretary to the Board Cox. This closed portion will consist of a discussion of the Postal Service's possible strategies and positions in anticipated collective bargaining negotiations involving parties to the 1978 National Agreement between the Postal Service and labor organizations representing certain postal employees, which is scheduled to expire in July of 1981.

Agenda

Monday Morning Session

Discussion of strategies and positions in anticipated collective bargaining negotiations.
(The Board will discuss the forthcoming collective bargaining negotiations. As stated above in the Notice of Meeting, this part of the meeting will be closed to the public.)

Tuesday Session

1. Minutes of the Previous Meeting.
2. Remarks of the Postmaster General.
(In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
3. Adjustments in compensation of certain postal executives.
(The Board will consider recommendations by the Postmaster General for compensation adjustments for certain individuals which require approval by the Board under the Board's Bylaws.)
4. Report of the Audit Committee on fiscal year 1980 Financial Statement.
(Mr. Sullivan, as Chairman of the Audit Committee of the Board, will report to the members on the meeting of the Audit Committee (which is to be held on December 1, 1980) with representatives of the Postal Service's outside auditors concerning the Service's Balance Sheet and Financial Statements for FY 1980.

5. Review of Postal Service Budget Program.
(Mr. Finch, Senior Assistant Postmaster

Secretary of the Board, Louis A. Cox, at (202) 245-4632.

Wednesday
November 26, 1980

5. Review of Postal Service Budget Program.
(Mr. Finch, Senior Assistant Postmaster General for Finance, will present the Postal Service's budget for FY 1982 as it is proposed for transmission to the OMB and the Congress.)
6. Review of the Annual Comprehensive Statement to the Congress.
(Public Law 94-421 amended 39 U.S.C. § 2401 to require the Postal Service to present a "Comprehensive Statement" to the Legislative and Appropriations Committees of the Congress having cognizance over postal matters. The Comprehensive Statement is to describe the plans, policies, and procedures of the Postal Service designed to comply with the policies of the Postal Reorganization Act; postal operations generally; and financial summaries and the projections. The Comprehensive Statement is on the Board's agenda because approval of the annual Comprehensive Statement is included in the list of matters that the Board has reserved for its own decision.)
7. Capital Investment Projects:
a. Automated System for the expanded Zip Code Program
(The Board will consider a proposed capital investment for the procurement of optical character reader channel sorters and related mechanization for the expanded Zip Code letter mail processing system.)
b. General Mail Facility and Vehicle Maintenance Facility for Green Bay, Wisconsin.
(Mr. Biglin, Senior Assistant Postmaster General for Administration, will present a proposed project for the construction of a new General Mail Facility and Vehicle Maintenance Facility in Green Bay, Wisconsin.)
c. General Mail Facility and Vehicle Maintenance Facility for Sioux City, Iowa.
(Mr. Biglin will present a proposed project for the construction of a new General Mail Facility and Vehicle Maintenance Facility in Sioux City, Iowa.)

Louis A. Cox,
Secretary.

[S-2156-80 Filed 11-24-80; 12:14 am]
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POSTAL SERVICE.

The Committee on Audit of the Board of Governors of the United States Postal Service, pursuant to the Bylaws of the Board (39 CFR 5.2, 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 4 p.m. on Monday, December 1, 1980, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza SW., Washington, D.C. 20260. The meeting is open to the public. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245-4632.

The Committee will review with representatives of the Postal Service's outside auditors the Postal Service's Balance Sheet and Financial Statements for fiscal year 1980.

Louis A. Cox,
Secretary.

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federal register

Wednesday
November 26, 1980

Part II

Department of the Interior

Bureau of Land Management

Surface Management of Public Lands Under U.S. Mining Laws

V 45 NO 226 80 UMI

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3800

[Circular No. 2480]

Surface Management of Public Lands Under U.S. Mining Laws

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: The Federal Land Policy and Management Act of October 21, 1976, amended the mining laws by directing the Secretary of the Interior, by regulation or otherwise, to take any action necessary to prevent unnecessary or undue degradation of the lands. This final rulemaking implements that requirement and among other things requires mining claimants to complete reasonable reclamation on Federal lands administered by the Bureau of Land Management during and upon termination of exploration and mining activities under the mining laws. This rulemaking pertains to locatable minerals such as gold, lead, silver, uranium, etc. It does not pertain to coal, oil, gas, phosphate or other leasable minerals or salable minerals such as sand and gravel.

EFFECTIVE DATE: January 1, 1981.

ADDRESS: Send suggestions or inquiries to: Director (520), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT: Eugene Carlat (202) 343–8537 or Robert M. Anderson (202) 343–8537

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on December 6, 1976, in the **Federal Register** (41 FR 53428). As a result of changes made in response to the more than 5,000 comments received on the initial publication, a second proposed rulemaking was published in the **Federal Register** on March 3, 1980 (45 FR 13959). A total comment period of 135 days was allowed in connection with the second proposed rulemaking, and public meetings were held in Denver, Colorado and Reno, Nevada. This public exposure resulted in more than 366 written comments. The written comments came from various sources, with 83 coming from companies with mining interests, 173 from individuals, 10 from environmental groups, 33 from mining groups and associations, 29 from State and local governments, 7 from attorneys acting in their own behalf, and 31 from Federal agencies. Also received were five petitions, with some 1,131 signatures, that commented on various aspects of the rulemaking. Public comments were also obtained at meetings with interest groups and an oversight hearing before the Subcommittee on Mines and Mining of the House Committee on Interior and Insular Affairs. All of the comments have been given careful consideration and the final rulemaking reflects many of the changes suggested by the comments.

The objective of the decisionmaking process on the final rulemaking was to enable the Bureau of Land Management to ensure that the Federal lands are protected from unnecessary and undue degradation and to ensure that reasonable reclamation will be completed on areas disturbed during the search for and extraction of mineral resources. Another objective was the obtaining of information that would allow the Bureau of Land Management to know where mining operations are occurring on Federal lands and some knowledge of the extent of those operations. The knowledge of where mining operations under the mining laws are being conducted and their extent will also be used in making long term planning decisions and multiple use trade offs for all resource values and to ensure that areas that, in fact, have potential for mineral values are not indiscretely precluded from mineral development.

The final rulemaking incorporates three distinct levels of limitations dependent upon the level of mining activity that the operator proposes to conduct on his/her area of operations. For example, at the lowest level of activity, prospectors or part-time miners who cause only negligible surface disturbance will not need to contact the Bureau of Land Management. Except when he/she is conducting mining operations on special category lands, an operator who exceeds this negligible surface disturbance, but keeps his/her disturbance to an area of five acres or less per year, will be required to file only a notice. Notices will not require approval or bonding.

Operators proposing mining operations causing surface disturbance to more than five acres in one year are required to file a plan of operations which sets out the details of those operations. It is our opinion that a large portion of the mining operations on Federal lands will fall under the first two categories and will proceed with minimal contact with the Bureau.

The goal of this final rulemaking is to afford adequate protection to Federal lands from unnecessary and undue degradation at the least possible burden to the mining industry and to the United States. It has been in this spirit that the Bureau has worked with all segments of the public in an effort to develop a rulemaking that will meet its goal. This effort of working with the public will continue in the future in an attempt to obtain the cooperation of the mining industry and the rest of the public in meeting the goals and objectives of the final rulemaking.

General Comments

General comments on the proposed rulemaking ranged from questioning the authority for issuing the proposed rulemaking to supporting the action and recommending that the rulemaking be strengthened. Many general comments objected to the issuance of a rulemaking that changed the way mining activity has been carried on for over a hundred years under the 1872 Mining Law. A large number of comments strongly objected to combining the regulations on "Exploration and Mining, Wilderness Review Program" (43 CFR 3802) with this rulemaking. The attempt to consolidate the two regulations was confusing to the public because of the difficulty in distinguishing between the requirements for lands not under wilderness review and those for lands under wilderness review. To eliminate this confusion, all references to lands under wilderness review have been deleted from this rulemaking. The interim final rulemaking, 43 CFR 3802, that covers mining on lands involved in the wilderness review program and was published in the **Federal Register** on March 3, 1980 (45 FR 13974), will continue in effect after this rulemaking becomes final. It will not be deleted, as was stated in the preamble to the proposed rulemaking.

Numerous comments questioned the ability of the Bureau of Land Management to respond within the times specified to the large number of plans of operations that would have been generated by the proposed rulemaking. This concern has been met in large measure by changes in the final rulemaking. The changes are discussed later in the preamble and will reduce significantly the number of plans of operations that will be filed.

Another general concern of the comments was the adverse impact of the rulemaking on the small operator. Many of the comments suggested that the proposed rulemaking would limit activities on the Federal lands by the smaller operators and would result in their being put out of business. The final rulemaking relieves the small operator of many of the requirements that were contained in the proposed rulemaking. This will be discussed in more detail later in the preamble.

Finally, many of the comments expressed the view that the final rulemaking for the Bureau of Land Management should be similar to the regulations on this subject published by the U.S. Forest Service. The final rulemaking follows as closely as possible the provisions of the existing U.S. Forest Service regulations, with the major difference being the threshold concept that has been included in the notice provision of this final rulemaking.

Several comments requested that the Bureau of Land Management study the "Institutional Approach" that was described on page 263 of the report "Surface Mining of Non-Coal Minerals" prepared by the National Academy of Sciences in 1979. That report suggests that strict regulatory mechanisms are not necessary to achieve an end result. The final rulemaking is an effort to reduce the regulatory burden for both the regulated public and those responsible for carrying out the rulemaking.

Before discussion of the specific comments, a summary of the significant revisions made in this final rulemaking may be helpful. Basically, the final rulemaking changes the threshold and will require the submittal of plans of operations on special category lands or if surface disturbance resulting from mining operations exceeds five acres. For operations disturbing five acres or less, a notice will be required of the operator. Operators submitting notices will not be subject to bonding nor will approval of the notice be required. Reasonable reclamation is required, as failure to reclaim may constitute unnecessary or undue degradation of the public lands.

The implementation of this final rulemaking will involve monitoring and a cooperative effort by the Bureau of Land Management, the mining industry and the public to ensure that there is no unnecessary or undue degradation of the Federal lands. Close cooperation between the Bureau and the mining industry will reduce the possibility of friction and create a working relationship that will lead to greater mutual understanding. If, at the end of two years, the Bureau determines that this final rulemaking is neither working nor meeting the Secretary's responsibility to prevent unnecessary or undue degradation of the public lands, the regulations will be reassessed and amended as necessary.

Specific Comments

Purpose—Nearly all of the comments made reference to the "impairment of wilderness suitability" phrase in the proposed rulemaking and the fact that it should not be used with respect to the public lands that do not have wilderness characteristics or are not within an area under wilderness review. All references to "impairment" have been deleted. This section has been rewritten to conform with the authority and responsibility set forth in section 302(b) of the Federal Land Policy and Management Act of 1976.

Objectives—Several comments suggested substituting the word "provide" for the word "allow," thus indicating that miners have a right and not a mere privilege to mineral entry on Federal lands. This suggested change has been made. Also, all references to "impairment" of wilderness values have been deleted. One comment expressed the view that the phrase "scenic and scientific" is not appropriate and exceeds the responsibility of the Secretary of the Interior under sections 302(b) and 603(c) of the Federal Land Policy and Management Act. Although this may be true as to those sections, this rulemaking also implements section 601(f) of the Act relating to the California Desert Conservation Area. Therefore, the wording has not been changed.

One comment was of the view that the Bureau of Land Management should have a team of knowledgeable persons traveling to every office to explain the rulemaking. One of the keys to the successful implementation of this rulemaking is consistent application and understanding of the rulemaking by the Bureau's field personnel. Every effort will be made to accomplish this end, including regional workshops for Bureau employees and the preparation of manual sections for field guidance.

Authority—Several comments indicated that the 1872 Mining Law should not be used as authority for the rulemaking. This authority will remain because it gives the Secretary of the Interior authority to issue regulations relating to activities authorized under the mining laws. Furthermore, since part of the authority the States have to regulate mining activity is delegated by Congress in the mining law, that delegated authority serves as one basis for possible State/Federal agreements for the uniform implementation of their respective surface protection regulations.

Additional authorities have been added to this section, some in response to suggestions in comments.

Section 9(a) of the Wild and Scenic Rivers Act has also been added because it authorizes the Secretary of the Interior to, among other things, promulgate regulations to "provide safeguards against pollution * * * and unnecessary impairment of the scenery within * * *" wild and scenic river areas.

Definitions—Several comments were confused over the use of the term "mining operations." In response to these comments, the term has been changed to "operations" in the final rulemaking rather than "mining operations" as it appeared in the proposed rulemaking, and the definition has been changed. As suggested in one comment, the definition of the term "operations" now includes assessment work.

The definition "mining claims" has been changed to include filings under the "mining laws" rather than the 1872 Mining Law specifically. The definition has been expanded to include those mining claims and mill sites in the California Desert Conservation Area which have been or will be patented subsequent to the the enactment of the Federal Land Policy and Management Act.

Reference to the "mining laws" rather than the 1872 Mining Law clears up the comment that placer mining claims are not covered under the 1872 Mining Law. One comment observed that the definition of the term "mining operations" was unclear as to "whether the operations take place on or off the claim" and indicated that no significant activities should take place off the mining claim unless authorized by some other law. This is not technically correct. One does not need a mining claim to prospect for or even mine on unappropriated Federal lands. The definition was designed to include those operations on a mining claim and uses incidental thereto on Federal lands, and does not inhibit "the miner's right to conduct initial prospecting prior to discovery" as one comment suggested, or prior to location.

Many comments addressed the definition of the term "reclamation" in the proposed rulemaking. In response to those comments, the term "reclamation" has been redefined to include the requirement to return disturbed lands to an appropriate contour and to revegetate with a diverse vegetative cover, if feasible and reasonable.

The term "unnecessary or undue degradation" has been redefined since a number of comments found the definition in the proposed rulemaking too confusing. Several comments said that the Federal Land Policy and Management Act does not require reclamation. An explanation of the Department of the Interior's position on that matter is found under bonding in this preamble.

Many comments made the point that the definition of the term "unnecessary

and undue degradation" goes beyond a reasonable interpretation of the law. One comment stated that it was a "familiar evasive tactic of making reference to non-meaningful standards." The definition has been revised in the final rulemaking to delete the parts that caused the objections. Reclamation requirements and the need to consider other resource values and uses of the Federal lands have been added. A clause to cover other statutory authority has also been added.

Several comments suggested that the definition of the term "environment" has little meaning for the purposes of the rulemaking. The final rulemaking eliminates the need to define the term "environment" and it has been deleted.

Because the term "Federal lands" appears several times in the rulemaking and its meaning is not clear, that term has been defined. This new definition should clarify the scope of the rulemaking. Further, the terms "road," "wilderness," "wilderness study area," "wilderness inventory," "impairment of suitability," "substantially unnoticeable" and "valid existing rights" have been deleted from the final rulemaking because they are no longer needed. They continue to be applicable to the regulations for lands under wilderness review (43 CFR Part 3802) implemented on April 2, 1980.

Several comments expressed fear that the authorized officer could be an unqualified person with little knowledge of mining and minerals problems and concerns. Some of the comments also made the point that the authorized officer could abuse his/her discretionary authority. The definition has not been changed. It is intended that the district manager will be the authorized officer for approval of plans of operations and any appeals. District managers have personnel on their staff who are knowledgeable of mining and mineral problems and their advice will be available to the district manager as part of the decisionmaking process. Guidance will be provided to the field that will ensure consistency and fairness in the implementation of the final rulemaking, thus reducing the possibility of abuse of discretionary authority. Any associated problems will be handled on a case-by-case basis. The final actions of the authorized officer are subject to the administrative review process provided in this rulemaking and 43 CFR Part 4.

A new term, "casual use," has been added to the definition section. This new term is needed to specify those activities that may be engaged in without any contact with the Bureau of Land Management. "Casual use" is part of the new threshold concept that has been included in the final rulemaking.

Policy—Several comments addressed the confusion caused by combining provisions of the "wilderness review" regulations with this rulemaking. Again, references to impairment have been removed. The section has been revised to clarify the position of the Department of the Interior in meeting its responsibilities under section 302(b) of the Federal Land Policy and Management Act.

Section 2 of the Mining and Minerals Policy Act of 1970 has been added because that section provides for, among other things, the development of economically sound and stable domestic mining, minerals, metal and mineral reclamation industries and the reclamation of mined lands. Section 102(a)(12) of the Federal Land Policy and Management Act, which makes it a policy of the United States to implement the Mining and Minerals Policy of 1970, has been added.

Scope—Numerous comments suggested that it was improper for the Bureau of Land Management to regulate mining activities on lands patented under the stockraising homestead laws where the minerals are reserved to the United States. Mining operations on these lands are adequately covered by existing laws (43 U.S.C. 299 and 30 U.S.C. 54) and regulations (43 CFR Part 3814) and the deletion of this section removes them from this rulemaking.

One comment stated that the rulemaking should be clarified to apply to "spillover impacts" on Federal lands from mining operations on patented lands. "Spillover impacts," such as dust and water pollution, will be monitored in accordance with applicable Federal and State law. In addition, all "spillovers" will be monitored by the Bureau of Land Management to ensure that unnecessary or undue degradation is not occurring.

The scope section in the final rulemaking has been deleted because the definition of the term "Federal lands" now incudes all of the exclusions that were listed in the scope section of the proposed rulemaking. This deletion and change in the definition clarifies the final rulemaking by setting out in one section what lands are covered by the final rulemaking.

Plan of Operations—As a result of the numerous comments on this section, the level of activity requiring a plan of operations to be filed with the Bureau of Land Management has been changed. On lands other than special category lands, the new threshold allows mining activities, including access, to take place without filing a plan of operations if five acres of less of Federal lands are disturbed by those operations, subject to the requirement that the operator file a notice. The notice requires the operator to furnish sufficient information to allow the Bureau to get a good fix on the type of operations that will be occurring, and if necessary, make a determination as to whether unnecessary and undue degradation is occurring. The notice is not subject to approval nor is bonding required for the activities covered by the notice. Reclamation is required for all operations. The new five-acre threshold will allow most exploration activities and some extraction activities to take place without a plan of operations having to be filed and processed, provided that lands that are disturbed are reclaimed by the operator. Additionally, the prospector who causes only negligible damage to Federal lands will be covered under the "casual use" provision and will not be required to make any contact with the Bureau of Land Management.

Retained as part of the final rulemaking is the procedure for a plan of operations for those operations that cause surface disturbance in excess of five acres and for mining activities located on certain categories of Federal lands.

The plan of operations section of the proposed rulemaking drew several comments suggesting that the authorized officer should not be responsible for developing mitigating measures or reclamation plans for the mining industry. This section of the rulemaking was designed to assist the small operator who often lacks the technical resources to develop reclamation measures in the preparation of his/her plan of operations and to make it optional for the industry as a whole to submit reclamation measures. The section had been amended in the final rulemaking to require the operator to submit reclamation measures unless the operator can show that he/she does not have the resources to comply, in which case the authorized officer will assist the operator in preparing such measures.

Many of the comments expressed the view that the authorized officer was given too much time to approve a plan of operations and that unnecessary time delays would result that would be costly to the mining industry and might jeopardize exploration projects. Additional comments on this section of the proposed rulemaking discussed the mining industry's reluctance to commence operations if the authorized officer does not take action on a plan of operations in a timely manner. The comments indicated that it was too risky

to conduct an expensive exploration operation under an unapproved plan of operations which the Bureau of Land Management could subsequently reject. The final rulemaking has been changed to virtually eliminate these problems. The revised threshold will allow most exploration operations to commence without delay after the filing of a notice with the Bureau 15 days in advance of commencing operations. Unless the activities exceed the threshold or take place on special category lands, no approval or bonding is required. The approval process for a plan of operations, including the time sequence, remains unchanged in the final rulemaking. However, like the regulations of the U.S. Forest Service (36 CFR Part 252) where a plan of operations is required, the final rulemaking contains no provision allowing an operation to begin without the explicit approval of the plan.

Many comments suggested that the authorized officer has too much power and could be dictatorial. The changes in the final rulemaking should reduce this possibility significantly. In addition, the field offices will be monitored to ensure that the rulemaking is consistently applied and that fair and reasonable decisions are made to meet the Secretary of the Interior's responsibility under section 302(b) of the Federal Land Policy and Management Act and the Mining and Minerals Policy Act of 1970.

Several comments made the point that cultural and endangered species inventories and compliance with laws relating to these matters may be reason to stop or significantly delay a mining operation. Under the final rulemaking, these inventories will be required only when a plan of operations is submitted. Because of the new threshold level that is provided in the final rulemaking, this should cause delay in only a few instances. If there is an unavoidable conflict with an endangered species habitat, a plan could be rejected based not on section 302(b) of the Federal Land Policy and Management Act, but on section 7 of the Endangered Species Act. If, upon compliance with the National Historic Preservation Act, the cultural resources cannot be salvaged or damage to them mitigated, the plan must be approved. Essentially, as the comments suggested, these laws may slow the plan approval process; one law may stop a project while the other may only delay it.

The language of the final rulemaking has been clarified as to the party who has the responsibility to pay for cultural inventories and salvage. Further, the applicant is now given the option to proceed with the inventory or mitigation at his/her expense in order to expedite the approval process.

One comment alleged that the Bureau of Land Management lacked the authority to protect cultural resources under section 106 of the National Historic Preservation Act, stating that section 106 applies only where there is an expenditure of Federal funds or Federal licensing. The regulations implementing the National Historic Preservation Act define the phrase "Federal license" as those activities "carried out pursuant to a Federal lease, permit, license, certificate, approval, or other forms of entitlement or permission" (36 CFR 3800.2(c)(3)). Thus, the approval of a plan of operations, where required, constitutes a Federal undertaking within the purview of the licensing authority of section 106 and, where necessary, requires compliance with the procedures of the National Historic Preservation Act.

One comment stated that the Bureau of Land Management did not have to complete an environmental impact statement on a plan of operations since the Secretary of the Interior has no authority to disapprove any plan which does not result in unnecessary or undue degradation of the Federal lands. Hence, the Secretary's action in approving such a plan is not a discretionary act. The purpose of an environmental assessment or environmental impact statement is to inform the authorized officer of the environmental consequences of his/her actions. There may exist several alternative ways to achieve a particular result which are reasonable and prudent from a business standpoint. However, an environmental assessment or environmental impact statement may show the authorized officer that the first alternative would have significant detrimental environmental impacts not associated with the second alternative. Since both alternatives are reasonable and practical, it would either be necesssary to adopt the second, or the authorized officer would attach conditions to his approval of the plan of operations on implementation of the first alternative so that the detrimental impacts would not occur. Similar reasoning applies with respect to determining whether a proposal will cause unnecessary or undue degradation. Furthermore, the issue of whether an act is discretionary or non-discretionary does not preclude the Secretary from employing National Environmental Policy Act procedures in determining whether a proposed activity exceeds the statutory prohibition against unnecessary or undue degradation.

Several comments expressed concern for timely compliance with requirements of Federal and State laws such as assessment work, discovery work, staking of locations, etc. One comment suggested that a mining claim operator has an unrestricted right to conduct discovery and other activities in accordance with State laws. Although this may have been the fact at one time, it is no longer true. Section 302(b) of the Federal Land Policy and Management Act expressly amends the 1872 Mining Law to provide constraints on mining operations in order to prevent unnecessary or undue degradation. Since the mining laws are the source of a State's authority to regulate acquisition of Federal minerals and possessory rights on Federal lands, any amendment to the Federal mining laws requires an adjustment in laws and regulations flowing therefrom—whether they are State law or the custom of the local mining district. Section 302(b) of the Act does not eliminate the need to comply with State laws, nor does this final rulemaking preempt State law. However, activities done in compliance with State law must likewise satisfy the requirements of section 302(b) of the Act.

The final rulemaking contains a new section that provides guidance on the filing of a notice in connection with those mining activities that come within the new threshold established in the rulemaking. The new section sets out the conditions under which the notice is to be filed, the place where it is to be filed and the information that is required. Special emphasis is placed on the location and type of access route or routes that may be required. This emphasis reflects the importance of routes of access and the impacts they can have on the Federal lands. In many instances, the route of access has the potential to cause more unnecessary and undue degradation than those activities directly related to the mining operations.

The notice is to be filed 15 days prior to the commencement of any operations covered by the notice. This 15-day period will give the authorized officer and his/her staff an opportunity to evaluate the proposed operations to determine whether a particular location contains some special resource value that could be avoided by the operation. If special values are discovered, the authorized officer could bring that to the attention of the operator and discuss possible alternatives with the aim of avoiding resource use conflicts. This is

an area where cooperation between the Bureau of Land Management and the

forth in this section were required by other laws and regulations and

the wording of the section has been changed

program established by this final

fewer conflicts are expected to result

bonding is then discretionary with the

an area where cooperation between the Bureau of Land Management and the mining industry will lead to protection of Federal lands from those mining operations that might otherwise inadvertently cause damage to those lands. The location of a route of access is an example of the type of matters that might be discussed during the 15-day period. The authorized officer might have information as to special resource values in an area the route of access is to cross. If a slight change in the route of access would preserve the special value, the authorized officer and the mining operator could reach an agreement to make such a change.

Environmental Assessment—Many of the comments supported the need for environmental protection but were fearful that the strict environmental standards which apply to those lands under wilderness review would also apply to the lands not under wilderness review. As stated earlier, all reference to lands under wilderness review and to the regulations on Exploration and Mining, Wilderness Review Program (43 CFR Part 3802) has been deleted from the final rulemaking.

A number of comments expressed concern about the additional time granted for public involvement in a plan of operations and environmental assessment where substantial public interest exists. Since the threshold has been changed, so that a majority of operations can be carried out without an approved plan of operations, there will be a minimum of delay or interference in approval of plans of operations because of public involvement. Further, it is the Bureau of Land Management's intention to closely monitor the timeframes established in this final rulemaking for review of a plan of operations to assure that, wherever possible, delays beyond the 30-day review period are the exception rather than the rule. Indefinite delays beyond the 90-day approval period may occur when an environmental impact statement is required for a project or when compliance with section 106 of the National Historic Preservation Act or section 7 of the Endangered Species Act is required.

A number of editorial changes have been made for clarification of the section in response to comments received.

Other Requirements for Environmental Protection—The deletion of all reference to lands under wilderness review in this section of the final rulemaking will alleviate many of the concerns expressed in the comments. Some comments made the point that all of the requirements set forth in this section were required by other laws and regulations and repeating them in this rulemaking was not necessary. Many of the provisions have been kept in the final rulemaking to emphasize that the operator's activities are subject to other applicable Federal and State laws. Serious conflicts are not expected to arise because other agencies are involved with different aspects of environmental protection.

Several comments correctly observed that mining operations in areas of critical environmental concern cannot be precluded because of potential irreparable damage. Section 302(b) of the Federal Land Policy and Management Act amended the 1872 Mining Law not to prevent irreparable damage, but to prevent unnecessary or undue degradation. Limitations placed on mine operators in the California Desert Conservation Area by 601(f) of the Act or in areas under wilderness review of section 603(c) are not applicable to areas of critical environmental concern. However, all activities within an area of critical environmental concern will require the submission and approval of a plan of operations.

One comment suggested that the Bureau of Land Management requiré harmony with visual resources. The Bureau agrees that this should be done, but only to the extent practicable. However, the provision covering visual resources has been deleted from this section of the final rulemaking because it is covered under the section relating to prevention of unnecessary or undue degradation.

Numerous comments were made on endangered species and cultural or paleontological resources. Discussion of how these resources are handled appears in the discussion of the section on plan approval set out above.

Several comments suggested developing guidelines for defining significant paleontological resources. The Bureau of Land Management is in the process of doing just that in another rulemaking that will be published in proposed form sometime in the next several months.

Another comment asked if the Bureau of Land Management would be adequately funded to investigate and salvage cultural resources. The Bureau will mitigate to the extent possible, but significantly increased funding for this program is not expected in the near future. Another comment suggested alternative wording for the time period in which the authorized officer is required to respond to a cultural or paleontological discovery made by an operator. As a result of this comment, the wording of the section has been changed.

The comment was made that there is no authority to protect survey monuments such as section corners whether they are rock or brass-cap. Existing law (18 U.S.C. 1858) provides a $250 fine for the destruction or removal of any U.S. Government survey monument. The Secretary of the Interior has incorporated this provision in the final rulemaking as part of the exercise of his authority to protect the lands.

Another comment expressed the view that the authorized officer should require the operator to maintain records on the quality and quantity of water. This does not fall within the authority expressly granted by the Federal Land Policy and Management Act, but if a problem exists, other Federal agencies will be responsible for monitoring and enforcement.

A comment was made that the rulemaking should not apply to areas disturbed before its effective date. The final rulemaking does not apply to those areas that were disturbed prior to the effective date of this final rulemaking unless operations continue or begin again in the same project area, a term defined in this rulemaking. In that event, the provisions of this rulemaking will apply.

Numerous comments suggested that this rulemaking should be consistent with the regulations of the U.S. Forest Service on this subject so as to bring "some kind of uniformity to government regulations." Numerous other comments indicated that the Forest Service regulations were unworkable and that many small operators shy away from Forest Service lands because of the need to comply with their regulations. An effort has been made to be as consistent as possible with the Forest Service regulations; however, a major difference is that the threshold level on Federal lands for operations, where a plan of operations is not required, has been raised in this final rulemaking to permit disturbance of up to five acres without the filing of a plan of operations. The Forest Service regulations do not incorporate the concept of a threshold level. Thus, most exploration activities may start by filing a notice with the Bureau of Land Management which will not require approval. It is estimated that there are two or three times the number of mining claims on Bureau administered lands than on lands under the jurisdiction of the U.S. Forest Service. Whether the Bureau has budget and staff or the capability to administer the rulemaking as it was proposed in March 1980 is questionable, but the Bureau should be able to administer the

program established by this final rulemaking. In addition, the rulemaking should not prove to be a great burden on the mining industry, yet it will allow the Secretary of the Interior to meet his/her responsibilities under the Federal Land Policy and Management Act.

Several comments suggested a threshold similar to the one that has been adopted in this final rulemaking. One comment suggested that the threshold level be set at 10 acres and that no plan of operations be required until that level had been reached, but also suggested that reclamation be required on all activities on the public lands. These concepts, with modifications, have been incorporated into the final rulemaking.

Many of the comments expressed views concerning valid existing rights, grandfathered rights and impairment as they pertain to lands under wilderness review. Since all references to lands under wilderness review and the associated terms have been deleted from this final rulemaking, the comments are no longer applicable. However, the regulations on Exploration and Mining, Wilderness Review Program that became effective on April 2, 1980, do incorporate these concepts and remain in effect.

One comment observed the dilemma of the assessment work requirement on lands under wilderness review by stating "(I)t would tend to cause some individuals to break one law (impairment rules) to meet the requirements of another (assessment work)." Because of the possibility of these conflicts, consideration is being given to requesting legislation that would grant the Secretary of the Interior some flexibility in granting deferrals and, further, in allowing suspension of annual assessment work.

Modification of plan—Numerous comments were made concerning the additional time delays that could be inherent in the modification of a plan of operations. Also, the need to be flexible in an exploration project to permit adjustment to meet specific geologic and topographic conditions was identified in some of the comments. Comments were of the opinion that it was unnecessary to modify a plan to cover such incidental changes. The language in this section of the final rulemaking has been changed to more accurately reflect the Bureau of Land Management's responsibilities under the unnecessary and undue degradation concept. Only significant modifications will now require an approval. The basic procedure remains unchanged. Because the threshold level has been revised to the five acre limit, fewer conflicts are expected to result from plan modifications.

Existing Operations—Most of the comments on this section of the proposed rulemaking dealt with activities associated with lands under wilderness review. Again, all references to activities on lands under wilderness review have been deleted from this final rulemaking. The section has been revised to accommodate a concern that the Bureau of Land Management was too strict in using such words as "immediately" instead of "reasonably." The intent is not to shut down existing operations or in any way take away rights granted under the mining laws. One comment pointed out that operations existing prior to October 21, 1976, may have valid existing rights under section 701(h) of the Federal Land Policy and Management Act and should not be regulated at all. The existence of a valid existing right or lack thereof, however, is immaterial to the exercise of the Secretary of the Interior's regulatory authority. This rulemaking does not extinguish any possessory rights that an individual may have under the mining laws. Those rights, however, are subject to the reasonable regulations mandated by the Federal Land Policy and Management Act.

Bond Requirements—Except for the plan approval section of the proposed rulemaking, this section drew the most comments. Perhaps it is the most controversial because of the difficulty by most operators, especially small operators, believe they will have in obtaining a bond. Several comments stated that the Conference Committee which was appointed to resolve differences between the Senate and House-passed versions of the bills that became the Federal Land Policy and Management Act "identified no basis for a definitive recommendation," on requirements for reclamation and bonding. The Senate version had a provision directing the Secretary of the Interior to require appropriate land reclamation as a condition of uses likely to entail significant disturbance to or alteration of the public lands. The conferees did not adopt this provision. One comment went on to state "of course, with no requirement for reclamation, there is no need for a performance bond." The policy reflected in this final rulemaking is that there is no mandatory bonding; rather, it is discretionary. With the new threshold level contained in the final rulemaking, most exploration and some extraction activities would not be bonded. If a proposed activity exceeds the threshold and requires a plan of operations, bonding is then discretionary with the authorized officer. Essentially, the Congress did not see the immediate need for mandatory bonding in all cases, but neither did Congress deny that option to the Secretary of the Interior. Rather, it left open the discretion to impose standards for bonding.

The problems of bonding, especially for the small operator, are recognized. As a result, guidance will be given the Bureau of Land Management's field offices that bonding will be imposed only when necessary to protect the public lands from unnecessary or undue degradation and when imposed, it will be handled in a fair manner. Other comments on this section concerned duplication of bonding when other regulatory agencies are involved. The intent is to avoid duplicative enforcement and bonding in the administration of the regulations. The Director of the Bureau stated to the Subcommittee on Mines and Mining of the House Committee on Interior and Insular Affairs during its oversight hearings that it would be the Bureau's policy not to require duplicate bonding when State bonding requirements provided adequate protection, and the final rulemaking so provides.

The wording of the bonding section has been revised in the final rulemaking to make it more understandable and to clarify the applicability of nationwide and statewide bonding.

As mentioned earlier, numerous comments stated that authority to require reclamation, like bonding, was taken out of the Federal Land Policy and Management Act by the Conference Committee and, therefore, should not be required by this rulemaking. Reclamation is an integral part of any effort to prevent unnecessary or undue degradation of the lands. Failure to require the reclamation of disturbed areas may lead to scars on the lands that may remain for years. Likewise, failure to revegetate the surface of the lands may cause increased erosion of watersheds and lead to siltation and pollution of streams and other water resources. The failure to use reasonable means to reclaim the lands and eliminate these disturbances may constitute unnecessary or undue degradation and, thus, constitute a direct violation of section 302(b) of the Federal Land Policy and Management Act. In addition, the Bureau of Land Management is also responsible for implementing the Mining and Minerals Policy Act which requires reclamation of mined areas.

Operations Within Bureau of Land Management Wilderness Areas—There was considerable confusion among

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those who commented on this section of the proposed rulemaking as to whether "wilderness areas" meant the lands administered by the Bureau of Land Management that are under wilderness review or wilderness areas that have been officially designated by Congress as part of the National Wilderness Preservation System. In accordance with section 603(c) of the Federal Land Policy and Management Act, once an area is designated by Congress as part of the National Wilderness Preservation System, the provisions of the Wilderness Act of 1964 apply. That Act states that reasonable regulations to govern ingress and egress may be prescribed consistent with the use of the lands for mineral operations and "restoration as near as practicable of the surface." The Wilderness Act also provides that the mining laws shall apply to designated wilderness areas until midnight December 31, 1983. To avoid further confusion, this section has been deleted from the final rulemaking. However, the final rulemaking makes it clear that any mining operations, other than casual use, proposed for a designated wilderness area will require an approved plan of operations before operations can commence.

Applicability of State Law—Generally, the comments on this section were favorable because the language of the proposed rulemaking attempted to avoid duplication of effort, principally in areas of bonding and enforcement. Several comments expressed concern as to whether or not the States had jurisdiction on Federal lands, as defined in this rulemaking. It has been the view of the Department of the Interior that under section 3 of the 1872 Mining Law (30 U.S.C. 26), the States may assert jurisdiction over mining activities on Federal lands in connection with their own State laws. This may be done as long as the laws of the State are not in conflict or inconsistent with Federal law. The adoption and implementation of this final rulemaking is not intended to pre-empt the continued application and enforcement of State law and regulations governing the conduct of activities pursuant to the United States mining laws.

The language of this section has been changed to allow more flexibility for the Director, Bureau of Land Management, and the respective States in entering into working agreements concerning the administration of their respective laws and regulations.

One comment questioned whether the United States could allocate monies to States which have signed agreements to administer the Bureau of Land Management's regulations. This question is being studied in recognition of the fact that it is in the best interest of all concerned to avoid, to the extent possible, excessive burdens created by duplication of effort.

Noncompliance—Numerous comments stated that the 30 days provided in the proposed rulemaking for completing corrective action in cases of noncompliance is too short. In the light of these comments, this section has been changed to require that action to correct must be started within 30 days. Several comments said that the noncompliance section should include provisions for cease and desist orders and for fines. The Bureau of Land Management will cooperate with an operator to the extent possible in rectifying situations that are causing unnecessary or undue degradation. In extreme cases, where an operator will not cooperate, injunctive procedures can be initiated and a restraining order requested. Failure to comply with an injunction will make an operator subject to such penalty as a court may impose. An important provision added to this section is that all operations fall under the provisions of the noncompliance section whether the operations are (1) casual use, not requiring any notice, (2) below the threshold level, or (3) under plans of operations because in each case they must not cause unnecessary or undue degradation. One comment feared that there would be no "benchmark" for measuring noncompliance and that such determinations may be arbitrary and capricious. For all practical purposes, the "benchmark" will be whether there is unnecessary or undue degradation of Federal lands. All phases of the final rulemaking will be monitored to ensure that all operations are treated equitably.

Access—Comments on this section centered around concerns that the authorized officer had too much discretion in specifying when and where access would be allowed. In response to these comments, the threshold in the final rulemaking has been increased. The changes made in this final rulemaking should alleviate the concerns. The authorized officer's discretion, when a plan of operations is submitted, is limited to determining whether or not unnecessary or undue degradation will be caused. One comment said that ingress and egress are rights under the mining law and cannot be interfered with. Although basically true, section 302(b) of the Federal Land Policy and Management Act amended the mining law by requiring that all mining activities, including access, must be carried out in a manner that prevents unnecessary or undue degradation.

Another comment raised the issue of "non-exclusive" access and the fact that degradation may be caused by recreation vehicles, or perhaps a competitor. The word "non-exclusive" has been deleted from the section in the final rulemaking. However, case law has established that the public can use Federal lands, including the surface or unpatented mining claims, as long as their presence does not materially interfere with mining operations. On the question of degradation caused by recreation vehicles, section 302(b) of the Act applies to all users of Federal lands. Therefore, every user must take the necessary precautions to prevent unnecessary or undue degradation of Federal lands.

Another comment was concerned whether rights-of-way for access to mining claims would require approval under Title V of the Federal Land Policy and Management Act. Access for all purposes of ingress and egress to unpatented mining claims will not be regulated under the provisions of Title V. One comment suggested stronger controls over access including maintenance fees and use of existing roads. When non-exclusive access is involved, the Bureau of Land Management may not charge a fee for access. This relates back to the mineral laws themselves which state that Federal lands shall be "free and open." Use of existing access will be encouraged to the greatest extent possible. Failure to use existing access may result in building an unnecessary road and, thus, creating unnecessary or undue degradation. In accordance with the provisions of the final rulemaking, all roads constructed, whether under a notice or a plan of operations, are required to be reclaimed by the operators. In addition, the Bureau will work as closely as possible with operators to assist them in road location or other facets of their operations, with the overall goal of preventing unnecessary or undue degradation to Federal lands. Maximum interchange between Bureau field offices and the mining industry will be encouraged so that each will appreciate and understand the objectives of the other.

Multiple Use Conflicts—The comments on this section indicated that it was confusing. After careful study, it was determined that the section was not needed and it has been deleted from the final rulemaking.

Fire Prevention and Control—The comments on this section were of a general and supportive nature and suggested no change. Therefore, the section remains unchanged in the final rulemaking.

Maintenance and Public Safety—Several comments suggested that the proposed rulemaking might conflict with regulations of the Mine Safety and Health Administration. After studying this possibility, it was decided that no conflict exists and this section of the final rulemaking is unchanged.

Inspection—The comments objected to this section of the proposed rulemaking on the basis that the inspection might come at an inconvenient time and interfere with operations. The section remains in the final rulemaking in order to put operators on notice that the authorized officer can inspect their operations to be certain that no activity causing unnecessary or undue degradation is taking place. Inspection will normally occur during regular business hours.

Notice of Suspension of Operations and Cessation of Operations—Numerous comments suggested that it is difficult for operators to determine, with certainty, when operations will cease due to fluctuations in price of the mineral in the marketplace. Therefore, they may want to maintain their equipment at the site. The section on notice of suspension of operations has been deleted from the final rulemaking because the recordation requirements imposed by section 314 of the Federal Land Policy and Management Act provide adequate coverage of the miner's intent to maintain the claim. The section on cessation of operations has been revised to allow more flexibility as to the removal of structures and equipment. One comment said that the Bureau of Land Management should require a "detailed outline of how the operation will be dismantled at the end of activities." Another comment asked "what happens if the operator fails to comply with this paragraph?" A detailed outline of "dismantling" is not necessary since failure to remove any structures and to reclaim the site may create unnecessary or undue degradation of Federal lands. The noncompliance section discusses the consequences of noncompliance.

Appeals—Numerous comments said that third parties should not be allowed to appeal a decision issued under this rulemaking. In accordance with those comments, the final rulemaking has been amended to provide one type of administrative review process for operators, but preserves the rights of affected parties under Part 4 of Title 43 of the Code of Federal Regulations through a paragraph that has been added to this section in the final rulemaking. One comment suggested that the final rulemaking conform to the U.S. Forest Service regulations concerning the time within which to file an appeal and "request for stay." This change has been made in the final rulemaking. An intermediate administrative review step has been added to the final rulemaking whereby an operator may appeal to the State Director. This new procedure is designed to resolve questions early in the administrative review process and thereby shorten it, if possible, before those questions become an issue on appeal.

Public Availability of Information—A large number of comments expressed a fear that the authorized officer may not be qualified to make a determination as to what information may or may not be confidential. This section of the final rulemaking has been amended to give the operator the right to designate which of the submitted information he or she regards as confidential, with any requests from the public for confidential material being made and handled under the provisions of the Freedom of Information Act procedures.

Special Provisions Relating to the California Desert Conservation Area—Several comments were received that suggested the promulgation of a separate rulemaking for the California Desert Conservation Area. The final rulemaking includes provisions that will afford the area adequate protection. Separate regulations are not warranted. The final rulemaking requires the filing of a plan of operations for any activity in the California Desert Conservation Area beyond that covered by casual use. The plan would be evaluated to ensure protection against "undue impairment" and against pollution of the streams and waters within the Area. A few comments made the point that it was not clear whether this final rulemaking supersedes the mining regulations now in effect for the King Range National Conservation Area. It does not. There have been no major changes in this section of the final rulemaking.

Editorial changes and corrections have been made as necessary.

The principal authors of this final rulemaking are Eugene Carlat and Robert M. Anderson of the Divison of Mineral Resources, assisted by Eleanor R. Schwartz, Chief, Office of Legislation and Regulatory Management, all of the Bureau of Land Management; and Kenneth Lee, Office of the Solicitor, Department of the Interior.

A regulatory analysis and final environmental impact statement were prepared in conjunction with this final rulemaking. Copies of these decision documents may be obtained from the Director (520), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240, or by calling 202–343–8537. The final environmental impact statement is available at all State Offices of the Bureau of Land Management.

Under the authority of sections 2319 (30 U.S.C. 22) and 2478 (43 U.S.C. 1201) of the Revised Statutes and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), Part 3800, Group 3800, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations is revised by adding a new Subpart 3809 as set forth below.

Guy R. Martin,

Assistant Secretary of the Interior.

November 19, 1980.

PART 3800—MINING CLAIMS UNDER THE GENERAL MINING LAWS

General

Subpart 3809—Surface Management

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General

Subpart 3809—Surface Management

§ 3809.0–1 Purpose.

The purpose of this subpart is to establish procedures to prevent unnecessary or undue degradation of federal lands which may result from

operations authorized by the mining laws.

§ 3809.0–2 Objectives.

The objectives of this regulation are to:

(a) Provide for mineral entry, exploration, location, operations, and purchase pursuant to the mining laws in a manner that will not unduly hinder such activities but will assure that these activities are conducted in a manner that will prevent unnecessary or undue degradation and provide protection of nonmineral resources of the federal lands;

(b) Provide for reclamation of disturbed areas; and

(c) Coordinate, to the greatest extent possible, with appropriate State agencies, procedures for prevention of unnecessary or undue degradation with respect to mineral operations.

§ 3809.0–3 Authority.

(a) Section 2319 of the Revised Statutes (30 U.S.C. 22 *et seq.*) provides that exploration, location and purchase of valuable mineral deposits, under the mining laws, on federal lands shall be "under regulations prescribed by law," and section 2478 of the Revised Statutes, as amended (43 U.S.C. 1201), provides that those regulations shall be issued by the Secretary.

(b) Sections 302, 303, 601, and 603 of the Federal and Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) require the Secretary to take any action, by regulation or otherwise, to prevent unnecessary or undue degradation of the federal lands, provide for enforcement of those regulations, and direct the Secretary to manage the California Desert Conservation Area under reasonable regulations which will protect the scenic, scientific, and environmental values against undue impairment, and to assure against pollution of streams and waters.

(c) The Act of July 23, 1955 (30 U.S.C. 612), provides that rights under mining claims located after July 23, 1955, shall prior to issuance of patent therefor, be subject to the right of the United States to manage and dispose of the vegetative surface resources and to manage other surface resources. The Act also provides that "Any mining claim hereafter located under the mining laws of the United States shall not be used, prior to issuance to patent therefor, for any purposes other than prospecting, mining or processing operations and uses reasonably incident thereto."

(d) Section 9 of the Wild and Scenic Rivers Act (16 U.S.C. 1280) provides that regulations issued shall, among other things, provide safeguards against pollution of the rivers involved and unnecessary impairment of the scenery within the area designated for potential addition to, or an actual component of the national wild and scenic rivers system.

§ 3809.0–5 Definitions.

As used in this subpart, the term:

(a) "Authorized officer" means any employee of the Bureau of Land Management to whom authority has been delegated to perform the duties described in this part.

(b) "Casual Use" means activities ordinarily resulting in only negligible disturbance of the federal lands and resources. For example, activities are generally considered "casual use" if they do not involve the use of mechanized earth moving equipment or explosives or do not involve the use of motorized vehicles in areas designated as closed or limited to off-road vehicles as defined in subpart 8340 of this title.

(c) "Federal lands" means lands subject to the mining laws including, but not limited to, the certain "public lands" defined in section 103 of the Federal Land Policy and Management Act of 1976. Federal lands does not include lands in the National Park System, National Forest System, and the National Wildlife Refuge System, nor does it include acquired lands, Stockraising Homestead lands or lands where only the mineral interest is reserved to the United States or lands under Wilderness Review and administered by the Bureau of Land Management (these lands are subject to the 43 CFR Part 3802 regulations).

(d) "Mining claim" means any unpatented mining claim, millsite, or tunnel site located under the mining laws and those patented mining claims and millsites located in the California Desert Conservation Area which have been patented subsequent to the enactment of the Federal Land Policy and Management Act of October 21, 1976.

(e) "Mining laws" means the Lode Law of July 26, 1866, as amended (14 Stat. 251); the Placer Law of July 9, 1870, as amended (16 Stat. 217); and the Mining Law of May 10, 1872, as amended (17 Stat. 91); and all laws supplementing and amending those laws, including among others the Building Stone Act of August 4, 1892, as amended (27 Stat. 348); and the Saline Placer Act of January 31, 1901 (31 Stat. 745).

(f) "Operations" means all functions, work, facilities, and activities in connection with prospecting, discovery and assessment work, development, extraction, and processing of mineral deposits locatable under the mining laws and all other uses reasonably incident thereto, whether on a mining claim or not, including but not limited to the construction of roads, transmission lines, pipelines, and other means of access for support facilities across federal lands subject to these regulations.

(g) "Operator" means a person conducting or proposing to conduct operations.

(h) "Person" means any citizen of the United States or person who has declared the intention to become such and includes any individual, partnership, corporation, association, or other legal entity.

(i) "Project area" means a single tract of land upon which an operator is, or will be, conducting operations. It may include one mining claim or a group of mining claims under one ownership on which operations are or will be conducted, as well as federal lands on which an operator is exploring or prospecting prior to locating a mining claim.

(j) "Reclamation" means taking such reasonable measures as will prevent unnecessary or undue degradation of the federal lands, including reshaping land disturbed by operations to an appropriate contour and, where necessary, revegetating disturbed areas so as to provide a diverse vegetative cover. Reclamation may not be required where the retention of a stable highwall or other mine workings is needed to preserve evidence of mineralization.

(k) "Unnecessary or undue degradation" means surface disturbance greater than what would normally result when an activity is being accomplished by a prudent operator in usual, customary, and proficient operations of similar character and taking into consideration the effects of operations on other resources and land uses, including those resources and uses outside the area of operations. Failure to initiate and complete reasonable mitigation measures, including reclamation of disturbed areas or creation of a nuisance may constitute unnecessary or undue degradation. Failure to comply with applicable environmental protection statutes and regulations thereunder will constitute unnecessary or undue degradation. Where specific statutory authority requires the attainment of a stated level of protection or reclamation, such as in the California Desert Conservation Area, Wild and Scenic Rivers, and other such areas, that level of protection shall be met.

§ 3809.0–6 Policy.

Consistent with section 2 of the Mining and Mineral Policy Act of 1970 and section 102(a) (7), (8), and (12) of the Federal Land Policy and Management Act, it is the policy of the Department of the Interior to encourage the development of federal mineral resources and reclamation of disturbed lands. Under the mining laws a person has a statutory right, consistent with Departmental regulations, to go upon the open (unappropriated and unreserved) federal lands for the purpose of mineral prospecting, exploration, development, extraction and other uses reasonably incident thereto. This statutory right carries with it the responsibility to assure that operations include adequate and responsible measures to prevent unnecessary or undue degradation of the federal lands and to provide for reasonable reclamation.

§ 3809.1 Operations.

§ 3809.1–1 Reclamation.

All operations, whether casual, under a notice, or by a plan of operations, shall be reclaimed as required in this title.

§ 3809.1–2 Casual use—negligible disturbance.

No notification to or approval by the authorized officer is required for casual use operations. However, casual use operations are subject to monitoring by the authorized officer to ensure that unnecessary or undue degradation of federal lands will not occur.

§ 3809.1–3 Notice—disturbance of 5 acres or less.

(a) All operators on project areas whose operations, including access across federal lands to the project area, cause a cumulative surface disturbance of 5 acres or less during any calendar year shall notify the authorized officer in the District office of the Bureau of Land Management having jurisdiction over the land in which the claim(s) or project area is located. Prior to conducting additional operations under a subsequent notice, the operator shall have completed reclamation of operations which were conducted under any previous notice. Notification of such activities, by the operator, shall be made at least 15 calendar days before commencing operations under this subpart by a written notice or letter.

(b) Approval of a notice, by the authorized officer, is not required. Consultation with the authorized officer may be required under § 3809.1–3(c)(3) of this section when the construction of access routes are involved.

(c) The notice or letter shall include:

(1) Name and mailing address of the mining claimant and operator, if other than the claimant. Any change of operator or in the mailing address of the mining claimant or operator shall be reported promptly to the authorized officer;

(2) When applicable, the name of the mining claim(s), and serial number(s) assigned to the mining claim(s) recorded pursuant to subpart 3833 of this title on which disturbance will likely take place as a result of the operations;

(3) A statement describing the activities proposed and their location in sufficient detail to locate the activities on the ground, and giving the approximate date when operations will start. The statement shall include a description and location of access routes to be constructed and the type of equipment to be used in their construction. Access routes shall be planned for only the minimum width needed for operations and shall follow natural contours, where practicable, to minimize cut and fill. When the construction of access routes involves slopes which require cuts on the inside edge in excess of 3 feet, the operator may be required to consult with the authorized officer concerning the most appropriate location of the access route prior to commencing operations;

(4) A statement that reclamation of all areas disturbed will be completed to the standard described in § 3809.1–3(d) of this section and that reasonable measures will be taken to prevent unnecessary or undue degradation of the federal lands during operations.

(d) The following standards govern activities conducted under a notice:

(1) Access routes shall be planned for only the minimum width needed for operations and shall follow natural contours, where practicable to minimize cut and fill.

(2) All tailings, dumps, deleterious materials or substances, and other waste produced by the operations shall be disposed of so as to prevent unnecessary or undue degradation and in accordance with applicable Federal and State Laws.

(3) At the earliest feasible time, the operator shall reclaim the area disturbed, except to the extent necessary to preserve evidence of mineralization, by taking reasonable measures to prevent or control on-site and off-site damage of the federal lands.

(4) Reclamation shall include, but shall not be limited to:

(i) Saving of topsoil for final application after reshaping of disturbed areas have been completed;

(ii) Measures to control erosion, landslides, and water runoff;

(iii) Measures to isolate, remove, or control toxic materials;

(iv) Reshaping the area disturbed, application of the topsoil, and revegetation of disturbed areas, where reasonably practicable; and

(v) Rehabilitation of fisheries and wildlife habitat.

(5) When reclamation of the disturbed area has been completed, except to the extent necessary to preserve evidence of mineralization, the authorized officer shall be notified so that an inspection of the area can be made.

(e) Operations conducted pursuant to this subpart are subject to monitoring by the authorized officer to ensure that operators are conducting operations in a manner which will not cause unnecessary or undue degradation.

(f) Failure of the operator to complete reclamation to the standards described in this subpart may cause the operator to be subject to a notice of noncompliance as described in § 3809.3–2 of this Part.

§ 3809.1–4 Plan of operations—when required.

An approved plan of operations is required prior to commencing:

(a) Operations which exceed the disturbance level (5 acres) described in § 3809.1–3 of this Part.

(b) Any operation, except casual use, in the following designated areas:

(1) California Desert Conservation Area;

(2) Areas designated for potential addition to, or an actual component of the national wild and scenic rivers system,

(3) Designated Areas of Critical Environmental Concern;

(4) Areas designated as part of the National Wilderness Preservation System and administered by the Bureau of Land Management;

(5) Areas withdrawn from operation of the mining laws in which valid existing rights are being exercised; and

(6) Areas designated as "closed" or "limited" to off-road vehicle use as defined in subpart 8340 of this title.

§ 3809.1–5 Filing and contents of plan of operations.

(a) A plan of operations must be filed in the District Office of the Bureau of Land Management having jurisdiction over the federal lands in which the claim(s) or project area is located.

(b) No special form is required for filing a plan.

(c) The plan shall include:

(1) The name and mailing address of the operator (and claimant if not the operator). Any change of operator or change in the mailing address shall be

promptly reported to the authorized officer;

(2) A map, preferably a topographic map, or sketch showing existing and/or proposed routes of access, aircraft landing areas, or other means of access, and size of each area where surface disturbance will occur;

(3) When applicable, the name of the mining claim(s) and mining claim serial numbers assigned to the mining claim(s) recorded pursuant to subpart 3833 of this title.

(4) Information sufficient to describe or identify the type of operations proposed, how they will be conducted and the period during which the proposed activity will take place;

(5) Measures to be taken to prevent unnecessary or undue degradation and measures to reclaim disturbed areas resulting from the proposed operations, including the standards listed in § 3809.1–3(d) of this Part. Where an operator advises the authorized officer that he/she does not have the necessary technical resources to develop such measures the authorized officer will assist the operator in developing such measures. If an operator submits reclamation measures, the authorized officer will ensure that the operator's plan is sufficient to prevent unnecessary or undue degradation. All reclamation measures developed by the operator, or by the authorized officer in conjunction with the operator, shall become a part of the plan of operations.

(6) Measures to be taken during extended periods of nonoperation to maintain the area in a safe and clean manner and to reclaim the land to avoid erosion and other adverse impacts. If not filed at the time of plan submittal, this information shall be filed with the authorized officer whenever the operator anticipates a period of nonoperation.

§ 3809.1–6 Plan approval.

(a) A proposed plan of operations shall be submitted to the authorized officer, who shall promptly acknowledge receipt thereof to the operator. The authorized officer shall, within 30 days of such receipt, analyze the proposal in the context of the requirement to prevent unnecessary or undue degradation and provide for reasonable reclamation, and shall notify the operator:

(1) That the plan is approved; or

(2) Of any changes in or additions to the plan necessary to meet the requirements of these regulations; or

(3) That the plan is being reviewed, but that a specified amount of time, not to exceed an additional 60 days, is necessary to complete the review, setting forth the circumstances which justify additional time for review. However, days during which the area of operations is inaccessible for inspection shall not be counted when computing the 60 day period; or

(4) That the plan cannot be approved until 30 days after a final environmental statement has been prepared and filed with the Environmental Protection Agency; or

(5) That the plan cannot be approved until the authorized officer has complied with section 106 of the National Historic Preservation Act or section 7 of the Endangered Species Act.

(b) The authorized officer shall consult with the appropriate official of the bureau or agency having surface management responsibilities where such responsibility is not exercised by the Bureau of Land Management. Prior to plan approval the authorized officer shall obtain the concurrence of such appropriate official to the terms and conditions that may be needed to prevent unnecessary and undue degradation.

(c) The authorized officer shall undertake an appropriate level of cultural resource inventory of the area to be disturbed. The inventory shall be completed within the time allowed by these regulations for approval of the plan (30 days). The operator is not required to do the inventory but may hire an archaeologist approved by the Bureau of Land Management in order to complete the inventory more expeditiously. The responsibility for and cost of salvage of cultural resources discovered during the inventory shall be the Federal Government's. The responsibility of avoiding adverse impacts on those cultural resources discovered during the inventory shall be the operator's.

(d) Pending final approval of the plan, the authorized officer shall approve any operations that may be necessary for timely compliance with requirements of Federal and State laws, subject to any terms and conditions that may be needed to prevent unnecessary or undue degradation.

(e) In the event of a change of operators involving an approved plan of operations, the new operator shall satisfy the requirements of § 3809.1–9 of this Part as it relates to bonding.

§ 3809.1–7 Modification of plan.

(a) At any time during operations under an approved plan, the operator on his/her own initiative may modify the plan or the authorized officer may request the operator to do so.

(b) A significant modification of an approved plan must be reviewed and approved by the authorized officer in the same manner as the initial plan.

(c)(1) If, when requested to do so by the authorized officer, the operator does not furnish a proposed modification within a reasonable time, usually 30 days, the authorized officer may recommend to the State Director that the operator be required to submit a proposed modification of the plan. The recommendation of the authorized officer shall be accompanied by a statement setting forth the facts and the reasons for the recommendations.

(2) In acting upon such recommendations the State Director shall determine, within 30 days, whether:

(i) All reasonable measures were taken by the authorized officer at the time the plan was approved to ensure that the proposed operations would not cause unnecessary or undue degradation of the federal land;

(ii) The disturbance from the operations of the plan as approved or from unforeseen circumstances is or may become of such significance that modification of the plan is essential in order to prevent unnecessary or undue degradation; and

(iii) The disturbance can be minimized using reasonable means.

(3) Once the matter has been sent to the State Director, an operator is not required to submit a proposed modification of an approved plan until a determination is made by the State Director. Where the State Director determines that a plan shall be modified, the operator shall timely submit a modified plan to the authorized officer for review and approval.

(4) Operations may continue in accordance with the approved plan until a modified plan is approved, unless the State Director determines that the operations are causing unnecessary or undue degradation to the land. The State Director shall advise the operator of those reasonable measures needed to avoid such degradation and the operator shall immediately take all necessary steps to implement those measures within a reasonable period established by the State Director.

§ 3809.1–8 Existing operations.

(a) Persons conducting operations on the effective date of these regulations, who would be required to submit a notice under § 3809.1–3 or a plan of operations under § 3809.1–4 of this Part may continue operations but shall, within:

(1) 30 days submit a notice with required information outlined in § 3809.1–3 of this Part for operations where 5 acres or less will be disturbed during a calendar year; or

(2) 120 days submit a plan in those areas identified in § 3809.1–4 of this Part. Upon a showing of good cause, the authorized officer may grant an extension of time, not to exceed an additional 180 days, to submit a plan.

(b) Operations may continue according to the submitted plan during its review. If the authorized officer determines that operations are causing unnecessary or undue degradation of the federal lands involved, the authorized officer shall advise the operator of those reasonable measures needed to avoid such degradation, and the operator shall take all necessary steps to implement those measures within a reasonable time recommended by the authorized officer. During the period of an appeal, if any, operations may continue without change, subject to other applicable Federal and State laws.

(c) Upon approval of a plan by the authorized officer, operations shall be conducted in accordance with the approval plan.

§ 3809.1–9 Bonding requirements.

(a) No bond shall be required for operations that constitute casual use (§ 3809.1–2) or that are conducted under a notice (§ 3809.1–3 of this Part).

(b) Any operator who conducts operations under an approved plan of operations as described in § 3809.1–5 of this Part may, at the discretion of the authorized officer, be required to furnish a bond in an amount specified by the authorized officer. The authorized officer may determine not to require a bond in circumstances where operations would cause only minimal disturbance to the land. In determining the amount of the bond, the authorized officer shall consider the estimated cost of reasonable stabilization and reclamation of areas disturbed. In lieu of the submission of a separate bond, the authorized officer may accept evidence of an existing bond pursuant to State law or regulations for the same area covered by the plan of operations, upon a determination that the coverage would be equivalent to that provided in this section.

(c) In lieu of a bond, the operator may deposit and maintain in a Federal depository account of the United States Treasury, as directed by the authorized officer, cash in an amount equal to the required dollar amount of the bond or negotiable securities of the United States having a market value at the time of deposit of not less than the required dollar amount of the bond.

(d) In place of the individual bond on each separate operation, a blanket bond covering statewide or nationwide operations may be furnished at the option of the operator, if the terms and conditions, as determined by the authorized officer, are sufficient to comply with these regulations.

(e) In the event that an approved plan is modified in accordance with § 3809.1–7 of this Part, the authorized officer shall review the initial bond for adequacy and, if necessary, adjust the amount of the bond to conform to the plan as modified.

(f) When all or any portion of the reclamation has been completed in accordance with the approved plan, the operator may notify the authorized officer that such reclamation has occurred and that she/he seeks a reduction in bond or Bureau approval of the adequacy of the reclamation, or both. Upon any such notification, the authorized officer shall promptly inspect the reclaimed area with the operator. The authorized officer shall then notify the operator, in writing, whether the reclamation is acceptable. When the authorized officer has accepted as completed any portion of the reclamation, the authorized officer shall authorize that the bond be reduced proportionally to cover the remaining reclamation to be accomplished.

(g) When a mining claim is patented, the authorized officer shall release the operator from that portion of the performance bond which applies to operations within the boundaries of the patented land. The authorized officer shall release the operator from the remainder of the performance bond, including the portion covering approved means of access outside the boundaries of the mining claim, when the operator has completed acceptable reclamation. However, existing access to patented mining claims, if across Federal lands shall continue to be regulated under the approved plan. The provisions of this subsection do not apply to patents issued on mining claims within the boundaries of the California Desert Conservation Area (See § 3809.6 of this Part).

§ 3809.2 Prevention of unnecessary or undue degradation.

§ 3809.2–1 Environmental assessment.

(a) When an operator files a plan of operations or a significant modification which encompasses land not previously covered by an approved plan, the authorized officer shall make an environmental assessment or a supplement thereto to identify the impacts of the proposed operations on the lands and to determine whether an environmental impact statement is required.

(b) In conjunction with the operator, the authorized officer shall use the envrionmental assessment to determine the adequacy of mitigating measures and reclamation procedures included in the plan to insure the prevention of unnecessary or undue degradation of the land. If an operator advises the authorized officer that he/she is unable to prepare mitigating measures, the authorized officer, in conjunction with the operator, shall use the environmental assessment as a basis for assisting the operator in developing such measures.

(c) If, as a result of the environmental assessment, the authorized officer determines that there is "substantial public interest" in the plan, the authorized officer shall notify the operator, in writing, that an additional period of time, not to exceed the additional 60 days provided for approval of a plan is § 3809.1–6(a) of this part, is required to consider public comments on the environmental assessment.

§ 3809.2–2 Other requirements for environmental protection.

All operations, including casual use and operations under either a notice (§ 3809.1–3) or a plan of operations (§ 3809.1–4 of this Part), shall be conducted to prevent unnecessary or undue degradation of the federal lands and shall comply with all pertinent Federal and State laws, including but not limited to the following:

(a) *Air Quality.* All operators shall comply with applicable Federal and State air quality standards, including the Clean Air Act (42 U.S.C. 1857 *et seq.*).

(b) *Water Quality.* All operators shall comply with applicable Federal and State water quality standards, including the Federal Water Pollution Control Act, as amended (30 U.S.C. 1151 *et seq.*).

(c) *Solid Wastes.* All operators shall comply with applicable Federal and State standards for the disposal and treatment of solid wastes, including regulations issued pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act (42 U.S.C. 6901 *et seq.*). All garbage, refuse or waste shall neither be removed from the affected lands or disposed of or treated to minimize, so far as is practicable, its impact on the lands.

(d) *Fisheries, Wildlife and Plant Habitat.* The operator shall take such action as may be needed to prevent adverse impacts to threatened or endangered species, and their habitat which may be affected by operations.

(e) *Cultural and Paleontological Resources.* (1) Operators shall not

knowingly disturb, alter, injure, or destroy any scientifically important

§ 3809.4 Appeals.

of the authorized officer in accordance with the provisions of the Freedom of

knowingly disturb, alter, injure, or destroy any scientifically important paleontological remains or any historical or archaeological site, structure, building or object on federal lands.

(2) Operators shall immediately bring to the attention of the authorized officer any cultural and/or paleontological resources that might be altered or destroyed on federal lands by his/her operations, and shall leave such discovery intact until told to proceed by the authorized officer. The authorized officer shall evaluate the discoveries brought to his/her attention, take action to protect or remove the resource, and allow operations to proceed within 10 working days.

(3) The Federal Government shall have the responsibility and bear the cost of investigations and salvage of cultural and paleontology values discovered after a plan of operations has been approved, or where a plan is not involved.

(f) *Protection of survey monuments.* To the extent practicable, all operators shall protect all survey monuments, witness corners, reference monuments, bearing trees and line trees against unnecessary or undue destruction, obliteration or damage. If, in the course of operations, any monuments, corners, or accessories are destroyed, obliterated or damaged by such operations, the operator shall immediately report the matter to the authorized officer. The authorized officer shall prescribe, in writing, the requirements for the restoration or reestablishment of monuments, corners, bearing and line trees.

§ 3809.3 General provisions.

§ 3809.3–1 Applicability of State law.

(a) Nothing in this part shall be construed to effect a preemption of State laws and regulations relating to the conduct of operations or reclamation on federal lands under the mining laws.

(b) After the publication date of these regulations the Director, Bureau of Land Management, shall conduct a review of State laws and regulations in effect or due to come into effect, relating to unnecessary or undue degradation of lands disturbed by exploration for, or mining of, minerals locatable under the mining laws.

(c) The Director may consult with appropriate representatives of each State to formulate and enter into agreements to provide for a joint Federal-State program for administration and enforcement. The purpose of such agreements is to prevent unnecessary or undue degradation of the federal lands from operations which are conducted under the mining laws, to prevent unnecessary administrative delay and to avoid duplication of administration and enforcement of laws. Such agreements may, whenever possible, provide for State administration and enforcement of such programs.

§ 3809.3–2 Noncompliance.

(a) Failure of an operator to file a notice under § 3809.1–3 of this Part or a plan of operations under § 3809.1–4 of this Part will subject the operator, at the discretion of the authorized officer, to being served a notice of non-compliance or enjoined from the continuation of such operations by a court order until such time as a notice or plan is filed with the authorized officer. The operator shall also be responsible to reclaim operations conducted without an approved plan of operations or prior to the filing of a required notice.

(b) Failure to reclaim areas disturbed by operations under § 3809.1–3 of this Part is a violation of these regulations.

(1) Where an operator is conducting operations covered by 3809.1–3 (notice) of this title and fails to comply with the provisions of that section or properly conduct reclamation according to standards set forth in 3809.1–3(d) of this title, a notice of noncompliance shall be served by delivery in person to the operator or his/her authorized agent, or by certified mail addressed to his/her address of record.

(2) Operators conducting operations under an approved plan of operations who fails to follow the approved plan of operations may be subject to a notice of noncompliance. A notice of noncompliance shall be served in the same manner as described in § 3809.3–2(b)(1) above.

(c) All operators who conduct operations under a notice pursuant to § 3809.1–3 and a plan pursuant to § 3809.1–4 of this Part on federal lands without taking the actions specified in a notice of noncompliance within the time specified therein may be enjoined by an appropriate court order from continuing such operations and be liable for damages for such unlawful acts.

(d) A notice of noncompliance shall specify in what respects the operator is failing or has failed to comply with the requirements of applicable regulations, and shall specify the actions which are in violation of the regulations and the actions which shall be taken to correct the noncompliance and the time, not to exceed 30 days, within which corrective action shall be started.

(e) Failure of an operator to take necessary actions on a notice of noncompliance, may constitute justification for requiring the submission of a plan of operations under § 3809.1–5 of this Part, and mandatory bonding for subsequent operations which would otherwise be conducted pursuant to a notice under § 3809.1–3 of this Part.

§ 3809.3–3 Access.

(a) An operator is entitled to access to his operations consistent with provisions of the mining laws.

(b) Where a notice or a plan of operations is required, it shall specify the location of access routes for operations and other conditions necessary to prevent unnecessary or undue degradation. The authorized officer may require the operator to use existing roads to minimize the number of access routes, and, if practicable, to construct access roads within a designated transportation or utility corridor. When commercial hauling is involved and the use of an existing road is required, the authorized officer may require the operator to make appropriate arrangements for use and maintenance.

§ 3809.3–4 Fire prevention and control.

The operator shall comply with all applicable Federal and State fire laws and regulations, and shall take all reasonable measures to prevent and suppress fires in the area of operations.

§ 3809.3–5 Maintenance and public safety.

During all operations, the operator shall maintain his structures, equipment, and other facilities in a safe and orderly manner. Hazardous sites or conditions resulting from operations shall be marked by signs, fenced, or otherwise identified to alert the public in accordance with applicable Federal and State laws and regulations.

§ 3809.3–6 Inspection.

The authorized officer may periodically inspect operations to determine if the operator is complying with these regulations. The operator shall permit the authorized officer access for this purpose.

§ 3809.3–7 Periods of non-operation.

All operators shall maintain the site, structures and other facilities of the operations in a safe and clean condition during any non-operating periods. All operators may be required, after an extended period of non-operation for other than seasonal operations, to remove all structures, equipment and other facilities and reclaim the site of operations, unless he/she receives permission, in writing, from the authorized officer to do otherwise.

§ 3809.4 Appeals.

(a) Any operator adversely affected by a decision of the authorized officer made pursuant to the provisions of this subpart shall have a right of appeal to the State Director, and thereafter to the Board of Land Appeals, Office of Hearings and Appeals, pursuant to Part 4 of this title, if the State Director's decision is adverse to the appellant.

(b) No appeal shall be considered unless it is filed, in writing, in the office of the authorized officer who made the decision from which an appeal is being taken, within 30 days after the date of the decision. A decision of the authorized officer from which an appeal is taken to the State Director shall be effective during the pendency of an appeal. A request for a stay may accompany the appeal.

(c) The appeal to the State Director shall contain:

(1) The name and mailing address of the appellant.

(2) When applicable, the name of the mining claim(s) and serial number(s) assigned to the mining claims recorded pursuant to subpart 3833 of this title which are subject to the appeal.

(3) A statement of the reasons for the appeal and any arguments the appellant wishes to present which would justify reversal or modification of the decision.

(d) The State Director shall promptly render a decision on the appeal. The decision shall be in writing and shall set forth the reasons for the decision. The decision shall be sent to the appellant by certified mail, return receipt requested.

(e) The decision of the State Director, when adverse to the appellant, may be appealed to the Board of Land Appeals, Office of Hearings and Appeals, pursuant to Part 4 of this title.

(f) Any party, other than the operator, aggrieved by a decision of the authorized officer shall utilize the appeals procedures in Part 4 of this title. The filing of such an appeal shall not stop the authorized officer's decision from being effective.

(g) Neither the decision of the authorized officer nor the State Director shall be construed as final agency action for the purpose of judicial review of that decision.

§ 3809.5 Public availability of information.

(a) Information and data submitted and specifically identified by the operator as containing trade secrets or confidential or privileged commercial or financial information shall not be available for public examination. Other information and data submitted by the operator shall be available for examination by the public at the office of the authorized officer in accordance with the provisions of the Freedom of Information Act.

(b) The determination concerning specific information which may be withheld from public examination shall be made in accordance with the rules in 43 CFR Part 2.

§ 3809.6 Special provisions relating to mining claims patented within the boundaries of the California Desert Conservation Area.

In accordance with section 601(f) of the Federal Land Policy and Management Act of October 21, 1976, all patents issued on mining claims located within the boundaries of the California Desert Conservation Area after the enactment of the Federal Land Policy and Management Act shall be subject to the regulations in this part, including the continuation of a plan of operations and of bonding with respect to the land covered by the patent.

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November 26, 1980

Part III

Department of Commerce

Office of the Secretary

Improving Government Regulations; Semiannual Agenda

DEPARTMENT OF COMMERCE

13 CFR Chs. III and V

15 CFR Chs. I–IV, IX, and XII

19 CFR Ch. III

32A CFR Ch. I

37 CFR Ch. I

46 CFR Chs. II and III

50 CFR Chs. II, IV and VI

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: U.S. Department of Commerce.

ACTION: Semiannual agenda of regulations.

SUMMARY: In compliance with Executive Order 12044, the Department of Commerce (DOC) publishes twice a year an agenda of significant regulatory actions under consideration by its units. The agenda also includes a list of existing rules and regulations selected for review. The purpose of the regulatory agenda is to provide information to the public on regulations issued by the Department and to facilitate comments and views by interested public parties.

The closing date for information submitted for inclusion in this agenda was October 1, 1980. Therefore, regulatory activity arising, for example, from new legislation is not covered. This is the case for legislation signed by President Carter on October 22, 1980. The legislation, amendments to the Coastal Zone Management Act of 1972, and the Fisheries Loan Fund, will require regulatory actions.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific regulatory action contained in the agenda, contact the individual identified as the contact person. Comments or inquiries of a general nature about the agenda should be directed to: Robert T. Miki, Deputy Assistant Secretary for Regulatory Policy (Acting), U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 377–2482.

SUPPLEMENTARY INFORMATION: On March 23, 1978, President Carter signed Executive Order 12044, "Improving Government Regulations." To comply with the Executive Order, the Department published in the **Federal Register** (44 FR 2082, January 9, 1979) Department Administrative Order (DAO) 218–7, entitled, "Issuing Departmental Regulations." The Administrative Order, including appendices, establishes the overall procedures to be followed by the Department units in developing and promulgating regulations as well as procedures to be followed in reviewing existing regulations.

The Executive Order requires that all executive agencies publish semiannually an agenda of significant regulations which are under consideration. The Executive Order directs government agencies to provide in the agenda the following information regarding significant regulations under consideration: description, need, legal basis, the name and telephone number of a knowledgable agency official, and whether a regulatory analysis is required. In addition, the Department's agenda provides an outline of each unit's plan for obtaining public comments and the major issues to be considered before formulating final regulations.

As required by the Executive Order, a list of regulations to be reviewed is also provided in the agenda. This is the fourth agenda to be published by the Department. Publication dates of previous agendas were:

First Agenda—March 7, 1979 (44 FR 12562). Addendum published April 30, 1979 (44 FR 25354) by the National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS)
Second Agenda—September 18, 1979 (44 FR 54166)
Third Agenda—June 5, 1980 (45 FR 37972)

Explanation of Information Contained in the Agenda

The Department has 13 primary operating units in addition to departmental offices. Some of the operating units, such as the Maritime Administration (MARAD), have major regulatory activities whereas other operating units, such as the Office of Minority Business Development Agency (MBDA), currently have no regulations in effect. The departmental offices, such as the Office of Investigations and Security (OIS) and the Office of Administrative Services (OAS), have few regulations.

The abbreviations and names of the Department units which have reported regulatory activities in this agenda are as follows:

ADMIN—Assistant Secretary for Administration
EDA—Economic Development Administration
ITA—International Trade Administration
MARAD—Maritime Administration
MBDA—Minority Business Development Agency
NOAA—National Oceanic and Atmospheric Administration
NMFS—National Marine Fisheries Service
OCZM—Office of Coastal Zone Management
NTIA—National Telecommunications and Information Administration
OADS—Office of the Associate Deputy Secretary
OCE—Office of the Chief Economist
CENSUS—Bureau of the Census
ORD—Office of Regional Development
PTI—Assistant Secretary for Productivity, Technology and Innovation
PTO—Patent and Trademark Office

Schedule A contains a list of regulatory actions under consideration. Regulations under consideration include new regulations being proposed and changes, additions, or deletions to existing rules and regulations. The schedule indicates whether the regulation is significant, whether a regulatory analysis is required, and the date (month or season) that the next regulatory action is anticipated. The name, position title, and telephone number of a person familiar with the regulation is provided. Additional information on each significant action listed in Schedule A is provided in the appendix. Each agenda entry provides the information required by Executive Order 12044 and DAO 218–7.

Schedule B contains a list of existing regulations scheduled for review by Department units over the next 12 months. A more detailed presentation of the Department's regulatory review effort is provided in DOC's Inventory of Regulations which was published in the **Federal Register** on October 27, 1980 (45 FR 71088). The Inventory contains 241 existing Department regulations and provides the review schedule for these regulations. To date, the Bureau of Economic Analysis, Bureau of Industrial Economics, Bureau of the Census, and the National Bureau of Standards have completed reviews of all of their regulations. All Department regulations are scheduled tentatively for review by December 1982.

Schedule C lists regulations which appeared in the previous agendas but are deleted from Schedules A and B. The reasons for deletion are given. For example, a regulation previously under consideration was adopted or the scheduled review of an existing regulation was completed. Where appropriate a **Federal Register** citation is provided.

Nine of the 13 primary operating units of the Department report regulations under consideration.

There are 174 regulations in the Department's agenda. Of the total, 101 are regulations under consideration (Schedule A) and 73 are existing regulations scheduled for review (Schedule B).

Of the 101 regulations reported under consideration, 64 are determined to be significant by agency heads. Thirty-two are considered not significant and the significance of five is unknown. Twenty-eight regulatory analyses are being prepared (see Schedule A).

As noted above, the significance of five regulations is not known. In these instances, the regulations under consideration have not reached the notice of proposed rulemaking stage or action on the regulation is not scheduled for at least six months.

A large number of the regulations presented in the agenda deal with fish management programs under NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of the NMFS's programs, a section on "Explanation of Information Contained in NMFS's Regulatory Entries" is provided below.

Explanation of Information Contained in NMFS's Regulatory Entries

The Fishery Conservation and Management Act of 1976 (the Act), 16 U.S.C. 1801 *et. seq.*, requires that a preliminary fishery management plan (PMP) be prepared for all fisheries within a fishery conservation zone (FCZ) fished in by foreign fishing nations. The FCZ refers to those waters from the outer edge of the United States territorial sea to a distance of 200 miles (i.e., in which there is domestic fishing). Fishery management plans (FMPs) are to be prepared if those fisheries require conservation and management measures. Although PMPs apply only to foreign fishing, the FMPs regulate both foreign and domestic fishing. When promulgated, the FMPs supersede the PMPs. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs for fisheries within their respective areas.

The Act requires that certain standards be met in regulated fisheries. Among the factors, the optimum yield of the fisheries is to be specified. This entails the development of appropriate regimes to insure sound management of involved stocks while taking into account relevant biological, social, and economic factors. Domestic fishermen are given a preferred status by the Act. However, for those fisheries in which the optimum yield is greater than the domestic harvest, foreign nations are permitted to fish, provided certain conditions are met. For each fishery, the total allowable level of foreign fishing (TALFF) is determined. The TALFF is allocated among foreign nations by the Secretary of State. Governing International Fishery Agreements are executed between the United States and nations desiring to fish. Allocations are based on standards such as historic fishing rights and reciprocal fishing privileges. Also, vessels of foreign nations are to apply for and receive permits to fish in the FCZ.

Classes of domestic fishermen may be allocated shares of the harvest in fisheries regulated under FMPs. Such allocations are not be be discriminatory and must relate to the conservation and management of the fishery. There can be allocations between the commercial and recreational sectors of the fishery.

In the allocation of fish stocks, fish caught as a result of directed effort (target catch), and fish caught incidentally (incidental catch) are taken into account. Various management tools are used to regulate fisheries. These include limitations based on certain types of gear (e.g., bottom trawls, longlines), seasons, and the necessity of opening or closing areas to fishing based upon gear conflicts, conditions of the stocks, or other factors.

The initiation of FMPs is the responsibility of the eight Councils. Guidelines for the development of the FMPs are published in the **Federal Register**. In the development of such plans (and regulations), the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs, in conjunction with the DOC practive of publishing an agenda covering a 12-month, rather than a 6-month period, makes it difficult for the NMFS to determine the significance of some regulatory actions under consideration at the time the semiannual regulatory agenda is published. Frequently, the NMFS does not have specific plan objectives or alternatives for management since the Councils have neither approved nor submitted plans to the Secretary of Commerce for review, adoption and implementation.

Public Participation Summary

Legal Authority: The Department's General Counsel decided that where no statutes forbid establishment of a public participation funding program, Department funds can be used when the participation is considered necessary and lack of funding would preclude participation.

Supervision: The Consumer Affairs Office, in conjunction with the Office of Regulatory Policy, coordinates consumer participation responsibilities throughout the Department. The Consumer Affairs Office and consumer contact persons in the operating units are responsible for assuring that timely and meaningful consumer participation occurs throughout the development and review of the Department's rules, policies and programs.

Participation Mechanisms and Special Features

—Notices of proposed and final rules, programs, and policies will appear in the **Federal Register.**

—Quarterly notices for forthcoming rulemaking activities are disseminated to consumer representatives and consumer media by the Consumer Affairs Office, and to other constituents by the Regional Representatives of the Secretary of Commerce.

—Funds will be made available whenever possible to enable consumer representatives to give in-depth advice and assistance on major policy or program initiatives. For example, the Office of Consumer Affairs has funded a project for consumer representatives to develop guidelines for business in five general areas of consumer interest.

—Informal meetings and briefings will be arranged between Commerce officials and consumer leaders to discuss emerging or ongoing problems and issues, as well as policy and program developments.

Special Unit Programs for Public Participation

—National Bureau of Standards (NBS): The NBS Center for Consumer Product Technology (Center), in conjunction with Underwriters Laboratories, the American Society for Testing and Materials, the National Fire Protection Association, and the American National Standards Institute, maintains a Consumer Sounding Board network to ensure that consumer input on activity is obtained. The Consumer Sounding Boards are composed of a demographic cross-section of consumers convened to provide direct consumer involvement in standards-making programs. The Center's programs are reviewed annually by a panel appointed by the National Academy of Sciences. This panel is composed of individuals from industry, academic institutions, government, and consumer interest groups. The Center works with the National Conference on Weights and

Measures which is composed of State

which awards matching grants yearly

Measures which is composed of State and local government representatives who have responsibility for consumer issues. The Center will continue to seek consumer involvement.

—NOAA/NMFS: The Administrator of NOAA may provide compensation for reasonable attorney's fees, fees and costs of experts and other costs of participation incurred by eligible participants in any NOAA proceeding involving a hearing in which there may be public participation. Rules governing NOAA's public participation program are in 15 CFR Part 904.

The Marine Fishery Advisory Committee (MAFAC), composed of approximately 25 presentatives from industry, academic institutions and consumer groups, advises the NMFS on fishery activities. The MAFAC Subcommittee on Consumer Affairs covers consumer-related fishery activities.

Under the authority of the Fishery Conservation and Management Act of 1976, eight Fishery Management Councils were established. The membership of the Councils is required by the Act to have fisheries expertise. The majority of the members are appointed by the Secretary, based on the recommendation of the Governors of the Coastal States. These appointments include consumer members. The NMFS consumer affairs personnel are actively pursuing strengthened consumer representation on these Councils. In addition, the NMFS is planning regional workshops to be held in conjunction with the Councils to encourage and expand consumer participation.

—NTIA: NTIA is in the process of establishing an advisory committee which will offer advice on grant applications under the Public Telecommunications Facilities Program and on the development of public telecommunications policy. The proposed advisory committee will have 20 members. One seat is reserved for a representative of a public interest or consumer organization.

Special Unit Programs for Funding Assistance

The Department is giving special attention to developing new procedures and funding sources for consumer participation in its regulatory proceedings.

—NOAA: NOAA issued regulations in 1978 for funding public participation in its rulemaking proceedings (43 FR 17806, April 26, 1978).

—NTIA: NTIA is establishing funding procedures for public participation. The procedures relate primarily to the Public Telecommunications Facilities Program which awards matching grants yearly for the development and expansion of public telecommunications services. The agency's final rules will be published in the **Federal Register.**

—Other operating units such as the International Trade Administration and the Minority Business Development Agency are also exploring funding procedures.

Technical Assistance

The operating units, with advice from the Consumer Affairs Office, will determine staff responsibilities, assistance procedures and types of technical assistance for consumers. For example, NTIA's Public Telecommunications Facilities Program provides technical assistance upon request to potential applicants and to other groups interested in public telecommunications. Also, NTIA prepares materials explaining the process of obtaining matching grants for telecommunications facilities. This information is distributed to individuals, public interest groups, the trade press, publishers, journals, and other media.

The NMFS plans to hold individual consultations and workshops for consumer-interest groups to provide technical assistance in preparing proposals for cost-sharing funding under the Fisheries Financial Assistance Program.

Public Participation Documents

During FY 81, the Office of Regulatory Policy and the Consumer Affairs Office will develop general guidelines for consumer participation to be used throughout the Department.

Contact Person: Marti Yocum, Acting Director of Consumer Affairs, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 377–5001.

Philip M. Klutznick,

Secretary of Commerce.

BILLING CODE 3510-BJ-M

SCHEDULE A - DOC SEMIANNUAL AGENDA OF PENDING REGULATIONS
NOVEMBER 14, 1980

Department—Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
ADMIN	Section 504 of the Rehabilitation Act of 1973	Alice K. Hein Ofc. of Civil Rights (202) 377-4993		x			x	
ADMIN	Age Discrimination Act of 1975 (As Amended)	Alice K. Hein Ofc. of Civil Rights (202) 377-4993		x			x	
ADMIN	Public Information, Freedom of Information (15 CFR Subtitle A, Part 4)	Donald S. Budowsky Ofc. of Organization & Mgmt. Systems (202) 377-4217		x			x	
EDA	Miscellaneous Technical Amendments Regarding the Administration of Programs (13 CFR 302.41(b), 303.4-1(d)(3), 305.5(f), 305.8, 305.95, 309.4, 309.28)	Otto B. Bird Ofc. of Chf. Counsel (202) 377-5441		x			x	
EDA	Environmental Requirements (13 CFR 309.18)	Andrew Kauders Spec. Asst. for the Environment (202) 377-4208		x			x	
EDA	Hospitals, Nursing Homes and Convalescent Care Facilities (13 CFR 305.42)	Otto B. Bird Ofc. of Chf. Counsel (202) 377-5441		x			x	
ITA	Energy Regulation 1: Allocation Regulations (Old 32A CFR Part 671)	Iain S. Baird Ofc. of Industrial Mobilization (202) 377-2233			x			x
NOAA	Requirements and Procedures for the Administration of Condition Surveys and Maintenance and Repair Subsidy (46 CFR Part 272)	John J. Davis Div. of Ship Mgmt. (202) 377-3640		x			x	
MARAD	Construction-Differential Subsidy (CDS) Repayment: Total Repayment Policy and Procedure (46 CFR Part 276)	William B. Ebersold Ofc. of Trade Studies & Statistics (202) 377-4791		x			x	

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SCHEDULE A - DOC SEMIANNUAL AGENDA OF PENDING REGULATIONS
NOVEMBER 14, 1980

Department—Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA	Fishery Management Plan for Billfish and Sharks	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Spiny Lobster	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Shrimp	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Reef Fish	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Coastal Migratory Pelagic Resources	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Stone Crab	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Coral and Coral Reefs	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Swordfish	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Tunas	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Sea Scallop	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Mackerel, Squid and Butterfish	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Menhaden	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Herring	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Groundfish	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Anadromous Species	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Coastal Migratory Pelagic Resources	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Billfish and Sharks	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Spiny Lobster	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Shrimp	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Reef Fish	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Stone Crab	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Coral and Coral Reefs	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Tilefish	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Surfclam and Ocean Quahog	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Salmon	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Red Crab	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Deep Sea Lobster	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Dolphin	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Wahoo	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Bonito and Atlantic Barracuda	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Blue Runner, Jack, Crevalle, Rainbow Runner, Blue Runner, Bar Jack, Almaco Jack, and Banded Rudderfish	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Cobia	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Spadefishes	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Sheepshead	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Red Porgy	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Black Sea Bass	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Scup	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Weakfish	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Bluefish	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Spanish Mackerel	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic King Mackerel	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Cero	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Dolphin	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Wahoo	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Bonito and Atlantic Barracuda	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Blue Runner, Jack, Crevalle, Rainbow Runner, Blue Runner, Bar Jack, Almaco Jack, and Banded Rudderfish	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Cobia	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Spadefishes	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Sheepshead	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Red Porgy	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Black Sea Bass	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Scup	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Weakfish	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Bluefish	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Spanish Mackerel	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic King Mackerel	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x
NOAA	Fishery Management Plan for Atlantic Cero	Richard Stone Ofc. of Fishery Management (202) 634-7459			x			x

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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
MARAD	Documentation Transfer or Charter of Vessels (46 CFR Part 221)	Virginia O'Brien Ofc. of Ship Operations (202) 377-3213	X				X	
MARAD	Construction-Differential Subsidy (CDS) Requirements for Aid (46 CFR Part 251) - Entire Part	James E. Saari Ofc. of Gen. Counsel (202) 377-2771	X				X	
MARAD	Cargo Preference - U.S. Flag Vessels - Determination of Fair and Reasonable Rates (46 CFR 381.8, 381.9, and New Part 382)	Frederick R. Larson Ofc. of Ship Operating Costs (202) 377-5532	X				X	
MARAD	Merchant Marine Training (46 CFR Part 310)	Kathleen A. Shetler Ofc. of Maritime Labor & Training (202) 377-5653	X				X	
MARAD	Award and Administration of Operating-Differential Subsidy (ODS) for Dry Bulk Cargo Vessels (46 CFR Part 254)	Frederick R. Larson Ofc. of Ship Operating Costs (202) 377-2771	X				X	
MARAD	Construction-Differential Subsidy (CDS) Standard Contracts (46 CFR Part 251)	Melvin S. Eck Ofc. of Gen. Counsel (202) 377-2771	X				X	
MARAD	Requirements for Establishing United States Citizenship (46 CFR Part 355)	Doris Lansberry Ofc. of Gen. Counsel (202) 377-2506	X				X	
MARAD	Federal Tax Aspects of the Capital Construction Fund (46 CFR Part 391)	E. A. Uttridge Ofc. of Subsidy Contracts (202) 377-3797	X				X	

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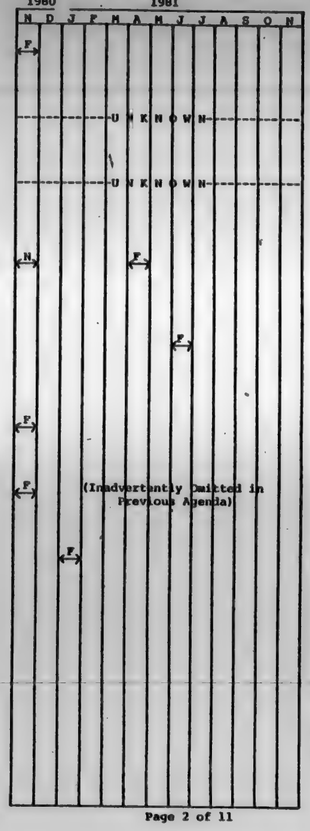

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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
MARAD	Rules of Practice and Procedure; Procedure for Hearing on Operating-Differential Subsidy (ODS) Applications; Applications for Subsidies and Other Direct Financial Aid (46 CFR Parts 201, 208 (New), and 251)	Robert J. Patton Acting Secretary, MARAD (202) 377-2188	X				X	
MBDA	MBDA Financial Assistance Awards	John Smith Ofc. of Gen. Counsel (202) 377-4939	X				X	
NOAA/NMFS	Atlantic Butterfish Fishery Management Plan (FMP)	Allen E. Peterson, Jr. Northeast Region (617) 281-3600	X			X		
NOAA/NMFS	Extension of Commercial/Recreational Salmon Off California, Oregon and Washington Fishery Management Plan (FMP) (50 CFR Part 661) (Fishing Year 1981)	Herbert Larkins Northwest Region (206) 442-7575	X			X		
NOAA/NMFS	Designation of Critical Habitat for the Hawaiian Monk Seal (50 CFR Part 222)	Alan W. Ford Southwest Region (213) 548-2575	X				X	
NOAA/NMFS	Regulation Declaring Restricted Fishing Areas (Port Canaveral and Other Areas) (50 CFR Parts 222 and 227)	Richard B. Roe Ofc. of Marine Mammals & Endangered Species (202) 634-7461	X					X
NOAA/NMFS	Fish and Wildlife Coordination Act, Uniform Procedures for Compliance	James W. Rote Ofc. of Habitat Protection (202) 634-7409	X				X	
NOAA/NMFS	Precious Coral Fishery Management Plan (FMP) (Western Pacific)	Alan W. Ford Southwest Region (213) 548-2575	X			N		
NOAA/NMFS	Reef Fish Resources of the Gulf of Mexico Fishery Management Plan (FMP)	Harold B. Allen Southeast Region (813) 893-3141	N			X		
NOAA/NMFS	Fishery Management Plan (FMP) for the Spiny Lobster Fishery of Puerto Rico and the Virgin Islands	Harold B. Allen Southeast Region (813) 893-3141	N			N		

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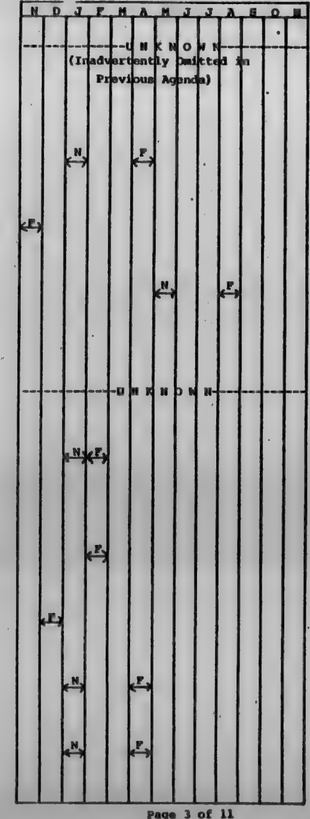

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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Coastal Migratory Pelagic Fishery Management Plan (FMP)	Harold B. Allen Southeast Region (813) 893-3141	X			X		
NOAA/NMFS	Fishery Management Plan (FMP) for Sharks and Other Elasmobranchs	Harold B. Allen Southeast Region (813) 893-3141	X			X		
NOAA/NMFS	Spiny Lobster Fishery Management Plan (FMP) (Western Pacific)	Alan W. Ford Southwest Region (213) 548-2575	X			X		
NOAA/NMFS	Fishery Management Plan (FMP) for the Shrimp Fishery of the Gulf of Mexico	Harold B. Allen Southeast Region (813) 893-3141	X			X		
NOAA/NMFS	Bering Sea and Aleutian Islands Groundfish Fishery Management Plan (FMP)	Robert W. McVey Alaska Region (907) 586-7229	X			X		
NOAA/NMFS	Amendments to Regulations to Control the Incidental Take of Porpoise in the Yellowfin Tuna Purse Seine Fishery	Richard B. Roe Ofc. of Marine Mammals & Endangered Species (202) 634-7461	X			X		
NOAA/NMFS	Tanner Crab Fishery Management Plan (FMP) Regulations (Alaska) (Amendment No. 5)	Robert W. McVey Alaska Region (907) 586-7221	X			X		
NOAA/NMFS	Tanner Crab Fishery Management Plan (FMP) Regulations (Alaska) (Amendment No. 7)	Robert W. McVey Alaska Region (907) 586-7221	X			X		
NOAA/NMFS	Bering Sea - Chukchi Sea Herring Fishery Management Plan (FMP)	Robert W. McVey Alaska Region (907) 586-7221	X			X		
NOAA/NMFS	Alaska King Crab Fishery Management Plan (FMP)	Robert W. McVey Alaska Region (907) 586-7221	X			X		
NOAA/NMFS	Pacific Billfish and Oceanic Sharks Fishery Management Plan (FMP) (Western Pacific)	Alan W. Ford Southwest Region (213) 548-2575	X			X		

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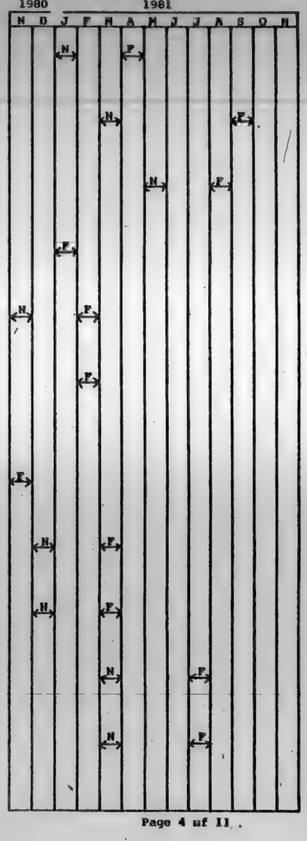

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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Groundfish Fishery Management Plan (FMP) (Southeast Region)	Harold B. Allen Southeast Region (813) 893-3141	X			X		
NOAA/NMFS	Caribbean Shallow Water Reef Fishery Management Plan (FMP)	Harold B. Allen Southeast Region (813) 893-3141	X			X		
NOAA/NMFS	Whaling (50 CFR Part 230)	Richard B. Roe Ofc. of Marine Mammals & Endangered Species (202) 634-7461	X				X	
NOAA/NMFS	High Seas Salmon Fishery Management Plan (FMP) (Amendment No. 2)	Robert W. McVey Alaska Region (907) 586-7221	X			X		
NOAA/NMFS	American Lobster Fishery Management Plan (FMP)	Bruce Nicholls Northeast Region (617) 281-3600	X			X		
NOAA/NMFS	Sea Scallops Fishery Management Plan (FMP)	Allen E. Peterson, Jr. Northeast Region (617) 281-3600	X			X		
NOAA/NMFS	Bluefish Fishery Management Plan (FMP)	Allen E. Peterson, Jr. Northeast Region (617) 281-3600	X			X		
NOAA/NMFS	Pink Shrimp Fishery Off Washington, Oregon, and California Fishery Management Plan (FMP)	Herbert Larkins Northwest Region (206) 442-7575	X			X		
NOAA/NMFS	Groundfish Amendment to the Atlantic Groundfish Fishery Management Plan (FMP) - Supplement No. 4 to the Final Environmental Impact Statement	Allen E. Peterson, Jr. Northeast Region (617) 281-3600	X			X		
NOAA/NMFS	Amendment to the Atlantic Groundfish Fishery Management Plan (FMP)- Supplement No. 5 to the Final Environmental Impact Statement	Allen E. Peterson, Jr. Northeast Region (617) 281-3600	X			X		

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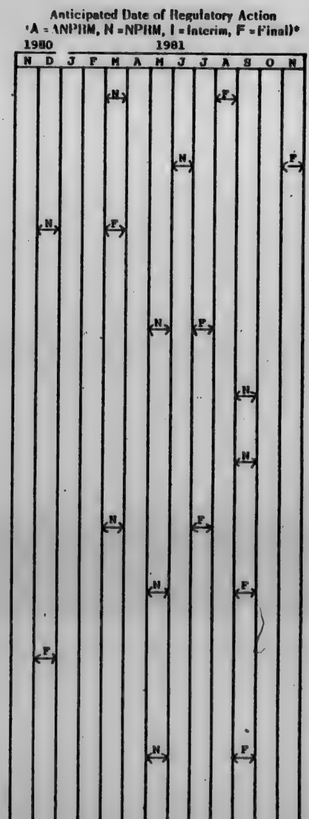

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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Surf Clam and Ocean Quahog Fishery Management Plan (FMP) (Amendment No. 3)	Bruce Nicholls Northeast Region (617) 281-3600	X			X		
NOAA/NMFS	Regulations for the U.S. Sockeye and Pink Salmon Fisheries Under the Fraser River Fishery Convention	Herbert Larkins Northwest Region (206) 442-7575	X			X		
NOAA/NMFS	Guidelines for Development of Fishery Management Plans (FMP) (50 CFR 602.2)	William G. Gordon Ofc. of Resource Conservation & Mgmt. (202) 634-7218	X				X	
NOAA/NMFS	Bering Sea Snail Preliminary Fishery Management Plan (FMP) Regulations	Robert W. McVey Alaska Region (907) 586-7229		X			X	
NOAA/NMFS	Foreign Trawl Fisheries of Northwestern Atlantic Preliminary Fishery Management Plan (PMP) - Extension for 1981 Fishery	Frank Grice Northeast Region (617) 281-3600		X			X	!
NOAA/NMFS	Hake Preliminary Fishery Management Plan (PMP) - Extension for 1981 Fishery	Allen E. Peterson, Jr. Northeast Region (617) 281-3600		X			X	
NOAA/NMFS	Hake Preliminary Fishery Management Plan (PMP)	Allen E. Peterson, Jr. Northeast Region (617) 281-3600		X			X	
NOAA/NMFS	Pacific Billfish and Oceanic Sharks Preliminary Fishery Management Plan (FMP)	Alan W. Ford Southwest Region (213) 548-2575		X			X	
NOAA/NMFS	Determination of Critical Habitat for Endangered and Threatened Species of Sea Turtles in Mosquito Lagoon, Florida (50 CFR Part 226)	Richard B. Roe Ofc. of Marine Mammals & Endangered Species (202) 634-7461			X			X
NOAA/NMFS	Determination of Critical Habitat for Kemp's Ridley and Loggerhead Sea Turtles (50 CFR Part 226)	Richard B. Roe Ofc. of Marine Mammals & Endangered Species (202) 634-7461		X				X

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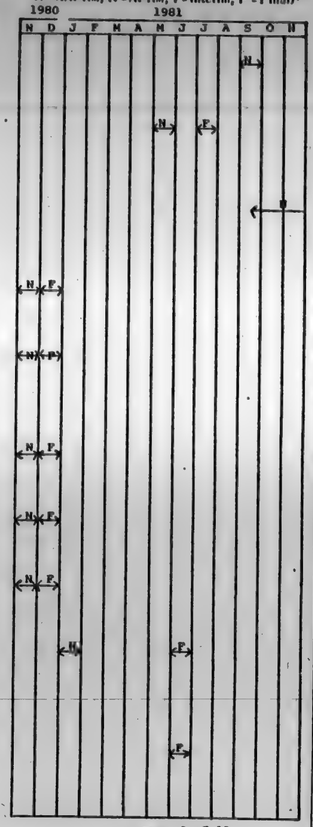

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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Section 7 of Endangered Species Act: Interagency Cooperation (50 CFR Part 402)	Richard B. Roe Ofc. of Marine Mammals & Endangered Species (202) 634-7461	X				X	
NOAA/NMFS	Scientific Research and Public Display Permit Regulations (Proposed 50 CFR Part 223)	R. B. Brumsted Ofc. of Marine Mammals & Endangered Species (202) 634-7529	X				X	
NOAA/NMFS	Trawl Fisheries of Washington, Oregon, and California Preliminary Fishery Management Plan (FMP) (Fishing Year 1981)	Herbert Larkins Northwest Region (206) 442-7575	X				X	
NOAA/NMFS	Trawl and Herring Gillnet Fishing in the Eastern Bering Sea Preliminary Fishery Management Plan (PMP)	Robert W. McVey Alaska Region (907) 586-7221	X				X	
NOAA/NMFS	Amendments of U.S. Yellowfin Tuna Regulations for the Atlantic Ocean	Alan W. Ford Southwest Region (213) 548-2575		X			X	
NOAA/NMFS	Amendments of U.S. Yellowfin Tuna Regulations for the Pacific Ocean	Alan W. Ford Southwest Region (213) 548-2575		X			X	!
NOAA/NMFS	Amendments to 50 CFR Part 251 (Financial Aid Program Procedures)	Michael L. Grable Financial Svcs. Div. (202) 634-7496	X				X	
NOAA/NMFS	Atlantic Mackerel Fishery Management Plan (FMP) (Amendment No. 1)	Allen E. Peterson, Jr. Northeast Region (617) 281-3600	X				X	
NOAA/NMFS	Atlantic Mackerel Fishery Management Plan (FMP) (Amendment No. 2)	Allen E. Peterson, Jr. Northeast Region (617) 281-3600	X				X	
NOAA/NMFS	Atlantic Butterfish Fishery Management Plan (FMP) (Amendment No. 1)	Allen E. Peterson, Jr. Northeast Region (617) 281-3600	X				X	

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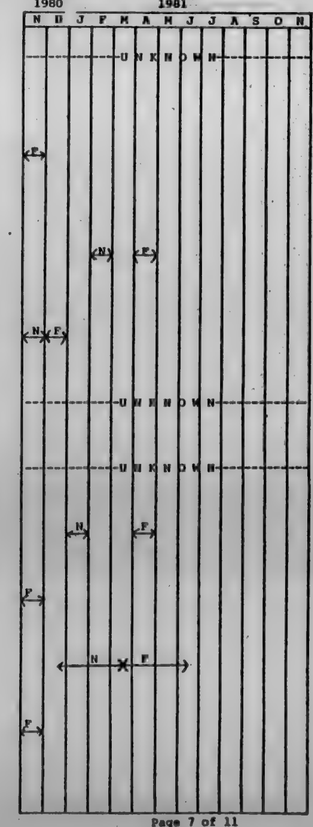

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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/NMFS	Atlantic Butterfish Fishery Management Plan (FMP) (Amendment No. 2)	Allen E. Peterson, Jr. Northeast Region (617) 281-3600	X			X		
NOAA/NMFS	Atlantic Squid Fishery Management Plan (FMP) (Amendment No. 2)	Allen E. Peterson, Jr. Northeast Region (617) 281-3600	X			X		
NOAA/NMFS	Tanner Crab Fishery Management Plan (FMP) Regulations (Alaska) (Amendment No. 6)	Robert W. McVey Alaska Region (907) 586-7221	X			X		
NOAA/NMFS	Gulf of Alaska Groundfish Fishery Management Plan (FMP) (Amendment No. 8)	Robert W. McVey Alaska Region (907) 586-7221	X			X		
NOAA/NMFS	Gulf of Alaska Groundfish Fishery Management Plan (FMP) (Amendment No. 9)	Robert W. McVey Alaska Region (907) 586-7221	X			X		
NOAA/NMFS	Seamount Groundfish Preliminary Fishery Management Plan (FMP)	Alan W. Ford Southwest Region (213) 548-2575	X			X		
NOAA/NMFS	Guidelines for Development of Fishery Management Plans (FMP) (50 CFR Part 602 - Subparts Addressing Content and Format (e.g., 602.3 and 602.4)	William G. Gordon Ofc. of Resource Conservation & Mgmt. (202) 634-7218		X		X		
NOAA/NMFS	Uniform Standards for Organization, Practices, and Procedures - Regional Fishery Management Councils (50 CFR Part 601, Subpart C)	William G. Gordon Ofc. of Resource Conservation & Mgmt. (202) 634-7218	X			X		
NOAA/NMFS	Whaling (50 CFR Part 351)	Richard B. Roe Ofc. of Marine Mammals & Endangered Species (202) 634-7461		X				X
NOAA/NMFS	Termination of Utility Services (50 CFR Part 215)	Walter Kirkness Northwest Region (206) 442-7777	X			X		

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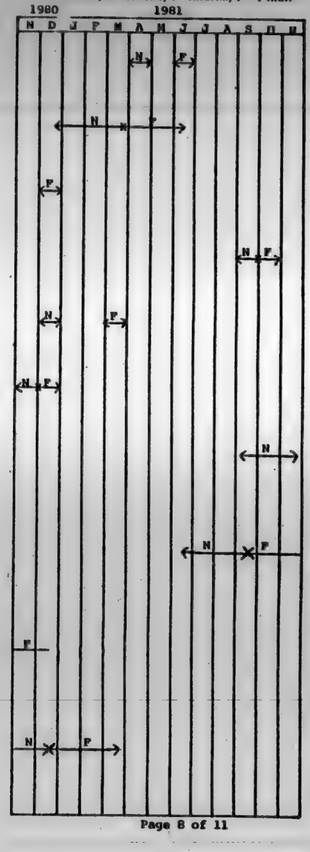

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Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/OCZM	Federal Consistency with Approved Coastal Management Programs	Jane P. Rogers Ofc. of Policy (202) 634-4245	X			X		
NOAA/OCZM	Regulations for Improving the Achievement of Coastal Zone Management Objectives	Jane P. Rogers Ofc. of Policy (202) 634-4245	X			X		
NOAA/OCZM	Review of the Performance of Coastal States with Respect to Coastal Management	Jane P. Rogers Ofc. of Policy (202) 634-4245	X			X		
NOAA/OCZM	Revision of the Regulations for Allocating Funds Under the Coastal Energy Impact Program	Jane P. Rogers Ofc. of Policy (202) 634-4245		X		X		
NOAA/OCZM	Estuarine Sanctuary Regulations	James MacFarland Sanctuary Programs Office (202) 653-7301		X		X		
NOAA/OCZM	Final Regulations for Key Largo Coral Reef Marine Sanctuary	Nancy Foster Sanctuary Programs Office (202) 634-4236	X			X		
NOAA/OCZM	Regulations for Proposed Looe Key Marine Sanctuary	Nancy Foster Sanctuary Programs Office (202) 634-4236	X			X		
NOAA/OCZM	Regulations for Proposed Monterey Bay Marine Sanctuary	Nancy Foster Sanctuary Programs Office (202) 634-4236	X			X		
NOAA/OCZM	Regulations for Proposed Point Reyes/Farallon Islands Marine Sanctuary	Nancy Foster Sanctuary Programs Office (202) 634-4236	X			X		
NOAA/OCZM	Regulations for Proposed Flower Garden Banks Marine Sanctuary	Nancy Foster Sanctuary Programs Office (202) 634-4236	X			X		

Anticipated Date of Regulatory Action
(A = ANPRM, N = NPRM, I = Interim, F = Final)*

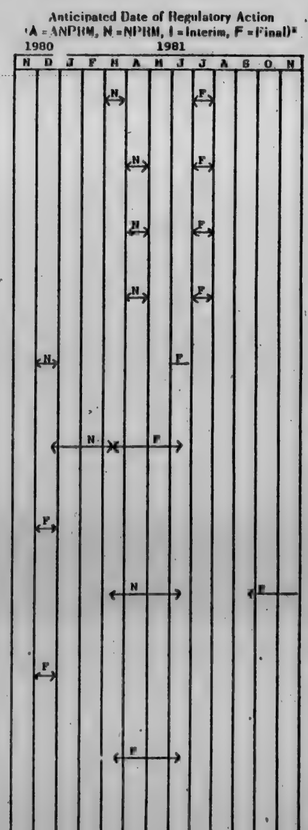

* A = Advanced Notice of Proposed Rulemaking; N = Notice of Proposed Rulemaking; I = Interim Rule; F = Final Rule.

Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
NOAA/OCZM	Regulations for Proposed St. Thomas Marine Sanctuary St. Thomas, Virgin Islands	Nancy Foster Sanctuary Programs Office (202) 634-4236	X				X	
*OCE/CENSUS	Foreign Trade Statistics (15 CFR Part 30)	Emerson Jones Foreign Trade Division (301) 763-7982		X			X	
ORD	Amendments to Rules Covering Regional Action Planning Commissions (13 CFR, Chapter V)	Frances Pappas Program Officer (202) 377-5174		X			X	
PTI/PTO	Patent Interference Proceedings (37 CFR 1.225, 1.231, 1.253, 1.254, 1.258 and 1.288)	Ian A. Calvert Chairman, Board of Patent Interferences (703) 557-3625	X				X	
PTI/PTO	Correction of Inventorship (37 CFR 1.45, 1.48 and 1.324)	Louis O. Maassel Editor, Manual of Patent Examining Procedures (703) 557-3070	X				X	
PTI/PTO	Deposit of Computer Program Listings (37 CFR 1.71, 1.77 and 1.96)	Louis O. Maassel Editor, Manual of Patent Examining Procedures (703) 557-3070	X				X	
PTI/PTO	File Wrapper Continuing Application Procedure (37 CFR 1.62 and 1.138)	Louis O. Maassel Editor, Manual of Patent Examining Procedures (703) 557-3070	X				X	
PTI/PTO	Professional Conduct of and Advertising by Persons Registered to Practice Before the PTO (37 CFR 1.344, 1.345, 2.13 and 2.14)	Harry I. Moatz Assistant Solicitor (703) 557-2238	X				X	

Anticipated Date of Regulatory Action
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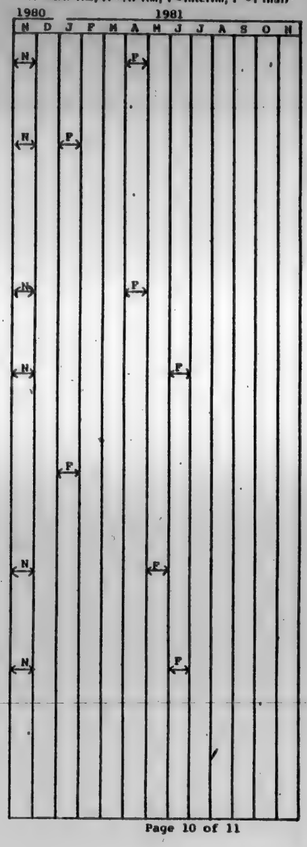

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* A = Advanced Notice of Proposed Rulemaking; N = Notice of Proposed Rulemaking; I = Interim Rule; F = Final Rule.

Department Unit	Title of Regulation Under Consideration	Contact Person	Is Regulation Significant? Yes	No	Unknown	Is Regulatory Analysis Required? Yes	No	Unknown
PTI/PTO	Compulsory Counterclaims in Trademark Opposition and Cancellation Proceedings (37 CFR 2.106 and 2.114)	David J. Kera Trademark Trial & Appeal Board (703) 557-3551	X				X	
PTI/PTO	Continuation-In-Part Application Oath or Declaration (37 CFR 1.65, 3.18 and 3.18(a)	Louis O. Maassel Editor, Manual of Patent Examining Procedures (703) 557-3070	X				X	
PTI/PTO	Requests for Identifiable Records (37 CFR 1.15)	John W. Dewhirst Associate Solicitor (703) 557-3542	X				X	
PTI/PTO	Secrecy of Certain Inventions and Licenses to File Applications in Foreign Countries (37 CFR Part 5)	E. W. Engle Special Laws Admin. Group (703) 557-2897	X				X	
PTI/PTO	Ex Parte Prosecution of Trademark Applications, Inter Partes Proceedings Before the Trademark Trial and Appeal Board, Petitions to the Commissioner and Post-Registration Requirements (37 CFR 2.20, 2.27, 2.63, 2.65, 2.81, 2.88, 2.94-2.135, 2.142, 2.146, 2.165, 2.173, 2.184 and 2.186)	David J. Kera Trademark Trial & Appeal Board (703) 557-3551	X				X	

Anticipated Date of Regulatory Action
(A = ANPRM, N = NPRM, I = Interim, F = Final)

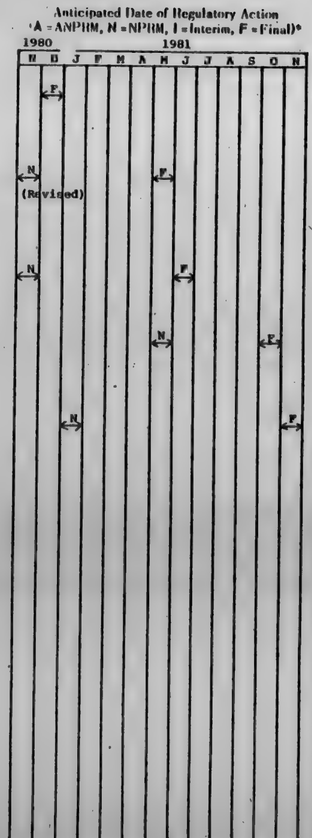

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* A = Advanced Notice of Proposed Rulemaking; N = Notice of Proposed Rulemaking; I = Interim Rule; F = Final Rule.

SCHEDULE B: REGULATIONS SELECTED FOR REVIEW BY DOC DEPARTMENT UNITS

TITLE OF REGULATION	RESPONSIBLE DEPARTMENT UNIT	LEGAL AUTHORITY	PROPOSED DATE FOR START OF REVIEW	TARGET DATE FOR COMPLETION OF REVIEW	CONTACT PERSON AND TELEPHONE NUMBER
Non-Discrimination in Federally Assisted Programs of the DOC-Implementation of Title VI of the Civil Rights Act of 1964 (15 CFR 8.1-15)	ADMIN	42 U.S.C. 2000-1	Under Review	Winter 1980	Alice K. Helm Ofc. of Civil Rights (202) 377-4993
Operation of Vending Stands	ADMIN	49 Stat. 1559	Under Review	December 1980	Tony Stadeker Ofc. of Administrative Svcs. (202) 377-4501
Procedure for Handling and Settlement of Claims Under the Federal Tort Claims Act	ADMIN	28 U.S.C. 2671-2680	Under Review	December 1980	Meir Gabbay Ofc. of the Controller (202) 377-4407
Instruments and Apparatus for Educational and Scientific Institutions (15 CFR Part 301)	ITA	19 U.S.C. 1202	Under Review	Summer 1981	Richard Seppa Statutory Import Programs Staff (202) 377-1660
Foreign Excess Property Regulations (15 CFR Part 302)	ITA	40 U.S.C. 512	Unknown 1/	Unknown	Richard Seppa Statutory Import Programs Staff (202) 377-1660
Defense Materials System and Defense Priorities System (15 CFR Parts 330-32, 350, and 353-4)	ITA	50 U.S.C. App. 2061 et. seq., Executive Order 10480	Under Review	Fall 1980	Iain S. Baird Ofc. of Industrial Mobilization (202) 377-2233
Defense Materials System Order 1: Iron and Steel (15 CFR Part 340)	ITA	50 U.S.C. App. 2061 et. seq., Executive Order 10480	Under Review	Fall 1980	Iain S. Baird Ofc. of Industrial Mobilization (202) 377-2233
Defense Materials System Order 2: Nickel Alloys (15 CFR Part 341)	ITA	50 U.S.C. App. 2061 et. seq., Executive Order 10480	Under Review	Fall 1980	Iain S. Baird Ofc. of Industrial Mobilization (202) 377-2233
Defense Materials System Order 3: Aluminum (15 CFR Part 342)	ITA	50 U.S.C. App. 2061 et. seq., Executive Order 10480	Under Review	Fall 1980	Iain S. Baird Ofc. of Industrial Mobilization (202) 377-2233
Defense Materials System Order 4: Copper and Copper-Base Alloys (15 CFR Part 343)	ITA	50 U.S.C. App. 2061 et. seq., Executive Order 10480	Under Review	Fall 1980	Iain S. Baird Ofc. of Industrial Mobilization (202) 377-2233
DPS Regulation 2: Operations of the Priorities and Allocations System Between Canada and the United States (15 CFR Part 351)	ITA	50 U.S.C. App. 2061 et. seq., Executive Order 10480	Under Review	Fall 1980	Iain S. Baird Ofc. of Industrial Mobilization (202) 377-2233
DPS Regulation 3: Compliance and Enforcement Procedures (15 CFR Part 352)	ITA	50 U.S.C. App. 2061 et. seq., Executive Order 10480	Under Review	Fall 1980	Iain S. Baird Ofc. of Industrial Mobilization (202) 377-2233
Effects of Imported Articles on the National Security (15 CFR Part 359)	ITA	19 U.S.C. 1862	Under Review	November 1980	John A. Richards Ofc. of Industrial Mobilization (202) 377-3695
China Trade Act Corporations (15 CFR Part 363)	ITA	15 U.S.C. 141-162	Unknown	Unknown	Harry R. Stringer, Jr. Ofc. of Country Marketing (202) 377-2210

*Regulation deemed significant by DOC Department unit
**Regulatory analysis to be required

1/ Pending legislation proposed by Commerce has been submitted to Congress. Upon enactment of the legislation, Part 302 would be revised within 90 days.

TITLE OF REGULATION	RESPONSIBLE DEPARTMENT UNIT	LEGAL AUTHORITY	PROPOSED DATE FOR START OF REVIEW	TARGET DATE FOR COMPLETION OF REVIEW	CONTACT PERSON AND TELEPHONE NUMBER
*Export Administration Regulations (15 CFR Parts 368 and 370-399)	ITA	50 U.S.C. App. 2401 et. seq.	Under Review**	May 1981	Kent Knowles Ofc. of Export Admin. (202) 377-4293
General Regulations Governing Foreign-Trade Zones in the United States, with Rules of Procedure (15 CFR Part 400)	ITA	19 U.S.C. 81a-81u	Fall 1980	Fall 1981	B. Waring Partridge, III Ofc. of Import Admin. (202) 377-1782
*Antidumping Duties and Countervailing Duties (19 CFR Parts 353 and 355)	ITA	5 U.S.C. 301, P.L. 96-39	Under Review	Spring 1981	B. Waring Partridge, III Ofc. of Import Admin. (202) 377-1782
*Operating-Differential Subsidy (ODS) Rates for Liner Vessels - New Part (Procedures now published in a manual; will be revised and published in regulation form)	MARAD	46 U.S.C. 1114(b)	Under Review	November 1980	Frederick R. Larson Ofc. of Ship Operating Costs (202) 377-5532
*Operating-Differential Subsidy (ODS) for Bulk Cargo Vessels Engaged in Carrying Grain to the U.S.S.R. (46 CFR Part 294) - Entire Part	MARAD	46 U.S.C. 1114(b)	January 1981	April 1981	Frederick R. Larson Ofc. of Ship Operating Costs (202) 377-5532
*Operating-Differential Subsidy (ODS) for Bulk Cargo Vessels Engaged in Worldwide Service (46 CFR Part 252) - Entire Part	MARAD	46 U.S.C. 1114(b)	Under Review	November 1980	Frederick R. Larson Ofc. of Ship Operating Costs (202) 377-5532
*Limitations on the Award of Operating-Differential Subsidy (ODS) for Liner Operators (46 CFR Part 280) - Entire Part	MARAD	46 U.S.C. 1114(b)	February 1981	April 1981	E. A. Uttridge Ofc. of Subsidy Contracts (202) 377-3797
Establishment of Construction Reserve Funds (46 CFR Part 267)	MARAD	46 U.S.C. 1114(b)	Under Review	December 1980	E. A. Uttridge Ofc. of Subsidy Contracts (202) 377-3797
Valuation of Vessels for Determining Capital Employed and Net Earnings Under Operating-Differential Subsidy (ODS) Agreements (46 CFR Part 284)	MARAD	46 U.S.C. 1114(b)	Under Review	December 1980	E. A. Uttridge Ofc. of Subsidy Contracts (202) 377-3797
*Operating-Differential Subsidy (ODS) for Bulk Cargo Vessels in the United States Foreign Commerce on the Great Lakes, Connecting Rivers, St. Lawrence River and Gulf of St. Lawrence (46 CFR Part 279) - Entire Part	MARAD	46 U.S.C. 1114(b)	January 1981	April 1981	Frederick R. Larson Ofc. of Ship Operating Costs (202) 377-5532
*Capital Construction Fund (46 CFR Part 390)	MARAD	46 U.S.C. 1114(b)	Under Review	November 1980	E. A. Uttridge Ofc. of Subsidy Contracts (202) 377-3797
Payments of Capital Reserve Fund (46 CFR Part 255)	MARAD	46 U.S.C. 1114(b)	Under Review	December 1980	E. A. Uttridge Ofc. of Subsidy Contracts (202) 377-3797

*Regulation deemed significant by DOC Department unit
**Regulatory analysis to be required

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TITLE OF REGULATION	RESPONSIBLE DEPARTMENT UNIT	LEGAL AUTHORITY	PROPOSED DATE FOR START OF REVIEW	TARGET DATE FOR COMPLETION OF REVIEW	CONTACT PERSON AND TELEPHONE NUMBER
*National Shipping Authority (NSA) Review of 28 Regulations that were transferred from 32A CFR Chapter XVIII to 46 CFR Chapter II (Parts 315-339 and 345-347)	MARAD	50 U.S.C. App. 1744	Under Review	Completion of Reviews will start December 1980. Subsequent Agenda(s) will provide progress on these reviews.	Arys H. Huisinga Ofc. of Ship Operations (202) 377-5157 (Pts. 315-39) Armour S. Armstrong Ofc. of Port & Intermodal Development (202) 377-4123 (Pts. 345-47)
*Value for War Risk Insurance (46 CFR Part 309)	MARAD	46 U.S.C. 1114(b)	January 1981	April 1981	K. H. Green Div. of Marine Insurance (202) 377-4820
*Marine Mammals: Pribilof Islands (General) (50 CFR Part 215, Subpart A)	NOAA/NMFS	P.L. 89-702 16 U.S.C. 1151-1187	Under Review	Summer 1981	Georgia Cranmore Ofc. of Marine Mammals & Endangered Species (202) 634-1792
*Marine Mammals: Pribilof Islands Public Display of Living Fur Seals (50 CFR Part 215, Subpart B)	NOAA/NMFS	P.L. 89-702 16 U.S.C. 1151-1187	Under Review	Summer 1981	Gary Barone Ofc. of Marine Mammals & Endangered Species (202) 634-7461
*Marine Mammals: Pribilof Islands (Administration) (50 CFR Part 215, Subpart C)	NOAA/NMFS	P.L. 89-702 16 U.S.C. 1151-1187	Under Review	Summer 1981	Georgia Cranmore Ofc. of Marine Mammals & Endangered Species (202) 634-1792
Regulations Governing the Taking and Importing of Marine Mammals: Introductions and Prohibitions (50 CFR Part 216, Subparts A and B)	NOAA/NMFS	P.L. 92-522 16 U.S.C. 1361-1407	Under Review	Summer 1981	Gary Barone Ofc. of Marine Mammals & Endangered Species (202) 634-7461
Regulations Governing the Taking and Importing of Marine Mammals: Penalties and Procedures for Their Assessment (50 CFR Part 216, Subpart F)	NOAA/NMFS	P.L. 92-522 16 U.S.C. 1361-1407	January 1981	Not Determined	Steve Powell Ofc. of Asst. Gen. Counsel for Enforcement & Lit. (202) 254-8350
Regulations Governing the Taking and Importing of Marine Mammals: Notice and Hearing on Section 103 Regulations (50 CFR Part 216, Subpart G)	NOAA/NMFS	P.L. 92-522 16 U.S.C. 1361-1407	Summer 1981	Not Determined	Eric Erdheim Ofc. of Asst. Gen. Counsel (301) 443-8066
Regulations Governing the Taking and Importing of Marine Mammals: Approval and Review of State Laws and Regulations (50 CFR Part 216, Subpart H)	NOAA/NMFS	P.L. 92-522 16 U.S.C. 1361-1407	Summer 1981	Not Determined	Ronald Naveen Ofc. of Asst. Gen. Counsel - Fisheries (202) 634-4224
Regulations Governing the Taking and Importing of Marine Mammals: Actions Permitted by International Treaty, Convention, or Agreement (50 CFR 216.21)	NOAA/NMFS	P.L. 92-522 16 U.S.C. 1361-1407	January 1981	Not Determined	Georgia Cranmore Ofc. of Marine Mammals & Endangered Species (202) 634-1792

*Regulation deemed significant by DOC Department unit
**Regulatory analysis to be required

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TITLE OF REGULATION	RESPONSIBLE DEPARTMENT UNIT	LEGAL AUTHORITY	PROPOSED DATE FOR START OF REVIEW	TARGET DATE FOR COMPLETION OF REVIEW	CONTACT PERSON AND TELEPHONE NUMBER
Regulations Governing the Taking and Importing of Marine Mammals: Taking by State and Local Government Officials (50 CFR 216.22)	NOAA/NMFS	P.L. 92-522 16 U.S.C. 1361-1407	Under Review	Summer 1981	Thomas McIntyre Ofc. of Marine Mammals & Endangered Species (202) 634-7529
*Regulations Governing the Taking and Importing of Marine Mammals: Native Exceptions (50 CFR 216.23)	NOAA/NMFS	P.L. 92-522 16 U.S.C. 1361-1407	Under Review	June 1981	Georgia Cranmore Ofc. of Marine Mammals & Endangered Species (202) 634-1792
*Regulations Governing the Taking and Importing of Marine Mammals: Taking and Related Acts Incidental to Commercial Fishing Operations (50 CFR 216.24)	NOAA/NMFS	P.L. 92-522 16 U.S.C. 1361-1407	Summer 1981	Spring 1982	Thomas McIntyre Ofc. of Marine Mammals & Endangered Species (202) 634-7529
Regulations Governing the Taking and Importing of Marine Mammals: Excepted Marine Mammals and Marine Mammal Products (50 CFR 216.25)	NOAA/NMFS	P.L. 92-522 16 U.S.C. 1361-1407	January 1981	Not Determined	Thomas McIntyre Ofc. of Marine Mammals & Endangered Species (202) 634-7529
Regulations Governing the Taking and Importing of Marine Mammals: Collection of Certain Marine Mammals Parts (50 CFR 216.26)	NOAA/NMFS	P.L. 92-522 16 U.S.C. 1361-1407	January 1981	December 1981	Thomas McIntyre Ofc. of Marine Mammals & Endangered Species (202) 634-7529
*Regulations Governing the Taking and Importing of Marine Mammals: Scientific Research Permits and Public Display Permits (50 CFR 216.31)	NOAA/NMFS	P.L. 92-522 16 U.S.C. 1361-1407	Under Review	Summer 1981	Gary Barone Ofc. of Marine Mammals & Endangered Species (202) 634-7461
*Regulations Governing the Taking and Importing of Marine Mammals: Waivers of the Moratorium (50 CFR 216.32)	NOAA/NMFS	P.L. 92-522 16 U.S.C. 1361-1407	Under Review	Summer 1981	Gary Barone Ofc. of Marine Mammals & Endangered Species (202) 634-7461
*Regulations Governing the Taking and Importing of Marine Mammals: Procedures for Issuance of Permits and Modifications, Suspension, or Revocation Thereof (50 CFR 216.33)	NOAA/NMFS	P.L. 92-522 16 U.S.C. 1361-1407	Under Review	Summer 1981	Gary Barone Ofc. of Marine Mammals & Endangered Species (202) 634-7461
*Regulations Governing the Taking and Importing of Marine Mammals: Possession of Permits (50 CFR 216.34)	NOAA/NMFS	P.L. 92-522 16 U.S.C. 1361-1407	Under Review	Summer 1981	Gary Barone Ofc. of Marine Mammals & Endangered Species (202) 634-7461
Regulations Governing the Taking and Importing of Marine Mammals: Importation at Designated Ports (50 CFR 216.40)	NOAA/NMFS	P.L. 92-522 16 U.S.C. 1361-1407	January 1981	Not Determined	Gary Barone Ofc. of Marine Mammals & Endangered Species (202) 634-7461

*Regulation deemed significant by DOC Department unit
**Regulatory analysis to be required

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TITLE OF REGULATION	RESPONSIBLE DEPARTMENT UNIT	LEGAL AUTHORITY	PROPOSED DATE FOR START OF REVIEW	TARGET DATE FOR COMPLETION OF REVIEW	CONTACT PERSON AND TELEPHONE NUMBER
*Endangered Species: General Provisions (50 CFR 217)	NOAA/NMFS	88 Stat. 905, 87 Stat. 884, P.L. 93-205	Under Review	Summer 1981	Gary Barone Ofc. of Marine Mammals & Endangered Species (202) 634-7461
*Endangered Species: General Permit Procedures (50 CFR Part 220, Subparts A, B, C and D)	NOAA/NMFS	87 Stat. 884, P.L. 93-205	Under Review	Summer 1981	Gary Barone Ofc. of Marine Mammals & Endangered Species (202) 634-7461
*Endangered Species: Permits Involving Endangered or Threatened Sea Turtles (50 CFR Part 220, Subpart E)	NOAA/NMFS	87 Stat. 884 P.L. 93-205	Under Review	Summer 1981	Gary Barone Ofc. of Marine Mammals & Endangered Species (202) 634-7461
*Endangered Species: Importation and Exportation at Designated Ports (50 CFR Part 221)	NOAA/NMFS	87 Stat. 884 P.L. 93-205	Under Review	Summer 1981	Gary Barone Ofc. of Marine Mammals & Endangered Species (202) 634-7461
Marine Mammals: Federal/State Cooperation in the Conservation of Endangered and Threatened Species (50 CFR Part 225)	NOAA/NMFS	16 U.S.C. 1531-1543 P.L. 93-205	January 1981	Not Determined	Thomas Loughlin Ofc. of Marine Mammals & Endangered Species (202) 634-7471
*Threatened Fish and Wildlife (50 CFR Part 227)	NOAA/NMFS	16 U.S.C. 1531 et. seq., P.L. 93-205	Under Review	Summer 1981	Gary Barone Ofc. of Marine Mammals & Endangered Species (202) 634-7461
Aid to Fisheries: Commercial Fisheries Research and Development (50 CFR Part 253)	NOAA/NMFS	16 U.S.C. 779a-779f	September 1981	Not Determined	Leo Fisher State/Federal Div. (202) 634-7454
Aid to Fisheries: Control or Elimination of Jellyfish (50 CFR Part 254)	NOAA/NMFS	16 U.S.C. 1201-1205	Under Review	December 1980	Leo Fisher State/Federal Div. (202) 634-7454
Aid to Fisheries: Fishing Vessel Obligation Guarantee Program Procedures (50 CFR Part 255)	NOAA/NMFS	46 U.S.C. 1271-1279	Under Review	December 1980	James Meehan Financial Svcs. Div. (202) 634-7466
*Processed Fishery Products, Processed Products Thereof, and Certain Other Processed Food Products: U.S. Standards for Grades of Whole or Dressed Fish (50 CFR Part 261)	NOAA/NMFS	7 U.S.C. 1621-1630	Summer 1981	Winter 1981-82	James R. Brooker Seafood Quality & Inspection Div. (202) 634-7458
*Processed Fishery Products, Processed Products Thereof, and Certain Other Processed Food Products: U.S. Standards for Grades of Fish Steaks (50 CFR Part 262)	NOAA/NMFS	7 U.S.C. 1621-1630	Summer 1981	Winter 1981-82	James R. Brooker Seafood Quality & Inspection Div. (202) 634-7458

*Regulation deemed significant by DOC Department unit
**Regulatory analysis to be required

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TITLE OF REGULATION	RESPONSIBLE DEPARTMENT UNIT	LEGAL AUTHORITY	PROPOSED DATE FOR START OF REVIEW	TARGET DATE FOR COMPLETION OF REVIEW	CONTACT PERSON AND TELEPHONE NUMBER
*Processed Fishery Products, Processed Products Thereof, and Certain Other Processed Food Products: Inspection and Certification (50 CFR Part 260)	NOAA/NMFS	16 U.S.C. 742 E 7 U.S.C. 1622, 1624	January 1981	January 1982	I. D. Sackett Seafood Quality & Inspection Div. (202) 634-7451
U.S. Standards for Grades of Fried Fish Sticks and Fried Fish Portions (50 CFR Part 264, Subpart G)	NOAA/NMFS	7 U.S.C. 1621-1630	May 1980	December 1981	James R. Brooker Seafood Quality & Inspection Div. (202) 634-7458
U.S. Standards for Grades of Frozen Raw Headless Shrimp (50 CFR Part 265, Subpart A)	NOAA/NMFS	7 U.S.C. 1621-1630	Under Review	March 1981	James R. Brooker Seafood Quality & Inspection Div. (202) 634-7458
*Fishery Marketing Cooperatives: Issuance of Cease and Desist Orders by the Government (50 CFR Part 290)	NOAA/NMFS	15 U.S.C. 522	March 1981	December 1981	Jukka Kolhonen Fisheries Development Div. (202) 634-7451
Anadromous Fisheries Conservation, Development, and Enhancement (50 CFR Part 401)(Joint regulations with the Department of the Interior)	NOAA/NMFS	16 U.S.C. 757a-757f	September 1981	Not Determined	Richard Schaefer State/Federal Div. (202) 634-7454
Interagency Cooperation, Endangered Species Act of 1973 (50 CFR Part 402) (Joint regulations with the Department of the Interior)	NOAA/NMFS	16 U.S.C. 1531 et. seq.	Summer 1981	Not Determined	Ronald Naveen Ofc. of Asst. Gen. Counsel Fisheries (202) 634-4224
Fishery Conservation and Management: Confidentiality of Statistics (50 CFR Part 603)	NOAA/NMFS	16 U.S.C. 1361 et. seq.	Under Review	December 1980	B. G. Thompson Resource Statistics Div. (202) 634-7415
Fishery Conservation and Management: Civil Procedures (50 CFR Part 621)	NOAA/NMFS	16 U.S.C. 1801-1861	Summer 1981	Not Determined	Steve Powell Ofc. of Asst. Gen. Counsel for Enforcement & Lit. (202) 254- 8350
Coastal Energy Impact Program, Project Assessments and Environmental Impact Statements	NOAA/OCZM	16 U.S.C. 1956, 1966	November 1980	January 1981	Eileen Mulaney Coastal Energy Impact Program Ofc. (202) 634-4120
Coastal Energy Impact Program Regulations (15 CFR Part 931)	NOAA/OCZM	16 U.S.C. 1456, 1466	January 1981	March 1981	Jane P. Rogers Ofc. of Policy (202) 634-4245
*Coastal Zone Management Program Development and Approval Provisions (15 CFR Part 923)	NOAA/OCZM	16 U.S.C. 1456, 1466	January 1981	March 1981	Jane P. Rogers Ofc. of Policy (202) 634-4245
*Monitor Marine Sanctuary (15 CFR Part 924)	NOAA/OCZM	16 U.S.C. 1432(f)	June 1981	September 1981	Nancy Foster Sanctuary Programs Ofc. (202) 634-4236

*Regulation deemed significant by DOC Department unit
**Regulatory analysis to be required

TITLE OF REGULATION	RESPONSIBLE DEPARTMENT UNIT	LEGAL AUTHORITY	PROPOSED DATE FOR START OF REVIEW	TARGET DATE FOR COMPLETION OF REVIEW	CONTACT PERSON AND TELEPHONE NUMBER
Coastal Energy Impact Program Engineering and Construction Guidelines for Applicants	NOAA/OCEM	16 U.S.C. 1461	November 1980	January 1981	Eileen Mulaney Coastal Energy Impact Program Ofc. (202) 634-4120
*Public Telecommunications Facility Program	NTIA	47 U.S.C. 390 et. seq.	Unknown	Unknown	Kenneth D. Salomon Ofc. of the Gen. Counsel (202) 377-1866
Procedural Regulation Setting Forth the Criteria for Applications for Federal Recognition of International Expositions (15 CFR Part 1202)	Ofc. of Assoc. Dep. Sec.	22 U.S.C. 2801	Under Review	Fall 1980	Richard Henry Exposition Staff (202) 377-4987
*Register of Government Interests in Patents (37 CFR Part 7)	PTI/PTO	Executive Order 9424	June 1981	October 1981	B. R. Padgett Special Laws Admin. Group (703) 557-2037

*Regulation deemed significant by DOC Department unit
**Regulatory analysis to be required

SCHEDULE C: REGULATIONS DELETED FROM PRIOR DOC SEMIANNUAL AGENDA 1/

Department Unit	Title of Regulation	Prior Agenda Listing 2/	Reason for Deletion from Agenda
EDA	Non-relocation (13 CFR 309.3)	UC	Published in Fed. Reg. in final on July 1, 1980 (45 FR 44257)
EDA	Industrial Parks and Sites (13 CFR 305.43)	UC	Published in Fed. Reg. in final on July 1, 1980 (45 FR 44257)
EDA	*Requirements Regarding the Organizational Structure of Economic Development Districts (13 CFR 303.2, 303.4, 303.4(a), 303.7, 304.3, 307.25, and 311.4)	UC	Published in Fed. Reg. in final on August 21, 1980 (45 FR 55696)
EDA	*Miscellaneous Changes Regarding Energy Conservation in EDA Financial Assistance Programs (13 CFR 305.59, 306.12, 307.3, 307.22, 307.28, 307.52, 307.55-57, 308.6, and 315.54-55)	UC	Published in Fed. Reg. in final on August 29, 1980 (45 FR 57960)
EDA	Vocational or Skill Training Center Projects (Public Works and Development Facilities Program) (13 CFR 305.45)	UC	Published in Fed. Reg. in final on October , 1980
ITA	Joint Export Associations (15 CFR Part 366)	UR	Removed from CFR on July 21, 1980 (45 FR 48606)
ITA	BDC Notice 1: Ratification of Bureau of Competitive Assessment and Business Policy Actions (32A CFR Part 601)	UR	Removed from CFR On July 1, 1980 (45 FR 44574)
ITA	BDC Notice 2: Signature of Official DIBA/BDC Actions (32A CFR Part 602)	UR	Removed from CFR on July 1, 1980 (45 FR 44574)
ITA	BDC Notice 3: Designation of BDC Actions to be Taken Under the Authority of the Defense Production Act of 1950, as Amended (32A CFR Part 603)	UR	Removed from CFR on July 1, 1980 (45 FR 44574)
ITA	Defense Priorities System Order 3: Titanium (32A CFR Part 663) (Proposed)	UC	Withdrawn as proposed rule on May 22, 1980 (45 FR 34304)
MARAD	*Operating-Differential Subsidy (ODS) for Bulk Cargo Vessels Engaged in Worldwide Service; Essential Service Requirement (46 CFR 252.21)	UC	Published in Fed. Reg. in final on May 8, 1980 (45 FR 30439)
MARAD	*Conservative Dividend Policy (46 CFR Part 283)	UC	Published in Fed. Reg. in final on June 3, 1980 (45 FR 37442)

1/ Prior Agenda refers to third Agenda which was published on June 5, 1980 (45 FR 37972).
2/ Listed in prior Agenda(s) as regulation under consideration (UC) or existing regulation under review (UR).

* Regulation was deemed significant by Department unit.
** Regulatory analysis performed by Department unit.

Department Unit	Title of Regulation	Prior Agenda Listing 2/	Reason for Deletion from Agenda
NOAA/NMFS	*Atlantic Mackerel Fishery Management Plan (FMP)	UC	**Published in Fed. Reg. in final on July 3, 1980 (45 FR 45291)
NOAA/NMFS	Atlantic Squid Fishery Management Plan (FMP)(Amendment No. 1)	UC	Published in Fed. Reg. in final on September 26, 1980 (45 FR 63863)
NOAA/NMFS	Listing of the Guadalupe Fur Seal as an Endangered Species (50 CFR Parts 17 and 222)	UC	Determination has been made that Guadalupe Fur Seals will not be listed as an endangered species.
NOAA/NMFS	Extension of Commercial/Recreational Salmon Off California, Oregon, and Washington Fishery Management Plan (FMP)(50 CFR Part 661)(Fishing Year 1980)	UC	Published in Fed. Reg. in final on July 31, 1980 (45 FR 50764)
NOAA/NMFS	*Washington, Oregon, and California Groundfish Fishery Management Plan (FMP)	UC	**Efforts to develop regulations suspended. Anticipated dates when action will be resumed are too tentative and/or too far into the future to make inclusion in this Agenda meaningful.
NOAA/NMFS	Trawl Fisheries of Washington, Oregon, and California Preliminary Fishery Management Plan (FMP)	UC	Published in Fed. Reg. in final on May 21, 1980 (45 FR 34003)
NOAA/NMFS	Technical Amendments to Fishing Vessel Obligation Guarantee Program Procedures	UC	Published in Fed. Reg. in final on July 23, 1980 (45 FR 49083)
NOAA/NMFS	*High Seas Salmon Fishery Management Plan (FMP)(Amendment No. 1)	UC	**Published in Fed. Reg. in final on September 8, 1980 (45 FR 59172)
NOAA/NMFS	U.S. Standards for Grades of Fish Fillets (50 CFR Part 263)	UR	Final notice for new permissive regulations for quality standards for fillets established and effective July 23, 1979 (50 CFR Part 263, Subpart A)

1/ Prior Agenda refers to third Agenda which was published on June 5, 1980 (45 FR 37972)
2/ Listed in prior Agenda(s) as regulation under consideration (UC) or existing regulation under review (UR)

*Regulation was deemed significant by Department unit.
**Regulatory analysis performed by Department unit.

Department Unit	Title of Regulation	Prior Agenda Listing 2/	Reason for Deletion from Agenda
NOAA/NMFS	Uniform Standards for Organization, Practices, and Procedures - Regional Fishery Management Councils (50 CFR Part 601, Subpart C)	UR	Review of regulations has been completed. Existing regulations will be revised to conform with current agency policy with regard to uniform standards for administrative and operational practices of the Regional Fishery Management Councils. NOTE: Agenda item being deleted from list of regulations "under review" and being added to list of regulations "under consideration."
NOAA/OCZM	Regulations for Proposed Georges Bank Sanctuary (Tentative)	UC	The site was withdrawn as an active candidate for marine sanctuary designation. This decision was based on the fact that the ability of the existing regulatory mechanisms to protect the values of the area most immediately threatened had been significantly increased. The withdrawal announcement was published in the Fed. Reg. on October 31, 1979 (44 FR 62553)
NOAA/OCZM	Shorefront Access/Inland Preservation Regulations	UC	Formulation of regulations has been postponed pending the outcome of legislation to amend the Coastal Zone Management Act.
NOAA/OCZM	Estuarine Sanctuary Regulations	UR	Review completed. Seek regulations under consideration.
OCE/CENSUS	Foreign Trade Statistics (15 CFR Part 30)	UC	One proposed amendment to this regulation has been dropped. The proposed amendment dealt with fuel oil taken on board by U.S. and foreign vessels engaged in foreign trade. The other amendment, dealing with obtaining statistical data on movements of merchandise into and out of U.S. Foreign Trade Zones, is still under consideration.

1/ Prior Agenda refers to third Agenda which was published on June 5, 1980 (45 FR 37972)
2/ Listed in prior Agenda(s) as regulation under consideration (UC) or existing regulation under review (UR)

* Regulation was deemed significant by Department unit.
** Regulatory analysis performed by Department unit.

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Appendix—Complete Entries of Significant Regulations in DOC's Semiannual Agenda of Regulations

DOC Department Unit: Office of the Secretary, Office of Organization and Management Systems

Title of Regulation: Public Information, Freedom of Information (15 CFR Subtitle A–Part 4)

(a) *Description and Need:*
The Freedom of Information Act (FOIA) is being employed frequently by corporations in an effort to obtain information about other business operations. The administrative burden of the growing number of requests for business data has fallen on agencies handling the requests, and on those companies whose information is sought. Hundreds of requests dealing with procurement data are handled by this Department each year.

The FOIA establishes the policy that all Government information should be available to the public unless there is a reason to withhold it. Business contends that the release of certain information would permit competitors to scrutinize pricing strategy, discount policy, profit margin, and other vital data.

A September 1980 departmental study, entitled "Study of Policy and Procedures for Handling Business Information under the Freedom of Information Act" reviewed the Department's decisionmaking process. The study recommended that the Department's practice of communicating with business data submitters should be formally adopted by inclusion in the Department's FOIA regulations. The regulations will:

• Apply only to data potentially covered by the fourth, or "business confidential" exemption of the FOIA, not to business data which is covered by the third, or "otherwise protected by statute" exemption.

• Provide that the Department will notifiy submitters of the receipt of an FOIA request for records they have submitted and that the submitters will have the opportunity to give the Department additional information on why the records requested should not be disclosed.

• Provide a means of dealing with time constraints, such as seeking the requester's voluntary cooperation, or using the additional time authorized by statute.

(b) *Legal Authority:*
5 U.S.C. 552, the Freedom of Information Act.

(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes ——, no X, unknown ——).

(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: February 1, 1981.
(ii) In final form: April 1, 1981.

(e) *Tentative Plan for Obtaining Public Comments:* Federal Register publication and notification of firms that commonly deal with the Department of Commerce.

(f) *Major Issues:*
• How should business firms' right to keep proprietary data confidential be balanced with the public's right to know?
• How can the Department respond promptly to FOIA requests that require notification to business data submitters?

(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes——, no x, unknown ——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents:
All public comments are available from the Central Reference and Records Inspection Facility.

(h) *Agency contract:*
Donald S. Budowsky, Management Analyst, Office of Organization and Management Systems, Washington, D.C. 20230, (202) 377–4217.

DOC Department Unit: Patent and Trademark Office (PTO)

Title of Regulation: Patent interference proceedings (37 CFR 1.225, 1.231, 1.253, 1.254, 1.258 and 1.288)

(a) *Description and Need:* PTO is considering a revision of its regulations, currently published in Title 37, Code of Federal Regulations, Part 1, relating to motions, printed briefs, the use of discovery and final hearings in interference proceedings between rival inventors to determine who was the first inventor. The established practice relating to motions needs to be defined more specifically and with greater clarity. Recent experience has demonstrated a need to make it clear that after an interference has been redeclared, a motion is not permitted if it could have been filed earlier during the motion period and been considered by the primary examiner. A recent decision of the United States Court of Customs and Patent Appeals indicates a need to state specifically that an issue of benefit raised by motion is not preserved for later consideration at final hearing unless the motion was transmitted to, and decided by, the primary examiner. The same Court has also made certain amendments in its rule governing the acceptance of printed briefs which should be reflected in PTO's comparable regulation governing the acceptance of printed briefs.

(b) *Legal Authority:* 35 U.S.C. 6, as amended.

(c) *Importance:*
(i) Significant? (yes x, no ——, unknown ——).
(ii) Major? (yes ——, no x, unknown ——).

(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: November 1980.
(ii) In final form: April 1981.

(e) *Tentative Plan for Obtaining Public Comments:* PTO will publish its proposed revision of the regulations in the **Federal Register** and the *Official Gazette* and invite the public to submit comments. No public hearing will be held.

(f) *Major Issues:* None.

(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes ——, no x, unknown ——). Anticipated date of draft analysis: Not applicable
(ii) Other documents: None.

(h) *Agency contact:*
Ian A. Calvert. Chairman, Board of Patent Interferences, Commissioner of Patents and Trademarks, Washington, D. C. 20231, (703) 557–3625.

Title of Regulation: Deposit of computer program listings (37 CFR 1.21, 1.77 and 1.96)

(a) *Description and Need:* PTO proposes to revise its regulations relating to patent application disclosures, currently published in Title 37, *Code of Federal Regulations*, Part 1, to allow lengthy computer program listings to be deposited in PTO and incorporated by reference in the patent application to the deposited listing. Under current regulations, lengthy computer program listings must be reproduced in the specification or the drawings as integral parts of a patent application. The proposed revision will benefit patent applicants by relieving them of the burden and expense of reproducing lengthy computer program listings in the specification or the drawings of a patent application. PTO and patent applicants will both benefit from a reduction in the costs of printing patents which do not include a lengthy computer program listing in the specification or drawings.

(b) *Legal Authority:* 35 U.S.C. 6, as amended.

(c) *Importance:*
(1) Significant? (yes x, no ——, unknown ——).
(ii) Major? (yes ——, no x, unknown ——).

(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: Has been published.
(ii) In final form: January 1981.

(e) *Tentative Plan for Obtaining Public Comments:* PTO published the proposed revision in the **Federal Register** (42 FR 30522, June 15, 1977) for comment and held a public hearing.

(f) *Major Issues:* None.

(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes ——, no x, unknown ——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: A file of the written comments received by the PTO, a summary and analysis of the comments and a transcript of the hearing will be available for examination by interested parties.

(h) *Agency Contacts:* Louis O. Maassel, Editor of the Manual of Patent Examining Procedure, Commissioner of Patents and Trademarks, Washington, D.C. 20231, (703) 557–3070. J. Kent Hughes, Commissioner of Patents and Trademarks, Washington, D.C. 20231, (703) 557–0410.

Title of Regulation: File wrapper continuing application procedure (37 CFR 1.62 and 1.138).

(a) *Description and Need:* PTO is considering a revision of its regulations currently published in Title 37, *Code of Federal Regulations*, Part 1, to allow the prosecution of patent applications to continue after a final rejection if an additional fee is paid. The revision will benefit patent applicants by making it unnecessary for them to file a complete new application in order to continue prosecution after a final rejection in the original application. PTO will benefit from a saving in file space and a reduction in handling and recordkeeping costs.

(b) *Legal Authority:* 35 U.S.C. 6, as amended.

(c) *Importance:*
(i) Significant? (yes x, no ——, unknown ——).
(ii) Major? (yes ——, no x, unknown ——).

(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: November 1980.
(ii) In final form: May 1981.

(e) *Tentative Plan for Obtaining Public Comments:* PTO will publish its proposed revision in the **Federal Register** and the *Official Gazette* for comment. A public hearing may be held.

(f) *Major Issues:* None.

(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes——, no X, unknown——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: None.

(h) *Agency Contract:* Louis O. Maassel, Editor of the Manual of Patent Examining Procedure, Commissioner of Patents and Trademarks, Washington, D.C. 20231 (703) 557–3070.

Title of Regulation: Professional conduct of and advertising by persons registered to practice before the PTO (37 CFR 1.344, 1.345, 2.13 and 2.14)

(a) *Description and Need:* PTO is considering a revision of its regulations prescribing the standards of conduct and advertising of persons registered to practice before the PTO, currently published in Title 37, *Code of Federal Regulations*, Parts 1 and 2. PTO proposes to revise these regulations to make reference to the current version of the American Bar Association's "Code of Professional Responsibility," an older version being referred to in the current regulations, and to make the standards for advertising consistent with recent decisions of the Supreme Court.

(b) *Legal Authority:* 35 U.S.C. and 31, as amended.

(c) *Importance:*
(i) Significant? (yes X, no——, unknown——).
(ii) Major? (yes——, no X, unknown——).

(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: November 1980.
(ii) In final form: June 1981.

(e) *Tentative Plan for Obtaining Public Comments:* PTO will publish the proposed revision of these regulations in the **Federal Register** and the *Official Gazette* for comment. A public hearing will also be held.

(f) *Major Issues:*
The major issue involved in the proposed revision is whether the American Bar Association's "Code of Professional Responsibility" should continue to be PTO's standard of conduct.

(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes——, no X, unknown——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: None.

(h) *Agency Contact:* Harry I. Moatz, Assistant Solicitor; Commissioner of Patents and Trademarks, Washington, D.C. 20231 (703) 557–2238.

Title of Regulation: Compulsory counterclaims in trademark opposition and cancellation proceedings (37 CFR 106 and 2.114)

(a) *Description and Need:* PTO is considering a revision of its regulations relating to counterclaims in trademark cases, currently published in Title 37, *Code of Federal Regulations*, Part 2. Defendants who could counterclaim to cancel a registration pleaded by the plaintiff in trademark opposition and cancellation cases are not required by current regulations to do so. The revision under consideration would require the defendant to do so. The primary benefit of the revision will be to avoid piecemeal litigation and settle all issues between the parties at one time with a minimum expenditure of time and effort by the parties and PTO.

(b) *Legal Authority:* Pub. L. 489, 79th Cong., 2d Sess., Ch. 540, Sec. 41, as amended (15 U.S.C. 1123, as amended).

(c) *Importance:*
(i) Significant? (yes X, no——, unknown——).
(ii) Major? (yes——, no X, unknown——).

(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: Has been published.
(ii) In final form: December 1980.

(e) *Tentative Plan for Obtaining Public Comments:* PTO published the proposed revision in the **Federal Register** (44 FR 22478, April 16, 1979) and the *Official Gazette* for comment.

(f) *Major Issues:*
The major issue involved in the revision being considered by PTO is whether a defendant would, in certain circumstances, be precluded from filing a concurrent use application if he or she is required to counterclaim for cancellation of a registration pleaded by the plaintiff.

(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: A file of the comments the PTO has received and a summary and analysis of the comments will be available for examination by interested parties.

(h) *Agency Contact:* David J. Kera, Member, Trademark Trial and Appeal Board, Commissioner of Patents and Trademarks, Washington, D.C. 20231, (703) 557–3551.

Title of Regulation: Secrecy of certain inventions and licenses to file applications in foreign countries (37 CFR Part 5).

(a) *Description and Need:* PTO has reviewed these regulations and found that they should be revised to clarify procedures and provide up-to-date information relating to these procedures.

(b) *Legal Authority:* 35 U.S.C. 6 and 181–188, as amended.

(c) *Importance:*

V 45 NO 230 80 UMI

(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes ——, no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: May 1981.
(ii) In final form: October 1981.
(e) *Tentative Plan for Obtaining Public Comments:* PTO will published its proposed revision in the **Federal Register** and the *Official Gazette* and invite the public to submit comments. No public hearing will be held.
(f) *Major Issues:* None.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: None.
(h) *Agency Contact:* S. W. Engle, Special Laws Administration Group, Commissioner of Patents and Trademarks, Washington, D.C. 20231, (703) 557–2897.

Title of Regulation: Correction of inventorship (37 CFR 1.45, 1.48 and 1.324).

(a) *Description and Need:* PTO is considering a revision of its regulations, currently published in Title 37, *Code of Federal Regulations*, Part 1, to permit correction of inventorship under certain circumstances in a patent application filed by a person who is not the sole inventor or by persons who are not the joint inventors. Issued patents would be similarly correctable. The revision is needed in order to remove restrictions against this type of substitution under the circumstances existing in *Stoddard* v. *Dann*, 564 F.2d 556, 195 USPQ 97 (D.C. Cir. 1977).
(b) *Legal Authority:* 35 U.S.C. 6, as amended.
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes ——, no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: November 1980.
(ii) In final form: June 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
PTO will publish its proposed revision of the regulations in the **Federal Register** and the *Official Gazette* and invite the public to submit comments. A public hearing will be held.
(f) *Major Issues:*
The major issues involved in the revision under consideration are whether the PTO should authorize substitution of one sole inventor for another under the circumstances in *Stoddard* v. *Dann* and how these circumstances should be defined.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes ——, no X, unknown ——).
(ii) Other documents: None.
(h) *Agency Contact:* Louis O. Maassel, Editor of the Manual of Patent Examining Procedure, Commissioner of Patents and Trademarks, Washington, D.C. 20231, (703) 557–3070.

Title of Regulation: Continuation-in-part application oath or declaration (37 CFR 1.65, 3.18 and 3.18a)

(a) *Description and Need:* PTO proposes to revise its regulations to provide in their oaths or declarations in patent applications, currently published in Title 37, *Code of Federal Regulations*, Part 1. PTO proposes to require that an oath or declaration speak as of the filing date of the application if the application is a continuation-in-part. This requirement will provide information that court decisions indicate should be considered by PTO in examining patent applications.
(b) *Legal Authority:* 35 U.S.C. 6, as amended.
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes ——, no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: Published (43 FR 55417) November 28, 1978; revised proposal November 1980.
(ii) In final form: May 1981.
(e) *Tentative Plan for Obtaining Public Comments:* PTO published a proposed revision in the **Federal Register** for comment and held a public hearing on February 7, 1979. In view of objections to one part of the proposed revision, that part is being deleted. A revised proposal will be published for comment since the original proposal was inadvertently not published in the Official Gazette. No further hearing will be held.
(f) *Major Issues:* There are no major issues involved in the proposed revision.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: A file of the written comments received by PTO, a transcript of the hearing and a summary and analysis of comments will be available for examination by interested parties.
(h) *Agency Contact:* Louis O. Maassel, Editor of the Manual of Patent Examining Procedure, Commissioner of Patents and Trademarks, Washington, D.C. 20231, (703) 557–3070.

Title of Regulation: Requests for identifiable records (37 CFR 1.15)

(a) *Description and Need:* PTO has reviewed and found that it needs to update its regulation, currently published in Title 37, *Code of Federal Regulations*, Part 1, relating to requests by members of the public for records not disclosed as part of the regular informational activity of PTO and not otherwise dealt with in Part 1.
(b) *Legal Authority:* 35 U.S.C. 6, as amended.
(c) *Importance of Regulation:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes ——, no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: November 1980.
(ii) In final form: June 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
PTO will publish its proposed revision in the **Federal Register** and the *Official Gazette* and invite the public to submit comments. No public hearing will be held.
(f) *Major Issues*: None.
(g) *Documents Available to the Public*:
(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: None.
(h) *Agency Contact*: John W. Dewhirst, Associate Solicitor, Commissioner of Patents and Trademarks, Washington, D.C. 20231, (703) 557–3542.

Title of Regulation: Ex parte prosecution of trademark applications, inter partes proceedings before the Trademark Trial and Appeal Board, petitions to the Commissioner and post-registration requirements (37 CFR 2.20, 2.27, 2.63, 2.65, 2.81, 2.88, 2.94–2.135, 2.142, 2.146, 2.165, 2.173, 2.184 and 2.186)

(a) *Description and Need*: PTO is considering a revision of its regulations relating to the ex parte prosecution of trademark applications, inter partes proceedings before the Trademark Trial and Appeal Board, petitions to the Commissioner and post-registration requirements, currently published in Title 37, *Code of Federal Regulations*, Part 2, which have been found on review to need clarification, updating and expansion.
(b) *Legal Authority*: Pub. L. 489, 79th Cong., 2d Sess., Ch. 540, Sec. 41, as amended (15 U.S.C. 1123, as amended).
(c) *Importance*:
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes ——, no X, unknown ——).

(d) *Timetable—Anticipated Dates for Federal Register Publication*:
(i) In proposed form: January 1981.
(ii) In final form: November 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
PTO will publish its proposed revision in the **Federal Register** and the *Official Gazette* and invite the public to submit comments. No public hearing will be held.
(f) *Major Issues*: None.
(g) *Documents Available to the Public*:
(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: None.
(h) *Agency Contact*: David J. Kera, Member, Trademark Trial and Appeal Board, Commissioner of Patents and Trademarks, Washington, D.C. 20231, (703) 557–3551.

DOC Department Unit: National Marine Fisheries Service

Title of Regulation: Fishery Management Plan (FMP) for the Spiny Lobster Fishery of Puerto Rico and the Virgin Islands.

(a) *Description and Need:*
This action will initiate management of the spiny lobster resources of the Caribbean. Management measures implemented will protect long-term yields, prevent depletion of the stocks, increase yield from the fishery, and acquire information necessary to better manage the fishery.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (Yes X, no ——, unknown ——).
(ii) Major? (Yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: January 1981.
(ii) In final form: April 1981.
(e) *Tentative Plan for Obtaining Public Comment:*
Publication in **Federal Register** and public hearings.
(f) *Major Issues:*
Gear and user group conflicts in harvesting the stock, poaching by pulling another's traps, and establishment of a size limit.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (Yes X, no ——, unknown ——).
Date of draft analysis: May 1980.
Other documents:
Fishery Management Plan for the Spiny Lobster Fishery of Puerto Rico and the Virgin Islands.
(h) *Agency Contact:*
Harold B. Allen, Acting Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702 (813) 893–3141.

Title of Regulation: Bering Sea and Aleutian Islands Groundfish Fishery Management Plan (FMP).

(a) *Description and Need:*
Regulates foreign and domestic fishermen in the Bering Sea and North Pacific.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (Yes X, no ——, unknown ——).
(ii) Major? (Yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: November 1980.
(ii) In final form: February 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Well be published in proposed form in the **Federal Register.**
(f) *Major Issues:*
Domestic processing capacity; area restrictions.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (Yes X, no ——, unknown ——).
Date of draft analysis: October 1979.
(ii) Other documents: Bering Sea and Aleutian Islands Groundfish FMP.
(h) *Agency Contact:*
Robert W. McVey, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802 (907) 586–7229.

Title of Regulation: Alaska King Crab Fishery Management Plan (FMP).

(a) *Description and Need:*
Regulation of domestic fishing for King crab in the Fishery Conservation Zone off Alaska.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (Yes X, no ——, unknown ——).
(ii) Major? (Yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: March 1981.
(ii) In final form: July 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Well be published in proposed form in the **Federal Register** as proposed regulations.
(f) *Major Issues:*
Optimum yield of King crab.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (Yes X, no ——, unknown ——).
Date of draft analysis: August 1980.
(ii) Other documents: Alaska King Crab Fishery Management Plan.
(h) *Agency Contact:*
Robert W. McVey, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802 (907) 586–7221.

Title of Regulation: Groundfish Fishery Management Plan (FMP) (Southeast Region)

(a) *Description and Need:*
Implement regulations for the management of groundfish resources and to minimize user conflicts.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: March 1981.
(ii) In final form: August 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Public hearings will be held on the FMP. Consultations will be conducted with commercial and recreational organizations, local, State and Federal agencies as appropriate.
(f) *Major Issues:*
Utilization and maintenance of the resource while minimizing conflicts with other commercial interests.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——).
Date of draft analysis: July 1980.
(ii) Other documents: Groundfish Fishery Management Plan.
(h) *Agency Contact:*
Harold B. Allen, Acting Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702 (813) 893–3141.

Title of Regulation: Reef Fish Resources of the Gulf of Mexico Fishery Management Plan (FMP)

(A) *Description and Need:*
Implementation of reef fish and management controls for the domestic harvest of reef fishes in the Fishery Conservation Zone (FCZ). The basic objective is to manage these stocks for their optimum yield.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant: (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).

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(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: January 1981.
(ii) In final form: April 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Public hearings will be held on the FMP. Consultation will be held with State, local and Federal agencies as appropriate.
(f) *Major Issues:*
Rebuild declining reef fish stock, monitor the harvest of reef fish resources with a reporting system, and minimize conflicts between user groups (i.e., traps versus hook and line).
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——). Date of draft analysis: April 1980.
(ii) Other documents:
Reef Fish Resources of the Gulf of Mexico Fishery Management Plan
(h) *Agency Contract:*
Harold B. Allen, Acting Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702 (813) 893–3141.

Title of Regulation: Coastal Migratory Pelagic Fishery Management Plan (FMP)

(a) *Description and Need:*
The action will result in management of king and Spanish mackerel, and cobia in the Fishery Conservation Zone (FCZ) within the South Atlantic and Gulf of Mexico. Management measures are being developed to resolve gear conflicts among user groups.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: January 1981.
(ii) In final form: April 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Publication in **Federal Register** and public hearings.
(f) *Major Issues:*
Maintenance of the resource while making fair allocations of the stocks available to both recreational and commercial fishermen.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——). Date of draft analysis: March 1980.
Other documents: Coastal Migratory Pelagic Fishery Management Plan.
(h) *Agency Contact:*
Harold B. Allen, Acting Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702, (813) 893–3141.

Title of Regulation: Precious Coral Fishery Management Plan (FMP) (Western Pacific)

(a) *Description and Need:*
Implementation of the FMP for Precious Coral Fisheries of the Western Region is needed to protect corals from overfishing and to achieve the optimum yield from the fishery.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: September 15, 1980 (45 FR 60957).
(ii) In final form: December 1980.
(e) *Tentative Plan for Obtaining Public Comments:*
Hearings on the FMP have been held previously. Regulations will be subject to 60-day public review as well as Department of Commerce Secretarial review and approval of the FMP.
(f) *Major Issues:*
Allowing exploratory fishing by dredging or other nonselective means; establishment of quotas associated with optimum yields; allocation of exploratory quotas to foreign interests.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——).
Date of draft analysis: April 1980.
Anticipated date of final analysis: December 1980.
(ii) Other documents:
Fishery Management Plan for Precious Coral Fisheries of the Western Pacific, and associated Final Environmental Impact Statement.
(h) *Agency Contact:*
Alan W. Ford, Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731 (213) 548–2575.

Title of Regulation: Tanner Crab Fishery Management Plan (FMP) Regulations (Alaska) (Amendment No. 5)

(a) *Description and Need:*
Regulates foreign and domestic harvest of Tanner crab in Fishery Conservation Zone (FCZ) off Alaska.
(b) *Legal Authority.*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unkown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: April 15, 1980 (45 FR 25421).
(ii) In final form: November 1980.
(e) *Tentative Plan for Obtaining Public Comments:*
Proposed regulations will be published in the **Federal Register.** Public hearings have been held by the Regional Fishery Management Council.
(f) *Major Issues:*
Optimum yield of stocks; allowable level of foreign fishing.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown). Date of draft analysis: February 1980.
(ii) Other documents: Commercial Tanner Crab Fishery Off the Coast of Alaska Fishery Management Plan (FMP).
(h) *Agency Contact:*
Robert W. McVey, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802; (907) 586–7221.

Title of Regulation: Groundfish Amendment to the Atlantic Groundfish Fishery Management Plan (FMP), Supplement No. 4 to the Final Environmental Impact Statement

(a) *Description and Need:*
Increase optimum yields for cod, haddock, and yellowtail flounder with corresponding adjustments in annual commercial quotas, quarterly quota guidelines, and vessel class allocations. Optimum yield increases based on improved stock conditions as indicated by 1979 resource assessments.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: October 1, 1980.
(ii) In final form: December 30, 1980.
(e) *Tentative Plan for Obtaining Public Comments:*
Will be published in **Federal Register** as proposed regulations. Regional Fishery Management Council will hold public hearings.
(f) *Major Issues:*
No major issues of controversy.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——). Date of draft analysis: December 6, 1979
(ii) Other documents: Supplement to Final Environmental Impact Statement.

(h) *Agency Contact:*
Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930; (617) 281–3600.

Title of Regulation: Bering Sea—Chukchi Sea Herring Fishery Management Plan (FMP)

(a) *Description and Need:*
Regulation of domestic and foreign fishing in the Bering Sea and Chukchi Sea Fishery Conservation Zone.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
d. *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: December 1980.
(ii) In final form: March 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Will be published in **Federal Register** as proposed regulations.
(f) *Major Issues:*
Herring optimum yield, allowable level of foreign fishing, allowable domestic harvest.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——). Date of draft analysis: May 1980.
(ii) Other documents: Bering Sea—Chukchi Sea Fishery Management Plan.
(h) *Agency Contact:*
Robert W. McVey, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802; (907) 586–7221.

Title of Regulation: Tanner Crab Fishery Management Plan (FMP) Regulations (Alaska) (Amendment No. 7)

(a) *Description and Need:*
Establish optimum yields, domestic annual harvest and foreign fishing appropriate to the 1981 fishing season.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: December 1980.
(ii) In final form: March 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Proposed regulations will be published in the **Federal Register.** Public hearings have been held by the Reginal Fishery Management Council.
(f) *Major Issues:*
The impact of the measures on the U.S. export market for Tanner Crab.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——). Anticipated date of draft analysis: December 1980.
(ii) Other documents: Commercial Tanner Crab Fishery off the Coast of Alaska Fishery Management Plan (FMP).
(h) *Agency Contact:*
Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802; (907) 586–7221.

Title of Regulation: Atlantic Butterfish Fishery Management Plan (FMP)

(a) *Description and Need:*
Regulations will implement the Fishery Management Plan for Butterfish. The regulations will control the domestic and foreign fishery in the Fishery Conservation Zone (FCZ) of the Atlantic Ocean.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: April 1, 1980 (45 FR 21307).
(ii) In final form: November 1980.
(e) Tentative Plan for Obtaining Public Comments:
Publication of proposed rulemaking in **Federal Register** for 60-day public comment period. News release mailed to state agencies, environmental groups, and fisheries organizations indicating where text of proposed rulemaking can be obtained.
(f) Major Issues:
Optimum yield for butterfish, allocation of buterfish between domestic and foreign fishermen, provisions for reallocation of butterfish from domestic quota to foreign quota during fishing season, and mandatory reporting of catches by domestic vessels.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——). Date of draft analysis: August 1979.
(ii) Other documents: Fishery Management Plan and accompanying Environmental Impact Statement for Butterfish (November 1978); Revised Fishery Management Plan (June 1979).
(h) *Agency Contact:*
Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930; (617) 281–3600.

Title of Regulation: Fishery Management Plan (FMP) for the Shrimp Fishery of the Gulf of Mexico

(a) *Description and Need:*
The action will result in the management of the shrimp fishery of the Gulf of Mexico. It will optimize the yield of shrimp, minimize take of incidental finfish, coordinate management measures with state programs where possible, and provide for a statistical reporting system.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: October 1980.
(ii) In final form: January 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Publication in **Federal Register** and public hearings.
(f) *Major Issues:*
Maximize the harvest of shrimp and minimize the taking of finfish and marine turtles.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——). Date of draft analysis: October 1979.
Other documents:
Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico.
(h) *Agency Contact:*
Harold B. Allen, Acting Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702, (813) 893–3141.

Title of Regulation: Fishery Management Plan (FMP) for Sharks and Other Elasmobranchs

(a) *Description and Need:*
To manage the sharks and other elasmobranchs of the Gulf of Mexico for maximum utilization.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: May 1981.
(ii) In final form: September 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Publication in **Federal Register** and public hearings.

(f) *Major Issues:*
Determination of optimum and catch

Fishery Conservation Zone (FCZ) off Alaska

(h) *Agency Contact:*
Allen E. Peterson, Jr., Regional

(ii) Other documents: An environmental assessment and/or

upon the ability to catch tuna in association with porpoise. The mortality

Herbert Larkins, Director, Northwest Region, National Marine Fisheries

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(f) *Major Issues:*
Determination of optimum and catch allocations among user groups.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——). Anticipated date of draft analysis: December 1980.
(ii) Other documents: Fishery Management Plan for Sharks and Other Elasmobranchs.
(h) *Agency Contact:*
Harold B. Allen, Acting Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702, (813) 893–3141.

Title of Regulation: Regulations for the U.S. Sockeye and Pink Salmon Fisheries Under the Fraser River Fishery Convention

(a) *Description and Need:*
Regulates the U.S. fishery for sockeye and pink salmon in U.S. Convention waters in the Strait of Juan de Fuca and northern Puget Sound.
(b) *Legal Authority:*
16 U.S.C. 776–776f.
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——.
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) in proposed form: May 1981.
(ii) In final form: July 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Will be published in the **Federal Register.**
(f) *Major Issues:*
Fishing schedules: Allocations among domestic user groups.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: Previous regulations for 1977, 1978, 1979, and 1980. Annual reports—International Pacific Salmon Fisheries Commission (IPSFC). Annual summaries of U.S. Indian and non-Indian fishing activities in IPSFC fisheries (Northwest Region, NMFS).
(h) *Agency Contact:*
Herbert Larkins, Regional Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, North, Seattle, Washington 98109 (206) 442–7575.

Title of Regulation: High Seas Salmon Fishery Management Plan (FMP) (Amendment No. 2)

(a) *Description and Need:*
Prevents overfishing and regulates domestic troll salmon fishery in the Fishery Conservation Zone (FCZ) off Alaska.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: May 1981.
(ii) In final form: July 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Will be published in **Federal Register** as proposed regulations.
(f) *Major Issues:*
Controlling fishing effort on stocks.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——). Anticipated date of draft analysis: February 1981.
(ii) Other documents: High Seas Salmon FMP.
(h) *Agency Contact:*
Robert W. McVey, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802 (907) 586–7221.

Title of Regulation: Bluefish Fishery Management Plan (FMP)

(a) *Description and Need:*
Intensive recreational effort in this fishery, and possibility of commercial entry into market of required data collection and establishment of framework for commercial/recreational regulatory regime.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: March 1981.
(ii) In final form: July 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Will be published in **Federal Register** as proposed regulations. Regional Fishery Management Council will hold public hearings.
(f) *Major Issues:*
State cooperation; need for an FMP in view of present miniscule commercial effort; and difficulty of management of a recreational fishery.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——). Anticipated date of draft analysis: January 1981.
(ii) Other documents: None.
(h) *Agency Contact:*
Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930 (617) 281–3600.

Title of Regulation: Regulation Declaring Restricted Fishing Areas (Port Canaveral and Other Areas) (50 CFR Parts 222 and 227)

(a) *Description and Need:*
On July 26, 1978, the National Marine Fisheries Service published notice in the **Federal Register** that it is considering areas where sea turtles are concentrated for designation as Restricted Fishing Areas and/or Critical Habitat (43 FR 32800). A Restricted Fishing Area is an area where incidental catch is prohibited or otherwise controlled. Controls may include proper gear usage, fishing methods or procedures, or other regulatory controls to reduce or eliminate incidental catch of sea turtles. The following areas where turtles are concentrated will be considered for designation as Restricted Fishing Areas: North Island—Georgetown, South Carolina; Cape Romain, South Carolina; Brunswick River Channel, Georgia; Hole-in-the-Rock Channel, Georgia; Cape Canaveral Ship Channel, Florida; and North and South Padre Island, Texas.
(b) *Legal Authority:*
Endangered Species Act of 1973 (Pub. L. 93–205) (87 Stat. 884) (16 U.S.C. 1531–1543).
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes ——, no ——, unknown X).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: January 1981.
(ii) In final form: February 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Prior to the designation of any Restricted Fishing Area within state waters, the Assistant Administrator (NMES) shall consult with the Governor(s) and Marine Conservation Department(s) of the affected state(s). The Assistant Administrator shall also consult with the appropriate Regional Fishery Management Councils and with affected fishing industries. Public meetings and hearings will be held.
(f) *Major Issues:*
Unknown at this time. The environmental assessment and, if appropriate, environmental impact statement will examine major issues.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required (yes ——, no ——, unknown X). Anticipated date of draft analysis: Not determined.

(ii) Other documents: An environmental assessment and/or environmental impact statement will be prepared prior to the proposed designation(s).
(h) *Agency Contact:*
Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, (202) 634–7461.

Title of Regulation: Amendments to Regulations to Control the Incidental Take of Porpoise in the Yellowfin Tuna Purse Seine Fishery

(a) *Description and Need:*
The Marine Mammal Protection Act of 1972 states that the incidental mortality and serious injury of marine mammals involved in commercial fishing operations must be reduced to levels approaching a zero rate. Regulations and quotas for tuna purse seine fishing were promulgated in 1977 for calendar years 1978, 1979, and 1980. These regulations continued action to reduce the incidental injury and mortality of marine mammals and to prohibit the importation of fish caught in association with marine mammals, from countries which do not meet U.S. standards.
(b) *Legal Authority:*
16 U.S.C. 1361–1407.
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: February 15, 1980 (45 FR 10552).
(ii) In final form: February 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Public comment will be solicited at all stages of the regulatory amendment process, including those opportunities available through the National Environmental Policy Act process and the Administrative Procedures Act process. Formal administrative law judge (ALJ) hearings were conducted in Washington, D.C., and San Diego, California.
(f) *Major Issues:*
The status of the porpoise populations will be the central issue. A second issue will be the economic viability of the U.S. tuna industry. U.S. flag tuna vessels comprise approximately 50 percent of the world tuna fleet operating in the eastern tropical Pacific Ocean. U.S. vessels landed approximately 37,000 metric tons of yellowfin tuna in 1978 which were caught in association with porpoise. The economic viability of the world tuna fleet is highly dependent upon the ability to catch tuna in association with porpoise. The mortality of porpoise has been reduced from over 300,000 in 1971 to under 20,000 in 1978. However, public concern over the mortality of porpoise continues. Strong public pressure is expected to reduce the mortality to zero. Tuna industry representatives are expected to exert pressure to keep quotas high enough to avoid economic harm to their operations.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——). Date of draft analysis: November 1979.
(ii) Other documents: None.
(h) *Agency Contact:*
Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, (202) 634–7461.

Title of Regulation: Extension of Commercial/Recreational Salmon Off California, Oregon, and Washington Fishery Management Plan (FMP) (50 CFR Part 661) (Fishery Year 1981)

(a) *Description and Need:*
Prevents overfishing and regulates the domestic fishery for salmon in the Fishery Conservation Zone (FCZ) off California, Oregon, and Washington.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: May 1981.
(ii) In final form: August 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Will be published in the **Federal Register** as proposed regulations.
(f) *Major Issues:*
Length of fishing season. Allocation among domestic user groups.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——).
Anticipated date of draft analysis: February 1981.
Other documents: Commercial and Recreational Salmon FMP Amendment, 1979; Commercial and Recreational Salmon FMP, 1978; Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California FMP, 1977; and Commercial and Recreational Salmon FMP Amendment, 1980.
(h) *Agency Contact:*
Herbert Larkins, Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, North, Seattle, Washington, 98109, (206) 442–7575.

Title of Regulation: Designation of Critical Habitat for the Hawaiian Monk Seal (50 CFR Part 222)

(a) *Description and Need:*
Designation of Critical Habitat for the Hawaiian Monk Seal is pursuant to the Endangered Species Act of 1973, as amended. The Act requires that Critical Habitat be designated for endangered and threatened species now listed in accordance with the Act. Critical Habitat means the specific areas within (or outside) the geographic range of the species on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or protection.
(b) *Legal Authority:*
Endangered Species Act of 1973 (Pub. L. 93–205) (87 Stat. 884) (16 U.S.C. 1531–1543).
(c) *Importance:*
(i) Significant? (Yes X, no ——, unknown ——).
(ii) Major? (Yes ——, no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: Unknown.
(ii) In final form: Unknown.
(e) *Tentative Plan for Obtaining Public Comments:*
Public comment and consultation with state and local governments will be solicited at all stages of the process of designation, including those opportunities available through the National Environmental Policy Act process, and public hearings. Public comments will also be solicited when the proposed area(s) designated are published in the **Federal Register.**
(f) *Major Issues:*
Impact of the designation on state and Federal activities within, and adjacent to, the Critical Habitat; economic impact of the proposed area designation on the private sector; effectiveness of the area designation on increasing the likelihood of the survivial of endangered species; ecological impact of the area designation on the associated flora and fauna within, and adjacent to, the Critical Habitat.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (Yes ——, no X, unknown ——).
Anticipated date of draft analysis: Not applicable.
(ii) Other documents: Draft Environmental Impact Statement (DEIS) is available for public review.

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(h) *Agency Contact:*
Alan W. Ford, Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, California 90731, (213) 548–2575.

Title of Regulation: American Lobster Fishery Management Plan (FMP)

(a) *Description and Need:*
Implementation of the Fishery Management Plan (FMP) for American Lobster will be necessary to prevent recruitment overfishing and coordinate development and implementation with states.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no —— unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: September 1981.
(ii) In final form: January 1982.
(e) *Tentative Plan for Obtaining Public Comments:*
Will be published in **Federal Register** as proposed regulations. Regional Fishery Management Council will hold public hearings.
(f) *Major Issues:*
Whether or not to adopt effort control measures; coordination with state management programs; and coordination with Canada.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——). Anticipated date of draft analysis: Summer 1981.
(ii) Other documents: None.
(h) *Agency Contact:* Bruce Nicholls, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930, (617) 281–3600.

Title of Regulation: Whaling (50 CFR Part 230)

(a) *Description and Need:*
Regulations to govern the subsistence hunt for bowhead whales conducted by U.S. Eskimos in Alaska. Whaling activities conducted by U.S. citizens domestically are subject to the terms of the Whaling Convention Act which implements the International Convention for the Regulation of Whaling, 1946. Regulations are updated annually subject to International Whaling Commission actions.
(b) *Legal Authority:*
Whaling Convention Act (16 U.S.C. 916 a–1).
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes ——, no ——, unknown X).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: December 1980.
(ii) In final form: March 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Public meetings in Washington, D.C., and Anchorage, Alaska.
(f) *Major Issues:*
Allocation of International Whaling Commission quota among whaling villages; and licensing and reporting requirements on sighting, striking, and landing whales.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: None.
(h) *Agency Contact:* Richard B. Roe, Acting Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, (202) 634–7461.

Title of Regulation: Fish and Wildlife Coordination Act, Uniform Procedures for Compliance

(a) *Description and Need:*
Defines requirements and procedures that must be met by Federal agencies for complying fully with the Fish and Wildlife Coordination Act (FWCA).
(b) *Legal Authority:*
President's Water Policy Memorandum issued July 21, 1978; Fish and Wildlife Coordination Act (16 U.S.C. 661); and Fish and Wildlife Act of 1956 (16 U.S.C. 742-(a–k).
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes ——, no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: May 18, 1979.
(ii) In reproposed form: September 15, 1980.
(iii) In final form: February 1, 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Proposed rules were published in the **Federal Register** May 18, 1979, in response to the President's water policy directive issued July 12, 1978, and were distributed widely to state governments, Federal agencies, and public groups known to be interested. Public hearings were held in six regions during June 26–28, 1979. Approximately 450 written comments were reviewed and evaluated. A determination was made on August 17, 1979, to prepare an environmental impact statement (EIS) and notice of such intent was published for public comment (44 FR 48305). A public hearing was conducted September 14, 1979. On November 6, 1979, a Notice of Intent to Prepare an EIS on the proposal and reissue draft rules was published (44 FR 64097). An open scoping meeting was conducted on November 19, 1979. Reproposed rules and a draft EIS was jointly published in mid-September 1980.
(f) *Major Issues:*
• Applicability of FWCA to a variety of Federal activities including Outer Continental Shelf oil and gas leases, permits, licenses, grants, financial or technical assistance, or other projects affecting waters of the U.S. and oceanic waters.
• Assessment methods to be used to evaluate wildlife resource values and project effects on those values.
• Establish a definition of "equal consideration or wildlife" in planning projects and "justifiable measures" for wildlife conservation.
• Degree of involvement by National Marine Fisheries Service field biologists in the planning process of federal construction and regulatory agencies.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes ——, no X, unknown ——).
Anticipated date of draft analysis: Not applicable.
(ii) Other documents: None.
(h) *Agency Contact:*
James W. Rote, Director, Office of Habitat Protection, National Marine Fisheries Service, Washington, D.C. 20235, (202) 634–7409.

Title of Regulation: Sea Scallops Fishery Management Plan (FMP)

(a) *Description and Need:*
Implementation of a Fishery Management Plan for the Sea Scallops is necessary to control meat count per pound (size) and recruitment and catch per unit effort.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: September 1981.
(ii) In final form: January 1982.
(e) *Tentative Plan for Obtaining Public Comments:*
Will be published in **Federal Register** as proposed regulations. Regional Fishery Management Council will hold public hearings.
(f) *Major Issues:*
Whether or not to adopt effort control measures; coordination with state management programs; and coordination with Canada.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——).
Anticipated date of draft analysis: Summer 1981.
(ii) Other documents: None.
(h) *Agency Contact:*
Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930, (617) 281–3600.

Title of Regulation: Pacific Billfish and Oceanic Sharks Fishery Management Plan (FMP) (Western Pacific)

(a) *Description and Need:*
Supersedes the Preliminary Fishery Management Plan (FMP) for Pacific Billfish and Oceanic Sharks, in the Fishery Conservation Zone (FCZ) off Hawaii, Guam, American Samoa, the Northern Mariana Islands, and U.S. possessions in the central and western Pacific Ocean.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: March 1981.
(ii) In final form: July 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Draft FMP and Environmental Impact Statement will be circulated for public review and hearings. Draft regulations will be subject to 60-day public review period.
(f) *Major Issues:*
Control of incidental catch of billfish, sharks, and related species by foreign longline vessels fishing for tuna in the FCZ.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——).
Anticipated date of draft analysis: December 1980.
(ii) Other documents:
Final Supplemental Environmental Impact Statement (EIS)/Preliminary Fishery Management Plan (FMP) for Pacific Billfish and Oceanic Sharks.
(h) *Agency Contact:*
Alan W. Ford, Regional Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, California 90731, (213) 548–2575.

Title of Regulation: Surf Clam and Ocean Quahog Fishery Management Plan (Amendment No. 3)

(a) *Description and Need:*
The existing plan expires on January 1, 1980. The biological data, however, indicate that continued management is necessary. Amendment No. 3 controls existing jurisdiction and authorizes consideration of additional management techniques (quotas, limited entry techniques, etc.).
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: September 1981.
(ii) In final form: December 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Will be published in **Federal Register** as proposed regulations. Regional Fishery Management Council will hold public hearings.
(f) *Major Issues:*
Should there be a moratorium on new entrants to the Mid-Atlantic surf clam fishery? Should a numberical quota and optimum yield system be used in the future management of both surf clam and ocean quahog? Should the plan be amended so that regulatory authority will continue in perpetuity.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——).
Anticipated date of draft analysis: March 1981.
(ii) Other documents:
Surf Clam and Ocean Quahog FMP.
(h) *Agency Contact:*
Bruce Nicholls, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930, (617) 281–3600.

Title of Regulation: Amendment to the Atlantic Groundfish Fishery Management Plan (FMP), Supplement No. 5 to the Final Environmental Impact Statement

(a) *Description and Need:*
To provide a mechanism within the FMP which allows adjustment of optimum yields to reflect the latest status of stocks information without long time delays (adjustments based on specified criteria). Refine the FMP to eliminate measures which do not contribute to effective management, are not enforceable, or are unjustifiably costly to implement.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: May 15, 1981.
(ii) In final form: September 30, 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Will be published in **Federal Register** as proposed regulations. Regional Fishery Management Council will hold public hearings.
(f) *Major Issues:*
Biological justification for increased optimum yields for haddock and yellowtail flounder; and acceptability of criteria used to adjust optimum yields in response to assessed changes in stock abundance.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——).
Anticipated date of draft analysis: November 30, 1980.
(ii) Other documents:
Supplement to the Final Environmental Impact Statement.
(h) *Agency Contact:*
Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930, (617) 281–3600.

Title of Regulation: Pink Shrimp Fishery off Washington, Oregon, and California Fishery Management Plan (FMP)

(a) *Description and Need:*
To prevent overfishing on the pink shrimp resource, and to increase economic benefits derived from resource.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: May 1981.
(ii) In final form: September 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Will be published in **Federal Register** as proposed regulations. Regional Fishery Management Council will hold public hearings.
(f) *Major Issues:*
Mesh size, winter closures and their impact on fishermen from the States of Washington, Oregon, and California.
(g) *Documents Available to the Public:*

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(i) Regulatory analysis required: (yes X, no ——, unknown ——).
Anticipated date of draft analysis: February 1981.
Other documents: None.
(h) *Agency Contact:*
Herbert Larkins, Regional Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue, North Seattle, Washington 98109, (206) 442–7575.

Title of Regulation: Spiny Lobster Fishery Management Plan (FMP) (Western Pacific)

(a) *Description and Need:*
Implementation of the Fishery Management Plan (FMP) for Spiny Lobster Fisheries of the Western Pacific Region will be necessary to achieve the optimum yield and to prevent overfishing.
(b) *Legal Authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: May 1981.
(ii) In final form: August 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Western Pacific Regional Fishery Management Council will prepare draft FMP for public hearings, and comments will be received on draft Environmental Impact Statement, as well. Regulations and final FMP will be subject to 60-day public review.
(f) *Major Issues:*
Determination of optimum yield and selection of size limits for spiny lobster.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——).
Anticipated date of draft analysis: December 1980.
(ii) Other documents:
Fishery Management Plan and associated Environmental Impact Statement for Spiny Lobster Fisheries of the Western Pacific Region.
(h) *Agency Contact:*
Alan W. Ford, Regional Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, California 90731, (213) 548–2575.

Title of Regulation: Guidelines for Development of Fishery Management Plans (FMP) (50 CFR 602.2)

(a) *Description and Need:*
Revise existing 602 regulations to conform with current agency policy with regard to standards, procedures, content, format, and integration of other statutory requirements in the development of FMP's by Regional Fishery Management Councils.
(b) *Legal Authority:*
16 U.S.C. 1851
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes ——, no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: Fall 1981.
(ii) In final form: Winter 1981–82.
(e) *Tentative Plan for Obtaining Public Comments:*
Consultation with Council members and staff; publication as proposed regulations with comment periods appropriate to the significance of the regulation.
(f) *Major Issues:*
Fishery Conservation and Management Act national standards for fishery management plans; content, format, processing of plans, conformance with overlaying statutory requirements.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes ——, no X, unknown ——).
Anticipated date of draft analysis: Not applicable.
(ii) Other documents:
50 CFR Part 602 and amendments published in 1979 (44 Fr 7708) and 1977 (42 36981).
(h) *Agency Contact:*
William G. Gordon, Director, Office of Resource Conservation and Management, National Marine Fisheries Service, Washington, D.C. 20235, (202) 634–7218.

Title of Regulation: Caribbean Shallow Water Reef Fish Management Plan

(a) *Description and Need:*
Implement management regulations for the efficient utilization of shallow water resources and to reduce user group conflicts.
(b) *Legal authority:*
16 U.S.C. 1801 *et seq.*
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: June 1981.
(ii) In final form: November 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Public hearings will be held on the FMP. Consultations will be conducted with local, State and Federal agencies as appropriate.
(f) *Major Issues:*
Maintenance of the resource while providing fair allocations of the resource available to recreational and commercial fishermen.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——).
Anticipated date of draft analysis: October 1980.
Other documents: None.
(h) *Agency Contact:*
Harold B. Allen, Acting Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702, (813) 893–3141.

DOC Department Unit: Office of Coastal Zone Management

Title of Regulation: Regulations for Proposed St. Thomas Marine Sanctuary, St. Thomas, Virgin Islands

(a) *Description and Need:*
The regulations will be necessary to protect the ecological, recreational, and aesthetic resources of certain waters off St. Thomas if designated as a Marine Sanctuary.
(b) *Legal Authority:*
Section 302(f), Title III of the Marine Protection, Research and Sanctuaries Act, 16 U.S.C. 1432(f).
(c) *Importance:*
(i) Significant? (yes X, No ——, unknown ——).
(ii) Major? (yes—, no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: Notice of Proposed Regulations and Notice of Availability of DEIS in **Federal Register**—November 1980.
(ii) In final form: Notice of Availability of FEIS in **Federal Register**—February 1981.
Notice of Final Rulemaking in **Federal Register**—April 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Meetings were held in May and June 1979 with Virgin Islands government officials. An Issue Paper discussing the site and soliciting comments was distributed in mid-July 1979. A public workshop was held in mid-August 1979. Future comments will be solicited by:
• Publishing the Notice of Availability of the DEIS and the Notice of Proposed Rulemaking in the **Federal Register** and distributing the DEIS.
• Holding a public hearing on the DEIS in St. Thomas with extensive publicity through established mailing lists and the press.
• Publishing the Notice of Availability of the FEIS and the Notice of Final Rulemaking in the **Federal Register** and applicable documents.
• The Governor of the Virgin Islands will be mailed copies of the DEIS, the Notice of Proposed Regulations and all other applicable documents.
(f) *Major Issues:*
Whether a marine sanctuary should be designated off St. Thomas; and the
Type and extent of the regulation of activities necessary within the sanctuary, in particular the regulation of boat anchoring and recreational diving.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes——, no X, unknown ——).
Anticipated date of draft analysis: Not applicable.
(ii) Other documents: Issue Paper.
(h) *Agency Contact:*
Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, (202) 634–4236.

Title of Regulation: Regulations for Proposed Flower Garden Banks Marine Sanctuary

(a) *Description and Need:*
The regulations will be necessary to protect the ecological, recreational, and aesthetic resources of Flower Garden Banks if designated as a Marine Sanctuary.
(b) *Legal Authority:*
Section 302(f), Title III of the Marine Protection, Research and Sanctuaries Act, 16 U.S.C. 1432(f).
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes ——, no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
In final form: Notice of Availability of FEIS in **Federal Register**—Winter 1981.
Notice of Final Rulemaking in **Federal Register**—Spring 1981.
(e) *Tentative plan for Obtaining Public Comments:*
The following has already been done to solicit comment:
• A public workshop was held in Houston, Texas, in December 1977.
• A White Paper discussing the site and soliciting comments was widely distributed in June 1978.
• Two further meetings were held in Houston in July 1978, one with recreationists and one with offshore oil and gas companies.
• The Notice of Availability of DEIS and the Notice of Proposed Rulemaking was published in the **Federal Register** on April 13, 1979 (44 FR 22061).
• Two public hearings on the DEIS were held in May 1979, one in Texas and one in Louisiana, with extensive publicity through established mailing lists and the press.
• Revised regulations, based on public comment on the DEIS and input from cooperating agencies, were published in the **Federal Register** on June 26, 1980 (45 FR 43205).
Future comment will be solicited by:
• Publishing the Notice of Availability of the FEIS and the Notice of Final Rulemaking in the **Federal Register** and distributing the FEIS.
• Mailing to the Governors of Texas and Louisiana copies of the FEIS, the Notice of Final Rulemaking, and all other applicable documents.
(f) *Major Issues:*
Whether a marine sanctuary should be designated at Flower Garden Banks; and the
Type and extent of the regulation of activities necessary within the sanctuary, in particular the regulation of oil and gas development. The economic impact of oil and gas regulation is the issue that will be of particular importance.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: White Paper; DEIS; and Reproposed Regulations.
(h) *Agency Contact:*
Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, (202) 634–4236.

Title of Regulation: Regulations for Proposed Looe Key Marine Sanctuary

(a) *Description and Need:*
The regulations will be necessary to protect the ecological, recreational, and aesthetic resources of Looe Key if designated as a Marine Sanctuary.
(b) *Legal Authority:*
Section 302(f), Title III of the Marine Protection, Research and Sanctuaries Act, 16 U.S.C. 1432(f).
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes ——, no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
In final form: Notice of Availability of FEIS in **Federal Register**—October 1980.
Notice of Final Rulemaking in **Federal Register**—December 1980.
(e) *Tentative Plan for Obtaining Public Comments:*
A public workshop was held in Big Pine Key, Florida in January 1978 regarding the proposed designation of Looe Key as a Marine Sanctuary. The DEIS was distributed in May 1980. The Notice of Availability of the DEIS and the Notice of Proposed Rulemaking were published in the **Federal Register** on May 16, 1980 (45 FR 32415). Public hearings were held in June 1980. Future comment will be solicited by:
• Publishing the Notice of Availability of the FEIS and the Notice of Final Rulemaking in the **Federal Register** and distributing the FEIS.
• The Governor of Florida will be mailed copies of the FEIS, the Notice of Final Rulemaking and all other applicable documents.
(f) *Major Issues:*
Whether a marine sanctuary should be designated at Looe Key; the size of any sanctuary designated; and the
Type and extent of the regulation of activities necessary within the sanctuary, in particular the regulation of activities impacting the coral reef.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required (yes ——, no X, unknown ——).
Anticipated date of draft analysis: Not applicable.
(ii) Other documents:
Looe Key Resource Inventory; and DEIS.
(h) *Agency Contact:*
Nancy Foster, Deputy Director, Sanctuary Programs Office, Ofice of Coastal Zone Management, (202) 634–4236.

Title of Regulation: Regulations for Proposed Point Reyes/Farallon Islands Marine Sanctuary

(a) *Description and Need:*
The regulations will be necessary to protect ecological, recreational, and aesthetic resources of the waters around Point Reyes and the Farallon Islands if designated as a Marine Sanctuary.
(b) *Legal Authority:*
Section 302(f), Title III of the Marine Protection, Research and Sanctuaries Act, 16 U.S.C. 1432(f).
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes ——, no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
In final form: Notice of Availability of FEIS in **Federal Register**—October 1980.
Notice of Final Rulemaking in **Federal Register**—December 1980.
(e) *Tentative Plan for Obtaining Public Comments:*
In April 1978 NOAA held a public workshop in Marin County, California to discuss the recommendation of this site. In December 1978 NOAA distributed an Issue Paper with regulatory options, and the California Coastal Commission held

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public hearings on the Issue Paper. The Notice of Availability of DEIS and the Notice of Proposed Rulemaking were published in the **Federal Register** on March 28 and March 31, 1980, respectively (45 FR 20545 and 20907). Public hearings were held in May 1980. The FEIS was distributed in September 1980. Future comments will be solicited by:

• Publishing the Notice of Availability of the FEIS and the Notice of Final Rulemaking in the **Federal Register.**

• Mailing to the Governor of California a copy of the FEIS, the Notice of Final Rulemaking, and all other applicable documents.

(f) *Major Issues:*

Whether a marine sanctuary should be designated in the waters around Point Reyes and the Farallon Islands; and

Type and extent of the regulation of activities necessary within the sanctuary.

(g) *Documents Available to the Public:*

(i) Regulatory analysis required: (yes ——, no X, unknown ——).

Anticipated date of draft analysis: Not applicable.

(ii) Other documents:

Issue Paper; DEIS; and FEIS.

(h) *Agency Contact:*

Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, 202 634–4236.

Title of Regulation: Final Regulations for Key Largo Coral Reef Marine Sanctuary

(a) *Description and Need:*

The regulations will be necessary to replace and update interim regulations to protect ecological, recreational, and aesthetic resources of Key Largo Coral Reef National Marine Sanctuary.

(b) *Legal Authority:*

Section 302(f), Title III of the Marine Protection Research and Sanctuaries Act, 16 U.S.C. 1432(f).

(c) *Importance:*

(i) Significant? (yes X, no ——, unknown ——).

(ii) Major? (yes ——, no X, unknown ——).

(d) *Timetable—Anticipated Dates for Federal Register Publication:*

(i) In proposed form: Notice of Proposed Final Regulations in **Federal Register**—Winter 1981.

(ii) In final form: Notice of Final Rulemaking in **Federal Register**—Spring 1981.

(e) *Tentative Plan for Obtaining Public Comments:*

Publishing the revised regulations in proposed form for comment in the **Federal Register.**

(f) *Major Issues:*

Whether to allow the taking of tropical fish for educational and public display purposes; and

Whether to prohibit wire trap fishing.

(g) *Documents Available to the Public:*

(i) Regulatory analysis required: (yes ——, no X, unknown ——).

Anticipated date of draft analysis: Not applicable.

(ii) Other documents:

Interim Regulations (15 CFR Part 929).

(h) *Agency Contact:*

Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, (202) 634–4236.

Title of Regulation: Review of the Performance of Coastal States With Respect to Coastal Management

(a) *Description and Need:*

The Secretary of Commerce is directed by the 1980 amendments to the Coastal Zone Management Act to issue regulations necessary to administer section 312, which establishes the requirement for continuing review of the performance of coastal states under their approved coastal zone management programs. The regulations are needed to establish the policy and procedures to be used in these evaluations.

(b) *Legal Authoriy:*

Section 312 of the Coastal Zone Management Act, as amended, 16 U.S.C. 1458.

(c) *Importance:*

(i) Significant? (yes X, no ——, unknown ——).

(ii) Major? (yes ——, no X, unknown ——).

(d) *Timetable—Anticipated Dates for Federal Register Publication:*

(i) In proposed form: Notice of Proposed Regulations in **Federal Register**—April 1981.

(ii) In final form: Notice of Final Rulemaking in **Federal Register**—July 1981.

(e) *Tentative Plan for Obtaining Public Comments:*

Public notice will appear in the **Federal Register** soliciting public comments on the proposed regulation. The Office of Coastal Zone Management may hold one or more public meetings on the proposed regulation.

(f) *Major Issues:*

The major issue is the formulation of the policies and procedures according to which state coastal management programs will be evaluated. What constitutes significant improvement?

(g) *Documents Available to the Public:*

(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.

(ii) Other documents:

Memorandum to State Coastal Zone Management Program Managers from Robert W. Knecht, dated September 13, 1979, on section 312 Evaluations of Approved State CZM Programs—Purposes and Procedures.

(h) *Agency Contact:*

Jane P. Rogers, Chief of Policy and External Relations, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235, (202) 634–4245.

Title of Regulation: Regulations for Proposed Monterey Bay Marine Sanctuary

(a) *Description and Need:*

The regulations will be necessary to protect ecological, recreational, and aesthetic resources of the waters of Monterey Bay and the adjacent coast if designated as a Marine Sanctuary.

(b) *Legal Authority:*

Section 302(f), Title III of the Marine Protection, Research and Sanctuaries Act, 16 U.S.C. 1432(f).

(c) *Importance:*

(i) Significant? (yes X, no ——, unknown ——).

(ii) Major? (yes ——, no X, unknown ——).

(d) *Timetable—Anticipated Dates for Federal Register Publication:*

(i) In proposed form: Notice of Proposed Regulations and Notice of Availability of DEIS in **Federal Register**—Spring 1981.

(ii) In final form: Notice of Availability of FEIS in **Federal Register**—Summer 1981. Notice of Final Rulemaking in **Federal Register**—Fall 1981.

(e) *Tentative Plan for Obtaining Public Comments:*

In April 1978 NOAA held a public workshop in Monterey, California. In December 1978 NOAA distributed an Issue Paper with regulatory options, and the California Coastal Commission held hearings on the Issue Paper in March and April 1979. Future comment will be solicited by:

• Circulating preliminary draft chapters of the DEIS and holding public meetings in the affected areas.

• Publishing the Notice of Availability of the DEIS and the Notice of Proposed Rulemaking in the **Federal Register** and distributing the DEIS.

• Holding public hearings on the DEIS in Monterey area with extensive publicity through established mailing lists and the press.

• Publishing the Notice of Availability of the FEIS and the Notice of Final Rulemaking in the **Federal Register** and distributing the FEIS.

• Mailing to the Governor of California a copy of the FEIS, the Notice of Final Rulemaking, and all other applicable documents.

(f) *Major Issues:*

Whether a marine sanctuary should be designated in the waters of Monterey Bay and the adjacent coast; and size of any sanctuary designated; and the type and extent of the regulation of activities necessary within the sanctuary.

(g) *Documents Available to the Public:*

(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.

(ii) Other documents: Issue Paper.

(h) *Agency Contact:*

Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, (202) 634–4236.

Title of Regulation: Regulations for Improving the Achievement of Coastal Zone Management Objectives

(a) *Description and Need:*

The 1980 Amendments to the Coastal Zone Management Act (CZMA) require states to improve coastal management by increasing attention to issues of national concern such as: protection of significant coastal resources; minimization of flood and storm damage; siting of major facilities; public access to the coasts; waterfront redevelopment; and the simplification of government processes. The CZMA amendments require that regulations be developed to guide the implementation of the mandated improvements.

(b) *Legal Authority:*

Sections 306 and 317 of the Coastal Zone Management Act, as amended, 16 U.S.C. 1456, 1466.

(c) *Importance:*

(i) Significant? (yes X, no ——, unknown ——).

(ii) Major? (yes ——, no X, unknown ——).

(d) *Timetable—Anticipated Dates for Federal Register Publication:*

(i) In proposed form: Notice of Proposed Regulations in **Federal Register**—April 1981.

(ii) In final form: Notice of Final Rulemaking in **Federal Register**—July 1981.

(e) *Tentative Plan for Obtaining Public Comments:*

Public notice will appear in the **Federal Register** soliciting public comments on the proposed regulations. The Office of Coastal Zone Management may hold one or more public meetings on the proposed regulations.

(f) *Major Issues:*

The major issues are likely to be the interpretation of what constitutes activities that are responsive to issues of national concern and the degree of oversight that the Federal government will have over state functions.

(g) *Documents Available to the Public:*

(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.

(ii) Other documents:

Previous Federal consistency regulations 44 FR 18590, March 1979.

(h) *Agency Contact:*

Jane P. Rogers, Chief of Policy, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235 (202) 634–4245.

Title of Regulation: Federal Consistency with Approved Coastal Management Programs

(a) *Description and Need:*

The Secretary of Commerce has directed the National Oceanic and Atmospheric Administration to promulgate regulations defining the term "directly affecting" in Section 307 of the Coastal Zone Management Act. Section 307 requires that all Federal activities be consistent to the maximum extent practicable with approved state coastal management programs. Clarification of the definition of this term is necessary in order to avoid future disagreements such as the one which arose between the State of California and the Department of the Interior concerning whether Outer Continental Shelf lease sales were activities that directly affected the coastal zone of a state.

(b) *Legal Authority:*

Sections 307 and 317 of the Coastal Zone Management Act, as amended, 16 U.S.C. 1456, 1466.

(c) *Importance:*

(i) Significant? (yes X, no ——, unknown ——).

(ii) Major? (yes ——, no X, unknown ——).

(d) *Timetable—Anticipated Dates for Federal Register* Publication:

(i) In proposed form: Notice of proposed regulations in **Federal Register**—March 1981.

(ii) In final form: Notice of Final Rulemaking in **Federal Register**—July 1981.

(e) *Tentative Plan for Obtaining Public Comments:*

Public notice will appear in the **Federal Register** soliciting public comments on the proposal regulations. The Office of Coastal Zone Management may hold one or more public meetings on the proposed regulations.

(f) *Major Issues:*

The major issue is the controversy over the interpretation of the term "directly affecting" as it relates to the consequences of Outer Continental Shelf leasing and other Federal activities within the coastal zones of states with federally approved Coastal Management Programs.

(g) *Documents Available to the Public:*

(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.

(ii) Other documents:

Previous Federal consistency regulations (44 FR 37142, June 25, 1979).

Department of Commerce Mediation record for the disagreement between the State of California and the Department of the Interior.

(h) *Agency Contact:*

Jane P. Rogers, Chief of Policy, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235 (202) 634–4245.

DOC Department Unit: MarAd

Title of Regulation: Award and Administration of Operating-Differential Subsidy for Dry Bulk Cargo Vessels (46 CFR Part 254)

(a) *Description and Need:* The Maritime Administration (MarAd) administers an operating-differential subsidy (ODS) program, which is intended to compensate American shipowners in foreign trade for the cost difference between operating a ship under American, rather than foreign registry. The level of ODS payments is based on the comparative costs incurred by representative American and foreign operators with respect to major items. The procedures for selecting representative cost items and representative foreign flags, as well as costs, and for calculating ODS payments are revised frequently as economic conditions change. The proposed regulation will recognize the need for some substantive rules and procedures in the administration of the ODS for dry bulk cargo vessels. Regulations governing ODS for all bulk cargo vessels engaged in worldwide services appear in 46 CFR Part 252, selected for review. Amendments to Part 252 will be based on the scheme and format of the newly proposed Part 254. The new Part 254 will also implement any new legislation which might be enacted, arising out of proposals submitted by MarAd and other legislative initiatives.

(b) *Legal Authority:* Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).

(c) *Importance:*

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(i) Significant? (yes X, no ——, unknown ——.
(ii) Major? (yes ——, no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: Published September 6, 1979 (44 FR 52002). (To be consolidated as a subpart in a revised 46 CFR Part 252 ODS Bulk Cargo Vessels Engaged in Worldwide Services, to be published in proposed form about December 1980.)
(ii) In final form: June 1981.
(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in **Federal Register** and release of information to *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication).
(f) *Major Issues:*
The need to develop regulations that recognize the unique problems of dry bulk vessel operators receiving ODS, to clarify existing law and reflect enactment of legislative proposals, if enacted.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: None.
(h) *Agency Contact:*
Frederick R. Larson, Director, Office of Ship Operating Costs, Washington, D.C. 20230, (202) 377–5532.

Title of Regulations: Rules of Practice and Procedure; Procedure for Hearing on Operating-Differential Subsidy Applications; Applications for Subsidies and Other Direct Financial Aid (46 CFR Parts 201, 208 (New) and 251). (Deleted From Last Agenda in Error)

(a) *Description and Need:*
Proposed amendments to the Rules of Practice and Procedure are intended to clarify those rules and simplify them with respect to such matters as requests for discovery, time limitation for filing petitions for reconsideration, interlocutory appeals, and authority of the Maritime Subsidy Board (MSB) to deny petitions. Proposed new Part 208 would establish a standard discovery order and a standard technique for forecasting the adequacy/inadequacy of U.S.-flag liner service in hearings required under section 605(c), Merchant Marine Act, 1936 (1936 Act) relating to applications for operating-differential subsidy (ODS). The form of application for such subsidy (in Part 251) would be amended to conform to the requirements of the new Part 208. This action arises out of a Petition for Issuance of a Rule by an operator receiving ODS, alleging that there was an inordinate delay, resulting in excessive costs to applicants for ODS, in the proceedings under section 605(c) of the Act. The petition was published in the **Federal Register** inviting public comment. The MSB denied the petition on March 22, 1979 (Docket No. A–133), but announced an intent to promulgate proposed regulations that would most likely reduce some of the delay and expense. The proposed rulemaking has been published with that objective.
(b) *Legal Authority:*
Sec. 204(b) Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes —— no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: Published June 25, 1979 (44 FR 37003).
(ii) In final form: Unknown.
(Substantial changes to new Part 208 might result in republication of that part in proposed form).
(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in **Federal Register** and information released to and published by *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication).
(f) *Major Issues:*
Whether the existing procedures of the MSB for considering petitions for award of ODS under section 605(c) of the 1936 Act, as well as the applicable general Rules of Practice and Procedure in 46 CFR Part 201, result in unreasonable delay with resulting excessive costs to vessel operators.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: None.
(h) *Agency Contact:*
Robert J. Patton, Jr., Secretary, Maritime Administration, Washington, D.C. 20230, (202) 377–2188.

Title of Regulations. Merchant Marine Training (46 CFR Part 310)

(a) *Description and Need:*
The Maritime Administration (Marad) is responsible for the administration of the U.S. Merchant Marine Academy, the aid programs to state merchant marine academies, and the U.S. Maritime Service, a voluntary maritime training organization.
The regulations relevant to these programs have not always been amended in a timely fashion to reflect policy and program development. The need to bring the regulatory framework up to date is particularly great for the Maritime Service, since the regulations have not been revised since the Service was significantly restructured in the 1950's. The Select Subcommittee of the House Merchant Marine and Fisheries Committee, after reviewing these programs, recommended that the regulations be amended to reflect current practice and legal requirements. The draft regulations are intended to implement these recommendations. The publication of the proposed regulations has been delayed pending congressional action on comprehensive pending legislation dealing with maritime education and training.
(b) *Legal Authority:* Sec. 204(b) and 216, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b) and 1126); Pub. L. 85–672 (46 U.S.C. 1381–1388).
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes —— no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: November 1980.
(ii) In final form: April 1981.
(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in **Federal Register;** release of information and publication in *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication); and notice of opportunity to comment in other selected publications.
(f) *Major Issues;*
Whether procedures adopted by Marad in the area of maritime education and training are consistent with the requirements of applicable statutory authority.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (Yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: None.
(h) *Agency Contact:*
Kathleen A. Shetler, Office of Maritime Labor and Training, Washington, D.C. 20230, (202) 377–5653.

Title of Regulation: Documentation Transfer or Charter of Vessels (46 CFR Part 221)

(a) *Description and Need:*
Regulations in 46 CFR Part 221 includes provisions governing the transfer of vessels and interests in vessels owned by U.S. citizens to non-citizens and approvals of vessel charters to aliens, pursuant to authority in the Shipping Act, 1916. The amendments are being made to clarify the applicability of a general provision for the approval of certain vessel charters to aliens and to distinguish it from a procedure limited to approval of vessel charters for carriage of agricultural commodities to the U.S.S.R. The list of countries with which trade may not be approved for vessels chartered to aliens has been revised to be consistent with policy as proclaimed by the President. A similar revision has been made to a restricted list with respect to transfers of vessels, or interests therein, to aliens.
(b) *Legal Authority:*
Secs. 9, 37 and 41, Shipping Act, 1916 as amended.
(c) *Importance:*
(i) Significant? (Yes X, no ——, unknown ——).
(ii) Major? (Yes ——, no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: Not applicable.
(ii) In final form: November 1980.
(e) *Tentative Plan for Obtaining Public Comments:*
None. Clarifying amendments are not significant, and the amendments of the restricted countries list relates to implementation of the exercise by the President of a foreign affairs function, which is not subject to the requirements of E.O. 12044 pursuant to provision of section 2(b) thereof.
(f) *Major Issues:*
Clarify distinction between a general provision and one of limited applicability and conform provision concerning trade restricts to be consistent with policy announced by the President.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (Yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: None.
(h) *Agency Contact:*
Virginia O'Brien, Foreign Transfer Officer, Division of Ship Management, Office of Ship Operations, Washington, D.C. 20230, (202) 377–3213.

Title of Regulation: Cargo Preference—U.S. Flag Vessels—Determination of Fair and Reasonable Rates (46 CFR 381.8, 381.9 and New Part 382)

(a) *Description and Need:*
46 U.S.C. § 1241 states that at least 50% of the materials procured by the United States Government which are shipped by water shall be transported on privately-owned United States flag commercial vessels so long as they are available at "fair and reasonable rates." The Maritime Administration (Marad) is responsible for issuing regulations governing the implementation of this program by other agencies.
The proposed regulation will set forth the standards and procedures used in determining "fair and reasonable rates." These standards and procedures have not been set forth by regulation in the past. It is expected that codification and publication of these standards and procedures will provide merchant ship operators with the information needed to determine the rates they could expect for section 1241 cargo. It will also allow other government agencies to determine more easily under what conditions they are obliged to ship available cargoes on U.S.-flag vessels.
(b) *Legal Authority:*
Sec. 204, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).
(c) *Importance:*
(i) Significant? (Yes X, no ——, unknown ——).
(ii) Major? (Yes ——, no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: Indefinite.
(ii) In final form: Indefinite. (Maritime Subsidy Board is to determine policy as to scope of regulations, i.e., whether they should be applicable to carriage of dry bulk cargoes as well as liquid bulk cargoes.)
(c) *Tentative Plan for Obtaining Public Comments:*
Publication in proposed form in **Federal Register** and release of information to *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication).
(f) *Major Issues:*
The major issue involved in drafting these regulations is to determine whether a proper balance is struck between the interests of private carriers and government agencies. A "fair and reasonable return" should allow efficient carriers to make a competitive profit at the lowest rates consistent with the development of a healthy merchant marine industry. Marad must also determine whether the economic assumptions about cost and financing on which the calculations of fair and reasonable rates are based are consistent with industry experience.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes ——, no ——, unknown X). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: None.
(h) *Agency Contact:*
Frederick R. Larson, Director, Office of Ship Operating Costs, Washington, D.C. 20230, (202) 377-5532.

Title of Regulation: Requirements and Procedures for the Administration of Condition Surveys and Maintenance and Repair Subsidy (46 CFR Part 272)

(a) *Description and Need:*
46 CFR Part 272 establishes the policy and procedure of the agency in administering that part of the operating-differential subsidy (ODS) program relating to requirements for conducting condition surveys of vessels under ODS agreements (ODSA), which provide for maintenance and repair (M&R) subsidy. It includes requirements for the accomplishment and reporting of maintenance and repair. This part is not applicable to ODSA for the carriage of grain to the U.S.S.R. The revision clarifies various provisions, which have presented administrative problems, and reorganizes the entire part. Also, it reflects a change in policy to allow payment of ODS for that part of the M&R costs accomplished by utilizing labor, materials, or both, of domestic origin, irrespective of where the work was accomplished, i.e., anywhere in the world.
(b) *Legal Authority:*
Sec. 204(b) Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes ——, no X, unknown ——).
(d *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: October 1980.
(ii) In final form: March 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Publication in proposed form in **Federal Register** and release of information to *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication).
(f) *Major Issues:*
The major issue is whether the agency has been too restrictive in its interpretation of a requirement in section 606(6) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1176), to be incorporated in every ODSA, that "an operator who receives subsidy with respect to repairs shall perform such repairs within any of the United States or the Commonwealth of Puerto Rico, except in an emergency." This interpretation, as reflected in existing §§ 272.10(a) and 272.11(c), disallows subsidy for all foreign repairs performed "outside the continental limits of the United States." The Maritime Subsidy Board has reviewed an analysis of the legislative history of this provision of the 1936 Act, and has concluded that M&R subsidy should be payable for that part of the M&R cost of domestic origin, irrespective of where the work was accomplished, i.e., anywhere in the world.
(g) *Documents Available to the Public:*

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(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: None.
Agency Contact:
John J. Davis, Chief, Division of Ship Management, Washington, D.C. 20230, (202) 377–3640.

Title of Regulation: Construction-Differential Subsidy (CDS) Repayment: Total Repayment Policy and Procedure (46 CFR Part 276)

(a) *Description and Need:*
The Maritime Subsidy Board (Board) published a notice in the Federal Register on November 2, 1978, proposing to amend 46 CFR Part 276 to include a new section describing its policy in considering applications for the total repayment of CDS, including terms for repayment. At the time of publication there was pending before the U.S. Court of Appeals for the District of Columbia a decision by the District Court, holding that the Secretary of Commerce has the authority to accept total repayment of CDS in exchange for removal of domestic trade restrictions imposed by section 506 of the Merchant Marine Act, 1936, as amended. The Board issued proposed regulations prior to final disposition of the litigation based upon the request of the parties to promulgate regulations, as suggested by the District Court in its decision. The Board has not proceeded with final rulemaking action, pending final resolution of the issue of the Secretary's authority to accept the total CDS repayment. On February 20, 1980, the Supreme Court ruled that the Secretary had this authority. The Supreme Court reversed the Court of Appeals decision, and remanded the case to the Court of Appeals for further consideration of whether the Secretary could accept a promissory note as repayment.
(b) *Legal Authority:* Sec. 204(b) Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes X, no ——, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: Published June 3, 1980 (43 FR 51045).
(ii) Interim: October 1980.
(iii) In final form: May 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Through publication in proposed form in the Federal Register with information released to and published by *Journal of Commerce and Congressional Information Bureau* (maritime industry publication).
(f) *Major Issues:* Under what circumstances should the Secretary of Commerce exercise existing authority to accept total repayment of CDS, and what terms of repayment will be equitable, balancing the interests of the CDS vessel owners, competitors whose vessels were built without CDS, and the Government?
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes X, no ——, unknown ——). Anticipated date of draft analysis: January 1981.
(ii) Other documents: None.
(h) *Agency Contact:* William B. Ebersold, Director, Office of Trade Studies and Statistics, Washington, D.C. 20230, (202) 377–4791.

Title of Regulation: Federal Tax Aspects of the Capital Construction Fund (46 CFR Part 391)

(a) *Description and Need:*
Section 607 of the Merchant Marine Act, 1936, as amended, authorizes an agreement with the Secretary of Commerce (Secretary) for the establishment of a capital construction fund (fund) by any United States citizen owning or leasing one or more "eligible vessels" (as defined). Deposits to the fund that are attributable to "agreement vessel" (defined) earnings from operations, gains on disposition and insurance proceeds for loss indemnification, as well as deposits of income from fund investment or reinvestment, are not subject to current Federal income taxation. On June 15, 1972, MarAd and the Internal Revenue Service (IRS) jointly published proposed comprehensive regulations (37 FR 11887) with respect to tax aspects of the fund. On January 29, 1976, final regulations were published with respect to the establishment of a fund, ceiling on deposits, treatment of withdrawals and other areas (41 FR 4257). At the same time the agencies jointly published in proposed form technical provisions that had been the subject of extensive comments when first published as proposed regulations (41 FR 4280). Representatives of MarAd and the IRS have conferred on many occasions for the purpose of issuing final regulations with respect to these technical provisions so that 46 CFR Part 391, as well as 26 CFR Part 3, will contain a detailed explanation of all substantive and procedural requirements relative to the taxability of deposits to and withdrawals from the fund.
(b) *Legal Authority:*
Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes ——, no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: January 1976.
(ii) In final form: January 1981.
(e) *Tentative Plan for Obtaining Public Comments:*
Through publication in proposed form in Federal Register with information released to and published by *Journal of Commerce and Congressional Information Bureau* (maritime industry publication).
(f) *Major Issues:*
What tax provisions are necessary to effect the intent of the capital construction fund authorized by section 607, Merchant Marine Act, 1936, as amended by section 21 of the Merchant Marine Act of 1970, with respect to the following technical subjects: an under-deposit caused by an audit adjustment; determination of net proceeds from the disposition of agreement vessels; installment sales of agreement vessels; effect of fund deposits and withdrawals on corporate earnings and profits; determination of ordinary gain on the disposition of a vessel; certain corporate reorganizations and changes in partnership, and certain transfers by a decedent.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: None.
(h) *Agency Contact:*
E. A. Uttridge, Director, Office of Subsidy Contracts, Washington, D.C. 20230, (202) 377–3797.

Title of Regulation: Construction-Differential Subsidy (CDS)—Standard Contracts (46 CFR Part 251)

(a) *Description and Need:*
The Maritime Administration (Marad) administers a construction-differential subsidy program (CDS) which is intended to encourage the construction of privately-owned merchant ships in American shipyards. The CDS payment compensates for the difference in cost for work done in American, rather than foreign shipyards. Three contracts are required for each project: one between the purchaser or owner and the shipyard; one between the purchaser or owner and MarAd and one between the shipyard and MarAd. Currently, the terms of all three contracts are negotiated for each project even though the same set of legal standards applies to all projects. MarAd will therefore promulgate a standard set of contracts for use by all parties on future projects. This will greatly reduce legal time and expenses for all parties and will ensure that all interested parties participated in a CDS program on an equal basis.
(b) *Legal Authority:*
Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes ——, no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: Published February 19, ,979 (44 FR 3997).
(ii) In final form: November 1980.
(e) *Tentative Plan for Obtaining Public Comments:* Provided through publication in Federal Register; comments have been reviewed and proposed revisions are being made by the staff for consideration by the Maritime Subsidy Board.
(f) *Major Issues:*
The major issues in drafting the standardized contracts are to ensure that they are consistent with legal requirements, adequately protect the interests of the Government, are consistent with industry practices and are sufficiently flexible to cover future contingencies.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: None.
(h) *Agency Contact:* Melvin S. Eck, Attorney-Adviser, Office of General Counsel, Washington, D.C. 20230, (202) 377–2771.

Title of Regulation: Construction-Differential Subsidy (CDS)—Requirements for Aid (46 CFR Part 251)—Entire Part

(a) *Description and Need:* The Maritime Administration (MarAd) makes available construction-differential subsidy (CDS) for shipowners who undertake construction, reconstruction or reconditioning in American shipyards. CDS payments are intended to offset the higher cost of work in American shipyards. It is made available only to qualified shipowners who will place the vessels in the foreign trades of the U.S. MarAd has developed over the years many restrictions, requirements and procedures for administering the CDS program. These policies determine who is eligible, the procedures for application, the types of ships which may be built with CDS funds, the conditions of service for CDS built vessels, the level of CDS payments, and the obligations of both MarAd and the vessel owner after construction. These policies have been set forth in a wide range of documents. Some of them have never been formally published as regulations. The proposed regulation would therefore codify these policies without making any substantive change in them. Among the anticipated benefits are: clarification of the legal status of the CDS policies and procedures; advising the public of program benefits and requirements; and easing the task of administering the CDS program.
(b) *Legal Authority:* Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)).
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes ——, no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: Unknown.
(ii) In final form: Unknown. (The need for developing regulations is being reassessed.)
(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in Federal Register; and release of information to *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication).
(f) *Major Issues:*
Regulations would be codifications of existing policies and practices for the CDS program. Therefore, it is not anticipated that any major issues or controversies would develop if they are issued.
(g) *Documents Available to the Public:*
(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.
(ii) Other documents: None.
(h) *Agency Contact:* James E. Saari, Attorney-Adviser, Office of General Counsel, Washington, D.C. 20230, (202) 377–2771.

Title of Regulation: Requirements for Establishing United States Citizenship (46 CFR Part 355)

(a) *Description and Need:* In order for individuals, corporations and other entities to participate in the various financial assistance programs administered by the Maritime Administration (MarAd) under the Merchant Marine Act, 1936, as amended, they must establish United States citizenship within the meaning of section 2, Shipping Act, 1916, as amended (1916 Act, 46 U.S.C. 802). This citizenship requirement applies to bareboat charterers and shipowners, as well as owner participants and owner trustee in specialized lease arrangements, and other parties deemed to have a legal or beneficial interest in vessels constructed with subsidy, obligation guarantees, or both. For corporations owning and operating vessels in the coastwise trade, section 2 of the 1916 Act requires at least 75 percent ownership by U.S. citizens. By regulation in 46 CFR Part 355 this may be established with respect to publicly-held corporations under a "fair inference" rule, i.e., by proof that 95 percent of the corporate stock is owned by persons having registered United States addresses. An amendment to the regulations in Part 355 that has been proposed would change the fair inference standard to 90 percent. Another amendment recognizes the growing trend for corporate boards of directors to delegate significant decisionmaking authority to committees, e.g., Executive Committees. It would require that a majority of directors on such committees that are authorized to act on behalf of the Board of Directors be United States citizens. This is in addition to the statutory requirement that a majority of the number of the directors necessary to constitute a quorum shall be citizens. Two new sections have been proposed. One would allow agency discretion to accept alternative methods of proof of corporate citizenship, and the other would inform the public of the agency's policy with respect to Freedom of Information Act requests for documents filed in support of establishing U.S. citizenship.
(b) *Legal Authority:* Sec. 204(b), Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b)), Sec. 2, Shipping Act, 1916, as amended (46 U.S.C. 802).
(c) *Importance:*
(i) Significant? (yes X, no ——, unknown ——).
(ii) Major? (yes ——, no X, unknown ——).
(d) *Timetable—Anticipated Dates for Federal Register Publication:*
(i) In proposed form: Published October 12, 1979, 44 FR 58928. (Inadvertently omitted as an entry in regulatory Agenda published June 5, 1980 (44 FR 37972).
(ii) In final form: November 1980.
(e) *Tentative Plan for Obtaining Public Comments:* Through publication in proposed form in Federal Register with information released to and published by *Journal of Commerce* and *Congressional Information Bureau* (maritime industry publication).
(f) *Major Issues:* The major issues are to adopt a modified fair inference rule that will be effective in establishing the requisite percentage of stock ownership

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in United States publicly-held corporations owning and operating vessels in the coastwise trade and to establish a citizenship requirement that will effectuate the statutory intent that corporate decisionmaking by the boards of directors be subject to the control of United States citizens.

(g) *Documents Available to the Public:*

(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.

(ii) Other documents: None.

(h) *Agency Contact:* Doris Lansberry, Office of the General Counsel, Washington, D.C. 20230, (202) 377–2506.

Minority Business Development Agency (MBDA)

Title of Regulation: MBDA Financial Assistance Awards

(a) *Description and Need:*

MBDA coordinates Federal activities designed to assist minority businesses, stimulates private sector efforts in support of minority enterprise, and provides financial assistance to private and public organizations that provide management and technical assistance to minority businesspersons, as authorized by Executive Order 11625. Implementing the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224, these regulations not only define and distinguish the kinds of MBDA financial assistance awards but also provide information on how to apply for them and the administrative requirements imposed. The primary benefit that these regulations will bring is the standardization of the usage and the clarification of the meaning of legal instruments reflecting Federal assistance relationships from Federal procurement relationships. Removal of uncertainty as to the meaning of such terms as "contract," "grant," and "cooperative agreement" and the relationships they reflect will reduce, if not altogether eliminate, operational inconsistencies, confusion, inefficiency and waste.

(b) *Legal Authority:*

Executive Order 11625, October 13, 1971, and 15 U.S.C. 1512.

(c) *Importance:*

(i) Significant? (yes X, no ——, unknown ——).

(MBDA has indicated in DAO 218–7 (Appendix I, Section 2) that all regulations of the agency will be considered significant.)

(ii) Major? (yes ——, no X, unknown ——).

(d) *Timetable—Anticipated Dates for Federal Register Publication:*

(i) In proposed form: January 31, 1980.

(ii) In final form: April 5, 1980.

(e) *Tentative Plan for Obtaining Public Comments:*

Upon publication in the **Federal Register** MBDA will review and consider all comments received prior to issuing the final regulations on April 5, 1980. Further, various public interest groups will be sent a copy of the proposed regulations simultaneously with its submission to the **Federal Register** for publication.

(f) *Major Issues:*

The major issues involved in these regulations concern the determination of the existence of a competitive environment, and the meaning of substantial involvement. The determination of when or where "competition" is feasible is important since one of the purposes of Pub. L. 95–224 is "to maximize" competition in the award of contracts and encourage competition, where deemed appropriate, in the award of grants and cooperative agreements. The question of "substantial involvement," on the other hand, is vital in as much as its anticipation or non-anticipation with the recipient during performance of the contemplated activity is decisive in categorizing it either as grant or cooperative agreement.

(g) *Documents Available to the Public:*

(i) Regulatory analysis required: (yes ——, no X, unknown ——). Anticipated date of draft analysis: Not applicable.

(ii) Other documents: None.

(h) *Agency Contact:* John Smith, Deputy Chief Counsel, Washington, D.C. 20230 (202) 377–4939.

[FR Doc. 80-36559 Filed 11-25-80; 8:45 am]
BILLING CODE 3510-BJ-M

V 45 N 026 800 UMI

federal register

Wednesday
November 26, 1980

Part IV

Department of Education

Bilingual Education Training Projects Program; Proposed Regulations and Closing Dates for New Projects and Transmittal of Applications

V 45 NO 026 80 UMI

DEPARTMENT OF EDUCATION

Office of Bilingual Education and Minority Languages Affairs

34 CFR Part 510

Bilingual Education: Training Projects Program

AGENCY: Department of Education.

ACTION: Notice of Proposed Regulations.

SUMMARY: The Secretary proposed to amend regulations for the Bilingual Education Training Projects Program. The regulations are being amended to clarify statutory requirements concerning advisory committees and to give priority to applicants that will serve areas having the greatest need for training projects.

DATES: Comments must be received on or before January 25, 1981.

ADDRESSES: Comments should be addressed to Dr. Josue Gonzalez, U.S. Department of Education, 400 Maryland Avenue, S.E. (Room 421 Reporters Building), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Ms. Regina Robbins, Telephone No. (202) 245–2600.

SUPPLEMENTARY INFORMATION: On April 4, 1980, final regulations for programs authorized under the Bilingual Education Act were published in the **Federal Register** (45 FR 23208, 23222; 45 FR 77368, November 21, 1980). Based on a review of the recent competition for training projects under the new regulations, the Secretary has determined that the regulations should be amended to give greater consideration to the relative need for training projects in the geographic areas that the applicants propose to serve. Under the current regulations, the selection criteria for training institutes include a criterion, worth 15 out of 100 possible points, that evaluates whether a proposed project addresses training needs not addressed by existing projects. No evaluation of need is included among the selection criteria for training programs at institutions of higher education or for training projects for State educational agency personnel.

Under the proposed regulations, the Secretary considers the need for training projects in selecting grantees under each of the training programs. The criterion for need has been deleted from the selection criteria for training institutes. A section is added to the regulations providing that in awarding grants the Secretary considers the rank order of the application under the selection criteria and the need for training projects in the area to be served by the applicant.

In determining the need for the proposed project, the Secretary considers the number of children of limited English proficiency who will benefit from the training proposed under the project. The Secretary also considers the number and kinds of personnel (teachers, counselors, parent volunteers, etc.) that are currently providing for the educational needs of the children, as well as the number and kinds of personnel for which there is a need for inservice or preservice training.

To minimize duplication of effort and to ensure that assistance is provided to applicants with the greatest need, the Secretary reviews current support provided for training activities assisted under any of the Title VII programs as well as new training activities proposed for funding under those programs in the current fiscal year. The Secretary reviews new and continuation applications submitted under any of the Title VII programs, comments provided by the State educational agencies based on their review of the new applications, and the most current statistics on training needs that are available to the Secretary.

Another proposed amendment to the regulations clarifies the requirements contained in Section 723(a)(8) of the Act. That section provides that the requirements for advisory councils and advisory committees under the Basic Projects in Bilingual Education Program also apply to some, but not all, of the training activities authorized under the Training Projects Program. In order to prevent any confusion, the proposed regulations state which applicants and grantees must meet these requirements. The new sections provide that a training project, which meets the specific training needs of one or more local educational agencies by providing preservice or inservice training to education personnel or parents, to the requirements concerning advisory councils and advisory committees.

In determining how these requirements should be applied to the Training Projects Program, the Secretary has taken into account the differences between the Basic Projects and Training Projects programs, and the wide range of activities authorized under the Training Projects Program regulations. Under the Basic Projects Program, a local educational agency provides educational services directly to children of limited English proficiency in programs of bilingual education and provides training for persons participating in, or preparing to participate in, those programs. Parental involvement in a Basic project is strong. For this reason, the requirements governing advisory councils provide that a council must be selected by and predominantly composed of the parents of children participating in the program of bilingual education assisted under the grant.

Under the Training Projects program regulations, authorized activities range from the preparation of individuals to participate more effectively in specific programs of bilingual education to the operation of an undergraduate or graduate degree training program at an institution of higher education that attracts students nationally. A training project may be designed to meet the needs of particular schools or school districts, *or* to meet the national shortage of qualified bilingual personnel, *or* to meet other training needs defined by the applicant.

With such a broad range of authorized activities, it is clear that, if the advisory council and advisory committee requirements of the Basic Projects Program are to make sense when applied to the Training Projects Program, those requirements must be restricted to training projects that meet the needs of particular schools or school districts. For these projects, parental involvement in developing the applications and in implementing the projects that directly affect their children's programs of study is consistent with the Act's emphasis on involving parents in the education of their children. It should be no more difficult for an applicant to involve parents in its training project in these cases than it would be to involve parents in a Basic project. On the other hand, it would be quite difficult for an applicant to identify, notify, and involve parents of children whose programs of study might be affected by a degree program operated by an institution of higher education or by any any other training project with participants that represent a large geographic area. Therefore, applicants proposing training activities that are not connected to programs of bilingual education in particular local educational agencies are not subject to advisory council and advisory committee requirements.

Invitation to comment

Interested persons are invited to submit comments and recommendations regarding the proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this preamble. All comments received on or before the 45th day after publication of this document will be considered in the development of the final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 421, Reporters Building, 7th and D Streets, S.W., Washington, D.C. between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

Citation of legal authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance No. 84.003, Bilingual Education Program)

Dated: November 19, 1980.

Shirley M. Hufstedler,

Secretary of Education.

The Secretary of Education proposes to amend Part 510 of Title 34 of the Code of Federal Regulations as follows:

1. A new § 510 is added to read as follows:

§ 510.21 What requirements pertain to advisory councils and advisory committees?

An applicant that proposes a training project designed to provide preservice or inservice training to persons who are participating in, or preparing to participate in, programs of bilingual education in a particular LEA(s)—

(a) Comply with the requirements in 34 CFR 501.20(a) and (b) pertaining to advisory councils; and

(b) Submit with its application an assurance that, in carrying out its project, it will provide for frequent consultations with, and participation by, the advisory committee described in § 510.42.

(20 U.S.C. 3223(a)(4)(E), 3233(a)(8))

2. In § 510.32, the introductory paragraph is revised; paragraph (a) is deleted; and (b)–(f) is redesignated as (a)–(e) as follows:

§ 510.32 What selection criteria does the Secretary use for applications proposing to provide short-term or year-round training institutes?

The Secretary considers the following criteria worth a total of 85 points:

(a) Impact (45 points) • • •
(b) Evalutation plan (5 points) • • •
(c) Plan of operation (10 points) • • •
(d) Budget (5 points) • • •
(e) Personnel (20 points) • • •

(20 U.S.C. 3233(a)(1))

3. A new § 510.34 is added to read as follows:

§ 510.34 What factors does the Secretary consider in awarding grants?

(a) The Secretary considers the following factors in awarding a grant:

(1) The rank order of the application as determined by applying the selection criteria in § 510.31 (for applications proposing to provide training programs at institutions of higher education), § 510.32 (for applications proposing to provide short-term or year-round training institutes), or § 510.33 (for applications proposing to provide training projects for SEA personnel).

(2) The need for the training project in the area to be served by the applicant.

(b) In determining need under paragraph (a)(2) of this section, the Secretary considers—

(1) The number of children of limited English proficiency who would benefit from the training to be provided to persons participating in the project;

(2) The number and kinds of personnel currently participating in or preparing to participate in programs of bilingual education for these children, compared to the number and kinds of personnel needed; and

(3) The number and kinds of personnel that applicants propose to train under this program and other programs supported under the Act.

(c) In determining need under paragraph (a)(2) of this section, the Secretary uses—

(1) Information provided by the applicant;

(2) Information provided by the SEA under 34 CFR 500.20;

(3) Information on current and past training activities supported under the Act; and

(4) Other statistical information available to the Secretary.

(20 U.S.C. 3231(c), 3233(a)(1))

4. A new § 510.42 is added to read as follows:

§ 510.42 What requirements pertain to the establishment of an advisory committee?

(a) A grantee carrying out training activities designed to provide preservice or inservice training to persons who are participating in, or preparing to participate in, programs of bilingual education in a particular LEA(s) shall—

(1) Establish an advisory committee within 60 days after it receives an award; and

(2) Consult frequently with the committee in carrying out its project.

(b) Parents of children who are or will be participating in programs of bilingual education in that LEA(s) shall select the members of the committee.

(c) Parents of children who are or will be participating in programs of bilingual education in that LEA(s) must be a majority of the committee.

(d) In the case of projects to train persons to participate more effectively in programs of bilingual education at secondary schools, the committee must include secondary student representatives.

(e) The committee may also include—

(1) Parents of children attending schools in that LEA(s);

(2) Teachers in that LEA(s); and

(3) Other interested individuals.

(f) A member of the advisory council described in § 510.21 also may serve as a member of the advisory committee.

(20 U.S.C. 3223(a)(4)(E), 3233(a)(8))

[FR Doc. 80-36821 Filed 11-25-80; 8:45 am]

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DEPARTMENT OF EDUCATION

provide a dated postmark. Before relying on this method, an applicant should

project period which an applicant other

are only estimates and do not bind the Department of Education. The Secretary

(Room 421, Reporters Building), 400 Maryland avenue, S.W., Washington

(4) Any other proof of mailing acceptable to the U.S. Secretary of

DEPARTMENT OF EDUCATION

Office of Bilingual Education and Minority Languages Affairs

Bilingual Education Act—Training Projects Program; Closing Date for New Projects

AGENCY: Department of Education.

ACTION: Notice of Closing Date for New Projects Under the Bilingual Education Act—Training Projects Program.

Applications are invited for new projects under the Bilingual Education Act—Training Projects Program.

Authority for this program is contained in Section 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978. (20 U.S.C. 3233)

This program issues awards to local education agencies; State educational agencies; and institutions of higher education and nonprofit private organizations which apply after consultation with, or jointly with, one or more local educational agencies or a State educational agency.

The purpose of the awards is to establish, operate, and improve bilingual education training programs for persons who are participating in, or preparing to participate in, programs of bilingual education and bilingual education training programs.

Closing Date for Transmittal of Applications: An application must be mailed or hand delivered by February 13, 1981.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003], Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Regulations governing the Training Projects Program were published in the April 4, 1980 issue of the **Federal Register** (45 FR 23208; 45 FR 77368, November 21, 1980). Applicants should review the regulations, particularly the selection criteria in §§ 510.31–510.33, before preparing their applications. An applicant should also refer to § 500.41 for the rates for allowable costs for trainees participating in training activities.

In addition, proposed amendments to the regulations are published in this issue of the **Federal Register.** Applicants should review the proposed regulations before preparing their applications. The proposed regulations provide that, in selecting grantees under each training program, the Secretary takes into account the need for training projects in the areas that the applicants propose to serve. Since the Secretary anticipates that this provision will take effect in fiscal year 1981, applicants should address this new criterion in their applications. The proposed regulations also establish requirements for advisory councils and advisory committees for certain training projects. The regulations implement statutory requirements concerning advisory councils and advisory committees. These statutory requirements must be met by applicants for fiscal year 1981 awards. An applicant that meets the requirements of the proposed regulations in preparing its application will be considered to have satisfied the statutory requirements on advisory councils and advisory committees.

The maximum project period which a local educational agency, applying as either a sole or joint applicant, may propose is three years. The maximum project period which an applicant other than a local educational agency may propose is five years. An applicant that proposes a project period of more than one year must justify the need for the proposed project period.

In addition to meeting requirements on consultations with an advisory council, an applicant must meet the following requirements:

(1) A local educational agency, applying as either a sole or joint applicant, is required to hold at least one meeting, open to the public, to discuss the contents of its application. Requirements for scheduling and holding this open meeting are contained in the Education Divison General Administrative Regulations (34 CFR 75.139–75.141). The local educational agency must complete the certification form in the application package. This requirement must be met regardless of whether the local educational agency is designated as the applicant under 34 CFR 75.128.

(2) Joint applicants must complete a special certification form in the application package.

(3) An applicant must provide a copy of its application to the appropriate State educational agency in its State in advance of submitting it to the Department of Education. Requirements pertaining to State educational agency review are contained in § 500.20 of the regulations.

Available Funds: It is expected that approximately $5,500,000 will be available for new grants under the Training Projects Program in fiscal year 1981.

It is estimated that these funds could support 56 projects.

The anticipated award for each project is between $50,000 and $150,000.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Allocation of Funds: Under § 510.30 of the final regulations, the Secretary holds separate competitions for applications proposing any combination of the activities described in § 510.10 (a), (b), and (c); applications proposing the activities described in § 510.10(d) that are designed exclusively for parents; applications proposing the activities described in § 510.10(d) that are designed for any participants, including parents; and applications proposing the activity described in § 510.10(e).

For fiscal year 1981, the Secretary anticipates that funds will be allocated to those competitions in the amounts stated below. However, these amounts are only estimates and do not bind the Department of Education. The Secretary may reallocate funds if too few applications of high quality are received under a competition.

Section 510.10 (a), (b), or (c)—Providing training that leads to an undergraduate degree or teaching credential with a specialization in bilingual education; encouraging reform, innovation, and improvement in bilingual education training programs at institutions of higher education; and providing specialized graduate bilingual education degree curricula in areas such as administration and supervision, guidance and counseling, evaluation, and curriculum development: $4,375,000.

Section 510.10(d)—Providing short-term or year-round training institutes designed to improve the skills of parents and other participants in carrying out their responsibilities in programs of bilingual education: $1,000,000, of which $500,000 is allocated for applications proposing to train parents exclusively.

Section 510.10(e)—Providing non-degree training programs to increase the skills of State educational agency personnel in carrying out their responsibilities with regard to programs of bilingual education: $125,000.

The applicant must identify in its application which activity is being proposed. Applications compete only against other applications proposing the same activity.

Application Forms: Application packages are available and may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, (Room 421, Reporters Building), 400 Maryland Avenue, S.W. Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the application package. The Secretary strongly urges that the narrative portion of the application not exceed 40 pages in length. The Secretary further urges that applicant not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Training Projects Program (34 CFR Parts 500 and 510).

(2) The Education Division General Administrative Regulations (EDGAR) (34 CFR Parts 75 and 77).

FOR FURTHER INFORMATION CONTACT: The Training Projects Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland avenue, S.W., Washington, D.C. 20202. Telephone (202) 447–0273.

(20 U.S.C. 3233)

(Catalog of Federal Domestic Assistance No. 84.003 Bilingual Education)

Dated: November 19, 1980.

Charles E. Hansen,

Acting Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 80-36822 Filed 11-25-80; 8:45 am]

BILLING CODE 4000-01-M

Bilingual Education Act—Support Services Projects Program; Closing Date for New Projects

AGENCY: Department of Education

ACTION: Notice of Closing Date for New Projects Under the Bilingual Education Act—Support Services Projects Program: Bilingual Education Service Centers (BESCs).

Applications are invited for new projects under the Bilingual Education Act—Support Services Projects Program: Bilingual Education Service Centers (BESCs).

Authority for this progaram is contained in Sections 721 and 723 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (20 U.S.C. 3231, 3233).

This program issues awards to local educational agencies; State educational agencies; and institutions of higher education and nonprofit private organizations which apply jointly with, or after consultation with, one or more local educational agencies or State educational agencies.

The purpose of the awards is to provide training and other services to programs of bilingual education and bilingual education training programs within designated service areas.

Closing Date for Transmittal of Applications: An application must be mailed or hand delivered by February 13, 1981.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003L. Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If any application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An Applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office. An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered by Hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Regulations governing the Support Services Projects Program (BESCs) were published in the April 4, 1980 issue of the **Federal Register** (45 FR 23208; 45 FR 77368, November 21, 1980). An applicant should review the regulations, particularly the selection criteria in § 504.30, before preparing its application.

An applicant under this program may include support for training activities in the project. An applicant should refer to § 500.41 of the regulations for the rates for allowable costs for training activities.

An applicant will be ruled ineligible if it does not meet the following requirements:

(1) A local educational agency, applying as either a sole or joint applicant, is required to hold at least one meeting, open to the public, to discuss the contents of its application. Requirements for scheduling and holding the open meeting are contained in the Education Division General Administrative Regulations (34 CFR 75.139–75.141). The local educational agency must complete the certification form in the application package. This requirement must be met regardless of whether the local educational agency is designated as the applicant under 34 CFR 75.128.

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(2) Joint applicants must complete a special certification form in the application package.

(3) An applicant must provide copies of its application to the appropriate State educational agencies in the States within its designated service area in advance of submitting the application to the Department of Education. Requirements pertaining to State educational agency review are contained in § 500.20 of the regulations.

Available Funds: It is expected that approximately $1,500,000 will be available for four new grants under the Support Services Projects Program: BESCs in fiscal year 1981.

The anticipated award for each project is between $250,000 and $500,000.

However, this estimate does not bind the U.S. Department of Education to a specific number of grants or the amount of any grant unless that amount is otherwise specified by statute or regulations.

Service Areas: Section 504.14 of the regulations provides for the designation of service areas for BESCs. For fiscal year 1981, the Secretary invites applications that propose to serve the service areas described in the following paragraphs. A BESC may provide services to all language groups served by programs of bilingual education and bilingual education training programs within the geographic area described.

(1) New York (excluding New York City and Suffolk and Nassau Counties), New Jersey, Pennsylvania, Delaware, the District of Columbia, Maryland, Virginia, and West Virginia.

(2) Louisiana, Mississippi, Alabama, Arkansas, and Tennessee.

(3) Washington, Idaho, Alaska, and the Counties of Clatsop, Columbia, Tillamook, Multnomah, Hood River, Wasco, Sherman, Gilliam, Morrow, Umatilla, Union, Wallowa, Baker, Grant, Wheeler, Crook, Jefferson, Marion, Polk, Lincoln, Benton, Deschutes, Yamhill, Clackamas, Linn, Lane, and Washington in Oregon.

(4) Puerto Rico and the Virgin Islands.

Only applicants proposing to serve these geographic areas will be considered for a grant.

For fiscal year 1981, the Secretary anticipates making continuation awards to fifteen current recipients under this program that have approved project periods in excess of one year. Recipients of fiscal year 1981 continuation awards provide services in service areas that, with the service areas designated above, cover the United States, Puerto Rico, the Virgin Islands, and the Pacific Territories.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary strongly urges that the narrative portion of the application not exceed 50 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Support Services Projects Program (34 CFR Parts 500 and 504); and

(2) The Education Division General Administrative Regulations (34 CFR Parts 75 and 77).

FOR FURTHER INFORMATION CONTACT: The Support Services Projects: BESCs Application Coordinator, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue, S.W., Washingon, D.C. 20202. Telephone (202) 245–2961.

(20 U.S.C. 3231, 3233)

(Catalog of Federal Domestic Assistance No. 84.003, Bilingual Education)

Dated: November 18, 1980.

Josue M. Gonzalez,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 80-36823 Filed 11-25-80; 8:45am]

BILLING CODE 4000-01-M

Bilingual Education Programs and the Bilingual Vocational Education Programs; Revision of Closing Dates for Transmittal Applications

AGENCY: Department of Education.

ACTION: Revision of Closing Dates for Transmittal of Applications.

SUMMARY: Closing dates for the transmittal of applications for new projects under the Bilingual Education Programs and the Bilingual Vocational Education Programs and for the transmittal of requests for noncompeting continuations under the Bilingual Education Programs were previously announced in the Department of Education's Single Notice of Closing Date published in the **Federal Register** (45 FR 66564) on October 7, 1980. This notice is to notify the public that closing dates for the following programs have changed:

The closing dates for receipt of applications for new projects have been extended one month to allow applicants additional time to develop their applications. Based on that extension and the Secretary of Education's desire to make timely grant awards, the closing date for receipt of requests for noncompeting continuations has been changed. To be assured of prompt consideration of noncompeting continuations, requestors should mail or hand deliver their requests by the closing date announced below.

CFDA No. and program title	Closing date announced previously	Revised closing date
84.077 Bilingual Vocational Training Program—New Projects.	Dec. 22, 1980	Jan. 13, 1981.
84.099 Bilingual Vocational Instructor Training Program—New Projects.	Dec. 22, 1980	Jan. 13, 1981.
84.003D Bilingual Education—Basic Projects—New Projects.	Jan. 12, 1981	Feb. 13, 1981.
84.003 Bilingual Education—SEA Projects for Coordinating Technical Assistance—New Projects.	Jan. 12, 1981	Feb. 13, 1981.
84.003L Bilingual Education—Support Services Projects (EDACs)—New Projects.	Jan. 12, 1981	Feb. 13, 1981.
84.003L Bilingual Education—Materials Development Projects—New Projects.	Jan. 12, 1981	Feb. 13, 1981.
84.003N Bilingual Education—Demonstration Projects—New Projects.	Jan. 12, 1981	Feb. 13, 1981.
84.003P Bilingual Education—School of Education Projects—New Projects.	Jan. 12, 1981	Feb. 13, 1981.
84.003E Bilingual Education—Training Projects—Noncompeting Continuations.	Mar. 30, 1981	Jan. 26, 1981.
84.003G Bilingual Education—Support Services Projects (BESCs)—Noncompeting Continuations.	Mar. 30, 1981	Jan. 26, 1981.
84.003H Bilingual Education—SEA Projects for Coordinating Technical Assistance—Noncompeting Continuations.	Mar. 30, 1981	Jan. 26, 1981.
84.003L Bilingual Education—Materials Development Projects—Noncompeting Continuations.	Mar. 30, 1981	Jan. 26, 1981.
84.003P Bilingual Education—School of Education Projects—Noncompeting Continuations.	Mar. 30, 1981	Jan. 26, 1981.

CFDA No. and program title	Closing date announced previously	Revised closing date
84.003T Bilingual education—Demonstration. Projects—Noncompeting Continuations.	Mar. 30, 1981	Jan. 26, 1981.

No other changes have been made to the closing date notices published in the October 7, 1980 issue of the **Federal Register.**

Also published in this issue of the **Federal Register** are closing date notices for the Bilingual Education—Support Services Projects (BESCs)—New Projects and the Bilingual Education—Training Projects—New Projects. The closing date for receipt of applications for those programs is February 13, 1981.

FOR FURTHER INFORMATION CONTACT: Office of Bilingual Education and Minority Languages Affairs, Department of Education, 400 Maryland Avenue, S.W. (Room 421 Reporters Building), Washington, D.C. 20202. For program specific information contact: Bilingual Vocational Training, Bilingual Vocational Instructor Training (202) 245–2600; Bilingual Education—Basic Projects, Demonstration Projects (202) 447–9227; Bilingual Education—State Educational Agency Projects for Coordinating Technical Assistance, Support Services Projects (BESCs) (202) 245–2961; Bilingual Education—Support Services Projects (EDACs), Materials Development Projects, School of Education Projects, Training Projects (202) 447–9273.

(Catalog of Federal Domestic Assistance Number 84.003 Bilingual Education, 84.077 Bilingual Vocational Training, 84.099 Bilingual Vocational Instructor Training)

Dated: November 19, 1980.

Charles E. Hansen,

Acting Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 80-36824 Filed 11-25-80; 8:45 am]

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Wednesday
November 26, 1980

Part V

Environmental Protection Agency

N-Methanesulfonyl-P-Toluenesulfonamide; Determination of Significant New Uses

V 45 NO 26 80 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50013 FRL 1558-1]

N-Methanesulfonyl-P-Toluenesulfonamide; Determination of Significant New Uses for a Chemical Substance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing that certain uses of the chemical substance N-methanesulfonyl-p-toluene sulfonamide be designated as "significant new uses" under section 5(a)(2) of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2604). This substance was the subject of a premanufacture notice (PMN) submitted on September 5, 1979 by National Starch and Chemical Corporation. Under Section 5(a)(1)(B) of TSCA, any person who intends to manufacture, import, or process the substance for a "significant new use" must submit a notice to EPA at least 90 days prior to manufacture, import, or processing for that use.

DATES: Written comments should be submitted on or before January 12, 1981.

ADDRESS: Written comments should bear the document number OPTS 50013 and should be submitted in triplicate to the Document Control Officer, Office of Pesticides and Toxic Substances (TS-793), Environmental Protection Agency, Rm. E-447, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: John B. Ritch, Jr., Director, Industry Assistance Office (TS-799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-429, 401 M St., SW., Washington, DC 20460; toll free: (800-424-9065); in Washington, D.C. (554-1404).

SUPPLEMENTARY INFORMATION: Section 5(a)(2) of the Toxic Substances Control Act (TSCA) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by a rule, promulgated after consideration of all relevant factors, including those enumerated in section 5(a)(2)(A) through (D). Once a use is determined to be a "significant new use," persons who intend to manufacture or process the substance for that use must, under section 5(a)(1)(B), submit a notice at least 90 days proir to manufacture or processing for that use. The section 5(a)(1)(B) notice is subject to the same general statutory requirements and procedures as a premanufacture notice (PMN) submitted under section 5(a)(1)(A). In particular these include the information submittal requirements of section 5(d)(1) and section 5(b), the exemptions authorized by section 5(h), and the regulatory authorities of section 5(e) and section 5(f).

In this notice, EPA is proposing a significant new use rule (SNUR) which would apply to a particular chemical substance for which a premanufacture notice (PMN) was submitted under section 5(a)(1) of TSCA. This action is one of several approaches under TSCA to follow up on new chemical substances and to obtain additional data on selected Inventory substances.

First, OPTS will continue to issue section 5(a)(2) significant new use rules on a case-by-case basis for new chemical substances of concern. Second, because use of the section 5(a)(2) and other reporting authorities on a purely case-by-case basis would impose a heavy burden on OPTS's limited resources, OPTS will develop model rules suitable for most situations when follow up of new substances is necessary. These model follow-up rules, establishing general requirements and procedures, would allow EPA to promulgate rules more efficiently and frequently than if it relied strictly upon case-by-case rulemaking. After the development of model follow-up rules, case-by-case follow-up will be used when the model rules do not suffice. Finally, in the future EPA will issue significant new use rules on Inventory substances or categories of substances.

PMN Substance of Concern: N-Methanesulfonyl-P-Toluenesulfonamide; PMN #5AHQ-0979-0016

On September 5, 1979, National Starch and Chemical corporation ("National Starch") submitted a PMN for N-methanesulfonyl-p-toluenesulfonamide. According to information supplied by National Starch, the company intends to manufacture annually approximately 400 pounds of the substance for the only known use. National Starch claimed that this use of the chemical was confidential business information ("CBI"), and EPA accepted this claim. When asked by EPA for the maximum potential production volume, National Starch indicated that production would not exceed 1,000 pounds per year.

During its assessment of the potential risks associated with the substance, the Agency found that to the best of its knowledge no reliable toxicity data exists for the subject compound nor for any close structural analogs. Therefore the Agency was unable to evaluate the toxicity of N-methanesulfonyl-p-toluenesulfonamide.

With regard to potential exposure, the Agency determined that exposure would be relatively low taking into consideration the following information supplied by National Starch and conclusions made regarding the substance from the properties of close structural and use analogs:

1. Limited production volume: between 400 and 600 pounds per year.
2. The substance is a crystalline solid with a low vapor pressure.
3. The substance is not likely to be metabolized by the body but rather will pass through the body in its original state.
4. The substance is to be produced in probably two to three "batches" per year; each production cycle requiring less than 48 hours.
5. Approximately five to six workers would be exposed to the substance during manufacture and processing.
6. The substance would be used in low concentrations.
7. The segment of the population using the substance is experienced in using substances of this nature and thus would know how to handle the material appropriately.
8. The product containing the substance carries instructions for porper handling and use.
9. The manner of application of the final product (confidential) is such as to minimize exposure.

For the reasons stated above, EPA determined that it was not necessary to regulate the substance for the use and exposure conditions described in the PMN. As a result, EPA did not extend the notice period, which expired on December 4, 1979. National Starch has been free to commence production since that time. The company submitted a Notice of Commencement of Manufacture, and the substance was added to the Inventory during July 1980, published in the **Federal Register** of August 26, 1980 (45 FR 56909). Therefore, until this rule becomes effective, the substance may be produced without restrictions under TSCA.

EPA Concerns

EPA's decision not to regulate the substance under section 5(e) or 5(f) does not indicate a lack of concern about the substance. In fact, the Agency remains concerned about this substance because of the lack of any information or test data that would allow the Agency reliably to determine or estimate its degree of toxicity. EPA does not presume that this substance is extremely toxic. Similarly, EPA is unable to conclude that it is not toxic. Rather, the Agency has no knowledge about the substance's toxicity whatsoever.

EPA's concerns based on a lack of toxicity data were mitigated by the fact that according to the information provided by the submitter, the probability and magnitude of exposure during manufacturing, processing, and use are relatively low. However, since the substance is on the Inventory, any person can make the substance under any conditions of manufacture, processing, and use. Moreover, the PMN submitter itself is not bound to the conditions specified in the PMN, and is free to change the use, volume, or manufacture of the substance. (However, the submitter is bound at the time of submission to provide EPA the information required for a PMN, and any intentional falsification or withholding of required information could result in prosecution under 18 U.S.C. 1001 or appropriate enforcement action under TSCA.) In the absence of further action by EPA, the submitter or anyone else may produce the substance for any use without further notifying EPA.

EPA has no information to predict that uses, other than the use described in the PMN, will be developed or that such new qualitative uses will result in changes in exposure conditions. Further, in addition to new qualitative uses, there might be increases in production volume for the use described in the PMN, either by the submitter or by other companies.

The risk that a substance presents to humans or the environment is a function of toxicity and exposure. In this case we know nothing about toxicity, and anticipated exposures for the activities described in the PMN are relatively low. However, if exposures increase in the future, the substance may present risks that cannot be evaluated (by either industry or EPA because there are no toxicity data. EPA has a responsibility to evaluate any risks that might result in the event that this substance is toxic. In particular, EPA believes that consistent with the purposes of TSCA section 5, if exposures increase for this substance, the Agency should either review any additional toxicity data which may have been developed for this substance or analogous substances, or consider whether the substance should be controlled until toxicity data are developed. To accomplish this purpose, EPA proposes to designate as "significant new uses" certain uses of this substance that would result in new or increased exposures.

Proposed Significant New Uses

EPA believes that in general, there are a variety of different ways to define significant new uses pursuant to section 5(a)(2) of TSCA. In deciding what will constitute a significant new use for a particular substance, the Agency will consider all relevant information about the actual or predicted toxicity of the substance and the exposures associated with its proposed and potential uses. In this notice, EPA proposes to define each of the following as a significant new use of this chemical substance: (1) manufacture and processing of the substance for any "qualitative" use other than that described in the PMN; (2) and manufacture or processing of more than 1,000 pounds of the substance for the use described in the PMN. These determinations of significant new uses are intended to apply to this chemical substance only; they do not establish a fixed policy with regard to the reporting triggers which may be utilized in future SNURs. The Agency's bases for each of these "significant new use" determinations in this case are explained below.

(1) *Change in "Qualitative" Use of the Substance.* EPA is proposing to require that any person intending to manufacture or process the PMN substance for a "qualitative new use" submit a "significant new use" notice under § 721.7. A "qualitative new use" is defined in proposed § 721.3 as: the use of a substance, defined by its function and particular commerical or technical application, without regard to the quantity of a substance for that use. EPA has determined that such qualitative new uses are significant because they could present a potential for risk based upon the unknown toxicity of the substance and the new or additional exposures which would be associated with new qualitative uses. Submittal of a significant new use notice would provide the Agency with an opportunity to examine proposed new qualitative uses of this substance, and decide if action should be taken under TSCA section 5 to prohibit the manufacturing and/or processing of the substance for this use.

As discussed above, EPA has evaluated the potential exposures to the PMN substance which would result from the qualitative use intended by the submitter, and the exposures which would occur during manufacture of the substance by the submitter. The Agency determined that these exposures would be relatively low. Based upon this assessment, EPA decided during the PMN review period that regulatory action was not warranted at that time, although the Agency knew nothing about the toxicity of the substance.

During the PMN review period, EPA did not evaluate any other qualitative uses of the substance, because no other uses were claimed by the submitter, and none were known to the Agency. However, now that this substance has been added to the Inventory, there is a possibility that new qualitative uses may develop which were not anticipated by the submitter or EPA. These new qualitative uses may result in exposures which present new potential risks to health and the environment, considering the factors set out in section 5(a)(2) of TSCA. First, the new uses may result in a substantial increase in production volume. The volumes estimated in the PMN for the third year of production are relatively low (400-600 lbs.), and it is quite possible that a new qualitative use will require production in excess of these amounts. At a minimum, a significant increase in production would increase the exposures which the Agency anticipated in its PMN review of the substance. Second, a new qualitative use may present new exposure problems not presented by the qualitative use assessed during the Agency's PMN review of the substance. Although only short term dermal exposure is expected for the submitter's intended qualitative use, other qualitative uses involving this substance may result in higher exposures; exposures by different routes, and exposures which occur more frequently or for longer periods of time. Such changes in exposure could occur if a new qualitative use of the substance resulted in changes in the manner and methods of manufacture, processing, distribution in commerce, use, and disposal. In sum, one or more of the changes in exposure which could result from the new use would result in both the chemical industry and EPA needing to know more about the substance's toxicity to adequately evaluate risks and make informed judgments about the need to take control actions.

As indicated, the proposal would require manufacturers and processors to submit a PMN notice for any qualitative new use. The Agency recognizes that this requirement may result in the submittal of a PMN notice for new qualitative use which the Agency may conclude presents less risk than the National Starch qualitative use. The Agency, however, was unable to devise a formula which would identify adequately any such new qualitative uses and exclude them from the PMN submittal requirement. The Agency was unable to do so because the toxicity of the PMN substance is unknown and unpredictable, and because the Agency's decision not to act on the

National Starch PMN involved judgments which could not be reduced to a formula. The Agency expressly solicits comment on whether such a formula can be devised, including any suggestions for "cut off" formulas which commentors believe will adequately accomplish the Agency's objectives. However, the Agency notes that the consequences of having no "cut off" formula are less severe than the consequences of an inadequate cut-off formula—the entrance on the market place of new qualitative uses posing significant risk concerns without necessary Agency review. If the Agency is correct that an adequate cut-off formula cannot be devised, it has no doubt that it has authority to impose a broad PMN reporting requirement such as the one included in the proposal. To conclude otherwise would effectively prevent the Agency from imposing PMN requirements on new qualitative uses in cases where industry failure to develop sufficient data have prevented the Agency from developing a "cut off" formula. Congress intended industry to bear the burden of developing data to access TSCA chemicals, not the Agency. An implicit corollary of the TSCA burden of proof concept is that the industry—and not the Agency and the public—bear the consequences of failing to meet this burden.

(2) *Increase in Volume of Production for the Use Described in the PMN.* EPA proposes to designate production by any one person of more than 1,000 pounds of the substance per year for use in the manner described in the PMN as a "significant new use" of the substance. In the PMN, the submitter stated that he would manufacture a total of approximately 400 to 600 pounds per year of the substance by the third year. The submitter subsequently indicated to EPA that 1,000 pounds per year was its most optimistic estimate of total production for any year. Therefore, because it would be approximately twice the submitter's best third-year projection and would exceed his most optimistic long-run production estimate, production of over 1,000 pounds in any one year would represent a significant expansion in volume.

Congress intended production volume to be a major factor in the determination of what is a significant new use for a substance. Projected volume of manufacture and processing is one of the relevant factors listed in section 5(a)(2) that EPA must consider in making its findings that a use is a "significant new" use. Further, while section 5(a)(2) states that all relevant factors are to be considered in making a significant new use determination, the legislative history indicates that a change in a single factor could be enough. In this regard, the Conference Report stated that "a significant increase in the projected volume * * *, a significant change in the type or form of human exposure * * *, or a significant increase in the magnitude * * * could be the basis for determining that a use is a significant new use." [1] Finally, use of production volume in this manner is consistent with the intent of section 5(a)(2), because and increase in volume usually will correlate with increased exposure to humans or the environment, and increased exposure is the primary consideration in making a finding of a "significant new use." Especially where there is no information about toxicity, as in this case, exposure factors such as production volume are the focus of EPA's SNUR decisionmaking.

With regard to this substance, the PMN submitter's intended use will result in some exposure to workers at the projected production volumes. An increase in the quantity manufactured for this particular use very likely will increase either the number of workers exposed to the substance in the final product at the same level, or the total numbers of hours the product is used, resulting in greater frequency of exposure to the present number of persons. In either case, it is reasonable to anticipate that there would be increased exposure of humans to the substance.

An expansion in production volume for this use may increase exposure in another way. Conditions of manufacture and processing of the substance could change if production volume expands significantly. This is because the initial production equipment and processes may not, for technical and economic reasons, be the best ones for producing the substance in higher volumes. Thus, if these changes occur in how the substance is produced and handled, the types and levels of exposure also may change, including possible increases in exposure.

Not all increases in production volume are "significant" from the standpoint of increased exposures. Also, it is impossible to predict in quantitative terms the specific changes in exposure that will result from increased production. Generally, it may not be appropriate to require submission of SNUR notices to EPA for marginal changes in volume. Rather, the notices should reflect "significant" changes, and one measure of "significance" is the submitter's own estimates of production volume. Presumably, maximum or "outside" estimates represent the submitter's own best estimates of potential market demand, and thus production volume, for the new substance. Anything exceeding this would be unanticipated by the submitter in making his technical, commercial, and industrial hygiene plans, i.e. it would be "significant" to him in several respects. If it also could lead to significant new exposures, then it may be the basis for a finding of a "significant new use," particularly when there is no information about toxicity.

In this case, the submitter's ultimate production estimate of 1,000 pounds per year is a maximum figure—a range of 400 to 600 pounds is projected as being realistic and most probably for the third year. To allow for moderate increases in volume consistent with the manufacturer's own plans for production and commercialization, EPA proposes to use the 1,000 pound figure as a basis for a finding that a significant change in production occurs. As noted above, in this case increase in production will likely correlate with increase in exposure, so that the selection of the 1,000 pound figure accounts both for the normal growth of the product and increased risks to humans.

EPA proposes that this 1,000 pounds per year amount be applied on a per-person basis—that is, under the proposed SNUR more than 1,000 pounds of the substance could be produced, if several companies manufacture the substance, each making no more than 1,000 pounds per year. The Agency considered making the 1,000 pounds figure an aggregate one, so that total U.S. production in any one year could not exceed 1,000 pounds without notification to EPA. However, EPA is not proposing this requirement for three reasons:

1. To implement such a rule EPA might need to develop some type of "allocation" or "rationing" system, requiring some manufacturers to submit a notice based on the cumulative production of the substance by a number of different persons. Although such an approach may be appropriate for some production volume SNURs, it is neither necessary nor appropriate to do so here, particularly in light of the next two points.

2. Based upon information gathered during EPA's review of the PMN it is likely that this company will be the only producer of the PMN substance fot his use.

3. The other proposed SNUR "trigger"—requiring a notice prior to manufacture for any other qualitative use—provides assurance that other possible exposures will not occur without prior notice to EPA. By taking a comprehensive approach to this SNUR, in terms of the possible exposures that are covered, EPA can set production volume limits at the maximum levels projected by the PMN submitter and still ensure that significant increases in exposure will not take place before EPA has reviewed them. Under the proposed rule, a person would be required to sumbit a notice at least 90 days before manufacturing or processing the substance for the significant new use. In the case of the production volume trigger, this would mean the notice must be filed at least 90 days prior to the point when the 1,000 pound trigger would be exceeded, and the 1,000 pound level could not be exceeded until the SNUR notice period expired.

In EPA's proposed rule, the calculation of when a person would exceed the 1,000 pound level is made for each calendar year on an individual basis, without regard to the production for previous years. However, EPA is also considering substituting a moving two-year average for the calculation made on a year-by-year basis. Under this method a person would average his production for the current year with that of the previous year, and would only be subject to the reporting requirement at least 90 days prior to the time when the average of the current year and the preceding year exceed 1,000 pounds. For example, a person could produce 1,500 pounds of the substance in 1983 if his production had been 500 pounds or less in 1982.

Use of a two-year average might more closely approximate the realities of production of low-volume specialty chemicals. Fluctuations in annual production levels that result in an occasionally very high or very low annual figure seem to be common. Thus, depending on inventory levels, cost and availability of feedstocks, or availability of production equipment, a single year's production can be much greater or less than previous or succeeding years. However, such changes may not signal significant growth.

EPA can foresee two possible disadvantages to a production volume trigger based on a two-year moving average. First, some significant growth scenarios would be identified only one year after the growth had actually exceeded the 1,000 pound level. For example, if production equalled 200 pounds in 1981, and 1,700 pounds in 1982 as part of planned significant growth, EPA might not receive a notice until 1983. A second concern is that a two-year average may pose some difficulty in enforcement actions. EPA requests comment on these problems, and the overall utility of the two-year average in cases like this one.

[1] H.R. Rep. 94-1679, 94th Cong., 2d Sess. 66.

Persons Subject To Section 5(a)(1)(B)

Section 5(a)(1)(B) states that no person shall manufacture or process a substance for a significant new use unless that person submits a notice in accordance with section 5(a). This suggests that any significant new use rule applies automatically to both manufacturers and processors. However, EPA does not interpret this provision in this manner; instead, the Agency believes that it has authority to and should adjust the coverage of manufacturers and processors in the rule in order to eliminate duplication, or reduce unnecessary burdens, where it has a reasonable basis for doing so.

In this case, EPA is proposing that both manufacturers and processors be required to give notice of significant new uses as defined in proposed § 721.75(a), that is, for qualitative new uses. Both manufacturers and processors are capable of initiating, either singly or in concert, the actions which may result in significant new exposures in conjunction with manufacturing or processing the substances for qualitative new uses. For example, if a person manufactures the substance, and sells it to a person who processes it for a qualitative new use, increased exposures may result from the independent actions of either the manufacturer or processor at their respective stages of the chemical's life cycle. In this case, the reporting responsibility should fall on both persons, who may submit either separate notices reflecting forthcoming changed exposures at each stage, or a combined notice reflecting all stages of the substance's life-cycle.

EPA is proposing that only the persons who intend to manufacture in excess of 1,000 pounds per annum of the substance for the use proposed in the PMN be required to submit a notice. Under this proposal, it would theoretically be possible for a single person to process more than 1,000 pounds of the substance for the originally proposed use without notifying EPA. He could do this by purchasing the substance from two or more different manufacturers, each of whom manufactured less than the 1,000 pounds which would trigger significant new use reporting. However, this eventuality is unlikely; in addition, once a given amount of the substance has been manufactured, the fact that processing occurs at one site rather than several does not significantly affect total exposure. EPA requests comment on whether the 1,000 pound trigger should be applied to processors as indirect means of limiting aggregate manufacture of the substance.

Required Information

As indicated in § 721.7, EPA is not at this time proposing any notice form or other special information requirements for notices submitted under this Part. Instead, the Agency is proposing that any such notices comply with the explicit requirements of section 5 of TSCA. In particular, this includes the requirement to submit the information and data described in section 5(d)(1). EPA's policy with regard to what test or other health and safety data a person should include in a notice is discussed in the next section of this notice; other issues concerning information submittal requirements under section 5(d)(1) are discussed immediately below.

EPA previously has proposed forms and other requirements which will be applicable to notices for new chemical substances, submitted under section 5(a)(1)(A) published in the **Federal Register** of January 10, 1979 (44 FR 64572), reproposed in the **Federal Register** of October 16, 1979 (44 FR 59764). EPA at this time is not proposing similar detailed rules for notices of significant new uses for several reasons.

The Agency still believes that forms and rules for reporting under section 5 are useful and necessary, in the long run. EPA has been receiving PMN's for new chemical substances since July 1979 under an Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564). Experience under this policy, which among other things stated that the PMNs should include information and data required by the law, has been mixed. A few notices have been quite complete; others, while meeting the statutory minimums, have been so brief and informative as to hamper EPA's initial review, although in almost all cases the submitters later were willing to supplement the PMN to some degree in response to specific questions posed by the Agency. In short, the past few months have generally reinforced EPA's original view that an efficient and effective section 5 premanufacture notification review program, especially one that may have to process a significantly greater number of notices than it has in this early phase, needs rules and forms to standardize the submittal of information. In line with this determination, EPA is continuing with efforts to develop a form or forms for significant new use notification, as one of the many facets of developing

general rules and procedures for

Health and Safety Studies

will indicate that certain portions of

way of informing persons about the rule. Any person who intends to manufacture

requester indicates that he has a *bona fide* intent to manufacture or process the

similar to premanufacture notices for new chemical substance. When a notice

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general rules and procedures for "follow-up" of new chemical substances. When these rules are proposed, the Agency also will propose that the information requirements extend to any significant new use rules for individual substances which are in effect at that time. However, EPA will not be prepared to propose these rules until 1981.

EPA believes that, with an exhaustive examination of significant new use information requirements pending, it is not necessary or useful to devote resources to a detailed consideration of these requirements in the context of a SNUR for a single chemical substance. The number of notices likely to be submitted under this rule should be rather low, and therefore assessing notices which are not in a standard format, or which EPA must request the submitter to supplement to some degree, should not constitute a serious burden on the program.

Pending development of detailed reporting rules for notices submitted under SNURs, EPA believes persons should submit notices on the basis of EPA's Interim Policy for Premanufacture Notices published in the **Federal Register** of May 15, 1979 (44 FR 28564). Although the Interim Policy document was not drafted specifically to include significant new use notices, EPA has reviewed the Interim Policy and determined that the guidance it provides is generally applicable. However, for the purposes of this proposed SNUR, EPA is supplementing the Interim Policy with the following additional guidance.

First, persons would not be required to submit information and data that were included in the original PMN. For example, if a person submits a SNUR notice because he intends to manufacture 2,000 pounds of the substance for the use described in the PMN, he would focus on the volume increase and need not provide further deatiled descriptions of the use. However, to the extent that the estimated exposures differed significantly from those in the PMN, this information must be corrected and updated.

Second, EPA would urge persons to submit more specific and detailed information on the human exposures and environmental release that result from any significant new use of the substance. Information on these topics will allow EPA to focus on these new uses at a level of detail consistent with its conclusion that they are "significant."

EPA requests comments on additional guidance which the Agency should provide when this rule is promulgated.

Health and Safety Studies

In addition to submitting information required by section 5(d)(1)(B) and (C) of the Act concerning the submittal of data related to health and environmental effects, these sections require the submittal of health and environmental effects data that are known to or reasonably ascertainable by the submitter but do not require the submitter to perform additional testing. EPA has proposed its interpretation of these requirements under proposed 40 CFR 720.23 published in the **Federal Register** January 10, 1979 (44 FR 2270), and the Agency's final rules on this subject would apply to any section 5(a)(1)(B) notices submitted under this SNUR.

Any notice submitted under this rule would describe a proposed use of this substance that involves signficant exposure to humans or the environment. As discussed above, at this time EPA is unable to conclude anything about the substance's toxic properties, and this lack of information is one of the reasons for issuing this SNUR. If exposures change or increase, so will possible risks, and it is this possibility that is the basis for EPA's concerns about production and use of the chemical.

Because of these potential risks from the increased exposures indicated by the proposed SNUR triggers, EPA strongly encourages any person who submits a notice under this SNUR to include information on the substance's toxic properties. EPA is planning to publish premanufacture testing guidance in the near future. Persons subject to this SNUR are urged to refer to the testing guidance for EPA's recommendations concerning data needed for assessment of risk presented by new chemicals or significant new uses of existing chemicals.

Procedures for Filing SNUR Notices

EPA is not, in this notice, proposing any procedures for the processing of notices which may be submitted under this rule. Instead, the proposed rule focuses only on the most essential elements of this SNUR, including definition of significant new uses, description of types of persons subject to the requirements, and special exemption procedures. As discussed above, EPA has begun to develop general rules on the subject of "follow-up," under the authorities of section 5(a)(2) and section 8(a). This rulemaking will parallel the initial PMN rulemaking, addressing any overall procedural issues in the implementation of SNUR requirements and review of notices. When these rules are proposed, EPA will indicate that certain portions of them—including information requirements, disposition procedures, etc.—would apply to any SNURs promulgated on a case-by-case basis prior to the effective date of the general follow-up rules. (The general rules would also apply to subsequent case-by-case significant new use rules unless the individual rule specifically stated otherwise.)

Pending completion of that rulemaking, persons submitting SNUR notices should rely on EPA's Interim Policy for guidance. The present PMN Interim Policy (44 FR 28564) addresses a variety of topics including submitter identification, notice certification, section 5(d)(2) **Federal Register** notices and procedures for asserting confidentiality claims. EPA is considering supplementing and modifying this policy, based on experience with PMNs thus far. EPA requests comments on any special procedures that should be developed for significant new use notices.

Procedures for Informing Persons of the Existence of This Significant New Use Rule

One practical problem that EPA must confront in implementing this proposed rule is the task of informing persons that certain uses of the substance are subject to a significant new use rule. A discussion of the Agency's proposed methods follows. EPA requests suggestions for additional methods of disseminating this information.

EPA will follow the formal mechanisms for notice that a new regulation has come into effect. First, the final rule will be published in the **Federal Register**. Second, because the rule is one of continuing applicability and effect, it will be codified in Title 40 of Code of Federal Regulations (CFR), which is revised annually.

In addition to these formal notice mechanisms, EPA is exploring the possibility of using the Inventory of existing chemical substances or associated documents to inform persons of the existence of this SNUR. The Agency contemplates placing a footnote on the Inventory by the chemical identity of this substance. This footnote could refer the user to a statement that the substance was subject to a SNUR; this would notify the person of the requirement, and lead him to contact EPA for further information. In the alternative, the footnote could refer the user to an Inventory Appendix which would give a **Federal Register** or CFR citation of the rule.

EPA believes that use of the Inventory in this manner would be an effective

way of informing persons about the rule. Any person who intends to manufacture a substance which he has not manufactured before should check the Inventory to determine if the substance is listed, in order to determine whether or not to file a PMN for a new chemical substance. If he does find the substance on the Inventory, but it is subject to a SNUR, he will be put on notice of this fact, and can take further actions to determine whether he would be subject to the section 5(a)(1)(B) reporting requirement.

Finally, to help ensure that all persons potentially subject to the rule are put on notice, EPA is considering imposing on the original manufacturer the duty of informing persons purchasing the substance from him of the existence of the significant new use rule. The requirement to give notice could also be extended to other situations in which the original manufacturer becomes aware that another person intends to manufacture, process, or use the substance— especially situations in which the original manufacturer has a commercial interest in the new use, as in sale of production rights or production technology.

EPA authority to impose such a requirement would be based on the terms of the SNUR, which make it unlawful to manufacture or process a substance for a significant new use as defined by the Agency. Inherent in this requirement is the responsibility of a manufacturer or processor to know something about the uses being made of a substance, or at least to inform persons for whom the substance is being manufactured or processed that certain uses are subject to a SNUR.

Confidentiality of Proposed Use

In its PMN, the manufacturer asserted a claim of confidentiality with respect to the qualitative use of the new chemical substance, and EPA has acquiesced in this claim. The confidentiality of the use poses significant problems for the implementation of this rule, in which significant new uses of the substance are at least partially defined by the use proposed in the PMN. EPA's proposed resolution of the problem, and alternative approaches which were considered are discussed below.

EPA is proposing that the confidential description of the use not be published in the final rule, § 721.75. Instead, under § 721.11 of the proposal, a person who intends to manufacture or process the substance (the chemical identity of which is not confidential) for any use may ask EPA if that use is the same as the existing one. However, EPA will provide this information only if the requester indicates that he has a *bona fide* intent to manufacture or process the substance for that purpose. The proposed rule sets out the information EPA would require a person to submit in order to establish *bona fide* intent. Use of this procedure will prevent fishing expeditions by competitors, while allowing persons with legitimate intentions to determine whether a section 5(a)(1)(B) notice is required. On the other hand, use of such an approach does moderately increase the burden on persons intending to manufacture or process the substance. This approach for responding to inquiries concerning use description is similar to the procedure utilized in the Inventory Rules (40 CFR 710.7(g)) to enable EPA to respond to *bona fide* inquiries concerning the identities of confidential substances on the Inventory.

EPA examined the alternative of using the authorities of section 14(a) to disclose the proposed use of the substance for the purposes of this rulemaking and in the final rule itself. The Agency believes such a disclosure could be based on the authority of section 14(a)(4), which states that otherwise confidential information "may be disclosed when relevant in any proceeding" under the Act. This rulemaking is clearly such a "proceeding" and the qualitative use description, an essential part of the rule, is clearly "relevant." However, EPA is not proposing to disclose specific use information in this case. Section 14(a)(4) qualifies the Agency's rights to disclose by stating that disclosure "shall be made in such manner as to preserve confidentiality to the extent practicable without impairing the proceeding." EPA's tentative conclusion is that, because the identity of the substance is not confidential, maintaining confidentiality in this case except where *bona fide* intent to manufacture is shown may not unduly hamper the ability of persons to participate in this rulemaking or to comply with the rule when promulgated. This determination, however, is based on the facts of this particular case; the Agency is not proposing a general policy of maintaining confidentiality for essential elements of section 5 rulemaking, and believes that on different facts section 14(a)(4) would justify broader disclosure. EPA specifically requests comments on how it should handle confidentiality issues in this and future SNURs.

EPA Review of Notice

EPA intends to process and review any section 5(a)(1)(B) notices submitted under this proposed rule in a manner similar to premanufacture notices for new chemical substance. When a notice is received, EPA will publish a summary in the **Federal Register** in accordance with 5(d)(2). The review period for the notice will run 90 days from EPA receipt of the notice; under section 5(c) this period may be extended up to an additional 90 days for "good cause." The submitter may not manufacture or process the substance for the significant new use until the review period, including extensions, has expired. As with a PMN for a new chemical substance, EPA will use the notice as a point of departure for assessment, supplementing the information submitted with it with other available data to the extent necessary and possible.

The Agency has a variety of means of addressing concerns raised by such a notice. Section 5(e) specifically provides for EPA to regulate the substance, under certain conditions, pending the development of information necessary to evaluate the health and environmental effects of the substance. In addition, section 5(f) provides authority for EPA to control exposures which result in an unreasonable risk to health or the environment. EPA may also refer the information to other EPA offices and other Federal agencies, if these offices would be helpful in evaluating new uses of chemical substances and controlling them when appropriate.

Section 5(g) is the only part of section 5 which mandates special treatment of SNUR notices. This provision states that, at the end of the notification period for a significant new use, EPA must publish in the **Federal Register** a statement of the reasons for not initiating an action under section 6 or section 7 to control the substance. EPA has not determined the appropriate contents or level of detail for this notice, and requests public comment on the purposes this notice should serve.

Modification of Reporting Requirement Based on Notices

EPA is not proposing, and does not believe it would be appropriate to proposed, a sunset provision that would terminate, on the basis of passage of time alone, the signficant new use reporting requirement. On the other hand, the Agency believes that there may be several circumstances, arising from the submittal of notices, which will lead to modification of the requirements proposed today.

First, when a notice is submitted which describes a significant new use, EPA will be able to review the use to determine whether any control

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measures are necessary. Once the Agency has had its review opportunity, the use reported would arguably not be "new" any longer, and EPA believes that in general, the requirement to submit PMNs for such specific new uses should be lifted once the submitter begins to manufacture or process for that particular use. In these cases, the Agency proposes that the significant new use rule itself be modified or annotated automatically—that is, without following rulemaking procedures. The justification for such an approach is simple. Addition of a particular use to a list of existing uses would not be a discretionary activity. Rather, it would be akin to the automatic addition to the Inventory of a new chemical substance upon EPA's receipt of a Notice of Commencement of Manufacture. This would mean essentially that for each substance subject to a SNUR there would be a list of uses not subject to the SNUR which EPA would supplement automatically as new uses were reviewed, unless EPA acted to prohibit the use. However, establishing a list of non-SNUR uses may not be necessary in all cases, depending on how the reporting triggers are defined.

While the Agency would not have discretion to prevent a new use from being added to the list of "existing" uses, in some cases it might want to propose that certain changes in that use themselves be considered as significant. For example, EPA might not be concerned if a person proposed to manufacture 1,500 pounds of the substance for qualitative new use X, but might wish to review the use in the future if the total production rose to 10,000 pounds, or if some aspect of that use changed. The requirement to report these changes could result from a narrow description of the qualitative use added to the existing use list, e.g., "manufacture of 1,500 lbs. for qualitative use X." In other cases, further rulemaking under section 5(a)(2) might be appropriate. In addition to modifying the SNUR, EPA may follow up on particular new uses in other ways, including issuance of section 8 reporting rules.

Of course, submittal of a section 5 notice for a significant new use may result in a more substantial modification of the significant new use rule. If, for example, a notice contains information sufficient to show that a substance is of very low toxicity, the class of "significant" new uses subject to reporting may be narrowed to very high exposure situations, or eliminated entirely.

Cost Analysis

According to the manufacturer of the PMN chemical, its production (or processing) of the PMN chemical is not expected to exceed the "trigger" level stated in the SNUR. Therefore, the manufacturer is not required to do anything at this time, and should not incur any direct costs as a result of this SNUR.

However, in the event that production (or processing) of the chemical is intended to exceed the "trigger" level, then the manufacturer or processor will be required to submit the information included in section 5(d)(1) in accordance with EPA's Interim PMN Policy. The cost of submitting a notice under EPA's Interim Policy has not been determined. However, the Agency did propose a PMN form in October 1979, and the cost of filling out and submitting that form was estimated to range from $1,155 to $8,900. EPA believes the cost of submitting a notice under the Interim Policy has in most cases been in the lower part of this range.

The cost estimate for completing the revised PMN form cited above did not include the cost for asserting and substantiating confidentiality claims. The costs for claiming and substantiating confidentiality claims on EPA's proposed form estimated by EPA's contractor ranged from $900–$6,400. Although EPA has not prepared an assessment of the cost PMN submitters have actually been incurring in asserting and substantiating confidentiality claims under the Interim Policy for PMNs, EPA believes it has been only a small percentage of the costs estimated for the Agency's October 16, 1979 reproposed form.

EPA has not estimated the costs a submitter might incur in developing test or other data on the substance subject to SNUR notice. Although the SNUR does not require that the person perform additional testing EPA expects that some level of additional information, which may include testing will be generated. However, it is impossible for EPA to estimate the level of costs which may result.

The cost also does not include any indirect costs that may result from the imposition of the SNUR. These indirect costs may result from business decisions against the use of the PMN chemical due to increased uncertainties about the economic viability of the chemical for levels of production (or processing) exceeding the trigger level, and the uncertainty of using a chemical that may be subject to future Agency requirements, i.e., testing requirements or regulatory controls, under section 5(e) and (f) of TSCA. These uncertainties may affect the total market for the PMN chemical. While the Agency acknowledges that these indirect costs may exist, it also realizes that it is extremely difficult (if not impossible) to estimate the extent of these costs and their possible impacts at this time.

Rulemaking Record

The following documents constitute the administrative record of this rule (docket number OPTS 50013). Except to the extent that confidential business information has been masked, all documents are available to the public in the OPTS Reading Room, 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays, Room E–447, 401 M St., SW, Washington, D.C. 20460. This record includes basic information considered by the Agency in developing the proposed rule. EPA will supplement the record with additional information as it is received. The record includes the following categories of information:

1. The PMN submitted by National Starch, and other supplementary written materials.

2. The **Federal Register** notice of receipt of the PMN.

3. Records of all communications and meetings between EPA personnel and National Starch.

4. Any factual information the Agency considered in developing this rule.

5. Comments received on this notice.

EPA will identify the complete rulemaking record on or before the date of promulgation, as prescribed by section 19(a)(3) of TSCA, and will accept additional materials for inclusion in the record at any time between this notice and that designation. The final rule will also permit persons to point out any errors or omissions in the record.

Regulatory Analysis

EPA has determined that this document does not contain a proposal for which the Agency is required to conduct a Regulatory Analysis under Executive Order 12044.

Regulatory Development

EPA has determined that the proposal contained in this document is a specialized regulation. Specialized regulations are not subject to the procedural requirements of E.O. 12044, and are not subject to the uniform regulation development procedures promulgated by EPA and published in the **Federal Register** of May 29, 1979 (44 FR 30988).

Dated: November 18, 1980.

Douglas M. Costle,

Administrator.

It is proposed that a new Part 721 be added to Chapter I of Title 40 as follows:

PART 721—SIGNIFICANT NEW CHEMICAL USE

Subpart A—General Provisions

Sec.
721.1 Scope.
721.3 Definitions.
721.5 Persons who must report.
721.7 Notice requirements and procedures.
721.11 Information for persons demonstrating a *bona fide* intent to manufacture, import, or process.
721.15 Exemptions and exclusions.

Subpart B—New Uses for Specific Chemical Substances

721.175 N-methanesulfonyl-p-toluenesulfonamide.

Authority: Sec. 5 of the Toxic Substances Control Act, Public Law 94–469 (90 Stat. 2003 (15 U.S.C. 2601 *et seq.*)).

Subpart A—General Provisions

§ 721.1 Scope.

This Part identifies activities with respect to certain chemical substances which EPA has determined are "significant new uses" under the authority of section 5(a)(2) of the Toxic Substances Control Act (TSCA). In addition, it specifies the persons subject to the reporting requirements, procedures for exclusions in certain cases, and the information to be reported in a notice.

§ 721.3 Definitions.

The definitions in section 3 of TSCA, 15 U.S.C. section 2602, apply for this rule. In addition, the following terms are defined:

(a) "EPA" means the U.S. Environmental Protection Agency.

(b) "Importer" or "person who intends to import" means anyone who intends to import any chemical substance, in pure form or as part of a mixture or article, into the customs territory of the U.S. and includes:

(1) The person liable for the payment of any duties on the merchandise, or any authorized agent on his behalf (as defined in 19 CFR 1.11).

(2) The consignee.

(3) The importer of record.

(4) The actual owner if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR Part 141.20.

(5) The transferee, if the right to draw merchandise in a bonded warehouse has been transferred in accordance with Subpart C of 19 CFR Part 144. For the purpose of this definition the Customs territory of the U.S. consists of the 50 states, Puerto Rico, and the District of Columbia.

(c) "Manufacture for commercial purposes" means to import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer and include(s), among other things, such "manufacture" of any amount of a chemcial substance or mixture:

(1) For commercial distribution, including for test marketing.

(2) For use by the manufacturer including use for product research and development, or as an intermediate. Manufacture for commercial purposes also applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including both byproducts that are separated from that other substance or mixture. Such byproducts and impurities may, or may not in themselves have commercial value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the manufacture of a chemcial product for a commercial purpose.

(d) "Qualitative use" means the use of a substance, defined by its function and particular commercial or technical application, without regard to the quantity of the substance for that use.

(e) "Person" means any natural person, firm, company, corporation, joint venture, partnership, sole proprietorship, association, or any other business entity, and State or political subdivision thereof, any municipality, and interstate body, and any department, agency, or instrumentality of the Federal Government.

(f) "Process for commercial purposes" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing any amount of a chemical substance or mixture is included. If a chemical or mixture containing impurities is processed for commercial purposes, then those impurities are also processed for commercial purposes.

§ 721.5 Persons who must report.

(a) *General.* The following persons must submit a notice under the provisions of section 5(a)(1)(B) of TSCA and of this Part:

(1) Any person who intends to manufacture in the United States for commercial purposes any chemcial substance listed in Subpart B of this Part, for any significant new use of that substance specified in Subpart B of this Part.

(2) Any person who intends to import into the United States for commercial purposes, other than as part of an article, any chemical substance listed in Subpart B of this Part, for any significant new use of that substance specified in Subpart B of this Part.

(3) Any person who intends to process in the United States for commercial purposes any substance listed in Subpart B of this Part for any significant new use of that substance specified in Subpart B of this Part.

(b) [Reserved]

§ 721.7 Notice requirements and procedures.

Each person who is required to submit a significant new use notice under this Part must submit the notice at least 90 calendar days before commencing an activity specified in § 721.5 with respect to that use. The submitter must comply with any applicable requirement of section 5(b) of TSCA, and shall include the information and data specified in section 5(d)(1).

§ 721.11 Information for persons demonstrating a bona fide intent to manufacture, import, or process.

(a) If an important factor in the description of a use determined to be a significant new use is subject to confidential treatment, a person who intends to manufacture, import, or process that substance may ask EPA whether his intended use of the substance is subject to this Part. If the answer to the inquiry would require EPA to reveal otherwise confidential information, EPA will answer such an inquiry only if the Agency determines that the person has a *bona fide* intent to manufacture, import, or process the substance for the use with regard to which inquiry is made.

(b) If inquiry is made concerning the particular use or uses of the substance, to establish the *bona fide* intent the person must submit to EPA:

(1) A signed statement that the person intends to manufacture, import, or process the substance for the indicated purposes.

(2) A description of the research and development activities he has conducted to date.

(c) EPA will compare the use information submitted with information on existing uses and will inform the submitter whether a notice of significant new use is required if the person intends to manufacture, import, or process the substance for that purpose.

(d) A disclosure of the use description

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(d) A disclosure of the use description of a substance to a person with a *bona fide* intent to manufacture, import, or process a particular chemical substance for that particular use will not be considered a disclosure of confidential information.

(e) EPA will provide a final response to an inquiry under these procedures within 45 days after the Agency's receipt of a complete submission under paragraph (b) of this section.

§ 721.15 Exemptions and exclusions.

The exemptions and exemption authorities of sec. 5(h) of TSCA apply without modification to any significant new uses defined in this Part.

Subpart B—New Uses For Specific Chemical Substances

§ 721.175 N-methanesulfonyl-p-toluenesulfonamide.

EPA has determined that the following are "significant new uses" of the chemical substance N-methanesulfonyl-p-toluenesulfonamide:

(a) Use of the substance as other than confidential qualitative use, unless the new qualitative use is excluded under § 721.15.

(b) Manufacture or import of an amount of the substance in excess of 1,000 pounds per annum for use as a confidential qualitative use.

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Part VI

Environmental Protection Agency

Standards of Performance for New Stationary Sources: Beverage Can Surface Coating Industry

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD FRL-1534-1]

Standards of Performance for New Stationary Sources; Beverage Can Surface Coating Industry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit emissions of volatile organic compounds (VOC) from new, modified, and reconstructed beverage can surface coating operations. The proposed standards would limit VOC emissions from beverage can surface coating to those resulting from the use of waterborne coatings.

The standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that surface coating operations within beverage can manufacturing plants contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. The intent is to require new, modified, and reconstructed beverage can surface coating operations to use the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

DATE: *Comments:* Comments must be received on or before February 5, 1981.

Public Hearing: A public hearing will be held on January 6, 1981 beginning at 9:00 a.m.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by December 30, 1980.

ADDRESSES: *Comments:* Comments should be submitted (in duplicate if possible) to Central Docket Section (A-130), Attention: Docket Number A-80-4, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

Public Hearing: The public hearing will be held at EPA Environmental Research Center Auditoruim (ERC), Research Triangle Park, North Carolina. Persons wishing to present oral testimony should notify Ms. Deanna Tilley, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5477.

Background Information Document. The background Information Document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to *Beverage Can Surface Coating Operations, Background Information for Proposed Standards,* EPA-450/3-80-036a.

Docket. Docket No. A-80-4, which contains supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for coping.

FOR FURTHER INFORMATION CONTACT: Mr. Gene Smith, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5477.

SUPPLEMENTARY INFORMATION:

Proposed Standards

The proposed standards would apply to all new, modified, and reconstructed beverage can surface coating operations. The proposed standards define a beverage can as any two-piece steel or aluminum container or any three-piece steel container in which soft drinks or beer (including malt liquors) are packaged. Containers in which fruit or vegetable juices are packaged are excluded. Existing facilities would not be subject to the standards unless they undergo a modification or reconstruction as defined in 40 CFR 60.14 or 60.15. The standards would limit VOC emissions from the surface coating of two-piece beverage cans to 0.29 kilogram of VOC per litre of coating solids from each exterior base coating operation except clear base coating, 0.46 kg of VOC per litre of coating solids from each overvarnish coating operation and each clear base coating operation, and 0.89 kg of VOC per litre of coating solids from each inside spray coating operation. VOC emissions from the surface coating of three-piece cans would be limited to 0.50 kg of VOC per litre of coating solids from each exterior base coat operation, 0.50 kg of VOC per litre of coating solids from each interior base coat operation, 0.46 kg of VOC per litre of coating solids from each overvarnish coating operation, and 0.64 kb of VOC per litre of coating solids from each inside spray-coating operation. VOC emissions from the surface coating of metal sheets for steel or aluminum ends would be limited to 0.50 kg of VOC per litre of coating solids from each interior coating operation and 0.50 kg of VOC per litre of coating solids from each exterior coating operation. Each affected facility would consist of a coating application station, flashoff area, and curing oven.

The proposed emission limits are based on the emission levels obtainable through the use of best available waterborne coatings. The standards could also be achieved through the use of solvent-borne coatings in combination with an emission control system.

The performance test specified in the proposed standards requires the calculation of a volume-weighted average of the mass of VOC per volume of coating solids used each calendar month for each affected facility. Procedures for making these calculations are included in the proposed standards. Data on VOC and coating solids content, density, and volume of each of the coatings used, and volume and density of each diluent VOC used for each affected facility during each calendar month are necessary in conducting the monthly performance tests. Information provided by coating manufacturers, or analysis performed using Reference Method 24, is the source of coating formulation data. Coating and diluent VOC consumption data are obtained from the owner's or operator's records. Reference Method 25 would be used to determine the percentage reduction of VOC emissions achieved through the use of an emission control device. Both reference methods are promulgated in the **Federal Register** of October 3, 1980 (45 FR 65956).

The performance test and compliance provisions include procedures for conducting the performance test when only coatings with VOC content equal to or less than the proposed emission limiktations are used, when some coatings with VOC content greater than proposed emission limitations are used, and when a capture system and a control device are required for compliance.

An affected facility is in compliance when the volume-weighted average mass of VOC per volume of coating solids applied, calculated on a calendar month basis, is equal to or less than the proposed emission limitations.

The proposed standards would specify monitoring requirements only when a capture system and emission control device are used to comply with the proposed standards. For incineration systems the proposed standards require continuous monitoring of incinerator temperatures.

The proposed standards would require that the owner or operator maintain at the source for a period of at least two years records of all data, calculations, and test results necessary to support the calculations of volume-weighted average of the total mass of VOC per volume of coating solids used in each calendar month for each affected facility.

The proposed standards would require reporting the results of the initial performance test and thereafter reporting each month in which an affected facility is not in compliance, by the tenth day of the following month. Affected facilities using a capture system and an incinerator would be required to report, quarterly, all periods during which the average temperature, while can are being processed, is significantly below the average temperature of the device during the most recent performance test.

Summary of Environmental, Energy, and Economic Impacts

Environmental, energy, and economic impacts of standards of performance are normally expressed as incremental differences between the impacts from a facility complying with the proposed standard and the impacts for a facility complying with a typical State Implementation Plan (SIP) emission standard. In beverage can surface coating operations, the incremental differences will depend, in some cases, on the control levels required by revised SIPs. Revision to most SIPs are currently in progress.

Many existing beverage can surface coating operations are located in areas that are considered nonattainment areas for purposes of achieving the National Ambient Air Quality Standard (NAAQS) for ozone. New facilities are expected to locate in similar areas. In revising their SIPs, most States are expected to use the Control Technique Guideline (CTG) document, *Control of Volatile Organic Emissions from Existing Stationary Sources, Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks* (EPA-450/2-77-008 [CTG]). Therefore, the incremental impacts are measured from the CTG-recommended emission levels.

The environmental, energy, and economic impacts of the proposed standards are based on the anticipated growth of the industry discussed in Chapter 7 of the Background Information Document. Other projections exist that would change the impact assessments. For example, some industry sources project the demise of the three-piece beverage can over the next five years. Others indicate that while use of three-piece beverage cans will drop, they will still represent a significant share of the market. The latter projection was used in assessing the impact of the proposed standards.

In addition to achieving reductions in emissions beyond that required by a typical SIP, standards of performance have other benefits. They establish a degree of national uniformity to avoid situations in which some States may attract industries by having less stringent air pollution standards relative to other States. Standards of performance also improve the efficiency of case-by-case determinations of best available control technology (BACT) for new facilities locating in attainment areas and of lowest achievable emission rates (LAER) for new facilities locating in nonattainment areas, by providing a starting point for the basis of these determinations. This results from the process for developing standards of performance, which involves a comprehensive analysis of alternative emission control methods. Detailed cost and economic analyses of various regulatory alternatives are presented in the supporting documents.

The proposed standards would reduce VOC emissions by approximately 32 percent from the CTG baseline emission level. For plants coating two-piece beverage cans, the proposed standard would result in a 47-percent reduction in VOC emission from the exterior base coat operation, a 15 percent emission reduction from the overvarnish coating operation, and a 26-percent emission reduction from the inside spray coating operation. For plants coating three-piece beverage cans, VOC emissions from the exterior base coat operation would be reduced by 8 percent. Emissions from the interior base coat operation, overvarnish coating operation, and inside spray coating operation would be reduced by 5, 13, and 82 percent, respectively. VOC emissions from the exterior and interior coating operation for steel or aluminum end sheets would be reduced by 2 and 60 percent, respectively. Annual nationwide VOC emissions would be reduced by about 4,800 Mg (5,280 tons) by 1986.

Little or no incremental water pollution impact from new, modified, or reconstructed beverage can surface coating operations would result from implementation of the proposed standards. In addition, those plants discharging toxic pollutants listed under Section 307 of the Water Act could be subject to pretreatment requirements also under development.

The proposed standards would also have little or no incremental solid waste impact.

Based on industry growth projections, application of the proposed standards would result in a net energy reduction of about 36,000 gigajoules in 1985. The net energy reductions result from the use of less coating per can because of higher solids content of the waterborne coatings upon which the standards are based.

The proposed standards are expected to have little economic impact on the beverage can industry. The proposed standards contain at least one control option for each affected facility whose cost is equal to or less than the cost of compliance with the baseline level of control.

Rationale

Selection of Source

Industrial coating operations are a significant source of VOC emissions, accounting for about 2 million Mg of VOC each year. Beverage can surface coating operations are among the largest individual operations producing VOC emissions in the industrial coating category, contributing an estimated 77,000 Mg of VOC emissions in 1977. This represents about 4 percent of total VOC emissions from all industrial surface coating operations.

Studies have been conducted to investigate the effect standards of performance would have on nationwide VOC emissions from stationary sources. Can surface coating operations are ranked second on a list of 59 sources considered for control, published August 21, 1979 (44 FR 49222). Beverage cans represent over half of the can production in the United States today and are the fastest growing segment of the can industry, with a projected annual growth of 5.5 percent. Food cans have shown a slight decline in shipments between 1976 and 1979. Projected annual growth through 1990 is estimated to be less than 1 percent. Little, if any, modification or reconstruction of food can plants is expected during this period. Food cans are predominately three-piece. As the two-piece can captures a greater share of the beverage market, three-piece capacity now used for beverage cans will become available for the manufacture of food cans. This increased availability should reduce the requirements for upgrading food can lines and the number of facilities that would be subject to the modification and reconstruction provisions of 40 CFR 60. Consequently, food cans are not included in the proposed standards. Should the situation change, consideration will be given to the development of standards for food cans.

VOC are the major air pollutants emitted from beverage can surface coating operations and result primarily from the use of organic solvents. Particulate matter generated from this surface coating process is minimal. Technology is currently available to reduce VOC emissions from beverage can surface coating operations. The use of waterborne coatings, the use of solvent-borne coatings coupled with an add-on emission control device, or the use of other control options would reduce VOC emissions by approximately 32 percent from all new, modified and reconstructed sources. Consequently, beverage can surface coating operations have been selected for the development of a new source standard of performance.

Selection of Pollutant

Volatile organic compounds are the primary air pollutants emitted from beverage can surace coating operations. Although some can coating operations may emit particulate matter, the quantity generated is not significant. VOC are defined as any organic compound which participates in atmospheric photochemical reactions, or which is measured by a reference method, or which is determined by procedures specified under any subpart. Photochemical oxidants result in a variety of adverse impacts on health and welfare, including impaired respiratory function, eye irritation, necrosis of plant tissue, and deterioration of some synthetic materials. Further information of these effects can be found in the U.S. Environmental Protection Agency (EPA) document entitled *Air Quality Criteria for Ozone and Other Photochemical Oxidants* (EPA–600/8–78–004). Therefore, only VOC were selected for inclusion in the proposed standards.

Sources of VOC Emissions at Beverage Can Plants

In beverage can surface coating operations, VOC emissions result from the use of coatings containing organic solvents that evaporate during the drying process. For the purpose of establishing standards and determining compliance, all VOC contained in a coating are assumed to evapoate during the coating process. Industry estimates that well over 90 percent of the VOC consistently evaporates during the coating process. Therefore, this assumption is considered to be valid. VOC content of coatings are generally specified by the coating supplier and calculated by a material balance of the coating ingredients. Manufacturers of beverage cans employ a wide variety of coatings to protect the contents of the can and to protect the beverage can from the environment. Typical coatings applied to beverage cans include expoxies, epoxy-acrylics, acrylics, and polyester enamels. These coatings generally contain organic solvents such as ketones, esters, ethers, and aromatics.

Surface coatings are applied to beverage cans in a series of operations, depending on the type can to be manufactured. In the manufacture of two-piece cans, surface coatings are usually applied to beverage can bodies in three steps: (1) application of an exterior base coat, (2) application of an overvarnish coating, and (3) application of an inside spray coating. Each coating operation is followed by an oven cure, except where radiation-curable overvarnish coatings are applied. A coating may be applied to the exterior bottom of the can either as part of the overvarnish coating or inside spray coating operation. Two coats of inside spray are usually applied to steel two-piece cans, while aluminum two-piece cans usually require only one inside spray coat. The two inside spray coats for steel two-piece cans may be applied wet-on-wet or with an intervening oven cure. Aluminum ends for two-piece cans are formed from precoated metal coils or sheets. When made from precoated coals, the only operation resulting in VOC emission at the beverage can line is the application of end-sealing compound. In the production of three-piece cans, coating operations include the sequential application of an interior base coat, an exterior base coat, and an overvarnish coating to the steel sheets from which beverage can bodies are formed. After formation of the can body, the seam is protected by an inside and outside seam coating. The formed can is then coated with an inside spray. Interior and exterior coatings are also applied to the stock from which the steel ends used in the manufacture of three-piece cans are formed and from which aluminum ends used with three-piece and two-piece cans are formed. End-sealing compound is applied to the formed ends.

Except for inside spray operations for two-piece and three-piece beverage cans, transfer efficiencies approaching 100 percent are achieved. For inside spray operations transfer efficiencies of at least 90 percent are consistently achieved. Transfer efficiency is defined as the ratio of the amount of coating solids adhering to the coated surface to the amount of coating solids consumed. Because of the high and consistent transfer efficiencies experienced in beverage can surface coating operations, it was not deemed necessary to explicitly consider this parameter in the compliance procedures. However 90 percent transfer efficiencies were used in estimating emissions from inside spray.

Data provided by the Can Manufacturers Institute (CMI) indicate that VOC emissions from 1976 coating operations for both two-piece and three-piece cans were distributed in the following manner. Base coating operations accounted for 39 percent of total VOC emissions; overvarnish coating operations for 4 percent, inside spray operations for 38 percent, and end-sealing operations for 10 percent of total VOC emissions. The application of side seam coatings to three-pice cans accounted for 4 percent of total VOC emissions from surface coating operations. Analysis of the CMI data indicates that VOC emissions from miscellaneous sources, such as cleanup operations and the storage or handling of coatings and solvents, accounted for approximately 5 percent total VOC emissions.

Based on information contained in the permit application for a newly constructed two-piece beverage can plant using waterborne coating, distribution of emissions is estimated to be 10 percent from exterior base coat operations, 19 percent from lithography/overvarnish application, 1 percent from bottom-end coating, 55 percent from inside spray operations and 15 percent from the application of end-sealing compound to aluminum ends.

Data for a three-piece beverage can facility applying solvent-borne coatings without add-on controls indicate that the experior and interior base coat operation account for 48 percent (24 percent for each operation) of total plant VOC emissions. Another 15 percent is attributed to the overvarnish coating operation, and 15 percent is also generated from the inside spray coating operation. End-sealing operations account for 20 percent of total VOC emissions from the plant. The application of side-seam coatings account for only 2 percent of VOC emissions.

Analysis of each emission source resulted in the exclusion from the proposed standards of side-seam coating operations for three-piece cans, bottom-coating operations for two-piece cans, misscellaneous VOC emission source (cleanup operations and storage or handling of coatings and solvents) and end sealing operations. VOC emissions from side-seaming operations for three-piece cans account for 2 to 4 percent of total plant emissions.

Emissions from bottom-coating operations for two-piece cans are estimated to be about 1 percent of all VOC emissions from two-piece can lines. While emissions from cleanup operations are potentially significant where solvent-borne coatings are used, their significance has decreased and will continue to decrease as waterborne coatings replace solvent-borne coatings. Emissions from the storage and handling of coatings and solvents are considered negligible because of the wide use of sealed containers or closed coating circulation systems. While low-solvent end-sealing compounds that meet or exceed the CTG requirements are being tested, requisite qualification testing has not been accomplished. For this reason, emissions from the application of end-sealing compounds are excluded from the standards at this time.

Selection of Affected Facilities

The choice of the affected facility for this standard is based on the Agency's interpretation of Section 111 the Act, and judicial construction of its meaning.[1] Under Section 111, the NSPS must apply to "new sources;" "source" is defnied as "any building, structure, facility, or installation which emits or may emit any air pollutant" [Section 111(a)(3)]. Most industrial plants, however, consist or numerous pieces or groups of equipment which emit air pollutants, and which might be viewed as "sources." EPA therefore uses the term "affected facility" to designate the equipment, within a particular kind of plant, which is chosen as the "source" covered by a given standard.

In choosing the affected facility, EPA must decide which pieces or groups of equipment are the appropriate units for separate emission standards in the particular industrial context involved. The Agency must do this by examining the situation in light of the terms and purpose of Section 111. One major consideration in this examination is that the use of a narrower definition results in bringing replacement equipment under the NSPS sooner; if, for example, an entire plant were designated as the affected facility, no part of the plant would be covered by the standard unless the plant as a whole is "modified." If, on the other hand, each piece of equipment is designated as the affected facility, then as each piece is replaced, the replacement piece will be a new source subject to the standard. Since the purpose of Section 111 is to minimize emissions by the application of the best demonstrated control technology (considering cost, other health and environmental effects, and energy requirements) at all new and modified sources, there is a presumption that a narrower designation of the affected facility is proper. This ensures that new emission sources within plants will be brought under the coverage of the standards as they are installed. This presumption can be overcome, however, if the Agency concludes that the relevant statutory factors (technical feasibility, cost, energy, and other environmental impacts) point to a broader definition. The application of these factors is discussed below.

Four alternatives for the designation of an affected facility were considered in the development of the proposed standards. These alternatives include (1) designation of specific equipment such as the coating application station, flashoff area, and curing oven as separate affected facilities; (2) designation of each coating operation as an affected facility; (3) designation of an entire surface coating line as an affected facility; and (4) designation of the entire plant as the affected facility.

If each emission point (specific coating equipment) were designated as a separate affected facility, separate emission limits would have to be prescribed for each piece of equipment. However, each component of a coating operation is so closely linked, both physically and operationally, that separate emission limits for each piece of equipment would present technical and economic burdens on the plant owner or operator. In the manufacture of beverage cans, a coater and associated flashoff area and curing oven may be used to apply different types of coatings, each having a different allowable emission level, e.g., clear and pigmented base coat for two-piece cans or three-piece steel sheets. Designation of the emission points as the affected facility would require that the standards be based on either the highest VOC content coating that could be used or on an industry average of VOC content. This would penalize coaters that, for reasons of product performance, must use a coating with an above-average VOC content. In addition enforcement would be difficult because of the measurement problems associated with isolating the VOC emissions from each piece of equipment.

Treating an entire can line or an entire plant—multiple can lines—as an affected facility has the advantage of providing flexibility in approaches to compliance and ease of enforcement. It has the disadvantage of permitting compliance by the elimination of one or more coating steps and associated emissions without requiring the remaining operations to employ the best system of continuous emission reduction. Also, designation of an entire plant or line as an affected facility would require a much higher capital expenditure to trigger reconstruction considerations. A modification or reconstruction to any part of an existing line or plant could subject the entire surface coating operation (or the entire line or plant) to the provisions of the proposed standard.

Designating each coating operation as an affected facility would simplify enforcement and recordkeeping requirements. Although the equipment comprising each coating operation is closely associated, VOC emissions from coatings used in each operation can be readily separated for the purposes of enforcement and recordkeeping. In addition, the impact of modification and reconstruction provisions is considered more reasonable, as compared to the designation of the entire line or plant as the affected facility. A modification or reconstruction to an individual existing coating operation would not subject all other coating operations on the line or in the plant to the provisions of the proposed standards. Defining each coating operation as including all VOC emissions generated from the application of the coating through the curing process would ensure that the best system of continous emission reduction will be applied to all coating operations. Designation of a coating operation, e.g., equipment and coating, would accommodate situations in which the same equipment is used to apply different types of coatings, each having a different allowable emission level. While such a designation would result in additional affected facilities, no specific enforcement problems would result because coating usage and production data at the plant level are maintained from each type of coating.

The following coating operations have been selected as the affected facilities for control by the proposed standards, because these coating operations account for the bulk of VOC emissions from the beverage can surface coating process, and because control techniques exist for reducing VOC emissions from these operations.

For the manufacture of two-piece beverage cans, the affected facilities are each exterior base coat operation, overvarnish coating operation, and inside spray-coating operation. For the manufacture of three-piece beverage cans, the affected facilities would include each exterior base coat

[1] The most important case is *ASARCO, Inc.* v. *EPA*, 578 F.2d 319 (D.C. Cir. 1978).

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operation, interior base coat operation, overvarnish coating operation, inside spray coating operation, and each interior and exterior coating operation for steel ends. For the manufacture of two- or three-piece beverage cans, each interior and exterior aluminum-end sheet coating operation would also be designated as affected facilities.

Selection of Basis of Proposed Standards

Emission control techniques

Two general emission control techniques have been identified as demonstrated emission reduction systems for beverage can surface coating operations: (1) low VOC content coatings, and (2) solvent-borne coating systems with emissions capture and control devices.

Elimination of the exterior base coat was also considered; however, this approach was rejected because it is not applicable to all beverage can surface coating operations. Numerous exceptions would be required, especially for merchant can plants, with each plant requiring a separate analysis. In some instances, base coats are required to provide corrosion resistance, especially where the packaged product is shipped by water transportation or stored in high-temperature, high-humidity areas. Elimination of a coating, however, is not precluded as a means of compliance with the proposed emission limitations if the owner or operator can use this option to meet the proposed emission limit for that operation.

Low VOC content coatings. Low VOC content coatings applicable to the can industry include waterborne materials, no-varnish ink, and UV-curable overvarish. Waterborne coatings have been demonstrated in the beverage can industry for all coating operations with the exception of end-sealing compounds. Research and development on water-based end sealants is being actively pursued. Discussions with vendors and canmakers indicate that acceptable water-based end-sealants will be available and demonstrated within two years.

VOC emissions from waterborne coatings (or other type coatings) are dependent on the solvent-to-solids ratio of the coating, thickness of film applied, units produced per hour, and the surface area of each unit. A variety of waterborne coatings is available. VOC content of waterborne coatings obtained from coating and beverage can manufacturers are summarized in Chapter 4 and Appendix C of the BID. For comparative purposes, equivalent VOC contents expressed as kg per litre of coating less water are also included in the BID. Discussions with the industry and examination of the literature indicate that the trend in beverage can surface coating is toward the use of waterborne coatings. With few exceptions, beverage can manufacturers either have converted or are in the process of converting from solvent-borne coatings to waterborne because of ease of control and cost considerations. All major canmakers, both merchant and capture, have reported plans to convert existing solvent-borne lines to waterborne, and indicate that all future facilities will use waterborne coatings.

No-varnish inks are specially formulated inks which cure with gloss and scuff resistance properties that, in some cases, eliminate the need for an overvarnish coating. The elimination of a coating step results in a decrease in solvent emissions from that operation to zero. However, cans made with no-varnish inks may not provide the corrosion resistance required when the filled cans are stored in high-humidity, high-temperature environments, or shipped by water transportation. Also, the use of no-varnish inks may not provide the mobility required in some existing filling lines. In these cases, beverage-can surface coaters may choose to apply an over-varnish coating. During the past year the use of no-varnish inks has dropped dramatically. One merchant canmaker reports a drop from 80 percent in 1979 to 5 percent in early 1980.

The use of ultraviolet (UV) curing has received a great deal of attention in recent years. UV curing is a radiation-initiated polymerization process for curing industrial finishes and printing inks. This technology has been used for "drying" inks applied in the can and packaging industries, and for curing fillers and coatings in the plywood and particle-board industry. In the beverage can industry, UV curing is used with specially prepared inks and to a lesser extent with overvarnishes for both two-piece and three-piece cans. UV-curable materials essentially contain no VOC. Emissions are relatively insignificant and result only from polymerization that occurs during the curing process. However, the use of UV curing is not applicable to all beverage can surface coating operations and, in fact, the trend is away from their use.

While high-solids coatings (approximately 80-percent solids), powder coatings, and coatings that can be applied by electrodeposition are in use for some industrial surface coating operations, their use in the beverage can industry is still in the experimental stage.

Emission control systems. Although carbon adsorption has been used to control VOC emissions from some industrial processes, its effectiveness on beverage can surface coating operations has not been demonstrated. The opinion of the beverage can industry is that carbon adsorption could be used to control VOC emissions, but that it would be prohibitively expensive because of the high temperatures of the gas stream to be controlled. The gas streams would have to be cooled several hundred degrees prior to entering the adsorption unit. This would necessitate an elaborate and energy-intensive cooling system. However, should the use of carbon adsorption become applicable to the industry in coming years, its use would not be precluded and provisions for determining compliance are included in the proposed standards.

The only emission control system that has been demonstrated as effectively controlling VOC emissions from beverage can surface coating operations is incineration. Both thermal and catalytic incinerators have been used successfully with solvent-borne coatings on both two-piece and three-piece beverage can lines. Thermal incinerators can achieve at least a 90 percent reduction in VOC emissions when operated at a temperature of about 750° C (1,400° F). However, large amounts of supplemental fuel may be required to raise the exhaust gases to incineration temperature. If heat recovery units are installed with the incinerator, the energy consumption may be reduced. Where control is required, the increasing cost of natural gas is driving the industry towards the use of waterborne coatings.

Catalytic incinerators are also capable of achieving VOC emission reductions in excess of 90 percent. Their use requires substantially less energy than the thermal incinerator because of the lower incineration temperature. If heat recovery is used in conjunction with the catalytic units, they become more attractive economically. However, there are restrictions on the applicability of catalytic incinerators because many of the coatings used in beverage can industry contain components that may foul or mask the catalyst. This may greatly reduce the active catalyst life, resulting in higher incinerator operating costs. Consequently, the use of catalytic incinerators is normally limited to those plants that use only a few different coating formulations with ingredients that do not have an adverse effect on the catalyst.

Regulatory alternatives

Based on the analysis of beverage can surface coating emission sources and pollutants, and with consideration of the environmental, energy, and economic impacts resulting from application of the control technology discussed above, three regulatory alternatives were selected for consideration. While the use of solvent-borne coating and appropriate emission control systems is an available control option, the trend in the industry is toward the use of waterborne coatings. With few exceptions, can plants constructed in the past five years use waterborne coatings. One canmaker who constructed solvent-borne lines within the past five years has recently announced plans to convert to waterborne coatings because of increasing energy costs. In addition, practically all major beverage can makers have either converted existing solvent-borne lines to waterborne or are in the process of doing so. Because of the industry trend to waterborne coatings, primarily because of energy considerations, the regulatory alternatives emphasize the use of best available waterborne coatings. However, for those operations where waterborne coatings may not provide the desired coating finish, some manufacturers may choose to use solvent-borne coatings in combination with thermal or catalytic incineration. This option is not precluded under the regulatory alternatives as long as equivalent emissions are equal to or less than those attainable from the use of waterborne coatings.

Regulatory Alternative I is to forego development of a New Source Performance Standard (NSPS) for beverage can surface coating operations. Under this alternative, emissions from beverage can plants would be controlled by State Implementation Plans (SIPs). Existing beverage can plants located in ozone nonattainment areas woud be subject to emission limitations based on recommendations in the control technique guideline (CTG) document for beverage can surface coating operations. New plants located in ozone nonattainment areas would be required to limit emissions to the lowest achievable emission rate (LAER) and new plants in attainment areas to best available control technology (BACT). The emission limits recommended in the CTG were based on the use of the best waterborne coatings available at that time. Since publication of the CTG, waterborne coatings with lower VOC content have been developed and commercialized.

Regulatory Alternative II is based on emission levels that would result from the use of best available waterborne coatings for all coating operations and water-based materials for end-sealing operations.

Regulatory Alternative III is identical to Regulatory Alternative II with the exception that no-varnish inks or UV-curable overvarnishes would be required in lieu of waterborne coatings for overvarnish coating operations.

Environmental impact

The environmental impact of each regulatory alternative was computed as the VOC emission reduction that would be achieved relative to the emissions allowed under State regulations based on the recommended CTG limits.

Regulatory Alternative I (no NSPS) is the baseline. The current level of VOC emissions from existing plants would be maintained, and new plants would be required to meet the same emission limits.

The implementation of Regulatory Alternative II (waterborne coatings) would result in an overall VOC emission reduction of about 4,800 Mg per year in the fifth year of applicability of the proposed standard, a 32 percent reduction from Regulatory Alternative I for new facilities. Specifically, VOC emissions from two-piece beverage can surface coating operations (exterior base coat, overvarnish coating and inside spray coating) would be reduced by 4,100 Mg in the fifth year, a 32 percent decrease from the baseline level of emissions. VOC emissions from three-piece beverage can sheet coating operations (interior base coat, exterior base coat, and overvarnish coatings) would be reduced by 54 Mg, an 8 percent reduction from the baseline emissions. VOC emissions from inside spray operations for three-piece cans would be reduced by 310 Mg in the fifth year, a reduction of 52 percent from the baseline. Emissions from the interior and exterior coatings applied to the sheets from which aluminum or steel ends are formed would be reduced by 333 Mg, a 52 percent decrease from the baseline.

The application of Regulatory Alternative III (waterborne coatings in combination with no-varnish inks or UV-curable overvarnish coatings) would result in a VOC emission reduction of about 6,200 Mg per year in the fifth year, as compared to the baseline. VOC emissions from two-piece can-coating operations would be reduced by 5,400 Mg in the fifth year, a 42 percent reduction from baseline. VOC emissions from three-piece can sheet-coating operations (interior, exterior, and overvarnish coatings) would be reduced by 150 Mg in the fifth year, a 23 percent reduction from the baseline. Emissions from the inside spray coating operation would be reduced by 311 Mg, the same reduction that would be achieved by Regulatory Alternative II. VOC emissions from the coating of steel or aluminum sheet stock for ends reduced by 333 Mg., the same reduction that would be achieved by Regulatory Alternative II.

No impact on water pollution, solid waste disposal, or noise pollution as compared to baseline levels is expected to occur from either Regulatory Alternative II or III.

Energy impact

The application of can coatings requires energy in the form of electricity, natural gas and, in some instances, other fossil fuels. Electricity is used to power coating equipment, sheet and can conveyors, ventilating blowers at the coater and flashoff areas, oven circulating and exhaust blowers, and incineration system blowers. Natural gas is used as fuel for drying and curing ovens.

Regulatory Alternative II (waterborne coatings) would result in an annual overall decrease in energy requirements of about 36,000 gigajoules in the fifth year. This net energy reduction results from the use of less coating per can because of higher solids content of the waterborne coatings upon which Regulatory Alternative II is based. The use of less coating reduces the amount of VOC and water that must be evaporated in the curing oven and therefore reduces energy requirements. The fifth-year impact would be a decrease in energy consumption equivalent to 34 million cubic feet of natural gas per year. Energy requirements for two-piece can coating operations would be reduced by 27,000 GJ by 1985, a 2 percent reduction from the baseline. Energy requirements for three-piece can sheet-coating operations (interior base coat, exterior base coat, and overvarnish coating) would be reduced by 4,500 GJ, a 5 percent reduction from the baseline. Energy requirements for the inside spray coating operation would be reduced by 1,000 GJ, a 2 percent reduction. Energy requirements for the coating of sheet stock for aluminum or steel ends would be reduced by 4,200 GJ by the fifth year, a 2 percent reduction. If solvent-borne coatings and incineration are used to attain the proposed standards, energy requirements for a two-piece can line would be increased by 160 percent over the base case and for a three-piece can

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line by 140 percent. These percentages represent increases of energy requirements for the coating operations, not the entire can line.

The application of Regulatory Alternative III (waterborne coatings and no-varnish inks or UV-curable overvarnish coatings) would result in an annual decrease in energy requirements of about 920,000 gigajoules in the fifth year. The greatest part of the net energy reduction under this regulatory alternative results from the use of no-varnish inks or UV-curable overvarnish coatings. Two-piece can coating energy requirements would be reduced by 880,000 GJ, a 35 percent decrease from the baseline requirements. Energy requirements for three-piece can sheet-coating operations and forming operations (inside spray coating) would be reduced by 32,000 GJ and 1,000 GJ, respectively, a 36 and 2 percent decrease, respectively. Energy requirements for end coating operations would be reduced by 4,200 GJ in the fifth year, a 2 percent reduction, the same reduction as would be achieved by Alternative II. If solvent-borne coatings and incineration are used to attain the proposed standard, energy requirement for a two-piece can line would be increased by 73 percent over the base case and for a three-piece can line by 120 percent.

Economic impact

A discounted cash flow approach was used to analyze the economic impact of each regulatory alternative. Impacts are estimated for four types of beverage can production facilities: (1) three-piece sheet-coating operations, (2) three-piece can-forming (inside spray) operations, (3) steel and aluminum end coating operations, and (4) two-piece aluminum or steel can fabrication operations. Because the costs of applying end-sealing compound to steel or aluminum ends are essentially the same for solvent- and water-based materials, no economic impact analysis was considered necessary.

The regulatory alternatives assume current levels of capital requirements, annualized costs, and product prices (i.e., current return on investment [ROI]) would be maintained.

No economic impacts on the beverage can industry are expected to occur under Regulatory Alternative II or III. Among the control options considered for each production facility, there is at least one whose cost is equal to or less than the cost of complying with the baseline level of control. The use of low-solvent coatings upon which Regulatory Alternatives II and III are based does not require any capital expenditures over the base case and also requires less energy to evaporate VOC and water in the curing oven. If no standards were developed (Regulatory Alternative I), economic analysis shows that firms building new production facilities have an economic incentive to achieve a greater level of control than is currently required by the SIP's. However, if an owner or operator chooses to use solvent-borne coatings with add-on controls, an economic impact would result. This impact is discussed below.

The use of incineration would have an effect on product price or return on investment (ROI), and would require an additional capital outlay by three-piece can makers. Under Regulatory Alternative II, firms building new facilities involved in the production of three-piece cans (sheet coating operations, can forming operations, and end coating operations) would have to increase the output price by 1 percent, or absorb the additional costs and accept a cut in the rate of return from 1 to 10 percentage points. Under Regulatory Alternative III, output prices would increase about 1 percent If the additional costs were passed along to the customer. The ROI impacts would be roughly similar to those occurring under Regulatory Alternative II. Under both alternatives, adopting the incineration options would increase the capital requirements by approximately 10 percent for each of the three types of production facilities.

The use of incineration would also have an economic impact on two-piece canmakers. For either Regulatory Alternative II or III, if the additional costs were absorbed, ROI would decline from 2 to 6 percentage points, depending on plant size. Additional capital outlays would amount to between 2 and 5 percent of the capital required to meet the SIP level of control.

Some canmakers may elect to use solvent-borne coatings and incineration because of customer specifications or other reasons. In these cases, capital and operating costs would be higher than in the base case. While some negative economic impacts would result, they are considered acceptable and would not adversely affect the industry.

Selection of Best System of Continuous Emission Reduction

Although Regulatory Alternative III would result in greater reductions in VOC emissions and energy requirements than Regulatory Alternative II, implementation of Regulatory Alternative III would require the use of UV-curable coatings or no-varnish inks for overvarnish coating operations. However, UV-curable coatings and no-varnish inks cannot provide surface qualities and corrosion resistance necessary to meet all customer usages, and industry data indicate a trend away from the use of these coating. Furthermore, analysis of the industry indicates the infeasibility of segmenting the industry into discrete units that can or cannot use no-varnish inks or UV-curable overvarnishes. Because these coatings are not applicable to all segments of the industry, this alternative was not selected as the basis of the proposed standards.

Under Regulatory Alternative II, the use of waterborne coatings for all surface coating operations would reduce VOC emissions by about 4,800 Mg per year in the fifth year of applicability, a 32 percent reduction from the baseline represented by Regulatory Alternative I. No other adverse environmental impacts would result from implementation of this alternative. Energy requirements would be reduced by about 36,000 GJ/yr in the fifth year, a 2 percent reduction from the baseline. No adverse economic impact would result from application of Regulatory Alternative II unless the plant owner or operator chose to incinerate VOC emissions to achieve the proposed emission limits based on the use of waterborne coatings. Increased capital and operating costs associated with incineration are considered acceptable. Based on the assessment of environmental, energy, and economic impacts, Regulatory Alternative II was selected as the best system of continous emission reduction for the basis of the proposed standard.

Selection of Format for the Proposed Standards

A number of formats could be used to limit VOC emissions from beverage can surface coating operations. The format must be compatible with any of the compliance techniques that may be used in the industry and with any new techniques that might be developed in coming years. Standards for the control of VOC emissions could be expressed in terms of (1) the concentration of VOC in exhaust gases, (2) the mass of emissions per unit of production, (3) the mass of emissions per volume of coating applied, less water, (4) the mass of emissions per volume of coating solids applied, or (5) an overall percentage reduction.

One advantage of standards expressed in terms of the concentration of VOC in the exhaust gases would be that only a single sample would be needed to determine compliance. However, the concentration format would have several disadvantages. Emission testing would be necessary, regardless of the compliance technique; emission tests would be required for every stack that exhausts gases to the atmosphere. Although the general provisions of 40 CFR 60 prohibit the addition of dilution air to exhaust gases, the presence of dilution air would be difficult to detect with certainty. Also, there are no currently available test methods to directly measure VOC concentrations in exhaust streams.

With a standard expressed in terms of mass of VOC per unit of production, compliance would be relatively simple to demonstrate when waterborne coatings are used, but would be more difficult with the use of a capture system and emission control device. For waterborne coatings a weighted averaged of the VOC content of each coating used would be determined and multiplied by the volume used over a given time period. This value would be divided by the production during that same time period to give the VOC emissions per unit of production. When emission control devices are used, the VOC emissions could be determined by stack test and the emissions could again be divided by the production to yield the VOC emissions per unit of production. However, a standard expressed in terms of production would require extensive recordkeeping provisions for production data. This format would not be very flexible in accommodating the range of coating thicknesses that are used by the industry to meet the requirements of the many types of beverage cans produced by the industry, especially in the case of merchant can plants. This format would penalize those coaters that, for reasons of product performance, must use an above-average coating thickness.

Standards expressed in terms of mass of VOC emissions per volume of coating, less water, have the advantage of being compatible with the format used in the CTG and are currently being adopted by most States. Furthermore, they have been accepted by both canmakers and coating suppliers.

Standards expressed in terms of the mass of VOC emissions per volume of coating solids overcome the problems associated with the first two formats. Stack testing would not be required unless add-on controls were used. Furthermore, it is applicable in those cases where a coater may choose to eliminate a coating step, substitute no-varnish inks, or use a radiation-curable coating.

A format requiring an overall percentage reduction is not compatible with compliance by the use of waterborne coatings because it would not directly give credit to those facilities which use coatings with low-solvent content.

For these reasons, the format selected for the proposed standard is expressed in terms of the mass of VOC per volume of coating solids.

Selection of Numerical Emission Limits

The numerical limits selected for the proposed standards are based on the use of waterborne coatings for all surface coating operations. Waterborne coatings are available and in use for all beverage can surface coating operations. In selecting numerical emission limits, the range of VOC contents of currently available coatings either in use or under qualification, the extent of such use, and the applicability to all beverage can surface coating requirements were considered. Numerical emission limits are not based on the lowest VOC-content coating identified but rather on the coating considered to the applicable for all requirements within each coating process. Emission limits and rationale for these selections are presented below.

Lower VOC-content waterborne coatings for the exterior base coat, other than clear base coats, for two-piece steel or aluminum cans range from 0.23 kilogram to 0.36 kilogram per litre of coating solids. One widely used coating has a VOC content of 0.29 kilogram per litre of solids. This coating is considered typical and therefore 0.29 kilograms VOC per litre of solids was selected as the proposed emission limitation for two-piece can exterior base coating operations. Clear base coats for two-piece beverage cans are similar to overvarnish and are therefore subject to the same emission limits as for the overvarnish coating operation.

Lower VOC-content overvarnishes for two-piece cans, three-piece steel sheets and clear base coats for two-piece steel and aluminum cans range from 0.26 to 0.50 kilogram VOC per litre of coating solids. Overvarnishes and clear base coatings must be compatible with a wide range of inks that are used to give beverage cans the distinctive appearance required for product recognition. In order to provide flexibility and compatibility with a wide range of inks, the proposed emission limitation for overvarnish and clear base coat operations was based on a commercially available coating with a VOC content of 0.46 kilograms per litre of solids.

Waterborne inside sprays currently in use or under qualification for two-piece beverage cans contain from 0.83 to 0.95 kilograms of VOC per litre of coating solids. One coating, which has a VOC content of 0.89 kilograms per litre of solids, accounts for 75 percent of the waterborne usage. Therefore this coating was used as the basis of the proposed emission limitation for two-piece inside spray—0.89 kilograms VOC per litre of coating solids.

For three-piece can inside spray, a lower VOC-content material can be used because a lance-type spray device applies the coating to the inside of the body shell before the bottom is attached. One three-piece can inside spray containing 0.64 kilogram VOC per litre of coating solids was identified as under qualification by a major beverage can manufacturer. Two lower VOC-content coatings, 0.58 and 0.61 kilograms per liter of coating solids were also identified as under consideration for qualification, but were not selected as the basis of the standards because of their status.

Materials with low solvent-borne content used for three-piece can sheet interior base coating commercially available or under qualification have a VOC content of 0.50 to 0.53 kilogram per litre of coating solids. The 0.50 coating is commercially available and is being used by at least one beverage can maker. Consequently, 0.50 kilograms VOC per litre of solids was selected as the proposed emission limitation for interior base coating of steel sheets for three-piece cans.

Two materials, both with 0.50 kilograms VOC per litre of coating solids, are commercially available for exterior base coating of steel sheets for three-piece cans. These coatings were selected as the basis for sheet exterior base coating. The proposed emission limitation was established at 0.50 kilograms VOC per litre of coating solids.

For both exterior and interior coating of steel or aluminum end sheets, coatings with VOC content of 0.48 to 0.52 kilograms per litre of coating solids were identified as being in use or under qualification. A coating with a VOC content of 0.50 was identified as being in commercial use for the exterior coating operation. Consequently, the proposed emission limitation for exterior coating of end stock was based on the coating in commercial use and set at 0.50 kilogram VOC per litre of coating solids. The average 0.50 kilogram per litre of coating solid of the coating being qualified for interior coating of end sheet stock was selected as the proposed emission limitation.

Although the majority of end-sealing compounds currently in use throughout the industry is solvent-based, many States have adapted regulations which require beverage can surface coating lines to meet the emission limitations

recommended in the CTG. New higher solids solvent-based compounds that meet the CTG emission limitations are being evaluated by the beverage can surface coating industry for both soft drinks and beer. Water-based end-sealing compounds with even lower emissions are at about the same stage of development. These compounds use water as the carrier, with the only VOC content in the form of pH adjusters or oils. The few problems experienced have been attributed to lack of experience in application of the water-based material and in storage and handling of the ends after application of the end-sealing compound.

The Administrator believes that these end-sealing compounds will be fully tested and applicable for use on beverage cans within two years because the new end-sealing compounds require a qualification period of 12 to 18 months. Consequently, to allow for the completion of these qualification studies, no standard will be proposed for the application of end-sealing compounds at this time. A standard will be proposed after the higher solids solvent-based or the water-based end-sealing compounds have been qualified for use in the beverage can industry. It is anticipated that this will occur by 1982. This action is consistent with the qualification testing schedules currently underway as part of the CTG programs.

Modification/Reconstruction Considerations

The history of steady growth by the beverage can industry has led many owners and operators to look for ways to increase production capacity. Increased production capacity is usually accomplished by increasing line speed, adding a new line, or building a new plant. Many manufacturers have found that the design speed of existing beverage can coating operations could be increased by replacing or modifying the drive motors, electrical controls, or both. All such changes that result in a capital expenditure, as defined in 40 CFR 60.14, would subject the existing facility to the provisions of the proposed standards, if the modification causes increased emissions. However, the control techniques on which the proposed standards are based can be applied to existing beverage can coating operations that undergo a modification. A conversion would require only minor changes in the coating equipment. The use of this control technique as a retrofit on existing coating operations is well documented in the literature.

Existing beverage can surface coating operations undergoing a reconstruction, as defined in 40 CFR 60.15, would also be subject to the proposed standards. As previously discussed, the conversion to waterborne coating could be accomplished with only minor changes in coating equipment.

Selection of Monitoring Requirements

Although there are no monitoring requirements for affected facilities that use waterborne coatings, monthly performance tests are required as specified in the following section. For affected facilities that use a capture system and control device, monitoring requirements are specified in addition to monthly performance testing.

Monitoring requirements are included in standards of performance to provide a means for ensuring proper operation and maintenance of emission control systems and to provide plant and enforcement personnel with sufficient data to determine compliance with the proposed standards. In the case of the beverage can surface coating industry, monitoring is required only when a capture system and incineration are used to comply with the standards. Two types of emission control systems can be used, incineration and carbon adsorption. Monitoring is required only for incineration systems.

The proposed standards would require the plant owner or operator to measure the incinerator operating temperature during each test of incinerator efficiency. Monitoring would then consist of recording the temperature parameters on a continuous basis. For those facilities using catalytic incineration, the plant owner or operator would be required to continuously monitor the gas temperature, both upstream and downstream of the catalyst bed, as a decline in the temperature difference between the inlet and exhaust or a decline in the temperature before the catalyst would be indicative of a reduction in a catalyst activity.

Selection of Performance Test Methods

The selection of a format for the proposed standards in terms of mass of VOC per volume of coating solids limits the choice of performance test methods to a mass balance of all coatings and diluent VOC-solvent used during the test period. Where a capture and emission control system are used, capture and destruction or removal efficiencies are required for the mass balance to determine VOC discharged to the atmosphere. Choice does exist, however, in the manner of obtaining the input data for the mass balance and the frequency of testing.

The performance test may be done on a one time basis upon startup or it can be done on a recurring basis. Requiring only an initial performance test on startup reduces the workload on the owner or operator but is not as effective for ensuring continual compliance as periodic performance testing. On the other hand, periodic performance testing imposes additional recordkeeping requiements. However, the data required for periodic performance testing are collected and maintained by the source as part of production and inventory records. Periodic performance testing provides a better enforcement tool and the additional effort is considered reasonable. Because most can makers maintain the coating data on a calendar month basis, requiring periodic performance testing on a monthly basis is considered reasonable.

The data required for a mass balance performance test include mass or volume and density of each coating and diluent solvent used, volume percent solids in each coating used, and weight percent VOC in each coating used. Mass or volume of each coating and diluent solvent used is obtainable from company records; density and weight percent VOC from analyis using Reference Method 24, or from data provided by the coating supplier. Volume percent solids must be obtained from coating suppliers.

The use of coating supplier data results in the minimum cost to the owner or operator because the data are generally available in the form of a coating specification sheet. However, the procedures used in determining the weight and volume percent composition can vary. Some suppliers base their coating specifications on a theoretical method, e.g., use of ASTM 2369 to determine weight fraction volatile matter and solids and theoretical weight fraction of water to determine weight fraction of VOC. Volume fraction of solids is determined by calculations using the theoretical density of either VOC or solids.

The use of Reference Method 24 to provide data required in determining the VOC content of a coating has the advantage of using the same procedures for all coating suppliers, thereby providing a common basis for comparison. However, volume fraction solids cannot be directly determined using Reference Method 24, coating supplier data being specified for this parameter.

Consequently, the use of data provided by the coating supplier is specified as the source of coating information required for the performance test. However, Reference Method 24 "Determination of Volatile Matter, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings" would serve as the primary source of data from which the VOC content of the coatings would be determined for the purposes of enforcement.

Industry data indicate the major can manufacturers would probably achieve compliance with the proposed standards through the use of waterborne coatings. With few exceptions, beverage can coating facilities constructed during the past 5 years were designed for the use of waterborne coatings. In addition, all major manufacturers have converted or are in the process of converting to waterborne coatings. However, a small number of owners or operators may elect to achieve compliance with the proposed emission limits through the use of a capture ststem and emission control device to reduce VOC emissions from solvent-borne coatings. The use of an emission control system necessitates a test method to determine he destruction efficiency and the concentration of VOC in the exhaust gases in and out of the incinerator. Data obtained by Reference Method 25, "Determination of Total Gaseous Nonmethane Organic Emission as Carbon," would be used to calculate the destruction efficiency of incinerators. Reference Method 1 would be used for sample and velocity transverse, Reference Method 2 for velocity and volumetric flow rate, Reference Method 3 for gas analyses, and Reference Method 4 stack gas moisture.

Table 1.—Distribution of VOC Emissions

Coating operation	Emission distribution	
	Coater/ flashoff	Curing oven
2-piece aluminum or steel cans:		
Exterior base coat operation	0.75	0.25
Overvarnish coating operation	.75	.25
Inside spray coating operation	.80	.20
3-piece steel cans:		
Exterior base coat operation	.10	.90
Interior base coat operation	.10	.90
Overvarnish coating operation	.10	.90
Inside spray coating operation	.00	.00
Steel ends:		
Exterior coating operation	.10	.90
Interior coating operation	.10	.90

No standard method exists to determine the capture efficiency of an emission control system. The owner or operator would be required to use a procedure acceptable to the Administrator, which may include the use of the emission distributions between the coater and oven specified in the standards.

Limited information is available on the distribution of emissions between the cure oven and coater/flashoff. The owner or operator of an affected facility may use the emission distributions shown in Table 1 or may use other values acceptable to the Administrator. The values shown in Table 1 are based on information presented in the CTG, *Control of Volatile Organic Emissions from Existing Stationary Sources, Volume II: Surface Coating of Cans, Coils, Paper, Fabrics, Automobiles, and Light-Duty Trucks;* data from tests conducted by EPA and State agencies; and discussions with industry. Industry representatives agree that the values in Table 1 are representative of the industry. Comments on the emission distributions shown in Table 1 are invited. These values can be used to simplify the determination of control system capture efficiency.

Impacts of Reporting Requirements

A reports impact analysis for the beverage can surface coating industry was prepared in response to the U.S. Environmental Protection Agency (EPA) guidelines for implementing Executive Order 12044 (44 FR 30988, May 29, 1979). The purpose of the analysis is to estimate the economic impact of the reporting and recordkeeping requirements that would be imposed by the proposed standards and by those appearing in the General Provisions of 40 CFR Part 60. Included in the analysis are the rationale for the selection of the proposed requirements, an evaluation of the major alternatives considered prior to the selection of the proposed requirements, and a description of the information required by the General Provisions and by the proposed standards. A copy of the reports impact analysis is included in Subcategory II–I of the beverage can docket (EPA Docket No. OAQPS A–80–4).

Based on the reports impact analysis, a total of 12 industry person-years would be required to comply with the recordkeeping and reporting requirements through the first five years of applicability.

Public Hearing

A public hearing will be held to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the Addresses section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the Addresses section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see Addresses section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are (1) to allow interested parties to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review.

Miscellaneous

As prescribed by Section 111, establishment of standards of performance for beverage can surface coating operations was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues, and test methods.

Comments are invited on the designation of individual coating operations as the affected facilities. Comments are also invited on the use or development of high-solids or water-based end-sealing compounds and on the emission distribution shown in Table 1. Any comments submitted to the Administrator on these issues, however, should contain specific information and data pertinent to an evaluation of the magnitude and severity of its impact and suggested alternative courses of action that would reduce or eliminate this impact.

It should be noted that standards of performance for new sources established under Section 111 of the Clean Air Act reflect

> * * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [Section 111 (a)(1)].

Although there may be emission control technology available that can

reduce emissions below those levels

this purpose, SIP's must in some cases

Sec.

of the coating application station.

to the can body by roll seaming during

W_o = weight fraction of VOC-solvent in

V 45 N 230 26 80 UMI

reduce emissions below those levels required to comply with standard of performance, this technology might not be selected as the basis of standards of performance due to costs associated with its use. Accordingly, standards of performance should not be viewed as the ultimate in achievable emission control. In fact, the Act required (or has the potential for requiring) the imposition of a more stringent emission standard in several situations.

For example, applicable costs do not necessarily play as prominent a role in determining the "lowest achievable emission rate" for new or modified sources locating in nonattainment areas, i.e., those areas where statutorily-mandated health and welfare standards are being violated. In this respect, Section 173 of the Act requires that new or modified sources constructed in an area where ambient pollutant concentrations exceed the National Ambient Air Quality Standard (NAAQS) must reduce emissions to the level that reflects the "lowest achievable emission rate" (LAER), as defined in Section 171(3) for such category of source. The statute defines LAER as that rate of emissions based on the following, whichever is more stringent:

(A) The most stringent emission limitation which is contained in the implementation plan of any state for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or

(B) The most stringent emission limitation which is achieved in practice by such class or category of source.

In no event can the emission rate exceed any applicable new source performance standard [Section 171(3)].

A similar situation may arise under the prevention of significant deterioration of air quality provisions of the Act (Part C). These provisions require that certain sources [referred to in Section 169(1)] employ "best available control technology" (BACT) as defined in Section 169(3) for all pollutants regulated under the Act. Best available control technology must be determined on a case-by-case basis, taking energy, environmental and economic impacts and other costs into account. In no event may the application of BACT result in emissions of any pollutants which will exceed the emissions allowed by an applicable standard established pursuant to Section 111 (or 112) of the Act.

In all events, State Implementation Plans (SIP's) approved or promulgated under Section 110 of the Act must provide for the attainment and maintenance of NAAQS designed to protect public health and welfare. For this purpose, SIP's must in some cases require greater emission reduction than those required by standards of performance for new sources.

Finally States are free under Section 116 of the Act to establish even more stringent emission limits than those established under Section 111 or those necessary to attain or maintain the NAAQS under Section 110. Accordingly, new sources may in some cases be subject to limitations more stringent than standards of performance under Section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

This regulation will be reviewed four years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements. The reporting requirements in this regulation will be reviewed as required under EPA's sunset policy for reporting requirements in regulations.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to insure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the Background Information Document.

Dated: November 19, 1980.

Douglas M. Costle,
Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

It is proposed that 40 CFR Part 60 be amended by adding a new Subpart WW as follows:

Subpart WW—Standards of Performance for the Beverage Can Surface Coating Industry

Sec.
60.490 Applicability and designation of affected facility.
60.491 Definitions.
60.492 Standards for volatile organic compounds.
60.493 Performance test and compliance provisions.
60.494 Monitoring of emissions and operations.
60.495 Reporting and recordkeeping requirements.
60.496 Test methods and procedures.

Authority.—Sections 111 and 301(a) of the Clean Air Act, as amended [42 U.S.C. 7411 and 7601(a)], and additional authority, as noted below.

Subpart WW—Standards of Performance for the Beverage Can Surface Coating Industry

§ 60.490 Applicability and designation of affected facility.

(a) The provisions of this subpart apply to the following affected facilities in beverage can surface coating, beverage can sheet coating, and beverage can end coating lines: each interior base coat operation, over-varnish coating operation, inside spray coating operation, aluminum- or steel-end interior coating operation, and aluminum- or steel-end exterior coating operation.

(b) The provisions of this subpart apply to any affected facility which is identified in paragraph (a) of this section and commences construction, modification, or reconstruction after November 26, 1980.

§ 60.491 Definitions.

(a) All terms which are used in this subpart and are not defined below are given the same meaning as in the Act and in Subpart A of this part.

"Aluminum end" means the aluminum top end for three- and two-piece beverage cans.

"Beverage can" means any two-piece steel or aluminum container or three-piece steel container in which soft drinks or beer, including malt liquor, are packaged. The definition does not include containers in which fruit or vegetable juices are packaged.

"End interior coating operation" means the system on each beverage can surface coating or sheet coating line used to apply a coating, which isolates the contents of the beverage can, to the steel or aluminum sheets from which ends for two-piece and three-piece beverage can are manufactured. The end interior coating operation consists of the coating application station, flashoff area, and curing oven.

"End exterior coating operation" means the system on each beverage can surface coating or sheet coating line used to apply a protective coating to the aluminum or steel sheets from which the ends for two-piece and three-piece beverage cans are manufactured. The end exterior coating operation consists of the coating application station, flashoff area, and curing oven.

"Exterior base operation" means the system on each beverage can surface coating or sheet coating line used to apply a coating to the exterior of a two-piece beverage can body or to the steel sheets from which three-piece beverage can bodies are made. The exterior base coat provides corrosion resistance and a background for lithography or printing operations. The exterior base coat operation consists of the coating application station, flashoff area, and curing oven. The exterior base coat may be pigmented or clear (unpigmented).

"Interior base coat operation" means the system on each beverage can surface coating or sheet coating line used to apply a coating to the steel sheets from which three-piece beverage can bodies are formed. The interior base coat is the first layer of the protective coating which isolates the contents of a three-piece beverage can from the metal can body. The interior basecoat operation consists of the coating application station, flashoff area, and curing oven.

"Inside spray coating operation" means the system on each beverage can surface coating line used to apply a coating to the interior of a two- or three-piece beverage can body. This coating provides a protective film between the contents of the beverage can and the metal can body. The inside spray coating operation consists of the coating application station, flashoff area, and curing oven. Multiple applications of an inside spray coating are considered to be a single coating operation.

"Overvarnish coating operation" means the system on each beverage can surface coating or sheet coating line used to apply a coating over ink that reduces friction for automated beverage can filling equipment, provides gloss, and protects the finished beverage can body from abrasion and corrosion. The overvarnish coating is applied to the steel sheets from which three-piece beverage can bodies are made and to two-piece beverage can bodies. The coating operation consists of the coating application station, flashoff area, and curing oven.

"Steel end" means the beverage can ends which are formed from surface coated steel sheets for three-piece cans.

"Three-piece can" means any beverage can which consists of a surface coated steel body, a bottom, and a top. The three-piece can is manufactured from a surface coated rectangular sheet that is rolled into a tubular body and soldered, welded, or cement sealed at the seam to form a beverage can body. One end is attached to the can body by roll seaming during the manufacturing process, and the other end is attached during the filling process.

"Two-piece can" means any beverage can that consists of a body manufactured from a single piece of steel or aluminum and a top. Coatings for a two-piece can are usually applied after fabrication of the can body.

"VOC content" means all volatile organic compounds (VOC) that are in a coating. VOC are expressed in terms of kilograms of VOC per litre of coating solids.

(b) Notations used under § 60.493 of this subpart are defined below:

C_a = concentration in gas stream in vents after control device (parts per million as carbon)
C_b = concentration in gas stream in vents before control device (parts per million as carbon)
D_c = coatings density (kilograms per litre)
D_d = diluent VOC-solvents density (kilograms per litre)
D_s = density of VOC solvent recovered by an emission control device (kilograms per litre)
E = emission control device efficiency, inlet versus outlet (fraction)
F = capture efficiency, captured and routed to one control device versus total emissions (fraction)
G = volume-weighted average of VOC content of coatings consumed in a calendar month (kilograms per litre of coating solids)
H_a = fraction of VOC emitted at the coater and flashoff areas captured by a collection system
H_b = fraction of VOC emitted at the cure oven captured by a collection system
L_c = volume of coating, as received (litres)
L_d = volume of diluent VOC-solvent added to coating (litres)
L_s = volume of VOC-solvent recovered by an emission control device (litre)
L_w = volume of coating solids (litres)
M_d = mass of diluent VOC-solvent (kilograms)
M_o = mass of VOC-solvent in coating, as received (kilograms)
M_r = mass of VOC-solvent recovered by emission control device (kilograms)
N = volume-weighted average of VOC emission to atmosphere in a calendar month (kilograms per litre of coating solids)
Q_a = volumetric flow rate in vents after control device (dry standard cubic meters per hour)
Q_b = volumetric flow rate in vents before control device (dry standard cubic meters per hour)
R = overall reduction efficiency from all control systems for an affected facility (fraction)
S_a = fraction of VOC in coating and diluent VOC-solvent emitted at the coater and flashoff area for a coating operation
S_b = fraction of VOC in coating and diluent solvent emitted at the cure oven for a coating operation
V_s = volume fraction of solids in coatings, as received
W_o = weight fraction of VOC-solvent in coatings, as received.

§ 60.492 Standards for volatile organic compounds.

On or after the date on which the initial performance test required by § 60.8(a) is completed, no owner or operator subject to the provisions of this subpart shall discharge or cause the discharge of VOC emissions to the atmosphere that exceed the following volume-weighted calendar-month average emissions:

(a) 0.29 kilogram of VOC per litre of coating solids from each two-piece can exterior base coat operation, except clear base coat;

(b) 0.46 kilogram of VOC per litre of coating solids from each two-piece can clear base coat operation and from each overvarnish coating operation;

(c) 0.50 kilogram of VOC per litre of coating solids from each three-piece can sheet base coating operation and each aluminum- or steel-end sheet coating operation;

(d) 0.89 kilogram of VOC per litre of coating solids from each two-piece can inside spray coating operation; and

(e) 0.64 kilogram of VOC per litre of coating solids from each three-piece can inside spray coating operationn.

§ 60.493 Performance test and compliance provisions.

(a) Sections 60.8 (d) and (f) do not apply to the performance test procedures required by this subpart.

(b) The owner or operator of an affected facility shall conduct an initial performance test as required under Section 60.8(a) and thereafter a performance test each calendar month for each affected facility according to the procedures in this section.

(c) The owner or operator shall use the following procedures for determining monthly volume-weighted average emissions of VOC in kilograms per litre of coating solids.

(1) An owner or operator shall use the following procedures for any affected facility which does not use a capture system and a control device to comply with the emission limit specified under § 60.492.

(i) Calculate the volume-weighted average of the total mass of VOC per volume of coating solids used during each calendar month for each affected facility, except as provided under § 60.493(c)(1)(D). Each monthly calculation is considered a performance test. The owner or operator shall determine the composition of the coatings by formulation data supplied by the manufacturer of the coating or by an analysis of each coating, as received,

using Reference Method 24. The Administrator may require the owner or operator who uses formulation data supplied by the manufacturer of the coating to determine the VOC content of coatings using Reference Method 24 or an equivalent or alternative method. The owner or operator shall determine the volume of coating and the mass of VOC-solvent used for thinning purposes from company records on a monthly basis. If a common coating distribution system serves more than one affected facility or serves both affected and existing facilities, the owner or operator shall estimate the volume of coating used at each facility by using the average dry weight of coating, number of cans, and size of cans being processed by each affected and existing facility or by other procedures acceptable to the Administrator. The weighted average of the total mass of VOC per volume of coating solids used each calendar month will be determined by the following procedures.

(A) Calculate the mass of VOC used (M_o+M_d) during each calendar month for each affected facility by the following equation:

$$M_o + M_d = \sum_{i=1}^{n} L_{ci} D_{ci} W_{oi} + \sum_{j=1}^{m} L_{dj} D_{dj}$$

[$\Sigma L_{dj} D_{dj}$ will be 0 if no VOC solvent is added to the coatings, as received.]

Where: n is the number of different coatings used during the calendar month and m is the number of different diluent VOC-solvents used during the calendar month.

(B) Calculate the total volume of coating solids used (L_s) in each calendar month for each affected facility by the following equation:

$$L_s = \sum_{i=1}^{n} L_{ci} V_{si}$$

where: n is the number of different coatings used during the calendar month.

(C) Calculate the volume-weighted average mass of VOC per volume of solids used (G) during the calendar month for each affected facility by the following equation:

$$G = \frac{M_o + M_d}{L_s}$$

(ii) Calculate the volume-weighted average of VOC emissions discharged to the atmosphere (N) during the calendar month for each affected facility by the following equation:

$N=G$

(iii) Where the value of the volume-weighted average of mass of VOC per volume of solids discharged to the atmosphere (N) is less than or equal to the applicable emission limit specified under § 60.492, the affected facility is in compliance.

(iv) For each affected facility that uses only coatings, as received, which individually have a VOC content equal to or less than the limit specified under § 60.492 and does not add VOC to the coating during the distribution or application process, the owner or operator may demonstrate compliance by determining the formulation of the coatings from data determined using Reference Method 24 or data provided by the manufacturer of the coating. If required by the Administrator, the owner or operator shall determine the composition of any coating, as applied, by using Reference Method 24 or an equivalent or alternative method. Where the value of the VOC content of each coating used is equal to or less than the applicable emission limit specified under § 60.492, the affected facility is in compliance.

(2) An owner or operator shall use the following procedures for any affected facility that uses a capture system and a control device that destroys VOC (e.g., incinerator) to comply with the emission limit specified under § 60.492.

(i) Calculate the volume-weighted average of the total mass of VOC per volumn of coating solids (G) used during each calendar month for each affected facility as described under § 60.493(c)(1)(i).

(ii) Calculate the volume-weighted average of VOC emissions discharged to the atmosphere (N) during each calendar month by the following equation:

$N=G\times[1-R]$

For the initial performance test the overall reduction efficiency (R) shall be determined as prescribed in A, B, and C below. In subsequent months, the owner or operator may use the most recently determined overall reduction efficiency (R) for the performance test providing control device, and capture system operating conditions have not changed. The procedure in A, B, and C, below, shall be repeated when directed by the Administrator or when the owner or operator elects to operate the control device or capture system at conditions different from the initial performance test.

(A) Determine the fraction (F) of total VOC emitted by an affected facility that enters the control device using the following equation:

$F=S_eH_e+S_hH_h$

where H_e and H_h shall be determined by a method that has been previously approved by the Administrator. The owner or operator may use the values of S_e and S_h specified in Table 1 or other values determined by a method that has been previously approved by the Administrator.

(B) Determine the destruction efficiency of the control device (E) using values of the volumetric flow rate of each of the gas streams and the VOC content (as carbon) of each of the gas streams in and out of the device by the following equation.

$$E = \frac{\sum_{i=1}^{n} Q_{bi} C_{bi} - \sum_{j=1}^{m} Q_{aj} C_{aj}}{\sum_{i=1}^{n} Q_{bi} C_{bi}}$$

Where: n is the number vents before the control device, and m is the number of vents after the control device.

(C) Determine overall reduction efficiency (R) using the following equation:

$R=EF$

(iii) If the volume-weighted average of mass of VOC emitted to the atmosphere for each calendar month (N) is less than or equal to the applicable emission limit specified under § 60.492, the affected facility is in compliance. Each monthly calculation is a performance test.

Table 1.—*Distribution of VOC Emissions*

Coating operation	Emission distribution: Coater/flashoff (S_e)	Emission distribution: Curing oven (S_h)
2-piece aluminum or steel cans:		
Exterior base coat operation	0.75	0.25
Overvarnish coating operation	.75	.25
Inside spray coating operation	.80	.20
3-piece steel cans:		
Exterior base coat operation	.10	.90
Interior base coat operation	.10	.90
Overvarnish coating operation	.10	.90
Inside spray coating operation	.80	.20
Steel strip:		
Exterior coating operation	.10	.90
Interior coating operation	.10	.90

(3) An owner or operator shall use the following procedure for any affected facility which uses a capture system and a control device that recovers the VOC (e.g., carbon adsorber) to comply with the applicable emission limit specified under § 60.492.

(i) Calculate the volume-weighted average of the total mass of VOC per volume of coating solids (G) used during each calendar month for each affected facility as described under § 60.493(c)(1)(i).

(ii) Calculate the total mass of VOC recovered (M_r) during each calendar month using the following equation:

$M_r=L_rD_r$

(iii) Calculate overall reduction efficiency of the control device (R) for each calendar month for each affected facility using the following equation:

$$R = \frac{M_r}{M_o + M_d}$$

(iv) Calculate the volume-weighted average mass of VOC emitted to the atmosphere (N) for each calendar month for each affected facility using the following equation:

$N=G[1-R]$

(v) If the weighted average of VOC emitted to the atmosphere for each calendar month (N) is less than or equal to the applicable emission limit specified under § 60.492, the affected facility is in compliance. Each monthly calculation is a performance test.

§ 60.494 Monitoring of emission and operations.

The owner or operator of an affected facility that uses a capture system and an incinerator to comply with the emission limits specified under § 60.492 shall install, calibrate, maintain, and operate temperature measurement devices as prescribed below:

(a) Where thermal incineration is used, a temperature measurement device shall be installed in the firebox. Where catalytic incineration is used, a temperature measurement device shall be installed in the gas stream immediately before and after the catalyst bed.

(b) Each temperature measurement device shall be installed, calibrated, and maintained according to the manufacturer's specifications. The device shall have an accuracy the greater of ±0.75 percent of the temperature being measured expressed in °C or ±2.5° C.

(c) Each temperature measurement device shall be equipped with a recording device so that a permanent continuous record is produced.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

§ 60.495 Reporting and recordkeeping requirements.

(a) Each owner or operator of an affected facility shall include the following data in the initial compliance report required under § 60.8(a):

(1) Where only coatings which individually have a VOC content equal to or less than the limits specified under § 60.492 are used, and no VOC is added to the coating during the application or distribution process, the owner or operator shall provide a list of the coatings used for each affected facility and the VOC content of each coating calculated from formulation data determined using Reference Method 24 or supplied by the manufacturers of the coatings.

(2) Where one or more coatings which individually have a VOC content greater than the limits specified under § 60.492 are used or where VOC are added or used in the coating process, the owner or operator shall report for each affected facility the volume-weighted average of the total mass of VOC per volume of coating solids.

(3) Where compliance is achieved through the use of incineration, the owner or operator shall include in the initial performance test required under § 60.8(a) or subsequent performance tests at which destruction efficiency is determined the combustion temperature (or the gas temperature upstream and downstream of the catalyst bed), the total mass of VOC per volume of coating solids before and after the incinerator, capture efficiency, and the destruction efficiency of the incinerator used to attain compliance with the applicable emission limit specified under § 60.492. The owner or operator shall also include a description of the method used to establish the amount of VOC captured by the capture system and sent to the control device.

(b) Following the initial compliance report, each owner or operator of an affected facility shall report, within ten calendar days, each instance in which the volume-weighted average of the total mass of VOC per volume of coating solids, after the control device if a capture device and control system are used, is greater than the limit specified under § 60.492.

(c) Where compliance with § 60.492 is achieved through the use of incineration, the owner or operator shall continuously record the incinerator combustion temperature during coating operations for theremal incineration or the gas temperature upstream and downstream of the incinerator catalyst bed during coating operations for catalytic incineration. For thermal incinerators the owner or operator shall report quarterly all 3-hour periods during which the average temperature (when cans are being processed) of the device was more than 28° C below the average temperature of the device during the most recent performance test at which destruction efficiency was determined as specified under § 60.493. For catalytic incinerators, the owner or operator shall report quarterly all 3-hour periods during which the average temperature of the device immediately before the catalyst bed, when cans are being processed, is more than 28° C below the average temperature of the device during the most recent performance test at which destruction efficiency was determined as specified under § 60.493, and all 3-hour periods during which the average temperature difference across the catalyst bed, when cans are being processed, is less than 80 percent of the average temperature difference of the device during the most recent performance test at which destruction efficiency was determined as specified under § 60.493. Negative reports are required. The owner or operator shall submit negative reports, quarterly, if there were no periods of reportable temperature differences.

(d) Each owner or operator subject to the provisions of this subpart shall

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maintain at the source, for a period of at least 2 years, records of all data and calculations used to determine VOC emissions from each affected facility. Where compliance is achieved through the use of thermal incineration, each owner or operator shall maintain, at the source, daily records of the incinerator combustion chamber temperature. If catalytic incineration is used, the owner or operator shall maintain at the source daily records of the gas temperature, both upstream and downstream of the incinerator catalyst bed. Where compliance is achieved through the use of a solvent recovery system, the owner or operator shall maintain at the source daily records of the amount of solvent recovered by the system for each affected facility.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

§ 60.496 Reference methods and procedures.

(a) The reference methods in Appendix A to this part, except as provided in § 60.8, shall be used to conduct performance tests.

(1) Reference Method 24 or an equivalent or alternative method approved by the Administrator for the determination of formulation data from which the VOC content of the coatings used for each affected facility can be calculated. In the event of dispute, Reference Method 24 shall be the reference method.

(2) Reference Method 25 or an equivalent or alternative method for the determination of the VOC concentration in the effluent gas entering and leaving the incinerator for each stack equipped with an emission control device. The owner or operator shall notify the Administrator 30 days in advance of any State test using Reference Method 25. The following reference methods are to be used in conjunction with Reference Method 25:

(i) Method 1 for sample and velocity traverses,

(ii) Method 2 for velocity and volumetric flow rate,

(iii) Method 3 for gas analysis, and

(iv) Method for stack gas moisture.

(b) For Reference Method 24, the coating sample must be a 1-litre sample collected in a 1-litre container at a point where the sample will be representative of the coating material.

(c) For Reference Method 25, the sampling time for each of three runs must be at least 1 hour. The minimum sample volume must be 0.003 dscm except that shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the Administrator. The Administrator will approve the sampling of representative stacks on a case-by-case basis if the owner or operator can demonstrate to the satisfaction of the Administrator that the testing of representative stacks would yield results comparable to those that would be obtained by testing all stacks.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 7414))

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
71357 10–28–80 / Atlantic butterfish fishery; implementation of management plan

Deadlines for Comments On Proposed Rules for the Week of November 30 through December 6, 1980

AGRICULTURE DEPARTMENT
Federal Crop Insurance Corporation—
64588 9–30–80 / Pea Crop Insurance regulations; comments by 12–1–80
Food and Nutrition Service—
65932 10–3–80 / Food Stamps; performance reporting and sanction/incentive system; comments by 12–3–80
Food Safety and Quality Service—
71364 10–28–80 / Polychlorinated biphenyls in food, feed, agricultural pesticide and fertilizer facilities; comments by 12–4–80
Rural Electrification Administration—
64596 9–30–80 / Revision of REA Bulletin 181–3; accounting interpretations for rural electric borrowers; comments by 12–1–80
Soil Conservation Service—
65603 10–3–80 / Small Watershed Protection and Flood Prevention Act; intent to review regulations, policies and procedures; comments by 12–1–80

ALASKA NATURAL GAS TRANSPORTATION SYSTEM, OFFICE OF FEDERAL INSPECTOR
73061 11–4–80 / Reimbursement of costs from sponsoring companies; comments by 12–4–80

ARTS AND HUMANITIES NATIONAL FOUNDATION
65635 10–3–80 / Employers part-time career employment; comments by 11–30–80

CIVIL AERONAUTICS BOARD
71365 10–28–80 / Airlines filing tariffs stating prices as maximum amounts; comments by 12–1–80
73086 11–4–80 / Classification and exemption of air taxi operators; comments by 12–4–80

COMMERCE DEPARTMENT
Census Bureau—
65250 10–2–80 / Miscellaneous amendments to the Foreign Trade Statistics Regulations; comments by 12–1–80
[Corrected at 45 FR 68965, 10–17–80]
Maritime Administration—
66167 10–6–80 / Research and development grant and cooperative agreements regulations; comments by 12–5–80
National Oceanic and Atmospheric Administration—
64996 10–1–80 / Atlantic groundfish fishery; comments by 12–1–80
65641 10–3–80 / Foreign fishing in the Northern Pacific Ocean and Bering Sea; catch documentation and reporting procedures; comments by 12–2–80

DEFENSE DEPARTMENT
Army Department—
73103 11–4–80 / Privacy Act systems of records; amendment of exemption rule; comments by 12–4–80
Engineers Corps—
62732 9–19–80 / Amendment of regulations for controlling certain activities in waters of the United States; comments by 12–1–80
70511 10–24–80 / Florida navigation locks regulations; comments by 11–30–80
National Security Agency—
71373 10–28–80 / Privacy Act systems of records; exemption rules; comments by 12–1–80

EDUCATION DEPARTMENT
Office of the Secretary—
73514 11–5–80 / Minority Institution Science Improvement Program (MISIP); grant regulations; comments by 12–5–80

ENERGY DEPARTMENT
64856 9–30–80 / State implementation plans; approval of 1982

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

PERSONNEL MANAGEMENT OFFICE

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

74505 11–10–80 / Natural Gas Policy Act of 1978; alternative fuel price ceilings for incremental pricing; comments by 12–5–80

73692 11–6–80 / Treatment under the incremental pricing program of natural gas used as boiler fuel to raise steam which forms an integral step in the manufacturing process for fertilizer, agricultural chemicals, animal feed, and food; comment period extended to 12–1–80

[Originally published at 45 FR 13122, 2–26–80]

ENVIRONMENTAL PROTECTION AGENCY

72708 11–3–80 / Acephate; proposed tolerance in or on mint hay; comments by 12–3–80

72221 10–31–80 / Air programs, Idaho; primary nonferrous smelter order to Bunker Hill Co.; comments by 12–1–80

72219 10–31–80 / Air quality implementation plan, Idaho; control of sulfur dioxide emissions from Bunker Hill Co. lead and zinc smelter; comments by 12–1–80

65630 10–3–80 / Air quality implementation plan, Missouri, approval, promulgation, and designation of areas; comments by 12–2–80

69271 10–20–80 / California, air quality; sulfur-dioxide nonattainment area boundaries for Kern County; comment period extended to 12–1–80

[*See also* 45 FR 55231, 8–19–80 and 45 FR 60931, 9–15–80]

72217 10–31–80 / Consideration of Ohio Implementation Plan revision; comments by 12–1–80

73440 11–4–80 / Guidelines for development and implementation of State solid waste management plans; comments by 12–4–80

60929 9–15–80 / Implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act; comments by 11–30–80

62851 9–22–80 / Importation of motor vehicles and motor vehicle engines; comments by 12–3–80

70917 10–27–80 / Michigan air quality implementation plan; comment period extended to 11–30–80

[*See also* 45 FR 50329, 9–9–80]

70287 10–23–80 / Oklahoma; Submission for approval of interim authorization plan, Phase I, hazardous waste management plan; comments by 12–2–80

65633 10–3–80 / Pesticide use violations; procedures governing rescission of State primary enforcement responsibility; comments by 12–2–80

65633 10–3–80 / Pesticide use violations; rescission of States' primary enforcement responsibility; comments by 12–2–80

71364 10–28–80 / Polychlorinated biphenyls in food, feed, agricultural pesticide and fertilizer facilities; comments by 12–4–80

65262 10–2–80 / Receipt of revision to Lake, Great Basin Unified, Modoc, Imperial and San Bernardino Air Pollution Control Districts; comments by 12–1–80

72215 10–31–80 / Request for comments on deadline for remedying of conditionally approved portions of Ohio State Implementation plan; comments by 12–1–80

73520 11–5–80 / Revision of the Delaware State Implementation Plan; comments by 12–5–80

68403 10–15–80 / Rulemaking petition to require that generators and transporters of small quantities of hazardous waste comply with manifest, packaging, labeling and recordkeeping requirements; comments by 12–1–80

72709 11–3–80 / Solid waste disposal facilities and practices, criteria for classification; comments by 12–3–80

64856 9–30–80 / State implementation plans; approval of 1982 ozone and carbon monoxide plan revisions for areas needing an attainment date extension; comments by 12–1–80

71818 10–30–80 / State Solid Waste Management Plans, guidelines for development and implementation; comments by 12–1–80

73601 11–5–80 / Strychnine; preliminary notice of determination concluding the rebuttable presumption against registration of pesticide products; availability of position document; comments by 12–5–80

72232 10–31–80 / Water pollution; ink formulating; point source category effluent limitations guidelines; comments by 12–1–80

72232 10–31–80 / Water pollution; paint formulating; point source category effluent limitations guidelines; comments by 12–1–80

FEDERAL COMMUNICATIONS COMMISSION

37468 6–3–80 / Availability of additional FM frequencies and modification of procedures used in assigning such channels; reply comments by 12–1–80

[*See also* 45 FR 17602, 3–19–80 and 45 FR 26390, 4–18–80]

63516 9–25–80 / Conversion of radiation patterns for AM Broadcast Stations; reply comments by 12–2–80

69499 10–21–80 / FM broadcast station in Alliance, Nebr.; proposed changes in tables of assignments; comments by 12–2–80

69502 10–21–80 / FM broadcast station in Hilton Head Island, S.C.; proposed changes in table of assignments; comments by 12–2–80

69501 10–21–80 / TV broadcast stations in Madisonville, Owensboro and Princeton, Ky., proposed changes in tables of assignments; comments by 12–2–80

69497 10–21–80 / TV broadcast station in Rio Grande City, Tex.; proposed changes in table of assignments; comments by 12–2–80

64981 10–1–80 / TV broadcast station in Santa Barbara, Calif.; changes in table of assignments; reply comments by 12–5–80

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66798 10–7–80 / Graduated payment adjustable mortgage; comments by 12–1–80

66801 10–8–80 / Shared appreciation mortgage; comments by 12–1–80

FEDERAL TRADE COMMISSION

65255 10–2–80 / Darworth Co.; consent agreement with analysis to aid public comment; comments by 12–1–80

65252 10–2–80 / Murata Manufacturing Co., Ltd.; consent agreement with analysis to aid public comment; comments by 12–1–80

[Corrected at 45 FR 67360, 10–10–80]

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National Archives and Records Service—

64978 10–1–80 / Records management; stationery standards; comments by 12–1–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

65619 10–3–80 / Medical devices; labeling and restrictions to assure safe and effective use; comments by 12–2–80

71364 10–28–80 / Polychlorinated biphenyls in food, feed, agricultural pesticide and fertilizer facilities; comments by 12–4–80

Health Care Financing Administration—

71821 10–30–80 / Medicaid program; deeming of income between spouses; comments by 12–1–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Office of the Secretary—

73272 11–4–80 / Section 8 and Section 23 Housing Assistance Payments Program; amendment of fair market rent schedules for existing housing; comments by 12–3–80

65258 10–2–80 / Siting of HUD-assisted project in locations with marginal or unacceptable air quality; comments by 12–1–80

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Fish and Wildlife Service—

58171 9–2–80 / Endangered and threatened wildlife; review of three southeastern fishes; comments by 12–1–80

Heritage Conservation and Recreation Service—

66179 10–6–80 / Energy conservation by recipients of Federal assistance; comments by 12–5–80

Indian Affairs Bureau—

72699 11–3–80 / Accounting procedures, internal; Indian moneys, proceeds of labor and special deposits; comments by 12–3–80

Land Management Bureau—

68506 10–15–80 / Grazing administration and trespass on public land; comments by 12–1–80

National Park Service—

73518 11–5–80 / Restrictions on consumption of alcoholic beverages within Valley Force National Historical Park; comments by 12–5–80

Surface Mining Reclamation and Enforcement Office—

74513 11–10–80 / Kansas regulatory program, resubmission; comments by 11–26–80

71816 10–30–80 / Surface coal mining reclamation operations, State or Federal programs; comments by 12–1–80

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development—

65258 10–2–80 / Review of collection of civil claims; comments by 12–1–80

INTERSTATE COMMERCE COMMISSION

73106 11–4–80 / Feeder railroad development program implementation; comments by 12–4–80

75717 11–17–80 / Gateway restrictions and circuitous route limitations, elimination; comments by 12–2–80

68696 10–16–80 / Procedures to permit carriers to reroute traffic automatically for 30 days when necessary for reason beyond carriers' control; comments by 12–1–80

67272 10–9–80 / Public forum on interstate motor carrier study, Washington, D.C. (open), 11–25–80

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Drug Enforcement Administration—

64572 9–30–80 / Exempt chemical preparation containing controlled substances; comments by 12–1–80

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Federal Procurement Policy Office—

65640 10–3–80 / Federal acquisition regulations; safeguarding classified information in industry, contractor team arrangements, and defense production and research and development pools; comments by 12–3–80

LABOR DEPARTMENT

Labor Management Standards Enforcement Office—

65926 10–3–80 / Labor organizations; election enforcement procedures; comments by 12–2–80

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65259 10–2–80 / Allocation of residual assets; comments by 12–1–80

PERSONNEL MANAGEMENT OFFICE

65603 10–3–80 / Political participation by Federal employees in local elections; partial exemption from Hatch Act restrictions for residents of New Carrollton, Md.; comments by 12–2–80

POSTAL SERVICE

73518 11–5–80 / Domestic Mail Manual; definition of the terms "newspaper" and "periodical publication"; comments by 12–4–80

73103 11–4–80 / International express mail rates to Argentina; comments by 12–4–80

SECURITIES AND EXCHANGE COMMISSION

71776 10–30–80 / Debt securities, establishing ceiling limitations on the amount; comments by 11–30–80

74505 11–10–80 / Financial and Operational Combined Uniform Single ("FOCUS") Report; revision of form and filing requirements; comment period extended to 11–30–80

[*See also* 45 FR 62092 9–18–80]

71811 10–30–80 / Report of sales of securities; comments by 12–5–80

72685 11–3–80 / Securities resales; amount limitation, manner of sale and notice requirements; lessening of restrictions; comments by 12–1–80

SMALL BUSINESS ADMINISTRATION

66174 10–6–80 / Proposed business loan policy; comments by 12–5–80

TRANSPORTATION DEPARTMENT

Federal Highway Administration—

74940 11–13–80 / Bikeway design and construction criteria; comment period extended from 11–3–80 to 12–3–80

[*See also* 45 FR 51720, 8–4–80]

51625 8–4–80 / Consideration of revision of regulations for transportation of migrant workers; comments by 12–2–80

National Highway Traffic Safety Administration—

70282 10–23–80 / Highway safety innovative project grants program; comments by 12–1–80

Research and Special Programs Administration—

69272 10–20–80 / Hazardous materials; withdrawal of certain Bureau of Explosives authority delegations and miscellaneous amendments; comments by 12–5–80

Urban Mass Transportation Administration—

56742 8–25–80 / Section 5 operation assistance regulations, comments by 12–1–80

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Alcohol, Tobacco, and Firearms Bureau—

69249 10–20–80 / Distilled Spirits Tax Revision Act of 1979, implementation; comment period extended to 12–1–80

[*See also* 44 FR 71612, 12–11–79 and 45 FR 54087, 8–14–80]

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64601 9–30–80 / Importation of motor vehicles and motor vehicle engines under the Clean Air Act; comments by 12–3–80

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74521 11–10–80 / Volunteer payments and services; treatment by governmental program; comments by 12–10–80

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Animal and Plant Health Inspection Service—

67307 10–10–80 / Export livestock; addition to lists of ports of embarkation for animals; comments by 12–9–80

67052 10–9–80 / Veterinary Services policy and procedures in cooperative programs concerning the eradication of Exotic Newcastle Disease from populations of birds including poultry; comments by 12–8–80

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Commodity Credit Corporation—
66471 10–7–80 / 1981 Crop Flaxseed Price Support Propram; comments by 12–8–80
Federal Grain Inspection Service—
70425 10–23–80 / Elimination of mandatory requirements for inbound weighing of grain at export elevators; comments by 12–8–80
Food and Nutrition Service—
66447 10–7–80 / Special supplemental food program for women, infants, and children; comments by 12–8–80
74384 11–7–80 / Summer food service for children; comments by 12–7–80
Rural Electrification Administration—
66472 10–7–80 / Architectural services contract; proposed revision to REA form 220; comments by 12–8–80
CIVIL AERONAUTICS BOARD
66473 10–7–80 / Air carriers; removal of certificate restrictions; reply comments by 12–8–70
63500 9–25–80 / Charters; use of insurance policies to satisfy financial security requirements and use of letters of credit as an arrangement for protecting charter passengers' payments; reply comments by 12–9–80
67357 10–10–80 / Small communities; guidelines for increasing essential service by certified airlines; comments by 12–9–80
COMMERCE DEPARTMENT
Economic Development Administration—
67062 10–9–80 / Clarification of requirements concerning certain types of projects which EDA may fund under the Public Works and Development Facilities Program; final rule; comments by 12–8–80
National Oceanic and Atmospheric Administration—
66460 10–7–80 / Emergency regulations modifying threatened sea turtle resuscitation procedures; comments by 12–8–80
ENERGY DEPARTMENT
Conservation and Solar Energy Office—
66632 10–7–80 / Federal Energy Management and Planning Programs; Methodology and Procedures for Life Cycle Cost Analyses (Average Fuel Costs); comments by 12–8–80
Economic Regulatory Administration—
67355 10–10–80 / Motor gasoline; retailer price rule and fixed cents per gallon markups; comments by 12–9–80
ENVIRONMENTAL PROTECTION AGENCY
67564 10–10–80 / Air programs ambient air quality monitoring data reporting & surveillance provisions for lead; comments by 12–9–80
74518 11–10–80 / Air quality, Louisiana; volatile organic compound emissions in designated nonattaintment areas, comments by 12–10–80
74516 11–10–80 / Air quality, New Mexico; approval of implementation plan, nonattaintment areas; comments by 12–10–80
74515 11–10–80 / Air quality, North Carolina; approval of implementation plan, 1979 CO revisions; comments by 12–10–80
73976 11–7–80 / Availability for review of Arizona's Hazardous Waste Management Program Phase I interim authorization application; comments by 12–11–80
73977 11–7–80 / Availability for review of California's application for interim authorization of Plan I of its Hazardous Waste Management Program; comments by 12–9–80
73972 11–7–80 / Consideration of Ohio State Implementation Plan for carbon monoixde and ozone; comments by 12–8–80
73969 11–7–80 / Consideration of revision to Ohio State Implementation Plan; comments by 12–8–80
74737 11–12–80 / Implementation plan revision relating to Georgia Power Plant, Harllee Branch; comments by 12–12–80
66736 10–7–80 / Pesticide Programs data call-in; initiation of pilot program; comments by 12–8–80
73975 11–7–80 / Proposed alternative Ohio State Implementation Plan compliance schedule for a power plant in Coshocton, Ohio; comments by 12–8–80
73521 11–5–80 / Standards of performance for new stationary sources; organic solvent cleaners; comments by 12–8–80
[*See also* 45 FR 39766, 6–11–80 and 45 FR 56373, 8–25–80]
68328 10–14–80 / Steam Electric Power Generating Point Source Category; pollutant discharge limitations; comments by 12–9–80
73521 11–5–80 / Vermont application for interim authorization, Phase I; Hazardous Waste Management Program; comments by 12–10–80
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59351 9–9–80 / AM stereophonic broadcasting; comments by 12–9–80
63011 9–23–80 / Cable television systems and postponement of divestiture requirement; comments by 12–8–80
71628 10–20–80 / Changes in the corporate structure and operations of COMSAT; comments by 12–12–80
64991 10–1–80 / FM broadcast stations in Bath and Hammondsport, N.Y.; changes in table of assignments; reply comments by 12–10–80
64993 10–1–80 / FM station in Blairsville, Pa.; changes in table of assignments; reply comments by by 12–10–80
64984 10–1–80 / FM broadcast stations in Brookville and Versailles, Ind.; changes in table of assignments; reply comments by 12–10–80
63533 9–25–80 / FM Broadcast Station's in Casper, Wyo.; changes in table of assignments; reply comments by 12–8–80
64994 10–1–80 / FM broadcast station's in Denison, Tex.; changes in table of assignments; reply comments by 12–10–80
63532 9–25–80 / FM Broadcast Station's in Farmville and Appomattox, Va.; changes in table of assignments; reply comments by 12–8–80
64988 10–1–80 / FM broadcast stations in Hastings, Nebr.; changes in table of assignments; reply comments by 12–10–80
64985 10–1–80 / FM broadcast station's in Hays, Kans.; changes in table of assignments; reply comments by 12–10–80
63531 9–25–80 / FM broadcast station in Madras, Oreg.; changes in table of assignments; reply comments by 12–8–80
63530 9–25–80 / FM broadcast station in Munising, Mich.; changes in table of assignments; reply comments by 12–8–80
64990 10–1–80 / FM broadcast station in McCook, Nebr.; changes in table of assignments; reply comments by 12–10–80
64981 10–1–80 / FM broadcast station in Visalia, Calif.; changes in table of assignments; reply comments by 12–10–80
76717 11–20–80 / FM quadraphonic broadcasting; comments period extended to 12–10–80
[Originally published at 45 FR 55491, 8–20–80]
65639 10–3–80 / Maritime radio services; public coast stations operating on frequencies below 27,500 kHz, establishment limitation removed; comments by 12–10–80
74523 11–10–80 / MTS and WATS market structure; interstate telecommunications services; Alaska submarket; comments by 12–8–80 and 12–10–80
[*See also* 45 FR 55777, 8–21–80 and 45 FR 61846, 9–17–80]

FEDERAL COMMUNICATIONS COMMISSION
76498 11–19–80 / Overseas communications services regulations; comments by 12–12–80
65637 10–3–80 / Radio stations, table of assignments; FM broadcast station in International Falls, Minn.; reply comments by 12–8–80
64987 10–1–80 / TV broadcast station in Paintsville, Ky.; changes in table of assignments; reply comments by 12–10–80
64983 10–1–80 / TV broadcast station in Fort Pierce, Fla.; changes in table of assignments; reply comments by 12–10–80
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75244 11–14–80 / Status of bulk commodities; comments by 12–12–80
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71575 10–29–80 / Securities of member State banks; comments by 12–12–80
HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration—
59540 9–9–80 / Establishment of conditions under which over-the-counter (OTC) anthelmintic drugs products, which destroy pinworms, are generally recognized as safe and effective and not misbranded; comments by 12–8–80
[Corrected at 45 FR 65609, 10–3–80]
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Fish and Wildlife Service—
59909 9–11–80 / Endangered and threatened wildlife and plants; proposal to determine "Isotria medealoides" (small whorled pagonia) to be an endangered species; comments from Governors of affected States by 12–10–80
Surface Mining Reclamation and Enforcement Office—
67361 10–10–80 / Oklahoma; permanent program submission under the Surface Mining Control and Reclamation Act of 1977; comments by 12–9–80
67372 10–10–80 / Tennessee, permanent program submission under the Surface Mining Control and Reclamation Act of 1977; comments by 12–9–80
INTERSTATE COMMERCE COMMISSION
70030 10–22–80 / Elimination of Annual Report Form TCS for motor carriers of property; comments by 12–8–80
76718 11–20–80 / Motor common carriers of household goods; operational rules; comments on or before 12–11–80
74488 11–10–80 / Railroad consolidation procedures, time revisions; comments by 12–10–80
NATIONAL CREDIT UNION ADMINISTRATION
75224 11–14–80 / Share accounts and share certificate accounts; comments by 12–10–80
NUCLEAR REGULATORY COMMISSION
76446 11–19–80 / Action plan developed as a result of the Three Mile Island accidents; comments by 12–12–80
NUCLEAR REGULATORY COMMISSION
74493 11–10–80 / Application review fees; comments by 12–8–80
70874 10–27–80 / Technetium-99 and low-enriched uranium as residual contamination in smelted alloys; exemption and licensing requirements; comments by 12–11–80
70166 10–22–80 / Utility Management and Technical Resources; Report NUREG/CR–1656; comments by 12–8–80
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38419 6–9–80 / Poisons and controlled substances—nonmailability; comments by 12–8–80
[*See also* 45 FR 20118, 3–27–80 and 45 FR 26983, 4–22–80]
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Coast Guard—
70918 10–27–80 / Tankships; hatch covers on cargo tanks; comments by 12–11–80
70920 10–27–80 / Uninspected vessels of 200 gross tons or more, removal of affirmative minimum manning requirement; comments by 12–11–80
Federal Aviation Administration—
67283 10–9–80 / Flight crewmember flight and duty time limitations and rest requirements; comment period extended to 12–10–80
[*See also* 44 FR 53316, Aug. 11, 1980]
67100 10–9–80 / Petition for rulemaking of Rosenbalm Aviation, Inc. to exempt large, cargo-only aircraft from installing ozone control equipment or using ozone avoidance procedures; comments by 12–10–80
Urban Mass Transportation Administration—
60306 9–11–80 / Project management procedures for grantees; comments by 12–8–80
70412 10–23–80 / Urban initiatives program; comments by 12–8–80
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67360 10–10–80 / Income tax; definition of a private foundation; comments by 12–9–80

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74094 11–7–80 / Advisory Committee on Actuarial Examinations, Washington, D.C. (closed), 12–2–80
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74048 11–7–80 / Washington, D.C. (open), 12–1 through 12–3–80
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74953 11–13–80 / State and Private Forestry Advisory Committee, Washington, D.C. (open), 12–4 and 12–5–80
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74525 11–10–80 / Committee of Nine, New Orleans, La. (open), 12–4–80
ARTS AND HUMANITIES, NATIONAL FOUNDATION
75025 11–13–80 / Dance Panel, Washington, D.C., (partially open), 12–4 and 12–5–80
75026 11–13–80 / Expansion Arts Panel (Summer Projects and Tour Events), Washington, D.C., (closed), 12–1 through 12–3–80
75369 11–14–80 / Humanities Panel, Washington, D.C. (closed), 12–1 through 12–5–80
76276 11–18–80 / Humanities Panel Meetings, Washington, D.C., (closed), 12–3 through 12–5–80
75026 11–13–80 / Literature Panel (Literary Magazines and Small Presses), Washington, D.C., 12–5 and 12–6–80 Media Arts Panel (Production: Radio), Washington, D.C., (partially open), 12–1 and 12–2–80
75026 11–13–80 / Media Arts Panel (Production: Radio), Wash., D.C. (closed), 12–1 and 12–2–80
76275 11–18–80 / Music Panel (Jazz Section), Washington, D.C., (closed), 12–5 and 12–6–80
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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws. A complete cumulative listing through Public Law 96.483 was published in the Reader Aids section of the issue of Wednesday, November 5, 1980.

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Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the Federal Register during the previous week.

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77036 11–21–80 / USDA/FmHA—Community facility loans and development grants for community domestic water and waste disposal systems; comments by 1–21–81

76701 11–20–80 / WRC—Protection and management of historic and cultural environment; comments by 1–12–81

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75731 11–17–80 / Commerce/MBDA—Management and technical assistance projects in San Francisco, apply by 12–18–80

77112 11–21–80 / ED—Minority Institutions Science Improvement Program (MISIP); apply by 1–30 and 3–2–81

76505 11–19–80 / ED—Organizational Processes in Education; apply by 12–11–80 or 4–9–81

75746 11–17–80 / ED—Women's Educational Equity Act Program, development of educational material and model programs; apply by 1–27–81

77139 11–21–80 / HHS/HDSO—Aging program, research development projects; apply by 1–23–81

77144 11–21–80 / HHS/Secretary—Poverty Research Center, grant applications; apply by 1–30–81

76534 11–19–80 / HUD/CPD—Community Development Block Grant Program; extension to 11–3–80 of submission dates for preapplications for Pittsburgh, Pa.

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76517 11–19–80 / HHS/Sec'y—Technical assistance demonstration grants and contracts; delegation of authority

76716 11–20–80 / NSF—Improving Government regulations; semiannual regulations agenda

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WHEN: December 5 and 19, January 16 and 30; at 9 a.m. (identical sessions).

WHERE: Office of the Federal Register, Room 9409, 1100 L Street NW., Washington, D.C.

RESERVATIONS: Call King Banks, Workshop Coordinator, 202–523–5235.

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Highlights

78997 **National Family Week** Presidential proclamation

78995 **Central Intelligence Agency Retirement and Disability System** Executive Order

79035 **Grant Programs—Education** ED issues final regulations for the Secretary's Discretionary Program, which assists in the development of innovative methods which contribute to the solution of educational problems

78999 **Food Stamps** USDA/FNS clarifies when a trust fund may be considered inaccessible to household and therefore excluded from consideration as a resource under Food Stamp Program; effective 11-28-80

79038 **Copyright** Library of Congress adopts final regulations to implement compulsory license for making and distributing phonorecords; effective 12-29-80

79386 **Recombinant DNA Research** HHS/NIH sets forth proposed actions to be taken under guidelines for research involving recombinant DNA Molecules; comments by 12-29-80

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

Highlights

79218 **Washington National Airport** DOT/Sec'y implements portion of special regulation which allocates Instrument Flight Rules reservations by publishing two tables setting forth assignment of slots

79302 **Water Pollution Control** EPA announces availability and provides summaries of water quality criteria for toxic pollutants (Part V of this issue)

79094 **Noise Control** DOT/FAA publishes final rules concerning operating noise limits for airplanes; effective 2–1–81 with comments by 3–1–81 and 11–28–80 (2 documents) (Part IV of this issue)

79094 **Income Taxes** Treasury/IRS publishes proposed regulation amendments relating to partnerships and investment credit for certain used property; comments by 1–27–81

79032 **Grant Programs—Education** ED issues final rules pertaining to higher education programs in modern foreign language training and invites applications for grants; apply by 1–15–81

79166 **Grant Programs—Health** HHS/HSA gives notice that competitive applications are now being accepted for project grants to develop and expand home health services and grants for demonstrating training of home health personnel pending congressional approval; apply by 6–1–81

79120 **Improving Government Regulations** GSA and CAB publishes semiannual agenda of significant regulations

79079 **Credit Unions** NCUA, in a proposed rule, would eliminate current regulations which require Federal credit unions to obtain prior consent before granting long-term real estate loans; comments by 12–31–80

79104 **ZIP Codes** PS amends regulations as preliminary step in the proposed expansion of existing five-digit ZIP Code by adding a hyphen and four new numbers; comments by 1–5–81

79223 **Sunshine Act Meetings**

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Title 3—

The President

Executive Order 12253 of November 25, 1980

Central Intelligence Agency Retirement and Disability System

By the authority vested in me as President of the United States of America by Section 292 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note), and in order to conform the Central Intelligence Agency Retirement and Disability System to certain amendments to the Civil Service Retirement and Disability System (Public Law 96–179), it is hereby ordered as follows:

1–101. The Director of Central Intelligence shall maintain the Central Intelligence Agency Retirement and Disability System in accordance with the following:

(a) Eliminate the "living with" requirement in the case of recognized natural children.

(b) Add a requirement of dependency to the definition of child and define "dependent" as follows: "Dependent," in the case of any child, means that the participant involved was, at the time of the participant's death, either living with or contributing to the support of such child, as determined in accordance with such regulations as the Director shall prescribe.

1–102. The provisions of Section 1–101 are effective as of January 2, 1980.

1–103. The Director of Central Intelligence is authorized to prescribe such regulations as are necessary to carry out the provisions of this Order.

Jimmy Carter

THE WHITE HOUSE,
November 25, 1980.

[FR Doc. 80-37344
Filed 11-26-80; 11:14 am]
Billing code 3195-01-M

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Proclamation 4806 of November 26, 1980

National Family Week, 1980

By the President of the United States of America

A Proclamation

The American family has been the most resilient, dynamic force in the growth and development of our Nation. Yet its influence is so subtle that we tend to take for granted the vital functions it performs as the source of love, support, and guidance, the wellspring of courage, determination and inspiration.

National Family Week gives us a chance to highlight the special contributions and needs of the family, to acknowledge the new challenges that American families now face, and to act on the many significant recommendations generated by the White House Conference on Families.

It is a time to seek ways to strengthen and support the family—a time to renew the realization that the fundamental integrity and vitality of the Nation relies on the underlying health of the American family.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, in accordance with Senate Joint Resolution 156, do hereby request that the week of November 23, 1980, be designated National Family Week and call upon the people of the United States to observe this week with appropriate activities in their communities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-sixth day of November, in the year of our Lord nineteen hundred and eighty, and of the Independence of the United States of America the two hundred and fifth.

Jimmy Carter

[FR Doc. 80-37345
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Rules and Regulations

Federal Register
Vol. 45, No. 231
Friday, November 28, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 294

Availability of Official Information

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: OPM is revising the fees it charges for satisfying requests made under the provisions of the Feedom of Information Act.

EFFECTIVE DATE: December 29, 1980.

FOR FURTHER INFORMATION CONTACT: James Conners, Office of Management, Office of Personnel Management, 1900 E Street NW., Washington, D.C. 20415, (202)–632–4533.

SUPPLEMENTARY INFORMATION: On July 29, 1980, OPM published (45 FR 50336) a proposed rule revising the fees charged for searching for and duplicating information requested under the Freedom of Information Act. The proposed rule was published because OPM had found that the fees then being charged were inaccurate, due to rising costs.

Comments on the proposed rule were invited. No comments on the proposed rule were received during the comment period. Accordingly, OPM hereby revises 5 CFR 294.107(c) by changing the fees charged for filling requests made under the Freedom of Information Act.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management revises 5 CFR 294.107(c) to read as follows:

§ 294.107 Service Charges for information.

* * * * *

(c) *Schedule of Fees.* When a request is made for information under section 552 of title 5, United States Code, the Office will charge fees for searching and duplicating the information at the rates shown in the following schedule:

Photocopies per page	$0.10
Printed material per 25 pages or fraction thereof	0.25
Manual records search, per hour:	
Professional employee	9.00
Clerical employee	5.00
Automated records search:	
Programming, per hour	17.00
Keypunching, per 1,000 card-image records	183.00
Duplication, per hour	45.00
Computer time, per quarter-hour	219.00

(Charges will be assessed only for actual resources used)

* * * * *

(5 U.S.C. 552, Freedom of Information Act, Pub. L. 92–502)

[FR Doc. 80-37041 Filed 11-26-80; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amendment No. 178]

Food Stamp Program—Resource Exclusion of Trust Funds

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule clarifies conditions under which a trust fund may be considered inaccessible to a household and therefore excluded from consideration as a resource by revising the exclusion from resources section of current Food Stamp Program (FSP) regulations. The amendment allows for a resource exclusion of irrevocable trust funds, established by a non-household member from non-household (third-party) funds, when the trust fund is administered by a court or other specific entity. This rule also amends the definition of income section of FSP regulations to require that any withdrawals from trust funds be considered as income to the household. Proposed regulations concerning this amendment were published at 45 FR 51216, August 1, 1980.

EFFECTIVE DATE: November 28, 1980.

FOR FURTHER INFORMATION CONTACT: Larry R. Carnes, Chief, Policy and Regulations Section, Program Development Division, Family Nutrition Programs, FNS, USDA, Room 678, 500 12th Street SW., Washington, D.C. 20250. (202) 447–9075.

The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available from Claire Lipsman, Director, Program Development Division, Family Nutrition Programs, FNS, USDA, Room 658, 500 12th Street SW., Washington, D.C. 20250. (202) 447–8325.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Introduction

On August 1, 1980 the Department published proposed rulemaking (45 FR 51216) to further clarify conditions under which a trust fund may be considered inaccessible to a household and therefore excluded from consideration as a resource. This proposal was the result of a court suit filed in the State of New Jersey, *Whye* v. *Bergland,* No. 80–1355 (D.N.J., filed May 8, 1980), in which the plaintiff alleged that current regulations regarding resource exclusions resulted in the denial of food stamp eligibility of the plaintiffs. In the case of each plaintiff, the denial was based on excessive resources because a court-administered trust fund, established for the benefit of a minor household member as a result of accident or injury settlements, was counted as an available resource to the household involved. Although the trusts in these cases were established solely for the benefit of a minor household member, the funds were neither limited to pay for the educational expenses of the person named nor established solely to make investments and were, therefore, considered accessible based on the interpretation of § 273.8(e)(ii) of the FSP regulations in effect. The proposed regulations published on August 1, 1980 as a result of the *Whye* case would exclude as a resource a court-administered trust fund established for the benefit of a minor or incompetent as well as certain other trust funds established by a third party with nonhousehold funds. Furthermore, the proposal stated that any funds withdrawn from such trusts were to be

considered income to the household in the month received, unless otherwise

household, thus rendering the trust fund "accessible." It was not intended that a

abuse. They felt that such a provision would allow a household to tie up liquid

regulations be implemented by February 1, 1981. Therefore, the final regulations

to cease during the certification period and no household member has the

Agricultural Stabilization and Conservation Service

considered income to the household in the month received, unless otherwise exempt.

The Department encouraged interested parties to comment on this proposed rule by October 1, 1980. Subsequently, 29 letters were received concerning the Resource Exclusion of Trust Funds regulations. Twenty State agencies, six public interest groups and three FNS Regional Offices submitted comments.

After carefully reviewing the comments received, the Department has made several changes in the proposed regulations. This preamble addresses those changes as well as other major issues raised by the comments. A full understanding of the basis and purpose of the provisions not addressed here may require reference to August 1, 1980 Federal Register publication.

In general, most of the comments, including all of those from public interest groups, indicated support of the clarification the regulations provide. Several State agencies stated that such cases are relatively rare and that these regulations will have little impact. Eight State agencies specifically addressed the question raised by the Department in the preamble of the proposal concerning whether other States were treating court-administered trust funds in the same manner as New Jersey. Only three of them indicated that they had been treating trusts in this manner; the other five indicated that they relied more on an actual determination of inaccessibility.

One of the proposed requirements for a determination of inaccessibility was that "the trustee administering the funds is a court, or an institution, corporation, or organization which is not under the direction or ownership of any household member" [§ 273.8(e)(ii)]. One Regional office and one public interest group pointed out that there are situations in which an individual is appointed as trustee who has court-imposed limitations placed on the use of the funds making the trust as inaccessible as one administered by a court or institution. In light of this the Department decided to make a determination of inaccessibility in cases in which trustees are court-appointed individuals who have court-imposed limitations placed on their use of the funds. Those limitations must meet the requirements of these regulations if the trust funds are to be considered inaccessible.

One State agency indicated a need for clarification of "under the direction" by asking whether a bank employed by the household to act as trustee is to be considered under the direction of the household, thus rendering the trust fund "accessible." It was not intended that a bank, acting as a trustee, be considered under the direction of a household member. However, the terms of the trust must meet the the requirements of § 273.8(e)(8), even when the trustee is not under the direction of household member. Thus, trust funds administered by banks or other entities not under the direction of a household member are not for that reason alone "inaccessible" for food stamp purposes. Therefore, no change in the final rule was deemed necessary.

One agency asked whether a trust fund is excludable if one household member is appointed as guardian of another household member and has access to the fund. It is the Department's intention that such trust funds, if they cannot be used by the household (except for the person named in the trust for the purposes specified), should not be used to deny that household food stamp benefits. The issue is primarily the accessibility of the trust fund in question. If the guardian has unlimited access to a trust fund established for another household member, the fund should be counted as a resource. However, if the guardian must petition the court or has other court imposed limitation placed on withdrawal and use of funds and those limitations meet the requirements of these regulations, the rest of the household cannot benefit from the resources and the fund should be excluded from consideration.

A Regional office asked whether trusts established from household funds for non-household members are to be excluded as well. Trust funds for non-household members cannot benefit a household which does not have access to them. Therefore, those funds should also be excluded.

One public interest group suggested that trust funds established from household funds for medical expenses should also be excluded. An example of the requested exclusion is a trust fund established by parents to pay the lifetime medical expenses of a child born with birth defects. The need to provide for the medical care of disabled dependents constitutes a valid reason for establishing irrevocable trust funds from household resources. Therefore, the Department has determined that such trusts should be excluded from consideration as resources. The final rule has been amended accordingly.

Four State agencies and a Regional office objected to excluding as resources any trust fund established from household funds. These commenters believed that allowing an exclusion for these trusts would open the program to abuse. They felt that such a provision would allow a household to tie up liquid resources in inaccessible trust funds in order to qualify for food stamps. However, the comments received indicate that trust funds are extremely rare among food stamp households and that they are more likely to be established by a third party than from household funds. In some cases in which households have established funds themselves, the funds were placed in trust long before the household was in need of food stamps. The Department feels it would be unfair to penalize such households for diverting resources they thought they would never need into educational trust funds for their children or into medical trust funds for a disabled household member. Therefore, the Department has retained the exclusion for trust funds established by households under certain conditions.

The section dealing with income received from excludable trusts [§ 273.9(b)(vi)] received very few comments. Three State agencies requested clarification of the household's responsibility to report withdrawal of funds. As this is adequately addressed in the current regulations concerning change reporting requirements, the Department felt that further clarification was unnecessary. One State agency suggested that any income that *could be* obtained from an excluded trust, such as dividends that the household has the option of either collecting or reinvesting, should be counted as income, or that some penalty should be assessed for failure to take advantage of potential income. The Department feels that it is in the best interest of the Program for recipients to take advantage of all potential sources of income. Furthermore, this policy is consistent with the Internal Revenue Service's handling of such situations. Therefore, if a household has the ongoing option of receiving dividends or reinvesting them in the trust, such dividends shall be counted as income when they become available to the household, whether or not the household actually collects them. This does not apply to households who no longer have the option of receiving the dividends.

Three State agencies commented that the proposed 60 day implementation period was too short. One public interest group has urged that the implementation take place immediately. The Department realizes that some State agencies operate under various constraints that make implementation of any rule within 60 days difficult. However, the consent order resulting from the *Whye* case requires that these regulations be implemented by February 1, 1981. Therefore, the final regulations require that implementation take place no later than February 1, 1981. This would allow States to implement earlier if they have the capability to do so, but will ensure that all States have implemented by the court-imposed deadline.

Therefore, Parts 272 and 273 are being amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

7 CFR Part 272 is being amended as follows:

In § 272.1, a new subparagraph (21) is added to paragraph (g) of that subsection to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

(21) Amendment 178. State agencies shall implement the provisions of § 273.8 and § 273.9 of this amendment for all new applicants no later than February 1, 1981. States shall convert the current caseload to the new rules at recertification or at the time the case is otherwise reviewed, whichever comes first.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

7 CFR Part 273 is being amended as follows:

1. Section 273.8(e)(8) is revised to read as follows:

§ 273.8 Resource eligibility standards.

* * * * *

(e) *Exclusions from resources.* * * *

(8) Resources having a cash value which is not accessible to the household, such as but not limited to, irrevocable trust funds, security deposits on rental property or utilities, property in probate, and real property which the household is making a good faith effort to sell at a reasonable price and which has not been sold. The State agency may verify that the property is for sale and that the household has not declined a reasonable offer. Verification may be obtained through a collateral contact or documentation, such as an advertisement for public sale in a newspaper of general circulation or a listing with a real estate broker. Any funds in a trust or transferred to a trust, and the income produced by that trust to the extent it is not available to the household, shall be considered inaccessible to the household if:

(i) The trust arrangement is not likely to cease during the certification period and no household member has the power to revoke the trust arrangement or change the name of the beneficiary during the certification period;

(ii) The trustee administering the funds is either: (A) a court, or an institution, corporation, or organization which is not under the direction or ownership of any household member, or (B) an individual appointed by the court who has court imposed limitations placed on his/her use of the funds which meet the requirements of this paragraph;

(iii) Trust investments made on behalf of the trust do not directly involve or assist any business or corporation under the control, direction, or influence of a household member; and

(iv) The funds held in irrevocable trust are either: (A) established from the household's own funds, if the trustee uses the funds solely to make investments on behalf of the trust or to pay the educational or medical expenses of any person named by the household creating the trust, or (B) established from non-household funds by a nonhousehold member.

2. In § 273.9, paragraph (b) is amended by adding a new subparagraph (2)(vi) to read as follows:

§ 273.9 Income and deductions.

* * * * *

(b) *Definition of income.* * * *

(2) * * *

(vi) Monies which are withdrawn or dividends which are or could be received by a household from trust funds considered to be excludable resources under § 273.8(e)(8). Such trust withdrawals shall be considered income in the month received, unless otherwise exempt under the provisions of § 273.9(c) of this section. Dividends which the household has the option of either receiving as income or reinvesting in the trust are to be considered as income in the month they become available to the household unless otherwise exempt under the provisions of § 273.9(c) of this section.

* * * * * *

(91 Stat 958 (7 U.S.C. 2011–2027)

(Catalog of Federal Domestic Assistance Program No. 10.551, Food Stamps)

Dated: November 25, 1980.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 80-37248 Filed 11-26-80; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Stabilization and Conservation Service

7 CFR Part 722

1981 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to establish State reserves, allocate State reserves to counties and establish county acreage allotments for the 1981 crop of extra long staple cotton (referred to as ELS cotton). The need for this rule is to satisfy the statutory requirements of the Agricultural Adjustment Act of 1938, as amended.

EFFECTIVE DATE: November 26, 1980.

ADDRESS: Director, Production Adjustment Division, ASCS, USDA, Room 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Chief, Program Analysis Branch, Production Adjustment Division, USDA-ASCS, P.O. Box 2415, Washington, D.C. 20013, 202–447–7873.

The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available from the above named individual.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to Implement Executive Order 12044, and has been classified "not significant".

The title and number of the federal assistance programs that this notice applies to are: Title—Cotton Production Stabilization; Number 10.052 as found in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

A notice that the Secretary of Agriculture was preparing to establish 1981 State and county ELS cotton acreage allotments was published in the Federal Register on August 8, 1980. (45 FR 52817) in accordance with 5 U.S.C. 553. One comment was received indicating that the past procedure for the apportionment of allotments was acceptable. This procedure is being followed.

Determinations with respect to 1981 State reserves and allocation of State reserves to counties and establishment of county acreage allotments for the 1981 crop of extra long staple cotton (referred to as ELS cotton) are required to be made by the Secretary of Agriculture pursuant to the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as the "1938 Act"). The need for this rule is to satisfy the statutory requirements of the 1938 Act.

Signed at Washington, D.C. on November 21, 1980.

as hereinafter provided, will tend to effectuate the declared policy of the act.

pursuant to the declared policy of the act.

7 CFR Part 907

act to make these regulatory provisions effective as specified, and handlers have

Determinations with respect to 1981 State reserves and allocation of State reserves to counties were made initially by the respective State committees and are hereby approved and made effective by the Administrator, ASCS, pursuant to delegated authority (35 FR 19798, 36 FR 6907, 37 FR 624, 3845, 22008, 40 FR 18815, and 43 FR 51434).

In order that farmers may be informed of 1981 farm acreage allotments as soon as possible so that they may make plans accordingly, it is essential that these provisions be made effective as soon as possible.

Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, this amendment to 7 CFR 722.562 shall become effective upon the filing of this document with the Director, Office of the Federal Register, with respect to the 1981 crop of ELS cotton. The material previously appearing in this section as "Subpart—1980 Crop of Extra Long Staple Cotton; Acreage Allotments and Marketing Quotas" remains in full force and effect as to the crop to which it was applicable.

Final Rule

Accordingly, 7 CFR § 722.562 is amended to read as follows:

§ 722.562 State reserves and county allotments for the 1981 crop of extra long staple cotton.

(a) *State reserves.* The State reserves for each State shall be established and allocated among uses for the 1981 crop of extra long staple cotton pursuant to § 722.508.

It is hereby determined that no State reserve is required for trends, abnormal conditions, inequities and hardships, or small farms.

The amount of the State reserve held in each State and the amount of allotment in the State productivity pool resulting from productivity adjustments under § 722.529, (c) and (d) is available for inspection at each State ASCS office.

(b) *County allotments.* County allotments are established for the 1981 crop of extra long staple cotton in accordance with § 722.509. The amount of the State allotment apportioned to counties is available for inspection at the respective State and county ASCS offices.

(Secs. 344, 347, 375, 63 Stat. 670, as amended, 675, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1344, 1347, 1375)

Signed at Washington, D.C. on November 21, 1980.

Bill Cherry,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-37107 Filed 11-26-80; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine and Tangelo Regulation 4, Amendment 2]

Oranges, Grapefruit, Tangerines and Tangelos Grown In Florida; Amendment of Tangerine Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment allows each handler to ship a quantity of smaller size Dancy variety tangerines (2$^{13}/_{16}$ inches in diameter) during the week November 24 to November 30, 1980, equal to 35 percent of total shipments during a specified prior period. In the absence of this amendment only tangerines 2$^{13}/_{16}$ inches in diameter could be shipped. This action will allow an increase in the supply of tangerines during the period specified in recognition of market needs and the size composition of available supply in the interest of growers and consumers.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C 20250, telephone 202–447–5975. The Final Impact Analysis relative to this final rule is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." This regulation is issued under the marketing agreement and Order No. 905, (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that the regulation of Florida Dancy tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

The minimum size requirements, herein specified, for domestic shipments reflect the Department's appraisal of the need for the amendment of the current regulation to permit handling of smaller size fresh Florida Dancy tangerines during the specified period based on market needs for greater supplies of such variety. Because of the growing conditions in the production area the amount of large fruit is less than anticipated and there is a need to augment the supply by permitting shipment of a proportion of the smaller sized fruit. The Dancy variety continues to size on the tree, and as the season progresses, increased quantities of such fruit is expected to meet the larger minimum size requirement. Relaxation of the minimum size requirements for a portion of each shipper's Dancy tangerine shipments will tend to promote the orderly marketing of Florida tangerines during the overlap period, when both the Robinson and Dancy varieties are being shipped.

The Citrus Administrative Committee, at an open meeting on November 18, 1980, reported that the amendment would allow shipment of approximately 41 additional carlots of Dancy variety tangerines during the specified period. The committee indicated there is a current market demand for limited quantities of smaller size Dancy tangerines, but markets presently can absorb only a portion of the supply of the smaller fruit of such variety without disruption of the markets.

The Department's Crop Reporting Board estimates the 1980–81 season's crop of Flordia tangerines at 6.5 million boxes, (approximately 13.0 million cartons). Hence the volume of tangerines is slightly smaller than that of last season.

The committee projected the market demand for all varieties of fresh tangerines this season, as follows: Dancy (2,500 carlots); Robinson (1,500 carlots); Honey (2,500 carlots). Each carlot is equivalent to one thousand cartons. The regulation, as amended, for Dancy tangerines relieves restrictions from those currently in effect, and amendment of such regulation, as hereinafter provided, will tend to avoid disruption of the orderly marketing of tangerines in the public interest.

It is concluded that the amendment of the size requirements, hereinafter set forth, is necessary to establish and maintain orderly marketing conditions and to provide acceptable size fruit in the interest of producers and consumers

pursuant to the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. Growers, handlers and other interested persons were given an opportunity to submit information and views on the amendment at an open meeting, and the amendment relieves restrictions on the handling of Florida tangerines. It is necessary to effectuate the declared purposes of the act to make the regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Accordingly, it is found that the provisions of § 905.304 (Orange, Grapefruit, Tangerine and Tangelo), Regulation 4; (45 FR 67047; 76651), should be and are amended by redesignating paragraph (d) as paragraph (e) and adding a new paragraph (d) reading as follows:

§ 905.304 Orange, Grapefruit, Tangerine, and Tangelo Regulation 4.

* * * * *

(d) *Percentage of size regulation applicable to Dancy variety tangerines.* Notwithstanding the provisions of Table I in paragraph (a) of this section, any handler may during the period November 24 through November 30, 1980, ship Dancy variety tangerines smaller than 2$^{13}/_{16}$ inches in diameter: *Provided,* That such smaller tangerines are not smaller than 2$^{5}/_{16}$ inches in diameter and: *Provided further,* That the quantity of such smaller tangerines does not exceed 35 percent of the quantity shipped in the applicable prior period as determined by the procedure specified in § 905.152 of this part.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated, November 24, 1980, to become effective November 24, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-37114 Filed 11-26-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 907

[Navel Orange Regulation 496, Amendment 2]

Navel Oranges Grown in Arizona and Designated Part of California; Minimum Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment lowers the minimum diameter requirement applicable to fresh California-Arizona navel oranges from District 1, 3, or 4 to 2.45 inches in diameter during the period November 28 through December 25, 1980. In the absence of this amendment the minimum diameter requirement for such oranges would be 2.59 inches. This action is necessary to promote orderly marketing in the interest of producers and consumers.

EFFECTIVE DATE: November 28 through December 25, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Statement relative to this final rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures in Secretary's Memorandum 1955 to implement Executive Order 12044 and classified as "not significant." This regulation is issued under the marketing agreement and Order No. 907 (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time. This amendment relieves restrictions on the handling of California-Arizona navel oranges.

The committee met on November 18, 1980, to consider current crop and market conditions and other factors affecting the need for amendment of the current regulation, and recommended relaxation of the minimum size requirement for shipments of navel oranges grown in District 1, 3, or 4. The amendment recognizes the current and prospective marketing situation for California-Arizona navel oranges and is consistent with the size composition of the crop.

Therefore, paragraph (b) of § 907.796 (Navel Orange Regulation 496, (45 FR 75163; 76651)) is amended to read as follows (§ 907.796 expires January 1, 1981, and will not be published in the annual Code of Federal Regulations):

§ 907.796 Navel Orange Regulation 496.

(a) * * *

(b) During the period November 28 through December 25, 1980, any handler may handle navel oranges grown in District 1, 3, or 4 which are of a size smaller than 2.59 inches in diameter: *Provided,* That such smaller oranges shall be not smaller than 2.45 inches in diameter, except not to exceed 5 percent, by count, of the oranges in any container of such oranges may measure smaller than 2.45 inches in diameter.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated November 24, 1980, to become effective November 28, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-37115 Filed 11-26-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 907

[Navel Orange Regulation 498]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period November 28 through December 4, 1980. Such action is needed to provide for orderly marketing of fresh navel oranges for this period

due to the marketing situation confronting the orange industry.

December 4, 1980, are established as follows:

AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

quality lettuce at reasonable prices to

Provisions with respect to special

(2) Cartons with inside dimensions of

due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: November 28, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C 601–674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on October 14, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on November 24, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navels deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. Section 907.798 is added as follows:

§ 907.798 Navel Orange Regulation 498.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period November 28, 1980, through December 4, 1980, are established as follows:

(1) District 1: 1,213,308 cartons;
(2) District 2: unlimited cartons;
(3) District 3: 121,003 cartons;
(4) District 4: 4,002 cartons.

(b) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 25, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-37254 Filed 11-28-80; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 910

[Lemon Regulation 281]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period November 30–December 6, 1980. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: November 30, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on November 24, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is good.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Section 910.581 is added as follows:

§ 910.581 Lemon Regulation 281.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period November 30, 1980, through December 6, 1980, is established at 225,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 26, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-37364 Filed 11-26-80; 2:29 pm]

BILLING CODE 3410-02-M

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7 CFR Part 971

Lettuce Grown in Lower Rio Grande Valley in South Texas; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation will impose container, pack, and inspection requirements on shipments of lettuce grown in the Lower Rio Grande Valley in South Texas. Standardizing trading practices will improve marketing efficiency, promote orderly marketing of such lettuce, and help provide better quality lettuce at reasonable prices to consumers.

EFFECTIVE DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–2615. The Final Impact Analysis relating to this final rule is available upon request from Mr. Porter.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Marketing Agreement No. 144 and Marketing Order No. 971 regulate the handling of lettuce grown in the Lower Rio Grande Valley in South Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Lettuce Committee, established under the order, is responsible for its local administration.

Notice was published in the November 5 **Federal Register** (45 FR 73498) regarding the proposal. It afforded interested persons an opportunity to file written comments by November 20, 1980. None was filed.

This regulation is based upon the recommendations made by the committee at its public meeting in McAllen, Texas, on October 21, 1980.

These container and pack requirements are in accord with the generally accepted commercial practices of the South Texas lettuce industry of packing specified numbers of heads of lettuce in specific sized containers limited to those found acceptable to the trade for safe transportation of the lettuce, and will prevent deceptive practices.

In addition the South Texas lettuce industry is accustomed to operating on a six day shipping week. A six day shipping week has proven adequate for five days distribution in terminal markets, therefore "packaging holidays" on Sundays will promote more efficient and orderly marketing. However, handlers will be permitted, with the approval of the committee, to package lettuce on Sunday and on Christmas day whenever the committee finds that distribution is inadequate, or that crop damage is imminent.

No purpose would be served by regulating the containers or pack or requiring the inspection and assessment of insignificant quantities of lettuce. Therefore, each person is exempt from such requirements for up to two cartons—or the equivalent—of lettuce per day.

Provisions with respect to special purpose shipments, including export, are designed to meet the different requirements for export and noncommercial domestic trade. Because of the production area's proximity to the Mexican border, Mexican buyers have been accustomed to acquiring small lots of production area lettuce for their home market. These buyers use lettuce which fails to meet the pack and container requirements. Inasmuch as such shipments have a negligible effect on the domestic market, they should be permitted if certain safeguard requirements are met.

After consideration of all relevant matters, including the proposal set forth in the notice, it is found that the handling regulation will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this section 30 days after its publication in the **Federal Register** (5 U.S.C. 553) in that: (1) Shipments of lettuce grown in the production area are expected to begin about the effective date specified in this regulation, (2) to maximize benefits to producers this effective period should be set to cover as many shipments as possible during the shipping season, (3) information regarding the provisions of this regulation has been made available to producers and handlers in the production area, and (4) compliance with this regulation will not require any special preparation on the part of persons subject to it which cannot be completed by the effective date.

§ 971.320 [Deleted]

Section 971.320 (44 FR 65964, November 16, 1979; 45 FR 10, January 2, 1980) is hereby deleted and a new § 971.321 is added as follows:

§ 971.321 Handling regulation.

During the period December 1, 1980, through March 31, 1981, no person shall handle any lot of lettuce grown in the production area unless such lettuce meets the requirements of paragraphs (a), (b) and (c) of this section, or unless such lettuce is handled in accordance with paragraphs (d) or (e) of this section. Further, no person may package lettuce during the above period on any Sunday, or on Christmas Day, unless approved in accordance with paragraph (f).

(a) *Containers.* Containers may be only the following depth, width and length respectively:

(1) Cartons with inside dimensions of 10 inches x 14¼ inches x 21⅝ inches (designated as carrier container No. 7303), or

(2) Cartons with inside dimensions of 9¾ inches x 14 inches x 21 inches (designated as carrier container No. 7306), or

(3) Cartons with inside dimensions of 14 inches x 9¾ inches x 21 inches (designated as carrier container No. 7313), or

(4) Cartons with inside dimensions of 10¾ inches x 16⅛ inches x 21½ inches (designated as carrier container No. 7312—flat pack).

(b) *Pack.* (1) Lettuce heads, packed in containers No. 7303, 7306, or 7313; if wrapped may be packed only 18, 20, 22, 24, or 30 heads per container; if not wrapped, only 18, 24, or 30 heads per container.

(2) Lettuce heads in container No. 7312 may be packed only 24 or 30 heads per container.

(c) *Inspection.* (1) no handler shall handle lettuce unless such lettuce is inspected by the Texas-Federal Inspection Service and an appropriate inspection certificate has been issued for it, except when relieved of such requirement by paragraphs (d) or (e) of this section.

(2) No handler may transport by motor vehicle, or cause such transportation of, any shipment of lettuce for which inspection is required unless each such shipment is accompanied by a copy of an appropriate inspection certificate or shipment release form (SPI–23) furnished by the Inspection Service verifying that such shipment meets the pack and container requirements of this section. A copy of such inspection certificate or shipment release form shall be available and surrendered upon request to authorities designated by the committee.

(3) For administration of this part, such inspection certificate or shipment release form required by the committee as evidence of inspection is valid for only 72 hours following completion of inspection, as shown on such certificate or form.

(d) *Minimum quantity.* Any person may handle up to, but not to exceed two cartons or the eqivalent of lettuce a day without regard to inspection, assessment, container and pack requirements. This exception shall not be applied to any shipment of over two cartons of lettuce.

(e) *Special purpose shipments.* The container, pack, and inspection requirements of this section shall not be applicable to shipments as follows:

(1) For relief, charity, experimental purpose, or export to Mexico, if a handler presents a Certificate of Privilege for such lettuce prior to handling it, pursuant to §§ 971.120–971.125; and

(2) For export to Mexico, if the handler of such lettuce loads and transports it in a vehicle bearing Mexican registration (license).

(f) *Suspension of packing holidays.* Upon approval of the committee, the prohibition against packing lettuce on Christmas or on any Sunday may be modified or suspended to permit the handling of lettuce provided such handling complies with the procedures and safeguards specified by the committee.

(g) *Definitions.* (1) "Wrapped" heads of lettuce refers to those which are enclosed individually in parchment, plastic, or other commercial film and then packed in cartons or other containers.

(2) Other terms used in this section have the same meaning as when used in Marketing Agreement No. 144 and this part.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated November 24, 1980 to become effective December 1, 1980.

D. S. Kuryloski

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-37113 Filed 11-26-80; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 991

Hops of Domestic Production; Amendment of Administrative Rules and Regulations—Reserve Hops

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Emergency final rule.

SUMMARY: This rule changes the date (1) certain hops from the 1980 production become reserve hops, from November 1, 1980, to December 1, 1980, and (2) such hops must be identified as reserve hops, from November 15, 1980, to December 8, 1980. This change was unanimously recommended by the Hop Administrative Committee, which works with USDA in administering the Federal marketing order for hops of domestic production.

EFFECTIVE DATES: November 28, 1980.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5053.

SUPPLEMENTARY INFORMATION: This emergency final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "non-significant." Mr. Miller determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this emergency final action because the November 1 and November 15 deadlines have already passed, and there is no time for response. Adjustment of these deadlines also would afford additional time for producers to fill deficits in their annual allotments, and handlers to comply with the identification requirements.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.**

This action is pursuant to Marketing Order No. 991, as amended, regulating the handling of hops of domestic production. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Section 991.39 provides, in part, that hops baled, packaged, processed, or otherwise prepared for market that are in excess of an effective individual producer annual allotment or total of such allotments to members of a cooperative marketing association and are held by any producer-handler or association on November 1, or such other date as the Committee may prescribe, shall be reserve hops. Section 991.32 prescribes inspection and identification requirements for hops received for reserve handling, and provides, in part, that inspection and identification shall be completed prior to November 15 or other date established pursuant to § 991.39. Pursuant to this authority, § 991.132 prescribes such identification requirements and provides for identification to be completed prior to November 15 or such other date established pursuant to § 991.39.

The Committee recommended that the date on which excess hops from the 1980 production become reserve be changed to December 1, 1980, but only for the current 1980–81 marketing year, and that identification of these reserve hops be completed by December 8, 1980. The purpose of this change is to enable producers who produced less than their annual allotments during the current 1980–81 marketing year to fill any deficit in their annual allotments, as authorized in § 991.38(e), by acquiring hops from other producers that are in excess of such producers' annual allotments before these excess hops become reserve hops pursuant to § 991.39. Moreover, the 1980 hop crop was of record production, and it is anticipated that growers will experience delays in completing the filling of deficiencies as a result.

Therefore, a new § 991.139 is added to Subpart—Administrative Rules and Regulations (7 CFR 991.130–991.160) providing that, for the 1980–81 marketing year, excess hops become reserve hops on December 1. In addition, the introduction and paragraph (a) of § 991.132 are revised by inserting a proviso that, for the 1980–81 marketing year, reserve hops should be identified, as prescribed in that section, prior to December 8, 1980.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee, and other information, it is further found that amendment of Subpart—Administrative Rules and Regulations (7 CFR 991.130–991.160) would tend to effectuate the declared policy of the act.

The amendment follows:

1. Amend § 991.132 by revising the undesignated introductory paragraph and paragraph (a) to read as follows:

§ 991.132 Identification of reserve hops.

As provided in §§ 991.32 and 991.39, identification of reserve hops shall be completed prior to November 15 or such other date established pursuant to § 991.39: *Provided,* That, for the 1980–81 marketing year, identification of reserve hops shall be completed prior to December 8, 1980. Also, prescribed reports are required with respect to reserve hops held and not delivered by the closing date for pooling.

(a) Any hops which become reserve hops pursuant to § 991.39 shall, prior to November 15 of the year of production or such other date as may be established pursuant to § 991.39, be identified by such devices and in such manner as the Committee finds necessary to maintain surveillance over such hops to assure disposition thereof in accordance with this part and to prevent their unauthorized use in outlets for salable hops: *Provided,* That for the 1980–81 marketing year, such identification shall be completed prior to December 8, 1980.

* * * * *

2. A new § 991.139 is added reading as follows:

§ 991.139 Reserve hops.

Pursuant to § 991.39, hops baled, packaged, processed, or otherwise prepared for market that are in excess of an effective individual producer annual allotment or the total of such allotments to members of a cooperative marketing association for the 1980–81 marketing year, and are held by any producer-handler or association on December 1, 1980, shall be reserve hops.

(Secs. 1–19, 48 stat. 31, as amended; 7 U.S.C. 601–674)

Dated: November 21, 1980, to become effective November 28, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-37111 Filed 11-26-80; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1434

1980-Crop Honey Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the (1) final loan and purchase availability dates, (2) maturity dates, and (3) loan and purchase rates, and (4) premiums and discounts under which Commodity Credit Corporation (CCC) will extend price support on 1980-crop honey. The need for this rule is to satisfy statutory requirements of section 201 of the Agricultural Act of 1949, which provides that price support shall be available on honey. This final rule will enable eligible producers to obtain loans and purchases on their eligible 1980-crop honey.

EFFECTIVE DATE: November 26, 1980.

ADDRESS: Price Support and Loan Division, ASCS, USDA, P.O. Box 2415, Washington, D.C., 20013.

FOR FURTHER INFORMATION CONTACT: W. W. Beesley ASCS, (202) 447–7923. The final impact statement describing the options in developing this final rule and the impact of implementing each option is available on request from Harry A. Sullivan, Agricultural Program Specialist, Production Adjustment Division, ASCS–USDA, P.O. Box 2415, Washington, D.C., 20013, (202) 447–7951.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." Also in compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988), initiation of review of the regulations contained in 7 CFR 1421.40–44 for need, accuracy, clarity, and effectiveness will be made within the next five years. The next review will take into consideration problems, issues, etc., which are experienced in program administration during the intervening period.

The title and number of the Federal assistance program that this notice applies to is: Title-Commodity Loans and Purchases; Number—10.051; as found in the Catalog of Federal Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95, was not used to assure that units of local government are informed of this action.

On February 14, 1980, a notice of proposed rulemaking was published in the **Federal Register** (45 FR 9943) regarding certain determinations for the 1980 crop of honey. Such determinations included price support rates based on color, differentials, class, grade, and the program availability period. Three responses were received. All commented that the program has been beneficial to program users. Three specific recommendations were made: (1) That the support level not be set above the price level that would result from general market conditions for honey, (2) that the maturity date be extended 90 to 120 days beyond the present June 30 date, and (3) that the 60 percent of parity would be adequate to protect beekeepers' incomes.

After considering the responses, statutory considerations, and other factors, it was determined that the price support rate would be established at the legal statutory minimum of 60 percent of parity and that the maturity date would remain June 30, the same as last year. The determination on the support level would provide adequate income protection to the producer and provide for an orderly market. The determination of the June 30 maturity date woud provide adequate time for beekeepers to market their 1980-crop honey. The loan and purchase rate for 1980-crop honey of 50.3 cents per pound was announced April 16, 1980.

Final Rule

The Honey Price Support Regulations for the 1977 and Subsequent Crops which contain regulations of a general nature with respect to loan and purchase operations are supplemented for the 1980 crop of honey as stated herein. The title of the subpart and regulations at §§ 1434.40 through 1434.44 are revised to read as follows, effective as to 1980-crop honey. The material previously appearing in these sections remains in full force and effect as to the crops to which it was applicable.

PART 1434—HONEY

* * * * *

Subpart—1980-Crop Honey Loan and Purchase Program

Sec.

1434.40 Purpose.
1434.41 Availability.
1434.42 Maturity of loans.
1434.43 Loan and purchase rates.
1434.44 Discounts.

Authority: Secs. 4 and 5, 62 Stat. 1070, 1072, as amended. (15 U.S.C. 714 b and c); Secs. 201, 401, 63 Stat. 1052, 1054 (7 U.S.C. 1446, 1421).

Subpart—1980-Crop Honey Loan and Purchase Program

§ 1434.40 Purpose.

This subpart contains program provisions which, together with (a) the Honey Price Support Regulations for 1977 and Subsequent Crops, (b) the Cooperative Marketing Association Eligibility Requirements for Price Support in Part 1425 of this chapter, and (c) any amendments to such regulations, set forth the requirements with respect to loans and purchases for 1980-crop honey.

§ 1434.41 Availability.

(a) *Loans.* Producers must request a loan on eligible 1980-crop honey on or before March 31, 1981.

(b) *Purchases.* Producers desiring to offer eligible honey not under loan for purchase must complete a purchase agreement (Form CCC–614) at the county ASCS office on or before June 30, 1981.

§ 1434.42 Maturity of loans.

Unless demand is made earlier, loans on honey will mature on June 30, 1981.

§ 1434.43 Loan and purchase rates.

(a) *Table and nontable honey.* The rate for the quantity of 1980-crop honey placed under loan or acquired under loan or purchase shall be the rate for the respective class and color set forth below:

Class and Color

Table Honey:	
1. White and lighter	51.1
2. Extra light amber	50.1
3. Light amber	49.1
4. Other table honey	47.1
Nontable honey	47.1

(b) *Objectionable flavor, fermentation, or caramelization.* The settlement value for a lot of honey delivered under loan or for purchase which grades substandard on account of objectional flavor, fermentation, or caramelization shall be the lower of its market value as determined by CCC or a value determined on the basis of the

loan and purchase rate for nontable honey.

(c) *Grade not certified.* The settlement value for a lot of honey, delivered under loan or for purchase, on which the grade cannot be certified shall be the lower of its market value as determined by CCC or a value as determined on the basis of the loan and purchase rate for nontable honey.

(d) *Substandard.* The rate for a lot of honey delivered under a loan or for purchase which grades substandard on account of defects or moisture or a combination of defects and moisture shall be adjusted by the discounts in § 1434.44.

§ 1434.44 Discounts.

(a) *Defects.* The loan and purchase rate for a lot of honey delivered under a loan or for purchase which grades substandard on account of defects shall be adjusted by the following discount:

	Discount (cts per lb)
Substandard on account of defects	2

(b) *Moisture.* The loan and purchase rate for a lot of honey delivered under a loan or for purchase which contains moisture in excess of 18.5 percent shall be adjusted by the following discounts which shall be in addition to the discount for defects:

	Discount (cts per lb)
Moisture percent:	
18.5	0.0
19.0	.5
19.5	1.0
20.0	1.5
20.5	2.0
21.0	2.5
21.5	3.0
22.0	3.5
22.5	4.0
23.0	4.5
23.5	5.0
24.0	5.5
24.5	6.0

(c) *Commingled storage.* The loan and purchase rate for a lot of honey tendered for loan or purchase by CCC while stored commingled in a warehouse, or delivered to a warehouse in bulk in satisfaction of a farm storage loan, shall be adjusted by the following discount:

	Discount (cts per lb)
Bulk Commingled	1.5

Signed at Washington, D.C., on November 21, 1980.

Bill Cherry,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-37100 Filed 11-26-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 1464

Tobacco Loan Program; 1980 Crop Grade Loan Rates

AGENCY: Commodity Credit Corporation.

ACTION: Final rule.

SUMMARY: This rule sets forth the schedule of loan rates applicable to the various grades of 1980-crop Ohio Filler tobacco, types 42–44; Connecticut Valley broadleaf tobacco, type 51; Connecticut Valley Havana seed tobacco, type 52; New York and Pennsylvania Havana seed tobacco, type 53; Southern Wisconsin tobacco, type 54, Northern Wisconsin, type 55, and Puerto Rican tobacco, type 46. These rates will provide the level of support required by the Agricultural Act of 1949, as amended. Eligible tobacco can be delivered for price support at the specified rates.

EFFECTIVE DATE: November 26, 1980.

ADDRESS: U.S. Department of Agriculture, Price Support and Loan Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Betty A. Lucas ASCS, (202) 447–6733. The Final Impact Statement considered in developing this final rule is available on request from Robert L. Tarczy, Price Support and Loan Division (ASCS), Room 3754 South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–6733.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "not significant."

In compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (45 FR 50988), initiation of review of these regulations contained in 7 CFR 1464.22, 1464.23, 1464.24, 1464.25, 1464.26, and 1464.27 for need, currency, clarity,and effectiveness is planned for the period August–October 1981.

The title and number of the Federal Assistance Program that the Final Rule applies to is: Title—Commodity Loans and Purchases; Number—10.051. This action will not have a significant impact on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

In accordance with the provisions of Section 108 of the Agricultural Act of 1949, as amended ("the Act"), the 1980 crops of Ohio Filler, types 42–44, New York and Pennsylvania Havana seed, type 53, Southern Wisconsin, type 54, and Northern Wisconsin, type 55, tobaccos are required to be supported at 72.9 cents per pound, and Puerto Rican tobacco, type 46 is required to be supported at 75.7 cents per pound, and Connecticut Valley broadleaf, type 51, and Connecticut Valley Havana seed tobacco, type 52, tobaccos are required to be supported at 101.0 cents per pound. It is expected that price support will be provided through loans to a producer cooperative marketing association which will receive eligible tobacco from producers and make price support advances to the producers through auction warehouses. The tobacco received will serve as collateral for the loan. Price support advances will be based on the loan rates for each grade. These loan rates average the required level of support when weighted by the anticipated grade percentages as authorized by Section 403 of the Act. Price support advances to producers will be the amounts determined by multiplying the pounds of each grade received by the applicable loan rate for that grade less one cent per pound which the producers' associations are authorized to deduct and to apply against overhead costs.

This regulation contains loan rates for individual grades of cigar-binder, type 51 and 52 and cigar-filler and binder, types 42–44, 53–55, Puerto Rican, type 46 tobacco, needed to implement the national average loan rates for such tobaccos which were announced on September 25, 1980.

Final Rule

Accordingly, 7 CFR Part 1464 is amended by revising §§ 1464.22 through 1464.27 to read as follows effective for the 1980 crops:

§ 1464.22 1980 Crop—Ohio Filler Tobacco, Types 42–44, Loan Schedule [1]

[Dollars per 100 lbs, farm sales weight]

Grade	Loan rate
Crop run (stripped together):	
X1	79
X2	72
X3	66
X4	60
Nondescript: N	51
Nonbinder X1	36

§ 1464.23 1980 Crop—Connecticut Valley Broadleaf Tobacco, Type 51, Loan Schedule [2]

[Dollars per 100 lbs, farm sales weight]

Grade	Loan rate
Binders:	
B1	126
B2	118
B3	106
B4	95
B5	83
Nonbinders: X1	69

§ 1464.24 1980 Crop—Connecticut Valley Havana Seed Tobacco, Type 52—Loan Schedule [2]

[Dollars per 100 lbs, farm sales weight]

Grade	Loan rate
Binders:	
B1	124
B2	116
B3	103
B4	94
B5	83
Nonbinder: X1	69

§ 1464.25 1980 Crop—New York and Pennsylvania Havana Seed Tobacco, Type 53, and Southern Wisconsin Tobacco, Type 54—Loan Schedule [1]

[Dollars per 100 lbs, farm sales weight]

Grade	Loan rate
Crop run:	
X1	80
X2	74
X3	67
Farm fillers:	
Y1	58
Y2	56
Y3	54
Nondescript:	
N1	52
N2	46

§ 1464.26 1980 Crop—Northern Wisconsin Tobacco, Type 55, Loan Schedule [1]

[Dollars per 100 lbs, farm sales weight]

Grade	Loan rate
Binders:	
B1	101.0
B2	91.5
B3	84.5
Strippers:	
C1	80.5
C2	74.0
C3	69.0
Crop run:	
X1	79.5
X2	73.0
X3	68.0
Farm fillers:	
Y1	56.0
Y2	54.0
Y3	49.0
Nondescript:	
N1	47.0
N2	43.0

§ 1464.27 1980 Crop—Puerto Rican Tobacco, Type 46, Loan Schedule [1]

[Dollars per 100 lbs, farm sales weight]

Grade	Loan rate
Price Block I (C1F and C1P)	82.50
Price Block II (X1F, X1P, and X1S)	75.50
Price Block III (X2T, X2F, X2P, and X2S)	65.50
Price Block IV (N)	27.00

[1] Tobacco is eligible for loan only if consigned by the original producer. No loan is authorized for tobacco graded "N1" or "N2" (nondescript) or "S" (scrap) or designated "No-C" (no grade). The cooperative association through which price support is made available is authorized to deduct from the amount paid the grower $1 per hundred pounds to apply against overhead and receiving costs.

[2] Tobacco is eligible for loan only if consigned by the original producer. No loan is authorized for tobacco graded "S" (scrap) or designated "No-C" (no grade). The cooperative association through which price support is made available is authorized to deduct from the amount paid the growers $1 per hundred pounds to apply against overhead and receiving costs.

(Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714(b), 714(c)); secs. 101, 106, 401, 403, 63 Stat. 1051, as amended, 1054, 74 Stat. 6 (7 U.S.C. 1441, 1445, 1421, 1423))

Signed at Washington, D.C. on November 21, 1980.

Bill Cherry,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-37108 Filed 11-26-80; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. 16382; Amdt. No. 21–52A]

Operating Limitations and Related Requirements for Certain Propeller-Driven Small Airplanes Designed for Agricultural Aircraft Operations or Fire Fighting Purposes; Correction

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule: Correction.

SUMMARY: On October 9, 1980, the FAA published its final rule prescribing requirements relating to certification and operation of certain propeller-driven, small airplanes designed for agricultural aircraft operations or fire-fighting purposes (45 FR 67064). That action included an amendment to § 21.115(a), as discussed in the preamble. However, on 45 FR 67066 in the statement of Amendment No. 2, it inadvertently indicated that paragraph (c) of § 21.115 was being amended rather than paragraph (a). Efforts to correct that error before it was published were not successful. Accordingly, this action makes the necessary correction, effective November 10, 1980, the effective date of the final rule.

EFFECTIVE DATE: November 10, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Richard N. Tedrick, Noise Policy and Regulatory Branch (AEE–110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 755–9027.

SUPPLEMENTARY INFORMATION: Since this amendment to the final rule is corrective in nature to reflect the intended amendment as discussed in the preamble to the final rule, I find that further notice and public procedure thereon is unnecessary and that good cause exists for making it effective in less than 30 days after its publication in the **Federal Register.**

Adoption of the Amendment

Accordingly, § 21.115(a) of the Federal Aviation Regulations (14 CFR 21.115(a)) is amended effective November 10, 1980, by deleting the words "§ 36.7" and substituting for them the words "§§ 36.7 and 36.9."

(Secs. 307(c), 313(a), 601(a), and 611(b), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(c), 1354(a), 1421, and 1431(b)); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); Title I, National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.); and Executive Order 11514, March 5, 1970)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves amendments that are corrective and editorial in nature and do not modify the substance of the regulation contemplated under the final rule, the anticipated impact is so minimal that it does not warrant preparation of a regulatory evaluation.

Issued in Washington, DC, on November 20, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80-37083 Filed 11-26-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-NW-39-AD, Amdt. 39-3982]

Airworthiness Directives; Boeing Model 747 Series Airplanes Equipped with B. F. Goodrich Off-wing Slides

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This Airworthiness Directive (AD) requires the replacement of escape slide bayonet/spring mechanical restraints with shear pin mechanical restraints in certain B. F. Goodrich off-wing escape slides. Replacement is necessary due to corrosion of the bayonet/spring type restraint, possibly causing failure of the escape slide to function during an emergency evacuation.

DATE: Effective date January 2, 1981.

ADDRESSES: The service bulletins specified in this directive may be obtained upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:
Mr. Roger S. Young, Airframe Branch, ANW-120S, Seattle Area Aircraft Certification Office, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

History

One escape slide failed during a deployment due to corrosion on the bayonet/spring type mechanical restraint. A survey of the operators reveal some corrosion on the off-wing slide restraints.

The bayonet/spring restraints were required to be installed on some of these escape slides by AD 70-26-01. This action takes precedence over the requirements of the previous AD for the off-wing slides and this installation is considered an equivalent modification to the bayonet/spring restraints required by that AD.

Public Participation

This amendment is based on a Notice of Proposed Rule Making (NPRM) (45 FR 54072, August 14, 1980). All interested persons have been given an opportunity to participate in the rulemaking of the amendment and due consideration has been given to all matters presented. Three comments were received.

Discussion of Comments

One commenter stated that aside from the one failure, only light corrosion on a few off-wing mechanical restraints has been found. The commenter recommended retrofit of the fleet, but that no AD action be taken to require replacement of all mechanical restraints; however, if AD action is taken, it was recommended that interior mounted slides be excluded.

The FAA has received no reports of corrosion on interior mounted slides and believes that the corrosion problem is limited to the offwing slides. The proposed rule, therefore, has been changed to exclude interior mounted slides.

Another commenter stated that most operators have their slides on a three year overhaul schedule and a shorter compliance time would result in excessive expenditures, and that based on the service history, the modification could be accomplished at the next scheduled overhaul without compromising safety.

The FAA, after reconsideration, concurs that the compliance time may be extended. As stated earlier, the corrosion problem does not affect interior mounted escape slides and further, a survey of the operators shows a smaller number of corroded parts than originally thought. Accordingly, the proposal is modified to extend the final compliance date from one to three years.

The third commenter would like to be "assured" that no escape slide failures would be caused by this problem between now and the final compliance time; otherwise, it was recommended that the compliance time be revised downward.

The FAA cannot "guarantee" there will be no more escape slide failures. However, consideration of the data with respect to the scope of the problem and service history does not justify establishing a compliance time which is unnecessarily short or which would create an undue economic burden to the operators involved. On the other hand, modification is necessary and is mandated. The revised schedule will eliminate the safety problem, without unnecessarily penalizing the operators.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

Boeing: Applies to all Model 747 airplanes equipped with B. F. Goodrich off-wing slides:

A. Within three (3) years after the effective date of this AD, unless already accomplished, install shear pin mechanical restraints to affected off-wing escape slides in accordance with B. F. Goodrich Service Bulletin 25-054 dated March 4, 1980, or later FAA approved revisions, or in a manner approved by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Region.

B. Upon request of the operator, an FAA maintenance inspector, subject to prior approval by the Chief, Seattle Area Aircraft Certification Office, FAA Northwest Region, may adjust the compliance date if the request contains substantiating data to justify the change.

Note.—This installation is considered an equivalent modification to the bayonet/spring restraints required by Amendment 39-1128 (35 FR 19170) AD 70-26-01.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the provisions of Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on November 18, 1980.

Charles R. Foster,

Director, Northwest Region.

The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 80-36832 Filed 11-26-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-WE-54-AD; Amdt. 39-3980]

Airworthiness Directives; Hughes Helicopters Model 369 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires removal from service of certain Bendix tail rotor drive shaft couplings on Hughes Helicopters Model 369 Series Helicopters. The AD is prompted by a report that Hughes has been unable to retrieve eleven (11) out of seventy-four (74) couplings which were improperly processed. These couplings have a greatly reduced service life which could result in fatigue failure of the tail rotor drive shaft coupling and loss of power to the tail rotor.

DATES: Effective within 25 hours' time in service from the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Hughes Helicopters, Division of Summa Corporation, Centinela and Teale Streets, Culver City, California 90230.

Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT:
Robert T Razzeto, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 563-6351.

SUPPLEMENTARY INFORMATION: there have been reports that Bendix released 74 couplings that were improperly processed and contained stress risers which drastically reduce service life of the part. All but 11 couplings have been recovered. Nine are Hughes Part No. 369H92564 and two are Hughes Part No. 369A5501. Since this condition is likely to exist or develop on other helicopters of the same type design an Airworthiness Directive (AD) is being adopted which requires inspection of Bendix tail rotor couplings to determine serial numbers installed and removal from service of specific tail rotor couplings on the Hughes Model 369 Series Helicopters.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Hughes Helicopters: Applies to Model 369 Series Helicopters certified in all categories.

Compliance is required as indicated unless already accomplished.

To prevent possible fatigue failure of the Hughes couplings in the tail rotor drive shaft and loss of tail rotor power, accomplish the following:

(a) Within 25 hours' time in service from the effective date of this AD, inspect the fore and aft tail rotor drive shaft couplings to determine the serial numbers of the installed couplings. The serial number is on the Bendix part number decal.

(b) For those helicopters with the following couplings installed, prior to further flight, remove couplings from service and label couplings "Unairworthy." Hughes Part No. 369H92564, serial numbers 0883U, 0932U, 0933U, 0935U, 0940U, 0950U, 0957U, 0961U, 0971U; and for Hughes Part No. 369A5501, serial numbers 10670U and 10672U. Replace removed coupling with like serviceable part.

(c) Installation of any coupling listed in paragraph (b) will render the helicopter unairworthy.

(d) Report the serial number of each suspect coupling listed in paragraph (b) found as a result of the inspection of paragraph (a) to the Chief, Engineering and Manufacturing Branch, FAA, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Negative reports are not necessary. Reporting approved by Office of Management and Budget, OMB No. 04/R0174.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate helicopters to a base for the accomplishment of inspections required by this AD.

(f) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Engineering and Manufacturing Branch, FAA Western Region.

This amendment becomes effective December 4, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Los Angeles, California on November 14, 1980.

John D. Mattson,

Director, FAA Western Region.

[FR Doc. 80-36827 Filed 11-26-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-NW-57-AD; Amdt. 39-3983]

Airworthiness Directives; Lockheed Model L-1011 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires modification of certain fuel shut-off valves on Lockheed Model L-1011 series airplanes. The AD is needed to prevent fuel leakage and associated fire hazard.

DATE: Effective January 2, 1981.

Compliance required within 600 hours' time in service from the effective date of this AD unless already accomplished.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts.

This information may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108 or 15000 Aviation Boulevard, Hawthorne, California 90261, Room 6W14.

FOR FURTHER INFORMATION CONTACT:
Sam Frick, Aerospace Engineer, ANW-140L, Federal Aviation Administration, Northwest Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009, Telephone (213) 536-6351.

SUPPLEMENTARY INFORMATION:
A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive requiring modification of certain fuel shut-off valves on Lockheed Model L-1011 series airplanes was published in the **Federal Register** at (45 FR 50810). The proposal was prompted by reports of fuel leakage involving Whittaker fuel shut-off valves on the Lockheed Model L-1011 series airplanes that could result in a possible fire. Since this condition is likely to exist or develop on other airplanes of the same type design, this AD requires modification of the fuel shut-off valve assembly on Lockheed L-1011 series airplanes.

Interested persons have been afforded an opportunity to participate in the

making of the amendment. The proposed rule specified compliance within 300 hours' time in service from the effective

The manufacturers specifications and procedures identified and described in this directive are incorporated herein and made a

Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108

Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

EFFECTIVE DATE: 0901 GMT, December 22, 1980.

14 CFR Part 71

making of the amendment. The proposed rule specified compliance within 300 hours' time in service from the effective date of this AD. Three operators are complying with the AD within 300 hours' time in service. One operator requested 600 hours compliance time, one operator requested 1800 hours compliance time and one operator requested 3000 hours compliance time. The main reason for the requested time increase is to enable the operator to modify the valves in their shops rather than on the airplane.

After careful review of all available data, including the comments submitted by the operators, the FAA has determined that sufficient evidence exists to justify the adoption of the proposed rule with a relieving change in the required compliance time from 300 to 600 hours' time in service from the effective date of this AD.

The FAA believes the compliance time of 600 hours' time in service should allow time for modification of the fuel shut-off valves without requiring removal of aircraft from service if the modifications are made to the valves while they are on the airplane. Modification of the valves on the airplane will also avoid disturbing the valve seals, thereby decreasing chance of valve seal leakage.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Lockhead-California Company: Applies to Model L–1011 series airplanes certificated in all categories.

Compliance is required as indicated, unless already accomplished.

To prevent fuel leakage of specified fuel shut-off valves which could result in fire hazard accomplish the following:

(a) Within 600 hours' time in service from the effective date of this AD, modify Whittaker fuel shut-off valves (12 per airplane) identified in paragraph 2.A of Lockheed Service Bulletin 093–28–062 Revision 1 dated August 20, 1980 by the incorporation of a mechanical pin retention device per Whittaker Controls Service Bulletin 139725–28–1 dated May 20, 1980. Valve assemblies with a gold anodized valve cover have been previously reworked and do not require further modification per this AD.

(b) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(c) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Los Angeles Area Aircraft Certification Office, FAA Northwest Region.

The manufacturers specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108 or 15000 Aviation Boulevard, Hawthorne, California 90261, Room 6W14.

This amendment becomes effective January 2, 1981.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89).

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979)).

Issued in Seattle, Washington on November 18, 1980.

Charles R. Foster,

Director, FAA Northwest Region.

The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 80-36631 Filed 11-26-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-NW-58-AD, Amdt. 39-3981]

Airworthiness Directives; McDonnell-Douglas DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) applicable to McDonnell Douglas DC–10 series airplanes by stating the specific landing weights which constitute overweight landings in regard to this AD. The amendment is needed to establish a firm definition of overweight landings for DC–10 operators.

DATES: Effective December 8, 1980. Compliance schedule—as prescribed in the body of the AD.

ADDRESS: McDonnell Douglas Corporation, Mr. William C. Starlof, Manager, Regulatory Affairs and FAA Liaison C1–290 (36–76) 3855 Lakewood Boulevard, Long Beach, California 98046.

Also, a copy of the service information may be reviewed at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108 or 15000 Aviation Boulevard, Hawthorne, California 90261, Room 6W14.

FOR FURTHER INFORMATION CONTACT: Doug Sharman, Aerospace Engineer, ANW–120L, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6374.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39–3780 (45 FR 35310) AD 80–11–05 which currently requires inspection of wing engine pylon and attachment for structural integrity after, among other things, hard or overweight landings on McDonnell Douglas DC–10 series airplanes. After issuing Amendment 39–3780 the FAA has determined that the overweight landing weights in regard to this AD should be specified. Therefore, the FAA is amending Amendment 39–3780 by specifying these weights for McDonnell Douglas DC–10 series airplanes.

Since this amendment provides a clarification only and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39–3780 (45 FR 35310) AD 80–11–05, by changing paragraph (j) 1. to read as follows:

1. Hard or overweight landings,

For the purposes of this AD, overweight landings are landings made at aircraft weights in excess of 369,000 pounds for DC–10–10 series airplanes and 436,000 pounds for DC–10–30 or DC–10–40 series airplanes.

Amendment 39–3780 became effective May 27, 1980.

This amendment becomes effective December 8, 1980.

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington on November 18, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Charles R. Foster,

Director, Northwest Region.

[FR Doc. 80-36633 Filed 11-26-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 80-NE-21, Amdt. 39-3966]

Airworthiness Directives; Rolls-Royce, Ltd., DART 506, 510, 511, 514, 515, 520, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 542, 543, 550, and All Variants Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In docket number 80–NE–21, Amendment 39–3966, appearing on Page 72632, Volume 45, No. 214, in the **Federal Register** of November 3, 1980, the closing date for submission of comments on the rule was omitted. Comments may be submitted until December 30, 1980.

FOR FURTHER INFORMATION CONTACT: Donald F. Perrault, Engine Standards Section, ANE–215, Engineering and Manufacturing Branch, Flight Standards Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; Telephone (617) 273–7337.

Issued in Burlington, Massachusetts, on November 17, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-36630 Filed 11-26-80; 8:45 a.m.]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-SO-55]

Designation of Transition Area, Immokalee, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This rule designates the Immokalee, Florida, Transition Area. A standard instrument approach procedure has been developed for the Immokalee Airport. Additional controlled airspace is required to protect aircraft executing the approach procedure. The airspace must be designated before the approach procedure can become effective.

EFFECTIVE DATE: 0901 GMT, December 22, 1980.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404–763–7646.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the **Federal Register** on Monday, September 22, 1980 (45 FR 62847), which proposed the designation of the Immokalee, Florida, Transition Area. This action adopts the proposal and thereby provides controlled airspace protection for aircraft executing the new standard instrument approach procedure, VOR RWY 18, at the Immokalee Airport. The airport operating status is hereby changed from VFR to IFR. No objections were received from the notice.

Adoption of the Amendment

Accordingly, Subpart G, § 71.181 (45 FR 445) of Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, December 22, 1980, by adding the following:

Immokalee, Florida

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Immokalee Airport (Lat. 26°25'45"N., Long. 81°24'00"W.).

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on November 18, 1980.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 80-36629 Filed 11-26-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-AWA-20]

Gulf of Alaska Control Area—Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: An error was noted in the description of the Gulf of Alaska Control Area. The current description is correct; however, the altitude has inadvertently been omitted. This action amends the description by adding the altitude.

EFFECTIVE DATE: November 28, 1980.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426–8525.

SUPPLEMENTARY INFORMATION: The Airspace Designation; Compilation of Regulations was published in the **Federal Register** on January 2, 1980. An error was discovered in the description of the Gulf of Alaska Control Area (45 FR 353). The 700 foot altitude floor designation was inadvertently omitted. This action corrects the description by adding the altitude.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Airspace Designation; Compilation of Regulations as published in the **Federal Register** on January 2, 1980, is corrected as follows:

Under § 71.163

In Gulf of Alaska

"From Lat. 60°09'00"N., Long. 144°30'00"W.," is deleted and "That airspace extending upward from 700 feet NSL bounded by Lat. 60°09'00"N., Long. 144°30'00"W.," is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on November 21, 1980.

invited on the rule. When the comment period ends, the FAA will use the

Airspace System, such as the commissioning of new navigational

incorporated by reference are available for examination or purchase as stated

effective at 0901 G.m.t. on the dates specified, as follows:

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

Issued in Washington, D.C., on November 21, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-37082 Filed 11-26-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 80-ASW-51]

Amendment to Restricted Area, Fort Sill, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule; request for comments.

SUMMARY: This action amends two restricted areas at Fort Sill, Okla., to return to public use, airspace no longer required as restricted airspace for military use.

DATES: Effective date November 28, 1980.

Comments must be received by December 29, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southwest Region, Attention: Chief, Air Traffic Division, Docket No. 80-ASW-51, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) changes the base altitudes of R-5601D and R-5601E from the surface to 500 feet AGL. The using agency no longer has a requirement for the airspace below 500 feet AGL in these areas and has agreed to this amendment. Because this action reduces a burden on the public by relieving a restriction, I find that notice and public procedure, and publication 30 days before the effective date are unnecessary; however, comments are invited on the rule. When the comment period ends, the FAA will use the comments and any other available information to review the regulation. Section 73.56 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) was published in the **Federal Register** on January 2, 1980, (45 FR 719).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 73.56 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (45 FR 719) is amended, effective 0901 GMT, November 28, 1980 as follows:

1. In § 73.56 under R-5601D, Fort Sill, Okla., designated altitudes are changed to read "500 feet AGL to 16,500 feet MSL."

2. In § 73.56 under R-5601E Fort Sill, Okla., designated altitudes are changed to read "500 feet AGL to 6,000 feet MSL."

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on November 21, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-37081 Filed 11-26-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 21102; Amdt. No. 1178]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials

incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * Effective January 22, 1981:

Philip, SD—Philip Airport, VOR-A, Amdt. 8

* * * Effective January 8, 1981:

Lanett, AL—Lanett Muni, VOR/DME-A, Original
Naples, FL—Naples Muni, VOR Rwy 4, Amdt. 1
Naples, FL—Naples Muni, VOR Rwy 22, Amdt. 1
Naples, FL—Naples Muni, VOR/DME-A, Amdt. 3
Cornelia, GA—Habersham County, VOR/DME Rwy 6, Amdt. 2
Jacksonville, IL—Jacksonville Muni, VOR Rwy 13, Amdt. 6
Muncie, IN—Delaware County-Johnson Field, VOR Rwy 14, Amdt. 11
Muncie, IN—Delaware County-Johnson Field, VOR Rwy 20, Amdt. 8
Muncie, IN—Delaware County-Johnson Field, VOR Rwy 32, Amdt. 9
Saginaw, MI—Tri-City, VOR Rwy 14, Amdt. 11
Saginaw, MI—Tri-City, VOR Rwy 32, Amdt. 7
St. Cloud, MN—St. Cloud Muni, VOR/DME Rwy 13, Amdt. 1
Belzoni, MS—Belzoni Muni, VOR/DME Rwy 21, Amdt. 2
Princeton (Rocky Hill), NJ—Princeton, VOR-A, Amdt. 5
Statesville, NC—Statesville Muni, VOR/DME Rwy 10, Amdt. 2
Woodsfield, OH—Monroe County, VOR/DME Rwy 25, Amdt. 2

* * * Effective December 25, 1980:

San Francisco, CA—San Francisco Intl. VOR Rwy 19L, Amdt. 7
Watsonville, CA—Watsonville Municipal, VOR/DME-A, Amdt. 3
Greenville, NC—Pitt-Greenville, VOR/DME-A, Amdt. 1, cancelled
Fort Stockton, TX—Pecos County, VOR Rwy 12, Amdt. 5
Fort Stockton, TX—Pecos County, VOR/DME-A, Amdt. 3

* * * Effective November 14, 1980:

Galesburg, IL—Galesburg Muni, VOR Rwy 2, Amdt. 1

* * * Effective November 13, 1980:

Melfa, VA—Accomack County, VOR/DME Rwy 3, Amdt. 3

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * Effective January 8, 1981:

LaCrosse, WI—LaCrosse Muni, LOC BC Rwy 36, Amdt. 8, cancelled

* * * Effective December 25, 1980:

Roswell, NM—Roswell Industrial Air Center, LOC BC Rwy 3, Amdt. 3

* * * Effective November 13, 1980:

Millville, NJ—Millville Muni, LOC Rwy 10, Amdt. 2

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * Effective January 22, 1981:

Mt. Pleasant, IA—Mt. Pleasant Muni, NDB Rwy 33, Amdt. 3
Sac City, IA—Sac City Muni, NDB Rwy 36, Amdt. 1

* * * Effective January 8, 1981:

Denver, CO—Arapahoe County, NDB Rwy 34R, Amdt. 5
Naples, FL—Naples Muni, NDB Rwy 4, Amdt. 3
Naples, FL—Naples Muni, NDB Rwy 22, Amdt. 3
Hinesville, GA—Liberty County, NDB-A, Original
Muncie, IN—Delaware County-Johnson Field, NDB Rwy 32, Amdt. 4
Charlevoix, MI—Charlevoix Muni, NDB Rwy 8, Amdt. 5
Houghton Lake, MI—Roscommon County, NDB Rwy 27, Amdt. 6
Statesville, NC—Statesville Muni, NDB Rwy 20, Amdt. 4
Reidsville, NC—Rockingham County NC Shiloh, NDB Rwy 31, Original

* * * Effective December 25, 1980:

Chino, CA—Chino, NDB-C, Original
Burns, OR—Burns Muni, NDB Rwy 29, Original, cancelled

* * * Effective November 13, 1980:

Melfa, VA—Accomack County, NDB Rwy 3, Amdt. 4

* * * Effective October 24, 1980:

Denton, TX—Denton Muni, NDB Rwy 17, Amdt. 2

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * Effective January 8, 1981:

Denver, CO—Jeffco, ILS Rwy 29R, Amdt. 6
Denver, CO—Arapahoe County, ILS Rwy 34R, Amdt. 2
Muncie, IN—Delaware County-Johnson Field, ILS Rwy 32, Amdt. 1

* * * Effective December 25, 1980:

San Francisco, CA—San Francisco Intl., ILS Rwy 19L, Amdt. 16
Detroit, MI—Detroit Metropolitan-Wayne County, ILS Rwy 3R, Amdt. 5

* * * Effective November 14, 1980:

Galesburg, IL—Galesburg Muni, ILS Rwy 2, Amdt. 3

* * * Effective October 24, 1980:

Denton, TX—Denton Muni, ILS Rwy 17, Amdt. 2

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * Effective January 8, 1981:

Denver, CO—Arapahoe County, RADAR-1, Amdt. 9
Springfield, IL—Capital, RADAR-1, Amdt. 4

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *Effective January 8, 1981:*

Denver, CO—Arapahoe County, RNAV Rwy 28, Amdt. 2
Denver, CO—Jeffco, RNAV Rwy 29R, Amdt. 6
Jacksonville, IL—Jacksonville Muni, RNAV Rwy 31, Amdt. 3
Statesville, NC—Statesville Muni, RNAV Rwy 2, Amdt. 2

(Secs. 307, 313(a), 601, 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on November 21, 1980.

John S. Kern,
Chief, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 80-37046 Filed 11-26-80; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 4

Location of Freedom of Information Act Reference Facilities; Delegation of Initial Denial Authority

AGENCY: Department of Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce revises Appendices B and C to its Freedom of Information Act rules. Appendix B contains the names and addresses of the Department's Freedom of Information public facilities. Appendix C lists the officials authorized to make initial denials for Freedom of Information requests. The purpose of this revision is to reflect organizational changes and address changes.

EFFECTIVE DATE: November 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Donald S. Budowsky, U.S. Department of Commerce, Office of Organization and Management Systems, Washington, D.C. 20230, telephone (202) 377-4217.

SUPPLEMENTARY INFORMATION: Since these revisions involve internal agency procedures, the Administrative Procedure Act (5 U.S.C. 553) provisions requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Also, this regulation is not significant under Executive Order 12044.

The types of revisions made to the Department of Commerce Freedom of Information Act rules, Appendices B and C, include the following:

Throughout each appendix, the title of the Industry and Trade Administration is changed to the International Trade Administration, and the title of the Office of Minority Business Enterprise is changed to the Minority Business Development Agency. All references to the United States Fire Administration are deleted because that organization has been transferred to the Federal Emergency Management Agency.

Other revisions to Appendix B are changes in address or telephone number of the public reference facilities of the Office of the Secretary, Bureau of Economic Analysis, Economic Development Administration, International Trade Administration, and the National Technical Information Service.

Other revisions to Appendix C reflect organizational changes or the selection of different officials with initial denial authority in the following Departmental components: Office of the Secretary, Bureau of the Census, Bureau of Industrial Economics, Economic Development Administration, International Trade Administration, National Oceanic and Atmospheric Administration, National Technical Information Service, National Telecommunications and Information Administration, and United States Travel Service.

Incorporating these changes, 15 CFR Part 4, Appendices B and C, are revised to read as follows:

Appendix B—Freedom of Information Public Facilities and Addresses For Requests For Records

The following public reference facilities have been established within the Department of Commerce (a) for the public inspection and copying of materials of particular units of the Department under 5 U.S.C. 552(a)(2) or determined to be available for response to requests made under 5 U.S.C. 552(a)(3); (b) for furnishing information and otherwise assisting the public concerning Departmental operations under the Freedom of Information Act; and (c) as addresses, in some instances, for the receipt and processing of requests for records under 5 U.S.C. 552(a)(3). Units having separate mailing addresses are noted below. Requests should be addressed to the unit which the requester knows or has reason to believe has possession or control or has primary concern with the records sought. Otherwise, requests should be addressed to the Central Reference and Records Inspection Facility.

Department of Commerce Freedom of Information Central Reference and Records Inspection Facility, Room 5317, Department of Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230. Phone (202) 377-4217. This facility serves the Office of the Secretary of Commerce and all other units of the Department not identified below as explained at Sec. 15 CFR 4.4(c) and (d)

Bureau of the Census, Freedom of Information Request Control Desk, Room 2428, Federal Building 3, Washington, D.C. 20233. Phone (301) 763-5262.

Bureau of Economic Analysis, Public Reference Facility, 11th Floor, Tower Building, 1401 K Street, NW., Washington, D.C. Phone (202) 523-0505. Mailing address: Bureau of Economic Analysis, Freedom of Information Request Control Desk, Room 508, Tower Building, 1401 K Street, NW., Washington, D.C. 20230.

Economic Development Administration, Freedom of Information Records Inspection Facility, Room 7019, Department of Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230. Phone (202) 377-5113. Mailing address of Regional EDA Offices:

Atlantic Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Federal Reserve Bank Building, Room 600, 105 North 7th Street, Philadelphia, Pennsylvania 19106.

Southeastern Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Suite 700, 1365 Peachtree Street, NE., Atlanta, Georgia 30309.

Rocky Mountain Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, Suite 505, Title Building, 909 17th Street, Denver, Colorado 80202.

Midwestern Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, 175 West Jackson Boulevard, Suite A-1630, Chicago, Illinois 60604.

Western Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, 1700 Westlake North, Suite 500, Seattle, Washington 98109.

Southwestern Regional Office, EDA, U.S. Department of Commerce, Freedom of Information Request Control Desk, American Bank Tower, Suite 600, 221 West Sixth Street, Austin, Texas 78701.

International Trade Administration, Freedom of Information Records Inspection Facility, Room 3102, Department of Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230. Phone (202) 377-3031.

Maritime Administration, Freedom of Information Records Inspection Facility, Room 3099-B, Department of Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230. Phone (202) 377-2188. Mailing address: Maritime Administration, Freedom of Information Request Control Desk, Secretary, Maritime Administration, Room 3099-B, U.S. Department of Commerce, Washington, D.C. 20230.

Minority Business Development Administration, Freedom of Information Office, Room 5067, Department of Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230. Phone (202) 377-5841.

National Bureau of Standards, Freedom of Information Records Inspection Facility, Room E120, Administration Building, Gaithersburg, Maryland. Phone (301) 921-2425. Mailing address: National Bureau of Standards, Freedom of Information Request Control Desk, Room A1128, U.S. Department of Commerce, Washington, D.C. 20234 (Gaithersburg, Maryland).

National Oceanic and Atmospheric Administration, Public Reference Facility, Administrative Documentation Officer (AD 312), Room 324, Building 5, Washington Science Center, 6010 Executive Boulevard, Rockville, Maryland 20852. Phone (301) 443-8192.

National Technical Information Service, Freedom of Information Records Inspection Facility, 5285 Port Royal Road, Springfield, Virginia 22161. Phone (703) 487-4634.

National Telecommunications and Information Administration, Freedom of Information Request Control Desk, 1800 G Street, NW., Washington, D.C. 20504. Phone (202) 377-1800.

Patent and Trademark Office, Freedom of Information Records Inspection Facility, Room 11c12, Building 3, Crystal Plaza, Arlington, Virginia. Phone (703) 557-3525. Mailing address: Patent and Trademark Office, Freedom of Information Request Control Desk, Box 50, Washington, D.C. 20231.

United States Travel Service, Freedom of Information Request Control Desk, Room 1524, Department of Commerce Building, 14th Street between Constitution and E Street, NW., Washington, D.C. 20230. Phone (202) 377-3811.

Appendix C—Officials Authorized to Make Initial Denials of Requests For Records

The following officials of the Department have been delegated authority to initially deny requests for records of their respective units for which they are responsible. (The listings are subject to change because of organizational revisions or new delegations. Accordingly, the Director, Office of Organization and Management Systems is specifically authorized to amend or revise this Appendix from time to time in order to reflect such changes.)

Office of the Secretary:

Office of the Deputy Secretary:
Director, Office of Small and Disadvantaged Business Utilization.
Office of the Associate Deputy Secretary:
Director, Office of Business Liaison;
Director, Office of Program Coordination;
Director, Office of Regional Affairs;
Director, Office of Regional Development;
Director, Office of State and Local Government Assistance.
Office of Consumer Affairs: Director.
Office of Public Affairs: Director and Deputy Director.

Office of the Assistant Secretary for Congressional Affairs:

Deputy Assistant Secretary for Congressional Affairs.

Office of the Assistant Secretary for Policy:

Deputy Assistant Secretary for Domestic Economic Policy Coordination;
Deputy Assistant Secretary for Ocean, Resource, and Scientific Policy Coordination;
Deputy Assistant Secretary for International Policy Coordination;
Director, Office of Policy Planning and Programs.

Office of Inspector General: Assistant Inspector General for Auditing; Assistant Inspector General for Investigations.

Office of the General Counsel: Deputy General Counsel; Assistant General Counsel for Administration.

Office of the Assistant Secretary for Productivity, Technology and Innovation.

Deputy Assistant Secretary for Productivity, Technology, and Innovation

Office of the Chief Economist of the Department of Commerce: Deputy Chief Economist.

Office of the Assistant Secretary for Administration:

Office of the Deputy Assistant Secretary for Acquisitions, Grants, and Information Management:
Office of Acquisition and Grants Management: Director.
Office of Information Management: Director.
Office of the Deputy Assistant Secretary for Resources Management:
Office of Budget: Director.
Office of Civil Rights: Director.
Office of Financial Management: Director.
Office of Organization and Management Systems:
Director; Deputy Director; Chiefs, Emergency Planning and Coordination Division, Information Policy Division, Management Analysis Division.
Office of Personnel:
Director; Deputy Director; Chief, Medical Division; Policy Officer, Policy Staff.
Office of Program Evaluation: Director.
Office of the Deputy Assistant Secretary for Operations:
Office of Administrative Services: Director and Deputy Director.
Office of Budget Operations: Director.
Office of Finance Operations: Director.
Office of Intelligence Liaison: Director and Deputy Director.
Office of Investigations and Security: Director and Deputy Director.
Office of Personnel Operations: Director.
Office of Publications: Director and Deputy Director.

Bureau of Census: Associate Director for Administration.

Bureau of Economic Analysis: Deputy Director.

Bureau of Industrial Economics: Administrative Officer.

Economic Development Administration: Director and Deputy Director, Office of Public Affairs.

International Trade Administration:
Administration:
Director, Office of Management and Systems.
Director, Office of Administrative Support.
Director, Office of Budget.
Director, Office of Personnel.
Director, Office of Public Affairs.
U.S. Commercial Service:
Deputy Assistant Secretary for the U.S. Commercial Service.
Foreign Commercial Service:
Director General of the Foreign Commercial Service.
Office of the Assistant Secretary for Trade Development:
Director, Office of Export Promotion.
Director, Office of Export Marketing Assistance.
Director, Office of Export Planning and Evaluation.
Director, Office of Country Marketing.
Director, Office of East-West Trade Development.
Director, Office of East-West Country Affairs.
Director, Office of East-West Policy and Planning.
Office of the Assistant Secretary for International Economic Policy:
Director, Office of Trade Policy.
Director, Office of Commodity Policy.
Director, Office of International Economic Relations.
Director, Office of Foreign Investment in the U.S.
Director, Office of International Finance and Investment.
Director, Office of Textiles and Apparel.
Director, Office of Planning and Research.
Director, Office of International Sectoral Policy.
Office of the Assistant Secretary for Trade Administration:
Director, Office of Export Administration.
Director, Office of Antiboycott Compliance.
Director, Office of Industrial Mobilization.
Deputy to the Deputy Assistant of Secretary for Import Administration.
Director, Office of Investigations.
Director, Office of Policy.
Director, Office of Compliance.
Director, Statutory Import Programs Staff.
Director, Foreign Trade Zones Staff.

Maritime Administration: Secretary, Maritime Administration.

Minority Business Development Agency: Chief Counsel and Deputy Chief Counsel.

National Bureau of Standards: Director of Administrative and Information Systems.

National Oceanic and Atmospheric Administration:
Associate Administrator. Director of the NOAA Corps.
Assistant Administrator for Policy and Planning.
Assistant Administrator for Fisheries.
Assistant Administrator for Coastal Zone Management.
Assistant Administrator for Research and Development.
Director, Environmental Research Laboratories.
Director, Office of Marine Pollution Assessment.
Director, Office of Sea Grant.

Assistant Administrator for Oceanic and

SUMMARY: The Commission announces

11Ac1-1 under the Act ("Quote Rule").[5]

reported in the consolidated system regardless of whether that sale was on a

position in the security, thus making it more difficult to liquidate that position

the exemption should not present the potential for manipulative abuse that the rule

Assistant Administrator for Oceanic and Atmospheric Services.
Director, Environmental Data and Information Service.
Director, National Ocean Survey.
Director, National Weather Service.
Director, Ocean Technology and Engineering Services.
Assistant Administrator for Management and Budget.
Assistant Administrator for Satellites.
National Technical Information Service: Associate Director, Financial and Administrative Management; Chief, Management and Organization Division.
National Telecommunications and Information Administration: Chief Counsel.
Director, Office of International Affairs.
Director, Office of Administration.
Director, Office of Congressional and Public Affairs.
Associate Administrator for Telecommunications Applications.
Associate Administrator for Federal Systems and Spectrum Management.
Deputy Associate Administrator for Federal Systems and Spectrum Management.
Director, Government Communications.
Director, Spectrum Plans and Policies.
Associate Administrator for Institute for Telecommunication Sciences.
Deputy Director, Institute for Telecommunication Sciences.
Associate Administrator for Policy Analysis and Development.
Deputy Associate Administrator for Policy Analysis and Development.
Director, Domestic Common Carrier Industry and Market Structure Program.
Director, Broadcasting, Cable & Mobile Radio Policy Program.
Director, Economic Assessment of Spectrum Scarcity Program.
Director, International Policy Program.
Director, Information Policy Program.
Patent and Trademark Office: Solicitor of Patents, or in his absence the Deputy Solicitor.
United States Travel Service: Director, Office of Management and Administration; Director, Office of Marketing and Field Operations.

(5 U.S.C. 552, as amended by Pub. L. 94-409, 5 U.S.C. 553; 5 U.S.C. 301; Reorganization Plan No. 5 of 1950)

Dated: November 20, 1980.

Elsa A. Porter,

Assistant Secretary for Administration.

[FR Doc. 80-36979 Filed 11-28-80; 8:45 am]

BILLING CODE 3516-17-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-17314; File No. S7-842]

Amendments to Rule 10a-1 Relating to Short Selling by Brokers and Dealers

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendments.

SUMMARY: The Commission announces the adoption of amendments to its rule governing short sales in order to eliminate a potential conflict between that rule and its firm quotation rule. The amendments modify the rule to (1) permit a broker-dealer, under certain specified circumstances, to effect short sales of a security at a price equal to the price associated with that broker-dealer's most recently communicated offer for that security, and (2) provide a new definition of the term "third market maker."

EFFECTIVE DATE: November 20, 1980

FOR FURTHER INFORMATION CONTACT: Suzanne Brannan, (202) 272-2889, Room 391, regarding this release or questions generally relating to market maker obligations under Rule 10a-1, or Carlos M. Morales, (202) 272-3103, Room 301, regarding other aspects of Rule 10a-1, including broker-dealers' and investors' obligations under the Rule, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("SEC" or "Commission") today announced the adoption of amendments to Rule 10a-1 ("Rule")[1] under the Securities Exchange Act of 1934 ("Act"),[2] the Commission's antimanipulative rule regulating short sales.[3] The amendments modify the Rule to provide that a broker-dealer may execute a short sale in a reported security,[4] under certain specified circumstances, at a price equal to the price associated with the offer he most recently communicated pursuant to Rule 11Ac1-1 under the Act ("Quote Rule").[5] The modifications are designed to resolve a conflict between the "firmness requirement" of the Quote Rule[6] and Rule 10a-1. Specifically, situations have arisen in the current trading environment where a broker-dealer must either "back away" from his current quotation, thereby possibly violating the Quote Rule, or execute an order and possibly violate Rule 10a-1.[7] In addition, the amendments provide a new definition of the term "third market maker."[8]

I. Equalizing Exemptions

A. Introduction and Background

Rule 10a-1 generally provides that short sales in reported securities may be effected only on a plus tick (*i.e.*, at a price above the price at which the immediately preceding last sale was effected) or a zero-plus tick (*i.e.*, at a price equal to the last sale if the last preceding transaction at a different price was at a lower price), established by reference to the last sale price reported from any market in the consolidated system.[9] However, paragraph (e)(5) of the Rule, commonly referred to as the "equalizing exemption," provides an exception from this general provision which allows a market maker (*i.e.*, an exchange specialist, registered exchange market maker or third market maker) to effect short sales for his own account at a price equal to the last sale price

[1] 17 CFR 240.10a-1.

[2] 15 U.S.C. 78a *et seq.*

[3] Short selling has been the subject of Commission regulation since 1938. *See* Securities Exchange Act Release No. 13091, at 5 n.2, (December 21, 1976), 41 FR 56530, 56530 n.2. The Commission consistently has stated that such regulation should accomplish three objectives: (1) to allow relatively unrestricted short selling in advancing markets, (2) to prevent short selling at successively lower prices, thus eliminating short-selling as a tool for driving the market down, and (3) to prevent short sellers from accelerating a declining market by exhausting all remaining bids at one price level causing successively lower prices to be established by long sellers. *See* Securities Exchange Act Release No. 11468 (June 12, 1975), 40 FR 25443.

[4] Reported securities include (1) any common stock, long term warrant or preferred stock registered or admitted to unlisted trading privileges on either the American ("Amex") or New York ("NYSE") Stock Exchanges; (2) any common stock, long term warrant, or preferred stock registered on any exchange or admitted to unlisted trading privileges thereon which substantially meets either Amex or NYSE original listing requirements and (3) any right to acquire any of the securities described in (1) and (2) which is traded on the same exchange as such security. *See* Rule 11Aa3-1 under the Act, 17 CFR § 240.11Aa3-1.

[5] 17 CFR 240.11Ac1-1. The Quote Rule requires all national securities exchanges and associations to establish and maintain procedures for collecting from their members bids, offers and quotation sizes with respect to securities reported in the consolidated transaction reporting system ("consolidated system") and for making such bids, offers and sizes available to quotation vendors. It also requires that every exchange member and third market maker promptly communicate to his exchange or association, pursuant to procedures established by the exchange or association, his bids, offers, and quotation sizes. This is referred to as the "mandatory participation requirement" of the Quote Rule.

[6] The Quote Rule requires that, subject to certain exceptions, the broker or dealer responsible for communicating a quotation shall be obligated to execute any order to buy or sell presented to him, other than an odd-lot order, at a price comprising the responsible broker or dealer's published bid or offer in any amount up to his published quotation size. This is referred to as the "firmness requirement" of the Quote Rule.

[7] *See* text accompanying notes 11-14, *infra.*

[8] *See* text accompanying notes 23-26, *infra.*

[9] Rule 10a-1(a)(1). In addition, the Rule permits an exchange to elect to have the permissibility of short sales in reported securities determined by reference to the last sale on that exchange rather than by reference to the last sale reported in the consolidated system. Rule 10a-1(a)(2). To date, only the Amex and NYSE have made such elections. *See* Securities Exchange Act Release Nos. 12201 (March 12, 1976), 41 FR 11907, and 12357 (April 21, 1976), 41 FR 17633.

reported in the consolidated system regardless of whether that sale was on a zero-plus tick.[10]

The exception provided by paragraph (e)(5) of the Rule permitted market makers to effect short sales on a zero-minus tick, but did not permit short sales, either as dealer or agent, at a price lower than the last sale reported in the consolidated system (*i.e.*, on a minus tick). As a result, there was a potential conflict between the operation of Rule 10a-1 and the "firmness requirement" of the Quote Rule[11] in situations where execution of an offer by a particular broker or dealer would be rendered unlawful because of a subsequent trade-through even though the offer had been at a price permitted under Rule 10a-1 at the time when that broker or dealer had communicated it to his exchange or association for inclusion in the consolidated quotation system.

The following example illustrates the potential conflict: Assume that a market maker who currently has a short position in *XYZ* stock communicates an offer which, if executed against at that time, would be in compliance with Rule 10a-1, *e.g.*, at a price of 20⅛ when the last sale reported in the consolidated system is also 20⅛. Furthermore, assume that there is a "trade-through"[12] of the market maker's offer on another market center which causes an up-tick to be reported in the consolidated system at 20¼. Finally, assume that a buy order is sent to the market maker after the trade-through at 20¼ has been reported. Under these circumstances, in order to ensure compliance with Rule 10a-1, the market maker must refuse to execute the order at his offer of 20⅛ because doing so would result in a short sale being effected on an impermissible minus tick (*i.e.*, at a price below the price at which the immediately preceding last sale was effected). In refusing to effect the trade, however, he would arguably violate the "firmness requirement" of the Quote Rule. In addition, when a market maker "backs away" from an order, he would, in effect, be revealing that he had a short position in the security, thus making it more difficult to liquidate that position at favorable prices.

In order to resolve the conflict between the requirements of Rules 10a-1 and 11Ac1-1,[13] the Commission proposed an amendment to paragraph (e) of Rule 10a-1. The amendment would permit a market maker to effect short sales of a security at a price equal to the price associated with the market maker's most recent offer for that security communicated pursuant to the Quote Rule, if the price associated with that offer, when communicated, was equal to or greater than the last sale for such security reported in the consolidated system.[14]

In response to the Proposal Release, the Commission received comments from three exchanges, the NASD, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("ML"), the American Bar Association ("ABA") and the Securities Industry Association ("SIA").[15] All of the commentators were generally in support of the proposed amendment. For example, the NYSE stated:

> The [NYSE] supports the proposed amendment to the equalizing exemption in the short sale rule as a further step designed to resolve trade-through related problems. Moreover, we concur that as a general matter the exemption should not present the potential for manipulative abuse that the rule was designed to prevent.[16]

However, several commentators indicated that the proposed amendment did not go far enough in addressing problems created by the Quote Rule and suggested that the proposed exemption be extended to non-market maker orders.[17] Specifically, these commentators noted that, in addition to orders for their own account, specialists and other floor members also represent, often as part of their displayed quotations, orders of other market participants (*e.g.*, public agency orders or proprietary orders of non-market makers) which also might be ineligible for execution under Rule 10a-1 following a trade-through in another market.[18] Accordingly, these commentators suggested that Rule 10a-1 should be further amended to allow such orders to be executed if they were otherwise in compliance with Rule 10a-1 at the time they were communicated by a responsible broker or dealer pursuant to the Quote Rule. In addition, ML proposed that the Rule be further modified to permit what it termed "passive" short selling, *i.e.*, to permit any market maker to lower its current offer and execute orders at that price even if the execution were to result in a trade on a minus tick without a trade-through.[19] ML contended that this proposed revision would narrow spreads and enhance competition

[10] Rule 10a-1(e)(5). An exchange may, however, prohibit use of the equalizing exemption by its registered specialists and market makers. To date, only the NYSE has done so.

[11] 17 CFR § 240.11Ac1-1(c)(2).

[12] The term "trade-through" generally refers to the execution of an order in one market center at a price inferior to that being displayed by another market center. It should be noted that, with respect to trade-throughs effected on market centers linked through the Intermarket Trading System ("ITS"), the Commission has taken the position that such trade-throughs constitute "unacceptable behavior." Moreover, the Commission has directed the ITS participants to take prompt action to resolve the trade-through problem. *See* Securities Exchange Act Release No. 15671 (March 22, 1979), 44 FR 20360.

[13] This conflict does not currently exist with respect to short sales effected on the NYSE because, as noted above, *see* notes 9 and 10, *supra*, this exchange uses only last sale reports from its own market to measure compliance with Rule 10a-1 and therefore would not be affected by trade-throughs effected in other markets.

[14] Securities Exchange Act Release No. 16984 (July 8, 1980) ("Proposal Release"), 45 FR 47159. It is the Commission's understanding that such an amendment also would ensure that the National Association of Securities Dealers' ("NASD") NASDAQ System, which is presently being upgraded and enhanced to include an automated execution facility, could be operated in compliance with Rule 10a-1. The enhanced NASDAQ System is expected to begin operation, on a pilot basis, in the near future.

[15] Letter from Warren F. Grienenberger, Chairman, Federal Regulation of Securities Committee, and John M. Liftin, Chairman, Subcommittee on Securities Markets and Market Regulation, Section of Corporation, Banking, and Business Law, ABA, to George A. Fitzsimmons, Secretary, SEC, dated September 15, 1980 ("ABA Letter"); letter from William A. Schreyer, President, ML, to George A. Fitzsimmons, Secretary, SEC, dated August 25, 1980 ("8/25/80 ML Letter"); letter from Allan A. Bretzer, Vice President, Market Regulation, Midwest Stock Exchange, Inc. ("MSE"), to George A. Fitzsimmons, Secretary, SEC, dated September 10, 1980 ("MSE Letter"); letter from Gordon S. Macklin, President, NASD, to George A. Fitzsimmons, Secretary, SEC, dated August 25, 1980 ("NASD Letter"); letter from Charles Forman, First Vice President, Equities Division, Pacific Stock Exchange, Inc. ("PSE"), to George A. Fitzsimmons, Secretary, SEC, dated September 8, 1980 ("PSE Letter"); letter from Joseph McLaughlin, Chairman, Federal Regulation Committee, SIA, to George A. Fitzsimmons, Secretary, SEC, dated August 25, 1980 ("SIA Letter"). These comments are contained in the Commission's Public File No. S7-842.

[16] NYSE Letter, *id.* at 2. The NYSE also noted that it would be appropriate for self-regulatory organizations to monitor trading activity pursuant to the amendment. *Id.*

[17] ABA Letter, *supra* note 15, at 2; MSE Letter, *supra* note 15, at 2; and PSE Letter, *supra* note 15, at 1.

[18] The PSE illustrated its concern with the following hypothetical:

> A PSE specialist who is short *XYZ* stock quotes an offer for 1,000 shares at 20⅛ at a time when the last sale reported in the consolidated system was such that the offer, if executed at that time, would be in compliance with Rule 10a-1. This offer for 1,000 shares consists of 300 shares offered by the specialist, a 400 share limit order in the specialist's book, and an offer from the crowd at the specialist's post for 300 shares, all at 20⅛. A "trade-through" of this offer occurs on another exchange and an up-tick is reported in the consolidated system at 20¼. A buy order for 1,000 shares at 20⅛ is then sent to PSE—after the trade-through at 20¼ is reported. Under the current statement of the exemption provision of the proposed amendment, it would seem that filling the complete order for 1,000 shares is not permissible, since the exemption, by its terms, applies only to a sale by a market maker for its own account.
>
> PSE Letter, *supra* note 15, at 1.

[19] 8/25/80 ML Letter, *supra* note 15, at 1-3. ML previously had raised its proposal in connection with the Commission's proposed Rule to designate national market system securities. *See* letter from William A. Schreyer, President, ML, to George A. Fitzsimmons, Secretary, SEC, dated August 13, 1979, contained in Public File No. S7-787.

between market makers who are long

With respect to the ML proposal, the

the availability of exceptions to Rule

manipulative concerns, the Commission has determined to adopt the new

third market makers who may qualify for various other exceptions to the Rule

for such security, or any over-the-counter sale by a third market maker to

between market makers who are long and those who are short.

B. Discussion

After analyzing these comments, the Commission has determined to adopt the proposed amendment modified to permit non-market maker orders to be executed following trade-throughs. Specifically, in addition to amending paragraph (e)(5) to permit market makers to execute transactions at their offer following a trade-through, the Commission has added paragraph (e)(11) to Rule 10a–1 which provides, in substance, that a broker-dealer may effect a short sale at a price equal to the price associated with his most recently communicated offer up to the size of that offer [20] so long as the offer was at a price which, when communicated, was permissible under Rule 10a–1.[21] In light of the fact that executions pursuant to these new exemptions would occur almost exclusively as the result of trade-throughs, the Commission does not believe that these amendments provide an opportunity for the type of manipulation the Rule was designed to prevent.[22]

With respect to the ML proposal, the Commission recognizes that by limiting the application of the amendments to trade-through situations, market makers who have flat or short positions may often be limited in their ability to compete with market makers with long positions. However, the Commission is particularly concerned that such a revision also might substantially increase the opportunities for market makers to manipulate the price of a security. The Commission is particularly concerned that, with respect to securities for which the spreads may be a ¼ of a point or greater, the proposed revision might eliminate most practical restraints on short selling by market makers. As a result, the Commission believes it would be inappropriate, in view of the potential for manipulative abuse, to adopt ML's proposed revision at this time.

II. Definition of the Term Third Market Maker.

In addition to revising the equalizing exemption, the Commission also proposed a new definition of the term "third market maker." At present, the term "third market maker" is limited to those over-the-counter dealers [23] who have filed notice of their exempt credit status on Form X–17A–16(1) under the Act.[24] Because this definition restricts the availability of exceptions to Rule 10a–1 in circumstances which do not appear to raise any manipulative concerns, the Commission proposed to revise the definition to base it, in large part, on the definition provided in the Quote Rule.[25] In so doing, the Commission noted that, in light of the mandatory participation requirement of the Quote Rule, the exceptions contained in paragraphs (e)(3), (e)(4) and (e)(5) of Rule 10a–1 would be available, with respect to short sales of reported securities, only if an over-the-counter dealer communicates quotations for such a reported security to the NASD pursuant to the Quote Rule.[26]

All of the commentators who discussed the proposed definition supported the new definition.[27] The ABA believed that by "eliminat[ing] the indirect regulatory constraints on the activities of third market makers currently imposed by the existing exemption * * * the proposed amendment will provide an enhanced opportunity for third market markets to compete in a national market system environment * * *."[28] In addition, the SIA "specifically agree[d] with the Commission that a dealer's short sales of a reported security should be eligible for the exemptions from Rule 10a–1 applicable to transactions by third market makers only if the dealer communicates quotations for that security in accordance with Rule 11Ac1–1."[29] In light of these comments and the absence of any significant

[20] The Commission has determined to limit the scope of the non-market maker exception to the size of the broker or dealer's displayed offer because the need for the exception only arises to the extent that the broker or dealer's obligations under the Quote Rule may conflict with Rule 10a–1. Because the firmness requirement of the Quote Rule only applies to a broker or dealer's displayed offer, it appears appropriate to limit the exception to the size of such displayed offer. A similar limitation has not been included for market maker trading pursuant to the equalizing exception because that exception, itself, would allow a market maker to continue to offer stock at the last sale price reported in the consolidated system following any completed transaction.

[21] Of course, executions pursuant to new paragraph (e)(11) for the account of a non-market maker member of an exchange must also comply with Section 11(a) of the Act, which regulates proprietary transactions by exchange members.

[22] The Commission also notes two related matters. First, while the Commission's action today resolves the conflict, occasioned by the occurrence of trade-throughs, between Rules 10a–1 and 11Ac1–1, the Commission continues to believe that trade-throughs are inconsistent with the goals and objectives of a national market system. Thus, the Commission welcomes the NYSE's efforts to "continue to reduce the problem. . . ." NYSE Letter, *supra* note 15, at 1. In this connection, the Commission notes that the ITS Operating Committee has created a Rules Subcommittee authorized to draft rules, which would be adopted by each ITS participant, addressing the trade-through problem. The Commission is encouraged by these developments and would urge the ITS participants to resolve the trade-through issue themselves. However, if significant progress is not made within the next few months on the adoption of self-regulatory rules which would have the effect of substantially eliminating trade-throughs and creating adequate remedies for persons disadvantaged by trade-throughs, the Commission remains prepared to take direct regulatory action, on its own initiative, to address the trade-through problem.

Second, in the Proposal Release (*supra* note 14, at 6 n.11, 45 FR at 47159 n.11) the Commission noted its concern that by amending Rule 10a–1 the Commission might reduce the incentives for third market makers to update their quotations. In this regard, the Commission reaffirmed its view "that such behavior raises serious questions under the Quote Rule, which requires responsible brokers and dealers to 'promptly communicate' their bids, offers and quotations sizes." The Commission expects the NASD to continue to pursue a comprehensive program to ensure third market maker compliance with the Quote Rule. Therefore, it does not appear necessary to defer adoption of the Rule 10a–1 amendments due to concerns regarding compliance with Quote Rule. *Cf.* SIA Letter, *supra* note 15, at 2 ("Effective self-regulatory action [should be] * * * sufficient to preserve the quality of quotations.").

[23] *See* Rule 10a–1(e)(3), (e)(4) and (e)(5).

[24] 17 CFR 249.631. Form X–17A–16(1) incorporates by reference the definition of the term "third market maker" contained in Rule 17a–16(c) under the Act, 17 CFR § 240.17a–16(c). That Rule defines the term "Qualified Third Market Maker" to mean:

[A] dealer who is subject to and is in compliance with Rule 15c3–1 (or is subject to and in compliance with the capital rules of an exchange of which he is a member if the members thereof are exempt from Rule 15c3–1 by subparagraph (b)(2) thereof) and who has and maintains minimum net capital as defined in Rule 15c3–1 (or in such capital rules of such exchange) of $100,000 plus $20,000 for each security in excess of five in respect of which he has filed and not withdrawn that notice on Form X–17A–16(1) (except that he shall not be required to have such net capital or more than $500,000 to be a Qualified Third Market Maker under the provisions of this rule); and who, except when such activity is unlawful, meets all of the following conditions with respect to such security: (1) he furnishes bona fide, competitive bid and offer quotations at all times to other brokers or dealers on request; (2) he is ready, willing and able to effect transactions for his own account in reasonable amounts, and at his quoted prices with other brokers and dealers; and (3) he has a reasonable average rate of inventory turnover in such security.

[25] Rule 11Ac1–1(a)(1) defines the term "third market maker" to mean:

[A]ny broker or dealer who holds himself out as being willing to buy and sell a reported security for his own account on a regular and continuous basis otherwise than on a national securities exchange in amounts of less than block size (including any such person who also represents, as agent, orders to buy or sell reported securities on behalf of any other person and communicates bids and offers to a national securities association * * * pursuant to this section on behalf of such other persons as well as for his own account).

[26] *See* Proposal release, *supra* note 14, at 7 n.13, 45 FR at 47160 n.13. Briefly, those exceptions contemplate, in addition to the equalizing exemption, short sales by a third market maker to offset odd-lot orders by customers or to liquidate a long position which is less than a round lot, provided such sale does not change the position of such market maker by more than one unit of trading.

[27] *See* ABA Letter, *supra* note 15, at 2–3; 8/25/80 ML Letter, *supra* note 15, at 3; NASD Letter, *supra* note 15, at 1; and SIA Letter, *supra* note 15, at 2.

[28] ABA Letter, *supra* note 15, at 2–3.

[29] SIA Letter, *supra* note 15, at 2. As indicated in note 6 *supra*, all third market makers in reported securities are currently required to make their bids

Footnotes continued on next page

manipulative concerns, the Commission has determined to adopt the new definition of the term "third market maker" as proposed.[30]

III. Effects on Competition

Section 23(a)(2) of the Act requires the Commission, in taking regulatory action under the Act, to consider the anticompetitive effects of such regulation and to balance any anticompetitive impacts against the regulatory benefits gained in terms of furthering the purposes of the Act.

While there was limited commentary on the relationship between the amendments and competition, the ABA stated its belief that the amendments, in part, will provide an enhanced opportunity for third market makers to compete in a national market system environment and the MSE supported the amendments, in part, on the grounds that it would further the continuing development of a competitive national market system. Moreover, no adverse comments were received indicating that the amendments might burden competition. Given the goal of the amendments to allow persons to comply more effectively with both the Quote Rule and Rule 10a–1, the Commission finds that the amendments do not impose a burden on competition which is neither necessary nor appropriate in furtherance of the purposes of the Act.

IV. Procedural Matters

Section 553 of the Administrative Procedure Act ("APA") permits an agency rule to be made effective in less than 30 days after publication of the rule in the **Federal Register** where (1) the adopted rule grants or recognizes an exemption or relieves a restriction, or (2) the agency for good cause, determines to adopt a rule with a more immediate effective date and publishes its reasons for so finding.[31] On both of these bases, the Commission has determined to adopt the amendments to Rule 10a–1 with an effective date of November 20, 1980. First, the amendments to Rule 10a–1 expand the availability of the equalizing exemption and the number of third market makers who may qualify for various other exceptions to the Rule. Second, the Commission has determined that good cause exists to conclude that the amendments should be effective immediately because they will resolve a potential regulatory conflict which might otherwise cause certain market makers to violate inadvertently a Commission rule.[32] Thus, the amendments further the public interest, the protection of investors, and the maintenance of fair and orderly markets. The amendments, therefore, will be effective immediately.

V. Statutory Basis and Text of Rule

The Securities and Exchange Commission hereby amends Title 17, Chapter II, of the Code of Federal Regulations, pursuant to its authority under the Securities Exchange Act of 1934 [33] and particularly Sections 2, 3, 6, 9, 10, 11A, 15, 15A, 17 and 23 [34] thereof, by amending paragraphs (e)(3), (e)(4), (e)(5), (e)(9) and (e)(10) [35] of § 240.10a–1 and adding paragraphs (e)(11) and (e)(12) to read as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934.

§ 240.10a–1 Short sales.

* * * * *

(e) * * *

(3) Any sale by an odd-lot dealer on an exchange with which it is registered for such security, or any over-the-counter sale by a third market maker to offset odd-lot orders of customers;

(4) Any sale by an odd-lot dealer on an exchange with which it is registered for such security, or any over-the-counter sale by a third market maker to liquidate a long position which is less than a round lot, provided such sale does not change the position of such odd-lot dealer or such market maker by more than the unit of trading;

(5) Any sale of a security covered by paragraph (a) of this section (except a sale to a stabilizing bid complying with § 240.10b–7) by a registered specialist or registered exchange market maker for its own account on any exchange with which it is registered for such security, or by a third market maker for its own account over-the-counter,

(i) Effected at a price equal to or above the last sale, regular way, reported for such security pursuant to an effective transaction reporting plan; or

(ii) Effected at a price equal to the most recent offer communicated for the security by such registered specialist, registered exchange market maker or third market maker to an exchange or a national securities association ("association") pursuant to § 240.11Ac1–1, if such offer, when communicated, was equal to or above the last sale, regular way, reported for such security pursuant to an effective transaction reporting plan;

Provided, however, That any exchange, by rule, may prohibit its registered specialist and registered exchange market makers from availing themselves of the exemption afforded by this paragraph (e)(5) if that exchange determines that such action is necessary or appropriate in its market in the public interest or for the protection of investors;

* * * * *

(9) Any sale of a security registered on, or admitted to unlisted trading privileges on, a national securities exchange effected in accordance with a special offering plan declared effective by the Commission pursuant to paragraph (d) of § 240.10b–2;

(10) Any sale by an underwriter, or any member of a syndicate or group participating in the distribution of a security, in connection with an over-allotment of securities, or any lay-off sale by such a person in connection with a distribution of securities through rights pursuant to § 240.10b–8 or a standby underwriting commitment; or

(11) Any sale of a security covered by paragraph (a) of this section (except a sale to a stabilizing bid complying with § 240.10b–7) by any broker or dealer, for his own account or for the account of any other person, effected at a price equal to the most recent offer communicated by such broker or dealer to an exchange or association pursuant

Footnotes continued from last page

and offers for such securities available to the NASD on a current basis in accordance with the provisions of the Quote Rule.

[30] As adopted, the term "third market maker", for purposes of Rule 10a–1, shall mean: any dealer who, with respect to a particular security, holds itself out as being willing to buy and sell such security for its own account on a regular and continuous basis otherwise than on an exchange in amounts of less than block size and who has filed a report for such security on Form X–17A–9(1) [17 CFR § 249.917(1)].

Rule 10a–1(e)(12). Form X–17A–9(1) requires postcard notification of activity in a particular security.

[31] 5 U.S.C. 553(d)(1), (3) (1977).

[32] In this connection, the Commission would note that the NASD anticipates that its enhanced NASDAQ System may be operational, on a pilot basis, in the near future. Thus, once that system is functioning, market makers would be subject to the possibility of automatic executions which, as noted above, might violate Rule 10a–1. *See* note 14, *supra*.

[33] 15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94–29 (June 4, 1975).

[34] 15 U.S.C. 78b, 78c, 78f, 78i, 78j, 78k–1, 78o, 78o–3, 78q and 78w.

[35] The changes to paragraphs (e)(9) and (e)(10) are nonsubstantive and involve deleting the connective conjunction "or" from paragraph (e)(9) and inserting it at the end of paragraph (e)(10). In addition, the Commission has revised the language of the equalizing exemption generally to conform it with prior Commission interpretations and the securities industry's common understanding of the exemption by adding the phrase "regular way" to paragraphs (e)(5)(i), (e)(5)(ii) and (e)(11) of the Rule. These revisions make clear that the equalizing exemption generally and the amendments adopted today could not be invoked based on a last sale report of a transaction other than regular way (*e.g.*, a cash sale) because such transactions are often at prices which may differ significantly from the general regular way market for a security. The Commission finds, in accordance with the APA, 5 U.S.C. § 553(b)(3)(B), that because these revisions only clarify the Commission's prior interpretation of Rule 10a–1, good cause exists to conclude that notice and public proceedings are not necessary.

to § 240.11Ac1–1 in an amount less than or equal to the quotation size associated with such offer, if such offer, when communicated, was (i) above the price at which the last sale, regular way, for such security was reported pursuant to an effective transaction reporting plan; or (ii) at such last sale price, if such last sale price is above the next preceding different price at which a sale of such security, regular way, was reported pursuant to an effective transaction reporting plan.

(12) For the purposes of paragraph (e)(8) of this section, a depositary receipt of a security shall be deemed to be the same security as the security represented by such receipt. For the purposes of paragraphs (e) (3), (4) and (5) of this section, the term "third market maker" shall mean any dealer who, with respect to a particular security, holds itself out as being willing to buy and sell such security for its own account on a regular and continuous basis otherwise than on an exchange in amounts of less than block size and who has filed a report for such security on Form X–17A–9(1) [§ 249.917(1) of this chapter].

* * * * *

(Secs. 2, 3, 6, 9, 10, 15, 17 and 23, Pub. L. No. 78–291, 48 Stat. 881, 882, 885, 889, 891, 895, 897 and 901, as amended by secs. 2, 3, 4, 11, 14 and 18, Pub. L. No. 94–29, 89 Stat. 97, 104, 121, 137 and 155 (15 U.S.C. §§ 78b, 78c, 78f, 78i, 78j, 78o, 78q, and 78w); Sec. 15A, as added by sec. 1, Pub. L. No. 75–719, 52 Stat. 1070, as amended by sec. 12, Pub. L. No. 94–29, 89 Stat. 127 (15 U.S.C. § 78o–3); Sec. 11A, as added by sec. 7, Pub. L. No. 94–29, 89 Stat. 111 (15 U.S.C. § 78k–1))

By the Commission.

George A. Fitzsimmons,

Secretary.

November 20, 1980.

[FR Doc. 80-37105 Filed 11-28-80; 8:45 am]

BILLING CODE 8010-01-M

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17 CFR Part 250

[Release No. 35-21797; File No. S7-847]

Rule To Exempt Certain Nonutility Subsidiaries and Affiliates Under the Public Utility Holding Company Act of 1935

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is adopting Rule 16 under the Public Utility Holding Company Act of 1935 ("Act") to exempt a subsidiary or an affiliate of a registered holding company, primarily engaged in the production, manufacture, transmission or storage of gas, from the duties, liabilities and obligations imposed under the Act on "subsidiary companies" or "affiliates" if no more than 50% of the voting securities of or other voting interests in such subsidiary or affiliate are owned, directly or indirectly, by one or more registered holding companies. The rule also exempts affiliates of the exempted subsidiary or affiliate.

The exemption is intended to eliminate an impediment to participation by gas utility systems of registered holding companies under the Act in joint ventures or projects with others not subject to the Act for the purpose of providing non-utility facilities necessary or appropriate to the business of the registered holding company by exempting the joint venture or project company, whether a corporation or partnership, and its affiliates, from the regulatory provisions of the Act.

EFFECTIVE DATE: November 28, 1980.

FOR FURTHER INFORMATION CONTACT: Aaron Levy, Director, or Grant Guthrie, Associate Director, Division of Corporate Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 523–5691 or 523–5156.

SUPPLEMENTARY INFORMATION: The Commission today announced the adoption of Rule 16 pursuant to Section 3(d) of the Act to exempt certain non-utility ventures or projects from the provisions of the Act that might otherwise apply to such project companies as "subsidiary companies" or "affiliates" of registered holding companies. The exemption is intended to facilitate participation by registered holding companies in such ventures provided that no more than 50% of the voting interests in the project company are owned by one or more registered holding companies.

Section 2(a)(7) of the Act defines a "holding company" as any company which owns 10% or more of the voting securities of a "public utility company," which, as defined in Section 2(a)(5), includes an "electric utility company" defined in Section 2(a)(3) or a "gas utility company" defined in Section 2(a)(4). A "gas utility company," as therein defined, is a company engaged in the *retail distribution* of natural or manufactured gas. Companies engaged in the manufacture or production of gas, or its transmission, are not gas utility companies within the meaning of Section 2(a)(4), and the owners of such companies are not "holding companies." The statutory definition of an "electric utility company," on the other hand, includes generation and transmission of electric energy, as well as its retail distribution. Hence a company which owns 10% or more of the voting securities of a company engaged in the generation or transmission of electric energy is a holding company as defined in Section 2(a)(7). In terms of the Act, there is a fundamental difference between what constitutes a gas utility system and an electric utility system.

Two applications under the Act, pending before the Commission, relate to joint projects, one for the construction of a plant to manufacture synthetic gas, the other for the construction of major new pipelines.[1] Each is intended to provide gas to multiple pipeline systems from heretofore unavailable sources for resale in existing markets. These projects have been organized as joint ventures or project companies which will own and operate the facilities in question. The recent passage of the Energy Security Act of 1980 (P.L. 96–294), Title I of which is directed to promoting the development of a synthetic fuels industry in the United States, and other developments in the industry suggest that this kind of joint venture may be the prototype for other similar projects.

There are currently three gas utility holding company systems registered under the Act, two of which also own major gas transmission subsidiaries.[2] The three systems represent about 8½% of the total gas industry, counting both pipelines and retail distribution systems. Significant joint ventures of the kind described above will involve principally pipeline or production or other energy companies that are non-utilities and are not member companies of registered holding companies. The regulatory requirements of the Act would not apply to them or the project company, a non-utility, in which they may join, unless a participating member is a registered holding company or a subsidiary company thereof.

Rule 16 was published for comment on August 21, 1980, in HCAR No. 21685 (45 FR 57486, August 28, 1980). Seven letters of comment were submitted, all favoring the objective of the rule and suggesting amendments. Rule 16 as adopted includes in part some changes in light of the comments and has been clarified in other respects.

The regulatory provisions of the Act apply to a registered holding company and to each of its subsidiaries, whether utility companies or not. Section

[1] *Columbia Gas System, Inc.*, application pending in File No. 70–6419; and *Columbia Gas System, Inc.*, HCAR No. 21771 (October 31, 1980).

[2] There are also three registered holding companies which are predominantly, by far, electric utility systems but which to some or minor extent include utility facilities for retail distribution of natural gas.

2(a)(8)(A) defines a "subsidiary company" as any company 10% of whose voting securities are owned by another company. Accordingly, if a group of companies undertakes a non-utility project, such as construction of a pipeline or a synthetic fuel facility, the project company would be subject to regulation under the Act, including Section 7 that governs securities issues, if the registered holding company acquired 10% or more of its voting securities. Further, Section 2(a)(11) defines an "affiliate" of a company to include in subparagraph (B) any company if 5% or more of its voting securities are owned, directly or indirectly, by such company. There are several provisions of the Act that relate to affiliates of a registered holding company or a subsidiary thereof, such as, for example, Sections 12(f), 13(e) and 15(b).

In view of these statutory consequences, a registered holding company might find it difficult to attract potential co-venturers, to join it in a venture which without the participation of the registered holding company, neither the joint venture nor the other participants would be subject to the Act at all. Rule 16 is meant to eliminate this impediment or disadvantage for the benefit of a registered holding company system. The Commission does not perceive the exemption under Rule 16 as contrary to the purposes of the Act when 50% or more of the joint venture or project company is owned, through its voting securities, by participating companies to whom the Act does not apply. Subsection (a)(2) of the rule expressly specifies that no more than 50% of the voting securities shall be owned or controlled, directly or indirectly, by one or more registered holding companies. If such ownership exceeds this percentage, the project company is deemed to be part of the regulated system or systems and subject to the requirements of the Act like any other subsidiary or affiliate of a registered holding company.

Rule 16, as published for comment (HCAR No. 21685), proposed to exempt the project company from "the obligations, duties or liabilities" imposed upon it as a subsidiary company. That is not the full exemption Rule 16 intended to provide. So drafted, Rule 16 left an unintended question that the rule should answer explicitly. It should be understood that the exemption as a subsidiary would be sufficient to include such company's lesser obligations as an "affiliate." But to a literal reader, Rule 16 as published might have suggested that a project company, though exempt as a subsidiary defined in Section 2(a)(8)(A), would still remain an affiliate under Section 2(a)(11)(B) and be subject to the requirements the Act imposes upon an affiliate of a registered holding company. Rule 16, as adopted, clarifies that the exemption, as Section 3(d) permits, extends to such company as an affiliate as well.

Some of the comment letters suggest that the Rule 16, as proposed, was not complete in another respect. Such commentators state that, although the rule, as proposed, would exempt the project company from the duties and obligations as a subsidiary of a registered holding company, the project company would continue and remain, by definition, a subsidiary thereof as defined in Section 2(a)(8)(A). As a consequence, those commentators state, any of the participants who own 5% or more of the voting stock of the project company, or even a director or an officer,[3] would be affiliates of a subsidiary of a registered holding company and thus subject to the provisions of the Act that would apply to affiliates. Thus, these commentators recommend that Rule 16 be amended to state that any company exempted by the rule shall not be deemed to be a subsidiary company under any provisions of the Act.

We do not believe the regulatory requirements of the Act—as distinguished from the bare definitions—would apply to affiliates of a project company when the project company is exempt from regulation under the Act as a subsidiary or affiliate, and therefore we are adopting the substance of the recommended proposal. Rule 16, as adopted, provides that the project company shall be exempt from any obligations, duties or liabilities as a subsidiary or an affiliate under any of the provisions of the Act.[4] It provides also that the exemption extends to each affiliate of the project company, but in the exemptive terms of Section 3(d).

Subsection (a)(2) of the rule provides, as one of the conditions for the exemption, that the company shall engage primarily in the exploration, development, production, manufacture, storage, transportation or supply of natural or synthetic gas. The exempted company must be "primarily," not exclusively, so engaged. It is certainly not precluded from other business ventures related to its primary function or purpose. It may, for example, develop oil reserves that are generally found or associated with exploration for natural gas.[5] A company engaged in coal gasification may acquire and develop coal reserves essential for its purpose. The underlying objective of the exemption is to facilitate the development and delivery of the supply of natural or synthetic gas. Random or indiscriminate diversification would raise some doubts concerning whether the exemption under Rule 16 applies and even more critical questions on whether the acquisition by the registered holding company system would satisfy the provisions of Sections 9(a)(1) and 10. It is not unrealistic, though, to assume that, as the participants have joined in the venture to serve their common needs, it is more than likely that the project company will stay on the course charted for it by its organizers.

Subsection (a)(4) of the rule requires that the acquisition by the registered holding company be approved by Commission order on a timely application filed pursuant to Sections 9(a)(1) and 10 of the Act. Section 9(a)(1) states that it is unlawful for a registered holding company or any subsidiary company thereof to acquire "any other interest in any business" unless the acquisition is approved under the standards of Section 10, which, among other things, requires a determination by the Commission that the acquisition is not detrimental to Section 11. This calls for a finding that the acquisition of its interest in the joint venture is functionally related to the utility business of the registered holding company system, or, in the words of Section 11(b)(1), that its interest in the project company "is reasonably incidental, or economically necessary or appropriate to the operations" of the system. If the acquisition is to be financed by the issue and sale of securities, their issue and sale must satisfy the requirements of Sections 6 and 7. All of these requirements provide full assurance that the growth or extension of the registered holding company system, including the acquisition under this rule, and its financial or capital structure, shall comply with all the pertinent standards prescribed by the Act.

One comment letter, submitted by New England Electric System, a registered holding company with a substantial electric utility system, agrees in principle with Rule 16 but proposes some revisions. It recommends just that

[3] Section 2(a)(11)(C) defines an "affiliate" of a company to include an officer or director of such company.

[4] Section 3(d) refers to "persons," but Section 2(a)(1) defines a person to mean "an individual or company."

[5] *Columbia Gas and Electric Corporation*, 17 SEC 494, 508–09 (1944).

the rule be amended to include joint ventures whose primary purpose is the exploration and development of oil and coal and other non-utility ventures, so that a registered holding company with an electric utility system may benefit from the rule by participating in joint projects to secure such fuels for its generating facilities.

The acquisition by electric utilities of captive or affiliated sources of fuel supply has led to considerable controversy about the cost, economies, and other presumed advantages of the acquisitions. Such acquisitions are of special concern to utility commissions, which, among other things, have been particularly troubled about how the price the electric utility pays to its fuel affiliate, not an arm's-length transaction, should be considered under fuel adjustment clauses. In these circumstances, the Commission does not believe it appropriate to adopt an exemptive rule to encourage the development of these sources of fuel supply and therefore is not incorporating such revisions into Rule 16. Moreover, the proposed expansion of the rule would require republication for comment and would necessarily involve an indefinite delay in promulgating Rule 16, which, within present bounds, is ready for adoption now.

Statutory Basis and Text of the Rule

The Securities and Exchange Commission hereby amends Title 17, Chapter II of the Code of Federal Regulations, pursuant to its authority under the Public Utility Holding Company Act of 1935 [15 U.S.C. 79a *et seq.*] and particularly Sections 3(d) and 20 (a) thereof [15 U.S.C. 79c(d) and 79t(a)] by adding § 250.16 to read as set forth below. This action is effective immediately pursuant to the Administrative Procedure Act [5 U.S.C. 553(d)(1)].

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

§ 250.16 Exemption of non-utility subsidiaries and affiliates.

(a) Any company, and each affiliate thereof, shall be exempt from all obligations, duties or liabilities imposed upon it by the Act, as a subsidiary company or as an affiliate of a registered holding company or of a subsidiary company thereof, as such terms are respectively defined in sections 2(a)(8)(A) and 2(a)(11) of the Act, if—

(1) Such company is not a public utility company as defined in section 2(a)(5) of the Act;

(2) Such company is or has been organized to engage primarily in the exploration, development, production, manufacture, storage, transportation or supply of natural or synthetic gas;

(3) No more than 50% of its voting securities or other voting interests are owned, directly or indirectly, by one or more registered holding companies; and

(4) The acquisition by the registered holding company or subsidiary thereof of its interest in such company has been approved by the Commission pursuant to sections 9(a)(1) and 10 of the Act and applicable rules thereunder upon a timely application to the Commission.

(b) The exemption provided by this rule shall continue in effect during the pendency of such application. If an acquisition is made subject to Commission approval, the exemption provided by this rule is not terminated if the Commission does not grant its approval. In that event any such acquisition shall be disposed of in accordance with the order of the Commission.

(c) If a registered holding company directly or indirectly acquires any voting securities of such company, or any other voting interest, pursuant to this rule, the holding company shall include as an exhibit to its annual report on Form U5S a copy of the annual report of such company. It may incorporate by reference the annual report such company is required to file pursuant to other statutes administered by the Commission.

(d) This rule does not affect the authority of any agency having jurisdiction over rates with respect to a company exempt under this rule, including authority over affiliate transactions by or with such company pursuant to the laws administered by that agency.

By the Commission.

George A. Fitzsimmons,

Secretary.

November 19, 1980.

[FR Doc. 80-37105 Filed 11-26-80; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 375

[Docket No. RM81-5; Order No. 112]

Rule Revision Subdelegation Authority

November 21, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission revises its rules of practice and procedure to permit an official to whom the Commission has delegated certain functions under Part 375 to subdelegate the authority to carry out those functions to the deputy of such official, to the head of a division, or a comparable official.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Christine R. Benagh, Staff Attorney, Regulatory Development, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8062.

The Federal Energy Regulatory Commission (Commission) hereby revises its rules of practice and procedure relating to delegations, to permit subdelegations of authority previously delegated to certain officials by the Commission.

I. Background and Discussion

The Commission, in the past, has delegated to specific Commission officials certain of its ministerial regulatory functions, which appear in Part 375, Subpart C, of the Commission's rules and regulations. The officials who carry out these delegated functions include the Secretary of the Commission, the Chief Accountant, the Director of the Office of Pipeline and Producer Regulation, the Director of the Office of Electric Power Regulation, and the Solicitor. Before the revision promulgated herein, these officials could subdelegate these functions only in the event of their absence. The Commission believes that permitting subdelegation only when such officials are absent may hinder efficient administration of its duties and responsibilities.

Therefore, the rules of the Commission are being revised, in the interest of efficient administration, to delete the limitations which permit a subdelegation only when the delegatee of the Commission is absent. The subpart on delegations is also being amended to clarify to which officials a subdelegation may be made: the deputy of the Commission's delegatee, the head of a division, or a comparable official.

In consideration of the foregoing, the Commission is revising its rules to permit subdelegations, under Part 375, Subpart C of its rules of practice and procedure, to certain classes of Commission officials even when the Commission's delegatee is not absent.

II. Public Procedures and Effective Date

Since this rule concerns a matter of agency practice and procedure, notice and public comment thereon is unnecessary pursuant to 5 U.S.C. 553(b). The Commission believes that the delegated functions, which appear in Part 375, Subpart C, of the Commission's regulations, will be administered more easily and more efficiently if this rule is made effective as soon as possible. Therefore, the Commission finds that good cause exists pursuant to 5 U.S.C. 553(d)(3) to make this rule effective immediately.

(Department of Energy Organization Act, (42 U.S.C. 7107 *et seq.*; Federal Power Act, (16 U.S.C.), 791–828c), as amended; Natural Gas Act, (15 U.S.C. 717–717w), as amended; Natural Gas Policy Act of 1978, (15 U.S.C. 3301 *et seq.*); Public Utilities Regulatory Policies Act of 1978, (16 U.S.C. 2601 *et seq.*); Exec. Order No. 12009, 3 CFR 142 (1978))

In consideration of the foregoing, the Commission amends Subpart C, Part 375, Subchapter W, Chapter I, Title 18 of the Code of Federal Regulations as set forth below, effective November 21, 1980.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Part 375 is amended in the table of contents and in the text of the regulations of § 375.301 to read as follows:

§ 375.301 Purpose and subdelegations.

(a) The purpose of this subpart is to set forth the authorities that the Commission has delegated to staff officials. Any action by a staff official under the authority of this subpart may be appealed to the Commission in accordance with § 1.7(d) of this chapter.

(b) Where the Commission, in delegating functions to specified Commission officials, permits an official to further delegate those functions to a designee of such official, "designee" shall mean the deputy of such offical, the head of a division, or a comparable official as designated by the official to whom the direct delegation is made.

§ 375.302 [Amended]

3. Section 375.302 is amended in the first sentence to delete "in the Secretary's absence,".

§ 375.303 [Amended]

4. Section 375.303 is amended in the first sentence to delete "in the Chief Accountant's absence,".

§ 375.305 [Amended]

5. Section 375.305 is amended in the first sentence to delete "in the Solicitor's absence,".

§§ 375.307—375.310 [Amended]

6. Sections 375.307, 375.308, 375.309, and 375.310, are each amended in the first sentence to delete "in the Director's absence,".

[FR Doc. 80-37040 Filed 11-26-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 355

Certain Fish From Canada; Revocation of Countervailing Duty Orders

AGENCY: International Trade Administration, Commerce.

ACTION: Revocation of Countervailing Duty Orders.

SUMMARY: This notice is to advise the public that, as a result of a negative injury determination by the International Trade Commission, the Department of Commerce is revoking the countervailing duty orders on certain fish from Canada. The table in Part 355, Annex III of the Commerce Regulations is amended to reflect these revocations.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Room 1126, Washington, D.C. 20230 (202–377–5222).

SUPPLEMENTARY INFORMATION: Three separate notices of "Final Countervailing Duty Determination" were published in the **Federal Register:** T.D. 77–107, April 13, 1977 (42 FR 19326), T.D. 78–181, June 16, 1978 (43 FR 25996) and T.D. 79–07, January 5, 1979 (44 FR 1372). The notices stated that the Treasury Department had determined that exports of certain fish from Canada were provided bounties or grants, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303) ("the Act"). Concurrently with those determinations, the following notices were published waiving the imposition of countervailing duties under the authority of section 303(d) of the Act: T.D. 77–108 [42 FR 19237), T.D. 78–182 (32 FR 25995) and T.D. 79–08 (44 FR 1728).

On January 1, 1980, Title I of the Trade Agreements Act of 1979 (19 U.S.C. 1671 et seq.) ("the TAA") went into effect. On January 2, 1980, the authority for administering the countervailing duty laws was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). Since Canada was a "country under the Agreement" [as defined in section 701(b) of the Act) as of January 1, 1980, the Department referred these cases to the International Trade Commission ("the ITC") for a material injury determination in accordance with section 104(a)(1)(A) of the TAA. Section 105 of the TAA continued the waiver pending the ITC determination. Liquidation continued throughout the period. The ITC published a negative material injury decision in the **Federal Register** of May 22, 1980 (45 FR 34456).

As a result, the Department hereby revokes Treasury Decisions 77–107, 77–108, 78–181, 78–182, 79–07 and 79–08 with respect to all entries of certain fish from Canada. The Department will instruct customs officers to continue liquidation of all such entries without regard to countervailing duties.

PART 355—COUNTERVAILING DUTIES

The table in Part 355, Annex III, Commerce Regulations (19 CFR Part 355, Annex III, 45 FR 4949), is amended under the country heading "Canada" by deleting from the column headed "Commodity", the words "Groundfish" (in two places) and "Fish"; from the column headed "Treasury Decision", the numbers "77–107", "78–181" and "79–07"; and from the column headed "Action", the words "Bounty declared-rate" (in three places).

(Sec. 104(a)(3)(B) of the TAA (93 Stat. 191, 19 U.S.C. 1671 note))

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

November 24, 1980.

[FR Doc. 80-37121 Filed 11-26-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 14

Advisory Committees; Establishment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Under the Federal Advisory Committee Act of October 6, 1972, and the public advisory committee procedures (21 CFR Part 14), the Food and Drug Administration (FDA) announces the establishment of the Anti-Infective Drugs Advisory Committee, the Dermatologic Drugs Advisory Committee, and the Ophthalmic Drugs Advisory Committee. This document adds to the agency's list of standing advisory committees. In notices published elsewhere in this issue of the **Federal Register**, FDA asks for

nominations for membership on these

(c) *Bureau of Drugs*—(1) *Anesthetic*

investigational prescription drugs for

(c) *Miscellaneous Internal Drug*

authorized by Elanco. This approval

nominations for membership on these committees. This document also deletes the Anti-Infective and Topical Drugs Advisory Committee from the list of standing committees because its charter expired on April 10, 1980.

DATES: Effective November 28,1980; authority for the committees being established will end on October 7, 1982, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463) and § 14.40(b) (21 CFR 14.40(b)), FDA announces the establishment of the Anti-Infective Drugs Advisory Committee, the Dermatologic Drugs Advisory Committee, and the Ophthalmic Drugs Advisory Committee.

The Anti-Infective Drugs Advisory Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in the treatment of infectious diseases and makes appropriate recommendations to the Commissioner of Food and Drugs. The Committee will have 11 members.

The Dermatologic Drugs Advisory Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in the treatment of dermatologic diseases and makes appropriate recommendations to the Commissioner of Food and Drugs. The Committee will have 11 members.

The Ophthalmic Drugs Advisory Committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in the treatment of ocular diseases and makes appropriate recommendations to the Commissioner of Food and Drugs. The Committee will have 11 members.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 14 is amended in § 14.100 by revising paragraph (c), to read as follows:

§ 14.100 List of standing advisory committees.

* * * * *

(c) *Bureau of Drugs*—(1) *Anesthetic and Life Support Drugs Advisory Committee.* (i) Date established: May 1, 1978.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the field of anesthesiology and surgery.

(2) *Anti-Infective Drugs Advisory Committee.* (i) Date established: October 7, 1980.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in infectious diseases.

(3) *Arthritis Advisory Committee.* (i) Date established: April 5, 1974.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in arthritic conditions.

(4) *Cardiovascular and Renal Drugs Advisory Committee.* (i) Date established: August 27, 1970.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in cardiovascular and renal disorders.

(5) *Dermatologic Drugs Advisory Committee.* (i) Date established: October 7, 1980.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of dermatologic diseases.

(6) *Drug Abuse Advisory Committee.* (i) Date established: May 31, 1978.

(ii) Function: Advises on the scientific and medical evaluation of information gathered by the Department of Health and Human Services and the Department of Justice on the safety, efficacy, and abuse potential of drugs and recommends actions to be taken on the marketing, investigation, and control of such drugs.

(7) *Endocrinologic and Metabolic Drugs Advisory Committee.* (i) Date established: August 27, 1970.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in endocrine and metabolic disorders.

(8) *Fertility and Maternal Health Drugs Advisory Committee.* (i) Date established: March 23, 1978.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of obstetrics and gynecology.

(9) *Gastrointestinal Drugs Advisory Committee.* (i) Date established: March 3, 1978.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in gastrointestinal diseases.

(10) *Oncologic Drugs Advisory Committee.* (i) Date established: September 21, 1978.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of cancer.

(11) *Ophthalmic Drugs Advisory Committee.* (i) Date established: October 7, 1980.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of ocular diseases.

(12) *Peripheral and Central Nervous System Drugs Advisory Committee.* (i) Date established: June 4, 1974.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in neurologic disease.

(13) *Psychopharmacologic Drugs Advisory Committee.* (i) Date established: June 4, 1974.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of psychiatry and related fields.

(14) *Pulmonary-Allergy Drugs Advisory Committee.* (i) Date established: February 17, 1972.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

(15) *Radiopharmaceutical Drugs Advisory Committee.* (i) Date established: August 30, 1967.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of nuclear medicine.

(16) *Advisory review panels for over-the-counter (OTC) drugs.* (i) Dates established—(*a*) *Antimicrobial Panel.* Established March 16, 1972;

(*b*) [Reserved]

(*c*) *Miscellaneous Internal Drug Products Panel.* Established July 16, 1973; and

(*d*) *Miscellaneous External Drug Products Panel.* Established July 16, 1973.

(ii) Function: Reviews and evaluates available data on the safety and effectiveness of nonprescription drug products.

* * * * *

Effective date. Since this is a technical conforming amendment to Part 14, the Commissioner finds that there is good cause for the rule to be published without notice and comment and to be effective immediately upon publication in the **Federal Register**, November 28, 1980.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: November 20, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-37035 Filed 11-26-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Parts 510, 558

New Animal Drugs and New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations to reflect approval of a new animal drug application (NADA) filed for Micro Blenders, Inc., providing for safe and effective use of a 10 gram-per-pound tylosin premix for making complete swine feeds, and to add this firm to the list of approved NADA sponsors.

EFFECTIVE DATE: November 28, 1980.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Micro Blenders, Inc., is sponsor of NADA 123–065 submitted on its behalf by Elanco Products Co. The NADA provides for use of a premix containing 10 grams of tylosin (as tylosin phosphate) per pound for making complete swine feeds used to increase rate of weight gain and improve feed efficiency.

Approval of this NADA relies upon safety and effectiveness data contained in Elanco Product Co.'s approved NADA 12–491. Use of the data in NADA 12–491 to support this NADA has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine supplemental approval policy (42 FR 64367; December 23, 1977) approval of this NADA has been treated as would approval of a category II supplement and did not require reevaluation of safety and effectiveness data in NADA 12–491.

Micro Blenders, Inc., has not previously been included in the regulations in the list of approved sponsors. The regulations are amended to reflect this approval and to include this firm in the list of sponsors.

The agency has determined pursuant to 21 CFR 25.24(d)(1) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2), to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
Micro Blenders, Inc., Highway 210 E. at 291, P.O. Box 357, Liberty, MO 64068	050782
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
050782	Micro Blenders, Inc., Highway 210 E. at 291, P.O. Box 357, Liberty, MO 64068.
* * * * *	

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(74), to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(74) To 050782: 10 grams per pound: paragraph (f)(1)(vi)(*a*) of this section.

* * * * *

Effective date. This regulation is effective November 28, 1980.

(Sec. 512(i), 82 Stat. 347, (21 U.S.C. 360b(i)))

Dated: November 19, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-36871 Filed 11-26-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Parts 510, 558

New Animal Drugs and New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations to reflect approval of a new animal drug application (NADA) filed for Webel Feeds, Inc., providing for use of 0.8-, 1-, 2-, and 10-gram-per-pound tylosin premixes for making complete cattle and swine feeds, and to add this firm to the list of approved NADA sponsors.

EFFECTIVE DATE: November 29, 1980.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV–136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5247.

SUPPLEMENTARY INFORMATION: Webel Feeds, Inc., R.R. 3, Pittsfield, IL 62363, is the sponsor of an NADA (116–196)

submitted on its behalf by Elanco Products Co. The NADA provides for

of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary

ovens to delete the error limit and effective aperture requirements for

TEPRSSC for review prior to its 16th

that the present standard is adequate

measurement of radiation but requires

submitted on its behalf by Elanco Products Co. The NADA provides for safe and effective use of premixes containing 0.8, 1, 2, and 10 grams of tylosin (as tylosin phosphate) per pound for manufacturing complete cattle and swine feeds. The cattle feeds are indicated for reduction of the incidence of liver abscesses. The swine feeds are indicated for increased rate of weight gain, prevention of swine dysentery, and maintenance of weight gains and feed efficiency in the presence of atrophic rhinitis.

Approval of this NADA relies upon safety and effectiveness data contained in Elanco Product Co.'s approved NADA 12-491. Use of the data in NADA 12-491 to support this NADA has been authorized by Elanco. This approval does not change the approved use of the drug. Consequently, approval of this NADA poses no increased human risk from exposure to residues of the animal drug, nor does it change the conditions of the drug's safe use in the target animal species. Accordingly, under the Bureau of Veterinary Medicine's supplemental approval policy (42 FR 64367; December 23, 1977) approval of this NADA has been treated as would an approval of a Category II supplement and did not require reevaluation of safety and effectiveness data in NADA 12-491.

The agency has determined pursuant to 21 CFR 25.24(d)(1)(iii) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Webel Feeds, Inc., has not previously been included in the regulations under the list of approved sponsors. The regulations are amended to reflect this approval and to include this firm in the list of sponsors.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Parts 510 and 558 are amended as follows:

1. In Part 510, § 510.600 is amended by adding a new sponsor alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2), to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *
(1) * * *

Firm name and address	Drug Labeler Code
* * * * * *	
Webel Feeds, Inc., R.R. 3, Pittsfield, IL 62363	035098
* * * * * *	

(2) * * *

Drug Labeler Code	Firm name and address
* * * * * *	
035098	Webel Feeds, Inc., R.R. 3, Pittsfield, IL 62363.
* * * * * *	

2. In Part 558, § 558.625 is amended by adding new paragraph (b)(73), to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(73) To 03598: 0.8, 1, 2, and 10 grams per pound; paragraph (f)(1)(i), (f)(1)(vi) (*a*), (*b*), and (*d*), of this section.

* * * * *

Effective date. This regulation is effective November 28, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: November 19, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-36072 Filed 11-26-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 1030

[Docket No. 80N-0099]

Radiological Health; Performance Standards for Microwave and Radio Frequency Emitting Products; Amendments to the Microwave Oven Standard; Measurement and Test Conditions

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the performance standard for microwave ovens to delete the error limit and effective aperture requirements for instruments used for compliance measurement of leakage radiation from microwave ovens. The characteristics of these instruments and the conditions under which they are used would now be accounted for in information submitted to the Bureau of Radiological Health (BRH) by the microwave oven manufacturers as part of their testing programs for microwave ovens. FDA also adds a new definition of "equivalent plane-wave power density." These changes are designed to reflect the actual compliance testing situation for microwave ovens. No change in permissible leakage levels is to be made.

EFFECTIVE DATE: November 30, 1981.

FOR FURTHER INFORMATION CONTACT: Joseph Wang, Bureau of Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 2, 1980 (45 FR 29307), FDA proposed to delete from 21 CFR Part 1030 the error limit and effective aperture requirements for instruments used for compliance measurement of leakage radiation from microwave ovens. FDA also proposed to add § 1030.10(b)(8) to define "equivalent plane-wave power density." In response to the May 2, 1980, proposed rule, the agency has received comments from a microwave instrument manufacturer and an organization that represents some of the microwave oven manufacturers. These enumerated comments and the agency's response to these comments follow:

1. One comment stated that the writer did not learn about the Technical Electronic Product Radiation Safety Standards Committee (TEPRSSC) meeting until it was over and suggested that TEPRSSC did not give a fair and comprehensive hearing on the proposed rule. This comment argued that members of TEPRSSC were given only the agency side of the proposed changes without any opportunity for industry to voice its concern to TEPRSSC. Also this comment believes that the review of the issues at the June 1978 TEPRSSC meeting was incomplete because the "Interim Guidance on Microwave Instrumentation" (interim guidance document), a BRH draft document that evaluates existing instrumentation, was not available at the TEPRSSC meeting. For these reasons, the comment urged that the proposed rule should be reconsidered by TEPRSSC.

The agency notes that the initial draft of this proposal was sent to members of

TEPRSSC for review prior to its 16th meeting on June 1 and 2, 1978. This Committee, a permanent statutory advisory committee to the Secretary, Department of Health and Human Services, must be consulted prior to the establishment or amendment of performance standards for electronic products. In addition to announcement to the public of the topics to be considered at this meeting via the **Federal Register** of May 16, 1978 (43 FR 21053), copies of the draft proposal were sent to all microwave oven manufacturers prior to the TEPRSSC meeting with an invitation to attend the meeting. As a result of these invitations, representatives for both microwave oven manufacturers and microwave instrument manufacturers were present at this meeting and were invited by the chairman of TEPRSSC at the end of the BRH presentation to inform the Committee of any concerns about the proposed rule. After hearing a presentation on the change, the Committee concurred with FDA's proposal. No objections from the public were raised at this meeting. Prior to the BRH presentation to TEPRSSC, BRH staff had met separately with representatives of one microwave oven manufacturer, at the manufacturer's request, to discuss the main issues of the proposed rule.

The interim guidance document has not yet been issued in final form. It is intended to provide guidance to manufacturers in accounting for instrument uncertainty when setting microwave oven leakage rejection limits. The document includes an evaluation of the measurement uncertainty of existing instrumentation; the uncertainty is based on a more technically oriented BRH document.

The technical basis for the proposed rule and the rationale for this change had been known by BRH and a number of manufacturers for some time prior to the June 1978 TEPRSSC meeting. This information was presented to and adequately discussed with TEPRSSC. In addition, BRH staff met with representatives of microwave oven and microwave instrument manufacturers at the request of the Association of Home Appliance Manufacturers on November 17, 1979, to discuss the draft proposed rule. For these reasons, the agency has determined that a reconsideration by TEPRSSC of the proposed rule is unnecessary and unwarranted. The comment is rejected.

2. A comment stated that the historical evidence that microwave ovens have not resulted in radiation injury to consumers is convincing proof that the present standard is adequate using the existing measuring technique regardless of its imprecisions. Therefore, the comment believes that safety is not an issue with the FDA proposal.

The agency agrees that safety is not an issue in the proposed rule. However, if FDA were to enforce strictly the current requirements for microwave measurement instruments, many microwave oven manufacturers would be unable to certify their ovens based on tests made with present instruments, which cannot meet the ±1 decibel accuracy requirement. These manufacturers would then have to bear the expense of obtaining new instruments. The final rule will eliminate this dilemma.

3. One comment contended that FDA's proposal to delete the error limit and effective aperture requirements represents a tightening of the standard because it effectively lowers the microwave emission level which must be used for factory rejection of the products.

The proposed revision was intended to bring the language of the standard in line with FDA's regulatory policy. Most manufacturers have been using microwave oven leakage rejection levels that are lower than would be necessary simply to take measurement uncertainty into account. It has been agency policy to require that manufacturers withhold from marketing those microwave ovens whose measured leakage is not demonstrably below the limit of the standard. Because most manufacturers already have a margin of safety in their rejection level, it will not be necessary for them to lower their acceptable emission levels further.

4. Another comment noted that the proposal seeks to account for only some uncertainty, and is based on a BRH interim guidance document which provides the method for establishing the degree of error. The comment argued that no one can be certain that these errors represent all the errors that will ever be identified. This comment also claimed that instrument manufacturers and BRH are not in agreement that the methods prescribed in the interim guidance document are correct and accurate.

As stated in response to the comment in paragraph 3 above, the agency intends to bring the language of the microwave oven standard into line with all other performance standards issued under the authority of the Radiation Control for Health and Safety Act of 1968. Thus, the standard specifies the allowable radiation emission limit, which permits any manufacturer to decide on the instrument for the measurement of radiation but requires the manufacturer to identify and take into account errors and statistical uncertainties in the measurement when setting rejection limits. The interim guidance document, which will be published in final form before November 30, 1981 is intended to help manufacturers to comply with the final rule. BRH has identified the errors and statistical uncertainties for currently used instruments in the interim guidance document. These data can be used by manufacturers to set rejection limits without further analysis. FDA agrees that it is always possible that an "unknown" source of error may be found and will need to be incorporated into the setting of rejection limits; however, BRH's error and statistical uncertainty analyses have been very thorough. FDA believes that there is little likelihood of finding other "significant" sources of error or uncertainty. Any technical disagreements between BRH and manufacturers can be resolved through technical meetings on the basis of scientific merit and would not affect the amended regulation.

5. One comment stated that removing minimum requirements for test equipment accuracy from the standard will permit unequal treatment of manufacturers. The comment argued that some manufacturers' testing programs may obtain a less thorough review than others because the skills of the Bureau staff who review and approve testing programs vary, and because of periodic personnel changes. The comment also argued that the resources and technical skills available to different oven manufacturers vary. Thus, the proposal will impose a heavier burden on some manufacturers than others. For example, the agency, through review of the error analysis of one manufacturer which may have included additional errors, may impose these error requirements on other manufacturers that may not have this type of technical capability.

The agency notes that it has always been BRH's policy to issue guidance documents to assist manufacturers in complying with regulatory requirements. Besides providing a uniform regulatory review process, this policy takes into consideration the varying technical skills and resources within the industry. It is clear from the interim guidance document that instruments are currently available that could be used with rejection limits as high as the highest currently in use by industry (0.8 milliwatt per square centimeter) with no analysis other than that available in the

interim guidance document. Use of these ovens marketed prior to the effective

arising from spatial averaging can be

This is beside the point. FDA is

location of greatest microwave radiation carry and display anchor lights while at

interim guidance document. Use of these instruments will require no investment of time or resources for instrument analysis by the manufacturer beyond what is already in place to ensure adequate constancy of instrument calibration. While the agency may at some future time require additional instrument errors to be considered, prior to imposing any additional requirements, FDA would ensure that manufacturers are given adequate opportunity to comment, and that the technical basis for such requirements is sound. The comment is rejected.

6. Another comment claimed that the options of seeking to establish worst-case testing conditions, considering all the variations of use and the potential accuracy of measurement, were all studied and discarded in 1969–1971 as being much too complicated. The comment also claimed that applying all the negative errors and inaccuracies so that they are directly cumulative, as illustrated in the interim guidance document, is erroneous. Typical engineering practice would establish the root-mean-square (RMS) value of the errors or use probabilities to determine the likelihood of the errors being cumulative.

FDA notes that when the standard was written the instrument manufacturers had not yet developed comprehensive laboratory protocols and techniques for assessing instrument errors. The agency believes that evaluating measurement uncertainties is a common and general scientific practice and should be performed for microwave oven survey instruments. A total of only RMS errors is meaningful when the probability distribution of all errors is the same in all use situations and when such errors are shown to be independent. However, the actual error in a given measurement can be considerably worse than such a sum. Further, the probability distribution of many of the errors that affect microwave oven survey instruments will vary from one instrument manufacturer to another. Often, microwave oven manufacturers do not know the probability distributions of the errors and are not able to establish the independence of these errors. To assure that ovens actually meet the requirements of the standard, the agency has evaluated the full range of errors that may be encountered in an actual use situation and has made this information available to manufacturers. The comment requires no change in the final rule.

7. One comment stated that the proposed rule will apply to microwave ovens marketed prior to the effective date of the amendment. Therefore, service organizations will need to purchase new instruments to comply with the new requirement for error analysis and will pass this extra expense to the consumer.

FDA has never required service organizations to comply with the microwave oven standard. The standard is directed only at manufacturers, assemblers, and importers. Thus, service organizations need not submit their testing programs to the agency or purchase new instruments in response to the amendment.

8. Another comment noted that the FDA proposal will add higher costs to the microwave oven industry.

The agency notes that the anticipated economic effects of the proposal were reviewed through a regulatory analysis assessment document at the time the proposal was issued. This document is available for public review in the Dockets Management Branch, Food and Drug Administration. The agency was not aware of any data indicating that the proposed rule would increase costs to the microwave oven industry, and no data were submitted with the comment. The comment does not justify any change in the final rule.

9. One comment stated that the FDA proposal for an electric (E)-field measurement has not received adequate technical consideration and that it is premature to make this change.

The agency notes that all of the oven survey instruments in use by the microwave oven manufacturers perform measurements of the equivalent plane-wave power density as specified in the rule. The operation of such E-field devices has been examined in published scientific papers by both the instrument manufacturers and by FDA. The revision is intended to bring the standard into line with current practice. Therefore, the comment is rejected.

10. One comment states that the proposal implies that the maximum E-field vector must be estimated for a point. The comment argued that, because a finite size aperture is needed for the measurement, and because there is no simple way to extrapolate this measurement to a point, to make this change is premature.

FDA agrees that any measurement device must have some finite dimensions. However, in considering free-space field variations, an arbitrarily good approximation of the "point" E-field can be obtained using a very small probe. Probes having dimensions much smaller than one wavelength have been developed and described in the published scientific literature. Errors arising from spatial averaging can be evaluated by comparison of instruments to such probes. The comment does not require any change in the final rule.

11. Another comment objected to the proposal because the change would permit use of instruments with extreme inaccuracies giving meaningless measurements because the fields would not be quantified. The comment argued that the proposal would also allow any manufacturer to claim that its instruments meet the requirements of the microwave oven standard.

FDA notes that manufacturers indeed are permitted to use any test instrument provided they can account for all the errors in the measurement. The agency will issue guidance which will help manufacturers to identify accountable errors. If an extremely inaccurate instrument is used, the total error for the measurement would be so large that a very low rejection level would need to be set. Therefore, it still would be advantageous for manufacturers to use more accurate instruments. Because instrument accuracy requirements are no longer in the standard, manufacturers can no longer claim that an instrument meets the standard.

12. Two comments state that, with regard to assessing instrument uncertainties, FDA is obligated to identify in the standard what must be measured, how it is to be measured, and with what accuracy the measurement must be made.

FDA disagrees that the standard must identify accuracy of the test equipment. Other standards published by the agency under the Radiation Control for Health and Safety Act of 1968 permit use of any instrument provided the user can account for all the errors in the measurement. FDA has identified in the standards what must be measured and, where possible, how it is to be measured. The agency believes it has an obligation to consider all scientifically valid instrument designs. Because test methods must necessarily be suited to the design of the instrument, it is not possible to specify appropriate tests for instruments not yet designed. Therefore, the standard should not require testing and measuring procedures that may hinder future instrument designs. However, FDA has developed and made available to manufacturers in other publications simple test protocols for those instruments currently in use for compliance measurements. The comments are rejected.

13. One comment suggested that the proposed rule would result in nonuniform rejection test limits within the industry.

This is beside the point. FDA is primarily concerned with the uniformity of test results, i.e., that ovens not be found in compliance with the standard when tested by one instrument but out of compliance when tested by another. To achieve uniform determination of compliance, the agency concludes that it is necessary to account for the uncertainties associated with particular testing instruments. Rejection limits now used within the industry are not uniform because of known instrument undertainties and the uniqueness of each manufacturer's product designs and testing programs. What is important then, is not uniformity of rejection limits but uniformity of test results.

Therefore, under the Public Health Service Act as amended by the Radiation Control for Health and Safety Act of 1968 (sec. 358, 82 Stat. 1177–1179 as amended (42 U.S.C 263f)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 1030 is amended in § 1030.10 by adding new paragraph (b)(8) and by revising paragraphs (c)(1) and (3) (i) and (ii), to read as follows:

§ 1030.10 Microwave ovens.

* * * * *

(b) * * *

(8) "Equivalent plane-wave power density" means the square of the root-mean-square (RMS) electric field strength divided by the impedance of free space (377 ohms).

(c) *Requirements*—(1) *Power density limit.* The equivalent plane-wave power density existing in the proximity of the external over surface shall not exceed 1, milliwatt per square centimeter at any point 5 centimeters or more from the external surface of the oven measured prior to acquisition by a purchaser, and, thereafter, 5 milliwatts per square centimeter.

* * * * *

(3) *Measurement and test conditions.*

(i) Compliance with the power density limit in paragraph (c)(1) of this section shall be determined by measurement of the equivalent plane-wave power density made with an instrument which reaches 90 percent of its steady-state reading within 3 seconds when the system is subjected to a step-function input signal. Tests for compliance shall account for all measurement errors and uncertainties to ensure that the equivalent plane-wave power density does not exceed the limit prescribed by paragraph (c)(1) of this section.

(ii) Microwave ovens shall be in compliance with the power density limit if the maximum reading obtained at the location of greatest microwave radiation emission, taking into account all measurement errors and uncertainties, does not exceed the limit specified in paragraph (c)(1) of this section when the emission is measured through at least one stirrer cycle. As provided in § 1010.13 of this chapter, manufacturers may request alternative test procedures if, as a result of the stirrer characteristics of a microwave oven, such oven is not susceptible to testing by the procedures described in this paragraph.

* * * * *

Effective date. This regulation is effective November 28, 1981.

(Sec. 358, 82 Stat. 1177–1179 as amended (42 U.S.C. 263f))

Dated: November 17, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-36873 Filed 11-24-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 258

Indian Fishing—Hoopa Valley Indian Reservation; Conservation Regulations

Correction

In FR Doc. 80-34975 appearing at page 74688 in the issue for Monday, November 10, 1980, make the following correction:

On page 74688, in the first column, in the **"Effective Date"** paragraph, "on or before December 10, 1980" should have read "on December 10, 1980."

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD 7-80-03]

Establishment of Special Anchorage Area, Apollo Beach, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This rule establishes a Special Anchorage Area at Apollo Beach, Florida. With the establishment of this Special Anchorage Area, owners of vessels not more than 65 feet in length would be relieved of the requirement to carry and display anchor lights while at anchor. This area would provide space well removed from channels and fairways to accommodate anchoring of local and transit pleasure craft.

EFFECTIVE DATE: This amendment is effective on 29 December 1980.

FOR FURTHER INFORMATION CONTACT:

Lieutenant Commander Richard W. Harbert, Commander, Seventh Coast Guard District (m), 51 S.W. First Avenue, Miami, Fl 33130, (305) 350–5276.

SUPPLEMENTARY INFORMATION: On July 21, 1980, the Coast Guard published a proposed rule (45 FR 48662) concerning this amendment. Interested persons were given until September 4, 1980 to submit comments. No comments were received. The Coast Guard has determined that in accordance with the Department of Transportation's "Regulatory Policies and Procedures" (44 FR 11034), this amendment is nonsignificant. An Environmental Assessment was completed in May 1980 which resulted in a finding of no significant impact on the quality of the human environment.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are Lieutenant Commander Richard W. Harbert, Project Manager, Marine Safety Division, Seventh Coast Guard District, and Lieutenant D. L. Brannon, Project Attorney, Legal Officer, Seventh Coast Guard District.

In consideration of the foregoing, Part 110, Title 33, Code of Federal Regulations is amended by adding 110.74b to read as follows:

§ 110.74b Apollo Beach, Florida.

Beginning at a point approximately 300 feet south of the Tampa Sailing Squadron at latitude 27° 46' 50.2" N., longitude 82° 25' 27.8" W.; thence southeasterly to latitude 27° 46' 45.6" N., longitude 82° 25' 23.2" W.; thence southwesterly to latitude 27° 46' 35.8" N., longitude 82° 25' 34.8" W., thence northwesterly to latitude 27° 46' 39.9" N., longitude 82° 25' 39.6" W., thence to the point of beginning.

Sec. (1, 30 Stat. 98 as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937; (49 U.S.C. 1655(g)(1)(B); 49 CFR 1.46(c)(2))

Dated: November 24, 1980.

B. L. Stabile,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 80-37119 Filed 11-26-80; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF EDUCATION

In addition, the criteria for all four programs have been weighted to provide

(ii) Guidance and supervision on the part of the dissertation advisor or

(2) The Secretary looks for information that shows that the

(2) The Secretary looks for information that shows—

§ 682.34 Selection criteria.

The Secretary uses the criteria in this

DEPARTMENT OF EDUCATION

34 CFR Part 662

Higher Education Programs in Modern Foreign Language Training and Area Studies

AGENCY: Department of Education.

ACTION: Final Regulations.

SUMMARY: The Secretary of Education amends the regulations for the Doctoral Dissertation Research Abroad, Faculty Research Abroad, Group Projects Abroad, and Foreign Curriculum Consultants programs. The amendments are intended to clarify and assign weights to the selection criteria.

EFFECTIVE DATE: These final regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the **Federal Register**. The effective date is changed by statute if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Richard T. Thompson, Chief, International Studies Branch, Division of International Research and Studies, Office of International Education, 400 Maryland Avenue, SW, (Room 3923, ROB 3), Washington, D.C. 20202. Telephone (202) 245–2356.

SUPPLEMENTARY INFORMATION: In the Notice of Proposed Rulemaking published in the **Federal Register** of April 3, 1980 (45 FR 22806), the Commissioner of Education invited comments on the proposed regulations to amend the selection criteria for the Higher Education Programs in Modern Foreign Language Training and Area Studies (45 CFR Part 148, now 34 CFR Part 662).

No comment has been received from the public but program officials have concluded that certain criteria from the Education Department General Administrative Regulations (EDGAR) are not appropriate for use as selection criteria for two of the programs involving individual fellowships. Accordingly, appropriate changes have been made in §§ 148.14 and 148.24 (new §§ 662.14 and 622.24), which contain the selection criteria for the Doctoral Dissertation Research Abroad and Faculty Research Abroad Fellowships programs, to (a) clarify the criteria, and (b) delete inappropriate criteria. These changes include explanations of each criterion and its relation to the program to which it applies.

In addition, the criteria for all four programs have been weighted to provide for appropriate emphasis of certain factors of primary importance in the legislative mandate of Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961, the authorizing legislation. Additional weight has been assigned to such items as the plan of action, the qualifications of the individual applicants, and the adequacy of the budgets requested.

Section 148.34(i) has been revised to facilitate selection of categories of projects dealing with foreign languages and areas that are critical to the national interest at the new § 662.34(i). These categories will be designated annually by the Secretary in the Notice of Closing Date.

As required by Section 431(a) of the General Education Provisions Act, as amended (20 U.S.C. 1232(a)), a citation of statutory authority for each substantive provision has been placed in parentheses immediately following the text of the provision. If all the provisions of a section are supported by the same citation, the citation is given at the end of the section.

(Catalog of Federal Domestic Assistance No. 84.019; Faculty Research Abroad program. No. 84.020; Foreign Curriculum Consultants program. No. 84.021; Group Projects Abroad program. No. 84.022; Doctoral Dissertation Research Abroad program)

Dated: November 21, 1980.

Shirley M. Hufstedler,

Secretary of Education.

Part 662 of Title 34 of the Code of Federal Regulations is amended as follows:

1. Section 662.14 is amended to read as follows:

§ 662.14 Selection criteria.

The Secretary uses the criteria in this section to evaluate the applications of graduate students for the purpose of recommending to the Board of Foreign Scholarships candidates for fellowships under this subpart. Preference will be given to American citizens who have served in the Armed Forces of the United States. The criteria are weighted and total 60 points.

(a) *Plan of action* (Maximum 20 points).

(1) The Secretary reviews each application for information that shows the quality of the plan of action for the project.

(2) The Secretary looks for information that shows—

(i) The project is original, the problems, questions, and hypotheses are well formulated and the formulation reflects adequate knowledge of related research;

(ii) Guidance and supervision on the part of the dissertation advisor or committee throughout all stages, including the development of the project, understanding of research conditions abroad, and actual research in the field;

(iii) The project's location in a foreign country is necessary for the successful completion of the project and that the proposal demonstrates knowledge and utilization of resources pertinent to the project which are available in the United States;

(iv) The methodology is specifically described, sound, and appropriate to the project.

(b) *Qualifications of the applicant* (Maximum 15 points).

(1) The Secretary reviews each application for information that shows the qualifications of the applicant.

(2) The Secretary looks for information that shows—

(i) The applicant's academic record is excellent and relevant to the proposed project;

(ii) The applicant possesses adequate foreign language skills to effectively carry out the proposed project;

(iii) The applicant's ability to conduct research in a foreign cultural context, as evidenced by the applicant's references or previous overseas experience.

(c) *Budget and cost effectiveness* (Maximum 10 points).

(1) The Secretary reviews each application for information that shows the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget is adequate to support the project activities and the project can be completed within the proposed time limits;

(ii) The allowances are reasonable in relation to the objectives of the project.

(d) *Benefits to the host country* (Maximum 5 points).

(1) The Secretary reviews each application for information that shows benefits accruing to the host country as a result of the research.

(2) The Secretary looks for information that shows that the proposal reflects the intent to share periodically, during the fellowship period, the results of the research in progress with host country scholars and officials and reflects the intent to make a copy of the dissertation available for use by interested host country scholars and officials.

(e) *Adequacy of overseas resources* (Maximum 5 points).

(1) The Secretary reviews each application for information that shows that there are adequate overseas resources available for the project.

(2) The Secretary looks for information that shows that the overseas facilities indicated will afford sufficient and appropriate locations for the proposed research and that the applicant has made preparations to establish research contacts and affiliations abroad.

(f) *Priorities* (Maximum 5 points).

(1) The Secretary reviews each application for information that shows that the project serves program priorities in the field of modern foreign languages and area studies. The Secretary will announce program priorities in each year's Notice of Closing Date.

(2) The Secretary looks for information that shows that the applicant addresses the program priorities for that year.

(22 U.S.C. 2452(b)(6); 2456(a)(2))

2. Section 662.24 is amended to read as follows:

§ 662.24 Selection criteria.

The Secretary uses the criteria in this section to evaluate the applications of faculty for the purpose of recommending to the Board of Foreign Scholarships candidates for fellowships under this subpart. Preference will be given to American citizens who have served in the Armed Forces of the United States. The criteria are weighted and total 60 points.

(a) *Plan of action* (Maximum 20 points).

(1) The Secretary reviews each application for information that shows the quality of the plan of action for the project.

(2) The Secretary looks for information that shows—

(i) The problems, questions, and hypotheses are well formulated and the formulation of the project reflects adequate knowledge of related research;

(ii) The objectives of the project are capable of being obtained and relevant to the sponsoring institution's plans for developing and/or strengthening programs in modern foreign languages and area studies.

(iii) The project's location in a foreign country is necessary for the successful completion of the project and that the proposal demonstrates knowledge and utilization of resources pertinent to the project which are available in the United States;

(iv) The methodology is specifically described, sound, and appropriate to the project.

(b) *Qualifications of applicant* (Maximum 15 points).

(1) The Secretary reviews each application for information that shows the qualifications of the applicant.

(2) The Secretary looks for information that shows—

(i) The applicant's academic and professional record is excellent and relevant to the proposed project;

(ii) The applicant possesses adequate foreign language skills to effectively carry out the proposed project;

(iii) The applicant's ability to conduct research in a foreign cultural context, as evidenced by previous language and area studies training or previous overseas experience.

(c) *Budget and cost effectiveness* (Maximum 10 points).

(1) The Secretary reviews each application for information that shows that the applicant has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget is adequate to support the project activities and the project can be completed within the proposed time limits.

(ii) The allowances are reasonable in relation to the objectives of the project.

(d) *Benefits* (Maximum 5 points).

(1) The Secretary reviews each application for information that shows benefits accruing from the proposed research.

(2) The Secretary looks for information that shows that the proposal reflects the intent to consult and share results of the research with host country scholars and officials and the American scholarly community.

(e) *Adequacy of overseas resources* (Maximum 5 points).

(1) The Secretary reviews each application for information that shows that there are adequate overseas resources available for the project.

(2) The Secretary looks for information that shows that the overseas facilities indicated will afford sufficient and appropriate locations for the proposed research and that the applicant has made preparations to establish research contacts and affiliations abroad.

(f) *Priorities* (Maximum 5 points).

(1) The Secretary reviews each application for information that shows that the project serves program priorities in the field of modern foreign languages and area studies. The Secretary will announce program priorities in each year's Notice of Closing Date.

(2) The Secretary looks for information that shows that the applicant addresses the program priorities for that year.

(22 U.S.C. 2452(b)(6); 2456(a)(2))

3. Section 662.34 is amended to read as follows:

§ 662.34 Selection criteria.

The Secretary uses the criteria in this section to evaluate applications for the purpose of recommending to the Board of Foreign Scholarships projects for funding under this subpart. The criteria are weighted and total 100 points.

(a) *Plan of operation* (Maximum 25 points).

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective;

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(b) *Quality of key personnel* (Maximum 20 points).

(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section plans to commit to the project;

(iv) The extent to which the applicant, as part of its non-discriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training

in fields related to the objectives of the

Closing Date. The Secretary looks for

have been traditionally

in fields related to the objectives of the project as well as other information that the applicant provides.

(c) *Budget and cost effectiveness* (Maximum 10 points).

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities;

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan* (Maximum 10 points).

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) The Secretary looks for information that shows that the methods of evaluation are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources* (Maximum 5 points).

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows that the facilities, equipment, and/or supplies that the applicant plans to use are adequate.

(f) *Specific program criteria* (Maximum 30 points).

(1) In addition to the criteria noted above, the Secretary reviews each application for information that shows that the project meets the specific program criteria.

(2) The Secretary looks for information that shows—

(i) The potential impact of the project on the development of modern foreign languages and area studies in American education. (Maximum 5 points).

(ii) The project's relevance to the applicant institution's educational goals and its relationship to the institution's program development in modern foreign languages and area studies. (Maximum 5 points).

(iii) The extent to which direct experience abroad is necessary to achieve the project's objectives and the effectiveness with which relevant host country resources will be utilized. (Maximum 5 points).

(iv) The project serves program priorities in the field of modern foreign languages and area studies. The Secretary will announce program priorities in each year's Notice of Closing Date. The Secretary looks for information that shows that the applicant addresses the program priorities for that year. (Maximum 15 points).

(22 U.S.C. 2452(b)(6); 2456(a)(2))

4. Section 662.43 is amended to read as follows:

§ 662.43 Selection criteria.

The Secretary uses the criteria in this section to evaluate applications for the purpose of recommending to the Board of Foreign Scholarships projects for funding under this subpart. The criteria are weighted and total 100 points.

(a) *Plan of operation* (Maximum 25 points).

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective;

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(b) *Quality of key personnel* (Maximum 20 points).

(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section plans to commit to the project;

(iv) The extent to which the applicant, as part of its non-discriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness* (Maximum 10 points).

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities;

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan* (Maximum 5 points).

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

(2) The Secretary looks for information that shows that the methods of evaluation are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources* (Maximum 5 points).

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows that the facilities, equipment, and/or supplies that the applicant plans to use are adequate.

(f) *Specific program criteria* (Maximum 35 points).

(1) In addition to the criteria noted above, the Secretary reviews each application for information that shows that the project meets the specific program criteria.

(2) The Secretary looks for information that shows—

(i) The potential impact of the project on the applicant institution's plans for developing its modern foreign language and area studies programs. (Maximum 5 points).

(ii) The potential effective use of the results of the consultant's work following the completion of the project. (Maximum 5 points).

(iii) The appropriateness of the consultant's duties and the allocation of time among the duties. (Maximum 5 points).

(iv) The number of faculty, students, and members of the relevant community who are expected to be affected by the consultant's activities. (Maximum 5 points).

(v) The likelihood that educational institutions other than the grantee will share the consultant's services and the extent to which such institutions have participated in helping define the nature of these services. (Maximum 5 points).

(vi) The adequacy of the arrangements made for coordinating the consultant's work under the supervision of a project director. (Maximum 5 points).

(vii) If the proposal is for curriculum development in area studies, a focus on area studies in which the applicant institution lacks adequate instructional materials and trained personnel. (Maximum 5 points).

(22 U.S.C. 2452(b)(6); 2456(a)(2))

[FR Doc. 80-37124 Filed 11-26-80; 8:45 am]

BILLING CODE 4000-01-M

34 CFR Part 764

Secretary's Discretionary Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues regulations for the Secretary's Discretionary Program. This program assists in the development or demonstration of innovative methods, techniques, or practices which contribute to the solution of educational problems. The regulations include the criteria by which the Secretary evaluates applications.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the **Federal Register**. The effective date is changed by statute if Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Jan Solomon, Department of Education, Office of School Improvement, (Room 3700, Donohoe Building), 400 Maryland Avenue SW., Washington, D.C. 20202 Telephone: (202) 426-7220.

SUPPLEMENTARY INFORMATION: This program is authorized by the Education Amendments of 1978, under section 303 of Title III of the Elementary and Secondary Education Act. On March 12, 1980, the Commissioner of Education published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (45 FR 16142). Interested persons were given 60 days to comment on the notice. Five persons submitted comments. The comments generally supported the provisions established in the NPRM for this program.

The provisions of these final regulations are substantially the same as the provisions of the NPRM. The evaluation criteria are unweighted; these regulations supercede EDGAR in this regard. Also the Secretary may, in any given year, publish a closing notice in the **Federal Register** that emphasizes particular funding areas.

For clarity, minor editorial changes have been made. For example, the term "mini-grants" has been changed to "small grants" to reflect more accurately the language of the statute.

In addition, certain other changes have been made in response to comments. The paragraphs below summarize the comments and the Secretary's response to them. The comments and responses are presented in the order of the sections to which they pertain. If section numbers differ from those in the NPRM, the NPRM section numbers are indicated in parentheses.

§ 764.2(b)(3) Who is eligible to apply for a grant?

Comment. One commenter objected to the inclusion of parent organizations as eligible applicants for small grants.

Response. No change has been made. Section 303(b) of the authorizing legislation includes parent organizations as eligible applicants for small grants.

§ 764.30 (§ 161.8) How does the Secretary evaluate an application?

Comment. One commenter opposed the use of unweighted criteria and recommended using both weighted criteria and a funding cut-off point.

Response. No change has been made. The regulations are specifically designed to provide the flexibility needed to evaluate the merits of a wide variety of projects. Depending upon the nature of proposed projects, the relative importance of a particular criterion may vary widely.

Comment. One commenter said the Secretary should not compare each application to other pending applications because that process would not provide a consistent standard for comparison. The commenter expressed concern that an "average" proposal, reviewed in the company of inferior proposals, would be funded, whereas that same proposal, reviewed in the company of outstanding proposals, would not be funded.

Response. No change has been made. The Secretary evaluates each application according to the criteria and, in doing so, compares the relative merits of the applications available for funding to assure that only the best are funded. However, the Secretary need not fund any particular number of projects in any fiscal year. For example, if none of the applications are of a sufficiently high quality, the Secretary is not bound to award any grants.

§ 764.31 (§ 161.9) What selection criteria does the secretary use?

Comment. One commenter suggested that the criteria were not appropriate for small-grants.

Response. No change has been made. The Secretary believes that the criteria are appropriate. The criteria are designed to maintain the overall flexibility provided by the Act. Because the criteria are unweighted, they may be applied in the most appropriate way to individual projects. For example, some criteria may be given less weight in evaluating small grants.

Comment. One commenter expressed concern that small school districts, which may lack technical proficiency in the preparation of applications, will not be able to successfully compete with large districts. The commenter suggested that specific language be included in the regulation that would allow the Secretary to focus upon the unique needs of a locality.

Response. No change has been made. The regulation does not prohibit the establishment of priorities that would allow the Secretary to focus on local needs. For example, the Secretary could specify in an application notice one or more specific educational problems to be addressed. Applicants, large or small, that demonstrate the capacity to address such problems may apply.

Further, the Secretary examines the overall quality of the proposed project and the nature of the educational need to be addressed in selecting applicants, not the skill in presentation. The Secretary does not feel that an applicant lacking experience in proposal writing will be unable to compete effectively for a grant.

Comment. One commenter praised the inclusion of "other public agencies" as eligible recipients but suggested that the criteria be changed to address specifically the coordination of other public social agencies and local school systems.

Response. No change has been made. The responsibility of grantees to

coordinate with other activities is

(2) Up to ten percent of the funds

Budget

(b) An application from an LEA must comply with the requirements in

that have been traditionally underrepresented, such as—

project and, to the extent possible, are objective and produce data that are

coordinate with other activities is described in EDGAR §§ 75.580–75.581.

Citation of Legal Authority

A citation of statutory or other legal authority has been placed in parentheses on the line following each provision.

(Catalog of Federal Domestic Assistance Number 84.122, Secretary's Discretionary Program)

Shirley M. Hufstedler,
Secretary of Education.

Title 34 of the Code of Federal Regulations is amended by adding Part 764 as follows:

PART 764—SECRETARY'S DISCRETIONARY PROGRAM

Subpart A—General

Sec.
764.1 What is the Secretary's Discretionary Program?
764.2 Who is eligible to apply for a grant?
764.3 What regulations apply to this program?
764.4 What definitions apply to this program?

Subpart B—What Kinds of Projects Does the Department of Education Assist Under This Program?

764.10 What types of projects does this program support?

Subpart C—How Does One Apply for a Grant?

764.20 Application requirements.

Subpart D—How Does the Secretary Make a Grant?

764.30 How does the Secretary evaluate an application?
764.31 What selection criteria does the Secretary use?

Subpart E—What Conditions Must Be Met by a Grantee?

764.40 Participation of students enrolled in private non-profit schools.
764.41 Use of funds.

Authority: Section 303 of the Elementary and Secondary Education Act, as amended (20 U.S.C. 2943).

Subpart A—General

§ 764.1 What is the Secretary's Discretionary Program?

(a) The Secretary's Discretionary Program assists in the development or demonstration, or both, of innovative methods, techniques, or practices which contribute to the solution of educational problems. The program includes small grants to teachers, administrators, other educational personnel and parent organizations.

(b) These regulations govern—

(1) Funds appropriated by Congress under section 303(d)(1) of the Act; and

(2) Up to ten percent of the funds appropriated under Part B (Metric Education), Part C (Arts in Education), Part F (Youth Employment), Part G (Law-Related Education), Part H (Environmental Education), Part I (Health Education), Part J (Correction Education), and Part L (Biomedical Sciences) of the Act.

(c) These regulations do not govern programs that are supported by funds under (b)(1) or (2) of this section for which there are separate regulations.

(20 U.S.C. 2943)

§ 764.2 Who is eligible to apply for assistance?

(a) For grants to carry out innovative projects, eligible applicants include—

(1) State educational agencies (SEAs);
(2) Local educational agencies (LEAs);
(3) Other public agencies; or
(4) Nonprofit private agencies, organizations or institutions.

(b) For small grants to assist in the development or demonstration of innovative methods or techniques, eligible applicants include—

(1) Teachers;
(2) Administrators or other educational personnel; and
(3) Parent organizations.

(20 U.S.C. 2942 and 2943).

§ 764.3 What regulations apply to this program?

(a) *Regulations for grants.* The following regulations apply to grants made under the Secretary's Discretionary Program:

(1) The Education Division General Administrative Regulations (EDGAR) in 34 CFR Part 75 (Direct Grant Programs) and 34 CFR Part 77 (General), except that § 75.201(a)(3) and § 75.217(a) do not apply and §§ 75.100 through 75.102 do not apply unless a closing date for certain applications is published in the **Federal Register.**

(2) The regulations in this Part.

(b) *Regulations for procurement contracts.* The Secretary may, under certain conditions, issue contracts under the Secretary's Discretionary Program. These contracts are subject to—

(1) Procurement regulations in 41 CFR Chapters 1 and 34; and

(2) Requirements and criteria in particular requests for proposals (RFPs).

(20 U.S.C. 3474, 2943)

§ 764.4 What definitions apply to this program?

(a) *Definitions in EDGAR.* The following terms used in these regulations are defined in part 77:

Applicant
Application
Award
Budget
Local educational agency (LEA)
Nonprofit
Private
Project
Public
Secretary
State educational agency (SEA)

(b) *Program specific definitions.*

"Act" means Title III of the Elementary and Secondary Education Act of 1965, as amended.

"Small Grant" means grants of $25,000 or less as authorized by section 303(b) of the Act.

(20 U.S.C. 3474, 2943)

Subpart B—What Kinds of Projects Does the Department of Education Assist Under This Program?

§ 764.10 What types of projects does this program support?

(a) The Secretary funds two categories of projects—

(1) Projects to develop or demonstrate, or both, innovative techniques, methods, or approaches which will contribute to the solution of educational problems.

(2) Small grant projects to develop or demonstrate, or both, innovative methods or techniques which will contribute to the solution of educational problems.

(b)(1) The Secretary may publish a program announcement in the **Federal Register** that describes the particular area of education in which awards will be made, as well as any closing date that will apply.

(2) If the Secretary does not publish a program announcement in the **Federal Register,** funds may be awarded to support a project in any area of education.

(c) Even if the Secretary publishes a program announcement in the **Federal Register** the Secretary may support a project in an area which is not described in the program announcement if the Secretary concludes that the application—

(1) Satisfies the requirements in these regulations,
(2) Is of outstanding quality, and
(3) Shows a strong likelihood of meeting important national needs.

(20 U.S.C. 3474, 2943)

Subpart C—How Does One Apply for a Grant?

§ 764.20 Application requirements.

(a) The Secretary considers making a grant to an eligible applicant if it—

(1) Submits an application, and
(2) Complies with all applicable rules in EDGAR governing the submission of applications.

(b) An application from an LEA must comply with the requirements in §§ 75.138 through 75.141 of EDGAR concerning an open meeting on the application.

(c) If an employee of an LEA applies for a small grant, the application must contain assurances that the LEA—

(1) Has had an opportunity to comment on the application; and

(2) Will cooperate with the employee in carrying out the project.

(20 U.S.C. 3474, 2943)

Subpart D—How Does the Secretary Make a Grant?

§ 764.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the unweighted criteria in § 764.31.

(b) On the basis of the evaluation criteria in § 764.31, the Secretary compares an application submitted in response to other applications submitted in response to the same program announcement.

(c) On the basis of the evaluation criteria in § 764.31, the Secretary compares an application not submitted in response to a program announcement to any other pending application for the same fiscal year that were also not submitted in response to a program announcement. The Secretary may also compare such applications to others received for a prior fiscal year.

(d) The Secretary may decline to fund an application that is eligible for funding under any other Department of Education program.

(20 U.S.C. 3474, 2943)

§ 764.31 What selection criteria does the Secretary use?

(a) *Plan of operation.*

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective;

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;
(B) Women;
(C) Handicapped persons;
(D) The elderly; and
(vi) If the applicant is an LEA or SEA, a clear description of how the applicant will provide an opportunity for participation of students in nonprofit private elementary and secondary schools.

(b) *Quality of key personnel.*

(1) The Secretary reviews each application for information that shows the quality of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (2) (i) and (ii) of this section plans to commit to the project;

(iv) The extent to which the applicant, as a part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;
(B) Women;
(C) Handicapped persons;
(D) The elderly; and

(3) To determine the qualifications of a person, the Secretary considers evidence of past experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.*

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.*

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (See § 75.590—Evaluation by the grantee.)

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.*

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Problems addressed.* If the application is not submitted in response to a program announcement, the Secretary looks for information that shows the extent to which educational problems of national significance are addressed by the project.

(g) *Innovativeness.* The Secretary looks for information that shows the extent to which the project involves techniques that are innovative but build on current knowledge and research.

(h) *Applicant's commitment and capacity.* The Secretary looks for information that shows the extent to which the applicant demonstrates the commitment, capacity, and expertise to successfully carry out the project's purposes.

(i) *Model or demonstration.* The Secretary looks for information that shows the project's potential as a model or demonstration that will contribute to the solution of educational problems.

(20 U.S.C. 3474, 2943)

Subpart E—What Conditions Must be Met by Grantee?

§ 764.40 Participation of students enrolled in private non-profit schools.

Each SEA or LEA that receives a grant under this program, shall provide for participation by students enrolled in nonprofit private elementary and secondary schools. EDGAR establishes the rules for this participation (see EDGAR, § 75.650).

(20 U.S.C. 2942(b))

§ 764.41 Use of funds.

Direct and indirect costs incurred by a grantee in carrying out an approved project are subject to—

(a) The limitations and applicable cost principles provided or referred to in EDGAR; and

(b) The limitations that—

(1) A grantee may not use funds under this program for construction or remodeling costs; and

(2) Equipment costs may not exceed five percent of the grant amount.

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(20 U.S.C. 3474, 2943)

[FR Doc. 80-37089 Filed 11-26-80; 8:45 am]

BILLING CODE 4000-01-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket RM 77-3A]

Compulsory License for Making and Distributing Phonorecords

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulations.

SUMMARY: This notice is issued to advise the public that the Copyright Office of the Library of Congress is adopting final regulations to implement section 115 of the Copyright Act of 1976, title 17 of the United States Code. That section establishes a compulsory license for the making and distribution of phonorecords of nondramatic musical works. The effect of the final regulations is to establish requirements governing the content and service of certain notices and Statements of Account to be filed by persons exercising the compulsory license.

EFFECTIVE DATE: December 29, 1980.

FOR FURTHER INFORMATION, CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559, (202) 287-8380.

SUPPLEMENTARY INFORMATION:

The Background of This Action

Section 115 of the Copyright Act provides that "[w]hen phonorecords of a nondramatic musical work have been distributed to the public in the United States under authority of the copyright owner, any other person may, by complying with the provisions of the section, obtain a compulsory license to make and distribute phonorecords of the work" for certain purposes. A compulsory license permits that use of a copyrighted work without the consent of the copyright owner if certain conditions are met and royalties paid.

Paragraphs (b) and (c) of section 115 direct the Copyright Office to issue regulations governing the content and filing of certain notices and Statements of Account under this section. On April 26, 1977, in accordance with an Advance Notice of Proposed Rulemaking (42 FR 16837), the Office held a public hearing aimed at formulating regulations under this section. After Considering the testimony given at the hearing and in supplemental statements, on December 29, 1977 (42 FR 64889), the Copyright Office issued interim regulations. After reviewing the public comments received in response to the interim regulations, the Copyright Office on September 28, 1978 (43 FR 44511): (1) Adopted amendments to the interim regulations; and (2) announced a public hearing to be held on November 28 and 29, 1978, to take testimony on the interim regulations as amended. The record remained open until January 31, 1979 (43 FR 57252), for receipt of additional written statements.

Most of the testimony and comments in connection with the November, 1978, proceedings were directed at one complex and difficult issue: the "point in time" when a phonorecord is to be considered "permanently distributed," thus making the statutory royalty due and payable. Paragraph (c)(2) of section 115 states that statutory royalties are payable for every phonorecord "made and distributed" under the license; it defines distribution as occurring when "the person exercising the compulsory license has voluntarily and permanently parted" with possession of the phonorecord. In laying out the Copyright Office's general responsibility under section 115, Congress has, in effect, mandated the Register of Copyrights to add specificity to this definition. The Report of the Judiciary Committee of the House of Representatives (H.R. Rep. No. 94-1476, 94th Cong., 2d Sess. pp. 110-111) states:

> Under existing practices in the record industry, phonorecords are distributed to wholesalers and retailers with the privilege of returning unsold copies for credit or exchange. As a result, the number of recordings that have been "permanently" distributed will not usually be known until some time—six or seven months on the average—after the initial distribution. In recognition of this problem, it has become a well-established industry practice, under negotiated licenses, for record companies to maintain reasonable reserves of the mechanical royalties due the copyright owners against which royalties on the returns can be offset. The Committee recognizes the possibility that, without proper safeguards, the maintenance of such reserves could be manipulated to avoid making payments of the full amounts owing to copyright owners. *Under these circumstances, the regulations prescribed by the Register of Copyrights should contain detailed provisions ensuring that the ultimate disposition of every phonorecord made under a compulsory license is accounted for, and that payment is made for every phonorecord "voluntarily and permanently" distributed. In particular, the Register should prescribe a point in time when, for accounting purposes under section 115, a phonorecord will be considered "permanently distributed,"* and should prescribe the situations in which a compulsory licensee is barred from maintaining reserves (e.g., situations in which the compulsory licensee has frequently failed to make payments in the past.) (Emphasis added)

In § 201.19(a)(4) of the Copyright Office's amended interim regulations, the Office sought to fulfill its responsibility to "prescribe a point in time when, for accounting purposes * * *, a phonorecord will be considered 'permanently distributed'," and to establish accounting requirements to assure full payment of all royalties to which copyright owners are entitled under the compulsory license. The record of the November, 1978, hearing and statements, which focused on this provision, proved illuminating; after giving careful consideration to the views of the various interested parties, the Copyright Office reached some tentative conclusions as to what our final regulations on this point should provide. On September 7, 1979, the Office published a notice in the **Federal Register** (44 FR 52260) to announce:

(1) The availability of a Background Paper outlining and discussing our conclusions; and (2) a public meeting to be held on October 19, 1979 to consider comments on the principles and conclusions embodied in the Background Paper.

The purpose of the October 19, 1979 meeting, as expressed in the public notice, was to "sharpen, narrow, and, if possible, settle remaining issues and thus to assist the Copyright Office in issuing final regulations on the subject." The meeting, and the supplemental comments filed after it, helped the Copyright Office in the revision, refinement, and clarification of its tenatative conclusions and in the drafting of regulatory language.

Above all, the meeting and comments convinced the Copyright Office of the need to take definitive action and to issue final regulations without further proceedings. The Copyright Office is also aware, however, that the parties remain divided on how to resolve this difficult question, and that the controversy over it is likely to continue. Under the circumstances, the Office emphasizes that these final regulations should be considered experimental and subject to reconsideration in the light of experience.

General Principles Underlying Final Regulations

Although the compulsory license for phonorecords (the so-called "mechanical license") has been a fixture of the copyright law since 1909, the shift in the obligation to pay royalties from parts "manufactured" to phonorecords "made and distributed" is new. Royalty payments under voluntary, negotiated recording licenses have long been based on the "made and distributed" criterion. However, the application of this criterion in a compulsory context—accompanied by the definition of "distributed" in section 115(c)(2) and the directive in the House Report—presents a different and unprecedented situation. The record of these proceedings is full of warnings from both sides about the hazards that the Copyright Office must avoid as it ventures into accounting practices previously ungoverned by the copyright law.

The record industry's warnings are centered around two major concerns: (1) That the accounting system not be so complicated and burdensome that it negates the purpose of the compulsory license; and (2) that the system adopted not be one with a built-in likelihood of overpayments. The music publishers argue that: (1) The system must be tight enough to ensure against careless or colorable accounting practices and deliberate manipulation; and (2) the system must not only guarantee a full pay-out of all royalties due to copyright owners, but it must also require prompt payment and it must prevent manipulation to allow unjustified delays in royalty payments, thus depriving copyright owners of interest on the monies due them.

The Copyright Office has considered these arguments, and it has striven to take account of them. In preparing these final regulations, the guiding principle has been to make the compulsory license a workable tool while assuring that copyright owners will receive "full and prompt payment for all phonorecords made and distributed." (H.R. REP. NO. 94-1476, 94th Cong., 2d Sess. p. 110). Specifically, the Copyright Office has adopted three fundamental criteria:

(1) *The accounting procedures must not be so complicated as to make use of the compulsory license impractical.*

The Copyright Office believes that in carrying out its responsibilities under section 115, it has a duty to provide a system that is a realistic alternative to voluntary licensing. Neither the record-keeping nor the CPA audit requirements should be so burdensome or expensive as to undermine the Congressional intention by putting compulsory licensing out of the reach of record companies. The task is to provide a system that will function, not one so loaded with paperwork that it becomes prohibitive.

In line with this criterion, the Copyright Office has abandoned the requirement for tracking phonorecord shipments, which was embodied in the interim regulations. The Office now concludes that a requirement for actually tracking particular phonorecord shipments, and for determining whether phonorecords are destroyed or reshipped, is impractical. For the same reason the Office has not adopted two alternative suggestions as to methods for reducing monthly phonorecord reserves: (1) Systems of averaging outstanding reserve balances, which would require complicated recalculations of all balances each month; and (2) systems of customer-by-customer accounting, which would substantially multiply the necessary paperwork. These alternative accounting systems are discussed in more detail below. Although the Copyright Office is inclined to doubt that the use of any of them would be impossible in theory, it is convinced that, as a practical matter, requirement of any of them would put compulsory licensing beyond the means of many record companies.

(2) *The accounting system must insure full payment, but not overpayment.*

Despite their obvious dissatisfaction, copyright owners must accept the legislative decisions embodied in section 115: (1) To base royalties on phonorecords "made and distributed"; (2) to define "distributed" in a way that clearly permits the setting up of reserves against which return can be credited; and (3) to permit the final pay-out to be deferred to a "point in time" to be provided by Copyright Office regulations. Within this legislative framework, copyright owners are justified in demanding establishment of an accounting system that guarantees payment for all phonorecords that are either distributed without a right of return or that are not returned within a stated period.

Like Congress, the Copyright Office is conscious of the often-heard charges of careless or colorable accounting practices by certain record companies which, it is alleged, have deprived copyright owners of substantial royalties in the past. The Office agrees that the regulatory system it adopts must be tight enough to guard against this sort of abuse and to assure "full and prompt" payment of royalties. However, the Office cannot accept the further argument that Congress actually envisioned an over-all system in which frequent overpayments were to be expected, as a means for balancing possible negligence, dishonesty, or manipulation by certain record companies. The Office believes that the statutory requirement for an annual CPA audit, coupled with our regulatory requirements including the application of "generally accepted accounting principles" (GAAP) to the recognition of revenue from the sale of phonorecords, should go a long way toward assuring copyright owners payment of all monies to which they are entitled—that is, statutory royalties for all phonorecords shipped, minus phonorecords returned within a reasonable time-frame. Since actual tracking of phonorecords or shipments is impractical, the Copyright Office has adopted FOFI (first-out-first-in) as the accounting convention that most closely conforms to the Congressional intent. The Office believes that an accounting system based on FOFI, audited by a CPA in accordance with GAAP, will result in full payments to copyright owners, but will minimize the likelihood of overpayments that would arise more often under LOFI (last-out-first-in).

(3) *The accounting system must insure prompt payment.*

Although section 115 contemplates that royalty payments for a certain percentage of phonorecords shipped will be deferred and held in reserve to be credited against returns, Congress also clearly intended that reserves not be held beyond a reasonable time—that, even with deferral, payments should still be "prompt." The House Report on the revision bill emphasizes the "particular" importance of the task entrusted to the Copyright Office: "to prescribe a point in time when * * * a phonorecord will be 'permanently distributed' * * *"

In its amended interim regulations, the Copyright Office fixed this "point in time"—the outer limit for holding reserves—at one year measured from the month of a particular shipment of phonorecords. In the preliminary conclusions expressed in its September 7, 1979, Background Paper, the Office adhered to this formula in the face of arguments from the record industry that it be substantially lengthened and from the copyright owners that it be substantially shortened. For reasons to be discussed in detail below, however, the Copyright Office has now concluded that the twelve-month "point in time" should be reduced to nine months. The Copyright Office believes that a nine-month cut-off will bring faster royalty payouts to copyright owners, thus coming closer to the requirement for "full and prompt payment," while not resulting in more overpayments by record companies.

Certain Conclusions From the Background Paper Adopted

Several of the conclusions underlying the formula for calculating royalties, as presented in our Background Paper of

September 7, 1979, were challenged at the October, 1979, meeting. The Copyright Office's consideration of the arguments put forward at the meeting has led the Office to confirm three of these conclusions:

(1) To require the application of FOFI, rather than LOFI, to the number of returned phonorecords;

(2) To apply the formula presented in our Background Paper on a general basis rather than a customer-by-customer basis; and

(3) Not to include in the regulations an explicit requirement for the refund of overpayments.

Our reasons for each of these conclusions can be summarized briefly as follows:

(1) *Adoption of FOFI.*

A principal element of the formula for calculating royalties presented in the Copyright Office's Background Paper is the application of an accepted accounting convention—either FOFI (first-out-first-in) or LOFI (last-out-first-in)—to the number of returned phonorecords in order to reduce and possibly eliminate particular monthly phonorecord reserves. As illustrated in the appendices to the Background Paper, the Copyright Office applied both FOFI and LOFI to nine different shipment and return patterns to determine which of the two accounting conventions best meets the goal of assuring full remuneration without overpayment. The Office's conclusion, which was supported by the documentation, was that FOFI more accurately reflected actual sales in various situations, and that overpayments of royalties were more likely to occur under LOFI than under FOFI.

During the public meeting, it became evident that the representatives of music publishers (the National Music Publishers Association and the Harry Fox Agency, hereafter referred to as NMPA/HFA) had strong objections to the adoption of FOFI as the applicable accounting convention. Their views, which were formalized in their Supplemental Comments, focused on two objections: (1) The loss of earned interest during the period that royalties are held in reserve by the compulsory licensee; and (2) the ability of the licensee to manipulate reserves under FOFI to delay payment to music copyright owners even further.

The Copyright Office recognizes that, particularly in a time of high inflation and fluctuating interest rates, the timing of royalty payments is an important consideration in assuring that copyright owners are fully renumerated. It is true that, if compulsory licensees were free, as a matter of course, to overestimate the number of returns and to establish artificially high reserves, royalty payments on some phonorecords would be delayed and interest would be lost. The formula here adopted for the calculation and payment of royalties, however, does not give licensees that freedom. On the contrary, the regulations require the establishment of reserves based on reasonable estimates of returns made in accordance with generally accepted accounting principles (GAAP). Furthermore, in situations where the compulsory licensee has correctly established reserves or has established a low reserve, there is no possibility of any loss of earned interest. The Copyright Office believes that the application of GAAP will reduce the likelihood of unusually high reserves, thereby minimizing the possibility for losses of earned interest.

In their testimony and Supplemental Comments, NMPA/HFA also sought to demonstrate the possibility of manipulatory abuse under FOFI. The example presented by NMPA/HFA does show a potential for abuse; it should also be noted that similar abuse could occur under LOFI, though on a smaller scale. The Copyright Office is not convinced, however, that the hypothetical situation posed in the example chosen by NMPA/HFA is, in fact, a realistic one. When considered against the practicalities of multiple monthly shipments and returns, the costs involved in manipulation, the possible penalties for detected manipulation, and the requirement for CPA certification, the likelihood of substantial manipulative abuse does not seem great.

In their Supplemental Comments, NMPA/HFA suggested the alternative use of proportional averaging as a compromise to resolve the FOFI/LOFI dispute. This suggestion seemed worth exploring, and we have studied the possible application of both straight averging and of proportional averaging as a means of offsetting particular monthly phonorecord reserves by returned phonorecords.

On the basis of its studies, the Copyright Office concluded that neither straight averaging nor proportional averaging reflected actual sales in various situations any more accurately than FOFI. Furthermore, the Office believes that the added complexities necessitated by the adoption of either straight or proportional averaging would outweigh any benefits that possibly might be derived from one of these systems. For these reasons, the Copyright Office has decided to adopt FOFI.

(2) *Application of the formula on a general basis.*

The foundation of the Copyright Office's formula for calculating royalties is the application of FOFI to the reduction of separate and distinct monthly phonorecord reserves. A particular monthly phonorecord reserve is comprised of reserves taken against *all* applicable shipments made during the month covered by the Monthly Statement; there is no differentiation among specific customers.

In their Supplemental Comments, NMPA/HFA urged that—

> * * * compulsory licensees should only be permitted to credit phonorecords returned from a particular customer against royalty reserves maintained by the compulsory licensee with respect to prior shipments of the same phonorecord to such customer (Supplemental Comments by the NMPA and HFA, November 29, 1979, p. 30.)

Similarly, NMPA/HFA suggested that the carrying forward and adjustment of a negative reserve balance in order to apply overpayments against royalty payments only should be permitted on a customer-by-customer basis.

The Copyright Office recognizes that it may be possible to construct simulated shipment models purporting to show inadequacies in the system of applying phonorecord returns against the earliest eligible phonorecord reserve, regardless of customer. The Office remains unconvinced, however, that simulations of this sort are realistic or that application of our formula on a general rather than a customer-by-customer basis would result in any substantial harm to music copyright owners. At the same time, the adjustment of reserves on a customer-by-customer basis would require a substantial increase in recordkeeping and would add enormous complexity to the estimation of reserves and the compulsory license mechanism in general. Moreover, adjustments on a customer-by-customer basis would, in many instances, artificially and unnecessarily increase the number of phonorecords ultimately considered "voluntarily distributed" beyond the number actually sold. For these reasons, the Copyright Office has decided against applying the formula on a customer-by-customer basis.

(3) *No express requirement for the refund of overpayments.*

In its Background Paper, the Copyright Office indicated that it rejected a request by the Recording Industry Association of America (hereafter referred to as RIAA) to specify in the regulations that refunds may be available where a compulsory licensee finds it has made an overpayment of

royalties. The Office did, however, repeat from its Notice accompanying the amended interim regulations that—

> * * * we believe that resolution of this issue in particular cases is best left to negotiation between the parties, or application of general legal principles in the appropriate forum. (43 FR 44515.)

During the public meeting and in their Supplemental Comments, the RIAA again urged us to include a specific requirement for refunds for overpayments. On the other hand, the NMPA/HFA strongly disapproved of—

> * * * any such reference—which implicitly or explicitly accords recognition to the incorrect view that compulsory licensees have any claim whatsoever for refunds to any royalty overpayments. (Supplemental Comments by the NMPA and HFA, November 19, 1979, p. 37.)

In its earlier comments on this point, the Copyright Office did not intend, implicitly or explicitly, to suggest that music copyright owners have any legal obligation to make refunds for royalty overpayments. When the Office mentioned "negotiation between the parties" in this context, it was thinking of cases involving litigation or other forms of legal process where the amount of overpayment might be a factor to consider in settling a dispute; the Office did not mean to imply that, in a strict compulsory license situation, either the licensee has any right or the copyright owner any obligation to negotiate concerning overpayments. Without prejudging the issue in any way, however, the Copyright Office continue to believe that resolution of this issue in particular cases is best left to application of general legal principles in the appropriate forum.

Changes and Clarifications in the Regulatory Formula for Calculating Royalties

The October, 1979, meeting and the Supplemental Comments submitted by the parties convinced the Copyright Office that several aspects of the proposed regulatory formula, as presented in the Background Paper, needed clarification. In addition, arguments submitted by representatives of the music copyright owners led the Office to reconsider other components of the formula. As a result of this process, the Copyright Office has made three major changes and clarifications in the formula for computing royalties:

(1) *Segregation of Phonorecords Shipped into Three Categories.*

In their Supplemental Comments, NMPA/HFA suggested that the formula for calculating royalties—

> * * * should be revised so that reserves are subtracted from the gross number of phonorecords relinquished from possession for purposes of sale *prior to the* computation of the total gross number of phonorecords shipped in a given month. This will reduce the likelihood that the reserve size will inadvertently be determined on the basis of all phonorecords shipped—not simply those shipped for purposes of sale. (Emphasis supplied in text) (Supplemental Comments by the NMPA and HFA, November 19, 1979, p. 40.)

While this calculation step was implicit under the formula presented in its Background Paper, the Copyright Office recognizes that inadvertent errors and misunderstandings would be less likely to occur if the differing types of shipments were specifically segregated, and if reserves were computed and subtracted before gross shipments were figured into the formula.

Earlier in these proceedings, NMPA/HFA offered the following proposal:

> If phonorecords shipped on which royalties have not been paid are returned * * * and such phonorecords are subsequently reshipped for sale in the secondary market, royalties should be paid on the basis of 100% of the records shipped—*i.e.*, no reserves should be permitted with respect to these shipments. The rationale for this is clear. When phonorecords are reshipped for sale in the secondary market, record companies do not generally permit their return. And * * * virtually all phonorecords shipped in the secondary market will be sold by the record companies. At this point, there is no reason for the royalty payments to be withheld from copyright owners on the false premise that they are needed to offset returns which will not be forthcoming. (Supplemental Statement by the NMPA and HFA, January 31, 1979, pp. 39–40.)

The Copyright Office agreed in its Background Paper that, in the situation described, the accounting practices adopted should not permit the taking of reserves where no right of return exists, but the Office suggested that this result should be achieved by the application of GAAP rather than by any specific provision in the regulations. The Copyright Office has now reached a different conclusion: having recognized the desirability of computing and subtracting reserves before figuring in shipments on which no reserve can be taken, the Office has revised its general formula to take account of both of these proposals by NMPA/HFA. Under the new formula, the compulsory licensee must determine the monthly totals of three distinct types of shipments: (1) Phonorecords shipped for sale with a right of return; (2) phonorecords shipped for sale without a right of return; and (3) phonorecords shipped for purposes other than sale. It is only with respect to the first type of shipment that reserves can be taken.

(2) *The GAAP Alternative*

In their Supplemental Comments, NMPA/HFA state:

> The Copyright Office has clearly indicated that the point in time when a phonorecord is to be considered "permanently distributed" for purposes of the payment of reserved royalties to copyright owners is one year (or such shorter time that may be mandated by GAAP) as measured from the month of a particular shipment of phonorecords. We feel that in the Discussions and in the Background Paper, the GAAP alternative is not given due emphasis. We request the Copyright Office to specifically state it does not expect compulsory licensees to treat the rule simply as a strict one-year rule—*i.e.*, that it fully expects compliance with the obligation to pay royalties on reserves sobner, if such would be mandated by GAAP. (Supplemental Comments by the NMPA and HFA, November 19, 1979, p. 39).

Ever since the early stages of these proceedings, the Copyright Office has intended the reserve holding period—the "point in time" beyond which reserves could not be held and would have to be paid out—to be an outside limit; if GAAP were to mandate an earlier pay-out, it would control. The Office agrees that, in concentrating upon what happens when the specified reserve holding period ends and the reserve lapses, it may not have given enough emphasis to the "GAAP alternative" in its discussions of the problem. We have, therefore, made it explicit in the final regulations.

Moreover, because the operation of the compulsory license adopted under these final regulations differs from the operation contemplated in the amended interim regulations, the "GAAP alternative" will also operate differently. Under the amended interim regulations, specific shipments of records were supposed to be tracked and all reserves accumulated into one aggregate group; a reserve reduction, if mandated by GAAP, would affect the aggregate reserve group. The final regulations have replaced the actual tracking of phonorecord shipments and the aggregate accumulation of reserves with a system based on the application of FOFI to separate and distinct monthly phonorecord reserves. Under the final regulations, a reserve reduction, if mandated by GAAP, will affect these separate reserves. The Copyright Office has decided that applying FOFI to reduce reserves in this situation would be consistent with the decision to apply FOFI to reduce reserves where phonorecords are returned to the compulsory licensee. Accordingly, the Copyright Office has revised paragraphs (a)(5)(iii) and (b) of § 201.19 of the final

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regulations not only to state the "GAAP alternative" explicitly, but also to set forth the procedures for carrying it out.

(3) *Cut-off at Nine Months Rather Than One Year.*

The "point in time" which must be fixed as the outer limit for the holding of reserves has been set in our amended interim regulations at one year, measured from the month of a particular shipment of phonorecords. The Copyright Office's Background Paper proposed that the Office adhere to this cut-off point, and rejected proposals by NMPA/HFA to measure the period from the release date of the recording, or alternatively, from the date of distribution following a period when the recording had been deleted from the compulsory licensee's active catalog. The Copyright Office's position on this point was that "measuring the period from actual shipments brings us much closer to the Congressional intent." With respect to the length of the period itself, NMPA/HFA have consistently proposed, throughout this proceeding, that the point at which there has been a "permanent parting with possession" of a phonorecord by the compulsory license should be set at six months. In our September 28, 1978, Notice we stated that—

> * * * we can find no justification for the 6 months suggestion, and a period shorter than 1 year would appear to impose an unjustifiable burden on compulsory licensees. (43 FR 44516.)

We reiterated this view in our Background Paper.

In their Supplemental Comments, NMPA/HFA made some new points with respect to the designation of the "point in time":

> Recent developments in the record industry itself support the notion that the normal time lag between shipments and returns is probably as slight as four months. RIAA has recently adopted a rule to the effect that phonorecords will be certified as having reached the coveted sales standards that qualify for gold and platinum certification at the close of the period terminating 120 days following release * * *. In addition, RCA Records has recently adopted strict limitations regarding the number of phonorecords which their customers may return. A customer's return allowance, under the new RCA system, will be a percentage of its gross sales during the fourth preceding month. This is clear evidence that RCA believes returns will come in within four months following shipment. (Supplemental Comments by the NMPA and HFA, November 19, 1979, pp. 19–20.)

The Association of Independent Music Publishers also put forward new arguments relating to the sales history of popular records and suggested that six months should be considered the outer limit for the maintenance of reserves.

Recognizing that the economy in general, and the record industry and its business practices in particular, were in a state of flux, the Copyright Office felt that these new arguments justified a review of the one-year period. A principal concern in this review was the impact that a holding period of shorter than one year would have on the number of phonorecords that ultimately would be considered "voluntarily distributed" under the general formula. To explore this, the Office recalculated the nine shipment-and-return models contained in the appendices of the Background Paper (which used a one-year cut-off) on the basis of six-month and nine-month holding periods. The Office found that a six-month holding period measured under FOFI resulted in a greater number of phonorecords considered "voluntarily distributed" and, consequently, in an overpayment of royalties in one third of the shipment models. On the other hand, a nine-month holding period measured under FOFI continued to reflect accurately actual sales in the various models while achieving a faster royalty payout to the music copyright owner in the three cases where an unusually high reserve was taken by the compulsory licensee.

As the result of this analysis of the whole problem, the Copyright Office has decided to reduce the one-year holding period to nine months in § 201.19(a)(5)(iii)(B) of the regulations and in the formula for computing royalties found in § 201.19(e)(4)(ii). The Office believes that this change should reduce the potential for damage through reserve manipulation and minimize the loss of interest while providing for a faster pay-out of lapsed reserves to music owners. At the same time, the Office's studies indicate that this modification will not result in unjustifiable overpayments by compulsory licensees.

Statement of the Formula

On the basis of the various conclusions discussed above, and on the premises summarized in the next section of this Notice, the Copyright Office has made several changes in the four-step formula developed in the Background Paper. These changes have been incorporated into a five-step formula to be used in computing monthly royalty payments under a compulsory license. This formula, which is outlined here, is set out in detail in § 201.19(e)(4)(ii) of the final regulations.

Formula for Calculating Royalties:

Step 1: Compute the total number of phonorecords that, during the given month, were shipped for purposes of sale with a privilege of return. (This total does *not* include: (1) Any phonorecords relinquished from possession for purposes of sale but *without* a privilege of return, or (2) any phonorecords relinquished from possession for purposes other than sale.)

Step 2: Subtract the number that have been reserved in the given month. (First, *multiply* the subtotal from Step 1 by the percentage reserve level established under GAAP, and then *deduct* the result from that same subtotal.)

Step 3: Add the total of all phonorecords shipped during the month that were not counted in Step 1. (This is the total of: (1) All phonorecords relinquished from possession for purposes of sale but without a priviiege of return, *plus* (2) all phonorecords relinquished from possession for purposes other than sale.)

Step 4: Make any necessary adjustments with respect to reserves for previous months; three types of adjustment may be possible:

(a) *Sales revenue "recognized":* If in the given month, revenue from the sale of phonorecords shipped in any *previous* month is being "recognized" under GAAP, *add* the total of such phonorecords.

(b) *Lapsed reserves:* If there are any phonorecords that were reserved in the *ninth previous month* and have not been offset under FOFI by actual returns, *add* the total of such phonorecords.

(c) *Reduction of negative reserve balance:* If the aggregate reserve balance for all previous months is a *negative* amount, subtract the number of phonorecords shipped during the given month that have been used to reduce the negative reserve balance.

Step 5: Multiply by the statutory royalty rate. (*Multiply* the result of Step 3, as adjusted if necessary by Step 4, by the statutory rate of 2¾ cents or ½ cent per minute or fraction of playing time, whichever is larger; *this gives you the monthly royalty payment.*)

Explanation of Certain Premises Underlying the Formula

The following points are intended to help in interpreting and applying the formula:

Step 1: The figure arrived at in this step should represent every phonorecord shipped for purposes of sale during the month with the privilege of return—that is, every shipment for sale where the recipient was given the right to return unsold phonorecords for credit or exchange. Put another way, it should represent the total of all phonorecords shipped during the month *minus* two categories of shipments: (1) Phonorecords shipped for sale without any privilege of return, and (2) phonorecords shipped for purposes other than sale. No reserves can be taken against these latter two categories of shipments, which will be figured into the formula in Step 3.

Step 2: This step involves the calculation and deduction of the monthly reserve.

(a) With respect to phonorecords shipped for sale with a privilege of return, the compulsory licensee establishes a "reserve level"—a percentage figure representing an estimate of returns, which must be made in accordance with generally accepted accounting principles (GAAP). The reserve level percentage for a particular month is a cumulative figure; in effect, it represents the best realistic estimate, in combination with estimates made for earlier months, of the ultimate percentage of returns—an estimate of final percentage, out of all phonorecords of the sound recording that are shipped for sale with a privilege of return, that will, in fact, be returned.

(b) Under GAAP this cumulative reserve level need not remain constant; each month it may be changed upward or downward in response to the sales history of the record or other variables. However, fluctuations in the reserve level cannot be used as the basis for a retroactive increase in the number of phonorecords remaining in previously established monthly phonerecord reserves. Moreover, even if the compulsory licensee is swamped with returns from previous shipments, the reserve level for a given month cannot be set under GAAP at more than 100%.

(c) Each month an amount, representing the reserve level percentage of the phonorecords shipped for sale during the month accompanied by a right of return, is placed in that month's phonorecord reserve. In Step 2 of the formula, this amount is deducted from the subtotal arrived at in Step 1.

(d) Note that the amounts in Step 2 are *gross* rather than *net;* no deductions are made in Step 2 for actual returns. This represents a change from § 201.19(a)(4)(ii)(B) of our amended interim regulations (43 FR 44518), under which payment was to be made on the basis of "net sales" as opposed to "gross sales." This netting of sales, before any adjustment of reserves takes place, utilizes a procedure akin to the LOFI ("last-out-first-in") accounting convention. Since, as was discussed earlier in this Notice, the Copyright Office has concluded that application of LOFI is not desirable in meeting the statutory objectives, the final regulations require that reserve and royalty calculations be based on gross, rather than net, figures.

Step 3: Here you add in all of the remaining phonorecords shipped during the month: (1) All phonorecords shipped for sale that are not accompanied by the right to return unsold phonorecords for credit or exchange; and (2) all phonorecords shipped for purposes other than sale. The first of these categories will, in most cases, include phonorecords shipped to secondary and tertiary markets. The second category will include phonorecords shipped voluntarily for purposes such as promotion, gift, rental, loan, lease, etc. For both of these categories, the full amount of the royalty is payable upon shipment; since no returns can be anticipated no reserves can be set up.

Step 4: The subtotal arrived at in Step 3 will represent the monthly total of voluntarily distributed phonorecords *unless* an adjustment in that figure is necessary. The necessity for making an adjustment arises in three specific situations:

(a) *Sales revenue "recognized."* Under the formula, it may be possible for revenue from the sale of phonorecords shipped in *previous* months and placed in a phonorecord reserve to be "recognized" under GAAP in the month covered by the Statement. In this case, that number of phonorecords is *added* to the subtotal resulting from Step 3 of the formula. Correspondingly, particular monthly phonorecord reserves are reduced to offset these "recognized" phonorecords. How the latter process would work in actual accounting practice is explained in § 201.19(b) of our final regulations.

(b) *Lapsed reserves.* Assuming they have not been offset by actual returns or already paid out as "recognized" sales under GAAP, any reserves remaining from the ninth previous month must be added to the subtotal from Step 3. As noted earlier, the Copyright Office has adopted FOFI as the means of offsetting returns against reserves and determining the amount of lapsed reserves that must be paid out after the nine-month holding period. How this would work in actual accounting practice is described in § 201.19(c) of our final regulations.

(c) *Reduction of negative reserve balance.* If, at any point, the total number of phonorecords that have been returned is greater than the total number of phonorecords that have been placed in the various monthly reserves, the reserve balance will consist of a negative figure representing overpayments. Rather than wiping out the negative balance at the end of the nine months, the final regulations provide for a negative reserve balance to be carried indefinitely and to be *reduced* by applying it against shipments of the same recording under the same compulsory license. In this situation, the shipment of a phonorecord used to reduce the negative reserve balance would not be considered "voluntarily distributed" and no royalties need be paid for such shipment. For this reason, the number of phonorecords so shipped will be deducted from the subtotal resulting in Step 3. It should be noted that, unlike monthly phonorecord reserves, the aggregate number of phonorecords represented in a negative reserve balance is accumulated into one group. Since there are no time limitations placed on the life of a negative reserve balance, it is unnecessary to separate this balance into separate and distinct monthly balances. How this would work in actual accounting practice is explained in § 201.19(c)(4) of our final regulations.

Step 5: This is a simple calculation, multiplying the subtotal from Step 3, with whatever adjustments necessary from Step 4, by the applicable statutory rate.

Remaining Issues

In addition to the accounting questions discussed above, there are several other issues remaining to be settled in these final regulations. These issues pertain to: (1) Instances where the compulsory licensee is barred from maintaining reserves; (2) the preparation of standard forms for Notices of Intention and Statements of Account; (3) the filing and service of Statements of Account and royalty fees; and (4) the retention of documentation by the compulsory licensee. The Copyright Office has considered the arguments regarding all of these issues and has reached the following conclusions, which are being implemented in these final regulations.

(1) *Barring of the maintenance of reserves.* As part of the Copyright Office's regulatory authority under section 115, Congress directed the Office to "prescribe situations in which a compulsory licensee is barred from maintaining reserves * * *." (H.R. REP. No. 94–1476, 94th Cong., 2d Sess. p. 111.) Section 201.19(d) of the final regulations (paragraph (a)(5) of the amended interim regulations) specifies these situations. In their Supplemental Comments, NMPA/HFA proposed that this paragraph should—

> * * * be revised to provide that if, within the preceding ten years, the person or entity exercising a compulsory license has failed to make timely delivery of any Annual Statement of Account (with the required certification by an independent auditor) with respect to any compulsory license, that person or entity should be barred from the maintenance of reserves. (Supplemental

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Comments by the NMPA and HFA, November 19, 1979, p. 35.)

The Copyright Office believes that the legal implications and consequences of a compulsory licensee's failure to make timely delivery of the Annual Statement of Account with the required certification by a certified public accountant only should have whatever effect a court may determine. On this assumption, it would be improper for the Copyright Office to lay down a hard and fast rule that would automatically bar the maintenance of reserves in these cases. The regulaton as issued bars the maintenance of reserves in any case—

> * * * where, within three years before the phonorecord was relinquished from possession, the person or entity exercising the compulsory license has had final judgment entered against it for failure to pay royalties for the reproduction of copyrighted music on phonorecords, or within such period has been definitively found in any proceeding involving bankruptcy, insolvency, receivership, assignment for the benefit of creditors, or similar action, to have failed to pay such royalties * * *

If a court determines that a compulsory licensee's failure to make timely delivery of the Annual Statement of Account, with the required certification, is tantamount to a failure to pay royalties, the regulation as issued should protect adequately the interests of music copyright owners.

(2) *Forms.* Throughout this proceeding, both NMPA/HFA and RIAA have urged us to prepare standard forms for Notices of Intention and Statements of Account. The use of a prescribed form may be of assistance to record companies in understanding and meeting their obligations under the compulsory license, and to music copyright owners in reviewing the information reported. However, the Copyright Office does not believe that the number of compulsory licenses presently in operation, or expected in the immediate future, warrant the substantial time and expense necessary to develop standard forms. For this reason, the Office has decided to refrain from developing standard forms at this time. If the use of mechanical compulsory licenses increases substantially in the future, the Office will reconsider its decision at that time.

(3) *Filing and service of Statements of Account and royalty fees.* Earlier in these proceedings, NMPA/HFA took issue with the Copyright Office's rules regarding the service of Statements of Account and royalty fees where the compulsory licensee does not know the address of the copyright owner or where the Statement and fee are served by registered or certified mail but are returned to the sender. They urged that compulsory licensees be required, in these cases, to file the Statement of Account and deposit the royalty fee in the Copyright Office for the benefit of the copyright owner. In the Notice accompanying the amended interim regulations, the Copyright Office concluded that "it would be appropriate to open the records of the Copyright Office to the filing of Monthly and Annual Statements of Account" (43 FR 44514), and amended the interim regulations accordingly. However, the Office did "not believe it would be proper to require the filing of statements of account in the Copyright Office in these cases." (43 FR 44514). Further, the Copyright Office felt that it would be "impossible for our Office, without specific statutory authority, to act as a depository for royalty fees owed to copyright owners." (43 FR 44514). In their Supplemental Statement dated January 31, 1979, NMPA/HFA suggested, in the alternative, that the regulations be—

> * * * amended to make mandatory the filing of a notice with the Copyright Office by a compulsory licensee in the event the compulsory licensee knows the address of the copyright owner to be incorrectly stated in the Copyright Office records by reason of the return of mail sent to such address * * * If a payment to a copyright owner was included in the mail that had been so returned to a compulsory licensee, the notice filed by the compulsory licensee should so state that such payment has been returned. In such event, until the correct address of the copyright owner is ascertained, the regulations should require the filing of all monthly and annual statements of account with the Copyright Office and all royalty payments to be deposited by the compulsory licensee in an escrow account maintained by it for the benefit of the copyright owner. It is anticipated that this procedure will enable HFA in the course of its periodic examination of the Copyright Office's compulsory license filing register, to become aware of these situations and attempt to provide the correct addresses of copyright owners involved so payment may be properly made. (Supplemental Statement by the NMPA/HFA, January 31, 1979, pp. 41–42.)

The Copyright Office continues to believe that it would not be proper to *require* the filing of Statements of Account in the Copyright Office in these cases. In addition, it is beyond the Copyright Office's specific statutory authority under section 115 to require the maintenance of escrow accounts for receipt of royalty payments.

Paragraph (e)(3) of section 201.18 of our final regulations states:

> If the Notice (of Intention) is sent by certified or registered mail to the last address of the copyright owner shown by the records of the Copyright Office and is returned to the sender because the copyright owner is no longer located at that address or has refused to accept delivery, the original Notice as sent shall be filed in the Copyright Office * * *

Since, as stated in their Supplemental Statement, HFA plans to examine periodically our compulsory license filing register, the required submission to our Office, in these cases, of Notices of Intention plus the optional submission of Statements of Account should safeguard adequately the interests of music copyright owners.

(4) *Documentation.* Section 201.19(d) of the amended interim regulations requires that compulsory licensees keep "all records and documents necessary and appropriate" to support the information given in Statements of Account for a period of three years from the service of the Annual Statement. Throughout these proceedings, and most recently in their Statement dated November 24, 1978, HFA has requested the Copyright Office to extend this period to six years to take into account the possible application of State statutes of limitations which may apply to causes of action based on fraud. In response to their request, the Office studied the document retention requirements of various federal agencies and the possible application of State statutes to the mechanical compulsory license. After a thorough review of this question, the Copyright Office adheres to the position expressed in the Notice accompanying the interim regulations that "we do not believe that the mere possibility of such action warrants the very substantial extension proposed" (43 FR 44515). In its Statement dated November 24, 1978, HFA again requested that the regulations require that access to these records and documents be made available to the copyright owner for inspection. Here, too, the Copyright Office maintains the position expressed in the Notice accompanying the amended interim regulations that "we believe that rules governing access to business records (and, by implication, the consequences of refusal) are beyond our authority to establish. In any event, judicial procedures—and possible other alternatives—are available to copyright owners to secure such access." (43 FR 44515.)

Final Regulation. In consideration of the foregoing, Part 201 of 37 CFR, Chapter II is amended by adding new §§ 201.18 and 201.19 to read as follows:

§ 201.18 Notice of intention to obtain a compulsory license for making and distributing phonorecords of nondramatic musical works.

(a) *General.* (1) A "Notice of Intention" is a notice identified in section 115(b) of title 17 of the United States Code, as amended by Pub. L. 94–553, and required by that section to be served on a copyright owner, or in certain cases to be filed in the Copyright Office, to obtain a compulsory license to make and distribute phonorecords of nondramatic musical works.

(2) A separate Notice of Intention shall be served or filed for each nondramatic musical work embodied, or intended to be embodied, in phonorecords made under the compulsory license.

(3) For the purposes of this section, the term "copyright owner," in the case of any work having more than one copyright owner, means any one of the coowners. In such cases, the service of a Notice of Intention on any one of the coowners under paragraph (e)(2) of this section shall be sufficient with respect to all coowners.

(b) *Form.* The Copyright Office does not provide printed forms for the use of persons serving or filing Notices of Intention.

(c) *Content.* (1) A Notice of Intention shall be clearly and prominently designated, at the head of the notice, as a "Notice of Intention to Obtain a Compulsory License for Making and Distributing Phonorecords," and shall include a clear statement of the following information:

(i) The full legal name of the person or entity intending to obtain the compulsory license, together with all fictitious or assumed names used by such person or entity for the purpose of conducting the business of making and distributing phonorecords;

(ii) The full address, including a specific number and street name or rural route, of the place of business of the person or entity intending to obtain the compulsory license. A post office box or similar designation will not be sufficient for this purpose except where it is the only address that can be used in that geographic location;

(iii) A statement of the nature of each and every business organization that the person or entity intending to obtain the compulsory license will use for the purpose of conducting the business of making and distributing phonorecords under the license (for example, a corporation, a partnership, or an individual proprietorship); additionally:

(A) If the person or entity intending to obtain the compulsory license is a corporation registered with the Securities and Exchange Commission under section 12 of the Securities and Exchange Act of 1934, the Notice shall so state.

(B) If the person or entity intending to obtain the compulsory license is a corporation that is not registered with the Securities and Exchange Commission under section 12 of the Securities and Exchange Act of 1934, the Notice shall include a list of the names of the corporation's directors and officers, and the names of each beneficial owner of twenty-five percent (25%) or more of the outstanding securities of the corporation.

(C) In all other cases, the Notice shall include the names of each entity or individual owning a beneficial interest of twenty-five percent (25%) or more in the entity intending to exercise the compulsory license. If a corporate entity is named in response to this paragraph (C), then: If that corporation is registered with the Securities and Exchange Commission under section 12 of the Securities and Exchange Act of 1934, the Notice shall so state; if that corporation is not so registered, the Notice shall include a list of the names of the corporation's directors and officers, and the names of each beneficial owner of twenty-five percent (25%) or more of the outstanding securities of that corporation;

(iv) The fiscal year of the person or entity intending to obtain the compulsory license. If that fiscal year is a calendar year, the Notice shall state that this is the case;

(v) The title of the nondramatic musical work embodied or intended to be embodied in phonorecords made under the compulsory license, and the names of the author or authors of such work if known;

(vi) The types of all phonorecord configurations already made (if any) and expected to be made under the compulsory license (for example: Single disk, long-playing disk, cassette, cartridge, reel-to-reel, or a combination of them);

(vii) The expected date of initial distribution of phonorecords already made (if any) or expected to be made under the compulsory license;

(viii) The name of the principal recording artist or group actually engaged or expected to be engaged in rendering the performances fixed on phonorecords already made (if any) or expected to be made under the compulsory license;

(ix) The catalog number or numbers, and label name or names, used or expected to be used on phonorecords already made (if any) or expected to be made under the compulsory license; and

(x) In the case of phonorecords already made (if any) under the compulsory license, the date or dates of such manufacture.

(2) A "clear statement" of the information listed in paragraph (c)(1) of this section requires a clearly intelligible, legible, and unambiguous statement in the Notice itself and (subject to paragraph (c)(1)(iii)(A) of this section) without incorporation by reference of facts or information contained in other documents or records.

(3) Where information is required to be given by paragraph (c)(1) of this section "if known" or as "expected", such information shall be given in good faith and on the basis of the best knowledge, information, and belief of the person signing the Notice. If so given, later developments affecting the accuracy of such information shall not affect the validity of the Notice.

(d) *Signature.* The Notice shall be signed by the person or entity intending to obtain the compulsory license. If that person or entity is a corporation, the signature shall be that of a duly authorized officer of the corporation; if that person or entity is a partnership, the signature shall be that of a partner. The signature shall be accompanied by the printed or typewritten name of the person signing the Notice, and by the date of signature.

(e) *Filing and Service.* (1) If, with respect to the nondramatic musical work named in the Notice of Intention, the registration or other public records of the Copyright Office do not identify the copyright owner of such work and include an address for such owner, the Notice shall be filed in the Copyright Office. Notices of Intention submitted for filing shall be accompanied by a fee of $6.00. Notices of Intention will be filed by being placed in the appropriate public records of the Licensing Division of the Copyright Office. The date of filing will be the date when a proper Notice and fee are both received in the Copyright Office. A written acknowledgement of receipt and filing will be provided to the sender. Upon request and payment of an additional fee of $4.00, a Certificate of Filing will be provided to the sender.

(2) If the registration or other public records of the Copyright Office do identify the copyright owner of the nondramatic musical work named in the Notice of Intention and include an address for such owner, the Notice shall be served on such owner by certified mail or by registered mail sent to the last address for such owner shown by the records of the Office; it shall not be

necessary to file a copy of the Notice in

(c) *Accounting Requirements for Offsetting Phonorecord Reserves with*

equal to or is greater than the total number of phonorecords comprising all

phonorecord was relinquished from

necessary to file a copy of the Notice in the Copyright Office in this case.

(3) If the Notice is sent by certified or registered mail to the last address for the copyright owner shown by the records of the Copyright Office and is returned to the sender because the copyright owner is no longer located at the address or has refused to accept delivery, the original Notice as sent shall be filed in the Copyright Office. Notices of Intention submitted for filing under this paragraph (e)(3) shall be submitted to the Licensing Division of the Copyright Office, and shall be accompanied by a brief statement that the Notice was sent to the last address for the copyright owner shown by the records of the Copyright Office but was returned, and by appropriate evidence that it was sent by certified or registered mail to that address. In these cases, the Copyright Office will specially mark its records to consider the date the original Notice was mailed, as shown by the evidence mentioned above, as the date of filing. A written acknowledgement of receipt and filing will be provided to the sender. No filing fee will be required in the case of Notices filed under this paragraph (e)(3). Upon request and payment of a fee of $4.00, a Certificate of Filing will be provided to the sender.

§ 201.19 Royalties and statements of account under compulsory license for making and distributing phonorecords of nondramatic musical works.

(a) *Definitions.* (1) A "Monthly Statement of Account" is a statement accompanying monthly royalty payments identified in section 115(c)(3) of title 17 of the United States Code, as amended by Pub. L. 94–553, and required by that section to be made under the compulsory license to make and distribute phonorecords of nondramatic musical works.

(2) An "Annual Statement of Account" is a statement identified in section 115(c)(3) of title 17 of the United States Code, as amended by Pub. L. 94–553, and required by that section to be filed for every compulsory license to make and distribute phonorecords of nondramatic musical works.

(3) For the purposes of this section, the term "copyright owner," in the case of any work having more than one copyright owner means any one of the coowners. In such cases, the service of a Statement of Account, on one coowner under paragraph (e)(7) or (f)(7) of this section shall be sufficient with respect to all coowners.

(4) For the purposes of this section, a "compulsory licensee" is a person or entity exercising the compulsory license to make and distribute phonorecords of nondramatic musical works as provided under section 115 of title 17 of the United States Code, as amended by Pub. L. 94–553.

(5) A phonorecord is considered "voluntarily distributed" if the compulsory licensee has voluntarily and permanently parted with possession of the phonorecord. For this purpose, and subject to the provisions of paragraph (d) of this section, a compulsory licensee shall be considered to have "permanently parted with possession" of a phonorecord made under the license:

(i) In the case of phonorecords relinquished from possession for purposes other than sale, at the time at which the compulsory licensee actually first parts with possession;

(ii) In the case of phonorecords relinquished from possession for purposes of sale without a privilege of returning unsold phonorecords for credit or exchange, at the time at which the compulsory licensee actually first parts with possession;

(iii) In the case of phonorecords relinquished from possession for purposes of sale accompanied by a privilege of returning unsold phonorecords for credit or exchange: (A) At the time when revenue from a sale of the phonorecord is "recognized" by the compulsory licensee; or (B) nine months from the month in which the compulsory licensee actually first parted with possession, whichever occurs first. For these purposes, a compulsory licensee shall be considered to "recognize" revenue from the sale of a phonorecord when sales revenue would be recognized in accordance with generally accepted accounting principles as expressed by the American Institute of Certified Public Accountants or the Financial Accounting Standards Board, whichever would cause sales revenue to be recognized first.

(6) A "phonorecord reserve" comprises the number of phonorecords, if any, that have been relinquished from possession for purposes of sale in a given month accompanied by a privilege of return, as described in paragraph (a)(5)(iii) of this section, and that have not been considered voluntarily distributed during the month in which the compulsory licensee actually first parted with their possession. The initial number of phonorecords comprising a phonorecord reserve shall be determined in accordance with generally accepted accounting principles as expressed by the American Institute of Certified Public Accountants or the Financial Accounting Standards Board.

(7) A "negative reserve balance" comprises the aggregate number of phonorecords, if any, that have been relinquished from possession for purposes of sale accompanied by a privilege of return, as described in paragraph (a)(5)(iii) of this section, and that have been returned to the compulsory licensee, but because all available phonorecord reserves have been eliminated, have not been used to reduce a phonorecord reserve.

(b) *Accounting Requirements Where Sales Revenue is "Recognized."* Where under paragraph (a)(5)(iii)(A) of this section, revenue from the sale of phonorecords is "recognized" during any month after the month in which the compulsory licensee actually first parted with their possession, said compulsory licensee shall reduce particular phonorecord reserves by the number of phonorecords for which revenue is being "recognized," as follows:

(1) If the number of phonorecords for which revenue is being "recognized" is smaller than the number of phonorecords comprising the earliest eligible phonorecord reserve, this phonorecord reserve shall be reduced by the number of phonorecords for which revenue is being "recognized." Subject to the time limitations of subparagraph (B) of this § 201.19(a)(5)(iii), the number of phonorecords remaining in this reserve shall be available for use in subsequent months.

(2) If the number of phonorecords for which revenue is being "recognized" is greater than the number of phonorecords comprising the earliest eligible phonorecord reserve but less than the total number of phonorecords comprising all eligible phonorecord reserves, the compulsory licensee shall first eliminate those phonorecord reserves, beginning with the earliest eligible phonorecord reserve and continuing to the next succeeding phonorecord reserves, that are completely offset by phonorecords for which revenue is being "recognized." Said licensee shall then reduce the next succeeding phonorecord reserve by the number of phonorecords for which revenue is being "recognized" that have not been used to eliminate a phonorecord reserve. Subject to the time limitations of subparagraph (B) of this § 201.19(a)(5)(iii), the number of phonorecords remaining in this reserve shall be available for use in subsequent months.

(3) If the number of phonorecords for which revenue is being "recognized" equals the number of phonorecords comprising all eligible phonorecord reserves, the person or entity exercising the compulsory license shall eliminate all of the phonorecord reserves.

(c) *Accounting Requirements for Offsetting Phonorecord Reserves with Returned Phonorecords.* (1) In the case of a phonorecord that has been relinquished from possession for purposes of sale accompanied by a privilege of return, as described in paragraph (a)(5)(iii) of this section, where the phonorecord is returned to the compulsory licensee for credit or exchange before said compulsory licensee is considered to have "permanently parted with possession" of the phonorecord under paragraph (a)(5) of this section, the compulsory licensee may use such phonorecord to reduce a "phonorecord reserve," as defined in paragraph (a)(6) of this section.

(2) In such cases, the compulsory licensee shall reduce particular phonorecord reserves by the number of phonorecords that are returned during the month covered by the Monthly Statement of Account in the following manner:

(i) If the number of phonorecords that are returned during the month covered by the Monthly Statement is smaller than the number comprising the earliest eligible phonorecord reserve, the compulsory licensee shall reduce this phonorecord reserve by the total number of returned phonorecords. Subject to the time limitations of subparagraph (B) of this § 201.19(a)(5)(iii), the number of phonorecords remaining in this reserve shall be available for use in subsequent months.

(ii) If the number of phonorecords that are returned during the month covered by the Monthly Statement is greater than the number of phonorecords comprising the earliest eligible phonorecord reserve but less than the total number of phonorecords comprising all eligible phonorecord reserves, the compulsory licensee shall first eliminate those phonorecord reserves, beginning with the earliest eligible phonorecord reserve, and continuing to the next succeeding phonorecord reserves, that are completely offset by returned phonorecords. Said licensee shall then reduce the next succeeding phonorecord reserve by the number of returned phonorecords that have not been used to eliminate a phonorecord reserve. Subject to the time limitations of subparagraph (B) of this § 201.19(a)(5)(iii), the number of phonorecords remaining in this reserve shall be available for use in subsequent months.

(iii) If the number of phonorecords that are returned during the month covered by the Monthly Statement is equal to or is greater than the total number of phonorecords comprising all eligible phonorecord reserves, the compulsory licensee shall eliminate all eligible phonorecord reserves. Where said number is greater than the total number of phonorecords comprising all eligible phonorecord reserves, said compulsory licensee shall establish a "negative reserve balance," as defined in paragraph (a)(7) of this section.

(3) Except where a negative reserve balance exists, a separate and distinct phonorecord reserve shall be established for each month during which the compulsory licensee relinquishes phonorecords from possession for purposes of sale accompanied by a privilege of return, as described in paragraph (a)(5)(iii) of this section. In accordance with subparagraph (B) of this § 201.19(a)(5)(iii), any phonorecord remaining in a particular phonorecord reserve nine months from the month in which the particular reserve was established shall be considered "voluntarily distributed"; at that point, the particular monthly phonorecord reserve shall lapse and royalties for the phonorecords remaining in it shall be paid as provided in paragraph (e)(4)(ii) of this section.

(4) Where a negative reserve balance exists, the aggregate total of phonorecords comprising it shall be accumulated into a single balance rather than being separated into distinct monthly balances. Following the establishment of a negative reserve balance, any phonorecords relinquished from possession by the compulsory licensee for purposes of sale or otherwise, shall be credited against such negative balance, and the negative reserve balance shall be reduced accordingly. The nine month limit provided by subparagraph (B) of this § 201.19(a)(5)(iii) shall have no effect upon a negative reserve balance; where a negative reserve balance exists, relinquishment from possession of a phonorecord by the compulsory licensee at any time shall be used to reduce such balance, and shall not be considered a "voluntary distribution" within the meaning of paragraph (a)(5) of this section.

(5) In no case shall a phonorecord reserve be establish while a negative reserve balance is in existence; conversely, in no case shall a negative reserve balance be established before all available phonorecord reserves have been eliminated.

(d) *Situations in Which a Compulsory Licensee is Barred From Maintaining Reserves.* Notwithstanding any other provisions of this section, in any case where, within three years before the phonorecord was relinquished from possession, the compulsory licensee has had final judgment entered against it for failure to pay royalties for the reproduction of copyrighted music on phonorecords, or within such period has been definitively found in any proceeding involving bankruptcy, insolvency, receivership, assignment for the benefit of creditors, or similar action, to have failed to pay such royalties, that compulsory licensee shall be considered to have "Permanently parted with possession" of a phonorecord made under the license at the time at which that license at the time at which that licensee actually first parts with possession. For these purposes the "compulsory licensee," as defined in § 201.19(a)(4), shall include:

(1) In the case of any corporation, the corporation or any director, officer, or beneficial owner of twenty-five percent (25%) or more of the outstanding securities of the corporation;

(2) In all other cases, any entity or individual owning a beneficial interest of twenty-five percent (25%) or more in the entity exercising the compulsory license.

(e) *Monthly Statements of Account.*— (1) *Forms.* The Copyright Office does not provide printed forms for the use of persons serving Monthly Statements of Account.

(2) *General Content.* A Monthly Statement of Account shall be clearly and prominently identified as a "Monthly Statement of Account Under Compulsory License for Making and Distributing Phonorecords," and shall include a clear statement of the following information:

(i) The period (month and year) covered by the Monthly Statement;

(ii) The full legal name of the compulsory licensee, together with all fictitious or assumed names used by such person or entity for the purpose of conducting the business of making and distributing phonorecords;

(iii) The full address, including a specific number and street name or rural route, of the place of business of the compulsory licensee. A post office box or similar designation will not be sufficient for this purpose, except where it is the only address that can be used in that geographic location;

(iv) The title or titles of the nondramatic musical work or works embodied in phonorecords made under the compulsory license and owned by the copyright owner being served with the Monthly Statement and the name of the author or authors of such work or works, if known;

(v) For each nondramatic musical work that is owned by the same

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copyright owner being served with the Monthly Statement and that is embodied in phonorecords covered by the compulsory license, a detailed statement of all of the information called for in paragraph (e)(3) of this section;

(vi) The total royalty payable for the month covered by the Monthly Statement, computed in accordance with the requirements of this section and the formula specified in paragraph (e)(4) of this section, together with a statement of account showing in detail how the royalty was computed; and

(vii) In any case where the compulsory licensee falls within the provisions of paragraph (d) of this section, a clear description of the action or proceeding involved, including the date of the final judgment or definitive finding described in that paragraph.

(3) *Specific Content of Monthly Statements: Identification and Accounting of Phonorecords.* (i) The information called for by paragraph (e)(2)(v) of this section shall, with respect to each nondramatic musical work, include a separate listing of each of the following items of information:

(A) The number of phonorecords made during the month covered by the Monthly Statement;

(B) The number of phonorecords that, during the month covered by the Monthly Statement and regardless of when made, were either:

relinquished from possession for purposes other than sale;

relinquished from possession for purposes of sale without any privilege of returning unsold phonorecords for credit or exchange;

relinquished from possession for purposes of sale accompanied by a privilege of returning unsold phonorecords for credit or exchange;

returned to the compulsory licensee for credit or exchange; or

placed in a phonorecord reserve (except that if a negative reserve balance exists give either the number of phonorecords added to the negative reserve balance, or the number of phonorecords relinquished from possession that have been used to reduce the negative reserve balance);

(C) The number of phonorecords, regardless of when made, that were relinquished from possession during a month earlier than the month covered by the Monthly Statement but that, during the month covered by the Monthly Statement either have had revenue from their sale "recognized" under paragraph (a)(5)(iii) of this section, or were comprised in a phonorecord reserve that lapsed after nine months under subparagraph (B) of this § 201.19(a)(5)(iii).

(ii) Each of the items of information called for by paragraph (e)(3)(i) of this section shall also include, and if necessary shall be broken down to identify separately, the following:

(A) The catalog number or numbers and label name or names, used on the phonorecords;

(B) The names of the principal recording artist or group engaged in rendering the performances fixed on the phonorecords;

(C) The playing time on the phonorecords of each nondramatic musical work covered by the statement; and

(D) Each phonorecord configuration involved (for example: single disk, long-playing disk, cartridge, cassette, reel-to-reel).

(4) *Royalty Payment and Accounting.* (i) The total royalty called for by paragraph (e)(2)(vi) of this section shall, as specified in section 115(c)(2) of title 17 of the United States Code, as amended by Pub. L. 94–553, be payable for every phonorecord "voluntarily distributed" during the month covered by the Monthly Statement.

(ii) The amount of the royalty payment shall be calculated in accordance with the following formula:

Step 1: Compute the number of phonorecords shipped for sale with a privilege of return. This is the total of phonorecords that, during the month covered by the Monthly Statement, were relinquished from possession by the compulsory licensee, accompanied by the privilege of returning unsold phonorecords to the compulsory licensee for credit or exchange. This total does *not* include: (1) Any phonorecords relinquished from possession by the compulsory licensee for purposes of sale without the privilege of return; and (2) any phonorecords relinquished from possession for purposes other than sale.

Step 2: Subtract the number of phonorecords reserved. This involves deducting, from the subtotal arrived at in Step 1, the number of phonorecords that have been placed in the phonorecord reserve for the month covered by the Monthly Statement. The number of phonorecords reserved is determined by multiplying the subtotal from Step 1 by the percentage reserve level established under GAAP. This step should be skipped by a compulsory licensee barred from maintaining reserves under paragraph (d) of this section.

Step 3: Add the total of all phonorecords that were shipped during the month and were not counted in Step 1. This total is the sum of two figures: (1) The number of phonorecords that, during the month covered by the Monthly Statement, were relinquished from possession by the compulsory licensee for purposes of sale, without the privilege of returning unsold phonorecords to the compulsory licensee for credit or exchange; and (2) the number of phonorecords relinquished from possession by the compulsory licensee, during the month covered by the Monthly Statement, for purposes other than sale.

Step 4: Make any necessary adjustments for sales revenue "recognized," lapsed reserves, or reduction of negative reserve balance during the month. If necessary, this step involves adding to or subtracting from the subtotal arrived at in Step 3 on the basis of three possible types of adjustments:

(a) Sales revenue "recognized." If, in the month covered by the Monthly Statement, the compulsory licensee "recognized" revenue from the sale of phonorecords that had been relinquished from possession in an earlier month, the number of such phonorecords is *added* to the Step 3 subtotal;

(b) Lapsed reserves. If, in the month covered by the Monthly Statement, there are any phonorecords remaining in the phonorecord reserve for the ninth previous month (that is, any phonorecord reserves from the ninth previous month that have not been offset under FOFI, the first-out-first-in accounting convention, by actual returns during the intervening months), the reserve lapses and the number of phonorecords in it is *added* to the Step 3 subtotal.

(c) Reduction of negative reserve balance. If, in the month covered by the Monthly Statement, the aggregate reserve balance for all previous months is a negative amount, the number of phonorecords relinquished from possession by the compulsory during that month and used to reduce the negative reserve balance is *subtracted* from the Step 3 subtotal.

Step 5: Multiply by the statutory royalty rate. The total monthly royalty payment is obtained by multiplying the subtotal from Step 3, as adjusted if necessary by Step 4, by the statutory royalty rate of 2¾ cents or ½ cent per minute or fraction of playing time, whichever is larger.

(iii) Each step in computing the monthly payment, including the arithmetical calculations involved in each step, shall be set out in detail in the Monthly Statement.

(5) *Clear Statements.* The information required by paragraphs (e) (2) and (3) of this section involves intelligible, legible, and unambiguous statements in the Monthly Statements of Account itself and without incorporation of facts or information contained in other documents or records.

(6) *Oath and Signature.* Each Monthly Statement of Account shall include the handwritten signature of the compulsory licensee. If that compulsory licensee is a corporation, the signature shall be that of a duly authorized officer of the corporation; if that compulsory licensee is a partnership, the signature shall be that of a partner. The signature shall be accompanied by: (i) The printed or typewritten name of the person signing the Monthly Statement of Account; (ii) the date of signature; (iii) if the compulsory licensee is a partnership or a corporation, by the title or official position held in the partnership or corporation by the person signing the Monthly Statement of Account; (iv) a certification of the capacity of the person signing; and (v) the following statement:

I certify that I have examined this Monthly Statement of Account and that all statements of fact contained herein are true, complete, and correct to the best of my knowledge, information, and belief, and are made in good faith.

(7) *Service.* (i) Each Monthly Statement of Account shall be served on the copyright owner to whom or which it is directed, together with the total royalty for the month covered by the Monthly Statement, by certified mail, or by registered mail on or before the 20th day of the immediately succeeding month. It shall not be necessary to file a copy of the Monthly Statement in the Copyright Office.

(ii) (A) In any case where a Monthly Statement of Account is sent by certified mail or registered mail and is returned to the sender because the copyright owner is not located at that address or has refused to accept delivery, or in any case where an address for the copyright owner is not known, the Monthly Statement of Account, together with any evidence of mailing, may be filed in the Licensing Division of the Copyright Office. Any Monthly Statement of Account submitted for filing in the Copyright Office shall be accompanied by a brief statement of the reason why it was not served on the copyright owner. A written acknowledgement of receipt and filing will be provided to the sender.

(B) The Copyright Office will not accept any royalty fees submitted with Monthly Statements of Account under this § 202.19(e)(7)(ii).

(C) Neither the filing of a Monthly Statement of Account in the Copyright Office, nor the failure to file such Monthly Statement, shall have effect other than that which may be attributed to it by a court of competent jurisdiction.

(D) No filing fee will be required in the case of Monthly Statements of Account submitted to the Copyright Office under this § 201.19(e)(7)(ii). Upon request and payment of a fee of $4.00, a Certificate of Filing will be provided to the sender.

(iii) A separate Monthly Statement of Account shall be served for each month during which there is any activity relevant to the payment of royalties under this section 115 of title 17, United States Code, as amended by Pub. L. 94–553, and under this section. The Annual Statement of Account identified in paragraph (f) of this section does not replace any Monthly Statement of Account.

(f) *Annual Statements of Account.*—(1) *Forms.* The Copyright Office does not provide printed forms for the use of persons serving Annual Statements of Account.

(2) *Annual Period.* Any Annual Statement of Account shall cover the full fiscal year of the compulsory licensee.

(3) *General Content.* An Annual Statement of Account shall be clearly and prominently identified as an "Annual Statement of Account Under Compulsory License for Making and Distributing Phonorecords," and shall include a clear statement of the following information:

(i) The fiscal year covered by the Annual Statement;

(ii) The full legal name of the compulsory licensee, together with all fictitious or assumed names used by such person or entity for the purpose of conducting the business of making and distributing phonorecords;

(iii) A statement of the nature of the business organization used by the compulsory licensee in connection with the making and distribution of phonorecords (for example, a corporation, a partnership, or an individual proprietorship); additionally:

(A) If the compulsory licensee is a corporation registered with the Securities and Exchange Commission under section 12 of the Securities and Exchange Act of 1934, the Annual Statement shall state that this is the case.

(B) If the compulsory licensee is a corporation that is not registered with the Securities and Exchange Commission under section 12 of the Securities and Exchange Act of 1934, the Annual Statement shall include a list of the names of the corporation's directors and officers, and the names of each beneficial owner of twenty-five percent (25%) or more of the outstanding securities of the corporation.

(C) In all other cases, the Annual Statement shall include the names of each entity or individual owning a beneficial interest of twenty-five percent (25%) or more in the entity exercising the compulsory license. If a corporate entity is named in response to this paragraph (C), then: If that corporation is registered with the Securities and Exchange Commission under section 12 of the Securities and Exchange Act of 1934, the Annual Statement shall so state; if that corporation is not so registered, the Annual Statement shall include a list of the corporation's directors and officers, and the names of each beneficial owner of twenty-five percent (25%) or more of the outstanding securities of that corporation;

(iv) The full address, including a specific number and street name or rural route, or the place of business of the compulsory licensee. A post office box or similar designation will not be sufficient for this purpose except where it is the only address that can be used in that geographic location;

(v) The title or titles of the nondramatic musical work or works embodied in phonorecords made under the compulsory license and owned by the copyright owner being served with the Annual Statement and the name of the author or authors of such work or works, if known;

(vi) The playing time of each nondramatic musical work on such phonorecords;

(vii) For each nondramatic musical work that is owned by the same copyright owner being served with the Annual Statement and that is embodied in phonorecords covered by the compulsory license, a detailed statement of all of the information called for in paragraph (f)(4) of this section;

(viii) The total royalty payable for the fiscal year covered by the Annual Statement computed in accordance with the requirements of this section, together with a statement of account showing in detail how the royalty was computed. For these purposes, the applicable royalty as specified in section 115(c)(2) of title 17 of the United States Code, as amended by Pub. L. 94–553, shall be payable for every phonorecord "voluntarily distributed" during the fiscal year covered by the Annual Statement;

(ix) The total sum paid under Monthly Statements of Account by the compulsory licensee to the copyright owner being served with the Annual Statement during the fiscal year covered by the Annual Statement; and

(x) In any case where the compulsory license falls within the provisions of paragraph (d) of this section, a clear description of the action or proceeding involved, including the date of the final judgment or definitive finding described in that paragraph.

(4) *Specific Content of Annual Statements: Identification and Accounting of Phonorecords.* (i) The information called for by paragraph (f)(3)(vii) of this section shall, with respect to each nondramatic musical work, include a separate listing of each of the following items of information separately stated and identified for each phonorecord configuration (for example, single disk, long playing disk, cartridge, cassette, or reel-to-reel) made:

(A) The number of phonorecords made through the end of the fiscal year covered by the Annual Statement, including any made during earlier years;

(B) The number of phonorecords which have never been relinquished

from possession of the compulsory licensee through the end of the fiscal year covered by the Annual Statement;

(C) The number of phonorecords involuntarily relinquished from possession (as through fire or theft) of the compulsory licensee during the fiscal year covered by the Annual Statement and any earlier years, together with a description of the facts of such involuntary relinquishment;

(D) The number of phonorecords "voluntarily distributed" by the compulsory licensee during all years before the fiscal year covered by the Annual Statement;

(E) The number of phonorecords relinquished from possession of the compulsory licensee for purposes of sale during the fiscal year covered by the Annual Statement accompanied by a privilege of returning unsold records for credit or exchange, but not "voluntarily distributed" by the end of that year;

(F) The number of phonorecords "voluntarily distributed" by the compulsory licensee during the fiscal year covered by the Annual Statement, together with (*1*) the catalog number or numbers, and label name or names, used on such phonorecords; and (*2*) the names of the principal recording artists or groups engaged in rendering the performances fixed on such phonorecords.

(ii) If the information given under paragraphs (A) through (F) of this § 201.19(f)(4)(i) does not reconcile, the Annual Statement shall also include a clear and detailed explanation of the difference. For these purposes, the information given under such paragraphs shall be considered not to reconcile if, after the number of phonorecords given under paragraphs (B), (C), (D), and (E) are added together and that sum is deducted from the number of phonorecords given under paragraph (A), the result is different from the amount given under paragraph (F).

(5) *Clear Statement.* The information required by paragraph (f)(3) of this section involves intelligible, legible, and unambiguous statements in the Annual Statement of Account itself and [subject to paragraph (f)(3)(iii)(A)] without incorporation by reference of facts or information contained in other documents or records.

(6) *Signature and Certification.* (i) Each Annual Statement of Account shall include the handwritten signature of the compulsory licensee. If that compulsory licensee is a corporation, the signature shall be that of a duly authorized officer of the corporation; if that compulsory licensee is a partnership, the signature shall be that of a partner. The signature shall be accompanied by: (A) The printed or typewritten name of the person signing the Annual Statement of Account; (B) the date of signature; (C) if the compulsory licensee is a partnership or a corporation, by the title or official position held in the partnership or corporation by the person signing the Annual Statement of Account; and (D) a certification of the capacity of the person signing.

(ii)(A) Each Annual Statement of Account shall also be certified by a licensed Certified Public Accountant. Such certification shall consist of the following statement:

We have examined the attached "Annual Statement of Account Under Compulsory License For Making and Distributing Phonorecords" for the fiscal year ended (date) of (name of the compulsory licensee) applicable to phonorecords embodying (title or titles of nondramatic musical works embodied in phonorecords made under the compulsory license) made under the provisions of section 115 of title 17 of the United States Code, as amended by Pub. L. 94–553, and applicable regulations of the United States Copyright Office. Our examination was made in accordance with generally accepted auditing standards and accordingly, included such other auditing procedures as we considered necessary in the circumstances.

In our opinion the Annual Statement of Account referred to above presents fairly the number of phonorecords embodying each of the above-identified nondramatic musical works made under compulsory license and voluntarily distributed by (name of the compulsory licensee) during the fiscal year ending (date), and the amount of royalties applicable thereto under such such compulsory license, on a consistent basis and in accordance with the above cited law and applicable regulations published thereunder.

_____

(City and State of Execution)

_____

(Signature of Certified Public Accountant or CPA Firm)

_____

Certificate Number

_____

Jurisdiction of Certificate

_____

(Date of Opinion)

(B) The certificate shall be signed by an individual, or in the name of a partnership or a professional corporation with two or more shareholders. The certificate number and jurisdiction are not required if the certificate is signed in the name of a partnership or a professional corporation with two more shareholders.

(7) *Service.* (i) Each Annual Statement of Account shall be served on the copyright owner to whom or which it is directed by certified mail or by registered mail on or before the twentieth day of the third month following the end of the fiscal year covered by the Annual Statement. It shall not be necessary to file a copy of the Annual Statement in the Copyright Office. An Annual Statement of Account shall be served for each fiscal year during which at least one Monthly Statement of Account was required to have been served under paragraph (e)(7) of this section.

(ii) In any case where the amount required to be stated in the Annual Statement of Account under paragraph (f)(3)(viii) of this section is greater than the amount stated in that Annual Statement under paragraph (f)(3)(ix) of this section, the difference between such amounts shall be delivered to the copyright owner together with the service of the Annual Statement. The delivery of such sum does not require the copyright owner to accept such sum, or to forego any right, relief, or remedy which may be available under law.

(iii) (A) In any case where an Annual Statement of Account is sent by certified mail or registered mail and is returned to the sender because the copyright owner is not located at that address or has refused to accept delivery, or in any case where an address for the copyright owner is not known, the Annual Statement of Account, together with any evidence of mailing, may be filed in the Licensing Division of the Copyright Office. Any Annual Statement of Account submitted for filing shall be accompanied by a brief statement of the reason why it was not served on the copyright owner. A written acknowledgment of receipt and filing will be provided to the sender.

(B) The Copyright Office will not accept any royalty fees submitted with Annual Statements of Account under this § 202.19(f)(7)(iii).

(C) Neither the filing of an Annual Statement of Account in the Copyright Office, nor the failure to file such Annual Statement, shall have any effect other than that which may be attributed to it by a court of competent jurisdiction.

(D) No filing fee will be required in the case of Annual Statements of Account submitted to the Copyright Office under this § 201.19(f)(7)(iii). Upon request and payment of a fee of $4, a Certificate of Filing will be provided to the sender.

(g) *Documentation.* All compulsory licensees shall, for a period of at least three years from the date of service of an Annual Statement of Account, keep and retain in their possession all records and documents necessary and appropriate to support fully the information set forth in such Annual Statement and in Monthly Statements served during the fiscal year covered by such Annual Statement.

(17 U.S.C. 115, 702, 708)

Dated: November 14, 1980.

David Ladd,

Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 80-37057 Filed 11-26-80; 8:45 am]

BILLING CODE 1410-03-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-6-FRL 1683-4]

Approval and Promulgation of State Implementation Plan; Approval of Conditionally Approved Elements in the Oklahoma Plan for Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The purpose of this notice is to approve elements of the State Implementation Plan (SIP) revisions for Oklahoma, which were conditionally approved on February 13, 1980 (45 FR 9741). These revisions were submitted by the Governor on April 11, 1980, to fulfill the requirements of Part D of Title I of the Clean Air Act, as amended in 1977, with regard to nonattainment areas.

When originally submitted, certain portions of the SIP contained minor deficiencies which the State agreed to corrrect by a specified deadline. EPA received the required documentation according to schedule and has evaluated the State's submittal.

EFFECTIVE DATE: November 28, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry Stubberfield, Chief, Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767–1518.

SUPPLEMENTAL INFORMATION:

Introduction

On July 31, 1979 (at 44 FR 44912), EPA published a notice of proposed rulemaking on revisions to the Oklahoma SIP. Under that notice the Agency discussed the SIP in detail and described the deficiencies of the SIP pursuant to Part D of the Act and the General Preamble, which was published in the April 4, 1979, issue of the Federal Register (44 FR 20372) and supplemented on July 2, 1979 (44 FR 385583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 5376), and November 23, 1979 (44 FR 67182).

In response to the proposed rulemaking notice dated July 31, 1979 (44 FR 44912), the State committed to correct the deficiencies and submit their corrections by April 30, 1980.

EPA took final action to conditionally approve certain elements of the Oklahoma plan February 13, 1980 (45 FR 9741).

A discussion of conditional approval and its practical effect appears in supplements to the General Preamble, 44 FR 38583 (July 2, 1979) and 44 FR 67182 (November 23, 1979).

Revisions to Regulations

The conditional approvals for the carbon monoxide portion of the State Implementation Plan (SIP) for the designated nonattainment area in Tulsa County required the State to define the term "significant impact" as used in Regulation No. 17 and that the definition be comparable to the term as defined in EPA's Interpretative Ruling of January 16, 1979. This definition was to be adopted and submitted to EPA by April 30, 1980. The State was also required to revise Regulation No. 17 to reflect that all subsequent designations will be submitted to EPA for concurrence and promulgation and to submit the revision to EPA by April 30, 1980.

The State submitted a modified definition of "significant impact" as used in Regulation No. 17 consistent with the definition of the term as defined in EPA's Interpretative Ruling of January 16, 1979. The State also revised Regulation No. 17 to reflect that all subsequent designations will be submitted to EPA for concurrence and promulgation. These items were received on April 16, 1980.

EPA has evaluated the State's submittal and has determined the conditions are fully met. Therefore, EPA is withdrawing conditional approval, and is fully approving this portion of the SIP.

The conditional approval for the review of new sources and modifications portion of the SIP required the State to revise Subsection 14.313 of the Oklahoma regulations to state that major modifications are subject to review and submit the revision to EPA by April 30, 1980. The State was also required to revise § 14.313(b) to reflect that all applicable emission limitations and standards under the Federal Clean Air Act are met and submit the revision to EPA by April 30, 1979. The State was further required to revise § 14.313(c)(i) to reflect that new minor sources were accounted for when determining the amount of growth allowance that would be used by a proposed new or modified source and submit the revision to EPA by April 30, 1980.

The State submitted a revised § 14.313 stating that major modifications are subject to review. The State also submitted a revised § 14.313(b) reflecting that all applicable emission limitations and standards under the Federal Clean Air Act are met. The State further submitted a revised § 14.313(c)(i) reflecting that new minor sources were to be accounted for when determining the amount of growth allowance that would be used by a proposed new or modified source. These items were received on April 16, 1980.

EPA has evaluated the State's submittal and has determined the conditions are fully met. Therefore, EPA is withdrawing conditional approval, and is fully approving this portion of the SIP.

The conditional approval for the total suspended particular (TSP) portion of the SIP for the designated nonattainment areas in Oklahoma, Tulsa and Mayes Counties required the State to revise their schedule to include specific dates indicating major elements in the overall TSP program. The detailed schedule was to contain dates by which the following major elements are to be completed; determination of results of additional monitoring, selection of potential measures for study, development of a study design for assessing the effectiveness of potential measures, determination of measures for actual implementation and, development of revisions to Regulation No. 9. The State was to submit the revised schedule to EPA by March 1, 1980.

The State submitted a revised schedule with specific dates by which the following major elements of the overall program will be completed; determination of results of additional monitoring, selection of potential measures for study; development of study design for assessing the effectiveness of potential measures; determination of measures for actual implementation and; development of revisions to Regulation No. 9. This schedule was received on March 28, 1980.

EPA has evaluated the State's submittal and has determined the conditions are fully met. Therefore, EPA is withdrawing conditional approval,

and is fully approving this portion of the SIP.

Administrative Procedure Act, 5 U.S.C. 553(b), to approve this revision without

(15) A revised schedule including specific dates of the overall TSP

FOR FURTHER INFORMATION CONTACT: Delores Sieja, Air Programs Branch,

(c) The condition that an episode may be completely eliminated when no

and USEPA regulations in 40 CFR Part 51.6. The revision is legally enforceable

and is fully approving this portion of the SIP.

The conditional approval for the ozone portion of the SIP for the designated nonattainment areas of Tulsa and Oklahoma Counties required the State to revise Subsection 15.50 in such a manner as to reflect that subsequent designations will be submitted to EPA for approval and promulgation, and submit the revised subsection to EPA by April 30, 1980. The State was also required to revise Subsection 15.53 to remove the exemption for wastewater separators receiving less than 100 gallons of volatile organic compounds (VOC) per day, and submit the revision to EPA by April 30, 1980. The State was further required to revise § 15.53 to remove the words "if necessary" in order to require control of vapors from hot wells and accumulators, and submit the revised subsection to EPA by April 30, 1980.

The State revised § 15.50 in such a manner as to reflect that subsequent designations will be submitted to EPA for approval and promulgation. The State revised § 15.53 removing the exemption for wastewater separators receiving less than 100 gallons of VOC per day. The State also revised § 15.53 removing the words "if necessary" in order to require control of vapors from hot wells and accumulators. These revisions were received on April 16, 1980.

EPA has evaluated the State's submittal and has determined the conditions are fully met. Therefore, EPA is withdrawing conditional approval, and is fully approving this portion of the SIP.

The State of Oklahoma has also modified the definition of "major source" contained in Oklahoma's revision to Regulation No. 3, which had previously received full EPA approval. This modification changes the method of calculating a source's potential to emit by requiring consideration of pollution controls used by the source. The modification was made to conform Oklahoma's regulation to the decision of the United States Court of Appeals for the District of Columbia Circuit in *Alabama Power Co.* v. *Costle*, 13 ERC 1993 (Dec. 14, 1979). EPA has reviewed this definition for consistency with the modified definitions of "major source" and "potential to emit" that EPA promulgated in response to this opinion. See 45 FR 52676 (August 7, 1980). EPA has determined that the State's definition is consistent with EPA's definitions, and is fully approving this additional revision to the SIP. EPA has also determined that it has "good cause" within the meaning of Section 4(b) of the Administrative Procedure Act, 5 U.S.C. 553(b), to approve this revision without first providing notice and opportunity to comment. EPA has already provided extensive opportunity to comment on the issues raised by this change in the definition of major source in its own rulemaking to modify this definition. Oklahoma also provided opportunity to comment on this specific revision to Regulation 3 prior to submitting the revision to EPA for approval. Moreover, additional comment would serve no practical purpose because the Oklahoma's revision conforms to the change to the definition of "major source" ordered by the District of Columbia Circuit in its *Alabama Power* opinion.

Public Comments

The public was given the opportunity to comment on the substance and schedules of the conditioned items in the proposed rulemaking of July 31, 1979 (44 FR 44912). These comments were addressed in the final rulemaking of February 13, 1980 (45 FR 9736).

EPA finds that good cause exists for making this rule immediately effective. In the notice of final rulemaking concerning the Oklahoma SIP (45 9733; February 13, 1980), EPA imposed certain conditions which the State had to meet before full approval could be promulgated. The State has now met these conditions.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this and determined that it is a specialized regulation not subject to the requirements of Executive Order 12044.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended.

Dated: November 4, 1980.

Douglas M. Costle,
Administrator.

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart LL—Oklahoma

1. In § 52.1920, paragraph (c) is amended by adding subparagraphs (15) and (16) as follows:

§ 52.1920 Identification of plan.

* * * * *

(c) * * *

(15) A revised schedule including specific dates of the overall TSP program was submitted by the State on March 28, 1980.

(16) Revisions to Regulation No. 17, Regulation No. 14 § 14.313, Regulation No. § 14.313(b), Regulation No. 14 § 14.313(c)(i), Regulation No. 15 § 15.50, Regulation No. 15 § 15.53, and Regulation No. 3 (Part D requirements) were submitted by the Governor on April 11, 1980.

§ 52.1923 [Revoked and Reserved]

2. Section 52.1923 is revoked and reserved.

§ 52.1924 [Revoked and Reserved]

3. Section 52.1924 is revoked and reserved.

§ 52.1930 [Revoked and Reserved]

4. Section 52.1930 is revoked and reserved.

§ 52.1932 [Amended]

5. Section 52.1932 is revised by revoking paragraph (b).

[FR Doc. 80-37085 Filed 11-28-80; 8:45 am]
BILLING CODE 6560-32-M

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40 CFR Part 52

[A-5-FRL 1676-1]

Approval and Promulgation of Ohio Implementation Plan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: This rulemaking approves revisions to the Emergency Episode Procedures in the State Implementation Plan (SIP) for the State of Ohio. USEPA proposed approval and solicited public comments on the revisions to Rules 3745–25–01 through 3745–24–04 as part of the Federally approved Ohio SIP on May 23, 1980 (45 FR 34917). No public comments were received.

EFFECTIVE DATE: This final rulemaking becomes effective on December 29, 1980.

ADDRESSES: Copies of the SIP revision and USEPA's evaluation of the revision are available for inspection at the following addresses:

Air Programs Branch, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604;
Public Information Reference Unit, Room 2922, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460;
The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Delores Sieja, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886–6053.

SUPPLEMENTAL INFORMATION: On January 31, 1972, the Governor of Ohio submitted its SIP to the Environmental Protection Agency for approval pursuant to Section 110 of the Clean Air Act. This submission included, among other things, procedures required by Section 110(a)(2)(F)(v) of the Clean Air Act to address ambient air pollution emergency episodes. On April 15, 1974, the United States Environmental Protection Agency (USEPA) completed rulemaking on the emergency episode procedures by approving Ohio Rules AP–11–01 through AP–11–04 as part of the Federally approved Ohio SIP (39 FR 13539).

An emergency episode plan must include, among other things, (1) a contingency plan which will prevent ambient pollutant concentrations from reaching levels which could cause significant harm to the health of persons; (2) specifications for two or more stages of episode criteria; and (3) provisions for public announcements whenever there is an episode. The complete requirements for an emergency episode plan are outlined in 40 CFR 51.16.

On May 8, 1979, the Ohio EPA submitted revisions of Rules 3745–25–01 through 3745–25–04, previously codified as Rules AP–11–01 through AP–11–04, which comprise Ohio EPA's Emergency Episode Procedures. The major amendments to the existing rules are:

Rule 3745–25–01, Air Pollution Emergency

The reference in this rule to "Air Pollutants" was changed to "Air Contaminants."

Rule 3745–25–02, Episode Criteria

(a) The definition of "Air Pollution Forecast" for photochemical oxidants was modified. The new definition is: "An internal watch by the Ohio EPA shall be actuated by a National Weather Service advisory that an Atmospheric Stagnation Advisory is in effect or the equivalent local forecast of stagnant atmospheric condition. The air pollution forecast for photochemical oxidants shall take into consideration, but not be limited to, ambient temperatures, surface winds, and ultraviolet solar radiation levels."

(b) Based on a study of potential health effects of ozone and photochemical oxidants, the Ohio EPA has changed the alert level for photochemical oxidants from 0.1 ppm to 0.2 ppm.

(c) The condition that an episode may be completely eliminated when no episode stage criteria continue to exist was added to the termination clause for all pollutants.

Rule 3745–25–03, Emission Control Action Programs—Tables 1 to 5

Table 4 was modified to reflect revised emission reduction objectives for hydrocarbons. Sources must reduce hydrocarbon emissions during periods of alerts, warnings, and emergencies for each industrial process. The degree of reduction is related to the episode level and ranges from voluntary reduction, reduction considering reasonable economic hardships, and reduction without causing injury to persons or damage to equipment, respectively.

Rule 3745–25–04, Emergency Orders

Provisions were added to this rule to encourage less automobile use during "Alerts", "Warnings", and "Emergencies". To encourage less automobile usage, the public will be informed of the severity of the levels through the communications network.

USEPA reviewed these revisions to Rules 3745–25–01 through 3745–25–04 and determined that they satisfy the statutory and regulatory requirements of the Clean Air Act. Therefore, on May 23, 1980 (45 FR 34917), USEPA proposed approval of the revisions to Rules 3745–25–01 through 3745–25–04 as part of the federally approved Ohio SIP. Interested parties were given until June 23, 1980 to submit written comments. No comments were received. Consequently, the USEPA takes final action today to approve this revision to the Ohio SIP.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of (date of publication). Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." The Administrator has reviewed this regulation and determined that it is a specialized regulation.

After review of all relevant materials, the Administrator has determined that the revision meets the requirements of section 110(a)(3) of the Clean Air Act and USEPA regulations in 40 CFR Part 51.6. The revision is legally enforceable, will not interfere with attainment or maintenance of the NAAQS and has been subjected to reasonable notice and public hearing. Accordingly, the revision is approved.

This Final Rulemaking is issued under the authority of section 110 of the Clean Air Act as amended (42 U.S.C. 7410).

Dated: November 19, 1980.

Douglas Costle,
Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Ohio was approved by the Director of the Federal Register on July 1, 1980.

Title 40 of the Code of Regulations, Chapter 1, Part 52, is amended as follows:

1. Section 52.1870(c) is amended by adding a new paragraph to read as follows:

§ 52.1870 Identification of Plan.

* * * * *

(c) * * *

(23) On May 8, 1979, Ohio submitted revisions to regulations 3745–25–01 through 3745–25–04 (previously codified as AP–11–01 through AP–11–04) containing emergency episode procedures.

[FR Doc. 80-37104 Filed 11-28-80; 8:45 am]
BILLING CODE 6560-32-M

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40 CFR Part 120

[WH-FRL 1680-3]

Water Quality Standards; Navigable Waters of the State of Ohio

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is promulgating a final rule establishing criteria, a new beneficial use designation and other provisions which replace portions of the Ohio water quality standards disapproved by the EPA on August 9, 1978. In addition, the preamble to the rule describes the main features of EPA policy relating water quality standards and NPDES permit effluent limitations. The rule does not apply to the mainstream of the Ohio River, the Lower Cuyahoga River (navigation channel) or the Mahoning River and its tributaries in Ohio.

The major features of the rule are establishment of 5 mg/l as the instantaneous minimum dissolved oxygen criterion for the Warmwater Habitat use designation, establishment

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of a Modified Warmwater Habitat use designation containing an instantaneous minimum dissolved oxygen criterion of 5 mg/l for 16 hours of any 24 hour period, and not less than 4 mg/l at any time; and denial of the State of Ohio's application of the Limited Warmwater Habitat use designation to specific stream segments because of inadequate justification that the Warmwater Habitat Use is not attainable in those segments. The Modified Warmwater Habitat use designation applies (with certain exceptions) to surface water in place of the State of Ohio's adopted Warmwater Habitat use designations, until additional studies determine whether or not the Federal Warmwater Habitat use designation (instantaneous minimum dissolved oxygen criterion of 5 mg/l) is attainable for each stream segment. If attainable, the waters must be upgraded to Warmwater Habitat.

EPA is withdrawing its disapproval of Ohio's cyanide Criterion for Warmwater Habitat use designation.

DATES: This rule becomes effective December 29, 1980.

FOR FURTHER INFORMATION CONTACT: William Benjey, EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604 (312–353–2172).

SUPPLEMENTARY INFORMATION: Section 303(c) of the Clean Water Act (33 U.S.C. 1313(c)) provides that each State must review its water quality standards and adopt appropriate revisions at least every three years. That section also requires that EPA determine whether such revisions are consistent with the requirements of the Act. Where State provisions are not consistent with the Act and the State, after notification of such inconsistencies, does not make necessary revisions, EPA must undertake rulemaking proceedings to promulgate necessary water quality standards.

Background

On February 14, 1978, the Ohio Environmental Protection Agency ("OEPA") adopted revisions to the State water quality standards and submitted these revisions, with supporting documentation, for review by the Regional Administrator, Region V, of the EPA. On May 17, 1978, the Regional Administrator notified the Governor of Ohio that these revised standards were inconsistent with the Clean Water Act and advised the Governor that EPA would be required to promulgate Federal standards if necessary revisions were not made by the State. Although the State did submit clarifications of certain provisions, necessary revisions were not made by Ohio, and, on August 9, 1978, the Regional Administrator approved portions of the State standards but determined that other major portions of the standards were inconsistent with the Act. On July 6, 1979, EPA proposed water quality standards for the State to replace provisions which had not been approved. EPA today completes this rulemaking action by promulgating final water quality standards for Ohio.

Water Quality Standards Under the Clean Water Act

Section 101(a) of the Clean Water Act establishes as a national goal the achievement "wherever attainable" of water quality, which provides for the protection and propagation of fish, shellfish and wildlife and provides for the recreation in and on the water." Water quality standards, established pursuant to section 303, are a basic mechanism for achieving this goal.

A water quality standard basically consists of two parts: (1) a "designated use" for which the water body is to be protected (such as "agricultural," "recreational" or "fish and wildlife") and (2) "criteria" which are numerical or qualitative pollutant concentration limits for pollutants or pollutant parameters which are adequate to preserve or achieve the designated use. Although designated uses are established based on consideration of a range of environmental, technological, social and economic factors, criteria values are purely scientific judgments of the levels which will allow a use to be attained.

EPA water quality standards regulations are codified at 40 CFR 35.1550. Under these regulations, States must establish designated uses consistent with the 1983 goal where these uses are attainable and, in all cases, must maintain existing uses. "Downgrading," the modification of designated uses to establish a narrower range of uses, is allowed only where the designated use is unattainable because: (1) of natural background conditions; (2) irretrievable man-induced conditions, or (3) achievement of the designated use would require application of effluent limitations for existing sources more stringent than the technology-based requirements of section 301(b)(2) (A) and (B) and impositions of these limitations would result in substantial and widespread social and economic impact. States are required to submit adequate justification in support of any downgrade of designated uses. Guidance on application of these provisions is contained in Chapter 5 of *Guidelines for State and Areawide Water Quality Management Program Development.*

Relationship of Standards to Effluent Limitations

In order to ensure attainment of a water quality standard, it may be necessary to translate that standard (whether State adopted or Federally promulgated) into the effluent limitations applicable to individual point source dischargers. There has been some confusion on how the process functions, particularly in relationship to reissuance of National Pollutant Discharge Elimination System (NPDES) permits and the review of the adequacy of effluent limitations for Advanced Wastewater Treatment and Advanced Secondary Treatment (AWT/AST) municipal wastewater treatment plants in EPA's Municipal Construction Grants Program.

The procedure generally followed by EPA to establish specific effluent limitations, given a water quality use designation and associated criteria, involves a number of steps. The first of these is completion of a water quality survey and determination of the allowable pollutant loading to a defined uniform portion of a stream (stream segment) by mathematical modeling. The load which will allow water quality standards to be attained is allocated among dischargers on a stream segment (waste load allocation or WLA). These allocated loads will form the basis of specific NPDES permit discharge limitations if minimum technology-based limitations will not insure compliance with the standards. Stream segments which require effluent limitations more stringent than the minimum technology based effluent limitations in order to meet water quality standards are water quality limited. If the minimum technology based effluent limitations are more stringent than the calculated WLA limitations, the minimum required technology-based limitations are placed in the permit and the stream segment is effluent limited.

As discussed above, water quality standards on which effluent limitations may be based are subject to review for "attainability." There are several events which may initiate the above process, including NPDES permit expiration and reissuance, a new source permit application, or a review of advanced wastewater or advanced secondary treatment (AWT/AST) needs justification in the Municipal Construction Grants Program. Revisions to water quality standards during the term of a permit may cause the evaluation of permit effluent limitations prior to their reissuance. Evaluation of the adequacy of effluent limitations prior to permit reissuance may result in a determination that the limitations remain adequate or that the effluent limitations require change or further detailed evaluation. Water quality modeling associated with WLAs is also used in determining the attainability of different water quality standards for specific stream segments.

Activities by each State under the above process are ongoing and are specified in each annual State-EPA Agreement. EPA provides financial assistance for portions of the process through program grants (under section 106, 205(g) and 208 of the Act).

Summary of Disapproved Standards

In its disapproval of the Ohio standards, the EPA identified a number of basic problems with the State's water quality provisions. First, the State regulations defined a Warmwater Habitat Use classification applicable to stream segments which were intended to support a balanced, healthy community of warmwater aquatic species. These regulations specified supporting criteria for this use classification: the criteria value for dissolved oxygen was not less than 5.0 mg/l for 16 hours of any 24-hour period and not less than 4 mg/l at any time; the criteria for cyanide was 0.025 mg/l measured as total cyanide. EPA concluded that these two criteria were not adequate to support the designated use and advised the State that more stringent criteria values were necessary.

Second, the State had created a Limited Warmwater Use classification which, in effect, operated as a variance classification for waters which will not achieve one or more of the Warmwater Habitat Use criteria because of the discharge of pollutants by dischargers or because of background environmental conditions. The State placed 111 stream segments in this new classification.

EPA recognized that the Limited Warmwater Habitat Use designation was an appropriate classification for stream segments for which the warmwater use habitat is not "attainable." However, such a reclassification constitutes a "downgrading" as specified in EPA regulations, and the Agency concluded the State had not submitted sufficient justification to warrant the downgrading of the specified stream segments which the State had placed in this classification.

Third, the State had created a Seasonal Warmwater Habitat use classification applicable to streams with a "seven consecutive day, once in ten year flow" (7Q10) of 1.0 cfs or less. The Region concluded that a low flow classification was appropriate but that the level set by the State to define low flow segments was too high.

Finally, EPA identified a number of other problems including provisions relating to "mixing zones" and the protocols for monitoring pollutant concentrations.

Summary of EPA Proposed Regulations

Following the State's refusal to modify its water quality standards, EPA published a proposed rule to establish necessary water quality standards for Ohio. This proposal did not apply to the mainstem of the Ohio River, the Lower Cuyahoga River (navigation channel) or the Mahoning River and its tributaries in Ohio (44 FR 39468 July 6, 1979). As explained in detail in the preamble to the proposal, the rule would have:

(1) Established a minimum dissolved oxygen criterion of 5.0 mg/l for the Warmwater Habitat Use designation,

(2) Established a total cyanide criterion of 5 μg/l for the Warmwater Habitat Use designation,

(3) Placed 111 stream segments in the Warmwater Habitat Use designation which the State had "downgraded" to the Limited Warmwater Habitat Use designation,

(4) Revised certain provisions relating to mixing zones and low flow exceptions, and

(5) Amended certain monitoring protocols adopted by the State.

Public comments on the proposal were received through October 19, 1979, and three public hearings were held in Ohio during the comment period.

Rationale for EPA's Final Regulation

EPA has made a number of changes from its proposed regulation. This is prompted in part by revisions to the Agency's policy for review of water quality standards.

At the time of the disapproval of the Ohio water quality standards, EPA had adopted the policy of "presumptive applicability" in reviewing the adequacy of the criteria component of a State standard. Under this policy, States were required to adopt criteria values from the EPA publication *Quality Criteria for Water* ("QCW" or the "Red Book") unless a State could justify less stringent criteria based on: natural background conditions, more recent scientific evidence or local, site-specific information. The QCW contained criteria values developed pursuant to section 304(a)(1) of the Act.

EPA is now, however, in the process of a comprehensive review of its water quality standards program and regulations and intends, by the end of the year, to propose revised regulations. During the completion of this review EPA must still review and act on State submissions of water quality standards in a manner consistent with the Act and existing regulations. Nonetheless, the Agency does not wish to take actions which may impose additional obligations where not clearly required by its existing regulations. Consequently, EPA in promulgating this rule: (1) will not employ the policy of "presumptive applicability" and will determine necessary criteria on a case-by-case basis after assessment of all available information, (2) will require that existing water quality be maintained, (3) will require justification as specified in Agency regulations for any "downgrading" of established designated uses, and (4) will not "upgrade" existing uses or establish more stringent criteria than those previously approved by the Agency in the absence of specific information that the new standard is attainable.

Consistent with this approach, EPA is adopting a final regulation which will preserve existing water quality in the State without imposing greater obligations on point and non-point sources than those previously required by Ohio. This involves three main elements. First, EPA continues to believe that a dissolved oxygen criterion of 5.0 mg/l minimum is necessary to adequately support a warmwater habitat and is including that value as the dissolved oxygen criterion for the Warmwater Habitat use classification. However, EPA at this time is only placing in this classification those segments which the data now indicate are currently achieving this level.

Second, EPA is denying all "downgradings" of stream segments to the Limited Warmwater Habitat use classification. The Agency believes that, even in this period of review of water quality standards policy, the State must bear the full burden of justifying revisions of previously approved standards.

Finally, all other stream segments previously classified as warmwater habitats, including those which the State attempted to downgrade to the Limited Warmwater Habitat use classification, are to be placed in a new "Modified Warmwater Habitat use classification." This new classification contains criteria which are identical to those which were included in the State's previous Warmwater Habitat classification. Thus, dischargers will be subject to the same requirements which the State had previously established.

Placement of segments in this new classification may be temporary. EPA intends to work with the State to develop information necessary to

determine whether individual stream

information on the environmental requirements necessary to maintain

Water (QCW). However, EPA is today publishing a notice elsewhere in this

of this proceeding for downgrading the

Digest of Public Comments and EPA's

definitions are to be used by the State of

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determine whether individual stream segments can "attain" the full warmwater habitat use. Thus, where the full use can be achieved despite background environmental conditions and is attainable by application of minimum technology-based requirements specified in section 301(b)(2) (A) and (B) of the Clean Water Act or where the economic impact of additional requirements is not significant, the segments will be placed in the Warmwater Habitat use classification. EPA intends to consult with the State to develop a schedule for review of individual stream segments which will be contained in a State/EPA Agreement.

Contents of Final Rule

The following is a discussion of the major provisions of the final rule promulgated today.

Establishment of Dissolved Oxygen Criterion and Designation of Stream Segments in the Warmwater Habitat Use Classification

EPA is establishing a dissolved oxygen criterion for the Warmwater Habitat Use classification of an instantaneous minimum of 5.0 mg/l. This value is identified in *Quality Criteria for Water* as the appropriate dissolved oxygen level for support of a healthy and balanced warmwater fishery population. Although EPA no longer applies the policy of "presumptive applicability" the Agency must still assess the adequacy of standards. Included in this assessment is a review of the adequacy of pollutant criteria to maintain or achieve a designated use. After review of comments submitted and available scientific information, the Agency has concluded that the 5.0 mg/l dissolved oxygen criterion is necessary in Ohio to support the Warmwater Habitat Use Classification.

The dissolved oxygen criterion adopted by Ohio was a concentration not less than 5 mg/l for 16 hours of any 24 hour period with a minimum of not less than 4 mg/l at any time. Ohio based this criterion largely upon the fact that warmwater fish species are present in Ohio streams in which the diurnal ranges of dissolved oxygen concentrations exhibit minimum values less than 5 mg/l. However, the presence of warmwater fish species does not indicate that dissolved oxygen concentrations less than 5 mg/l adequately protect the species during their sensitive embryo and hatching stages or maintain healthy populations that grow and spawn normally.

The dissolved oxygen criterion in the QCW is based on current scientific information on the environmental requirements necessary to maintain balanced, healthy and reproducing populations. While EPA recognizes that fish can survive at dissolved oxygen concentrations less than 5 mg/l, maintenance of well-rounded fish populations characterized by an abundance of warmwater game fish (i.e., largemouth bass, bluegills, etc.) has been observed to occur consistently only when dissolved oxygen concentrations are 5 mg/l or greater. Furthermore, one study reported in the QCW has shown that fish growth and the viability of juveniles are regulated by daily minimum dissolved oxygen concentrations rather than daily averages. A fuller discussion of the basis for the dissolved oxygen criterion is contained in the Response to Comments below.

EPA is, at this time, only designating as warmwater habitats 17 stream segments which data indicate are currently attaining a dissolved oxygen level of 5.0 mg/l minimum. See (Section 120.45(d) of the regulation). These segments were identified as currently achieving a minimum dissolved oxygen concentration of 5 mg/l based on Ohio's 1980 Water Quality inventory required by section 305(b) of the Act. Only stream segments where a National Ambient Water Quality Monitoring Station having at least a one year period were used to define these segments. EPA delineated the segment boundaries by measuring downstream from a monitoring station to the first discharge or tributary streams. Segments were not extended past intervening discharges without monitoring data from downstream stations. Consequently EPA believes that this list constitutes a conservative estimate based on the State's own data of those segments actually achieving a minimum dissolved oxygen level of 5.0 mg/l.

EPA has also identified a list of 45 additional stream segments which appear to achieve the minimum dissolved oxygen criterion. However, because the available data base did not cover a full year, EPA is not, at this time, designating these segments as Warmwater Habitats. EPA intends to include a requirement in the State/EPA agreement for early evaluation of the attainable uses of these segments.

Withdrawal of the Disapproval of the Cyanide Criterion

EPA proposed in its July 6, 1979, proposed Rulemaking to supersede Ohio's Warmwater Habitat total cyanide criterion of 0.025 mg/l with 0.005 mg/l, a concentration recommended in *Quality Criteria for Water* (QCW). However, EPA is today publishing a notice elsewhere in this **Federal Register**, that its new recommendations for cyanides in fresh water are a "free" cyanide of 3.5 μg/l as a 24-hour average, with concentrations not to exceed 5.2 μg/l at any time.

Although EPA still questions the adequacy of the existing Ohio criterion for cyanide, the Agency is withdrawing its disapproval of this portion of the Ohio standard. This action is being taken because the Agency has substantially changed its criterion for cyanide, and because the Agency's policy has traditionally allowed State consideration of new or changed criteria before any Federal action. EPA expects Ohio to review its cyanide criterion for all water uses during its next triennial water quality standards revision in light of EPA's revised criterion. Until a revised cyanide criterion is established by the State or EPA, Ohio's current criterion remains in effect.

Establishment of Modified Warmwater Habitat Use Classification and Designation of Specific Stream Segments

EPA establishes herein a Modified Warmwater Habitat Use classification as a new use classification in addition to those adopted by Ohio. The dissolved oxygen criterion for the Modified Warmwater Habitat is an instantaneous minimum of not less than 5 mg/1 for 16 hours of a 24 hour period and not less than 4 mg/1 at any time. This, and all other criteria, are the same as those contained in Ohio's Warmwater Habitat Use classification.

With the exception of the 17 stream segments listed in § 120.45(d) of todays rule, all stream segments previously classified as Warmwater Habitat streams are placed in the new Modified Warmwater Habitat use classification. This includes those segments which the State "downgraded" to the Limited Warmwater Habitat use classification. Since this new use classification has criteria identical to Ohio's Warmwater Habitat classification, this action will not affect the requirements previously applicable to point and nonpoint sources discharging into these segments.

This action does not constitute a determination that these stream segments cannot attain the Warmwater Habitat use classification. EPA will work with the State to examine environmental, economic and technological factors necessary to make that determination. These studies should be specified in the annual State-EPA Agreement.

EPA carefully reviewed the justifications submitted into the record of this proceeding for downgrading the 111 segments listed in § 120.45(e) to limited warmwater habitat use from warmwater habitat use. EPA has concluded, however, that the State has not submitted sufficient justification to warrant the "downgrading." By placing these segments in the Modified Warmwater Habitat, they are now subject to the same standards applicable prior to their downgrading. The contents of the necessary justifications are more fully elucidated in the response to comments.

Modification of the Seasonal Warmwater Habitat Use Designation

EPA's promulgation today amends Ohio's Seasonal Warmwater Habitat use designation by limiting the low flow provision to streams which have a "seven consecutive day, once in ten year low flow (7Q10)" of 0.1 cfs or less. The only change to the proposed rule is the inclusion of a requirement for achieving the Modified Warmwater Habitat requirements rather than the warmwater habitat requirements, during periods when flow exceed the 7Q10 flow.

Modification of Mixing Zone Requirements

The mixing zone requirements adopted herein are substantially the same as those which were proposed. One clarification added requires a case-by-case justification for the application of a mixing zone to discharges in streams designated as Seasonal Warmwater Habitat.

Modification of Conditions for Exceptions

EPA has made two changes from its proposed rule. EPA proposed a rule that required the imposition of discharge limitations sufficiently stringent to meet water quality standards at the 7Q10 flow, prior to any flow reductions by State owned, operated or licensed water projects. EPA has deleted this provision. Ohio has legislation permitting the total diversion of certain waters for purposes of public water supply, and in such situations, the burden on existing dischargers to meet water quality standards based on "natural" flow may be excessive.

Also proposed were requirements for dredging and construction in waterways. Upon review of Corps of Engineer requirements which include extensive environmental evaluations, EPA has decided to withdraw this proposal. EPA therefore approves OAE 3745–1–10(A)(5).

Digest of Public Comments and EPA's Response

EPA received 100 submissions to the record on the proposed rule. A list of the individuals or organizations submitting these statements is attached to Appendix B. The concerns in these statements, grouped by subject, and the Agency's responses to major comments follow this rule in Appendix C. Additional responses to comments and a discussion of comments relating to individual stream segments are contained in the Administrative record of this rulemaking.

Specialized Regulation

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order applicable to "significant regulations" or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Availability of Record

The transcripts of the hearing referred to in this preamble as well as written comments received during the comment period are hereby made a part of the record of this rulemaking. The entire administrative record is available for public inspection and copying at the Environmental Protection Agency, Region V Office at the address noted above. The hearing transcript and other written comments are also available for inspection and copying at the Public Information Reference Unit, EPA Library, 401 M Street, SW, Washington, DC 20460, during the Agency's normal business hours of 8:00 a.m. to 4:30 p.m.

(Sec. 303(c) of the Clean Water Act, as amended (Pub. L. 92–500 (33 U.S.C. 1313(c)))

Dated: November 19, 1980.

Douglas M. Costle,

Administrator.

A new § 120.45 is hereby added to Part 120 of Title 40 of the Code of Federal Regulations and reads as follows:

§ 120.45 Ohio water quality standards.[1]

(a) Ohio Administrative Code, Section 3745–1–02 Definitions—the cited section does not include definitions for the terms "Act" or "Regional Administrator". The following definitions are to be used by the State of Ohio as if the definitions were incorporated in the above cited Code Section—(1) Act is the Clean Water Act, as amended (Pub. L. 92–500 (33 U.S.C. 1251 *et seq.*)), (2) Regional Administrator is the Administrator (or his designee) of Region V of the United States Environmental Protection Agency.

(b) Ohio Administrative Code, Section 3745–1–03 Analytical Methods—the cited section does not require compliance with EPA sample collection and sample preservation methods. The cited Ohio Administrative code section is null and void to the extent that it is inconsistent with the following: All methods of sample collection, preservation and analysis shall be in accord with those prescribed in 40 CFR Part 136, *Test Procedures for the Analysis of Pollutants.*

(c) Ohio Administrative Code Section 3745–1–06—Mixing Zones—Indicated paragraphs of the cited Ohio Administrative Code section are null and void to the extent that they are inconsistent with the provisions of this section—(1) The Director, following prior EPA approval in accordance with section 303(c) of the Clean Water Act, may waive the requirements of section (A)(1) (e), (f) and (g) of OAC 3745–1–6 and redefine the extent of a mixing zone whenever a discharger provides:

(i) Information defining the actual boundaries (where the water quality standards are met) of the mixing zone in question, and

(ii) Information and data proving no violation of sections (A)(1) (a), (b), and (c) and (d) of OAC 3745–2–06 by the mixing zone in question.

Note.—This paragraph supersedes OAC 3745–1–06(A)(2).

(2) The waters of the mixing zone shall not exceed at any time the 96 hour LC50 for any representative aquatic species, as determined by static bioassays for persistent toxicants and flow-through bioassays for non-persistant toxicants in accordance with methods described in "Methods of Acute Toxicity Tests of Fish, Macroinvertebrates, and Amphibians" (EPA Pubication 660/3–75–009). In addition, no conditions within the mixing zone shall exist which result in the bioconcentration or bioaccumulation of materials at levels which may be harmful to aquatic organisms or their consumers.

Note.—This paragraph supersedes OAC 3745–1–06(A)(4).

(3) OAC 3745–1–(A)(6) concerning mixing zones for seasonal warmwater habitat is null and void. Mixing zones

[1] References herein to the Ohio Water Quality Standards are to the Ohio Administrative Code Regulations 3745–1–01 *et seq.*, Recodified January 31, 1977; Amended December 30, 1977; and effective February 14, 1978.

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for Seasonal Warmwater Habitat will be established on a case-by-case basis as part of the justification of the application of the Seasonal Warmwater Habitat use designation.

(4) Thermal Mixing Zones—(i) A thermal mixing zone to permit dilution and cooling of a waste heat discharge shall be considered a region in which an organism's response to temperature is time-dependent. Exposure to temperature in a thermal mixing zone shall not cause an irreversible response which results in deleterious effects to the wildlife and aquatic life representative of the receiving waters.

Note.—This paragraph supersedes OAC 3745-1-08(B)(1).

(ii) Thermal mixing zone size limitations shall be established by the Director pursuant to OAC 3745-1-06(A) and § 120.45(c)(1), (2), (3) and(4)(i) on a case-by-case basis for all point source discharges subject to a NPDES permit.

Note.—This paragraph supersedes OAC 3745-1-06(B)(2).

(iii) OAC 3745-1-06(B)(3), (B)(6), (B)(7), and Table 1 are null and void.

(d) Ohio's Administrative Code Section 3745-1-07-Water Use Designations

(1) Warmwater Habitat

(i) The dissolved oxygen water quality criterion in paragraph (A)(8) is null and void. A dissolved oxygen water quality criterion of an instantaneous minimum of not less than 5.0 mg/l is established.

(ii) The following stream segments are hereby designated as warmwater habitat:

(a) Astabula River (mile 5.5 to 1.6)
(b) Conneaut Creek (mile 6.4 to .45)
(c) Huron River (mile 1.6 to .81)
(d) Little Beaver Creek (mile 4.6 to mouth at Ohio River)
(e) Maumee River (mile 100.3 to 81.49)
(f) Auglaize River (mile 4.1 to 3.62)
(g) Muskingum River (mile 107.3 to 105.88)
(h) Licking River (mile 25.6 to 4.33)
(i) Mohican River (mile 16.6 to mouth at Walhonding River)
(j) Tuscarawas River (mile 21.3 to 11.2)
(k) Walhonding River (mile 14.7 to 7.32)
(l) Ohio Brush Creek (mile 13.1 to 11.5)
(m) Racoon Creek (mile 29.6 to mouth at Licking River)
(n) Big Darby Creek (mile 13.2 to mouth at Scioto River)
(o) Olentangy River (mile 11.5 to 2.08)
(p) Vermilion River (mile 4.5 to 1.0)
(q) Great Miami River (mile 20.8 to 20.11)

Note.—River miles shown are measured from the river mouth upstream.

(2) Modified Warmwater Habitat—A use designation is established with the following definition: Modified Warmwater Habitat—Water capable of supporting Warmwater Habitat uses, and meeting all water quality standards criteria as defined by paragraph (A) of OAC 3745-1-07 as modified by these rules except that the dissolved oxygen criterion is not less than an instantaneous minimum of 5 mg/l for 16 hours of any 24 hour period, and not less than 4 mg/l for any 8 hours for an 24 hours period. The instantaneous minimum shall not be less than 4 mg/l. Permanent application of the Modified Warmwater Habitat use designation shall be justified in each case and is subject to approval under EPA's water quality standards regulations. EPA applies the Modified Warmwater Habitat use designation to all water classified as Warmwater Habitat or Limited Warmwater Habitat by Ohio. The waters shall be upgraded to Warmwater Habitat as defined herein, on a case-by-case basis, if further studies determine that warmwater Habitat is attainable.

(3) Seasonal Warmwater Habitat—The definition adopted by Ohio is null and void. EPA establishes the following definition: Seasonal Warmwater Habitat—Waters capable of supporting the propagation and habitation of aquatic organisms on a seasonal basis defined on a case-by-case basis. These waters have low flows as defined by the minimum 7 consecutive day low flow with a recurrence frequency of once in ten years of 0.1 cubic feet per second or less; have more than 50 percent of their total flow, when such flow rates occur, composed of wastewater effluents; and conditions to support a Modified Warmwater designation cannot be attained during all seasons. Application of this use designation shall require definition of the time period to which it applies, and be on a case-by-case basis subject to approval under EPA's water quality standards regulations. Such water shall be classified for the Modified Warmwater Habitat use designation for the balance of time.

Note.—This paragraph supersedes OAC 3745-1-07(D).

(e) Ohio Administrative Code Section 3745-1-03 Classification of Waters—classification of the named waters in this subsection for Limited Warmwater Habitat in lieu of Warmwater Habitat in Paragraph (C) of the above cited section is null and void. The beneficial use designation of these waters is Modified Warmwater Habitat until additional case-by-case studies by Ohio determine if lesser use designations are justified.

Abrams Creek—Middleburg Hts. STP to Grayton Road (Cuyahoga Co.).
Abrams Creek—Middleburg Hts. STP to Grayton Road (Cuyahoga Co.).
Auglaize River—Hamilton St. in Wapakoneta to Glynwood Road (Auglaize Co.).
Big Creek—Ford Motor Co. to confluence with Cuyahoga River (Cuyahoga Co.).
Black River—Elyria STP to confluence with Lake Erie (Lorain Co.).
Blanchard River—Findlay STP to Hancock C.R. 128
Brandywine Creek—Hudson Village STP to Macedonia STP (Summit Co.).
Brandywine Creek—Macedonia No. 15 to confluence with Cuyahoga River (Summit Co.).
Brandywine Creek—Macedonia No. 15 to Brandywine Gorge (Summit Co.).
Cementary Creek—Jefferson STP to confluence with Mill Creek (Ashtabula Co.).
Chippewa Creek—Medina County Sewer District No. 1 to confluence with Little Chippewa (Wayne Co.).
Chippewa Creek—confluence with Little Chippewa to confluence with Tuscarawas River (Summit Co.).
Cuyahoga River—Monroe Falls Dam Pool (Summit Co.).
Cuyahoga River—Akron STP to Penninsula (Summit Co.).
Duck Creek and tributary—Headwaters to confluence with Little Miami River (Hamilton Co.).
East Branch Nimishillen Creek—Louisville to confluence with Middle Branch (Stark Co.).
East Branch Nimishillen Creek—Confluence with the Middle Branch to confluence with Nimishillen Creek.
East Branch Portage River—Fostoria STP to Cygnet Road (Wood Co.).
East Branch Rocky River—Berea STP to confluence with West Branch (Cuyahoga Co.).
Fields Brook—Cook Rd. to confluence with Ashtabula River (Ashtabula Co.).
Great Miami River—from Dayton WWTP to 2nd St. in Franklin (Warren Co.).
Hurford Run—Headwaters to confluence with Nimishillen Creek (Stark Co.).
Huron River—Rt. 6 Bridge in Huron to confluence with Lake Erie (Erie Co.).
Jacob Creek—Willard STP to Holiday Lake (Huron Co.).
Jerome Fork—Confluence with Lang Creek to Old U.S. 30 in Jeromesville (Ashland Co.).
Killbuck Creek—Wooster STP to confluence with Little Killbuck (Wayne Co.).
Killbuck Creek—Wooster STP to Wayne—Holmes County Line (Wayne Co.).
Lang Creek—Ashland STP to confluence with Jerome Fork (Ashland Co.).
Little Chippewa Creek—Orrville STP to confluence with Chippewa Creek (Wayne Co.).
Maumee River—1-75 to confluence with Maumee Bay (Lucas Co.).
Middle Fork Little Beaver Creek—Salem STP to Mahoning—Columbiana County Line near Washingtonville (Mahoning Co.).
Mill Creek—Granger Rd. to confluence Cuyahoga River (Cuyahoga Co.).
Mill Creek—1-275 to Spring Grove Avenue (Hamilton Co.).

Mill Creek, Ross Run, West Fork and tributary—Spring Grove Avenue to confluence with Ohio River (Hamilton Co.).
Mud Brook—Confluence with Powers Brook Wyaga lake (Summit Co.).
Muskingum River—Confluence of Walhonding and Tuscarawas Rivers to Rt. 83 Bridge (Coshocton Co.).
Nimishillen Creek—Canton STP to confluence with Sandy Creek (Stark Co.).
North Branch Portage River—confluence with Poe Ditch to confluence with Middle Branch in Pemberville (Wood Co.).
Ottawa River—Standard Oil Lima Refinery outfall to Allen County Line (Allen Co.).
Ottawa River—Standard Oil Lima Refinery outfall to Allentown (Allen Co.).
Ottawa River—Lover's Lane Control Structure near Bellfontaine Avenue in Lima to Neff Road (Allen Co.).
Ottawa River—Cherry Street to Summit Street (Lucas Co.).
Paramour Creek—Crestline STP to confluence with Allen Run (Crawford Co.).
Plum Creek—Oberlin STP to confluence with West Branch Black River (Lorain Co.).
Pond Brook—Aurora Shores STP to confluence with Tinkers Creek (Summit Co.).
Powers Brook—Hudson No. 6 to confluence with Mud Brook (Summit Co.).
Rattlesnake Creek—Norwalk STP to confluence with Huron River (Huron Co.).
River Styx—Wadsworth STP to confluence with Chippewa Creek (Wayne Co.).
Rocky Fort—Mansfield STP to Applegate Road (Richard Co.).
Rocky River—Lakewood STP to confluence with Lake Erie (Cuyahoga Co.).
Sandusky River—Fremont STP to confluence with Muskelluge Creek (Sandusky Co.).
Sandusky River—Bucyrus STP to Mt. Zion Rd. (Crawford Co.).
Scioto River—Greenlawn Avenue Dam to confluence with Big Darby Creek (Pickaway Co.).
Skellinger Creek—New London STP to confluence with East Branch Vermilion (Huron Co.).
State Line Creek—from BFI & State line to confluence with North Fork (Lucas Co.).
Swan Creek—Detroit Avenue to confluence with Maumee River (Lucas Co.).
Tuscarawas River—Barberton STP to confluence with Chippewa Creek (Summit Co.).
Tuscarawas River—confluence with Chippewa Creek to Massillon STP (Stark Co.).
Tuscarawas River—from PPG to confluence with Sandy Creek (Stark Co.).
Tuscarawas River—River mile 5.0 to confluence with Muskingum River (Coshocton Co.).
Wahoo Ditch—Ravenna STP to confluence with Breakneck Creek (Portage Co.).

Note.—The above listing supersedes OAC 3745-1-08 (C)(1).

Big Run—New Nacco Mine No. 3 portal to confluence with Ohio River (Belmont Co.).
Boggs Fork and tributaries—Holloway to confluence with Stillwater Creek (Harrison Co.).
Brush Creek and tributaries—Headwaters to confluence with Muskingum River (Muskingum Co.).
Buffalo Creek and tributaries—Headwaters to confluence with Buffalo Fork (Noble Co.).
Buffalo Fork and tributaries—Headwaters to confluence.
Buffalo Creek—Headwaters to confluence with West Fork Duck Creek (Noble County).
Captina Creek—Confluence of North and South Forks to confluence with Ohio River (Belmont County).
Cat Run—New Nacco Mine No. 1 portal to confluence with Captina Creek (Belmont County).
Conotton Creek and tributaries—Headwaters to Jewett (Harrison County).
Crooked Creek and tributaries—Headwater to confluence with Wills Creek (Guernesy County).
Cushing Run and tributaries—Headwaters to confluence with Muskingum River (Washington County).
Duck Creek—Confluence of East and West Forks to confluence with Ohio River (Washington County).
East Fork Duck Creek and tributaries, except Pawpaw Creek—Headwaters to confluence with Duck Creek (Washington County).
Elk Fork and Puncheon Fork—Headwaters to S.R. 677 (Vinton County).
Federal Creek and all tributaries—Confluence with Sharps Fork to confluence with Hocking River (Athens County).
Hewett Fork and tributaries—Headwaters to confluence with Raccoon Creek (Vinton County).
Johnny Woods River—Headwaters to confluence with West Fork Duck Creek (Noble County)
Jonathan Creek and tributaries, including Turkey Run—Confluence with Turkey Run to confluence with Moxahala Creek (Muskingum County).
Kyger Creek and tributary—headwaters to confluence with Ohio River (Gallia County).
Leatherwood Creek and Shannon Run—Headwaters to Cambridge (Guernesy County).
Little McMahon Creek—Confluence with Chambers Run to confluence with McMahon Creek (Belmont County).
Little Raccoon Creek—T.R. 21 to C.R. 26 (Vinton County)
Little Raccoon Creek—Confluence with Sand Run to Confluence with Raccoon Creek (Gallia County)
Little Raccoon Creek Tributaries from Lake Alma to Jackson-Gallia County line—Headwaters to confluence with Little Raccoon Creek (Jackson County)
Little Short Creek and Coal Run—Headwaters to confluence with Short Creek (Jefferson County).
Little Stillwater Creek—Confluence with Plum Run to Dennison (Tuscarawas County).
McMahon Creek—Headwaters to confluence with Ohio River (Belmont County).
Mill Creek and tributaries—Headwaters to confluence with Walhonding River (Coshocton County).
Mill Fork and tributaries—Headwaters to confluence with Wakatomika Creek (Muskingum County).
Monday Creek, Little Monday Creek and Snow Creek—Headwaters to confluence with Hocking River (Athens County).
Moxahala Creek and tributaries—Headwaters to confluence with Muskingum River (Muskingum County).
North Fork Yellow Creek—Salineville to confluence with Yellow Creek (Jefferson County).
Opossum Creek and tributary—Headwaters to confluence with Ohio River (Monroe County).
Osburn Run—Headwaters to confluence with Ohio River (Lawrence County).
Piedmont reservoir tributaries—Headwaters to confluence with Piedmont Reservoir (Belmont County).
Pipe Creek—Headwaters to confluence with Ohio River (Belmont County).
Raccoon Creek, including West and East Branches—Headwaters to Tycoon Lake (Vinton County).
Raccoon Creek tributaries, except Elk Fork, from Lake Hope to Vinton-Gallia county line—Headwaters to confluence with Raccoon Creek (Vinton County).
Rush Creek—Headwaters to confluence with Little Rush Creek (Fairfield County).
Short Creek, Piney Fork and Middle Fork and tributaries—Headwaters to confluence with Ohio River (Jefferson County).
Stillwater Creek—Headwaters to confluence with Bushy Fork (Harrison County).
Sunday Creek and West Branch—Headwaters to confluence with Hocking River (Athens County).
Twomile Run—Benedict preparation plant to confluence with Raccoon Creek (Vinton County).
Wakatomika Creek—Frazeysburg to confluence with Muskingum River (Muskingum County).
Warren Run—Headwaters to confluence with West Duck Creek (Noble County).
West Fork Duck Creek—Headwaters to confluence with Duck Creek (Washington County).
Wheeling Creek—Headwaters to confluence with Ohio River (Belmont County).
White Eyes Creek and tributary—Headwaters to confluence with Wills Creek (Coshocton County).
Wills Creek—Cambridge to downstream Wills Creek Reservoir (Coshocton County).
Yellow Creek—Berghotz to confluence with Ohio River (Jefferson County).

Note.—The above listing supersedes OAC 3745-1-08(C)(2).

(f) Ohio Administrative Code 3745-1-09 Low Flow Streams is null and void. EPA establishes the following requirements.

(1) Low flow stream means that portion of a water course where the minimum seven consecutive day average flow that has a recurrence frequency of once in ten years (not attributable to discharge and other hydraulic alterations) is 0.1 cubic feet per second or less.

Note.—This paragraph supersedes OAC 3745-1-09(A)(1).

(2) Except as provided in paragraph (f)(4) of this section, water courses that

meet the requirements for low flow streams as established in paragraph

be maintained in accordance with the provisions of the approved plan, during

Note.—This paragraph supersedes OAC 3745-1-11(2)(b).

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meet the requirements for low flow streams as established in paragraph (f)(1) of this section are required to meet the water quality criteria supportive of the Modified Warmwater Habitat use designation.

Note.—This paragraph supersedes OAC 3745-1-09(A)(2).

(3) High quality low-flow stream means that portion of a water-course where:

(i) Section 120.45(f)(1) of this rule is met.

(ii) Water quality criteria supportive of the use designation Warmwater Habitat or higher are met presently in the stream, and/or

(iii) A diverse aquatic community exists in the stream as determined by the Director.

Note.—This paragraph supersedes OAC 3745-1-09(B).

(4) Water courses determined to be of high quality under paragraph (f)(3) of this section shall be maintained at their present quality unless such waters are reclassified to another use designation through the water quality standards revision procedure of the Ohio continuing planning process. Mixing zone requirements as established in OAC 3745-1-08 shall not apply to such streams. Instead, ambient water quality shall be maintained at all points in the stream until a mixing zone is formally established by the Director through a process which includes a public hearing.

Note.—This paragraphs supersedes OAC 3745-1-09(C).

(g) Ohio Administrative Code 3745-1-10 Conditions for Exceptions.

(1) Paragraph (A)(2), (A)(4), (A)(6)(B) and (C) of OAC 3745-1-10 are null and void.

(2) The following provisions shall be applied by Ohio as if part of OAC 3745-1-10.

(i) All exceptions will apply only to the specific water quality criteria involved in each case and only for a reasonable period of time as determined by the Director. However, for the purpose of applying the low flow exception to water quality standards, a reasonable period of time is that period when the flow rate is less than the minimum seven consecutive day average flow with a recurrence frequency of once in ten years.

Note.—This paragraph supersedes OAC 3745-1-10-(B).

(ii) Existing best management practices, including those defined in statewide or areawide water quality management plans developed under section 208 of the Clean Water Act, shall be maintained in accordance with the provisions of the approved plan, during such exemption from water quality standards in order to minimize damage of the environment.

Note.—This paragraph supersedes OAC 3745-1-10-(C).

(g) Ohio Administrative Code 3745-1-11 Lake Erie Standards—

(1) The following paragraphs of the Ohio Administrative code section 3745-1-11 are null and void: (B)(1)(b), (B)(2)(a), (B)(2)(b), (B)(2)(C), (B)(2)(d), and Table 7d.

(1) The following provisions shall be applied by Ohio as if part of OAC 3745-1-11:

(i) The water of the mixing zone shall not exceed at any time the 96 hour LC50 for any representative aquatic species, as determined for existing scientific literature, or the 96 hour LC50 for any representative aquatic species, as determined by static bioassays for persistent toxicants and flow-through bioassays for non-persistent toxicants in accordance with methods described in "Methods of Acute Toxicity tests of Fish, Macroinvertebrates and Amphibians" (EPA publication 660/3-75-009). In addition, no conditions within the mixing zone shall exist which result in the bioconcentration or bioaccumulation of materials at levels which may be harmful to aquatic organisms or their consumers. Subject to paragraph (h)(2)(iii) of this section, a mixing zone shall not exceed 23 acres in area.

Note.—This paragraph supersedes OAC 3745-1-11(B)(1)(b).

(ii) A thermal mixing zone to permit dilution and cooling of a waste heat discharge, shall be considered a region in which organism response to temperature is time dependent. Exposure to temperature in a thermal mixing zone shall cause an irreversible response which results in deleterious effects to the wildlife and aquatic life representative of the receiving waters.

Note.—This paragraph supersedes OAC 3745-1-11(B)(2)(a).

(iii) Thermal mixing zone size limitations shall be established by the Director pursuant to OAC 3745-1-11(1) and paragraph (h)(2) (i) and (ii) of this section on a case-by-case basis for all thermal point source discharges subject to a NPDES permit. However, thermal mixing zone shall not exceed 23 acres in area, except that a large thermal mixing zone which will not adversely affect the uses of the receiving water may be demonstrated in accordance with section 316 of the Clean Water Act.

Note.—This paragraph supersedes OAC 3745-1-11(2)(b).

Appendix A—Submissions to the Hearing Record

The Ohio Environmental Protection Agency's (OEPA) 1979 Submittals:

—Document Number 1-1 OEPA letter to the USEPA on the Memorandum of Understanding and Ohio Water Quality Standards.
—Document Number 1-2 Memorandum of Understanding Between the OEPA and USEPA About Matters Concerning Water Quality Standards, Wasteload Allocations, and Variance Considerations.
—Document Number 1-3 Additional Technical Justifications of the OEPA Water Quality Standard for Dissolved Oxygen (DO).
—Document Number 1-4 Fish Survey of the Miami River near Dayton, Ohio.
—Document Number 1-5 The Fish Community of the Great Miami River near Dayton, Ohio.
—Document Number 1-6 Influence of Dissolved Oxygen and Carbon Dioxide on Swimming Performance on Largemouth Bass and Coho Salmon.
—Document Number 1-7 Avoidance Reactions of Salmonid and Centrarchid Fishes in Low Oxygen Concentrations.
—Document Number 1-8 Dissolved Oxygen Requirements of Three Species of Fish.
—Document Number 1-9 Respiration of Fishes with Special Emphasis on Standard Oxygen Consumption.
—Document Number 1-10 The Effect of the Greenwich Sewage Lagoon Discharge Upon Two Small Receiving Streams in Northwest Ohio.
—Document Number 1-11 OEPA Inter-Office Communication on Dissolved Oxygen Standards.
—Document Number 1-12 Effects of Reduced Oxygen on the Embryos and Larvae of Lake Trout (Salvelinus namaycush) and Largemouth Bass (Micropterus Salmonides).
—Document Number 1-13 USEPA Quarterly Report (October-December 1978) on the Effects of Lowered DO Concentrations Compared.
—Document Number 1-14 Spawning Success of the Black Crappie, Pomoxis Nigromaculatus, at Reduced Dissolved Oxygen Concentrations.
—Document Number 1-15 Dissolved Oxygen, Temperature, Survival of Young at Fish Spawning Sites.
—Document Number 1-16 The Restricted Movement of Fish Populations.
Document Number 1-17 Evidence for the Concepts of Home Range and Territory in Stream Fishes.
Document Number 1-18 Influence of Oxygen Concentration on the Growth of Juvenile Largemouth Bass.
Document Number 1-19 Effect of Long-term Reduction and Diel Fluctuation in Dissolved Oxygen on Spawning of Black Crappie, Pomoxis nigromaculatus.
Document Number 1-20 Minimal Dissolved Oxygen Requirements of Aquatic Life with Emphasis on Canadian Species: A Review.

Document Number 1-21 Detection and Measurement of Stream Pollution.
Document Number 1-22 Dissolved Oxygen.
Document Number 1-23 The Effects of Sewage Pollution on the Fish Population of a Midwestern Stream.
Document Number 1-24 Dissolved Oxygen Requirements of Freshwater Fishes.
Document Number 1-25 Waterborn Dissolved Oxygen Requirements and Criteria with Particular Emphasis on the Canadian Environment.
Document Number 71-1 This Submittal includes the following documents:
OEPA Testimony at the Public Hearings.
A Rebuttal to USEPA Testimony at the Hearings.
Technical Justification for the DO Criterion.
Technical Justification for the Cyanide Criterion.
Justification for the Limited Warmwater Habitat Stream use Classifications.
Summary of OEPA's Justifications.
Use Designation for low flow Streams.
Mississippi DO Standards.
USEPA State Approved WQS with less Stringent DO Requirements.
Document Number 71-2 OEPA Water Quality Survey of the Ottawa River, Allen and Putnam Counties, Ohio.
Document Number 92-1 Submittal from OEPA by James F. McAvoy, Director.
Document Number 92-2 Justification of the Limited Warmwater Habitat Use Designation in Ohio's WQS for Non-Mine Drainage Streams.
Document Number 92-3 Justification of the Limited Warmwater Habitat Use Designation in Ohio's WQS for Mine Drainage Streams.
Document Number 100-2 Submittal by Self Amragy, Chief Water Quality Planning & Assessment of OEPA, for Dr. Robert M. Sykes.
Document Number 100-3 Submittal by George Garrett, OEPA, of a map showing Ohio's 61 non-mine drainage LWH stream segments.

Statements Submitted for the Hearing Record at the USEPA Public Hearing in Columbus, Ohio, on September 17, 1979:

Document Number 14-2 Statement of the Ohio Municipal League.
Document Number 14-3 Statement of James F. McAvoy, Director, OEPA.
Document Number 14-4 Statement of Ernest K. Rotering, OEPA.
Document Number 14-5 Statement of George Garrett, OEPA.
Document Number 14-6 Statement of Gary L. Martin, OEPA.
Document Number 14-7 Statement of the Ohio River Valley Water Sanitation Commission (ORSANCO).
Document Number 14-8 Statement of Michael B. Lagraff on Behalf of the Standard Oil Company.
Document Number 14-10 Statement of Michael B. Lagraff on Behalf of the Ohio Petroleum Council.
Document Number 14-12 Release by the Council on Wage and Price Stability on the EPA's Proposed Water Quality Criteria.
Document Number 14-13 Comments of the American Petroleum Institute on Water Quality Criteria Proposed by the USEPA.
Document Number 14-14 "Cyanide: An Overview and Analysis of the Literature on Chemistry, Fate, Toxicity, and Detection in Surface Water" Prepared for the Inter-Industry Cyanide Group.
Document Number 14-15 Statement of the City of Columbus.
Document Number 14-16 Statement in Behalf of the Ohio Association of Consulting Engineers.
Document Number 14-17 Statement of Ashland Oil, Inc.

Statements Submitted for the Hearing Record at the USEPA Public Hearing in Dayton, Ohio, on September 19, 1979:

Document Number 20-1 Statement of the Greene County Department of Sanitary Engineering.
Document Number 20-2 Statement by John C. Engle on behalf of the City of Hamilton.
Document Number 20-3 Statement of Harry Moyer, Mayor of the City of Lima.
Document Number 20-4 Technical Statement of the City of Lima.
Document Number 20-5 Statement of Galen Gault of Lima.
Document Number 20-6 Statement of C. Lee Bridges of the State of Indiana.
Document Number 20-7 Statement of the Little Miami Interleague Group.
Document Number 20-8 Statement of James L. Hinchberger, Butler County Sanitary Engineer.
Document Number 20-9 Statement and Technical Submittal by Douglas G. Whitaker on behalf of the Miami Conservancy District.
Document Number 20-10 Statement of the MSD of Greater Cincinnati.

Statements Submitted for the Hearing Record at the USEPA Public Hearing in Akron, Ohio on September 21, 1979:

Document Number 22-2 Statement of the Northeast Ohio Regional Sewer District.
Document Number 22-3 Statement of the City of Canton.
Document Number 22-4 Statement by George H. Watkins on behalf of the Three Rivers Watershed District.
Document Number 22-5 Statement of the Ohio League of Women Voters.
Document Number 22-6 Statement by Edward Bollinger on behalf of the Cuyahoga River Basin Water Quality Committee.
Document Number 22-7 Statement by Jeff Lintern on behalf of the Summit County Sanitary Engineers Office.
Document Number 22-8 Statement by County Sanitary Engineers' Association of Ohio.
Document Number 22-9 Statement of the City of Orville.
Document Number 22-10 Statement of the City of Akron.
Document Number 22-11 Statement of the Cuyahoga County Sanitary Engineering Department.
Document Number 22-12 Chapter VIII entitled "Mill Creek of the OKI 208 Plan."

USEPA Submittals to the Record:

Document Number 15-1 This submittal includes the following letters and documents:
May 17, 1978, USEPA letter to Governor Rhodes disapproving the State's standards.
July 10, 1978, OEPA letter to USEPA with summary of agreements on standards.
August 9, 1978, USEPA letter to Governor Rhodes giving partial approval to the State's Standards.
August 10, 1978, OEPA letter to USEPA.
March 23, 1979, OEPA letter to USEPA agreeing to revise the State's standards.
August 3, 1979, OEPA letter to USEPA and attachments to Ohio public groups stating that OEPA would contest certain USEPA standards.
USEPA publication by Stephen J. Broderius in September 1979, entitled "Aqueous Chemistry, Analytical Measurement, and Toxicity of Cyanide in Aquatic Ecosystems".
USEPA memo from Gary Amendola to William Benjey on flow criteria for the Ohio seasonal warmwater habitat use designation dated September 6, 1979.
Document Number 23-1 The State of Ohio's 1977 Hearing Record on Water Quality Standards and USEPA's pre-public hearings (1979) submittals to the Hearing Record.

Note.—See attachment Number 1 for the contents of this submittal and check this attachment for desired documents.

Document Number 24-1 USEPA's Hearing Record Statement read at the three public hearings in Ohio.
Document Number 27-1 USEPA publication by William A. Brungs in September 1979 entitled "Effects of Cyanide and Reduced Dissolved Oxygen Concentrations on Warmwater Fish".
Document Number 28-1 This Submittal includes the following letters and documents:
Review of OEPA's Economic Criteria for Downgrading.
Evaluation of OEPA's Methodology for Financial Analysis.
OEPA Submittal to GAO on the Costs of USEPA's proposed Promulgation on WQS.
USEPA Rebuttal to GAO on OEPA's Submittal.

Mailed Statements to the Hearing Record:

Document Number 2-1 Submittal of Little Miami Inc.
Document Number 3-1 Resolution of the OKI Executive Committee.
Document Number 3-2 Submittal of OKI on Mill Creek.

Note.—See document Number 22-12.

Document Number 4-1 Submittal of the County of Hamilton.
Document Number 5-1 Submittal of the MSD of Greater Cincinnati.
Document Number 6-1 Submittal of the OKI Citizen Participation Committee.
Document Number 7-1 Submittal by Baker and Hostetler on behalf of RMI Company.
Document Number 8-1 Submittal by Mansfield Products Company.
Document Number 9-1 Submittal from Browning-Ferris Industries of Ohio.
Document Number 10-1 Submittal from Browning-Ferris Industries of Ohio correcting previous submission.

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Document Number 11–1 Submittal of the Village of New Boston, Scioto County, Ohio.
Document Number 12–1 Submittal of the Eaton City Council.
Document Number 13–1 Submittal of the City of Delaware.
Document Number 17–1 Submittal of the Ohio Department of Natural Resources.
Document Number 18–1 Submittal of the County of Hamilton.
Document Number 19–1 Submittal of the Ohio Department of Agriculture.
Document Number 21–1 Submittal of the Ohio Water Pollution Control Conference.
Document Number 25–1 Submittal of Lowell V. Dunaway of Lima.
Document Number 26–1 Submittal of the Village of Granville.
Document Number 29–1 Statement by Milton B. Trautman.
Document Number 30–1 Statement by the Wayne County Commissioners.
Document Number 31–1 Statement by David C. Beckett of the University of Cincinnati Department of Biological Sciences.
Document Number 31–2 "Ordination of Macroinvertebrate Communities in a Multistressed River System".
Document Number 31–3 "Variations in the Biotic Composition of the Great Miami River System, with Special Emphasis On the Tait and Hutchings Power Plant Effects".
Document Number 31–4 "The Fish Community of the Great Miami River Near Dayton, Ohio".
Document Number 32–1 Statement by Charles J. Smercina, Mayor, City of Solon, Ohio.
Document Number 33–1 Statement by Kenneth Richardson, Mayor, City of Upper Sandusky, Ohio.
Document Number 34–1 Statement by James H. McGee, Mayor, City of Dayton, Ohio.
Document Number 35–1 Statement by John H. Stratman of Jones and Henry Engineers in Toledo.
Document Number 36–1 Abstract of comments to USEPA in the September 19, 1979, Public Hearing in Dayton by Dale F. Helsel, City Manager of Middletown.
Document Number 37–1 Statement by Robert V. Moschell, Director of Public Utilities, Middletown, Ohio.
Document Number 38–1 Submittal by Joe Hopkinson, Mayor, City of Cridersville, Ohio.
Document Number 39–1 Submittal by W. T. Urwin, Mayor, City of Waverly, Ohio.
Document Number 40–1 Submittal by Kate Slusser, Mayor, City of Dalton, Ohio.
Document Number 41–1 Submittal by Kenneth E. Ream, Mayor, City of Creston, Ohio.
Document Number 42–1 Submittal by James P. Goslee III, Law Director, Village of Lakeview, Ohio.
Document Number 43–1 Submittal by Gertrude Hopkins, Safety-Service Director, Village of Hillsboro, Ohio.
Document Number 44–1 Submittal by Carl B. Everett of DuPont Inc.
Document Number 45–1 Submittal by Eric P. Oswald, Assistant City Engineer, Wooster, Ohio.
Document Number 46–1 Submittal by William J. Veroski, Director Sanitary Engineering, Stark County, Ohio.
Document Number 47–1 Submittal by Lowell E. Roe of the Toledo Edison Company.
Document Number 48–1 Submittal by R. W. Kennedy of UniRoyal Chemical.
Document Number 49–1 Submittal by Mazel M. Russell, Councilwoman, Beloit, Ohio.
Document Number 50–1 Submittal by Wade Eden, Council President, Willard, Ohio.
Document Number 51–1 Submittal by Dr. Andrew M. White of Environmental Resource Associates.
Document Number 52–1 Submittal by J. V. Day of Kaiser Aluminum.
Document Number 52–2 "IJC Recommendation for a Cyanide Objective".
Document Number 52–3 "An Evaluation of the EPA Interim Draft (11/29/77) Criterion Document on Cyanides".
Document Number 52–4 "Cyanide" by the Inter-Industry Cyanide Group.
Document Number 53–1 Submittal by David T. Molvey, Mayor, Doylestown, Ohio.
Document Number 54–1 Submittal by Charles C. King of the Ohio Biological Survey.
Document Number 54–2 "Effects of Dissolved Oxygen on Survival and Behavior of Selected Fishes of Western Lake Erie".
Document Number 55–1 Submittal by William W. Burns, City Manager, Fairborn, Ohio.
Document Number 56–1 Submittal by Gerald G. Greenlick, City Manager, Canfield, Ohio.
Document Number 57–1 Submittal by Leo A. Grant, Director of Public Utilities, Toledo, Ohio.
Document Number 58–1 Submittal by R. Charles Larlham, NEFCO, Akron, Ohio.
Document Number 59–1 Submittal by L. Boehm of Armco Inc.
Document Number 60–1 Submittal by John W. Edwards of Smith and Schnackle for the Ohio Mining and Reclamation Association.
Document Number 61–1 Submittal by Julian M. Suso, Wayne County Regional Planning Commission, Wooster, Ohio.
Document Number 62–1 Resolution by the City of Middletown, Ohio.
Document Number 63–1 Submittal by James Meyer, Village Administrator, Ada, Ohio.
Document Number 64–1 Resolution by the City Council of Shelby, Ohio.
Document Number 65–1 Submittal by L. T. Clere of the Sun Petroleum Products Company.
Document Number 66–1 Submittal by C. M. McNatt, Mayor, Beloit, Ohio.
Document Number 67–1 Submittal by R. C. Salisbury, City Manager, Geneva, Ohio.
Document Number 68–1 Submittal by Ken Amsbaugh, Mayor, Defiance, Ohio.
Document Number 69–1 Submittal by William L. Howard, President, Water Management Association of Ohio.
Document Number 70–1 Submittal by J. G. Crist of U. S. Steel.
Document Number 70–2 Lorain Plant "Thermal Discharge Demonstration".
Document Number 70–3 "A Critique of the Lorain Works Load Allocation Study".
Document Number 70–4 "Suspended Solids Impacts on Water Quality Modeling and Load Allocations for the Black River".
Document Number 72–1 Submittal by Michael I. Hardy of Guven, Merritt, Sogg, and Cohen for the Cleveland Electric Illuminating Company.
Document Number 73–1 Submittal by Christopher R. Schraff of Porter, Wright, Morris, and Arthur for the Ohio Steel Group.
Document Number 72–2 "Cyanide" by the Inter-Industry Cyanide Group.
Document Number 73–3 "A Review of the EPA Red Book: Quality Criteria for Water" by the American Fisheries Society.
Document Number 73–4 "Problems in the Establishment of Water Quality Criteria".
Document Number 73–5 "Mixing Zones".
Document Number 73–6 Ohio Steel Group, Comments on the Proposed Rulemaking.
Document Number 74–1 Submittal by William L. West of Republic Steel.
Document Number 74–2 "Regulation of the Toxic Form of Cyanide in Receiving Waters".
Document Number 74–3 "A Review of the EPA Red Book: Quality Criteria for Water for Cyanide".
Document Number 75–1 Submittal by Martin S. Seltzer of Porter, Wright, Morris, and Arthur for PPG Industries.
Document Number 76–1 Submittal by Edward A. Hayman of Squire, Sanders, and Dempsey for the Chase Bag Company.
Document Number 77–1 Submittal by Michael B. LaGraff, Corporate Environmental Consultant for the Standard Oil Company.
Document Number 77–2 "Assessment of the Present and Projected Condition of Otter Creek".
Document Number 77–3 "An Assessment of Effects of the Thermal Discharge from Toledo Oil Refinery on Otter Creek".
Document Number 77–4 "Benefit-Cost Analysis of the Elimination of Thermal Discharge from Toledo Oil Refinery to Otter Creek".
Document Number 77–5 "An On-Site (In-Situ) 48 Hour Bioassay of Five Stations (Sites) in Otter Creek (Ohio) Using Pimephales Promelas as Test Organisms".
Document Number 78–1 Submittal by L. Boehm of ARMCO Inc.
Document Number 78–2 Final Statement of Armco Steel Corporation.
Document Number 78–3 "A Review of the EPA Red Book: Quality Criteria for Water".
Document Number 79–1 Submittal by David H. Miller of J. L. Steel.
Document Number 79–2 "Comments Regarding the Sections of Ammonia, Cyanide, Oil, and Grease, ph, Phenols, ss, and Zinc in the EPA Red Book".
Document Number 79–3 "Problems in the Establishment of Water Quality Criteria".
Document Number 79–4 "Comments on USEPA Quality Criteria for Water".
Document Number 79–5 "A Critique of the Water Quality Criteria for Ammonia, Cyanide, Iron, Phenol, and Total Dissolved Solids".
Document Number 79–6 "Cyanide: An Overview and an Analysis of the Literature on Chemistry, Fate, Toxicity, and Detection in Surface Waters".

Document Number 79–7 Comments on Proposed Rulemaking on Behalf of the Packaging Corporation of America.
Document Number 80–1 Submittal by R. W. Reeves of America Electric Power.
Document Number 80–2 Supplementary Comments by AEC.
Document Number 80–3 Comments on "Draft Water Quality Criteria and Support Documents" by Utility Water Act Group.
Document Number 80–4 "Review of the Mattice and Zittel Paper: Site-Specific Evaluation of Power Plant Chlorination".
Document Number 80–5 "Chlorine Toxicity in Marine Ecosystems".
Document Number 80–6 "Chlorine Toxicity in Freshwater Ecosystems".
Document Number 80–7 "Collaborative Test Results for Clorine Analysis by Amperometric Titration".
Document Number 81–1 Submittal by J. P. White of Day, Ketterer, Raley, Wright, and Rybolt for the Timken Company.
Document Number 82–1 Submittal by L. Boehm of ARMCO Inc.
Document Number 83–1 Submittal by Fred J. Lange Jr. of Fuller, Henry, Hodge, and Snyder for Ohio Electric Utilities.
Document Number 84–1 Submittal by R. M. Glover of Proctor and Gamble.
Document Number 85–1 Submittal by Ruth E. Ferris, Clerk-Treasurer, Loudonville, Ohio.
Document Number 86–1 Submittal by Kenneth E. Richardson, Mayor, Upper Sandusky, Ohio.
Document Number 87–1 Submittal by Ronald R. Janke, Attorney for SCM Corporation, for SCM Corporation.
Document Number 88–1 Submittal by Ronald R. Janke, Attorney for Olin Corporation, for Olin Corporation.
Document Number 89–1 Submittal by Bruce Kranz of the North American Coal Association.
Document Number 90–1 Submittal by Russell E. Kross of the Mead Corporation.
Document Number 91–1 Submittal by E. B. Long, NOACA, Cleveland, Ohio.
Document Number 93–1 Submittal by Staughton Lynd, Attorney Tristate Conference, for the Northeast Ohio Legal Services.
Document Number 94–1 Submittal by Leo Weaver of ORSANCO.

Note.—This is a correction to 14–7.

Document Number 95–1 Submittal by R. J. Belock of the Austins Powder Company.
Document Number 96–1 Submittal by E. J. Burkett of the Goodyear Tire and Rubber Company.
Document Number 97–1 Submittal by Henry L. Schulte Jr. of the Columbus and Southern Ohio Electric Company.
Document Number 97–2 "The Effects of Intermittent Chlorination on 10 Species of Freshwater Fish".
Document Number 97–3 "Report on Acceptable Levels of Chlorine Discharge at the Conesville Generating Station".
Document Number 97–4 "Toxicity of Intermittent Chlorination to Bluegills Lepomis Macrochirus: Interaction with Temperature".
Document Number 97–5 "The Toxicity of Chlorine to Freshwater Organisms Under Varying Environmental Conditions".
Document Number 97–6 "The Effects of Intermittent Chlorination on Rainbow Trout and Yellow Perch".
Document Number 97–7 "The Effects of Monochloramine on Selected Riverine Fishes".
Document Number 98–1 Submittal by John W. Edwards of the Ohio Mining and Reclamation Association.
Document Number 99–1 Submittal by Daniel E. Rogers of the Consolidated Coal Company.
Document Number 100–1 Submittal by George R. Johnson, Jr., Staff Attorney for the Council of Wage and Price Stability.

Appendix B—Response to Comments

I. General Comments

1. *Comment:* Several commenters objected to EPA's use in this proceeding of *Quality Criteria for Water.*

Response: EPA published *Quality Criteria for Water* (QCW) in response to the requirements of § 304(a) of the Clean Water Act (33 U.S.C. 1314(a)). QCW is a guidance document recommending appropriate criteria to protect various designated uses. EPA applied criteria from QCW in the absence of better information, but clearly allows variations based on local circumstances that justify different numerical limitations equally protective of the designated uses of the stream. However, EPA believes that QCW represents the synthesis of the best scientific information available.

2. *Comment:* One commenter stated that water quality standards change too frequently, so that impending changes become an excuse for noncompliance.

Response: States are required to consider revision of water quality standards at least each 3 years in accordance with Section 303(c) of the Act and 40 CFR 35.1550. However, it is not necessarily true that major changes will be needed each time. The periodic revision of water quality standards may be required to meet the goals of the Clean Water Act which provide for the protection and propagation of fish, shellfish and wildlife and for recreation in and on the water wherever attainable.

3. *Comment:* Several comments were received which expressed the belief that EPA was hurriedly forcing its own water quality standards on Ohio, while not allowing industries time to develop economic data on the costs of the standards.

Response: The main elements of EPA's action today is the establishment of numerical criteria for certain use classifications and the denial of the "downgrading" of the use classification for specific stream segments. Economic impact data do not play a part in the setting of numerical criteria to support use designations; criteria are established based upon scientific consideration of acceptable pollutant levels which will allow a use to be attained. Economic factors are, however, directly relevant in assessing the propriety of downgrading. Such information was to be submitted by the State at the time of its adoption of revised standards. Opportunity was also provided to the State and interested persons to submit this information in response to the proposed rulemaking.

4. *Comment:* A comment was received which stated that QCW should not be applied to Lake Erie.

Response: The only issue concerning Lake Erie addressed in this rulemaking, is the definition of mixing zones. QCW does not recommend numerical criteria for mixing zones.

II. Comments on the Dissolved Oxygen Criterion for Warmwater Habitat

The following summary of the 49 comments and the respective EPA responses address the issue of the minimum instantaneous dissolved oxygen criterion for Warmwater Habitat. Based on the analysis of these comments, EPA is establishing a criterion of a minimum instantaneous concentration of 5 mg/l for dissolved oxygen for Warmwater Habitat; and a new Modified Warmwater Habitat use designation which has the same criteria as Ohio's Warmwater Habitat use including a 5 mg/l instantaneous dissolved oxygen minimum for 16 hours of any 24 hour period and 4 mg/l for 8 hours of a 24 hour period. EPA remains convinced that a minimum instantaneous dissolved oxygen criterion of 5 mg/l is necessary to support a Warmwater Habitat which is not D.O. limited. However, in deference to the questions of environmental and economic attainability raised by the OEPA and others, EPA is assigning the Modified Warmwater Habitat use designation to most of the stream segments designated for Warmwater Habitat or Limited Warmwater Habitat by the OEPA. These stream segments must be upgraded to Warmwater Habitat if additional studies by OEPA show it to be economically and environmentally attainable. The OEPA is expected to perform the studies as a part of the implementation of the annual State-EPA Agreement.

1. *Comment:* Some commenters stated that the dissolved oxygen criterion adopted by the OEPA more accurately reflects the natural dissolved oxygen regime in Ohio rivers and streams than does the EPA proposal.

Response: Evidence that adequately demonstrates that the OEPA dissolved oxygen criterion more accurately

reflects the natural D.O. regime in Ohio, was not submitted. However, EPA is

dissolved oxygen concentrations below the proposed criterion of an

(1975), and the Blue Book (NAS/NAE, 1973). The procedure in those

a. Growth and feeding efficiency of larval or juvenile fish of some species is

All of the stream segments which the OEPA downgraded to the Limited

stream specific variations influencing the oxygen balance. Also, the OEPA

reflects the natural D.O. regime in Ohio, was not submitted. However, EPA is establishing and applying a Modified Warmwater Habitat use designation which will accommodate situations where the natural dissolved oxygen minimum is less than 5 mg/l and equal to or greater than 4 mg/l.

2. *Comment:* The OEPA stated that the low flow periods occur during late summer and early fall, not during the spring when spawning occurs.

Response: Evidence of the low flow occurrences in relation to spawning of fish in Ohio was not submitted to the hearing record. Reported spawning seasons for a number of fish species found in Ohio generally extend into summer with some spawning lasting until early fall.

3. *Comment:* The OEPA stated that EPA approval of water quality standards in other States providing less than 5 mg/l minimum dissolved oxygen concentration and the findings of the EPA Advanced Wastewater Treatment Task Force that compliance with dissolved oxygen standards less than 5 mg/l provided significant water quality benefits is reason to discredit the EPA position on the 5 mg/l dissolved oxygen criterion.

Response: A 5 average/4 minimum D.O. standard may provide significant water quality benefits. However, scientific evidence available indicates that with D.O. concentrations below 5 mg/l, aquatic communities are more greatly stressed, with the more sensitive species and the more sensitive stages in species' life cycles being significantly affected.

EPA has recognized the differences in species sensitivity related to D.O. concentrations and has provided for a range of warmwater habitat use classifications. The temporary modified Warmwater Habitat use classification set forth in Ohio's standards will permit the States to make a stream by stream analysis to determine the appropriate use classifications and accompanying D.O. criteria.

There is no inconsistency between the EPA approved water quality standards and the EPA AWT Task Force finding that significant water quality benefits can be provided at a D.O. level of less than 5 mg/l.

Similarly, EPA has approved varying dissolved oxygen criteria in different States. Even under the policy of "presumptive applicability" QCW values were not imposed in all cases; EPA policy provided for variation of the values based on local conditions.

4. *Comment:* Statements were given quoting a variety of laboratory studies that demonstrated no adverse effects at dissolved oxygen concentrations below the proposed criterion of an instantaneous minimum of 5 mg/l.

Response: Certain fish species or life stages are less sensitive to reduced dissolved oxygen than others. Consequently, the fact that no effects were observed with one species or life stage (e.g., spawning is a very resistant stage), does not mean that there are not adverse effects observed with other more sensitive species or life stages at the same pollutant concentrations. Aquatic organisms are too variable in their response to stress to expect all species to respond similarly.

5. *Comment:* A number of personal observations were reported on the presence of game fish or well-balanced fish communities in areas where dissolved oxygen concentrations were or had been below 5 mg/l.

Response: Thorough field studies that attempt to determine the presence or absence of aquatic populations in relation to pollution or other stress are extremely difficult, costly, and time consuming. Observations over short time periods such as a few weeks or periodically over a few months are generally insufficient to demonstrate any but the most gross cause and effect relationships. For example, one cannot determine from one observation of a fish whether or not that individual's growth has been inhibited by low dissolved oxygen concentrations. The advantage of laboratory studies is that the individuals are captive and can be studied over a period of time. Even if there is good documentation of an adverse effect existing in a section of a river or stream, there is no way to be sure that the collected organisms were not moving through that area from one that was not stressed, such as a tributary. A study, such as that by Ellis (1937, 1944), conducted in a variety of areas (982 locations) over a 5-year period, is much more likely to result in sound judgments about the quality of an aquatic community than the short studies characteristic of those cited by the State of Ohio. Ellis (1937, 1944) as well as Brinley (1944) in his two year study of the Ohio River Basin, both conclude that, below 5 mg/l, the conditions of fish are gradually worsened.

6. *Comment:* The American Fisheries Society review of the dissolved oxygen criteria in QCW was cited as evidence that the dissolved oxygen criterion in QCW is deficient.

Response: The major concern of the review committee of the American Fisheries Society was that QCW did not follow the recommendations of Doudoroff and Shumway (1970), Davis (1975), and the Blue Book (NAS/NAE, 1973). The procedure in those publications involved temperature or seasonally dependent dissolved oxygen criteria with different levels of protection. This procedure is considered unjustifiable and cumbersome in practice by many fishery scientists and regulatory managers. For example, the International Joint Commission (IJC) has extensively analyzed this newer procedure during the past two years in relation to recommending a dissolved oxygen criterion for the Great Lakes and has concluded that its present criterion, 6.0 mg/l, is still the best at this time. The 6.0 mg/l criterion is currently in the Great Lakes Water Quality Agreement of 1978 between the United States and Canada.

7. *Comment:* A variety of comments dealt with some laboratory studies that documented adverse effects of dissolved oxygen concentrations between 4.0 and 5.0 mg/l. These comments include those prepared by the OEPA on October 2, 1979 (Dudley, et al.) and inserted into the record of this proceeding.

Response: These comments typically address observations by the authors of the laboratory studies. Typically such studies result in a variety of observations both negative (no effect observed) and positive (adverse effects on some biological function). If an effect on one function is observed between 4 and 5 mg/l, and another function is unaffected, the latter observation cannot cancel the observation of the adverse effect. For example, Brungs (1979) cited Siefert and Spoor (1974) as stating that there was a reduction of 20 percent in the survival of smallmouth bass embryos and larvae at 4.4 mg/l where hatching occurred earlier than normal. OEPA in Dudley et al. (1979, p. 7) disagrees by adding that Siefert and Spoor (1974) observed *only* a 9.5 percent reduction in survival of the same species in a second experiment with a mean concentration 4.4 mg/l (range of 4.2 to 4.8 mg/l). However, both experiments show an order of magnitude population reduction.

It is important to note that many early life stages require D.O. levels above 5.0 mg/l, as evidenced here. This reinforces EPA's position that minimum D.O. levels of 5.0 mg/l are needed at low flow conditions to support a warmwater habitat. Maintaining a 5.0 mg/l D.O. level during low flow conditions will assure the occurrence of the higher D.O. levels needed during the prime spawning and early life stage periods.

In summary the proposed dissolved oxygen criterion of a minimum concentration of 5 mg/l is based on the following major considerations:

a. Growth and feeding efficiency of larval or juvenile fish of some species is reduced at lower dissolved oxygen concentrations, especially concentrations below 5 mg/l when temperatures are above 20°C.

b. Growth and survival of the larvae of several fish species is reduced at lower D.O. concentrations, especially below 5 mg/l.

c. The extensive field studies of Ellis and Brinley show that good quality mixed warmwater fish populations, including game fish, were most often associated with water containing 5 mg/l or more dissolved oxygen.

d. Stress from other sources, particularly toxicants, high temperatures, and disease, is aggravated by low dissolved oxygen concentrations.

e. Laboratory studies are carried out under controlled and usually pristine conditions and optimum temperatures, in which the test fish are not required to compete for or capture food, are not threatened by predation, and are not subjected to other sources of stress. Thus, the resulting data are often the oxygen requirements of fish living in very favorable conditions seldom encountered in nature. Less favorable conditions would require greater dissolved oxygen concentrations to maintain balanced and reproducing biota.

In conclusion, a minimum criterion below 5 mg/l would: (1) cause reduced growth, survival, and reproductive success, (2) cause possible population or community shifts, and (3) provide reduced protection to aquatic life from the sublethal effects of lowered dissolved oxygen concentrations.

III. Comments on the Limited Warmwater Habitat Use Classification

The OEPA adopted parameter and time specific downgradings, under the Limited Warmwater Habitat Use Designation, for 111 stream segments of which 50 were attributed to irretrievable acid mine drainage impacts. The OEPA did not, however, provide adequate segment specific downgrading justifications as required by 40 CFR 35.1550(c)(3), with the submission of the adopted Ohio Water Quality Standards to the Regional Administrator. EPA is herein temporarily applying the Modified Warmwater Habitat Use Designation to all but 17 warmwater stream segments which have been given the Warmwater Habitat Use Designation. The OEPA must conduct further studies to determine what use designation should apply to each of the stream segments including the 111 before changes can be approved by EPA.

All of the stream segments which the OEPA downgraded to the Limited Warmwater Habitat Use Designation were attributed to one or more of the three downgrading justifications allowed by 40 CFR 35.1550(c)(3). These downgradings were attributed to: (1) natural background conditions, (2) irretrievable man-induced conditions, or (3) substantial and widespread adverse economic and social impact due to the imposition of effluent limitations more stringent than the technology-based requirements of Sections 301(b)(2)(A) and (B) of the Act.

One of the difficulties in examining the hearing record was the tendency of commenters to confuse and mix the different bases for justification of downgradings. Often, several different bases for downgrading were cited for a given stream segment with little or no technical support. In the following paragraphs, the nature of the comments is placed in the context of the three downgrading bases.

Natural Background Conditions

The most common natural conditions cited by the OEPA justifying downgrades are low stream slope and low flow. Chapter 5.2.c.2(a) of the *Guidelines* states:

"The basis for an exception should have limited application. It should be recognized that most water bodies have some communities of fish, shellfish and wildlife. However, examples of natural background conditions which may preclude the aquatic life use include streams with leachate from natural heavy metal deposits and streams with natural ephemeral, intermittent or low flow conditions."

General information, such as the stream slope and low flow discharge volume, was presented by the OEPA to demonstrate the infeasiblity of attaining Warmwater Habitat Use Designation standards during low flow. The information does not include projections of water quality conditions without man-induced pollutants (e.g., natural conditions), nor is any stream-specific water quality data presented in many cases. Therefore, the information presented did not demonstrate that low flow conditions mean that the streams cannot attain Ohio's Warmwater Habitat standards. Such a showing would constitute a justification attributable to natural background conditions.

Other general information was presented by the OEPA in the form of equations and generalized graphs relating stream slope to ultimate oxygen demand in streams. However, such generalizations cannot account for stream specific variations influencing the oxygen balance. Also, the OEPA maintained that, on the basis of the information presented, downgradings to the Limited Warmwater Habitat use classification should be allowed because of technical or economic reasons. The OEPA did not indicate what the economic impacts of increased treatment or zero discharge would be for the specific stream segments in question.

Man-Induced Irretrievable Impacts

Several stream segment downgradings were attributed to irreversible man-induced conditions, especially combined sewer overflows, agricultural non-point pollution, dams and acid mine drainage problems. Chapter 5.2.c.2(b) of the *Guidelines* lists 3 primary situations which may qualify a segment for downgrading for reasons of irretrievable impacts: (1) where the designated use cannot be attained because of non-point source pollution which cannot be abated by Best Management Practices, (2) where hydrological modification cannot be removed or operated to restore the use, and (3) where instream toxicants due to man's past activities cannot be removed over a 20 year planning period.

Combined sewer overflow (CSO) impacts are subject to analysis and corrective action through the municipal construction grants program. Information was not presented to show that CSO impact corrective actions would not attain the required D.O. limits for Warmwater Habitat Use in specific stream segments. In addition, no information was presented to demonstrate that the Warmwater Habitat Use Designation cannot be attained with the use of Best Management Practices. While available water quality data were presented for acid-mine drainage streams, there were no segment specific analyses of the degree to which the streams are affected. In some cases existing dams were cited as an irretrievable reason for the non-attainment of the Warmwater Use Designation. However no specific analysis was provided to support this contention.

Many impacts upon a stream segment's water quality may be judged irretrievable because of the large cost of correction and resulting economic impact. The costs of agricultural BMP's, mine reclamation or remedying hydrological alteration are in this category. However, no segment specific analysis was presented on the impacts of such costs.

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Substantial and Widespread Economic and Social Impacts

Comments pertaining to stream segments for which standards attainment might have substantial and widespread economic and social impact, were considered with respect to the requirements of 40 CFR 35.1550(c)(3)(iii) and Chapter 5–2.C.2c. of the *Guidelines*. Under these requirements, the basic conditions for downgrading justifications are the existence of substantial and widespread adverse economic and social impacts as a result of imposition of controls greater than BAT–BCT/BPWTT to attain current water quality standards for a stream segment. Information relevant to such a justification is considered adequate when it indicates the environmental results that reasonably can be expected following the necessary expenditures. The analysis must also show how the additional pollution control expenditures for a segment will affect the economic and social conditions in the area. The effects of such expenditures can include: industrial plant closures or curtailments that result in employment losses either directly or indirectly, financial difficulties for local government, high sewage treatment user charges, and other relevant measures of adverse effects on area economic and social conditions. This information would be part of the use attainability analysis required as part of the justification evaluation.

For a complete justification, alternative means of attaining water quality standards on a segment such as control of non-point sources, must also be evaluated to determine their cost-effectiveness relative to point source controls. Information provided must be supportable and verifiable and sources must be documented.

As indicated, the impacts must be both substantial and widespread to justify a downgrading. The *Guidelines* delineate substantial and widespread effects by comparison to other economic factors affecting an area's economy and to national economic conditions and fluctuations, which can be expected to persist for periods longer than provided for by adjustment payments such as unemployment compensation. The effects must be detectable in an area appropriate for measurement, at least as large as a county or SMSA and, if appropriate any larger areas such as defined by the U.S. Department of Commerce.

Overall, the economic information provided in the hearing record is relative to specific dischargers, stream segments, larger areas, and the State. The information provided for each segment is inadequate in at least one of the following ways:

1. Where cost information is presented for several dischargers on affected segments:

(a) In many cases it cannot be determined whether these costs are for the most cost-effective treatment methods.

(b) Sources of cost information are often not documented or verified and methods of determining costs often are not explained.

(c) Cost information is provided as an indicator of impacts, but the information is not related to some other indicators of area, social and economic conditions in order to discern impacts. Cost does not in and of itself indicate impacts.

(d) Information on cost increases and rates of increase need to be related to baseline costs as well as to area conditions.

2. Where impact information is provided, it is often very general and non-specific. The methods and data for arriving at stated conclusions often are not documented or explained.

3. Some verifiable well-documented impact information is presented for some individual dischargers, but not for all dischargers on a segment. Cost and impact information for all dischargers on a segment should be submitted before a downgrading can be justified.

4. Conversely, an average impact for a multi-segment area or for the State does not provide the segment specific impact information necessary for a segment downgrading justification. Segment specific information is necessary.

5. Very little information was supplied on the cost-effectiveness of alternative means of meeting water quality standards. Notably lacking is cost information on Best Management Practices on those segments with non-point pollution problems.

More specifically submittals by the Ohio Environmental Protection Agency also provide several other general factors to measure adverse economic and social impact:

1. Unavailability or infeasibility of technology is offered as a basis for economic and social impacts. This reason is presented for only one segment (Tuscarawas River from Pittsburgh Plate Glass to confluence with Sandy Creek). In such a case, it is necessary to verify the unavailability or infeasibility of technology and to show the impacts of a plant closing on the area.

2. The existence of combined sewer overflow problems along with other segment problems is presented as a basis for economic and social impacts for twenty-five segments. Combined sewer overflow problems are evident where violation of standards results from discharge bypasses. The existence of combined sewer overflows, in and of itself, does not constitute an evaluation of the impacts of resolving these problems. The most cost-effective means of controlling sewer overflows must be the basis for cost estimates used to determine area impacts.

3. An indication of "significant far-reaching social or economic impact" is shown for segments not affected by acid mine drainage. The meaning of this statement is not explained. No information is supplied to support the application of this statement to specific segments.

4. Lack of Federal funding of municipal sewage and treatment plants is offered as a basis for showing economic and social impact due to the shift of the full cost burden to area citizens. However, compliance deadline extensions from the 1977 goals of the Clean Water Act under Section 301(i) may allow funding of municipal sewage treatment plants within legal time frames. Many Ohio municipalities have received an extension.

5. Data were submitted on the costs to municipalities to achieve a minimum dissolved oxygen criterion of 5 mg/l. EPA is, however, establishing a dissolved oxygen criteria of 5 mg/l only on those segments which are currently achieving that level. Additional cost data will be developed before facilities are subject to more stringent limitations to meet a minimum D.O. Criterion of 5 mg/l.

IV. Comments on Seasonal Warmwater Use Classifications

Eight comments on the Seasonal Warmwater Habitat use designation were received. They are addressed in the following paragraphs.

1. *Comment:* The omission of numerical standards for the Seasonal Warmwater Habitat use designation renders it impractical and cumbersome to apply.

Response: There was a misunderstanding on the part of some reviewers of the proposed rulemaking. On page 39499 of the proposed rules it is stated that the criteria associated with the Seasonal Warmwater Habitat use were only omitted from printing, not eliminated from the standards. They were omitted due to the length of the criteria and the formatting procedure used in a proposed rulemaking. The criteria associated with the Seasonal Warmwater Habitat use were not disapproved.

2. *Comment:* Under the disapproved Ohio water quality standards, a stream segment must undergo a rigorous biological examination to determine whether it will receive a Seasonal Warmwater Habitat use designation. The disapproved Ohio water quality standards are fully adequate to ensure that only truly deserving segments are given the Seasonal Warmwater Habitat use designation.

Response: EPA understands that the OEPA plans to justify the application of the Seasonal Warmwater Habitat use. However, it is necessary to be clear that any downgrading must be justified by the State and approved by the Regional Administrator. The use of the Seasonal Warmwater Habitat Classification must be made clear, so that there will not be any misunderstanding of the definition when the standards are promulgated.

An examination of OEPA's procedures for determining use designations for low flow streams found in the proposed Memorandum of Understanding between Region V of EPA and the OEPA (Hearing Record Submittal 1–2), reveals that OEPA's interpretation of the applicability of the Seasonal Warmwater use may be in direct conflict with the seasonal aspect of the definition. OEPA's procedures state that determination of use designations is based upon periods in which aquatic communities inhabit a segment and the suitability of a low flow stream habitat to support balanced communities of aquatic life on an *annual* basis. It further states, in order for a low flow stream to be classified as Warmwater Habitat two basic requirements need to be met: (1) there must be a balanced assemblage of aquatic organisms present, and (2) the aquatic communities must be able to inhabit the stream on an *annual* basis. OEPA seems to define Seasonal Warmwater Habitat as follows: Waters *not* capable of supporting a balanced assemblage of aquatic organisms on an annual (all year) basis, and which therefore will not be required to attain Warmwater Habitat uses at any time. EPA maintains that this is contrary to the intended seasonal use of the classification and does not provide adequate protection of biota.

V. Comments on Mixing Zones

1. *Comment:* Fifteen comments stated that effluents do not conform to fixed boundaries and therefore mixing zones should be established on a case-by-case basis. Ancillary to this was the comment that there is no scientific basis for the limits established and that knowledge of local conditions is necessary for setting mixing zone. It was concluded that since OEPA is more familiar with these conditions, they are better able to set limits on a case-by-case basis. These comments appear to be related and will be discussed together.

Response: The standardized geometric mixing zone limitations adopted by OEPA were previously approved by EPA, and therefore are not subject to change in these proceedings. EPA's changes to the mixing zone rules allow for case-by-case deviations from the standard size definition, subject to prior approval by Regional Administrator.

2. *Comment:* The requirement that 100 percent of the mixing zone meet the 96 hour TLM was considered unreasonable by eight commenters.

Response: EPA is uncertain as to the technical basis of OEPA's requirement that 90 percent of a mixing zone meet the 96 hour LC50. It may be based on an assumption that some dilution or reduction in toxicity will take place in the immediate vicinity of the discharge. No data was presented to support the 90 percent requirement adopted by Ohio. This limitation can be criticized just as the size limitations. It is a regulatory device with limited scientific justification, which probably should be set on a case-by-case basis depending upon the nature of the contaminant. However, there is a regulatory need for certain absolute requirements. Meeting the 96 hour LC50 throughout the mixing zone, rather than 90 percent, is more protective of aquatic resources and more feasible to measure. As has been pointed out in the public hearing record, discharged effluents do not necessarily conform to any fixed boundaries. Thus, the 90 percent—10 percent areas will be constantly changing and not susceptible to measurement or enforcement. More important, however, the OEPA limitation may allow an area of immediate toxicity to aquatic life that enters the 10 percent area. Fish are often attracted into these areas, particularly if the discharge is somewhat warmer than the receiving water-body. Such conditions commonly exist in late fall, winter and spring when river and lake temperatures approach freezing and effluent temperatures are usually warmer. A classic example of this problem occurs at power plants where fish are attracted to the warm thermal plume (often in the discharge structure itself or immediately adjacent to it) and the discharge is intermittently chlorinated. These conditions can cause and have caused fish kills. The OEPA 90 percent provision would allow this and other similar situations to occur. The EPA rule prevents this situation and is easier to monitor and enforce, since a sample can be taken at the point of discharge rather than out in the river itself. In addition it should be noted that the International Joint Commission has recommended that "concentrations of toxic materials at any point in the mixing zone where important species are physically capable of residing should not exceed the 24 to 96 hour LC50." EPA's requirement is consistent with that recommendation. Nothing in the EPA proposal precludes the consideration of diffusers or high velocity areas where fish cannot reside.

3. *Comment:* Four commenters objected to the bioconcentration clause in the mixing zone language and stated that it should be moved or deleted. Two comments noted that test methods had not been promulgated and no numbers for bioaccumulation were given in the Red Book, thus, EPA could not impose such a requirement.

Response: One set of comments stated that "the companies recognize that the implications of bioaccumulating of materials are serious" . . . then recommends that the entire proposal be deleted. EPA believes that the bioaccumulation provision is an extremely important part of the standards, since it goes to the heart of persistent substances and therefore necessitates the requirement. It is true that there are no official testing methods for measuring the tendency of substances to bioaccumulate. However, methods do exist for monitoring bioaccumulation both in the waterbody and in the laboratory. Specific guidance as to methodology, selection of species, number of species to be tested etc., need not, in EPA's view, be provided in the regulation. If such technical detail is needed it can be provided in a guidance manual after adoption of the regulation.

Some of the criteria numbers proposed in the Red Book are based on the potential for bioaccumulation of certain substances, i.e., Aldrin/Dieldrin, Chlordane, DDT, Heptachlor, etc. In addition, the criteria rationale contain information on bioaccumulation potential.

Finally, it should be noted that the EPA language concerning bioaccumulation is consistent with that proposed by the IJC.

4. *Comment:* One comment noted that "no provisions were included about overlapping mixing zones and cumulative or synergistic effects * * *"

Response: Language concerning overlapping mixing zones and cumulative or synergistic effects has not been included in the proposed standards in an effort to simplify the regulations. As long as the regulations concerning toxicity and size are met, it is unlikely

that overlapping mixing zones would create a problem. In addition, the information concerning synergistic effects of chemicals is extremely limited. As our knowledge of these effects increases, it may be necessary to incorporate new language and limitations into the mixing zone requirements.

5. *Comment:* Five commenters felt that EPA should not approve mixing zone waivers. Some felt that EPA involvement is needlessly duplicative, costly and delaying and usurps State authority.

Response: EPA has an obligation under section 402 of the Act to review, approve and, where necessary, disapprove permits written by OEPA. Any permit submitted with limitations based upon a mixing zone waiver may be similarly reviewed and approved or disapproved. The wording in the water quality standards does not change or add anything new to this process. It does not in any way usurp present State authority. This process assures that all applicable State and Federal regulations are met.

6. *Comment:* Sixteen comments stated that mixing zones in small streams (i.e., 100–120 feet wide, with a 7010 low flow of zero and an annual low flow of 2–3 cfs) were not possible and the entire concept of mixing zones and zone of passage must be modified for headwater streams.

Response: Where effluent volumes are high in relation to natural stream flow, the concept of a mixing zone with the size limitations proposed become very constraining to the discharger. In some cases, effluent quality may need to be equal to the water quality standards limitations.

VI. Comments on Analytical Methods, Sample Collection and Preservation

Comment: Four comments were received on analytical methods; sample collection and preservation contained in the EPA proposal. The OEPA indicated that Section 3745–1–03(A) of the OAC does not include reference to 40 CFR Part 136 for analytical methods, but, 3745–1–03(B), pertaining to sample collection and preservation, should be retained. A second commenter proposed that 3745–1–03(B) should be retained until a proper technical comparison can be made between the adequacy of procedures in 3745–1–03(B) and EPA procedures. A third commenter stated that 40 CFR Part 136 does not prescribe sampling collection and preservation methods; nothing in 40 CFR Part 136 refers to its applicability for the measurements required to establish or determine compliance with water quality standards; and, there is no basis in law for EPA requiring the OEPA to adopt 40 CFR Part 136. A fourth commenter stated that several of the Lake Erie Water Quality Standards for chemical compounds are so low as to require analysis of concentrations at and below analytical detection levels.

Response: 40 CFR Part 136 was included in the water quality standards adopted by the OEPA as Section 3745–1–03(A), and is being retained by USEPA. Section 3745–1–03(B) included by the OEPA makes reference to two publications for sample collection and sample preservation prepared by the OEPA and Ohio Department of Health, respectively. There are some inconsistencies between these documents, and procedures recommended in 40 CFR Part 136 and the documents referenced therein. These inconsistencies pertain to sample holding times and preservation. To the extent that procedures and practices in these manuals are inconsistent with those in 40 CFR Part 136 (and documents referenced therein), they are superseded to insure compatibility between NPDES permit data and ambient water quality data. (Analytical methodology requirements for NPDES permits is established in 40 CFR 122.53(d)(7)).

Footnote 1 of Table 1 of 40 CFR Part 136 includes direct reference to "Methods for Chemical Analysis of Water and Wastes, 1974" USEPA, Table 2, pp. viii–xii. This referenced material deals directly with sampling and preservation of samples prior to analysis. Hence, 40 CFR Part 136 does reference sample collection and preservation methods. While 40 CFR Part 136 does not explicitly refer to the establishment of or the compliance determination with water quality standards, it would be poor practice to employ different test procedures for such directly related items as NPDES permit effluent limitations and water quality standards. NPDES permit limits and water quality standards are also related through the wasteload allocation process. Hence, the adoption of different procedures for NPDES and water quality standards purposes, as suggested by one commenter, makes little sense.

The comment regarding analytical detection levels and Lake Erie Water Quality Standards, did not cite specific chemicals or detection levels. Hence, a specific response cannot be made. In general, the concentrations for Lake Erie Water Quality Standards are determinable with methods contained in 40 CFR Part 136.

[FR Doc. 80–37206 Filed 11–26–80; 8:45 am]

BILLING CODE 6560–29–M

40 CFR Part 180

[PP OE2292/R285; PH–FRL 1684–1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Thiabendazole on Carrots

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the fungicide thiabendazole [2-(4-thiazolyl)benzimidazole] on carrots at 10 parts per million (ppm). This regulation was requested by the Interregional Project No. 4 (IR–4). This regulation establishes the maximum permissible level for residues of the subject fungicide on carrots.

EFFECTIVE DATE: Effective on November 28, 1980.

ADDRESS: Written objections may be filed with the Hearing Clerk, Environmental Protection Agency, Rm. 3708 (A–110), 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–124, 401 M St., SW., Washington, D.C. 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: EPA issued a notice that was published in the Federal Register of September 26, 1980 (45 FR 63889) that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition number OE2292 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Michigan.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act establish a tolerance for residues of the fungicide thiabendazole [2-(4-thiazolyl)benzimidazole] in or on the raw agricultural commodity carrots at 10 ppm.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. It is concluded that the tolerance will protect the public health. Therefore, 40 CFR Part 180 is amended as set forth below.

Any person adversely affected by this regulation may, on or before December 29, 1980, file written objections with the Hearing Clerk, EPA, Rm. M–3708 (A–110), 401 M St., SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. If a hearing is granted, the objections must be supported by grounds legally sufficient to justify the relief sought.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: November 28, 1980.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: November 20, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by alphabetically inserting the raw agricultural commodity "carrots" in the table under § 180.242 to read as follows:

§ 180.242 Thiabendazole; tolerance for residues.

* * * * *

Commodities	Parts per million
* * * * * *	
Carrots (post-h)	10
* * * * * *	

[FR Doc. 80–37082 Filed 11–26–80; 8:45 am]

BILLING CODE 6560–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5759

[CA–5771]

California; Partial Revocation of Public Land Order No. 281, as Amended, by Public Land Order No. 2312

Correction

In FR Doc. 80–29858 appearing at page 63851 in the issue for Friday, September 26, 1980, make the following correction:

On page 63851, in the last column, the next to the last line should end with a comma.

BILLING CODE 1505–01–M

43 CFR Public Land Order 5776

[AA–13281]

Alaska; Revocation of Public Land Order No. 850; Modification of Public Land Order Nos. 5186 and 5187; and Classification of Land for Conveyance to Cook Inlet Region, Inc.

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes Public Land Order No. 850 and classifies the lands for conveyance to Cook Inlet Region, Inc., under the Alaska Native Claims Settlement Act.

EFFECTIVE DATE: November 28, 1980.

FOR FURTHER INFORMATION CONTACT: Beau McClure (202) 343–6511, or Robert D. Arnold (907) 271–5771, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

The lands in Paragraph 1 of this order were withdrawn by Public Land Order No. 850 of July 1, 1952, for use by the Department of the Army in connection with the Alaska Communication System. On March 15, 1972, the lands were further withdrawn by Public Land Order Nos. 5186 and 5187 for study and review to determine the proper classification under Section 17(d)(1) of the Alaska Native Claims Settlement Act (ANCSA).

On June 8, 1977, the Department of the Army filed a notice of intention to relinquish these lands known as Lot 3, Block 3, Federal Addition to Seward Townsite, in Seward, Alaska, containing .18 acre.

By virtue of the authority vested in the Secretary of the Interior, by Section 17(d)(1) of the ANCSA, 85 Stat. 688, 708, and pursuant to Section 204(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 850 of July 1, 1952, is hereby revoked, and the following described lands are hereby classified as suitable for conveyance to Cook Inlet Region, Inc., in accordance with paragraph I.C. (2) of the "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area," as clarified August 31, 1976, and Section 12(b)(6) of the Act of January 2, 1976, 89 Stat. 1151:

Seward Meridian, Alaska

T. 1 S., R. 1 W.,

Lot 3, Block 3, Federal Addition to Seward Townsite.
Containing .18 acre.

2. Public Land Order Nos. 5186 and 5187 are hereby modified to delete the lands described in paragraph 1 which are now considered withdrawn for the purpose of Section 2 of the Act of January 2, 1976, and classified for the purpose of conveyance to Cook Inlet Region, Inc., as part of its entitlement under the ANCSA.

3. Subject to valid existing rights, the lands described in paragraph 1 are hereby withdrawn from all forms of appropriation under the public land laws, including selections by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. 181–287, but not from selection by Cook Inlet Region, Inc., in accordance with paragraph I.C.(2)(e) of the "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area," as clarified August 31, 1976, and Section 12(b)(6) of the Act of January 2, 1976, 89 Stat. 1151.

4. Prior to any conveyance of the lands described in paragraph 1, the lands shall be subject to administration by the Secretary of the Interior under applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this order. Applications for leases under the Mineral Leasing Act, as amended (30 U.S.C. 181–287), will be rejected until this order is modified or the lands are appropriately classified to permit mineral leasing.

November 21, 1980.

Guy R. Martin,

Assistant Secretary of the Interior.

[FR Doc. 80–37039 Filed 11–26–80; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 9

[Docket No. FEMA Gen. 9–A]

Floodplain Management and Protection of Wetlands

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice of intent not to enforce certain regulation concerning denial of flood insurance coverage.

SUMMARY: Pursuant to Pub. L. 96–369, the Federal Emergency Management Agency is temporarily suspending enforcement of 44 CFR 9.9(e)(6) and 9.11(e)(4) which concerns the denial of a new or renewed policy of flood insurance to in certain situations.

EFFECTIVE DATE: November 28, 1980.

FOR FURTHER INFORMATION CONTACT:
John Scheibel, Assistant to the General Counsel for Environmental Quality and Hazard Mitigation, Federal Emergency Management Agency, Washington, DC 20472; telephone (202) 634–1990.

SUPPLEMENTARY INFORMATION:
On September 9, 1980, FEMA issued 44 CFR Part 9, Floodplain Management and Protection of Wetlands (**Federal Register**, Vol. 45, pp. 59520–59538). Included in the regulations are two provisions which deny the availability of flood insurance under certain circumstances. Section 9.9(e)(6) states that in any case in which the Regional Director of FEMA has selected the "no action" option for a structure in a floodplain or wetland, the Federal Insurance Administration (FIA) may not provide a new or renewed contract of flood insurance for that structure. Section 9.11(e)(4) provides that where the Regional Director has been precluded from providing assistance for a new or substantially improved structure in a floodway, FIA may not provide a new or renewed policy of flood insurance for that structure.

Prior to the issuance of the rule on September 9, FEMA issued an interim rule which covered floodplain management, and measures to discourage certain development in coastal high hazard areas. This interim rule did not expressly deal with denial of flood insurance coverage as specified in the aforementioned regulation.

Subsequent to the issuance of this final rule, Congress enacted Pub. L. 96–369, which governs appropriations pending final adoption of the Appropriation Acts. This Act, by virtue of adoption temporarily of certain of the provisions of appropriation bills denies FEMA any funding to implement §§ 9.9(e)(6) and 9.11(e)(4) until FEMA has obtained notice and comment and, in no event, prior to January 31, 1981.

Pursuant to this, FEMA elsewhere in the **Federal Register** (see Table of Contents) of this date is republishing and requesting public comment. Pending receipt of this public comment and consideration of any change, and until January 31, 1981 at a minimum, FEMA does not intend to enforce 44 CFR 9.9(e)(6) and 9.11(e)(4).

Dated: November 18, 1980.

John W. Macy, Jr.,
Director.

[FR Doc. 80-36573 Filed 11-25-80; 8:45 am]
BILLING CODE 6718-01-M

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44 CFR Part 67

[Docket No. FEMA-5818]

National Flood Insurance Program; Final Flood Elevation Determinations; Correction

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule; correction.

SUMMARY: This document corrects a Notice of Final Determinations of base (100-year) flood elevations for selected locations in the City of Muskegon Heights, Muskegon County, Michigan, previously published at 45 FR 62830 on September 22, 1980.

EFFECTIVE DATE: November 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the correction to the Notice of Final Determinations of base (100-year) flood elevations for selected locations in the City of Muskegon Heights, Muskegon County, Michigan previously published at 45 FR 62830 on September 22, 1980, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR 67).

Under the Source of Flooding of Little Black Creek, the elevation 582 feet which corresponds to the location described as, "Mouth at Mona Lake," has been changed. The elevation should be 584 feet.

The Source of Flooding of Mona Lake should be added. The location described as, "Along corporate limits," with a corresponding elevation of 584 feet is the only entry. The listing appears correctly as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Michigan	(C), Muskegon Heights, Muskegon County.	Little Black Creek	Mouth at Mona Lake	*584
		Mona Lake	Along corporate limits	*584

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 4, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 37051 Filed 11-26-80; 8:45 am]
BILLING CODE 6718-03-M

44 CFR Part 76

[Docket No. FEMA-FIA-76]

The State Assistance Program for the National Flood Insurance Program

AGENCY: Federal Insurance Administration, Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This final rule sets forth a description of the State Assistance Program for the National Flood Insurance Program (NFIP). The State Assistance Program is designed to promote an intergovernmental flood hazard mitigation partnership by providing States with the opportunity to strengthen their role in NFIP flood hazard mitigation activities. This final rule defines the objectives and elements of the program, the funding approach, apportionment formula, application evaluation criteria, eligible applicants and administrative procedures.

DATE: Effective date, November 28, 1980.

FOR FURTHER INFORMATION CONTACT:
Mr. Richard W. Krimm, Federal Insurance Administration, Washington, D.C. 20410 (202) 755–5581.

SUPPLEMENTARY INFORMATION: On May 19, 1980, the interim rule governing implementation of the State Assistance Program for the National Flood Insurance Program was published at 45 FR 32687 and request for comment was made.

Three comments in response to the interim rule were received by the Federal Emergency Management Agency (FEMA). One comment strongly endorsed the State Assistance Program. The two remaining comments addressed the concern that sub-state jurisdictions should be allowed to participate directly as applicants in the State Assistance Program. Specifically, one of the commentators requested that sub-state jurisdictions be allowed to participate directly if a State should decline to participate in the Program. After carefully considering these comments, FEMA has determined, for the reasons stated below, that the best interests of the Program and its constitutents would not be advanced by amending § 76.3 *Eligible Applicants*. In addition, FEMA has determined that the specific concerns addressed by the commentators may be considered and could be accommodated without a rule change.

The purpose of the State Assistance Program for the NFIP is to encourage the development and expansion of State capability in addressing NFIP and flood hazard mitigation issues. Constitutionally, the power and right to regulate land use lies with the States. Therefore, the responsibilities for adequately regulating flood-prone areas to mitigate flood losses rests with the State and its political subdivisions. An inherent part of the State's responsibility is to assure coordination of Federal, State and local flood hazard mitigation efforts. In addition, the State is responsible for providing its local governments with assistance in developing adequate measures to regulate flood-prone areas. Part of the mitigation mission of FEMA is to encourage States to develop the kinds of expertise needed to meet their responsibilities.

The State Assistance Program has been designed to focus on each State as the primary coordinating body for NFIP flood hazard mitigation activities. This approach takes into account that there are other providers of flood hazard mitigation services within a State. The Program's structure, however, is designed to assure that one coordinating body, the State Coordinating Agency acting on behalf of the governor to coordinate NFIP activities, is responsible for adequately addressing the needs of the State and its communities, for maximizing the use of existing and new flood hazard mitigation services and for preventing duplication of effort within the State.

States are specifically designated as the eligible recipients of State Assistance Program funds. Each State is responsible for developing an application which adequately addresses the needs of the State and its communities and which is consistent with the guidelines for the State Assistance Program. All States are encouraged to participate regardless of their present level of involvement in the NFIP and flood hazard mitigation. Because States are the designated recipients of State Assistance Program funds, sub-state jurisdictions and local governments have a responsibility to apprise the State of their needs and concerns so that the State may best address these needs in its flood hazard mitigation program.

The State Assistance Program has been developed to aid in fulfilling the mitigation mission of FEMA. FEMA was formed to focus the Federal hazard mitigation effort in one agency. A high priority within FEMA is flood hazard mitigation. The Federal Insurance Administration (FIA) has the responsibility within FEMA for identifying the Nation's flood plains and encouraging State and local governments to adopt flood hazard mitigation measures in order to reduce flood hazards, to prevent losses of life and property, and to reduce the spiralling costs associated with flood damage. Part of this responsibility involves promoting a working understanding of the objectives of the National Flood Insurance Program (NFIP) and the concepts and methods of flood hazard mitigation. To address this responsibility, FEMA provides general and technical assistance to communities intended to increase capabilities in implementing and administering flood hazard mitigation programs under the NFIP. To continue these efforts in the face of the increasing number of communities participating in the NFIP's Regular Program, intensified assistance demands must be met.

States are in a key position to support NFIP activities and to assist FEMA in addressing intensified assistance demands. The National Flood Insurance Program's Rules and Regulations (44 CFR Part 59, et seq.) outline functions which States may undertake to increase State and local flood hazard mitigation capabilities. Section 60.25 groups these functions into three broad areas: development of a planning and legislative framework for local flood plain management; coordination of Federal, State and local aspects of the Program; and, provision of general and technical assistance to local officials.

FEMA recognizes that State capacity to deal effectively with these areas and to shape meaningful intergovernmental cooperation is essential to the ultimate success of the NFIP. In order to be responsive to the needs of these States and their local communities, the FIA has developed the State Assistance Program to encourage a Federal/State partnership to achieve the NFIP's ultimate objectives of reducing loss of life and property due to flooding.

FEMA has determined that State Assistance Program applications are subject to State and area-wide clearinghouses review pursuant to procedures in Part I, Attachment A of OMB Circular No. A–95 (Revised).

FEMA has determined that an environmental impact statement is not needed for this program. A copy of the finding of no significant impact is available for inspection at the above address.

This rule is in consonance with the President's Memorandum of November 16, 1979, and does not impose an unnecessary burden on the small business sector.

Accordingly, the interim rule published at 45 FR 32687 hereby becomes final Part 76 of Title 44, Chapter 1, Subchapter B, Code of

Federal Regulations. The final Part 76 is

degree of expertise in NFIP and flood

the *General Assistance and Public*

factor, Number of Communities

(iv) *Performance standards* (desired

be justified specifically as to how it

Federal Regulations. The final Part 76 is published in its entirety with minor modifications as follows:

PART 76—STATE ASSISTANCE PROGRAM FOR THE NATIONAL FLOOD INSURANCE PROGRAM

Sec.
76.1 Purpose.
76.2 Description of program.
76.3 Eligible applicants.
76.4 Administrative procedures.
76.5 General provision for cooperative agreement.
76.6 Ineligible tasks.

Authority: The National Flood Insurance Act of 1968 and the Flood Disaster Protection Act 1973, 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 43 FR 41943; Executive Order 12127, effective April 1, 1979, 44 FR 19367.

§ 76.1 Purpose.

(a) The State Assistance Program is designed to promote an intergovernmental flood hazard mitigation partnership by providing States with the opportunity to strengthen their role in NFIP flood hazard mitigation activities. The Program will provide individual States an opportunity to complement NFIP activities by developing, implementing, and evaluating approaches to accomplish NFIP objectives through State programs. It is intended that each State undertake activities consistent with its demonstrated capability in NFIP and flood hazard mitigation activities. The Program is designed to increase existing State capabilities as well as develop new ones. In turn, States will assist in increasing their communities' capabilities to develop, implement, and administer flood hazard mitigation measures.

(b) Adequate State participation in NFIP coordination and flood hazard mitigation activities is one of the best means available to ensure that the NFIP is effectively implemented at the local level. As more communities are converted to the Regular Program, greater demands are placed on States to assist their local communities in meeting NFIP requirements. Increased State involvement is necessary to help ensure the proper implementation and administration of NFIP flood plain management standards at the local level. Through the State Assistance Program, FEMA, in concert with individual States, will be able to provide quality community assistance.

§ 76.2 Description of Program.

The State Assistance Program is designed for all States which submit acceptable applications regardless of their present level of involvement or degree of expertise in NFIP and flood hazard mitigation activities. It is structured to recognize the fact that States have individual needs and different levels of sophistication in dealing with the NFIP. Thus, the State Assistance Program allows each State the flexibility necessary to develop its application to accommodate the unique characteristics of the State and its communities, and allows each State to undertake an appropriate level of effort.

(a) *Program Elements.* The State Assistance Program has been designed around three Program Elements: *Assessment, General Assistance and Public Information,* and *Community Services;* each encompassing its own general objective. Each objective for the State's project (the "Project Objective") chosen by the State shall be derived from one of the three general objectives defined under the Program Elements. The State shall then choose tasks that meet its chosen Project Objectives. The Program Elements are structured in order of increased levels of capability needed to accomplish their tasks. *Assessment* tasks demand the least capability; *Community Services* tasks demand the most capability. The State shall choose objectives and tasks from the Program Elements that are consistent with its demonstrated capability and develop a project designed to provide a foundation upon which to progress towards Program Elements requiring higher capabilities. Accomplishing the objectives of the Program Elements requiring less capability is a prerequisite for choosing elements requiring higher capability. A State's project may contain a mix of tasks chosen from among the different elements, provided the State "qualifies" for each element. In delineating a project, States shall choose Project Objectives and corresponding tasks that are derived from the following Program Elements:

(1) *Assessment.* The general objective of the *Assessment* element is to provide a State with the opportunity to examine and evaluate current State and local NFIP and flood hazard mitigation activities. A plan designed to expand the State's role in NFIP coordination and flood hazard mitigation activities will result. Its implementation will become the basis for future State Assistance Program funding. Generally, this element is designed for States which have not developed a formal State-wide hazard mitigation program and have been minimally involved in NFIP activities.

(2) *General Assistance and Public Information.* The general objective of the *General Assistance and Public Information* element is to provide a State with the opportunity to develop a Statewide information base and coordination network. Under this element States will promote an increased understanding of the NFIP and its concepts and provisions, develop information dissemination and retrieval systems, and create approaches to maximize the coordinated use of Federal and State resources for flood hazard mitigation.

(3) *Community Services.* The general objective of the *Community* Services element is to provide States with an opportunity to work closely with local government officials in the mechanics of implementing and administering flood hazard mitigation programs. The tasks are designed for States which have already demonstrated a leadership role through strong State flood hazard mitigation laws, programs, and policies.

(b) *Funding Approach.* Each State will be provide a target funding figure which is based on an objective formula. Each State will then develop an application using the target figure to guide the scope of work. Both the scope of work and the funding figure provided to FEMA will be subject to negotiation. To be funded, each application must provide for new or substantially expanded activities. The State Assistance Program is not intended to provide funds for on-going state activities in related areas of planning or technical assistance. Furthermore, any subcontracting must be justified as to how it meets the objectives of the Program.

(1) *Apportionment Formula.* Each State will be targeted for an amount of assistance funds determined by an objective formula. An apportionment formula has been developed to guarantee a fair share of the Program's funds to each State interested in assistance. The formula weighs data for each State reflecting the magnitude of lives at risk to flood hazards, the extent of flood hazard within communities, development pressures and historical flood damage.

(2) *Formula Factors.* The four factors used to derive a percentage of the total State Assistance Program's fiscal year funds for each State include: Population in Special Flood Hazard Areas; Number of Communities Participating in the Regular Program of the National Flood Insurance Program; Total Increase in Households from Census Bureau Data; and, Flood Damages by National Flood Insurance Program Flood Insurance Claims. The first factor, Population in Special Flood Hazard Areas, reflects the magnitude of lives at risk in flood hazard areas in each State. The second factor, Number of Communities Participating in the Regular Program, relates to priorities established by FEMA Regional Offices for flood hazard mapping purposes. Study priorities generally are based on the severity of flooding and damage potential in each community. The third factor, Total Increase in Households, indicates which States are experiencing increasing development pressures which may increase flood risks. The fourth factor, Flood Damage by National Flood Insurance Program Flood Insurance Claims, weighs the relative historical flood damage sustained by each States. All factors are weighted equally.

(c) *Application Evaluation Criteria.* All State applications will be evaluated as to how well they meet the following critera:

(1) *Objectives expressed*—specific and clearly stated objectives which relate to the national objectives of the State Assistance Program;

(2) *Needs*—explanation and understanding of the needs to be addressed by the tasks;

(3) *Tasks defined*—clear and cogent definitions of the tasks to be undertaken;

(4) *Implementation*—description of how these tasks will be accomplished, the approaches used to achieve the objectives, and the results, products and benefits expected to be derived from each task;

(5) *Coordination*—explanation of a plan of coordination with FEMA programs and offices, other federal agencies and other state agencies and programs;

(6) *Capacity*—demonstration of an acceptable level of performance in dealing with the NFIP to undertake more sophisticated tasks covered in the *General Assistance and Public Information* and *Community Services* elements.

(7) *Sustainability*—demonstration of the extent to which a state will be able to integrate NFIP standards into the overall framework of state and community planning and development activities to achieve maximum sustainability.

(8) *Consistency*—with FEMA programs and policies, particularly the NFIP.

(9) *State Evaluation* component—definition of an evaluation system for the State's project which includes:

(i) Clearly stated *objectives.*

(ii) *Tasks* to be undertaken.

(iii) *Performance indicators* (quantifiable expressions of the project objectives).

(iv) *Performance standards* (desired level of achievement for a performance indicator.

(v) *Data sources* (base from which information about performance indicators can be obtained).

(vi) *Narrative comments* addressing what other impacts the project had, problems encountered, the overall success of the project, etc.

(10) *Organizational Qualifications*—current and previous experience in related projects of comparable scope, preferably demonstrated knowledge in dealing with the NFIP.

(11) *Project Management and Workplan*—demonstration of an appropriate project management and work plan.

(d) *Supplemental Projects.*—(1) *General.* Each State's application for the target amount of funding may contain a supplement proposing innovative tasks involving an additional level of effort than that proposed in the principal application and requesting an additional level of funding. The task(s) proposed in the supplemental application must be related in scope to the effort proposed in the principal application. An innovative task may take any of several forms. It may be a product, process, an organizational arrangement or technique. Each innovative task should encompass a concept that is untried, unique, and/or advances the state of the art of flood hazard mitigation. Proposed tasks which have been undertaken before or are in use at the present may be considered for demonstration if the application identifies and addresses the question of the special nature or circumstances surrounding the proposed task which would warrant its consideration for funding as a supplemental project.

(2) *Application Procedure.* Requests for funding of supplemental tasks must be identified separately as an addendum to the principal application for the target amount of funding. The supplemental application must be submitted concurrently with the principal application. In addition, the supplemental application must include the items required in 76.4(c)(3) iii–viii, discussed below, which constitutes the documentation for the supplemental request. The supplemental application will be evaluated separately from the principal application. All requests for supplemental funding of tasks will be presented to the Federal Insurance Administrator at one time so that priorities may be weighed and funds may best be distributed.

(3) *Review Criteria.* Each task proposed for supplemental funding must be justified specifically as to how it meets the following criteria:

(i) The unique capabilities, related experiences, facilities or techniques and the commitment which the applicant possesses and offers for achieving the objectives of the task.

(ii) The extent to which the identified problem is common to a substantial number of States and the proposed approach can be adopted and replicated in a number of other States.

(iii) The overall technical merit of the proposed tasks including the specific impacts of the innovation.

(iv) The availability of supplemental funds for innovative tasks in light of competing needs.

§ 76.3 Eligible applicants.

Each State, the District of Columbia, Puerto Rico, the Virgin Islands and Guam are eligible to participate in the State Assistance Program. The Governor of each State and representative of the District of Columbia, Puerto Rico, the Virgin Islands and Guam have been requested by letter to designate a lead agency to coordinate projects under the State Assistance Program and to receive a Request for Application for the State Assistance Program. The designated lead agency will be considered the State Coordinating Agency for purposes of the National Flood Insurance Program.

§ 76.4 Administrative procedures.

(a) *Size of award.* The amount of each award will be determined by the objective apportionment formula set forth in 76.2(b) above. Each applicant should, therefore, submit an application within the range of its target amount derived from the apportionment formula which will be provided to each applicant in the Request for Application letter.

(b) *Project period.* The typical project period will be twelve months.

(c) *Submission procedures.* Each applicant shall comply with the following submission procedures:

(1) *Issuance of Request for Application.* Each designated State agency will receive a Request for Application package from the State's respective Federal Emergency Management Agency Regional Director.

(2) *How to submit.* Each State shall submit the original application and three copies to its respective Federal Emergency Management Agency Regional Office.

(3) *Application package.* The application package for the State Assistance Program shall consist of the following:

(i) A letter of transmittal signed by the chief executive officer of the State or the designated State agency.

(ii) A copy of the Agreement Articles for Cooperative Agreement.

(iii) Standard Form 424, Federal Assistance, prescribed by OMB Circular No. A–102. (Non-construction, long-form)

(iv) A detailed Program Narrative Statement developed according to the Special Instructions provided as part of the Request for Application package provided to the States.

(v) Budget information on OMB Form 80–R0186.

(vi) Standard Form 270 "Request for Advance or Reimbursement," as required by OMB Circular A–102 and FEMA General Provisions for Cooperative Agreements.

(vii) A copy of A–95 review comments or documentation of no comment and full review period.

(viii) A copy of Assurances as required by the FEMA General Provisions for Cooperative Agreement (provided to each State as part of the Request for Application package).

(ix) Any other information transmitted in the Request for Application which is requested as part of the application package.

(d) *Reporting requirements.*—(1) *Project Performance Reporting Requirements.* Each State shall submit a narrative evaluation of its level of achievement of project objectives. Each State shall report actual levels of performance standards achieved for project objectives against levels expressed by the State as desirable in its application. In addition, each State shall compare percentage of tasks accomplished against percentages projected for each month in the State's application. These narrative reports shall be submitted at intervals specified in the Agreement Articles for Cooperative Agreement.

(2) *Financial Reporting Requirements.*

(i) Standard Form 270 "Request for Advance or Reimbursement" is the voucher form to be submitted for all bills for reimbursement.

(ii) Standard Form 272 "Federal Cash Transactions Report" must be submitted each reporting period.

(iii) Standard Form 269 "Financial Status Report" must be submitted each reporting period.

(iv) A narrative report projecting the percentage of cost expanded per task by month must be submitted each reporting period.

(3) *Project Completion Reporting Requirements.* At the conclusion of the project the State must submit the following:

(i) Final Standard Forms 272 and 269.

(ii) A narrative report which includes an analysis of the project's success in achieving the Project Objectives.

(e) *Agreement Articles for Cooperative Agreement under the State Assistance Program.* The Agreement Articles shall be the basic terms to which the State and FEMA agree. The Agreement Articles shall become part of the Cooperative Agreement.

§ 76.6 General provisions for cooperative agreement.

The legal funding instrument for the State Assistance Program for the National Flood Insurance Program shall be cooperative agreement. All States will be required to comply with FEMA General Provisions for Cooperative Agreement. The General Provisions for Cooperative Agreement shall be provided to the States as part of the Request for Application Package. The General Provisions shall become part of the Cooperative Agreement.

§ 76.6 Ineligible tasks.

The following is a list of tasks which are ineligible tasks. This list of examples of ineligible tasks is merely illustrative and does not constitute a list of all ineligible tasks.

(a) *Public works, facilities and site or other improvement.* The general rule is that public works, facilities and site or other improvements are ineligible to be acquired, constructed, reconstructed, rehabilitated or installed.

(b) *Purchase of equipment.* The purchase of equipment is generally ineligible.

(c) *Analysis of NFIP or its products.* Tasks choices in no way analyze or recommend changes to the NFIP or its products. For example, proposed tasks shall not duplicate or potentially conflict with hydrologic and hydraulic engineering activities performed by the Federal Insurance Administration.

(d) *Flood Insurance Studies.* Flood Insurance Studies shall not be conducted under the State Assistance Program.

(e) Any task which is not within the general scope of the State Assistance Program's objectives.

(Catalog of Federal Domestic Assistance Program Number: 83.103—State Assistance Program for the National Flood Insurance Program)

Issued: November 20, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-37049 Filed 11-26-80; 8:45 am]

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FEDERAL MARITIME COMMISSION

46 CFR Part 524

[General Order 23, Revised; Docket No. 80-34]

Exemption of Certain Agreements From the Requirements of Section 15, Shipping Act, 1916

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission exempts from the filing and approval requirements of section 15 of the Shipping Act, 1916 (46 U.S.C. 814) non-exclusive equipment interchange agreements between common carriers by water. This exemption eliminates unnecessary regulation while resulting neither in unjust discrimination nor detriment to commerce.

EFFECTIVE DATE: November 28, 1980.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, Washington, D.C. 20573, (202) 523–5725.

SUPPLEMENTARY INFORMATION:

On May 8, 1980, the Commission instituted this proceeding to exempt non-exclusive equipment interchange agreements from the approval requirements of section 15 of the Shipping Act, 1916 (45 FR 35368).

Section 35 of that Act (46 U.S.C. 833a) provides that the Commission, upon application or on its own motion, may by order or rule exempt any class of agreements between persons subject to the Act, or any specified activity of such persons from any requirements of the Act, where it finds that such exemption will not impair effective regulation by the Commission, be unjustly discriminatory, or be detrimental to commerce.

Equipment interchange agreements on file with the Commission generally fall within these categories:

(1) Container, chassis, and related equipment interchange agreements;

(2) Agreements involving the management of the equipment as well as the exchange of containers, chassis, and related equipment;

(3) Agreements covering only the repair and maintenance of containers, chassis, and related equipment; and

(4) Interchange of LASH/SEABEE barges.

These types of agreements are generally approved by the Commission.

Except as hereafter noted, commentators supported the rule on principle. Some commentators argued, however, that the advance filing of agreements for informational purposes substantially defeats the objectives of the proposal. They contend that the advance filing requirement is burdensome in terms of carriers' needs to act quickly to meet operational requirements as they occur.

One carrier urged that the exemption be expanded to include agreements between carriers and "other persons" subject to the Shipping Act to recognize the possible involvement of a terminal operator in routine equipment interchange operations. In addition, it was suggested that the format provision be deleted because it is optional except for the independent agent requirement which it believes is inappropriate, unnecessary, and commercially frustrating. This carrier would also include loaded, as well as empty containers, within the exemption.

Another carrier requests the Commission to continue full section 15 scrutiny over these agreements because the "art" of equipment interchange is presently unsettled due to changes in railroad procedures for repositioning equipment which may substantially increase costs to water carriers. Accordingly, it is recommended that the matter be postponed pending inquiry into the changed competitive circumstances brought about by railroad repositioning plan modifications and their impact upon ocean carriers.

A port authority opposed the exemption because of concerns that such agreements, if exempted, could provide a means of discriminating between ports, shippers, and classes of traffic or commodities by controlling the availability of equipment or by diverting equipment to larger ports, favored shippers, or higher revenue yielding cargo. As a minimum, the port authority requests assurances from the Commission that the anti-discriminatory remedies of sections 16, 17, and 22 of the Shipping Act will continue to be available.

Based upon the comments, the Commission has decided to exempt equipment interchange agreements, but without the advance filing, the independent agent, and format requirements.

With respect to the suggestions to include "other persons" within the scope of the exemption and to extend the exemption to loaded containers, the Commission will study those suggestions further since it cannot now gauge the impact of the proposals and since they were not noticed for comment.

The proposal to defer the rule is not persuasive. There is a demonstrable justification for the exemption now, and if conditions change as a result of railroad practices or other factors, the Commission can readily readdress the situation.

Concerns that the exemption may be used in a discriminatory manner will be met by specifically noting the continuing availability of the Shipping Act's anti-discrimination provisions. The action here affects section 15 requirements only and all other provisions of the Act will remain fully applicable.

Finally, a clarifying change has been made to the existing definition of nonexclusive transshipment agreemment to indicate that a through *route* and not a through *rate* is the substance of such an agreement. This exemption, as modified, will not substantially impair effective Commission regulation of common carrier practices, result in unjust discrimination, or be detrimental to commerce.

Now, therefore, pursuant to sections 15, 35, and 43 of the Shipping Act, 1916 (46 U.S.C. 814, 833a, and 841a) it is ordered, That effective upon publication in the **Federal Register**, Title 46, CFR Part 524 is revised to read as follows: No changes have been made to § 524.1. Former §§ 524.3, 524.4, and 524.5 have been redesignated §§ 524.4, 524.5 and 524.6 respectively. The section title of former 524.3 (now 524.4) has been revised as indicated below. The Table of Contents, and § 524.2 are revised, and new §§ 524.3 and 524.7 are added to read as set forth below.

PART 524—EXEMPTION OF CERTAIN AGREEMENTS FROM THE REQUIREMENTS OF SECTION 15, SHIPPING ACT, 1916

Sec.

524.1 Statement of policy and purpose.
524.2 Definitions.
524.3 Exemption of agreements.
524.4 Conditions for exemption of transshipment agreements.
524.5 Form of connecting carrier agreements.
524.6 Termination of approved transshipment agreements.
524.7 Optional Section 15 approval.

Authority: Secs. 15, 35, 43 of the Shipping Act of 1916, 39 Stat. 733 (46 U.S.C. 814, 833a, and 841a).

§ 524.1 Statement of policy and purpose.

[Same]

§ 524.2 Definitions.

(a) A nonexclusive transshipment agreement for the purpose of this Part is an agreement between a carrier serving a port of origin and a carrier serving a port of destination to establish a through route between such ports via an intermediate port at which the cargo is transferred, which agreement does not prohibit either carrier from entering into similar agreements with other carriers.

(b) Nonexclusive equipment interchange agreement is an agreement between two or more common carriers by water for the exchange of empty containers, chassis, empty LASH/SEABEE barges, and related equipment which agreement does not prohibit a carrier from entering into similar agreements with other carriers, and which provides only for transportation of the equipment as required, payment, management of the logistics of transferring, handling, and positioning equipment, use, repair and maintenance, damages, and liability incidental to the interchange of equipment, and no other subject.

§ 524.3 Exemption of agreements.

Agreements defined § 524.2 shall be exempt from the provisions of section 15; provided, in the case of a nonexclusive transshipment agreement, the conditions contained in § 524.4 and the form requirements of § 524.5 are met.

§ 524.4 Conditions for exemption of transshipment agreements.

[Same as present § 524.3]

§ 524.5 Form of connecting carrier agreements.

[Same as present § 524.4]

§ 524.6 Termination of approved transshipment agreements.

[Same as present § 524.5]

§ 524.7 Optional section 15 approval.

Notwithstanding the provisions of this section, persons who desire approval of agreements otherwise exempt under this Part may petition the Commission for section 15 determination in accordance with Part 522.

Secs. 15, 35, 43 of the Shipping Act of 1916, 39 Stat. 733 (46 U.S.C. 814, 833 and 841a).

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-38044 Filed 11-26-80; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Hunting; Revocation of Anahuac Migratory Bird Closed Area, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule rescinds the order of the Secretary of the Interior which closed certain submerged shore lands and waters adjacent to Anahuac National Wildlife Refuge, Texas, to the hunting of migratory birds. It has been determined that the closing order did not accomplish its objectives of aiding the administration and increasing the effectiveness of the refuge. The effect of this proposed rulemaking will be to reopen the 1,180 acre area to the hunting of migratory birds.

EFFECTIVE DATE: December 29, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald L. Fowler, Division of Refuge Management, U.S. Fish and Wildlife Service, 18th and C Streets, NW., Washington, D.C. 20240. Telephone 202–343–4305.

SUPPLEMENTARY INFORMATION: Ronald L. Fowler is also the primary author of this final rule. The Anahuac Migratory Waterfowl Closed Area in the East Bay portion of Galveston Bay, Texas, was established to aid in the administration of the Anahuac National Wildlife Refuge and to increase the effectiveness of the refuge. On October 13, 1964, approximately 1,180 acres in the East Bay portion of Galveston Bay were designated as a closed area in which pursuing, hunting, taking, capturing, or killing of migratory birds, or attempting to take, capture, or kill migratory birds is not permitted (29 FR 14075). The closure did not accomplish the desired objectives of aiding the administration and increasing the effectiveness of the refuge. Historically East Bay supported extensive beds of wigeon grass. Siltation from cultivated lands probably accelerated after channelization of Oyster Bayou in 1955, and the resultant turbidity prevented growth of submerged aquatics. Fish, shrimp, and razor and mud clams remain as the important waterfowl foods in East Bay. Combined use by all waterfowl, however, rarely exceeds one bird per acre. Surface-feeding ducks make intermittent use of the shallows and exposed tidal edges near the shore. Numbers rarely exceed a few hundred birds along a 6.5 mile stretch of shoreline. Prior to establishment of the Anahuac National Wildlife Refuge, it was a common occurrence for waterfowl to seek open water as a place to rest during periods of heavy gun pressure. This pattern of waterfowl behavior was apparently altered by available sanctuary within the refuge which is not open to hunting. The moderate use by waterfowl gradually declined as birds became re-established in protected habitat inland on the refuge. An increase in commercial and sport fishing boat traffic paralleled the decline in waterfowl use. Since the closing order did not regulate boat traffic, it was not effective in preventing waterfowl disturbance.

Rescinding the closing order will have no effect upon the local economy or on the effectiveness of the refuge. The closure of East Bay did not achieve its objectives and changing conditions do not provide new reasons to continue the closure. The weight of evidence supports the conclusion that the closing order has not affected the use of East Bay by migratory birds.

On July 14, 1980, a notice of proposed rulemaking was published [45 FR 47174]. The proposed rule would amend 50 CFR 32.4 by the deletion of Anahuac Migratory Bird Closed Area, Texas, from the list of areas closed to hunting. The public was provided a 30-day comment period and was advised that pursuant to the requirements of Section 102(2)(C) of the National Environmental Policy Act of 1969 [42 U.S.C. 4332(2)(C)] an environmental assessment had been prepared on this proposal. No comments were received.

An environmental assessment on the revocation is available for public inspection and copying at Room 2341, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, or by mail addressing the Director at the address given above. On the basis of this assessment, the Director has determined that this rulemaking does not constitute a major federal action significantly affecting the human environment. The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044, and 43 CFR Part 14.

Accordingly after consideration of all relevant facts, the Secretarial Order establishing the Anahuac Migratory Bird Closed Area, Texas, is rescinded, and it is deleted from the list of areas closed to hunting in 50 CFR 32.4.

(16 U.S.C. 704)

Dated: November 19, 1980.

Robert S. Cook,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-37065 Filed 11-28-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 33

Sport Fishing; National Wildlife Refuges in California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to fishing of certain National Widlife Refuges in California is compatible with the objectives for which these areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. This document established special regulations effective for the upcoming fishing season.

EFFECTIVE DATES: January 1, 1981 through December 31, 1981.

ADDRESSES: Contact the Refuge Manager at the address and/or telephone number listed below in the body of the Special Regulations.

FOR FURTHER INFORMATION CONTACT: William D. Sweeney, Area Manager, U.S. Fish and Wildlife Service, 2800 Cottage Way, Room E–2740, Sacramento, California 95825, telephone: FTS 468–4664, Commercial (916) 484–4664.

SUPPLEMENTARY INFORMATION: Fishing is permitted on the National Widlife Refuges indicated below in accordance with 50 CFR Part 33, and the following Special Regulations. Portions of refuges which are open to fishing are designated by signs and/or delineated on maps available at refuge headquarters. No vehicle travel is permitted except on maintained roads and trails designated open to public use. Fishing shall be in accordance with all applicable State regulations subject to the following conditions:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Colusa National Wildlife Refuge, (Headquarters: Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, (916) 934–2801.

Special Conditions: (1) The taking of frogs is permitted in the public fishing area; (2) The refuge is closed to sport fishing and the taking of frogs during the migratory waterfowl hunting season; and (3) No campfires or firearms permitted.

Delevan National Wildlife Refuge, (Headquarters: Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, (916) 934–2801.

Special Conditions: (1) The taking of frogs is permitted in the public fishing area; (2) The refuge is closed to sport fishing and the taking of frogs during the migratory waterfowl hunting season; and (3) No campfires or firearms permitted.

Modoc National Wildlife Refuge, (Headquarters: Modoc National Wildlife Refuge, P.O. Box 1610, Alturas, California 96101, (916) 233–3572.

Special Conditions: (1) The refuge is closed to fishing during the waterfowl hunting season; and (2) The taking of frogs on refuge lands is prohibited.

Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, California 95988, (916) 934–2801.

Special Conditions: (1) The taking of frogs is permitted in the public fishing area; (2) The refuge is closed to sport fishing and the taking of frogs during the migratory waterfowl hunting season; and (3) No campfires or firearms permitted.

Salton Sea National Wildlife Refuge, P.O. Box 247, Calipatria, California 92233, (714) 348–2323.

Special Condition: Fishing is permitted only on that portion of the refuge which is inundated by the Salton Sea and other refuge lands posted with public fishing signs.

San Luis National Wildlife Refuge, P.O. Box 2176, Los Banos, California 93635, (209) 826–3508.

Special Conditions: (1) Fishing permitted from sunrise to one hour after sunset; and (2) Use of boats is prohibited.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to Administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

The primary author of this document is Patrick L. O'Halloran, Sacramento Area Office, telephone FTS 468–4958, Commercial (916) 484–4958.

Dated: November 19, 1980.

William D. Sweeney,

Area Manager—California, Fish and Wildlife Service.

[FR Doc. 80-37038 Filed 11-28-80; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

SUPPLEMENTARY INFORMATION: The

may purchase a copy of the transcript

requires that a Federal credit union with

Proposed Rules

Federal Register
Vol. 45, No. 231
Friday, November 28, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 870 and 890

Federal Employees' Group Life Insurance; and Federal Employees Health Benefits; Amendment to Clarify Coverage for Employees Hired Under Career-Related Work-Study Programs

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management proposes to revise the Federal Employees' Group Life Insurance (FEGLI) and the Federal Employees Health Benefits (FEHB) regulations to clarify that employees hired under career-related work-study programs are eligible for FEGLI and FEHB coverage if they are (1) expected to be in a pay status for at least one-third of the total period of time from the date of the first appointment to the completion of the work-study program, and (2) serving under appointments not limited to one year or less.

DATE: Comments must be received on or before January 27, 1981.

ADDRESS: Send or deliver written comments to Craig B. Pettibone, Director, Office of Pay and Benefits Policy, Compensation Group, Office of Personnel Management, Post Office Box 57, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: John Ray, Issuances and Instructions Staff, (202) 632–4684.

SUPPLEMENTARY INFORMATION: Sections 8716(b) and 8913(b), title 5, United States Code, provide that the Office of Personnel Management may prescribe by regualtions the time at which and the conditions under which an employee becomes eligible for FEGLI and FEHB coverage, respectively. Existing regulations may be interpreted as requiring that an employee hired under a career-related work-study program *has been* in a pay status for not less than one-third of the total time required for completion of the program to be entitled to FEGLI and FEHB coverage (i.e., only after sufficient time has elapsed, permitting a determination that this requirement has been met). The intent of the regulations is to confer eligibility for FEGLI and FEHB coverage on such employees *if the expectation exists* that they will meet the time-in-pay-status requirement (i.e., it is not necessary to ensure through actual experience that the employee meets this qualification).

Office of Personnel Management.

JoAnn B. Platter,

Assistant Issuance System Manager.

Accordingly, the Office of Personnel Management proposes to amend Parts 870 and 890 as follows:

PART 870—REGULAR LIFE INSURANCE

(1) Section 870.202(a)(2) is revised to read as follows:

§ 870.202 Exclusions.

(a) * * *

(2) An employee whose employment is of uncertain or purely temporary duration, or who is employed for brief periods at intervals, and an employee who is expected to work less than 6 months in each year, except an employee who is employed under a cooperative work-study program of at least 1 year's duration and who is expected to be in a pay status for at least one-third of the total period of time from the date of the first appointment to the completion of the work-study program.

* * * * *

(5 U.S.C. 8716(b))

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

(2) Section 890.102(c)(2) is revised to read as follows:

§ 890.102 Coverage.

* * * * *

(c) * * *

(2) An employee whose employment is of uncertain or purely temporary duration, or who is employed for brief periods at intervals, and an employee who is expected to work less than 6 months in each year, except an employee who is employed under a cooperative work-study program of at least 1 year's duration and who is expected to be in a pay status for at least one-third of the total period of time from the date of the first appointment to the completion of the work-study program.

* * * * *

(5 U.S.C. 8913(b))

[FR Doc. 80–37037 Filed 11–26–80; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 726

Burley Tobacco; 1981 National Marketing Quotas for Burley Tobacco

Correction

In FR Doc. 80–36125 appearing at page 77035 in the issue for Friday, November 21, 1980, make the following correction:

On page 77035, in the first column, in the *"Date"* paragraph, the comments closing date should have read "January 16, 1981".

BILLING CODE 1505–01–M

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Part 430

Energy Conservation Program for Consumer Products; Public Meeting To Discuss the Department of Energy's Energy Efficiency Standards Program for Consumer Products

AGENCY: Department of Energy.

ACTION: Notice of Public Meeting.

SUMMARY: The Department of Energy (DOE) will convene a public meeting to allow opportunity for discussion on issues concerning the certification and enforcement of provisions of DOE's energy efficiency standards program for consumer products.

DATE: December 5, 1980, 9:00 a.m. until all comments are heard, or until 5:00 p.m.

ADDRESS: Room 2105, 2000 M. St. NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: James A. Smith, U.S. Department of Energy, Consumer Products Efficiency Branch, Mail Stop GH–068, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–9127.

SUPPLEMENTARY INFORMATION: The Energy Policy and Conservation Act (EPCA) (Pub. L. 94–163), as amended by the National Energy Conservation Policy Act (NECPA) (Pub. L. 95–519), requires that the Department of Energy prescribe energy efficiency standards for the types of consumer products listed in EPCA, as amended by NECPA.

Standards for nine of these products were proposed by notice issued June 19, 1980 (45 FR 43976, June 30, 1980). Public hearings were held in Washington, D.C. and Chicago, Illinois over the period August 11–29, 1980. A public meeting was held on July 16, 1980, at which time answers to questions submitted for clarification of issues were provided. Public meetings were held on September 9, 1980, and October 10, 1980, concerning certain certification/enforcement aspects of the proposed rule. Now, at the request of the consumer products industry, DOE will convene a public meeting on December 5, 1980, to further discuss certification and enforcement aspects of the proposed rule, specifically: (1) the process for establishing the tolerances to be applied to verification and enforcement audit test results for the purposes for making a compliance/noncompliance determination, and (2) the framework for the creation of a Government/industry advisory group.

Public meeting procedure: Because of the importance of the Energy Conservation Program for Consumer Products, DOE wishes to receive the maximum level of public participation possible. DOE encourages attendance and participation by individuals and representatives of organizations, consumer groups, manufacturers and industry, and other Government agencies at the meeting.

DOE will make a short presentation at the outset of the reasons for convening the public meeting. DOE will then accept oral comments limited to a time which will be set in light of the number of persons who request to speak. Persons wishing to speak will be asked to so indicate upon registration and after the DOE presentation. The official conducting the meeting will accept comments or questions from those attending.

A transcript of the meeting will be made, and the entire record of the meeting including the transcript will be retained by DOE and made available for inspection at the DOE Freedom of Information Office in the Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the transcribing reporter.

Tenative program: December 5, 1980:

Welcoming Remarks
Background
Presentations and comments by interested persons

Issued in Washington, D.C., November 21, 1980.

T. E. Stelson,

Assistant Secretary, Conservation and Solar Energy.

[FR Doc. 80–37170 Filed 11–26–80; 8:45 am]

BILLING CODE 6450–01–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Real Estate Lending-Deregulation

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would (1) eliminate the current regulations which require Federal credit unions with assets of less than $2,000,000 to obtain the prior written consent of the Administration before granting long-term real estate loans and would (2) eliminate the current regulations which limit the amount of loan origination fees a Federal credit union can assess when granting a long-term real estate loan. This action is a part of the NCUA Board's ongoing program for updating, clarifying, and simplifying existing regulations. Additionally, the NCUA Board believes that, in light of the competitive environment in which all financial institutions currently find themselves, the deregulation of loan origination fees may be needed so that Federal credit unions can competitively provide real estate loan services to their members.

DATES: Comments must be received by December 31, 1980.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Thomas C. Buckman, Office of Examination and Insurance or John L. Culhane, Jr., Office of General Counsel, at the above address. Telephone numbers: (202) 357–1065 (Mr. Buckman) or (202) 357–1030 (Mr. Culhane).

SUPPLEMENTARY INFORMATION:

$2,000,000 Asset Limitation

Section 701.21–6(b) of the NCUA Rules and Regulations presently requires that a Federal credit union with assets of less than $2,000,000 obtain the prior written consent of the Administration in order to grant long-term real estate loans. (A long-term real estate loan is a real estate loan which has a maturity in excess of 12 years (12 CFR 701.21–6(b)). When acting on such requests the NCUA Board evaluates the following areas:

(A) Ability of the officials and employees to successfully manage a Federal credit union;

(B) Ability of the credit committee and loan officers; also any training efforts by these officials to prepare themselves for this type of lending;

(C) Liquidity position of the Federal credit union;

(D) Use of the expanded authority (i.e., an analysis of whether or not the Federal credit union has made plans to sell the long-term real estate loans to an investor); and

(E) Supervisory committee's fulfillment of its statutory requirements. 42 FR 59981 (1977).

The primary danger in small credit unions granting long-term real estate loans is that the size of the real estate loans will cause the small credit unions to have liquidity problems. As a result of liquidity problems, consumer loan programs of the small credit unions would more than likely suffer. However, this danger can be greatly minimized by prior planning on the part of the boards of directors of small credit unions. If small credit unions locate investors who will purchase their mortgage loans, the liquidity risks can be minimized and the credit unions will be in a position to bring mortgage loan services to their members.

One of the means through which small credit unions can gain access to secondary market investors is through a Credit Union Service Corporation. (A Credit Union Service Corporation is an organization incorporated under State law which is wholly-owned and controlled by credit unions and designated as such by the Administration.) 12 CFR 701.27–2 delineates the procedures to be followed by credit unions in forming credit union service corporations. Another means for small credit unions to gain access to secondary market investors is through state and local housing authorities.

Because the NCUA Board believes small credit unions can minimize the possibility of mortgage lending causing liquidity problems, the NCUA Board proposes to allow Federal credit unions with assets of less than $2,000,000 to originate mortgage loans, as long as the credit unions have a commitment from an investor to purchase the mortgage

loans. The NCUA Board would appreciate comments on whether small credit unions should be required to obtain commitments from investors before originating mortgage loans (as proposed) or whether they should simply be required to have a means of selling such loans.

Loan Origination Fees

Section 701.21–6(c)(5) restricts loan origination fees to a maximum of one-half of 1 percent of the loan amount on conventional loans and 1 percent of the loan amount in the case of an insured or guaranteed mortgage loan (12 CFR 701.21–6(c)(5)). Many credit unions have asked NCUA to deregulate this area since the regulation does not allow a credit union to recover the actual costs of making and marketing a real estate loan. There is only limited data available regarding the cost of originating mortgage loans. However, the data that is available does suggest that one-half of one percent of the loan amount is not sufficient for a credit union to recover the costs of originating and marketing a mortgage loan. (See Appendix A).

The proposed removal of the maximum amount of loan origination fees in the case of insured and guaranteed loans is consistent with NCUA's recent Statement of Interpretation and Policy (IRPS 80–10). 45 FR 71353 (1980). The maximum amount of loan origination fees that could be charged in granting an insured or guaranteed loan would be limited by the maximum amount permitted by the insuring or guaranteeing agency. NCUA believes that guarantees and insurance are used by government agencies to encourage lending for certain social or economic objectives and that Congress did not intend for Federal credit unions to be precluded from participating in government insured or guaranteed loan programs simply because of rising rates or limits pertaining to the maximum amount of loan origination fees.

Additionally, the NCUA Board believes the proposed deregulation of the loan origination fees is necessary for credit unions to take a more active role in mortgage lending and to enable credit unions to balance the effects of the action of the Depository Institutions Deregulation Committee (DIDC). The actions of the DIDC will deregulate the maximum interest rates that commercial banks, mutual savings banks, and savings and loan associations can pay on deposits. The DIDC will carry out this deregulation over a 6-year period. The actions of the DIDC will place additional pressure on the ability of credit unions to attract share capital. The NCUA Board believes that it is appropriate to also deregulate where possible the other side of the balance sheet (loans) in order that credit unions can generate the funds necessary to meet the increasing costs of attracting share capital.

NCUA believes that the effect of the proposed deregulation will be to make mortgage loans available to more credit union members. Credit unions have expressed that this deregulation is necessary for their mortgage loan programs to become cost efficient and to enable them to effectively market mortgage loans in the secondary market. Credit unions requesting the deregulation have indicated that once their mortgage programs become cost efficient, their goal is to reduce the settlement costs a home buyer must incur to complete the purchase of a home. Such goals are consistent with traditional cooperative concepts and it is in this spirit that the deregulation of § 701.21–6(c)(5) is proposed.

Executive Order No. 12044

All the steps normally followed in the development of a proposed regulation, as set out in NCUA's Final Report in Response to E.O. 12044: Improving Government Regulations, have not been complied with for the following reasons. A formal preliminary review memorandum was not necessary because the NCUA Board provided specific instructions to the staff on the drafting of the proposed regulation. In addition, a regulatory analysis was not necessary because the regulation will not result in an annual effect on the economy of $100 million or more nor will it result in a major increase in costs or expenses for all, or a significant portion of, Federal credit unions with assets under $1 million or for other financial institutions. Because of the discrepancy between the permitted loan origination fees and the cost of loan origination, the NCUA Board believes that prompt action is necessary and has therefore provided for a comment period of less than 60 days.

Appendix A

	1977	1974	1972	1969	1967
Average Conventional mortgage loan	[1]$36,200	$26,800	$26,100	$21,500	$16,300
Loan amount times one-half of 1 percent	[2]181.00	134.00	130.50	107.50	81.50
Origination expense per loan	[3]710.40	669.10	487.50	358.50	348.00
Difference	529.40	531.10	357.00	251.00	254.50

[1] Source: Federal Home Loan Bank Board Journal, Table S. 5.1-Terms on Conventional Home Mortgage Loans Made: National Averages for all Major Types of Lenders (Major types of lenders include savings and loan associations, mortgage bankers, commercial banks, and mutual savings banks. The Averages for conventional mortgage loans include newly built homes and previously occupied homes).

[2] Section 701.21-6(c)(5) of NCUA's Rules and Regulations limits loan origination fees on conventional loans to one-half of one percent, (12 CFR 701.21-6(c)(5)).

[3] Source: Operations Report No. 5 (Income and Cost for Origination and Servicing of 1 to 4 Unit Residential Loans 1977) prepared by the Mortgage Bankers Association of America, March 1979.

Rosemary Brady,

Secretary of the Board.

November 21, 1980.

(12 U.S.C. 1757, 1766, 1789)

§ 701.21–6 [Amended]

12 CFR 701.21–6 is proposed to be amended as follows:

(a) 12 CFR 701.21–6(b) is to be amended to read as follows:

* * * * *

(b) Federal credit unions with assets of $2,000,000 or more, or any other Federal credit union which has a commitment from a party to purchase mortgage loans originated under this section of the NCUA rules and regulations, may originate loans secured by first liens on residential real property, with maturities in excess of 12 years and not exceeding 30 years within the limitations of written policies adopted by the board of directors provided:

* * * * *

(b) 12 CFR 701.21–6(c)(5) is to be repealed.

[FR Doc. 80-36943 Filed 11-26-80; 8:45 am]

BILLING CODE 7535-01-M

CIVIL AERONAUTICS BOARD

14 CFR Ch. II

Improving Government Regulations; Agenda of Significant Regulations

AGENCY: Civil Aeronautics Board.

ACTION: Publication of agenda of significant rules under development or review.

SUMMARY: As part of its implementation of Executive Order 12044, *Improving Government Regulations*, the CAB publishes its semiannual Agenda of Significant Rules under Development or Review.

DATES: Adopted: November 20, 1980.

ADDRESSES: Copies of the rulemaking documents listed in this agenda can be obtained from the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428; (202) 673–5432. Each document should be identified by the designation appearing in parenthesis after the Federal Register citation.

Persons wishing to be placed on a mailing list for future editions of this agenda should send a postcard request to the Distribution Section at the above address.

FOR FURTHER INFORMATION CONTACT: About a specific rulemaking action listed in this agenda—the contact person listed below. About this agenda—Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: The Board is publishing this Agenda of Significant Rules under Development or Review as part of its voluntary implementation of Executive Order 12044, *Improving Government Regulations*. The Board's previous agenda appears at 45 FR 38073, June 6, 1980.

This agenda is divided into two main categories, *Rules Under Development* and *Existing Rules under Review*, and an Appendix. An action to amend an existing part of the Code of Federal Regulations is not necessarily listed as an existing rule under review. If it does not involve a reexamination of the basic policy and purpose of that part, it is listed as a rule under development. The Appendix lists rulemaking that appeared in the previous agenda and has since been completed or terminated.

For each rulemaking action listed in this agenda, the following information is set out: title; the name, office abbreviation, and telephone number of a knowledgeable Board official to contact for further information; status of the action; and description. Addresses for all contact persons are Civil Aeronautics Board, Washington, D.C. 20428. Unless otherwise noted, the legal authority for a rulemaking action is the Federal Aviation Act of 1958, as amended by the Airline Deregulation Act of 1978 and the International Air Transportation Competition Act.

None of the rulemaking included in this agenda is "major" within the meaning of E.O. 12044, and the Board does not plan to perform any formal regulatory analyses. Each rulemaking, however, undergoes an analysis of benefits, burdens, and alternatives, in a degree of detail and formality that is commensurate with the importance of the rule. The Board also retains the discretion to prepare a formal regulatory analysis on any rulemaking.

Statements in the status column that a notice or advance notice of proposed rulemaking is in preparation indicate that the staff is preparing a draft for Board action. They do not imply that the proposal will necessarily be issued, that the Board has endorsed the substance of the proposal, or that the petition (if any) prompting the rulemaking activity will necessarily be granted.

Although this agenda is intended to list all significant Board regulations that are under development or review, it is not a complete guide to all significant rulemaking activity for the 6 months until publication of the next agenda. First, new rulemaking actions may arise and be completed between now and then. Second, we may have inadvertently omitted one or more items. Any such omission shall not preclude the Board from taking action on the item, and shall not be a ground for judicial review of the rule.

Abbreviations Used in This Agenda

"Act" means the Federal Aviation Act of 1958, as amended, 49 U.S.C. 1301 *et. seq.*, including amendments made by the Deregulation Act and the International Air Transportation Competition Act, Pub. L. 96–192, 94 Stat. 35.

"Deregulation Act" means the Airline Deregulation Act of 1978, Pub. L. 95–504, 92 Stat. 1705.

"CFR" means Code of Federal Regulations.

"FR" means Federal Register.

"ANPRM" means advance notice of proposed rulemaking.

"NPRM" means notice of proposed rulemaking.

Office abbreviations:

BCP—Bureau of Consumer Protection.
BDA—Bureau of Domestic Aviation.
BIA—Bureau of International Aviation.
OEA—Office of Economic Analysis.
OGC—Office of the General Counsel.
OCR—Office of Civil Rights.

ER-, EDR-, SPR-, SPDR-, and similar designations appearing in parenthesis after a Federal Register citation are the Board's internal designations for final rules and proposed rules. Using these designations, interested persons can obtain copies of documents from the Distribution Section at the address listed above. The Distribution Section will also establish and maintain a list of persons wishing to receive copies of future agendas.

Accordingly, the Civil Aeronautics Board publishes the attached Agenda of Significant Regulations under Development or Review.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

Rules Under Development

Title	Contact person	Status	Description
I. Small Community Air Service Program			
1. *Procedures for compensating air carriers for losses (14 CFR Part 324).*	David Schaffer, OGC, 202–673–5442	Interim rule, 44 FR 42171, July 19, 1979 (PR–209). Request for comments on interim rule, 44 FR 42171, July 19, 1979 (PDR–67, Docket 36128). Comment period closed September 17, 1979.	The Board can order an airline to continue to provide essential air service to a community while the agency tries to find a replacement airline, but it must compensate the incumbent airline for any financial losses incurred in complying with the order. This rule governs proceedings for determining the compensation for the incumbent airline's losses.
2. *Determining the number of seats needed to provide essential air service (14 CFR Part 398).*	David Schaffer, OGC, 202–673–5442	Final rule, 44 FR 65584, November 14, 1979 (PS–86). Request for comments on final rule, 44 FR 65583, November 14, 1979 (PSDR–84, Docket 34650). Comment period closed January 14, 1980.	Under guidelines for determining the level of essential air service for small communities, the Board first determines the number of passengers that will need to be accommodated. It then determines the number of available seats it needs to guarantee, on the assumption that the average load factor (percentage of seats filled) will be 60 to 65 percent. That figure is based on

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Rules Under Development—Continued

Title	Contact person	Status	Description
			normal load factors with large aircraft. This amendment lowered that figure, to reflect the fact that with smaller aircraft a lower load factor is needed to ensure the same likelihood that no passengers will be denied a seat.
3. *Essential air service subsidy guidelines (proposed 14 CFR Part 271).*	John R. Hokanson, BDA, 202-673-5368; or David Schaffer, OGC; 202-673-5442.	NPRM in preparation	The Board provides subsidy to airlines to ensure that small communities receive essential air service at a level determined in accordance with 14 CFR Part 398. This rule would implement section 419(d) of the Act, which directs the Board to establish guidelines for computing the fair and reasonable amount of compensation necessary to guarantee that level of service.
4. *Obligation of carriers to provide adequate service at eligible points (14 CFR Part 398).*	David Schaffer, OGC, 202-673-5442	NPRM, 45 FR 67357, October 10, 1980 (PSDR-68, Docket 38807). Comment period closes December 9, 1980.	The Board has set essential air service levels under section 419 of the Act for eligible points (small communities). Some of these points are being served by air carriers that are not providing the required level of service. This rule would establish a new policy under which the Board would rely on the "adequate service" provision of section 404(a) of the Act as authority to order these carriers to provide adequate (*i.e.*, essential) service at points they now serve.
5. *Schedule listings and delays in discontinuing service (14 CFR Part 323).*	David Schaffer, OGC, 202-673-5442	NPRM, 45 FR 20117, March 27, 1980 (PDR-70, Docket 37905). Comment period closed May 27, 1980.	This rule would make two changes in the Board's regulation that requires airlines to provide notice before discontinuing certain types of air service. First, airlines would have to maintain all generally-distributed schedule listings of flights for which notice had been filed, until discontinuance is permitted by the Board. Second, airlines would have to discontinue service within 60 days after the intended date stated in the notice (unless required to serve longer by the Board) or else file a new notice of discontinuance.
II. Fares, Rates, and Tariffs			
6. *Plain English for airline/passenger contracts (proposed 14 CFR Part 255).*	Patricia J. Kennedy, BCP, 202-673-5158	NPRM, 45 FR 42629, June 25, 1980 (EDR-404, Docket 38348). Comment period closed September 3. 1980. Reply comment period closed September 23, 1980..	Contracts between airlines and their passengers are governed by tariffs, which are filed with the Board and available for inspection at airline ticket offices. Although tariffs are complicated and relatively inaccessible documents, passengers are presumed to have read them and consented to their terms and conditions. Over the past several years, many businesses have developed "plain English" contracts so that customers clearly understand what they are agreeing to. The proposed rule would apply this approach to airline/passenger contracts by prohibiting airlines from enforcing tariff provisions against passengers unless the airlines make available to passengers a "plain English" notice of the terms and conditions of the contract.
7. *Elimination of mandatory joint fares (14 CFR Part 399).*	Barry L. Molar, BDA, 202-673-5373	Petition filed in Docket 38585. NPRM in preparation.	The mandatory joint fare requirements established in the *Domestic Passenger Fare Investigation* will end by January 1, 1983, with the end of the Board's jurisdiction over domestic passenger fares. On its own initiative, and in response to a petition filed by American Airlines, the Board is considering whether to eliminate the mandatory joint fare program sooner or to phase it out.
8. *Maximum tariffs (14 CFR Parts 221, 296, 297)*	Mark S. Kahan, BDA, 202-673-5371	NPRM, 45 FR 64864, September 24, 1980 (EDR-408, Docket 38746). Comment period closes December 1, 1980.	This rule would allow airlines to file tariffs that state prices as maximum amounts instead of exact amounts, so that any price up to the maximum could be charged. The rule would also allow the payment of commissions to air freight forwarders and foreign air freight forwarders. The proposal was prompted by exemption requests from several airlines.
9. *Pre-filing tariff approval for fare reductions (14 CFR Part 221).*	Thomas Moore, BDA, 202-673-5038	NRPM, 45 FR 31411, May 13, 1980 (EDR-402/ODR-21, Docket 38147). Comment period closed June 16, 1980.	This rule would set up a procedure to minimize delay in acting on domestic passenger fare reduction proposals. If an airline filed an application for a fare decrease in the morning, the Board would take action on it the same day, and the airline could begin charging the fare the next day.
10. *International cargo rate flexibility (14 CFR Part 399).*	Mark Schwimmer, OGC, 202-673-5442	NPRM, 45 FR 3595, January 19, 1980 (PSDR-65, Docket 37444). Comment period closed April 9, 1980. Oral argument held July 15, 1980.	This rule would establish a policy of not reviewing international cargo rate changes for economic justification if the changes were below a prescribed ceiling, except in extraordinary circumstances. The ceiling would be set initially at the October 1, 1979, rate levels for general commodity rates, and would be periodically adjusted for operating cost increases.
11. *International cargo rate policy—further changes (14 CFR Part 399).*	Mark Schwimmer, OGC, 202-673-5442	ANPRM in preparation	This notice would invite comments on the broad question of what the Board's cargo rate policy should be, to advise the Board on future rulemaking or legislative proposals.

Rules Under Development—Continued

Title	Contact person	Status	Description
III. Charters			
12. *Charter flight delays (14 CFR Parts 207, 208, 212, 214).*	Mark Schwimmer, OGC, 202-673-5442	NPRM, 42 FR 64905, December 29, 1977 (EDR-343, Docket 31229). Comment period closed April 14, 1978. Reply comment period closed May 15, 1978.	This rule would tighten the existing rules on flight delays by U.S. charter airlines and extend those rules to passenger charter flights of all types of direct air carriers, other than air taxi operators.
13. *Review of foreign air carrier charter authority (14 CFR Parts 212, 214).*	David Schaffer, OGC, 202-673-5442	NPRM, 45 FR 2331, January 11, 1980 (EDR-394, Docket 35046). Comment period closed March 11, 1980.	This rule would amend the Board's prior authorization requirements for charters by foreign air carriers. Prior approval would be required for "fifth freedom" charter flights, instead of "off-route" charters, as required under the present rules.
14. *Escrow accounting for Public Charters (14 CFR Part 380).*	David Schaffer, OGC, 202-673-5442	NPRM, 44 FR 32399, June 6, 1979 (SPDR-69, Docket 35705).. Comment period closed August 6, 1979.	This rule would amend the escrow system for the protection of Public Charter passengers' funds, to simplify the accounting procedures and to eliminate a limitation on disbursements by the escrow bank.
15. *Registration of foreign charter operators (14 CFR Parts 211, 215, 380, 385).*	David Schaffer, OGC, 202-673-5442	NPRM, 45 FR 26084, April 17, 1980 (EDR-398/SPDR-77/ODR-20, Docket 38023). Comment period closed June 16, 1980.	This rule would replace the requirement that foreign charter operators obtain a foreign air carrier permit under section 402 of the Federal Aviation Act with a simple registration requirement, to ease market entry and promote competition.
16. *Charter price flexibility (14 CFR Part 380)*	Patricia T. Szrom, BDA, 202-673-5088	Petition filed in Docket 38300. Petition filed in Docket 38323. NPRM in preparation.	The Board's current rules allow charter operators, in their contracts with participants, to reserve the right to increase the charter price up to 10%, as long as the increase occurs 10 or more days before departure. On its own initiative and in response to petitions filed by the American Institute for Foreign Study and the United States Tour Operators Association, the Board is considering whether to eliminate this flexibility, to retain it as is, to retain it but require increases to be cost-justified, or to increase the flexibility.
17. *Registration procedures for Canadian charter air taxi operators (proposed 14 CFR Part 294).*	Ira Leibowitz, BIA, 202-673-5035; or Nancy Pitzer, BIA, 202-673-5134.	NPRM in preparation	This rule would eliminate the requirement that Canadian charter air taxi operators obtain foreign air carrier permits under section 402. Instead of the extensive information normally required by 14 CFR Part 211, these carriers would merely have to register with the Board. Registration would be quicker and easier to obtain than a regular permit.
18. *Removal of limit on agent commissions for charters (14 CFR Parts 207, 208, 212, 214).*	David Schaffer, OGC, 202-673-5442	NPRM, 45 FR 26083, April 17, 1980 (EDR-397, Dockets 37083, 38022). Comment period closed June 16, 1980.	This rule would remove the limitation on the commission that air carriers can pay to travel agents for pro rata and single-entity charters. It would also make other changes in the rules governing those charters. It responds to a petition from the Performance Incentives Company.
19. *Direct carrier responsibility for returning stranded charter passengers (14 CFR Parts 207, 208).*	David Schaffer, OGC, 202-673-5442	NPRM, 45 FR 46812, July 11, 1980 (EDR-405, Docket 37169). Comment period closed September 25, 1980. Reply comment period closed October 10, 1980.	This rule would make direct air carriers responsible for returning charter passengers stranded by strikes or other interruptions of their services by eliminating the *force majeure* clause from charter contracts.
20. *Using insurance policies to protect Public Charter passengers' funds (14 CFR Parts 207, 208, 212, 214, 380).*	David Schaffer, OGC, 202-673-5442	NPRM, 45 FR 63500, September 25, 1980 (EDR-407/SPDR-79, Docket 36958). Comment period closes November 24, 1980. Reply comment period closes December 9, 1980.	This rule would authorize insurance plans as an additional alternative to the security arrangements now permitted for Public Charter passengers' funds.
IV. Miscellaneous			
21. *Nondiscrimination on the basis of handicap (proposed 14 CFR Part 382).*	Mary Candace Fowler, BCP, 202-673-5158	NPRM, 44 FR 32401, June 6, 1979 (SPDR-70, Docket 34030). Comment period closed September 4, 1979. Reply comment period closed September 24, 1979.	This rule would prohibit unlawful discrimination against handicapped air travelers and implement section 504 of the Rehabilitation Act of 1973.
22. *Consumer protections for members of scheduled-service tour groups.*	David Schaffer, OGC, 202-673-5442	ANPRM, 44 FR 43481, July 25, 1979 (SPDR-71, Docket 34997). Comment period closed October 23, 1979. Reply comment period closed November 22, 1979.	The Board has invited comments on whether consumer protection rules are needed for scheduled-service tours, on the Board's statutory authority to prescribe such rules, and on the form that those rules might take.
23. *Air carrier fitness (continuing fitness) (14 CFR Part 204).*	Neil G. Whitehouse, BDA, 202-673-5328	NPRM is preparation	The Board is developing a system to monitor the continuing fitness of air carriers as required by section 401(r) of the Act.
24. *Fitness determinations for dormant carriers (14 CFR Part 204)*	Tern Smith, BDA, 202-673-5088	NPRM, 45 FR 73085, November 4, 1980 (EDR-411, Docket 38904). Comment period closes December 15, 1980. Reply comment period closes December 30, 1980.	This rule would impose a 2-year limit for starting service or continuing service after a fitness determination. Carriers that did not begin service or operate within that time period would be required to resubmit fitness data and obtain re-authorization before beginning service.
25. *Zones for mail rates (proposed 14 CFR Part 233).*	Barry Molar, BDA, 202-673-5371; or Lawrence Myers, OGC, 202-673-5791.	NPRM, 44 FR 52246, September 7, 1979 (EDR-387/PDR-68, Docket 36497). Comment period closed November 5, 1979. Reply comment period closed November 20, 1979.	This rule would end the Board's current practice of prescribing fixed rates for the transportation of mail by air, and in its place establish zones for each category of mail. Each zone would be defined by maximum and minimum rates prescribed by the Board, and airlines would be free to contract with the Postal Service for the carriage of mail at any price within the zone.
26. *Reporting of air cargo traffic (14 CFR Parts 291, 296).*	Clifford M. Rand, OC, 202-673-6044	Petition filed in Docket 36544. NPRM in preparation.	The Air Freight Forwarders Association has petitioned the Board to increase requirements that airlines and freight forwarders file reports of their cargo traffic, to monitor the effects of air cargo deregulation.

Rules Under Development—Continued

Existing Rules Under Review—Continued

Rules Under Development—Continued

Title	Contact person	Status	Description
27. *Age discrimination (proposed 14 CFR Part 378).*	David Schaffer, OGC, 202-673-5442	NPRM, 44 FR 55383, September 26, 1979 (SPDR-74, Docket 36639). Comment period closed November 26, 1979. A final rule was adopted by the Board on April 10, 1980, and was forwarded to the Secretary of HHS for approval, as required by the Age Discrimination Act.	This rule will prohibit discrimination against air travelers on the basis of age and implement the Age Discrimination Act of 1975.
28. *Policy statement on preemption (14 CFR Part 399).*	Patricia Synder, OGC, 202-673-5205	Interim rule, 44 FR 9946, February 15, 1979 (PS-83). Request for comments on interim rule, 44 FR 9953, February 15, 1979 (PSDR-56, Docket 34684). Comment period closed April 16, 1979.	This rule sets out interim Board policies for regulation of intrastate routes of airlines that have interstate authority. The Board has concluded that under section 105 of the Act it, not the States, is responsible for economic regulation (or deregulation, as the case may be) of all the routes, rates, or services of any airline holding either (i) a certificate of public convenience and necessity to provide interstate air transportation, or (ii) an exemption under section 416 of the Act from the requirement for such a certificate.
29. *Insurance for air carriers (proposed 14 CFR Part 205).*	J. Kevin Kennedy, BDA, 202-673-5088; or Richard Loughlin, BIA, 202-673-5880.	NPRM, 45 FR 7586, February 4, 1980 (EDR-395, Docket 37531). Comment period closed April 15, 1980. Reply Comment period closed May 6, 1980.	This rule would establish liability insurance requirements for all U.S. and foreign direct air carriers, to protect the public against losses caused by those carriers. The rule would implement section 401(q)(1) of the Act, as added by the Deregulation Act.
30. *Dual authority (14 CFR Part 298).*	Mark Scheimmer, OGC, 202-673-5442	NPRM, 45 FR 73087, November 4, 1980 (EDR-412, Docket 38906). Comment period closes January 5, 1981. Reply comment period closes January 26, 1981.	Airlines that use only small aircraft are already exempt from many regulatory requirements of the Act. This rule would grant similar exemptions to certificated airlines (which usually operate large aircraft) for their small aircraft operations, in order to promote competition.
31. *Liberalized regulation of wet lease agreements (14 CFR Parts 207, 208, 212, 214, 291).*	Mark Scheimmer, OGC, 202-673-5442	NPRM in preparation	This rule would liberalize the restrictions on wet leases (leases of aircraft with crew) between airlines, to eliminate unnecessary barriers to competition.
32. *Employee protection program (proposed 14 CFR Part 314).*	Michael Schopf, OGC, 202-673-5234; or Steven B. Farbman, BDA, 202-673-5340.	NPRM, 45 FR 49291, July 24, 1980 (EDR-406/PSDR-72; docket 38483). Comment period closed September 8, 1980.	Section 43 of the Airline Deregulation Act of 1978 established an employee protection program. Eligible protected employees may receive monthly assistance payments form the Secretary of Labor if the Board determined that qualifying dislocation of an airline has taken place. This rule would set forth procedures for those Board determinations.
33. *Advertising of Flights as "Direct"*	Brinley H. Williams, BCP, 202-673-5937	NPRMM in preparation	This rule would prohibit airlines from advertising flights as "direct" when there is a change of aircraft.
34. *Elimination of airport notices and approved service plans (14 CFR Parts 202 and 213).*	Ann Pongracz, BIA, 202-673.5203	NPRM in preparation	The Board is reviewing the requirements that airlines file airport notices and changes in approved service plans, with a view toward eliminating them.

Existing Rules Under Review

Title	Contact person	Status	Description
35. *Format of certificates beginning January 1, 1982 (14 CFR Part 202).*	Anne W. Stockvis, BDA, 202-673-5198	NPRM in preparation	The termination of route regulation on December 31, 1981, poses questions about various provisions that are now in the carriers' certificates of public convenience and necessity and certain other problems. Among subjects under review are: maintenance of seasonal service requirements, skip-stop provisions in relation to essential air service levels, handling of temporary authority, notice requirements for carriers with dual authority, effect of termination of route regulation on Airport Development Air Program, slot allocation, and the handling of certain airport and aircraft-type restrictions and the status of carriers' section 406 subsidy eligibility.
36. *Reduction of evidence requirements for foreign air carrier permit renewals (14 CFR Part 211).*	Regis P. Milan, Jr., BIA, 202-673-5878	NPRM in preparation	Under this rule, foreign air carriers applying for routine renewals or amendments of their permits would, if previous unopposed licensing proceedings have met certain evidentiary standards, be excused from resubmitting certain evidence whose continuing validity could be attested to.
37. *Reporting of civil aircraft charters (14 CFR Parts 217 and 241).*	Clifford M. Rand, OC, 202-673-6044	NPRM in preparation	This rule would significantly reduce the Board's charter data reporting requirements.
38. *Flexibility in charging applicable through or local fare (14 CFR 221.62).*	Mark S. Kahan, BDA, 202-673-5371	NPRM in preparation	Carriers are now required to change the applicable published through fare between a point of origin and a point of destination, even if it is higher or lower than the sum of intermediate fares. The Board is considering a rulemaking to give carriers and their agents more flexibility in charging the lowest possible fare.
39. *Ticket notices and ticket office counter signs (14 CFR Parts 221, 250, 255, 296).*	Mary Candace Fowler, BCP, 202-673-5158	NPRM, 45 FR 25817, April 16, 1980 (EDR-396, Docket 38021). Comment period closed August 15, 1980. Reply comment period closed September 3, 1980.	This rule would revise and simplify the requirements that airlines disclose certain information to consumers on passengers' tickets and counter signs. It would also consolidate those requirements in a new Part 255.
40. *Liability for lost, delayed, and damaged baggage (14 CFR Part 221).*	Joseph A. Brooks, OGC, 202-673-5442	NPRM in preparation	The Board is reviewing the current baggage liability limits and rules in the carriers' tariffs in order to determine which rules, if any, should be placed in the regulations and kept after the sunset of the Board in 1985.

Existing Rules Under Review—Continued

Title	Contact person	Status	Description
41. *Fare summaries (14 CFR Part 221a).*	David Schaffer, OGC, 202-673-5442	Petition filed in Docket 35139. Petition granted, 44 FR 57085, October 4, 1979 (Order 79-8-116).	This rule requires certificated scheduled airlines to provide concise information to the public about the various fares they offer in domestic air transportation. It is designed to provide enough information to enable consumers to make an informed choice of fare plan. Fare summaries do not seem to have received a great deal of attention from passengers, however. In response to a petition from American Airlines, the Board is reviewing this rule to decide how it might be improved, or whether it should be abolished and some other fare information requirement should be imposed. The Board has also waived the effectiveness of the rule, pending the review.
42. *Regulation of intermodal services of foreign air carriers (14 CFR Part 222).*	Joseph DiBella, BIA, 202-673-5035	NPRM, 45 FR 42316, June 17, 1980 (EDR-403, Docket 36329). Comment period closed August 22, 1980. Reply comment period closed September 22, 1980.	This rule would eliminate all Board restrictions on intermodal services performed by U.S. air carriers, and would require Statements of Authorization for intermodal services by foreign air carriers. This rule would coordinate the Board's treatment of intermodal services with the Congressional modification of the Interstate Commerce Commission's jurisdiction over such services in the Motor Carrier Act of 1980.
43. *On-time arrival standards (14 CFR Part 234).*	David Schaffer, OGC, 202-673-5442	Petition filed in Docket 27891. NPRM in preparation.	The Aviation Consumer Action Project has petitioned the Board to restate its on-time arrival standards in terms of actual-versus-scheduled *arrival* times, instead of actual-versus-scheduled *departure* times.
44. *Air carrier financial and statistical reporting (14 CFR Part 241).*	Clifford M. Rand, OC, 202-673-6044	NPRM in preparation	As part of a major review of its largest reporting system, the Board expects to eliminate, consolidate, and revise a substantial number of financial and statistical reporting schedules to reduce reporting burdens on all certificated air carriers. Particular emphasis will be placed on reducing the burdens of small air carriers.
45. *Commuter financial and traffic data (14 CFR Part 241, 298).*	Clifford M. Rand, OC, 202-673-6044	NPRM in preparation	This rule would modify statistical reporting requirements and impose financial reporting requirements on some commuter carriers, to assist in the administration of essential air service programs.
46. *Revision of record-retention requirements (14 CFR Part 249).*	Clifford M. Rand, OC, 202-673-6044	NPRM, 46 FR 50168, October 26, 1978 (EDR-365, Docket 33725). Comment period closed January 26, 1979.	This would be the first major revision of the Board's record-retention requirements since 1957. It is designed to make them less burdensome and easier to understand and administer.
47. *Denied boarding compensation (14 CFR Part 250).*	David Schaffer, OGC, 202-673-5442	NPRM, 45 FR 30066, May 7, 1980 (EDR-400, Docket 36294). Comment period closed July 7, 1980.	Airlines are required to pay denied boarding compensation to passengers who are bumped from their flights. This rule would clarify the applicability of that requirement to extra sections of flights. The rule would also eliminate a minor exception to the requirement.
48. *Denied boarding compensation—small aircraft (14 CFR Part 250).*	Lawrence R. Krevor, BDA, 202-673-5333	ANPRM, 45 FR 31413, May 13, 1980 (EDR-401, Docket 36106). Comment period closed June 30, 1980. Reply comment period closed July 10, 1980. NPRM in preparation.	The Board has invited comments on whether, and in what form, its oversales and denied boarding rules should apply to commuter air carriers and to certificated carriers operating small (less than 60-seat) aircraft.
49. *General review of denied boarding compensation (14 CFR Part 250).*	David Graham, OEA, 202-673-6084	Review in progress	The Board is conducting a general review of the need for rules on denied boarding compensation.
50. *Smoking on airplanes (14 CFR Part 252).*	David Schaffer, OGC, 202-673-5442	A: Final rule, 44 FR 5071, January 25, 1979 (ER-1091). NPRM, 44 FR 29486, May 21, 1979 (EDR-377, Docket 29044). Editorial correction of NPRM, 44 FR 33410, June 11, 1979 (EDR-377A). Comment period closed August 20, 1979. Reply comment period closed September 19, 1979.	A. In January, 1979, the Board amended its rules on smoking aboard aircraft to provide passengers more effective protection from tobacco smoke. The new requirements include special segregation of cigar and pipe smokers, a minimum of two rows of seats in the no-smoking area for each class of service, and enough seats in no-smoking areas for all persons who wish to be seated there, with provision for expansion of those areas to meet passenger demand. In May, 1979, the Board proposed further changes, including special seating for susceptible passengers, buffer zones, and special locations for cigar and pipe smoking. Other options include a ban on cigar and pipe smoking, and prohibitions based on the type of aircraft (for example, banning smoking on planes with 30 or fewer seats) or length of flight (for example, banning smoking on all flights of less than 1 hour).
		B: NPRM, 45 FR 26976, April 22, 1980 (EDR-398; Docket 38048). Comment period closed June 23, 1980.	B: This rule would permit airlines to refuse to expand the no-smoking section for standby passengers and those who check in less than 5 minutes before scheduled departure.
		C: Petition filed in Docket 37657, denied by Order 80-8-80.	C: A petition to eliminate the smoking rule entirely was denied.
51. *Alaskan subcontract agreements (14 CFR Part 293).*	David Schaffer, OGC, 202-673-5442	NPRM in preparation	Part 293 applies to subcontract agreements involving the operation of scheduled air services by air taxi operators over Alaskan bush routes of a certificated air carrier. The Board is considering whether to revoke this rule and replace it with a simpler filing requirement.
52. *Exemption for air freight forwarders (14 CFR Part 296).*	Joyce A. Snovitch, BDA, 202-673-5074	NPRM in preparation	The rule would eliminate the registration and reporting requirements applicable to air freight forwarders, and would allow such carriers to operate under a blanket exemption without having to register with the Board.
53. *Cooperative shippers associations to act as agents of direct carriers (14 CFR Parts 296 and 297).*	Joseph A. Brooks, OGC 202-673-5442	Petition for rulemaking filed in Docket 38470.	Cooperative shippers associations are indirect air carriers of property. They are now allowed to become agents of their shippers, but not of direct carriers. In response to a petition, the Board is considering allowing cooperatives to act as agents of the direct carriers, to give these indirect carriers greater flexibility in providing services to their customers.

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Existing Rules Under Review—Continued

Title	Contact person	Status	Description
54. *Reregistration of air taxis (14 CFR Part [illegible]).*	David Schaffer, OGC, 202-673-5442	NPRM, 45 FR 67680, October 14, 1980 (EDR-410, Docket 38815) Comment period closes December 15, 1980.	This rule would eliminate the requirement that air taxis reregister with the Board every 2 years.
55. *Nonpublic investigations by the Bureau of Consumer Protection (14 CFR Part 305).*	J. Craig Weller, BCP, 202-673-5943	NPRM in preparation	This rule would clarify and simplify the procedures for conducting nonpublic investigations.
56. *Fuel information in certificate applications (14 CFR Parts 313 and 201).*	William J. Wagner, BIA, 202-673-5035	NPRM in preparation	To implement the goals of the Energy Policy and Conservation Act, the Board requires applicants for new operating authority to submit fuel information. This rule would eliminate that requirement in instances where it is unnecessary because the United States and a foreign country have agreed that new service is required by the public interest.
57. *Information submitted in merger applications (14 CFR Part 315).*	David Schaffer, OGC, 202-673-5442	Interim rule, 45 FR 23646, April 8, 1980 (PR-221). Request for comments on interim rule, 45 FR 47698, July 16, 1980 (PDR-71, Docket 37970). Comment period closed September 15, 1980.	This rule sets forth the information that must be submitted with a section 408 merger application. It is needed to enable the Board to meet the 6-month deadline imposed by the Act for issuing a final order or decision in a merger case.
58. *Suspension notices after January 1, 1982 (14 CFR Part 323).*	David Schaffer, OGC, 202-673-5442	NPRM in preparation	After December 31, 1981, the Act requires carriers to file termination notices only when the suspension would deprive a community of essential air service. This rule would eliminate most notices now required by Part 323 and may require a few new ones to ensure that the Board retains the capability to monitor essential service levels at eligible points.
59. *Elimination suspension notices for foreign air transportation (14 CFR Parts 323, 231).*	Patricia DePuy, BIA, 202-673-5878	NPRM in preparation	The Board is reviewing the requirements in 14 CFR Part 323 for suspension notices in foreign air transportation, which does not involve essential air service, with a view to substituting a simple increase in the number of copies of schedule changes filed pursuant to 14 CFR Part 231.
60. *Employee responsibilities and conduct (14 CFR Parts 370, 300).*	Kenneth G. Caplan, OGC, 202-673-5790	NPRM in preparation	The Board is preparing revisions of its ethics rules to reflect experience since the revision and to conform to the Ethics in Government Act, Pub. L. 95-521.
61. *Protection of charter participants' funds (14 CFR Parts 371, 372a, 373, 378, 379a, and Others).*	Brinley Williams, BCP, 202-673-5937	A. NPRM, 42 FR 61408, December 2,1977 (SPDR-63, Docket 31735). Comment period closed June 30, 1978. Reply comment period closed July 31, 1978.	A. The Board has been reviewing the patchwork of redundant, and sometimes inconsistent, regulations for the protection of charter participants' funds, with a view towards establishing a simpler, uniform set of requirements. The redundancies and inconsistencies were largely eliminated when five different charter regulations were replaced by the Public Charter rule, 14 CFR Part 380.
		B. NPRM in preparation	B. This rule would increase the period of time from 60 to 120 days for tour participants to file claims against a charter operator's bond. By the time many people have found the operator against whom they can file, 60 days have passed.
		C. ANPRM in preparation	C. This rule would establish a trust fund in place of existing financial security provisions for the protection of charter participant funds.
62. *Navigation of foreign civil aircraft (14 CFR Part 375).*	George Wellington, BIA, 202-673-5878	NPRM in preparation	The Board is reviewing its regulations governing the navigation of foreign civil aircraft within the United States. The review will focus on simplifying and clarifying the procedures to be followed in obtaining operating authority, and on ensuring that conditions imposed on such operations satisfactorily serve the public interest.
63. *Nondiscrimination in Federally assisted programs of the Board (14 CFR Part 379).*	Kenneth G. Caplan, OGC, 202-673-5790; or Shawn D. Land, OCR, 202-673-5544.	NPRM in preparation	The Board is reviewing its rules that implement Title VI of the Civil Rights Act of 1964, in response to suggestions from the Department of Justice.
64. *Elimination of prospectus filing for Public Charters (14 CFR Part 380).*	Mark Schwimmer, OGC, 202-673-5442	NPRM in preparation	Currently a charter operator cannot begin to market a Public Charter until at least 10 days after it files a prospectus with the Board. If the Board disapproves the prospectus, the delay can be longer. The prospectus must include a flight schedule and tour itinerary (if any). It must also include certifications that the charter operator has entered into a charter contract with an airline and made certain arrangements for the protection of passengers' funds. This rule would replace the prospectus-filing requirement with a simple registration requirement.
65. *Charge in license and filing fee schedules (14 CFR Part 389).*	Joseph A. Brooks, OGC, 202-673-5442	Order 77-4-42, dated April 8, 1977. NPRM in preparation.	Because of decisions in the Supreme Court and the U.S. Court of Appeals, the Board suspended its license fees in 1977. Its filing fees have also become outdated in relation to costs. The Board is considering a rulemaking to change its method for calculating filing fees and to bring them into line with current costs. It is also considering deleting the suspended license fees.
66. *Determination of depreciation for service mail rates (14 CFR 399.42).*	Julien R. Schrenk, BDA, 202-673-5298	NPRM, 45 FR 66474, October 7, 1980 (PSDR-67, Docket 38784). Comment period closed November 6, 1980.	It is now the Board's policy, for ratemaking purposes, to use a prescribed depreciation method for flight equipment. This policy, in 14 CFR 399.42, requires straight-line depreciation with a table establishing service lives and residual value percentages. The Board is proposing a change so that the carriers' own methods of flight equipment depreciation may be used to determine service mail rates for non-subsidized carriers.

Existing Rules Under Review—Continued

Title	Contact person	Status	Description
67. *Domestic passenger fare standards (14 CFR Part 398, Subpart C).*	Julien Schrenk, BDA, 202-673-5298	Final rule, 43 FR 39522, September 5, 1978 (PS-80). Final rule, 45 FR 24115, April 8, 1980 (PS-92, Docket 31290). Interim policy statement, 45 FR 40969, June 17, 1980 (PS-94, Docket 37982). Interim policy statement, 45 FR 48600, July 21, 1980 (PS-96, Dockets: 37982, 33836, 35118, 29198). Interim policy statement, 45 FR 70431, October 24, 1980 (PS-98, Docket 37982).	In Summer, 1978, after a review of the entire body of pricing standards developed in the *Domestic Passenger Fare Investigation*, the Board ended its practice of prescribing normal fares in the continental United States. Airlines were instead allowed the flexibility to set fares within a specific zone without fear of suspension by the Board. The Airline Deregulation Act of 1978 confirmed this policy by establishing a "zone of reasonableness" within which the Board could not find any domestic fare unlawful. In PS-92, the Board amended its general policy statement on fare flexibility to reflect the Deregulation Act. In PS-94, the Board broadened its zone with an interim policy of full downward fare flexibility in all markets and upward flexibility as follows: unlimited, for markets up to 200 miles; up to 50 percent above the standard industry fare level for markets from 201 to 400 miles; and up to 30 percent above the standard industry fare level for markets above 400 miles. Upon reconsidering PS-94, the Board in PS-98 revised its interim policy to allow upward fare flexibility to the standard industry fare level plus $15, plus another 30 percent, in all markets. The Board will suspend fares in this zone only in limited circumstances. In PS-96, the Board adopted broadened flexibility for Puerto Rico, Virgin Islands, Hawaii, and Alaska markets. The Board is continually monitoring passenger fares and reviewing its flexibility policies.

Appendix.—*Rulemaking Completed or Terminated Since Previous Agenda*

[Numbers in brackets are entry numbers from previous agenda]

Title	Contact person	Status	Description
[6.] *Price advertising of air transportation*	David Schaffer, OGC, 202-673-5442	Rulemaking terminated, 45 FR 61640, September 17, 1980 (EDR-328B, SPDR-58B, PSDR-48B).	The Board terminated this rulemaking, which was directed at changing the price advertising rules for charters, because the problems addressed by this proceeding have been mitigated by the Public Charter rule (14 CFR Part 380). The problems that remain can be dealt with through existing enforcement procedures.
[7.] *Scheduled-service air transportation sold by contract.*	Barbara Bedian, BDA, 202-673-5373	Rulemaking terminated	The Board contemplated a rule that would permit carriers to sell scheduled service by contract without the need to file tariffs or adhere to them. This issue is already being addressed in other proceedings.
[10.] *Involuntary refunds,*	Patricia Kennedy, BCP, 202-673-5158	Rulemaking terminated	Airlines charge passengers for the transportation actually used, even when the flight does not reach the ticketed destination. This rule would have required airlines to give passengers who are stranded by a schedule irregularity the option of returning to their point of origin on the first available flight and receiving a refund. This rulemaking has been terminated because the problems in this area do not appear to be significant enough to justify regulatory intervention.
[11.] *Intrastate standard industry fare levels (14 CFR Part 399).*	Laurie S. Schaffer, BDA, 202-673-5009; or Mark S. Kahan, BDA, 202-673-5371.	Interim rule, 44 FR 9940, February 15, 1979 (PS-82). Final rule, 45 FR 42254, June 24, 1980 (PS-95).	The Board's zones of fare flexibility are based on a standard industry fare level (SIFL). The interim rule provided for a gradual equalization of the intrastate and interstate SIFL. The intrastate SIFL was lower. In the final rule the Board accelerated the schedule to provide complete equalization immediately because of changed circumstances in the airline industry that may discourage service in the intrastate markets.
[16.] *Removal of limitations on cargo charters (14 CFR Parts 207, 208, 212, 214).*	James A. Lawyer, BDA, 202-673-5060	Final rule, 45 FR 53358, August 11, 1980 (ER-1090, 1091, 1092, 1093).	This rule allows cargo to be carried on the main deck of the aircraft on split passenger/cargo charters, eliminates for cargo charters the requirement that the entire aircraft be engaged in the aggregate, and allows part charters of cargo on scheduled cargo or combination flights. It also requires passenger charter operators to state in their contracts with individual participants, in boldface type, the baggage allowance and charges for each passenger.
[17.] *Minimum contract size and notice provisions for pro rata and single-entity charters (14 CFR Parts 207, 208, 212, 214).*	James A. Lawyer, BDA, 202-673-5060	Final rule, 45 FR 34572, June 16, 1980 (ER-1176, 1177, 1178, 1179).	This rule reduces from 40 persons to 20 the minimum contract size for pro rata, or "affinity," charters and for single-entity charters. It also requires a notice in all solicitation materials for pro rata charters, to warn participants of the lack of consumer protection provisions.
[20.] *Elimination of off-route charter restrictions (14 CFR Part 207).*	James A. Lawyer, BDA, 202-673-5060	Final rule, 45 FR 53358, August 11, 1980 (ER-1090).	This rule continues the Board's liberalization of its charter rules by lifting the remaining restrictions on off-route charters by U.S. airlines.
[22.] *Charter consumer protection against major changes (14 CFR Part 380).*	Mark Schwimmer, OGC, 202-673-5442	Rulemaking terminated	The Board's current rules establish a consumer refund remedy scheme for charter participants who are confronted with "major changes" in the tour packages that they have purchased. This rule would have clarified that scheme so that it could not be misinterpreted

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Appendix.—*Rulemaking Completed or Terminated Since Previous Agenda*—Continued

[Numbers in brackets are entry numbers from previous agenda]

Title	Contact person	Status	Description
			as excusing changes that are so substantial as to amount to nonperformance by the charter operator. The Board has terminated this rulemaking because experience with the major change rules has not shown this possibility of misinterpretation to be a serious problem. If new problems arise, this rulemaking can be restarted.
[30.] *Air carrier fitness (14 CFR Part 204)*	Sherry Kinland, BDA, 202-673-5333; or Susan Kahan, BDA, 202-673-5333.	Final rule, 45 FR 42593, June 25, 1980 (ER-1180).	This rule establishes data submission requirements for fitness determinations. Under the Airline Deregulation Act of 1978, the Board must determine the initial fitness of all applicants for passenger route authority, all commuters serving an eligible point, and carriers who propose to provide, or who are providing, essential air service. The Board must also monitor the continuing fitness of all carriers holding route authority and of all commuters serving an eligible point.
[38.] *Mandatory participation in passenger origin-destination survey (14 CFR Part 241).*	Clifford M. Rand, OC, 202-673-6014	Final rule, 45 FR 67656, October 14, 1980 (ER-1201).	This rule requires all certificated air carriers to participate in a Passenger Origin-Destination Survey based on a continuous sample of passenger tickets. This information is needed to serve a broad range of regulatory programs still being conducted by the Board.
[42.] *Rules governing performance of charter flights by different types of direct air carriers (14 CFR Parts 207, 208, 212, 214).*	Mark Schwimmer, OGC, 202-673-5442	Rulemaking terminated	This rule would have consolidated and simplified four largely duplicative CFR Parts. The rulemaking has been terminated because the consolidation would be too confusing while several other proceedings involving the same parts are in progress. The Board expects to revive this rulemaking at a later date.
[46.] *Airline credit/interest rates (14 CFR 221.38).*	Mary Candace Fowler, BCP, 202-673-5158	Rulemaking terminated	Current rules enable airlines to charge interest in excess of state usury laws for air transportation that is paid for with airline-issued credit cards. This rule would have made airlines subject to usury laws in the card holder's home state. The rulemaking has been terminated because on review, the problems presented by current rules appear insufficient to justify a change in policy.
[50.] *Barter and free or reduced-rate transportation for promotional purposes (14 CFR Part 223).*	David Schaffer, OGC, 202-673-5442	Final rules, 45 FR 46797, July 11, 1980 and 45 FR 47674, July 16, 1980 (ER-1181-1185 and ER-1186).	These rules allow airlines to provide free or reduced-rate travel in exchange for goods and services or to persons involved in promoting air transportation.
[52.] *Air carrier accounting and reporting requirements (14 CFR Part 241).*	Clifford M. Rand, OC, 202-673-6044	Final rule, 45 FR 48867, July 22, 1980 (ER-1188).	This rule eliminated 10 financial reporting schedules from the Board's largest reporting system and condensed monthly financial reporting, as an alternative to a petition by the Air Transport Association to eliminate monthly financial reporting altogether. It also added a new statistical report for small certificated air carriers.
[55.] *Military airlift command data reports (14 CFR Part 243).*	Clifford M. Rand, OC, 202-673-6044	Final rule, 45 FR 66451, October 7, 1980 (ER-1200).	This rule eliminates certain financial and statistical reporting that no longer appears necessary.
[61.] *Elimination of commission-filing requirement (14 CFR Parts 253, 399.85).*	David Schaffer, OGC, 202-673-5442	Final rule, 45 FR 48599, July 21, 1980 (ER-1187).	This rule eliminates the requirement that airlines file with the Board schedules of the commissions that they pay travel agents. The usefulness of those filings is not justified by their cost, and the requirement could tend to dampen competition.
[63.] *Rules of practice in enforcement proceedings (14 CFR Part 302).*	Howard M. Schmeltzer, BCP, 202-673-5937	Rulemaking terminated	This rule would have simplified and clarified Board procedures, and expedited the resolution of formal enforcement proceedings. This proceeding has been terminated because a rule does not appear to be necessary.
[68.] *Monthly billing of political candidates by airlines (14 CFR Part 374a).*	Joseph A. Brooks, OGC, 202-673-5442	Final rule, 45 FR 53453, August 12, 1980 (SPR-172).	This rule allows airlines to bill political candidates for Federal office on a monthly basis during the last two months of the campaign, rather than semimonthly.

[FR Doc. 80-36824 Filed 11-26-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 80-SO-72]

Proposed Alteration of Transition Area Bay St. Louis, Mississippi

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking

SUMMARY: This proposed rule will alter the Bay St. Louis, Mississippi, Transition Area by lowering the base of controlled airspace north of Stennis International Airport from 1200 to 700 feet AGL. A new public use standard instrument approach procedure has been developed for the airport, and additional controlled airspace is required to protect aircraft Instrument Flight Rule (IFR) operations.

DATES: Comments must be received on or before: December 29, 1980.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before December 29, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contract with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) to alter the Bay St. Louis, Mississippi, 700-foot Transition Area. This action will provide controlled airspace protection for aircraft executing the NDB RWY 17 standard instrument approach procedure at the Stennis International Airport. The Hanco (nonfederal) nondirectional radio beacon, which will support the approach procedure, is proposed for establishment in conjunction with designation of the transition area.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 17.181 (45 FR 445), of Part 71 of the Federal Aviation Regulations (14 CFR 71) as follows:

Bay St. Louis, Mississippi

The present description is deleted and ". . . The airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Stennis International Airport (lat. 30°22'15"N., long. 89°27'16"W.); within 3 miles each side of the 359° bearing from the Hanco NDB (lat. 30°27'03"N., long. 89°27'19"W.), extending from the 6.5-mile radius area to 8.5 miles north of the NDB . . .".

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on November 18, 1980.

Louis J. Cardinali,

Director, Southern Region.

[FR Doc. 80-36828 Filed 11-26-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 970

Deep Seabed Mining for Future Proposed Rulemaking; Availability of Discussion Paper

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of availability of discussion paper on deep seabed mining and related public meeting.

SUMMARY: Public Law 96-283, the Deep Seabed Hard Mineral Resources Act (the Act), authorizes the Administrator of the National Oceanic and Atmospheric Administration (NOAA) to issue to eligible United States citizen applicants licenses for exploration for, and permits for the commercial recovery of, deep seabed hard minerals. This notice is issued to advise interested persons of the availability of a discussion paper which has been developed by NOAA in preparation for the issuance of proposed rules to implement the Act, to invite attendance at a meeting for discussion of the paper, and to invite comments on the paper.

DATES: Public meeting: December 17, 1980, 1:30 p.m. Comments should be received by December 31, 1980.

ADDRESS: The discussion paper may be obtained from and all comments should be sent to: Office of Ocean Minerals and Energy, National Oceanic and Atmospheric Administration, Page 1 Building, Suite 410, 2001 Wisconsin Ave., NW., Washington, D.C. 20235.

Meeting location: Room 4830, Department of Commerce, 14th Street and Constitution Ave., NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: James P. Lawless, at the above address, telephone: (202) 653-8257.

SUPPLEMENTARY INFORMATION: The Act requires that NOAA issue implementing regulations for the issuance of deep seabed mining exploration licenses and commercial recovery permits. In preparation for the issuance of proposed regulations in March 1981, NOAA has prepared a discussion paper which sets forth preliminary thoughts on and potential approaches for major issue areas contained in the Act. NOAA is seeking public comments on this discussion paper, which may be obtained from the above address.

A public meeting concerning this discussion paper has been scheduled for 1:30 p.m. on Wednesday, December 17, 1980, in Room 4830, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. Interested persons are urged to attend.

Dated: November 20, 1980.

Francis J. Balint,

Acting Director, Office of Management and Computer Systems.

[FR Doc. 80-37052 Filed 11-26-80; 8:45 am]

BILLING CODE 3510-12-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[21 CFR Part 211]

[Docket No. 80N-0291]

Current Good Manufacturing Practice in Manufacture, Processing, Packing, or Holding; Proposed Reduction of Reserve Sample Retention Requirements for Radioactive Drugs

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to

amend the current good manufacturing practice (CGMP) regulations for human and veterinary drug products to reduce the reserve sample retention requirements for radioactive drugs. The petitioner has stated that radioactive drugs are used far more rapidly than is usual for nonradioactive drugs. The petitioner has requested that the reserve sample retention requirements be reduced to 10 days. The agency has concluded that more than 30 days to warrant establishing two different reserve sample retention

to those drug components and drug

to determine whether the active

(i) Three months after the expiration

amend the current good manufacturing practice (CGMP) regulations for human and veterinary drugs to reduce the time that reserve samples of radioactive drugs are required to be retained by manufacturers. This action is based on information, submitted as a petition, that the current requirements concerning reserve samples are unnecessary for certain radioactive drugs that typically have short expiration dating periods because of the rapid rate of radioactive decay.

DATE: Comments by January 27, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:
Clifford G. Broker (HFD–323), 301–443–5307, or
Philip L. Paquin (HFD–30), 301–443–5220, Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of September 29, 1978 (43 FR 45014), FDA published final regulations regarding CGMP for human and veterinary drug products. Most of the requirements under those final regulations became effective on March 28, 1979.

On January 22, 1979, Mallinckrodt, Inc., 675 Brown Rd., St. Louis, MO 63134, submitted a citizen petition under 21 CFR 10.25(a) to amend the CGMP regulations in § 211.170 (21 CFR 211.170) by reducing the retention period for reserve samples of radioactive drug products and their active ingredients. A copy of the petition is on file under Docket No. 79P–0026/CP in the Dockets Management Branch (address given above), and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

The CGMP regulations require in § 211.170 that a reserve sample representative of each lot in each shipment of each active ingredient be retained for at least 1 year after the expiration date of the last lot of the drug product containing the active ingredient and, further, that a reserve sample representative of each lot or batch of drug product be retained for at least 1 year after the expiration date of the drug product. The petitioner requests that these requirements be amended to reduce the retention period for reserve samples of radioactive drug products and their active ingredients.

The petitioner suggested that the present requirements for retaining reserve samples are unnecessarily long for radioactive drugs because they are used far more rapidly than is usual for nonradioactive drugs. The petitioner stated that radioactive drug products and their active ingredients (radionuclides), because of the natural process of radioactive decay, have expiration dating periods substantially shorter than most nonradioactive drug products and their active ingredients. The petitioner submitted physical half-life (that is, a one-half reduction in radioactivity) and expiration dating information on 10 radionuclides used in preparing 20 radioactive drug products and half-life information concerning 13 additional radionuclides. Of these 23 radionuclides, 11 have half-lives of less than 10 days; 2 have half-lives of less than 30 days; and 5 of the remaining 10 have half-lives of 60 days or less.

The petitioner stated that because the expiration dating periods for radioactive drugs are shorter, many more lots of these drugs are produced than are produced of nonradioactive drugs. This increased production creates storage problems because of the retention of the corresponding large number of reserve samples. The petitioner also stated that because of the need for radiation protection, the type of storage required for radioactive drugs is considerably more costly than that needed for reserve samples of nonradioactive drugs.

The petitioner commented that the length of time these drug products can be used is strictly limited because their action is dependent on adequate radioactivity. The petitioner noted that the reporting of complaints and adverse patient experiences are related to the useful life of radioactive drugs. Accordingly, the petitioner recommended that the retention period for reserve samples of radioactive drugs be substantially reduced to more closely correlate with the expiration date of these drug products. The petitioner suggested that a reserve sample retention period of 3 months after the expiration date of the radioactive drug product provides sufficient time in which to receive any product complaints, to complete any needed investigations on a particular batch, and thereby to ensure that consumers are adequately protected.

The agency believes that the petitioner's request to reduce the retention period for reserve samples for radioactive drugs has merit and proposes to adopt the petitioner's recommendations in part. Although many of the commonly used radionuclides used in preparing radioactive drug products have half-lives less than 30 days, there are enough radionuclides with half-lives of more than 30 days to warrant establishing two different reserve sample retention periods. In the agency's opinion, reserve samples of radioactive drug products with expiration dating periods of more than 30 days would often have measurable radioactivity for up to 6 months after their expiration dating period. Reserve samples of these products could be expected to supply useful information in the investigation of product complaints, adverse patient reactions, or manufacturing problems for that period of time. Therefore, FDA proposes to amend § 211.170 by specifying that the retention period be 3 months for reserve samples of radioactive drugs with an expiration dating period of 30 days or less and 6 months for radioactive drugs with an expiration dating period of more than 30 days. The agency specifically requests comments on its proposed retention period of 6 months for these products.

In light of the proposed amendment, the agency has evaluated whether the requirement in § 211.170 for the visual examination of reserve samples at least once a year for evidence of deterioration is appropriate for radioactive drug products. The agency tentatively concludes that this requirement is not warranted for these products because they are subject to sophisticated evaluation by medical personnel in that the radioactivity of each dosage unit is normally measured prior to administration or dispensing. Thus, the agency believes that these unique quality surveillance measures accomplish the results intended by the visual examination requirement. Further, the visual examination of reserve samples would expose personnel conducting the examination to radiation hazards that may not be warranted in view of the unique controls on these products. Therefore, the agency also proposes to amend § 211.170 by exempting radioactive drug products containing radionuclides from the requirement of examining reserve samples visually at least once a year for evidence of deterioration. Consistent with these proposals, the agency also proposes to reorganize and editorially revise the text of § 211.170 for the sake of clarify. This clarification includes a specific reference to § 211.192 for an appropriate followup investigation when a visual examination of the reserve sample reveals evidence of deterioration.

The agency notes that the proposed reserve sample retention requirements and the proposed exemption from the visual examination of reserve samples for radioactive drugs are strictly limited to those drug components and drug products that actually contain radionuclides subject to decay. Therefore, nonradioactive reagent kits, which do not contain radionuclides, but are defined as "radioactive drugs" under § 310.3(n) (21 CFR 310.3(n)) for other purposes of regulating radiopharmaceuticals, are excluded from the reduced sample retention period for radioactive drugs under this proposal. The agency has tentatively concluded that nonradioactive reagent kits should be included in the reserve sample retention period for nonradioactive drugs, because the expiration date for these drug products, if they have not been compounded with a radionuclide, is unrelated to any rate of radioactive decay. If this distinction presents problems to manufacturers of radioactive pharmaceuticals, comments should be submitted on this proposal.

The agency has also determined that because of the nature of the proposed change, it is in the public interest to allow manufacturers to adopt, on an interim basis, the provisions of this proposal. Thus, manufacturers of radioactive drugs may begin, on the publication date of this proposal, to retain reserve samples of radioactive drugs for a period of 3 months or 6 months as appropriate. Pending the receipt of comments on this proposal and the agency's final decision on the matter, this policy will remain in effect. If the agency determines not to adopt this proposal as a final rule, a notice announcing that decision will be published in the **Federal Register**.

The agency has determined pursuant to 21 CFR 25.24(d)(12) (proposed December 11, 1979, 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 501, 502, 505, 512, 701, 52 Stat. 1049–1053 as amended, 1055–1056 as amended, 82 Stat. 343–351 (21 U.S.C. 351, 352, 355, 360b, 371)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 211 be amended by revising § 211.170 to read as follows:

§ 211.170 Reserve samples.

(a) An appropriately identified reserve sample that is representative of each lot in each shipment of each active ingredient shall be retained. The reserve sample consists of at least twice the quantity necessary for all tests required to determine whether the active ingredient meets its established specifications, except for sterility and pyrogen testing. The retention time is as follows:

(1) For an active ingredient in a drug product other than those described in paragraphs (a)(2) and (3) of this section, the reserve sample shall be retained for 1 year after the expiration date of the last lot of the drug product containing the active ingredient.

(2) For an active ingredient in a radioactive drug product, except for nonradioactive reagent kits, the reserve sample shall be retained for:

(i) Three months after the expiration date of the last lot of the drug product containing the active ingredient if the expiration dating period of the drug product is 30 days or less; or

(ii) Six months after the expiration date of the last lot of the drug product containing the active ingredient if the expiration dating period of the drug product is more than 30 days.

(3) For an active ingredient in an OTC drug product that is exempt from bearing an expiration date under § 211.137, the reserve sample shall be retained for 3 years after distribution of the last lot of the drug product containing the active ingredient.

(b) An appropriately identified reserve sample that is representative of each lot or batch of drug product shall be retained and stored under conditions consistent with product labeling. The reserve sample shall be stored in the same immediate container-closure system in which the drug product is marketed or in one that has essentially the same characteristics. The reserve sample consists of at least twice the quantity necessary to perform all the required tests, except those for sterility and pyrogens. Reserve samples, except those drug products described in paragraph (b)(2), shall be examined visually at least once a year for evidence of deterioration unless visual examination would affect the integrity of the reserve samples. Any evidence of reserve sample deterioration shall be investigated in accordance with § 211.192. The results of the examination shall be recorded and maintained with other stability data on the drug product. Reserve samples of compressed medical gases need not be retained. The retention time is as follows:

(1) For a drug product other than those described in paragraphs (b)(2) and (3) of this section, the reserve sample shall be retained for 1 year after the expiration date of the drug product.

(2) For a radioactive drug product, except for nonradioactive reagent kits, the reserve sample shall be retained for:

(i) Three months after the expiration date of the drug product if the expiration dating period of the drug product is 30 days or less; or

(ii) Six months after the expiration date of the drug product if the expiration dating period of the drug product is more than 30 days.

(3) For an OTC drug product that is exempt from bearing an expiration date under § 211.137, the reserve sample must be retained for 3 years after the lot or batch of drug product is distributed.

Interested persons may, on or before January 27, 1981 submit to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Note.—In accordance with Executive Order 12044, as amended by Executive Order 12221, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Dockets Management Branch, Food and Drug Administration.

Dated: November 19, 1980.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–36869 Filed 11–28–80; 8:45 am]
BILLING CODE 4110–03–M

21 CFR Part 452

[Docket No. 80N–0406]

Erythromycin Enteric-Coated Tablets; Revision of Disintegration Standard

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to amend the antibiotic drug regulations by revising the disintegration standard for erythromycin enteric-coated tablets for human use. This revision will assure better quality control of this product.

DATES: Comments by January 27, 1981; requests for informal conference by December 29, 1980.

ADDRESS: Written comments and conference request to the Hearing Clerk

(HFA–305), Food and Drug

Therefore, under the Federal Food,

SUMMARY: The Food and Drug

within 21 days after the first injection.

of Food and Drugs (21 CFR 5.1), it is

ACTION: Extension of comment period on

(HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Bureau of Drugs (HFD–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: At the request of a manufacturer, FDA proposes to amend the antibiotic drug regulations by revising the disintegration standard for erythromycin enteric-coated tablets from 2 hours to 1 hour and 25 minutes.

Enteric-coated tablets are indicated where a drug may be destroyed or inactivated by the gastric (stomach) juice or where it may irritate the gastric lining. The disintegration test for enteric-coated tablets (21 CFR 436.212(e)(3)) measures the rate of disintegration of this dosage form and is performed in two steps. The tablets are first immersed in simulated gastric fluid for 60 minutes. If the tablets have not disintegrated, they are placed in simulated intestinal fluid for the time specified in the individual monograph (regulation) minus 60 minutes. The monograph providing for erythromycin enteric-coated tablets specifies a total disintegration time period of 2 hours. This allows for 60 minutes in simulated gastric fluid and 60 minutes in simulated intestinal fluid. If the tablets have not disintegrated in 2 hours, they do not meet the standard for disintegration.

Based on a review of disintegration times of more than 80 batches of erythromycin enteric-coated tablets and in consideration of reasonable variations due to product aging and test method performance, the manufacturer recommends that the 60 minutes in simulated intestinal fluid be reduced to 20 minutes.

FDA has reviewed the data submitted by the manufacturer requesting the change and other manufacturers involved and concludes that a disintegration time period of 25 minutes in simulated intestinal fluid is a more accurate time period. Therefore, FDA is proposing that a disintegration standard of 1 hour and 25 minutes be established for erythromycin enteric-coated tablets.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742), that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 452 be amended in § 452.110b(a)(1) by revising the fourth sentence to read as follows:

§ 452.100b Erythromycin enteric-coated tablets.

(a) * * *

(1) * * * Each tablet shall disintegrate within a total time of 1 hour and 25 minutes. * * *

* * * * *

Interested persons may, on or before January 27, 1981 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may also, on or before December 29, 1980 submit to the Hearing Clerk (address above) a request for an informal conference. The participants in an informal conference, if one is held, will have until January 27, 1981, or 30 days after the day of the conference, whichever is later, to submit their comments.

Note.—In accordance with Executive Order 12044, as amended by Executive Order 12221, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: November 18, 1980.

Mary A. McEniry,

Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc. 80-36870 Filed 11-26-80; 8:45 a.m.]

BILLING CODE 4110-03-M

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21 CFR Part 640

[Docket No. 80N–0436]

Additional Standards for Human Blood and Blood Products; Source Plasma (Human)

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to amend the biologics regulations concerning the additional standards for Source Plasma (Human) to clarify the conditions under which initial medical examinations are to be performed on a donor who is to be immunized for the production of high titer plasma. This action is being taken to avoid unnecessary duplication of the initial medical examination for a donor who has previously undergone an initial medical examination for plasmapheresis and who is subsequently to be immunized for the production of high titer plasma.

DATE: Comments by January 27, 1981. The proposed effective date of the final rule is 30 days after the date of its publication in the Federal Register.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: T. Rada Proehl, Bureau of Biologics (HFB–620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 12, 1976 (41 FR 10762), FDA amended the Source Plasma (Human) regulations in §§ 640.60 through 640.70 (21 CFR 640.60 through 640.70) by redefining Source Plasma (Human) and clarifying and strengthening the standards in light of the inspectional and other regulatory experiences of the agency. Section 640.63(b) was amended to require that (1) the initial medical examination of a donor who is to be immunized for the production of high titer plasma must be performed within 1 week before the first immunization injection, and (2) the medical examination for plasmapheresis need not be repeated if the first donation occurs within 21 days after the first injection.

In the preamble to the March 12, 1976 final rule, FDA responded to submitted information indicating that donors receiving immunization injections for the production of high titer plasma are often immunized a week or more before their first physical examination for a plasmapheresis donation. The agency concluded that the initial medical examination must be performed before the immunization procedure is begun in the interest of the health of these donors. In addition, the agency concluded that a medical examination need not be repeated for an immunized donor if the first donation occurred within 21 days after the first injection. These requirements were promulgated with the intention of preventing a first time plasmapheresis donor from being immunized for the production of high titer plasma before the initial medical examination for plasmapheresis is performed.

From a review of inspection reports of establishments collecting plasma, FDA finds that § 640.63(b)(2) has been interpreted to require that all donors being immunized for the production of high titer plasma receive an initial medical examination before immunization. This interpretation includes an active plasmapheresis donor who has previously received an initial medical examination for plasmapheresis pursuant to § 640.63(b)(1). FDA advises that these requirements are not intended to apply to a donor who is actively participating in a plasmapheresis program, because an active plasmapheresis donor should have received an initial medical examination pursuant to § 640.63(b)(1). FDA believes that the repetition of the initial medical examination for an active plasmapheresis donor who is to be immunized for the production of high titer plasma is unnecessary and is a misapplication of § 640.63(b)(2). Accordingly, the agency is proposing to amend § 640.63(b)(2) to specify that the initial medical examination for a donor who is to be immunized for the production of high titer plasma need not be repeated when the donor has undergone an initial medical examination for plasmapheresis in accordance with § 640.63(b)(1). This proposed action is also consistent with Executive Order 12044 "Improving Government Regulation," which requires, among other things, that regulations be simple and clear and reviewed periodically to determine their continued need.

The agency proposes that the effective date of any final regulation issued under this proposed 30 days after publication of the final regulation in the Federal Register.

The agency has determined pursuant to 21 CFR 25.24(d)(10) (proposed December 11, 1979, 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 701 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 640 be amended in § 640.63(b)(2), to read as follows:

§ 640.63 Suitability of donor.

* * * * *

(b) *Initial medical examinations.* (1) * * *

(2) A donor who is to be immunized for the production of high titer plasma shall be examined by a qualified licensed physician. The medical examination shall be performed within no more than 1 week before the first immunization injection. A donor who is an active participant in a plasmapheresis program, and has been examined in accordance with paragraph (b)(1) of this section, need not be reexamined before immunization. The medical examination for plasmapheresis need not be repeated, if the first donation occurs within 21 days after the first injection.

* * * * *

In accordance with Executive Order 12044, as amended by Executive Order 12221, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Dockets Management Branch (formerly the Hearing Clerk's office), Food and Drug Administration.

Interested persons may, on or before January 27, 1981, submit to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 20, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-37036 Filed 11-26-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 801 and 899

[Docket No. 80N–0071]

Restricted Devices; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Extension of comment period on proposed rule.

SUMMARY: The Food and Drug Administration (FDA) extends the time for submission of comments on the proposed rule to restrict the sale, distribution, or use of certain medical devices. FDA is taking this action in response to requests for an extension of the comment period.

DATE: The deadline for written comments is extended until January 16, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael A. Lidsky, Bureau of Medical Devices (HFK–70), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7114.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 3, 1980 (45 FR 65619), FDA published for public comment a proposed rule that would restrict the sale, distribution, or use of certain medical devices. The proposed rule was subject to a 60-day comment period which is scheduled to close December 2, 1980. FDA has received several requests for an extension of the comment period because of the complexity of the proposal and its potential impact on the medical device industry.

FDA agrees that the proposal is complex and potentially far-reaching and believes that additional time for the preparation and submission of meaningful and carefully proposed comments is in the public interest. The agency, therefore, finds in accordance with section 520(d)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360j(d)(2)) that good cause exists to grant, and is granting, a 45-day extension of the comment period to January 16, 1981.

Dated: November 20, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-37002 Filed 11-24-80; 12:17 pm]

BILLING CODE 4110-03-M

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 261

Heritage Preservation; Extension of Comment Period

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule, extension of comment period.

SUMMARY: On September 15, 1980, in 45 FR 60923, a proposed rule was published concerning procedures to be followed by the Bureau of Indian Affairs in fulfilling the requirements of the National Historic Preservation Act (16 U.S.C. 470(f)) and the regulations issued by the Advisory Council on Historic Preservation (36 CFR Part 800). The comment period for that publication ended on November 14. This document extends the comment period to December 30, 1980. The reason for extending the comment period is that several Indian tribes have requested additional time to submit comments and some tribes requested that additional hearings be scheduled.

DATES: The comment period is hereby extended to December 30, 1980. Public hearings will be held on December 12 in Spokane, Washington, and on December 13 in Wisconsin.

ADDRESSES: Send comment to the Director, Office of Trust Responsibilities, Bureau of Indian Affairs, U.S. Department of the Interior, Washington, D.C. 20245.

The public hearings will be held as follows:

December 12—Federal Courthouse, 920 Riverside, Spokane, Washington, at 10:00 a.m.

December 13—Tri-County Ojibwa Center, State Highway 70, one mile west of Hertel, Wisconsin.

FOR FURTHER INFORMATION CONTACT: William C. Allan, Bureau of Indian Affairs, Albuquerque Area Office, (505) 766–3374, (FTS) 474–3374, or Dean Suagee, Bureau of Indian Affairs, Washington, D.C., (202) 343–8248, (FTS) 343–8248.

Philip S. Deloria,

Assistant Secretary—Indian Affairs.

November 19, 1980.

[FR Doc. 80–37003 Filed 11–26–80; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–228–78]

Income Tax—Partnerships and Investments Credit for Used Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulation amendments relating to partnerships and investment credit for certain used property. The amendments are necessary to make the regulations consistent with recent court cases.

DATES: Written comments and requests for a public hearing must be delivered or mailed by January 27, 1981. The amendments are proposed to be effective immediately.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR–228–78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Carolyn Swift of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224 (Attention: C:LR:T) (202–566–3458) (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Under section 38 of the Internal Revenue Code of 1954, an investment credit is available to taxpayers who purchase "used section 38 property". Under section 48(c), which defines "used section 38 property", however, property is not treated as "used section 38 property" if it is used after the taxpayer acquires it by the same person who used it before the taxpayer acquired it. Regulation § 1.48–3(a)(2)(ii)(*a*) states that property used by a partnership is considered as used by each partner. The regulation does not make any reference to the extent of the partner's interest in the partnership. Thus, for example, under this regulation if a partner owning a one third interest in the partnership purchases section 38 property from the partnership, that property will not qualify as "used section 38 property". The same is true of a partnership which purchases property from that partner.

The United States Tax Court in *Edward A. Moradian,* 53 T.C. 202 (1969), held the regulation to be invalid to the extent that it attributes use by the partnership to a partner who has a 50 percent or less interest in the partnership. The Tax Court was widely divided on the issue, however, and the Commissioner entered a nonacquiescence in the decision. 1973–2 C.B. 4. Since that time, however, there have been other cases affirming the holding of the majority in *Moradian,* including the decision of the United States Court of Appeals for the Fifth Circuit in the case of *Holloman* v. *Commissioner,* 551 F.2d 987 (5th Cir. 1977), *aff'g* T.C.M. 1975–309.

Following these court cases, a decision was made to change the practice of the Internal Revenue Service and allow a credit in cases where a partner owning a 50 percent or less interest in the partnership acquires the property from the partnership or where a partnership acquires the property from a partner owning a 50 percent or less interest in the partnership. The proposed regulation amendments, therefore, delete the portions of the existing regulations which were declared invalid in the court decisions and which no longer represent the Service's position. The proposed regulations are to be issued under the authority contained in sections 38(b) and 7805 of the Internal Revenue Code of 1954 (76 Stat. 962, 26 U.S.C. 38(b); 68A Stat. 917, 26 U.S.C. 7805).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is Carolyn Swift of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, Personnel from other Offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed Amendments to the Regulations

The Income Tax Regulations (26 CFR Part 1) are proposed to be amended as follows:

§ 1.48–3 [Amended]

Section 1.48–3 is amended by deleting "(*a*) property used by a partnership shall be considered as used by each partner; and (*b*)" from paragraph (a)(2)(ii) and by deleting Example 5 from paragraph (a)(3).

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80–37120 Filed 11–26–80; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 40

Standards for Inmate Grievance Procedures

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The "Civil Rights of Institutionalized Persons Act," requires that the Attorney General of the United States promulgate minimum standards for inmate grievance procedures and establish a method of certifying such procedures. The following is proposed in fulfillment of these requirements.

DATE: Comments are due on or before December 29, 1980.

ADDRESS: Comments should be sent to: William R. Yeomans, Attorney-Advisor, Office for Improvements in the Administration of Justice, Department of Justice, Room 4250, Main Justice Building, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: William R. Yeomans, Attorney-Advisor, Office for Improvements in the Administration of Justice, Department of Justice, Room 4250, Main Justice Building, Washington, D.C. 20530 (202–633–4582).

SUPPLEMENTARY INFORMATION: "The Civil Rights of Institutionalized Persons Act" of 1980 grants the Attorney General authority to initiate and to intervene in civil actions against states and their political subdivisions to protect the federal rights of institutionalized persons. It also encourages the protection of constitutional rights of adults in correctional facilities by encouraging the development and implementation of administrative mechanisms for the resolution of prisoner grievances within institutions.

The Act requires that the Attorney General develop minimum standards for prisoner grievance mechanisms in adult correctional and detention facilities. States and their political subdivisions voluntarily may submit plans for grievance mechanisms to the Attorney General for certification that they comply with the standards. Courts may continue cases filed pursuant to 42 U.S.C. 1983 by adults confined in correctional or detention facilities for a period of up to 90 days in order to allow exhaustion of the grievance mechanism, if the Attorney General has certified, or the court determines that the grievance mechanism is in substantial compliance with the minimum standards promulgated by the Attorney General. Such continuances should only occur if the issues raised in the action pursuant to 42 U.S.C. 1983 reasonably can be expected to be resolved by the grievance mechanism.

Section 7, Pub. L. 96–247, 94 Stat. 353 (42 U.S.C. 1997e) requires that the minimum standards for grievance mechanisms provide for an advisory role for employees and prisoners in the formulation, implementation, and operation of the mechanism; specific time limits for written replies to grievances including explanations of decisions; priority processing of emergency grievances; safeguards to prevent reprisals against grievants; and independent review of grievance decisions "by a person or other entity not under the direct supervision or direct control of the institution."

The Act also requires that the Attorney General develop a certification procedure to determine whether grievance procedures submitted to the Attorney General are in substantial compliance with the minimum standards.

For the reasons set forth in the preamble and under the authority of Pub. L. 96–247, 94 Stat. 349 (42 U.S.C. 1997), the Attorney General proposes to add a new part 40 to Title 28, Code of Federal Regulations as follows.

Dated: November 21, 1980.

Benjamin R. Civiletti,

Attorney General.

PART 40—STANDARDS FOR INMATE GRIEVANCE PROCEDURES

Subpart A—Minimum Standards for Inmate Grievance Procedures

Sec.
40.1 Definitions.
40.2 Adoption of procedures.
40.3 Communication of procedures—written and oral explanations—training.
40.4 Accessibility.
40.5 Applicability.
40.6 Remedies.
40.7 Operation and decision.
40.8 Emergency procedure.
40.9 Reprisals.
40.10 Records—nature; confidentiality.
40.11 Evaluation.

Subpart B—Procedures for Obtaining Certification of a Grievance Procedure

Sec.
40.12 Submissions by applicant.
40.13 Notice of intent to apply for certification.
40.14 Review by the Attorney General.
40.15 Conditional certification.
40.16 Full certification.
40.17 Denial of certification.
40.18 Reapplication after denial of certification.
40.19 Suspension of certification.
40.20 Withdrawal of certification.
40.21 Contemplated change in certified procedure.
40.22 Notification of court.
40.23 Significance of certification.
Appendix A—Commentary.

Authority: Pub. L. 96–247, 94 Stat. 349 (42 U.S.C. 1997).

Subpart A—Minimum Standards for Inmate Grievance Procedures

§ 40.1 Definitions.

For purposes of this part—

(a) "Act" means the Civil Rights of Institutionalized Persons Act of 1980, Pub. L. 96–247, 94 Stat. 349, (42 U.S.C. 1997).

(b) "Applicant" means a state or political subdivision of a state that submits to the Attorney General a request for certification of a grievance procedure.

(c) "Attorney General" means the Attorney General of the United States or the Attorney General's designees.

(d) "Grievance" means a written complaint by an inmate on his own behalf regarding a policy applicable within an institution, an action involving an inmate of the institution, or an incident occurring within the institution. The term "grievance" does not include a complaint relating to a parole decision.

(e) "Inmate" means an individual confined in an institution for adults who has been convicted of a crime.

(f) "Institution" means a jail, prison, or other correctional facility, or pretrial detention facility that houses adults and is owned, operated, or managed by or provides services on behalf of a state or political subdivision of a state.

(g) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

(h) "Substantial compliance" means that there is no omission of any essential part from compliance, that any omission consists only of an unimportant defect or omission, and that there has been a firm effort to comply fully with the standards.

§ 40.2 Adoption of procedures.

Each institution seeking certification of its grievance procedure for purposes

of the Act shall adopt a written grievance procedure. Inmates and employees shall be afforded an advisory role in the formulation and implementation of a grievance procedure adopted after the effective date of these regulations, and shall be afforded an advisory role in reviewing the compliance with the standards set forth herein of a grievance procedure adopted prior to the effective date of these regulations.

§ 40.3 Communication of procedures—written and oral explanations—training.

The written grievance procedure shall be distributed to all employees and inmates of the institution, together with explanatory materials reasonably necessary to ensure that potential participants understand how to use the procedure. Additionally, each inmate and employee shall, upon arrival at the institution and periodically thereafter, receive an oral explanation of the procedure including the opportunity to have questions regarding the procedure answered orally. Explanatory materials and oral presentations shall be available in any language spoken by a significant portion of the institution's population. An inmate who does not understand a language spoken by a significant portion of the institution's population shall receive an explanation of the grievance procedure in a language in which the inmate is fluent. Impaired and handicapped inmates shall receive explanations in a manner comprehensible to them. All employees of the institution who may reasonably be expected to operate or participate in the grievance procedure.

§ 40.4 Accessibility.

Each inmate shall be entitled to invoke the grievance procedure regardless of any disciplinary, classification, or other administrative or legislative decision to which the inmate may be subject. The institution shall ensure that the procedure is accessible to impaired and handicapped inmates.

§ 40.5 Applicability.

The grievance procedure shall be applicable to a broad range of complaints and shall state specifically the types of complaints covered and excluded. At a minimum, the grievance procedure shall permit complaints by inmates regarding policies and conditions within the jurisdiction of the institution or the correctional agency that affect them personally, as well as actions by employees and inmates, and incidents occurring within the institution that affect them personally. The grievance procedure shall not supplant disciplinary procedures.

§ 40.6 Remedies.

The grievance procedure shall afford a successful grievant a meaningful remedy. Acceptable forms of relief may include, but are not limited to monetary remedies, restitution of property, reclassification, correction of records, personnel actions, agreement by institution officials to remedy an objectionable condition within a reasonable, specified time, and a change in an institution policy or practice. Although available remedies may vary among institutions, a reasonable range of meaningful remedies in each institution is necessary.

§ 40.7 Operation and decision.

(a) *Initiation.* The procedure for initiating a grievance shall be simple and include the use of a standard form. Necessary materials shall be freely available to all inmates and assistance shall be readily available for inmates who cannot complete the forms themselves. Forms shall not demand unnecessary technical compliance with formal structure or detail, but shall encourage a simple and straightforward statement of the inmate's grievance.

(b) *Inmate and employee participation.* The institution shall provide a role for employees and inmates in the operation of the system in such a manner as to promote the credibility and use of the grievance procedure. At a minimum, some employees and inmates shall be permitted to participate directly in an advisory capacity in the disposition of grievances challenging general policy and practices and to review the effectiveness and credibility of the grievance procedure. To protect confidentiality, an inmate shall not participate in the resolution of another inmate's grievance over an objection by the grievant.

(c) *Investigation and consideration.* The institution shall establish a procedure for investigating the allegations and establishing the facts of each grievance. No inmate or employee who appears to be involved in the matter shall participate in any capacity in the resolution of the grievance.

(d) *Reasoned, written responses.* Each grievance shall be answered in writing at each level of decision and review. The response shall state the reasons for the decision reached and shall include a statement that the inmate is entitled to further review, if such is available, and shall contain simple directions for obtaining such review.

(e) *Fixed time limits.* Responses shall be made within fixed time limits at each level of decision. Time limits may vary between institutions, but expeditious processing of grievances at each level of decision is essential to prevent grievances from becoming moot. In all instances must be processed from initiation to final disposition in less than 90 days, unless the grievant agrees in writing to an extension for a fixed period. Expiration of a time limit at any stage of the process shall entitle the grievant to move to the next stage of the process, unless the grievant has agreed in writing to an extension of the time for a response.

(f) *Review.* The grievant shall be entitled to review by a person or other entity, not under the institution's supervision or control, of the disposition of all grievances concerning alleged reprisals by an employee against an inmate and grievances concerning the substance or general application of policy. A grievance challenging a policy promulgated by the correctional agency that supervises the institution shall be reviewed by a person or other entity not under the supervision or control of the correctional agency. The correctional agency must give serious consideration to the results of such review, but need not agree to be bound by the results. A request for review shall be allowed automatically without interference by administrators or employees of the institution or correctional agency and such review shall be conducted without influence or interference by administrators or employees of the institution or correctional agency.

§ 40.8 Emergency procedure.

The grievance procedure shall contain special provision for responding to grievances of an emergency nature. Emergency grievances shall be defined, at a minimum, as matters regarding which disposition according to the regular time limits would subject the inmate to a substantial risk of personal injury, or cause other serious and irreparable harm to the inmate. The grievance procedure shall state specifically the matters that will be reviewed under the emergency procedure. Emergency grievances shall be forwarded immediately, without substantive review to the level at which corrective action can be taken. The procedure for resolving emergency grievances shall provide for expedited responses at every level of decision. The emergency procedure shall also include review by a person or entity not under the supervision or control of the institution.

§ 40.9 Reprisals.

The grievance procedure shall prohibit reprisals against inmates for their use of the procedure, and shall specify the steps that will be taken to prevent and redress reprisals, and the penalties for engaging in a reprisal. "Reprisal" means any action or threat of action against an inmate based on the inmate's use of or participation in the grievance procedure. Each inmate must be given written assurance that use of or participation in the grievance mechanism will not result in formal or informal reprisals against the inmate. Employees of the institution shall also be given assurances that they will not be subject to reprisals resulting from their participation in the grievance procedure. An inmate shall be entitled to pursue through the grievance procedure a complaint that a reprisal occurred against the inmate.

§ 40.10 Records—nature; confidentiality.

(a) *Nature.* Records regarding the filing and disposition of grievances shall be collected and maintained systematically by the institution. Such records shall be preserved for at least three years following final disposition of the grievance. At a minimum, such records shall include aggregate information regarding the numbers, types and dispositions of grievances, as well as individual records of the date of and the reasons for each disposition at each stage of the procedure.

(b) *Confidentiality.* Records regarding the participation of an individual in grievance proceedings shall not be available to staff or other inmates, except to the extent that access for clerical processing of the records is necessary. Such records shall not be available to individuals participating in parole decisions. Records of any testimony or evidence received in connection with a grievance proceeding shall not be made available to staff or other inmates, except to the extent that access for clerical processing is necessary or as hereafter provided. Such records shall not be available to individuals participating in parole decisions. Consistent with ensuring confidentiality, staff and inmates who are participating in the disposition of a grievance shall have access to records essential to the resolution of the grievance.

§ 40.11 Evaluation.

The grievance procedure shall contain a plan for periodic evaluation reports, at least annually, of the performance of the grievance procedure. At a minimum, such evaluation shall report on the inmates' use of the grievance procedure, including information regarding types of grievances filed, types of remedies granted, implementation of remedies, numbers and types of emergency grievances, and the average time for disposition of standard and emergency grievances. The evaluation report shall include recommendations for improvements in the grievance procedure. The evaluation report shall also contain information regarding the costs generated or saved by compliance with 42 U.S.C. 1997e. Evaluation reports shall be reviewed by a person or entity not under the supervision or control of the institution with specific reference to compliance with the standards set forth in §§ 40.2 through 40.10. Such evaluation and review shall be submitted promptly after their completion to the Attorney General.

Subpart B—Procedures for Obtaining Certification of a Grievance Procedure

§ 40.12 Submissions by applicant.

An application for certification shall be submitted to the Office of Inmate Grievance Procedure Certification, Department of Justice, Main Justice Building, Washington, D.C. 20530, and shall contain the following:

(a) *Written statement*—A written statement describing the grievance procedure, including a brief description of the institution or institutions covered by the procedure, with accompanying plans for or evidence of implementation in each institution.

(b) *Instructional materials*—A copy of the instructional materials for inmates and employees regarding use of the grievance procedure together with a description of the manner in which such materials are distributed, a description of the oral explanation of the grievance procedure, including the circumstances under which it is delivered, and a description of the training provided to employees and inmates in the skills necessary to operate the grievance procedure.

(c) *Form*—A copy of the form used by inmates to initiate a grievance and to obtain review of the disposition of a grievance.

(d) *Information regarding past performance*—For a procedure that has operated for more than one year at the time of the application, the applicant shall submit information regarding the number and types of grievances filed over the preceding year, the disposition of the grievances with sample responses from each level of decision, the remedies granted, evidence of compliance with time limits at each level of decision, and a description of the role of inmates and employees in the formulation, implementation, and operation of the grievance procedure.

(e) *Plan for collecting information*—For a procedure that has operated for less than one year at the time of the application, the applicant shall submit a plan for collecting the information described in paragraph (d) of this section.

(f) *Assurance of confidentiality*—A description of the steps taken to ensure the confidentiality of records of individual use of or participation in the grievance procedure.

(g) *Evaluation*—A description of the plans for periodic evaluation of the grievance procedure, including identification of the group, individuals or individual who will conduct the evaluation and identification of the person or entity not under the control or supervision of the institution who will review the evaluation, together with two copies of the most recent evaluation, if one has been performed.

(h) *Public participation*—A list of all local agencies, interested persons and groups that have received a copy of the grievance procedure submitted to the Attorney General.

§ 40.13 Notice of intent to apply for certification.

The applicant shall publish notice of its intent to request certification in at least one newspaper that receives general circulation in the vicinity of each institution to be covered by the application. The notice shall invite comments regarding the grievance procedure and direct them to the Attorney General. A similar notice shall be posted within each institution to be covered by the application.

§ 40.14 Review by the Attorney General.

The Attorney General shall review and respond to each application as promptly as the circumstances, including the need for independent investigation and consideration of the comments of agencies, and interested groups and persons, permit.

§ 40.15 Conditional certification.

If, in the judgment of the Attorney General, a grievance procedure that has been in existence less than one year is at the time of application in substantial compliance with the standards promulgated herein, the Attorney General shall grant conditional certification for one year or until the applicant satisfies the requirements of § 40.16, whichever period is shorter.

§ 40.16 Full certification.

If, in the judgment of the Attorney General, a grievance procedure that has been in existence longer than one year

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at the time of application is in substantial compliance with the standards promulgated herein, full certification shall be granted. Such certification shall remain in effect unless and until the Attorney General finds reasonable cause to believe that the grievance procedure is no longer in substantial compliance with the minimum standards and so notifies the applicant in writing.

§ 40.17 Denial of certification.

If the Attorney General finds that the grievance procedure is not in substantial compliance with the standards promulgated herein, the Attorney General shall deny certification and inform the applicant in writing of the area or areas in which the grievance procedure or the application is deemed inadequate.

§ 40.18 Reapplication after denial of certification.

An applicant denied certification may resubmit an application for certification at any time after the inadequacy in the application or the grievance procedure is corrected.

§ 40.19 Suspension of certification.

(a) *Reasonable belief of non-compliance.* If the Attorney General has reasonable grounds to believe that a previously certified grievance procedure may no longer be in substantial compliance with the minimum standards, the Attorney General shall suspend certification. The suspension shall continue until such time as the deficiency is corrected, in which case certification shall be reinstated, or until the Attorney General determines that substantial compliance no longer exists, in which case, except as provided in paragraph (b) of this section, the Attorney General shall withdraw certification pursuant to § 40.20 of this part.

(b) *Defect may be readily remedied; good faith effort.* If the Attorney General determines that a grievance procedure is no longer in substantial compliance with the minimum standards, but has reason to believe that the defect may be readily corrected and that good faith efforts are underway to correct it, the Attorney General may suspend certification until the grievance procedure returns to compliance with the minimum standards.

(c) *Recertification after suspension pursuant to paragraph (a).* The Attorney General shall reinstate the certification of an applicant whose certification was suspended pursuant to paragraph (a) of this section upon a demonstration in writing by the applicant that the specific deficiency on which the suspension was based has been corrected or that the information that caused the Attorney General to suspend certification was erroneous.

(d) *Recertification after suspension pursuant to paragraph (b).* The Attorney General shall reinstate the certification of an applicant whose certification has been suspended pursuant to paragraph (b) upon a demonstration in writing that the deficiency on which the suspension was based has been corrected.

(e) *Notification in writing of suspension or reinstatement.* The Attorney General shall notify an applicant in writing that certification has been suspended or reinstated and state the reasons for the action.

§ 40.20 Withdrawal of certification.

(a) *Finding of non-compliance.* If the Attorney General finds that a grievance procedure is no longer in substantial compliance with the minimum standards, the Attorney General shall withdraw certification, unless the Attorney General concludes that suspension of certification under § 40.19(b) of this part is appropriate.

(b) *Notification in writing of withdrawal of certification.* The Attorney General shall notify an applicant in writing that certification has been withdrawn and state the reasons for the action.

(c) *Recertification after withdrawal.* An applicant whose certification has been withdrawn and who wishes to receive recertification shall submit a new application for certification.

§ 40.21 Contemplated change in certified procedure.

A proposed change in a certified procedure must be submitted to the Attorney General thirty days in advance of its proposed effective date. The Attorney General shall review such proposed change and notify the applicant in writing before the effective date of the proposed change whether such change will result in suspension or withdrawal of the certification of the grievance procedure.

§ 40.22 Notification of court.

The Attorney General shall notify in writing the Chief Judges of the United States Court of Appeals and of the United States District Court(s) within whose jurisdiction the applicant is located of the certification, suspension of certification, withdrawal of certification and recertification of the applicant's grievance procedure. The Attorney General shall also notify the court of the certification status of any grievance procedure at the request of the court or any party in an action by an adult inmate pursuant to 42 U.S.C. 1983.

§ 40.23 Significance of certification.

Certification of a grievance procedure by the Attorney General shall signify only that on the basis of the information submitted, the Attorney General believes the grievance procedure is in substantial compliance with the minimum standards. Certification shall not indicate approval of the use or application of the grievance procedure in a particular case.

Appendix A—Commentary

Section 40.2 Adoption of procedures.

The essential feature of this standard is the requirement that the grievance procedure be adopted in writing. Written grievance procedures provide assurances to inmates that established procedures exist for processing, reviewing, and resolving their complaints. They also assist institutional administrators and staff by providing guidance regarding the proper handling of inmate complaints.

Section 40.3 Communication of procedures—written and oral explanation.

This standard is intended to ensure that the institution takes reasonable steps to communicate how and when to use the grievance procedure to the inmates. The standard incorporates the requirement of 42 U.S.C. 1997e that inmates and employees participate in the formulation and implementation of the grievance procedure. The type of participation is left to the correctional agency or institution to determine, but it should be of such a nature as to enhance the credibility of the grievance mechanism by fostering a sense of inmate and employee responsibility for the final design and operation of the procedure. For further comment on the need to foster inmate and employee responsibility see Commentary on § 40.7(b) below.

Research on existing grievance mechanisms sheds important light on the need for inmate familiarity with those mechanisms.[1] Many inmates may not develop

[1] The relevant research is limited to general surveys of grievance mechanisms presently in use and evaluations of their effects on such factors as inmate and staff attitudes concerning the resolution of complaints, patterns of use by inmates, and dispositions of grievances resolved. Very few of the studies gather extensive empirical data on the operation and effects of grievance mechanisms. Those that do are limited to individual correctional institutions or systems. Thus, extensive empirical comparisons between the effects of different types of grievance mechanisms on prisons and inmates are not available.

Most of the research simply describes the operation of grievance mechanisms, and inmate and staff perceptions of their fairness and efficiency. It is not possible to draw firm conclusions from this research about the effectiveness of grievance mechanisms in reducing levels of tension or violence in institutions, or even about whether there are significant systematic differences among grievance mechanisms in their effects on prisons. Accordingly, discussion of research in this commentary only summarizes the research findings

Footnotes continued on next page

extensive knowledge of their rights under grievance mechanisms or of the specific procedures used in filing grievances or appealing grievance decisions.[2] Formal orientation involving inmates and staff may reduce apprehension when the grievance mechanisms are introduced, increase awareness of their existence, and stimulate their use in settling disputes.[3]

Thorough orientation and training about grievance mechanisms is necessary for both inmates and staff. Orientation for inmates might involve both inmate and staff participation, and should attempt to increase inmates' knowledge of rules and procedures in filing grievances and appealing grievance decisions. Training for employees and inmates should cover the skills necessary to participate in and, where appropriate, operate the grievance procedure. Active involvement and support by the institutional administration in training and orientation is important.[4]

Section 40.4 Accessibility.

An inmate must have access to the grievance procedure, regardless of personal impairments or handicaps. The purposes of a grievance procedure cannot be fulfulled if certain classes of inmates are prevented from using it. The provisions of 42 U.S.C. 1997e apply to adult inmates convicted of crimes. Although juveniles and pretrial detainees are excluded, as a matter of sound policy and equal treatment, institutions containing mixed populations are encouraged to open the grievance procedure to all inmates, despite the ability of inmates not covered by the Act to proceed directly to court.

Section 40.5 Applicability.

The range of complaints to which the grievance procedure applies and the types of remedies that the procedure affords are fundamental features of the design of a grievance mechanism. Pursuant to 42 U.S.C. 1997e, a court may stay any inmate action filed under 42 U.S.C. 1983 for 90 days to allow exhaustion of a grievance procedure. If exhaustion is to be a realistic alternative in such cases, the grievance procedure must be applicable to many complaints that could be raised in an action under section 1983 and the relief available under the procedures must approximate the remedies available under the statute. Otherwise, a major purpose of the "Civil Rights of Institutionalized Persons Act"—to permit non-judicial resolution of inmate grievances—may not be realized.

Grievance mechanisms should explicitly state what matters or categories of complaints are subject to review under the procedure in order to ensure proper and necessary use of the procedure. General examples of such matters include institutional policies, applications of the policies, actions by employees or other inmates, and living conditions within the institution. There also should be explicit statements of matters not subject to review. Applicants are encouraged to use the grievance procedure to determine whether a complaint is grievable. The grievance procedure shall not supplant disciplinary procedures which are subject to certain constitutional safeguards.

Section 40.6 Remedies.

The requirement that grievance procedures afford meaningful remedies is essential. The procedures should clearly specify the types of remedies that are within their scope and authority. Examples of such remedies include monetary relief, restitution of a grievant's property, correction of records, reclassification, and changes in institutional policies or practices that are the subject of grievances. As stated previously, if the purposes of the Civil Rights of Institutionalized Persons Act are to be fulfilled, grievance procedures must be empowered to award a broad range of remedies.

Section 40.7 Operation and decision.

a. *Initiation.* All inmates should be permitted to file grievances. The requisite materials should be readily accessible to every inmate in the institution, regardless of classification or disciplinary status. Since the effectiveness of a complaint may turn on the ability of the inmate to express the complaint in writing, inmates with handicaps or minimal or diminished capacity for written expression must be afforded assistance in presenting their grievances. However, this standard should not be read as requiring the provision of legal representation for inmates.

In filing grievances, inmates should not be forced to comply with technicalities of form or detail, but should be required only to state their complaint in a simple, straight forward manner. The use of a standard form will assist the simplification of the filing process and assist decision-makers by structuring the presentation of the grievance.

b. *Inmate and employee participation.* Taken in conjunction with § 40.2 of this part, this standard requires inmate and employee participation in the formulation, implementation and operation of the grievance procedure. The exact nature of the participation is left to each applicant for certification with the caveat that the participation must be such as to promote the credibility and use of the grievance procedure.

Inmate participation in an advisory capacity is mandated at the most decentralized level reasonably possible. This requirement is intended to ensure that inmates play a role in the initial consideration of their grievances. Such participation will allow full airing of the dispute at the earliest possible time and promote prompt and efficient settlement of grievances.

Examples of inmate involvement include participation in designing grievance procedures, reviewing the overall operation of the grievance system and working with staff to assure the system is successful and credible. Staff and administration involvement may include participation in the design of grievance procedures, and in dispute resolution through the grievance mechanisms. Administrators may also serve in reviewing capacities.

As a reflection of the concern for confidentiality express in Standard IV(b), this Standard allows an inmate to request that other inmates not participate in the actual resolution of a grievance filed by the inmate. Barring such a request, inmates may have other inmates participate in an advisory capacity in the resolution of their disputes, although the standard does not require that any inmates have access to confidential records. A request that inmates not participate in the resolution of a dispute shall be made by the inmate who filed the grievance and may be withdrawn before the grievance procedure is completed.

Many existing grievance procedures are designed to include inmate participation. A recent survey indicates that under some programs inmates accept and screen incoming grievances, and work together with staff in settling inmates' disputes.[5] The survey also showed that almost one-third of the programs that involve prisoner participation and hearings on grievances give prisoners "decison-making" roles.[6]

There is reason to believe that prisoners in program with participatory grievance mechanisms may be more willing to use the grievance mechanism.[7] A study by Dillingham and Singer suggests that more prisoners feel that complaints are handled fairly and satisfactorily under participatory grievance procedures (those with inmate participation and external review) than do under nonparticipatory procedures.[8] This finding may be due in part to the higher rates of dispositions favoring inmates in correctional systems using participatory grievance procedures.[9]

Another study indicates that prisoners and correctional officers may often feel participatory grievance procedures achieve fair, useful and expeditious resolution of prisoners' complaints.[10] Correctional administrators also feel that, as a general matter, grievance mechanisms are effective in resolving prisoner complaints.[11] Some

Footnotes continued from last page

that are related to the central points of discussion and that are strongly supported across the literature cited.

[2] California Youth Authority, *Final Evaluation of Ward Grievance Procedure at Karl Holton School*, at 26, (1974) [hereinafter cited as California Youth Authority Report].

[3] M. Keating, V. McArthur, M. Lewis, K. Sebelvis, and L. Singer, *Grievance Mechanisms in Correctional Institutions* (1975) [hereinafter cited Keating et al.]; J. Hepburn, J. Lave, and M. Becker, *To Do Justice: An Analysis of the Development of Inmate Grievance Resolution Procedures and a Final Report for the Center for Community Justice* (1978) [hereinafter cited as Hepburn et al.].

[4] Keating et al., *supra* note 3, at 30.

[5] Dillingham and Singer, *Complaint Procedures in Prisons and Jails: An Examination of Recent Experience*, pp. 22–23 (1980).

[6] *Id.*

[7] Keating et al., *supra* note 3, at 9.

[8] Dillingham and Singer, *supra* note 5, at 51, 56 Table XI, XIII.

[9] Id. at 54.

[10] Dillingham, *Right to Be Heard: An Evaluation of the Ward Grievance Procedure in the California Youth Authority*, at 81, 82 Tables 20–21 (1979); Dillingham and Singer, *supra* note 5, at 51, 52; Keating et al., *supra* note 3, at 49–60. Keating et al.'s analysis of 17 correctional systems indicates that more prisoners in programs with participatory grievance procedures feel that disputes are settled in a timely way than prisoners in programs with other grievance mechanisms.

[11] Dillingham, and Singer, *supra* note 5, at 21, 26, [illegible]

administrators indicate that prisioner participation in grievance mechanisms enables prisoners to question and challenge policies more easily, more expeditiously, and at lower levels of decision-making within the institution.[12] Hepburn et al. report that line-officers and staff involved in participatory grievance procedures, who may initially resist involvement due to concerns over weakening authority and reduced autonomy, may come to believe that the procedures improve working conditions by (1) reducing prisoner hostility toward staff, (2) clarifying ambiguous or contradictory policies, and (3) effecting change in unpopular or unenforceable institutional rules.[13] In brief, available evidence shows that grievance mechanisms that provide for inmate and staff involvement tend to be perceived as fair and effective, and thus achieve greater credibility.

c. *Investigation and consideration.* A grievance procedure must have a method for investigating the allegations contained in a grievance and establishing the facts necessary to a just resolution. The method need not be modelled on a strict adversarial approach to grievance resolution, but it may be necessary for inmates to be interviewed personally regardin their grievances.

To enhance the impartiality of grievance decisions, the Standard requires that employees and inmates who are the subject of grievances or were involved in the events that produced the grievance not participate in resolving the grievance.

d. *Reasoned, written responses.* The requirement that grievances receive reasoned, written responses may aid in ensuring that grievances are considered carefully by staff and administrators and may inform administrators whether institution policies and procedures are appropriate and are being implemented properly. Equally important is the possible effect upon an inmate of a reasoned, written response. It will give the inmate some assurance that the grievance has been reviewed and should serve to clarify the institutional policy or practice that was the subject of the grievance. Furthermore, the requirement of a written response provides administrators with a document that identifies the outcome of an inmate's grievance. Thus, reasoned, written responses may enhance inmates' perceptions that they have been treated fairly, and may assist administrators in operating the facility.

There is little research concerning responses to grievances. Dillingham and Singer note that summary replies to grievances such as "Request denied—contrary to policy" were often observed in their analysis of grievance records.[14] Dillingham's analysis of the California Youth Authority grievance procedure indicates that mandatory provision for explanations of grievance decisions has resulted in reasoned replies.[15]

e. *Fixed time limits.* The credibility and practical success of grievance procedures may be enhanced if the procedures result in prompt responses to inmates' complaints. Fixed time limits help to ensure inmates that complaints will not be put off by decision-makers. The standard provides that time limits may not be exceeded unless an inmate agrees in writing to an extension. If the inmate has not agreed to an extension and no response is forthcoming during the prescribed period, the inmate may move to the next stage of review. The standard would not affect the ability of correctional systems and institutions to impose stronger penalties for delay among decision-makers.

Surveys of grievance procedures indicate that a great majority impose time limits on replies to inmates' complaints.[16] Many apply these time limits to all levels of the grievance procedure.[17] There is limited information on the comparative efficiency of grievance procedures with fixed time limits and other grievance mechanisms. Dillingham and Singer indicate there may be more complaints filed per prisoner under grievance procedures allowing inmate participation and employing fixed time limits.[18] Hepburn et al. conclude that the grievance procedure with fixed time limits implemented in South Carolina is more efficient than the state ombudsman program handling similar types of complaints.[19]

In spite of fixed time limits, delays in processing grievances may occur in most grievance mechanisms. Failures to comply with time limits in California's Ward Grievance Procedure, for example, occur most frequently during appellate reviews of grievances.[20] Serious delays may also attend upon the introduction of grievance procedures, as was the case following the introduction of a grievance procedure in New York. There, the most frequent delays took place at the initial hearing stages, as a result of heavy filing of grievances and the difficulty of obtaining attendance at hearings of prisoners subject to special conditions of confinement.[21]

f. *Review.* Review of the disposition of inmate grievances may ensure that institutional policies are applied fairly and objectively and that the procedural guarantees of the grievance procedure itself are observed. The standard states two different minimum requirements for review. For grievances that are based on incidents occuring within the institution or that challenge practices, policies or conditions that only pertain in a specific institution, the standard mandates review by a person or entity not under the control or supervision of the institution. For grievances that challenge policies or practices that apply throughout the correctional system, the standard requires an independent review—that is, by a person or entity wholly outside the correctional system. The review should ordinarily be a step in the grievance procedure. Evidence from the states' experience shows that this step is rarely invoked. Accordingly, fears that heavy burdens may result from this process appear to be unsupported.

Although correctional administrators are expected to be capable of fair and detached consideration of grievances, a structure that ensures that administrators will not be the only individuals reviewing their own policies will enhance the credibility of the grievance procedure among inmates and will furnish administrators with impartial input into their dispositions of grievances. Although the standard directs correctional agencies to consider the views of the reviewing body or individual, it does not require that the views be binding. Review by a correctional agency of the disposition of a grievance by an institution official will be binding.

It is important to recognize that the standard dictates the minimum level of independence of review. Obviously, independence and its appearance increase as the reviewing authority gains distance from the institution and the correctional structure. For instance, greater independence would be achieved by giving reviewing authority to an individual or group which is separate from the executive branch of government. An example of this would be legislatively appointed commission or ombudsman. Still greater independence could be achieved by giving the reviewing commission or official binding authority over grievance decisions and other matters pertaining to grievance decisions. While this type of review may be perceived as challenging the authority of correctional administrators, it might improve the credibility of grievance mechanisms among prisoners and result in increased use of the mechanism in settling disputes. No grievance mechanisms currently permit such a degree of independent review of grievance decisions.[22]

A variety of mechanisms exist, however, that employ impartial or "outside" review by individuals or groups not under the direct supervision of the institution or department of corrections. Prisoners may be more likely to use these grievance mechanisms with impartial review and more likely to perceive them as fair and responsive to their complaints than grievance mechanisms with other forms of review.[23] Mechanisms affording impartial review rely on several different types of reviewers: grievance commissions consisting of persons not affiliated with correctional agencies; ombudsmen acting in conjunction with administrative grievance procedures; the state Attorney General's office acting in the capacity of complaint examiner; arbitration panels; and professional arbitrators acting as mediators in the final stage of grievance appeals. Under all grievance mechanisms using outside review, the reviewing bodies make advisory recommendations to correctional administrators with respect to final settlement of grievances.

Section 40.8 Emergency procedures.

A special emergency grievance procedure is necessary to handle matters that will inevitably arise that would result in serious harm to an inmate or a threat to the safety or security of the institution if they were not treated on an expedited basis. It is important, however, that the procedure state explicitly what matters will be subject to emergency treatment so that inmates may avail themselves of the procedure and frivolous filings will be discouraged and screened out quickly when they occur. Emergency grievances must reach a decisionmaker with authority to take corrective action without passing through preliminary levels of substantive review.

Prisoners in systems with emergency provisions may file "emergency" grievances relatively frequently. For example, forty percent of all grievances filed in the California Youth Authority's system in 1977 were initially declared "emergencies."[24] Although the heavy filing of such grievances may be a burden on the operation of the overall grievance mechanism, the provision for handling grievances on an emergency basis may serve as a "safety valve" for prisoners' immediate reactions to institutional problems as well as a mechanism for settling problems which generally require immediate relief.[25]

Section 40.9 Reprisals.

Reprisals or fear of reprisals may discourage use of the grievance mechanism. No inmate should be subjected to adverse consequences or threats as a result of having invoked or participated in the grievance procedure. Inmates must, therefore, be given a remedy against possible reprisals, at least to the extent of being permitted to complain of reprisals through the grievance procedure. In addition, employees of the institution should be informed that reprisals against inmates will be viewed seriously by the administrators of the institution and correctional agency and met with specific penalties. And, since employees must also be encouraged to participate freely in the grievance procedure, they should receive assurances against reprisals by administrators.

Research on grievance procedures discloses no evidence of formal reprisals against grievants.[26] Evidence of fear of reprisal among prisoners, however, is clear. Approximately, one-in-six prisoners in the California Youth Authority's initial experiment with grievance procedures reported reluctance to use the procedure due to fear of negative consequences.[27] Similar attitudes have been observed among prisoners in New York and South Carolina.[28] A reprisal feared by many is unfavorable intervention in parole decisions.[29] Such fear may harm the credibility of grievance procedures and limit their usefulness.

Standards for grievance mechanisms cannot be expected to prevent all informal reprisals against grievants, but formal reprisals by staff and administration may be deterred by the remedies discussed above in combination with the safeguards contained in other standards, such as those ensuring the confidentiality of grievance files. To minimize informal reprisals, grievance mechanisms might also provide for immediate independent review of allegations of reprisals.

Section 40.10 Records—nature; confidentiality.

a. *Nature.* The systematic collection of information regarding the operation of the grievance mechanism is essential for administrators if they are to ensure that the procedure is operating fairly, effectively and according to its own internal requirements. Examples of information which might be collected include types of grievances filed, nature of disputed issues, final dispositions of grievances, levels of review required, compliance with time limits, and reasons for dispositions of grievances.[30]

b. *Confidentiality.* To prevent reprisals, it is important to keep records of individual inmate use and participation in grievance mechanisms out of the reach of fellow inmates and staff. Similarly, to prevent individuals or bodies making parole decisions from considering inmate use or involvement in grievance procedures as a factor in their deliberations, strict precautions must be taken to ensure that such material is not available to them. Fear on the part of inmates that use of or participation in grievance procedures could affect release decisions negatively may restrict use of the grievance procedure. In addition, fear that testimony or evidence produced during grievance proceedings will become known to persons making release decisions may restrict inmate participation in the proceedings and impede efforts to develop fully and accurately the factual bases of grievances.

Although institutional records are exempted from the disclosure requirements of freedom of information acts in many States, it is not the intent of this standard to override such disclosure requirements where they exist under State law.

Section 40.11 Evaluation.

Only through periodic evaluations can administrators and outside reviewers guarantee that grievance procedures serve the institutional purposes of administrators while also resolving inmates' grievances fairly. An important concern is the availability of information on grievance processing. Development and implementation of record-keeping as discussed in Standard IX will aid in conducting informed evaluations. The standard requires review of the evaluation by a person or group that is not associated with the institution to assist the administrators of the grievance procedure in maintaining compliance with the standards. The evaluation and the review are to be submitted to the Attorney General to assist him in acquitting his obligation to review certified procedures for continuing compliance with the standards.

An additional concern involves criteria used in evaluations to measure the effectiveness of grievance mechanisms. Criteria should be based upon the specific objectives of the grievance mechanism. Due to the inherent difficulties in determining whether grievance mechanisms meet the general objectives of reducing levels of frustration, tension, and violence among prisoners, Keating et al. recommend that criteria of effectiveness simply reflect prisoners' use of grievance mechanisms and whether such use results in clarification and changes in institutional policies.[31]

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[12] Hepburn et al., *supra*, note 3, at 406–407.

[13] Id. at 406; J. Hepburn and J. Laue, "Prisoner Redress: An Analysis of an Inmate Grievance Procedure," 26 *Crime and Delinquency* 162. Hepburn and Laue suggest that prisoners and staff should have equal roles in resolving grievances.

[14] Dillingham and Singer, *supra* note 5, at 65.

[15] Dillingham, *supra* note 10, at 36–40.

[16] Dillingham and Singer, *supra* note 5, at 23.

[17] *Id.*, at Table V.

[18] *Id.*, at 45 Chart 1.

[19] Hepburn et al., *supra* note 3, at 295–299.

[20] Keating et al., *supra* note 3, at 49–60; Hepburn et al. at 254, 345.

[21] Dillingham, *supra* note 10, at 44 Table 15.

[22] Dillingham and Singer, *supra* note 5, at 23, 27; Keating et al., *supra* note 3, at 35–47.

[23] Keating et al., *supra* note 3, at 14; Dillingham and Singer, *supra* note 5, at 43–57. Dillingham and Singer summarize their analysis of interviews with prisoners and staff and examination of records in ten prison systems using different types of grievance mechanisms: "Procedures have a greater chance of success if they include inmates and line staff in resolving complaints, permit appeal to outsiders seen as impartial and adhere to established time limits and other procedural requirements." (at 43) While Dillingham and Singer's findings do not indicate that appellate review by external authorities alone ensures effective dispute resolution, the findings suggest that external review may be necessary to ensure utilization of grievance mechanisms by prisoners and enhance their perception as fair and timely in resolving disputes.

[24] Hepburn et al., *supra* note 3, at 100–101.

[25] *Id.*, at 113.

[26] Hepburn et al., *supra* note 3, at 405.

[27] California Youth Authority Report, *supra* note 2.

[28] Hepburn et al., *supra* note 3, at 162, 281.

[29] Keating et al. *supra* note 3, at 15.

[30] Hepburn et al. *supra* note 3, at 262–264. The standard allows inmates and staff to handle records where necessary for clerical purposes. The most effective method to implement this Standard may be to establish a separate record-keeping system for inmate grievance records. Whenever possible, such records should not be managed or handled by inmates.

[31] Keating et al. *supra* note 3, at 31.

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 80-105]

Drawbridge Operation Regulations; Taylor Creek, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the citizens of Okeechobee City, the Coast Guard is considering amending the regulations governing the operation of the Taylor Creek Bridge on U.S. Highway 441 across Taylor Creek, mile 0.23 to require the draw to open on signal if at least 2 hours notice is given to the local representative. The draw of the bridge presently opens on signal if at least 24 hours advance notice is given to the representative in Fort Pierce, Florida. This proposal is being considered due to an increase in navigation.

DATE: Comments must be received on or before December 29, 1980.

ADDRESS: Comments should be submitted to and are available for

examination from 7:30 a.m. to 4 p.m., § 117.245 **Navigable waters discharging** Southwest First Avenue, Miami, Florida

VHF radiotelephone communications Oceangate, Long Beach, CA 90822, (213) 2100.5 of 52280). An economic

examination from 7:30 a.m. to 4 p.m., Monday through Friday, at the office of the Commander (oan), Seventh Coast Guard District, 51 Southwest First Avenue, Miami, Florida 33130.

FOR FURTHER INFORMATION CONTACT:
James R. Kretschmer, Bridge Administrator, Bridge Section (oan), Room 1006, Federal Building, 51 Southwest First Avenue, Miami, Florida 33130, telephone: (305) 350–4108.

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped self-addressed envelope or post card.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on the proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Ensign Jane L. Hamilton, Bridge Administration Officer, Office of Aids to Navigation Bridge Section, and Lieutenant John M. Griesbaum, Office of Commander, Seventh Coast Guard District, Legal Office.

Discussion of the Proposed Regulation

The proposed regulation is being considered due to the increase of waterborne traffic upon this waterway and the ineffectiveness of the 24 hour advance notice requirement to meet the needs of navigation. Based on the data obtained from Coast Guard investigation during the months of May and June 1979, there has been an increase in waterborne traffic usage from 2 vessels in 1977 to 140 vessels in 1979. The Coast Guard therefore, is presenting this proposal for comment from affected and interested parties.

Present regulations refer to this road as State Road 15; this has been changed to U.S. Highway 441 to reflect the designation by which this road is more commonly known.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.245(h)(29) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets, bridges where constant attendance of draw tenders is not required.

* * * * *

(h) * * *

(29) Taylor Creek, U.S. Highway 441, Okeechobee, Florida. The draw shall open on signal if at least 2 hours notice is given to the Florida Department of Transportation Substation Maintenance Yard, Okeechobee, Florida.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: 14 November 1980.

B. L. Stabile,
Rear Admiral, U.S. Coast Guard Commander, Seventh Coast Guard District.

[FR Doc. 80-37116 Filed 11-26-80; 8:45 am]
BILLING CODE 4910-14-M

33 CFR Part 117

[CGD 80–150]

Drawbridge Operation Regulations; Savannah River, Clyo, Ga.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Seaboard Coast Line Railroad Company, the Coast Guard is considering amending the regulations governing the operation of the Seaboard Coast Line Railroad drawbridge across the Savannah River at Clyo, Georgia, to require that the draw open on signal from 6:00 a.m. to 11:00 a.m. and from 12:00 noon to 3:00 p.m. and that the draw open on signal at all other times if at least three hours notice is given. Radiotelephone communications will be installed in the bridge tenders house for waterborne communications. If the Seaboard Coastline's request is granted, it will be relieved of the responsibility of providing full-time drawtenders and may still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before December 29, 1980.

ADDRESS: Comments should be submitted to and are available for examination from 7:30 a.m. to 4 p.m., Monday through Friday, at the office of the Commander (oan), Seventh Coast Guard District, 51 Southwest First Avenue, Miami, Florida 33130.

FOR FURTHER INFORMATION CONTACT:
James R. Kretschmer, Bridge Administrator, Bridge Section (oan), Room 1006, Federal Building, 51 Southwest First Avenue, Miami, Florida 33130, telephone: (305) 350–4108.

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in this proposed rule making by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped self-addressed envelope or post card.

The Commander, Seventh Coast Guard District will evaluate all communications received and determine a course of final action on the proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION: The principal persons involved in drafting this proposal are: Ensign Jane L. Hamilton, Bridge Administration Officer, Office of Aids to Navigation Bridge Section and Lieutenant John M. Griesbaum, Office of Commander, Seventh Coast Guard District, Legal Office.

Discussion of the Proposed Regulations

The draw is presently required to open on signal at all times. This change is being considered because there are limited requests for openings during the periods in which advance notice would be required. From 1971 through 1979, an average of one draw opening occurred every three days from 3 p.m. to 6 a.m.

The bridge owner has agreed to the installation and maintenance of radiotelephone communications at the bridge site and the dispatcher's office in Savannah.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by adding a new paragraph (h)(12–a) immediately after paragraph (h)(12) of § 117.245 to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.

* * * * *

(h) * * *

(12–a) Savannah River, mile 60.9, Seaboard Coastline Railroad bridge, Clyo, Georgia. The draw shall open on signal from 6:00 a.m. to 11:00 a.m. and from 12:00 noon to 3:00 p.m. At all other times the draw shall open on signal if at least three hours notice is given.

VHF radiotelephone communications will be maintained at the bridge tenders house and the dispatcher's office in Savannah, Georgia.

* * * * *

(33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(g)(3))

Dated: 14 November 1980.

B. L. Stabile,
Rear Admiral, U.S. Coast Guard, Commander. Seventh Coast Guard District.

[FR Doc. 80-37117 Filed 11-26-80; 8:45 am]
BILLING CODE 4910-14-M

33 CFR Part 110

[CGD11–80–09]

Special Anchorage Areas; Mission Bay, San Diego, Calif.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard proposes to establish, at the request of the City of San Diego Park and Recreation Department, four Special Anchorage Areas within Mission Bay. The areas affected are presently utilized for the anchorage and mooring of pleasure vessels. Designation as Special Anchorage Areas under the control of the City of San Diego Park and Recreation Department Mission Bay Harbor Police will allow for a more orderly and efficient utilization of the water areas.

The areas proposed for designation are well removed from any fairway and are located where general navigation will not endanger or be endangered by unlighted vessels. Establishment of Special Anchorage Areas will eliminate the necessity of displaying anchor lights or sounding fog signals on vessels of not more than sixty-five feet in length while anchored within the area.

DATE: Comments must be received on or before 20 January 1981.

ADDRESSES: Comments should be submitted to Commander, Eleventh Coast Guard District (m), 400 Oceangate, Long Beach, CA 90822. Comments received will be available for examination at the Marine Safety Division, Office of the Commander, Eleventh Coast Guard District, Room 917, Union Bank Building, 400 Oceangate, Long Beach, CA 90822. Normal office hours are between 0730 and 1600, Monday through Friday, except holidays. Comments may be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT:
Lieutenant Commander James B. Morris, Marine Safety Division, Eleventh Coast Guard District, Union Bank Building, 400 Oceangate, Long Beach, CA 90822, (213) 590–2301.

SUPPLEMENTARY INFORMATION:
Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their name and address, identify this notice (CGD11–80–09), the specific section of the proposal to which their comments apply, and give reasons for the comment. Persons desiring acknowledgement that their comment has been received should enclose a stamped, self-addressed postcard or envelope.

All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

DRAFTING INFORMATION: The principal persons involved in drafting the proposal are: Lieutenant Commander James B. Morris, Project Officer, Marine Safety Division, Eleventh Coast Guard District; and Commander Rene N. Roussel, Project Attorney, District Legal Office, Eleventh Coast Guard District.

Discussion of the Proposed Rule:
Article 11(c) of the Navigation Rules for Harbors, Rivers and Inland Waters, Inland Rules (33 USC 180) provides for the establishment of "Special Anchorage Areas" by the Secretary of Transportation (delegated to the Coast Guard in 49 CFR 1.05–1(g)). The designation as a Special Anchorage Area exempts anchored vessels not more than sixty-five feet in length from displaying the required single anchor light or sounding the rapidly ringing bell fog signal.

Previously vessels have anchored in the proposed areas with verbal permission from the Mission Bay Harbor Police to not display the required light when at anchor. Designation as a Special Anchorage Area will allow for orderly and efficient management of the water areas.

A preliminary environmental evaluation has been completed and an initial determination has been made that this proposed action would result in no adverse impact on the quality of the human environment.

Summary of Draft Evaluation: These proposed regulations are considered to be nonsignificant in accordance with the guidelines set out in the Policies and Procedures for Simplication, Analysis, and Review of Regulations (DOT Order 2100.5 of 52280). An economic evaluation of the proposal has not been conducted since its impact is expected to be minimal. The amendment imposes no economic burden and benefits all small vessel owners since they will not have to carry or display anchor lights or sound fog signals when anchored in the Special Anchorages.

In consideration of the foregoing it is proposed to amend Chapter I of Title 33 Code of Federal Regulations as follows:

PART 110—ANCHORAGE REGULATIONS

1. By adding a new § 110.91 in Subpart a to read as follows:

§ 110.91 Mission Bay, California.

(a) Area M–1. In San Juan Cove, the entire water area west of a line drawn from Santa Clara Point Light; latitude 32–46–53.6N., longitude 117–14–52.5W.; to El Carmel Point North Light; latitude 32–46–48.0N., longitude 117–14–50.1W.

Note.—Control over the anchoring of vessels and the placing of temporary moorings in this area is exercised by the City of San Diego Park and Recreation Department pursuant to local ordinances.

(b) Area M–2. In Santa Barbara Cove, the entire water area west of a line drawn from El Carmel Point South Light; latitude 32–46–40.0N., longitude 117–14–47.0W.; to Bahia Point Light; latitude 32–46–33.5N., longitude 117–14–45.5W.

Note.—Control over the anchoring of vessels and the placing of temporary moorings in this area is exercised by the City of San Diego Park and Recreation Department pursuant to local ordinances.

(c) Area M–3. In Mariners Basin, the entire water area west of a line drawn from mariners point Light; latitude 32–45–49.2N., longitude 117–14–42.9W.; to Mission Point Light; latitude 32–45–43.7N., longitude 117–14–41.9W.

Note.—Control over the anchoring of vessels and the placing of temporary moorings in this area is exercised by the City of San Diego Park and Recreation Department pursuant to local ordinances.

(d) Area M–4. in Quivira Basin, the water area enclosed by that portion of a circle of 45 yard radius from Quivira Basin Light 2; latitude 32–45–42.8N., longitude 117–14–25.6W.; through the arc from 354°T to 088°T.

Note.—This area is reserved for vessels under impound or control of the City of San Diego Park and Recreation Department Mission Bay Harbor Police.

(77 Stat. 116 (33 USC 180); 49 CFR 1.46(c)(2); 33 CFR 1.05–1(g))

Dated: November 5, 1980.

A. P. Manning,

Rear Admiral, U.S. Coast Guard Commander, Eleventh Coast Guard District.

[FR Doc. 80-37116 Filed 11-26-80; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 111

Proposed Expansion of the ZIP Code System by Adding a Hyphen and Four New Numbers

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposal would amend postal regulations that describe the ZIP Code system as a preliminary step in the proposed expansion of the existing five-digit ZIP Code by adding a hyphen and four new numbers. The existing five-digit ZIP Code has been of great assistance in the processing of mail from the point of entry into the postal system to the postal facility serving the addressee. The existing 5-digit system is unable, however, to direct mail to the delivery route of the addressee. This task is performed by clerks who are required to memorize the addresses delivered by each letter carrier. Through the expanded ZIP Code, it will be possible to automate the sorting of a large part of the mail directly to the delivery route of the addressee, thereby eliminating the need for most of the memorization required today. This increased use of machine sorting will slow increases in postal costs and postage rates. A draft regulatory analysis is attached as an Appendix to this document.

DATE: Comments must be received on or before January 5, 1981.

ADDRESS: Written comments should be sent or delivered to the Director, Office of ZIP Code Expansion, Room 6624, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260. Copies of all written comments will be available for public inspection and photocopying between 9:00 AM and 4:00 PM, Monday through Friday, in Room 6624, U.S. Postal Service Headquarters, at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. E. T. Dewey, (202) 245-5019.

SUPPLEMENTARY INFORMATION:

Background

On June 3, 1980, the Postal Service published in the Federal Register a notice and a request for comments on the Plan to Implement a Nine-Digit ZIP Code System. 45 FR 37571. Comments were received from 20 organizations or individuals. One of the commenters, a major mailer, said that it "supports the concept of ZIP Code expansion as a logical step toward improved efficiency in mail processing through use of advanced technology". Not all commenters, however, supported our proposal, and a number of commenters requested additional information about various details of the proposal, or raised questions such as the following, which we will answer here:

Comments and Postal Service Responses

1. *What purpose does the Postal Service have in encouraging use of the expanded ZIP Code several years before the equipment will become available to make use of it in mail processing?* We know from experience that a program such as this cannot become a reality overnight. The five-digit ZIP Code was introduced in 1963. It took a number of years before major mailers and the general public began to use the ZIP Code in significant numbers. Today, the level of public cooperation is excellent, with approximately 97 percent of all mail bearing a ZIP Code. In addition, it should be noted that the existing timetable (which may be optimistic) schedules the first wave of optical character readers (OCR's) and bar code readers (BCR's) to be delivered to certain of the largest post offices in late 1981, which is a relatively short time after computer tapes of the expanded ZIP Code will be made available to mailers who have the capability for computerized list conversion.

2. *What effect will the expanded ZIP Code have on the carrier route presort program and on the presort programs and discounts generally?* The expanded ZIP Code program does not include any changes in the current presort programs. Presorting by mailers to carrier routes will continue to be encouraged. The proportion of business mail for which carrier route presorting is feasible is small. Accordingly, we believe that over the long term the continued utility of the presort programs will be determined by mailers as they choose the best program to meet their needs.

3. *Under what circumstances would the expanded ZIP Code be made mandatory?* The expanded ZIP Code will not be mandatory. Postal customers will retain an option to use it or not.

4. *In what ways will mailers who fail to use the expanded ZIP Code suffer disadvantages or those who use it receive favored treatment?* There will be no penalty for those who do not use the expanded ZIP Code. The same service standards will apply for both five- or nine-digit coded mail, although the percentage of achievement of service standards for nine-digit coded mail may rise. The only disadvantage from not using the expanded ZIP Code will be the increased mail processing costs that could have been avoided. These costs could result in higher postage rates.

5. *Will there be incentives for using the expanded ZIP Code?* We recognize that incentives will encourage mailers to use the expanded ZIP Code. However, the precise nature of any incentives has not yet been determined. Accordingly, the Postal Service welcomes public comments on the matter of incentives.

6. *Has a study been made to determine whether it will be cost effective for business mailers to switch to the expanded ZIP Code?* No formal study devoted specifically to the question of "cost effectiveness" to business mailers has been undertaken. Instead the Postal Service proposes to make the use of the expanded ZIP Code voluntary, so that mailers can weigh for themselves whether it will be cost effective to use it. The Postal Service conducted studies and determined that there would be gradually increasing savings each year up to 1987, the first year of full implementation. In 1987, based upon deployment of all equipment, we estimate savings of $597 million. Savings of this magnitude, which far exceed any conceivable address file correction cost, will be passed on to the mailers in the postage rates.

7. *How will service compare between mail which is now presorted by the mailer and that which must be bar coded before further processing by the Postal Service?* Mail presorted and pouched to carrier routes may experience a somewhat higher, more consistent level of achievement of service objectives, as is the case with the existing distribution system, since it will bypass incoming and secondary distributions and will be ready for earlier transportation. With this qualification, however, mail that must be bar coded before further processing by the Postal Service will be accorded the same processing and delivery priority as mail presorted by the mailer. The mode of transportation and the operating plan requirements will be identical for both types of mail. There is no difference in service objectives and there should be no other difference in service.

8. *In what offices will OCR's be located?* Present plans provide for OCR's to be located in 211 offices. These offices process 90 percent of originating and 85 percent of destinating letter-size First-Class Mail, much of which is OCR-readable.

9. *How does the expanded ZIP Code program affect non-letter mail or other mail now processed manually?* The expanded ZIP Code will have no immediate effect on manually processed mail. However, when there is a sufficient volume of non-letter-size mail bearing the expanded ZIP Code, it would be possible to adapt manual cases for sorting to carriers based on the expanded ZIP Code, instead of the memory of sorting clerks. Use of the expanded ZIP Code would also permit the Postal Service to adapt new technology, such as wand readers, to the sorting of flats and parcels.

10. *What changes will there be in the degree of sorting for business reply mail bearing the expanded ZIP Code, for mailers with unique five-digit codes, or for other mailers?* Mailers will receive the same degree of sorting for business reply mail that bears the expanded ZIP Code as they presently receive without that Code. The Postal Service will affix a bar code on each letter bearing an expanded ZIP Code and will, through use of a BCR, be able to reach that degree of sorting with fewer handlings and accordingly at less cost. Of course, some major mailers affix a bar code themselves on their business reply and "courtesy reply" envelopes. When put in the mailstream such letters will be sorted both at the origin post office and at the destination by a BCR. As to firms with unique five-digit codes or other large volume firms, they may request a series of unique add-on numbers for their internal mail sorting purposes rather than for Postal Service use.

11. *How will mailers use the expanded ZIP Code directory data base for addresses such as rural routes which lack a street name and number?* All rural boxes which lack a street name or number are identified by box numbers. See Domestic Mail Manual, 156.52. Accordingly, in rural areas the expanded ZIP Code will be assigned by ranges of rural box numbers. Mailers can determine the expanded ZIP Code by noting the code assigned to the span of box numbers that includes the box in question.

12. *What is the relationship and its rationale between the expanded ZIP Code system and the Bureau of Census coding systems?* The Postal Service did not assign ZIP Code numbers, either the five-digit or the expanded numbers, with any reference to Bureau of Census numbers. The expanded ZIP Code, like the existing five-digit ZIP Code, divides the entire country into geographic areas for the purpose of efficient processing and delivery of mail. The Bureau of the Census used the five-digit ZIP Code in its 1980 population census mailing with very good results. It seems likely that the 1990 census will also conducted primarily through the mail, with the help at that time of the expanded ZIP Code.

13. *How much does the Postal Service estimate the change to an expanded ZIP Code will cost the Service?* The Postal Service estimates the cost of implementing the expanded ZIP Code system at $24 million. This amount includes funds to notify customers of their new ZIP Code, to plan and establish specifications for a telephone inquiry system that would provide answers to questions about another person's ZIP Code, to pay for advertising, plus salaries, travel, etc. of employees assigned to the expanded ZIP Code coding program. This amount does not include the cost of establishing a telephone inquiry system (since the Postal Service has not yet received any bids) or the cost to the Postal Service of any incentives that the Service may offer to encourage use of the expanded ZIP Code. These costs will not be on the same order of magnitude as the estimated savings once the program is implemented.

For associated equipment, the Postal Service is considering a maximum investment through 1987, at which time equipment purchases will be complete, of $887 million.

14. *Has the Postal Service estimated the cost to the public, including small businesses, of switching to the expanded ZIP Code?* There has been no formal estimate by the Postal Service of cost to the public. the cost could vary greatly from mailer to mailer, depending upon the size of the mailer's files and the ease with which they can be matched to the data base. We believe that appropriate incentives will make it worthwhile for mailers to convert their mailing lists. The Postal Service will have 10,000 expanded ZIP Code computer tapes, which will be available on a first come, first served basis, to mailers who have the capability for computerized list conversion. We estimate the cost to match a computerized address will range from one-half cent to one cent per address. Since there are some 80 million delivery addresses, and each delivery address is estimated to be on 100 different mailing lists, we estimate the total cost to convert the computer files of all mailers with computerized onversion capability would range from $40 million to $80 million. With regard to local lists (churches, etc.) and lists of non-computerized business mailers, the Postal Service expects to offer some form of list conversion assistance. However, the nature of that assistance has not yet been determined.

15. *What is the Postal Service estimate of the total savings to be anticipated from the expanded ZIP Code system?* The Postal Service estimates that the first year of full implementation of the expanded ZIP Code system will produce a savings of $597 million in mail processing workyears. In addition to these savings, there will be a reduction in initial scheme training costs for incoming secondary sortations, a reduction in recurring costs associated with scheme changes (caused by carrier route adjustments), an increase in the amount of "direct" mail broken out for carriers, a reduction in costs and improved weighing accuracy of mail in the Management Operating Data System as a result of machine data recording functions, and a potentially improved service consistency through a reduction in the sorting error rate. Although the Postal Service has not estimated the amounts that these additional reductions would save, we think the savings would be significant.

The Proposal

The Postal Service appreciates the response of commenters to our June 3 notice in the **Federal Register.** We found the comments to be generally thoughtful and helpful in preparing a proposed description of the ZIP Code system in section 122.6 of the Domestic Mail Manual. Section 122.6 is proposed to be amended as follows:

Sectional Analysis

Section 122.61 describes the ZIP Code system. The current regulations describe the purpose of each of the digits of the five-digit ZIP Code. Proposed 122.61 revises this section to describe the purpose of the four additional digits used in the expanded ZIP Code. It should be understood from this section that the term "ZIP Code" only refers to the expanded ZIP Code rather than any portion of the expanded ZIP Code.

Proposed 122.62 expands the current section to make it clear that the ZIP Code system enables the Postal Service to achieve greater economy, as well as accuracy and speed, in the dispatch and delivery of mail.

Proposed 122.631 is a new section dealing with the assignment of codes for the expanded ZIP Code. the proposed section makes it clear that unique expanded ZIP Codes will be assigned to appropriately-sized areas served by the Postal Service and that sufficient ZIP Codes have been reserved to allow assignment of expanded ZIP Codes to future areas of growth.

Proposed 122.632 deals with the assignment of the first five digits of the ZIP Code and is based, in part, on current 122.631, 122.632, and 122.633. The section is designed to make clear that the first five digits of the ZIP Code will not be called "the ZIP Code"; under the proposed regulation the first five digits are called "five digit ZIP Codes". The delivery area served by a postal facility assigned a five-digit ZIP Code is called a "five-digit ZIP Code area". The proposed rule continues the substance of current 122.631 that each post office is assigned at least one five-digit ZIP Code and continues the substance of 122.632 and 122.633 dealing with the assignment of more than one five-digit ZIP Code to certain post offices. These offices are called, under the new terminology proposed under 122.632, "multi five-digit ZIP Code offices".

Proposed 122.633 introduces the term "three-digit ZIP Code" to refer to the first three digits of the ZIP Code. The section also continues the substance of current 122.634 that major city post offices, like sectional center facilities, may be assigned a three digit ZIP Code. These major post offices are called, under the new terminology proposed under 122.633, "unique three-digit ZIP Code offices".

In conjunction with these last two changes, it is proposed that current Exhibit 122.633 be renumbered as Exhibit 122.632 and labeled "Multi-Five-Digit ZIP Code Offices" and Exhibit 122.634 be renumbered as Exhibit 122.633 and labeled "Unique Three-Digit ZIP Code Offices".

Proposed 122.634 deals with directory assistance to mailers. It states that systems will be provided by the Postal Service, effective October 1981, which will provide members of the public with the appropriate ZIP Code for an address. The proposed section also notes that Publication 65, the *National ZIP Code and Post Office Directory*, will provide the five-digit ZIP Code assigned to each five-digit ZIP Code area.

Proposed 122.64 continues the substance of current 122.64 without change, other than changing addresses and the ZIP Codes in the sample addresses to nine digits.

Proposed 122.65 continues, without change, current 122.65.

If the proposed regulation is adopted, it would be necessary to make a number of conforming changes in those sections of the DMM which deal with customer use of an appropriate ZIP Code. Those sections, referenced below, would be changed to make them consistent with an expanded ZIP Code system.

DMM Sections

122.821 Change "the ZIP Code" to "either the ZIP Code or the five-digit ZIP Code".
122.822 Change "the ZIP Code" to "either the ZIP Code or the five-digit ZIP Code".
122.823 Change "the ZIP Code" to "either the ZIP Code or the five-digit ZIP Code".
137.28 Change "the ZIP Code number" to "either the ZIP Code or the five-digit ZIP Code".
141.242 Change "ZIP Code" to "either the ZIP Code or the five-digit ZIP Code".
143.421(a) Change "ZIP Code" to "either the ZIP Code or the five-digit ZIP Code".
322.32(b) Change "ZIP Codes" to "either the ZIP Codes or the five-digit ZIP Codes".
362.1 Change "the ZIP Code" to "either the ZIP Code or the five-digit ZIP Code". Delete parentheses around "or carrier route code if presorted directly to carriers".
461.1(f) Change "ZIP Code" to "either the ZIP Code or the five-digit ZIP Code".
462.31 Change the initial "the ZIP Code" to "either the ZIP Code or the five-digit ZIP Code". Amend the phrase following *"Exception:"* to read: "addresses on pieces bearing a simplified address in accordance with 122.41 do not need to include a ZIP Code".
467.223 Change "Lowest ZIP Code" to "Lowest five-digit ZIP Code".
493 Change "ZIP Code" to "either the ZIP Code or the five-digit ZIP Code".
561.1(f) Change "ZIP Code" to "either the ZIP Code or the five-digit ZIP Code".
562.31 Change the initial "the ZIP Code" to "either the ZIP Code or the five-digit ZIP Code". Amend the phrase following *"Exception:"* to read: "addresses on pieces bearing a simplified address in accordance with 122.41 do not need to include a ZIP Code".
567.223 Change "Lowest ZIP Code" to "Lowest five-digit ZIP Code".
593 Change "ZIP Code" to "either the ZIP Code or the five-digit ZIP Code".
661.2 Change the initial "the ZIP Code" to "either the ZIP Code or the five-digit ZIP Code". Amend the phrase following *"Exception:"* to read: "addresses on pieces bearing a simplified address in accordance with 122.41 do not need to include a ZIP Code".
661.331 Change "the ZIP Codes" to "either the ZIP Codes or the five-digit ZIP Codes".
667.132(b) Change "Lowest ZIP Code" to "Lowest five-digit ZIP Code".
761.11 Change "a complete ZIP Code" to "either the ZIP Code or the five-digit ZIP Code".
767.22 Change "Lowest ZIP Code" to "Lowest five-digit ZIP Code".
767.6(a) Change "ZIP Code of the" to "ZIP Code or the five-digit ZIP Code of both the".
917.52(a)(5) Change the initial "the ZIP Code" to "either the ZIP Code or the five-digit ZIP Code". Amend the phrase following *"Exception:"* to read: "addresses on pieces bearing a simplified address in accordance with 122.41 do not need to include a ZIP Code".

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

Part 122—Addresses

Revise 122.6 to read as follows:

122.6 ZIP Code System

.61 *Description.* The ZIP Code system is a numbered coding system which facilitates efficient processing of mail. Each ZIP Code is a nine-digit number divided by a hyphen between the fifth and sixth digits. The first three digits identify the delivery area of the sectional center facility or major city post office serving the area in which the address is located. The next two digits (the fourth and fifth digits of the ZIP Code) identify the delivery area of the associate post office or branch or station of the major city post office serving the addressee. The sixth and seventh digits (the first two digits following the hyphen) identify an area known as a sector. The eighth and ninth digits identify a smaller area known as a segment.

The final four digits of the ZIP Code identify specific geographic units such as a side of a street between intersections, both sides of a street between intersections, individual buildings, a floor or group of floors in a large building, a firm within a building, a span of boxes on a rural route, or a group of post office boxes in which mail delivery will be made by a single postal employee.

.62 *Purpose.* The ZIP Code enables the Postal Service to achieve greater accuracy, speed, and economy in the processing and delivery of mail.

.63 *Assignment of ZIP Codes.*

.631 *General.* Each segment-sized geographical area served by the Postal Service is assigned a unique ZIP Code representing the sectional center facility or major city post office in whose delivery area the segment is located (three-digit ZIP Code area), the associate post office or branch or station of the major city post office serving the area (five-digit ZIP Code area), and the sector and segment number assigned to the area. Sufficient sector and segment numbers have been reserved in each five-digit ZIP Code area to allow for future growth.

.632 *Assignment of ZIP Codes to Five-Digit ZIP Code Areas.* Each delivery area is assigned a unique five-digit ZIP Code which consists of the first five digits of the ZIP Code of each address within the area. All post offices are assigned at least one such unique five-digit ZIP Code. Larger post offices are assigned two or more five-digit ZIP Codes if two or more handlings are required for the distribution of mail to delivery routes and box sections. These post offices are called multi five-digit ZIP Code offices and are listed in Exhibit 122.633. Separate five-digit ZIP Codes are assigned to each delivery unit at these offices. Bulk mailings of second- and third-class mail, controlled circulation, presorted special fourth-class, and presorted First-Class Mail must be presorted by the mailer to specified ZIP Code and other destinations as prescribed in Chapters 3, 4, 5, 6, and 7.

.633 *Assignment of ZIP Codes to Three-Digit ZIP Code Area.* The first three digits of the ZIP Code identify the sectional center facility serving the delivery area in which the address is located. Major city post offices are also assigned three-digit ZIP Codes which are unique to those post offices. These offices are called unique three-digit ZIP Code offices and are listed in Exhibit 122.634.

.634 *Directory Assistance.* Directory assistance systems will be provided by the Postal Service effective October 1981 in order to aid members of the public in obtaining the appropriate ZIP Code for an address. Additionally, Publication 65, the *National ZIP Code and Post Office Directory*, lists the five-digit ZIP Codes assigned to each five-digit ZIP Code area.

.64 *Placement of ZIP Code Digits*

.641 The ZIP Code should appear on the last line of both the address of destination and return address following the city and state. A space not less than two-tenths of an inch nor more than six-tenths of an inch should be left between the last letter of the state name and the first digit of the ZIP Code. A comma should not be inserted between the state name and the ZIP Code. Example:

Mr. Henry Brown
3484 Wyandotte Street
Baton Rouge, LA 70805–5868

When the state name is abbreviated, the use of a period after the name is optional so long as a space precedes the ZIP Code.

.642 For mail on which space or other factors make the positioning shown in 122.641 impractical, the ZIP Code may be carried as the bottom line of the address, provided it is immediately beneath the city and state and no characters or digits either precede or follow it. Example:

Mr. Harold Jones
4740 Jean Street
Baton Rouge, LA
70805–6945

.65 *Post Office Assistance to Mailers.* Mailers may ask their local postmasters for information about the ZIP Code system and for guidance in bringing their mailing practices into compliance with the ZIP Code provisions. Postmasters will, upon request by mailers, send post office representatives to help mailers make arrangements for ZIP Code mailing lists and for packaging and sacking bulk mailings by ZIP Code.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 401, 403)

W. Allan Sanders,
Associate General Counsel, General Law and Administration.

Appendix—Draft Regulatory Analysis

Date: November 24, 1980
Agency: Postal Service
Contact: Warren P. Denise
Phone: (202) 245–4058

1. *Title*—Nine-Digit ZIP Code Program

2. *Nature of Proposed Action:* The Postal Service proposes to amend the regulations on the ZIP Code system (Domestic Mail Manual, 122.6). The current regulations provide that:

The ZIP Code is a five-digit coding system which identifies each post office and each delivery unit at large offices and associates each with the sectional center or major office through which mail is routed for delivery. The first three digits identify the sectional center or the major city. The last two digits identify the post office or other delivery unit.

The proposed regulation addresses the following specific issue and subissues:

Issues: The five-digit coding system would be expanded to a nine-digit system.

Subissues: (a) The term "Single-ZIP-Coded Ofices" would no longer be applicable; (b) The National ZIP Code and Post Office Directory would be eventually replaced by local expanded ZIP Code directories and supplemented by a national toll-free call-in system for expanded ZIP Code information; (c) The expanded ZIP Code system would, like the existing five-digit ZIP Code system, be voluntary; (d) the notification to mailers of their expanded ZIP Codes would begin by furnishing computer tapes to large mailers in February 1981. Mass mailings to notify the occupant of each address of its new expanded ZIP Code would begin in the fall of 1981; (e) Incentives would be offered to encourage large-scale mailers to use the expanded ZIP Code; (f) The carrier route presort and other discount programs would coexist with the expanded ZIP Code system; (g) Optical Character Reading (OCR) machinery and Bar Code Readers (BCR's) would begin to be deployed in the summer of 1981. Full deployment of machinery would be completed by the end of 1986.

3. *Purpose and Need for Action:* This action will serve several purposes. The general purpose is to continue efforts by the Postal Service to improve productivity and utilize advances in technology for postal operations. More specifically, the expanded ZIP Code would assist in the automation of much of the current letter mail processing operation, make manpower savings possible, improve service consistency, and help to stabilize postal rates.

The need for this proposal is based in the law. In the Postal Reorganization Act of 1970, Congress required the Postal Service "to maintain an efficient system of collection, sorting, and delivery of the mail nationwide", 39 U.S.C. 403(b)(1). In the past ten years, the Postal Service has met that requirement in part by steadily increasing the amount of mail it handles mechanically. In 1970 the Service handled mechanically only 20 pieces of mail out of every 100 pieces at the larger offices. Today it handles more than 70 out of every 100 pieces at the 515 largest offices by machines. As a result of this mechanization and other cost-saving efforts, mailers have been saved literally billions of dollars in postage.

Current letter mail sorting machinery has contributed greatly to the productivity gains achieved by the Postal Service over the past ten years. Since fiscal years 1971, productivity measured by the number of pieces processed per work year has increased in the aggregate 27 percent. The Postal Service is now processing about 18 billion more pieces of mail per year with about 75,000 fewer employees.

Although existing letter mail sorting machines helped the Postal Service to make these great strides in efficient processing of the mail, they appear to have reached their zenith and offer very little additional hope for improvement in productivity.

Recognizing the limitations of existing machinery, the Postal Service has been working for a number of years to improve its mail processing machines in order to continue productivity growth. This activity centered around optical character readers (OCR's), which have the capacity to read addresses and, by applying a bar code, direct mail to the mail carrier without address reading by employees. At the post office of the addressee, an inexpensive bar code

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reader (BCR) would sort the bar coded mail directly to carrier routes, buildings, and firms, thereby conpletely avoiding expensive manual sorting.

In April 1976 the Postal Service established a special task force to review these possibilities and make firm recommendations for ways to improve productivity. The outcome of that review was an endorsement of the concept of deploying optical character and bar code reading equipment and a recommendation that the Zip Code be extended by four additional digits.

4. *Public notice of the action.* In September 1978 the Postmaster General publicly announced the intention of the Postal Service to proceed with an expanded ZIP Code. This was further reflected in the Annual Report of the Postmaster General for fiscal year 1978 and 1979, which is transmitted to the President and the Congress pursuant to 39 U.S.C. 2402. It was also published in the annual Comprehensive Statement on Postal Operations submitted to Congress in January 1979 and in January 1980 in accordance with 39 U.S.C. 2401(g).

On June 3, 1980, the Postal Service published in the **Federal Register** (45 FR 37571) a description of its plan for the implementation of an expanded ZIP Code system. Twenty commenters replied to the notice, with supporters and opponents about equally divided. The commenters also asked many questions on various aspects of the plan. The response of the Postal Service to each of the questions appears in the Supplementary Information of the proposed rulemaking published today, to which this document is appended.

On September 17, 1980, a hearing on the plan for a nine-digit ZIP Code was held by the House Subcommittee on Government Information and Individual Rights. In response to a request by a member of the Subcommittee, the witness for the Postal Service agreed to prepare and submit to the Subcommittee a regulatory analysis.

5. *Selection of Proposed Option-Objectives.* The proposed expansion from a five-digit to a nine-digit ZIP Code, using OCR's and BCR's for mail sorting, is designed to improve productivity by taking advantage of advances in technology for postal operations. Other options to accomplish these objectives were also considered but rejected. The option that best carries out the objectives of the Service is reflected in Option B, which is, therefore, proposed. A summary analysis of the various possibilities follows.

6. *Options.* A description of each of the six options is presented below. An assessment of the effects of each option is also presented.

Option A: Continuation of the present system.

(a) *Description.* The present mail processing system employs multi-position letter sorting machines (MPLSM's) and manual distribution cases. Chart I, a simplified flow of the present processing system, depicts how mail flows through this equipment.

First, originating mail which is subject to machine processing ("machinable") is normally distributed on an MPLSM. Operators must key a combination of digits of the present ZIP Code. Based on the data entered, the MPLSM will then direct mail to the proper separation on the reverse side of the machine. Distribution will be made to other post offices or to a zone or associate office of the origin city. Mail which will be delivered in another city requires additional distribution at the city of delivery and may require intermediate sorting at an Area Distribution Center (ADC). Finally, the mail will be distributed to the carrier, box, or firm by an MPLSM operator or manual clerk.

From the above brief description of the present mail flow, it is apparent that distributing mail with the present MPLSM's requires numerous handlings. In addition, this sorting concept requires operators to memorize secondary schemes in order to distribute mail to the final delivery operation. These secondary operations have a lower productivity than normal MPLSM operations with a tendency for higher error rates. The productivity is even lower if processing is accomplished by manual distribution.

Presently, over seventy percent of the originating first-class letter volume is distributed through MPLSM's in mechanized offices. Approximately forty percent of the volume distributed to carriers is processed by MPLSM. Except for a few isolated instances, the potential for productivity gains through deployment of additional MPLSM's is limited.

(b) *Economic Effects:*—(1) *Individuals:* Ninety-seven percent of the mail now being received by the Postal Service bears a ZIP Code. The five-digit ZIP Code is widely accepted by individuals. Its use does not add a significant cost for individuals using the mail.

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CHART I

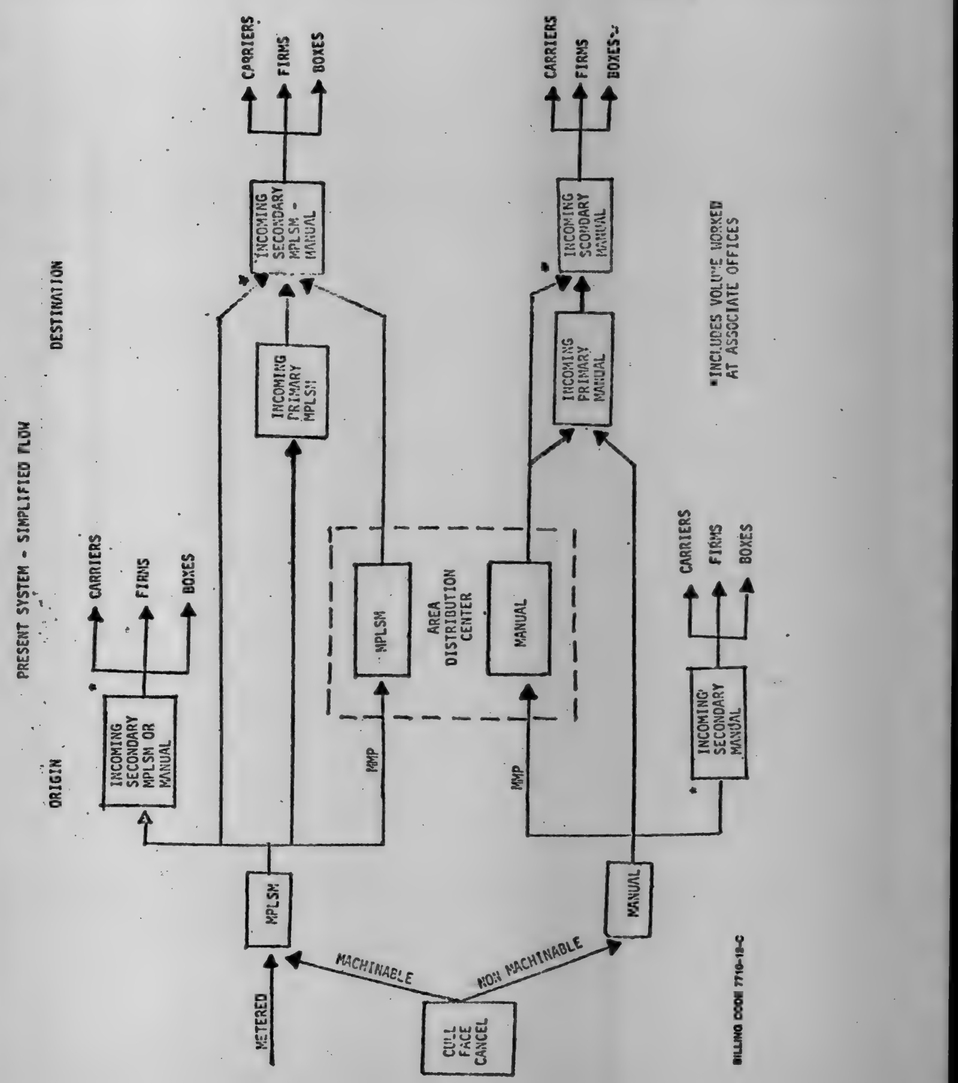

(2) *Small companies and organizations.* Some small companies, such as utilities, find it advantageous to presort their First-Class Mail. Depending upon certain factors such as the number of pieces, weight, etc., such mail must be sorted either to the five-digit ZIP Code or the 3-digit ZIP Code prefix in order to receive the reduced presort rate. Many small nonprofit organizations, such as churches, send out third-class mail at reduced bulk rates which are based on presortation of the mail. The economic effect of the existing ZIP Code system on such mailers is beneficial.

(3) *Major mailers.* Major mailers are able to take advantage of all presort discount program, all of which involve use of the existing five-digit ZIP Code. The economic effect of the existing ZIP Code system on major mailers is beneficial.

(4) *The postal system.* Since FY 1971, productivity measured by the number of pieces processed per work year has increased in the aggregate 27 percent. MPLSM's, which are used to sort mail by the existing ZIP Code, have helped the Postal Service to process 18 billion more pieces of mail per year with some 75 thousand fewer employees. Without productivity advances, the public would today be paying several billion dollars more per year for postage.

The following productivity rates are being achieved in the present system:

Operation	Productivity pieces per workhour
Outgoing and managed mail (MPLSM)	1,600–1,850
Incoming secondary (MPLSM)	1,300–1,450
Incoming secondary (Manual)	700–1,000

The distribution costs per thousand pieces under the present system are $25.

Under the present system no additional capital investment will be made. The operating costs necessary to support it include direct maintenance labor, recurring maintenance training, and equipment parts. These are outlined in Chart II.

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CHART II

PRESENT SYSTEM - BASELINE
X ($000)

—	YEAR 0 1981	1 1982	2 1983	3 1984	4 1985	5 1986	6 1987	7 1988	8 1989	9 1990	10 1991	11 1992	12 1993	13 1994	14 1995	15 1996	TOTAL
MAINTENANCE LABOR	(32,250)	(55,909)	(59,965)	(64,412)	(69,192)	(74,328)	(79,841)	(85,764)	(92,129)	(98,964)	(106,306)	(114,195)	(122,669)	(131,771)	(141,548)	(152,050)	(1,501,295
MAINTENANCE TRAINING	(4,017)	(4,131)	(4,116)	(4,421)	(4,749)	(5,103)	(5,479)	(5,887)	(6,325)	(6,794)	(7,297)	(7,838)	(8,421)	(9,044)	(9,716)	(10,437)	(103,776)
MAINTENANCE PARTS	(2,790)	(3,320)	(3,619)	(3,681)	(4,379)	(4,617)	(5,259)	(5,629)	(6,411)	(7,052)	(7,758)	(8,533)	(9,387)	(10,325)	(11,358)	(12,494)	(107,111)
TOTAL COST	(39,057)	(63,360)	(67,701)	(72,814)	(78,320)	(84,049)	(90,579)	(97,479)	(104,865)	(112,810)	(121,361)	(130,567)	(140,477)	(151,140)	(162,622)	(174,981)	(1,712,182)

( ) - CASH OUTFLOW

NOTE: The above maintenance costs represent the cost of supporting the present equipment at the 211 sites which would receive OCR's

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(c) *Distribution of Effects.* No additional savings will be achieved and the outlook for further improvement in the productivity of the mail processing system will be bleak. As inflation and other factors continue to drive up labor costs, the partial offset against the need for rate increases which increasing mechanization has provided in the past will disappear.

Option B: The Postal Service's proposed plan.

(a) *Description.* Based on the recommendations contained in the 1976 Task Force Report, a unique four-digit add-on code will be assigned to each block face which receives city delivery services. Unique codes will be assigned to business firms, portions of rural routes, and lock box sections. These four numbers when combined with the existing five-digit ZIP Code will produce an expanded ZIP Code which can be used for sorting mail to the required delivery level. With the proposed system, changes in the secondary schemes caused by route restructuring will require only a reprogramming of the sorting equipment. Under the present system, route changes require a relearning process by MPLSM and manual distribution clerks. This is a time consuming and expensive requirement, and is subject to errors especially during the initial stages.

A simplified flow for the proposed mail processing operation is provided in Chart III. It should be noted that in both the present and proposed systems, the non-machinable mail will continue to be processed by manual distribution clerks. With the proposed system, trayed and bundled meter mail, business reply mail, and loose meter mail from the cancelling operation will be processed through the OCR Channel Sorter.

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CHART III

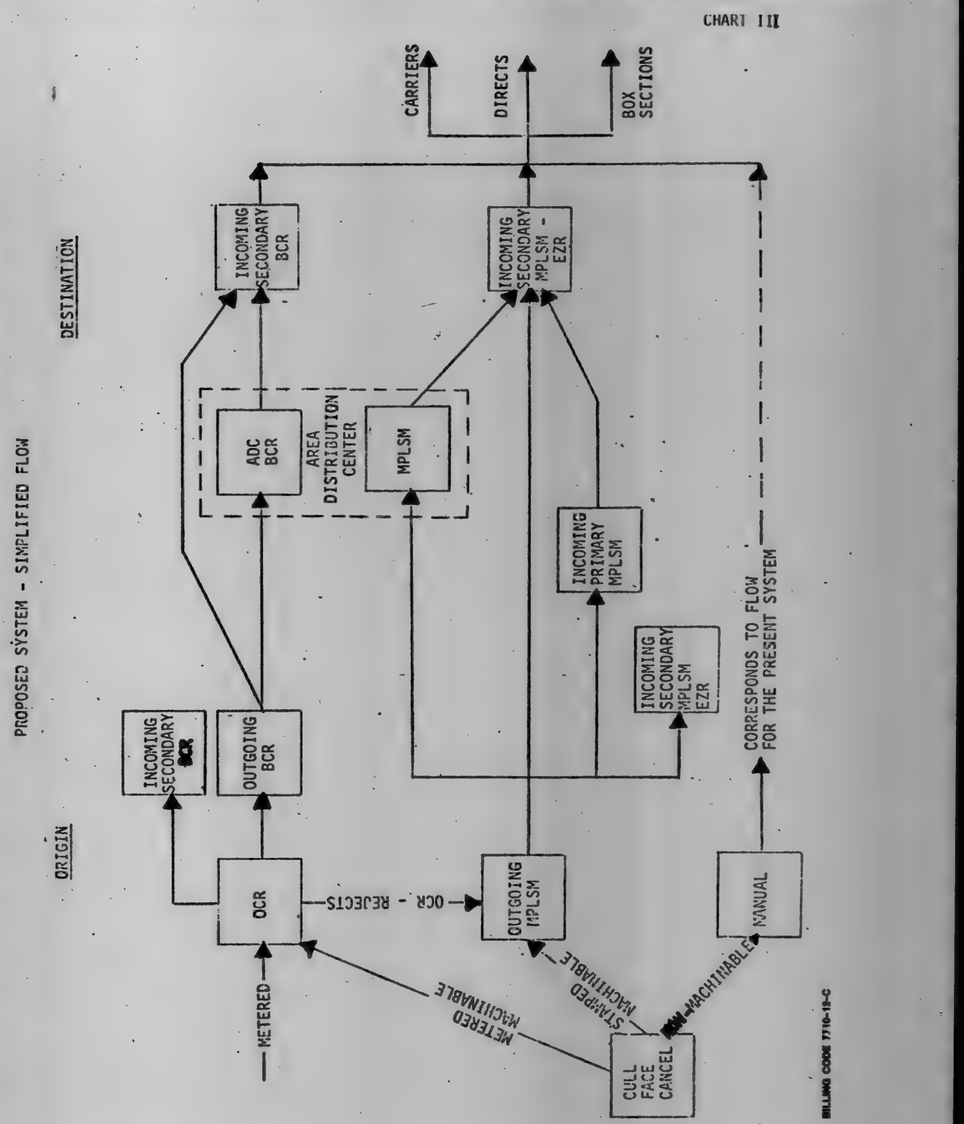

The OCR will read the expanded ZIP Code, print a bar code on the letter, verify that the bar code is the right one for the number read, and sort this mail into a limited number of channels or stackers. If the OCR is unable to bar code the letter, then the letter will be sent to the MPLSM operation. There it will follow the traditional machine processing path. Mail to which a bar code has been applied will be taken from the channels and processed through the bar code reader (BCR), which will read the bar code and sort to the correct destination. If a bar coded letter is to be delivered by another post office, then the outgoing routing scheme will be used. On the other hand, if mail is to be delivered from the originating post office, then it will be sorted to a carrier, firm, or box using a BCR incoming-secondary scheme.

If intermediate distribution is required at an Area Distribution Center (ADC), then mail will be dispatched from the origin office, sorted by a BCR at the ADC, and dispatched to the office of delivery for BCR sorting to a carrier, firm, or box. Mail may also be dispatched directly from the origin office to the office of delivery without ADC processing. In either case, mail will ordinarily be sorted by a BCR instead of a comparatively higher-cost MPLSM or manual operation.

Mail that has not been bar coded will be processed on the MPLSM. These machines will be modified with an Expanded ZIP Code Retrofit (EZR) kit to enable the operators to key the added four digits in place of using memorized routing schemes to do the secondary sort. The machine computer will direct the mail piece to the bin for the appropriate carrier route, firm, or box.

(b) *Economic Effects:*—(1) *Individuals.* The Postal Service recognizes that people tend to resist the addition of new numbers to their lives. Numbers are impersonal and sometimes hard to remember. They tend to subordinate the human element to machines and technology. However, the expanded ZIP Code is voluntary. The nine expanded ZIP Code numbers are also no longer than Social Security numbers and are shorter than long-distance phone numbers and many credit card numbers and bank numbers. The Postal Service hopes individuals will use the expanded ZIP Code, as they now use the five-digit ZIP Code. The Postal Service sees little, if any, measurable economic impact on individuals who add four more digits to their existing five-digit ZIP Code.

(2) *Small companies and organizations.* The companies and organizations that presort according to the present five-digit ZIP Code or the three-digit ZIP Code prefix will be able to choose for themselves whether to continue their present practices without penalty, or begin using the expanded ZIP Code with such incentives as may be offered. The principal economic effect would be the cost of updating mailing lists. The Postal Service will supply computer tapes to those who have the capability for computerized file conversion, and will also assist other mailers to adapt their lists. There would, of course, be other conversion costs, such as the cost of revising envelopes to provide sufficient space for the extra digits, the cost of revising forms, etc. Costs such as these appear to be relatively minor and could be phased in gradually as existing stocks of envelopes and forms are used up and new supplies are ordered. The expanded ZIP Code system is constructed to accommodate change. It does not have to be adopted by mailers all at once. They can use the five-digit ZIP Code until such time as they are ready to make a partial or complete switch-over. As mailers begin to switch over to the expanded ZIP Code, the Postal Service can schedule its OCR and BCR machines to process mail in accordance with the expanded ZIP Code system as the volume of such mail warrants.

(3) *Major mailers.* Major mailers would continue to be able to take advantage of all existing presort discount programs, which depend upon use of the five-digit ZIP Code, while preparing their mailing lists to accommodate the expanded ZIP Code. As postage rates reflect the benefits of the code and increased automation, there will be a financial advantage for large mailers to use the new system.

The cost of conversion of mailing lists, which could have been large, will be much reduced because the Postal Service is preparing 10,000 nine-digit computer tapes which it will share with mailers on a first come, first served basis.

We estimate the cost to match a computerized address will range from one-half cent to one cent per address, based on estimates from large list-processing companies. There are 80 million delivery addresses in the United States. On the average, a delivery address is on an estimated 100 different mailing lists. Based on these assumptions, the total investment needed to convert the computer files of all the large mailers would range from $40 million to $80 million. This amount would not necessarily be expended in one year, since all large business mailers would not convert immediately. We think it more likely that half of these mailers would convert their files during the first year after implementation of the proposed system. The remaining mailers would do so over a three or four year period.

It should also be noted that the savings that will accrue to the postal system from the expanded ZIP Code will slow postage rate increases for mailers, and will further offset the costs to mailers of the changeover to the expanded ZIP Code.

(4) The postal system. The economic benefits to the public through cost savings within the postal system in the first year of full implementation are estimated to be $597 million. The increases in productivity that would make these savings possible are reflected in the following table:

Operation	Productivity pieces per workhour
Optical Character Reader	10,000
Bar Code Reader	4,000
Incoming Secondary—EZR	1,300–1,450

When the estimated processing rates are reached, the distribution costs per thousand pieces change from $25 under the present system to only $17 under the proposed automated system.

In addition to the savings that have been identified, there are other savings that will accrue. Expected benefits of the expanded ZIP Code and automated system include a reduction in initial scheme training costs (memorization of addresses on carrier routes) for incoming secondary sortations; a reduction in recurring costs associated with scheme changes (caused by carrier route adjustments); an increase in the amount of "direct" mail broken out for carriers; an improvement in service consistency, through an overall reduction in system error rate; and a reduction in costs and improved accuracy associated with weighing mail for the Management Operating Data System (MODS) by use of machine data recording functions.

Under the proposed system the Postal Service estimates the cost of implementing part of the expanded ZIP Code will be $24 million. This amount includes funds to notify customers of their new ZIP Code, to plan and establish specifications for a telephone inquiry system that would provide answers to questions about another person's ZIP Code, to pay for advertising, plus salaries, travel, etc. of employees assigned to the expanded ZIP Code program. This amount does not include the cost of establishing a telephone inquiry system (since the Postal Service has not yet received any bids) or the cost to the Postal Service of any incentives that the Service may offer to encourage use of the expanded ZIP Code. These costs will not be on the same order of magnitude as the estimated savings once the program is implemented.

For associated equipment, the Postal Service estimates the maximum to tal capital and related costs through 1987, at which time equipment purchases will be complete, at $887 million.

(c) *Distribution of Effects.* Mailers should benefit from the postage savings which improved productivity will make possible. Initial investment costs to update mailing lists will be mitigated by help provided by the Postal Service. No one will be required to make the investment for updating mailing lists, so each mailer can evaluate the cost and potential return for itself. The expected savings from just one year of full operation of the automated processing system, which will be passed on through postage rates, far exceed the most liberal estimate of the total cost for adapting the nation's mailing lists to the expanded ZIP Code.

Option C: Mandatory use of the expanded ZIP Code.

(a) *Description:* This would be the same as in Option B, except that use of the expanded code in addresses would be a requirement.

(b) *Economic Effects*—(1) *Individuals.* This would be the same as in Option B, assuming that individuals will participate voluntarily.

(2) *Small companies and organizations.* Requiring all small companies and organizations to use the expanded ZIP Code might affect many of these mailers adversely unless a fairly long period preceded the implementation date. The Postal Service believes it will be fairer to permit such mailers to continue to use the five-digit ZIP Code and presort programs while they adjust their mailing practices and procedures to accommodate the expanded ZIP Code. For some mailers the adverse economic impacts of an expanded ZIP Code may override the advantages. Although the Postal Service will be striving to avoid any such results by offering incentives, the Postal Service rejected this option in favor of Option B.

(3) *Major mailers.* There would appear to be fewer adverse economic impacts on major mailers than on small mailers; since we assume that more major mailers will find it to be in their economic interest to use the expanded ZIP Code. The principal disadvantage of making the expanded ZIP Code mandatory would flow from the length of the implementation period. So long as the deadline for implementation is not so short as to cause added expense from obsolete, unusable five-digit ZIP Code envelopes and forms, or from more expensive, expedited contracts to convert lists of names, we believe the economic effects on major mailers of a mandatory expanded ZIP Code would be little different from a voluntary expanded ZIP Code.

(4) *The postal system:* In one sense the effect would be favorable, since there would be, from the effective date of the program, an assured sufficient volume of expanded ZIP Code mail to recover maximum savings in terms of costs and postage rates. Manpower savings might be possible at an earlier time, so that the cost of the OCR's and BCR's could also be recovered through such savings at an earlier time. Nevertheless, the Postal Service rejected this option on the ground that it is unnecessary and fails to reflect the cooperative relationship required between the postal system and its customers. It represents too rigid a response to the problem of controlling the growth of processing costs. It fails to take into account the varying circumstances of mailers of all sizes, some of which might find a mandatory expanded ZIP Code to be a hardship.

(c) *Distribution of Effects.* Conditions would be the same as for Option B overall, except that hardships might be created for some mailers. Public resistence might be expected to be greater and might undermine the program.

Option D. The proposed Postal Service Plan without incentives.

(a) *Descriptions.* This would be the same as in Option B, except that the Postal Service would not offer incentives for mailers to convert mailing lists and use the expanded ZIP Code.

(b) *Economic Effects.* (1) *Individuals.* This would be the same as in Option B.

(2) Small companies and organizations: Some mailers who might like to change their mailing lists in order to promote greater productivity and assist in the common effort to hold down postage rates might find it more difficult to make the initial required investment without Postal Service help.

(3) *Major mailers.* It would seem that participation by major mailers might be depressed even more, since their conversion costs may be higher and they would have qualified more easily for incentives such as free tape distribution.

(4) *The postal system.* The difficulty of justifying the expense of incentives during a transition period, when the full cost savings expected from the fully implemented system are not yet being realized, would be avoided. The chances to obtaining the level of usage of the expanded ZIP Code necessary to achieve the full savings potential would be reduced, however.

(c) *Distribution of effects.* It would appear that the full potential of the OCR and BCR equipment might not be achieved as quickly, as some mailers would find it more difficult to adapt their mailing lists to use the expanded ZIP Code. *Option E.* Deploy OCR and BCR equipment for use with the present five-digit ZIP Code.

(a) *Description.* Those parts of the present primary mail processing operations which require operators of MPLSM's to key the first three or last two digits of the five-digit ZIP Code could be automated for a large portion of the mail through use of OCR and BCR equipment. Without the four additional digits in the ZIP Code, sorting to the carrier at the destination office would continue to be done by employees through scheme memorization.

(b) *Economic Effects*—(1) Individuals, small companies and organizations, and major mailers: No changes would be required and none would be perceived. A reduced return on investment in the equipment would produce more modest postal savings.

(2) *The postal system.* A somewhat smaller number of BCR's would be needed to process five-digit ZIP Code mail. The return on investment is estimated to be approximately 20 percent, enough to justify the purchase. This would be less than half the expected return of 48 percent associated with the expanded ZIP Code. However, in terms of savings, the Postal Service would have to forego approximately $380 million in 1987. Also, potential future savings in training and carrier operations would be greatly reduced.

(c) *Distribution of Effects.* It would be wasteful to stop short of obtaining maximum efficiency and maximum benefit from the OCR and BCR equipment deployed, as would be the case under Option E. While use of the expanded ZIP Code under Option B requires mailers to contribute an investment of their own in order to update their address files, the Postal Service will participate in that effort directly and through incentives. The joint investment will quickly pay for itself as the automated processing system comes into full use.

Option F: Mailers Encouraged to Print Bar Codes on Outgoing Mail.

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(a) *Description.* At present some major mailers affix a bar code to their pre-addressed return envelopes. The Postal Service has BCR's capable of reading this bar code and sorting it right to the firm.

The bar codes that are supplied to mailers are based on the five-digit ZIP Code. This system is in operation in 33 cities and processes 600 million pieces of mail annually.

It would be possible for some large mailers to modify their computerized addressing operations to apply bar codes themselves to outgoing mail based on the expanded ZIP Code. Appropriate incentives could be offered to encourage these bar coded mailings. Mail bar-coded by mailers in accordance with the expanded ZIP Code would be processed in the same way as in Option B.

(b) *Economic Effects*—(1) Individuals. There would be no effect at all on individuals.

(2) Small companies and organizations: There would be little, if any, effect on these mailers, since they are unlikely to have the necessary volume to be able to afford the sophisticated equipment to put bar codes on their mail.

(3) *Major mailers.* Since many major mailers with large enough volumes to benefit from rate incentives for presorting already do so, Option F apparently would have to appeal to a category of mailings with insufficient volume for the presort program but still large enough for a computerized bar coding operation. The volume of mail being bar coded by firms would be relatively small under this option.

(4) *The postal system.* This small volume of mail containing a bar code in the address block area would not be sufficient to justify the extra effort required to process it separately. In any event, it would still require a bar code to be imprinted on the bottom of the envelope for subsequent sorts.

(c) *Distribution of Effects.* This option alone is a much more limited one than Option B and does not offer the same potential for major productivity gains. It would still require the development and introduction of the expanded ZIP Code. Once Option B is in effect and incentives to use the expanded ZIP Code have been established, this option would be available as a possible addition to the program if sufficient interest were expressed.

[FR Doc. 80-37080 Filed 11-28-80; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 1683-7]

Approval and Promulgation of Implementation Plans; Tennessee, 1979 Revisions for Nonattainment Areas, Supplemental Submittals

AGENCY: Environmental Protection Agency.

ACTION: Notice of receipt.

SUMMARY: This is a notice of receipt of supplemental information required from the State of Tennessee under the terms of the conditional approval given to the Memphis carbon monoxide revisions on February 6, 1980 (45 FR 8004).

ADDRESSES: Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365.

Tennessee Air Pollution Control Division, 256 Capitol Hill Building, Nashville, Tennessee 37203.

Division of Air Pollution Control, Memphis-Shelby County Health Department, 814 Jefferson Avenue, Memphis, Tennessee 38105.

FOR FURTHER INFORMATION CONTACT: Drew Peake, Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: The State of Tennessee was required to submit additional information by March 15, 1980, to satisfy the conditions of approval for the Memphis carbon monoxide (CO) control plan as stipulated in the February 6, 1980, **Federal Register** (45 FR 8004). Tennessee has complied with this requirement, but there is a recognized deficiency in the submittal. The implementation schedule for the Memphis Vehicle Inspection and Maintenance Program (I/M) included in the submittal has some commitment dates which have already been missed. The Memphis and Shelby County Office of Planning and Development has modified the I/M schedule and forwarded it to the Technical Secretary of the Tennessee Air Pollution Control Board for formal inclusion in the Tennessee SIP. EPA has received an informal copy of the revised schedule. Consequently, EPA will delay removing the conditions on the approval until January 31, 1981, in order to allow for formal adoption and submittal of the revised CO control plan by the State of Tennessee. This delay will provide the State with sufficient time to complete its administrative procedures and any legislative review which may be necessary. Thus, the conditional approval of February 6, 1980, will remain in effect until January 31, 1981. Once this information has been received, EPA will act on granting final approval for the CO plan. However, EPA is giving notice to all concerned parties that if the January 31, 1981 date is missed, EPA will proceed to disapprove the Memphis carbon monoxide plan.

(Secs. 110 and 172 of the Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: November 14, 1980.

John A. Little,

Acting Regional Administrator.

[FR Doc. 80-37163 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 86

[FRL 1685-3]

Application for Waiver of Effective Date of the 1982 Model Year Carbon Monoxide Emission Standard for Light-Duty Motor Vehicles—Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Request for public comments.

SUMMARY: This notice requests public comment on new contentions EPA has received from General Motors Corporation (GM) after the Administrator had reached a decision to deny its request for a waiver of the 1982 model year carbon monoxide (CO) emission standard as it applies to GM's 1.8/2.0 liter engine family.

DATE: Submit comments through December 8, 1980.

ADDRESSES: Interested parties may submit comments on GM's new contentions to the Director, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, SW Washington, D.C. 20460. Information submitted by GM, as well as any comments received from interested parties, will be available for public inspection and copying in EPA Public Docket EN-80-16, located in EPA's Central Docket Section (A-130), Gallery I, 401 M Street, SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Glenn Unterberger, Chief, Waivers Section, Manufacturers Operations Division (EN-340), 401 M Street, SW, Washington, D.C. 20460, telephone number, (202) 472-9421.

SUPPLEMENTARY INFORMATION: Section 202(b)(5) of the Clean Air Act, as amended (Act), 42 U.S.C. 7521(b), authorizes EPA to waive application of the 1981 and 1982 model year statutory CO emission standard applicable to light-duty motor vehicles and engines upon the request of a manufacturer for a specific vehicle model if the Administrator makes certain findings specified under section 202(b)(5)(C) of the Act.

On September 12, 1980, GM requested a waiver of the 1982 model year statutory CO standard for its 1.8/2.0L engine family. EPA held a public hearing to consider the waiver request on October 10, 1980.

On November 20, 1980, I signed a decision which denied GM's waiver request. Prior to release of the document enbodying that decision, however, GM presented the Agency with additional arguments to support its waiver request. GM subsequently formalized these arguments in a letter to me, dated November 21, 1980. After reviewing these arguments from GM, particularly in light of the public interest issues raised by GM, I am now inclined to alter my position and grant GM's waiver request.

GM's position is that without a waiver, its 1.8/2.0L engine family will achieve lower fuel economy levels (at least on its model year 1982 vehicles) than it could have achieved were a relaxed CO standard in effect, and will be burdened by additional costs. GM contends that its impact would be very significant on the competitive position of the engine family in question. GM plans to use the 1.8/2.0L engine in a new line of automobiles which figure as a major part of GM's marketing strategy to meet the public's need for increasingly fuel-efficient cars.

GM further points out that any obstacles to marketing this line of cars with less than optimum fuel economy and cost could present risks to this model's competitive position in the U.S. market. The record for this waiver proceeding shows that these risks, in turn, would present themselves at a very difficult time, when many manufacturers, including GM, are attempting to recover from a period in which they sustained serious financial losses, made large cash commitments to retooling production facilities, and were forced to lay off sustantial numbers of employees.

GM's problems assume added importance in light of its plans for early introduction of this 1982 model year engine family (spring of 1981). There is a risk that the relatively short lead time still available to GM limits the flexibility it has to address the problems it has identified were it not to receive a waiver.

In addition, GM already has raised concerns regarding its ability to market this model without a waiver due to potential driveability problems and inability to meet emissions design targets. GM has contended that partial or total inability to market its 1.8/2.0L engine family could result in significant adverse economic impacts to GM.

The concerns which GM identifies are of the type of considerations which the court in *International Harvester* v. *Ruckelshaus* (478 F. 2d 615 (D.C. Cir. 1973)) indicates EPA should take into account in weighing the risks of erroneously denying a waiver request. GM's recent arguments and submission have persuaded me that I should give additional attention to this risk balancing process and, indeed, to the larger issues involved in assessing the potential impacts of this waiver decision on the public interest. At a time when the automobile industry is finding significant problems in many areas, the public interest to be served by granting a waiver must be carefully balanced against the environmental benefits which denial in this instance would likely achieve.

As a result, I am requesting public comment on the concerns GM has raised for the purpose of reevaluating my original waiver decision. I recognize the need to conduct this reevaluation quickly, in light of the sixty-day statutory deadline which section 202(b)(5) of the Act establishes for responding to CO waiver requests and in light of GM's need to finalize its plans to begin production of these vehicles within a few months. Thus, I am requiring that all comments be submitted to EPA by the first working day which is 10 days after publication of this notice.

EPA will place all information which it receives by that date in public docket EN-80-16. I will rely solely on the information contained in that docket in deciding whether or not to reverse my original denial of GM's waiver request.

Dated: November 24, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-37132 Filed 11-26-80; 8:45 am]

BILLING CODE 6560-33-M

40 CFR Part 123

[SW-4-FRL 1683-6]

South Carolina's Application for Interim Authorization, Phase I, Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA has promulgated regulations under Subtitle C of the Resource Conservation and Recovery Act (as amended) to protect human health and the environment from the improper management of hazardous waste. Phase I of the regulations were publiahed in the **Federal Register** on May 19, 1980 (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the South Carolina application for Phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: Comments on the South Carolina interim autorization application must be received by January 6, 1981.

Public hearing: EPA will conduct a public hearing on the South Carolina interim authorization application at 7:00 p.m. on Tuesday, December 30, 1980. The State of South Carolina will participate in the public hearing.

ADDRESSES: The public hearing will be held at: Rutledge Building, Conference Room, Basement Floor, 1429 Senate Street, Columbia, South Carolina 29201.

Copies of the South Carolina interim authorization application are available at the following addresses for inspection and copying by the public:

(1) South Carolina Department of Health & Environmental Control, Solid Waste Management Division, 2600 Bull Street, Columbia, South Carolina 29201; Telephone: 803/758-5681

(2) Environmental Protection Agency, Regional Office Library, Room 121, 345 Courtland Street NE., Atlanta, Georgia 30365; Telephone: 404/881-4210

(3) EPA Headquarters Library, Room 2404, 401 M Street SW., Washington, D.C. 20460.

Written comments, requests to speak at the hearing, and requests for further information should be addressed to: Donald R. Hunter, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street

NE., Atlanta, Georgia 30365; Telephone: 404/881–3936.

FOR FURTHER INFORMATION CONTACT: Donald R. Hunter, 404/881–3936.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated Phase I of its regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. EPA's Phase I regulations establish, among other things: the initial identification and listing of hazardous wastes; the standards applicable to generators and transporters of hazardous wastes, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

The May 19 regulations also include provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for interim authorization, the State hazardous waste program must, among other things:

(1) have been in existence prior to August 17, 1980, and

(2) be "substantially equivalent" to the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123 Subpart F, (45 FR 33479).

The State of South Carolina has submitted a complete application to EPA for Phase I interim authorization. Copies of the State submittal are available for public inspection and comment as noted above.

Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant South Carolina interim authorization for Phase I of the RCRA program.

The hearing will be informally structured. Individuals providing oral comments will not be sworn in, nor will formal rules of evidence apply. Questions may be posed by EPA personnel to persons providing oral comments; however, no cross-examination by other participants will be allowed.

The State will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA. As time allows, persons who did not sign up in advance but who wish to comment on the State's application for Phase I interim authorization will also be given an opportunity to testify. Each organization or individual will be allowed as much time as possible for oral presentation based on the number of requests to participate and the time available for the hearing. As a general rule, in order to ensure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to five minutes.

Dated: November 20, 1980.

John A. Little,

Acting Regional Administrator.

[FR Doc. 80-37131 Filed 11-26-80; 8:45 am]

BILLING CODE 6560-30-M

40 CFR Part 123

[SW-4-FRL 1683-5]

Tennessee's Application for Interim Authorization, Phase I, Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region IV.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA has promulgated regulations under Subtitle C of the Resource Conservation and Recovery Act (as amended) to protect human health and the environment from the improper management of hazardous waste. Phase I of the regulations were published in the **Federal Register** on May 19, 1980 (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. today EPA is announcing the availability for public review of the Tennessee application for Phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: Comments on the Tennessee interim authorization application must be received by January 5, 1981.

Public hearing: EPA will conduct a public hearing on the Tennessee interim authorization application at 7:00 p.m. on Monday, December 29, 1980. the State of Tennessee will participate in the public hearing.

ADDRESSES: The public hearing will be held at: Legislative Plaza, Room 16, 6th Ave. North at Union Street, Nashville, Tennessee (parking available under building).

Copies of the Tennessee interim authorization application are available at the following addresses for inspection and copying by the public:

(1) Division of Solid Waste Management, Tennessee Department of Public Health, 320 Capitol Hill Building, Nashville, Tennessee 37219; Telephone: 615/741–3424.

(2) Environmental Protection Agency, Regional Office Library, Room 121, 345 Courtland Street NE., Atlanta, Georgia 30365; Telephone 404/881–4216.

(3) EPA Headquarters Library, Room 2404, 401 M Street SW., Washington, D.C. 20460.

Written comments, requests to speak at the hearing, and requests for further information should be addressed to: Patricia S. Zweig, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365; Telephone: 404/881–3966.

FOR FURTHER INFORMATION CONTACT: Patricia S. Zweig, 404/881–3966.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated Phase I of its regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. EPA's Phase I regulations establish, among other things: the initial identification and listing of hazardous wastes; the standards applicable to generators and transporters of hazardous wastes, including a manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

The May 19 regulations also include provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in

which the underlying Federal program will take effect. In order to qualify for interim authorization, the State hazardous program must, among other things:

(1) have been in existence prior to August 17, 1980, and

(2) be "substantially equivalent" to the Federal program.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 123 Subpart F (45 FR 33479).

The State of Tennessee has submitted a complete application to EPA for Phase I interim authorization. Copies of the State submittal are available for public inspection and comment as noted above.

Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Tennessee interim authorization for Phase I of the RCRA program.

The hearing will be informally structured. Individuals providing oral comments will not be sworn in, nor will formal rules of evidence apply. Questions may be posed by EPA personnel to persons providing oral comments; however, no cross-examination by other participants will be allowed.

The State will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA. As time allows, persons who did not sign up in advance but who wish to comment on the State's application for Phase I interim authorization will also be given an opportunity to testify. Each organization or individual will be allowed as much time as possible for oral presentation based on the number of requests to participate and the time available for the hearing. As a general rule, in order to ensure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to five minutes.

Dated: November 19, 1980.

John A. Little,

Acting Regional Administrator.

[FR Doc. 80-37130 Filed 11-26-80; 8:45 am]

BILLING CODE 6560-30-M

40 CFR Part 180

[PP 8E2123/P155; PH-FRL 1683-8]

O,O-Dimethyl *S*-[4-Oxo-1, 2, 3-Benzotriazin-3(4*H*)-yl)Methyl Phosphorodithioate; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for residues of the insecticide (*O,O*-dimethyl *S*-[(4-oxo-1,2,3-benzotriazin-3(4*H*)-yl]methyl] phosphorodithioate) in or on the raw agricultural commodities birdsfoot trefoil and birdsfoot trefoil hay. This proposal was submitted by the Interregional Research Project No. 4 (IR–4). This amendment will establish a maximum permissible level for residues of the insecticide on birdsfoot trefoil at 2 parts per million (ppm) and birdsfoot trefoil hay at 5 ppm.

DATE: Comments must be received on or before December 29, 1980.

ADDRESS: Written comments to: Clinton Fletcher, Rm. E–124, Office of Pesticide Programs, Registration Division (TS–767), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Clinton Fletcher, (202–426–0223).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted a pesticide petition No. 8E2123 to EPA on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of Missouri.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for residues of the subject insecticide (*O,O*,-dimethyl *S*-[(4-oxo-1,2,3-benzotriazin-3(4*H*)-yl)methyl] phosphorodithioate) in or on the raw agricultural commodities birdsfoot trefoil at 2 ppm and birdsfoot trefoil hay at 5 ppm.

The data submitted in the petition and all other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicology data considered in support of the proposed tolerances were a two-year dog feeding study with a no-observed-effect-level (NOEL) of 5 ppm; a two-year rat feeding study with a NOEL of 5 ppm; a three-generation mouse reproduction study with a NOEL of greater or equal to 5 mg/kg/day; a rabbit teratology study negative at greater or equal to 0.75 milligram (mg)/kilogram (kg) of body weight (bw)/day (highest level fed); teratology studies in the rat and mouse both with a NOEL of greater or equal to 5 mg/kg/day; a hen neurotoxicity study, negative up to 100 ppm (highest level fed); a National Cancer Institute study indicating negative oncogenic potential in $B_6C_3F_1$ mice and inconclusive results for male Osborne-Mendel rats. The acceptable daily intake (ADI) for humans has been calculated to be 0.025 mg/kg of bw/day based on the NOEL of the two-year rat feeding study using a 10-fold safety factor, a factor base on cholinesterase activity associated with organo-phosphate pesticides. Thus, for a 60 kg human, the maximum permissible intake (MPI) for this chemical is calculated to be 1.5 mg/day. Since birdsfoot trefoil is not a human food, the requested tolerances will not alter the human theoretical maximal residue contribution (TMRC).

The recently completed oncogenicity study by the National Cancer Institute indicated that the compound had no oncogenic potential in one rodent species while, in a second species, the data were inconclusive and insufficient to judge the potential oncogenicity of the subject pesticide. The results would warrant a retesting in rats to clarify the remaining uncertainty raised by the present study. In a letter of March 3, 1980, the registrant has agreed to initiate a second mouse oncogenic study with a scheduled completion in March of 1983.

The nature of the residue is adequately understood and an adequate analytical method (Meagher colorimetric method) is available for enforcement purposes. The proposed tolerances a**Federal Register.** re adequate to insure that the established tolerances in meat and milk will not be exceeded. Fresh trefoil and its hay are not poultry feed items; thus, no problems with respect to residues in poultry and eggs are expected. There are presently no actions pending against the continued registration of this chemical.

Thus, based on the above information considered by the Agency, the fact that birdsfoot trefoil is not a human food, and that currently established tolerance for meat and milk are adequate to cover any residues from the animal feed, it is concluded that the tolerances of 2 ppm in or on birdsfoot trefoil and 5 ppm in or on birdsfoot trefoil hay established by

V 45 NO28 80 UMI

amending 40 CFR Part 180 would protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before December 29, 1980 that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition and document control number, "PP 8E2123/P155". All written comments filed in response to this petition will be available for public inspection in the office of Clinton Fletcher from 8:00 a.m. to 4:00 p.m. Monday through Friday, except holidays.

Note.—Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: November 18, 1980.

Douglas D. Campt,

Director, Registration Division Office of Pesticide Programs.

Therefore, it is proposed that Subpart C of 40 CFR Part 180 be amended by alphabetically inserting "birdsfoot trefoil and birdsfoot trefoil hay" in the table under § 180.154 to read as follows:

§ 180.154 O, O-dimethyl S-[(4-oxo-1,2,3-benzotriazin-3 (4H)-yl)methyl] phosphorodithioate; tolerances for residues.

* * * * *

Commodity	Part per million
* * * * *	
Birdsfoot trefoil	2
Birdsfoot trefoil hay	5
* * * * *	

[FR Doc. 80-37083 Filed 11-26-80; 8:45 am]

BILLING CODE 6560-32-M

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 101 and 105

Improving Government Regulations; Agenda of Significant Regulatory Activity

AGENCY: General Services Administration.

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the significant regulatory actions that GSA plans for the 6-month period from December 1980 to May 1981. This agenda was developed under the guidelines in Executive Order 12044, Improving Government Regulations (43 FR 12661, Mar. 24, 1978), GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the early stages of the rulemaking process.

FOR FURTHER INFORMATION CONTACT: Stanley W. Bowers, Chief, Directives Management Branch (202–566–0666).

SUPPLEMENTARY INFORMATION: On December 4, 1978, GSA published its final report on implementation plans for Executive Order 12044 at 43 FR 56728. As explained in the report, GSA will publish a semiannual agenda of significant regulatory activity during May and November of each year. The agenda lists, for each of GSA's services and staff offices, new significant regulations that are being considered, changes that are planned to existing significant regulations, significant regulations that will be reviewed during the upcoming 6-month period, and the status of items from the previous agenda.

Date: November 21, 1980.

Ray Kline,

Acting Administrator of General Services.

NATIONAL ARCHIVES AND RECORDS SERVICE

A. New Regulations

No new significant regulations are being considered.

B. Changes to Existing Regulations

1. Public Use of Archives and FRC Records (41 CFR 105–61.1)—in which only § 105–61.104, Access to National Security Information, has been defined as significant—was revised and published as a final rule at 44 FR 18498 (Mar. 28, 1979). This regulation is currently undergoing futher revision.

a. *Need for change:* To resolve conflicts on procedures for implementing Executive Order 12065, National Security Information, for handling Freedom of Information Act requests under 5 U.S.C. 552.

b. *Legal basis:* Federal Property and Administrative Services Act of 1949, as amended (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)).

c. *Contact point:* Adrienne C. Thomas, Director, Planning and Analysis Division (NAA) (202–523–3214).

d. *Regulatory analysis:* Will not be prepared.

C. Regulations Scheduled for Review

No significant regulations are presently being reviewed.

D. Status of Agenda Items Published on May 30, 1980 (45 FR 36440)

1. Public Use of Donated Historical Materials (41 CFR 105–61.2). GSA was considering the addition of a provision under which falsification of information by researchers could provide grounds for denying access to records. However, upon further review it was decided that no changes will be made to the existing regulation at this time.

a. *Contact point:* Richard A. Jacobs, Deputy Assistant Archivist, Office of Presidential Libraries (NL) (202–523–3073).

OFFICE OF HUMAN RESOURCES AND ORGANIZATION

A. New Regulations

No new significant regulations are being considered.

B. Changes to Existing Regulations

No significant regulations are scheduled to be changed.

C. Regulations Scheduled for Review

No significant regulations are scheduled for review.

D. Status of Agenda Items Published on May 30, 1980 (45 FR 36440)

1. New regulations. Procedures for implementing section 504 of the Rehabilitation Act of 1973. These regulations are intended to ensure nondiscrimination against handicapped persons in programs and activities that receive financial assistance from GSA.

a. A proposed rule was published on October 30, 1979 (44 FR 62298). GSA has evaluated the comments received on the proposal and plans to issue a final rule by January 1981.

b. *Contact point:* Jacquie C. Perry, Office of Civil Rights (202–566–1790).

TRANSPORTATION AND PUBLIC UTILITIES SERVICE

A. New Regulations

No new significant regulations are being considered.

B. Changes to Existing Regulations

1. Federal Travel Regulations (FTR) (41 CFR Part 101–71)—to provide employees performing official business for the Government payment of additional travel expenses under certain circumstances and to authorize additional relocation allowances that are reimbursable on a permanent change of station (PCS).

a. *Need for change:* Based on a study undertaken by the General Services Administration, the Office of Management and Budget, and the Office of Personnel Management; and on agency and employee surveys.

b. *Legal basis:* Executive Order 11609 (July 22, 1971) and the Travel Expense Amendments Act of 1975 (Pub. L. 94–22, May 19, 1975).

c. *Contact point:* Audrey Rish, Federal Travel Management Division, Office of Transportation and Travel Management (202–275–0651).

d. *Regulatory analysis:* Will not be prepared.

e. *Additional information:* The regulatory changes listed above will be published in the **Federal Register** as a proposed rule to allow for agency comments before a final rule is issued.

C. Regulations Scheduled for Review

1. Federal Travel Regulations (FTR) (41 CFR Part 101–7)—to revise high rate geographical areas and mileage allowances.

a. *Contact point:* Audrey Rish, Federal Travel Management Division, Office of Transportation and Travel Management (202–275–0651).

D. Status of Agenda Items Published on May 30, 1980 (45 FR 36440)

1. New regulations. Policies and procedures for travel between city pairs.

a. Federal Property Management Regulations (FPMR) Temporary Regulation A–15 became effective on July 1, 1980 (45 FR 44951).

Contact point: John Millington, Transportation Management Division, Office of Transportation and Travel Management (202–275–6144).

2. Changes to existing regulations.

a. Federal Travel Regulations (FTR) (41 CFR Part 101–7)—implementation of FPMR Temporary Regulation A–15, Travel between city pairs.

(1) FPMR Temporary Regulation A–11, Supplement 10, became effective on July 1, 1980 (45 FR 44953).

Contact point: Phyllis Hickman, Travel Management Division, Office of Transportation and Travel Management (202–275–0651).

b. Federal Travel Regulations (FTR) (41 CFR Part 101–7)—revision of high rate geographical areas, increase in per diem and actual subsistence allowances, and increase in reimbursement for the use of privately owned conveyances.

(1) FPMR Temporary Regulation A–11, Supplement 11, became effective on October 5, 1980 (45 FR 65146).

Contact point: Phyllis Hickman, Federal Travel Management Division, Office of Transportation and Travel Management (202–275–0651).

3. Status of agenda items published on November 30, 1979 (44 FR 62298) and May 30, 1980 (45 FR 36440).

a. Federal Travel Regulations (FTR) (41 CFR Part 101–7)— to revise per diem and actual subsistence provisions (Parts 7 and 8 of chapter 1).

(1) This project is pending further review and approval by the General Accounting Office and the President's Management Improvement Council.

Contact point: Audrey Rish, Federal Travel Management Division, Office of Transportation and Travel Management (202–275–0651).

FEDERAL PROPERTY RESOURCES SERVICE

A. New Regulations

1. Utilization, Donation, Sale, Abandonment, or Destruction of Hazardous Materials (41 CFR Chapter 101).

a. *Need for regulations:* The number of materials identified as hazardous is rapidly increasing, and their disposition is a sensitive matter. A comprehensive regulation is necessary to ensure proper identification and disposal of hazardous materials.

b. *Legal basis:* Federal Property and Administrative Services Act of 1949, as amended (Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c)).

c. *Contact point:* William Albee, Regional Operations Branch (202–557–0716).

d. *Regulatory analysis:* Will not be prepared.

B. Changes to Existing Regulations

1. Utilization and Disposal of Personal Property Pursuant to Exchange/Sale Authority (41 CFR Part 101–46)—revise and clarify.

a. *Need for change:* The results of a review by GSA employees of proposed Federal Acquisition Regulation (FAR) Subpart 17.3, Exchange/Sale of Nonexcess Personal Property, indicate that 41 CFR Part 101–46, as currently written, does not provide a viable basis for development of the FAR subpart.

b. *Legal basis:* Section 201(c) of the Federal Property and Administrative Services Act of 1949, 68 Stat. 384, as amended (40 U.S.C. 481(c)).

c. *Contact point:* Alan V. Trickey, Utilization Division (202–557–0726).

d. *Regulatory analysis:* Will not be prepared.

C. Regulations Scheduled for Review

No significant regulations are scheduled for review.

D. Status of Agenda Items Previously Published

No significant regulatory actions are pending.

OFFICE OF GENERAL COUNSEL

A. New Regulations

No new significant regulations are being considered.

B Changes to Existing Regulations

No significant regulations are scheduled to be changed.

C. Regulations Scheduled for Review

No significant regulations are scheduled for review.

D. Status of Agenda Items Published on May 30, 1980 (45 FR 36440)

1. Public Availability of Agency Records and Informational Materials (41 CFR Part 105–60); GSA intends to revise its regulations covering public requests for GSA materials under the Freedom of Information Act (FOIA). Currently, 41 CFR Part 105–60 covers both procedures for the public to follow when requesting GSA information and rules for GSA employees to follow when they receive these requests from the public. GSA is considering revising these regulations to separate the rules that apply to the public from those that apply only to GSA employees. In the process, the rules for public access to information will be simplified and clarified.

a. A proposed rule was published in the **Federal Register** on November 3, 1980 (45 FR 72714). The comment period closes on January 2, 1981.

b. *Contact point:* Rebecca Thompson, Administration and Records Division (202–566–1480).

AUTOMATED DATA AND TELECOMMUNICATIONS SERVICE

No significant regulatory actions are planned.

FEDERAL SUPPLY SERVICE

No significant regulatory actions are planned.

OFFICE OF ACQUISITION POLICY

No significant regulatory actions are planned.

OFFICE OF PLANS, PROGRAMS, AND FINANCIAL MANAGEMENT

No significant regulatory actions are planned.

PUBLIC BUILDINGS SERVICE

No significant regulatory actions are planned.

[FR Doc. 80-37034 Filed 11-26-80; 8:45 am]
BILLING CODE 6820-34-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 9

[Docket No. FEMA Gen. 9-A]

Floodplain Management and Protection of Wetlands

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Request for Comment on Proposal to Amend Rule.

SUMMARY: This proposal requests comments on § 9.9(e)(6) and § 9.11(e)(4) of the FEMA Regulation, 44 CFR Part 9, "Floodplain Management and Protection of Wetlands." The two sections, which are presently in effect, deal with denial of new or renewal flood insurance for structures in certain situations where floodplain management requirements have not been met. While the rules provision remain in effect, FEMA does not intend to enforce these regulations pending this public comment. A notice of this intent of non-enforcement is being published elsewhere in the **Federal Register** today (see Table of Contents). FEMA proposes no change in the rule; others may.

DATE: Comments no later than January 27, 1981.

ADDRESSES: Send comments to Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, Room 801, 1725 I Street, N.W., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: John Scheibel, Assistant to the General Counsel for Environmental Quality and Hazard Mitigation, Federal Emergency Management Agency, Washington, DC 20472; telephone (202) 634-1990.

SUPPLEMENTARY INFORMATION: On September 9, 1980, FEMA issued 44 CFR Part 9, Floodplain Management and Protection of Wetlands (**Federal Register**, Vol. 45, pp. 59520-59538). Included in the regulations are two provisions which deny the availability of flood insurance under certain circumstances. Section 9.9(e)(6) states that in any case in which the Regional Director of FEMA has selected the "no action" option for a structure in a floodplain or wetland, the Federal Insurance Administration (FIA) may not provide a new or renewed contract of flood insurance for that structure. Section 9.11(e)(4) provides that where the Regional Director has been precluded from providing assistance for a new or substantially improved structure in a floodway, FIA may not provide a new or renewed policy of flood insurance for that structure.

FEMA had issued interim regulations on floodplain management and had requested public comment on these by December 27, 1979 (**Federal Register**, Vol. 45, pp. 76510-76522). This interim regulation did not expressly deal with denial of flood insurance coverage. Although FEMA is of the view that the December 27 regulation fairly apprised all of what eventually appeared in the final rule, it is now requesting comment on the specific point in view of Pub. L. 96-369.

That law, by virtue of its incorporation of certain provisions in pending appropriation bills, denies FEMA any finding to implement §§ 9.9(e)(6) and 9.11(e)(4) until FEMA issues these provisions for notice and comment and, in no event, prior to January 31, 1981.

Elsewhere in the **Federal Register** of today (see Table of Contents) there is a notice that FEMA is suspending enforcement of this regulation pending receipt of public comment.

As stated in the preamble to the final rule published in the **Federal Register** on September 9, 1980, FEMA has determined that FIA has the authority to restrict the availability of flood insurance, even in communities participating in the National Flood Insurance Program. FEMA's capacity to enforce implementation of this authority is thus being temporarily restricted.

Accordingly, it is proposed to readopt Part 9 of Title 44 of the Code of Federal Regulations as follows:

1. Section 9.9(e)(6) reads as follows:

§ 9.9. Analysis and evaluation of practicable alternatives.

* * * * *

(e) *Reevaluation of Alternatives.*

(6) In any case in which the Regional Director has selected the "no action" option, FIA may not provide a new or renewed contract of flood insurance for that structure.

* * * * *

2. Section 9.11(e)(4) reads as follows:

§ 9.11 Mitigation.

* * * * *

(e) In the implementation of the National Flood Insurance Program, the Federal Insurance Administrator:

* * * * *

(4) In any case in which the Regional Director has been, pursuant to § 9.11(d)(1), precluded from providing assistance for a new or substantially improved structure in a floodway, FIA may not provide a new or renewed policy of flood insurance for that structure.

Dated: November 18, 1980.

John W. Macy, Jr.,
Director.

[FR Doc. 80-36574 Filed 11-26-80; 8:45 am]
BILLING CODE 6718-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Glazing Materials

AGENCY: National Highway Traffic Safety Administration.

ACTION: Grant of petition for rulemaking.

SUMMARY: The purpose of this notice is to announce the granting of petitions for rulemaking filed by Rohm and Haas Company, General Electric Company (GE) and the Society of Automotive Engineers (SAE) regarding Safety Standard No. 205, *Glazing Materials*. All three petitioners have asked the agency to upgrade the standard by adopting the latest version of the American National Standard Safety Code for Glazing ("ANS Z26"), which is incorporated by reference in Safety Standard No. 205. At present, the standard refers to the 1969 version of "ANS Z26". A revised edition was published by the American National Standards Institute on January 26, 1977. The petitioners urge the agency to incorporate this version of "ANS Z26" in the standard because they believe it reflects the latest advancements in glazing technology.

In addition, GE has asked the agency to amend Standard No. 205 to permit a new type of bullet resistant glazing. This new item specification would allow a transparent, plastic, bullet resistant shield to be installed inside a vehicle behind the windshield. The shield would be separate from the windshield glazing. GE states that because the plastic glazing materials used to make the shield are lightweight, small businesses would be able to provide ballistics protection for their employees at a lower cost.

NHTSA believes that the petitions filed by Rohm and Haas, GE, and SAE have merit, and they are hereby granted. The agency will commence rulemaking to determine the safety consequences of the requested amendments. The granting of a petition does not mean that a rule will necessarily be issued. The determination whether to issue a rule is made in the course of the rulemaking proceeding, in accordance with statutory criteria.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Jettner, National Highway Traffic Safety Administration, Office of Vehicle Safety Standards, Room 5320, 400 Seventh Street SW, Washington, D.C. 20590 (202-426-2264).

Issued on November 18, 1980.

Michael Finkelstein,
Associate Administrator for Rulemaking

[FR Doc. 80-36879 Filed 11-26-80; 8:45 am]
BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1039, 1090, and 1300

[Ex Parte No. 230 (Sub-5)]

Improvement of TOFC/COFC Regulation

AGENCY: Interstate Commerce Commission

ACTION: Notice of proposed rule (exemption).

SUMMARY: The Commission is proposing to exempt rail and truck service provided by rail carriers in connection with trailer on flatcar (TOFC) and container on flatcar (COFC) service from Title 49, Subchapter IV of the U.S. Code. The Proposed exemption is based on findings that regulation is not necessary to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from the abuse of market power by railroads. The proposed exemption is intended to remove unnecessary regulation and to permit railroads to market TOFC and COFC services in response to demand for the services.

DATES: The effective date of the proposed rule (exemption) is January 27, 1981. Comments are due December 29, 1980.[1]

ADDRESS: An original and 15 copies of comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, (202) 275-7656.

SUPPLEMENTARY INFORMATION:

Background

This proceeding was instituted by an advance notice of proposed rules serviced August 21, 1979, and published in the **Federal Register** August 22, 1979.

The notice stated that we were considering the institution of a rulemaking proceeding which would:

(1) exempt from regulation (under 49 U.S.C. 10505) rail transportation of TOFC-COFC shipments, either in whole or in part; (2) provide expedited and simplified procedures for licensing new TOFC-COFC service by motor carriers, including those affiliated with railroads; (3) establish a "zone of reasonableness" within which motor carrier TOFC-COFC rates could be raised or lowered; (4) modify existing regulations which prohibit motor common carriers from exchanging TOFC-COFC shipments with railroads at other than authorized service points; and (5) clarify the circumstances under which motor contract carriers can substitute rail service for all-motor service.

Since publication of that notice, Congress has enacted the Motor Carrier Act of 1980 and the Staggers Rail Act of 1980. The new laws have profoundly affected the content, direction, and procedure of this proceeding. Our exemption authority related to transportation provided by railroads has been strengthened and clarified. Non-rail regulatory barriers have been essentially eliminated.

The Staggers Rail Act of 1980 authorizes exemption of service provided by rail carriers in all instances where regulation is not needed to prevent abuses of market power. The Congress expects us to undertake a careful examination of railroad regulation and eliminate or reduce restrictions on railroad price and service changes.[2] In particular, the legislative history focuses on the need to pursue vigorously opportunities for exemptions. The Congress recognized that we are in the best position to identify likely candidates for exemption. Congress has stated it is anxious for us to remove existing regulatory barriers and reserve judgment on potential problems until after exemptions have been granted.[3]

The statute singles out TOFC/COFC service as a candidate for exemption. Section 10505(f) provides, "The Commission may exercise its authority under this section to exempt transportation that is provided by a rail carrier as a part of a continuous intermodal movement."

We believe that a total exemption for this traffic is appropriate based on the standards of 49 U.S.C. 10505. We are proposing to exempt from economic regulaton, rail and truck service provided by railroads as part of a continuous intermodal movement. The responses to the advance notice issued in this proceeding confirmed our belief that the potential for railroad abuses of market power in TOFC/COFC service is virtually non-existent.

The comments demonstrate that this traffic is highly competitive with motor carrier service, Rate levels, transit times, and loss and damage experience determine the choice of transport mode. Shipper comments indicate that the rate spread between TOFC/COFC and trucks has virtually disappeared. Neither mode has the inherent ability to dominate the market for the type of freight which is shipped in trucks or containers.

Other modes of transportation are not the only source of competition to the railroads for this traffic. Actual and potential intramodal competition is a significant factor in the market for TOFC/COFC service. The operational flexibility of the motor carrier portion of a TOFC/COFC movement permits numerous railroads to serve areas beyond their fixed systems of tracks.

The presence of actual and potential intermodal and intramodal competition, and the historical evidence support our view that TOFC/COFC service is sufficiently competitive to insure that the public interest will be protected without regulation.

Numerous participants support our views and have pointed out how regulatory barriers impede the growth of TOFC/COFC service. DuPont welcomes the exemption as an opportunity to negotiate for price and service options which meet its particular needs. It looks forward to the end of complex and inflexible rate structures and service plans. DuPont recognizes that regulation of this competitive service is serving no useful purpose.

Other commenters, like American Standard, focus on service problems rather than regulatory barriers as the main impediment to successful marketing of TOFC/COFC service. American Standard notes that it will forego substantial rate advantages and select a carrier based on its ability to provide dependable service. Nevertheless, American Standard recognizes the need to change regulations and practices which in its words "artificially" impede the development of intermodal services.

Transamerica Interway, which leases 27 percent of the TOFC/COFC fleet to

[1] The Staggers Rail Act of 1980 removed the requirement that a proceeding be held to consider an exemption. We have already received one round of comments. We believe that this abbreviated procedure is appropriate under these circumstances.

[2] H.R. Rep. No. 96-1430, 96th Cong. 2d Sess. 105 (1980).

[3] See footnote 2.

rail and water carriers, favors an exemption of this service. Its experience here and in Canada suggests that regulation of TOFC/COFC service is not required.

Individual railroads like Southern Pacific support exemption of TOFC/COFC. It believes that regulation has adversely affected the development and marketing of this service. SP is convinced that regulation has impaired its ability to respond to its unregulated and less regulated competitors. Southern Pacific is anxious to put an end to regulatory costs which, in its view, produce no benefits.

The Department of Justice also favors a total exemption of TOFC/COFC service. Like Southern Pacific, DOJ urges removing restrictions on this service and allowing intermodal service to develop as a natural respone to demand for the service.

Not all participants favor an exemption for TOFC/COFC service. A number of motor carriers and shippers are afraid that railroads will abuse their market power to the disadvantage of the public. Motor carriers are particularly afraid that exempt railroads and their trucking affiliates would exclude regulated truckers from TOFC/COFC traffic in the future. In view of the competitive nature of this service, we are relatively certain that these fears are groundless.

Trucking companies that can offer a low cost and efficient connection to a railroad should have no fear of losing business. Railroads and motor carriers can continue to negotiate rate and service arrangements. The biggest change under the exemption will be the fact that railroads will be in a better position to provide a complete rail/motor service. Trucking companies will face more competition but are unlikely to suffer abuses of market power. In the highly competitive environment which should develop, trucking companies will have ample opportunities to join the railroads as business partners or compete with them.

It is also clear that the public interest, as defined by the railroad transportation policy of 49 U.S.C. 10101(a), will be served by exempting this traffic. An exemption will place primary reliance on market forces, not government regulations, to establish reasonable rates and maintain necessary services. The public benefits promised by the exemption mesh well with the goals of the railroad transportation policy.

The primary area of controversy concerning the exemption is the question of antitrust immunity for collectively established rates. Users and providers of TOFC/COFC service are not anxious to abandon the opportunity to set their rates collectively. The railroads are virtually unanimous in their request that anititrust immunity be continued for collectively establishing TOFC/COFC rates. Many shippers and shippers associations are also anxious to preserve a forum for collective discussion of TOFC/COFC rates. All these particpants would like to have a safe, legal way to fix uniform prices for services which move over routes of more than one railroad. The railroads want to be able to continue to formulate single-factor, joint through rates for this service over competing routes. We faced and overcame the same arguments in exempting fresh fruits and vegetables, *Rail General Exemption Authority* 361 I.C.C. 374 (1979). In that proceeding we noted that a grant of antitrust immunity under 49 U.S.C. 10706 requires a finding that the immunity is necessary to further the goals of the national transportation policy. We than observed that an exemption can only be granted if regulation is not necessary to further the national transportation policy. Under these circumstances, a grant of immunity was deemed to be incompatible with granting the exemption.

In this proceeding we are again unwilling to sacrifice the benefits of competition promised by the exemption by continuing to offer antitrust immunity to the railroads. An exemption of TOFC/COFC service will enhance both intermodal and intramodal competitive opportunities. Railroads will be able to offer a complete intermodal service without regulatory restraints. They will be able to compete vigorously with trucks and with other railroads. If we were to immunize TOFC/COFC ratemaking from the antitrust laws, most of these benefits would be lost.

The railroads' expressed intention of publishing identical single-factor, joint through rates over competing routes would completely negate the intended benefits of the exemption. All potential intramodal competition would be lost. Even the benefits of competition with other modes would be minimized. This is true because collectively established joint rates would mask the efficiencies of individual routes in an average cost rate structure. The benefits of competitive pricing by individual companies will be virtually lost if rates are permitted to be set collectively.

As we noted before, the Congress expects us to identify exemption candidates, decide whether exemption is appropriate, grant exemptions, and solve any problems which develop after we have had some experience under the exemption. This approach is particularly appropriate for the question of antitrust immunity. Railroads and users of TOFC/COFC services have defined their relationships in certain ways because of the existence of antitrust immunity. We see no reason why the same services cannot be arranged and sold without antitrust immunity. The fact that certain users or sellers may have to conduct their businesses somewhat differently is not a good reason to continue antitrust immunity for TOFC/COFC service.

Other Issues

The advance notice only addressed possible exemption of domestic motor-rail traffic. Several railroad and port participants have pointed out that the relationship between domestic and foreign service and ex-motor and ex-water service makes it both difficult and unwise to exempt any less than all rail TOFC/COFC service. We agree. All forms of TOFC/COFC service are highly competitive. Ex-water service in both domestic and foreign markets would benefit if unproductive regulatory restraints were removed. Under the new law, our ability to extend the exemption to all "continuous intermodal movements" is clear and we see no reason to omit ex-water service here.

The new law also resolves the question of railroad liability for loss and damage under exemption. Section 10505(e) provides the standards for liability which railroads must apply to exempt services. That section requires full value rates or limited liability rates where the shipper consents.

Three important motor carrier issues were settled by the Motor Carrier Act of 1980. The new law provides eased entry standards and a zone of rate freedom.[4] It also allows motor carriers to deliver TOFC traffic to rail ramps at other than authorized service points.[5]

The advance notice raised the possibility of exempting the motor portion of TOFC service. Under the new law exemption is limited to "transportation that is provided by a rail carrier." Although exemption of the motor portion not provided by a rail carrier is no longer possible, we are satisified that many of the regulatory barriers to intermodal service which we identified in the advance notice have been removed by the Motor Carrier Act of 1980.

Other issues such as appropriate treatment of railroad affiliated motor carriers, possible expansion of motor carrier terminal areas, and several proposals for regualtory changes offered by freight forwarders, shipper associations, and shipper agents will not be discussed in this notice. To the extent that any participant has a continuing interest in these subjects, in light of the proposed exemption, their comments should so indicate.

[4] 49 U.S.C. 10922(b) and 10708(d)
[5] 49 U.S.C. 10922(j) and 10923(e)

The proposed rules implementing the exemption are contained in the appendix.

Environmental Impact. It is unlikely that the exemption will divert such a substantial amount of motor carrier traffic to TOFC–COFC that significant environmental or energy impacts would result. Compared with motor carriage, TOFC/COFC generally is a more energy efficient transportation alternative. Other areas of environmental concern, including transportation safety, and preservation of natural resources (essentially by extending roadway life), should be enhanced as a result of the exemption. Although the exemption probably will improve overall air quality, should traffic congestion in terminal areas increase, air quality in those areas may be affected adversely. Comments addressing energy and environmental concerns are invited.

This proposed rule is issued under the authority of sections 553 and 559 of the Administrative Procedure Act (5 U.S.C. 553 and 559) and sections 10321(a) and 10505 of Title 49 (49 U.S.C. 10321(a) and 10505).

Decided: November 19, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,
Secretary.

Appendix

Chapter X of Title 49 of the Code of Federal Regulations is amended as follows:

PART 1039—RAILROAD CONTRACT RATES; POLICY STATEMENT

1. A new § 1039.11 reading as follows is added:

§ 1039.11 Rail intermodal transportation exemption.

Railroad and truck transportation provided by a rail carrier as part of a continuous intermodal movement is exempt from the provisions of Subtitle IV of Title 49 with certain exceptions. Carriers must continue to comply with Commission accounting and reporting requirements. The rail carriers must send a letter of notification to this docket within 30 days of the date they begin using the exemption. All railroad tariffs pertaining to the transportation of intermodal freight will no longer apply except to the extent adopted by carrier quotations. Nothing in this exemption shall be construed to affect our jurisdication under section 10505 or our ability to enforce this decision or any subsequent decision made under authority of this exemption section. This exemption shall remain in effect, unless modified or revoked by a subsequent order of this Commission.

(49 U.S.C. 10321(a) and 10505)

Part 1090 is revised to read as follows:

PART 1090—PRACTICES OF CARRIERS INVOLVED IN THE INTERMODAL MOVEMENT OF CONTAINERIZED FREIGHT

Sec.
1090.1 Definition of TOFC/COFC service.
1090.2 Use of TOFC/COFC service by motor and water carriers.

Authority: 49 U.S.C. 10321(a) and 10762.

§ 1090.1 Definition of TOFC/COFC service.

Trailer-on-flatcar (TOFC/COFC) service means the transportation on a rail car, in interstate or foreign commerce, of (a) any freight-laden highway truck, trailer, or semitrailer (or container portion of any highway truck, trailer, semitrailer having a demountable chassis) or (b) any empty highway truck, trailer, or semitrailer (or the container portion of any highway truck, trailer or semitrailer having a demountable chassis) when such empty equipment is being transported incidental to its prior or subsequent use in (TOFC/COFC) service.

§ 1090.2 Use of (TOFC/COFC) service by motor and water carriers.

(a) Except as otherwise may be prohibited by these rules, motor common and contract carriers, water common and contract carriers, and freight forwarders may utilize (TOFC/COFC) service in the performance of all or any portion of their authorized service.

(b) Motor and water common carriers shall utilize (TOFC/COFC) service only if their tariff publications give notice that such service may be utilized at their option, but that the right is reserved to the user of their services to direct that in any particular instance (TOFC/COFC) service not be utilized.

(c) Motor and water contract carriers may utilize (TOFC/COFC) service only if their transportation contracts and schedules make appropriate provision therefor.

(d) Tariffs of motor and water common carriers and contracts and schedules of motor and water contract carriers providing for the use of (TOFC/COFC) service shall set forth the points between which (TOFC/COFC) service may be utilized.

(49 U.S.C. 10321(a), and 10762)

PART 1300—FREIGHT TARIFFS: RAILROADS WATER CARRIERS, AND PIPELINE COMPANIES SUBJECT TO SECTION 6 OF THE INTERSTATE COMMERCE ACT AND CARRIERS JOINTLY THEREWITH

§§ 1300.0 and 1300.67 are amended as follows:

§ 1300.0 [Amended]

Section 1300.0(a)(1) is amended by amending the second sentence to read as follows:

(a) * * *

(1) * * * The regulations in this part shall also govern the construction and filing of tariffs naming through routes and joint rates over the lines of common carriers by water or pipeline, subject to the Interstate Commerce Act, on the one hand, and vessel-operating common carriers by water engaged in the foreign commerce of the United States, as defined in the Shipping Act, 1916, on the other hand, for the transportation of property between any place in the United States and any place in a foreign country. See § 1300.67.

§ 1300.67 [Amended]

Section 1300.67(b)(1) is amended by deleting from the first sentence (1) the word "railroad", including the comma, (2) the comma following the word "pipeline", and (3) the phrase "or a common carrier by railroad, jointly with a common carrier by motor vehicle", including the comma.

Section 1300.67(b)(2) is amended by deleting the sentence reading as follows: "If a tariff provides less-than-carload, less-than-container-load, or less-than-trailerload service, such service must be defined."

Section 1300.67(b)(5) is amended by deleting from the next to last sentence the parenthetical phrase reading as follows: "(such as tariffs containing joint rail-ocean rates, joint rail-motor-ocean rates, et cetera)".

(49 U.S.C. 10762)

[FR Doc. 80-37080 Filed 11-26-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

Mark the outside of the envelope "Surf

74°5.7'W. longitude and 39°27.2'N.

superseded by regulations implementing

determines are excess to U.S. needs.

TABLE III.—*Initial DAH, Reserve, and TALF*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 658

Shrimp Fishery of the Gulf of Mexico; Correction

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Correction to regulations.

SUMMARY: Plan approval and proposed regulations for the shrimp fishery of the Gulf of Mexico were published on Friday, November 7, 1980 (45 FR 74178). In that document, For Further Information, an incorrect contact person and phone number were listed. The contact person is Edward E. Burgess and the correct phone number is (813) 893–3721.

DATE: Effective November 28, 1980.

FOR FURTHER INFORMATION CONTACT: Mark Zilberberg, (202) 634–7432.

Signed in Washington, D.C. the 21st day of November, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80–36827 Filed 11–28–80; 8:45 am]

BILLING CODE 3510–22–M

50 CFR Part 652

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Notice of reopening of comment period.

SUMMARY: The purpose of this document is to provide for an additional comment period on a proposed closure to fishing for surf clams. The area affected is offshore of Atlantic City, New Jersey, and includes an area which was described in a notice in the **Federal Register** on September 11, 1980, plus an additional 25-mile area recommended at a public hearing held on September 26, 1980.

DATE: The comment period will be opened from November 21, 1980 through December 6, 1980.

ADDRESS: Information or comments should be forwarded to: Mr. Allen E. Peterson, Jr., Regional Director, National Marine Fisheries Service, State Fish Pier, Gloucester, Massachusetts, 01930. Mark the outside of the envelope "Surf Clam Comments".

FOR FURTHER INFORMATION CONTACT: Mr. Allen E. Peterson, Jr. at the address above or telephone (617) 281–3600.

SUPPLEMENTARY INFORMATION: On September 11, 1980, notice of a proposed closure of an area offshore of Atlantic City, New Jersey, to surf clam fishing was published. Section 652.23(b) of the fishery regulations provides for such a closure if a determination is made by the Regional Director that the area contains predominantly small surf clams.

At the public hearing held on September 26, 1980, to evaluate the social and economic importance of the proposed closed area to the fishery, a majority of those present supported an industry spokesman's recommendation to extend the proposed closure southward, so that it would include an additional 25 square miles. The extension was proposed and supported on the grounds that the area within the extension contains significant quantities of small clams which should be protected until their yield is enhanced, and that clams throughout the area are and should be treated as a homogeneous and contiguous resource. Concern was expressed that enforcement of a closure would be hampered unless the area was extended as proposed to cover more of the beds and form a more regular geometric area.

The extension was supported and endorsed by the Mid-Atlantic Fishery Management Council at its meeting on November 13, 1980. The Council recommended that the original proposal and the extension be closed as one unit. The unit closure as recommended fulfills the criteria for size distribution of clams as established in the regulation. This notice is to announce the location and extent of the recommended closure area and to solicit comments on the proposal.

The area is approximately 120 square miles, and includes an area which was closed in September of 1978. It is located between 3 and 9½ miles offshore of Atlantic City, New Jersey, and is defined as follows: Beginning at a point at 74°30'W. longitude and 39°15.5'N. latitude, which is exactly 3 nautical miles offshore of the nearest point of the baseline from which the territorial sea is measured; thence northeasterly along a line drawn in such a manner that each point on it is three nautical miles from the baseline from which the territorial sea is measured to 74°14.15'W. longitude and 39°28.5'N. latitude; thence southeasterly in a straight line to 74°5.7'W. longitude and 39°27.2'N. latitude; thence southwesterly in a straight line to 74°14.3'W. longitude and 39°17.62'N. latitude; thence southwesterly in a straight line to 74°23.5'W. longitude and 39°11.6'N. latitude; thence northwesterly in a straight line to 74°30'W. longitude and 38°15.5'N. latitude, the point of beginning.

Comments received during the reopened comment period will be considered and evaluated along with those comments already received. Based on the record thus assembled, a final determination will be made.

Signed at Washington, D.C. this 21st day of November, 1980.

Authority: 16 U.S.C. 1801 *et seq.*

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80–37061 Filed 11–28–80; 8:45 am]

BILLING CODE 3510–22–M

50 CFR Part 611

Trawl Fisheries and Herring Gillnet Fishery Of The Eastern Bering Sea and Northeast Pacific; Preliminary Fishery Management Plan Amendment; Proposed Regulations; and Request for Comments

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of amendment of preliminary fishery management plan, proposed regulations, and request for comments.

SUMMARY: The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) has reviewed the preliminary management plan for the Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and Northeast Pacific (PMP) and has determined that the PMP should be amended. Certain amounts in the joint venture processing component (JVP) of domestic annual harvest (DAH) are considered inadequate and will be increased. Specifically, the JVP amount of yellowfin sole will be increased from 8,664 metric tons (mt) to 25,000 mt, and the JVP amount of founders will be increased from 100 mt to 3,000 mt. The reserve for Pacific code is increased by 12,00 mt and the total allowable level of foreign fishing is decreased accordingly.

Regulations are proposed to imlement the PMP as amended and will remain in effect until further amended or until superseded by regulations implementing a fishery management plan for this fishery.

DATE: All comments must be submitted in writing on or before December 28, 1980.

ADDRESS: Comments should be sent to Denton R. Moore, Chief, Permits and Regulations Divisions, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Wahington, D.C., 20235. Telephone (202) 634–76432.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802 Telephone: (907) 568–7221.

SUPPLEMENTARY INFORMATION: The preliminary management plan for the Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and Northeast Pacific (PMP) was originally prepared under authority of the Fishery Conservation and Management Act of 1976 (Act) and was published in the **Federal Register** (42 FR 9298) on Bebruary 15, 1977.

During 1980, the PMP was amended twice to:

(1) Shift 7,614 mt of yellowfin sole from the total allowable level of foreign fishing (TALFF) to the joint venture processing (JVP) component of DAH;

(2) Increase the optimum yield (OY) for Pacific cod by 12,000 mt, from 58,700 mt to 70,700 mt (45 FR 70523).

The present action modified estimates of domestic annual harvest (DAH) by increasing the JVP amounts of hellowfin sole from 8,664 mt to 25,000 mt and flounders from 100 mt to 3,000 mt. Corresponding TALFFs will be 84,950 mt for yellowfin sole and 53,750 mt for flounders. These changes are based on survey results indicating increased joint venture harvests of those species.

The National Marine Fisheries Service surveyed the U.S. fishing industry to determine harvesting and processing capacities and the intent to harvest and process fish in the Bering Sea/Aleutian Islands area in 1981.

Amounts of fish (metric tons) U.S. processors reported that they intend to process in 1981 are shown in Table I. Expected doemstic annual processing (DAP) amounts currently established by the PMP (Table I) are considered to be adequate and will initially remain unchanged. The DAP for Pacific code remains the same becuase the processors' estimate is considered unrealistic in light of the small harvest in 1980 (2,800 mt).

The PMP contains a mechanism for the Regional Director to apportion those amounts of DAP to TALFF that he determines are excess to U.S. needs. The reserves (Table III) will be used to accommodate increased homestic harvest, if necessary.

TABLE I.—*Amounts of fish (mt) U.S. processors reportedly intend to process in the Bering Sea (DAP) and the initial DAP*

Species	1981 U.S. reported intention to process (mt)	Initial DAP (mt)
Pollock	8,963	10,000
Pacific cod	17,241	7,200
Atka mackerel	0	0
Yellowfin sole	327	1,200
Turbot	0	1,000
Flounder	907	1,200
Pacific ocean perch	454	1,100
Rockfish	227	1,100
Sablefish	522	1,000
Squid	0	0
Other species	0	1,800
Total	29,560	26,100

Joint venture catches of some species in 1980 were greater than amounts initially provided in the PMP and have been increased (Table II). Overall, joint ventures harvested approximately 50 percent of their 1980 allocation. Increases in JVP have resulted in equivalent decreases in TALFF (Table III).

TABLE II.—*Amounts of fish (mt) designated for delivery by U.S. fishermen to foreign processors at set (JVP)*

Species	JVP
Pollock	9,050
Pacific cod	17,085
Atka mackerel	100
Yellowfin sole	[1] 25,000
Turbot	75
Flounder	[2] 3,000
Pacific ocean perch	1,800
Rockfish	450
Sablefish	400
Squid	90
Other species	200
Total	57,050

[1] A 24,150 mt increase over the initial level for 1980.
[2] A 2,900 mt increase over 1980.

Reserves (Table III) established by the PMP (5 percent of the OY for each species) are considered adequate to accommodate either the DAP or JVP components of DAH during the fishing year, should the amounts in either the DAP or JVP prove inadequate. The exception is the reserve for Pacific cod. Because domestic fisherman have expressed considerable interest in the expansion of cod production through catcher/processors or joint venture operations, the reserve for Pacific cod has been increased by 12,000 mt, and TALFF reduced accordingly.

TABLE III.—*Initial DAH, Reserve, and TALFF amounts (mt).*

Species	HAD	Reserve	TALFF
Pollock	19,550	50,000	1,040,450
Pacific cod	24,285	14,935	31,500
Atka Mackerel	100	1,240	23,460
Yellowfin sole	28,200	5,[illegible]	84,950
Turbot	1,075	4,500	94,425
Flounders	4,200	3,050	53,750
Pacific ocean perch	2,780	537	7,483
Rockfish	1,550	500	5,677
Sablefish	1,400	500	3,100
Squid	50	500	9,450
Other species	2,000	3,712	68,537
Total	85,150	85,[illegible]	1,[illegible],756

The Assistant Administrator, having reviewed the PMP, has determined that the PMP is still necessary and appropriate to the conservation and management of eastern Bering Sea groundfish resources. The National Marine Fisheries Service has received a petition requesting an amendment to the PMP which would provide for an annual closure of Bering Sea Groundfish Areas I and II from October 1 through March 31, in order to reduce the incidental catch of salmon by foreign groundfish trawlers. An Advance Notice or Proposed Rulemaking (45 FR 65642) requested comments on the proposed action, and a response to the petition will be made by December 19, 1980. Additionally, an FMP for the Bering Sea groundfish fishery is nearing completition. The Environmental Impact Statement (EIS) accompanying the FMP addresses the question of salmon interceptions, as does a proposed amendment to the FMP which, if approved and implemented, would establish the salmon savings area referred to above. These ongoing administrative actions provide appropriate opportunities for the resolution of the problem of salmon interception. Therefore, the regulations implementing the PMP will be changed only as described above, and the unchanged provisions will remain in effect.

The Assistant Administrator has further determined that the amendment of the PMP and its implementing regulations do not constitute a major Federal action requiring the preparation of an environmental impact statement under the National Environmental Policy Act of 1969. Further, the amendment does not constitute a significant change to regulations requiring the preparation of a regulatory analysis under Executive Order 12044.

(16 U.S.C. 1801 *et seq.*)

Signed in Washington, D.C., this 25th day of November, 1980.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

V 45 N 0280 UMI

A. The Preliminary Fishery Management Plan for the Trawl Fisheries and Herring Gillnet Fishery of the Eastern Bering Sea and Northeast Pacific is amended as follows: 1. Section 4.0, Table 18. Make the following changes:

a. Yellowfin sole TALFF from 101,286 mt to 84,950; DAH from 9,864 to26,200; JVP from 8,664 to 25,000.

b. Other flounder TALFF from 56,650 to 53,750; DAH from 1,300 to 4,200; JVP from 100 to 3,000.

c. Pacific cod reserve to 14,935; TALFF to 31,500.

d. "1980 OY" to "OY".

§ 611.20; Appendix 1.4 [Amended]

B. 50 CFR 611.20, Appendix 1.4. Alaska Fisheries, A. Bering Sea and Aleutian Islands Groundfish Fishery is proposed to be amended as follows:

a. Yellowfin sole DAH from 9,864 to 26,200; JVP from 8,664 to 25,000; TALFF from 101,286 to 84,950.

b. Other flounder DAH from 1,300 to 4,200; JVP from 100 to 3,000; TALFF from 56,650 to 53,750.

c. Pacific cod figures: OY—70,700 mt; DAH—24,285 mt; JVP—17,065 mt; DAP—7,200 mt: Reserve—14,935 mt; TALFF—31,500 mt.

[FR Doc. 80-38342 Filed 11-26-80; 10:55 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 231
Friday, November 28, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Informal Action; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Informal Action of the Administrative Conference of the United States, to be held at 10:00 a.m., Thursday, December 11, 1980 in the library of the Administrative Conference, Suite 500, 2120 L Street, N.W., Washington, D.C.

The Committee will meet to discuss two pending projects, Professor Colin Diver's study of agency articulation of policy and William Fox's study of techniques of avoiding or narrowing formal hearings in agency licensing proceedings.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this meeting, contact Jeffrey Lubbers (202–254–7065). Minutes of the meeting will be available on request.

Richard K. Berg,
Executive Secretary.
November 24, 1980.

[FR Doc. 80-37084 Filed 11-26-80; 8:45 am]
BILLING CODE 6110-01-M

Committee on Licenses and Authorizations; Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Licenses and Authorizations of the Administrative Conference of the United States, to be held at 9:30 a.m., Thursday, December 11, 1980 at the office of O'Melveny & Myers, 1800 M Street NW., Suite 500 South, Washington, D.C.

The Committee will meet to discuss Professor Richard Merrill's study of regulation of carcinogens.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For futher information concerning this meeting contact David M. Pritzker (202–254–7065). Minutes of the meeting will be available on request.

Richard K. Berg,
Executive Secretary.
November 24, 1980.

[FR Doc. 80-37093 Filed 11-26-80; 8:45 am]
BILLING CODE 6110-01-M

Public Meeting of Assembly

Notice is hereby given, pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, that the membership of the Administrative Conference of the United States, which makes recommendations to administrative agencies, to the President, Congress, and the Judicial Conference of the United States regarding the efficiency, adequacy, and fairness of the administrative procedures used by administrative agencies in carrying out their programs, will meet in Plenary Session on Thursday, December 11, 1980 at 1:30 p.m. and on Friday, December 12, 1980 at 9:30 a.m. in The Amphitheater of the Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C.

The Conference will consider proposed recommendations on the following matters:

1. Intragovernmental Communications in Informal Rulemaking.

2. Separation of Functions and Staff Communications with Decisionmakers in Agency Proceedings.

3. The "Race to the Courthouse" in Appeals from Agency Action.

In addition, the Conference will consider a proposed amendment to the Conference Bylaws to revise the list of standing committees.

Plenary sessions are open to the public. Further information on the meeting, including copies of proposed recommendations, may be obtained from the Office of the Chairman, 2120 L Street NW., Suite 500, Washington, D.C. 20037, telephone (202) 254–7020.

Dated: November 24, 1980.

Richard K. Berg,
Executive Secretary.

[FR Doc. 80-37082 Filed 11-26-80; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Wool and Mohair Payment Programs; Determination of the Support Prices for Wool and Mohair for the 1981 Marketing Year

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of determination.

SUMMARY: This is a notice of the determination of the Secretary of Agriculture, in accordance with the provisions of the National Wool Act of 1954, as amended, of the support prices for wool and mohair under Commodity Credit Corporation's Wool and Mohair Payment Programs for the 1981 Marketing Year. The Payment Programs are intended to encourage the continued domestic production of wool and mohair at prices fair to both producers and consumers.

EFFECTIVE DATE: November 28, 1980.

ADDRESS: Emergency and Indemnity Programs Division, ASCS, U.S. Department of Agriculture, Room 4095 South Building, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Gerald Schiermeyer 202–447–4428. A Final Impact Statement has been prepared and is available from Emergency and Indemnity Programs Division, ASCS, USDA, Room 4095 South Building, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: This determination has been reviewed under the USDA criteria established to

implement Executive Order 12044, and has been classified "not significant".

In compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988), initiation of review of this determination contained in 7 CFR 1446.38–40 for need, currency clarity and effectiveness will be made within the next five years.

The title and number of the Federal assistance program that this determination applies to is: Title—National Wool Act Payments; NUMBER—10.059 as found in the Catalog of Federal Domestic Assistance Programs.

This action will not have a significant impact on area and community development. Therefore, review as established by OMB Circular A–95, was not used to assure that units of local government are informed of this action.

The National Wool Act of 1954, as amended ("Wool Act"), provides that the Secretary of Agriculture shall support the prices of wool and mohair to producers by means of loans, purchases, payments or other operations. If payments are utilized as a means of price support, the payments shall be as the Secretary of Agriculture determines to be sufficient, when added to the national average return for the commodity equal to the support price level. However, the total payments cannot exceed an amount equal to 70 percent of the accumulated totals as of the same date of the gross receipts from duties collected on or after January 1, 1953, on all articles subject to duty under schedule 11 of the Tariff Act of 1930, as amended.

The Wool Act establishes the price support level for shorn wool for the marketing years 1977 through 1981 at 85 percent of an amount determined by multiplying 62 cents (the support price in 1965) by the ratio of (1) the average parity index (the index of prices paid by farmers, including commodities and services, interest, taxes, and farm wage rates) for the three calendar years immediately preceding the year in which such support price is being determined and announced to (2) the average parity index for the three calendar years 1958, 1959, and 1960, and rounding the resulting amount to the nearest full cent.

The Wool Act also provides that the support prices for pulled wool and for mohair shall be established at such levels, in relationship to the support price for shorn wool, as the Secretary of Agriculture determines will maintain normal marketing practices for pulled wool and as the Secretary shall determine is necessary to maintain approximately the same percentage of parity for mohair as for shorn wool. Further, the support price for mohair must be within a range of 15 percent above or below the comparable percentage of parity at which shorn wool is supported.

The regulations for the wool and mohair payment programs for the 1981 marketing year are published in 7 CFR Parts 1472 and 1468, respectively.

The Wool Act and the applicable regulations provide that the Secretary shall establish and announce, to the extent practicable, support price levels for wool and mohair sufficiently in advance of each marketing year as will permit producers to plan their production for such marketing year. Since these determinations as to the support prices for wool and mohair are mathematical calculations as specified by section 703 of the Wool Act, it is hereby found and determined that compliance with notice and public procedure requirements of Executive Order 12044 and 5 U.S.C. 553 are impracticable and contrary to the public interest. Thus, this notice of determination shall become effective upon date of filing with the Director, Office of the Federal Register.

Determination

Accordingly, pursuant to the authority conferred by section 703 of the National Wool Act of 1954, as amended ("Wool Act"), it is hereby determined that the support prices for shorn wool and mohair for the 1981 marketing year are $1.35 and $3.718 per pound, respectively. The support price for shorn wool, which is equal to 72.2 percent of the October 1980 parity price for wool, has been calculated in accordance with the formula contained in the Wool Act. The support price for mohair, which is 72.2 percent of the October 1980 parity for mohair, has been established at a level, in relationship to the support price for shorn wool, as determined to be necessary to maintain approximately the same percentage of parity for mohair as for shorn wool. The support level for pulled wool will be determined after the National average market price of shorn wool for the 1981 marketing year is announced.

Signed at Washington, D.C. on November 21, 1980.

Bob Bergland,

Secretary of Agriculture.

[FR Doc. 80-37000 Filed 11-26-80; 8:45 am]
BILLING CODE 3410-05-M

Food Safety and Quality Service

Labeling Procedures Notification

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice.

SUMMARY: This document announces new procedures established by the Meat and Poultry Standards and Labeling Division (MPSLD), Compliance Program, Food Safety and Quality Service (FSQS), to advise the public more fully of the conduct of its prior approval program for labels and other labeling for federally inspected meat and poultry products. This program provides procedural and substantive requirements for the labeling of products. Under these newly established procedures, MPSLD, FSQS, will attempt to more fully inform consumers, industry, and other interested parties of certain applications and interpretations made by the MPSLD and advise the public of the availability of certain documents.

EFFECTIVE DATE: December 29, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Director, Meat and Poultry Standards and Labeling Division, Compliance Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION: Pursuant to the authority contained in the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the regulations promulgated thereunder (9 CFR 301.1 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*) and the regulations promulgated thereunder (9 CFR 381.1 *et seq.*), FSQS must assure that the Nation's supply of meat and poultry products is wholesome, not adulterated, and properly labeled, marked, and packaged. In order to assure that meat and poultry products are not misbranded, within the meaning of section (n), of the Federal Meat Inspection Act (21 U.S.C. 601(n) and section 4(h) of the Poultry Products Inspection Act (21 U.S.C. 453(h)), FSQS conducts a prior approval program for labels or other labeling (specified in 9 CFR 317.4, 317.5, 381.132, and 381.134) to be used on federally inspected meat and poultry products. Pursuant to the Federal Meat Inspection Act and the Poultry Products Inspection Act and the regulations promulgated thereunder, meat and poultry products which do not bear approved labels may not be distributed in commerce.

Applications for sketch or final approval of these labels or other labeling are filed with FSQS by meat and poultry packers or processors or

their representatives. Through this procedure, applicants must submit detailed processing information, including product formula and other information requested by the Agency. This information is reviewed by an FSQS label review expert prior to an approval of the label or other labeling. Modifications of any previously approved label or other labeling are reviewed and approved generally in the same manner.

The maintenance and operation of such a system is a difficult task. In fiscal year 1980, FSQS reviewed and approved over 100,000 meat and poultry products labels. A variety of factors, such as continuing technological innovations in food processing and expanded public concern regarding the presence of various substances in foods which may affect the safety of their consumption, has generated a series of increasingly complex issues which FSQS must resolve as part of this prior approval process. The packer or processor, on the other hand, understandably focuses upon the role of the label and other labeling as marketing tools and is, therefore, interested in making claims and statements which are designed to encourage the product's sale and to enhance the product's appearance to consumers. This inevitably leads to difficult questions for FSQS in evaluating, on an individual basis, what types of labels or other labeling will not be false or misleading or otherwise render the product misbranded within the meaning of the Federal Meat Inspection Act or the Poultry Products Inspection Act.

The Federal meat and poultry products inspection regulations establish procedures, provide substantive labeling requirements, specify definitions and standards of identity or composition for certain products, and provide specific information regarding permitted and nonpermitted uses of various substances. A substantial percentage of labeling applications are routinely approved or denied through the application of the relevant portions of the Acts and the regulations. Over 50 percent of all label approval submissions are currently reviewed within 2 working days of receipt and 98 percent within 2 weeks. However, some labeling applications present more difficult questions which require interpretation of the Acts or regulations, and the development of or the modification of the Agency's policy. Depending upon their novelty, complexity, and impact upon the public, such labeling questions are resolved by either the initial reviewing official, supervisory staff personnel, Division Director, Deputy Administrator for Compliance, or Administrator. These determinations are effected through a variety of methods, including internal memoranda, letters, agreements reached by telephone calls, meetings and appeals of the initial determinations. Furthermore, interpretations of the Acts and regulations generally are included in an internal manual known as the Policy Book, copies of which are available to the public.

FSQS has received and considered criticism of some aspects of this system. Industry representatives have contended that FSQS has not established an ongoing system to advise interested parties fully of interpretations made by the MPSLD. Questions may occur when the MPSLD interprets, reinterprets, or modifies labeling determinations and approvals on the ad hoc basis previous described. Some packers and processors have expressed their concern that they may be placed at a competitive disadvantage because they are unaware of an interpretation by the MPSLD on a particular issue and may not be advised of it until their labels or other labeling raise the same question during the review process. Applicants have frequently stated that they are often not as concerned with the substance of the position of the MPSLD on a given issue as they are with the uniform application of such interpretations to avoid placing their products at a potential competitive disadvantage. Similar concerns have also been recently expressed by the Department's Office of the Inspector General (OIG). In its February 10, 1980, audit report, OIG criticized FSQS's traditional practice of recording such determinations through the use of control sheets, bulletins, and other documents not generally made available to the public.

FSQS recognizes the basic validity of some of these concerns. However, in considering these criticisms, FSQS also recognizes that the existing system contemplates rapid decisionmaking on a high volume of applications, and that neither the industry nor any other members of the public would benefit from time consuming procedures which may impede the review process. FSQS remains convinced that its prior approval system provides for effective regulatory control in this area and, therefore, intends to retain the basic features of the present system. However, the system can be modified to maintain its key elements while establishing new procedures that are designed to advise the public of interpretations and determinations made by the MPSLD by means of notification in the **Federal Register**. Copies of memoranda regarding such interpretations and determinations will be available from MPSLD.

It should be noted that this labeling procedure notification does not alter or affect any appeal rights that an applicant possesses. Appeals will still be afforded only to those using or proposing to use the marking, labeling, or container involved.

Therefore, effective immediately, the MPSLD will follow the procedures outlined below:

1. Significant or novel applications or interpretations of the Federal Meat Inspection Act, the Poultry Products Inspection Act, the regulations promulgated thereunder, or departmental policy will be issued, in writing, in a uniform format which specifies the issue, the MPSLD's application or interpretation, and the basis for MPSLD's decision. The determination whether an application or interpretation is significant or novel, and, therefore, issued in writing is a decision at the discretion of the Director, MPSLD, FSQS. Any application or interpretation specified in the memorandum will remain if effect unless modified or rescinded on appeal or by the Director, MPSLD.

2. Copies of these memoranda will be made available to the public in MPSLD Offices at 300 12th Street, SW., Washington, D.C. 20250.

3. FSQS will periodically publish a notice in the **Federal Register** listing significant or novel applications or interpretations made by the MPSLD since the previously published notice and advising of the availability of copies of the memoranda.

4. In accordance with the Federal meat inspection regulations (9 CFR 301.1 *et seq.*) and the Federal poultry products inspection regulations (9 CFR 381.1 *et seq.*) an appeal of a decision by the labeling applicant may be made to the immediate supervisor of the FSQS employee making the determination. Also, in accordance with section 7(e) of the Federal Meat Inspection Act (21 U.S.C. 607(e)) and section 8(d) of the Poultry Products Inspection Act (21 U.S.C. 457(d)) and section 335.12 of the Federal meat inspection regulations (9 CFR 335.12) and section 381.233 of the Federal poultry products inspection regulations (9 CFR 381.233), if the Administrator of FSQS has reason to believe that any marking or labeling or the size or form of any container in use or proposed for use is false or misleading in any particular, he may

direct that such use be withheld unless

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or other disposition of all proposals

concern to the Department, (B)

copying in the Central Reference and

SUPPLEMENTARY INFORMATION: The

direct that such use be withheld unless the marking, labeling, or container is modified in such a manner as he may prescribe so that it will not be false or misleading. If the person, firm, or corporation using or proposing to use the marking, labeling, or container does not accept the determination, such person, firm, or corporation may request a hearing and final determination by the Department. Such hearing will be held in accordance with the applicable Rules of Practice, 7 CFR 1.130 *et seq.*

It is important to emphasize that this notice does not establish any substantive changes in the present labeling review or approval process. MPSLD officials will continue to perform the basic tasks of reviewing labels or other labeling, making determinations on specific labeling issues, and developing regulations. The establishment of the procedures outlined above will serve to make certain aspects of the process more accessible and understandable to interested members of the public, and will also assist FSQS in its overall efforts to assure that the Nation's supply of meat and poultry products is not misbranded.

Thomas P. Grumbly,
Associate Administrator, Food Safety and Quality Service.

[FR Doc. 80-37112 Filed 11-26-80; 8:45 am]
BILLING CODE 3410-DM-M

Office of the Secretary

Tongass National Forest; Transfer of Certain Lands

Pursuant to the authority vested in me by the Act of June 30, 1976, Pub. L. 94-323 (90 Stat. 717), the following lands are hereby transferred from the administrative jurisdiction of the Forest Service, United States Department of Agriculture, to the administrative jurisdiction of the National Park Service, United States Department of the Interior.

Those certain lands now administered as a part of the Tongass National Forest and being more particularly described as follows:

Alaska—Copper River Meridian

T. 28S., R. 60E.,
sec. 12, all lands east of White Pass Fork;
sec. 13, all lands east of White Pass Fork;
sec. 14, all lands east of White Pass Fork;
sec. 23, all lands east of White Pass Fork;
sec. 24, NW¼;
sec. 28, W½E½, all lands east of White Pass Fork, E½W½ all lands east of White Pass Fork;
sec. 34, S½S½ all lands south of Skagway River.
sec. 35, W½E½, W½ all lands east and south of Skagway River and White Pass Fork;
T. 28S., R. 61E.,
sec. 18, entire section
T. 27S., R. 60E.,
sec. 3, NW¼ all lands east of Skagway River.

The areas described aggregate 1,690.0 acres, more or less.

Effective Date: This notice takes effect on the date of publication in the **Federal Register.**

November 24, 1980.

Ned D. Bayley,
Acting Assistant Secretary for Natural Resources and Environment.

[FR Doc. 80-36998 Filed 11-26-80; 8:45 am]
BILLING CODE 3410-11-M

Rural Electrification Administration

Hoosier Energy Division, Indiana Statewide Rural Electric Cooperative, Inc. Bloomington, Indiana; Proposed Loan Guarantee

Under the authority of Pub. L. 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk power Supply Facilities), notice is hereby given that the Administrator of REA will consider (a) providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $160,740,000 to Hoosier Energy Division, Indiana Statewide Rural Electric Cooperative, Inc., Bloomington, Indiana, and (b) supplementing such a loan with an insured REA loan at 5 percent interest in the approximate amount of $6,000,000 to this cooperative. These loan funds will be used to finance 5 new substations and related facilities, 14.5 miles of 69 kV transmission line and related facilites, cost deficiencies on the Merom Generating Station, and new headquarters facilities.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Virgil E. Peterson, Executive Vice-President and General Manager, Hoosier Energy Division, Indiana Statewide Rural Electric Cooperative, Inc., P.O. Box 908, Bloomington, Indiana 47402.

In order to be considered, proposals must be submitted on or before December 29, 1980, to Mr. Peterson. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Hoosier Energy Division and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

This program is listed in the Catalog of Federal Domestic Assitance as 10.850—Rural Electricfication Loans and Loan Guarantees.

Dated at Washington, D.C. this 16th day of ovember, 1980.

Robert W. Feragen,
Administrator, Rural Electrification Administration.

[FR Doc. 80-36999 Filed 11-26-80; 8:45 am]
BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Docket 38865]

Sun Pacific Airlines Fitness Investigation; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on December 11, 1980, at 10:30 a.m. (local time), in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C. before the undersigned.

Dated at Washington, D.C., November 21, 1980.

Joseph J. Saunders,
Chief Administrative Law Judge.

[FR Doc. 80-37077 Filed 11-26-80; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Computer Systems Technical Advisory Committee; Partially Closed Meeting

AGENCY: International Trade Administration.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on August 29, 1980 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical specification and policy issues relating to those specifications which are of concern to the Department, (B) worldwide availability of products and systems, including quantity and quality, and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems or technology, and (D) exports of the aforementioned commodities subject to unilateral and multilateral controls which the United States establishes or in which it participates including proposed revisions of any such controls.

TIME AND PLACE: December 17, 1980, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Ave., NW., Washington, D.C.

AGENDA:

General Session

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Report on the current work program of the subcommittees:
(a) Technology Transfer;
(b) Foreign Availability;
(c) Hardware; and
(d) Licensing Procedures.

Executive Session

(4) Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

PUBLIC PARTICIPATION: The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 11652 or 12065.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202-377-4217.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT:
Mrs. Margaret A. Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583.

Dated: November 21, 1980.

Saul Padwo,
Director of Licensing, Office of Export Administration.

[FR Doc. 80-36998 Filed 11-26-80; 8:45 am]
BILLING CODE 3510-25-M

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Closed Meeting

AGENCY: International Trade Administration.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on August 29, 1980 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on September 19, 1980 pursuant to the charter of the Committee.

The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (1) maintenance of the processor performance tables and further investigation of total systems performance; and (2) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

TIME AND PLACE: December 16, 1980, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C. The Subcommittee will meet only in Executive Session to discuss matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

FOR FURTHER INFORMATION CONTACT:
Mrs. Margaret A. Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230. Telephone: 202-377-2583.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 16, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 11652 or 12065.

A copy of the Notice of Determination to closed meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, U.S. Department of Commerce, Telephone: 202-377-4217.

Dated: November 21, 1980.

Saul Padwo,
Director of Licensing, Office of Export Administration.

[FR Doc. 80-36997 Filed 11-26-80; 8:45 am]
BILLING CODE 3510-25-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, D.C. 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Servce (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should

be directed to the addresses cited for the

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code

Patent 4,207,625: Doppler Compensator for Heterodyne Correlation Devices; filed

The Project will operate at a cost not to

Date: November 21, 1980.

December 31, 1980. In accordance with

be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

U.S. Department of Energy, Assist. Gen. Couns. for Patents, Washington, D.C. 20545

Patent application 6,003,559: Apparatus for Checking the Direction of Polarization of Shear-Wave Ultrasonic Transducers; filed January 15, 1979

Patent application 6,003,840: Material for Radioactive Protection; filed January 16, 1979

Patent application 6,009,623: Perfluorocarbon Vapor Tagging of Blasting Cap Detonators; filed February 6, 1979

Patent application 6,019,808: Ductile Alloy and Process for Preparing Composite Superconducting Wire; filed March 12, 1979

Patent application 6,022,898: Apparatus for Correcting Precision Errors in Slide Straightness in Machine Tools; filed March 22, 1979

Patent application 6,024,339: Salt-Soda Sinter Process for Recovering Aluminum from Fly Ash; filed March 27, 1979

Patent application 6,026,508: Terpolymerization of Ethylene, Sulfur Dioxide and Carbon Monoxide; filed April 3, 1979

Patent application 6,031,810: Miniature Quartz Resonator Force Transducer; filed April 20, 1979

Patent application 6,036,257: Glove Box Shield; filed May 4, 1979

Patent application 6,043,855: Method of Handling Radioactive Alkali Metal Waste; filed May 30, 1980

Patent application 6,050,860: Isotropically Sensitive Optical Filter Employing Atomic Resonance Transitions; filed June 21, 1979

Patent application 6,058,420: Electric Controlled Air Incinerator for Radioactive Wastes; filed July 18, 1979

Patent application 6,062,373: Hydrogen Production by the Decomposition of Water; filed July 31, 1979

Patent application 6,078,759: Cadmium Telluride Photovoltaic radiation Detector; filed September 25, 1979

Patent application 4,168,191: Thermally Stable, Plastic-Bonded Explosives; filed June 29, 1978; patented September 18, 1979; not available NTIS

Patent application 4,172,361: Drill Drive Mechanism; filed September 9, 1977; patented October 30, 1979; not available NTIS

Patent application 4,183,055: Beam/Seam Alignment Control for Electron Beam Welding; filed August 24, 1978; patented January 8, 1980; not available NTIS

U.S. Department of the Interior, Branch of Patents, 18th and C Streets N.W., Washington, DC 20240

Patent application 6,114,522: Metal Hydride Actuation Device; filed January 23, 1980

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217

Patent 4,124,976: Method for Reducing the Critical Injection Parametric in a Solid Fuel Ramjet, filed July 5, 1977; not available NTIS

Patent 4,125,728: Method for Preparing 2,3,7,8-Tetraazaspiro(4,4)Nona-2,7-Diene; filed September 1, 1977; patented November 14, 1978; not available NTIS

Patent 4,131,793: Lateral Photodetectors; filed August 10, 1976; patented December 26, 1978; not available NTIS

Patent 4,179,219: Revolving Mirror Scanning Interferometer; filed April 10, 1978; patented December 18, 1979; not available NTIS

Patent 4,184,767: Frequency Agile Optical Radar; filed July 21, 1975; patented January 22, 1980; not available NTIS

Patent 4,187,556: Electo-Acoustic Transducer with Line Focus; filed April 5, 1960; patented February 5, 1980; not available NTIS

Patent 4,188,886: Pressure Probe for Safety-Arming Device; filed May 26, 1978; patented February 19, 1980; not available NTIS

Patent 4,189,026: Underwater Generation of Low Frequency Sound; filed June 13, 1954; patented February 19, 1980; not available NTIS

Patent 4,189,122: Wide Angle Gimbal System; filed July 21, 1978; patented February 19, 1980; not available NTIS

Patent 4,190,704: Protected Calcium Anode; filed February 5, 1979; patented February 26, 1980; not available NTIS

Patent 4,191,461: Camera Jig for Underwater Stereoscopic Photography; filed May 16, 1979; patented March 4, 1980; not available NTIS

Patent 4,196,634: Optical Autocorrelator Signal Processor; filed September 30, 1971; patented April 15, 1980; not available NTIS

Patent 4,200,859: Device for Simulating Marine Craft Noises; filed April 21, 1946; patented April 29, 1980; not available NTIS

Patent 4,200,920: Artificial Underwater Target; filed February 29, 1956; patented April 29, 1980; not available NTIS

Patent 4,201,988: Wideband VHF Antenna; filed March 5, 1979; patented May 6, 1980; not available NTIS

Patent 4,203,106: Underwater Detection System; filed August 18, 1961; patented May 13, 1980; not available NTIS

Patent 4,203,164: Secure Sonar Communication System; filed March 6, 1961; patented May 13, 1980; not available NTIS

Patent 4,204,280: Underwater Signal Discrimination System; filed November 21, 1962; patented May 20, 1980; not available NTIS

Patent 4,205,235: Automatic Electrical Load Matching Device for Wind Generators; filed March 6, 1978; patented May 27, 1980; not available NTIS

Patent 4,205,394: Sealed Cavity Hydrophone Array Calibration; filed November 3, 1976; patented May 27, 1980; not available NTIS

Patent 4,206,746: Spiral-Passage Heat Exchanger; filed March 10, 1978; patented June 10, 1980; not available NTIS

Patent 4,207,625: Doppler Compensator for Heterodyne Correlation Devices; filed March 6, 1961; patented June 10, 1980; not available NTIS

[FR Doc. 80-36880 Filed 11-26-80; 8:45 am]

BILLING CODE 3510-04-M

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Business Development Agency, San Francisco Region, announces a change in the closing date of four projects. The four Project I.D. Nos. are: 09–10–50610–00, 09–10–50620–00, 09–10–50630–00, and 09–10–50640–00. Announcement of these projects appeared in the **Federal Register** on November 17, 1980, Volume 45, No. 223. The new closing date for these four projects is December 29, 1980.

Dated: November 21, 1980.

R. V. Romero,

Regional Director.

[FR Doc. 80-37030 Filed 11-26-80; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcement

The Minority Business Development Agency announces that it is seeking applications under its program to operate four San Francisco Region projects for a twelve month period beginning April 1, 1981. The aggregate total cost of the projects is $1,314,000.

Funding Instrument: It is anticipated that the funding instruments, as defined by the Federal Grant and Cooperative Agreements Act of 1977, will be grants.

Program Description: The General Business Services Program (GBS) of the Minority Business Development Agency (MBDA) provides technical assistance to minority businesspersons and firms for the purpose of improving their stability by increasing their management and marketing capabilities. MBDA offers competitive grants to consulting firms (either non-profit or commercial entities). These firms must be capable of providing such services as:

—Preparation of business plans;
—Financial packaging;
—Industrial management assistance;
—Personnel management services;
—Marketing planning;

and a broad range of other business services excluding legal services.

Applications are invited for the following four projects:

1. One grant for a management and technical assistance project to operate in the Fresno and Bakersfield SMSAs in Fresno and Kern counties of California. The Project will operate at a cost not to exceed $299,000. The Project I.D. Number is 09–10–50650–00.

2. One grant for a management and technical assistance project to operate in the Phoenix and Tucson SMSAs in Maricopa and Pima counties of Arizona. The Project will operate at a cost not to exceed $269,000. The Project I.D. Number is 09–10–50560–00.

3. One grant for a management and technical assistance project to operate in the San Diego SMSA in San Diego county of California. The Project will operate at a cost not to exceed $301,000. The Project I.D. Number is 09–10–50570–00.

4. One grant for a management and technical assistance project to operate in the San Jose and Salinas-Seaside-Monterey SMSAs in Santa Clara and Monterey counties of California. The project will operate at a cost not to exceed $445,000. The Project I.D. Number is 09–10–50680–00.

Eligibility Requirements: There are no restrictions. Any profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for these projects may be requested by writing the following address:

U.S. Department of Commerce, Minority Business Development Agency, Grants Administration Unit, 450 Golden Gate Avenue, Box 36014, San Francisco, California 94102.

In requesting an application kit, the applicant must specify its profit status; i.e., State or local government, Federally recognized Indian tribal units, educational institutions, hospitals, or other type of profit or non-profit institution. This information is necessary to enable MBDA to include the appropriate cost principles in the application kit,

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. Specific criteria by which applications will be evaluated is included in the application kit.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of January 15, 1981. Applications received after January 9, 1981 will not be considered.

11.800 Minority Business Development, (Catalog of Federal Domestic Assistance) (This program is not subject to the requirements of OMB Circular A–95).

Date: November 21, 1980.

R. V. Romero,

Regional Director.

[FR Doc. 80-37031 Filed 11-26-80; 8:45 am]

BILLING CODE 3510-21-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional Import Controls on Certain Cotton Textile Products from the Republic of Korea

November 21, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling cotton knit shirts and blouses in Category 338/339 during the twelve-month period which began on January 1, 1980.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), and August 12, 1980 (45 FR 53506)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea, the United States Government has decided to control imports of cotton textile products in Category 338/339, produced or manufactured in the Republic of Korea and exported to the United States during the twelve-month period which began on January 1, 1980, in addition to those categories previously designated. The level will be 473,333 dozen.

EFFECTIVE DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT: William Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

SUPPLEMENTARY INFORMATION: On December 27, 1979, there was published in the **Federal Register** (45 FR 76573) a letter dated December 20, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In accordance with the terms of the bilateral agreement, the United States Government has decided also to control imports of cotton textile products in Category 338/339, produced or manufactured in the Republic of Korea and exported to the United States during the twelve-month period which began on January 1, 1980. Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption of withdrawal from warehouse for consumption of cotton textile products in Category 338/339 in excess of the designated level or restraint. The level of restraint has not been adjusted to account for any imports after December 31, 1979. Imports in Category 338/339 during the period which began on January 1, 1980 and extended through September 30, 1980 amounted to 354,299 dozen of which 162,128 dozen will be charged to Category 338 and 192,171 dozen will be charged to Category 339. As the data becomes available, further charges will be made to account for imports during the period which began on October 1, 1980 and extends to the effective date of this action.

Arthur Garel,

Acting Chairperson, Committee for the Implementation of Textile Agreements.

November 21, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 20, 1979 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Textile Agreement of December 23, 1977, as amended, between the Governments of the United States and the Republic of Korea; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on December 1, 1980 and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 338/339, produced or manufactured in the Republic of Korea, in excess of the following level of restraint:

Category	12-mo level of restraint [1]
338/339	473,333

[1] The level of restraint for Category 338/339 has not been adjusted to reflect any imports after December 31, 1979. Imports in the Category during the January-September 1980 period have amounted to 354,299 dozen of which 182,128 dozen should be charged to Category 338 and 182,171 dozen should be charged to Category 339.

Cotton textile products in Category 338/339 which have been exported to the United States prior to January 1, 1980 shall not be subject to this directive.

Cotton textile products in Category 338/339 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), and August 12, 1980 (45 FR 53506)).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of man-made fiber textile products from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Arthur Garel,

Acting Chairperson, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-37045 Filed 11-26-80; 8:45 am]

BILLING CODE 3510-25-M

Adjusting the Import Levels for Certain Man-Made Fiber Textile Products From Taiwan

November 21, 1980.

AGENCY: Committee for the implementation of Textile Agreements.

ACTION: Increasing to 1,727,489 dozen the import level established for men's and boys' man-made fiber knit shirts in Category 638 produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1980, and reducing the level for woman's, girls' and infants' man-made fiber knit shirts and blouses in Category 639, to 5,024,887 dozen during the same twelve-month period. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), and August 12, 1980 (45 FR 53506).

SUMMARY: The bilateral agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products exported from Taiwan provides for the shifting of yardage out of Category 639 and into Category 638. Pursuant to the terms of the amended bilateral agreement, the import levels for Categories 638 and 639 are being adjusted for the twelve-month period which began on January 1, 1980 and extends through December 31, 1980.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On December 28, 1979, there was published in the **Federal Register** (45 FR 76829) a letter dated December 21, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, including Categories 638 and 639, produced or manufactured in Taiwan, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the levels of restraint established for man-made fiber textile products in Categories 638 and 639.

Arthur Garel,

Acting Chairperson, Committee for the Implementation of Textile Agreements.

November 21, 1980.

Commissioner of Customs, Department of the Treasury,

Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 21, 1979, which directed you to prohibit entry of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in Taiwan and exported during the twelve month period which began on January 1, 1980.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products exported from Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to amend, effective on November 24, 1980, the levels of restraint established for Categories 638 and 639 to the following:

Category	Amended 12-mo. level of restraint [1] (doz.)
638	1,727,489
639	5,024,887

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1979.

The actions taken with respect to the authorities in Taiwan, and with respect to imports of man-made fiber textile products from Taiwan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Arthur Garel,

Acting Chairperson, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-37044 Filed 11-26-80; 8:45 am]

BILLING CODE 3510-25-M

Announcing an Import Restraint Level for Certain Man-Made Fiber Textile Products From Costa Rica, Effective January 1, 1981

November 21, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Established an import restraint level for man-made fiber brassieres in Category 649, produced or manufactured in Costa Rica and exported to the United States during the twelve-month period beginning on January 1, 1981. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), and August 12, 1980 (45 FR 53506)).

SUMMARY: On September 22, 1980, the Governments of the United States and Costa Rica exchanged diplomatic notes establishing a cotton, wool and man-made fiber textile agreement beginning on January 1, 1980 and extending for four years through December 31, 1983. The agreement establishes a specific level of restraint for man-made fiber textile products in Category 649 during the agreement year beginning on January 1, 1981 and extending through December 31, 1981. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilateral agreement, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in Category 649, produced or manufactured in Costa Rica and exported during the twelve-month period which began on January 1, 1981 and extends through December 31, 1981, in excess of 1,685,000 dozen.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provision.

Arthur Garel,

Acting Chairperson, Committee for the Implementation of Textile Agreements.

November 21, 1980.

Commissioner of Customs, Department of the Treasury,

Washington, D.C.

Dear Mr. Commissioner: Pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 22, 1980, between the Governments of the United States and Costa Rica, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1981 and for the twelve-month period extending through December 31, 1981, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 649, produced or manufactured in Costa Rica, in excess of 1,685,000 dozen.

In carrying out this directive entries of textile products in Category 649 which have been exported to the United States prior to January 1, 1981, shall, to the extent of any unfilled balance, be charged against the level of restraint established for such goods during the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980. In the event that the level of restraint established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this letter.

The level set forth above is subject to adjustment in the future according to the provisions of the bilateral agreement of September 22, 1980 between the Governments of the United States and Costa Rica which provide, in part, that: (1) the specific limit may be increased for carryover and carryforward up to 11 percent of the applicable category limit or sublimit; and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), and August 12, 1980 (45 FR 53506).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Costa Rica and with respect to imports of man-made fiber textile products from Costa Rica have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register**.

Sincerely,

Arthur Garel,

Acting Chairperson, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-37046 Filed 11-26-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Supplement to the Draft Environmental Impact Statement for Fall River Harbor Improvement Dredging Project and Fall River/Providence River Harbors Dredging Actions With Ocean Disposal at Brown's Ledge

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a Draft Supplement Environmental Impact Statement.

SUMMARY: 1. Description of the Action: In February 1976, a Draft Environmental Impact Statement on the Fall River Improvement was distributed for public review and comment. The primary purpose for preparing the Draft Supplement EIS will be to further evaluate possible alternative disposal options and their impacts, and provide some additional legally required information not present in the original draft. The proposal calls for increasing the depth of the Fall River Channel in Fall River, Massachusetts. The present channel is authorized and maintained at 35 feet below mean low water. Should the project be undertaken, the depth would be increased to 40 feet at mean low water. This action would require the removal of about 4.5 million cubic yards of sediment.

2. Alternatives to be considered:

a. Disposal at upland sites.

b. Disposal in shallow water sites.

c. Disposal in open water sites.

d. Island creation.

e. Marsh creation.

f. A combination of the above as well as others that might be proposed.

g. No action.

3. Environmental Review and Public Involvement: As the study progresses, scoping meetings will be held. The date and location of the scoping meetings will be announced through Public Notice procedures. Consultation with the state Historic Officer and the U.S. Heritage Conservation and Recreation Service will be initiated in accordance witht the National Historic Preservation Act of 1966 and Executive Order 11593. Planning will be coordinated with the U.S. Fish and Wildlife Service on an informal and formal basis, including the procedures required by the Fish and Wildlife Coordination Act of 1958 and the Endangered Species Act Amendments of 1978. In addition, close coordination will be maintained with other Federal, State, and local resource agencies and groups.

4. Significant Issues to be Addressed:

a. The environmental impacts from the various disposal options.

b. The environmental impacts from the dredging operations.

c. The impacts from not undertaking the proposal.

5. Availability: The Draft Supplement EIS should be available by March 1982.

ADDRESS: Questions about the Draft EIS and Draft Supplement can be addressed to: Mr. Del Kidd, Impact Analysis Branch, New England Division, U.S. Army Corps of Engineers, 424 Trapelo Road, Waltham, MA 02254 or by phone at (617) 894-2400, extension 235.

Dated: November 17, 1980.

William F. Hodgson, Jr.,

Deputy Assistant Secretary for Science and Technology.

[FR Doc. 80-37047 Filed 11-26-80; 8:45 am]

BILLING CODE 3810-70-M

Doctoral Dissertation Research Abroad program, Washington, D.C. 20202

AGENCY: Department of Education.

ACTION: Notice of closed meeting.

SUMMARY: This notice announces a closed meeting of the Panel for the Doctoral Dissertation Research Abroad program. This notice is intended to inform interested persons of the meeting and to comply with the requirements of section 10(a)(2) of the Federal Advisory Committee Act.

DATES: December 4, 1980—8:30 a.m.—approximately 5:00 p.m.

ADDRESS: Room 3082, Donohoe Building, 400 Maryland Avenue, SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Ray, Director, Division of International Education, Office of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202, Telephone: (202) 245-9720.

SUPPLEMENTARY INFORMATION: The Panel for the Doctoral Dissertation Research Abroad program is established under section 102(b)(6)(A) of the Mutual Educational and Cultural Exchange Act of 1961, as amended by Pub. L. 96-49. The Panel is established to recommend to the Secretary of Education applicants for awards under the Doctoral Dissertation Research Abroad program.

(a) For the Doctoral Dissertation Research Abroad program, five pages of the application are reviewed by the Panel. The Panel reviews the applications for the purpose of recommending to the Secretary those applicants who have the most promising dissertation projects.

(b) The Panel reviews the applications for the Doctoral Dissertation Research Abroad program on the basis of the following criteria:

(1) The quality of the dissertation project.

(2) The applicant's academic preparation.

(3) The applicant's ability to carry out the project.

(4) The applicant's plan of study.

(5) The applicant's language preparation.

(c) The Panel reviews the applications for the Doctoral Dissertation Research Abroad program in accordance with the criteria listed in paragraph (b) of this notice.

(d) For the Doctoral Dissertation Research Abroad program, five pages of the application are reviewed by the Panel. The Panel reviews the applications for the purpose of recommending to the Secretary those applicants who have the most promising dissertation projects.

(e) The Panel reviews the applications for the Doctoral Dissertation Research Abroad program on the basis of the following criteria:

(1) The quality of the dissertation project.

(2) The applicant's academic preparation.

(3) The applicant's ability to carry out the project.

(4) The applicant's plan of study.

(5) The applicant's language preparation.

(f) The Panel reviews the applications for the Doctoral Dissertation Research Abroad program in accordance with the criteria listed in paragraph (e) of this notice.

Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad, Washington, D.C. 20202

AGENCY: Department of Education.

ACTION: Notice of closed meeting.

SUMMARY: This notice announces a closed meeting of the Panel for the Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad programs. This notice is intended to inform interested persons of the meeting and to comply with the requirements of section 10(a)(2) of the Federal Advisory Committee Act.

DATES: December 4, 1980—8:30 a.m.—approximately 5:00 p.m.

ADDRESS: Room 3082, Donohoe Building, 400 Maryland Avenue, SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Ray, Director, Division of International Education, Office of Education, 400 Maryland Avenue, SW., Washington, D.C. 20202, Telephone: (202) 245-9720.

SUPPLEMENTARY INFORMATION: The Panel for the Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad programs is established under section 102(b)(6)(A) of the Mutual Educational and Cultural Exchange Act of 1961, as amended by Pub. L. 96-49. The Panel is established to recommend to the Secretary of Education applicants for awards under the Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad programs.

(a) For the Faculty Research Abroad program, five pages of the application are reviewed by the Panel. The Panel reviews the applications for the purpose of recommending to the Secretary those applicants who have the most promising research projects.

(b) The Panel reviews the applications for the Faculty Research Abroad program on the basis of the following criteria:

(1) The quality of the research project.

(2) The applicant's academic preparation.

(3) The applicant's ability to carry out the project.

(4) The applicant's plan of study.

(5) The applicant's language preparation.

(c) The Panel reviews the applications for the Faculty Research Abroad program in accordance with the criteria listed in paragraph (b) of this notice.

(d) For the Foreign Curriculum Consultants program, five pages of the application are reviewed by the Panel. The Panel reviews the applications for the purpose of recommending to the Secretary those applicants who have the most promising projects.

(e) The Panel reviews the applications for the Foreign Curriculum Consultants program on the basis of the following criteria:

(1) The quality of the project.

(2) The applicant's academic preparation.

(3) The applicant's ability to carry out the project.

(4) The applicant's plan of study.

(5) The applicant's language preparation.

(f) The Panel reviews the applications for the Foreign Curriculum Consultants program in accordance with the criteria listed in paragraph (e) of this notice.

(g) For the Group Projects Abroad program, five pages of the application are reviewed by the Panel. The Panel reviews the applications for the purpose of recommending to the Secretary those applicants who have the most promising projects.

(h) The Panel reviews the applications for the Group Projects Abroad program on the basis of the following criteria:

(1) The quality of the project.

(2) The applicant's academic preparation.

(3) The applicant's ability to carry out the project.

(4) The applicant's plan of study.

(5) The applicant's language preparation.

(i) The Panel reviews the applications for the Group Projects Abroad program in accordance with the criteria listed in paragraph (h) of this notice.

Dated: November 17, 1980.

William E. Hodgson, Jr.,

Colonel, Corps of Engineers, Acting Division Engineer.

[FR Doc. 80-37095 Filed 11-26-80; 8:45 am]

BILLING CODE 3710-24-M

DEPARTMENT OF EDUCATION

Higher Education Programs in Modern Foreign Language Training and Area Studies (Fulbright-Hays); Application Notice for Fiscal Year 1981

Applications are invited for new projects under the Fulbright-Hays Training Grants—Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad, and Doctoral Dissertation Research Abroad programs.

Authority for these programs is contained in Section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961.

(22 U.S.C. 2452(b)(6))

These programs issue awards to eligible applicants. Eligible applicants for Fulbright-Hays Training Grants are as follows:

a. For the Faculty Research Abroad program, accredited institutions of higher education;

b. For the Foreign Curriculum Consultants program, accredited institutions of higher education, State departments of education, local public school systems, private nonprofit educational organizations, and consortiums of such entities;

c. For the Group Projects Abroad program, accredited institutions of higher education, State departments of education, private nonprofit educational organizations, and consortiums of such entities;

d. For the Doctoral Dissertation Research Abroad program, accredited institutions of higher education which offer doctoral programs in the fields of foreign languages and area studies.

The purpose of the awards is to improve and develop modern foreign language and area studies in the educational structure of the United States.

Closing date for transmittal of applications: An application for a grant must be mailed or hand-delivered by January 15, 1981.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.019, Faculty Research Abroad program; 84.020, Foreign Curriculum Consultants program; 84.021, Group Projects Abroad program; 84.022, Doctoral Dissertation Research Abroad program, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: Evaluation criteria and eligibility requirements for the Faculty Research Abroad, and Foreign Curriculum Consultants, Groups Projects Abroad, and Doctoral Dissertation Research Abroad programs appear in the Code of Federal Regulations in 34 CFR Part 662 and the revised selection criteria published in this issue of the **Federal Register.**

Funding priorities: The Secretary has not established funding priorities for the Faculty Research Abroad, Foreign Curriculum Consultants, and Doctoral Dissertation Research Abroad programs in Fiscal Year 1981. Intensive advanced language training programs will be given priority in the Group Projects Abroad program in Fiscal Year 1981.

Available funds: It is expected that approximately $5,687,500 in U.S. dollars and $936,600 in special foreign currencies will be available for the Faculty Research Abroad, Foreign Curriculum Consultants, Group Projects Abroad and Doctoral Dissertation Research Abroad programs in Fiscal Year 1981.

It is estimated that these funds could support the following distribution of awards:

(a) Eighty-one Faculty Research Abroad fellows at an average cost of approximately $12,000.

(b) Twenty Foreign Curriculum Consultants at an average cost of approximately $17,000.

(c) Forty-three Group Projects Abroad at an average cost of approximately $69,000. It is anticipated that 6–10 intensive advanced language programs in the uncommonly taught languages will be funded. The expected world area distribution of other group projects will be within the following ranges: Africa 3–6; Latin America 2–4; East and Southeast Asia 3–6; East Europe 2–4; Near East 3–6; South Asia 8–12. To ask a question about the countries that are included in these world areas, call the contact person listed below.

(d) One hundred and fifty-two Doctoral Dissertation Research Abroad fellows at an average cost of approximately $15,000. It is anticipated that the world area distribution of these fellowships will be within the following ranges: Africa 18–22; Latin America 18–22; East Asia 28–32; Southeast Asia 13–18; East Europe 28–32; Near East 18–22; South Asia 15–20.

However, these estimates which are based on program experience and avialable of foreign currency, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant unless that number is specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by December 1, 1980. They may be obtained by writing to the Division of International Research and Studies, Office of International Education, U.S. Department of Education, (Room 3669, ROB–3), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Secretary urges that the narrative portion of the application not exceed the following pages in length:

(a) For the Faculty Research Abroad program, five pages;

(b) For the Foreign Curriculum Consultants program, ten pages;

(c) For the Group Projects Abroad program, twenty pages;

(d) For the Doctoral Dissertation Research Abroad program, five pages.

The Secretary further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Higher Education Programs in Modern Foreign Language Training and Area Studies (34 CFR Part 662);

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Part 75 and 77) except as modified by the revised selection criteria published in this issue of the **Federal Register.**

(c) Revised selection criteria published in this issue of the **Federal Register.**

Further information: For further information, contact Mr. John Paul, Fulbright-Hays Training Grants, Division of International Research and Studies, Office of International Education, U.S. Department of Education (Room 3669, ROB–3), 400 Maryland Avenue, SW, Washington, D.C. 20202. Telephone (202) 245–2794.

(22 U.S.C. 2452(b)(6))

Dated: November 21, 1980.

Shirley M. Hufstedler,

Secretary of Education.

(Catalog of Federal Domestic Assistance No. 84.019; Faculty Research Abroad program. No. 84.020; Foreign Curriculum Consultants program. No. 84.021; Group Projects Abroad program. No. 84.022; Doctoral Dissertation Research Abroad program)

[FR Doc. 80-37125 Filed 11-26-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Defense Programs

Dose Assessment Advisory Group; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting. Less than 15-days' notice is being given due to the urgency of the dose assessment project and necessity for immediate guidance to the working task group from the Advisory Group.

NAME: Dose Assessment Advisory Group.

DATE AND TIME:

December 2, 1980—8:30 a.m.—approximately 5:00 p.m.

December 3, 1980—8:30 a.m.—approximately 5:00 p.m.

December 4, 1980—8:30 a.m.—approximately 5:00 p.m.

PLACE: Department of Energy, Nevada Operations Office Auditorium, 2753 South Highland Drive, Las Vegas, Nevada.

CONTACT: Marshall Page, Jr., Deputy Project Manager, Off-Site Radiation Exposure Review Project, Nevada Operations Office, Department of Energy, Box 14100, Las Vegas, Nevada 89114; Telephone: 702–734–3161.

Purpose of group: To provide the Secretary of Energy and the Manager, Nevada Operations Office (NV), with advice and recommendations pertaining to the Off-site Radiation Exposure Review project. This project concerns the evaluation and assessment of the amount of radiation received by members of the offsite population surrounding the Nevada Test Site (NTS) as a result of the nuclear test operations conducted at the NTS.

Tentative agenda: December 2, 1980:

- Introduction and Briefing
- The Litigation Situation
- Charge to the Dose Assessment Advisory Group
- Organization and Management (Review of Original Charters) Off-Site Radiation Exposure Review Project (ORERP)
- Dose Assessment Advisory Group Formation and Administrative Information
- Scientific Content of the Off-Site Radiation Exposure (Biological Dose)
- Information Collection Effort
- Tour of the Coordination and Information Center
- Dose Assessment Advisory Group Open Discussion
- Public Comment (3 minute rule)

December 3, 1980:

- Historical Off-Site Population Exposure (HOPE) Data Base
- Fallout Verification I and II
- Statistics and Statistical Modeling
- Internal Dose I—Source Term
- Pathway Analysis
- Internal Dose II—Screening Calculations and Models
- Discussion
- Public Comment (3 minute rule)

December 4, 1980:

- External Dose
- Discussion and Recommendations
- Public Comment (3 minute rule)

Public participation: The meeting is open to the public. The Chairperson of the Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Marshall Page at the address or telephone number listed above.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office, telephone 202–252–5187.

Issued in Washington, D.C., on November 24, 1980.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 80-37169 Filed 11-26-80; 8:45 am]

BILLING CODE 6450-01-M

Uranium Enrichment Services; Termination Charges

The Department of Energy (DOE) hereby announces revisions to the Notice entitled "Uranium Enrichment Services; Termination Charges" published in the **Federal Register** on December 15, 1978 (43 FR 58609), hereinafter referred to as the Notice. These revisions increase the termination charges and reflect changes which have occurred since the previous publication of the Notice.

Two of the factors which enter into the calculation of the termination charge are the cost of money to the U.S. Government, and the date when replacement sales of uranium enrichment services can be made to offset sales which are lost by termination. The interest paid by the department of the Treasury on marketable, interest-bearing debt has increased in the past two years, from 6.403% in fiscal year 1977 to 8.202% in fiscal year 1979. Therefore, the cost of money used in the calculations for this revision of the Notice is 8.2% (vs. 6.5% in the previous Notice). Also, the prospects for future sales of uranium enrichment services have become less favorable; hence, for purposes of this Notice, the earliest estimated date for replacement sales is 1992 (vs. 1988 in the previous Notice). The revisions resulting from changes in these factors are reflected in the change in the formula in paragraph 9 and the new termination charge table appearing in paragraph 10.

Up until now, DOE has held to a policy announced on April 21, 1978 (43 FR 17028), which stated that customers who convert from a Long-Term, Fixed-Commitment (LTFC) contract to an Adjustable, Fixed-Commitment (AFC) contract would retain the existing LTFC

enrichment services delivery schedule (contained in Appendix "A" of the LTFC

Therefore, the formula for the termination charge in paragraph 12 and

8. Except as provided in paragraph 13, which is applicable to any Adjustable

Table of Termination Charges

ACTION: Notice of action taken and

enrichment services delivery schedule (contained in Appendix "A" of the LTFC contract) solely for the purpose of computing the charges to be paid in the event of later termination of the Adjustable, Fixed-Commitment contract. This policy was intended to prevent LTFC customers from circumventing the higher termination charges applicable to termination in whole under the LTFC contract, with its 10-year Appendix "A" schedule of deliveries, by first converting to an AFC contract and then terminating the contract at the lower charge derived from the 5-year Appendix "A". The situation has now changed, since the majority of the LTFC contracts have already been converted to AFC contracts, and specific conditions exist in the case of the few remaining LTFC contracts (such as assignment of the first delivery and slippage of reloads at no charge, as permitted by the contract if no construction permit has been issued) which have lead DOE to conclude that a contingency appendix will not be necessary for future conversions of LTFC contracts to AFC contracts. Therefore, DOE hereby changes that policy so that any customer who holds a Long-Term, Fixed-Commitment (LTFC) uranium enrichment services contract on the date of publication of this revision to the Notice and who subsequently converts that LTFC contract to an Adjustable, Fixed-Commitment (AFC) contract will not be required to retain the LTFC Appendix "A" for purposes of later termination, but will carry over the separative work unit (SWU) quantities listed for the first five or six years of deliveries, as appropriate, to constitute the AFC Appendix "A" SWU schedule for the fixed-commitment period.

One other change accomplished by this revision to the Notice is the addition of paragraphs 12 and 13, which are applicable to any AFC contract with a Contingency Appendix "A" which resulted from conversion of an LTFC contract. (Paragraphs 7 and 8 are revised only to the extent necessary to exempt from the coverage of these paragraphs the situations covered by paragraphs 12 and 13). It has been found that customers having such a Contingency Appendix can, in some instances, obtain a partial termination of scheduled AFC enrichment services at no charge. Such partial termination at no charge has been possible if the Contingency Appendix shows no delivery in a particular year while for that same year the AFC Appendix lists a scheduled delivery. A free termination of this type is not equitable to other customers or to the Government. Therefore, the formula for the termination charge in paragraph 12 and the formula for the minimum termination charge in paragraph 13 have been written so as to preclude a free termination under the circumstances referred to above.

DOE has determined that this notice does not require a period for public comment before becoming effective because the present action involves only an update in established DOE policy. A major review and modification of uranium enrichment services termination policy was undertaken in 1978. At that time, a notice was published for comment on April 21, 1978 (43 FR 17028), and the final notice was published on December 15, 1978 (43 FR 58609).

The following revisions are made in the Notice:

1. Paragraphs 7, 8, 9, and 10 of the Notice are revised to read:

7. Except as provided in paragraph 12, which is applicable to any Adjustable, Fixed-Commitment contract with a Contingency Appendix "A" which resulted from conversion of a Long-Term, Fixed-Commitment contract, the termination charge applicable to termination, in part, (other than a partial termination resulting from the rated MWe of the designated facility being less than the lower limit of the gross MWe range specified in Article II of such Agreement), by the Customer or by DOE of an Adjustable, Fixed-Commitment Contract prior to the date upon which the customer and DOE must agree upon appendices shall be an amount computed as follows:

$$A=\frac{SP}{C}$$

where
A=the termination charge
S=the number of separative work units terminated
C=the number of separative work units estimated to be required by the designated facility over the initial five year delivery period
P=the sum of the advance payments already paid plus any advance payment installment for which payment is due and outstanding

8. Except as provided in paragraph 13, which is applicable to any Adjustable, Fixed-Commitment contract with a Contingency Appendix "A" which resulted from conversion of a Long-Term, Fixed-Commitment contract, the termination charge applicable to termination, in whole or in part (other than a partial termination resulting from the rated MWe of the designated facility being less than the lower limit of the gross MWe range specified in Article II of such contract), by the customer or DOE of an Adjustable, Fixed-Commitment contract subsequent to the date upon which the customer and DOE must agree upon appendices shall be determined by applying to the terminated enriching services a unit charge or charges as provided in the table in paragraph 10 (as adjusted by the provisions of paragraph 9, if applicable); provided, however, that in the event that notice of a termination in whole or in part is received prior to the first scheduled delivery, the termination charge will be not less than a minimum amount computed as follows:

$$B=\frac{SP}{D}$$

where
B=the minimum termination charge
S=the number of separative work units terminated
D=the number of separative work units scheduled for delivery during the initial five-year firm delivery period as set forth in Appendix A of the contract
P=the sum of the advance payment already paid plus any advance payment installment for which payment is due and outstanding.

9. If the customer terminating pursuant to paragraphs 3, 4, 8, or 13 elects to make the termination effective on a date later than the date upon which DOE receives the notice, the applicable termination charges will be arrived at by multiplying the charges derived from paragraph 10 by 1.082^n, where n is the time stated in years and fractions of years between the date of receipt of the notice and the effective date of termination, and such charges will become due on the effective date of termination.

Table of Termination Charges

For advance notice of termination [1]		Termination charge per kilogram unit of separative work terminated, as percentage of applicable enriching services charge [2]						
		If notice of termination is received in fiscal year—						
Greater than (years)	But less than or equal to (years)	1981	1982	1983	1984	1985	1986	1987 or later
0	½	58.6	55.2	51.5	47.5	43.2	38.6	33.5
½	1½	51.0	47.6	43.9	40.0	35.7	31.0	26.0
1½	2½	44.0	40.6	36.9	33.0	28.6	24.0	19.0
2½	3½	37.5	34.1	30.5	26.5	22.2	17.5	12.5
3½	4½	31.5	28.1	24.5	20.5	16.2	11.5	6.5

Table of Termination Charges

For advance notice of termination [1]		Termination charge per kilogram unit of separative work terminated, as percentage of applicable enriching services charge [2]						
		If notice of termination is received in fiscal year—						
Greater than (years)	But less than or equal to (years)	1981	1982	1983	1984	1985	1986	1987 or later
4½	5½	25.0	22.6	19.9	18.0	10.7	8.0	1.0
5½	6½	20.6	17.5	13.6	9.9	5.6	0.9	0
6½	7½	16.2	12.8	9.1	5.1	0.8	0	0
7½	8½	11.8	8.4	4.7	0.8	0	0	0
8½	9½	7.8	4.4	0.7	0	0	0	0
9½	10½	4.1	0.7	0	0	0	0	0
10½	11½	0.8	0	0	0	0	0	0
11½	12½	0	0	0	0	0	0	0
12½		0	0	0	0	0	0	0

[1] For purposes of determining when enriching services would have been furnished but for such termination, enriching services scheduled to be delivered on a monthly basis shall be deemed to be scheduled for delivery on the 15th of such months; and for services scheduled for delivery on a fiscal year basis, they shall be deemed to be scheduled for delivery on April 1 of such fiscal years.

[2] For purposes of determining the applicable enriching services charge per kilogram unit of separative work terminated which have been scheduled for delivery on a monthly basis, such applicable charge shall be the applicable charge scheduled to be effective on the 15th day of such months; and for service scheduled for delivery on a fiscal year basis, such applicable charge shall be the applicable charge scheduled to be effective on April 1 of such fiscal years.

2. New paragraphs 12 and 13 are added as follows:

12. For an Adjustable, Fixed-Commitment contract with a Contingency Appendix "A" which resulted from conversion of a Long-Term, Fixed-Commitment contract, the termination charge applicable to contract termination, in part, (other than a partial termination resulting from the rated MWe of the designated facility being less than the lower limit of the gross MWe range specified in Article II of such Agreement), by the customer or by DOE Prior to the date upon which the customer and DOE must agree upon appendices shall be an amount computed as follows:

A=0.2 NP

Where

A=the termination charge
N=the number of fiscal years in which scheduled SWU deliveries are being terminated, it being understood that if deliveries are terminated in a fiscal year for which zero SWU's are scheduled, such year will nevertheless count as one fiscal year for purposes of determining the value of N.
P=the sum of the advance payments already paid plus any advance payment installment for which payment is due and outstanding; or, in the event advance payments were not required in whole, an amount equal to $3,300 per gross megawatt electric.

13. For an Adjustable, Fixed-Commitment contract with a Contingency Appendix "A" which resulted from conversion of a Long-Term, Fixed-Commitment contract, the termination charge applicable to contract termination, in whole or in part, (other than a partial termination resulting from the rated MWe of the designated facility being less than the lower limit of the gross MWe range specified in Article II of such contract), by the customer or DOE subsequent to the date upon which the customer and DOE must agree upon appendices shall be determined by applying to the terminated enriching services a unit charge or charges as provided in the table in paragraph 10 (as adjusted by the provisions of paragraph 9, if applicable); provided, however, that the termination charge for scheduled uranium enrichment services will not be less than a minimum amount computed as follows:

B=0.2 NP

Where

B=the minimum termination charge
N=the number of fiscal years in which scheduled SWU deliveries are being terminated, it being understood that if deliveries are terminated in a fiscal year for which zero SWU's are scheduled, such year will nevertheless count as one fiscal year for purposes of determining the value of N.
P=the sum of the advance payments already paid plus any advance payment installment for which payment is due and outstanding; or in the event advance payments were not required in whole, an amount equal to $3,300 per gross megawatt electric.

Effective Date. This Notice shall become effective on November 28, 1980.

Dated: November 21, 1980.

Ruth M. Davis,

Assistant Secretary, Resource Applications.

[FR Doc. 80-36953 Filed 11-26-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Dee and Dee Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order.

DATES: Effective date: November 13, 1980. Comments by: December 29, 1980.

ADDRESS: Send comments to: Wayne I. Tucker, Southwest District Manager of Enforcement, U.S. Department of Energy, Economic Regulatory Administration, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, Southwest District Manager of Enforcement, U.S. Department of Energy, Economic Regulatory Administration, P.O. Box 35228, Dallas, Texas 75235 (phone) 214/767-7745.

SUPPLEMENTARY INFORMATION: On November 13, 1980, the Office of Enforcement of the ERA executed a Consent Order with Dee and Dee Oil Company, of Dallas, Texas. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, may be made effective upon its execution.

Because the DOE and Dee and Dee wish to expeditiously resolve this matter as agreed, the DOE has determined that it is in the public interest to make the Consent Order with Dee and Dee, effective as of the date of its execution by the DOE and Dee and Dee.

I. The Consent Order

Dee and Dee, with its home office in Dallas, Texas, is a firm engaged in the resale of motor gasoline, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of sales of motor gasoline the Office of Enforcement, ERA, and Dee and Dee entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the Consent Order was March 1, 1979 through July 31, 1979, and it included all sales of motor gasoline which was made during that period.

2. By failing to demonstrate that prices charged for motor gasoline was based upon historical accounting records and failure to maintain the necessary

records to justify claims of unrecouped

SUPPLEMENTARY INFORMATION: Pursuant

opinion, is confidential and submit it in

persons in attendance wishing to speak

of the Port Jefferson Generating Station

in advance, their intent to participate.

records to justify claims of unrecouped cost.

3. Dee and Dee has agreed to pay a penalty of $2,500.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Submission of Written Comments

The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, Southwest District Manager of Enforcement, U.S. Department of Energy, Economic Regulatory Administration, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing >to the same address or by calling >214/767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Dee and Dee Oil Company Consent Order." We will consider all comments we receive by 4:30 p.m. local time, on December 29, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 18th day of November, 1980.

Wayne I. Tucker,

Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 80-36851 Filed 11-26-80; 8:45 am]

BILLING CODE 6450-01-M

Hertz Corp.; Proposed Compliance Plan

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed compliance plan and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces that it and The Hertz Corporation, Rent-A-Car Division (Hertz) have agreed to a proposed Compliance Plan (Plan) and provides an opportunity for public comment on the Plan.

DATES: Comments by December 29, 1980.

ADDRESS: Send comments to Thomas M. Holleran, Program Manager, Product Retailer Branch, Office of Enforcement, Economic Regulatory Administration, 2000 M Street NW., Room 5108, Washington, D.C. 20461.

SUPPLEMENTARY INFORMATION: Pursuant to Section 504 of the DOE Act, on October 30, 1980, the DOE executed the Plan with Hertz. Compliance by Hertz with the procedures specified in the Plan would constitute compliance with the motor gasoline pricing regulations.

I. The Compliance Plan

The significant provisions of the Plan are as follows:

1. Hertz will compute its monthly gasoline acquisition costs based on its best estimates. The selling price for each of the rental locations will be estimated by adding the permissible cents-per-gallon markup and applicable taxes to the estimated acquisition cost.

2. As soon as Hertz can establish its actual acquisition costs, it will compute the maximum lawful selling price (MLSP) for each rental location. Actual sales prices will then be compared to the MLSP for the applicable month. If overcharges occurred at any location, Hertz will, during the following month, reduce its selling prices at that location by an amount calculated to refund the overcharge. If the actual selling prices were lower than the MLSP, Hertz will not save or bank those additional costs.

3. If Hertz's sales prices at a particular location exceed the MLSP for six (6) consecutive months, Hertz will pay two (2) months' interest on the 3-month amount in excess of the MLSP.

4. Gasoline consumed in rental vehicles will be calculated by either of two methods. If the renter does not fuel the vehicle during the rental period, the charge for refueling will be based on mileage per gallon values (MPG's). This will be a cents-per-mile value derived by dividing the actual selling price by the MPG's for each category of car. If the renter fuels the vehicle during the rental period, the gasoline consumed will be determined by the fuel gauge reading. The refueling service charge will be determined by multiplying the gallons consumed times the per-gallon selling price.

II. Comments: The ERA Invites Interested Persons To Comment on the Terms, Conditions, or Procedural Aspects of This Plan

You should send your comments to Thomas M. Holleran, Program Manager, Product Retailer Branch, Office of Enforcement, Economic Regulatory Administration, 2000 M St. N.W., Department of Energy, Washington, D.C. 20461. You may obtain a free copy of this Plan by writing to the same address or by calling 202-653-3507.

You should identify your comments on the outside of your envelope and on the documents you submit with the designation. "Comments on Hertz Corporation Compliance Plan." We will consider all comments we receive by 4:30 p.m., local time, on December 29, 1980. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Washington, D.C. on the 21st day of November, 1980.

Dated: November 21, 1980.

Concurrence:

Robert D. Gerring,

Director, Program Operations Division, Office of Enforcement, Economic Regulatory Administration.

Robert G. Heiss,

Assistant General Counsel for Enforcement.

[FR Doc. 80-37080 Filed 11-26-80; 8:45 am]

BILLING CODE 6450-01-M

Port Jefferson Generating Station Units 30 and 40: Intent To Prepare an Environmental Impact Statement (EIS) and Conduct Public Scoping Meeting

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of intent to prepare an Environmental impact statement (EIS) and conduct public scoping meeting.

SUMMARY: The Department of Energy (DOE) announces its intent to prepare an EIS evaluating the impact of its Energy Supply and Environmental Coordination Act of 1974 (ESECA) Prohibition Order for the Port Jefferson Generating Sation Units 30 and 40. These units are located in the village of Port Jefferson, the town of Brookhaven and the county of Suffolk, N.Y., and are owned and operated by the Long Island Lighting Company (LILCO). The Prohibition order will be effective when a Notice of Effectiveness (NOE) is issued and would prohibit the burning of petroleum or natural gas in these units. Subsequent operation of this unit would require the burning of an alternate fuel such as coal. Interested agencies, organizations, and the general public desiring to submit written comments or suggestions for consideration in connection with the preparation of this EIS are invited to do so and/or to attend the public scoping meeting which will be held on December 11, 1980, in order to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS. Parties who desire to present oral comments at the scoping meeting should provide advance notice to the Economic Regulatory Administraion (ERA) as described below.

Upon completion of the draft EIS, its availability will be announced in the **Federal Register**, at which time further comments will be solicited.

The meeting is scheduled to begin at 7:30 p.m. and will continue until all

persons in attendance wishing to speak have had an opportunity to do so.

Written comments, notice of intent to present comments at the scoping meeting, and questions concerning the meeting should be addressed to: Mr. Steven E. Ferguson, Chief, Environmental Analysis Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M. Street NW., Washington, D.C. 20461; Telephone (202) 653-3684.

For general information on the EIS process, contact: Robert J. Stern, Acting Director, Division of NEPA Affairs, Office of Environmental Compliance and Overview, Office of the Assistant Secretary for Environment, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585; Telephone (202) 252-4600.

Date and Location of Scoping Meeting: The meeting will begin at 7:30 p.m. on December 11, 1980 in the Port Jefferson High School Auditorium in Port Jefferson, New York.

Written Comments Due: Written comments are to be submitted to Mr. Ferguson by January 16, 1981.

SUPPLEMENTARY INFORMATION: On June 30, 1977, the Federal Energy Administration (FEA) published in the **Federal Register** a Notice of Intent to Issue Prohibition Orders for 16 powerplants located at 11 generating stations including Units 30 & 40 of the Port Jefferson Generating Station, located in the village of Port Jefferson, N.Y. The prohibition order was issued pursuant to the ESECA (15 USC 791 *et seq.*) (Pub. L. 93-319) as amended by the Energy Policy and Conservation Act of 1975 (Pub. L. 94-163) and as further amended by the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95-70). On October 1, 1977, DOE took over the functions of FEA, including its authorities and responsibilities under ESECA. If made effective, the order will prohibit these units from burning natural gas or petroleum as its primary energy source. The prohibition order was based on an FEA finding that this powerplant has, or previously had, the technical capability to use an alternate fuel as a primary energy source. It was determined that this powerplant was designed and constructed to burn coal as a primary energy source and had previously burned coal.

Environmental Impact Statement

The EIS will present a comprehensive analysis of the environmental impact of ERA's proposed action in issuing an effective order prohibiting Units 30 & 40 of the Port Jefferson Generating Station from burning natural gas or petroleum as primary fuels. This analysis will discuss the environmental consequences of the proposal and alternatives, including the environmental impacts of burning coal or other alternate fuels as primary fuels. Among the impacts to be discussed are air quality, water quality, solid waste generation and disposal, and transportation and storage of fuel, as well as other impacts determined to be potentially significant during the public comment process. In addition, the EIS will evaluate methods for meeting the requirements of the Clean Air Act, Federal Water Pollution Control Act, Resource Conservation and Recovery Act, and other relevant environmental statutes. The EIS will be prepared in accordance with Section 102(2)(c) of the National Environmental Policy Act (NEPA).

It is possible that DOE may, in the future issue prohibition orders to other facilities in the area of the Port Jefferson Generating Station. If it appears that the environmental effects of conversions in proximity result in cumulative impacts, DOE may opt to combine these conversions in a single EIS. DOE will assess various strategies for combining or tiering requisite NEPA documentation that may better serve the decision making process. DOE solicits the public's views and suggestions concerning this subject.

Scoping Meeting

DOE desires to know what the public considers to be the major environmental issues associated with prohibiting Port Jefferson Units 30 & 40 from burning natural gas or petroleum as their primary energy source. The meeting on December 11, 1980, at the address and time noted at the beginning of this notice, will be held to receive comments on the strucutre and scope of the EIS, anticipated energy/environmental problems, actions that might be taken to address them and reasonable alternatives which should be considered.

The scoping meeting will be conducted informally with the presiding officer affording all interested individuals in attendance an opportunity to speak. A transcript of the meeting will be prepared. The presiding officer will establish the order of speakers and provide any additional procedures necessary for the conduct of the meeting. Attendees at the meeting will be asked to register.

If possible, those planning to present information at the meeting should notify Mr. Ferguson. Participants are encouraged to submit to Mr. Ferguson, in advance, their intent to participate, and copies of any written material. However, public participation is encouraged even without the advance submission of written material.

Speakers will be allocated approximately fifteen minutes for their oral statements. Should any speaker desire to have additional time, or to provide further information for the record, such additional information may be submitted in writing by January 16, 1981.

Written comments will be considered and given equal weight with oral comments. All comments or suggestions received will be carefully considered in the preparation of the draft EIS.

A transcript of the scoping meeting will be retained by DOE and made available for inspection at the Freedom of Information Library, Room 1E-190, Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday. A transcript of the scoping meeting will also be available at the Port Jefferson Library, 100 Thompson Street, Port Jefferson, New York during the following hours: Monday-Thursday 9:30 a.m.-9 p.m.; Friday 9:30 a.m.-7 p.m.; Saturday 9 a.m.-5 p.m.; and Sundays 1 p.m.-5 p.m. In addition anyone may make arrangements with the reporter to purchase a copy of the transcript.

Those individuals who do not wish to submit comments or suggestions at this time but who would like to receive a copy of the draft EIS for review and comment when it is issued should so notify Mr. Ferguson.

Any questions regarding the meeting should be addressed to Mr. Ferguson.

Issued in Washington, D.C., November 24, 1980.

Ruth C. Clusen,

Assistant Secretary for Environment.

[FR Doc. 80-37080 Filed 11-26-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Biomass Panel; Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Biomass Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770).

Date and Time: December 18-19, 1980, 8:30 a.m. to 4:30 p.m.

Place: Department of Energy, Forrestal Building, Room 4A-104, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Contact: Eudora M. Taylor, Staff Assistant,

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in accordance with the Commission's

Contact: Eudora M. Taylor, Staff Assistant, Energy Research Advisory Board, Department of Energy, Forrestal Building, MS 3F–032, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: 202/252–8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda: Discussion of issues to be addressed in the technical assessment of biomass energy. Issues include:

Biomass sources.

Energetics and economics of biomass conversion.

Alcohol fuels.

Impacts of biomass energy utilization.

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 a.m. and 4:00 p.m. Monday through Friday, except Federal Holidays.

Issued at Washington, D.C. on November 21, 1980.

Edward A. Frieman,

Director of Energy Research.

[FR Doc. 80–36950 Filed 11–26–80; 8:45 am]

BILLING CODE 6450–01–M

Intertial Confinement Fusion Review Panel, Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Intertial Confinement Fusion Review Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770).

Date and Time: December 18, 1980, 9:00 am to 12:00 noon.

Place: Department of Energy, Forrestal Building, Room BVE–069, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Contact: Eudora M. Taylor, Staff Assistant, Energy Research Advisory Board, Department of Energy, Forrestal Building, MS 3F–032, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: 202/252–8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda:

Terms of Reference.

Overview of ICF Program.

Review Panel Assignments.

Public Participation: The meeting is open to the public. Written statements may be filed with the Review Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Review Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8:00 am and 4:00 pm Monday through Friday, except Federal Holidays.

Issued at Washington, D.C. on November 21, 1980.

Edward A. Frieman,

Director of Energy Research.

[FR Doc. 80–36954 Filed 11–26–80; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER81–113–000]

Northern States Power Co.; Filing

November 20, 1980.

The filing Company submits the following:

Take notice that Northern States Power Company (Northern States) on November 13, 1980, tendered for filing Supplement No. 1, dated November 5, 1980, to the Municipal Resale Transmission and Transformation Service Agreement, dated September 14, 1977, with the City of Ada.

Supplement No. 1 amends the original Agreement and provides for a Second Point of Delivery to the City of Ada.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8, 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–36971 Filed 11–26–80; 8:45am]

BILLING CODE 6450–85–M

[Docket No. ES79–40]

Pacific Power & Light Co.; Renotice of Application

November 20, 1980.

Take notice that on November 12, 1980, Pacific Power & Light Company (Applicant) filed an amendment to its application seeking authorization to increase the aggregate amount of short-term debt outstanding from $200 million to $250 million. Presently the Applicant is authorized to issue up to $100 million of unsecured notes and up to $100 million of Commercial Paper on or before June 30, 1981, with a final maturity date of not later than June 30, 1981. Applicant is seeking to increase the amount of Commercial Paper outstanding from $100 million to $150 million, with no change in issue or maturity dates.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 1, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–36972 Filed 11–26–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. CP81–41–000]

Panhandle Eastern Pipe Line Co.; Application

November 20, 1980.

Take notice that on November 8, 1980, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81–41–000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities required to make sales of natural gas for domestic, grain drying and irrigation usage either directly or thorugh Town Gas Company (Town Gas) for resale to serve right-of-way grantors, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate 17 taps and to provide direct sales to 17 right-of-way grantors as follows:

Location of points of delivery	Name of applicant	End use
Kingfisher County, Okla.	Gust F. Emmerich	Domestic.
Kingfisher County, Okla.	Richard G. Emmerich	Domestic.
Kingfisher County, Okla.	Andrew O. Green	Irrigation.
Woods County, Okla	Omer D. Kimbro	Domestic.
Edwards County, Kans.	Ray E. Cumey	Domestic.
Kiowa County, Kans	Elmer E. Davis	Irrigation.
Kiowa County, Kans	Donald C. Kendall	Irrigation.
Kiowa County, Kans	Franklin D. Lewis	Domestic.
Pratt County, Kans	Clarence F. Newby	Irrigation.
Pratt County, Kans	Thad C. Robbins Trust.	Irrigation.
Reno County, Kans	John L. Conkling	Domestic.
Seward County, Kans	Clarence C. Davis	Domestic.
Seward County, Kans	John Dreitz	Irrigation.
Audrain County, Mo	Philip Donald Shire	Irrigation.
Cass County, Mo	Raymond V. Rodgers	Domestic.
Marion County, Mo	Kenneth D. Kizer	Domestic.
Randolph County, Mo	Marshall L. Mead	Domestic.

Applicant further proposes to construct and operate three new delivery points to Town Gas in Illinois, to provide service to 3 right-of-way grantors as follows:

Location of points of delivery	Name of applicant	End use
Sangamon County, Ill	John H. Ceesne	Domestic and grain drying.
Vermilion County, Ill	William E. Bush	Domestic and grain drying.
Vermilion County, Ill	Hoyle D. Nuebert	Domestic.

Applicant estimates the total cost of the proposed facilities to be $42,250 to be financed from cash on hand.

Applicant asserts that it would not increase its currently authorized sales level to meet these customers' needs.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 15, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–36973 filed 11–26–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. RA81–21–000]

Robert Gregory Enterprises d.b.a. Bubble Machine; Filing of Petition for Review

Issued: November 21, 1980.

Take notice that Robert Gregory Enterprises d.b.a. Bubble Machine on November 12, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before December 5, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before December 5, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR §§ 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H–025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–36974 Filed 11–26–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. TC81–13–000]

Southwest Gas Corp.; Tariff Filing

November 20, 1980.

Take notice that on November 17, 1980, Southwest Gas Corporation (Southwest), P.O. Box 15015, Las Vegas, Nevada 89114, filed in Docket No. TC81–13–000 a request for permission to withdraw Second Revised Sheet No. 25C to its FERC Gas Tariff, Original Volume No. 1, filed October 28, 1980, pursuant to Commission Order No. 55–B of August 11, 1980, in Docket No. RM79–40 to amend the index of entitlements for Priority 1 and 2(a) customers. In place of Second Revised Sheet No. 25C Southwest has tendered for filing Substitute Second Revised Sheet No. 25C, together with a request for waiver of the notice requirements of the Commission's Regulations to permit the substitute tariff sheet to become effective on December 1, 1980.

Second Revised Tariff Sheet No. 25C provides the following index of end-use volumes at 14.73 psia:

	Priority 1	Priority 2(a)
Peak day:		
Sierra Pacific Power Co	38,913	842
CP National	13,569	.....
Southwest Gas Corp.:		
Northern Nevada	31,134	164
Northern California	5,436	.....
Annual:		
Sierra Pacific Power Co	6,129,646	110,832
CP National	1,741,222	.....
Southwest Gas Corp.:		
Northern Nevada	4,178,538	16,327
Northern California	806,277	.....

Any person desiring to be heard or to make any protest with reference to the filing of the substitute tariff sheet should on or before December 5, 1980, file with

the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Any persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36975 Filed 11-26-80; 8:45am]

BILLING CODE 6450-85-M

[Docket No. ER81-121-000]

Virginia Electric and Power Co.; Proposed Changes in Rate and Charges

November 21, 1980.

The filing Company submits the following:

Take notice that Virginia Electric and Power Company (Vepco) on November 14, 1980 tendered for filing proposed changes in its electric resale rate schedules presently on file with the Commission which are applicable to Rural Electric Cooperatives and Municipalities. Based on the test period 12 months ending December 31, 1981 conditions, Vepco estimates that the proposed changes in resale base rates will increase annual revenues from Cooperatives by $11.9 million, or 10.3 percent, and from Municipal Customers by $6.5 million, or 9.6 percent.

Although Vepco has filed for a proposed $18.5 million increase in the Wholesale Customers' basic rates, those same customers will realize an estimated annual fuel savings of $29.8 million due to the operation of the Company's North Anna Nuclear Unit 2. The proposed effective date for the increased rates is January 13, 1981.

Vepco states that the increase in wholesale rates is needed to compensate the Company for additional costs created by North Anna Unit 2, the Company's fourth nuclear unit, which is expected to begin commercial operation before the end of 1980.

Copies of proposed riders which would be applicable to rate schedules presently on file were served upon all of Vepco's jurisdictional Wholesale Customers, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 325 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 12, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36976 Filed 11-26-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-112-000]

The Washington Water Power Co.; Filing

November 21, 1980.

Take notice that the Washington Water Power Company (Washington Water) tendered for filing a notice of cancellation of Rate Schedule FPC No. 40, Supplement No. 47 effective April 23, 1969. Washington Water states that the pro-effective date of this termination is February 29, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy, Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 12, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 80-36977 Filed 11-26-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-94]

William's Mobil Service; Filing of Petition for Review

Issued: November 21, 1980.

Take notice that William's Mobil Service on August 13, 1980, filed a Petition for Review under 42 U.S.C. 7194(b) (1977) Supp. from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before December 5, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before December 5, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36978 Filed 11-26-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-122-000]

Edison Sault Electric Co.; Cancellation

November 21, 1980.

Take notice that Edison Sault Electric Company (Edison Sault) tendered for filing a notice of cancellation of FPC Rate Schedule No. 4, as supplemented, which represents a contract, dated January 27, 1964, as supplemented, by and between Edison Sault and Cloverland Electric Cooperative, Inc.

Edison Sault proposes an effective date of June 30, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 12, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36980 Filed 11-26-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EL81-2-000]

Electric Cooperatives of Kansas; Filing

November 21, 1980.

The filing company submits the following:

Take notice that on November 13, 1980, Electric Cooperatives of Kansas (ECK), submitted for filing a petition for a declaratory order that the monthly fuel cost adjustment by Central Telephone and Utilities Corporation (CTU) and the Kansas Power and Light Company (KPL) are improper and violate § 35.14 of the Commission's Rules and Regulations.

ECK contends that both CTU and KPL are including in their fuel cost adjustment clauses the cost of limestone used in pollution control facilities. According to ECK, costs associated with pollution control facilities are not to be included in the fuel adjustment clause.

As a result of the alleged wrongful inclusion of the cost of pollution control facilities, ECK requests that the Commission declare that such inclusion is improper under the rules and that the Commission order KPL and CTU to refund the amount collected as a result of the inclusion of the cost of limestone.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before December 17, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36981 Filed 11-26-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-43-000]

Energy Gathering, Inc., Application for Exemption

November 20, 1980.

Take notice that on November 3, 1980, Energy Gathering, Inc. (Applicant), 8561 Long Point Road, Houston, Texas 77055, filed in Docket No. CP-81-43-000 an application pursuant to Section 1(c) of the Natural Gas Act for an exemption from the provisions of the Act and the rules and regulations thereunder, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that Coronado Transmission Company (Coronado) has entered into a gas sales agreement with Natural Gas Pipeline Company of America (Natural) for the purpose of purchasings gas from Natural. It is further stated that Natural currently has a pending application for permission to sell and transport such gas to Coronado.

It is asserted that Coronado has now determined to assign all of its rights under the said sales agreement to Applicant contingent upon Applicant's receiving a Section 1(c) exemption from the natural Gas Act, and that if granted such exemption by the Commission, Applicant would take title to the gas sold by Natural pursuant to the agreement. Coronado would, therefore, never be in possession of nor hold title to the subject gas, it is said.

It is further asserted that Applicant would take delivery of the subject gas at one or more of four points in the State of Texas located in the counties of Jim Wells, Brazoria, Liberty and Jefferson. The facilities necessary to take delivery of gas at these four points would be constructed and owned by Applicant, it is said.

Applicant presently contemplates that it would sell the gas in the Gulf Coast or south Texas areas of the state depending upon the point of delivery of the gas by Natural. Applicant submits that the gas would be wholly consumed within Texas and would be used to balance system loads in preparation for the coming winter heating season. It is asserted by Applicant that such load balancing is necessary because of the unanticipated demand for gas occurring within Texas during the past summer.

It is stated that on October 27, 1980, the Railroad Commission of the State of Texas certified that the natural gas rates, service and facilities of Applicant are subject to the regulatory jurisdiction of the Railroad Commission of Texas and that it is exercising such jurisdiction.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 15, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rule of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-36982 Filed 11-26-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ES81-14-000]

Illinois Power Co.; Application

November 21, 1980.

Take notice that on November 10, 1980, Illinois Power Company (Applicant) filed an application seeking authority, pursuant to Section 204 of the Federal Power Act, to issue up to $300,000,000 of short-term debt to be issued from time to time with a final maturity date of not later than December 31, 1982.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 10, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file

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with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36863 Filed 11-26-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ES81-13-000]

Iowa Southern Utilities Co.; Application

November 21, 1980.

Take notice that on November 10, 1980, Iowa Southern Utilities Company (Applicant) filed a request with the Commission, pursuant to section 204 of the Federal Power Act, for authority to issue up to $20 million of five-year unsecured notes.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 10, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36864 Filed 11-26-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER81-120-000]

Mississippi Power Co.; Filing

November 21, 1980.

The filing Company submits the following:

Take notice that Mississippi Power Company (MPC) on November 13, 1980, tendered for filing Supplement Agreement with Coast Electric Power Association (CEPA) under its FERC Electric Tariff Original Volume No. 1. This agreement provides for a new delivery point to be established at Westonia. To effect this change, MPC and CEPA have entered into a supplemental agreement under the Company's FERC Electric Tariff Original Volume No. 1 (Second Revised Sheet No. 14).

MPC agrees to deliver up to a maximum of 2,000 kilowatts at 115,000 volts at the connections to the customer's 115 KV line facilities located in Section 34, Township 8 South, Range 16 West, Hancock County, Mississippi.

MPC states that this supplement will become effective on or about March 1, 1981, when the required additional facilities will be energized.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before December 12, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36865 Filed 11-26-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER81-115-000]

Montana Power Co.; Filing

November 20, 1980.

The filing Company submits the following:

Take notice that the Montana Power Company (Montana) on November 13, 1980, tendered for filing in accordance with Section 35 of the Commission's regulations, Letter Agreements with Southern California Edison Company (Edison). Montana states that these Letter Agreements provide for the sale of firm energy between Montana and Edison.

Montana indicates that the proposed Letter Agreements increased revenues from jurisdictional sales by $1,531,088.29, based upon energy delivered from July 12, 1980 through August 31, 1980. Montana states that the rate for firm energy under these Letter Agreements was negotiated.

An effective date of July 12, 1980 is proposed and waiver of the Commission's requirements is therefore requested.

Montana also tendered for filing a Notice of Cancellation of Rate Schedule ——' and all its supplements, and agreement for the sale of firm energy between Montana and Southern California Edison Company (Edison). Montana states that the agreement has expired as of its own terms and has not been renewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 4, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36866 Filed 11-26-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER81-117-000]

Montana Power Co.; Filing

November 21, 1980.

The filing Company submits the following:

Take notice that The Montana Power Company ("Montana") on November 13, 1980, tendered for filing in accordance with Section 35 of the Commission's regulations, a Letter Agreement with the City of Glendale ("Glendale"). Montana states that this letter Agreement provides for the sale of firm energy between Montana and Glendale.

Montana indicates that the proposed Letter Agreement increased revenues from jurisdicational sales by $454,009.08, based upon energy delivered from July 12, 1980, through August 31, 1980. Montana states that the rate for firm energy under this Letter Agreement was negotiated.

An effective date of July 12, 1980, is proposed and waiver of the Commission's requirements is therefore requested.

Montana also tendered for filing a Notice of Cancellation of Rate Schedule and all its supplements, an agreement for the sale of firm energy between Montana and the City of Glendale ("Glendale"). Montana states that the agreement has expired as of its own terms and has not been revewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Northeast, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 12, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36867 Filed 11-26-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER81-118-000]

The Montana Power Co.; Filing

November 21, 1980.

The filing Company submits the following:

Take notice that The Montana Power Company ("Montana") on November 13, 1980, tendered for filing in accordance with Section 35 of the Commission's regulations, a Letter Agreement with the City of Burbank ("Burbank"). Montana states that this Letter Agreement provides for the sale of firm energy between Montana and Burbank.

Montana indicates that the proposed Letter Agreement increased revenues from jurisdictional sales by $454,111.45, based upon energy delivered from July 12, 1980, through August 31, 1980. Montana states that the rate for firm energy under this Letter Agreement was negotiated.

An effective date of July 12, 1980, is proposed and waiver of the Commission's requirements is therefore requested.

Montana also tendered for filing a Notice of Cancellation of Rate Schedule and all its supplements, an agreement for the sale of firm energy between Montana and the City of Burbank ("Burbank"). Montana states that the agreement has expired as of its own terms and has not been renewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 12, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-36868 Filed 11-26-80; 8:45 am]
BILLING CODE 6450-85-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180535; PH-FRL 1684-7]

California; Issuance of Specific Exemption for Carbaryl on Pomegranates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: EPA has granted a specific exemption to the California Department of Food and Agricultfire (hereafter referred to as the "Applicant") to use 28,000 pounds of carbaryl on 3,500 acres of pomegranates in California to control filbertworms. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E-124, 401 M St., SW, Washington, D.C. 20460. (202-426-0223).

SUPPLEMENTARY INFORMATION: The filbertworm is a common pest in filberts and walnuts. This pest, however, is relatively new in pomegranates and has caused losses only in the past few years. Little is known of the life cycle of this pest in pomegranates. Currently only methomyl is registered for insecticidal use on pomegranates. It is registered for use against the omnivorous leafroller. According to the Applicant, its use on pomegranates has shown no effectiveness against the filbertworm.

Limited field work has been carried out for carbaryl on pomegranates. The Applicant reports that data indicate that it would be effective against the filbertworm. Carbaryl is currently registered for control of the filbertworm on walnuts and filberts; data indicate that it is effective in controlling the filbertworm on these crops.

The Applicant estimates a possible loss of $1.5 million from the filbertworm, if an effective program against it is not carried out.

The Applicant proposes to make a maximum of two applications of Sevin Sprayable using ground or air equipment. A 30-day pre-harvest interval will be observed.

EPA has determined that the proposed use of carbaryl should not result in residues in or on pomegranates in excess of 1.0 part per million (ppm). This level has been judged adequate to protect the public health. EPA has also determined that the proposed use should not present an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until December 31, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Sevin Sprayable (carbaryl), manufactured by Union Carbide, EPA Reg. No. 1016-43, may be applied. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label.

2. Application rate will be four pounds of carbaryl per acre in 200-400 gallons of water by ground equipment and 50-100 gallons of water by air.

3. No more than two applications may be made per season. A thirty-day pre-harvest interval is imposed.

4. Applications will be by or under the supervision of State-certified applicators.

5. A maximum of 3,500 acres of pomegranates may be treated in California with a maximum usage of 28,000 pounds of carbaryl or 35,000 pounds of formulated product.

6. All applicable directions, restrictions, and precautions on the EPA-registered product label must be observed.

7. Pomegranates treated according to the above provisions should not have residues of carbaryl in excess of 1.0 ppm. Pomegranate with residues of carbaryl which do not exceed this level may enter into interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been notified of this action.

8. The EPA shall be immediately informed of any adverse effects to man or the environment resulting from the use of Sevin Sprayable in connection with this exemption.

9. The Applicant is responsible for insuring that all the provisions of this specific exemption are followed and must submit a report detailing the use of carbaryl and the results of this program by March 31, 1981.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136)).

Dated: November 20, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-37011 Filed 11-26-80; 8:45 am]

BILLING CODE 6560-32-M

[OPTS-51172; TSH-FRL 1684-3]

Certain Chemicals, Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN wthin 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATE: Written comments by December 22, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460, (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Rachel S. Diamond, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, DC 20460 (202-426-3980).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of avilability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28588-Initial) and July 29, 1980 (45 FR 50444-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concening premanufacture notification requirements prior to the effective date of these rules anf forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Fedral Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the PMN submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before December 22, 1980, submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number [OPTS-51172], and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: November 19, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80-291.

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period

January 21, 1981.

Manufacturer's Identity.

Claimed confidential business information. Generic information provided:

Annual sales—Between $100 million and $499,999,999.

Manfacturing site—East-north central U.S.

Standard Industrial Classification Code—285.

Specific Chemical Identity.

Polymer of: Expoxy resin, bisphenol A, paraformaldehyde, dibutylamine, and diethanolamine.

Use.

Claimed confidential business information. Generic information provided:

The submitter states that the substance will be used in an open use that will release less than 50 kilograms (kg) of the substance to the environment per year and that the use of the substance may possibly involve potential exposure to the skin and eyes.

	Kilograms per year	
	Minimum	Maximum
First year	3,500	10,000
Second year	15,000	30,000
Third year	30,000	100,000

Physical/chemical properties	Polymer solution	Dried polymer
Solid content	63.9	
Specific gravity	1.03	1.06
Solubility in water		0.5% C. 20° C.
Number average molecular weight	1,400-1,430	
Weight average molecular weight	2,700-2,800	
Flash point (closed cup)	76° F.	>200° F.
Percent free formaldehyde	0.7	
pKa	7.76	7.72
Elemental analysis (percent)		C=71.7
		H=8.1
		N=2.7
		O=17.5

Exposure

Activity and exposure route	Maximum number exposed	Maximum duration		Concentration (ppm)	
		Hours/day	Days/year	Average	Peak
Manufacture: Inhalation, Dermal	8	4	20	0-1	1-10
Processing: Inhalation, Dermal	8	4	20		0-1
Disposal: Inhalation, Dermal	5	8	2	0-1	1-10

Environmental Release/Disposal. The manufacturer states that less than 10 kg of the PMN substance will be released into the environment (air) per year during the manufacturing process; and that waste disposal (sludge) is by landfill.

PMN 80-292.

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 21, 1981.

Manufacturer's Identity. Claimed confidential business information.

Generic information provided:

Annual sales—Between $100 million and $500 million.

Manufacturing site—Mid-Atlantic region U.S.

Standard Industrial Classification Code—284.

Specific Chemical Identity. Claimed confidential business information. Generic name provided. Disubstituted carbopolycyclic derviative.

Physical/chemical properties	Polymer solution	Dried polymer
Chemical oxygen demand (ug0/g)	2,200,000	

Toxicity of Raw Materials

Epoxy resin-Epon 829. The oral LD_{50} in rats is 10.2 g/kg. The dermal LD_{50} in rabbits is over 10.2 g/kg.

Bisphenol A. The oral LD_{50} in rats is in the range of 1-2 g/kg. Over exposure to the dust is irritating to the upper respiratory passages, and may cause sneezing.

Dibutylamine. The acute oral LD_{50} in rats is 500 mg/kg. The dermal LD_{50} in rabbits is 1,010 mg/kg. It causes severe skin and eye irritation.

Diethanolamine. The acute oral LD_{50} in rats is 1.82 g/kg. The undiluted liquid produces severe eye burn.

Paraformaldehyde. The acute oral LD_{50} in rats is more than 1.6 g/kg. The dermal LD_{50} in rabbits is 1.4 g/kg. It is considered to be moderately irritating to the eye. The Threshold Limit Value (TLV) is 3 parts per million (ppm).

Use. Claimed confidential business information. Generic information provided: The manufacturer states that the substance will be used in an open use that will release less than 50 kilograms (kg) to the environment per year and that the use will involve exposure to commercial and chemical industrial employees for varying time periods with limited potential for skin and eye contact.

Production Estimates.

	Kilograms per year	
	Minimum	Maximum
1st year	1,000	4,000
2d year	3,000	7,000
3d year	6,000	12,000

Physical/Chemical Properties.

Boiling point—70-74° C at 3mm Hg.

Appearance—Colorless liquid.

Solubility—Infinite in fats and oils; very low in water (<<1%).

Toxicity Data.

Oral LD_{50} (rat)—Final report in preparation. (>5 g/kg).

Dermal LD_{50} (rat)—Final report in preparation. (>5 g/kg).

Skin irritation (guinea pig)—At 10% methanol, slight, reaction under full occlusion. At 5% in ethanol, no reaction under full occlusion.

Skin irritation (human)—Final report in preparation. At 5% in ethanol, no reaction under semi-occlusion.

Phototoxicity (in *vitro* yeast screen)—Not phototoxic at 1% in methanol, positive results at 10% in methanol are being investigated.

Sensitization (guinea pigs)—At 5% in ethanol under full occlusion (Buehler technique), 0 of 15 pigs reacted.

Sensitization (human)—Final report in preparation. At 5% in ethanol under semiocclusion (Draize-Shelanski technique), 0 of 53 reacted. Therefore, little chance exists for human sensitization at the expected 1% use level.

Exposure.

Activity and exposure route	Maximum number exposed	Maximum duration		Concentration (unit ppm)	
		Hours/day	Days/year	Average	Peak
Manufacture: Inhalation, Dermal	10	Accidental contact only		0-1	>100
Processing: Inhalation, Dermal	10	do		0-1	>100
Use: Inhalation, Dermal	10	do		0-1	>100
Disposal: Inhalation, Dermal	10	do		0-1	>100

The manufacturer claims that concentrations in excess of 100 ppm would occur only during an accidental spill situation and that any consumer use of this material would result in a maximum consumer exposure of about 0.1 mg/kg/day.

Environmental Release/Disposal. The manufacturer states less than 10 kg of the PMN substance will be released to the environment per year and that waste products will be treated by an on-site effluent pre-treatment plant. Treated effluent discharges into a Regional Sewage Facility. Other wastes are disposed of by incineration.

[FR Doc. 80-37007 Filed 11-26-80; 8:45 am]

BILLING CODE 6560-03-M

[OPTS-51175; TSH FRL 1684-4]

Cyclohexane, 1,1'-Methylene Bis [4-Isocyanato-, Reaction Products With 1,3-Isobenzofurandione, Polymer With 1,6-Hexanediol, Alphahydro-Omega-Hydroxypolyoxy[1,4-Butanediyl] and (2-Hydroxyethyl)-1-Propenoate; Premanufacture Notice

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by December 26, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, D.C. 20460, (202–755–8050).

FOR FURTHER INFORMATION CONTACT: Rachel Diamond, Chemical Control Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–221, 401 M St., SW., Washington, D.C. 20460, (202–426–3980).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558-Initial) and July 29, 1980 (45 FR 50544-Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identify and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before December 26, 1980, submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, D.C. 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51175] and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: November 19, 1980

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80–301

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 25, 1981.

Manufacturer's Identity. Claimed confidential business information.

Generic information provided:

Annual sales—Between $100 million and $499,999,999.

Manufacturing site—Mid-Atlantic U.S.

Standard Industrial Classification Code—2891,

"Adhesives and Sealants".

Specific Chemical Identity. Cyclohexane, 1,1'-methylene bis[4-isocyanato-, reaction products with 1,3-isobenzofurandione, polymer with 1,6-hexanediol, alpha-hydro-omega-hydroxypolyoxy[1,4-butanediyl] and (2-hydroxyethyl)-2-propenoate.

Use. Coating.

Production Estimates.

First Year—50,000 lb.

Second year—100,000 lb.

Third year—125,000 lb.

Physical/Chemical Properties.

Composition—Blend of oligomers, monomers, and photoinitiators.

Appearance—Clear to slightly hazy liquids.

Solids content—100%.

Viscosity at 23°C (LVT Brookfield Viscometer No. 4 Spindle)—5,000±500 cps.

Flash point (setaflash)—>200° F.

Weight/gallon—9.22 lb (±0.15) (1.10 kg/l).

Toxicity Data. The manufacturer claims that there are no known toxicity data on the substance.

Exposure. During manufacture: 1–2 workers per shift, 2 shifts/batch, 10–25 batches/year.

During use. The manufacturer states that: The entire application and curing operation is ventilated; six workers may be exposed five days a week; potential dermal exposure could occur during transfer of the product containing the new substance from the shipping containers into the dispensing equipment and during cleanup operations.

Environmental Release/Disposal. The submitter states that no waste or byproduct is normally generated during manufacture and that scrap material and cleanup solvents are disposed in accordance with Resource Conservation and Recovery Act (RCRA) standards.

During use, the manufacturer states that environmental release would be negligible due to the low vapor pressure of the material; that waste generated during cleanup operations is disposed in compliance with local, state, and federal regulations.

[FR Doc. 80-37006 Filed 11-26-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180527; PH-FRC 1684-8]

Idaho; Crisis Exemption for Tetraethyl Pyrophosphate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA gives notice that on September 8, 1980, the Idaho Department of Agriculture (hereafter referred to as "Idaho") availed itself of a crisis exemption for the use of TEPP (tetraethyl pyrophosphate) on a maximum of 500 acres of hops in Canyon County, Idaho, for the control of the Bertha armyworm.

DATE: The crisis period ended on September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–107, 401 M St., SW., Washington, D.C. 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: According to Idaho, the Bertha armyworm is periodically a pest problem on several Idaho crops, but populations are cyclical in nature and outbreaks are not easily predicted. Idaho recently reported that a late season outbreak of Bertha armyworms reached a destructive peak in a number of Idaho hop yards, preventing the harvest of a mature crop. There is no registered pesticide or other means for control of this pest available prior to harvesting of the hop crop. Insecticides which are registered for late season application to hops include parathion, diazinon, malathion, and dibrom. Pre-harvest restrictions do not allow the application of parathion or diazinon products within 15 days and 14 days of harvest, respectively, and thus prevented the application of these materials in the short time before harvest. Malathion and dibrom products require pre-harvest intervals of 7–10 days and 4 days, respectively, but are not effective in controlling the Bertha armyworm, Idaho reported. Malathion has little effect on Bertha armyworms on hops with control rated at 10 percent or less, while dibrom has been shown to give only 10–20 percent control at best, according to Idaho. TEPP, which contains the active ingredient (a.i.) tetraethyl pyrophosphate, can provide effective late season insect control within 3 days of harvest of the hop crop, Idaho stated. According to Idaho, losses in income to affected hop growers, if the Bertha armyworm is not controlled, are estimated at nearly $2 million.

In order to prevent adverse environmental effects, the application of TEPP was subject to the following limitations:

1. A single application at the rate of 2 pounds a.i. per acre was to be made, resulting in the use of a maximum of 1,000 pounds a.i.

2. Applications were to be made only by State-licensed commercial aerial applicators.

3. No applications were to be made within 3 days of harvest.

4. All applicable directions, restrictions, and precautions on the EPA-registered label were to be followed.

Idaho was to monitor the aerial application of TEPP under this crisis exemption and was to inform EPA immediately of any adverse effects from this use.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: November 20, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-37012 Filed 11-26-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180527; PH-FRL 1684-6]

New Mexico and Texas; Issuance of Specific Exemptions for Monocrotophos on Field Corn

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions to the New Mexico and Texas Departments of Agriculture (hereafter referred to as "New Mexico," "Texas," or the "Applicants") for the use of monocrotophos on a maximum of 106,000 acres of field corn in New Mexico and 500,000 acres of field corn in Texas to control Banks grass mites. The specific exemptions are issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATES: New Mexico's specific exemption expires on October 31, 1980; Texas' specific exemption expires on November 30, 1980.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–107, 401 M St. SW., Washington, D.C. 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: The Banks grass mite is a serious pest infesting field corn in New Mexico and Texas. It can cause severe desiccation of corn plants which can result in plant death before seed ear maturation. If the ears develop, the mites can cause desiccation of the corn kernels to the point that the crop cannot be harvested as a grain crop. The Banks grass mite populations increase rapidly under hot, dry weather conditions. According to the Applicants, the pest is very difficult to control. They claim that three registered pesticides, parathion, carbophenothion, and disulfoton, initially gave control of the mites but that resistance to these pesticides has developed. Four other pesticides, oxydemeton-methyl, dimethoate, phorate, and propargite, have also been reported by the Applicants to be ineffective. New Mexico anticipates losses of 10 to 30 bushels per acre, amounting to up to $76 per acre, without the use of Azodrin. Texas anticipates corn production would be reduced by 1,000 to 3,000 pounds per acre without

the use of Azodrin, amounting to a loss of from $65 to $150 per acre.

The Applicants proposed to use the product Azodrin 5 Water Miscible Insecticide, which contains the active ingredient (a.i.) monocrotophos, manufactured by Shell Chemical Co. New Mexico expected to use a maximum of 318,000 pounds a.i. to treat 106,000 acres. Texas planned to use 600,000 pounds a.i. to treat 500,000 acres.

EPA has determined that residue levels of monocrotophos should not exceed 0.05 part per million (ppm) in or on corn grain. This level has been judged adequate to protect the public health. EPA has imposed appropriate restrictions to prevent possible adverse effects on the environment.

After reviewing the applications and other available information, EPA has determined that the criteria for exemptions have been met. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until October 31, 1980, in New Mexico and until November 30, 1980, in Texas, in the manner and to the extent set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The product Azodrin, EPA Reg. No. 201–157, may be applied.

2. Azodrin may be applied at a rate of 0.6 to 1.0 pound a.i. per acre.

3. A maximum of three applications of Azodrin may be made with a preharvest interval of 45 days.

4. A maximum of 106,000 acres of field corn may be treated in New Mexico; a maximum of 500,000 acres of field corn may be treated in Texas.

5. Applications will be made using a minimum of 3 gallons of water per acre with aerial equipment or a minimum of 10 gallons of water with ground equipment.

6. Applications will be made by or under the direct supervision of State-certified applicators.

7. Azodrin may be applied only to corn being grown for seed or grain.

8. Azodrin may not be used on corn grown for silage.

9. Animals may not be grazed in treated fields within 60 days of the last application.

10. Azodrin is toxic to aquatic organisms. It may not be applied directly to any body of water. It may not be applied where runoff is likely to occur. It may not be applied when weather conditions favor drift from treated areas. Care must be taken to prevent contamination of water by the cleaning of equipment or disposal of wastes.

11. Azodrin is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It may not be applied or allowed to drift to weeds in bloom on which economically significant numbers of bees are actively foraging. Protective information may be obtained from each State's Cooperative Agricultural Extension Service.

12. Azodrin is highly toxic to avian and mammaliam species. Application may result in reduction of populations of these species.

13. The Applicants must contact the Office of Endangered Species (Federal) and State Fish and Game Agency personnel, prior to application, in order to determine if an endangered or threatened species is located in or adjacent to treated areas.

14. All applicable directions, restrictions, and precautions on the EPA-registered label must be adhered to.

15. Residue levels of Azodrin are not expected to exceed 0.05 ppm in corn grain. Corn grain with residues not exceeding this level may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, has been notified of these actions.

16. Any adverse effects resulting from the use of Azodrin in connection with these specific exemptions must be immediately reported to the EPA.

17. A final report on the action taken under its specific exemption and the benefits derived must be submitted to the EPA by February 18, 1981, by each of the Applicants.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: November 20, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-37010 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-32-M

[OPP-180504; PH-FRC 1684-5]

Oklahoma; Crisis Exemption for Monocrotophos on Seed or Grain Corn

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA gives notice that the Oklahoma Department of Agriculture (hereafter referred to as "Oklahoma") availed itself of a crisis exemption for the use of Azodrin 5 (monocrotophos) to control Banks grass mite on approximately 40,000 acres of seed or grain corn in Oklahome.

DATE: The crisis exemption was initiated on July 22, 1980. The emergency ended on September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–107 401 M St., SW., Washington, D.C. 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: On July 22, 1980, Oklahoma notified EPA that it had initiated a crisis exemption for use of Azodrin 5, which contains the active ingredient (a.i.) monocrotophos, for control of Banks grass mite in the counties of Cimarron, Ellis, Harper, Texas, and Woodward, Oklahoma. According to Oklahoma, populations of Banks grass mites had proliferated rapidly, favored by extremely hot, dry weather, and the registered pesticides were not adequate to keep the infestations down to acceptable levels. Oklahoma reported that ethion, Thimet, Di-Syston, Meta-Systox, and dimethoate, all registered for this use, have been erratic in performance and did not prevent damaging populations from developing after treatment. Losses caused by the Banks grass mite could reach as much as $150 per acre, Oklahoma stated. Oklahoma stated that the sudden and explosive outbreak of Banks grass mite required immediate measures.

State-licensed and certified applicators made the applications on approximately 40,000 acres of seed or grain corn. A maximum of three applications were to be made at a rate of from 0.6 to 1.0 pound of the active ingredient in a minimum of three gallons of water by air or ten gallons of water by ground equipment per acre. Oklahoma State Department of Agriculture and Oklahoma State University Extension personnel were to monitor for proper applications and adverse effects. A 45-day pre-harvest interval was imposed. Treated fields were not to be harvested for ensilage and were not to be grazed by livestock for 60 days following application. Oklahoma anticipated that residues of monocrotophos in or on the treated grain should not exceen 0.05 part per million. EPA has determined that this residue level is adequate to protect the public health.

(Sec. 18 as amemded 92 Stat. 819; (7 U.S.C. 136))

Dated: November 20, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-37009 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-32-M

[ER-FRL-1686-7]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review (A–104) U.S. Environmental Protection Agency.

PURPOSE: This notice lists the Environmental Impact Statements (EISS) which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of November 17, 1980 to November 21, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from November 28, 1980 and will end on January 12, 1981. The 30-day review period for final EIS's as calculated from November 28, 1980 will end on December 29, 1980.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. This notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following source: Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209 (703) 558–8270.

SUMMARY: This notice sets forth a list of EIS's filed with EPA during the week of November 17, 1980 to November 21, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the state(s) and county(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this notice. Commenting entities on draft EIS's are listed for final EIS's. All additional information relating to EIS's such as the time extensions or reductions of prescribed review periods, withdrawals, retractions, corrections or supplemental reports is also noticed under the appropriate agency.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 245–3006.

Dated: November 25, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A–104).

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412–A Admin. Building, Washington, D.C. 20250, (202) 447–3965.

SOIL CONSERVATION SERVICE

Draft

TONKAWA CREEK WATERSHED FLOOD PROTECTION: Caddo County, Oklahoma, November 18: Proposed is a flood protection plan for the Tonkawa Creek Watershed in Caddo County, Oklahoma. The plan would involve modification of 13 miles of channel. Several measures have been previously installed as part of the overall plan. The alternatives consider: (1) Construction of one additional floodwater retarding structure, (2) acquisition of flood plain, (3) zoning and flood insurance, and (4) no project. (EIS Order No. 800872.)

EXTENSION: The review period for the above EIS has been extended until January 19, 1981. (800872.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of the Chief of Engineers, Attn: DAEN–CWR–P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272–0121.

Draft

1984 OLYMPIC GAMES, CONSTRUCTION AND REFURBISHMENT: Los Angeles County, California, November 21: Proposed is the refurbishment of existing facilities and the construction of new facilities within the City and County of Los Angeles, California, for utilization during the 1984 Olympic games. The new facilities would consist of a swimming stadium, velodrome and rowing course. Refurbishment and expansion would take place at the Los Angeles Memorial Coliseum and Sports Arena, Exposition Park, Jackie Robinson Stadium and the Whittier Narrows International Trap and Skeet Range. The cooperating agency is the State of California. (Los Angeles District) (EIS Order No. 800884.)

TYLER BEACH MAINTENANCE DREDGING, JAMES RIVER: Isle of Wight County, Virginia, November 17: Proposed is maintenance dredging of Tyler Beach which is located on the West Shore of the James River in Isle of Wight County, Virginia. The preferred alternative involves hydraulically pumping dredged material into a natural trough which is 31 feet deep. Other alternatives consider: (1) No action, and (2) placing dredged material in a previously used upland marsh. (Norfolk District) (EIS Order No. 800870).

Final

MAALAEA LIGHT-DRAFT HARBOR, ISLAND OF MAUI: Maui County, Hawaii, November 21: Proposed are navigation improvements for Maalaea Light-Draft Vessel Harbor in the County of Maui, island of Maui, Hawaii. Plan 1 includes: (1) a 620-foot long extension to the existing south breakwater, (2) addition of a 400-foot long revetted mole on the seaward side of the existing south breakwater, (3) a 610-foot long entrance channel, (4) a 12-foot deep turning basin, (5) a 50-foot wide, 720-foot long interior revetted mole, and (6) a 8-foot deep berthing area. Plan 2 and 3 are similar to plan 1 with slight modification, the cooperating agencies are the Fish and Wildlife Service and the National Marine Fisheries Service. (Honolulu District.) Comments made by: EPA, DOT, DOC, DOI, AHP, state agencies, groups (EIS Order No. 800887).

CEDAR RIVER RECREATIONAL HARBOR, J. W. WELLS SP: Menominee County, Michigan, November 18: Proposed are navigational improvements for the Cedar River Recreational Harbor within the J. W. Wells State Park, Menominee County, Michigan. The project would consist of: (1) Construction of a new east pier, (2) rehabilitation of the old west pier, (3) dredging of an entrance and inner channel with turning basin, (4) removal of the remnants of the old east pier, and (5) beach nourishment of the shoreline zone adjacent to the lakeward side of the proposed east pier. (Detroit District.) (Comments made by: DOI, EPA, DOC, HEW, DOI, FERC, state agencies (EIS Order No. 800875).

Final Supplement

HARRY S TRUMAN DAM, DOWNSTREAM MEASURES (FS–2): Benton County, Missouri, November 19: Proposed are downstream measures for the Harry S Truman Dam and Reservior located on the Osage River in Benton County, Missouri. The plan under consideration includes: (1) relocation of a water oriented recreational facility, including removal of middle bridge; (2) placement of a left bank levee from recreation facility to U.S. 65; (3) placement of a right bank levee including the island; and (4) acquisition of land behind each levee. This statement supplements final EIS, No. 730340, filed 2–28–73. The cooperating agencies are FWS, EPA, SCS and the Southwestern Power Administration. (Kansas City District.) Commentsmade by: DOI, DOT, USDA, DOE, state and local agencies, groups, individuals, and businesses (EIS Order No. 800878).

DEPARTMENT OF COMMERCE

Contact: Dr. Robert T. Miki, Acting Deputy Assistant Secretary for Regulatory Policy, Room 7614, Department of Commerce, Washington, D.C. 20230, (202) 377–2482.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Final

LOOE KEY NATIONAL MARINE SANCTUARY: Regulatory, Florida, November 21: Proposed are regulations implementing designation of waters at Looe Key, Florida as a National Marine Sanctuary.

V 45 N 0 28 80 UMI

The key is a submerged section of the Florida Reef tract in the Florida Keys and will consist of 5 square nautical miles of high seas water. The regulations would allow the possession and collection of coral and disturbance of historical and cultural resources, by permit only. They would prohibit: (1) spearfishing; (2) use of lobster traps; (3) use of wire fish traps; (4) anchoring on coral; and (5) discharge of polluted water, fish parts or chum. Comments made by: AHP, USAF, COE, EPA, FERC, HUD, DOI, DOT, state and local agencies, groups, individuals, and businesses (EIS Order No. 800885).

DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G–064, Forrestal Bldg., Washington, D.C. 20585, (202) 252–4600.

EXTENSION: Naval Oil Shale Reserves Development Options, published FR September 19, 1980—review extended from November 7, 1980 to January 2, 1980. (800693.)

EXTENSION: Anvil Points Oil Shale Facility, Garfield County, CO, published FR August 29, 1980—review extended from October 14, 1980 to November 24, 1980. (800629.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Ms. Norma Hughes, EPA Headquarters, Office of Water Programs Operation, Marine Protection Branch, 401 M Street S.W., Washington, D.C. 20460, (202) 472–2836.

Draft

SAN FRANCISCO CHANNEL DREDGED MATERIAL DISPOSAL: Pacific Ocean, California, November 20: Proposed is the Designation of disposal sites for material dredged from the San Francisco Channel bar. The proposed site is known as the Channel Bar Site, located 3 NMI from the coast. Other sites considered are: (1) the inshore site, 0.5 to 3 NMI from the coast; (2) the mid-shelf site, 15 NMI from the coast; and (3) the shelf-break site, 15 to 24 NMI from the coast. The cooperating agency is the Corps of Engineers. (EIS Order No. 800883.)

Final

NY BIGHT ACID WASTE DISPOSAL SITE DESIGNATION: New York, November 18: Proposed is the designation of the New York Bight acid waste disposal site for continuing use, which is used by 2 industries in the New Jersey area. The alternatives consider: (1) no action, (2) use of the existing site, and (3) use of the 106-mile chemical waste disposal site and the northern and southern areas near the Hudson Canyon. Comments made by: DOC, COE, HEW DOI, STAT, NSF, state agencies, groups, and businesses (EIS Order No. 800874).

Contact: Mr. Robert Mendoza, Environmental and Economic Impact Office, Region I, Environmental Protection Agency, JFK Federal Building, Boston, MA 02203 (617) 223–4535.

Draft

NANTUCKET WWT AND COLLECTION FACILITIES: Nantucket County, Massachusetts, November 21: Proposed is the upgrading of wastewater treatment and collection facilities for the Island of Nantucket in Nantucket County, Massachusetts. The preferred alternative involves upgrading the Nantucket and Siasconset filter beds for primary pretreatment and continued rapid infiltration, and comprehensive groundwater protection program. Also considered are 5 WWT alternatives for Nantucket center, 4 WWT alternatives for Siasconset Village and 6 structural and non-structural proposals for Madaket Village. (EIS Order No. 800882).

EXTENSION: The review period for the above EIS has been extended until January 19, 1981. (800882).

Contact: Mr. Eugene Wojcik, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 353–2157.

Final

OTTER TAIL LAKE WASTE TREATMENT SYSTEM, STUDY No. 5: Otter Tail County, Minnesota, November 21: Proposed is a wastewater treatment facility plan for the Otter Tail Lake area of Otter Tail County, Minnesota. The plan would involve: (1) replacement of holding tanks, (2) replacement of all cesspools with new on-site systems, (3) conversion of holding tanks to receive very low flows, (4) placement of new septic tank/soil absorption systems, (5) replacement of all defective or undersized septic tanks, (6) use of dosed mound systems, and (7) use of cluster systems. Comments made by: DOI, HEW, state and local agencies, individuals and businesses. (EIS Order No. 800886).

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington D.C. 20410 (202) 755–6300.

Draft

PARKWOOD MEADOWS SUBDIVISION, MORTGAGE INSURANCE: Tulare County, California, November 21: Proposed is the issuance of HUD Home Mortgage Insurance for the Parkwood Meadows Residential Subdivision in Tulare County, California. The development would encompass 110 acres and consist of 265 single family homes and 334 duplex, triplex and apartment units. the development would also include an 8 acre park and a 3 arce shopping center. (HUD–RO–IX–1980–4D) (EIS Order No. 800881).

MENOKEN GOLF COURSE SUBDIVISION MORTGAGE INSURANCE: Montrose County, Colorado, November 17: Proposed is the issuance of mortgage insurance for the Menoken golf course subdivision located in Montrose County, Colorado. The development encompasses 562.82 acres and would contain approximately 1,430 dwelling units. The units would consist of single, detached and attached units. Also included in the subdivision would be a golf course, commercial area, firehouse site, school site, and open space. (HUD–R08–EIS–81–ID) (EIS Order No. 800871).

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the Office of the appropriate local executive. Copies are not available from HUD.

Final Supplement

GALLERY II OF MARKET STREET EAST, UDAG, (FS–1): Philadelphia County, Pennsylvania, November 7: Proposed is the awarding of a UDAG to the City and County of Philadelphia, Pennsylvania. This statement addresses the following changes to the project: (1) Approximately 37,500 square feet of retail area would be added, (2) an office tower approximately 400,000 square feet would be added west of 11th street, and (3) elimination of the open court at 11th street and inclusion of the Reading Terminal Headhouse as the major entrance. This statement supplements final EIS, No. 791298, filed 12–7–79. Comments made by: EPA, state agencies (EIS Order No. 800888).

CORRECTION: The above EIS should have appeared in the report published in FR on November 17, 1980. The review period began on November 14, 1980 and will terminate on December 15, 1980. (800888).

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240 (202) 343–3891.

Office of Surface Mining

Final

UTAH SURFACE COAL MINING AND RECLAMATION OPERATION, Several counties in Utah, November 21: This document is a combined final EIS and petition evaluation concerning surface coal mining and reclamation operations in southern Utah. The purpose of this document is twofold: (1) To review and evaluate the allegations made in the petition to designate certain Federal lands as unsuitable for mining, and (2) To evaluate alternative actions that could be implemented by the Secretary of Interior. (OSM–EIS–4). Comments made by: USDA, DOE, HHS, DOI, DLAB, DOT, EAP, State and local agencies, groups, individuals and businesses. (EIS order No. 800889.)

WAIVER: The review period for the above EIS has been reduced and will terminate on December 15, 1980. (No. 800889).

Bureau of Land Management

Draft

1981OCS OIL AND GAS LEASE SALE NO. 59, MID-ATLANTIC, Atlantic Ocean, November 21: Proposed is OCS oil and gas lease sale No. 59 offshore of New York, New Jersey, Delaware, Maryland and Virginia. The sale involves 253 tracts, totaling 1,440,376 acres in average water depths or 295 to 7792 feet. The alternatives consider delay of sale, cancelling of sale and four deletion options. The deletion options include: (1) Protection of fisheries, (2) Protection of siological resources located in canyons, and (3) Two options protecting deepwater concerns. (DES–80–73). (EIS order No. 800880).

EXTENSION: The review period for the above EIS has been estended until January 28, 1981. (No. 800880).

BENTON-OWENS VALLEY LIVESTOCK GRAZING MGMT. PLAN, Inyo and Mono Counties Calif., November 19: Proposed is a grazing management plan for the Benton-Owens Valley planning units in Inyo and Mono Counties, California. The preferred alternative recommends that 18,462 aums be allocated to livestock and that 3, 154 aums be divided among wild horses, deer and elk. The alternatives consider: (1) No action, (2) Stocking by condition class, and (3) Livestock grazing. The cooperating agency is the State of California. (DES–80–72). (EIS order No. 800877).

EXTENSION: The review period for the above EIS has been extended until January 26, 1981. (No. 800877).

Bureau of Indian Affairs

Final Supplement

FOUR CORNERS–AMBROSIA–PAJARITO, TRANSMISSION, Several counties in New Mexico, November 18: Proposed is the granting of right-or-way for the construction of the Four Corners-Ambrosia-Pajarito 500 kV transmission line extending from San Juan County, through Mckinley and Valencia Counties, to Bernalillo County, New Mexico. The line would connect the Four Corners Power Plant to the Ambrosia Station and the proposed Pajorito Station. The length of the line would be approximately 173 miles. The alternatives consider; (1) No action, (2) Use or upgrading of existing lines, (3) Alternate routes, (4) Construction of a direct current line, and (5) Undergrounding. This statement supplements final EIS No. 771009, filed 8–18–77. (FES–80–48). Comments made by: DOI, USDA, DOC, HHS, AHP, HUD, DOE, EPA, State agencies, groups and businesses. (EIS order No. 800876).

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environment and Safety, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 426–4357.

FEDERAL AVIATION ADMINISTRATION

Draft

OLYMPIC REGIONAL AIRPORT DEVELOPMENT: Jefferson County, Washington, November 21: Proposed is the development of the Olymic Regional Airport in Jefferson County, Washington. This facility would replace the existing Jefferson County International Airport. The airport would encompass 200 acres and consist of a 3,700 foot runway, a taxiway, administration facilities, vehicle parking, and a transient aircraft apron. The alternatives consider: (1) Another site, (2) upgrading of the existing airport, and (3) no action. The cooperating agency is the State of Washington. (EIS Order No. 800879).

EXTENSION: The review period for the above EIS has been extended until January 20, 1981. (800879).

FEDERAL HIGHWAY ADMINISTRATION

Draft

U.S. 20/CORVALLIS–NEWPORT HWY., RECONSTRUCTION: Benton and Lincoln Counties, Oregon, November 18: Proposed is the reconstruction of U.S. 20/Corvallis-Newport Highway from the Coast Range Summit to Dudlee Hill in Benton and Lincoln Counties, Oregon. The reconstruction would extend for 5.4 miles consisting of two 12 foot travel lanes and 8 foot shoulders. The alternatives consider: (1) No build, and (2) three basic build alternatives each of which has a design option in Ellmaker State Park. The cooperating agency is the State of Oregon. (FHWA–OR–EIS–80–06–D) (EIS Order No. 800873).

[FR Doc. 80-37164 Filed 11-26-80; 8:45 am]

BILLING CODE 6560-37-M

[OPTS–51173; (TSH–FRL 1684–2)]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATE: Written comments by December 26, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St. SW., Washington, D.C. 20460, (202–755–8050).

FOR FURTHER INFORMATION CONTACT: Carolyn Brown, Chemical Control Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–221, 401 M St. SW., Washington, D.C. 20460, (202–426–3980).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558–Initial) and July 29, 1980 (45 FR 50444–Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(d). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the PMN submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The

section 5(d)(2) **Federal Register** notice

Solubility in water—Insoluble

Ames *Salmonella* Assay—Non-

Interested parties may inspect and

Maritime Commission, 1100 L Street,

Matson Agencies, Inc., will change their

section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manfacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, summaries of the data taken from the PMN's are published herein.

Interested persons may, on or before December 26, 1980 submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW, Washington, DC 20460, written comments regarding these notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51173]" and the specific PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: November 19, 1980.

Warren R. Muir,

Deputy Assistant Administrator for Toxic Substances.

PMN 80–293

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 25, 1981.

Manufacturer's Identity. Dow Corning Corp., P.O. Box 1767, Midland, MI 48640.

Specific Chemical Identity. Claimed confidential business information. Generic named provided: Dimethyl alkylmethyl silicone glycol copolymer.

Use. Claimed confidential business information. Generic information provided: Surfactant.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

pH—6–7
Viscosity—100,000–200,000 cps
Solubility in water—Insoluble
Solubility in hydrocarbons—Soluble
Refractive index—1.4397
Residual SiH—< 10ppm
Color—Hazya green
Specific gravity—0.91
Non-volatiles—>95%

Toxicity Data

Acute oral toxicity, LD_{50} (rat)—>5,000mg/kg
Dermal toxicity, LD_{50} (rabbit)—>2,000 mg/kg
Eye irritation (rabbit)—Non-irritant
Skin irritation (rabbit)—Slight irritant
Ames *Salmonella* Assay—Non-mutagenic
Fish 96-hour LC_{50}—>100 ppm
Daphnia 48-hour LC_{50}—>100 ppm

Exposure. The manufacturer states that: (1) Minimum exposure to workers is expected during the manufacture of this chemical; (2) appropriate local exhaust ventilation will be used at the drum off site to control exposure; (3) a maximum of two persons could be exposed to this chemical during the drumming-off process; (4) the maximum duration of exposure could be 8 hours/day, 42 days/year at a maximum of 1–10 part(s) per million (ppm).

Environmental Release. Dow Corning Corp. states that there will be essentially no environmental release of the material to air, land or water.

PMN 80–294

The following summary is taken from data submitted by the manufacturer in the PMN.

Close or Review Period. January 25, 1981.

Manufacturer's Identity. Dow Corning Corp., P.O. Box 1767, Midland, MI 48640.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Siloxane, alkoxylated aminoalkyl.

Use. Claimed confidential business information. Generic information provided: Coupling agent.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

pH—10–12
Viscosity—100–400 cps
Refractive index—1.460–1.470
Specific gravity—0.95–1.00
Odor—Pungent

Toxicity Data

Acute oral toxicity, LD_{50} (rat)—>5,000 mg/kg
Eye irritation (rabbit)— Severe irritant
Acute dermal toxicity, LD_{50} (rabbit)—>2,000 mg/kg
Primary skin irritation (rabbit)—Moderately irritating (occluded)
Ames *Salmonella* Assay—Non-mutagenic
Fish 96-hour, LC_{50}—4.2 ppm
Daphnia 48-hour, LC_{50}—47 ppm

Exposure. The manufacturer states that: (1) A maximum of two individuals could be exposed to the substance during the drumming-off process; (2) inhalation exposure should be insignificant due to the low vapor pressure of the material; and (3) exhaust ventilation will be used, if needed, to control methanol exposure during operation where the process is open to the atmosphere (drum-off, filter-change).

Environmental Release/Disposal. Dow Corning Corp. states that there will be essentially no environmental release of the substance to the air, land, or water during the manufacturing process and that the byproduct, methanol, will be recovered and recycled.

[FR Doc. 80–37006 Filed 11–28–80; 8:45 am]

BILLING CODE 6560–31–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Schedule for Awarding Senior Executive Service Bonuses

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: Notice is hereby given of the schedule for awarding Senior Executive Service Bonuses.

DATE: November 28, 1980.

FOR FURTHER INFORMATION CONTACT: Russell Salter, Director, Employee and Labor Relations Division, FEMA, 1725 I Street NW., Attn: Office of Personnel, Washington, D.C. 20472, (703) 235–2454.

SCHEDULE: The Federal Emergency Management Agency intends to award Senior Executive Service bonuses for the performance appraisal period of July 1, 1979 through June 30, 1980. Payments are scheduled to be made by December 19, 1980.

Dated: November 21, 1980.

William L. Harding,

Acting General Counsel.

[FR Doc. 80–37043 Filed 11–28–80; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 8, 1980. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 10041–7.

Filing Party: Hopewell H. Darneille, III, Esquire, Sullivan & Beauregard, 1800 M Street N.W., Washington, D.C. 20036.

Summary: Agreement No. 10041–7 is a proposal by the parties to the U.S. Atlantic/Peru Pooling Agreement to extend the expiration date of the basic agreement for 90 days, through March 31, 1981. Additionally, a provision which permits the parties, in every pool year except the final pool year (1980), to consider pool earnings from the final yearly sailing as earnings for the next succeeding year, is being amended by allowing such action in the final pool year.

Dated: November 21, 1980.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80–36986 Filed 11–26–80; 8:45am]

BILLING CODE 6730–01–M

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commissin for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10216; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Lousiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 18, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: 5850–38.

Filing Parties: Howard A. Levy, Patricia E. Byrne, Attorneys for Agreement No. 5850, 17 Battery Place, Suite 727, New York, New York 10004.

Summary: Agreement No. 5850–38 would amend the basic agreement of the North Atlantic Westbound Freight Association to provide for the deposit of a financial guarantee by the member lines as security against their mutual obligations under the Agreement.

Agreement No.: 10126–2.

Filing Party: Mr. Kenneth N. Tice, Chester, Blackburn & Roder, Inc., Post Office Box 56—3037, AMF, Miami, Florida 33159.

Summary: Agreement No. 10126–2 would amend the basic agreement of the Florida/Curacao, Aruba and Bonaire Rate Agreement by (1) adding the name of Concorde Overseas Corporation d/b/a Concorde Line as a new participant, (2) correction of previous typographical errors and (3) correction of signature page providing for the participation of the new carrier.

Matson Navigation Company and Wholly-Owned Subsidiaries Matson Services Company and Matson Agencies, Inc.

Notice of Change of Incorporation of Parties Under Approved Agreements Subject to Section 15, Shipping Act, 1916

The Federal Maritime Commission has been notified by counsel of Matson Navigation Company that, for Hawaii State income tax purposes, Matson Navigation Company and its wholly-owned subsidiaries, Matson Terminals, Inc., Matson Services Company and Matson Agencies, Inc., will change their state of incorporation from California to Hawaii, effective close of business December 22, 1980. The reincorporation as Hawaii corporations will be accomplished by statutory merger of the California corporations into newly formed Hawaii corporations with the same names, except that "Inc." will appear in all the corporate names. Matson Navigation Company, Inc., will continue to do business using the names of Matson Navigation Company and Matson Agencies. The following is a list of the agreements involved:

Transshipment Agreements

80170	81030–B
80711	81030–C
80865	81030–D
80973	81030–E
81030–A	81030–F

Container Lease Agreements

9026	10020
9994	10322
9995	

Computer Services Agreement

10208

Agency Agreements

10052	10375
T–2964	10095
10358	

Terminal Lease Agreements

T–1953	T–3761
T–2171	T–3900
T–2523	T–3613PT–3613–A

Container Services Agreements

T–2040	T–3184
T–2650	T–3372
T–2702	T–3502
T–2729	T–3611
T–2737	T–3737
T–2772	T–9055
T–2774	T–9055–A
T–2851	T–3010

Equipment Interchange Agreement

T–2410

Equipment Lease Agreements

T–2740	T–2851–A
T–2740–A	T–2851–B
T–2740–B	T–3570

Preferential Berthing Assignment Agreements

T–3363	T–3363–A

Container Terminal Management Agreement

T–3501	T–3501–A

Purchasing Agent Agreements

T–3342	
T–3590	T–3690

Labor Loan Agreements

T–2636	T–2710

Domestic Commerce Agreements

Equipment Lease Agreement

DC–66

Transshipment Agreement

10372

Dated: November 21, 1980.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-36988 filed 11-28-80; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. T-3931]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Environmental Analysis (OEA) has determined that the Commission's decision on the agreement will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 *et seq.* and that preparation of an environmental impact statement is not required. For a description of this agreement, please refer to 45 FR 74995 (November 13, 1980).

The Finding of No Significant Impact (FONSI) will become final within 20 days unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 80-36987 Filed 11-28-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 274-R]

Eller & Company, Inc.; Order of Revocation

On August 14, 1980, Eller & Company, Inc., 701 S.E. 24th Street, Ft. Lauderdale, FL 33316, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 274-R.

Therefore, by virtue of authority vested in my by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 274-R issued to Eller & Company, Inc., be and is hereby revoked effective September 1, 1979, without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 274-R issued to Eller & Company, Inc., be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Eller & Company, Inc.

Daniel J. Connors,

Director, Bureau of Certification and Licensing.

[FR Doc. 80-36989 Filed 11-28-80; 8:45 am]

BILLING CODE 6730-01-M

Manual of Orders; Organization and Functions of the Federal Maritime Commission

Commission Order 1 (Revised) was amended by Amendment No. 14 on July 21, 1980, to delegate authority to the Secretary, Federal Maritime Commission to prescribe a time limit of less than 20 days for responding to the notice of filing of agreements subject to environmental analysis. The text of that amendment follows:

"Section 8. Specific Authorities Delegated to the Secretary.

8.05 Authority to prescribe a time limit less than the 20 days provided in 46 CFR Part 547 for filing comments on (a) notices of intent to prepare an environmental assessment (547.5), (b) notices of finding of no significant impact (547.6)."

Richard J. Daschbach,

Chairman.

[FR Doc. 80-36985 Filed 11-28-80; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public; Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Issuance of Certificate [Casualty]

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

Bahama Cruise Line, Inc. and Marpan Two, Inc. c/o Common Brothers USA, Ltd., 61 Broadway, New York, New York 10006.

Dated: November 24, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-36991 Filed 11-28-80; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Bahama Cruise Line, Inc. and Common Brothers USA, Ltd., c/o Common Brothers USA, Ltd., 61 Broadway, New York, New York 10006.

Dated: November 24, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-36990 Filed 11-28-80; 8:45am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Automated Data and Telecommunications Service Computer Programming Language Compiler Validation; Meeting

November 19, 1980.

AGENCY: Automated Data and Telecommunications Service, General Services Administration.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting hosted by the Federal Compiler Testing Center to allow agencies and vendors to participate in a discussion regarding Computer Programming Language Compiler Validation.

DATE: December 17, 1980, 9:30 a.m. to 3;30 p.m.

ADDRESS: General Services Administration, 18th & F Streets NW., Room 3210, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: George N. Baird, Director, Federal Compiler Testing Center, Automated Data and Telecommunications Service, General Services Administration, 5203 Leesburg Pike, Suite 1100, Falls Church, VA 22041, (703) 756-6153.

SUPPLEMENTARY INFORMATION: This meeting is being held to provide a forum for information interchange between the Federal Compiler Testing Center (FCTC), the agencies, and industry. The FCTC will present the future plans regarding Compiler Validation, new languages for which validation systems are being produced, and the future plans of the FCTC. Included in the future plans will be the development of test and acceptance criteria/techniques for software, both developed inhouse and contracted out, and the use of software tools in the software development process.

There will be a period of open discussion that will provide members of the audience a chance to share their experiences in the validation process and suggest any changes they would like to see regarding the validation process.

Those planning to attend should notify the FCTC of their intention to do so and of the number of attendees that will represent them.

Francis A. McDonough,

Acting Commissioner, Automated Data and Telecommunications Service.

November 19, 1980.

[FR Doc. 80-37032 Filed 11-28-80; 8:45 am]

BILLING CODE 6820-25-M

Automated Data and Telecommunications Service Annual Schedules for Validating COBOL and FORTRAN Compilers

November 19, 1980.

AGENCY: Automated Data and Telecommunications Service, General Services Administration.

ACTION: Notice of intent.

SUMMARY: The Federal Property Management Regulations (see 41 CFR 101-36.1305-1) require that all COBOL Compilers brought into the Federal Government inventory and those used to develop computer programs for the Government when providing programming services must be validated on an annual basis. This includes COBOL Compilers used in providing services under the Teleprocessing Services Program (TSP) Schedule. The Federal Compiler Testing Center (FCTC) maintains the annual schedule for the validation of COBOL Compilers. The FCTC is in the process of updating that schedule for 1981 and is also establishing an annual schedule for FORTRAN Compilers in anticipation of the adoption of FORTRAN (X3.9-1978, American National Standard Programming Language FORTRAN) as a Federal Programming Language Standard.

FOR FURTHER INFORMATION CONTACT: George N. Baird, Director, Federal Compiler Testing Center, Automated Data and Telecommunications Service, General Services Administration, 5203 Leesburg Pike, Suite 1100, Falls Church, VA 22041, (703) 756-6153.

SUPPLEMENTARY INFORMATION: The Federal Compiler Testing Center is establishing the annual validation schedule for COBOL Compilers for CY81. FPMR 101-36.1305-1 "FIPS PUB 21-1, Federal Standard COBOL" requires that all COBOL Compilers that are to be offered to the Federal Government be validated on an annual basis. COBOL Compilers that have not been validated must have been submitted to the FCTC for validation in order to be eligible to be offered to the Federal Government.

A COBOL compiler that is on the FCTC annual validation schedule meets the requirement of having been "submitted for validation" as required by FPMR 101-36.1305-1 for the level of Federal Standard COBOL at which validation has been requested. A request that a COBOL compiler be included in the annual schedule for 1981 should be forwarded to the FCTC at the address shown above. A COBOL compiler which is on the annual schedule, has been validated, and appears on the FCTC Certified Compiler list can be offered to the Government at up to and including the level of Federal Standard COBOL at which the compiler was validated. A request to change the 1981 level of validation for a compiler on the annual schedule which was validated in 1980 must also be forwarded to the FCTC in order to meet the requirement of having been submitted for validation at a higher level of validation.

The COBOL compilers which are currently on the FCTC 1980 schedule will automatically be included in the 1981 schedule. Vendors who have a COBOL compiler on the schedule will be contacted directly in the next few weeks to find out if they want to remove any of their compilers from the schedule or to change the annual validation date for any of their compilers.

The FCTC currently validates FORTRAN 78 compilers at the subset level of the language. Current plans call for providing for the validation of the full FORTRAN 78 language by July of 1981. The annual FORTRAN validation schedule (unlike the COBOL validation schedule, which runs from January 1 to December 31) will run from July 1 to June 31 of the following year. An annual schedule for the validation of FORTRAN Compilers is being established. (Validations performed prior to July 1981 will be at the subset level of FORTRAN 78.) A request for a FORTRAN compiler to be included in the 1981 annual validation schedule for FORTRAN should be forwarded to the FCTC.

If there is more than one compiler that will be validated at the same location, it would be to the requestors' advantage, as well as the FCTC, to have them all validated during the same site visit by an FCTC staff member. Requests for additions to or modifications of the annual schedule should reach the FCTC by December 15, 1980. Requests to have a compiler placed on the annual schedule received after December 15, 1980, will be honored to the best of our ability. However, those compilers already scheduled will be given higher priority.

Requests for one-time validations will be accepted but with no guarantee as to the actual date the compiler will be validated. A request for a one-time validation does not fulfill the requirement of a compiler having been "submitted for validation" since a firm validation date cannot be established.

Please contact the FCTC for additional information and validation request forms.

Francis A. McDonough,

Acting Commissioner, Automated Data and Telecommunications Service.

November 19, 1980.

[FR Doc. 80-37033 Filed 11-28-80; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80M-0430]

Ovutime, Inc.; Panel Recommendation on Petition for Reclassification

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing for public comment the recommendation of the Obstetrics-Gynecology Device Section of the Obstetrics-Gynecology and Radioligic Devices Panel (the Panel) that the cervical mucus viscometer, Ovutime Tackiness Rheometer, be reclassified from class III (premarket approval) into class I (general controls). This recommendation was made after review of a reclassification petition filed by Ovutime, Inc., Newton, MA 02158. After reviewing the Panel recommendation and any public comments received, the agency will approve or deny the reclassification petition by order in the form of a letter to the petitioner. The agency's decision on this reclassification petition will be announced in the **Federal Register**.

DATE: Comments by December 29, 1980.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm.

V 45 N 0 28 80 UMI

4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Lillian Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: On October 27, 1978, Ovutime, Inc., Newton, MA 02158, submitted to FDA a premarket notification under section 510(k) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360(k)), stating that it intended to market a device the manufacture calls "Ovutime Tackiness Rheometer." After reviewing the information in the premarket notification, FDA determined that the device is neither substantially equivalent to any device that was in commercial distribution before May 28, 1976, nor is the device substantially equivalent to a device that has been placed in commercial distribution since that date, and subsequently reclassified. Accordingly, the device is automatically classified into class III under section 513(f)(1) of the act (21 U.S.C. 360c(f)(1)).

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(2)), before a device that is in class III because of section 513(f)(1) of the act can be marketed, it must either be reclassified under section 513(f)(2) or have an approval of an application for premarket approval under section 515 of the act (21 U.S.C. 360e), unless there is in effect for the device an investigational device exemption under section 520(g) of the act (21 U.S.C. 360j(g)).

On February 1, 1980, Ovutime, Inc., submitted to FDA a reclassification petition for the device under section 513(f)(2) of the act, which requires FDA to refer a reclassification petition to the appropriate classification panel and to receive a recommendation on whether to approve or deny the petition. On June 2, 1980, the Obstetrics-Gynecology Device Section of the Obstetrics-Gynecology and Radiologic Devices Panel reviewed the petition and recommended that the device be reclassified into class I.

To determine the proper classification of the device, the Panel considered the criteria specified in section 513(a)(1) of the act. For the purpose of classification, the Panel assigned to this generic type device the name "cervical mucus viscometer" and described this type of device as a general medical device that is used by physicians to measure the relative viscoelasticity of cervical mucus. Relative viscoelasticity measurement may be used as a physiologic indication in the determination of ovulation time, as well as an indication of the penetrability of cervical mucus to motile sperm. This measurement is an adjunct in the evaluation of female patients experiencing difficulty in becoming pregnant.

Summay of the Reasons for the Recommendation

The Panel gave the following reasons in support of its recommendation on reclassification:

1. The device is not of substantial importance in preventing impairment of human health and does not present a potential for unreasonable risk of illness or injury.

2. The device is not an implant and is neither life-sustaining nor life-supporting.

3. General controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Summary of Data on Which the Recommendation is Based

The Panel based its recommendation on the performance characteristics of the device. Product labeling includes detailed intruction for use. Several clinical studies were conducted to demonstrate various aspects of effectiveness. These studies, as well as published literature describing the current understanding of the physiology of cervical mucus, serve as the data base for the Panel recommendation.

1. The rheological properties of the cervical mucus show marked variation during the normal menstrual cycle. In the early proliferative and late luteal phase there is a low rate of secretion of a highly viscous mucus. This is in contrast with the copious secetion of a thin, clear, less viscous mucus at mid-cycle. These changes relate to the dominant ovarian hormone at the time (Ref. *1*). The ability of sperm to traverse the cervix and fertilize the ovum is dependent upon the receptibility of the cervical mucus (Ref. *2*). A thin watery cervical mucus is more receptive to sperm transport than a thick viscous mucus. Hence a viscoelasticity measurement may be useful to clinicians who evaluate patients with fertility difficulties.

2. Clinical data obtained from clinical studies conducted by Ovutime, Inc. were presented to demonstrate that the device can measure cervical mucus viscoelasticity on a relative scale and that the viscoelasticity adequately correlates with ovulation as well as sperm penetration into the cervical mucus. When the Ovutime Tackiness Rheometer was used as an adjunct in the treatment of chronic infertility, good results were obtained.

Risks to Health

The Panel did not identify any risks to health associated with the use of the Ovutime Tackiness Rheometer.

Additional Findings

This device may be used only in the treatment of fertility dysfunction. The labeling of the device shall include a disclaimer of its use for contraceptive purposes. Further, the labeling of the device shall include a statement to caution the user concerning the concomitant use of hormone therapy.

References

1. Elstein, Max, and Dennis V. Parke, eds., *Mucus in Health and Disease*, Plenum Press, New York, 1977.

2. Blasco, Louis, and Edward E. Wallach, "When Cervical Factors Cause Infertility," *Contemporary OB/GYN*, 15:125–130, 1980.

Interested persons may, on or before December 29, 1980, submit to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments on this recommendation. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the name of the device and the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 20, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-36948 Filed 11-26-80; 8:45 am]

BILLING CODE 4110-03-M

Public Advisory Committees; Request for Nominations for Voting Members

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) requests nominations for voting members to serve on the Anti-Infective Drugs Advisory Committee in the Bureau of Drugs. A notice of establishment of this committee appears elsewhere in this issue of the **Federal Register.**

DATE: Nominations should be received by January 27, 1981.

ADDRESS: All nominations for membership except for consumer positions must be sent to: Mary Bruch, Bureau of Drugs (HFD–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Nominations for consumer positions must be sent to: Naomi Kulakow, Office of Consumer Affairs (HFE–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

SUPPLEMENTARY INFORMATION: FDA requests nominations for voting members on the Anti-Infective Drugs Advisory Committee. The function of the committee is to review and evaluate available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in the treatment of infectious diseases and make appropriate recommendations to the Commissioner of Food and Drugs. The Committee will have a total of 11 members.

Criteria for Members Other Than Consumer Member

Persons nominated for membership, except for consumer positions, shall have adequately diversified experience appropriate to the work of the committee in such fields as medicine, infectious diseases, microbiology, pediatrics, statistics, and related specialties. The specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, and/or research relevant to the field of activity of the committee. The term of office is 4 years, except that initial appointments will be staggered to provide for an orderly rotation of membership.

Criteria for Consumer Member

FDA will place one full voting member on the committee to represent the consumer position. Consumer members are recommended by a consortium of nine consumer organizations which has the responsibility of screening, interviewing, and recommending consumer representatives for all of FDA's technical advisory committees. Candidates will be reviewed and rated according to the following criteria, as demonstrated by experience or credentials:

—established link to consumer/community-based organizations
—ability to communicate, orally or in writing
—ability to make decisions
—leadership capacity analytical skills
—interpersonal skills
—ability to follow through and to be accountable to a consumer constituency or organization
—technical experience or understanding, as required by the individual committee

As these criteria suggest, FDA seeks candidates who are aware of the consumer impact of committee issues, and who also possess enough technical background to understand the committee's work. This would involve, for example, understanding of research design; ability to analyze data; ability to discuss the benefits versus risks, and the safety and efficacy of the products under review. The term of office for consumer representatives on Bureau of Drugs advisory committees is 2 years.

Nomination Procedure

Any interested person may nominate one or more qualified persons for membership on the advisory committee. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of conflict of interest.

FDA has a special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female, minority, and physically handicapped candidates.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)) and 21 CFR Part 14, relating to advisory committees.

Dated: November 20, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-36945 Filed 11-26-80; 8:45 am]

BILLING CODE 4110-03-M

Public Advisory Committees; Request for Nominations for Voting Members

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) requests nominations for voting members to serve on the Ophthalmic Drugs Advisory Committee in the Bureau of Drugs. A notice of establishment of this committee appears elsewhere in this issue of the **Federal Register.**

DATE: Nominations should be received by January 27, 1981.

ADDRESS: All nominations for membership except for consumer positions must be sent to: Mary Bruch, Bureau of Drugs (HFD–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Nominations for consumer positions must be sent to: Naomi Kulakow, Office of Consumer Affairs (HFE–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

SUPPLEMENTARY INFORMATION: FDA requests nominations for voting members on the Ophthalmic Drugs Advisory Committee. The function of the committee is to review and evaluate available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in the treatment of ocular diseases and make appropriate recommendations to the Commissioner of Food and Drugs. The Committee will have a total of 11 members.

Criteria for Members Other Than Consumer Member

Persons nominated for membership, except for consumer positions, shall have adequately diversified experience appropriate to the work of the committee in such fields as medicine, statistics, and related specialties. The specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, and/or research relevant to the field of activity of the committee. The term of office is 4 years, except that initial appointments will be staggered to provide for an orderly rotation of membership.

Criteria for Consumer Member

FDA will place one full voting member on the committee to represent the consumer position. Consumer members are recommended by a consortium of nine consumer organizations which has the responsibility of screening, interviewing, and recommending consumer representatives for all of FDA's technical advisory committees. Candidates will be reviewed and rated according to the following criteria, as demonstrated by experience or credentials:

—established link to consumer/community-based organizations
—ability to communicate, orally or in writing
—ability to make decisions
—leadership capacity
—analytical skills
—interpersonal skills

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—ability to follow through and to be accountable to a consumer constituency or organization
—technical experience or understanding, as required by the individual committee

As these criteria suggest, FDA seeks candidates who are aware of the consumer impact of committee issues, and who also possess enough technical background to understand the committee's work. This would involve, for example, understanding of research design; ability to analyze data; ability to discuss the benefits versus risks, and the safety and efficacy of the products under review. The term of office for consumer representatives on Bureau of Drugs advisory committees is 2 years.

Nomination Procedure

Any interested person may nominate one or more qualified persons for membership on the advisory committee. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have no conflict of interest that woud preclude committee membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of conflict of interest.

FDA has a special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female, minority, and physically handicapped candidates.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770.776 (5 U.S.C. App., I)) and 21 CFR Part 14, relating to advisory committees.

Dated: November 20, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–36946 Filed 11–26–80; 8:45 am]

BILLING CODE 4110–03–M

Public Advisory Committees; Request for Nominations for Voting Members

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) requests nominations for voting members to serve on the Dermatologic Drugs Advisory Committee in the Bureau of Drugs. A notice of establishment of this committee appears elsewhere in this issue of the **Federal Register.**

DATE: Nominations should be received by January 27, 1981.

ADDRESS: All nominations for membership except for consumer positions must be sent to: Mary Bruch, Bureau of Drugs (HFD–140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Nominations for consumer positions must be sent to: Naomi Kulakow, Office of Consumer Affairs (HFE–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

SUPPLEMENTARY INFORMATION: FDA requests nominations for voting members on the Dermatologic Drugs Advisory Committee. The function of the committee is to review and evaluate available data concerning the safety and effectiveness of marketed and investigational prescription drug products for use in the treatment of dermatologic diseases and make appropriate recommendations to the Commissioner of Food and Drugs. The Committee will have a total of 11 members.

Criteria for Members Other Than Consumer Member

Persons nominated for membership, except for consumer positions, shall have adequately diversified experience appropriate to the work of the committee in such fields as medicine, dermatology, statistics, and related specialties. The specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, and/or research relevant to the field of activity of the committee. The term of office is 4 years, except that initial appointments will be staggered to provide for an orderly rotation of membership.

Criteria for Consumer Member

FDA will place one full voting member on the committee to represent the consumer position. Consumer members are recommended by a consortium of nine consumer organizations which has the responsibility of screening, interviewing, and recommending consumer representatives for all of FDA's technical advisory committees. Candidates will be reviewed and rated according to the following criteria, as demonstrated by experience or credentials:

—established link to consumer/community-based organizations
—ability to communicate, orally or in writing
—ability to make decisions
—leadership capacity
—analytical skills
—interpersonal skills
—ability to follow through and to be accountable to a consumer constituency or organization
—technical experience or understanding, as required by the individual committee.

As these criteria suggest, FDA seeks candidates who are aware of the consumer impact of committee issues, and who also possess enough technical background to understand the committee's work. This would involve, for example, understanding of research design; ability to analyze data; ability to discuss the benefits versus risks, and the safety and efficacy of the products under review. The term of office for consumer representatives on Bureau of Drugs advisory committees is 2 years.

Nomination Procedure

Any interested person may nominate one or more qualified persons for membership on the advisory committee. Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have no conflict of interest that would preclude committee membership. Potential candidates will be asked by FDA to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of conflict of interest.

FDA has a special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and therefore extends particular encouragement to nominations for appropriately qualified female, minority, and physically handicapped candidates.This notice is issued under the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)) and 21 CFR Part 14, relating to advisory committees.

Dated: November 20, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–36949 Filed 11–26–80; 8:45 am]

BILLING CODE 4110–03–M

Board of Tea Experts; Rechartering

AGENCY: Food and Drug Administration.

ACTION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), the Food and Drug Administration announces the rechartering of the Board of Tea Experts by the Commissioner of Food and Drugs for an additional period of 2 years beyond January 3, 1981. The charter for this Committee will expire January 3, 1983.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA–306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2765.

Dated: November 20, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–36791 Filed 11–25–80; 8:45 am]

BILLING CODE 4110–03–M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by George J. Gerstenberg, District Director, New York District Office, Brooklyn, NY.

DATE: The meeting will be held at 10 a.m., Tuesday, December 9, 1980.

ADDRESS: The meeting will be held at 26 Federal Plaza, Rm. 305A, New York City, NY.

FOR FURTHER INFORMATION CONTACT: Alicia Martinez, Consumer Affairs Officer, Food and Drug Administration, 850 Third Ave., Brooklyn, NY 11232, 212–965–5043.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's New York District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: November 20, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–36792 Filed 11–26–80; 8:45 am]

BILLING CODE 4110–03–M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Alan L. Hoeting, District Director, Detroit District Office, Detroit, MI.

DATE: The meeting will be held at 9:30 a.m., Tuesday, December 9, 1980.

ADDRESS: The meeting will be held at the George Potter Larrick Bldg., Conference Rm., 1560 E. Jefferson, Detroit, MI 48207.

FOR FURTHER INFORMATION CONTACT: Diane M. Place, Consumer Affairs Officer, Food and Drug Administration, 1560 E. Jefferson, Detroit, MI 48207, 313–226–6260.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Detroit District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: November 20, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–36792 Filed 11–26–80; 8:45 am]

BILLING CODE 4110–03–M

[DOCKET NO. 80N–0425]

Pembroke Elevator and Seed Co., Applications for Animal Feeds Bearing or Containing New Animal Drugs; Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This is a notice of opportunity for hearing on the proposal by the Director of the Bureau of Veterinary Medicine to withdraw approval of all applications for animal feeds bearing of containing new animal drugs (Form FDA–1800) which applications are held by the Pembroke Elevator and Seed Co., Box 89, Pembroke, KY 42266. Withdrawal of the applications is proposed because new information shows that the firm's methods and controls used for manufacturing and processing such feeds are not adequate to assure and preserve the identity, strength, quality, and purity of the new animal drugs therein nor were they made adequate within a reasonable time after receipt of written notice specifying the deficiencies.

DATE: A written appearance requesting a hearing giving reasons why the applications should not be withdrawn is required by December 29, 1980.

ADDRESS: Written requests to the attention of the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Frank G. Pugliese, Bureau of Veterinary Medicine (HFV–234), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3460.

SUPPLEMENTARY INFORMATION: The Pembroke Elevator and Seed Co. is a commercial feed mill which manufactures custom medicated feeds. The firm holds three approved medicated feed applications (Form FDA–1800) for the manufacture of medicated feeds bearing or containing new animal drugs as required by section 512(m) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(m)) as follows:

1. F 103–061 for animal feeds containing carbadox and pyrantel tartrate; approved January 22, 1976.
2. F 103–062 for animal feeds containing carbadox; approved January 23, 1976.
3. F 104–882 for animal feeds containing virginiamycin; approved May 26, 1976.

For a feed manufacturer to obtain approval from the Food and Drug Administration (FDA) to manufacture medicated feeds containing new animal drugs, it must submit a medicated feed application for each such medicated feed. To obtain approval the applicant agrees when he or she signs the application (Form FDA–1800) to comply with current good manufacturing practice regulations (CGMPR's) as set forth in Part 225 (21 CFR Part 225) for the purpose of assuring that the medicated feed meets the requirement of the act as to safety, quality, and purity.

Although the applicant agrees to comply with CGMPR's, he or she is not required to submit documentation to demonstrate that the manufacturer is or will be in compliance. FDA does not obtain evidence of any deficiencies until the agency conducts a subsequent inspection or receives information from another source.

The firm was inspected September 20, 1977 by the State of Kentucky. The inspection revealed significant deviations from CGMPR, including, but not limited to, the following:

1. Inaccurate and untested scales were used to weigh drugs (21 CFR 225.30(b)(3) and (4)).
2. Daily drug inventory was not maintained for each drug used (21 CFR 225.42(b) (6)).
3. No assays of medicated feeds were performed (21 CFR 225.58(b)).

By letter dated November 28, 1977, FDA informed the firm that any pending

or future medicated feed applications would not be considered for approval because of the CGMPR deviations reported by the State of Kentucky.

On June 27–30 and July 6, 1978, FDA conducted an inspection of the firm. A copy of the investigator's findings issued to the firm at the conclusion of the inspection (FD–483) included the following:

1. Scales had not been tested for accuracy at least once a year (21 CFR 225.30(b)(4)).

2. Packaged and bulk drugs were not handled or stored in a manner such that their identity, strength, quality, and purity were maintained (21 CFR 225.42(b)(2), (3) and (4)).

3. Receipt records were not maintained for each lot of drug received (21 CFR 225.42(b)(5)).

4. Drug inventory records were not maintained daily and did not include manufacturer's lot number, nor the batch of medicated feed in which each drug was used (21 CFR 225.42(b)(6)).

5. Drug inventory discrepancies were not investigated, nor was corrective action taken (21 CFR 225.42(b)(7)).

6. Production records did not always include the quantity and name of drug components used, mixing instructions, or batch size (21 CFR 225.102(b)(2) and (3)).

On the basis of these inspectional findings, FDA notified the firm by letter dated March 8, 1979, that these conditions and practices are serious violations of the Federal Food, Drug, and Cosmetic Act and CGMPR: consequently, FDA intended to issue an order withdrawing approval of the firm's medicated feed applications as provided in section 512(m)(4)(B) of the act (21 U.S.C. 360b(m)(4)(B)) unless prompt corrective action was taken.

In a letter dated March 14, 1979, the firm responded to FDA's written intentions to withdraw approved medicated feed applications and indicated that many improvements had been implemented since the previous inspection.

As a followup to the letter referenced above, FDA reinspected Pembroke Elevator and Seed Co. on April 7 through April 11, 1980 and found that only minor corrections had been implemented by the firm. A copy of the investigational findings issued to the firm (FD 483) included the following:

1. Receipt records were not maintained for each lot of drug received (21 CFR 225.42(b)(5)).

2. Drug inventory was not maintained on each lot of drug by means of a daily comparison of actual and theoretical usage. Inventory discrepancies were not investigated (21 CFR 225.42(b)(7)).

3. No records were available to indicate that any medicated feeds had been assayed (21 CFR 225.58(c)).

4. Adequate labeling did not always accompany bagged or bulk medicated feeds (21 CFR 225.80(a) and (b)).

5. In the case of custom formula feeds, the Master Record File and production records required by 21 CFR 225.102 did not consist either of such records or of copies of the customer's purchase orders and the manufacturers's invoices bearing the information required by this section (21 CFR 225.102(b)(3)).

Additional details elaborating on the foregoing are stated in the FD–483, a copy of which is available to any interested person from the Dockets Management Branch.

Therefore, notice is given to Pembroke Elevator and Seed Co. and to any other interested persons who may be adversely affected, that the Director proposes that an order be issued under section 512(m)(4)(B)(ii) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(m)(4)(B)(ii)), withdrawing approval of the listed applications and all amendments and supplements thereto on the grounds that new information shows that the methods used in, and the controls used for, the manufacture of animal feeds bearing or containing new animal drugs are inadequate to assure and preserve the identity, strength, quality, and purity of the new animal drugs contained therein, and they were not made adequate within a reasonable time after receipt of written notice specifying such deficiencies.

If the holder of the approvals or any other interested person elects to avail himself or herself of an opportunity for hearing under section 512(m)(4)(B) of the act and § 514.200 (21 CFR 514.200), that person must file with the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, a written appearance requesting such a hearing and giving the reason why the applications should not be withdrawn by December 29, 1980.

The failure of the holder of the approvals to file timely written appearance and request for hearing as required by § 514.200 constitutes an election not to avail himself or herself of the opportunity for a hearing, and the Director of the Bureau of Veterinary Medicine will without further notice enter a final order withdrawing the approvals.

A request for hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing.

If it clearly appears from the data in the application and from the reasons and a factual analysis in the request for the hearing that no genuine and substantial issue of fact precludes the withdrawal of approval of the application, the Commissioner of Food and Drugs will enter an order on this data, stating his findings and conclusions.

If review of the data or information submitted by the applicant or any other interested persons warrants the conclusion that there exists substantial evidence demonstrating the firm is in compliance with the requirements of current good manufacturing practice, the Director will rescind this notice of opportunity for hearing. The Director reserves the right to verification of such data and information before reaching a decision to rescind the notice.

If a hearing is requested and is justified by the applicant's response to this notice of opportunity for hearing, the issues will be defined. The Commissioner of Food and Drugs will assign an Administrative Law Judge and issue, as soon as practicable, a written notice of the time and place at which the hearing will commence.

Four copies of all submissions pursuant to this notice must be filed with the Dockets Management Branch, Food and Drug Administration. Except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, responses to this notice may be seen in the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA–305), Food and Drug Administration, between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 512(m), 82 Stat. 348–350 (21 U.S.C. 360b(m))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84).

Dated: November 19, 1980.

Gerald B. Guest,

Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 80-36790 Filed 11-28-80; 8:45 am]

BILLING CODE 4110-03-M

Health Services Administration

Home Health Program; Announcement of the Possible Availability of Grants for Home Health Services and Training Projects

Notice is hereby given that competitive applications are now being accepted for project grants to develop and expand home health services (service grants) and for grants for demonstrating the training of home health personnel (training grants) under the authority of section 339 of the Public Health Service (PHS) Act (42 U.S.C. 255). Congressional approval of a fiscal year 1981 appropriation for this program is pending and may not materialize. If funding does become available, it is estimated that there will be $3 million for about 45 service grants and $1 million for about 20 training grants this fiscal year. This program's Catalog of Federal Domestic Assistance number is 13.888.

Development and Expansion of Services

Section 339(a) of the PHS Act authorizes the Secretary to make grants to public and nonprofit private entities for support of the development and expansion of home health services as defined in section 1861(m) of the Social Security Act in areas in which such services are not otherwise available. Regulations applicable to these grants, published in the **Federal Register** on June 3, 1977 (42 FR 28692), state that the Secretary will give preference to approvable applications for projects that will serve catchment areas in which a high percentage of the population is elderly, medically indigent, or both (referred to below as "preference areas"). See 42 CFR 51e.107.

Applicants which propose to serve preference areas, as defined in the regulations, will receive priority consideration for funding. However, it is anticipated that funds will be available for both the funding of projects which propose to serve preference areas, and those which propose to serve nonpreference areas. May 1, 1981, is the deadline for the receipt of completed applications at the appropriate Regional Office (listed below). Applications must be received by the appropriate Health Systems Agency(s) and A–95 clearinghouse(s) at least 60 days before the date applications are due at the Regional Office.

Training of Personnel

Section 339(b) of the PHS Act authorizes the Secretary to make grants to public and nonprofit private entities to demonstrate the training of professional and paraprofessional personnel to provide home health services. Regulations applicable to these grants were published in the **Federal Register** on July 20, 1979 (44 FR 42687). See 42 CFR Part 51e, Subpart B.

Applications will be accepted for the training of home health aides or administrative personnel as described in the regulations. June 1, 1981, is the deadline for receipt of grant applications at the appropriate Regional Office. Applications must be received by the appropriate Health Systems Agency(s) and A–95 clearinghouse(s) at least 60 days before the date applications are due at the Regional Office.

Information may be obtained from the representative of the Home Health Services Grant Program at the appropriate Regional Office. The representative may be contacted for consultation and technical assistance relative to development of an application for a services or training grant. Completed applications should be submitted to the Grants Management Office at the appropriate Regional Office.

Applications for services and training grants which are not received by the appropriate Regional Office by the deadline dates announced in this notice will not be considered.

Dated: November 17, 1980.

George I. Lythcott,

Assistant Surgeon General, Administrator.

Public Health Service

Regional Health Administrators

Edward J. Montminy, Regional Health Administrator, PHS, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203, (617) 223–6827 (FTS: 8–223–6827).

Karst J. Besteman, Regional Health Administrator, PHS, Region II, 26 Federal Plaza, New York, New York 10007, (212) 264–2560 (FTS: 8–264–3939).

H. McDonald Rimple, M.D., M.P.H., Regional Health Administrator, PHS, Region III, P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637 (FTS: 8–596–6637).

George A. Reich, M.D., Regional Health Administrator, PHS, Region IV, 101 Marietta Tower, Suite 1007, Atlanta, Georgia 30323, (404) 221–2316 (FTS: 8–242–2316).

E. Frank Ellis, M.D., Regional Health Administrator, PHS, Region V, 300 South Wacker Drive, Chicago, Illinois 60606, (312) 353–1385 (FTS: 8–353–1385).

Sam Bell, Regional Health Administrator, PHS, Region VI, 1200 Main Tower Building, Dallas, Texas 75202, (214) 767–3879 (FTS: 8–729–3879).

Youn Bock Rhee, Regional Health Administrator, PHS, Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291 (FTS: 8–758–3291).

Hilary H. Connor, M.D., Regional Health Administrator, PHS, Region VIII, 19th and Stout Streets, Denver, Colorado 80294, (303) 837–4461 (FTS: 8–327–4461).

Sheridan L. Weinstein, M.D., Regional Health Administrator, PHS, Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810).

Ms. Dorothy H. Mann, Regional Health Administrator, PHS, Region X, Arcade Plaza Building, 1321 Second Avenue, Mail Stop 805, Seattle, Washington 98101, (206) 442–0430 (FTS: 8–399–0430).

[FR Doc. 80-36805 Filed 11-28-80; 8:45 am]

BILLING CODE 4110-84-M

National Institutes of Health

Arteriosclerosis, Hypertension and Lipid Metabolism Advisory Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Arteriosclerosis, Hypertension, and Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, January 13, 1981, National Institutes of Health, Building 31, Conference Room 7, 6th Floor, Bethesda, Maryland. The entire meeting will be open to the public from 9:00 a.m. to 4:00 p.m. on Tuesday, January 13, to evaluate program support in Arteriosclerosis, Hypertension, and Lipid Metabolism. Attendance by the public will be limited on a space available basis.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A–21, National Institutes of Health, Bethesda, Maryland 20205, Phone (301) 496–4236, will provide summaries of the meeting and rosters of committee members.

Dr. G. C. McMillan, Associate Director for Etiology of Arteriosclerosis and Hypertension Program, NHLBI, Room 4C–12, Federal Building, National Institutes of Health, Bethesda, Maryland 20205, Phone (301) 496–1613, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: November 13, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-37015 Filed 11-30-80; 8:45 am]

BILLING CODE 4110-08-M

Cardiology Advisory Committee; Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart, Lung, and Blood Institute, January 12 and 13, 1981, in Conference Room 8, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. Attendance by the public will be limited to space available. Topics for discussion will include a review of the research programs relevant to the Cardiology area and consideration of future needs and opportunities.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Committee members.

Barbara Packard, M.D., Ph.D., Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, Federal Building, Room 320, Bethesda, Maryland 20205, phone (301) 496-5421, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular.

Dated: November 13, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-37017 Filed 11-26-80; 8:45 am]

BILLING CODE 4110-08-M

High Blood Pressure Working Group; Meeting

Notice is hereby given of the meeting of the High Blood Pressure Working Group, sponsord by the National High Blood Pressure Education Program, National Heart, Lung, and Blood Institute, on January 12, 1981, Building 31, C Wing, Conference Room 6, at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting, from 9:00 a.m., to 5:00 p.m., will be open to the public. The Working Group is meeting to define the priorities, activities, and needs of the participating groups in the National High Blood Pressure Education Program. Attendance by the public will be limited to space available.

For detailed program information and agenda contact: Mr. Graham W. Ward, Chief, Health Education Branch, National High Blood Pressure Education Program, National Heart, Lung, and Blood Institute, NIH, Building 31, Room 4A24, 9000 Rockville Pike, Bethesda, Maryland 20205 (301) 465-1051.

For the list of participants and meeting summary contact: Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, NIH, Building 31, Room 4A17, 9000 Rockville Pike, Bethesda, Maryland 20205 (301) 496-4236.

Dated: November 13, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-37016 Filed 11-26-80; 8:45 am]

BILLING CODE 4110-08-M

Office of the Secretary

Social Security Administration; Statement of Organization, Functions, and Delegations of Authority

Part S of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare contains the Statement of Organization, Functions, and Delegations of Authority for the Social Security Administration (SSA). On March 21, 1979, an amendment to Part S was published in the **Federal Register** (44 FR 17218-17233) to reflect a reorganization of SSA. Sections SG.00, SG.10, and SG.20 of the amended material published on March 21, 1979, as contained in pages 17225-26, describe the mission, organization, and functions for SSA's Office of Hearings and Appeals (OHA).

The Office statements are being restated and expanded, not only to effect the establishment of division-level statements for components in OHA, but to implement a number of additional functional changes, including the elimination of the Office of Management Operations, the redesignation of its division-level components as offices, and the placement of responsibility for management of the Regional Chief Administrative Law Judges under the direct authority of the Chief Administrative Law Judge. Other changes are the transfer of responsibility for the vocational assessment function from the former Office of Management Operations to the Office of the Associate Commissioner; the transfer of responsibility for review and approval of attorneys' fees for services at the hearings level to the Regional Chief Administrative Law Judges; and a statement strengthening the duties of the former Division of Appraisal which is being redesignated, now, as the Office of Appraisal. The revised and expanded material reads as follows:

Sec. SG.00 *The Office of Hearings and Appeals*—(Mission): The Office of Hearings and Appeals (OHA) holds hearings and issues decisions as part of the SSA appeals process. It directs a nationwide field hearings organization staffed with Administrative Law Judges who conduct impartial hearings and make decisions on appealed determinations involving retirement, survivors, disability, and health insurance benefits; black lung benefits; and supplemental security income. The Office also performs central reviews of decisions by Administrative Law Judges which are appealed by a claimant, or reopened on the motion of the Appeals Council, and renders the Secretary's final decision on such cases.

Sec. SG.10 *The Office of Hearings and Appeals*—(Organization): The Office of Hearings and Appeals, under the leadership of the Associate Commissioner for Hearings and Appeals, includes:

A. The Associate Commissioner for Hearings and Appeals (SGA).

B. The Deputy Associate Commissioner for Hearings and Appeals, Program (SGA).

C. The Deputy Associate Commissioner for Hearings and Appeals, Operations (SGA).

D. The Chief Administrative Law Judge (SGA).

E. The Immediate Office of the Associate Commissioner for Hearings and Appeals (SGA) which includes:

1. The Executive Secretariat (SGA1).

2. The Congressional and Public Inquiries Staff (SGA2).

3. The Equal Opportunity Staff (SGA5).

F. The Vocational Consultant Program Staff (SGB).

G. The Appeals Council (SGC).

H. The Office of Appeals Operations (SGL):

1. Attorney Fee Staff (SGL8).

2. Divisions of Appeals Operations (SGLA, B, C, D).

3. Division of Civil Actions (SGL8).

I. The Office of Policy and Procedures (SGP):

1. Division of Appeals Procedures (SGP3).

2. Division of Hearings Procedures (SGP1).

3. Division of Program Development (SGP2).

J. The Office of Field Administration (SGE): 1. Divisions of Field Administration (SGE1, 2, 3).

K. The Office of Appraisal (SGR):

1. Division of Appellate Review (SGR1).

2. Division of Program Review (SGR2).

L. The Office of Facilities and Personnel Administration (SGG):

1. Division of Personnel Management (SGG1).

2. Division of Facilities (SGG2).

M. The Office of Management Coordination (SGT):

1. Division of Financial Management (SGT1).

2. Division of Management Analysis (SGT2).

3. Division of Management Information Systems (SGT3).

N. The Offices of the Regional Chief Administrative Law Judges (SG-FX/SG-FX9).

Sec. SG.20 *The Office of Hearings and Appeals*—(Functions):

A. *The Associate Commissioner for Hearings and Appeals* (SGA) is directly responsible to the Commissioner for carrying out OHA's mission and provides general supervision to the major components of OHA. The Associate Commissioner serves as Chairperson of the Appeals Council.

B. *The Deputy Associate Commissioner for Hearings and Appeals, Program* (SGA) assists the Associate Commissioner in carrying out his/her OHA-wide responsibilities and performs other duties as the Associate Commissioner may prescribe. In addition, this Deputy serves as the Deputy Chairperson of the Appeals Council and has specialized duties in day-to-day program activities.

C. *The Deputy Associate Commissioner for Hearings and Appeals, Operations* (SGA) assists the Associate Commissioner in carrying out his/her OHA-wide responsibilities and performs other duties as the Associate Commissioner may prescribe. In addition, this Deputy has specialized duties in day-to-day operations activities.

D. *The Chief Administrative Law Judge* (SGA) administers a nationwide organization of administrative law judges engaged in conducting hearings and in rendering decisions in cases where claimants disagree with reconsidered and revised determinations. These determinations involve claims for retirement, survivors, disability, health insurance, and supplemental security income benefits under Titles II, XVI, and XVIII of the Social Security Act, as amended, and disability and survivors benefits under Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended. In this connection, he/she directs a professional liaison staff engaged in providing counsel, guidance, and advice to professional field personnel in implementing substantive policy, program and procedural matters; provides management support and oversight for all administrative and managerial functions involved in the day-to-day operations of field activities; coordinates office hearing activities; and conducts liaison with other government and private agencies.

E. *The Immediate Office of the Associate Commissioner for Hearings and Appeals* (SGA) assists the Associate Commissioner, the Deputies, and the Chief Administrative Law Judge by providing a full range of staff services to assist them in carrying out their duties.

1. *The Executive Secretariat* (SGA1)

a. Maintains liaison and coordination between the Office of the Associate Commissioner and major OHA components. Coordinates, clears, and reviews completed staff work on action memoranda directed to the Associate Commissioner.

b. Controls correspondence for the Office of the Associate Commissioner, assigning action on incoming correspondence and developing information on action requests directed to the Office of the Associate Commissioner.

c. Provides OHA-level guidance and liaison on correspondence management.

d. Coordinates and prepares briefing materials for meetings attended by the Associate Commissioner.

2. *The Congressional and Public Inquiries Staff* (SGA2)

a. Prepares and reviews OHA responses to congressional and public inquiries and correspondence.

b. Evaluates correspondence for conformance with OHA standards, policies, and procedures.

c. Determines when inquiries represent request for hearings or reviews and assures that such requests are directed to the appropriate OHA component.

3. *The Equal Opportunity Staff* (SGA5)

a. Plans, develops, implements, and administers an equal opportunity program within OHA.

b. Investigates and attempts to resolve informal complaints of discrimination arising in Equal Opportunity (EO) areas of responsibility.

c. As appropriate, participates with SSA's Office of Civil Rights and Equal Opportunity staff in the development of EO policies and procedures, and develops necessary adaptations to policies, procedures, standards, and guidelines necessary for the operation of this program within OHA.

F. *Vocational Consultant Program Staff* (SGB)

1. Provides OHA-wide leadership and guidance in obtaining expert opinion and testimony on adjudicative factors having psychological, vocational, educational, and related aspects bearing on work capacity.

2. Formulates and implements policies and plans to guide Administrative Law Judges and other OHA staff in obtaining the assistance of vocational experts.

3. Directs, coordinates, and administers a comprehensive nationwide program designed to insure the services of vocational experts throughout the United States.

G. *The Appeals Council* (SGC) reviews decisions of Administrative Law Judges involving retirement, survivors, disability, health insurance, supplemental security income, and black lung benefits, on the motion of appellants or on its own motion. The Appeals Council examines case records, obtains additional evidence when appropriate, and renders written decisions or orders which are the Secretary's final decisions or orders, or remands cases to Administrative Law Judges. It recommends action concerning decisions appealed to the courts, and obtains additional evidence, prepares supplemental decisions on remanded cases and recommends whether appeals should be taken to higher courts on judicial reversals of the Secretary's decisions. It directs the medical advisory services program for OHA's components in the evaluation of claims for disability and health insurance benefits; supplemental security income for disability and blindness; and black lung benefits. It provides guidance in the utilization of medical advisors throughout OHA and participates in the formulation of medical policies used in the evaluation of claims for disability and health insurance benefits; supplemental security income for disability and blindness; and black lung benefits. It maintains liaison with medical groups to promote program understanding and to keep abreast of disability evaluation developments and changes in health insurance regulations.

H. *The Office of Appeals Operations* (SGL) provides advice and assistance to the Appeals Council on the adjudication of cases. It reviews decisions of

Administrative Law Judges to assist the Appeals Council in deciding whether to assume jurisdiction. It analyzes cases and recommends action to the Appeals Council on appealed and litigated cases, and prepares documents required to implement the action decided upon by the Appeals Council. The Office of Appeals Operations identifies and analyzes problem areas and recommends improvements in the appeals process. It authorizes the payment of fees of attorneys and other representatives of claimants for the provision of services at the Appeals Council level. The Office of Appeals Operations includes the following components and functions:

1. *Attorney Fee Staff* (SGL8)

a. Reviews and analyzes fee petitions from attorneys and other persons for representation of claimants before the Social Security Administration where the services were concluded at the Appeals Council level.

b. Authorizes the amount of the fee that the representative may charge. When a request for administrative review of an initial fee determination is received, recommends to the Associate Commissioner whether the initial fee authorization should be affirmed or revised.

c. Recommends to the Office of General Counsel (OGC) whether to appeal court orders authorizing attorney fees.

d. Coordinates OHA attorney fee activities with other components of SSA and OGC.

2. *Divisions of Appeals Operations* (SGLA,B,C,D)

a. Advise and assist the Appeals Council and other OHA officials on all entitlement matters relating to claims filed under Titles II, XVI, and XVIII of the Social Security Act, as amended, and Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended.

b. Examine hearing decisions that are not being appealed, as well as formal requests for Appeals Council review, and recommend in both instances whether the Appeals Council should review, and, if so, the appropriate course of action. If the Appeals Council takes jurisdiction, initiate action on behalf of the Appeals Council.

c. Provide substantive advice and recommendations, as needed, in coordination with the Office of Policy and Procedures on proposed Social Security Rulings.

3. *Division of Civil Actions* (SGL6)

a. Functions as a professional and technical source of consultation for the Appeals Council and other OHA officials in all litigated cases involving claims for benefits under Titles II, XVI, and XVIII of the Social Security Act, as amended, and Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended; and claims by hospitals, skilled nursing facilities, and independent laboratories seeking certification or continued certification under the Social Security Act.

b. Analyzes and recommends action on cases remanded by the courts; recommends to OGC, on behalf of the Appeals Council, defense on the record of those litigated cases where further administrative action is deemed unwarranted.

c. In reviewing court decisions, recommends appeal in light of the administrative implications involved.

d. Detects and defines problem areas or trends in decisions of the Federal courts.

e. Provides substantive advice and recommendations as needed in coordination with OHA's Office of Policy and Procedures on proposed Social Security Rulings.

I. *The Office of Policy and Procedures* (SGP) plans, analyzes, and develops OHA-wide policy and procedural guidelines for the hearings process. This Office plans, analyzes, and develops policy and procedural guidelines for the Appeals Council's review processes, civil actions processes, and support staff. It provides a system for communicating hearings and appeals policies and procedures, through the issuance of manuals and directives; and develops and maintains publications, informational material, references, and forms on the hearings and appeals processes. The Office of Policy and Procedures reviews current and developing trends in administrative law; analyzes policy recommendations; and develops long-range and short-range hearings and appeals policy plans. It provides advice and guidance throughout OHA on matters involving the development of program policies and procedures. It coordinates policy and procedural matters within OHA and with other SSA components, the Department Office of the General Counsel, other Department components, other Federal agencies, and private organizations. The Office of Policy and Procedures includes the following components and functions:

1. *Division of Appeals Procedures* (SGP3)

a. Plans, develops, and coordinates policy and procedural guidelines for the SSA appeals review and civil actions process under Titles II, XVI, and XVIII of the Social Security Act, as amended, and Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended.

b. Provides advisory services, consultation, and staff assistance to officials and other components in OHA and prepares submittals involving procedural issues for consideration of the Appeals Council.

c. With the Division of Hearings Procedures, reviews how instructions and information on the appeals process are communicated, such as notices concerning recent court developments and, as appropriate, modifies program and operating directives to ensure the provision of uniform policy and procedural guidelines.

d. Reviews and develops forms used in the Appeals Council and civil actions processes.

e. Participates in the development of, and assists with, Office information programs pertaining to the Appeals Council review process and court review rights, and reviews recommendations for changes in the appeals or civil action processes.

2. *Division of Hearings Procedures* (SGP1)

a. Plans, develops, and coordinates policy and procedural guidelins for the hearings process under Titles II, XVI, and XVIII of the Social Security Act, as amended, and Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended.

b. Provides advisory services, consultation, and staff assistance to the Office of the Director, Office of Appeals Operations, and Administrative Law Judges.

c. With the Division of Appeals Procedures, maintains an effective system for communicating instructions through such means as handbooks, program directives, and informational notices, necessary in the hearings process.

d. Reviews and develops forms used in the hearings process.

e. Participates in the development of, and assists with, Office information programs pertaining to the hearings process; and reviews recommendations concerning changes in the hearings process policies and procedures.

3. *Division of Program Development* (SGP2)

a. Develops policy and procedures for new programs in accordance with the Administrative Procedure Act.

b. Reviews current and developing trends in administrative law and assesses their applicability to OHA processes and objectives.

c. Reviews and takes appropriate action on substantive instructions and issuances of other SSA components in areas of OHA interest; recommends improvements in the appellate process as appropriate, and prepares reports on OHA policy, procedures, and program activities to congressional committees and others.

d. Provides staff assistance and technical, advisory, and consultative services to officials and components throughout OHA in its policy and procedural areas of responsibilities, and submits questions of law or policy for consideration by the Appeals Council.

J. *The Office of Field Administration* (SGE) coordinates the management resources supporting field activities. It conducts operational reviews of regional and hearings offices and maintains liaison with Regional Chief Administrative Law Judges and their representatives on management and administrative matters. The Office represents the interests of field management in Central Office, OHA, deliberations and in liaison with other SSA and Department components concerning administrative and managerial functions. It establishes management procedures and directs management activities to improve consultation and communication between the field and Central Office, OHA. The activities of the Office of Field Administration are conducted through three divisions according to specific regional areas of responsibility.

K. *The Office of Appraisal* (SGR) plans and conducts a comprehensive OHA-wide appraisal program designed to measure quantitatively and qualitatively the overall effectiveness of the nationwide hearings and appeals process. This Office directs planning efforts within OHA addressed to the development of techniques and systems for use in continuing appraisal activities for all substantive and technical aspects related to the processing of claims through OHA. It analyzes the results of the appraisal system to determine deviations in operating results from established administrative quality standards, statutory and regulatory policy, and procedural requirements. It prepares reports of appraisal system/study findings and recommendations for improving the effectiveness of hearings and appeals operating and staff processes, functions and results for OHA management consideration. Additionally, it designs and conducts various program integrity and surveillance studies and analyses of OHA processes and operations to ensure that OHA administrative/managerial programs, policies, and practices are consistent with the highest standards of integrity. The Office of Appraisal includes the following components and functions:

1. *Division of Appellate Review* (SGR1)

a. Plans and conducts a continuing appraisal program of OHA's hearings and appeals processes, monitoring compliance with policies and procedures and the quality of results achieved.

b. Designs and oversees the installation of appropriate systems and procedures for collecting, recording, analyzing, and evaluating data pertinent to assessing the quality of OHA work products emanating from the several decision levels of the appellate process.

c. Analyzes data flowing from review activities both internal and external to OHA for possible impact on OHA, and identifies problem areas and deficiencies in policies, policy application, methods and procedures, and develops recommendations for OHA management consideration.

d. Provides advice and assistance to other OHA components regarding the interpretation and application of quality review and related special study findings and recommendations.

2. *Division of Program Review* (SGR2)

a. Designs and conducts various program integrity and surveillance studies and analyses of OHA managerial and administrative areas to ensure that OHA administration/managerial programs, policies, and practices are consistent with the highest standards of integrity and equity.

b. Develops and conducts systematic evaluations of the integrity of the appellate process.

c. Conducts special studies of external factors having an impact on OHA operations and quality.

L. *The Office of Facilities and Personnel Administration* (SGG) plans, develops, and administers the OHA personnel management program, including recruitment and placement; position classification; incentive awards; employee services; labor management relations; employee development; and training programs. It plans and directs OHA administrative support activities, including space; forms and records; property management; procurement and supply; security; equipment control and maintenance; preparation of visual aids; and mail/messenger services. It plans and executes a program establishing requirements for and complying with established occupational health and safety concepts, regulations, standards, and procedures. The Office of Facilities and Personnel Administration includes the following components and functions:

1. *Division of Personnel Management* (SGG1)

a. Plans, develops, and administers OHA's personnel management program, including recruitment and placement, position classification and pay administration, incentive awards, employee services, employee-management relations, and related activities.

b. Evaluates the effectiveness of OHA's personnel-management functions and activities; resolves personnel-management problems; and participates in the implementation of employee-management cooperation and equal opportunity programs.

c. Institutes required improvements in OHA's personnel management policy and procedures consistent with SSA/Department personnel policies and procedures.

d. Acts on behalf of the Associate Commissioner to recruit, examine, and appoint Administrative Law Judges, consistent with SSA/Department/OPM policies and procedures.

2. *Division of Facilities* (SGG2)

a. Plans, directs, and provides administrative support services in the areas of space planning and utilization; forms and records management; property management; equipment control and maintenance; preparation of visual aids and exhibits; safety and self-protection, including emergency planning; procurement and supply; mail and messenger services; and library reference.

b. Coordinates services provided to OHA by SSA, Department, OPM, and other agencies, such as building maintenance, and communications services.

M. *The Office of Management Coordination* (SGT) plans and directs the OHA management analysis program, which includes the design, development, implementation, and appraisal of management policies and programs, and researches management techniques and technological developments having possible utility for OHA. This Office directs OHA's operational and management systems planning programs; assures effective coordination of the OHA management information system with the SSA system; and maintains a case control and statistical reporting system on the adjudication process. It plans, develops, and coordinates OHA's financial management program and provides financial guidance and control in the area of budget formulation and execution; work measurement and workload forecasting; pay and travel; position control; contract services; and fiscal operation. The Office of

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Management Coordination includes the following components and functions:

1. *Division of Financial Management* (SGT1)

a. Plans, develops, and coordinates OHA's financial management programs, advising the Associate Commissioner of the financial impact on all decisions which affect OHA.

b. Formulates and executes budgetary requirements and controls in the areas of resource management, work measurement and workload forecasting; resource forecasting and reporting; administrative cost allocation; cost benefit analysis; pay and travel; ceiling control; contract services; fiscal operations; and regional interface on the budget process.

2. *Division of Management Analysis* (SGT2)

a. Plans, develops, and coordinates OHA's organizational and administrative planning and analysis programs; conducts an OHA-wide management analysis program to design, develop, and implement management policies, procedures, and methods for improving the effectiveness, efficiency, and economy of operations.

b. Plans, develops, conducts, and administers the OHA organization and position control system, and coordinates an OHA program for resource utilization.

c. Participates in continuing research of current management techniques and technological developments having possible application to OHA needs.

d. Implements and administers the SSA Administrative Directives System within OHA.

3. *Division of Management Information Systems* (SGT3)

a. Provides OHA leadership and direction for operational and management information systems planning encompassing both ADP and non-ADP systems.

b. Establishes systems standards, and plans overall specifications for OHA needs.

c. Reviews and evaluates proposed systems and equipment changes for conformance with long-range OHA goals and to ensure integration with other SSA systems.

d. Maintains a case control and statistical reporting system on the adjudication process to be used by management for planning, coordination, communication, and control.

e. Administers OHA's ADP systems security, reports management program and work measurement programs.

f. Applies mathematical analysis, statistical techniques, model building and cost-benefit analysis to define problem areas and provide alternative courses of action to facilitate management decisions.

N. *The Offices of the Regional Chief Administrative Law Judges* (SG–FX/SG–FX9) represent the Associate Commissioner and Chief Administrative Law Judge at the regional level on all matters involving the hearings process. They plan, organize, and administer regional programs for scheduling and conducting independent and impartial hearings on appealed determinations involving claims for retirement, survivors, disability, and health insurance benefits; supplemental security income; and black lung benefits. They provide guidance, direction, and leadership to Administrative Law Judges and their staffs. These Offices coordinate operations and administrative activities with Department regional offices; other SSA regional components; State agencies; and others, as required. Additionally, they review and analyze fee petitions from attorneys and representatives of claimants for the provision of services at the hearing level and authorize payment of fees in those cases where fees recommended by Administrative Law Judges are more than an Administrative Law Judge is authorized to grant.

Dated: November 18, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-37103 Filed 11-28-80; 8:45 am]

BILLING CODE 4110-12-M

Freedom of Information; Modified Policy on Disclosure of Amounts Paid to Individual Physicians Under the Medicare Program

AGENCY: Department of Health and Human Services.

ACTION: Announcement of Modified Policy on Disclosure of Information Following Federal Court Decisions on Disclosure of Amounts Paid to Individual Physicians Under the Medicare Program.

In the preamble to the interim rules of the Social Security Administration for disclosure of information, 42 FR 14703, March 16, 1977, the Secretary stated that the public interest in disclosure of the amounts of payments to individual physicians under the Medicaid and Medicare programs would outweigh the individual physicians' privacy interest in such information and that such disclosure would not constitute a "clearly unwarranted invasion of the individual physician's privacy."

The Department's disclosure of the amounts of payments to individual physicians under the Medicare program has been contested in Federal Court in the cases of *Florida Medical Association, Inc., et al* v. *Department of Health, Education, and Welfare, et al.* (M.D. Fla. 1980) and *The American Association of Councils of Medical Staffs of Private Hospitals, Inc., et al.* v. *Health Care Financing Administration, et al.* (E.D. La. 1980). Both courts have concluded that the disclosures do constitute an unwarranted invasion of personal privacy of the individual physicians and the Secretary has been enjoined from disclosing the amounts of payment to individual physicians.

An appeal has not been taken from the court injunctions issued. The Secretary has considered the competing interests and has concluded that the public interest in the individually identified payment amounts is not sufficient to compel disclosure in view of the privacy interests of the physicians found compelling by the courts. This determination does not affect the policy of the Department that amounts of payments made by the Department in other circumstances will be disclosed to the public. For example, amounts of payments to consultants and contractors who contract directly with the Department for the provision of goods or services to the Department will continue to be available to the public.

Dated: November 18, 1980.

Patricia Roberts Harris,

Secretary, Department of Health and Human Services.

[FR Doc. 80-37102 Filed 11-28-80; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Arizona; Phoenix District, Multiple Use Advisory Council Meeting

The second meeting of the Phoenix District, BLM, Multiple Use Advisory Council will be held January 9, 1981. The meeting will be held at the district office, 2929 West Clarendon Avenue, Phoenix, Arizona, between 8:00 a.m. and 5:00 p.m.

The Council has been established by, and is managed according to the Federal Advisory Committee Act of 1972, the Federal Land Policy and Management Act of 1976, and the Public Rangelands Improvement Act of 1978.

The proposed agenda for the meeting includes the following:

1. Explanation of the role of the League of Women Voters in developing the public participation plan for the Lower Gila South planning area.

2. Discussion of BLM Public Service Action Plan and District Public Service Action Plan.

3. Explanation of the "In Lieu" land selection being made by the State of Arizona.

4. An update of the district planning and environmental impact statement work.

5. Discussion of pertinent issues identified at the Council's last meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council from 1:00 to 1:30 p.m., or may file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address by January 2, 1981. Depending on the number of persons wishing to make oral statements, a time limit may be established for each speaker.

Summary minutes of the meeting will be maintained at the district office and be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

For further information contact Jack de Golia at (602) 241–2908 or 241–2903.

Dated: November 19, 1980.

W. K. Barker,

District Manager.

[FR Doc. 80-36994 Filed 11-28-80; 8:45 am]

BILLING CODE 4310-84-M

Winnemucca District Multiple Use Advisory Council; Meeting

Notice is given in accordance with Pub. L. 92–463, that a meeting of the Winnemucca District Multiple Use Advisory Council will be held on January 16, 1981. The meeting will be held from 10:00 a.m. to 5:00 p.m. in the Conference Room of the Winnemucca District Office, 705 East Fourth Street, Winnemucca, Nevada 89445.

The agenda for the meeting will include: (1) Introduction of council members and key BLM staff; (2) The role of the District Advisory Council; (3) Mechanics of board membership; (4) Election of officers; (5) Public comment period; (6) The Winnemucca District and BLM organization; (7) District programs and FY 1981 Annual Work Plan; (8) Current issues; (9) Arrangements for next meeting and proposed agenda items.

The meeting is open to the public. Interested persons may make oral statements to the Council at 1:00 p.m. on January 16, 1981 or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445 by January 2, 1981. Depending on the number of persons wishing to make oral statement, a per person time limit may be established by the District Manager.

Summary minutes of the Council meeting will be maintained in the District Office and available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: November 18, 1980.

Robert J. Neary,

Acting District Manager for State Director, Nevada.

[FR Doc. 80-36991 Filed 11-28-80; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Buffalo Point, Pruitt, and Tyler Bend Development Areas Buffalo National River, Arkansas; Proposed Development Concept Plans Availability of Findings of No Significant Impact

Proposal Assessments which delineated a preferred plan and alternatives for the design and development of the three development areas of Buffalo Point, Pruitt, and Tyler Bend, at Buffalo National River, Searcy, Newton, Baxter, and Marion Counties, Arkansas, were distributed and made available by publication in the **Federal Register** of March 14, 1980, and a News Release in local news media sources.

Findings of No Significant Impact have now been completed and alternatives selected. Based on public review input received and on management decisions, the reviewers selected the preferred plans of development, with minor modifications, for the design and development of the areas. The development proposals selected best provide for the repair and maintenance of existing facilities to upgrade operational and safety standards, and for the development of new facilities and utilities for recreational use and interpretation of the Park's resources, while assuring the preservation and management of the Park's aesthetic values.

Copies of the Findings of No Siginificant Impact are available at the following locations: Buffalo National River, Post Office Box 1173, Harrison, Arkansas 72601; and the Southwest Regional Office, National Park Service, 1100 Old Sante Fe Trail, Post Office Box 728, Santa Fe, New Mexico 87501.

It is the conclusion of the National Park Service that the selected plans are not major Federal actions that will significantly affect the human environment. Comprehensive design plans and specifications will be prepared and the plans implemented. No environmental impact statements will be prepared.

Dated: November 20, 1980.

Robert L. Kerr,

Regional Director, Southwest Region National Park Service.

[FR Doc. 80-37100 Filed 11-28-80; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware Citizens Advisory Council Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Upper Delaware Citizens Advisory Council will be held at 7:00 p.m., December 12, 1980, at the Arlington Hotel, Narrowsburg, New York. The Advisory Council was established by Public Law 95–625, Section 704(f) to encourage maximum public involvement in the development and implementation of plans and programs authorized by the Act and section noted above. The Council is to meet and report to the Delaware River Basin Commission, to the Secretary of the Interior and to the Governors of New York and Pennsylvania on the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region.

The matters to be discussed at this meeting include:

1. Implementation of Section 704 of the National Parks and Recreation Act of 1978.

2. New Business.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning the matters to be discussed. The statement should be addressed to the Council c/o Upper Delaware National Scenic and Recreational River, Drawer C, Narrowsburg, NY 12764.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact John T. Hutzky, Area Manager, Upper Delaware National Scenic and Recreational River, Drawer C. Narrowsburg, NY 12764, phone 914–252–3947.

Minutes of the meeting will be available for inspection four weeks after the meeting at the temporary headquarters of the Upper Delaware National Scenic and Recreational River in Narrowsburg, NY.

V 45 N 0 28 80 0 UMI

Dated: November 17, 1980.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 80-37101 Filed 11-26-80; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Combustion Engineering Inc., 900 Long Ridge Road, Stamford, CT 06902.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

American Pole Structures Corporation, 8700 Fairbanks, Houston, TX 77040
Combustion Engineering Americas, Inc., 1000 Prospect Hill Road, Windsor, CT 06095
Combustion Engineering Overseas, Inc., 1000 Prospect Hill Road, Windsor, CT. 06095
Combustion Engineering-Superheater, Ltd., 1000 Prospect Hill Road, Windsor, CT 06095
CESCO International Ltd., 1000 Prospect Hill Rd., Windsor, CT. 06095
Optimum Controls of Canada Limited, 1140 de Mainsonneuve Blvd. West, Montreal, 110, Quebec, Canada H3A1N2
International Power Systems, Inc., 1000 Prospect Hill Road, Windsor, CT. 06095
Upper Canada Manufacturing Limited, 99 Bank Street, Ottowa, Ontario, Canada KIP 6C5
CEI Inc., 1000 Prospect Hill Road, Windsor, CT 06095
Gray Tool International Inc., P.O. Box 2291, Houston, TX 77001
Gray Tool Trading Company, Inc., P.O. Box 2291, Houston, TX 77001
Rector-Gray, Ltd., P.O. Box 2291, Houston, TX 77001
Rector Well Equipment Company, Inc., 949 S. Sixth Ave., Mansfield, TX 76063
Vetco Inc., 5740 Ralston St., P.O. Box 3939, Ventura, CA 93003
Vetco Offshore, Inc., 250 W. Stanley Ave., P.O. Box 1688, Ventura, CA 93001
Vetco Offshore Industries Proprietary, Ltd., 250 W. Stanley Ave., P.O. Box 1688, Ventura, CA 93001
Vetco International Inc., 5740 Ralston St., Ventura, CA 93003
Vetco Offshore Limited, 250 W. Stanley Ave., Ventura, Ca 93001
Vetco Overseas Limited, 5740 Ralston St., Ventura, CA 93003
Vetco-Disk, Inc., 5740 Ralston St., Ventura, CA 93003
C–E Natco Limited, P.O. Box 1710, Tulsa, OK 74101
C–E Natco Chemicals, Inc., 1120 Bay Area Boulevard, Pasadena, Tx 77507
Beaumont Well Works, Inc., 4710 Bellaire Boulevard, Houston, TX 77001
C–E Natco Oilfield Construction, Inc., 5330 E. 31st St., Tulsa, OK 74135
Oilfield Construction Company Inc., P.O. Box 1925, Bakersfield, CA 93303
Electric Lighting Inc., 1000 Prospect Hill Road, Windsor, CT 06095
The Air Preheater Company, Inc., Wellsville, N.Y. 14895
The Bauer Bros. Co., 3200 Upper Valley Pike, P.O. Box 968, Springfield, Ohio 45501
Bauer Bros. Co. of Canada Ltd., 192 Mary Street, P.O. Box 910, Brantford, Ontario
The Ehrsam Company, 300 N. Cedar, Abilene, Kansas 67410
Ehrsam Transport, Inc., 2nd and Factory, Enterprise, KS 67441
Crest Enginering, Inc., P.O. Box 27474, 3000 South Post Oak Road, Houston, TX 77056
Crest Engineering Ltd., P.O. Box 27475, 3000 South Post Oak Road, Houston, TX 77056
Lummus Group, Inc., 1515 Broad Street, Bloomfield, N.J. 07003
The Lummus Company, 1515 Broad Street, Bloomfield, N.J. 07003
Lummus Construction Equipment International, Inc., C–E Lummus Tower, 3000 South Post Oak Road, Houston, TX 77056
Lummus Construction Company, 300 Broadacres Drive, Bloomfield, N.J. 07003
Lummus Overseas Corporation, 1515 Broad Street, Bloomfield, N.J. 07003
Lummus International, Inc., 1515 Broad Street, Bloomfield, N.J. 07003
Construction Equipment International, Inc., C–E Lummus Tower, 3000 South Post Oak Road, Houston, TX 77056
The Lummus Company Canada Limited, 1515 Broad Street, Bloomfield, N.J. 07003
The Randall Corporation, 1400 Brittmore Road, Houston, TX 77043
C–E Morgan, Inc., 1525 NW. 167th Street, Miami, Florida 33169
Ken Thelen Co., Inc., 4749 South Whitnall Ave., Cudahy, WI 53110
C–E Minerals, Inc., 901 East Eighth Ave., King of Prussia Industrial Park, King of Prussia, PA 19406
Combustion Chemicals, Inc., 901 East Eighth Ave., King of Prussia Industrial Park, King of Prussia, PA 19406
Narvon Products, Inc., 901 East Eighth Ave., King of Prussia Industrial Park, King of Prussia, PA 19406
Mullite Company of America, 901 East Eighth Ave., King of Prussia Industrial Park, King of Prussia, PA 19406.
Cermatec Ltd., 901 East Eighth Ave., King of Prussia Industrial Park, Valley Forge, PA 19482
C–E Refractories Ltd., 901 East Eighth Ave., King of Prussia Industrial Park, Valley Forge, PA 19482
Globe Refractories, Inc., P.O. Box D, Newell, W. Va. 26050.
R&I—Ramtite (Canada) Limited, 901 East Eighth Ave., King of Prussia Industrial Park, Valley Forge, PA 19482.
Thermotect Company, Inc., 901 East Eighth Ave., King of Prussia Industrial Park, Valley Forge, PA 19482.
Knox Mining Corp., 1422 Euclid Ave., 845 Hanna Building, Cleveland, Ohio 44115.
The Muller Corp., 1422 Euclid Ave., 845 Hanna Building, Cleveland, Ohio 44115.
C–E Basic Incorporated, 1422 Euclid Ave., 845 Hanna Building, Cleveland, Ohio 44115.
Basic Ceramics, Inc., 1422 Euclid Ave., 845 Hanna Building, Cleveland, Ohio 44115.
Basic Chemicals, Inc., 1422 Euclid Ave., 845 Hanna Building, Cleveland, Ohio 44115.
B.R.I. Service Co., 1422 Euclid Ave., 845 Hanna Building, Cleveland, Ohio 44115.
Industrial Magnesia Corp., 1422 Euclid Ave., 845 Hanna Building, Cleveland, Ohio 44115.
W. S. Tyler, Incorporated, 8200 Tyler Boulevard, Mentor, Ohio 44060.
The W. S. Tyler Company of Canada Ltd., P.O. Box 3006, 225 Ontario St., St. Catherines, Ontario, Canada L2R 7B6

1. Parent corporation and address of its principal office: Corning Glass Works, Box 544, Corning, NY 14830.

2. Wholly owned subsidiaries which will participate in the operations and addresses of their principal offices:

(a) Gilford Instrument Laboratories, Inc., 132 Artino Street, Oberlin, OH 44074.
(b) Components, Inc., 313 Elm Street, Biddeford, ME 04005.

1. Parent corporation and address of principal office: Krueger Metal Products, Inc., 1330 Bellevue Street, Green Bay, WI 54308.

2. Wholly-owned subsidiaries which will participate in the operation and address of their respective principal offices:

(a) Krueger Metal Products, Inc. of Mississippi, South Green Street, Tupelo, MS 38801.
(b) Architectural Fiberglass, Inc., 431 E. Main Street, Gillette, WI 54124.

(c) Krueger Trucking, Inc., 1330 Bellevue Street, Green Bay, WI 54308.

1. Parent corporation: Lyall Electric, Incorporated—Kendallville, IN.

2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices:

(a) Lyall Albion Corp.—Albion, IN
(b) Hamilton Products, Inc.—Hamilton, IN
(c) Silicones, Inc.—South Milford, IN
(d) Wolf Lake Products, Inc.—Wolf Lake, IN
(e) Indiana Insulated Wire, Inc.—Kendallville, IN
(f) O.E.M. Electric, Inc.—Kendallville, IN
(g) Automachine, Inc.—Albion, IN
(h) North Webster Products, Inc.—North Webster, IN
(i) Heaters, Inc.—North Webster, IN
(j) Hawkeye Products, Inc.—Murray, IA
(k) Pent, Inc.—Wolcottville, IN
(l) Murray Products, Inc.—Murray, IA
(m) Jefferson Products, Inc.—Albion, IN
(o) Cromwell Products, Inc.—Cromwell, IN
(p) Albion Wire, Inc.—Albion, IN
(q) Ashley Products, Inc.—Ashley, IN
(r) Washington Products, Inc.—Cromwell, IN
(s) NEI Development Company, Inc.—Kendallville, IN
(t) Webster Wire Products, Inc.—North Webster, IN
(u) RAD, Inc.—Abion, IN
(v) Fine Wire, Inc.—South Milford, IN
(w) PVC Compounders, Inc.—Kendallville, IN

1. Parent corporation and address of principal office: The Standard Products Company, 2130 West 110th Street, Cleveland, Ohio 44102.

2. Wholly-owned subsidiaries which will participate in the operations and address of principal offices.

A. Standard Products Canada Ltd., 1030 Erie Street, Stratford, Ontario Canada N5A 6V7
B. Oliver Tire & Rubber Company, 1200 Sixty-fifth Street, Oakland, California 94562

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-37028 Filed 11-26-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers Finance Applications Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 110.240). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349.* These rules provides among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.240(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.240(A)(h).

Amendments to the request for authority will not be accepted after November 28, 1980. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed on or before January 12, 1981 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: November 20, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor and Williams. (Board Member Taylor votes to publish with impediments, stating that there are duplications between the rights to be transferred and those to be retained. Also, the transfer of the considered rights will recreate a gateway restruction in the operations Plymouth is authorized to perform, which the considered authority was initially granted to eliminate. There is no evidence of record to show that applicants have been moving traffic through the gateways sought to be eliminated or the traffic involved.)

MC–F–14460F, filed October 28, 1980. NELSON-WESTERBERG, INC. (Nelson) (1201 Arthur Avenue, Elk Grove Village, IL 60007)—purchase (portion)—PLYMOUTH VAN LINES, INC. (Plymouth) (4433–41 Howley Street, Pittsburgh, PA 15224). Representative: Robert J. Gallagher, 1000 Connecticut Avenue, NW., Suite 1112, Washington, DC 20036. Nelson seeks authority to purchase a portion of the interstate operating rights of Plymouth. John R. Westerberg, the majority stockholder of Nelson, seeks authority to acquire control of said rights through the transaction. Nelson seeks authority to purchase that portion of Plymouth's Certificate No. MC–65748 (Sub-No. 5G), which authorizes the transportation, as a motor common carrier, over irregular routes, of *household goods,* as defined by the Commission, between points in IL, on the one hand, and, on the other, points in NJ. Nelson is authorized to operate as a common carrier pursuant to Certificate No. MC–52196 and authority awarded to Nelson in MC–F–14074F, which authorize the transportation of *household goods,* between points in Cook County, IL, on the one hand, and, on the other, points in MI, WI, IA, IN, and OH, and between Hackensack, NJ, and points in NJ within 60 miles thereof, on the one hand, and, on the other, points in CT, ME, MA, NY, PA, and RI.

Notes.—(1) Application for temporary authority has been filed. (2) A directly related gateway elimination application has been

filed in MC–52196 (Sub-No. 2F), published in

certain requirements which will be set

Commission's policy of simplifying

INC., 3181 Bankhead Highway, Room

axles and mounted tires and rims, (3)

73, (18) between Winnie and Anahauc,

filed in MC–52196 (Sub-No. 2F), published in the same **Federal Register** issue.

Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed on or before January 12, 1981 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Dated: November 20, 1980.

MC 52196 (Sub-2F), filed October 28, 1980. Applicant: NELSON-WESTERBERG, INC.—GATEWAY ELIMINATION, 1201 Arthur Avenue, Elk Grove Village, IL 60007. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036. To operate as a motor common carrier, in interstate or foreign commerce, over irregular routes, transporting *household goods* as defined by the Commission, between points in NJ, CT, ME, MA, NY, PA, and RI, on the one hand, and, on the other, points in IL, WI, IA, IN, OH, and MI.

Note.—This application is directly related to a finance proceeding in MC–F–14460F, published in this same **Federal Register** issue. The purpose of this application is to eliminate the gateways of Cook County, IL, and Hackensack, NJ, and points in NJ within 60 miles of Hackensack.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80–37025 Filed 11–26–80; 8:45 am]
BILLING CODE 7035–01–M

Motor Carrier Permanent Authority Decisions Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before January 12, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

T4Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1–082

Decided: November 20, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 74321 (Sub-157F), filed November 12, 1980. Applicant: B.F. WALKER, INC., 1555 Tremont Pl., P.O. Box 17–B, Denver, CO 80217. Representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele St., Denver, CO 80209. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 150200 (Sub-2F), filed November 6, 1980. Applicant: BRAVE TRANSPORT, INC., 3181 Bankhead Highway, Room 100, Atlanta, GA 30318. Representative: Richard M. Tettelbaum, 3390 Peachtree Rd., NE., 5th Floor-Lenox Towers South, Atlanta, GA 30326. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

Volume No. OP2–101

Decided: November 19, 1980.

By the Commission, Review Board Number 2, members Chandler, Eaton, and Liberman.

MC 2202 (Sub-642F), filed November 3, 1980. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Blvd., P.O. Box 471, Akron, OH 44309. Representative: William O. Turney Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Over regular routes, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between Jacksonville and Palestine, TX, over U.S. Hwy 79, serving all intermediate points.

Note.—Applicant intends to tack this authority with its existing regular route authority.

MC 3082 (Sub-54F), filed November 3, 1980. Applicant: INMAN FREIGHT SYSTEM, INC., 321 North Spring Avenue, Cape Girardeau, MO 63701. Representative: G. H. Boles (same address as applicant). Transporting *lead, lead alloys, and zinc,* from Herculaneum, MO, to Atlanta, GA.

MC 4963 (Sub-128F), filed November 4, 1980. Applicant: JONES MOTOR CO., INC., Bridge St. and Schuylkill Rd., Spring City, PA 19475. Representative: Roland Rice, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209. Transporting *general commodities* (except household goods as defined by the Commission and Classes A and B explosives), between those points in the U.S. in and east of MN, IA, KS, MO, AR, and LA (except FL).

MC 20582 (Sub-9F), filed October 30, 1980. Applicant: HENRY H. STEVENS, INC., 1273 Broadway, Flint, MI 48506. Representative: Miss Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. Transporting *household goods* as defined by the Commission, between points in ID, MT, ND, SD, and WY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 77972 (Sub-36F), filed October 31, 1980. Applicant: MERCHANTS TRUCK LINE, INC., P.O. Box 908, New Albany, MS 38652. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Transporting (1) *material handling equipment,* (2) *mobile home axles and mounted tires and rims,* (3) *iron and steel articles,* and (4) *parts, attachments, and accessories* for the commodities in (1) to (3) above, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Continental Conveyor & Equipment Company, Inc.

MC 87103 (Sub–86F), filed November 3, 1980. Applicant: MILLER TRANSFER AND RIGGING CO,. P.O. Box 322, Cuyahoga Falls, OH 44222. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440 Transporting (1) *metal working lathes, components tools* and *parts* for metal working lathes and components tools, (except commodities in bulk) and (2) *materials equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in Allen, Cuyahoga, and Hamilton Counties, OH, and Davidson County, TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 98572 (Sub-80F), filed October 22, 1980. Applicant: SOUTHEAST TEX-PACK EXPRESS, INC., P.O. Box 47967, Dallas, TX 75247. Representative: Austin L. Hatchell, P.O. Box 2165, Austin, TX 78768. Over *regular routes,* transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Dallas and Waxahachie, TX, over (a) U.S. Hwy 77, and (b) Interstate Hwy 35, (2) between Waxahachie and Ennis, TX, over U.S. Hwy 287, (3) between Ennis and Richland, TX: from Ennis over U.S. Hwy 75 to junction TX Hwy 14, then over TX Hwy 14 to Richland, and return over the same route, (4) between Fairfield and Galveston, TX, over U.S. Hwy 75, (5) between Richland and Mexia, TX, over TX Hwy 14, (6) between Mexia and Fairfield, TX, over U.S. Hwy 84, (7) between Dallas and Jacksonville, TX, over U.S. Hwy 175, (8) between Jacksonville and Alto, TX, over U.S. Hwy 69, (9) between Alto and Nacogdoches, TX, over TX Hwy 21, (10) between Nacogdoches and Lufkin, TX, over U.S. Hwy 59, (11) between Lufkin and Kountze, TX, over U.S. Hwy 69, (12) between Kountze and Silsbee, TX, over TX Hwy 327, (13) between Silsbee and Beaumont, TX, over U.S. Hwy 96, (14) between Houston and Orange, TX, over U.S. Hwy 90, (15) between Beaumont and Port Arthur, TX, over (a) TX Hwy 347, and (b) over U.S. Hwy 69, (16) between Orange and Port Arthur, TX, over TX Hwy 87, (17) between Port Arthur and Winnie, TX, over TX Hwy 73, (18) between Winnie and Anahauc, TX: from Winnie over TX 124 to junction TX Hwy 65, then over TX Hwy 65 to Anahauc, and return over the same route, (19) between Houston and Madisonville, TX: (a) from Houston over Interstate Hwy 45 to junction TX Hwy 21, then over TX Hwy 21 to Madisonville, and return over the same route, and (b) over U.S. Hwy 75, (20) between junction U.S. Hwy 75 and TX Hwy 21, and Palestine, TX: from junction U.S. Hwy 75 and TX Hwy 21 over U.S. Hwy 75 to juction U.S. Hwy 287, then over U.S. Hwy 287 to Palestine, and return over the same route, (21) between junction Interstate Hwy 45 and TX Hwy 21, and junction Interstate Hwy 45 and U.S. Hwy 287, over Interstate Hwy 45, (22) between Corsicana and Athens, TX, over TX Hwy 31, (23) between Kemp and Rosser, TX: from Kemp over TX Hwy 274 to junction TX Farm Road 148, then over TX Farm Road 148 to Scurry, TX, then over TX Hwy 34 to Rosser, and return over the same route, (24) between Rosser and Trinidad, TX: from Rosser over TX Hwy 34 to junction TX Farm Road 148, then over TX Farm Road 148 to TX Hwy 274 to Trinidad, and over the same route, (25) between Trinidad and Mabank, TX: from Trinidad over TX Hwy 31 to Malakoff, then over TX Farm Road 85 to Mabank, and return over the same route, (26) between Athens and Murchison, TX, over TX Hwy 31, (27) between Corsicana and Purdon, TX: from Corsicana over TX Hwy 22 to junction TX Farm Road 1839, then over TX Farm Road 1839 to Emhouse, then over TX Farm Road 1126 to Barry, then over TX Hwy 22 to Blooming Grove, then over TX Farm Road 55 to junction TX Hwy 31, then over TX Hwy 31 to TX Farm Road 3194, then over TX Farm Road 3194 to Purdon, and return over the same route, (28) between junction TX Farm Road 3194 and TX Hwy 31, and Corsicana, over TX Hwy 31, (29) between Mexia and Shiloh, TX, over TX Farm Road 39, (30) between Palestine and Tucker, TX: (a) from Palestine over TX Hwy 19 to Montalba, then over TX Farm Road 321 to junction TX Farm Road 645 at Tennessee Colony, then over TX Farm Road 645 to Tucker, and return over the same route, and (b) over U.S. Hwy 79, (31) between Palestine and Neches, TX, over U.S. Hwy 79, (32) between junction TX Hwy 294 and U.S. Hwy 287, and Slocum, TX, over TX Hwy 294, (33) between Jacksonville and Mount Selman, TX, over U.S. Hwy 69, (34) between Jacksonville and New Summerfield, TX, over U.S. Hwy 79, (35) between junction TX Farm Road 1129 and TX Hwy 31, Roane, TX, over TX

Farm Road 1129, (36) between junction unnumbered Hwy and U.S. Hwy 69 north of Rusk, TX, and Rusk, TX: (a) from junction unnumbered Hwy and U.S. Hwy 69 over U.S. Hwy 69 to junction TX Farm Road 22, then over TX Farm Road 22 to junction TX Hwy 110, then over TX Hwy 110 to junction U.S. Hwy 84, then over U.S. Hwy 84 to Rusk, TX, and return over the same route, serving Gallatin, Turney, and Dialville, as intermediate points, and (b) over U.S Hwy 69, (37) between junction TX Hwy 110 and U.S. Hwy 84, and Sacul, TX: from junction TX Hwy 110 and U.S. Hwy 84 over U.S. Hwy 84 to Reklaw, then over TX Hwy 204 to Sacul, and return over the same route, (38) between Nacogdoches and Appleby, TX, over U.S. Hwy 59, (39) between Nacogdoches and Martinsville, TX, over TX Hwy 7, (40) between Nacogdoches and Melrose, TX, over TX Hwy 21, (41) between Buffalo and Jewett, TX, over U.S. Hwy 79, (42) between Centerville and Marquez, TX, over TX Hwy 7, (43) between Crockett and Kennard, TX, over TX Hwy 7, (44) between Lufkin and Wells, TX, over U.S. Hwy 69, (45) between Madisonville and Normangee, TX: from Madisonville over TX Hwy 21 to junction TX Farm Road 39, then over TX Farm Road 39 to Normangee, and return over the same route.

(46) between Madisonville and Midway, TX, over TX Hwy 21, (47) between Woodville and Chester, TX, over U.S. Hwy 287, (48) between Hillister and Spurger, TX, over TX Farm Road 1013, (49) between Silsbee and Kountze, TX, over TX Farm Road 418, (50) between Silsbee and Fred, TX, over TX Farm Road 92, (51) between Silsbee and Honey Island, TX: from Silsbee over TX Farm Road 418 to junction TX Farm Road 1293, then over TX Farm Road 1293 to Honey Island, and return over the same route, (52) between Spring and Tomball, TX, over TX Farm Road 2920, (53) between Liberty, TX and junction TX Farm Road 770 and U.S. Hwy 90: from Liberty over TX Hwy 146 to junction TX Farm Road 162, then over TX Farm Road 162 to junction TX Farm Road 770, then over TX Farm Road 770 to junction U.S. Hwy 90, and return over the same route, (54) between Winnie and Hamshire, TX, over (a) TX Hwy 73 and (b) TX Hwy 124, (55) between junction TX Hwy 61 and Interstate Hwy 10, and junction Interstate Hwy 10 and U.S. Hwy 90, over Interstate Hwy 10, (56) between Galveston and Port Bolivar, TX: from Galveston over Interstate Hwy 45 to junction TX Hwy 87, then over TX Hwy 87 to Port Bolivar, and return over the same route, (57) between junction Interstate Hwy 45 and TX Hwy 6, and Arcadia, TX, over TX Hwy 6, (58) between Dallas and Ennis, TX, over Interstate Hwy 45, (59) between Beaumont and Sour Lake, TX, over TX Hwy 105, (60) between Port Arthur and Sabine Pass, TX, over TX Hwy 87, (61) between Beaumont and Fannett, TX, over TX Hwy 124, (62) between junction TX Hwy 22 and TX Farm Road 1839, and Barry, TX, over TX Hwy 22, (63) between Conroe and Montgomery, TX, over TX Hwy 105W, (64) between Conroe and Security, TX, over TX Hwy 105E, (65) in connection with routes (19), (20), and (21) above, serving Conroe, New Waverly, Huntsville, Trinity, Groveton, Crockett, Pennington, and Lovelady, TX, as off-route points, and (66) serving all intermediate points in routes (1) through (64) above; restricted in (1) through (66) above against the transportation of packages or articles weighing in the aggregate more than 500 pounds from one consignor at one location to one consignee at one location on any one day.

MC 107012 (Sub-601F), filed November 6, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Transporting (1) *paper and paper products, and materials equipment, and supplies* used in the manufacture and distribution of paper and paper products, (2) *plastic and plastic products* (except commodities in bulk) and (3) *furniture,* (except commodities in bulk), between points in the U.S. (except AK and HI and except from the facilities of Scott Paper Co. in DE, ME, MA, NJ, NY, and PA, to those points in the U.S. in and east of ND, SD, NE, KS, OK and TX).

MC 112713 (Sub-316F), filed November 6, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: John M. Records (same address as applicant). Over regular routes transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), moving on bills of lading of freight forwarders as defined in 49 U.S.C. § 10102(8), (1) between Tampa and Miami, FL, over U.S. Hwy 41, and (2) between Naples and Port Everglades, FL, over FL Hwy 84, serving all intermediate points in (1) and (2) above.

Note.—Applicant intends to tack this authority with its existing authority in MC 112713.

MC 119522 (Sub-52F), filed October 31, 1980. Applicant: McLAIN TRUCKING, INC., 2425 Walton St., P.O. Box 2159, Anderson, IN 46011. Representative: John B. Leatherman, Jr. (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in OH, and those in Marion County, IN.

MC 119493 (Sub-401F), filed October 31, 1980. Applicant: MONKEM COMPANY, INC., P.O. Box 1186, Joplin, MO 64801. Representative: Thomas D. Boone (Address same as applicant). Transporting *fertilizer compounds,* from Chicago Heights, IL, to Abilene and Lawrence, KS.

MC 120193 (Sub-3F), filed November 6, 1980. Applicant: C & M TRUCKING, INC. Castle Island Marine Terminal, South Boston, MA 02127. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting *motor vehicles,* in truckaway service, from points in Suffolk County, MA, to points in Albany, Rensselaer, Schenectady, Greene, Columbia, Dutchess, Ulster, Saratoga, and Washington Counties, NY. Condition: Issuance of this certificate is conditioned upon coincidental cancellation, at applicant's written request, of its certificate of registration in MC 120193 (Sub-1), issued October 14, 1963.

MC 124692 (Sub-346F), filed November 12, 1980. Applicant: SAMMONS TRUCKING, a corporation, P.O. Box 4347, Missoula, MT 59806. Representative: James B. Hovland, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55401. Transporting *building materials,* from points in Koochiching County, MN, to points in AZ, NV, and CA.

MC 124692 (Sub-347F), filed November 6, 1980. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59801. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *heat exchangers and parts* for heat exchangers from Tulsa, OK, to points in the U.S.

MC 125023 (Sub-85F), filed October 31, 1980. Applicant: SIGMA–4 EXPRESS, INC., P.O. Box 9117, Erie, PA 16504. Representative: Richard C. McGinnis, 711 Washington Bldg., Washington, DC 20005. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., restricted to traffic originating at or destined to the facilities of Hammermill Paper Company, Inc.

MC 126822 (Sub-107F), filed November 3, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same address as applicant). Transporting (1) *glass,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of glass, between points in Macon County, IL, on the one hand, and, on the other, points in IA, KS, MN, MO, MT, NE, ND, SD, WI, and WY.

MC 126822 (Sub-108F), filed November 12, 1980. Applicant: WESTPORT TRUCKING COMPANY, a Missouri corporation, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (same address as applicant). Transporting *foodstuffs and beverages,* between points in Webb County, TX, on the one hand, and, on the other, points in IL, NJ, NY, and WI.

MC 136343 (Sub-228F), filed October 31, 1980. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17120. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between the facilities of Kimberly-Clark Corporation in AL, AR, CA, CT, MA, MI, MS, NJ, NY, NC, PA, OH, SC, TN, VA, and WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 138575 (Sub-13F), filed November 3, 1980. Applicant: GWINNER OIL CO., INC., P.O. Box 38, Gwinner, ND 58040. Representative: James B. Hovland, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55401. Transporting (1)(a) *agricultural machinery, industrial machinery, and construction machinery,* and (b) *parts and subassemblies* for the commodities in (1)(a) above, form points in Burleigh, Cass, Richland, and Sargent Counties, ND, to points in the U.S. (except AK and HI), and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction.

MC 142603 (Sub-32F), filed November 6, 1980. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *plastic film or sheeting,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk) between points in the U.S., under continuing contract(s) with Resinite Division of Borden Chemical Company, Div. of Borden, Inc., of North Andover, MA.

MC 142603 (Sub-33F), filed November 6, 1980. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. Transporting *piece goods and wearing apparel,* between points in the U.S., under continuing contract(s) with N. Edelson Sons Corporation, of New York, NY.

MC 142603 (Sub-34F), filed November 6, 1980. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O.Box 1968, Springfield, MA 01101. Representative: Stephen J. Habash, 100 East Broad Street, Columbus, OH 43215. Transporting *general commodities* (except household goods as defined by the Commission and Classes A and B explosives) between points in the U.S., under continuing contract(s) with Gulf & Western Industries, Inc., of New York, NY.

MC 143002 (Sub-22F), filed November 12, 1980. Applicant: C.D.B., INCORPORATED, 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Transporting *such commodities* as are dealt in by manufacturers of applicances, between points in the U.S., under continuing contract(s) with the Gibson Appliance Corporation, of Greenville, MI.

MC 144393 (Sub-2F), filed November 7, 1980. Applicant: BORDER DISTRIBUTING COMPANY, 7800 South Angora (P.O. Box 4423), El Paso, TX 79914. Representative: Mr. Gene Crutcher (address same as applicant). Transporting *food, in containers, and meat, meat products and meat by-products, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, between Kansas City, MO, and points in AZ, CA, CO, ID, KS, NV, NM, OK, OR, TX, UT, and WA.

MC 144452 (Sub-21F), filed November 4, 1980. Applicant: ARLEN LINDQUIST d.b.a. ARLEN E. LINDQUIST TRUCKING 7192 Davenport Street, NE., Minneapolis, MN 55434. Representative: William J. Gambucci, Suite M–20 400 Marquette Ave., Minneapolis, MN 55401. Transporting *petroleum automotive chemicals, cleaning compounds, and such commodities* as are dealt in or used by automotive service centers and distributors of petroleum products, (1) between points in OK, on the one hand, and, on the other, points in MN, ND, and SD; and (2) between points in Cook County, IL, on the one hand, and, on the other, points in AR, CO, IL, IN, IA, KY, KS, LA, MI, MN, MO, MT, NE, PA, SD, TN, TX, WI and WY.

MC 144483 (Sub-6F), filed October 31, 1980. Applicant: MAHER, INC., R. R. No. 14, Box 330, West Terre Haute, IN 47885. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower Indianapolis, IN 46204. Transporting *liquefied petroleum gas, and materials, equipment and supplies* used in the manufacture and distribution of liquefied petroleum gas, between points in the U.S., under continuing contract(s) with Pyrofax Gas Corp., of Houston, TX. Condition: Any permit issued in this proceeding shall be limited in term to a period expiring 5 years from its date of issue.

MC 144622 (Sub-192F), filed November 6, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), from the facilities of The Charter Oak Shippers Cooperative Association, Inc., and its members, in CT, MA, RI, NY, and NJ, to points in the U.S.

MC 144622 (Sub-194F), filed November 4, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting *such commodities* as are dealt in or used by hardware stores, drug stores, discount stores, grocery stores, and food business houses, (a) between the facilities of Grocery Store Products, in Chester County, PA, on the one hand, and, on the other, points in CA, MO, and TX, (b) between the facilities of The Clorox Copany, in Cook County, IL, on the one hand, and, on the other, points in CA and TX, and (c) between the facilities of The Clorox Company, in Clayton County, GA, on the one hand, and, on the other, points in CA and MO.

MC 144622 (Sub-195F), filed November 3, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting: *such commodities* as are dealth in by discount and variety stores, (1) between points in AL, AR, IL, KS, KY, LA, MS, MO, OK, TN, and TX; and (2) between points in MN, MI, WI, PA, NY, CT, RI, MA, ME, MD, NJ, WV, VA, NC, and SC, on the one hand, and, on the other, points in AR and TX.

MC 144622 (Sub-196F), filed October 20, 1980. Applicant: GLENN BROTHERS TRUCKING, INC., P.O. Box 9343, Little

Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. Transporting (1) *foodstuffs*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, between Clearfield, UT, Lewiston and American Falls, ID, and points in CA, OR, and WA, on the one hand, and, on the other, those points in the U.S. on and east of U.S. Hwy 85.

MC 147723 (Sub-3F), filed October 31, 1980. Applicant: E. B. COMPANY, a corporation, 5100 West 164th St., Brook Park, OH 44142. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. Transporting (1) *Chemicals* (except commodities in bulk), and (2) *Materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in Los Angeles County, CA, Essex County, NJ, DeKalb County, GA, and Cuyahoga County, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147993 (Sub-5F), filed November 7, 1980. Applicant: C. H. MASLAND & SONS, 50 Spring Rd., Box 40, Carlisle, PA 17013. Representative: J. Roger Gratz (same address as applicant). Transporting *materials, equipment, and supplies* used in the manufacture and distribution of pneumatic tires, tubes, rubber roofing materials, and radiator hose, between points in the U.S., under continuing contract(s) with Carlisle Tire & Rubber Company, of Carlisle, PA.

MC 148283 (Sub-10F), filed November 7, 1980. Applicant: ABC TRANSPORTATION COMPANY, a corporation, State Docks Rd., Eufaula, AL 36027. Representative: Thomas E. James, P.O. Box 270535, Dallas, TX 75227.Transporting *lumber, wood products, and wood articles*, between points in the U.S., under continuing contract(s) with Intermountain-Orient, Inc., of Boise, ID.

MC 148522 (Sub-8F), filed October 30, 1980. Applicant: PAUL E. ACE TRUCKING, INC., 930 Clay Ave., Stroudsburg, PA 18360. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Transporting (1) *corrugated fiberboard products*, from Williamsport, PA, to points in MA, CT, NY, MD, NJ, and PA, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction.

MC 148773 (Sub-3F), filed October 31, 1980. Applicant: A.F.L. TRUCK LINES, INC., 3661 West Blue Heron Blvd., Riviera Beach, FL 33404. Representative: Anthony E. Young, Suite 350, 29 South LaSalle Street, Chicago, IL 60603. Transporting *building materials, lumber, and plywood*, between points in the U.S., under continuing contract(s) with Plywoods Distributing, Inc., of Wheaton, IL.

MC 148822 (Sub-7F), filed November 11, 1980. Applicant: SUPER TRUCKERS, INC., 3900 Commerce Ave., Fairfield, AL 35064. Representative: Gerald D. Colvin, Jr., Birmingham, AL 35203. Transporting (1) *flat glass*, and (2) *materials, equipment and supplies* used in the manufacture, installation, and distribution of flat glass, between points in the U.S., under continuing contract(s) with Laminated Glass Corporation, of Detroit, MI, and Consolidated Eastern Industries, of Telford, PA.

MC 150542 (Sub-2F), filed November 6, 1980. Applicant: RIDGEFIELD PARK TRANSPORT CO., INC., 106 Teaneck Road, Ridgefield Park, NJ 07660. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under a continuing contract(s) with Pepsi-Cola Company, Diversified Containers, Inc., and Pepsi-Cola Metropolitan Bottling Co., Inc., of Purchase, NY.

MC 150612 (Sub-1F), filed November 31, 1980. Applicant: FROST TRANSPORTATION, INC., P.O. Box 3400, Shreveport, LA 73303. Representative: Joseph A. Keating Jr., 121 S. Main St., Taylor, PA 18517. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with Gould, Inc., of Rolling Meadows, IL.

MC 151282 (Sub-1F), filed November 31, 1980. Applicant: WAYNE TRANSPORT, INC., 1790 Spruce St., Defiance, OH 43512. Representative: Keith D. Warner (address same as applicant). Transporting (1) *iron and steel articles*, and (2) *materials and supplies* used in the manufacture and distribution of iron and steel articles, between points in the U.S., under continuing contract(s) with Defiance Steel Co., Inc., of Defiance, OH, and SOCOR Incorporated, of Continential, OH. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343 or submit an affidavit indicating why such approval is unnecessary.

MC 152252 (Sub-2F), filed November 6, 1980. Applicant: CONSOLIDATED PRODUCTIONS, INC., 333 North Foothill Road, Beverly Hills, CA 90210. Representative: Ira S. Rubin, One Wilshire Bldg. Suite 1600, Los Angeles, CA 90017. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of theatrical, stage, trade, and industrial shows and productions, between points in the U.S.

MC 152503F, filed October 22, 1980. Applicant: R. J. ESPOSITO TRUCKING CO., 210 Depot Rd., P.O. Box 3205, Milford, CT 06460. Representative: Walter L. Weart, 548 Anita St., Des Plaines, IL 60016. Transporting *general commodities*, (except household goods as defined by the Commission, and classes A and B explosives), between points in ME, NH, VT, CT, RI, MA, PA, NY, NJ, MD, DE, and DC.

MC 152512F, filed October 28, 1980. Applicant: CARL MARTINO, d.b.a. C. CARL DELIVERY SERVICE, 101 Kimberry County, Rolling Meadows, IL 60008. Representative: Themis N. Anastos, 120 West Madison St., Chicago, IL 60602. Transporting *plastic and plastic products, and pulp board*, from points in Cook and McHenry Counties, IL, to points in Milwaukee, Racine, and Kenosha Counties, WI.

MC 152543 (Sub-1F), filed November 5, 1980. Applicant: J & S TRANSPORTATION, INC., 1015 North Street, Conyers, GA 30207. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237. Transporting *liquid chemicals*, in bulk, in tank vehicles, between points in Fulton, DeKalb, Cobb, Clayton, Gwinnett and Rockdale Counties, GA, on the one hand, and, on the other, points in AL, AR, DE, FL, GA, IL, KY, LA, MS, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA and WV.

MC 152562F, filed October 30, 1980. Applicant: P.P.M. CARRIERS, INC., 18 Hackensack Ave., S. Kearny, NJ 07032. Representative: Robert A. Russell, 300 Main St., Hackettstown, NJ 07804. Transporting *waste products and materials for recycling*, between points in NJ, NY, IA, IN, LA, TX, MS, OK, AL, AR, MO, NE, MI, and WI.

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Decided November 18, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman. Member Eaton not participating.

MC 1824 (Sub-128F), filed November 3, 1980. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Blvd., Preston, MO 21655. Representative: C. S. Perry (same address as applicant).

Transporting *general commodities*, except household goods as defined by the Commission, and classes A and B explosives), serving Wentzville, MO, as an off-route point in connection with carrier's presently authorized regular routes.

MC 60014 (Sub-197F), filed November 6, 1980. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *building materials, insulating materials, pipe, and refractory products*, and (2) *materials and supplies* used in the manufacture of the commodities in (1), between points in the U.S., restricted to traffic originating at or destined to the facilities of Johns-Manville Sales Corporation.

MC 96324 (Sub-44F), filed November 4, 1980. Applicant: GENERAL DELIVERY, INC., P.O. Box 1816, Fairmont, WV 26554. Representative: Harold G. Hernly, Jr., 110 S. Columbus St., Alexandria, VA 22314. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in KS and TX and those points in the U.S., in and east of MN, IA, MO, AR, and LA, restricted to traffic originating at or destined to the facilities of International Paper Company and its subsidiaries.

MC 99535 (Sub-2F), filed October 27, 1980. Applicant: STEVEN FREIGHT SERVICE CO., INC., 16 Sturtevant St., Sommerville, MA 02145. Representative: Robert L. Cope, Suite 501, 1730 M St., NW., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in MA. Condition: Issuance of a certificate is conditioned upon prior or coincidental cancellation of Certificate of Registration MC 99535 (Sub-1), at applicant's written request.

Note.—The purpose of this application is to convert a registered certificate into a certificate of public convenience and necessity. Applicant is relying upon traffic studies to support this grant of authority.

MC 99535 (Sub-3F), filed October 27, 1980. Applicant: STEVEN FREIGHT SERVICE CO., INC., 16 Sturtevant St., Sommerville, MA 02145. Representative: Robert L. Cope, Suite 501, 1730 M St., NW., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S., under continuing contract(s) with Lever Brothers Company, of New York, NY.

MC 107295 (Sub-1002F), filed November 6, 1980. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). Transporting (1) *lighting products*, from Crawfordsville, IN and Vermillion, OH, to points in the U.S., (except AK and HI); and (2) *material, equipment and supplies* used in the manufacture and distribution of lighting products, in the reverse direction.

MC 107295 (Sub-1003F), filed November 6, 1980. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). Transporting *general commodities* (except those of unusal value, classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in the U.S.

MC 107515 (Sub-1393F), filed November 3, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting (1) *automotive supplies*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk), between the facilities of or used by Union Carbide Corporation, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 109634 (Sub-9F), filed November 6, 1980. Applicant: TRAILER CONVOYS, INC., 1248 Highway 31, Jeffersonville, IN 47130. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *trailers and trailer chassis*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1), between points in the U.S., under continuing contract(s) with Merritt Equipment Company, of Portland, OR.

MC 116014 (Sub-90F), filed October 30, 1980. Applicant: OLIVER TRUCKING CO., INC., P.O. Box 53, Winchester, KY 40391. Representative: Louis J. Amato, P.O. Box R, Bowling Green, KY 42101. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in AL, AR, GA, IL, IN, KY, MD, MI, MS, MO, NC, OH, OK, PA, SC, TN, VA, WV, WI, and NY.

MC 121664 (Sub-135F), filed November 4, 1980. Applicant: HORNADY TRUCK LINE, INC., P.O. Box 846, Monroeville, AL 36460. Representative: William E. Grant, 1702 1st Ave. South, Birmingham, AL 35233. Transporting (1) *forest products, lumber and wood products, pulp, paper or allied products*, as described in Items 08, 24, and 26 of the Standard Transportation Commodity Code Tariff, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 123255 (Sub-224F), filed November 6, 1980. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Rd, Newark, OH 43055. Representative: C. F. Schnee, Jr. (same address as applicant). Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between the facilities of the United States Gypsum Company, in the U.S., on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 130485 (Sub-1F), filed October 31, 1980. Applicant: TRAVELCENTER, INC., 4500 Perkiomen Ave., Reading PA 19606. Representative: Lawrence E. Lindeman, 425 13th St. NW., Suite 1032, Washington, DC 20004. As a *broker*, at Harrisburg, Reading, Lebanon, Scranton, York, Pottsville, Hazleton, Wilkes-Barre, and Selingsgrove, PA, in arranging for the transportation of *passengers and their baggage*, in special and charter operations, between points in the U.S. Condition: Issuance of a broker certificate in this proceeding is conditioned upon prior or coincidental cancellation of MC 130485, at applicant's written request.

MC 134035 (Sub-44F), filed November 6, 1980. Applicant: DOUGLAS TRUCKING COMPANY, a corporation, P.O. Box 698, Highway 75 South, Corsicana, TX 75110. Representative: Jack K. Williams, P.O. Box 698, Corsicana, TX 75110. Transporting (1) *fireworks*, and (2) *materials, supplies and equipment* used in the manufacture of fireworks, between points in Chaves County, NM, San Bernardino and Los Angeles Counties CA, El Paso, Bexar and Tarrant Counties, TX, Tulsa County, OK, Lowndes County, MS, Hamilton County, TN and Montgomery County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: To the extent the certificate in this proceeding authorizes classes A and B explosives it shall expire 5 years from its date of issuance.

MC 135895 (Sub-114F), filed November 3, 1980. Applicant: B & R DRAYAGE,

V 45 N 0 28 80 0 UMI

INC., P.O. Box 8543, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting *foodstuffs* and *equipment, materials and supplies* used in the manufacture, sale, and distrubution of foodstuffs (except commodities in bulk and those requiring special equipment), between the facilities of Blasic Foods, Inc., at (1) Greenville, MS, Imaly City, Bridgeport, and Memphis, MI, and (3) Millsboro, DE, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 136384 (Sub-25F), filed November 3, 1980. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, Savannah, GA 31402. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Transporting (1) *paper and paper products,* from the facilities of Union Camp Corp., at or near Savannah and Tifton, GA, to points in IN and IL; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), in the reverse direction.

MC 136545 (Sub-34F), filed November 3, 1980. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., 929 Railroad Street, Prentice, WI 54556. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. Transporting *lumber products, wood products,* and *building materials,* between points in WI, on the one hand, and, on the other, points in the U.S.

MC 138714 (Sub-8F), filed November 4, 1980. Applicant: VIRGINIA TRANSPORTATION, INC., Box 26449, Richmond, VA 23261. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW., Washington, DC 20005. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Wards Company, Inc., of Richmond, VA. and its subsidiaries.

MC 141914 (Sub-94F), filed November 3, 1980. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant). Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Brunswick Corporation.

MC 142254 (Sub-7F), filed November 3, 1980. Applicant: FRIEDL FUEL & CARTAGE, INC., 440 West Ann Street, Whitewater, WI 53190. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. Transporting (1) *pipe,* and (2) *materials, equipment or supplies* used in the manufacture, sale, and distribution of pipe, between East Troy, WI, on the one hand, and, on the other, points in AR, CO, DE, IA, IL, IN, KS, KY, LA, MD, MI, MN, MO, MS, NC, ND, NE, NJ, NY, OH, OK, PA, SD, TN, TX, VA, and WV.

MC 145664 (Sub-33F), filed November 3, 1980. Applicant: STALBERGER, INC., 223 S. 50th Ave. W., Duluth, MN 55807. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting (1) *forest products,* (2) *lumber and wood products* (except furniture), and (3) *materials, equipment, and supplies* used in the manufacture, sale and distribution of the commodities in (1) and (2) above, (a) between points in MN, on the one hand, and, on the other, points in the U.S. and (b) from ports of entry on the international boundary line between the U.S. and Canada (except those in MN), to points in the U.S.

MC 146075 (Sub-3F), filed November 6, 1980. Applicant: TEXAS INTERMOUNTAIN TRANSPORTATION, INC., 6161 West 29th Place, Wheatridge, CO 80214. Representative: Delbert Ewing (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, commodities in bulk, and classes A and B explosives), between points in AR, CO, ID, LA, MT, NM, OK, TX, UT, and WY, restricted to traffic originating at or destined to facilities used by Ralston Purina Company.

MC 146985 (Sub-4), filed October 31, 1980. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731 South Main Street, P.O. Box 1614, Elkhart, IN 46515. Representative: Phillip A. Renz, Suite 200, Metro Building, Fort Wayne, IN 46802. Transporting (1) *drugs and chemicals,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Miles Laboratories, Inc., of Elkhart, IN.

MC 146985 (Sub-6F), filed November 6, 1980. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731 South Main Street, P.O. Box 1614, Elkhart, IN 46514. Representative: Phillip A. Renz, Suite 200, Metro Building, Fort Wayne, IN 46802. Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives between points in the U.S., under continuing contract(s) with Great Lakes Terminal & Transport Corporation, of Chicago, IL.

MC 148314 (Sub-6F), filed November 3, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th Street, Chicago, IL 60628. Representative: Joel H. Steiner, 39 South LaSalle Street, Suite 600, Chicago, IL 60603. Transporting *silicon carbide and silicon carbide briquettes,* between Milwaukee, WI, Saginaw, MI, and Birmingham, AL, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 151344 (Sub-1F), filed October 31, 1980. Applicant: MICHAEL T. SPENCER, d/b/a MIKE SPENCER TRUCKING, P.O. Box 996, Yuba City, CA 95991. Representative: Ronald C. Chauvel, 100 Pine St., Suite 2550, San Francisco, CA 94111. Transporting *salt and salt products,* between points in the U.S., under continuing contract(s) with Leslie Salt Company, of Newark, CA

MC 152324 (Sub-1F), filed October 30, 1980. Applicant: CARTWRIGHT MOVING & STORAGE CO., INC. 11901 Cartwright Avenue, Grandview, MO 64030. Representative: Alex M. Lewandowski, 1221 Baltimore Avenue, Suite 600, Kansas City, MO 64105. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with the Jones Store Company, of Kansas City, MO.

Volume No. OP3–087

Decided: November 20, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 14314 (Sub-44F), filed November 10, 1980. Applicant: DUFF TRUCK LINE, INC., P.O. Box 359, Broadway and Vine Sts., Lima, OH 45802. Representative: R. L. Anderhalt, Jr. (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Cincinnati, OH, and Somerset, KY, over U.S. Hwy 27, (2) between Dale, IN, and Bowling Green, KY, over U.S. Hwy 231, (3) between Evansville, IN, and Hopkinsville, KY, over U.S. Hwy 41, (4) between Cynthiana, KY, and Paducah, KY, over U.S. Hwy 62, (5) between Louisville, KY, and Ashland, KY, over U.S. Hwy 60, (6) between Hopkinsville, KY, and Somerset, KY, from Hopkinsville over U.S. Hwy 68 to junction KY Hwy 80, then over KY Hwy 80 to Somerset, and return over the same route, (7) between Cincinnati, OH, and Lexington, KY, over Interstate Hwy 75, (8) between Cincinnati, OH, and Louisville, KY, over Interstate Hwy 71, (9) between Indianapolis, IN, and Bowling Green, KY, over Interstate Hwy 65, (10) between St. Louis, MO, and Louisville, KY, over Interstate Hwy 64, (11) between Salem, IL, and Paducah, KY, from Salem over Interstate Hwy 57 to junction Interstate Hwy 24, then over Interstate Hwy 24 to Paducah, and return over the same route, (12) on routes (1) through (6), serving all intermediate points, and off-route points in Adair, Anderson, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Campbell, Carroll, Carter, Casey, Christian, Clark, Crittendon, Daviess, Edmonson, Fayette, Fleming, Franklin, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hopkins, Jefferson, Jessamine, Kenton, Larue, Lewis, Lincoln, Livingston, Logan, Lyon, McCracken, McLean, Madison, Marion, Marshall, Mason, Meade, Mercer, Metcalfe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Pendleton, Pulaski, Robertson, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Trimble, Union, Warren, Washington, Webster, and Woodford Counties, KY, and (13) in routes (7) through (11) serving no intermediate points, but for operating convenience only.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 114284 (Sub-97F), filed November 11, 1980. Applicant: FOX-SMYTHE TRANSPORTATION CO., a corporation, P.O. Box 82307, Oklahoma City, OK 73148. Representative: William B. Barker, 641 Harrison St., P.O. Box 1979, Topeka, KS 66601. Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Los Angeles, CA, to points in CA, AR, IL, IA, KS, MO, NE, OK, and TX.

MC 123744 (Sub-92F), filed November 10, 1980. Applicant: BUTLER TRUCKING CO., P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., P.O. Box 1320, 110 N. 2nd St., Clearfield, PA 16830. Transporting (1) *refractories and refractory materials,* and (2) *iron and steel articles,* between Chciago, IL, on the one hand, and, on the other, points in IL, OH, PA, WV, NY, MD, VA, DE, and NJ.

MC 140484 (Sub-83F), filed November 10, 1980. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant). Transporting *fresh and frozen meats, meat products, meat by-products, and articles distributed by meat packinghouses,* as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and *foodstuffs,* from points in AL, GA, CO, IL, IA, KS, LA, MA, MD, MS, NE, NY, PA, TX, TN, and WI to points in FL on and south of FL Hwy 50.

MC 142245 (Sub-6F), filed November 10, 1980. Applicant: NATIONWIDE TRUCK BROKERS, INC., 5475 Clay Ave. SW., Grand Rapids, MI 49508. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. Transporting (1) *apple juice, apple cider and vinegar and other apple products and (2) glass and paper containers* (except in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Indian Summer, Incorporated.

MC 151244 (Sub-1F), filed November 11, 1980. Applicant: EDWARD YELLI, d.b.a. E & E TRUCKING, Ewing, NE 68735. Representative: James F. Crosby, James F. Crosby & Associates, 7363 Pacific St., #210B, Omaha, NE 68114. Transporting *disposable syringes,* and *needles,* from points in Madison and Stanton Counties, NE to points in CA.

MC 152365 (Sub-1F), filed November 10, 1980. Applicant: PETROLEUM PUMP & TRANSPORT SERVICE, INC., 2800 West 42d St., P.O. Box 3803, Odessa, TX 79760. Representative: George L. Fowler, 115 West Fifth St., Odessa, TX 79761. Transporting *such machinery, materials, supplies, and equipment* as are incidental to, or used in the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, between points in TX, OK, KS, NM, LA, and CO.

MC 152445 (Sub-1F), filed November 10, 1980. Applicant: MATHEWS TRANSPORT, INC., Route 1, Box 47, Walworth, WI 53184. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. Transporting (1) *doors,* (2) *door frames,* and (3) *parts for doors and door frames,* and (4) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1), (2), and (3), between points in Walworth County, WI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-37029 Filed 11-26-80; 8:45 am]
BILLING CODE 7035-01-M

Permanent Authority Decisions Notice

The following applications, files on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other thing, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(K) may file a petition for leave to intervene under Rule 247(1) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interests of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

V. 45 NO 231 UMI

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute and application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, and applicant must provide a copy of the tentative rate schedule to any protestant.

Futher processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after November 28, 1980.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings. With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenicence and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements to Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human enviroment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed on or before December 29, 1980 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce over irregular routes, except as otherwise noted.

Volume No. 381

Decided: November 20, 1980.

By the Commission, Review Board Number 1, members Carleton, Joyce and Jones.

MC 148732 (Sub-3F), (correction) filed June 30, 1980, published in the **Federal Register**, issue of August 7, 1980, and republished, as corrected, this issue. Applicant: L & J TRUCKING, INC., P.O. Box 1325, Wisconsin Rapids, WI 54494. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *such commodities* as are dealt in or used by manufacturers, converters, printers and distributors of paper and paper products (except commodities in bulk), from points in Wood and Portage Counties, WI, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. The purpose of this republication is to correct the territorial description, substituting NV for WV as destination states.

Volume No. 382

Decided: November 18, 1980.

By the Commission, Review Board Number 2, members Chandler, Eaton and Liperman.

MC 140612 (Sub-73F), filed October 2, 1979. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, IA 52406. Representative: J. L Kazimour (address same as applicant). Transporting (1) *kitchen, bathroom, and household cabinets, and (2) materials, equipment and supplies* used in the manufacture, sale and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles). Between Des Moines, IA, on the one hand, and, on the other, points in and west of MI, OH, KY, TN, NC, SC, GA, and FL, restricted to traffic originating at or destined to the facilities used by Francisco Cabinet Corp.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-37027 Filed 11-26-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before January 12, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1-081

Decided: November 20, 1980.

By the Commission, Review Board Number 1, members Carleton, Joyce and Jones. Member Joyce not participating.

MC 6031 (Sub-61F), filed November 12, 1980. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 East National Ave., Milwaukee, WI 53204. Representative: Richard C. Alexander, 710 North Plankinton Ave., Milwaukee, WI 53203. Transporting *metal articles*, between points in the U.S., under continuing contract(s) with Joseph T. Ryerson & Son, Inc., of Milwaukee, WI.

MC 56270 (Sub-49F), filed November 12, 1980. Applicant: LEICHT TRANSFER & STORAGE CO., a corporation, 1401 State St., P.O. Box 2385, Green Bay, WI 54306. Representative: Leonard R. Kofkin, 39 South LaSalle St., Chicago, IL 60603. Transporting *fabricated metal products*, from Stevens Point and New London, WI, to points in the U.S.

MC 66100 (Sub-43F), filed November 6, 1980. Applicant: D. P. BONHAM TRANSFER, INC., P.O. Drawer G, Bartlesville, OK 74003. Representative: Nate Bonham, Jr. (same address as applicant). Transporting (1) *concrete roofing tile*, and (2) *materials and supplies* used in the manufacture and installation of concrete roofing tile, between points in Pottawatomie County, OK, on the one hand, and, on the other, points in AR, CO, KS, LA, MO, NM, and TX.

MC 103490 (Sub-85F), filed November 12, 1980. Applicant: PROVAN TRANSPORT CORP., 210 Mill St., Newburgh, NY 12550. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *chemicals*, in bulk (1) between points in New Jersey and points in Fairfield County, CT, on the one hand, and, on the other, points in the U.S., and (2) between points in Harris County, TX, and Shelby County, TN, on the one hand, and, on the other, points in Fayette County, PA.

MC 110420 (Sub-858F), filed November 11, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Transporting *wine*, in bulk, from Guasti, CA, to Walworth, WI.

MC 113751 (Sub-39F), filed November 11, 1980. Applicant: HAROLD F. DUSHEK, INC., 10th & Columbia Streets, Waupaca, WI 54981. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. Transporting *foodstuffs*, from Lawton, MI, to points in IA, IL, IN, KY, MN, MO, ND, SD, TN, and WI.

MC 118431 (Sub-37F), filed November 11, 1980. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam, Omaha, NE 68102. Transporting (1) *foodstuffs*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk), between points in the U.S., under continuing contract(s) with Ore-Ida Foods, Inc., of Boise, ID.

MC 124821 (Sub-108F), filed November 12, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Avenue, Old Forge, PA 18518. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. Transporting (1) *foodstuffs*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between Franklin Park, IL, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 141740 (Sub-14F), filed November 12, 1980. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Ball Corporation, of Muncie, IN.

MC 145240 (Sub-8F), filed November 12, 1980. Applicant: L. D. BRINKMAN TRUCKING CORP., 520 N. Wildwood, Irving, TX 75060. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245. Transporting *such commodities* as are dealt in by grocery and food business houses, between points in the U.S., under continuing contract(s) with The Colgate Palmolive Company, of Kansas City, KS.

MC 147021 (Sub-7F), filed October 31, 1980. Applicant: C. SUMMERS, INC., 112 Spruce St., Elizabethville, PA 17023. Representative: Daniel W. Krane, P.O. Box 626, 2207 Old Gettysburg Rd., Camp Hill, PA 17011. Transporting (1) *non-exempt food or kindred products*, as described in Item 20 of the Standard Transportation Commodity Code Tariff, and (2) *materials and supplies* used in the distribution of the commodities in (1) above, between points in Cumberland, Luzerne, Lancaster, Montgomery and Schuylkill Counties, PA, on the one hand, and, on the other, points in DE, IL, IN, MD, MI, OH, PA, NJ, NY, VA, WV, and DC.

Volume No. OP2-100

Decided: November 19, 1980.

By the Commission Review Board Number 2, Members Chandler, Eaton, and Liberman.

MC 128153 (Sub-4F), filed October 31, 1980. Applicant: VICTORY VAN CORPORATION, 950 South Pickett Street, Alexandria, VA 22304. Representative: Alan F. Wohlstetter, Suite 301, 1700 K Street, NW., Washington, DC 20006. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

MC 139052 (Sub-2F), filed November 3, 1980. Applicant: CENTRAL UTAH TRANSPORTATION CO. d.b.a. ALL STATES MOVING & STORAGE, 514 S. University Ave., Provo, UT 84601. Representative: Irene Warr, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 151383 (Sub-1F), filed November 3, 1980. Applicant: GENE SCHMITZ TRUCKING, INC., 2800 S. Meridian, Oklahoma City, OK 73108. Representative: C. L. Phillips, Room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

MC 115322 (Sub-201F), filed November 3, 1980. Applicant: REDWING

REFRIGERATED, INC., P.O. Box 10177,

Upon receipt by the carrier of an

necessity permitting abandonment was

Response of United States to Comments Relating To Proposed Final Judgment

Columbia, during the period July 31–August 6, 1980, and

a consent decree. H.R. Rep. No. 1463, 93rd Cong., 2d Sess. 11–12 (1974) (U.S. Code Cong.

REFRIGERATED, INC., P.O. Box 10177, Taft, FL 32809. Representative: James E. Wharton, Suite 811, Metcalf Bldg., 100 South Orange Ave., Orlando, FL 32801. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

MC 152573F filed November 3, 1980. Applicant: EWALD SPRECHER, an individual, 704 South Kimball, Mitchell, SD 57301. Representative: James Robert Evans, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting *food and other edible products* (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, *agricultural limestone and other soil conditioners, and agricultural fertilizers* when such transportation is provided with the owner of the motor vehicle, except in emergency situations, between points in the U.S.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-37026 Filed 11-26-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-57 (Sub-9F)]

Soo Line Railroad Co.—Abandonment—Near Bergland and Ontonagon, MI; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided November 21, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, the present and future public convenience and necessity permit the abandonment by the Soo Line Railroad Company of a line of railroad known as the Bergland-Nestoria line extending westerly from a point near Nestoria, Baraga County, MI, at railraod milepost 201.68 to a point near Bergland, Ontonagon County, MI, at railroad milepost 268.89, a distance of 67.21 miles, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979). A certificate of public convenience and necessity permitting abandonment was issued to the Soo Line Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than December 8, 1980. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-37068 Filed 11-26-80; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-69 (Sub-5F)]

Western Maryland Railway Co.—Abandonment—Between Williams and Pierce in Tucker County, W. Va.; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided November 21, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), and further that applicant shall keep intact all of the right-of-way underlying the track, including all the bridges and culverts for a period of 120 days from the decided date of the certificate and decision to permit any state or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment and discontinuance of service on the following line of railroad known as: Sand Run Branch, from Valuation Station minus 1+11 (milepost 0.00), at or near Williams, W VA, to Valuation Station 126+00 (milepost 2.41), near Pierce, W VA, a total distance of 2.41 miles in Tucker County, W VA. A certificate of public convenience and necessity permitting abandonment was issued to the Western Maryland Railway Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, D.C. 20423, no later than December 8, 1980. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-37067 Filed 11-26-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Agri-Mark, Inc., et al. Competitive Impact Statements and Proposed Consent Judgments

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), (APPA), the Antitrust Division publishes the following *Comments* received from members of the public on the proposed Final Judgment filed on July 16, 1980 in the case of *United State* v. *Agri-Mark, Inc., et al.*, Civil Action No. 80-174 (D. VT). Also published, herewith, is the *Response* of the Department of Justice to such *Comments*. This publication completes compliance with the provisions of the APPA.

Joseph H. Widmar,

Director of Operations Antitrust Division.

U.S. District Court For the District of Vermont

United States of America, Plaintiff, v. *Agri-Mark, Inc., Agway Inc., and H. P. Hood, Inc.*, Defendants.

Civil Action No.: 80-174.

Response of United States to Comments Relating To Proposed Final Judgment

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C 16(b), plaintiff, the United States of America, hereby files the comments of members of the public on the proposed Final Judgment in this civil antitrust suit and the United States' response to those comments.

Factual Background

Agri-Mark, Inc. ("Agri-Mark"), is the largest cooperative of dairy farmers in New England. It is the successor to Yankee Milk, Inc. ("Yankee"). H. P. Hood, Inc. ("Hood") is New England's largest dairy. The Complaint charged that a proposed supply agreement between Agri-Mark and Hood and Agri-Mark's acquisition of all of Hood's fixed dairy assets would violate Sections 3 and 7 of the Clayton Act, respectively. This transaction would have violated the Clayton Act by foreclosing dairy farmers who were not Agri-Mark members from selling milk to Hood and because it may have lessened competition in the production, sale, and procurement of raw milk and fluid milk products by creating a combination powerful enough to dominate the New England milk industry at the producer and dairy levels. Plaintiff filed the Complaint on June 26, 1980.

The parties entered settlement negotiations on July 2, 1980. Those negotiations resulted in a stipulation for entry of a proposed Final Judgment settling this action.

The proposed Final Judgment enjoins Agri-Mark from favoring Hood over other dairies in price or other terms or conditions of sale, from selectively cutting prices so as to lessen competition, and from discriminating against members who leave Agri-Mark in order to compete with it. Hood is enjoined from entering any supply agreement with Agri-Mark with a duration of more than one year and from hauling milk for Agri-Mark. Hood and Agri-Mark are enjoined from having any common officers, directors, or management, from discussing milk prices except for sales between themselves, and from acquiring any dairy or balancing plant for five years without the consent of the Department of Justice or the Court. Pursuant to the proposed Final Judgment, Hood must purchase milk from Hood independents (dairy farmers who shipped milk to Hood at any time in February, 1980, and who, at that time, were not members of a milk marketing or bargaining cooperative) until March 1, 1981, and Agri-Mark must permit Hood independents to terminate their Agri-Mark marketing agreements during a 20 day grace period.

To date, the parties have complied with the provisions of the Antitrust Procedures and Penalties Act as follows:

(1) The proposed Final Judgment and a Competitive Impact Statement were filed July 16, 1980;

(2) The proposed Final Judgment and a Competitive Impact Statement were published in the **Federal Register** on July 31, 1980, 45 FR 50900;

(3) A summary of the terms of the proposed Final Judgment and Competitive Impact Statement was published:

(a) In the *Washington Star*, a newpaper of general circulation in the District of Columbia, during the period July 31–August 6, 1980, and

(b) In the *Burlington Free Press*, a newspaper of general circulation in Burlington, Vermont, during the period August 6–12, 1980;

(4) The sixty-day period specified in 15 U.S.C. 16(b) commenced on August 6, 1980 and terminated on October 6, 1980;

(5) The United States hereby files the comments of members of the public (attached as appendix A) together with the United States' response to the comments, pursuant to 15 U.S.C. 16(b) and;

(6) Defendants filed statements pursuant to 15 U.S.C. 16(g) on July 25, 1980.

The United States will move this Court for entry of the Final Judgment after the comments and the response are published in the **Federal Register**. No Final judgment can be entered before that publication. 15 U.S.C. 16(d).

I.

Legal Standard Governing the Court's "Public Interest" Determination

The Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. 16, governs the entry of consent judgments in antitrust actions commenced by the United States. In general, the Act imposes upon the court an affirmative duty to determine, prior to entry of any final consent judgment, whether the entry of the consent judgment is in the public interest, and, by imposing disclosure obligations upon the parties, opens the negotiations and the proposed consent judgment to limited public scrutiny.

Prior to passage of the APPA in 1974, it was already clear that entry of a "consent decree is a judicial act * * * and, therefore, involves a determination by the chancellor that it is equitable and in the public interest." *United States* v. *Radio Corporation of America*, 46 F. Supp. 854, 855 (D. Del. 1942), *appeal dismissed*, 318 U.S. 796 (1943); *United States* v. *Carter Products, Inc.*, 211 F. Supp. 144, 147–48 (S.D.N.Y. 1962); *see also United States* v. *Swift & Co.*, 286 U.S. 106, 115 (1932). Judges were on notice that a consent decree "must be scrutinized carefully and approved, both as to form and content, by the court entering it, prior to such entry." *Esco Corp.* v. *United States*, 340 F.2d 1000, 1005 (9th Cir. 1965).

Before the APPA, primary responsibility for determining that settlements were in the public interest was vested in the department of Justice. *See* Handler, *The Shift From Substantive to Procedural Innovations in Antitrust Suits—The Twenty-Third Annual Antitrust Review*, 71 Colum. L. Rev. 1, 17–23 (1971). The Attorney General retained a considerable range of discretion in negotiating and agreeing to consent judgments. *See Sam Fox Publishing Co.* v. *United States*, 366 U.S. 683, 689 (1961); *Swift & Co.* v. *United States*, 276 U.S. 311, 331–32 (1928). "We do not question the authority of the Attorney General to settle (antitrust) suits after, as well as before, they reach here." *Cascade natural Gas Corp.* v. *El Paso Natural Gas Co.*, 386 U.S. 129, 136 (1967).

None of this was altered with enactment of the APPA. As the House Report States, the APPA is "unambiguous" in adopting prior law as to the standards for judicial review of a consent decree. H.R. Rep. No. 1463, 93rd Cong., 2d Sess. 11–12 (1974) (U.S. Code Cong. and Admin. News 1974, 93rd Cong. 2nd Sess., p. 6542).[1] Congress was satisfied with the existing standard of review but directed courts to apply the required standard rather than simply to rubber-stamp consent decrees. The APPA's procedures ensure that courts will make the independent but not *de novo* assessment of the public interest required by the pre-existing law.

There have been several published decisions regarding judicial review of consent decrees under the APPA.[2] Two principles emerge from the case law and the legislative history of the APPA. First, the decision to make a settlement and the terms of settlement are within the discretionary power of the Attorney General. Second, the APPA requires the court to guard the public from acts in bad faith or clear error by the Attorney General. Thus, the courts and the APPA recognize that, barring dereliction of duty, the Attorney General is the protector of the public interest in antitrust law enforcement and decisions made by the Attorney General in negotiating consent judgments should be determinative of that interest.

The Attorney General's responsibilities include negotiating consent decrees, "a legitimate and integral part of antitrust enforcement." S. Rep. No. 298, 93d Cong. 1st Sess. 3 (1973). His broad discretion to settle antitrust suits is not questioned absent a claim of bad faith or malfeasance on the part of the government. *United States* v. *Associated Milk Producers, Inc.*, 394 F. Supp. 29, 41 (W.D. Mo. 1975), *aff'd*, 534 F.2d 113 (8th Cir. 1976), *cert. denied sub nom. National Farmers Organization, Inc.* v. *United States*, 429 U.S. 940 (1976) (hereafter *AMPI*) (citing *Sam Fox Publishing Co., supra*, and *Swift & Co., supra*). In affirming the lower court's denial of motions to intervene in *AMPI*, the Eight Circuit noted, 534 F. 2d at 117:

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[1] The text of the House Report is:

Preservation of antitrust precedent rather than innovation in the usage of the phrase, "public interest," is, therefore, unambiguous. The original phrase ("public interest as defined by law") either referred to "all law" and was too general or referred to "antitrust law" and was too narrow in that the policy of the antitrust laws as such would not admit of compromises made for nonsubstantive reasons inherent in the process of settling cases through the consent decree procedure. See, for example, *U.S.* v. *Atlantic Refining Co.*, 360 U.S. 19 (1959); *U.S.* v. *Armour & Co.*, 402 U.S. 673 (1971).

[2] *United States* v. *Bechtel Corp.*, 1979–1 Trade Cases ¶ 62,430 at 78,585 (N.D. Calif. 1979), (attached to Court copy as appendix B) *appeal docketed*, No. 79–4104 (9th Cir. April 9, 1979); *United States* v. *Carrols Development Corporation*, 454 F. Supp. 1215, 1222 (N.D.N.Y. 1978); *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1141–45 (C.D. Calif. 1978); *United States* v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cases ¶ 61,508 at 71,979–980 (W.D. Mo. 1977) (attached to Court copy as appendix C); *United States* v. *Morgan Drive Away Inc.*, 1976–1 Trade Cases ¶ 60,949 at 69,191 (D.D.C. 1976) (attached to Court copy as appendix D); *United States* v. *Gillette Co.*, 406 F. Supp. 713, 715–717 (D. Mass. 1975); and *United States* v. *Associated Milk Producers, Inc.*, 394 F. Supp. 29, 44–46 (W.D. Mo. 1975), *aff'd*, 534 F. 2d 113 (8th Cir. 1976), *cert. denied sub nom. National Farmers Organization, Inc.* v. *United States*, 429 U.S. 940 (1976).

It is axiomatic that the Attorney General must retain considerable discretion in controlling government litigation and in determining what is in the public interest.

At the same time it is important to bear in mind that consent decrees normally embody compromise. *United States* v. *Armour & Co.*, 402 U.S. 673, 681 (1971), and that the law favors compromise settlements. *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1141 (C.D. Calif. 1978). In approving the consent decree in *United States* v. *Gillette Co.*, 406 F. Supp. 713 (D. Mass. 1975), Judge Aldrich explained:

> It is not the court's duty to determine whether this is the best possible settlement that could have been obtained if, say, the government had bargained a little harder. The court is not settling the case. It is determining whether the settlement achieved is within the reaches of the public interest.

These decisions are consistent with Congressional concern in passing the APPA that consent decrees remain a viable enforcement option. S. Rep. No. 298 at 6. They could not remain viable if it were necessary for a reviewing court to conduct a trial for the *de novo* determination of factual issues relevant to the adequacy of a proposed decree. The legislative history is clear that the court need not conduct the equivalent of a trial on the merits, or even conduct a hearing or take evidence; S. Rep. No. 298 at 6:

> The Committee recognizes that the court must have broad discretion to accommodate a balancing of interests. On the one hand, the court must obtain the necessary information to make its determination that the proposed consent decree is in the public interest. On the other hand, it must preserve the consent decree as a viable settlement option. It is not the intent of the Committee to compel a hearing or trial on the public interest issue. It is anticipated that the trial judge will adduce the necessary information through the least complicated and least time-consuming means possible. Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, this is the approach that should be utilized. Only where it is imperative that the court should resort to calling witnesses for the purpose of eliciting additional facts should it do so.[2]

The expeditious procedures to determine the public interest that Congress envisioned would not be possible without reliance upon the Department of Justice's good faith execution of its authority to protect the public interest.

The APPA suggests a number of factors that a court *may* consider in making its public interest determination. 15 U.S.C. 16(e)(1) and (2). It is instructive that these enumerated factors are a restatement of subjects the United States *must* address in its Competitive Impact Statement, 15 U.S.C. 16(b). Each of these factors is relevant to the adequacy of a consent judgment. That the United States must consider these factors, but that the court need not, indicates plainly Congessional willingness to rely upon determinations of the Department of Justice.

[2] This passage is quoted in *AMPI, supra*, 394 Fed. Supp. at 44–45.

Congress intended, however, that the Court's determination under the APPA be a substantive one. The Act does interpose "a check upon the government's good faith and expertise." *United States* v. *Morgan Drive Away, Inc.*, 1976–1 Trade Cases ¶ 60,949 at 69,161 (D.D.C. 1976). The Court should test the proposed decree by determining "whether the relief provided * * * is adequate to remedy the allegations of antitrust violation as set out in the complaint." *United States* v. *Bechtel Corp.*, 1979–1 Trade Cases ¶ 62,430 at 76,565 (N.D. Calif. 1979), *appeal docketed*, No. 79–4194 (9th Cir. April 9, 1979). In other words, the Court should direct its inquiry at whether the settlement reasonably accomplishes what the United States intended to accomplish—protecting "the public by insuring healthy competition in the future." S. Rep. No. 298 at 6.

Judge Oliver's opinions in *AMPI, supra*, and *United States* v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cases, ¶ 61,508 (W.D. Mo. 1977), give thoughtful treatment to the court's duty under the APPA. His Conclusions of Law in *Mid-America Dairymen, Inc.*, include at 71,979–80 a concise statement concerning how a court should make its public interest determination:

> 10. The APPA did not change the pre-existing standards for determining whether entry of an antitrust consent decree is in the public interest. Specifically, APPA did not give this Court authority to substitute its judgment about the advisability of settlement by consent judgment in lieu of trial.
>
> 11. The APPA does not require the Court to conduct a trial or evidentiary hearing to determine whether entry of the proposed judgment is in the public interest. No additional proceedings, other than those conducted, were necessary under the circumstances of this case.
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> * * * * *
>
> 13. While it is clear that it was the intention of Congress in passing APPA to require that a reviewing Court make an independent public interest determination, it is equally clear that APPA does not permit or require the reviewing court to make a *de novo* determination of facts and issues presented by the pleadings in the case.
>
> 14. Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should, as we have done, carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances. The Court must also give appropriate recognition, as we have done, to the fact that every consent judgment normally embodies a compromise and that the parties each give up something which they might have won had they proceeded to trial. *United States* v. *Armour* [1971 Trade Cases ¶ 73,589], 402 U.S. 673 (1973), cited with approval in H.R. Rep. No. 1463, 93rd Cong., 2nd Sess. 11–12 (1974).
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> * * * * *
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> 16. The APPA codifies the case law which established that the Department of Justice has a range of discretion in deciding the terms upon which an antitrust case will be settled. *Sam Fox Publishing Co.* v. *United States*, 366 U.S. 683 689 (1961); *Swift & Co.* v. *United States*, 276 U.S. 311, 331–332 (1928).
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> * * * * *
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> 23. The plaintiff, through the duly appointed, qualified and acting officials in the Department of Justice, has an appropriate range of discretion in prosecuting alleged violations of the antitrust laws and determining appropriate injunctive relief for the settlement of such cases.
>
> 24. This Court may not substitute its opinion or views concerning the prosecution of alleged violations of the antitrust laws or the determination of appropriate injunctive relief for the settlement of such cases absent proof of an abuse of discretion.

Judge Oliver set a narrow standard of judicial review consistent with all other decisions under the APPA—the court should determine whether the United States' explanations in support of the proposed judgment are reasonable in light of the circumstances. Put another way, absent a showing of bad faith the court need only determine whether the United States' reasoning is in clear error.

In sum, since the Department of Justice retains discretion to settle cases, a proposed judgment is in the public interest when the United States has negotiated it in good faith, has fully disclosed its reasoning concerning the judgment, and when no clear error inheres in that reasoning. With this standard in mind the Court should review the comments of members of the public concerning the proposed Final Judgment and the United States' response to those comments, set forth below.

II *Summary of Comments*

Set out below is a summary of the recommendations contained in the comments which we received concerning the proposed Final Judgment.

Howard C. Townsend, Commissioner of the New Hampshire Department of Agriculture, Professor Harry Keener, recently retired Dean of the College of Life, Sciences, and Agriculture at the University of New Hampshire, and Vermont dairy farmers Robert Foster, Roderick Towne and Ruth Towne expressed their full support for the proposed Final Judgment.

Alice Cheeseman and Priscilla Rowbotham, two New England dairy farmers, suggested that any settlement should ensure that (1) Agri-Mark will purchase and market nonmember milk, (2) Agri-Mark will continue to enroll members indefinitely, (3) Yankee will refund members' equity to them at the time of its dissolution, (4) former Yankee members will have an opportunity to terminate their marketing agreements with Agri-Mark, and (5) Agri-Mark will not coerce haulers into hauling milk only for Agri-Mark.

The Massachusetts Milk Control Commission recommends that the Court appoint an expert to determine whether Agway, Agri-Mark, and Hood should be required to establish a security fund for the protection of dairy farmers in the event of business failure by their dairy customers.[4]

[4] Our understanding of this comment is based on a telephone conversation with the Commission's office on October 7, 1980.

Community Nutrition Institute (CNI), a public interest organization that studies food and nutrition issues, expressed support for the relief provided in paragraphs IV; V, VI C and VII. It recommends that the five-year restrictions in paragraph X concerning defendants' acquisitions of dairies and balancing plants be extended to twenty-five years.

Grant's Dairy, a Maine dairy, acknowledges the equity of the proposed judgment. Grant's also asked that the Department consider two points: (1) The possibility that Agri-Mark may choose not to sell milk to Maine dairies; and (2) whether Hood will be able to impose excessive charges for services it supplies to other dairies.

Fairdale Farms, Inc., a Vermont dairy, recommends that the proposed Final judgment include "restraints against violations of antitrust laws * * * in the processing, packaging and distributing of fluid dairy products."

The National Independent Dairies Association (NIDA) and the National Association for Milk Marketing Reform (NAMMR), two trade associations of dairies, generally object to the proposed Final Judgment and urge that the Department of Justice proceed to a trial on the merits in this action. Alternatively, NIDA suggests that any final judgment in this action should enjoin Hood from engaging in price discrimination and sales below costs in violation of the Robinson-Patman Act and applicable state laws. Furthermore, NIDA suggests that "costs" should be defined in a final judgment to include all costs attributable to Hood's operations as though it were still an independent dairy.

NAMMR alternatively suggests that hearings, appropriately noticed, be scheduled for the purpose of taking testimony of persons who will be affected by the terms of the proposed Final Judgment and that NAMMR be permitted to appear as *amicus curiae*. NAMMR suggests that the proposed Final Judgment is deficient because the restraints it imposes are illusory.

M. Jerome Diamond, Attorney General, State of Vermont, recommends that paragraphs VI C and VII of the proposed Final Judgment be expanded to include all Vermont dairy farmers.

Northern Farms Cooperative (NFC), a Vermont fairy farmers' cooperative, recommends that paragraph VII of the proposed Final Judgment be expanded to include all NFC members.

III United States' Response to Comments

The United States responds below to those comments which suggested relief different or supplemental to that contained in the proposed final Judgment. Copies of this Response without appendices are being mailed to all commentors.

A. *The Cheeseman-Rowbotham Comment*

Alice cheeseman and Priscilla Rowbotham, two New England dairy farmers, suggest that any final judgment should ensure that (1) Agri-Mark will purchase and market nonmember milk, (2) Agri-Mark will continue to enroll members indefinitely, (3) Yankee will refund members' equity to them at the time of its dissolution, (4) former Yankee members will have an opportunity to terminate their marketing agreements with Agri-Mark, and (5) Agri-Mark will not coerce haulers into hauling milk only for Agri-Mark.

Agri-Mark, like other agricultural cooperatives, was formed by dairy farmers for the benefit of its members. Through the cooperative members hope to achieve some degree of market security, increased bargaining strength, economies in raw milk procurement and distribution, improved plant operations, and reduced overhead. Cooperatives, of course, need adequate capital to provide services for members and for continued modernization and expansion. Members must assume major responsibility for financing their cooperatives.

These members would not be willing to carry this financial responsibility if they (through Agri-Mark) were required to, in effect, subsidize nonmembers by marketing and processing nonmembers' milk as suggested in the first recommendation by Mmes. Cheeseman and Rowbotham. Nonmembers then would reap the benefits of cooperative organization without bearing any of the concomitant costs. Under such circumstances it is difficult to understand why any dairy farmer would choose to join or remain in Agri-Mark.

The choice for Agri-Mark between a policy of accepting all dairy farmers wishing to become members and accepting dairy farmers as members only as the cooperative needs additional milk volume presumably will depend on the marketing services it performs, the physical capacity of its facilities, and current and future marketing conditions. The relief suggested in the second recommendation is unnecessary. Absent some showing that Agri-Mark's conduct poses a dangerous probability of success at monopolizing New England Milk markets—and we have no evidence on this point—it seems appropriate that Agri-Mark should continue to make its own decisions concerning enrollment of members.

Yankee's internal operations including its procedures for refunding member equity never were at issue in this case. The proposed Final Judgment should not regulate Yankee's dissolution as suggested in the third recommendation. Yankee members upon joining Yankee executed membership agreements and agreed to comply with the By-Laws, rules and regulations of the association. We understand that former Yankee members will receive a refund of their equity in accordance with a Plan of Distribution adopted by Yankee's board of directors and delegates.

Our response to the fourth recommendation and similar comments by others is set forth below in Section III H of this Response.

Coercion of haulers simply was not at issue in this case; consequently, additional relief as suggested in the fifth recommendation is unnecessary. Agri-Mark would violate the Sherman Act if it utilized its leverage as the dominant cooperative in New England to prohibit haulers it employs from hauling nonmember milk. *See United States* v. *Dairymen Inc.*, 1978–1 Trade Cases ¶62,494 (W.D. Ky. 1978), *appeal docketed*, No. 793438 (6th Cir., July 7, 1979). In that situation aggrieved parties should seek remedy by private actions or by complaining to the Department of Justice.

B. *Massachusetts Milk Control Commission Comment*

The Massachusetts Milk Control commission recommends that the Court appoint an expert to determine whether Agway, Agri-Mark, and Hood should be required to set up a security fund for the protection of dairy farmers in the event of business failure by dairies.

We were concerned in this case that Agri-Mark's acquisition of Hood's assets might adversely affect dairy farmers who supply Hood and dairies that compete with Hood. The proposed Final Judgment provides adequate protection for them. The Massachusetts Milk Control Commission raised an issue which was never part of the United States' antitrust case. Consequently, the remedy it suggested is unnecessary because it goes far beyond any foreseeably necessary relief and is inappropriate because it does not reasonably relate to the antitrust issues that led to United States' filing of this action in the first instance. *See National Broadcasting Co.*, 449 F. Supp., *supra* at 1137, 1145.

C. *The CNI Comment*

Community Nutrition Institute (CNI) recommends that the five-year restrictions in paragraph X concerning defendants' acquisitions of dairies and balancing plants be extended to twenty-five years. CNI believes that a twenty-five year period of surveillance would prevent an increase in vertical integration by the defendants and would allow smaller independent processors to compete against Hood without the fear of being victims of predation.

The relief in this case did not seek to prevent all vertical acquisitions by the defendants in the dairy industry. Our only concern is with acquisitions of dairies or milk manufacturing plants that may result in a lessening of competition. Because of the present market structure of the New England dairy industry, as well as the concerns of industry members about the formation of Agri-Mark and the acquisition of Hood, the Antitrust Division sought to prevent without having to bring a new case under Section 7 of the Clayton Act any further combinations by the defendants in the near future that would increase their holdings in dairies or milk manufacturing plants. The Division bargained for and obtained extraordinary power to prevent any such combinations. Proposed paragraph X gives us that power. It enjoins the defendants from combining with any dairy or milk manufacturing plant without the prior approval of the Department of Justice or the Court. If any defendant seeks Court approval of an acquisition, the burden will be on it to show that the acquisition will not adversely affect competition.

We agreed to a five-year restriction instead of a longer period of time for two reasons. First, such a period will allow the market to adjust to the instant transaction. After five years other dairies will be accustomed to competing with the new Hood and will have established supply relations with Agri-Mark or other sellers. Second, the dairy industry is

constantly evolving as a result of technological changes, changes in federal and state milk marketing regulations, and increased cost pressures that engender efficiencies in the industry. A combination that may lessen competition in the New England dairy market as it is today may not be viewed as anticompetitive in five years. At the conclusion of the proposed five-year period the defendants will not have license to acquire or combine with other companies to the detriment of competition. They still will be subject to the limitations on acquisitions imposed by Section 7 of the Clayton Act, 15 U.S.C. 18, and Sections 1 and 2 of the Sherman Act, 15 U.S.C. 1 and 2.

The restriction on combinations is not intended, as CNI suggests, to prevent the defendants from preying on Hood's smaller competitors. We have no information that either Hood, Agri-Mark, or Agway intends to prey on Hood's competitors and purchase them when they are in a weakened position. Moreover, Sections 1 and 2 of the Sherman Act make unlawful any such predatory conduct by the defendants.

Finally, the use of the five-year restriction has precedent. In a case brought by the United States against a dairy cooperative alleging an attempt to monopolize, the court entered a judgment that imposed a five-year restriction on acquisitions. *Mid-American Dairymen, Inc., supra,* 1977–1 Trade Cases ¶61,509, at 71,894.

D. *The Grant's Dairy Comment*

Grant's Dairy expresses concern that Agri-Mark, in order to meet its full supply agreement with Hood, will need to divert milk to Hood that would otherwise be sold to competing dairies. This possibility does not concern us because Hood does not purchase a sufficient quantity of milk to cause a scarcity in the supply area and a New England dairy can purchase milk from suppliers other than Agri-Mark.

In 1978, dairymen in the New England supply area produced 7,499.5 million pounds of raw milk. Of that amount, Hood purchased 13.7%. Grant's Dairy is located in Maine. Maine laws and regulations arguably make that state a geographic submarket for the supply of raw milk. In 1978 Hood only purchased 16.5% of the total 378.1 million pounds of milk received by Maine dairies regulated by the Maine Milk Commission. Further, Hood's requirements throughout New England for raw milk in 1978 amounted to only 38.8% of the milk produced by Agri-Mark members. Since Agri-Mark must sell the remaining 61.2% of its members' output, it will need to maintain viable trade relations with Hood's competitors, including Grant's Dairy. There is no reason, therefore, to predict that Agri-Mark will fail to deliver adequate supplies to its customers other than Hood. If it did, those customers would turn to other suppliers for their raw milk requirements.

Grant's also asks whether the final judgment in this case should include a provision that would require Hood to offer handling and separating charges for skim milk at competitive, cost-based prices. Grant's believes that it has no feasible alternative other than Hood and Agri-Mark for its supply of skim milk.

No facts have arisen in this case that lead us to believe that either Agri-Mark or Hood, individually or combined, have a monopoly over the production of skim milk in New England or any geographic sub-market within New England. Even if the companies combined controlled an unduly large market share of the skim milk production, we believe that potential competition from new entrants would regulate the price of skim milk better than any decree could under an arbitrary cost-plus formula. Skim milk can be produced by pumping raw milk through machinery which is readily available. There are no barriers that would prevent Grant's or other dairies or cooperatives from acquiring such machinery should Hood's price for skim milk rise to non-competitive levels.

E. *The Fairdale Farms Comment*

Fairdale Farms, a dairy in Bennington, Vermont, recommends that the decree include "restraints against violations of antitrust laws * * * in processing, packaging and distributing of fluid dairy products." (Comment, p. 4.) Specifically, Fairdale asks that Hood be enjoined from below cost and predatory pricing. This recommendation proceeds from Fairdale Farms' belief that dairies in New England sell processed milk at severely depressed prices due to a surplus of raw milk and persistent price competition by the dairies. Fairdale states that the Hood/Agri-Mark/Agway transaction and Agri-Mark's control of Hood will give Hood cost advantages that will enable it to become an "ultra-aggressive" dairy to the detriment of competing dairies.

The proposed judgment and the five agreements between Agri-Mark and Hood isolate the operations of Hood from Agri-Mark. In this isolation, any vigorous price competition in the sale of processed milk by Hood will follow from efficiences gained or from reasons other than anticompetitive effects proceeding from the instant transaction.

A crucial theory of the Complaint was that competition in the sale of processed milk might be lessened because Agri-Mark and Hood could coordinate supply and pricing decisions to the advantage of both. The proposed judgment was designed to ensure that Agri-Mark and Hood will make pricing and supply decisions independently of each other. Paragraph IX of the proposed Final Judgment enjoins Hood and Agri-Mark from having any common directors, officers or management. It also forbids Hood and Agri-Mark from discussing with each other prices or terms and conditions of sale of raw or processed milk. Thus, under the proposed judgment the two companies will operate independently of each other under peril of contempt of court proceedings.

Fairdale Farms is incorrect in stating that Agri-Mark will be the "operator of Hood's hauling, processing, packaging and distribution facilities." (Comment, p. 3.) Under the agreements between Hood and Agri-Mark, Agri-Mark has title to Hood's milk processing facilities but it has leased them to Hood which will operate the facilities under its own direction and management. Agri-Mark will haul milk from the farm to Hood's facilities but that is no more than Agri-Mark does for other dairies. By hauling milk to a dairy, which Yankee has done in the past, Agri-Mark will not obtain control of the dairy's operations or make the dairy's decisions on price and output.

Fairdale Farms has suggested that below cost pricing should be enjoined. As long as a final judgment in this case assures that Hood will price its products independently of Agri-Mark's influence, there is no reason to incorporate into a final judgment provisions that would interfere with Hood's pricing practices and possibly deny benefits to the consumers. Below cost pricing by a firm with monopoly power and below cost pricing with an intent to monopolize coupled with a dangerous probability of achieving the monopoly are anticompetitive acts made illegal by Section 2 of the Sherman Act, 15 U.S.C. 2. Hood does not now have monopoly power in the sale of processed milk in New England, nor do we have any information which indicates that Hood intends to attempt to monopolize that market. A consent judgment should only contain provisions that are reasonably related to the facts and theory of the underlying compliant. *See National Broadcasting Co., supra,* 449 F. Supp. 1127 at 1137 & 1145. The circumstances of this case provide no foundation for incorporating into the Final Judgment predatory pricing provisions already contained in the antitrust laws.

F. *The NAMMR Comment*

A close reading of NAMMR's comment suggests that that organization chose to ignore the explanation of the proposed Final Judgment contained in the Competitive Impact Statement ("CIS"). For the most part, NAMMR's comments attacking the proposed judgment are answered by the CIS itself, the rationale of which NAMMR has not addressed. Rather than repeat the CIS here, we have briefly dealt with NAMMR's objections to the proposed judgment, with references to relevant explanations in the CIS.

Pages 5–9 of NAMMR's comment take issue in numbered paragraphs with the United States' position in this case. Below we respond to these comments by paragraph.

1. NAMMR Paragraph 7

NAMMR suggests without explanation that areawide premiums inevitably flow from a series of occurrences which could conceivably follow the entry of the proposed judgment. Aside from the speculative nature of NAMMR's suggestion, two flaws in this comment render it moot. First, as explained in pages 6–12 of the CIS, paragraph IV of the proposed judgment deprives Agri-Mark of tools required to sustain premium pricing in New England. NAMMR did not address the rationale of the proposed judgment or the CIS on this point, so we are unable to discern why NAMMR concludes that the proposed relief will fail in its intended purpose. We continue to believe that forbidding the type of predatory pricing described by paragraph IV will ensure that any premium pricing Agri-Mark ever imposes will be ephemeral.[6]

[6] NAMMR's comment does not recognize that paragraphs IV A and IV B must be read together to appreciate their impact on premium pricing. As explained in the cited section of the CIS, the

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NAMMR suggests nothing to undermine the United States' position in this regard. The Community Nutrition Institute agrees with the United States on this point (CNI comment, page 1).

The second flaw in NAMMR's comment is that even NAMMR only projects that Agri-Mark will gain approximately 50% of the supply market (page 5).[6] As the above cited section of the CIS suggests,[7] and as the comment of Mr. Townsend, Commissioner of the New Hampshire Department of Agriculture, points out, with only approximately 50% of an area's producers as members, Agri-Mark lacks the market power to increase the price of milk to its customers, that is, to impose premiums. This results in part from the ease with which Agri-Mark members can leave the cooperative and market their milk in competition with it, which leads to the subject discussed in paragraph 8 of NAMMR's comment.

2. NAMMR Paragraph 8

NAMMR questions whether the proposed judgment's provisions regarding Agri-Mark's "locking-in" of members will be effective. NAMMR suggests that Agri-Mark will prevent members from leaving by not returning capital to them.

As stated at page 4 of the CIS, the relationship between market share and market power is weaker with respect to cooperatives than with respect to industrial concerns. This is because cooperative members rather than the cooperative itself own the means of production (cows, barns, etc.). Members of dairy cooperatives have incentives to leave the cooperative and compete with it when the cooperative charges supra-competitive prices (premiums).

As explained at pages 13–15 of the CIS, we were concerned that Agri-Mark's board would have the power to discriminate in the return of equity to member producers in such a way as to prevent members from leaving the cooperative. That is, we feared that Agri-Mark would repay equity to members who retired, but not to members who left the cooperative to compete with it. This would give members a great incentive to stay in Agri-Mark until they retired. Such discrimination in payment of equity would make Agri-Mark's market share more indicative of its market power because it would tie the means of production to the cooperative.

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primary importance of paragraph IV A as it relates to premiums is to broaden the coverage of paragraph IV B of the proposed judgment. Paragraph IV B prevents Agri-Mark from granting specific anticompetitive price concessions to Hood. Paragraph IV A broadens this ban to prevent Agri-Mark from granting such anticompetitive concessions to other dairies. Without these concessions, any premium pricing will be ephemeral. NAMMR did not address this theory.

[6] Agri-Mark accounts for perhaps 35% of the milk produced in the relevant area. CIS at 4. The Complaint alleged that Agri-Mark intended to increase its membership until it marketed from 40% to 53% of milk produced in the New England milkshed. Complaint, paragraph 17.

[7] "[T]o charge premiums on any long-term market-wide basis a cooperative must control so much of the milk supply practicably available to handlers that handlers have no choice but to deal with it." CIS at 5–9.

Paragraphs V and VIII eliminate this problem by forbidding discrimination against members who leave Agri-Mark in order to compete with it. NAMMR's comment that Agri-Mark could return "no equity contributions nor retained earnings for a long period of time" simply misses the point. As long as producers are not disadvantaged by leaving the cooperative compared to staying in it, there is no unlawful incentive to remain in the cooperative. The proposed judgment would require Agri-Mark to pay producers equity and retained earnings in the order in which they leave the cooperative. In the absence of discrimination against members who leave to compete with Agri-Mark, there is no antitrust concern. If the cooperative chooses not to repay member equity, producers are as well off financially by leaving the cooperative as by staying in it.

3. NAMMR Paragraph 9

Our response to this paragraph and other comments bearing on the "Foreclosure" issue is set forth below in Section III H of this response.

4. NAMMR Paragraphs 10–11

NAMMR suggests that Agri-Mark and Hood will voluntarily renew their one-year supply agreement. NAMMR also questions what the effect of the proposed judgment's ban on multi-year supply agreements will be.

The Complaint alleged that the 10-year Agri-Mark/Hood full supply agreement would violate Section 3 of the Clayton Act (paragraphs 27–28). The Complaint requested that Agri-Mark and Hood be enjoined from entering any supply agreement of an unreasonable duration (paragraph 5 of the Prayer). As explained at page 19 of the CIS, the Department has for some time recognized the legitimacy of one year supply contracts between cooperatives and dairies. NAMMR's comment on this point raises a good deal of speculation, but fails to address the obvious accomplishment of the proposed judgment. Hood and Agri-Mark will both be free in the future to make the supply arrangements they believe advantageous. The supply agreement created a 10-year "clog on competition" with options to renew for another 10 years, all in violation of Section 3 of the Clayton Act. This clog has been removed, and the Complaint sought nothing more in this regard.

Finally, NAMMR comments that this acquisition is a greater evil that if Hood had made unlawful horizontal acquisitions (paragraph 11). We note that the antitrust effects of a cooperative's acquisition of a dairy depends upon the circumstances of the case and the intent of the parties. This can be contrasted with horizontal mergers in concentrated markets where, because one competitor is always eliminated, competition is invariably lessened and the public necessarily suffers. Compare *United States* v. *Philadelphia National Bank,* 374 U.S. 321, 362–63 (1963) with *Freuhauf Corp.* v. *Federal Trade Commission,* 603 F. 2d 345, 351–52 (2nd Cir., 1979). The Second Circuit has recognized that vertical acquisitions may have beneficial aspects. *See Freuhauf, supra,* at 352. NAMMR's comment is especially inapplicable to the Hood/Agri-Mark/Agway transaction, which may capture various efficiencies for the benefit of the farmer members without hurting consumers. See generally the comments of Mr. Howard C. Townsend and Dean Harry A. Keener in this regard.

5. NAMMR Paragraph 12

In a comment related to that discussed above, NAMMR suggests that Hood and Agri-Mark will not be independent of one another. NAMMR also suggests that Agway and Agri-Mark are substantially identical entities.

Paragraph IX of the proposed judgment enjoins Hood and Agri-Mark from having any common director, officer, or management. It also enjoins Hood and Agri-Mark personnel from discussing prices for raw or processed milk other than as necessary to arrange sales between themselves. Moreover, Agway will own all of Hood's stock, and Agri-Mark will own only Hood's assests. Those assets will be out of Agri-Mark control since they are leased back to Hood under a long term lease. NAMMR nevertheless asserts that "Agri-Mark and hood will be in effect almost a single entity" (page 5) and that "there will be no *de facto* isolation or separation under the constraints" of the proposed judgement (page 8). NAMMR provides no bases for these statements.

Apparently NAMMR fears that hood and Agri-Mark will perceive themselves as having common goals which will lead to some type of predatory activity.[8] However, in order for Agri-Mark or Hood to jointly predate on other dairies or cooperatives, there would need to be coordination or control of one by the other as well as open and direct communications concerning pricing strategies. Paragraph IX forbids such control or communication.

6. NAMMR Paragraph 3–D

Subparagraphs A–C and E of paragraph 3 of NAMMR's comment merely capsulize NAMMR's stated objections to the proposed judgment. We have responded to these above. Paragraph 3–D, however, suggests that any final judgment should restrict Agri-Mark's future growth, a suggestion not yet addressed.

Congress, in the Capper-Volstead Act, 7 U.S.C. 291, provided that producers could voluntarily form cooperatives to market their production without violating the antitrust laws. The United States did not allege that Agri-Mark's formation violated the antitrust laws nor, under the Capper-Volstead Act, could it have done so. If, in the future, additional dairy producers wish to join Agri-Mark, they may do so. There is no basis whatsoever for enjoining Agri-Mark from future growth.[9]

7. A Hearing Is Unnecessary in This Case

NAMMR suggests that the Court should hold "hearings" prior to entry of the proposed

[8] NAMMR argues that Agri-Mark's members "substantially" own Agway. This is not true. Agway consists of more than 123,000 producer-members, while Agri-Mark has fewer than 4,000 members. Moreover, many New England dairy farmers who do not belong to Agri-Mark are Agway members. Thus one cannot conclude, as NAMMR does, that Agri-Mark and Agway are merely two reflections of the same group of farmers.

[9] Paragraph X of the proposed judgment does, however, limit Agri-Mark's ability to merge with any other cooperative owning a processing facility.

Final Judgment so that "affected persons" can testify and provide "written and documentary" materials to the Court. The APPA provides that the Court must make a determination that entry of the proposed consent judgment is in the public interest before entering that judgment. The statute provides that in making such a public interest determination, the Court "may", *inter alia*, conduct proceedings involving the taking of testimony and documentary evidenced, and "take such other action in the public interest as the court may deem appropriate." 15 U.S.C. 16(f)(5). The statute does not require the Court to hold hearings, but directs the Court to take such action as it deems appropriate. As explained more fully in section I of this Response, Congress intended courts to determine the public interest issue in the least complicated and least time-consuming way possible. Evidentiary hearings should be used only in extreme cases.

In the instant case, an evidentiary hearing would be inordinantly time consuming and would not in any way further the Court's understanding of facts relevant to the determination it must make. There has been no claim of bad faith or malfeasance on the part of the United States in settling this case. *See AMPI, supra*, 394 F. Supp. at 41, and cases cited. Nor has NAMMR, or any other commentor, suggested the existence of relevant facts which the United States failed to consider in negotiating and consenting to the proposed judgment. Rather, NAMMR invites the Court to substitute its judgment for the United States' concerning the wisdom of the proposed judgment, a substitution which the APPA neither contemplates nor allows. *Mid-America Dairymen, Inc., supra*, 1977–1 Trade Cases at 71,979–980; *Gillette, supra*, 406 F. Supp. at 716. Moreover, as demonstrated in the preceding sections of this Response, NAMMR does so without having adequately considered or understood the effect of the proposed judgment as explained in the CIS.

NAMMR has used the comment process as a forum to set forth its views of cooperatives in general and various irrelevant facts in particular as has NIDA (the National Independent Dairies Association). Such comments do not portend a useful or focused hearing should the Court accede to NAMMR's request for evidentiary hearings at which any interested person could present evidence.[10] NAMMR'S comment, for example, indicates that NAMMR believes that:

> This acquisiton is one more milestone on the road toward total domination of the nation's fluid milk supply by a few regional super cooperatives who are linked together with anticompetitive super polling agreements. (NAMMR comments, p. 3.)

NAMMR apparently views as relevant certain "reported" activities of a cooperative in Florida (NAMMR comment, p. 7). Similarly, NIDA deems relevant its view that the acquisition of Hood is "the latest step in the continuing march of the huge and economically powerful agricultural cooperatives to gain shared monopoly control of important food markets * * *." (NIDA comment, p. 1.) NIDA also views as relevant information allegedly relating to "the anti-private enterprise and predatory activities of the huge regional agricultural co-operatives" (NIDA comment, p. 2) as well as various acquisitions and divestitures by cooperatives in the Midwestern United States (NIDA comment at 2–3).[11] Such clear signals from these two trade associations indicate that any evidentiary hearing on the proposed judgment would not be an uncomplicated or efficient direction for the Court to pursue in making its public interest determination.

The Court need only consider the proposed judgment as explained by the CIS, the comments thereon, and this Response thereto. Such consideration will amply demonstrate that the proposed judgment satisfies the public interest standard of the APPA as interpreted by the courts.

G. The NIDA Comment

The National Independent Dairies Association ("NIDA") filed a three page comment the bulk of which is not a substantive discussion of the proposed judgment.[12] NIDA's substantive comment is that any consent decree in this case should incorporate various provisions of the Robinson-Patman Act and state sale-below-cost laws. Part of NIDA's ground for this type of relief is the alleged ability of Agri-Mark to recoup losses on Hood's bottled milk sales "through price premiums on fluid milk paid by" dairies (NIDA comment, p. 3). As explained in response to NAMMR's comment, however, Agri-Mark will not be able to charge premiums due to its low market share and, more importantly, due to paragraph IV of the proposed judgment. Thus, NIDA's fears are based at least in part on an unexplained and unfounded expectation that Agri-Mark will charge premiums for raw milk.

All defendants are obligated to obey all federal and state laws. The United States uncovered no evidence that any defendant had violated or intended to violate the statutes NIDA discusses. NIDA apparently fears concerted action between Hood and Agri-Mark which would result in predatory below cost pricing by Hood. As discussed in sections III E and III F (5) of this Response, any such activity would violate paragraph IX C of the proposed judgment which enjoins Hood and Agri-Mark from discussing pricing with one another. Any violation of paragraph IX C would be easy to prove, compared to proof of sales below "cost," however one defines "cost." NIDA's concern, therefore, appears not only to be without any factual foundation, but adequately met by paragraph IX. For all these reasons, there is no basis for enjoining the defendants from violating these statutes.

H. *The "Foreclosure" Issue*

Prior to Agri-Mark's acquisition of Hood's assets, Hood was splitting its milk purchases between Hood independents and competing cooperatives of dairy farmers. Many dairy farmers will now be foreclosed, at least in the short run, from selling milk to Hood unless they join Agri-Mark. This is because Hood, as part of this transaction, intends to purchase substantially all of its milk requirements from Agri-Mark.

Seven persons commented on the relief provided in the proposed Final Judgment for dairy farmers who were foreclosed from selling milk to Hood. CNI noted that provisions requiring Hood to continue to purchase milk from Hood independents until March 1, 1981, and permitting Hood independents to terminate all agreements with Agri-Mark (paragraphs VI C and VII) provide additional opportunities for Hood independents to find new markets for their milk and that the prohibition of long term supply agreements between Hood and Agri-Mark (paragraph VI A) should ease all New England dairy farmers' fears of being permanently excluded from supplying milk to Hood. Robert Foster, a Vermont dairy farmer, and Fairdale Farms, a Vermont dairy, also expressed their support for these provisions.

M. Jerome Diamond, Vermont's Attorney General, recommended that paragraphs VI C and VII be expanded to cover all Vermont dairy farmers.[13] Northern Farms Cooperative Inc. (NFC), a Vermont dairy farmers' cooperative, and two New England dairy farmers, Mmes. Cheeseman and Rowbotham, recommended that one or both of these provisions be extended to cover NFC and former Yankee members.

NAMMR believes that paragraph VI C should be changed to require Hood to purchase milk from Hood independents indefinitely. It apparently recommends that a final judgment should not be entered in this case until there is an opportunity for all to reflect upon the alternative markets chosen by every Hood independent who did not join Agri-Mark (NAMMR comment, page 6).[14]

[10] Only NAMMR has asked for a hearing. NAMMR also asks to appear as *amicus*.

[11] The United States has always viewed the transaction at issue as having particular and unique anticompetitive potential which should be, and through the proposed judgment will be, prevented. It was never any part of the United States' theory that this transaction was part of any nationwide conspiracy.

[12] One aspect of NIDA's opening comments, while not bearing on the substance of the decree, demands a response. At page 2 of its comment, NIDA deprecates the enforcement efforts of the Department with respect to consent decrees, citing a decree against Mid-America Dairymen, Inc. NIDA says "Not only has Mid-America not divested itself of the three cheese plants as ordered [in the decree], it subsequently acquired [two dairy operations]." The Department brought contempt proceedings against Mid-America Dairymen, Inc., for its failure to comply with the divestiture provision of the decree, but was unable to obtain relief from the court. The Department has also brought a contempt action and, separate from that, obtained supplemental relief under its decree against another dairy cooperative, Associated Milk Producers, Inc. Demonstrably, the United States has been vigilant in enforcing its consent decrees against dairy cooperatives.

[13] Vermont's comment variously recommends that additional relief should be extended to Vermont dairy farmers and all producers. We understand from a telephone conversation with the Attorney General's office that Vermont's recommendation was meant to be limited to Vermont dairy farmers.

[14] Some numbers may help to put all of the comments on foreclosure in perspective. Just prior to Agri-Mark's acquisition of Hood's assets, Hood was purchasing milk from approximately 1,882 dairy farmers. Of them, 886 were independent producers and the remainder were members of Yankee or

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As some of the commentors point out, the proposed Final Judgment does not provide the same relief to former Yankee members and members of other cooperatives that it provides to Hood independents. The critical comments by Vermont, NFC and Mmes. Cheeseman and Rowbotham on this issue considered collectively amount to the proposition that the proposed Final Judgment is deficient because the relief it provides on foreclosure favors Hood independents over other dairy farmers. The commentors suggest that all dairy farmers in New England, not just Hood independents, should be guaranteed a market with Hood for their milk and, if they joined Agri-Mark, they should be permitted to terminate their agreements with Agri-Mark. In light of our overall purpose in this action and the relief obtainable by the proposed Final Judgment, relief of this order regarding foreclosure is unnecessary.

Although we believe that the relief on foreclosure in the proposed Final Judgment is adequate, we recognize that some few dairy farmers may be unhappy because they too are not being guaranteed a market with Hood. It was never our objective, however, to so protect every New England dairy farmer. This transaction would have violated the antitrust laws because its effect may have been to substantially lessen competition. We were concerned about much more than foreclosure. Anticompetitive effect would have resulted from foreclosure *and* because the combination of Hood and Agri-Mark in the form initially proposed may have been powerful enough to dominate the New England dairy industry. Consistent with the principle that the Clayton Act was meant to protect *"competition,* not *competitors", Brown, Shoe Co.* v. *United States*, 370 U.S. 294, 320 (1961), (emphasis in original), our purpose in this action was not to guarantee every dairy farmer in New England a market for this or her milk, but rather to preserve in New England the conditions necessary to ensure that raw milk is sold to all dairies at competitive prices. We did not view foreclosure in isolation when we brought this action and we urge the Court not to do so when determining whether the proposed Final Judgment is in the public interest.

The proposed Final Judgment will accomplish what we set out to accomplish by filing this action. It ensures that the acquisition may be consummated without reducing competition in the New England milk industry by depriving Agri-Mark and Hood of the tools which might empower their combination to have undesirable effects in the marketplace. Provisions of the proposed Final Judgment, outlined above, do this by limiting the parties' conduct in important respects. These provisions are explained in detail in the CIS at pages 5–21.

Footnotes continued from last page

other cooperatives. We understand that as of September 23, 1980, 3,703 dairy farmers had joined Agri-Mark. This group consists of 3,176 former Yankee members, 190 former members of other cooperatives and 337 independent dairy farmers including 304 Hood independents. During the summer, 34 Hood independents terminated their membership in Agri-Mark pursuant to the July 16, 1980, Stipulation and Order between the parties in this case.

Certain provisions of the proposed Final Judgment specifically address foreclosure. As initially proposed by the parties, the transaction would have foreclosed many dairy farmers from selling milk to Hood. We were particularly concerned for the large block of Hood independents, who, as independents, were not members of a cooperative which could have assisted them in finding new markets for their milk. After the transaction was announced, they were faced with imminent foreclosure from their market in the spring or flush season when milk production is highest relative to demand. We addressed their problems in paragraph VI C, which requires Hood to purchase milk from them until March 1, 1981, and in paragraph VII, which permits them during a 20 day grace period to terminate all agreements with Agri-Mark without suffering financial penalty. These provisions give Hood independents who joined Agri-Mark in the spring because they thought they could not find another market an opportunity to leave Agri-Mark and ensures that they all will have a reasonable opportunity to find a new market for their milk. The proposed Final Judgment also provides general relief from foreclosure to all New England dairy farmers. They all may benefit from paragraph VI A which enjoins Hood and Agri-Mark from entering into a supply agreement with a duration of more than one year. By prohibiting the initially contemplated ten year full supply contract with two 5 year options to renew, the proposed Final Judgment eliminates the certainty that Hood and Agri-Mark will continue to deal exclusively with each other for the next twenty years.

NAMMR's view is that paragraph VI C, by requiring Hood to purchase milk from Hood independents until March 1, 1981, does not give Hood independents who choose not to join Agri-Mark enough time to find another market for their milk. NAMMR recommends a judgment guaranteeing Hood independents a market with Hood forever. In our view that is unnecessary. We sought only to give Hood independents a reasonable opportunity to decide where they want to market their milk. As we explained in the CIS at page 16, paragraph VI C gives them, in effect, one full year, including the favorable fall short season, to find new markets. It is our belief that the one year period will allow most reasonably efficient dairy farmers to find satisfactory markets.

The additional relief on foreclosure suggested by the other critical commentors—that all New England dairy farmers should be treated as Hood independents are treated in the proposed Final Judgment—would be burdensome to Hood and to Agri-Mark and a windfall for many of the dairy farmers they seek to protect. None of these dairy farmers that the commentors speak of had previously been guaranteed a market by Hood; many of them did not even do business with Hood.[15]

[15] These commentors speak on behalf of all Vermont dairy farmers and members of Yankee and NFC. We understand that a large majority of these dairy farmers did not ship their milk to Hood. Moreover, even Hood independents did not enjoy a fixed long term commitment from Hood to purchase their milk. Substantial and new obligations would attach to Agri-Mark and Hood so that these dairy farmers could reap benefits that they did not previously enjoy.

Most important, the relief suggested by these commentors is not necessary in this case. Provisions in the proposed Final Judgment relating to foreclosure were for the most part designed to benefit Hood independents because they were not organized in cooperatives which could have assisted them in finding new markets for their milk. We were concerned that many of them felt compelled to join Agri-Mark without complete information on alternative markets. Other New England dairy farmers shipping to Hood and to others were not similarly situated. Yankee members through their delegates voted almost unanimously to merge with Agri-Mark. Other cooperatives whose members were shipping to Hood were in a position to assist their members in finding other markets. Other dairy farmers who were not shipping to Hood were barely, if at all, affected by the transaction.

In sum, the proposed Final Judgment did in paragraphs VI C and VII favor Hood independents over other New England dairy farmers with respect to relief on foreclosure but only because they were the dairy farmers most likely to be adversely affected by foreclosure from Hood. Paragraph VI A provides adequate relief for the dairy farmers who may have been touched by this transaction.

Conclusion

The Competitive Impact Statement and this Response to comments demonstrate that the Proposed Final Judgment serves the public interest. Accordingly, after publication of this Response in the **Federal Register** pursuant to 15 U.S.C. 16(b), the United States will move this Court to enter the Final Judgment.

Dated: November 6, 1980.

Respectfully submitted,

Michael P. Harmonis,

Kenneth L. Jost,

Richard W. Pierce,

Attorneys for the United States, United States Department of Justice, Washington, DC 20530, 202-724-6485.

Appendix A—Comments

1. Howard C. Townsend
2. Harry A. Keener
3. Robert Foster
4. Roderick Towne—Ruth Towne
5. Alice Cheeseman—Priscilla Rowbotham
6. Massachusetts Milk Control Commission
7. Community Nutrition Institute (CNI)
8. Grant's Dairy
9. Fairdale Farms
10. National Association for Milk Marketing Reform (NAMMR)
11. National Independent Dairies Association (NIDA)
12. M. Jerome Diamond, Attorney General, Vermont
13. Northern Farms Cooperative (NFC)

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The State of New Hampshire, Department of Agriculture, Office of Commissioner

September 5, 1980

Mr. Allen L. Marx, Assistant Chief General Litigation Section, Anti Trust Division, Department of Justice, Washington, D.C. 20530

Dear Mr. Marx: As Commissioner of Agriculture for the State of New Hampshire and as a lifelong dairy farmer I have followed the development of the new milk marketing and processing cooperatives with great interest.

Originally I did have some reservations about the proposals and the effect they might have on both producers and consumers. I have now concluded that the purchase of H. P. Hood, Inc. by Agri-Mark will benefit both the dairy farmers and consumers of the northeast be assuring our dairy farmers a market for their milk. Consumers will benefit by a stabilized milk market which I am confident will result from the farmer owned and farmer controlled marketing vehicle.

There have been concerns expressed by some, which I shared also, regarding any unwarranted monopolistic overtones of the proposed merger. I have satisfied myself that this would not be the case even if the total market controlled by the proposed cooperative were somewhat in excess of 50% of the total.

As Commissioner of Agriculture I endeavor to improve long range economic position of agriculture in such a way as to benefit the consuming public as well. The merger under consideration will offer an opportunity for the farmer to enjoy a greater percentage of the consumer dollar spent for milk by sharing in the profits formally distributed to the stockholders. This can be done without increasing the cost of milk to the consumer.

I join my fellow Commissioners of Agriculture in requesting favorable action by the Justice Department on the Agri-Mark/Hood proposal presently under consideration.

Sincerely,

Howard C. Townsend,

Commissioner N.H. Department of Agriculture.

Harry A. Keener.

Post Office Box 165, Durham, New Hampshire 03824

September 8, 1980

Mr. Allen L. Marx, Assistant Chief, General Litigation Section, Anti-Trust Division, Department of Justice, Washington, D.C. 20530

Dear Mr. Marx: I am writing to urge that you give permanent approval for Agri-Mark Inc. to carry on the milk processing and marketing activities of the H. P. Hood Co. This matter relates to the case of the U.S. vs Agri-Mark Inc. et al.

I take this position because I believe that the New England dairy industry must be given the kind of stability that this arrangement offers and that the consumers of the region must be assured of an adequate supply of dairy products at reasonable prices in the years ahead. I believe that the temporarily approved arrangement does both of these things. Both producers and consumers will suffer if a substantial and equitable force is not created and allowed to operate on a New England wide basis. The restrictions already imposed appear to be adequate to protect the interests of both consumers and dairymen.

I make these comments to you on the basis of my 37 years (1941–78) as a faculty member of the University of New Hampshire working closely with the dairy industry, milk processors and consumers. The last 17 years of my tenure were as Dean of the College of Life Sciences and Agriculture and director of the N.H. Agricultural Experiment Station.

I hope that my views will be helpful to you.

Very truly yours,

Harry A. Keener.

September 28, 1980

Mr. Alan L. Marx, Assistant Chief, General Litigation Section, Antitrust Divison, Department of Justice, Washington, D.C. 20530

Dear Sir: I am a dairy farmer in Middlebury, Vermont, chairman of Vermont's Governor's Agricultural Advisory Board, and a former Director-at-Large for Yankee Milk. I have been actively involved in the dialogue with fellow farmers in developing the Agri-Mark Hood marketing system for the dairymen in New England Market.

Recently, it has been brought to my attention, through reports in the media and by calls from concerned dairymen, that comments have been filed alledging discrimination in the stipulation for not including all producers in the release provisions. I would like to express to you the real concern and frustration on the part of those farmers that joined Agri-Mark that the opinions of a few will prevail. These farmers joined Agri-Mark by choice. In many cases, they approached it as a sound business decision, one which they felt that they could accomplish more collectively than individually over the long term. They committed their personal resources to a common long term captial cause, only to see a few others, when the short term winds blew more favorably, seek to break the long term commitment to a venture that they originally chose through a signed contract.

Because the "Hood independents" had no cooperative organization to provide them with an alternative market when the Hood supply was contracted to Agri-Mark, the stipulation for a release provision seems reasonable. However, those who were members of other cooperatives had a guarantee by that cooperative of a market at the time of their choice to join Agri-Mark. This is the difference and the reason for the stipulation pertaining just to the "Hood independents".

Dairymen were given more than ninety days to consider the alternatives. Numerous meetings were held. Approximately 3700 dairymen indicated a willingness to pool their resources and capitalize a marketing system for their future. These farmers made their commitments based in part on the commitments of other dairymen like themselves, signing the same agreements. The "Hood independents" were a distinctly different group of producers than were the former Yankee Milk members and those who were members of other cooperatives.

The Agri-Mark—Hood system for marketing is a good one. The stipulations are workable in their present form, compromises were made, and further disruption and delay will only hurt dairymen in the future. Orderly marketing in a responsible manner must move forward. I would hope that the points of contention could be resolved quickly.

Sincerely,

Robert L. Foster,

Dairyman, RD #3 Route 116, Middlebury, Vt. 05753.

Towne-Ayr Farm
RD 2
Montpelier, Vermont 05602
September 17, 1980.

Judge Albert Coffrin, U.S. District Court, Federal Building, Burlington, Vermont 05401

Dear Judge Coffrin: We are writing to you to express our support for approval of the AGRI–MARK merger plan. We are active dairy farmers in the town of Berlin, Vermont with 126 head of Ayrshire dairy cattle of all ages. We belong to Cabot Co-Op Creamery, Roderick is a director. Our family has been active for over 50 years in the agricultural affairs of New England as Dad (Elmer E. Towne) served as Commissioner of Agriculture for 10 years. I am a two term legislator running for re-election and have served both terms on the House Agriculture Committee. With this brief summary in mind we feel that we have a good grasp of what is happening in the field of milk marketing.

Firstly, we feel that the agreement that has been reached is fair to everyone, including the independent producers. Marketing milk is a very complex proposition and it has always been a major concern of ours that so few farmers understand the selling of their product. Marketing is the weak link from the cow to the consumer. Secondly, we feel the merger agreement will not be detrimental to competition. This is a very regulated market. The farmer has precious little to say about the price he will receive for his product. However, we can thru our co-ops be guaranteed a market for all we want to produce. The co-ops balance the market by manufacturing a long list of cheeses and other products.

Lastly, we whole-heartily approve and have worked for the concept of vertical integration of the fluid and manufacturing markets. Farmers have a huge investment in land, buildings, machinery and cattle. Our co-ops are an important part of our total farm operation. If farmers are going to have reasonable returns on their investments, marketing methods will have to be consolidated so as to reduce the total cost of marketing.

Thank you for your consideration and I hope you will approve the agreement.

Cordially,

Roderick Elmer Towne,

Ruth H. Towne.

August 12, 1980.

Dear Sir: This letter is in response to your request for comments on the Agri-Mark tentative settlement.

1. Agri-Mark should agree to take non-member milk. Isolated farmers should not have to join Agri-Mark or sell out as a penality for living a great distance from a market.

2. Under no circumstances should there be a deadline for signing for independents. People should join freely and not be forced by a fixed date.

3. Former Yankee Members, who have not signed with Agri-Mark, should have returned to them the balance of Equity Funds owed them, when Yankee is dissolved.

4. There should be an opportunity for Yankee Members to change their minds, whether they have signed or not, especially Yankee producers without a local market.

5. It's *very* important that pressure not be applied to independent truckers to make a choice between hauling for Agri-Mark or another dairy. If forced to make a choice, some independent farmers may be without a trucker to haul their milk.

If possible could you send us a copy of the tentative agreement between Agri-Mark and the Justice Dept.

Thank you for the efforts made by your Dept. in this dairy dilemma.

Sincerely,

Mrs. Alice C. Cheeseman,

Quaker Hill Rd. Unity Maine 04988.

Mrs. Priscilla Rowbotham.

R.F.D. 1, Fairfield Maine 04937.

The Commonwealth of Massachusetts
Milk Control Commission
Leverett Saltonstall Building, Government Center
100 Cambridge Street, Boston 02202
September 26, 1980

Alan L. Marx, Assistant Chief, General Litigation Section, Antitrust Division, Department of Justice, Washington, D.C. 20530

Dear Sir: In Re: Civil Action No. 80–174, U.S. District Court for Vermont, Defendents: Agri-Mark, Inc., H.P. Hood, Inc.

At its meeting of September 26, 1980, the Massachusetts Milk Control Commission, as an interested person, voted to file Comments with you for review and publication as provided in the Stipulation and Order and Proposed Final Judgment in the above designated matter.

Peter F. Hines, *Counsel.*

Please confirm receipt of this communication and attachment.

Comments

The laws of the several states concerned are in disarray as to the problem of proper security to be posted in the event of milk dealer defaults on the payment of milk shipped by the farmer-producer.

It is recommended that the Court—prior to entry of Final Judgment-appoint an expert to report and advise whether the parties to the action should join a producer protection fund to cover situations where present bonding may not be adequate.

A True Copy Attest:

Peter F. Hines,

Counsel Massachusetts Milk Control Commission Room 2100, 100 Cambridge Street Boston, Mass. 02202.

Community Nutrition Institute, 1146 19th Street, NW., Washington, D.C. 20036, (202) 833–1730

September 16, 1980.

Alan L. Marx, Assistant Chief, General Litigation Section, Antitrust Division, Department of Justice, Washington, D.C. 20530

Dear Mr. Marx: Over the past decade, the Community Nutrition Institute has become extremely concerned with the growing market strength of prominent dairy cooperatives. Dominant market shares allow cooperatives to control the movement of milk to market, and ultimately raise milk prices for consumers. Thus, we are pleased that the Justice Department will impose certain restrictions on the acquisition of the assets of H. P. Hood, a proprietary dairy, by Agri-Mark, a producer cooperative formed through the earlier merger of Yankee Milk and Agway.

The merger between Agri-Mark and Hood, and the subsequent full supply agreement, present a tremendous opportunity for Agri-Mark to expand its membership and "capture" the milk produced by independent dairy farmers. Under the original terms of the acquisition, many of the independent dairy farmers supplying milk to Hood would have felt pressured into joining Agri-Mark for fear of losing a market for their milk. The provision of the Consent Judgment requiring that Hood be willing to continue purchasing milk produced by independent producers until March 1, 1981, allows these dairy farmers to have the favorable fall season to find a new market for their milk. The prohibition of any supply agreement in excess of one year should ease dairy farmers' fears of being permanently excluded from supplying milk to Hood.

The Community Nutrition Institute supports the Consent Judgment's standardization of Agri-Mark's refunding policy. This provision will allow members of Agri-Mark to more easily leave that cooperative and compete with it. We also support the provision in the Consent Judgment that prohibits Agri-Mark from offering different prices to Hood's competitors or charging Hood different prices for raw milk depending on the geographic areas of Hood's customers. This stipulation should preserve the competition between milk processors and producers in the region.

We recommend, however, that the moratorium on the defendants' purchase of any milk processing plants in the New England area without the written consent of the Justice Department or the Court be extended from five to twenty-five years. We suggest this continuing surveillance so that the vertical integration which now characterizes this milk market does not worsen, and so that smaller independent processors can continue to provide competitive pressure to Hood without the fear of being preyed upon. In addition, we suggest the Justice Department keep a careful watch over any mergers between Agri-Mark and other producer cooperatives to make sure such mergers are completely voluntary.

We trust that the Justice Department will carefully monitor these mandated pricing and purchasing practices so that milk prices do not become unduly enhanced by the market power gained by Agri-Mark in the New England area

Sincerely,

Rodney E. Leonard,

Executive Director.

Thomas B. Smith,

Research Director, Consumer Division.

Rosanna L. Mentzer,

Research Associate, Consumer Division.

Grant's Dairy

562 Union Street, Bangor, Maine
October 1, 1980.

Mr. Alan L. Marx, Assistant Chief, General Ligation Section, Antitrust Division, Department of Justice, Washington, D.C. 20530

Dear Mr. Marx: The following comments are in response to the United States vs. Agri-Mark et al. as was published in the Federal Register/Volume 45, No. 149, pages 50990–50997, Thursday, July 31, 1980.

Basically the out of court settlement appears equitable. However, I feel that two points should be considered by the Justice Department before the settlement goes into effect.

1. The possibility exists that a handler (Grant's or other dairies) could actually lose its supply of milk from Agri-Mark Producers due to the fact that Agri-Mark is committed via a yearly contract to fulfill H. P. Hood's requirements.

2. The consent decree seeks to maintain competitiveness within the New England marketing area. However, plant consolidations (which I believe are sound business decisions) make handlers directly dependent on its competitor (H. P. Hood) to perform various services leading to separation and handling charges.

In discussing number 1, I would simply ask the question, "is it possible for a handler to lose all or a portion of his milk supply from Agri-Mark in order that Agri-Mark meet its *contract* obligations from H. P. Hood?" Nothing in the decree addresses the potential problem of short or long term diversion of milk from a given area to fulfill the contract requirements Agri-Mark to Hood. Because Maine is a vast state with numbers of milk producing pockets, more or less associated with dairy location, any diversion could literally strip any dairy of its supply while simply fulfilling a small fraction of the Hood contract. The problem seems to be that the decree deals only with price and terms of sale but that is of little importance if no sale is made.

Point number 2 reflects a concern that the out of court settlement will create the potential for an uncompetitive situation in the market place. This situation can be created when Yankee's Andover, Massachusetts operation is phased out.

Formerly Yankee's Andover facility supplied Grant's Dairy with approximately 600,000 pounds of skim milk monthly (approximately 20% of Grant's Class I usage).

This poundage is now supplied by Agri-Mark through H. P. Hood's Newport, Maine facility. H. P. Hood separates producer milk for Agri-Mark and assesses Agri-Mark for said separating. These costs are then passed on through Agri-Mark to Grant's Dairy. H. P. Hood has the potential to increase its separating charges above a reasonable rate with no feasible alternative to Grant's Dairy. In the past if such a situation had arisen, Grant's alternative would have been Yankee's Andover, Massachusetts facility.

Again I would like to clearly state the plant consolidations are an excellent business decision. I am not seeking to see the Andover, Massachusetts facility remain open. I am raising the question, "does the Department of Justice recognize that said consolidations are creating the potential for a handler to be dependent on its competitor, H. P. Hood, with respect to charges levied?" Shouldn't proper language be introduced which will assure handlers like Grant's that costs such as milk separating and handling charges remain at competitive, cost-based prices in the face of the effective elimination of competition?"

Sincerely yours,

Grant's Dairy, Inc.,

B. E. Grant,

President.

Fairdale Farms, Inc.

Bennington, Vermont 05201

Telephone (802) 442-6391

September 10, 1980

Alan L. Marx, Esquire Assistant Chief, General Litigation Section, Antitrust Division, Department of Justice, Washington, D.C. 20530

Re: *United States v. Agri-Mark, et al.*

Dear Sir: The following comments are respectfully submitted pursuant to *Competitive Impact Statement, Section V. Procedures Available for Modification.*

While the proposed Final Judgement appears to restore to dairy farmers the freedom to sell their milk to dairies of their choice, the realization of this freedom is dependent upon the ability of such dairies to continue to provide such marketing services as collecting raw milk, processing, packaging and delivering fluid dairy products. Unless these essential services continue to be performed by dairies (handlers) other than the defendants, then dairy farmers (producers) will not have the relief which is apparently intended in the proposed Final Judgement.

The problems of maintaining competitive viability in the processing, packaging and delivery functions are problems which urgently need prompt and positive attention. The degree of urgency in these matters is indicated by monthly reports issued by the Market Administrator, New England Marketing Area. These reports show recent declines in the number of handlers (dairies) as follows:

	Jan. 1979	July 1979	Jan. 1980	July 1980	Rate of decline (percent)
Pool handlers	90	86	82	80	11.1
Producer-handlers	35	35	33	33	5.7
Partially regulated and other Federal market handlers	8	7	8	8	
Totals	133	128	123	121	9.0
The same monthly reports show the producer rate of decline as follows	7571	7478	7368	7344	3.0

There is an obvious reason for the rate of decline of handlers being three times the rate of producers. Dairies (handlers) have to pay producer prices which are established by federal and/or state regulatory agencies reflecting indexed raw milk price supports mandated by Congress. Dairies have to sell this milk after being processed, packaged and delivered, at severely depressed prices due to the continuous surplus of raw milk. The price competition that persists in the sale of fluid milk products should, in the public interest, be carefully monitored to prevent the additional economic problems which arise from violations of antitrust laws.

Experience in competing with defendant Hood (since 1951 in the western Massachusetts area and since 1977 in the northern Vermont area) has been reasonably normal. The challenged transaction, however, drastically changes the competitive character of Hood. In the first place, control of Hood would be purchased by defendant Agway, Inc. According to its 1979 Annual Report, Agway's net sales were $2,049,080,356 (about four times Hood's), of which $919,139,876 (44.9%) came from petroleum operations. Of Agway's 1979 capital expenditures, 88% was invested in petroleum facilities.

Notes to Agway's 1979 financial statements include discussions of Texas City Refining Co., Inc.; Pro-Fac Cooperative, Inc.; Curtice-Burn, Inc.; Telmark, Inc.; Springfield Bank for Cooperatives, and others. Note 5(c) to financial statements appears to indicate that Pro-Fac Cooperative borrows from the Springfield Bank for Cooperatives and make corresponding loans to Curtice-Burns, a fruit and vegetable packer which owned 33% by Agway and 67% by Texas City Refining.

Agway's dicussion of its financial strengths and broad diversification, particularly when considered in connection with the low profitability and operating losses experienced by New England dairies in recent years, give rise to such questions as:

(1) Will Agway's "Retained margins" ($187,941,802 at June 30, 1979), or any part thereof, be used to take sales volume away from other dairies at below-cost prices?

(2) Will Agway's substantial borrowing capacity be used to expand its initial investment in Hood?

(3) Will possible losses from fluid milk operations be recovered as marketing service deductions from milk checks payable to Agri-Mark members, thus giving Agri-Mark a financial resource not available to their competitors?

(4) Will Agway, having purchased control of Hood and in a position to name Hood's management, and with Agri-Mark operating assets acquired from Hood, be able, through cooperatives' exemption from producer security bond requirements, to extend credit to dairy purchasers of raw milk in amounts which will eventually result in the transfer of ownership of such dairies to either Agway or Agri-Mark?

As described in your Competitive Impact Statement, defendant Agri-Mark, which was formed to participate in the challenged transaction, is New England's largest dairy farmer cooperative, and successor to Yankee Milk, Inc., formerly the largest dairy cooperative in New England. Here is an unusually large cooperative, not only in control of a major part of New England's milk supply, but also the proposed operator of Hood's hauling, processing, packaging and distributing facilities. Here is a dairy (handler) which proposed a transaction which the Justice Department states would have been in violation of Clayton Act, Sections 3 and 7. Furthermore, defendant Agri-Mark's predecessor, Yankee, has a history of similar complaints (Fairdale v. Yankee, Civil Action File 75-140).

In view of the above it is respectfully urged that the Final Judgement include provisions which will result in restraining defendant Agri-Mark as much in its proposed processing, packaging, sales promotion and delivery operations as Agri-Mark has been restrained in the procurement and sale of raw milk.

In making this request, the restraints included in Section X of the proposed Final Jugement have been noted. But in efforts to expand sales of processed products there are means other than "* * * purchasing, consolidation with, acquiring control of or leasing * * *" which can be used illegally. These other means include: Cutting prices below cost, predatory pricing, providing so-called free services, such as use of refrigeration equipment, stamping and display of products in dairy case, use of returnable shipping cases for merchandising other than supplier's products. Whenever these expensive practices are used to acquire a new customer, or to force a competitor out of a "split stop", the competing dairy has to either duplicate these costly practices or go out of business. Either from meeting below-cost pricing or providing unbilled services, the competitor with less financial strength usually finds himself in a precarious financial situation indicated by an inability to borrow funds necessary to continue operations or inability to obtain the producer security bonds required by regulatory authorities. When this happens the ultra-aggressive dairy with stronger financial resources does not have to purchase, consolidate, acquire control, merge or lease. As the weakened competitor becomes financially unable to continue to deliver acceptable quality and service, the ultra-aggressive, more strongly financed dairy simply supplies more of the customers fluid dairy product requirements.

The unique financial advantages available to cooperatives; together with the size,

diversification and financial strength of defendant Agway; and the record of compliants which have been filed against Agri-Mark's predecessor, Yankee Milk, Inc., are the basis for this request that the Final Judgement be expanded to include appropriate restraints against violations of antitrust laws, not only in the procurement of raw milk, but also in the processing, packaging and distributing of fluid dairy products.

Respectfully submitted,

Fairdale Farms, Inc.,

Robert T. Holden,

President.

United States District Court for the District of Vermont

United States of America, Plaintiff, v. Agri-Mark, Inc., Agway Inc., and H. P. Hood, Inc., Defendants. Civil Action No. 80-174.

Opposition of National Association For Milk Marketing Reform to Proposed Final Judgment by Consent

1. The National Association for Milk Marketing Reform, hereafter referred to as NAMMR, opposes, on behalf of the Association and its members, the Proposed Final Judgment now before the Court. NAMMR requests the Department of Justice to withdraw its consent to this Proposed Final Judgment under the terms thereof and in compliance with the United States Code and to notify the Court and all parties that it seeks full adjudication of the issues and the full relief prayed for. NAMMR's reasons are set forth hereafter. In the event the Department should reject this request for withdrawal of consent, hearings on this Proposed Final Judgment are indispensable.

2. NAMMR, in the alternative, petitions the Department of Justice to request the U.S. District Court to delay entry of judgment for an additional period of 60 days or for such reasonable period of time as the Court may order, after the close of the present sixty-day period for comments, during which time the Court may hold hearings for the purpose of allowing affected persons to appear and give testimony and present written and documentary materials which are necessary in these proceedings and will demonstrate and prove that the Proposed Judgment will not protect competition, will permit injury, and is not in the public interest.

3. NAMMR's reasons for its request for withdrawal of consent and, in the alternative, its petition for delay and further hearing are:

A. The Proposed Final Judgment does not, beyond March 1981, protect competition and the economic viability and continued independence of many of the producers who now exist among the 900 dairy farmers selling to Hood.

B. The Proposed Final Judgment does not protect competition and the economic viability and independence of the small milk marketing and bargaining cooperatives which now exist among those who serve Hood and its competitors.

C. The Proposed Final Judgment does not protect competition which now exists among the milk processors, handlers and plants competing with Hood.

D. The Proposed Final Judgment does not protect against future mergers or acquisitions of competing (or noncompeting) milk marketing and bargaining cooperatives by and into Agri-Mark. Such mergers and acquisitions will have the effect of eliminating producer competition, removing producer sources of fluid milk for processors competing with Hood, and extending Agri-Mark and Hood's market power.

E. The Proposed Final Judgment does not protect consumers from the effects of increased concentration in the New England-Northeast Areas, such as the unilateral ability of this giant marketing agency to unduly enhance retail prices which will result from areawide premiums made possible by this increased market power. Additionally, consumers will suffer from a loss of options to purchase a variety of products which will disappear from the market, with the loss of milk producers and processors. For these and other reasons the Proposed Final Judgment is not in the public interest.

Discussion

4. *Background.* NAMMR, a District of Columbia nonprofit-corporate-trade association, was organized approximately six years ago in an effort to seek equity in the marketing of milk for small processors through Federal legislative changes, departmental regulations and court proceedings. Members are primarily located in the East, South, and the Midwest, with a few in the Far West. Several of its members are directly affected by the acquisition and the terms of this final judgment as they are Northeastern competitors. However, the ultimate effects of this acquisition will go far beyond those immediately involved.

NAMMR and its members are vitally concerned with this matter. This acquisition is one more milestone on the road toward total domination of the nation's fluid milk supply by a few regional super cooperatives who are linked together with anticompetitive super pooling agreements. They use their milk marketing power to integrate forward acquiring processing plants and the dairy companies which were their former customers. When processors are faced with a single supplier after the elimination of their alternate suppliers, they are usually subjected to increased premiums unilaterally applied by the giant co-op above the Federally ordered prices for fluid milk. In seeking more favorable milk prices and an assured milk supply, independent processors begin traveling greater distances with resulting increased transportation costs. They are ultimately forced out of business. Their plants and equipment are not marketable on any reasonable value basis as any prospective purchaser (with the exception of the dominant co-op supplier) will find the same supply problem.

5. *Discussion.* The Department of Justice (DOJ) has filed various documents in compliance with 21 U.S.C. 16(b) and included is its Competitive Impact Statement filed 7/16/80 with this Court.

It is recited at page 3:

"The principal purpose of this lawsuit has been to preserve in New England the conditions necessary to insure that raw milk is sold to all dairies at the competitive price consistent with governmental regulation of milk prices."

There is no assurance that the purpose of this lawsuit will be realized by the Judgment. The Department of Justice recognizes that "Hood is the largest purchaser of milk from independent dairy farmers in New England," and "accounts for 14% of all raw milk purchases." (Page 3) Agri-Mark's members account for at least 35% of all milk production in the same area. These statistics alone exceed the Department of Justice guidelines for a merger between a supply firm of 10% or more of the sales in its market and a purchasing firm with 6% or more of the total market purchases. Thus the merger here was challenged by the Department of Justice and it admits in its Impact Statement that the combined Hood-Agri-Mark group will be dominant and "competitively dangerous." Agri-Mark has made it clear that it must expand its membership and gain a larger share of the supply market—up to and exceeding 50% of New England producers. The Department of Justice acknowledges the anticompetitive nature of the merger and NAMR finds ample reason to agree with that conclusion even if the terms of this proposed Judgment become effective. The following statement of the Department of Justice, in referring to what might have happened without this Proposed Judgment, is absolutely true, based upon experiences elsewhere in the country, and NAMMR submits, are likely to occur under the terms of the Judgment:

"Hood competitors who are fully or substantially supplied by Agri-Mark would be placed in the difficult position of being supplied by a company which controls their major competitor. *Vigorous competition on their part with Hood might tend to* jeopardize their milk supply." (Page 5)

Argument

6. The Proposed Judgment, according to Department of Justice, would "deprive Agri-Mark and Hood of the tools which might empower their combination to have undesirable effects in the marketplace." The Department then sets forth on Page 5 of the Impact Statement six measures of relief or provisions of the Judgment which will act as barriers agains anticompetitive conduct and its results.

7. "(1) Stripping Agri-Mark of any ability to sustain any artificial increase in prices."

According to the Department of Justice this is accomplished by Paragraph IV–A which will require Agri-Mark to charge Hood the same prices it charges other competing dairies, and in Paragraph IV–B from selectively lowering prices to destroy competition (Page 11). This resolution totally ignores the problem of premium pricing as Agri-Mark gains 50% and more of the supply market. It is now, and will become the sole supplier for small processors competing against Hood. Regardless of the prohibition against interlocking directors, Agri-Mark and Hood will be in effect almost a single entity. How can this Judgment guarantee a true supplier-customer relationship when the customer's capital stock is owned by the associated co-op, Agway, and all assets are

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owned by the supplier. Are these "arms length" dealings? What are the payment terms of the long-term lease of the fixed assets of the old Hood Company, which the new Hood entity is leasing from Agri-Mark, its supplier? NAMMR asserts that there are no exacting provisions under this Judgment to prevent the flow of funds and price rebates between the co-op supplier and the operating subsidiary Hood Dairy. Agri-Mark is the major supplier now and will be soon the sole supplier of Hood. There are many other services, programs and arrangements between supplier-co-op and dairy customer that Agri-Mark will use to favor its Hood subsidiary over the independent processor. As Hood grows stronger the independent weakens, and areawide premiums will not be prevented by this Judgment.

8. "(2) preventing Agri-Mark from 'locking' members into the cooperative." (Page 5)

A major tool used by other regional milk co-ops is the long-term membership contract (See *U.S. v. Dairymen, Inc.*, 1979–1 Trade Cases 62,494; *U.S. v. Mid-America Dairymen, Inc.*, 1977–1 Trade Cases 61,509 (W.D. Mo. 1977); and *U.S.* v. *Associated Milk Producers, Inc.*, 394 F. Supp. 29 (W.D. Mo. 1975). This is addressed by the Department of Justice in this proposal. According to Paragraph V of the judgment, the Department of Justice believes that Agri-Mark's board cannot discriminate in repayments of equity membership contributions and allocated retained earnings between its members so as to lock them in and prevent them from joining a competing co-op or going independent. Department of Justice concludes: "Thus, producers gain no advantage regarding the recovery of funds by remaining in Agri-Mark compared to competing with it." NAMMR submist that this provision does supply some of the democracy and ease of existing that is blatantly lacking in many agricultural co-ops but it, nevertheless, will not prevent Agri-Mark from simply returning no equity contributions nor retained earnings for a long period of time or from returning them on the basis of a long-term schedule. This money can be retained until the Agri-Mark—Hood deal is solidified; until Agri-Mark increases its number of producer members and milk volume to a market dominating level; and until there are few competing co-ops and processors remaining so that a leaving producer has nowhere to go with his money, but out of business.

9. "(3) providing independent producers who had delivered to Hood in the past additional time in which to find markets for their milk other than Agri-Mark."

NAMMR argues here that Paragraph VI–C will be of no use after March 1, 1981. The anticompetitive effects of this acquisition will not be reduced at that time and we see no new markets developing for those non-Agri-Mark dairy farmers who must either join or go out of business. Since there are pickup routes for bulk fluid milk haulers, what happens to one former Hood producer who declines to join Agri-Mark and finds himself on a route with all Agri-Mark members? Although it is possible that alternative marketing may be developed for the independent farmers between February 1980 and March 1, 1981, it is doubtful. Can some of the 900 independent dairy farmers join or form competing cooperatives, and if so, how or to whom will they market their milk? It is imperative that this Final Judgment be delayed until a hearing can determine what effect this paragraph has had on the supply market.

10. "(4) forbidding Agri-Mark and Hood from entering supply agreements with a duration of more than one year."

NAMMR has concern with the future effectiveness of this proposal. Although such a provision as contained in Paragraph VI-A would prohibit the totally anticompetitive 10-year full supply contract with options, what is the anticipated effect of renewable one year contracts? At Page 3 of the Impact Statement, the Department of Justice concludes:

"The effect of this full supply contract would be to foreclose Agri-Mark's competitiors—independent dairy farmers and members of competing cooperative organizations—from competing with Agri-Mark for sales of raw milk to Hood for the next 20 years."

Has the Department of Justice made available to the court any evidence to demonstrate that at the renewal dates of the annual supply (full supply?) contracts "independent dairy farmers and members of competing cooperative organizations" will be in a position to offer competitive bids? What is the basis for believing they will be seriously considered by Hood? Does it appear possible that the Hood board and management will be able to exercise independent judgment and contract for some lower cost milk from independent producers, or to purchase from a competing cooperative, in order not to be dependent on a single supplier, Agri-Mark? Will Agri-Mark be in a position to require membership payments or in lieu thereof surcharge payments per cwt of fluid milk to Agri-Mark as a condition of selling to Hood by independents? This latter practice has been reported in Florida after the acquistion of Farmbest Foods. (The entire matter currently before the Federal Trade Commission; *In the Matter of Dairymen, Inc. and Munford, Inc.*, Dkt. D 9143).

11. NAMMR submits that these questions require thorough answers and these answers can only be developed through a full hearing on the Consent Judgment. One of the important charges in the complaint is the Section 3, Clayton Act violation alleged in Paragraphs 27 and 28. NAMMR believes that Paragraph VI-A of the Proposed Judgment is a positive step but it does not protect against the apparent injury of lessened competition and the tendency toward monopoly as described in Paragraph 28. This merger or acquistion between the largest producer co-op and the largest dairy processor, that is, the supplier buying up the customer, is the greater evil than if Hood had made horizontal acquistions or mergers which would violate the F.T.C. and D.O.J. Dairy Industry (and) Merger Guildelines. The Department is aware of the consequences of this type of acquistion from its litigation experiences with the three other super, regional co-ops mentioned in Paragraph 8 above.

12. "(5) isolating Hood and Agri-Mark from each other in certain significant respects."

The problem with evaluating the future effectiveness of this proposal is obviously whether there can be any true isolation of their management. NAMMR submits that there will be no *de facto* isolation or separation under the constraints of Paragraph IX which would enjoin and restrain Hood and Agri-Mark from having: Any common director; any common officer or management; and from discussing prices or terms and conditions of sale of milk, except for sales between each other. The Department of Justice concludes that since "Agri-Mark will not own Hood, but only its assets;" and "Agway will own all of Hood's stock and thus be able to elect Hood's management—the Proposed Final Judgment assures that Agri-Mark and Hood will remain separately controlled." This conclusion is unrealistic and does not seem to be based upon the functional connections between the three entities. The Impact Statement does not reveal the relationship of Agway and Agri-Mark. In Paragraph 6 of the complaint it is recited that 80% of Agway's *member* sales are to dairy farmers. Is it correctly assumed that 80% of Agway's members are dairy farmers? Whatever the percentage of membership, NAMMR suggests that Agway is substantially owned by Agri-Mark's members. There appears to be significant common ownership. Since Agway will own all of Hood's stock, it is presumed that Agway's board will vote in the Hood board and thus select its management and determine its policies. Agri-Mark will own all of the fixed assets of Hood and, thus, be in a position of exercising considerable influence. It is assumed that Agri-Mark will ship milk to Hood on credit terms with some security arrangement which means additional elements of control. What consideration has D.O.J. given to the effects of the other agreements between Agri-Mark and Hood listed in paragraph 24 of the Complaint: An administrative services agreement; a marketing agreement; and a loan agreement? NAMMR cannot visualize independent decisions by Hood management concerning sources of supply, milk costs and wholesale and retail pricing and terms.

Coeclusion

13. Based upon the record (which is insufficient), the Department of Justice must realize that this Proposed Final Judgment does not resolve the serious allegations of competitive injury and detrimental consequences for the public which were raised in the Complaint. The Complaint correctly characterized the injury flowing from the lessened competition which will result from the acquistion. Therefore, NAMMR requests the Department of Justice to withdraw its Consent as soon as possible under the law and the terms of this agreement, and to proceed to trial to gain the full measure of relief, which must be not less than total divestiture of H. L. Hood, Inc. and its restoration to its prior condition and position as "New England's largest dairy."

14. In the alternative the Department of Justice should request a reasonable delay and hearings before the Court on the effects of the Proposed Judgment. The requested hearings would demonstrate the fatal flaws in the Consent Judgment.

It is further requested that preceding the date of the hearing, at least 30 days in advance, the Department of Justice, with the approval of the Court, give actual written notice to all affected parties, and to an adequate number of the 900 independent producers and the 98 competitive processors of H. P. Hood, of the hearing date, the purpose of the hearing and the opportunity to offer evidence of any injury to competition, by orderly presentation directly with the Court.

NAMMR further requests that it receive notice of the hearing and that the Department of Justice not oppose NAMMR's motion to the Court to file a brief, and if permitted, to appear as Amicus Curiae, in these hearings upon leave granted by the Court.

Dated: September 28, 1980.

Respectfully Submitted,

Donald A. Randall,

Counsel,

Harry G. Shupe,

Assistant Counsel, National Association for Milk Marketing Reform.

National Independent Dairies Association.

September 30, 1980.

Re *United States v. Agri-Mark, et al* CA 80–174, USDC Vt. .

Alan L. Marx, Esquire,

Assistant Chief, General Litigation Section, Anti-trust Division, Department of Justice, Washington, D.C. 20530.

Dear Mr. Marx: This letter is submitted concerning the proposed consent decree in the subject case, in accordance with 15USC16(b).

National Independent Dairies Association (NIDA) since 1957 has had as its members independently owned dairy processors throughout the nation, including the New England States. Our New England members are deeply concerned about the potential effect of the proposed consent decree to lessen competition in the New England milk market place. NIDA joins in their concern and further notes with concern this latest attempted step in the continuing march of the huge and economically powerful agricultural cooperatives to gain shared monopoly control of important food markets, contrary to the interests of private enterprise and of the consumer public. Let there be no blinking the fact that this attempted merger involves ruthless Fortune 500 economic power and the proposed merger is a blatant attempt to increase that power in New England.

It is also noteworthy that this is the first instance of penetration into the milk processing industry of a Fortune 500 *supply* cooperative. Accordingly, this is not a combination favor by the Congress under the Capper-Volstead exemption. The proposed merger would create an economic monster which would place the independent New England dairy farmers and dairy processors, like the ham and cheese in a sandwich, between a controlled fluid milk supply structure and a related dominant processing competitor. Such a resulting integration bodes ill for all independents now and renders any new market entry into dairy processing in New England foolhardy indeed.

There is no economic necessity for regional producer co-operatives to engage in large scale processing operations. Associated Milk Producers, Inc. (AMPI) in the southwestern states has gone from owning 12 bottlers in the past to two, and one of those is for sale. In a recent speech at a dairy conference, Mr. Ira Rutherford, AMPI General Manager, pointed out that co-operative processing has proven to not always be the most efficient way to work in the interest of the farmers and AMPI does not want to compete with processing dairies. NIDA agrees with this view.

Attached is a copy of a lead article which puts the antiprivate enterprise and predatory activities of the huge regional agricultural co-operatives in perspective in the national agribusiness market. The position of the milk co-operatives in this ranking of the largest is noteworthy, as also is Ag-Way's position. It is further interesting to note that Ag-Way's sales have increased to over $2 billion (1979 Annual Report) from $1.3 billion in 1977. It is clear that Ag-Way is an ever-growing, formidable economic power, as is Yankee Milk, the dominant dairy marketing co-operative in New England, now proposed as Agri-Mark. Their alliance in this merger to take over H.P. Hood is a clear threat to further milk production and processing competition in New England despite the apparent concessions in the proposed consent decree. NIDA objects to the acceptance of the proposed consent decree in its present form. It is believed to be in the public interest, locally in New England and nationally, to proceed to trial on the *prima facie* case the Department of Justice can prove and a granting of the Prayers in the Complaint.

NIDA has an additional concern about a consent decree in this case. With all due respect to the Department of Justice, the fact is that the track record of the Antitrust Division in prior years does not inspire confidence in future vigorous enforcement of consent decree orders in dairy cases. See *United States v. Mid America Dairymen, Inc.* 1977–1 Trade Cases ¶61,509. Not only has Mid-America not divested itself of the three cheese plants as ordered, it subsequently acquired Highland Dairy in Springfield, Missouri, a major independent processor, and Roberts Dairy, a major independent processor, in Omaha, Nebraska within the 5 year period. Mid-America today is a stronger monopolistic power than it was before the consent decree in that case.

Should the Court favor a consent decree, the proposed decree should be modified to protect the competition among the processors in New England. Nationally, there has been a frequent pattern of ultimate price discrimination and sales below cost by the large processing activities taken over by producer co-operatives. Stated another way, co-operatives in many instances have used their acquired large processing facilities to lessen competition by dairy product price warfare supported by their milk production activities, which enjoy limited antitrust exemption and special income tax treatment, and by their ability to recoup any resultant losses throught price premiums on fluid milk paid by, among others, the very independent processors targeted by the co-operative processing and sales activities. The defendants should not be allowed to so operate H. P. Hood to lessen competition and tend to create a monopoly in New England. At the very least, the proposed consent decree should enjoin the defendants from conducting H. P. Hood's sales of fluid milk products so as to lessen competition by discriminatory pricing practices in violation of the Robinson-Patman Act (15 U.S.C. 13) and by sales below cost in violation of Section 3 of the Robinson-Patman Act and applicable state sales below cost laws; and "cost" in this instance should include all those cost elements now attributable to H. P. Hood's milk products operations as an independent company, not overall co-operative costs.

In conclusion, NIDA urged the filing of this action by letter to Assistant Attorney General Litvack and in conference with Mr. Litvack by NIDA's Executive Vice President, Arthur H. Berndtson. We are gratified that the Department of Justice ultimately did file the action. We believe the public interest will best be served by a trial and the granting of the Prayers set forth in the Complaint. Failing a trial, we urge that any consent decree approved by the Court include a provision enjoining the defendants from discriminatory pricing of H. P. Hood's milk product sales in violation of the Robinson-Patman Act (15 U.S.C. 13) and from sales below cost in violation of Section 3 of the Robinson-Patman Act and applicable State sales below cost laws, with a clear definition of "cost" in this instance.

Very truly yours

R. M. Hanckel, *President.*

State of Vermont, Office of the Attorney General,

Montpelier, Vt., August 21, 1980.

Re *United States v. Agri-Mark, Inc., et al.* District of Vermont Civil Action No. 80–174.

Mr. Alan L. Marx,

Assistant Chief, General Litigation Section, Department of Justice, Washington, D.C.

Dear Mr. Marx: This office has reviewed the Final Judgment in the above-captioned case filed on July 16, 1980 as well as the Competitive Impact Statement filed the same day. We are submitting the following comments pursuant to Paragraph V of the Competitive Impact Statement, Procedures Available for Modification and urge that the proposed Final Judgment *not* be entered in its present form.

As you probably know, the dairy industry is tremendously important to the State of Vermont. Nearly 3,400 farmers earn their living from their dairy cows. The contribution of dairy farming to Vermont's economy is great, indeed.

The period from the announcement of the proposed creation of Agri-Mark and the proposed acquisition of a majority of H. P. Hood stock by Agway, Inc. until the proposals were consummated following the settlement of the case brought by the Justice Department was one of intense efforts to convince farmers to sign one year supply contracts with Agri-Mark. In addition to signing the supply contracts, farmers who wished to join Agri-Mark had to agree to pay Agri-Mark a membership contribution equal to $.94 per hundredweight of raw milk the

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farmer produced in 1979. Many farmers, as the Competitive Impact Statement noted at 4–5, were faced with the problem of deciding whether to join Agri-Mark or find a new market for their milk during the flush season, when milk production is highest, relative to demand. Now that the farmers have had more time to reflect on their decision, some may wish to change their minds.

It is not only the Hood independents who may wish to reconsider their decision to join Agri-Mark. Other independents and members of co-operatives who signed contracts with Agri-Mark may have been in situations similar to those of the Hood independents (see letter of Gilbert T. Normand, Esq., August 14, 1980). We recommend that the protections given the Hood independents in paragraphs VI C and VII of the Final Judgment be extended to all producers. We understand that the Department proposed just such a provision as part of the settlement of this action on July 3, 1980. We also understand Agri-Mark's concern about its ability to accurately forecast its revenue. However, we believe that the number of farmers who would exercise an option to leave Agri-Mark would be quite small relative to the overall size of Agri-Mark. Of the nearly 3,400 dairy farmers in Vermont, almost 800 belonged to Yankee Milk, Inc. before the creation of Agri-Mark. The members of Yankee Milk voted overwhelmingly to join Agri-Mark and make up a majority of the members of Agri-Mark. We estimate that less than 200 dairy farmers in Vermont would be included in a class of Vermont farmers who joined Agri-Mark and were neither members of Yankee Milk or Hood independents. This group would probably be similar in number to the Hood independents who fall within the protections of paragraphs VI C and VII of the Final Judgment. We have no way of knowing how many of that group would wish to leave Agri-Mark if given the chance, but we do not think it would be very large.

In view of the total number of Agri-Mark members, we do not think it would cause Agri-Mark an undue burden to offer such a group the option of leaving. However, we think that the option should be exercised within a reasonably short time after notice is given so that Agri-Mark would be able to accurately revise its revenue projections promptly.

Because of the very substantial impact on a dairy farmer who joined Agri-Mark and might wish to reconsider his decision but cannot, we urge the Department to reconsider the proposed Final Judgment and extend the protections given the Hood independents in paragraphs VI C and VII to all producers.

Sincerely,

M. Jerome Diamond,
Attorney General.

Glenn A. Jarrett.
Assistant Attorney General Antitrust Division.

Gilbert T. Normand,
Montpelier, Vermont 05602, August 14, 1980.

Re United States of America v. Agri-Mark, Inc., Agway, Inc., and H. P. Hood, Inc. United States District Court for the District of Vermont Docket No. 80–174.

Mr. Alan L. Marx,
Assistant Chief, General Litigation Section, Department of Justice, Washington, D.C.

Dear Mr. Marx: Please be advised that I represent the interest of Northern Farms Cooperative, Inc. (NFC), a Vermont cooperative, whose business office is located in Montpelier, Vermont.

Consistent with paragraph V—*Procedures Available for Modification* of the *Competitive Impact Statement*, filed on July 16, 1980 in the above entitled matter with the United States District Court for the District of Vermont, the following comments are supplied herewith, urging that the proposed Final Judgment is said matter not be entered in the form proposed.

1. That NFC has been an active Vermont cooperative since 1939 with a present producer membership of approximately 650.

2. That prior to and during the instant proceedings approximately 389 NFC members, through NFC, used H. P. Hood, Inc. as their milk market.

3. That NFC believes that NFC members whose product was shipped to Hood, and other members who came to hear about Agri-Mark were sought to join Agri-Mark in the same or similar manner as the so-called Hood independents, as defined in the proposed Final Judgment at paragraph 1–D.

4. That NFC believes that the aforementioned NFC members faced the same concerns, questions and apprehensions as the Hood independents as to a future market for their milk.

5. That NFC believes that between 150–200 of its members had signed Agri-Mark membership agreements prior to the filing of the instant proceedings.

6. That paragraph VII of the proposed Final Judgment would allow, within guidelines set out therein, Hood independents to terminate agreements between Agri-Mark and that producer.

7. That in many of the areas of the State of Vermont, Hood independents and cooperative members were under the same pressures to find alternative markets for their milk when they became aware of the Agri-Mark formation.

8. That NFC members who signed Agri-Mark agreements undr the same or similar circumstances as the Hood independents are precluded in the proposed Final Judgment from the same right as Hood independents to reassess their particular situation as whether to join Agri-Mark or not.

9. That NFC has certain of its members who had previously signed Agri-Mark membership agreements who, as this matter has developed, reassessed their situation and would wish to terminate their Agri-Mark agreement consistent with paragraph VII of the proposed Final Judgment.

10. That paragraph VI, *Alternatives Actually Considered*, of the *Competitive Impact Statement* indicates that on July 3, 1980 the plaintiff (Uunited States of America) "proposed that as part of the settlement of this action, Agri-Mark be enjoined for 45 days from entry of Final Judgment from refusing to allow any *producer* (emphasis added) to terminate his or her Agri-Mark membership agreement if that producer gave written notice to Agri-Mark of his or her desire to terminate such agreement within the 45 day period."

11. That paragraph VI of said *Competitive Impact Statement* also indicates and implies that the major reason the proposed Final Judgment would allow only Hood independents to terminate previously signed Agri-Mark membership agreements is to allow Agri-Mark to finance its organization by projecting members' equity contributions with some degree of certainty.

12. That the former Yankee Milk cooperative is/was the largest cooperative in New England. Said cooperative voted overwhelmingly to join Agri-Mark. The past membership of Yankee Milk makes up the vast majority of Agri-Mark.

13. That NFC is a bargaining and not a marketing cooperative.

14. That NFC believes that Agri-Mark (formerly Yankee Milk) is the largest cooperative supplier of milk to Hood at the present time.

15. That the number of NFC members who signed Agri-Mark membership agreements and the number who would possibly terminate said agreements, if allowed in a Final Judgment, would have little impact on the concerns of Agri-Mark as set out in the aforementioned paragraph VI of the *Competitive Impact Statement.*

16. That the impact on a NFC producer not afforded the same opportunity to terminate an Agri-Mark membership agreement as allowed Hood independents in the proposed Final Judgment could be substantial.

17. That the potential impact on NFC and its haulers for the fracturing of milk routes due to lost members could be substantial to the point of driving some haulers out of business to the detriment of other Vermont producers.

18. That any potential loss to the defendants in this action would be minimum in allowing concerned NFC members, who previously signed Agri-Mark membership agreements, from having the right to terminate that agreement under the same terms as Hood independents.

19. That prior to the filing of the *Competitive Impact Statement*, Stipulation and proposed Final Judgment in this action on July 16, 1980, Vermont State Senator Francis Howrigan (D–Franklin) was subpoenaed to testify in then pending proceedings.

20. That Senator Howrigan is a NFC producer/member who is also on the Board of Directors of NFC.

21. That Mr. Howrigan was prepared to testify, among other matters, as to the impact that he believed Agri-Mark would have in the Northern Vermont Market area, the impact upon haulers and the concerns of producers, including NFC members, who had previously signed Agri-Mark membership agreements.

22. That Mr. Howrigan was not called to so testify.

23. That shortly after July 16, 1980 NFC was informed that the proposed Final Judgment was filed with the Court.

24. That NFC requests that paragraph VII of the proposed Final Judgment be amended to allow any NFC member, who signed an Agri-Mark membership agreement, the opportunity to terminate said agreement consistent with the right presently proposed to Hood independents.

Very truly yours,

Gilbert T. Normand.

cc: Northern Farms Cooperative, Inc., M. Jerome Diamond, Attorney General.

[FR Doc. 80–36982 Filed 11–26–80; 8:45 am]
BILLING CODE 4410–01–M

Drug Enforcement Administration

Importation of Controlled Substances; Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on July 2, 1980, Philadelphia Seed Company, Division of Stanford Seed Company, Muddy Creek Road, Lancaster County, Denver, PA 17517, made application to the Drug Enforcement Administration to be registered as an importer of marihuana, a basic class controlled substance in schedule I. The applicant will render marihuana seeds sterile for use as feed for certain types of animals. The end product will not be in an abusable form.

As to the basic class of controlled substance listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than December 29, 1980.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (e) and (f) are satisifed.

Dated: November 24, 1980.

Peter B. Bensinger,
Administrator, Drug Enforcement Administration.

[FR Doc. 80–37086 Filed 11–26–80; 8:45 am]
BILLING CODE 4410–09–M

Importer of Controlled Substances; Registration

By Notice dated August 25, 1980, and published in the **Federal Register** on August 29, 1980 (45 FR 57790), Carlton Turner, Dept. of Pharmacognosy, School of Pharmacy, University of Mississippi, University MS 38677, made application to the Drug Envorcement Administration to be registered as an importer of Marihuana, a basic class of controlled substance listed in schedule I.

No comments or objections have been received. Therefore pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21 Code of Federal Regulations § 1311.42, the above firm is granted registration as an importer of the basic class of controlled substance listed above.

Dated: November 24, 1980.

Peter B. Bensinger,
Administrator, Drug Enforcement Administration.

[FR Doc. 80–37089 Filed 11–26–80; 8:45 am]
BILLING CODE 4410–09–M

Manufacture of Controlled Substances; Registration

By Notice dated August 25, 1980, and published in the **Federal Register** on August 29, 1980 (45 FR 57789), Cyclo Chemical Division, Division of Alameda Laboratories, Inc., 1922 East 64th Street, Los Angeles, California 90001, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Diphenoxylate, a basic class of controlled substance listed in schedule II.

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations § 1301.54(e) the Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: November 24, 1980.

Peter B. Bensinger,
Administrator, Drug Enforcement Administration.

[FR Doc. 80–37087 Filed 11–26–80; 8:45 am]
BILLING CODE 4410–09–M

Manufacture of Controlled Substances; Registration

By Notice dated September 23, 1980, and published in the **Federal Register**, on September 30, 1980; (45 FR 64761), Pharmaceutical Division, Ciba Geigy Corp., 556 Morris Avenue, Summit, New Jersey 07901, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Methylphenidate, a basic class of controlled substance listed in schedule II.

No comments or objections having been received, and pursuant to Section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations § 1301.54(e), the Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Dated: November 24, 1980.

Peter B. Bensinger,
Administrator, Drug Enforcement Administration.

[FR Doc. 80–37088 Filed 11–26–80; 8:45 am]
BILLING CODE 4410–09–M

Federal Bureau of Investigation

National Crime Information Center Advisory Policy Board; Renewal

In accordance with the provisions of the Federal Advisory Committee Act [U.S.C. App. I (Supp. II, 1972)], and the Office of Management and Budget (OMB) Circular A–63, the Director, FBI, has determined that the renewal of the National Crime Information Center (NCIC) Advisory Policy Board is in the public interest in connection with the performance of duties imposed upon the FBI by law.

The Board recommends to the Director, FBI, general policy with respect to the philosophy, concept, and operational principles of the NCIC, particularly the system's relationship with local and state criminal justice systems.

The Board consists of twenty-six members of which twenty are elected

from state and local criminal justice representatives and the remaining six appointed by the Director, FBI. The six appointed members consist of two members each from the judicial, prosecutorial, and correctional segments of the criminal justice community.

The Board functions solely as an advisory body in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act fifteen days from the date of the publication of this notice.

Interested persons are invited to submit comments regarding the renewal of the NCIC Advisory Policy Board to Mr. David F. Nemecek, Committee Management Liaison Officer, Federal Bureau of Investigation, National Crime Information Center, Washington, D.C. 20535, telephone number 202–324–2606.

Dated: November 25, 1980.

William H. Webster,

Director.

[FR Doc. 80-37128 Filed 11-26-80; 8:45 am]

BILLING CODE 4410-02-M

LIBRARY OF CONGRESS

Copyright Office

[Docket LPR 80–5]

Report of the Register of Copyrights on the Effects of 17 U.S.C. 108 on the Rights of Creators and the Needs of Users of Works Reproduced by Certain Libraries and Archives; Public Hearing

AGENCY: Library of Congress, Copyright Office.

ACTION: Notice of public hearing.

SUMMARY: The Copyright Office of the Library of Congress is preparing a report for Congress in accordance with 17 U.S.C. 108(i). The subject of the report is the extent to which 17 U.S.C. 108 has achieved the intended balance between the rights of creators and the needs of users of copyrighted works which are reproduced by certain libraries and archieves. This notice announces and invites participation in the fifth and, under present plans, the last of a series of regional public hearings designed to elicit views, comments, and information from all interested persons, including copyright proprietors, libraries, and users of all types of libraries. The Copyright Office actively seeks the participation not only of organizational representatives, but also of any individual whose informed opinion may contribute to the preparation of the report and the possible recommendation of changes in the copyright law.

DATES: The hearing will be held on January 28, 1981 and, if necessary, on January 29, 1981 as well, at the New York Hilton, 53d Street and Avenue of the Americas, New York City, in Room B of the Gramercy Suite, beginning at 9:30 a.m.

The hearing will take place during the same week as the annual meeting of the American Physical Society.

Anyone desiring to testify should submit a written request to present testimony by January 19, 1981 to the address set forth below. To assist the Copyright Office in scheduling witnesses and in deciding whether a second hearing day will be needed, we urge the public scrupulously to observe the date for requesting time to testify, even if written statements are submitted later. Ten copies of written statements must be received by the Copyright Office by 4:00 p.m. on January 21, 1981.

Supplemental statements will be entered into the record until March 1, 1981. Ten copies of such statements should be submitted.

ADDRESSES: Written requests to present testimony and ten copies of written statements or of supplementary statements should be submitted as follows:

If sent by mail: Office of the General Counsel, U.S. Copyright Office, Library of Congress, Department DS, Washington, D.C. 20540.

If delivered by hand, the copies should be brought to: Office of the General Counsel, Madison Building, Room 407, First and Independence Ave. SE., Washington, D.C.

All requests to testify should clearly identify the individual or group desiring to testify and the amount of time desired. The Copyright Office will try to contact all witnesses to confirm the times of their appearances.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20540; Telephone: (202) 287–8380.

SUPPLEMENTARY INFORMATION:

1. Background and Purpose of the Report

The Copyright Act of 1976, 17 U.S.C. 101 et seq., was a product of many years of effort by Congress to replace what many felt was a copyright law which was ill-suited to such technological developments of the twentieth century as cable television, computers, and photocopying machines. One of the most difficult problems to resolve concerned the photomechanical reproduction, in whole or in part, of copyrighted works by libraries and archives. In addition to codifying the doctrine of fair use for the first time (17 U.S.C. 107), the Copyright Act of 1976 contains provisions authorizing certain acts of reproduction and distribution by qualifying libraries (17 U.S.C. 108).

These provisions represent a balance between the positions forcefully advocated by the proprietor and user communities in testimony before Congress during the legislative effort that resulted in the current Act. Because of the uncertainty about their effect, at present and in the future, Congress provided that the Register of Copyrights should prepare at five-year intervals, reports concerning the effectiveness of the balance created by the Copyright Act. The first such report, the subject of the hearing here announced, is due January 1, 1983. An advisory committee composed of ten representatives of concerned interests meet regularly with the Copyright Office to plan the preparation of the report. In addition to public hearings, the Copyright Office has under consideration the possibility of conducting an empirical survey to provide objective data on the effects of section 108.

The purpose of this hearing is to examine practices under section 108 as they have developed since January 1, 1978, when the Copyright Act of 1976 became effective. It would therefore be most helpful if witnesses not simply reiterate positions previously taken with respect to library copying, but amplify their remarks with a discussion of ways in which the Act has or, of equal importance, has not affected their practices.

2. Summary of Section 108

Under section 106 of the Copyright Act of 1976, authors and other owners of copyright are given the exclusive rights, among others, to reproduce the copyrighted work in copies or phonorecords and to distribute copies or phonorecords of the copyrighted work to the public. These exclusive rights are subject to several exemptions, including those contained in section 107 ("fair use") and section 108 ("reproduction by libraries and archives").

Section 108 deals with a variety of situations involving photocopying and other forms of reproduction by libraries and archives. Subsection (a) provides that "* * * it is not an infringement of copyright for a library or archives, or any of its employees acting within the scope of their employment, to reproduce no more than one copy or phonorecord of a work, or to distribute such a copy or phonorecord, under the conditions specified by this section if—

(1) The reproduction or distribution is made without any purpose of direct or indirect commercial advantage;

(2) The collections of the library or archives are open to the public or specialized researchers; and

(3) The reproduced or distributed material includes a notice of copyright.

Thus, paragraph (a) of section 108 establishes the basic conditions under which a library or archives may claim an exemption from the exclusive rights of copyright proprietors. In addition, for the library activity to be exempt under section 108, one of the other conditions set forth in paragraphs (b) through (f) must be satisfied. Moreover, under paragraph (h), the exemptions for nonprint copyrighted works are modified substantially. Very generally, with the exception of facsimile duplication for preservation purposes and to replace damaged, deteriorating, or lost copies, the exemptions of section 108 apply primarily to books and periodicals.

Archival preservation (section 108(b)). this exemption applies only to unpublished works in the current collection of a library or archives. It allows reproduction only in facsimile form, and only for "purposes of preservation or security or for deposit for research use in another library or archives."

Replacement (section 108(c)). Libraries or archives are authorized to duplicate a published work in facsimile form solely for the purpose of replacement of a copy or phonorecord that is damaged, deteriorating, lost or stolen *but* only if they find that an unused replacement copy cannot be obtained at a fair price. The legislative reports offer some guidance as to what is meant—they indicate that a reasonable investigation will always require recourse to commonly known trade sources in the United States, and in the normal situation also to the publisher or copyright owner or an authorized reproducing service.

Journal articles, small excerpts, etc. (section 108(d)). This paragraph applies to "no more than one article or other contribution to a copyrighted collection or periodical issue, or to * * * a small part of any other copyrighted work." The only conditions for supplying a reproduction are that: "the copy becomes the property of the user"; there is no reason to suppose that it "would be used for any purposes other than private study, scholarship, or research"; and the library or archives must display prominently, at the place where orders are accepted, and include on the order form, a warning of copyright in language prescribed by a Copyright Office regulation.

Entire works or substantial parts (section 108(e)). With one addition, the conditions applicable under paragraph (d), as discussed above, apply under paragraph (e) to the "entire work," or "a substantial part of it." The added condition is that "the library or archives has first determined, on the basis of a reasonable investigation, that a copy or phonorecord of a copyrighted work cannot be obtained at a fair price." This paragaph applies essentially to out-of-print works.

General exemptions (section 108(f)). In addition to the specific exemptions described above, paragraph (f) makes clear that no copyright liability attaches to a library or its employees for copying done on unsupervised copying machines provided the machines bear a warning that certain copying activity may represent an infringement of the copyright law. Also, nothing in section 108 "in any way affects the right of fair use as provided by section 107," and a small number of copies of an audiovisual news program may be made and distributed by lending.

Multiple and systematic copying (section 108(g)). Section 108 does not permit copying when the library or archives, or its employee—

(1) Is aware or has substantial reason to believe that it is making or distributing multiple copies of the same material, whether on one or several occasions, or

(2) Engages in the systematic reproduction or distribution of copies of periodical articles or excerpts from other copyrighted works; however, certain copying for interlibrary loan purposes is permissible, even if it might otherwise appear "systematic."

Copying for interlibrary loan purposes is authorized to the extent that libraries receiving copies so made do not do so "in such aggregate quantities as to substitute for a subscription to or purchase of such work." Guidelines for interpretation of the language "such aggregate quantities * * *" were adopted by Congress during its enactment of the Copyright Act, and their effectiveness is a subject of this hearing. They, as the Act, represent a compromise between proprietary and user interests. Because they were drafted by the interested parties with the administrative support of the National Commission on New Technological Uses of Copyrighted Works (CONTU), they have come to be known as the "CONTU Guidelines." (CONTU was a temporary commission which examined certain copyright issues related to computers and photocopying in order to permit Congress to proceed with its revision of the copyright law in general.)

The guidelines which were adopted provide, essentially, that copying for interlibrary loans is permissible—

(1) If no more than five requests for copies of periodical articles from any given periodical are filled for a requesting library during a calendar year, with respect to articles less than five years old. (There is no provision covering the copying of older articles);

(2) If no more than five requests for copies of excerpts of any given work are filled for a requesting library within a calendar year; and

(3) If requesting libraries state that their requests comply with the Act and keep records of their requests for three years.

3. Copyright Clearance Center

In an attempt to establish a centralized mechanism to facilitate payment of royalty fees for copying activities not exempt under the Copyright Act, publishers, with planning assistance by authors and librarians, established the Copyright Clearance Center, Inc. The Center, which is a not-for-profit organization, does not provide copies or grant permission to copy. Each publisher sets its own article copying fees and, to the extent feasible, publishes an article-fee code on the first page of articles to inform users of the appropriate charges for copying.

Participating libraries register with the Center and obtain a user-registration number for use in reporting copying. They submit periodic reports of copying activities and pay the applicable royalty fees on the basis of their chosen payment method, including deposit accounts, billing, and possible prepayment through a stamping meter or stamp.

Presently, this clearance system operates with respect to works in journals, magazines, newsletters, proceedings, symposia, and similar works. Its operating costs are borne by participating publishers.

4. Specific Questions

The Copyright Office is interested in receiving comments and testimony about any issues relevant to section 108 which concern copyright owners, librarians, and their patrons. Of particular interest are answers to the following questions:

1. To what extent has section 108 changed library procedures? Has there been any significant effect on users' and librarians' access to information?

2. To what extent has section 108 affected established patterns in the publishing

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industry and the relationship between authors, libraries, and library users?

3. Depending upon the type of library involved, describe the effect, if any, of section 108 upon the type and amount of copying performed by the library on its own behalf or on behalf of users. To what extent have publishers and authors experienced a change in the number of requests from libraries to reproduce works since the present law went into effect?

4. In what manner has the establishment of the Copyright Clearance Center affected your experience under section 108? Would the creation of a National Periodical Center affect your operations? (The intent of these questions is to elicit responses from publishers and authors on the one hand and libraries and library users on the other.)

5. Describe the impact, if any, that section 108 has had upon the replication of nonprint materials, including the ability of libraries to reproduce phonorecords and audio visual works dealing with news. In response to this question describe any problems which have been encountered as the result of the narrower exemptions for nonprint materials under section 108.

6. How have the CONTU guidelines worked in practice? How should periodicals more than five years old be treated?

7. What is your opinion of the relationship between section 107 ("fair use") and section 108 ("reproduction by libraries and archives")?

8. How should foreign copyrighted works and requests from foreign libraries be treated under section 108 and, in practice, how are they treated now?

9. If problems do exist, can they be resolved without resort to legislative amendment? If so, what are the problems, and how could they best be resolved? If not, what changes should be made in the law?

(17 U.S.C. 108)

Dated: November 17, 1980.

David Ladd,

Register of Copyrights.

Approved:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 80-37058 Filed 11-26-80; 8:45 am]

BILLING CODE 1410-03-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting Addendum

November 24, 1980.

The agenda for the meeting of the National Advisory Committee on Oceans and Atmosphere (NACOA) scheduled for December 1–2, 1980, published in the **Federal Register** of November 20, 1980 (Page 76812), has been changed. The amended agenda is as follows for December 1, 1980:

Monday, December 1, 1980

Plenary Session

9:00 a.m.–9:30 a.m.: Opening remarks—Chairman.

9:30 a.m.–10:30 a.m.: Steering Committee meeting.

10:30 a.m.–Noon: Law of the Sea.

Noon–1:00 p.m.: Lunch.

1:00 p.m.–4:00 p.m.: Panel meetings:

Support for Atmospheric Research Facilities, Louis J. Battan, Chairman.

Topic: Computer Facilities

Invited Participants:

Representative: Invited Participants:

Dr. Walter Macintyre, National Center for Atmospheric Research

Dr. Fred Mosher, Space Science and Engineering Center, University of Wisconsin-Madison

Dr. James O'Brien, Florida State University

Dr. Joseph Smagorinsky, Director, Geophysical Fluid Dynamics Laboratory

National Oceanic and Atmospheric Administration

1:00 p.m.–2:30 p.m.: Fisheries—Activity Planning, Jay G. Lanzillo & George Tapper, Co-Chairmen, Room B–100.

2:30 p.m.–3:30 p.m.: Ocean Minerals—Activity Planning, Burt H. Keenan, Chairman, Room B–100.

4:00 p.m.–5:00 p.m.: Plenary session: Federal Ocean Program

Speaker: Martin Belsky, Assistant Administrator for Policy and Planning, National Oceanic and Atmospheric Administration

5:00 p.m.: Adjourn.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to impose limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing addresss is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., (Room 438, Page Building No. 1), Washington, DC 20235. The telephone number is (202) 653–7818.

Steven N. Anastasion,

Executive Director.

[FR Doc. 80-37095 Filed 11-26-80; 8:45 am]

BILLING CODE 3510-12-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel: Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, DC 20506:

Date: December 16, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 314.
Program: This meeting will review applications for Summer Stipends in Art History, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

Date: December 17, 1980.
Time: 9:00 a.m. to 5:30 p.m.
Room: 314.
Program: This meeting will review applications for Summer Stipends in Anthropology, Archaeology, And Folklore, submitted to the division of Fellowships and Seminars, for projects beginning after January 1, 1981.

Date: January 14, 1981.
Time: 9:00 a.m. to 5:30 p.m.
Room: 314.
Program: This meeting will review applications for Summer Stipends in Philosophy II, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

Date: January 12, 1981.
Time: 9:00 a.m. to 5:30 p.m.
Room: 314.
Program: This meeting will review applications for Summer Stipends in Philosophy II, submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1981.

Date: January 8, 1981.
Time: 9:00 a.m. to 5:00 p.m.
Room: 1134.
Program: This meeting will review applications submitted for the Libraries Humanities Projects Program, Division of Public Libraries Programs for projects beginning after January 13, 1981.

The proposed meetings are for the purpose of Panel, discussion, evaluation and recommendation of application for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended by grant applicants. Because the proposed meetings will consider information that is likely to disclose,

(1) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) information the disclosure of which would significantly frustrate implementation of proposed agency action;

pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 80-37098 Filed 11-26-80; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 80-48]

Reports, Recommendations and Responses; Availability

Highway Safety Effectiveness Evaluations

Traffic Barrier Systems (NTSB–SEE–80–5).—In this, the first of two evaluation reports released during the past week, the National Transporation Safety Board calls for mandatory performance standards for highway traffic barriers to help end needless traffic accident deaths. This study evaluates the adequacy of bridge and highway barrier systems, reviews the Safety Board's past accident investigation in this area, analyzes the results of recent crash-testing sponsored by the Federal Highway Administration, and makes recommendations concerning performance standards for traffic barriers.

The Safety Board notes that evidence from both accident investigation and recent crash testing clearly indicates that current traffic barriers do not safely contain and redirect the range of vehicles which use the roadway, yet research has shown that barriers can be designed which not only keep vehicles from leaving the highway but which redirect vehicles in a manner that minimizes impact forces on vehicle occupants. Crash-test research also has revealed a special and potentially serious problem of incompatibility between barrier systems and some vehicles, particularly schoolbuses and front wheel drive subcompact cars. These vehicles' front wheels can "snag" on the barriers and the impact forces can then tear loose the front axle and wheels.

Traffic barriers are roadside hardware of various designs and materials which are intended to protect vehicles from such off-the-road hazards as trees, embankments, ravines, signposts, bridge support pillars or abutments, or other hazards. Recent studies have shown a substantial number of cases, however, where barriers have failed to protect vehicle occupants. Data from the Fatal Accident Reporting System of the National Highway Traffic Safety Administration for 1975 indicate that over 2,000 persons died in single-vehicle accidents in which the first harmful event involved striking a highway barrier, bridge, or overpass.

To correct these and other hazards, the Board calls for mandatory peformance standards for barriers, including compliance testing through staged crashes. The purpose of such standards would be to require that traffic barrier types be crash-tested to demonstrate their ability to meet a set of established safety criteria. At present, barriers are not required to meet such criteria through crash-testing. Guidelines for barrier design are developed jointly by the American Association of State Highway and Transportation Officials (AASHTO) and the FHWA, but these essentially optional standards have failed to produce the best possible barrier systems.

In view of its findings as a result of this evaluation study, the Safety Board on October 24 issued, by separate letters, the following recommendations:

—to the *Federal Highway Administration:*

Establish mandatory performance standards, and associated test procedures to be used in determining compliance, for all traffic barriers constructed on Federal-aid roads after January 1, 1982. The performance standards should first address automobiles and should be expanded for heavier passenger vehicles and trucks as research is completed to provide needed information. (H–80–64)

Publish designs for traffic barrier systems which meet the performance standards to be established by the FHWA. Such traffic barrier designs should be available to States that do not desire to develop their own designs in accordance with the mandatory performance standards to be issued by the FHWA. The designs should be sufficient in number to meet the various State requirements with regard to climatic and other physical conditions that affect the operation and maintenance of a roadway system. (H–80–65)

Continue and expand performance testing of traffic barriers currently in use which were designed to meet AASHTO specifications and guidelines to determine their safe performance and immediately inform the States of the results of this testing. (H–80–66)

—to the *Secretary of Transportation:*

Establish a task force to examine the problem of front wheels on small front-wheel-drive vehicles being snagged and torn from the vehicle when impacting traffic barriers, as well as the failure of front axles and wheels of schoolbus-type vehicles in such impacts. The task force should determine what additional research is needed to further define the problem. A cooperative effort with the NHTSA, the FHWA, the AASHTO, and the automobile industry should be initiated to resolve any identified problem. (H–80–67)

—to the *Motor Vehicle Manufacturers Association; the Truck Body and Equipment Association, Inc.; and the Automobile Importers of America:*

Cooperate with the Department of Transportation in determining the nature of the hazard posed by front wheels of small front-wheel-drive vehicles being snagged when impacting traffic barrier systems and the failure of front axles and wheels of schoolbus-type vehicles in such impacts. (H–80–68)

—to the *American Association of State Highway and Transportation Officials:*

Modify AASHTO guides and specifications regarding both bridge and highway barrier systems to require that the barriers comply with the mandatory performance standards to be established by the Federal Highway Administration. (H–80–69)

Each of the above recommendations is designated "Class II, Priority Action." The Safety Board notes, in both its evaluation report and the letter to FHWA, that recommendations H–74–38, H–77–4, H–77–12, H–79–19, H–80–25, and H–80–26, which relate to traffic barrier performance standards, are currently held in open status. The Board further states that if FHWA complies with recommendations H–80–64, H–80–65, and H–80–66, above, the six previous Board recommendations will be closed. Other Safety Board recommendations related to traffic barriers, which are currently open but which are not specifically superseded by the recommendations of the Board's evaluation report, are Nos. H–76–11, H–76–14, H–77–5, H–77–13, H–77–14, and H–77–21. (The full text of each of these earlier recommendations is provided in the Board's current evaluation report, No. NTSB–SEE–80–5, and in the four related recommendation letters.)

Selected State Highway Skid Resistance Programs (NTSB–SEE–80–6).—In its other safety effectiveness evaluation report released during the past week, the Safety Board urged the Federal Highway Administration to develop program objectives for a comprehensive wet weather highway

skid reduction program—part of the Board's continuing campaign to cut highway accidents through a nationwide improvement in skid resistance standards.

The Safety Board has investigated 12 highway accidents involving wet pavement, reviewed the skid resistance programs of 10 States, reviewed the States' responses to FHWA's Advance Notice of Proposed Rulemaking, "Skid Accident Reduction Program" (FHWA Docket No. 77–16), conducted a special study on the magnitude of the wet pavement problem, and conducted a limited review of literature reporting research activity conducted by the States. In its response to Docket No. 77–16, Notice No. 2, the Board urged FHWA to insure that future rulemaking proposals on other phases of skid resistance are coordinated into a comprehensive program.

The Board notes that there is a lack of systematic application of proven principles and practices by the States and FHWA. Past FHWA approaches have not been successful. As examples, the Board found that some of the fundamental skid resistance principles that are accepted today have been known over 20 years, that many local or county roads have never been skid tested, and that more than one State does not use accident records to define where testing is needed.

Under date of November 14, 1980, the Safety Board forwarded to FHWA comments on Advance Notice of Proposed Rulemaking, "Selection of Pavement Type," Docket No. 80–14, published at 45 FR 55763 on August 21, 1980. The Board's comments on this advance proposed rulemaking are restricted to the wearing surface of the pavement. The Board provided FHWA with a copy of the subject report, NTSB–SEE–80–6. In its November 14 letter, the Board concluded that when new pavements are being constructed, or old pavements are being reconstructed, the initial additional cost of providing a good skid resistant surface might be less than the cost incurred if an overlay is required within a short time. The Board further concluded that the frictional characteristics of the entire highway system would be improved over the years if skid resistant surfaces which maintain an acceptable frictional level throughout their service life were provided during construction or reconstruction.

To assure comprehensive, coordinated skid resistance programs, the Safety Board on October 6, 1980, directed a recommendation letter to FHWA containing the following "Class III, Longer Term Action" recommendations:

Develop program objectives for comprehensive wet weather skid resistance programs that can be used to both guide and evaluate State programs. (H–80–52)

After the program objectives have been developed, require each State to have an FHWA-approved wet weather skid resistance program which is subject to annual audit by FHWA. (H–80–53)

Issue a revised Federal-aid Highway Program Manual (FHPM 6.2.4.3) which promotes:

1. Full-width surface treatments.
2. Skid trailers with left and right wheel locking capabilities.
3. Skid testing at the posted speed limit, as proposed in the FHWA NPRM "Skid Resistance Pavement Surface Design."
4. Evaluation of the skid resistance properties of all newly develping surface treatments.
5. Increase Federal participation on skid resistance projects. (H–80–54)

Promote further research to examine:

1. The measurement of rutting and its effects on wet pavement accidents.
2. More effective signing system to advise motorists of safe speeds on slippery, rutted, or poorly drained wet surfaces and on all new surfaces.
3. Use of tire tread depths more representative of those used by motorists to measure skid resistance.
4. The effect on skid resistance of immediately allowing heavy truck traffic on newly constructed or newly overlayed surfaces. (H–80–55)

Develop a program to enhance dissemination of and the sharing among States of skid resistance information. Elements of the program should include:

1. The compilation of an instructional text for a state-of-the-art manual for Federal, State, local, and county agencies.
2. Periodic regional meetings to review skid resistance research and successful operating programs.
3. Periodic publication of a description of State programs and current research studies on skid resistance. (H–80–56)

Evaluate annually the progress of the State skid resistance programs in attaining program goals and publish the findings. (H–80–57)

Railroad Accident Report

Derailment of Western Pacific Railroad Company Freight Train Extra UP 3734 West (Sealand 6), Hayward, California, April 9, 1980 (NTSB–RAR–80–10).—The Safety Board's formal investigation report concerning this accident was released on November 20. The report shows that about 6:55 p.m., P.s.t., on April 9 the westbound freight train had its caboose, a pusher locomotive behind the caboose, and seven freight cars derailed while crossing the Industrial Parkway overpass at Hayward. Of the nine crewmembers, two train crewmembers were killed and two were injured. Three locomotive units and the caboose were destroyed. Damage was estimated at $1,382,000.

The Safety Board determined that the probable cause of the accident was the derailment of the caboose, which was caused by compressive forces resulting from excessive locomotive power applied behind the caboose on an undulating gradient. The derailment was the result of the failure of the responsible supervisors to insure that the train was powered and managed in a manner consistent with the rules, timetable instructions, and conventional operating practices; the failure of the assistant superintendent to insure that the crewmembers knew their train's correct tonnage and speed classification; and the failure of the Western Pacific Railroad management to insure that supervisors responsible for making critical operating decisions were properly trained for their roles. Contributing to the accident was the excessive speed of the train and the failure of the director of train operations to insure that the train had adequately fueled locomotive power.

Investigation of the accident disclosed that the Sealand 6 stalled on the grade east of Altamont, Calif., because two of its three locomotive units became ineffective. Train RBW–9 pushed the Sealand 6 to Altamont, where the assistant superintendent decided to continue the arrangement west of Altamont with the RBW–9's three 3,000-horsepower locomotive units coupled behind the Sealand 6's caboose. When the caboose reached the Industrial Parkway overpass at Hayward, it derailed, separated from the rest of the train, and fell 30 feet from the overpass onto the highway. The helper locomotive also derailed, and the middle unit fell on and crushed the caboose, killing the two crewmembers inside. After the locomotive fuel tanks ruptured the leaking fuel was ignited by fallen powerlines. The resulting fire engulfed the width of the parkway and threatened the adjacent overpass of the Bay Area Rapid Transit District (BART).

About 11 minutes after the accident, a northbound five-car BART train with passengers aboard crossed the Industrial Parkway overpass and proceeded beyond the emergency area. BART supervisors at the Hayward yard, about 1 mile south of the accident site, heard explosions and saw fire and smoke between the yard and BART's South Hayward station. They notified BART's Central Control by "hot line" telephone at 6:55:10 and 3 minutes later advised BART Central that the Hayward fire department had informed them that the fire was the result of the derailment of a WP freight train. At 7:01:20, the Hayward police contacted BART Central and requested that no trains be operated through the fire area.

As a result of its investigation of this accident, the Safety Board on October 24, 1980, issued recommendation letters containing the following "Class II, Priority Action" recommendations:

—to the *Western Pacific Railroad Company:*

Take action with employees to determine that train operations are conducted according to operating rules. (R–80–41)

Provide supervisors and employees periodic, supervised training based on a uniform understanding of the operating rules, timetable instructions, and bulletin instructions. (R–80–42)

Review and amend its rules and instructions to provide comprehensive procedures for the safe operation of locomotives in helper service. (R–80–43)

Provide crewmembers with the proper classification of their train for speed purposes and the correct trailing tonnage of their train. (R–80–44)

Provide radios that operate on the Western Pacific frequency and which can adequately provide communication between both ends of the trains to crews of trains with foreign locomotive and/or caboose equipment. (R–80–45)

Develop and maintain on a current basis with the Bay Area Rapid Transit District a plan for immediate notification of any emergency occurring on the common right-of-way between Oakland and Fremont. (R–80–46)

—to the *Bay Area Rapid Transit District:*

Establish procedures to prevent trains from being operated into an area where an emergency exists until it is known that it is safe to do so. Develop and maintain on a current basis with the Western Pacific Railroad Company a plan for immediate notification of any emergency occurring on the common right-of-way between Oakland and Fremont. (R–80–47).

—to the *Urban Mass Transportation Administration, U.S. Department of Transportation:*

Require other rapid transit operations to establish adequate mutual emergency notification procedures in instances where rapid transit trains operate in close proximity to an operational railroad line. (R–80–48)

Aviation Safety Recommendation Letter

A–80–115 through –119, to the Federal Aviation Administration, November 19, 1980.—On June 12, 1980, an Air Wisconsin Swearingen SW–4 crashed during an encounter with a level 5 or greater thunderstorm in eastern Nebraska. Thirteen persons were killed and two persons were seriously injured. During its flight, the aircraft had been under the control of the Minneapolis Air Route Traffic Control Center's (ARTCC) Omaha low altitude sector, as well as other sectors within the same ARTCC. However, the Safety Board's investigation has revealed that none of the sector controllers transmitted information to the flightcrew regarding the location and intensity of the thunderstorm system in the path of the flight although other ARTCC air traffic control (ATC) and meteorological personnel had some information regarding the potential intensity characteristics of the storm system. Testimony given at a public hearing held in Omaha, Nebr., during September 1980 indicated that the full extent of the areas of precipitation and accurate intensity characteristics of convective meteorological phenomena are not portrayed on a controller's plan view display (PVD) because the weather fixed map unit (WFMU) is designed to be selective in its display of precipitation and is limited in its capability to display weather echo intensity levels. A controller's only alternative to obtain a more complete view of the precipitation in the area is to switch to the older broadband presentation; however, this equipment also does not have the capability of showing the various weather echo intensity levels. Further, the broadband presentation may not show aircraft which have already penetrated precipitation areas, essentially rendering this radar useless for purposes of vectoring aircraft out of area of precipitation.

Last February 24 a Beechcraft Bonanza BE–35 aircraft crashed near Valdosta, Ga., during an encounter with severe thunderstorms. All the occupants aboard were killed when the aircraft experience an inflight breakup. On August 26, 1978, two persons were killed when a Piper PA–28 aircraft experienced an inflight breakup during an encounter with a severe thunderstorm near Bolton, N.C. In both accidents, ARTCC controllers attempted to provide weather information and avoidance vectors around areas of precipitation observed on the PVD's by switching to broadband presentations to obtain a more complete characterization of the weather than that displayed on the narrowband WFMU.

In the investigations of the three accidents cited above, ATC personnel alluded several times to the fact that, in some instances, inconsistencies between the weather displayed on the PVD and the actual weather encountered by the aircraft limited their ability to confidently assist aircraft.

Following investigation of an accident involving a Southern Airways DC–9 at New Hope, Ga., April 4, 1977, the Safety Board recommended expeditious development and implementation of a weather subsystem for en route and terminal radar environments which would be capable of providing real-time displays of precipitation or turbulence or both, and which would incorporate a multiple-intensity classification scheme (recommendation A–77–83). The Board believes the selective display of precipitation in the WFMU is an operationally sound concept where a limited distinction of precipitation levels is acceptable, but that it does not provide sufficient discrimination for effective and safe use of airspace in the vicinity of convective meteorological activity.

As part of its investigation of the June 12, 1980, crash, the Safety Board examined the National Weather Service (NWS) weather radar color remote displays located at the Cleveland ARTCC. The Board understands that FAA intends to test the possible use of similar displays as an adjuct to the present narrowband WFMU system, and the Board believes such use would significantly contribute to aviation safety. One practical application of the use of NWS weather radar information has already been demonstrated.

On the evening of September 22, 1980, an unusually large area of extreme convective weather extended from Ontario, Canada, south to Jonesboro, Ark. Several supervisors and controllers at the Cleveland ARTCC reported that, while experiencing difficulty in correlating the NWS radar maps with the ATC PVD maps, they were able to achieve sufficient correlation to issue advisories to aircraft regarding the extreme weather displayed on the NWS weather radar color remote displays in the center. In one notable instance, the PVD display of weather over the Detroit airport did not show the presence of the ongoing thunderstorm activity which was displayed clearly on the NWS weather radar color remote display. The controllers were able to use the NWS weather radar information to divert aircraft away from the Detroit airport. Throughout the evening of September 22, numerous air carrier flights were assisted in avoiding the weather which was characterized as severe and extreme on the NWS weather radar color remote displays. Comments by the ATC personnel were almost unanimously positive regarding this potential use of the NWS weather radar color display, even in the force of the problems of map correlation and weather intelligence updating which FAA is seeking to resolve before the test program is begun.

While FAA's contemplated tests cannot begin until some remaining mapping graphics problems have been solved, the Board is concerned that the testing period may not be scheduled

during the seasonal period when the

inspection applying to the 315 Lama and

In response to the recommendation,

design, vehicle design, and operating

more closed sessions may be necessary

ACTION: Extension of comment period.

during the seasonal period when the most intensive evaluation of convective activity might be achieved. Moreover, the Board is aware that, in the immediate future, the Cleveland ARTCC's Center Weather Service Unit (CWSU) is scheduled to acquire 25-inch NWS weather radar color remote displays which will enable the CWSU meteorologists to obtain real-time weather information directly from NWS weather radars. We believe that installation of these displays in all ARTCC's having CWSU's should be expedited to provide real-time depiction of the location and intensity of all convective meteorological phenomena affecting a center's airspace. Had such systems been in place before the accidents cited herein, the likelihood of their occurence could have been greatly diminished. Therefore, the Safety Board recommends:

Expedite the delivery of NWS weather radar color remote displays to all Air Route Traffic Control Centers' Center Weather Service Units. (A–80–115)

Schedule the planned testing of NWS weather radar color remote displays at the Cleveland Air Route Traffic Control Center to encompass the next season of frequent convective meteorological activity. (A–80–116)

Expedite the development of appropriate graphic mapping techniques for correlation of the NWS weather radar color remote display and the air traffic controller's radar display presentation. (A–80–117)

Expedite the development of an integrated weather radar/air traffic control radar single video display system capable of providing multiple weather echo intensity discrimination without derogation of air traffic control radar intelligence. (A–80–118)

Require air route traffic control centers to make maximum use of the existing National Weather Service radar sites as inputs to the color remote displays at their facilities. (A–80–119)

Each of the above recommendations is designated "Class II, Priority Action."

Responses to Safety Recommendations

Aviation

A–80–82 through –84, from the Federal Aviation Administration, November 13, 1980.—Response is to recommendations issued September 4 following investigation of the crash of an Aerospatiale Lama 315B helicopter, N67103, near Dillon, Mont., July 28, 1980. (See 45 FR 62232, September 18, 1980.)

Recommendation A–80–82 called on FAA to issue a telegraphic Airworthiness Directive (AD) to require immediate compliance with the tail rotor drive system inspection criteria specified in the telegraphic bulletin issued by Aerospatiale Helicopter Company on August 14, 1980, the inspection applying to the 315 Lama and 316B, 316C, and 319 Alouette III model helicopters. FAA concurs in the recommendation and reports that AD T–80–19–51 was issued by FAA's European Region on September 5, 1980 (copy provided).

FAA also concurs in recommendation A–80–83 which asked that, based on the results of the initial inspection specified in the manufacturer's telegraphic bulletin, FAA consider a requirement for an inspection for excessive radial motion in the tail rotor drive system as part of the existing preflight inspection. FAA reports that the appropriate General Aviation Airworthiness Alert was included in FAA Advisory Circular, AC–43–16, alert No. 27 for October 1980. Applicable portions of this publication are attached to FAA's response. FAA interprets "excessive radial motion," the terminology used by the Board, to mean excessive backlash, and is referenced as such in this document.

Recommendation A–80–84 asked FAA to notify all main transmission overhaul facilities of these two occurrences and emphasize the need for strict adherence to the manufacturer's buildup instructions for pinion gear installation and proper torquing of the retaining nut. FAA reports that the Telegraphic Airworthiness Directive, T–80–19–51, issued September 5 covering inspection of the tail rotor gear train, will alert repair agencies of the mandatory inspection required on the Aerospatiale SA–315 Lama 316B, 316C, and 310 Allouette III, Tail Rotor Drive System.

FAA further notes that the notice published in the General Aviation Airworthiness Alerts referred to in recommendation A–80–83 will also serve to alert operators of the requirement to place special emphasis on the preflight checklist to check the tail rotor output shaft for excessive backlash. FAA also intends to prepare a notice for publication in the General Aviation Airworthiness Alerts (AC 43–16) to alert helicopter main transmission overhaul agencies to emphasize the need for strict adherence to the manufacturer's overhaul and buildup instructions for pinion gear installation and proper torquing of the retaining nut. The document will be forwarded to the Board as soon as it becomes available.

A–80–85, from the Federal Aviation Administration, November 13, 1980.—Response is to a recommendation issued by the Board on August 28 as a result of investigation of an inflight fire occurring aboard an Aerospatiale SA–330 helicopter inbound to Quonset Point, R.I., August 26, 1980. (See 45 FR 60052, September 11, 1980.)

In response to the recommendation, which asked FAA to issue an emergency AD for all Aerospatiale helicopter models SA–330 to inspect, separate, and secure electrical wires that are near hydraulic lines between fuselage stations 5295 and 5600, FAA reports that, based upon its investigation and evaluation of the incident, an emergency telegraphic AD, No. T80–18–51, was issued on August 29 (copy provided).

Highway

H–80–50 and –51, from the Federal Highway Administration, November 18, 1980.—Response concerns recommendations issued September 18 as a result of investigation of the head-on collision of a sedan and a pickup truck on U.S. Route 64 near Perry, Okla., February 23, 1980. (See 45 FR 67174, October 9, 1980.)

Recommendation H–80–50 asked FHWA to evaluate the effectiveness of the "Limited Sight Distance" sign (W14–4–MUTCD) and report its findings to the Board. Recommendation H–80–51 asked that, if the W14–4 sign is found to be ineffective, FHWA then devise an effective method of warning motorists of the incompatibility of operating speeds, current vehicle design eyeheight, and limited sight distance situations that exist on roads designed to pre-1965 standards.

In response to these recommendations, FHWA notes that the W14–4 sign is intended to alert drivers to a situation which exists all too frequently on older highways—very sharp crest vertical curves. FHWA reports that when the 1978 edition of the Manual on Uniform Traffic Control Devices (MUTCD) was published, FHWA held briefings in each FHWA Region and at least one in each State—a total of 63—to highlight changes in the MUTCD. The W14–4 sign was noted as new, and it was stressed that the sign should not be used alone but should be supplemented with more specific information such as an Advisory Speed Plate (W13–1). FHWA Says it is aware that some States have begun to use the sign, but because of the limited experience, FHWA is at present unable to determine how effective it is. FHWA is preparing the solicitation for research problem statements for safety research in FY 1982 and beyond. FHWA recognizes the need for an objective evaluation of the W14–4 sign. A problem statement on the evaluation of the W14–4 sign will be prepared and included with the other problem statements received during the formal solicitation for priority ranking. FWHA shares the Board's concern about the compatibility of traffic control devices with highway

design, vehicle design, and operating speeds.

Note.—Single copies of Safety Board reports are available without charge, as long as limited supplies last. Copies of Board recommendation letters, responses and related correspondence are also provided free of charge. All requests for copies must be in writing, identified by recommendation or report number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Safety Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

November 24, 1980.

[FR Doc. 80–37087 Filed 11–26–80; 8:45 am]

BILLING CODE 4910–58–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittees on Site Evaluation and Reactor Radiological Effects; Meeting

The ACRS Subcommittees on the Site Evaluation and Reactor Radiological Effects will hold a meeting at 8:30 a.m. on December 13, 1980 in Room 1046, 1717 H Street, NW., Washington, D.C. to discuss the Generic Environmental Impact Statement on Class-9 Accidents at nuclear power plants. Also, the Subcommittees will discuss and summarize the previous two days meetings on the ACRS Annual Report to Congress regarding the NRC Reactor Safety Research Program Budget, and the discussion on radiation standards for workers.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980 (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance except for those sessions during which the Subcommittee finds it necessary to discuss the ACRS Annual Report to Congress on the NRC Reactor Safety Research Budget. One or more closed sessions may be necessary to discuss such information. (SUNSHINE ACT EXEMPTION (9)(B)). To the extent practicable, these closed sessions will be held so as to minimize inconvenience to members of the public in attendance.

The agenda for subject meeting shall be as follows: *Saturday, December 13, 1980, 8:30 a.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information about topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to Mr. Garry G. Young, ACRS Staff (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST. The cognizant Designated Federal Employee for this meeting is Mr. John C. McKinley.

The ACRS is required by Section 5 of the 1978 NRC Authorization Act to review the NRC Reactor Safety Research Program and Budget and to report the results of the review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussions with members of the NRC Staff and such discussions would not be possible if held in public sessions. I have determined, therefore, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), that, should such sessions be required, it is necessary to close portions of this meeting to prevent frustration of the above stated aspect of the ACRS' statutory responsibilities. The authority for such closure is 5 U.S.C. 552b(c)(9)(B).

Dated: November 24, 1980.

John C. Hoyle,

Advisory Committee, Management Officer.

[FR Doc. 80–37004 Filed 11–26–80; 8:45 am]

BILLING CODE 7590–01–M

"Guidelines for Utility Management Structure and Technical Resources," Report NUREG–0731

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of comment period.

SUMMARY: The availability of and a request for comments on NUREG–0731, Guidelines for Utility Management Structure and Technical Resources, was noticed in the **Federal Register** on October 7, 1980 (45 FR 66538). The original comment period expired on November 20, 1980. Requests for an extension of the comment period have been received. Accordingly, the comment period is extended to December 19, 1980.

DATE: Comment period expires December 19, 1980.

ADDRESS: Copies of the report are available free from GPO Sales Program, Division of Technical Information and Document Control, U.S. Nulcear Regulatory Commission, Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence P. Crocker, (301) 492–9437.

SUPPLEMENTARY INFORMATION: Interested persons are invited to submit written comments to Mr. Domenic B. Vassallo, Chief, Licensee Qualifications Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, on or before December 19, 1980.

Dated at Bethesda, Maryland, this 20th day of November 1980.

For the Nuclear Regulatory Commission.

Domenic B. Vassallo,

Chief, Licensee Qualification Branch, Division of Human Factors Safety.

[FR Doc. 80–37005 Filed 11–26–80; 8:45 am]

BILLING CODE 7590–01–M

PRESIDENT'S ADVISORY COMMITTEE FOR WOMEN

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463 as amended), notice is hereby given of a meeting of the President's Advisory Committee for Women

Date, time and place: December 16, 1980.

Open business session: 10:00–12:00 p.m., Room N–5437, Department of Labor, 200 Constitution Avenue, NW., Washington, D.C.

Purpose: Meeting of the President's Advisory Committee for Women.

Warlene Gary,

Deputy Director.

November 18, 1980.

[FR Doc. 80–37089 Filed 11–26–80; 8:45 am]

BILLING CODE 4510–23–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 17326; SR-Amex-80-31]

American Stock Exchange, Inc.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

November 21, 1980.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), notice is hereby given that on November 14, 1980, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, New York 10006, filed with the Commission copies of a proposed rule change which replaces a requirement that members submit monthly reports of certain uncovered short positions with a requirement that such reports be submitted only upon request.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-Amex-80-31.

Copies of the Submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that a similar proposal by the CBOE,[1] for which opportunity for public comment was provided, was recently approved by the Commission.[2]

[1] *See* File No. SR-CBOE-80-24.

[2] Securities Exchange Act Release No. 17244 (October 24, 1980).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change reference above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37019 Filed 11-26-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11454; 812-4661]

Merrill Lynch, Pierce, Fenner & Smith Inc., et al.; Filing of Application

November 21, 1980.

Notice is hereby given that Merrill Lynch, Pierce, Fenner & Smith Incorporated, Bache Halsey Stuart Shields Incorporated, Dean Witter Reynolds, Inc., Shearson Loeb Rhoades, Inc. ("Sponsors") and The Equity Income Fund, First Utility Common Stock Series and subsequent Series ("Fund") (collectively the "Applicants", c/o Merrill Lynch, Pierce, Fenner & Smith Incorporated, One Liberty Plaza, 165 Broadway, New York, New York 10080), filed an application on April 8, 1980, and amendments thereto on July 24, October 6, and November 17, 1980, pursuant to Sections 6(c) and 11 of the Act for an order of the Commission (1) exempting the Fund from compliance with the net worth requirements of Section 14(a) of the Act, (2) exempting the Applicants from the provisions of Rule 19b-1 under the Act to permit the Fund to make more than one distribution of capital gains in any one taxable year and (3) exempting the Applicants from the provisions of Section 11(c) and 22(d) of the Act to permit unitholders to exchange their units for units of any other Series of the Fund or of certain other unit investment trusts. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the format for each Series of the Fund will be substantially the same. Each Series will be created by a trust indenture ("Indenture") between the Sponsors and a trustee and/or co-trustee ("Trustee"). Other firms may act as sponsor or sponsors of future Series in addition to or in substitution for the Sponsors, but if none of the Sponsors would remain a Sponsor as a result of any proposed substitution, the Sponsors will cause to be filed a new registration statement under the Act concerning the Fund. In addition, different entities may be named Trustee for future Series. Prior to the deposit of underlying securities ("Securities") in a Series the Sponsors purchase such Securities for an accumulation account. It is contemplated that the Securities purchased for deposit in the various Series will generally be publicly-traded common stocks issued by public utility companies engaged in the production, transmission and distribution of electric energy, gas, water and telephone services, but, depending on the availability of offerings of appropriate securities and general market conditions, the kinds of securities may include other appropriate types of common stocks.

Applicants indicate that upon effectiveness of the registration statement pursuant to the Securities Act of 1933, the units of Series are offered to the public separately through a final prospectus at a public offering price computed by dividing the aggregate value of the underlying Securities by the number of units outstanding, plus a sales charge and, during the initial public offering (including the initial public offering of additional units of the Fund), a fee for New York State stock transfer tax applicable to the deposit of Securities in the Fund. A proportionate share of the amount in the income account (established by the Indenture) at the date of delivery of the units to the purchaser is added to the public offering price.

Applicants state that the redemption price per unit is computed by the Trustee on each June 30 and December 31 (or the last business day prior thereto), on any business day as of the evaluation time next following the tender of any unit for redemption, and on any other business day desired by the Trustee, by adding (a) the aggregate value of the Securities determined by the Trustee (including the value of any accumulated but unpaid dividends as to which Securities are not trading "ex-dividend" as of the date of computation) and (b) cash on hand in the Fund (including dividends receivable on Securities trading ex-dividend but excluding cash deposited by the Sponsors for the purchase of Securities) and deducting therefrom the sum of taxes or other governmental charges against the Fund not previously deducted, accrued expenses of the Trust Fund including, but not limited to, unpaid fees and expenses of the Trustee (including legal and auditing expenses), the Co-Trustee, the Sponsors (for their administrative function) and counsel, and cash held for distribution to certificateholders of record as of a date prior to the evaluation; and dividing the result of such computation by the number of units outstanding as of the date thereof.

The Applicants represent that while the Sponsors are not obligated to do so, it is their intention to maintain a market for units of each Series and continuously to offer to purchase such units at prices, subject to change at any time, equal to the current redemption price of units in each Series. If the supply of units of any Series exceeds demand, or for some other business reason, the Sponsors may discontinue at any time purchases of units of such Series.

In addition, the Applicants state that the Sponsors intend to allow unitholders to exchange units of any Series for units of any other Series of the Fund and of certain series of Municipal Investment Trust Fund, The Corporate Income Fund or The Government Securities Income Fund (the "Exchange Funds") on the basis of a reduced fixed sales charge per unit ("Exchange Option"). While the structures of the Exchange Funds and the various series are very similar in most respects to each other and to the Fund, the investment objectives of the Exchange Funds may be different. Thus, the primary objective of the Municipal Investment Trust Fund is tax-exempt income while the primary investment objective of The Corporate Income Fund and The Government Securities Income Fund4s income which is subject to Federal income taxation, and subgroupings of series under the basic Exchange Funds have investment objectives which are slightly different evidencing specialized investment objectives within these general categories. This Exchange Option, according to Applicants, would have the effect of providing unitholders of Series of the Fund with a convenient means of transferring interests as their investment requirements change into other series of the Exchange Funds, and would serve as an alternative to disposition of a unitholder's interest, either in the secondary market or through redemption. The Applicants state that the Sponsors intend to hold the Exchange Option open under most circumstances, but that they do, however, reserve the right to modify, suspend or terminate the Exchange Option at any time without further notice to unitholders.

The Applicants state that while it is anticipated that units in most cases can be sold in the secondary market for an amount equal to the redemption price per unit, units may be submitted to the Trustee for redemption at any time out of assets of the Series. Consistent with Rule 22c-1, the unitholder would receive cash in an amount per unit equal to the redemption price per unit as determined on any business day as of the evaluation time next following such tender.

The application provides that the Sponsors may direct the Trustee to dispose of Securities upon the occurrence of certain market or credit factors that in the opinion of the Sponsors would make the retention of such Securities in the Series detrimental to the interests of the unitholders, or if the disposition of such Securities is made desirable in the opinion of the Sponsors by the existence of certain other technical factors which will be described in the prospectus for the Series. The proceeds of any such dispositions may be distributed to unitholders or may be reinvested in accordance with the provisions of the Indenture for the Series.

The Applicants state that dividend income (including any redemption proceeds received in respect of publicly traded equity securities) received by a Series, less applicable expenses, will be distributed monthly on a pro rata basis to unitholders of record as of the record day on the next following distribution day. The Trustee furnishes unitholders with each distribution a statement of the amount per unit of income and other receipts, if any, which are being distributed. Within a reasonable period after after the end of each calendar year the Trustee will furnish to each person who at any time during the calendar year was a unitholder of record a statement in reasonable detail (i) summarizing transactions for such year in the income, capital and reserve accounts, (ii) identifying Securities sold and purchased during and listing Securities held at the end of such year, (iii) stating redemption price per unit based upon the computation thereof made on the 31st day of December of such year (iv) specifying the amounts distributed during such year from the income and capital accounts; and (v) if applicable, summarizing transactions for such year with respect to such person's participating in the reinvestment program.

Section 14(a) of the Act provides that a registered investment company, prior to making a public offering of its securities, (1) have a net worth of at least $100,000, (2) have previously made a public offering and at that time have had a net worth of $100,000 or (3) have made arrangements for at least $100,000 to be paid in by 25 or fewer persons before acceptance of public subscriptions.

The Applicants represent that each Series, at the date of deposit of the underlying Securities and before any unit is offered to the public, is intended to have a net worth, represented by the market value of the securities on that date in excess of $100,000. The Sponsors intend to sell all the units to the public at a public offering price disclosed in the prospectus for each Series, which will also contain information concerning the securities deposited in the particular Series. The Sponsors also intend to maintain a secondary market for units of each Series at prices equal to the redemption value of the units as of the time of each regular evaluation. It is the contention of the Applicants that the proposed course of conduct of the Sponsors outlined above, as well as the history of the Sponsors in the securities industry, demonstrates that each Series will be managed in a responsible way by responsible persons. The Applicants also contend that any requirement that the Sponsors invest in $100,000 or more of units of each Series under investment letters would only increase the cost to the Sponsors of marketing the units without creating any significant increase in the protection of unitholders. The Applicants also contend that each Series will have a net worth far in excess of $100,000 fully invested in securities on the date of deposit for each Series and will therefore fully comply with Section 14(a)(1).

In connection with their request for exemption, the Applicants agree, as a condition to such exemption, that they will refund, on demand and without deduction, all sales charges to purchasers of units of any Series from the Sponsors or from any underwriter or dealer participating in the distribution and liquidate the Securities held by any Series and distribute the proceeds thereof, if, within ninety days from the time that the registration statement relating to the units of such Series shall have become effective under the Securities Act of 1933, the net worth of the Series should be reduced to less than $100,000 or if such Series shall have been terminated. The Sponsors further agree to instruct the Trustee to terminate such Series in the event redemption by the Sponsors of units which have not been sold in the initial distribution thereof results in such Series having a net worth of less than 40% of the net worth of Securities in its original portfolio, and in the event of any such termination the Sponsors will refund, on demand and without deduction, all sales charges to purchasers of units of such Series from the Sponsors or from any underwriter or dealer participating in the distribution. The Sponsors further agree that any

future Sponsor will, as a condition to becoming a Sponsor, agree to the foregoing undertakings.

Rule 19b–1(a) provides in substance that no registered investment company which is a "regulated investment company" as defined in Section 851 of the Internal Revenue Code shall distribute more than one capital gain dividend in any one taxable year.

The Applicants state that distributions of net investment income are made to unitholders each month. Applicants state that any net realized capital gains will not be distributed on any Series more frequently than once a year unless and until the Commission orders Applicants exempted from Rule 19b–1. Distributions of capital to unitholders are likely to arise only in the following instances: (1) Securities might be liquidated in order to provide the funds necessary to meet redemptions and (2) Securities may be disposed of in order to maintain the qualification of such Series as a regulated investment company under the Internal Revenue Code.

The application states that the dangers against which Rule 19b–1 is intended to guard do not exist in the case of the fund since events which might give rise to capital gains, such as the tendering of units for redemption, the prepayment of Securities or other market or credit factors and the need to maintain qualification as a regulated investment company will be substantially independent of any action by the Sponsor and the Trustee. The regular distribution per unit will be fairly constant within a specified range and return of capital or any capital gains distribution will be clearly distinguished from income distribution in the accompanying report by the Trustee to unitholders. In order to comply with the literal requirements of Rule 19b–1, each Series would be forced to hold any monies constituting capital gains from the disposition of Securities until the end of its taxable year. Applicants contend that such a practice would be to the detriment of the unitholders. Paragraph (b) of Rule 19b–1 provides that a unit investment trust may distribute capital gains dividends received from a regulated investment company within a reasonable time after receipt. Applicants assert that the purpose behind such provision is to avoid forcing a unit investment trust to accumulate valid distributions received throughout the year until year end and that the operations of the Fund in this regard are squarely within the purpose of such provision.

Section 11(c) of the Act prohibits any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company unless the terms of the offer have been approved by the Commission or are in accordance with rules and regulations prescribed by the Commission with respect to such offers. Section 22(d) of the Act prohibits a registered investment company from selling any redeemable security issued by it except either to or through a principal underwriter for distribution other than at the current public offering price described in its prospectus. None of the exemptions from the provisions of Section 11 or 22(d) appear to apply to the proposed Exchange Option. Applicants therefore would be unable to proceed with the Exchange Option unless, pursuant to Sections 6(c) and 11 of the Act, the Commission exempts the Exchange Option from the provisions of Sections 11(c) and 22(d).

The Applicants state that it is intended that if the requested exemptions are granted, the Exchange Option would operate as follows: as indicated in the application and spelled out in more detail in the prospectus for the various series of the Exchange Funds, the Sponsors intend to maintain a market for units of each series of each Exchange Fund. The Exchange Option would be meant to operate only as to units of the various series of the Exchange Funds as to which such market may from time to time be maintained. A unitholder wishing to dispose of those of his units for which a market is maintained would have the option to exchange his units into units of any other series of any Exchange Fund for which a market is also maintained. While it is not presently contemplated that unitholders would be permitted to exchange their units into units of other series which are available on original issue, the Sponsors might at some future date determine to permit such exchanges. When any unitholder notifies the Sponsors of his desire to exercise his Exchange Option the Sponsors would deliver to such unitholder a current propectus for those series in which the unitholder has indicated an interest and which the Sponsors have available to offer to the unitholder as a result of acquisitions by them in the secondary market.

The Applicants state that the exchange transaction would operate in a manner essentially identical to any secondary transaction, except that the Sponsors seek authority to allow a reduced sales charge in a transaction pursuant to the Exchange Option. Without the Exchange Option, units of any series repurchased by the Sponsors are normally resold at a public offering price based upon the offering side evaluation of the underlying securities plus a sales charge of 3.25 percent or 3.9 percent of the public offering price depending on the nature of the portfolio making up the particular series.

The Underwriting Sponsors seek authority to sell units of Exchange Funds pursuant to the Exchange Option at a price equal to the offering side evaluation of the underlying securities divided by the number of units outstanding or in the case of the Fund, at the redemption price per unit, plus a fixed charge of $15 per unit. Such $15 fixed charge can be expected to approximate about 1.50 percent of the unit offering price but, of course, the actual percentage will change depending upon changes in market values of the underlying securities. The Sponsors reserve the right to change such fixed charge from time to time to the extent necessary to reflect fluctuations in the costs of professional assistance and operational expenses in connection with these exchange transactions.

The application provides that a person who purchased units of a series and paid a per unit sales charge less than the per unit sales charge of the series of Exchange Fund for which such unitholder desires to exchange would be permitted to exercise the Exchange Option at the unit offering price plus the sales charge of $15 per unit provided that such unitholder has held his units for a period of at least eight months. Any unitholder who has not held such units for an eight month period would be permitted to exchange such units at the unit offering price plus a sales charge basd on the greater of $15 per unit or an amount which together with the initial sales charge paid in connection with the acquisition of the units being exchanged equals the sales charge of the series for which such unitholders desire to exchange, determined as of the date of exchange.

The Applicants state that a unitholder would not be permitted to make up any difference between the amount representing the units being submitted for exchange and the units being acquired. That is to say, a unitholder would be permitted to acquire pursuant to the Exchange Option whole units only and any excess amounts representing sales price of units submitted for exchange would be remitted to the unitholder.

The Applicants state that under the proposed Exchange Option, a person desiring to dispose of units of one series and acquire units of another series may wish to do so for a number of reasons—such as changes in his or her particular investment goals or requirements or in order to take advantage of possible tax benefits flowing from the exchange. Taking these factors into account it is likely that there will be a continuing need to assess an investor's individual financial and tax position and in all probability the account executives of the Sponsors will actively participate in financially counseling the investor as to the proper course of action to follow taking into account all of the relevant investment factors involved. However, the fact that the investor is an existing customer whose essential investment needs have been identified should produce some transaction savings. Further, as a result of the fact that all of the Exchange Funds are very similar investment vehicles, an exchanging unitholder may require somewhat less advice than if he was acquiring an interest in an entirely different kind of investment. It is the belief of Applicants that a charge of $15 is a reasonable and justifiable expense to be allocated for the professional assistance and operational expenses which are contemplated in connection with these exchange transactions. This sales charge compares favorably with the customary sales charge applicable to nonexchange transactions in connection with primary and secondary sales of units of the Exchange Funds and it is submitted that such a sales charge is warranted in that sales charges should cover the reasonable costs related to the exercise of the Exchange Option and yet give exchanging unitholders an opportunity to share in expected cost savings.

The Applicants maintain that the requirement that a holder of units of a series of the Exchange Funds which are acquired at a lower sales charge than that applicable to direct purchase of the units to be acquired under the Exchange Option pay an adjusted sales charge for an exchange during the first eight months in which he has held the units to be exchanged is appropriate in order to maintain the equitable treatment of the various investors in each series. Otherwise, it could be possible under certain circumstances for a person to acquire units of a series of an Exchange Fund with a lower sales charge and immediately to convert such units into other units of the same Exchange Fund or units of a series with a high sales charge and to pay a lower total sales charge than a person purchasing units of such series directly. Under normal circumstances this situation is unlikely, since the initial sales charge on direct purchases of units with a lower sales charge (currently 3.25 percent of the public offering price) plus the conversion sales charges ($15 per unit or aproximately 1.50 percent of the public offering price) usually will exceed the sales charge related to direct purchases of units of series with a higher sales charge (currently 3.90 percent). However, if the price of the units of series with the higher sales charge were to increase sharply, the $15 sales charge on exchange could represent less than the difference between the lower sales charge and the higher sales charge, in which case the exchanging unitholder could obtain an unfair price advantage when compared to investors making direct purchases of units of the applicable series. However, after a unitholder of a series with a lower sales charge has held such units for an adequate period of time, the discriminatory nature of permitting that person to effect an exchange transaction action at a reduced sales charge is not as compelling, and thus it is believed that the possible abuses outlined above are no longer material if the converting unitholder of a series with a lower sales charge has held his units for at least eight months.

The Applicants contend that the sales charge of $15 achieves a major goal of passing cost savings on to investors and yet fairly compensates brokers for their investment advice, financial planning and operational expenses. The cost savings incident to initial investor solicitation can be passed on to the customer and brokers can still be adequately compensated for services rendered.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision or provisions of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 15, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–37018 Filed 11–26–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 17324; SR–MSE–79–20]

Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change

November 21, 1980.

On September 17, 1980, the Midwest Stock Exchange, Incorporated, 120 South LaSalle Street, Chicago, Illinois 60603, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change which amends certain rules in order to facilitate the examination of members for compliance and conforms the Exchange rule to the Federal Reserve Board's margin rules.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–17165, October 9, 1980) and by publication in the **Federal Register** (45 FR 68819, October 16, 1980). All written statements with respect to the proposed rule change which were filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person were considered and (with the exception of those statements or communications which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552)

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were made available to the public at the Commission's Public Reference Room.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule changes be, and they hereby are approved.

By the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37021 Filed 11-26-80; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

November 20, 1980.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

AAR Corporation, Common Stock, $1 Par Value (File No. 7-5784).
Gray Research Incorporated, Common Stock, $1 Par Value (File No. 7-5785).

These securities are listed and registered on one or more other national securities exchanges and are reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 12, 1980 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37022 Filed 11-26-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17322; SR-NSCC-80-26]

National Securities Clearing Corporation ("NSCC"); Order Approving Proposed Rule Change

November 21, 1980.

On August 13, 1980, NSCC filed with the commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b-4 thereunder, a proposed rule change amending its rules to clarify that the corporation's facilities are available to Members and Non-Clearing Members as a conduit for submission of stock transfer tax reports and remittances required by the New York State Tax Law.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 17097, August 28, 1980) and by publication in the **Federal Register** (45 FR 58996, September 5, 1980). No written comments were received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies, and in particular, the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37020 Filed 11-26-80; 8:45 am]

BILLING CODE 8010-01-M

Pacific Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

November 20, 1980.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Lilly (Eli) and Company, Common Stock, $.62½ Par Value (File No. 7-5783).

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 12, 1980 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37023 Filed 11-26-80; 8:45 am]

BILLING CODE 8010-01-M

SELECTIVE SERVICE SYSTEM

Schedule for Awarding Senior Executive Service Bonuses

AGENCY: Selective Service System.

ACTION: Senior Executive Service (SES); schedule for awarding performance bonuses to SES career executives.

SUMMARY: As required by the Office of Personnel Management in a memorandum signed by the Director on July 21, 1980, the Selective Service System announces that Senior Executive Service bonus payments to SSS career executives will be paid on or after December 10, 1980.

DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT:

Margaret E. Kimbros, Personnel Officer, Selective Service System, Washington, D.C. 20435, (202) 724-0846.

James G. Bond,

Deputy Director.

November 24, 1980.

[FR Doc. 80-36859 Filed 11-26-80; 8:45 am]

BILLING CODE 8015-01-M

SMALL BUSINESS ADMINISTRATION

DJS Capital Group; Application for a License To Operate as a Small Business Investment Company

[License No. 02/02-0410]

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the regulations governing small business investment companies (13 CFR 107.102(1980)), by DJS Capital Group (Applicant), 1230 Avenue of the Americas, Suite 800 East, New York, New York 10020, for a license to operate as a limited partnership small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

The information and licensing of a limited partnership SBIC is subject to the provisions of Section 107.4 of the Regulations. The application provides for an individual general partner and a corporate general partner which must be a corporation, organized under State law solely for the purpose of managing the functions and activities of the limited partnership SBIC. There may be any number of limited partners.

The initial investors and their percent of ownership of the Applicant are as follows:

DJS Capital Corporation, General Partner, 1%
David J. Stone, Invididual General Partner, 1%
Sarah G. Davidson, Limited Partner

The Applicant proposes to commence operations with a maximum partnership capital of $8,928,572 and a minimum of $2,806,123. The Applicant anticipates it will primarily provide venture capital in the form of equity financing and long-term debt. It will have a broad financing policy. The Applicant intends to provide advisory and management services on a contractual basis to client small concerns.

The corporate general partner (DJS Capital Corporation) will consist of the following officers, directors and shareholders:

David J. Stone, 1049 Park Avenue, New York, New York 10028 (President, 40%)
Robert A. Katz, 200 E. 58th Street, New York, New York 10022 (Chairman, 40%)
Sarah G. Davidson, 1049 Park Avenue, New York, New York 10028 (Vice President, 20%)
William M. Ginn, 265 E. 66th Street, New York, New York 20021 (Vice President, Secretary)
Ralph J. Nagan, 1230 Avenue of the Americas, New York, New York 10020 (Vice President)

There will be only one class of common stock with the initial paid-in capital and paid-in surplus being $1,000 of which $500 will be contributed to the capital of the partnership for a general partners interest in the partnership. David J. Stone is the individual general partner.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed officers, directors, and shareholders of the corporate general partner, as well as the limited partners of the Applicant, and probability of successful operation of the Applicant, in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA, in writing, comments on the proposed licensing of this company. Any such communication should be addressed to: Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A copy of this notice shall be published by the Applicant in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 19, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-37073 Filed 11-26-80; 8:45 am]

BILLING CODE 8025-01-M

Office of the Chief Counsel for Advocacy; Meeting

Pursuant to statutory authority set forth in Section 634d of Title 15, United States Code, the Chief Counsel for Advocacy of the Small business Administration, Milton D. Stewart, Esquire, with the approval of the Administrator, A. Vernon Weaver, and the assistance of a Special Task Group of small business people, will conduct a public meeting in Washington, D.C., on December 16, 1980, on the subject of "Small Business Continuity." The meeting will convene in the Conference Center of One Washington Circle Hotel, #One Washington Circle, N.W., at 9:00 AM (EDT).

The Office of the Chief Counsel for Advocacy will continue its study of the question of what changes are needed in laws, regulations or institutions in order to enhance the financing of a change of ownership on the exit or retirement of owners, or the death or disability of founders or family members.

The meeting is open to the public. Any member of the public may participate as an "Observer" and may submit written comments to the Office of the Chief Counsel for Advocacy before, during or after the meeting. All communications or inquiries regarding the meeting should be addressed to: Tim C. Ford, Esq., Office of the Chief Counsel for Advocacy, U.S. Small Business Administration, 1441 L Street, N.W., Room 219, Washington, D.C. 20416, (202) 653-6076.

Dated: November 21, 1980.

Milton D. Stewart,

Chief Counsel for Advocacy.

[FR Doc. 80-37074 Filed 11-26-80; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-0146]

Peachtree Capital Corp.; Issuance of License

On September 9, 1980, a Notice was published in the **Federal Register** (45 FR 59466) stating that an application had been filed by Peachtree Capital Corporation, 1611 Gas Light Tower, 235 Peachtree Street, Atlanta, Georgia 30303, with the Small Business Administration pursuant to § 107.102 of the Regulations governing small business investment companies (SBICs).

Interested parties were given until the close of business September 24, 1980, to submit their comments to SBA. No comments were received.

Notice is thereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, the SBA issued License No. 04/04-0146 to Peachtree Capital Corporation, to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 19, 1980.

Peter F. McNeish,

Acting Associate Administrator for Investment.

[FR Doc. 80-37072 Filed 11-26-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1951]

Texas; Declaration of Disaster Loan Area

Jefferson, Kimble, Llano and Menard Counties and adjacent counties within the State of Texas constitute a disaster as a result of damage caused by tropical storm Danielle which occurred on September 5-9, 1980. Eligible persons,

firms and organizations may file applications for loans for physical

termination dates for filing applications for physical damage is close of busines

ADDRESS: Submit written comments, preferably in triplicate, to FHWA

lamp function when the ignition switch is turned to the "on" position and the

Issued on November 19, 1980.

than that of whether all performance requirements are met. While a "Thing"

firms and organizations may file applications for loans for physical damage until the close of business on January 19, 1981, and for economic injury until the close of business on August 18, 1981, at: Small Business Administration, District Office, One Allen Center—Suite 705, 500 Dallas, Houston, Texas 77002, or Small Business Administration, District Office, 727 East Durango—Room A513, Federal Building, San Antonio, Texas 78206, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 18, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-37075 Filed 11-26-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1900; Amendment No. 2]

Texas; Declaration of Disaster Loan Area

The above numbered Declaration (See 45 FR 56488) and Amendment No. 1 (See 45 FR 62599) are amended by adding the following counties:

County	Natural disaster(s)	Date(s)
Cooke	Drought	4/1-8/21/80
Floyd	Drought	6/3-8/27/80

and adjacent counties within the State of Texas as a result of natural disaster as indicated. All other information remains the same; i.e., the termination date for filing applications for physical damage is close of business on February 12, 1981, and for economic injury until close of business on May 12, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 23, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-37076 Filed 11-26-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1904; Amendment No. 2]

West Virginia; Declaration of Disaster Loan Area

The above numbered Declaration (See FR 45 58458) and amendment No. 1 (See FR 62600) are amended in accordance with the President's declaration of August 15, 1980, to include Raleigh County and Adjacent counties within the State of West Virginia. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on October 16, 1980, and for economic injury until the close of business on May 15, 1981.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 8, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-37071 Filed 11-26-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

FAA Consumer Program as Required by Executive Order 12160

Correction

In FR Doc. 80-36195 appearing at page F6829 in the issue for Thursday, November 20, 1980, make the following correction:

On page F6830, in the first column, in the next to last paragraph, the last sentence should read: * * * The FAA has no intention of permitting the Community and Consumer Liaison Division to serve as either a "buffer" or "barrier" between its specialists and interested members of the public; rather, the Division will strive to expedite interaction between members of the public and agency personnel, to facilitate—and not impede—consumer participation in the development of FAA rules, policies and programs.

BILLING CODE 1505-01-M

Federal Highway Administration

[FHWA Docket No. 80-26]

Interstate Motor Carrier Study: Request for Comments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of docket number assignment and date for comments.

SUMMARY: Section 19 of the Motor Carrier Act of 1980 directs the Secretary of Transportation and the Interstate Commerce Commission to conduct a study of the individual State regulations and requirements imposed on interstate motor carriers. Comments on the study were solicited by a notice published in FR Doc. 80-31351, in the issue of Thursday, October 9, 1980, at 45 FR 67272. This notice establishes a docket number and a closing date for submission of written comments.

DATE: Comments must be received on or before May 1, 1981.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 80-26, Room 4205, HCC-10, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m., ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Link, Chief, Intermodal Studies Team, 202-426-0570; or Mrs. Kathleen S. Markman, Trial Attorney, Office of the Chief Counsel, 202-426-0346, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

Issued on: November 21, 1980.

John S. Hassell, Jr.,

Federal Highway Administrator.

[FR Doc. 80-37088 Filed 11-26-80; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. IP79-8; Notice 2]

General Motors Corp.; Grant of Petition for Inconsequential Noncompliance

This notice grants the petition by General Motors of Detroit, Michigan, ("GM" herein) to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act for two noncompliances with 49 CFR 571.105, Motor Vehicle Safety Standard No. 105, *Hydraulic Brake Systems.* The basis of the grant is that the noncompliances are inconsequential as they relate to motor vehicle safety.

Notice of receipt of the petition was published in the **Federal Register** on August 27, 1979, and an opportunity afforded for comment (44 FR 50126).

Paragraph S5.3.5 of Standard No. 105 requires school buses to be equipped with a brake system indicator lamp, whose lens is labeled "Brake". If a separate indicator lamp is used to indicate a gross loss of brake pressure it shall include additional appropriate labeling, i.e., "Brake Pressure". GM discovered that the separate indicator for this function was labeled "Brake" on 4,250 GMC and Chevrolet school bus chassis manufactured between the start of 1979 model production and April 1979.

Paragraph S5.3.2 of Standard No. 105 requires that all brake system indicator lamps shall be activated as a check of lamp function when the ignition switch is turned to the "on" position and the engine is not running. GM said that this will not occur in the "Park Brake" indicator unless the parking brake is also applied.

GM's arguments that these noncompliances are inconsequential as they relate to motor vehicle safety may be summarized as follows: The indicator labeled "Brake" is the only indicator that identifies brake system hydraulic failure, and "this wording conveys the same information as the words 'Brake Pressure' specified by the Standard, which is that a problem may exist in the service brake hydraulic system." with respect to the check function of the "Park Brake" indicator, the operator's manual accompanying each vehicle advises that the driver apply the parking brake before the engine is started. GM further stated that the system was designed to illuminate whenever the ignition switch is turned on and the parking hand brake is applied. If these directions are followed, the indicator will illuminate as a check function, and, in any event, may be checked by application of the parking brake.

No comments were received on the petition.

With respect to the failure to provide the word "Pressure" after "Brake", NHTSA has concluded that the use of two warning indicators serves to meet the intent of the requirement. Separation of the brake subsystems means that failure in the hydraulic brake system will be adequately indicated by the lens marked simply "brake".

As for the failure of the parking brake indicator to light unless the brake is applied, the agency has determined that the distinction between usage of school buses and passenger cars renders this noncompliance inconsequential in nature. Laws in many jurisdictions require the driver to go through a check list of vehicle functions each day before the vehicle is operated, a constraint that is lacking in passenger car operation. Therefore, the parking brake system will be checked by a trained driver on a frequent if not daily basis. To remind vehicle operators of the necessity of this check, GM has informed the agency that it send a letter to school bus owners asking them to review their procedures.

For the foregoing reasons, it is hereby found that petitioner has met its burden of persuasion, and that the noncompliances herein described are inconsequential as they relate to motor vehicle safety.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on November 19, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-36991 Filed 11-26-80; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP80-3; Notice 2]

Volkswagen of America; Denial of Petition for Inconsequential Noncompliance

This notice denies the petition by Volkswagen of America, Inc., of Warren, Michigan, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.205, Motor Vehicle Safety Standard No. 205, *Glazing Materials.* Volkswagen petitioned on the basis that the noncompliance was inconsequential as it related to motor vehicle safety.

Notice of receipt of the petition was published on March 10 1980 (45 FR 15300).

Paragraph S6.4 of Standard No. 205 requires that each manufacturer who cuts a section of glazing material for use in a motor vehicle shall mark the material to identify it. Volkswagen imported 505 replacement windshields in 1977, 1978, and 1979 for its Thing, an unknown number of which (but not more than 398) were not marked AS-1 in accordance with the standard. Volkswagen argued that the noncompliance was inconsequential as the windshields were certified as meeting Standard No. 205, and in fact, other than the omitted marking, complied with all requirements.

Two comments were received on the petition, both from States, and both opposing it for virtually the same reason. The Maryland State Police (Automotive Safety Enforcement Division) pointed out that Things with unmarked windshields would not comply with State inspection requirements and would be rejected. The Department of California Highway Patrol commented that the lack of marking is not inconsequential to a vehicle owner who must replace the windshield in the aftermath of an unsuccessful inspection.

The agency has decided to deny the petition. None of the previous inconsequentiality petitions concerning the failure to mark glazing (See Dockets IP76-10, 77-7, 77-16, 78-5, and 79-7) involved a failure to mark AS-1 glazing with the AS-1 designation. The question whether a noncompliance is "inconsequential as it relates to safety" may be answered in a broader context than that of whether all performance requirements are met. While a "Thing" with an unmarked replacement windshield may comply with the essentials of Standard No. 205, it is still subject to rejection by State inspectors, putting the owner to the burden of either contacting Volkswagen (whose mistake it is) or of replacing the windshield, before the State will again inspect the vehicle and authorize its continued operation on the roads. The noncompliance has a direct impact upon the vehicle safety inspection process, diverting public resources with no corresponding beneficial safety result. Accordingly, petitioner has not met its burden of persuasion that the noncompliance described herein is inconsequential as it relates to motor vehicle safety and its petition is hereby denied.

The engineer and attorney primarily responsible for this notice are Ed Jettner and Taylor Vinson respectively.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on November 19, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-36990 Filed 11-26-80; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP80-10; Notice 2]

White Motor Corp; Grant of Petition for Inconsequential Noncompliance

This notice grants the petition by White Motor Corp. of Eastlake, Ohio, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.101, Motor Vehicle Safety Standard No. 101, *Control Location, Identification, and Illumination.* The basis of the petition was that the noncompliance was inconsequential as it related to motor vehicle safety.

Notice of receipt of the petition was published on July 17, 1980, and an opportunity afforded for comment (45 FR 48016).

Table 1 of Standard No. 101 requires that a combination identification lamp, clearance lamp, side marker lamp control be identified as either "CL LPS" or "Clearance Lamps." White used the term "Marker Lgts" on 221 trucks manufactured between July 31, 1976, and October 29, 1979. The company stated that it had no owner complaints about the noncompliance. It believed that the limited number of vehicles and "readily apparent meaning of the switch

identifier" have an inconsequential effect on safety.

Two comments were received on the petition, both of which supported it, observing that truck and lighting industries have traditionally used the terms "clearance" and "marker" interchangeably.

The NHTSA considers these comments to have considerable merit. They indicate that those who operate the trucks in question are not likely to be confused in use of the lamp control. Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is hereby granted.

The engineer and attorney responsible for this notice are John Carson and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on November 17, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80-36880 Filed 11-26-80; 8:45 am]

BILLING CODE 4910-59-M

Office of the Secretary

[Docket No. 69; Notice No. 80-14a]

Implementation of Special Federal Aviation Regulation No. 43; Temporary Allocation of IFR Reservations at Washington National Airport

AGENCY: Department of Transportation/ Office of the Secretary.

ACTION: Notice and Request for Comments.

SUMMARY: Special Federal Aviation Regulation No. 43 (45 FR 72637, November 3, 1980) established a procedure for the temporary allocation of Instrument Flight Rules (IFR) reservations or "slots" for operations (takeoffs and landings) of air carriers except air taxis at Washington National Airport, a "high density" airport under 14 CFR Part 93, Subpart K. This notice implements paragraph (g) of the Appendix to the special regulation by publishing two tables setting forth the assignment of slots that resulted from the procedures carried out under SFAR 43, and discusses certain comments on, and requests for, amendments to the special regulation that have been received by the Department.

FOR FURTHER INFORMATION CONTACT:
Gregory Wolfe, Office of the Assistant General Counsel for Environmental, Civil Rights and General Law, Department of Transportation, Washington, D.C. 20590, Telephone No. 202-426-4710, or
Rick Yates, Office of Industry Policy, Industry Operations Division, Department of Transportation, Washington, D.C. 20590, Telephone No. 202-426-4203.

SUPPLEMENTARY INFORMATION:

Slot Allocation Procedure

Pursuant to Special Federal Aviation Regulation No. 43, the Department requested that the Airline Scheduling Committee, which consists of representatives of the airline companies serving or proposing to serve Washington National Airport, assemble to participate in a regulatory procedure that would result in a distribution of slots among the Committee members for the period between December 1, 1980, and April 26, 1981. An open meeting was held for this purpose at the Sheraton National Inn in Arlington, Virginia, on November 3, 1,980. All carriers affected by the regulation were represented, and all participated in the procedure, although most expressed reservations with it, indicating that they reserved the right to challenge the regulation in court. The procedure was conducted by attorneys from the Office of the General Counsel, Department of Transportation, because members of the Scheduling Committee considered it inappropriate for the Committee staff to do so.

Paragraphs (f), (g) and (h) of Appendix A of the special regulation provide:

(f) Subject to CAB authorization, the carriers may then exchange slots in any hour.

(g) The Department shall then issue and publish a final schedule in the **Federal Register.** Thereafter, existing procedures (or any new procedure approved by the CAB) of the scheduling committee for the relinquishment and reassignment of unused slots may be employed.

(h) The FAA will accept at any time a schedule developed by the committee in accordance with its rules for part or all of the scheduling period, in lieu of the schedule published under paragraph (g) of this Appendix.

After the SFAR 43 distribution had been completed, the carriers, in accordance with paragraph (f), reassembled the Scheduling Committee and agreed to modifications of the schedule of slot assignments developed under the regulation. Because one of the carriers will not begin service at National Airport until December 14, the Committee split the schedule into two separate time periods, one from December 1 through December 13, the second from December 14 through the end of the season (April 26, 1981). In accordance with paragraph (g) of the regulation, tables showing the distribution of slots during these two periods are published below.

Further Comments and Submissions to the Rulemaking Docket

Released Slots

Docket No. 69 has remained open for further comments with respect to amendments or additions to the special regulation that commenters believe should be made. Following an initial proposal on the matter by Eastern Airlines, several carriers have urged that the rule be amended to provide for the distribution of slots that carriers are unable or decide not to use for part or all of the scheduling period. SFAR 43 provides that the normal procedures of the Airline Scheduling Committee should be applied for the reassignment of unused slots after the completion of the SFAR 43 procedure. Committee practices are to notify the member carriers of any such available slots, and to resolve multiple requests for their use informally.

Several carriers urged that the regulation establish a ranking of carriers, on one basis or another, in which individual carriers would be offered unused slots. Eastern Airlines proposed that carriers receiving fewer slots under the December allocation than under the November schedule be given priority, followed by carriers that were required to "slide" a slot into the ten p.m. hour. Eastern also urged that it be given first priority, since it gave up the most slots. Eastern was supported by Piedmont. Pan American also urged giving the five carriers losing slots priority, but suggested that the priority among the five be determined by lot.

Two carriers, Air Florida and Altair, argued that the carriers losing slots had done so because of their own voluntary action in the October 8 vote in the scheduling committee, which was used as a basis for establishing the total number of slots assigned to each carrier under SFAR 43. These carriers urged that the released slots be made available to the carriers obliged to "slide" in the order of the number of total slots each holds, with the carrier with the least number of slots being given the first chance to take an unused slot. They argued that the "slides" had at least as severe an impact on the smaller carriers as losing slots did on the large carriers, and that the burden was especially disproportionate because they already held one or more slots at the less desireable ten p.m. hour. New York Air, however, argued that any such priority system violated the Airline Deregulation Act, and that new carriers should be given the first opportunity to select the unused slots. The other methods proposed, it contended, would constitute "grandfathering," would be anticompetitive, and would set a bad precedent.

In addition, Eastern urged that the regulation require the relinquishment of slots by carriers unable to use them within a specified time period. This comment was apparently occasioned by the status of New York Air. That carrier, which intends to begin service December 14, has not yet obtained all necessary governmental approvals and for that and other reasons may not be able to commence service on the intended date.

The Department did not find in any of the comments submitted an explanation why the scheduling committee's existing procedures could not be used to distribute unused slots appropriately. The committee in fact has already reassigned slots without serious difficulty. Without any evidence of pressing need, there is no reason to establish an additional regulatory procedure.

With respect to the need to require carriers to release unused slots, the Department concludes that such a regulation is impracticable. It is virtually impossible to establish a date certain on which a carrier knows it will not use a slot or slots, and therefore impossible to enforce a temporary rule requiring the release of unused slots. Moreover, it does not appear to be necessary. Should any carriers, inappropriately hold on to unused slots, the Civil Aeronautics Board has indicated that it will consider taking action.

Effective Dates

At the meeting called to implement SFAR 43, several participants expressed concern about the Department's decision to keep the regulatory docket open and its expressed willingness to make appropriate changes to the regulation as early as January 5, 1981. They argued that the adjustments to the November schedule resulting from the regulatory procedure had caused many carriers to make extensive changes to their systemwide schedules, and objected to being compelled to undertake such changes again, before the end of the scheduling period in April.

While it remains open to further suggestions for improvements to the special regulation, the Department does not intend to initiate another major reallocation of slots at National to take effect before April 26. The airline scheduling committee, however, retains the ability to submit a new schedule at any time in accordance with its established procedures and SFAR 43.

Invitation for Additional Comment

As indicated in the preamble to the special regulation, the docket for Notice No. 80-14 will remain open until a decision is made with respect to a long-term solution to slot allocation methods at Washington National Airport, or April 26, whichever occurs first. All comments submitted will be available in the rules docket for examination by interested persons. All comments submitted will be considered by the Department in making changes to the special regulation, if warranted.

Communications should identify the docket number and be submitted in duplicate to the Docket Clerk, Office of the Secretary, Docket No. 69; Notice No. 80-14, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590, or be delivered in duplicate to Room 10421, 400 Seventh Street, SW., Washington, D.C. 20590. Comments delivered must be marked: Docket No. 69. Comments may be inspected at Room 10421 between 9:00 a.m. and 5:30 p.m.

Commenters who want the Department to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments on Docket No. 69." The postcard will be dated, time stamped, and returned to the commenter.

Distribution of Slots Under Special Federal Aviation Regulation Number 43

The following distributions of slots to air carriers have been made pursuant to Appendix A of Special Federal Aviation Regulation No. 43 for the period December 1, 1980 through April 26, 1981:

BILLING CODE 4910-62-M

AIR CARRIER IFR RESERVATIONS
AT WASHINGTON NATIONAL AIRPORT

(Secs. 103, 307(a) and (c), 313(a) of the Federal Aviation Act of 1958, as amended (49

Consultant support will be provided by Tippetts-Abbett-McCarthy-Stratton

schedule. The public and affected public agencies will be invited to comment.

AIR CARRIER IFR RESERVATIONS
AT WASHINGTON NATIONAL AIRPORT
December 1 through December 13, 1980

CARRIER	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	22	TTL	
American	5	3	4	4	3	6	2	4	4	2	4	4	5	3	3	2	58	AA
Altair	2		1		2	2				2		1	1		2	3	16	AK
USAir	7	7	6	3	5	3	6	7	5	4	6	5	5	6	5	4	84	AL
Braniff	1	1		1	1		2	2	3	1	2		2	2	2		20	BN
Delta	3	2	2	2	2	2	3	2	1	3	3	2	1	1	2	1	32	DL
Eastern	9	7	7	12	8	7	8	9	9	7	5	8	8	7	12	5	128	EA
Aeromech		1	1			1	1						2				6	RC
Midway	1				1	1		1	1	1	1			1			8	ML
New Air		2					1	1			1	1					6	NC
Air North		2									1	1					4	NO
Northwest	3	2	3	2	2	4	3	1	4	3	2	2	2	5	1	1	40	NW
Ozark					1	1				1	1						4	OZ
Pan American	2	2	3	3	1	1	4	2	1	2	3	4	2	1	2	3	36	PA
Piedmont	1	4	6	5	2	5	4	5	2	4	4	4	4	4	3	5	62	PI
Pilgrim		2								1	1						4	PM
Air Florida	1	1	1		1	1	1	1	1	1		1	1		1	2	14	QH
Republic					1	1								2			4	RC
Texas Int'l																		TI
Trans World	1	2	3	2	1	3	3	2	5	3	3	2	2	3	2	1	38	TW
United	4	1	2	2	4	2	1	2	3	3	2	4	2	4	3	3	42	UA
Empire		1	1				1		1				2	1		1	8	UR
Mid South				2	2					2			1			1	8	VL
Western					1					1	1				1		4	WA
TOTAL	40	40	40	38	38	40	40	39	40	40	40	40	40	39	40	32	626	
	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	22	TTL	

AIR CARRIER IFR RESERVATIONS
AT WASHINGTON NATIONAL AIRPORT
December 14, 1980 to April 26, 1981

CARRIER	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	22	TTL	
American	4	2	5	5	4	5	2	4	3	2	4	4	5	3	3	3	58	AA
Altair	2		1		1	3				2		1	1		2	3	16	AK
USAir	7	7	5	4	5	2	6	6	5	4	5	5	5	6	5	5	82	AL
Braniff	1	1		1	1	1	1	2	3	1	2		1	2	2	1	20	BN
Delta	3	2	2	2	2	2	3	2	1	3	3	2	1	1	2	1	32	DL
Eastern	9	7	6	11	9	6	8	9	8	8	5	8	8	6	11	5	124	EA
Aeromech		1	1				1	1					2				6	RC
Midway	1				1	1		1	1		1	1		1			8	ML
New Air		2					1	1			1	1					6	NC
Air North		2									1	1					4	NO
Northwest	3	2	3	2	2	4	3	1	4	2	2	2	2	5	1	2	40	NW
Ozark					1	1				1	1						4	OZ
Pan American	2	2	3	3	1	1	4	2	1	2	3	4	2	1	2	3	36	PA
Piedmont	1	4	6	5	2	5	4	5	3	3	4	4	4	4	3	5	62	PI
Pilgrim		2								1	1						4	PM
Air Florida	1	1	1		1	1	1	1	1	1		1	1		1	2	14	QH
Republic					1	1								2			4	RC
Texas Int'l	1	1	2	1	1	2	1	1	1	1	1	1	1	1	1	1	18	TI
Trans World	1	2	3	2	1	3	3	2	5	3	3	1	2	3	2	2	38	TW
United	4	1	1	2	4	2	1	2	3	3	2	4	2	4	3	2	40	UA
Empire		1	1				1		1				2	1		1	8	UR
Mid South				2	2					2			1			1	8	VL
Western					1					1	1				1		4	WA
TOTAL	40	40	40	40	40	40	40	40	40	40	40	40	40	40	39	37	636	
	07	08	09	10	11	12	13	14	15	16	17	18	19	20	21	22	TTL	

BILLING CODE 4910-62-C

(Secs. 103, 307(a) and (c), 313(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. section 1303, 1348 (a) and (c), and 1354(a)); Secs. 4 and 6 of the Department of Transportation Act (49 U.S.C. 1653 and 1655); Sec. 2, Act for the Administration of Washington National Airport (54 Stat. 688))

Issued at Washington, D.C. on November 19, 1980.

Neil Goldschmidt,

Secretary of Transportation.

[FR Doc. 80-36738 Filed 11-20-80; 4:50 pm]

BILLING CODE 4910-62-M

Urban Mass Transportation Administration

Southwest Corridor; Intent To Prepare an Environmental Impact Statement

In accordance with the provisions of the National Environmental Policy Act (83 Stat. 852), the Council on Environmental Quality's implementing regulations (40 CFR Parts 1500–1508) and the Urban Mass Transportation Administration and Federal Highway Administration Environmental Impact and Related Procedures (published in the **Federal Register** on October 30, 1980), the Urban Mass Transportation Administration hereby gives notice that an analysis of transportation alternatives in the Southwest corridor and preparation of related draft environmental impact statement are to begin following a public meeting at which the scope and conduct of the analysis will be discussed. Members of the public and interested Federal, State and local agencies are invited to comment on the proposed scope of work, the alternatives to be studied and the evaluation criteria which should be used to arrive at a decision. This Scoping Meeting will be held at the Dudley Branch of the Boston Public Library, 65 Warren Street, Roxbury, Massachusetts, on Thursday, December 11, 1980, from 5:00 to 7:30 p.m.

The Urban Mass Transportation Administration's *Policy on Major Urban Mass Transportation Investments* requires a metropolitan area planning organization to undertake such an analysis of alternatives if the area is contemplating seeking Federal funding for a major investment. The Policy defines a major investment as any new or extended fixed guideway transit facility. To be eligible for Federal funding, the analysis must be conducted, but completion of the analysis does not ensure that Federal funding will be forthcoming. The subject analysis will be conducted by the Massachusetts Bay Transportation Authority in the Boston area, under the supervision of the Urban Mass Transportation Administration. Consultant support will be provided by Tippetts-Abbett-McCarthy-Stratton (TAMS) and its sub-consultants.

The Boston Southwest (Orange Line Replacement) Corridor is a six-mile north-south corridor running southwest of the Boston Central Business District (CBD). Its boundaries are the Main Line Railroad proposed right-of-way for the relocated Orange Line rapid transit, on the west; the Red Line rapid transit alignment on the east; the Mattapan High Speed Trolley Line on the south; and the Massachusetts Turnpike extension (I–90) on the north. The study area encompasses six basic planning districts in the city of Boston including the South End, Dorchester-Uphams Corner, Roxbury, Dorchester-Fields Corner, Mattapan, and Franklin Field. Over 215,000 residents and 53,100 jobs are located in the study area. Retail establishments, utility corporations, educational facilities and medical facilities constitute the major activity centers. The existing transportation system includes the Washington Street Elevated Orange Line which will be relocated shortly; Red Line rapid transit Ashmont Branch; Mattapan High Speed Trolley; Massachusetts Turnpike Extension (I-90); South East Expressway (I–93); numerous major arterials including Blue Hills Avenue, Washington Street and Massachusetts Avenue; the Crosstown Arterial Street; and commuter rail service temporarily running on the Dorchester Branch of the Mainline Railroad. The relocation of the Orange Line service is the major reason for this analysis of replacement service.

The alternatives proposed for consideration and analysis for this corridor include busways on major alignments with associated in-street feeder bus network, and light rail from new Ruggles Station through Dudley to Columbia Point with busways on all other major alignments and associated in-street feeder bus network. The Base Case is the relocated Orange Line with existing on-street feeder bus network shifted to serve new station locations

The proposed evaluation criteria will include transportation service; ridership; urban development; environmental, social, economic and financial impact areas as required by current Federal (NEPA) and State (MEPA) environmental laws and current Federal CEQ, UMTA and FHWA guidelines. Additional impact areas and measures important to local decision-making will also be included.

At the Scoping Meeting, staff will present the above information in more detail using maps and visual aids, as well as a plan for active citizen participation program and work schedule. The public and affected public agencies will be invited to comment, either orally at the meeting or in writing for a period of 30 days following the meeting. At that time, adjustments to the work scope and alternatives will be made.

Interested parties can obtain copies of background material at the MBTA, Southwest Corridor Project Office, 4th Floor, 131 Clarendon Street, Boston, Massachusets 02116 or at the Greater Roxbury Development Corporation, 90 Warren Street, Roxbury, Massachusettss 02119 from 10:00 a.m. to 4:00 p.m. or by calling (617) 427–7060.

If there are any questions, please contact the UMTA Project Manager, Mr. Edward L. Thomas, Office of Planning, Urban Masss Transportation Administration, 400 7th Street, S.W., Washington, DC 20590, Telephone (202) 426–2360 or the UMTA Regional Office Planning Representative, Mr. Donald Bell, 55 Broadway (TSC), Cambridge, Massachusetts 02142, telephone (617) 494–2729, or the Local Agency Project Manager, Mr. Peter C. Calcaterra, Massachusetts Bay Transportation Authority, Southwest Corridor Development Project, 131 Clarendon Street, 4th Floor, Boston, Massachusetts, 02116, telephone (617) 722–5834.

Dated: November 21, 1980.

Robert H. McManus,

Associate Adminstrator for Planning, Management and Demonstrations.

[FR Doc. 80-36993 Filed 11-25-80; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Customs Service

[521854]

Three-Wheel All-Terrain Vehicles; Change of Practice Considered

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed change of practice.

SUMMARY: This document gives notice that the Customs Service is reviewing a uniform and established practice concerning the classification of three-wheel all-terrain vehicles. The Customs Service currently classifies the subject vehicles under the provision for other motor vehicles (except motorcycles) for the transport of persons or articles in item 692.10, Tariff Schedules of the United States (TSUS). The proposed change of practice would result in the reclassification of these vehicles under the provision for motorcycles in item 692.50, TSUS.

DATES: Comments (perferably in triplicate) must be received on or before: December 29, 1980.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Leonard J. Emmert, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8181).

SUPPLEMENTARY INFORMATION:

Background

In a Headquarters ruling dated July 15, 1970, file No. 005618, a three-wheeled all-terrain vehicle, which resembled a motorcycle with two rear wheels, was held to be classifiable under the provision for other motor vehicles (except motorcycles) for the transport of persons or articles in item 692.10, Tariff Schedules of the United States (TSUS). That ruling was circularized to all ports, and all importations of vehicles of the kind in question have been classified in conformity therewith, resulting in a uniform and established practice within the meaning of 19 U.S.C. 1315(d). The subject vehicles utilize a handlebar for steering and have a seat that is straddled by the driver who is not enclosed in the vehicle. Generally, ballon-type tires permit the vehicles to travel on all types of terrain. In 1978 a ruling was issued, however, indicating that these are motorcycles.

The Customs Service notes that the Brussels Nomenclature, Heading 87.09, Section XVII (1975), indicates that three-wheeled vehicles of the kind in question are classifiable as motorcycles. Further, it is noted that Regulation VESC–11 of the Vehicle Equipment Safety Commission defines a motorcycle as a two wheel or three-wheel vehicle with motive power, a singular front steering road wheel mounted in a fork assembly which passes through a frame steering bearing, and to which is attached a handlebar assembly, and which has no enclosure for the driver with the exception of a windshield, if so equipped.

Proposed Change of Practice

An *eo nomine* provision for an article, such as the provision for motorcycles, without limitations or shown contrary legislative intent, judicial decision, or administrative practice to the contrary, and without proof of commercial desgination, will include all forms of such article. *Nootka Packing Co.* v. *United States*, 22 C.C.P.A. 464, T.D. 47464 (1935). In view of this principle, and in light of the definitions enunciated above, the Customs Service proposed to change the current uniform and established practice of classifying three-wheeled all-terrain vehicles of the kind in question under item 692.10, TSUS. The Customs Service proposes that the subject vehicles be reclassified as motorcycles under item 692.50, TSUS.

Authority

Inasmuch as the proposed change of practice will affect the assesses duties on the subject vehicles, the Customs Service is giving this notice and opportunity to comment in accordance with section 315(d) of the Tariff Act of 1930, as amended (19 U.S.C. 1315(d)), and section 177.10(c)(1) of the Customs Regulations (19 CFR 177.10(c)(1)).

Consideration will be given to any written comments submitted in writing to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Research Division, Headquarters, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Drafting Information

The principal author of this notice Harold I. Loring, Regulations and Research Division, U.S. Customs Service. However, personnel from other offices of the U.S. Customs Service participated in developing this notice, both on matters of style and substance.

William T. Archery,

Commissioner of Customs.

Approved: November 17, 1980.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 80–37110 Filed 11–26–80; 8:45 am]

BILLING CODE 5210–54–M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 231
Friday, November 28, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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1

EXPORT-IMPORT BANK.

Pursuant to the provisions of the "Government in the Sunshine Act", 5 U.S.C. 552b, notice is hereby given that the Board of Directors of the Export-Import Bank of the United States will meet in open session on Tuesday, December 16, 1980, at 2 p.m., to consider the Medium-Term Programs of the Bank.

The meeting will be held in room 1143 at 811 Vermont Avenue, N.W., Washington, D.C.

Requests for information concerning this meeting may be directed to Warren W. Glick, General Counsel, telephone 202–566–8334.

Dated: November 24, 1980.

Warren W. Glick,

General Counsel, Export-Import Bank of the United States.

[S–2162–80 Filed 11–24–80; 4:28 pm]

BILLING CODE 6690–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of changes in subject matter of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, November 24, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director John G. Heimann (Comptroller of the Currency), concurred in by Director William M. Isaac (Appointive), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Memorandum and Resolution re: Uniform Interagency Consumer Compliance Rating System.

Memorandum and Resolution re: Procedures for cooperation between the Federal financial institution regulatory agencies and the Department of Labor in the enforcement of the Employee Retirement Income Security Act of 1974 (ERISA).

Memorandum and Resolution re: Survey of overseas fiduciary activities of U.S. banks and bank holding companies.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable.

Dated: November 24, 1980.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Assistant Executive Secretary.

[S–2166–80 Filed 11–25–80; 8:45 am]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of agency meeting.

Pursuant to the subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 9:00 p.m. on Friday, November 21, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) accept sealed bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Citizens State Bank of Galena, Galena, Kansas, which was closed by the Kansas State Bank Commissioner on November 21, 1980; (2) accept the bid for the transaction submitted by Citizens State Bank in Galena, Galena, Kansas, a newly-chartered State bank; (3) approve a resulting application of Citizens State Bank in Galena for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay deposits made in the closed bank; (4) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction; and (5) appoint a liquidator for such of the assets of the closed bank as were not purchased by Citizens State Bank in Galena.

In calling the meeting, the Board determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: November 24, 1980.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Assistant Executive Secretary.

[S–2167–80 Filed 11–25–80; 11:04 am]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of changes in subject matter of agency meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, November 24, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a notice of acquisition of control of Richfield State Bank, Richfield, Wisconsin.

The Board further determined, by the same majority vote, that Corporation business required the addition to the agenda for consideration at the meeting.

on less than seven days' notice to the public, of the following matters:

Loan Association as branches of the resultant bank, and for consent to redesignate the main office location of the

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: Closed.

MATTERS TO BE CONSIDERED: The agenda items carried forward from a previous meeting: the following such

SUPPLEMENTARY INFORMATION: Copies of the montly report of the Board's

on less than seven days' notice to the public, of the following matters:

Application of Plumas Bank, a proposed new bank, to be located at 80 West Main Street, Quincy, California, for Federal deposit insurance.

Application of Suisun Valley Bank, a proposed new bank, to be located at 1000 Texas Street, Fairfield, California, for Federal deposit insurance and for consent to establish a branch at the northwest corner of Travis Boulevard and Oliver Road, Fairfield, California.

Application of The Hibernia Bank, San Francisco, California, an insured State nonmember bank, for consent to merge under its charter and title with Security National Bank, Walnut Creek, California, and for consent to establish the fourteen offices of Security National Bank as branches of the resultant bank.

Application of Bank of Alex Brown, Walnut Grove, California, an insured State nonmember bank, for consent to merge under its charter and title with Placer Bank, Rocklin, California, and for consent to establish the ten full-service offices and one seasonal branch of Placer Bank as branches of the resultant bank.

Application of The Bank of Pasco County, Dade City, Florida, an insured State nonmember bank, for consent to merge under its charter and title with Citizens Bank of Pasco, Zephyrhills, Florida, and for consent to establish the two offices of Citizens Bank of Pasco as branches of the resultant bank.

Application of Westminster Trust Company, Westminster, Maryland, an insured State nonmember bank, for consent to merge, under its charter and with the title Westminster Bank and Trust Company of Carroll County, with The Woodbine National Bank, Woodbine, Maryland, and for consent to establish the three offices of The Woodbine National Bank as branches of the resultant bank.

Application of East River Savings Bank, New York (Manhattan), New York, an insured mutual savings bank, for consent to merge under its charter and title with People's Bank for Savings of New Rochelle, N.Y., New Rochelle, New York, also an insured mutual savings bank, and for consent to establish the four offices of People's Bank for Savings of New Rochelle, N.Y. as branches of the resultant bank.

Application of American Bank and Trust Co. of Pa., Reading, Pennsylvania, an insured State nonmember bank, for consent to merge under its charter and title with The Suburban Bank, East Norriton Township (P.O. Norristown), Pennsylvania, and for consent to establish the sole office of The Suburban Bank as a branch of the resultant bank.

Application of City Bank, Sun City, Arizona, an insured State nonmember bank, for consent to merge, under its charter and with the title City Bank of Arizona, with Surety Savings and Loan Association, Phoenix, Arizona, a Federally-insured, State-chartered stock savings and loan association, for consent to establish the ten existing offices and one approved but unopened office of Surety Savings and Loan Association as branches of the resultant bank, and for consent to redesignate the main office location of the resultant bank to the site of the present main office of Surety Savings and Loan Association.

Application of Continental Illinois National Bank and Trust Company of Chicago, Chicago, Illinois, for consent to purchase the assets and assume the liabilities of Banco Metropolitano de Bayamon, Bayamon, Commonwealth of Puerto Rico, a noninsured financial institution.

Recommendation regarding First Pennsylvania Bank N.A., Bala-Cynwyd, Pennsylvania, and First Pennsylvania Corporation, Philadelphia, Pennsylvania.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,563-L—Banco Credito y Ahorro, Ponceno, Ponce, Puerto Rico.

Case No. 44,566-L—Franklin National Bank, New York, New York.

Memorandum and Resolution re: First Augusta Bank & Trust Company, Augusta, Georgia.

Memorandum and Resolution re: The Hamilton Bank and Trust Company, Atlanta, Georgia.

Memorandum and Resolution re: First State Bank, Foss, Oklahoma.

The Board further determined, by the same majority vote, that no earlier notice of the changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters added to the agenda in a meeting open to public observation; and that the matters added to the agenda could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

Dated: November 24, 1980.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Assistant Executive Secretary.

[S-2168 Filed 11-25-80; 11:06 am]

BILLING CODE 6714-01-M

5

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, December 2, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Personnel, Compliance, Litigation, Audits.

* * * * *

DATE AND TIME: Wednesday, December 3, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings.
Correction and approval of minutes.
Certification.
Advisory opinions:
Draft AO 1980-118: Alvin J. Helfgot, Exchange Community Action II PAC.
Draft AO 1980-121: Kendrick G. Kissell, Socialist Party, Socialist National Committee.
Draft AO 1980-127: Edward E. Poliakoff, Associate Counsel, Democratic Party of South Carolina.
Draft AO 1980-129: Chris E. McNeil, Jr., Corporate Secretary, Sealaska Corporation.
Draft AO 1980-130: Lance E. Olson (Fazio for Congress Campaign Committee).
1980 Election and related matters.
Appropriations and budget.
Pending legislation.
Classification actions.
Routine administrative matters.

* * * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; Telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-2175-80 Filed 11-25-80; 3:40 pm]

BILLING CODE 6715-01-M

6

FEDERAL ENERGY REGULATORY COMMISSION.

Notice of meeting.

November 24, 1980.

TIME AND DATE: 8:45 a.m., November 24, 1980.

PLACE: 825 North Capitol Street, Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The agency's participation in a civil action and disposition by the agency of a particular case of formal agency adjudication

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357-8400.

[S-2174-80 Filed 11-25-80; 2:35 pm]

BILLING CODE 6450-85-M

7

FEDERAL ENERGY REGULATORY COMMISSION.

Notice of meeting.

November 25, 1980.

TIME AND DATE: 9 a.m., November 26, 1980.

PLACE: Room 9306, 825 North Capitol Street, Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The agency's participation in a civil action and disposition by the agency of a particular case of formal agency adjudication.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357-8400.

Kenneth F. Plumb,

Secretary.

[S-2170-80 Filed 11-25-80; 1:13 pm]

BILLING CODE 6450-85-M

8

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 76840, November 20, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., November 25, 1980.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number, and Company

CAM-3: RA80-11, Rudl's Kwik Gas N' Wash.

Kenneth F. Plumb,

Secretary.

[S-2161-80 Filed 11-24-80; 4:22 pm]

BILLING CODE 6450-85-M

9

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 76840, November 20, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10 a.m., November 25, 1980.

CHANGE IN THE MEETING: The following item has been added:

Item Number, Docket Number, and Company

M-4(B): RM81- , Interim Rule Under Section 108 of the NGPA Amending Section 271.805.

Kenneth F. Plumb,

Secretary.

[S-2163-80 Filed 11-25-80; 9:15 am]

BILLING CODE 6450-85-M

10

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 76567, November 19, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, November 24, 1980.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

1. Federal Reserve Bank and Branch director appointments. (This matter was originally announced for a meeting on November 10, 1980.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: November 24, 1980.

Theodore E. Allison,

Secretary of the Board.

[S-2164-80 Filed 11-25-80; 9:28 am]

BILLING CODE 6210-01-M

11

[USITC SE-80-56]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Friday, December 5, 1980.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: PORTIONS OPEN TO THE PUBLIC:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints, if necessary:
   a. Multicellular film (Docket NO. 695).
5. Electric motors from Japan (Inv. 731-TA-7 [Final])—vote.
6. Airtight cast-iron stoves (Inv. 337-TA-69)—briefing and vote.
7. Turning machines (Inv. 337-TA-72)—briefing and vote.
8. Any items left over from previous agenda.

PORTIONS CLOSED TO THE PUBLIC: 5. Electric motors from Japan (Inv. 731-TA-7 [Final])—briefing.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-2165-80 Filed 11-25-80; 9:39 am]

BILLING CODE 7020-02-M

12

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, December 3, 1980.

PLACE: Board hearing room, eighth floor, 1425 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Ratification of Board actions taken by notation voting during the month of November, 1980.

(2) Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the montly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary; Tel: (202) >523-5920.

Dated: November 24, 1980.

[S-2169-80 Filed 11-25-80; 11:51 am]

BILLING CODE 7555-01-M

13

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., December 18, 1980.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell (202) 634-4015.

Dated: November 25, 1980.

[S-2171-80 Filed 11-25-80; 2:33 pm]

BILLING CODE 7600-01-M

14

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., December 10, 1980.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell (202) 634-4015.

Dated: November 25, 1980.

[S-2172-80 Filed 11-25-80; 2:34 pm]

BILLING CODE 7600-01-M

15

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., December 4, 1980.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell, (202) 634–4015.

Dated: November 25, 1980.

[S–2173–80 Filed 11–25–80; 2:34 pm]

BILLING CODE 7020–01–M

16

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., December 4, 1980.

PLACE: Board room, room 2–500, fifth floor, 955 L'Enfant Plaza North, S.W., Washington, D.C.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS: Portions closed to the public (9:00 a.m.):

1. Consideration of internal personnel matters.
2. Litigation Report.
3. Review of Conrail proprietary and financial information for monitoring and investment purposes.
4. Review of Delaware and Hudson Railway Company proprietary and financial information for monitoring and investment purposes.

Portions open to the public (11:00 a.m.):

5. Approval of minutes of the November 6, 1980 Board of Directors meeting.
6. Delaware and Hudson loan request.
7. Delaware and Hudson interest deferral request.
8. Conrail drawdown request for December.
9. Conrail first quarter 1981 investment commitment request.
10. Loan application under Section 211(h).
11. Report on Conrail monitoring.
12. Contract Actions (extensions and approvals).
13. Amendment to the USRA Pension Plan.
14. Update on Administrative Expense Budget.

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow, (202) 426–4250.

[S–2160–80 Filed 11–24–80; 4:21 pm]

BILLING CODE 8240–01–M

17

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., December 3, 1980.

PLACE: Board room, room 2–500, fifth floor, 955 L'Enfant Plaza North, SW., Washington, D.C.

STATUS: The session will be closed to the public.

MATTERS TO BE CONSIDERED BY THE BOARD OF DIRECTORS: Portions closed to the public (9:00 a.m.):

1. Review of Conrail proprietary and financial information for monitoring and investment purposes.

CONTACT PERSON FOR MORE INFORMATION: Alex Bilanow (202) >426–4250.

[S–2159–80 Filed 11–24–80; 4:19 pm]

BILLING CODE 8240–01–M

federal register

Friday
November 28, 1980

Part II

Department of Transportation

Coast Guard

Licensing of Pilots; Proposed Rules

DEPARTMENT OF TRANSPORTATION

d. February 10, 1981, Lotus Room,

tonnage to be examined for a pilot

rule change in this regard (possibly for

association that the pilot belongs to. In

5. By adding a new § 10.05–38 to read

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DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Part 10]

[CGD 77-084]

Licensing of Pilots

AGENCY: Coast Guard, DOT.

ACTION: Proposed rules.

SUMMARY: The Coast Guard is proposing amendments to the regulations governing the qualifications of personnel involved in the piloting of vessels required to be under the control and direction of pilots licensed by the Coast Guard. The qualification standards for Coast Guard licensed pilots have, to date, provided qualified personnel to navigate United States vessels on routes requiring federal pilots. Congress has mandated the establishment of improved pilotage standards in section 4 of the Port and Tanker Safety Act of 1978 because it is believed that with the entry of ever larger vessels to U.S. ports, additional training, both practical and possibly through the use of simulators, coupled with recency of experience, is required to maintain the necessary level of personnel qualifications. The proposal provides for upgraded standards to meet current needs.

DATES: Comments must be received on or before February 26, 1981. The Coast Guard will hold four public hearings beginning at 10 a.m. at the following locations:

1. January 14, 1981, Cleveland, Ohio.
2. January 27, 1981, Washington, D.C.
3. February 3, 1981, New Orleans, Louisiana.
4. February 10, 1981, San Francisco, California.

ADDRESSES: 1. Comments should be mailed to Commandant (G-CMC/24) (CGD 77-084) U.S. Coast Guard, Washington, D.C. 20593. Between 7 a.m. and 5 p.m., Monday through Thursday, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G-CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, (202) 426-1477.

2. The Coast Guard will hold four public hearings at the following locations:

a. January 14, 1981, Ritz Room, Bond Court Hotel, 777 St. Clair, Cleveland, Ohio 44114.

b. January 27, 1981, Room 2230, Department of Transportation, Nassif Building, 400 7th Street SW., Washington, D.C. 20590.

c. February 3, 1981, French Room, International Hotel, 300 Canal Street, New Orleans, Louisiana 70140.

d. February 10, 1981, Lotus Room, Holiday Inn, Financial District, 750 Kearny Street, San Francisco, California 94108.

FOR MORE INFORMATION CONTACT: Mr. John J. Hartke, Office of Merchant Marine Safety (G-MVP-4/14), Room 1400, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, (202) 755-8683.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments. Written comments should include the docket number (CGD 77-084), the name and address of the person submitting the comments, and the specific section of the proposal to which each comment is addressed. Persons desiring acknowledgment that their comment has been received should enclose a stamped, self-addressed postcard or envelope. All comments received will be considered before final action is taken on this proposal.

Interested persons are invited to attend the hearings and present oral or written statements on this proposal. It is requested that anyone desiring to make comments notify the Executive Secretary of the Marine Safety Council at the address and telephone number listed above at least 10 days before the scheduled date of the public hearing and specify the approximate length of the time needed for the presentation. Comments at the public hearing will normally be heard in the order the request to comment is received. It is urged that a written summary or copy of the oral presentation be included with the request.

This proposal has been reviewed under the Department of Transportation's "Regulatory Policies and Procedures" (44 FR 11034, February 26, 1979). A draft evaluation has been prepared and has been included in the public docket. A copy of the draft evaluation may be obtained from: Commandant (G-CMC/24), (CGD 77-084), U.S. Coast Guard, Washington, D.C. 20593.

Drafting Information

The principal persons involved in drafting this proposal are: Commander James R. Norman and Mr. John J. Hartke, Project Managers, Office of Merchant Marine Safety, and Mary Ann McCabe and Lieutenant George J. Jordan, Project Attorneys, Office of the Chief Counsel.

Discussion of the Proposed Regulations

The present licensing regulations allow an applicant who presents service aboard vessels of relatively limited tonnage to be examined for a pilot license or pilotage endorsement as pilot of vessels of "any gross tons." Service on vessels of limited tonnage, under today's conditions, is not considered to be adequate in qualifying personnel to pilot very large vessels whose maneuvering characteristics may differ significantly from small vessels. Therefore, it is proposed that certain tonnage limitations be placed on a license or an endorsement as first class pilot which would more realistically reflect the applicant's experience, training and qualification.

In addition, it is considered necessary that a pilot demonstrate evidence of remaining qualified for the license or endorsement the pilot holds and that the pilot become proficient with the types, sizes, and maneuvering characteristics of new vessels developed as the marine mode of transportation changes. Therefore, it is proposed that an applicant for renewal of a license or endorsement as first class pilot show recent service as observer pilot, pilot, or deck officer for each route and tonnage authorized, in order to renew the license or endorsement.

These concepts of "recency of service" and "tonnage limitations" are to implement the provisions of section 4 of the Port and Tanker Safety Act of 1978 (Pub. L. 95-474) which require that pilots maintain adequate knowledge of the waters on which they operate (46 U.S.C. 214(b)(6)) and that they have experience which demonstrates their ability to handle vessels of various types and sizes (46 U.S.C. 214(b)(7)).

The proposed regulation does not require shiphandling simulator training but will allow this kind of training to be accepted as a partial substitute for practical experience if the applicant so chooses. Present estimates indicate that this training will cost approximately $3,000-$5,000 depending on the extent of training involved for a specific route. This cost may be borne by the student or by the pilot association that the applicant belongs to. In either case, the cost for this training is considered commensurate with the cost of training for any other highly skilled profession and not unreasonable in light of the expected benefits to be gained from such training.

The Coast Guard is presently involved in conducting a joint U.S. Coast Guard—Maritime Administration research and development project to determine if shiphandling simulator training should be required for certain licenses. If this study indicates a positive recommendation for requiring shiphandling simulator training, the Coast Guard will consider a proposed

rule change in this regard (possibly for masters, chief mates and pilots of large vessels) but only at such time as sufficient simulators are available. At the present time, only one shiphandling simulator, located at LaGuardia Airport, New York, is operational. The shiphandling simulator located at the U.S. Merchant Marine Academy, Kings Point, New York is a federally funded simulator dedicated to research work only.

It is now mandated by the Port and Tanker Safety Act of 1978 that the minimum age necessary for obtaining a pilot's license be 21. Therefore, the provision for issuance of a second class pilot's license at age 19 is being deleted. Any person holding an existing license as a second class pilot will be issued a first class pilot's license with an appropriate tonnage limitation, without further examination, when that person reaches the age of 21.

It is also mandated by statute that a pilot agree to periodically undergo a physical examination to determine that the pilot remains physically qualified to perform requisite duties. Therefore, the holder of a license or endorsement as first class pilot will be required to undergo an annual physical examination for this purpose. Persons who hold valid licenses or endorsements on the effective date of these regulations will not be required to undergo annual physicals until renewal of the license or endorsement. The result of this annual physical examination will be reported on Coast Guard form CG-954 which is the form currently in use for recording physical examinations for orginal licenses. This annual physical examination will be less stringent in regards to visual acuity than the physical for an original license. The physical standards for all U.S. merchant seamen are presently being reviewed and a separate proposed rulemaking will include updated physical requirements for all U.S. merchant seamen, including pilots.

This proposed regulation will not require any major expenditures from the maritime sector, consumers, Federal, State or local governments. However, the added requirement for an annual physical examination for pilots will entail additional operating expenditures for the U.S. Public Health Service Hospitals which will be the primary source for providing the physical examination. In the event the pilot chooses not to use a U.S. Public Health Hospital for this physical examination, the pilot may use a private physician, which will result in additional expenditures to the pilot or the pilot association that the pilot belongs to. In many cases, pilot associations have group medical insurance which provides for an annual physical. In any case, this is now a mandatory requirement in that Public Law 95-474, Section 4, requires that a pilot agree to an annual physical examination. In addition, it is expected that the issuance of pilots' licenses in tonnage increments commensurate with experience will result in some additional training expenditures to the maritime sector which will eventually be passed on to the consumer. However, this impact may be limited by the fact that some pilot associations by internal procedures already impose tonnage limits based on the individual members experience. It is considered that these additional costs are justified in light of the improved qualification standards that will be achieved with a resulting increase in vessel safety.

In consideration of the foregoing it is proposed that Part 10 of Title 46 of the Code of Federal Regulations be amended as follows:

PART 10—LICENSING OF OFFICERS AND MOTORBOAT OPERATORS AND REGISTRATION OF STAFF OFFICERS

1. By revising § 10.02-5(b) to read as follows:

§ 10.02-5 Requirements for original licenses.

* * * * *

(b) *Minimum age.* Any person who has attained the age of 21 years and is qualified in all other respects, is eligible for a license, except that a license as third mate or third assistant engineer may be granted an applicant who has reached the age of 19 years and who is qualified in all other respects, but no such license may be raised in grade before the holder reaches the age of 21 years.

* * * * *

2. By deleting the words ", or pilot" and inserting "or" preceding the word "mate" in the first sentence of § 10.02-9(e)(2).

3. By adding a new § 10.02-9(e)(7) to read as follows:

§ 10.02-9 Requirements for renewal of license.

* * * * *

(e) * * *

(7) The recency of service requirements for renewal of a license as first class pilot are in § 10.05-44.

* * * * *

4. By deleting the words ", or pilot" and inserting "or" preceding the word "mate" in the first sentence of § 10.02-9(f)(1).

5. By adding a new § 10.05-38 to read as follows:

§ 10.05-38 Original license as first class pilot.

(a) An applicant for an original first class pilot's license must furnish original or photostatic copies of discharges, letters, or other documentary evidence certifying—

(1) The names and gross tonnages of the vessels the applicant has served aboard;

(2) The period of service;

(3) The dates, number, and route description of round trips made; and

(4) The positions in which the applicant served.

(b) Each license as first class pilot issued prior to (effective date of the regulations) qualifies the licensee to serve in the grade as stated on the license, for the effective period of the license, subject to any limitation of the license.

(c) The minimum service required to qualify an applicant for an original license as a first class pilot is one of the following:

(1) Thirty-six months' service in the deck department of ocean, coastwise, Great Lakes, or bays, sounds, and lakes other than the Great Lakes steam or motor vessels as follows:

(i) At least 12 months of the required 36 months' service must be on vessels whose gross tonnage is commensurate with the tonnage limitation desired.

(ii) Eighteen months of the 36 months' service must be as quartermaster, wheelsman, able seaman, apprentice pilot, or in an equivalent capacity, standing regular watches at the wheel or in the pilothouse as part of routine duties.

(iii) At least 12 months of the 18 months' service required in paragraph (c)(1)(ii) of this section must be on vessels operating on the route for which pilotage is desired.

(iv) At least nine months of the required 36 months' service must be obtained within the 36 months immediately preceding the date of application.

(v) The required service must include at least 25 round trips during the preceding 36 months over the route for which the applicant seeks the license as follows:

(A) The round trips must have been made while the applicant was on the bridge or in the wheelhouse while the vessel was being navigated.

(B) The applicant must have documentary evidence from the vessel's master or pilot that the applicant was studying the aids to navigation and hazards of the route and was observing

the handling of the vessel during the round trips.

(C) At least five of the round trips must be made during periods of darkness.

(D) At least 10 of the round trips must be made over the route within the 12 months immediately preceding the date of application.

(E) At least three of the round trips must be made over the route within the three months immediately preceding the date of application.

(F) The minimum number and recency of round trips required for a specific route may be changed by the Officer in Charge, Marine Inspection provided approval is obtained from the District Commander within whose district the route lies.

(G) At least 15 of the required round trips must be made on vessels whose gross tonnage is commensurate with the tonnage limitation desired.

(H) Successful completion of a shiphandling simulator course of training approved by the Commandant is accepted as the equivalent of five of the 15 round trips required in paragraph (c)(1)(v)(G) of this section if the training is for both the route and the tonnage limitation desired.

(2) Graduation from the Great Lakes Maritime Academy in the deck class for a license as first class pilot on the Great Lakes.

(3) At least 36 months' service in the deck department of any vessel including at least 12 months' service on vessels operating on the waters of rivers while the applicant is serving in the capacity of quartermaster, wheelsman, apprentice pilot or deckhand who stands watches at the wheel as part of routine duties for a license as first class pilot of river routes. The provisions of paragraphs (c)(1) (iv) and (v) of this section apply to the service required by this paragraph.

(4) At least 24 months' service in the deck department of steam or motor vessels navigating canals and small lakes, including the New York State Barge Canal and Seneca and Cayuga Lakes in New York for license as first class pilot of steam and motor vessels of limited tonnage for the waters or routes on which the qualifying service was acquired. At least 12 months of the required service must be within the 24 months immediately preceding the date of application.

(d) Ten additional round trips completed over the minimum 25 round trips required may be accepted as the equivalent for six months' service if the excess round trips were made over the route for which the applicant seeks a license as first class pilot within the 36 months preceding the date of application.

(e) The period of time spent by an applicant successfully completing a course of pilot's training approved by the Commandant may be accepted, on a day for day basis, as the equivalent of the service required in paragraphs (c)(1)(i)–(iv) and (3) of this section, but in no case can the first class pilot license requirements be met without a minimum of nine months service on certificated vessels.

(f) The Officer in Charge, Marine Inspection, issuing a license as first class pilot, imposes limitations with respect to tonnage commensurate with the experience of the applicant as follows:

(1) 1,600 gross tons—service on vessels of 1,600 gross tons or less.

(2) 10,000 gross tons—service on vessels of more than 1,600 but not more than 10,000 gross tons.

(3) 60,000 gross tons—service on vessels of more than 10,000 but not more than 60,000 gross tons.

(4) 120,000 gross tons—service on vessels of more than 60,000 but not more then 120,000 gross tons.

(5) Any gross tons—service on vessels of more than 120,000 gross tons.

(g) When an application is made to any Officer in Charge, Marine Inspection (OCMI), for a route outside the OCMI's geographical jurisdiction, the OCMI receiving the application will request the OCMI having jurisdiction to evaluate the application and to forward the material necessary for examining the applicant. The complete examination file of the applicant is returned to the OCMI having jurisdiction, who, if satisfied that the applicant is qualified and capable, grants the authority and advises the other OCMI to issue the license.

(h) Table 10.05–38 is provided to assist applicants in determining the service/training requirements for an original license as first class pilot.

BILLING CODE 4910-14-M

Table 10.05-38 – Training/Service Requirements for an Original License as First Class Pilot

Route	Documented Service	Recent Service	Service as Able Seaman/ Wheelsman	Service on Specific Route	Total Member round trips required over route during the 36 months pre-ceding appli-cation for license 3, 4	Member of the specified total round trips which must be made over route during the 12 months pre-ceding appli-cation for license	Member of the specified total round trips which must be made over the route during the 3 months preceding appli-cation for license	Member of the specified total round trips which must be completed during periods of darkness
Great Lakes	36 months[1] or graduation from Great Lakes Maritime Academy in the deck class	9 months	18 months	12 months	25	10	3	5
Bays, sounds, and lakes other than the Great Lakes	36 months[1,2]	9 months	18 months	12 months	25	10	3	5
Rivers	36 months[1,2]	9 months	12 months	12 months	25	10	3	5
Canals and Small lakes[5]	24 months	12 months	———	24 months	25	10	3	5

1 Satisfactory completion of an approved pilot's training course may be substituted, on a day for day basis, for the service required by 46 CFR 10.05-38(c)(1)(i)-(iv) and (3), but in no case can the first class pilot license requirements be met withouch a minimum of nine months service on certificated vessels.

2 10 round trips completed over the minimum 25 round trips required may be substituted for 6 months's service.

3 At least 15 of the required round trips must be made on vessels whose gross tonnage is commensurate with tonnage limitation desired.

4 Satisfactory completion of an approved shiphandling simulator course of training may be substituted for 5 round trips, provided the training is for the route and tonnage desired.

5 License issued for limited tonnage only.

BILLING CODE 4910-14-C

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6. By revising § 10.05–39 to read as follows:

§ 10.05–39 Increase in tonnage of license or endorsement as first class pilot.

(a) An applicant desiring to increase the tonnage limitation on a license or endorsement as first class pilot must—

(1) Have at least 12 months' employment as first class pilot or deck officer on the existing license or endorsement; and

(2) Provide documentary evidence of completion of at least eight round trips as observer pilot on vessels whose gross tonnage is commensurate with the next higher tonnage limitation indicated in § 10.05–38(f).

(b) Successful completion of a shiphandling simulator course of training approved by the Commandant is accepted as the equivalent of four of the total round trips required by paragraph (a)(2) of this section.

7. By revising § 10.05–41 to read as follows:

§ 10.05–41 Physical examination requirements for a license or endorsement as first class pilot.

(a) An applicant for an original license as first class pilot must meet the physical examination requirements specified in § 10.02–5(e)(1)–(3), and (7).

(b) No person will be issued a license or endorsement as first class pilot unless that person agrees to have a thorough physical examination each year while holding the license or endorsement.

(c) Holders of a valid license or endorsement as first class pilot issued after (effective date of the final regulations) must undergo an annual physical examination meeting the requirements specified in paragraph (a) of this section, which is conducted by a medical officer of the United States Public Health Service, or other licensed physician, except that the pilot must have uncorrected vision of at least 20/200 in both eyes correctable to at least 20/20 in one eye and 20/40 in the other. A pilot who does not have uncorrected vision of at least 20/200 in both eyes may continue to serve as a pilot: *Provided,* The person is physically qualified in all other respects, and the uncorrected vision in one eye is at least 20/100, correctable to at least 20/20. The results of this physical examination must be reported on Coast Guard form CG-854 which may be obtained from any Officer in Charge, Marine Inspection.

(d) The annual physical examination specified by paragraph (c) of this section may be completed at any time within 90 days prior to the expiration of the last annual physical examination period. Completion of this annual physical examination will be recorded by an Officer in Charge, Marine Inspection on the reverse side of the license held.

(e) If the satisfactory completion of the annual physical examination is not recorded on the license within 12 months of the previous physical examination, the pilot license or pilot endorsement held becomes invalid and the pilot cannot engage in pilot duties until a current physical examination has been completed and recorded on the license held.

(f) An applicant for renewal of a license or endorsement as first class pilot must satisfactorily complete a physical examination meeting the requirements specified in paragraph (c) of this section.

8. By revising § 10.05–42 to read as follows:

§ 10.05–42 Endorsement to master's or mate's license as first class pilot or extension of first class pilot's route.

(a) The holder of a license as master, mate or first class pilot who has had at least three months' service under the authority of the license within the preceding 36 months is eligible for examination for an endorsement as first class pilot or extension of first class pilot's route upon completing the number of round trips over the route required for the grade of license as set out in this section.

(b) A master or chief mate applying for endorsement of a license to act as first class pilot, or a first class pilot applying for an extension of route must present documentary evidence of having completed at least 12 round trips within the 36 months preceding the application over the route for which endorsement or extension of route is desired. At least eight of the required round trips must be made on vessels whose gross tonnage is commensurate with the tonnage limitation desired.

(c) A second mate or third mate applying for endorsement of a license to act as first class pilot must present documentary evidence of having completed at least 20 round trips within the 36 months preceding the application over the route for which the endorsement is desired. At least 12 of the required round trips must be made on vessels whose gross tonnage is commensurate with the tonnage limitation desired.

(d) Successful completion of a shiphandling simulator course of training approved by the Commandant is accepted as the equivalent of five of the total number of round trips required in paragraphs (b) and (c) of this section if the training is for the route and tonnage limitation desired.

(e) Six of the round trips required in paragraphs (b) and (c) of this section must be made over the route within the 12 months immediately preceding the date of application.

(f) Three of the round trips required in paragraphs (b) and (c) of this section must be made over the route within the three months immediately preceding the date of application.

(g) At least three of the round trips required by paragraphs (b) and (c) of this section must be made during periods of darkness.

(h) The minimum number and recency of round trips required for a specific route may be changed by the Officer in Charge, Marine Inspection provided approval is obtained from the District Commander within whose district the route lies.

(i) The round trips required under this section must be made while the applicant was on the bridge or in the wheelhouse while the vessel was being operated and the applicant must have documentary evidence from the vessel's master or pilot that the applicant was studying the aids to navigation and the hazards of the route and was observing the handling of the vessel during the round trips. Experience as an observer pilot meets the requirements of this paragraph.

(j) Any endorsement as first class pilot issued under this section is limited as to tonnage as provided in § 10.05–38(f).

(k) When an application is made to any Officer in Charge, Marine Inspection (OCMI), for an extension of route which is outside the OCMI's geographical jurisdiction, the OCMI receiving the application will request the OCMI having jurisdiction to evaluate the application and to forward the material necessary for examining the applicant. The complete examination file of the applicant is returned to the OCMI having jurisdiction, who, if satisfied that the applicant is qualified and capable, grants the authority and advises the other OCMI to endorse the license.

(l) Table 10.05–42 is provided to assist applicants in determining the service/training requirements for an endorsement to a master's or mate's license as first class pilot or extension of first class pilot's route.

BILLING CODE 4910-14-M

Table 10.05–42 - Training/Service Requirements for an endorsement to a Master's or Mate's license or extension of First Class Pilots' route

License presently held	Recent Service	Total Number round trips required over route during the 36 months preceding application for endorsement or extension of route[1]	Number of the specified total round trips which must be made over the route during the 12 months preceding application for endorsement or extension of route	Number of the specified total round trips which must be made over the route during the 3 months preceding application for endorsement or extension of route	Number of the specified total round trips which must be completed during periods of darkness
Master, Chief Mate	3 months	12[2]	6	3	3
Second Mate, Third Mate	3 months	20[3]	6	3	3
First Class Pilot	3 months	12[2]	6	3	3

1 Satisfactory completion of an approved shiphandling simulator course of training may be substituted for 5 round trips, provided the training is for the route and tonnage desired.

2 At least 8 of the required round trips must be made on vessels whose gross tonnage is commensurate with tonnage limitation desired.

3 At least 12 of the required round trips must be made on vessels whose gross tonnage is commensurate with tonnage limitation desired

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9. By revising § 10.05–43 to read as follows:

§ 10.05–43 Examination for a license as first class pilot.

(a) An applicant for an original license as first class pilot or initial endorsement of a master's or mate's license as first class pilot is required to pass an examination that includes:

(1) Showing knowledge of the following subjects:

(i) Rules of the Road applicable to route.

(ii) Pilot rules applicable to route.

(iii) Local winds, weather, tides, and currents.

(iv) Chart navigation.

(v) Aids to navigation.

(vi) Ship handling.

(vii) Pollution prevention and abatement.

(viii) The Captain of the Port regulations and the Vessel Traffic Services procedures, if applicable, for the route desired.

(ix) Any other subject the Officer in Charge, Marine Inspection considers necessary to establish the applicant's proficiency; and

(2) Sketching a chart of the route and waters applied for, showing—

(i) Courses;

(ii) Distances;

(iii) Shoals;

(iv) Aids to navigation;

(v) Depths of water; and

(vi) Other important features of the route.

(b) An applicant for extension of a first class pilot's route is required to pass an examination as prescribed in paragraphs (a)(1) (i)–(iii), (viii), (ix), and (2) of this section.

10. By adding a new § 10.05–44 to read as follows:

§ 10.05–44 Requirements for renewal of a license or endorsement as first class pilot.

(a) Except as provided in paragraph (d) of this section, to renew a license or endorsement as first class pilot, an applicant must—

(1) Comply with §§ 10.02–9 and 10.05–41(f); and

(2) Have served within 36 months of the date of application as a first class pilot, observer pilot, or deck officer on at least one of the routes being renewed.

(b) The license or endorsement is renewed for each route on which the applicant—

(1) Has served as required in paragraph (a)(2) of this section; or

(2) Passes an examination on local knowledge specified in § 10.05–43(a)(1) (iii), (viii), and (2) (iii)–(vi).

(c) The license or endorsement is renewed at the tonnage limitation previously authorized if the applicant has served as required in paragraph (a)(2) of this section on a vessel of the tonnage previously authorized. If the applicant has not served as required in paragraph (a)(2) of this section on a vessel of the tonnage previously authorized, the license or endorsement is renewed with a tonnage limitation in accordance with § 10.05–38(f).

(d) If an applicant has not served on any route within 36 months of the date of application for renewal, the applicant must pass the examination on Rules of the Road and local knowledge specified in § 10.05–43(a)(1) (i)–(iii), (viii) and (2) (iii)–(vi) of this subpart and the license or endorsement is renewed with a maximum tonnage limitation of 10,000 gross tons or with the previously authorized tonnage limitation if less than 10,000 gross tons.

(e) If a tonnage limit has been placed on an applicant's license or endorsement under paragraphs (c) or (d) of this section, the applicant may have the previously authorized higher tonnage reinstated by completing 5 round-trips as an observer pilot or deck officer on any of the routes authorized on a vessel of the previously authorized higher tonnage within 36 months preceding the date of application for reinstatement.

(46 U.S.C. 214, 224, 230, 233; 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b))

Dated: November 18, 1980.

J. B. Hayes,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 80–36595 Filed 11–26–80; 8:45 am]

BILLING CODE 4910–14–M

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federal register

Friday
November 28, 1980

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

None

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arkansas:	
AR80–4079	Nov. 7, 1980.
AR80–4080	Oct. 31, 1980.
AR80–4081	Nov. 7, 1980.
AR80–4082	Nov. 7, 1980.
AR80–4083	Oct. 31, 1980.
Colorado:	
CO80–5137	Oct. 24, 1980.
CO80–5138	Oct. 24, 1980.
Florida: FL80–1072	May 16, 1980.
Maryland: MD80–3061	Oct. 30, 1980.
Massachusetts: MA80–2070	Aug. 29, 1980.
Nevada:	
NV79–5102	Mar. 9, 1979.
NV80–5100	Feb. 1, 1980.
Ohio: OH80–2052	July 7, 1980.
Pennsylvania:	
PA80–3028	Apr. 11, 1980.
PA80–3044	July 25, 1980.
PA80–3060	Oct. 10, 1980.
PA80–3071	Oct. 24, 1980.
Washington: WA80–5136	Oct. 17, 1980.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

California: CA78–5122 (CA80–5147)	Aug. 11, 1978.
Missouri:	
MO78–4071 (MO80–4093)	Aug. 3, 1979.
MO80–4040 (MO80–4094)	June 13, 1980.
New Mexico: NM80–4057 (NM80–4090)	July 18, 1980.

Cancellation of General Wage Determination Decisions

The general wage decision listed below is cancelled. Agencies with construction projects pending to which the cancelled decision would have been applicable should utilize the project determination procedure by submitting Form SF–308. See Regulations Part 1 (29 CFR), § 1.5. Contracts for which bids have been opened shall not be affected by this notice. Also consistent with 29 CFR, 1.7(b)(2), the incorporation of the cancelled decision in contract specifications, the opening of bids is within ten (10) days of this notice, need not be affected.

FL80–1041, Suwannee County, Florida—Building Construction in 45 FR 1344 dated January 4, 1980.

Signed at Washington, D.C. this 21st day of November 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

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Modification Page 1

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #AR80-4079-Mod.#1 45FR74344-November 7, 1980 Garland, Hot Springs and Clark Counties, Arkansas					
CHANGE: SPRINKLER FITTERS	$12.53	.85	1.20		.08
DECISION #AR80-4080-Mod.#2 45FR72439-October 31, 1980 Jefferson County, Arkansas					
CHANGE: SPRINKLER FITTERS	12.53	.85	1.20		.08
DECISION #AR80-4081-Mod.#1 45FR74342-November 7, 1980 Sebastian, Crawford and Washington Cos., Arkansas					
CHANGE: SPRINKLER FITTERS	12.53	.85	1.20		.08
DECISION #AR80-4082-Mod.#1 45FR74345-November 7, 1980 Union & Ouachita Counties, Arkansas					
CHANGE: SPRINKLER FITTERS	12.53	.85	1.20		.08
DECISION #AR80-4083-Mod.#2 45FR72438-October 31, 1980 Pulaski County, Arkansas					
CHANGE: SPRINKLER FITTERS	12.53	.85	1.20		.08

Modification Page 2

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CO80-5137 - Mod. #2 (45 FR 70577 - Oct. 24, 1980) Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Eagle, Elbert, Gilpin, Grand, Jefferson, Lake, Larimer, Morgan, Park, Summit and Weld Counties, Colorado					
CHANGE: ELECTRICIANS: Larimer, Morgan and Weld Counties: Electricians	$14.85	.70	3%+1.25		3/10%
DECISION NO. CO80-5138 - Mod. #2 (45 FR 70682 - Oct. 24, 1980) El Paso County, Colorado					
CHANGE: Soft floor layers	$12.39	.80	1.05	.75	.10

Modification Page 3

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. FL80-1072 - MOD. #4 (45 FR 32535 May 16, 1980) Cape Canaveral Air Force Station, Patrick Air Force Base, Kennedy Space Flight Center & Melabar Radar Site, Florida					
Change: Asbestos Workers	$ 13.25	.65	.65		.06
Ironworkers	11.28	.80	.90	.65	.05
Plumbers: Industrial	14.40	.88	.89		.05
DECISION NO. MD80-3061 - MOD. #1 (45 FR 70696 - October 30, 1980) Counties of Anne Arundel (excluding the D.C. Training School), Baltimore Baltimore City Maryland, and for Heavy Construction Projects in Harford and Howard Counties, Maryland					
CHANGE: Laborers, Heavy to read as follows: LABORERS, HEAVY (Excluding tunnel construction):					

Modification Page 4

	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. MA80-2070 - MOD. #1 (45 FR 57926 - August 29, 1980) Berkshire, Franklin, Hampden and Hampshire Counties, Massachusetts					
CHANGE: CARPENTERS: Soft Floor Layers, Drywall					
Carpenters: FRANKLIN COUNTY (Remainder of County); HAMPDEN, HAMPSHIRE COUNTIES	11.65	.60	1.00		.02
ELEVATOR CONSTRUCTORS	12.13	1.195	.95	a+b	.035
ELEVATOR CONSTRUCTORS' HELPERS	8.49	1.195	.95	a+b	.035
IRONWORKERS: HAMPSHIRE; HAMPDEN; FRANKLIN COS.; BERKSHIRE CO. (Becket, Washington, Lee, Sandisfield, New Marlboro, Hinsdale, Peru, Savoy, Monterey, Sheffield, Windsor, Otis, N. & E. Otis)	12.20	1.15	2.55		.09
BERKSHIRE CO. (Remainder of County)	12.55	.75	1.25		.04
LINE CONSTRUCTION:					
Linemen	13.50	.70	3%+.75	d	3/4 of1%
Equipment Operator	11.55	.70	3%+.75	d	3/4 of1%
Groundman	9.28	.70	3%+.75	d	3/4 of1%
Driver Groundman	10.35	.70	3%+.75	d	3/4 of1%
SIGN PAINTERS	10.25	.84	.50	.82	.04
PLUMBERS: FRANKLIN COUNTY (Orange Only)	11.71	.80	.65	.47	.05
FRANKLIN COUNTY (Remainder of County); HAMPSHIRE CO. (Remainder of County)	13.38	.10	1.60		.10
SPRINKLER FITTERS	14.28	.85	1.20		.08

DECISION NO. MA80-2070 - CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS:					
CLASS I	11.63	.95	1.00	a	.07
CLASS II	11.43	.95	1.00	a	.07
CLASS III	11.23	.95	1.00	a	.07
CLASS IV	10.86	.95	1.00	a	.07
CLASS V	9.84	.95	1.00	a	.07
CLASS VI	9.29	.95	1.00	a	.07
CLASS VII	8.39	.95	1.00	a	.07

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS

CLASS I - Shovels, Cranes, Hydraulic Cranes 10 Ton Capacity or over, Draglines, Derricks, Elevator with Chicago Boom, Backhoes, Gradalls, Elevating Graders, Piledrivering Rigs, Concrete Road Pavers, three Drum Hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5½ yds. or over, Dual Drum Paver, Automatic Grader (i.e. C. M. I.) Combination Back Hoe-Loader-3/4 yd. hoe or over

CLASS II - Rotary Drill (with mounted compressor), Compressor House (3 to 6 compressors), Rock and Earth Boring machines (excluding McCarthy and similar drills), Graders, Front End Loaders - 4 yds. to 5½ yds., two Drum Hoists, High Fork Lifts with Capacity of 15 feet and over, scrapers - 21 yds. and over (struck load), Sonic Hammer Console

CLASS III - Combination Backhoe - Loader - up to 3/4 Hoe, Bulldozers, Push Cats, Scraper - up to 21 yds. (struck load) - self-propelled or Tractor Drawn, Tireman, Front End Loaders - up to 4 yds., Asphalt Paver, Asphalt Roller - 10 ton or over, Well Drillers, Mechanic, Welders, Pumpcrete Machines, Concrete Pumps and similar type Pumps, Engineer or Fireman on High Pressure Boiler (on-job), Self-Loader Batch plant, Well Point, Electric pumps used in Well Point System, Pumps - 12 inches and over (total discharge), Compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators (mannually or remote control) Grout Pumps, Boom Truck, Hydraulic Cranes - under 10 Ton

DECISION NO. MA80-2070 - CONT'D

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS (CONT'D)

CLASS IV - Asphalt Roller - under 10 ton

CLASS V - Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors, Power Pavement Breakers, Concrete Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar Drills, Batch Plants (not self-loading) Buck Cement Plants, self-loading) Bulk Cement Plants, self-Propelled Material, A Frame Trucks, Fork Lifts up to 15 feet

CLASS VI - Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps-4 inches Power Pavement Breakers, Concrete Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar Drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A-Fram Trucks, Fork Lifts up to 15 Feet

CLASS VII - Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck, and Grease Truck with Hand Greasing Equipment

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Holidays: A through F, Veterans'Day and Columbus Day

DECISION NO. MA80-2070 - CONT'D	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY AND HIGHWAY CONSTRUCTION					
POWER EQUIPMENT OPERATORS:					
CLASS I	11.63	.95	1.00	a	.07
CLASS II	11.43	.95	1.00	a	.07
CLASS III	11.23	.95	1.00	a	.07
CLASS IV	10.86	.95	1.00	a	.07
CLASS V	9.84	.95	1.00	a	.07
CLASS VI	9.29	.95	1.00	a	.07
CLASS VII	8.39	.95	1.00	a	.07
CLASS VIII	12.13	.95	1.00	a	.07

HEAVY AND HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS

CLASS I - Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on Site Processing Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader - 5½ yards and over, Tower Cranes, Self-propelled Hydraulic Cranes - 10 Tons and over, Dual Paver, Automatic Graders-Excavator (C.M.I. or equal), Scrapers, Towing Pan or Wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi Automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II - Rotary Drill (with mounted Compressor), Compressor House (3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5½ yards, scraper-21 yards and over (struck load), Forklifts-7 ft. lift and over or 3 ton capacity & over; Sonic Hammer Console

CLASS III - Bulldozer, Push Cats, scrapers-up to 21 yards (struck load) Self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front end Loaders up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on Highway Pressure Boiler (on job), self-loading Batch Plant (on job), Well Point Operators, Electric Pumps used in Well Point System, Tiremen, Pumps-16 inches or over total Discharge, Compressors (1 or 2 cu. ft. and over Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-propelled Hydraulic Cranes up to 10 Tons

DECISION NO. MA80-2070 - CONT'D

HEAVY AND HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS CONT'D

CLASS IV - Asphalt Roller-up to 10 tons

CLASS V - Hoists, Conveyors, self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with Skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant

CLASS VI - Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total Discharge, Tractor without Blade Drawing Sheepsfoot Roller, Rubber tired Roller or other type of Compactors including Machines for pulverizing and aerating Soil

CLASS VII - Compactor (up to 315 cu. ft.), Small Mixers with Skip, Oiler, Pumps up to 4", Grease Truck, Helper on Powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat

CLASS VIII - Operator of Cranes with 200 ft of boom or more

FOOTNOTES:
a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veteran's Day; Thanksgiving Day and Christmas Day

Modification Page 9

DECISION NO. NV79-5102 - Mod. #6
(44 FR 1322 - March 9, 1979)
Clark County (does not include the Nevada Test Site), Nevada

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers:					
Group 1	$11.75	.81	$1.58		
Group 2	11.96	.81	1.58		
Group 3	12.06	.81	1.58		
Group 4	12.15	.81	1.58		
Group 5	12.25	.81	1.58		

DECISION NO. NV80-5100-Mod. #6
(45 FR 7451 - February 1, 1980)
Statewide (does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada

Change:					
Laborers:					
Clark, Esmeralda, Lincoln, Nye County (south half, including Hwy. #6):					
Group 1	11.75	.81	1.58		
Group 2	11.96	.81	1.58		
Group 3	12.06	.81	1.58		
Group 4	12.15	.81	1.58		
Group 5	12.25	.81	1.58		

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DECISION NO. OH80-2052 - MOD. #8
(45 FR 45834 - July 7, 1980)
Statewide, Ohio

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Line Construction:					
Carroll (N. ½ incl. Fox, Harrison, Rose & Washington Twps.), Columbiana (Knox Twp.), Holmes, Mahoning (Smith Twp.), Stark, Tuscarawas (N. of Auburn, Clay, Rush, & York Twps.), & Wayne (S. of Baughman, Chester, Green & Wayne Twps.) Cos.:					
Linemen	$14.61	.79	3%+.80		.3%

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DECISION NO. PA80-3028
MOD. NO. 4
(45 FR 25019 - April 11, 1980)
Berks County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Line Construction:					
Lineman	$12.67	.60	3%		3/8%
Groundman	7.55	.60	3%		3/8%
Winch truck operator	8.86	.60	3%		3/8%
POWER EQUIPMENT OPERATORS					
Group 1	13.40	7.9%	10.3%	a	1.8%
Group 2	13.11	7.9%	10.3%	a	1.8%
Group 3	12.24	7.9%	10.3%	a	1.8%
Group 4	11.47	7.9%	10.3%	a	1.8%
Group 5	11.00	7.9%	10.3%	a	1.8%
Group 6	10.09	7.9%	10.3%	a	1.8%
Group 7	13.65	7.9%	10.3%	a	1.8%
Group 7-A	13.90	7.9%	10.3%	a	1.8%
Group 7-B	14.14	7.9%	10.3%	a	1.8%
Plumbers	13.53	.85	1.40		.14

DECISION NO. PA80-3044
MOD. NO. 2
(45 FR 49839 - July 25, 1980)
Northumberland County, Pennsylvania

CHANGE:					
Asbestos Workers	$12.225	.80	.90		.01
Marble & Tile Setters	11.00	.55	.65		
POWER EQUIPMENT OPERATORS:					
Group 1	13.40	7.9%	10.3%	a	1.8%
Group 2	13.11	7.9%	10.3%	a	1.8%
Group 3	12.24	7.9%	10.3%	a	1.8%
Group 4	11.47	7.9%	10.3%	a	1.8%
Group 5	11.00	7.9%	10.3%	a	1.8%
Group 6	10.09	7.9%	10.3%	a	1.8%
Group 7	13.65	7.9%	10.3%	a	1.8%
Group 7-A	13.90	7.9%	10.3%	a	1.8%
Group 7-B	14.14	7.9%	10.3%	a	1.8%

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DECISION NO. PA80-3060
MOD. NO. 1
(45 FR 67531 - October 10, 1980)
Lycoming County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Bricklayers & Stonemasons	$10.80	1.05	.75		
POWER EQUIPMENT OPERATORS:					
Group 1	13.40	7.9%	10.3%	a	1.8%
Group 2	13.11	7.9%	10.3%	a	1.8%
Group 3	12.24	7.9%	10.3%	a	1.8%
Group 4	11.67	7.9%	10.3%	a	1.8%
Group 5	11.00	7.9%	10.3%	a	1.8%
Group 6	10.09	7.9%	10.3%	a	1.8%
Group 7	13.65	7.9%	10.3%	a	1.8%
Group 7-A	13.90	7.9%	10.3%	a	1.8%
Group 7-B	14.14	7.9%	10.3%	a	1.8%

DECISION NO. PA80-3071
MOD. NO. 1
(45 FR 70699 - October 24, 1980)
Allegheny County, Pennsylvania

CHANGE:					
Sheet Metal Workers	$13.75	1.12	1.66		.23
Roofers	14.76	.77	1.50		.16

Modification Page 13

DECISION NO. WA80-5136 - Mod #3 (45 FR 69151 - October 17, 1980) Statewide Washington	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Truck Drivers (Area 2) All Counties and portions of Counties West of the 120th Meridian (Except those enumerated in area 3) including the Northern portion of Pacific County and all of Kittitas and Yakima Counties:					
Group 1	$15.18	1.06	1.33		.14
Group 2	15.23	1.06	1.33		.14
Group 3	15.28	1.06	1.33		.14
Group 4	15.39	1.06	1.33		.14
Group 5	15.45	1.06	1.33		.14
Group 6	15.49	1.06	1.33		.14
Group 7	15.50	1.06	1.33		.14
Group 8	15.56	1.06	1.33		.14
Group 9	15.61	1.06	1.33		.14
Group 10	15.63	1.06	1.33		.14
Group 11	15.66	1.06	1.33		.14
Group 12	15.76	1.06	1.33		.14
Group 13	15.78	1.06	1.33		.14
Group 14	15.82	1.06	1.33		.14
Group 15	15.94	1.06	1.33		.14
Group 16	15.98	1.06	1.33		.14
Group 17	16.10	1.06	1.33		.14
Group 18	16.15	1.06	1.33		.14
Group 19	16.31	1.06	1.33		.14
Group 20	16.47	1.06	1.33		.14
Group 21	16.63	1.06	1.33		.14
OMIT GROUP DESCRIPTIONS: Power Equipment Operators (Area 3) Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum Counties and the Southern portion of Pacific Co. Group 3 Group 13					

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DECISION NO. WA80-5136 (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT GROUP DESCRIPTIONS: Truck Drivers (Area 2) All Counties and portions of Counties West of the 120th Meridian (Except those enumerated in Area 3) including the Northern portion of Pacific County and all of Kittitas and Yakima Counties: Group 6 Group 15 Truck Drivers (Area 3) Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum Counties and the Southern portion of Pacific County Group 8					

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DECISION NO. WA80-5136 (Cont'd)

ADD GROUP DESCRIPTIONS:

Power Equipment Operators (Area 3)
Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum Counties and the Southern part of Pacific County.

Group 3 Asphalt plant fireman; Pugmill operator (any type); Truck mounted asphalt spreader with screed; Compressor operator (any power) under 1250 Cu. Ft. total capacity; Conveyor operator; Mixer box operator (C.T.B., dry batch, etc); Cement hog; Concrete saw; Concrete curing machine (riding type); Wire mat or brooming machine; Ross carrier operator (on job site); Bucket elevator loader, Barber Greene and similar types; Hydraulic pipe press; Pump operator (any power) 4" and over; Hydrostatic pump; Motorman; Ballast Jack tamper; Bell boy, phones, etc.; Tamping machine, mechanical self-propelled; Hydrographic seeder machine, straw, pulp, or seed; Broom operator, self propelled (on job site); Air filtration equipment; Welding machine operator.

Group 13 Blade operator, finish; Blade, externally controlled by electronic, mechanical hydraulic means; Blade, multi-engine; Concrete paving road mixer; Derrick under 100 tons; Hoist, stiff leg, Guy derrick or similar, 50 tons and over; Cableway operator 25 tons and over; Crane over 25 tons to and including 40 tons; Piledriver operator; Floating clamshell etc. under 3 cu yds; Floating crane (derrick barge) less than 30 tons; Elevating grader operated by tractor operator, Sierra, Euclid, or similar; Back filling machine; Shovel, etc, 1 cu yd and less than 3 cu yds; Grade-all 1 cu yd and over; Bridge crane operator, locomotive crane, gantry and overhead.

Truck Drivers (Area 2)
All Counties and portions of Counties West of the 120th Meridian (Except those enumerated in Area 3) including the Northern portion of Pacific County and all of Kittitas and Yakima Counties

Group 6 Transit-mix, 0 to and Including 4½ yards

Group 15 Dumpsters and similar equipment (as listed in Group 3) over 30 yds to and including 40 yds; Lowbed and heavy duty trailer over 100 tons gross

Truck Drivers (Area 3)
Clark, Cowlitz, Klickitat, Skamania, and Wahkiakum Counties and the Southern portion of Pacific County

Group 8 Dump trucks, side, end and bottom dumps including semi trucks and trains or combinations thereof over 30 cu yd including 40 cu yds; Transit mix and wet or dry mix trucks over 11 cu yds including 13 cu yds; Water wagon (rated capacity) over 10,000 to 15,000 gallons

SUPERSEDEAS DECISION

STATE: California

COUNTIES: Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura

DECISION NUMBER: CA80-5147 DATE: Date of Publication

Supersedes Decision No. CA78-5122 date August 11, 1978, in 43 FR 35835

DESCRIPTION OF WORK: Residential Projects consisting of single family homes and apartments up to and including 4 stories

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.74	$1.30	$1.45		.07
BOILERMAKERS	15.11	1.255	1.35	1.00	.04
BRICKLAYERS; Stonemasons:*					
Area 1	14.09	1.13	1.34		.12
Area 2	15.45	1.15	1.65		.07
Area 3	15.25	1.15	2.20		.05
Area 4	14.95	1.30	2.35		.10
Area 5	15.32	1.45	2.00		.06
BRICK TENDERS	11.23	1.25	2.90	1.00	.12
CARPENTERS:					
Carpenters	13.81	1.63	2.21	1.00	.10
Saw Filers	13.89	1.63	2.21	1.00	.10
Table Power Saw Operators	13.91	1.63	2.21	1.00	.10
Shinglers; Piledrivermen, bridge or dock Carpenters; Derrick Bargemen; Rock Slinger	13.94	1.63	2.21	1.00	.10
Hardwood Floor Layers	14.01	1.63	2.21	1.00	.10
Penumatic Nailer	14.06	1.63	2.21	1.00	.10
Millwrights	14.31	1.63	2.21	1.00	.10
CEMENT MASONS:					
Cement Masons	13.61	1.30	1.85	1.25	.08
Cement Floating and Troweling Machine	13.86	1.30	1.85	1.25	.08
DRYWALL INSTALLERS	14.63	1.63	2.21	.95	.09
ELECTRICIANS:*					
Area 1:					
Electricians	15.90	.75	3%+1.45		
Cable Splicers	16.28	.75	3%+1.45		
Area 2:					
Electrians; Technicians	19.00	1.10	3%+1.95		.15
Cable Splicers	20.90	1.10	3%+1.95		.15
Area 3:					
Electricians; Technicians	17.05	1.10	3%+1.95		.15
Cable Splicers	18.65	1.10	3%+1.95		.15
Area 4:					
Electricians	15.67	1.15	3%+2.70		.12
Cable Splicers	15.97	1.15	3%+2.70		.12

*See AREA Descriptions - Page 4

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DECISION NO. CA80-5147 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:* (Cont'd)					
Area 5:					
Electricians	$17.24	.81	3%+1.45		.02
Cable Splicers	18.03	.81	3%+1.45		.02
Area 6:					
Electricians	15.91	.81	3%+1.45		.04
Cable Splicers	16.41	.81	3%+1.45		.04
Area 7:					
Electrians	14.90	1.21	3%+2.90		.04
Cable Splicers	15.40	1.21	3%+2.90		.04
Area 8:					
Electriciains	16.98	1.23	3%+1.50		.03
Cable Splicers	18.68	1.23	3%+1.50		.03
Area 9:					
Electricians	20.80	1.30	3%+1.50		.03
Cable Splicers	22.30	1.30	3%+1.50		.03
Area 10:					
Electricians	18.05	1.30	3%+1.50		.03
Cable Splicers	19.55	1.30	3%+1.50		.03
Area 11:					
Electricians	16.71	1.20	3%+1.95		.02
Cable Splicers	18.38	1.20	3%+1.95		.02
ELEVATOR CONSTRUCTORS:*					
Area 1:					
Elevator Constructors	15.41	1.045	.82	a	.035
Elevator Constructors' Helpers	70%JR	1.045	.82	a	.035
Area 2:					
Elevator Constructors	16.37	.895	.82	a	.035
Elevator Constructors' Helpers	70%JR	.895	.82	a	.035
GLAZIERS:*					
Area 1	18.50	1.10	3.00		.07
IRONWORKERS:					
Fence Erectors	13.11	1.39	3.11	2.15	.07
Reinforcing	14.00	1.39	3.11	2.15	.07
Ornamental; Structural	14.00	1.39	3.11	2.15	.07
IRRIGATION and LAWN SPRINKLERS:*					
Area 1	11.12	10%	16%	13%	1½

*See AREA Descriptions - Page 4

DECISION NO. CA80-5147 Page 3

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:*					
Area 1	$12.58	$1.15	$1.85	.90	.05
Area 2	14.00	1.26	1.99		.03
Area 3	15.63	1.63	2.21	1.00	.10
Area 4	13.60	.95	1.70	1.00	.03
PAINTERS:*					
Area 1:					
Brush; Paint Burners	14.26	1.23	1.43	.75	.07
Iron, steel and bridge (swing stage); Sheet Rock Taper	15.26	1.23	1.43	.75	.07
Brush (swing stage); Spray	14.51	1.23	1.43	.75	.07
Steeplejack	15.91	1.23	1.43	.75	.07
Area 2:					
Brush	13.46	1.29	1.33	.60	.10
Structural steel and bridge; Painter Burner	13.58	1.29	1.33	.60	.10
Tapers	14.06	1.29	1.33	.60	.10
Brush swing stage (13 stories or less); Paperhangers; Sandblasters; Spray	13.71	1.29	1.33	.60	.10
Brush swing stage (over 13 stories)	13.83	1.29	1.33	.60	.10
Structural steel and bridge, swing (13 stories and less)	13.71	1.29	1.33	.60	.10
Spray Sandblaster swing stage (13 stories or less); Past Machine; Special coating spray	13.96	1.29	1.33	.60	.10
Steeplejack	14.71	1.29	1.33	.60	.10
Area 3:					
Brush	11.03	.80	1.00	1.10	.03
Brush or roller, swing stage; Paperhangers; Taping joint sheet rock	11.28	.80	1.00	1.10	.03
Spray; Sandblasters	11.53	.80	1.00	1.10	.03

*See AREA Descriptions - Page 4

DECISION NO. CA80-5147 Page 4

AREA DESCRIPTIONS

BRICKLAYERS; Stonemasons:
Area 1: Imperial County
Area 2: Los Angeles and Orange Counties
Area 3: Riverside and San Bernardino Counties
Area 4: Santa Barbara and San Luis Obispo Counties
Area 5: Ventura County

ELECTRICIANS:
Area 1: Imperial County
Area 2: Kern County (China Lake Naval Ordnance Test Station, Edwards Air Force Base)
Area 3: Kern County (remainder of County)
Area 4: Los Angeles County
Area 5: Orange County
Area 6: Riverside County
Area 7: San Bernardino County
Area 8: San Luis Obispo County
Area 9: Santa Barbara County (Vandenberg Air Force Base)
Area 10: Remainder of County
Area 11: Ventura County

ELEVATOR CONSTRUCTORS:
Area 1: Imperial County; Kern County (south of Tehachapi Range); Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties
Area 2: Kern County (north of Tehachapi Range)

IRRIGATION and LAWN SPRINLERS:
Area 1: Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties

LATHERS:
Area 1: Kern County
Area 2: Los Angeles County (except City of Lancaster)
Area 3: Ventura County
Area 4: Orange County

PAINTERS:
Area 1: Imperial, Orange, Riverside, Los Angeles (Pomona Area); San Bernardino County (excluding western portion)
Area 2: Kern County (Lancaster, Mohave, Palmdale, China Lake Naval Ordnance Test Station and Edwards Air Force Base); Los Angeles County (except Pomona Area); San Bernardino (west of a line north of Trona including China Lake Area, Johannesburg, Boron, south including the Wrightwood area)
Area 3: Kern County (remainder of County)

DECISION NO. CA80-5147 Page 5

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:* (cont'd)					
Area 4:					
Brush; Pot Tender Paperhangers; Paste Machine Operators; Iron and steel	$11.99	$1.07	$1.30		.03
Spray; Taper; Sandblasters	12.12	1.07	1.30		.03
Sign Painter	12.37	1.07	1.30		.03
Steeplejack	12.31	1.07	1.30		.03
PLASTERERS:	12.87	1.07	1.30		.03
Area 1	12.335	.95	1.85		.12
Area 2	18.95				
Area 3	14.51	1.30	3.00		.02
PLASTERERS' TENDERS:*					
Area 1	13.32	1.25	2.90	1.00	
Area 2	14.25	1.25	2.90	1.00	
Area 3	11.25	1.25	2.90	1.00	
Area 4	13.32	1.25	2.90	1.00	
Area 5	13.175	1.25	2.90	1.20	
Area 6	12.48	1.25	2.90	1.20	
Area 7	13.83	1.05	2.45	1.10	
PLUMBERS:*					
Area 1	15.25	1.53	2.44	1.95	.11
Area 2	15.88	1.05	2.25	1.45	.17
REFRIGERATION and AIR CONDITIONING:*					
Area 1	10.70	.96	.85	1.00	.05
Area 2	13.82	2.00	2.00	1.52	.30
ROOFERS:*					
Area 1	12.79	.80	1.05	1.00	
Area 2	12.05	.80	.60		.02
Area 3	13.31	.97	2.05		.065
Area 4	13.37	.645	1.49		
Area 5	12.65	.80	1.00	1.25	
SHEET METAL WORKERS:*					
Area 1	14.96	1.04	2.24		.01
Area 2	13.67	1.04	1.80		.02
Area 3	14.51	1.14	1.80		.02
Area 4	15.16	1.14	2.52		.10
Area 5	14.16	1.14	2.52		.09
Area 6	13.90	1.14	2.64		.16
Area 7	16.37	1.20	2.52		.06

*See AREA Descriptions - Page 6

AREA DESCRIPTIONS

PAINTERS: (Cont'd)
Area 4: San Luis Obispo, Santa Barbara and Ventura Counties

PLASTERERS' TENDERS:
Area 1: Imperial, Riverside, and San Bernardino Counties
Area 2: Kern County (China Lake Naval Ordnance Test Station, Edwards Air Force Base)
Area 3: Kern County (remainder of County)
Area 4: Los Angeles and Orange Counties
Area 5: San Luis Obispo County
Area 6: Santa Barbara County
Area 7: Ventura County

PLUMBERS; Steamfitters:
Area 1: Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties
Area 2: Kern County

REFRIGERATION and AIR CONDITIONING:
Area 1: Riverside and San Bernardino Counties
Area 2: Los Angeles and Orange Counties

ROOFERS:
Area 1: Imperial County
Area 2: Kern County
Area 3: Los Angeles, Orange, and Ventura Counties
Area 4: San Luis Obispo and Santa Barbara Counties
Area 5: Riverside and San Bernardino Counties

SHEET METAL WORKERS:
Area 1: Imperial County
Area 2: Kern County(china Lake Naval Ordnance Test Station and Edwards Air Force Base)
Area 3: Kern County (remainder of County); and Los Angeles County (that portion north of straight linedrawn between Gorman and Big Pines)
Area 4: Los Angeles County (remaining portion)
Area 5: Orange County
Area 6: Riverside and San Bernardino Counties
Area 7: San Luis Obispo, Santa Barbara and Ventura Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SOFT FLOOR LAYERS:*					
Area 1	$11.52	.81	$1.45		.10
Area 2	14.42	.75	1.20	.80	.08
Area 3	13.40	.90	.90	1.25	.09
SPRINKLER FITTERS:*					
Area 1	18.57	.85	1.20		.08
Area 2	16.83	.83	1.05		.09
TILE SETTERS:*					
Area 1	12.69	.81	1.17		.08
Area 2	10.50	1.20	1.85		.07
Area 3	14.60	1.15	2.20		
Area 4	11.20	.65	.55		
TILE FINISHERS:*					
Area 1	9.96	1.39	1.30		.13

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independance Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for over 5 years' service and 6% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A thru F.

AREA DESCRIPTIONS

SOFT FLOOR LAYERS:
Area 1: Imperial County
Area 2: Los Angeles, Orange, Riverside, Santa Barbara, San Luis Obispo, San Bernardino, and Ventura Counties
Area 3: Kern County

SPRINKLER FITTERS:
Area 1: Imperial and Kern Counties; Orange County (except Santa Ana); Riverside County; San Bernardino County (except Ontario); San Luis Obispo, Santa Barbara, and Ventura Counties (except Santa Paula, Point Mugu and Port Hueneme)
Area 2: Los Angeles County (Los Angeles City and area within 25 miles, and Pomona); Orange County (Santa Ana); San Bernardino (Ontario); and Ventura County (Santa Paula, Pont Mugu and Port Hueneme)

TILE SETTERS:
Area 1: Imperial County
Area 2: Los Angeles, Orange, and Ventura Counties
Area 3: San Luis Obispo, and Santa Barbara Counties
Area 4: Riverside and San Bernardino Counties
Area 5: Kern County

TILE FINISHERS:
Area 1: Los Angeles, Orange, and Ventura Counties

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GENERAL CLEAN-UP LABORER	$ 9.63	$1.25	$2.90	1.20	
GROUP 1	10.63	1.25	2.90	1.20	.12
GROUP 2	10.78	1.25	2.90	1.20	.12
GROUP 3	10.98	1.25	2.90	1.20	.12
GROUP 4	11.28	1.25	2.90	1.20	.12
GROUP 5	11.48	1.25	2.90	1.20	.12
GUNITE LABORERS					
Nozzlemen and Rodmen	12.62	1.25	2.90	1.20	.12
Gunmen	11.97	1.25	2.90	1.20	.12
Reboundmen	10.91	1.25	2.90	1.20	.12
Vandenberg AFB, Point Arguello, Camp Roberts, Naval Ordnance Test Station, Edwards AFB. LABORERS					
GENERAL CLEAN-UP LABORER	11.63	1.25	2.90	1.20	
GROUP 1	12.63	1.25	2.90	1.20	.12
GROUP 2	12.78	1.25	2.90	1.20	.12
GROUP 3	12.98	1.25	2.90	1.20	.12
GROUP 4	13.28	1.25	2.90	1.20	.12
GROUP 5	13.48	1.25	2.90	1.20	.12
GUNITE LABORERS					
Nozzlemen and Rodmen	14.62	1.25	2.90	1.20	.12
Gunmen	13.97	1.25	2.90	1.20	.12
Reboundmen	12.91	1.25	2.90	1.20	.12

Group 1: Boring Machine Tender (outside); Cleaning and Handling of Panels Forms; Concrete Screeding for rough strike-off; Concrete, Water curing; Demolition Laborer, the cleaning of brick and lumber; Dry of concrete, plugging, of Shoebolt Holes; Fire Watcher, Limbers, Brush Loaders, Pilers and Debris Handlers; Flagman, gas, oil and/or water Pipe Line Laborer; Laborer, general or construction; Laborer, landscaping; Laborer, jetting; Laborer, temporary water and air lines; Material Housecman (walls, slabs, floors and decks); Rigging and Signaling Scaler; Slip Form Raisers; Slurry Seal Crews (Mixer Operator, Applicator Operator, Squeegee Man, Shuttle Man, Top Man); Striper, asphalt, concrete or other paved surfaces; Tarman and Mortar Man; Tool Crib or Tool House Laborer; Traffic Delineating Device Applicator; Window Cleaner; Wire Mesh Pulling, all concrete pouring operations

LABORERS (Cont'd)

Group 2: Asphalt Shoveler; Cement Dumper (on 1 yard or larger mixer and handling bulk cement); Cesspool Digger and Installer; Chucktender; Chute Man, pouring concrete, the handling of the chute from readymix trucks, such as walls, slabs, decks, floors, foundations; footings, curbs, gutters and sidewalks; Concrete Curer--Impervious Membrane and Form Oiler; Cutting torch operator (demolition); Fine Grader, highways and street paving, airport, runways, and similar type heavy construction; Gas, oil and/or water pipeline wrapper--pot tender and form man; Guinea Chaser; Hardeboard man--Asphalt; Laborer, packing rod steel and pans; Power Broom Sweepers (small); Riprap Stonepaver, placing stone or wet sacked concrete; Roto Scraper and Tiller; Sandblasters (pot tender); Septic Tank Digger and Installer (leadman); Tank Scaler and Cleaner; Tree Climber, faller, chain saw operator, Pittsburgh Chipper and similar type Brush Shredders; Underground Laborer, including Caisson Bullower

Group 3: Asphalt Raker, Luteman, Ironer and Asphalt Spreader Boxes (all types); Buggymobile Man; Concrete Core Cutter, Grinder or Sander; Concrete Cutting Torch; Concrete Saw Man, cutting, scoring old or new concrete; Driller; Jackhammer, 2-1/2 ft. drill steel or larger; Dri Pak-it Machine; Gas, oil and/or Water Pipeline Wrapper--6" Pipe and over by any method, inside and out; Hydro Seeder and similar type; Impact Wrench, multi-plate; Kettlemen, Potmen and Men applying asphalt, lay-kold, creosote, lime caustic and similar type materials ("applying" means applying, dipping, brushing or handling of such materials for pipe wrapping and waterproofing); Operators of Pneumatic, gas, electric tools, Vibrating Machines, Pavement Breakers, Air Blasting, Come-alongs, and similar mechanical tools not separately classified herein; Pipelayer's Backup Man, coating, grouting making of joints, sealing, caulking, diapering and including rubber gasket joints, pointing and any and all other services; Rock Slinger; Rotary Scarifier or Multiple Head Concrete Chipping Scarifier; Steel Headerboard Man and Guideline Setter; Tampers, Barko, Wacker and similar type; Trenching Machine, hand propelled

Group 4: Cribber, Shorer, Lagging, Sheeting and Trench Bracing, hand-guided Lagging Hammer; Head Rock Slinger; Laser Beam; Oversize Concrete Vibrator Operator, 70 lbs. and over; Pipelayer, including water, sewage, solid, gas or air; Prefabricated Manhole Installer; Sandblaster (nozzleman), water blasting; Welding in connection with laborers' work

Group 5: Blasters Powderman--all work of loading holes, placing and blasting of all powder and explosives of whatever type, regardless of method used for such loading and placing; Driller: All power drills, excluding jackhammer, whether core, diamond, wagon, track, multiple unit, and any and all types of mechanical drills

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$13.60	$1.10	$2.65	.90	.14
Group 2	13.88	1.10	2.65	.90	.14
Group 3	14.17	1.10	2.65	.90	.14
Group 4	14.31	1.10	2.65	.90	.14
Group 5	14.53	1.10	2.65	.90	.14
Group 6	14.64	1.10	2.65	.90	.14
Group 7	14.76	1.10	2.65	.90	.14
Group 8	14.93	1.10	2.65	.90	.14
Group 9	15.06	1.10	2.65		.14

POWER EQUIPMENT OPERATORS

Group 1: Brakeman; Compressor (less than 600 C.F.M.); Engineer Oiler; Generator; Heavy Duty Repairman; Helper; Pump; Signalman; Switchman

Group 2: Compressor (600 C.F.M. or larger); Concrete Mixer, skip type, Conveyor; Fireman; Hydrostatic Pump; Oiler Crusher (asphalt or concrete plant); Plant Operator; Generator, Pump or Compressor; Rotary Drill Helper (oilfield); Skiploader - wheel type up to 3/4 yd. w/o attachments; Soils Field Technician; Tar Pot Fireman; Temporary Heating Plant; Trenching Machine Oiler; Truck Crane Oiler

Group 3: A-Frame or Winch Truck; Elevator Operator (inside); Equipment Greaser (rack); Ford Ferguson (with dragtype attachments); Helicopter Radioman (ground); Power Concrete Curing Machine; Power Concrete Saw; Power driven Jumbo Form Setter Ross Carrier (job site); Stationary Pipe Wrapping and Cleaning Machine

Group 4: Asphalt Plant Fireman; Boring Machine; Boxman or Mixerman (asphalt or concrete); Chip Spreading Machine; Concrete Pump (small portable); Bridge type Unloader and Turntable; Dinkey Locomotive or Motorman (up to and including 10 tons); Equipment Greaser (greaser truck); Helicopter Hoist; Highline Cableway Signalman; Hydra-hammer-aero Stomper; Power Sweeper; Roller (compacting); Screed (asphalt or concrete); Trenching Machine (up to 6 ft.)

Group 5: Asphalt Plant Engineer; Backhoe (up to and including 3/4 yd.); Batch Plant Bit Sharpener; Concrete Joint Machine (canal and similar type); Concrete Planer; Deck Engine; Derrickman (oilfield type); Drilling Machine Operator (including water wells; Forklift (under 5-ton capacity); Hydrographic Seeder Machine (straw, pulp or seed); Machine Tool Operator; Maginnis Internal Full Slab Vibrator; Mechanical Berm, Curb or Gutter (concrete or asphalt); Mechanical Finisher (concrete-Clary, Johnson, Bidwell or similar); Pavement Breaker (truck mounted); Road Oil Mixing Machine; Roller (asphalt or finish); Rubber-tired Earth moving Equipment (single engine, up to and including 25 yds. struck); Self-propelled Tar Pipelining Machine; Slip Form Pump (power-driven hydraulic lifting device for concrete forms); Sliploader (Crawler and wheel type over 3/4 yd. and up to and including 1½ yds.); Stinger Crane (Austin-Western or similar type); Tractor-Bulldozer

POWER EQUIPMENT OPERATORS (Cont'd)

Group 6: Asphalt or Concrete Spreading (tamping or finishing); Asphalt Paving Machine (Barber Greene or similar type); Bridge Crane Operator; Cast-in-place Pipe Laying Machine; Combination Mixer and Compressor (gunite work); Compactor, Self-propelled; Concrete Mixer - paving; Concrete Pump (truck mounted); Crane Operator up to and including 25 ton capacity)(Long-boom pay applicable); Crushing Plant; Drill Doctor; Elevating Grader; Forklift (over 5 tons); Grade Checker; Grade-all; Grouting Machine; Heading Shield; Heavy Duty Repairman; Hoist Operator (Chicago Boom and similar type); Kolman Belt Loader and similar type; LeTourneau Blob Compactor or similar type; Lift Mobile; Lift Slab Machine (Vagtborg and similar types); Loader (Athey, Euclid, Sierra and similar type); Material Hoist; Mucking Machine (1/4 yd. rubber tired, rail or track type); Pneumatic Concrete Placing Machine (Hackley-Presswell or similar type); Pneumatic Heading Shield (tunnel); Pumpcrete Gun; Rotary Drill (excluding caisson type); Rubber-tired Earth Moving Equipment (single engine-Caterpillar, Euclid, Athey Wagon, and similar types with any and all attachments over 25 yds. and up to and including 50 cu. yds. struck); Rubber-tired Earth Moving Equipment (multiple engine, up to and including 25 yds. struck); Rubber-tired Scraper (self-loading - paddle wheel type - John Deer, 1040 and similar single unit); Skiploader (crawler and wheel type - over 1½ yds. up to and including 6½ yds.); Surface Heaters and Planer; Trenching Machine (over 6 ft. depth capacity); Tower Crane; Tractor Compressor Drill Combination; Tractor (any type larger than D-5-100 flywheel h.p. and over, or similar); Bulldozer, Tamper, Scraper and Push Tractor single engine); Tractor (boom attachments); Traveling Pipe Wrapping, Cleaning and Bending Machine; Tunnel Locomotive (over 30 tons); Shovel, Backhoe, Dragline, Clamshell (over 3/4 yd. and up to 5 cu. yds. m.r.c.) (Long Boom Pay applicable); Self-propelled Curb and Gutter Machine

Group 7: Crane, over 25 ton up to and including 100 tons m.r.c. (long boom pay applicable); Derrick Barge (long boom pay applicable); Dual Drum Mixer; Heavy Duty Repairman-welder Combination; Hoist, Stiff-legs, Guy Derrick or similar type, up to and including 100 tons (long boom pay applicable); Monorail Locomotive (diesel), gas or electric); Motor Patrol-blade Operator (single engine); Multiple Engine Tractor (Euclid and similar type, except quad nine Cat); Rubber-tired Earth Moving Equipment (single engine, over 50 yds. struck); Rubber-tired Earth Moving Equipment (multiple engine, Euclid, Caterpillar and similar) (over 25 yds. and up to 50 cu. yds. struck); Shovel, Backhoe, Dragline, Clamshell (over 5 cu. yds. m.r.c.)(long boom pay applicable); Tower Crane Repairman; Tractor Loader (crawler and wheel type over 6½ yds.); Welder-certified; Woods Mixer and similar Pugmill Equipment

Group 8: Auto Grader; Automatic Slip Form; Crane-over 100 tons (long boom pay applicable); Hoist-stiff Legs, Guy Derrick or similar types (capable of hoisting 100 tons or more)(long boom pay applicable); Mass Excavator - less than 750 cu. yds.; Mechanical Finishing Machine; Mobile Form Traveler; Motor Patrol, multi-engine); Pipe Mobile Machine; Rubber-tired earth moving equipment (multiple engine, Euclid, Caterpillar and similar type over 50 cu. yds. struck); Rubber tired self-loading Scraper (paddle wheel-auger type self-loading-2 or more units); Rubber-tired Scraper - pushing one another w/o Push Cat. Push-pull (500 per hour additional to base rate); Tandem Equipment (2 units only); Tandem Tractor (Quad 9 or similar type); Tunnel Mole Boring Machine

Group 9: Canal Liner; Canal Trimmer; Helicopter Pilot; Highline Cableway; Remote Controlled Earth Moving Equipment ($1.00 p/h additional to base rate); Wheel Excavator (over 750 cu. yds.)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1:	$12.41	1.25	1.33	1.35	.15
Group 2:	12.99	1.25	1.33	1.35	.15
Group 3:	13.05	1.25	1.33	1.35	.15
Group 4:	13.14	1.25	1.33	1.35	.15
Group 5:	13.17	1.25	1.33	1.35	.15
Group 6:	13.19	1.25	1.33	1.35	.15
Group 7:	13.23	1.25	1.33	1.35	.15
Group 8:	13.24	1.25	1.33	1.35	.15
Group 9:	13.29	1.25	1.33	1.35	.15
Group 10:	13.32	1.25	1.33	1.35	.15
Group 11:	13.37	1.25	1.33	1.35	.15
Group 12:	13.39	1.25	1.33	1.35	.15
Group 13:	13.44	1.25	1.33	1.35	.15
Group 14:	13.69	1.25	1.33	1.35	.15
Group 15:	13.94	1.25	1.33	1.35	.15
Group 16:	14.04	1.25	1.33	1.35	.15
Group 17:	14.14	1.25	1.33	1.35	.15
Group 18:	14.44	1.25	1.33	1.35	.15
Group 19:	14.94	1.25	1.33	1.35	.15

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TRUCK DRIVERS

Group 1: Warehouseman and Teamster

Group 2: Driver or vehicle or combinations of vehicles of 2 axles (including all vehicles less than six tons); Traffic Control Pilot Car, excluding moving heavy equipment permit load

Group 3: Truck mounted Power Broom

Group 4: Drivers of vehicles or combination of vehicles of 3 axles

Group 5: Bootman; Cement Distributor; Fuel Truck; Road Oil Spreader Truck; Water Truck, 2 axle

Group 6: Dump, of less than 16 yards

Group 7: Transit-mix, under 3 yards; Dumpcrete, less than 6½ yards

Group 8: Truck Repairman Helper

Group 9: Water Truck, 3 or more axles

Group 10: RB and similar type truck when performing within the Teamsters' jurisdiction; Pipeline and Utility working Truck including Winch, but limited to truck applicable to Pipeline and Utility work, where a composite crew is used; Slurry Driver; Truck Greaser and Tireman (50¢ per hour additional for Tireman)

Group 11: Transit-mix, 3 yards or more; Dumpcrete, 6½ yards and over

Group 12: Driver of vehicle or combination of vehicles of 4 or more axles

Group 13: Dump, 16 yards but less than 25 yards

Group 14: A-Frame or Swedish Crane, or similar type of equipment driver; Fork Lift Driver; Ross Carrier, highway

Group 15: All-off-highway Equipment within Teamsters jurisdiction (off highway combination of vehicles or equipment with multiple power sources, $1.80 per hour additional); Dump, 25 yards or more; Truck Repairman

Group 16: Truck Repairman Welder

Group 17: Low Bed driver, 8 axle or over

Group 18: Water pull, single engine with attachments

Group 19: Water pull, twin engine with attachments

STATE Missouri COUNTIES: Pettis and Saline
DECISION No.: MO80-4003 DATE: Date of Publication
Supersedes Decision No. MO79-3071 dated August 3, 1979 in 44 FR 45847
DESCRIPTION OF WORK: Building projects, (excluding single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$13.27	.60	1.55		.05
BOILERMAKERS	13.87	1.375	1.10		.05
BRICKLAYERS, Stonemasons, tile layers	11.70		.35		
CARPENTERS (Pettis County):					
Carpenters	10.85	.53	.20		.08
Millwrights	11.45	.53	.20		.08
Piledrivers	11.075	.53	.20		.08
CARPENTERS (Saline County):					
Carpenters	12.05	.60	.50		.07
Millwrights & piledriver-men	12.80	.60	.50		.07
CEMENT MASONS	11.68				
ELECTRICIANS (Pettis County):					
Contracts not exceeding 2000 man hours	13.68	.69	3%+.90	7%.95	.12
Contracts exceeding 2000 man hours	14.68	.69	3%+.90	7%.95	.12
Electricians (Saline County):					
Contracts not exceeding 2000 man hours	13.08	.69	3%+.90	7%.95	.12
Contracts exceeding 2000 man hours	14.68	.69	3%+.90	7%.95	.12
ELEVATOR CONSTRUCTORS:					
Elevator constructors	14.135	1.195	.95	8%+a	
Elevator constructors' helpers	70%JR	1.195	.95	8%+a	
GLAZIERS	11.18	.61	1.04	19.7%	.04
IRONWORKERS	12.35	.80	1.50	1.00	.05
PAINTERS:					
Brush	11.25				
Spray; Sandblasting	12.25				
Machine taping; outside work on swing stages, window jacks, with belts or boatswain's chair	11.75				
PIPEFITTERS	14.54	.78	1.60		.10
PLASTERERS	11.36				
PLUMBERS	14.52	1.12	1.20		.12
ROOFERS	13.05	.75	.75		.14

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET METAL WORKERS	$12.73	.75	1.20		.10
LATHERS	10.85				
MARBLE & TILE SETTERS	13.45	5%	5%		
MARBLE & TILE SETTERS FINISHERS	10.85				
TERRAZZO WORKERS	12.31	5%	4.25%		
LABORERS (Pettis County):					
GROUP 1	8.725	.60	.60		.10
GROUP 2	8.825	.60	.60		.10
GROUP 3	9.00	.60	.60		.10

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Carpenter tenders; track man; wreckers (alterations or entire project); reinforcing rod carriers; all other general laborers
GROUP 2 - Plumber laborers; stonemasons tenders; air tool operators; sewer work; water lines; conduit pipe; drain tile & duct lines; batter board man or pipe & ditch work; pier hole men working below ground; vibrator man; scaleman; jackhammer; chipping hammer operators; material batch hopper man; spreader or screed man on asphalt machine; brush feeders on pulverizers; swinging scaffold; cement handlers (bulk or sack); laser beam man; chain or concrete saw
GROUP 3 - Plaster tenders; hod carriers; brick tenders; cutting torch & burner men; asphalt rakers; barco tamper; jackson or any similar tamps; power buggy operator; powderman; mastic kettlemen; sandblasting & gunnite nozzleman; head pipe layer on sewer work; men working in tunnels; head form setters & stringline men; hot tar applicator

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Saline County):					
GROUP 1	10.55	.45	.40		.10
GROUP 2	10.70	.45	.40		.10
GROUP 3	10.85	.45	.40		.10

LABORERS CLASSIFICATION DEFINITIONS

GROUP 1 - Common labor; wire mesh handlers or setters, carpenter tender; trackmen; flagmen; signalmen; salamander tenders; floor cleaners; landscape men; sod layers; wreckers (for alteration or entire projects
GROUP 2 - Plumber laborers (conduit pipe, sewer work , drain tile & duct lines, digging & back filling); power tool operators; pier hold diggers (over 10 ft.); vibrator, jackhammer & chipping hammer operators; chain saw operators, concrete saw operators; brush feeders on pulverizers; reinforcing steel handlers; air tamp operators; ditch witch operators; swinging scaffolds; cutting torch or burner men; georgia buggies (self-propelled); fork lift, hoseman; insulation men
GROUP 3 - Fork lift (masonry); brick tenders; plasterer tenders; stone mason tenders; barco, Jackson or similar tamp operators; asphalt raker; powdermen; mastic hot kettlemen; sandblasting & gunite nozzle men; wagon & churn drill operators

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Building Construction (Zone 1)					
GROUP I	$13.10	.85	1.00	1.05	.15
GROUP II	12.75	.85	1.00	1.05	.15
GROUP III:					
(a)	9.75	.85	1.00	1.05	.15
(b)	10.85	.85	1.00	1.05	.15
(c)	10.35	.85	1.00	1.05	.15
(d)	11.10	.85	1.00	1.05	.15
GROUP IV	13.35	.85	1.00	1.05	.15
GROUP V	13.00	.85	1.00	1.05	.15
GROUP VI	13.60	.85	1.00	1.05	.15
GROUP VII:					
(a)	12.85	.85	1.00	1.05	.15
(b)	12.60	.85	1.00	1.05	.15
(c)	10.60	.85	1.00	1.05	.15
GROUP VIII	14.10	.85	1.00	1.05	.15
GROUP IX	13.60	.85	1.00	1.05	.15

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CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

GROUP I - Asphalt paver and spreader; asphalt plant mixer operator; asphalt plant operator; back fillers; backhoe; barber-greene loader; blade-power; boats-power; boilers (2); boring machines; cableways; cherry pickers; chip spreader; concrete ready-mixed plant, portable (job site); concrete mixer paver; crane-overhead; crusher, rock; derricks and derricks cars (power operated); ditching machines; dozers; dredges - any type power; grade-all - similar type; hoist, endless chain-power operated with power travel; loaders; mechanic and welder; mucking machine; orange peels; pumps - material; push cats; scoops; self-propelled rotary drill; shovel, power; side boom; skimmer scoop; testhole machine; throttle man

GROUP II - Boilers (1); Brooms - power operated; chip spreader (front man); clef plane operator; compressors (1) 125' or over; concrete saws) self-propelled); crab - power operated; curb finishing machine; firemen on rigs; flex plane; floating machine; form grader; greaser; hoist, endless chain - power operated; hopper - power operated; hydra hammer; lad-a-vator - similar type; rollers; siphons, jets, and jennies; sub-grader; tractors over 50 h.p.; compressors (2) 125' ft. or over not more than 20' apart; compressors-tandem; compressors single, truck mounted; elevator; finishing machine

GROUP III:
(a) Oilers
(b) Fork lift-masonry
(c) Oiler driver
(d) A-frame trucks; fork lift-all types (except masonry); mixers (w/side loaders); pumps (w/well points) dewatering systems, test or pressure pumps; tractors (except when hauling material) less than 50 h. p.

GROUP IV
Clamshells, 80 ft. of boom or over (inc. jib); crane or rigs, 80 ft. of boom or over (inc. jib); draglines, 80 ft. of boom or over (inc. jib); pile drivers, 80 ft. of boom or over (incl. jib)

GROUP V
Hoists-each additional drum over 1 drum

GROUP VI
Crane or rigs, over 200 ft. of boom

GROUP VII
Ready Mixed Concrete Plants:
(a) Crane operator
(b) Loader operator & plant man
(c) Conveyor operator

GROUP VIII
Master Mechanic

GROUP IX
Crane-tower or climbing

Unlisted classification needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 515(a)(1)(ii))

SUPERSEDEAS DECISION

STATE: Missouri COUNTY: Pulaski
DECISION NO.: MO80-4094 DATE: Date of Publication
Supersedes Decision No. MO80-4040 dated June 13, 1980 in 45 FR 40418
DESCRIPTION OF WORK: Building Projects (excluding single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.82	.50	1.00		.04
BOILERMAKERS	14.02	1.375	1.10		.05
BRICKLAYERS, Stonemasons & Tile Layers	11.70		.35		
CARPENTERS:					
Projects under $250,000.00	10.46	.70	.80	.50	.02
Projects $250,000.00 & over	10.56	.70	.80	.50	.02
ELECTRICIANS:					
Electricians	12.795	.47	3%+1.00	6%	.02
Cable splicers	13.195	.47	3%+1.00	6%	.02
IRONWORKERS, structural, ornamental, reinforcing	13.575	.55	1.05		.09
LABORERS:					
Laborers, general	9.65	.60	.50		.10
Plumbers laborers, hod carriers, plaster tenders & mason tenders	10.00	.60	.50		.10
Powderman	10.65	.60	.50		.10
LATHERS	11.45				
PAINTERS:					
Brush & roller	10.25	1.00	.70	.50	
Taping, paperhanging & floor work	10.75	1.00	.70	.50	
Spray, structural steel & sandblating	11.50	1.00	.70	.50	
PIPEFITTERS	14.05	2.435	1.64		
PLUMBERS	13.255	.80	.95	.90	.20
ROOFERS	7.90	.46	.20		
SHEET METAL WORKERS	11.94	.56+3%	.76	.96	.04
TRUCK DRIVERS:					
GROUP 1	8.50	.50	.50		
GROUP 2	8.99	.50	.50		
GROUP 3	8.97	.50	.50		
GROUP 4	9.02	.50	.50		
GROUP 5	9.17	.50	.50		
GROUP 6	10.00	.50	.50		
CEMENT MASONS	12.30				

DECISION NO. MO80-4094 Page 2

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Ft. Leonard Wood Only:					
GROUP 1	9.50	.50	.50		
GROUP 2	9.65	.50	.50		
GROUP 3	9.72	.50	.50		
GROUP 4	9.77	.50	.50		
GROUP 5	9.92	.50	.50		
GROUP 6	10.75	.50	.50		

TRUCK DRIVERS CLASSIFICATION DEFINITIONS

GROUP 1 - flat bed drivers; pick-ups and station wagons; fireman & station attendant; dump, single axle
GROUP 2 - Flat bed, tandem axle; dump, tandem; tank trucks, single axle
GROUP 3 - Agitator & transit-mix
GROUP 4 - Winch trucks; steel haulers, derrick & A-trucks; distributors drivers & operators; tank truck; tandem & semi-tractors; wheel tractors; oilers, greasers & mechanic helpers; heavy excavating & hauling euclids, dumpsters, etc.
GROUP 5 - Fork lifts & high lifts, etc., when unloading or carrying
GROUP 6 - Mechanics

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	12.12	.75	1.00		
GROUP 2	12.12	.75	1.00		
GROUP 3	10.87	.75	1.00		
GROUP 4	10.27	.75	1.00		
GROUP 5:					
(a)	12.82	.75	1.00		
(b)	13.67	.75	1.00		
(c)	14.12	.75	1.00		
(d)	14.07	.75	1.00		
(e)	12.62	.75	1.00		
GROUP 6	13.12	.75	1.00		

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POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP 1 - Backhoe; cableway; crane, crawler or truck; crane, hydraulic truck or cruiser mounted 16 tons & over; crane, locomotive, derrick, steam; derrick car & derrick boat; dragline; dredge; gradall, crawler or tire mounted; locomotive, gas, steam & other powers; piledriver, land or floating; scoop, skimmer; shovel, power (steam, gas, electric or other powers); switch boat; whirley

GROUP 2 - Air tugger w/air compressor; anchor placing barge; asphalt spreader; athey force feeder loader (self-propelled); backfilling machine; boat oper. push boat or tow boat (job site); boiler, high pressure breaking in period; boom truck, placing or erecting; boring machine, footing foundation; bull-float; cherry picker; combination concrete hoist & mixer such as mixermobile; compressor (when operator runs throttle); compressors, two not more than 50' apart; compressor-generator combination; compressor pump combination; compressor welder combination; concrete breaker (truck or tractor mounted); concrete pump, such as pumpcrete machine; concrete spreader; conveyor, large (not self-propelled) hoisting or moving brick & concrete into, or into & on floor level, one or both; crane, hydraulic rough terrain, self-propelled; crane, hydraulic truck or cruiser mounted under 16 tons; drilling machines, self-powered, used for earth or rock drilling or boring (wagon drills & any hand drills obtaining power from other sources including concrete breakers, jackhammers & barco equipment no engineer required); elevating grader, engine man, dredge; excavator or powerbelt machine; finishing machine, self-propelled oscillating screed; fork lift; grader, road with power blade; highlift; hoist, concrete & brick (brick cages or concrete skips operating in or on tower, tower mobile, or similar equipment); hoist, stack; hydro hammer; lad-a-vator, hoisting brick or concrete; loading machine (such as Barber-Greene); mechanic, on job site; mixer, paving; mixer-mobile; mucking machine; pipe wrapping machine; plant, asphalt; plant, concrete producing or ready-mix job site; plant, heating job site; plant, mixing job site; plant, power, generating job site; pumps, two self-power over 2" through 6"; pumps, electric submersible, one through three, over 4"; quad-track; roller, asphalt, top or subgrade; scoop, tractor drawn; spreader box; subgrader; tie tamper; tractor-crawler, or wheel type with or without power unit, power take offs, & attachments regardless of size; trenching machine, tunnel boring machine, vibrating machine, automatic, propelled; welding machines (gasoline or diesel) more than one but not over four (regardless of size); well drilling machine

GROUP 3 - Air tugger w/plant air; boiler, for power or heating shell of buildings or temporary enclosures in connection with construction work; boiler, temporary; compressor, air one; compressor, air (mounted on truck); concrete saw, (self-propelled); conveyor, large (not self-propelled) conveyor, large (not self-propelled) moving brick & concrete (distributing) on floor level; curb finishing machine, ditch paving machine;elevator (building construction or alteration); endless chain hoist; fireman; form grader; generator, one over 30 KW or any number developing over 30

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POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (Cont'd)

GROUP 3 CONTD:
KW; greaser; hoist, one drum regardless of size (except brick or concrete); lad-a-vator; manlift; mixer, asphalt, over 8 cu. ft. capacity; mixer, if two or more mixers of one bag capacity or less are used by one Employer on job, an operator is required; mixer, without side loader, 2 bag capacity or more; mixers, with side loader, 2 bag capacity or more; mixer,with side loader, regardless of size, not paver; oiler on dredge; oiler on truck crane; pug mill operator; pump, sump-self-powered, automatic controlled over 2" during use in connection with construction work; scissor lift (used for hoisting); sweeper, street; tractor small wheel type 50 h.p. & under with grader blade & similar equipment; welding machine, one over 400 amp.; winch operating from truck; mechanic in shop

GROUP 4 - Boat operator outboard motor (job site); conveyors, such as con-vay-it) regardless of how used; oiler; sweeper, floor

GROUP 5 (a) - Air pressure; oiler engineer operating under ten pounds
(b) - Air-pressure, oiler engineer operating over ten pounds
(c) - Air pressure engineer operating under ten pounds
(d) - Air pressure oiler engineer operating over ten pounds
(e) - Crane, climbing (such an linden); crane, pile driving & extracting; crane, using rock socket tool; derrick, diesel, gas or electric, hoisting material erecting steel (150" or more above ground); dragline, 7 cu. yds. & over; hoist, three or more drums in use; scoop, tandem; shovel, power 7 cu. yds. & over; tractor, tandem crawler, tunnel man assigned to work in tunnel or tunnel shaft; wrecking, when machine is working on second or higher; crane-booms (including jib) 100 ft. to 150 feet

GROUP 6 - Crane, boom (including jib) 150 feet to 300 feet

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: New Mexico COUNTY: Statewide
DECISION NO: NM80-4090 DATE: DATE OF PUBLICATION
Supersedes Decision No. NM80-4087 dated July 18, 1980 in 45 FR 63443

DESCRIPTION OF WORK: General Building and Heavy Engineering construction shall include the construction, alteration, repair and demolition of buildings, including residential buildings, office buildings, warehouses, industrial and commercial buildings, institutional and public buildings, and all airconditioning, conduit, heating and other mechanical and electrical works and site preparation for building or heavy engineering projects under this classification; stadia; and shall include electrical, gas, water, sewer lines, and other such utility construction which are part of projects under this classification and included within the property line or less than five (5) feet from the building or heavy engineering structure, whichever is closer, provided, however, regard to electrical utilities such construction shall include construction from the first attachment of incoming power source without regard to the property line or proximity to the building or the heavy engineering structure; and include construction, alteration, repair and demolition of heavy engineering work such as power generating plants, pump stations, natural gas compressing stations; covered reservoirs and covered sewage and water treatment facilities; concrete linings for canals, ditches and channels; concrete dams; earth dams of one million (1,000,000) cubic yards or over; radio towers, ovens, furnaces, kilns, silos, shafts and tunnels (other than highway shafts and tunnels), hydroelectric projects; and well drilling, telephone and electrical transmission lines which are part of general building and heavy engineering projects; mining appurtenances such as tippies, washeries and loading and discharging chutes, and specialized structures for testing, launching and recovering space and other rocket-type missiles, (ALSO INCLUDING RESIDENTIAL PROJECTS IN SANTA FE, BERNALILLO, RIO ARRIBA TAOS, SANDOVAL AND VALENCIA COUNTIES).

BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
(Statewide, except Union, Lea, Harding, Curry, Roosevelt and Quay Cos.)	$14.41	.50	1.45		.06
Union, Harding, Lea, Roosevelt, Curry and Quay Cos.	11.95	.80	1.25		.02
BOILERMAKERS	11.65	1.275	1.25	.75	.04
BRICKLAYERS -STONEMASONS:					
Zone I-A	12.31	.77	.40		.10
Zone I-B	13.81	.77	.40		.10
Zone I-C	14.56	.77	.40		.10
Zone II	12.40	.77	.50		.10
Zone III	13.90	.77	.50		.10
Zone IV	12.51	.77	.40		.10
Zone V	14.01	.77	.40		.10
Zone VIA	11.81	.77	.40		.10
Zone VIB	13.31	.77	.40		.10
Zone VII	12.41	.77	.40		.10
Zone VIII	13.54	.77	.30		.10
Zone IX	11.79	.77	.30		.10

BRICKLAYERS' ZONE DEFINITIONS

ZONE I - Union, Harding, Santa Fe, Valencia, Torrence, Taos, Socorro, Mora, McKinley, Colfax, Catron, San Miguel, San Juan, Sandoval, Rio Arriba, Bernalillo and Los Alamos Counties
From basing point of Albuquerque Main Post Office:
Zone I-A - 0 to 25 road miles
Zone I-B - 25 to 50 road miles
Zone I-C - Over 50 road miles
ZONE II - Curry and Roosevelt Counties
ZONE III - DeBaca, Guadalupe and Quay Counties
ZONE IV - Chaves County
ZONE V - Lincoln County
ZONE VIA - Lee and Eddy Counties (Except at Mine and Refinery sites outside Municipal Limits)
ZONE VIB - Lee and Eddy Counties (Employees at Mine and Refinery sites outside Municipal Limits)
ZONE VII - Otero Counties
ZONE VIII - Luna and Grant Counties, communites of Silver City, Bayard, Central, Hurley and new town site of Tyrone; Hidalgo and Sierra Counties
ZONE IX - Dona Ana County

BUILDING & HEAVY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS:					
Dwelling houses & apartments not to exceed two stories in height:					
Zone I-A	8.15	1.10	1.35		.20
Zone I-B	9.65	1.10	1.35		.20
Zone I-C	10.40	1.10	1.35		.20
General Building, Heavy & Residential Construction (Dwelling houses and apartments over two stories in height):					
Zone 2-A	12.05	1.10	1.35		.20
Zone 2-B	13.55	1.10	1.35		.20
Zone 2-C	14.30	1.10	1.35		.20

CARPENTERS' ZONE DEFINITIONS

CARPENTER (STATEWIDE) - From nearest basing points of the following cities of Towns: Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos, and Tucumcari:
ZONE I - Dwelling houses & apartments not to exceed two stories in height:
Zone I-A - 0 - 15 road miles from nearest basing point
Zone I-B - 15 to 35 road miles from nearest basing point
Zone I-C - Over 35 road miles from nearest basing poing
ZONE II - General Building & Heavy Construction & Residential Construction (Dwelling houses & apartments over two stories in height:
Zone 2-A - 0 - 15 road miles from nearest basing point
Zone 2-B - 15 to 35 road miles from nearest basing point
Zone 2-C - Over 35 road miles from nearest basing point

CARPENTERS - San Juan County Only					
Zone I	12.05	1.10	1.35		.20
Zone II	14.30	1.10	1.35		.20
Zone III	14.30	1.10	1.35		.20

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SAN JUAN COUNTY ZONE DEFINITIONS FOR CARPENTERS

ZONE I - Within 15 road miles of the City of Farmington
ZONE II - More than 15 miles, but less than 35 miles from Farmington
ZONE III - 35 miles or more from the City of Farmington

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASON:					
Area I	$10.37	.77	.70		.20
Area II:					
Zone 1	10.37	.77	.70		.20
Zone 2	11.87	.77	.70		.20
Zone 3	12.12	.77	.70		.20
Cement masons (Residential)		.77	.70		.20
Cement masons (Heavy)	10.47	.77	.70		.20
CEMENT MASONS:					
Composition & Machine Oprs.					
Area I	10.62	.77	.70		.20
Area II:					
Zone 1	10.62	.77	.70		.20
Zone 2	12.12	.77	.70		.20
Zone 3	12.37	.77	.70		.20

CEMENT MASONS AREA DEFINITIONS

AREA I - Statewide except Farmington, San Juan County

AREA II - Farmington, San Juan County
Zone I - 0 - 15 miles from Farmington City Hall
Zone II - 15-35 miles from Farmington City Hall
Zone III - 35 miles and over from Farmington City Hall

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Zone I					
1-A	$13.45	.60	3%+.70		3/4%
1-B	14.53	.60	3%+.70		3/4%
1-C	15.33	.60	3%+.70		3/4%
1-D	16.81	.60	3%+.70		3/4%
Zone II	15.33	.60	3%+.70		3/4%
Zone III					
3-A	10.90	.60	3%		1/10%
3-B	12.35	.60	3%		1/10%
Zone IV					
4-A	12.95	.60	3%		.01
4-B	13.40	.60	3%		.01
4-C	13.55	.60	3%		.01
4-D	13.80	.60	3%		.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CABLE SPLICERS:					
Zone I					
1-A	$14.80	.60	3%+.70		3/4%
1-B	15.88	.60	3%+.70		3/4%
1-C	16.68	.60	3%+.70		3/4%
1-D	18.16	.60	3%+.70		3/4%
Zone II	16.68	.60	3%+.70		3/4%
Zone III					
3-A	11.15	.60	3%		1/10%
3-B	12.60	.60	3%		1/10%
Zone IV					
4-A	13.30	.60	3%		.01
4-B	13.75	.60	3%		.01
4-C	13.90	.60	3%		.01
4-D	14.15	.60	3%		.01

ELECTRICIANS-CABLE SPLICERS ZONE DEFINITIONS

ZONE I
Area 1 - Bernalillo, Santa Fe, Torrance, DeBaca, Guadalupe, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Grant, Sandoval, Valencia, Socorro, Catron, McKinley, Sierra, San Juan, Chaves, Curry, Lincoln and Roosevelt Counties

Area 1-A - From nearest basing point cities, towns and mileage from main post office in the following towns:
Albuquerque - 15 miles from main post office
Santa Fe - 15 miles from main post office
Las Vegas - 8 miles from main post office
Farmington - 8 miles from main post office
Raton - 6 miles from main post office
Tucumari - 6 miles from main post office
Aztec - 6 miles from main post office
Roswell - 12 miles from main post office
Ruidoso - 12 miles from main post office
Portales - 12 miles from main post office
Carrizozo - 12 miles from main post office
Clovis - 12 miles from main post office
Gallup - 10 miles from main post office
*Pojoaque - 2 miles from main post office
*All areas adjacent to Pojoaque that are over two (2) miles distant from the main post office in that town will be zoned out of Santa Fe.

ZONE I CONTD:
Area 1-B - extending up to 20 miles beyond Area 1-A

Area 1-C - extending up to 30 miles from Area 1-A

Area 1-D - anything beyond 30 miles from Area 1-A
ZONE II - Los Alamos County
ZONE III - Dona Ana, Otero, Luna, Hidalgo Counties
Zone 3-A - Within 10 miles radius from the post office in Las Cruces and within a 5 mile radius from the post office in Alamogordo.
Zone 3-B - Dona Ana, Otero, Luna, and Hidalgo Counties (except that area specified in Zone 3-A)
ZONE IV - Eddy and Lea Counties - the following zones shall be designated from the main post office in Artesia, Carlsbad, Hobbs and Lovington:
Zone 4-A - 0 -12 miles from main post office
Zone 4-B - 12 - 22 miles from main post office
Zone 4-C - 22 - 40 miles beyond main post office
Zone 4-D - 40 miles and beyond main post office

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELEVATOR CONSTRUCTORS:					
Bernalillo, Catron, Colfax, Curry, DeBaca, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union and Valencia Cos.:					
Elevator constructors	12.98	1.195	.82	4%+b+c	.035
Elevator constructors helpers	70%JR	1.195	.82	4%+b+c	.035
Chaves, Hidalgo, Dona Ana, Eddy, Grant, Lea, Luna, Otero and Sierra Cos.:					
Elevator constructors	8.88	.895	.69	4%+b+c	.035
Elevator constructors helper	70%JR	.895	.69	4%+b+c	.035
GLAZIERS	9.79	.70	.30		.04

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
ZONE I	$12.55	.90	1.45		.18
ZONE II					
Area 1	12.55	.90	1.45		.18
Area 2	13.80	.90	1.45		.18
Area 3	14.55	.90	1.45		.18
Area 4	15.80	.90	1.45		.18
ZONE III	11.80	.55	1.65		.15
ZONE IV	12.80	.55	1.65		.15

IRONWORKERS ZONE DEFINITIONS

ZONE I - Bernalillo, Catron, Colfax, DeBaca, Guadalupe, Lincoln, Los Alamos, McKinley, Mora, Rio Arriba, Sandoval, Santa Fe, Socorro, Taos, Torrance, and Valencia Counties
ZONE II - Farmington, San Juan County
Area 1 - Shall extend a distance of 6 road miles inclusive beyond the City Hall
Area 2 - Shall extend a distance of 8 road miles inclusive beyond the outer perimeter of area 1
Area 3 - Shall extend a distance of 10 road miles inclusive beyond the outer limits of area 2
Area 4 - Shall extend a distance of 27 road miles inclusive beyond the outer limits of area 3
Other areas not within Area 1, 2, 3, and 4 shall revert to the $15.00 per day subsistence rate.
ZONE III - Dona Ana, county with the exception of that portion of the county that lies within the White Sands Missile Range; Chaves County, Eddy County except that Potash Basin and defined as the area 10 road miles on Highway 62 and Highway 180, east of Carlsbad.
ZONE IV - Curry, Harding, Quay, Union, Hidalgo, Grant, Lea, Luna, Otero and Sierra Counties; also Potash Basin, White Sands and McGregor Missile Ranges.

LABORERS: BUILDING					
Group I	8.18	.63	.80		.10
Group II	8.48	.63	.80		.10
Group III	8.48	.63	.80		.10
Group IV	8.78	.63	.80		.10
Group V	8.93	.63	.80		.10

LABORERS BUILDING CONSTRUCTION (FARMINGTON AREA - ONLY)
ZONE 1 - 0-15 miles from the City Hall in Farmington
ZONE II - 15-35 miles from the City Hall in Farmington
ZONE III- 35 miles and over from the City Hall in Farmington

FARMINGTON AREA ONLY LABORERS (BUILDING CONST.)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE I					
Group 1	$ 8.18	.63	.80		.10
Group 2	8.48	.63	.80		.10
Group 3	8.78	.63	.80		.10
Group 4	8.93	.63	.80		.10
ZONE II					
Group 1	9.28	.63	.80		.10
Group 2	9.58	.63	.80		.10
Group 3	9.88	.63	.80		.10
Group 4	10.03	.63	.80		.10
ZONE III					
Group 1	9.78	.63	.80		.10
Group 2	10.08	.63	.80		.10
Group 3	10.38	.63	.80		.10
Group 4	10.53	.63	.80		.10

BUILDING LABORERS CLASSIFICATION DEFINITION

GROUP I - Unskilled; building and common laborers, carpenter tenders, concrete workers, chainmen - stakedrivers, concrete buggy operators
GROUP II - Semi-skilled; air and power tool operator, asphalt rakers, demolition, gunite, rebound men, fog machine operator, power buggy operators, rodmen; sand blasterers(pot men), window washers, wagon, core diamond drillers tender; outside scaler, grade setter
GROUP III - Wagon core, diamond drillers
GROUP IV - Concrete burner, cement mason tenders, hod carriers, mortar mixors, plaster spreader operators, plaster tenders, gunite nozzlemen, pipelayers, pumpcrete nozzlemen
GROUP V - Powdermen and blasterers

LABORERS (HEAVY CONSTRUCTION AND SITE PREPARATION & DIRT WORK)

ZONE I - Statewide including 15 miles from Farmington Hall
ZONE II - 15 to 35 miles from Farmington Hall
ZONE III - 35 miles and over from Farmington Hall

LABORERS (HEAVY CONSTRUCTION)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE I					
Group 1	$ 8.18	.63	.80		.10
Group 2	8.48	.63	.80		.10
Group 3	8.58	.63	.80		.10
Group 4	8.78	.63	.80		.10
Group 5	8.93	.63	.80		.10
ZONE II					
Group 1	9.68	.63	.80		.10
Group 2	9.98	.63	.80		.10
Group 3	10.08	.63	.80		.10
Group 4	10.28	.63	.80		.10
Group 5	10.43	.63	.80		.10
ZONE III					
Group 1	10.18	.63	.80		.10
Group 2	10.48	.63	.80		.10
Group 3	10.58	.63	.80		.10
Group 4	10.78	.63	.80		.10
Group 4	10.93	.63	.80		.10
LABORERS(SITE PREPARATION AND DIRT WORK)					
ZONE I					
Group 1	7.61	.63	.77		.10
Group 2	7.91	.63	.77		.10
Group 3	8.01	.63	.77		.10
Group 4	8.21	.63	.77		.10
Group 5	8.36	.63	.77		.10
ZONE II					
Group 1	8.11	.63	.77		.10
Group 2	8.41	.63	.77		.10
Group 3	8.51	.63	.77		.10
Group 4	8.71	.63	.77		.10
Group 5	8.86	.63	.77		.10
ZONE III					
Group 1	8.61	.63	.77		.10
Group 2	8.91	.63	.77		.10
Group 3	9.01	.63	.77		.10
Group 4	9.21	.63	.77		.10
Group 5	9.36	.63	.77		.10

LABORERS (HEAVY CONSTRUCTION, SITE PREPARATION AND DIRT WORK)
CLASSIFICATION DEFINITIONS

GROUP I - Unskilled - Construction and general laborers, carpenter tenders, concrete workers, stakedrivers, concrete buggy operators
GROUP II - Semi-skilled - Air and power tool operators, asphalt rakers, cutting torch operators, demolition, gunite rebound men, rod and chainmen, grade setters, power buggy operators, sand blasters (pot men), nozzlemen, wagon core and diamond drillers' tenders, outside scalors, fog machine operators
GROUP III - Wagon core, diamond drillers
GROUP IV - Miscellaneous - concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunite nozzlemen, pipelayers, pumpcrete nozzleman
GROUP V - Powdermen and blasters

LABORERS RESIDENTIAL CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group I	5.02	.63	.80		.10
Group II	5.32	.63	.80		.10
Group III	5.62	.63	.80		.10

RESIDENTIAL LABORERS' CLASSIFICATION DEFINITIONS

GROUP I - Unskilled - Building and common laborers, carpenter tenders, concrete workers, chainmen - stakedrivers, concrete buggy operators, hand
GROUP II - Semi-skilled - air and power tool operator, asphalt rakers, demolition, gunnite rebound men, fog machine operator, power buggy operator, rodmen, sand blasterers (pot men), window washers, wagon, core and diamond drillers, tender outside
GROUP III- Concrete burner, cement mason tenders, hod carriers, mortar mixers, plaster spreader operators, plaster tenders, gunnite nozzlemen, pipelayer, pumpcrete nozzlemen

LATHERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone I	$12.05	1.10	1.30		.20
Zone II	13.55	1.10	1.30		.20
Zone III	14.30	1.10	1.30		.20

LATHERS BASING POINTS & ZONE DEFINITIONS:
Alamogordo, Albuquerque, Antosia, Bayard, Belen, Carlbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburgo, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos, Tucumcari.

LATHERS ZONE DEFINITIONS

ZONE 1 - Jobs within 15 miles of Base points
ZONE II - Jobs 15 to 35 miles
ZONE III - Jobs 30 miles and more

LEAD BURNERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Zone I	13.25	.68	1.42		.16
Zone II	13.75	.68	1.42		.16
Zone III	15.00	.68	1.42		.16
Zone IV	13.88	.68	1.42		.16

LEAD BURNERS BASING POINT & AREA DEFINITIONS

BASING POINT CITIES OR TOWNS:
Albuquerque, Alamorgordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lovington, Portales, Raton, Socorro, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari and Truth of Consequence
Zone I - Shall include a distance of seven road miles inclusive beyond the city or town limits
Zone II - Shall extend a distance of 4 road miles inclusive beyond the outer perimeter of area I.
Zone III- Shall apply to all areas not within 1 or 2, or not within the specific areas.
Zone IV (SPECIFIC AREA) - Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range, and/or Proving Grounds

COMMERCIAL LINE WORK

Bernalillo, Colfax, Catron, Chaves, Curry, DeBaca, Grant, Guadalupe, Harding, Lincoln, Los Alamos, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Union, Valencia and White Sands Missile Range and that portion of Fort Bliss in New Mexico

ZONE I
Cities and Towns Basing Points - Miles from Main Post Offices

Albuquerque - 15 miles
Santa Fe - 10 miles
Las Vegas - 8 miles
Farmington - 6 miles
Raton - 6 miles
Tucumcari - 6 miles
Aztec - 6 miles
Roswell - 12 miles
Ruidoso - 12 miles
Portales - 12 miles
Carrizozo - 12 miles
Clovis - 12 miles
Gallup - 12 miles
*Pojuaque - 2 miles

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COMMERCIAL LINE WORK CONTD:

*All areas adjacent to Pojoaque that are over two miles distant from the main post office in that town will be zoned out of Santa Fe.

ZONE II - Extending up to 20 miles beyond Zone 1
Zone III - Extending up to 30 miles beyond Zone 1
Zone IV - Anything beyond 30 miles from Zone 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COMMERCIAL LINE WORK					
ZONE I					
Linemen - technicians	$13.45	.60	3%+.70		½%
Cable splicers	14.80	.60	3%+.70		½%
Equipment Operator (includes helicopter op.)	12.78	.60	3%+.70		½%
Equipment mechanic (includes Helicopter mechanic)	11.70	.60	3%+.70		½%
Powderman	11.70	.60	3%+.70		½%
Groundman & Jackhammer Oprs.	9.55	.60	3%+.70		½%
ZONE II					
Linemen - technicians	14.53	.60	3%+.70		½%
Cable splicers	15.88	.60	3%+.70		½%
Equipment Opr. (includes helicopter op.)	13.86	.60	3%+.70		½%
Equipment Mechanic(includes Helicopter mechanic)	12.78	.60	3%+.70		½%
Powderman	12.78	.60	3%+.70		½%
Groundman & Jackhammer Oprs.	10.63	.60	3%+.70		½%
ZONE III					
Linemen - technicians	15.33	.60	3%+.70		½%
Cable splicers	16.68	.60	3%+.70		½%
Equipment Opr. (includes helicopter op.)	14.66	.60	3%+.70		½%
Equipment Mechanic (includes helicopter mechanic)	13.58	.60	3%+.70		½%
Powderman	13.58	.60	3%+.70		½%
Groundman & Jackhammer Oprs.	11.43	.60	3%+.70		½%
ZONE IV					
Linemen - technicians	16.81	.60	3%+.70		½%
Cable splicers	18.16	.60	3%+.70		½%
Equipment Opr. (includes helicopter op.)	16.14	.60	3%+.70		½%
Equipment Mechanic(includes helicopter mechanic)	15.06	.60	3%+.70		½%
Powderman	15.06	.60	3%+.70		½%
Groundman & Jackhammer Oprs.	12.91	.60	3%+.70		½%

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Los Alamos County - Use ZONE III rates.

COMMERCIAL LINE WORK
Applies to switching stations and substations adjacent to power plants in Zone 1 and zone 2 in Luna, Dona Ana, Otero and Hidalgo Counties, exclusive of White Sands Missile Range and that portion of Fort Bliss in New Mexico.

ZONE I
The area within 25 miles radius from the downtown Post Office of El Paso, Texas. Fort Bliss and Biggs Field; the area within a five mile radius of any city, town or municipality within which an employer establishes or maintains his place of business; the area within ten mile radius from the post office in Las Cruces, New Mexico, and within a five mile radius from the post office in Alamogordo, New Mexico.

ZONE II
All other areas of the jurisdiction except those specified in zone 1

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE I					
Linemen - technicians	$10.15	.60	3%		½%
Cable splicers	10.40	.60	3%		½%
Equipment opr. (includes helicopter opr.)	9.64	.60	3%		½%
Equipment mechanic(includes helicopter mechanic)	8.93	.60	3%		½%
Powderman	8.93	.60	3%		½%
Groundman & Jackhammer Oprs.	7.21	.60	3%		½%
ZONE II					
Linemen - technicians	11.60	.60	3%		½%
Cable splicers	11.85	.60	3%		½%
Equipment Opr. (includes helicopter opr.)	11.02	.60	3%		½%
Equipment Mechanic(includes helicopter mechanic)	10.21	.60	3%		½%
Powderman	10.21	.60	3%		½%
Groundman & Jackhammer Oprs.	8.24	.60	3%		½%

COMMERCIAL LINE WORK
Applies to switching stations adjacent to power plants in Eddy and Lea Counties; the following zones listed shall be designated from main Post Office of Artesia, Carlsbad, Hobbs & Lovington.
Zone A - 0 - 12 miles
Zone B - 12 - 22 miles
Zone C - 22 to 40 miles
Zone D - 40 miles and beyond

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
COMMERCIAL LINE WORK CONTD:					
ZONE A					
Linemen - technician	$12.20	.60	3%		½%
Cable splicers	12.55	.60	3%		½%
Equipment Opr. (includes helicopter opr.)	11.59	.60	3%		½%
Equipment mechanic (includes helicopter mechanic)	10.74	.60	3%		½%
Powderman	10.74	.60	3%		½%
Groundman & Jackhammer Oprs	8.66	.60	3%		½%
ZONE B					
Linemen - technician	12.55	.60	3%		½%
Cable splicers	12.90	.60	3%		½%
Equipment opr. (includes helicopter opr)	11.94	.60	3%		½%
Equipment mechanic(includes helicopter mechanic)	11.09	.60	3%		½%
Powderman	11.09	.60	3%		½%
Groundman & Jackhammer Oprs.	9.01	.60	3%		½%
ZONE C					
Linemen - technician	12.70	.60	3%		½%
Cable splicers	13.05	.60	3%		½%
Equipment opr. (includes helicopter opr)	12.09	.60	3%		½%
Equipment mechanic(includes helicopter mechanic)	11.24	.60	3%		½%
Powderman	11.24	.60	3%		½%
Groundman & Jackhammer Oprs.	9.16	.60	3%		½%
ZONE D					
Linemen - technician	12.95	.60	3%		½%
Cable splicers	13.30	.60	3%		½%
Equipment opr. (includes helicopter opr)	12.34	.60	3%		½%
Equipment mechanic(includes helicopter mechanic)	11.49	.60	3%		½%
Powderman	11.49	.60	3%		½%
Groundman & Jackhammer Oprs.	9.41	.60	3%		½%

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE, TILE & TERRAZZO WORKERS	$10.55	.77			
MARBLE, TILE & TERRAZZO FINISHERS	8.74	.77			
MILLWRIGHTS & PILEDRIVERMEN:					
Zone 1	12.80	1.10	1.35		.20
Zone 2	14.30	1.10	1.35		.20
Zone 3	15.05	1.10	1.35		.20

MILLWRIGHTS & PILEDRIVERMEN ZONE DEFINITIONS
BASING POINT - FROM ALBUQUERQUE CITY LIMITS
Zone 1 - 0 to 15 road miles from basing point
Zone 2 - 15 to 35 road miles from basing point
Zone 3 - Over 35 road miles from basing point

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: ZONE I					
Class-A	$10.30	.70	.50		.05
Class-B	10.80	.70	.50		.05
Class-C	10.55	.70	.50		.05
Class-D	10.88	.70	.50		.05
Class-E	10.63	.70	.50		.05
PAINTERS: ZONE II					
Class-A	9.30	.70	.50		.05
Class-B	10.30	.70	.50		.05
Class-C	9.95	.70	.50		.05
Class-D	10.15	.70	.50		.05
Class-E	10.88	.70	.50		.05
Class-F	10.63	.70	.50		.05
PAINTERS: (ZONE III)					
Class-A	8.23	.60			.02
Class-B	8.65	.60			.02
Class-C	8.37	.60			.02
Class-D	9.08	.60			.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS (cont'd)					
PAINTERS (ZONE IV)					
Residential Construction in Santa Fe, Taos and Rio Arriba Counties:					
Brush & roller	$ 8.60	.70	.50		.05
Spray and sandblast	9.25	.70	.50		.05
Paperhangers	8.82	.70	.50		.05
Drywall Finisher	10.63	.70	.50		.05
Drywall Finisher Tool	10.88	.70	.50		.05

PAINTERS' ZONE AND CLASSIFICATION DEFINITIONS

ZONE I- San Juan, McKinley, Bernalillo, Torrance, Guadalupe, Quay, Catron, Socorro, Lincoln, DeBaca, Roosevelt, Chaves, Valencia, Sierra, Grant, Hidalgo, Curry, Lea, Eddy and Sandoval Counties, New Mexico.
- Class A - Painters, roller and hand textures
- Class B - Painters, spray, sandblasting, painter on steel bridges, tanks towers, pipe and structural
- Class C - Paperhanger
- Class D - Drywall finisher; ames tool operator
- Class E - Hand finisher machine texture

ZONE II Colfax, Hardin, Los Alamos, Mora, San Miguel Rio Arriba, Taos, Union and Santa Fe Counties
- Class A - Painters and roller
- Class B - Paperhangers
- Class C - Spray, sandblast, steel, special coating applicator
- Class D - Sing Painters
- Class E - Drywall finisher tool and machine texture
- Class F - Hand finisher

ZONE III Luna, Otero, and Dona Ana Counties
- Class A - Brush, paperhangers
- Class B - Spray, sandblasting, swing stage, striping machine
- Class C - Ames tool and steel brush after erection
- Class D - Radio towers, water tanks smoke stake 70 - 100 ft.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS	$11.61	.77	.70		.10
PLUMBERS-PIPEFITTERS:					
Area I	13.75	.73	1.57		.19
Area II	14.25	.73	1.57		.19
Area III	15.50	.73	1.57		.19
Specific Area	14.38	.73	1.57		.19
Residential	8.05	.68	.25		.16

PLUMBERS - PIPEFITTERS' ZONES DEFINITIONS

BASING POINT CITIES OR TOWNS:
Albuquerque, Alamogordo, Anthony, Artesia, Belen, Carlsbad, Clovis, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari, Truth of Consequence and Socorro, New Mexico

Area I - Shall include a distance of seven road miles inclusive beyond the city or town limits.

Area II - Shall extend a distance of four road miles inclusive beyond the outer perimeter of area I.

Area III - Shall apply to all areas not within areas 1 or 2, or not within the specific area.

Specific Area - Los Alamos, White Rock, South Mesa, McGregor Range, White Sands Missile Range and/or Proving Grounds, Atlas Missile Complex Sites in Chaves and Lincoln Counties, and the Oro Grande Range Camp and Dona Ana and Otero Counties

POWER EQUIPMENT OPERATORS					
RESIDENTIAL & GENERAL BUILDING CONSTRUCTION					
Group 1	9.58	.70	.60		.15
Group 2	10.62	.70	.60		.15
Group 3	10.70	.70	.60		.15
Group 4	10.76	.70	.60		.15
Group 5	10.82	.70	.60		.15
Group 6	10.92	.70	.60		.15
Group 7	11.02	.70	.60		.15
Group 8	12.10	.70	.60		.15

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HEAVY CONSTRUCTION (POWER EQUIPMENT OPERATORS AREA DEFINITIONS)
AREA I - Statewide, except San Juan County
AREA II - Farmington, San Juan County
- Zone I - 0-15 miles from Farmington City Hall
- Zone II - 15 to 35 miles from Farmington City Hall
- Zone III - Over 35 miles from Farmington City Hall

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION (AREA I)					
POWER EQUIPMENT OPERATORS:					
Group I	$ 9.53	.75	.60		.15
Group II	10.57	.75	.60		.15
Group III	10.65	.75	.60		.15
Group IV	10.71	.75	.60		.15
Group V	10.77	.75	.60		.15
Group VI	10.87	.75	.60		.15
Group VII	10.97	.75	.60		.15
Group VIII	12.05	.75	.60		.15
HEAVY CONSTRUCTION (AREA II)					
POWER EQUIPMENT OPERATORS:					
GROUP I					
Zone 1	9.53	.75	.60		.15
Zone 2	11.03	.75	.60		.15
Zone 3	11.53	.75	.60		.15
GROUP II					
Zone 1	10.57	.75	.60		.15
Zone 2	12.07	.75	.60		.15
Zone 3	12.57	.75	.60		.15
GROUP III					
Zone 1	10.65	.75	.60		.15
Zone 2	12.15	.75	.60		.15
Zone 3	12.65	.75	.60		.15
GROUP IV					
Zone 1	10.71	.75	.60		.15
Zone 2	12.21	.75	.60		.15
Zone 3	12.71	.75	.60		.15
GROUP V					
Zone 1	10.77	.75	.60		.15
Zone 2	12.27	.75	.60		.15
Zone 3	12.77	.75	.60		.15
GROUP VI					
Zone 1	10.87	.75	.60		.15
Zone 2	12.37	.75	.60		.15
Zone 3	12.87	.75	.60		.15
GROUP VII					
Zone 1	10.97	.75	.60		.15
Zone 2	12.47	.75	.60		.15
Zone 3	12.97	.75	.60		.15
GROUP VIII					
Zone 1	12.05	.75	.60		.15
Zone 2	13.55	.75	.60		.15
Zone 3	14.05	.75	.60		.15

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POWER EQUIPMENT OPERATORS AREA DEFINITIONS
AREA I - Farmington, San Juan County
- Zone I - 0 - 15 miles from Farmington City Hall
- Zone II - 15-35 miles from Farmington City Hall
- Zone III - 35-50 miles from Farmington City Hall

AREA II - Statewide, except San Juan County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA I (SITE PREPARATION & DIRT WORK)					
ZONE I					
Group 1	8.88	.75	.60		.15
Group 2	9.92	.75	.60		.15
Group 3	10.00	.75	.60		.15
Group 4	10.06	.75	.60		.15
Group 5	10.12	.75	.60		.15
Group 6	10.22	.75	.60		.15
Group 7	10.32	.75	.60		.15
Group 8	11.40	.75	.60		.15
ZONE II					
Group 1	$10.63	.75	.60		.15
Group 2	11.67	.75	.60		.15
Group 3	11.75	.75	.60		.15
Group 4	11.81	.75	.60		.15
Group 5	11.87	.75	.60		.15
Group 6	11.97	.75	.60		.15
Group 7	12.07	.75	.60		.15
Group 8	13.15	.75	.60		.15
ZONE III					
Group 1	11.13	.75	.60		.15
Group 2	12.17	.75	.60		.15
Group 3	12.25	.75	.60		.15
Group 4	12.31	.75	.60		.15
Group 5	12.37	.75	.60		.15
Group 6	12.47	.75	.60		.15
Group 7	12.57	.75	.60		.15
Group 8	13.65	.75	.60		.15
AREA II (SITE PREPARATION & DIRT WORK)					
Group 1	8.88	.75	.60		.15
Group 2	9.92	.75	.60		.15
Group 3	10.00	.75	.60		.15
Group 4	10.06	.75	.60		.15
Group 5	10.12	.75	.60		.15
Group 6	10.22	.75	.60		.15
Group 7	10.32	.75	.60		.15
Group 8	11.40	.75	.60		.15

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
BUILDING, RESIDENTIAL, HEAVY CONSTRUCTION & SITE PREPARATION & DIRT WORK

GROUP I - Fireman, oiler, screedman, scale operator such as bin-a batch, rubber tired farm type tractor, tractors under 50 HP without attachments, breakman, concrete paving curing machine (bridge-type), helper; (mechanic, welder, grease truck)

GROUP II - Rollers, sheepsfoot or pneumatic self propelled w/o dozer, concrete conveyor, service truck operator (head oiler), air compressor (300 CFM & over), pumps (6" and over), screening plants, concrete mixers (under 1 CY), concrete saw or grinder-span type, 1 drum hoist, air tugger, elevating belt type loaders, forklift, lumber stacker, tractor farm type (under 50 HP with attachments) motorman and industrial locomotive operator, winch truck, front end loaders, (under 2 CY), power plants which generate over 15 KW, welding machines

GROUP III - Bituminous distributors, boilers, retort and hot oil heaters, concrete mixers (1 CY and over), concrete paver-single drum, drilling equipment, motor grades (rough), shaft and tunnel equipment; (refrigeration, slusher, jumbo forms), trenching machines (all types), pump crete and gunite machines, slipform paver, mechanical bullfloats, concrete slab spreading machine, concrete slab finishing machine, asphalt plants, bituminous finishing machines, crushing plants

GROUP IV - Front end loaders (2 thru 10 CY), rollers steel wheeled-all types, bulldozers, scrapers (motor or towed), elevating graders, concrete batching plants, self-propelled rollers -- equipped with dozer, twin-bowl scrapers and quad 8 or 9 pushers (35¢ over basic rate, three bowl scraper (60¢ over basic rate)

GROUP V - Hydraulic cranes-with less than 50 feet of boom (20 tons and under), concrete paver-double drum, cat cranes, hysters, side and swingboom cats, 2 drum hoists, auto fine grader

GROUP VI - Mucking machines - all types, motor grader (finish) mechanic - welder

GROUP VII - Steam engineers, loader (front end over 10 CY), concrete pump (snorkel type)

GROUP VIII - All shovel type equipment: cranes, draglines, backhoes, derricks, guy & stiff leg, pipemobile (No. 2 operator), piledriver, hydraulic cranes (20 tons & over), mine hoist, belt loader ("C.M.I." Type), booms & jibs 150 ft. through 199 ft. - 25¢ per hour above base pay. 200 ft.and over - 50¢ per hour above base pay. Shovel (wheel type), boring machine (tunnel or shaft male), pipe mobile

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS (Building Const.)	$9.50	.50			
ROOFERS (RESIDENTIAL CONST.)	8.30	.50			
SHEET METAL WORKERS:					
Zone 1	12.77	.53	1.31		.19
Zone 2	15.02	.53	1.31		.19
Zone 3	13.77	.53	1.31		.19
Zone 4	15.62	.53	1.31		.19
Zone 5	10.72	3%+.51	.485		.06

SHEET METAL WORKERS ZONE DEFINITIONS

ZONE I
Bernalillo, Catron, Chaves, Colfax, Curry, DeBaca, Guadalupe, Harding Lincoln, McKinley, Mora, Quay, Rio Arriba, Roosevelt, Sandoval, San Miguel, Santa Fe, Socorro, Taos, Torrance, Union and Valencia Counties, New Mexico

ZONE II
Any area except that described as zone I: Kirtland Air Force Base, East and West; Rio Rancho; Paradise Hills; and area including 10 miles each direction east and west of Interstate Highway 25 and extending north and south, terminating with but including Bernalillo and Belen; all area identified by corner reference points beginning at and including Pojoaque, to Chimayo, to Velarde to Abiquiu and back to Pojoaque

ZONE III
Los Alamos County

ZONE IV
San Juan County

ZONE V
Dona Ana, Eddy Grant, Hidalgo, Lea, Luna, Sierra and Otero Counties, including Holloman Air Force Base, White Sands and McGregor Ranges.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$13.84	.85	1.20		.08
SOFT FLOOR LAYERS:					
Zone 1	8.50	.38	.10		.02
Zone 2	10.00	.70	.50		.04

SOFT FLOOR LAYERS" ZONE DEFINITIONS

ZONE 1 - Dona Ana, Luna and Otero Counties, New Mexico
ZONE 2 - Statewide (excluding Dona Ana, Luna and Otero Counties

SOUND INSTALLERS:					
SOUNDMAN					
Zone 1	$10.35	.60	3%		4%
Zone 2	11.64	.60	3%		4%
Zone 3	14.23	.60	3%		4%
Zone 4	12.95	.60	.39		.01
TECHNICIANS					
Zone 1	8.28	.60	3%		4%
Zone 2	9.57	.60	3%		4%
Zone 3	12.16	.60	3%		4%
Zone 4	10.36	.60	.31		.01
SOUND INSTALLERS					
Zone 1	6.73	.60	3%		4%
Zone 2	8.02	.60	3%		4%
Zone 3	10.61	.60	3%		4%
Zone 4	8.42	.60	.25		.01

SOUND INSTALLERS ZONE DEFINITIONS

ZONE I - Thirty mile radius of main post office in Albuquerque
ZONE II - Remainder of Valencia, Sandoval, Santa Fe, Torrance, and Socorro Counties, the hourly rates of pay shall be increased to twelve and one-half (12½) percent of journeyman rate of pay for Zone I.
ZONE III - Chaves, Curry, Roosevelt, Lincoln, Guadalupe, DeBaca, Quay, San Miguel, Mora, Harding, Union, Colfax, Taos, Rio Arriba, Catron, Sierra, Grant, Los Alamos, San Juan, McKinley Counties, the hourly rates of pay shall be increased by thirty-seven and one-half (37.5) percent of the journeyman rate of pay for Zone I.
ZONE IV - Lea and Eddy

TRUCK DRIVERS ZONE PAY BASING POINTS AND DEFINITIONS LISTED BELOW FOR BUILDING AND HEAVY CONSTRUCTION

BASING POINTS ARE AS FOLLOWS:
Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, La Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos, Tucumcari

ZONE I - Shall be jobs or projects within 15 road miles from the starting points listed above.
ZONE II - Shall be jobs or projects which are more than fifteen road miles, but less than thirty-five road miles from base points,also, includes all of Los Alamos County.
ZONE III - Shall be those jobs or projects which are thirty-five road miles or more from the base points.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING CONSTRUCTION:					
TRUCK DRIVERS (ZONE I)					
Group 1	$ 8.46	.77	.77		
Group 2	8.58	.77	.77		
Group 3	8.66	.77	.77		
Group 4	8.78	.77	.77		
Group 5	8.83	.77	.77		
Group 6	8.93	.77	.77		
Group 7	9.03	.77	.77		
Group 8	9.17	.77	.77		
Group 9	9.32	.77	.77		
TRUCK DRIVERS (ZONE II)					
Group 1	10.06	.77	.77		
Group 2	10.18	.77	.77		
Group 3	10.26	.77	.77		
Group 4	10.38	.77	.77		
Group 5	10.43	.77	.77		
Group 6	10.53	.77	.77		
Group 7	10.63	.77	.77		
Group 8	10.77	.77	.77		
Group 9	10.92	.77	.77		
TRUCK DRIVERS (ZONE III)					
Group 1	10.56	.77	.77		
Group 2	10.68	.77	.77		
Group 3	10.76	.77	.77		
Group 4	10.88	.77	.77		
Group 5	10.93	.77	.77		
Group 6	11.03	.77	.77		
Group 7	11.13	.77	.77		
Group 8	11.27	.77	.77		
Group 9	11.42	.77	.77		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
RESIDENTIAL CONSTRUCTION:					
TRUCK DRIVERS					
Group 1	$ 8.16	.77	.77		
Group 2	8.28	.77	.77		
Group 3	8.36	.77	.77		
Group 4	8.48	.77	.77		
Group 5	8.53	.77	.77		
Group 6	8.63	.77	.77		
Group 7	8.73	.77	.77		
Group 8	8.87	.77	.77		
Group 9	9.02	.77	.77		
HEAVY CONSTRUCTION:					
TRUCK DRIVERS (ZONE I)					
Group 1	8.61	.77	.77		
Group 2	8.73	.77	.77		
Group 3	8.81	.77	.77		
Group 4	8.93	.77	.77		
Group 5	8.98	.77	.77		
Group 6	9.08	.77	.77		
Group 7	9.18	.77	.77		
Group 8	9.32	.77	.77		
Group 9	9.47	.77	.77		
TRUCK DRIVERS (ZONE II)					
Group 1	10.11	.77	.77		
Group 2	10.23	.77	.77		
Group 3	10.31	.77	.77		
Group 4	10.43	.77	.77		
Group 5	10.48	.77	.77		
Group 6	10.58	.77	.77		
Group 7	10.68	.77	.77		
Group 8	10.82	.77	.77		
Group 9	10.97	.77	.77		
TRUCK DRIVERS (ZONE III)					
Group 1	10.36	.77	.77		
Group 2	10.48	.77	.77		
Group 3	10.56	.77	.77		
Group 4	10.68	.77	.77		
Group 5	10.73	.77	.77		
Group 6	10.83	.77	.77		
Group 7	10.93	.77	.77		
Group 8	11.07	.77	.77		
Group 9	11.22	.77	.77		

TRUCK DRIVERS CLASSIFICATION DEFINITIONS (BUILDING, RESIDENTIAL CONSTRUCTION)

GROUP I - Pickup 3/4 ton and under, lubrication, light tire repair and washer, swamper, 2 or 4 and up.

GROUP II - Dump or batch truck under 8 C.Y.W.L.C.: flat bed (bobtail) 2 ton and under; warehouseman including material checker, fork lift under 5 tons MRC.

GROUP III - Dump trucks (including all highway and off highway) 8 up to 16 C.Y.W.L.C.; water, fuel or oil trucks less than 3,000 gal., flat bed (bobtail) over 2 tons

GROUP IV - Distributor driver; heavy tire repairman; lumber carrier driver; young buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail driver (flat-bed or van single axle); forklifts 5 ton and over MRC:

GROUP V - Dumpsters and dumpcrete driver; water, fuel or oil truck 3,000 to 6,000 gal; lowboys and light equipment driver; euclid type tank wagon under 6,000 gal.

GROUP VI - Vacuum truck; dump trucks (including all highway and off-highway 16 up to 22 C.Y.W.L.C.

GROUP VII - Transit mix or agitator semi or 4 axle equipment driver; flaherty truck type spreader box driver; slurry truck driver; bulk cement driver; semi-doubles; 4 axle bobtail; winch truck and "A" frame; dump truck (including all highway and off-highway) 22 CY up to 35 C.Y.W.L.C.

GROUP VIII - Euclid diesel power turnarocker; terra coba-DW20-LeTourneau Pulls and similar diesel powered equipment when used to haul materials and assigned to a teamster-lowboy heavy equipment driver; water, fuel or oil trucks 6,000 gal. and over including tank wagon drivers, semi-trailer driver (flat-bed or van tandems); light equipment mechanic; dump trucks (including all highway and off-highway) 35 C.Y.W.L.C. and over; truck and trailer or semi-trailer (flatbed); eject all

GROUP IX - Lowboy (heavy equipment double gooseneck); heavy equipment mechanic; welder (body and fender men)

TRUCK DRIVERS CLASSIFICATION DEFINITIONS (HEAVY CONSTRUCTION)

GROUP I - Pickup 3/4 ton and under, lubrication, light tire repair and washer, swamper, teamster 2 or 4 and up

GROUP II - Dump or batch truck, under 8 C.Y.W.L.C. flat bed (bobtail) 2 ton and under, warehouseman including material checker, cardex man, expeditor, forklift under 5 ton M.R.C.

GROUP III - Dump trucks (including all highway & off-highway) 8 up to 16 C.Y.W.L.C., water, fuel or oil trucks less than 3,000 gals., flatbed (bobtail) over 2 tons

GROUP IV - Distributor driver, heavy tire repair, lumber carrier driver, yound buggy or similar equipment, transit mix or agitator 2 or 3 axle bobtail equipment, scissor truck, bulk cement bobtail 2 or 3 axles, semi-trailer flatbed or van single axle, forklift 5 ton and over M.R.C.

GROUP V - Dumpster and dumpcrete driver, water, fuel or oil truck, 3,000 to 6,000 gals., capacity, lowboy, light equipment driver, euclid type tank wagon under 6,000 gallons

GROUP VI - Vacuum truck, dump trucks (including all highway & off-highway) 16 up to 22 C.Y.W.L.C.

GROUP VII - Transit mix or agitator semi or 4 axle equipment driver, flaherty truck type spreader box driver, slurry truck driver, bulk cement driver, semi-doubles, 4 axle bobtail, winch truck & "A" frame, dump trucks (including all highway and off-highway) 22 C.Y. up to 35 C.Y.W.L.C.

GROUP VIII - Euclid diesel powered turnarocker, terra cobra, DW 10, DW 20, LeTourneau pulls and similar diesel powered equipment when used to haul materials and assigned to a teamstor, lowboy heavy equipment driver, water, fuel or oil truck 6,000 gallons and over (including tank wagon drivers), semi-trailer driver (flatbed or van tandems) light equipment mechanic, dump trucks (including all highway and off-highway) 35 C.Y.W.L.C. and over, truck and trailer or semi-trailer (flatbed), ejectall

GROUP IX - Lowboy (heavy equipment, double gooseneck), heavy equipment mechanic, welder (body and fender man)

[FR Doc. 80-36809 Filed 11-26-80; 8:45 am]
BILLING CODE 4510-27-C

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving

FOOTNOTES:
a - Includes $.07 contribution to the Occupational Health Fund
b - 1st 6 months - none; 6 months to 5 years, 6%; over 5 years, 8% of basic hourly rate.
c - Holidays A through G

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(ii).

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federal register

Friday
November 28, 1980

Part IV

Department of Transportation

Federal Aviation Administration

Operating Noise Limits for Certain Airplanes Engaged in United States Domestic or Foreign Air Commerce and for Certain Airplanes Operating Under Part 125; Final Rules

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 20813, Amdt. No. 91-170A]

Aircraft Operating Noise Limits for Airplanes Operating Under New Part 125; Amended Date of Designation of Applicable Rules

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule: Request for comments.

SUMMARY: On October 9, 1980, the FAA published its final rule (Amendment No. 91-170) concerning the operating noise limits rule for certain aircraft operated under new Part 125, which becomes effective February 1, 1981 (45 FR 67258). That rule designates the provisions of the noise rule that apply to particular airplanes on a specified date before Part 125 becomes effective. The date of November 1, 1980, was used because the proposed amendments to the aircraft operator noise rule that are required to implement Title III of the Aviation Safety and Noise Abatement of 1979 (Notice No. 80-7) were scheduled to be effective before that date and must be reflected in the noise requirements for those affected airplanes operated under Part 125. However, issuance of those amendments has been delayed and, the date of November 1, 1980, is no longer viable to achieve the intended result. This action amends the date of designation of applicable rules in new § 91.302, adopted in Amendment No. 91-170 to read "Nov. 29, 1980," the day after the amendments to Subpart E of Part 91 implementing Title III of the Aviation Safety and Noise Abatement Act of 1979 became effective.

DATES: Effective date—February 1, 1981. Comments must be received on or before March 1, 1981.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 20813, 800 Independence Avenue, SW., Washington, DC 20591;

Or deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, DC.

Comments may be examined in the Rules Docket, weekdays except Federal Holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Richard N. Tedrick, Noise Policy and Regulatory Branch (AEE-110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 755-9027.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, comments are invited on the rule. It involves amendments to the provisions that designate applicable rules under § 91.302 to achieve the intended effect discussed in the preamble to Amendment No. 91-170; thus, it was not preceded by further notice and public procedure. When the comment period ends, the FAA will use any comments received, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

Since the subjects and issues involved in this amendment, were already subject to notice and public procedure on the proposed rule, and this amendment is necessary to achieve the regulatory effects contemplated at the time of issuance of the final rule, I find that further notice and public procedure before issuing this amendment is not necessary.

Adoption of the Amendment

Accordingly, § 91.302 of Part 91 of the Federal Aviation Regulations (14 CFR Part 91) as adopted in Amendment 91-170 (45 FR 67259; October 2, 1980), is amended, effective February 1, 1981, by deleting the words "November 1, 1980," in each place they appear and by substituting for them the words "November 29, 1980,".

(Secs. 307, 313(a), 601, 603, 604, and 611, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1421, 1423, 1424, and 1431); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Title III, Aviation Safety and Noise Abatement Act of 1979 (94 Stat. 50))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves amendments that are corrective and editorial in nature and are needed to achieve the substance of the regulation contemplated under the final rule, the anticipated impact is so minimal that it does not warrant preparation of a separate regulatory evaluation.

Issued in Washington, DC, on November 17, 1980.

Langhorne Bond,
Administrator.

[FR Doc. 80-36522 Filed 11-26-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 91

[Docket No. 20251; Amdt. No. 91-171]

Operating Noise Limits for Certain Turbojet Airplanes Engaged in Domestic or Foreign Air Commerce in the United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the operating noise limits rule for airplanes engaged in United States domestic or foreign air commerce. That rule applies to operators of civil subsonic turbojet powered airplanes having maximum weights of more than 75,000 pounds and standard airworthiness certificates or their equivalents. Those aircraft, whether of U.S. or foreign registry, are required to comply with at least "Stage 2 noise levels" under Part 36 of the Federal Aviation Regulations in order to be operated to or from airports in the United States after specified dates. The Administrator intends to accept certain demonstrations of noise level compliance under portions of ICAO Annex 16 noise standards that are found to be substantially compatible with, and achieve results equivalent to those achievable under, Part 36 noise requirements. These amendments are adopted under § 611 of the Federal Aviation Act of 1958, as amended, to reflect Title III of the recently enacted Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193; 94 Stat. 50).

These amendments apply to foreign operators the same noise level requirements applied to U.S. operators and generally require final compliance by 1985. Statutory extensions of the compliance dates under specified terms and conditions are also implemented for both U.S. and foreign operators. Those statutory provisions provide an additional incentive to replace noncomplying two-engine and three-engine airplanes with the quieter "Stage 3 airplanes" and limited exemptions for two-engine airplanes to protect air transportation services to small communities in the United States.

In the preamble to the operating noise limits rule adopted in 1976, the FAA announced its intention to take additional regulatory action, if an international agreement were not reached before 1980 on international operating noise requirements and a compliance schedule for achieving either the U.S. noise levels (FAR Part 36) or the international noise levels (ICAO Annex 16). The recently enacted Aviation Safety and Noise Abatement Act of 1979 reflects that policy statement and requires completion of portions of this regulatory action, in accordance with the Act.

DATES: Effective Date—November 28, 1980.

Compliance dates are summarized under the caption "II SYNOPSIS OF THE AMENDMENTS" and are detailed in the respective discussions of the rule.

FOR FURTHER INFORMATION CONTACT: Mr. Richard N. Tedrick, Noise Policy and Regulatory Branch (AEE-110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 755-9027.

SUPPLEMENTARY INFORMATION:

I. Regulatory History

On April 14, 1980, the Federal Aviation Administration (FAA) published Notice No. 80-7 (45 FR 25355) proposing to amend Part 91 Subpart E, "Operating Noise Limits". That notice proposed the amendments described and discussed below to implement the provisions of Title III of the recently enacted Aviation Safety and Noise Abatement Act of 1979. Interested persons were invited to participate in this rulemaking by submitting written comments to the Rules Docket on the proposals contained in that notice. All comments received have been given full consideration in the promulgation of this amendment. Except as discussed below, this amendment adopts the proposals in Notice No. 80-7 without substantive change.

Pursuant to § 611(b)(1) of the Federal Aviation Act of 1958, as amended, the FAA has consulted with the Secretary of Transportation and the U.S. Environmental Protection Agency (EPA) prior to the adoption of this amendment. An environmental assessment regarding this amendment has been prepared in accordance with the National Environmental Policy Act of 1969, and implementing regulations and directives. Also, submission of this amendment to the EPA is in accordance with § 309 of the Clean Air Act, as amended (42 U.S.C. 1857h-7), and the regulations of the Council on Environmental Quality (40 CFR Part 1500).

Part 36 of the Federal Aviation Regulations "Noise Standards: Aircraft Type Certification" (34 FR 18355; November 18, 1969), which became effective December 1, 1969, originally prescribed noise measurement, evaluation, and level requirements for the issuance of type certificates, and changes to those certificates, for subsonic transport category large airplanes and for subsonic turbojet engine powered airplanes regardless of category and weight. That regulation initiated the regulatory, noise abatement program of the FAA under the statutory authority of Pub. L. 90-411 (July 21, 1968), which added § 611 to the Federal Aviation Act of 1958 (the "FA Act").

On December 17, 1976, after consultations with the Secretary of Transportation and the Administrator of the EPA, the FAA adopted Amendment 91-136 which added Subpart E to Part 91 (41 FR 56046; December 23, 1976). Prior to this amendment, Subpart E applied to U.S. registered civil subsonic airplanes with maximum weights of more than 75,000 pounds and having standard airworthiness certificates. It requires, as a condition to continuing operation after certain dates, that airplanes be shown to comply with the noise levels of Part 36. A phased compliance schedule applies to airplanes engaged in commercial and air carrier operations. Interim compliance dates of January 1, 1981, and January 1, 1983, apply to specified portions of those operators' fleets. Final compliance for all airplanes is required before January 1, 1985. Special provisions govern replacement of existing airplanes, apportionment of an operator's fleet between domestic and foreign commerce, and the limitation on the permissible use of the tradeoff provisions in Part 36 (§ C36.5(b)).

On December 13, 1979, after consultations with the Secretary and the EPA, the FAA adopted Amendment 91-161, entitled "Aircraft Operating Noise Limits: Compliance Plans and Expanded Definition of 'Replacement Airplanes' " (44 FR 75558; December 20, 1979; and 45 FR 6924; January 31, 1980). That amendment (1) redefines "replacement airplanes" to allow credit under the rule for certain reengined airplanes, and (2) requires periodic submission to the FAA of fleet operator compliance plans and status reports for achieving and maintaining compliance under the rule.

II. Synopsis of the Amendments

A. General Compliance Requirements

The purpose of these amendments is to bring Subpart E of Part 91 of the Federal Aviation Regulations (14 CFR Part 91) into conformance with Title III of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193; 94 Stat. 50; hereafter referred to as the "ASNA Act"). These amendments apply to airplane operators engaged in domestic or foreign air commerce in the United States. They cover civil subsonic turbojet engine powered airplanes with maximum weights of more than 75,000 pounds, regardless of the State of registry. They require compliance with specified noise levels under Part 36 (including the permissible use of tradeoff provisions) as a condition of operating to or from airports in the United States after specified dates. For subsonic airplanes engaged in foreign commerce, the Administrator may accept as complying noise levels under the rule the noise requirements applied to the airplane under the International Civil Aviation Organization (ICAO) Annex 16 when those requirements are shown to be substantially compatible with, and achieve noise levels equivalent to those achievable under, Part 36. Chapter 3 of ICAO Annex 16 is, for example, the practical equivalent of current Part 36 Stage 3 noise requirements. Also, ICAO Annex 16, Chapter 2, for four-engine airplanes is a practical equivalent of the Stage 2 noise requirements for those airplanes with engines that do not have a high bypass ratio; it does not generally achieve results equivalent to current Part 36 Stage 2 noise requirement for other airplanes. However, as applied to specific airplanes, that equivalency might be established.

Unless scheduled for replacement under a FAA approved plan or covered by a "service to small communities" or other exemption, each affected airplane must be shown to comply with the applicable Stage 2 or Stage 3 noise levels under Part 36 or it may not be operated in the United States on and after the following dates:

January 1, 1981—

a. At least one quarter of the airplanes operated by each operator in domestic air commerce that have four engines with no by-pass ratio or a by-pass ratio less than two; and

b. At least half of the airplanes powered by engines with any other bypass ratio or by another number of engines and engaged in domestic air commerce.

January 1, 1983—

the replacement of a two-engine

with international noise standards (such

III. Aircraft Noise Rules

IV. Need for Regulation

transportation systems. Those pressures

January 1, 1983—

a. At least one half of the airplanes operated by each operator in domestic air commerce that have four engines with no by-pass ratio or a by-pass ratio less than two; and

b. All the airplanes powered by engines with any other bypass ratio or by another number of engines and engaged in domestic air commerce.

January 1, 1985—

All airplanes engaged in domestic or foreign commerce in the United States, regardless of the State of registry.

U.S. operators of affected airplanes engaged in both domestic and foreign air commerce may elect to apportion those airplanes between the two types of operations in accordance with a FAA approved method of apportionment. (No need to apportion exists for foreign operators.)

Foreign operators of airplanes covered by the rule must achieve full compliance by January 1, 1985, for those airplanes operated to or from airports in the United States. However, those operators are eligible for the same extensions of compliance dates that are available to U.S. operators. Those provisions of the rule are summarized in the following discussion.

B. Extensions of Compliance Dates

The compliance date for a particular airplane may be extended under an approved replacement plan or a "service to small communities exemption," subject to a number of eligibility and termination requirements specified in the ASNA Act. Those dates specified are as follows:

After January 1, 1983—

A service to small communities exemption covering a two-engine airplane expires on the date of delivery to another person of an exempted two-engine airplane that is sold, or otherwise disposed of, to that other person.

On or Before January 1, 1985—

a. The authority to continue operations under an approved replacement plan, for the replacement of a three-engine or four-engine airplane expires on January 1, 1985, or on an earlier date specified in the plan; and

b. A service to small communities exemption covering a two-engine airplane with more than 100 passenger seats expires on January 1, 1985, unless the airplane is earlier sold, or otherwise disposed of, to another person.

On or Before January 1, 1986—

The authority to continue operations under an approved replacement plan for the replacement of a two-engine airplane expires on January 1, 1986, or on an earlier date specified in the plan.

On or Before January 1, 1988—

A service to small communities exemption covering a two-engine airplane with 100 passenger seats or less expires on January 1, 1988, unless the airplane is earlier sold, or otherwise disposed of, to another person.

To be eligible for approval of a plan for the replacement of two-engine and three-engine airplanes that would allow operations until the dates discussed above, an operator must enter into a binding contract before January 1, 1983, that specifies delivery of a "Stage 3 airplane" before the applicable compliance date. Approval of a plan will be considered if the replacement airplane achieves noise levels equivalent to a "Stage 3 airplane" because it has been certificated under ICAO Annex 16, Chapter 3. Approval of a replacement plan for any other airplane continues to be governed by the rule in effect before this amendment which allows operations until a date before January 1, 1985, when a plan (approved before the applicable phased compliance date) provides for a replacement airplane that either (1) has been shown to be a Stage 2 airplane before issuance of its original standard airworthiness certificate; or (2) has been reengined, or otherwise modified, and shown to be a Stage 3 airplane under Part 36. After the expiration of an exemption or the authority to continue operations under an approved replacement plan, compliance with Part 36 noise levels must be shown and maintained in order to operate that airplane in the United States.

For purposes of the service to small communities exemption for two-engine airplanes, the seat configuration of the airplane is governed by that seating capacity shown to exist on December 1, 1979, or an earlier date established for that airplane by the Administrator.

In bringing those affected operators engaged in foreign air commerce in the United States under Subpart E of Part 91, this amendment applies the same Part 36 noise limits and other requirements currently applicable under Subpart E. It also applies to all operators the provisions governing the service to small communities exemption and the authority to continue to operate a "Stage 1 airplane" under an approved replacement plan. For the reasons discussed later, as a potentially acceptable alternative, it allows operators of certain subsonic airplanes engaged in foreign air commerce to demonstrate that their airplanes comply with international noise standards (such as ICAO Annex 16, Chapter 3) if those standards are substantially compatible with, and achieve noise levels equivalent to those achievable under, Part 36.

Operators of aircraft in foreign air commerce are also reminded that in accordance with FAR Part 11 and § 611 of the FA Act, the Administrator may grant exemptions in the public interest from the FAA's nose control and abatement regulations. In considering the public interest, the Administrator reviews the need to provide air transportation services to those airports that would be affected. The Administrator also considers the factors contributing to a fair and reasonable access to U.S. airports by both domestic and foreign operators under substantially compatible requirements to achieve the requisite equivalent noise level reductions at those airports. Exercise of that discretionary authority, pursuant to § 611, ensures full consideration of the particular matters presented by a petitioner for relief from specific provisions of the regulation. The Administrator considers, among other things, whether the regulation, as applied to the petitioner, is economically reasonable, technologically practicable, and appropriate to the particular type of aircraft affected under the circumstances presented. It should be noted that under § 611, the FAA is required to consult with the Environmental Protection Agency and the Secretary of Transportation before granting an exemption from the rules. To ensure an adequate opportunity for review of any requests for exemption from operators engaged in foreign air commerce, and for operators to achieve compliance when any petition is denied, requests should be filed as early as practicable but no later than April 1, 1984. In reviewing requests for exemption applicable to an operator's service to the United States pursuant to a bilateral agreement, the FAA will consider whether there has been a demonstration that the service would be jeopardized without relief from the regulation. The Administrator will also consider the extent to which the applicant's compliance with ICAO Annex 16 noise requirements achieves results equivalent to those achievable under current Part 36 noise requirements.

This amendment revokes the current provision in Subpart E that limits use of Part 36 tradeoff provisions in demonstrating compliance with required Part 36 noise levels.

III. Aircraft Noise Rules

Pub. L. 90–411, 92–574, 95–609, and 96–193 were enacted to provide the statutory basis for promulgating regulations providing present and future relief and protection to the public health and welfare from noise and sonic boom from civil aircraft. Under § 611 of the FA Act, the FAA, after consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, is responsible for the adoption and amendment of rules which prescribe the necessary standards and regulations.

Since the adoption of Part 36 in 1969, the FAA has issued a number of other notices proposing amendments to its provisions and, subsequent to notice and public procedure, has adopted those amendments which have been found to be consistent with the provisions of § 611 of the FA Act. Those amendments have increased the protection of the public health and welfare by providing the necessary control and abatement of aircraft noise and sonic boom. In addition to the FAR Part 36 airplane noise certification rules, the FAA has adopted rules governing how airplanes should be operated for noise control purposes. On March 28, 1973, the FAA published an amendment to Part 91 (Amendment 91–112; 38 FR 8051) to prohibit unauthorized operation of civil aircraft at supersonic speeds over the United States. Amendment 91–134 (41 FR 52388; November 29, 1976), amended Part 91 for noise abatement purposes to require that a pilot in command of a civil turbojet-powered airplane use the lowest authorized flap setting consistent with safety. Amendment 91–136 (41 FR 56046; December 23, 1976) as previously discussed, added Subpart E to Part 91 to require phased compliance with the Part 36 noise limits by U.S. registered, civil subsonic turbojet engine powered airplanes with maximum weights of more than 75,000 pounds having standard airworthiness certificates and engaged in air commerce in the United States. Amendment 91–153 (43 FR 28406; June 29, 1978) strengthened the prohibition on sonic booms under § 91.55 and amended Subpart E to prohibit the operation to and from U.S. airports of all civil supersonic aircraft, except a limited number of Concorde SSTs, that do not meet FAR Part 36 noise standards. Amendment 91–161, as previously discussed, amended Subpart E to allow replacement credit during the phased compliance period for certain re-engined airplanes shown to comply with Stage 3 noise levels and to require U.S. operators to submit compliance plans and status reports under the rule.

IV. Need for Regulation

As discussed in Notice No. 80–7, operations by U.S. and foreign operators engaged in foreign air commerce create a significant noise impact at the international airports. Because of their longer flight distances, which require more fuel, international flights normally operate at higher gross weights and create higher noise levels during takeoff. The noise impact increases as operations increase and will become more significant by 1985 when, under existing rules, most U.S. airplanes used in domestic service must meet at least the Stage 2 noise levels of Part 36. Also, additional "gateway" cities are receiving international operations as more international routes are awarded.

In the Aviation Noise Abatement Policy issued by DOT/FAA on November 18, 1976, and again in the preamble to Subpart E, the FAA stated that U.S. regulatory action would be taken in the event an agreement for compliance was not reached in the ICAO by 1980. Such an agreement has not been reached. In fact, in May 1979, during their 97th session, the ICAO Council decided to request all member States to take no action before January 1, 1988, and then to limit any prohibition of operations by noncomplying airplanes only at the most noise sensitive airports. Since U.S. airports that are served by international flights tend to be among the largest and busiest U.S. airports, the noise impact on those airports is also among the most serious.

In light of the noise control and abatement objectives of § 611 of the FA Act and as a result of the recently enacted ASNA Act, the FAA must proceed with rule making requiring compliance by 1985 unless, for a limited period, an airplane is specifically excepted or exempted. At the same time, the FAA is fully aware of the expectations of foreign air carriers and commercial operators that 1985 would be the earliest noise compliance date they would face in the United States if the ICAO mechanism did not produce an agreement by January 1, 1980.

Without action to mitigate the noise contribution of airplanes engaged in foreign air commerce, the current rule (which does not apply in all cases to those aircraft) provides only partial relief, and places the responsibility for airport noise reduction primarily on the operators of U.S. registered aircraft not engaged in foreign commerce.

As a result of the impact of aircraft noise on airport neighbors, serious pressures have developed that could threaten the continued growth of healthy national and international air transportation systems. Those pressures have led to restrictions on airport usage such as curfews, restrictions on the use of certain aircraft, opposition to airport development and serious liability exposure for existing airports.

To provide an overall perspective, consider that there are over 13,000 public airports operating in the United States. Those airports vary widely in their size, closeness to populated areas, and aircraft mix. Some of those airports are among the busiest in the world, with 84 airports having more than 200,000 annual operations, 160 airports having more than 150,000 operations each year, and well over 200 airports having more than 100,000 annual operatons. The busiest airports are generally located in the vicinity of the larger metropolitan areas and, thus, affect a significant number of people.

Underlying this amendment to Part 91 of the Federal Aviation Regulations are several years of study by the FAA of the considerations and objectives of § 611 of the FA Act and the recently enacted statutory mandate. The conclusion is that, both from the standpoint of the quality of life in hub airport environments and from the standpoint of the preservation of strong national and international air transportation systems, Federal action is required to ensure that all aircraft operated to and from airports in the United States achieve noise levels at least equivalent to current Part 36 ("Stage 2") noise requirements.

V. Title III, Aviation Safety and Noise Abatement Act of 1979

Title III of the ASNA Act of 1979 requires the Secretary of Transportation, acting through the Administrator of the FAA, to make certain changes in the aircraft operating noise limits rule contained in Subpart E of Part 91. This amendment contains those required changes, outlined as follows:

Section 302 requires the completion of rulemaking to require both foreign and domestic operators engaged in foreign air commerce to comply with rules comparable to those currently contained in FAR Part 91, Subpart E. Under that section, the rulemaking would have had to conform to any pertinent agreement reached through the International Civil Aviation Organization (ICAO) by January 1, 1980. Although such an agreement was not reached, that section also permits the rules to require operators engaged in foreign commerce to comply with either the present domestic rule (contained in Parts 36 and 91) or ICAO Annex 16, if the Annex 16 standards "are substantially compatible" with the rule contained in

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Parts 36 and 91. Thus, the FAA will examine, on a case-by-case basis, any requests for a determination of equivalency. It will determine whether, as applied to specific airplane models, the noise requirements of ICAO Annex 16 are substantially compatible with, and achieve results equivalent to those achievable under, current Part 36. Thus, this amendment requires compliance with the same noise requirements for all operators engaged in foreign air commerce in the United States, regardless of whether the operator is U.S. or foreign and regardless of the State of manufacture or registry of the airplane.

Section 303 provides a "new technology aircraft incentive" by permitting continued operation of noncomplying ("Stage 1"), two-engine and three-engine airplanes until no later than January 1, 1986, and January 1, 1985, respectively, if the airplane will be replaced by a "Stage 3 airplane." To qualify, the operator must have an FAA approved replacement plan based on a binding contract entered into before January 1, 1983, specifying a delivery date for the replacement airplane before the applicable compliance date.

Section 304 entitled "small community service exemption" provides for issuance of exemptions to operators of noncomplying ("Stage 1"), two-engine airplanes to provide air transportation services. Those exemptions expire on January 1, 1988, for airplanes with 100 passenger seats or less, and on January 1, 1985, for airplanes with more than 100 passenger seats (as those airplanes were configured on December 1, 1979, or at an earlier date established for any particular airplane). If an airplane covered by an exemption is sold, or otherwise disposed of, to another person after January 1, 1983, it is no longer exempted and is subject to the requirements that the airplane be brought into compliance before further operations in the United States.

Section 305 rescinds the current limitation in Subpart E concerning the permissible use of noise level "tradeoffs" when demonstrating compliance with Part 36.

VI. Comments and Responses

The FAA received 42 comments from a broad spectrum of interested persons in response to Notice No. 80-7, including domestic and foreign governmental bodies, aviation industry and trade organizations, and airplane operators, and airport owners and operators. Some commenters supported the proposals, particularly those granting relief from the original compliance schedules for two-engine and three-engine airplanes. Most foreign commenters objected strongly to extending the operating noise limits to foreign registered airplanes operated by foreign operators engaged in air commerce in the United States. Comments and FAA's response to them are discussed as follows:

Applicability to Airplanes Engaged in Foreign Air Commerce

Fourteen comments were received; most objected to the proposal to require foreign registered aircraft to meet the requirements of Subpart E of FAR Part 91. The commenters expressed their belief that matters affecting the economic operation of international air transport services should be resolved multilaterally, rather than through unilateral action by a single nation. In that connection, most of these commenters expressed their belief that noise standards affecting international operators should be developed by the International Civil Aviation Organization (ICAO).

One commenter (the Government of the United Kingdom) is representative of those views in stating:

> Civil aviation is an international activity, and cooperative efforts are essential to ensure both efficient air transport operations and the orderly development of international civil aviation. The chief forum for this cooperation is the International Civil Aviation Organization (ICAO) * * * It has been a common principle of action in this field that, while states may naturally introduce whatever regulations they wish for aircraft on their own national register, they should not introduce regulations for foreign-registered aircraft in the absence of international agreement.

The FAA basically agrees with these statements of principle, preferring requirements based on international agreement. In the Aviation Noise Abatement Policy issued on November 18, 1976, the DOT/FAA stated:

> The United States will seek early agreement through the International Civil Aviation Organization (ICAO) on noise standards and an international schedule for compliance with Annex 16 or Part 36. In the event that agreement is not reached within three years, from January 1, 1977, then regulatory action will be taken to require all airplanes operated by all international operators to meet the noise level standards of Part 36 or Annex 16 during the five-year period thereafter at a phased rate of compliance similar to that established for domestic operations. The ultimate requirements applied to U.S. international flag carriers will not be any more stringent than those applied to foreign competition. Where U.S. air carriers serve both domestic and foreign routes, the delayed international requirements will be applied only for that percentage of total operations that are in international service. These requirements may be superseded by agreement reached through ICAO, in which the United States concurs and which does not discriminate against U.S. carriers. (That policy statement is reflected in § 302 of the ASNA Act as statutory mandate.)

For the above reasons, application of Subpart E to aircraft engaged in foreign air commerce was effectively delayed for three years to give ICAO additional time to reach agreement. As adopted in 1976, Subpart E did not apply to foreign registered aircraft, while operators of U.S. registered aircraft engaged in foreign air commerce could elect to apportion their fleets. However, in accordance with the above stated policy and in accordance with § 302 of the ASNA Act, overriding concern for the health and welfare of the Nation's citizens and fairness to the Nation's domestic operators requires that in the absence of international agreement, the United States proceed with adopting appropriate rules for operating in the United States.

Many commenters asserted that, indeed, there had been an international agreement reached through ICAO. Indeed, enormous efforts were made within ICAO to resolve this question. However, on May 9, 1979, the Council of ICAO transmitted (by the Secretary General's June 19, 1979, letter AN 1/54.7-79/106) a request that all contracting states:

> (a) Not prohibit before January 1, 1986, the operation of foreign registered subsonic jet aeroplanes not conforming to the noise certification standards of Chapter 2, Part II of Annex 16 (Third Edition) into and out of their territories;
>
> (b) Limit prohibition of operations to those airports which have been identified by them as having noise problems and have been so declared through appropriate means and to inform ICAO accordingly.

No vote was taken in the ICAO Council; the decision was developed by consensus. Reservations of endorsement were recorded regarding the date in the first paragraph by the representatives of Canada, the Federal Republic of Germany, Japan, and the United States. The representative of the People's Republic of China recorded his abstention to the action as a whole.

The FAA does not agree that the ICAO Council decision constitutes the agreement contemplated by the 1976 policy statement or that it constitutes "noise standards and an international compliance schedule" as contemplated by § 302 of the ASNA Act. It proposes no action until 1986. It is silent on any actions during or after 1988 and, therefore, does not meet the stated needs of the United States as enunciated by the FAA and Department of Transportation more than three and a half years ago. Accordingly, the United States must proceed to regulate airplane operations under U.S. law.

One international aviation body, the European Civil Aviation Conference (ECAC), reported on its earlier efforts to negotiate among members a different type of fleet noise level limitation. Their suggestion was to "offset" a limited number of noisy aircraft through the use of quieter aircraft. Their comment suggested that the FAA might consider this or some similar method as a basis for "finding a mutually satisfactory arrangement." While the FAA is considering several cumulative noise evaluation systems (in a separate regulatory action required by Title I of the ASNA Act) for use around U.S. airports, it is not practical at this time to apply that type of methodology to the regulation of aircraft fleet composition on a nation-by-nation or airline-by-airline basis.

The International Air Transport Association (IATA) suggested that the FAA could adopt the rule as proposed but add a clause to the effect that the rule would not apply where it is inconsistent with an obligation assumed by the United States to a foreign country in a treaty, convention or agreement. The United States would then, in good faith, negotiate mutually acceptable compliance dates with foreign governments, individually or collectively, covering their carriers who serve airports in the United States.

The FAA notes that the suggested additional clause is unnecessary since most regulations (not just Subpart E of Part 91) can be superseded by international agreement.

Use of Part 36 or Annex 16 Noise Levels

Sixteen comments addressed the issue of using either FAR Part 36 or ICAO Annex 16 certificated noise levels to determine compliance under Subpart E for foreign operators. Fourteen of those urged the use of Annex 16, while two suggested that compliance with either noise standard should be accepted under the rule.

Several reasons were advanced for adopting the Annex 16 method and levels. One stated that even if the objections to unilateral action did not exist, or can be resolved satisfactorily, it would be essential for the United States to accept the international standards for foreign-registered aircraft contained in ICAO Annex 16, Chapter 2, specifically the noise levels.

The commenters questioned the justification in the preamble to the notice for requiring Part 36 levels, stating it was "feeble and contains errors of logic." The commenters felt that in pointing to technical differences between Part 36 and Annex 16, the FAA failed to recognize that in practice those differences are "imperceptible." The commenters felt that while Annex 16 does not include operational requirements like those in Part 91, Subpart E, the preamble failed to note either that neither does Part 36 (which is the U.S. national "equivalent" of Annex 16) or that Annex 16 was referred to in the ICAO Council's May 9, 1979, request. The commenters stated that the preamble to the notice suggests that use of Annex 16 for the international portion of the U.S. rule could, for some U.S. operators, create two distinct fleets, but fails to recognize that use of part of Part 36 would, for some foreign operators already operating Annex 16 airplanes, create a second distinct fleet of the same type having to meet the U.S. requirements. The commenters frequently contended that use of Annex 16 would not tend to reduce the protection to the public health and welfare intended by the proposal, that the differences in reduction are effectively nonexistent, and that the proposed rule ignores the clear intent of Congress that Annex 16 be the standards applied to foreign air carriers, regardless of whether or not the U.S. accepts that ICAO has reached an agreement on the matter.

The FAA appreciates the views expressed in these comments. However, it should be noted that FAR Part 36 and ICAO Annex 16 are not competing or fundamentally differing aircraft noise standards. They are, indeed, a part of the same carefully coordinated international regulatory fabric. The Chicago Convention established the basic framework for close international cooperation in the development of a broad range of aviation standards, including noise. Article 37 of the convention commits each signatory to collaborate in securing the highest practicable degree of uniformity in international standards, such as Annex 16. However, Article 38 provides that any State which considers it necessary to adopt regulations or practices differing from those established by an international standard need only notify the ICAO of those particular differences. Article 38 thereby recognizes the right of any State to adopt regulations differing from those in an ICAO standard. In this connection, in certain respects, Annex 16, Chapter 2, is less stringent than the "Stage 2" noise requirements of Part 36 for two- and three-engine airplanes but achieves equivalent results for airplanes with four engines that do not have a high bypass ratio.

The United States has been, and remains an active contributor and participant in the development of Annex 16. As a result, Annex 16 and Part 36 share more characteristics than those in which they differ. They use the same noise unit and, generally, the same noise tests. In adopting the more stringent standards for new types of airplanes, both ICAO and the FAA promulgated nearly identical rules. As a result, ICAO Annex 16, Chapter 3, and FAR Part 36 "Stage 3" noise limits and test procedures are "substantially compatible" under the meaning of the ASNA Act of 1979. The two achieve the equivalent results. Therefore, it is the intent of the FAA to accept from operators engaged in foreign air commerce demonstrations of compliance with Chapter 3 of Annex 16 as meeting the noise requirements of Subpart E of Part 91. Of course, that accommodation does not waive or otherwise modify other requirements to demonstrate literal compliance with Part 36, such as actual certification for the issuance of U.S. type certificates and standard airworthiness certificates.

Other portions of Annex 16 are not "substantially compatible" with the corresponding requirements of Part 36 and do not assure equivalent results. Significant differences occur in test conditions, test equipment, and microphone locations, but the most important differences are in how the airplanes are flown during noise tests. Annex 16 allows engine power to be cut below that power allowed during Part 36 testing. Further, the Annex allows this cutback to be applied to two-engine and three-engine aircraft earlier than would be allowed under the U.S. specifications. For example, those differences, when applied to several widely used airplanes, could result in masking the following increases in takeoff noise level:

Takeoff

B-727—3.9 dB
B-737—4.5 dB
DC-9—4.9 dB
A-300—2.5 dB
BAC-1-11-500—5.5 dB

Further, increases of 1.5 to 2.5 decibels (dB) and 0.3 to 0.4 dB could occur on sideline and approach. An additional 1.0 dB tradeoff would also be allowed between takeoff, sideline, and approach noise measurements. Clearly, whether or not such increases were applied for these particular airplanes, standards that would allow such differences

cannot be said to be "substantially between the two standards are

In summary, the FAA concludes that the impact of each difference in terms of the expected benefit of the compliance production models. That kit, according

cannot be said to be "substantially compatible" or equivalent in results. Details of the technical differences between the two standards are presented in the following table. It also presents a quantitative approximation of the impact of each difference in terms of certification noise levels and noise-limited takeoff gross weights.

ICAO Annex 16, Chapter 2/FAR 36 (in effect on Jan. 1, 1977), Stage 2 Differences Related to Notice No. 80-7

FAR 36, stage 2	ICAO annex 16, chapter 2	Estimated impact of differences
FAR 36, Appendix A	*Appendix 1, Annex 16*	
1. A36.1(b)(3). Ambient temperature test day lower limit 41° F.	2.2.3. Ambient temperature test day lower limit 36° F..	The difference in the lower limit on the test day weather window is not quantifiable. The lower value allowed by Annex 16 could result in test being conducted under conditions leading to large values of atmospheric absorption. This in turn would require larger corrections when adjusting the as measured data to reference day values.
2. A36.1(d)(3). ° ° ° minimum distance of 370 ft at approach measuring point (1.0 NM from threshold).	Chapt. 2, Para 2.3.1(c). Approach measurement point 394 ft vertically below the 3° descent path at position 1.08 NM from threshold.	The approach path measurement location difference appears in several parts of the standards and will be discussed with the Appendix C test condition differences.
3. A36.2(d)(6). The amplitude resolution of the analyzer must be at least 0.2[illegible] dB.	3.4.6. The amplitude resolution of the analyzer shall be 0.5 dB or less.	The analyzer amplitude resolution requirements in FAR 36 inherently leads to greater measurement accuracy. The resulting noise level differences cannot be quantified; however, the analyzer specifications could result in less precision than would be expected with the FAR 36 specifications.
4. A36.2(d)(8). The dynamic range of the analyzer shall be at least 55 dB.	3.4.8. The dynamic range of the analyzer shall be at least 45 dB.	The analyzer dynamic range requirements in FAR 36 should lead to the acquisition of more noise data and hence to greater measurement accuracy. Again the resulting noise level differences cannot be quantified; however, the Annex 16 analyzer specifications could result in loss of data and in less precision than would be expected with the FAR 36 specifications.
5. A36.3(b)(3). ° ° ° atmospheric environmental data, measured at hourly intervals or less during test.	5.2.3. ° ° ° atmospheric environmental data measured immediately before, after, or during each test ° ° °.	The advantage of frequent atmospheric measurements depends on the length of the test period and the variability of the atmosphere. Again noise level differences cannot be quantified.
6. A36.3(d)(2)(a). ° ° ° data corrected to approach aircraft height of 370 feet ' ° ° (see A36.1(d)(3) above.	5.4.2.1(b). ° ° ° data corrected to aproach height of 394 ft.	As with No. 2, this reference to approach conditions will be addressed below.
FAR 36, Appendix B	*Appendix 1, Annex 16*	
7. B36.5. Duration correction: If PNLT(k) at the 10 dB down points is 90 PNdB or less, the value of d may be taken as the time interval between the initial and the final times for which PNLT(k) equals 90 PNdB.	4.5.1.3. If PNLTM is less than 90 TPNdB, the duration correction shall be taken as equal to 0.	In this case, the Annex 16 correction was better than the FAR 36 correction. Actually neither was appropriate but in some cases the original B36.5 procedure, which was subsequently amended, erroneously resulted in negative corrections as large as 13 EPNdB. This amendment (Amendment 36–5) became effective on September 20, 1976; hence, some prior certification could include the improper correction.
FAR 36, Appendix C	*Chapter 2, Annex 16*	
8. C36.3(a). Takeoff point 3.5 nautical miles from start of [illegible]-takeoff roll.	2.3.1(b). Takeoff point 6500 m (3.51 NM) (difference of 60.8 ft).	The small difference in takeoff measurement point location would result in less than 0.1 dB difference in measured takeoff noise levels.
9. C36.3(b). Approach point 1 nautical mile from threshold	2.3.1(c). Approach 2000 m (1.08 NM) from threshold (486 ft difference in displacement; 394−369=25 ft height).	The difference in approach measurement point location would result in Annex 16 measured noise levels approximately 0.3 to 0.4 dB lower than those measured in a FAR 36 certification.
10. C36.3(c). Sideline point 0.25 nautical miles from runway centerline except for more than three *turbojet* engines, this distance must be 0.35 nautical miles.	2.9.1(a). Lateral point 650 M (.351 NM) from runway centerline (Difference 6 ft for 4 engine aircraft and 613.7 ft for 2 and 3 engine aircraft; i.e., 2,132.7 vs. 1,519.0 ft).	The difference in sideline measurement point locations for two and three engine aircraft would result in Annex 16 measured noise levels approximately 1.5 to 2.5 EPNdB lower than those measured in a FAR 36 certification. For the four engine aircraft the measured noise levels would be the same under the two procedures.
11. C36.5(b). Tradeoff. Sum of exceedances not greater than 3 EPNdB and no exceedance greater than 2 EPNdB.	2.5.1. Sum of exceedances not greater than 4 EPNdB and no exceedance greater than 3 EPNdB.	The difference in tradeoffs would probably be noted at the takeoff or approach measurement points since Stage 2/Chapter 2 sideline values have generally been low enough to provide the trading margin. Under the <tradeoff provisions an increase of as much as 1 dB would be acceptable at one of these two points under an Annex 16 certification.
12. C36.7(b). Takeoff power or thrust must be used to the point at which altitude at least 1,000 ft above runway reached except for airplanes with more than three turbojet engines this altitude must not be less than 700 ft.	2.6.1.1. Takeoff thrust shall be used to a point at which height is at least 210 m (700 ft) above runway.	The difference resulting from the lower Annex 16 cutback altitude (700 ft), for two and three engine aircraft is particularly difficult to quantify since the best cutback altitude is usually identified as the result of an optimization process. Actually for two engine aircraft the optimum cutback altitude is probably above the 1,000 ft FAR 36 requirement, hence there should not be an impact on two engine aircraft noise certification levels. For three engine aircraft the lower allowed cutback altitude probably provides time for a noise reduction due to reduced thrust for the Annex 16 certification test which would not be allowed under a FAR 36 test. The magnitude of the reduction for three engine aircraft is aircraft specific (i.e., powered by high or low bypass engine, small narrow-body or large wide body, etc.), and could be approximately a 3 to 4 EPNdB lowering of certificated takeoff noise levels.
13. C36.7(c). ° ° ° the power may not be reduced below that which will provide level flight with one engine inoperative or that which will maintain a climb gradient of at least 4 percent, whichever is greater.	2.6.1.1. ° ° ° the thrust thereafter (i.e., after cutback), shall not be reduced below that thrust which will maintain a climb gradient of at least 4 percent.	The requirement specifying the thrust level after power cutback has possibly the largest impact in terms of differences in Annex 16, Chapter 2, and FAR 36, Stage 2 certification noise levels. The differences are noted in allowable maximum takeoff weight as well as in noise level and apply only for two and three engine aircraft. Noise level differences have been identified for aircraft with takeoff gross weight over 75,000 pounds ranging from 0.6 to 6.0 EPNdB. The two engine aircraft reported, specifically, the B-737–200, all DC–9's, BAC 1–11–500's, and the A–300 B1/B2 would have respectively, 4.5, 4.9, 5.5, and 2.5 EPNdB lower certificated noise levels if measured by Annex 16 instead of FAR 36 procedures. The three engine aircraft reported, namely the B–727–200 and the DC–10's would have, respectively, 0.9 and 1.0 EPNdB lower noise levels. In terms of impact on maximum allowable operational takeoff weight, the B–737, DC–9, and BAC 1–11 aircraft could operate at approximately 35,000 pounds greater weight under Annex 16, Chapter 2 than under FAR 36, Stage 2. Correspondingly, the A–300, B–727, and DC–10 could realize weight increases of 45,000, 10,000, and 33,000 pounds if certificated under Annex 16 rather than FAR 36.

In summary, the FAA concludes that these differences are collectively significant, particularly for two-engine aircraft which are eligible for exemption under § 91.307. The practical, immediate effect of the application of Part 36 noise requirements to those airplanes is, thus, greatly minimized. While the FAA intends to accept certain demonstrations of compliance under portions of ICAO, Annex 16, it is not adopting a less stringent standard for some foreign operators that might require, to avoid undue discrimination, the adoption of that same less stringent standard for all operators engaged in foreign air commerce in the United States. To do so would impinge upon the additional beneficial effects already achieved under Stage 2 noise levels of Part 36. It could also put in an unreasonable position those aircraft operators (especially U.S. domestic operators) who have already ordered or placed into service Part 36 equipment or replacement aircraft or who have placed operating limits on the certificates of their airplanes to meet the current Subpart E requirements. It could also contravene the nondiscriminatory requirement of § 302 of the ASNA Act.

The nondiscriminatory posture is not affected by a distinction between airplanes engaged in domestic air commerce and those in foreign commerce. That distinction was an essential element of the original 1976 rule. Accepting certain noise levels under ICAO Annex 16 that are shown to be the equivalent of those achieved under Part 36 removes the legal impediment to demonstrating and accepting noise levels that are equivalent. However, the noise levels must, in all cases, be shown under conditions fully consistent with the certification basis of the airplane as determined by the certificating authority. In other respects, the determination of equivalency is based solely on whether compliance with the requirements of Part 36 have been shown or would have been shown had compliance with the provisions of Part 36 been the objective.

An indiscriminate approval of Annex 16 as equivalent to Part 36 would result in noisier aircraft being introduced into this nation's airports. Such approval might also result in the application of less acoustical technology to existing airplanes than is already planned. Because of the logarithmic nature of sound pressure levels and their perceived effects on humans, much of the expected benefit of the compliance program would be lost forever to this Nation's citizens. As a result, such a decision could be expected to encourage the proliferation of local airport actions designed to counter the increasing noise impact. The FAA does not believe that this scenario would be beneficial to the orderly development of either air commerce or international comity.

The noise requirements proposed and those adopted apply the same noise standard to all operators of affected aircraft operated in foreign air commerce in the United States regardless of whether the operator is U.S. or foreign, and regardless of the State of manufacture and registry of the airplane. The FAA has carefully considered whether the same rule can properly apply across the board and concluded, for the reasons presented in the notice and this preamble, that the differences in treatment already built into the rule, together with those being adopted by this amendment, adequately and properly reflect the distinctions that can and should be made.

The FAA continues to be concerned about the artificial creation of two "complying" fleets. In fact, however, for most of those American-manufactured aircraft operated by foreign operators for which retrofit or reengining hardware has been developed and certificated, the modified airplanes meet Part 36 requirements. Information currently available to the FAA appears to indicate that only a very limited number of airplane models affected by the rule cannot meet the Stage 2 noise level requirements under Part 36 but can meet the requirements of ICAO Annex 16, Chapter 2, by using available technology. Under the rule, both foreign and domestic operators of these aircraft will have the same equipment and applied acoustical technologies. However, under the suggestions offered by commenters, if some Annex 16 airplanes were permitted to be flown under the rule and those airplanes are not shown to meet Part 36, they still could not be transferred to operations in domestic U.S. service after 1985. That would impose a needless burden on both U.S. operators and the FAA to segregate the two complying fleets.

This issue has several other facets. For one, British Aerospace reports that it has expended considerable funds in developing hushkits for its two-engine, BAC 1–11 series aircraft. Because of its research and development program, it has developed a hushkit available to retrofit existing BAC 1–11 aircraft, which is incorporated in all current production models. That kit, according to the commenter:

"Represents the best standard of silencing which can be built into this aircraft, and enables all varieties of BAC 1–11 to meet the standards of Annex 16. However, the later and more developed series of 1–11's, while being able to comply with Annex 16 by means of this hushkit cannot comply with the standards of Part 36, by a small margin. Several of these aircraft are operated by airlines into the United States of America, and would be affected by these proposed regulations. As the hushkit which is available represents the highest standard of silencing technology applicable to this aircraft type, we consider it is economically unreasonable and not in the public interest that these aircraft should be prohibited from continuing to conduct operations into the States".

Similar views were fully addressed in the 1976 preamble adopting the original rule and, thus, are not repeated here. However, FAR Part 11 exemption process provides an adequate administrative mechanism to grant relief from strict compliance in particular cases when found to be in the public interest and consistent with the provisions of the ASNA Act. While no predetermination can be made or should be inferred for any specific aircraft, operator, or situation, the FAA is mindful of the purposes and limitations under Part 11 as a mechanism providing the needed flexibility under the rules. We also note that the two-engine BAC 1–11 airplanes would be able to operate in the U.S. until January 1, 1985, or January 1, 1988, under the service to small communities exemption provisions of the rule for all two-engine airplanes.

Final Compliance Dates

Fifteen comments were received on the proposed January 1, 1985, compliance date for aircraft operated in foreign air commerce. Most of these comments were discussed previously under the discussion on applicability of the rules. However, the British Government pointed out that they have adopted a January 1, 1986, limit on the operation of aircraft not complying with Annex 16 on their aircraft register. They pointed out that the effect of the proposed regulations would be to prohibit the use of the affected UK-registered aircraft in the United States during the last year of their permitted

use in Great Britain. The commenter

airplanes serving the United States will

exemptions covering eligible aircraft

benefit only domestic U.S. operators. A

to present an unintended stumbling

implementing § 304 will be a matter for

use in Great Britain. The commenter does not suggest that a large number of aircraft would be involved, but that the effect of such a prohibition could be serious for a number of their operators, particularly second-line operators and cargo operators, for whom no satisfactory, complying aircraft is available to replace aircraft on long range, "thin" routes, or on route developments which could not support larger aircraft.

While the FAA recognizes the cited needs that may arise in individual cases, the ASNA Act does not provide that discretion for not applying the 1985 date, except with regard to the two exemptions contained in the ASNA Act and the traditional Part 11 exemptions.

Phased Compliance

Several comments were received on the FAA's proposal not to prescribe for aircraft operated in foreign air commerce the same schedule for phased compliance imposed on U.S. registered airplanes. One commenter (the Town-Village Aircraft Safety and Noise Abatement Committee of the Town of Hempstead, New York) suggested that it would be very desirable to have an interim deadline in the rule so that the carriers affected would have to begin movement toward compliance before 1985 in enough time to ensure that the 1985 deadline will be met by all carriers affected. Other commenters welcomed the fact that no structured phased compliance schedule was proposed.

The imposition of phased compliance schedules would provide no meaningful relief. Nearly all foreign carriers serving the United States already own and operate some complying airplanes, and operate some airplanes entirely outside of the United States. Enforcement of any phased compliance rule would of necessity involve complex reporting and bookkeeping requirements to verify operation of specific airplanes in the United States and percentages of total operations by those airplanes. Experience with the domestic, phased-compliance rule has shown such enforcement to be time-consuming and laborious for both operators and government. While the domestic compliance plan requirements are an important complement of that rule, its successes are achieved in large part because all the aircraft are on the U.S. registry, are flown at least in part in the United States, and direct communications with the operator is possible. Such is not the case with foreign operators serving the United States with varied equipment and sometimes on an infrequent basis. Further, as a practical matter, complying airplanes serving the United States will necessarily be phased-in in order to meet final compliance dates. The rate of that compliance is less important to require by rule than is assuring there is a mechanism for monitoring the progress towards that compliance. That mechanism already exists for foreign operators. There is no indication that the rate of phased compliance would be greater were it prescribed in the rules.

Replacement Airplanes

Several commenters expressed their concern with the lack of replacement airplanes for those four-engine aircraft currently in their passenger or aircargo fleets. One commenter (Zantop International Airlines) suggested that procedures be established which will preserve the integrity of the current U.S. Civil Reserve Air Fleet, pending the availability of replacement of all-cargo aircraft. There is no substantial evidence of either a lack of complying passenger or all-cargo aircraft available on the free market, or a shortage of such aircraft that will develop between now and 1985. There is also no requirement that four-engine aircraft be replaced only by another four-engine aircraft. Therefore, there is no compelling reason to create a different set of regulations for the replacement of cargo aircraft from those covering replacement of passenger-carrying aircraft. However, the FAA will continue to monitor those situations carefully and will consider, if necessary, appropriate relief under § 611 of the Act and the ASNA Act.

Service to Small Communities Exemption

Fourteen comments were received on this feature of the proposal. Thirteen of those approved of the proposed exemption but expressed concern that the language in the notice did not correctly reflect the intent of the ASNA Act. Specifically, commenters questioned proposed § 91.307 because it appeared to create an element of administrative discretion in the granting of the service to small communities exemptions. They expressed the view that § 304 of the ASNA Act was clear and unambiguous and did not provide for such discretion. The only discretion authorized by § 304 is that limited authority to provide relief from the December 1, 1979, eligibility date for the 100-seat configuration standard in order to avoid unreasonable hardship or advantage for a carrier's ability to utilize the small community exemption provision.

The FAA agrees that § 304 of the ASNA Act does not confer discretion in granting service to small communities exemptions covering eligible aircraft under terms of the ASNA Act. Section 91.307 does not attempt to impose such a limitation but uses the statutory language to distinguish that special exemption from other exemptions issued under the Federal Aviation Act.

The FAA observes that in raising these objections to proposed § 91.307, the commenters did not contend that Congress enacted the exemption in § 304 for purposes other than maintaining small community service. As a practical matter, small community service in fact will be a primary result of the exemption. It is nevertheless apparent that Congress chose to avoid making definitive judgments or providing criteria as to what constitutes "small community service." The term is not defined in the ASNA Act or its legislative history. Persons familiar with airline operations know that such an attempt would either be futile or destroy the basic objective of § 304. Many airline and air cargo systems are fully integrated. Aircraft routing patterns simply do not permit assignments of particular aircraft to discrete missions such as "small community service."

In general, the FAA agrees with the views of those commenters who indicated the title "Small Community Service Exemption" does not legally impose any requirement of small community service as a condition for granting the exemption. The substance of the statutory and regulatory provisions (and the discussion in this preamble) were designed to promote that service to small communities.

Proposed § 91.307(a) says (in part), "the Administrator issues an exemption from the noise level requirements under this subpart to permit operation to provide services to small communities in the United States." The FAA did not propose and does not intend, to require operation to small communities either as a prior condition for the approval of the exemption or as a condition for continued operation under those exemptions. Nevertheless, to avoid future confusion on that point, § 91.307(a) has been edited to clarify that result.

There was one dissenter to providing the exemption prescribed by the ASNA Act for two-engine airplanes. A foreign government (United Kingdom) pointed out that the notice proposes less stringent requirements for two-engined airplanes on short haul flights in the United States. Since virtually all the noncomplying turbojets operating on the longer haul routes from Europe to the U.S. are four-engined airplanes, the commenter opined that the "small communities" exemption would likely benefit only domestic U.S. operators. A domestic carrier operating the right type of airplane from a major airport to a small community could claim an exemption, whereas a foreign carrier operating the same type of airplane to the same major airport could not. Thus, the commenter felt there was an element of discrimination which is objectionable.

The FAA disagrees with that analysis. Since the exemption is available under the statute and the rule to all operators of two-engine airplanes, some of the most likely beneficiaries of the exemption are small operators engaged in air commerce including those providing air services between U.S. airports and various points in the Caribbean, Canada, and Latin America. It does not put foreign operators at a competitive disadvantage in serving the same markets. U.S. operators are no more able to use two-engine airplanes under the rule to serve U.S.-European markets than their foreign counterparts. Also, that commenter may have been influenced by the mistaken view that petitions for the exemption would be judged on the basis of the applicant actually providing service to small communities in the United States, rather than the Congressional basis for preserving aircraft capable of providing service to small communities. The statutory provision, which the Administrator must implement, limits the exemption to two-engine airplanes. The rule change cited above should allay that concern.

Many commenters stated that since the language of the ASNA Act provided for no discretion in issuing an exemption, § 91.307 should be rewritten to provide an "exception," rather than an "exemption," for two-engine airplanes. That approach to implementation was considered. However, the ASNA Act prescribes different termination dates based on prior seating capacities or future changes in ownership. Because of the administrative needs for monitoring and enforcing compliance status and plans, the FAA has determined that the small communities provision can be administered most effectively and expeditiously as an exemption. Thus, no change has been adopted as a result of that comment.

One commenter (Air Transport Association) noted that, as proposed, the two-engine airplane exemption expires on any date after January 1, 1983, upon which the exempted airplanes change ownership (but not later than January 1985 or 1988, as appropriate for the seating configuration). That provision appears to present an unintended stumbling block in corporate mergers and acquisitions, where legal ownership may change but the use of the airplane would not change. Accordingly, the commenter suggested adding a new paragraph to § 91.307 to read—

> The exemption does not terminate when ownership changes due to acquisition or merger, and the airplane remains in substantially the same type of service for which it was used prior to the change in ownership.

After careful consideration, the FAA concludes that, with clarification, it is a reasonable, general interpretation of the provision that is in line with the perceived legislative intent. Further, it could simplify the administration of the exemption and is the type of guideline that the FAA would itself have to use in order to administer the small communities exemption. However, the FAA concludes that there are several limitations that must be imposed on that general interpretation and that the interpretation should not be incorporated into the rule itself.

The FAA has no problem with the position that under § 304 of the ASNA Act an exemption issued to an operator covering eligible, two-engine airplanes does not terminate under that Act because of a simple change in the operator's name, a traditional corporate merger of two or more corporations (such as when Southern Airways, Inc. and Ozark Air Lines, Inc., legally merged under the State and Federal law to create Republic Airlines, Inc.) or because of a traditional corporate acquisition of one company by another (such as when Pan American World Airways, Inc., legally acquired the corporate assets and liabilities of National Airlines, Inc.). In other situations, however, the sale, lease, or other disposition of an airplane covered by an exemption would, by operation of § 304, terminate that exemption at the time of delivery of that airplane to another legally recognized "person." The form and effect of a particular disposition and subsequent use of affected airplanes may need to be examined to determine whether it is covered by the termination provisions of § 304. Thus, § 91.307 is a generally applicable rule which is not susceptible to adequate or proper expansion, as suggested by the commenter, to delineate regulatorily each factor and consideration that could affect the application of the law to every case. It would be neither wise nor prudent to attempt to do so. Accordingly, the interpretation and application § 91.307 in implementing § 304 will be a matter for determination on an individual basis.

In that regard, the FAA notes that exemptions under the Federal Aviation Regulations are issued to persons to whom a regulation applies and grant particularized relief from requirements under specific circumstances. Part 91, Subpart E, prescribes rules applicable to the operators of the specific airplanes covered by the rule. Similarly, exemptions, including those issued pursuant to § 91.307, are issued to operators and cover specific activities or airplanes. Monitoring of termination dates under § 91.307 necessarily can be achieved through that procedure because an exemption is not transferable with the airplane to another person and a new operator is not authorized to operate the airplane covered by an exemption issued to a previous operator. In the cases where the "exemption" authorized by § 304 does not terminate by operation of law, an exemption to the new operator would be issued routinely to cover the airplane and its operation by that operator. The procedures of FAR Part 11 apply to the application for and issuance of an exemption to an eligible operator. However, for an original issue exemption based on seating capacity on December 1, 1979, (covering an airplane not previously covered by such an exemption), the nondiscretionary aspect of § 304 authority to grant the exemption constitutes the requisite "good cause" for waiving the full 120-day filing requirement (§ 11.25(b)). Those petitions should be made at least 30 days before the proposed effective date of the exemption. Federal Register publication of notice of receipt of petitions (§§ 11.27(c) and (f)) and disposition of petitions (§ 11.27(e)) will occur, however. In other respects, petitioners for service to small community exemptions must follow Part 11 procedures and present sufficient information to determine their qualification for an exemption. It must provide information covering operation of specific, eligible airplanes and the seating capacity of each affected airplane to determine maximum duration of the exemption. The exemption, when issued, will specify the expiration date of the exemption for each airplane covered by the exemption document. Modification of the exemption after issuance will permit airplanes to be added or deleted from the exemption under the rules. Thus, an operator will need and will be issued only one service to small communities exemption document but that document

will cover all eligible airplanes covered by the exemption provisions.

Other Issues

No comments were received that specifically addressed either the use of "tradeoffs" in showing compliance with the provision of Subpart E or the proposal not to extend the compliance plan reporting requirements to foreign operators or to adjust the content requirements for plans. Those portions of Notice No. 80-7 are adopted as proposed.

Several foreign commenters suggested that the FAA not introduce noise certification as an operating rule for foreign operators because of the dangerous precedent this could create in respect of other airworthiness matters. One commenter in particular suggested that the proposed rule would be the equivalent of the United States failing to recognize as valid the certificates of airworthiness of foreign registered aircraft which do not comply with Part 36. Similar concerns were expressed by several commenters. Apparently, the basis for this concern was the perception of the unilateral action by the United States previously discussed and the effect that this perception could have on other aircraft certification and airworthiness agreements reached by ICAO under the Chicago Convention.

This amendment is directed at the operation of aircraft in the United States. It is not directed at airworthiness certification or authority of ICAO member States. Article 33 of the Chicago Convention requires reciprocal recognition of certificates of airworthiness by contracting States, provided that the requirements under which they are issued are equal to or more stringent than ICAO minimum standards. It was argued that, because of that requirement, the United States must accept for all operations foreign registered aircraft certificated to Annex 16 standards. What that argument fails to consider is that this amendment does not in any way affect U.S. recognition of foreign certificates of airworthiness. It is merely a restriction on operations of certain airplanes in and out of U.S. airports. Other operations of affected airplanes, such as overflights of U.S. territory, are not affected. If the United States were refusing to recognize those foreign airworthiness certificates, all operations including overflights would be prohibited. Thus, this amendment is clearly an operating rule and not an action refusing to recognize foreign certificates of airworthiness. The Chicago Convention, in Articles 11 and 12, recognizes the right of each contracting State to promulgate and enforce rules of the air, as long as they are applied to the aircraft of all contracting States without distinction as to nationality. Further, as previously discussed, Article 38 recognizes the right of any State to adopt necessary regulations that differ from those established by an international standard. This rule falls squarely within those authorities.

It is also important to note that the United States did not undertake lightly this action to promulgate an operating rule but did so only after repeated entreaties to ICAO to provide leadership in this matter and with adequate notice of U.S. needs and intentions. The subject was first brought under international discussion in an ICAO special meeting in November 1969. In November 1976, the United States announced its intention to require operators engaged in foreign commerce in the United States to comply with the operating noise limits rule by 1985. By that time more than 15 years will have elapsed since the matter was first broached in the ICAO. At this time, based on their May 1979 decision, there is no assurance that the ICAO will endorse an international standard governing operating noise levels even after the 1988 date in that decision.

One commenter expressed particular concern with the possibility that some United States airports would apply more stringent regulations of their own beyond these adopted by the FAA. That legitimate concern, however, is outside the scope of the subject and issues contained in Notice No. 80-7 which is based on Title III of the ASNA Act. It should be noted that Title I of that same Act delineates many of the actions that may be taken by airport proprietors and operators to identify and alleviate an airport community noise problem. Title I also provides for rules to govern submission of these proposed actions for FAA review on an airport-by-airport basis and charges the FAA with the responsibility to disapprove any proposed actions or combinations of actions that "create an undue burden on interstate or foreign commerce." At this time, the FAA is preparing regulatory action to implement Title I. Most, if not all, of the commenters' concerns will be addressed in that rulemaking proceeding.

Several commenters noted that the Conference Report for the ASNA Act urged the FAA to give consideration to hardship situations involving smaller carriers operating four-engine airplanes where the carrier is making a good faith compliance effort but needed technology is either delayed or unavailable and rigid adherence to compliance deadlines could work financial havoc and deprive the public of valuable airline service. Some of those commenters recommended expanding this rulemaking action to provide specific criteria for granting that relief. After careful review, the FAA finds that it cannot meaningfully improve on the admonition of the Conference Report or on the provisions of FAR §§ 11.25 and 11.27 which contain specific procedures for petitioning and for granting such petitions under the rules in the particular cases presented. Therefore, while attention is specifically directed to the guidance provided by the Congress, no regulatory expansion or amendment is needed.

Three commenters included in their submissions requests for waivers or exemptions for specific foreign scheduled air carriers. The FAA cannot consider such requests in the context of this general rulemaking proceeding, but will consider each fully documented request submitted in accordance with § 11.25 of Part 11. However, pending adoption of this amendment, those requests were premature in seeking relief from requirements not yet issued or evaluated by those commenters to determine whether or what form of relief should be sought.

VIII. Section-by-Section Analysis of the Amendment

This action amends Subpart E of Part 91 of the Federal Aviation Regulations (14 CFR Part 91) which contains the operating noise limits and related requirements that apply to the operation of affected aircraft to or from airports in the United States. The following discussion outlines the changes to each affected provision reflecting Title III of the Aviation Safety and Noise Abatement Act of 1979.

A. Applicability to airplanes engaged in foreign air commerce

Section 91.301(a)(1) is amended to reflect the expanded applicability to Subpart E for civil subsonic airplanes engaged in foreign air commerce in the United States, regardless of the State of registry of the airplane. The provision is restructured and a new paragraph added to provide comparable treatment for foreign registered airplanes with maximum weights of more than 75,000 pounds. The new paragraph indicates that Subpart E applies if the airplane would be required by the Federal Aviation Regulations to have a U.S. standard airworthiness certificate in order to conduct the operations intended for that airplane were it registered in the United States. It also clarifies that the rule applies to operations to or from U.S. airports, not to overflights of the United States. A new paragraph (a)(2) is added to indicate that there is no substantial need, and, thus, no requirement at this time for foreign operators to submit compliance plans and status reports. Compliance status of airplanes operated in the United States by foreign operators can be adequately monitored through the existing mechanisms covering those operations and airplanes. Accordingly, this amendment does not change § 91.308 to expand its application to foreign operators. Current paragraph (a)(2), concerning civil supersonic airplanes not affected by the proposals, is redesignated as paragraph (a)(3).

B. Relationship to Part 36

Paragraph 91.301(b) is revised to expressly incorporate the Part 36 definitions of "Stage 2" and "Stage 3" noise levels and of airplanes described in terms of those noise levels ("Stage 2 airplanes" and "Stage 3 airplanes"). Those terms are used whenever appropriate to identify more specifically the applicable Part 36 noise levels under Part 91, Subpart E. The paragraph is also expanded to provide the regulatory basis for the Administrator to determine that, solely for purposes of Subpart E, noise certifications under certain portions of ICAO Annex 16 are substantially compatible with, and achieve results equivalent to those achievable under, Part 36. Those determinations apply only to subsonic airplanes engaged in foreign air commerce.

C. Tradeoff provisions

Paragraph 91.301(c), governing the limited applicability of the tradeoff provisions of § C36.5(b) in showing compliance with Subpart E, is deleted. That change implements the legislative authorization to use "tradeoffs" in showing compliance with the provision of Subpart E (§ 305 of the ASNA Act).

D. Final compliance dates

Section 91.303 is amended to reflect the legislative authorization (§§ 303(b) and 304, ASNA Act) for extending the final compliance dates beyond January 1, 1985. (For some airplanes, full compliance is required before January 1, 1983, under § 91.305(b)(2)(ii).) The affected provisions govern two-engine or three-engine airplanes under FAA approved replacement plans (§ 91.305(d)(1)) or under the small communities exemption provisions for two-engine airplanes (§ 91.306). In other respects, the Stage 2 or Stage 3 noise levels still must be achieved according to the phased compliance schedule and by all affected subsonic airplanes by January 1, 1985, in order to operate in the United States.

E. Phased compliance

Section 91.305 prescribes the phased compliance schedule for U.S. registered airplanes operated under Parts 121 or 135, including provisions for extending those dates up to January 1, 1985, under an FAA approved plan for "replacement airplanes" that have been shown to comply with specified Part 36 noise levels. This amendment expands the general applicability of that section to include all affected airplanes operated in domestic U.S. air commerce, regardless of their State of registry. (That change is necessary to ensure that the noise abatement objectives of the rule are not inadvertently subverted in those cases where U.S. operators operate foreign registered airplanes in the United States under the recently adopted provisions of the International Air Transportation Competition Act of 1979.) For purposes of phased compliance, the rule distinguishes between airplanes operated in domestic U.S. air commerce, and those operated in foreign air commerce in the United States. The proposed amendment has been rewritten to clarify the applicability of each provision, including the continued applicability of phased compliance to U.S. operators of airplanes engaged in domestic and foreign air commerce in the United States. The notable exceptions are those airplanes covered by approved apportionment plans to engage in foreign air commerce and the airplanes operated under service to small communities exemptions (§ 91.307(a)). The exception provision of § 91.305(b) has been clarified to indicate that for purposes of phased compliance airplanes covered by one or the other of the exceptions are not counted among the number of airplanes for which noise level compliance must be shown or which may not be operated in the United States. Accordingly, the proportional, phased compliance must be achieved by the remaining, unexcepted airplanes.

For all airplanes engaged in foreign air commerce in the United States, regardless of the State of registry, compliance is required as follows:

(1) By January 1, 1985, for all affected airplanes (except those identified in paragraphs (2) and (3) below), including those previously operated under—

(a) An approved method of appointment (§ 91.305(c));

(b) An approved replacement plan (§ 91.306 (b) and (c); and

(c) A service to small communities exemption (§ 91.307(a)(3)).

(2) By January 1, 1988, for two-engine airplanes scheduled to be replaced under an approved plan (§ 91.306(a)); and

(3) By January 1, 1988, for two-engine airplanes having 100 passenger seats or less and previously operated under a service to small communities exemption (§ 91.307(a)(2)).

The provision for apportionment of airplanes engaged in foreign air commerce by U.S. operators under § 91.307 is redesignated under § 91.305(c). That provision is rewritten but continues to permit persons operating airplanes in both domestic and foreign air commerce in the United States to apportion those airplanes between the two kinds of operations. That is accomplished by electing to comply with the requirements for airplanes operated in foreign air commerce with respect to that portion of the airplanes operated by that person shown, under an FAA approved method of apportionment, to be engaged in foreign air commerce in the United States.

F. Replacement airplanes

Under this amendment, § 91.305(c), governing replacement airplanes, is redesignated and revised under new § 91.306. Specific, additional statutory requirements are implemented for replacement of two-engine and three-engine airplanes in accordance with the ASNA Act. The contract must be executed before January 1, 1983, and specify delivery of a Stage 3 airplane before January 1, 1985, for replacing three-engine airplanes and before January 1, 1986 for replacing two-engine airplanes. This amendment incorporates those requirements and dates while preserving the existing rule for other airplanes covered by Subpart E.

Under the existing rule, the effect of which is unchanged for other than certain two-engine and three-engine airplanes, § 91.305(c) permits continued operation of a noncomplying ("Stage 1") airplane after the applicable phase compliance date, if it will be replaced before the final compliance date. To continue to be operated, the airplane must be covered by an FAA approved replacement plan (before the phased compliance date) with a scheduled delivery (before January 1, 1985) of an eligible replacement airplane. To be eligible, that airplane must have been shown to comply either (1) with Stage 2 or Stage 3 noise levels before issuance of an original standard airworthiness certificate or (2) with Stage 3 noise levels before issuance of a standard airworthiness certificate other than original issue (for airplanes that have

been reengined or otherwise modified). an approved replacement plan will operating noise limit requirements.

I find that good cause exists for making States, the Administrator may accept section, a person operating airplanes

been reengined or otherwise modified). The existing provisions are rewritten to apply only to airplanes not covered by the ASNA Act "new technology aircraft incentive" (§ 303) and to clarify that the replacement airplane "ordered and * * * scheduled for delivery" must be under a "binding contract," not merely an option to buy, as discussed below. In all cases, operation of the airplane to be replaced may continue until the dates specified in the rule but, as prescribed in the rule, not beyond the date specified in the approved plan. Accordingly, the ASNA Act does not address any replacement of airplanes subject to the existing January 1, 1981, compliance date. To operate those airplanes to be replaced after that date still requires FAA approved replacement plans and binding contracts for replacement airplanes *before* the applicable 1981 phased compliance dates.

In order to determine whether acceptable contractual obligations supporting a replacement plan have been executed by the operator of the Stage 1 airplanes, the amendment provides for the submission of a certified application for approval of the replacement plan. Paragraph 91.306(d) applies to each replacement plan, including any revised plan, submitted for approval to the FAA. It requires operators of the airplanes to be replaced to submit to the FAA, Director of the Office of Environment and Energy, an application containing specified information constituting the plan, and certified as true and correct (under penalty of 18 U.S.C. 1001), upon which the FAA may rely in considering whether to approve the replacement plan. More than one airplane may be the subject of a single replacement plan. On the basis of the application and replacement plan, the FAA should be able to determine whether a mutually binding contract between the operator and an aircraft manufacturer, or other source, for actual and timely delivery of an eligible replacement airplane has been entered into as contemplated under § 303 of the ASNA Act and new FAR § 91.306.

The information required to be included in the application should simplify the process of applying for and considering approvals. It should avoid, in most cases, the need for submitting the actual contracts and complex financing documents for review before a replacement plan can be approved. It should provide the requisite assurances that replacement of the airplanes covered will in fact occur and an eligible replacement airplane will be put into service as contemplated. In that regard, an approved replacement plan will permit the continued operation of the Stage 1 airplane only until the date specified in the plan or its expiration under the rule and only so long as the material facts and representations made by the operator and relied upon in giving an approval continue to apply. The FAA contemplates that commercially sound transactions must be presented in order to obtain approval of each replacement plan. To ensure that the FAA has adequate information to make that determination, the amendment includes authority to request from the applicant any additional information or documentation when needed.

G. Service to small communities exemption.

The statute provides for issuance of limited exemptions to permit Stage 1 airplanes powered by two engines to be operated after otherwise applicable interim and final compliance dates (§ 304 of the ASNA Act). That provision is implemented under a new § 91.307. Under that section, the Administrator issues to operators exemptions covering specific two-engine airplanes operating in air commerce in the United States. Paragraph (a) of the new section provides the statutory dates for termination of the exemption; that is, January 1, 1985, for airplanes with more than 100 passenger seats and January 1, 1988, for airplanes with 100 passenger seats or less. Also, as specified in the ASNA Act, if an airplane covered by an exemption is sold, or otherwise disposed of, to another person on or after January 1, 1983, the exemption terminates on the date of delivery to that person. Because exemptions are issued to operators, are nontransferable, and cover specified airplanes, operation of an exempted airplane by another person will require the new operator to show any required compliance, or, if eligible, obtain an exemption covering its operation of that airplane, before operating it. Paragraph (b) contains the statutory provision indicating that the airplane's seating capacity, which dictates the maximum duration of the exemption, is governed by that shown to exist on December 1, 1979, or an earlier date established for that airplane by the Administrator.

H. Compliance plans and status.

Amendments to § 91.308 do not include any extension of the requirements for submitting compliance plans and status reports to foreign operators. However, several changes in the rule, primarily affecting U.S. operators engaged in both domestic and foreign air commerce, are adopted to reflect more clearly the changes in the operating noise limit requirements. Paragraph (a) is amended to cover airplanes under foreign registry that are operated by U.S. operators in the United States. Editorial changes are made in paragraphs (b)(2) and (3) to reflect the Amendments to other sections. Paragraph (c)(3) is amended so affected U.S. operators can break down the total number of airplanes engaged in domestic U.S. air commerce and in foreign air commerce in the United States, as well as the total number of airplanes in each of those classes that are powered by—(1) four turbojet engines with no bypass ratio or with a bypass ratio less than two; and (2) any other bypass ratio engines or number of engines. U.S. operators can also report the number of two-engine airplanes in each class operated under a service to small communities exemption. Under this amendment, current paragraph (c)(4)(x) is amended to govern only retirements of DC–8 and B–707 airplanes operated in domestic U.S. air commerce and a new paragraph (c)(4)(xi) covers those airplanes operated in foreign air commerce in the United States. Several paragraphs are redesignated and a new paragraph (c)(4)(xiv) is added to cover each airplane operated under an exemption issued to the operator, including those operated under a service to small communities exemption. Corresponding reporting codes are amended or added to paragraph (c)(5) to reflect those Amendments to the compliance plan and status reporting requirements affected by the ASNA Act. Compliance plans and status reports providing the information in the changed rule will not be required until the operator submits a new or revised plan and report after the effective date of this Amendment.

Effective and Compliance Dates

In light of the objectives and effects of this amendment, it is being made effective upon publication in the **Federal Register**. The amendments of §§ 91.303—91.308 include specific relief from the current requirements of Subpart E for domestic operations. Since some of those operators must meet the first phased compliance on January 1, 1981, those amendments should become effective as soon as possible to provide the relief contemplated under the ASNA Act. For foreign operators brought under Part 91 Subpart E by this action, the amendment requires compliance by January 1, 1985, 1986, or 1988 (depending on the airplane affected), regardless of when the amendment becomes effective. This, it provides compliance dates that exceed the required 30-day prior notice of regulatory requirements. Accordingly, I find that good cause exists for making this amendment to Subpart E of Part 91 effective upon its publication in the **Federal Register**.

Adoption of the Amendment

Accordingly, Subpart E of Part 91 of the Federal Aviation Regulations (14 CFR Part 91) is amended, effective November 28, 1980, as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

* * * * *

Subpart E—Operating Noise Limits

1. By amending § 91.301 as follows:

a. By revoking paragraph (c) and marking it "[Reserved]."

b. By redesignating paragraph (a)(2) as paragraph (a)(3) and by adding a new paragraph (a)(2) and amending paragraphs (a)(1) and (b) to read as follows:

§ 91.301 Applicability; relation to Part 36.

(a) * * *

(1) Sections 91.303, 91.305, 91.306, and 91.307 apply to civil subsonic turbojet airplanes with maximum weights of more than 75,000 pounds and—

(i) If U.S. registered, that have standard airworthiness certificates; or

(ii) If foreign registered, that would be required by this chapter to have a U.S. standard airworthiness certificate in order to conduct the operations intended for the airplane were it registered in the United States.

Those sections apply to operations to or from airports in the United States under this part and Parts 121, 123, 129, and 135 of this chapter.

(2) Section 91.306 applies to U.S. operators of civil subsonic turbojet airplanes covered by this subpart. That section applies to operators operating to or from airports in the United States under this part and Parts 121, 123, and 135 but not to those operating under Part 129 of this chapter.

* * * * *

(b) Unless otherwise specified, as used in this subpart "Part 36" refers to 14 CFR Part 36, including the noise levels under Appendix C of that part, notwithstanding the provisions of that part excepting certain airplanes from the specified noise requirements. For purposes of this subpart, the various stages of noise levels, the terms used to describe airplanes with respect to those levels, and the terms "subsonic airplane" and "supersonic airplane" have the meanings specified under Part 36 of this chapter. For purposes of this subpart, for subsonic airplanes operated in foreign air commerce in the United States, the Administrator may accept compliance with the noise requirements under Annex 16 of the International Civil Aviation Organization when those requirements have been shown to be substantially compatible with, and achieve results equivalent to those achievable under, Part 36 for that airplane. Determinations made under these provisions are subject to the limitations of § 36.5 of this chapter as if those noise levels were Part 36 noise levels.

2. By revising § 91.303 to read as follows:

§ 91.303 Final compliance: Subsonic airplanes.

Except as provided in §§ 91.306 and 91.307, on and after January 1, 1985, no person may operate to or from an airport in the United States any subsonic airplane covered by this subpart, unless that airplane has been shown to comply with Stage 2 or Stage 3 noise levels under Part 36 of this chapter.

3. By revising § 91.305 to read as follows:

§ 91.305 Phased compliance under Parts 121, and 135: Subsonic airplanes.

(a) *General.* Each person operating airplanes under Parts 121 or 135 of this chapter, regardless of the State of registry of the airplane, shall comply with this section with respect to subsonic airplanes covered by this subpart.

(b) *Compliance schedule.* Except for airplanes shown to be operated in foreign air commerce under paragraph (c) of this section or covered by an exemption (including those issued under § 91.307), airplanes operated by U.S. operators in air commerce in the United States must be shown to comply with Stage 2 or Stage 3 noise levels under Part 36, in accordance with the following schedule, or they may not be operated to or from airports in the United States:

(1) By January 1, 1981:

(i) At least one quarter of the airplanes that have four engines with no bypass ratio or with a bypass ratio less that two.

(ii) At least half of the airplanes powered by engines with any other bypass ratio or by another number of engines.

(2) By January 1, 1983:

(i) At least one half of the airplanes that have four engines with no bypass ratio or with a bypass ratio less than two.

(ii) All airplanes powered by engines with any other bypass ratio or by another number of engines.

(c) *Apportionment of airplanes.* For purposes of paragraph (b) of this section, a person operating airplanes engaged in domestic and foreign air commerce in the United States may elect not to comply with the phased schedule with respect to that portion of the airplanes operated by that person shown, under an approved method of apportionment, to be engaged in foreign air commerce in the United States.

4. By adding a new § 91.306 to read as follows:

§ 91.306 Replacement airplanes.

A Stage 1 airplane may be operated after the otherwise applicable compliance dates prescribed under §§ 91.303 and 91.305 if, under an approved plan, a replacement airplane has been ordered by the operator under a binding contract as follows:

(a) For replacement of an airplane powered by two engines, until January 1, 1986, but not after the date specified in the plan, if the contract is entered into by January 1, 1983, and specifies delivery before January 1, 1986, of a replacement airplane which has been shown to comply with Stage 3 noise levels under Part 36 of this chapter.

(b) For replacement of an airplane powered by three engines, until January 1, 1985, but not after the date specified in the plan, if the contract is entered into by January 1, 1983, and specifies delivery before January 1, 1985, of a replacement airplane which has been shown to comply with Stage 3 noise levels under Part 36 of this chapter.

(c) For replacement of any other airplane, until January 1, 1985, but not after the date specified in the plan, if the contract specifies delivery before January 1, 1985, of a replacement airplane which—

(1) Has been shown to comply with Stage 2 or Stage 3 noise levels under Part 36 of this chapter prior to issuance of an original standard airworthiness certificate; or

(2) Has been shown to comply with Stage 3 noise levels under Part 36 of this chapter prior to issuance of a standard airworthiness certificate other than original issue.

(d) Each operator of a Stage 1 airplane for which approval of a replacement plan is requested under this section shall submit to the FAA Director of the Office of Environment and Energy an application constituting the proposed replacement plan (or revised Plan) that contains the information specified under this paragraph and which is certified (under penalty of 18 U.S.C. 1001) as true and correct. Each application for approval must provide information corresponding to that specified in the contract, upon which the FAA may rely in considering its approval, as follows:

V 45 N 028 80 UMI

(1) Name and address of the applicant.

(2) Aircraft type and model and registration number for each airplane to be replaced under the plan.

(3) Aircraft type and model of each replacement airplane.

(4) Scheduled dates of delivery and introduction into service of each replacement airplane.

(5) Name and addresses of the parties to the contract and any other persons who may effectively cancel the contract or otherwise control the performance of any party.

(6) Information specifying the anticipated disposition of the airplanes to be replaced.

(7) A statement that the contract represents a legally enforceable, mutual agreement for delivery of an eligible replacement airplane.

(8) Any other information or documentation requested by the Director, Office of Environment and Energy reasonably necessary to determine whether the plan should be approved.

5. By revoking § 91.307 and substituting for it a new § 91.307 to read as follows:

§ 91.307 Service to small communities exemption: Two-engine, subsonic airplanes.

(a) A Stage 1 airplane powered by two engines may be operated after the compliance dates prescribed under §§ 91.303, 91.305, and 91.306, when, with respect to that airplane, the Administrator issues an exemption to the operator from the noise level requirements under this subpart. Each exemption issued under this section terminates on the earlier of the following dates—

(1) For an exempted airplane sold, or otherwise disposed of, to another person on or after January 1, 1983—on the date of delivery to that person;

(2) For an exempted airplane with a seating configuration of 100 passenger seats or less—on January 1, 1988; or

(3) For an exempted airplane with a seating configuration of more than 100 passenger seats—on January 1, 1985.

(b) For purposes of this section, the seating configuration of an airplane is governed by that shown to exist on December 1, 1979, or an earlier date established for that airplane by the Administrator.

6. By amending § 91.308 as follows:

a. By amending the section heading to read as follows:

§ 91.308 Compliance plans and status: U.S. operators of subsonic airplanes.

b. By amending paragraph (a) by deleting the words "Each operator of a civil subsonic airplane covered by this subpart" and substituting for them the words "Each U.S. operator of a civil subsonic airplane covered by this subpart (regardless of the State of registry)."

c. By amending paragraph (b)(2) by deleting the words "airplane types" and substituting for them the word "airplanes."

d. By amending paragraph (b)(3) after the words "applicable to that airplane" by deleting the word "type" and after the words "through 1985" by adding the words "or until any later compliance date for that airplane prescribed under this subpart,".

e. By amending paragraph (c)(3) to read as follows:

* * * * *

(c) * * *

(3) The total number of airplanes covered by this section and in each of the following classes and subclasses:

(i) Airplanes engaged in domestic air commerce.

(A) Airplanes powered by four turbojet engines with no bypass ratio or with a bypass ratio less than two.

(B) Airplanes powered by engines with any other bypass ratio or by another number of engines.

(C) Airplanes covered by an exemption issued under § 91.307 of this subpart.

(ii) Airplanes engaged in foreign air commerce under an approved apportionment plan.

(A) Airplanes powered by four turbojet engines with no bypass ratio or with a bypass ratio less than two.

(B) Airplanes powered by engines with any other bypass ratio or by another number of engines.

(C) Airplanes covered by an exemption issued under § 91.307 of this subpart.

* * * * *

f. By amending paragraph (c)(4)(x) after the words "For DC–8 and B–707 airplanes" by adding the words "operated in domestic U.S. air commerce."

g. By revoking paragraph (c)(4)(vii) and marking it "[Reserved]".

h. By amending paragraph (c)(4)(xii) by deleting the reference to "§ 91.307 of this subpart" and substituting for it the words "§ 91.305(c) of this subpart."

i. By redesignating paragraphs (c)(4)(xi), (xii), (xiii), and (xiv) as paragraphs "(c)(4)(xii)," "(c)(4)(xiii)," "(c)(4)(xv)," and "(c)(4)(xvi)," respectively, and adding two new paragraphs "(c)(4)(xi)," and "(c)(4)(xiv)" to read as follows:

* * * * *

(c) * * *

(4) * * *

(xi) For DC–8 and B–707 airplanes operated in foreign air commerce in the United States, which have been or will be retired from service in the United States without replacement between April 14, 1980, and January 1, 1985, the appropriate code prescribed under paragraph (c)(5) of this section followed by the actual or scheduled month and year of retirement of the airplane from service;

* * * * *

(xiv) For airplanes covered by an exemption issued to the operator granting relief from noise level requirements of this subpart, the appropriate code prescribed under paragraph (c)(5) of this section followed by the actual or scheduled month and year of expiration of the exemption and the appropriate code and applicable dates which indicate the compliance strategy planned or implemented for the airplane.

* * * * *

j. By amending paragraph (c)(5) by amending the description for code "RET" and by adding two new codes "RFC" and "EXD" after the code "RET" to read as follows:

RET—For DC–8 and B–707 airplanes operated in domestic U.S. air commerce and retired from service in the United States without replacement between January 24, 1977, and January 1, 1985.

RFC—For DC–8 and B–707 airplanes operated by U.S. operators in foreign air commerce in the United States and retired from service in the United States without replacement between April 14, 1980, and January 1, 1985.

EXD—For airplanes exempted from showing compliance with the noise level requirements of this subpart.

(Secs., 307, 313(a), 601(a), 603, and 611(b), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1421(a), 1423, and 1431(b)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Title III, Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193; 94 Stat. 50); 49 CFR 1.47(m); Title I, National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); Executive Order 11514, March 5, 1970))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the regulatory evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "For Further Information Contact".

Issued in Washington, D.C., on November 17, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80-36523 Filed 11-26-80; 8:45 am]

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federal register

Friday
November 28, 1980

Part V

Environmental Protection Agency

Water Quality Criteria Documents; Availability

ENVIRONMENTAL PROTECTION AGENCY

21. Chromium, PB81–117467.
22. Copper, PB81–117475.

shellfish, wildlife, plant life, shorelines, beaches, esthetics, and recreation which may

quality adequate to support a specified water use. Under section 304(a)(1), these

some pollutants, bioconcentration properties are used to formulate criteria

under section 303, or toxic pollutant effluent standards under section 307.

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1623-3]

Water Quality Criteria Documents; Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of Water Quality Criteria Documents.

SUMMARY: EPA announces the availability and provides summaries of water quality criteria documents for 64 toxic pollutants or pollutant categories. These criteria are published pursuant to section 304(a)(1) of the Clean Water Act.

AVAILABILITY OF DOCUMENTS: Summaries of both aquatic-based and health-based criteria from the documents are published below. Copies of the complete documents for individual pollutants may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703-487-4650). A list of the NTIS publication order numbers for all 64 criteria documents is published below. These documents are also available for public inspection and copying during normal business hours at: Public Information Reference Unit, U.S. Environmental Protection Agency, Room 2404 (rear), 401 M St., S.W., Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services. Copies of these documents are also available for review in the EPA Regional Office libraries.

Copies of the documents are not available from the EPA office listed below. Requests sent to that office will be forwarded to NTIS or returned to the sender.

1. Acenaphthene, PB81-117269.
2. Acrolein, PB81-117277.
3. Acrylonitrile, PB81-117285.
4. Aldrin/Dieldrin, PB81-117301.
5. Antimony, PB81-117319.
6. Arsenic, PB81-117327.
7. Asbestos, PB81-117335.
8. Benzene, PB81-117293.
9. Benzidine, PB81-117343.
10. Beryllium, PB81-117350.
11. Cadmium, PB81-117368.
12. Carbon Tetrachloride, PB81-117376.
13. Chlordane, PB81-117384.
14. Chlorinated benzenes, PB81-117392.
15. Chlorinated ethanes, PB81-117400.
16. Chloroalkyl ethers, PB81-117418.
17. Chlorinated naphthalene, PB81-117426.
18. Chlorinated phenols, PB81-117434.
19. Chloroform, PB81-117442.
20. 2-chlorophenol, PB81-117459.
21. Chromium, PB81-117467.
22. Copper, PB81-117475.
23. Cyanides, PB81-117483.
24. DDT, PB81-117491.
25. Dichlorobenzenes, PB81-117509.
26. Dichlorobenzidine, PB81-117517.
27. Dichloroethylenes, PB81-117525.
28. 2,4-dichlorophenol, PB81-117533.
29. Dichloropropanes/propenes, PB81-117541.
30. 2,4-dimethylphenol, PB81-117558.
31. Dinitrotoluene, PB81-117566.
32. Diphenylhydrazine, PB81-117731.
33. Endosulfan, PB81-117574.
34. Endrin, PB81-117582.
35. Ethylbenzene, PB81-117590.
36. Fluoranthene, PB81-117608.
37. Haloethers, PB81-117616.
38. Halomethanes, PB81-117624.
39. Heptachlor, PB81-117632.
40. Hexachlorobutadiene, PB81-117640.
41. Hexachlorocyclohexane, PB81-117657.
42. Hexachlorocyclopentadiene, PB81-117665.
43. Isophorone, PB81-117673.
44. Lead, PB81-117681.
45. Mercury, PB81-117699.
46. Naphthalene, PB81-117707.
47. Nickel, PB81-117715.
48. Nitrobenzene, PB81-117723.
49. Nitrophenols, PB81-117749.
50. Nitrosamines, PB81-117756.
51. Pentachlorophenol, PB81-117764.
52. Phenol, PB81-117772.
53. Phthalate esters, PB81-117780.
54. Polychlorinated biphenyls (PCBs), PB81-117798.
55. Polynuclear aromatic hydrocarbons, PB81-117806.
56. Selenium, PB81-117814.
57. Silver, PB81-117822.
58. Tetrachloroethylene, PB81-117830.
59. Thallium, PB81-117848.
60. Toluene, PB81-117855.
61. Toxaphene, PB81-117863.
62. Trichloroethylene, PB81-117871.
63. Vinyl chloride, PB81-117889.
64. Zinc, PB81-117897.

FOR FURTHER INFORMATION CONTACT: Dr. Frank Gostomski, Criteria and Standards Division (WH-585), United States Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 245-3042.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 304(a)(1) of the Clean Water Act, 33 U.S.C. 1314(a)(1), EPA is required to periodically review and publish criteria for water quality accurately reflecting the latest scientific knowledge:

(A) on the kind and extent of all identifiable effects on health and welfare including, but not limited to, plankton, fish, shellfish, wildlife, plant life, shorelines, beaches, esthetics, and recreation which may be expected from the presence of pollutants in any body of water, including groundwater, (B) on the concentration and dispersal of pollutants, or their byproducts, through biological, physical, and chemical processes, and (C) on the effects of pollutants on biological community diversity, productivity, and stability, including information on the factors affecting rates of eutrophication and rates of organic and inorganic sedimentation for varying types of receiving waters.

EPA is today announcing the availability of criteria documents for 64 of the 65 pollutants designated as toxic under section 307(a)(1) of the Act. The document on TCDD (Dioxin) will be published within the next month after review of recent studies. Criteria for the section 307(a)(1) toxic pollutants being published today will replace the criteria for those same pollutants found in the EPA publication, *Quality Criteria for Water*, (the "Red Book.") Criteria for all other pollutants and water constituents found in the "Red Book" remain valid. The criteria published today have been derived using revised methodologies for determining pollutant concentrations that will, when not exceeded, reasonably protect human health and aquatic life. Draft criteria documents were made available for public comment (44 FR 15926, March 15, 1979, 44 FR 43660, July 25, 1979, 44 FR 56628, October 1, 1979). These final criteria have been derived after consideration of all comments received.

These criteria documents are also issued in satisfaction of the Settlement Agreement in *Natural Resources Defense Council, et al.* v. *Train*, 8 E.R.C. 2120 (1976), modified, 12 E.R.C. 1833 (D.D.C. 1979). Pursuant to paragraph 11 of that agreement, EPA is required to publish criteria documents for the 65 pollutants which Congress, in the 1977 amendments to the Act, designated as toxic under section 307(a)(1). These documents contain recommended maximum permissible pollutant concentrations consistent with the protection of aquatic organisms, human health, and some recreational activities. Although paragraph 11 imposes certain obligations on the Agency, it does not create additional authority.

The Development of Water Quality Criteria

Section 304(a)(1) criteria contain two essential types of information: (1) discussions of available scientific data on the effects of pollutants on public health and welfare, aquatic life and recreation, and (2) quantitative concentrations or qualitative assessments of the pollutants in water which will generally ensure water

quality adequate to support a specified water use. Under section 304(a)(1), these criteria are based solely on data and scientific judgments on the relationship between pollutant concentrations and environmental and human health effects. Criteria values do not reflect considerations of economic or technological feasibility.

Publication of water quality criteria of this type has been an ongoing process which EPA, and its predecessor Agency, the Federal Water Pollution Control Administration, have been engaged in since 1968. At that time the first Federal compilation of water quality criteria, the so-called "Green Book" *(Water Quality Criteria)*, was published. As now, these criteria contained both narrative discussions of the environmental effects of pollutants on a range of possible uses and concentrations of pollutants necessary to support these uses. Since that time, water quality criteria have been revised and expanded with publication of the "Blue Book" *(Water Quality Criteria 1972)* in 1973 and the "Red Book" *(Quality Criteria for Water)* in 1976.

Since publication of the Red Book there have been substantial changes in EPA's approach to assessing scientific data and deriving section 304(a)(1) criteria. Previous criteria were derived from a limited data base. For many pollutants, an aquatic life criterion was derived by multiplying the lowest concentration known to have acute lethal effect on half of a test group of an aquatic species (the LC50 value) by an application factor in order to protect against chronic effects. If data showed a substance to be bioaccumulative or to have other significant long-term effects, a factor was used to reduce the indicated concentrations to a level presumed to be protective. Criteria for the protection of human health were similarly derived by considering the pollutants' acute, chronic, and bioaccumulative effects on non-human mammals and humans.

Although a continuation of the process of criteria development, the criteria published today were derived using revised methodologies (Guidelines) for calculating the impact of pollutants on human health and aquatic organisms. These Guidelines consist of systematic methods for assessing valid and appropriate data concerning acute and chronic adverse effects of pollutants on aquatic organisms, non-human mammals, and humans. By use of these data in prescribed ways, criteria are formulated to protect aquatic life and human health from exposure to the pollutants. For some pollutants, bioconcentration properties are used to formulate criteria protective of aquatic life uses. For almost all of the pollutants, bioconcentration properties are used to assess the relative extent of human exposure to the pollutant either directly through ingestion of water or indirectly through consumption of aquatic organisms. Human health criteria for carcinogens are presented as incremental risks to man associated with specific concentrations of the pollutant in ambient water. The Guidelines used to derive criteria protective of aquatic life and human health are fully described in appendices B and C, respectively, of this Notice.

The Agency believes that these Guidelines provide criteria which more accurately reflect the effects of these pollutants on human health and on aquatic organisms and their uses. They are based on a more rational and consistent approach for using scientific data. These Guidelines were developed by EPA scientists in consultation with scientists from outside the Agency and they have been subjected to intensive public comment.

Neither the Guidelines nor the criteria are considered inflexible doctrine. Even at this time, EPA is taking action to employ the resources of peer review groups, including the Science Advisory Board, to evaluate recently published data, and EPA is conducting its own evaluation of new data to determine whether revisions to the criteria documents would be warranted.

The criteria published today are based solely on the effect of a single pollutant. However, pollutants in combination may have different effects because of synergistic, additive, or antagonistic properties. It is impossible in these documents to quantify the combined effects of these pollutants, and persons using criteria should be aware that site-specific analysis of actual combinations of pollutants may be necessary to give more precise indications of the actual environmental impacts of a discharge.

Relationship of the Section 304(a)(1) Criteria to Regulatory Programs

Section 304(a)(1) criteria are not rules and they have no regulatory inpact. Rather, these criteria present scientific data and guidance on the enviromental effect of pollutants which can be useful to derive regulatory requirements based on considerations of water quality impacts. Under the Clean Water Act, these regulatory requirements may include the promulgation of water quality-based effluent limitations under section 302, water quality standards under section 303, or toxic pollutant effluent standards under section 307. States are encouraged to begin to modify or, if necessary, develop new programs necessary to support the implementation of regulatory controls for toxic pollutants. As appropriate, States may incorporate criteria for toxic pollutants, based on this guidance, into their water quality standards.

Section 304(a)(1) criteria have been most closely associated with the development of State water quality standards, and the "Red Book" values have, in the past, been the basis for EPA's assessments of the adequacy of State requirements. However, EPA is now completing a major review of its water quality standards policies and regulations. After consideration of comments received on an Advance Notice of Proposed Rulemaking (43 FR 29588, July 10, 1978) and the draft criteria documents, the Agency intends to propose, by the end of this year, a revised water quality standards regulation which will clarify the Agency's position on a number of significant standards issues.

With the publication of these criteria, however, it is appropriate to discuss EPA's current thinking on standards issues relating to their use. This discussion does not establish new regulatory requirements and is intended as guidance on the possible uses of these criteria and an indication of future rulemaking the Agency may undertake. No substantive requirements will be established without further opportunity for public comment.

Water Quality Standards

Section 303 of the Clean Water Act provides that water quality standards be developed for all surface waters. A water quality standard consists basically of two parts: (1) A "designated use" for which the water body is to be protected (such as "agricultural," "recreation" or "fish and wildlife"), and (2) "criteria" which are numerical pollutant concentration limits or narrative statements necessary to preserve or achieve the designated use. A water quality standard is developed through State or Federal rulemaking proceedings and must be translated into enforceable effluent limitations in a point source (NPDES) permit or may form the basis of best management practices applicable to nonpoint sources under section 208 of the Act.

Relationship of Section 304(a)(1) Criteria to the Criteria Component of State Water Quality Standards:

In the ANPRM, EPA announced a policy of "presumptive applicability" for

section 304(a)(1) criteria codified in the "Red Book." Presumptive applicability meant that a State had to adopt a criterion for a particular water quality parameter at least as stringent as the recommendation in the Red Book unless the State was able to justify a less stringent criterion based on: natural background conditions, more recent scientific evidence, or local, site-specific information. EPA is rescinding the policy of presumptive applicability because it has proven to be too inflexible in actual practice.

Although the section 304(a)(1) criteria represent a reasonable estimate of pollutant concentrations consistent with the maintenance of designated water uses, States may appropriately modify these values to reflect local conditions. In certain circumstances, the criteria may not accurately reflect the toxicity of a pollutant because of the effect of local water quality characteristics or varying sensitivities of local populations. For example, in some cases, ecosystem adaptation may enable a viable, balanced aquatic population to exist in waters with high natural background levels of certain pollutants. Similarly, certain compounds may be more or less toxic in some waters because of differences in alkalinity, temperature, hardness, and other factors.

Methods for adjusting the section 304(a)(1) criteria to reflect these local differences are discussed below.

Relationship of Section 304(a)(1) Criteria to Designated Water Uses:

The criteria published today can be used to support the designated uses which are generally found in State standards. The following section discusses the relationship between the criteria and individual use classifications. Where a water body is designated for more than one use, criteria necessary to protect the most sensitive use should be applied.

1. *Recreation:* Recreational uses of water include such activities as swimming, wading, boating and fishing. Although insufficient data exist on the effects of toxic pollutants resulting from exposure through such primary contact as swimming, section 304(a)(1) criteria based on human health effects may be used to support this designated use where fishing is included in the State definition of "recreation." In this situation only the portion of the criterion based on fish consumption should be used.

2. *Protection and Propagation of Fish and Other Aquatic Life:* The section 304(a)(1) criteria based on toxicity to aquatic life may be used directly to support this designated use.

3. *Agricultural and Industrial Uses:* The section 304(a)(1) criteria were not specifically developed to reflect the impact of pollutants on agricultural and industrial uses. However, the criteria developed for human health and aquatic life are sufficiently stringent to protect these other uses. States may establish criteria specifically designed to protect these uses.

4. *Public Water Supply:* The drinking water exposure component of the human health effects criteria can apply directly to this use classification or may be appropriately modified depending upon whether the specific water supply system falls within the auspices of the Safe Drinking Water Act's (SDWA) regulatory control, and the type and level of treatment imposed upon the supply before delivery to the consumer. The SDWA controls the presence of toxic pollutants in finished ("end-of-tap") drinking water. A brief description of relevant sections of this Act is necessary to explain how the SDWA will work in conjunction with section 304(a)(1) criteria in protecting human health from the effects of toxics due to consumption of water.

Pursuant to section 1412 of the SDWA, EPA has promulgated "National Interim Primary Drinking Water Standards" for certain organic and inorganic substances. These standards establish "maximum contaminant levels" ("MCLs") which specify the maximum permissible level of a contaminant in water which may be delivered to a user of a public water system now defined as serving a minimum of 25 people. MCLs are established based on consideration of a range of factors including not only the health effects of the contaminants but also technological and economic feasibility of the contaminants' removal from the supply. EPA is required to establish revised primary drinking water regulations based on the effects of a contaminant on human health, and include treatment capability, monitoring availability, and costs. Under Section 1401(1)(D)(i) of the SDWA, EPA is also allowed to establish the minimum quality criteria for water which may be taken into a public water supply system.

Section 304(a)(1) criteria provide estimates of pollutant concentrations protective of human health, but do not consider treatment technology, costs and other feasibility factors. The section 304(a)(1) criteria also include fish bioaccumulation and consumption factors in addition to direct human drinking water intake. These numbers were not developed to serve as "end of tap" drinking water standards, and they have no regulatory significance under the SDWA. Drinking water standards are established based on considerations, including technological and economic feasibility, not relevant to section 304(a)(1) criteria. Section 304(a)(1) criteria may be analogous to the recommended maximum contaminant levels (RMCLs) under section 1412(b)(1)(B) of the SDWA in which, based upon a report from the National Academy of Sciences, the Administrator should set target levels for contaminants in drinking water at which "no known or anticipated adverse effects occur and which allows an adequate margin of safety". RMCLs do not take treatment, cost, and other feasibility factors into consideration. Section 304(a)(1) criteria are, in concept, related to the health-based goals specified in the RMCLs. Specific mandates of the SDWA such as the consideration of multi-media exposure, as well as different methods for setting maximum contaminant levels under the two Acts, may result in differences between the two numbers.

MCLs of the SDWA, where they exist, control toxic chemicals in finished drinking water. However, because of variations in treatment and the fact that only a relatively small number of MCLs have been developed, ambient water criteria may be used by the States as a supplement to SDWA regulations. States will have the option of applying MCLs, section 304(a)(1) human health effects criteria, modified section 304(a)(1) criteria or controls more stringent than these three to protect against the effects of toxic pollutants by ingestion from drinking water.

For untreated drinking water supplies, States may control toxics in the ambient water through either use of MCLs (if they exist for the pollutants of concern), section 304(a)(1) human health effects criteria, or a more strigent contaminant level than the former two options.

For treated drinking water supplies serving less than 25 people, States may choose toxics control through application of MCLs (if they exist for the pollutants of concern and are attainable by the type of treatment) in the finished drinking water. States also have the options to control toxics in the ambient water by choosing section 304(a)(1,) criteria, adjusted section 304(a)(1) criteria resulting from the reduction of the direct drinking water exposure component in the criteria calculation to the extent that the treatment procedure reduces the level of pollutants, or a more stringent contaminant level than the former three options.

For treated drinking water supplies serving 25 people or greater, States *must* control toxics down to levels at least as stringent as MCLs (where they exist for

the pollutants of concern) in the finished drinking water. However, States also have the options to control toxics in the ambient water by choosing section 304(a)(1) criteria, adjusted section 304(a)(1) criteria resulting from the reduction of the direct drinking water exposure component in the criteria calculation to the extent that the treatment process reduces the level of pollutants, or a more stringent contaminant level than the former three options.

Inclusion of Specific Pollutants in State Standards:

To date, EPA has not required that a State address any specific pollutant in its standards. Although all States have established standards for most conventional pollutants, the treatment of toxic pollutants has been much less extensive. In the ANPRM, EPA suggested a policy under which States would be required to address a set of pollutants and incorporate specific toxic pollutant criteria into water quality standards. If the State failed to incorporate these criteria, EPA would promulgate the standards based upon these criteria pursuant to section 303(c)(4)(B).

In the forthcoming proposed revision to the water quality standard regulations, a significant change in policy will be proposed relating to the incorporation of certain pollutants in State water quality standards. This proposal will differ from the proposal made in the ANPRM. The ANPRM proposed an EPA-published list of pollutants for which States would have had to develop water quality standards. This list might have contained some (or all) of the 65 toxic pollutants. However, the revised water quality standards regulation will propose a process by which EPA will assist States in identifying specific toxic pollutants required for assessment for possible inclusion in State water quality standards. For these pollutants, States will have the option of adopting the published criteria or of adjusting those criteria based on site-specific analysis.

These pollutants would generally represent the greatest threat to sustaining a healthy, balanced ecosystem in water bodies or to human health due to exposure directly or indirectly from water. EPA is currently developing a process to determine which pollutants a State must assess for possible inclusion in its water quality standards. Relevant factors might include the toxicity of the pollutant, the frequency and concentration of its discharge, its geographical distribution, the breadth of data underlying the scientific assessment of its aquatic life and human health effects, and the technological and economic capacity to control the discharge of the pollutant. For some of the pollutants, all States may be required to assess them for possible inclusion in their standards. For others, assessment would be restricted to States or limited to specific water bodies where the pollutants pose a particular site-specific problem.

Criteria Modification Process

Flexibility is available in the application of these and any other valid water quality criteria to regulatory programs. Although in some cases they may be used by the States as developed, the criteria may be modified to refect local environmental conditions and human exposure patterns before incorporation into programs such as water quality standards. If significant impacts of site-specific water quality conditions in the toxicities of pollutants can be demonstrated or significantly different exposure patterns of these pollutants to humans can be shown, section 304(a)(1) criteria may be modified to reflect these local conditions. The term "local" may refer to any appropriate geographic area where common aquatic environmental conditions or exposure patterns exist. Thus, "local" may signify a Statewide, regional, river reach, or entire river basin area. On the other hand, the criteria of some pollutants might be applicable nationwide without the need for adaptation to reflect local conditions. The degree of toxicity toward aquatic organisms and humans characteristic of these pollutants would not change significantly due to local water quality conditions.

EPA is examining a series of environmental factors or water quality parameters which might realistically be expected to affect the laboratory-derived water quality criterion recommendation for a specific pollutant. Factors such as hardness, pH, suspended solids, types of aquatic organisms present, etc. could impact on the chemical's effect in the aquatic environment. Therefore, local information can be assembled and analyzed to adjust the criterion recommendation if necessary.

The Guidelines for deriving criteria for the protection of aquatic life suggest several approaches for modifying the criteria. First, toxicity data, both acute and chronic, for local species could be substituted for some or all of the species used in deriving criteria for the water quality standard. The minimum data requirements should still be fulfilled in calculating a revised criterion. Second, criteria may be specifically tailored to a local water body by use of data from toxicity tests performed with that ambient water. A procedure such as this would account for local environmental conditions in formulating a criterion relevant to the local water body. Third, site-specific water quality characteristics resulting in either enhancement or mitigation of aquatic life toxicity for the pollutant could be factored into final formulation of the criterion. Finally, the criteria may be made more stringent to ensure protection of an individual species not otherwise adequately protected by any of the three modification procedures previously mentioned.

EPA does not intend to have States assess every local stream segment and lake in the country on an individual basis before determining if an adjustment is necessary. Rather, it is envisioned that water bodies having similar hydrological, chemical, physical, and biological properties will be grouped for the purpose of criteria adjustment. The purpose of this effort is to assist States in adapting the section 304(a) criteria to local conditions where needed, thereby precluding the setting of arbitrary and perhaps unnecessarily stringent or underprotective criteria in a water body. In all cases, EPA will still be required, pursuant to section 303(c), to determine whether the State water quality standards are consistent with the goals of the Act, including a determination of whether State-established criteria are adequate to support a designated use.

Criteria for the Protection of Aquatic Life

Interpretation of the Criteria

The aquatic life criteria issued today are summarized in Appendix A of this **Federal Register** notice. Criteria have been formulated by applying a set of Guidelines to a data base for each pollutant. The criteria for the protection of aquatic life specify pollutant concentrations which, if not exceeded, should protect most, but not necessarily all, aquatic life and its uses. The Guidelines specify that criteria should be based on an array of data from organisms, both plant and animal, occupying various trophic levels. Based on these data, criteria can be derived which should be adequate to protect the types of organisms necessary to support an aquatic community.

The Guidelines are not designed to derive criteria which will protect all life stages of all species under all conditions. Generally some life stage of one or more tested species, and

probably some untested species, will

way to assure the same degree of

chronic value can be calculated directly.

versions of the Guidelines. These

aquatic exposure routes, adjustments in

organisms found in ambient waters. A

probably some untested species, will have sensitivities below the maximum value or the 24-hour average under some conditions and would be adversely affected if the highest allowable pollutant concentrations and the worst conditions existed for a long time. In actual practice, such a situation is not likely to occur and thus the aquatic community as a whole will normally be protected if the criteria are not exceeded. In any aquatic community there is a wide range of individual species sensitivities to the effects of toxic pollutants. A criterion adequate to protect the most susceptible life stage of the most sensitive species would in many cases be more stringent than necessary to protect the overall aquatic community.

The aquatic life criteria specify both maximum and 24-hour average values. The combination of the two values is designed to provide adequate protection of aquatic life and its uses from acute and chronic toxicity and bioconcentration without being as restrictive as a one-number criterion would have to be to provide the same amount of protection. A time period of 24 hours was chosen in order to ensure that concentrations not reach harmful levels for unacceptably long periods. Averaging for longer periods, such as a week or a month for example, could permit high concentrations to persist long enough to produce significant adverse effects. A 24-hour period was chosen instead of a slightly longer or shorter period in recognition of daily fluctuations in waste discharges and of the influence of daily cycles of sunlight and darkness and temperature on both pollutants and aquatic organisms.

The maximum value, which is derived from acute toxicity data, prevents significant risk of adverse impact to organisms exposed to concentrations above the 24-hour average. Merely specifying the average value over a specified time period is insufficient because concentrations of chemicals higher than the average value can kill or cause irreparable damage in short periods. Furthermore, for some chemicals the effect of intermittent high exposures is cumulative. It is therefore necessary to place an upper limit on pollutant concentrations to which aquatic organisms might be exposed. The two-number criterion is intended to describe the highest average ambient water concentration which will produce a water quality generally suited to the maintenance of aquatic life while restricting the extent and duration of the excursions over that average to levels which will not cause harm. The only way to assure the same degree of protection with a one-number criterion would be to use the 24-hour average as a concentration that is not to be exceeded at any time in any place.

Since some substances may be more toxic in freshwater than in saltwater, or vice versa, provision is made for deriving separate water quality criteria for freshwater and for saltwater for each substance. However, for some substances sufficient data may not be available to derive one or both of these criteria using the Guidelines.

Specific aquatic life criteria have not been developed for all of the 65 toxic pollutants. In those cases where there were insufficient data to allow the derivation of a criterion, narrative descriptions of apparent threshold levels for acute and/or chronic effects based on the available data are presented. These descriptions are intended to convey a sense of the degree of toxicity of the pollutant in the absence of a criterion recommendation.

Summary of the Aquatic Life Guidelines

The Guidelines for Deriving Water Quality Criteria for the Protection of Aquatic Life and its Uses were developed to describe an objective, internally consistent, and appropriate way of ensuring that water quality criteria for aquatic life would provide, on the average, a reasonable amount of protection without an unreasonable amount of overprotection or underprotection. The resulting criteria are not intended to provide 100 percent protection of all species and all uses of aquatic life all of the time, but they are intended to protect most species in a balanced, healthy aquatic community. The Guidelines are published as Appendix B of this Notice. Responses to public comments on these Guidelines are attached as Appendix D.

Minimum data requirements are identified in four areas: acute toxicity to animals (eight data points), chronic toxicity to animals (three data points), toxicity to plants, and residues. Guidance is also given for discarding poor quality data.

Data on acute toxicity are needed for a variety of fish and invertebrate species and are used to derive a Final Acute Value. By taking into account the number and relative sensitivities of the tested species, the Final Acute Value is designed to protect most, but not necessarily all, of the tested and untested species.

Data on chronic toxicity to animals can be used to derive a Final Chronic Value by two different means. If chronic values are available for a specified number and array of species, a final chronic value can be calculated directly. If not, an acute-chronic ratio is derived and then used with the Final Acute Value to obtain the Final Chronic Value.

The Final Plant Value is obtained by selecting the lowest plant toxicity value based on measured concentrations.

The Final Residue Value is intended to protect wildlife which consume aquatic organisms and the marketability of aquatic organisms. Protection of the marketability of aquatic organisms is, in actuality, protection of a use of that water body ("commercial fishery"). Two kinds of data are necessary to calculate the Final Residue Value: a bioconcentration factor (BCF) and a maximum permissible tissue concentration, which can be an FDA action level or can be the result of a chronic wildlife feeding study. For lipid soluble pollutants, the BCF is normalized for percent lipids and then the Final Residue Value is calculated by dividing the maximum permissible tissue concentration by the normalized BCF and by an appropriate percent lipid value. BCFs are normalized for percent lipids since the BCF measured for any individual aquatic species is generally proportional to the percent lipids in that species.

If sufficient data are available to demonstrate that one or more of the final values should be related to a water quality characteristic, such as salinity, hardness, or suspended solids, the final value(s) are expressed as a function of that characteristic.

After the four final values (Final Acute Value, Final Chronic Value, Final Plant Value, and Final Residue Value) have been obtained, the criterion is established with the Final Acute Value becoming the maximum value and the lowest of the other three values becoming the 24-hour average value. All of the data used to calculate the four final values and any additional pertinent information are then reviewed to determine if the criterion is reasonable. If sound scientific evidence indicates that the criterion should be raised or lowered, appropriate changes are made as necessary.

The present Guidelines have been revised from the earlier published versions (43 FR 21506, May 18, 1978; 43 FR 29028, July 5, 1978; 44 FR 15926, March 15, 1979). Details have been added in many places and the concept of a minimum data base has been incorporated. In addition, three adjustment factors and the species sensitivity factor have been deleted. These modifications were the result of the Agency's analysis of public comments and comments received from the Science Advisory Board on earlier

versions of the Guidelines. These comments and the Resultant modifications are addressed fully in Appendix D to this notice.

Criteria for the Protection of Human Health

Interpretation of the Human Health Criteria

The human health criteria issued today are summarized in Appendix A of this **Federal Register** notice. Criteria for the protection of human health are presented for 62 of the 65 pollutants based on their carcinogenic, toxic, or organoleptic (taste and odor) properties. The meanings and practical uses of the criteria values are distinctly different depending on the properties on which they are based.

The objective of the health assessment portions of the criteria documents is to estimate ambient water concentrations which, in the case of non-carcinogens, prevent adverse health effects in humans, and in the case of suspect or proven carcinogens, represent various levels of incremental cancer risk.

Health assessments typically contain discussions of four elements: Exposure, pharmacokinetics, toxic effects, and criterion formulation.

The exposure section summarizes information on exposure routes: ingestion directly from water, indirectly from consumption of aquatic organisms found in ambient water, other dietary sources, inhalation, and dermal contact. Exposure assumptions are used to derive human health criteria. Most criteria are based solely on exposure from consumption of water containing a specified concentration of a toxic pollutant and through consumption of aquatic organisms which are assumed to have bioconcentrated pollutants from the water in which they live. Other multimedia routes of exposure such as air, non-aquatic diet, or dermal are not factored into the criterion formulation for the vast majority of pollutants due to lack of data. The criteria are calculated using the combined aquatic exposure pathway and also using the aquatic organism ingestion exposure route alone. In criteria reflecting both the water consumption and aquatic organism ingestion routes of exposure, the relative exposure contribution varies with the propensity of a pollutant to bioconcentrate, with the consumption of aquatic organisms becoming more important as the bioconcentration factor (BCF) increases. As additional information on total exposure is assembled for pollutants for which criteria reflect only the two specified aquatic exposure routes, adjustments in water concentration values may be made. The Agency intends to publish guidance which will permit the States to identify significantly different exposure patterns for their populations. If warranted by the demonstration of significantly different exposure patterns, this will become an element of a process to adapt/modify human health-based criteria to local conditions, somewhat analogous to the aquatic life criteria modification process discussed previously. It is anticipated that States at their discretion will be able to set appropriate human health criteria based on this process.

The pharmacokinetics section reviews data on absorption, distribution, metabolism, and excretion to assess the biochemical fate of the compounds in the human and animal system. The toxic effects section reviews data on acute, subacute, and chronic toxicity, synergistic and antagonistic effects, and specific information on mutagenicity, teratogenicity, and carcinogenicity. From this review, the toxic effect to be protected against is identified taking into account the quality, quantity, and weight of evidence characteristic of the data. The criterion formulation section reviews the highlights of the text and specifies a rationale for criterion development and the mathematical derivation of the criterion number.

Within the limitations of time and resources, current published information of significance was incorporated into the human health assessments. Review articles and reports were used for data evaluation and synthesis. Scientific judgment was exercised in reviewing and evaluating the data in each criteria document and in identifying the adverse effects for which protective criteria were published.

Specific health-based criteria are developed only if a weight of evidence supports the occurrence of the toxic effect and if dose/response data exist from which criteria can be estimated.

Criteria for suspect or proven carcinogens are presented as concentrations in water associated with a range of incremental cancer risks to man. Criteria for non-carcinogens represent levels at which exposure to a single chemical is not anticipated to produce adverse effects in man. In a few cases, organoleptic (taste and odor) data form the basis for the criterion. While this type of criterion does not represent a value which directly affects human health, it is presented as an estimate of the level of a pollutant that will not produce unpleasant taste or odor either directly from water consumption or indirectly by consumption of aquatic organisms found in ambient waters. A criterion developed in this manner is judged to be as useful as other types of criteria in protecting designated water uses. In addition, where data are available, toxicity-based criteria are also presented for pollutants with derived organoleptic criteria. The choice of criteria used in water quality standards for these pollutants will depend upon the designated use to be protected. In the case of a multiple use water body, the criterion protecting the most sensitive use will be applied. Finally, for several pollutants no criteria are recommended due to a lack of information sufficient for quantitative criterion formulation.

Risk Extrapolation

Because methods do not now exist to establish the presence of a threshold for carcinogenic effects, EPA's policy is that there is no scientific basis for estimating "safe" levels for carcinogens. The criteria for carcinogens, therefore, state that the recommended concentration for maximum protection of human health is zero. In addition, the Agency has presented a range of concentrations corresponding to incremental cancer risks of 10^{-7} to 10^{-5} (one additional case of cancer in populations ranging from ten million to 100,000, respectively). Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Summary of the Human Health Guidelines

The health assessments and corresponding criteria published today were derived based on *Guidelines and Methodology Used in the Preparation of Health Effect Assessment Chapters of the Consent Decree Water Criteria Documents* (the Guidelines) developed by EPA's Office of Reserch and Development. The estimation of health risks associated with human exposure to environmental pollutants requires predicting the effect of low doses for up to a lifetime in duration. A combination of epidemiological and animal dose/response data is considered the preferred basis for quantitative criterion derivation. The complete Guidelines are presented as Appendix C. Major issues associated with these Guidelines and responses to public comments are presented as Appendix E.

No-effect (non-carcinogen) or specified risk (carcinogen) concentrations were estimated by extrapolation from animal toxicity or

human epidemiology studies using the following basic exposure assumptions: a 70-kilogram male person (*Report of the Task Group on Reference Man,* International Commission for Radiation Protection, November 23, 1957) as the exposed individual; the average daily consumption of freshwater and estuarine fish and shellfish products equal to 6.5 grams/day; and the average ingestion of two liters/day of water (*Drinking Water and Health,* National Academy of Sciences, National Research Council, 1977). Criteria based on these assumptions are estimated to be protective of an adult male who experiences average exposure conditions.

Two basic methods were used to formulate health criteria, depending on whether the prominent adverse effect was cancer or other toxic manifestations. The following sections detail these methods.

Carcinogens

Extrapolation of cancer responses from high to low doses and subsequent risk estimation from animal data is performed using a linearized multi-stage model. This procedure is flexible enough to fit all monotonically-increasing dose response data, since it incorporates several adjustable parameters. The multi-stage model is a linear non-threshold model as was the "one-hit" model originally used in the proposed criteria documents. The linearized multi-stage model and its characteristics are described fully in Appendix C. The linear non-threshold concept has been endorsed by the four agencies in the Interagency Regulatory Liaison Group and is less likely to underestimate risk at the low doses typical of environmental exposure than other models that could be used. Because of the uncertainties associated with dose response, animal-to-human extrapolation and other unknown factors, because of the use of average exposure assumptions, and because of the serious public health consequences that could result if risk were underestimated, EPA believes that it is prudent to use conservative methods to estimate risk in the water quality criteria program. The linearized multistage model is more systematic and invokes fewer arbitrary assumptions than the "one-hit" procedure previously used.

It should be noted that extrapolation models provide estimates of risk since a varitey of assumptions are built into any model. Models using widely different assumptions may produce estimates ranging over several orders of magnitude. Since there is at present no way to demonstrate the scientific validity of any model, the use of risk extrapolation models is a subject of debate in the scientific community. However, risk extrapolation is generally recognized as the only tool available at this time for estimating the magnitude of health hazards associated with non-threshold toxicants and has been endorsed by numerous Federal agencies and scientific organizations, including EPA's Carcinogen Assessment Group, the National Academy of Sciences, and the Interagency Regulatory Liaison Group as a useful means of assessing the risks of exposure to various carcinogenic pollutants.

Non-Carcinogens

Health criteria based on toxic effects of pollutants other than carcinogenicity are estimates of concentrations which are not expected to produce adverse effects in humans. They are based upon Acceptable Daily Intake (ADI) levels and are generally derived using no-observed-adverse-effect-level (NOAEL) data from animal studies although human data are used wherever available. The ADI is calculated using safety factors to account for uncertainties inherent in extrapolation from animal to man. In accordance with the National Research Council recommendations *(Drinking Water and Health,* National Academy of Sciences, National Research Council, 1977), safety factors of 10, 100, or 1,000 are used depending on the quality and quantity of data. In some instances extrapolations are made from inhalation studies or limits to approximate a human response from ingestion using the Stokinger-Woodward model (Journal of American Water Works Association, 1958). Calculations of criteria from ADIs are made using the standard exposure assumptions (2 liters of water, 6.5 grams of edible aquatic products, and an average body weight of 70 kg).

Dated: October 24, 1980.

Douglas M. Costle,

Administrator.

Appendix A—Summary of Water Quality Criteria

Acenaphthene

Freshwater Aquatic Life

The available data for acenaphthene indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 1,700 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of acenaphthene to sensitive freshwater aquatic animals but toxicity to freshwater algae occur at concentrations as low as 520 μg/l.

Saltwater Aquatic Life

The available data for acenaphthene indicate that acute and chronic toxicity to saltwater aquatic life occur at concentrations as low as 970 and 710 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested. Toxicity to algae occurs at concentrations as low as 500 μg/l.

Human Health

Sufficient data is not available for acenaphthene to derive a level which would protect against the potential toxicity of this compound. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is 20 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criteria have limitations and have no demonstrated relationship to potential adverse human health effects.

Acrolein

Freshwater Aquatic Life

The available data for acrolein indicate that acute and chronic toxicity to freshwater aquatic life occurs at concentrations as low as 68 and 21 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

Saltwater Aquatic Life

The available data for acrolein indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 55 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of acrolein to sensitive saltwater aquatic life.

Human Health

For the protection of human health from the toxic properties of acrolein ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 320 μg/l.

For the protection of human health from the toxic properties of acrolein ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 780 μg/l.

Acrylonitrile

Freshwater Aquatic Life

The available data for acrylonitrile indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 7,550 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No definitive data are available concerning the chronic toxicity of acrylonitrile to sensitive freshwater aquatic life but mortality occurs at concentrations as low as 2,600 μg/l with a fish species exposed for 30 days.

Saltwater Aquatic Life

Only one saltwater species has been tested with acrylonitrile and no statement can be made concerning acute or chronic toxicity.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of acrylonitrile through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are .58 μg/l, .058 μg/l and .006 μg/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 6.5 μg/l, .65 μg/l, and .065 μg/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Aldrin-Dieldrin

Dieldrin

Freshwater Aquatic Life

For dieldrin the criterion to protect fresh water aquatic life as derived using the Guidelines is 0.0019 μg/l as a 24-hour average and the concentration should not exceed 2.5 μg/l at any time.

Saltwater Aquatic Life

For dieldrin the criterion to protect saltwater aquatic life as derived using the Guidelines is 0.0019 μg/l as a 24-hour average and the concentration should not exceed 0.71 μg/l at any time.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of dieldrin through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are .71 ng/l, .071 ng/l, and .0071 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are .76 ng/l, .076 ng/l, and .0076 ng/l respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Aldrin

Freshwater Aquatic Life

For freshwater aquatic life the concentration of aldrin should not exceed 3.0 μg/l at any time. No data are available concerning the chronic toxicity of aldrin to sensitive freshwater aquatic life.

Saltwater Aquatic Life

For saltwater aquatic life the concentration of aldrin should not exceed 1.3 μg/l at any time. No data are available concerning the chronic toxicity of aldrin to sensitive saltwater aquatic life.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of aldrin through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are .79 ng/l, .079 ng/l, and .0079 ng/l, respectively. Other concentrations respresenting different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Antimony

Freshwater Aquatic Life

The available data for antimony indicate that acute and chronic toxicity to freshwater aquatic life occur at concentrations as low as 9,000 and 1,600 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested. Toxicity to algae occurs at concentrations as low as 610 μg/l.

Saltwater Aquatic Life

No saltwater organisms have been adequately tested with antimony, and no statement can be made concerning acute or chronic toxicity.

Human Health

For the protection of human health from the toxic properties of antimony ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 146 μg/l.

For the protection of human health from the toxic properties of antimony ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 45,000 μg/l.

Arsenic

Freshwater Aquatic Life

For freshwater aquatic life the concentration of total recoverable trivalent inorganic arsenic should not exceed 440 μg/l at any time. Short-term effects on embryos and larvae of aquatic vertebrate species have been shown to occur at concentrations as low as 40 μg/l.

Saltwater Aquatic Life

The available data for total recoverable trivalent inorganic arsenic indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 508 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of trivalent inorganic arsenic to sensitive saltwater aquatic life.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of arsenic through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are

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estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 22 ng/l, 2.2 ng/l, and .22 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 175 ng/l, 17.5 ng/l, and 1.75 ng/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Asbestos

Freshwater Aquatic Life

No freshwater organisms have been tested with any asbestiform mineral and no statement can be made concerning acute or chronic toxicity.

Saltwater Aquatic Life

No saltwater organisms have been tested with any asbestiform mineral and no statement can be made concerning acute or chronic toxicity.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of asbestos through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 300,000 fibers/1,30,000 fibers/1, and 3,000 fibers/1, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Benzene

Freshwater Aquatic Life

The available data for benzene indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 5,300 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of benzene to sensitive freshwater aquatic life.

Saltwater Aquatic Life

The available data for benzene indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 5,100 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No definitive data are available concerning the chronic toxicity of benzene to sensitive saltwater aquatic life, but adverse effects occur at concentrations as low as 700 μg/l with a fish species exposed for 168 days.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of benzene through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 6.6 μg/l, .66 μg/l, and .066 μg/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 400 μg/l, 40.0 μg/l, and 4.0 μg/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Benzidine

Freshwater Aquatic Life

The available data for benzidine indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 2,500 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of benzidine to sensitive freshwater aquatic life.

Saltwater Aquatic Life

No saltwater organisms have been tested with benzidine and no statement can be made concerning acute and chronic toxicity.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of benzidine through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 1.2 ng/1, .12 ng/1, and .01 ng/1, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 5.3 ng/1, .53 ng/1, and .05 ng/1, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Beryllium

Freshwater Aquatic Life

The available data for beryllium indicate that acute and chronic toxicity to freshwater aquatic life occurs at concentrations as low as 130 and 5.3 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested. Hardness has a substantial effect on acute toxicity.

Salt water Aquatic Life

The limited saltwater data base available for beryllium does not permit any statement concerning acute or chronic toxicity.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of beryllium through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 37 ng/l, 3.7 ng/l, and .37 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 641 ng/l, 64.1 ng/l, and 6.41 ng/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Cadmium

Freshwater Aquatic Life

For total recoverable cadmium the criterion (in μg/l) to protect freshwater aquatic life as derived using the Guidelines is the numerical value given by $e^{(1.05\ [\ln(\text{hardness})]-3.53)}$ as a 24-hour average and the concentration (in μg/l) should not exceed the numerical value given by $e^{(1.05\ [\ln(\text{hardness})]-2.72)}$ at any time. For example, a hardnesses of 50, 100, and 200 mg/l as $CaCO_3$ the criteria are 0.012, 0.025, and 0.051 μg/l, respectively, and the concentration of total recoverable cadmium should not exceed 1.5, 3.0 and 6.3 μg/l, respectively, at any time.

Saltwater Aquatic Life

For total recoverable cadmium the criterion to protect saltwater aquatic life as derived using the Guidelines is 4.5 μg/l as a 24-hour average and the concentration should not exceed 59 μg/l at any time.

Human Health

The ambient water quality criterion for cadmium is recommended to be identical to the existing drinking water standard which is 10 μg/l. Analysis of the toxic effects data resulted in a calculated level which is protective of human health against the ingestion of contaminated water and contaminated aquatic organisms. The calculated value is comparable to the present standard. For this reason a selective criterion based on exposure solely from consumption of 6.5 grams of aquatic organisms was not derived.

Carbon Tetrachloride

Freshwater Aquatic Life

The available data for carbon tetrachloride indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 35,200 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of carbon tetrachloride to sensitive freshwater aquatic life.

Saltwater Aquatic Life

The available data for carbon tetrachloride indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 50,000 μg/l and would occur at lower concentrations among species that are more sensitive that those tested. No data are available concerning the chronic toxicity of carbon tetrachloride to sensitive saltwater aquatic life.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of carbon tetrachloride through ingestion of contaminated water and contaminated aquatic organisms the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 4.0μg/l, .40 μg/l, and .04 μg/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 69.4 μg/l, 6.94 μg/l, and .69 μg/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Chlordane

Freshwater Aquatic Life

For chlordane the criterion to protect freshwater aquatic life as derived using the Guidelines is 0.0043 μg/l as a 24-hour average and the concentration should not exceed 2.4 μg/l at any time.

Saltwater Aquatic Life

For chlordane the criterion to protect saltwater aquatic life as derived using the Guidelines is 0.0040 μg/l as a 24-hour average and the concentration should not exceed 0.09 μg/l at any time.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of chlordane through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 4.6 ng/l, .46 ng/l, and .046 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 4.8 ng/l, .48 ng/l, and .048 ng/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Chlorinated Benzenes

Freshwater Aquatic Life

The available data for chlorinated benzenes indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 250 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of the more toxic of the chlorinated benzenes to sensitive freshwater aquatic life but toxicity occurs at concentrations as low as 50 μg/l for a fish species exposed for 7.5 days.

Saltwater Aquatic Life

The available data for chlorinated benzenes indicate that acute and chronic toxicity to saltwater aquatic life occur at concentrations as low as 160 and 129 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of hexachlorobenzene through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding recommended criteria are 7.2 ng/l, .72 ng/l, and .072 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 7.4 ng/l, .74 ng/l, and .074 ng/l, respectively.

For the protection of human health from the toxic properties of 1,2,4,5-tetrachlorobenzene ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 38 μg/l.

For the protection of human health from the toxic properties of 1,2,4,5-tetrachlorobenzene ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 48 μg/l.

For the protection of human health from the toxic properties of pentachlorobenzene ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 74 μg/l.

For the protection of human health from the toxic properties of pentachlorobenzene ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 85 μg/l.

Using the present guidelines, a satisfactory criterion cannot be derived

at this time due to the insufficiency in

chemical. However, zero level may not

and 10^{-7}. The corresponding criteria are

more sensitive than those tested. No

demonstrated relationship to potential

level which would protect against the

at this time due to the insufficiency in the available data for trichlorobenzene.

For comparison purposes, two approaches were used to derive criterion levels for monochlorobenzene. Based on available toxicity data, for the protection of public health, the derived level is 488 μg/l. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is 20 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criteria have limitations and have no demonstrated relationship to potential adverse human health effects.

Chlorinated Ethanes

Freshwater Aquatic Life

The available freshwater data for chlorinated ethanes indicate that toxicity increases greatly with increasing chlorination, and that acute toxicity occurs at concentrations as low as 118,000 μg/l for 1,2-dichloroethane, 18,000 μg/l for two trichloroethanes, 9,320 μg/l for two tetrachloroethanes, 7,240 μg/l for pentachloroethane, and 980 μg/l for hexachloroethane. Chronic toxicity occurs at concentrations as low as 20,000 μg/l for 1,2-dichloroethane, 9,400 μg/l for 1,1,2-trichloroethane, 2,400 μg/l for 1,1,2,2,-tetrachloroethane, 1,100 μg/l for pentachloroethane, and 540 μg/l for hexachloroethane. Acute and chronic toxicity would occur at lower concentrations among species that are more sensitive than those tested.

Saltwater Aquatic Life

The available saltwater data for chlorinated ethanes indicate that toxicity increases greatly with increasing chlorination and that acute toxicity to fish and invertebrate species occurs at concentrations as low as 113,000 μg/l for 1,2-dichloroethane, 31,200 μg/l for 1,1,1-trichloroethane, 9,020 μg/l for 1,1,2,2-tetrachloroethane, 390 μg/l for pentachloroethane, and 940 μg/l for hexachloroethane. Chronic toxicity occurs at concentrations as low as 281 μg/l for pentachloroethane. Acute and chronic toxicity would occur at lower concentrations among species that are more sensitive than those tested.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of 1,2-dichloroethane through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 9.4 μg/l, .94 μg/l, and .094 μg/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 2,430 μg/l, 243 μg/l, and 24.3 μg/l respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

For the protection of human health from the toxic properties of 1,1,1-trichloroethane ingested through water and contaminated aquatic organism, the ambient water criterion is determined to be 18.4 mg/l.

For the protection of human health from the toxic properties of 1,1,1,-trichloroethane ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 1.03 g/l.

For the maximum protection of human health from the potential carcinogenic effects due to exposure of 1,1,2-trichloroethane through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 6.0 μg/l, .6 μg/l, and .06 μg/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 418 μg/l, 41.8 μg/l, and 4.18 μg/l respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

For the maximum protection of human health from the potential carcinogenic effects due to exposure of 1,1,2,2-tetrachloroethane through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 1.7 μg/l, .17 μg/l, and .017 μg/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 107 μg/l, 10.7 μg/l, and 1.07 μg/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

For the maximum protection of human health from the potential carcinogenic effects due to exposure of hexachloroethane through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 19 μg/l, 1.9 μg/l, and .19 μg/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 87.4 μg/l, 8.74 μg/l, and .87 μg/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Using the present guidelines, a satisfactory criterion cannot be derived at this time due to the insufficiency in the available data for monochloroethane.

Using the present guidelines, a satisfactory criterion cannot be derived at this time due to the insufficiency in the available data for 1,1,-dichloroethane.

Using the present guidelines, a satisfactory criterion cannot be derived at this time due to the insufficiency in the available data for 1,1,1,2-tetrachloroethane.

Using the present guidelines, a satisfactory criterion cannot be derived at this time due to the insufficiency in the available data for pentachloroethane.

Chlorinated Naphthalenes

Freshwater Aquatic Life

The available data for chlorinated naphthalenes indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 1,600 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of chlorinated naphthalenes to sensitive freshwater aquatic life.

Saltwater Aquatic Life

The available data for chlorinated napthalenes indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 7.5 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of chlorinated naphthalenes to sensitive saltwater aquatic life.

Human Health

Using the present guidelines, a satisfactory criterion cannot be derived at this time due to the insufficiency in the available data for chlorinated napthalenes.

Chlorinated Phenols

Freshwater Aquatic Life

The available freshwater data for chlorinated phenols indicate that toxicity generally increases with increasing chlorination, and that acute toxicity occurs at concentrations as low as 30 μg/l for 4-chloro-3-methylphenol to greater than 500,000 μg/l for other compounds. Chronic toxicity occurs at concentrations as low as 970 μg/l for 2,4,6-trichlorophenol. Acute and chronic toxicity would occur at lower concentrations among species that are more sensitive than those tested.

Saltwater Aquatic Life

The available saltwater data for chlorinated phenols indicate that toxicity generally increases with increasing chlorination and that acute toxicity occurs at concentrations as low as 440 μg/l for 2,3,5,6-tetrachlorophenol and 29,700 μg/l for 4-chlorophenol. Acute toxicity would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of chlorinated phenols to sensitive saltwater aquatic life.

Human Health

Sufficient data is not available for 3-monochlorophenol to derive a level which would protect against the potential toxicity of this compound. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is 0.1 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criteria have limitations and have no demonstrated relationship to potential adverse human health effects.

Sufficient data is not available for 4-monochlorophenol to derive a level which would protect against the potential toxicity of this compound. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is 0.1 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criteria have limitations and have no demonstrated relationship to potential adverse human health effects.

Sufficient data is not available for 2,3-dichlorophenol to derive a level which would protect against the potential toxicity of this compound. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is .04 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criteria have limitations and have no demonstrated relationship to potential adverse human health effects.

Sufficient data is not available for 2,5-dichlorophenol to derive a level which would protect against the potential toxicity of this compound. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is .5 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criteria have limitations and have no demonstrated relationship to potential adverse human health effects.

Sufficient data is not available for 2,6-dichlorophenol to derive a level which would protect against the potential toxicity of this compound. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is .2 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criteria have limitations and have no demonstrated relationship to potential adverse human health effects.

Sufficient data is not available for 3,4-dichlorophenol to derive a level which would protect against the potential toxicity of this compound. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is .3 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criteria have limitations and have no demonstrated relationship to potential adverse human health effects.

Sufficient data is not available for 2,3,4,6-tetrachlorophenol to derive a level which would protect against the potential toxicity of this compound. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is 1 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criteria have limitations and have no demonstrated relationship to potential adverse human health effects.

For comparison purposes, two approaches were used to derive criterion levels for 2,4,5-trichlorophenol. Based on available toxicity data, for the protection of public health, the derived level is 2.6 mg/l. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is 1.0 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criteria have limitations and have no demonstrated relationship to potential adverse human health effects.

For the maximum protection of human health from the potential carcinogenic effects due to exposure of 2,4,6-trichlorophenol through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 12 μg/l, 1.2 μg/l, and .12 μg/l respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 36 μg/l, 3.6 μg/l, and .36 μg/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is 2 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criterion have limitations and have no demonstrated relationship to potential adverse human health effects.

Sufficient data is not available for 2-methyl-4-chlorophenol to derive a level which would protect against any potential toxicity of this compound. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is 1800 μg/l. It should be

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recognized that organoleptic data as a basis for establishing a water quality criterion have limitations and have no demonstrated relationship to potential adverse human health effects.

Sufficient data is not available for 3-methyl-4-chlorophenol to derive a level which would protect against the potential toxicity of this compound. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is 3000 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criterion have limitations and have no demonstrated relationship to potential adverse human health effects.

Sufficient data is not available for 3-methyl-6-chlorophenol to derive a level which would protect against the potential toxicity of this compound. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is 20 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criterion have limitations and have no demonstrated relationship to potential adverse human health effects.

Chloroalkyl Ethers

Freshwater Aquatic Life

The available data for chloroalkyl ethers indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 238,000 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No definitive data are available concerning the chronic toxicity of chloroalkyl ethers to sensitive freshwater aquatic life.

Saltwater Aquatic Life

No saltwater organisms have been tested with any chloroalkyl ether and no statement can be made concerning acute and chronic toxicity.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of bis-(chloromethyl)-ether through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are .038 ng/l, .0038 ng/l, and .00038 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 18.4 ng/l, 1.84 ng/l, and .184 ng/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

For the maximum protection of human health from the potential carcinogenic effects due to exposure of bis (2-chloroethyl) ether through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are .3 μg/l, .03 μg/l, and .003 μg/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 13.6 μg/l, 1.36 μg/l, and .136 μg/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

For the protection of human health from the toxic properties of bis (2-chloroisopropyl) ether ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 34.7 μg/l.

For the protection of human health from the toxic properties of bis (2-chloroisopropyl) ether ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 4.36 mg/l.

Chloroform

Freshwater Aquatic Life

The available data for choloroform indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 28,900 μg/l, and would occur at lower concentrations among species that are more sensitive than the three tested species. Twenty-seven-day LC50 values indicate that chronic toxicity occurs at concentrations as low as 1,240 μg/l, and could occur at lower concentrations among species or other life stages that are more sensitive than the earliest life cycle stage of the rainbow trout.

Saltwater Aquatic Life

The data base for saltwater species is limited to one test and no statement can be made concerning acute or chronic toxicity.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of chloroform through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 1.90 μg/l, .19 μg/l, and .019 μg/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 157 μg/l, 15.7 μg/l, and 1.57 μg/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

2-Chlorophenol

Freshwater Aquatic Life

The availabe data for 2-chlorophenol indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 4,380 μg/l and would occur at lower concentrations among species that are more sensitive that those tested. No definitive data are available concerning the chronic toxicity of 2-chlorophenol to sensitive freshwater aquatic life but flavor impairment occurs in one species of fish at concentrations as low as 2,000 μg/l.

Saltwater Aquatic Life

No saltwater organisms have been tested with 2-chlorophenol and no statement can be made concerning acute and chronic toxicity.

Human Health

Sufficient data is not available for 2-chlorophenol to derive a level which would protect against the potential toxicity of this compound. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is 0.1 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criteria have limitations and have no

demonstrated relationship to potential adverse human health effects.

Chromium

Freshwater Aquatic Life

For total recoverable hexavalent chromium the criterion to protect freshwater aquatic life as derived using the Guidelines is 0.29 μg/l as a 24-hour average and the concentration should not exceed 21 μg/l at any time.

For freshwater aquatic life the concentration (in μg/l) of total recoverable trivalent chromium should not exceed the numerical value given by "e(1.08[ln(hardness)]+3.48)" at any time. For example, at hardnesses of 50, 100 and 200 mg/l as $CaCO_3$ the concentration of total recoverable trivalent chromium should not exceed 2,200, 4,700, and 9,900 μg/l, respectively, at any time. The available data indicate that chronic toxicity to freshwater aquatic life occurs at concentrations as low a 44 μg/l and would occur at lower concentrations among species that are more sensitive than those tested.

Saltwater Aquatic Life

For total recoverable hexavalent chromium the criterion to protect saltwater aquatic life as derived using the Guidelines is 18 μg/l as a 24-hour average and the concentration should not exceed 1,260 μg/l at any time.

For total recoverable trivalent chromium, the availabe data indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 10,300 μg/l, and would occur at lower concentrations amoung species that are more sensitive than those tested. No data are available concerning the chronic toxicity of trivalent chromium to sensitive saltwater aquatic life.

Human Health

For the protection of human health from the toxic properties of Chromium III ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 170 mg/l.

For the protection of human health from the toxic properties of Chromium III ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 3433 mg/l.

The ambient water quality criterion for total Chromium VI is recommended to be identical to the existing drinking water standard which is 50 μg/l. Analysis of the toxic effects data resulted in a calculated level which is protective of human health against the ingestion of contaminated water and contaminated aquatic organisms. The calculated value is comparable to the present standard. For this reason a selective criterion based on exposure solely from consumption of 6.5 grams of aquatic organisms was not derived.

Copper

Freshwater Aquatic Life

For total recoverable copper the criterion to protect freshwater aquatic life as derived using the Guidelines is 5.6 μg/l as a 24-hour average and the concentration (in μg/l) should not exceed the numerical value given by e(0.94[ln(hardness)]-1.23) at any time. For example, at hardnesses of 50, 100, and 200 mg/l $CaCO_3$ the concentration of total recoverable copper should not exceed 12, 22, and 43 μg/l at any time.

Saltwater Aquatic Life

For total recoverable copper the criterion to protect saltwater aquatic life as derived using the Guidelines is 4.0 μg/l as a 24-hour average and the concentration should not exceed 23 μg/l at any time.

Human Health

Sufficient data is not available for copper to derive a level which would protect against the potential toxicity of this compound. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is 1 mg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criteria have limitations and have no demonstrated relationship to potential adverse human health effects.

Cyanide

Freshwater Aquatic Life

For free cyanide (sum of cyanide present as HCN and CN^-, expressed as CN) the criterion to protect freshwater aquatic life as derived using the Guidelines is 3.5 μg/l as a 24-hour average and the concentration should not exceed 52 μg/l at any time.

Saltwater Aquatic Life

The available data for free cyanide (sum of cyanide present as HCN and CN^-, expressed as CN) indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 30 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. If the acute-chronic ratio for saltwater organisms is similar to that for freshwater organisms, chronic toxicity would occur at concentrations as low as 2.0 μg/l for the tested species and at lower concentrations among species that are more sensitive than those tested.

Human Health

The ambient water quality criterion for cyanide is recommended to be identical to the existing drinking water standard which is 200 μg/l. Analysis of the toxic effects data resulted in a calculated level which is protective of human health against the ingestion of contaminated water and contaminated aquatic organisms. The calculated value is comparable to the present standard. For this reason a selective criterion based on exposure solely from consumption of 6.5 grams of aquatic organisms was not derived.

DDT and Metabolites

Freshwater Aquatic Life

DDT

For DDT and its metabolites the criterion to protect freshwater aquatic life as derived using the Guidelines is 0.0010 μg/l as a 24-hour average and the concentration should not exceed 1.1 μg/l at any time.

TDE

The available data for TDE indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 0.6 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of TDE to sensitive freshwater aquatic life.

DDE

The available data for DDE indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 1,050 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of DDE to sensitive freshwater aquatic life.

Saltwater Aquatic Life

DDT

For DDT and its metabolites the criterion to protect saltwater aquatic life as derived using the Guidelines is 0.0010 μg/l as a 24-hour average and the concentration should not exceed 0.13 μg/l at any time.

TDE

The available data for TDE indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 3.6 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the

chronic toxicity of TDE to sensitive

through water and contaminated aquatic

Saltwater Aquatic Life

Based on available toxicity data, for the

the ambient water criterion is

aquatic organisms, the ambient water

chronic toxicity of TDE to sensitive saltwater aquatic life.

DDE

The available data for DDE indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 14 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of DDE to sensitive saltwater aquatic life.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of DDT through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are .24 ng/l, .024 ng/l, and .0024 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are .24 ng/l, .024 ng/l, and .0024 ng/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment of an "acceptable" risk level.

Dichlorobenzenes

Freshwater Aquatic Life

The available data for dichlorobenzenes indicate that acute and chronic toxicity to freshwater aquatic life occurs at concentrations as low as 1,120 and 763 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

Saltwater Aquatic Life

The available data for dichlorobenzenes indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 1,970 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of dichlorobenzenes to sensitive saltwater aquatic life.

Human Health

For the protection of human health from the toxic properties of dichlorobenzenes (all isomers) ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 400 μg/l.

For the protection of human health from the toxic properties of dichlorobenzenes (all isomers) ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 2.6 mg/l.

Dichlorobenzidines

Freshwater Aquatic Life

The data base available for dichlorobenzidines and freshwater organisms is limited to one test on bioconcentration of 3,3'-dichlorobenzidine and no statement can be made concerning acute or chronic toxicity.

Saltwater Aquatic Life

No saltwater organisms have been tested with any dichlorobenzidine and no statement can be made concerning acute or chronic toxicity.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of dichlorobenzidine through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero base on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are .103 μg/l, .0103 μg/l, and .00103 μg/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are .204 μg/l, .0204 μg/l, and .00204 μg/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Dichloroethylenes

Freshwater Aquatic Life

The available data for dichloroethylenes indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 11,600 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No definitive data are available concerning the chronic toxicity of dichlorethylenes to sensitive freshwater aquatic life.

Saltwater Aquatic Life

The available data for dichlorethylenes indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 224,000 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity dichloroethylenes to sensitive saltwater aquatic life.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of 1,1-dichloroethylene through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are .33 μg/l, .033 μg/l, and .0033 μg/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 18.5 μg/l, 1.85 μg/l, and .185 μg/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Using the present guidelines, a satisfactory criterion cannot be derived at this time due to the insufficiency in the available data for 1,2-dichloroethylene.

2,4-Dichlorophenol

Freshwater Aquatic Life

The available data for 2,4-dichlorophenol indicate that acute and chronic toxicity to freshwater aquatic life occurs at concentrations as low as 2,020 and 365 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive that those tested. Mortality to early life stages of one species of fish occurs at concentrations as low as 70 μg/l.

Saltwater Aquatic Life

Only one test has been conducted with saltwater organisms on 2,4-dichlorophenol and no statement can be made concerning acute or chronic toxicity.

Human Health

For comparison purposes, two approaches were used to derive criterion levels for 2,4-dichlorophenol.

Based on available toxicity data, for the protection of public health, the derived level is 3.09 mg/l. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is 0.3 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criteria have limitations and have no demonstrated relationship to potential adverse human health effects.

Dichloropropanes/Dichloropropenes

Freshwater Aquatic Life

The available data for dichloropropanes indicate that acute and chronic toxicity to freshwater aquatic life occurs at concentrations as low as 23,000 and 5,700 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

The available data for dichloropropenes indicate that acute and chronic toxicity to freshwater aquatic life occurs at concentrations as low as 6,060 and 244 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

Saltwater Aquatic Life

The available data for dichloropropanes indicate that acute and chronic toxicity to saltwater aquatic life occurs at concentrations as low as 10,300 and 3,040 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

The available data for dichloropropenes indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low a as 790 μg/l, and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of dichloropropenes to sensitive saltwater aquatic life.

Human Health

Using the present guidelines, a satisfactory criterion cannot be derived at this time due to the insufficiency in the available data for dichloropropanes.

For the protection of human health from the toxic properties of dichloropropenes ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 87 μg/l.

For the protection of human health from the toxic properties of dichloropropenes ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 14.1 mg/l.

2,4-Dimethylphenol

Freshwater Aquatic Life

The available data for 2,4-dimethylphenol indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 2,120 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of dimethylphenol to sensitive freshwater aquatic life.

Saltwater Aquatic Life

No saltwater organisms have been tested with 2,4-dimethylphenol and no statement can be made concerning acute and chronic toxicity.

Human Health

Sufficient data are not available for 2,4-dimethylphenol to derive a level which would protect against the potential toxicity of this compound. Using available organoleptic data, for controlling undersirable taste and odor quality of ambient water, the estimated level is 400 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criteria have limitations and have no demonstrated relationship to potential adverse human health effects.

2,4-Dinitrotoluene

Freshwater Aquatic Life

The available data for 2,4-dinitrotoluene indicate that acute and chronic toxicity to freshwater aquatic life occurs at concentrations as low as 330 and 230 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

Saltwater Aquatic Life

The available data for 2,4-dinitrotoluenes indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 590 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of 2,4-dinitrotoluenes to sensitive saltwater aquatic life but a decrease in algal cell numbers occurs at concentrations as low as 370 μg/l.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of 2,4-dinitrotoluene through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 1.1 μg/l, 0.11 μg/l, and 0.011 μg/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 91 μg/l, 9.1 μg/l, and 0.91 μg/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

1,2-Diphenylhydrazine

Freshwater Aquatic Life

The available data for 1,2-diphenylhydrazine indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 270 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of 1,2-diphenylhydrazine to sensitive freshwater aquatic life.

Saltwater Aquatic Life

No saltwater organisms have been tested with 1,2-diphenylhydrazine and no statement can be made concerning acute and chronic toxicity.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of 1,2-diphenylhydrazine through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 422 ng/l, 42 ng/l, and 4 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 5.6 μg/l, 0.56 μg/l, and 0.056 μg/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not

1.9 μg/l, 0.19 μg/l, and 0.019 μg/l,

Saltwater Aquatic Life

concerning the chronic toxicity of a

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represent an Agency judgment on an "acceptable" risk level.

Endosulfan

Freshwater Aquatic Life

For endosulfan the criterion to protect freshwater aquatic life as derived using the Guidelines is 0.056 μg/l as a 24-hour average and the concentration should not exceed 0.22 μg/l at any time.

Saltwater Aquatic Life

For endosulfan the criterion to protect saltwater aquatic life as derived using the Guidelines is 0.0087 μg/l as a 24-hour average and the concentration should not exceed 0.034 μg/l at any time.

Human Health

For the protection of human health from the toxic properties of endosulfan ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 74 μg/l.

For the protection of human health from the toxic properties of endosulfan ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 159 μg/l.

Endrin

Freshwater Aquatic Life

For endrin the criterion to protect freshwater aquatic life as derived using the Guidelines is 0.0023 μg/l as a 24-hour average and the concentration should not exceed 0.18 μg/l at any time.

Saltwater Aquatic Life

For endrin the criterion to protect saltwater aquatic life as derived using the Guidelines is 0.0023 μg/l as a 24-hour average and the concentration should not exceed 0.037 μg/l at any time.

Human Health

The ambient water quality criterion for endrin is recommended to be identical to the existing drinking water standard which is 1 μg/l. Analysis of the toxic effects data resulted in a calculated level which is protective of human health against the ingestion of contaminated water and contaminated aquatic organisms. The calculated value is comparable to the present standard. For this reason a selective criterion based on exposure solely from consumption of 6.5 grams of aquatic organisms was not derived.

Ethylbenzene

Freshwater Aquatic Life

The available data for ethylbenzene indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 32,000 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No definitive data are available concerning the chronic toxicity of ethylbenzene to sensitive freshwater aquatic life.

Saltwater Aquatic Life

The available data for ethylbenzene indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 430 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of ethylbenzene to sensitive saltwater aquatic life.

Human Health

For the protection of human health from the toxic properties of ethylbenzene ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 1.4 mg/l.

For the protection of human health from the toxic properties of ethylbenzene ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 3.28 mg/l.

Fluoranthene

Freshwater Aquatic Life

The available data for fluoranthene indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 3980 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of fluoranthene to sensitive freshwater aquatic life.

Saltwater Aquatic Life

The available data for fluoranthene indicate that acute and chronic toxicity to saltwater aquatic life occur at concentrations as low as 40 and 16 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

Human Health

For the protection of human health from the toxic properties of fluoranthene ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 42 μg/l.

For the protection of human health from the toxic properties of fluoranthene ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 54 μg/l.

Haloethers

Freshwater Aquatic Life

The available data for haloethers indicate that acute and chronic toxicity to freshwater aquatic life occur at concentrations as low as 360 and 122 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

Saltwater Aquatic Life

No saltwater organisms have been tested with any haloether and no statement can be made concerning acute or chronic toxicity.

Human Health

Using the present guidelines, a satisfactory criterion cannot be derived at this time due to the insufficiency in the available data for haloethers.

Halomethanes

Freshwater Aquatic Life

The available data for halomethanes indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 11,000 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of halomethanes to sensitive freshwater aquatic life.

Saltwater Aquatic Life

The available data for halomethanes indicate that acute and chronic toxicity to saltwater aquatic life occur at concentrations as low as 12,000 and 6,400 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested. A decrease in algal cell numbers occurs at concentrations as low as 11,500 μg/l.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of chloromethane, bromomethane, dichloromethane, bromodichloromethane, tribromomethane, dichlorodifluoromethane, trichlorofluoromethane, or combinations of these chemicals through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk, over the lifetimes are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are

1.9 μg/l, 0.19 μg/l, and 0.019 μg/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 157 μg/l, 15.7 μg/l, and 1.57 μg/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Heptachlor

Freshwater Aquatic Life

For heptachlor the criterion to protect freshwater aquatic life as derived using the Guidelines is 0.0038 μg/l as a 24-hour average and the concentration should not exceed 0.52 μg/l at any time.

Saltwater Aquatic Life

For heptachlor the criterion to protect saltwater aquatic life as derived using the Guidelines is 0.0036 μg/l as a 24-hour average and the concentration should not exceed 0.053 μg/l at any time.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of heptachlor through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk, over the lifetimes are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 2.78 ng/l, .28 ng/l, and .028 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 2.85 ng/l, .29 ng/l, and .029 ng/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Hexachlorobutadiene

Freshwater Aquatic Life

The available data for hexachlorobutadiene indicate that acute and chronic toxicity to freshwater aquatic life occur at concentrations as low as 90 and 9.3 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

Saltwater Aquatic Life

The available data for hexachlorobutadiene indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 32 μg/l and would occur at lower concentrations among species that are more sensitive that those tested. No data are available concerning the chronic toxicity of hexachlorobutadiene to sensitive saltwater aquatic life

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of hexachlorobutadiene through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk, over the lifetimes are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 4.47 μg/l, 0.45 μg/l, and 0.045 μg/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 500 μg/l, 50 μg/l, and 5 μg/l respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Hexachlorocyclohexane

Lindane

Freshwater Aquatic Life

For Lindane the criterion to protect freshwater aquatic life as derived using the Guidelines is 0.080 μg/l as a 24-hour average and the concentration should not exceed 2.0 μg/l at any time.

Saltwater Aquatic Life

For saltwater aquatic life the concentration of lindane should not exceed 0.16 μg/l at any time. No data are available concerning the chronic toxicity of lindane to sensitive saltwater aquatic life.

BHC

Freshwater Aquatic Life

The available date for a mixture of isomers of BHC indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 100 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of a mixture of isomers of BHC to sensitive freshwater aquatic life.

Saltwater Aquatic Life

The available date for a mixture of isomers of BHC indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 0.34 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of a mixture of isomers of BHC to sensitive saltwater aquatic life.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of alpha-HCH through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk, over the lifetimes are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 92 ng/l, 9.2 ng/l, and .92 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 310 ng/l, 31.0 ng/l, and 3.1 ng/l respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

For the maximum protection of human health from the potential carcinogenic effects due to exposure of beta-HCH through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk, over the lifetimes are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 163 ng/l, 16.3 ng/l, and 1.63 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 547 ng/l, 54.7 ng/l, and 5.47 ng/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not

represent an Agency judgment on an "acceptable" risk level.

For the maximum protection of human health from the potential carcinogenic effects due to exposure of tech-HCH through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk, over the lifetimes are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 123 ng/l, 12.3 ng/l, and 1.23 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 414 ng/l, 41.4 ng/l, and 4.14 ng/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

For the maximum protection of human health from the potential carcinogenic effects due to exposure of gamma-HCH through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentrations should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 186 ng/l, 18.6 ng/l, and 1.86 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 625 ng/l, 62.5 ng/l, 6.25 ng/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Using the present guidelines, a satisfactory criterion cannot be derived at this time due to the insufficiency in the available data for delta-HCH.

Using the present guidelines, a satisfactory criterion cannot be derived at this time due to the insufficiency in the available data for epsilon-HCH.

Hexachlorocyclopentadiene

Freshwater Aquatic Life

The available data for hexachlorocyclopentadiene indicate that acute and chronic toxicity to freshwater aquatic life occurs at concentrations as low as 7.0 and 5.2 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

Saltwater Aquatic Life

The available data to hexachlorocyclopentadiene indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 7.0 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of hexachlorocyclopentadiene to sensitive saltwater aquatic life.

Human Health

For comparison purposes, two approaches were used to derive criterion levels for hexachlorocyclopentadiene. Based on available toxicity data, for the protection of public health, the derived level is 206 μg/l. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is 1.0 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criterion have limitations and have no demonstrated relationship to potential adverse human health effects.

Isophorone

Freshwater Aquatic Life

The available data for isophorone indicate that acute toxicity to freshwater aquatic life ocurs at concentrations as low as 117,000 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of isophorone to sensitive freshwater aquatic life.

Saltwater Aquatic Life

The available data for isophorone indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 12,900 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of isophorone to sensitive saltwater aquatic life.

Human Health

For the protection of human health from the toxic properties of isophorone ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 5.2 mg/l.

For the protection of human health from the toxic properties of isophorone ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 520 mg/l.

Lead

Freshwater Aquatic Life

For total recoverable lead the criterion (in μg/l) to protect freshwater aquatic life as derived using the Guidelines is the numerical value given by e(2.35[ln(hardness)]–9.48) as a 24-hour average and the concentration (in μg/l) should not exceed the numerical value given by e(1.22[ln(hardness)]–0.47) at any time. For example, at hardnesses of 50, 100, and 200 mg/l as $CaCO_3$ the criteria are 0.75, 3.8, and 20 μg/l, respectively, as 24-hour averages, and the concentrations should not exceed 74, 170, and 400 μg/l, respectively, at any time.

Saltwater Aquatic Life

The available data for total recoverable lead indicate that acute and chronic toxicity to saltwater aquatic life occur at concentrations as low as 668 and 25 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

Human Health

The ambient water quality criterion for lead is recommended to be identical to the existing drinking water standard which is 50 μg/l. Analysis of the toxic effects data resulted in a calculated level which is protective to human health against the ingestion of contaminated water and contaminated aquatic organisms. The calculated value is comparable to the present standard. For this reason a selective criterion based on exposure solely from consumption of 6.5 grams of aquatic organisms was not derived.

Mercury

Freshwater Aquatic Life

For total recoverable mercury the criterion to protect freshwater aquatic life as derived using the Guidelines is 0.00057 μg/l as a 24-hour average and the concentration should not exceed 0.0017 μg/l at any time.

Saltwater Aquatic Life

For total recoverable mercury the criterion to protect saltwater aquatic life as derived using the Guidelines is 0.025 μg/l as a 24-hour average and the concentration should not exceed 3.7 μg/l at any time.

Human Health

For the protection of human health from the toxic properties of mercury ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 144 ng/l.

For the protection of human health from the toxic properties of mercury ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 146 ng/l.

Note.—These values include the consumption of freshwater, estuarine, and marine species.

Naphthalene

Freshwater Aquatic Life

The available data to naphthalene indicate that acute and chronic toxicity to freshwater aquatic life occur at concentrations as low as 2,300 and 620 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

Saltwater Aquatic Life

The available data for naphthalene indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 2,350 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of naphthalene to sensitive saltwater aquatic life.

Human Health

Using the present guidelines, a satisfactory criterion cannot be derived at this time due to the insufficiency in the available data for naphthalene.

Nickel

Freshwater Aquatic Life

For total recoverable nickel the criterion (in μg/l) to protect freshwater aquatic life as derived using the Guidelines is the numerical value given by e(0.76 [ln (hardness)] +1.06) as a 24-hour average and the concentration (in μg/l) should not exceed the numerical value given by e(0.76[ln (hardness)] + 4.02) at any time. For example, at hardnesses of 50, 100, and 200 mg/l as $CaCO_3$ the criteria are 56, 96, and 160 μg/l, respectively, as 24-hour averages, and the concentrations should not exceed 1,100, 1,800, and 3,100 μg/l, respectively, at any time.

Saltwater Aquatic Life

For total recoverable nickel the criterion to protect saltwater aquatic life as derived using the Guidelines is 7.1 μg/l as a 24-hour average and the concentration should not exceed 140 μg/l at any time.

Human Health

For the protection of human health from the toxic properties of nickel ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 13.4 μg/l.

For the protection of human health from the toxic properties of nickel ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 100 μg/l.

Nitrobenzene

Freshwater Aquatic Life

The available data for nitrobenzene indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 27,000 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No definitive data are available concerning the chronic toxicity of nitrobenzene to sensitive freshwater aquatic life.

Saltwater Aquatic Life

The available data for nitrobenzene indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 6,680 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of nitrobenzene to sensitive saltwater aquatic life.

Human Health

For comparison purposes, two approaches were used to derive criterion levels for nitrobenzene. Based on available toxicity data, for the protection of public health, the derived level is 19.8 mg/l. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is 30 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criteria have limitations and have no demonstrated relationship to potential adverse human health effects.

Nitrophenols

Freshwater Aquatic Life

The available data for nitrophenols indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 230 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of nitrophenols to sensitive freshwater aquatic life but toxicity to one species of algae occurs at concentrations as low as 150 μg/l.

Saltwater Aquatic Life

The available data for nitrophenols indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 4,850 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of nitrophenols to sensitive saltwater aquatic life.

Human Health

For the protection of human health from the toxic properties of 2,4-dinitro-o-cresol ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 13.4 μg/l.

For the protection of human health from the toxic properties of 2,4-dinitro-o-cresol ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 765 μg/l.

For the protection of human health from the toxic properties of dinitrophenol ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 70 μg/l.

For the protection of human health from the toxic properties of dinitrophenol ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 14.3 mg/l.

Using the present guidelines, a satisfactory criterion cannot be derived at this time due to the insufficiency in the available data for mononitrophenol.

Using the present guidelines, a satisfactory criterion cannot be derived at this time due to the insufficiency in the available data for tri-nitrophenol.

Nitrosamines

Freshwater Aquatic Life

The available data for nitrosamines indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 5,850 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of nitrosamines to sensitive freshwater aquatic life.

Saltwater Aquatic Life

The available data for nitrosamines indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 3,300,000 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of nitrosamines to sensitive saltwater aquatic life.

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Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of n-nitrosodimethylamine through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk, over the lifetimes are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 14 ng/l, 1.4 ng/l, and .14 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 160,000 ng/l, 16,000 ng/l, and 1,600 ng/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

For the maximum protection of human health from the potential carcinogenic effects due to exposure of n-nitrosodiethylamine through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk, over the lifetimes are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 8 ng/l, 0.8 ng/l, and 0.08 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 12,400 ng/l, 1,240 ng/l, and 124 ng/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

For the maximum protection of human health from the potential carcinogenic effects due to exposure in n-nitrosodi-n-butylamine through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk, over the lifetimes are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 64 ng/l 6.4 ng/l and .064 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 5,868 ng/l, 587 ng/l, and 58.7 ng/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

For the maximum protection of human health from the potential carcinogenic effects due to exposure in n-nitrosodiphenylamine through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk, over the lifetimes are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 49,000 ng/l 4,900 ng/l and 490 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 161,000 ng/l, 16,100 ng/l, and 1,610 ng/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

For the maximum protection of human health from the potential carcinogenic effects due to exposure in n-nitrosopyrrolidine through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk, over the lifetimes are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 160 ng/l 16.0 ng/l and 1.60 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 919,000 ng/l, 91,900 ng/l, and 9,190 ng/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Pentachlorophenol

Freshwater Aquatic Life

The available data for pentachlorophenol indicate that acute and chronic toxicity to freshwater aquatic life occur at concentrations as low as 55 and 3.2 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

Saltwater Aquatic Life

The available data for pentachlorophenol indicate that acute and chronic toxicity to saltwater aquatic life occur at concentrations as low as 53 and 34 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

Human Health

For comparison purposes, two approaches were used to derive criterion levels for pentachlorophenol. Based on available toxicity data, for the protection of public health, the derived level is 1.01 mg/l. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is 30 μg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criterion have limitations and have no demonstrated relationship to potential adverse human health effects.

Phenol

Freshwater Aquatic Life

The available data for phenol indicate that acute and chronic toxicity to freshwater aquatic life occur at concentrations as low as 10,200 and 2,560 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

Saltwater Aquatic Life

The available data for phenol indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 5,800 ug/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of phenol to sensitive saltwater aquatic life.

Human Health

For comparison purposes, two approaches were used to derive criterion levels for phenol. Based on available toxicity data, for the protection of public health, the derived level is 3.5 mg/l. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is 0.3 mg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criterion have limitations and have no demonstrated relationship to potential adverse human health effects.

Phthalate Esters

Freshwater Aquatic Life

The available data for phthalate esters indicate that acute and chronic toxicity to freshwater aquatic life occur at concentrations as low as 940 and 3 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

Saltwater Aquatic Life

The available data for phthalate esters indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 2944 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of phthalate esters to sensitive saltwater aquatic life but toxicity to one species of algae occurs at concentrations as low as 3.4 μg/l.

Human Health

For the protection of human health from the toxic properties of dimethylphthalate ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 313 mg/l.

For the protection of human health from the toxic properties of dimethylphthalate ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 2.9 g/l.

For the protection of human health from the toxic properties of diethylphthalate ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 350 mg/l.

For the protection of human health from the toxic properties of diethylphthalate ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 1.8 g/l.

For the protection of human health from the toxic properties of dibutylphthalate ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 34 mg/l.

For the protection of human health from the toxic properties of dibutylphthalate ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 154 mg/l.

For the protection of human health from the toxic properties of di-2-ethylhexyl-phthalate ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 15 mg/l.

For the protection of human health from the toxic properties of di-2-ethylhexyl-phthalate ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 50 mg/l.

Polychlorinated Biphenyls

Freshwater Aquatic Life

For polychlorinated biphenyls the criterion to protect freshwater aquatic life as derived using the Guidelines is 0.014 μg/l as a 24-hour average. The available data indicate that acute toxicity to freshwater aquatic life probably will only occur at concentrations above 2.0 μg/l and that the 24-hour average should provide adequate protection against acute toxicity.

Saltwater Aquatic Live

For polychlorinated biphenyls the criterion to protect saltwater aquatic life as derived using the Guidelines is 0.030 μg/l as a 24-hour average. The available data indicate that acute toxicity to saltwater aquatic life probably will only occur at concentrations above 10 μg/l and that the 24-hour average should provide adequate protection against acute toxicity.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of PCBs through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are .79 ng/l, 0.79 ng/l, and .0079 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are .79 ng/l, .079 ng/l, and .0079 ng/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Polynuclear Aromatic Hydrocarbons (PAHs)

Freshwater Aquatic Life

The limited freshwater data base available for polynuclear aromatic hydrocarbons, mostly from short-term bioconcentration studies with two compounds, does not permit a statement concerning acute or chronic toxicity.

Saltwater Aquatic Life

The available data for polynuclear aromatic hydrocarbons indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 300 ug/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of polynuclear aromatic hydrocarbons to sensitive saltwater aquatic life.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of PAHs through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 28 ng/l, 2.8 ng/l, and .28 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 311 ng/l, 31.1 ng/l, and 3.11 ng/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Selenium

Freshwater Aquatic Life

For total recoverable inorganic selenite the criterion to protect freshwater aquatic life as derived using the Guidelines is 35 μg/l as a 24-hour average and the concentration should not exceed 260 μg/l at any time.

The available data for inorganic selenate indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 760 μg/l and would occur at lower concentrations among species that are more sensitive

than those tested. No data are available

consumption of 6.5 grams of aquatic

aquatic life occurs at concentrations as

are available concerning the chronic toxicity of toxaphene to sensitive

the non-threshold assumption for this

exceed the numerical value given by

than those tested. No data are available concerning the chronic toxicity of inorganic selenate to sensitive freshwater aquatic life.

Saltwater Aquatic Life

For total recoverable inorganic selenite the criterion to protect saltwater aquatic life as derived using the Guidelines is 54 μg/l as a 24-hour average and the concentration should not exceed 410 μg/l at any time.

No data are available concerning the toxicity of inorganic selenate to saltwater aquatic life.

Human Health

The ambient water quality criterion for selenium is recommended to be identical to the existing drinking water standard which is 10 μg/l. Analysis of the toxic effects data resulted in a calculated level which is protective of human health against the ingestion of contaminated water and contaminated aquatic organisms. The calculated value is comparable to the present standard. For this reason a selective criterion based on exposure solely from consumption of 6.5 grams of aquatic organisms was not derived.

Silver

Freshwater Aquatic Life

For freshwater aquatic life the concentration (in μg/l) of total recoverable silver should not exceed the numerical value given by "e[1.72(ln (hardness)-6.52)]" at any time. For example, at hardnesses of 50, 100, 200 mg/l as $CaCO_3$ the concentration of total recoverable silver should not exceed 1.2, 4.1, and 13 μg/l, respectively, at any time. The available data indicate that chronic toxicity to freshwater aquatic life may occur at concentrations as low as 0.12 μg/l.

Saltwater Aquatic Life

For saltwater aquatic life the concentration of total recoverable silver should not exceed 2.3 μg/l at any time. No data are available concerning the chronic toxicity of silver to sensitive saltwater aquatic life.

Human Health

The ambient water quality criterion for silver is recommended to be identical to the existing drinking water standard which is 50 μg/l. Analysis of the toxic effects data resulted in a calculated level which is protective of human health against the ingestion of contaminated water and contaminated aquatic organisms. The calculated value is comparable to the present standard. For this reason a selective criterion based on exposure solely from consumption of 6.5 grams of aquatic organisms was not derived.

Tetrachloroethylene

Freshwater Aquatic Life

The available data for tetrachloroethylene indicate that acute and chronic toxicity to freshwater aquatic life occur at concentrations as low as 5,280 and 840 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

Saltwater Aquatic Life

The available data for tetrachloroethylene indicate that acute and chronic toxicity to saltwater aquatic life occur at concentrations low as 10,200 and 450 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of tetrachloroethylene through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 8 μg/l, .8 μg/l, and .08 μg/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 88.5 μg/l, 8.85 μg/l, and .88 μg/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Thallium

Freshwater Aquatic Life

The available data for thallium indicate that acute and chronic toxicity to freshwater aquatic life occur at concentrations as low as 1,400 and 40 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested. Toxicity to one species of fish occurs at concentrations as low as 20 μg/l after 2,600 hours of exposure.

Saltwater Aquatic Life

The available data for thallium indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 2,130 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of thallium to sensitive saltwater aquatic life.

Human Health

For the protection of human health from the toxic properties of thallium ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 13 μg/l.

For the protection of human health from the toxic properties of thallium ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 48 μg/l.

Toluene

Freshwater Aquatic Life

The available data for toluene indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 17,500 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of toluene to sensitive freshwater aquatic life.

Saltwater Aquatic Life

The available data for toluene indicate that acute and chronic toxicity to saltwater aquatic life occur at concentrations as low as 6,300 and 5,000 μg/l, respectively, and would occur at lower concentrations among species that are more sensitive than those tested.

Human Health

For the protection of human health from the toxic properties of toluene ingested through water and contaminated aquatic organisms, the ambient water criterion is determined to be 14.3 mg/l.

For the protection of human health from the toxic properties of toluene ingested through contaminated aquatic organisms alone, the ambient water criterion is determined to be 424 mg/l.

Toxaphene

Freshwater Aquatic Life

For toxaphene the criterion to protect freshwater aquatic life as derived using the Guidelines is 0.013 μg/l as a 24-hour average and the concentration should not exceed 1.6 μg/l at any time.

Saltwater Aquatic Life

For saltwater aquatic life the concentration of toxaphene should not exceed 0.070 μg/l at any time. No data are available concerning the chronic toxicity of toxaphene to sensitive saltwater aquatic life.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of toxaphene through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 7.1 ng/l, .71 ng/l, and .07 ng/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 7.3 ng/l, .73 ng/l, and .07 ng/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Trichloroethylene

Freshwater Aquatic Life

The available data for trichloroethylene indicate that acute toxicity to freshwater aquatic life occurs at concentrations as low as 45,000 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of trichloroethylene to sensitive freshwater aquatic life but adverse behavioral effects occurs to one species at concentrations as low as 21,900 μg/l.

Saltwater Aquatic Life

The available data for trichloroethylene indicate that acute toxicity to saltwater aquatic life occurs at concentrations as low as 2,000 μg/l and would occur at lower concentrations among species that are more sensitive than those tested. No data are available concerning the chronic toxicity of trichloroethylene to sensitive saltwater aquatic life.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of trichloroethylene through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 27 μg/l, 2.7 μg/l, and .27 μg/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 807 μg/l, 80.7 μg/l, and 8.07 μg/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Vinyl Chloride

Freshwater Aquatic Life

No freshwater organisms have been tested with vinyl chloride and no statement can be made concerning acute or chronic toxicity.

Saltwater Aquatic Life

No saltwater organisms have been tested with vinyl chloride and no statement can be made concerning acute or chronic toxicity.

Human Health

For the maximum protection of human health from the potential carcinogenic effects due to exposure of vinyl chloride through ingestion of contaminated water and contaminated aquatic organisms, the ambient water concentration should be zero based on the non-threshold assumption for this chemical. However, zero level may not be attainable at the present time. Therefore, the levels which may result in incremental increase of cancer risk over the lifetime are estimated at 10^{-5}, 10^{-6}, and 10^{-7}. The corresponding criteria are 20 μg/l, 2.0 μg/l, and .2 μg/l, respectively. If the above estimates are made for consumption of aquatic organisms only, excluding consumption of water, the levels are 5,246 μg/l, 525 μg/l, and 52.5 μg/l, respectively. Other concentrations representing different risk levels may be calculated by use of the Guidelines. The risk estimate range is presented for information purposes and does not represent an Agency judgment on an "acceptable" risk level.

Zinc

Freshwater Aquatic Life

For total recoverable zinc the criterion to protect freshwater aquatic life as derived using the Guidelines is 47 μg/l as a 24-hour average and the concentration (in μg/l) should not exceed the numerical value given by $e^{(0.83[\ln(\text{hardness})]+1.95)}$ at any time. For example, at hardnesses of 50, 100, and 200 mg/l as $CaCO_3$ the concentration of total recoverable zinc should not exceed 180, 320, and 570 μg/l at any time.

Saltwater Aquatic Life

For total recoverable zinc the criterion to protect saltwater aquatic life as derived using the Guidelines is 58 μg/l as a 24-hour average and the concentration should not exceed 170 μg/l at any time.

Human Health

Sufficient data is not available for zinc to derive a level which would protect against the potential toxicity of this compound. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water, the estimated level is 5 mg/l. It should be recognized that organoleptic data as a basis for establishing a water quality criteria have limitations and have not demonstrated relationship to potential adverse human health effects.

Appendix B—Guidelines for Deriving Water Quality Criteria for the Protection of Aquatic Life and Its Uses

Introduction

This version of the Guidelines provides clarifications, additional details, and technical and editorial changes in the last version published in the **Federal Register** [44 FR 15970 (March 15, 1979)]. This version incorporates changes resulting from comments on previous versions and from experience gained during U.S. EPA's use of the previous versions. Future versions of the Guidelines will incorporate new ideas and data as their usefulness is demonstrated.

Criteria may be expressed in several forms. The numerical form is commonly used, but descriptive and procedural forms can be used if numerical criteria are not possible or desirable. The purpose of these Guidelines is to describe an objective, internally consistent and appropriate way of deriving numerical water quality criteria for the protection of the uses of, as well as the presence of, aquatic organisms.

A numerical criterion might be thought of as an estimate of the highest concentration of a substance in water which does not present a significant risk to the aquatic organisms in the water and their uses. Thus the Guidelines are intended to derive criteria which will protect aquatic communities by protecting most of the species and their uses most of the time, but not

necessarily all of the species all of the time. Aquatic communities can tolerate some stress and occasional adverse effects on a few species, and so total protection of all of the species all of the time is not necessary. Rather, the Guidelines attempt to provide a reasonable and adequate amount of protection with only a small possibility of considerable overprotection or underprotection. Within these constraints, it seems appropriate to err on the side of overprotection.

The numerical aquatic life criteria derived using the Guidelines are expressed as two numbers, rather than the traditional one number, so that the criteria can more accurately reflect toxicological and practical realities. The combination of both a maximum value and a 24-hour average value is designed to provide adequate protection of aquatic life and its uses from acute and chronic toxicity to animals, toxicity to plants and bioconcentration by aquatic organisms without being as restrictive as a one-number criterion would have to be to provide the same amout of protection. The only way to assure the same degree of protection with a one-number criterion would be to use the 24-hour average as a concentration that is not to be exceeded at any time in any place.

The two-number criterion is intended to identify an average pollutant concentration which will produce a water qualtiy generally suited to the maintenance of aquatic life and its uses while restricting the extent and duration of excursions over the average so that the total exposure will not cause unacceptable adverse effects. Merely specifying an average value over a time period is insufficient, unless the period of time is rather short, because of concentration higher than the average value can kill or cause substantial damage in short periods. Furthermore, for some substances the effect of intermittent high exposures is cumulative. It is therefore necessary to place an upper limit on pollutant concentrations to which aquatic organisms might be exposed, especially when the maximum value is not much higher than the average value. For some substances the maximum may be so much higher than the 24-hour average that in any real-world situation the maximum will never be reached if the 24-hour average is achieved. In such cases the 24-hour average will be limiting and the maximum will have no practical significance, except to indicate that elevated concentrations are acceptable as long as the 24-hour average is achieved.

These Guidelines have been developed on the assumption that the results of laboratory tests are generally useful for predicting what will happen in field situations. The resulting criteria are meant to apply to most bodies of water in the United States, except for the Great Salt Lake. All aquatic organisms and their common uses are meant to be considered, but not necessarily protected, if relevant data are available, with at least one specific exception. This exception is the accumulation of residues of organic compounds in the siscowet subspecies of lake trout which occurs in Lake Superior and contains up to 67% fat in the fillets (Thurston, C.E., 1962, Physical Characteristics and Chemical Composition of Two Subspecies of Lake Trout, J. Fish. Res. Bd. Canada 19:39–44). Neither siscowet nor organisms in the Great Salt Lake are intentionally protected by these Guidelines because both may be too atypical.

With appropriate modifications these Guidelines can be used to derive criteria for any specified geographical area, body of water (such as the Great Salt Lake), or group of similar bodies of water. Thus with appropriate modifications the Guidelines can be used to derive national, state, or local criteria if adequate information is available concerning the effects of the substance of concern on appropriate species and their uses. However, the basic concepts described in the Guidelines should be modified only when sound scientific evidence indicates that a criterion produced using the Guidelines would probably significantly overprotect or underprotect the presence or uses of aquatic life.

Criteria produced by these Guidelines are not enforceable numbers. They may be used in developing enforceable numbers, such as water quality standards and effluent standards. However, the development of standards may take into account additional factors such as social, legal, economic, and hydrological considerations, the environmental and analytical chemistry of the substance, the extrapolation from laboratory data to field situations, and the relationship between the species for which data are available and the species which are to be protected.

Because fresh water and salt water (including both estuarine and marine waters) have basically different chemical compositions and because freshwater and saltwater species rarely inhabit the same water simultaneously, separate criteria should be derived for these two kinds of waters. However, for some substances sufficient data may not be available to allow derivation of one or both of these criteria using the Guidelines.

These Guidelines are meant to be used after a decision is made that a criterion is needed for a substance. The Guidelines do not address the rationale for making that decision. If the potential for adverse effects on aquatic life and its uses are part of the basis for deciding whether or not a criterion is needed for a substance, these Guidelines may be helpful in the collection and interpretation of relevant data.

I. Define the Substance for Which the Criterion Is To Be Derived

A. Each separate chemical which would not ionize significantly in most natural bodies of water should usually be considered a separate substance, except possibly for structurally similar organic compounds that only differ in the number and location of atoms of a specific halogen, and only exist in large quantities as commercial mixtures of the various compounds, and apparently have similar chemical, biological, and toxicological properties.

B. For chemicals, which would ionize significantly in most natural bodies of water, such as inorganic salts, organic acids and phenols, all forms that would be in chemical equilibrium should usually be considered one substance. For metals, each different valence and each different covalently bonded organometallic compound should usually be considered a separate substance.

C. The definition of the substance may also need to take into account the analytical chemistry and fate of the substance.

II. Collect and Review Available Data

A. Collect all available data on the substance concerning (1) toxicity to, and bioaccumulation by, aquatic animals and plants, (2) FDA action levels, and (3) chronic feeding studies with wildlife.

B. Discard all data that are not available in hard copy (publication, manuscript, letter, memorandum, etc.) with enough supporting information to indicate that acceptable test procedures were used and that the results are reliable. Do not assume that all published data are acceptable.

C. Discard questionable data. For example, discard data from tests for which no control treatment existed, in which too many organisms in the control treatment died or showed signs of stress or disease, or in which distilled or deionized water was used as the dilution water for aquatic organisms. Discard data on formulated mixtures and emulsifiable concentrates of the

substance of concern, but not necessarily data on technical grade material.

D. Do not use data obtained using:

1. Brine shrimp, because they usually only occur naturally in water with salinity greater than 35 g/kg.

2. Species that do not have reproducing wild populations resident in—but not necessarily native to—North America. Resident North American species of fishes are defined as those listed in "A List of Common and Scientific Names of Fishes from the United States and Canada", 3rd ed., Special Publication No. 6, American Fisheries Society, Washington, D.C., 1970. Data obtained with non-resident species can be used to indicate relationships and possible problem areas, but cannot be used in the derivation of criteria.

3. Organisms that were previously exposed to significant concentrations of the test material or other pollutants.

III. Minimum Data Base

A. A minimum amount of data should be available to help ensure that each of the four major kinds of possible adverse effects receives some consideration. Results of acute and chronic toxicity tests with a reasonable number and variety of aquatic animals are necessary so that data available for tested species can be considered a useful indication of the sensitivities of the numerous untested species. The requiurements concerning toxicity to aquatic plants are less stringent because procedures for conducting tests with plants are not as well developed and the interpretation of the results is more questionable. Data concerning bioconcentration by aquatic organisms can only be used if other relevant data are available.

B. To derive a criterion for freshwater aquatic life, the following should be available:

1. Acute tests (see Section IV) with freshwater animals in at least eight different families provided that of the eight species:
—at least one is a salmonid fish
—at least one is a non-salmonid fish
—at least one is a planktonic crustacean
—at least one is a benthic crustacean
—at least one is a benthic insect
—at least one of the benthic species is a detritivore

2. Acute-chronic ratios (see Section VI) for at least three species of aquatic animals provided that of the three species:
—at least one is a fish
—at least one is an invertebrate
—at least one is a freshwater species (the other two may be saltwater species)

3. At least one test with a freshwater alga or a chronic test with a freshwater vascular plant (see Section VIII). If plants are among the aquatic organisms that are most sensitive to the substance, tests with more than one species should be available.

4. At least one acceptable bioconcentration factor determined with an aquatic animal species, if a maximum permissible tissue concentration is available (see Section IX).

C. To derive a criterion for saltwater aquatic life, the following should be available:

1. Acute tests (see Section IV) with saltwater animals in at least eight different families provided that of the eight species:
—at least two different fish families are included
—at least five different invertebrate families are included
—either the Mysidae or Penaeidae family or both are included
—at least one of the invertebrate families is in a phylum other than Arthropoda

2. Acute-chronic ratios (see Section VI) for at least three species of aquatic animals provided that of the three species:
—at least one is a fish
—at least one is an invertebrate
—at least one is a saltwater species (the other two may be freshwater species)

3. At least one test with a saltwater alga or a chronic test with a saltwater vascular plant (see Section VIII). If plants are among the aquatic organisms most sensitive to the substance, tests with more than one species should be available.

4. At least one acceptable bioconcentration factor determined with an aquatic animal species, if a maximum permissible tissue concentration is available (see Section IX).

D. If all the requirements of the minimum data base are met, a criterion can usually be derived, except in special cases. For example, a criterion might not be possible if the acute-chronic ratios vary greatly with no apparent pattern. Also, if a criterion is to be related to a water quality characteristic, (see Sections V and VII), more data will be necessary.

Similarly, if the minimum data requirements are not satisfied, generally a criterion should not be derived, except in special cases. One such special case would be when less than the minimum amount of acute and chronic data are available, but the available data clearly indicate that the Final Residue Value would be substantially lower then either the Final Chronic Value or the Final Plant Value.

IV. Final Acute Value

A. Appropriate measures of the acute (short-term) toxicity of the substance to various species of aquatic animals are used to calculate the Final Acute Value. If acute values are available for fewer than twenty species, the Final Acute Value probably should be lower than the lowest value. On the other hand, if acute values are available for more than twenty species, the Final Acute Value probably should be higher than the lowest value, unless the most sensitive species is an important one. Although the procedure used to calculate the Final Acute Value has some limitations, it apparently is the best of the procedures currently available.

B. Acute toxicity tests should be conducted using procedures such as those described in:

ASTM Standard E 729–80, Practice for Conducting Acute Toxicity Tests with Fishes, Macroinvertebrates, and Amphibians. American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

ASTM Standard E 724–80, Practice for Conducting Static Acute Toxicity Tests with Larvae of Four Species of Bivalve Molluscs. American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

C. Results of acute tests in which food was added to the test solutions should not be used, because this may unnecessarily affect the results of the test.

D. Results of acute tests conducted with embryos should not be used (but see Section IV.E.2), because this is often an insensitive life stage.

E. Acute values should be based on endpoints and lengths of exposure appropriate to the life stage of the species tested. Therefore, only the following kinds of data on acute toxicity to aquatic animals should be used:

1. 48-hr EC50 values based on immobilization and 48-hr LC50 values for first-instar (less than 24 hours old) daphnids and other cladocerans, and second- or third-instar midge larvae.

2. 48- to 96-hr EC50 values based on incomplete shell development and 48- to 96-hr LC50 values for embryos and larvae of barnacles, bivalve molluscs (clams, mussels, oysters, and scallops), sea urchins, lobsters, crabs, shrimps, and abalones.

3. 96-hr EC50 values based on decreased shell deposition for oysters.

4. 96-hr EC50 values on immobilization or loss of equilibrium or both and 96-hr LC50 values for aquatic animals, except for cladocerans, midges, and animals whose behavior or physiology allows them to avoid

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exposure to toxicant or for whom the acute adverse effect of the exposure cannot be adequately measured. Such freshwater and saltwater animals include air-breathing molluscs, unionid clams, operculate snails, and bivalve molluscs, except for some species that cannot "close up" and thus prevent exposure to toxicant, such as the bay scallop (*Argopecten irradians*).

F. For the use of LC50 or EC50 values for durations shorter and longer than those listed above, see Section X.

G. If the acute toxicity of the substance to aquatic animals has been shown to be related to a water quality characteristic such as hardness for freshwater organisms or salinity for saltwater organisms, a Final Acute Equation should be derived based on that water quality characteristic. Go to Section V.

H. If the acute toxicity of the substance has not been adequately shown to be related to a water quality characteristic, for each species for which at least one acute value is available, calculate the geometric mean of the results of all flow-through tests in which the toxicant concentrations were measured. For a species for which no such result is available, calculate the geometric mean of all available acute values, i.e., results of flow-through tests in which the toxicant concentrations were not measured and results of static and renewal tests based on initial total toxicant concentrations.

Note.—The geometric mean of N numbers is obtained by taking the N^{th} root of the product of N numbers. Alternatively, the geometric mean can be calculated by adding the logarithms of the N numbers, dividing the sum by N, and taking the antilog of the quotient. The geometric mean of two numbers can also be calculated as the square root of the product of the two numbers. The geometric mean of one number is that number. Either natural (base e) or common (base 10) logarithms can be used to calculate geometric means as long as they are used consistently within each set of data, i.e., the antilog used must match the logarithm used.

I. Count the number=N of species for which a species mean acute value is available.

J. Order the species mean acute values from low to high. Take the common logarithms of the N values (log mean values).

K. The intervals (cell widths) for the lower cumulative proportion calculations are 0.11 common log units apart, starting from the lowest log value. The value of 0.11 is an estimate of average precision and was calculated from replicate species acute values.

L. Starting with the lowest log mean value, separate the N values into intervals (or cells) calculated in Step IV. K.

M. Calculate cumulative proportions for each non-empty interval by summing the number of values in the present and all lower intervals and dividing by N. These calculations only need to be done for the first three non-empty intervals (or cells).

N. Calculate the arithmetic mean of the log mean values for each of the three intervals.

O. Using the two interval mean acute values and cumulative proportions closest to 0.05, linearly extrapolate or interpolate to the 0.05 log concentration. The Final Acute Value is the antilog of the 0.05 concentration.

In other words, where

Prop(1) and conc(1) are the cumulative proportion and mean log value for the lowest non-empty interval.

Prop(2) and conc(2) are the cumulative proportion and mean log value for the second lowest non-empty interval.

A=Slope of the cumulative proportions

B=The 0.05 log value

Then:

$A=[0.05-Prop(1)]/[Prop(2)-Prop(1)]$

$B=conc(1)+A\,[conc(2)-conc(1)]$

Final Acute Value=10^B

P. If for an important species, such as a recreationally or commercially important species, the geometric mean of the acute values from flow-through tests in which the toxicant concentrations were measured is lower than the Final Acute Value, then that geometric mean should be used as the Final Acute Value.

Q. Go to Section VI.

V. Final Acute Equation

A. When enough data are available to show that acute toxicity to two or more species is similarly affected by a water quality characteristic, this effect can be taken into account as described below. Pooled regression analysis should produce similar results, although data available for individual species would be weighted differently.

B. For each species for which comparable acute toxicity values are available at two or more different values of a water quality characteristic which apparently affects toxicity, perform a least squares regression of the natural logarithms of the acute toxicity values on the natural logarithms of the values of the water quality characteristic. (Natural logarithms [logarithms to the base e, denoted as ln] are used herein merely because they are easier to use on some hand calculators and computers than common logarithms [logarithms to the base 10]. Consistent use of either will produce the same result.) No transformation or a different transformation may be used if it fits the data better, but appropriate changes will be necessary throughout this section.

C. Determine whether or not each acute slope is meaningful, taking into account the range and number of values of the water quality characteristic tested. For example, a slope based on four data points may be of limited value if it is based only on data for a narrow range of values of the water quality characteristic. On the other hand, a slope based on only two data points may be meaningful if it is consistent with other information and if the two points cover a broad enough range of the water quality characteristic. If meaningful slopes are not available for at least two species or if the available slopes are not similar, return to Section IV. H., using the results of tests conducted under conditions and in water similar to those commonly used for toxicity tests with the species.

D. Calculate the mean acute slope (V) as the arithmetic average of all the meaningful acute slopes for individual species.

E. For each species calculate the geometric mean (W) of the acute toxicity values and the geometric mean (X) of the related values of the water quality characteristic.

F. For each species calculate the logarithmic intercept (Y) using the equation: $Y=\ln W-V(\ln X)$.

G. For each species calculate the species mean acute intercept as the antilog of Y.

H. Obtain the Final Acute Intercept by using the procedure described in Section IV. I–O, except insert "Intercept" for "Value".

I. If for an important species, such as a recreationally or commercially important species, the intercept calculated only from results of flow-through tests in which the toxicant concentrations were measured is lower than the Final Acute Intercept, then that intercept should be used as the Final Acute Intercept.

J. The Final Acute Equation is written as $e^{[V(\ln(\text{water quality characteristic}))+\ln Z]}$, where V=mean acute slope and Z=Final Acute Intercept.

VI. Final Chronic Value

A. The Final Chronic Value can be calculated in the same manner as the Final Acute Value or by dividing the Final Acute Value by the Final Acute-Chronic Ratio, depending on the data available. In some cases it will not be possible to calculate a Final Chronic Value.

B. Use only the results of flow-through (except renewal is acceptable for

daphnids) chronic tests in which the concentrations of toxicant in the test solutions were measured.

C. Do not use the results of any chronic test in which survival, growth, or reproduction among the controls was unacceptably low.

D. Chronic values should be based on endpoints and lengths of exposure appropriate to the species. Therefore, only the results of the following kinds of chronic toxicity tests should be used:

1. Life-cycle toxicity tests consisting of exposures of each of several groups of individuals of a species to a different concentration of the toxicant throughout a life cycle. To ensure that all life stages and life processes are exposed, the test should begin with embryos or newly hatched young less than 48 hours old (less than 24 hours old for daphnids), continue through maturation and reproduction, and with fish should end not less than 24 days (90 days for salmonids) after the hatching of the next generation. For fish, data should be obtained and analyzed on survival and growth of adults and young, maturation of males and females, embryos spawned per female, embryo viability (salmonids only) and hatchability. For daphnids, data should be obtained and analyzed on survival and young per female.

2. Partial life-cycle toxicity tests consisting of exposures of each of several groups of individuals of a species of fish to a different concentration of the toxicant through most portions of a life cycle. Partial life-cycle tests are conducted with fish species that require more than a year to reach sexual maturity, so that the test can be completed in less than 15 months, but still expose all major life stages to the toxicant. Exposure to the toxicant begins with immature juveniles at least 2 months prior to active gonad development, continues through maturation and reproduction, and ends not less than 24 days (90 days for salmonids) after the hatching of the next generation. Data should be obtained and analyzed on survival and growth of adults and young, maturation of males and females, embryos spawned per female, embryo viability (salmonids only) and hatchability.

3. Early-life-stage toxicity tests consisting of 28- to 32-days (60 days post-hatch for salmonids) exposures of the early life stages of a species of fish from shortly after fertilization through embryonic, larval, and early juvenile development. Data should be obtained and analyzed on survival and growth.

E. Do not use the results of an early-life-stage test if results of a life-cycle or partial life-cycle test with the same species are available.

F. A chronic value is obtained by calculating the geometric mean of the lower and upper chronic limits from a chronic test. A lower chronic limit is the highest tested concentration (1) in an acceptable chronic test, (2) which did not cause the occurrence (which was statistically significantly different from the control at $p=0.05$) of a specified adverse effect, and (3) below which no tested concentration caused such an occurrence. An upper chronic limit is the lowest tested concentration (1) in an acceptable chronic test, (2) which did cause the occurrence (which was statistically significantly different from the control at $p=0.05$) of a specified adverse effect and (3) above which all tested concentrations caused such an occurrence.

Note.—Various authors have used a variety of terms and definitions to interpret the results of chronic tests, so reported results should be reviewed carefully.

G. If the chronic toxicity of the substance to aquatic animals has been adequately shown to be related to a water quality characteristic such as hardness for freshwater organisms or salinity for saltwater organisms, a Final Chronic Equation should be derived based on that water quality characteristic. Go to Section VII.

H. If chronic values are available for eight species as described in Section III. B.1 or III. C.1, a species mean chronic value should be calculated for each species for which at least one chronic value is available by calculating the geometric mean of all the chronic values for the species. The Final Chronic Value should then be obtained using the procedures described in Section IV. I–O. Then go to Section VI. M.

I. For each chronic value for which at least one appropriate acute value is available, calculate an acute-chronic ratio, using for the numerator the arithmetic average of the results of all standard flow-through acute tests in which the concentrations were measured and which are from the same study as the chronic test. If such an acute test is not available, use for the numerator the results of a standard acute test performed at the same laboratory with the same species, toxicant and dilution water. If no such acute test is available, use the species mean acute value for the numerator.

Note.—If the acute toxicity or chronic toxicity or both of the substance have been adequately shown to be related to a water quality characteristic, the numerator and the denominator must be based on tests performed in the same water.

J. For each species, calcuate the species mean acute-chronic ratio as the geometric mean of all the acute-chronic ratios available for that species.

K. For some substances the species mean acute-chronic ratio seems to be the same for all species, but for other substances the ratio seems to increase as the species mean acute value increases. Thus the Final Acute-Chronic Ratio can be obtained in two ways, depending on the data available.

1. If no major trend is apparent and the acute-chronic ratios for a number of species are within a factor of ten, the final Acute-Chronic Ratio should be calculated as the geometric mean of all the species mean acute-chronic ratios available for both freshwater and saltwater species.

2. If the species mean acute-chronic ratio seems to increase as the species mean acute value increases, the value of the acute-chronic ratio for species whose acute values are close to the Final Acute Value should be chosen as the Final Acute-Chronic Ratio.

L. Calculate the Final Chronic Value by dividing the Final Acute Value by the Final Acute-Chronic Ratio.

M. If the species mean chronic value of an important species, such as a commercially or recreationally important species, is lower than the Final Chronic Value, then that species mean chronic value should be used as the Final Chronic Value.

N. Go to Section VIII.

VII. Final Chronic Equation

A. For each species for which comparable chronic toxicity values are available at two or more different values of a water quality characteristic which apparently affects chronic toxicity, perform a least squares regression of the natural logarithms of the chronic toxicity values on the natural logarithms of the water quality characteristic values. No transformation or a different transformation may be used if it fits the data better, but appropriate changes will be necessary throughout this section. It is probably preferable, but not necessary, to use the same transformation that was used with the acute values in Section V.

B. Determine whether or not each chronic slope is meaningful, taking into account the range and number of values of the water quality characteristic tested. For example, a slope based on four data points may be of limited value if it is based only on data for a narrow range of values of the water quality characteristic. On the other hand, a slope based on only two data points may be meaningful if it is consistent with other information and if the two points cover a broad enough range of the water quality characteristic. If a

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meaningful chronic slope is not available for at least one species, return to Section VI. H.

C. Calculate the mean chronic slope (L) as the arithmetic average of all the meaningful chronic slopes for individual species.

D. For each species calculate the geometric mean (M) of the toxicity values and the geometric mean (P) of the related values of the water quality characteristic.

E. For each species calculate the logarithmic intercept (Q) using the equation: $Q = \ln M - L(\ln P)$.

F. For each species calculate a species mean chronic intercept as the antilog of Q.

G. Obtain the Final Chronic Intercept by using the procedure described in Section IV. I–O, except insert "Intercept" for "Value".

H. If the species mean chronic intercept of an important species, such as a commercially or recreationally important species, is lower than the Final Chronic Intercept, then that species mean chronic intercept should be used as the Final Chronic Intercept.

I. The Final Chronic Equation is written as $e^{(L[\ln(\text{Water quality characteristic})]+\ln R)}$, where L = mean chronic slope and R = Final Chronic Intercept.

VIII. Final Plant Value

A. Appropriate measures of the toxicity of the substance to aquatic plants are used to compare the relative sensitivities of aquatic plants and animals.

B. A value is a concentration which decreased growth (as measured by dry weight, chlorophyll, etc.) in a 96-hr or longer test with an alga or in a chronic test with an aquatic vascular plant.

C. Obtain the Final Plant Value by selecting the lowest plant value from a test in which the toxicant concentrations were measured.

IX. Final Residue Value

A. The Final Residue Value is derived in order to (1) prevent commercially or recreationally important aquatic organisms from exceeding relevant FDA action levels and (2) protect wildlife, including fishes and birds, that eat aquatic organisms from demonstrated adverse effects. A residue value is calculated by dividing a maximum permissible tissue concentration by an appropriate bioconcentration factor (BCF), where the BCF is the quotient of the concentration of a substance in all or part of an aquatic organism divided by the concentration in water to which the organism has been exposed. A maximum permissible tissue concentration is either (1) an action level from the FDA Administrative Guidelines Manual for fish oil or for the edible portion of fish or shellfish, or (2) a maximum acceptable dietary intake based on observations on survival, growth or reproduction in a chronic wildlife feeding study. If no maximum permissible tissue concentration is available, go to Section X because no Final Residue Value can be derived.

B. 1. A BCF determined in a laboratory test should be used only if it was calculated based on measured concentrations of the substance in the test solution and was based on an exposure that continued until either steady-state or 28-days was reached. Steady-state is reached when the BCF does not change significantly over a period of time, such as two days or 16 percent of the length of the exposure, whichever is longer. If a steady-state BCF is not available for a species, the available BCF for the longest exposure over 28 days should be used for that species.

2. A BCF from a field exposure should be used only when it is known that the concentration of the substance was reasonably constant for a long enough period of time over the range of territory inhabited by the organisms.

3. If BCF values from field exposures are consistently lower or higher than those from laboratory exposures, then only those values from field exposures should be used if possible.

4. A BCF should be calculated based on the concentration of the substance and its metabolites, which are structurally similar and are not much more soluble in water than the parent compound, in appropriate tissue and should be corrected for the concentration in the organisms at the beginning of the test.

5. A BCF value obtained from a laboratory or field exposure that caused an observable adverse effect on the test organism may be used only if it is similar to that obtained with unaffected organisms at lower concentrations in the same test.

6. Whenever a BCF is determined for a lipid-soluble substance, the percent lipids should also be determined in the tissue for which the BCF was calculated.

C. A BCF calculated using dry tissue weights must be converted to a wet tissue weight basis by multiplying the dry weight BCF value by 0.1 for plankton and by 0.2 for individual species of fishes and invertebrates.

Note.—The values of 0.2 and 0.1 were derived from data published in:

McDiffett, W. F., 1970. Ecology 51:975–988.
Brocksen, R. W., et al. 1968. J. Wildlife Management 32:52–75.
Cummins, K. W., et al. 1973. Ecology 54: 336–345.
Pesticide Analytical Manual, Volume I. Food and Drug Administration, 1969.
Love, R. M., 1957. In The Physiology of Fishes, Vol. I, M. E. Brown, ed. Academic Press, New York. p. 411.
Ruttner, F., 1963. Fundamentals of Limnology. 3rd ed. Trans. by D. G. Frey and F. E. J. Fry. Univ. of Toronto Press, Toronto.

Some additional values can be found in:

Sculthorpe, C. D., 1967. The Biology of Aquatic Vascular Plants. Arnold Publishing Ltd., London.

D. If enough pertinent data exist, several residue values can be calculated by dividing maximum permissible tissue concentrations by appropriate BCF values.

1. For each available maximum acceptable dietary intake derived from a chronic feeding study with wildlife, including birds and aquatic organisms, the appropriate BCF is based on the whole body of aquatic species which constitute or represent a major portion of the diet of the tested wildlife species.

2. For an FDA action level, the appropriate BCF is the highest geometric mean species BCF for the edible portion (muscle for decapods, muscle with or without skin for fishes, adductor muscle for scallops and total living tissue for other bivalve molluscs) of a consumed species. The highest species BCF is used because FDA action levels are applied on a species-by-species basis.

E. For lipid-soluble substances, it may be possible to calculate additional residue values. Because steady-state BCF values for a lipid-soluble chemical seem to be proportional to percent lipids from one tissue to another and from one species to another, extrapolations can be made from tested tissues or species to untested tissues or species on the basis of percent lipids.

1. For each BCF for which the percent lipids is known for the same tissue for which the BCF was measured, the BCF should be normalized to a one percent lipid basis by dividing the BCF by the percent lipids. This adjustment to a one percent lipid basis makes all the measured BCF values comparable regardless of the species or tissue for which the BCF was measured.

2. Calculate the geometric mean normalized BCF. Data for both saltwater and freshwater species can be used to determine the mean normalized BCF, because the normalized BCF seems to be about the same for both kinds of organisms.

3. Residue values can then be calculated by dividing the maximum permissible tissue concentrations by the mean normalized BCF and by a percent lipids value appropriate to the maximum permissible tissue concentration, *i.e.*,

$$\text{Residue Value} = \frac{\text{(maximum permissible tissue concentration)}}{\text{(mean normalized BCF)(appropriate percent lipids)}}$$

a. For an FDA action level for fish oil, the appropriate percent lipids value is 100.

b. For an FDA action level for fish, the appropriate percent lipids value is 15 for freshwater criteria and 16 for saltwater criteria because FDA action levels are applied on a species-by-species basis to commonly consumed species. The edible portion of the freshwater lake trout averages about 15 percent lipids, and the edible portion of the saltwater Atlantic herring averages about 16 percent lipids (Sidwell, V. D., et al. 1974 Composition of the Edible Portion of Raw (Fresh or Frozen) Crustaceans, Finfish, and Mollusks. I. Protein, Fat, Moisture, Ash, Carbohydrate, Energy Value, and Cholesterol. Marine Fisheries Review 36:21–35).

c. For a maximum acceptable dietary intake derived from a chronic feeding study with wildlife, the appropriate percent lipids is the percent lipids of an aquatic species or group of aquatic species which constitute a major portion of the diet of the wildlife species.

F. The Final Residue Value is obtained by selecting the lowest of the available residue values. It should be noted that in many cases the Final Residue Value will not be low enough. For example, a residue value calculated from an FDA action level would result in an average concentration in the edible portion of a fatty species that is at the action level. On the average half of the individuals of the species would have concentrations above the FDA action level. Also, the results of many chronic feeding studies are concentrations that cause adverse effects.

X. Other Data

Pertinent information that could not be used in earlier sections may be available concerning adverse effects on aquatic organisms and their uses. The most important of these are data on flavor impairment, reduction in survival, growth, or reproduction, or any other adverse effect that has been shown to be biologically significant. Especially important are data for species for which no other data are available. Data from behavioral, micorcosm, field, and physiological studies may also be available.

XI. Criterion

A. The criterion consists of two concentrations, one that should not be exceeded on the average in a 24-hour period and one that should not be exceeded at any time during the 24-hour period. This two-number criterion is intended to identify water quality conditions that should protect aquatic life and its uses from acute and chronic adverse effects of both cumulative and noncumulative substances without being as restrictive as a one-number criterion would have to be to provide the same degree of protection.

B. The maximum concentration is the Final Acute Value or is obtained from the Final Acute Equation.

C. The 24-hour average concentration is obtained from the Final Chronic Value, the Final Plant Value, and the Final Residue Value by selecting the lowest available value, unless other data (see Section X) from tests in which the toxicant concentrations were measured show that a lower value should be used. If toxicity is related to a water quality characteristic, the 24-hour average concentration is obtained from the Final Chronic Equation, the Final Plant Value, and the Final Residue Value by selecting the one that results in the lowest concentrations in the normal range of the water quality characteristic, unless other data (see Section X) from tests in which the toxicant concentrations were measured show that a lower value should be used.

D. The criterion is (the 24-hour average concentration) as a 24-hour average and the concentration should not exceed (the maximum concentration) at any time.

XII. Review

A. On the basis of all available pertinent laboratory and field information, determine if the criterion is consistent with sound scientific evidence. If it is not, another criterion, either higher or lower, should be derived using appropriate modifications of the Guidelines.

These Guidelines were written by Charles E. Stephan, Donald I. Mount, David J. Hansen, John H. Gentile, Gary A. Chapman and William A. Brungs of the U.S.E.P.A. Environmental Research Laboratories in Corvallis, Oregon, Duluth, Minnesota, Gulf Breeze, Florida, and Narragansett, Rhode Island. Numerous other people, many of whom do not work for U.S.E.P.A., provided assistance and suggestions.

Appendix C–Guidelines and Methodology Used in the Preparation of Health Effect Assessment Chapters of the Consent Decree Water Criteria Documents

I. Objective

The objective of the health effect assessment chapters of the ambient water criteria documents is to estimate ambient water concentrations which do not represent a significant risk to the public. These assessments should constitute a review of all relevant information on individual chemicals or chemical classes in order to derive criteria that represent, in the case of suspect or proven carcinogens, various levels of incremental cancer risk, or, in the case of other pollutants, estimates of no-effect levels.

Ideally, ambient water quality criteria should represent levels for compounds in ambient water that do not pose a hazard to the human population. However, in any realistic assessment of human health hazard, a fundamental distinction must be made between absolute safety and the recognition of some risk. Criteria for absolute safety would have to be based on detailed knowledge of dose-response relationships in humans, including all sources of chemical exposure, the types of toxic effects elicited, the existence of thresholds for the toxic effects, the significance of toxicant interactions, and the variances of sensitivities and exposure levels within the human population. In practice, such absolute criteria cannot be established because of deficiencies in both the available data and the means of interpreting this information. Consequently, the individual human health effects chapters propose criteria which minimize or specify the potential risk of adverse human effects due to substances in ambient water. Potential social or economic costs and benefits are not considered in the formulation of the criteria.

II. Types of Criteria

Ambient water quality criteria are based on three types of biological endpoints: carcinogenicity, toxicity (i.e., all adverse effects other than cancer), and organoleptic effects.

For the purpose of deriving ambient water quality criteria, carcinogenicity is regarded as a non-threshold phenomenon. Using this assumption, "safe" or "no effect" levels for carcinogens cannot be established because even extremely small doses must be assumed to elicit a finite increase in the incidence of the response. Consequently, water quality

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criteria for carcinogens are presented as a range of pollutant concentrations associated with corresponding incremental risks.

For compounds which do not manifest any apparent carcinogenic effect, the threshold assumption is used in deriving a criterion. This assumption is based on the premise that a physiological reserve capacity exists within the organism which is thought to be depleted before clinical disease ensues. Alternatively, it may be assumed that the rate of damage will be insignificant over the life span of the organism. Thus, ambient water quality criteria are derived for non-carcinogenic chemicals, and presumably result in no observable-adverse-effect levels (NOAELs) in the exposed human population.

In some instances, criteria are based on organoleptic characteristics, i.e., thresholds for taste or odor. Such criteria are established when insufficient information is available on toxicologic effects or when the estimate of the level of the pollutant in ambient water based on organoleptic effects is lower than the level calculated from toxicologic data. It should be recognized that criteria based solely on organoleptic effects do not necessarily represent approximations of acceptable risk levels for human health.

Several ambient water quality criteria documents deal with classes of compounds which include chemicals exhibiting varying degrees of structural similarity. Because prediction of biological effects based solely on structural parameters is difficult, the derivation of compound-specific criteria is preferable to a class criterion. A compound-specific criterion is defined as a level derived from data on each individual subject compound that does not represent a significant risk to the public. For some chemical classes, however, a compound-specific criterion cannot be derived for each member of a class. In such instances, it is sometimes justifiable to derive a class criterion in which available data on one member of a class may be used to estimate criteria for other chemicals of the class because a sufficient data base is not available for those compounds.

For some chemicals and chemical classes, the data base was judged to be insufficient for the derivation of a criterion. In those cases, deficiencies in the available information are detailed.

III. Approach

The human health effects chapters attempt to summarize all information on the individual chemicals or classes of chemicals which might be useful in the risk assessment process to develop water quality criteria. Although primary emphasis is placed on identifying epidemiologic and toxicologic data, these assessments typically contain discussions on four topics: existing levels of human exposure, pharmacokinetics, toxic effects, and criterion formulation.

For all documents, an attempt is made to include the known relevant information. Review articles and reports are often used in the process of data evaluation and synthesis. Scientific judgment is exercised in the review and evaluation of the data in each document and in the identification of the adverse effects against which protective criteria are sought. In addition, each of these documents is reviewed by a peer committee of scientists familiar with the specific compound(s). These work groups evaluate the quality of the available data, the completeness of the data summary, and the validity of the derived criterion.

In the analysis and organization of the data, an attempt is made to be consistent with respect to the format and the application of acceptable scientific principles. Evaluation procedures used in the hazard assessment process follow the principles outlined by the National Academy of Sciences in *Drinking Water and Health* (1977) and the guidelines of the Carcinogen Assessment Group of the U.S. EPA.

A. Exposure

The exposure section of the health effects chapters reviews known information on current levels of human exposure to the individual pollutant from all sources. Much of the data was obtained from monitoring studies of air, water, food, soil, and human or animal tissue residues. The major purpose of this section is to provide background information on the contribution of water exposure relative to all other sources. Consequently, the exposure section includes subsections reviewing different routes of exposure including water and food ingestion, inhalation, and dermal contact.

Information on exposure can be valuable in developing and assessing a water quality criterion. In these documents exposure from consumption of contaminated water and contaminated fish and shellfish products is used in criterion formulation. Data for all modes of exposure are useful in relating total intake to the expected contribution from contaminated water, fish, and shellfish. In addition, information for all routes of exposure, not limited to drinking water and fish and shellfish ingestion, can be used to justify or assess the feasibility of the formulation of criteria for ambient water.

The use of fish consumption as an exposure factor requires the quantitation of pollutant residues in the edible portions of the ingested species. Accordingly, bioconcentration factors (BCFs) are used to relate pollutant residues in aquatic organisms to the pollutant concentration in the ambient waters in which they reside.

To estimate the average per capita intake of a pollutant due to consumption of contaminated fish and shellfish the results of a diet survey were analyzed to calculate the average consumption of freshwater and estuarine fish and shellfish (U.S. EPA, 1980). A species is considered to be a consumed freshwater or estuarine fish and shellfish species if at some stage in its life cycle, it is harvested from fresh or estuarine water for human consumption in significant quantities (Stephan, 1980).

Three different procedures are used to estimate the weighted average BCF depending upon the lipid solubility of the chemical and the availability of bioconcentration data.

For lipid-soluble compounds, the average BCF is calculated from the weighted average percent lipids in the edible portions of consumed freshwater and estuarine fish and shellfish which was calculated from data on consumption of each species and its corresponding percent lipids to be 3.0 percent (Stephan, 1980). Because the steady-state BCFs for lipid-soluble compounds are proportional to percent lipids, bioconcentration factors for fish and shellfish can be adjusted to the average percent lipids for aquatic organisms consumed by Americans. For many lipid-soluble pollutants, there exists at least one BCF for which the percent lipid value was measured for the tissues for which the BCF is determined.

With 3.0 percent as the weighted average percent lipids for freshwater and estuarine fish and shellfish in the average diet, a BCF, and a corresponding percent lipid value, the weighted average bioconcentration factor can be calculated.

Example:
Weighted average percent lipids for average diet = 3.0 percent
Measured BCF of 17 for trichloroethylene with bluegills at 4.8 percent lipids
Weighted average BCF for average diet equals

$$17 \times \frac{3.0\%}{4.8\%} = 10.6$$

As an estimate, 10.6 is used for the BCF.

In those cases where an appropriate bioconcentration factor is not available, the equation "Log BCF = (0.85 Log P) - 0.70" can be used (Veith, et al. 1979) to estimate the BCF for aquatic organisms containing about 7.6 percent lipids (Veith, 1980) from the octanol/water partition coefficient P. An adjustment for percent lipids in the average diet versus 7.6 percent is made in order to derive the weighted average bioconcentration factor.

For non-lipid-soluble compounds, the available BCFs for the edible portion of consumed freshwater and estuarine fish and shellfish are weighted according to consumption factors to determine a weighted BCF representative of the average diet.

B. Pharmacokinetics

This section summarizes the available information on the absorption, distribution, metabolism, and elimination of the compound(s) in humans and experimental mammals. Conceptually, such information is useful in validation of inter- and intraspecies extrapolations, and in characterizing the modes of toxic action. Sufficient information on absorption and excretion in animals, together with a knowledge of ambient concentrations in water, food, and air, could be useful in estimating body burdens of chemicals in the human population. Distribution data which suggest target organs or tissues are desirable for interspecies comparison techniques. In terms of the derivation of criteria, pharmacokinetic data are essential to estimate equivalent oral doses based on data from inhalation or other routes of exposure.

C. Effects

This section summarizes information on biological effects in both humans and experimental mammals resulting in: acute, subacute, and chronic toxicity, synergism and/or antagonism, teratogenicity, mutagenicity, or carcinogenicity.

The major goal of this section is to survey the suitability of the data for use in assessment of hazard and to determine which biological end-point, i.e., non-threshold, threshold, or organoleptic, should be selected for use in criterion formulation.

Because this section attempts to assess potential human health effects, data on documented human effects are thoroughly evaluated. However, several factors inherent in human epidemiological studies usually preclude the use of such data in generating water quality criteria. These problems, as summarized by the National Academy of Sciences (NAS, 1977) are as follows:

1. Epidemiology cannot tell what effects a material will have until after humans have been exposed. One must not conduct what might be hazardous experiments on man.
2. If exposure has been ubiquitous, it may be impossible to assess the effects of a material, because there is no unexposed control group. Statistics of morbidity obtained before use of a new material can sometimes be useful, but when latent periods are variable and times of introduction and removal of materials overlap, historical data on chronic effects are usually unsatisfactory.
3. It is usually difficult to determine doses in human exposures.
4. Usually, it is hard to identify small changes in common effects, which may nonetheless be important if the population is large.
5. Interactions in a "nature-designed" experiment usually cannot be controlled.

Although these problems often prevent the use of epidemiological data in quantitative risk assessments, qualitative similarities or differences between documented effects in humans and observed effects in experimental mammals are extremely useful in testing the validity of animal-to-man extrapolations. Consequently, in each case, an attempt is made to identify and utilize both epidemiologic and animal dose-response data. Criteria derived from such a confirmed data base are considered to be reliable.

The decision to establish a criterion based on a non-threshold model is made after evaluating all available information on carcinogenicity and supportive information on mutagenicity. The approach and conditions for the qualitative decision of carcinogenicity are outlined in the U.S. EPA Interim Cancer Guidelines (41 FR 21402), in a report by Albert, et al. (1977), and in the Interagency Regulatory Liaison Group (IRLG) guidelines on carcinogenic risks (IRLG, 1979). It is assumed that a substance which induces a statistically significant carcinogenic response in animals has the capacity to cause cancer in humans. A chemical which has not induced a significant cancer response in humans or experimental animals is not identified as a carcinogen, even though its metabolites or close structural analogues might induce a carcinogenic response or it was shown to be mutagenic in an *in vitro* system.

It is recognized that some potential human carcinogens may not be identified by the guidelines given above. For example, compounds for which there is plausible but weak qualitative evidence of carcinogenicity in experimental animal systems (such as data from mouse skin painting or strain A mouse pulmonary adenoma) would be included in this category. The derivation of a criterion for human consumption from these studies in not valid, regardless of the qualitative outcome. In addition, there are certain compounds (e.g., nickel and beryllium) which were shown to be carcinogenic in humans after inhalation exposure by chemical form, but have induced thus far no response in animals or humans via ingesting their soluble salts. Nevertheless, a non-threshold criterion is developed for beryllium because tumors have been produced in animals at a site removed from the site of administration; in contrast, a threshold criterion is recommended for nickel because there is no evidence of tumors at sites distant resulting from administration of nickel solutions by either ingestion or injection.

For those compounds which were not reported to induce carcinogenic effects or for those compounds for which carcinogenic data are lacking or insufficient, an attempt is made to estimate a no-effect level. In many respects, the hazard evaluation from these studies is similar to that of bioassays for carcinogenicity. In order to more closely approximate conditions of human exposure, preference is given to chronic studies involving oral exposures in water or diet over a significant portion of the animal life span. Greatest confidence is placed in those studies which demonstrate dose-related adverse effects as well as no-effect levels.

There is considerable variability in the biological endpoints used to define a no-effect level. They may range from gross effects, such as mortality, to more subtle biochemical, physiological, or pathological changes. Teratogenicity, reproductive impairment, and behavioral effects are significant toxic consequences of environmental contamination. In instances where carcinogenic or other chronic effects occur at exposure levels below those causing teratogenicity, reproductive impairment, or behavioral effects, the former are used in deriving the criterion. For most of the compounds evaluated thus far, teratogenicity and reproductive impairment occur at doses near maximum tolerated levels with dose administration schedules well above estimated environmental exposure levels. Moreover, information on behavioral effects, which could be of

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significance, is not available for most of the compounds under study. Consequently, most NOAELs derived from chronic studies are based either on gross toxic effects or on effects directly related to functional impairment or defined pathological lesions.

For compounds on which adequate chronic toxicity studies are not available, studies on acute and subacute toxicity assume greater significance. Acute toxicity studies usually involve single exposures at lethal or near lethal doses. Subacute studies often involve exposures exceeding 10 percent of the life span of the test organism, e.g., 90 days for the rat with an average life span of 30 months. Such studies are useful in establishing the nature of the compound's toxic effects and other parameters of compound toxicity, such as target organ effects, metabolic behavior, physiological/biochemical effects, and patterns of retention and tissue distribution. The utility of acute and subacute studies in deriving environmentally meaningful NOELs is uncertain, although McNamara (1976) has developed application factors for such derivations.

In some cases where adequate data are not available from studies utilizing oral routes of administration, no-effect levels for oral exposures may be estimated from dermal or inhalation studies. Such estimates involve approximations of the total dose administered based on assumptions about breathing rates and/or magnitude of absorption.

D. Criterion Rationale

This section reviews existing standards for the chemical(s), summarizes data on current levels of human exposure, attempts to identify special groups at risk, and defines the basis for the recommended criterion.

Information on existing standards is included primarily for comparison with the proposed water quality criteria. Some of the present standards, such as those recommended by the Occupational Safety and Health Administration (OSHA) or the American Conference of Governmental Industrial Hygienists (ACGIH), are based on toxicologic data but are intended as acceptable levels for occupational rather than environmental exposure. Other levels, such as those recommended by the National Academy of Sciences in *Drinking Water and Health* (1977) or in the U.S. EPA Interim Primary Drinking Water Standards, are more closely related to proposed water quality criteria. Emphasis is placed on detailing the basis for the existing standards wherever possible.

Summaries of current levels of human exposure, presented in this section, specifically address the suitability of the data to derive water quality criteria. The identification of special groups at risk, either because of geographical or occupational differences in exposure or biological differences in susceptibility to the compound(s), focuses on the impact that these groups should have on the development of water quality criteria.

The basis for the recommended criteria section summarizes and qualifies all of the data used in developing the criteria.

IV. Guidelines for Criteria Derivation

The derivation of water quality criteria from laboratory animal toxicity data is essentially a two-step procedure. First, a total daily intake for humans must be estimated which establishes either a defined level of risk for non-threshold effects or a no-effect level for threshold effects. Secondly, assumptions must be made about the contribution of contaminated water and the consumption of fish/shellfish to the total daily intake of the chemical. These estimates are then used to establish the tolerable daily intake and consequently the water quality criterion.

A. Non-Threshold Effects

After the decision has been made that a compound has the potential for causing cancers in humans and that data exist which permit the derivation of a criterion, the water concentration which is estimated to cause a lifetime carcinogenic risk of 10^{-5} is determined. The lifetime carcinogenicity risk is the probability that a person would get cancer sometime in his or her life assuming continuous exposure to the compound. The water concentration is calculated by using the low-dose extrapolation procedure proposed by Crump (1980). This procedure is an improvement on the multistage low dose extrapolation procedure by Crump, et al. (1977).

The data used for quantitative estimates are of two types: (1) lifetime animal studies, and (2) human studies where excess cancer risk has been associated with exposure to the agent. In animal studies it is assumed, unless evidence exists to the contrary, that if a carcinogenic response occurs at the dose levels used in the study, then proportionately lower responses will also occur at all lower doses, with an incidence determined by the extrapolation model discussed below.

1. Choice of Model.

There is no really solid scientific basis for any mathematical extrapolation model which relates carcinogen exposure to cancer risks at the extremely low levels of concentration that must be dealt with in evaluating the environmental hazards. For practical reasons, such low levels of risk cannot be measured directly either using animal experiments or epidemiologic studies. We must, therefore, depend on our current understanding of the mechanisms of carcinogenesis for guidance as to which risk model to use. At the present time, the dominant view of the carcinogenic process involves the concept that most agents which cause cancer also cause irreversible damage to DNA. This position is reflected by the fact that a very large proportion of agents which cause cancer are also mutagenic. There is reason to expect that the quantal type of biological response that is characteristic of mutagenesis is associated with a linear non-threshold dose-response relationship. Indeed, there is substantial evidence from mutagenesis studies with both ionizing radiation and with a wide variety of chemicals that this type of dose-response model is the appropriate one to use. This is particularly true at the lower end of the dose-response curve; at higher doses, there can be an upward curvature, probably reflecting the effects of multistage processes on the mutagenic response. The linear non-threshold dose-response relationship is also consistent with the relatively few epidemiological studies of cancer responses to specific agents that contain enough information to make the evaluation possible (e.g., radiation-induced leukemia, breast and thyroid cancer, skin cancer induced by arsenic in drinking water, and liver cancer induced by aflatoxin in the diet). There is also some evidence from animal experiments that is consistent with the linear non-threshold hypothesis (e.g., liver tumors induced in mice by 2-acetylaminofluorene in the large scale ED_{01} study at the National Center of Toxicological Research, and the initiation stage of the two-stage carcinogenesis model in the rat liver and the mouse skin).

Because it has the best, albeit limited, scientific basis of any of the current mathematical extrapolation models, the linear non-threshold model has been adopted as the primary basis for risk extrapolation to low levels of the dose-response relationship. The risk assessments made with this model should be regarded as conservative, representing the most plausible upper limit for the risk; i.e., the true risk is not likely to be higher than the estimate, but it could be smaller.

The mathematical formulation chosen to describe the linear, non-threshold dose-response relationship at low doses is the improved multistage model developed by Crump (1980). This model employs enough arbitrary constants to be able to fit almost any monotonically increasing dose-response data and it incorporates a procedure for estimating the largest possible linear slope (in the 95 percent confidence limit sense) at low extrapolated doses that is consistent with the data at all dose levels of the experiment. For this reason, it may be called a "linearized" multistage model.

2. Procedure of Low-Dose Extrapolation Based on Animal Carcinogenicity Data.

A. Description of the Extrapolation Model

Let P(d) represent the lifetime risk (probability) of cancer at dose d. The multistage model has the form

$$P(d)=1-\exp[-(q_0+q_1d+q_2d^2+\ldots+q_kd^k)]$$

where:

$q_i>0$, and $i=0, 1, 2, \ldots, k$

Equivalently,

$$A(d)=1-\exp[-(q_1d+q_2d^2+\ldots+q_kd^k)]$$

where:

$$A(d)=\frac{P(d)-P(o)}{1-P(o)},$$

is the extra risk over background rate at dose d.

The point estimate of the coefficients q_i, $i=0, 1, 2, \ldots, k$, and consequently the extra risk function A(d) at any given dose d, is calculated by maximizing the likelihood function of the data.

The point estimate and the 95 percent upper confidence limit of the extra risk A(d) are calculated by using the computer program GLOBAL 79 developed by Crump and Watson (1979). Upper 95 percent confidence limits on the extra risk and lower 95 percent confidence limits on the dose producing a given risk are determined from a 95 percent upper confidence limit, q_1^*, on parameter q_1. Whenever $q_1\neq 0$, at low doses extra risk A(d) has approximately the form $A(d)=q_1\times d$. Therefore, $q_1\times d$ is a 95 percent upper confidence limit on the extra risk and R/q_1^* is a 95 percent lower confidence limit on the dose producing an extra risk of R. Let L_a be the maximum value of the log-likelihood function. The upper limit q_1^* is calculated buy increasing q_1 to a value q_1^* such that when the log-likelihood is again maximized subject to this fixed value q_1^* for the linear coefficient, the resulting maximum value of the log-likelihood L_4 satisfies the equation $2(L_a-L_4)=2.70554$ where 2.70554 is the cumulative 90 percent point of the chi-square distribution with one degree of freedom, which corresponds to a 95 percent upper limit (one-sided). This approach of computing the upper confidence limit for the extra risk A(d) is an improvement on the Crump, et al. (1977) model. The upper confidence limit for the extra risk calculated at low doses is always linear. This is conceptually consistent with the linear nonthreshold concept discussed earlier. The slope q_1^* is taken as an upper bound of the potency of the chemical in inducing cancer at low doses.

In fitting the dose-response model, the number of terms in the polynomial g is chosen equal to (h–1), where h is the number of dose groups in the experiment, including the control group.

Whenever the multistage model does not fit the data sufficiently, data at the highest dose is deleted and the model is refitted to the rest of the data. This is continued until an acceptable fit to the data is obtained. To determine whether or not a fit is acceptable, the chi-square statistic:

$$\chi^2=\sum_{i=1}^{h}\frac{(X_i-N_iP_i)^2}{N_iP_i(1-P_i)}$$

is calculated, where N_i is the number of animals in the i^{th} dose group, X_i is the number of animals in the i^{th} dose group with a tumor response, P_i is the probability of a response in the i^{th} dose group estimated by fitting the multistage model to the data, and h is the number of remaining groups.

The fit is determined to be unacceptable whenever chi-square (X^2) is larger than the cumulative 99 percent point of the chi-square distribution with f degrees of freedom, where f equals the number of dose groups minus the number of non-zero multistage coefficients.

3. Selection and Form of Data used to Estimate Parameters in the Extrapolation Model.

For some chemicals, several studies in different animal species, strains, and sexes each conducted at several doses and different routes of exposure are available. A choice must be made as to which of the data sets from several studies are to be used in the model. It is also necessary to correct for metabolism differences between species and for differences in absorption via different routes of administration. The procedures, listed below, used in evaluating these data are consistent with the estimate of a maximum-likely-risk.

a. The tumor incidence data are separated according to organ sites or tumor types. The set data (i.e., dose and tumor incidence) used in the model is set where the incidence is statistically significantly higher than the control for at least one test dose level and/or where the tumor incidence rate shows a statistically significant trend with respect to dose level. The data set which gives the highest estimate of lifetime carcinogenic risk q_1^* is selected in most cases. However, efforts are made to exclude data sets which produce spuriously high risk estimates because of a small number of animals. That is, if two sets of data show a similar dose-response relationship and one has a very small sample size, the set of data which has the larger sample size is selected for calculating the carcinogenic potency.

b. If there are two or more data sets of comparable size which are identical with respect to species, strain, sex, and tumor sites, the geometric mean of q_1^*, estimated from each of these data sets is used for risk assessment. The geometric mean of numbers $A_1, A_2, \ldots, A_m$ is defined as $(A_1\times A_2\times \ldots \times A_m)^{1/m}$

c. If sufficient data exist for two or more significant tumor sites in the same study, the number of animals with at least one of the specific tumor sites under consideration is used as incidence data in the model.

d. Following the suggestion of Mantel and Schneiderman (1975), we assume that mg/surface area/day is an equivalent dose between species. Since to a close approximation the surface area is proportional to the ⅔rds power of the weight as would be the case for a perfect sphere, the exposure in mg/⅔rds power of the body weight/day is similarly considered to be an equivalent exposure. In an animal experiment, this equivalent dose is computed in the following manner:

Let:

L_e = duration of experiment

l_e = duration of exposure

m = average dose per day in mg during administration of the agent (i.e., during l_e)

W = average weight of the experimental animal.

Then, the lifetime average exposure is

$$d=\frac{l_e\times m}{L_e\times W^{2/3}}$$

Often exposures are not given in units of mg/day, and it becomes necessary to convert the given exposures into mg/day. For example, in most feeding studies, exposure is expressed as ppm in the diet. In this case the exposure [mg/day] is derived by: $m=ppm\times F\times r$

where ppm is parts per million of the

Case 1

of species, it follows that $m=k\,W^{2/3}\times y$

no carcinogenic effect when positive

B. Threshold Effects

defined NOAEL from a chronic (at least

where ppm is parts per million of the carcinogenic agent in the diet, F is the weight of the food consumed per day in kgms, and r is the absorption fraction.

In the absence of any data to the contrary, r is assumed to be one. For a uniform diet the weight of the food consumed is proportional to the calories required, which, in turn, is proportional to the surface area or the ⅔rds power of the weight, so that: $m \propto ppm \times W^{2/3} \times r$ or

$$\frac{m}{rW^{2/3}} \propto ppm$$

As a result, ppm in the diet is often assumed to be an equivalent exposure between species. However, we feel that this is not justified since the calories/kg of food is significantly different in the diet of man vs. laboratory animals, primarily due to moisture content differences. Instead, we use an empirically derived food factor, f=F/W, which is the fraction of a species body weight that is consumed per day as food. We use the rates given below.

Species	W	f
Man	70	0.028
Rat	0.35	0.05
Mice	0.03	0.13

Thus, when the exposure is given as a certain dietary concentration in ppm, the exposure in $mg/W^{2/3}$ is

$$\frac{m}{r \times W^{2/3}} = \frac{ppm \times F}{W^{2/3}} =$$

$$\frac{ppm \times f \times W}{W^{2/3}} = ppm \times f \times W^{1/3}$$

When exposure is given in terms of mg/kg/day=m/Wr=s the conversion is simply:

$$\frac{m}{rW^{2/3}} = s \times W^{1/3}$$

When exposure is via inhalation, the calculation of dose can be considered for two cases where (1) the carcinogenic agent is either a completely water-soluble gas or an aerosol and is absorbed proportionally to the amount of air breathed in, and (2) where the carcinogen is a poorly water-soluble gas which reaches an equilibrium between the air breathed and the body compartments. After equilibrium is reached, the rate of absorption of these agents is expected to be proportional to metabolic rate, which in turn is proportional to the rate of oxygen consumption, which in turn is a function of surface area.

Case 1

Agents that are in the form of particulate matter or virtually completely absorbed gases such as SO_2 can reasonably be expected to be absorbed proportional to the breathing rate. In this case the exposure in mg/day may be expressed as: $m = I \times v \times r$ where I is inhalation rate per day in m^3, v is mg/m^3 of the agent in air, and r is the absorption fraction.

The inhalation rates, I, for various species can be calculated from the observation (FASEB, 1974) that 25 gm mice breathe 34.5 liters/day and 113 gm rats breathe 105 liters/day. For mice and rats of other weights, W, (expressed in kg), the surface area proportionality can be used to determine breathing rates (in m^3/day) as follows:

For mice, $I = 0.0345\ (W/0.025)^{2/3} m^3/day$

For rats, $I = 0.105\ (W/0.113)^{2/3} m^3/day$

For humans, the values of 20 m^3/day [a] is adopted as a standard breathing rate (ICRP, 1977).

The equivalent exposure in $mg/W^{2/3}$ for these agents can be derived from the air intake data in a way analogous to the food intake data. The empirical factors for the air intake per kg per day, i=I/W based upon the previously stated relationships, are as tabulated below:

Species	W	i=I/W
Man	70	0.29
Rat	0.35	0.64
Mice	0.03	1.3

Therefore, for particulates or completely absorbed gases, the equivalent exposure in $mg/W^{2/3}$ is:

$$\frac{m}{W^{2/3}} = \frac{Ivr}{W^{2/3}} = \frac{iWvr}{W^{2/3}} = iW^{1/3}\,vr$$

In the absence of empirical data or a sound theoretical argument to the contrary, the fraction absorbed, r, is assumed to be the same for all species.

Case 2

The dose in mg/day of partially soluble vapors is proportional to the O_2 consumption which in turn is proportional to $W^{2/3}$ and to the solubility of gas in body fluids, which can be expressed as an absorption coefficient r for the gas. Therefore, when expressing the O_2 consumption as $O_2 = k\,W^{2/3}$, where k is a constant independent of species, it follows that $m = k\,W^{2/3} \times v \times r$ or

$$d = \frac{m}{W^{2/3}} = kvr$$

As with Case 1, in the absence of experimental information or a sound theoretical argument to the contrary, the absorption fraction, r, is assumed to be the same for all species. Therefore, for these substances a certain concentration in ppm or μ/m^3 in experimental animals is equivalent to the same concentration in humans. This is supported by the observation that the minimum alveolar concentration, necessary to produce a given "stage" of anesthesia, is similar in man and animals (Dripps, et al. 1977). When the animals were exposed via the oral route and human exposure is via inhalation or vice-versa, the assumption is made, unless there is pharmacokinetic evidence to the contrary, that absorption is equal by either exposure route.

e. If the duration of experiment (L_e) is less than the natural life span of the test animal (L), the slope q_1^*, or more generally the exponent g(d), is increased by multiplying a factor $(L/L_e)^3$. We assume that if the average dose, d, is continued, the age specific rate of cancer will continue to increase as a constant function of the background rate. The age specific rates for humans increase at least by the 2nd power of the age and often by a considerably higher power, as demonstrated by Doll (1971). Thus, we would expect the cumulative tumor rate to increase by at least the 3rd power of age. Using this fact, we assume that the slope q_1^*, or more generally, the exponent g(d), would also increase by at least the 3rd power of age. As a result, if the slope q_1^* [or g(d)] is calculated at age L_e, we would expect that if the experiment had been continued for the full life span, L, at the given average exposure, the slope q_1^* [or g(d)] would have been increased by at least $(L/L_e)^3$.

This adjustment is conceptually consistent to the proportional hazard model proposed by Cox (1972) and the time-to-tumor model considered by Crump, et al. (1977) where the probability of cancer at age t and dose d is given by $P(d,t) = 1 - \exp[-f(t) \times g(d)]$

4. Calculation of Carcinogenic Potency Based on Human Data. If human epidemiology studies and sufficiently valid exposure information are available for the compound, they are always used in some way. If they show a carcinogenic effect, the data are analyzed to give an estimate of the linear dependence of cancer rates on lifetime average dose, which is equivalent to the factor q_1^*. If they show no carcinogenic effect when positive animal evidence is available, then it is assumed that a risk does exist but it is smaller than could have been observed in the epidemiologic study, and an upper limit of the cancer incidence is calculated assuming hypothetically that the true incidence is just below the level of detection in the cohort studied, which is determined largely by the cohort size. Whenever possible, human data are used in perference to animal bioassay data.

In human studies, the response is measured in terms of the relative risk of the exposed cohort of individuals compared to the control group. In the analysis of this data, it is assumed that the excess risk, or relative risk minus one, R(X)−1, is proportional to the lifetime average exposure, X, and that it is the same for all ages. It follows that the carcinogenic potency is equal to [R(X)−1]/X multiplied by the lifetime risk at that site in the general population. Except for an unusually well-documented human study, the confidence limit for the excess risk is not calculated, due to the difficulty in accounting for the uncertainty inherent in the data (exposure and cancer response).

5. Calculation of Water Quality Criteria. After the value of q_1^* in $(mg/kg/day)^{-1}$ has been determined, the lifetime risk, P, from an average daily exposure of x mg/kg/day is found from the equation $P = q_1^* x$. Therefore, if the lifetime risk is set at $P = 10^{-5}$ for calculation purposes, the intake, I, in mg/day for a 70 kg person can be found by the equation: $I = 70 \times 10^{-5}/q_1^*$ The intake of the agent from ambient water is assumed to come from two sources: (1) drinking an average of 2 liters of water per day, and (2) ingesting an average of 6.5 grams of fish per day. Because of accumulation of residues in fish, the amount of the pollutant in fish (mg/kg of edible fish) is equal to a factor R times the water concentration (mg/kg of water). Therefore, the total intake I can be written as sum of two terms: $I(mg/day) = C(mg/l) \times R(l/kg\ fish) \times 0.0065\ kg\ fish/day + C(mg/l \times 2l/day) = C(2 + 0.0065R)$ where C is the water concentration in mg/l. Therefore, the water concentration in mg/l corresponding to a lifetime risk of 10^{-5} for a 70 kg person is calculated by the formula:

$$C = \frac{70 \times 10^{-5}}{q_1^*(2 + 0.0065\,R)}$$

[a] From "Recommendation of the International Commission on Radiological Protection," page 9, the average breathing rate is 10^7 cm^3 per 8-hour work day and 2×10^7 cm^3 in 24 hours.

B. Threshold Effects

1. Use of Animal Toxicity Data (Oral). In developing guidelines for deriving criteria based on noncarcinogenic responses, five types of response levels are considered:

NOEL—No-Observed-Effect-Level
NOAEL—No-Observed-Adverse-Effect-Level
LOEL—Lowest-Observed-Effect-Level
LOAEL—Lowest-Observed-Adverse-Effect-Level
FEL—Frank-Effect-Level

Adverse effects are defined as any effects which result in functional impairment and/or pathological lesions which may affect the performance of the whole organism, or which reduce an organism's ability to respond to an additional challenge.

One of the major problems encountered in consideration of these concepts regards the reporting of "observed effect levels" as contrasted to "observed adverse effect levels". The terms "adverse" vs. "not adverse" are at times satisfactorily defined, but due to increasingly sophisticated testing protocols, more subtle responses are being identified, resulting in a need for judgment regarding the exact definition of adversity.

The concepts listed above (NOEL, NOAEL, LOEL, LOAEL) have received much attention because they represent landmarks which help to define the threshold region in specific experiments. Thus, if a single experiment yields a NOEL, a NOAEL, a LOAEL, and a clearly defined FEL in relatively closely spaced doses, the threshold region has been relatively well defined; such data are very useful for the purpose of deriving a criterion. On the other hand, a clearly defined FEL has little utility in establishing criteria when it stands alone, because such a level gives no indication how far removed the data point is from the threshold region. Similarly, a free-standing NOEL has little utility, because there is no indication of its proximity to the LOEL, since a free-standing NOEL may be many orders of magnitude below the threshold region.

Based on the above dose-response classification system, the following guidelines for deriving criteria have been adopted:

a. A free-standing FEL is unsuitable for the derivation of criteria.

b. A free-standing NOEL is unsuitable for the derivation of criteria. If multiple NOELs are available without additional data on LOELs, NOAELs, or LOAELs, the highest NOEL should be used to derive a criterion.

c. A NOAEL, LOEL, or LOAEL can be suitable for criteria derivation. A well-defined NOAEL from a chronic (at least 90-day) study may be used directly, applying the appropriate uncertainty factor. For a LOEL, a judgment needs to be made whether it actually corresponds to a NOAEL or a LOAEL. In the case of a LOAEL, an additional uncertainty factor is applied; the magnitude of the additional uncertainty factor is judgmental and should lie in the range of 1 to 10. Caution must be exercised not to substitute "Frank-Effect-Levels" for "Lowest-Observable-Adverse-Effect-Levels".

d. If for reasonably closely spaced doses only a NOEL and a LOAEL of equal quality are available, then the appropriate uncertainty factor is applied to the NOEL.

In using this approach, the selection and justification of uncertainty factors are critical. The basic definition and guidelines for using uncertainty factors has been given by the National Academy of Sciences (1977). "Safety Factor" or "Uncertainty Factor" is defined as a number that reflects the degree or amount of uncertainty that must be considered when experimental data in animals are extrapolated to man. When the quality and quantity of experimental data are satisfactory, a low uncertainty factor is used; when data is judged to be inadequate or equivocal, a larger uncertainty factor is used. The following general guidelines have been adopted in establishing the uncertainty factors:

a. Valid experimental results from studies on prolonged ingestion by man, with no indication of carcinogenicity. Uncertainty Factor=10

b. Experimental results of studies of human ingestion not available or scanty (e.g., acute exposure only) with valid results of long-term feeding studies on experimental animals, or in the absence of human studies, valid animal studies on one or more species. No indication of carcinogenicity. Uncertainty Factor=100

c. No long-term or acute human data. Scanty results on experimental animals with no indication of carcinogenicity. Uncertainty Factor=1,000

Considerable judgment must be used in selecting the appropriate safety factors for deriving a criterion. In those cases where the data do not completely fulfill the conditions for one category and appear to be intermediate between two categories an intermediate uncertainty factor is used. Such an intermediate uncertainty factor may be developed based on a logarithmic scale (e.g., 33, being halfway between 10 and 100 on a logarithmic scale).

In determining the appropriate use of the uncertainty factors, the phrase "no

indication of carcinogenicity" is interpreted as the absence of carcinogenicity data from animal experimental studies or human epidemiology. Available short-term carcinogenicity screening tests are reported in the criteria documents, but they are not used either for derivation of numerical criteria nor to rule out the uncertainty factor approach.

Because of the high degree of judgment involved in the selection of a safety factor, the criterion derivation section of each document should provide a detailed discussion and justification for both the selection of the safety factor and the data to which it is applied. This discussion should reflect a critical review of the available data base. Factors to be considered include number of animals, species, and parameters tested; quality of controls; dose levels; route; and dosing schedules. An effort should be made to differentiate between results which constitute a toxicologically sufficient data base and data which may be spurious in nature.

2. Use of Acceptable Daily Intake (ADI). For carcinogens, the assumption of low dose linearity precludes the necessity for defining total exposure in the estimation of increased incremental risk. For non-carcinogens, ADIs and criteria derived therefrom are calculated from total exposure data that include contributions from the diet and air. The equation used to derive the criterion (C) is: $C=ADI-(DT+IN)/[2\,l+(0.0065\ kg \times R)]$ where 2 l is assumed daily water consumption, 0.0065 kg is assumed daily fish consumption, R is bioconcentration factor in units of l/kg, DT is estimated non-fish dietary intake, and IN is estimated daily intake by inhalation.

If estimates of IN and DT cannot be provided from experimental data, an assumption must be made concerning total exposure. It is recognized that either the inability to estimate DT and IN due to lack of data or the wide variability in DT and IN in different states may add an additional element of uncertainty to the criterion formulation process. In terms of scientific validity, the accurate estimate of the Acceptable Daily Intake is the major factor in satisfactory derivation of water quality criteria.

3. Use of Threshold Limit Values or Animal Inhalation Studies. Threshold Limit Values (TLVs) are established by the American Conference of Governmental and Industrial Hygienists (ACGIH) and represent 8-hour time-weighted average concentrations in air that are intended to protect workers from various adverse health effects over a normal working lifetime. Similar values are set by NIOSH (criteria) and OSHA (standards) for 10- and 8-hour exposures, respectively. To the extent that these values are based on sound toxicologic assessments and have been protective in the work environment, they provide useful information for deriving or evaluating water quality criteria. However, each TLV must be carefully examined to determine if the basis of the TLV contains data which can be used directly to derive a water quality criterion using the uncertainty factor approach. In addition, the history of each TLV must be examined to assess the extent to which it has assured worker safety. In each case, the types of effects against which TLVs are designed to protect are examined in terms of their relevance to exposure from water. It must be demonstrated that the chemical is not a localized irritant and that there is no significant effect at the site of entry irrespective of the routes of exposure (i.e., oral or inhalation).

If the TLV or similar value is recommended as the basis of the criterion, consideration of the above points is explicitly stated in the criterion derivation section of the document. Particular emphasis is placed on the quality of the TLV relative to the available toxicity data that normally is given priority over TLVs or similar established values. If the TLV can be justified as the basis for the cirterion, then the problems associated with the estimation of acceptable oral doses from inhalation data must be addressed.

Estimating equivalencies of dose-response relationships from one route of exposure to another introduces an additional element of uncertainty in the derivation of criteria. Consequently, whenever possible, ambient water quality criteria should be based on data involving oral exposures. if oral data are insufficient, data from other routes of exposure may be useful in the criterion derivation process.

Inhalation data, including TLVs or similar values, are the most common alternatives to oral data. Estimates of equivalent doses can be based upon: (1) available pharmacokinetic data for oral and inhalation routes, (2) measurements of absorption efficiency from ingested or inhaled chemicals, or (3) comparative excretion data when the associated metabolic pathways are equivalent to those following oral ingestion or inhalation. Given that sufficient pharmacokinetic data are available, the use of accepted pharmacokinetic models provides the most satisfactory approach for dose conversions. However, if available pharmacokinetic data are marginal or of questionable quality, pharmacokinetic modeling is inappropriate.

The Stokinger and Woodward (1958) approach, or similar models based on assumptions of breathing rate and absorption efficiency, represents possible alternatives when data are not sufficient to justify pharmacokinetic modeling. Such alternative approaches, however, provide less satisfactory approximations because they are not based on pharmacokinetic data. Consequently, in using the Stokinger and Woodward or related models, the uncertainties inherent in each of the assumptions and the basis of each assumption must be clearly stated in the derivation of the criterion.

The use of data pertaining to other routes of exposure to derive water quality criteria may also be considered. As with inhalation data, an attempt is made to use accepted toxicologic and pharmacokinetic principles to estimate equivalent oral doses. If simplifying assumptions are used, their bases and limitations must be clearly specified.

Because of the uncertainties involved in extrapolating from one route of exposure to another and the consequent limitations that this may place on the derived criterion, the decision to disallow such extrapolation and recommend no criterion is highly judgmental and must be made on a case-by-case basis. A decision for or against criteria derivation must balance the quantity and quality of the available data against a perceived risk to the human population.

If the Stokinger and Woodward (1958) approach is used to calculate an ADI from a TLV, the general equation is:
$ADI=TLV\times BR\times DE\times d\times A_A/(A_O\times SF)$
where:

ADI = Acceptable daily intake in mg
TLV = Concentration in air in mg/m^3
DE = Duration of exposure in hours per day
d = 5 days/7 days
A_A = Efficiency of absorption from air
A_O = Efficiency of absorption from oral exposure
SF = Safety factor following guidelines given above
BR = Amount of air breathed per day; assume $10\ m^3$

For deriving an ADI from animal toxicity data, the equation is:
$ADI=C_A\times D_E\times d\times A_A\times BR\times 70\ kg/(BW_A\times A_O\times SF)$ where:

ADI = Acceptable daily intake in mg
C_A = Concentration in air in mg/m^3
D_E = Duration of exposure in hours per day
d = Number of days exposed/number of days observed
A_A = Efficiency of absorption from air
BR = Volume of air breathed per day in m^3
70 kg = Assumed human body weight
BW_A = Body weight of experimental animals in kg

A_O = Efficiency of absorption from oral exposure
SF = Safety factor following guidelines given above.

More formal pharmacokinetic models must be developed on a compound-by-compound basis.

It should be noted that the safety factors used in the above formulae are intended to account for species variability. Consequently, the mg/surface area/day conversion factor is not used in the derivation of toxicity based criterion.

C. Organoleptic Criteria

Organoleptic criteria define concentrations of materials which impart undesirable taste and/or odor to water. In developing and utilizing such criteria two factors must be appreciated: the limitations of most organoleptic data and the human health significance of organoleptic properties.

The publications which report taste and odor thresholds are, with very few exceptions, cryptic in their descriptions of test methodologies, number of subjects tested, concentration: response relationships, and sensory characteristics at specific concentrations above threshold. Thus, the quality of organoleptic data is often significantly less than that of toxicologic data used in establishing other criteria. Consequently, a critical evaluation of the available organoleptic data must be made and the selection of the most appropriate data base for the criterion must be based on sound scientific judgment.

Organoleptic criteria are not based on toxicologic information and have no direct relationship to potential adverse human health effects. Although sufficiently intense organoleptic characteristics could result in depressed fluid intake which, in turn, might aggravate a variety of functional disease states (i.e., kidney and circulatory diseases), such effects are not used in the derivation process of organoleptic criteria unless available data would indicate an indirect human health effect via decreased fluid consumption, criteria derived solely from organoleptic data are based upon aesthetic qualities only.

Since organoleptic and human health effects criteria are based on different endpoints, a distinction must be made between these two sets of information. In criteria summaries involving both types of data, the following format is used:

For comparison purposes, two approaches were used to derive criterion levels for ———. Based on available toxicity data, for the protection of public health the derived level is ——. Using available organoleptic data, for controlling undesirable taste and odor quality of ambient water the estimated level is ——. It should be recognized that organoleptic data as a basis for establishing a water quality criteria have no demonstrated relationship to potential adverse human health effects.

In those instances where a level to limit toxicity cannot be derived, the following statement is to be appropriately inserted:

Sufficient data are not available for ——— to derive a level which would protect against the potential toxicity of this compound.

D. Criteria for Chemical Classes

A chemical class is broadly defined as any group of chemical compounds which are reviewed in a single risk assessment document. In criterion derivation, isomers should be regarded as a part of a chemical class rather than as a single compound. A class criterion is an estimate of risk/safety which applies to more than one member of a class. It involves the use of available data on one or more chemicals of a class to derive criteria for other compounds of the same class in the event that there are insufficient data available to derive compound-specific criteria.

A class criterion usually applies to each member of a class rather than to the sum of the compounds within the class. While the potential hazards of multiple toxicant exposure are not to be minimized, a criterion, by definition, most often applies to an individual compound. Exceptions may be made for complex mixtures which are produced, released, and toxicologically tested as mixtures (e.g., toxaphene and PCBs). For such exceptions, some attempt is made to assess the effects of environmental partitioning (i.e., different patterns of environmental transport and degradation) on the validity of the criterion. If these effects cannot be assessed, an appropriate statement of uncertainty should accompany the criterion.

Since relatively minor structural changes within a class of compounds can have pronounced effects on their biological activities, reliance on class criteria should be minimized. Whenever sufficient toxicologic data are available on a chemical within a class, a compound-specific criterion should be derived. Nonetheless, for some chemical classes, scientific judgment may suggest a sufficient degree of similarity among chemicals within a class to justify a class criterion applicable to some of all members of a class.

The development of a class criterion takes into consideration the following:

1. A detailed review of the chemical and physical properties of chemicals within the group should be made. A close relationship within the class with respect to chemical acitivity would suggest a similar potential to reach common biological sites within tissues. Likewise, similar lipid solubilities would suggest the possibility of comparable absorption and tissue distribution.

2. Qualitative and quantitative data for chemicals within the group are examined. Adequate toxicologic data on a number of compounds within a group provides a more reasonable basis for extrapolation to other chemicals of the same class than minimal data on one chemical or a few chemicals within the group.

3. Similarities in the nature of the toxicologic response to chemicals in the class provides additional support for the prediction that the response to other members of the class may be similar. In contrast, where the biological response has been shown to differ markedly on a qualitative and quantitative basis for chemicals within a class, the extrapolation of a criterion to other members of that class is not appropriate.

4. Additional support for the validity of extrapolation of a criterion to other members of a class could be provided by evidence of similar metabolic and pharmacokinetic data for some members of the class.

Based on the above considerations, it may be reasonable in some cases to divide a chemical class into various subclasses. Such divisions could be based on biological endpoints (e.g., carcinogens/non-carcinogens), potency, and/or sufficiency of data (e.g., a criterion for some members of a class but no criterion for others). While no *a priori* limits can be placed on the extent of subclassification, each subclassification must be explicitly justified by the available data.

Class criteria, if properly derived and supported, can constitute valid scientific assessments of potential risk/safety. Conversely, the development of a class criterion from an insufficient data base can lead to serious errors in underestimating or overestimating risk/safety and should be rigorously avoided. Although scientific judgment has a proper role in the development of class criteria, such criteria are useful and defensible only if they are based on adequate data and scientific reasoning. The definition of sufficient data on similarities in physical, chemical, pharmacokinetic, or toxicologic properties to justify a class criterion may vary markedly depending on the degree of structural similarity and the gravity of the perceived risk. Consequently, it is imperative that the criterion derivation section of each document in which a class criterion is recommended explicity address each of the key issues discussed above, and define, as clearly as possible, the

limitations of the proposed criterion as well as the type of data needed to generate a compound-specific criterion.

A class criterion should be abandoned when there is sufficient data availabe to derive a compound-specific criterion which protects against the biological effect of primary concern; e.g., the availability of a good subchronic study would not necessarily result in the abandonment of a class criterion based on potential carcinogenicity.

The inability to derive a valid class criterion does not, and should not, preclude regulation of a compound or group of compounds based on concern for potential human health effects. The failure to recommend a criterion is simply a statement that the degree of concern cannot be quantified based on the available data and risk assessment methodology.

E. Essential Elements

Some chemicals, particularly certain metals, are essential to biological organisms at low levels but may be toxic and/ or carcinogenic at high levels. Because of potential toxic effects, it is legitimate to establish criteria for such essential elements. However, criteria must consider essentiality and cannot be established at levels which would result in deficiency of the element in the human population.

Elements are accepted as essential if listed by NAS Food and Nutrition Board or a comparably qualified panel. Elements not yet determined to be essential but for which supportive data on essentiality exists need to be further reviewed by such a panel.

To modify the toxicity and carcinogenicity based criteria, essentiality must be quantified either as a "recommended daily allowance" (RDA) or "minimum daily requirement" (MDR). These levels are then compared to estimated daily doses associated with the adverse effect of primary concern. The difference between the RDA or MDR and the daily doses causing a specified risk level for carcinogens or ADIs for non-carcinogens defines the spread of daily doses from which the criterion may be derived. Because errors are inherent in defining both essential and maximum tolerable levels, the criterion is derived from dose levels near the center of such a dose range. The decision to use either the MDR or RDA is guided by the spread of the doses and the quality of the essentiality and toxicity estimates.

The modification of criteria by consideration of essentiality must take into account all routes of exposure. If water is a significant source of the MDR or RDA, the criterion must allow for attainment of essential intake. Conversely, even when essentiality may be attained from nonwater sources, standard criteria derivation methods may be adjusted if the derived criterion represents a small fraction of the ADI or MDR. On a case-by-case basis, the modification in the use of the guidelines may include the use of different safety factors for non-carcinogens or other modifications which can be explicitly justified.

F. Use of Existing Standards

For some chemicals for which criteria are to be established, drinking water standards already exist. These standards represent not only a critical assessment of literature, but also a body of human experience since their promulgation. Therefore, it is valid to accept the existing standard unless there is compelling evidence to the contrary. This decision should be made after considering the existing standards vs. new scientific evidence which has accumulated since the standards have been established. There are several instances where the peer review process recommended usage of the present drinking water standards.

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Appendix D—Response to Comments on Guidelines for Deriving Water Quality Criteria for the Protection of Aquatic Life and Its Uses

Introduction

Two versions of the Guidelines were published in the **Federal Register** for comment. The first version (43 FR 21506, May 18, 1978 and 43 FR 29028, July 5, 1979) was simply published for comment. The second (44 FR 15926, March 15, 1979) was published as part of the request for comments on the water quality criteria for 27 of the 65 pollutants. The second version was meant to be clearer and more detailed than the first, but very similar technically. Since the two versions were so similar, comments on both will be dealt with simultaneously.

Many comments were received that no draft water quality criteria for any of the 65 pollutants should have been issued for public comment until the comments on the first version of the Guidelines had been dealt with adequately and the Guidelines changed appropriately. The comments on the first version were read and the Guidelines were revised in an attempt to make the second version clearer and more detailed than the first. However, an extensive revision of the technical content of the Guidelines was not attempted between the first and second versions because the Agency was preparing water quality criteria based on the Guidelines. The Agency could have avoided this criticism simply by not publishing any version of the Guidelines for comment until March 15, 1979, but this would have greatly reduced the length of time available for people to consider the Guidelines and comment on them. As it was, some people commented that the comment period announced on March 15, 1979, was too short.

1. Comment—The procedures used to derive criteria in the "Red Book" were upheld in court and probably should still be used.

Response—The procedures used in the Guidelines are similar to some of the procedures used to develop criteria in the "Green Book", "Blue Book", and "Red Book". The Guidelines are designed to be more objective and systematic, to deal more adequately with residues, and to incorporate the concept of a minimum data base.

2. Comment—Criteria should be compilations of critically reviewed data with no synthesis or interpretation.

Response—Neither P.L. 92-500 nor the Consent Decree specify the form which a criterion must take. The Consent Decree (para. 11, p. 14) specifies that such criteria "shall state, *inter alia*, recommended maximum permissible concentrations". Adequate precedents have been set in the "Green Book", "Blue Book", and "Red Book" for the form of criteria used in the Guidelines.

3. Comment—The Guidelines and criteria should be developed by a consensus of aquatic toxicologists rather than by EPA personnel only.

Response—EPA certainly wants the Guidelines and the criteria to be as good as possible and as acceptable to as many interested people as possible. To this end, EPA has widely distributed draft versions of the Guidelines and the criteria documents, discussed them with many people, considered the comments received, and made many significant technical changes and editorial revisions. It is questionable whether or not a true consensus could have been reached by any means within the time available. In addition, EPA has a legislative responsibility which it should not delegate to someone else.

4. Comment—The Guidelines should be updated regularly.

Response—The Guidelines are not being promulgated as a regulation or directive. The purpose of presenting these Guidelines is to show how the water quality criteria for aquatic life were derived for the 65 pollutants. If EPA uses these Guidelines again, they will be revised to take into account new data, concepts, and ideas.

5. Comment—The objectives, purpose, and limitations of the Guidelines should be stated.

Response—The introductory portion of the Guidelines has been expanded to address these subjects more fully.

6. Comment—The Guidelines are too ambiguous.

Response—The Guidelines have been revised and rewritten, partly to improve clarity and provide additional details. It is not possible to provide explicit details on all items; in some areas only general guidance can be provided at this time.

EPA attempted to clearly and concisely deal with all issues which might significantly affect the resulting criteria without going into extreme detail on every potential problem. Because numerous judgments must be made, a reasonable amount of experience in aquatic toxicology will be necessary for a person to utilize the Guidelines effectively.

7. Comment—The Guidelines are too complex.

Response—Deriving a water quality criterion is a complex exercise because several different kinds of data and a wide variety of organisms need to be considered. In addition, because data have been generated using various procedures, numerous individual decisions need to be made and the Guidelines attempt to provide guidance concerning decisions that seem to need to be made frequently. The Guidelines are more complex than initially envisioned to help insure that criteria for different pollutants are derived in a reasonably comparable manner. Although the process of deriving a water quality criterion for aquatic life is complex, the Guidelines help organize the process into logical components and steps.

8. Comment—The Guidelines should be more flexible.

Response—The Guidelines are meant to provide guidance and at the same time allow reasonable flexibility. They have been used with quite a variety of pollutants for which the requirements of the minimum data base are satisfied, and they seem to be reasonably appropriate in all cases because the experiences with these substances were a major part of the basis for the Guidelines. If sound scientific evidence indicates that a particular aspect of the Guidelines is not appropriate for a specific substance, then some other more appropriate procedure should be used. However, the Guidelines should not be changed based on individual whim or personal preference.

9. Comment—The Guidelines should take into account synergism and antagonism by a wide variety of factors and the effect of the pollutant on important ecological relationships.

Response—Very little practically useful information is available on these factors in connection with the effects of pollutants on aquatic organisms. Synergism and antagonism are possible between numerous combination of two or more pollutants, and some data indicate that such interactions are not only species specific, but also vary with the ratios and absolute concentrations of the pollutants and the life stage of the species. Pollutants may affect the structure and function of aquatic ecosystems separate from their effects on individual species, but practical applications of such ideas seem very tenuous at this time. Little information is available concerning such effects, and the significance of the available data is questionable. An obviously important ecological relationship is the dependence of higher organisms on lower organisms for food. Even here, the existence of numerous lower species and their adaptability reduces the importance of any individual food species.

10. Comment—The Guidelines should take into account all identifiable effects—beneficial as well as harmful.

Response—Few tests have been conducted to identify beneficial effects of individual pollutants on aquatic organisms. However, beneficial effects are sometimes observed in chronic toxicity tests at concentrations below those that cause adverse effects. Usually in such cases the organisms in low concentrations of the pollutant are longer or heavier or reproduce more that do the controls. Even if such effects are statistically significant, they are not judged as adverse or harmful. On the other hand, a beneficial effect on one species may ultimately be to the detriment of a community if a balance between species is disturbed. Also, a concentration that benefits one species may harm a more sensitive species.

11. Comment—The Guidelines should take into account analytical methodology.

Response—The Guidelines do take into account analytical methodology in the definition of the substance, when necessary, but not in deriving the numerical value of the criterion. Concentrations which cannot be routinely measured accurately can often be measured accurately by nonroutine methods and, more importantly, do sometimes adversely affect aquatic organisms. When aquatic organisms are more sensitive than routine analytical methods, the proper solution is to develop better analytical methods, not to underprotect aquatic life. One use of criteria should be to identify needs in analytical chemistry.

12. Comment—The Guidelines should take into account (a) production and usage patterns, (b) chemical, physical and biological factors pertaining to degradation and fate of pollutants, including properties such as solubility in water, decay rate, persistence, and transformation pathways, and (c) whether or not a criterion is needed for the substance.

Response—Items included in (a) and (b) may be important in deciding whether a criterion is needed for a substance, but the Guidelines are intended to be used after the decision has been made that a criterion is needed. EPA is presently developing principles that can be used to decide whether or not a criterion is needed for a substance and items such as those listed above are probably some of the factors that should be considered when deciding whether or not a criterion is needed. If the toxicity of the chemical is used to evaluate the need for a criterion, the Guidelines may be useful in the collection and interpretation of the available toxicity data.

13. Comment—The Guidelines should take into account costs to states and industries, technological feasibility, and such characteristics of bodies of water as assimilative capacity, dispersal, dissipative factors, dilution, hydrology, mixing zones, and sediment.

Response—Factors such as these should be considered in developing standards, but not in deriving criteria. EPA is presently developing an implementation policy which will describe which of the above factors and which characteristics of the pollutant should be used, and how they should be used, in developing standards.

14. Comment—The Guidelines are not appropriate for establishing a concentration which may be present in an effluent.

Response—The Guidelines are for deriving water quality criteria, not effluent standards nor mixing zone standards nor water quality standards. Water quality criteria will probably be one factor taken into account in the development of water quality standards and toxicity-based effluent standards, but not technology-based effluent standards. EPA is presently developing policies concerning proper use of water quality criteria in various regulatory activities.

15. Comment—The derivation of criteria should be fundamentally a scientific exercise and should not employ subjective judgments.

Response—No exercise which involves the use and interpretation of data can avoid subjective judgment. Indeed, even the generation of scientific data requires subjective judgment, such as how many test organisms to use, what temperature to use, etc. One may decide to accept the recommendations of experts, but this is usually still a subjective decision. In statistics the subjective decisions are made on the basis of probability statements but the final decisions are still subjective judgments. Although the development of the Guidelines and the derivation of criteria cannot avoid subjective decisions, gross extrapolations, wild assumptions, and novel judgments can be avoided. One can also avoid using large safety factors to "make up" for insufficient data. When some agreement exists between experts, such as on test temperature and duration of tests, the collective opinion can usually be used. EPA feels that the Guidelines do not go too far beyond the state-of-the-art and do not produce criteria by extrapolating far beyond the usefulness of the data.

16. Comment—The Guidelines should not use unproven extrapolations.

Response—EPA feels that the extrapolations used in the Guidelines are reasonable for most pollutants. Probably the most questionable extrapolation is the acute-chronic ratio, but even here an arbitrary ratio is not used. Indeed, the ratio used is usually a mean of experimentally determined acute-chronic ratios for at least three, not just one, species. In addition, the species must include at least one fish and one invertebrate. Even this amount of data does not "prove" the validity of the extrapolation, but it should provide reasonable evidence for or against the use of the ratio with any particular substance. To achieve reasonable criteria without using any extrapolations would require acute and chronic tests with many more species. This would be a high price to pay for disallowing any use of scientific inference in deriving criteria.

The early versions of the Guidelines used adjustment factors and sensitivity factors which were averages derived from data for a wide variety of substances and thus were attempts to make some extrapolations across all substances. The present version of the Guidelines is based on a minimum data base for each individual pollutant and the calculations are essentially pollutant-specific. Thus no extrapolations are made from one pollutant to another.

17. Comment—Laboratory tests overestimate the toxicity of materials because the test organisms are stressed by the artifical conditions.

Response—Laboratory conditions certainly are artificial, but they do not necessarily stress the test organisms. Organisms which survive, grow, and reproduce well in the laboratory cannot be stressed too much. Organisms in a laboratory might be considered pampered because they do not have to compete for food and are not subject to stress due to predators and changing and extreme conditions of turbidity, temperature, flow, and water quality. Also, laboratory organisms are rarely subject to stress from pollutants. Some species probably have longer average life spans in laboratories than they do in field situations.

18. Comment—Laboratory tests underestimate the toxicity of materials because the tests are usually conducted with species which are hardy, adaptable, and insensitive.

Response—Species which are readily adaptable to laboratory conditions are not necessarily insensitive as evidenced by the great range of sensitivities obtained in laboratory tests for some individual pollutants with different species. In fact, once the the proper techniques are developed, a wide variety of species can survive, grow, and reproduce well in laboratories. When the proper techniques are discovered and a species changes form "difficult" to "easy", its sensitivity does not change. Also, some species and life stages which are fragile and must be handled with great care are not particularly sensitive. On the other hand, because so few species have actually been tested in laboratories, species which are more sensitive than any of those tested in laboratories, species which are more sensitive than any of those tested probably exist for most substances.

19. Comment—Laboratory tests are artificial and contrived and do not represent the real world.

Response—Laboratory tests are indeed artificial but they are not contrived to give results that are unnecessarily high or low. Organisms in a laboratory are generally acclimated to water and conditions of constant and desirable quality, whereas in the field they are often subjected to fluctuations and extremes. Organisms in a laboratory do not have to compete for food and are not subject to predators or pollution. Organisms in the field are often exposed to more than one pollutant at a time, with the combinations and concentrations changing often.

It is true that aquatic organisms are usually exposed to instantaneous high concentrations in laboratory tests, but in field situations organisms are often not given much chance to acclimate to spills or short-term discharges. Also, some ameliorating effects occur in field, but not laboratory, situations, but such effects are not always dependable over long periods of time. The concentrations of mitigating anions, suspended solids, and complexing agents are relatively constant in some bodies of water, but not in others. Suspended solids probably do sorb and detoxify significant amounts of some pollutants, but high concentrations of suspended solids also stress some aquatic organisms. In addition, organisms are usually fed in chronic tests, so the test solution contains suspended solids and dissolved organic carbon from the food and fecal matter. Degradation and other transformations are more likely in field situations than in laboratory situations, but degradation products are not always less toxic than the undegraded material. On the other hand, many of these kinds of considerations will probably be taken into account when site-specific criteria and standards are developed under the implementation policy which is being developed by EPA.

20. Comment—Laboratory tests are poor predictors of what will happen in field situations.

Response—If conditions are comparable, laboratory toxicity tests are useful predictors of what will happen in field situations. The usefulness of such predictions will depend on how carefully one accounts for differences between species, water quality, and the form of the pollutant. Extrapolations are much more difficult for some pollutants than for others. Water quality affects the toxicity of some pollutants much more than others, and species differences, even within families, are much greater for some pollutants than for others. If such factors are taken into account, useful predictions are possible. In what is probably the most extensive comparison available of laboratory and field data (Geckler, J. R., et al. 1976. Validity of Laboratory Tests for Predicting Copper Toxicity in Streams. EPA–600/3–76–116. U.S. EPA. Duluth, MN 208 pp.), it was found that effects observed in laboratory exposures were also observed in field exposures. However, avoidance, which was not studied in laboratory exposures, was observed in the field exposures. Laboratory to field comparisons are not simple because several factors must be taken into account, the laboratory test must be conducted well and the field observations and measurements must be extensive. Although adverse effects observed in laboratory tests will usually occur in similar field situations, a problem exists with the bioaccumulation of some persistent substances. For example, PCB's seem to bioaccumulate to much higher levels in some bodies of water than they do in laboratory tests.

21. Comment—The Guidelines should place more emphasis on field information than on laboratory information.

Response—Field information on effects of pollutants on natural populations is acceptable, but the collection of definitive information of this type is high risk and costly. Few studies on the effects of pollution on natural populations provide definitive information because of the multitude of

variables that need to be taken into account. The major advantage of field studies is that conditions are natural (i.e., conditions are not controlled), but this is also the major problem with field studies. With uncontrolled conditions, numerous variables must be taken into account, because any individual variable or combination of variables may affect the results or indeed may be the cause of the results. Therefore, field studies on natural populations usually must last over several seasons and possibly over more than one year to be reasonably sure that proposed cause-and-effect relationships are real.

Another problem with field studies that are based on statistically significant differences is the power of the test. Because natural biological, spacial, and temporal variability is often rather great, a large number of samples is usually required to detect even a moderate change. A field study which purports to show that no change occurred is of no value if the power of the test calculated from the experimental design and observed variability was not high enough.

Because field studies are high cost-high risk ventures, well-designed laboratory tests are usually much more cost-effective for obtaining data on (1) the toxicity of substances to a variety of species and (2) the effect of various water quality characteristics on toxicity. Laboratory tests have been shown to generally be useful predictors of what happens in a field situation, and so it makes little sense to conduct high risk, high cost field studies rather than laboratory tests. Even definitive field studies rarely provide enough information to allow extrapolation of results to other situations, so field studies are more useful in reviewing criteria than in deriving criteria.

22. Comment—Field verification of laboratory tests and of the Guidelines are needed.

Response—Field verification of laboratory tests and of the Guidelines are certainly desirable and provide information that cannot be obtained in a laboratory. Field verification studies do not need to be as risky or as costly as studies on the effects of a pollutant on natural populations because verification studies can be designed (1) as a side-by-side comparison of the results of laboratory tests and field tests or (2) based on existing results of laboratory tests.

23. Comment—EPA should allow criteria to be derived using on-site acute toxicity tests and an application factor.

Response—This approach is usually suggested for developing effluent standards but may be just as applicable to deriving water quality criteria under certain conditions. This approach cannot be used with pollutants whose most sensitive adverse effect is due to residues. Also, it can only be used when the application factor has already been acceptably determined. Finally, acute tests must be determined with either an appropriate range of species or with an appropriate sensitive species. The implementation policy presently being developed by EPA will probably allow the use of appropriate on-site toxicity tests in the development of site-specific criteria and standards.

24. Comment—It is not clear what level of protection is intended.

Response—EPA feels that it is not possible to specify a minimum level of protection that is necessary to "protect aquatic life" or even to protect a particular species for such reasons as:

a. There are so many untested species.

b. Little practically useful information is available concerning synergism, antagonism, ecological relationships, and avoidance.

c. The effect of factors such as temperature on toxicity seems to be species-specific for at least some substances.

d. Information is not available concerning what amount of any effect would be ecologically significant and whether the amount is species-specific.

One possible conclusion is that to protect aquatic life, all species must be adequately protected. A possible extension of this would be that all criteria should be zero because any amount of any pollutant may affect some aquatic organism. Indeed, the assimilative capacity of body of water largely depends on the ability of aquatic life to "process" pollutants and to some extent, any organism which "processes" a pollutant is in some way affected by it.

The apparent level of protection is different for each kind of effect (acute toxicity to animals, chronic toxicity to animals, toxicity to plants, and bioaccumulation) because of the quality and quantity of the available information. An attempt was made to take into account such things as the importance of the effect, the quality of the available data, and the probable ecological relevance of the test methods. Thus it was felt that with regards to toxicity to animals it was probably not necessary to protect all of the species all of the time, but it certainly seems appropriate to protect most of the species most of the time and to protect important species.

On the other hand, the data base on toxicity to aquatic plants is usually very small and a variety of tests and endpoints have been used, especially with algae. Also, little information is available concerning the ecological relevance of the results of any toxicity test with algae in a concentrated test medium, especially because so many species of algae exist in each body of water.

The results of bioconcentration tests with organic chemicals, but not with inorganic chemicals, can apparently be extrapolated reasonably well based on percent lipids from one aquatic animal species to another, at least within commercially and recreationally important species. In addition, the limits on acceptable concentrations in tissue are reasonably well defined in some cases.

These kinds of considerations merely illustrate the complexity of the problem and the necessity for making decisions about each kind of effect individually. In addition, it is important to distinguish between the apparent level of protection provided by the Guidelines and the actual level of protection which will result in a field situation from the use of the implementation policy.

No attempt was made to develop Guidelines which would achieve a predetermined numerical level of protection. For each effect much desirable information is not available, and so it would be misleading to imply a level of sophistication that is not currently possible. EPA believes that the present state-of-the-art in aquatic toxicology does allow some useful conclusions about the ability of a substance to adversely affect aquatic organisms and their uses whenever the requirements of the minimum data base are satisfied, with the full realization that the resulting criterion may be somewhat overprotective or underprotective.

In almost all cases more data would be desirable and so an attempt to reach the "golden mean" will sometimes result incriteria being to high and sometimes too low. One alternative is to derive no criteria until all desirable data are available; this is unacceptable because it will almost always result in no criteria and no protection. The other alternative is to apply safety or uncertainty factors that are inversely proportional to the adequacy of the data base. In the long run this approach would encourage the generation of useful data where it was most needed, but in the short run would require many significant subjective decisions beyond the current state-of-the-art.

25. Comment—The Guidelines should not base criteria on "worst case" assumptions.

Response—The phrase "worst case assumptions" usually refers to the assumption that both the worst water quality and the most sensitive life stage occur at all times. These two assumptions are a natural result of the two concepts that criteria should be constant throughout the year and that aquatic life is not adequatley protected if it is not adequately protected throughout the year. The implementation policy being developed by EPA will determine whether site-specific criteria must be constant throughout the year. If not, then the "worst case assumptions" will not apply. Although the Guidelines might be viewed as making the "worst case assumptions", the implementation policy will determine whether the site-specific water quality criteria and standards will be based on these assumptions.

26. Comment—Safety factors should be used to protect against such things as potential subtle, but important, long term effects.

Response—Pollutants may cause many direct and indirect adverse effects which have not been studied adequately. For instance, some substances may make aquatic organisms more susceptible to disease or other stresses. In spite of such possibilities, the available information indicates that the major possible adverse effects are covered in the Guidelines and that adequate protection will usually be achieved without the use of safety factors. Safety factors would certainly offer additional protection, but the available information does not show that significant additional protection is needed.

Safety factors of from 10 to 1000 are often used to protect people mainly because people feel that people are more important than aquatic organisms and because humans are usually protected on the basis of tests with other species of animals, thus resulting in a greater uncertainty in the applicability of the results. Complete protection can only be achieved by setting all criteria at zero. Unfortunately, even "Mother Nature" sometimes seriously harms large groups of aquatic organisms, such as during droughts or severe winter freezes. EPA feels that complete protection is neither feasible, desirable, nor possible. In addition, aquatic ecosystems can recover from some adverse effects.

27. Comment—The Guidelines do not provide for an adequate margin of safety.

Response—If "margin of safety" is interpreted to mean "safety factor", then the Guidelines do not provide a margin of safety. If the Guidelines are viewed as deriving criteria for a constant quality water, then they provide a margin of safety during those portions of the year during which the most sensitive life stage does not occur. Although some species may occasionally be adversely affected, EPA feels that the Guidelines provide adequate safety because aquatic communities and their uses should not incur any substantial or permanent damage. Whether or not site-specific criteria will have a margin of safety will depend on how they are derived.

28. Comment—Criteria should be set at the least restrictive concentration and states can then apply more restrictive concentrations when necessary.

Response—It is unclear what is meant by the "least restrictive concentration" but presumably it would be a concentration which would not protect very many aquatic communities and their uses. This is contradictory to the concept that criteria are to protect aquatic life and its uses. The implementation policy being developed by EPA will allow site-specific criteria to be higher or lower than the criteria derived using the Guidelines, when adequate information is available.

29. Comment—The Guidelines should produce criteria in the form of a concentration-risk curve with appropriate confidence limits for each kind of effect.

Response—EPA feels that a risk analysis approach is certainly desirable, but far beyond the state-of-the-art at this time. When dealing with safety to humans, only one species is being protected and extrapolations are made far outside the limits of the actual test results, such as to 1 death in 100,000 people. With aquatic life, numerous species need to be protected and extrapolation far beyond the actual data is not readily accepted. In addition, safety or uncertainty factors are more readily accepted when protecting people than when protecting aquatic organisms.

Most aquatic toxicologists are not willing to let criteria for the protection of aquatic life be as dependent on mathematical models, assumptions, and manipulations as on the actual test results. Most people with experience in aquatic toxicology have an intuitive "feel" about how data should be interpreted and the Guidelines are merely an attempt to formalize a resaonable approach. The Guidelines could be written as mathematical algorithms and some approach such as error models could be developed in order to derive confidence limits. However, the algorithms and models would contain many unproven assumptions and, to be worthwhile, would undoubtedly require more data than are usually available. Although such models and algorithms would be acceptable to many statisticians and may be an appropriate future goal, the current Guidelines need to be useable by and comprehensible to current aquatic toxicologists. Most experienced aquatic toxicologists will judge the reasonableness of any set of Guidelines by comparing the resulting criteria for various pollutants with the data available for those pollutants using a "common sense" interpretation of data.

30. Comment—The Guidelines should not use unsound statistical procedures or misuse sound statistical procedures.

Response—EPA has tried to make sure that no statistical procedures are misused in the Guidelines, that no unsound statistical procedures are used, and that the purposes of the calculations are explained adequately.

31. Comment—It appears that geometric means were used instead of arithmetic means in the Guidelines to obtain lower values.

Response—Decisions such as this were made throughout the Guidelines on a case-by-case basis, and none were based on whether the resulting criteria would be higher or lower. The selection of the procedure used to calculate the mean could be based on the distribution of the values in the individual data set. Unfortunately, with small data sets rarely is it possible to reject many possible distributions and with large data sets all possible distributions are often rejected. Because many of the data sets of interest in the Guidelines are small, a reasonable approach is to base the selection of a procedure for calculating the mean on some general principles such as:

a. Sets of ratios and quotients are likely to be closer to lognormal than normal distributions. Thus geometric means, rather than arithmetic means, are used for acute-chronic ratios and for bioconcentration factors.

b. When there are numerous independent possible sources of error for each datum in a set, the error tends to be multiplicative rather than additive. Thus when the acute or chronic toxicity of a substance to a particular species is determined in different laboratories using different batches of organisms, different waters, etc, the geometric means should be used to calculate the species mean value rather than the arithmetic mean.

c. If a set of numbers approximates a lognormal distribution, the logarithms of the numbers will approximate a normal distribution.

d. The distribution of the sensitivities of individual organisms in a toxicity test

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is likely to be closer to a lognormal distribution than a normal distribution. Thus the geometric mean, rather than the arithemetic mean, of the upper and lower chronic limits is used.

32. Comment—There should not be any criteria which apply to all bodies of water. Criteria should be specific for individual states, regions, other geographic areas, or bodies of water.

Response—The Guidelines are designed to provide guidance in the collection and interpretation of data concerning the effects of pollutants on aquatic life and its uses. The uses of the resulting criteria will be described by EPA in various regulations. If desired, the Guidelines can be appropriately modified and used to derive a criterion specific to one or more bodies of water or geographic areas if an appropriate data base is available. The critical literature reviews on which the criteria are based will be available for use in the derivation of local, state, or regional criteria. The latitude allowed for deriving local, state, or regional criteria and standards will be determined by the implementation policy presently being developed by EPA.

33. Comment—The Guidelines should result in criteria that are specific for individual species or groups of species (e.g., warmwater and coldwater).

Response—If the necessary data were available, criteria could be derived for any particular species or group of species. It was impractical for EPA to derive criteria for many such groups, but a relatively simple division is freshwater and saltwater organisms because these two groups rarely coexist. Most other possible general divisions of species are faced with the problem that species coexist in various combinations unless the groups are very narrow. In addition, toxicity data are rarely available for very many individual species and so data for representative species must be used, unless appropriate new data are generated. Also, the available data sometimes show wide differences within families so extrapolations from one species to another are often tenuous. Because of these problems, deriving criteria for individual species or groups of species was deemed impractical.

34. Comment—A criterion should be one number, not two.

Response—The two-number criterion is an acknowledgement that aquatic organisms can tolerate short exposures to concentrations that are higher than those they can tolerate continuously. In a two-number criterion, the higher number can assure that short-term fluctuations above the average are not too high, whereas the lower number can assure that the long-term average is not too high. A one-number criterion could be derived by using the existing 24-hour average as an instantaneous maximum. This would certainly provide additional protection, but would provide unnecessary overprotection in most cases. Because a one-number criterion would be more of an approximation than a two-number criterion, one-number criteria would be too high or too low more often and to a greater degree than two-number criteria.

35. Comment—The criteria should not specify sampling schemes.

Response—Criteria should state numerical concentration limits in terms of exposure durations because, everything else being constant, the amount of adverse effect depends on both the concentration of the pollutant and the duration of exposure. Criteria in the Green Book, Blue Book, and Red Book were usually stated as single numbers with no duration expressly stated. The implication was that the criteria were never to be exceeded at any time. Each criterion was apparently and instantaneous maximum. In practice, however, standards derived from these criteria were usually enforced on the basis of 24-hour composite samples. To avoid any ambiguity, the Guidelines specify that a criterion should be explicitly stated in terms of two time frames: an instantaneous maximum and a 24-hour average. However, this is not a specification for a sampling scheme. Standards developed from such a criterion should probably specify a sampling scheme for compliance monitoring, but it would not necessarily be in terms of point measurements and 24-hour averages.

Any sampling scheme used to determine whether or not an ambient concentration exceeds a water quality criterion or a comparable water quality standard should take into account such things as the ratio of the instantaneous maximum and the 24-hour average and the retention time of the body of water because these will primarily determine which portion of the criterion is most limiting in any specific situation. The sampling scheme should probably also take into account the cost of the analyses and results of any past analyses.

36. Comment—The criteria should be stated in terms of time frames longer that an instantaneous maximum and a 24-hour average.

Response—These two time frames were chosen because they would allow the derivation of a criterion which would be less restrictive than, but just as protective as, the previous one-number criterion. These two specific time frames were chosen because they match two kinds of samples that are commonly collected: grab samples and 24-hour composite samples. These specific time frames could probably be changed somewhat without much practical effect, but EPA saw no particular advantage to anyone to introducing novel time periods. For example, for all practical purposes in most situations a 10-minutes average is probably about the same as an instantaneous maximum.

Large increases in the time frames, however, would not provide the same amount of protection. If the instantaneous maximum were changed to a 24- or 96-hour average, and the 24-hour average were changed to a 7- or 30-day average with no change in the numerical limits, the amount of protection afforded aquatic life would fall to an unacceptable level. The longer the time span for the average, the higher the instantaneous concentration could be for short periods of time within that span. Although most chronic tests last for 28-days or longer, some chronic effects may be caused by short exposures of sensitive life stages. If the acute-chronic ratio is small, fluctuations in the instantaneous concentration may even cause acute toxicity, especially for cumulative pollutants, because for some substances the 24-, 48-, and 96-hour acute values do not differ too much.

37. Comment—A two-number criterion will be difficult to enforce.

Response—Criteria are not enforceable. Standards are enforceable. When standards to protect aquatic life are developed, they may or may not be in the same format as the criteria for aquatic life. Few standards are adequately enforced because of the high cost of continuous monitoring. The real value of many criteria and standards is in the design of waste treatment facilities; a two-number criterion should be a better basis for design than a one-number criterion.

38. Comment—The criteria should be expressed to one significant figure, not two.

Response—EPA acknowledges that there is much variability in some of the data and that the range of sensitivites is often great. When the requirements of the minimum data base are satisfied and the data agree reasonably well, two significant figures are not unreasonable. Rounding off to one significant figure could arbitrarily raise or lower the criterion by up to forty percent with no apparent consistent benefits to dischargers, regulators, or aquatic life.

39. Comment—The Guidelines should only use data for species that ought to be protected.

Response—In order to protect commercially and recreationally important species, a wide variety of "unimportant" species must also be protected. Such so-called "unimportant" species include the food organisms all the way to the bottom of the food chain. The "important" species in an aquatic community cannot maintain themselves without the help of primary producers, primary consumers, nitrifiers, dentrifiers, detritivores and saprophytes.

40. Comment—Criteria should not be based on sensitive, short-lived invertebrates.

Response—Many species of invertebrates are short-lived and are not widely distributed. However, these numerous short-lived, local species do serve important functions and should be represented in the data base. This group of organisms needs to be protected even if no one species can be considered important.

41. Comment—Criteria should protect endangered species.

Response—EPA agrees that criteria should protect endangered aquatic species. However, very few toxicity tests have been conducted with endangered species, and it does not appear feasible to require tests with such species. Endangered species are some of the many untested species which should be protected by criteria derived from available data using the Guidelines.

42. Comment—Migratory species are a special problem.

Response—Migratory species should usually be protected by criteria derived using the Guidelines unless such species are unusually sensitive. Migratory species may be especially susceptible to avoidance, but few data are available to compare species on this basis. Avoidance may be a serious latent problem because it might apply to all motile species, rather than just migratory species, and it has not been studied very much.

43. Comment—Estuarine species were ignored.

Response—The term "saltwater organisms" is meant to include estuarine species as well as true marine species.

44. Comment—The classification "invertebrates" includes species that are too dissimilar to be grouped together. These species should be separated into phyla or classes.

Response—The never-ending arguments between the "lumpers" and the "splitters" can only be resolved by considering the advantages and disadvantages of each approach in each situation. The "splitters" can usually argue that obvious differences should be taken into account and it is certainly true that shrimp are different from insects and both are different from worms. It can also be argued that there are significant differences within phyla, classes, and families. Each species could be considered a separate group, if differences between stains are arbitrarily ignored. After the species are split into separate groups, the problem then would be whether to recombine the data to derive one criterion for all species or to derive one criterion for each group. If numerous criteria are derived for a pollutant, how are these to be used to develop standards? Another problem is that unless more data are generated, the greater the number of groups, the less information there is available per group.

The basic question is "What are the important differences that need to be taken into account and how should this be done?" Because there are differences between taxonomic groups, the Guidelines require data on a number of species from a varitety of taxonomic groups. The information of each separate species is treated individually. This approach preserves the differences between species and allows all species to be considered in the development of the criterion. The number of data points is increased and the range of the data is readily apparent. Because "invertebrates" is already a large diverse group and because the range of sensitivities of fish usually overlaps that of invertebrates, little justification exists for not combining all aquatic animals.

45. Comment—Do not extrapolate from freshwater organisms to saltwater organisms or vice versa.

Response—Criteria and absolute toxicity values were not extrapolated from fresh water to salt water, but some relative data were, when it did not appear that factors such as salinity affected the data. The toxicity of some substances apparently is significantly affected by salinity, but most substances seem to have overlapping ranges of toxicity to freshwater and saltwater organisms. However, because these two kinds of organisms rarely inhabit the same body of water simultaneously, separate criteria were derived for each. Even though these two kinds of organisms are physiologically different, they do not seem to be too different toxicologically. Bioconcentration factors and acute-chronic ratios seem to be fairly similar for many freshwater and saltwater species for many pollutants, particularly organic chemicals.

46. Comment—The Guidelines base the criteria only on sensitive species and do not take into account insensitive species.

Response—The Guidelines do not necessarily base the criteria on the data for the most sensitive species. However, an aquatic ecosystem cannot be protected by protecting only the species which are insensitive. Protecting half the species will probably not protect the community. To offer reasonable protection to aquatic life and its uses, each major kind of organism and each major use must be given reasonable protection. In some cases it may in fact be necessary to protect the most sensitive species if it is a highly desirable species.

47. Comment—Species should be tested at their environmental extremes.

Response—Toxicity tests with each pollutant could indeeed be conducted with some or all species under a variety of extreme conditions and the lowest result obtained with a species could be used instead of a mean result. On the other hand, differences between results with different species seem to be much greater, and therefore more important, than the differences between results obtained with one species under different conditions. Furthermore, criteria need not necessarily protect species from all stress under the most extreme conditions, because aquatic communities and populations of individual species can recover from some perturbations.

48. Comment—Only data for species that are widely distributed, representative, critical, indigenous, important, ecologically relevant and sensitive should be used.

Response—Few species would satisfy all of the requirements that have been suggested. As more and more data are obtained with a wider variety of species for any one pollutant, it becomes more obvious that few if any species are atypically sensitive, although that may not be true for aquatic communities which contain very few species. No data exist to show that species in any one key role are toxicologically more sensitive than other kinds of species. Ecologically relevant species and species that have key roles or are relevant to the overall functioning of viable ecosystems are not necessarily toxicologically different from other species. EPA feels that if the available data cover an adequate number and variety of species, it is not necessary to try to identify and conduct tests with all important, sensitive species. In addition, the derivation of a criterion should not be based only on sensitive species, because a knowledge of the range of sensitivities may be useful. For instance, elevated concentrations of a pollutant that produces a narow range of species sensitivities are likely to cause more

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damage than elevated concentrations of a pollutant that produces a wide range of species sensitivities.

49. Comment—The distinction between ionizable and unionizable compounds is not very good because some chemicals ionize and reach chemical equilibrium very slowly and others very rapidly.

Response—Most chemicals can readily be classified into one of three groups:

A. Chemicals that ionize, including hydrolyze, at least 90% and reach 90% of equilibrium in less than 8 hours in most surface waters.

B. Chemicals that ionize, including hydrolyze, less than 10% in 30 days in most surface waters.

C. Chemicals that do not fit into either one of the above categories.

For the purpose of the Guidelines, chemicals in the A group should be considered ionizable, chemicals in the B group should be considered non-ionizable, and chemicals in the C group should be classified on a case-by-case basis. Although the distinction between ionizable and unionizable may not be perfect, it is very useful for most chemicals.

50. Comment—Each individual organic compound should be considered separately.

Response—The vast majority of organic chemicals will be considered separately according to the Guidelines except for structurally similar organic compounds that meet all three specifications given in the Guidelines, such as polychlorinated biphenyls and toxaphene.

51. Comment—In-stream water quality criteria are meaningless for substances that are highly insoluble.

Response—The concentration of some substances in sediment may be important separate from the concentration of the substance in the ambient water and for these compounds a sediment quality criterion may be necessary. Generally such compounds can also cause adverse effects if the concentration in the ambient water is too high even if the concentration in the sediment is low. Thus for such compounds both kinds of criteria may be necessary rather than just one or the other.

52. Comment—If a substance is not dissolved, it is not biologically or toxicologically available.

Response—Although this may usually be true, it certainly does not apply to elemental mercury which can be oxidized and methylated to form a very toxic compound. Some organic acids and phenols and hydroxide and carbonate salts of metals have solubilities which differ substantially from one body of water to another.

53. Comment—Criteria for metals should not be for total metal.

Response—Criteria for metals will generally not be based on total metal. Most will be based on total recoverable metal because forms of metals that are not measured in the total recoverable procedure probably are not, and will not become, toxic. A major problem is that some people use a procedure for total recorverable, but report the results as total, metal. In many situations the two results are about the same, but in some cases the results are quite different.

54. Comment—The Guidelines should give more guidance for distinguishing between acceptable and unacceptable data.

Response—The Guidelines contain as much detail on this subject as EPA believes is currently feasible. Items such as the maximum acceptable control mortality and minimum number of test organisms are based on what many aquatic toxicologists generally feel are acceptable, as expressed in published methods. No data should be used in the derivation of a criteria until their quality and acceptability had been reviewed by a competent person. Competent people will occasionally disagree, but that is a fundamental property of subjective decisions.

55. Comment—Only published data should be used.

Response—Peer review is one of many concepts that is better in theory than in practice. Some poor quality data are published and some high quality data are rejected. In addition, publication is not a particularly rapid process. Whether or not data are used should depend on the applicability and quality of the data, not on whether they have been published. Data that are not published should be made readily available if they are used to derive water quality criteria.

56. Comment—All static test are unacceptable

Response—In general, high quality flow-through acute tests are preferable to high quality static acute tests, but static tests are by no means unacceptable. Few data are available to show whether static tests consistently produce acute values lower or higher or different than flow-through tests. Whereas degradation, violatilization, and buildup of metabolic products are more likely to be a problem in static tests, operator and mechanical errors are more likely in flow-through tests. Static acute tests are certainly not unacceptable for most pollutants, but static chronic tests generally are unacceptable because of changes in the toxicant concentrations and the quality of the dilution water during the test.

57. Comment—Data obtained using test organisms that were previously exposed to the pollutant should be used.

Response—Comparisons of results obtained with unexposed and previously exposed organisms should indicate whether or not acclimation has occurred. Generally, data obtained with acclimated organisms should not be used in deriving criteria because acclimated organisms are the exception rather than the norm. Rarely, if ever, can acclimation be depended on to protect organisms in a field situation because concentrations often fluctuate and motile organisms do not stay in one location very long. Data obtained with acclimated organisms may be acceptable for use in deriving some site-specific criteria.

58. Comment—Foreign species should be used to expand the data base.

Response—Foreign species may be representative of indigenous species, but some of them are quite unusual. Data obtained with foreign species may give good indications of indigenous speceis that should be used in tests on some pollutants and may identify some potential problems that should be investigated.

59. Comment—If data for brine shrimp are not used, the criteria should not apply to saline waters.

Response—Data obtained using brine shrimp are not used because these organisms are atypical. Although they may not be usually sensitive or insensitive to various pollutants, the species found in North America and used for testing only survive in the Great Salt Lake and in salt ponds near San Francisco Bay. These two habitats are unlike any others in the United States. If criteria were to be derived specifically for the Great Salt Lake or for salt ponds, then data for brine shrimp should be used.

60. Comment—Structure-activity relationships should not be used unless proven.

Response—No provision is made in the Guidelines for the use of structure-activity relationships. Such relationships may soon be well enough understood that they can be used in deriving water quality criteria.

61. Comment—A criterion should not be derived for a pollutant until data are available for a broad range of commercially, recreationally, and ecologically important species. Each species should be acutely and chronically tested under a variety of conditions in a number of different waters.

Response—Except for those people who merely want to stop EPA from deriving any water quality criteria, most people will admit that there must be some reasonable limit as to how much information is necessary concerning any regulatory action. This is as true for deriving water quality criteria, as it is for issuing NPDES permits, submitting PMNs, registering pesticides, etc. All of these regulatory activities deal with potentially significant adverse effects on aquatic organisms and should take into account many of the same possible kinds of adverse effects. Therefore, the data needs for these various activities should probably be somewhat similar, but for each regulatory activity the minimum data requirements also need to take into account the special aspects of the program and practical considerations. Unrealistic data requirements will benefit no one. It is not necessary that all questions be answered before any action is taken. It is only necessary that enough data be available to allow reasonable confidence that the water quality criteria will generally not be too high or too low.

EPA has developed minimum data requirements that describe the amounts and kinds of information that should usually be available if a criterion is to be derived using the Guidelines. When the minimum data requirements are satisfied, it should usually be possible to derive a useful criterion. The requirements take into account many things such as:

a. The existence of some species which are commerically or recreationally important and generally sensitive to some broad classes of pollutants;

b. The range of species for which data are available;

c. The cost of obtaining additional data and the usefulness of the data; and

d. The reasonableness of extrapolations from one species to another within and between groups.

The requirements set forth in the minimum data base are indeed minimal, considering the great varitey of species which exist in most aquatic ecosystems. However, EPA feels that based on the availavble information the routine requirement of more data would probably not improve criteria enough to justify the additional cost.

62. Comment—The mimimum data requirements should depend on the nature of the pollutant.

Response—EPA feels that such an approach may be feasible some time in the future, but would be an unwarrented level of sophistication at this time. For a few pollutants, it may be possible to relax some of the data requirements, but in general this can only be determined after enough data are available to indicate that a special case exists. In other cases the minimum data may indicate that additional data are highly desirable.

63. Comment—Criteria should not be derived if enough data are not available. The alternative procedures which were proposed should not be used.

Response—EPA agrees that a numerical criterion should not be derived if enough appropriate data are not available, except in some special cases. EPA also agrees that the alternative procedures which were proposed should not be used to develop numerical criteria at the present time. However, EPA feels that when a numerical criterion is not derived, a descriptive criterion can be used to accurately reflect the latest scientific knowledge.

64. Comment—The guidelines should give more guidance on relating a criterion to a water quality characteristic.

Response—More detail on this subject has been written into the Guidelines.

65. Comment—If data on the relation of toxicity and water quality are not available, no criterion should be derived.

Response—The purpose of a criterion is to present the best available information, not to ensure that all desirable information is available. Any water quality characteristic may affect the toxicity of each pollutant to some degree and it is never going to be possible to investigate all such interactions for even a few species and pollutants. EPA has adopted a minimum data base requirement for deriving a criterion, but there must be practical limits or no criterion will ever be possible. When the minimum data base requirements are satisfied, a criterion should be derived regardless of speculation that some unstudied relationship exist. When enough good data demonstrate a relation between toxicity and a water quality characteristic, an attempt should be made to use this information in the derivation of a criterion. A major purpose of site-specific criteria is to take into account the effect of local water quality conditions on toxicity.

66. Comment—Do not specify the form that a relationship between toxicity and water quality must take.

Response—The Guidelines allow the use of any set of transformations that fit the data well. The log-log model is given as an example because it seems to fit most of the available data concerning the relationship between hardness and toxicity of metals (the only such relationship for which much quantitative data are available) reasonably well.

67. Comment—The toxicity of metals should not be related to "hardness".

Response—EPA has tried to derive criteria in a form that will (a) adequately protect aquatic organisms and (b) be practically useful. Hardness is used as an easily measured surrogate for a number of interrelated water quality characteristics, such as pH, alkalinity, calcium, and magnesium. Various combinations of these probably affect individual metals differently, but these are all reasonably well correlated with hardness in a wide variety of natural waters. Some waters, such as those impacted by acid mine drainage, obviously are special cases, but they have special problems of their own.

68. Comment—Do not extrapolate slopes for toxicity vs. water quality from fish to invertebrates or from acute values to chronic values.

Response—The Guidelines do not now assume that the acute slope and the chronic slope are similar for a pollutant. On the other hand, there is no reason to believe that invertebrates are more similar than are fish and invertebrates. As explained earlier, the group "invertebrates" does not consist of a collection of species that are similar taxonomically or toxicologically. Some water quality characteristics apparently affect the toxicity of the pollutant, rather than the sensitivity of the organisms. For these kinds of factors, slopes should be the same for different species. Even factors that affect such things as the permeability of membranes may produce similar slopes for a wide variety of species. If each species must be treated separately, no criteria will ever be possible.

69. Comment—Relationships based on only two points should not be used.

Response—Two points certainly do not provide very much information about the shape, slope and position of a line. However, if other information or a reasonable assumption is available concerning the shape of the line, two good data points, spaced at a reasonable interval, can provide very useful information concerning the slope and position of the line. Three appropriately spaced points would certainly be better, and four points would be an ideal minimum.

70. Comment—Do not combine relationships that are and are not statistically significant.

Response—The Guidelines do now specify that relationships should be tested for statistical signficance. A test for statistical significance may be one indication of whether or not a slope is

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useful, but such a test cannot be used with just two points and does not take into account such things as the comparability of the data, the quality of the test, and the range of the independent variable. A relationship based on six points may not be as significant as it seems if five of the points are tightly grouped.

71. Comment—The Guidelines should not combine 96-hr LC50 values and 48-hr EC50 values.

Response—Both LC50 values and EC50 values are used to measure acute toxicity of a substance to aquatic organisms. In general, an EC50 can be based on a wide variety of effects, but the Guidelines specify that the only effects to be used for deriving criteria are incomplete shell development, immobilization, and loss of equilibrium. All of these are certainly drastic effects. In a field situation these effects probably often lead to death. Just as the endpoint may be specific for the species, so may be the length of the test. The generally accepted length of an acute test with daphnids is 48 hours, whereas for most species of fish, it is 96 hours. Thus the Guidelines use both 48-hr EC50 values and 96-hr LC50 values because they are the widely accepted durations and endpoints used to measure acute toxicity to specific species.

72. Comment—Shell deposition tests are chronic tests and should not be equated with lethality tests.

Response—"Acute" implies "short" not "death". Many acute toxicity tests do use death for the effect, but many also use non-lethal effects. The shell deposition test is one of many non-lethal acute tests and is generally accepted as a short test compared to the average life span of oysters.

73. Comment—Adjustment factors should not be used to adjust for the length of the test, the technique, and unmeasured concentrations.

Response—All three kinds of adjustment factors have been deleted from the Guidelines. The factor for the length of the test was found to be unnecessary because most tests had been conducted for the standard times usually specified for the individual species. Thus the Guidelines now specify that only data from tests conducted for the time specified for the species should be used to calculate the Final Acute Value.

EPA has found that on the average flow-through acute tests give results slightly lower than do static tests, but the relationship does not seem to be too consistent and may vary from species to species for some pollutants. In addition, on the average results based on measured concerntrations do not seem to be much different from those based on unmeasured concentrations.

However, the results of flow-through tests based on measured concentrations are generally accepted as being better measures of acute toxicity than the results of flow-through tests based on unmeasured concentrations or the results of any static or renewal tests.Therefore, whenever the results of flow-through acute tests in which the concentrations were measured are available, the results of all other kinds of acute tests with that species and pollutant are not used in the calculation of the species mean acute value.

74. Comment—Species sensitivity factors should be pollutant-specific; and average factor should not be calculated for a variety of substances.

Response—EPA agrees. The requirement for acute values for at least eight different species was developed in part to allow for a reasonably good calculation of a mean acute value and a species sensitivity factor for each individual pollutant. A better way of using the acute values for the individual species has been developed, but no extrapolations are made from one pollutant to another.

75. Comment—The distribution of species mean acute values for a pollutant will be truncated if the species cannot be killed or affected by concentrations above solubility.

Response—Some species are so resistant to some pollutants that they cannot be killed or affected in acute tests even by concentrations which are much above solubility. Such "greater than" values cannot be used in the calculation of means and variances for pollutants. When the "greater than" values are for insensitive species and are at or above solubility, the values can be used in the calculation of the Final Acute Value by adjusting the cumulative proportions for all the speices with quantitative values. The shape of the curve at the high end cannot be determined, but the Final Acute Value is more dependent on the species mean acute values and the cumulative probabilities at the low end.

76. Comment—Early life-stage tests with fish should be used interchangeably with life-cycle and partial life-cycle tests with fish.

Response—EPA agrees that early life-stage tests with fish generally give about the same results as comparable life-cycle and partial life-cycle tests. However, because the shorter test is merely a predictor of the longer tests, whenever both kinds of results are available, the results of life-cycle and partial life-cycle tests should be used instead of the results of early life-stage tests.

77. Comment—Appropriate measures of chronic toxicity and appropriate lengths of exposure should be defined.

Response—The descriptions of appropriate chronic tests have been clarified.

78. Comment—The factor of 0.44 should not be used.

Response—It is not now used.

79. Comment—The Final Chronic Value should not be lower than the lowest measured species chronic value, even if chronic data are not available for sensitive species.

Response—Aquatic ecosystems cannot be protected from chronic toxicity by protecting only the insensitive species from chronic toxicity. In the past both arbitrary and experimentally determined application factors have been used to relate acute and chronic toxicity. For a variety of reasons the Guidelines do not use an application factor, but instead use the acute-chronic ratio, which is similar to the inverse of an application factor. Thus the acute-chronic ratio should normally be greater than one. The acute-chronic ratio is to be used with invertebrates as well as fish and is to be an experimentally determined value for each individual pollutant. The acute-chronic ratio should also avoid the confusion as to whether a large application factor is one that is close to unity or one that has a denominator that is much larger than the numerator. The acute-chronic ratio is calculated by dividing the appropriate measure of acute toxicity for the species (as specified in the Guidelines) by the appropriate measure of chronic toxicity for the same species (as specified in the Guidelines).

Some people have confused application factors and safety factors and use of the term "acute-chronic ratio" should help avoid this problem. Acute-chronic ratios are a way of estimating the chronic sensitivity of a species for which no chronic toxicity data are available. Safety factors would provide an extra margin of safety beyond the sensitivity of the species. Safety or uncertainty factors are intended to reduce the possibility of underprotection, whereas acute-chronic ratios are intended to estimate the actual chronic sensitivity of the species to the pollutant. This estimate is just as likely to be too high as it is to be too low. A mean acute-chronic ratio will in fact be too high for half the species and too low for the other half.

When three or more acute-chronic ratios have been determined for a pollutant with both fish and invertebrates, three patterns have been observed when the individual species are listed in order of their species mean acute values:

a. The ratios randomly differ by a factor of ten or more.

b. The ratio appears to be about the same (within a factor of ten) for all species.

c. Species with higher acute values also have higher acute-chronic ratios.

The available data indicate that fish and invertebrates do not consistently have different acute-chronic ratios and that for some pollutants freshwater and saltwater species have similar acute-chronic ratios.

80. Comment—No application factor should be used unless it is specific for the pollutant, species, and water.

Response—There is no point in using an application factor or acute-chronic ratio or any concept if it does not allow some generalization or extrapolation from one species to another or from one water to another. Not allowing any generalizations or extrapolations would require that much data be generated for each species and each pollutant in each water in which a criterion is necessary. When enough supporting data are available, extrapolations using such things as acute-chronic ratios are cost-effective and scientifically sound.

81. Comment—Additional development of methodology for toxicity tests with aquatic plants is needed.

Response—This is most certainly true. Much other research also is needed, and generally is considered higher priority. EPA hopes that someday all of the additional research that needs to be done will be done. Few pollutants seem to affect aquatic plants at concentrations which do not chronically affect aquatic animals, and it is hoped that this is not an artifact of the test methods currently used.

82. Comment—Data on toxicity to plants should not be used for deriving criteria because plants are more site-specific than animals.

Response—Numerous species of plants, especially algae, exist in most bodies of water. On the other hand, EPA knows of no data to support the contention that the sensitivities of aquatic plants are any more site-specific than those of aquatic animals, or that the range of sensitivities between plants is as great as that for animals. One species may or may not be representative of other species. After the methodology for toxicity tests with aquatic plants is better developed, tests with a wider variety of species would certainly be desirable.

83. Comment—The Final Plant Value should not be the lowest available plant value based on measured concentrations.

Response—EPA adopted the procedure described in the Guidelines for obtaining the Final Plant Value for several reasons including:

a. The methodology for toxicity tests with aquatic plants is not well developed.

b. For only a few pollutants have toxicity tests been conducted with more than a very few species of plants.

c. Little is known about the range of sensitivities of various species of aquatic plants.

d. Based on available data, almost no pollutants are toxic to aquatic plants at the lowest concentrations which are chronically toxic to aquatic animals or cause unacceptable residues.

84. Comment—Residue accumulation in any part of an aquatic ecosystem should be prevented as much as possible.

Response—Accumulation of residues in aquatic organisms only becomes a problem if the concentration of residue is high enough to adversely affect either (a) the organism itself, (b) a consumer of the organism, or (c) the marketability of the organism. Adverse effects on the aquatic organism itself will be detected in acute and chronic toxicity tests. The use of FDA action levels and chronic feeding studies with wildlife are designed to protect the uses and consumers of aquatic organisms.

85. Comment—Bioconcentration factors (BCFs) derived from field data should not be used.

Response—EPA feels that BCFs derived from adequate data, whether they be laboratory data or field data, should be used. More data are necessary to document a BCF from a field exposure than a laboratory exposure, as specified in the Guidelines, but if enough data are available, field BCFs should be used.

86. Comment—Kinetically derived bioconcentration factors (BCFs) should be used.

Response—Kinetically derived BCFs should be used if the bioconcentration test lasted long enough, *i.e.*, to apparent steady-state, to verify that the model (assumptions) used in the calculations actually fits the data for the individual pollutant.

87. Comment—Bioconcentration factors (BCFs) should not be estimated from octanol-water partition coefficients.

Response—The available data seem to indicate a reasonably good relationship for lipid-soluble substances between steady-state BCFs and octanol-water partition coefficients. BCFs estimated from partition coefficients are not used in the Guidelines because measured BCFs are available for all pollutants for which a maximum permissible tissue concentration is available.

88. Comment—Bioconcentration factors (BCFs) are dependent on temperature, food, salinity, stress, and other things.

Response—Many things such as these probably do affect BCFs. Until data are available to show that such effects are important and are not species-specific, little needs to be, or can be, done to take such factors into account when deriving water quality criteria.

89. Comment—Bioconcentration factors (BCFs) should be based only on tissues that are actually eaten.

Response—Although people usually only eat muscle tissue of fish, wildlife usually eat the whole body of fish. The tissues used in the determination of BCFs must be appropriate to the kind of consumer organism or regulatory action. On the other hand, since the BCF for a lipid-soluble substance seems to be proportional to percent lipids, extrapolations can be made on the basis of percent lipids regardless of the tissue.

90. Comment—Chronic toxicity tests with rats and mice should not be used as representative of tests on mammalian wildlife.

Response—Because results of tests on a variety of species are extrapolated to man, it should be just as reasonable to extrapolate from one mammalian species to another mammalian species within certain limits. However, such extrapolations are not now used in the Guidelines; only the results of chronic toxicity tests with wildlife are used to protect wildlife consumers of aquatic life.

91. Comment—Information concerning bioconcentration should only be used if such information is used to protect aquatic organisms, not to protect the marketability of aquatic organisms.

Response—Protection of aquatic organisms must include not only the protection of the existence of aquatic organisms, but also protection of the common uses of aquatic organisms. Commercially important aquatic organisms cannot be considered adequately protected if they cannot be sold. The Guidelines do not use any data pertaining to safety to humans in an attempt to protect human consumers of aquatic organisms. Instead, the Guidelines merely attempt to ensure that residues in aquatic organisms do not exceed FDA action levels so that the uses of commercially and recreationally important species are not restricted by the Food and Drug Administration.

92. Comment—A Final Residue Value

concentrations vary not only with time

comment of the proposed methodology

(organoleptic criteria). For carcinogens,

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III. Comments on Non-Carcinogens

92. Comment—A Final Residue Value calculated from an FDA action level is actually a concentration that will result in the average concentration in some species being at the FDA action level.

Response—This is a good point. A similar situation exists when the calculation is based on a concentration which caused an adverse effect in a chronic wildlife feeding study. In all such cases, the Final Residue Value should be lower, but EPA knows of no non-arbitrary way to determine how much lower the value should be.

93. Comment—The FDA action levels for finished animal feed should not be used.

Response—They are not now used.

94. Comment—Flavor impairment should not be used to derive water quality criteria for aquatic life.

Response—Many of the commercially and recreationally important aquatic orgnaisms are consumted by people. If the flavor is significantly impaired, the use of these species will be adversely affected. Flavor impairment should be considered an effect that can adversely affect the use of aquatic organisms.

95. Comment—The instructions for using the other data are not very detailed and are not mathematical.

Response—EPA has tried to include as much detail in the instructions for using the other data as are currently justified. Extensive detail and mathematical treatment are not deemed realistic at this time bacause so little information is available concerning the various kinds of other data.

96. Comment—The final review of the criteria should allow revision up or down based on sound scientific evidence.

Response—The Guidelines always have allowed revision up or down, but this is now stated explicitly in the Guidelines.

97. Comment—Some bodies of water, such as some USGS benchmark streams and the Houston ship channel, contain concentrations above the criteria for some pollutants and still contain aquatic communities that are diverse, healthy, and productive. Such information should be used in the review of the criteria because it indicates that some criteria are too low.

Response—Rarely are there enough data available to accurately identify the concentrations of pollutants to which aquatic organisms in bodies of water are actually exposed. The sampling scheme should provide a good estimate of the mean and variance of the concentration; a few grab or composite samples cannot provide enough information to characterize the concentrations of pollutants in most bodies of water. The concentrations vary not only with time but also with location at each time, so the samples must be taken where the organisms of interest are located at that time.

A more serious problem concerns the definition of an acceptable aquatic ecosystem. How does one determine if an aquatic ecosystem is healthy or productive? If a diverse system is, by definition, healthy, is it also, by definition, productive? What is the minimum acceptable diversity? What is the minimum acceptable productivity? Should the acceptable levels of diversity and productivity be site-specific? Is a body of water acceptable just because no dead fish are observed. How many pounds of trout should a trout stream produce each year to be considered healthy and productive? How does one treat motile species that may avoid some periodic increases in pollution levels? Is an aquatic ecosystem healthy and productive if the normally edible portion of a consumed species tastes bad or contains excessive residues? Questions such as these indicate the difficulty of quantitatively judging the quality of aquatic ecosystems on the basis of their acceptability or usefulness to man or on any other basis. Although judging bodies of water would be a difficult job, it certainly could be done by a competent group of trained professionals. The point is that it is not as easy a job as some people would like to think. There are also people who feel that various pristine bodies of water should be managed because they are not as productive as they could be.

As mentioned earlier, the criteria documents derive criteria which may be too high or too low for some specific bodies of water. With appropriate modifications the Guidelines can be used to derive criteria for any specific body of water or geographic area. In addition, it is certainly possible that one or more factors which affect the toxicity of one or more pollutants may not have been studied very throughly or even identified yet. The criteria are based on the best available information and the state-of-the-art of aquatic toxicology, but it is always possible that something important has not been adequately studied by regulators, discharges or academia.

Appendix E.—Responses to Public Comments on the Human Health Effects Methodology for Deriving Ambient Water Quality Criteria

I. Introduction

On March 15, 1979, the U.S. Environmental Protection Agency (EPA) announced the availability for public comment of the proposed methodology for the derivation of ambient water quality criteria for the protection of human health. The public comments were resolved in three phases.

First, comments relating to policy issues were resolved in an initial screening/disposition by Agency personnel. Second, a peer review workshop was conducted and involved Agency personnel, contractors, and recognized scientists. The group evaluated all issues pertaining to the derivation of criteria for non-carcinogens, and third, a similar workshop was held to review all issues relating to the derivation of criteria for carcinogens.

The following report presents the resolutions of the public comments by the EPA after considering the advice of the meeting attendees. While the EPA greatly appreciates the contribution of these individuals and acknowledges their substantial assistance in resolving many difficult questions, the EPA accepts full responsibility for the positions outlined in this document. (Note: Comments addressing similar issues were appropriately compiled and summarized under each issue.)

Comments Resolved in Initial Screening

Issue 1

Comment summary: The water quality criteria documents should provide information and/or guidelines for deriving standards from criteria.

Response: The water quality criteria documents contain information which will be useful in developing standards (e.g., current levels of exposure). However, in developing standards, many additional factors not directly related to criteria must be considered. It would be more appropriate to compile and to analyze this information as part of the standard-setting process rather than to include it in the criteria documents. Guidelines will be issued separately since the development of the standard includes use designation with a commensurate criteria value.

Issue 2

Comment summary: Water quality criteria should consider or be limited by technological achievability, cost/benefit analysis, limits of detection, and environmental fate.

Response: The distinction between criteria and standards must be recognized. For non-carcinogens, ambient water quality criteria are estimates of concentrations in water which will not result in either adverse human health effects (criteria based on toxicity) or unpleasant taste or odor (organoleptic criteria). For carcinogens, criteria are estimates of concentrations of individual compounds in water which will result in specified increases in the lifetime risk of developing cancer. By definition, these criteria exclude considerations of technological achievability, cost/benefit analysis, limits of detection, and environmental fate, as appropriate within the authority of The Clean Water Act [33 U.S.C. 1314(a)]. These factors are more properly considered in the standard-setting process.

Issue 3

Comment summary: The validity of a single criteria for all bodies of water is questionable. Criteria should be site specific an/or use specific.

Response: In the standard-setting process, criteria may be modified based upon site specific or use specific considerations.

Issue 4

Comment summary: Even if there is insufficient data, some criteria must still be developed for "highly hazardous compounds."

Response: If there is sufficient information to indicate that a compound is "highly hazardous," there should be sufficient information to derive a criteria. Conversely, if insufficient data are available, by definition no criteria can be derived.

Issue 5

Comment summary: Criteria should be derived only for persistent compounds or for compounds which present a clear hazard to humans.

Response: Criteria can be derived for any compound on which sufficient information is available. By definition, criteria are independent of persistence or current levels of exposure.

Issue 6

Comment summary: Criteria should be developed to protect terrestrial wildlife as well as humans and aquatic organisms.

Response: Because of the great number of diverse wildlife species and differences in their habitat, diet, and behavior, it is unlikely that a single criteria could be developed to protect all wildlife species from a given contaminant. The EPA is currently assessing possible approaches to developing a valid methodology for deriving wildlife criteria. Until a specific wildlife criteria methodology is developed, the proposed aquatic life and human health effects criteria should serve as interim levels for the protection of wildlife.

Issue 7

Comment summary: Criteria should be derived by an independent scientific panel and not by the EPA.

Response: The EPA has a legislative mandate to derive ambient water quality criteria and must accept the final responsibility for this process. However, the EPA has solicited the advice of many independent scientists in this effort. It should be noted that the consensus of the peer review committees has been considered and generally followed by the EPA. Nonetheless, the responsibility for the criteria rests solely with the Agency.

Issue 8

Comment summary: The ambient water quality criteria are not sufficiently protective of special groups at risk.

Response: In most cases, each document contains a specific section on special groups at risk. This is intended to serve as a notice to individuals or agencies using the criteria; that the derived criteria may not be sufficiently protective in all applications. If sufficient data are available, information in the section on special groups at risk could be used to modify the criteria during the standard-setting process.

Issue 9

Comment summary: Comments express concern with the failure of the criteria to specifically address possible toxicant interactions.

Response: The importance of toxicant interactions in the environment cannot be disregarded. Each document attempts to summarize the available data on such interactions. However, since the composition of toxicants is likely to vary substantially in different areas, a general approach modifying criteria based upon toxicant interactions is not available at this time. Further, the limitations of valid approaches for dealing with interactions in multi-toxicant mixtures should be recognized.

Issue 10

Comment summary: Because of the uncertainties involved in deriving criteria, the criteria should be limited to only one significant figure.

Response: The number of significant figures used to express the criteria is an admittedly arbitrary decision. The EPA recognizes the inexactitude of these numbers.

III. Comments on Non-Carcinogens

A. Criteria for Chemical Classes

Issue 1

Comment summary: Two basic approaches were taken in the documents on chemical classes when sufficient data were not available on all members in a class:

(a) Criteria were derived for individual chemicals on which sufficient data were available and no criteria were recommended for other chemicals in the class.

(b) A criteria was derived for all or some chemicals in the class based on toxicity data on one or a few members of the class.

Alternative "a" can be criticized for "allowing" contamination by "probably hazardous compounds" (reasoning by chemical analogy). Alternative "b" can be criticized for applying a general criteria to a specific compound for which data are not available.

What guidelines with justifications can be given for selecting either alternative? What other alternatives might be considered?

Response: The initial methodology did not adequately address the problems associated with deriving class criteria. The following section has been added to the methodology and serves as a useful guide in the criteria derivation process.

A chemical class is broadly defined as any group of compounds which are considered in a single risk assessment document. In criteria derivation, isomers are regarded as a chemical class rather than as a single compound. A class criteria is an estimate of risk/safety which applies to more than one member of a class, and involves varying degrees of extrapolation from available data on some members of the class to other class members on which sufficient data are not available to derive a compound-specific criteria (i.e., a criteria based on data solely on the specific chemical for which the criteria is derived).

A class criteria usually applies to each member within the class rather than to the sum of the compounds within the class. While the potential hazards of multiple toxicant exposure are not to be minimized, a criteria, by definition, most often applies to an individual compound. Exceptions may be made of complex mixtures which are produced, released, and toxicologically tested as mixtures (e.g., toxaphene and PCBs). For such exceptions, some attempt should be made to assess the effects of environmental partitioning different patterns of environmental transport and degradation on the validity of the criteria. If these effects cannot be

assessed, an appropriate statement of uncertainty should accompany the

limits can be placed on the extent of subclassification, each must be

extremely limited role in criteria derivation process.

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include all routes of exposure. If water

E. Safety or Uncertainty Factors

assessed, an appropriate statement of uncertainty should accompany the criteria.

Because relatively minor structural changes within a class of compounds can have pronounced effects on their biological activities, class criteria should be avoided. Whenever sufficient toxicologic data are available on a chemical within a class, a compound specific criteria for that chemical should be developed. Nonetheless, for some chemical classes, scientific judgment may suggest a sufficient degree of similarity among chemicals within a class to justify a class criteria applicable to some or all members within a class. Such a judgment should be influenced by a perceived risk to the human population if a class criteria was not derived.

The development of a class criteria should take into consideration the following:

(a) A detailed review of the chemical and physical properties of chemicals within the group should be available. A close relationship within the class with respect to chemical activity would suggest a similar potential to reach common biological sites within tissues. Likewise, similar lipid solubilities would suggest the possibility of comparable absorption and tissue distribution.

(b) The amount of qualitative and quantitative data for chemicals within the group should be examined. Obviously adequate toxicological data on a number of compounds within a group would provide a more reasonable basis for extrapolation than minimal data on one or two chemicals within a group.

(c) Similarities in the nature of the toxicological response to chemicals in the class provides additional support for the prediction that the response to other members of the class may be similar. In contrast, where the biological response has been shown to differ markedly on a qualitative and quantitative basis for chemicals within a class, extrapolation of a criteria to other members of that class may not be appropriate.

(d) Additional support for the validity of extrapolation of a criteria to other members of a class could be provided by evidence of similar metabolic and pharmacokinetic data, if available, for some members of the class.

Based on the above considerations, it may be reasonable to divide a chemical class into various subclasses. Such divisions could be based on biological endpoints (e.g., carcinogens/non-carcinogens), potency, and/or sufficiency of data (e.g., a criteria for some members of a class but no criterion for others). While no *a priori* limits can be placed on the extent of subclassification, each must be explicitly justified by the available data.

Class criteria, if properly derived and supported, can constitute valid scientific assessments of potential risk/safety and can be used in establishing appropriate standards. Conversely, the development of a class criteria from an insufficient data base can lead to serious errors in underestimating or overestimating risk/safety and should be rigorously avoided. Although scientific judgment has a proper if not totally explicable role in the development of class criteria, such criteria will be useful and defensible only if they are based on adequate data and scientific reasoning rather than intuition. The lack of data on dissimilarity cannot be used as the basis of a class criteria. Further, the definition of sufficient data on similarities in physical, chemical, pharmacokinetic, or toxicologic properties to justify a class criteria may vary remarkably depending on the degree of superficial structural similarity and the gravity of the perceived risk. Consequently, it is imperative that the criterion derivation section of each document in which a class criterion is recommended explicitly address each of the key issues discussed above and define, as clearly as possible, the limitations of the proposed criteria and the type of data necessary to generate a compound-specific criterion.

Class criteria should be corrected when sufficient data become available to derive a compound-specific criterion that protects against the biological effect of primary concern. The availability of a good subchroni study would not result necessarily in the abandonment of a class criteria based upon potential carcinogenicity.

The inability to derive a valid class criteria does not and should not preclude regulation of a compound or group of compounds based upon concern for potential human health effects. The failure to recommend a criterion is simply a statement that the degree of concern cannot be quantified from the available data and risk assessment methodology.

Issue 2

Comment summary: To what extent can "guilt by association" be used to derive a cancer-based criteria for a compound which has been tested for carcinogenicity with negative results [e.g., bis(2-chloroisopropyl) ether in the Chloroalkyl Ethers Ambient Water Quality Criteria Document].

Response: As stated in the response to Issue 1, "guilt by association" is only an extremely limited role in criteria derivation process.

B. Organoleptic Criteria

Issue 3

Comment summary: Whenever organoleptic criteria are derived, corresponding toxicity based criteria should be derived if possible.

Response: The Agency agrees. Since organoleptic criteria are not based on toxicologic information and have no direct relationship to potential adverse human health effects, both organoleptic and toxicity based criteria are provided whenever possible.

Issue 4

Comment summary: The quality of organoleptic criteria should be assessed in terms of experimental design and statistical analysis.

Response: The revised methodology recognizes the limitations of most organoleptic data:

With very few exceptions, the publications which report taste and odor thresholds are cryptic in their descriptions of test methodologies, number of subjects tested, concentration/response relationships, and sensory characteristics at specific concentrations above the threshold. Thus the quality of the data is usually worse than the toxicological data used for the setting of other criteria. Consequently, a clear critical evaluator of the available data on a compound's organoleptic characteristics should appear in the criteria document.

Issue 5

Comment summary: Criteria based on organoleptic properties should not be considered equal to criteria based on toxicologic effects.

Response: The revised methodology makes a clear distinction between organoleptic and toxicity based criteria. The use of the criteria in the regulatory process should reflect an appreciation of this distinction.

C. Naturally Occurring Compounds

Issue 6

Comment summary: Background levels should be defined in terms of the quality of the data base and geographical/seasonal variations.

Response: The documents summarize data on background levels of naturally occurring compounds and include information on seasonal and/or geographical variation when available.

Issue 7

Comment summary: A distinction should be made between natural and anthropogenic background.

Response: An attempt is made, with extreme difficulty, in the exposure section of the documents to differentiate between natural and anthropogenic background. However, background levels cannot be used directly to modify the criteria. By definition, criteria should not consider current levels of exposure but are estimates of safe level or incremental risk level exposures. Background levels, both natural and anthropogenic, should be considered if the criteria are used to promulgate standards.

Issue 8

Comment summary: What is the minimum data base needed to define a compound as essential?

Response: As indicated in the revised methodology, elements will be accepted as essential if the National Academy of Sciences (NAS) Food and Nutrition Board or a comparably qualified group declares them as such. Elements not yet determined to be essential, but for which supportive data on "essentiality" exists, were recommended to be reviewed by a joint EPA/NAS committee.

Issue 9

Comment summary: How can essentiality be used to modify a criteria?

Response: The following additions have been made to the revised methodology in response to this question:

In order to be useful in modifying toxicity/carcinogenicity based criteria, essentiality must be quantified either as a recommended daily allowance (RDA) or minimum daily requirement (MDR). These levels must be compared to estimated daily doses associated with the adverse effect of primary concern. The difference between the RDA or MDR and the daily doses causing a specified risk level for carcinogens or acceptable daily intake (ADI) for non-carcinogens defines the "window" of daily doses from which the criteria should be derived.

Because errors are inherent in defining both essential and maximum tolerable levels, the criteria should be derived from dose levels near the center of such a dose range. The decision to use either the MDR or RDA will be guided by the size of the window and the quality of the essentiality and toxicity estimates.

The modification of criteria by consideration of essentiality must include all routes of exposure. If water is a significant source of the MDR or RDA, the criteria must allow for attainment of essential intake. Conversely, even when essentiality may be attained from non-water sources, standard criteria derivation methods may be adjusted if the derived criterion represents a small fraction of the ADI or MDR. On a case-by-case basis, the modification in the use of the guidelines may include the use of different safety factors for non-carcinogens or other modifications which can be explicitly justified.

D. Use of NOAELs/NOELs

Issue 10

Comment summary: NOELs and related effect terms should be defined more clearly in the methodology.

Response: In the revised methodology, the following additions have been made to clarify the use of these terms:

In developing guidelines for deriving criteria based on non-carcinogenic responses, five types of response levels are considered:

NOEL—No-Observed-Effect-Level
LOEL—Lowest-Observed-Effect-Level
NOAEL—No-Observed-Adverse-Effect-Level
LOAEL—Lowest-Observed-Adverse-Effect-Level
FEL—Frank-Effect-Level

In the above terms, adverse effects are defined as any effect resulting in functional impairment and/or pathological lesions that may affect the performance of the whole organism, or which contributes to a reduced ability to respond to an additional challenge. The word lowest refers to the incidence of the effect in the tested population. It should be noted that LOELs, NOAELs, and LOAELs refer to exposure levels or dosage zones which are experimentally defined by upper and lower exposure levels. NOELs and FELs, however, are not defined at the lower and upper exposure levels, respectively.

Issue 11

Comment summary: Considerations of experimental design should be more explicitly/quantitatively considered in the criteria derivation process.

Response: The development of a rigid system for considering experimental design in criteria derivation would limit the use of scientific judgment. The section of the methodology dealing with the derivation of toxicity based criteria has been extensively revised to allow for the maximum use of scientific judgment in selecting safety factors based on both the quality of the individual study and the weight of the supporting scientific data.

E. Safety or Uncertainty Factors

Issue 12

Comment summary: Can the guidelines for applying safety factors be clarified or developed in greater detail to minimize inconsistencies without impairing scientific judgment?

Response: The following additions have been included in the methodology to allow for the use of greater judgment in the application of safety factors, while also requiring more explicit justification for the use of any uncertainty factor:

The justifications for the various safety factors can become very restrictive if they are not employed with care and judgment. This is the case especially in those instances where the data do not completely fulfill the conditions for one category of uncertainty factor and appear to be intermediate between two categories. Given the uncertainties in the entire process, it is more appropriate to set the operative uncertainty factor at some intermediate value on a logarithmic scale (e.g., 32, being halfway between 10 and 100 on a logarithmic scale). If intermediate values for uncertainty factors are more representative of actual conditions, then they are used.

In the selection of the uncertainty factor approach, "no indication of carcinogenicity" is interpreted as the absence of carcinogenic data from animal studies or human epidemiology. Short-term carcinogenicity screening tests are considered in the criteria documents, and are used in the derivation of numerical criteria and are used to rule out the uncertainty factor approach.

Because of the high degree of judgment involved in the selection of a safety factor, the criteria derivation section of each document must provide a detailed discussion and justification for both the selection of the safety factor and the data for which it is applied. This discussion should reflect a critical review of the total data base. Factors to be considered include: number of animals tested, parameters tested, species tested, quality of controls, dose levels, route, dosing schedules, etc. An effort should be made to differentiate between coherent results which form a toxicologically valid data base and data which may be spurious in nature.

Issue 13

Comment summary: What, if any, safety factor should be used when deriving criteria from a threshold limit value (TLV).

Response: The safety factor used when deriving criteria from a TLV must

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depend on the quality of the data base on which the TLV is based, considerations of uncertainties involved in extrapolating data from inhalation to oral exposures, and the quality of the additional supporting data.

F. Related NOAEL Issues

Issue 14

Comment summary: Can/should concentration response curves representing a "full range of effects" be used in deriving criteria?

Response: No available system for utilizing concentration response curves in representing a full range of effects for deriving criteria has been developed. If such a system does become available, it will be assessed by the Agency.

Issue 15

Comment summary: When more than one method is available to derive a non-carcinogen criteria (e.g., 2-year chronic, 90-day, TLV), can guidelines be given for selecting the most appropriate method?

Response: As indicated in the revised methodology, criteria can be based on several different types of data (e.g., studies on humans or experimental animals, subchronic or chronic exposure periods, oral or inhalation exposure routes, TLVs or similar standards). Specific guidelines for selecting a particular study or approach have not been recommended because of the many judgmental factors which are involved. As indicated in the methodology, the criteria derivation section must specifically state the reasons for selecting the approach and study used to derive the criteria.

Issue 16

Comment summary: The approach used to derive criteria for non-carcinogens may not adequately address the question of whether children are at greater risk than adults.

Response: When specific data are available on women or children as groups at increased risk, it should be stated in the document and discussed in the criteria derivation section, but should be used to modify the criteria only if sufficient specific data are available. This is a highly judgmental decision which must be made on an individual case.

Issue 17

Comment summary: Criteria based on carcinogenic effects might not be adequate to protect humans from mutagenic, teratogenic, or other toxic effects.

Response: With very few exceptions, criteria based on carcinogenicity are probably protective for other toxic effects. However, alternative criteria can be derived based on non-carcinogenic effects on a case-by-case basis if there is any doubt of the level of protection offered by the cancer based criteria.

G. Alternative Approaches to the Development of Criteria for Non-Carcinogens

Issue 18

Comment summary: Is there a reasonable way to use multiple NOEL/NOAELs to derive criteria?

Response: The revised methodology clearly indicates that all toxicity must be considered in deriving criteria and multiple NOELS/NOAELs are used. A detailed mathematical approach using multiple NOEL/NOAEL data has not been developed or accepted by the scientific community.

Issue 19

Comment summary: Is there a reasonable way to use dose/response data to derive criteria?

Response: Mathematical models for deriving non-cancer based criteria are available. However, they have not gained wide acceptance in human risk assessment. Until various models have been reviewed in greater detail, the Agency uses the current approach, based on that recommended by the National Academy of Sciences, as the most appropriate.

Issue 20

Comment summary: Confidence intervals or a range should be used in deriving criteria.

Response: A workable method for using confidence intervals in deriving non-cancer based criteria has not been developed. Given the many uncertainties involved in this process, the use of confidence intervals could be misleading in simply considering problems in statistical variation without considering problems in species to species conversion. Safety factors are an accepted procedure and are used to consider both problems in statistical variability as well as problems in species to species conversions and individual susceptibility.

H. Exposure

Issue 21

Comment summary: Should non-cancer criteria be based on all sources of exposure because they are derived from estimates of ADIs (acceptable daily intake) which define *total* daily acceptable doses for man?

Response: The methodology has been revised so that estimates of total exposure can be considered in deriving criteria. Estimates of water and fish consumption are used to derive the criteria. However, the criteria levels can be modified by considering all routes of exposure in the standard-setting process. This approach may be particularly desirable because exposure conditions will probably vary markedly on a regional basis.

Issue 22

Comment Summary: If sufficient data are not available on all sources of exposure, can any reasonable assumptions be made to factor in all sources of exposure or can/should an additional "uncertainty" factor be used?

Response: When no reasonable estimate can be made of contributions from non-fish diet and from air, it can be assumed that one-half of the exposure comes from water and fish and one-half comes from other sources. This is equivalent to using an additional safety factor of 2. It is recognized that the inability to quantify all sources of exposure adds an additional element of uncertainty to the criteria.

I. General Issues

Issue 23

Comment Summary: With the exception of recommending "good scientific judgment," can specific guidelines be given for accepting or rejecting a study or set of studies as a data base for criteria derivation?

Response: Specific guidelines cannot be given for accepting or rejecting studies. Scientific judgment must be exercised in view of the magnitude of the total evidence on the chemical or chemicals under consideration. Chronic data and appropriate exposure routes are most desirable.

Issue 24

Comment Summary: Is there a need to individualize the criteria derivation process so that the "nature of the toxic agent and its mechanism of action" can be more explicitly considered? If so, how can this be accomplished?

Response: The criteria derivation process does consider as specifically as possible the nature of the toxic agent and, when known, the mechanism of action.

Issue 25

Comment Summary: Is the Stokinger-Woodward model adequate for converting inhalation dose data to "equivalent oral doses," or should a more sophisticated approach be used?

Response: The derivation of water quality criteria from inhalation data is an admittedly tenuous process. The following guidelines have been added to the methodology:

Estimating equivalencies of dose/response relationships from one route of exposure to another introduces an additional uncertainty in the derivation of criteria. Consequently, whenever possible, ambient water quality criteria should be based on data involving oral exposures. Even with oral data, differences in dosing schedules and vehicles can be problematic. If oral data are insufficient, data from other routes of exposure may be used in deriving water quality criteria.

Inhalation data, including TLVs or similar values, are the most common alternative to oral data. Estimates of equivalent doses can be made on the basis of extensive pharmacokinetic data for oral and inhalation routes, on the basis of measurements of absorption efficiency from ingested or inhaled chemical, or on the basis of comparative excretion data when the metabolic pathways can be established to be equivalent after oral or inhalation dosing. When sufficient pharmacokinetic data are available, the use of accepted pharmacokinetic models provides the most satisfactory approach for dose conversions. However, if the pharmacokinetic data are marginal or of questionable quality, pharmacokinetic modeling is inappropriate and may result in an artifical sense of exactitude.

The Stokinger and Woodward (1958) approach, or similar models which are based on assumptions of breathing rate and absorption efficiency, can be used as alternatives when data are not sufficient to justify pharmacokinetic principles. Consequently, in using the Stokinger and Woodward or related models, the uncertainties inherent in each of the assumptions and the basis of each assumption should be clearly stated in the derivation of the criteria.

The use of data involving other routes of exposure to derive water quality criteria should not be ruled out. However, as with inhalation data, an attempt should be made to use accepted toxicologic and pharmacokinetic principles to estimate equivalent oral doses. If simplifying assumptions are used, their bases and limitations must be clearly specified.

Because of the uncertainties involved in extrapolating from one route of exposure to another and the consequent limitations that this may place on the derived criteria, the decision to disallow such extrapolation and recommend no criterion is highly judgmental and must be made on a case-by-case basis. Such a decision should balance the quantity and quality of the available data against a perceived risk to the human population if no criteria is derived.

Issue 26

Comment Summary: Can/should criteria be qualitatively or quantitatively ranked in terms of their scientific strength of validity? How could such a ranking system be developed?

Response: The Agency is presently assessing the quality of the data base supporting individual criteria. This will eventually result in the development of a ranking system of all the priority pollutants.

IV. Response to Public Comments on Methodology to Derive Water Quality Criteria

The Carcinogen Assessement Group (CAG) and the Environmental Criteria and Assessment Office-Cincinnati (ECAO-Cin.) of the U.S. Environmental Protection Agency (EPA) has reviewed in detail the public comments on EPA's methodology to derive water quality criteria for carcinogens. Since the majority of the comments are concerned with the low-dose extrapolation procedure and since they are closely related to each other, an appendix is presented which summarizes our new procedure to derive water quality criteria and the rationale for selecting the procedure and compares the new with the old procedure. Much of the criticism has been directed toward utilization of the one-hit linear model for estimation of the risk. After considerable input by a peer review of outside scientists, the multistage model developed by Kenneth Crump has been adopted in place of the one-hit model extrapolation. The Appendix describes the new multistage hit model. Further responses to the individual comments are being presented below.

A. The One-Hit Model

Issue 1

Comment summary: Several comments criticize the one-hit model as arbitrary, inappropriate, simplistic, unrealistic, inaccurate, not universally accepted, and/or overly conservative.

Response: The Agency has adopted a new procedure for deriving water quality criteria which is conceptually similar to, but operationally more systematic than the one-hit procedure used previously by the Agency. Although the criteria calculated by the new procedure are not appreciably different than those calculated by the old procedure as demonstrated in the appendix, most of the general criticisms do not apply to the new procedure.

Issue 2

Comment summary: Comments pointed out that the EPA has declined to use the one-hit model under the federal pesticide laws for heptachlor and chlordane.

Response: The commentor is correct that the one-hit model was not used in the chlordane-heptachlor suspension hearings in 1975. However, in the cancellation hearings, which were held after the formation of the Carcinogen Assessment Group and the adoption by the Agency of the Interim Cancer Assessment Guidelines and in the proposed water quality criteria, one-hit extrapolation model was used for risk estimation. In the current final water quality documents the "linearized" multistage model is used; the comparison between these two approaches in the appendix to those comments shows that the chlordane and heptachlor data have the largest upward curvature in the dose-response curve of all the carcinogens in the water quality list. For this reason the new approach reduces the risk for chlordane and heptachlor more than for the other compounds. This example shows how the new extrapolation procedure compensates for the "overly conservative" results of the one-hit approach in cases where the dose-response data is sharply concave upward at low doses.

Issue 3

Comment summary: The EPA's choice of this model because ". . . it gives greater risk estimates than other plausible models" (page 15978 of March 15, Federal Register) was criticized as being a policy/political/social statement rather than a scientific defense.

Response: See the appendix for reasons for selecting linear, non-threshold models.

Issue 4

Comment summary: The statement that this model was endorsed by IRLG (1979) was felt to have limited meaning because this document has not yet been reviewed and because the document is merely a reiteration of policy.

Response: The model was not selected on the endorsement of IRLG. See appendix.

Issue 5

Comment summary: In the methodology (page 15978, column 1, first full paragraph of the March 15, Federal Register), this model is scientifically defended as being consistent with three basic concepts in chemical carcinogenesis:

a. The Linearity of the Dose-response Curve for Mutagens. This is challenged

causing this damage are different for

tumors do not occur and liver tumors do,

(b) First order reaction processes are

the strain, species, and sex differences,

from all chemicals in only 3,000 to 4,000

a. The Linearity of the Dose-response Curve for Mutagens—This is challenged on the following points:

The shape of the dose response curve in the low dose region cannot be determined.

Not all assay systems give linear dose-response patterns.

Some Ames tests are linear because the liver microsomes are added in a fixed amount and thus ". . . the laws of first order kinetics require a linear response to the variation in concentrations of the test substance as it is mediated by the activator."

b. Chemicals which are Mutagens are Likely to Induce Cancer—This is challenged on the basis that not all mutagens cause cancer.

c. Epidemiology Studies on Radiation, Cigarettes, and Aflatoxin show a Linear Dose-response Pattern—This is challenged on the following points:

Radiation carcinogenicity cannot be applied to chemical carcinogenicity because they act by different mechanisms.

Not all radiation dose-response data is linear.

Smoking data are compounded by difficulties with cocarcinogens and other exposures.

Aflatoxin data rely purely on estimated exposures.

Response: (a) The commentor points out that even in mutagenesis test systems there is a level of mutagenic response that is too small to be detected and that below this level the shape of the dose-response curve cannot be measured. While this is true, the Agency's point is that the mutagenesis data available are fundamentally consistent with a linear no-threshold mechanism of action. Another commentor has misinterpreted the mutagenesis dose-response data. As presented by the original authors, the data show some residual mutagenic activity at zero dose. This is interpreted erroneously as being a threshold below which no response occurs. Another commentor supports the Agency's contention that the mutagenesis dose-response relationship is linear by giving a possible explanation for the linearity.

(b) The fact that chemicals which are mutagenic are "likely" to induce cancers does not imply that "all" mutagens cause cancer. Furthermore, those mutagens which were not shown experimentally to be carcinogenic could not be accepted unequivocally as non-carcinogenic because of the uncertainty in the study outcome.

(c) Both chemicals and radiation cause DNA damage and subsequent interference with the normal functioning of DNA, although the mechanisms for causing this damage are different for radiation and chemicals.

Issue 6

Comment summary: Several comments stated that the possibility of thresholds for at least some chemical carcinogens is not unreasonable, should be addressed in greater detail and/or cannot be resolved at this time. The possibility of assuming a threshold was recommended for the following compounds: chloroform, PCBs, acrylonitrile, hexachlorocyclohexane, chlorinated benzenes, and chlorinated ethanes.

Response: Currently there is no satisfactory method for estimating the low-dose carcinogenic risk to "epigenetic" chemicals. Until the mechanisms for such action are understood on a case-by-case basis to the point of being able to justify a specific extrapolation procedure, the linear, no-threshold concept will be assumed to be valid. The "linearized" multistage approach now used result in lower risks than the older "one-hit" approach for compounds having a sharp upward curvature.

For the specific chemicals referred to in Issue 6, no evidence was presented in support of a carcinogenic threshold dose except for chloroform. Commentors state that chloroform induces an increased rate of cell proliferation, which they implicitly equate with carcinogenesis, at high doses because of a cytotoxic response which is unrelated to direct DNA interaction and which therefore is not expected to occur at low doses. Three pieces of evidence are cited in support of that position: (a) chloroform is not mutagenic in the Ames tests: (b) at doses below 15 mg/kg/day, mice show no excess rate of DNA synthesis in kidney and liver tissue. This excess is expected for a cytotoxic response leading to cell proliferation; (c) Roe et al (1979) on the basis of responses in four strains of mice, has established a no-carcinogenic effect level of 17 mg/kg/day, whereas the positive NCI experiment used by EPA for the water criterion was carried out at 200–400 mg/kg/day.

Before the existence of a threshold for chloroform can be established several issues need to be resolved: (a) are the no-effect levels in the DNA synthesis studies and in Roe's observations real phenomona or only artifacts occurring simply because the limit of detection in these studies was being reached? (b) The relation between the cellular proliferation, which is alleged to be manifested by increased DNA synthesis, and carcinogenesis is unclear, since in the mouse strains used by NCI kidney tumors do not occur and liver tumors do, whereas in the experiments cited by a commentor both liver and kidney exhibit DNA synthesis.

Issue 7

Comment summary: A distinction should be made between genetoxic and epigenetic carcinogens based on mutagenicity data. These comments imply that a threshold model would be more appropriate for epigenetic carcinogens.

Response. While it is true that most carcinogens do interact with DNA, there are some compounds, such as phorbol esters in mouse skin studies and phenobarbital in rat liver, which are incomplete carcinogens by themselves, but require another substance to initiate or promote their action. In these studies the effects are unrelated to DNA interactions and apparently involve important recovery processes. This newly-developing field is not yet well enough understood to justify the use of a particular dose-response extrapolation model.

Issue 8

Comment summary: Another group of comments vigorously opposed the non-threshold assumption used in the one-hit model. Criticism of the non-threshold assumption were most extensively articulated by commentors which contended that the non-threshold assumption is:

Contrary to experience and logic, to what is known of biological systems, and to existing scientific data and is a product of the desire to obtain a simple and easy-to-use method for criteria derivation.

A related comment contended that thresholds are apparent for mutagens and therefore—given the presumed relationship of carcinogenicity to mutagenicity—thresholds should be postulated for carcinogens.

Response: Commentors state that the linear non-threshold model is: (a) contrary to experience and logic; (b) contrary to what is known about biological systems; (c) contrary to existing scientific data and (d) an approach based on faith that could not be disproved by any facts.

(a) The linear non-threshold model does not imply, as suggested by a commentor, either that (a) cancer is inevitable in the general public or in heavily exposed industrial workers or that (b) all substances are carcinogenic. It simply states that the probability of a person getting cancer is proportional to the amount of carcinogen to which he is exposed.

(b) First order reaction processes are common in biological systems especially in mutagenesis.

(c) Dr. Bingham's article did not advocate a sigmoid dose-response curve in preference to a linear curve, as stated by the commentor. She stated that several environmental factors can alter the dose-response relationship, and would thereby change the curve whichever way it was described. In fact, her main point was that "until we understand more about the primary carcinogenic insult and its progression, predicting or estimating thresholds is risky." The Agency agrees with this conclusion.

(d) The Agency agrees that it would be extremely difficult to use negative epidemiology data as proof that a carcinogenic threshold exists for a compound having positive animal results.

Issue 9

Comment summary: Several comments critized the one-hit model because it does not fit some experimental data as well as other models. This was illustrated for heptachlor, chlordane, and aflatoxin and chlorinated ethanes.

Response: The new extrapolation method overcomes the difficulty in fitting the model to the data because the multistage model has enough flexibility to fit any montonically increasing dose-response relationship. See also the response to Issue 16.

Issue 10

Comment summary: The application of the model was also criticized because it disregards data at all but one dose level and fails to consider the results of other experiments.

Response: The new procedure does not have these shortcomings. See appendix.

Issue 11

Comment summary: The highest potency factor to the exclusion of all other data should not be used in generating criteria because this process does not involve maximum-likely risk estimates.

Response: In judging which of several animal studies to use as the basis for the quantitative risk estimate, the quality of each study is considered as well as the numerical slope factor. As explained in the preamble, an experiment with a small number of animals is rejected in favor of a larger experiment if the two have a similar dose-response relationship. A similar rejection is also made if an experiment is judged to be unreliable for other reasons. Because of the strain, species, and sex differences, it is considered improper to calculate an average response across all animal species and designate this average as the carcinogenic potency for animals in general.

Issue 12

Comment summary: ". . . no experiment, however large and well run, could ever reduce these estimates (criteria)."

Response: In judging which of several animal studies to use as the basis for the quantitative risk estimate, the quality of each study is considered as well as the numerical slope factor. As explained in the preamble, an experiment with a small number of animals is rejected in favor of a larger experiment if the two have a similar dose-response relationship. A similar rejection is also made if an experiment is judged to be unreliable for other reasons. Because of the strain, species, and sex differences it is considered improper to calculate an average response across all animal species and designate this average as the carcinogenicity potency for animals in general.

Issue 13

Comment summary: The EPA method is insensitive to reproducibility of the results, results at lower doses, and the number of animals per dose group.

Response: In judging which of several animal studies to use as the basis for the quantitative risk estimate, the quality of each study is considered as well as the numerical slope factor. As explained in the preamble, an experiment with a small number of animals is rejected in favor of a larger experiment if the two have a similar dose-response relationship. A similar rejection is also made if an experiment is judged to be unreliable for other reasons. Because of the strain, species, and sex differences, it is considered improper to calculate an average response across all animal species and designate this average as the carcinogenic potency for animals in general.

Issue 14

Comment summary: Several examples are given of the failure of the one-hit model to predict cancer rates in humans based on epidemiologic studies:

Analyses of data on: chloroform, carbon tetrachloride, tetracholoroethylene, aflatoxin, chlordane, arsenic, and beryllium.

In a summary of analyses of DDT, dieldrin, and aflatoxin, it is indicated that the one-hit model predicts an incidence of 153,000 liver cancers per year but that the observed response rate from all chemicals in only 3,000 to 4,000 per year. A similar analysis is made of pollution exposure-cancer rates in the Sacramento River area.

Response: For chloroform, carbon, tetrachloride, and tetrachloroethylene the analysis assumed that all of the workers were exposed at the TLV levels for their entire lifetime. In reality most workers are not exposed continuously to levels as high as the TLV and most work for only a few years at these jobs. This procedure overestimates the average lifetime exposure by at least a factor of 10 and the risk estimates for the workers are too high because of exposure assumptions used by the commentor rather than solely because of an overestimated slope factor.

For aflatoxin the commentor showed that the multistage model fits the observed human data more closely than the one-hit model. Therefore, that analysis partially justifies the revised procedure, although this compound is not on the water quality list.

The criterion for arsenic was based on human data, which was linear with dose. However, none of the negative epidemiology studies in areas with high drinking water levels of arsenic was inconsistent with the model developed on the basis of the Taiwan skin cancer data.

Commentors estimated that the annual number of cancer cases caused by beryllium intake is about 14,000. They gave no reason why this number is considered excessive considering that 400,000 cases per year are observed from all causes.

Issue 15

Comment summary: Based on the above types of analyses, several comments recommended that epidemiologic data be used to test and/or modify risk estimates.

Response: The Agency agrees that good epidemiological data should be used to estimate or modify risk estimates. The Agency always preferred using epidemiological data to the animal data in deriving water quality criteria.

Issue 16

Comment summary: Some comments suggest that selection of a particular model should be left open and subject to the nature of the experimental data and epidemiologic or metabolic information.

Response: The Agency does not agree that the selection of a particular model should be left open and subject to the nature of the experimental data for the following reasons. When behavior of the dose-response curve at low doses is not sufficiently understood, it is more appropriate to predetermine the low-

dose extrapolation model. Considering

Response: The Agency feels that the

commentor) and is currently being

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dose extrapolation model. Considering the fact that all the mathematically analytic functions such as most of the parametric dose-response curves could be approximated by polynomials which are dominated by the higher order terms in the high-dose range, whereas they are vanishingly small in the low-dose regions it is not surprising to see that different dose-response models could fit well a set of high dose data while their low-dose extrapolations differ drastically. Therefore, the selection of the extrapolation model should be based on knowledge of carcinogenic mechanisms (even though limited and debatable) rather than being determined solely by the high dose behavior of the dose-response curve.

Issue 17

Comment summary: Other comments suggested that the one-hit model should be used only in the absence of data suggesting that other models give a better fit.

Response: See response to Issue 16 and the appendix.

Issue 18

Comment summary: Two comments recommend that several models used for analysis along with appropriate confidence intervals would more objectively reflect the state of scientific knowledge.

Response: The inclusion of several arbitrary models in order to get a range of risk estimates would add no additional scientific information while at the same time would create confusion and thereby undermine the utility of risk estimates. The model chosen by the Agency is regarded as giving a plausible upper limit to the risk.

Issue 19

Comment summary: A general discussion of alternative models is given in some of the comments. Specific models recommended include: Logistic; Probit; Multi-hit; Mantel and Bryan; Weibull; and Pharmacokinetic.

Response: The inclusion of several arbitary models in order to get a range of risk estimates would add no additional scientific information while at the same time would create confusion and thereby undermine the utility of risk estimates. The model chosen by the Agency is regarded as giving a plausible upper limit to the risk.

B. Use of Confidence Intervals

Issue 20

Comment summary: Confidence intervals or a range should be used in deriving criteria.

Response: The Agency feels that the statistical confidence intervals should not be used to express the range of uncertainty of the criteria because this range does not include major uncertainties which are not quantifiable, such as species differences in metabolism, diet, target organ specificity, and other biological variables.

C. Species Conversion Factor (W_H–W_A)$^{1/3}$

Issue 21

Comment summary: Comments suggested that this factor may not be appropriate for carcinogens because: (a) DNA repair rates appear to be inversely proportional to body weight, and (b) mixed-function oxidase activity, which may activate carcinogens, is higher in rodents than in man. Examples were given indicating that man is less sensitive than experimental mammals to chloroform, aflatoxin, and vinyl chloride.

Response: Although some commentors discussed reasons why the species conversion factor, $(70/W)^{1/3}$, may not be appropriate for particular compounds, no suggestion was made for an alternative method which would be valid in general. Commentors suggested that mixed-function oxidase activity is lower in humans than in rodents and that humans metabolize chloroform less completely than animals, but facts like these, even if quantified would have uncertain implications to carcinogenic potency in general because increased metabolic activity could both enhance carcinogenic potency by "inactivating" the agent.

The fraction of a compound (e.g. chloroform) unmetabolized may have no relation at all to the amount of active metablite formed. In the general method, the cube root factor is intended to account only for the body size difference between animal species as it relates to the availability of the chemical to the body tissues. Any specific knowledge available on metabolism differences would have to be incorporated as an additional factor if it could be directly related to cancer incidence. In general, mixed-function oxidase activity has no clear relation to cancer occurrence, therefore, cannot be included in the general approach.

The best apporach for checking the validity of the species conversion factor is to correlate carcinogenic potency of agents in animals with that in humans where suitable information is available. This was done in a preliminary fashion by Messelson (quoted by one commentor) and is currently being investigated by the Agency.

Issue 22

Comment summary: Data on comparative metabolism should be used, whenever possible, to modify the risk estimate.

Response: See Issue 21 for response to chloroform metabolism issue. The Agency acknowledges that species differences in metabolism should be considered in all cases where the data can be interpreted as being relevant to carcinogenicity. In the methodology description the appropriate place to incorporate this information is in the factor r, called the absorption fraction.

D. Time-To-Tumor Data

Issue 23

Comment summary: Some comments stated that the EPA's modification of the one-hit model does not consider the time-to-tumor concept.

Response: The time-to-tumor concept was incorporated in the one-hit procedure by using the model $P=1-\exp(-bd\,t^3)$ where t is the average fraction of a lifetime the tumor was observed and is also incorported into the current approach. If sufficiently well defined time-to-tumor data are available, a more refined model would be used.

Issue 24

Comment summary: Other comments contended that, because of the relationship between dose and latency, even potential carcinogens will not induce tumors in a normal lifespan. Examples were given for beryllium and arsenic.

Response: The arguments given in this comment do not invalidate the criteria which are associated with a lifetime risk of 10^{-5}. The arguments given in the comment proceed as follows:

Let F(d,t) be the probability of cancer by age t at exposure d. F is a monotonic increasing function of both variables t and d. Let d_o be the exposure associated with the lifetime risk of cancer 10^{-6} obtained by solving for d from the equation $F(d,t) = 10^{-6}$ and $t = 70$ which is taken as the average lifespan. Based on the arsenic risk assessment by the CAG the comment argues that at exposure $d_o = 0.002$ μg/liter (where d_o is associated with a lifetime risk of 10^{-6}), the median age would be 2,636 years before cancer can occur, where 2,636 is obtained by solving for t from the equation $F(d_o,t) = 0.5$.

Therefore, if the water concentration is 0.002 μg/l the risk at 70 years is 10^{-6} and at 2,636 years it would be 0.5. These are not inconsistent statements, as implied by the commentor.

Issue 25

Comment summary: One comment suggested that studies in which t is less than 0.75 may not be useful because of insufficient time for tumor development.

Response: The t^3 factor is necessary when the carcinogenic response is so strong that the animals die prematurely of tumors. This is true regardless of whether the median time of death from tumors is greater or less than three-fourths of their natural lifespan.

Issue 26

Comment summary: Another comment raised questions about the experimental difficulties of Druckery's work in precisely determining time-to-tumor development and the need to correct time-to-tumor data for the degree of malignacy of the tumor.

Response: The time-to-tumor data is used only when there was an early terminal sacrifice. In this case the full spectrum of tumor development is observable histologically and the difficulfy of observing the precise time of tumor development is not encountered.

E. Mutagenicity Data

Issue 27

Comment summary: Mutagenicity data should be given greater weight to determine potential carcinogenicity especially when mammalian bioassays or epidemiology data are lacking.

Response: See response to Issue 28.

Issue 28

Comment summary: The commentor describes a method for using results from short-term tests, such as the Ames test or the hamster embryo *in vitro* transformation test, to perform quantitative carcinogenicity risk assessment.

Response: The Agency does not regard results from short term mutagenicity tests, even those from a test battery using several organisms, equivalent to chronic whole animal bioassays for carcinogenicity because of the inherent differences between the test systems utilized (i.e., bacteria and cell cultures versus whole animals, in which all the metabolic, distribution and excretion systems of the body are intact). Until correlations between the carcinogenicity and mutagenicity of agents become better understood and more widely accepted, and until the data base is more extensive, the Agency is not justified in making quantitative assessments of carcinogenicity based solely on mutagenicity test results and structure activity relationships. In decisions regarding the carcinogenicity of agents, the Agency currently uses short term bioassay tests only to support equivocal findings of long term animal bioassays and human studies.

F. Epidemiology Data

Issue 29

Comment summary: Epidemiology data on societies other than the U.S.A. should not be used because of "dissimilar and possibly controlling variables."

Response: The CAG feels that epidemiological data on societies other than the U.S.A. population can be used as long as care is taken in interpreting and using the data.

Issue 30

Comment summary: Citing criteria for arsenic and cadmium, the comment states that: "Valid epidemiological studies exploring a cause-and-effect relationship between exposure to a substance and disease must avoid a number of flaws: bias, confounding factors, and the confusion of chance associations with casual relationships. The epidemiological studies used by the Agency in criterion formulation fail to avoid these flaws."

Response: While nearly every epidemiologic study contains flaws in the scientific sense, a regulatory agency must interpret all data available, making judgments as to whether the studies were too flawed for proper conclusions. In determining the carcinogenicity of a substance, the Agency is sensitive to the need to find human populations who have been exposed to other agents also. The appearance of rare types of cancers and/or a dose-response trend, however, often provide(s) very positive evidence of carcinogenicity. Such is the case with the Taiwan drinking water survey. Here, where artesian well water with a high concentration of arsenic has been used for more than 60 years, a high correlation between amount of arsenic and skin cancer was found. In addition, the pre-cancerous skin conditions were pathonomic of arsenic exposure, so that there was little chance that the cancers were caused by another agent. Furthermore, the skin cancer is of a rare form that was virtually unknown in parts of Taiwan where the drinking water arsenic content was small. In addition, a positive association between arsenic level in drinking water and the prevalence of skin cancer has been reported in at least three other areas in the world.

Cadmium is an unusual situation in that five independent populations showed an excess of prostate cancer. Even though each study is inconclusive by itself for the reasons cited, a chance occurrence of this finding is exceedingly unlikely.

While the effect of many possible confounding factors, especially concomitant exposure to unknown chemicals, cannot be accurately determined, the Agency has the responsibility of estimating criteria levels with the best information available.

G. Qualitative Determination of Carcinogenicity

Issue 31

Comment summary: The commentor states that: "A substance is currently considered to be carcinogenic if it produces a statistically significantly higher than normal incidence of tumors in treated animals in a single test. Such a result is inconclusive, because of the problems of false positives.

Response: In establishing a false negative rate of $P<0.05$ the commentors correctly point out that the false positive rate is rather high. However, the careful review of other information about the compound reduces the effective false positive rate.

Issue 32

Comment summary: The decision to label a compound "a suspect human carcinogen and therefore a potential human carcinogen" based on tumorigenicity in experimental mammals has not been validated.

Several comments from the initial publication of the methodology made a similar criticism.

Response: Among public health authorities it is widely accepted that the positive results in chronic animal bioassays indicate that the agent poses a potential risk for human carcinogenicity. This attitude is thoroughly summarized in the IRLG report (Jour. Natl. Cancer Inst. 63: 241, 1979). In addition, a review by Tomatis (Am. Rev. Pharmacol. Toxicol. 79: 511, 1979) emphasized the value of rodent bioassays in predicting human carcinogenic risk.

Since 1976, (41 FR 21402) the EPA has been following the same regulatory philosophy in evaluating carcinogenic hazards. Therefore, contrary to the comments, the EPA has not been acting unilaterally without adequate public notice.

Issue 33

Comment summary: The commentor quotes a WHO publication: "It would be unwise to classify a substance as a

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carcinogen solely on the basis of a species or strain-specific increased incidence of tumors of a kind that occur spontaneously with high frequency."

Response: The CAG agrees partially with the comment. However, even if the spontaneous incidence is high, a statistically significant enhancement of the tumor incidence is of concern, and other evidence for the compound should be evaluated for consistency with that finding.

Issue 34

Comment summary: Citing PAH as an example, commentors state that the documents have been inconsistent in qualitative determinations of carcinogenicity.

Response: In cases such as PAH where one criterion has to be set for an entire class of compounds, the Agency does not state that each chemical in the class is a carcinogen, as implied by the commentor. Therefore, the PAH example cited by the commentor does not show that the Agency is inconsistent in classifying compounds as carcinogenic.

The intended interpretation of the criterion is that the risk is less than 10^{-5} whenever the total concentration of all PAH compounds in water is less than the criterion. In a hypothetical case where all of the PAH compounds in a sample are non-carcinogenic, the criterion would be too strict; however, this situation seldom occurs. In most cases where PAH is detected, a mixture of compounds occurs and in calculating the criterion the assumption is made that all components have the same carcinogenic potency as benzo-α-pyrene.

Issue 35

Comment summary: Bis(2-chloroisopropyl)ether (BCIE) yielded negative results in an NCI bioassay. Nonetheless, the cancer based criteria based on an upper limit of the true response rate was calculated because of the structural similarity of BCIE to other carcinogenic chloroalkyl ethers. The commentor states that this is inappropriate.

Response: As a response to the public comments, the Agency has changed its interpretation of data on bis(2-chloroisopropyl)ether (BCIE). It is no longer considered to be carcinogenic and, therefore, a criterion based on carcinogenic data is not calculated.

Issue 36

Comment summary: Using the criteria for chromium and asbestos as examples, the commentors state that data on inhalation carcinogenicity should not be used to derive criteria if oral carcinogenicity tests are negative.

Response: The criteria for chromium (Cr) was derived on a marginally significant digestive cancer incidence which occurred from inhalation exposure (Enterline epidemiology study). The digestive system cancer is assumed to be caused by chromium (Cr) which is removed from the respiratory system by mucociliary action and then swallowed. This is comparable to exposure to chromium in drinking water. Cr (VI) has not been adequately tested for its carcinogenic potential in animals; therefore, further studies to assess the carcinogenicity of Cr (VI) by the oral route would be desirable and necessary before it is concluded that oral tests are negative.

Asbestos has been shown to cause peritoneal mesothelioma in humans and is also associated with a significant increase in human gastrointestinal cancers. These are caused by inhaled asbestos. Since up to 99 percent of the inhaled asbestos is eventually swallowed, the Agency feels that asbestos-contaminated water could cause the same type of gastrointestinal cancers as inhaled asbestos.

H. Joint Action/Cocarcinogenicity

Issue 37

Comment summary: The commentors emphasized the potential importance of cocarcinogenicity and possible synergistic effects among carcinogens.

Response: The potential importance of cocarcinogenicity and possible synergistic effects among carcinogens has not been addressed by the CAG in deriving water quality criteria, since sufficient data is not available at this time to make decisive judgments related to these issues.

I. Site Specific vs. Total Tumors

Issue 38

Comment summary: No public comments specifically addressed this issue. However, the methodology committee should discuss the appropriateness of using data on total tumors for quantitative risk assessment.

Response: Since chemicals generally exert their carcinogenic effects at specific organ sites, the incidence of tumors at the responding sites is the most relevant information to consider in making either qualitative or quantitative evaluations of hazard. The instances where the tumor incidence at all sites combined is elevated, but no one site or group of sites is significantly increased, are regarded as weak evidence of carcinogenicity.

J. General Issues

Issue 39

Comment summary: Single unverified bioassays should not be used for establishing criteria for dichlorobenzene.

Response: The comment does not refer to carcinogenicity data since no carcinogenic information was available on dichlorobenzene.

Issue 40

Comment summary: Some comments expressed concern with the types of studies used to derive criteria. Another comment implies that only data published in referenced journals should be used. Two commentors recommend that explicit reasons be developed for accepting or rejecting studies.

Response: The evaluations of bioassay studies for carcinogenicity by the CAG is sufficiently detailed to be equivalent to that given in peer reviewed journals.

Issue 41

Comment summary: The EPA "has used animal studies without adequately considering the nature of the toxic agent and its mechanism of action, the conditions of exposure, or the physiological characteristics of the test organism."

Response: The Agency routinely considers all of the available toxicological data cited by the commentor and agrees that these factors are important.

Issue 42

Comment summary: Several comments questioned the appropriateness of using studies from one route of exposure—particularly inhalation—to establish criteria for ingestion.

Response: If a given chemical induced a carcinogenic effect by inhalation at a distant site, it is likely that the compound could also produce a carcinogenic effect by other routes of administration. Therefore, the Agency considers it appropriate to use inhalation data to derive criteria for ingestion, recognizing the difficulty of determining the dose.

Issue 43

Comment summary: Treating all of the proposed criteria as if they were based upon equally valid data is not scientifically sound. EPA must make explicit the nature, extent, and quality of the data utilized to estimate criteria.

Response: The Agency has indicated which criteria should be regarded as marginal based on the nature of the available data.

Issue 44

Comment summary: Criteria based on carcinogenic effects might not be adquate to protect humans from mutagenic, teratogenic, or other toxic effects.

Response: The U.S. EPA Office of Health and Environmental Assessment is currently developing guidelines for estimating the human risk to substances producing mutagenic, teratogenic, and reproductive effects.

Appendix

I. An Improved Procedure for Deriving Water Quality Criteria

As discussed in the methodology document (1981)* the Carcinogen Assessment Group (CAG) has adopted a new prodedure which is more systematic than the one-hit procedure used previously by the CAG for calculating the water quality criteria. The model selected for the low dose extrapolation is given by

$$P(d) = 1 - \exp[-(q_0 + q_1 d + \ldots + q_k d^k)]$$

At low doses, the upper confidence limit for the extra risk

$$A(d) = \frac{P(d) - P(0)}{1 - P(0)}$$

has the form

$$A_U(d) = 1 - \exp(-q_1^* d) \simeq q_1^* d.$$

That is, the risk $A_u(d)$ is always linerarly related to d at low doses. The constant q_1^* corresponding to the 95 percent upper confidence limit for A(d) is taken as the carcinogenic potency for calculating the water quality criteria.

Instead of extrapolating with the one-hit model based on the lowest dose group showing statistically significant response as previously used by the CAG, the new procedure is employed because of the following reasons: (1) the procedure is more systematic; (2) it invokes fewer arbitrary assumptions; (3) the assumption of the low-dose linearity is not essential in the use of the model, and; (4) it incorporates data from all of the dose groups which are consistent with the multistage model. At the same time, it is conceptually consistent with the linear non-threshold concept on which the one-hit procedure was based.

The Agency recognizes that there is no really solid scientific basis for any mathematical extrapolation model which relates carcinogen exposure to cancer risks at the extremely low level of concentration that must be dealt with in evaluating the environmental hazards. For practical reasons such low levels of risk cannot be measured directly either by animal experiments or by epidemiologic studies. We must, therefore, depend on our current understanding of the mechanisms of carcinogenesis for guidance as to which risk model to use. At the present time the dominat view of the carcinogenic process involves the concept that most agents that cause cancer also cause irreversible damage to DNA. This position is reflected by the fact that a very large proportion of agents that cause cancer are also mutagenic.

There is reason to expect the quantal type of biological response that is characteristic of mutagenesis is associated with a linear non-threshold dose-response relationship. Indeed, there is substantial evidence from mutagenesis studies with both ionizing radiation and a wide variety of chemicals that this type of dose-response model is the appropriate one to use. This is particularly true at the lower end of the dose-response curve; at higher doses, there can be an upward curvature probably reflecting non-threshold dose-response relationships. The linear non-threshold model is also consistent with the relatively few epidemiological studies of cancer responses to specific agents that contain enough information to make the evaluation possible (e.g., radiation induced leukemia, breast and thyroid cancer, and skin cancer induced by arsenic in drinking water, and liver cancer, induced by aflatoxin in the diet). There is also some evidence from animal experiments that is consistent with the linear non-threshold model (e.g., liver tumors induced in mice by 2-acetylaminofluorene in the large scale ED_{01} study at the National Center of Toxicological Research and the initiation stage of the two-stage carcinogenesis model in the rat liver and the mouse skin).

Because it has the best, albeit limited, scientific basis of any of the current mathematical extrapolation models, the linear non-threshold model has been adopted as the primary basis for risk extrapolation to low levels of the dose-relationship. The risk estimates made with this model should be regarded as conservative, representing the most plausible upper limit for risk, i.e., the true risk is not likely to be higher than the estimate but it could be smaller.

II. Comparison of the new Procedure with the Old (One-Hit) Procedure

The Agency had previously calculated the slope b based on the one-hit model $P = 1 - \exp -bd$, using only the data from the lowest dose group where the incidence rate is statistically significantly different from the control group (see Federal Register, Part V, Thursday, March 15, 1979). The point estimate b was taken as the carcinogenic potency for the compound. Unlike the new procedure, the upper confidence limit was not used because the CAG recognized that the one-hit model is usually conservative at low doses and thus the point estimate b of the slope was considered as an upper limit of the true carcinogenic potency. This ad hoc approach was used because it is simple and easy to understand.

Since b was considered an upper limit in an ad hoc sense, it would be interesting to compare the new procedure with the one-hit procedure by calculating the ratio of two carcinogenic potencies b/q_1^* for 21 chemical compounds in the Proposed Water Quality Criteria Documents which have data from at least three dose groups. Except for chlordane and heptachlor the new procedure agrees with the one-hit procedure within a factor of 2. When the one-hit procedure is modified (Table 1) the two procedures become comparable. Therefore, the old procedure could be used as a simple and quick way of estimating the carcinogenic potency.

Table 1.—*Ratio of Carcinogenic Potencies*

Chemicals	b/q_1^*	
Chlordane	3.33	[1] (0.83)
Heptachlor	2.50	[1] (0.78)
Carbon tetrachloride	1.47	
PAH	1.35	
HCB	1.19	
1,2-Dichloroethane	1.18	
Acrylonitrile	1.10	
Hexachloroethane	1.06	
2,4,6-Trichlorophenol	.98	
Trichloroethylene	.95	
Hexachlorobutadiene	.86	
Chloroform	.81	
1,1,2,2-Tetrachloroethane	.75	
1,1,2-Trichloroethane	.70	
TCDD	.65	
2,4-Dinitrotoluene	.63	
Vinyl chloride	.63	
Toxaphene	.56	
Aldrin	.56	
Bis(chloromethyl)ether	.53	
Hydrazobenzene	.50	

[1] The parenthesized value is the ratio b/q_1^* when b is calculated based on the 95 percent upper confidence limit (one-sided) for the incidence rate in the next lowest dose group, instead of using the incidence rate of the lowest dose group showing statistically significantly different from the control group. This modification was recommended when the tumorigenic responses exhibit sharp upward curvature with low doses.

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* Carcinogen Assessment Group's Procedure for Calculating Water Quality Criteria, Updated 1981.

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November 28, 1980

Part VI

Environmental Protection Agency

Investigation of Averaging for Heavy-Duty Engine and Light-Duty Truck NO_x Emissions; Proposed Rulemaking; Advance Notice

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS–FRL 1648–7]

Investigation of Averaging for Heavy-Duty Engine and Light-Duty Truck NO_x Emissions

AGENCY: Environmental Protection Agency.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: EPA is developing a rulemaking proposal which would permit some form of emissions averaging for NO_x emissions from heavy-duty engines and light-duty trucks. The effect of permitting averaging would be to increase the flexibility afforded manufacturers in attaining emission reductions, and thereby reduce the burden of compliance, without reducing air quality benefits. EPA anticipates that averaging would be applicable to the 1985 and later model years, in conjuction with the statutory NO_x emission standards required under Section 202(a)(3) of the Clean Air Act as amended in 1977. Development of those standards is now being pursued in a separate rulemaking.

DATES:

A workshop is scheduled for January 1981, at a date, time and place to be announced in a subsequent notice. The closing date for submission of comments will also be announced at that time.

EPA anticipates publication of a Notice of Proposed Rulemaking in the spring of 1981, with final rulemaking by the end of 1981.

ADDRESSES:

Written comments, other than those submitted directly to EPA at the workshop, should be submitted (in duplicate if possible) to Public Docket No. A–80–49 at:

Central Docket Section (A–130)
Environmental Protection Agency
Attn: Docket No. A–80–49
401 M Street, S.W.
Washington, D.C. 20460

Materials relevant to this rulemaking will be placed in the docket by EPA. The docket is located at the above address in the West Tower Lobby, Gallery I. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT:
Glenn Passavant, U.S. Environmental Protection Agency, Emission Control Technology Division, 2565 Plymouth Road, Ann Arbor, MI 48105, Telephone: (313) 668–4408.

SUPPLEMENTARY INFORMATION

Background

The concept of averaging is not new to EPA, or to motor vehicle manufacturers. Averaging is used for determining Corporate Average Fuel Economy (CAFE) values in relation to the statutory fuel economy requirements. In addition, EPA has applied a related concept, known as the "bubble policy," to stationary sources. The reason for adopting such approaches as these is to obtain needed environmental benefits (i.e., reductions in emissions) with the minimum burden on the regulated industry. Averaging would reduce the burden on manufacturers by allowing them to maximize emission reductions where they are most easily obtained in trade for increased emissions in cases where control is more difficult or expensive.

When the recent light-duty diesel particulate regulations were promulgated, EPA indicated that it would investigate the use of averaging as part of the 1985 NO_x emission regulations for heavy-duty engines or vehicles. A task force was formed and began development of potential approaches to averaging. It very quickly became evident that adoption of averaging could have substantial impact on a wide range of EPA programs, and that these impacts needed to be considered carefully if a successful program was to result. In addition, EPA felt the need for considerable industry involvement early in the development process. At this point, the Agency was faced with a dilemma. The 1985 NO_x emission regulations for heavy-duty engines or vehicles and light-duty trucks (which are being handled as a single rulemaking) are restricted to a very tight timetable through deadlines established in the 1977 Clean Air Act Amendments. Since averaging is clearly not required by the Act, it would not be appropriate to substantially delay the NO_x rulemaking for the purpose of including an averaging concept. Therefore, EPA has decided to treat averaging as a separate rulemaking action. However, every reasonable effort will be made to finalize the reulsts of the averaging rulemaking and the NO_x rulemaking on the same time line.

Purpose

The purpose of this rulemaking action will be to pursue the development of an emissions averaging concept to be applied to NO_x emissions from light-duty trucks and heavy-duty engines or vehicles, for model year 1985 and beyond. Although a specific proposal has yet to be formulated, some anticipated provisions have been identified. Averaging would be restricted to within the same vehicle class (i.e., light-duty truck or heavy-duty engine). Averaging would apply on a manufacturer-specific basis. The program would result in emission limits for individual engine families and possibly a maximum limit above which no engine family could certify. Various averaging scenarios could result in emission limits for engine families being fixed at various times throughout the model year. The averaging methodology would be formulated in order to maintain—on a vehicle class and manufacture-specific basis—the overall emission reductions of the present non-averaging approach, i.e., the standards prescribed in the Act.

The benefits to be obtained from adopting an averaging program involve reduced costs to manufacturers resulting from increased flexibility in meeting emission standards. Instead of every family being certified to the same emission standard, the manufacturers would be able to use a variety of control strategies to achieve compliance under an averaging approach. For example, manufacturers could comply with the standard by achieving increased emission reductions in the families where reductions are most readily achievable. Clearly, the degree of difficulty and cost of achieving emissions reductions will vary from family to family.

It is possible that an averaging approach would also lead to improved fuel economy. This may be especially true in the case of NO_x due to the relationship between NO_x control and fuel economy for some control approaches. This potential savings is further enhanced by the fact that the quick fix technology sometimes used in short leadtime situations may also cause a fuel economy penalty (e.g., retarded timing). Additionally, the higher emitting engines which would require the greatest total reductions with a per vehicle standard would require less total reduction and would thus be able to minimize any fuel economy penalty which might otherwise occur with these engines.

The use of an averaging approach would minimize the chance that any family would have to be dropped from production due to "last minute" technological difficulty in demonstrating compliance with the emission standards. The higher emissions from these families could be offset by lower emissions from other families. This would have the added advantage of allowing longer use of non-recurring investments such as R&D and tooling for some families.

In relation to marketing, an averaging approach would allow the "market testing" of a limited number of new engines or engine lines without the relatively large fixed cost of R&D associated with demonstrating compliance with a single stringent emission standard. However, as the sales of such an engine line grew, the manufacturer would need to offset the imbalance if this engine line had an emission limit above the applicable standard for the entire class. This offset could be achieved by lowering emissions or managing sales or emission levels from this or another engine line.

An averaging approach allows manufacturers to choose where their emission-related R&D funds will be spent, and may allow the emission-related expenditures to be spread more evenly over several years rather than lumped into the few years preceding the implementation of a revised standard.

One other potential savings is related to the flexibility a manufacturer has in establishing the emission limits for each family. For example, a manufacturer may choose to establish the emission limit for a family such that when produced it conforms to the emission standards of one or more of its export markers. This would decrease both development and production costs.

Issues

There are a number of issues to be resolved in developing a successful averaging program.

A. *Can an averaging concept be designed consistent with the Clean Air Act?* The Clean Air Act prescribes specific reductions in NO_x emissions for heavy-duty engines and light-duty trucks. Clearly, any averaging program must require adherence to the statute. At a minimum, this means that while an averaging program might allow manufacturers to set different emission limits for different engine families, a manufacturer's sales-weighted average emission level for the entire engine or vehicle class could not exceed the applicable standard for the class. In addition, the Act requires that applicable emission limits be met by all engines or vehicles to which they apply. One way of addressing this requirement might be to require that a manufacturer who wishes to use an averaging scheme establish a fixed mission limit for each of the engine families involved (as opposed to allowing averaging within such families). In any event, comments are particularly solicited on these and other legal issues that may be raised by particular averaging schemes.

B. *Can an averaging concept be successfully integrated with other EPA mobile source programs?* For example, EPA's present certification program is oriented toward compliance/non-compliance decisions which can be made on an isolated engine family basis. In an averaging program where a manufacturer was responsible only for average emission rates encompassing numerous families, the effect of an individual family's emission rates could not be determined without considering all other families from the same manufacturer and might in fact even fluctuate (with actual sales) over time. Such an environment of "moving targets" would make it very difficult to operate a meaningful certification program and at the same time avoid burdensome and complicated paperwork. In addition, certification could conceivably be a single go/no-go decision for the manufacturer's entire product line, with the threat being that no vehicles could be produced if the projected average exceeded the standard. Such jeopardy would be undesirable from the manufacturer's viewpoint.

EPA's present recall programs as well as state inspection and maintenance programs also rely on identifiable fixed emission limits. In-use data sufficient to identify a manufacturer's true corporate average emissions would have to be quite extensive, and it likely will be impractical to do this, which indicates the need for fixed limits. For state-operated I/M programs to operate without fixed limits for each vehicle tested clearly would also be unworkable. In the narrowest sense, since this rulemaking deals only with NO_x, it would not likely impact on many (or any) I/M programs. However, because what is decided here may affect future programs for HC and CO emissions, it is necessary to consider the question at this time.

Impacts such as these examples just mentioned are possible throughout EPA's mobile source program. Resolution of these difficulties will constitute an important aspect of this rulemaking.

C. *Can an averaging concept be designed to maintain equity between manufacturers?* EPA believes that as much as possible, its regulation should be designed so as to impact manufacturers equally and not create advantages or disadvantages for certain manufacturers. However, depending on how averaging is applied, it could be of much greater benefit to manufacturers with broad product lines than to manufacturers engaged in more limited or specialized production. A clear illustration of this would occur if averaging of gasoline-fueled engine emissions and diesel engine emissions were allowed. Those manufacturers who produce only diesel engines would not be in a position to benefit from such an option, while those who also produced gasoline-fueled engines would. Since it is considerably more difficult to obtain low NO_x emissions from diesel than from gasoline-fueled engines, the diesel-only manufacturer would be at a substantial disadvantage. A similar situation would arise if averaging between light-duty trucks and heavy-duty engines were allowed. Both of these problems can be eliminated if averaging is restricted by engine type and vehicle type. Of course, this would also decrease the potential benefits of the averaging approach for some manufacturers.

Other areas of possible equity concerns are manufacturing diversity in engine size mix, drive trains (i.e., 2-wheel drive or 4-wheel drive), or vehicle sizes (for light-duty trucks). The more specialized manufacturers in these areas would have inherently less ability to take advantage of averaging than those manufacturers offering a wide variety of products. This could put the specialized manufacturers at a competitive disadvantage, and eventually disrupt the market. Due to the current market structure it is evident that a few large, diverse manufacturers would benefit the most from averaging, at the expense of smaller manufacturers. If this aspect of averaging is not overcome, it could be a significant disadvantage.

D. *Can averaging be implemented without adverse environmental impact?* The averaging program must be designed to avoid adverse impacts on air quality both nationwide and locally.

In terms of broad overall impact, the question is one of a shift in the average emission rates attributable to adoption of averaging. Present regulations would require vehicles or engines being produced for 1985 to meet emission standards with a 90 percent pass rate. To assure that 90 percent of the vehicles or engines meet the standards would require a manufacturer to maintain his average emission level (after incorporating the effect of the appropriate deterioration factor) somewhere below the standard. This feature could be retained for averaging, by applying a 90 percent pass rate to each engine family. The adoption of some other forms of averaging, such as pure averaging, would allow the manufacturer's average emission level (again after incorporating the

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appropriate deterioration factor) to rise up to equal the standard. Such a change would, of course, have less relative environmental benefits, and is therefore undesirable.

A second area of concern is more localized and related to the mechanics of balancing high emissions from some engine families against low emissions from others. If for one reason or another a certain geographical area had a high proportion of an engine type which was a high emitter (which could not occur under a non-averaging approach) then it could suffer from degraded air quality. One possible case involves transit buses in urban areas. If diesel bus engines emitted above the standard applicable for the class, the potential for air quality degradation would exist. The concentration of high speed/low horsepower diesel engines in Class VI trucks (19,500–26,000 lb. GVW) is another example. These engines exhibit a tendency toward higher emissions, while at the same time Class VI trucks accumulate a larger than average share of their mileage in urban areas. One final example concerns the use of specialized vehicles in certain geographic areas. Cities such as Buffalo, Pittsburgh and Cleveland, which receive heavy winter snows and can also have quite hilly terrain, may have a larger than average concentration of four-wheel drive light trucks. The concentration of these vehicles in such urban areas, along with higher emissions from four-wheel versus two-wheel drive trucks, may lead to localized air quality problems.

Workshop and Comments

A workshop is scheduled for January 1981, at a date, time and place to be announced in a subsequent notice. At that workshop EPA will receive comments on the issues discussed in this notice and expanded upon in a background criteria paper which EPA is preparing for public dissemination concurrent with the public workshop notice. Opportunity will also be provided for the manufacturers and other interested parties to present specific averaging programs which they believe satisfy the issues and criteria explained in the background paper. The record will be open for submission of comments for 30 days following the workshop.

Comments are invited on the issues outlined above, as well as any other items commenters feel are appropriate. Comments on desirable or undesirable components of an averaging program from the commenter's viewpoint and the reasons for them would be particularly appreciated. Relevant comments received before the end of the comment period will be considered in development of the proposed regulation. Comments should be submitted in writing to the public docket at the address given above (see "ADDRESSES").

Dated: November 18, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-37024 Filed 11-26-80; 8:45 am]

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federal register

Friday
November 28, 1980

Part VII

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Advisory Committee Meeting; Proposed Actions Under Recombinant DNA Research Guidelines

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee at the National Institutes of Health, Conference Room 10, Building 31C, 9000 Rockville Pike, Bethesda, Maryland 20205, on January 8, 1981, from 9:00 a.m. to recess at approximately 6:00 p.m., and, if necessary, on January 9, 1981, from 8:30 a.m. to 5:00 p.m. This meeting will be open to the public on January 8 from 9:00 a.m. to approximately 3:00 p.m., and on January 9 from 8:30 a.m. to adjournment to discuss:

Amendment of Guidelines
Procedures for review of minor modifications of large-scale recombinant DNA experiments
Exemptions for organisms that exchange genetic information
E. coli K–12 host-vector systems
Host-vector systems other than *E. coli* K–12
NIH risk-assessment plan
Review of protocols for required containment levels
Review of meeting of Institutional Biosafety Committee chairmen
Review of proposed evaluation of Institutional Biosafety Committees
Other matters requiring necessary action by the Committee

Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(4), Title 5, U.S. Code and Section 10(d) of P.L. 92–463, the meeting will be closed to the public for approximately three hours for the review, discussion and evaluation of proposal(s) from a commercial concern(s) for scale-up of recombinant DNA experiments. It is anticipated that this will occur on January 8, from approximately 3:00 p.m. until adjournment. The proposal(s) and the discussion could reveal confidential trade secrets or commercial property such as patentable material.

Dr. William J. Gartland, Jr., Executive Secretary, Recombinant DNA Advisory Committee, National Institutes of Health, Building 31, Room 4A52, telephone 301–496–6051, will provide materials to be discussed at the meeting, rosters of committee members and substantive program information. A summary of the meeting will be available at a later date.

Note.—OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8(b)(4) and (5) of that Circular.

Dated: November 20, 1980.

Suzanne L. Fremeau,
Committee Management Officer, National Institutes of Health.

[FR Doc. 80–37013 Filed 11–26–80; 8:45 am]
BILLING CODE 4110–08–M

Recombinant DNA Research; Proposed Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of Actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth proposed actions to be taken under the NIH Guidelines for Research Involving Recombinant DNA Molecules. Interested parties are invited to submit comments concerning these proposals. After consideration of these proposals and comments by the NIH Recombinant DNA Advisory Committee (RAC) at its January 8–9, 1981 meeting, the Director of the National Institutes of Health will issue decisions on these proposals in accord with the Guidelines.

DATE: Comments must be received by December 29, 1980.

ADDRESS: Written comments and recommendations should be submitted to the Director, Office of Recombinant DNA Activities, Building 31, Room 4A52, National Institutes of Health, Bethesda, Maryland 20205. All comments received in timely response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from Drs. Stanley Barban or Elizabeth Milewski, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6051.

SUPPLEMENTARY INFORMATION: The National Institutes of Health will consider the following changes and amendments under the Guidelines for Research Involving Recombinant DNA Molecules, as well as actions under these Guidelines.

1. *Request to Include Streptococcus Faecalis and Streptococcus Sanguis in Appendix A.*

Dr. Donald Clewell of the University of Michigan has requested that *Streptococcus faecalis* and *Streptococcus sanguis* be included in a sublist of Appendix A of the Guidelines on the basis that they exchange genetic information by known physiological processes. Dr. Clewell has provided information on these species in a letter to ORDA.

2. *Proposed Containment for Experiments Involving Non-Pathogens.*

Dr. Winston Brill, RAC member, has proposed that the Guidelines be amended to permit recombinant DNA experiments involving non-pathogenic prokaryotes and lower eukaryotes under P1 containment conditions.

A. A new Section, III–O–2, would be added to the Guidelines, as follows:

"III–O–2. *Experiments Involving Non-Pathogenic Prokaryotes and Lower Eukaryotes.* Recombinant DNA experiments involving prokaryotes and lower eukaryotes, nonpathogenic [2A] for man, animals, or plants, can be conducted under P1 containment.

B. A new paragraph would be added just before Section III–O begins, as follows:

"When the reader finds that the containment level given for the same experiment is different in two different sections within Part III, he may choose which of the two levels he wishes to use for the experiment."

C. The second paragraph of Section III–B–3 would be deleted. Revised Section III–B–3 would read as follows:

"III–B–3. *Non-HV1 Systems.* Containment levels for other classes of experiments involving non-HV1 systems may be approved by the Director, NIH (See Sections IV–E–1–b–(1)–(b), IV–E–1–b–(2)–(c), and IV–E–1–b–(3)–(b)).

D. Section IV–E–1–b–2–(f) would be deleted. This Section currently reads as follows:

"IV–E–1–b–(2)–(f). Assigning containment levels for experiments in which both donor and recipient are non-pathogenic prokaryotes (see Section III–B–3)."

3. *Proposed Application Procedures for Minor Modifications of Previously Approved Large-Scale Recombinant DNA Experiments.*

A Working Group of the Recombinant DNA Advisory Committee (RAC) has requested that the following language outlining proposed procedures for minor modifications of previously approved large-scale recombinant DNA experiments be published in the **Federal Register** for public comment:

"Procedures have been developed for considering applications to grow more than ten liters of an organism containing recombinant DNA. These procedures include consideration of the request by a working group of the NIH Recombinant DNA Advisory Committee, submission of the request to the full RAC after consideration by the working group, and subsequent submission to the Director, NIH, for final review. This procedure has taken a minimum of two months. Therefore, the following procedures are proposed to expedite consideration of requests to grow more than ten liters of recombinant DNA-containing organisms when these proposals represent minor modifications of previously approved experiments. Modifications include deletion of sequences from the recombinant DNA, changes in promoters, addition of short segments not affecting the nature of the expressed products, and minor changes in the properties of the host. Changes are considered minor if they do not affect either the containment properties of the vector or the host, or the nature of products made, or add new products. Therefore, the procedures for dealing with minor modifications have the objective of determining that the change is indeed minor. To determine whether a change is minor, two levels of review will take place: (1) By ORDA, which will decide upon receipt of a request to process it as a new request or as a minor modification, and in the latter case (2) by a working group of at least two members of RAC."

The Working Group has proposed that the following language be added to the "Application Procedures for Large-Scale Recombinant DNA Experiments":

"6. Proposals that the submitter considers to represent minor modifications of already approved experiments will be handled by an expedited procedure. A request must be submitted to ORDA. This request should include the changes made, the way in which these changes were made (e.g., mutagenesis, recloning), and the nature and results of any tests done to determine that no major change has occurred (e.g., restriction enzyme analysis, tests for produced products, tests of vector mobilization).

"ORDA will determine whether the submission represents a minor modification of an approved experiment. If so, the request will be submitted promptly to a working group of at least two RAC members. If possible, these members should have been present at the RAC discussion of approval of the original experiment. If any member of the working group does not agree that the request represents a minor modification, the application will then be referred to the full RAC at its next meeting. If the working group is unanimous in concluding that the changes do not alter the organism in a way that is likely to affect containment of the organism or the vector, or the nature of the expressed product, significantly from that presented originally to RAC, recommendation for approval will be transmitted to ORDA, and, through ORDA, to the submitters. Consideration of requests by working groups should explicitly address the following issues: Is the change likely to compromise biological containment provided by the host or the vector? Does the change add to the biological activities associated with the expressed products in a way not considered by the original submission?"

4. *Request to Clone Saccharomyces Cerevisiae DNA in Tetrahymena.*

Dr. Eduardo Orias of the University of California, Santa Barbara, requests permission to clone *Saccharomyces cerevisiae* DNA in *Tetrahymena thermophila* using *S. cerevisiae*/*E. coli* hybrid plasmids.

5. *Proposal to Amend Item 4 of Appendix E.*

Dr. Clarence Kado of the University of California, Davis, has proposed that the fourth entry in appendix E be modified to read as follows:

"Cloned desired fragment from any non-prohibited source may be transferred into *Agrobacterium tumefaciens* containing a Ti plasmid (or derivates thereof), using a nonconjugative *E. coli* plasmid vector coupled to a fragment of the Ti plasmid and/or the orgin of replication of an *Agrobacterium* plasmid, under containment conditions that would be required for the desired DNA in HV1 systems (i.e., that specified in the subsections of Section (III–A). Transfer into plant parts or cells in culture would be permitted at the same containment level."

6. *Request for Lowering of Containment Under Entry Four of Appendix E.*

Dr. Mary-Dell Chilton of Washington University in St. Louis requests a reduction in physical containment for the manipulation in *Agrobacterium tumefaciens* of (1) the *Saccharomyces cerevisiae* alcohol dehydrogenase 1 gene cloned in pBR322, and (2) the gene coding for the maize (Zea mays) seed storage protein zein, cloned in Charon 4A. The cloned DNA and the vectors will be introduced into tobacco plants. Appendix E, entry four, currently sets containment for such experiments at P3. Dr. Chilton requests approval for these experiments under P2 physical containment. Her justification is outlined in a letter to ORDA.

7. *Request for HV1 Certification of a Schizosaccharomyces Pombe Host-Vector System and Inclusion in Section III–O.*

Dr. Benjamin D. Hall of the University of Washington requests that the fission yeast, *Schizosaccharomyces pombe*, together with yeast-*E. coli* hybrid recombinant plasmids be certified as an HV1 host-vector system. Dr. Hall in addition requests that this system be included under Section III–O. He has provided ORDA with supporting documentation.

Dated: November 20, 1980.

Donald S. Fredrickson,
Director, National Institutes of Health.

Note.—OMB's "Manadatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in Section 8–(b)–(4) and (5) of that Circular.

[FR Doc. 80–37014 Filed 11–26–80; 8:45 am]
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federal register

Friday
November 28, 1980

Part VIII

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Surface Coating of Metal Furniture

V 45 N 028 80 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

AD-FRL 1533-7]

Standards of Performance for New Stationary Sources; Surface Coating of Metal Furniture

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards of performance would limit emissions of volatile organic compounds (VOC) from new, modified, and reconstructed metal furniture surface coating facilities. The proposed emission limit is 0.70 kilogram of VOC per liter of coating solids applied. Reference Method 24 would be used to determine the VOC content or organic coating materials and Reference Method 25 would be used to determine the VOC concentration in an exhaust gas stream. Both reference methods were promulgated on October 3, 1980, (45 FR 65956). The proposed standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that surface coating of metal furniture contributes significantly to air pollution. The intent is to require new, modified, and reconstructed metal furniture surface coating facilities to use the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

A public hearing will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before February 8, 1981.

Public Hearing. A public hearing will be held on January 9, 1981 beginning at 9:00 a.m.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by January 2, 1981.

ADDRESSES: *Coments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket Number A-79-47, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Public Hearing. The public hearing will be held at the Environmental Research Center Auditorium, Research Triangle Park, N.C. Persons wishing to present oral testimony should notify Ms. Deanna Tilley, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5477.

Background Information Document. The Background Information Document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Surface Coating of Metal Furniture—Background Information for Proposed Standards," EPA-450/3-80-007a.

Docket. Docket No. A-79-47, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW, Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Gene W. Smith, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5421.

SUPPLEMENTARY INFORMATION:

Proposed Standards

The proposed new source performance standards (NSPS) would apply to new surface coating facilities at metal furniture manufacturing plants. In addition, existing surface coating facilities would be covered if they were to undergo a modification that would result in an increase of VOC emissions or a reconstruction. Emission of VOC from each affected facility would be limited to 0.70 kilogram of VOC per liter of coating solids applied. This numerical emission limit takes into account the mass of VOC per liter of coating solids in the paint and the transfer efficiency with which it is applied to yield the mass of VOC per liter of coating solids applied. The numerical emission limit could be met by the use of high solids coatings (i.e., 68 percent by volume solids coating with a solvent density of 0.88 kilogram per liter) applied at a 60 percent transfer efficiency. Transfer efficiencies of 60 percent or greater can be attained when applying high solids coatings with manual or automatic electrostatic spraying equipment.

The proposed standards could also be met with the use of other coating types applied by various application techniques. Examples of these include waterborne coatings (equivalent in emissions reduction to a 75 percent solids coating) applied by electrostatic, air or airless spray, dip, electrodeposition, or flow techniques; powder coatings (100 percent solids) applied by electrostatic spray or fluidized bed; and paints with lower solids content (less than the 68 percent by volume solids coating) if the increased solvent content is offset by higher transfer efficiencies.

The proposed standards could also be met with an emission control system which consists of a capture system and an emission control device or a combination of an emission control system and a low-organic-solvent coating (high solids or waterborne). Either of these methods would be acceptable if the owner or operator could show the Administrator that the control technology would achieve the proposed standards.

Although none of these control options are universally applicable, at least one option is available for all products produced by the metal furniture industry.

To determine compliance, performance tests would be conducted each calendar month. This would consist of calculating the monthly weighted average mass of VOC per volume of coating solids applied using the transfer efficiency values provided in the proposed standards. The owner or operator would obtain the information necessary to calculate emissions from formulation data supplied by the manufacturer of the coating or from an analysis of each coating by Reference Method 24 or by an equivalent or alternative method acceptable to the Administrator. Coating and organic solvent usage data would be obtained from company records. In the case of a question regarding the VOC content of coatings, Reference Method 24 would serve as the means by which the VOC content of the coating, and the resultant emissions, would be determined. Violations would be reported within 10 calendar days after the end of the calendar month.

When an incinerator is used to achieve compliance, Method 25 would be used during an initial 3-hour compliance test to determine the control efficiency. During this initial compliance testing with Method 25 the incinerator combustion temperature would be recorded and reported. The proposed standards also contain performance test provisions for an affected facility that uses an organic-solvent recovery system to attain compliance. The owner or operator would be required to calculate, by the equations contained in the proposed standards, the uncontrolled VOC emissions from each affected facility and the emissions reduction achieved by the recovery device. The owner or operator would also be required to record daily the amount of organic solvent recovered by the system.

EPA estimates that the proposed standards would affect 800 new and 1,200 modified or reconstructed sources between 1980 and 1985.

Summary of Environmental, Energy, and Economic Impacts

The typical "uncontrolled" metal furniture manufacturer applies paint that contains about 35 percent by volume solids. In contrast, a Control Techniques Guideline (CTG) document entitled "Control of Volatile Organic Emissions from Existing Stationary Sources, Volume III: Surface Coating of Metal Furniture" (EPA-450/2-77-032) which defines reasonably available control technology (RACT) recommends that a 60 percent by volume solids coating be adopted by States in their State Implementation Plans (SIPs). The same metal furniture manufacturer applying a CTG-complying coating would emit about 60 percent less VOC than when applying the uncontrolled coating. It is estimated that this CTG recommendation could reduce emissions of VOC from about 49.8 megagrams per year to about 19.4 megagrams per year. The proposed standards would reduce VOC emissions to about 13.7 megagrams per year for the typical plant which is an additional 30 percent emission reduction below the CTG recommendation. Also, when compared to uncontrolled emissions, the proposed standards would reduce national VOC emissions from new, modified, and reconstructed facilities by about 53 gigagrams during the fifth year.

The impact of the proposed standards on water pollution would depend on the control option selected. For example, water use in spray booths would be unnecessary when powder coatings are used. Therefore, there would be a decrease in wastewater discharged when the proposed standards are met by employing powder coatings. Wastewater discharges could be expected not to increase for plants which utilize high solids and waterborne coatings. The quality of wastewater discharged is expected to remain the same for plants that apply high solids coatings when compared to that from plants that apply solvent-borne coatings. However, the quality of wastewater discharged from plants applying waterborne coatings could be reduced because these coatings contain water-miscible solvents. Finally, where incineration is used, the water pollution impact would depend on the type of coating used.

The impact on solid waste generation also depends on the control option selected. Powder coatings are generally recycled so that there is little waste. High solids and waterborne coatings produce about the same amount of solid waste as solvent-borne coatings. The use of emission control systems on a bake oven is expected to have no effect on the amount of solid waste generated from the types of coatings applied.

Energy savings could be possible for all uncontrolled coating facilities that employ any of the available control options to meet the proposed standards. Compliance with the proposed standards by using a 68 percent of volume solids coating would result in an energy savings of up to 8.9 petajoules over the first 5 years of the proposed standards due to a decrease in solvent usage. This is equivalent to approximately 230,000 cubic meters (1.45 million barrels) of crude oil.

For a typical metal furniture manufacturer complying with the recommended CTG, energy requirements would vary depending upon which control option is employed to meet the proposed standards. Energy consumption would decrease by about 20 percent (1500 gigajoules) if powder coatings were used. Energy consumption would increase, however, with the use of waterborne coatings or with incineration plus a CTG coating by about 3 percent (230 gigajoules) and 7 percent (520 gigajoules), respectively.

The economic impact summary presented in this section is based on the total anticipated costs of constructing and operating a new coating facility. Many of the control options considered involve a redesigning of the coating facility rather than simply adding equipment to an existing design. Usually powder coatings and waterborne coatings, for example, could not be applied in a spray booth equipped to use a solvent-based coating. For this reason, the capital and annualized costs represent a comparison of the total cost of each type of controlled facility rather than an incremental difference in the cost of each type of facility.

For a new typical spray coating facility with two painting lines the initial capital and annualized costs do not vary significantly regardless of which control option would be employed to comply with the proposed standards. Capital costs for each facility using the different control options are expected to range from about $960,000 (high solids coatings) to about $1,200,000 (waterborne coatings). The capital cost for a typical CTG coating facility or a typical uncontrolled coating facility would be about $960,000. The industrywide incremental capital cost of complying with the proposed standards over the first 5 years is expected to range from zero to $252,000,000 depending upon line changes because of the selected control option. This range is based on the projection of 2,000 affected facilities during the first 5 years of the proposed standards. The initial annualized costs for the different control options would range from about $600,000 to $700,000. These initial annualized costs would be comparable to the initial annualized costs for a typical CTG coating facility ($620,000) and a typical uncontrolled facility ($630,000).

Total annualized costs (or savings) vary depending upon which control option would be employed to comply with the proposed standards for all new, modified, and reconstructed spray coating plants (e.g., large, medium, and small sizes). For these facilities the fifth year industrywide annualized costs for incineration, and for waterborne coatings, would be about $18,000,000. An industrywide savings of $15,000,000 would result in the fifth year if high solids coatings were used. The total industrywide annualized costs for powder coatings could vary from a savings of $2,000,000 to a cost of $126,000,000 depending upon achieved coating thickness and other factors. The projected industrywide annualized cost to comply with the proposed standards, based on an anticipated mix of low-organic-solvent coatings, would be about $11,000,000.

The economic impacts of the proposed standards were evaluated based upon reduced profitability, inflationary impact, and expected price increases. The highest profit impairment is expected for small metal furniture manufacturers (4,000 liters of coatings consumed annually) regardless of control option. The maximum impact could result in about a 1.3 percent increase in the wholesale price of a metal furniture product from the small manufacturer.

Several industry representatives submitted comments, following the National Air Pollution Control Techniques Advisory Committee (NAPCTAC) presentation, related to the anticipated economic impact of the proposed standards. These comments, along with the supporting data provided, have been incorporated into the BID and are reflected in the preceding summary. However, the Administrator welcomes additional comments related to the economic impact analysis. Comments should contain specific information and data pertinent to the issue and suggested alternative courses of action that would avoid this impact.

Rationale

Selection of Source for Control

The "Priority List and Additions to the List of Categories of Stationary Sources," promulgated at 44 FR 49222 on August 21, 1979, ranked sources according to the impact that the standards promulgated in 1980 would have on emissions and public health in 1990. The surface coating of metal furniture is listed as a minor source category on this listing. This classification as a minor source is due primarily to the fact that individual metal furniture surface coating facilities typically emit less than 100 tons of VOC per year. However, the Priority List states that "the metal furniture coating industry is also a significant source of VOC emissions, and there are over 300 existing facilities with the potential to emit more than 100 tons per year."

There are approximately 1,400 metal furniture manufacturing establishments in the United States which paint their products. These metal furniture manufacturers are located throughout the country and are generally situated in highly populated urban areas. In fact, 70 percent of the industry is concentrated in nine highly populated states. The size range of these establishments and the types of metal furniture products produced are diverse. A large metal furniture manufacturer may have six or more coating lines while a small manufacturer may have only one coating line. The total number of coating lines in this industry is estimated to be about 3,100. This is approximately two coating lines for each establishment, which is considered to be a "typical" manufacturer. This typical manufacturer would consume from 67,600 to 87,000 liters of coating annually, and paint 780,000 square meters of metal furniture products. About 85 percent of the new coating lines are expected to apply paint by spraying methods.

The metal furniture industry emits about 95.5 gigagrams (1975 data) of VOC per year. The emissions of VOC result from usage of solvent-borne coatings by the industry. These paints contain organic solvent mixtures of aromatics, saturated and unsaturated aliphatics, alcohols, ketones, esters, and ethers. The emissions of these organic solvents contribute to ozone formation in urban atmospheres. EPA has established a National Ambient Air Quality Standard (NAAQS) for ozone of 0.12 microgram per cubic meter which is currently exceeded in those states where metal furniture manufacturing establishments are concentrated. Information concerning health and welfare effects associated with ozone can be found in "Air Quality Criteria for Ozone and Other Photochemical Oxidants," EPA–600/8–78–004, April 1978.

Moreover, the metal furniture industry is projected to have an annual growth rate of 4 percent. The growth rate is expected to remain at this level through 1985. Based on this growth, the industry will contribute increasing amounts of VOC to urban atmospheres.

Therefore, industrial surface coating of metal furniture was selected for regulation. This selection is based upon the metal furniture industry's priority listing, the number of affected facilities, painting method, the yearly VOC emission rate, the growth rate of the industry, and the location of this industry in or near highly populated urban areas.

Selection of Pollutants and Affected Facilities

Metal furniture manufacturers emit both particulate matter and VOC. Particulate matter is presently being controlled by the industry; however, VOC emissions are not controlled. They are emitted from the coating application, touch-up, flash-off, and bake oven areas. VOC emissions occur when the coating is applied and while the coated metal furniture part travels on a conveyor line through the application area. The coating on the metal furniture parts traveling on a conveyor line is the source of VOC in the flash-off and bake oven areas. The remainder of the operations at a metal furniture manufacturing plant are not included in the proposed standards because these are not significant sources of VOC. Touch-up operations are not included because they consume very little paint in comparison to the total amount of paint used in the coating application area. Clean-up operations would not be regulated under the proposed standards because VOC emissions from these operations are very difficult to quantify and control. Therefore, the affected facility is the combined coating application area, flash-off area, and bake oven area. This combination was selected as the affected facility because emissions from each area and their controls relate directly to the coating of the product.

The last consideration made concerning the affected facility was whether or not to establish a lower "cutoff" level of paint consumption in order to exempt smaller facilities from the proposed standards. The approach employed was to consider a cutoff level based on the amount of paint used or the capacity of the coating line. However, no cutoff level was established because of the possibility of wide variations in the amount of paint consumed yearly. The variability in the amount of paint consumed is a function of the economy. As a result, the consumption rate of paint may vary significantly from year to year. Several methods of determining the rated capacity of a coating line were investigated, but no decision was reached as to which would be most equitable. The Administrator specifically invites comments concerning this issue. Any comments submitted to the Administrator on this issue, however, should contain specific information and data pertinent to an evaluation of the magnitude and severity of any adverse impact and suggest alternative courses of action to avoid this impact.

Selection of Basis of Proposed Standards

Three control technologies were identified for reducing VOC emissions from metal furniture coating lines: (1) low-organic-solvent coatings, (2) transfer efficiency improvements based on coating application technique, and (3) emission control systems. Low-organic-solvent coatings include powder, high solids, and waterborne coatings. All of these coatings are presently being applied to metal furniture parts. None of the three types of coatings, however, are universally applicable for all metal furniture products because of differences in appearance needs, desired film thickness, required color changes, and other customer demands.

Powder coatings offer the largest emission reduction because they do not contain organic solvents. Powder coatings are applied by either electrostatic spraying devices or fluidized bed processes. Application of powder coatings to metal furniture parts by electrostatic spraying requires electrically charging the powder particles which are then attracted to the grounded part. In contrast, in the fluidized bed process the metal part is preheated, then dipped into a bed of air-fluidized particles. Both thermoset and thermoplastic powder coatings are being successfully applied in the metal furniture industry. Thermoset powders harden during heating as a result of cross-linking or polymerizing of the resin in the coating. Thermoplastic powders soften with the application of heat and resolidify during cooling. Powder coatings are normally selected when a thick and durable coating is required. However, thinner film thicknesses are now being achieved with thermoset powders. Powder coatings are applied electrostatically at thicknesses from 2.54 x 10^{-2} to 20.3 x 10^{-2} millimeters (1.0 to 8.0 mils). Coating thicknesses achieved with the fluidized bed process range from 15.2 x 10^{-2} to 152 x 10^{-2} millimeters (6.0 to 60 mils). Powder coatings cannot be used, however, at facilities requiring a large number (greater than 10) of color changes per day.

Coatings containing from 50 to 60 percent by volume solids are being applied to metal furniture parts instead of conventional solvent-borne coatings that contain 25 to 35 percent by volume solids. These coatings reduce VOC emissions by replacing much of the organic solvent with solids. For a 68 percent by volume solids coating, the VOC emission reduction achieved relative to an uncontrolled and a CTG coating is 73 and 30 percent, respectively. The use of coatings containing up to 68 percent solids is demonstrated in this industry with all applicable electrostatic spraying techniques, including guns, disks, and bells. Although coatings containing greater than 68 percent solids are currently being applied in the industry, their use has not been adequately demonstrated using a manual electrostatic spraying device. At present, the majority of the metal furniture industry using high solids coatings applies single-component heat-converted materials. These coatings form a film when they are cured inside an oven. Coating thicknesses achieved range from 2.54 x 10^{-2} to 3.81 x 10^{-2} millimeters (1.0 to 1.5 mils). Several metal furniture facilities using high solids coatings are complying with existing SIP regulations based upon the CTG-recommended coating. High solids coatings cannot be used, however, when a facility desires an especially thick coating or when the method of application is dip or flow coating.

Waterborne coatings are applied by spray, dip, electrodeposition, or flow techniques. All four application methods are used in the metal furniture industry. The majority of waterborne coatings currently applied contain about an 82/18 water-to-organic solvent ratio, with 35 percent by volume solids present in the paint. Waterborne coatings applied by the electrodeposition process usually contain less solids by volume. These coatings are able to achieve coating thicknesses comparable to conventional organic solvent-based coatings. Substitution of a typical waterborne coating applied by electrostatic spraying or dipping could be expected to reduce VOC emmissions relative to the uncontrolled and CTG-recommended facilities by about 80 and 50 percent, respectively. A waterborne coating applied by electrodeposition reduces VOC emissions for the uncontrolled and CTG-recommended facilities by about 95 and 85 percent, respectively. As with powder and high solids coatings, waterborne coatings cannot be used in all cases because of the limited film thicknesses achievable and the problems associated with electrostatically spraying such a highly conductive material.

The second control technology is improvement of transfer efficiency, based upon the method employed to apply the coating. Transfer efficiency defines the effectiveness at which solids are applied to the metal furniture part. The lower the transfer efficiency, the higher the VOC emission rates because more coating must be used to achieve the same thickness. The lowest transfer efficiencies reported range from 25 to 50 percent; these are for air and airless spraying equipment. Higher transfer efficiencies (60 to 95 percent) for spraying equipment are obtained with the electrostatic type equipment. The transfer efficiency of 60 percent represents the lower end of a range of efficiencies reported by paint suppliers and application equipment vendors. Therefore, 60-percent transfer efficiency was selected as the basis for the proposed standards. Although the highest transfer efficiencies are achieved with dip, electrodeposition, and flow coating techniques, about 85 percent of this industry uses traditional spraying techniques.

The only emission control system known to be in use in this industry is an incinerator, located at one plant. This incinerator is used to control VOC emissions from a bake oven. Incineration of VOC emissions is about 96 percent efficient. This efficiency was determined from stack test data obtained by EPA during the development of the proposed standard for automobile and light-duty truck surface coating operations.

Specific control options selected from the available control technologies include 65 and 70 percent by volume solids coatings, waterborne coatings, powder coatings, and a CTG-complying coating plus incineration. Based upon a comparison with CTG level of control (i.e., 60 percent by volume solids coating), four regulatory alternatives were established. These regulatory alternatives (labeled I, II, III, and IV) require, respectively, no additional control above the CTG (no NSPS), 30 percent above the CTG, 50 percent above the CTG, and 85 percent above the CTG.

All of the control option may be employed to achieve Regulatory Alternatives I and II. Regulatory Alternative III requires the use of waterborne coatings or a control options that provides equal or higher emission reduction.

Regulatory Alternative IV is based upon the highest emission reduction that may be achieved above the CTG-recommended level of control for a spray and dip coating line. The highest emission reduction for the spray coating line is about 99 percent (powder coatings), and the highest for a dip coating line is about 85 percent (waterborne applied by electrodeposition). As a result, VOC emission reduction above CTG-recommended requirements for Regulatory Alternative IV was established at 85 percent so that both powder and waterborne (electrodeposition) may be employed to achieve the designated emission reduction.

Environmental impacts were also evaluated for the four regulatory alternatives. None of the alternatives resulted in increased solid waste generation or decreased water quality. Also, when compared to uncontrolled facilities, there are energy savings possible with each regulatory alternative. The energy impact for a facility complying with the CTG-recommended level is about the same as that for each regulatory alternative.

For all regulatory alternatives the estimated total capaital costs are about the same. However, total annualized costs for the first 5 years of the proposed standards would vary depending on which control option is utilized to achieve the control level specified by each regulatory alternative. If coatings containing 60 to 70 percent by volume solids are employed to comply with Regulatory Alternatives I and II, there is a potential for annualized savings. Regulatory Alternative III results in the highest annualized costs if waterborne coatings are employed to achieve the required regulatory alternative.

The proposed standards are based on Regulatory Alternative II. This selection was based on the decision that all estimated impacts associated with Regulatory Alternative II were considered to be reasonable. This alternative also provides all facilities with at least one control option that could be used to comply with the proposed standards. Basing the proposed standards on an alternative that would require the use of waterborne or powder coatings would preclude the use of high solids coatings. This approach would prevent some facilities from complying with the proposed standards because of their inability to use powder or waterborne

coatings. Basing the proposed standards on the use of incineration was rejected because of the cost and energy impacts associated with this option. There is also a potential for an annualized cost saving with Regulatory Alternative II.

Selection of Format of Proposed Standards

A number of difference formats for the proposed standards are available. The format ultimately selected must be compatible with any of the control options that could be used to comply with the proposed standards. The formats considered were emission limits expressed in terms of: (1) the concentration of VOC emissions in the exhaust gases discharged to the atmosphere; (2) overall control efficiency; (3) mass of VOC emissions per unit of production; (4) mass of VOC emissions per volume of coating (less water); and (5) mass of VOC emissions per volume of coating solids applied.

The major advantage of a concentration format is simplicity of enforcement. Compliance could be directly measured using Reference Method 25. There are, however, two significant drawbacks to the use of this format. Regardless of the control approach chosen, emission testing would be required for each stack exhausting gases from the surface coating operations. Another potential problem with this format is the difficulty of determining whether dilution air is intentionally added to reduce the concentration of VOC in the gases discharged to the atmophere, or whether the air is added to the application or drying operations to optimize performance and maintain a safe working space. The concentration format therefore, is unacceptable.

A control efficiency format would require coating facilities to reduce emissions by a specified percentage. This has the advantage of allowing each facility to use whatever method is preferred to reduce the emissions. The disadvantage is that a baseline emission rate must be established for each facility to determine how much the emissions must be reduced to comply with the proposed standards. This baseline is likely to vary from plant to plant. In addition, this type of format would require well operated facilities to reduce emissions by the same percentage as poorly operated facilities. This could place the well-operated coating facilities at an economic disadvantage relative to their competitors. For these reasons, this format was not selected.

A format of mass of VOC emissions per unit of production would relate emissions to individual plant production on a direct basis. Where high solids or conventionally applied waterborne coatings are employed, the average VOC content of the coating materials could be determined by using Reference Method 24 or coating supplier's formulation. The volume of coating materials used and the percent solids could be determined from purchase records. VOC emissions could then be calculated by multiplying the VOC content of the coating materials by the volume of coating materials used in a given time period, and dividing the result by the number of furniture items produced during that time period. This would provide a VOC emission rate per unit of production. Consequently, procedures to determine compliance would be direct and straightforward. However, this procedure woud be very time consuming because it would require data collection every time the product mix was varied or a new part was added. In addition, this format would not account for the difference in surface coating requirements for various items due to size and configuration. This would result in a different emission standard for every piece of metal furniture coated. As a result, manufacturers of larger items would be required to reduce VOC emissions more than manufacturers of smaller items. For these reasons, this format was not selected.

The fourth format, mass of VOC emissions per volume of coating applied (minus water), is the one employed in the CTG document. The principal advantage of this format is that enforcement is relatively simple. However, one disadvantage is that transfer efficiency is not part of the format and as a result, a CTG or NSPS coating may emit more VOC than a non-complying coating because of the differences of obtainable transfer efficiencies due to different painting techniques. Also, it is difficult to determine a numerical limit for affected facilities using a new coating and add-on control equipment because this format does not consider transfer efficiency. As a result, this format was not selected.

The last format, which uses mass of VOC emissions per volume of coating solids applied, has the advantage of not requiring stack emission tests unless add-on emission control devices are used to comply with the proposed standards. Dilution air in the exhaust stream would not present a problem with this format. The problem of varyng part sizes and configurations would be eliminated because the format is in terms of volume of coating solids applied, which is independent of the surface area and number of items coated. This format would also allow flexibility in the selection of control systems because it is usable with any of the control methods. The format also takes into consideration the transfer efficiency of the coating technique. Because this format overcomes the varying dilution air and part size problems inherent with the other formats and considers transfer efficiency where other formats do not, it has been selected as the format for the proposed standards.

Selection of Numerical Emission Limit

The numerical emission limit selected for the proposed standards is 0.70 kilogram of VOC per liter of coating solids applied. This numerical emission limit is based on the selection of Regulatory Alternative II as the basis of the proposed standards. Regulatory Alternative II was previously defined as an additional 30 percent reduction in VOC emissions beyond that recommended in the CTG document. Establishing the numerical emission limit based upon Regulatory Alternative II permits each metal furniture manufacturer to select one of the available control options to achieve compliance. The numerical emission limit of the proposed standard could be calculated from the following conditions:

1. The use of a coating material containing 68 percent by volume solids.
2. The coating is applied at a transfer efficiency of 60 percent.
3. The solvents in the coating material have a density of 0.88 kilogram per liter. These conditions are based on data provided by the metal furniture industry, and coating and application equipment vendors. Each of the conditions represents currently available technology which has been used successfully in the metal furniture industry.

For a coating system meeting the conditions stated above, the emission rate is calculated to be 0.70 kilogram of VOC per liter of coating solids applied. Due to the numerous emission reduction techniques available and the flexibility allowed by the format of the proposed standards, a variety of technologies may be used to meet the emission limit. The proposed standards can be achieved as a minimum by using any of the low-organic-solvent coatings, if applied electrostatically. Low-organic-solvent coatings applied by dip, flow, or electrodeposition techniques will also achieve the proposed numerical limit because of the high transfer efficiency of these methods. Powder coatings applied

by electrostatic spray or fluidized bed meet the proposed numerical limit. As a result, all of the control options can meet the proposed numerical limit.

Modification and Reconstruction Considerations

New source performance standards apply to modified and reconstructed, as well as to new facilities. Upon modification or reconstruction, an existing facility becomes an affected facility. The criteria for making modification and reconstruction determinations are presented in § 60.14 and § 60.15, respectively, of the general provisions of 40 CFR Part 60, and are applicable to all standards of performance promulgated under Section 111 of the Clean Air Act.

If the proposed standards go into effect, during the first 5 years there are expected to be about 2,000 affected facilities. Of these 2,000 affected facilities, approximately 60 percent are expected to be modified or reconstructed facilities, which would be required to comply with the proposed standards.

The metal furniture industry has expressed concern that expenditures made to comply with SIP requirements might bring the facility under the proposed standards as a reconstruction. The industry believes that it is unfair for compliance with one regulation to trigger coverage by a more stringent regulation. Comments are requested on the legality and economic consequences of an exemption from the reconstruction provisions under these circumstances. Any comments submitted to the Administrator, however, should contain specific information and data pertinent to an evaluation of the magnitude and severity of any adverse impact and suggested alternative courses of action that would avoid this impact.

Method of Determining Compliance

The procedure for determining monthly compliance with the proposed standards could vary depending on which control option is selected by the facility. The compliance determination procedure for all facilities begins as follows:

1. Calculate the mass of VOC, as applied, of all coating materials used during the calendar month for which the determination is being made. The data necessary to calculate the mass of VOC may be obtained from the coating formulator or through a coating analysis using Reference Method 24. When coating formulation data are used, the owner or operator must also include all dilution solvents added to the coating at the facility.
2. VOC emissions are then calculated by dividing the mass of VOC (step 1) by the multiplication product of the coating solids by volume applied and the appropriate transfer efficiency expressed as a decimal.

If the VOC emissions calculated in step 2 are greater than the proposed numerical emission limit, the facility is in violation of the proposed standards for the month and additional control is necessary. In situations where a lower solvent content coating or an increased transfer efficiency is used to bring the facility into compliance, the preceding steps are repeated in subsequent performance tests using the new set of conditions. However, if the facility chooses to achieve compliance by adding a control device, the following additional steps must be followed:

1. The initial compliance determination requires the use of Reference Method 25 to determine the VOC concentration in the effluent gas stream before and after the control device. Calculate the control efficiency of the device by using the test results.
2. Determine the percentage of the total VOC emissions from the facility which enter the emission control device.
3. Calculate the overall VOC emission reduction efficiency achieved by multiplying the percentage of VOC emissions which enter the control device (step 2) by the efficiency of the control device.

Detailed procedures, as well as the equations to be used for these calculations, are containd in the proposed standards. These procedures would require determining the VOC emissions from the coating materials used in each surface coating operation. This could be accomplished by periodic analysis of paint samples collected at the application area; however, such an analysis is expensive and time consuming. Paint companies routinely perform analyses of the solids and solvent content of the coatings they sell. This represents an inexpensive method of determining the VOC emissions from the coating. Therefore, a record of the coating supplier's coating formulation or analysis of the solvent and solids content of all coating materials purchased for each coating line within a plant would be required to be maintained. The Administrator would reserve the right to require Reference Method 24 testing to assure that compliance with the proposed standards is being achieved. This in itself, however, would not provide sufficient information to determine compliance because solvent paint dilutions may occur prior to paint application. In order to account for this, a record would also be required of all organic solvent which is purchased and used for the purpose of coating dilution by each coating line within the plant. This information would allow calculation of the total mass of VOC in all coatings consumed after viscosity control, thereby permitting determination of whether the applied coating formulation conforms to the requirements of the proposed standards.

Selection of Monitoring Requirements

Monitoring requirements are normally included in standards of performance to ensure that emission control requirements are met and that control devices are properly operated and maintained.

The owner or operator would be required to calculate and record the VOC emissions per volume of applied solids from each affected facility for each calendar month. Each monthly calculation would be considered a performance test. Where incineration is used to comply with the proposed standards, a monitoring device would be required to continuously record the combustion temperature of the control device. Following the performance test, the combustion temperature would be monitored and any period of more than 3 hours during which the temperature drops more than 50°C below the compliance test level would be reported quarterly.

Selection of Performance Test Methods

Performance tests would be required for add-on control devices to determine compliance with the proposed standards. Reference Method 25, "Determination of Total Gaseous Non-Methane Organic Emissions as Carbon," would be used to measure VOC concentration before and after the add-on control device. The estimated cost for conducting a test with this method before and after the control device is about $4,000.

The solids and organic solvent content of coatings would be determined based upon the paint supplier's coating formulation. However, Reference Method 24, "Determination of Volatile Organic Matter, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings," would be used to verify the paint supplier's data. This method combines several ASTM procedures which are published industry techniques.

Measurement of transfer efficiency would not be required for the proposed standards. Instead, transfer efficiency numbers are provided for each coating application technique. These numbers are based upon data collected from metal furniture manufacturers, paint

manufacturers, and paint application

hearing. Written statements should be

For example, applicable costs do not

operators of new sources should be

surface coating line which is defined as

D_{dj} = density of the "jth" diluent VOC-

manufacturers, and paint application equipment manufacturers. However, if a manufacturer can justify to the Administrator's satisfaction that other values for transfer efficiencies are appropriate, the Administrator will approve their use on a case-by-case basis. In making this determination the Administrator will consider: (1) the surface area of all parts painted on the new coating line, (2) the number of parts painted, (3) the coating consumed and the procedures used to measure consumption, (4) the thickness of applied coating, and (5) the method of calculating transfer efficiency.

Impact of Reporting Requirements

During 1980 to 1985, there are expected to be about 2,000 affected facilities. The time required for compiling the initial compliance report for a typical spray painting plant (two coating lines) would be about 23 person-hours. The total time required by the industry for all of the affected facilities would be about 46,700 person-hours by 1985.

An additional report would be required for affected facilities that install a new add-on control device. For a typical plant the time required for performing the initial compliance test, compiling data and reviewing the test report would be about 400 person-hours. After the initial compliance test, the incinerator combustion temperature would be reported quarterly.

The Administrator specifically invites comments concerning the reporting requirements of the proposed standards. These requirements can be found in § 60.314 and § 60.315 of the proposed standards. Any comments submitted to the Administrator should contain specific information and data pertinent to an evaluation of the magnitude and severity of any adverse impact and should suggest alternative courses of action to avoid this impact. Recommended alternative reporting requirements should contain complete instructions and should state all the reasons why the recommended requirements would be considered an improvement.

Public Hearing

A public hearing will be held to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the ADDRESSES section of this preamble. Oral presentations will be limited to 15 minute each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the ADDRESSES section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see ADDRESSES section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are (1) to allow interested parties to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review.

Miscellaneous

As prescribed by Section 111, establishment of standards of performance for surface coating of metal furniture was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979), that these sources contribute signficantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues.

It should be noted that standards of performance for new sources established under Section 111 of the Clean Air Act reflect:

> * * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [Section 111(a)(1)].

Although there may be an emission control technology available that can reduce emissions below those levels required to comply with standards of performance, this technology might not be selected as the basis of standards of performance due to costs associated with its use. Accordingly, standards of performance should not be viewed as the ultimate in achievable emission control. In fact, the Act requires (or has the potential for requiring) the imposition of a more stringent emission standard in several situations.

For example, applicable costs do not necessarily play as prominent a role in determining the "lowest achievable emission rate" (LAER) for new or modified source locating in nonattainment areas, i.e., those areas where statutorily-mandated health and welfare standards are being violated. In this respect, Section 173 of the Act requires that new or modified sources constructed in an area where ambient pollutant concentrations exceed NAAQS must reduce emissions to the level that reflects LAER, as defined in Section 171(3) for such category of source. The statute defines LAER as that rate of emissions based on the following, whichever is more stringent:

(A) the most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or

(B) the most stringent emission limitation which is achieved in practice by such class or category of source.

In no event can the emission rate exceed any applicable new source performance standard [Section 171(3)].

A similar situation may arise under the prevention of significant deterioration of air quality provisions of the Act (Part C). These provisions require that certain sources [referred to in Section 169(1)] employ "best available control technology" (BACT) as defined in Section 169(3) for all pollutants regulated under the Act. Best available control technology must be determined on a case-by-case basis, taking energy, environmental and economic impacts, and other costs into account. In no event may the application of BACT result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to Section 111 (or 112) of the Act.

In all events, SIPs approved or promulgated under Section 110 of the Act must provide for the attainment and maintenance of NAAQS designed to protect public health and welfare. For this purpose, SIPs must in some cases require greater emission reduction than those required by standards of performance for new sources.

Finally, States are free under Section 116 of the Act to establish even more stringent emission limits than those established under Section 111 or those necessary to attain or maintain the NAAQS under Section 110. Accordingly, new sources may in some cases be subject to limitations more stringent than standards of performance under Section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

This regulation will be reviewed four years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, and improvements in emission control technology and reporting requirements. The reporting requirements in this regulation will be reviewed as required under EPA's sunset policy for reporting requirements in regulations.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to ensure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the Background Information Document.

Dated: November 21, 1980.

Douglas M. Costle

Administrator.

It is proposed that 40 CFR Part 60 be amended by adding a new Subpart EE as follows:

Subpart EE—Standards of Performance for Surface Coating of Metal Furniture

Sec.

60.310 Applicability and designation of affected facility.
60.311 Definitions and symbols.
60.312 Standards for volatile organic compounds.
60.313 Performance tests and compliance provisions.
60.314 Monitoring of emissions and operations.
60.315 Reporting and recordkeeping requirements.
60.316 Test methods and procedures.

Authority: Secs. 111, 114, and 301(a) of the Clean Air Act, as amended, (42 U.S.C. 7411, 7414, 7601(a)), and additional authority as noted below.

Subpart EE—Standards of Performance for Surface Coating of Metal Furniture

§ 60.310 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is the volatile organic compound (VOC) emitting portion of each metal furniture surface coating line which is defined as the paint application area, the flash-off area, and the bake oven area.

(b) This subpart applies to any affected facility on which construction, modification, or reconstruction is commenced after November 28, 1980.

§ 60.311 Definitions and symbols.

(a) All terms used in this subpart not defined below are given meaning in the Act and in Subpart A of this part.

"Bake oven" means a device which uses heat to dry or cure coatings.

"Dip coating" means a method of applying coatings in which the part is submerged in a tank filled with the coatings.

"Electrodeposition (EDP)" means a method of applying coatings in which the part is submerged in a tank filled with the coatings and in which an electrical potential is used to enhance deposition of the coatings on the part.

"Electrostatic spray application" means a spray application method that uses an electrical potential to increase the transfer efficiency of the coatings.

"Flash-off area" means the portion of a surface coating line between the coating application area and bake oven.

"Flow coating" means a method of applying coatings in which the part is carried through a chamber containing numerous nozzles which direct unatomized streams of coatings from many different angles onto the surface of the part.

"Spray application" means a method of applying coatings by atomizing and directing the atomized spray toward the part to be coated.

"Transfer efficiency" means the ratio of the amount of coating solids transferred onto the surface of a part or product to the total amount of coating solids used.

"VOC content" means all volatile organic compounds (VOC) that are in coatings and evaporate during the application, drying, or curing process. VOC are expressed in terms of kilograms of VOC per liter of coating solids applied.

(b) All symbols used in this subpart not defined below are given meaning in the Act and in Subpart A of this part.

C_{aj} = concentration in gas stream in the "jth" vent after control device (parts per million as carbon)

C_{bi} = concentration in gas stream in the "ith" vent before control device (parts per million as carbon)

C_k = concentration in gas stream in the "kth" uncontrolled vent (parts per million as carbon)

D_{ci} = density of the "ith" coating (kilogram per liter)

D_{dj} = density of the "jth" diluent VOC-solvent (kilogram per liter)

D_r = density of VOC-solvent recovered by emission control device (kilogram per liter)

E = emission control device efficiency (inlet versus outlet, fraction)

F = capture efficiency (captured versus potential, fraction)

G = weighted average mass of VOC per volume of coating solids applied (kilograms of VOC per liter of coating solids applied)

i = indexing subscript designating the "ith" coating or "ith" vent before control device, ranges from 1 to n

j = indexing subscript designating the "jth" diluent VOC-solvent or the "jth" vent after control device, ranges from 1 to m

k = indexing subscript designating the "kth" uncontrolled vent, ranges from 1 to n

L_{ci} = volume of "ith" coating, as received (liters)

L_{dj} = volume of "jth" diluent VOC-solvent added to coating (liters)

L_r = volume of VOC-solvent recovered by emission control device (liters)

L_s = volume of coating solids (liters)

M_d = mass of VOC-solvent added to coating for dilution purposes (kilograms)

M_o = mass of VOC-solvent in coating, as received (kilograms)

M_r = mass of VOC-solvent recovered by emission control device (kilograms)l16L_{ci}=volume of "ith" coating, as received (liters)

L_{dj}=volume of "jth" diluent VOC-solvent added to coating (liters)

L_r=volume of VOC-colvent recovered by emission control device (liters)

L=volume of coating solids (liters)

M_d=mass of VOC-solvent added to coating for dilution purposes (kilograms)

M_o=mass of VOC-solvent in coating, as received (kilgrams)

M_r=mass of VOC-solvent recovered by emission control device (kilograms)

m=a known variable quantity of different diluent VOC-solvents or controlled vents

N=VOC emissions (kilograms of VOC per liter of coating solids applied)

n=a known variable quantity of coatings or vents

Q_{aj}=volumetric flow rate in the "jth" vent after control device (dry standard cubic meters per second)

Q_{bi}=volumetric flow rate in the "ith" vent before control device (dry standard cubic meters per second)

Q_k=volumetric flow rate in the "kth" uncontrolled vent (dry standard cubic meters per second)

R=overall VOC emission reduction efficiency (fraction)

T=transfer efficiency for each surface coating application method

(1) Each owner or operator shall compute the weighted average mass of

owner or operator shall use these relative volumes of solids to compute a

(3) The owner or operator shall determine capture efficiency of the

device(s) on the applicable surface coating line using the following

(4) Each temperature measurement device shall be equipped with a

T = transfer efficiency for each surface coating application method (fraction)
V_{si} = volume fraction of solids in the "ith" coating, as received (fraction)
W_{oi} = weight fraction of VOC-solvent in the "ith" coating, as received (fraction)
z = indexing subscript designating the "zth" control device

§ 60.312 Standards for volatile organic compounds (VOC).

(a) On and after the date on which the initial performance test required to be conducted by § 60.8(a) is completed, no owner or operator subject to the provisions of this subpart shall cause the discharge into the atmosphere of VOC emissions from any metal furniture coating line in excess of 0.70 kilogram of VOC per liter of coating solids applied.

§ 60.313 Performance tests and compliance provisions.

(a) Sections 60.8(d) and (f) do not apply to the performance test procedures required by this subpart.

(b) Each owner or operator of an affected facility shall conduct a performance test for each calendar month for each affected facility according to the procedures in this section, except as specified in § 60.315.

$$M_o + M_d = \sum_{i=1}^{n} L_{ci} D_{ci} W_{oi} + \sum_{j=1}^{n} L_{dj} D_{dj}$$

(3) Compute the total volume of coating solids used during each month by the equation:

$$L_s = \sum_{i=1}^{n} L_{ci} V_{si}$$

(4) Compute the weighted average mass of VOC per volume of coating solids applied by the equation:

$$G = \frac{M_o + M_d}{L_s T}$$

Values for transfer efficiency (fraction) are to be selected from the following table:

Application method	Transfer efficiency (T)
Air atomized spray	0.25
Airless spray	0.25
Manual electrostatic spray	0.60
Nonrotational automatic electrostatic spray	0.70
Rotating head electrostatic spray (manual and automatic)	0.95
Dip coat	0.90
Flow coat	0.80
Electrodeposition	0.95
Powder application	0.95

If the owner or operator can justify to the Administrator's satisfaction that other values for transfer efficiencies are appropriate, the Administrator will approve their use on a case-by-case basis. Where more than one application method is used on an individual surface coating operation, the owner or operator shall perform an analysis to determine the relative volume of coating solids materials applied by each method. The owner or operator shall use these relative volumes of solids to compute a weighted average transfer efficiency for the operation. The Administrator will review and approve this analysis on a case-by-case basis.

(5) For affected facilities with no add-on control devices, N = G
Where N is less than or equal to 0.70 kilogram of VOC per liter of coating solids applied, compliance with § 60.312 is demonstrated and no further calculations are required.

(6) For affected facilities where N is greater than 0.70 kilogram of VOC per liter of coating solids applied, the facility is not in compliance with § 60.312. Compliance with § 60.312 may be achieved by a change to a lower-organic-solvent content type of coating material, through an increase in transfer efficiency or through the addition of an add-on control device.

(i) If an affected facility selects a change of coating materials, compliance must be demonstrated by performing the calculations described in § 60.313(b)(1), (2), (3), (4), and (5).

(ii) If compliance is to be demonstrated through an increase in transfer efficiency, the calculations described in § 60.313(b)(4) and (5) must be performed.

(iii) Where add-on emission control equipment is used, the control efficiency must be calculated as described in § 60.313(c) or (d):

(c) Each owner or operator subject to the provisions of this subpart, who uses an incinerator, shall determine compliance by the following procedures.

(1) The owner or operator shall use Reference Method 25 to determine the VOC concentration in the effluent gas before and after the emission control device for each stack that is equipped with an emission control device. The owner or operator shall use Reference Method 2 to determine the volumetric flow rate of the effluent gas before and after the emission control device on each stack.

(2) The owner or operator shall determine the fraction efficiency of each emission control device by the following equation:

$$E_z = \frac{\sum_{i=1}^{n} Q_{bi} C_{bi} - \sum_{j=1}^{m} Q_{aj} C_{aj}}{\sum_{i=1}^{n} Q_{bi} C_{bi}}$$

(3) The owner or operator shall determine capture efficiency of the incinerator by calculating the fraction of total VOC discharged from the surface coating line which enters each emission control device on that operation by the following equation:

$$F_z = \frac{\sum_{i=1}^{n} Q_{bi} C_{bi}}{\sum_{i=1}^{n} Q_{bi} C_{bi} + \sum_{k=1}^{m} Q_k C_k}$$

(4) The owner or operator shall determine the overall emission reduction efficiency of incineration systems by the following equation:

$$R = \sum_{z=1}^{n} E_z F_z$$

(5) The owner or operator shall determine the mass of VOC per volume of coating solids applied emitted after the control device(s) on the applicable surface coating line using the following equation:

$N = G(1-R)$

(6) For affected facilities where N is less than or equal to 0.70 kilogram of VOC per liter of coating solids applied, compliance with § 60.312 is demonstrated and no further calculations are required.

(7) For affected facilities where N is greater than 0.70 kilogram of VOC per liter of coating solids applied, the facility is not in compliance with § 60.312 for the month and additional control is required to bring the facility into compliance for future operation.

(d) Each owner or operator subject to the provisions of this subpart, who uses an emission control system that recovers the VOC in order to comply with § 60.312, shall determine compliance for each calendar month by the following procedures:

(1) Calculate the weighted average mass of VOC per volume of coating solids applied emitted after the control device(s) on the applicable surface coating line using the following procedure:

(i) Calculate the total mass of VOC recovered in the calendar month (kilograms) by the equation:

$M_r = L_r D_r$

(ii) Calculate the overall emission reduction efficiency of the solvent recovery system by the equation:

$$R = \frac{M_r}{M_o + M_d}$$

(iii) Calculate mass of VOC emitted by the equation:

$N = G(1-R)$

(2) For affected facilities where N is less than or equal to 0.70 kilogram of VOC per liter of coating solids applied, the facility has demonstrated compliance with § 60.312 and no further calculations are required.

(3) For affected facilities where N is greater than 0.70 kilogram of VOC per liter of coating solids applied, the facility is not in compliance with § 60.312 for the month and additional control is required to bring the facility into compliance for future operation.

§ 60.314 Monitoring of emissions and operations.

(a) The owner or operator of an affected facility which uses an incinerator to comply with the emission limits specified under § 60.312 shall install, calibrate, maintain, and operate temperature measurement devices acording to the following procedures:

(1) A temperature measurement device shall be installed in the firebox of each incinerator.

(2) Each temperature measurement device shall be installed, calibrated, and maintained according to accepted practice and the manufacturer's specifications. Each device shall have an accuracy of the greater of ± 0.75% of the temperature being measured expressed in degrees Celsius or ± 2.5°C.

(3) Each temperature measurement device shall be installed in a location that is representative of the temperature in the firebox of each incinerator.

(4) Each temperature measurement device shall be equipped with a recording device so that a permanent continuous record is produced.

(b) For the purposes of reports required under § 60.315, periods of excess emissions for incinerators are defined as any period of 3 hours or longer during which the average incinerator temperature, when the coating line is in operation, is more than 28° C (50° F) less than the average incinerator temperature during the most recent performance test at which the emission control device efficiency was determined as specified under § 60.313(c).

§ 60.315 Reporting and recordkeeping requirements.

(a) Each owner or operator of an affected facility shall include the following data in the initial performance test report required under § 60.8:

(1) Where compliance is achieved without the use of add-on control devices, the owner or operator shall report for each affected facility the weighted average mass of VOC per volume of coating solids applied during the calendar month.

(2) Where compliance is achieved through the use of incineration, the owner or operator shall include the following data in the initial performance test required under § 60.8(a) or subsequent performance tests during which Reference Method 25 is utilized.

(i) The combustion temperature,

(ii) The weighted average mass of VOC per volume of coating solids applied before and after the incinerator,

(iii) Capture efficiency,

(iv) The emission control device efficiency used to attain compliance with the applicable emission limit specified under § 60.312.

(b) Following the initial performance test report, each owner or operator of an affected facility shall record the weighted average mass of VOC per volume of coating solids applied for each affected facility during each calendar month and shall report within 10 calendar days each instance in which the weighted average is greater than the limit specified in § 60.312. Each monthly determination shall be considered a performance test.

(c) Where compliance with § 60.312 is achieved through the use of incineration,

the owner or operator shall continuously

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the owner or operator shall continuously record the incinerator combustion temperature and report on a quarterly basis any periods of excess emissions which occurred during each month or submit a report indicating that no periods of excess emissions occurred.

(d) Where compliance with § 60.312 is achieved through the use of a solvent recovery system, the owner or operator shall record and maintain daily records of the amount of solvent recovered by the system for each affected facility.

(e) Each owner or operator subject to the provisions of this subpart shall maintain at the source, for a period of at least 2 years, all records, data, and calculations which were used to determine the VOC content of coatings and the weighted average mass of VOC per volume of coating solids applied for each affected facility.

(Sec. 114 of the Clean Air Act, as amended (42 U.S.C. 7414))

§ 60.316 Test methods and procedures.

(a) The reference methods in Appendix A to this part except as provided under § 60.8(b) shall be used to determine compliance with § 60.312 as follows:

(1) Method 24, or coating manufacturer's formulation date, for use in the determination of VOC content of each batch of coating as applied to the surface of the metal parts.

(2) Method 25 for the measurement of VOC concentration in the effluent gas entering and leaving the control device for each stack equipped with an emission control device.

(3) Method 1 for sample and velocity traverses.

(4) Method 2 for velocity and volumetric flow rate.

(5) Method 3 for gas analysis.

(6) Method 4 for stack gas moisture.

(b) For Method 24, the coating sample must be at least a 1 liter sample taken at a point where the sample will be representative of the coating material as applied to the surface of the metal part.

(c) For Method 25, the minimum sampling time for each run is 60 minutes and the minimum sample volume is 0.003 dry standard cubic meters except that shorter sampling times or smaller volumes, when necessitated by process variables or other factors, may be approved by the Administrator.

(Sec. 114 of the Clean Air Act, as amended (42 U.S.C. 7414))

[FR Doc. 80-37084 Filed 11-26-80; 8:45 am]

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federal register

Friday
November 28, 1980

Part IX

Department of the Interior

Bureau of Land Management

California Outer Continental Shelf; Tentative Sale No. 73; Call for Nominations of and Comments on Areas for Oil and Gas Leasing

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UNITED STATES
DEPARTMENT OF THE INTERIOR

Bureau of Land Management

CALIFORNIA OUTER CONTINENTAL SHELF

TENTATIVE SALE NO. 73

CALL FOR NOMINATIONS OF AND COMMENTS ON AREAS FOR OIL

AND GAS LEASING

PURPOSE OF CALL

Section 102 of the Outer Continental Shelf Lands Act Amendments of 1978 describes the purposes of that Act. One of the purposes is to establish policies and procedures intended to expedite exploration and development of the Outer Continental Shelf (OCS) in order to achieve national economic and energy policy goals, assure national security, reduce dependence on foreign sources, and maintain a favorable balance of payments in world trade. Equally important purposes include balancing energy resources development with the protection of the human, marine, and coastal environments, as well as assuring State and local governments the opportunity to review and comment on decisions relating to OCS activities. To assist the Secretary of the Interior in carrying out these purposes, and pursuant to 43 CFR 3313.1, nominations are hereby requested for areas on the California Outer Continental Shelf for possible oil and gas leasing under the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1331-1343). The Secretary is also requesting comments on the possible environmental impacts and potential use conflicts in specified areas.

DESCRIPTION OF THE AREA

The area offshore California extends from the U.S. Mexican border north to the approximate Oregon-California border.

1. Description of the outer limits of the Call area. Nominations will be considered for blocks seaward of the submerged lands of the adjacent State which are to be found on the Official Protraction Diagrams and Leasing Maps listed below, except as omitted by paragraph 2:

OCS LEASING MAPS/ OCS OFFICIAL PROTRACTION DIAGRAMS	LATEST APPROVAL, OR REVISION DATE	COST
1. NH 11-1, Bushnell Knoll	12/12/79	$2.00
2. NI 11-10, San Clemente	9/27/77	$2.00
3. 6A Channel Islands Area	7/24/67	$1.00
4. 6B "	7/24/67	$1.00
5. 6C "	4/25/77	$2.00
6. 6D "	8/8/66	$1.00
7. 6E "	8/8/66	$1.00

Except for blocks omitted by paragraph 2, nominations will also be considered within the mapped areas covered by diagrams 8-18 listed below. The areas may be described as follows: beginning at that point at which the Three Geographical Mile Line intersects the south boundary of block 467, found on OCS Official Protraction Diagram NI 10-6; thence west to the southwest corner of block 458; thence north to the northwest corner of block 370; thence west to the southwest corner of block 313, thence north to the northwest corner of block 974, found on OCS Official Protraction Diagram NJ 10-12; thence west to the southwest corner of block 959, found on OCS Official Protraction Diagram NJ 10-11; thence north to the northwest corner of block 299; thence west to the southwest corner of block 250; thence north to the northwest corner of block 118; thence west to the southwest corner of block 61; thence north to the northwest corner of block 325, found on OCS Official Protraction Diagram NJ 10-8; thence west to the southwest corner of block 270; thence north to the

northwest corner of block 402, found on OCS Official Protraction Diagram NJ 10-5; thence west to the southwest corner of block 385, found on OCS Official Protraction Diagram NJ 10-4; thence north to the northwest corner of block 77, found on OCS Official Protraction Diagram NJ 10-1; thence west to the southwest corner of block 22; thence north to the northwest corner of block 20, found on OCS Official Protraction Diagram NK 10-7; thence east to that point where the Three Geographical Mile Line intersects the north boundary of block 31; thence southward along the Three Geographical Mile Line to the point of beginning. The mapped areas so described are within the following protraction diagrams:

OCS OFFICIAL PROTRACTON DIAGRAMS	LATEST APPROVAL REVISION DATE	COST
8. NI 10-3, San Luis Obispo	3/26/76	$2.00
9. NI 10-6, Santa Maria	3/26/76	$2.00
10. NJ 10-1, Hoyo Canyon	11/2/76	$2.00
11. NJ 10-2, Ukiah	11/2/76	$2.00
12. NJ 10-4, Navarro Canyon	11/2/76	$2.00
13. NJ 10-5, Santa Rosa	11/2/76	$2.00
14. NJ 10-8, San Francisco	11/2/76	$2.00
15. NJ 10-11, Santa Cruz	3/26/76	$2.00
16. NJ 10-12, Monterey Bay	3/26/76	$2.00
17. NK 10-7, Crescent City	11/5/76	$2.00
18. NK 10-10, Eureka	4/18/79	$2.00

Official Protraction Diagrams may be purchased from the Manager, Pacific OCS Office, Bureau of Land Management, 1340 West 6th Street, Room 200, Los Angeles, CA. 90017.

2. Blocks excluded from the Call for Nominations and Comments

Map No. 6A Channel Island Area

***39N	74W	46N	78W
***39N	75W	46N	82W
***39N	76W	46N	83W
***40N	72W	***46N	84W
***40N	73W	***47N	72W
***40N	74W	***47N	73W
40N	75W	***47N	74W
***40N	76W	***47N	75W
***40N	77W	***47N	76W
41N	72W	***47N	77W
41N	73W	47N	78W
41N	74W	47N	79W
41N	75W	47N	81W
41N	76W	47N	83W
***41N	77W	***47N	84W
***41N	78W	***48N	77W
42N	77W	***48N	78W
***42N	78W	48N	79W
***42N	79W	48N	80W
***42N	80W	48N	81W
43N	77W	48N	82W
43N	78W	48N	83W
43N	79W	***48N	84W
***43N	80W	***49N	78W
***43N	81W	***49N	79W
***43N	82W	***49N	80W
***43N	83W	***49N	81W
44N	80W	***49N	82W
44N	81W	***49N	83W
44N	82W	***49N	84W
***44N	83W		
45N	72W		
45N	76W		
45N	77W		
45N	82W		
***45N	83W		
***45N	84W		
46N	72W		
46N	73W		
46N	74W		
46N	75W		
46N	76W		
46N	77W		

*** That portion of the block within the Designated Channel Island Marine Sanctuary.

Map No. 6C Channel Islands Area

9H 19W	16H 25W	23H 28W			
9H 20W	16H 26W	24H 23W			
10H 19W	16H 27W	24H 24W			
10H 20W	16H 28W	24H 25W			
10H 21W	17H 23W	24H 26W			
10H 22W	17H 24W	24H 27W			
10H 23W	17H 25W	24H 28W			
10H 24W	17H 26W	25H 24W			
10H 25W	17H 27W	25H 25W			
11H 19W	17H 28W	25H 26W			
11H 20W	17H 29W	25H 27W			
11H 21W	18H 21W	25H 28W			
11H 22W	18H 22W	26H 25W			
11H 23W	18H 23W	26H 26W			
11H 24W	18H 24W	26H 27W			
11H 25W	18H 25W	26H 28W			
11H 26W	18H 26W	27H 27W			
11H 27W	18H 27W	27H 28W			
11H 28W	18H 28W	27H 29W			
12H 21W	18H 29W	27H 30W			
12H 22W	19H 21W	28H 27W			
12H 23W	19H 22W	28H 28W			
12H 24W	19H 23W	28H 29W			
12H 25W	19H 24W	28H 30W			
12H 26W	19H 25W	29H 29W			
12H 27W	19H 26W	29H 30W			
12H 28W	19H 27W	30H 29W			
13H 21W	19H 28W	30H 30W			
13H 22W	20H 22W				
13H 23W	20H 23W				
13H 24W	20H 24W				
13H 25W	20H 25W				
13H 26W	20H 26W				
13H 27W	20H 27W				
13H 28W	20H 28W				
14H 21W	21H 23W				
14H 22W	21H 24W				
14H 23W	21H 25W				
14H 24W	21H 26W				
14H 25W	21H 27W				
14H 26W	21H 28W				
14H 27W	21H 29W				
14H 28W	22H 22W				
15H 21W	22H 23W				
15H 22W	22H 24W				
15H 23W	22H 25W				
15H 24W	22H 26W				
15H 25W	22H 27W				
15H 26W	22H 28W				
15H 27W	23H 23W				
15H 28W	23H 24W				
15H 29W	23H 25W				
16H 25W	23H 26W				
16H 26W	23H 27W				

Map No. 6D Channel Island Area

***29H	53W
***29H	54W
***29H	55W
***29H	56W

*** That portion of the block within the Designated Channel Islands Marine Sanctuary.

Map No. 6B Channel Islands Area

***30H	52W	***41H	60W	44H	54W
30H	53W	***41H	61W	44H	55W
30H	54W	***41H	62W	***44H	56W
***30H	55W	***41H	63W	44H	57W
***30H	56W	***41H	64W	***45H	58W
***30H	57W	***41H	65W	45H	59W
***31H	52W	***41H	66W	45H	60W
31H	53W	***41H	67W	45H	61W
31H	54W	***41H	68W	45H	62W
31H	55W	41H	69W	45H	63W
***31H	56W	***41H	70W	45H	64W
***31H	57W	***41H	71W	45H	65W
***32H	52W	42H	43W	***46H	58W
32H	53W	42H	44W	***46H	59W
32H	54W	42H	45W	***46H	60W
32H	55W	42H	46W	***46H	61W
***32H	56W	42H	47W	***46H	62W
***32H	57W	42H	48W	46H	63W
***33H	52W	42H	49W	46H	64W
33H	53W	42H	50W	46H	65W
33H	54W	42H	51W	46H	66W
33H	55W	42H	52W	46H	67W
***33H	56W	42H	53W	46H	68W
***33H	57W	***42H	58W	46H	69W
***34H	33W	***42H	59W	46H	70W
***34H	34W	***42H	60W	46H	71W
***34H	55W	42H	61W	***47H	62W
***34H	56W	***42H	62W	***47H	63W
		42H	63W	***47H	64W
		42H	64W	***47H	65W
		42H	65W	***47H	66W
39H	43W	42H	66W	***47H	67W
39H	44W	42H	67W	***47H	68W
39H	45W	42H	69W	47H	69W
39H	46W	42H	70W	47H	70W
40H	43W	42H	71W	***47H	71W
40H	44W	43H	44W	***48H	68W
40H	45W	43H	45W	***48H	69W
40H	46W	43H	47W	***48H	70W
40H	47W	43H	48W	48H	71W
***40H	48W	43H	49W	51H	65W (MW1/AW1/4)
***40H	67W	43H	50W	51H	66W (W1/2)
***40H	68W	43H	51W	51H	67W (W1/2)
***40H	69W	43H	52W	51H	68W (W1/2W1/2)
***40H	70W	43H	53W	52H	64W
***40H	71W	43H	54W	52H	65W
41H	43W	43H	55W	52H	66W
41H	44W	***43H	56W	52H	67W
41H	45W	43H	57W	52H	68W
41H	46W	43H	58W	52H	69W
41H	47W	43H	59W		
41H	48W	43H	60W		
41H	49W	43H	61W		
		43H	62W		
		43H	63W		
		44H	53W		

*** That portion of block within the Designated Channel Islands Marine Sanctuary.

MJ 10-8 (CONT.)	MJ 10-9 (CONT.)	MJ 10-10 (CONT.)	MJ 10-12 MONTEREY BAY
246	821	251	573
247*	861	293	617
284*	862	294	661
285*	863	295	
286*	864		MJ 10-11 SANTA CRUZ
289*	865		
290*	906	32**	
291*	907	33	
376	908	34	
377	909	74**	
378	951	77**	
379	952	78	
420	953	79	
421	954	80	
422	955	122**	
423	956	123**	
464	996	124	
465	997	125	
466	998	167**	
467	999**	168**	
508	1000	169	
509	1001	212**	
510		213	
511	MJ 10-10 EUREKA	214**	
552		257	
553	27	258	
554	28	300**	
555	29	301**	
596	30	302	
597	71	345**	
598	72	346	
599	73	388**	
641	74	389**	
642	115	390	
643	116	432**	
644	117	433	
685	118	476**	
686	119	477**	
687	159	478	
688	160	521**	
729	161	522	
730	162	565**	
731	163	566	
732	203	609**	
773	204	610	
774	205	654**	
775	206	698**	
776	207		
817	248		
818	249		
819	250		
820			

*That portion of the block within 15 statute miles of the boundaries of the Pt. Reyes Wilderness as depicted on a map entitled "Wilderness Plan, Point Reyes National Seashore", numbered 612-90,000-B and dated September 1976.
**That portion of the block within 3 miles of the three Geographical Mile Line.

MJ 10-1 MOTO CANYON	MJ 10-5 (CONT.)	MJ 10-8 (CONT.)
608	721	
652	722	99
696	761	62
740	762	63
	763*	64
MJ 10-2 BRIAN	764	65
	765	66
573	766	67
574	767	103*
617	805	104
618	806	105
661	807*	106
662	808	107
705	809	108
706	810	109
750	811	110
793	851*	111
794	852	112
795	853	147*
796	854	148*
837	855	149
838	894*	150
839	895	151
840	896	152
882	897	153
883	898	154
884	938*	155
927	939	156
928	940	157
971	941	158
972	942	159*
973	943	194
	983*	195
MJ 10-3 SANTA ROSA	984	196
	985	197
580*	986	198
581*		199
624*	MJ 10-6 SAN FRANCISCO	200
625		201
626	14*	202
670*	15	203
671	16	239*
672	17	240*
716*	18	241*
717	19	242*
718*	21	243
720	22*	244

*That portion of the block within 15 statute miles of the boundaries of the Pt. Reyes Wilderness as depicted on a map entitled "Wilderness Plan, Point Reyes National Seashore", numbered 612-90,000-B and dated September 1976.

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scope of areas which can be successfully planned for a single sale, only a portion of the blocks nominated are selected for further environmental analysis and possible leasing.

Comments will be considered along with other relevant information available to the Secretary to determine what blocks should be designated for further environmental analysis and study. A general rule, blocks which are believed to have potential for the production of hydrocarbons are not excluded from further environmental study unless the Secretary has sufficient information to conclude that it is not possible for these blocks to be developed in an environmentally safe manner.

In any event, selection of blocks for further environmental analysis does not insure that the blocks will be subsequently offered for lease or that they will be deleted for environmental or use conflicts. It simply insures that more information will be available when the decision is made. In performing additional environmental analyses leading to a sale decision, the Department will take into account comments received as it determines particular areas and issues for attention.

Final selection of blocks for competitive bidding will be made only at a later date after compliance with established Departmental procedures and all requirements of the National Environmental Policy Act of 1969. Notice of any blocks finally selected for competitive bidding will be published in the Federal Register stating the conditions and terms for leasing and the place, date, and hour at which bids will be received and opened.

Approved: NOV 25 1980

Secretary of the Interior

Assistant

Director, Bureau of Land Management

Associate

INSTRUCTIONS ON CALL

Nominations must be described by referring to the OCS Official Protraction Diagrams and/or OCS Leasing Maps prepared by the Bureau of Land Management, Department of the Interior and referred to above. Only blocks as described above may be nominated.

Those nominating twelve blocks or more are requested to arrange their nominations into three groups according to the priority of their interest.

In addition to nominations, we are seeking comments about particular geological, environmental, biological, archaeological, socioeconomic conditions or problems, or other information which might bear upon potential leasing and development of particular blocks.

Comments should be as specific as possible in identifying individual blocks or areas which should receive special concern and analysis.

Nominations and comments must be submitted not later than January 30, 1981, in envelopes labeled, "Nominations of Tracts for Leasing in the California Outer Continental Shelf" or "Comments on Leasing in the California Outer Continental Shelf," as appropriate. They must be submitted to the Manager, Pacific Outer Continental Shelf Office, Bureau of Land Management, at the address cited above. Copies should be sent to the Director, Attention 541, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240 and to the Conservation Manager, Pacific Region, U.S. Geological Survey, 1340 West Sixth Street, Room 100, Los Angeles, CA 90017 and to the Director, U.S. Geological Survey, National Center, Mail Stop 101, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

USE OF INFORMATION FROM CALL

Nominations will be evaluated and used along with geological and geophysical information to determine what, if any, blocks should be tentatively selected for further environmental analysis pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4347) and the OCS Lands Act, as amended. Generally, because of limits on the geographical

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Reader Aids

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INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

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72178 10–31–80 / Provisions for taking of marine mammals incidental to commercial fishing operations

HEALTH AND HUMAN SERVICES
Food and Drug Administration

71354 10–28–80 / Exemption of dermatologic and vaginal antibiotic drug products from certification

INTERIOR DEPARTMENT
Heritage Conservation and Recreation Service—

71714 10–29–80 / Urban park and recreation recovery program

List of Public Laws

Last Current Listing October 24, 1980

Last Cumulative Listing November 5, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 7212 / Pub. L. 96–484 To ratify a settlement agreement in a land dispute between the Pamunkey Indian Tribe and the Southern Railway Company, and for other purposes. (November 24, 1980; 94 Stat. 2365) Price: $1

V 45 NO 228 80 0 UMI

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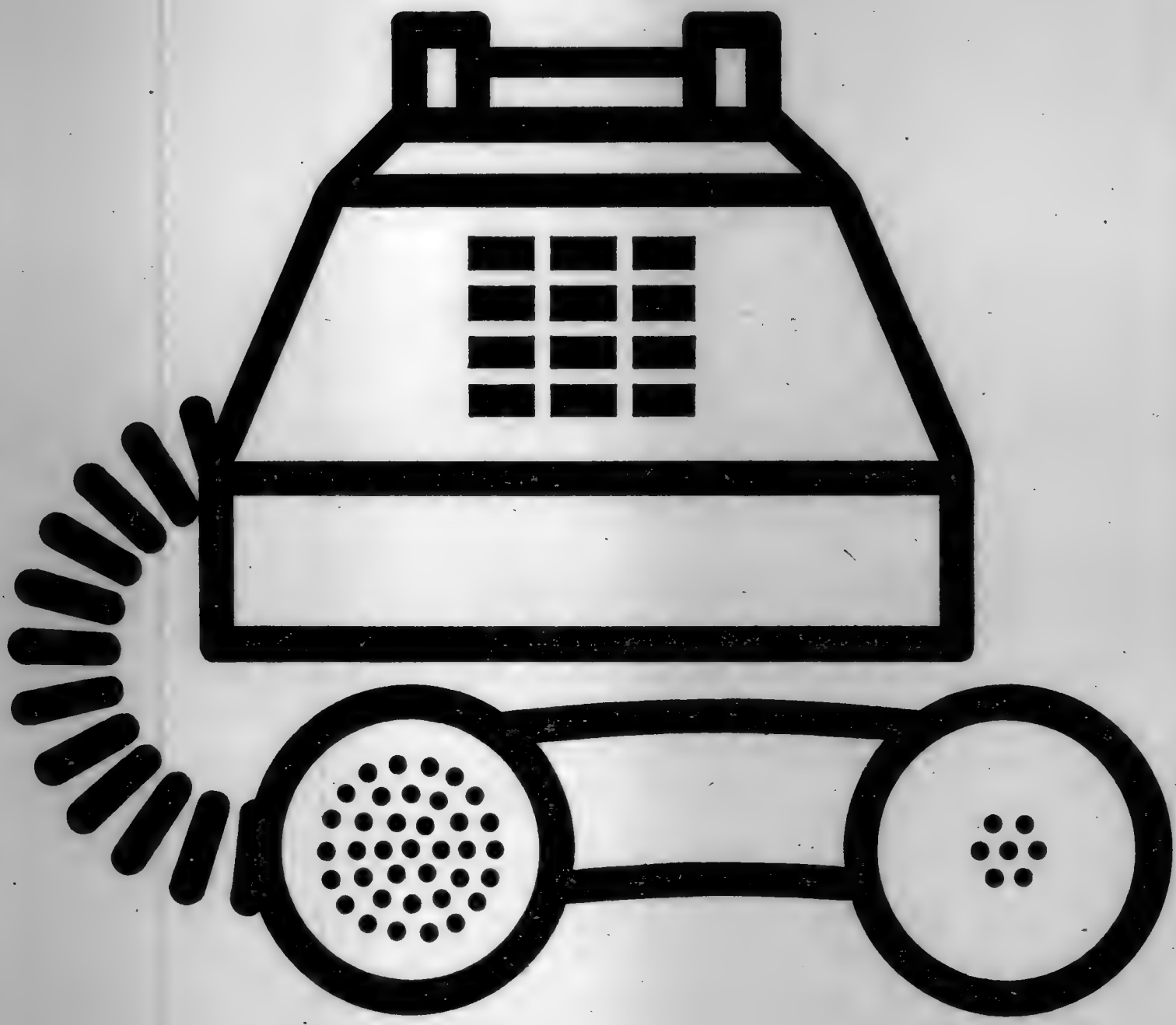

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code of federal regulations

LSA

List of CFR Sections Affected

December 1980

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for Annual Cumulation
of Titles 1–16*

CONTAINING:

TITLES 1–16
*Changes Jan. 2, 1980
through December 31, 1980

TITLES 17–27
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TITLES 28–41
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PARALLEL TABLE OF U.S.C.–C.F.R.

LSA—LIST OF CFR SECTIONS AFFECTED

The LIST OF CFR SECTIONS AFFECTED is a monthly publication designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles, except for Title 41, in which proposed rules follow each chapter.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

Titles 1–16—as of Jan. 1
17–27—as of April 1
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To bring these regulations up to date, consult the most recent LIST OF CFR SECTIONS AFFECTED for any changes, additions, or deletions published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing in the Reader Aids of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

Cite a page reference from this publication as 45 FR for 1980 page numbers. Example: Page 57234 cite as 45 FR 57234.

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There is no single annual issue of the LIST OF CFR SECTIONS AFFECTED. Four ANNUAL ISSUES must be saved: the DECEMBER issue is the ANNUAL for Titles 1–16; the MARCH issue is the ANNUAL for Titles 17–27; the JUNE issue is the ANNUAL for Titles 28–41; the SEPTEMBER issue is the ANNUAL for Titles 42–50. ANNUAL ISSUES to be saved are clearly designated on the cover.

PARALLEL TABLE OF STATUTORY AUTHORITIES AND RULES

A table is included after Title 50 which contains references to the U.S. Code sections cited as authority for CFR regulations added or revised since July 1, 1980.

TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A table is included at the end of this publication which identifies the inclusive page numbers and corresponding Federal Register issue dates for the period covered.

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INQUIRIES AND SUGGESTIONS

This publication was prepared under the editorial direction of Martha B. Girard assisted by Ruth C. Pontius, with Loren Myers as Chief Editor. INQUIRIES, telephone 202–523–5227.

SUGGESTIONS concerning this and other publications of the Office are welcomed. Please send your suggestions to the Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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351.40 Revised; eff. 4–1–81	62017
351.50 Removed; eff. 4–1–81	62018
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551.101—551.104 (Subpart A) Added; eff. 1–29–81	85663
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871.202 Revised; interim; eff. 3–1–81 84958
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871.204 (b) revised; (d) added; interim; eff. 3–1–81 84958
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871.401 (c) revised; (g) added; interim; eff. 4–1–81 84959
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1304 Added 84007

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2500 Redesignated from 32 CFR Part 2500 20453
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2502 Added 47112
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1.160—1.175 (Subpart I) Added 6587
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2.5 (b) amended 10751
2.13—2.29 (Subpart C) Heading revised 10751
2.17 (b)(20) added 43366
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2.21 (a)(3) revised; (a)(6) and (7) added 69407
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2.23 (g) added 52355
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(a) introductory text revised; (a)(13) through (18) added 52356
2.85 Heading and (a)(2) and (14) revised; (a)(1) removed; (a)(16) added 62784
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6 Appendix 2 corrected 33589
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20.6 (a) introductory text and (e) amended; (d) introductory text revised 8562
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28.525 (a) table amended 46783
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102.18 (d) revised 5661
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102.65 (a)(9) revised 5662
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210.7 (b) revised 51176
210.8 (e)(18) added; interim 64084

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501.20—501.23 (Subpart B) Removed 38289
501.30—501.35 (Subpart C) Revised 38289
501.31 (b) added 53693
501.33 Added 53693
501.40—501.41 (Subpart D) Revised 38291
501.51 Revised 53693
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501.60—501.69 (Subpart F) Revised 38292
501.100—501.103 (Subpart G) Revised 38294
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502 Removed 38299
503 Heading revised 38308
503.1—503.3 (Subpart A) Revised 38309
503.4—503.16 (Subpart B) Revised 38309
503.6 Added; eff. 1-23-81 84972
503.20—503.25 (Subpart C) Revised 38312
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503.31—503.33 Revised 38315
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503.41 Revised 38320
503.42 Revised 38321
503.43 Added 38322
504 Heading revised 53694
504.1 (Subpart A) Revised 53694
504.2—504.7 (Subpart B) Revised 53696
504.10—504.21 (Subpart C) Revised 53698
504.12 Removed 40967
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504.30—504.40 (Subpart D) Heading revised 53701
504.30 Revised 53701
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504.34 Revised 53703
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504.41 Removed; regulations transferred to 504.61 53710
504.50—504.63 (Subpart E) Added 53705
505.1—505.2 (Subpart A) Removed 38322

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505.3—505.9 (Subpart B) Removed 38322
505.10—505.15 (Subpart C) Removed 38322
505.20—505.26 Removed 38322
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505.29 Removed 38322
505.31 Removed 38322
506 Heading removed 53692
506.1—506.2 (Subpart A) Removed; regulations transferred to Part 504 53692
506.10—506.16 (Subpart B) Removed; regulations transferred in part to Part 504 53692
506.12 Removed 40967
506.20—506.27 (Subpart C) Removed; regulations transferred to Part 504 53692
506.30—503.34 Removed; regulations transferred to Part 504 53692
506.36—506.40 Removed; regulations transferred in part to Part 504 53692
506 Appendix I removed 53692
507 Removed 38299
507.5 Filing deadlines deferred 6084
507.6 Filing deadlines deferred 6084
507.7 Filing deadlines deferred 6084
516.11 (d) revised 35208
516.43 Revised 35208
516.44 (b) revised 35209
516.46 Revised 35209
570 Added (effective pending congressional review) 41346
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600.200—600.290 (Subpart C) Added 46047
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1980–4 69211

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703.200—703.203 Removed 36053
708 Correctly removed 63232
714 Redesignated as 1014 and revised 7768
781 Revised; supersedes AEC regulations formerly in 10 CFR Part 81 73447
782 Added 26950
790.4 (e) revised 67308
796 Added 15473
797 Added 3543
797.3 (a) amended 62031
798 Added 31607
799 Added 67025
903 Added 86983

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1008 Added 61577
1009 Added 70430
1014 Redesignated from 714 and revised 7768
1023.200—1023.203 (Subpart B) Added 36053
1024 Added 29764
1040 Added 40515
1050 Added 53972

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1506 Added 60371

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2 3594, 5308, 13739, 20491, 26071, 34279, 35345, 50349, 66754, 85459
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51 3056, 13739, 24168, 50350, 74492, 79820
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1.1 (c) corrected 21209
1.14 (a) corrected 21209
3.2 (a) (1) corrected 21209
4.1 (b) and (e) revised; (f) added 31291
4.3 (b) and (c) removed; (a) designation removed 31291
4.4 (a) (3) revised; (a) (10) through (15) added 31291
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4.9 Revised 31292
5 Added 31293
100 Revised (effective pending congressional review) 15094
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100.5 (e) (5) added (effective pending congressional review 34867
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100.7 (a) (1) (i) (B), (ii) and (c) corrected 21209
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100.8 (b) (23) effective date confirmed 21210
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101 Revised (effective pending congressional review) 15103
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104 Revised (effective pending congressional review) 15108
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105 Revised (effective pending congressional review) 15116
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106.1 (c)(3) added (effective pending congressional review) 15117
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106.2 (a) revised (effective pending congressional review) 15117
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106.3 (d) revised (effective pending congressional review) 15117
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109 Revised (effective pending congressional review) 15118
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110.2 (b) revised (effective pending congressional review) 15119
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(b) effective date confirmed 21211
110.3 (a)(1)(i) corrected 21210
110.5 (d) added (effective pending congressional review) 34867
(d) effective date confirmed 52357
110.6 (c)(4) introductory text and (i) revised (effective pending congressional review) 15119
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110.7 (c)(2) revised; (c)(3) removed (effective pending congressional review) 15119
(c)(2) effective date confirmed 21211
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110.8 (c)(2) corrected 21210
110.11 (a)(1) and (2) revised; (c) removed (effective pending congressional review) 15119
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110.12 (a) and (b)(5) revised; (b)(6) added (effective pending congressional review) 15120
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110.13 Effective date confirmed 21210
110.14 Added (effective pending congressional review) 34867
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112 Revised (effective pending congressional review) 15123
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113 Revised (effective pending congressional review) 15124
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114.1 (a)(2)(v) revised (effective pending congressional review) 15125
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114.3 (b) corrected 21210
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9001—9007 (Subchapter E) Added (effective pending congressional review) 43378
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9001 Added effective pending congressional review) 43378
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9002 Added (effective pending congressional review) 43378
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9003 Added (effective pending congressional review) 43379
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9004 Added (effective pending congressional review) 43383
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1030 Authority citation revised 82914
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1205.6 Figure 7 revised	86421
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1209 Petition denied	26333
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1212.6 (a)(4) corrected	68930
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1.7 Removed; eff. 7-1-81	80491
1.9 Removed; eff. 7-1-81	80491
1.10—1.18 Undesignated center heading added; eff. 7-1-81	80491
1.10 Heading revised; (a)(1) removed; eff. 7-1-81	80491
1.10a—1.10e Removed; eff. 7-1-81	80491
1.11 Removed; eff. 7-1-81	80491
1.12 (b) revised	79422
1.13—1.15 Removed; eff. 7-1-81	80491
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140.72 Added	58515
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131.145 (e) (1) (iii) revised; eff. 7–1–83; voluntary compliance 2–10–81 81737
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175.105 (c) (5) table amended 48124, 51185, 56796, 76998
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52.1525 Removed	62815
52.1527 (a)(4) and (5) removed	59314
(b)(1) removed; (b)(2) through (6) redesignated as (b)(1) through (5)	83228
52.1529 (a) and (b) revised	52741
52.1570 (c)(26) added	72153
52.1581 (b) removed	72153
52.1603 (a) and (b) revised	52741
52.1620 (c)(16) added	85007
52.1621 Table amended	67347
52.1624 (a)(1) and (b) revised	67347
52.1626 (b) added	85007
52.1630 Table amended	67347
52.1634 (a) and (b) revised	52741
52.1670 (c)(52) added	44275
(c)(53) added	53144
(c)(44) revised; (c)(54) added	74477
52.1673 Revised	74477
52.1674 (a)(2), (d)(1), (2), and (3), and (f)(1) removed	44275
(a), (b), and (c) introductory texts revised; (g) added	74478
52.1675 (g) added	53144
52.1682 Table amended	74478
52.1689 (a) and (b) revised	52741
52.1770 (c)(22) added	55425
(c)(23) added	59579
52.1778 (a) and (b) revised	52741
52.1780 (a)(1) removed	59579
52.1781 Added	55425
52.1820 (c)(11) added	53476

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52.1870 (c)(24) added 72122
(c)(14) through (20) added 72140
(c)(21) and (22) added 72146
(c)(23) added 79053
52.1871 Table amended 72141, 72146
52.1873 Revised 72141, 72146
52.1875 (a) table footnote f revised 49552
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52.1879 (a) and (b) correctly removed; (e) correctly added 72122, 82927
52.1881 (b)(59)(xiv) added; (b)(59)(xvii) revised 49552
(b)(60)(ix) added 62816
(b)(38)(vi) introductory text, (B), and (C) and (vii) revised; (b)(38)(vi)(D) added 73044
(b)(40)(iv) revised 78686
(b)(40)(viii) and (ix) added 79452
52.1882 (e) revised; (f) added 49552
(h) added 73929
52.1884 (a) and (b) revised 52741
52.1885 Added 72142
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52.1886 Added 72142
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52.1887 Added 72143
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52.1920 (c)(15) and (16) added 79052
52.1923 Removed 79052
52.1924 Removed 79052
52.1929 (a) and (b) revised 52741
52.1930 Removed 79052
52.1932 (b) removed 79052
52.1970 (c)(32) added 47427
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52.1985 (a)(3)(i) and (ii) correctly removed 55422
52.1987 (a) and (b) revised 52741
52.2020 (c)(33) added 55179
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52.2058 (a) and (b) revised 52741
52.2083 (a) and (b) revised 52741
52.2120 (c)(12) added 45581
52.2131 (a) and (b) revised 52741
52.2170 (c)(7) added 58529
52.2178 (a) and (b) revised 52741
52.2220 (c)(33) added 53817
(c)(34) added 75661
52.2222 Revised 53817
52.2225 (b) and (c) added 53817
52.2230 Revised 53818
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52.2231 Added 53817
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52.2270—52.2303 (Subpart SS) State implementation plan supplementary information 48887
52.2270 (c)(24) added 52148
52.2275 (a)(3) and (4)(ii) revised 82253
52.2276 (a) revised 82253
52.2299 (a)(1) and (2) revised 82253
52.2303 (a) and (b) revised 52741
52.2320 (c)(7) added 59581
52.2346 (a) and (b) revised 52741
52.2370 (c)(11) added 59315
52.2382 (a) removed; (b) redesignated as (a) 59315
(b)(1) removed 66789
52.2420 (c)(27) and (28) added 55195
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52.2422 (c) added 55195
52.2423 (c) through (f) added 55195
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52.2429 Table revised 55196
52.2431 Heading revised; (e) added 55196
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52.2436 (b) added 55197
52.2451 (a) and (b) revised 52741
52.2470 (c)(22) added 50751
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52.2487 (a)(2) added 85009
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52.2522 (c) correctly designated; (d) added 54051
(e) added 74480
52.2523 Table revised 54052
52.2528 (a) and (b) revised 52741
52.2529 Added 54051

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52.2530 Added 54052
52.2531 Added 54052
52.2532 Added 54052
52.2581 (a) and (b) revised 52741
52.2676 (a) and (b) revised 52741
52.2720 (c)(26) and (27) added 72658
52.2722 Revised 72658
52.2723 Revised 72658
52.2729 (a) and (b) revised 52741
52.2732 Added 72658
52.2779 (a) and (b) revised 52741
52.2791 Removed 52148
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55.230 (f)(1) and (3), and (k)(4) and (5) revised; (f)(2) removed 73929
56 Added 85405
57.816 Revised 85015
57 Appendix A amended 85016
60.2 Amended 85415
60.4 (b)(NN)(b) correctly added; (b)(OO) corrected 50751
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60.42 (b)(2) correctly added 47146
60.45 (g)(1)(ii) correctly added 47146
60.101 (d) revised 79453
60.112a (a)(1)(ii)(B) corrected 83229
60.290—60.296 (Subpart (CC) Added 66751
60.390—60.397 (Subpart MM) Added 85415
60.420—60.424 (Subpart PP) Added 74850
60 Appendix A amended 65958, 66752
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62.13352 Section and undesignated center heading added 80826
65.350 Table amended 46386
65.361 Table amended 73046
65.362 Table amended 73046
65.432 Designation corrected 45278
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80 Petition for reconsideration denied 65581
80.20 (a)(7) revised 55135
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81.13 Amended 84788
81.36 Revised 67347
81.99 Revised 67347
81.121 Revised 67347
81.184 Amended 84788
81.269 Added 67347
81.270 Added 67347
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81.272 Added 67348
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81.307 Amended 84788
81.311 Amended 63844
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81.317 Amended 73048
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81.329 Amended 46807
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81.350 Amended 67349
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85.2112—85.2122 (Subpart V) Added 78458
86 Petition for reconsideration denied 48133
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86.078-7 (a)(2)(i)(B) revised 63747
86.081-8 (a)(1)(ii) revised 49876, 53400
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(a)(1)(iii) table corrected 81202
86.082-1 Added 67002
86.082-2 Added 67002
86.082-8 (a)(1) revised; (d), (e), (f), and (g) added 67002
(a)(1)(iii) revised 78125
(a)(1)(iii) table corrected 81202
86.082-9 (a)(1) revised; (d), (e), (f), and (g) added 67003
86.082-21 Added 67003
86.082-24 Added 67004
86.082-26 Added 67007
86.082-28 (a)(4)(i)(B) revised 67009
86.082-30 Added 67009
86.082-35 Added 67013
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86.084-22 Revised 63749
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86.084–35 Revised 63767
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86.085–28 Revised 63770
86.1001–84—86.1014–84 (Subpart K) Revised 63772
86.1344–84 (d) and (e) corrected 63772
86.1601—86.1606 (Subpart Q) Added 66956
86 Appendix X (Sampling Plans for Selective Enforcement Auditing of Heavy-Duty Engines) revised 63783
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87.7 Added 86947
87.21 (d) and (e) (1) revised 86947
117 Eff. in part 11–20–80 61617
120.27 Removed 81042
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122.4 (b) interpretation 74490
122.6 Policy statement 52149
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122.21 (d) (2) (vi) added 76075
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(d) (2) (vi) added; interim 86968
122.22 (a) (1) revised; (a) (2) and (3) redesignated as (a) (4) and (5); new (a) (2) and (3) added; interim 76635
122.23 (a) (1) revised; interim 76636
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123.35 (c) revised; interim 86974
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124.5 (g) (2) revised 52748
124.42 (b) amended 52748
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125 Availability of regulations 61617
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141.6 (c), (d), and (e) added 57342
141.11 (a) and (c) revised; (d) added 57342
141.14 (a) (1), (b) (1) (i) and (2) (i) revised; (d) added 57343
141.21 (a) and (c) revised; (i) added 57343
141.22 (a) revised; (e) added 57344
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180.1 (j) (6) revised 82928
180.34 (f) table amended 82928
180.111 Table amended 76146
180.154 Table amended 76146
180.155 Introductory text revised 78687
180.169 Table amended 76147
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180.328 Table amended 64579
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180.350 Revised 60431
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180.1011 (b) revised 56347
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205 Appendix heading amended and redesignated to Subpart F 65595
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262.34 (a) (1) revised; interim 76626
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263.11 Special procedures 85022
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263.20 (e) introductory text, (1), (4), and (5) revised; (f) redesignated as (g) and new (f) added; interim 86973
263.22 (b) introductory text revised; (c) and (d) redesignated as (d) and (e) and new (c) added; interim 86973
264 Notification of impending amendments 55386
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1–1.702 (b) (13) revised 55722
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1–3.603–3 Added 55722
1–3.802–1 (c) revised 55722
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1–4.1107–21 Added 66010
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[1] Public Law 96-88 transferred the regulations of the Office of Education, Department of Health, Education, and Welfare, to the Department of Education, effective May 4, 1980 (45 FR 30802, May 9, 1980).

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1068.30–1—1068.30–4 (Subpart 1068.30) Removed 64940, 65233
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1068.30–2 (a)(2) revised; (b) removed 64940, 65233
1068.30–3 Heading and (a) introductory text revised 64940, 65233
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1068.50–1—1068.50–4 (Subpart 1068.50) Added 64940, 65233
1069.3–1—1069.3–6 (Subpart 1069.3) Removed 64940, 65233
1069.4–1—1069.4–5 (Subpart 1069.4) Removed 64940, 65233
1075 Removed 74929

Chapter XIII—Office of Human Development Services, Department of Health and Human Services

1321.151 (c)(3)(iii) and (v) through (viii) revised; (c)(3)(ix), (x) and (5) added 69459
1328.23 (b)(3)(iv), (vii), and (ix) revised; (b)(3)(x) and (5) added 69460
1357 Added 86813
1361 Redesignated as 34 CFR Part 361 77369
1362 Redesignated as 34 CFR Part 362 77369
1369 Redesignated as 34 CFR Part 369 77369
1370 Redesignated as 34 CFR Part 370 77369
1391 Authority citation correctly added 73059

Chapter XIV—National Institute of Education, Department of Education [1]

Chapter removed 77369
1400 Redesignated as 34 CFR Part 700 77369

[1] Public Law 96–88 transferred the regulations of the National Institute of Education, Department of Health, Education, and Welfare, to the Department of Education, effective May 4, 1980 (45 FR 30802, May 9, 1980).

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1403 Redesignated as 34 CFR Part 701 77369
1410 Redesignated as 34 CFR Part 702 77369
1430 Redesignated as 34 CFR Part 703 77369
1440 Redesignated as 34 CFR Part 705 77369
1450 Redesignated as 34 CFR Part 708 77369
1451 Redesignated as 34 CFR Part 710 77369
1460 Redesignated as 34 CFR Part 795 77369
1470 Redesignated as 34 CFR Part 714 77369
1480 Redesignated as 34 CFR Part 716 77369
1490 Redesignated as 34 CFR Part 718 77369
1495 Redesignated as 34 CFR Part 720 77369

Chapter XV—Fund for the Improvement of Postsecondary Education, Department of Education [1]

Chapter removed 77369
1501 Redesignated as 34 CFR Part 730 77369

Chapter XVIII—Harry S. Truman Scholarship Foundation

1801 Revised 81047

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1020 85485
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1223 74521
1226 80840
1300—1398 (Ch. XIII) 82666, 83816
1300 66180

[1] Public Law 96–88 transferred the regulations of the Fund for the Improvement of Postsecondary Education, Department of Health, Education, and Welfare, to the Department of Education, effective May 4, 1980 (45 FR 30802, May 9, 1980).

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1—197 (Chapter I) Nomenclature changes republished 65243
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4.03–5 Removed; interim 77441
4.05–1 Revised; interim 77441
4.05–5 Revised; interim 77441
4.05–30 Added; interim 77441
4.07–50 Removed; interim 77441
4.09–1 Revised; interim 77441
10.01–5 (b) revised 69239
10.03–1—10.03–20 (Subpart 10.03) Added 69239
12.05–1 Revised 69240
12.05–3 Revised 69240
12.05–7 Revised 69240
12.07–1—12.07–20 (Subpart 12.07) Added 69240
12.15–7 Revised 69241
12.17–1—12.17–20 (Subpart 12.17) Added 69241
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35 Incorporation by reference approvals 72464
35.15–1 (a) and (b) revised; interim 77442
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76 Incorporation by reference approvals 72464
78 Incorporation by reference approvals 72464
78.07–1 (a) revised; interim 77443
78.07–5 Revised; interim 77443
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90.10–40 Added 69244
90.30–10 Added 69244
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95 Incorporation by reference approvals 72464
97 Incorporation by reference approvals 72464
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151 Incorporation by reference approvals 72464
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175.10–40 Added 69244
175.35–1 (Subpart 175.35) Added 69244
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276.1 Heading revised; interim 68394
276.2 Heading revised; interim 68394
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385 Added 66168

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505.2 (c) amended 74931
505.3 Amended 74931
505.4 (a), (b)(2), (c)(1) and (2), and (d) amended 74931
505 Appendix A amended 74931
522.8 Added 66796
524.2 Revised 79075
524.3 Redesignated as 524.4 and heading revised; new 524.3 added 79075
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524.5 Redesignated as 524.6; new 524.5 redesignated from 524.4 79075
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540.32 (b) amended 74931
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0.91 Corrected 64950
Introductory text corrected 71569
0.460 (j) added 85027
0.461 (n) added 85028
0.465 (a) revised; (c)(3) amended 85028

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1.51	(c)(1) revised	79486
1.88	Added	65597
2.106	Footnote US 111 revised	78696
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2.925	(a), (b)(4), (c), and (g) amended	71356
2.969	(a) and (b) amended	71356
2.1003	(a) and (b) amended	71356
2.1045	(a) and (b) amended	71356
13.2	(b)(2)(ii) eff. 10–13–80	68937
13.3	(a) eff. 10–13–80	68937
13.5	(c)(2) eff. 10–13–80	68937
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13.27	Eff. 10–13–80	68937
13.28	Eff. 10–13–80	68937
13.61	(i) eff. 10–13–80	68937
13.62	(c) eff. 10–13–80	68937
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15.178	(b) and (c) amended	71356
15.186	(a) and (b) amended	71356
15.309	(b) revised	81569
15.314	(a), (b) introductory text and (1) amended	71356
15.375	(a) and (b) amended	71356
15.415	(a) and (b) amended	71356
15.805	Waived in part	83505
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63.55	Revised	82949
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63.61	Amended	76169
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63.90	(a) amended	76169
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64	Appendix A revised	81760
68	Order	67352
68.312	(b)(1)(iii) corrected	79486
73.202	(b) table amended	64950–64952, 67353, 67354, 69461, 69463, 69464, 69467, 78135, 78697, 78698, 84799–84802
73.606	(b) table amended	67353, 72663, 73074, 78137, 81204
73.610	(b) waived in part	73075
73.663	(b)(3) and (c)(3) clarification	69908
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74.636	Revised	78692
74.637	Revised	78692
74.641	Added	78693
74.655	Added; eff. in part 10–1–85	78693
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74.663	Revised	78694
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74.669	Added	78694
76	Order	70469
76.5	(x) removed	76179
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78.19	(a) revised	78694
78.101	(a) and (b) revised; (c) removed	78694
78.104	(b)(1) revised; (b)(2) removed	78694
78.105	Revised	78694
78.107	(b), (c), and (d) revised; (e) added	78695
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78.115	(b) removed	78696
81.140	(a)(1) and (2) introductory texts revised	76180
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81.152	(d) eff. 10–13–80	68937
81.154	(a) introductory text eff. 10–13–80	68937
81.304	(a) table, (b)(11), (21), (27), and (44), (c), and (f) introductory text revised; (b)(12), (13), (17), (23), (30) through (43), (45), (46), (53), (54), (56), and (58), and (h)(2)(i) removed	76180
81.306	(b) table note 1 revised; (c) table and (d) table revised	76181
81.308	(a) revised	76181
81.360	(a) revised; (c) removed	76181
81.361	(a) revised	76181
81.708	(a) table, (b)(10), (20)(ii), (35), and (40) revised; (b)(7), (8), (11), (12), (14), (15), (16), (41), and (45) removed	76182
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90.209	(c) introductory text, (f), and (g) revised	84803
90.211	(d) through (h) removed; new (d) added	84803
90.365	(a)(1) introductory text and (3) revised	81209
90.367	(a) revised	81209
90.374	Added	81208
90.375	(e) revised	81209
90.377	(c) revised	81209
94	Technical correction	67094
97.79	(d) interpretation	80106

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1.26	Revised	83405
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1.43	(b) revised	83405
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1.55 (f) revised 83408
1.57 Removed; new 1.57 redesignated from 1.56; new (b), (e), and (j) amended 83408
1.56 Redesignated as 1.57; new 1.56 added 83408
1.58 Removed; new 1.58 redesignated from 1.64 83409
1.59 (a)(1) and (c)(1) and (3)(i) amended; (a)(4) and (n) removed; (c)(6) through (10) redesignated as (c)(5) through (9); (b)(8), (e), and (k) through (m) revised 83409
1.60 Removed 83409
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1.62 Removed; new 1.62 redesignated from 1.65 and revised 83409
1.63 (d) added 83409
1.64 Redesignated as 1.58; new 1.64 added 83409
1.65 Redesignated as 1.62 and revised; new 1.65 added 83409
3 Revised 75666
23.51 Effective date confirmed 67667

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106.5 (a) amended 81571
106.9 Introductory text amended 81571
107.9 Introductory text and (d) amended 81571
107.109 (e) amended 81571
107.123 (a) amended 81571
171 Incorporation by reference approvals 81485
171.3 (d) amended 74648
171.7 (c)(28) amended 74648
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171.12 (b) revised 74648
171.16 (b) revised; (c) and (d) added 73683
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171.17 (a) introductory text and (c) amended 74648
172 Incorporation by reference approvals 81485
172.101 (b)(1) amended; (c)(9), (10), and introductory text of (11) and (j) revised; (c)(12) removed; (d)(3) and (g)(1) added 74649
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172.102 Heading, (a), and (b) revised; (h) introductory text, and (1) through (9) amended; table amended 74652
172.101—172.102 (Subpart B) Appendix A amended 74653
172.201 (a)(1)(iii) revised 74664
172.202 Revised 74665
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172.301 Redesignated from 172.300 and revised 74666
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172.312 (d) and (e) revised 68654
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172.324 Revised 74666
172.326 (a)(2) introductory text and (ii) and (d) amended 74666
172.328 (a) introductory text and (d) amended; (a)(1) and (b) revised 74666
172.330 (a)(2), (c)(1) and (e) amended; (g) revised 74667
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172.415 (b) amended 74668
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172.419 (b) amended 74668
172.423 (b) amended 74668
172.500 (b)(2) revised 74668
172.516 (c)(5) revised 74668
172.519 (d) revised 74668
173 Incorporation by reference approvals 81485
173.7 (b) amended 81571
173.8 (a) amended 74669
173.21 (b)(3) added 74669
173.29 (a)(1) and (3)(ii) revised; (d) added 74669
173.31 (c)(1) amended 81571
173.33 (f)(9) amended 81571

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173.34 (e)(1), (6), (13)(v), (15)(ii), and (16)(iii) amended 81571
173.107 (e) amended 81571
173.118a (b) revised 74669
173.125 (a)(5) and (7) removed 81571
173.149 (a)(1) amended 81571
173.153 (a)(1) and (b)(1) amended 81571
173.204 (a)(8) amended 81571
173.207 (e) amended 81571
173.214 (e) amended 81571
173.225 (b)(2) note 1 removed 81571
173.239a (a)(2) amended 81571
173.245 (b) revised 74669
173.249 (a)(7) and (10) amended 81571
173.257 (a)(6) and (14) amended; (a)(13) removed 81571
173.258 (a)(3) amended 81572
173.274 (a)(3) footnote 1 added 81572
173.289 (a)(5) removed 81572
173.294 (a)(1) amended 81572
173.300a (f) amended 81572
173.300b (a) amended 81572
173.300c (a)(4) amended 81572
173.301 (h) table and (k) amended 81572
173.306 (c)(7) and (d)(3)(i) amended 81572
173.314 (c) table note 25 revised 81572
173.315 (l)(2)(iii) amended 81572
173.328 (a)(2) amended 81572
173.353 (a)(5) amended 81572
173.356 (a)(1) amended 81572
173.364 (a) introductory text amended 74669
173.377 (j) introductory text and (5) amended 81572
173.393a Heading, (a) introductory text, (1), (2), (3), and (5) amended 81572
173.394 (b)(3), and (c)(1) and (2) amended 81572
173.395 (b)(2) and (c)(2) amended 81572
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173.500 (a) note revised 74669
173.1080 (a) amended 81572
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174.61 (a) amended 81572
174.600 Amended 81572
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175.75 (a)(3)(ii) amended 81572
175.79 (a) amended 81572
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176 Incorporation by reference approvals 81485
176.27 (b) amended 81572
176.30 (a)(5)(i) amended 81573
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177 Incorporation by reference approvals 81485
177.806 (b) amended 81573
177.817 (b) revised 74670
177.834 (j) and (m) amended 81573
177.835 (j) amended 81573
177.838 (f) amended 81573
177.842 (c) and (f) amended 81573
177.843 (a) amended 81573
177.861 (a) note 1 amended 81573
178 Incorporation by reference approvals 81485
178.0–2 (b) amended 81573
178.36–10 (b) amended 81573
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79407 **Suspension of Meat Import Limitations** Presidential notice

79662 **Transportation** DOT/Sec'y solicits proposal for Transportation System Management (TSM) approaches to improving operation of local transportation systems; apply by 3–1–81 (Part III of this issue)

79664 **Grant Programs—Transportation** DOT/FHWA, UMTA, and NHTSA provide discretionary funds for a program to accomplish energy conservation, air quality, and related objectives; apply by 3–1–81 (Part III of this issue)

79666 **Grant Programs—Ridesharing** DOT/FHWA seeks participants for discretionary funding program; apply by 3–1–81 (Part III of this issue)

79669 **Grant Programs—Public Transportation** DOT/UMTA proposes policies and procedures for grants to States and local public bodies for projects in management and operation of services; comments by 2–16–81 (Part III of this issue)

79412 **Credit Unions** NCUA allows greater flexibility in establishment of policies and procedures for selling and cashing of checks and money orders; effective 12–2–80

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79494 **Mortgages** NCUA proposes to allow use of adjustable rate mortgages (ARM's) when granting real estate loans; comments by 1-31-81

79427 **Housing** HUD/FHC increases maximum interest rates on insured loan programs; effective 11-24-80

79453 **Medicare** HHS/HCFA issues final rule for collection action on unpaid premiums and clarifies sources from which unpaid premiums are recovered; effective 12-31-80; comments by 1-20-81

79582 **Public Assistance Programs** HHS/Sec'y announces percentages for use in determining Federal matching shares in State welfare and Medicaid expenditures; effective 10-1-81 through 9-30-83

79575 **Energy Conservation Program** DOE/SOLAR provides representative average unit costs of residential energy for electricity, natural gas, No. 2 heating oil and propane for consumer products; effective 12-31-80

79427 **Natural Gas** DOE/FERC prescribes incremental pricing acquisition cost threshold for 12-80; effective 12-1-80

79573 **Grant Programs—Environmental Protection** EPA requests input for study by 12-31-80, on exclusion of major industrial users from grant assistance for construction of publicly owned wastewater treatment works after 11-15-81

79493 **Mortgages** Treasury/Comptroller/FHLBB announces extension of comment period to 12-30-80 on adjustable-rate mortgages

79489 **Incorporation by Reference** OFR lists final approvals for documents given previous extensions; effective 10-1-80 for one year

79508 **Improving Government Regulations** DOD releases semiannual agenda of regulations

79527 **Privacy Act Document** DOD/DLA

79623 **Sunshine Act Meetings**

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Federal Register
Vol. 45, No. 232
Monday, December 1, 1980

Presidential Documents

Title 3—

The President

Notice of November 28, 1980

Intent To Suspend Meat Import Limitations for Calendar Year 1981

The Act of August 22, 1964, as amended (78 Stat. 594; 93 Stat. 1291; 19 U.S.C. 1202 note) (the "Act"), requires the imposition of limitations on imports of certain meat articles if expected imports in any calendar year exceed 110 percent of the allowable import level as defined by the Act. However, the Act further provides that the President may, after giving 30 days notice and opportunity for public comment, suspend the import limitations if certain controlling factors specified in the Act are present.

On November 26, 1980, the Secretary of Agriculture published in the **Federal Register** (45 F.R. 78740) his estimate of (1) the allowable level of imports of fresh, chilled or frozen cattle meat (TSUS 106.10), fresh, chilled or frozen meat of goats and sheep, except lambs (TSUS 106.22 and 106.25), and prepared fresh, chilled or frozen, but not otherwise preserved, beef and veal, except sausage (TSUS 107.55 and 107.62), calculated according to the formula provided in the Act, and (2) the level of imports of those articles in the absence of imposition of import limitations. The allowable level of imports announced is 1,315 million pounds. The expected level of imports announced is 1,458 million pounds. Since the expected level of imports is more than 110 percent of the allowable level of imports, Section 2(f)(1) of the Act requires the imposition of import limitations.

The Act permits the President to suspend the import limitations on meat when the supply of meat articles will be inadequate to meet domestic demand at reasonable prices if the quotient determined in accordance with Section 2(d) of the Act is equal to or greater than 1.0. The Secretary has calculated this quotient for calendar year 1981 to be 1.16.

Information has been submitted to me which indicates that the supply of meat in the United States for calendar year 1981 will be inadequate to meet domestic demand at reasonable prices.

Therefore, in accordance with Section 2(g) of the Act, I, Jimmy Carter, President of the United States of America, hereby give notice that I intend to suspend the import limitations ordinarily required by the Act, such suspension to remain in effect for the calendar year 1981 unless changed circumstances necessitate further action under the Act.

Comments may be submitted within 30 days to the Under Secretary for International Affairs and Commodity Programs, U.S. Department of Agriculture, Room 6616, 14th and Independence Avenue, S.W., Washington, D.C. 20250, Attention of Mr. R. E. Anderson, for analysis and referral for my consideration. The Draft Impact Statement analyzing this action is available on request from the same person.

Jimmy Carter

[FR Doc. 80-37552
Filed 11-28-80; 12:12 pm]
Billing code 3410-10-M

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Rules and Regulations

Federal Register
Vol. 45, No. 232
Monday, December 1, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

GENERAL ACCOUNTING OFFICE

COST ACCOUNTING STANDARDS BOARD

4 CFR Ch. III

Sponsorship of Regulations

Editorial Note.—The Office of the Federal Register (OFR) has received a letter from the Comptroller General informing OFR that the General Accounting Office will sponsor the continued publication of the regulations of the Cost Accounting Standards Board presently codified in Title 4, CFR, Chapter III (Parts 300–420).

The basis for this sponsorship is detailed in an accompanying letter from the Comptroller General to the heads of agencies which enter into national defense contracts subject to the requirements of Pub. L. 91–379. That letter reads in part:

> The Cost Accounting Standards Board, established by Pub. L. 91–379, August 15, 1970, has completed its work in establishing basic Cost Accounting Standards and has recommended that the continuing maintenance responsibility for Standards be transferred to the Office of Management and Budget,
>
> * * * * *
>
> Standards, rules and regulations which have been promulgated by the Board, as provided in section 719(i)(A) of Pub. L. 91–379 "shall have the full force and effect of law," and must be observed in negotiating and administering contracts where such Standards, rules and regulations now apply. Therefore, these Standards and other Board promulgations must be observed in both existing and future negotiated national-defense procurements.
>
> * * * * *
>
> Without an authoritative body to issue, amend, or interpret Standards, and in keeping with its general responsibilities, the General Accounting Office will be required to take an active role to determine whether the Standards, rules and regulations which the Board has promulgated are applied properly by the procurement agencies. Also, in keeping with the general responsibilities of the GAO, the results of its reviews to determine compliance with CASB requirements will be reported to Congress together with such recommendations as may be appropriate.
>
> * * * * *

Based on this communication, the Office of the Federal Register will print the current text of the Cost Accounting Standards regulations (4 CFR Chapter III) in the next revision of Title 4, CFR scheduled for January 1, 1981. In the event that the Congress transfers authority to amend the regulations to the Office of Management and Budget prior to that date, an appropriate announcement will be published in the **Federal Register.**

BILLING CODE 1505-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 30, 40, 70, and 150

Uranium Mill Licensing Requirements: Change of Effective Date for Reporting and Recordkeeping Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; extension of effective date.

SUMMARY: The Nuclear Regulatory Commission is extending from November 17, 1980, to January 5, 1981, the effective date for the reporting and recordkeeping requirements contained in a final rule establishing Uranium Mill Licensing Requirements which was published as FR Doc. 80–30597 appearing at page 65521 on October 3, 1980. This extension of the effective date for the reporting and recordkeeping requirements contained in the rule is made in order to allow additional time for completion of the review of those requirements by the General Accounting Office.

EFFECTIVE DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Don Harmon, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Phone: 301–443–5910).

SUPPLEMENTARY INFORMATION: In a final rule published in the **Federal Register** on October 3, 1980 (45 FR 65521) the NRC published Uranium Mill Licensing Requirements. That rule was to become effective on November 17, 1980. In order to allow additional time for the Comptroller General's review conducted under the Federal Reports Act, as amended, 44 U.S.C. 3512, the effective date for the reporting and recordkeeping requirements contained in the rule, unless advised to the contrary, is extended to January 5, 1981. The effective date for all of the other regulatory requirements contained in the rule remains unchanged.

Since the amendment relates solely to a minor procedural matter, notice of proposed rulemaking and public procedure thereon are unnecessary, and good cause exists to make the amendments effective December 1, 1980.

(Sec. 161, Pub. L. 83–703, 68 Stat. 948, Pub. L. 93–377, 88 Stat. 475; sec. 201, Pub. L. 93–438, 88 Stat. 1242–2143, Pub. L. 94–79, 89 Stat. 413 (42. U.S.C. 2201, 5841))

Dated at Bethesda, Md., this 19th day of November 1980.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 80-37242 Filed 11-28-80; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Part 50

Fire Protection Program for Operating Nuclear Power Plants

Correction

In FR Doc. 80–36175 appearing on page 76602 in the issue of Wednesday, November 19, 1980, the effective date now reading "February 19, 1981" should have read "February 17, 1981".

BILLING CODE 1505-01-M

10 CFR Part 73

Searches of Individuals at Power Reactor Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is extending its current relief from pat-down searches of regular employees at nuclear power reactors in order to accommodate a rulemaking proceeding concerning revisions to its rules in § 73.55 intended to finalize requirements for entry searches at such facilities.

EFFECTIVE DATE: December 1. 1980.

FOR FURTHER INFORMATION CONTACT: L. J. Evans, Jr., Chief, Regulatory Improvements Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 427–4181.

SUPPLEMENTARY INFORMATION: On July 31, 1979, the Commission changed the date from August 1, 1979, to November 1, 1979, when pat-down searches of regular employees of nuclear power plant licensees had to be implemented. The rationale for this extension was provided in the **Federal Register** notice on this subject, 44 FR 47758, August 15, 1979. The Commission further extended the implementation date to November 1, 1980. The rationale for that extension is contained in 44 FR 65969.

The Commission plans to issue proposed revisions to 10 CFR § 73.55(d)(1) to finalize requirements for personnel searches at protected area entry portals of power reactors. The extension of the relief from physical pat-down searches of regular employees contained herein is intended to allow sufficient time for public comment on the proposed search requirements and their implementation, if adopted. Because this rule delays a requirement, and merely continues a temporary situation for another limited period of time, the Commission finds that notice and public procedure are unnecessary and that the change can be made immediately effective without the customary 30 day period of notice required by 5 U.S.C. 553.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of title 5 of the United States Code, the following Amendment to Title 10 Chapter 1, Code of Federal Regulations, Part 73 is published as a document subject to codification.

1. The unnumbered prefatory paragraph of § 73.55 of 10 CFR Part 73 is revised to read as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage.

Each licensee who is authorized on February 24, 1977, to operate a nuclear power reactor pursuant to Part 50 of this Chapter shall comply with the requirements of paragraphs (b), (d), (f), (g), and (h) of this section, except for any requirement involving construction and installation of equipment not already in place expressed in paragraphs (d)(1), (d)(7), (d)(8), (f)(3) and (h)(4), by May 25, 1977. The licensee shall submit by May 25, 1977, an amended physical security plan describing how the licensee will comply with all of the requirements of this section including schedules of implementation. The licensee shall implement his plan and comply with all of the provisions of this section as soon as practicable after NRR approval of his plan but no later than February 23, 1979. Each applicant for a license to operate a nuclear power reactor pursuant to Part 50 of this chapter whose application was submitted prior to February 24, 1977 shall submit by May 25, 1977, an amended physical security plan describing how the applicant plans to comply with the requirements of this section including schedules of implementation. If such applicant receives an operating license after February 24, 1977 he shall comply with the requirements of paragraphs (b), (d), (f), (g), and (h) of this section, except for construction and installation not already in place pursuant to paragraphs (d)(1), (d)(7), (d)(8), (f)(3) and (h)(4) of this section by May 25, 1977, or on the date of receipt of the operating license, whichever is later, and implement his plan and comply with all of the requirements of this section by February 23, 1979 or on the date of receipt of the operating license whichever is later. Each applicant for a license to operate a nuclear power reactor pursuant to Part 50 of this Chapter whose application is submitted after February 24, 1977, shall include in the physical security plan required by § 50.34(c) the information identified in paragraphs (a) through (h) of this section and if such applicant receives an operating license, shall comply with the provisions of this section on receipt of the operating license. Except for individuals for whom the licensee has a well-grounded suspicion that such individuals are carrying firearms, explosives, or incendiary devices, a licensee need not implement the physical search requirement of paragraph (d)(1) of this section for individuals who are regular employees of the licensee at the site at which the licensee is authorized to operate a nuclear power reactor pursuant to Part 50 of this Chapter until 60 days following Commission approval of security plan amendments which define how the final search requirements of paragraph (d)(1) of this section will be met. Until that date the Commission has determined that the search requirement of paragraph (d)(1) of this section, implemented using only equipment capable of detecting firearms, explosives and incendiary devices, satisfies the performance requirements of this section as they apply to searches of regular employees of the licensee at the site entering the protected area of the nuclear power reactor.

* * * * *

(Sec. 161i. Pub. L. 83–703, 68 Stat. 948, Pub. L. 93–377, 88 Stat. 475; Sec. 201. Pub. L. 93–438, 88 Stat. 1242–1243, (42 U.S.C. 2201, 5841))

Dated at Washington, D.C., this 26th day of November 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-37431 Filed 11-28-80; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303, 309

Public Access to Application Files

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: FDIC regulations have provided that, with respect to most applications filed by banks, FDIC create and make available for public review separate files consisting of the nonconfidential portions of the application files. The FDIC found, however, that, compared to the number of applications filed, very few requests were made by the public to review these public files. As a result, most public files on pending applications were prepared and never used. The FDIC is amending its regulations to eliminate the separate public files as such. Instead, the information currently kept in a public file will be retained as a part of the application file and, up to 180 days after a final decision is made on an application, the nonconfidential portions of the application file will be made available within one day after a request to see the file is made.

DATE: Effective on December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Douglas H. Jones, Legal Division, FDIC, 550 17th Street NW., Washington, D.C. 20429 (202–389–4618).

SUPPLEMENTARY INFORMATION: Section 303.14(c) of FDIC's regulations (12 CFR 303.14(c)) has provided that, with respect to any application for deposit insurance, to establish a branch, to relocate a main office or a branch, or to merge, FDIC maintain and make available for public inspection a file consisting of the following: (1) The application with supporting data and supplementary information; (2) the data, comments and information submitted by interested persons in favor of or in opposition to the application; and (3) those portions of the investigation report which were prepared by the FDIC's field examiner in connection with the application and which covered (a) the convenience and needs of the community to be served by the applicant and (b) either the future earnings prospects or the future prospects of the applicant or applicants. In addition, although not required by the regulation, a summary assessment of the application, based on the applicant's last Community Reinvestment Act examination (*see* 12 CFR 345.7), was made a part of the public file. The public file did not contain any confidential information that represented: (1) Personal information, the release of which could constitute a clearly unwarranted invasion of privacy; (2) commercial or financial information, the disclosure of which would result in substantial competitive harm to the submitter; or (3) information, the disclosure of which could seriously affect the financial condition of any financial institution.

The FDIC found that in most instances no one ever asked to view the public file on a pending application. As a result, most public files were prepared, copied, filed and eventually shredded without ever being used. The maintenance of separate public files on each application proved to be a waste of FDIC filing space, paper and personnel time.

To eliminate the expenses incurred under these procedures, while meeting the need for public access when it is desired, on August 8, 1980, the FDIC published in the **Federal Register** (45 FR 52819) notice of a proposal to revise Section 303.14(c). The FDIC proposed that specified nonconfidential portions of an application file be publicly available upon request. According to the proposal, the information to be available would be the same as has been contained in the public file, and FDIC would no longer maintain a separate public file. To ensure quick access, the FDIC proposed that the nonconfidential portions of the application file be made available to a requestor no later than one working day after receipt of a request to review the file. Interested persons were given until October 20, 1980, to comment on the proposal. No comments were received from the public.

Alternatives considered other than the proposal were: (1) Leaving the regulation unchanged; or (2) eliminating the public file and requiring requestors to use the procedures of the Freedom of Information Act (the "FOIA," 5 U.S.C. 552) to obtain information relating to pending applications. As discussed above, the FDIC determined that retaining the public file would result in a large expenditure of resources with little corresponding public benefit. Eliminating the public file with no provisions for expedited access would unreasonably burden any individual who has a need to review a file. Under the FOIA, a file need not be made available for ten days after receipt of the request. Also, under FDIC procedures for FOIA requests, the request must be made in writing to the Executive Secretary in Washington, D.C. When an individual needs to view the application file, the FOIA procedures may be inconvenient or slow. The proposed regulation provided access to more information than is required to be released under the FOIA, permitted a request for access to be made either in writing or orally and required the material to be made available no later than one working day after receipt of the request. The proposed amendment would relieve regional staff of the administrative burdens and costs attendant with the current public file, while not adversely affecting the public's interest.

With the exception of one change from the proposal, the Board of Directors of the FDIC has determined to adopt the proposed amendments. According to the proposal, the nonconfidential portion of an application file would always be available for inspection within one day after a request to see the file is made. This provision, read literally, requires the permanent retention of the application files. This result would be both impractical and inefficient.

Instead, the Board of Directors determined that, for a period from the acceptance of an application until 180 days after final disposition of an application, the nonconfidential portion of the application file will be produced for inspection at the appropriate regional office within one working day of a request (either written or oral) to see the file. (In most instances, the FDIC expects to make the file available almost immediately upon request.) After this 180-day period, the nonconfidential portion of the application file will be made available at a regional office as soon as practicable, but no later than ten days after a request is made, as long as the file is retained in the regional office. Otherwise, a request for the file must be made to the office of FDIC's Executive Secretary and the request will be processed in accordance with FDIC's Freedom of Information regulations. (12 CFR 309.5).

FDIC also is making certain technical amendments to other sections of Parts 303 and 309 that refer to the public file in order to make them conform to the change to Section 303.14(c). In addition, a correction to a previous improper citation is being made.

The authorities for the amendments to Part 303 are Sections 5, 6, 7(j), 9 "Seventh" and "Tenth", and 18 of the Federal Deposit Insurance Act, as amended. (12 U.S.C. 1815, 1816, 1817(j), 1819 "Seventh" and "Tenth", 1828). The authority for the amendment to Part 309 is Section 9 "Seventh" and "Tenth" of the Federal Deposit Insurance Act, as amended. (12 U.S.C. 1819 "Seventh" and "Tenth"). In order to bring its citations into conformity with the Office of the Federal Register's requirements for regulations, the FDIC is revising the form of its authority citations for all of Parts 303 and 309.

Because the amendments are internal in nature (i.e., affect the manner in which FDIC files applications), these changes in FDIC procedures will have no effect on any insured bank. In particular, they will not affect the recordkeeping, reporting requirements, or competitive status of banks. In view of this, FDIC has concluded that a cost-benefit analysis (including a small bank impact statement) regarding the change is unnecessary.

In consideration of the foregoing, 12 CFR Chapter III is amended as follows:

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, AND NOTICES OF ACQUISITION OF CONTROL

1. The authority citation for Part 303 is revised to read as follows:

Authority: Secs. 2(5), 2(6), 2(7(j)), 2(9) "Seventh" and "Tenth", 2(18), Pub. L. No. 797, 64 Stat. 878, 881, 892 as amended by Pub. L. No. 86–643, 74 Stat. 129; Pub. L. No. 88–593, 78 Stat. 940; Pub. L. No. 89–356, 80 Stat. 7; Title II, Sec. 201, Pub. L. No. 89–695, 80 Stat. 1046;

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secs. 6(c)(7),(12), (13) and (25), Pub. L. No. 95–369, 92 Stat. 618–620; and Title III, sec. 309 and Title VI, sec. 602, Pub. L. No. 95–630, 92 Stat. 3677, 3683 (12 U.S.C. 1815, 1816, 1817(j), 1819 "Seventh" and "Tenth", 1828).

2. Section 303.14 is amended by revising paragraphs (b)(3), (c) and (f)(6)(i) and by deleting and reserving paragraph (h) as follows:

§ 303.14 Application procedures.

* * * * *

(b) * * *

(3) *Notice of right to comment or protest.* In order to fully apprise the public of its rights under paragraph (b)(2) of this section, the notice described in paragraph (b)(1) of this section shall include a statement describing the right to comment upon, or protest the granting of, the application. This notice, except in the case of additional sites or relocations of remote service facilities, shall consist of the following statement:

Any person wishing to comment on this application may file his or her comments in writing with the regional director of the Federal Deposit Insurance Corporation at its regional office (address of the regional office). If any person desires to protest the granting of this application he or she has a right to do so if he or she files a written notice of his or her intent with the regional director by the (15th day following the last date of required publication). The nonconfidential portions of the application are on file in the regional office and are available for public inspection during regular business hours.

In the case of additional sites or relocations of remote service facilities, this notice shall consist of the notice required by paragraph (d)(2) of this section.

* * * * *

(c) *Public access to application file*—(1) *Inspection of application.* Any person may inspect the nonconfidential portions of an application file. For a period extending until 180 days after final disposition of an application, the nonconfidential portions of the file will be available for inspection in the regional office of the Federal Deposit Insurance Corporation in which an application has been filed. During this period, the nonconfidential portion of the file will be produced for review not more than one working day after receipt by the regional office of the request (either written or oral) to see the file. Photocopies of the nonconfidential portions of the file will be available, upon request, to any person. A charge for making copies will be made in accordance with the fee schedule contained in § 309.5(b) of this chapter. No charge will be imposed for the search for, and review of, the application file. One hundred and eighty (180) days after the final disposition of an application, the nonconfidential portions of an application file will be made available in accordance with the provisions of § 309.5 of this chapter.

(2) *Nonconfidential portions of application.* Subject to the provisions of paragraph (c)(3) of this section, the following information in an application file will be available for public inspection:

(i) The application with supporting data and supplementary information.

(ii) Data, comments, and other information submitted by interested persons in favor of, or in opposition to, such application.

(iii) Those portions of the investigation report prepared by the Corporation's field examiner in connection with the application which cover the convenience and needs of the community to be served by the applicant or applicants and either the future earnings prospects or the future prospects of the applicant or applicants.

(iv) A summary assessment of the applicant or applicants, based on their last Community Reinvestment Act examination.

(v) Where a hearing has been held pursuant to paragraph (e) of this section, any evidence submitted pursuant to paragraph (f)(3) of this section and the hearing transcript described in paragraph (f)(5) of this section.

(3) *Withholding of confidential information.* No material described in paragraph (c)(2) of this section shall be available if it is determined to be confidential under the provisions of 5 U.S.C. 552. The following information generally is considered confidential:

(i) Personal information, the release of which would constitute a clearly unwarranted invasion of privacy.

(ii) Commercial or financial information the disclosure of which would result in substantial competitive harm to the submitter.

(iii) Information the disclosure of which could seriously affect the financial condition of any financial institution.

* * * * *

(f) *Hearing rules.* * * *

(6) *The hearing record.*—(i) *Contents.* The nonconfidential portions of the application, as described in paragraph (c) of this section, shall automatically be a part of the hearing record.

(ii) * * *

* * * * *

(h) [Reserved].

* * * * *

§ 303.14 [Amended]

3. In § 303.14 paragraph (j) is amended by deleting the citation "308.18" and by inserting the citation "308.22" in its place.

PART 309—DISCLOSURE OF INFORMATION

4. The authority citation for Part 309 is revised to read as follows:

Authority: Sec. 2(9) "Seventh" and "Tenth", Pub. L. No. 797, 64 Stat. 881 as amended by Title III, sec. 309, Pub. L. No. 95–630, 92 Stat. 3677 (12 U.S.C. 1819 "Seventh" and "Tenth"); sec. 309.5 also issued under (5 U.S.C. 552).

5. In § 309.4, Paragraph (b)(2) is revised to read as follows:

§ 309.4 Information made available for public inspection.

* * * * *

(b) *Information made available at the Corporation's discretion.* (1) * * *

(2) Nonconfidential portions of application filed with the Corporation as provided in § 303.14(c). These files are maintained at the regional office of the Corporation where the applicant bank is located and include applications for deposit insurance, to establish branches, to relocate main or branch offices and to merge.

* * * * *

Dated: November 24, 1980.

By order of the Board of Directors.

Alan J. Kaplan,

Assistant Executive Secretary.

[FR Doc. 80-37280 Filed 11-28-80; 8:45 am]

BILLING CODE 6714-01-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Selling and Cashing Checks and Money Orders; Deregulation

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: In accordance with the established policy goals of clarifying and simplifying its regulations, the National Credit Union Administration Board has reviewed its existing regulations concerning the selling and cashing of checks and money orders. As a result of this review, NCUA will delete the two regulations. This action will allow greater flexibility to the boards of directors of Federal credit unions in the establishment of policies and procedures for selling and cashing of checks and money orders as provided for in Section 107(12) of the Federal Credit Union Act, 12 U.S.C. § 1757(12).

EFFECTIVE DATE: December 2, 1980.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Joseph W. Petrosky, Office of Examination and Insurance. Telephone: (202) 357–1055.

SUPPLEMENTARY INFORMATION: On September 25, 1980, the NCUA Board conducted a preliminary review on a proposal to determine the need for regulations concerning the selling and cashing of checks and money orders and alternative approaches to achieve the purpose of the regulations.

After deliberating on these issues at the open board meeting of September 25, 1980, it was the unanimous decision of the NCUA Board to eliminate or delete all of the provisions of the two regulations.

This action will allow greater flexibility to the board of directors of Federal credit unions in the establishment of policies and procedures concerning the selling and cashing of checks and money orders.

The NCUA Board indicated that this action was taken in the interest of reducing the regulatory burden imposed upon Federal credit unions. The NCUA Board is particularly interested in reducing the cumulative effects of regulations upon small Federal credit unions.

With the elimination of the regulations, a Federal credit union is still restricted in the fee it can assess upon a member under the Federal Credit Union Act (12 U.S.C. § 1757(12)). This section provides that the fee for selling or cashing of checks or money orders can not exceed the direct and indirect costs incident to providing such services.

NCUA plans to incorporate the informational provisions of paragraphs (b), (c), (d) and (e) of the regulations into an appropriate NCUA manual so that guidance is available for Federal credit union should they wish to provide this service.

Regulatory Analysis: No regulatory analysis has been developed for this regulatory action because it will not result in (i) an annual effect on the economy of $100 million or more, or (ii) a major increase in costs or expenses for all, or a significant portion of, Federal or federally-insured credit unions with assets under $1 million or for other financial institutions.

Failure To Solicit Public Comment: The deletion of these two regulations will permit Federal credit unions to exercise the authority to sell and cash checks and money orders to the full extent permitted by the Federal Credit Union Act. It is the NCUA Board's opinion that consumers, credit unions and other financial institutions will not be harmed by this action. Therefore, the Board, for good cause, finds that notice and public procedure on this action is unnecessary and thus exempt by 5 U.S.C. § 553(b)(B). Further, since this action relieves restrictions, a 30 day delayed effective date is not provided, 5 U.S.C. § 553(d)(1).

Procedure for Regulatory Development: The procedures set forth in NCUA's Final Report "In Response to Executive Order No. 12044: Improving Government Regulations" have been waived in accordance with the exception provided in Part 1 of the final report. The official responsible for the decision is Robert M. Fenner, Assistant General Counsel.

Rosemary Brady,

Secretary, National Credit Union Administration Board.

November 24, 1980.

(Sec. 107(12), 73 Stat. 630 (12 U.S.C. § 1757(12)); Sec. 12, 73 Stat. 635 (12 U.S.C. § 1766))

Accordingly, 12 CFR 701.22 and 701.23 are hereby amended as set forth below.

§ 701.22 [Deleted]

1. 12 CFR 701.22 is deleted.

§ 701.23 [Deleted]

2. 12 CFR 701.23 is deleted.

[FR Doc. 80-37289 Filed 11-28-80; 8:45 am]

BILLING CODE 7535-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 124

[Amdt. 10]

Definition of Social Disadvantage

AGENCY: Small Business Administration.

ACTION: Interim rule.

SUMMARY: Section 8(a) of the Small Business Act ("the Act"), 15 U.S.C. 637(a), establishes a business development program in which SBA enters into contracts with other Federal agencies and then arranges for the performance of such contacts by negotiating or otherwise letting subcontracts to socially and economically disadvantaged small business concerns. This program, commonly referred to as "the 8(a) program", was given a firm statutory foundation in Pub. L. 95–507, enacted October 24, 1978.

To be certified as an 8(a) firm (and thus eligible for 8(a) program benefits), a small business concern must, among other things, be owned and controlled by socially and economically disadvantaged individuals. Section 8(a)(5) of the Act, 15 U.S.C. 637(a)(5), defines socially disadvantaged individuals as "those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities." SBA's experience over the past two years suggests that existing criteria appearing at 13 CFR 124.1–1(c)(3) need to more specifically define social disadvantage in order to provide more meaningful guidance to the general public, 8(a) applicants, and SBA personnel.

This interim rule clarifies SBA's existing policy with respect to defining social disadvantage for purposes of SBA's Section 8(a) business development program.

DATES: This interim rule is effective on December 1, 1980. SBA invites comments on the rule prior to its publication in final form. Comments must be received on or before January 30, 1981.

ADDRESS: Comments should be submitted to: Dana Stebbins, Special Assistant to the Associate Administrator for Minority Small Business and Capitol Ownership Development, Small Business Administration, Room 317, 1441 L St., NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Dana Stebbins (202) 653–6589.

SUPPLEMENTARY INFORMATION: In promulgating this more specific definition of social disadvantage, SBA has adhered to the legislative intent behind Pub. L. 95–507: that statutorily designated racial and ethnic minorities be the primary beneficiaries of the 8(a) program, but that other disadvantaged individuals be eligible for the program.

This regulatory definition is published as an interim rule for two reasons. First, it primarily clarifies existing policy rather than proposes new policy. Second, and far more important, administrative considerations require that the rule be effective on date of publication. A number of 8(a) applications which are pending in SBA, and which raise questions about the social disadvantage of the applicants, need to be processed. The interim nature of this rule will ensure expeditious decisions, and the criteria contained in the rule will enhance the soundness of those decisions.

As a matter of fairness, however, SBA will allow any current applicant deemed ineligible for the 8(a) program for failure to establish his or her social

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disadvantage to present further evidence of social disadvantage in light of the criteria contained in this interim rule. Similarly, SBA will allow any future applicant who, prior to the final promulgation of this rule, seeks entry into the 8(a) program, and who is deemed ineligible for failure to establish social disadvantage, to present further evidence of social disadvantage in light of the criteria contained in the final rule.

This interim rule replaces 13 CFR 124.1–1(c)(3)(i) and (ii) with new subparagraphs (i), (ii), and (iii). The existing subparagraph (iii), "Minority Group Inclusion", is renumbered subparagraph (iv). SBA is simultaneously proposing that this subparagraph (iv) be amended. See the notice of proposed rulemaking published in this issue of the **Federal Register.**

New subparagraph (i) reiterates the statutory definition of social disadvantage and expressly states that the social disadvantage of individuals must stem from circumstances beyond their control. The control test is based on the statutory requirement appearing at Section 2(e)(1)(B) of the Act, 15 U.S.C. 631(e)(1)(B), and on the legislative history of Pub. L. 95–507.

New subparagraph (ii) states that, in the absence of evidence to the contrary, members of the racial and ethnic groups identified as socially disadvantaged in Section 2(e)(1)(C) of the Act, 15 U.S.C. 631(e)(1)(C), or administratively designated as socially disadvantaged pursuant to subparagraph (iv) of this rule, are considered socially disadvantaged. Since Congress has found that Black Americans, Hispanic Americans, Native Americans, and, with the enactment of Pub. L. 96–302 on July 2, 1980, Asian Pacific Americans, are socially disadvantaged, members of those groups need not, as a general rule, present an individualized case of social disadvantage. If SBA is aware of evidence suggesting that an applicant who is a member of a designated group is not actually socially disadvantaged, however, the Agency may require the applicant to submit further documentation of his or her social disadvantage.

New subparagraph (iii) establishes standards by which SBA can assess the social disadvantage of those who are not members of designated groups. Such individuals must establish their social disadvantage on the basis of clear and convincing evidence. While no system for assessing individual social disadvantage can be perfect, SBA believes that this approach is equitable and consistent with Congressional intent.

In enacting Pub. L. 95–507, Congress did not mean to bestow 8(a) program benefits indiscriminately on small business persons. Rather, it sought to single out for special treatment those persons who have had greatest difficulty, through no fault of their own, in achieving a competitive position in the business world. Hence, its designation of members of certain minority groups as socially disadvantaged. The clear and convincing evidence standard will ensure that only those individuals who have been socially disadvantaged to the same degree as designated group members will have access to the 8(a) program. A lesser standard of proof, such as the preponderance of evidence test used in many civil cases, would allow weak cases of social disadvantage to be made, thereby flooding the program with firms having little claim to, or need for, its remedial benefits. A more rigorous standard of proof, such as the reasonable doubt test used in criminal cases, would make it overly difficult for socially disadvantaged individuals who are not members of designated groups to gain entry into the program.

New subparagraph (iii) outlines the various elements which an individual must demonstrate to establish a clear and convincing case of social disadvantage. Each of these elements is discussed below.

First, the individual's social disadvantage must stem from one or more listed causes. The factors of color and national origin are based on the statutory concepts of racial or ethnic prejudice. The factors of gender, physical handicap, and long-term residence in an environment isolated from the mainstream of American society, fall within the statutory rubric of cultural bias. These factors are intended to be illustrative rather than exhaustive as to the meaning of cultural bias.

Essentially, the individual must be able to relate his or her social disadvantage to one or more of the listed causes, or similar causes. The individual cannot establish social disadvantage on the basis of factors which are common to small business persons who are not socially disadvantaged. For example, many small businesses have difficulty obtaining credit through normal banking channels. An individual predicating a social disadvantage claim on denial of bank credit would have to establish that the denial was based on a factor such as color or gender, not simply on the marginal business status of the applicant firm—a condition shared by many small businesses.

Second, the individual must demonstrate that he or she has personally suffered social disadvantage. This can be achieved, for example, by describing specific instances of discrimination which the individual has experienced, or by recounting in some detail how his or her development in the business world has been thwarted by one or more of the factors previously discussed. In assessing such facts, SBA will place substantial weight on prior administrative or judicial findings of discrimination experienced by the individual. Such findings, however, are not necessarily conclusive evidence of an individual's social disadvantage; nor are they a prerequisite for establishing social disadvantage.

In essence, it is insufficient for a person who is a member of a non-designated group to merely assert his or her membership in the group as proof of social disadvantage. For example, since Congress did not intend for women to be designated as a socially disadvantaged group, a female applicant could not simply claim that her status as a woman established her social disadvantage for purposes of the 8(a) program. In assessing an individual female's claim, however, SBA's judgment would be informed by relevant legislative, administrative, or judicial findings pertaining to women in business, e.g., the report of the President's Task Force on Women Business Owners, *The Bottom Line: Unequal Enterprise in America* (June 28, 1978). Similarly, while Hasidic Jews seeking entry into the 8(a) program must make an individualized showing of social disadvantage in accordance with SBA's April 9, 1980 decision, the findings in the decision pertaining to Hasidic Jews in general will help to inform SBA's judgment as to the strength of particular cases.

Third, the individual's social disadvantage must be rooted in treatment which he or she has experienced in American society. Each of the statutorily designated groups has historically been abused in this country (e.g., the enslavement and subsequent disfranchisement of Blacks; the near-extermination of Native Americans). The 8(a) program is in large part designed to overcome the effects of such past injustices. It is not designed to assist newcomers to America who have been oppressed in foreign lands.

Fourth, the individual's social disadvantage must be chronic, longstanding, and substantial. Without prejudging any particular case, it would be difficult for an individual to present clear and convincing evidence of social

disadvantage based on only one incident in which the individual's status held him or her back in the business world. Typically, a number of incidents illustrating a person's social disadvantage would be necessary to make a successful claim. Usually, only by demonstrating a series of obstacles which he or she has faced in the business world can an individual demonstrate chronic, longstanding social disadvantage—the type of social disadvantage which the 8(a) program was designed to ameliorate.

Fifth, the individual's social disadvantage cannot be established in the abstract. Instead, the individual must demonstrate how his or her social disadvantage has had a negative impact on professional or career development and has impeded advancement in the business world. The closer the individual can link impairment of business opportunities to social disadvantage, the stronger the case. For example, SBA would place little weight on annoying incidents experienced by an individual which have had little or no impact on the person's career or business development. On the other hand, SBA would place greater weight on concrete occurrences which have tangibly disadvantaged an individual in the business world.

There is no limit to the type of evidence an applicant can present to attempt to establish the causal relationship between his or her social disadvantage and impairment of business opportunities. SBA is particularly interested, however, in receiving information pertaining to the individual's educational experience, employment background, and business history. A person's experience in those areas often will shed light on the impediments which he or she has faced in acquiring business-related skills, income, and business contacts.

Accordingly, pursuant to Section 5(b)(6) of the Act, 15 U.S.C. 634(b)(6), SBA amends 13 CFR Part 124 by redesignating existing § 124.1–1(c)(3)(iii) as (iv); revising (c)(3) (i) and (ii) and adding a new subparagraph (iii) as follows:

§ 124.1–1 The Section 8(a) program.

* * * * *

(c) *Eligibility.*

* * * * *

(3) *Social Disadvantage.*—(i) *General.* Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities. The social disadvantage of individuals must stem from circumstances beyond their control.

(ii) *Members of Designated Groups.* In the absence of evidence to the contrary, the following individuals are considered socially disadvantaged: Black Americans; Hispanic Americans; Native Americans (American Indians, Eskimos, Aleuts, or Native Hawaiians); Asian Pacific Americans (persons with origins from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, U.S. Trust Territory of the Pacific Islands, Northern Mariana Islands, Laos, Cambodia, or Taiwan); and members of other groups designated from time to time by SBA according to the procedures set forth at § 124.1–1(c)(3)(iv) of this section.

(iii) *Individuals Not Members of Designated Groups.* Individuals who are not members of the above-named groups must establish their social disadvantage on the basis of clear and convincing evidence. A clear and convincing case of social disadvantage must include the following elements:

(A) The individual's social disadvantage must stem from his or her color; national origin; gender; physical handicap; long-term resident in an environment isolated from the mainstream of American society; or other similar cause not common to small business persons who are not socially disadvantaged.

(B) The individual must demonstrate that he or she has personally suffered social disadvantage, not merely claim membership in a non-designated group which could be considered socially disadvantaged.

(C) The individual's social disadvantage must be rooted in treatment which he or she has experienced in American society, not in other countries.

(D) The individual's social disadvantage must be chronic, long-standing, and substantial, not fleeting or insignificant.

(E) The individual's social disadvantage must have negatively impacted on his or her entry into, and/or advancement in, the business world. SBA will entertain any relevant evidence in assessing this element of an applicant's case. SBA will particularly consider and place emphasis on the following experiences of the individual, where relevant: education, employment, and business history.

(*1*) *Education.* SBA shall consider, as evidence of an individual's social disadvantage, denial of equal access to business or professional schools; denial of equal access to curricula; exclusion from social and professional association with students and teachers; denial of educational honors; social patterns or pressures which have discouraged the individual from pursuing a professional or business education; and other similar factors.

(*2*) *Employment.* SBA shall consider, as evidence of an individual's social disadvantage, discrimination in hiring; discrimination in promotions and other aspects of professional advancement; discrimination in pay and fringe benefits; discrimination in other terms and conditions of employment; retaliatory behavior by an employer; social patterns or pressures which have channelled the individual into non-professional or non-business fields; and other similar factors.

(*3*) *Business History.* SBA shall consider as evidence of an individual's social disadvantage, unequal access to credit or capital; acquisition of credit or capital under unfavorable circumstances; discrimination in receipt (award and/or bid) of government contracts; discrimination by potential clients; exclusion from business or professional organizations; and other similar factors which have retarded the individual's business development.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 59.006, Minority Business Development—Procurement Assistance)

Dated: November 20, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80–37133 Filed 11–28–80; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80–NW–47–AD, Amdt. 39–3970]

Airworthiness Directives: Boeing Model 737 Series Airplanes Equipped With Auxiliary Body Fuel Tanks

Correction

In FR Doc. 80–34938 appearing on page 74467 in the issue for Monday, November 10, 1980, in the second column, first paragraph, second line "listed as 10–61707–41 (Original Design); 10–61707–71 (Interim Design); and 10–61707–711".

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14 CFR Part 39

[Docket No. 80–SO–70; Amdt. No. 39–3984]

engine oil pressure check on these engines.

Since a situation exists that requires

(d) Upon or before the accumulation of 25 hours, 50 hours and 100 hours total time in service, change oil and oil filter. At the 25

is adopting amendments to the minimum financial regulations regarding the treatment of undermargined accounts

financial and related reporting requirements, and the current "alternative" method of computing the

Commission's regulations. One is that if the proposal were adopted, it would create an incentive to FCMs to reduce

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14 CFR Part 39

[Docket No. 80-SO-70; Amdt. No. 39-3984]

Airworthiness Directives; Teledyne Continental Motors Models GTSIO-520-L, -M, and -N Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection of the oil filter for contamination, inspection of the propeller shaft end clearance for excessive thrust washer bearing wear and a preflight and post flight special engine oil pressure check on certain Teledyne Continental Motors Models GTSIO-520-L, -M, and -N engines installed on but not limited to certain Cessna Models 404 and 421C airplanes. This AD is necessary to detect malfunctioning propeller shaft thrust washers and subsequent loss of bearing material and propeller shaft thrust flange material which could result in low engine oil pressure, engine oil contamination, propeller shaft damage and subsequent engine failure.

DATE: Effective December 5, 1980. Compliance required as indicated.

ADDRESS: The applicable service bulletin may be obtained from Teledyne Continental Motors, P.O. Box 90, Mobile, Alabama 36601.

A copy of the service bulletin is also contained in the Rules Docket, Room 275, Engineering and Manufacturing Branch, FAA Southern Region, 3400 Norman Berry Drive, East Point, Georgia 30344.

FOR FURTHER INFORMATION CONTACT: Gil Carter, ASO-214, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7435.

SUPPLEMENTARY INFORMATION: There have been reports of failed thrust washers which have resulted in low engine oil pressure, contaminated engine oil and friction heat damage to the propeller shaft thrust flange on certain Teledyne Continental Motors Models GTSIO-520-L, -M, and -N engines with 100 hours or less time in service. Since this situation is likely to exist or develop on other engines of the same type design, an Airworthiness Directive is being issued which requires inspection of the oil filter element to detect excessive quantities of bearing and thrust flange material, inspection of the propeller shaft end clearance to detect excessive thrust washer bearing wear, and a preflight and postflight special engine oil pressure check on these engines.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of The Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

Teledyne Continental Motors: Applies to Models GTSIO-520-L, serial numbers 608324 and up; GTSIO-520-M, serial numbers 606619 and up; and GTSIO-520-N, serial numbers 610001 and up, engines with 100 hours or less time in service on the effective date of this AD, installed on but not limited to certain Cessna Models 404 and 421C model airplanes certificated in all categories.

Compliance required as indicated, unless already accomplished.

To prevent engine failure due to loss of engine oil pressure, damage due to contaminated oil, and propeller shaft damage resulting from a malfunctioning thrust washer accomplish the following:

(a) Before each flight and immediately after each flight until the accumulation of 100 hours total time in service, perform a special oil pressure check to determine the oil pressure with engine power at the same level as the magneto check. If oil pressure fluctuates or is less than 30 psi, accomplish paragraphs (b)(1) and (b)(2) before further flight. This oil pressure check may be accomplished by the pilot as provided in FAR 43.3(h).

(b) Prior to the next flight and at each oil change until the accumulation of 100 hours total time in service:

(1) Remove the oil filter, disassemble the cannister, and inspect the paper element between the pleats to determine the quantity of metallic material visually and by using a clean magnet. If total metallic contaminants are in excess of the quantity necessary to cover a ¼ inch diameter surface, before further flight take the necessary maintenance action to replace those parts that are malfunctioning.

Note.—Exercise caution to prevent contamination of the filter element during disassembly.

(2) Inspect to determine the end clearance (shaft end play) of the propeller drive shaft with engine at ambient temperature. If axial movement is in excess of .020 inch, before further flight take necessary maintenance action to replace those parts that are malfunctioning.

(c) Prior to the next flight, inspect the engine and airplane records and change oil if necessary to ensure that SAE No. 50 oil is installed for ambient temperature above 40°F or SAE No. 30 oil is installed for ambient temperatures below 40°F.

(d) Upon or before the accumulation of 25 hours, 50 hours and 100 hours total time in service, change oil and oil filter. At the 25 and 50 hour oil change, install either SAE No. 50 or SAE No. 30 oil as appropriate. For engines with 100 hours or more time in service, SAE No. 10W-30 may be substituted for SAE No. 30 oil.

(e) Make appropriate maintenance record entry when accomplishing each requirement of this AD.

The airplanes equipped with affected engines may be flown in accordance with FAR 21.197 to a location where the AD compliance procedures can be accomplished.

An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

This amendment becomes effective December 5, 1980.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec 6(c), Department of Transportation Act (49 U.S.C. 1655(c))); 14 CFR 11.89).

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "For further information contact."

Issued in East Point, Georgia, on November 19, 1980.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 80-37294 Filed 11-28-80; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

[Form 1-FR]

Minimum Financial and Related Reporting Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is amending certain of its minimum financial and related reporting requirements for futures commission merchants ("FCMs"), as well as the basic financial reporting form for FCMs, Form 1-FR. The amendments will alter, for certain FCMs, the amount of adjusted net capital which must be maintained. In addition, the Commission is adopting amendments to the minimum financial regulations regarding the treatment of undermarghed accounts and debit/deficit accounts, and the treatment of collateral used to secure receivables, as well as conforming changes to the financial early warning system and Commission Form 1-FR to reflect all the new amendments.

DATES: The rule amendments shall be effective on December 31, 1980.

ADDRESS: Send comments to: Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Daniel A. Driscoll, Chief Accountant, Division of Trading and Markets, at the address listed above. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION:

A. Introduction

On June 25, 1980, the Commission published proposed amendments to the minimum financial and related reporting requirements for FCMs (45 FR 42833). The Commission originally permitted ninety days for public comment thereon,[1] and later extended the comment period for an additional fifteen days.[2] Fifty-two written comments were received in response to the proposed amendments, from forty-seven commentators.[3] The commentators included thirty-five FCMs, four contract markets, three public accounting firms, and two trade associations, as well as a clearing organization, another government agency, and a law foundation. The Commission has carefully considered each of the comments, including those submitted after the close of the comment period extension.

B. Minimum Net Capital Requirement

The first proposed amendment was to delete one of the two methods by which FCMs compute minimum required levels of adjusted net capital (17 CFR 1.17(a)(1)(1980)). Specifically, the Commission proposed to eliminate the method of computation which, in effect, permits an FCM to maintain adjusted net capital equal to 6⅔ percent of its aggregate indebtedness. Under the proposal, all references to aggregate indebtedness would be deleted from the minimum financial and related reporting requirements, and the current "alternative" method of computing the required amount of adjusted net capital would become the required method of computation for all FCMs, except those FCMs which are also securities brokers or dealers. This method of computation requires adjusted net capital equal to 4 percent of the funds required to be segregated under the Commodity Exchange Act, as amended ("Act") and the Commission's regulations. All FCMs which are also securities brokers or dealers would be required to compute the required minimum level of adjusted net capital, as under the present alternative method, based on the greater of 4 percent of the aggregate debit items computed in accordance with the formula for determination of reserve requirements under SEC regulations (Exhibit A to rule 15c3-3, 17 CFR 240.15c3-3), or 4 percent of segregated funds. In the June 25, 1980 release the Commission proposed no change in the required minimum dollar levels of adjusted net capital, which are currently $50,000 for an FCM which is a member of a designated self-regulatory organization [4] and $100,000 for an FCM which is not a member. Six commentators recommended increasing the minimum dollar levels, although they did not agree on what those levels should be. Based upon those comments, and its own further experience with the operation of the minimum financial regulations, the Commission believes that such an increase may be necessary. Accordingly, the Commission is today proposing, in a separate release, to increase the minimum dollar levels for adjusted net capital to $100,000 for members, and $250,000 for non-members.

Commentators frequently cited two criticisms of the proposal to make the amount of adjusted net capital which must be maintained by an FCM equal to 4 percent of the funds required to be segregated pursuant to the Act and the Commission's regulations. One is that if the proposal were adopted, it would create an incentive to FCMs to reduce the amount of margin which they assess their customers to the exchange minimum levels, and to return any excess customer funds to the customer. It was argued that the consequence of such actions might be an increase in the risks to the financial stability of FCMs. The second objection is that the 4 percent proposal is anti-competitive. Arguments supporting this contention were as follows: The proposal will have the greatest impact on smaller and newer firms. It will inhibit the growth of all firms. It will cause upward pressure on commissions due to increases in the cost of doing business. And, finally, it will give an advantage to FCMs who are securities brokers or dealers over FCMs which are not and will favor FCMs who are subsidiaries of large corporations, and thus able to obtain subordinated loans from the parent firm, over those FCMs not so situated.

While many of the commentators opposed the 4 percent of segregated funds proposal, a number of them also agreed with the principle that required minimum adjusted net capital for FCMs should be related to the amount of customer business undertaken by such firms and the amount of segregated funds. Alternative proposals presented by these commentators included using one, two, or three percent of segregated funds as the required minimum level of adjusted net capital; a percentage of the exchange minimum margin levels for customer positions; four percent of segregated funds for non-member FCMs, but a smaller percentage for members; and a graduated percentage scale based on the amount of segregated funds.

The Commission has carefully considered the comments on the four percent of segregated funds proposal. The Commission continues to believe, as it stated when it announced the proposal, that:

[A] net capital requirement based on a percentage of customers' segregated funds is a more accurate measure of the level of net capital which an FCM should maintain than is such a requirement based on (aggregate indebtedness). (Aggregate indebtedness) excludes amounts owed to customers by an FCM, and, thus, for those FCMs which are principally involved in servicing customer accounts, a potentially serious financial condition may go undetected. An FCM's net capital may be well below 4 percent of segregated funds, yet the FCM's computation of net capital based on (aggregate indebtedness), and the early warning system based on that computation, could fail to

[1] The June 25, 1980 **Federal Register** release incorrectly listed August 25, 1980 as the close of the comment period. This error was corrected in a subsequent release which gave the correct original closing date for the comment period, September 23, 1980 (45 FR 44966, July 2, 1980).

[2] 45 FR 62847 (September 22, 1980).

[3] Three commentators submitted two letters each, and one commentator submitted three letters.

[4] The term "self-regulatory organization" ("SRO") means a contract market (as defined in 17 CFR 1.3(h)), or a registered futures association under Section 17 of the Act (no such association presently exists). The term "designated self-regulatory organization" ("DSRO") means a self-regulatory organization of which an FCM is a member or, if the FCM is a member of more than one self-regulatory organization and such FCM is the subject of an approved plan under 17 CFR 1.52, then a self-regulatory organization delegated the responsibility by such a plan for monitoring and auditing such FCM for compliance with the minimum financial and related reporting requirements of the self-regulatory organizations of which the FCM is a member, and for receiving the financial reports necessitated by such minimum financial and related reporting requirements from such FCM. 17 CFR 1.3 (ee) and (ff).

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reflect the potential danger to the FCM's financial condition.[5]

The Commission also remains convinced that four percent of segregated funds is the proper minimum adjusted net capital level (and, thus, falling below six percent would require notice to be given under the early warning system). While this will reduce the excess net capital of many firms if those firms maintain their current amounts of capital, the Commission believes that this is a necessary consequence of increasing capital requirements from the present level, which is too low, to a more appropriate level. The studies which the Commission has conducted, as well as the studies submitted by certain commentators, have shown that while many firms would have a reduced amount of excess net capital if the four percent of segregated funds requirement were applied to their present capital situation, relatively few firms would be undercapitalized. The firms that would be undercapitalized are those that should have more capital to carry on their current volume of business.

Of course, the studies of the effect of the four percent of segregated funds requirement are made under existing conditions, and do not take into account the fact that firms will be able to increase their amounts of capital. In addition, the Commission believes that there will be an incentive for firms to maintain higher margin levels than exchange minimums since this serves as a cushion for the firm's financial stability, and because firms are free to invest segregated funds in statutorily-authorized instruments, which many firms utilize to derive a significant portion of their income. Firms will have a further incentive to maintain higher margin levels than exchange minimum levels to avoid having to take capital charges for undermargined accounts, expecially since the treatment of undermargined accounts is being tightened (*See* discussion *infra*).

As to the comments that the four percent of segregated funds requirement is anti-competitive, the Commission does not agree that growth will be unduly inhibited or that newer and smaller firms will be impacted disproportionately. Since the present financial rules became effective on December 20, 1978, and significantly increased the capital requirements from those previously in existence, the volume of commodity futures trading has continued to grow, as have the number of new firms of all sizes entering the industry. Moreover, in adopting this regulation the Commission has, as required by Section 15 of the Act,[6] taken into consideration the public interest to be protected by the antitrust laws and endeavored to take the least anti-competitive means of achieving the objectives of the Act, as well as the policies and purposes of the Act.[7] As the Commission stated when it proposed the four percent of segregated funds requirement, such a requirement will

> enhance the protection of customers' segregated funds and better protect the financial condition of FCMs, and those two results are of the greatest importance to the security and overall well-being of individual participants and institutions involved in the futures markets. [It will also] cause the minimum financial requirement to reflect more accurately the amount of customer business of an FCM, help to safeguard customers' funds and provide an improved system of early warning of the deterioration of an FCM's financial condition.[8]

Customer protection and the financial stability of the marketplace are central objectives of the Act, and their achievement by insuring an adequate minimum capital requirement for FCMs, when balanced against the public interest to be protected by the antitrust laws, must clearly take precedence.

Several commentators suggested changes in the treatment of various assets included in the net capital computation, and the Commission agrees that one such suggested change from the proposed amendments should be made. The Commission had proposed to delete § 1.17(c)(2)(v) because it referred to aggregate indebtedness, but, as one commentator pointed out, deletion of that entire paragraph would be incompatible with the financial rules of the Securities and Exchange Commission ("SEC"). The Commission's intended deletion was only for the purposes of eliminating the reference to aggregate indebtedness. Accordingly, consistent with the Commission's continuing effort to preserve as much uniformity as possible between the Commission's regulations and those of the SEC, § 1.17(c)(2)(v) will be amended to delete only the reference to aggregate indebtedness, and to make clear that current assets include fixed assets or other assets acquired in the ordinary course of the trade or business which collateralize long-term debt.

Another commentator correctly notes that, in connection with omnibus accounts, both the originating FCM and the clearing FCM are required to segregate funds under the Act and Commission regulations. The commentator further notes that the four percent of segregated funds requirement would require that both such entities maintain minimum capital based on the same funds. The commentator requests consideration of relief on this point. The Commission has considered this comment but continues to believe that the proposed requirement is necessary and appropriate.

C. Undermargined Accounts

The Commissioner's June 25, 1980 release announced four proposed changes in the treatment of undermargined accounts (17 CFR 1.17(c)(5)(viii) and (ix)(1980)). These changes relate to the charges which an FCM is required to take against net capital because of such accounts, and offsets to be applied against the required charges due to outstanding margin calls.

The first such proposed change would shorten the period within which an FCM may collect margin on an undermargined customer account before the full charge against net capital for the undermargined amount must be incurred. The regulations currently allow five business days for such collection, and this period is scheduled to be reduced, under the regulations now in effect, to four business days beginning in 1981, and to three business days in 1983.[9] Essentially, the proposed amendment would accelerate the three-business-day standard by two years.

The Commission also proposed, in connection with the proposed amendments to the treatment of undermargined accounts, to change its interpretation of how to count the business days for purposes of § 1.17(c)(5) (viii) and (ix).[10] The proposed new interpretation was to have been applied to the amount of time allowed to collect margin calls discussed above. The new interpretation would have required that business day number one be the first day after an account becomes undermargined,

[5] 45 FR 42633, at 42634–5 (June 25, 1980).

[6] 7 U.S.C. 19 (1976).

[7] *Id. See also,* British American Commodity Options Corp. v. Bagley, [1975–1977 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶20,245, at 21,334 (S.D.N.Y. 1976), *aff'd and rev'd in part on other grounds,* 552 F. 2d 462 (2d Cir.), *cert. denied,* 434 U.S. 938 (1977).

[8] 45 FR 42633, at 42635 (June 25, 1980).

[9] The Commission had proposed, during the rulemaking process culminating in the adoption of the current minimum financial and related reporting requirements, to have § 1.17(c)(5)(viii) of the regulations require the three-business-day standard begining in 1981 (43 FR 15072, at 15088 (April 10, 1978)), but, after further deliberation, the Commission decided to permit the present schedule for phasing in the three-day requirement (43 FR 39956, at 39964, 39975 (September 8, 1978)).

[10] *See* 43 FR 39956, at 39964; "Financial and Segregation Interpretation No. 1—Safety Factors on Undermargined Accounts," 1 Comm. Fut. L. Rep. (CCH) ¶7111, at 7071–72.

according to the following example. On Monday, market action causes a customer's account to become undermargined, and the resulting margin call is sent on Tuesday. Under the proposed new interpretation, Tuesday would be the first day the margin call would be outstanding; Wednesday would be the second day; and Thursday would be the third day. Thus, if no margin were received by the close of business on Thursday, the firm would be required, on that day, to take a charge against net capital. In this example, if the margin call were not made until Wednesday, or even if the call for margin had been made on Monday, the firm would still be required to make a charge to net capital if the funds are not received by the close of business on Thursday. Of course, if a margin call is not made, a charge to capital for the undermargined amount is made immediately.[11]

The commentators who addressed the proposal to accelerate the institution of the three-business-day standard opposed it by a ratio of seven to one. The objection raised most frequently regarding the proposal was that the present banking, communications and mail systems make it impossible or extremely difficult to collect margin calls within the time frame allowed by the proposal. Several commentators stated that the three-business-day proposal would disadvantage customers in rural areas, small businesses and customers who were likely to transact business with banks which do not provide for wire transfer of money. Such customers, it was argued, have to use the mails to respond to margin calls, and, thus, are unable to respond to such calls as quickly as urban area customers and those larger customers normally transacting business with banks that do provide wire transfer services. A few commentators objected to the proposal as it would affect foreign accounts, citing problems with international wire transfers and currency regulations. The effect of the proposals, according to the majority of commentators, is that FCMs would be forced either to absorb additional capital charges, or frequently to liquidate positions for those without access to wire transfer services, and positions in foreign accounts.

Many of the commentators who objected to the acceleration of the three-business-day standard were especially opposed to the acceleration when combined with the proposed change in the method of counting business days. These commentators, while objecting to the acceleration proposal, stated that if it were adopted, the Commission should at least continue to maintain the current method for counting days.

The Commission has reevaluated the acceleration of the three-business-day standard in conjunction with the proposed new method for counting days, and has determined to adopt the three-business-day standard but to retain the present method of counting days. The present method of counting business days for purposes of the capital charge to be taken for an undermargined account provides that business day one is the second business day following the business day upon which the account became undermargined. Thus, if an account becomes undermargined on Monday, Wednesday is counted as business day one.[12] The effect of the proposed three-day-standard plus the new counting method would have been to eliminate two days. The Commission's decision to adopt the three-business-day standard but retain the present method for counting days will reduce the days allowed for collection of margin by one, rather than two. In view of the retention of the present method for counting business days, the Commission believes that acceleration of the effectiveness of the three-day collection period will not unduly inconvenience customers in rural areas, small businesses, and other customers without access to wire transfer services.

The Commission's third proposal related to undermargined accounts was to prohibit any reduction in the required charge to be taken against net capital for an undermargined account with respect to any customer commodity futures accounts for which any portion of a margin call remains outstanding for six (6) or more business days (for non-customer or omnibus accounts, the applicable time period would be four (4) or more business days). The Commission believes that undermargined accounts, in general, pose significant financial risks for an FCM. The Commission further believes that accounts remaining undermargined for longer than the periods of time specified in this paragraph pose significant additional risks to an FCM's financial condition which should be reflected in the computation of adjusted net capital.

Only a few commentators addressed this issue, and some of those stated that extensive studies should be conducted to assess the impact of such a rule. While the Commission continues to view with concern the particular threats imposed by outstanding margin calls, particularly those outstanding for six or more business days, it recognizes that most computators directed their attention to assessing the impact of other proposed changes, principally the four percent of segregation requirements for computing minimum adjusted net capital. The Commission, therefore, has decided not to adopt the proposed amendments to paragraphs (c)(5)(viii) (customer accounts) and (c)(5)(ix) (non-customer and omnibus accounts) of § 1.17 at this time but to repropose them so that interested persons, particularly those directly affected, may have a greater opportunity to study the effects of such a six-day cutoff and so that the Commission may further evaluate the rule in light of additional, more detailed, comments. The reproposal of these amendments is set forth in a separate release issued today. Comments already received on this issue will be considered as part of the record of this further rulemaking proceeding.

The fourth proposal in the undermargined account area was to require an FCM to take an immediate charge against its net capital when the FCM executes a new trade for an account which is already undermargined, or if such new trade would cause an account to become undermargined and in such circumstances not to permit any offset for a margin call. One commentator agreed with this proposal as it would apply to an account which was undermargined before the new trade was executed, but not to a new trade which causes an account to become undermargined. Another commentator agreed with the proposal in principle but stated that, with current data processing systems, the calculations which would be required would be very complicated or difficult to make. The remaining commentators who addressed this proposal expressed opposition, most frequently citing the problems that would be encountered in trying to make the required calculations. The Commission has reevaluated this proposal and has determined that the comments concerning the practical difficulties of making the calculations which would be required have merit. The Commission has, therefore, decided not to adopt this proposal. The Commission is concerned, however, that an FCM might attempt to use multiple or excess calls for margin, or margin calls for new trades, to improve its net capital

[11] If the above situation involved an undermargined non-customer or omnibus account, the FCM would be required to take a charge against its net capital if the margin call was not met by the close of business on Wednesday.

[12] This counting method will not apply to the treatment of debit/deficit accounts. *See* discussion *infra.*

position at a time when its net capital position is actually deteriorating,[13] and wishes to emphasize that such a

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The experiences which led to the

held such collateral for more than five business days.

F. Miscellaneous Items

subordination agreements which refer to this concept.

Five technical changes are being

position at a time when its net capital position is actually deteriorating,[13] and wishes to emphasize that such a practice is impermissible under the regulations. An FCM may not apply as an offset to a charge against its net capital any portion of a call for margin that would have the effect of making prior, but non-current, margin calls appear current.

D. Debit/Deficit Accounts

The Commission also proposed to eliminate the one-business-day grace period relating to the exclusion from current assets of any unsecured commodity futures or option accounts consisting of a ledger balance and open trades which, when combined, would liquidate to a deficit, or which contain a debit ledger balance (17 CFR 1.17(c)(2)(i)(1980)). At present, for example, if market activity occurs on a Monday, and such market activity causes an account to be in a debit or deficit status, the FCM must collect money, securities or property which would alleviate the debit or deficit situation in the account by the close of business on Wednesday or exclude the account from current assets for net capital purposes. The proposal would have required such exclusion from current assets as of the close of business on Monday.

Of the twenty-three comments on this issue, twenty were opposed. Many of the arguments in opposition were similar to those made in response to the proposal to shorten the time within which to collect margin or undermargined accounts before the full capital charge must be incurred. (*See* discussion supra.) Several commentators stated that the proposal to eliminate the one-business-day grace period for debit/deficit accounts is unreasonable because there exists no on-line computer system which is capable of constantly updating accounts, and, thus, an FCM could not determine until the following business day whether, and by how much, an account is in a debit or deficit status. It was also frequently asserted in the comments on the debit/deficit proposal that it is impossible, even with wire transfer of funds, to collect margin calls and have them credited on the same day, especially when the markets involved are those, such as the financial futures markets, which close late in the day.

While the majority of commentators objected to the proposal to completely eliminate the grace period for debit/deficit accounts, many indicated that they would not be opposed to an exclusion of debit or deficit accounts from current assets provided the FCM had twenty-four hours in which to alleviate the debit or deficit situation. The Commission has considered the comments on the debit/deficit proposal, reevaluated the proposal, and determined to adopt a somewhat less stringent requirement than the one proposed but one which strengthens § 1.17(c)(2)(i) as follows. Using the example referred to above, if market activity occurs on a Monday, and such market activity causes an account to be in a debit or deficit status, the FCM will have until the close of business on Tuesday to collect money, securities or property which would alleviate the debit or deficit situation in the account. If the debit or deficit were not alleviated on Tuesday, the FCM could not include the amount owed as a current asset in a capital computation as of the close of business on Tuesday.

The Commission wishes to emphasize that the method for counting business days with respect to undermargined accounts will, after the effective date of the new amendments, have no bearing on the calculation of business days for purposes of § 1.17(c)(2)(i). The Commission has determined that such differing treatment is necessary because any account liquidating to a deficit or containing a debit ledger balance presents a significantly greater risk to an FCM than one which is undermargined (frequently an account in a debit or deficit status will have been undermargined for quite some time).

E. Non-Cash Assets

The Commission proposed two amendments to the regulation which sets forth the standards for determining whether receivables are secured (17 CFR 1.17(c)(3)(1980)). For purposes of making such a determination, § 1.17(c)(3) currently allows the collateral for a receivable to be valued at 100 percent of its market value. The first proposed amendment would change the valuation method so that receivable would be considered secured only to the extent of the market value of the collateral after making the percentage deductions that would be required by § 1.17(c)(5) if the collateral were owned by the FCM. Only two commentators directly addressed this proposal. One commentator stated that the proposed amendment seemed reasonable and appropriate. The other commentator generally agreed with the amendment, but expressed the view that commodities eligible for delivery on a contract market should be exempted from this provision. The Commission disagrees with this suggestion. Uncovered deliverable commodities, while readily marketable, are subject to potential adverse market movements and consequently should not be valued at 100 percent of market value.[14] The Commission feels that the 20 percent safety factor which an FCM must apply to its uncovered commodity inventory which is eligible for delivery is also appropriate in the context of valuing the collateral for secured receivables. Therefore, this amendment will be adopted as proposed.

The second proposed amendment to § 1.17(c)(3) concerns certain situations in which a physical commodity is deposited to collateralize a loan, advance or other receivable, the proceeds of which are deposited with the FCM by the borrower to margin, guarantee or secure a futures account. The proposal was that the physical commodity so deposited would be given no value when determining to what extent the loan, advance or other receivable is secured. The Commission also proposed similar amendments to the safety factor charges relating to undermargined customer or non-customer accounts (paragraphs (c)(5)(viii) and (ix) of § 1.17). These proposed amendments would prevent an FCM from attributing any value to a physical commodity deposited to margin, guarantee or secure an account, if such account has an open futures contract in such commodity, unless the futures contract "covered" the deposited physical commodity.

Most commentators who addressed these proposed amendments expressed opposition to their adoption. The most frequently voiced concern was that a physical commodity will always have some value and that the proposal seemed to treat them as though that value could decline to zero. Commentators generally agreed that some percentage deduction from market value is appropriate, but argued that a 100 percent deduction would be excessive. Several individuals also asserted that the proposed amendments would interfere with the delivery process and restrict liquidity on the contract markets.

The experiences which led to the proposal of the above charges continue to be of significant concern to the Commission. However, based upon its own further study in this area and upon the comments, the Commission has determined to adopt a somewhat less stringent standard than the one proposed and to monitor its implementation with a view to possible further rulemaking on this subject. Accordingly, the second proposed amendment to § 1.17(c)(3) will not be adopted. Likewise, the Commission has chosen not to adopt this aspect of the proposed amendments to paragraphs (c)(5)(viii) and (ix) of § 1.17. Instead, the value attributed to any non-cash item deposited to margin, guarantee or secure a futures account (regardless of the commodities traded in the account) will be the lesser of (A) the value attributable to such item under the margin rules of the applicable board of trade, or (B) the market value of such item after application of the percentage deductions specified in § 1.17(c)(5).

The Commission continues to believe, however, that a more stringent safety factor may be appropriate in situations where a person or related group of persons have deposited significant amounts of a non-cash item with an FCM to margin, guarantee or secure a futures account or to collateralize a debt to the FCM and that person or related group of persons have a net long futures position in the same non-cash item so deposited. Accordingly, the Commission is today proposing, in a separate release, to add a new paragraph (c)(5)(iii) to § 1.17 which would provide that if, in the above circumstances, the total amount of all loans, advances or other receivables owed to, and included in the current assets of, the FCM, plus the amount of the maintenance margin requirements of the applicable boards of trade for all of the open futures contracts of such person or persons held by the firm, exceed 20 percent of the FCM's net capital, the FCM must first apply the non-cash item, at a rate not to exceed 50 percent of its market value, to the exchange maintenance margin requirements for such net long futures position. An exemption would be provided for obligations of the United States and obligations which are fully guaranteed as to principal and interest by the United States. An exemption would also be provided in a situation where an applicant or registrant has received collateral through the delivery process of a contract market and has not held such collateral for more than five business days.

F. Miscellaneous Items

One contract market reaffirmed its long-standing position that the Commission is without legal authority to require contract markets to adopt the financial requirements for FCMs which are at least as stringent as the Commission's, as well as any amendments to the Commission's requirements, and it further stated that "[s]erious questions under Sections 5a(12) and 8a(7) of the Commodity Exchange Act are also posed by the proposed amendments." The Commission has previously considered these issues and fully expressed its views thereon in connection with its rulemaking proceeding in adopting the current minimum financial and related reporting requirements.[15] The Commission wishes to reiterate those views.

The Commission also wishes to reiterate that central to the operation of its minimum financial and related reporting requirements for FCMs is that each contract market have in effect, and be responsible for enforcing, financial and reporting rules for their member FCMs which are at least as stringent as those contained in §§ 1.10 and 1.17. Most of the contract markets' rules in this regard incorporate, by reference, the requirements of §§ 1.10 and 1.17 and, hence, the amendments to § 1.17 will be incorporated automatically into the rules of those contract markets upon the effective date of the amendments. Two contract markets do not follow this approach, however, and instead have detailed financial and reporting rules of their own, and these exchange rules will require amendment to bring them into conformity with the amendments to § 1.17. If it would work an undue hardship on those latter contract markets to adopt conforming amendments to their rules prior to the effective date of the amendments described in this release, such markets may request that the Commission's Division of Trading and Markets take a "no-action" position, for a reasonable period of time, to allow the process of amending rules to be completed.

No comments were received on the Commission's proposed technical amendments to the regulations governing the filing of subordination agreements, and the proposals will be adopted. One commentator did, however, request clarification regarding the effect of the amendments concerning aggregate indebtedness upon existing subordination agreements which refer to this concept.

Five technical changes are being adopted to eliminate reference to aggregate indebtedness from subordination agreements (17 CFR 1.17(h) (1980)). These concern collateral for secured demand notes, permissive prepayments, suspended repayment, notice of maturity or accelerated maturity, and temporary subordinations. Any subordination agreement which has been approved by a contract market or the Commission prior to the adoption of the new amendments will continue to be considered a "satisfactory subordination agreement" for net capital purposes.

The Commission has also examined standard form subordination agreements now in use and it believes that such forms could continue to be used after the new amendments become effective. The agreements are generally phrased in terms which permit an FCM to use either an aggregate indebtedness-based minimum net capital computation, or a computation based on four percent of segregation requirements. The existing forms may thus be used, and all FCMs which use them for future agreements will be considered to be operating under the four percent of segregated funds formula, previously referred to as the "alternative" method. Of course, FCMs and contract markets are free to amend any subordination agreement forms which they might have used previously to eliminate language which is not applicable.

In addition to the rule changes proposed by the Commission in the June 25 release, the Commission stated that it was considering the development and implementation of a capital charge for FCMs which would take into consideration large concentrations of positions in customer, non-customer or proprietary accounts held in a particular commodity or a particular group of commodities.[16] The Commission expressed its concern that such concentrations of positions can greatly increase an FCM's financial exposure in the event of large price movements. The Commission stated that it was considering several possible approaches. One approach would compare a standard fluctuation based upon historical price changes in the concentrated future to the net capital of the firm, and require an FCM to make deductions from its capital based upon the comparison.[17] Another approach would be to group certain commodity futures contracts based upon the

[13] See discussion in "Financial and Segregation Interpretation No. 1—Safety Factors on Undermargined Accounts," 1 Comm. Fut. L. Rep. (CCH) ¶7111, at 7072–73.

[14] In general, commodities deposited as collateral by any person will not be considered as covered for purposes of this provision unless the futures contracts or fixed-price commitments that represent cover for the collateral are carried on the books of the FCM for such person. The Commission's Division of Trading and Markets will, however, consider, on a case-by-case basis, requests from FCMs for a "no-action" position with respect to situations where such person is covered but not on the books of the FCM.

[15] *See* 43 FR 39956, at 39966–7 (September 8, 1978).

[16] 45 FR 42633, at 42637.

[17] *See* 42 FR 27166, at 27171, 27175 (May 26, 1977).

historical tendency of their prices to move together. An FCM would calculate the total exchange margin required for long futures contracts in the same commodity.

In consideration of the foregoing, the Commission, pursuant to the authority

2. 17 CFR Part 1 is further amended by revising paragraphs (a)(1), (b)(1), (c)(2)(i) and (v), (c)(3), (c)(4)(v), (c)(5)(viii) and (ix), (e), (f)(1), (f)(2)(i), (f)(3), (f)(4),

by assets of the applicant or registrant if the sole recourse of the creditor for nonpayment of such liability is to such asset; *Provided*, Such liabilities are not

margin requirements or clearing organization margin requirements on such accounts, then the amount of funds

(e) No equity capital of the applicant or registrant or a subsidiary's or affiliate's equity capital consolidated

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historical tendency of their prices to move together. An FCM would calculate the total exchange margin required for all positions with the firm in each group, and be required to take a charge against its net capital equal to all or some percentage of the largest amount of margin that would be necessary for any one group. The Commission invited interested persons to submit comments which would assist in the development of such a capital charge.

The Commission received fifteen comments on this issue. One commentator stated that concentration was the issue of primary importance in the context of the financial rules, and that any new rules should be tied to a certain concentration formula. That commentator went on to state that, for example, if the amount of a margin call for an undermargined account(s) of a customer or related group of customers exceeds 10 percent of the FCM's net capital, a credit for such margin call(s) should be allowed only to the extent that it is outstanding three business days or less (for smaller calls, the present five-day rule should apply). Two other commentators suggested a similar approach when a physical commodity is used as margin so that if the margin requirements for one customer or related group of customers exceeds twenty percent of an FCM's net capital, a fifty percent deduction would be applied to the market value of the unhedged physical commodity. This suggestion, as discussed above, is being proposed for public comment, in a separate release. Other commentators suggested that the problem of concentration would best be addressed by exchange-established speculative position limits for all commodities (with Commission-established charges for any commodities without such limits), or by differential margin levels based on the number of open positions in a particular commodity in an account, or by predetermined limits on an FCM's business based on its net capital. Two commentators expressed the desire to study the issue further, and six commentators opposed any concentration charge.

The Commission expects to study this issue further, and it invites, in a separate release issued today, further comments from interested persons which will assist in the development of appropriate regulations respecting concentration charges. For the present, however, the only measure which will be formally proposed is the one previously discussed respecting physical commodities used, in essence, to margin long futures contracts in the same commodity.

In consideration of the foregoing, the Commission, pursuant to the authority contained in Sections 4d, 4f, and 8a of the Act, 7 U.S.C. 6d, 6f, and 12a, as amended, 92, Stat. 865 *et seq.*, hereby amends 17 CFR Chapter I and Commission Form 1–FR in the manner set forth below. Certain non-substantive, technical changes (such as commas for clarity and capitalization) have also been made.

1. 17 CFR Part 1 would be amended by revising paragraph (b) of § 1.12 to read as follows:

§ 1.12 Maintenance of minimum financial requirements by futures commission merchants.

* * * * *

(b) Each person registered as a futures commission merchant, or who files an application for registration as a futures commission merchant, who knows or should have known that its adjusted net capital at any time is less than the greatest of 150 percent of the appropriate minimum dollar amount required by § 1.17, or 6 percent of the funds required to be segregated pursuant to section 4d(2) of the Act and these regulations, or, for securities brokers or dealers, 6 percent of aggregate debit items computed in accordance with the formula for determination of reserve requirements (§ 240.15c3–3 of this title), must file written notice to that effect as set forth in paragraph (g) of this section within five (5) business days of such event. Such applicant or registrant must also file a Form 1–FR (or, if such applicant or registrant is registered with the Securities and Exchange Commission as a securities broker or dealer, it may file (in accordance with § 1.10(h)) a copy of its Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II, in lieu of Form 1–FR, or such other financial statement designated by the Commission and/or the designated self-regulatory organization, if any, as of the close of business for the month during which such event takes place and as of the close of business for each month thereafter until three (3) successive months have elapsed during which the applicant's or registrant's adjusted net capital is at all times equal to or in excess of the minimums set forth in this paragraph (b) which are applicable to such applicant or registrant. Each financial statement required by this paragraph (b) must be filed within 30 calendar days after the end of the month for which such report is being made.

* * * * *

2. 17 CFR Part 1 is further amended by revising paragraphs (a)(1), (b)(1), (c)(2)(i) and (v), (c)(3), (c)(4)(v), (c)(5)(viii) and (ix), (e), (f)(1), (f)(2)(i), (f)(3), (f)(4), (h)(2)(vi)(C), (h)(2)(vii), (h)(2)(viii), (h)(3)(ii), (h)(3)(v), and (h)(3)(vi) and by removing and reserving paragraphs (c)(6) and (g) of § 1.17 to read as follows:

§ 1.17 Minimum financial requirements—futures commission merchants.

(a)(1) Except as provided in paragraph (a)(2) of this section, each person registered as a futures commission merchant must maintain adjusted net capital equal to or in excess of the greatest of $50,000, ($100,000 for each person registered as a futures commission merchant who is not a member of a designated self-regulatory organization), or 4 percent of the funds required to be segregated pursuant to the Act and these regulations, or, for securities brokers and dealers, 4 percent of aggregate debit items computed in accordance with the formula for determination of reserve requirements (Exhibit A to Rule 15c3–3, 17 CFR 240.15c3–3).

* * * * *

(b) * * *

(1) Where the applicant or registrant has an asset or liability which is defined in Securities Exchange Act Rule 15c3–1 (§ 240.15c3–1 of this title) the inclusion or exclusion of all or part of such asset or liability for the computation of adjusted net capital shall be in accordance with § 240.15c3–1 of this title, unless specifically stated otherwise in this § 1.17.

* * * * *

(c) * * *

(2) * * *

(i) Exclude any unsecured commodity futures or option account containing a ledger balance and open trades, the combination of which liquidates to a deficit or containing a debit ledge balance only: *Provided, however,* Deficits or debit ledger balances in unsecured customers', non-customers' and proprietary accounts, which are the subject of calls for margin or other required deposits may be included in current assets until the close of business on the business day following the date on which such deficit or debit ledger balance originated;

* * * * *

(v) Include fixed assets and assets which otherwise would be considered noncurrent to the extent of any long-term debt adequately collateralized by assets acquired for use in the ordinary course of the trade or business of an applicant or registrant and any other long-term debt adequately collateralized by assets of the applicant or registrant if the sole recourse of the creditor for nonpayment of such liability is to such asset: *Provided,* Such liabilities are not excluded from liabilities in the computation of net capital under paragraph (c)(4)(v) of this section;

* * * * *

(3) A loan or advance or any other form of receivable shall not be considered "secured" for the purposes of paragraph (c)(2) of this section unless the following conditions exist:

(i) The receivable is secured by readily marketable collateral which is otherwise unencumbered and which can be readily converted into cash: *Provided, however,* That the receivable will be considered secured only to the extent of the market value of such collateral after application of the percentage deductions specified in paragraph (c)(5) of this section; and

(ii)(A) The readily marketable collateral is in the possession or control of the applicant or registrant; or

(B) The applicant or registrant has a legally enforceable, written security agreement, signed by the debtor, and has a perfected security interest in the readily marketable collateral within the meaning of the laws of the State in which the readily marketable collateral is located.

(4) * * *

(v) Excludes liabilities which would be classified as long term in accordance with generally accepted accounting principles to the extent of the net book value of plant, property and equipment which is used in the ordinary course of any trade or business of the applicant or registrant which is a reportable segment of the applicant's or registrant's overall business activities, as defined in generally accepted accounting principles, other than in the commodity futures, commodity option, security and security option segments of the applicant's or registrant's business activities: *Provided,* That such plant, property and equipment is not included in current assets pursuant to paragraph (c)(2)(v) of this section.

(5) * * *

(viii) For undermargined customer commodity futures accounts the amount of funds required in each such account to meet maintenance margin requirements of the applicable board of trade or if there are no such maintenance margin requirements clearing organization margin requirements applicable to such positions, after application of calls for margin, or other required deposits which are outstanding three business days or less. If there are no such maintenance margin requirements or clearing organization margin requirements on such accounts, then the amount of funds required to provide margin equal to the amount necessary after application of calls for margin, or other required deposits outstanding three days or less to restore original margin when the original margin has been depleted by 50 percent or more. Provided, to the extent a deficit is excluded from current assets in accordance with paragraph (c)(2)(i) of this section such amount shall not also be deducted under this paragraph (c)(5)(viii). In the event that an owner of a customer account has deposited an asset other than cash to margin, guarantee or secure his account, the value attributable to such asset for purposes of this subparagraph shall be the lesser of (A) the value attributable to the asset pursuant to the margin rules of the applicable board of trade, or (B) the market value of the asset after application of the percentage deductions specified in this paragraph (c)(5);

(ix) For undermargined non-customer and omnibus commodity futures accounts the amount of funds required in each such account to meet maintenance margin requirements of the applicable board of trade or if there are no such maintenance margin requirements clearing organization margin requirements applicable to such positions, after application of calls for margin, or other required deposits which are outstanding two business days or less. If there are no such maintenance margin requirements or clearing organization margin requirements, then the amount of funds required to provide margin equal to the amount necessary, after application of calls for margin, or other required deposits outstanding two days or less to restore original margin when the original margin has been depleted by 50 percent or more. Provided, to the extent a deficit is excluded from current assets in accordance with paragraph (c)(2)(i) of this section such amount shall not also be deducted under this paragraph (c)(5)(ix). In the event that an owner of a non-customer or omnibus account has deposited an asset other than cash to margin, guarantee or secure his account the value attributable to such asset for purposes of this subparagraph shall be the lesser of (A) the value attributable to such asset pursuant to the margin rules of the applicable board of trade, or (B) the market value of such asset after application of the percentage deductions specified in this paragraph (c)(5);

* * * * *

(6) [Reserved].

* * * * *

(e) No equity capital of the applicant or registrant or a subsidiary's or affiliate's equity capital consolidated pursuant to paragraph (f) of this section, whether in the form of capital contributions by partners (including amounts in the commodities and securities trading accounts of partners which are treated as equity capital but excluding amounts in such trading accounts which are not equity capital and excluding balances in limited partners' capital accounts in excess of their stated capital contributions), par or stated value of capital stock, paid-in capital in excess of par or stated value, retained earnings or other capital accounts, may be withdrawn by action of a stockholder or partner or by redemption or repurchase of shares of stock by any of the consolidated entities or through the payment of dividends or any similar distribution, nor may any unsecured advance or loan be made to a stockholder, partner, sole proprietor, or employee if, after giving effect thereto and to any other such withdrawals, advances, or loans and any payments of payment obligations (as defined in paragraph (h) of this section) under satisfactory subordination agreements and any payments of liabilities excluded pursuant to paragraph (c)(4)(v) of this section which are scheduled to occur within six months following such withdrawal, advance or loan, either adjusted net capital of any of the consolidated entities would be less than the greatest of 120 percent of the appropriate minimum dollar amount required by § 1.17 or 7 percent of the amount required to be segregated pursuant to the Act and these regulations or, for securities brokers or dealers, 7 percent of the aggregate debit items computed pursuant to § 240.15c3–3 of this title, or in the case of any applicant or registrant included within such consolidation, if equity capital of the applicant or registrant (inclusive of satisfactory subordination agreements which qualify as equity under paragraph (d) of this section) would be less than 30 percent of the required debt-equity total as defined in paragraph (d) of this section: *Provided,* That this provision shall not preclude an applicant or registrant from making required tax payments or preclude the payment to partners of reasonable compensation. The Commission may, upon application of the applicant or registrant, grant relief from this paragraph (e) if the Commission deems it to be in the public interest or for the protection of non-proprietary accounts.

(f)(1) Every applicant or registrant, in computing its net capital pursuant to

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this section must, subject to the provisions of paragraphs (f)(2) and (f)(4) of this section, consolidate in a single computation, assets and liabilities of any subsidiary or affiliate for which it guarantees, endorses, or assumes directly or indirectly the obligations or liabilities. The assets and liabilities of a subsidiary or affiliate whose liabilities and obligations have not been guaranteed, endorsed, or assumed directly or indirectly by the applicant or registrant may also be so consolidated if an opinion of counsel is obtained as provided for in paragraph (f)(2) of this section.

(2)(i) If the consolidation, provided for in paragraph (f)(1) of this section, of any such subsidiary or affiliate results in the increase of the applicant's or registrant's adjusted net capital or decreases the minimum adjusted net capital requirement, and an opinion of counsel called for in paragraph (f)(2)(ii) of this section has not been obtained, such benefits shall not be recognized in the applicant's or registrant's computation required by this section.

* * * * *

(3) In preparing a consolidated computation of adjusted net capital pursuant to this section, the following minimum and non-exclusive requirements shall be observed:

* * * * *

(4) No applicant or registrant shall guarantee, endorse, or assume directly or indirectly any obligation or liability of a subsidiary or affiliate unless the obligation or liability is reflected in the computation of adjusted net capital pursuant to this section except as provided in paragraph (f)(2)(i) of this section.

(g) [Reserved]

(h) * * *

(2) * * *

(vi) * * *

(C) The secured demand note agreement may also provide that, in lieu of the procedures specified in the provisions required by paragraph (h)(2)(vi)(B) of this section, the lender with the prior written consent of the applicant or registrant and the designated self-regulatory organization or if the applicant or registrant is not a member of a designated self-regulatory organization, then the Commission, may reduce the unpaid principal amount of the secured demand note: Provided, that after giving effect to such reduction the adjusted net capital of the applicant or registrant would not be less than the greater of 7 percent of the funds required to be segregated pursuant to the Act and these regulations, or, for securities brokers or dealers, 7 percent of the aggregate debit items computed in accordance with § 240.15c3–3 of this title: *Provided, further,* That no single secured demand note shall be permitted to be reduced by more than 15 percent of its original principal amount and after such reduction no excess collateral may be withdrawn. No designated self-regulatory organization shall consent to a reduction of the principal amount of a secured demand note if, after giving effect to such reduction, adjusted net capital would be less than 120 percent of the appropriate minimum dollar amount required by this section.

(vii) *Permissive prepayments.* An applicant or registrant at its option but not at the option of the lender, may, if the subordination agreement so provides, make a payment of all or any portion of the payment obligation thereunder prior to the scheduled maturity date of such payment obligation (hereinafter referred to as a "prepayment"), but in no event may any prepayment be made before the expiration of one year from the date such subordination agreement became effective: *Provided, however,* That the foregoing restriction shall not apply to temporary subordination agreements which comply with the provisions of paragraph (h)(3)(v) of this section. No prepayment shall be made, if, after giving effect thereto (and to all payments of payment obligations under any other subordinated agreements then outstanding, the maturity or accelerated maturities of which are scheduled to fall due within six months after the date such prepayment is to occur pursuant to this provision, or on or prior to the date on which the payment obligation in respect to such prepayment is scheduled to mature disregarding this provision, whichever date is earlier) without reference to any projected profit or loss of the applicant or registrant, the adjusted net capital of the applicant or registrant is less than the greater of 7 percent of the funds required to be segregated pursuant to the Act and these regulations or, for securities brokers or dealers, 7 percent of the aggregate debit items computed in accordance with § 240.15c3–3 of this title, or its adjusted net capital is less than 120 percent of the appropriate minimum dollar amount required by this section. Notwithstanding the above, no prepayment shall occur without the prior written approval of the designated self-regulatory organization and the Commission.

(viii) *Suspended repayment.* (A) The payment obligation of the applicant or registrant in respect of any subordination agreement shall be suspended and shall not mature if, after giving effect to payment of such payment obligation (and to all payments of payment obligations of the applicant or registrant under any other subordination agreement(s) then outstanding which are scheduled to mature on or before such payment obligation), the adjusted net capital of the applicant or registrant would be less than the greater of 6 percent of the funds required to be segregated pursuant to the Act and these regulations or, for securities brokers or dealers, 6 percent of the aggregate debit items computed in accordance with § 240.15c3–3 of this title, or its adjusted net capital would be less than 120 percent of the minimum dollar amount required by this section: *Provided,* That the subordination agreement may provide that if the payment obligation of the applicant or registrant thereunder does not mature and is suspended as a result of the requirement of this paragraph (h)(2)(viii) of this section for a period of not less than six months, the applicant or registrant shall then commence the rapid and orderly liquidation of its business, but the right of the lender to receive payment, together with accrued interest or compensation, shall remain subordinate as required by the provisions of this section.

* * * * *

(3) * * *

(ii) *Notice of maturity or accelerated maturity.* Every applicant or registrant shall immediately notify the designated self-regulatory organization and the Commission if, after giving effect to all payments of payment obligations under subordination agreements then outstanding which are then due or mature within the following six months without reference to any projected profit or loss of the applicant or registrant, its adjusted net capital would be less than 120 percent of the minimum dollar amount required by § 1.17, or its adjusted net capital would be less than the greater of 6 percent of the funds required to be segregated pursuant to the Act and these regulations or, for securities brokers or dealers, 6 percent of the aggregate debit items computed in accordance with § 240.15c3–3 of this title.

* * * * *

(v) *Temporary Subordinations.* To enable an applicant or registrant to participate as an underwriter of securities or undertake other extraordinary activities and remain in compliance with the adjusted net capital requirements of this section, an applicant or registrant shall be permitted, on no more than three occasions in any 12-month period to enter into a subordination agreement on a temporary basis which has a stated term of no more than 45 days from the date the subordination agreement became effective: *Provided,* That this temporary relief shall not apply to any applicant or registrant if the adjusted net capital of the applicant or registrant is less than the greater of 7 percent of the funds required to be segregated pursuant to the Act and these regulations or, for securities brokers or dealers, 7 percent of the aggregate debit items computed in accordance with § 240.15c3–3 of this title, or its adjusted net capital is less than 120 percent of the appropriate minimum dollar amount required by this section, or the amount of equity capital as defined in paragraph (d) of this section is less than the limits specified in paragraph (d) of this section. Such temporary subordination agreement shall be subject to all the other provisions of this section.

(vi) *Filing.* Two signed copies of any proposed subordination agreement (including nonconforming subordination agreements) shall be filed with the Commission at the Office of the Chief Accountant, Division of Trading and Markets, in Washington, D.C. at least ten days prior to the proposed effective date of the agreement or at such other time as the Commission for good cause shall accept such filing. Copies of the proposed agreement shall be filed in such quantities and at such time as the designated self-regulatory organization may require with the designated self-regulatory organization, if any, of which the applicant or registrant is a member. The applicant or registrant shall also file with said parties a statement setting forth the name and address of the lender, the business relationship of the lender to the applicant or registrant and whether the applicant or registrant carried funds or securities for the lender at or about the time the proposed agreement was so filed. All agreements shall be examined at the Commission or the designated self-regulatory organization with whom such agreements are required to be filed prior to their becoming effective. No proposed agreement shall be a satisfactory subordination agreement for the purposes of this section unless and until the designated self-regulatory organization or the Commission has found the agreement acceptable and such agreement has become effective in the form found acceptable.

* * * * *

3. By amending Form 1–FR as follows:

Form 1–FR

General Instructions

The terms "current assets," "liabilities," "net capital," and "adjusted net capital" are all defined terms. The definitions of these terms may be found in § 1.17 of the Commission's regulations.

* * * * *

Form 1–FR.—*Statement of Financial Condition as of ——/——/—— —Liabilities and Ownership Equity*

Liabilities	Total
19. Bank loans payable:	$
A. Secured	
B. Unsecured	
20. Securities sold under repurchase agreement	
21. Payable to clearing organizations:	
A. Securities accounts	
B. Commodities accounts:	
i. Customer segregated	
ii. Customer non-segregated	
iii. Noncustomer & firm	
22. Payable to other futures commission merchants or brokers:	
A. Payables relating to securities transactions (attach details or the FOCUS report)	
B. Payables relating to commodities transactions:	
i. Customer segregated	
ii. Customer non-segregated	
iii. Noncustomer & firm	
23. Payable to customers:	
A. Securities accounts	
B. Commodities accounts:	
i. Regulated futures	
ii. Regulated options	
iii. Non-regulated	
24. Payable to non-customers:	
A. Securities accounts	
B. Commodities accounts:	
i. General partners (not included in capital)	
ii. Other non-customers	
25. Securities sold not yet purchased at market value—including arbitrage	
26. Accounts payable, accrued liabilities and expenses:	
A. Drafts payable	
B Accounts payable	
C. Income taxes payable	
D. Deferred income taxes	
E. Accrued expenses and other liabilities	
F. Salaries, wages and commissions payable	
G. Advances against commodities	
H. Notes, mortgages and other payables due within twelve months of the date of this statement (See item 27)	
I. Other (itemize here or on a separate page)	
27. Notes, mortgages and other payables not due within twelve months of the date of this statement:	
A. Unsecured	
B. Secured	
28. Liabilities subordinated to claims of general creditors:	
A. Subject to a satisfactory subordination agreement	
B. Not subject to a satisfactory subordination agreement	
29. Total Liabilities	

* * * * *

14. Undermargined commodity futures accounts—amount in each account required to meet maintenance margin requirements less the amount of current margin calls in that account:
A. Customer accounts
B. Noncustomer accounts
C. Omnibus accounts
15. Uncovered open futures contracts in proprietary accounts—percentage of margin requirements applicable to such contracts
Less: equity in proprietary accounts not otherwise includable in adjusted net capital
16. Amount of any commodity option premiums used to increase adjusted net capital where registrant or applicant is a taker of a commodity option

Form 1–FR.—*Statement of Financial Condition as of ——/——/—— —Liabilities and Ownership Equity*—Continued

Liabilities	Total
17. Amount of any commodity option premium which has not been previously recognized as income by a grantor of commodity options	
18. Ten percent (10%) of the market value of commodities which are the subject of commodity options carried long by the applicant or registrant which has value and such value increased adjusted net capital (this charge is limited to the value attributed to such options)	
19. Five percent (5%) of all unsecured receivables from unregistered futures commission merchants or securities brokers or dealers	
20. Secured demand note deficiency	
21. For securities brokers or dealers all other deductions specified in § 240.15c3–1	
22. Total Charges	
23. Adjusted Net Capital	
24. For minimum net capital required, enter the greatest of lines A, B, or C	
A. Enter $50,000 ($100,000 if registrant is not a member of a designated self-regulatory organization)	
B. Enter 4% of the amount of funds required to be segregated for commodity futures and options customers	
C. If a securities broker-dealer, enter 4% of the aggregate debit items computed in accordance with the formula for determination of reserve requirements (attach the computation of Exhibit A to SEC Rule 15c3–3)	
25. Adjusted net capital—item 23 this statement	
26. Excess net capital	
27. Enter the greatest of $75,000 ($150,000 for an FCM who is not a member of a designated self-regulatory organization) or 6% of funds required to be segregated for commodity futures and options customers, or, for securities broker-dealers, enter 6% of the aggregate debit items computed in accordance with the formula for determination of reserve requirements (if the amount on line 25 is less than the amount on line 27, the applicant or registrant must immediately notify its designated self-regulatory organization and the Commission and commence filing monthly statements of its financial condition pursuant to Regulation 1.12)	

*References are to item numbers on the Statement of Financial Condition.

* * * * *

Issued in Washington, D.C. on November 25, 1980, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-37150 Filed 11-28-80; 8:45 am]

BILLING CODE 8321-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–17321]

Record Production Obligations and Record Destruction and Disposition Rights of Registered Clearing Agencies, the Municipal Securities Rulemaking Board, National Securities Exchanges and Registered Securities Associations

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

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SUMMARY: The Commission is adopting proposed amendments to Rules 17a–1 and 17a–6 [17 CFR §§ 240.17a–1, 17a–6] under the Securities Exchange Act of 1934 ("Act") governing record retention, production and destruction by self-regulatory organizations which extend the requirements embodied therein to registered clearing agencies and the Municipal Securities Rulemaking Board. The amendments are being adopted to implement the recordkeeping and production requirements of Section 17(a) of the Act. In accordance with Section 17A(d)(3)(A)(i) of the Act, 15 U.S.C. 78q–1(d)(3)(A)(i), the Commission has consulted and requested the views of the Board of Governors of the Federal Reserve System.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Judith W. Axe, Esq., Division of Market Regulation; Securities and Exchange Commission, Room 357, 500 N. Capitol Street, Washington, D.C. 20549, (202) 272–2398.

SUPPLEMENTARY INFORMATION: On July 8, 1980, the Commission issued a release proposing to exercise its authority under Section 17(a) of the Securities Exchange Act [1] to amend Rules 17a–1 and 17a–6 [17 CFR §§ 240.17a–1, 240.17a–6] to extend the record retention, production and destruction requirements embodied therein to registered clearing agencies and the Municipal Securities Rulemaking Board ("MSRB").[2]

Presently, Rule 17a–1 requires only exchanges and associations to keep, and to permit copying by members of the Commission's staff of all documents made or received by such organizations in the course of their business and in the conduct of their self-regulatory activities. The rule also requires that such records be kept for a period of not less than five years subject to the provisions of Commission Rule 17a–6. Rule 17a–6, which permits the early destruction or conversion to microfilm or other recording media of records maintained under Rule 17a–1, pursuant to a record destruction plan filed with and approved by the Commission, also currently applies only to exchanges and associations.[3]

The Commission believes that it would be appropriate at this time to extend its rules regarding record keeping and record destruction to registered clearing agencies and MSRB.[4] Accordingly, the Commission has determined to exercise its rulemaking authority under Section 17(a) of the Act to amend Rules 17a–1 and 17a–6 in the manner proposed in its July release.[5] The proposed amendments were not prompted by any lack of cooperation from the MSRB or the clearing agencies in furnishing documents requested by the Commission staff.

For the reasons stated above, the Commission finds that the proposed amendments are appropriate in the public interest, for the protection of investors, and otherwise in furtherance of the purposes of the Act. Accordingly, the Commission, acting pursuant to its authority under Section 23(a)(1) of the Act,[6] hereby revises §§ 240.17a–1 and 240.17a–6 of Part 240 of Chapter II of Title 17 of the Code of Federal Regulations to read as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.17a-1 Recordkeeping rule for national securities exchanges, national securities associations, registered clearing agencies and the Municipal Securities Rulemaking Board.

(a) Every national securities exchange, national securities association, registered clearing agency and the Municipal Securities Rulemaking Board shall keep and preserve at least one copy of all documents, including all correspondence, memoranda, papers, books, notices, accounts, and other such records as shall be made or received by it in the course of its business as such and in the conduct of its self-regulatory activity.

(b) Every national securities exchange, national securities association, registered clearing agency and the Municipal Securities Rulemaking Board shall keep all such documents for a period of not less than five years, the first two years in an easily accessible place, subject to the destruction and disposition provisions of Rule 17a–6.

(c) Every national securities exchange, registered securities association, registered clearing agency and the Municipal Securities Rulemaking Board shall, upon request of any representative of the Commission, promptly furnish to the possession of such representative copies of any documents required to be kept and preserved by it pursuant to paragraphs (a) and (b) of this section.

§ 240.17a–6 Right of national securities exchange, national securities association, registered clearing agency or the Municipal Securities Rulemaking Board to destroy or dispose of documents.

(a) Any document kept by or on file with a national securities exchange, national securities association, registered clearing agency or the Municipal Securities Rulemaking Board pursuant to the Act or any rule or regulation thereunder may be destroyed or otherwise disposed of by such exchange, association, clearing agency or the Municipal Securities Rulemaking Board at the end of five years or at such earlier date as is specified in a plan for the destruction or disposition of any such documents if such plan has been filed with the Commission by such exchange, association, clearing agency or the Municipal Securities Rulemaking Board and has been declared effective by the Commission.

(b) Such plan may provide that any such document may be transferred to microfilm or other recording medium after such time as specified in the plan and thereafter be maintained and preserved in that form. If a national securities exchange, association, clearing agency or the Municipal Securities Rulemaking Board uses microfilm or other recording medium it shall (1) be ready at all times to provide, and immediately provide, easily readable projection of the microfilm or other recording medium and easily readable hard copy thereof, (2) provide indexes permitting the immediate location of any such document on the microfilm or other recording medium, and (3) in the case of microfilm, store a duplicate copy of the microfilm separately from the original microfilm for the time required.

(c) For the purposes of this rule a plan filed with the Commission by a national securities exchange, association, clearing agency or the Municipal Securities Rulemaking Board shall not become effective unless the Commission, having due regard for the public interest and for the protection of investors, declares the plan to be effective. The Commission in its declaration may limit the applications, reports, and documents as to which it shall apply, and may impose any other terms and conditions to the plan and to the period of its effectiveness which it deems necessary or appropriate in the public interest or for the protection of investors.

By the Commission.

George A. Fitzsimmons,

Secretary.

November 21, 1980.

[FR Doc. 80-37288 Filed 11-28-80; 8:45 am]

BILLING CODE 8010-01-M

[1] 15 U.S.C. 78q(a).

[2] Securities Exchange Act Release No. 16966 (July 8, 1980), 45 FR 47160 (July 14, 1980). The Commission subsequently extended the comment period until October 10, 1980. Securities Exchange Act Release No. 17074 (August 18, 1980), 45 FR 56822 (August 26, 1980). No comments were received on the proposed amendments.

[3] Of course, under Section 17(b) of the Act, representatives of the Commission have direct statutory authority to obtain copies of any records maintained by persons described in Section 17(a) in the course of periodic, special or other examinations.

[4] One year after Rules 17a–1 and 17a–6 were adopted by the Commission, Congress expanded the record keeping and production requirements of Section 17(a) to include, among others, registered clearing agencies and the MSRB as part of the Securities Acts Amendments of 1975, Pub. L. 94–28 (June 4, 1975).

[5] At this time the Commission also is correcting a textual error made in drafting the original rule which inadvertently omitted national securities associations from subparagraph (a) of Rule 17a–6.

[6] 15 U.S.C. 78w(a)(1).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM 79–14]

Order of the Director, OPPR of Publication of Incremental Pricing Acquisition Cost Thresholds Under Title II of the NGPA

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order prescribing incremental pricing thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth A Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, (202) 357–8500.

Issued November 24, 1980.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of December 1980, is issued by the publication of a price table for the applicable month.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

Table I.—*Incremental Pricing Acquisition Cost Threshold Prices*

	January	February	March	April	May	June	July	August	September	October	November	December
Incremental pricing threshold	$1.702	$1.736	$1.750	$1.762	$1.776	$1.790	$1.804	$1.819	$1.834	$1.848	$1.863	$1.877
NGPA section 102 threshold	2.358	2.381	2.404	2.425	2.453	2.476	2.504	2.532	2.560	2.588	2.614	2.640
NGPA section 109 threshold	1.786	1.799	1.812	1.825	1.839	1.853	1.867	1.883	1.899	1.915	1.929	1.943
130 percent of No. 2 fuel oil in New York City threshold	7.170	7.266	7.410	7.110	7.380	8.046	7.840	7.380	7.400	7.400	7.450	7.500

[FR Doc. 80-37286 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner [Federal Housing Administration]

24 CFR Parts 201, 203, 205, 207, 213, 221, 234, 235, 236, 241, 244

[Docket No. R–80–892]

Mortgage Insurance and Home Improvement Loans; Changes in Interest Rates

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This change in the regulations increases the HUD/FHA maximum interest rates on insured loan programs. This action by HUD is designed to bring the maximum interest rate and financing charges on HUD/FHA-insured loans into line with other competitive market rates and help assure an adequate supply of and demand for FHA financing.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: John N. Dickie, Director, Financial Analysis Division, Office of Financial Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410 (202-426-4667).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to increase the maximum interest rate which may be charged on loans insured by this Department. The maximum interest rate on HUD/FHA mortgage insurance programs has been raised from 13.00 percent to 13.50 percent for level payment insured home mortgage programs (including operative builder home loan programs), and from 13.50 percent to 14.00 percent for graduated payment home loan programs (GPM). For insured multifamily project mortgage loan programs, the maximum interest rate has been raised from 13.00 percent to 13.50 percent for permanent financing loans. The maximum interest rate for multifamily construction and for Title X land development loans is raised from 14.00 percent to 17.00 percent. The maximum finance charge on mobile home loans has been raised from 15.50 percent to 17.00, and the finance charges on combination loans for the purchase of a mobile home and a developed or undeveloped lot has been raised from 15.00 percent to 16.50 percent. The maximum charge on property improvement loans has been raised from 15.50 percent to 17.00 percent.

The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709–1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

A Finding of Inapplicability with respect to the National Environmental Policy Act of 1969 has been made in accordance with HUD's environmental procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

Subpart A—Eligibility Requirements—Property Improvement Loans

1. Section 201.4(a) is revised to read as follows:

§ 201.4 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge exclusive of fees and charges as provided by paragraph (b) of this section which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed 17.00 percent annual rate. No points or discounts of any kind may be assessed or collected in connection with the loan transaction. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

Subpart B—Eligibility Requirements—Mobile Home Loans

2. Section 201.540(a) is revised to read as follows:

§ 201.540 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exced 17.00 percent simple interest per annum. No points or discounts of any kind may be assessed or collected in connection with the loan transaction, except that a one percent origination fee may be collected from the borrower. If assessed, this fee must be included in the finance charge. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

Subpart D—Eligibility Requirements—Combination and Mobile Home Lot Loans

3. Section 201.1511(a), paragraph (1) is amended to read as follows:

§ 201.1511 Financing charges.

(a) *Maximum financing charges.* (1) 16.50 percent per annum.

* * * * *

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

4. Section 203.20 paragraph (a) is revised to read as follows:

§ 203.20 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum with respect to mortgages insured on or after November 24, 1980.

* * * * *

5. Section 203.45 paragraph (b) is revised to read as follows:

§ 203.45 Eligibility of graduated payment mortgages.

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 14.00 percent per annum with respect to mortgages insured on or after November 24, 1980.

* * * * *

6. Section 203.46 paragraph (c) is revised to read as follows:

§ 203.46 Eligibility of modified graduated payment mortgages.

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 14.00 percent per annum with respect to mortgages insured on or after November 24, 1980.

* * * * *

PART 205—MORTGAGE INSURANCE FOR LAND DEVELOPMENT

Subpart A—Eligibility Requirements

7. Section 205.50 is revised to read as follows:

§ 205.50 Maximum interest rate.

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 17.00 percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after November 24, 1980.

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements

8. Section 207.7 paragraph (a) is revised to read as follows:

§ 207.7 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after November 24, 1980, which rate shall not exceed:

(1) 13.50 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Projects

9. Section 213.10 paragraph (a) is revised to read as follows:

§ 213.10 Maximum interest rate.

(a) The mortgage or a supplementary loan shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, or the lender and the borrower, with respect to mortgages or supplementary loans receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after November 24, 1980, which rate shall not exceed:

(1) 13.50 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

* * * * *

Subpart C—Eligibility Requirements; Individual Properties Released From Project Mortgage

10. Section 213.511 paragraph (a) is revised to read as follows:

§ 213.511 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum with respect to mortgages insured on or after November 24, 1980.

* * * * *

PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

Subpart C—Eligibility Requirements—Projects

11. In § 220.576 paragraph (a) is revised to read as follows:

§ 220.576 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower with respect to loans receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after November 24, 1980, which rate shall not exceed:

(1) 13.50 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

* * * * *

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Moderate Income Projects

12. Section 221.518 paragraph (a) is revised to read as follows:

§ 221.518 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor with respect to mortgages receiving initial endorsement (or endorsement in mortgages involving insurance upon completion) on or after November 24, 1980, which rate shall not exceed:

(1) 13.50 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Interest shall be payable in monthly installments on the principal amount of the mortgage outstanding on the due date of each installment.

* * * * * *

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

Supart A—Eligibility Requirements

13. Section 232.29 paragraph (a) is revised to read as follows:

§ 232.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after November 24, 1980, which rate shall not exceed:

(1) 13.50 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

* * * * *

Supart C—Eligibility Requirements—Supplemental Loans To Finance Purchase and Installation of Fire Safety Equipment

14. Section 232.560 paragraph (a) is revised to read as follows:

§ 232.560 Maximum interest rate.

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 13.50 percent per annum with respect to loans insured on or after November 24, 1980.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

15. Section 234.29 paragraph (a) is revised to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum with respect to mortgages insured on or after November 24, 1980.

* * * * *

16. Section 234.75 paragraph (b) is revised to read as follows:

§ 234.75 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate will not exceed 14.00 percent per annum with respect to mortgages insured on or after November 24, 1980.

* * * * *

17. Section 234.76 paragraph (c) is revised to read as follows:

§ 234.76 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 14.00 percent per annum with respect to mortgages insured on or after November 24, 1980.

* * * * *

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

Subpart D—Eligibility Requirements—Rehabilitation Projects

18. Section 235.540(a) is revised to read as follows:

§ 235.540 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum with respect to mortgages insured on or after November 24, 1980.

* * * * *

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS

Subpart A—Eligibility Requirements for Mortgage Insurance

19. Section 236.15(a) is revised to read as follows:

§ 236.15 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after November 24, 1980, which rate shall not exceed:

(1) 13.50 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

* * * * *

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PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES

Subpart A—Eligibility Requirements

20. Section 241.75 is revised to read as follows:

§ 241.75 Maximum interest rate.

The loan shall bear interest at the rate agreed upon by the lender and the borrower, with respect to loans insured on or after November 24, 1980, which rate shall not exceed:

(a) 13.50 percent per annum with respect to permanent financing;

(b) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

Interest shall be payable in monthly installments on the principal then outstanding.

PART 242—MORTGAGE INSURANCE FOR HOSPITALS

Subpart A—Eligibility Requirements

21. Section 242.33(a) is amended to read as follows:

§ 242.33 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after November 24, 1980, which rate shall not exceed:

(1) 13.50 percent per annum with respect to permanent financing;

(2) 17.00 percent per annum with respect to construction financing prior to and including the cutoff date for cost certification.

* * * * *

PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES

Subpart A—Eligibility Requirements

22. Section 244.45(a) is amended to read as follows:

§ 244.45 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor with respect to mortgages receiving endorsement (or endorsement in cases involving insurance upon completion) on or after November 24, 1980, which rate shall not exceed:

(Sec. 3(a), 82 Stat. 113; (12 U.S.C. 1709–1); sec. 7 of the Department of Housing and Urban Development Act, (42 U.S.C. 3535(d)))

Issued at Washington, D.C., November 21, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 80-37321 Filed 11-28-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Conditional Approval of the Permanent Program Submission from the State of Maryland Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: On March 3, 1980, the State of Maryland submitted to the Department of the Interior its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of the submission is to demonstrate the State's intent and capability to administer and enforce the provisions of SMCRA and the permanent regulatory program, 30 CFR Chapter VII. After providing opportunities for public comment and a thorough review of the program submission, the Secretary of the Interior has determined that the Maryland program meets the requirements of SMCRA and the permanent program regulations, except for minor deficiencies discussed below under "Supplementary Information." Accordingly, the Secretary of the Interior has conditionally approved the Maryland program.

A new Part 920 is being added to 30 CFR Chapter VII to implement this decision.

EFFECTIVE DATE: This conditional approval is effective December 1, 1980.

This conditional approval will terminate as specified in 30 CFR 920.11 unless the deficiencies identified below have been corrected in accord with 30 CFR 920.11, adopted below.

ADDRESSES: Copies of the Maryland program and the administrative record on the Maryland program, including the letter from the Maryland Department of Natural Resources (DNR) agreeing to correct the deficiencies which resulted in the conditional approval, are available for public inspection and copying during business hours at:

Office of Surface Mining, Region I, 603 Morris Street, Charleston, West Virginia 25311, Telephone: (304) 344–2331.

Office of Surface Mining, Room 153, Interior South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, Telephone: (202) 343–4728.

Department of Natural Resources, Tawes State Office Building, Annapolis, Maryland 21401, Telephone: (301) 269–2261.

Copies of the full text of the proposed program with modifications are also available for inspection and copying during regular business hours at the OSM Region I Office and the central office of the state regulatory authority listed above, and at the following locations:

Office of Surface Mining, U.S. Department of the Interior, Morgantown Field Office, Federal Building, Room 229, Morgantown, West Virginia 26505, Telephone: (304) 291–5821.

Maryland Department of Natural Resources, Energy Administration, Bureau of Mines, 69 Hill Street, Frostburg, Maryland 21532, Telephone: (301) 689–4136.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, South Building, U.S. Department of the Interior, 1951 Constitution Avenue, N.W., Washington, D.C.

SUPPLEMENTARY INFORMATION:

Introduction:

This notice is organized to assist understanding of the findings underlying the Secretary's decision. It is divided into five major parts:

A. General Background on the Permanent Program

B. General Background on the State Program Approval Process

C. General Background on the Maryland Program

D. The Secretary's Findings, the Explanation of the Findings, and Disposition of Public Comments

E. The Secretary's Decision.

Part A sets forth the statutory and regulatory framework of the environmental protection regulatory scheme under the Surface Mining

Control and Reclamation Act of 1977 (SMCRA) and the permanent program requirements of 30 CFR Chapter VII.

Part B sets forth the general statutory and regulatory scheme applicable to all states which wish to obtain primary jurisdiction to implement the permanent program on non-Indian and non-federal lands within their borders.

Part C summarizes the steps undertaken by Maryland and officials of the Department of the Interior, beginning with Maryland's program submission and leading to the decision being announced today.

Part D contains the findings the Secretary has made with respect to each of the thirty criteria for evaluation of a State program found in SMCRA and the Secretary's regulations and the reasons for each finding. Only the significant differences between the federal laws and rules and the Maryland program are discussed. Relevant public comments are analyzed and the provisions of Maryland's program, as proposed, are evaluated.

Part E identifies and explains the Secretary's decision and summarizes the Secretary's findings with regard to regulatory analysis and environmental impact of the decision.

A. General Background on the Permanent Program

The environmental protection provisions of SMCRA are being implemented in two phases—the initial program and the permanent program—in accordance with Sections 501–503 of SMCRA, 30 U.S.C. 1251–1253. The initial program became effective on February 3, 1978, for new coal mining operations on non-federal and non-Indian lands which received state permits on or after that date. The initial program rules were promulgated by the Secretary on December 13, 1977 under 30 CFR Parts 710–725, 42 FR 62639 *et seq.*

The permanent program will become effective in each state upon the approval of a state program by the Secretary of the Interior or implementation of a federal program within the state. If a state program is approved, the state, rather than the federal government, will be the primary regulator of activities subject to SMCRA.

The federal regulations for the permanent program, including procedures for states to follow in submitting state programs and minimum standards and procedures the state program must include to be eligible for approval, are found at 30 CFR Parts 700–707 and 730–865. Part 705 was published October 20, 1977 (42 FR 56064), Parts 795 and 865 (originally Part 830) were published December 13, 1977 (42 FR 62639). The other permanent program regulations were published at 44 FR 15312–15463 (March 13, 1979). Errata notices were published at 44 FR 15485 (March 14, 1979), 44 FR 49673–49687 (August 24, 1979) 44 FR 53507–53509 (September 14, 1979), 44 FR 66195 (November 19, 1979), 45 FR 26001 (April 26, 1980), 45 FR 37818 (June 5, 1980) and 45 FR 47424 (July 15, 1980). Amendments to the regulations were published at 44 FR 60989 (October 22, 1979), as corrected at 44 FR 75143 (December 19, 1979), 44 FR 75302–75303 (December 19, 1979), 44 FR 77440–77447 (December 31, 1979), 45 FR 2628–2629 (January 11, 1980), 45 FR 25998–26001 (April 16, 1980), 45 FR 33926–33927 (May 20, 1980), 45 FR 37818 (June 5, 1980), 45 FR 39446–39447 (June 10, 1980), and 45 FR 52306–52324 (August 6, 1980). Portions of these regulations have been suspended pending further rulemaking. See 44 FR 67942 (November 27, 1979), 44 FR 77447–77455 (December 31, 1979), 45 FR 6913 (January 30, 1980), and 45 FR 51547–51550 (August 4, 1980).

B. General Background on State Program Approval Process

Any state wishing to assume primary jurisdiction for the regulation of coal mining under SMCRA may submit a program for consideration. The Secretary of the Interior has the responsibility to approve or disapprove the submission.

The federal regulations governing State program submissions are found at 30 CFR Parts 730–732. After review of the submission by OSM and other agencies, as well as an opportunity for the State to make additions or modifications to the program, and an opportunity for public comment, the Secretary may approve the program unconditionally, approve it conditioned upon minor deficiencies being corrected in accordance with a specified time table set by the Secretary, or disapprove the program in whole or in part. If any part of the program is disapproved, the State may submit revisions of the program to correct the items that need to be changed to meet the requirements of SMCRA and applicable federal regulations. If this revised program is also disapproved, SMCRA requires the Secretary of the Interior to establish a federal program in that State. The State may again request approval to assume primary jurisdiction after the federal program has been implemented.

Different criteria apply to various elements of a State program for the purpose of determining whether they can be approved by the Secretary. There are three categories of potential program elements, each with its own standard of review, as follows:

1. *"State window" proposals*—Pursuant to 30 CFR 731.13, an alternative proposed by the State to a provision of the Secretary's regulations must be both in accordance with SMCRA and consistent with the Secretary's regulations. Under 30 CFR 730.5, "in accordance with" SMCRA means that the State alternative meets the minimum requirements of and includes all applicable provisions of SMCRA, while "consistent with" the Secretary's regulations means that the State proposal is no less stringent than and meets the applicable provisions of 30 CFR Chapter VII.

The State window provision may not be used to vary the requirements of SMCRA. The Secretary will approve a State window item that achieves the same or greater degree of environmental protection and procedural safeguards as the federal regulation. In addition, the State must demonstrate that the alternative provision is necessary because local requirements or local environmental conditions are such that either the use of the federal regulations would not allow the State to accomplish the intended result or the alternative will accomplish the result in a more efficient or effective manner.

2. *Regulations for Inspection and Enforcement*—As required by Section 518 of SMCRA, the civil and criminal penalty provisions of a State program must be no less stringent than the requirements of Section 518 and must be consistent with the federal regulations in 30 CFR Part 845 (see item 1 above for meaning of "consistent with"). However, as discussed below in Finding 19, a recent court decision by the District Court for the District of Columbia *In re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144 May 16, 1980, p. 58) has held that States cannot be required to establish a point system like that in Part 845, and the Secretary cannot require that State systems result in penalties as high as those under OSM's point system. Under Section 521 of SMCRA, the enforcement sanctions of a State program must also be no less stringent than those in Section 521 and must be consistent with 30 CFR 806, 843.11, 843.12, 843.19, and Subchapter G (Permit Systems). State regulations which establish the procedural requirements related to civil and criminal penalties and enforcement sanctions must be the same as or similar to the procedures in Sections 518 and 521 of SMCRA and must be consistent with 30 CFR Parts 806, 843, 845 and Subchapter G.

3. *Other State Program Elements*—If a state provision is neither a state window

alternative nor a procedure or sanction related to inspection and enforcement,

that the laws and rules upon which the state bases its program must be

provisions be retained, the Secretary will disapprove them.

Therefore, the Secretary is applying

provisions that must be disapproved because of the court's order. The remaining provisions will be

1980, the state submitted various amendments and modifications to the program. A summary of these was

addressing each of the comments contained in that letter. As the letter from the DNR was received after the

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alternative nor a procedure or sanction related to inspection and enforcement, then the standard to be applied in the evaluating each element is whether the state provision is consistent with the corresponding provision of the federal regulations and in accordance with relevant section of SMCRA, as set forth in 30 CFR 732.15(b) for each of the sixteen state program requirements. Under Section 505 of SMCRA and 30 CFR 730.11, State provisions which provide more stringent land use and environmental controls are not to be considered to be inconsistent with the federal requirements.

State programs must contain provisions which regulate coal mining in accordance with the requirements of SMCRA and consistent with the Secretary's regulations. The requirements under SMCRA and 30 CFR Chapter VII for special bituminous coal mines in Wyoming and the special anthracite coal mines in Pennsylvania are inapplicable in Maryland.

The procedure and timetable for the Secretary's review of state programs was initially published March 13, 1979 (44 FR 15328) and codified at 30 CFR Part 732. 30 CFR 732.11(d), as published on March 13, 1979, required that states make any modifications and additions by November 15, 1979.

As a result of litigation in the U.S. District Court for the District of Columbia, the deadline for states to submit proposed programs was extended from August 3, 1979, to March 3, 1980. 30 CFR 232.11(d) required that if all required and fully enacted laws and regulations were not part of the program by November 15, 1979, the program would be disapproved. Because the submission deadline had been changed to March 3, 1980, 30 CFR 732.11(d) was amended to provide that program submissions that do not contain all required and fully enacted laws and regulations by the 104th day following program submission will be disapproved pursuant to the procedures for the Secretary's initial decision in Section 732.13 (45 FR 33927, May 20, 1980). The Maryland program was submitted to OSM on March 3, 1980; the 104th day after submission was June 16, 1980.

The Secretary's rules for the review of state programs implement his policy that industry, the public, and other agencies of government should have a meaningful opportunity to participate in his decision. The Secretary also has a policy that a state should be afforded the maximum opportunity possible to change its program, when necessary, to cure any deficiencies in it.

To accomplish both of these policy objectives, the Secretary determined that the laws and rules upon which the state bases its program must be finalized at the beginning of the public comment period. By identifying the laws and rules in effect on the 104th day as the basis of his program approval decision, the Secretary assists commenters by informing them of program elements which should be reviewed. Meaningful public comment would be undermined if the program elements were constantly changing up until the day before the Secretary's decision.

The 104 day rule affords the state 3½ months following submission within which it may modify its laws and rules. In addition, after the Secretary's initial program decision, the states have additional opportunities to revise their laws and regulations.

All program elements other than laws and rules, including Attorney General's opinions, program narratives, descriptions and other information, may be revised by the state at any time prior to program approval. The Secretary will provide opportunity for public comment on those changes, as appropriate.

The Secretary, in reviewing state programs, is applying the criteria of Section 503 of SMCRA, 30 U.S.C. 1253, and 30 CFR 732.15. In reviewing the Maryland program, the Secretary has followed the federal regulations as cited in Part A above "General Background on the Permanent Program," and as affected by three recent decisions of the U.S. District Court for the District of Columbia in *In Re: Permanent Surface Mining Regulation Litigation* (Civil Action No. 79–1144). Because of the complex litigation, the court issued its initial decision in two "rounds." The Round I opinion, dated February 26, 1980, denied several generic attacks on the permanent program regulations, but resulted in suspension or remanding of all or part of twenty-two specific regulations. The Round II opinion, dated May 16, 1980, denied additional generic attacks on the regulations, but remanded some 40 additional parts, sections or subsections of the regulations.

The court also ordered the Secretary to "affirmatively disapprove, under Section 503 of SMCRA, those segments of a state program that incorporate a suspended or remanded regulation" (Mem. Op., May 16, 1980, p. 49). However, on August 15, 1980, the court stayed this portion of its opinion. The effect of this stay is to allow the Secretary, when requested by a state, to allow the inclusion in the state program of provisions equivalent to remanded or suspended federal provisions. Unless the state requests that any equivalent provisions be retained, the Secretary will disapprove them.

Therefore, the Secretary is applying the following standards in the review of permanent program submissions:

1. The Secretary need not affirmatively disapprove state provisions similar to those Federal regulations which have been suspended or remanded by the District Court where the State has adopted such provisions in a rulemaking or legislative proceeding which occurred either (1) before the enactment of SMCRA or (2) after the date of the Round II District Court decision, since such State regulations clearly are not based solely upon the suspended or remanded Federal regulations. The Secretary need not affirmatively disapprove provisions based upon suspended or remanded Federal rules if a responsible State official has requested the Secretary to approve them.

2. The Secretary will affirmatively disapprove, to the extent required by the court's decisions, all provisions of a State program which incorporate suspended or remanded Federal rules and which do not fall into one of three categories in paragraph one, above. The Secretary believes that the effect of his "affirmative disapproval" of a section in the State's regulations is that the requirements of that section are not enforceable in the permanent program at the Federal level to the extent they have been disapproved. That is, no cause of action for enforcement of the provisions, to the extent disapproved, exists in the Federal courts, and no Federal inspection will result in notices of violation or cessation orders based upon the "affirmatively disapproved" provisions. The Secretary takes no position as to whether the affirmatively disapproved provisions are enforceable under State law and in State courts. Accordingly, these provisions are not pre-empted or suspended, although the Secretary may have the power to do so under Section 504(g) of SMCRA and 30 CFR 730.11.

3. A State program need not contain provisions to implement a suspended regulation and no State program will be disapproved for failure to contain a suspended regulation. Nonetheless, a State must have the authority to implement all permanent program provisions of SMCRA, including those provisions of SMCRA upon which the Secretary based the remanded or suspended regulations.

4. A state program may contain any provision that is inconsistent with a provision of SMCRA.

5. Programs will be evaluated only as to those provisions other than the

provisions that must be disapproved because of the court's order. The remaining provisions will be unconditionally approved, conditionally approved or disapproved, in whole or in part in accordance with 30 CFR 732.13.

6. Upon promulgation of new regulations to replace those that have been suspended or remanded, the Secretary will afford States that have approved or conditionally approved programs a reasonable opportunity to amend their programs, as appropriate. In general, the Secretary expects that the provisions of 30 CFR 732.17 will govern this process.

The regulations suspended or remanded as the result of the Round I and Round II litigation were published in the **Federal Register** on July 7, 1980 (45 FR 45604).

To codify decisions on State programs, Federal programs, and other matters affecting individual States, OSM has established Subchapter T of 30 CFR Chapter VII. Subchapter T will consist of parts 900 through 950. Provisions relating to Maryland will be found at 30 CFR Part 920.

C. Background on the Maryland Program Submission

On March 3, 1980, OSM received a proposed regulatory program from the State of Maryland. The program was submitted by the Maryland Department of Natural Resources (DNR), the agency designated as the regulatory authority under the Maryland permanent program. Notice of receipt of the submission initiating the program review was published in the March 10, 1980, **Federal Register** (45 FR 15189) and in newspapers of general circulation in Maryland. The announcement invited public participation in the initial phase of the review process relating to the regional director's determination of whether the submission was complete.

On April 9, 1980, the regional director held a public meeting in Frostburg, Maryland, on the completeness of the Maryland program. The public comment period on completeness began on March 10, 1980, and closed April 11, 1980.

On April 28, 1980, the regional director published a notice in the **Federal Register** announcing that the program submission had been determined to be complete (45 FR 28169–28170).

A detailed listing of deficiencies contained in the state program submittal was forwarded to the state by the Office of Surface Mining on May 23, 1980 (hereafter referred to as "the May 23 letter"). Please refer to Administrative Record No. MD 56.

On June 16, 1980, 104 days after the original submission date of March 3, 1980, the state submitted various amendments and modifications to the program. A summary of these was published in the **Federal Register** on June 23, 1980 (45 FR 41976–41977). Notices placed in newspapers of general circulation within the state also set forth procedures for the hearing and announced the public comment period on the adequacy of the Maryland program.

As a part of the June 16, 1980 submission, the Maryland Attorney General provided a supplemental opinion which stated that those provisions of the Maryland program based on suspended or remanded federal regulations were not to be considered as part of its program for the purpose of the Secretary's decision.

On July 11, 1980, public comment was invited on a tentative list of those parts of the Maryland program which might have to be disapproved under the district court's May 16, 1980, order mentioned above, because they appeared to be based on suspended or remanded federal regulations (45 FR 46820–46826).

On July 17, 1980, the regional director held a public hearing on the adequacy of Maryland's submission in Frostburg, Maryland. The public comment period on the adequacy of Maryland's permanent regulatory program ended on July 23, 1980.

On August 4, 1980, the regional director submitted to the Director of OSM his recommendation that the Maryland program be partially approved and partially disapproved, together with copies of the transcript of the public hearing, written presentations, exhibits, copies of all public comments received and other documents comprising the Administrative Record.

On August 11, 1980, OSM published in the **Federal Register** (45 FR 53182) a notice of the availability of the views on the Maryland program submitted by the Administrator of the Environmental Protection Agency, the Secretary of Agriculture through the Soil Conservation Service, the U.S. Forest Service, the U.S. Fish and Wildlife Service, the National Park Service, the Department of Energy, the Bureau of Land Management, the Science and Education Administration, the Appalachian Regional Commission, the Mine Safety and Health Administration, the U.S. Army Corps of Engineers, and the Advisory Council on Historic Preservation.

On August 18, 1980, the Maryland Department of Natural Resources responded to the May 23 letter. The DNR stated that it was in the process of addressing each of the comments contained in that letter. As the letter from the DNR was received after the close of the public comment period, it was not considered for purposes of the Secretary's decision.

On August 22, 1980, the Director of OSM asked Maryland if there were any provisions in its program, based on suspended or remanded federal rules, which it did not want the Secretary to affirmatively disapprove under the district court order. Maryland has not replied to this request and the Secretary has reviewed the program on the basis of the June 16, 1980 letter from the Attorney General which said these provisions were not to be considered part of its program.

On September 16, 1980, the Administrator of the Environmental Protection Agency transmitted his written concurrence on the Maryland program.

On September 17, 1980, the Director recommended to the Secretary that the Maryland program be conditionally approved.

On October 3, 1980, the Secretary decided to conditionally approve the Maryland program.

The Secretary's decision to conditionally approve the Maryland program was conveyed in a letter to Governor Harry Hughes on October 3, 1980.

On October 28, 1980, Governor Hughes replied to the Secretary's letter and accepted the conditions of approval. Copies of these letters are available for review in the administrative record. The Maryland program consists of the formal submission of March 3, 1980, as amended on June 16, 1980. This represents the entire submission.

Throughout the period beginning with the submission of the program, OSM has had contacts with the staff of the Department of Natural Resources. Minutes or notes of the discussions were placed in the administrative record and made available for public review and comment. After the public comment period closed, no discussions were held at which new information was presented which might have influenced this decision. A meeting was held on September 8, 1980, to discuss with the State issues relating to the possibility of conditional approval. The date, time, and place of this meeting were posted in the administrative record in advance. All discussions at this meeting were based on information already contained in the administrative record for the Maryland program. The discussions at this meeting did not form the basis for the Secretary's decision but rather served to identify specific deficiencies in

the Maryland program. A summary of the meeting was placed in the

Maryland in accordance with SMCRA and 30 CFR Chapter VII.

This finding is based on the requirements of Section 503(a)(5) of SMCRA (30 U.S.C. 1253(a)(5)). An

This finding is based on the requirements of Section 503(b)(2) of SMCRA (30 U.S.C. 1253(b)(2)] and on the

provisions of SMCRA and consistent with the regulations of 30 CFR Chapter VII and that the proposed alternative is

cover the cost of the reclamation and in no event less than $10,000, rather than adopt the formula in 30 CFR 807.12 (b)

the Maryland program. A summary of the meeting was placed in the administrative record on September 12, 1980.

All contacts between official and staff of the Department of the Interior and the State of Maryland were conducted in accordance with the Department's guidelines for such contacts published September 19, 1979 (44 FR 54444–54445).

D. The Secretary's Findings, Explanation of the Findings and Disposition of Public Comments

The findings in this section are based on a review of the Maryland program as submitted March 3, 1980, amendments to that program submitted on June 16, 1980, and the public comments in response to the state program submission. The March 3 submission contained, among other things, the enacted Maryland Strip Mining Law, Proposed amendments to the law, existing regulations, and regulations proposed to implement the state program. The modifications received on June 16, 1980 included revisions to the regulations; notice that they had been adopted formally on June 2, 1980 and promulgated on June 13, 1980; and notice that the amendments to the Maryland Strip Mining Law were signed by Governor Hughes on May 27, 1980.

The explanation of the findings below primarily discusses the differences between the Maryland program and the federal requirements which the Department of the Interior identified in the review of the program. In addition, issues or questions raised by commenters are addressed in this section. No detailed discussion is presented of those aspects of the Maryland program which are equivalent to the federal requirements and to which commenters did not object.

In the discussion of comments, individual commenters have been identified where it may assist the reader of this notice. All comments identified as coming from EPA were submitted by the EPA Region III office located in Philadelphia, Pennsylvania.

Where comments were based on the statutory and regulatory language prior to the enactment of amendments or revisions, the Secretary references new language in Maryland's legal authority.

Finding 1

The Secretary finds, subject to the exceptions noted in the findings below, that the Maryland Strip Mining Law and the regulations adopted thereunder provide for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands in Maryland in accordance with SMCRA and 30 CFR Chapter VII.

This finding is based on the requirements of Section 503(a)(1) of SMCRA (30 U.S.C. 1253(a)(1)). Analysis of the issues underlying this finding is found in the discussions in Findings 12 through 30, below.

Finding 2

The Secretary finds, subject to the exceptions noted in the findings below, that the Maryland Strip Mining Law provides sanctions for violations of Maryland laws, regulations of conditions of permits concerning surface coal mining and reclamation operations, and these sanctions meet the requirements of SMCRA, including civil and criminal actions, forfeiture of bonds, suspensions, revocations, withholding of permits, and issuance of cease-and-desist orders by the Department of Natural Resources or its inspectors.

This finding is based on the requirements of Section 503(a)(2) of SMCRA (30 U.S.C. 1253(a)(2)). Analysis of the issues underlying this finding is found in the discussions of Findings 17, 18, 19 and 20 below.

Finding 3

The Secretary finds that the Department of Natural Resources has sufficient administrative and technical personnel and sufficient funds to enable Maryland to regulate surface coal mining and reclamation operations in accordance with the requirements of SMCRA.

This finding is based on the requirements of Section 503(a)(3) of SMCRA (30 U.S.C. 1253(a)(3)).

Finding 4

The Secretary finds, subject to the exceptions noted in the finding below, that Maryland law provides for the effective implementation, maintenance and enforcement of a permit system that meets the requirements of SMCRA for the regulation of surface coal mining and reclamation operations on non-Indian and non-federal lands within Maryland.

This finding is based on the requirements of Section 503(a)(4) of SMCRA (30 U.S.C. 1253(a)(4)). An analysis of the issues underlying this finding is found in the discussion of Finding 14, below.

Finding 5

The Secretary finds that Maryland has established a process for the designation of areas as unsuitable for surface coal mining in accordance with Section 522 of SMCRA.

This finding is based on the requirements of Section 503(a)(5) of SMCRA (30 U.S.C. 1253(a)(5)). An analysis of the issues underlying this finding is found in the discussion of Finding 21, below.

Finding 6

The Secretary finds that Maryland has establishing a process for coordinating the review and issuance of permits for surface coal mining and reclamation operations with other federal and state permit processes applicable to the proposed operations for the purpose of avoiding duplication.

This finding is based on the requirements of Section 503(a)(6) of SMCRA (30 U.S.C. 1253(a)(6)). An analysis of the issues underlying this finding is found in the discussions of Findings 13 and 14, below.

Finding 7

The Secretary finds, subject to the exceptions noted in the findings below, that Maryland has enacted regulations consistent with regulations issued pursuant to SMCRA.

This finding is based on the requirements of Section 503(a)(7) of SMCRA (30 U.S.C. 1253(a)(7)) as discussed in Findings 12 through 30, below.

Finding 8

The Secretary has, through OSM, solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or having special expertise pertinent to the proposed Maryland program.

This finding is based on the requirements of Section 503(b)(1) of SMCRA (30 U.S.C. 1253(b)(1)) and on information set forth in a **Federal Register** notice published August 11, 1980 (45 FR 53182), identifying the federal agencies from which comments were solicited, the agencies which responded, and the offices of OSM and the Maryland Department of Natural Resources at which copies of the comments were available.

Finding 9

The Secretary has, through OSM, obtained the written concurrence of the Administrator of the Environmental Protection Agency with respect to those aspects of the Maryland program relating to air or water quality standards promulgated under the authority of the Clean Water Act, as amended (33 U.S.C. 1151 *et seq.*) and the Clean Air Act, as amended (42 U.S.C 1857 *et seq.*).

This finding is based on the requirements of Section 503(b)(2) of SMCRA (30 U.S.C. 1253(b)(2)] and on the letter transmitted by the Administrator of EPA to the Secretary on September 16, 1980. A copy of this letter has been placed in the Administrative Record.

Finding 10

The Secretary has, through the OSM regional director for Region I, held a public meeting in Frostburg, Maryland on April 9, 1980, to solicit comments on the completeness of the Maryland program submission, and held a public hearing in Frostburg, Maryland on July 17, 1980, on the adequacy of the Maryland program submission.

This finding is based on the requirements of Section 503(b)(3) of SMCRA (30 U.S.C. 1253(b)(3)).

Finding 11

The Secretary finds, subject to the exceptions noted in the findings below, that the State of Maryland has the legal authority and qualified personnel necessary for the enforcement of the environmental protection standards of SMCRA and 30 CFR Chapter VII.

This finding is based on the requirements of Section 503(b)(4) of SMCRA (30 U.S.C. 1253(b)(4)). Analysis of the issues underlying this finding is found in the discussions of Findings 12 through 30, below.

Finding 12

The Secretary finds, subject to the exceptions noted in the findings below, that the Maryland program provides for Maryland to carry out the provisions and meet the purposes of SMCRA and 30 CFR Chapter VII. 30 CFR 731.13 provides that a state can propose alternatives to the provisions of 30 CFR Chapter VII. Alternatives are not available to requirements of SMCRA. Alternatives to the regulations must be proposed and justified through the submission of relevant data and information that demonstrates that alternatives are in accordance with SMCRA and consistent with the federal regulations. To be considered as an alternative approach, the provision must:

(1) Identify the provision in the regulations of 30 CFR Chapter VII for which the alternative is requested;

(2) Describe the alternative proposed and provide statutory or regulatory language to be used to implement the alternative;

(3) Explain how and submit data, analysis and information, including identification of sources demonstrating that the alternative will be in accordance with the applicable provisions of SMCRA and consistent with the regulations of 30 CFR Chapter VII and that the proposed alternative is necessary because of local requirements or local environmental or agricultural conditions (30 CFR 731.13).

Maryland included in its submission five alternatives which it presented as state window provisions. In some cases, these alternatives are better characterized as an explanation of the federal requirements or as a more stringent alternative. Alternatives which are more stringent than the federal regulations may be approved without the justification based on local needs that is required for a state window alternative. A discussion of Maryland's alternative provisions follow.

12.1 Section 522(e) of SMCRA and 30 CFR 761.11 establish areas where mining is prohibited or limited. Maryland NR 7–505(b) and COMAR 08.13.09.10B would allow the regulatory authority to waive the following prohibitions: (1) The prohibition against mining within the corridor of a National Wild and Scenic study river contained a Section 522(e)(1) of SMCRA and 30 CFR 761.11(a);

(2) The prohibition against mining within 300 feet of public buildings, schools, churches, community or institutional buildings and public parks contained at Section 522(e)(5) of SMCRA and 30 CFR 761.11(f);

(3) The prohibition against mining within 100 feet of a cemetery contained at Section 522(e)(5) of SMCRA and 30 CFR 761.11(g).

As noted above, alternatives are not available to requirements of SMCRA. The Secretary finds that these prohibitions are contained in Section 522(e) of SMCRA and therefore cannot be waived by the Secretary or by the state. Approval of the Maryland program is conditioned upon revision of the state program to remove the authority to grant waivers to these prohibitions.

12.2 30 CFR 807.12(b) allows for the release of a portion of the bond liability, contingent on the completion of either phase I or phase II reclamation. A formula is established to determine the maximum liability which may be released at any time prior to the release of all acreage from the permit area. Acreage release occurs only after phase III reclamation has been completed. However, Maryland felt the language in 30 CFR 807.12(c) was unclear and nullified the formula established in 807.12(b). Therefore, partial bond release might not be possible until phase III reclamation has been completed. To eliminate this possible confusion, COMAR 08.13.09.15H(3) proposes to always retain enough of the bond to cover the cost of the reclamation and in no event less than $10,000, rather than adopt the formula in 30 CFR 807.12 (b) and (c). The Secretary finds the Maryland proposal is better characterized as an explanation of 30 CFR Chapter VII rather than a "state window" alternative based on local conditions. Because it is more stringent than the federal requirement, the Secretary finds the Maryland provision to be acceptable.

12.3 30 CFR 816.116(b)(1) requires that postmining revegetation success be evaluated against reference areas or standards in technical guides approved by the Director of OSM. 30 CFR 816.116(d) establishes specific standards for evaluation of revegetation success which can be applied to permit areas of 40 acres or less. Maryland proposes in COMAR 08.13.09.35D(2) to apply the 30 CFR 816.116(d) standards, with some modifications, to all permit areas regardless of size. Since Maryland requires 90 percent total groundcover in lieu of the 70 percent groundcover of reference areas, the Secretary finds that this provision is more stringent than the federal requirements and is, therefore, acceptable.

12.4 Section 518(a) of SMCRA and 30 CFR Part 845 provide the criteria for a civil penalty system. Maryland proposes alternatives to 30 CFR 845.13, 845.14 and 845.15(a) at COMAR 08.13.09.41A(2), .41C(1) and .41D. As set forth more fully at Finding 19, several court decisions have held that the Secretary cannot require a point system for assessing civil penalties and cannot require penalties as stringent as those contained in the federal law. Accordingly, Maryland need not comply with 30 CFR 845.13, 845.14 and 845.14(a), at this time.

Although the states need not adopt the federal point system for assessing civil penalties set forth in the regulations, a system that meets the requirements of SMCRA is required. The system developed by Maryland is consistent with SMCRA but contains several minor deficiencies as set forth in Finding 19, below. Approval of the Maryland program is conditioned upon revision of the state program in accordance with Finding 19, below.

12.5 Section 521(a)(3) of SMCRA states that the period of abatement after issuance of a violation shall not exceed ninety days. Maryland has proposed in NR 7–507(c) and COMAR 08.13.09.40 E and F to allow an extension of the ninety-day abatement period. The Secretary finds that this proposal does not qualify as an alternative approach because it allows for variance from the requirements of SMCRA and is

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inconsistent with 30 CFR 731.13. (See Finding 20.1 for additional discussion.)

Finding 13

The Secretary finds, subject to the exceptions noted in the findings below, that the Department of Natural Resources has the authority under Maryland laws and regulations to implement, administer, and enforce applicable requirements consistent with 30 CFR Chapter VII, Subchapter K (Performance Standards). This finding is based upon the requirements of 30 CFR 732.15(b)(1).

Maryland incorporates provisions corresponding to Sections 515 and 516 of SMCRA and Subchapter K of 30 CFR Chapter VII in Maryland statutes NR 7–508, NR 7–509 and NR 7–5A–03(f) and Maryland regulations 08.13.09.05A, .07G, .21–.38, .31–35, and .40. Discussion of significant issues raised during the review of the Maryland provisions for environmental performance standards follows.

Topsoil

13.1 COMAR 08.13.09.01B(93) defines topsoil as A and B horizon material and other material that will support revegetation. 30 CFR 701 defines "topsoil" as the A horizon material. 30 CFR 816.22 and 817.22 require topsoil to be removed in a separate layer, except that where the A horizon is less than six inches thick, the top six inches of soil (which includes the A horizon) must be removed in a separate layer. The Secretary finds Maryland's definition inconsistent because it would result in a blanket variance to the requirement for topsoil segregation. Such an alternative could result in widespread difficulty in establishing appropriate revegetation on the mining operation. However, mixing of soil horizons has been found appropriate in many Applachian areas having thin A horizons and the practice is allowable under Federal regulations if site specific tests demonstrate that the salvaged material is equal to or better than the A horizon considering both quantity and quality. Approval of the Maryland program is conditioned upon revision of the regulation to define topsoil consistent with the Federal provision, or upon a demonstration that such a variance is reasonable and justified on the basis of local conditions.

Hydrologic Balance

13.2 COMAR 08.13.09.01B defines "hydrologic balance" as "the relationship between the quality of water * * *" whereas 30 CFR 701.5 defines it as "the relationship between the quality and quantity of water * * *". The Secretary finds the Maryland definition is less stringent. Approval of the Maryland program is conditioned upon revision of the regulation to add "quantity" to the definition of hydrologic balance.

13.3 COMAR 08.13.09.23J requires that surface water may not be diverted or otherwise discharged into underground mine workings, whereas 30 CFR 817.55 specifies that neither water from the surface nor from an underground mine be diverted into underground mines. The Secretary finds that COMAR is less stringent than the Federal requirement because it fails to cover some discharges. Accordingly, approval of the Maryland program is conditioned upon revision of the regulation to provide that water from an underground mine shall not be diverted or discharged into other underground mine workings.

Coal Recovery

13.4 COMAR 08.13.09.05A(13) does not contain the requirement in 30 CFR 816.59 and 817.59 for using "the best technology currently available" to maintain environmental integrity in coal recovery. The failure to require operators to use the best technology currently available might limit the regulatory authority's ability to require certain technology be utilized to ensure environmental integrity in coal recovery. The Secretary finds that the Maryland provision is less stringent than the Federal requirement. Accordingly, approval of the Maryland program is conditioned on the revision of the regulation to add the requirement to use "best technology currently available" to assure environmental integrity in coal recovery.

Use of Explosives

13.5 COMAR 08.13.09.25C(4)(b)(ii) allows an eight-hour aggregate of blasting and is less stringent than 30 CFR 816.64(b)(2)(ii) which allows only a four-hour aggregate. The Secretary finds this less stringent and approval of the Maryland program is conditioned on revision of the regulation to restrict blasting to an aggregate of four hours in any one day.

Coal Processing Waste Banks

13.6 30 CFR 701.11(d)(2) specifies that coal waste dams and embankments are not eligible for exemptions to the existing or proposed structure provisions. COMAR 08.13.09.20B pertains to exemptions for pre-existing or proposed structures but does not specify that coal waste dams and embankments are not eligible. Maryland's provision is approved because the Secretary is not aware that any coal waste dams and embankments exist in Maryland. If these are subsequently shown to exist in Maryland, the program will have to be amended.

13.7 NR 7–5A–03F and COMAR 08.13.09.26, relating to fish and wildlife protection, do not provide for the prevention of fires as contained in 30 CFR 816.97(d)(8). The federal requirements could be satisfied by Maryland demonstrating that Maryland statutory authority provides for the prevention of fires. Additionally, Maryland omits the phrase "best technology currently available" contained in 30 CFR 816.97(d). 30 CFR 816.97 requires any person conducting surface mining activities to use the "best technology currently available" to minimize disturbances and adverse impacts on fish, wildlife, and related environmental values. The omission of the phrase might result in a lesser degree of environmental protection. Accordingly, approval of the Maryland program is conditioned on the revision of the regulation to require the use of the "best technology currently available" and upon a revision to the state program to provide for the prevention of fires.

13.8 COMAR 08.13.09.35D does not contain the requirement in 30 CFR 816.116(c)(1) that the operator maintain necessary fences and proper management practices on revegetated areas. Inclusion of this requirement is important to assure the success of revegetation. Accordingly, approval of the Maryland program is conditioned on a revision to the regulation to require the operator to maintain necessary fences and proper management practices on revegetated areas.

13.9 COMAR 08.13.09.35D(1)(d)(iii) does not require that success of revegetation of cropland be determined on the basis of crop production, as found in 30 CFR 816.116(b)(3)(iii). Maryland's proposal to use soil surveys to predict yields is a less stringent requirement since soil surveys of mine soils cannot accurately predict crop production with the 90 percent statistical confidence that the federal regulation requires. Additionally, COMAR 08.13.09.35D(1) uses the term "productive capability in comparison to" rather than the term "productivity" contained in 30 CFR 816.116(b). "Productive capability in comparison" would be acceptable only if it is clearly stated that productive capability will be determined by on-site measurement of biomass, crop yields, tree heights or some other measure of the actual vegetation productivity. Accordingly, approval of the Maryland program is conditioned on a revision to the regulation to provide that success of revegetation for cropland shall be determined on the basis of crop production and that productive capability shall be defined to be a measure of the actual vegetation productivity.

Roads

13.10 COMAR 08.13.09.03G(1)(b), relating to jurisdiction to regulate surface mining activities, only includes facilities which are connected by transportation mechanisms other than public roads. Section 701(28) of SMCRA extends jurisdiction to processing plants operated in connection with surface coal mining activities. Decisions of the Interior Board of Surface Mining Appeals make it clear that jurisdiction extends to plants that involve the use of public roads. The Maryland provision is less stringent because it would regulate fewer facilities than SMCRA. Accordingly, approval of the Maryland program is conditioned on a revision to the regulation to extend jurisdiction to facilities that involve the use of public roads.

Disposition of Agency and Public Comments

13.11 The Department of Energy (DOE) commented that Maryland should include provisions in COMAR 08.13.09.21 equivalent to those in 30 CFR 816.11(e) pertaining to surface mining buffer zones. In lieu of buffer zones, Maryland requires separate permit areas for a mine site that would require a buffer zone under the federal requirements (See COMAR 08.13.09.23C(1)). COMAR 08.13.09.21C provides for perimeter signs on each of the separate areas. The State provision adequately satisfies the federal requirements in providing the same degree of environmental protection.

13.12 DOE stated that Maryland should include provisions equivalent to 30 CFR 815.13 and 776 regarding coal exploration. The Secretary finds that Maryland has met the requirements of 30 CFR 815.13 and 776 in COMAR 08.13.09.07A, since no person may conduct any prospecting without a permit.

13.13 DOE and other commenters stated that Maryland should include requirements similar to the provisions of 30 CFR 785.16 and 826.15 regarding limited variances from the requirement to restore the area to its approximate original contour in steep slope areas. Maryland does not permit mining in steep slope areas unless it is performed in conjunction with reclamation of a previously orphaned surface or deep mining operation. Maryland does not, under any circumstances, allow variances to the approximate original contour requirement for steep slopes and is therefore more stringent.

13.14 DOE said that Maryland should include the prohibition of mining within 300 feet of public buildings, as required by 30 CFR 761.11(f). Under COMAR 08.13.09.10B(6), mining is prohibited within 300 feet of any such buildings unless approved by the owner or agency with jurisdiction and the Bureau. Maryland presented its provision as a "state window" or alternative approach under 30 CFR 731.13. However, as discussed in Finding 12.1, Maryland's regulation does not qualify as a "state window" and is inconsistent with and less stringent than SMCRA.

13.15 The Environmental Protection Agency (EPA) expressed concern that COMAR 08.13.02.14 requires that the elevation of mine openings be equal to or greater than the highest elevation of coal extraction. The Secretary finds that Maryland's provisions are consistent with Section 516(b)(12) of SMCRA because locating mine openings at the highest elevation of coal extraction will prevent gravity discharge.

13.16 EPA commented that COMAR 08.13.09.24B(8), regarding the rainfall exemption for total suspended solids (TSS), is less stringent than 30 CFR 816.42(b). The federal section exempts discharges from the effluent limits during 10-year, 24-hour rainfall events. However, on December 13, 1979, OSM suspended this rainfall exemption and substituted EPA's rainfall exemption found in 40 CFR Part 434. This exemption applies to "any overflow or increase in discharge" emanating from a facility designed, constructed and maintained to contain or treat the volume of water resulting from a 10-year, 24-hour storm. To qualify for the exemption, the overflow or increase in discharge must result from precipitation or snowmelt.

The TSS rainfall exemption found in COMAR 08.13.09.24B(8) is consistent with the present EPA and OSM exemptions, except for one minor ambiguity. Maryland exempts discharges resulting from "inflows larger than baseflow." However, "baseflow" is defined as "flows that are not the direct result of a precipitation event." This definition makes it clear that discharges qualifying for the exemption must be a direct result of rainfall or other precipitation. The Secretary finds COMAR 08.13.09.24B(8) consistent with 30 CFR 816.42(b).

13.17 EPA noted that COMAR does not contain the general requirement for maintenance of the hydrologic balance in underground mining activities in 30 CFR 817.41(a), (b), (c), (d)(1) and (3). However, COMAR 08.13.09.24A does contain this requirement and COMAR 08.13.09.13 states that the surface mining regulations are applicable to underground operations. The Secretary finds that the Maryland program submission does contain adequate information in regard to maintenance of the hydrologic balance.

13.18 EPA commented that COMAR 08.13.09.13F does not contain the explanatory information regarding the "disturbed area" in 30 CFR 817.42(a)(4). The Secretary does not concur since the cited omission is included in COMAR 08.13.09.13F(3)(b).

13.19 EPA suggested that COMAR 08.13.09.24E(2) is less stringent than 30 CFR 816.45(b) in that it does not allow for the reduction of the storage volume of a pond based on the use of other sediment control measures. However, the regulations concerning the size of ponds in relation to other measures found in 30 CFR 816.46(b) have been suspended. The Secretary cannot require that these provisions be contained in a state program at this time.

13.20 EPA commented that COMAR 08.13.09.24F(3) had deleted all that follows the first sentence in 30 CFR 816.46(c) concerning detention time of ponds. Everything after the first sentence of 30 CFR 816.46(c) has been suspended and the Secretary cannot require its inclusion in a state program at this time.

13.21 EPA comented that COMAR 08.13.09.23A(2) omitted the phrase "to control the effects of mine drainage," but retained "pits and cuts" and that this omission affects significantly the adequacy of the provision. The Secretary does not consider the omission of the introductory phrase contained in 30 CFR 816.50(b) significant because the Maryland provision retains the substantive requirement to prevent or control the adverse effects of acid, toxic, or otherwise harmful mine drainage.

13.22 EPA suggested that COMAR 08.13.09.13C(1), regarding casing and sealing of drilled holes, is inconsistent with 30 CFR 817.15 since Maryland omits the phrase "when no longer needed" for monitoring. This wording is contained in COMAR 08.13.09.23H.

13.23 EPA commented that COMAR 08.13.09.23H did not contain the phrase "upon finding no adverse environmental or health and safety effects" regarding permanent use of drill holes as provided for in 30 CFR 816.15. This is not a significant deletion since Maryland uses similar language to achieve the

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protection of the environment and the health and safety of the public.

13.24 EPA commented that COMAR 08.13.09.24A(4) does not contain the statement of 30 CFR 816.41 that changes in the flow of drainage shall be used in preference to the use of water treatment facilities to prevent or minimize water pollution. Omission of this provision does not render the COMAR regulation less stringent since COMAR 08.13.09.24A contains the substantive language requiring that each person who conducts surface mining activities shall emphasize practices that prevent or minimize water pollution.

13.25 EPA commented that COMAR 08.13.09.22A(2), H(2), V(1) and W(1) omit the phrase "the best technology currently available," with regard to prevention of certain kinds of damage. COMAR 08.13.09.22A(2) and .22H(2) are regulations on roads. The corresponding federal provisions have been suspended and Maryland has withdrawn from consideration all of its regulations based on suspended regulations. COMAR 08.13.09.22V(1) and .22W(1) relate to other transportation and support facilities. Omission of the phrase "best technology currently available" means that damage must be prevented absolutely, which is a more stringent standard than the federal requirement.

13.26 The Fish and Wildlife Service (FWS) commented that notifications to government agencies of complete permit applications by the regulatory authority "* * * must include a map of the area and a description of the location." COMAR 08.13.09.04B(6) requires notification to include "* * * the applicant's intention to surface mine a particularly described tract of land" which is identical to the requirement of 30 CFR 786.11(b)(1).

13.27 The United States Forest Service (USFS) suggested that the Surface Mine Reclamation Fund be used to guarantee payment for the tree and shrub seedling orders from the State Forest Nursery. This is not required by SMCRA or the federal regulations. The Secretary is not empowered to impose on the states requirements beyond those authorized by SMCRA.

13.28 The USFS suggested that a sentence be added to COMAR 08.13.09.22X to provide that all trees cleared from an affected area be used as timber or firewood rather than burned or buried. Although the suggestion may be useful, the Secretary cannot require the states to amend a section unless such sections are inconsistent with the requirements of SMCRA or the permanent program regulations. The requirements here are consistent.

13.29 The Soil Conservation Service (SCS) commented that COMAR 08.13.09.01B(92) should define "topsoil" to mean the A horizon and/or B horizon material and other material that will support vegetation. The suggested change would be less stringent since "or" would allow either the A or B horizon to be discarded. As discussed in Finding 13.1, Maryland's definition of "topsoil" as presented is not adequate for other reasons.

13.30 The SCS suggested that COMAR 08.13.09.35F be changed to read "Grazing and Harvesting of Revegetated Land. When the approved postmining land use is pasture land, the reclaimed land shall be used for livestock grazing at a grazing capacity, not to exceed its capability approved by the Bureau * * *." The comparable permanent program regulation, 30 CFR 816.115, was remanded by the court. On June 12, 1980, the State of Maryland requested that any of its provisions based on suspended or remanded federal regulations not be considered as a part of its program. Therefore, COMAR 08.13.09.35F is no longer under consideration.

13.31 The SCS suggested that Maryland's requirement for a reclamation plan for revegetation, COMAR 08.13.09.02P(6), should require information on materials, including agricultural limestone, fertilizer, species, innoculant, mulch anchoring, and seeding techniques. Some of these items are not required in the corresponding federal provision, 30 CFR 780.18(b)(5). Because the state's provision incorporates all the requirements on the contents of the revegetation plan found in 30 CFR 780.18(b)(5), the Secretary cannot require the State to include requirements not imposed in the federal regulations.

13.32 The SCS recommended that the phrase "and mulch anchoring" be added to the end of the sentence in COMAR 08.13.09.08B(4)(a). This section concerns revisions which are not considered significant alterations in the original permit. The permanent program regulation at 30 CFR 788.12(a)(1) allows the regulatory authority to determine what changes shall constitute significant departures from the method of conducting mining or reclamation operations. The Secretary is not empowered to require the state to include any provision not imposed by the federal regulations.

13.33 The SCS commented that the requirement in COMAR 08.13.09.24F(7) that sedimentation ponds discharge through the emergency spillway only during the passage of runoff resulting from a 10-year, 24-hour or larger event was insufficient. The commenter stated that the existing requirement would not adequately detain even relatively small storms. The SCS also suggested that SCS Engineering Memo MD–2 and the Maryland Pond Standard 378 should be used rather than the present COMAR regulation. However, the outflow requirement in COMAR 08.13.09.24F(7) should be read in conjunction with COMAR 08.13.09.24F(9) which requires that the elevation of the crest of the emergency spillway shall be a minimum of 1.0 foot above the crest of the principal spillway. This requirement is in conformity with 30 CFR 816.46(g) and (j) and meets the minimum requirements for sediment pond emergency spillway design and maintenance. Although the suggested reference materials may be useful, the Secretary is not empowered to require the state to include provisions not imposed in the permanent program regulations.

13.34 One commenter suggested that COMAR 08.13.09.22D be changed from "culverts with end area less that 35 sq. ft. shall safely pass the ten-year/24-hour event without a head of water at the entrance," to terminology consistent with Hydraulic Engineering Circular No. 5, "Hydraulic Charts for Selection of Highway Culverts," U.S. Department of Transportation, Federal Highway Administration, which contains the HW/D ratio. The corresponding federal regulation is 30 CFR 816.153(c) which has been suspended. On June 12, 1980, Maryland requested that any of its provisions based on suspended or remanded Federal regulations not be considered as a part of its program. Accordingly, COMAR 08.13.09.22D is no longer under consideration.

13.35 One commenter objected to Maryland's failure to establish more detailed land use standards and criteria than are contained in the federal provisions. The Secretary is not empowered to require the state to include provisions not imposed by the federal regulations.

13.36 One commenter suggested that Maryland should delete both COMAR 08.13.09.02N(2)(c), which provides that land may not be considered prime farmland if it has not been used historically as cropland, and COMAR 08.13.09.13D(1) which imposes certain requirements for reclamation plans for prime farmland used historically for cropland. The commenter felt that the determination that an area is not prime farmland should be made only on the basis of the soil survey of COMAR 08.13.09.02N(2)(d). The SCS also suggested that all the means of demonstrating that an area is not prime farmland, other than the soil survey, should be deleted. The federal provision, 30 CFR 779.27(b), also allows a determination that an area is not prime farmland based on the operator's demonstration that it has not been used historically as cropland. 30 CFR 779.27(b) (1), (2), and (4) allows the same alternative means of demonstrating that an area is not prime farmland as does the state. The Secretary finds the Maryland provisions consistent with the federal provisions.

13.37 Several commenters objected that Maryland's definition of "prime farmland," COMAR 08.13.09.01B(68), does not limit itself to cropland as defined in 30 CFR 701.5. The Secretary finds that the language in COMAR 08.13.09.01B(68) is virtually identical to 30 CFR 701.5 and therefore is consistent with the federal provision.

Finding 14

The Secretary finds, subject to the exceptions noted in the findings below, that the Department of Natural Resources has authority under Maryland laws and regulations, and the Maryland program includes provisions to implement, administer and enforce a permit system, consistent with 30 CFR Chapter VII, Subchapter G (Permits). This finding is made under the requirement of 30 CFR 732.15(b)(2).

Maryland incorporates provisions corresponding to Sections 506 and 507 of SMCRA and to Subchapter G of 30 CFR Chapter VII in Maryland Statute NR 7–505 and COMAR 08.13.09.02, .03, .04, .05 and .06.

14.1 The definition of surface coal mining operations contained in Section 701(28) of SMCRA includes activities conducted on the surface of lands in connection with surface mining and also includes the surface effects of underground mines. A list of the examples in the definition illustrates that it was the intent of Congress to regulate a wide range of mining activities. The definition also covers adjacent land which is incidental to coal mining activities.

The Maryland law does not contain a definition of surface coal mining operations. NR 7–501(n) defines "open pit mining" and "strip mining" to mean "the mining or recovery of bituminous coal by removing the strata or the material which overlies or is above the coal deposit or seam in its natural condition." The Maryland law differs from federal law in that the Maryland definition is limited to mining activities which involve removal of the strata or material which overlies or is above the coal deposit or seam in its natural condition. This has the effect of excluding operations such as the mining or remining of gob piles, which would be covered under the language in Section 701(28) of SMCRA. The fact that COMAR 08.13.09.01B(d) contains a definition of "mining" that is virtually identical to that contained in Section 701(28)(b) of SMCRA does not fully remedy the statutory problem noted above. The narrow definition of the facilities subject to regulation appearing in NR 7–501(n) of state law limits the authority of the state to legally assert the broader jurisdiction set forth in its regulations. Accordingly, approval of the Maryland program is conditioned on the revision of the Maryland Strip Mining Law to reflect the broader jurisdiction to regulate surface coal mining activities contained in Section 701(28) of SMCRA.

Although the definition of "open pit mining" or "strip mining" in Maryland law does not reference underground mining, this does not appear to be a problem. The Maryland Deep Mining Control Act, 7–5A–03(f) states that the surface effects of deep mining shall be subject to the applicable provisions of the Maryland Strip Mining Law and any rules and regulations adopted thereto. In addition, COMAR 08.13.09.13A states in pertinent part, "all surface mining operations conducted in conjunction with deep mining of coal . . . shall comply with the requirements of this chapter." Therefore, all surface mining regulations are applicable to deep mines even though the individual regulations do not specifically reference deep mining.

14.2 COMAR does not include the underground permit application requirements for coal development waste and mine development waste as required in 30 CFR 783.25(i) and 784.11(b)(4). The omission of these requirements might impair the regulatory authority's ability to determine from the permit application that mining activities will not adversely impact the hydrologic balance of the area. Accordingly, approval of the Maryland program is conditioned on revision to the regulations to include these requirements.

14.3 COMAR 08.13.09.020, .03, and .13 include the measures to be taken to reduce the likelihood of subsidence and the measures to be taken to prevent or lessen the value of use of the surface. However, provisions for monitoring subsidence as required by 30 CFR 784.20 and 784.23(b)(12) have been omitted. Therefore, approval of the Maryland program is conditioned on a revision of the regulations to provide for monitoring to measure deformations near specified structures or features or otherwise as appropriate for the operation.

14.4 COMAR 08.13.09.33G requires the plan for return of coal processing waste to abandoned underground workings be approved by the state and by the Mine Safety and Health Administration (MSHA). However, 30 CFR 784.25 specifies specific details that must be included in the operator's disposal plan which are not included in the Maryland regulation. Accordingly, approval of the Maryland program is conditioned on the revision of the regulation to require the inclusion of specific details in an operator's plan.

14.5 Neither the Maryland Administrative Procedure Act nor COMAR 08.13.09.06B reference the right to appeal if the state fails to act within prescribed time limits. The State does provide the right of appeal by an aggrieved party if the state does act. The Secretary finds that Maryland should provide a confirmation of this right to be consistent with Section 514(f) of SMCRA and 30 CFR 787.12. Accordingly, approval of the Maryland program is conditioned on the revision of the state program to reference the right to appeal.

14.6 COMAR 08.13.09.03D provides that a permit can be approved for mining prime farmland if the applicant can demonstrate that the land is likely to be capable for use as prime farmland after mining. This is less stringent than 30 CFR 785.17(d) which requires that the postmining land use of prime farmland must be cropland. Approval of the Maryland program is conditioned on the revision of the regulation to require that the postmining land use of prime farmland must be cropland.

Disposition of Agency and Public Comments

14.7 DOE and others commented that COMAR should include permit application requirements for maps and plans for small operators pursuant to 30 CFR 771.23(e)(2)(B). The requirements in 30 CFR 771.23(e)(2)(B) are only applicable if small operator exemptions have been granted. Maryland did not issue any small operator exemptions in accordance with 30 CFR 710.12.

14.8 USFS suggested that COMAR 08.13.09.020(18)(d)(i), which requires that permit applications contain certain information on how the postmining land use will be achieved, should also require a recent aerial photograph of the area to be mined to assist with the determination of land use. 30 CFR 780.23 does not require aerial photos, and the Secretary is not empowered to require the state to include provisions not imposed in the federal regulations.

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14.9 FWS commented that COMAR 08.13.09.08B should include a provision to ensure the protection of endangered or threatened species for both major and minor permit revisions. The federal regulations, 30 CFR 788.12(a)(1), allow the regulatory authority to determine what changes shall constitute significant (or major) departures from the method of mining or reclamation operations. Even if a revision to a permit is determined to be minor, the permittee must still comply with all the original permit conditions and all requirements of the Regulatory Program, including protection of endangered or threatened species.

14.10 FWS initially commented that COMAR 08.13.09.02K and 08.13.09.020(8) lack an adequate mechanism to ensure protection of endangered species and might result in jeopardy to these species. Upon further review, the FWS found, based on the provisions cited below, that Maryland's program contains adequate measures for the protection of endangered or threatened species. COMAR 08.13.09.02K(2)(1) provides for the applicant to supply general information with the permit application concerning fish and wildlife resources. COMAR 08.13.09.041(1) provides for a copy of the permit application to be forwarded to the Fish and Wildlife Administration for their review and comments and COMAR 08.13.09.04H(2) provides for commenters who object to the permit application to be notified by the Bureau of the public hearing on the permit application. Additionally, COMAR 08.13.09.05A(12) requires that a permit may not be approved unless the Bureau finds, in writing, that the "activities would not affect the continued existence of endangered or threatened species, or result in the destruction or adverse modification of their critical habitats, as determined under the Endangered Species Act." Also, COMAR 08.13.09.26 provides for the protection of endangered and threatened species during the life of the permit.

14.11 The NPS commented that COMAR 08.13.09.04 should provide NPS an opportunity to be involved in the development and review of mining and reclamation plans and setting bonding requirements for surface mining which may affect the NPS units. The Secretary finds, based on the Attorney General's opinion, page 15, that Maryland has no federal lands, including NPS units, within the coal counties (Allegany and Garrett) in Maryland. Therefore, the Secretary cannot require that Maryland provide for NPS involvement.

14.12 The SCS suggested that COMAR 08.13.09.02P(6) be rewritten to give detailed specifications and requirements for agricultural limestone, fertilizer, species, inoculant, mulch anchoring and seeding techniques. The Secretary finds that the COMAR requirement is consistent with 30 CFR 780.18, and he is not empowered to require that the State include provisions not imposed in the federal requirements.

14.13 The SCS commented that Maryland should omit COMAR 08.13.09.02K(2)(g)(iii), which defines "grazing land" as a pre-mining land use category which must be identified in the permit application and reword the definitions of "fish and wildlife habitat" and "undeveloped land" in COMAR .02K(2)(g) (viii) and (x). The equivalent federal provision is 30 CFR 779.22(a)(1), which is more generalized and merely requires a map and supporting narrative of pre-existing land uses. The federal regulations do not use premining land use categories. The Secretary finds that Maryland's definitions of premining land use terms do not render its provision less stringent than the Federal provisions.

14.14 One commenter suggested that Maryland should advertise the number and location of permits granted, perhaps on a quarterly or yearly period, on an area basis. This would provide citizens with information pertaining to cumulative effects of mining in an area. The Secretary finds that such a provision is not required by SMCRA or 30 CFR Chapter VII; however, the suggestion will be forwarded to Maryland.

14.15 One commenter suggested that the COMAR 08.13.09.04 newspaper advertisement requirements should be improved by requiring larger advertisements with bolder type. The Secretary finds that Maryland meets the minimum requirements of 30 CFR 786.11.

14.16 One commenter questioned the necessity of the COMAR 08.13.09.02K(2)(k) permitting requirements for ecological information because the requirement appeared to be too stringent. The Maryland regulation allows the regulatory authority, in its discretion, to require information on existing vegetative types. This COMAR provision is consistent with 30 CFR 779.19, which is a discretionary Federal provision allowing the regulatory authority to require such information in a permit application.

14.17 One commenter questioned the necessity of COMAR 08.13.09.02 regarding required hydrologic information. The Secretary finds the Maryland regulations are consistent with the Federal requirements, 30 CFR 779.13 to 779.18.

Finding 15

The Secretary finds that the Department of Natural Resources has the authority to regulate coal exploration consistent with the requirements of Section 512 of SMCRA (coal exploration) and 30 CFR Chapter VII, Subchapters G and K. This finding is made under the requirements of 30 CFR 732.15(b)(3).

Provisions corresponding to Section 512 of SMCRA and Subchapters G and K of 30 CFR Chapter VII for coal exploration operations are found in the Maryland Statute NR 7–514.6 and COMAR 08.13.09.07.

Disposition of Agency and Public Comments

DOE stated that Maryland regulations omitted provisions for coal exploration of more than 250 tons as required in 30 CFR 776 and 815. Since Maryland requires coal exploration greater than 200 tons to be fully permitted (COMAR 08.13.09.07C(1)), the provisions for coal exploration of more than 250 tons are not necessary.

Finding 16

The Secretary finds that the Department of Natural Resources has the authority under Maryland laws and regulations, and the Maryland program includes provisions to require that persons extracting coal incidental to government-financed construction maintain information on site, consistent with Section 528(3) of SMCRA and 30 CFR Chapter VII, Subchapter A (coal extraction incident to government-financed highway or other construction). This finding is made under the requirement of 30 CFR 732.15(b)(4).

Provisions corresponding to Section 528(3) of SMCRA and Subchapter A of 30 CFR Chapter VII for coal extraction incidential to government-financed construction are found in Maryland statute NR 7–507 and COMAR 08.13.09.12.

Finding 17

The Secretary finds that the Department of Natural Resources has the authority and the Maryland program includes provisions to enter, inspect, and monitor all coal exploration and surface coal mining and reclamation operations on non-Indian and non-federal lands within Maryland consistent with the requirements of Section 517 of SMCRA and 30 CFR Chapter VII, Subchapter L (inspection and monitoring). This finding is made under the requirements of 30 CFR 732.15(b)(5).

Provisions corresponding to Section 517 of SMCRA and Subchapter L of 30 CFR Chapter VII for inspection and monitoring of operations are found in Maryland statutes NR 7–507 and NR 7–518, and COMAR 08.13.09.40.

17.1 COMAR 08.13.09.40G(1) provides that an inspection will be made in response to a citizen's complaint that alleges a violation of the regulatory program. Although it does not expressly provide for such inspections where the complaint concerns "conditions or practices" which create an imminent danger to public health and safety, or significant, imminent harm to the environment, the language that Maryland provides is consistent with 30 CFR 842.12(a). That section specifies inspections are to be made for violations of the "regulatory program" which includes all federal and state law and regulations enforced under the state program.

Disposition of Agency and Public Comments

17.2 One commenter suggested that some form of inspection and enforcement be provided for after bond release to ensure successful reclamation and revegetation. 30 CFR 840 does not provide for inspection activity after bond release. This is based on 30 CFR 807.12 which requires that reclamation success must be judged prior to the release of the bond. The Secretary is not empowered to require the State to include requirements not imposed in SMCRA and the federal regulations.

Finding 18

The Secretary finds that the Department of Natural Resources has the authority under Maryland laws and regulations and that the Maryland program includes provisions to implement, administer and enforce a system of performance bonds and liability insurance, or other equivalent guarantees, consistent with the requirements of Sections 509 and 519 of SMCRA and 30 CFR Chapter VII, Subchapter J. This finding is made under the requirements of 30 CFR 732.15(b)(6).

Provisions corresponding to Sections 509 and 519 of SMCRA and to Subchapter J of 30 CFR Chapter VII which outline the requirement for performance bonds and insurance, are incorporated in the Maryland statutes NR 7–509 and NR 7–511 and COMAR 08.13.09.01, .15, .16 and .42.

Disposition of Agency and Public Comments

18.1 USFS suggested that experimental practices (COMAR 08.09.03A) be bonded separately from other mining operations. The federal regulations contain no special provision for bonding experimental practices. They are covered by the standard bonding requirements in 30 CFR Subchapter J. The Secretary is not empowered to require the State to include any requirement not imposed in the federal regulations.

18.2 One commenter suggested that the period of liability should be extended after bond release to ensure reclamation and revegtation success as contained in COMAR 08.13.09.15H. 30 CFR 807.12 provides for a five-year period of liability on the basis that success will have been determined within that time period. The Secretary is not empowered to require Maryland to include requirements not imposed in the federal regulations.

Finding 19

The Secretary finds that the Department of Natural Resources has the authority and the Maryland program provides for civil and criminal sanctions for violations of Maryland law, regulations and conditions of permits and exploration approvals, including civil and criminal penalties consistent with Section 518 of SMCRA, subject to the exceptions noted in the findings below. This finding is made under the requirements of 30 CFR 732.15(b)(7).

Provisions corresponding to section 518 of SCMRA and to 30 CFR 845 are incorporated in the Maryland statute, NR 7–517 and COMAR 08.14.09.41.

On February 26, 1980, the U.S. District Court for the District of Columbia issued its first round decision in the litigation on the permanent program regulations (*In Re: Permanent Surface Mining Regulation Litigation,* Civil Action No. 79–1144). In that decision, the court held that the Secretary could not require a point system for assessing civil penalties. On May 16, 1980, in its second round decision in this litigation, the court answered the Secretary's request for clarification regarding the round one decision demanding the penalty point system. The court stated that the Secretary may not require the states to develop a system to assess penalties at least as stringent as those imposed under the civil penalty system set forth in the federal regulations. The Secretary has interpreted the court's decision concerning penalty systems in such a way that the state need only develop a penalty system incorporating: (1) The four criteria in Section 518(a) of SMCRA, (2) the procedural requirements of 30 CFR 845.17 through 845.20, (3) the requirement of 30 CFR 845.12 that all cessation orders must be assessed and (4) the requirement of 30 CFR 845.15(b) that a minimum of $750.00 per day be assessed for all cessation orders issued for failure to abate a violation.

19.1 In Section 7–516(b) of the Maryland law, the state fails to provide criminal sanctions against a person who "* * * knowingly fails to make any statement, representation, or certification in any application * * * or other documents" and is therefore inconsistent with Section 518(g) of SMCRA. Maryland has not submitted any other laws which may provide equivalent sanctions. Accordingly, approval of the Maryland program is conditioned on the revision of the statute to provide criminal sanctions against a person who knowingly fails to make any statement or representation in any document, as provided in Section 518(g) of SMCRA.

19.2 COMAR 08.13.09.41A(2) provides for a $5,000 penalty "for each day an operator is in violation * * *." Section 518(a) of SMCRA states that each day of each continuing violation may be assessed as a separate violation. Although Maryland statute NR 7–517(b) provides the necessary authority, COMAR is inconsistent with an less stringent than SMCRA because it limits total assessments per day to "operations," rather than extending it to each violation occurring on an operation. This could result in smaller penalties than authorized under SMCRA both for the initial violation and for continuing violations. Approval of the Maryland program is therefore conditioned on a revision to the regulation to provide that each day of each continuing violation may be assessed as a separate violation.

19.3 The formula for assessing dollar amounts with civil penalty criteria is contained in NR 7–517. However, COMAR 08.13.09.41C(1), which applies these criteria, would result in the regulatory authority being able to calculate a maximum penalty of $3,500. Since Maryland's regulations limit maximum penalties to $3,500, they are inconsistent with and less stringent than Section 518(a) of SMCRA which requires $5,000 maximum penalties. Accordingly, approval of the Maryland program is conditioned on a revision to the regulations to provide for calculation of maximum penalties of $5,000.

19.4 Maryland has proposed in COMAR 08.13.09.41D, that in lieu of a civil penalty assessment, the regulatory authority may order a suspension of

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surface mining operations for an appropriate period of time such that the economic impact on the operator is equivalent to the amount of civil penalty which would have been assessed for the violation. Based on COMAR 08.13.09.41A(3), such an option would not be available where a cessation order had been issued for a violation creating imminent danger to public health or safety, or imminent environmental harm. Section 518(a) of SMCAR requires that civil penalties shall be assessed where such cessation orders have been issued. For other situations where such an option might be available, Maryland has not provided sufficient information to explain how such a system would work. Specifically, there is no information to show the standards to be used and the number and expertise of personnel who would exercise the judgments involved, how the system would maintain internal consistency and uniformity, and that the results would not be less stringent than the Federal requirements. Maryland should demonstrate how reasonable estimates of the economic cost to an operator of a shutdown could be calculated for those cases where a mandatory monetary penalty is not required. The Secretay finds that this procedure cannot be approved at this time but that it merits additional study that may demonstrate the feasibility of this alternative for future consideration.

19.5 COMAR 08.13.09.41E and NR 7–507(f) and NR 7–517(b)(4) fail to include provisions which establish an outside time limit for payment of a civil penalty as provided in Section 518 of SMCRA and 30 CFR 845.18. Approval of the Maryland program is conditioned on the revision of the regulation to provide an outside time limit for the payment of a civil penalty consistent with 30 CFR 845.18.

19.6 Maryland statute NR 7–517(c) and COMAR 08.13.09.41A(4) provide that the $750 per day penalty for failure to abate shall be assessed for thirty days and may be assessed beyond thirty days if noncompliance continues. This provision is consistent with 30 CFR 845.15 as far as it goes, but Maryland must provide that the regulatory authority will continue mandatory enforcement action of other types if the penalty is not assessed after the thirty days elapses. Approval of the Maryland program is conditioned on a revision to the regulation to provide for mandatory alternative enforcement action beyond the thirty day period.

Disposition of Agency and Public Comments

19.7 DOE recommended that Maryland law be amended to create a point system for the assessment of civil and criminal penalties pursuant to Section 518 of SMCRA and 30 CFR Part 845. The requirement for a point system was remanded by the District Court for the District of Columbia (See Finding 19) and the Secretary lacks authority to require it at this time.

Finding 20

The Secretary finds, subject to the exceptions noted in the findings below, that the Department of Natural Resources has the authority under Maryland laws and regulations, and the Maryland program provides provisions to issue, modify, terminate and enforce notices of violation, cessation orders and show cause orders in accordance with Section 521 of SMCRA and consistent with 30 CFR Chapter VII, Subchapter L (Inspection and Enforcement). This finding is made under the requirements of 30 CFR 732.15(b)(8).

Provisions corresponding to Section 521 of SMCRA and Subchapter L of 30 CFR Chapter VII for inspection and enforcement of operations are found in Maryland statutes NR 7–507 and NR 7–518, and COMAR 08.13.09.40.

20.1 NR 7–507(c) provides for extending an abatement period for greater than the maximum 90 days allowed under Section 521(a)(3) of SMCRA and 30 CFR 843.12(c). COMAR 08.13.09.40E(3) also provides for extending the 90-day abatement period when the Bureau finds that it is necessary. Insofar as Maryland's statutory and regulatory authority provides for a greater than 90-day abatement period, the Secretary finds that it is inconsistent with SMCRA and the Federal regulations. Accordingly, approval of the Maryland program is conditioned on the revision of the statute and regulations to provide that the time period established for abatement of a violation shall not exceed 90 days.

20.2 COMAR 08.13.09.42A(5) does not specify that a pattern of violations *may* be determined based upon two inspections in a 12-month period and *shall* be determined upon three inspections during a 12-month period, as specified in 30 CFR 843.13(a) (2) and (3). Maryland uses terms like "repeated," "excessive," and "severe" in determining what constitutes a pattern of violations. The Secretary finds that the failure to establish minimum criteria which trigger the mandatory issuance of a show cause order and the lack of specific criteria for issuing a show cause order under certain situations is inconsistent with 30 CFR 843.13(a) (2) and (3). Approval of the Maryland program is conditioned on the revision of the regulations to provide criteria for issuing show cause orders, consistent with 30 CFR 843.13(a) (2) and (3).

20.3 The Secretary finds COMAR 08.13.09.40F inconsistent with Section 521(a)(2) of SMCRA and 30 CFR 843.11 in that it does not establish that cease orders shall be issued on the basis of any one of four independent criteria. Approval of the Maryland program is conditioned on revision of the regulation to provide that a cease order shall be issued on the basis of any one of four independent criteria.

Disposition of Agency and Public Comments

20.4 The Citizens' Coalition on Surface Mining commented that the state's enforcement procedures appear to be based on state regulations previously in effect, together with a few new regulations, and that these procedures have not been particularly effective in the past. As explained in the preamble to 30 CFR 732.15 on criteria for approval or disapproval of state programs, the past history of a state cannot be the basis for approval or disapproval of a state program (44 FR 14961, March 13, 1979).

Finding 21

The Secretary finds, subject to the exceptions noted in the finding below, that the Department of Natural Resources has the authority and the Maryland program contains provisions to designate areas as unsuitable for surface coal mining consistent with Section 522 of SMCRA and 30 CFR Chapter VII, Subchapter F (designation of areas unsuitable for mining). This finding is made under the requirements of 30 CFR 732.15(b)(9).

Provisions corresponding to Section 522 of SMCRA and to Subchapter F of 30 CFR Chapter VII are included in Maryland statute NR 7–501 and COMAR 08.13.09.10 and .11.

21.1 NR 7–505(b)(2) and COMAR 08.13.09.10B allow the State to approve surface coal mining in the corridor of the Youghiogheny River, a National Wild and Scenic study river, when such mining is in conjunction with the reclamation of abandoned mine lands. The State also allows mining within 300 feet of public buildings and parks and within 100 feet of a cemetery if approved by the owner or agency with jurisdiction. These provisions are inconsistent with the prohibition of mining in areas designated unsuitable for mining in Section 522(e) of SMCRA and 30 CFR 761.11. These provisions are discussed at greater length in Finding 12.1.

Disposition of Agency Comments

21.2 The NPS commented that it should be given an opportunity to directly participate in developing criteria for designating lands unsuitable for surface coal mining adjacent to NPS units. The Secretary finds, based on the Attorney General's opinion, page 15, that Maryland has no federal lands, including NPS units, in its coal counties (Allegany and Garrett). Therefore, the Secretary cannot require that Maryland provide for NPS involvement.

21.3 The NPS commented that COMAR 08.13.09.10 should include the exact wording of the definitions of "fragile lands" and "historic lands" provided in 30 CFR 762.5. These definitions are included in COMAR 08.13.09.11A which contains substantially identical language to 30 CFR 762.5. The Secretary finds that the definitions of these terms in COMAR are consistent with the federal requirements.

Finding 22

The Secretary finds, subject to the exceptions noted in the findings below, that the Department of Natural Resources has the authority under Maryland laws and regulations and the Maryland program contains provisions to provide for public participation in the development, revision and enforcement of Maryland laws and regulations and the Maryland program is consistent with the public participation requirements of SMCRA and 30 CFR Chapter VII. This finding is made under the requirements of 30 CFR 732.15(b)(10).

Provisions corresponding to public participation requirements in SMCRA and 30 CFR Chapter VII are incorporated in the Maryland Environmental Standing Act, NR 1–501, *et seq.* and the Maryland program. In Volume I of the Maryland program submission, Sections G(8) and G(14) outline all opportunities provided in the Maryland law and regulations for public participation.

22.1 Section 525(a)(1) of SMCRA allows "any person having an interest which is or may be adversely affected * * *" to request an adjudicatory hearing during any stage of administrative proceedings. Although NR 7–507(f) allows "any person adversely affected" to request an adjudicatory hearing, the omission of "or may be" limits the right of the public to initiate review of actions by the regulatory authority and is inconsistent with SMCRA. COMAR 08.13.09.43C(3) limits intervention in an adjudicatory hearing to persons who can show they would have been entitled to request a hearing in their own right. Each state program is required by 30 CFR 840.15 to provide for public participation in enforcement consistent with 43 CFR Part 4. 43 CFR 4.1110 provides that any person having an interest which is or may be adversely affected may intervene in administrative proceedings. Accordingly, approval of the Maryland program is conditioned on the revision of the statute to provide that any person who may be adversely affected may request an adjudicatory hearing and on revision to the regulations to provide for intervention rights consistent with 43 CFR 4.1110.

22.2 Maryland's Environmental Standing Act, NR 1–501, *et seq.*, restricts citizens suits to Maryland residents. Section 520(a) of SMCRA provides for "any person" to commence a civil action to compel compliance. The Secretary finds that the Maryland statute is not in accordance with Section 520(a) of SMCRA. Accordingly, approval of the Maryland program is conditioned on the revision of the statute to provide for the right of any person to commence a citizen suit.

22.3 Maryland law does not contain provisions allowing any person to intervene as a matter of right in an action initiated by the state or the Secretary of the Department of the Interior; or allowing the Secretary to intervene in a citizen suit as a matter of right and is therefore inconsistent with Sections 520(b)(1) and 520(c)(2) of SMCRA. Approval of the Maryland program is conditioned on the revision of the statute to provide for these intervention rights.

22.4 COMAR 08.13.07.40G(3) does not require a written response to be given to a citizen requesting an inspection within ten days of the inspection or within fifteen days if no inspection is conducted. The omission of this requirement is inconsistent with 30 CFR 842.12(d). Approval of the Maryland program is conditioned on the revision of the regulation to include the requirement to give a written response to a citizen requesting an inspection.

22.5 Maryland law provides for the award of costs, including attorney fees, at NR 7–507(g), except as noted below under Finding 22.8. However, the state program does not provide for awarding these costs in accordance with 43 CFR Part 4, Subpart L (rules for surface coal mining hearings and appeals) as required in the public participation requirements of 30 CFR 840.15. Specifically, the Maryland program contains no provisions comparable to 43 CFR 4.1290 *et seq.* which provides that costs may only be assessed against a citizen participant in an administrative proceeding if that citizen initiated the proceeding in bad faith or for the purpose of harassing or embarrassing the permittee or the government, and that costs may be awarded to a citizen if he or she makes a substantial contribution to a full and fair determination of the issues. Approval of the Maryland program is conditioned on the revision of the regulations to provide for the award of costs in accordance with 43 CFR Part 4, Subchapter L.

22.6 The Maryland program does not contain provisions required by 30 CFR 840.15 to provide for public participation in enforcement of the state program consistent with the discovery procedures for administrative hearings in 43 CFR 4.1130 *et seq.* Approval of the Maryland program is conditioned on the revision of the regulations to include the discovery procedures for administrative hearings in 43 CFR 4.1130 *et seq.*

22.7 The Maryland program lacks provisions for notification of the public and public participation in mine site hearings as required in 30 CFR 843.15. Approval of the Maryland program is conditioned on the revision of the regulations to provide for notification of the public and public participation in mine site hearings.

22.8 Section 520(d) of SMCRA provides that costs, including attorney fees, may be awarded to any party where suit is initiated under Section 520 (Citizen Suits) to compel compliance with the Act. Maryland provides for the award of costs, including attorney fees, at NR 7–507(g). However, this section authorizes the recovery of the costs of litigation only for parties seeking administrative or judicial review of a notice or order. The Maryland Environmental Standing Act (ESA) provides at NR 1–507(a) that such costs may be awarded to a defendant where it is determined that a citizen suit brought under the ESA was brought in bad faith or solely for purposes of harassment or delay. No provision is made for a plaintiff in a citizen suit to recover the cost of litigation. Omission of a provision to authorize the recovery of costs, including attorney fees, for plaintiffs in citizen suits makes Maryland's law less stringent than Section 520(d) of SMCRA. Approval of the Maryland program is conditioned on the revision of the statute to provide for the award of costs, including attorney fees, for plaintiffs in citizen suits.

Finding 23

The Secretary finds, subject to the exception noted below, that the Department of Natural Resources has the authority under Maryland laws and regulations to monitor, review, and

enforce the prohibition against indirect or direct financial interest in coal mining operations by employees of the

Maryland statute NR 7–520. However, under 30 CFR 732.15(b)(12), the State is not required to implement regulations

NR 7–516(E), as amended on June 1, 1980, is consistent with the Federal requirements.

Conservation Districts and the Maryland Bureau of Mines pursuant to 30 CFR 731.14(f). The federal regulations

regulations do not require either of these suggested provisions and he is not empowered to require the State to

uninhibited at all times. This policy was critical to avoiding a period of enforced silence with a State after the close of the

enforce the prohibition against indirect or direct financial interest in coal mining operations by employees of the Maryland Department of Natural Resources consistent with Section 517(g) of SMCRA and 30 CFR Part 705 (restrictions on financial interests of state employees). This finding is made under the requirements of 30 CFR 732.15(b)(11).

Provisions corresponding to Section 517(g) of SMCRA and 30 CFR Part 705 are incorporated in the Maryland Public Ethics Law, Article 40A.

Section 517(g) of SMCRA provides that no employee of the state regulatory authority performing any function or duty under the Act shall have a direct or indirect financial interest in any underground or surface coal mining operation. 30 CFR 705.5 defines direct financial interest as "ownership or part ownership by an employee of lands, stocks, bonds, debentures, warrants, partnership shares, or other holdings * * * Direct financial interests include employment, pensions, creditor, real property and other financial relationships." Indirect financial interest is defined by 30 CFR 705.5 to mean the same financial relationships as for direct ownership, but the interests are held by the employee's spouse, child, or other relatives residing in the employee's home. The Maryland Public Ethics Law, § 1–120(1), defines financial interest as: (1) Ownership of any interest as the result of which the owner has received, is presently receiving, or is entitled to receive, more than $1,000 per year, or (2) ownership, or the ownership of securities of any kind representing ownership, of more than 3 percent of a business entity. This definition is inconsistent with the Federal requirements which prohibit any interest, regardless of the amount.

Accordingly, approval of the Maryland program is conditioned on the revision of the statute to provide conflict of interest requirements consistent with Section 517(g) of SMCRA and 30 CFR Part 705.

Finding 24

The Secretary finds that the Department of Natural Resources has the authority under Maryland laws and the Maryland program includes provisions to require training, examination, and certification of persons engaged in or responsible for blasting and the use of explosives in accordance with Section 719 of SMCRA to the extent required for approval of its program. This finding is made under the requirements of 30 CFR 732.15(b)(12).

Provisions corresponding to Section 719 of SMCRA are incorporated in the Maryland statute NR 7–520. However, under 30 CFR 732.15(b)(12), the State is not required to implement regulations governing training, examination, and certification of blasters until six months after Federal regulations have been promulgated. Federal regulations have not been promulgated as of this time. When OSM issues final rules on this subject, Maryland will be required to have regulations consistent with them and provide a description of the system for implementing these provisions as required by 30 CFR 731.14(g)(13).

Finding 25

The Secretary finds, subject to the exception noted below, that the Department of Natural Resources has the authority under Maryland laws and regulations, and the Maryland program contains provisions to provide small operator assistance consistent with 30 CFR Part 795 (Small Operator Assistance). This finding is made under the requirements of 30 CFR 732.15(b)(13).

Provisions corresponding to Section 507(c) of SMCRA and 30 CFR Part 795 are incorporated in Maryland statute NR 7–505(c) and COMAR 08.13.09.17.

Maryland statute NR 7–505(c)(4) limits the funding of the small operator assistance program "to the extent that Federal funds are available." Such a limitation is not consistent with Section 507(c) of SMCRA. The Federal funds currently available to Maryland for small operator assistance are sufficient to meet the present needs of Maryland. However, this may not be the case in the future. Approval of the Maryland program is conditioned on a revision to the statute to remove the limitation on funding of the small operator assistance program.

Finding 26

The Secretary finds that the Department of Natural Resources has the authority under Maryland laws to provide protection of employees of the Department of Natural Resources corresponding to the protection afforded Federal employees under Section 704 of SMCRA (protection of employees). This finding is made under the requirements of 30 CFR 732.15(b)(14).

Provisions corresponding to Section 704 of SMCRA are incorporated in Maryland statute NR 7–516(E).

Disposition of Agency and Public Comments

DOE commented that Maryland law, NR 7–516, does not contain adequate provisions for the protection of state employees as set forth in Section 704 SMCRA and 30 CFR 732.15(b)(14). The Secretary finds that Maryland statute NR 7–516(E), as amended on June 1, 1980, is consistent with the Federal requirements.

Finding 27

The Secretary finds, subject to the exception noted below, that the Department of Natural Resources has the authority under its laws and regulations and the Maryland program contains provisions to provide for administrative and judicial review of state program actions in accordance with Sections 525 and 526 of SMCRA (Review of Decisions) and 30 CFR Chapter VII, Subchapter L (Inspection and Enforcement). This finding is made under the requirements of 30 CFR 732.15(b)(15).

Provisions corresponding to Sections 525 and 526 of SMCRA and to 30 CFR Chapter VII are incorporated in Maryland statute NR 7–507, the Maryland Administrative Procedure Act, and COMAR 08.13.09.41 and .42.

COMAR 08.13.09.42D(2), pertaining to suspension or revocation of permits, contains no provision for notification of the public of the date, time and place of a hearing. 30 CFR 843.13(d) provides that the date, time, and place of a hearing shall be published, if practicable, in a newspaper of general circulation in the area of the surface coal mining and reclamation operations, and shall be posted at the regional, district or field office closest to those operations. Accordingly, approval of the Maryland program is conditioned on the revision of the regulation to provide for public notification as required in 30 CFR 843.13(d).

Finding 28

The Secretary finds that the Maryland Department of Natural Resources has the authority under Maryland laws and the Maryland program contains provisions to cooperate and coordinate with and provide documents and other information to the Office of Surface Mining under the provisions of 30 CFR Chapter VII. This finding is made under the requirements of 30 CFR 732.15(b)(16).

The provisions for cooperation, coordination and provision of documents are contained in COMAR 08.13.09.04M(2) and (3), and the Maryland Public Information Act (Article 76A of the Annotated Code of Maryland) provides for the availability of information to the public.

Disposition of Agency and Public Comments

The SCS recommended that Maryland's program contain a new memorandum of understanding between the Allegany and Garrett Soil Conservation Districts and the Maryland Bureau of Mines pursuant to 30 CFR 731.14(f). The federal regulations require only that existing supporting agreements be included in a state program.

Finding 29

The Secretary finds that the Maryland laws and regulations and the Maryland program contain provisions which do not interfere with or preclude implementation of those in SMCRA and 30 CFR Chapter VII. This finding is made under the requirements of 30 CFR 732.15(c).

Finding 30

The Secretary finds that the Department of Natural Resources and other agencies having a role in the program have sufficient legal, technical and administrative personnel and sufficient funds to implement, administer and enforce the provisions of the program, the requirements of 30 CFR 732.15(b) (Program Requirements), and other applicable state and federal laws. This finding is made under the requirements of 30 CFR 732.15(d).

Disposition of Agency and Public Comments

30.1 The Advisory Council on Historic Preservation (ACHP) commented that if the survey of cultural resources by the Maryland State Historic Preservation Officer [COMAR 08.13.09.02K(2)(b)] is completed prior to the issuance of any permits, the regulations should be amended to cite this survey directly. The ACHP suggested that if the survey was not completed in that period, the program should contain evidence of how historic lands will be identified. The Secretary believes that the proposed Programmatic Memorandum of Agreement between OSM and ACHP (See 45 FR 41988, June 23, 1980), when signed and implemented will assure compliance with Section 106 of the National Historic Preservation Act of 1966, as amended.

30.2 EPA commented that the administrative capability of the Maryland program satisfied the requirements of 30 CFR 731.14(e)-(p). The Secretary concurs that Maryland's administrative capability is adequate.

30.3 USFS suggested that the Maryland Forest Service be allowed to review mining permits to insure that the correct tree seedlings will be available from the State nursery when needed. USFS also recommended that the State forester should be a member of the Land Reclamation Committee. The Secretary finds that the permanent program regulations do not require either of these suggested provisions and he is not empowered to require the State to include requirements not imposed in the Federal regulations.

E. The Secretary's Decision

Background on Conditional Approval

The Secretary is fully committed to two key aims which underlie SMCRA. The Act calls for comprehensive regulation of the effects of surface coal mining on the environment and public health and safety and for the Secretary to assist the States in becoming the primary regulators under the Act. To enable the states to achieve that primacy, the Secretaty has undertaken many activities of which several are particularly noteworthy.

The Secretary has worked closely with several State organizations such as the Interstate Mining Compact Commission, the Council of State Governments, the National Governors Association and the Western Interstate Energy Board. Through these groups OSM has frequently met with State regulatory authority personnel to discuss informally how the Act should be administered, with particular reference to unique circumstances in individual States. Often these meetings have been a way for OSM and the States to test new ideas and for OSM to explain portions of the Federal requirements and how the States might meet them. Alternative State regulatory options, the "state window" concept, for example, were discussed at several meetings of the interstate Mining Compact Commission and the National Governors Association.

The Secretary has dispensed over $6.9 million in program development grants and over $37.6 million in initial program grants to help the States to develop their programs, to administer their initial programs, to train their personnel in the new requirements, and to purchase new equipment. In several instances OSM detailed its personnel to States to assist in the preparation of their permanent program submissions. OSM has also met with individual States to determine how best to meet the Act's environmental protection goals.

Equally important, the Secretary structured the State program approval process to assist the States in achieving primacy. He voluntarily provided his preliminary views on the adequacy of each State program to identify needed changes and to allow them to be made without penalty to the State. The Secretary adopted a special policy to insure that communication between him and the States remained open and uninhibited at all times. This policy was critical to avoiding a period of enforced silence with a State after the close of the public comment period on its program and has been a vital part of the program review process (*see* 44 FR 54444, September 19, 1979).

The Secretary has also developed in his regulations the critical ability to approve conditionally a State program. Under the Secretary's regulations, conditional approval gives full primacy to a State even though there are minor deficiencies in a program. This power is not expressly authorized by the Act; it was adopted through the Secretary's rulemaking authority under 30 U.S.C. 301(c), 502(b), and 503(a)(7).

The Act expressly gives the Secretary only two options—to approve or disapprove a State program. Read literally, the Secretary would have no flexibility; he would have to approve those programs that are letter-perfect and disapprove all others. To avoid that result and in recognition of the difficulty of developing an acceptable program, the Secretary adopted the regulation providing the authority to approve conditionally a program.

Conditional approval has a vital effect for programs approved in the Secretary's initial decision: it results in the implementation of the permanent program in a State months earlier than might otherwise be anticipated. While this may not be significant in States that already have comprehensive surface mining regulatory programs, in many States that earlier implementation will initiate a much higher degree of environmental protection. It also implements the rights SMCRA provides to citizens to participate in the regulation of surface coal mining through soliciting their views at hearings and meetings and enabling them to file requests to designate lands as unsuitable for mining if they are fragile, historic, critical to agriculture, or simply cannot be reclaimed to their prior productive capability.

The Secretary considers three factors in deciding whether a program qualifies for conditional approval. First is the state's willingness to make good faith efforts to effect the necessary changes. Without the state's commitment, the option of conditional approval may not be used.

Second, no part of the program can be incomplete. As the preamble to the regulations says, the program, even with deficiencies, must "provide for implementation and administration for all processes, procedures, and systems required by the Act and these regulations" (44 FR 14961). That is, a state must be able to operate the basic

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components of the permanent program: The designation process; the permit and coal exploration systems; the bond and insurance requirements; the performance standards; and the inspection and enforcement systems. In addition there must be a functional regulatory authority to implement the other parts of the program. If some fundamental component is missing, conditional approval may not be used.

Third, the deficiencies must be minor. For each deficiency or group of deficiencies, the Secretary considers the significance of the deficiency in light of the particular state in question. Examples of deficiencies that would be minor in virtually all circumstances are correction of clerical errors and resolution of ambiguities through attorneys general opinions, revised regulations, policy statements, changes in the narrative or the side-by-side.

Other deficiencies require individual consideration. An example of a deficiency that would most likely be major would be a failure to allow meaningful public participation in the permitting process. Although this would not render the permit system incomplete because permits coud still be issued, the lack of any public participation could be such a departure from a fundamental purpose of the Act that the deficiency would most likely be major.

The use of a conditional approval is not and cannot be a substitute for the adoption of an adequate program. Section 732.13(i) of Title 30 of the regulations gives the Secretary little discretion in terminating programs where the state, in the Secretary's view, fails to fulfill the conditions. The purpose of the conditional authority power is to assist, not excuse, states from achieving compliance with SMCRA.

As indicated above under "Secretary's Findings," there are minor deficiencies in the Maryland program which the Secretary requires be corrected. In all other respects, the Maryland program meets the criteria for approval. The deficiencies identified in prior findings are summarized below and an explanation is given to show why the deficiency is minor, as required by 30 CFR 732.13(i).

1. The State law and regulations allow waivers to certain prohibitions on mining contained in Section 522(e) of SMCRA and 30 CFR 761.11. The State as a matter of policy has stated that it will not exercise its authority to grant such waivers. Based on this representation, there is little likelihood of environmental damage prior to the revision of the statute and regulations. (See Finding 12.1)

2. The State regulations improperly define topsoil to include more than the A horizon. This would allow mixing of the A and B horizons without a specific showing of need. This practice is allowable under Federal regulations if site-specific tests demonstrate that the salvaged material is equal to or better than the A horizon considering both quantity and quality. Little or no adverse impact is likely to occur as a result of continuing the Maryland practice for a short time because the mixing of horizons has been found appropriate in most Appalachian areas having thin A horizons and because only a small number of additional acres are likely to be disturbed before an appropriate change is made. (See Finding 13.1)

3. The State regulations fail to define "hydrologic balance" in terms of both the quality and quantity of water. The State presently considers water quality but not quantity. Maryland is an eastern State with an ample supply of well distributed precipitation. It is reasonable to assume that precipitation will provide sufficient quantity of water for mining and other uses during the short period necessary for adoption of revised regulations. (See Finding 13.2)

4. The State regulations fail to require that water from an underground mine shall not be diverted or discharged into other underground mine workings. All mines in Maryland must comply with the regulations of the Mine Safety and Health Administration (MSHA) which prohibit the discharge of water unless MSHA has given prior approval. This will assure that unsafe practices are not initiated prior to modification of the State regulations. (See Finding 13.3)

5. The State regulations fail to require use of the "best technology currently available" to maintain environmental integrity in coal recovery. Compliance with other performance standards of the State program will assure maintenance of environmental integrity during normal coal recovery operations. it is unlikely that unique situations requiring advanced or unusual technology for coal recovery will occur during the short period required to modify present State regulations. (See Finding 13.4)

6. The State regulations fail to restrict blasting to an aggregate of four hours per day. The State does, however, require a detailed blasting schedule which must be published in a newspaper of general circulation in the locality of the blasting site and which must be delivered or mailed to each residence within one-half mile of the permit area. Strict enforcement of the blasting schedule by the State will ensure adequate public notice and minimize impact of blasts occurring over a longer period of time during the time required to adopt revised State regulations. (See Finding 13.5)

7. The State regulations fail to require the use of "best technology currently available" to minimize adverse impacts on fish, wildlife and related environmental values, and fail to require prevention of fires as one of the measures necessary to minimize adverse impacts. The Maryland regulation contains all other substantive requirements for fish and wildlife protection and will provide sufficient control over adverse effects prior to adoption of revised regulations. (See Finding 13.7)

8. The State regulations fail to require that the operator maintain necessary fences and proper management practices on revegetated areas. The winter months constitute a dormant period for vegetation so that the impact of management practices and fences will be less important. Revised regulations are scheduled to be adopted prior to the time when this requirement will be most needed. (See Finding 13.8)

9. The State regulations fail to provide that success of revegetation for cropland shall be determined on the basis of crop production and that productive capability shall be defined to be a measure of the actual vegetation productivity. These criteria are applicable at the end of the operator's bond liability period, i.e., a minimum of five years after initial planting. In addition, the current regulation does require a showing of productive capability which ensures some protection. Thus, the State regulations can be modified before the criteria need be applied, with little if any practical effect. (See Finding 13.9)

10. The State regulations fail to extend jurisdiction to regulate surface mining activities such as tipples connected to mines by public roads. There are approximately 12 tipples in the State, some but not all of which may be classified as coal preparation facilities because of crusher operations, which are neither located at a mine site nor connected to a specific mine by other than public roads. Such facilities may fall outside of present State regulatory definitions. Because of the small number of facilities, the probability is low of significant environmental harm from these limited operations during the short time required to modify State regulations. (See Finding 13.10)

11. The State statute fails to give Maryland jurisdiction to regulate gob piles. Only one operation now reworking coal refuse piles in Maryland has been identified which would not be

subject to regulation prior to the time that a statutory amendment can be enacted. The effects from this one operation are minor. (See Finding 14.1)

12. The State regulations fail to include the underground permit application requirements for coal development waste and mine development waste. The Maryland statute and regulations provide broad authority to allow the State to require such other information as may be needed to assure that these wastes are properly managed pending regulation modifications to incorporate more specific provisions. (See Finding 14.2)

13. The State regulations fail to provide for monitoring of subsidence, as required by 30 CFR 784.20 and 784.23(b)(12). Maryland does require a plan for preventing or controlling subsidence and reclamation of subsidence damage, so that the lack of a requirement to monitor is unlikely to result in significantly less environmental protection during the period prior to adoption of revised regulations though it may result in less effective enforcement. The regulatory authority can minimize this problem in major cases by inspections. (See Finding 14.3)

14. The State regulations fail to require the inclusion of specific details in an operator's plan for return of coal processing waste to abandoned underground workings, as required by 30 CFR 784.25. Maryland does require that the plan be approved by the State and by the Mine Safety and Health Administration (MSHA). Prior to the time revised regulations are adopted, neither the State nor MSHA is very likely to approve any plan which does not contain sufficient detail to assure the operations are conducted so as to minimize or avoid adverse impacts. (See Finding 14.4)

15. The State statute and regulations fail to reference the right to appeal if the State fails to act within prescribed time limits. The State program does provide the right of appeal by an aggrieved party if the State does act. There is little likelihood that a person would be denied the right to appeal on this narrow basis during the period prior to the required change in the state program. In addition, citizen suit remedies would be available if the State failed to act and no administrative remedy was available. (See Finding 14.5)

16. The State regulations fail to require that the postmining land use of prime farmland must be cropland. At this time, no prime farmlands have been identified in Maryland, so it is unlikely that the necessity of using this provision will arise prior to the adoption of revised regulations. (See Finding 14.6)

17. The State statute fails to provide for criminal sanctions against a person who knowingly fails to make any statement, representation, or certification in any application or other document. Maryland does provide criminal sanctions against anyone "who does not fully comply with every provision of this subtitle or any rule, regulation, permit, notice or order issued pursuant thereto," which could apply to the knowing omission of any required element. Prior to the adoption of a statutory amendment, there is little likelihood that any person will avoid criminal liability for a knowing failure to make any statement or other representation. (See Finding 19.1)

18. The State regulations fail to require that: (1) Each day of each continuing violation may be assessed as a separate violation, and (2) that the State be able to calculate maximum penalties of $5,000. Maryland State laws provide for penalties consistent with Federal law and regulations. The deficiencies noted in these findings appear to be the result of inadvertent errors in regulation drafting. Based on the compliance status of mines in Maryland, the relatively few mines, and the compliance record of operators in the State, it is unlikely that assessment of civil penalties will be significantly less stringent during the period prior to adoption of revised regulations. (See Finding 19.2 and 19.3)

19. The State regulations fail to provide an outside time limit for the payment of a civil penalty. The State procedures are substantially similar to those included in the Federal regulations but fail to include the necessary requirement for payment of penalties within a specific period of time. This procedural deficiency may result in a lower rate of fine collections and an extension of the time for hearings on violations. The amount of fines and delays will probably be small during this period. (See Finding 19.5)

20. The State regulations fail to provide for continuing enforcement action for non-abatement beyond the 30-day period during which a penalty for non-abatement is assessed. The State has the authority to pursue alternative enforcement actions for failure to abate after the 30 days in which mandatory penalties are assessed. The change required is simply to make the use of alternative enforcement actions mandatory. (See Finding 19.6)

21. The State statute and regulations fail to provide that the total time for abatement of a notice of violation shall not exceed 90 days. The authority now in the State program to extend the abatement period beyond 90 days applies only in exceptional cases and is unlikely to be used during the period prior to an amendment to the State program. (See Finding 20.1)

22. The State regulations fail to establish minimum criteria for mandatory issuance of a show cause order in certain situations. The State has full authority for issuance of show cause orders but has adopted criteria for such issuance which are ambiguous or vague. The State is not precluded from taking these enforcement actions pending revision of the State regulations. (See Finding 20.2)

23. The State regulations fail to provide expressly that a cessation order shall be issued on the basis of any one of four independent criteria and should be clarified. Maryland's current regulation is ambiguous on whether all four points might be required for a cessation order. Based on the broad authority in the Maryland statute to issue cessation orders, it is highly unlikely that this regulation would be interpreted to require all four bases to exist concurrently before a cease order could be issued. (See Finding 20.3)

24. The State statute fails to provide that any person having an interest which is or may be adversely affected may request an adjudicatory hearing, and the State regulations fail to provide that any person having an interest which is or may be adversely affected may intervene in an adjudicatory hearing. Present State laws and regulations may require more specific showings of interest or adverse affect if interpreted narrowly than do the Federal law and regulations. The probability is low that such interpretations will actually result in a denial of access to any person before an amendment to the program is made. (See Finding 22.1)

25. The State statute fails to provide for any person to commence civil action to compel compliance. Present State law extends the opportunity to commence civil action to compel action by the regulatory authority to State residents, consistent with Federal requirements. Non-residents will have recourse, pending amendment of the State law, through the oversight authorities and functions of OSM or through action in Federal court. (See Finding 22.2)

26. The State statute fails to allow any person to intervene as a matter of right in an action initiated by the State or the Secretary of the Department of the Interior; or to allow the Secretary to intervene in a citizen suit as a matter of right. The effect of this is minimized because anyone who wants to participate can bring their own suit. (See Finding 22.3)

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27. The State regulations fail to require a written response to be given a citizen requesting an inspection within 10 days of the inspection or within 15 days if no inspection is conducted. The State regulations do require that inspections be conducted in response to citizen complaints, do allow citizens to accompany inspectors, do require that a copy of the inspection report be provided to a citizen requesting an inspection, and do provide public access to inspection records. These factors plus the Secretary's oversight inspection authority make the effect of the failure to obtain this information minimal. (See Finding 22.4)

28. The State regulations fail to provide that costs may only be assessed against a citizen participant in an administrative proceeding if that citizen initated the proceeding in bad faith or for the purpose of harassing or embarrassing the permittee or the government, and that costs may be awarded to a citizen if he or she makes a substantial contribution to a full and fair determination of the issues. An adjudicatory hearing is one of the last steps in the administrative process relating to inspection and enforcement. Based on the time periods involved in the administrative process, it is highly unlikely that the occasion to use this provision would arise prior to the adoption of revised regulations. In addition, the Secretary believes that in view of his action, it would not be possible for the State to lawfully award fees against a citizen except as requried by Federal law. Consequently, the omission of this provision will not affect a person's ability to participate in a significant way. (See Finding 22.5)

29. The State regulations fail to provide for public participation in enforcement of the State program consistent with the discovery procedures for administrative hearings in 43 CFR 4.1130 *et seq.* Based on the time periods involved in the administrative process, there are likely to be only a very small number of administrative hearings, if any, prior to revision of the State program. It is considered unlikely that the results of any such hearing would be materially affected by the lack of discovery procedures. (See Finding 22.6)

30. The State regulations fail to provide for notification of the public and public participation in mine site hearings as required in 30 CFR 843.15. The State does make information available on hearings but does not formally post or advertise announcements of them. It is anticipated that the number of mine site hearings held during the period prior to adoption of revised regulations will be small. Any interested person could learn of the hearings through inquiry to the regulatory authority. (See Finding 22.7)

31. The State statute fails to provide for plaintiffs in citizen suits to recover costs, including attorney fees. Present State law allows the award of costs but may be subject to an interpretation which would deny costs to citizen plaintiffs. The probability of citizen suits and of a narrow interpretation regarding the award of costs is considered minimal during the period required for modification of the State program. In addition, the Secretary believes that such an interpretation would not be consistent with SMCRA. (See Finding 22.8)

32. The State statute fails to provide for enforcement of the prohibition against indirect or direct financial interest by employees who perform duties under the State program in violation of conflict of interest provisions. The State regulatory authority has consistently complied with Federal regulations regarding direct and indirect financial interests. Compliance with these requirements precludes any minor conflicts of interest that might be allowed under existing less stringent State laws. (See Finding 23)

33. The State statute fails to provide that the small operator assistance program shall be funded by the State. Federal funds currently available to Maryland for small operator assistance are sufficient to meet the present needs of the State, so there should be no impact during the period prior to adoption of a revised statutory provision. (See Finding 25)

34. The State regulations fail to provide for notification of the public of hearings on suspension or revocation of permits. Suspension or revocation of a permit is an enforcement action taken only after a pattern of violations has been determined to exist. A pattern of violations is determined on the basis of separate inspections conducted within a certain period of time. The effect of this should be minimal since the substantive remedy will be enforced during this period. (See Finding 27)

About one-third of the deficiencies are administrative in nature, one-third are operator performance standards, and the remainder are enforcement and public participation requirements. Most of the deficiencies are of such a nature that they do not apply to activities or situations which will be in progress prior to the State's adoption of revisions.

Given the nature of the deficiencies set forth in the Secretary's Findings and their magnitude in relation to all the other provisions of the Maryland program, the Secretary of the Interior has concluded they are minor deficiencies. Accordingly, the program is eligible for conditional approval under 30 CFR 732.13(i) because:

1. The deficiencies are of such a size and nature as to render no part of the Maryland program incomplete since all other aspects of the program meet the requirements of SMCRA and 30 CFR Chapter VII and these deficiencies, which will be promptly corrected, will not directly affect environmental performance at coal mines;

2. Maryland has initiated and is actively proceeding with steps to correct the deficiencies; and

3. Maryland has agreed, by letter dated October 28, 1980 to correct the regulation deficiencies by April 1, 1981 and the statutory deficiencies by October 1, 1981.

Accordingly, the Secretary is conditionally approving the Maryland program. This approval shall terminate if regulations correcting the deficiencies are not enacted by April 1, 1981 or if State legislation correcting the statutory deficiencies is not enacted by October 1, 1981.

This conditional approval is effective December 1, 1980. Beginning on that date, the Maryland Department of Natural Resources shall be deemed the regulatory authority in Maryland and all Maryland surface coal mining and reclamation operations on non-federal and non-Indian lands and all coal exploration on non-federal and non-Indian lands in Maryland shall be subject to the permanent regulatory program.

On non-federal and non-Indian lands in Maryland, the permanent regulatory program consists of the State program approved by the Secretary.

The Secretary's approval of the Maryland program relates at this time only to the permanent regulatory program under Title V of SMCRA. The approval does not constitute approval of any provisions related to implementation of Title IV under SMCRA, the abandoned mine lands reclamation program. In accordance with 30 CFR Part 884, Maryland may submit a State reclamation plan now that its permanent program has been approved. At the time of such a submission, all provisions relating to abandoned mined lands reclamation will be reviewed by officials of the Department of the Interior.

Additional Findings

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact

statement need be prepared on this conditional approval.

Note.—The Secretary has determined that this document is not a significant rule under E.O. 12044 or 43 CFR Part 14, and no regulatory analysis is being prepared on this conditional approval.

Dated: November 19, 1980.

Joan M. Davenport,

Assistant Secretary of the Interior.

A new part, 30 CFR Part 920, is adopted to read as follows:

PART 920—MARYLAND

Sec.
920.1 Scope.
920.10 State Program Approval.
920.11 Conditions of State Program Approval.
920.12 State Program Provisions Disapproved.

Authority. Pub. L. 95-87, Surface Mining, Control and Reclamation Act of 1977, (30 U.S.C. 1201 note).

§ 920.1 Scope.

This part contains all rules applicable only within Maryland that have been adopted under the Surface Mining Control and Reclamation Act of 1977.

§ 920.10 State program approval.

The Maryland state program, as submitted on March 3, 1980 and amended and clarified on June 16, 1980, is conditionally approved, effective December 1, 1980. Beginning on that date, the Maryland Department of Natural Resources shall be deemed the regulatory authority in Maryland and all Maryland surface coal mining and reclamation operations on non-federal and non-Indian lands in Maryland shall be subject to the permanent regulatory program. Copies of the approved program together with copies of the letter of the Maryland Department of Natural Resources agreeing to the conditions in 30 CFR 920.11, are available at:

(a) Maryland Department of Natural Resources, Tawes State Office Building, Annapolis, Maryland 21401, Telephone: (301) 269–2261

(b) Maryland Department of Natural Resources, Energy Administration, Bureau of Mines, 69 Hill Street, Frostburg, Maryland 21532, Telephone: (301) 689–4136

(c) Office of Surface Mining, Region I, 603 Morris Street, Charleston, West Virginia 25311, Telephone: (304) 344–2331

(d) Office of Surface Mining, Room 153, Interior South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Telephone: (202) 343–4728

§ 920.11 Conditions of State program approval

The approval of the Maryland State program is subject to the State revising its program to correct the deficiencies listed in this section. The program revisions may be made, as appropriate, to the statute, the regulations, the program narrative, or the Attorney General's opinion. The section lists, for the general guidance of the State, the component of the program to which the Secretary recommends the change be made.

(a) The approval found in § 920.10 will terminate on October 1, 1981 unless Maryland submits to the Secretary by that date copies of Maryland's Strip Mining Law and fully enacted regulations containing provisions which remove the authority to grant waivers to Section 522(e) of SMCRA and 30 CFR 761.11 relating to mining within a National Wild and Scenic study river and mining within 300 feet of public buildings and within 100 feet of a cemetery, or otherwise amends its program to accomplish the same result.

(b) The approval found in § 920.10 will terminate on October 1, 1981 unless Maryland submits to the Secretary by that date copies of Maryland's Strip Mining Law containing provisions amending the definitions of "lands affected," "open pit mining," and "strip mining" to reflect the broader jurisdiction to regulate surface coal mining activities contained in Section 701(28) of SMCRA, or otherwise amends its program to accomplish the same result.

(c) The approval found in § 920.10 will terminate on October 1, 1981 unless Maryland submits to the Secretary by that date copies of Maryalnd law and fully enacted regulations which reference to the right to appeal if the State fails to act within prescribed time limits, as provided in Section 514(f) of SMCRA and 30 CFR 787.12, or otherwise amends its program to accomplish the same result.

(d) The approval found in § 920.10 will terminate on October 1, 1981 unless Maryland submits to the Secretary by that date copies of Maryland's Strip Mining Law containing provisions which are the same or similar to those in Section 518(g) of SMCRA, providing criminal sanctions against a person who knowingly fails to make any statement, representation, or certification in any application or other document, or otherwise amends its program to accomplish the same result.

(e) The approval found in § 920.10 will terminate on October 1, 1981 unless Maryland submits to the Secretary by that date copies of Maryland's Strip Mining Law and fully enacted regulations containing provisions which are the same or similar to those in Section 521(a)(3) of SMCRA and 30 CFR 843.12 providing a maximum ninety day period for abatement of a violation, or otherwise amends its program to accomplish the same result.

(f) The approval found in § 920.10 will terminate on October 1, 1981 unless Maryland submits to the Secretary by that date copies of Maryland's Strip Mining Law containing provisions which are the same or similar to those in Section 525(a)(1) of SMCRA, relating to the right of any person who may be adversely affected to request an adjudicatory hearing; and copies of fully enacted regulations containing provisions which are the same or similar to 30 CFR 840.15, relating to the right of any person who is or may be adversely affected to intervene in administrative proceedings as provided in 43 CFR 4.1110, or otherwise amends its program to accomplish the same result.

(g) The approval found in § 920.10 will terminate on October 1, 1981 unless Maryland submits to the Secretary by that date copies of Maryland law which contain provisions which are the same or similar to those in Section 520(a) of SMCRA, relating to the definition of "person" and the right of any person to file a citizen suit, or otherwise amends its program to accomplish the same result.

(h) The approval found in § 920.10 will terminate on October 1, 1981 unless Maryland submits to the Secretary by that date copies of Maryland law containing provisions which are the same or similar to those in Sections 520(b)(1) and 520(c)(2) of SMCRA, relating to the right of a citizen or the Secretary of the Interior to intervene in a citizen suit, or otherwise amends its program to accomplish the same result.

(i) The approval found in § 920.10 will terminate on October 1, 1981 unless Maryland submits to the Secretary by that date copies of Maryland law containing provisions which are the same or similar to those in Section 520(d) of SMCRA, relating to the awarding of costs, including attorney fees, for plaintiffs in citizen suits, or otherwise amends its program to accomplish the same result.

(j) The approval found in § 920.10 will terminate on October 1, 1981 unless Maryland submits to the Secretary by that date copies of Maryland law containing provisions which are the same or similar to Section 517(g) of SMCRA relating to the prohibition against indirect or direct financial interest in coal mining operations by

employees, or otherwise amends its program to accomplish the same result.

(k) The approval found in § 920.10 will

are the same or similar to those in 30 CFR 816.97(d) and 816.97(d)(8), relating to the protection of fish and wildlife,

CFR 784.20 and 784.23(b)(12), relating to the monitoring of subsidence, or

are the same or similar to those in 30 CFR 843.13(a)(2) and (3), relating to the mandatory issuance of a show cause

that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30

Youngstown Sheet and Tube Company (YST) in Mahoning County, Ohio. YST owns and operates steel production

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employees, or otherwise amends its program to accomplish the same result.

(k) The approval found in § 920.10 will terminate on October 1, 1981 unless Maryland submits to the Secretary by that date copies of Maryland's Strip Mining Law containing provisions which are the same or similar to those in Section 507(c) of SMCRA, relating to funding of the small operator assistance program, or otherwise amends its program to accomplish the same result.

(l) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 701.5, relating to the definition of "topsoil," or otherwise amends its program to accomplish the same result.

(m) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 701.5, relating to the definition of "hydrologic balance" as the relationship between the quality and quantity of water, or otherwise amends its program to accomplish the same result.

(n) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 817.55, relating to the diversion or discharge of water into underground mine workings, or otherwise amends its program to accomplish the same result.

(o) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 816.59 and 817.59, relating to the use of the best technology currently available to maintain environmental integrity in coal recovery, or otherwise amends its program to accomplish the same result.

(p) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 816.64(b)(2)(ii), relating to a four-hour aggregate of blasting, or otherwise amends its program to accomplish the same result.

(q) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 816.97(d) and 816.97(d)(8), relating to the protection of fish and wildlife, including the requirement to use the best technology currently available to minimize adverse impacts and requiring the prevention of fires as one of the measures necessary to minimize adverse impacts, or otherwise amends its program to accomplish the same result.

(r) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 816.116(c)(1), relating to the operator maintaining necessary fences and proper management practices on revegetated areas, or otherwise amends its program to accomplish the same result.

(s) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 816.116(b) and 816.116(b)(3)(iii), relating to: (1) The success of revegetation for cropland be determined on the basis of crop production; and (2) productive capability be determined by on-site measurement of biomass, crop yields, tree heights or some other measure of the actual vegetation productivity, or otherwise amends its program to accomplish the same result.

(t) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in Section 701(28) of SMCRA, relating to the jurisdiction over facilities connected by transportation mechanisms involving the use of public roads, or otherwise amends its program to accomplish the same result.

(u) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 783.25(i) and 784.11(b)(4), relating to the underground permit application requirements for coal development waste and mine development waste, or otherwise amends its program to accomplish the same result.

(v) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 784.20 and 784.23(b)(12), relating to the monitoring of subsidence, or otherwise amends its program to accomplish the same result.

(w) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 784.25, relating to the inclusion of specific details in an operator's plan for return of coal processing waste to abandoned underground mine workings, or otherwise amends its program to accomplish the same result.

(x) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 785.17(d), requiring that the postmining land use of prime farmland must be cropland, or otherwise amends its program to accomplish the same result.

(y) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in Section 518(a) of SMCRA, relating to the assessment of each day of each continuing violation as a separate violation and relating to the maximum civil penalty amount of $5,000, or otherwise amends its program to accomplish the same result.

(z) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in Section 518 of SMCRA and 30 CFR 845.18, relating to the outside time limits for the payment of penalties, or otherwise amends its program to accomplish the same result.

(aa) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in Section 518(h) of SMCRA and 30 CFR 845.15, providing for mandatory alternative enforcement actions beyond the 30-day period during which a penalty for nonabatement is assessed, or otherwise amends its program to accomplish the same result.

(bb) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 843.13(a)(2) and (3), relating to the mandatory issuance of a show cause order and the specific criteria for the issuance of a show cause order under certain situations, or otherwise amends its program to accomplish the same result.

(cc) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in Section 521(a)(2) of SMCRA and 30 CFR 843.11, relating to the bases for issuance of cease orders as being independent of each other, or otherwise amends its program to accomplish the same result.

(dd) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 842.12(d), relating to a written response being given to the citizen requesting an inspection within ten days of the inspection or within fifteen days if no inspection is conducted, or otherwise amends its program to accomplish the same result.

(ee) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 840.15, relating to the awarding of costs in accordance with 43 CFR Part 4, Subpart L, or otherwise amends its program to accomplish the same result.

(ff) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 840.15, relating to public participation in enforcement of the State program consistent with the discovery procedures for administrative hearings in 43 CFR 4.1130 *et seq.*, or otherwise amends its program to accomplish the same result.

(gg) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 843.15, relating to the notification of the public and public participation in mine site hearings, or otherwise amends its program to accomplish the same result.

(hh) The approval found in § 920.10 will terminate on April 1, 1981 unless Maryland submits to the Secretary by that date copies of fully enacted regulations containing provisions which are the same or similar to those in 30 CFR 843.13(d), relating to the notification of the public of hearings on the suspension or revocation of permits, or otherwise amends its program to accomplish the same result.

§ 920.12 State program provisions disapproved.

The following provision of the Maryland permanent regulatory program submission is hereby disapproved: COMAR 08.13.09.41D, which proposes that in lieu of a civil penalty assessment, the regulatory authority may order a suspension of strip mining operations for an appropriate period of time such that the economic impact on the operator is equivalent to the amount of the civil penalty which would have been assessed for the violation.

[FR Doc. 80-37293 Filed 11-28-80; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1685-4]

Approval and Promulgation of Implementation Plans

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action revises the Federally promulgated Ohio State Implementation Plan (SIP) for sulfur dioxide (SO_2) as it applies to the Youngstown Sheet and Tube Company (YST), Mahoning County, Ohio. This revision will not jeopardize the attainment and maintenance of the National Ambient Air Quality Standards.

EFFECTIVE DATE: December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, Telephone (312) 886-6039

SUPPLEMENTARY INFORMATION: On August 27, 1976 (41 FR 36324), the USEPA promulgated regulations establishing a SIP for the control of sulfur dioxide in the State of Ohio. The regulations for Mahoning County were amended on May 31, 1977 (42 FR 27588).

The USEPA is revising the Federally promulgated Ohio SIP for sulfur dioxide as it applies to the sources owned by Youngstown Sheet and Tube Company (YST) in Mahoning County, Ohio. YST owns and operates steel production sources at its Brier Hill, Campbell, and Struthers facilities located in Mahoning County, Ohio.

On November 9, 1978, YST petitioned USEPA for a revision to the Federally promulgated sulfur dioxide plan for its Youngstown district facilities. YST requested three changes: (1) to reclassify Mahoning County, Ohio as an attainment area for sulfur dioxide, (2) to allow its operating sources of sulfur dioxide emissions status quo emission limitations, and (3) to assign the specific processes that have been permanently shut down an emission limitation of zero. On October 9, 1979 (44 FR 57929), USEPA reclassified Mahoning County as an attainment area for sulfur dioxide. The redesignation was based on ambient air monitoring data collected over several years and USEPA's "rollback" modeling. On December 5, 1979, YST modified its revision request to reflect the permanent shut down of its spike machine and to update status quo emissions.

The YST facilities and the majority of nearby sulfur dioxide sources are located in the Mahoning River Valley. Prior USEPA efforts to model the area by dispersion modeling failed to correlate the predicted concentrations with actual ambient air monitoring data. Therefore, USEPA applied a "rollback" model to set the existing emission limitations. The rollback model uses a direct linear relationship between the measured air quality concentrations and actual SO_2 emissions.

To support the proposed YST emission limitations, ambient SO_2 monitoring data from 1977, 1978, and 1979 and the USEPA's modified rollback modeling methodology were employed. While the rollback methodology is the same as that used previously by the USEPA in developing the original YST regulations, the monitoring data reflect more current air quality levels.

On July 17, 1980, USEPA proposed in the **Federal Register** approval of this SIP revision (45 FR 47877). A 30 day public comment period was provided. During the public comment period one comment was received in support of USEPA's proposed action. No other public comments were received regarding this revision.

Under the August 7, 1980 (45 FR 52676) Prevention of Significant Deterioration (PSD) regulations, the baseline date is triggered for a particular area when a source subject to PSD submits a complete PSD application. Since no applications have been submitted for sources subject to the August 7, 1980

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regulations for this attainment area (designated under Section 107 of the Clean Air Act) the baseline date has not yet been triggered for this area. Therefore, no analysis of PSD increments consumption is required for this SIP revision.

Based on the analysis of the ambient air quality data and USEPA's modified rollback model, USEPA has determined that approval of this SIP revision will not jeopardize the attainment and maintenance of the National Ambient Air Quality Standards. Therefore, USEPA is revising the State Implementation Plan for sulfur dioxide as it applies to the Youngstown Sheet and Tube Company in Mahoning County.

Under Executive Order 12044 (43 FR 12661) USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels these other regulations "specialized". I have reviewed this proposed regulation pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator and I have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this final action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

(Sec. 110 of the Clean Air Act as amended 42 U.S.C. 7410)

Dated: November 24, 1980.

Douglas Costle,

Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended by adding 52.1881(b)(40)(viii) and (b)(40)(ix):

Subpart KK—Ohio

1. Section 52.1881 is amended as follows:

§ 52.1881 Control Strategy: Sulfur Oxides (sulfur dioxide).

* * * * *

(b) Regulations for the control of sulfur dioxide in the State of Ohio

* * * * *

(40) In Mahoning County * * *

* * * * *

(viii) The Youngstown Sheet and Tube Company or any subsequent owner or operator of the Brier Hill Works located in Mahoning County, Ohio shall not cause or permit the emission of sulfur dioxide from any stack in excess of 0.00 pound sulfur dioxide per million BTU actual heat input.

* * * * *

(ix) The Youngstown Sheet and Tube Company or any subsequent owner or operator of the Campbell and Struthers Works located in Mahoning County, Ohio shall not cause or permit the emission of sulfur dioxide except as specified below:

(A) 2.67 pounds of sulfur dioxide per million BTU actual heat input from any stack at the coke plant.

$$BF = \frac{\text{BTU content of coke oven gas}}{\text{BTU content of combined gas}} \text{ (from any boiler unit)}$$

(3) 1.06 pounds of sulfur dioxide per million BTU actual heat input from any boiler unit when fuel oil is being combusted.

(4) 0.93 pounds of sulfur dioxide per million BTU actual heat input from any boiler unit when tar is being combusted.

(5) 4.77 pounds of sulfur dioxide per million BTU actual heat input from any boiler unit when coal is being combusted.

(6) 4747 tons of sulfur dioxide per any continuous 365 day period from the boilerhouse as a whole plus the fraction of the 365 day period emission limitation for the seamless mills not consumed by emissions from the seamless mills in the same 365 day period.

* * * * *

[FR Doc. 80-37247 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

(B) For the seamless mills, paragraphs (1), (2) or (3) apply in conjunction with paragraph (4).

(1) 2.67 pounds of sulfur dioxide per million BTU actual heat input from any stack when coke oven gas is being combusted.

(2) When mixed gases are being combusted the maximum allowable emission limit from each stack shall be determined by the following equation: EL = BF x 2.67 lbs SO2/MMBTU

$$BF = \frac{\text{BTU content of coke oven gas}}{\text{BTU content of combined gas}}$$

(3) 18.68 pounds of sulfur dioxide per ton of process weight from any stack when any fuel is being combusted.

(4) 2309 tons of sulfur dioxide per any 365 day period from the seamless mills as a whole.

(C) For the boilerhouse, paragraphs (1), (2), (3), (4) or (5) apply in conjunction with paragraph (6).

(1) 2.67 pounds of sulfur dioxide per million BTU actual heat input from any boiler unit when coke oven gas is being combusted.

(2) When mixed gases are being combusted the maximum allowable emission limit from each stack shall be determined by the following equation: EL = BF x 2.67 lbs SO2/MMBTU

40 CFR Part 60

[AD-FRL-1638-9]

Standards of Performance for New Stationary Sources Petroleum Refineries; Clarifying Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action clarifies which gaseous fuels used at petroleum refineries are covered by the existing standards of performance for petroleum refineries (40 CFR 60, Subpart J) and is implemented under the authority of Section 111 of the Clean Air Act. This action does not change the environmental, energy, and economic impacts of the existing standards.

EFFECTIVE DATE: December 1, 1980.

ADDRESSES: Docket No. A-79-56, containing all supporting information

used by EPA in supporting this action, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT:

Ms. Susan R. Wyatt, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number, (919) 541-5477.

SUPPLEMENTARY INFORMATION:

Summary of Amendment

The amendment as promulgated defines fuel gas as any gas which is generated at a refinery and which is combusted. It also includes natural gas when it is combined and combusted with a gas generated at a refinery. Gases generated by catalytic cracking unit catalyst regenerators and fluid coking burners are excluded from the definition of fuel gas.

The final amendment contains a minor wording change, but does not substantively differ from the proposed amendment. This action does not have any impact on the coverage of the existing standard and does not affect the economic, energy or environmental impacts of the present standard.

Summary of Comments and Changes to the Proposed Amendment

On March 3, 1980, EPA proposed in the **Federal Register** (45 FR 13991) an amendment intended to clarify the definition of fuel gas which is included in 40 CFR 60.101. The amendment proposed on March 3, 1980, defined fuel gas as "natural gas generated at a petroleum refinery, or any gas generated by a refinery process unit, which is combusted separately or in any combination with any type of natural gas." It excluded gases generated by catalytic cracking unit catalyst regenerators and fluid coking burners. The previous definition of fuel gas has been "natural gas or any gas generated by a petroleum refinery process unit which is combusted separately or in any combination." The purpose of the proposed amendment of March 3, 1980, was to clarify that natural gas produced outside of a refinery is not covered by the definition of fuel gas, unless the natural gas is combined with gases produced at a refinery. The purpose of the standard in 40 CFR 60, Subpart J is to prevent emissions of sulfur dioxide resulting from the burning of gaseous fuels containing hydrogen sulfide. If commercial natural gas is combusted, there is essentially no potential for sulfur dioxide emissions since this gas has to be relatively free of hydrogen sulfide in order to meet pipeline specifications.

Another purpose of the amendment proposed on March 3, 1980, was to clarify that any gas with the composition of natural gas which is generated at the refinery where it is combusted is covered by the definition of fuel gas. There are a number of gases generated on-site at a refinery, such as propane, butane, by-product gas resulting from catalytic cracking and reforming/hydrating processes, and occasionally, methane and ethane. Since these gases do not have to be treated to meet pipeline specifications, combustion of these gases can be a significant source of sulfur dioxide emissions.

Interested persons were given an opportunity to comment on the proposed change during a 60-day comment period which ended on May 2, 1980. Three comment letters were received, two from oil industry representatives and a third from a State environmental agency. All commenters agreed, in principle, with the definition of fuel gas included in the proposed action. However, the commenters expressed concern over the specific wording of the definition. One commenter said the wording used was generally confusing. The other two commenters specifically expressed concern over the phrase "natural gas generated at a petroleum refinery", since they argued natural gas is not conventionally thought of as being generated at a petroleum refinery.

EPA agrees that gases generated at a refinery which have the same composition as natural gas are not commonly referred to as natural gas. Furthermore, defining fuel gas as "any gas which is generated at a petroleum refinery" includes any gas which has the composition of natural gas. Therefore, the amendment which is being promulgated has been changed to remove the terminology "natural gas generated at a refinery." However, the intent and substance of the promulgated amendment is the same as the proposed amendment.

Docket

Docket No. A-79-56, containing all supporting information used by EPA, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1 (see Addresses section of this preamble).

The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purpose of the promulgated rule and EPA responses to comments, the contents of the dockets will serve as the record in case of judicial review [Section 307(d)(a)].

Miscellaneous

The effective date of this amendment is (date of promulgation). It applies to any affected facilities covered by Subpart J of 40 CFR Part 60.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. These other regulations are labeled "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: November 24, 1980.

Douglas M. Costle,

Administrator.

Part 60 of chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 60.101 is amended by revising paragraph (d) as follows:

§ 60.101 Definitions.

* * * * *

(d) "Fuel gas" means any gas which is generated at a petroleum refinery and which is combusted. Fuel gas also includes natural gas when the natural gas is combined and combusted in any proportion with a gas generated at a refinery. Fuel gas does not include gases generated by catalytic cracking unit catalyst regenerators and fluid coking burners.

* * * * *

(Secs. 111 and 301(a) of the Clean Air Act is amended (42 U.S.C. Sections 7411 and 7601(a))).

[FR Doc. 80-37246 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-26-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 405

Medicare Program; Collection of Unpaid Medicare Premiums

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule with comment period.

V 45 / 232 DEC 1 80 UMI

SUMMARY: This regulation specifies (1) the conditions under which HCFA will cease collection action on unpaid hospital insurance and supplementary medical insurance premiums; and (2) when collection action will be renewed. We are also clarifying the provision that specifies the sources from which we recover unpaid premiums. Under the regulations we will stop collection efforts when: 1. An individual, who is no longer entitled to a civil service annuity or to benefits under Title II or Title XVIII (Medicare) of the Social Security Act or the Railroad Retirement Act, is unable to make payment;

2. An individual's estate is unable to make payment; or

3. The cost of the collection activity is likely to exceed the amount to be recovered. (If an individual against whom collection activity has ceased later becomes entitled to benefits, HCFA will renew collection activity.)

Ceasing collection activity in these cases will enable us to reduce the costs of billing and records maintenance.

We are issuing these regulations as a final rule because they are technical regulations that authorize an internal operating procedure to clear our records. The regulations will not adversely affect any person or organization. Accordingly, we find good cause to waive the notice of proposed rulemaking. However, we are providing a comment period and will make any further revisions we find necessary based on comments we receive.

DATES: Effective December 31, 1980. To assure consideration, comments should be received by January 30, 1981.

ADDRESSES: Please address your comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, MD 21235.

If you prefer, you may deliver your comments to room 309–G Hubert H. Humphrey Building, 200 Independence Avenue, SW., in Washington, D.C.; or to room 789, East High Rise Building, 6401 Security Boulevard, in Baltimore, Maryland.

In commenting, please refer to file code BPP–86–FC. Comments will be available for public inspection, beginning approximately two weeks from today, in room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (telephone 202–245–7890).

FOR FURTHER INFORMATION CONTACT: Harold Fishman, Health Care Financing Administration, Bureau of Program Policy, 448 East High Rise, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–9077.

SUPPLEMENTARY INFORMATION:

Individuals generally become eligible for hospital insurance (section 1811 of the Social Security Act) under the Medicare program as a result of meeting a combination of requirements relating to age and entitlement to retirement or disability benefits under the Social Security or Railroad Retirement Acts. These individuals do not pay any premiums for this coverage. Section 1818 of the Social Security Act provides, however, that a person who is age 65, but who is not otherwise qualified for hospital insurance, may receive the coverage if a monthly premium is paid and certain other qualifications are met. For supplementary medical insurance (section 1831 of the Social Security Act), a basic requirement for all eligible individuals is that they pay a monthly premium.

Thus, HCFA or its designated agents receive premiums from those persons who must pay for hospital insurance as well as from all persons who enroll for supplementary medical insurance. If an enrollee receives monthly retirement, survivors or disability benefits under Title II of the Social Security Act, the Railroad Retirement Act, or an act (e.g., the Civil Service Retirement Act) administered by the Office of Personnel Management (formerly the Civil Service Commission), the premiums are automatically deducted from the benefits each month. Other enrollees mail the premium to HCFA or to designated agents each month or each quarter in response to billing, or the premium may be paid by a State in certain circumstances involving Supplemental Security Income or Medicaid entitlement. Under sections 1818(c) and 1838(b) of the Act, a grace period, during which entitlement is continued, is provided to enrollees for payment of overdue premiums. At the end of the grace period, if past due premiums have not been paid, HCFA terminates entitlement. Consequently, an enrollee may have several months of Medicare coverage for which premiums were not paid. These unpaid premiums are debts owed to the Federal government, and in accordance with the terms of the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953), HCFA attempts to collect the debts.

In the case of supplementary medical insurance premiums, the amount of the debt is often small while the administrative costs of the collection effort are significant. We also encounter situations where individuals or their estates are simply unable to pay overdue premiums making further collection efforts futile.

The Federal Claims Collection Act (31 U.S.C. 952) authorizes the head of a Federal agency to compromise claims or to suspend or terminate collection action pursuant to regulations. Because HCFA does not currently have regulations on uncollectible premiums, we lack a legal basis for ceasing collection efforts in cases where the amount of indebtedness and the likelihood of recovery do not warrant the administrative, operational, or possible legal costs involved in further collection efforts.

Provisions of the Regulations

The regulations specify that HCFA will cease collection efforts if either of two basic conditions are met: (1) if the costs of the collection effort are likely to exceed the amount to be collected, or (2) if an individual whose enrollment under Medicare has been terminated or the estate of a deceased enrollee demonstrates an inability to pay the debt. Stopping collection efforts will mean that we will cease contacting persons who pay premiums directly to HCFA. For a person whose premiums normally have been deducted from monthly benefits payable under Title II of the Social Security Act, the Railroad Retirement Act or an act administered by the Office of Personnel Management, we will not terminate collection action until entitlement to these benefits ends and collection efforts have failed.

We will stop our efforts to collect from the estate of a deceased enrollee 27 months after the month of death. Under supplementary medical insurance, a claim can be submitted for as many as 27 months after the month in which the service is provided. (Section 1842(b)(3)(B) of the Social Security Act stipulates that a claim must be submitted no later than the end of the year following the year in which the service is furnished, but deems a service furnished in the last three months of a year to have occurred in the succeeding year.) Hence, a claim for a service provided in October, 1979 could be submitted to HCFA anytime through December, 1981. In this situation, we deduct any past due premiums from the amount payable to an enrollee or an enrollee's estate.

Finally, we state in the regulations that we will reinstate collection activities, which previously had been stopped if the individual begins to receive monthly benefits, either for the first time or on a renewed basis, under Title II of the Social Security Act, the Railroad Retirement Act, or an act administered by the Office of Personnel Management. When collection efforts cease in the case of a living individual, we will document the file so that if benefits become due in the future, we will renew collection action accordingly.

Comment Period

This is a technical regulation required by the Federal Claims Collection Act, that authorizes an administrative procedure to clear our records. It will be of benefit to both HCFA and the individuals involved and will not adversely affect any person or organization. Therefore, we find that good cause exists to waive the notice of proposed rulemaking. However, we are providing a comment period, and we will revise the regulation as necessary based on comments we receive.

42 CFR Part 405, Subpart I is amended as set forth below: 1. The table of contents is revised as follows:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart I—Premiums for Supplementary Medical Insurance Benefits

* * * * *

§ 405.962 Collection of unpaid premiums.

* * * * *

2. Section 405.962 is revised as follows:

§ 405.962 Collection of unpaid premiums.

(a) *Purpose and basis.* (1) Unpaid hospital insurance or supplementary medical insurance premiums are debts owed to the Federal government by the enrollee or the enrollee's estate. This section describes how HCFA attempts to collect these debts and when HCFA will terminate collection action.

(2) Under the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953), HCFA is required to collect any debts due it but is authorized to suspend or terminate collection action on debts of less than $20,000 when certain conditions are met. (See 4 CFR, Parts 101–105 for general rules implementing the Federal Claims Collection Act.)

(b) *Collection of unpaid premiums.* Generally, HCFA will attempt to collect unpaid premiums—(1) By billing enrollees who pay the premiums directly to HCFA or to a designated agent in accordance with § 405.908 (rules governing direct remittance); or

(2) From any benefits payable to the enrollee or to the estate of a deceased enrollee under Title II or XVIII of the Social Security Act, the Railroad Retirement Act or any act administered by the Office of Personnel Management (formerly the Civil Service Commission), in accordance with §§ 405.903(b) and 405.904 (payment of premiums).

(c) *Termination of collection action.* In cases of unsuccessful collection efforts, HCFA will terminate collection action on unpaid premiums except as provided in paragraph (d), if—

(1) The individual— (i) Is not entitled to benefits under the acts listed in paragraph (b)(2) of this section and is not currently enrolled in the supplementary medical insurance or premium hospital insurance programs; or

(ii) Has been deceased for more than 27 months (the maximum amount of time allowed for claiming supplementary medical insurance benefits); and

(2) Either of these conditions apply— (i) The individual or the legal representative of his or her estate demonstrates, to the satisfaction of HCFA, the present and prospective inability to pay the debt within a reasonable time; or

(ii) The cost of continued collection efforts is likely to exceed the amount to be recovered.

(d) *Renewal of collection efforts.* Although payment of overdue premiums is not a precondition for entitlement, HCFA will renew collection efforts—(1) If the cost of renewed collection efforts does not exceed the amount to be recovered; and

(2) If the individual—(i) Enrolls again for premium hospital insurance or supplementary medical insurance; or

(ii) Becomes entitled to monthly benefits, either for the first time or on a renewed basis, under Title II of the Social Security Act, the Railroad Retirement Act or an act administered by the Office of Personnel Management.

(Secs. 1102, 1818, 1832, 1838, 1840, 1870 and 1871 of the Social Security Act (42 U.S.C. 1302, 1395i–2, 1395k, 1395q, 1395s, 1395gg and 1395hh; and the Federal Claims Collection Act of 1966 (31 U.S.C. 951–953))

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare—Hospital Insurance; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: September 5, 1980.

Howard Newman,

Administrator, Health Care Financing Administration.

Approved: November 19, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-37320 Filed 11-28-80; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 5948]

Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program Implementation and Engineering Office, 451 Seventh Street, S.W., Washington, D.C. 20410 (202) 755–5581 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations of the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection. Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 65.4) (presently appearing at its former Section 24 CFR 1915).

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations, together with the flood plain management measures required by 60.3 (presently appearing at its former Section 1910.3) of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4. (Presently appearing at its former Section 24 CFR 1915.4):

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Connecticut	Middlesex	Town of Cromwell	*Middletown Press*, Dec. 6 and Dec. 13, 1979.	Mr. Paul R. Harrington, First Selectmen, Town of Cromwell, 5 West Street, Cromwell, Connecticut 06416	Sept. 26, 1980	090123, 0005C, 0010C.
New York	Suffolk	Village of Amityville	*Amityville Record*, Dec. 27, 1979 and Jan. 3, 1980.	Honorable Victor S. Niemi, Mayor, Village of Amityville, 21 Green Avenue, Amityville, New York 11701.	Sept. 26, 1980	360788, 0001B.
New York	Suffolk	Village of Babylon	*Babylon Beacon*, Dec. 27, 1979 and Jan. 3, 1980.	Honorable Gilbert Hanse, Mayor, Village of Babylon, 153 West Main Street, Babylon, New York 11702.	Sept. 26, 1980	360791, 0001C.
New York	Broome	Town of Conklin	*County Courier*, Feb. 21 and Feb. 28, 1980.	Mr. George S. Archie, Jr., Supervisor, Town of Conklin, 1070 Conklin Road, Box 182, Conklin, New York 13748.	Sept. 26, 1980	360042, 0005C, 0010C, 0015C.

(National Flood Insurance Act of 1968 (Title XIII of Housing Urban Development Act 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: October 24, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-37079 Filed 11-28-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA 5949]

List of Communities With Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The effective date shown at the top right of the table or 30 days after the date of this **Federal Register** publication, whichever is later.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line 800–424–8872, Room 5150, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in an identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply in respect to conventional mortgage loans by federally regulated, insured, supervised, or approved lending institutions.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have

existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the **Federal Register** or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 64 of Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128).

Section 65.3 is amended by adding in alphabetical sequence a new entry to the table:

BILLING CODE 6718-03-M

V 4 5 / 2 3 2 DEC 80 UMI

§ 65.3 List of communities with special hazard areas (FHBMs in effect). EFFECTIVE DATE December 2, 1980 Page 3

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF FHBM	9 STATUS OF FIRM	10 PREVIOUS MAP DATES FHBM	10 PREVIOUS MAP DATES FIRM	11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
ND	380311	Township of McKinney (Renville County)	0001A	I	FL	B	1	2	1	N/A	N/A	N/A	N/A	N/A	Mr. Harold Nelson McKinney Township Clerk Tolley, ND 58787 (701) 467-3460
ND	380306	Township of Stafford (Renville County)	0001A	I	FL	B	1	2	1	N/A	N/A	N/A	N/A	N/A	Mr. Eldon Cook Stafford Township Supervisor Norma, ND 58766 (701) 467-3474

EFFECTIVE DATE: December 5, 1980

PA	422398	Township of Sparta (Crawford County)	Index 0001B 0003B 0004B	I	FL	B	1	3	1	1/17/75 5/21/76	N/A	9 10 16	N/A	N/A	Steven Rasey, Chairman TWP. Board of Supervisors Municipal Building R. D. 2 Spartansburg, PA 16434 TWP. Phone: 814-654-7073 Home Phone: 814-654-7031
PA	421355	Township of Woodbury (Bedford Co.)	Index 0002B	I	FL	B	4	3	1	1/31/75	N/A	9 10 16	N/A	N/A	John Miller, Chairman TWP. Board of Supervisors R. D. 1 Woodbury, PA 16695 Phone: 814-766-3259
OH	390343C	Village of West Liberty (Logan Co.)	Index 01	I	FL	B	1	3	1	4/12/74 7/30/76 12/24/76	N/A	9 10 16	N/A	N/A	Harry Harman, Mayor Village Hall P. O. Box 187 West Liberty, OH 43357 Phone: 513-465-2716
PA	421880	Township of Decatur (Mifflin Co.)	Index 0001A 0002A 0003A	I	FL	B	1	3	1	11/15/74	N/A	9 10 16	N/A	N/A	Sterling Goss, Chairman TWP. Board of Supervisors R. D. 1 McClure, PA 17841 Phone: 717-543-5087

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EFFECTIVE DATE December 5, 1980

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FHBM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
PA	422389	Township of East Fallowfield (Crawford Co.)	Index 0001A 0002A	I	FL	B	1	3	1	1/10/75	N/A	9 10 16	N/A	N/A	Eugene Osborn, Chairman Twp. Board of Supervisors R.D.1 Atlantic, PA 16111 Phone: 412-588-4392
PA	421613	Township of Millstone (Elk Co.)	Index 0001A 0002A 0003A 0004A	I	FL	B	1	3	1	3/21/75	N/A	9 10 16	N/A	N/A	Charles Thacher, Chairman Twp. Board of Supervisors Municipal Building R.D.1 Sigel, PA 15860 Twp. Phone: 814-752-2371 Home Phone: 814-752-2929

EFFECTIVE DATE December 9, 1980

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF FHBM	9 STATUS OF FIRM	10 PREVIOUS MAP DATES FHBM	10 PREVIOUS MAP DATES FIRM	11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
MO	290883	Village of Flinthill (St. Charles County)	0001A	I	FL	B	1	2	1	N/A	N/A	N/A	N/A	N/A	Mr. Leonard Boehmer Chairman of the Board Flinthill Town Hall Flinthill, MO 63346 (314) 327-4507
UT	490080	Town of Levan (Juab County)	0001B	I	FL	B	1	3	1	6-21-77	N/A	9	N/A	N/A	Mr. Clinn Morgan Town Clerk Levan Town Hall Levan, UT 84639 (801) 623-1959

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EFFECTIVE DATE December 12, 1980

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (0 and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FHBM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
OH	390611	Village of Fort Shawnee (Allen Co.)	0001B	I	FL	B	1	3	1	10/18/74 6/4/76	N/A	9 10 16	N/A	N/A	John R. Truesdale, Mayor 2050 West Breese Road Village Hall Lima, OH 45806 Phone: 419-991-8010
PA	422073	Twp. of Ararat (Susquehanna Co)	0001A	I	FL	B	1	3	1	2/14/75	N/A	9 10 16	N/A	N/A	Donald Stone, Chairman Twp. Board of Supervisors R.D. 1 Thompson, PA 18465 Phone: 717-727-2216
PA	421670	Twp. of Greene (Greene Co.)	Index 0001B 0002B	I	FL	B	1	3	1	1/17/75 5/14/76	N/A	9 10 16	N/A	N/A	Gail Moser, Chairman Twp. Board of Supervisors Municipal Building R.D. 1, Box 150 Carmichaels, PA 15320 Twp. Phone: 412-966-5991 Home Phone: 412-966-5765
PA	422319A	Borough of Hookstown (Beaver Co.)	Index 01	I	FL	B	4	3	1	1/31/75	N/A	9	N/A	N/A	Blain Mott, Mayor Borough Hall Box 176 Hookstown, PA 15050 Phone: 412-573-4417
PA	421637	TWP. of South Union (Fayette Co.)	Index 0001A	I	FL	B	1	3	1	1/3/75	N/A	9 10 16	N/A	N/A	Thomas Frankhouser, CHM. TWP. Board of Supervisors Municipal Building R. D. 2, Box 623 South Union, PA Phone: 412-438-5480
NY	361543	Village of Huntington Bay (Suffolk Co.)	01A 02A	I	FL	B	1	3	1	2/7/75	N/A	9	N/A	N/A	Village of Huntington Bay Vineyard Road Huntington Bay, NY 11743 (516) 427-2893

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EFFECTIVE DATE December 16, 1980

1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (0 AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF FHBM	9 STATUS OF FIRM	10 PREVIOUS MAP DATES FHBM	10 PREVIOUS MAP DATES FIRM	11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
MO	290107	Cole County (Unincorporated Area)	0001A 0002A 0003A 0004A 0005A 0006A	I	FL	B	4	2	1	N/A	N/A	N/A	N/A	N/A	The Honorable Paul D. Schleer County Judge Cole County Courthouse 301 East High Street Jefferson City, MO 65101 (314) 634-3639
ND	380130	Traill County (Unincorporated Area)	0001A 0002A 0003A 0004A 0005A 0006A 0007A 0008A 0009A 0010A 0011A 0012A	I	FL	B	4	2	1	N/A	N/A	N/A	N/A	N/A	Mr. Hartman Uland Chairman of County Commissioners Traill County Courthouse Hillsboro, ND 58045 (701) 436-4282

EFFECTIVE DATE: December 19, 1980

PA	421976	TWP. of Eulalia (Potter Co.)	Index 0001A 0002A 0003A 0004A	I	FL	B	1	3	1	12/20/74	N/A	9 10 16	N/A	N/A	Arden Pelchy, Chairman TWP. Board of Supervisors R. D. Coudersport, PA 16915 Phone: 814-274-8548

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EFFECTIVE DATE December 19, 1980

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1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (# and Suffix)	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FIRM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code(s)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
PA	421467	Twp. of Potter (Centre Co.)	Index 0002A 0003A 0004A	I	FL	B	1	3	1	11/ 8/74	N/A	9 10 16	N/A	N/A	Frank D. Musser, Chairman Twp. Board of Supervisors R.D. 1 Spring Mills, PA 16875 Phone: 814-422-8501
PA	422173	Twp. of Scott (Wayne Co.)	Index 0001A 0002A	I	FL	B	1	3	1	11/22/74	N/A	9 10 16	N/A	N/A	Dennis Whitmore, Chairman Twp. Board of Supervisors R.D. 1 Starrucca, PA 18462 Phone: 717-798-2834
PA	422427	Twp. of Warren (Franklin Co.)	Index 0002A 0003A	I	FL	B	1	3	1	1/24/75	N/A	9 10 16	N/A	N/A	Clifford Harnish, Chairman Twp. Board of Supervisors Route 3 Mercersburg, PA 17236 Phone: 717-328-2271
IL	170689	Village of Erie (Whiteside Co.)	0001C	I	FL	B	1	3	1	5/ 3/74 1/30/76	N/A	9 10 16	N/A	N/A	Glenn Miller Village President Erie, PA 61250 Phone: 309-659-2691
IL	171002	Hardin Co. (Uninc. Area)	Index 0001A 0002A 0003A 0004A	I	FL	B	1	2	1	N/A	N/A	N/A	N/A	N/A	Mr. Riley Gene Reed Chairman of County Board Hardin County Clerk's Office Courthouse Elizabethtown, IL 62931 Phone: 618-287-2251
IL	170998	Moultrie Co. (Uninc. Area)	Index 0001A 0002A 0003A 0004A 0005A 0006A	I	FL	B	1	2	1	N/A	N/A	N/A	N/A	N/A	Wilbur Donnell Chairman of County Board Moultrie County Regional Planning Commission Courthouse Sullivan, IL 61951 Phone: 217-728-7922

EFFECTIVE DATE December 23, 1980

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1 STATE	2 IDENT. NUMBER	3 COMMUNITY NAME & COUNTY NAME	4 PANELS PRINTED (# AND SUFFIX)	5 INLAND/ COASTAL	6 HAZARD	7 60.3 CODE	8 PROGRAM STATUS	9 STATUS OF FIRM	9 STATUS OF FIRM	10 PREVIOUS MAP DATES FHBM	10 PREVIOUS MAP DATES FIRM	11 REVISION CODE(S)	12 RESCISSION	13 FLOODWAYS PANELS PRINTED	14 LOCATION OF MAP REPOSITORY
MO	290302	Ralls County (Unincorporated Areas)	0001A 0002A 0003A 0004A 0005A 0006A 0007A	I	FL	B	1	2	1	N/A	N/A	N/A	N/A	N/A	The Honorable B. D. O'Keefe County Judge Ralls County Courthouse New London, MO 63459 (314) 985-7111
OK	400146	Osage County (Unincorporated Areas)	0001A 0002A 0003A 0004A 0005A 0006A 0007A 0008A 0009A 0010A 0011A 0012A 0013A 0014A 0015A 0016A 0017A 0018A 0019A 0020A 0021A 0022A 0023A 0024A 0025A 0026A 0027A	I	FL	B	4	2	1	N/A	N/A	N/A	N/A	N/A	Mr. Paul Allen County Commissioner Osage County Courthouse Pawhuska, OK 74056 (918) 287-2615

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EFFECTIVE DATE December 26, 1980

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (if any) Suffix	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FIRM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code (S)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
IL	170441	City of Edwardsville (Madison Co.)	0001B	I	FL	B	4	3	1	4/5/74 7/2/76	N/A	9 10	N/A	N/A	Steven Ellisworth, Mayor 400 North Main Street Edwardsville, IL 62025 Phone: 618-656-8010
IL	170997	Washington County (Uninc. Area)	Index 0001A 0002A 0003A 0004A 0005A 0006A 0007A 0008A 0009A	I	FL	B	4	2	1	N/A	N/A	N/A	N/A	N/A	Lester D. Campbell, Chm. County Board of Comm. Courthouse Nashville, IL 62263 Phone: 618-327-3490
MN	270571	Mahnomen County (Uninc. Area)	Index 0001A 0002A 0003A 0004A 0005A 0006A	I	FL	B	.1	2	1	N/A	N/A	N/A	N/A	N/A	Tom Bisek Dir. of Zoning & Sanitation County Courthouse Mahnomen, MN 56657 Phone: 218-935-5639
PA	422232	Twp. of Warrington (York Co.)	Index 0001A 0003A	I	FL	B	1	3	1	12/27/74	N/A	9 10 16	N/A	N/A	Jerry Stahlman, Chairman Twp. Board of Supervisors R.D. 1 Lewisberry, PA 17339 Home Phone: 717-938-3598 Office Phone: 717-854-0011

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EFFECTIVE DATE December 26, 1980

1 State	2 Ident. Number	3 Community Name County Name	4 Panels Printed (if any) Suffix	5 Inland/ Coastal	6 Hazard	7 60.3 Code	8 Program Status	9 Status of FIRM	9 Status of FIRM	10 Previous Map Dates FHBM	10 Previous Map Dates FIRM	11 Revision Code (S)	12 Rescission	13 Floodways Panels Printed	14 Location of Map Repository
PA	421513	Twp. of Bell (Clearfield Co.)	Index 0001B 0002B 0003B 0004B	I	FL	B	1	3	1	12/20/74 8/20/76	N/A	9 10 16	N/A	N/A	Lynn Bouch, Chairman Twp. Board of Supervisors R.D. 1 Mahaffey, PA 15757 Phone: 814-277-6087
PA	421624	Twp. of Dunbar (Fayette Co.)	Index 0001A 0002A 0003A 0005A	I	FL	B	1	3	1	12/27/74	N/A	9 10 16	N/A	N/A	Thomas Hennessey, Chairman Twp. Board of Supervisors Municipal Building 171 Oglevee Lane Connellsville, PA 15425 Phone: 412-628-1440
PA	421109	Twp. of Springfield (Bradford Co.)	Index 0001B 0004B	I	FL	B	1	3	1	11/8/74 1/23/76	N/A	9 10 16	N/A	N/A	Roy Beardslee, Chariman Twp. Board of Supervisors R.D. 2 Columbia Cross Rds, PA 16914 Phone: 717-297-2835
PA	421883	Twp. of Union (Mifflin Co.)	Index 0002A 0003A 0004A	I	FL	B	1	3	1	11/29/74	N/A	9 10 16	N/A	N/A	Frederick Erb, Chairman Twp. Board of Supervisors Municipal Building P.O. Box 5625 Belleville, PA 17004 Twp. Phone: 717-935-2890 Home Phone: 717-935-2944

EFFECTIVE DATE December 30, 1980

MO	290869	Lincoln County (Uninc. Areas)	0001A 0002A 0003A 0004A 0005A 0006A 0007A 0008A 0009A	I	FL	B	1	2	1	N/A	N/A	N/A	N/A	N/A	Honorable Gary L. Hoffman Presiding Judge Lincoln Co. Courthouse Troy, MO 63379 (314) 528-7715

BILLING CODE 6718-03-C

COMMUNITY MAP ACTIONS

10. Dates of All Previous Maps
11. Revision Codes

(Codes: Where no entry is necessary use

1-1916 BFE (Base Flood Elevation) Decrease

ACTION: Final rule.

SUMMARY: Final base (100-year) flood

Final Base (100-Year) Flood Elevations—Continued

V 45 / 232 DE 1 80 UMI

COMMUNITY MAP ACTIONS

(Codes: Where no entry is necessary use N/A)

Column Code:

1. Two letter state designator.
2. FIA Community 6-digit identity number.
3. Community name—County(ies) name
4. Four digit number and suffix of each FIRM or FHBM panel printed.
5. INL/Coast

I—Inland
C—Coastal

6. Hazard

FL—Flood
MS—Mudslide
ER—Erosion
NF—Non Flood Prone
MF—Minimally Flood Prone

7. 60.3 Code

A—Special Hazard not defined, no elevation data (No FHBM)
B—Special Hazard Designated, no elevation data (FHBM)
C—Firm, No Floodway or Coastal High Hazard
*D—Firm, Regulatory Floodway Designated
*E—Firm, Coastal High Hazard

8. Program Status

1—Emergency
2—Regular
3—Not Participating, No Map
4—Not Participating, With Map
5—Withdrew
6—Suspended

9. FHBM Status

1—Never Mapped
2—Original
3—Revised
4—Rescinded
5—Superceded By Firm

9. Firm Status

1—Never Mapped
2—Original
3—Revised
4—Rescinded
5—All Zone C—No Published Firm
6—All Zone A and C—No Elevations Determined

* Dual entry is available.

10. Dates of All Previous Maps
11. Revision Codes

1. 1916 BFE (Base Flood Elevation) Decrease
2. 1916 BFE Increase
3. 1916 SFHA (Special Flood Hazard Area) Change
4. Change of Zone Designation; revised Firm
5. Curvilinear
6. 1914 Incorporation
7. 1914 Discorporation
8. 1914 Annexation
9. SFHA Reduction
10. Non-1916 SFHA Increase Without Numbered Zones
11. Non-1916 SFHA Increase with Numbered Zones
12. Drafting Correction; Printing Errors
13. Suffix Change ONLY
14. Change to Uniform Zone Designations (7/1/74)
15. Revisions Withdrawn
16. Refunds Possible
17. Letter of Map Amendment (1916)
18. Letter of Map Amendment (1916 without **Federal Register** publication)
19. Federal Register Omission
20. Attention. A previous map (or maps) has been rescinded or withdrawn for this community. This may have affected the sequence of suffixes.
21. Miscellaneous

13. List of Numbered Floodway Panels Printed
14. Address of Community Map Repository

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 12, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-37080 Filed 11-28-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska and Hawaii Call Toll Free (800) 424–9080, Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arizona	Nogales (City), Santa Cruz County, FI–5032.	Potrero Creek	Intersection of Creek and center of Interstate Highway 19 northbound.	*3,650
			185 feet upstream from center of Meadow Hills Drive	*3,680
		Nogales Wash	220 feet upstream from center of Valley Verde Circle	*3,687
			50 feet upstream from center of Baffert Drive	*3,736
			25 feet upstream from center of Monte Carlo Road	*3,745
			20 feet upstream from center of Banks Bridge	*3,817
		Nogales Wash—East Flood Plain	Northern end of Bankerd Street	*3,788
		Nogales Wash—West Flood Plain	Area west of Southern Pacific Railroad and along U.S. Highway 89	*3,793
		Nogales Wash—Covered Floodway and Overland Flows East of Southern Pacific Railroad.	180 feet upstream from center of Court Street	*3,854
			25 feet upstream from center of International Street	*3,870

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Nogales Wash—Flow West of U.S. Highway 89 and Southern Pacific Railroad.	15 feet upstream from center of County Club Road	*3,661
			420 feet upstream from center of Spur Place	*3,690
			120 feet upstream from center of Wash Second Crossing of Calley Verde Circle.	*3,698
		Arroyo Boulevard Channel and Covered Floodway and Overland Flows West of Southern Pacific Railroad.	90 feet upstream from center of Southern Pacific Railroad	*3,824
			150 feet upstream from center of Elm Street	*3,854
			15 feet upstream from center of Crawford Street	*3,882
		Mariposa Canyon (Channel)	Center of U.S. Highway 89	*3,742
			85 feet upstream of paved road ford	*3,772
			50 feet upstream from center of Interstate Highway 19 southbound	*3,792
			200 feet upstream from most upstream crossing of State Highway 189.	*3,881
		Mariposa Canyon (Valley)	85 feet upstream from unimproved road crossing	*3,881
		Mariposa Canyon Tributary No. 1	100 feet upstream from center of road (unnamed)	*3,800
		Mariposa Canyon Tributary No. 2	100 feet upstream from center of Trailer Park Road	*3,817
		Ephriam Canyon Wash	50 feet upstream from center of State Highway 89	*3,809
			50 feet upstream from center of Goodman Street	*3,886
			50 feet upstream from upstream end of Western Avenue Culvert	*3,904
			At upstream end of Interstate Highway 19 Culvert	*3,930
			At downstream end of State Highway 189 Culvert	*3,981
			At upstream end of State Highway 189 Culvert	*4,003
		Falls Wash	20 feet upstream from center of Morley Avenue	*3,801
			Upstream end of State Highway 82 Culvert	*3,813
		Flood Plain Area west of Arroyo Boulevard between Quarry and Walnut Streets.	Area along south edge of Plum Street	*3,843
			Area at intersection of Walnut and Arbelio Streets	*3,844
		International Boundary Channel	Confluence with Arroyo Boulevard Channel	*3,872
		Shallow Flooding	Area east of Nogales Wash and opposite Ephriam Canyon	*3,801
		Shallow Flooding	Area between Morley Avenue and Santa Cruz Street	*3,803
			Area south of State Highway 82 between Perkins Avenue and Falls Wash Channel.	#1
Maps available for inspection at City Hall, 1018 Grand Avenue, Nogales, Arizona.				
Arkansas	City of Arkadelphia, Clark County, FEMA–5853.	Ouachita River	Just upstream of State Highway 51	*195
		Mill Creek	Just upstream of 15th Street	*204
			Just upstream of 26th Street	*226
		Maddox Branch	Just upstream of Walnut Street	*193
			Just upstream of South 10th Street	*199
Maps available at City Hall, 610 Kaddo, Arkadelphia, Arkansas 71923.				
Arkansas	City of Greenwood, Sebastian County, FEMA–5874.	Vache Grasse Creek	Approximately 150 feet upstream of Route 10	*486
			Approximately 400 feet upstream of Route 71B	*483
		Hiartbill Creek	Just downstream of Arkansas Route 10	*491
			Just downstream of Denver Street	*505
		Hester Creek	Just upstream of Interstate 71	*506
Maps available for inspection at City Hall, 101 North Aster Street, Greenwood, Arkansas 72936.				
Arkansas	City of Mountainburg, Crawford County, FEMA–5841.	Frog Bayou	Just upstream of Felix Doyl Road	*746
			Approximately 300 feet downstream of confluence of Clear Creek	*750
		Pigeon Creek	Just upstream of U.S. Highway 71	*732
		Clear Creek	Just upstream of U.S. Highway 71	*751
Maps available at City Hall, Mountainburg, Arkansas 72946.				
California	Alameda County, unincorporated Areas, FI–3722.	Arroyo Mocho	Corporate Limits Downstream of Arroyo La Positas	*341
			Arroyo Road	*503
			Wente Street	*551
		Arroyo Las Positas	El Charro Road	*357
			Cottonwood Creek	*374
			Airway Boulevard	*381
			Interstate Highway 580 Downstream of Cayetano Creek	*405
			North Livermore Avenue	*448
			Interstate Highway 580 Upstream of North Livermore Avenue	*477
			Vasco Road	*507
		Arroyo Seco	Vasco Road	*568
			Greenville Road	*605
		Las Positas Relocation	Greenville Road	*620
		Arroyo Del Valle	Vineyard Avenue	*365
			Isabel Avenue	*415
			East Vallecitos Road	*445
			Arroyo Road	*540
		Line J–1	Dublin Boulevard	*338
			Amador Valley Boulevard	*335
		Chabot Canal	Southern Pacific Railroad	*333
		San Lorenzo Creek	Don Castro Dam	*858
			Confluence with Palomares Creek	*911
		Line G	Grove Way	*139
			Castro Valley Boulevard	*161
			San Miguel Avenue	*191
		Line J	Pine Street	*163
			Catalina Drive	*188
			Berdina Road	*207
		Bockman Canal and Line N	Pile Trestle Bridge	*5
			Southern Pacific Railroad	*8

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Alameda Creek	Sunol Dam	*223
			Interstate 680	*245
		Tassajara Creek	Santa Rita Road	*345
		Cayetano Creek	Hartman Road	*522
		Collier Creek	Interstate 580	*416
			Collier Canyon Road	*432
		Altamont Creek	Laughlin Road	*554
			North Front Road	*579
		Arroyo De La Laguna	Paloma Road	*242
			Southern Pacific Railroad	*267
			Verona Road	*286
			Castlewood Drive	*301
			Bernal Avenue	*316
		Palomares	Confluence with San Lorenzo Creek	*313
		Line J-3	Confluence with Line J-4	*359
		Dublin Creek	Downstream Dublin Road Crossing	*394
		Line I	Castro Valley Boulevard	*166
	Maps available for inspection at Alameda County Flood and Water Conservation District, 399 Elmhurst Street, Hayward, California.			
Illinois	(V) Bloomingdale, Du Page County, Docket No. FEMA-5874.	Spring Brook Creek	Just downstream of Medinah-On-The Lake Road	*705
			Just upstream of Circle Avenue	*714
			About 430 feet upstream of Foster Avenue	*726
			Just upstream of private drive (about 520 feet upstream of Foster Avenue).	*729
		West Branch Tributary to Spring Brook Creek.	About 200 feet upstream of confluence with Spring Brook Creek	*720
			About 120 feet downstream of Maple Avenue	*740
			About 250 feet downstream of Lake Street	*750
	Maps available for inspection at the Engineer's Office, Village Hall, 201 South Bloomingdale Road, Bloomingdale, Illinois 60108.			
Indiana	Indian Village (Town), St. Joseph County, FEMA-5853.	Judy Creek	Intersection of Lamar Street and Sweeney Avenue	*723
	Maps available for inspection at Trustee's Residence, 16801 Wetworth, South Bend, Indiana.			
Indiana	(T), Walkerton, St. Joseph County, Docket No. FEMA-5823.	Pine Creek	Northern corporate limits	*699
			Just upstream Conrail	*701
			Eastern corporate limits	*707
	Maps available for inspection at the Town Hall, 510 Roosevelt Road, Walkerton, Indiana 46574.			
Louisiana	City of Jennings, Jefferson Davis Parish, FEMA-5874.	East Grand Marais Ditch	Just downsteam of W. Division Street	*13
			Just downstream of Elevated Conduit of the Tiptop Canal	*17
		Northeast Outfall Ditch (Backwater flooding from Bayou Nezpique).	Intersection of Fifth Street and Hickory Lane Extended	*17
		Southeast Outfall Ditch (Backwater flooding from Bayou Nezpique).	Just downstream of U.S. Highway 90	*15
	Maps available at City Hall, Broadway, Jennings, Louisiana 70546.			
Louisiana	Town of Lake Arthur, Jefferson Davis Parish, FEMA-5874.	Lake Arthur	Entire Shoreline	*7
			Intersection of Kellogg and Sixth Streets	*8
	Maps available at Town Hall, 102 Arthur Avenue, Lake Arthur, Louisiana 70549.			
Louisiana	Village of Morse, Acadia Parish, FEMA-5828.	Morse Lateral	Just downstream of Jackson Avenue (Louisiana Highway 91)	*11
			Just upstream of Louisiana Highway 92	*14
	Maps available for inspection at Mayor's Office, Highway 91, Morse, Louisiana 79631.			
Louisiana	Town of Plain Dealing, Bossier Parish, FEMA-5874.	Little Cypress Bayou	Just downstream of St. Louis Southwestern Railway	*261
			Just upstream of Mary Lee Street	*264
			Just upstream of North Street	*272
		West Fork of Little Cypress Bayou.	Just upstream of Arkansas Street	*263
			Just downstream of Louisiana Highway 3	*267
		East Fork of Little Cypress Bayou.	Just downstream of Gilmer Street	*260
			Just downstream of Lynch Street	*265
			Just upstream of Vance Avenue Extended	*269
	Maps available for inspection at City Hall, Corner of Arkansas and Palmetto, Plain Dealing, Louisiana 71264.			
Louisiana	Town of Port Barre, St. Landry Parish, FEMA-5835.	Bayou Courtableau	Just upstream of State Highway 103	*28.2
		Bayou Teche	Just upstream of U.S. Highway 190	*28.0
	Maps available for inspection at Town Hall, Seizon Avenue, Port Barre, Louisiana 70875.			
Minnesota	(C), Greenfield, Hennepin County Docket No. FEMA-5874.	Crow River	At downstream corporate limit	*904
			About 2,000 feet downstream of City of Rockford northern corporate limit.	*912
			About 400 feet upstream of City of Rockford southern corporate limit	*915
		South Fork, Crow River	At confluence with Crow River	*918
			At upstream corporate limit	*919
	Maps available for inspection at the Office of the City Clerk, City Hall, P.O. Box 418, Rockford, Minnesota 55373.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Missouri	(C), Monett, Barry County, Docket No. FEMA-5853.	Clear Creek	At downstream corporate limits	*1,259
			About 200 feet downstream of Eisenhower Street	*1,272
			Just upstream of Eisenhower Street	*1,276
		Kelly Creek	Just downstream of St. Louis-San Francisco Railroad located about 550 feet upstream of Dairy Street.	*1,287
			About 150 feet downstream of 4th Street	*1,293
			About 950 feet upstream of Low Water Crossing	*1,315
		Unnamed Tributary	About 100 feet upstream of Western corporate limits	*1,278
			About 2,100 feet upstream of Nellie Avenue	*1,315
		Clear Creek	At confluence of Kelly Creek	*1,284
			About 60 feet downstream of U.S. Highway 60	*1,285
			Just downstream of corporate limit	*1,300
			At upstream corporate limit	*1,305
	Maps available for inspection at City Hall, Monett, Missouri 65708.			
Montana	Deer Lodge (City), Powell County, FEMA-5853.	Clark Fork	Intersection of Railroad Street and Park Street	*4,507
		Cottonwood Creek	Intersection of Second Street and California Avenue	*4,516
		Peterson Creek	20 feet upstream from center of Dixon Street	*4,552
	Maps available for inspection at Planning Commission, 300 Main Street, Deer Lodge, Montana.			
Montana	Powell County, Unincorporated Areas, FEMA-5853.	Clark Fork	Confluence with Peterson Creek	*4,523
		Cottonwood Creek	20 feet upstream from center of Frontage Road	*4,576
		Peterson Creek	60 feet upstream from center of Main Street	*4,525
	Maps available for inspection at Planning Department, Mr. Gary Mourhouse, Powell County Courthouse, Deer Lodge, Montana.			
Nebraska	(V), Firth, Lancaster County, Docket No. FEMA-5886.	Middle Branch Big Nemaha River.	Downstream county boundary	*1,313
			Just upstream State Highway 341 (West of Main Street)	*1,321
			About 1,500 feet upstream confluence of Kraatz Creek	*1,325
	Maps available for inspection at the Village Clerk's Office, Village Hall, Firth, Nebraska 68358.			
New Hampshire	Brentwood, Town, Rockingham County, Docket No. FEMA-5757.	Exeter River	Confluence of Little River	*69
			Downstream of Haigh Road	*72
			Upstream of Haigh Road	*76
			7,500 feet upstream of Haigh Road	*78
			Phillips Dam	*139
			Upstream of State Route 107	*135
	Maps available at the Town Hall, Route 111A, Brentwood, New Hampshire.			
New Hampshire	Town of Charlestown, Cheshire County, Docket No. FEMA-5726.	Connecticut River	Downstream Corporate Limit	*290
			Upstream State Route 11 (Cheshire Toll Bridge)	*304
			Upstream Corporate Limit	*312
		Little Sugar River	Upstream State Route 12A	*340
			Upstream Boston and Maine Railroad	*362
			Upstream State Routes 11 and 12	*372
		Ox Brook	Upstream State Route 12A	*333
			Upstream of Downstream crossing of State Routes 11 and 12	*413
			Upstream of upstream crossing of State Routes 11 and 12	*438
	Maps available at the Charlestown Town Office.			
New Hampshire	Derry (Town), Rockingham County, FEMA-5701.	Beaver Brook	Interstate Highway 93 northbound lane 75 feet upstream from centerline.	*[illegible]
			Boston and Maine Railroad 50 feet upstream from centerline	*244
			East Derry Road 50 feet upstream from centerline	*251
			Lower Beaver Lake Dam 100 feet downstream from centerline	*[illegible]
		Shields Brook	Boston and Maine Railroad (first crossing) 50 feet upstream from centerline	*[illegible]
			Folsom Road 40 feet upstream from centerline	*276
			Boston and Maine Railroad (second crossing) 75 feet upstream from centerline.	*291
			Street A 50 feet upstream from centerline	*307
			Brewster Road 10 feet upstream from centerline	[illegible]
			Scobie Pond Road 50 feet upstream from centerline	[illegible]
			Londonderry Turnpike 75 feet upstream from centerline	[illegible]
		Hornes Brook	Florence Street 10 feet upstream from centerline	*241
			West Broadway 20 feet upstream from centerline	*247
			Maple Street 10 feet upstream from centerline	*253
		Tributary O	Unnamed Road 10 feet upstream from centerline	*[illegible]
		Tributary E	Chester Road 10 feet upstream from centerline	*293
			Tsienneto Road 10 feet upstream from centerline	*294
		Tributary F	Beaver Lake Road 20 feet upstream from centerline	*296
			Back Chester Road 20 feet upstream from centerline	*[illegible]
		Tributary G	Rockingham Road 25 feet upstream from centerline	*[illegible]
			Sunset Avenue (second crossing) 25 feet upstream from centerline	*[illegible]
			Windham Road (second crossing) 60 feet downstream from centerline	*362
			Windham Road (second crossing) 10 feet upstream from centerline	*314
		Drew Brook	Colletts Grove Road (first crossing) 50 feet upstream from centerline	*[illegible]
			Drew Road 75 feet upstream from centerline	*211
		Taylor Brook (including Ballard Pond).	North Shore Road 20 feet upstream from centerline	*214
			Island Pond Road (first crossing) 50 feet upstream from centerline	*222
			Lower Ballard Pond Dam 20 feet downstream from centerline	*242
			Lower Ballard Pond Dam 10 feet upstream from centerline	*255

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upper Ballard Pond Dam 10 feet upstream from centerline	*258
			Island Pond Road (third crossing) 20 feet upstream from centerline	*263
		Tributary H	Abandoned Railroad Bed 50 feet upstream from centerline	*224
			Hampstead Road 40 feet upstream from centerline	*266
		Cunningham Brook	Abandoned Railroad Bed 25 feet upstream from centerline	*219
			Hampstead Road 25 feet downstream from centerline	*296
			Hampstead Road 20 feet upstream from centerline	*300
		Adams Pond	Adams Pond Dam upstream face	*327
		Beaver Lake	300 feet northwest of intersection of Beaver Lake Avenue and Pond Road.	*290
		Lower Beaver Lake	Lower Beaver Lake Dam upstream face	*260
		Island Pond	300 feet northeast of intersection of Stickney Road and Escumbuit Avenue.	*207

Maps available at the Office of the Building Inspector, Town Offices, 48 East Broadway, Derry, New Hampshire.

New Hampshire	Fremont, Town, Rockingham County, Docket No. FEMA-5749.	Exeter River	Downstream Corporate Limits	*135
			4,800 feet above downstream Corporate Limits	*136

Maps available at the Town Hall, Route 107, Fremont, New Hampshire.

New Hampshire	Town of Gilsum, Cheshire County, Docket No. FEMA-5726.	Ashuelot River	USGS Gage	*765
			Upstream of State Route 10 (Downstream Heyward Brook confluence).	*817
			275 feet upstream of State Route 10 (Upstream Heyward Brook Confluence).	*867
		Heyward Brook	Confluence with Ashuelot River	*836
			Church Street	*850
			Upstream of Memorial Street	*855

Maps available at the Office of the Town Clerk, Gilsum, New Hampshire.

New Hampshire	Town of Hinsdale, Cheshire County, Docket No. FEMA-5725.	Connecticut River	Upstream side Boston & Maine Railroad	*210
			Downstream side Vernon Dam	*216
			Upstream side Vernon Dam	*227
			Upstream side Brattleboro Bridge	*234
		Ashuelot River	Upstream side Boston & Maine Railroad	*213
			Upstream side State Route 63	*213
			Downstream side Dam #1	*218
			Upstream side Dam #1	*234
			9,500' upstream of confluence with Connecticut River	*244
			Downstream side Dam #2	*259
			Upstream side Dam #2	*263
			1,000' upstream of Dam #2	*279
			1,500' upstream of Dam #2	*287
		Sprague Brook	Confluence with Connecticut River	*227
			Downstream side State Route 119	*227
			Approximately 35' upstream of State Route 119	*230

Maps available at the Town Office, Hinsdale, New Hampshire.

New Hampshire	(T), Holderness, Grafton County, Docket No. FEMA-5701.	Pemigewasset River	At the Southern Corporate Limit	*485
			At the Northern Corporate Limit	*490
		Owl Brook	Just upstream of State Route 175	*736
			Approximately 1,800 feet upstream of State Route 175	*739
			Just downstream private drive located about 5,500 feet upstream State Route 175.	*763
			Just downstream of Perch Pond Road	*793
			Just upstream of Perch Pond Road	*796
		Beede Brook	Just downstream of School Road	*737
			Just upstream of School Road	*740
			Just downstream of Perch Pond Road	*742
			Approximately 400 feet upstream of Perch Pond Road	*746

Maps available at the Town Office, Holderness, New Hampshire 03425.

New Hampshire	Town of Walpole, Cheshire County, Docket No. FEMA-5726.	Connecticut River	Downstream Corporate Limits	*241
			Upstream of State Route 123	*248
			Downstream of Bridge Street	*255
			Upstream of Boston and Maine Railroad	*293
			Upstream of Bellows Falls Dam	*295
			Upstream Corporate Limits	*297
		Cold River	Downstream State Routes 123 & 12	*253
			4,625 feet upstream of State Route 123	*260
		Blanchard Brook	Upstream Boston and Maine Railroad	*250
			Upstream State Routes 12 & 123	*252

Maps available at the Office of the Town Clerk, Walpole, New Hampshire.

New Hampshire	Town of Winchester, Cheshire County, Docket No. FEMA-5725.	Ashuelot River	Downstream corporate limits	*292
			Dam No. 1 (upstream side)	*345
			Dam No. 2 (upstream side)	*362
			Boston and Maine Railroad	*438
			Dam No. 4 (upstream side)	*444
			Upstream corporate limits	*453
		Snow Brook	Confluence with Ashuelot River	*440
			State Route 10	*440

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Mirey Brook	Confluence with Ashuelot River	*441
			Piney Woods Road (upstream side—100 feet)	*446
		Roaring Brook	Confluence with Mirey Brook	*441
			Scotland Road (upstream side—100 feet)	*478
		Rixford Brook	Confluence with Ashuelot River	*450
			Old Westport Road (upstream side—50 feet)	*450
			Verry Brook Road (upstream side—50 feet)	*842
		Wheelock Brook	Verry Brook Road (upstream side—50 feet)	*468
			Vain Road (upstream side—100 feet)	*478
		Pauchaug Brook	Downstream Corporate Limits	*[illegible]
			Approximately 1,000 feet upstream of Auger Hole Road	*271
			Stoddle Hill Road (downstream side—approximately 50 feet)	*378
			Stoddle Hill Road (upstream side—50 feet)	*386

Maps available at the Town Hall, Winchester, New Hampshire.

New Jersey	Harrington Park (Borough), Bergen County, FEMA-5824.	Hackensack River	Intersection of Hackensack River and the upstream corporate limit	*[illegible]
		Dorotockeys Run	25 feet upstream from center of Tappan Road	*31
			70 feet upstream from center of Swim Club Drive	*37
			40 feet upstream from center of First Street	*44
		Tappan Run	Intersection of Tappan Run and corporate limit	*40
		Blanch Brook	40 feet upstream from center of Lynn Street	*32
			20 feet upstream from center of Arthur Place	*[illegible]
		Oradell Reservoir	Intersection of Oradell Reservoir and Conrail	*25

Maps available for inspection at Borough Hall, 85 Harriot Avenue, Harrington Park, New Jersey.

Ohio	(V), Camden, Preble County, Docket No. FEMA-5853.	Beasley Run	Just upstream Main Street	*[illegible]
			Just downstream U.S. Route 127	*958
		Seven Mile Creek	About 0.66 mile downstream State Route 725	*[illegible]
			At confluence of Beasley Run	*942
			About 150 feet downstream Conrail	*967
			About 0.31 mile upstream Conrail	*976

Maps available for inspection at the Village Hall, 66 West Central Avenue, Camden, Ohio 45311.

Ohio	(Uninc.), Clermont County, Docket No. FEMA-5875.	Little Miami River	Just upstream of Milford corporate limits	*530
			Just upstream of Conrail	*552
			Just downstream of Loveland-Miamiville Road	*557
			Just downstream of Loveland corporate limits	*565
		Stonelick Creek	Just upstream of confluence with East Fork Little Miami River	*528
			Just downstream of U.S. Route 50	*541
			About 2000 feet upstream of U.S. Route 50	*550
			Just upstream of Stonelick-Williams Corner Road	*576
			About 3700 feet upstream of Stonelick-Williams Corner Road	*594
			About 1.3 miles upstream of Stonelick-Williams Corner Road	*598
			Just downstream of State Route 132	*646
			About 4700 feet upstream of State Route 132	*657
			About 1.92 miles upstream of State Route 132	*714
		Bullskin Creek	Just upstream of confluence with Ohio River	*510
			About 2.5 miles upstream of U.S. Route 52	*515
			Just downstream of Felicity-Cedron Rural Road (at upstream crossing).	*538
			About 300 feet upstream of Felicity-Cedron Rural Road (at upstream crossing).	*545
		Ohio River	At upstream county boundary	*[illegible]
			Downstream county boundary	*505
			Upstream county boundary	*511
		East Fork Little Miami River	Downstream county boundary (south of Milford)	*511
			About 300 feet downstream of Roundbottom Road	*527
			Just downstream Stonelick Road	*540
			About 2.0 miles upstream Stonelick Road	*548
			About 500 feet upstream State Route 32	*578
			Just upstream of State Route 222	*590
			About 2.3 miles upstream State Route 222	*608
			At the downstream Village of Williamsburg corporate limits	*804
			About 200 feet upstream of Norfolk & Western Railway	*807
			About 1.4 miles upstream of McKeever Road	*817
			About 3.4 miles upstream of McKeever Road	*832
		Twelvemile Creek	Mouth at Ohio River	*505
			About 0.7 mile upstream of U.S. Route 52	*[illegible]

Maps available for inspection at the Clermont County Administration Building, South Riverside Drive, Batavia, Ohio 45103.

Ohio	(C), Eaton, Preble County, Docket No. FEMA-5853.	Rocky Run	Downstream corporate limit	*1,000
			About 0.4 mile upstream Main Street	*1,014
		Seven Mile Creek	About 0.65 mile downstream State Route 732	*[illegible]
			About 200 feet upstream St. Clair Street	*1,007
			Just downstream Conrail	*1,032

Maps available for inspection at City Hall, 328 North Maple Street, Eaton, Ohio 45320.

Ohio	(V), New Paris, Preble County, Docket No. FEMA-5853.	Rocky Fork	About 850 feet upstream from mouth	*1,002
			Just upstream State Route 320	*1,030
			About 220 feet upstream of Spring Street	*1,044
		East Fork Tributary	About 300 feet upstream Walnut Street	*1,016
			About 110 feet upstream Conrail	*1,023
			Just upstream Spring Street	*1,048
			About 730 feet upstream Spring Street	*1,054

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		East Fork Whitewater River	Confluence of Rocky Fork	*1,001
			About 500 feet upstream Middleborough Road	*1,016
			About 0.48 mile upstream Middleborough Road	*1,018
Maps available for inspection at Village Hall, West Cherry Street, New Paris, Ohio 45347.				
Ohio	(Uninc.), Preble County, Docket No. FEMA-5853.	Four Mile Creek	Just downstream State Route 725	*955
			About 0.74 mile upstream State Route 177	*982
		Paint Creek	Just upstream of Lake Lalungren Dam	*1,042
			About 1.2 miles downstream State Highway 732	*1,042
			Just downstream State Highway 732	*1,057
		Seven Mile Creek	About .82 mile downstream State Route 725	*827
			Just upstream Conrail	*871
			About .28 mile upstream Conrail	*875
		Rocky Run	About .4 mile downstream City of Eaton downstream corporate limits	*994
			About .6 mile upstream City of Eaton upstream corporate limit	*1,022
		Tributary of East Fork Whitewater River.	At Village of New Paris corporate limits	*1,046
			About .2 mile upstream Village of New Paris downstream corporate limits.	*1,058
		East Fork Whitewater River	About 0.6 mile downstream Conrail	*995
			Just downstream State Route 121	*1,018
		Twin Creek (near West Alexandria).	Just downstream Conrail	*854
			Just downstream U.S. Route 35	*865
			Just downstream Engle Road	*877
		Rocky Fork	At New Paris corporate limits	*1,044
			About 0.2 mile upstream New Paris corporate limits	*1,051
		Twin Creek (near Lewisburg)	About 200 feet downstream State Route 503	*948
			Just downstream Mill Road	*878
		Bantas Fork	Just downstream State Route 503	*881
			Just downstream U.S. Route 35	*901
Maps available for inspection at Preble County Courthouse, 100 East Main Street, Eaton, Ohio 45320.				
Ohio	(C), Tallmadge, Summit County, Docket No. FEMA-5853.	Roosevelt Ditch	About 3200 feet downstream of Eastwood Avenue	*1,085
			About 270 feet upstream of Eastwood Avenue	*1,108
			About 250 feet upstream of Southeast Avenue	*1,166
		Camp Brook	At the downstream corporate limits	*1,028
			About 70 feet downstream of Osceola Avenue	*1,051
			Just upstream of Osceola Avenue	*1,061
			About 130 feet downstream of Southwest Avenue	*1,070
			Just upstream of Southwest Avenue	*1,082
			Just downstream of Conrail	*1,082
			Just upstream of Conrail	*1,090
			About 200 feet upstream of South Avenue	*1,091
			About 130 feet downstream of East Avenue	*1,103
			Just upstream of East Avenue	*1,110
			Just downstream of Northeast Avenue	*1,124
Maps available for inspection at City Hall, 46 North Avenue, Tallmadge, Ohio 44278.				
Ohio	(Uninc.); Summit County, Docket No. FEMA-5853.	Tinkers Creek	At the upstream corporate limits of the City of Twinsburg	*977
			About 3800 feet upstream of the corporate limits for the City of Twinsburg.	*979
			Just upstream of Middleton Road	*1,002
			Upstream of the Ohio Turnpike and at the county boundary	*1,007
		Tinkers Creek Tributary	At the confluence with Tinkers Creek	*1,006
			Just upstream of Huntington Road	*1,016
			About 50 feet upstream of Hudson Aurora Road	*1,021
		Brandywine Creek	Just downstream of Brandywine Road	*834
			About 3,300 feet upstream of Brandywine Road	*856
			Just downstream of Akron-Cleveland Road	*950
			Just downstream of Hines Hill Road	*983
			Just upstream of the Ohio Turnpike	*983
			Just upstream of Conrail (near the Village of Hudson corporate limits)	*1,027
			About 1,400 feet upstream of Prospect Road	*1,032
		Indian Creek	About 500 feet upstream of the mouth at Brandywine Creek	*968
			About 1,000 feet upstream of the mouth	*987
		West Branch Roosevelt Ditch	About 425 feet upstream of Gilchrist Road (in Akron)	*1,050
		Little Cuyahoga River	About 4,400 feet downstream of Skelton Road	*1,033
			About 1,800 feet upstream of Skelton Road	*1,044
		Springfield Lake Outlet	At the City of Akron corporate limits	*1,071
		Tuscarawas River	Just downstream of Center Road	*951
			Just upstream of Vanderhoof Road	*956
			At the City of Barberton downstream corporate limit	*961
			At the City of Barberton upstream corporate limit	*966
			About 1,200 feet downstream of Interstate 77	*969
			Just downstream of Pickle Road	*1,025
			Just downstream of the Tritts Millpond Dam	*1,044
			Just upstream of the Tritts Millpond Dam	*1,053
			Just downstream of the dam at Myersville Road	*1,063
			Just upstream of the dam at Myersville Road	*1,075
			Just downstream of the Pine Lake Dam	*1,079
			Just upstream of the Pine Lake Dam	*1,088
			Just downstream of the dam at Twin Lakes Drive	*1,089
			Just upstream of the dam at Twin Lakes Drive	*1,100
			Just upstream of State Route 8	*1,108
		Mud Brook	Just upstream Bath Road	*968
			About 500 feet upstream of Bath Road	*989

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Cuyahoga River	At the City of Akron northern corporate limits	*732
			About 1,500 feet upstream of the City of Akron northern corporate limits.	*733
			About 4,600 feet downstream of the confluence of Sand Run	*741
			Just downstream of Akron-Peninsula Road	*750
		Ohio and Erie Canal (South of Summit Lake).	About 8,800 feet downstream of Manchester Road	*967
			Just upstream of Interstate 277	*968
		Yellow Creek	Just downstream of Chessie System	*735
			Just upstream of Chessie System	*751
			Just upstream of Bath Road	*758
			About 50 feet downstream of Yellow Creek Road (downstream crossing).	*804
			About 150 feet upstream of Yellow Creek Road (downstream crossing).	*814
			About 730 feet upstream of Yellow Creek Road (downstream crossing).	*834
			About 8,100 feet upstream of Yellow Creek Road (downstream crossing).	*870
			Just upstream of Interstate 77	*886
			About 130 feet upstream of Yellow Creek Road (upstream crossing)	*893
			Just upstream of Wye Road	*910
			About 1,250 feet upstream Wye Road	*918
			About 1,400 feet upstream Wye Road	*925
			About 1,300 feet upstream Granger Road (downstream crossing)	*952
			About 800 feet upstream Granger Road (downstream crossing)	*970
			About 950 feet upstream Granger Road (upstream crossing)	*976
			About 1,000 feet upstream Granger Road (upstream crossing)	*982
			About 530 feet upstream of Crystal Lake Road	*991
		North Branch Yellow Creek	At the confluence with Yellow Creek	*912
			At the confluence of North Branch Yellow Creek Tributary	*924
			Just downstream of the Bath Road bridge	*949
		North Branch Yellow Creek Tributary.	About 700 feet downstream Bath Road	*954
			About 600 feet downstream Bath Road	*977
			Just downstream of Bath Road	*977
		Pigeon Creek	Just downstream of Knox Boulevard	*970
			Just downstream of Collier Road	*971
			Just downstream of White Pond Drive	*972
			Just upstream of Jacoby Road	*988
			Just upstream of Interstate 77	*1,030
			Just upstream of Ridgewood Road	*1,045
		Pigeon Creek Tributary 2	Just downstream of Wright Road	*970
			About 75 feet upstream of Jacoby Road	*1,024
		Wolf Creek	Just downstream of Interstate 77	*1,000
			Just downstream of the Medina Line Road	*1,010
Maps available for inspection at Summit County Administration Building (Ohio Building), 175 South Main Street, Akron, Ohio 44308.				
Oklahoma	City of Choctaw, Oklahoma County, FEMA-5875.	North Canadian River	N.E. 50th Street (Extended)	*1,100
		Choctaw Creek	Just upstream of Indian Meridian Road	*1,099
			Just upstream of Henney Road	*1,118
			Just downstream of Anderson Road	*1,147
			Just downstream of Mayer Drive	*1,164
			Just downstream of S.E. 15th Street	*1,203
		Choctaw Creek Tributary 1	Just upstream of Chicago, Rock Island and Pacific Railroad	*1,099
			Just downstream of N.E. 10th Street	*1,137
		Choctaw Creek Tributary 2	Just downstream of N.E. 10th Street	*1,111
			Just upstream of N.E. 10th Street	*1,117
			Just downstream of East Reno Avenue	*1,132
			Just upstream of East Reno Avenue	*1,139
			Just downstream of S.E. 15th Street	*1,189
		Choctaw Creek Tributary 2 East Branch.	Just upstream of East Reno Avenue	*1,134
			Just downstream of S.E. 15th Street	1,154
		Choctaw Creek Tributary 2 West Branch.	Just downstream of S.E. 15th Street	*1,174
			Just downstream of N.E. 10th Street	*1,146
		Choctaw Creek Tributary 3	Just upstream of N.E. 10th Street	*1,151
		Choctaw Creek Tributary 4	Just upstream of N.E. 10th Street	*1,135
			Just upstream of East Reno Avenue	*1,165
			Just upstream of Hiwassee Road	*1,172
		Choctaw Creek Tributary 4 West Branch.	Just upstream of East Reno Avenue	*1,165
		Choctaw Creek Tributary 5	Just upstream of N.E. 23rd Street	*1,133
		Choctaw Creek Tributary 7	Just upstream of Edgewater Drive	*1,165
Maps available for inspection at City Hall, 2436 North Main Street, P.O. Box 567, Choctaw, Oklahoma 73020.				
Oregon	Grants Pass (City), Josephine County, FEMA-5853.	Rogue River	Intersection of Webster Lane and Spruce Street	*910
			150 feet upstream from center of South Seventh Street	*914
		Gilbert Creek	100 feet upstream from center of West L Street	*929
			100 feet upstream from center of West C Street	*956
			150 feet upstream from center of Manzanita Avenue	*977
			100 feet upstream from center of Midland Avenue	*1,012
			100 feet upstream from center of Morgan Lane	*1,063
Maps available for inspection at 101 NW A Street, Grants Pass, Oregon.				
Oregon	Medford (City), Jackson County, FEMA-5825.	Bear Creek	50 feet downstream from center of McAndrews Road	*1,330
			Intersection of creek and center of Jackson Street	*1,345

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Lazy Creek	75 feet upstream from center of Barnett Road	*1,386
			Intersection of Black Oak Drive and Siskiyou Boulevard	*1,448
		Larson Creek	Intersection of creek and center of Morrison Avenue	*1,478
		Unnamed Tributary to Larson Creek.	Confluence of creek and Larson Creek	*1,500
		Crooked Creek	40 feet downstream from center of Garfield Road	*1,431
		Lone Pine Creek	Intersection of creek and center of Crater Lake Avenue	*1,350
	Maps available for inspection at Planning Department, Mr. Jim Eisenhart, 411 W. 8th Street, Medford, Oregon.			
Pennsylvania	Birmingham, Township, Chester County, Docket No. FEMA-5845.	Brandywine Creek	Downstream State Boundary	*151
			Upstream State Boundary	*155
			Downstream County Boundary	*171
			State Route 926 (Upstream)	*177
			Upstream Corporate Limits	*182
	Maps available at the Birmingham Township Office.			
Pennsylvania	Buck, Township, Luzerne County, Docket No. FEMA-5841.	Lehigh River	Approximately 3,640 feet downstream of Pa. State Route 115 bridge over Lehigh River.	*1,452
			Pa. State route 115 bridge (Upstream)	
			Approximately 1,100 feet upstream of confluence of Kendall Creek	*1,478
				*1,485
			Upstream Corporate Limits	*1,507
	Maps available at the residence of Mr. Phillip Phelps, Chairman, Star Route, White Haven, Pennsylvania.			
Pennsylvania	Christiana, Borough, Lancaster County, Docket No. FEMA-5853.	Williams Run	Upstream South Bridge Street	*467
			Upstream Water Street	*468
			Upstream Corporate Limits	*473
		Pine Creek	Upstream Conrail	*476
			Upstream Slokum Avenue	*478
			Upstream Newport Avenue	*482
			Corporate Limits	*483
		East Branch Octoraro Creek	Upstream State Route 372	*458
			Confluence with Williams Run and Pine Creek	*464
	Maps available by appointment by contacting Mayor Joseph Wright at (215) 593-5615.			
Pennsylvania	Dennison, Township, Luzerne County, (Docket No. FEMA-5841.	Lehigh River	Downstream Corporate Limits	*1,102
			Approximately 2,500' upstream of Corporate limits	*1,108
			Approximately 2,200' downstream of confluence of Wright Creek	*1,117
			Approximately 1,000' downstream of confluence of Wright Creek	*1,124
			Confluence of Wright Creek	*1,126
			Approximately 2,300' upstream of confluence of Wright Creek	*1,136
		Wright Creek	Confluence with Lehigh River	*1,126
			Upstream side of Private Road	*1,144
			Approximately 920' upstream of Private Road	*1,160
			Upstream side of Township Route 422	*1,176
			Abandoned Railroad	*1,206
			Approximately 1,520' upstream of Legislative Route 40041	*1,216
		Little Nescopeck Creek	Approximately 2,400' downstream of confluence of Conety Run	*1,143
			Confluence of Conety Run	*1,177
			Downstream side of Nescopeck Road	*1,188
			Approximately 1,440' upstream of Nescopeck Road	*1,211
			Downstream side of State Route 437	*1,231
			Approximately 350' upstream of State Route 437	*1,234
	Maps available at the Dennison Township Building.			
Pennsylvania	Denver, Borough, Lancaster County, Docket No. FEMA-5845.	Cocalico Creek	Downstream corporate limits	*384
			Conrail (upstream)	*387
			South Fourth Street (upstream)	*390
			Dam approximately 800 feet downstream of Main Street (downstream).	*392
			Main Street (upstream)	*394
			Upstream corporate limits	*394
		Little Cocalico Creek	Downstream corporate limits	*386
			North Third Street (upstream)	*389
			Upstream corporate limits	*390
	Maps available at the Denver Borough Hall.			
Pennsylvania	Drumore, Township, Lancaster County, Docket No. FEMA-5853.	Susquehanna River	Downstream Corporate Limits	*114
			Approximately 13,000 feet upstream of Downstream Corporate Limits.	*116
			Approximately 19,000 feet upstream of Downstream Corporate Limits.	*120
			Approximately 20,300 feet upstream of Downstream Corporate Limits.	*124
			Upstream Corporate Limits	*131
	Maps available at the Drumore Township Shed.			
Pennsylvania	East Drumore, Township, Lancaster County, Docket No. FEMA-5845.	South Fork	Downstream Corporate Limits	*461
			Downstream side State Route 372	*468
			Upstream side State Route 372	*471
			Approximately 400 feet downstream of Oak Bottom Road	*478
	Maps available at the East Drumore Township Building.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	East Hopewell, Township, York County, Docket No. FEMA-[illegible].	South Branch Muddy Creek	Approximately 100' upstream of Muddy Creek confluence	*370
			Approximately 2,500' upstream of Muddy Creek confluence	*380
			Upstream side of Muddy Creek Road (Township Route 630) Bridge downstream crossing.	*385
			Approximately 6,000' upstream of Muddy Creek Road (Township Route 630) Bridge.	*405
			Upstream side of Muddy Creek Road (Township Route 633) Bridge upstream crossing.	*418
		North Branch Muddy Creek	Approximately 2,800' downstream of Legislative Route 66012 Bridge	*413
			Upstream side of Legislative Route 66012 Bridge	*428
			2,000' upstream of Legislative Route 66012 Bridge	*439
			1,500' upstream of Rambo Run confluence	*451
			500' downstream of Township Route 573 Bridge	*464
			500' downstream of Legislative Route 66057 Bridge	*475
			Upstream side of Legislative Route 66057 Bridge	*482
			Upstream Corporate Limits	*486
	Maps available at the residence of Mr. C. Kenneth McCleary, R.D. 3, Stewartstown, Pennsylvania.			
Pennsylvania	Eastvale, Borough, Beaver County, Docket No. FEMA-[illegible].	Beaver River	Downstream Corporate Limits	*737
			Downstream of Dam	*[illegible]
			Upstream of Dam	*758
			Upstream Corporate Limits	*754
	Maps available at the residence of Mrs. Cathi Marmalich, Borough Secretary, 37th Street, Eastvale, Beaver Falls, Pennsylvania.			
Pennsylvania	Fulton, Township, Lancaster County, Docket No. FEMA-5853.	Susquehanna River	Downstream Corporate Limits	*113
			Upstream Corporate Limits	*114
	Maps available at the Fulton Township Building.			
Pennsylvania	Huntington, Township, Luzerne County, Docket No. FEMA-5826.	Huntington Creek	Downstream Corporate Limits	*700
			Southdale Schoolhouse Road (Extended) Upstream	*703
			Township Route 470 downstream (Extended)	*710
			Everetts Corner Road (Downstream side)	*720
			Legislative Route 40075 (Downstream side)	*730
			Dug Road (Upstream side)	*743
			Dam (Upstream side)	*759
			Upstream of State Route 239	*766
			Papermill Dam (Upstream side)	*771
			Koons Dam (Upstream side)	*777
			Williams Road	*786
			Lundavist Road (Upstream side)	*796
			Confluence of Kitchen Creek	*811
			Upstream Corporate Limits	*814
		Pine Creek	Downstream Corporate Limits	*715
			Hollow Road (Upstream side)	*726
			Corporate Limits (Approximately 4,300' downstream of State Route [illegible].	*758
			State Route 239 (Downstream side)	*773
			Town Hill Road (Downstream side)	*787
			Legislative Route 40164 (Extended)	*803
			Legislative Route 40080 (Upstream side)	*815
			Hess Hollow Road	*[illegible]05
			Upstream Corporate Limits	*[illegible]2
	Maps available at the Huntington Township Municipal Building, Shickshinny, Pennsylvania.			
Pennsylvania	Little Britain, Township, Lancaster County, Docket No. FEMA-5853.	West Branch Octoraro Creek	Approximately 5,300 feet downstream of Academy Road	*284
			Upstream of Academy Road	*306
			Downstream of Kings Bridge	*314
			Upstream of Kings Bridge	*319
			Approximately 500 feet downstream of upstream Corporate Limits	*346
	Maps available at the Little Britain Township Building.			
Pennsylvania	Lower Paxton, Township, Dauphin County, Docket No. FEMA-5748.	Beaver Creek	Downstream Corporate Limits	*326
			Dam 950' downstream Nyes Road	*336
			Upstream Nyes Road	*342
			Confluence of Nyes Run	*343
		Nyes Run	Confluence of Beaver Creek	*343
			Upstream Union Deposit Road	*363
			Upstream Locust Lane (Legislative Route 22071)	*378
			350' Upstream Locust Lane	*375
		Tributary to Spring Creek	Downstream Corporate Limits	*422
			Upstream Interstate 83	*427
			Upstream Arlington Avenue	*431
			Upstream Sussex Drive	*434
			1000' upstream Sussex Drive	*442
		Tributary to Paxton Creek	Downstream Corporate Limits	*432
			Upstream Gale Drive	*437
			Downstream Carol Drive	*440
			Upstream Carol Drive	*446
			Upstream Crumarnill Road	*448
		Goose Valley Run	Confluence with Tributary to Goose Valley Run	*383
			Upstream Colonial Club Road	*437
			Upstream Derbyshire Road	*449

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Downstream Linglestown Road	*454
			Upstream Linglestown Road	*463
		Tributary to Goose Valley Run	Confluence of Goose Valley Run	*393
			Approximately 160' downstream Interstate 81	*395
			Approximately 200' upstream Interstate 81	*402
			Downstream Earl Drive	*420
			Upstream Earl Drive	*425
			Downstream Curvin Drive	*445
			Upstream Curvin Drive	*450
			Confluence of South Branch of Tributary to Goose Valley Run	*452
			Downstream Lochwillow Road	*469
			Upstream Lochwillow Road	*474
			600 feet upstream Lochwillow Road	*481
		South Branch of Tributary to Goose Valley Run.	Confluence with Tributary to Goose Valley Run	*452
			Upstream U.S. Route 22	*487
			Upstream Sunset Avenue	*488
			Upstream South Lochwillow Road	*495
			Downstream Beaver Road	*496
Maps available at the Lower Paxton Township Building.				
Pennsylvania	Miller, Township, Perry County, Docket No. FEMA-5828.	Juniata River	Downstream Corporate Limits	*370
			Confluence of White Run	*375
			Approximately 2,700 feet downstream of Upper Bailey Road extended	*380
			Approximately 8,560 feet upstream of Upper Bailey Road extended	*385
			Upstream Corporate Limits	*390
Maps available at the Election House, Route 849, Duncannon, Pennsylvania.				
Pennsylvania	Newell, Borough, Fayette County, Docket No. FEMA-5853.	Monongahela River	Downstream Corporate Limits	*766
			Upstream Corporate Limits	*768
Maps available at the Fire Hall, 4th Street, Newell, Pennsylvania.				
Pennsylvania	Patterson Heights, Borough, Beaver County, Docket No. FEMA-5845.	Beaver River	Downstream Corporate limits	*179
			Upstream Corporate limits	*720
Maps available at the Patterson Heights Borough Building, 8th Avenue, Beaver Falls, Pennsylvania.				
Pennsylvania	Ross, Township, Luzerne County, Docket No. FEMA-5841.	Huntington Creek	Upstream State Route 118	*1,120
			Upstream Old State Road/Township Route 575	*1,142
			3,200 feet upstream of Old State Road	*1,180
			Downstream Legislative Route 117	*1,233
Maps available at the Ross Township Building.				
Pennsylvania	Salisbury, Township, Lancaster County, Docket No. FEMA-5845.	Houston Run	U.S. Route 30	*438
			Private road approximately 950 feet upstream of U.S. Route 30 (upstream side).	*448
			Private road approximately 3,320 feet upstream of U.S. Route 30 (upstream side).	*465
			Strasburg Road (downstream side)	*504
Maps available at the Salisbury Municipal Office.				
Pennsylvania	Washington, Township, Lehigh County, Docket No. FEMA-5841.	Lehigh River	Downstream Corporate Limits	*351
			Slatington southern Corporate Limits	*358
			Slatington northern Corporate Limits	*372
			State Route 873 (Downstream side)	*385
			Upstream Corporate Limits	*387
Maps available at the Washington Township Building.				
Pennsylvania	West Cocalico, Township, Lancaster County, Docket No. FEMA-5824.	Cocalico Creek	Downstream Corporate Limits	*392
			Approximately 200' upstream of Long Lane Road	*394
		Little Cocalico Creek	Downstream Corporate Limits	*422
			Upstream side of Creamery Road	*436
			Upstream side of Swamp Church Road	*450
			Downstream side of Resh Road	*470
			Approximately 1,000' upstream of Resh Road	*475
Maps available at the West Cocalico Township Building.				
Pennsylvania	West Mayfield, Borough, Beaver County, Docket No. FEMA-5845.	Walnut Bottom Run	Downstream corporate limits	*851
			Upstream West Third Avenue	*860
			Confluence of Tributary to Walnut Bottom Run	*871
			Upstream side of upstream crossing of Patterson Avenue	*901
			330 feet upstream of Patterson Avenue	*914
		Tributary to Walnut Bottom Run	Confluence with Walnut Bottom Run	*871
			Patterson Avenue	*880
			Corporate Limits	*903
		Wallace Run	Upstream of Conrail and Norwood Drive Culvert	*825
			Approximately 400 feet upstream of Norwood Drive	*836
			Upstream Wallace Run Road	*857
			Approximately 1000 feet upstream of Wallace Run Road	*882
			Corporate limits	*899
Maps available at the West Mayfield Borough Building, Harberson Road.				

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Pennsylvania	Wiconisco, Township, Dauphin County, Docket No. FEMA-5841.	Wiconisco Creek	Downstream Corporate Limits	*[illegible]
			Upstream Main Street	*649
			Upstream of Division Street (Extended)	*661
			Upstream of Market Street	*679
			Confluence with Bear Creek	*679
			Upstream Arch Street	*682
			Upstream Machamer Avenue	*687
			Upstream Corporate Limits	*690
		Bear Creek	Confluence with Wiconisco Creek	*679
			Upstream Pottsville Street	*740
Maps available at the Wiconisco Township Building.				
Pennsylvania	Willistown, Township, Chester County, Docket No. FEMA-5841.	Crum Creek	Downstream Corporate Limits	*[illegible]
			Downstream of Bartram Covered Bridge	*242
			Upstream of Goshen Road	*244
			Upstream of Private Road	*258
			Upstream of Old Covered Bridge Road (Extended)	*262
			Upstream of Private Road (Extended)	*286
			Downstream of confluence of West Tributary to Crum Creek	*294
			Confluence of West Tributary to Crum Creek	*307
			Approximately 1,840' upstream of Confluence with West Tributary	*318
			560' upstream of Whitehorse Road	*338
			Upstream Foxchase Road (Extended)	*356
			Downstream of Whitehorse Road	*367
			Upstream of Whitehorse Road	*371
			Upstream of Davis Road	*375
			Downstream of Jaffrey Road	*378
			Downstream of Private Drive	*389
			Evergreen Lane (Extended)	*407
			Downstream of Footbridge	*416
			Upstream of Footbridge	*417
			Downstream of Warren Avenue	*433
			Downstream of Vernon Lane	*441
			Upstream of Eisenhower Drive	*443
			Upstream of Marlin Drive	*446
			Upstream of Long Lane	*453
			Downstream of Paoli Pike	*461
		Tributary A	Confluence with Crum Creek	*437
			Upstream Corporate Limits	*449
		West Tributary to Crum Creek	Confluence with Crum Creek	*307
			Approximately 1,200' upstream of confluence	*330
			Approximately 1,800' upstream of confluence	*332
			Upstream of Hillview Road	*354
			Upstream of 1st Footbridge	*360
			Downstream of Warren Avenue	*383
			Downstream of Private Drive	*391
			Upstream of Spring Road	*412
			Upstream of Laurel Circle (1st crossing)	*419
			Upstream of Laurel Circle (2nd crossing)	*424
			Downstream of Andrews Avenue	*436
			Upstream of Harvey Lane	*442
			Downstream of Sugartown Road	*468
			Downstream of Paoli Pike	*480
		Northeast Branch Ridley Creek	Upstream of Line Road	*450
			Upstream of Dam	*454
			Upstream of Forest Lane	*472
			Upstream of Monument Road	*488
			Approximately 2,000' upstream of Monument Avenue	*523
		East Tributary to Crum Creek	Confluence with Crum Creek	*391
			Upstream of Dam	*405
			Upstream of Grubb Road	*409
			Downstream of Private Drive	*426
			Downstream of Devon Road	*454
			Upstream Devon Road	*458
			Upstream of Corporate Limits	*462
		Tributary B	Confluence with East Tributary to Crum Creek	*405
			Downstream of Grubb Road	*410
			Downstream of Colonial Lane	*424
			Upstream of Colonial Road	*438
			Downstream of Devon Road	*451
			Upstream of Devon Road	*461
			Spruce Lane (Extended)	*478
			Lynnbrook Road (Extended)	*492
			Fairview Road (Extended)F	*498
		Ridley Creek	Downstream Corporate Limits	*[illegible]
			Upstream of Delchester Road	*[illegible]
			Upstream Corporate Limits	*[illegible]
Maps available at the Willistown Township Municipal Building.				
Tennessee	Unincorporated Areas of Smith County, FEMA-5841.	Cumberland River	At confluence of Ward Creek	*[illegible]
			At State Highway 25	*485
			At confluence of Turkey Creek	*488
		Caney Fork River	At U.S. Highway 70N	*486
			At confluence of Bluff Creek	*486

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Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Peyton Creek	Just downstream of State Highway 25	*480
			Just downstream of State Highway 80 near Nixon Hollow	*496
			Just downstream of State Highway 80 at confluence of Toetown Branch.	*520
			Just downstream of State Highway 80 near confluence of Sloan Branch.	*536
		Defeated Creek	Just upstream of the private drive at the confluence of Horn's Hollow Branch.	*510
			Just upstream of State Highway 85 near confluence of Dillehay Branch.	*519
			Just downstream of County Road Secondary Route 6166 (Defeated Creek Road) near confluence of Kemp Hollow Branch.	*532
			Just upstream of County Road Secondary Route 6166 (Defeated Creak Road) at confluence of Cromwell Branch.	*539
		Mulherrin Creek	Just downstream of Interstate Highway 40	*564
			Just downstream of State Highway 141	*569

Maps available for inspection at Educational Building, at the Smith County Courthouse, and at the Smith County Chamber of Commerce, Public Square, Carthage, Tennessee 37030.

Texas	City of Bishop, Nueces County, FEMA-3873.	Carretta Creek	Approximately 300 feet upstream of Missouri Pacific Railroad	*55
		North Carretta Creek	Approximately 300 feet upstream of U.S. 77 Bypass	*53
			Just upstream of Missouri Pacific Railroad	*58

Maps available for inspection at City Hall, Bishop, Texas 78343.

Texas	City of Brownwood, Brown County, FEMA-5873.	Pecan Bayou	Just downstream of U.S. Highway 84 and 87	*1,332
			Just upstream of a concrete dam	*1,336
		Adam Branch	Just downstream of Austin Avenue	*1,335
			Just downstream of Coleman Avenue	*1,350
		Tom Williams Creek	Just downstream of U.S. Highway 84 and 87	*1,337
		Willis Creek	Just downstream of Austin Avenue	*1,327
			Just downstream of Southside Street	*1,335
		South Willis Creek	Just downstream of Southside Street	*1,336
			Just downstream of Stephen Austin Drive	*1,353
		Tributary of South Willis Creek	Just downstream of Morris Sheppard Drive	*1,375

Maps available at City Hall, 110 South Greenleaf, Brownwood, Texas 76801.

Texas	City of Crowley, Tarrant County, FEMA-5841.	Deer Creek	Just upstream of Farm Market Road 1187	*710
			Approximately 50 feet upstream of Farm Market Road 731	*723
			Just downstream of Hampton Road	*752
			Just upstream of Hampton Road	*757
		Northwest Branch of Deer Creek	Approximately 1,500 feet upstream of the confluence of Deer Creek and Northwest Branch of Deer Creek.	*691
			Approximately 110 feet downstream of Farm Market Road 731	*739
		North Branch of Deer Creek	Just downstream of Farm Market Road 731	*714
			Just upstream of Farm Market Road 731	*721
			Just downstream of Atchison Topeka Santa Fe Railway	*735
			Just upstream of Atchison Topeka Santa Fe Railway	*735
		South Fork of North Branch of Deer Creek	Approximately 150 feet downstream of Western corporate limits	*767
		South Fork of Deer Creek	Just downstream of Atchison Topeka Santa Fe Railway	*758
			Just downstream of Atchison Topeka Santa Fe Railway	*762

Maps available for inspection at City Hall, 120 North Hampton, Crowley, Texas 76036.

Texas	City of Duncanville, Dallas County, FEMA-5853.	Tenmile.. Creek	Just upstream of Main Street (Duncanville Road)	*623
			Just upstream of Beaver Creek Road	*668
		Mauk Branch	Just upstream of U.S. Highway 67 (Service Road)	*637
			Just upstream of Wheatland Road	*659
		Steward Branch	Approximately 2,050 feet upstream of confluence with Tenmile Creek	*606
		Home Branch	Just upstream of Main Street (Duncanville Road)	*630
			Just upstream of Wheatland Road	*676
		Bentle Branch	Just upstream of Dam	*644
			Just upstream of Joe Wilson Road	*657
		Stream 3A29	Just upstream of Greenstone Lane	*674
			Just upstream of Greenhill Lane	*688

Maps available at City Hall, 100 East Center, Duncanville, Texas 75116.

Texas	City of Gregory, San Patricio County, FEMA-5873.	Drainage Ditch	Approximately 600 feet downstream of southern most crossing of U.S. Highway 181.	*29
			Approximately 850 feet downstream of Sunset Road	*31
		Shallow Flooding Area (Ponding)	Intersection of North and McKaney Avenues	*32

Maps available at City Hall, 306 Ayers, Gregory, Texas 78358.

Virginia	Town of Wise, Wise County, Docket No. FEMA-5723.	Glade Creek	Confluence with Yellow Creek	*2,381
			Elam Street (upstream)	*2,427
			U.S. Route 23 (upstream)	*2,432
			J. J. Kelley School Drive (upstream)	*2,440
			Upstream Corporate Limits	*2,449
		Yellow Creek	Downstream Corporate Limits	*2,142
			1st Downstream Private Drive (extended)	*2,224
			Confluence with Glade Creek	*2,361
			State Route 646 (upstream)	*2,420
			State Route 640 (upstream)	*2,429
			Private Road at upstream corporate limits	*2,443

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tributary to Yellow Creek	Confluence with Yellow Creek	*2,428
			First downstream crossing of Private Road off of State Route 640	*2,430
			Upstream Corporate Limits	*2,438

Maps available at the Municipal Building, 122 Main Street, Wise, Virginia.

Washington	Battle Ground (Town), Clark County, FEMA-5895.	Wooden Creek	25 feet upstream of intersection of Wooden Creek and East A Street	*287
			25 feet upstream of intersection of Wooden Creek and 142nd Avenue	*293

Maps available for inspection at Town Hall, 400 East Main, Battle Ground, Washington.

Wisconsin	(C), West Allis, Milwaukee County, Docket No. FEMA-5873.	Root River	About 700 feet downstream of West Morgan Avenue	*729
			Just upstream of West Morgan Avenue	*731
			Approximately 200 feet downstream of West Lincoln Avenue	*756
		Hale Creek	Just downstream of Parkway Road	*735
			Approximately 2,100 feet upstream of West Cleveland Avenue	*737
			Approximately 3,300 feet upstream of West Cleveland Avenue	*738
		West Branch Root River	500 feet upstream of West Oklahoma Avenue	*736
			Approximately 100 feet downstream of South 124th Street	*750

Maps available for inspection at West Allis Engineering & Planning Department, City Hall, 7525 West Greenfield, West Allis, Wisconsin 53214.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 4, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–37064 Filed 11–28–80; 8:45 am]

BILLING CODE 6718–03

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FIA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the community.

ADDRESS: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program (202) 426–1460 or Toll Free Line (800) 424–8872 (In Alaska or Hawaii, call Toll Free (800 424–9080), Federal Emergency Management Agency, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevations for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448), 42 U.S.C. 4001–4128, and 44 CFR Part 67). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided, and the Administrator has resolved the appeals presented by the community.

The Administrator has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

The final base (100-year) flood elevations for selected locations are:

Final Base (100-year) Flood Elevations

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	Cook, County of (Docket No. FI-5238).	West Fork of North Branch Chicago River.	Confluence of Tributary B	*631
			Willow Road (Upstream)	*633
			Techny Road (Upstream)	*635
			Chicago & North Western Railway (Downstream)	*635
			Chicago & North Western Railway (Upstream)	*639
		Tributary A of West Fork of North Branch Chicago River.	Confluence with West Fork of North Branch Chicago River	*634
			Chicago & North Western Railway (Downstream)	*635
			Chicago & North Western Railway (Upstream)	*639
		Middle Fork of North Branch Chicago River.	Sunset Drive (Upstream)	*634
			Meadow Drive (Upstream)	*676
		Salt Creek	Interstate Route 94 (Downstream)	*648
			Briarwood Road (Upstream)	*712
			Meacham Road (Upstream)	*716
			Plum Grove Road (Upstream)	*726
			Illinois Avenue (Upstream)	*778
			Michigan Avenue (Upstream)	*729
			First crossing of Palatine Road (Upstream)	*745
			Second crossing of Palatine Road (Upstream)	*755

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Final Base (100-year) Flood Elevations—Continued

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Confluence of Tributary A	*762
			Third crossing of Palatine Road (Upstream)	*764
			Roselle Road (Downstream)	*767
			Ela Road (Upstream)	*803
			Poteet Road (Downstream)	*812
			Poteet Road (Upstream)	*814
			Haman Road (Downstream)	*825
			Upstream side of Haman Road (Upstream)	*827
		Tributary B of Salt Creek	Ela Road (Downstream)	*813
			Upstream side of Ela Road (Upstream)	*820
			Palatine Road (Upstream)	*820
		Tributary C of Salt Creek	Quentin Road (Downstream)	*731
			Quentin Road (Upstream)	*736
		Arlington Heights Branch of Salt Creek.	Staples Road (Downstream)	*746
			Staples Road (Upstream)	*749
			Dundee Road Downstream	*763
		West Branch of Salt Creek	State Route 53 (Upstream)	*697
			Higgins Road	*725
			Confluence of Tributary A	*726
			Northwest Tollway (Upstream)	*738
			Roselle Road (Downstream)	*742
		Tributary D of West Branch Salt Creek.	Approximately 6,000 feet upstream of confluence with West Branch of Salt Creek.	*727
			Approximately 7,000 feet upstream of confluence with West Branch of Salt Creek.	*731
		Wheeling Drainage Ditch	Milwaukee Avenue (Upstream)	*639
			Hintz Road (Upstream)	*641
		Tributary A of Buffalo Creek	Nichol's Road (Downstream)	*711
			Nichol's Road (Upstream)	*712
			Hidden Creek Circle (Upstream)	*716
			Baldwin Drive (Upstream)	*718
			Capri Drive (Upstream)	*721
			Iris Drive (Upstream)	*722
			Laurel Drive (Upstream)	*723
			Lynda Drive (Upstream)	*732
			Hick's Road (Upstream)	*740
			Dundee Road (Upstream)	*743
			Upstream side of Oak Street (Upstream)	*745
			Peppertree Drive (Upstream)	*747
			Staples Road (Downstream)	*754
			Staples Road (Upstream)	*756
		McDonald Creek	DesPlaines River Road (Upstream)	*635
			Foundry Road (Downstream)	*636
		Tributary B of McDonald Creek	Approximately 2,500 feet upstream of confluence with McDonald Creek.	*651
			Downstream side of Wheeling Road (Downstream)	*654
		Prairie Creek	Potter Road (Upstream)	*635
			Landing Drive (Upstream)	*636
			Rancho Lane (Upstream)	*639
			Briar Court (Upstream)	*639
			Robin Drive (Upstream)	*640
			Kennedy Drive (Downstream)	*641
		Higgins Creek	Chicago & North Western Railway (Upstream)	*651
			Northwest Tollway (Upstream)	*654
			Elmhurst Road (Downstream)	*657
			Hamilton Road	*660
		Tributary A of Higgins Creek	Confluence with Higgins Creek	*657
			Higgins Road (Upstream)	*668
		Silver Creek	Armitage Avenue (Upstream)	*635
			Palmer Avenue (Upstream)	*638
			Fullerton Avenue (Downstream)	*638
			Lotus Street	*638
			Park Street	*639
			Manheim Road (Upstream)	*641
			Granville Avenue (Downstream)	*642
		Flag Creek	91st Street (Upstream)	*602
			Confluence of Tributary C	*604
			87th Street (Upstream)	*606
			79th Street (Upstream)	*625
			Confluence of Tributary B	*626
			Confluence of Tributary A	*629
			Interstate Route 294 (Upstream)	*636
			Plainfield Road (Upstream)	*639
		Tributary A of Flag Creek	Confluence with Flag Creek	*629
			Wolf Road (Upstream)	*633
			75th Street (Upstream)	*637
			Forest Hill Road (Upstream)	*649
		Tributary C of Flag Creek	Confluence with Flag Creek	*604
			87th Street (Upstream)	*621
			4,500 feet upstream of confluence	*641
			83rd Street (Upstream)	*670
		Tributary A of DesPlaines River	Brainard Avenue (Upstream)	*653
			Golf Course Weir	*654
			Edgewood Avenue (Upstream)	*670
		Popular Creek	County Boundary	*710
			Irving Park Road (Downstream)	*745
			Rohrson Road (Upstream)	*755
			Elgin, Joliet & Eastern Railway (Upstream)	*759

Final Base (100-year) Flood Elevations—Continued

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Confluence of South Branch Poplar Creek	*780
			Confluence of Railroad Tributary	*786
			First crossing of Golf Road (Upstream)	*767
			Second crossing of Golf Road (Downstream)	*773
			Northwest Tollway (Upstream)	*808
			Approximately 1,600 feet upstream of Northwest Tollway to the upstream side of Unnamed Road.	*815
			Approximately 2,300 feet upstream of Unnamed Road	*821
			First crossing of Barrington Road (Upstream)	*842
			Algonquin Road (Upstream)	*843
			Second crossing of Barrington Road (Upstream)	*856
			Stover Road (Downstream)	*861
		Tributary A of Poplar Creek	Old Higgins Road	*798
			Higgins Road (Downstream)	*806
			Higgins Road (Upstream)	*807
			Northwest Tollway (Downstream)	*813
		South Branch Popular Creek	Confluence with Poplar Creek	*760
			Schaumburg Road (Upstream)	*772
			Sutton Road (Upstream)	*779
		Schaumburg Branch Popular Creek.	Springinsguth Road (Upstream)	*788
			Bode Road (Downstream)	*793
		Thorn Creek	Confluence with North Creek	*607
			Chicago and Eastern Illinois Railroad (Upstream)	*613
			Vincennes Road (Upstream)	*614
			First crossing of Chessie System (Downstream)	*615
			Third crossing of Chessie System (Upstream)	*622
			Joe Orr Road (Downstream)	*630
			Sauk Trail (Upstream)	*683
			Western Avenue (Upstream)	*686
		Tributary A of Thorn Creek	State Street (Upstream)	*634
			U.S. Route 30 (Downstream)	*641
		Deer Creek	Confluence with Thorn Creek	*618
			State Street (Upstream)	*625
			First crossing of Cottage Grove Avenue (Upstream)	*621
			Joe Orr Road (Upstream)	*627
			U.S. Route 30 (Upstream)	*636
			Elgin, Joliet and Eastern Railway (Upstream)	*642
			Second crossing of Cottage Grove Avenue (Upstream)	*651
			Sauk Trail (Upstream)	*655
			Steger Road (Downstream)	*668
		Third Creek	Confluence with Deer Creek	*621
			Joe Orr Road (Downstream)	*629
			Approximately 13,000 feet above confluence with Deer Creek at Railroad Siding (Upstream).	*692
		Tributary B of Deer Creek	Confluence with Deer Creek	*636
			Elgin, Joliet and Eastern Railroad and Conrail (Upstream)	*640
			Sauk Trail (Upstream)	*650
			Cottage Grove Avenue (Downstream)	*665
			Cottage Grove Avenue (Upstream)	*669
		Butterfield Creek	Riegel Road (Upstream)	*630
			Dixie Highway (Downstream)	*637
			Vollmer Road (Upstream)	*655
			205th Street (Upstream)	*689
			Cicero Avenue (Upstream)	*693
		North Creek	Confluence with Thorn Creek	*607
			Cottage Grove Avenue (Upstream)	*607
			Calumet Expressway (Upstream)	*607
			Stony Island Avenue	*607
			Torrence Avenue (Upstream)	*609
			Oakwood Avenue (Upstream)	*612
		Lansing Ditch	Trailer Court Drive (Upstream)	*626
			Glenwood-Dyer Avenue (Downstream)	*626
			Elgin, Joliet and Eastern Railroad (Upstream)	*628
			Confluence of Tributary A of Lansing Ditch	*628
		Tributary A of Lansing Ditch	Confluence with Lansing Ditch	*628
			Upstream side of Sauk Trail Road (Upstream)	*630
		Plum Creek	State Boundary	*637
			Steger Road (Downstream)	*645
		Midlothian Creek	Waverly Avenue (Upstream)	*629
		Tributary A of Illinois and Michigan Canal.	Approximately 2,250 feet upstream of confluence with Illinois and Michigan Canal.	*604
			Approximately 3,250 feet upstream of confluence with Illinois and Michigan Canal.	*624
			Approximately 4,000 feet upstream of confluence with Illinois and Michigan Canal.	*641
			Approximately 5,000 feet upstream of confluence with Illinois and Michigan Canal.	*668
			Approximately 5,750 feet upstream of confluence with Illinois and Michigan Canal.	*681
			Approximately 6,500 feet upstream of confluence with Illinois and Michigan Canal.	*707
		Tributary B of Illinois and Michigan Canal.	Confluence with Illinois and Michigan Canal	*554
			Illinois Central Gulf Railroad (Upstream)	*608
			Chicago and Joliet Road (Upstream)	*611
			First crossing of Walker Road (Upstream)	*628
			Confluence of Tributary BA of Illinois and Michigan Canal	*639
			Dam (Downstream)	*659
			Dam (Upstream)	*665
			Second crossing of Walker Road (Downstream)	*692

Final Base (100-year) Flood Elevations—Continued

State	City/town/country	Source of flooding	Location	#Depth in feet above

Final Base (100-year) Flood Elevations—Continued

State	City/town/country	Source of flooding	Location	#Depth in

Final Base (100-year) Flood Elevations—Continued

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Tributary BA of Illinois and Michigan Canal.	Confluence with Tributary B of Illinois and Michigan Canal	*639
			Cog Hill Country Club Road (Downstream)	*675
			Cog Hill Country Club Road (Upstream)	*686
		Tributary A of Calumet Sag Channel.	Illinois Highway 83 (Upstream)	*528
			Confluence of Tributary AA of Calumet Sag Channel	*557
			Approximately 2,500 feet upstream of Tributary AA of Calumet Sag Channel.	*576
			Approximately 4,000 feet upstream of Tributary AA of Calumet Sag Channel.	*598
		Tributary AA of Calumet Sag Channel.	Confluence with Tributary A of Calumet Sag Channel	*667
			Approximately 750 feet upstream of confluence	*680
		Tributary A of Mill Creek	State Route 45 (Upstream)	*674
			104th Avenue (Downstream side)	*706
			104th Avenue (Upstream side)	*710
		Tributary B of Calumet Sag Channel.	Calumet Sag Road (Downstream)	*695
		Tinley Creek	82nd Avenue (Downstream)	*660
		Tributary C of Calumet Sag Channel.	Linder Avenue (Upstream)	*641
			Central Avenue (Downstream)	*647
		Long Run	State Street (Upstream)	*648
			Confluence of Tributary C of Long Run	*649
			Will Cook Road (Upstream)	*686
			Confluence of Tributary A of Long Run	*692
			143rd Street (Upstream)	*694
		Tributary A of Long Run	Confluence with Long Run	*692
			Wolf Road (Upstream)	*699
			143rd Street (Upstream)	*699
		Tributary B of Long Run	Confluence of Long Run	*648
			Confluence of Tributary BA of Long Run	*656
			Dam (Downstream)	*661
			Maple Street (Upstream)	*668
			131st Street (Upstream)	*674
			Derby Road (Upstream)	*686
		Tributary BA of Long Run	Confluence with Tributary B of Long Run	*658
			131st Street (Upstream)	*676
		Tributary C of Long Run	Confluence with Long Run	*649
			Approximately 1,250 feet upstream of confluence	*656
			Approximately 2,250 feet upstream of confluence	*673
		Marley Creek	Confluence of Tributary A of Marley Creek	*673
			179th Street (Upstream)	*674
			Confluence of Tributary B of Marley Creek	*674
			Wolf Road (Upstream)	*675
			Norfolk and Western Railway (Upstream)	*679
			167th Street (Downstream)	*681
			167th Street (Upstream)	*685
			104th Avenue (Upstream)	*692
		Tributary A of Marley Creek	Confluence with Marley Creek	*673
			Wolf Road (Downstream)	*712
			Wolf Road (Upstream Side)	*715
		Tributary B of Marley Creek	Confluence with Marley Creek	*674
			Norfolk & Western Railway (Downstream)	*674
			Norfolk and Western Railway	*678
			U.S. Route 6 (Downstream)	*678
			U.S. Highway 6 (Upstream Side)	*680
			Approximately 2,000 feet upstream of U.S. Route 6	*700
		Tributary C of Marley Creek	Confluence with Marley Creek	*674
			Wolf Road (Upstream)	*676
			108th Avenue (Downstream)	*680
			108th Avenue (Upstream)	*690
		Tributary D of Marley Creek	Norfolk and Western Railway (Upstream)	*691
			104th Avenue (Downstream)	*693
			104th Avenue (Upstream)	*700
		Spring Creek	118th Avenue (Downstream)	*687
			118th Avenue (Upstream)	*692
			157th Street (Upstream)	*696
			Wolf Road (Upstream Side)	*699
		Hickory Creek	Harlem Avenue (County Boundary Upstream)	*705
			Ridgeland Avenue (Downstream)	*718
			Ridgeland Avenue (Upstream)	*721
			Elgin, Joliet and Eastern Railroad (Downstream)	*722
			Elgin, Joliet and Eastern Railroad (Upstream)	*731
			Sauk Trail (Upstream)	*731
		Tributary A of Hickory Creek	Harlem Avenue (Upstream)	*729
			Approximately 4,600 feet upstream of Harlem Avenue	*738
		Flossmoor Ditch	Harlem Avenue (Upstream)	*695
			Confluence of Tributary A of Flossmoor Ditch	*695
		Tributary A of Flossmoor Ditch	Confluence with Flossmoor Ditch	*695
			Vollmer Road (Upstream)	*713
		Tributary B of Flag Creek	Confluence with Flag Creek	*626
			Wolf Road (Upstream)	*629
			First crossing of 77th Street (Upstream)	*629
			Second crossing of 77th Street (Upstream)	*648
			Forest Hill Road (Upstream)	*646
			South Entrance Correctional Farm (Upstream)	*662

Maps available at the Cook County Office Building, Chicago, Illinois.

Final Base (100-year) Flood Elevations—Continued

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Illinois	Downers Grove, Village, DuPage County (Docket No. FI-5508).	East Branch DuPage River	Downstream Corporate Limits	*673
			Confluence of Lacey Creek	*675
			Upstream Corporate Limits	*676
		Prentiss Creek	Downstream Corporate Limits	*709
			Puffer Road (Upstream)	*712
			Woodward Avenue (Upstream)	*722
			Prentiss Drive (Upstream)	*723
			Springside Avenue (Upstream)	*730
			Dunham Road (Upstream)	*744
		St. Joseph Creek	Downstream Corporate Limits	*660
			Walnut Avenue (Upstream)	*681
			Curtiss Street (Upstream)	*686
			Belmont Road (Upstream)	*691
			Lee Street (Upstream)	*697
			Private Drive (Upstream)	*697
			Jacqueline Avenue (Upstream)	*698
			Brookbank Road (Upstream)	*700
			Mackie Avenue (Upstream)	*706
			Confluence of North Branch St. Joseph Creek	*709
			Blodgett Avenue (Upstream)	*710
			Intersection of Grand Avenue and Hill Street	*715
			55th Street (Upstream)	*718
			Fairview Avenue (Upstream)	*720
			Deerpath Road (Upstream)	*726
		North Branch St. Joseph Creek	Burlington Northern Railroad (Downstream)	*706
			Burlington Northern Railroad (Upstream)	*713
			Outlet of Culvert 375; downstream of Douglas Road (Downstream)	*716
			Rogers Street (Upstream)	*722
			Austin Street (Upstream)	*722
			Fairview Avenue (Upstream)	*723
			Hummer Park Drive (Upstream)	*733
			Florence Avenue (Upstream)	*735
			Upstream Corporate Limits	*727
		South Branch St. Joseph Creek	Confluence with St. Joseph Creek	*716
			Fairmont Avenue (Upstream)	*719
			Lyman Avenue (Upstream)	*724
			Washington Street (Upstream)	*727
			Webster Avenue (Upstream)	*731
			Main Street (Upstream)	*739
			Carpenter Street (Upstream)	*746
			59th Street (Upstream)	*746
			Middaugh Street (Upstream)	*746
		Lacey Creek	Confluence with East Branch DuPage River	*676
			Confluence of One Mile Creek	*676
			Private Drive (Upstream)	*680
			Finley Road (Upstream)	*689
			East-West Tollway (Downstream)	*690
			East-West Tollway (Upstream)	*692
			Downers Drive (Upstream)	*692
			Venard Road (Upstream)	*695
			Saratoga Avenue (Upstream)	*697
			Highland Avenue (Upstream)	*697
			Williams College Private Road (Upstream)	*697
			Fairview Avenue (Upstream Corporate Limits)	*702

Maps available at Lobby of the Village Hall, Downers Grove, Illinois.

Montana	Helena (city), Lewis and Clark County (Docket No. FI-5458).	Last Chance Gulch	Burlington Northern Railroad—60 feet upstream from centerline	*3,941
			1st Driveway—25 feet downstream from centerline	*4,170
			1st Driveway—35 feet upstream from centerline	*4,175
			2nd Driveway—20 feet upstream from centerline	*4,181
			3rd Driveway— 25 feet upstream from centerline	*4,185
		Grizzly Gulch	West Main Street—20 feet downstream from centerline	*4,215
			West Main Street—15 feet upstream from centerline	*4,225
			Corporate Limits at centerline	*4,321
		Orofino Gulch	Confluence with Last Chance Gulch—15 feet upstream from centerline.	*4,309
			Corporate Limits at centerline	*4,304
		Last Chance Gulch	Intersection of Neill Avenue and Front Street	*1
			Intersection of 9th Avenue and Last Chance Gulch	*1

Maps available for inspection at City/County Bldg., 316 North Park, Helena, Montana.

Ohio	(Uninc.), Warren County (Docket No. FEMA-5824).	Great Miami River	At western county boundary	*863
			At confluence of Clear Creek	*871
			At northern county boundary	*880
		Twin Creek	At mouth	*864
			About 300 feet upstream of Franklin Trenton Road	*870
			About 200 feet downstream Chessie system	*874
			About 370 feet upstream northern county boundary	*880
		Clear Creek	About 2,500 feet downstream of Union Road at City of Franklin corporate limits	*681
			Just downstream of State Route 123	*690
			At confluence of Sharts Branch	*705
			At confluence of Gander Run	*725
			Just upstream of Weidner Road	*742
			Just downstream of Red Lion-Five Points Road	*756

Final Base (100-year) Flood Elevations—Continued

State	City/town/country	Source of flooding	Location	#Depth in feet above

Final Base (100-year) Flood Elevations—Continued

State	City/town/country	Source of flooding	Location	#Depth in

Final Base (100-year) Flood Elevations—Continued

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Red Lion-Five Points Road	*759
			Just upstream of Bunnel Hill Road	*778
			Just downstream of Lower Springboro Road	*795
		Tommys Run	At mouth	*685
			About 1,400 feet upstream of mouth	*695
			Just upstream City of Franklin upstream corporate limit	*709
			Just downstream Shaker Road	*740
			Just downstream of Decker Road	*750
		Sharts Branch	Just upstream City of Franklin corporate limit	*705
			About 900 feet upstream City of Franklin corporate limit	*711
		Gander Run	At mouth	*725
			About 800 feet upstream of mouth	*726
			Just downstream of Beal Road	*731
		Twin Creek No. 2	At downstream Village of Springboro corporate limit (about 800 feet upstream of mouth).	*743
			Just upstream of Lower Springboro Road	*748
			Just downstream of Factory Road	*762
			At northern county boundary	*868
		Richards Run	At mouth	*748
			Just downstream of State Route 73	*777
			At confluence of Coon Creek	*791
			Just downstream of Five Points-Lytle Road	*883
		Coon Creek	At mouth	*792
			About 2,100 feet upstream of mouth	*809
		Rapid Run	At mouth	*792
			Just upstream driveway (about 1,300 feet downstream of Five Points-Lytle Road.	*892
			Just downstream of Five Points-Lytle Road	*907
		Dicks Creek	About 0.2 mile downstream Hendrickson Road (at Village of Monroe corporate limits).	*670
			Just upstream of Union Road	*706
			Just upstream Shaker Road	*778
			Just downstream of Knollbrook Drive	*845
			Just upstream of Knollbrook Drive	*852
			Just downstream Robinson Vail Road	*853
		North Branch Dicks Creek	At western county boundary	*680
			Just downstream of Locust Lane	*700
			About 1,900 feet upstream of Locust Lane	*708
			Just upstream Bevis Lane	*739
			Just downstream of Interstate 75	*751
		Turtle Creek	Just downstream of Mason Road	*628
			Just upstream of Mason Road	*635
			About 200 feet upstream confluence of Little Muddy Creek	*656
			Just upstream of Conrail (near U.S. Route 42)	*669
			At confluence of Mulfords Run	*675
			About 1,700 feet upstream of confluence of Reeders Run	*680
			Just upstream of Jameson Avenue	*721
			Just downstream of State Route 48	*722
			Just upstream of State Route 48	*728
			About 0.92 mile upstream Wilmington Road	*745
		Dry Run	At South Lebanon corporate limit (near confluence of Dry Run Branch).	*635
			Just upstream of Snook Road	*663
			Just downstream of Dry Run Road	*672
			About 100 feet upstream of Dry Run Road	*678
			Just downstream of confluence of Bee Run	*679
		Dry Run Branch	Just upstream Lebanon Road	*636
			Just downstream of State Route 48	*655
			Just upstream of State Route 48	*661
			Just downstream of Interstate 71	*679
		Little Muddy Creek	At mouth	*656
			Just upstream of U.S. Route 42	*658
			Just downstream of State Route 741	*662
			Just upstream of upstream crossing of Kyles Station-Hamilton Road	*666
			At City of Mason corporate limits	*673
		Little Muddy Creek Branch No. 1	About 1.25 miles upstream of mouth	*689
			Just downstream Mason-Bethany Road	731
		Mulfords Run	At mouth	*674
			Just upstream of State Route 63	*689
			About 0.7 mile upstream of State Route 63	*760
		Reeders Run	Just upstream of State Route 63	*686
			Just upstream Markey Road	*710
			Just upstream of Greentree Road	*763
			Just upstream of dam	*792
			About 0.8 mile upstream of dam	*847
		North Fork	At northern City of Lebanon corporate limits	*800
			Just upstream Hoffman Avenue	*873
			Just downstream of State Route 122	*920
		Todd Fork	At confluence of First Creek	*693
			About 0.5 mile downstream Black Hawk Road (at Village of Morrow Corporate limits).	*661
			Just upstream of State Route 123	*704
			Just upstream of Conrail (near Rochester-Osceola road)	*722
			Just upstream of Middleboro Road	*753
			About 200 feet upstream Gum Grove Road	*782
			Just downstream of State Route 350	*794
		Pine Run	At downstream City of Mason corporate limit	*826
			Just downstream Stitt Road	*841
			Just upstream of Stitt Road	*847

Final Base (100-year) Flood Elevations—Continued

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just downstream of Mason Montgomery Road	*857
		Muddy Creek Branch No. 2	About 2,500 feet upstream of Conrail	*818
			Just downstream of Butler-Warren Road	*874
		Lake Chetac Creek	Just upstream of Fields-Ertel Road	*832
			Just upstream of dam (about 0.3 mile upstream Fields-Ertel Road)	*855
			Just downstream of Lake Chetac dam	*862
			Just upstream of Lake Chectac dam	*874
			Just downstream of Butler-Warren Road	*890
		Polk Run	Just upstream Fields-Ertel Road	*806
			About 1,850 feet upstream of Fields-Ertel Road	*812
			Just upstream of Irwin Simpson road	*860
			Just upstream Snider Road	*896
			About 1,600 feet upstream of Snider Road	*913
		Simpson Creek	Just upstream of Columbia Road	*810
			Just downstream of Interstate 71	*826
		Bear Run	About 750 feet downstream State Route 3	*606
			Just upstream State Route 3	*621
			Just upstream Overbrook Avenue	*677
			Just upstream Hopkins Road	*726
			Just downstream of State Route 48	*760
		Muddy Creek Branch No. 1	About 1,200 feet downstream Mason-Montgomery Road	*760
			Just upstream Mason-Montgomery Road	*780
			Just upstream Conrail	*789
			About 350 feet upstream Conrail	*790
			About 0.5 mile upstream Conrail	*821
		Muddy Creek	At City of Mason corporate limits (upstream of U.S. Route 42)	*815
			At City of Mason corporate limits (downstream of Donna Jean Boulevard).	*844
		Little Miami River	At City of Loveland corporate limits	*592
			About 1.4 miles upstream of southern county boundary	*597
			At mouth of Turtle Creek	*627
			At Village of South Lebanon eastern corporate limits	*632
			About 1.2 miles upstream of South Lebanon eastern corporate limits	*638
			About 800 feet downstream of Village of Morrow corporate limits	*647
			About 1,000 feet upstream Mill Grove Road	*653
			About 0.9 mile downstream State Route 73	*720
			Just downstream State Route 73	*722
		Little Miami River Mill Run Channel.	Just upstream State Route 73	*724
			At divergence of Little Miami River and Little Miami River Mill Run Channel.	*725

Maps available for inspection at Warren County Administration Building, 320 East Silver Street, Lebanon, Ohio 45036.

Pennsylvania	Weltsboro, Borough, Tioga County (Docket No. FI-4622).	Marsh Creek	Conrail (90' from downstream Corporate Limits) Upstream Side	*1,248
			Conrail (1,370' from downstream Corporate Limits) Downstream Side	*1,263
			Conrail (2,170' from downstream Corporate Limits) Downstream Side	*1,272
			Confluence with Charleston	*1,283
		Charleston Creek	Confluence with Marsh Creek	*1,283
			Bacon Street (Upstream Side)	*1,294
			Conrail (Upstream Side)	*1,298
			Jackson Street (Upstream Side)	*1,306
			Dam No. 61 (Upstream Side)	*1,315
		Tributary No. 1 to Charleston Creek.	Confluence with Charleston Creek	*1,313
			Unnamed Road #1 (Downstream Side)	*1,323
		Morris Branch	Confluence with Charleston	*1,283
			Charleston Street (Upstream Side)	*1,288
			Bradley Street (Upstream Side)	*1,305
			Grant Street (Upstream Side)	*1,321
			Morris Lane (Upstream Side)	*1,323
			Footbridge (Upstream Side)	*1,330
			Central Avenue (Upstream Side)	*1,383
			Upstream Corporate Limits	*1,427
		Kelsey Creek	Main Street (Upstream Side)	*1,285
			Riberolle Street (Upstream Side)	*1,289
			Queen Street (Upstream Side)	*1,298
			West Water Street (Upstream Side)	*1,306
			Norris Street (Upstream Side)	*1,313
			King Street (Upstream Side)	*1,319
			West Street (Upstream Side)	*1,327
			Confluence with Boyden Brook	*1,355
			715' upstream of confluence with Boyden Brook	*1,365
			1,275' upstream of confluence with Boyden Brook	*1,375
		Hoover Brook	Unnamed Road #1 (Upstream Side)	*1,321
			Unnamed Road #2 (Upstream Side)	*1,326
			Unnamed Road #3 (Downstream Side)	*1,333
			Eberenz Street (Upstream Side)	*1,347
			West Water Street (Upstream Side)	*1,356
			Stickley Street (Upstream Side)	*1,361
			670' upstream of Stickley Street	*1,372
			1,210' upstream of Stickley Street	*1,386

Final Base (100-year) Flood Elevations—Continued

State	City/town/country	Source of flooding	Location	#Depth in

INTERSTATE COMMERCE COMMISSION

SUPPLEMENTAL INFORMATION:

Decision

Section 226 of the Staggers Rail Act of

adverse effect on rail service in the Northeast region of the United States by terminating essential rail transportation

Final Base (100-year) Flood Elevations—Continued

State	City/town/country	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Boyden Brook	Confluence with Kelsey Creek	*1,355
			Kelsey Street (Upstream Side)	*1,375
			490' upstream of Kelsey Street	*1,385
			670' upstream of Kelsey Street	*1,395
			1,370' upstream of Kelsey Street	*1,405
			Greenwood Street (Upstream Side)	*1,420

Maps available at the Wellsboro Borough Building, 28 Crafton Street, Wellsboro.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator)

Issued: November 4, 1980.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 80-37050 Filed 11-28-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 80-632]

Reduction in the Number of Copies of Pleadings, Briefs, and Other Papers in Matters Other Than Rulemaking and Hearing Cases

AGENCY: Federal Communications Commission.

ACTION: Rule amendment.

SUMMARY: This Order reduces from 10 to 5, the number of copies of pleadings, briefs, and other papers required by the Commission in matters other than rulemaking and hearing cases which are to be acted on by the Commission, where the number of copies is not specifically provided for in the rules. It will reduce filing costs.

DATE: Effective November 21, 1980.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Abe Leib (Program Evaluation Staff)
(202) 632–6363; or
Jim Ferris (Domestic Services Branch)
(202) 632–6920.

In the matter of reduction in the number of copies of pleadings, briefs, and other papers in matters other than rulemaking and hearing cases.

Order

Adopted: November 6, 1980.

Released: November 20, 1980.

1. In our Order adopted November 3, 1976 and released November 12, 1976, FCC 76–1010, we reduced from 12 to 6 (original and 5) the number of copies of comments and other papers required for formal participation in notice and comment rulemaking proceedings. Sections 1.51(b) and 1.419(b) of the rules, 47 CFR 1.51(b) and 1.419(b) were amended accordingly.

2. To further reduce filing costs, we have decided to decrease the number of copies required in matters other than rulemaking and hearing cases acted on by the Commission where the number of copies is not specifically provided for in the rules. We believe that 5 copies (original and 4) instead of the 10 copies called for in § 1.51(c)(1) of the rules, 47 CFR 1.51(c)(1), will generally suffice. If there is need for additional copies of papers filed in a particular proceeding, the Commission may request them, pursuant to § 1.51(e).

3. Accordingly, it is ordered, effective November 21, 1980, that § 1.51(c)(1) of the rules is revised to read as follows:

§ 1.51 Number of copies of pleadings, briefs and other papers.

* * * * *

(c) * * *

(1) If the paper filed relates to matters to be acted on by the Commission, an original and 4 copies shall be filed.

* * * * *

4. Authority for the foregoing amendment is contained in §§ 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Because the amendments are procedural in nature, compliance with the prior notice and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553 is not required.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303))

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 80-37215 Filed 11-28-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 68

[CC Docket No. 79-143]

Connection of Terminal Equipment to the Telephone Network; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The FCC is correcting its First Report and Order regarding connection of telephone equipment systems and protective apparatus to certain private lines. This action removes a redundant phrase.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
William H. von Alven, Common Carrier Bureau, (202) 632–6440.

SUPPLEMENTARY INFORMATION:

In the matter of correction of an error in Part 68 of the Commission's rules, CC Docket 79–143.

Released: November 17, 1980.

The following correction is made concerning the First Report and Order, FCC 80–88, released March 19, 1980 (March 31, 1980, 45 FR 20830):

§ 68.312 [Corrected]

1. In § 68.312 (b) (iii) (45 FR 20869), the phrase, "as a result of non-sinusoidal ac wave characteristics," should be deleted.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 80-37346 Filed 11-28-80; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[S.O. No. 1490]

Car Service; New York, Susquehanna & Western Railway Corp. Authorized To Operate Over Tracks of New York, Susquehanna & Western Railroad Co., Debtor (Walter G. Scott, Trustee)

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1490, and Notice of Modified Hearing Procedure for extension beyond 30 days.

SUMMARY: This order authorizes the New York, Susquehanna and Western Railway Corporation to operate over tracks of the New York, Susquehanna and Western Railroad Company, and establishes a modified hearing procedure to consider extension of the order beyond its initial 30-day period.

Under 49 U.S.C. 11123(a) the Commission may issue a service order for up to 30 days when it finds that a "failure in traffic movement exists which creates an *emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States,"* (emphasis added). Extension of the order requires that the full Commission, after a hearing, certify the continued existence of the emergency.

DATES: This order shall become effective at 12:01 a.m. on December 1, 1980, and shall remain in effect for 30 days unless otherwise modified, amended, or vacated by order of this Commission.

COMMENTS: Any interested party may file statements providing information and argument relating to the necessity and appropriateness of continuing this order in effect beyond the initial 30-day period by filing an original and 5 copies of a statement in affidavit form by December 9, 1980. Rebuttal statements in affidavit form (original and 5 copies) may be filed with the Railroad Service Board by December 15, 1980.

ADDRESS: All filings should be addressed to Joel E. Burns, Chairman, Railroad Service Board, Interstate Commerce Commission, Room 7115, Washington, D.C. 20423; and in the lower left hand corner in large letters, should have printed RSB–7115.

Interested parties wishing to review the docket file may do so in Room 7225 of the Commission in Washington, D.C.

FOR FURTHER INFORMATION CONTACT:
M. F. Clemens, Jr. (202) 275–7840.

SUPPLEMENTAL INFORMATION:

Decision

Section 226 of the Staggers Rail Act of 1980 (Pub. L. 96–448) revised 49 U.S.C. 11123(a) by limiting the Commission's authority to act in emergency situations to those where it finds that a "failure in traffic movement exists which creates an emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States." The initial period for the service order may not exceed 30 days and the order may be extended only after the full Commission, after a hearing, certifies the continued existence of the transportation emergency. This initial issuance contains the Notice of the modified hearing procedures (set forth in the Summary) to be followed with respect to any extension of the order.

It is the opinion of the Commission that the statutory criteria of Section 11123(a) for the issuance of a service order has been met, and more particularly that:

The New York, Susquehanna and Western Railway Corporation (NYS&W), pursuant to Order No. 103 of the United States District Court for the District of New Jersey ("Reorganization Court"), entered June 30, 1980, In The Matter of New York, Susquehanna and Western Railroad Company, Debtor (Susquehanna), has filed with the Commission requesting emergency temporary authority to operate those lines of Susquehanna which have been ordered liquidated and operations terminated. On July 11, 1980, the NYS&W filed appropriate applications with the Commission for acquisition and operation of the railroad lines of Susquehanna. Subsequently, the NYS&W applied for temporary operating authority to be coincidental with the cessation of operations by Susquehanna.

Pursuant to Section 226 of the Staggers Rail Act of 1980 (Pub. L. 96–448) and the Commission's Policy Statement on 49 U.S.C. 11123(a) Emergency Car Service Orders, dated October 24, 1980, temporary operating authority granted to NYS&W over the tracks of Susquehanna in Service Order No. 1483 must expire on November 30, 1980.

NYS&W has now submitted an application for an emergency service order, pursuant to 49 U.S.C. 11123(a), as amended by Section 226 of the Staggers Rail Act of 1980, to be effective December 1, 1980, to assure the shipping public of uninterrupted rail service.

A cessation of rail service on the entire Susquehanna system, as operated by the NYS&W, will have a substantial adverse effect on rail service in the Northeast region of the United States by terminating essential rail transportation to and from approximately 80 individual industries; by ending all rail services to and from 78 of these industries; and by depriving its connection, Consolidated Rail Corporation (ConRail), and ConRail's connections, of substantial traffic and revenue.

It is the opinion of the Commission that this emergency situation requires that the NYS&W be authorized to conduct operations using Susquehanna tracks and/or facilities; that prior notice of this action and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1490 Service Order No. 1490.

(a) *The New York, Susquehanna and Western Railway Corporation authorized to operate over tracks of New York, Susquehanna and Western Railroad Company, debtor (Walter G. Scott, trustee) Authority.* The New York, Susquehanna and Western Railway Corporation (NYS&W) is authorized to operate over all tracks of the New York, Susquehanna and Western Railroad Company (Susquehanna), named in Order No. 103 of the United States District Court for the District of New Jersey (Reorganization Court).

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) Nothing herein shall be considered as a prejudgement of the application of NYS&W seeking permanent authority to acquire and operate lines of the Susquehanna.

(d) In providing service under this order, the NYS&W shall, to the maximum extent practicable, use the employees who normally would have performed the work in connection with the traffic moving over the lines subject to this Order.

(e) *Effective date.* This order shall be effective at 12:01 a.m., December 1, 1980.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 30, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under authority of 49 U.S.C. 10304, 10305, 11123(a), and 49 CFR 1011.6(c)(6).

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms

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of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

Decided: November 24, 1980.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-37146 Filed 11-28-80; 8:45 am]

BILLING CODE 7035-01-M

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49 CFR Part 1111

[Ex Parte No. 282 (Sub-No. 7)]

Special Intermodal Authority

AGENCY: Interstate Commerce Commission.

ACTION: Notice of amendment of interim rules and request for comments.

SUMMARY: In the **Federal Register** of November 21, 1980, the Commission adopted interim rules which describe application procedures for motor carrier transportation prior or subsequent to rail transportation. In order to insure expeditious processing of applications for special intermodal authority we are amending our interim rules. Specifically, the modifications detail where all applications and related pleadings must be filed at the Commission and the manner in which the proceeding should be designated.

DATES: These interim rules shall be effective November 28, 1980. Comments upon these amendments are due by December 22, 1980.

ADDRESSES: An original and 15 copies of comments, if possible, should be sent to Ex Parte No. 282 (Sub-No. 7), Room 5414, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Ellen Hanson (202) 275-7245 or Wayne Michel (202) 275-7866.

SUPPLEMENTARY INFORMATION: This notice makes several minor amendments to our notice of interim rules and request for comments served on November 18, 1980, and published at 45 FR 77032, November 21, 1980.

First, 49 CFR 1111.11(a)(3) as initially set forth required only that applications be filed "with the Commission." To insure that these applications can be processed expeditiously within the Commission, we now require that applications be addressed specifically to the Section of Finance, Room 5414, Interstate Commerce Commission, Washington, D.C. 20423. In addition, we require the use of the prefix "IM" in the docket number/title of special intermodal authority applications. Accordingly, the face of the application and the mailing envelope must contain the title designation "IM No. [number]" [1], followed by the name of the applicant railroad, the name of a supporting shipper, and the area to be served. For example, "IM No. [number]—XYZ Railroad and Supporting Shipper—Inadequately Served County, State."

Second, 49 CFR 1111.11 (c) and (e) as originally set forth required protests and petitions for revocation, respectively, to be filed "with the Commission." Again, we require that protests and petitions be addressed directly to the Section of Finance and include, on both the filing and its mailing envelope, the IM designation and caption of the original application.

These modifications are necessary if we are to process the applications within the 30-day statutory time frame. The changes are effective immediately as interim rules, and comments are requested on whether they should be adopted as final rules.

(1) The interim rule in section 49 CFR 1111.11(a)(3) is revised to read as follows:

§ 1111.11 [Amended]

(a) * * *

(3) Filing requirements. The original and five copies must be filed with the Section of Finance, Room 5414, Interstate Commerce Commission, Washington, D.C. 20423. Each application shall be titled "IM—[number]" [2] followed by the name of the railroad applicant, a shipper applicant, and the area to be served. This caption shall also be printed on the front of the enveloped containing the application.

(2) The interim rule in section 49 CFR 1111.11(c) is revised to read as follows:

(c) Protests. (1) Filing requirements. The original and five copies of a protest to an application filed under 49 CFR 1111.11(a) shall be filed with the Section of Finance, Room 5414, Interstate Commerce Commission, Washington, D.C. 20423, within 10 days of filing of the application. The protest shall bear the same caption (IM prefix, number and title) as that appearing on the application. This caption shall also be printed on the front of the envelope containing the application.

(2) Contents. The protest shall be in the form of * * *

(3) The interim rule in section 49 CFR 1111.11(e)(3) is revised to read as follows:

(3) Filing requirements. The original and five copies of the petition must be filed with the Section of Finance, Room 5414, Interstate Commerce Commission, Washington, D.C. 20423. The petition shall bear the same caption (IM prefix, number and title) as that appearing on the original application. This caption shall be printed on the front of the envelope containing the application.

The rules in this appendix are proposed pursuant to 49 U.S.C. 11344(e) and 5 U.S.C. 553.

Decided: November 24, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Alexis absent and not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-37303 Filed 11-28-80; 8:45 am]

BILLING CODE 7035-01-M

[1] Applicants should insert, as the "IM" number, the "AB" number given to applicant rail carriers for use in abandonment proceedings. Those numbers are listed in Appendix B of 49 CFR Part 1121. No. "Sub-No." is required.

[2] Applicants should insert, as the "IM" number, the "AB" number given to applicant rail carrier for use in abandonment proceedings. These numbers are listed in Appendix B of 49 CFR Part 1121. No. "Sub-No." is required.

OFFICE OF THE FEDERAL REGISTER

1 CFR Part 51

Approval of Incorporations by Reference

AGENCY: Office of the Federal Register.

ACTION: Approval of incorporations by reference.

SUMMARY: On September 30, 1980, the Office of the Federal Register published a document which listed materials approved by the Director of the Federal Register for incorporation by reference into Titles 42–50 of the Code of Federal Regulations. At that time, the Director also granted some extensions. This document today lists final approvals for documents previously given extensions and found to meet the requirements for incorporation by reference.

DATES: The Director approves the following incorporations by reference for one year effective October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Rose Anne Lawson, (202) 523–4534.

SUPPLEMENTARY INFORMATION:

Authority. Each agency that wishes material incorporated by reference in the CFR to remain effective must annually submit to the Director a list of that material and the date of its last revision (1 CFR 51.13).

The materials included on the table below are incorporated by reference in the CFR under 5 U.S.C. 552(a) and 1 CFR Part 51. These procedures provide the material approved for incorporation by reference by the Director of the Federal Register has the same legal status as if it were published in full in the **Federal Register.**

Extensions. The Director granted extensions of approval for some material in Titles 42–50 of the Code of Federal Regulations, and indicated this in documents published in the **Federal Register** on September 30, 1980 (45 FR 64816) and on October 31, 1980 (45 FR 72464). These extensions were necessary to complete the review process under 1 CFR 51.13. The table in this document lists material which has received approval for incorporation by reference by the Director of the Federal Register.

Availability. Before an agency may incorporate by reference any material into the *Code of Federal Regulations,* it must make the material reasonably available to the class of persons affected by it. Agencies have indicated where you can obtain each item included in the table. The materials approved for incorporation by reference are available for inspection and copying at the Office of the Federal Register, 1100 L Street, N.W., Washington, D.C. (202) 633–6930.

Amendments. If the producer of materials approved for incorporation by reference changes or updates the material, and the agency wishes to enforce the changed or updated version, the agency shall publish an amendatory document in the **Federal Register** indicating that the material is amended. The agency also shall make the amended material available as indicated on the table, or as modified in the amendatory document. Amendments are not properly incorporated until a document is published in the **Federal Registe,** and the amendment is filed at the Office of the Federal Register and made available to the public.

Other CFR Titles. For materials approved for incorporation by reference in Titles 28 through 41 of the CFR, see documents published on June 30, 1980 at 45 FR 44090; on July 14, 1980 at 45 FR 47111; and on September 9, 1980 at 45 FR 59297.

For materials approved for incorporation by reference in Titles 1 through 16 of the CFR, a document will be published on December 31, 1980.

For materials approved for incorporation by reference in Titles 17 through 27 of the CFR, a document will be published on March 31, 1981.

Problems. If you have any problems getting the material, notify the agency. If you find the material is not available, notify the Director of the Federal Register (NARS), Washington, D.C. 20408 or call (202) 523–4534.

Dated: November 25, 1980.

John E. Byrne,

Director of the Federal Register.

42 CFR CHAPTER I (PARTS 1-199)—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES

	CFR Citation

49 CFR CHAPTER I, PART 193 LIQUIFIED NATURAL GAS FACILITIES: FEDERAL SAFETY STANDARDS—Continued

API 1104, Standard for Welding Pipe Lines and Related Facilities, 1980. 193.2313; 193.2321

American Society of Mechanical Engineers (ASME)

42 CFR CHAPTER I (PARTS 1-199)—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES

	CFR Citation
American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASERAE)	
United Engineer Center, 345 East 47th Street, New York, NY 10017	
Handbook of Fundamentals, 1977	Part 36, Subpart H, Appendix A(b)(1); 52b.11(b)(1)
International Conference of Building Officials (ICBO)	
5360 South Workman Mill Road, Whittier, Calif. 90601	
Uniform Building Code, 1979 edition	Part 36, Subpart H, Appendix A(c); 52b.11(a); 52b.11(g)
National Conference of States on Building Codes and Standards (NCSBCS)	
481 Carlisle Drive, Herndon, Va. 22070	
National Building Code, 1976 edition	Part 36, Subpart H, Appendix A(a)
Department of Transportation, National Highway Traffic Safety Administration	
Washington, DC 20510	
(Also available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402)	
Course Guide, National Training Course, Emergency Medical Technician-Paramedic, 1977 (DOT Pub. No. HS 802437).	56a.102–definition of "appropriate training and experience" (3)(i)
National Training Course for Emergency Medical Technician-Paramedic, 1977 (DOT Pub. No HS 802437) Appendix A.	57.2106(b)(1)

42 CFR CHAPTER IV (PARTS 400 to end)—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

	CFR Citation
American Hospital Association	
(The following document is available from Health Care Financing Administration, Office of Management and Budget, Division of Communication Services, Printing and Publishing Branch, Gwynn Oak Building, Baltimore, Md. 21235.)	
Chart of Accounts for Hospitals, 1973 edition	405.415(b)(7)(i)

49 CFR CHAPTER I, PART 193 LIQUIFIED NATURAL GAS FACILITIES: FEDERAL SAFETY STANDARDS

	CFR Citation
American Concrete Institute (ACI)	
P.O. Box 19150, Redford Station, Detroit, Michigan 48219	
ACI 311 Recommended Practice for Concrete Inspection, 1975	193.2307
American Gas Association (AGA)	
1515 Wilson Boulevard, Arlington, Virginia 22209	
AGA, Evaluation of LNG Vapor Control Methods, 1974	193.2059
AGA, Purging Principles and Practices, 1975	193.2513, 193.2517, 193.2615
American National Standards Institute, Inc.	
1430 Broadway, New York, New York 10018	
Note: Formerly the United States of America Standards Institute (USASI). All current standards issued by USASI and ASA have been redesignated as American National Standards (ANSI) and continued in effect.	
ANSI A58.1, Building Code Requirements for Minimum Design Loads in Buildings and Other Structures, 1972.	193.2067; 193.2109
ANSI B31.3, Chemical Plant Petroleum Refinery Piping, 1976	193.2113; 193.2123; 193.2127; 193.2229; 193.2315; 193.2319; 193.2321
ANSI B31.5, Refrigeration Piping, 1974	193.2123
ANSI B31.8, Gas Transmission and Distribution Piping Systems, 1975	193.2123
American Petroleum Institute (API)	
1801 K Street, N.W., Washington, D.C. 20006	
300 Corrigan Tower Building, Dallas, Texas 75201	
API 620, Recommended Rules for Design and Construction of Large, Welded, Low Pressure Storage Tanks, 1977.	193.2195; 193.2211; 193.2321; 193.2327

49 CFR CHAPTER I, PART 193 LIQUIFIED NATURAL GAS FACILITIES: FEDERAL SAFETY STANDARDS—Continued

API 1104, Standard for Welding Pipe Lines and Related Facilities, 1980.	193.2313; 193.2321
American Society of Mechanical Engineers (ASME)	
United Engineering Center, 345 East 47th Street, New York, New York 10017	
ASME, Boiler and Pressure Vessel Code, Section 1, Power Boilers, 1977.	193.2145
ASME, Boiler and Pressure Vessel Code, Section 4, Heating Boilers, 1977.	193.2145
ASME, Boiler and Pressure Vessel Code, Section 8 Division 1 Pressure Vessels, 1977.	193.2195; 193.2319; 193.2405
ASME, Boiler and Pressure Vessel Code, Section 8 Division 2, Pressure Vessels Alternative Rules, 1977.	193.2145; 193.2319
ASME, Boiler and Pressure Vessel Code, Section 9, Welding and Brazing Qualifications, 1977.	193.2313; 193.2321
International Conference of Building Officials (ICBO)	
5360 South Workman Hill Road, Whittier, California 90601	
ICBO, Uniform Building Code, 1979	193.2061
National Fire Protection Association (NFPA)	
470 Atlantic Avenue, Boston, Massachusetts 02210	
NFPA 30, Flammable and Combustible Liquids Code, 1977	193.2149; 193.2813
NFPA 51B, Cutting and Welding Processes, 1977	193.2811
NFPA 59A, Storage and Handling Liquefied Natural Gas, 1972	193.2005
NFPA 59A, Storage and Handling Liquefied Natural Gas, 1979	193.2073; 193.2141; 193.2213; 193.2817; 193.2819; 193.2821
NFPA 70, National Electric Code, 1978	193.2141; 193.2427; 193.2433; 193.2805

[FR Doc. 80-37211 Filed 11-28-80; 8:45 am]
BILLING CODE 6820-26-M

V 45 / 232 DEC 1 80 UMI

Proposed Rules

Federal Register
Vol. 45, No. 232
Monday, December 1, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1438

1981 Crop Gum Naval Stores Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this notice is to advise that the Commodity Credit Corporation, as authorized by the Agricultural Act of 1949, as amended, is considering whether a price support program for 1981-crop gum naval stores should be established, and if so, at what level of support.

The support program would stabilize market prices and protect producers, processors and consumers, and would enable producers to obtain price support for 1981-crop gum naval stores. Written comments are invited from interested persons.

DATE: Written comments must be received by December 31, 1980 in order to be assured of consideration.

ADDRESS: Submit comments to Producer Associations Division, Agricultural Stabilization and Conservation Services, P.O. Box 2415, U.S. Department of Agriculture, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Roger A. P. Cooley (ASCS) (202) 447–5753. The draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available from the above-named individual.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1955 to implement Executive Order 12044, and has been classified "not significant." The title and number of the federal assistance programs that this notice applies to are: Title—Commodity Loans and Purchases; Number 10.051, as found in the Catalog of Federal Domestic Assistance.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

The Secretary of Agriculture is authorized under Section 301 of the Agricultural Act of 1949, as amended (the "Act"), to make price support available to producers at a level not in excess of 90 per centum of the parity price for the commodity.

Section 401 of the Act requires that the Secretary, in determining whether a price support operation shall be undertaken and the level of support, consider: (1) the supply of the commodity in relation to the demand therefor, (2) the price levels at which other commodities are being supported, (3) the availability of funds, (4) perishability and storability of the commodity, (5) the importance of the commodity to agriculture and the national economy, (6) the ability to dispose of stocks acquired through a price support operation, (7) the need for offsetting temporary losses of export markets, and (8) the ability and willingness of producers to help keep supplies in line with demand.

Executive Order 12044 (43 FR 12661, March 24, 1978) requires at least a 60 day public comment period on any proposed significant regulations except where the Agency determines this is not possible. Because producers of naval stores need to know, as soon as possible, the status of the proposed 1981-crop gum naval stores price support program in order to begin preparation of their trees in January, it is hereby found and determined that compliance with the 60-day comment period required by Executive Order 12044 is not possible.

Proposed Rule

In view of the interest shown by producers in a support program, the Secretary will consider the alternatives of a loan program for the 1981-crop of gum naval stores, a loan-purchase program for the 1981-crop, or no program in 1981. The loan program to be considered would be a non-recourse loan program as was in effect for the 1980-crop of gum naval stores. The loan-purchase program would be similar to that in effect for the 1976-crop of gum naval stores.

Before making any determination the Department will give consideration to comments, data, views and recommendations submitted in writing, within the comment period, to the Director, Producer Associations Division.

All submissions received will be made available for inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 5750-South Building, 14th and Independence Avenue, SW, Washington, D.C. (7 CFR 1.27(b)).

Signed at Washington, D.C. on November 24, 1980.

John W. Goodwin,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-37162 Filed 11-28-80; 8:45 am]
BILLING CODE 3410-05-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

Searches of Individuals at Power Reactor Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission proposes to amend its regulations to clarify requirements for searches of individuals at power reactor facilities protected area entry portals. The amendment would require searches similar to those used on an interim basis at power reactors prior to November 1, 1980, including mandatory use of search equipment, and the pat-down search of visitors to nuclear power plants.

DATES: Comments must be received by January 15, 1981.

ADDRESSES: Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: L. J. Evans, Jr., Chief, Regulatory Improvements Branch, Division of Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 427–4181.

SUPPLEMENTARY INFORMATION: The Commission proposes to amend § 73.55 to adopt final requirements for searches of individuals at power reactor protected area entry portals.

Since April of 1977, power reactor licensees have generally conformed to interim search procedures which were developed as an alternative to routine 100% pat-down search of all employees. The Commission has deferred implementation of routine pat-down searches of employees, and certain other measures pending its decision on a program to help assure the trustworthiness of individuals at nuclear power plants and the evaluation of possible alternative measures (see 44 FR 65969). The Commission has since directed that an industry administered pre-employment screening program be developed along the lines recommended by the Hearing Board in the Clearance Rule proceeding.

The Commission's goal in this regard is to increase the assurance that power reactors are adequately protected against sabotage by an insider. Based on the fact that a screening program is under development, and its experience with the interim search procedures, the Commission is now prepared to adopt final search procedures for power reactor facilities. The Commission has decided that mandatory equipment-oriented searches augmented by pat-down searches under certain conditions, are an acceptable alternative to routine pat-down searches of all employees. The Commission has also decided to eliminate the term "well-grounded" (now found in 10 CFR 73.55) when referring to the suspicion a licensee must have before performing a pat-down search on a suspect individual. Because of the vagueness of the term it has been found to be impracticable to implement that aspect of the search requirement on a day to day basis. The Commission is also issuing an immediately effective extension to the current relief from pat-down searches in § 73.55 until 60 days after approval of security plan amendments that define how the final search requirements will be met, in order to accommodate the rulemaking procedure for this proposed amendment.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Part 73, is contemplated.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. Section 73.55(d)(1) is revised to read as follows:

§ 73.55 [Amended]

* * * * *

(d)(1) Access requirements. The licensee shall control all points of personnel and vehicle access into a protected area to ensure that only authorized individuals, vehicles, and materials enter. Identification and search of all individuals must be made and authorization must be checked at those points. Except as otherwise provided in this paragraph, the search function for detection of firearms, explosives, and incendiary devices is to be accomplished through the use of both firearms and explosive detection equipment capable of detecting those devices. In addition to the searches set forth above, the licensee shall conduct a physical pat-down search of all visitors who require access to the protected area. When the licensee has cause to suspect that an individual is attempting to introduce firearms, explosives, or incendiary devices into the protected area, the licensee shall conduct a physical pat-down search on that individual. Whenever firearms or explosive detection equipment is out of service or not operating satisfactorily, the licensee shall conduct a physical pat-down search of all persons who have not been properly searched by that equipment prior to their entry into the protected area. The individual responsible for the last access control function (controlling admission to the protected area) shall be isolated within a bullet-resisting structure as described in paragraph (c)(6) of this section to assure that individual's ability to respond or to summon assistance. By (45 days from the effect date of this amendment), each licensee shall submit proposed amendments to his security plan which define how the amended search requirements of this paragraph will be met. The amended search requirements of this paragraph are to be implemented by the licensee within 60 days after Commission approval of the proposed security plan amendments.

* * * * *

(Sec. 161i, Pub. L. 83–703, 68 Stat. 948, Pub. L. 93–377, 88 Stat. 475; Sec. 201, Pub. L. 93–438, 88 Stat. 1242–1423, (42 U.S.C. 2201, 5841))

Dated at Washington, D.C., this 26th day of November, 1980.

For the Nuclear Regulatory Commission.
Samuel J. Chilk,
Secretary for the Commission.

FR Doc. 80-37432 Filed 11-28-80; 8:45 am]
BILLING CODE 7590-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Parts 29 and 545

FEDERAL HOME LOAN BANK BOARD

[OCC Docket No. 80–18]

Adjustable-Rate Morgages; Joint Hearing and Extension of Comment Period

AGENCY: Comptroller of the Currency, Treasury; Federal Home Loan Bank Board.

ACTION: Notice of hearings and extension of comment period.

SUMMARY: This notice provides the times and locations of the joint hearings the Comptroller and the Federal Home Loan Bank Board will hold on proposed adjustable-rate mortgage regulations. It also announces that the closing date for comments on the Comptroller of the Currency's proposed rule is hereby postponed to December 30, 1980.

DATES: The hearing in Washington is on Tuesday, December 2; in Chicago on Wednesday, December 3; in Los Angeles on Tuesday, December 9. The comment period is extended to December 30, 1980.

ADDRESSES: See Supplementary Information for complete addresses of all three hearing locations.

FOR FURTHER INFORMATION CONTACT: Marie Giblin, Communications Division, Comptroller of the Currency, 490 L'Enfant Plaza, third floor, Washington, D.C., 21209 (202/447–1800).

SUPPLEMENTARY INFORMATION: On September 29, 1980, the Comptroller of the Currency published proposed regulations concerning the making of adjustable-rate mortgage loans by national banks (45 FR 64196). These regulations would be applicable to all national banks regardless of local law and would require, among other things, that adjustable-rate loans secured by liens on one- to four-family dwellings be tied to one of several specified indexes; that changes be limited to one-half percentage point per six-month period; and that certain disclosures be made to potential borrowers at the time application forms are made available to them. The regulations also propose three alternative responses to the issue of whether there should be a separate limitation imposed upon aggregate interest rate changes—no limit, a five

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percentage point limit, or a limit of one-half of the initial contract rate of interest. The notice of proposed rule-making expressly solicited comment on numerous questions related to these issues and stated that hearings would be held to encourage maximum possible public participation in the rule-making process.

On October 8, 1980, and November 3, 1980, the Federal Home Loan Bank Board published proposed amendments to its existing regulations governing the making of adjustable-rate mortage loans by Federal savings and loan associations (45 FR 66798 and 45 FR 72675). These amendments would, among other things, loosen some of the restrictions currently imposed on variable-rate mortgage (12 CFR 545.6-4(c)) and renegotiable rate mortgage instruments (12 CFR 545.6-4a) used by Federal associations. In particular, both types of instrument currently limit interest reate changes to one-half percentage point per year. This limit would be increased to one-half percentage point per six-month period. The maximum aggregate rate change is currently two-and-one-half percentage points for variable-rate mortgages and five percentage points for renegotiable rate mortgage instruments. This would be set at five percentage points in both cases. Federal associations offering variable-rate mortgages would no longer be required to offer prospective borrowers the alternative of a fixed-rate mortgage loan. Associations offering renegotiable rate mortgage loans are not at present required to provide such a choice. Several additional changes were proposed by the Board, and comment was requested on a number of related items.

To aid the Federal Home Loan Bank Board and the Comptroller of the Currency in preparing final regulations on adjustable-rate mortgages, hearings consisting of the presentation of oral or written statements will be held before representatives of the two agencies at the following times and locations:

Tuesday, December 2, 1980: Office of the Comptroller of the Currency, Third Floor Conference Room, 490 L'Enfant Plaza East, S.W., Washington, D.C.

Wednesday, December 3, 1980: Hyatt Regency Chicago, Illinois Center, Columbus Hall "A" (East Tower), 151 E. Wacker Drive, Chicago, Illinois.

Tuesday, December 9, 1980: Federal Building, Customs Court, 8th Floor, 300 North Los Angeles Street, Los Angeles, California.

Hearings will commence at 9:00 A.M. in Washington and at 2:00 P.M. in Chicago and Los Angeles. Evening sessions will be held in all three cities.

Any person desiring to submit written comments, give testimony, present evidence, or otherwise participate in the proceedings should file with Ms. Marie Giblin, Office of the Comptroller of the Currency, Washington, D.C. 20219, on or before November 28, 1980, a copy of the written statment or a written request containing a statement of the nature of the petitioner's interest in the proceedings, the city in which petitioner wishes to testify, the length of time requested for oral presentation, a summary of the matters concerning which the petitioner wishes to give testimony or submit evidence, and the names and identities of witnesses who propose to appear. It is expected that those wishing to offer testimony will not normally need more than 10 minutes for oral presentation of their statements. Longer statements should be submitted in writing and summarized in oral comments. Copies of all written submissions will be provided by the Office of the Comptroller of the Currency to the Federal Home Loan Bank Board and will be made available for public inspection and copying upon request. All material submitted should refer to Docket No. 80-18.

Interested persons are invited to submit written comments on the proposed regulations regardless of whether they intend to participate in the hearings. The closing date for written comments on the Federal Home Loan Bank Board's proposed amendments is December 30, 1980. The closing date for written comments on the Comptroller of the Currency's proposed rule, initially set at November 28, 1980, is hereby postponed to December 30, 1980.

Dated: November 25, 1980.

John G. Heimann,
Comptroller of the Currency.

J. J. Finn,
Federal Home Loan Bank Board Secretary.

[FR Doc. 80-37290 Filed 11-28-80; 8:45 am]
BILLING CODE 4810-33-M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

Adjustable Rate Mortgages; Advance Notice of Proposed Rulemaking and Request for Comments

AGENCY: National Credit Union Administration.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: Due to the effects of volatile financial conditions on both home buyers and Federal credit unions, the National Credit Union Administration (NCUA) is considering allowing Federal credit unions to use adjustable rate mortgages (ARM's) when granting real estate loans. NCUA recognizes both the importance and the difficulty of balancing the interests of Federal credit unions and the interests of FCU members in regulating the use of adjustable rate mortgages. Therefore, this advance notice of proposed rulemaking is being published to give NCUA the benefit of public comments before issuing any proposed rule.

DATES: Comments must be received on or before January 31, 1981.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 1776 G Street NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Thomas C. Buckman, Office of Examination and Insurance, or
John L. Culhane, Jr., Office of General Counsel, at the above address. Telephone numbers: (202) 357-1065 (Mr. Buckman) or (202) 357-1030 (Mr. Culhane).

SUPPLEMENTARY INFORMATION:

Background

Because of the effect of current economic conditions on home buyers and on Federal credit unions, the NCUA Board has authorized NCUA staff to study the feasibility of allowing Federal credit unions to use ARM's when granting real estate loans. An ARM, as a general rule, provides the borrower with lower monthly payments initially in return for providing the lender with the right to raise the interest rate when the lender's cost of funds increases. The cost of funds is measured using some objective index.

Variable rate mortgages (VRM's) and renegotiable rate mortgages (RRM's) are two types of adjustable rate mortgages. A variable rate mortgage is generally characterized by a 30-year note secured by a 30-year mortgage in which the rate of interest goes up or down periodically according to a change in the index. A renegotiable rate mortgage is generally characterized by a 3- to 5-year renewable note secured by a 30-year mortgage, in which the rate of interest goes up or down upon renewal of the note according to a change in the index. (It can also be a 30-year note subject to adjustments in the rate of interest every 3, 4, or 5 years.)

The Interests of FCU Members

With home mortgage interest rates currently so high, many Americans can no longer qualify for a standard fixed rate mortgage. But because the initial rate is often lower, and hence the monthly payment is lower, some could qualify for an ARM. Consequently, some Federal credit union members may be interested in ARM's as a way of buying a house and others may be interested in ARM's as a way of selling a house. Additionally, one possible advantage with an ARM is that if the index ultimately goes down, a borrower with an ARM would automatically receive a lower interest rate without having to incur the cost of refinancing.

Other members who can qualify, or who expect to be able to qualify, for standard fixed rate mortgages will naturally be concerned about their availability. For those who can qualify, perhaps the most attractive feature of the standard mortgage is that the size of the monthly payment remains fixed throughout the entire term of the mortgage. The fixed monthly payment greatly facilitates household financial planning. By contrast, the monthly payments on ARM's may go up and down in response to changes in the index, and household financial planning may be more difficult.

The Interests of Federal Credit Unions

The need for adjustable rate mortgages has arisen because of changes in the financial markets. Interest rates have not only gone up, rates have also become more volatile. In this environment, it is difficult for credit unions to make long-term mortgage loans because they largely depend upon short-term share and share certificate accounts for their lending funds.

With the standard fixed rate mortgage, the return is fixed for the life of the mortgage. But the cost of funds for a credit union fluctuates with short-term dividend rates. The critical mismatch between the earnings on loans and the cost of funds has caused significant reductions in net earnings whenever short term rates rise unexpectedly. When this happens, a credit union may have to cease interest refunds on loans, lower dividend rates, or stop granting loans. In order for credit unions to serve all their members and to provide funds for housing finance, some means must be found that will enable them to earn an adequate return on mortgage loans.

NCUA's Goal

NCUA's goal is to accomplish two things: (1) To develop ARM's which balance the interests of the member and the FCU, and (2) to develop ARM's which are acceptable to the secondary market. To meet this goal it is essential that the NCUA obtain as much response as possible, not only technical comments from Federal credit unions, credit union leagues, and secondary market investors, but general comments from consumers and prospective borrowers on the basic desirability of adjustable rate mortgages. An asterisk (*) indicates areas that may be of special interest to those who do not have a technical background in this subject.

Questions

Mortgages: Different borrowers and different credit unions may be interested in standard fixed rate mortgages or in adjustable rate mortgages, depending on their circumstances.

Question: Should Federal credit unions be required to offer the borrower a choice between a fixed rate mortgage and an adjustable rate mortgage?

Adjustable Rate Mortgage Terms

Index

Appendix A contains a 10-year history of the four indexes presently being considered by other financial regulatory agencies. NCUA is also considering developing an index which may better represent the cost of funds to Federal credit unions, such as the Central Liquidity Facility (CLF) lending rate or the auction averages of 26-week United States Treasury Bills. However, NCUA recognizes that ultimately only one or two indexes may be acceptable to secondary market investors.

Question: Should NCUA specify the index (or indexes) to be used in ARM's or should Federal credit unions be allowed to choose an index? If NCUA should specify an index (or indexes), which index (or indexes) would best meet the needs of Federal credit unions and their members?

**Rate*

Changes in the index need not automatically lead to adjustments in the interest rate. Rate adjustments can be regulated by restricting:

(1) How often the interest rates can change (once a year, twice a year, etc.);

(2) How much the rate can change during any one adjustment (⅛ of 1%, ½ of 1%, etc.); and

(3) How much the rate can go up (or down) over the life of the loan (4%, 5%, etc.).

NCUA is of the preliminary opinion, however, that the borrower should be notified well in advance of any change implemented by the lender.

Question: How should NCUA regulate rate adjustments?

**Amortization*

The loan payments on an ARM are normally set so that the loan would be repaid after 30 years based upon the interest rate in effect at the time the loan is granted. This is also true in the case of renegotiable rate mortgage (RRM). However, with an RRM the entire balance of the loan can become due and payable at the end of a period as short as 3 years. The borrower is then required to pay off the loan (unless the lender is required to renew the loan) or to renegotiate the interest rate. If the rate is renegotiated, the loan is then amortized over the time remaining on the original 30-year mortgage based on the new rate.

During the rulemaking process NCUA will be considering:

(1) Whether or not Federal credit unions should be required to renew loan secured by RRM's;

(2) Whether or not the borrower should be given the option of extending the maturity of the loan (amortization schedule) if possible, thereby keeping the monthly mortgage payment the same, instead of being required to make larger monthly payments when rates increase; and

(3) Whether or not NCUA should permit negative amortization schedules (the principal of the loan actually increases when there is a negative amortization) over a short period of time in order to prevent an extremely large increase in a borrower's monthly payment as the result of a large increase in the interest rate.

Question: How should ARM's be amortized?

**Disclosures*

Because the purchase of a home is usually the consumer's largest single purchase and because the ARM is a unique mortgage, NCUA believes that disclosure of the terms and conditions of an ARM well in advance of the signing of the mortgage may be essential. To make an informed choice, the member may need to understand both how ARM's operate and how ARM's are

different from standard fixed rate mortgages. It may be particularly important that the member understand how a change in the index will affect the monthly mortgage payment. During the rulemaking process NCUA will consider drafting a model disclosure form to be used by Federal credit unions which grant ARM's.

Question: What information should be disclosed to the borrower?

—The designated index?

—The 10-year history of the index? (See Appendix (A).)

—An example of how an increase or decrease in the index would affect the monthly payments?

—A "worst case" example showing the amount of increase in monthly payments?

—A comparison between the payment schedule with an adjustable rate mortgage and the payment schedule with a standard fixed rate mortgage?

—An explanation of the ways a change in the index rate may be carried over to a later period?

—A description of the fees, if any, that will be assessed at the time of adjustment?

—Information on prepayment, assumption, and refinancing?

—The frequency with which the rate can be adjusted?

—The options available to the borrower?

Secondary Market

Because of the limited capital base of many credit unions, in comparison to the capital needed to meet the mortgage loan demand of their members, the NCUA Board believes that the secondary market is the key ingredient enabling Federal credit unions to meet their members' demand for mortgage loans without jeopardizing their liquidity or their consumer loan programs. However, important to the development of a secondary market is the creation of uniform instruments.

Currently there are no uniform adjustable rate mortgage instruments acceptable in the secondary market. The danger of Federal credit unions originating loans on adjustable rate mortgage instruments they design may be that such loans will never be saleable in the secondary market. Hence, Federal credit unions would have to retain those loans in their portfolios indefinitely. However, at present, the Federal National Mortgage Association (FNMA) and the Federal Home Loan Mortgage Corporation (FHLMC) are reportedly developing uniform instruments.

Question: If a Federal credit union is not required to use FNMA/FHLMC uniform instruments in granting ARM's, should it be required to have a commitment from an investor to purchase ARM's? Should a commitment be required only after ARM's equal a certain percentage of the Federal credit union's assets?

Other Alternative Mortgage Instruments

Other alternative mortgages are currently being considered by other financial regulatory agencies. These include the shared appreciation mortgage (SAM), the graduated payment mortgage (GPM), and the graduated payment adjustable mortgage (GPAM). NCUA staff will be concentrating on adjustable rate mortgages during the rulemaking process. However, comments on other alternative mortgage instruments will be accepted, and NCUA would be interested in receiving comments as to whether other alternative mortgages would better serve the needs of Federal credit unions and their members. Additional information about the mechanics of these other alternative mortgages (SAM, GPM, GPAM) is available from NUCA upon request.

By the National Credit Union Administration Board on November 19, 1980.

Rosemary Brady,

Secretary, NCUA Board.

Appendix (A).—Proposed Adjustable-Rate Mortgage Indexes

[Monthly rate for June and December 1969–80]

	Mortgage rates on previously occupied homes [1] (percent)	FNMA 4 month commitment rates [2] (percent)	3 year Treasury rates [3] (percent)	5 year Treasury rates [4] (percent)
1969				
June	7.64	7.89	6.83	6.75
December	8.08	8.64	8.10	7.96
1970				
June	8.19	9.31	7.84	7.85
December	8.12	8.52	5.75	5.95
1971				
June	7.38	8.22	6.32	6.53
December	7.51	7.63	5.27	5.68
1972				
June	7.36	7.62	5.64	5.91
December	7.45	7.69	6.01	6.16
1973				
June	7.64	8.07	6.83	6.69
December	8.48	8.78	6.81	6.80
1974				
June	8.66	9.54	8.15	8.10
December	9.39	9.54	7.24	7.31
1975				
June	9.06	9.09	7.17	7.51
December	9.00	9.29	7.43	7.76
1976				
June	8.82	9.16	7.32	7.61
December	8.80	8.45	5.68	6.10

Appendix (A).—Proposed Adjustable-Rate Mortgage Indexes—Continued

[Monthly rate for June and December 1969–80]

	Mortgage rates on previously occupied homes [1] (percent)	FNMA 4 month commitment rates [2] (percent)	3 year Treasury rates [3] (percent)	5 year Treasury rates [4] (percent)
1977				
June	8.78	8.75	6.39	6.76
December	8.93	8.94	7.30	7.48
1978				
June	9.27	9.91	8.30	8.36
December	9.85	10.50	9.33	9.08
1979				
June	10.46	10.77	8.95	8.85
December	11.59	12.48	10.71	10.42
1980				
June	12.66	12.35	8.91	9.21

[1] The average contract interest rate charged by all lenders on mortgage loans for previously occupied homes as published by the Federal Home Loan Bank Board in its *Journal*.

[2] The average monthly gross yield to the Federal National Mortgage Association on accepted bids in weekly or biweekly auctions for 4-month commitments to purchase FHA-insured or VA-guaranteed home mortgages, as published in the *Federal Reserve Bulletin*.

[3] The average monthly yield on the United States Treasury securities adjusted to a constant maturity of 3 years based on daily closing bid prices as published in the *Federal Reserve Bulletin*.

[4] The average monthly yield on the United States Treasury securities adjusted to a constant maturity of 5 years based on daily closing bid prices as published in the *Federal Reserve Bulletin*.

The above data was obtained from information recently published by the Comptroller of the Currency in conjunction with their proposed Adjustable-Rate Mortgages rule. 45 FR 64196 (1980).

[FR Doc. 80-37304 Filed 11-28-80; 8:45 am]

BILLING CODE 7535-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 124

Definition of Social Disadvantage; Minority Group Inclusion

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 8(a) of the Small Business Act provides for a business development program in which the Small Business Administration enters into contracts with other Federal agencies and then arranges for the performance of such contracts by negotiating or otherwise letting subcontracts to socially and economically disadvantaged small business concerns.

This proposed rule clarifies and modifies criteria and procedures by which SBA can administratively determine that a group has suffered chronic racial or ethnic prejudice or cultural bias to such an extent that it shall be deemed a minority group for purposes of SBA's Section 8(a) business development program.

DATES: Comments must be received on or before January 30, 1980.

ADDRESS: Comments should be submitted to: Dana Stebbins, Special Assistant to the Associate Administrator for Minority Small Business and Capitol Ownership Development, Small Business Administration, Room 317, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Dana Stebbins, (202) 653–6589.

SUPPLEMENTARY INFORMATION: SBA has published an interim rule elsewhere in this issue of the **Federal Register** clarifying its policy with respect to defining social disadvantage for purposes for SBA's Section 8(a) business development program.

Subparagraph (ii) of the interim rule provides that, in the absence of evidence to the contrary, members of designated minority groups are considered socially disadvantaged. Subparagraph (ii) applies to the four groups designated by statute as socially disadvantaged and to minority groups administratively designated by SBA as socially disadvantaged.

This proposed rule states the criteria and procedures by which SBA plans to make administrative determinations of group social disadvantage. It modifies and, to a large extent, clarifies, the existing regulations, renumbered 13 CFR 124.1–1(c)(3)(iv) by the aforementioned interim rule.

This proposed rule provides that the Administrator, after consultation with the Associate Administrator for Minority Small Business and Capitol Ownership Development ("AA/MSB–COD"), shall make determinations of group social disadvantage. This conforms the existing rule to Section 105 of Pub. L. 96–481, enacted on October 21, 1980, which amends Section 8(a)(8) of the Small Business Act ("the Act") to provide that the Administrator shall make such determination after consultation with the AA/MSB–COD. It is not anticipated that this rule change will have any significant effect on SBA procedures, since our prior practice has been for the Administrator and AA/MSB–COD to jointly make such determinations.

Proposed subdivision (iv)(B) tightens existing standards by which SBA will judge group applications. SBA will initially determine whether the number of potential 8(a) applicants from the group is so substantial as to administratively warrant a determination of minority group status; and whether the group is sufficiently discrete, and the traits of its members sufficiently common, as to warrant a determination of minority group status. In other words, SBA will first determine, on the basis of the numerosity and commonality of group members, whether consideration of social disadvantage on a group basis is appropriate. SBA will then determine, according to the remaining criteria, whether an overwhelming number of group members are socially disadvantaged. We believe that it would be an abuse of discretion for SBA to designate a group as socially disadvantaged in the absence of evidence that an overwhelming majority of group members are socially disadvantaged.

Proposed subdivision (iv)(C) describes how applications for minority group status should be submitted to SBA and establishes the procedures by which SBA will solicit public comment on such applications. The public comment period has been extended from thirty to sixty days because of the importance of the issues involved in any group application. It remains within SBA's discretion to schedule a hearing on any group application.

Proposed subdivision (iv)(D) makes clear that only if there is clear and convincing evidence of the group's social disadvantage, in accordance with the criteria stated in subparagraph (iv)(B), will the Administrator determine that the group shall be deemed a minority group for purposes of the 8(a) program. We believe that it would be an abuse of discretion for SBA to designate a group as socially disadvantaged in the absence of clear and convincing evidence to that effect.

Accordingly, pursuant to Section 5(b)(6) of the Act, 15 U.S.C. 634(b)(6), SBA proposes to amend 13 CFR 124.1–1(c)(3)(iv) as follows:

§ 124.1–1. The Section 8(a) Program.

* * * * *

(c) *Eligibility.* * * *

(3) *Social Disadvantage.* * * *

(iv) *Minority Group Inclusion.—(A) Purpose.* The purpose of this subdivision (iv) is to establish a procedure by which a representative of a minority group can prove that the group has suffered chronic racial or ethnic prejudice or cultural bias. If the group is determined to have suffered chronic racial or ethnic prejudice or cultural bias, it shall be deemed a minority group for purposes of Section 8(a) of the Small Business Act, and its members shall be accorded the same status as members of those minority groups specifically named in Section 2(e)(1)(C) of the Small Business Act.

(B) *Standards.* In determining whether a group has suffered chronic racial or ethnic prejudice or cultural bias, the Administrator, after consultation with the AA/MSB–COD, shall determine (*1*) whether the number of potential 8(a) applicants from the group is so substantial as to administratively warrant a determination of minority group status; (*2*) whether the group is sufficiently discrete, and the traits of its members sufficiently common, as to warrant a determination of minority group status; (*3*) whether an overwhelming majority of group members have suffered long-term prejudice and discrimination in American society; (*4*) whether an overwhelming majority of group members have suffered, and continue to suffer, the effects of discriminatory practices or similar invidious circumstances over which they have no control; (*5*) whether such conditions have resulted, and continue to result, in economic deprivation for an overwhelming majority of group members; and (*6*) whether such conditions have produced, and continue to produce, impediments in the business world for an overwhelming majority of group members, which impediments are beyond their control and not common to all small business persons not socially disadvantaged.

(C) *Application.* An application for minority group status shall be submitted in writing to the Administrator, shall adequately describe the minority group on whose behalf the application is made, and shall be adequately documented. If the application makes a prima facie showing as to each of the six standards described above, the Administrator, after consultation with the AA/MSB–COD, shall, within thirty days of receipt of the application, direct that a notice be published in the **Federal Register** soliciting public comment on the application. The notice shall provide for a sixty-day comment period. Information shall be submitted in written form, or orally at such hearings as SBA may hold on the matter.

(D) *Decision.* The Administrator, after consultation with the AA/MSB–COD, shall render a decision on the application for minority group status within thirty days of the close of the comment period. The decision shall be in writing and shall be based on information submitted in response to the application. Notice of the decision shall be promptly published in the **Federal Register.** Only if the Administrator determines, on the basis of clear and convincing evidence and after consultation with the AA/MSB–COD,

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that the applicant group has satisfied each of the six standards described above, will he determine that the group shall be deemed a minority group for purposes of Section 8(a) of the Small Business Act.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 59.006, Minority Business Development—Procurement Assistance)

Dated: November 20, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-37134 Filed 11-28-80; 8:45 am]

BILLING CODE 8025-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

[Form 1-FR]

Minimum Financial and Related Reporting Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION. Proposed rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing amendments to certain of its minimum financial and related reporting requirements for futures commission merchants ("FCMs"), as well as the basic financial reporting form for FCMs, Form 1–FR. One proposed amendment would alter, for FCMs, the minimum dollar amount of adjusted net capital which must be maintained. The Commission is also reproposing an amendment to the minimum financial regulations regarding the treatment of undermargined accounts. In addition, the Commission in proposing one specific capital charge related to concentration of positions, and is inviting further comment to assist it in the development of further appropriate minimum financial regulations concerning concentration of positions.

DATES: Comments on the proposed rules should be submitted by March 2, 1981.

ADDRESS: Send comments to: Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT:

Daniel A. Driscoll, Chief Accountant, Division of Trading and Markets, at the address listed above. Telephone: (202) 254–8955.

SUPPLEMENTARY INFORMATION:

A. Introduction

On June 25, 1980, the Commission published proposed amendments to the minimum financial and related reporting requirements for FCMs (45 FR 42633). Fifty-two written comments were received in response to the proposed amendments, from forty-seven commentators.[1] The Commission carefully considered each of the comments, and in a separate release issued today, announced the adoption, as modified, of certain of those proposed amendments to the minimum financial regulations. The amendments being adopted will alter, for certain FCMs, the amount of adjusted net capital which must be maintained, the treatment of undermargined accounts and debit/deficit accounts, and the treatment of collateral used to secure receivables, and will also make conforming changes to the financial early warning system and Commission Form 1–FR to reflect all the new amendments.

B. Minimum Dollar Amount of Adjusted Net Capital

In the June 25, 1980 release the Commission proposed no change in the required minimum dollar levels of adjusted net capital, which are currently $50,000 for an FCM which is a member of a designated self-regulatory organization [2] and $100,000 for an FCM which is not a member. Six commentators recommended increasing the minimum dollar levels, although they did not agree on what those levels should be. Based upon those comments, and its own further experience with the operation of the minimum financial regulations, the Commission believes that such an increase may be necessary. Accordingly, the Commission is today proposing to increase the minimum dollar levels for adjusted net capital to $100,000 for members, and $250,000 for non-members. Conforming changes to Commission Form 1–FR, the basic financial reporting form for FCMs, are also being proposed.

C. Undermargined Accounts

One of the Commission's proposals in the June 25, 1980 release was to prohibit any reduction in the required charge to be taken against net capital for an undermargined account with respect to any customer commodity futures accounts for which any portion of a margin call remains outstanding for six (6) or more business days (for non-customer or omnibus accounts, the applicable time period would be four (4) or more business days). The Commission believes that undermargined accounts, in general, pose significant financial risks for an FCM. The Commission further believes that accounts remaining undermargined for longer than the periods of time specified in this paragraph pose significant additional risks to an FCM's financial condition which should be reflected in the computation of adjusted net capital.

Only a few commentators addressed this issue, and some of those stated that extensive studies should be conducted to assess the impact of such a rule. While the Commission continues to view with concern the particular threats imposed by outstanding margin calls, particularly those outstanding for six or more business days, it recognizes that most commentators directed their attention to assessing the impact of other proposed changes, principally the four percent of segregation requirements for computing minimum adjusted net capital. The Commission, therefore, has decided not to adopt the proposed amendments to paragraphs (c)(5)(viii) (customer accounts) and (c)(5)(ix) (non-customer and omnibus accounts) of § 1.17 at this time. Instead, the Commission is today reproposing the amendments so that interested persons, particularly those directly affected, may have a greater opportunity to study the effects of such a six-day cutoff and so that the Commission may further evaluate the rule in light of additional, more detailed comments. Comments already received on this issue will be considered as part of the record of this further rulemaking proceeding.

D. Concentration Charges

In addition to the rule changes proposed by the Commission in the June 25, 1980 release, the Commission stated that it was considering the development and implementation of a capital charge for FCMs which would take into consideration large concentrations of positions in customer, non-customer or proprietary accounts held in a particular commodity or a particular group of commodities.[3] The Commission expressed its concern that such concentrations of positions can greatly increase an FCM's financial exposure in the event of large price movements. The Commission stated that it was considering several possible approaches. One approach would compare a standard fluctuation based upon historical price changes in the concentrated future to the net capital of the firm, and require an FCM to make deductions from its capital based upon the comparison.[4] Another approach would be to group certain commodity futures contracts based upon the historical tendency of their prices to move together. An FCM would calculate the total exchange margin required for all positions with the firm in each group, and be required to take a charge against its net capital equal to all or some percentage of the largest amount of margin that would be necessary for any one group. The Commission invited interested persons to submit comments which would assist in the development of such a capital charge.

The Commission received fifteen comments on this issue. One commentator stated that concentration was the issue of primary importance in the context of the financial rules, and that any new rules should be tied to a certain concentration formula. That commentator went on to state that, for example, if the amount of a margin call for an undermargined account(s) of a customer or related group of customers exceeds 10 percent of the FCM's net capital, a credit for such margin call(s) should be allowed only to the extent that it is outstanding three business days or less (for smaller calls, the present five-day rule should apply). Other commentators suggested that the problem of concentration would best be addressed by exchange-established speculative position limits for all commodities (with Commission-established charges for any commodities without such limits), or by differential margin levels based on the number of open positions in a particular commodity in an account, or by predetermined limits on an FCM's business based on its net capital. Two commentators expressed the desire to study the issue further, and six commentators opposed any concentration charge.

Two other commentators suggested that when a physical commodity is used as margin, if the margin requirements for one customer or related group of customers exceeds twenty percent of an FCM's net capital, a fifty percent deduction would be applied to the market value of the unhedged physical commodity. The Commission believes that this suggestion has merit, and that a more stringent safety factor may be appropriate in situations where a person or related group of persons have deposited significant amounts of a non-cash item with an FCM to margin, guarantee or secure a futures account or to collateralize a debt to the FCM and that person or related group of persons have a net long futures position in the same non-cash item so deposited. Accordingly, the Commission is proposing to add a new paragraph (c)(5)(iii) to § 1.17 which would provide that if, in the above circumstances, the total amount of all loans, advances or other receivables owed to, and included in the current assets of, the FCM, plus the amount of the maintenance margin requirements of the applicable boards of trade for all of the open futures contracts of such person or persons held by the firm, exceed 20 percent of the FCM's net capital, the FCM must first apply the non-cash item, at a rate not to exceed 50 percent of its market value, to the exchange maintenance margin requirements for such net long futures position. An exemption would be provided for obligations of the United States and obligations which are fully guaranteed as to principal and interest by the United States. An exemption would also be provided in a situation where an applicant or registrant has received collateral through the delivery process of a contract market and has not held such collateral for more than five business days.

The following examples illustrate the effects of this proposed new provision:

Example 1. Customer XYZ Corp. deposits gold warehouse receipts with a market value of $200,000 into its futures account at ABC Co., an FCM whose net capital is $500,000.

XYZ has open long gold and copper contracts in its futures account. The maintenance margin requirements for those contracts are as follows: Gold contracts $100,000 and copper contracts $50,000, resulting in total maintenance margin requirements of $150,000.

The new provision applies in this situation because (1) XYZ's maintenance margin requirement exceeds 20 percent of ABC's net capital, and (2) XYZ has long open futures contracts in gold which is the commodity deposited to margin its account.

ABC would be required under the new provision to first apply the deposited gold at a rate of 50 percent of its market value to the maintenance margin requirements relating to the gold futures contracts.

In this case the entire $200,000 market value of the gold would be applied to the $100,000 gold margin requirement. Thus, for purposes of § 1.17 the account would be undermargined by $50,000. If the resulting margin call were not met within the three day grace period, or if no call were made, ABC Co. would be required to take a $50,000 charge against net capital.

Example 2. DEF, Inc., an FCM with net capital of $1,000,000, makes a $190,000 loan to one of its customers, Mr. Smith. Smith deposits silver warehouse receipts with a market value of $240,000 with DEF to collateralize the loan. Smith also has long futures positions in wheat and silver. The maintenance margin requirements for the silver positions are $30,000, and the margin requirements for the wheat contracts are also $30,000. In addition, Smith has a $60,000 cash credit ledger balance in his account. This situation triggers the new provision in that the total amount of the loan to Smith and Smith's margin requirements ($250,000) exceeds 20 percent of DEF's net capital, and Smith has long futures contracts in the commodity which he has deposited as collateral. DEF must first apply the silver, at a rate of 50 percent of its market value, to the maintenance margin requirements for the open silver contracts. This application would necessitate $60,000 worth of silver. $30,000 of the cash balance would be applied to the maintenance margin requirements of the wheat contracts leaving $30,000 cash and silver with a market value of $180,000 as security for the $190,000 loan. Pursuant to § 1.17(c)(3) the market value of the silver would be reduced by 20 percent to determine to what extent the loan is secured. As a result the collateral value is $174,000 ($90,000 cash and silver of $144,000). Consequently, only $174,000 of the $190,000 loan is secured and the remaining $16,000 must be classified as a nonourrent asset.

The Commission expects to study this issue further, and invites further comments from interested persons which will assist in the development of appropriate regulations respecting concentration charges. For the present, however, the only measure which will be specifically proposed is the one mentioned above, respecting physical commodities used, in essence, to margin long futures contracts in the same commodity.

In consideration of the foregoing, the Commission, pursuant to the authority contained in Sections 4d, 4f, and 8a of the Act, 7 U.S.C. 6d, 6f, and 12a, as amended, 92 Stat. 865 *et seq.*, hereby proposes to amend 17 CFR Chapter I and Commission Form 1–FR in the manner set forth below ([ ] indicate deletions, ►◄ indicate additions):

1. 17 CFR 1.17 would be amended by revising paragraphs (a)(1) and (c)(5)(viii)

[1] Three commentators submitted two letters each, and one commentator submitted three letters.

[2] The term "self-regulatory organization" ("SRO") means a contract market (as defined in 17 CFR 1.3 (h)), or a registered futures association under Section 17 of the Act (no such association presently exists). The term "designated self-regulatory organization" ("DSRO") means a self-regulatory organization of which an FCM is a member or, if the FCM is a member of more than one self-regulatory organization and such FCM is the subject of an approved plan under 17 CFR 1.52, then a self-regulatory organization delegated the responsibility by such a plan for monitoring and auditing such FCM for compliance with the minimum financial and related reporting requirements of the self-regulatory organizations of which the FCM is a member, and for receiving the financial reports necessitated by such minimum financial and related reporting requirements from such FCM. 17 CFR 1.3(ee) and (ff).

[3] 45 FR 42633, at 42637.

[4] *See* 42 FR 27166, at 27171, 27175 (May 26, 1977).

and (ix), and by adding a new paragraph (c)(5)(iii) to read as follows:

for an FCM who is not a member of a designated self-regulatory organization) or 6% of funds required to be segregated for commodity futures and options

applicant or registrant to apply the provisions of this paragraph (c)(5)(iii), the loans, advances or other receivables

in each such account to meet maintenance margin requirements of the applicable board of trade or if there are

payee. We also propose to add to the regulations several of the policies we now follow in making representative

When We Make Representative Payment

As a general rule, we pay benefits

and (ix), and by adding a new paragraph (c)(5)(iii) to read as follows:

§ 1.17 Minimum financial requirements—futures commission merchants.

(a)(1) Except as provided in paragraph (a)(2) of this section, each person registered as a futures commission merchant must maintain adjusted net capital equal to or in excess of the greatest of [$50,000] ►$100,000◄, ([$100,000] ►$250,000◄ for each person registered as a futures commission merchant who is not a member of a designated self-regulatory organization), or 4 percent of the funds required to be segregated pursuant to the Act and these regulations, or, for securities brokers and dealers, 4 percent of aggregate debit items computed in accordance with the formula for determination or reserve requirements (Exhibit A to Rule 15c3–3, 17 CFR 240.15c3–3).

* * * * *

(c) * * *

(5) * * *

►(iii) In determining any charge required by paragraphs (c)(5)(viii) and (c)(5)(ix) of this section, and in determining proper security under paragraph (c)(3) of this section, if the total of all loans, advances or other receivables owed by a person to, and included in current assets of, the applicant or registrant, plus the amount of the maintenance margin requirements of the applicable boards of trade for all of the open futures contracts of such person held by the applicant or registrant exceed 20% of the net capital of the applicant or registrant, any collateral deposited by such person which is the same commodity as the commodity underlying any net long futures position of such person must first be applied, at a rate of not more than 50% of its market value, to the maintenance margin requirements of the applicable boards of trade for such net long position of such person in the same commodity as the collateral. The provisions of this pararaph (c)(5)(iii) shall not apply if an applicant or registrant has received the collateral through the delivery process of a contract market and has not held such collateral for more than five business days. For the purposes of this paragraph (c)(5)(iii), collateral includes any non-cash item, except obligations of the United States or obligations fully guaranteed as to principal and interest by the United States, that is used to margin, guarantee or secure an open contract of any person, or which is used as security for a loan, advance or other receivable from a person. In determining whether a person would cause an applicant or registrant to apply the provisions of this paragraph (c)(5)(iii), the loans, advances or other receivables owed by, and the amount of the maintenance margin requirements of the applicable boards of trade for, persons who are directly or indirectly controlled by, or whose accounts are directly or indirectly controlled by, such person shall be considered as those of such person; further, if two or more persons are acting pursuant to an express or implied agreement or undertaking, the total of the loans, advances or other receivables owed, and the margin requirements of, the persons so acting shall be considered those of a single person.◄

* * * * *

(viii) For undermargined customer commodity futures accounts the amount of funds required in each such account to meet maintenance margin requirements of the applicable board of trade or if there are no such maintenance margin requirements clearing organization margin requirements applicable to such positions, after application of calls for margin, or other required deposits which are outstanding three business days or less. If there are no such maintenance margin requirements or clearing organization margin requirements on such accounts, then the amount of funds required to provide margin equal to the amount necessary after application of calls for margin, or other required deposits outstanding three days or less to restore original margin when the original margin has been depleted by 50 percent or more [.] ►: *Provided,* That no outstanding margin calls shall apply against the charge relating to a customer commodity futures account which is undermargined if any portion of such calls to such customer has remained outstanding for six or more business days: And◄ provided ►further◄, to the extent a deficit is excluded from current assets in accordance with paragraph (c)(2)(i) of this section such amount shall no also be deducted under this paragraph (c)(5)(viii). In the event that an owner of a customer account has deposited an asset other than cash to margin, guarantee or secure his account, the value attributable to such asset for purposes of this subparagraph shall be the lesser of (A) the value attributable to the asset pursuant to the margin rules of the applicable board of trade, or (B) the market value of the asset after application of the percentage deductions specified in this paragraph (c)(5);

(ix) For undermargined non-customer and omnibus commodity futures accounts the amount of funds required in each such account to meet maintenance margin requirements of the applicable board of trade or if there are no such maintenance margin requirements clearing oranization margin requirements applicable to such positions, after application of calls for margin, or other required deposits which are outstanding two business days or less. If there are no such maintenance margin requirements or clearing organization margin requirements, then the amount of funds required to provide margin equal to the amount necessary, after application of calls for margin, or other required deposits outstanding two days or less to restore original margin when the initial margin has been depleted by 50 percent or more [.] ►: *Provided,* That no outstanding margin calls shall apply against the charge relating to a non-customer or omnibus commodity futures account which is undermargined if any portion of such calls to such non-customer or omnibus account has remained outstanding for four or more business days: And◄ provided ►future◄, to the extent a deficit is excluded from current assets in accordance with paragraph (c)(2)(i) of this section such amount shall not also be deducted under this paragraph (c)(5)(ix). In the event that an owner of a non-customer or omnibus account has deposited an asset other than cash to margin, guarantee or secure his account the value attributable to such asset for purposes of this subparagraph shall be the lesser of (A) the value attributable to such asset pursuant to the margin rules of the applicable board of trade, or (B) the market value of such asset after application of the percentage deductions specified in this paragraph (c)(5);

* * * * *

2. By amending Form 1–FR as follows:

Form 1–FR

* * * * *

Net Capital Computation

24. For minimum net capital required, enter the greatest of lines A, B, or C: $———
A. Enter [$50,000] ►$100,000◄ ([$100,000] ►$250,000◄ if registrant is not a member of a designated self-regulatory organization) $———
B. Enter 4% of the amount of funds required to be segregated for commodity futures and options customers $———
C. If a securities broker-dealer, enter 4% of the aggregate debit items computed in accordance with the formula for determination of reserve requirements (attach the computation of Exhibit A to SEC Rule 15c3–3) $———
25. Adjusted net capital—Item 23 this statement $———
26. Excess net capital $———
27. Enter the greatest of [$75,000] ►$150,000◄ ([$150,000] ►$375,000◄ for an FCM who is not a member of a designated self-regulatory organization) or 6% of funds required to be segregated for commodity futures and options customers, or, for securities broker-dealers, enter 6% of the aggregate debit items computed in accordance with the formula for determination of reserve requirements (if the amount on line 25 is less than the amount on line 27, the applicant or registrant must immediately notify its designated self-regulatory organization and the Commission and commence filing monthly statements of its financial condition pursuant to Regulation 1.12) $———

*References are to item numbers on the Statement of Financial Condition.

* * * * *

Issued in Washington, D.C., on November 25, 1980, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-37149 Filed 11–28–80; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

[Regs. Nos. 4 and 16]

Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Representative Payment

AGENCY: Social Security Administration, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to revise our regulations on representative payment under titles II, Old-Age, Survivors and Disability Insurance (OASDI), and XVI, Supplemental Security Income for the Aged, Blind, and Disabled (SSI) of the Social Security Act. These regulations (1) explain representative payment; (2) state when title II and title XVI benefits will be paid to a representative payee rather than directly to the entitled person; (3) indicate the procedure we follow in selecting a representative payee; (4) specify the responsibilities of a representative payee; and (5) clarify our responsibilities to the beneficiary when we select a payee on his or her behalf.

We have rewritten and reorganized the existing regulations to make them clearer and easier for the public to use. In the process of reviewing our existing regulations, our policies in this area were also reexamined. We decided that our regulations should continue to present a set of basic guidelines for persons acting as a representative payee. We also propose to add to the regulations several of the policies we now follow in making representative rather than direct payment but which are not in the current regulations. First, we have added a provision to explain that we will give a beneficiary advance notice before we make a determination that representative payment will be made, unless the beneficiary has been found to be legally incompetent or is under 18 years old. Second, we have added a provision to indicate that when conserved funds are held in an interest bearing account, the interest from the account, as well as the principal, is the property of the beneficiary. Third, we have added a more complete explanation of how we select a payee and what we expect of a payee once the selection has been made. Finally we have clarified our responsibilities to a beneficiary when we select someone else to receive payments on the beneficiary's behalf.

DATES: Your comments will be considered if we receive them no later than January 30, 1981.

ADDRESSES: Send your written comments to Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203.

Anyone can see copies of all comments we receive at the Washington Inquiries Section, Office of Governmental Affairs, Social Security Administration, Department of Health and Human Services, North Building, Room 1169, 330 Independence Avenue, S.W., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Philip Berge, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephne (301) 594–7452.

SUPPLEMENTARY INFORMATION:

Recodification of the Regulations

These regulations are being revised and reorganized as part of HHS' Operation Common Sense, which is a Department-wide effort to review, simplify, and improve HHS' regulations. The regulations carry out Sections 205, 1102 and 1631 of the Social Security Act.

The current regulations on representative payment of title II benefits are in Subpart Q of Part 404 in title 20 of the code of Federal Regulations. Corresponding title XVI regulations are in Subpart F of Part 416 in Title 20.

When We Make Representative Payment

As a general rule, we pay benefits directly to the person entitled to receive them so that the person will have the full use of and control over his or her own funds. However, when we have reason to believe that a beneficiary is not able to handle the funds in his or her own interest, we investigate to determine whether benefits should be paid to someone else on his or her behalf. If we determine that a beneficiary cannot manage benefit payments in his or her own interests, we will select a representative payee and certify payments ot the payee for the use and benefit of the beneficiary. Before we make this determination, we must be sure that the interests of the beneficiary will be served by our making representative rather than direct payment. Whenever we make representative payment, we certify payment to the representative payee on behalf of the beneficiary. This is to indicate that payment is being made to the representative payee as a fiduciary, and that the money is not the payee's own or for the payee's benefit, but solely for the benefit of the beneficiary. If we pay benefits to a representative payee in accordance with the guidelines explained in this subpart and the representative payee misuses the benefits, we consider our responsibility discharged and any responsibility for making restitution of the misused funds applies to the representative payee, and not SSA. (See §§ 404.1641 and 416.641.)

There are certain situations where we always make representative payment. For example, if we learn that a beneficiary has been found legally incompetent, we will name a representative payee. The payee we select will often be the court-appointed fiduciary but, depending upon the circumstances, we may select some other person who shows a personal as well as a financial responsibility for the beneficiary. Also, by law, we must select a representative payee to receive the supplemental security income payments of a person who is eligible for benefits on the basis of a disability and who has been medically determined to be an alcoholic or a drug addict. Also, we generally name a representative payee to receive the benefits of a person under age 18.

How We Select a Representative Payee

The existing regulations explain what we need to know from a person before we select him or her as a payee. They do not indicate, however, the preferences we use in selecting a payee. Our list of

preferred payees is a guide we have prepared on the basis of our experience. It is considered along with all other factors in helping us select a payee. We

(Catalog of Federal Domestic Assistance Program, Nos. 13.802 Social Security-Disability Insurance; 13.803 Social Security-Retirement Insurance; 13.804 Social Security-

selected by us to receive benefits on behalf of a beneficiary. A representative payee will be selected if we believe that the interests of a beneficiary will be

security record, or is serving in the military service.

§ 404.1615 Information considered in determining whether to make

(2) A friend who has custody of the beneficiary or demonstrates strong concern for the personal welfare of the beneficiary;

name a representative payee and who that payee will be. We also ask the person to contact us if he or she objects to either proposed action. If he or she

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preferred payees is a guide we have prepared on the basis of our experience. It is considered along with all other factors in helping us select a payee. We have included these preferences in §§ 404.1620, 404.1621, 416.620, and 416.621.

Before We Name a Representative Payee

We have added a section to the proposed regulations to reflect our current procedure of giving advance notice of our determination to make representative payment and to name a payee. In this notice we tell the beneficiary that we plan to name a representative payee, indicate who the payee will be, and ask the beneficiary to contact us if he or she wishes to object to our proposed actions. If the beneficiary objects, we will review our intended decisions and consider any additional information given to us. We will then issue a determination stating the means of payment and the payee, which the beneficiary may appeal under our administrative review process. The advance notice procedures are explained in §§ 404.1630 and 416.630.

Responsibilities of a Representative Payee

The existing regulations state certain responsibilities of a representative payee. These responsibilities are included in the proposed regulations. We have added to this list the responsibility to report to us any event which occurs that will affect the beneficiary's continued right to payments. This is contained in §§ 404.1635 and 416.635. We have also added an example in §§ 404.1645 and 416.645 to illustrate our view that moneys not needed for the beneficiary's current maintenance should be deposited in an interest bearing account or invested on behalf of the beneficiary. We have had experience with representative payees holding funds rather than investing them. Also, in some instances the funds were invested by a representative payee, but the dividends did not accrue to the benefit of the beneficiary. Some institutions or agencies acting as a representative payee deposit funds not needed for the current maintenance of the beneficiary in an interest bearing account, but the interest payable on the account has not accrued to the beneficiary. In §§ 404.1645 and 416.645 of the proposed regulations we have added a provision to clarify that the interest earned from an investment account is the property of the beneficiary, and not the property of the payee.

(Catalog of Federal Domestic Assistance Program, Nos. 13.802 Social Security-Disability Insurance; 13.803 Social Security-Retirement Insurance; 13.804 Social Security-Survivors Insurance; 13.807 Supplemental Security Income)

Dated: September 22, 1980.

William J. Driver,

Commissioner of Social Security.

Approved: November 19, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

1. Subpart Q of Part 404 is revised to read as follows:

Subpart Q—Representative Payment

Sec.

404.1601 Introduction.
404.1610 When payment will be made to a representative payee.
404.1615 Information considered in determining whether to make representative payment.
404.1620 Information considered in selecting a representative payee.
404.1621 Order of preference in selecting a representative payee.
404.1625 Information to be submitted by a representative payee.
404.1630 Advance notice of the determination to make representative payment.
404.1635 Responsibilities of a representative payee.
404.1640 Use of benefit payments.
404.1641 Liability for misuse of benefit payments.
404.1645 Conservation and investment of benefit payments.
404.1650 When a new representative payee will be selected.
404.1655 When representative payment will be stopped.
404.1660 Transfer of accumulated benefit payments.
404.1665 Accounting for benefit payments.

Authority: Secs. 205 and 1102 of the Social Security Act; 53 Stat. 1368, 49 Stat. 647 (42 U.S.C. 405 and 1302).

Subpart Q—Representative Payment

§ 404.1601 Introduction.

(a) *Explanation of representative payment.* This subpart explains the principles and procedures that we follow in determining whether to make representative payment and in selecting a representative payee. It also explains the responsibilties that a representative payee has concerning the use of the funds he or she receives on behalf of a beneficiary. A representative payee may be either a person or an organization selected by us to receive benefits on behalf of a beneficiary. A representative payee will be selected if we believe that the interests of a beneficiary will be served by representative payment rather than direct payment of benefits. Generally, we appoint a representative payee if we have determined that the beneficiary is not able to manage benefit payments in his or her own interest.

(b) *Policy used to determine whether to make representative payment.* (1) Our policy is that every beneficiary has the right to manage his or her own benefits. However, some beneficiaries due to a mental or physical condition or due to their youth may be unable to do so. Under these circumstances, we may determine that the interests of the beneficiary would be better served if we certified benefit payments to another person as a representative payee.

(2) If we determine that representative payment is in the interest of a beneficiary, we will appoint a representative payee. We may appoint a representative payee even if the beneficiary is a legally competent individual. If the beneficiary is a legally incompetent individual, we may appoint the legal guardian or some other person as a representative payee.

(3) If payment is being made directly to a beneficiary and a question arises concerning his or her ability to manage benefit payments, we will, if the beneficiary is 18 years old or older and has not been adjudged legally incompetent, continue to pay the beneficiary until we make a determination about his or her ability to manage benefit payments and the selection of a representative payee.

§ 404.1610 When payment will be made to a representative payee.

(a) We pay benefits to a representative payee on behalf of a beneficiary 18 years old or older when it appears to us that this method of payment will be in the interest of the beneficiary. We do this if we have information that the beneficiary is—

(1) Legally incompetent or mentally incapable of managing benefit payments; or

(2) Physically incapable of managing benefit payments.

(b) Generally, if a beneficiary is under age 18 we will pay benefits to a representative payee. However, in certain situations we make direct payment to a beneficiary under age 18. For example, we may make direct payment to a beneficiary under age 18 who is receiving disability insurance benefits on his or her own social security record, or is serving in the military service.

§ 404.1615 Information considered in determining whether to make representative payment.

(a) *Court determinations.* If we learn that a beneficiary has been found to be legally incompetent, a certified copy of the court's determination will be the basis of our determination to make representative payment.

(b) *Medical evidence.* When available, we will use medical evidence to determine if a beneficiary is capable of managing benefit payments. For example, a statement by a physician or other medical professional based upon his or her recent examination of the beneficiary and his or her knowledge of the beneficiary's present condition will be used in our determination, if it includes information concerning the nature of the beneficiary's illness, the beneficiary's chances for recovery and the opinion of the physician or other medical professional as to whether the beneficiary is able to manage benefit payments.

(c) *Other evidence.* We will also consider any statements of relatives, friends and other people in a position to know and observe the beneficiary, which contain information helpful to us in deciding whether the beneficiary is able to manage benefit payments.

§ 404.1620 Information considered in selecting a representative payee.

In selecting a payee we try to select the person, agency, organization or institution that will best serve the interests of the beneficiary. In making our selection we consider—

(a) The relationship of the person to the beneficiary;

(b) The amount of interest that the person shows in the beneficiary;

(c) Any legal authority the person, agency, organization or institution has to act on behalf of the beneficiary;

(d) Whether the potential payee has custody of the beneficiary; and

(e) Whether the potential payee is in a position to know of and look after the needs of the beneficiary.

§ 404.1621 Order of preference in selecting a representative payee.

In selecting a payee we have established preferences in the following order:

(a) For beneficiaries 18 years or older our preference is—

(1) A legal guardian, spouse (or other relative) who has custody of the beneficiary or who demonstrates strong concern for the personal welfare of the beneficiary;

(2) A friend who has custody of the beneficiary or demonstrates strong concern for the personal welfare of the beneficiary;

(3) A public or nonprofit agency or institution having custody of the beneficiary; or

(4) A private institution operated for profit and licensed under State law, which has custody of the beneficiary.

(b) For beneficiaries under age 18, our preference is—

(1) A natural or adoptive parent who has custody of the beneficiary, or a guardian;

(2) A natural or adoptive parent not having custody of the beneficiary, but contributing toward the beneficiary's support and demonstrating strong concern for the beneficiary's well being;

(3) A natural or adoptive parent not having custody of the beneficiary and not contributing toward his or her support but demonstrating strong concern for the beneficiary's well being;

(4) A relative or stepparent having custody of the beneficiary;

(5) A relative not having custody of the beneficiary but contributing toward the beneficiary's support and demonstrating concern for the beneficiary's well being;

(6) An authorized social agency or custodial institution; or

(7) A relative or close friend of the beneficiary demonstrating concern for the beneficiary's well being.

§ 404.1625 Information to be submitted by a representative payee.

(a) Before we select a representative payee, the payee applicant must give us information showing his or her relationship to the beneficiary and his or her responsibility for the care of the beneficiary.

(b) Anytime after we have selected a payee, we may ask the payee to give us information showing a continuing relationship to the beneficiary and a continuing responsibility for the care of the beneficiary. If the payee does not give us the requested information within a reasonable period of time, we may stop paying the payee unless we determine that the payee had a good reason for not complying with our request, and we receive the information requested.

§ 404.1630 Advance notice of the determination to make representative payment.

(a) Generally, whenever we intend to make representative payment and to name a payee, we notify the beneficiary or the individual acting on his or her behalf, of our proposed actions. In this notice we tell the person that we plan to name a representative payee and who that payee will be. We also ask the person to contact us if he or she objects to either proposed action. If he or she objects to either proposed action, the person may—

(1) Review the evidence upon which the proposed actions will be based; and

(2) Submit any additional evidence regarding the proposed actions.

(b) If the person objects to the proposed actions, we will review our proposed determinations and consider any additional information given to us. We will then issue our determinations. If the person is dissatisfied with either determination, he or she may request a reconsideration.

(c) If the person does not object to the proposed actions, we will issue our determinations. If the person is dissatisfied with either determination, he or she may request a reconsideration.

§ 404.1635 Responsibilities of a representative payee.

A representative payee has a responsibility to—

(a) Use the payments he or she receives only for the use and benefit of the beneficiary in a manner and for the purposes he or she determines, under the guidelines in this subpart, to be in the best interests of the beneficiary;

(b) Notify us of any event that will affect the amount of benefits the beneficiary receives or the right of the beneficiary to receive benefits;

(c) Submit to us, upon our request, a written report accounting for the benefits received; and

(d) Notify us of any change in his or her circumstances that would affect performance of the payee responsibilities.

§ 404.1640 Use of benefit payments.

(a) *Current Maintenance.* We will consider that payments we certify to a representative payee have been used for the use and benefit of the beneficiary if they are used for the beneficiary's current maintenance. Current maintenance includes costs incurred in obtaining food, shelter, clothing, medical care, and personal comfort items.

Example:
An aged beneficiary is entitled to a monthly social security benefit of $400. Her son, who is her payee, disburses her benefits in the following manner:
Rent and utilities—$200
Medical—$25
Food—$60
Clothing (coat)—$55
Savings—$30
Miscellaneous personal need—$30

The above expenditures would represent proper disbursements on behalf of the beneficiary.

(b) *Institutional care.* If a beneficiary is receiving care in a Federal, State or private institution because of mental or physical incapacity, current maintenance includes the customary charges made by the institution, as well as expenditures for those items which will aid in the beneficiary's recovery or release from the institution or which will improve the beneficiary's conditions while in the institution.

Example:
An institutionalized beneficiary is entitled to a monthly social security benefit of $320. The institution charges $700 a month for room and board. The beneficiary's brother, who is his payee, learns the beneficiary needs new shoes and does not have any funds to purchase miscellaneous items at the institution's canteen.

The payee takes his brother to town and buys him a pair of shoes for $29.95. He also takes the beneficiary to see a movie which costs $3. When they return to the institution, the payee gives his brother $3 to be used at the canteen.

Although the payee normally withholds only $25 a month from the social security benefit for the beneficiary's personal needs, this month the payee deducted the above expenditures and paid the institution $10.95 less than he usually pays.

The above expenditures represent what we would consider to be proper expenditures for current maintenance.

(c) *Support of legal dependents.* If the current maintenance needs of the beneficiary are met, the payee may use part of the payments for the support of the beneficiary's legally dependent spouse, child, and parent.

Example:
A disabled beneficiary receives a Veterans Administration (VA) benefit of $325.00 and a social security benefit of $525.70. The beneficiary resides in a VA hospital and his VA benefits are sufficient to provide for all of his needs: i.e., cost of care and personal needs. The beneficiary's legal dependents—his wife and two children—have a total income of $250 per month in social security benefits. However, they have expenses of approximately $450 per month.

Because the VA benefits are sufficient to meet the beneficiary's needs, it would be appropriate to use part of his social security benefits to support his dependents.

(d) *Claims of creditors.* A payee may not be required to use payments to satisfy a debt of the beneficiary, if the debt arose before the first month for which payments are certified to a payee. If the debt arose prior to this time, a payee may satisfy it only if the current and reasonably foreseeable needs of the beneficiary are met.

Example:
A retroactive social security check in the amount of $1,640.40, representing benefits due for July 1979 through January 1980, was issued on behalf of the beneficiary to the beneficiary's aunt who is the representative payee. The check was certified in February 1980.

The nursing home, where the beneficiary resides, submitted a bill for $1,139.70 to the payee for maintenance expenses the beneficiary incurred during the period from June 1979 through November 1979. (Maintenance charges for December 1979 through February 1980 had previously been paid.)

Because the benefits were not required for the beneficiary's current maintenance, the payee had previously saved over $500 for the beneficiary and the beneficiary had no foreseeable needs which would require large disbursements, the expenditure for the maintenance charges would be consistent with our guidelines.

§ 404.1641 Liability for misuse of benefit payments.

We consider our obligation to the beneficiary to be completely discharged when we make a correct payment to a representative payee on behalf of the beneficiary. The payee in his or her personal capacity, and not SSA, may be liable if the payee misuses the beneficiary's benefits.

§ 404.1645 Conservation and investment of benefit payments.

(a) *General.* If payments are not needed for the beneficiary's current maintenance, reasonably foreseeable needs or the support of legal dependents, they shall be conserved or invested on behalf of the beneficiary. Conserved funds should be invested in accordance with the rules followed by trustees. Any investment must show clearly that the payee holds the property in trust for the beneficiary.

Example:
A State institution for mentally retarded children, which is receiving Medicaid funds, is representative payee for several social security beneficiaries. The checks which the payee receives are deposited into one account which shows that the benefits are held in trust for the beneficiaries. The institution has supporting records which show the share each individual has in the account. Funds from this account are disbursed fairly quickly after receipt for the current support and maintenance of the beneficiaries as well as for miscellaneous needs the beneficiaries may have. Several of the beneficiaries have significant accumulated resources in this account. For those beneficiaries whose benefits have accumulated over $150, the funds should be deposited in an interest-bearing account or invested relatively free of risk on behalf of the beneficiaries.

(b) *Preferred Investments.* Preferred investments for excess funds are U.S. Savings Bonds and deposits in an interest or dividend paying account in a bank, trust company, credit union, or savings and loan association which is insured under either Federal or State law. The account must be in a form which shows clearly that the representative payee has only a fiduciary and not a personal interest in the funds. If the payee is the legally appointed guardian or fiduciary of the beneficiary, the account may be established to indicate this relationship. If the payee is not the legally appointed guardian or fiduciary, the accounts may be established as follows:

(1) For U.S. Savings Bonds—

_____

(Name of beneficiary)

_____

(Social Security Number), for whom

_____

(Name of payee) is representative payee for social security benefits;

(2) For interest or dividend paying accounts—

_____

(Name of beneficiary) by

_____

(Name of payee),
representative payee.

(3) *Interest and dividend payments.* The interest and dividends which result from an investment are the property of the beneficiary and may not be considered to be the property of the payee.

§ 404.1650 When a new representative payee will be selected.

When we learn that the interests of the beneficiary are not served by continuing payment to the present payee or that the present payee is no longer able to carry out the payee responsibilities, we try to find a new payee. We will select a new payee if we find a preferred payee or if the present payee—

(a) Has not used the benefit payments on the beneficiary's behalf in accordance with the guidelines in this subpart;

(b) Has not carried out the other responsibilities described in this subpart;

(c) Dies;

(d) No longer wishes to be payee;

(e) Is unable to manage the benefit payments; or

(f) Fails to cooperate, within a reasonable time, in providing evidence, accounting or other information which we request.

§ 404.1655 When representative payment will be stopped.

If a beneficiary receiving representative payment shows us that he or she is mentally and physically able to manage benefit payments, we will make direct payment. Information which the beneficiary may give us to support his or her request for direct payment include the following—

(a) A physician's statement regarding the beneficiary's condition, or a statement by a medical officer of the institution where the beneficiary is or was confined, showing that the beneficiary is able to manage his or her funds; or

(b) A certified copy of a court order restoring the beneficiary's rights in a case where a legal guardian was appointed; or

(c) Other evidence which establishes the beneficiary's ability to manage benefits.

§ 404.1660 Transfer of accumulated benefit payments.

A representative payee who has conserved or invested benefit payments shall transfer these funds, and the interest earned from the invested funds, to either a successor payee or to us, as we will specify. If the funds and the earned interest are returned to us, we will recertify them to a successor representative payee or to the beneficiary.

§ 404.1665 Accounting for benefit payments.

A representative payee is accountable for the use of benefits. We may require periodic written reports from representative payees. We may also, in certain situations, verify how a representative payee used the funds. A representative payee should keep records of what was done with the benefit payments in order to make accounting reports. We may ask the following questions—

(a) The amount of benefit payments on hand at the beginning of the accounting period;

(b) How the benefit payments were used;

(c) How much of the benefit payments were saved and how the savings were invested;

(d) Where the beneficiary lived during the accounting period; and

(e) The amount of the beneficiary's income from other sources during the accounting period. We ask for information about other funds to enable us to evaluate the use of benefit payments.

Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

2. Subpart F of Part 416 is revised to read as follows:

Subpart F—Representative Payment

Sec.
416.601 Introduction.
416.610 When payment will be made to a representative payee.
416.615 Information considered in determining whether to make representative payment.
416.620 Information considered in selecting a representative payee.
416.621 Order of preference in selecting a representative payee.
416.625 Information to be submitted by a representative payee.
416.630 Advance notice of the determination to make representative payment.
416.635 Responsibilities of a representative payee.
416.640 Use of benefit payments.
416.641 Liability for misuse of benefit payments.
416.645 Conservation and investment of benefit payments.
416.650 When a new representative payee will be selected.
416.655 When representative payment will be stopped.
416.660 Transfer of accumulated benefit payments.
416.665 Accounting for benefit payments.

Authority: Secs. 1102 and 1631(a) and (d)(1) of the Social Security Act; 49 Stat. 647; 86 Stat. 1475; (42 U.S.C. 1302 and 1383(a) and (d)(1)).

Subpart F—Representative Payment

§ 416.601 Introduction.

(a) *Explanation of representative payment.* This subpart explains the principles and procedures which we follow in determining whether to make representative payment and in selecting a representative payee. It also explains the responsibilities that a representative payee has concerning the use of the funds he or she receives on behalf of a beneficiary. A representative payee may be either a person or an organization selected by us to receive benefits on behalf of a beneficiary. A representative payee will be selected if we believe that the interests of a beneficiary will be served by representative payment rather than direct payment of benefits. Generally, we appoint a representative payee if we have determined that the beneficiary is not able to manage benefit payments in his or her own interest.

(b) *Policy used to determine whether to make representative payment.* (1) Our policy is that every beneficiary has the right to manage his or her own benefits. However, some beneficiaries due to a mental or physical condition or due to their youth may be unable to do so. Under those circumstances, we may determine that the interests of the beneficiary would be better served if we certified benefit payments to another person as a representative payee. However, we must select a representative payee for an individual who is eligible for benefits solely on the basis of disability and who is medically determined to be a drug addict or an alcoholic.

(2) If we determine that representative payment is in the interest of a beneficiary, we will appoint a representative payee. We may appoint a representative payee even if the beneficiary is a legally competent individual. If the beneficiary is a legally incompetent individual, we may appoint the legal guardian or some other person as a representative payee.

(3) If payment is being made directly to a beneficiary and a question arises concerning his or her ability to manage benefit payments, we will, if the beneficiary is 18 years old or older and has not been adjudged legally incompetent, continue to pay the beneficiary until we make a determination about his or her ability to manage benefit payments and the selection of a representative payee.

§ 416.610 When payment will be made to a representative payee.

(a) We pay benefits to a representative payee on behalf of a beneficiary 18 years old or older when it appears to us that this method of payment will be in the interest of the beneficiary. We do this if we have information that the beneficiary is—

(1) Legally incompetent or mentally incapable of managing benefit payments; or

(2) Physically incapable of managing benefit payments.

(b) Generally, if a beneficiary is under age 18 we will pay benefits to a representative payee. However, in certain situations we make direct payment to a beneficiary under age 18 who shows the ability to manage the payments.

§ 416.615 Information considered in determining whether to make representative payment.

(a) *Court determinations.* If we learn that a beneficiary has been found to be legally incompetent, a certified copy of the court's determination will be the

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basis of our determination to make representative payment.

(b) *Medical evidence.* When available, we will use medical evidence to determine if a beneficiary is capable of managing benefit payments. For example, a statement by a physician or other medical professional based upon his or her recent examination of the beneficiary and his or her knowledge of the beneficiary's present condition will be used in our determination, if it includes information concerning the nature of the beneficiary's illness, the beneficiary's chances for recovery and the opinion of the physician or other medical professional as to whether the beneficiary is able to manage benefit payments.

(c) *Other evidence.* We will also consider any statements of relatives, friends and other people in a position to know and observe the beneficiary, which contain information helpful to us in deciding whether the beneficiary is able to manage benefit payments.

§ 416.620 Information considered in selecting a representative payee.

In selecting a payee we try to select the person, agency, organization or institution that will best serve the interests of the beneficiary. In making our selection we consider—

(a) The relationship of the person to the beneficiary;

(b) The amount of interest that the person shows in the beneficiary;

(c) Any legal authority the person, agency, organization or institution has to act on behalf of the beneficiary;

(d) Whether the potential payee has custody of the beneficiary; and

(e) Whether the potential payee is in a position to know of and look after the needs of the beneficiary.

§ 416.621 Order of preference in selecting a representative payee.

In selecting a payee, we have established preferences in the following order:

(a) For beneficiaries 18 years old or older our preference is—

(1) A legal guardian, spouse (or other relative) who has custody of the beneficiary or who demonstrates strong concern for the personal welfare of the beneficiary;

(2) A friend who has custody of the beneficiary or demonstrates strong concern for the personal welfare of the beneficiary;

(3) A public or nonprofit agency or institution having custody of the beneficiary; or

(4) A private institution operated for profit and licensed under State law which has custody of the beneficiary.

(b) For beneficiaries under age 18, our preference is—

(1) A natural or adoptive parent who has custody of the beneficiary, or a guardian;

(2) A natural or adoptive parent not having custody of the beneficiary, but contributing toward the beneficiary's support and demonstrating strong concern for the beneficiary's well being;

(3) A natural or adoptive parent not having custody of the beneficiary and not contributing toward his or her support but demonstrating strong concern for the beneficiary's well being;

(4) A relative or stepparent having custody of the beneficiary;

(5) A relative not having custody of the beneficiary but contributing toward the beneficiary's support and demonstrating concern for the beneficiary's well being;

(6) An authorized social agency or custodial institution; or

(7) A relative or close friend of the beneficiary demonstrating concern for the beneficiary's well being.

§ 416.625 Information to be submitted by a representative payee.

(a) Before we select a representative payee, the payee applicant must give us information showing his or her relationship to the beneficiary and his or her responsibility for the care of the beneficiary.

(b) Anytime after we have selected a payee, we may ask the payee to give us information showing a continuing relationship to the beneficiary and a continuing responsibility for the care of the beneficiary. If the payee does not give us the requested information within a reasonable period of time, we may stop paying the payee unless we determine that the payee had a good reason for not complying with our request, and we receive the information requested.

§ 416.630 Advance notice of the determination to make representative payment.

(a) Generally, whenever we intend to make representative payment and to name a payee, we notify the beneficiary or the individual acting on his or her behalf, of our proposed actions. In this notice we tell the person that we plan to name a representative payee and who that payee will be. We also ask the person to contact us if he or she objects to either proposed action. If he or she objects to either proposed action, the person may—

(1) Review the evidence upon which the proposed actions will be based; and

(2) Submit any additional evidence regarding the proposed actions.

(b) If the person objects to the proposed actions, we will review our proposed determinations and consider any additional information given to us. We will then issue our determinations. If the person is dissatisfied with either determination, he or she may request a reconsideration.

(c) If the person does not object to the proposed actions, we will issue our determinations. If the person is dissatisfied with either determination, he or she may request a reconsideration.

§ 416.635 Responsibilities of a representative payee.

A representative payee has a responsibility to—

(a) Use the payments he or she receives only for the use and benefit of the beneficiary in a manner and for the purposes he or she determines, under the guidelines in this subpart, to be in the best interests of the beneficiary;

(b) Notify us of any event that will affect the amount of benefits the beneficiary receives or the right of the beneficiary to receive benefits (See Subpart G of this part concerning these reporting requirements);

(c) Submit to us, upon our request, a written report accounting for the benefits received; and

(d) Notify us of any change in his or her circumstances that would affect performance of the payee responsibilities.

§ 416.640 Use of benefit payments.

(a) *Current Maintenance.* We will consider that payments we certify to a representative payee have been used for the use and benefit of the beneficiary if they are used for the beneficiary's current maintenance. Current maintenance includes costs incurred in obtaining food, shelter, clothing, medical care, and personal comfort items.

Example:
A supplemental security income beneficiary is entitled to a monthly benefit of $238. The beneficiary's son, who is the representative payee, disburses the benefits in the following manner:
Rent & Utilities—$140.00
Medical—$20.00
Food—$60.00
Clothing—$10.00
Miscellaneous Personal Needs—$8.00

The above expenditures would represent proper disbursements on behalf of the beneficiary.

(b) *Institution not receiving Medicaid funds on beneficiary's behalf.* If a beneficiary is receiving care in a Federal, State or private institution because of mental or physical incapacity, current maintenance includes expenses for personal needs, the customary charges for care and services provided by the institution, and expenditures for those items which will aid in the beneficiary's recovery or release from the institution or which will improve the beneficiary's conditions while in the institution. Any payments remaining may be used for a temporary period to maintain the beneficiary's residence outside of the institution unless a physician has certified that the beneficiary is not likely to return home.

Example:
A disabled beneficiary is entitled to a monthly benefit of $238. The beneficiary, who resides in a boarding home, has resided there for over six years. It is doubtful that the beneficiary will leave the boarding home in the near future. The boarding home charges $215 per month for the beneficiary's room and board.

The beneficiary's payee pays the boarding home $215 and uses the balance to purchase miscellaneous personal items for the beneficiary. There are no benefits remaining which can be conserved on behalf of the beneficiary. The payee's use of the benefits is consistent with our guidelines.

(c) *Institution receiving Medicaid funds on beneficiary's behalf.* If a beneficiary is in an institution throughout a month and the institution receives Medicaid funds on behalf of the beneficiary, any payments due shall be used only for the personal needs of the beneficiary, and not for current maintenance.

Example:
A disabled beneficiary resides in a psychiatric hospital. The superintendent of the hospital receives $25 per month as the beneficiary's payee. The benefit payment is disbursed in the following manner which would be consistent with our guidelines:
Miscellaneous canteen items—$8.50
Clothing—$11.00
Conserved for future needs of the beneficiary—$5.50

(d) *Claims of creditors.* A payee may not be required to use benefit payments to satisfy a debt of the beneficiary, if the debt arose before the first month for which payments are certified to a payee. If the debt arose prior to this time, a payee may satisfy it only if the current and reasonably foreseeable needs of the beneficiary are met.

Example:
A disabled beneficiary was determined to be eligible for a monthly benefit payment of $208.20 effective April 1980. The benefits were certified to the beneficiary's brother who was appointed as the representative payee. The payee conserved $27 of the benefits received. In June 1980 the payee received a bill from a doctor who had treated the beneficiary in February and March 1980. The bill was for $175.

After reviewing the beneficiary's current needs and resources, the payee decided not to use any of the benefits to pay the doctor's bill. (Approximately $180 a month is required for the beneficiary's current monthly living expenses—rent, utilities, food and insurance—and the beneficiary will need new shoes and a coat within the next few months.)

Based upon the above, the payee's decision not to pay the doctor's bill is consistent with our guidelines.

§ 416.641 Liability for misuse of benefit payments.

We consider our obligation to the beneficiary to be completely discharged when we make a correct payment to a representative payee on behalf of the beneficiary. The payee personally, and not SSA, may be liable if the payee misuses the beneficiary's benefits.

§ 416.645 Conservation and investment of benefit payments.

(a) *General.* If payments are not needed for the beneficiary's current maintenance or reasonably foreseeable needs, they shall be conserved or invested on behalf of the beneficiary. Conserved funds should be invested in accordance with the rules followed by trustees. Any investment must show clearly that the payee holds the property in trust for the beneficiary.

Example:
A State institution for mentally retarded children, which is receiving Medicaid funds, is representative payee for several beneficiaries. The checks which the payee receives are deposited into one account which shows that the benefits are held in trust for the beneficiaries. The institution has supporting records which show the share each individual has in the account. Funds from this account are disbursed fairly quickly after receipt for the personal needs of the beneficiaries. However, not all those funds were disbursed for this purpose. As a result, several of the beneficiaries have significant accumulated resources in this account. For those beneficiaries whose benefits have accumulated over $150, the funds should be deposited in an interest-bearing account or invested relatively free of risk on behalf of the beneficiaries.

(b) *Preferred Investments.* Preferred investments from excess funds are U.S. Savings Bonds and deposits in an interest or dividend paying account in a bank, trust company, credit union, or savings and loan association which is insured under either Federal or State law. The account must be in a form which shows clearly that the representative payee has only a fiduciary and not a personal interest in the funds. If the payee is the legally appointed guardian or fiduciary of the beneficiary, the account may be established to indicate this relationship. If the payee is not the legally appointed guardian or fiduciary, the accounts may be established as follows:

(1) For U.S. Savings Bonds—

_____
(Name of beneficiary)

_____
(Social Security Number), for whom _____

_____
(Name of payee) is representative payee for supplemental security income benefits:

(2) For interest or dividend paying accounts—

_____
(Name of beneficiary) by

_____
(Name of payee),
representative payee;

(c) *Interest and dividend payments.* The interest and dividends which result from an investment are the property of the beneficiary and may not be considered to be the property of the payee.

§ 416.650 When a new representative payee will be selected.

When we learn that the interests of the beneficiary are not served by continuing payment to the present payee or that the present payee is no longer able to carry out the payee responsibilities, we try to find a new payee. We will select a new payee if we find a preferred payee or if the present payee—

(a) Has not used the benefit payments on the beneficiary's behalf in accordance with the guidelines in this subpart;

(b) Has not carried out the other responsibilites described in this subpart;

(c) Dies;

(d) No longer wishes to be payee;

(e) Is unable to manage the benefit payments; or

(f) Fails to cooperate, within a reasonable time, in providing evidence, accounting or other information which we request.

§ 416.655 When representative payment will be stopped.

If a beneficiary receiving representative payment shows us that he or she is mentally and physically able to manage benefit payments, we will make direct payment. Information which the beneficiary may give us to support his or her request for direct payment include the following—

(a) A physician's statement regarding the beneficiary's condition, or a statement by a medical officer of the institution where the beneficiary is or was confined, showing that the

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beneficiary is able to manage his or her funds; or

(b) A certified copy of a court order restoring the beneficiary's rights in a case where a legal guardian was appointed; or

(c) Other evidence which establishes the beneficiary's ability to manage benefits.

§ 416.660 Transfer of accumulated benefit payments.

A representative payee who has conserved or invested benefit payments shall transfer these funds, and the interest earned from the invested funds, to either a successor payee or to us, as we will specify. If the funds and the earned interest are returned to us, we will recertify them to a successor representative payee or to the beneficiary.

§ 416.665 Accounting for benefit payments.

A representative payee is accountable for the use of benefits. We may require periodic written reports from representative payees. We may also, in certain situations, verify how a representative payee used the funds. A representative payee should keep records of what was done with the benefit payments in order to make accounting reports. We may ask the following questions—

(a) The amount of benefit payments on hand at the beginning of the accounting period;

(b) How the benefit payments were used;

(c) How much of the benefit payments were saved and how the savings were invested;

(d) Where the beneficiary lived during the accounting period; and

(e) The amount of the beneficiary's income from other sources during the accounting period. We ask for information about other funds to enable us to evaluate the use of benefit payments.

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DEPARTMENT OF DEFENSE

32 CFR Chs. I, V, VI, VII

33 CFR Ch. II

36 CFR Ch. III

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Department of Defense.

ACTION: Publication of the Department's semiannual agenda of regulations, significant and non-significant, under review or development by the Department of Defense and its components.

SUMMARY: Pursuant to Executive Order 12044, "Improving Government Regulations," as extended by E.O. 12221, the Department of Defense is publishing its fifth agenda of regulations for public information and comments. Although not a regulatory agency and largely exempt from the E.O. under the "Military and Internal Affairs" exclusion of E.O. 12044 (section 6, para. b), the Department voluntarily applied the regulatory reform objectives desired and published its DoD Implementation Plan and initial agenda in November of 1978. The initial agenda and subsequent agendas contain many "regulations" which are primarily of an internal nature, defense mission orientated and do not affect the economy nor impact directly upon the public. Nevertheless, these regulations, although limited in public and economic impact are published in an effort to increase public knowledge and allow public participation in the DoD rulemaking process. Comments and suggestions are invited and should be addressed to the Defense Component representatives published in each section.

DATES: The Department of Defense will publish its next agenda, under the provisions of DoD Directive 5400.9 in May of 1981. It will contain an update to this Agenda and include new regulations under development or revision. This semiannual agenda is published by authority of the Secretary of Defense.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD Regulatory Improvement and general semiannual agenda information, contact Colonel Peter H. Karalus, telephone 202–695–4281 or write: Directorate for Organizational and Management Planning, OASD(C), Pentagon, Washington, D.C. 20301.

SUPPLEMENTARY INFORMATION: This fifth consolidated Agenda of Regulations contains inputs from the Office of the Secretary of Defense, and the Departments of the Army, Navy and Air Force. It includes not only the Components' current regulatory status of previous and ongoing regulatory actions, but also a brief overview of their efforts throughout their Department in regulatory reform programs. Although each program may be tailored to the respective Defense Component mission and their statutory requirements under 5 U.S.C. 552 and the Administrative Procedures Act, they implement those reform programs found relevant and applicable to their respective regulatory process. These individual efforts include a Defense-wide "Sunset Review' of selected DoD regulations with a goal toward revising, updating or terminating those found meeting the Sunset criteria, and an Executive writing course, based on the "Plain English" criteria established under the E.O., which is in continuous demand throughout the Department. To continue the spirit and intent of regulatory reform throughout the DoD, a Directive, in final draft stage, (32 CFR Part 296, DoD Directive 5400.9) will incorporate the provisions of E.O. 12044 and other legislative reform programs found applicable to DoD's regulatory process. The Department therefore is actively involved in regulatory reform and will continue to pursue those programs deemed relevant and appropriate to its Defense orientated mission.

This Agenda format is divided into sections to reflect the various DoD organization components. Included are the Office of the Secretary of Defense (OSD) and the Departments of the Army, Navy, and Air Force. Each component's section contains the following information:

—A summary and supplementary information section providing an overview of the component's regulatory activity.
—Part I Section: Indicating the Status of Regulations Previously reviewed (Agenda of May 1980).
—Part II Section: Regulations Under Development.
—Part III Section: Regulations Requiring Regulatory Analysis or Special Review.

Individual component variations may be found within each section due to the separate mission functions and responsibilities of the Defense components involved.

D. O. Cooke,

Deputy Assistant Secretary of Defense (Administration).

November 24, 1980.

Office of the Secretary

Improving Government Regulations; Semiannual Agenda

ACTION: Semiannual agenda of regulatory and procedural documents under development or published by the Office of the Secretary of Defense (OSD).

SUMMARY: The charts below list the DoD policy documents that were (a) under review during the last semiannual agenda period; (b) selected for review and update under OSD's review program; and (c) planned for future publication. This is the fifth semiannual agenda submitted under E.O. 12044.

FOR FURTHER INFORMATION CONTACT: Where a contact official is indicated, contact that individual. For other information on the agenda, contact Mrs. Margarete S. Healy, telephone 202–697–4111, or write to Directives Division, C&D, WHS, Room 2A286, Pentagon, Washington, D.C. 20301.

SUPPLEMENTARY INFORMATION: Several trends have emerged. It has been acknowledged that, with the exception of the Army Corps of Engineers, the Department of Defense is not a regulator; in fact, section 6(b)(2), E.O. 12044, exempts DoD from publishing most of its internal regulations for public comment. The bulk of DoD regulatory documents we publish in the **Federal Register** fall under 5 U.S.C. 552 and the Administrative Procedures Act (1 CFR 305.76–2). The other documents that OSD publishes in the **Federal Register** for public comment deal with specific laws affecting all or large segments of the public, such as equal opportunity, reserve affairs; industrial, commercial, and contractor specifications; environment; collective bargaining; and other subject matters that inform and guide, but do not regulate. Therefore, the charts, Parts I, IA, and II, and those that were published before, represent only a small number—about 15%—of OSD regulatory documents that are processed under the provisions of E.O. 12044. However, OSD's internal regulatory documents, although not published in the **Federal Register**, are processed under the provisions of items (a) through (e) of Section 1 and Section 4 of E.O. 12044. None of OSD's regulatory documents listed in the agenda require a regulatory analysis.

December 1, 1980.

Part I.—*Status of Regulations Previously Reviewed (Nov. 1, 1979—Apr. 30, 1980)*

[Period May 1, 1980–Nov. 30, 1980]

CFR No.	Title	DoD Directive/ DoD Instruction	Status
32 CFR Part 40	Standards of Conduct	5500.7	To be revised, pending the OPM Ethics Office's publication of their regulation.
32 CFR Part 41	Enlisted Administrative Separations	1332.14	Being staffed with the Military Services. Publication in the FR expected in December 1980.
32 CFR Part 42	Interception of Wire and Oral Communications for Law Enforcement Purposes.	5200.24	Revision has been coordinated; conflicting comments among coordinating elements within and outside DoD to be resolved.
32 CFR Part 115	Assignment to and Transfer Between Reserve Categories, Discharge from Reserve Status, Transfer to the Retired Reserve, and Notification of Eligibility for Retired Pay.	1200.15	Additional modification to document required.
32 CFR Part 179	Use of Contractor and Government Resources for Maintenance of Materiel.	4151.1	Being prepared for formal coordination; will be submitted as proposed rule early 1981.
32 CFR Part 194	International Co-Production Projects and Agreements Between the U.S. and other Countries or International Organizations.	2000.9	Revised manuscript will be recoordinated. Estimated publication May 1981.
32 CFR Part 196	Work Breakdown Structures for Defense Materiel Items	5010.20	Final manuscript is being processed.
32 CFR Part 244	Honorary Awards to Private Citizens and Organizations	1432.2	Additional modifications to document required.
32 CFR Part 245	Plan for the Security Control of Air Traffic and Air Navigation Aids.	5030.36	Under review. Revision planned March 1981.
32 CFR Part 296	Publication of Proposed and Adopted Regulations Affecting the Public.	5400.9	Internal DoD comments are being evaluated for inclusion in proposed rule to be published December 1980.
32 CFR Part 300	Nondiscrimination of Federally Assisted Programs	5500.11	Justice Department returned draft proposed rule to DoD suggesting extensive revisions. Document is now being restaffed within DoD.

Part IA.—*Existing Regulations Selected for Review*

CFR No.	Title	DoD directive or DoD instruction	Reason selected	Contact official
32 CFR Part 62	Alcohol and Drug Abuse by DoD Personnel	1010.4	To revise and consolidate existing directives on subject matter. Published 45 FR 61615, 9/17/80.	Dr. J. Mazzuchi, 695–6800.
32 CFR Part 100	Unsatisfactory Performance of Ready Reserve Obligations.	1215.13	To update by amendment; published 45 FR 48618, 7/21/80	CDR T. Seaman, 697–4335.
32 CFR Part 199	Civilian Health and Medical Program of the Uniformed Services (CHAMPUS).	6010.8	To publish Amendment #4 and interim notice of policy 45 FR 43407, 6/27/80 and 45 FR 64909, 10/1/80, respectively.	L. Carpenter, 697–5185.
32 CFR Part 286b	Personal Privacy and Rights of Individuals Regarding Their Personal Records.	Admin. Instr. No. 81	To publish revision; 45 FR 43409, 6/27/80	J. Nash, 695–0970.
32 CFR Part 288	User Charges	7230.7	To publish revision; 45 FR 59566, 9/10/80	K. Mulcahy, 697–7257.
32 CFR Part 359	Defense Logistics Agency	5105.22	To publish amendment; 45 FR 46071, 7/9/80	A. Ehlers, 695–4281.
32 CFR Part 354	Defense Intelligence Agency	5105.21	To incorporate changes to charter. In coordination to be published early 1981.	A. Ehlers, 695–4281.
32 CFR Part 59	Voluntary Military Pay Allotments	7330.1	Update. Final manuscript in coordination	K. Mulcahy, 697–7257.
32 CFR Part 111	Reserve Officers' Training Corps (ROTC) for Secondary Educational Institution.	1205.13	Update. Revised document in coordination	G. Kauvar, 695–5857.
32 CFR Part 185	Military Support of Civil Defense	3025.10	Update. Revised document in coordination	H. Gioia, 697–1142.
32 CFR Part 201	Sale of Surplus Military Equipment to State and Local Enforcement and Firefighting Agencies	4160.23	Update. Revised document in coordination	J. Marcus, 697–9106.

Part II.—*Regulations Planned or Under Development*

CFR No.	Title	Legal basis	Purpose	Comment date	Contact official
32 CFR Part 56 (DoD 1100.xx)	Nondiscrimination on the Basis of Handicap in Federally Assisted Programs.	Pub. L. 93–112 Sec. 504	Implement the Law	Nov. 13, 1979 (Proposed rulemaking published 44 FR 58750, 10/11/79.	C. Haughton, Jr., 695–0108.

Part II.—*Regulations Planned or Under Development*

CFR No.	Title	Legal basis	Purpose	Comment date	Contact official
32 CFR Part 143 (DoD 1354.1)	DoD Policy on Organizations That Seek to Represent Members of the Armed Forces In Negotiation or Collective Bargaining.	10 U.S.C. 976	Implement Pub. L. 95-610	Aug 26, 1980 (Proposed rulemaking published 45 FR 43438, 6/27/80).	Colonel J. Fugh, 697-9283
32 CFR Part 208 (DoD 4650.4)	Federal Radionavigation Plan	Sec. 507, H.R. 11209 Oct. 1978	Implement the INMARSAT plan; DoD and DOT Interagency Agreement.	Not applicable. DoD Instruction published 45 FR 45580, 7/7/80.	Colonel S Gilbert, 695-7181.
32 CFR Part 286i	Policies and Procedures for Obtaining Information From Financial Institutions; National Security Agency.	5 U.S.C. 552a, 92 Stat. 3697 et seq., 12 U.S.C. 3401, et seq.	Implement Pub. L. 93-579 and [illegible]	November 17, 1980 (Proposed rulemaking published 45 FR 68686, 10/16/80.	LCDR M. Bowman, 301-688-[illegible]

Department of the Army

Improving Government Regulations; Semiannual Agenda

ACTION: Publication of the Department of the Army's fifth semiannual agenda of regulations as required under E.O. 12044 as extended by E.O. 12221 and implemented under the DoD plan for Improving Government Regulations.

SUMMARY: The Department of the Army continues to review and evaluate the need for the development of new regulations and to improve existing regulations in support of the President's Executive Order 12044, Improving Government Regulations and the DoD Implementation Plan. This agenda reports on the areas under consideration in that review and on specific actions taken since the publication of the fourth agenda in the **Federal Register** issue of May 30, 1980 (45 FR 36439).

FOR FURTHER INFORMATION CONTACT:
Mr. J. B. Hudson, 202-697-6900 or write: Office of the Administrative Assistant, OSA, Washington, D.C. 20310.

SUPPLEMENTARY INFORMATION: This agenda includes regulations which support the National Defense effort as well as the civil works activities of the Corps of Engineers published in Titles 32 and 33 of the Code of Federal Regulations. After almost two years of continuous coordination and review with Depts. of Interior, Energy, Transportation, Commerce, Agriculture and the Environmental Protection Agency, the U.S. Army Corps of Engineers has recently published a proposed revision to the current set of regulations governing all Department of the Army regulatory programs for protecting the nation's waters. Revision to the regulations are being proposed for three basic reaons. First, the present regulations were issued on July 19, 1977, and the subsequent amendments to the Clean Water Act (CWA) of December 27, 1977, included changes to the Section 404 permit program for regulating discharges of dredged and fill material into waters of the United States. Second, the Corps has found its nationwide permit program initiated July 19, 1977, reduces unnecessary regulatory burdens and is seeking public comment on that program and on its proposed expansion. Thirdly, a number of other new laws, Executive Orders, judicial decisions, policy changes, and other regulations bearing on the permit programs have taken effect since the last publication of the regulations on July 19, 1977. These include Executive Order 12044 as extended by E.O. 12221 Improving Government Regulations, March 23, 1978, which requires agencies to review significant regulations with a view towards simplifying them and making them less burdensome on the public. The proposed rules include the tests of five new Department of Army agreements with other Federal agencies for streamlining the permit process (Appendices D–H, 33 CFR Part 325) promulgated under section 404(q) of the Clean Water Act. These Memoranda of Agreement augment the permit regulations and publication as an Appendix will provide the public valuable insight as to how controversial permit decisions are resolved by the Federal Agencies involved.

The following information is provided concerning Army amendments to the Code of Federal Regulations.

December 1, 1980.

Department of the Army—Semiannual Agenda

[Period June 1–Nov. 30, 1980]

CFR No.	Title	Public comments and coordination	Status	Contact officer
Part I—Status of Existing Regulations Reviewed (Agenda May 30, 1980)				
32 CFR 552.30 thru 552.74	Acquisition of Real Property and Interests Therein (AR 405-10).	No comments received in response to Proposed Rule in 43 FR 59328, Dec. 19, 1978.	Withdrawal of Proposed Rule is under consideration since timeliness of proposal has elapsed.	Mr. Delmens, COE, Tel. (202) 272-0492.
32 CFR Part 503	Apprehension and Restraint (AR 600-40)	Revision not considered	No action is being considered by proponent of regulation. Item will be deleted from next Agenda.	Mr. Dolbow, DSPER, Tel. (703) 756-1898.
32 CFR Part 584	Finance and Accounting for Installations, Travel and Transportation Allowance (AR 37-106).	Revision will be published as a Rule	Review is being coordinated and will be published by Jan. 1981.	Ms. Filer, Finance and Accounting Center, Tel. (317) 542-4397.
32 CFR Part 645	Real Estate Annexation (AR 405-25)	Revision will be published as a Rule	Review is being coordinated and will be published by May 1981.	Ms. Lloyd, OCE, Tel. (202) 272-0506.
Part I—Status of Existing Regulations Reviewed (Agenda Nov. 30, 1980)				
32 CFR Part 630	Military Absentee and Deserter Apprehension (AR 190-9).	No comments were received	Final Rule published April 14, 1980. Item will be deleted from next Agenda.	Mr. Dolbow, DCSPER, Tel. (703) 756-1898.
32 CFR Part 651	Implementatin of Procedures of National Evironmental Policy Act.	No comments were received	Final Rule published October 20, 1980. Item will be deleted from next Agenda.	Mr. Matthews, OCE, Tel (202) 694-3434.

Department of the Army—Semiannual Agenda—Continued

CFR No.	Title	Public comments and coordination	Status	Contact officer
Part I—Status of Existing Regulations Reviewed (Agenda Nov. 30, 1980)				
32 CFR Part 657	Facilities Engineering Pest Control (AR 420-76).	No comments were received	Final Rule published October 29, 1980. Item will be deleted from next Agenda.	Mr. Bandel, OCE, Tel. (202) 272-0592.
CFR No.	Title	Legal base	Status	[illegible]
Part II—Regulation Under Development				
32 CFR Part 504	AR 190-XX, Obtaining Information from Financial Institutions.	12 U.S.C. 3401 (Right to Financial Privacy Act of 1978).	Under internal coordination. Proposed Rule will be published in November 1980.	Maj Hackett, DCSPER, Tel. (703) 756-1897

The Department of the Army has no regulations under review or being developed which would require a regulatory analysis in accordance with the criteria established by E.O. 12044 and the DoD plan for Improving Government Regulations.

CFR No.	Title	Public comments and coordination	Status
Part III—Civil Works Regulations Under Development			
33 CFR Part 320	General Regulatory Provisions	These regulations, 33 CFR Parts 320 thru 330, comprise a "set" of U.S. Army Corps of Engineers permit regulations. Depending on comments received from the public, the Corps may determine to hold public hearings on the proposed new regulation, 33 CFR Part 330 governing the nationwide permit program. In addition to publication of proposed rules in the FEDERAL REGISTER, approximately 4,000 copies were sent directly to interested parties for review and comment. This included Federal, State, and local agencies, environmental groups, energy-producing corporations, other groups, and was done in keeping with the Corps' continuing emphasis on public feedback and comments. It is anticipated that extensive public involvement and review of the set of permit regulations will result.	Proposed rules published September 19, 1980. Comment period for public review ends December 1, 1980. Final rules are tentatively scheduled for publication in the spring of 1981. Contact: Mr. Bernie Goode at (202) 272-0200.
33 CFR Part 321	Permits for Dams and Dikes in Navigable Waters of the United States		
33 CFR Part 322	Permits for Structures or Work in or Affecting Navigable Waters of the United States		
33 CFR Part 323	Permits for Discharges of Dredges or Fill Material into Waters of the United States		
33 CFR Part 324	Permits for Ocean Dumping of Dredged Material		
33 CFR Part 325	Processing of Department of Army Permits		
33 CFR Part 326	Enforcement		
33 CFR Part 327	Public Hearings		
33 CFR Part 328	Harbor Lines		
33 CFR Part 329	Definition of Navigable Waters of the United States		
33 CFR Part 330	Nationwide Permits		
Part IV—Civil Works Regulations Under Development			
33 CFR Part 325	Appendix C, Procedures for the Protection of Historic and Cultural Properties	This Appendix, jointly drafted by the U.S. Army Corps of Engineers and the President's Advisory Council on Historic Preservation, was published for public comment on April 3, 1980 (45 FR 22112). The Corps of Engineers received 24 letters from the public commenting on the proposed regulation. The views of the public, particularly from those individuals and groups actively participating in the Nation's historic preservation activities, has substantial effect on the specific wording of the regulation. The Corps and the President's Advisory Council are now jointly drafting the final regulation.	Final rules scheduled for publication in late 1980 or early 1981. Contact: Mr. Bernie Goode (202) 272-0200.
32 CFR Part 553	Visitors Rules for the Arlington National Cemetery	This rule would revise the visitors' rules currently in effect for the Arlington National Cemetery that are set out at 32 CFR 553.22. The visitors' rules define the standards of conduct required of all visitors to the Arlington National Cemetery. The revision is deemed necessary in order to make available within the rules, standards and procedures for conduct of memorial services and ceremonies within the Cemetery by members of the public, and to insure that the rules and regulations prohibit all conduct that is inconsistent with Arlington National Cemetery's unique role as this Nation's foremost shrine to the honored dead of its Armed Forces	Proposed rule published on October 7, 1980. Public comments received until November 6, 1980. Final rules scheduled for publication Nov.–Dec. 1980. Point of Contact: Major James Paul King, (202) 695-0482.

Department of the Navy

Improving Government Regulations; Semiannual Agenda

ACTION: Semiannual agenda of regulatory information under review or development by the Navy Department as required by the DOD plan for Improving Government Regulations.

SUMMARY: The Department of the Navy published its first regulatory review agenda in November 1978. Since Navy regulations are primarily directed toward supporting the Navy mission and its people, they do not normally impact upon the public directly. Agenda regulatory reviews contain regulations which are primarily "in-house" in nature and not under the criteria expressed in Executive Order 12044 or the DOD plan. In keeping with the spirit and intent of the Executive Order, the Navy will continue to publish regulations that may be of interest to the general public and provide an opportunity for public comment. The Department of the Navy has promulgated several other regulatory reform programs during this agenda reporting period. A proposed directive which will promulgate policy regarding elimination of pyramiding directives is in final approval stages. Directives will be required to stand alone without subordinate commands needing to issue further guidance. An automated system is being developed which will enable the Navy Department to store and retrieve information requirements emanating from all Headquarters level commands. Accordingly, duplicative information requirements placed on subordinate units can be eliminated or consolidated where appropriate. The goals and objectives of the Executive Order 12044 and the DOD plan for Improving Government Regulations are being actively pursued throughout the Department of the Navy.

FOR FURTHER INFORMATION CONTACT:
Where a contact official is indicated, contact the specified individual. For general information contact Ms. Alcinda P. Wenberg, telephone 202–695–1921, or write to Chief of Naval Operations, OP–09B15, Department of the Navy, Washington, D.C. 20350.

December 1, 1980

Department of the Navy—Semiannual Agenda

[Period June 1 through Nov. 30, 1980]

Department of the Air Force—Semiannual Agenda—Continued

[Period June 1–Nov. 30, 1980]

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Department of the Navy—Semiannual Agenda

[Period June 1 through Nov. 30, 1980]

CFR No.	Title	Public comments and consideration[1]	Status	Contract officer
Part I—Status of Regulations Previously Reviewed (Agenda Nov. 30, 1979)				
32 Part 725	Disposition of cases Involving Physical Disability.	To be published as final rule	Under revision due to change in basic requirements.	LCDR M. W. Kirkpatrick, NCPB, Tel: 696-4366.
32 Part 730	Administrative Discharges and Related Matters Concerning Separations from the Naval Service.	To be published as final rule	Awaiting issuance of DOD Directive, same subject.	Mr. Minick, NMPC, Tel: 694-3613.
Part I—Status of Regulations Previously Under Development (Agenda Nov. 30, 1979)				
32 Part 701.1	Availability to the Public of Department of the Navy Records.	To be published as a proposed rule.	Revision is pending implementation of DOD Regulation.	Mr. Donald Carr, OPNAV, Tel: 697-1459.
32 Part 701.100	Personal Privacy and Rights of Individuals Regarding Their Personal Records.	To be published as a final rule	To be forwarded to the Office of Federal Register by 31 December 1980.	Ms. Gwen Rhoads, OPNAV, Tel: 694-2004.
Part II—Regulations Under development				
The Department of the Navy has no regulations under development that meet the criteria of Executive Order 12044 of the DOD plan.				
Part III—Regulations Requiring Regulatory Analysis				
The Department of the Navy has no regulations previously reviewed or under development during this period requiring regulatory analysis.				

[1] No public comments received.

Department of the Air Force

Improving Government Regulations; Semiannual Agenda

ACTION: Publication of the Department of the Air Force fifth semiannual agenda of significant regulations as required under Executive Order 12044, and implemented under the DOD plan for Improving Government Regulations.

SUMMARY: The agenda lists those regulations currently under revision or development within the Department of the Air Force and the status of those regulations that were previously reported. The agenda is submitted in compliance with Executive Order 12044, Improving Government Regulations, and the DOD plan for Improving Government Regulations. These regulations do not impact upon the public as defined under the Executive Order criteria, but are published to enable the public to be more aware of and to effectively participate in the rulemaking process. To meet the goals and objectives of the Executive Order, other programs within the Department of the Air Force include the annual review of all regulations, the effort to keep the Code of Federal Regulations (CFR) current, and to remove unnecessary regulations from the CFR. The Department of the Air Force also offers effective writing courses that stress clear organization and simple, direct expression. These programs will continue to be actively pursued throughout the Air Force.

FOR FURTHER INFORMATION CONTACT:

Where a contact person is indicated, contact that individual. For other information concerning the agenda, contact Mrs. Carol M. Rose, telephone (202) 697-1861 or write, Department of the Air Force, A$/DASJR, Pentagon, Washington, DC 20330.

December 1, 1980.

Department of the Air Force—Semiannual Agenda

[Period June 1-Nov. 30, 1980]

CFR No.	Title	Status
Part I—Status of Regulations Previously Reviewed		
32 CFR Part 803	Disposition of Personal Property	Revision in draft status.
32 CFR Part 806	Air Force Freedom of Information Act Program	Awaiting publication of DOD Regulation 5400.7.
32 CFR Part 822	Information Audiovisual (AV) Activities	Revision in coordination process.
32 CFR Part 827a	Release of Information on Accidents	Revision in coordination process.
32 CFR Part 837	Support of Nongovernment Groups	Revision in coordination process.
32 CFR Part 842	Claims Manual	Revision in draft status.
32 CFR Part 865 (Subpart B)	Personnel Review Boards (AF Discharge Review Board).	Awaiting publication of DOD Directive 1332.28.
32 CFR Part 860 (Subpart A)	Medical, Dental and Veterinary Care from Civilian Sources.	Published in the FEDERAL REGISTER as final rule 12 May 1980 (45 FR 31113).
32 CFR Part 892	Part-Time Career Employment Program	Published in the FEDERAL REGISTER as proposed rule 21 March 1980 (45 FR 18405).
32 CFR Part 954	Acquisition of Information Concerning Persons and Organizations Not Affiliated with the Department of Defense.	Revision in coordination process.
32 CFR Part 989	Environmental Impact Analysis Process	Published in the FEDERAL REGISTER as proposed rule 26 July 1979 (44 FR 44119). Being revised to simplify the implementation procedures.

Department of the Air Force—Semiannual Agenda—Continued

[Period June 1-Nov. 30, 1980]

CFR No.	Title	Status
Part I—Status of Regulations Previously Reviewed		
32 CFR Part No. has not been assigned)	Real Property Management, Acquisition of Real Property.	Revision in coordination process.
32 CFR Part No. has not been assigned)	Air Force Energy Conservation and Management	Due to limited applicability to the general public, this regulation will not be published in the FEDERAL REGISTER.

CFR No.	Title	Purpose	Legal basis	Contact person
Part II—Regulations Under Development or Review				
32 CFR Part 834	Selecting Architect Engineer Firms for Professional Service by Negotiated Contracts.	States policies responsibilities, and procedures for selecting architectural engineering firms and for negotiating contracts for their professional services.	Pub. L. 95-507; 15 U.S.C. 631, 632, 633, 637, 681, 682, 683, 687, 693 and 694; 25 U.S.C. 450.	Mr. Bender, AF/LEEE, 767-4243.
32 CFR Part 851	The United States Air Force Resources Protection Program.	Provides policy, procedures and standards for the protection of all Air Force resources worldwide.	DOD Directive 5200.8 and 5100.76M	Capt Sanders, HQ AFOSP, SPOL, Kirtland AFB NM, (505) 844-6627.
32 CFR Part 855	Use of United States Air Force Installations by other than United States Department of Defense Aircraft.	Revision is necessary to clarify requirements and procedures, further delegate responsibilities, update user charges and change Office of Primary Responsibility.	Federal Aviation Act of 1958; Pub. L. 85-726; 49 U.S.C. 1507(a) and 1509.	Ms. Young, AF/PAXJ, 697-5666.
32 CFR (Part No. has not been assigned).	Environmental Impact Analysis Process (EIAP) Overseas.	Implements DOD Directive 6050.7 for consideration of the environment for Federal actions outside the US. Actions in the Global Commons may result in public involvement.	DOD Directive 6050.7	Lt Col Rudolph, AF/LEEV, 697-[illegible].
32 CFR Part 860	Contractor's Flight Operations	Sets up procedures to obtain required approval from the Army, Navy, Air Force, or Defense Logistics Agency of Contractor's Flight Operations Procedures and contractor's personnel who operate aircraft for the government, and provides for the delegation of authority for such approvals.	10 U.S.C. 8012	Lt Col Burton, AF/RDCM, 697-8850.
32 CFR Part 888e	Disposition of Conscientious Objectors	Provides uniform procedures governing an applicant who claims status as a conscientious objector.	DOD Directive 1302.6	Ms. Bacon, AFMPCAKO, Randolph AFB, TX (512) 652-2096.

The Department of the Air Force has no regulations under review or development which would require a regulatory analysis in accordance with the criteria established by E.O. 12044 and the DOD Plan for Improving Government Regulations.

[FR Doc. 80-37053 Filed 11-28-80; 8:45 am]

BILLING CODE 3810-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1685-7]

Approval and Promulgation of Implementation Plans Ohio; Receipt

AGENCY: Environmental Protection Agency.

ACTION: Notice of receipt and availability.

SUMMARY: The purpose of today's notice is to announce receipt and availability for public review of proposed revisions to the total suspended particulate portion of the Ohio State Implementation Plan (SIP). The State of Ohio submitted these revisions to USEPA on June 13, and September 19, 1980. A Notice of Proposed Rulemaking describing the proposed revisions and USEPA's proposed rulemaking action will be published in a subsequent Federal Register.

DATES: See Supplementary Information.

ADDRESSES: The submittal may be examined during normal business hours at the following USEPA offices:

Public Information Reference Unit, Library Systems Branch, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460

U.S. Environmental Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604

In addition the revision may be examined at the offices of the :

Ohio Environmental Protection Agency, 361 E. Broad Sreet, P.O. Box 1049, Columbus, Ohio 43215

Written comments should be sent to: Mr. Gary Gulezian, Chief Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Clarizio, Ohio Regulatory Analysis Specialist, U.S. Environmental

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Protection Agency, Region V, Air Programs Branch, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886–6035

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8962), and on October 5, 1978 (43 FR 45993), pursuant to the requirements of section 107 of the Clean Air Act (Act), as amended in 1977, USEPA designated certain areas in Ohio as nonattainment with respect to the National Ambient Air Quality Standards (NAAQS) for carbon monoxide (CO), ozone (03), sulfur dioxide (SO2), total suspended particulates (TSP), hydrocarbons (HC) and nitrogen oxides (NOx).

Part D of the Act, which was added by the 1977 Amendments, requires each State to revise its State Implementation Plan (SIP) to met specific requirements for areas designated as nonattainment. These SIP revisions must demonstrate attainment of the primary standard as expeditiously as practicable, but not later than December 31, 1982. In certain circumstances an extension is provided to no later than December 31, 1987 to demonstrate attainment for ozone and/or carbon monoxide.

The requirements for an approvable SIP are described in a **Federal Register** notice published April 4, 1979 (44 FR 20372). Supplements to the April 4, 1979 notice were published on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 50371), September 17, 1979 (44 FR 53761), and November 23, 1979 (44 FR 67182).

USEPA is presently reviewing the TSP revisions submitted on June 13, and September 19, 1980. After completion of its review, USEPA will propose in a separate **Federal Register** either approval, disapproval or conditional approval. The public is advised that at that time USEPA will provide 30 days for interested individuals to comment on either the State's submittal or on USEPA's proposed action. The purpose of today's notice is to notify interested individuals of the receipt and availability of the State's submittal. Comments or questions on today's notice should be addressed to the appropriate individuals listed earlier in today's notice.

Dated: November 14, 1980.

John McGuire,
Regional Administrator.

[FR Doc. 80-37284 Filed 11-28-80; 8:45 am]
BILLING CODE 6560-38-M

40 CFR Part 52

[A-6-FRL 1685-1]

Approval and Promulgation of Implementation Plans; Proposed Approval of Oklahoma State Variance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes approval of a request from the State of Oklahoma to revise its State Implementation Plan to include a variance for the McAlester Army Ammunition Plant in McAlester, Oklahoma.

DATES: Comments must be received on or before December 31, 1980.

ADDRESSES: Submit comments to: Air Programs Branch, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas, 75270.

FOR FURTHER INFORMATION CONTACT: Jerry M. Stubberfield, Chief, Implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, Dallas, Texas 75270, (214) 767–1518.

SUPPLEMENTARY INFORMATION:

Background

Section 110(a)(3)(A) of the Clean Air Act, amended 1977, directs the Administrator to approve revision of any implementation plan applicable to an air quality control region, if he determines the plan has been adopted by the State after reasonable notice and public hearings, and that it includes emission limitations, schedules, and timetables for compliance with such limitations and such other measures as may be necessary to insure attainment and maintenance of the air quality standards.

Oklahoma State Variance

The variance under consideration for approval is for the McAlester Army Ammunition Plant located in McAlester, Oklahoma. The reason for the variance request is that the Plant emits particulate matter in excess of Oklahoma Regulation No. 8, "Pertaining to the Control of the Emission of Particulate Matter from Industrial and other Processes and Operations," and Regulation No. 7, "Pertaining to the Control of Smoke, Visible Emissions, and Particulates". On May 10, 1979, the McAlester Army Ammunition Plant requested a petition for variance to Regulations Nos. 7 and 8, and on July 10, 1979, in a public hearing, the Oklahoma Air Quality Council considered granting the variance petition. The Council was assured by the McAlester Army Plant that the accompanied compliance schedule would be strictly adhered to. On September 8, 1979, the Council granted the variance petition based upon the assurance by the McAlester Plant of receiving progress reports bi-monthly.

On September 21, 1979, the Oklahoma State Department of Health submitted to EPA Petition No. 79–2 (Bomb Plant "B") requesting a variance to State Regulations 7 and 8 until August 1, 1981. EPA's review of the variance has shown that the compliance schedule contains legally enforceable increments of progress, there is an adequate control strategy, emissions are contained within property boundary, there are no visible emissions outside the plant boundaries, and operations are limited to less than 4 hours a day. The control strategy consists of installation of a cyclone separator and wet scrubber which is expected to reduce emissions and allow the plant to operate in compliance to Oklahoma Regulations 7 and 8. Based upon this review, EPA proposes to approve the variance granted by the State as a revision to the Oklahoma State Implementation Plan.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410

Dated: November 12, 1980.

Fran Phillips,
Acting Regional Administrator.

[FR Doc. 80-37243 Filed 11-28-80; 8:45 am]
BILLING CODE 6560-38-M

40 CFR Part 52

[A-2-FRL 1685-2]

Approval and Promulgation of Implementation Plans; Texas Emission Offsets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: General Portland Incorporated's permit application to construct a dry process cement plant in New Braunfels, Comal County, Texas is subject to the Interpretative Ruling (i.e., emission offset policy), published December 21, 1976 in the **Federal Register** as it pertains to major new sources seeking to locate in areas exceeding the National Ambient Air Quality Standards (NAAQS) for total suspended particulates (TSP).

TSP emission offsets were offered and agreed to by Parker Brothers and Co., Inc., and the State of Texas submitted the offsets in Texas Air Control Board (TACB) Order No. 78–8 for incorporation into the Texas State Implementation Plan (SIP). None of the offsetting TSP emission reductions are required control measures under the currently approved SIP. This notice proposes approval of the State submitted revision to the Texas Implementation Plan for TSP emission reductions from the Parker Brothers and Co., Inc. creditable for offsets for the General Portland Cement facility.

DATES: Comments must be received on or before December 31, 1980.

ADDRESS: Submit comments to: Air Program Branch, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Jerry M. Stubberfield, Chief, implementation Plan Section, Air and Hazardous Materials Division, Environmental Protection Agency, Region 6, Dallas, Texas 75270, (214) 767–1518.

Background

Under the Agency's Interpretative Ruling published December 21, 1976 at 41 FR 55524, a new major source may locate in an area with air quality worse that a national standard only if the following conditions are met:

1. The new source must achieve LAER.
2. The applicant must certify compliance with all SIP requirements at existing sources owned or controlled by him within the air quality control region (AQCR).
3. New emissions must be offset by reductions in existing emissions such as to achieve reasonable progress toward attainment of the NAAQS.
4. The offsets must provide a positive net air quality benefit in the affected area.
5. Construction of a new source in an AQCR for which EPA had called for a SIP revision could not occur until EPA had approved such a revision.

General Portland Inc. applied to the TACB for a permit to construct a dry process cement plant in New Braunfels, Texas. The proposed source would be located in an area west of New Braunfels in Comal County which has been determined by modeling to be exceeding the NAAQS for TSP. The proposed source would emit more than 100 tons per year of TSP and would therefore be subject to the Interpretative Ruling on emission offsets.

The TACB required that General Portland sources be controlled to the lowest achievable emission rate as evidenced in Permit 6048C. This permit would limit General Portland's emission of TSP to 950 tons per year. Offsetting TSP emissions totalling 1,013 tons per year were offered and agreed to by Parker Brothers and Co., Inc., from its limestone quarry facilities near New Braunfels, Comal County, Texas. The Parker Brothers and Co. offset emissions are to be in existence prior to the start-up of operations at the proposed General Portland plant.

These TSP emission reductions were adopted by the Texas Air Control Board as Board Order No. 78–8 on August 11, 1978 and submitted by the Governor of Texas to EPA on September 13, 1978 for incorporation into the Texas SIP. All requirements in 40 CFR 51.4 and 51.6 for notice and public hearings for plan revisions were met.

TSP Offsets

The TSP emission offsets submitted by the State of Texas consist of the following control measures which were offered and agreed to by Parker Brothers and Co. limestone quarry facilities located near New Braunfels, Comal County, Texas, and adopted by the TACB as Board Order No. 78–8.

1. Install fabric filters on the primary crusher, which will eliminate, at a minimum, 136.4 tons per year of particulate emission from this facility.
2. Install fabric filter on secondary crusher and screens. This will eliminate at a minimum, an estimated 876.6 tons per year of TSP.

The final compliance date for installation of these control measures is January 1, 1980. These control measures will result in an estimated TSP emission reduction of 1,013 tons per year.

By incorporation of these emission control measures into the SIP, both EPA and the State of Texas consider the offsets to be enforceable under Section 113 of the Clean Air Act. The offsets are also considered to be enforceable by citizens under Section 304 of the Clean Air Act as "emission standards or limitations."

Proposed Action

EPA agrees with the State of Texas' determination that the proposed General Portland project will use technology resulting in lowest achievable emissions of TSP, and that these emissions will total a maximum of 950 tons per year. The TSP offsets from Parker Brothers and Co., totalling an estimated 1,013 tons per year, are considered to be valid and enforceable by the State of Texas and EPA. As a result of the greater than one-to-one emission offset, EPA considers that there will be progress towards attainment of the National Ambient Air Quality Standard, and that all conditions stipulated under the Interpretative Ruling have been met.

In this notice, EPA is proposing the approval of the TSP emission offsets as discussed above, for incorporation into the Texas SIP.

The State of Texas has adopted the emission offsets in Board Order No. 78–8. The State procedures met all requirements of 40 CFR Part 51 including Section 51.4, the requirement for adequate public participation. Therefore the Administrator does not plan to conduct further hearings regarding these emission offsets. Interested persons may still participate in this rulemaking, however, by submitting written comments to: Air Programs Branch, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270.

Relevant comments submitted within 30 days of this notice (December 31, 1980), will be considered. The material submitted by the State of Texas is available for inspection during normal business hours at the above EPA regional office and also at the following offices:

Environmental Protection Agency, Public Information Reference Unit, Room 2932, EPA Library, 401 M Street SW., Washington, D.C. 20460.
Texas Air Control Board, 6330 Highway 290 East, Austin, Texas 78723.

This notice is issued under the authority of section 110(a) of the Clean Air Act.

Dated: November 10, 1980.

Frances E. Phillips,
Regional Deputy Administrator.

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

Subpart SS—Texas

1. In § 52.2270, (c) is amended by adding paragraph (27) as follows:

§ 52.2270 Identification of plan.

* * * * *

(c) * * *

(27) Texas Air Control Board Order 78–8, adopted on August 11, 1978, requiring emission offsets for particulate matter (TSP) for the General Portland, Inc., project in New Braunfels, Comal County, Texas, was submitted by the

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Governor on September 13, 1978, as an amendment to the Texas State Implementation Plan.

2. In Subpart SS of Part 52, § 52.2276 is amended by adding new paragraphs (b) and (c) to read as follows:

§ 52.2276 Control strategy and regulations: Particulate matter.

* * * * *

(b) Notwithstanding any provisions to the contrary in the Texas Implementation Plan, the control measures listed in paragraph (c) of this section shall be implemented in accordance with the schedule set forth below.

(c)(1) No later than January 1, 1980, Parker Brothers and Co., Inc., at its limestone quarry facilities near New Braunfels, Comal County, Texas, shall install a fabric filter on the primary crusher, meeting the requirements of Appendix A of Texas Air Control Board Order 78–8 adopted August 11, 1978. After the date of installation of that fabric filter, Parker Brothers and Co., Inc., shall not emit particulate matter in excess of 0.03 grains per standard cubic foot from the exhaust stack of the fabric filter.

(2) No later than January 1, 1980, Parker Brothers and Co., Inc., at its limestone quarry facilities near New Braunfels, Comal County, Texas, shall install a fabric filter on the secondary crusher and screens, meeting the requirements of Appendix A of Texas Air Control Board Order 78–8 adopted August 11, 1978. After the date of installation of that fabric filter, Parker Brothers and Co., Inc., shall not emit particulate matter in excess of 0.03 grains per standard cubic foot from the exhaust stack of the fabric filter.

[FR Doc. 80-37202 filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR Ch. 51

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Semiannual agenda of significant regulations under development or review.

SUMMARY: Pursuant to section 2 of Executive Order 12044, amended by Executive Order 12221, the Committee during the period December 1, 1980 through May 31, 1981, is not planning to issue or review any significant regulations or any regulations affecting small businesses and organizations.

FOR FURTHER INFORMATION CONTACT:
Mr. C. W. Fletcher, Executive Director, Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street, North, Suite 610, Arlington, Virginia 22201; Telephone: 703/557–1145.

C. W. Fletcher,
Executive Director.

[FR Doc. 80-37054 Filed 11-28-80; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 4100

Grazing Administration and Trespass on Public Lands; Amendments to Grazing Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Extension of comment period on proposed rulemaking.

SUMMARY: In response to numerous requests for an extension of time to comment on the Amendments to Grazing Regulations published as proposed rulemaking in the **Federal Register** of October 15, 1980 (45 FR 68506), a 15-day extension is hereby granted. This extension of time will give the public more time to study and comment on the proposed rulemaking.

DATE: Comment period extended to December 16, 1980.

ADDRESS: Any comments or inquiries should be addressed to: Director (650), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

These comments will be available for inspection in room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m.) on work days.

FOR FURTHER INFORMATION CONTACT:
Paul Leonard (202) 343–5841.

Guy R. Martin,
Assistant Secretary of the Interior.

November 26, 1980.

[FR Doc. 80-37373 Filed 11-28-80; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 22, and 73

[Docket No. 80–710; RM–3467; FCC 80–633]

Radio Broadcast Services TV Channels 5 and 6 and FM Channels 251–300 in the State of Hawaii

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In response to a petition from Lee M. Holmes, the Commission proposes a reallocation of the frequencies for TV Channels 5 and 6 to the Broadcast Services in the State of Hawaii. In addition, the Commission proposes the reallocation of the frequencies for FM Radio Channels 251–300 to the Broadcast Services in the State of Hawaii.

DATES: Comments are due on or before December 24, 1980 and replies on or before January 9, 1981.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:
Maureen Cesaitis, Office of Science and Technology, Washington, D.C. 20554, (202) 653–8165—Room 7310.

Adopted: November 6, 1980.

Released: November 24, 1980.

In the Matter of amendment of Part 2 of the Commission's Rules governing frequency allocations, Part 22 of the Commission's Rules governing the Domestic Public Land Mobile Radio Service, and Part 73 of the Commission's Rules governing the Radio Broadcast Services to reallocate to the latter service TV Channels 5 and 6 and FM Channels 251–300 in the State of Hawaii.

By the Commission:

1. In 1952, the Commission adopted amendments to its Rules and Regulations to enable licensees in the Fixed Service in Hawaii to use TV Channels 5 and 6 (76–88 MHz) and FM Channels 251–300 (98–108 MHz) for inter-island communications (Docket 10094, 17 FR 7149). At that time, the local telephone company (Mutual Telephone Company) was unable to provide reliable telephone service on the existing frequencies or by means of cable, and there were no TV or FM station licensees or applicants in the Territory of Hawaii. The situation has since reversed itself. Today, all the VHF–TV assignments in Honolulu are occupied, and the Hawaiian Telephone Company ("Hawaiian") has recently shut down its last two VHF stations and submitted those licenses for cancellation.

2. In the midst of this new situation, Lee M. Holmes has filed a petition for rule making requesting the Commission to amend its Rules to assign either TV Channel 5 or 6 in Honolulu, Hawaii for broadcast purposes. Because the band 76–88 MHz is not presently designated for broadcast use in Hawaii, any contemplation of assigning either TV Channel 5 or 6 to any Hawaiian community must, of necessity, address the reallocation of the spectrum first. Therefore, this part of the proceeding will be limited to the reallocation topic. Only at such time as the Commission has made a final decision on the reallocation issue could the assignment request be considered.

3. Nine parties filed comments in this proceeding. Favorable responses were received from Hawaiian Telephone Company, Hawaiian Islands Public Radio, and Association of Maximum Service Telecasters, Inc. Opposing comments were filed by Western Sun. Inc. (NBC licensee of Channel 2 in Honolulu), Lee Enterprises, Inc. (CBS licensee of Channel 9), Sunset Communications Corporation (applicant for Channel 20), Mauna Kea Broadcasting (applicant for Channel 26), and RadioCall, Inc.[1] Reply comments were filed by the petitioner, Lee M. Holmes.

4. The comments from Hawaiian Islands Public Radio and those of the five opposing broadcasters were chiefly concerned with the issue of adding a VHF channel to the TV Table of Assignments for Honolulu. Because this Notice is limited to the issue of spectrum reallocation, many of the oppositions cited in the comments will not be addressed herein but will be dealt with if and when the Honolulu assignment is considered. RadioCall's comments represent the only non-broadcast interests voiced in this docket to date and were aimed at satisfying their spectrum requirements instead of opposing the merits of the Holmes petition. RadioCall has previously petitioned the Commission unsuccessfully to allow common carrier control and repeater operations, in Hawaii, in bands not normally allocated for that purpose (See Docket 19943 and RM–2364). RadioCall's comments express surprise to learn that Hawaiian Telephone Company has abandoned the 76–108 MHz band, and further express intentions to file a petition for access to a substantial portion of the band. Subsequent to the filing of these comments, RadioCall filed a petition for reconsideration in RM–2364 to allow the Radio Common Carriers (RCC's) to use UHF–TV Channel 17 in Hawaii. Based on the revised requirement as represented by this new information, RadioCall's request will be addressed in a separate proceeding upon receipt of additional information which has been requested.

[1] RadioCall, Inc. ("RadioCall") operates in the Domestic Public Land Mobile Radio Service, the Multipoint Distribution Service, and the Maritime Mobile Service in Hawaii.

5. Since the Hawaiian Telephone Company has vacated the whole of the 76–88 and 98–108 MHz bands, it appears to be an appropriate moment to include the FM Channels 251–300 (98–108 MHz) in this reallocation proceeding. Up until now, Hawaii and Alaska have been the only two States in the Union where TV Channels 5 and 6 (76–88 MHz) and the entire FM Radio band (88–108 MHz) have not been allocated exclusively to broadcasting. Since the State of Hawaii today is very different from the Territory it was in 1952, special provisions for the fixed service may no longer be appropriate, and may even be a hindrance to the development of the Hawaiian broadcasting industry. Indeed, the populated islands of Oahu and Maui have few or no VHF–TV or FM channels available that could be assigned to their presently expanding communities. In summary then, it appears that the Commission is in the unusual position of being able to reallocate a total of twenty-two megahertz of spectrum to the Broadcast Service without adverse impact on existing services.

6. Accordingly, the Commission is issuing this Notice of Proposed Rule Making for reallocation of the band 76–88 MHz (TV Channels 5 and 6) to the TV Broadcast Service. Additionally, the Commission is proposing to reallocate the band segment 98–108 MHz (FM Channels 251–300) from the Fixed Service to the FM Broadcast Service in Hawaii by deletion of footnote NG 21 to the Table of Frequency Allocations, Section 2.106.

7. The proposed amendments to Parts 2, 22, and 73 of the rules, as set forth in the Appendix, are issued pursuant to the authority contained in Sections 4(i) and 303 (c), (h) and (r) of the Communications Act of 1934, as amended.

8. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's Rules, interested persons may file comments on or before December 24, 1980, and reply comments on or before January 9, 1981. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

9. In accordance with the provisions of Section 1.419 of the Commission's Rules, an original and five copies of all statements, briefs or comments filed shall be furnished the Commission. Responses will be available for public inspection during business hours in the Commission's Public Reference Room in its headquarters in Washington, D.C.

10. For further information concerning procedures to follow with respect to this rulemaking proceeding, contact Maureen Cesaitis (202) 653–8165. A summary of the Commission's procedures governing ex parte contacts in informal rulemakings [2] is available from the Commission's Consumer Assistance Office, FCC, Washington, D.C. 20554, (202) 632–7000.

Federal Communications Commission.

William J. Tricarico,
Secretary.

Appendix

Parts 2, 22 and 73 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 2—FREQUENCY ALLOCATION AND RADIO TREATY MATTERS, GENERAL RULES AND REGULATIONS

§ 2.106 [Amended]

1. In § 2.106, the Table of Frequency Allocations is amended by deleting footnote designator NG21 in column 7 for the bands 76–88 and 88–108 MGz and by deleting the text of footnote NG21 from the list of footnotes following the Table.

PART 22—PUBLIC MOBILE RADIO SERVICES

§ 22.601 [Amended]

1. Section 22.601(c) is deleted.

PART 73—RADIO BROADCAST SERVICES

§ 73.220 [Amended]

1. Section 73.220(c) is deleted.

2. Section 73.603(b) is revised to read as follows:

§ 73.603 Numerical designation of television channels.

(a) * * *

(b) In Alaska, the frequency band 76.82 MHz and 82–88 MHz are allocated for non-broadcast use. These frequency bands (Channels 5 and 6) will not be assigned in Alaska for use by Television broadcast stations.

[FR Doc. 80-37319 Filed 11-28-80; 8:45 am]

BILLING CODE 6712-01-M

[2] *Policies and Procedures Regarding Ex Parte Communications During Informal Rule Making Proceedings*, 45 FR 45582 (July 7, 1980), 78 FCC 2d —— (1980).

47 CFR Part 13

[Docket No. 20817]

Commission does desire that the final determination be based on the most complete record, an extension of three

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47 CFR Part 13

[Docket No. 20817]

Inquiry Relating to the Commission's Radio Operator Licensing Program; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rules; extension of comment period.

SUMMARY: News of the FCC's proposed rules on eliminating the Radiotelephone First Class Operator License was slow in reaching interested parties. This action extends the time in which to file comments and reply comments.

DATE: Comments must be received on or before December 5, 1980. Reply comments must be received on or before January 5, 1981.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Vernon P. Wilson or Roy E. Kolly, Field Operations Bureau (202) 632-7240 or Charles B. Goldfarb, Broadcast Bureau (202) 632-6460.

SUPPLEMENTARY INFORMATION:

In the matter of an inquiry relating to the Commission's Radio Operator Licensing Program, Docket No. 20817.

Adopted: November 14, 1980.

Released: November 14, 1980.

1. The Commission has before it an informal request filed by Bob Johnson of 1201 Ninth Street, Manhattan Beach, California to extend the time for filing comments in Docket No. 20817 for a period of 90 days with respect to the Further Notice of Proposed Rule Making (August 18, 1980, 45 FR 54778).

2. In support of his request, Mr. Johnson contends that a small number of responses have been received in comparison to the total number of first class licensees; that this small number of returns was caused by the insufficient amount of time permitted for the necessary publicity in the monthly engineering magazines and the lack of publicity given the matter in trade journals. He therefore seeks the additional time to make more persons involved in communications sections in industry aware of the Notice and afford them an opportunity to comment and recommend.

3. The Commission notes that approximately 500 comments have been filed to date. Under the circumstances, it would appear that interested parties have had ample opportunity to address the matter and that no additional time is in fact warranted. However, since the Commission does desire that the final determination be based on the most complete record, an extension of three weeks will be granted.

4. Accordingly, pursuant to the authority delegated in § 0.311 of the Commission's rules, it is ordered that the time for filing comments is extended to December 5, 1980, and the time for filing reply comments is extended to January 5, 1981.

Richard M. Smith,

Acting Chief, Field Operations Bureau.

[FR Doc. 80-37317 Filed 11-28-80; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register

Vol. 45, No. 232

Monday, December 1, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

INTERGOVERNMENTAL RELATIONS ADVISORY COMMISSION

Proposed Grants Policymaking; Meeting

AGENCY: Advisory Commission on Intergovernmental Relations.

ACTION: Notice of roundtables (open meeting) on proposed grants policymaking by the Office of Management and Budget.

SUMMARY: The second of a series of roundtables has been organized to: (1) Present the issues, problems, and alternative approaches associated with federal assistance policy in the areas of competition, dispute resolution, handicapped regulations, and cross-cutting national requirements; and (2) provide improved access to all major recipient groups in the policymaking process and to obtain comment from the effected parties.

DATE AND PLACE: December 16–17, 1980: Golden Gate University, 536 Mission Street, 2nd Floor Auditorium, San Francisco, CA 94105.

AGENDA: A series of ACIR convened panels will address the issue papers or proposed policies of the Office of Management and Budget. The purpose of the roundtables is to obtain information concerning the relevancy, impact, and practicality of the proposed policies and issue papers developed by the Office of Management and Budget. The leader of the OMB task force on each issue will present the OMB paper. Interested parties are encouraged to address at least the following questions in making comments:

December 16, 1980—9:00 a.m.–12:15 p.m.

Competition for Federal Assistance Awards

(1) Should there be a government-wide policy guiding competition practices in the award of grants and cooperative agreements? Under what circumstances should competition be limited?

(2) Should be government-wide policy for competition be devised, what broad principales should it encompass?

(3) If competitive procedures are desirable, when and how should they be applied?

(4) Is there a general awareness of the evaluation criteria used by federal agencies in making awards?

(5) What steps should be taken to ensure competition in evaluating grant applications and making final awards? Are there alternatives to a government-wide circular?

(6) Should different criteria be used depending on the nature and/or the expertise available to the applicant?

(7) What evaluation process should be established in the federal agencies to ensure fair competition?

(8) How should information concerning the evaluation process be made available before and after the award?

December 16, 1980—2:00 p.m.–5:00 p.m.

Dispute Resolution for Federal Assistance

A member of the grants appeals board in the Department of Health and Human Services will describe how these procedures have been implemented in HHS.

(1) Is there a need for dispute resolution procedures by federal agencies?

(2) Should uniform procedures be required of all federal agencies or resolving disputes?

(3) What steps should be taken to insure that dispute resolution procedures are widely known? What is the OMB role and what is the federal agency role in disseminating this information?

(4) Would the procedures discribed in the circular adequately address and remedy those disputes that most frequently occur between the federal agency and the primary grantee? Are there other methods that may prove more satisfactory?

(5) Should the circular be extended to cover disputes that arise when federal grants "pass-through" the states?

(6) What role should the Office of Management and Budget assume in ensuring the implementation of the circular?

(7) What are the relative advantages and disadvantages of formal and informal dispute resolution processes?

December 17, 1980—9:00 a.m.–12:15 p.m.

Handicapped Regulations

(1) What management approach can be developed to address the needs of the handicapped while recognizing the administrative and economic problems associated with implementing the regulations?

(2) In what ways do the current regulations fail to address these problems?

(3) What changes can be expected in the implementation of the 504 regulations as a result of the transfer of responsibility to the Department of Justice?

(4) What role should OMB, the federal agencies, field offices and recipient groups assume to realize the objectives of meeting the needs of the handicapped without unnecessary administrative and economic burdens?

(5) Can this issue be viewed in management terms, or is it strictly a civil rights issue where compliance should be achieved regardless of cost considerations?

December 17, 1980—1:45 p.m.–5:30 p.m.

Cross-Cutting National Policy Requirements and Sub-National Conflict Resolution (concurrent session)

The proposed circular on managing national policy requirements appeared in the **Federal Register**, Friday, November 7, 1980, p. 74416.

(1) Are there serious problems created by a conflict in the implementation of cross-cutting requirements? If so, which requirements or combination of requirements cause the most problems?

(2) Are cross-cutting requirements enforced now? To what extent should they be enforced and how should this be addressed in the circular?

(3) Should these problems be addressed by the Office of Management and Budget in a circular? Is there a need for a statutory base for OMB's proposed framework?

(4) Does the need exist for a set of single standards or should there be greater flexibility in the application of these requirement?

(5) Is the management approach described in circular the best approach for OMB to manage cross-cutting

requirements? What are the alternatives?

(6) To what degree can the conflicts which have a legal basis for resolved managerially?

(7) What specific roles should OMB, the federal regional councils, and the federal field offices assume in the management of cross-cutting requirements?

(8) To what degree are conflicts concerning cross-cutting requirements likely to occur at the sub-national level? Are those conflicts significant enough to warrant a sub-national conflict resolution process?

(9) If so, what elements must be present for resolution of conflicts at the sub-national level?

SUPPLEMENTARY INFORMATION: This meeting is open to the public. Copies of the OMB issue papers and circulars are available upon request by contacting Tom Anderson at 415/442–7000, ext. 7416 or Paula Alford at 202/653–5605 or 5538. The public is invited to submit questions, comments, statements in advance to ACIR, 1111 20th St., N.W., Washington, D.C. 20575 c/o Mr. Michael Mitchell. The next roundtable will be held in Chicago January 8–9. Details will be provided in a later Federal Register Notice.

Dated: November 25, 1980.

Franklin A. Steinko,

Budget and Management Officer.

[FR Doc. 80-37291 Filed 11-28-80; 8:45 am]

BILLING CODE 6115-01-M

DEPARTMENT OF AGRICULTURE

San Juan National Forest Grazing Advisory Board; Meeting

The San National Forest Grazing Advisory Board will meet on Friday, January 23, 1981, at 1:00 p.m. at the Durango Savings and Loan, Hospitality Room, 1011 East 2nd Ave., Durango, Colorado. The Board is being established in accordance with provisions of the Federal Land Policy and Management Act of 1976.

The Agenda for the meeting will include: (1) a discussion of the function of the Board: (2) establishment of by-laws: (3) election of officers: (4) recommendations concerning the development of allotment management plans and the utilization of range betterment funds.

The meeting will be open to the public. Persons who wish to attent and participate should notify H. E. Bond, San Juan National Forest (303–247–4874) prior to the meeting. The public may participate in discussions during the meeting or may file a written statement following the meeting.

November 20, 1980.

P. C. Sweetland,

Forest Supervisor.

[FR Doc. 80-37252 Filed 11-28-80; 8:45 am]

BILLING CODE 3410-11-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Meeting

Notice is hereby given in accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. Appendix I (the Act) and paragraph 8.b of Office of Management and Budget Circular No. A–63 (revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on December 15, 1980 from 10 a.m. to 6 p.m. and on December 16, 1980 from 8:30 a.m. to 2 p.m. at 2201 C Street, NW., Washington, D.C. in Room 5941.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 12065 dated June 28, 1978.

The meeting will be closed to the public in accordance with the determination of November 21, 1980 made by the Director of the U.S. Arms Control and Disarmament Agency pursuant to Section 10(d) of the Act and paragraph 8.d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11686 dated October 7, 1972 and continued by Executive Order 11769 dated February 21, 1974.

Dated: November 26, 1980.

Walter L. Baumann,

Advisory Committee Management Officer.

[FR Doc. 80-37343 Filed 11-28-80; 8:45 am]

BILLING CODE 6820-32-M

CIVIL AERONAUTICS BOARD

[Docket No. 38955]

Global International Airways Corp. Fitness Investigation; Notice of Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on December 16, 1980, at 10:00 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C. before the undersigned.

In order to facilitate the conduct of the conference, parties are instructed to submit one copy to each party and two copies to the judge of (1) proposed statements of issues, (2) proposed stipulations, (3) proposed requests for information and evidence, (4) proposed procedural dates, and (5) proposals for expediting this proceeding.

The Bureau of International Aviation shall deliver its material on or before December 5, 1980 and any other party shall deliver its material on or before December 12, 1980. The submissions of other parties shall be limited to points on which they differ with BIA, and shall follow the numbering and lettering used by BIA to facilitate cross referencing. Dates specified herein are dates of *delivery*.

Dated at Washington, D.C., November 24, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-37302 Filed 11-28-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 169]

Approval for a Temporary Foreign-Trade Zone Site in Granite City, Illinois, Within the St. Louis Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u). and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Tri-City Regional Port District, Grantee of Foreign-Trade Zone No. 31, has applied to the Board for authority to establish, operate, and maintain a temporary zone site in Granit City, Illinois, until December 31, 1983.

Whereas, the application was accepted for filing on August 18, 1980, and notice inviting public comment was given in the **Federal Register** on August 26, 1980 (45 FR 56853);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the temporary site is needed to provide immediate zone services for the business community until the permanent zone, which is presently under construction, is ready for occupancy; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's Regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to establish, operate and maintain a temporary zone site in Granit City, Illinois, in conformity with the application filed August 18, 1980, until December 31, 1983. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operation within the temporary site. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C., this 21st day of November 1980.

Philip M. Klutznick,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 80-37299 Filed 11-28-80; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Accessories for Foreign Instruments

The following is a consolidated decision on applications for duty-free entry of accessories for foreign instruments pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80–00092. Applicant: University of Colorado, Purchasing Services Department, Willard Administrative Center #160, Boulder, Colorado 80309. Article: Cryokit, LKB 14800–3 complete. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare frozen biological materials (cells and tissues) for experiments concentrating on visualization of 3–D organization of organelles and intracellular systems in normal and transformed cells and tissues by use of a high-voltage electron microscope. These experiments are to be conducted to reveal high-resolution features and to identify possible preparation artifacts. The article will also be used in the courses: MCDB–312 Cell and Tissue Biology, MCDB–513 Advanced Topics in Electron Microscopy and MCDB–511 Introduction to Electron Microscopy for Biologists to increase expertise in various research areas handled by electron microscopy and specimen sectioning. Advice submitted by the Department of Health and Human Services: March 24, 1980.

Docket No. 80–00093. Applicant: University of Illinois, Medical Center, Department of Anatomy, 808 South Wood Street, Chicago, Illinois 60612. Article: Microscope accessories consisting of: Scanning Attachment, Backscattered Electron Detector, Image Selector Switch, Specimen Rotating Holder, Faraday Cage Holder, Supplementary Detection Unit, and Supplementary Power Supply. Manufacturer: JEOL Ltd., Japan. Intended use of article: The articles are attachments intended to be used in conjunction with microscopes to form a facility for backscattered electron imaging which will be used in biomedical research on the structure and function of cells and tissues. Specifically the research purposes for which the above attachments are intended are:

(a) Visualization of the cell microstructure and characterization of the cytochemistry of cell organelles in bone marrow cells by backscattered imaging.

(b) Visualization by backscattered imaging of cell organelle microstructure in proliferating embryonic cell populations.

(c) Visualization by backscattered imaging of chromosome organization in yeast cells undergoing division.

(d) Cytochemical localization of structures in sperm cells in backscattered imaging.

(e) Visualization of cell organization in the central nervous system by backscattered imaging.

Advice submitted by the Department of Health and Human Services: March 28, 1980.

Docket No. 80–00141. Applicant: The Regents of the University of California, Riverside, Material Management, Riverside, California 92521. Article: STEM System. Manufacturer: Philips Electronic Instruments Inc., The Netherlands. Intended use of article: The article is an accessory to an existing electron microscope which will be used primarily for research in plant cell biology for investgations into plant development, structure-function relationships, cells and tissue organization and compartmentation, and plant-environment interactions. In addition, the article will be used for research by investigators in areas such as geology, soil science and biochemistry. The proposed research will include:

A. Determination of the distribution and sites of accumulation of salt glands of halophytic ants under salt-loaded, secreting conditions as compared with non-secreting, distilled water treated plants.

B. Determination of the transition in cell organization and compartmentation, and their correlation with the cellular and tissue pattern of elemental distribution and redistribution associated with senescence.

C. Determination of the elemental distribution between mycorrhizal fungi and cortical cells in the root.

D. Determination of the effects of ozone on membranes of leaf tissue by assessing the redistribution of K^+ in ozone-treated materials.

E. Determination of the distribution of calcium in fruit and possible changes in distribution during ripening in order to assess possible functions of Ca^{++} in the ripening process.

F. Determination of the distribution of heavy metal in plant tissues. In addition, the article will be used to teach students the principles of specimen preparation and electron optics as well as how to use the electron microscope and its accessories. Advice submitted by the Department of Health and Human Services: May 7, 1980.

Docket No. 80–00124. Applicant: Geophysical Institute, University of Alaska, Fairbanks, Alaska 99701. Article: Cassette Playback Unit. Manufacturer: Grant Instruments, United Kingdom. Intended use of article: The article is intended to be used to playback data collected on previously acquired Grant recorders. The experiments to be conducted will involve collecting solar radiation and associated micrometeorological data at remote sites near Lake Minchumina in order to evaluate the effect of the lake on cloud formation and ultimately on atmospheric radiation. Advice submitted by the National Bureau of Standards: June 3, 1980.

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Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States.

Reasons: The applications relate to compatible accessories for instruments that have been previously imported for the use of the applicant institutions. The articles are being manufactured by the manufacturers which produced the instruments with which they are intended to be used. We are advised by the Department of Health and Human Services and the National Bureau of Standards in their respectively cited memoranda that the accessories are pertinent to the applicants' intended uses and it knows of no comparable domestic articles.

The Department of Commerce knows of no similar accessories manufactured in the United States which are interchangeable with or can re readily adapted to the instruments with which the foreign articles are intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-37281 Filed 11-28-80; 8:45 am]

BILLING CODE 3510-25-M

Emory University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230

Docket No. 80-00223. Applicant: Emory University, Chemistry Building, 1515 Pierce Drive, Atlanta, Georgia 30322. Article: NMR Spectrometer, Model CXP-300 and Accessories. Manufacturer: Bruker-Physik AG, West Germany. Intended use of article: The article is intended to be used for studies of specifically deuterated phospholipid molecules in both the gel and liquid crystal states; surfactants in lamellar, haxagonal, nematic Type I and nematic Type II mesophases; specifically deuterated thermotropic liquid crystals in nematic and smectic phases; deuterated solids and amorphous polymers; and biological membranes. Specific experiments will utilize magnetic ordering of nematics, non-magnetic ordering of phospholipid multilayers and multilamellar aggregates exhibiting powder spectra. The deuteron magnetic resonance technique will yield quadrupolar splittings and relaxation parameters from which rates of dynamical processes can be extracted.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides high power pulse wide-line spectra. The National Bureau of Standards advises in its memorandum dated July 21, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-37280 Filed 11-28-80; 8:45 am]

BILLING CODE 3510-25-M

Evangelical Hospital Association, Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80-00221. Applicant: Evangelical Hospital Association, Oak Brook Regency Towers East, 1145 West 22nd Street, Oak Brook, Illinois 60521. Article: Automated Ultrasonic Body Imager. Manufacturer: Ausonics Ltd., Australia. Intended use of Article: The article is intended to be used for studies of the reflection characteristics of a variety of tissues within the body by computer analysis of the amplitude, scattering characteristics and frequency content of signals emanating from specific targets. In addition, the article will permit large image reconstruction of the heart at selected phases of the cardiac cycle to provide static images of structure position in a motion format which will provide dynamic information concerning the movement of structures. The article will also be used in educational programs in which trainees from both Radiology and Cardiology are actively involved.

Comments: No comments have been received with respect to this application.

Decision: Appliction approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article is equipped with 8 transducers which provide a large field of view and compound scanning. Comparable domestic instruments have but one transducer. The Department of health and Human Services advises in its memorandum dated July 17, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-37259 Filed 11-28-80; 8:45 am]

BILLING CODE 3510-25-M

Florida State University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80-00219. Applicant: Florida State University, Chemistry Department, Tallahassee, Florida 32306. Article: Circular Dichroism Spectrophotometer. Manufacturer: Japan Spectroscopic Co. Ltd., Japan. Intended use of Article: The article is intended to be used for studies of (a) DNA, chromatin, and model nucleoproteins, (b) synthesized natural product analogs, (c) electrons in chiral solvents, (d) synthetic polypeptides, and (e) muscle proteins. The properties to be invesigated are the circular dichroism spectra related to biopolymer conformations and chemical structures. Experiments to be conducted will include:

(1) Monitoring of the binding of small chromophoric molecules to DNA, chromatin, and nucleoproteins by circular dichroism spectroscopy.

(2) Quantitation of changes in polypeptide and protein structures by observations of circular dichroism in various solvents.

(3) Comparison of the circular dichronism spectra of substituted natural products and analogs.

Application Recieved by Commissioner of Customs: March 4, 1980.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides circular dichroism spectrum measurements and rapid switching between right and left polarized light (50,000 times per second). The Department of Health and Human Services advises in its memorandum dated July 17, 1980 that (1) the capabilities of the foreign article described above are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-37265 Filed 11-28-80; 8:45 am]

BILLING CODE 3510-25-M

DHEW/PHS/FDA, National Center for Toxicology Research; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80-00180. Applicant: DHEW/PHS/FDA, National Center for Toxicology Research, Division of Chemistry/HFT-154, Jefferson, AR 72079. Article: Gas Chromatograph/Mass Spectrometer, Model MS-50. Manufacturer: Kratos, Inc., United Kingdom. Intended use of article: The article is intended to be used in a wide spectrum of projects ranging from research related to the development of new methodologies for the study of carcinogens, mutagens, and environmental pollutants which have or will be identified by the Food and Drug Administration as public health risks. The areas of study are:

(a) Steroids and terperoids.
(b) Hormones.
(c) Polypeticle sequencing.
(d) Polysaccharide sequencing.
(e) Lipids, fatty acids, bile acids, phospholipids.
(f) Nucleic acid derivatives.
(g) Antibiotics.
(h) Herbicides, pesticides and fungicides.
(i) Polynucleararomatics (PNA).

These studies will be conducted using ultrahigh resolution data reduced electron impact, field desorption/emission and positive and negative chemical ionization mass spectra and metastable ion scanning in any of the three spectral modes. Application Received by Commissioner of Customs: February 6, 1980.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a guaranteed static resolution of 150,000 (10% valley) and a guaranteed dynamic resolution of 40,000 (10% valley) in normal operation modes. The Department of Health and Human Services advises in its memorandum dated June 25, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's indended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Material)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-37264 Filed 11-28-80; 8:45 am]

BILLING CODE 3510-25-M

New York League for the Hard of Hearing; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80-00186. Applicant: New York League for the Hard of Hearing, 71 West 23 Street, New York, New York, 10010. Article: Auditory Training Equipment (One Suvag II and One Suvag I). Manufacturer: Service European de diffusion des inventions—France. Intended use of article: The articles are intended to be used in communication therapies with both

children and adults to give them the possibility of maximum auditory perception by selecting a frequency response that is optimal to each individual.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a 15 to 2000 hertz frequency response which is variable in a specific manner. The Department of Health and Human Services advises in its memorandum dated June 25, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-37286 Filed 11-28-80; 8:45 am]

BILLING CODE 3510-25-M

University of Miami; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80-00157. Applicant: University of Miami, Department of Chemistry, P.O. Box 249118, Coral Gables, Florida 33124. Article: Flow Microcalorimeter block with gold Flow and Flow Mixing reaction Cells and Accessory Kit. Manufacturer: LKB Produkter AB, Sweden. Intended Use of Article: The article is intended to be used for studies of anhydrous organic solvents and electropyte solutions of these solvents. The solvents include anhydrous methanol, ethanol, acetonitrile, dimethyformamide, dimethylsufoxide, acetone, and other polar organic solvents. The electrolytes include soluble alkali metal halides, alkaline earths and tetraalkylammonium halides. The long range goal of the experiments conducted is to use the information to elucidate structure of electrolytic solutions. The article will be used primarily graduate education for those students working on Master or Ph. D. degrees,

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (December 6, 1979). Reasons: The foreign article provides a minimum detectable heat pulse of 200 microjoules and a minimum detectable continuous heat effect of one microwatt. The National Bureau of Standards advises in its memorandum dated June 13, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director,

Statutory Import Programs Staff.

[FR Doc. 80-37263 Filed 11-28-80; 8:45 am]

BILLING CODE 3510-25-M

University of Southern California; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No. 80-00197. Applicant: University of Southern California, School of Medicine, 2025 Zonal Avenue, Los Angeles, CA 90033. Article: Thin Layer Counter Current Distribution System. Manufacturer: Central Workshop, University of Lund, Sweden. Intended use of Article: The article is intended to be used for study of the physiology of epithelial cells at the subcellular and molecular levels. The key to the project is the design of methods for isolating all subcellular components, e.g., plasma membrane fragments, mitochondria, and endoplasmic reticulum populations, from intestinal and salivary epithelia. The proposed experiments include studies of amino acid and ion transport mechanisms by highly purified plasma membrane vesicles; analysis of the subcellular distributions of enzymes involved in lipid absorption and membrane biogenesis; and analysis of the intracellular processing of plasma membrane-destined and secretory protein.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides the capability of thin layer countercurrent chromatography. The Department of Health and Human Services advises in its memorandum dated June 25, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-37262 Filed 11-28-80; 8:45 am]

BILLING CODE 3510-25-M

University of Southern Mississippi; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-feee entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Departmenf of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No.: 80-00053. Applicant: University of Southern Mississippi, Southern Station, Box 5156, Hattiesburg, MS 39401. Article: NMR Spectrometer, Model FX-900 and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the following research projects:

(1) Spectral density functions, making use of T_1-rho capability.

(2) Lipid chanin dynamics.

(3) Dynamics of oxyanions in aqueous solution, making use of greater storage auto-stacking and T_1-rho capabilities.

(4) Hydrocarbon chain motion in binary mesophase systems.

(5) Structures of graft copolymers and model compounds, making use of high resolution.

(6) Studies of the mechanisms of autoxidation of vegetable of oils.

(7) Studies of the chain dynamics of polyacrylamides.

(8) Studies of polymer chain dynamics in solutions at low temperatures.

The article will also be used for teaching in all of the research described above. Application received by Commissioner of Customs: December 3, 1979.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (June 20, 1979.

Reasons: The foreign article provides the capability for measuring T_1-rho, spin-lattice relaxation in the rotating frame. The Model XL manufactured by Varian provides this capability. However at the time the foreign article was ordered, no domestic instrument provided this T_1-rho capability. The Department of Health and Human Services advises in its memorandum dated July 30, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-37287 Filed 11-28-80; 8:45 am]

BILLING CODE 3510-25-M

Computer Systems Technical Advisory Committee, Licensing Procedures Subcommittee; Open Meeting

AGENCY: International Trade Administration.

SUMMARY: The Computer Systems Technical Advisory Committee was initially established on January 3, 1973, and rechartered on August 29, 1980 in accordance with the Export Administration Act of 1979 and the Federal Advisory Committee Act. The Subcommittee was approved for continuation on September 19, 1980 pursuant to the charter of the Committee. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

TIME AND PLACE: December 18, 1980, at 9:30 a.m. The meeting will take place at the Main Commerce Building, Room 3708, 14th Street and Constitution Ave., NW, Washington. D.C.

Agenda

General Session

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Pending items of business:

(a) Software update of EAR 376.10.

(b) Review of items of business from previous meetings.

(c) Permissive reexports under GLR.

(d) Review of the standard formatting of license applications.

Public Participation

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written Statements may be submitted at any time before or after the meeting.

FOR FURTHER INFORMATION OR COPIES OF THE MINUTES CONTACT:

Mrs. Margaret A. Cornejo, Office of the Director of Licensing, Office of Export Administration, Room 1609, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: 202-377-2583.

Dated: November 24, 1980.

Saul Padwo,

Director of Licensing, Office of Export Administration.

[FR Doc. 80-37178 Filed 11-28-80; 8:45 am]

BILLING CODE 3510-25-M

Maritime Administration

U.S. Merchant Marine Academy Advisory Board; Public Meeting

Notice is hereby given of a meeting of the Advisory Board to the U.S. Merchant Marine Academy (the Board) on December 16, 1980 at 1:30 p.m., in Room 6705, Main Commerce Building, 14th & E Street, NW., Washington, D.C.

The Advisory Board was established by the Secretary of Commerce under the authority of 46 U.S.C. 1126d to examine the course of instruction and overall management of the U.S. Merchant Marine Academy (the Academy) and to advise the Assistant Secretary of Commerce for Maritime Affairs with respect thereto.

The Board consists of not more than seven members appointed by the Secretary of Commerce selected from segments of the maritime industry, labor, educational institutions and other fields relating to the purposes of the Academy.

The Agenda for the meeting is:

1. Call meeting to order;
2. Approval of minutes of October 3, 1980 meeting;
3. Introductory comments by Chairman;
4. Discussion of Board member assignments;
5. Progress report on Engineering program accreditation;
6. Status report on Regimental matters;
7. Sea-year Program
   a. Impact of proposed IMCO requirements;
   b. Report of Female Midshipman;
8. Report on academic deficiency problems;
9. Report on plans for Academy participation in the Inaugural; and
10. Setting of date of next meeting.

V 45 / 232 DEC 1 80 UMI

V 45 / 232 DEC 1980 UMI

This meeting is open to public observation and comment. Approximately 25 seats will be available for the public on a first-come, first-serve basis.

Copies of the minutes will be available upon request.

Inquires may be addressed to the Committee Control Officer, Arthur W. Friedberg, Director, Office of Maritime Labor and Training, Room 3069A, Department of Commerce Building, Washington, D.C. 20230, telephone A/C 202/377–3018.

So ordered by Assistant Secretary of Commerce for Maritime Affairs, Maritime Administration.

Dated: November 25, 1980.

Robert J. Patton,

Secretary.

[FR Doc. 80-37158 Filed 11-28-80; 8:45 am]

BILLING CODE 3510-15-M

Approval of Applicant as Trustee

Notice is hereby given that First Tennessee Bank, N.A., with offices at 165 Madison Avenue, Memphis, Tennessee, has been approved as Trustee pursuant to Public Law 89–346 and 46 CFR 221.21–221.30.

Dated: November 21, 1980.

By Order of the Assistant Secretary of Commerce for Maritime Affairs.

Robert J. Patton, Jr.,

Secretary.

[FR Doc. 80-37160 Filed 11-28-80; 8:45 am]

BILLING CODE 3510-15-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), has established a Scientific and Statistical Committee, which will meet to discuss minutes of the previous meeting; third discussion of the value of reducing variability and abundance of catch as an objective; old and new business, as well as the following reports: Council meeting; groundfish oversight committee meeting; lobster—final report of economic subcommittee on market survey and economic data needs; biological subcommittee's discussion with the oversight committee; meeting with the executive committee regarding Charles River Associates, and report of the Executive Director.

DATES: The meeting, which is open to the public, will convene on Tuesday, December 16, 1980, at approximately 10 a.m., and will adjourn at approximately 5 p.m. The meeting may be lengthened or shortened, or agenda items rearranged, depending upon progress on the agenda.

ADDRESS: The meeting will take place at the J. F. Kennedy Building, Room 2308, Government Center, Boston, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Suntaug Office Building, Five Broadway (Route One) Saugus, Massachusetts 01906. Telephone: (617) 231–0422.

Dated: November 25, 1980.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 80-37301 Filed 11-28-80; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Deepening of Jacksonville Harbor, Duval County, Fla.

AGENCY: U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of intent to prepare a Draft Environmental Impact Statement.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers intends to prepare an Environmental Impact Statement on the feasibility of deepening the existing federally maintained channel, Jacksonville Harbor, Duval County, Florida. The harbor extends inland along the St. Johns River from the ocean to the railroad bridge at Jacksonville, a distance of 26.8 miles. The existing Federal harbor project has various depths and widths along the channel. The feasibility of deepening all or a portion of the 38-foot channel, providing turning basin(s) near miles 11 and/or 18, and deepening the channel on the west side of Blount Island is currently under study.

The following alternative actions are under consideration:

a. No action.

b. Deepen the channel from the ocean to mile 11 by 2, 4, 6, or 8 feet.

c. Deepen the channel from the ocean to mile 18 by 2, 4, 6, or 8 feet.

d. Deepen the channel from the ocean to mile 20 by 2, 4, 6, or 8 feet.

e. Deepen the channel west of Blount Island by 8 feet.

f. Provide turning basin(s) in the vicinity of miles 11 and/or 18 to depths 40, 42, 44, and 46 feet.

Methods considered for the disposal of dredged material and rock include upland disposal, ocean disposal, beach nourishment, and/or artificial reef replenishment or construction (rock). The scoping process will include the issuance of a public notice which will advertise the study and will request comments from the public. Public workshops will be conducted, as needed; letters of intent to prepare the document will be sent to those individuals and organizations that have expressed interest in the study in the past; and a public meeting will be held. Comments will be solicited from affected Federal, State, and local agencies. Issues to be analyzed in the DEIS will be determined upon completion of scoping.

In accordance with the Fish and Wildlife Coordination Act, participation in the planning process has been initiated with the U.S. Fish and Wildlife Service (FWS) and participation will also be solicited from the U.S. National Marine Fisheries Service (NMFS) and the State of Florida. Consultation will be accomplished in accordance with Section 7 of the Endangered Species Act and the Archeological and Historic Preservation Act. Disposal of dredged material in ocean waters will be evaluated pursuant to Section 103 of the Marine Protection, Research, and Sanctuaries Act. If a selected plan involves discharge of material into waters of the United States, the discharge will be specified by application of the criteria of Section 404(b), Federal Water Pollution Control Act.

Scoping will be accomplished by issuance of the public notice, letters of intent to prepare the DEIS, and coordination with Federal, State, and local agencies. A scoping meeting will not be conducted unless deemed necessary. The DEIS will be made available to the public in June 1981 unless circumstances warrant additional time for preparation.

Any questions concerning the proposed action and DEIS can be answered by: Dr. Gerald Atmar, Environmental Studies Section, U.S. Army Corps of Engineers, Jacksonville District, P.O. Box 4970, Jacksonville, Florida 32232; Telephone: (904) 791–3615.

Dated: 21 November 1980.

James W. R. Adams,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-37251 Filed 11-28-80; 8:45 am]

BILLING CODE 3710-AJ-M

Defense Logistics Agency

Privacy Act of 1974; New System of Records

AGENCY: Defense Logistics Agency.

ACTION: Notice of new records system.

SUMMARY: The Defense Logistics Agency is adding a new system of records to its inventory of systems of records subject to the Privacy Act. This new system is identified as 5690.01 DISC–W, entitled Car Pool Program Participants File. The record system notice is set forth below.

DATE: This System shall be effective as proposed without further notice on December 31, 1980, unless comments are received on or before December 31, 1980, which would result in a contrary determination and require republication for futher comments.

ADDRESS: Chief, Administative Services Division, Defense Industrial Supply Center, Defense Logistics Agency Philadelphia, Pennsylvania 10111.

FOR FURTHER INFORMATION CONTACT: Ms. Olga Moss, telephone (215) 697–2700.

SUPPLEMENTARY INFORMATION: The Defense Logistics Agency systems of records notice as prescribed by the Privacy Act of 1974, Title 5, U.S.C. Section 552a (Pub. L. 93–579) have been published in the **Federal Register** at:

FR DOC 79–37052 (44 FR 74017) December 17, 1979

FR DOC 80–15774 (45 FR 34951) May 23, 1980

The proposed change is within the purview of the provisions of 5 U.S.C. 552a(o) of the Act and new system report was submitted on October 22, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

November 24, 1980.

S690.01 DISC–W

SYSTEM NAME:

Car Pool Program Participants File.

SYSTEM LOCATION:

Primary System—Tapes are maintained in Office of Data Systems (DISC–A), Defense Industrial Supply Center, 700 Robbins Ave., Philadelphia, PA 19111. Paper records are maintained in the Office of the Comptroller (DISC–C), Directorate of Supply Operations (DISC–O), Directorate of Contracting and Production (DISC-P), and directorate of Technical Operations (DISC-S).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian and military employees of DISC.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal information consisting of name, rank/grade, home address, organizational code, office telephone number and social security number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

40 USC 486(c); 41 CFR 101–20.117; DoD Directive 4170.10, Energy Conservation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To collect and maintain data from personnel for the purose of forming car pools. Data collected is used to coordinate geographic locations of employees of employees' home addresses, to facilitate the establishment of car pools by computer car pool matching against grid/map, and to comply with the Energy Conservation Program.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, DISPOSING, AND RETAINING, RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, tapes, computer printouts.

RETRIEVABILITY:

Retrieved from tape records by individual's Social Security Number. Computerized indices are used to retrieve individual records from the system. Paper records are retrieved by individual's name.

SAFEGUARDS:

Records are accesible only to authorized personnel and are maintained in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Records are destroyed upon preparation of new lists compiled from update data collected from personnel.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Data Systems (DISC-A), Defense Industrial Supply Center, Philadelphia, Pennsylvania 10111, telephone 215–697–2700.

NOTIFICATION PROCEDURE:

Written or personal requests for information may be directed to the SYSMANAGER. Individuals must provide full name, and specifie office in which employed.

RECORD ACCESS PROCEDURES:

Requests should contain full name, current address and telephone number of the individual. For personal visits, the individual should be able to provide some personal identification, e.g., drivers license. DLA identification card etc.

CONTESTING RECORD PROCEDURES:

Rules for contesting contents may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Individual, upon applying for car pool matching, and when changes occur.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-37122 Filed 11-29-80; 8:45 am]

BILLING CODE 3620-01-M

Office of the Secretary

Defense Science Board Task Force on Anti-Tactical Missiles; Change in Meeting Date

The Defense Science Board Task Force on Anti-Tactical Missiles closed meeting scheduled for 8–9 December 1980, in Arlington, Virginia, as published in the **Federal Register** (Vol. 45, No. 225, dated Wednesday, November 19, 1980, FR Doc. 80–36029) has been changed to 10–11 December 1980. In all other respects, the original notice cited above remains the same.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

November 24, 1980

[FR Doc. 80-37210 Filed 11-28-80; 8:45 am]

BILLING CODE 3810-70-M

DELAWARE RIVER BASIN COMMISSION

Public Hearing and Commission Meeting

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing and meeting for business on December 1, 1980 at 1:00 p.m. in the Independence National Park Visitors Center, Third and Chestnut Streets, Philadelphia, Pennsylvania.

The Commission is considering whether the current and anticipated conditions of water supply and demand within the basin require the Commission to determine that there is a shortage of

available water supply, to delineate the area of such shortage, and to declare a water supply emergency therein.

subsequent arrangement, designated as S–EU–671, will not be inimical to the common defense and security.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the

Mr. Ronald H. Wilkerson, Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201,

Bonneville Administrator, be required to provide all replacement parts. Short of a major failure, the final charge is

comment as part of that 1981 transmission rate development process.

Differentiation of Charges for live

available water supply, to delineate the area of such shortage, and to declare a water supply emergency therein.

Section 10.4 of the Delaware River Basin Compact provides that in the event of the drought or other condition which may cause an actual or immediate shortage of available water supply within the basin, or within any part thereof, the Commission may, after public hearing, determine and delineate the area of such shortage and declare a water supply emergency therein. For the duration of such emergency, the Commission may limit the extent to which water users may divert or withdraw water for any purpose.

The purpose of this hearing is to permit the members of the general public to comment on these matters and to make any suggestions or recommendations concerning possible Commission action.

All persons wishing to be heard should notify the Secretary of the Commission prior to the hearing by letter or by telephone.

There will be a special business meeting of the Commission immediately following the hearing to consider possible Commission actions relating to the drought situation.

W. Brinton Whitall,

Secretary.

November 20, 1980.

[FR Doc. 80-37250 Filed 11-28-80; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" Under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peacful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the sale of five dosimetry sets containing a total of 12 milligrams of Uranium-235, 86 milligrams of Uranium-238, and 24 milligrams of Neptunium-237. The dosimetry sets are to be used at the Technical University of Munich, Federal Republic of Germany in the determination of neutron flux and measurement of the spectral energy of the FRM research reactor.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement, designated as S-EU-671, will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than December 16, 1980.

For the Department of Energy.

Dated: November 24, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-37151 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Norway Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the retransfer of 8,000 grams of uranium contianing 280 grams of U-235 (3.5% enrichment) from Sweden to Norway. The material is to be analyzed for uranium content, isotopic composition, and rare earth metals.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of this retransfer, designated as RTD/NO(SW)-12 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than December 16, 1980.

For the Department of Energy.

Dated: November 24, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-37152 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM).

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following contract:

S-EU-651, United States to England, 750,000 curies of tritium gas, each shipment not to exceed 30,000 curies, to be used by Brandhurst Co., Ltd, for production of tritium powered light sources.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than December 16, 1980.

For the Department of Energy.

Dated: November 24, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-37153 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-01-M

Bonneville Power Administration

Final Charges for Operation and Maintenance on Customer-Owned Facilities

AGENCY: Department of Energy, Bonneville Power Administration.

ACTION: Final Notice of Charges for Operation and Maintenance on Customer-Owned Facilities.

SUMMARY: Bonneville Power Administration (Bonneville) by **Federal Register** Notice of October 9, 1980, published proposed adjustments to operating and maintenance charges on customer-owned transmission related facilities (45 FR 67123). Written comments and requests for data were received, reviewed, and answered. This notice announces the final charges.

DATES: The charges will be effective January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Donna Lou Geiger, Public Involvement Coordinator, P.O. Box 12999, Portland, Oregon 97212, 503-234-3361, extension 4261. Toll-free numbers for Oregon callers 800-452-8429; for callers from Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California 800-547-6048.

Mr. John H. Jones, Jr., Area Manager, Room 288, Plaza Building, 1500 NE Irving Street, Portland, Oregon 97208, 503-234-3361, Ext. 4551.

Mr. Ladd Sutton, District Manager, Room 206, 212 East Seventh Avenue, Eugene, Oregon 97401, 503-345-0311.

Mr. Ronald H. Wilkerson, Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. Gordon H. Brandenburger, District Manager, P.O. Box 758, Kalispell, Montana 59901, 406-755-6202.

Mr. Ronald K. Rodewald, District Manager, Room 314, 301 Yakima Street, Wenatchee, Washington 98801, 509-662-4379.

Mr. Randall W. Hardy, Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206-442-4130.

Mr. Roy Nishi, Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, Ext. 701.

Mr. Robert N. Laffel, District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

SUPPLEMENTARY INFORMATION: In its **Federal Register** Notice of October 9, 1980, Bonneville announced the need to increase its operation and maintenance (O&M) charges by an average of 133 percent over its 1970 charges, effective January 1, 1981. Bonneville had previously notified its customers through Bonneville's Area and District offices of the need for the increase. Under the terms of various agreements, Bonneville's O&M charges may be unilaterally adjusted by Bonneville "when necessary to conform with Bonneville's cost of operating and maintaining like facilities." These O&M charges listed below are based upon a system wide 3-year rolling average cost for O&M on various types of equipment, by voltage class.

Bonneville received comments from five of its customers pertaining to the subject charges. Bonneville's analysis of the comments is reflected below:

Further breakdown of costs for group-operated switches. One Public Utility District (PUD) commented that the charges for group-operated switches should be broken down to cover 115 kV and below instead of maintaining as only one class, all switches 345 kV and below. Bonneville has reviewed its operation and maintenance records and finds little, if any, difference in maintenance costs between group-operated switches at lower voltages than those at the 345 kV voltage class. Therefore, the final charges leave in effect one charge for group-operated switches of a given class operated at 345 kV or below.

Customer-provided parts and materials. One PUD questioned inclusion of 10.52 percent in the direct substation maintenance accounts for material when the PUD's contract anticipates it may, upon election of the Bonneville Administrator, be required to provide all replacement parts. Short of a major failure, the final charge is predicated upon Bonneville providing replacement parts. However, where Bonneville determines that it is appropriate and the customer provides parts, an appropriate credit will be made to the customer's account.

Filing of operation and maintenance charges for customer-owned facilities with the Federal Energy Regulatory Commission. One investor-owned utility (IOU) commented that the charges made final by this notice "should be filed with FERC for review and approval when you have finalized the rates." The subject charges are for operation and maintenance service for customer-owned facilities. The charges are not "schedules of rates and charges for the sale * * * of electric power * * * and for the transmission of non-Federal electric power over the Federal transmission system" which are subject to confirmation and approval by the Secretary of Energy (or by Secretarial delegation by the Assistant Secretary of Energy for Resource Applications and FERC) pursuant to 16 U.S.C. 838g. The charges all relate to facilities not a part of the Federal transmission system and are, according to the terms of the operation and maintenance contracts, subject to unilateral adjustment by Bonneville.

Allocation of certain accounts between O&M charges, wholesale power, and transmission rates. One IOU asked for the method of allocating Bonneville accounts 60000 (data system hardware maintenance), 61000 (system operations), 67001-31 and 67035 (transmission system operations) and 69002 (direction and administration of area management) between these O&M charges, transmission rates, and wholesale power rates. The utility was provided with a Bonneville staff paper indicating the allocation of various charges between the various voltage classes of equipment. As indicated in the staff paper, Bonneville's allocation of charges for accounts in question was based upon workload points. In order to avoid double charging, an estimate of revenues associated with increased O&M charges was made and credit given against the annual transmission costs in Bonneville's cost-of-service analysis submitted as part of Bonneville's 1979 wholesale power rate filing with FERC. How revenues from these charges will be treated with respect to Bonneville's 1981 transmission rate filing is still under review, and will be subject to public comment as part of that 1981 transmission rate development process.

Differentiation of Charges for live tank v. dead tank PCB's. An IOU indicated its interest in Bonneville's rationale for making the same charges for different types of equipment of the same voltage class, and gave as an example live tank versus dead tank power circuit breakers (PCB). The IOU's specific concern related to a dead tank PCB located in Bonneville's C. W. Paul Substation. Bonneville has not completed a 6-year maintenance cycle on 500 kV dead tank PCB's. Preliminary findings of Bonneville personnel indicate that little if any difference in maintenance costs will be evident between live and dead tank 500 kV PCB's. Bonneville has therefore not differentiated such facilities in its final charges. However, Bonneville has differentiated charges for different equipment types where such differences appear to result in widely different costs to Bonneville and will monitor costs of maintaining live and dead tank 500 kV PCB's in the future and reflect any major differences in costs in future charges.

Charges for communication and control equipment. One PUD questions allocating a portion of the costs for the Dittmer Control Center and other communciation costs to operation and maintenance of customer-owned facilities. The only accounts that have maintenance costs distributed directly to pieces of equipment are the 64000 series (direct substation maintenance accounts). Bonneville's Dittmer Control Center and attendant communication facilities are used to monitor non-Federal as well as Federal switches, breakers, transformers, and other equipment located in Bonneville's substations. Part of the operation and maintenance function that Bonneville performs on customer-owned facilities is monitoring equipment for faults and attendant outages and the dispatch of Bonneville personnel to repair the faulty equipment. Bonneville has allocated communication and Dittmer Control Center costs to all pieces of substation equipment based upon the reliability benefits that Bonneville's customers receive as a result of the existence of such sophisticated equipment. The response time for performing O&M on *all* facilities, including customer-owned, is enhanced by such equipment.

Stevensville Substation. One cooperative opposed the increased charge from $1500 to $3888 for O&M of its feeder in the BPA Stevensville Substation because in the estimate of the cooperative, a small installation such as theirs would require only 2 to 3

hours of O&M per year. Bonneville recognizes that in some years direct O&M for facilities such as Stevensville,

Issued in Atlanta, Georgia on the 17th day of November 1980.

William R. Gibson,

determine whether Brown will be granted a permanent exemption to use a fuels mixture of bark and wood waste

bark and wood waste in a mixture with No. 6 fuel oil.

10 CFR section 503.38 provides for a

hours of O&M per year. Bonneville recognizes that in some years direct O&M for facilities such as Stevensville, and a number of other substations, may require only 2 or 3 hours of direct O&M service. In other years, considerably more time may be required. However, Bonneville finds that a number of unique characteristics exist concerning the feeder in the Stevensville Substation which dictate unique service arrangements. Accordingly, Bonneville will adjust the service arrangements pertaining to this feeder and reduce the charges to the cooperative to equitably reflect the unique circumstances.

Extension of comment period. An aluminum company customer requested that Bonneville extend the deadline for comments on the proposed charges until February 1, 1981, because the company had not, by October 27, 1980, received Bonneville's staff study supporting the increased charges. Bonneville's Branch of Contract Management and Branch of Financial Requirements personnel met with a representative of the company on November 3, 1980, to provide the company with a description of the methodology for computing the subject charges, answered questions regarding the proposed charges, and provided a 3-year history of operation and maintenance costs for the Conkelley Substation which serves the company's plant. The company's representative indicated that the subject charges appeared reasonable but indicated further review of the information provided might cause further comment. At the time this notice went to press, no further comments had been received from the company.

In light of the fact that Bonneville's O&M charges have not been adjusted since September 1970, to insure that Bonneville fulfills its statutory mandate to recover costs and to insure that revenues from increased charges are reflected in Bonneville's 1981 Repayment and Cost Studies associated with its 1981 wholesale power and transmission rate proposals, Bonneville's charges must be adjusted by January 1, 1981. An extension of the comment period would not likely result in any changes in charges inasmuch as none of the persons commenting on the proposed charges disputed the need for an increase in the magnitude resulting from these charges.

In consideration of the foregoing, I hereby establish the following charges for operation and maintenance on customer-owned facilities performed by Bonneville Power Administration.

Dated: November 21, 1980.

Earl Gjelde,

Acting Administrator.

Annual O&M Charges for Customer-Owned Facilities

Terminal charges:	
Low voltage industrial terminal	$5,278
Other low voltage terminal	3,580
115 kV terminal	7,449
230 kV terminal	11,336
500 kV terminal	29,080
Power circuit breakers:	
Low voltage industrial	4,831
69 kV and under	3,439
115 kV	5,811
230 kV	9,699
500 kV and above	16,797
Switches and capacitors:	
Group operated 345 kV and under	545
Group operated 500 kV and above	3,091
Hook operated 345 kV and under	148
Load break 345 kV and under	10,647
Capacitors per KVAR (series)	0.46/KVAR
Capacitors per KVAR (shunt)	0.331/KVAR
Transformers:	
230/low voltage	11,330
230/115kV	24,467
500/230kV	85,147
Industry transformers 230/low voltage	15,862

[FR Doc. 80-37177 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Aminoil U.S.A., Inc.; Final Action on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of final action taken.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces final action to accept a Consent Order after consideration of comments received from the public.

EFFECTIVE DATE: November 14, 1980.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Office of Enforcement, Economic Regulatory Administration, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106.

SUPPLEMENTARY INFORMATION: On October 14, 1980, the Office of Enforcement of the ERA published Notice of a Consent Order which had been executed between Aminoil U.S.A., Inc. ("Aminoil") and DOE. With that Notice, and in accordance with 10 CFR 205.199J(c), the Office of Enforcement invited interested persons to comment on the Consent Order. A press release was issued simultaneously, in conformity with 10 CFR 205.199J(c). Under the terms of 10 CFR 205.199J(c), no Consent Order involving sums in excess of $500,000 shall become effective until the DOE publishes Notice of its execution and solicits and considers public comments with respect to its terms. Pursuant to 10 CFR 205.199J, the Office of Enforcement of the ERA hereby gives Notice of final action taken on the Consent Order.

I. Comments Received

No comments were received with respect to the terms of the Consent Order.

II. Determination

The Office of Enforcement of the ERA has determined that the refund procedures as provided in the Consent Order are appropriate under the circumstances of this case.

The Office of Enforcement has concluded that the Consent Order as executed between DOE and Aminoil U.S.A., Inc. is an appropriate resolution of the compliance proceedings described in the Notice published on October 14, 1980, and hereby gives Notice that the Consent Order is made effective by written notice to Aminoil U.S.A., Inc. on November 14, 1980.

Issued in Kansas City, Missouri on this 17th day of November, 1980.

William D. Miller,

District Manager, Economic Regulatory Administration

Concurrence:

David H. Jackson,

Chief Enforcement Counsel.

[FR Doc. 80-37155 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-01-M

Barkett Oil Co.; Proposed Remedial Order

Pursuant to 10 CFR 295.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Barkett Oil Company, Inc., 7950 N.W. 58th Street, Miami, Florida 33166. This Proposed Remedial Order charges Barkett Oil Company with pricing violations in the amount of $680,902, connected with sales of gasoline during the period April 1 through July 31, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Mr. James C. Easterday, District Manager of Enforcement, Southeast District, 1655 Peachtree Street, N.E., Atlanta, Georgia 30367, Telephone (404) 881-2396. On or before December 16, 1980, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Atlanta, Georgia on the 17th day of November 1980.

William R. Gibson,

Acting District Manager.

Concurrence:

Leonard F. Bittner,

Chief Enforcement Counsel.

[FR Doc. 80-37154 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-80-036; OFC Case No. 55039-2348-01-12]

Brown Co.; Acceptance of Petition for Exemption

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of acceptance of petition for exemption pursuant to the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On October 15, 1980, Brown Company (Brown) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order exempting a major fuel burning installation (MFBI) from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) 42 U.S.C. 8301 *et seq.*, which prohibit the use of petroleum and natural gas as a primary energy source in certain new MFBI's. A final rule setting forth the procedures for petitioning and the criteria for an exemption was published in the **Federal Register** on June 6, 1980 (45 FR 38276 and 45 FR 38302) 10 CFR 500, 501 and 503. This rule became effective August 5, 1980.

The MFBI for which the petition was filed is a field-erected boiler to be installed at Brown's Berlin, New Hampshire Kraft Pulp Mill. The proposed unit (identified as boiler No. 14) will have a design heat input rate of 253 million Btu's per hour with a steam generating capacity of 200,000 pounds per hour. The boiler will be designed to burn a fuels mixture of approximately 61 percent bark and wood waste generated by Brown's papermaking operation and 19 percent No. 6 fuel oil. Under 10 CFR section 503.38 Brown has requested a permanent exemption to use this fuels mixture as a primary energy source in the proposed unit.

FUA imposes statutory prohibitions against the use of natural gas and petroleum as a primary energy source by new MFBI's which consist of a boiler. ERA's decision in this matter will determine whether Brown will be granted a permanent exemption to use a fuels mixture of bark and wood waste and not more than 25 percent No. 6 fuel oil.

ERA has determined that the petition for a permanent fuels mixture exemption is complete in accordance with 10 CFR section 501.3(d). A description of the petition is provided in the Supplementary Information section below.

As provided for in sections 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATES: Written comments are due on or before January 15, 1981. A request for public hearing must also be made within this same 45 day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Economic Regulatory Administration, Case Control Unit, Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461. Docket Number ERA-FC-80-036 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Ellen Russell, Case Manager, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461, Phone (202) 653-4236;

Constance L. Buckley, Chief, New MFBI Branch, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461, Phone (202) 653-4226;

Christina Simmons, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, NW., Room 6G-087, Washington, D.C. 20585, Phone (202) 252-2967

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas and petroleum as a primary energy source in certain new MFBI's unless an exemption for such use has been granted by ERA. The MFBI for which Brown has requested the permanent fuels mixture exemption is a field-erected boiler to be installed at its Berlin, New Hampshire, facility. The unit identified as Boiler No. 14, will have a design heat input rate of 253 million Btu's per hour, a steam generating capacity of 200,000 pounds per hour and will be designed to burn bark and wood waste in a mixture with No. 6 fuel oil.

10 CFR section 503.38 provides for a permanent exemption from the prohibitions of FUA for certain fuel mixtures containing natural gas or petroleum. To qualify, a petitioner must demonstrate to the satisfaction of ERA that:

(1) It proposes to use a mixture of natural gas or petroleum and an alternate fuel as a primary energy source; and

(2) The amount of petroleum or natural gas proposed for use in the mixture will not exceed the minimum percentage of the total annual Btu heat imput of the primary energy sources needed to maintain operational reliability of the installation consistent with maintaining a reasonable level of fuel efficiency.

Pursuant to 10 CFR 503.38(b), if the exemption is granted, petroleum may be used in the mixture up to 25 percent of the total annual Btu heat imput of the primary energy sources of the installation.

Section 503.38(d) provides a certification procedure for petitioners which propose to use a fuels mixture containing less than 25 percent petroleum or natural gas. In satisfaction of the requirements of this provision, a duly authorized representative of Brown has certified that the amount of petroleum to by used in the mixture will not exceed 25 percent of the total annual Btu heat imput of the primary energy sources of the unit, and that all necessary environmental permits will be obtained prior to commencement of operation of the facility. The standard terms and conditions under this procedure require the petitioner to adhere to the 25 percent limitation on the use of oil, satisfy certain insulation and maintenance requirements, use the lowest available grade of petroleum that is technically feasible and capable of being burned consistent with applicable environmental requirements, and comply with any environmentally related terms and conditions which ERA may impose.

In addressing the eligibility and evidentiary requirements of 10 CFR sections 503.18(a) and (d), Brown states that the alternate fuel component of the fuels mixture will consist of bark and wood waste generated by the facility's papermaking operations. the supply generated by current operations will be supplemented by bark and wood waste which has accumulated over the past 60 to 80 years on a bark disposal site

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adjacent to the pulp mill. Brown expects to burn approximately 266,373 tons of bark and wood waste (2,040,872 million Btu's) and 3,189,000 gallons of No. 6 fuel oil (478,706 million Btu's) in boiler No. 14 annually.

On August 11, 1980, DOE published in the **Federal Register** (45 FR 53199) a notice of proposed amendments to guidelines for compliance with the national Environmental Policy Act of 1969 (NEPA). The grant or denial of certain FUA permanent exemptions, including the fuels mixture exemption, is among the classes of actions that DOE, pursuant to the guidelines, has proposed be categorically excluded from the requirement to prepare an Environmental Impact Statement pursuant to NEPA. This classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly affect the quality of the human environment.

Brown has certified that it will secure all applicable permits and approvals prior to commencement of operation of the new unit under exemption. DOE's Office of Environment, in consultation with the Office of General Counsel, will review the completed Environmental Checklist submitted by Brown pursuant to 10 CFR 503.15(b)(2) and other relevant information. Unless it appears that the grant or denial of this exemption will significantly affect the quality of the human evironment, it is expected that no additional environmental review will be required during the proceeding of Brown's exemption request.

ERA hereby accepts the filing of the petition for a fuels mixture exemption as adequate for filing. ERA retains the right to request additional pertinent information from Brown at any time during the pendency of this proceeding. As set forth in 10 CFR 501.3(d), the acceptance of the petition by ERA does not constitute a determination that Brown is entitled to the exemption requested.

The public file, containing documents on this proceeding and supporting materials, is available for inspection upon request at ERA, Room B-110, 2000 M Street, NW., Washington, D.C., Monday-Friday, 8:00 am–4:30 pm.

Issued in Washington, DC. on November 18, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-37156 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project Nos. 3456, 3494]

Atlantic Power Development Corp. and Noah Corp.; Application for Preliminary Permits

November 21, 1980.

Take notice that Atlantic Power Development Corporation (APD) and Noah Corp. (NC) (Applicants) filed on September 9, 1980, and September 23, 1980, respectively, competing applications for preliminary permits [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Projects Nos. 3456 and 3494 to be known as Allegheny Hydro Power Project located on the Allegheny River in Allegheny County, Pennsylvania. The applications are on file with the Commission and are available for public inspection. Correspondence with the Applicants should be directed to: Mr. Thomas F. Nolan IV, Attorney at Law, 401 C Street, N.W., Washington, D.C. 20002 and to Mr. James B. Price, PH.D., President, Noah Corp., P.O. Drawer 640, Aiken, South Carolina 29801, respectively. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed projects are as follows: Project No. 3456 utilizes the existing U.S. Army Corps of Engineers Allegheny Lock and Dam No. 3, and Project No. 3494 utilizes the existing U.S. Army Corps of Engineers Allegheny Locks and Dams Nos. 2, 3, 4, 5, 6, and 7. The applications, therefore, compete on Lock and Dam No. 3 only. The proposed projects for Lock and Dam No. 3 consist of (1) Penstocks near the right dam abutment; (2) a powerhouse containing generating units having a total rated capacity of 27,000 kW (APD) and 16,000 kW (NC); (3) a tailrace; (4) a new transmission line; and (5) appurtenant facilities. APD estimates the annual generation would average about 140,336,000 kWh, and NC estimates the annual generation would average about 93,000,000 kWh. The remaining Lock and Dam (Nos. 2, 4, 5, 6, and 7) developments of Project No. 3494 would consist of similar works as Locks and Dam No. 3, with capacity and energy estimates as follows: (No. 2) 10,000 kW and 66,000,000 kwh; (No. 4) 18,000 kW and 89,000,000 kWh; (No. 5) 17,000 kW and 82,000,000 kWh; (No. 6) 17,000 kW and 84,000,000 kWh; and (No. 7) 19,000 kWh and 90,000,000 kWh.

Purpose of Projects—Both applicants propose to sell project energy to public or private utilities.

Proposed Scope and Cost of Studies Under Permit—APD seeks issuance of a preliminary permit for a period of two and one-half years and NC seeks issuance of a preliminary permit for a period for three years. Each applicant proposes that it would perform data acquisition, investigations, studies, feasibility evaluation; would consult with Federal, State and local government agencies, and prepare an application for an FERC license, including an environmental report. ADP and NC estimate that the cost of studies under the permit would be $105,000 and $250,000, respectively.

Purpose of Preliminary Permit–A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described applications for preliminary permits. (A copy of the applications may be obtained directly from the Applicants.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 2, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 3, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about these applications should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before February 2, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments", Notice of Intent To File Competing Application", "Competing Application", "Protest", or "Petition To Intervene", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Projects Nos. 3456 and 3494. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37179 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-499-001]

Cities Service Gas Co.; Amendment to Application

November 21, 1980.

Take notice that on November 12, 1980, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP80-499-001 an amendment to its application pending in the instant docket pursuant to Section 7 of the Natural Gas Act so as to reflect a modified method of treating revenues from its proposed limited-term sale of natural gas to El Paso Natural Gas Company (El Paso), all as more fully set forth in the amendment which is on file with the Commission and open for public inspection.

Applicant proposes a two-year sale to El Paso of an average daily quantity of 150 billion Btu of natural gas during the first contract year and an average daily quantity of 100 billion Btu of natural gas during the second contract year with such sale to be on a best-efforts basis subject to Applicant's market requirements and storage requirements and El Paso's sole judgment as to whether it would take the gas tendered by Applicant. It is further stated that the sale to El Paso would be made from Applicant's system supplies at a rate equal to the maximum lawful price per million Btu for gas less transportation costs incurred to deliver the gas to El Paso's system and that El Paso would utilize the volumes purchased from Applicant for system supply.

In order to effect delivery of gas to El Paso, Applicant submits that it would deliver gas to Natural Gas Pipeline Company of America (NGPL) for El Paso's account and that NGPL would then transport this gas to El Paso for delivery at an existing interconnection between the parties' facilities.

Applicant further proposes herein to amend the pending application in the instant docket so as to reflect a modified method of treating revenues from this proposed sale. Applicant states that under such revenue proposal it would utilize its Deffered Purchase Gas Cost Account 191 of the Uniform System of Accounts Prescribed for Natural Gas Companies for the purpose of flowing through on a current basis to its jurisdictional customers a substantial portion of the revenues received from El Paso pursuant to this sale and would also utilize certain provisions of the settlement in its most recent rate filing in Docket No. RP79-76 which was approved by the Commission by order date September 11, 1980, it is said.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 12, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natrual Gas Act (18 CFR 157.10). All Protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37180 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-85-M

[Project Nos. 3308, 3311, 3387]

Hydro Corp. of Pennsylvania, Noah Corp., and Township of Conemaugh, Borough of Saltsburg, and Pennsylvania Renewable Resources, Inc.; Applications for Preliminary Permit

November 21, 1980.

Take notice that the Hydro Corporation of Pennsylvania (Hydro), the Noah Corporation (Noah), and the Township of Conemaugh, the Borough of Saltsburg, and Pennsylvania Renewable Resources, Inc. (CSP) filed on September 5, 1980, August 12, 1980, and August 26, 1980, respectively, applications for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Projects Nos. 3308, 3311, and 3387, respectively, to be known as the Loyalhanna Project located on the Loyalhanna Creek near the Town of Saltsburg in Westmoreland County, Pennsylvania. Correspondence with Hydro should be directed to: Mr. Fred Fiechter, P.O. Box 34, Chatham, Pennsylvania 19318. Correspondence with Noah should be directed to: Mr. James B. Price, President, P.O. Box 640, Aiken, South Carolina 29801. Correspondence with CSP should be directed to: Mr. Jeffrey M. Kossak, Pennsylvania Renewable Resources, Inc., Suite 1900, 14 Wall Street, New York, New York 10005.

Project Description—Each proposed project would utilize the existing Corps of Engineers Loyalhanna Dam.

Project No. 3308 would consist of: (1) a powerhouse on the southeast bank of the river housing; (2) turbine/generator units rated at a total of 1.6 MW; (3) a new penstock approximately 175 feet long; (4) new or existing transmission lines and (5) appurtenant facilities. Hydro estimates that annual generation would average 6,590,000 kWh.

Project No. 3311 would consist of: (1) a proposed power plant housing; (2) turbine-generator units rated at a total of 5.0 MW; (3) a 50-foot long penstock for each turbine; (4) a new transmission line extending 2.1 miles northward from;

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(5) a switchyard and (6) appurtenant facilities. Noah estimates annual generation would average 10,000,000 kWh.

Project No. 3387 would consist of: (1) a 25 by 40-foot powerhouse containing: (2) turbine/generating units rated at a total of 1.5 MW; (3) sluice outlets or penstocks; (4) a proposed transmission line and (5) appurtenant facilities. GSP estimates annual generation would average 7,800,000 kWh.

Propose of Projects—Project power from each of the projects is expected to be sold to a local private utility.

Proposed Scope and Cost of Studies Under Permit—Each applicant seek issuance of preliminary permit for a period of three years, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State and local government agencies concerning the potential environmental effects of the project, and prepare an application for an FERC license, including an environmental report. Hydro, Noah, and CSP estimate the cost of studies under the permit would be $58,000, $100,000, and $55,000, respectively.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described applications for preliminary permit. (Copies of the applications may be obtained directly from the respective applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 23, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 24, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), *as amended* 44 FR 61328 (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d), *as amended*, 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions To Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protests, or petition to intervene must be received on or before January 23, 1981.

Filing and Service of Responsive Documents—Any comments, notices, of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments," "Notice of Intent To File Competing Application", "Competing Application", "Protest", or "Petition To Intervene", as applicable. Any of these filings must also state that it is made in response to this notice of applications for preliminary permit for Project Nos. 3308, 3311 and 3387. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 N. Capitol St., N.E., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37181 Filed 11-28-80; 8:45 am]

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[Project No. 3586-000]

Joseph R. Ellen, Jr.; Application for Preliminary Permit

November 21, 1980.

Take Notice that Joseph R. Ellen, Jr. (Applicant) filed on October 17, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3586 to be known as Rocky River Power Plant located on the Rocky River near Pittsboro, in Chatham County, North Carolina. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Joseph R. Ellen, Jr., Post Office Box 6501, Raleigh, North Carolina 27628. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) an existing concrete dam approximately 130-feet long and 30-feet high; (2) an existing reservoir with a storage capacity of 420 acre-feet at maximum surface elevation of approximately 295 feet M.S.L. and an approximate surface area of 30 acres; (3) an existing powerhouse located on the western bank of the river; (4) proposed transmission lines; and (5) appurtenant facilities. Applicant estimates that the capacity of the project would be 250 kW with an average annual energy output of 1,100,00 kWh.

Purpose of Project—Applicant would sell its project power to either Carolina Power and Light Company or Rural Electrification Association.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36 month permit to prepare a definitive project report including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soils and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State, and local agencies is estimated by the Applicant to be $10,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 26, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 27, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should fie a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 26, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments" "Notice Of Intent To File Competing Application", "Competing Application", "Protest", or Petition To Intervene", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3586. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W. Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37182 Filed 11-28-80; 8:45 am]

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[Volume 324]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued November 24, 1980.

JD NO	JA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
KENTUCKY DEPARTMENT OF MINES & MINERALS						
-C B AMES			RECEIVED: 11/12/80 JA: KY			
8105485	KO1-371	1610700000 102	CALLIE LYNCH	NORTH RICHLAND	54.0	ORBIT GAS CO
8105484	KO1370	1610700000 102	RAMSEY-FORD GAS UNIT WELL NO 1	WATSON BRIDGE	54.0	ORBIT GAS CO
-COMPASS PETROLEUM INDUSTRIES INC			RECEIVED: 11/12/80 JA: KY			
8105505	KO1429	1608500000 103	CARLOS MUSSEY #1	SHREWSBURY	18.0	L & M OIL & GAS CO
8105496	KO1418	1608500000 103	DINWIDDIE HEIRS #1	SHREWSBURY	25.0	L & M OIL AND GAS CO
8105498	KO1422	1608500000 103	DINWIDDIE HEIRS #4	SHREWSBURY	15.0	L & M OIL & GAS CO
8105507	KO1437	1608500000 103	DINWIDDIE HEIRS #6	SHREWSBURY	15.0	L & M OIL & GAS CO
8105499	KO1423	1608500000 103	DINWIDDIE HEIRS #5	SHREWSBURY	18.0	L & M OIL & GAS CO
8105506	KO1430	1608500000 103	MUSSEY #2	SHREWSBURY	18.0	L & M OIL & GAS CO
8105500	KO1424	1608500000 103	M G WOOSLEY #2	SHREWSBURY	36.5	L & M OIL AND GAS CO
8105501	KO1425	1608500000 103	M G WOOSLEY #3	SHREWSBURY	18.3	L & M OIL AND GAS CO
8105502	KO1426	1608500000 103	M G WOOSLEY #4	SHREWSBURY	36.5	L & M OIL AND GAS CO
8105503	KO1427	1608500000 103	M G WOOSLEY WELL #5 PERMIT #35079	SHREWSBURY	18.3	L & M OIL & GAS CO I
8105504	KO1428	1608500000 103	M G WOOSLEY WELL #6	SHREWSBURY	15.0	L & M OIL & GAS CO I
8105496	KO1420	1608500000 103	SINNINGER #1	SHREWSBURY	25.0	L & M OIL & GAS CO I
8105495	KO1419	1608500000 103	SINNINGER #3	SHREWSBURY	25.0	L & M OIL AND GAS CO
8105508	KO143A	1608500000 103	SNYDER #1	SHREWSBURY	18.0	L & M OIL & GAS CO
-KENTUCKY WEST VA GAS COMPANY			RECEIVED: 11/12/80 JA: KY			
8105487	KO1411	1619500000 103	1682 = ROBERT WILLIAMS	KENTUCKY EAST	8.8	KENTUCKY WEST VIRGIN
8105488	KO1412	1611900000 103	1684 = THE AMID CORPORATION	KENTUCKY EAST	10.6	KENTUCKY WEST VIRGIN
8105489	KO1413	1611900000 103	1685 = THE AMID CORPORATION	KENTUCKY EAST	8.8	KENTUCKY WEST VIRGIN
8105491	KO1415	1611900000 103	1701 = THE AMID CORPORATION	KENTUCKY EAST	10.9	KENTUCKY WEST VIRGIN
8105490	KO1414	1611900000 103	1703 = THE AMID CORPORATION	KENTUCKY EAST	12.3	KENTUCKY WEST VIRGIN
8105492	KO1416	1611900000 103	1707 = GOODLOE BROTHERS COMPANY	KENTUCKY EAST	17.4	KENTUCKY WEST VIRGIN
8105493	KO1417	1611900000 103	1708 = GOODLOE BROTHERS COMPANY	KENTUCKY EAST	10.6	KENTUCKY WEST VIRGIN
8105486	KO1410	1619500000 103	7273 = M K MORRIS	KENTUCKY EAST	11.3	KENTUCKY WEST VA GAS
-NRG CORP			RECEIVED: 11/12/80 JA: KY			
8105497	K01 421	1608700000 108	#1 WALLIS KING		7.0	WESTERN KENTUCKY GAS
-M E ELLIOTT TRUSTEE ACCT 507			RECEIVED: 11/12/80 JA: KY			
8105509	KO1430	1607132857 108	BEARHEART ET AL NO 1 ACCT 505		12.0	COLUMBIA GAS TRANSMI
MONTANA BOARD OF OIL & GAS CONSERVATION						
-FULTON PRODUCING COMPANY			RECEIVED: 11/10/80 JA: MT			
8105426	A-80-157	2510121728 103	BERTHELOTE NO 13-33A	ARCH APEX	547.0	MINERS COULEE GAS CO
8105424	A0-155	2510121728 103	BERTHELOTE NO 43-22	WEST BUTTE - SHALLOW GAS	200.0	MINERS COULEE GAS CO
8105431	A-80-162	2510121669 103	CHRISTIAN NO 23-28	MINERS COULEE	25.0	MINERS COULEE GAS CO
8105425		2510121728 103	J FEY NO 11-33	ARCH APEX	200.0	MINERS COULEE GAS CO
8105423	A-80-154	2510121681 103	J FEY NO 41-29	WEST BUTTE - SHALLOW GAS	22.0	MINERS COULEE GAS CO

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JD NO	JA DKT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
8105427	6-80-158	2510121591 103	MACHALE - SCHILTZ NO 41-22	MINERS COULEE	25.0	MINERS COULEE GAS CO
8105430	6-80-161	2510121674 103	PARSELL NO 24-25	MINERS COULEE	48.0	MINERS COULEE GAS CO
8105429		2510121675 103	PARSELL NO 31-25	MINERS COULEE	36.0	MINERS COULEE GAS CO
8105428	6-80-159	2510121670 103	PARSELL NO 34-25	MINERS COULEE	430.0	MINERS COULEE GAS CO
8105422	6-80-153	2510121653 103	STATE OF MONTANA NO 42-36	MINERS COULEE	115.0	MINERS COULEE GAS CO
OHIO DEPARTMENT OF NATURAL RESOURCES						
-AMERICAN PETROEL INC			RECEIVED: 10/30/80 JA: OH			
8105411		3416723640 108	HOFFMAN #1		10.7	COLUMBIA GAS TRANSMI
8105409		3416723465 108	HONESTY #1		2.1	COLUMBIA GAS TRANSMI
8105410		3416723524 108	WEBB #1		3.4	RIVER GAS CO
8105408		3416723602 108	WETZ #3		8.8	THE RIVER GAS CO
WEST VIRGINIA DEPARTMENT OF MINES						
-CONSOLIDATED GAS SUPPLY CORPORATION			RECEIVED: 11/04/80 JA: WV			
8105418		4700100386 108	A M HUDKINS 10972	WEST VIRGINIA OTHER A-85	16.0	GENERAL SYSTEM PURCH
8105415		4701701477 108	CHARLES G SCHUTTE 10904	WEST VIRGINIA OTHER A-85	13.0	GENERAL SYSTEM PURCH
8105417		4700100246 108	D DICKENSON 10752	WEST VIRGINIA OTHER A-85	17.0	GENERAL SYSTEM PURCH
8105419		4709300019 108	EARL PIKE 9903	WEST VIRGINIA OTHER A-85	1.8	GENERAL SYSTEM PURCH
8105416		4704101378 108	EDWARD D TAYLOR 10681	WEST VIRGINIA OTHER A-85	13.0	GENERAL SYSTEM PURCH
8105414		4700100451 108	F L PHILLIPS 11170	WEST VIRGINIA OTHER A-85	1.0	GENERAL SYSTEM PURCH
8105420		4700100225 108	H B WATSON 10730	WEST VIRGINIA OTHER A-85	4.0	GENERAL SYSTEM PURCH
8105412		4700100206 108	HERMAN M REED 10710	WEST VIRGINIA OTHER A-85	12.0	GENERAL SYSTEM PURCH
8105413		4700100363 108	NUTTER-POLING 10930	WEST VIRGINIA OTHER A-85	16.0	GENERAL SYSTEM PURCH
8105421		4700100568 108	VIRGIL SHAW 11420	WEST VIRGINIA OTHER A-85	0.5	GENERAL SYSTEM PURCH
-RITCHIE PETROLEUM INC			RECEIVED: 11/10/80 JA: WV			
8105440		4708504654 108	C E SIMMONS #6	OIL RIDGE AREA	0.3	CONSUMERS GAS UTILIT
8105445		4708504652 108	G Y REXROAD #4	ELM RUN	0.3	CONSUMERS GAS UTILIT
-THOMAS E COLLINS			RECEIVED: 11/10/80 JA: WV			
8105443		4701700730 108	COLE NO 1	COVE DIST	1.8	CONSOLIDATED GAS SUP
8105444		4701701248 108	FINLEY DOTSON #1	CENTRAL STATION	2.0	CARNEGIE NATURAL GAS
-TUG FORK CORP			RECEIVED: 11/10/80 JA: WV			
*8105472		4709900442 107	B M SPRY 1-740	GRANT	0.6	TENNESSEE GAS PIPELI
*8105466		4709900868 107	E R PRICHARD 1-872	GRANT	0.3	TENNESSEE GAS PIPELI
*8105465		4709900886 107	F E MATHEWSON 10-892	GRANT	3.7	TENNESSEE GAS PIPELI
*8105476		4709901259 107	F E MATHEWSON 14-1097	GRANT	19.6	TENNESSEE GAS PIPELI
*8105475		4709901275 107	F E MATHEWSON 15-1098	GRANT	28.3	TENNESSEE GAS PIPELI
*8105473		4709900858 107	F E MATHEWSON 6-862	GRANT	4.9	TENNESSEE GAS PIPELI
*8105468		4709900875 107	F E MATHEWSON 7-880	GRANT	4.9	TENNESSEE GAS PIPELI
*8105469		4709900882 107	F E MATHEWSON 8-881	GRANT	4.8	TENNESSEE GAS PIPELI
*8105467		4709900885 107	F E MATHEWSON 9-884	GRANT	3.9	TENNESSEE GAS PIPELI
*8105481		4709900200 107	KOUNCE-ZIMMERMAN 1-573	GRANT	5.5	TENNESSEE GAS PIPELI
*8105480		4709900236 107	KOUNCE-ZIMMERMAN 2-599	GRANT	4.1	TENNESSEE GAS PIPELI
*8105482		4709900246 107	KOUNCE-ZIMMERMAN 3-609	GRANT	4.1	TENNESSEE GAS PIPELI
*8105470		4709900285 107	LOUISA COLLINS 1-662	GRANT	2.0	TENNESSEE GAS PIPELI
*8105464		4709900289 107	LOUISA COLLINS 2-669	GRANT	9.1	TENNESSEE GAS PIPELI
*8105463		4709900291 107	LOUISA COLLINS 3-673	GRANT	5.6	TENNESSEE GAS PIPELI
*8105462		4709900679 107	LOUISA COLLINS 4-796	GRANT	18.6	TENNESSEE GAS PIPELI
*8105461		4709900852 107	LOUISA COLLINS 6-852	GRANT	1.1	TENNESSEE GAS PIPELI
*8105471		4709901260 107	MARIAN BURGESS 2-1080	GRANT	6.0	TENNESSEE GAS PIPELI

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JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
*8105479		4709900571	107	=ILLIAMSON 1=773	GRANT	4,5	TENNESSEE GAS PIPELI
*8105477		4709900560	107	=ILSON COAL LAND CO 47=771	GRANT	2,1	TENNESSEE GAS PIPELI
*8105478		4709901321	107	=ILSON COAL LAND CO 81=1111	GRANT	8,4	TENNESSEE GAS PIPELI
*8105483		4709901337	107	=ILSON COAL LAND CO 82=1112	GRANT	5,8	TENNESSEE GAS PIPELI
*8105478		4709901499	107	=ILSON COAL LAND COMPANY 79=969	GRANT	5,8	TENNESSEE GAS PIPELI
=UNION DRILLING INC				RECEIVED: 11/10/80 JA: WY			
8105435		4709701713	108	BILLY NEGER #1 = 1385	MEADE DISTRICT	16,2	EQUITABLE GAS CO
8105436		4709701593	108	BOYD R TENNEY #2 = 1341	WASHINGTON DISTRICT	21,5	EQUITABLE GAS CO
8105455		4700100882	108	C W PAUGH #1 = 1404	PLEASANT DISTRICT	5,2	CONSOLIDATED GAS SUP
8105438		4709701831	108	CECILE WEST HYMES #1 = 1444	MEADE DISTRICT	17,9	EQUITABLE GAS CO
8105441		4709100116	108	CORNELIUS LAWSON #2 = 1351	FLEMINGTON DISTRICT	17,5	FOURCO GLASS CO
8105449		4700100380	108	D M PATSEY #1 = 1166	ELK DISTRICT	18,5	CONSOLIDATED GAS SUP
8105452		4700100572	108	D M PATSEY #2 = 1263	ELK DISTRICT	18,0	CONSOLIDATED GAS SUP
8105456		4700100909	108	DRAPER MCCAULEY JR #1 = 1418	PLEASANT DISTRICT	9,3	CONSOLIDATED GAS SUP
8105454		4700100575	108	ESTHER CULE #1 = 1268	PLEASANT DISTRICT	18,0	CONSOLIDATED GAS SUP
8105434		4709701826	108	FAY MANPER #1 = 1448	UNION DISTRICT	7,9	CONSOLIDATED GAS SUP
8105432		4709701820	108	FAY MANPER #2 = 1449	UNION DISTRICT	2,6	CONSOLIDATED GAS SUP
8105439		4709100112	108	JAMES B PEPPER #1 = 1345	FLEMINGTON DISTRICT	17,9	FOURCO GLASS CO
8105442		4709100123	108	JAMES B PEPPER #4 = 1364	FLEMINGTON DISTRICT	16,0	FOURCO GLASS CO
8105457		4700100980	108	JERRY AND EVA DECKER #1 = 1435	PLEASANT DISTRICT	12,3	CONSOLIDATED GAS SUP
8105458		4700100981	108	JERRY AND EVA DECKER #2 = 1436	PLEASANT DISTRICT	15,9	CONSOLIDATED GAS SUP
8105451		4700100415	108	LANG & JOHNSON #2 = 1185	ELK DISTRICT	19,0	CONSOLIDATED GAS SUP
8105459		4703301163	108	MABEL AND EDWARD MARTIN #1 = 1422	EAGLE DISTRICT	10,9	CONSOLIDATED GAS SUP
8105447		4709701821	108	ROSS L KING JR #1 = 1443	UNION DISTRICT	19,9	COLUMBIA GAS TRANS C
8105433		4704102100	108	ROY J LINGER #1 = 1391	SKIN CREEK DISTRICT	18,5	CONSOLIDATED GAS SUP
8105446		4709701827	108	ROY L WARNER #1 = 1447	UNION DISTRICT	16,5	COLUMBIA GAS TRANS C
8105448		4709701829	108	SEWARD M LINGER #1 = 1419	MEADE DISTRICT	11,4	COLUMBIA GAS TRANS C
8105437		4709701802	108	UNION DRILLING INC #1 = 1379	MEADE DISTRICT	9,2	EQUITABLE GAS CO
8105450		4700100666	108	VIRGINIA & JOHN TALBUTT #1 = 1315	PLEASANT DISTRICT	18,0	CONSOLIDATED GAS SUP
8105453		4700100671	108	W B CLEAVENGER #2 = 1323	PLEASANT DISTRICT	18,0	CONSOLIDATED GAS SUP
8105460		4703301157	108	=ILSON AND REXROAD #1 = 1423	EAGLE DISTRICT	10,5	CONSOLIDATED GAS SUP
**********							
** U.S. GEOLOGICAL SURVEY = CASPER,WY							
**********							
=MIDLANDS GAS CORPORATION				RECEIVED: 11/13/80 JA: MT 5			
*8105518	M293=0	2507121481	108	2032 203332	BOWDOIN	21,0	KANSAS=NEBRASKA NATU
=PENNZOIL COMPANY				RECEIVED: 11/13/80 JA: ND 5			
8105516	ND298=0	3305300914	102	PENNZOIL=DEPCO FEDERAL #17=12	MONDAK	10,8	MONTANA DAKOTA UTILI
8105514	ND300=0	3305300941	102	PENNZOIL=DEPCO FEDERAL #18=44	MONDAK	13,8	MONTANA DAKOTA UTILI
8105517	ND297=0	3305301010	102	PENNZOIL=DEPCO FEDERAL #7=21	MONDAK	19,8	MONTANA DAKOTA UTILI
8105515	ND299=0	3305300943	102	PENNZOIL=DEPCO FEDERAL #7=44	MONDAK FIELD	13,2	MONTANA DAKOTA UTILI
=SHELL OIL CO				RECEIVED: 11/13/80 JA: ND 5			
8105513	ND301=0	3305300981	102	USA 33=20	=ILDCAT	3,5	MONTANA DAKOTA UTILI
=AMOCO PRODUCTION CO				RECEIVED: 11/13/80 JA: WY 5			
8105512	= 308=0	4904120158	102	RYCKMAN CREEK UNIT WELL #12	RYCKMAN CREEK	250,0	NORTHWEST PIPELINE C
8105511	= 309=0	4904120162	102	RYCKMAN CREEK UNIT WELL #13	RYCKMAN CREEK	677,0	NORTHWEST PIPELINE C
8105523	=275=0	4904120083	102	RYCKMAN CREEK UNIT =ELL #6	RYCKMAN CREEK	250,0	NORTHWEST PIPELINE C
=BELCO PETROLEUM CORPORATION				RECEIVED: 11/13/80 JA: WY 5			
8105522	W278=0	4903520421	108	FOGARTY CREEK 7=9 20421	FOGARTY CREEK	0,0	NORTHWEST PIPELINE C
=DAVIS OIL COMPANY				RECEIVED: 11/13/80 JA: WY 5			
8105510	= 310=0	4900525294	103	MIMSCH FEDERAL #1	=ILDCAT	35,4	PHILLIPS PETROLEUM C
=EXETER EXPLORATION COMPANY				RECEIVED: 11/13/80 JA: WY 5			
8105524	W269=0	4900921590	102	FEDERAL 11=4	SCOTT	35,0	CHINOOK CONSTRUCTION

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JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
=MOUNTAIN FUEL SUPPLY COMPANY				RECEIVED: 11/13/80 JA: WY 5			
8105519	W285=0	4903721511	102	GRANGER NO 1	GRANGER	411,0	MOUNTAIN FUEL SUPPLY
=SOHIO NATURAL RESOURCES CO				RECEIVED: 11/13/80 JA: WY 5			
8105521	W282=0	4901920459	102	#12=9 FEDERAL	MOLLER DRAW	20,0	PHILLIPS PETROLEUM C
=UNIVERSAL RESOURCES CORPORATION				RECEIVED: 11/13/80 JA: WY 5			
8105520	W284=0	4904120314	103	MATHERLY FEDERAL 1=6	=ILDCAT	0,0	NORTHWEST PIPELINE C

OTHER PURCHASERS VOLUME NO 1324

8105461	INDUSTRIAL GAS CORP
8105462	INDUSTRIAL GAS CORP
8105463	INDUSTRIAL GAS CORP
8105464	INDUSTRIAL GAS CORP
8105465	INDUSTRIAL GAS CORP
8105466	INDUSTRIAL GAS CORP
8105467	INDUSTRIAL GAS CORP
8105468	INDUSTRIAL GAS CORP
8105469	INDUSTRIAL GAS CORP
8105470	INDUSTRIAL GAS CORP
8105471	INDUSTRIAL GAS CORP
8105472	INDUSTRIAL GAS CORP
8105473	INDUSTRIAL GAS CORP
8105474	INDUSTRIAL GAS CORP
8105475	INDUSTRIAL GAS CORP
8105476	INDUSTRIAL GAS CORP
8105477	INDUSTRIAL GAS CORP
8105478	INDUSTRIAL GAS CORP
8105479	INDUSTRIAL GAS CORP
8105480	INDUSTRIAL GAS CORP
8105481	INDUSTRIAL GAS CORP
8105482	INDUSTRIAL GAS CORP
8105483	INDUSTRIAL GAS CORPORATION
8105518	MONTANA=DAKOTA UTILITIES CO

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceeding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission ~~within fifteen (15) days after the date of publication of this notice in the Federal Register.~~ on or before December 16, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb
Secretary

[FR Doc. 80-37183 Filed 11-28-80; 8:45 am]
BILLING CODE 6450-85-C

UMI 008 1ED 2321547

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued November 24, 1980.

JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
KANSAS CORPORATION COMMISSION							
*CITIES SERVICE COMPANY			RECEIVED: 11/10/80	JA: KS			
8105377	K-80-0621	1515520652	103	HEYLMUN E #1	ZENITH PEACE CREEK	109.5	PEOPLES NATURAL GAS
MICHIGAN DEPARTMENT OF NATURAL RESOURCES							
*AMOCO PRODUCTION CO			RECEIVED: 11/10/80	JA: MI			
8105378		2107931693	102	SIMPSON UNIT /M/ #2-28	COLDSPRINGS 28A-28N-6W	1.0	MICHIGAN CONSOLIDATE
8105379		2107932905	102	TAYLOR GROUP UNIT 6A-18	BLUE LAKE 18A - 28N - 5W	1000.0	CONSUMERS POWER CO
*FINDERS OIL & GAS CO			RECEIVED: 11/10/80	JA: MI			
8105383		2105532543	102	CUNNINGHAM-STATE PARADISE #1-27	PARADISE 27 (A) 26N-10W	45.0	CONSUMERS POWER CO
8105384		2105533123	102	TULLER #1-28	PARADISE 28 26N-10W	30.0	MICHIGAN CONSOLIDATE
*GREAT LAKES NIAGARAN			RECEIVED: 11/10/80	JA: MI			
8105382		2110100000	103	JOUPPI-WILD 1-9	MAPLE GROVE 8	821.2	CONSUMERS POWER CO
*RAYMOND E GEORGE			RECEIVED: 11/10/80	JA: MI			
8105381		2113700000	103	STATE OTSEGO LAKE 1-3A	OTSEGO LAKE 3	186.0	CONSUMERS POWER CO
*TRAVERSE CORPORATION			RECEIVED: 11/10/80	JA: MI			
8105380		2110133349	102	FOX-BROWN ET AL #2-36	MANISTEE 36 T22N R17W	55.0	CONSUMERS POWER CO
OKLAHOMA CORPORATION COMMISSION							
*ALAMO PETROLEUM COMPANY			RECEIVED: 11/10/80	JA: OK			
8105306	04701	3515320956	102	A A HAMILTON JR WELL NO 1	WILDCAT UNDESIGNATED	55.0	PANHANDLE EASTERN PI
*AMERICAN PUBLIC ENERGY CO			RECEIVED: 11/10/80	JA: OK			
8105355	06088	3513921221	102	WISNER-MITCH #1	(PENDING)	500.0	PHILLIPS PETROLEUM C
*AMERICAN QUASAR PETROLEUM CO			RECEIVED: 11/10/80	JA: OK			
8105314	05551	3509520148	102	GROFF #1-2	SEC 2 T8S-R4E	1825.0	TEXACO INC
*ANDOVER OIL COMPANY			RECEIVED: 11/10/80	JA: OK			
8105346	06086	3501721185	103	ALMA M STEJSKAL #24-1	W YUKON	180.0	DELMI GAS PIPELINE C
8105334	06085	3501721184	103	ALMA M STEJSKAL #24-2	W YUKON	180.0	DELMI GAS PIPELINE C
8105356	06080	3501721462	103	ZUM MALLEN #8-2		185.0	DELMI GAS PIPELINE C
*ARKLA EXPLORATION COMPANY			RECEIVED: 11/10/80	JA: OK			
8105353	06081	3500320640	103	SKINNER-BARR #1-19	ALVA E	27.4	
*BEASLEY OIL CO			RECEIVED: 11/10/80	JA: OK			
8105303	05561	3504722104	102	BEASLEY OIL COMPANY #1 ZALUDEK	NORTH ENID	150.0	ARKANSAS LOUISIANA'G
*BLAIK OIL COMPANY			RECEIVED: 11/10/80	JA: OK			
8105330	06064	3504721427	103	LADDIE #1	SOONER TREND	46.0	PHILLIPS PETROLEUM C
8105329	06065	3504721443	103	LADDIE A #1	SOONER TREND	55.0	PHILLIPS PETROLEUM C
*CALVERT DRILLING CO			RECEIVED: 11/10/80	JA: OK			
8105315	06058	3511900000	108	GIBSON #1	SE RIPLEY	1.9	SUN GAS CO
*CHABE EXPLORATION CORP			RECEIVED: 11/10/80	JA: OK			
*8105318	06053	3507121272	103	BRANDON 2-3		24.0	CITIES SERVICE GAS C

JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
*8105319	06052	3507121335	103	MARKINS 3-17		9.3	CITIES SERVICE GAS C
*8105317	06054	3507121605	103	KAMLE 4-23		12.0	CITIES SERVICE GAS C
*CITIES SERVICE COMPANY			RECEIVED: 11/10/80	JA: OK			
8105333	06055	3510920325	103	JENNINGS A #4	OKLAHOMA CITY	13.0	PHILLIPS PETROLEUM C
*CONOCO INC			RECEIVED: 11/10/80	JA: OK			
8105331	06059	3501120967	103	GIGER NO 1	N GEARY	319.0	OKLAHOMA GAS & ELECT
*COTTON PETROLEUM CORPORATION			RECEIVED: 11/10/80	JA: OK			
8105349	06199	3501520847	102	KLUSMEYER NO 1	S W MINTON	540.0	TRANSOK PIPE LINE CO
8105332	06057	3501121010	102	SLAGGEL FARMS NO 1	NORTH HYDRO	0.0	TRANSOK PIPE LINE CO
*DALCO PETROLEUM INC			RECEIVED: 11/10/80	JA: OK			
8105323	06048	3507322297	103	HUMPHREY NO 1	SOONER TREND	91.3	DALCO PETROLEUM US L
8105322	06049	3507322035	103	HUSICK #1	SOONER TREND	91.3	DALCO PETROLEUM US L
8105307	06046	3507322254	103	SANDEFUR #1	SOONER TREND	91.3	DALCO PETROLEUM US L
8105320	06051	3507322276	103	WICKETT #1	SOONER TREND	91.3	DALCO PETROLEUM US L
8105321	06050	3507322140	103	WINANS NO 1	SOONER TREND	91.3	DALCO PETROLEUM US L
*FLOYD BERGEN			RECEIVED: 11/10/80	JA: OK			
8105328	06066	3512120861	103	J DANIELS #1	BLOCKER	180.0	SE TRANSMISSION & CO
*GREEN OPERATING CO			RECEIVED: 11/10/80	JA: OK			
8105318	06056	3505300000	108	KRETCHMAR #1		7.3	CITIES SERVICE GAS C
*HANOVER MANAGEMENT CO			RECEIVED: 11/10/80	JA: OK			
8105341	05804	3515120891	103	OYER #1-17		32.7	CITIES SERVICE GAS C
*HARPER OIL COMPANY			RECEIVED: 11/10/80	JA: OK			
8105336	06076	3508321291	103	BLACKMON #1	SOONER TREND	0.0	EASON OIL CO
8105337	06075	3504722053	103	BOLENBAUGH #2	NW ENID	320.0	CHAMPLIN PETROLEUM C
8105335	06077	3509321719	103	KLUCKNER #1	DANE	73.0	PANHANDLE EASTERN PI
*HUNT ENERGY CORPORATION ET AL			RECEIVED: 11/10/80	JA: OK			
8105354	09000	3500920319	107	MANDRELL #1-27	N E MAYFIELD	730.0	
*KANSAS GAS PURCHASING			RECEIVED: 11/10/80	JA: OK			
8105340	05868	3507100000	108	ELLEDGE #3	BLACKWELL	9.3	CITIES SERVICE GAS C
*LADD PETROLEUM CORPORATION			RECEIVED: 11/10/80	JA: OK			
8105375	00592	3504700000	108	CAMPBELL J	N E ENID	7.7	CITIES SERVICE GAS C
8105339	05878	3505120845	102	PEERY NO 1	MINCO WEST	#927.0	MICHIGAN-WISCONSIN P
*NIXON PROPERTIES INC			RECEIVED: 11/10/80	JA: OK			
8105310	05834	3511121304	108	BUTTERLY 1-A	LYON-QUINN	20.0	PHILLIPS PETROLEUM C
8105309	05835	3511121304	103	BUTTERLY 1-A	LYON-QUINN	20.0	PHILLIPS PETROLEUM C
*NIXON-DAVIS ENERGY CO INC			RECEIVED: 11/10/80	JA: OK			
8105338	06029	3508300000	103	DIECKMANN #1		90.0	EASON OIL CO
*NORTHWESTERN PRODUCTION INC			RECEIVED: 11/10/80	JA: OK			
8105305	05840	3507322324	103	REX 32 NO 1	SOONER TREND	0.0	PHILLIPS PETROLEUM C
*PETROLEUM RESOURCES CO			RECEIVED: 11/10/80	JA: OK			
8105344	03065	3500300000	102	BERNIE GREEN #1	SW CHEROKEE	182.5	AMINOIL USA INC
*PHILLIPS PETROLEUM COMPANY			RECEIVED: 11/10/80	JA: OK			
8105348	06208	3501721419	102	KELLER D	N CONCHO	0.0	PANHANDLE EASTERN
*QUANAH COMPANY			RECEIVED: 11/10/80	JA: OK			
8105324	06021	3501721289	103	BOYD-GRIFFIN #1	YUKON-RICHLAND	250.0	PHILLIPS PETROLEUM
*RESOURCES INVESTMENT CORPORATION			RECEIVED: 11/10/80	JA: OK			
8105342	01833	3509321539	103	NICHOLSON #1	S E CHEYENNE	182.5	PHILLIPS PETROLEUM C
*RICKS EXPLORATION CO			RECEIVED: 11/10/80	JA: OK			
8105345	06087	3515320888	103	COLE 28A	SHARON WEST	5.0	PHILLIPS PETROLEUM C
*SAMEDAN OIL CORPORATION			RECEIVED: 11/10/80	JA: OK			
8105325	05983	3509321690	102	LAMBERT #1-25	E CHESTER	185.0	DELMI GAS PIPELINE C
*SUN OIL COMPANY (DELAWARE)			RECEIVED: 11/10/80	JA: OK			

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JD NO	JA DKT	API NO	SEC	D WELL NAME	FIELD NAME	PROD	PURCHASER
8105327	05999	3503700000	108	STROUD PRUE UNIT NO 5-2	STROUD	0.5	KERR-MCGEE CORP
-TENNECO OIL COMPANY				RECEIVED: 11/10/80 JA: OK			
8105313	05475	3509321694	103	DVORAK 1-19	CHESTER WEST	9.9	PHILLIPS PETROLEUM C
-TEXAS INTERNATIONAL PET CORP				RECEIVED: 11/10/80 JA: OK			
8105350	06127	3505120881	102	WHITLOW #1-29	WATONGA - CHICKASHA	350.0	DELHI GAS PIPELINE C
-TRIDON OIL INC				RECEIVED: 11/10/80 JA: OK			
8105365	06131	3506300000	108	ADELMAN #3 063-21581	GREASY CREEK	11.6	TRANSOK PIPE LINE CO
8105366	06130	3506300000	108	ADELMAN #4 063-21582	GREASY CREEK	7.6	TRANSOK PIPE LINE CO
8105360	06116	3506300000	108	BAILEY #1 063-38143	GREASY CREEK	3.4	TRANSOK PIPE LINE CO
8105369	06127	3506300000	108	COLLINS #1 063-21586	GREASY CREEK	9.0	TRANSOK PIPE LINE CO
8105352	06110	3506300000	108	COLLINS #2 063-09294	GREASY CREEK	16.8	TRANSOK PIPE LINE CO
8105364	06112	3506300000	108	DOUGLAS #1 063-40715	GREASY CREEK	5.1	TRANSOK PIPE LINE CO
8105367	06129	3506300000	108	KIMMEL #2 063-21580	GREASY CREEK	14.7	TRANSOK PIPE LINE CO
8105370	06126	3506300000	108	LEE #1 063-21573	GREASY CREEK	2.9	TRANSOK PIPE LINE CO
8105372	06124	3506300000	108	LEE #2 063-21583	GREASY CREEK	1.3	TRANSOK PIPE LINE CO
8105361	06115	3506300000	108	LEE #3 063-21548	GREASY CREEK	7.1	TRANSOK PIPE LINE CO
8105351	06111	3506300000	108	LEE #4 063-21585	GREASY CREEK	4.5	TRANSOK PIPE LINE CO
8105368	06128	3506300000	108	LEE #5 063-38259	GREASY CREEK	12.5	TRANSOK PIPE LINE CO
8105362	06114	3506300000	108	LUMPKIN #1 063-21587	GREASY CREEK	11.0	TRANSOK PIPE LINE CO
8105373	06123	3506300000	108	MATHIS #1 063-27435	GREASY CREEK	1.4	TRANSOK PIPE LINE CO
8105363	06113	3506300000	108	MEADORS #1 063-36826	GREASY CREEK	11.0	TRANSOK PIPE LINE CO
8105358	06119	3506300000	108	NELL TURNER #1 063-063-29203	GREASY CREEK	1.6	TRANSOK PIPE LINE CO
8105374	06122	3506300000	108	NICKS #1 063-13137	GREASY CREEK	3.4	TRANSOK PIPE LINE CO
8105359	06118	3506300000	108	RASBERRY #1 063-13138	GREASY CREEK	12.5	TRANSOK PIPE LINE CO
8105357	06120	3506300000	108	SMITH #1 063-13139	GREASY CREEK	1.6	TRANSOK PIPE LINE CO
8105371	06125	3506300000	108	TURNER #2 063-37047	GREASY CREEK	10.6	TRANSOK PIPE LINE CO
-TRIDON PRODUCTION CO INC				RECEIVED: 11/10/80 JA: OK			
8105347	06109	3509100000	108	BURLESON #1 091-41808	NORTH ULAN	12.3	ARKANSAS LOUISIANA G
-W C PAYNE				RECEIVED: 11/10/80 JA: OK			
8105326	05856	3508321266	103	RINGER #1-17	S W MULHALL	60.0	EASON OIL CO
-WOODS PETROLEUM CORPORATION				RECEIVED: 11/10/80 JA: OK			
8105312	05770	3504320996	102	EDWARDS #5-1	KODRAS	182.0	DELHI GAS PIPELINE C
8105311	05772	3504321017	102	PORTER #32-1	KODRAS	465.0	DELHI GAS PIPELINE C
** U.S. GEOLOGICAL SURVEY - ALBUQUERQUE,NM							
-LIVELY EXPLORATION COMPANY				RECEIVED: 11/10/80 JA: NM 4			
8105376	NM-0005-80SA	3004521193	108	LIVELY WELL NO 9	SAN JUAN	12.1	EL PASO NATURAL GAS
** U.S. GEOLOGICAL SURVEY - CASPER,WY							
-MIDLANDS GAS CORPORATION				RECEIVED: 11/10/80 JA: MT 5			
*8105394	M 106-0	2507121351	108	2561 253631	BOWDOIN	20.0	KANSAS-NEBRASKA NATU
-RAINBOW RESOURCES INC				RECEIVED: 11/10/80 JA: MT 5			
8105396	M237-0	2503521417	102	BLACKFEET INDIAN #1-19	TWO MEDICINE	1409.0	
-DOME PETROLEUM CORP				RECEIVED: 11/10/80 JA: ND 5			
8105392	ND 216-0	3305300907	102	FEDERAL 2-34	MON DAK	34.7	SHELL OIL
-SHELL OIL CO				RECEIVED: 11/10/80 JA: ND 5			
8105401	ND192-0	3305300838	102	USA 12-4-24	POKER JIM	70.0	MONTANA DAKOTA UTILI
8105407	ND 198-0	3305300954	102	USA 34-10-46	POKER JIM	10.5	MONTANA DAKOTA UTILI
-TENNECO OIL COMPANY				RECEIVED: 11/10/80 JA: ND 5			
8105388	ND254-0	3300700420	102	STUART USA #3-19	BIG STICK	500.0	WESTERN GAS PROCESSO

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JD NO	JA DKT	API NO	SEC	D WELL NAME	FIELD NAME	PROD	PURCHASER
-APACHE CORPORATION				RECEIVED: 11/10/80 JA: WY 5			
8105404	W 268-0	4900921606	102	FEDERAL WELL NO 1-27	POWELL (DAKOTA)	365.0	MONTANA-DAKOTA UTILI
-BELCO PETROLEUM CORPORATION				RECEIVED: 11/10/80 JA: WY 5			
8105398	W 241-0	4903506043	108	A 2-23 06043	BIG PINEY - LABARGE	15.0	NORTHWEST PIPELINE C
8105391	W 238-0	4903506075	108	M & M - 1 06075	BIG PINEY-LABARGE	19.0	NORTHWEST PIPELINE C
-CHINOOK PIPELINE CO INC				RECEIVED: 11/10/80 JA: WY 5			
8105386	W 186-0	4900523530	108	CHINOOK FEDERAL 048	HINE-INTERSTATE	14.0	MCCULLOCH INTERSTATE
-CITIES SERVICE COMPANY				RECEIVED: 11/10/80 JA: WY 5			
8105385	W 210-0	4900525274	102	FEDERAL AP #1	PUMPKIN BUTTES	20.0	
-DIAMOND SHAMROCK CORPORATION				RECEIVED: 11/10/80 JA: WY 5			
8105389	W 259-0	4900525414	103	DELPHA FEDERAL 34-25	PORCUPINE	39.0	
-ENERGY RESERVES GROUP INC				RECEIVED: 11/10/80 JA: WY 5			
8105402	W 181-0	4903721279	102	FORBES FEDERAL #1	WILDCAT	108.0	PANHANDLE EASTERN PI
-EXETER EXPLORATION COMPANY				RECEIVED: 11/10/80 JA: WY 5			
8105405	W 267-0	4900921587	102	FEDERAL 3-33	SCOTT	35.0	CHINOOK CONSTRUCTION
-INEXCO OIL COMPANY				RECEIVED: 11/10/80 JA: WY 5			
*8105393	W 214-0	4900921659	103	FEDERAL WICKER 1-18	WELL DRAW	22.0	INEXCO GASOLINE PLAN
-MONSANTO COMPANY				RECEIVED: 11/10/80 JA: WY 5			
*8105403	W 249-0	4901320721	107	MOU CHEVRON #1-1	MADDEN	1085.0	COLORADO INTERSTATE
8105400	W176-0	4901320907	102	SPEAR #1-5	MADDEN	730.0	COLORADO INTERSTATE
-MOUNTAIN FUEL SUPPLY COMPANY				RECEIVED: 11/10/80 JA: WY 5			
8105397	W 236-0	4903721161	103	KINNEY UNIT WELL NO 5	KINNEY AREA	1002.0	MOUNTAIN FUEL SUPPLY
8105395	W 246-0	4904120216	102	LANSDALE FEDERAL 10-1	BRUFF AREA	567.0	MOUNTAIN FUEL SUPPLY
8105390	W226-0	4902320319	103	LANSDALE FEDERAL 28-1	BRUFF	333.0	MOUNTAIN FUEL SUPPLY
8105387	W 206-0	4900720478	102	MFS FEDERAL 22-1	STANDARD DRAW	204.0	MOUNTAIN FUEL SUPPLY
8105406	W 204-0	4900921498	102	SPEARHEAD RANCH UNIT WELL NO 13	SPEARHEAD RANCH	182.0	MOUNTAIN FUEL SUPPLY
8105399	W205-0	4900921473	102	SPEARHEAD RANCH UNIT WELL NO 14	SPEARHEAD RANCH	182.0	MOUNTAIN FUEL SUPPLY

OTHER PURCHASERS VOLUME NO 1323

8105317	PHASE GATHERING SYSTEMS INC
8105318	PHASE GATHERING SYSTEMS INC
8105319	PHASE GATHERING SYSTEMS INC
8105393	PHILLIPS PETROLEUM CO
8105394	MONTANA DAKOTA UTILITIES CO
8105403	KANSAS NEBRASKA NATURAL GAS CO

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission ~~within fifteen (15) days after the date of publication of this notice in the Federal Register~~ on or before December 16, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-37184 Filed 11-28-80; 8:45 am]
BILLING CODE 6450-85-C

[Project No. 3469]

Pacific Northwest Generating Co., Oregon Public Power Agency and Grants Pass Irrigation District; Application for Preliminary Permit

November 21, 1980.

Take notice that Pacific Northwest Generating Company, Oregon Public Power Agency, and Grants Pass Irrigation District (Applicant) filed on September 15, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3469 to be known as Savage Rapids Hydroelectric Project located on the Rogue River in Josephine and Jackson Counties, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. David E. Piper, Pacific Northwest Generating Company, 8383 N.E. Sandy Blvd., Suite 330, Portland, Oregon 97220. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (a) the existing Savage Rapids Concrete Dam (combination gravity and multiple arch type), 456 feet long and 39 feet high; (b) the existing Savage Rapids Reservoir with a surface area of 50 acres at elevation 964 feet m.s.l.; (c) an intake structure within the north embankment of the dam; (d) a 500-foot long channel; and (e) a powerhouse containing 2 or 3 generating units with a total rated capacity of between 7.5 and 10.0 MW. The Applicant estimates that the average annual energy output would be 35 million kWh.

Purpose of Project—Project energy would be used to serve the needs of the Pacific Northwest Generating Company and the Oregon Public Power Agency.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36-month preliminary permit to prepare a definitive project report including preliminary designs and results of environmental and economic feasibility studies. The cost of the above activities, along with preparation of an environmental impact report, obtaining agreements with Federal, State and local agencies, preparing a license application, conducting final field surveys and preparing designs is estimated by the Applicant to be $60,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 21, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 23, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c)(1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 21, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "Comments," "Notice of Intent To File Competing Application," "Competing Application," "Protest," or "Petition To Intervene," as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3469. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street,, NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37185 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3538-000]

Saranac Energy Corp., Application for Preliminary Permit

November 21, 1980.

Take notice that Saranac Energy Corporation (Applicant) filed on October 8, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for the proposed Cave Run Project, FERC Project No. 3538 to be located at the U.S. Army Corps of Engineers' Cave Run Lake Dam on the Licking River in Bath and Rowan Counties near Salt Lick and Farmers, Kentucky. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Charles Mierek, P. E., a Cortland Assoc., Inc., 838 Arlinton Drive, Tucker, Georgia 30084. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing U.S. Army Corps of Engineers' dam and reservoir. Project No. 3538 would consist of: (1) a proposed powerhouse located on the eastern bank of the river; (2) proposed transmission lines; and (3) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 8.2 MW, and the annual energy output to be 43 GWh.

Purpose of Project—Energy produced at Project No. 3538 would most probably be sold to the Kentucky Utilities Company, Lexington, Kentucky.

Proposed Scope and Cost of Studies under Permit—Applicant has requested 36-month permits to prepare definitive project reports, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soil foundation data. The costs of the aforementioned activities along with obtaining agreements with other Federal, State and local agencies is estimated to be $100,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Eastern States Energy & Resources, Inc., Project No. 3421 on Cave Run Dam Project in Salt Lick and Farmers, Kentucky under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before *January 26, 1981.*

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3538. Any comments, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37186 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EF80-2011]

Secretary of Energy, Bonneville Power Administration; Order Remanding Rates Without Prejudice

Issued: November 21, 1980.

Introduction

Bonneville Power Administration (BPA) is the wholesale marketing agency for electric power generated at the federal hydro-electric dams in the Columbia River Basin. These dams were built and are operated by the Water and Power Resources Service (formerly Bureau of Reclamation) and the Army Corps of Engineers. Together with BPA's transmission system they comprise the Federal Columbia River Power System which supplies about 50 percent of the electric energy consumed in the Pacific Northwest and accounts for about 80 percent of the region's high-voltage transmission capacity. By purchase and exchange, BPA also acquires power generated by non-federal utilities.

BPA sells power to 148 customers, including publicly-owned utilities, privately-owned utilities, state and federal agencies, electro-process industries and other industries located throughout the Northwest. BPA also sells power to thirteen public and private utilities or agencies outside the Northwest.

Between 70 and 80 percent of BPA's sales of firm power are to public and private electric utilities for resale to ultimate consumers. Many of BPA's utility customers have generation of their own in addition to that power obtained from BPA. BPA also sells to several industries, primarily electro-process industries. In addition, BPA sells secondary energy, subject to availability, to utilities.

The Administrator of the BPA develops rates for BPA power. These are submitted to the Assistant Secretary for Resource Applications (AS/RA) of the Department of Energy (DOE) for confirmation and approval on an interim basis. Thereafter, the rates go to the Federal Energy Regulatory Commission (Commission) for confirmation and approval as final rates pursuant to the Bonneville Project Act of 1937,[1] the Flood Control Act of 1944 [2] and DOE Delegation Orders Number 0204–33.[3]

The Commission presently has before it BPA's system wholesale power rates for a five-year period beginning December 20, 1979. By order issued December 3, 1979, the responsible official of the Department of Energy, the AS/RA confirmed and approved on an interim basis BPA's wholesale power rate schedules, the general rate schedule provisions setting forth the terms and conditions of service under the rate schedules, and special contract rates and rate schedule provisions. The AS/RA placed them in effect on an interim basis as of December 20, 1979.

The statutory scheme and the applicable delegation orders regarding the power marketing acts place the Commission in a role different from its regulatory responsibility under the Federal Power Act. Prior to the formation of the Department of Energy, the function of confirming and approving

[1] 16 U.S.C. 832.
[2] 16 U.S.C. 825s.
[3] 43 FR 60636, issued December 28, 1978.

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or disapproving Bonneville's rates rested with the Federal Power Commission (FPC). After formation of the DOE, this function passed to the Secretary of Energy.[4] On January 1, 1979, the Secretary of Enery assigned to DOE's AS/RA and to this Commission various responsibilities relating to the rates of power marketing agencies.

By Delegation Order Number 0204–33, the Secretary of Energy delegated to the AS/RA the authority to develop power and transmission rates, acting by and through the Adminstrator of BPA, and to confirm, approve, and place in effect such rates on an interim basis. The Delegation Order also assigned to the Commission the authority to confirm and approve such rates a on final basis or to disapprove those rates developed by the AS/RA. The rate schedules of BPA before the Commission are the first to be considered under the new administrative arrangements.

Bonneville's Proposed Rates

The rates at issue replace rates that were approved by the FPC by order issued August 21, 1975, in Docket No. E–8978, for a period beginning December 20, 1974, and terminating not later than December 20, 1979.[5] BPA's new rates will result in about 88 percent greater revenues than the old rates. BPA asserts it needs an increase in rates for a number of reasons.

BPA states that since 1974 it has experienced significant increases in the cost of operating and maintaining the federal generation and transmission system, in the cost of constructing new generation and transmission facilities, and in the cost of power purchases. BPA states that these cost increases have not been matched by revenue increases which have been limited to those resulting from an increase in the volume of sales.

Another significant change since the 1974 rate adjustment is that, pursuant to the 1974 Federal Columbia River Transmission System Act,[6] BPA now operates on a self-financing basis. BPA must pay a rate of interest on the bonds it sells to the United States Treasury to finance the construction of transmission facilities comparable to the current rate for bonds of similar quality sold in the money market. This has resulted in increased interest costs to BPA, as compared with rates of interest previously paid on appropriated funds.

The most significant cost increases, BPA asserts, are the result of construction delays and cost escalation at thermal plants from which BPA has purchased thermal output. BPA has contracted to purchase all or sizable portions of the capacity of four nuclear plants completed or under construction. The contracts provide for BPA to commence payment for its share of plant capacity at fixed dates whether or not the plants are completed or operating on those dates.

Costs for two of these plants, the Trojan facility constructed by Portland General Electric from which BPA acquires Eugene Water and Electric Board's 30 percent ownership share of the capability and the Washington Public Power Supply System's (WPPSS) Plant Number 2 from which BPA will acquire 100 percent of the capability, were included in BPA's 1974 rates. BPA asserts that costs of these plants have increased significantly since 1974. Also, costs of an additional thermal plant, WPPSS Plant Number 1, from which BPA will acquire 100 percent of the capability, are included in the present rates. The costs of the fourth plant, WPPSS Plant Number 3, from which BPA will acquire 70 percent of the capability, will be included in future rate adjustments.

The developments cited by BPA raise complex questions about the overall revenue requirements of BPA. Another complex and controversial area is BPA's proposed allocation of revenue-responsibility among the different BPA rate schedules.

BPA's H–6 rate schedule is particularly controversial. This rate schedule governs the sale of non-firm energy to BPA's non-preference customers. As developed by the Administrator of BPA and approved by the AS/RA, the H–6 rate, unlike the other BPA rate schedules, is premised on a "share-the-savings" concept. Charges for energy under this schedule are set to equal either 50 percent of the decremental cost of the customers' thermal energy that is displaced by energy from BPA or equal to the rate associated with the displaced firm purchase of thermal energy. The maximum charge under the H–6 rate is 20 mills per kilowatt hour and the minimum charge is 6.5 mills per kilowatt hour during peak use periods or 4.5 mills per kilowatt hour during non-peak periods.

The H–6 schedule is a matter of great concern to many of BPA's customers in both the Pacific Northwest and Pacific Southwest service areas. Many petitioners assert that the H–6 rate schedule represents a radical departure from past practices and is contrary to the applicable statutory standards which they interpret as requiring that each of BPA's rates be formulated based on the costs of Bonneville to produce the power. Petitioners have also alleged that the H–6 rate will represent a disproportionate percentage increase of approximately 500 percent over the previous H–5 rate schedule for similar services.

The direct service industrial customers have challenged the rates under the IF–2 rate schedule, claiming that it does not properly reflect the interruptible nature of the service that is supplied to them under their contractual arrangements with BPA. The IF–2 rate schedule includes an adjustment that entitles the customer to a credit if that customer's load is restricted by BPA during the operating year. Certain customers have alleged that the rates charged these customers should not differ from rates charged other customers and that the availability credit is too large for the interruptions contemplated.

There are other matters also in controversy with respect to BPA's proposed rates. For example, various customers have also contended that the charges related to BPA's prepayments on the WPPSS plants through debt financing should be deferred to a period contemporaneous with the commencement of service from these units. According to these customers, if payments were to be deferred until the plants are placed in service, BPA's rate increase would amount to approximately 40 percent rather than 88 percent.

A number of petitioners have raised *Mobile-Sierra*[7] contract-type questions, alleging that the AS/RA placed BPA's rates into effect prior to the effective date called for under the terms of the contract. Other petitioners have alleged that the new six-hour limitation on capacity under the F–7 rate schedule is contrary to the terms of their contractural agreements with BPA.

Other contentions that have been put forth by customers filing comments in this docket are: that BPA improperly

[4] On October 1, 1977, the Department of Energy Organization Act (42 U.S.C. § 7101 *et. sec.*) became effective, abolishing the FPC. The functions of the FPC under the Bonneville Project Act and other statutes relating to the BPA were transferred to and vested in the Secretary of Energy pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act.

[5] Public notice of the present filing was published in the Federal Register on December 12, 1979. Interested parties were invited to submit written comments to the Commission on or before January 4, 1980. On February 11, 1980, interested parties were afforded the opportunity to file cross-comments in response to previous comments filed in this proceeding. Petitions to intervene were filed by a substantial number of parties.

[6] P.L. 93–454.

[7] *United Gas Co.* v. *Mobile Gas Corp.* 350 U.S. 332 (1956); *FPC* v. *Sierra Pacific Power Company*, 350 U.S. 348 (1956).

classified costs between capacity and energy; that elimination of the facilities charge in the rate to the wholesale firm preference customers is improper and unjustified; that BPA could unjustly and inappropriately designate a purchaser as a computed demand customer; that a computed demand customer could be unfairly penalized for an unauthorized increase in its usage; that the AS/RA improperly and illegally placed BPA's rates in effect on an interim basis; and that BPA failed to comply with the anti-inflation standards. Many petitioners have requested an opportunity to make oral presentations before the Commission.

The Commission's Review Responsibilities and the Present Record

The authority delegated to the Commission from the Secretary of Energy is that of confirming and approving, or disapproving, rates developed by the AS/RA on a final basis. The Commission must insure that the rates confirmed and approved by DOE (AS/RA) on an interim basis satisfy the standards of the Bonneville Project Act and the Flood Control Act. These standards provide that BPA rate schedules must be drawn:

1. Having regard to the recovery of the cost of generation and transmission of such electric energy;
2. So as to encourage the most widespread use of Bonneville power;
3. To provide the lowest possible rates to consumers consistent with sound business principles; and
4. In a manner which protects the interests of the United States in amortizing its investment in the projects within a reasonable period.[8]

Unlike our statutory authority under the Federal Power Act or the Natural Gas Act, the statutory mandate accorded to the Commission under the power-marketing acts does not include the power to modify the rates. The power marketing acts vest the responsibility to develop rates in the first instance in the PBA's Administrator. Those rates are then transmitted to the AS/RA for confirmation and approval on an interim basis. The interim rates and an evidentiary record are then submitted to the Commission for final confirmation and approval, or disapproval. Thus, the Commission's role can be viewed as an appellate one: to affirm, reverse, or remand the rates submitted to it for final review.

Not only is the Commission's function under the power-marketing acts different from its functions under the Natural Gas Act and the Federal Power Act, but the substantive standards it must apply also differ. Under the Federal power-marketing statutes, the Commission must determine that proposed rates would provide a sufficient level of revenues to BPA to recover its costs and repay the federal investment within a reasonable period of time. The Commission's review in this matter is based on the supporting data and information submitted by the AS/RA consistent with the statutory standards set forth in the applicable power marketing acts.

The Administrator of BPA prepared a revised power repayment study of the Federal Columbia River Power System to determine the revenues necessary to recover the costs of producing and transmitting the electric power marketed by BPA, and to repay, with interest, the federal investment in the Federal Columbia River Project as required by statute.[9] The study supported an 88 percent increase in total revenues over the entire repayment period. The increase in wholesale power rates proposed by BPA plus a future increase in transmission rates are based on this determination. BPA's prior rate schedules would have produced revenues of approximately $343,100,000 in fiscal year 1980, assuming average water conditions. Accordingly to the study, the new rate schedules would have produced approximately $645,600,000 in fiscal year 1980 under these same conditions for an increase of $302,500,000 or 88 percent.

This study and the rest of the record submitted to the Commission by the AS/RA do not, however, provide the requisite support to permit the Commission to affirm that the standards set forth in the Bonneville Project Act and the Flood Control Act have been met and that the overall revenues to be generated by the rates before this Commission are appropriate. The record contains an estimate of revenues from each rate schedule for the time period over which approval is being sought. BPA and the AS/RA, however, have not provided sufficient information to support the derivation of the estimated revenues. For example, the description provided does not contain numerical back-up for the revenue calculations so that the sensitivity of these calculations to the underlying assumptions can be evaluated. Also, the basic source data for the revenue estimates, the "Long-Range Projects of Power Loads and Resources for Thermal Planning", was not provided. Because this support is lacking, it is not possible to verify that the proposed rates will produce the projected revenues, and to test the reasonableness of the assumptions utilized in formulating the revenue estimates. The Commission is therefore unable to determine that the estimated revenues would recover BPA's capital investment allocated to electric power and will appropriately amortize the Government's investment.

With regard to the individual components of BPA's filing, it is necessary that the Commission understand the logic of the allocation of cost and revenue requirements among the various rate schedules. The rationale for the substantially differing cost-revenue relationship of the Non-Firm Energy, Annual Firm Capacity and Industrial Firm Power has not been adequately explained. The Commission has to affirm that the various components of BPA's overall pricing scheme meet the tests set forth in the Bonneville Power Act and the Flood Control Act discussed *infra*. Specifically, the Commission must address whether the rate scheme encourages the widest use of BPA power and provides the lowest rates to consumers consistent with sound business principles.

The Commission emphasizes that its role here is in the nature of an appellate body. However, in order for the Commission to discharge this duty, it must be apparent from the record before us that due process requirements have been met and that the Administrator's program of rate schedules and the decision of the AS/RA are rational and consistent with the statutory standards set forth above. Unfortunately, the record before this Commission lacks the requisite exposition of the logical relationship that the Administrator and AS/RA perceived among the various rate scheules that in sum comprise the overall revenues proposed to be collected by BPA. Moreover, we cannot determine from the record before us the reasons in support of a finding that the relationship among the components is in accord with the applicable statutory standards. Lacking an understanding of these issues, the Commission cannot determine whether BPA's proposed rates are appropriate.

In sum, the record before the Commission does not provide an adequate explanation of how the revenue requirements and relationships among the various rate schedules were determined. Support for empirical projections is lacking. Also, the record

[8] 16 U.S.C. 822, 825s.

[9] This study was prepared pursuant to the Bonneville Project Act, the Federal Columbia River Transmission System Act, and Section 2 of the Grand Coulee Third Power-House Authorization (P.L. 89–448).

does not explain how the total revenues proposed to be collected as well as the division of revenues among rate

have the legal authority to borrow money for this purpose, so the Commission regards inclusion of these

This policy is similarly applicable to the establishment of federal rates. The Commission believes the BPA's

(B) The Secretary shall promptly publish this Order in the Federal

[Docket No. ER81–130–000]

Appalachian Power Co., Proposed

[Docket No. ER81–128–000]

Central Illinois Public Service Co.;

does not explain how the total revenues proposed to be collected as well as the division of revenues among rate schedules meet the applicable statutory standard. Therefore, the Commission will remand this record, without prejudice, to the Assistant Secretary of Energy for Resource Applications for supplementation.

The Record on Other Issues

Because the Commission is remanding this record, it is unnecessary that the other issues in this proceeding be addressed at this time. However, in order to assist the AS/RA and the various parties during the remand process, the Commission will set forth its current views with respect to the adequacy of the existing record as to other issues in this proceeding.

Many comments have raised issues concerning the consistency between the AS/RA's rate proposals and underlying contractual arrangements between BPA and its customers. In a recent decision of the United States District Court for the District of Columbia, *Arkansas Power & Light Company* v. *James R. Schlesinger* (Civil Action No. 79–1263, October 20, 1980), the Court held that the Southwest Power Administration (SWPA) was barred from proposing a price increase to one of its customers above the level allowed in a contract between SWPA and that customer. The remand provides an opportunity for the AS/RA, if she desires to do so, to consider allegations that the interim rates for customers of BPA are in violation of any contractual obligations between the parties.

The Commission is not disposed to inquire into the legal authority of the AS/RA to place rates in effect on an interim basis. The Commission's view is that this is a matter for the courts to decide.[10]

With regard to BPA's inclusion of debt service on the WPPSS plants, the Commission believes the present record supports a finding that these costs are proper for inclusion in the rates to its customers. BPA entered into contractual arrangements that obligated it to commence paying the fixed costs of WPPSS No. 2 and No. 1 in January 1977 and January 1980, respectively. BPA's repayment policies, as prescribed by the Department of Energy in Order RA 6120.2,[11] require it to make payment of purchased power costs in the year in which they are incurred. BPA does not have the legal authority to borrow money for this purpose, so the Commission regards inclusion of these costs in the present rates to be an appropriate means of providing sufficient revenues for BPA to meet its contractual payments to WPPSS as they come due, and also to meet BPA's statutory obligation to amortize federal investments within a reasonable period of time.

The Commission believes that an adequate basis exists in the present record to support BPA's classification of costs between capacity and energy. No supplementation is required with respect to this matter.

As to BPA's practice of repaying high interest investments ahead of the required repayment date while deferring repayment in lower interest investments, the current record is not sufficient as to the reasons underlying this practice to enable the Commission to determine the appropriateness of this policy.

Similarly, we note that the existing record does not provide an adequate basis to explain BPA's elimination of the facilities charge for wholesale firm preference customers in light of the fact that some customers have relied upon BPA's past practice of collecting a facilities charge and have purchased their own transformation facilities.

Petitioners have challenged the development of a penalty charge for computed demand customers under the EC–8 rate schedule, arguing that a customer could be unfairly penalized for an unauthorized increase in its computed demand. The Commission believes that the present record provides adequate support for the AS/RA's exercise of her authority in developing this charge that seeks to assure that the customer uses all its own resources to meet its load first or sells its own excess resource capabilities.

Some customers argue that the Commission must reject BPA's rates based on an asserted conflict with the President's Wage and Price Guidelines. The Commission disagrees that the Wage and Price Guidelines authorize this Commission to subrogate its statutory mandates in favor of the Guidelines. As stated in the Guidelines:

> The Council recognizes that the prices of most public utilities are already subject to regulation by the Federal Energy Regulatory Commission * * * and in issuing this price standard, the Council does not intend to supplant their statutory functions and responsibilities * * *.[12]

This policy is similarly applicable to the establishment of federal rates. The Commission believes the BPA's customers have sufficient protection in the statutory requirement that power and energy be disposed of "to encourage the most widespread use thereof *at the lowest possible rates to consumers* consistent with sound business principles * * *"[13] Accordingly, while the Commission is mindful of the Guidelines, if the AS/RA demonstrates that the rates submitted conform with statutory requirements, the Commission need look no further.

Finally, the Commission believes the remand makes a hearing before the Commission unnecessary and inappropriate at this time. The Commission has the authority to institute a hearing whenever necessary. However, the Commission would expect that due process and hearing requirements generally would be satisfied when the proposed rates are being reviewed by the AS/RA, because the responsibility for developing the rates resides with the AS/RA acting by and through the Administrator of BPA, and not with the Commission. The Commission, therefore, does not envision at this time any further hearings before the Commission.

The Commission finds: The record transmitted by the Assistant Secretary of Energy for Resource Applications is not sufficiently developed to determine whether the rate schedules developed by the Administrator of the Bonneville Power Administration and placed into effect by the AS/RA have been drawn on a basis consistent with the statutory standards set out in the relevant power marketing acts. Therefore, it is necessary to remand the record for further development of the basis on which estimates of the revenues were made and an explanation of the relationship among the various rate schedules.

The Commission orders: (A) The rates and charges developed by the Administrator of the Bonneville Power Administration and placed in effect by the Assistant Secretary of Energy for Resource Applications are hereby remanded without prejudice for further development of the record in order to demonstrate that said rates and charges are in accordance with the applicable statutory standards.

[10] This issue was recently addressed by the U.S. District Court for the District of Oregon. See *Pacific Power & Light Co.* v. *Charles William Duncan, Jr., et al.* (Civil Docket No. 80–82, September 30, 1980).

[11] Issued September 20, 1979.

[12] 44 FR 17913, March 23, 1979 (6 CFR Part 705).

[13] Flood Control Act of 1944, 16 U.S.C. 825s (emphasis added).

(B) The Secretary shall promptly publish this Order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–37187 Filed 11–28–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER81–129–000]

Appalachian Power Co.; Filing

November 25, 1980.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on behalf of its affiliate, Appalachian Power Company (APCO) tendered for filing on November 17, 1980, a change of rate schedule, Modification No. 14 to the Interconnection Agreement between APCO and Virginia Electric and Power Company (VEPCO). This Modification provides for an extension of the present System Unit Power sale by APCO of 600 MW to VEPCO from January 1, 1981 to August 31, 1981.

The proposed terms and conditions including billing rates of Service Schedule H—System Unit Power have not been changed and are the same as the rates originally accepted for filing by FERC on September 30, 1980.

Applicant has requested the Commission to accept the Modification for filing on or before January 1, 1981 as it intends to continue the sale of System Unit Power to VEPCO as of that date.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–37305 Filed 11–28–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER81–130–000]

Appalachian Power Co., Proposed Tariff Change

November 25, 1980.

The filing Company submits the following:

Take notice that Appalachian Power Company (APCO) on November 20, 1980 tendered for filing proposed changes in its FERC Rate Schedules for service to its twenty wholesale customers in the States of Virginia and West Virginia. The proposed rate changes would increase revenues from jurisdictional sales and service by $8,715,455 based upon the 12-month period ending December 31, 1981. APCO proposes that the rates and charges which are revised by this filing become effective February 1, 1981.

The proposed changes reflected in the filing primarily involve:

1. Increased demands and energy charges.

2. A revised base cost of fuel as contained in a fuel adjustment clause prepared in conformity with Section 35.14 of the Commission's Regulations.

The proposed rate increase is occasioned by increases in the cost of providing electric service and to recover additional expenses associated with the commercial operation of Mountaineer Plant and Smith Mountain Unit 3. The proposed rates are designed to recover such cost of providing electric service.

Copies of the filing were served upon APCO's jurisdictional customers and the Virginia State Corporation Commission and the Public Service Commission of West Virginia.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–37306 Filed 11–28–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER81–128–000]

Central Illinois Public Service Co.; Filing

November 25, 1980.

The filing company submits the following:

Take notice that on November 17, 1980, Central Illinois Public Service Company tendered for filing Revision No. 6 dated October 30, 1980, to the Interconnection Agreement Between Central Illinois Public Service Company and Southern Illinois Power Cooperative dated May 2, 1972.

Copies of this filing have been sent to Southern Illinois Power Cooperative and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C., 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before December 12, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–37307 Filed 11–28–80; 8:45 am]

BILLING CODE 6450–85–M

[Docket No. ER81–124–000]

Commonwealth Edison Co.; Filing

November 25, 1980.

The filing company submits the following:

Take notice that Commonwealth Edison Company on November 17, 1980, tendered for filing Amendment No. 13 to the Interconnection Agreement Dated as of March 1, 1964 between Commonwealth Edison Company and Illinois Power Company.

Amendment No. 13 provides for the inclusion in Service Schedule C-Short Term Power of provisions for the implementation of daily short term power transactions between the Companies.

Copies of the filing were served upon Illinois Power Company, Decatur, Illinois, and the Illinois Commerce Commission, Springfield, Illinois.

Any person desiring to be heard or to protest said application should file a

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petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 12, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37308 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-126-000]

Edison Sault Electric Co; Filing

November 25, 1980.

The filing company submits the following:

Take notice that Edison Sault Electric Company on November 17, 1980, tendered for filing a Supplemental Agreement No. 3 between Edison Sault Electric Company and Wisconsin Electric Power Company, dated November 1, 1980, which agreement will supplement an existing Contract for Electric Service, dated January 2, 1959, between the same two parties. The contract between the parties, dated January 2, 1959, has been designated FPC Rate Schedule FPC No. 5 (Docket No. E-7870). The proposed supplemental agreement provides for a revision in the rate schedule of the contract, being Article VI, Section A of the contract, dated January 2, 1959.

Copies of the filing were served upon Wisconsin Electric Power Company and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said agreement, should file a Petition to Intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 12, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this agreement are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37309 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-127-000]

Iowa-Illinois Gas and Electric Co.; Filing

November 25, 1980.

The filing company submits the following:

Take notice that Iowa-Illinois Gas and Electric Company, Davenport, Iowa (Company) on November 17, 1980, tendered for filing an Amendment No. 1 to Participation Power Transaction No. 1, under Service Schedule K, Participation Power, of an Interchange Agreement of November 15, 1971, with the City of Geneseo, Illinois (City). Company indicates the Amendment is dated November 13, 1980, to become effective February 1, 1981.

Company states the Amendment No. 1 to Participation Transaction No. 1 extends the term thereof for six months, from February 1, 1981 through July 31, 1981, during which 3 MW, rather than 2 MW, will be sold to City. It is stated that no new or additional facilities are required to effectuate the extended transaction, and that no change in rates or of the Participation Units, or other provisions are contemplated by this Amendment.

According to the Company, copies of the filing have been mailed to the City and to the Illinois Commerce Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before December 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37310 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-490]

Lockhart Power Co.; Filing

November 25, 1980.

The filing company submits the following:

Take notice that on November 5, 1980, Lockhart Power Company (LPC) submitted for filing an agreement between LPC and the city of Union, South Carolina (Union). Said agreement modifies LPC's rates to Union pending resolution of this proceeding, and also reflects the terms of the Settlement Agreement, filed in Docket No. ER80-473, by Duke Power Company (Duke). Duke supplies a substantial portion of LPC's power requirements.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§1.8 and 1.10 of the Commission's Rules of Practice (18 CFR 1.8 and 1.10). All such protests should be filed on or before December 16, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37311 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-125-000]

Niagara Mohawk Power Corp.; Proposed Tariff Change

November 25, 1980.

The filing company submits the following:

Take notice that Niagara Mohawk Power Corporation (Niagara), on November 17, 1980 tendered for filing as a rate schedule, and agreement between Niagara and Power Authority of the State of New York (PASNY) dated April 25, 1980.

Niagara presently has on file an agreement with PASNY dated January 15, 1963. This agreement is designated as Niagara Mohawk Power Corporation Rate Schedule F.E.R.C. No. 22. This new agreement is being transmitted as a supplement to the existing agreement.

This supplement revises the rate for emergency power as provided for in the terms of the original agreement. Niagara requests waiver of the Commission's prior notice requirements in order to allow said agreement to become effective as of September 1, 1980.

Copies of the filing were served upon the following: Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019.

Any persons desiring to be heard or to protest said application should file a petition to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 12, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37312 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-85-M

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[Volume 325] Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

November 25, 1980.

JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER	VOLUME	PAGE
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KANSAS CORPORATION COMMISSION									
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	GREENSBURG						20.3 KANSAS POWER & LIGHT		
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*GOULD OIL INC		1509720272	108						
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*AMOCO PRODUCTION CO		3705120153	102	RECEIVED: 11/14/80	GRIFFIN WELL NO 1		20.0 T W PHILLIPS GAS & O		
8105543	5870			FRANCIS			20.0 T W PHILLIPS GAS & O		
*DORAN & ASSOCIATES INC		3706324190	108	RECEIVED: MAR 80	KM-17				
8105525	5258			BAIN #1	REPINE #1 K=2=2		5.0 NATIONAL FUEL GAS SU		
8105526	5264			EMERY E SMITH #1	K=2=1		5.0 NATIONAL FUEL GAS SU		
8105527	5263			NORA E SMITH #2	KM=20		5.0 NATIONAL FUEL GAS SU		
8105528	5259			RECEIVED: 11/14/80			5.0 NATIONAL FUEL GAS SU		
*ENDEAVOR VENTURES		3705321126	108				5.0 NATIONAL FUEL GAS SU		
8105548	5879						5.0 NATIONAL FUEL GAS SU		
8105544	5876						5.0 NATIONAL FUEL GAS SU		
8105553	5865						5.0 NATIONAL FUEL GAS SU		
8105552	5864						5.0 NATIONAL FUEL GAS SU		
8105546	5878						5.0 NATIONAL FUEL GAS SU		
8105554	5866						5.0 NATIONAL FUEL GAS SU		
8105551	5883						5.0 NATIONAL FUEL GAS SU		
8105550	5882						5.0 NATIONAL FUEL GAS SU		
8105549	5881						5.0 NATIONAL FUEL GAS SU		
8105547	5880						5.0 NATIONAL FUEL GAS SU		
8105545	5877						5.0 NATIONAL FUEL GAS SU		
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*FELMONT OIL CORPORATION		3704700000	108	RECEIVED: 11/14/80	JAI PA		0.0 CONSOLIDATED GAS SUP		
8105530	5820			DENNY 5390 #1	F=26		0.0 NATIONAL FUEL GAS SU		
8105529	5819			RECEIVED: 11/14/80	JAI PA				
*HANLEY & BIRD		3706520297	108	GROVER-MILLER #1	SN 1509		8.0 CONSOLIDATED GAS SUP		
8105542	5870			RECEIVED: 11/14/80	JAI PA				
*KEYSTONE ENERGY RESOURCES		3705322158	108				42.1 COLUMBIA GAS TRANSMI		
8105556	5868			LUCKHART #1			26.7 COLUMBIA GAS TRANSMI		
8105557	5869			LUCKHART #2					
*MERIDIAN OIL & GAS ENT INC		3706325205	103	RECEIVED: 11/14/80	JAI PA		2.5 PEOPLES NATURAL GAS		
8105540	5868			BOYD CUNNINGHAM	WELL #1		5.0 PEOPLES NATURAL GAS		
8105559	5894			CLAIR LOENGOOD	WELL #1		6.0 PEOPLES NATURAL GAS		
8105560	5895			E M LOENGOOD	WELL #1		9.0 PEOPLES NATURAL GAS		
8105539	5867			KENT GUAL MINING CO	WELL #1		8.0 PEOPLES NATURAL GAS		
8105536	5864			MARGARET BROWN	WELL #1		7.0 PEOPLES NATURAL GAS		
8105537	5865			MARGARET BROWN	WELL #2		5.0 PEOPLES NATURAL GAS		
8105538	5866			MARGARET BROWN	WELL #3				

JD NO	JA DKT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER	VOLUME	PAGE
******	******	******	***	**********	**********	****	**********	******	***
8105558	5893	3706321652	108	T E MONROW	YUUNG		6.0 PEOPLES NATURAL GAS		
8105561	5896	3706321876	108	T E MONROW	YUUNG		8.0 PEOPLES NATURAL GAS		
8105535	5863	3712920641	108	USA	DENRY		14.0 T W PHILLIPS GAS & O		
8105534	5862	3712920639	108	USA	DENRY		15.0 T W PHILLIPS GAS & O		
8105533	5861	3712920640	108	USA	DENRY		9.0 T W PHILLIPS GAS & O		
8105532	5860	3712920660	108	USA	DENRY		10.0 T W PHILLIPS GAS & O		
8105531	5859	3712942782	108	USA	BLACK LICK		7.0 T W PHILLIPS GAS & O		
8105541	5869	3706321503	108	W M GEMMELL	YUUNG		14.0 PEOPLES NATURAL GAS		
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
*HAIRBOW 1 2 & 3-1979		4708528519	102	D CLIFF	WILSON	M=930			
8105573				RECEIVED:	11/14/80	JAI WV			
**********									
U.S. GEOLOGICAL SURVEY - DENVER,CO									
**********									
*CHANDLER & ASSOCIATES INC				RECEIVED:	11/17/80	JAI CO			
8105576	C0001?-80	0510307782	108	NU DOUGLAS CREEK		FED 2-14			
*MITCHELL ENERGY CORPORATION				RECEIVED:	11/17/80	JAI CO			
8105575	CO 0022-80	0507708235	103	RUBY LEE UNIT		#1=2=9-101			
*CIG EXPLORATION INC				RECEIVED:	11/17/80	JAI UT			
8105582	U0002?-80	#3047304?0	103	CIGE 32A=20=9=20					
8105583	U0001?-80	#3047306?7	103	CIGE 71=7=9=21					
*NP ENERGY CORPORATION				RECEIVED:	11/17/80	JAI UT			
8105580	U00015-80	#3049306?7	103	NP ENERGY FEDERAL		15-3			
8105578	U00017-80	#3049306?5	103	NP ENERGY FEDERAL		22-1			
8105581	UD 0006-80	#3049305?6	103	NP ENERGY FEDERAL		23-2			
8105579	U00016-80	#3049305?8	103	NP ENERGY FEDERAL		25-3			
*SUN OIL COMPANY (DELAWARE)		#3047305?0	103	RECEIVED:	11/17/80	JAI UT			
8105577	U00013-80			UTAH FEDERAL	D	WELL NO 3			
**********									
U.S. GEOLOGICAL SURVEY - CASPER,WY									
**********									
*MIDLAND GAS CORPORATION				RECEIVED:	11/17/80	JAI MT			
8105568	M 342-0	2507?1?61	102	0170 FEDERAL	1				
8105567	M 343-0	2507?1?45	102	0460 FEDERAL	1				
8105560	M 344-0	2507?1?58	102	0951 FEDERAL					
*BRUNKLE WALLACE ARMSTRONG & BANDER				RECEIVED:	11/17/80	JAI ND			
8105564	ND 331-0	3305300938	102	FEDERAL	#15-32				
8105562	ND 336-0	3305300888	102	FEDERAL	#2-12				
*AMOCO PRODUCTION CO				RECEIVED:	11/17/80	JAI WY			
8105572	M 338-0	4900?20167	102	RYCKMAN CREEK	UNIT	WELL #17			
8105570	M 339-0	4900?20166	102	RYCKMAN CREEK	UNIT	WELL #19			
8105569	M 340-0	4900?20193	102	RYCKMAN CREEK	UNIT	WELL #22			
*CHAPARRAL RESOURCES INC				RECEIVED:	11/17/80	JAI WY			
8105565	M 334-0	4901?20?47	107	MONETA HILLS	NO 1-29				
*CHEVRON U S A INC				RECEIVED:	11/17/80	JAI WY			
8105563	M 321-0	4901?20203	102	PAINTER RESERVOIR	UNIT	#24-08			
*DAVIS OIL COMPANY				RECEIVED:	11/17/80	JAI WY			
8105571	WO 337-0	#3037?1?53	102	HORN CANYON	#3				

BILLING CODE 6450-85-C

The above notices of determination were received from the indicated jurisdictional agencies by the Federal

should be filed on or before December 15, 1980. Protests will be considered by the Commission in determining the

Commission on its own review of the matter believes that a grant of the certificates is required by the public

pursuant to section 202(b) of the Federal Power Act. Notice of the application was issued on November 2, 1977, with comments due on or before November

Accordingly, we shall authorize such withdrawal.

The Commission Orders

Advisory Board at the address or telephone number listed above. Requests must be received five days

V45/232 DE1 80 UMI

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceeding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE, Washington, D.C. 20426.

Persons objectiong to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 16, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-37313 Filed 11-28-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket No. ER81-123-000]

South Carolina Electric & Gas Co., Filing

November 25, 1980.

The filing company submits the following:

Take notice that on November 14, 1980, South Carolina Electric & Gas Company tendered for filing three Revised Exhibits A establishing a new delivery point and changes in two existing delivery points and service specifications with the City of Orangeburg, South Carolina.

The effective date for the revised service agreements is September 1, 1980. Service to the one new delivery point is expected to commence on or about December 1, 1980.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 15, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb.
Secretary.

[FR Doc. 80-37314 Filed 11-28-80; 8:45 am]
BILLING CODE 6450-85-M

[Docket Nos. CS75-396-001, etc.]

Suburban Propane Exploration Co., Inc. (Suburban Propane Gas Corp.), et al.; Applications for "Small Producer" Certificates [1]

November 25, 1980.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 10, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket Number, Date Filed, and Applicant

CS75-396-001, November 3, 1980,[1] Suburban Propane Exploration Co., Inc. (Suburban Propane Gas Corporation), P.O. Box 17689, San Antonio, Texas 78217
CS80-214, September 19, 1980, W. Ed Green, Jr., 4260 Gatewood Lane, Duluth, Georgia 31036
CS80-222, September 12, 1980, Hulen H. Lemon, P.O. Box 485, Midland, Texas 79702
CS81-17-000, November 3, 1980, Regan Petroleum Corporation, One Galleria Plaza, Suite 810, Oklahoma City, Oklahoma 73102
CS81-18-000, November 3, 1980, Southern Ute Indian Tribe, Tribal Affairs Building, P.O.Box 737, Ignacio, Colorado 81137
CS81-19-000, November 10, 1980, P.A. Lyon, Jr., P.O. Box 652, Spearman, Texas 79081

[FR Doc. 80-37315 Filed 11-28-80; 8:45 am]
BILLING CODE 6450-85-M

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[1] Being noticed to reflect a name change from Suburban Propane Gas Corporation to Suburban Propane Exploration Co., inc. as of 10-1-80.

[Docket No. E-9610]

Tipmont Rural Electric Membership Corp. v. Public Service Company of Indiana; Order Granting Motion To Withdraw Application and Terminating Docket

November 25, 1980.

On October 7, 1980, Tipmont Rural Electric Membership Corporation (Tipmont) filed a motion to withdraw an October 27, 1977 application which sought a Commission order directing Public Service Company of Indiana (PSCI) to establish an additional 12 KV metering point at West Lafayette, Indiana, and to sell electric energy to Tipmont at the new metering point.

This controversy arose when, on September 16, 1977, a new industrial customer, Eli Lilly & Company (Lilly), applied to Tipmont for electric service. Because of the size of the new load, Tipmont sough the additional metering point from PSCI. According to Tipmont, PSCI denied its request since PSCI desired to serve the new load itself.

As a result of the dispute, Tipmont filed its application in this docket

pursuant to section 202(b) of the Federal Power Act. Notice of the application was issued on November 2, 1977, with comments due on or before November 23, 1977.

On November 23, 1977, PSCI filed an answer to Tipmont's application. PSCI stated that it would be able to serve the Lilly load more economically because its electric system is closer to Lilly than is the Tipmont system. In accordance with its desire to provide service to Lilly, and in accordance with Indiana law, PSCI had also petitioned the Indiana Public Service Commission for authorization to serve Lilly. Finally, PSCI contended that the line from which Tipmont was seeking a delivery point is not a "transmission line" within the meaning of section 202(b) of the Federal Power Act.

In a response to PSCI's answer, filed on December 19, 1977, Tipmont asserted that PSCI's desire to serve Lilly, and its refusal to establish the requested metering point, constituted anticompetitive conduct by PSCI. Tipmont also contended that the line from which it was seeking a metering point is a transmission line under section 202(b).

By letter dated January 3, 1978, Tipmont was advised by the Commission's Secretary that it would be necessary for Tipmont to furnish certain additional materials required by section 32.2 of the regulations. Tipmont did not respond to that deficiency letter.

Tipmont's present motion indicates that the parties have since resolved their differences and that further proceedings before the Commission would serve no useful purpose. No objections to Tipmont's motion have been received by the Commission.

Discussion

Under § 1.11(d)(2) of the Commission's Rules of Practice and Procedure, a pleading such as Tipmont's, which is in the nature of a complaint, may be withdrawn only upon express Commission approval.[1] From the facts presented, we find that the controversy has effectively been rendered moot and that good cause exists to permit Tipmont to withdraw its application. Accordingly, we shall authorize such withdrawal.

The Commission Orders

(A) Tipmont's motion to withdraw its October 27, 1977 application in this docket is hereby granted.

(B) Docket No. E-9610 is hereby terminated.

(C) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 80-37316 Filed 11-28-80; 8:45 am]
BILLING CODE 6450-85-M

[1] *See, e.g., Anza Electric Cooperative, Inc.*, Docket No. EL78-26 (Oct. 6, 1980).

Office of Energy Research

Research & Development Panel, Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Research & Development Panel of the Energy Research Advisory Board (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Public Law 92-463, 86 State. 770).
Date and Time: December 19, 1980, 9:00 am to 4:00 pm
Place: Department of Energy, Forrestal Building, Room BE-069, 1000 Independence Avenue, SW., Washington, D.C. 20585
Contact: Eudora M. Taylor, Staff Assistant, Energy Research Advisory Board, Department of Energy, Forrestal Building, MS 3F-032, 1000 Independence Avenue, SW, Washington, D.C. 20585. Telephone: 202/252-8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda: Discussion of Methodology for Evaluating Energy R&D Priorities.

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact the Energy Research Advisory Board at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between 8:00 am and 4:00 pm Monday through Friday, except Federal Holidays.

Issued at Washington, D.C. on November 24, 1980.

Edward A. Frieman,
Director of Energy Research.

[FR Doc. 80-37277 Filed 11-28-80; 8:45 am]
BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed Week of October 17 through October 24, 1980

During the week of October 17 through October 24, 1980, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,
Director, Office of Hearings and Appeals.

November 24, 1980.

List of Cases Received by the Office of Hearings and Appeals

[Week of Oct. 17 through Oct. 24, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Oct 17, 1980	Asamera Oil/Amoco Oil Co. et al. Washington, D.C.	BEJ-0147 to BEJ-0152.	Motion for Protective Order. If granted: Asamera Oil Company would enter into a Protective Order with Amoco Oil Co., Cities Service Co., Kerr-McGee Refining Co., Little America Refining Co., Mobil Oil Corp. and Pester Petroleum Company regarding the exchange of proprietary information.
Oct. 17, 1980	Crown Central Petroleum Company/Office of Special Counsel, Baltimore, Maryland	BRX-0125	Supplemental Order. If granted: The February 22, 1980 Decision and Order (Case No. BEX-0024) issued to Crown Central Petroleum Company and the Office of Special Counsel would be extended and a stay would be granted regarding the enforcement proceedings involving the Objections to a Proposed Remedial Order (Case No. DRO-0111) issued to the firm.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Oct. 17 through Oct. 24, 1980]

Name and location of applicant | Case No. | Type of submission

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline—Week of October 17, 1980 to October 24, 1980

October 20, 1980, Wolfe's AM/PM Car Wash, Redlands, CA, BEX-0093
October 20, 1980, Dow Chemical, U.S.A., Houston, TX, BEE-1393

Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be

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List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Oct. 17 through Oct. 24, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 17, 1980	Economic Regulatory Administration & Energy Information administrator, Washington, D.C.	BER–0066	Request for Modification and Rescission. If granted: The July 1, 1980 Decision and Order (Case No. BFA–0358) issued to Foster Associates, Inc. regarding the release of certain DOE data would be modified.
Oct. 20, 1980	Gold Louis, Washington, D.C	BFA–0505	Appeal of an Information Request Denial. If granted: The October 6, 1980 Information Request Denial issued by the Office of Procurement Operations would be rescinded, and Louis Gold would receive access to information concerning the waste material gasification program at Columbia University.
Oct. 20, 1980	Husky Oil Co./Cróss Service, Denver, Colorado	BEA–0502	Appeal of an Assignment Order. If granted: The December 4, 1979 Assignment Order issued to Husky Oil Company by the Economic Regulatory Administration, Region VIII would be modified regarding Husky Oil Co.'s suppy obligations to Cross Service.
Oct. 20, 1980	Husky Oil Company, Denver, Colorado	BEA–0501	Appeal of an Assignment Order. If granted: The December 4, 1979 Assignment Order issued to Husky Oil Company by the Economic Regulatory Administration, Region VIII would be modified regarding Husky Oil Co.'s suppy obligations to Kwik Way.
Oct. 20, 1980	Husky Oil Company, Denver, Colorado	BER–0067	Request for Modification/Rescission. If granted: The February 2, 1980 Decision and Order issued to Husky Oil Company by the Office of Hearings and Appeals Western Regional Center would be modified regarding the firm's supply obligations to Calder Brothers Company, Inc.
Oct. 20, 1980	Monsanto Company (Belitz, Pipkin, Cody, Dwinell), Houston, Texas.	BEE–1502 to BEE–1505.	Price Exception. If granted: Monsanto Company would receive upper tier or market prices from Permian Corporation for crude oil sold during March, 1980, produced from the Belitz, Pipkin, Cody and Dwinell Properties.
Oct. 20, 1980	Stephen M. Shaw, La Jolla, California	BFA–0504	Appeal of an Information Request Denial. If granted: Stephen M. Shaw would receive access to certain DOE materials.
Oct. 20, 1980	Stephen M. Shaw, La Jolla, California	BFA–0503	Appeal of an Information Request Denial. If granted: Stephen M. Shaw would receive access to certain DOE materials.
Oct. 20, 1980	Ven-Fuel, Inc., Miami, Florida	BRH–1274 and BRD–1274.	Motion for Discovery and Motion for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objections submitted by Ven-Fuel, Inc. in response to a Proposed Remedial Order issued to the firm (Case No. BRO.1274).
Oct. 21, 1980	Getty Refining & Marketing Company, Tulsa, Oklahoma.	BEA–0507	Appeal of an Decision and Order. If granted: The September 3, 1980 Decision and Order issued to Consumers Service Stations would be modified with respect to its motor gasoline allocation.
Oct. 21, 1980	Alan Ramo, Berkeley, California	BFA–0506	Appeal of an Information Request Denial. If granted: Alan Ramo would receive access to certain DOE material.
Oct. 21, 1980	Ramco Oil Company, West Sacramento, California	BRD–0075 and BRD–0075.	Request for Evidentiary Hearing and Motion for Discovery. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with Ramco Oil Company's Statement of Objection in response to Proposed Remedial Order (Case No. DEO–1073) issued to the firm.
Oct. 21, 1980	Seneca Oil Company, Major County, Oklahoma	BEL–1508 through BEL–1512.	Price Exception and Temporary Exception. If granted: Seneca Oil Company would be permitted to sell the crude oil produced from the Boston No. 1, Davidson No. 1, Nightengale No. 1, Ritter No. 1–25 and Speece No. 1 wells, located in Major County, Oklahoma, at market prices.
Oct. 21, 1980	Union Oil Company of California, Schaumburg, Illinois.	BEE–1507	Price Exception. If granted: Union Oil Company of California would be granted an exception from the provisions of 10 CFR Part 212 Subpart E which would permit the firm to pass through a Connecticut gross receipts tax solely in the prices it charges for covered products sold in Connecticut.
Oct. 22, 1980	Arent, Fox, Kintner, Plotkin, & Kahn (Webber)	BFA–0508	Appeal of an Information Request Denial. If granted: The October 16, 1980 Information Request Denial issued by the Strategic Petroleum Reserve Project Management Office would be rescinded and the firm would receive access to certain DOE data.
Oct. 22, 1980	Bracewell & Patterson (DePaulo), Washington, D.C.	BFA–0509	Appeal of an Information Request Denial. If granted: The October 3, 1980, Information Request Denial issued by the Office of Regulatory Policy, ERA, would be rescinded, and Bracewell & Patterson would receive access to documents relating to the proposed crude oil reseller regulations issued by the DOE on October 25, 1979.
Oct. 22, 1980	Shell Oil Company, Houston, Texas	BER–0068	Request for Modification/Recission. If granted: The September 11, 1980 Decision and Order issued to Stockman Oil Two, Inc. (Case Nos. DEE–7909 and DEE–6101) would be modified regarding Shell Oil Company's supply obligations to the firm.
Oct. 23, 1980	Chevron USA Inc./Standard Oil, Co. of Ohio	BEN–1414 and BEN–1378.	Request for Interim Order. If granted: Chevron U.S.A. Inc. and Standard Oil Co. of Ohio would be permitted to treat unleaded premium gasoline as a separate category of gasoline for purposes of Section 212.83(c)(1)(i)(B).
Oct. 23, 1980	Duffy's Car Wash, Inc., Newport, Kentucky	BCX–0122	Supplemental Order If granted: The April 16, 1980 Decision and Order (Case No. DEE–4940) issued to Duffy's Car Wash, Inc. by the Office of Hearings and Appeals would be modified in connection with the October 21, 1980 Proposed Order Reversing and Remending Contested Decision and Order (Case No. RA80–56) issued by the Federal Energy Regulatory Commission.
Oct. 23, 1980	Fuel Oil Supply and Terminaling, Washington, D.C.	BED–0073	Motion for Discovery. If granted: Discovery would be granted to Fuel Oil Supply & Terminaling in connection with its Application for Exception (DEE–6388).
Oct. 23, 1980	Oahu Gas Service, Inc., Washington, D.C	BED–0083	Motion for Discovery. If granted: Discovery would be granted to Oahu Gas Service, Inc. in connection with Gasco Inc's Application for Exception and Supplemental Request (Case Nos. BXE–1191 and BEX–0072).
Oct. 23, 1980	Office of Special Counsel, Washington, D.C	BRD–0074	Motion for Discovery. If granted: Discovery would be granted to the Office of Special Counsel in connection with the statement of Objection submitted in response to a Proposed Remedial Order (Case No. BRO–1153) issued to Conoco, Inc.
Oct. 23, 1980	Shell Oil Company, New Orleans, Louisiana	BEE–1516	Price Exception. If granted: Shell Oil Company would be permitted to sell the crude oil produced from the West Delta Block 30 Field at upper tier ceiling prices.
Oct. 23, 1980	Southwest Petro-Refining Company, Houston, Texas.	BEE.1513	Exception from the Buy/Sell Program. If granted: Southwest Petro-Refining Company would receive an exception to the provisions of 10 CFR 211.65 regarding the firm's participation in the crude oil Buy/Sell Program.
Oct. 24, 1980	Champlin Petroleum Company, Fort Worth, Texas	BRA–0510 and BRS–0510.	Appeal of a Modified Remedial Order and Request for Stay. If granted: The July 23, 1980 Modified Remedial Order issued by the Office of Special Counsel for Compliance to Champlin Petroleum Company would be modified regarding the treatment of class purchasers. The firm would receive a stay of the Modified Remedial Order pending a final determination on its Appeal.
Oct. 24, 1980	Dr. Hooper Oil and Royalty, Houston, Texas	Company BXE–1514.	Price Exception. If granted: Dr. Hooper Oil and Royalty Company would be permitted to continue to sell the crude oil produced from the W. P. McComb Lease located in Conroe Field, Montgomery County, Texas at upper tier ceiling prices.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline—Week of October 17, 1980 to October 24, 1980

If granted: The following firms would be granted relief which would increase their base period allocation of motor gasoline.

Name, Case Number, Date, and State

LeBlanc's Arco, BEX–0121, October 21, 1980, California
Moore's Gulf, BEE–1412, September 25, 1980, Florida
Belvidere Car Wash, BEX–0123, October 24, 1980, Maine

Notices of Objection Received—Week of October 17, 1980 to October 24, 1980

Date, Name, location of applicant, and Case Number

October 15, 1980, Texaco, Inc., White Plains, NY, BEE–1518
October 20, 1980, Wolfe's AM/PM Car Wash, Redlands, CA, BEX–0093
October 20, 1980, Dow Chemical, U.S.A., Houston, TX, BEE–1393
October 20, 1980, Charles H. Booth, Anniston, AL, BEE–0874
October 20, 1980, Cities Service Co., Tulsa, OK, BEE–1400
October 21, 1980, Raritan Oil Company, Inc., San Francisco, CA, BEE–0411
October 22, 1980, Marina South Car Wash, Los Angeles, CA, BEX–0092

[FR Doc. 80–37173 Filed 11–28–80; 8:45 am]

BILLING CODE 6450–01–M

Cases Filed; Week of October 25 through October 31, 1980

During the week of October 25 through October 31, 1980 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person or actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Office of Hearings and Appeals.

November 24, 1980.

List of Cases Received by the Office of Hearings and Appeals

[Week of Oct. 25 though Oct. 31, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 26, 1980	Energy Cooperative Inc., East Chicago, Indiana	IIEN–0500	Interim Order. If granted: Energy Cooperative Inc. would receive exception relief on an interim basis pending a final determination on its Application for Exception (Case No. BEE–0508).
Oct. 27, 1980	Alamo Expressway Service, San Antonio, Texas	BEX–0126	Supplemental Order. If granted: Alamo Expressway Service would be required to meet the criteria set forth in Case No. DXE–8261, concerning exception relief in certain motor gasoline allocation cases.
Oct. 27, 1980	Armstrong Petroleum, Newport Beach, California	BRX–0129	Supplemental Order In *Armstrong Petroleum*, 4 DOE ¶ —— (November 23, 1979). If granted: An oral argument would be convened pursuant to the Federal Energy Regulatory Commission's Remedial Order review.
Oct. 27, 1980	Black's Shell Service, Spartanburg, South Carolina	BEX–0127	Supplemental Order. If granted: Black's Shell Service would be required to meet the criteria set forth in DXE–8261, concerning exception relief in certain motor gasoline allocation cases.
Oct. 27, 1980	Chevron USA Inc./Little America Refining, Washington, D.C.	BEJ–0154 and BED–0154.	Motion for Discovery and Protection Order. If granted: Chevron USA Inc. would enter into a Protection Order with Little America Refining regarding the exchange of proprietary information.
Oct. 27, 1980	E–Z Serve, Inc., Houston, Texas	BES–0112 and BST–0112.	Request for Stay and Temporary Stay. If granted: E–Z Serve, Inc. would receive a Temporary Stay and a Stay of the single Firm Rule of the Mandatory Petroleum Price Regulations.
Oct. 27, 1980	Mobil Oil Corporation, Washington, D.C.	BED–0077 and BEH–0077.	Motion for Discovery and Request for Evidentiary Hearing. If granted: An Evidentiary Hearing would be convened and Discovery would be granted to Mobil Oil Corporation in connection with the Statement of Objections submitted in response to the Proposed Decision and Order (Case No. BEE–1064) issued to Little America Refining Co., Inc.
Oct. 27, 1980	Office of Special Counsel, Washington, D.C.	BRD–0079	Motion for Discovery. If granted Discovery would be granted to the Office of Special Counsel in connection with the Statement of Objections submitted in response to the Proposed Remedial Order (Case No. BRO–1243) issued to Atlantic Richfield Company.
Oct. 27, 1980	Rapid Oil Service, Roberts, Wisconsin	BEX–0128	Supplemental Order. If granted Rapid Oil Service would be required to meet the criteria set forth in Case No. DXE–8261, concerning exception relief in certain motor gasoline allocation cases.
Oct. 27, 1980	Tosco Corp./Office of Special Counsel, Washington, D.C.	BEJ–0153	Motion for Protective Order. If granted: Tobsco Corporation would enter into a Protective Order with the Office of Special Counsel regarding the exchange of proprietary information.
Oct. 27, 1980	Tri-Service Drilling Co., Washington, D.C.	BRD–1293	Motion for Discovery. If granted: Discovery would be granted to Tri-Service Drilling Co. in connection with the Statement of Objections submitted in response to the July 18, 1980 Proposed Remedial Order (Case No. BRO–1293) issued to the firm by the Economic Regulatory Administration.
Oct. 28, 1980	Alliance Oil & Refining Company, Houston, Texas	BRT–0012	Request for Temporary Stay. If granted: Alliance Oil & Refining Company would receive a temporary stay of the October 24, 1980 Interim Remedial Order for Immediate Compliance issued by the Office of Enforcement Region VI, regarding the firm's sale of crude oil.
Oct. 28, 1980	Farmers Union Central Exchange, St. Paul, Minnesota	BRS–0113	Request for Stay. If granted: Farmers Union Central Exchange would receive a stay of portions of a Notice of Probable Violation (No. 740C01249) pending a final determination of the issues it raises.
Oct. 28, 1980	Office of Enforcement, Washington, D.C.	BRZ–0057	Interlocutory Order. If granted: Gulf Oil Corporation and Gulf Exporation and Production Company would be joined as a party to Remedial Order proceeding (Case No. BRO–0434).
Oct. 29, 1980	Oklahoma Publishing Company (Taylor), Oklahoma City, Oklahoma.	BFA–0512	Appeal of an Information Request Denial. If granted: The October 9, 1980, Information Request Denial issued by the Office of Public Affairs would be rescindled, and the Oklahoma Publishing Company would receive access to reports and memoranda regarding DOE publications Nifty Nugget–78 and REX–78.
Oct. 29, 1980	Robert J. Kutinac Shell, Washington, D.C.	BRW–0070	Proposed Remedial Order Finalization. If granted: A Proposed Remedial Order issued to Robert J. Kutinac Shell on May 19, 1980 would be issued as a final Remedial Order.
Oct. 29, 1980	Terry F. Lenzer, Washington, D.C.	BFA–0511	Appeal of an Information Request Denial. If granted: The May 30, 1980 Information Request denial issued by the Office of FOI and Privacy Acts Activities would be rescinded.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Oct. 25 though Oct. 31, 1980]

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Oct. 31, through Nov. 7, 1980]

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Oct. 25 though Oct. 31, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 29, 1980	Union Oil Company of California, Schaumburg, Illinois.	BER-0069	Request for Modification. If granted: The July 24, 1980 Decision and Order issued to Publix Oil Company would be modified regarding supply obligations of Union Oil Company of California to Publix Oil Company.
Oct. 31, 1980	Necchi and Campighio, Torrington, Connecticut	BEE-1515	Exception from the Energy Conservation Program for Consumer Products. If granted: Necchi and Campighio (NECA) would not be required to perform energy efficiency tests of its cast iron multi-fuel and cast iron solid fuel boilers as required under 10 CFR 430.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

[Week of October 21, 1980 to October 31, 1980]

If granted: The following firms would be granted relief which would increase their base period allocation of motor gasoline.

Name	Case No. and date	State
DAECO	BXE-1519, 10/27/80	Calif.
Echo Bay Resort	BEN-1315, 10/30/80	Nev.

Notices of Objection Received

[Week of October 24 to October 31, 1980]

Date	Name and location of applicant	Case No.
10/24/80	Bradley Texaco (Williams), Washington, D.C.	BEO-1332
10/27/80	Atlantic Gasohol Fuels Co., Virginia.	BEE-1358
10/28/80	DeBlois Oil Company, Rhode Island.	BEE-1379
10/29/80	Calaveras Transit Company, Valecito, California.	DEE-6797
10/29/80	St. Louis County Police Dept., St. Louis, Missouri.	DEE-6619
10/30/80	Hempstead Resources Recovery, et al. See attached.	See attached

Attachment

Names of petitioners	Dates of filing	Case No.
Hempstead Resources Recovery Corporation.	June 3, 1980	BEE-1407
Arizona Chemical Company	July 7, 1980	BEE-1273
Powerline Oil Co.	July 15, 1980	BEE-1289
Laketon Asphalt Refining	July 28, 1980	BEE-1312
Peerless Petrochemicals, Inc.	June 25, 1980	BEE-1251
Giant Industries, Inc.	July 17, 1980	BEE-1406
Coastal Petroleum Refiners, Inc.	June 16, 1980	BEE-1405
Colonial Oil Industries, Inc.	Aug. 25, 1980	BEE-1364
Cadence Chemical Resources, Inc.	Aug. 25, 1980	BEE-1360
Milwaukee Metropolitan Sewerage District.	Aug. 25, 1980	BEE-1361
Northeast Petroleum Industries, Inc.	Aug. 20, 1980	BEE-1350
County Sanitation Districts of Orange County California.	Aug. 27, 1980	BEE-1374
Nashville Thermal Transfer Corp.	Aug. 26, 1980	BEE-1371
American Can Company	Aug. 26, 1980	BEE-1372
Yetter Oil Company	Aug. 27, 1980	BEE-1367
Midwest Solvents Co., Inc.	Aug. 26, 1980	BEE-1370
Irving Oil Corporation	Aug. 26, 1980	BEE-1366
Western Refining Company	Sept. 2, 1980	BEE-1408
Coral Petroleum, Inc.	Sept. 2, 1980	BEE-1387
City of Los Angeles	Sept. 5, 1980	BEE-1388
Val Verde International, Inc.	Aug. 29, 1980	BEE-1380

[FR Doc. 80-37175 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed, Week of October 31, Through November 7, 1980

During the week of October 31 through November 7, 1980, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: November 24, 1980.

George B. Breznay,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of Oct. 31, through Nov. 7, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Oct. 31, 1980	Commonwealth Oil Refining Co., Inc., San Antonio, Texas.	BEG-0036	Request for Special Redress. If granted: Commonwealth Oil Refining Co., Inc. would be permitted to sell previously issued but unsold Entitlements on the next Entitlements Notice.
Oct. 31, 1980	Dow Chemical USA, Houston, Texas	BEX-1520	Exception from the Buy/Sell Program. If granted: Dow Chemical USA would receive an exception to the provisions of 10 CFR § 211.65 regarding the firm's continued participation in the Crude Oil Buy/Sell Program.
Oct. 31, 1980	Energy Cooperation, Inc., Central Point, Oregon	BEE-1501	Allocation Exception. If granted: Energy Cooperation, Inc. would receive an exception from the provisions of 10 CFR Part 211, which would permit the firm to receive an increased allocation of unleaded motor gasoline for the purposes of blending gasohol.
Oct. 31, 1980	Oahu Gas Service/Gasco Inc., San Francisco, California.	BEJ-0158	Motion for Protective Order. If granted: Oahu Gas Service would enter into a Protective Order with Gasco Inc. regarding the exchange of proprietary information.
Oct. 31, 1980	Whitfield County Public Schools, Dalton, Georgia	BER-0070	Request for Modification/Rescission. If granted: The July 23, 1980 Decision and Order (Case No. BEE-0990) issued to Gulf Oil Corp. would be modified and Whitfield County Public Schools would continue to be supplied with motor gasoline by Gulf Oil Corp.
Oct. 31, 1980	341 Tract Unit, Citronelle Field, Alabama	BEN-0071	Motion for Interim Order. If granted: The 341 Tract Unit would receive exception relief on an interim basis pending a final determination on its Application for Exception (Case No. DEE-7746).
Nov 3, 1980	Cities Service Company, Tulsa, Oklahoma	BEN-0367	Motion for Interim Order. If granted: Cities Service Co. would receive exception relief on an interim basis pending a final determination on its Application for Exception (Case No. BEE-0367).
Nov. 3, 1980	Dixon Oil Company, Gunnison, Utah	BEE-1521	Exception from the Entitlements Program. If granted: Dixon Oil Co. would receive an exception from the provisions of 10 CFR § 211.67 which would modify its entitlements purchase obligations.
Nov. 3, 1980	Monoco Oil Company, Washington, D.C.	BEL-0066	Temporary Exception from the Entitlements Program. If granted: Monoco Oil Company would receive a temporary exception from the provisions of 10 CFR § 211.67 which would modify its entitlements purchase obligations.
Nov. 3, 1980	Plaquemines Oil Sales Corp., Belle Chasse, LA	BRH-1320	Request for Evidentiary Hearing. If granted: An evidentiary hearing would be convened in connection with the Statement of Objections submitted by Plaquemines Oil Sales Corp. in response to the Proposed Remedial Order issued to the firm.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Oct. 31, through Nov. 7, 1980]

Date	Name and location of applicant	Case No.	Type of submission
Nov. 3, 1980	Pryor Interprises, Inc., Atlanta, Georgia	BEN-0072	Motion for Interim Order. If granted: Pryor Interprises, Inc. would receive exception relief on an interim basis pending a final determination on its Application for Exception (Case No. DEE-5441).
Nov. 4, 1980	Anderson Oil Company and Volta Oil Company, Atlanta, Georgia.	BEG-0037	Request for Special Redress. If granted: The Office of Hearings and Appeals would direct DOE's Office of Special Counsel to issue an Interim Remedial Order for Immediate Compliance to Texaco, Inc., regarding alleged violations of the Normal Business Practice Regulation in connection with Anderson Oil Company and Volta Oil Company.
Nov. 4, 1980	Barnett, Alagia and Carey (Himmelbery), Washington, D.C.	BFA-0514	Appeal of an Information Request Denial. If granted: Barnett, Alagia and Carey (Himmelbery) would receive access to all documents pertaining to any task or projects on which the Special Assistant to the DOE Secretary and Deputy Secretary was working as of September 29, 1980.
Nov. 4, 1980	Charles Varon, San Francisco, California	BFA-0513	Appeal of an Information Request Denial. If granted: The October 15, 1980 Information Request Denial issued to Charles Varon by the Office of Military Application would be rescinded, and Charles Varon would receive access to documents related to the Department of Energy's support to the Nuclear Regulatory Commission during the Three Mile Island nuclear reactor incident.
Nov. 4, 1980	Navajo Refining Company, Houston, Texas	BEX-0131	Supplemental Order. If granted: The DOE would review the entitlements exception relief granted to Navajo Refining Company during its fiscal year ended July 31, 1980, to determine whether the level of relief accorded the firm was appropriate.
Nov. 4, 1980	Standard Oil Company (Ohio), Cleveland, Ohio	BEJ-0155	Motion for Protective Order. If granted: Standard Oil Company (Ohio) would enter into a Protective Order with Somerset Refining, Inc. regarding the release of proprietary information to Standard Oil Company (Ohio) in connection with Somerset Refining, Inc.'s Application for Temporary Exception and Exception (Case Nos. BEE-1500 and BEL-1500).
Nov. 4, 1980	Traders Oil & Royalty, Washington, D.C.	BRD-1312	Motion for Discovery. If granted: Discovery would be granted to Traders Oil & Royalty in connection with the Statements of Objections submitted in response to the Proposed Remedial Order (Case No. BRD-1312) issued to the firm by the Economic Regulatory Administration.
Nov. 5, 1980	Mobil Oil Corp./Somerset Refining, Inc., Fairfax, Virginia.	BEJ-0156	Motion for Protective Order. If granted: Mobil Oil Corporation would enter into a Protective Order with Somerset Refining, Inc. regarding the release of proprietary information to Mobil Oil Corporation in connection with Somerset Refining, Inc.'s Application for Exception (Case No. BEE-1500).
Nov. 5, 1980	Office of Enforcement (National Helium), Washington, D.C..	BEF-0008	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V in connection with the January 30, 1980 Consent Order issued to National Helium Corporation.
Nov. 5, 1980	The Crude Company, Washington, D.C.	BEZ-0058, BRZ-0059, BEZ-0060, BRZ-0061, BRZ-0062	Motion for Interlocutory Order. If granted: The Crude Company, Ernest E. Allerkamp, Summit Transportation Co., J. D. Streett Co., Inc. and Site Oil Company would receive a stay of their regulatory obligations until December 8, 1980.
Nov. 5, 1980	Trends Publishing, Inc., Washington, D.C.	BFA-0515	Appeal of an Information Request Denial. If granted: The October 20, 1980 Information Request Denial issued to Trends Publishing, Inc. would be rescinded and Trends Publishing, Inc. would receive access to documents relating to the development and testing of an electric engine by a subsidiary of Gulf and Western Industries, Inc.
Nov. 6, 1980	Alliance Oil & Refining Company, Houston, Texas	BRS-0114	Request for Stay. If granted: Alliance Oil & Refining Company would receive a stay of an October 24, 1980 Interim Remedial Order for Immediate Compliance pending a final determination on a Statement of Objections to that order which the firm intends to file.
Nov. 6, 1980	Miller & Chevalier (Miller), Washington, D.C.	BFA-0516	Appeal of an Information Request Denial. If granted: The October 3, 1980 Information Request Denial issued by the Office of Special Counsel for Compliance would be rescinded, and Miller & Chevalier would receive access to information in relation to certain DOE audits.
Nov. 6, 1980	Marathon Oil Company, Somerset Refining, Inc., Washington, D.C.	BEJ-0157	Motion for Protective Order. If granted: Marathon Oil Company would enter into a Protective Order with Somerset Refining, Inc. regarding the exchange of proprietary information.
Nov. 6, 1980	Natural Resources Defense Council, Inc., Washington, D.C..	BFA-0517	Appeal of an Information Request Denial. If granted: The October 21, 1980 Information Request Denial issued by the DOE Office of Safeguards and Security would be rescinded, and the Natural Resources Defense Council, Inc. would receive access to two DOE physical protection handbooks.
Nov. 6, 1980	Navajo Refining Company, Washington, D.C.	BER-0072	Request for Modification and Rescission. If granted: The October 23, 1980 Proposed Decision and Order issued to Navajo Refining Company (Case No. BEX-0069) by the Office of Hearings and Appeals would be modified.

List of Cases Involving the Mandatory Petroleum Allocation Regulations for Motor Gasoline

[Week of Oct. 31, 1980 to Nov. 7, 1980]

If granted: The following firm would be granted relief which would increase its base period allocation of motor gasoline.

Name	Case No. and date	State
National Pest Control Associate, Inc.	BEE-1522, 11/7/80	Va.

Notices of Objection Received

[Week of Oct. 31, 1980 to Nov. 7, 1980]

Date	Name and location of applicant	Case No.
10/31/80	Navajo Refining Co., Washington, D.C.	BXE-1356.
10/31/80	Vanway Gasohol, Inc., Alabama	BEE-1378.
10/31/80	Standard Oil Co. (Ohio), (SOHIO).	BEE-1414.
11/4/80	Swifty Distributors, Inc., Washington, D.C.	BEE-0953.
11/4/80	Pennzoil Producing Co., Washington, D.C.	BEE-1186.
11/4/80	New York State Police, Albany, N.Y.	BEE-0241.
11/5/80	Bird Oil Co., Hilton Head, S.C.	BEE-0892.

[FR Doc. 80-37172 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of September 29 through October 3, 1980

During the week of September 29 through October 3, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Crude Oil Purchasing, Inc., Washington, D.C., BFA-0462, freedom of information

Crude Oil Purchasing, Inc. filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Crude Oil Purchasing, Inc. had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Gulf Oil Corporation, Washington, D.C., BFA-0463, freedom of information

Gulf Oil Corporation filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Gulf Oil Corporation had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Mobil Oil Corporation, Washington, D.C., BFA-0464, freedom of information

Mobil Oil Corporation filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Mobil Oil Corporation had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Exxon Corporation, Washington, D.C., BFA-0465, freedom of information

Exxon Corporation filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Exxon Corporation had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Texaco Inc., Washington, D.C., BFA-0466, freedom of information

Texaco Inc. filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Texaco Inc. had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Shell Oil Company, Washington, D.C., BFA-0467, freedom of information

Shell Oil Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Shell Oil Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Standard Oil Company (Indiana), Chicago, Illinois, BFA-0468, freedom of information

Standard Oil Company (Indiana) filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Standard Oil Company (Indiana) had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Standard Oil Company of California, San Francisco, California, BFA-0469, freedom of information

Standard Oil Company of California filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Standard Oil Company of California had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Standard Oil Company of Ohio, Cleveland, Ohio, BFA-0470, freedom of information

Standard Oil Company of Ohio filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Standard Oil Company of Ohio had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Sun Company, Inc., Philadelphia, Pennsylvania, BFA-0471, freedom of information

Sun Company, Inc. filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Sun Company, Inc. had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Tenneco Oil Company, Houston, Texas, BFA-0472, freedom of information

Tenneco Oil Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Tenneco Oil Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Union Oil Company of California, Los Angeles, California, BFA-0473, freedom of information

Union Oil Company of California filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Union Oil Company of California had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Getty Oil Company, Los Angeles, California, BFA-0474, freedom of information

Getty Oil Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Getty Oil Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Cities Service Company, Tulsa, Oklahoma, BFA-0475, freedom of information

Cities Service Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Cities Service Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Atlantic Richfield Company, Los Angeles, California, BFA-0476, freedom of information

Atlantic Richfield Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Atlantic Richfield Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Phillips Petroleum Company, Bartlesville, Oklahoma, BFA-0477, freedom of information

Phillips Petroleum Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Phillips Petroleum Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Marathon Oil Company, Findlay, Ohio, BFA-0478, freedom of information

Marathon Oil Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Marathon Oil Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Ashland Oil, Inc., Ashland, Kentucky, BFA-0479, freedom of information

Ashland Oil, Inc. filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Ashland Oil, Inc. had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Amoco Oil Company, Chicago, Illinois, BFA-0480, freedom of information

Amoco Oil Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Amoco Oil Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Champlin Petroleum Company, Fort Worth, Texas, BFA-0481, freedom of information

Champlin Petroleum Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Champlin Petroleum Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Clark Oil & Refining Corporation, Milwaukee, Wisconsin, BFA-0482, freedom of information

Clark Oil & Refining Corporation filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Clark Oil & Refining Corporation had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Diamond Shamrock Corporation, Dallas, Texas, BFA-0483, freedom of information

Diamond Shamrock Corporation filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Diamond Shamrock Corporation had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Kerr-McGee Corporation, Oklahoma City, Oklahoma, BFA-0484, freedom of information

Kerr-McGee Corporation filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Kerr-McGee Corporation had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Murphy Oil Corporation, El Dorado, Arkansas, BFA-0485, freedom of information

Murphy Oil Corporation filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Murphy Oil Corporation had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Occidental Petroleum Corporation, Los Angeles, California, BFA-0486, freedom of information

Occidental Petroleum Corporation filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Occidental Petroleum Corporation had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Sohio Petroleum Company, Houston, Texas, BFA-0487, freedom of information

Sohio Petroleum Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Sohio Petroleum Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Union Texas Petroleum Corporation, Houston, Texas, BFA-0488, freedom of information

Union Texas Petroleum Corporation filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Union Texas Petroleum Corporation had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Wainoco Oil & Gas Company, Houston, Texas, BFA-0489, freedom of information

Wainoco Oil & Gas Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Wainoco Oil & Gas Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Wilshire Oil Company of Texas, Dallas, Texas, BFA-0490, freedom of information

Wilshire Oil Company of Texas filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Wilshire Oil Company of Texas had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Wolverine Gas & Oil Company, Inc., Midland, Michigan, BFA-0491, freedom of information

Wolverine Gas & Oil Company, Inc. filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Wolverine Gas & Oil Company, Inc. had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Wyoming Refining Company, Newcastle, Wyoming, BFA-0492, freedom of information

Wyoming Refining Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Wyoming Refining Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Cities Service Company, Tulsa, Oklahoma, BFA-0493, freedom of information

Cities Service Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Cities Service Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Gulf Oil Corporation, Washington, D.C., BFA-0494, freedom of information

Gulf Oil Corporation filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Gulf Oil Corporation had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Mobil Oil Corporation, Washington, D.C., BFA-0495, freedom of information

Mobil Oil Corporation filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Mobil Oil Corporation had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Exxon Corporation, Washington, D.C., BFA-0496, freedom of information

Exxon Corporation filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Exxon Corporation had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Texaco Inc., Washington, D.C., BFA-0497, freedom of information

Texaco Inc. filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Texaco Inc. had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Shell Oil Company, Washington, D.C., BFA-0498, freedom of information

Shell Oil Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Shell Oil Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Standard Oil Company (Indiana), Chicago, Illinois, BFA-0499, freedom of information

Standard Oil Company (Indiana) filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Standard Oil Company (Indiana) had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Standard Oil Company of California, San Francisco, California, BFA-0500, freedom of information

Standard Oil Company of California filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Standard Oil Company of California had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Standard Oil Company of Ohio, Cleveland, Ohio, BFA-0501, freedom of information

Standard Oil Company of Ohio filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Standard Oil Company of Ohio had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Sun Company, Inc., Philadelphia, Pennsylvania, BFA-0502, freedom of information

Sun Company, Inc. filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Sun Company, Inc. had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Tenneco Oil Company, Houston, Texas, BFA-0503, freedom of information

Tenneco Oil Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Tenneco Oil Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Union Oil Company of California, Los Angeles, California, BFA-0504, freedom of information

Union Oil Company of California filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Union Oil Company of California had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Getty Oil Company, Los Angeles, California, BFA-0505, freedom of information

Getty Oil Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Getty Oil Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Cities Service Company, Tulsa, Oklahoma, BFA-0506, freedom of information

Cities Service Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Cities Service Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Atlantic Richfield Company, Los Angeles, California, BFA-0507, freedom of information

Atlantic Richfield Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Atlantic Richfield Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Phillips Petroleum Company, Bartlesville, Oklahoma, BFA-0508, freedom of information

Phillips Petroleum Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Phillips Petroleum Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Marathon Oil Company, Findlay, Ohio, BFA-0509, freedom of information

Marathon Oil Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Marathon Oil Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Ashland Oil, Inc., Ashland, Kentucky, BFA-0510, freedom of information

Ashland Oil, Inc. filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Ashland Oil, Inc. had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Amoco Oil Company, Chicago, Illinois, BFA-0511, freedom of information

Amoco Oil Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Amoco Oil Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Champlin Petroleum Company, Fort Worth, Texas, BFA-0512, freedom of information

Champlin Petroleum Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Champlin Petroleum Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Clark Oil & Refining Corporation, Milwaukee, Wisconsin, BFA-0513, freedom of information

Clark Oil & Refining Corporation filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Clark Oil & Refining Corporation had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Diamond Shamrock Corporation, Dallas, Texas, BFA-0514, freedom of information

Diamond Shamrock Corporation filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Diamond Shamrock Corporation had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Kerr-McGee Corporation, Oklahoma City, Oklahoma, BFA-0515, freedom of information

Kerr-McGee Corporation filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Kerr-McGee Corporation had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Murphy Oil Corporation, El Dorado, Arkansas, BFA-0516, freedom of information

Murphy Oil Corporation filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Murphy Oil Corporation had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Occidental Petroleum Corporation, Los Angeles, California, BFA-0517, freedom of information

Occidental Petroleum Corporation filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Occidental Petroleum Corporation had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Sohio Petroleum Company, Houston, Texas, BFA-0518, freedom of information

Sohio Petroleum Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Sohio Petroleum Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Union Texas Petroleum Corporation, Houston, Texas, BFA-0519, freedom of information

Union Texas Petroleum Corporation filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Union Texas Petroleum Corporation had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Wainoco Oil & Gas Company, Houston, Texas, BFA-0520, freedom of information

Wainoco Oil & Gas Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Wainoco Oil & Gas Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Wilshire Oil Company of Texas, Dallas, Texas, BFA-0521, freedom of information

Wilshire Oil Company of Texas filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Wilshire Oil Company of Texas had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Wolverine Gas & Oil Company, Inc., Midland, Michigan, BFA-0522, freedom of information

Wolverine Gas & Oil Company, Inc. filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Wolverine Gas & Oil Company, Inc. had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

Wyoming Refining Company, Newcastle, Wyoming, BFA-0523, freedom of information

Wyoming Refining Company filed an Appeal from a determination issued to it by the Office of Hearings and Appeals. In that determination, the OHA denied a request for information which Wyoming Refining Company had submitted under the Freedom of Information Act. Accordingly, the Appeal was denied.

inequity as a consequence of the imposition of the updated base period. Specifically, the DOE determined that the base period did not constitute an anomalous period for the firm question. Accordingly, exception relief was denied.

City of North Miami Beach, Fla., North Miami Beach, Fla., BEO-0292, motor gasoline

The City of North Miami Beach, Florida filed an Application for Exception from the provisions of the Mandatory Petroleum Allocation Regulations. The City requested that it be permitted to increase the base period allocation for motor gasoline used in its municipal vehicles. The DOE determined that the City's base period allocation was sufficiently profitable with its present allocation to allow consequence of the imposition of the updated base period. Specifically, the DOE determined that the outlet was sufficiently unable to continue to operate the outlet in the absence of exception relief. Accordingly, exception relief was denied.

Manny's Standard Service, Milwaukee, Wis., DEE-6720, motor gasoline

Manny's Standard Service filed an

Appeals

Crude Oil Purchasing, Inc., Washington, D.C., BFA-0462, freedom of information

Crude Oil Purchasing, Inc. filed an Appeal from a partial denial by the Deputy General Counsel for Rulings of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the Deputy General Counsel properly withheld the requested materials pursuant to Exemption 5.

Horizon Petroleum Co., Houston, Tex., BFA-0463, freedom of information

Horizon Petroleum Company filed an Appeal from a denial by the District Manager of the Economic Regulatory Administration Southwest Enforcement District of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that documents responsive to the request did exist and a further search was therefore ordered.

Marathon Oil Co., Washington, D.C., BEA-0043 through BEA-0045, motor gasoline

On November 6, 1979, Marathon Oil Company filed an Appeal from three Orders for the Redirection of Product which the Region IV Office of Petroleum Operations of the Economic Regulatory Administration issued to the firm on October 9, 1979, pursuant to the provisions of 10 CFR § 211.107(c). Those Orders directed Marathon to supply a total of 212,589 gallons of motor gasoline for the month of September to three Florida jobbers: Treasure Coast Oil, Inc., B.W. Simpkins Oil, Inc., and Palm Beach Oil, Inc. In considering the firm's Appeal, the DOE determined that the October 9 Orders fail to establish a sufficient factual basis to support their issuance. The three jobbers are 100 percent owned by a common parent firm, S & S Enterprises, Inc. The DOE therefore concluded that the Redirection Orders should be remanded to ERA Region IV for a further determination as to the practicability of the parent firm securing additional supplies of motor gasoline for its subsidiaries from outside its market area.

Trends Publishing, Inc., Washington, D.C., BFA-0432, BFA-0465, freedom of information

Trends Publishing, Inc. (Trends) filed Appeals from partial denials by the Director of the Office of Advanced Conservation Technologies of the requests for information submitted under the Freedom of Information Act. The DOE determined that the Director had properly withheld each of the documents or portions of documents, which related to zinc-chloride battery technology. Accordingly, the Appeals were denied.

Requests for Exception

Allen Oil Co., Gainesville, Fla., DEE-5489 motor gasoline

Allen Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in the base period allocation of motor gasoline for a retail sales outlet which it owns and supplies. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a gross inequity as a consequence of the imposition of the updated base period. Specifically, the DOE determined that the outlet was sufficiently profitable with its present allocation to allow the firm to realize the intended benefits of its investment in acquiring the outlet. Accordingly, exception relief was denied.

Allison Oil Co., Ardmore, Okla., DEE—3034, motor gasoline

Allison Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation of motor gasoline and the allocations of three outlets it supplies. In considering the requests, the DOE found that exception relief was only necessary to relieve the gross inequity the firm was experiencing with respect to one of the three outlets. That determination was based upon a consideration of the investment the firm had made in the outlet and the fact that the outlet was generating a negative return for the firm with its then-current allocation. Accordingly, exception relief was granted in part and denied in part.

Amoco Quik-Six Shoppe (E. Alameda); Amoco Quik-Six Shoppe (S. Broadway), Washington, D.C., BEO-0692, BEO-0690, motor gasoline

On June 14, 1979, BNB, Inc. filed an Application for Exception from the provisions of 10 CFR § 211.9 on behalf of two retail service stations, Amoco Quik-Six Shoppe (E. Alameda) and Amoco Quik-Six Shoppe (S. Broadway). The firm sought an increase in the base period allocation of motor gasoline for each of two outlets. In considering the request, the DOE found that the S. Broadway facility had suffered a serious hardship and gross inequity as a result of the updating of the motor gasoline base period, but that the E. Alameda facility had not. Accordingly, the DOE granted the S. Broadway outlet exception relief which increased its base period allocation of motor gasoline.

Atkins Gulf Service, Lexington, Ky., DEE-6590, motor gasoline

Atkins Gulf Service filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a gross inequity as a consequence of the imposition of the updated base period. Specifically, the DOE determined that the outlet was sufficiently profitable with its present allocation to allow the firm to realize the intended benefits of its investment in acquiring the outlet. Accordingly, exception relief was denied.

Blue Ridge Oil Co., Hickory, N.C., DEE-6946, motor gasoline

Blue Ridge Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought the reassignment a portion of its base period allocation of motor gasoline from one of its base period suppliers to a lower-priced supplier. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a serious financial hardship as a consequence of the prices maintained by the base period supplier in question. Accordingly, exception relief was denied.

City of North Miami Beach, Fla., North Miami Beach, Fla., BEO-0292, motor gasoline

The City of North Miami Beach, Florida filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the City sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that North Miami Beach required additional motor gasoline supplies to ensure the maintenance of vital municipal services and that the City would suffer an unfair distribution of burdens in the absence of exception relief. Accordingly, exception relief was granted.

Cleland Oil Co., Wagoner, Okla., DEE-4124, motor gasoline

Cleland Oil Company, a wholesale purchaser-reseller of motor gasoline, filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that Cleland was not entitled to exception relief either on the ground that its supplier's allocation fraction was less than 1.00 or on the ground that retail outlets supplied by Cleland were experiencing an unfair competitive disadvantage as a result of assignments made to new retail outlets. Accordingly, exception relief was denied.

Consumers Power Co., Jackson, Mich., DEE-0978, residual fuel oil

Consumers Power Company filed an Application for Exception from the provisions of 10 CFR § 211.67(a)(3), in which the firm sought to receive entitlement benefits for each barrel of residual fuel oil it has imported into the State of Michigan since January 1, 1977. In considering the request, the DOE found that the firm has, in fact, been eligible to receive entitlement benefits under the provisions of the Entitlements Program since July 1, 1978. In addition, the DOE found that there was no basis for awarding retroactive relief since Consumers had not demonstrated either that compelling reasons warranting such relief exist or that the firm would suffer irreparable injury in the absence of such relief. Accordingly, exception relief was denied.

Dale's Skelly Service, Chanute, Kans., BEO-0341, motor gasoline

Dale's Skelly Service filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its monthly base period allocation of motor gasoline. In considering the request, the DOE found that the firm was not adversely affected to a significant degree by DOE allocation regulations. Accordingly, exception relief was denied.

E & B Oil Co., of Burgaw, Inc., Burgaw, N.C., DEE-7260, motor gasoline

E & B Oil Company of Burgaw, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a gross inequity as a consequence of the imposition of the updated base period. Specifically, the DOE determined that the base period did not constitute an anomalous period for the firm and that the firm was sufficiently profitable with its present allocation. Accordingly, exception relief was denied.

Fairgrove Oil Co. Fairgrove, Mich., DEO-0103, motor gasoline

Fairgrove Oil Co. filed an Application for Exception from the provisions of 10 CFR, §§ 212.93 and 210.62. The exception relief requested from § 212.93 would permit the firm to sell motor gasoline at prices in excess of permissible levels; the relief requested from § 210.62 would permit the firm to change its May 15th, 1973 credit practices regarding its accounts receivable. In considering the request, the DOE determined that Fairgrove should be granted relief from § 212.93 but, with respect to § 210.62, the DOE determined that exception relief was inappropriate. Accordingly, exception relief was granted in part.

Huntway refining Co., Wilmington, Calif., BEE-0392, crude oil

On November 26, 1979, Huntway Refining Company filed an Application for Exception from the provisions of 10 CFR § 211.67 (the Entitlements Program), in which the firm requested that it be relieved of its obligation to purchase entitlements with respect to certain initial crude oil receipts used to establish its crude oil inventory. In considering the request, the DOE found that the operation of the Entitlements Program with respect to Huntway's initial purchases of crude oil for inventory results in a gross inequity to the firm. The DOE granted in part the Application for Exception by determining that Huntway should be issued an additional $423,500 of entitlements. Accordingly, exception relief was granted in part.

Jerry Iredale's Getty, Fairless Hills, Pa., BEO-0192, motor gasoline

Jerry Iredale's Getty filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a gross inequity as a consequence of the imposition of the updated base period, inasmuch as it had acquired the outlet after the date of its imposition and was therefore in a position to know the outlet's new allocation prior to acquiring it. Accordingly, exception relief was denied.

Kern County Refinery, Inc., Bakersfield, Calif., DXE-3448, crude oil

Kern County Refinery, Inc. filed an Application for Exception from the provisions of 10 CFR, § 211.67, in which the firm sought a resumption of the exception relief which was granted for the period December 1, 1978 through February 28, 1979. In considering the request, the DOE found that exception relief was necessary in order to allow the firm to attain its historical profit margin. Accordingly, exception relief was granted. An import issue discussed in the Decision and Order is the exclusion of officers' compensation from kern's projected costs and expenses as calculated by the DOE.

Manny's Standard Service, Milwaukee, Wis., DEE-6720, motor gasoline

Manny's Standard Service filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. in considering the requests the DOE found that exception relief was necessary to alleviate the gross inequity the firm was experiencing as a consequence of the imposition of the updated base period. Sepcifically, it determined that the base period constituted an anomalous period for the firm and that the consequent distortion was adversely affecting the firm in a significant manner. Accordingly, exception relief was granted.

Mid-Atlantic Petroleum Corp., Washington, D.C., DEE-7881, motor gasoline

Mid-Atlantic Petroleum Corp. filed an Application for Exception from the provisions of 10 CFR § 211.102, in which the firm sought an increase in the base period allocation of motor gasoline for one of its retail outlets. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a serious hardship, gross inequity, or unfair distribution of burdens. Accordingly, exception relief was denied.

Oliver's Exxon, Lafayette, Tenn., DEE-3109, motor gasoline

Oliver's Exxon filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation of motor gasoline for a retail outlet that the firm operates. The DOE found that Oliver's did not qualify for exception relief because the investments that it made in the outlet during the base period were not designed to increase the outlet's sales of motor gasoline and because Oliver's had not shown that it was unable to realize significant profits at the outlet. Accordingly, the exception request was denied.

Ramrod Auto Clinic, Ramrod Key, Fla., DEE-3613, motor gasoline

Ramrod Auto Clinic filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that exception relief was necessary to alleviate the gross inequity the firm was experiencing as a consequence of the imposition of the updated base period. Specifically, it was determined that the base period constituted an anomalous period for the firm and that the consequent distortion was adversely affecting the firm in a significant manner. Accordingly, exception relief was granted.

Henry Reese, Cheektowaga, N.Y., DEE-6158, motor gasoline

Henry Reese filed an Application for Exception from the provisions of 10 CFR, Part 211, in which he sought an increase in his base period allocation of motor gasoline for a retail outlet which he operates. The DOE considered the financial data submitted by Reese and its claim that its margin was limited because of competition from nearby Canadian outlets, and concluded that Reese had failed to demonstrate that he would be unable to continue to operate the outlet in the absence of exception relief. Accordingly, exception relief was denied.

SPC Service Co. Inc., Dudley, Mass., DEE-7426, motor gasoline

SPC Service Company, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that the residents of its market area were experiencing difficulty in obtaining adequate supplies of motor gasoline. Accordingly, exception relief was denied.

Vantage Petroleum Corp., Bohemia, N.Y., DEE-6605; DEE-7132, motor gasoline

Vantage Petroleum Corporation filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its allocation of motor gasoline and changes in its base period suppliers. In considering the request, the DOE found that the firm was suffering neither a gross inequity nor a serious financial hardship as a result of the application to it of the DOE regulations specifying a new base period for motor gasoline allocation. Accordingly, exception relief was denied.

Village Food Stores, Inc., Tilton, N.H., DEE-6779, motor gasoline

Village Food Stores, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in the base period allocation of motor gasoline of an outlet it owns. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a gross inequity as a consequence of the imposition of the updated base period. Specifically, the DOE determined that the outlet was sufficiently profitable with its present allocation to allow the firm to realize the intended benefits of its investment in acquiring the outlet. Accordingly, exception relief was denied.

Request for Temporary Exception

Energy Cooperative, Inc., East Chicago, Ind., BEL-1298, crude oil

Energy Cooperative, Inc. filed an Application for Temporary Exception from the provisions of 10 CFR, Part 211, in which the firm sought the immediate equalization of its crude oil costs with the average post-entitlements crude oil costs of all U.S. refiners through December 31, 1980. ECI also sought additional relief to compensate the firm for higher per barrel fixed costs which it incurred during the period April through August 1980. In considering the request, the DOE found that the firm had failed to establish that it meets the criteria for temporary exception relief. Accordingly, temporary exception relief was denied.

Request for Stay

Total Petroleum, Inc., Alma, Mich., BES-1417, crude oil

Total Petroleum, Inc. filed an Application for Stay from the provisions of the DOE regulations which require Total and the Vickers Energy Corporation to treat their refining and marketing operations as a single

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"firm" for purposes of determining prices and allocation fractions. In considering the Application, the DOE determined that since Total had recently purchased Vickers, the firm had not had sufficient time to inspect and evaluate Vickers' records. Total's stay request was therefore granted.

Motion for Discovery

Falcon Oil Co., Malco Petroleum Corp., Malco Industries, Inc., Cleveland, Ohio, BED–0071, motor gasoline

Falcon Oil Company, Malco Petroleum Corporation, and Malco Industries, Inc. filed a Motion for Discovery in connection with a Petition for Special Redress. In considering the request, the DOE determined that the petitioners had not demonstrated that the testimony of DOE auditors was necessary to establish a factual basis for the Petition for Special Redress. Accordingly, the Motion for Discovery was denied.

Supplemental Order

Greene's Transport Co., Thomaston, Ga., BRX–0096, propane

The Department of Energy received a submission from Greene's Transport Company in which the firm requested that it be permitted to establish a method of refunding overcharges different from the method prescribed in a Remedial Order issued to the firm on March 26, 1980. In considering the Application, the DOE determined that Greene's alternative method for refunding the overcharges was satisfactory. Accordingly, the DOE issued a Supplemental Order which granted Greene's request.

Remedial Order

In the following case involving a Proposed Remedial Order no Statement of Objections was filed. The DOE therefore issued the Order in final form.

Company name, Case No., and Location

Ron's Shell Service, BRW–0068, South San Francisco, Calif.

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in orders issued on the same date as the Interim Order.

Company name, Case No., and Location

T&H Automotive Enterprises, Inc., BEN–1466, Washington, D.C.
Grogan's Marathon Service, BEN–1428, Speedway, IN

Protective Order

The following firms filed an Application for Protective Order. The application, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firms. The DOE granted the following application and issued the requested Protective Order as an Order of the Department of Energy:

Name, Case No., and Location

Chevron USA, Inc/USA Petroleum Corp., BEJ–0135, Washington, D.C.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Order which determined that the requests be denied.

Company name, Case No., and Location

Boeing Co., DEE–7076, Seattle, WA
Crespo's Texaco S.S., BEO–0364, Hialeah Garden, FL
Davis Bros. Boone Exxon, BEO–0291, Kingsport, TN
E&E Exxon, BEO–0972, Wilmington, DE
Regan's Service, Inc., DEE–7111, Washington, DC
Simpson County Fiscal Court, BEO–0139, Franklin, KY
Village Standard, BEO–0665, Brooklyn, MI
Wayne Petty, BEO–0289, Paducah, KY
Wire Products Co., Inc., BEO–0248, Birmingham, AL

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name and Case No.

Bells Fuels, Inc., BRS–0097; BST–0097.
Chevron USA, Inc., BED–0087; BEJ–0087.
Dixilyn-Field Drilling Company, DEE–2233.
Franks Piping Co., Ltd., BEE–1394.
General Machine Corp., BXE–1336.
Highway Petroleum Sales, Inc., DEE–5815.
Institute of Scrap Iron Steel, BMR–0059.
State Park Marina, BRO–1317.
Strait Oil Company, BEE–0731.
Vantage Petroleum Corp., DES–7275; DST–7275.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: November 24, 1980.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 80–37174 Filed 11–28–80; 8:45 am]

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Issuance of Decisions and Orders, Week of October 6 Through October 10, 1980

During the week of October 6 through October 10, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Bracewell & Patterson, Washington, D.C., BFA–0466, freedom of information

Bracewell & Patterson filed an Appeal from a partial denial by the Acting Assistant Administrator for Enforcement, Economic Regulatory Administration, of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that certain portions of the "Crude Oil Certification Audit Guidelines" which were initially withheld under Exemption 2 should be released to the public because they contained only general descriptions of audit procedures of factual material describing certain practices of crude oil resellers. The DOE found that the remaining portions of the document were properly withheld because they contained information that could be used in furthering illegal practices.

Gary Energy Corp., Englewood, Colo., BFA–0464, freedom of information

Gary Energy Corporation filed an Appeal from a partial denial by the Authorizing Official of the Rocky Mountain District of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that certain of the documents which were initially withheld under Exemption 5 should be released to the public unless upon further review the Authorizing Official determined that they should be withheld under Exemption 4. The DOE further found that the jurisdiction, for withholding documents under Exemption 7 was inadequate, and remanded the proceeding to the Authorizing Official for a new determination. The DOE also held that the search fee charged was proper.

Karkanen, Miriam, Denver Colo., BFA–0460, freedom of information

Mrs. Miriam Karkanen filed an Appeal from a denial by the Albuquerque Operations Office of a request for information which she had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the search for additional responsive documents was made in a reasonable manner, and therefore her Appeal was denied.

Shaw, Stephen M., La Jolla, Calif., BFA–0469, freedom of information

Stephen M. Shaw filed an Appeal from a response by the Manager, DOE Low-Cost Solar Array Project, Jet Propulsion Laboratory (JPL Manager), of a request for information which he had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the JPL Manager's response, as supplemented by a subsequent letter to Mr. Shaw, was substantively responsive to Mr. Shaw's request. The DOE also concluded that the Solar Energy Institute does not currently possess documentary material or computer data responsive to Mr. Shaw's request, and that the agency is not required under the

FOIA to use its experts to construct information for a requester.

Wald, Harkrader & Ross, Washington, D.C. BFA–0473, freedom of information

Wald, Harkrader & Ross filed an Appeal from a determination of the Director of Freedom of Information and Privacy Acts Activities in which the firm was informed that certain documents it had sought under the Freedom of Information Act could not be located. In reviewing the Appeal, the Office of Hearings and Appeals found that the FOI Director did not act arbitrarily or capriciously in determining that the requested documents could not be located. It further stated that its own search for the documents indicated that they had been lost. Accordingly, the Appeal was denied.

Remedial Orders

Gibbons Oil Co., Bath, Maine, DRO–0332, Motor Gasoline

On July 27, 1979, the Northeast District Office of Enforcement of the Department of Energy issued an Interim Remedial Order for Immediate Compliance (IROIC) to the Gibbons Oil Company (Gibbons). In the IROIC, the Northeast District found that during June and July 1979, Gibbons failed to supply a retail outlet operated by McLoon Oil Company in violation of 10 CFR § 211.9(a). On the basis of this finding, the Northeast District ordered Gibbons to begin delivery of motor gasoline to the McLoon Company outlet within twenty-four hours after receipt of the IROIC, in accordance with normal business practices and applicable DOE price and allocation regulations. Gibbons filed a Statement of Objections with the Office of Hearings and Appeals and was notified that the Statement of Objections failed to satisfy the requirements of the DOE procedural regulations. Gibbons did not, however, correct those deficiencies, and the DOE therefore issued the IROIC as a final Order of the Department of Energy.

Noel T. Quellette d.b.a. Spofford's Chevron Station, Lewiston, Maine, BRO–1149, Motor Gasoline

Noel T. Quellette d.b.a. Spofford's Chevron Station objected to a Proposed Remedial Order which the Northeast District Office of Enforcement issued to the firm on March 19, 1980. In the Proposed Remedial Order, the Northeast District Office of Enforcement found that the firm charged prices for gasoline in excess of those permitted by 10 CFR § 212.93 and failed to properly post its maximum lawful selling prices or to certify that its prices were not in excess of its maximum lawful selling prices as required by 10 CFR § 212.119. In considering the firm's objections, the DOE found that the Northeast District Office of Enforcement was correct. The DOE therefore concluded that the Proposed Remedial Order should be issued as a final Order. The important issue discussed in the Decision and Order is whether a firm's "acquisition cost" for gasoline must reflect a cents per gallon "estimated operation and maintenance allowance" paid by the supplier to the firm.

Requests for Exception

Buck's Exxon, Upper Marlboro, Md., DEO–0381, motor gasoline

Buck's filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm requested an increase allocation of motor gasoline. In considering the request, the DOE found that exception relief was necessary to provide the firm's community with sufficient supplies of motor gasoline. Accordingly, exception relief was granted.

Charles Hasting Oil Co., Inc., Waynesboro, Tenn. BEE–0688, gasohol

Charles Hasting Oil Co., filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of unleaded motor gasoline for the purpose of producing gasohol. In considering the request, the DOE found that the firm failed to demonstrate that it was in an advantageous position to further the production and use of gasohol and that it had made a substantial commitment of resouces for gasohol production. Accordingly, exception relief was denied.

Charles Vass Arco Station, Antioch, Calif., BEO–0602, motor gasoline

Charles Vass Arco Station filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm was not suffering a gross inequity or a serious financial hardship as a result of the application to it of the DOE regulations specifying a new base period for motor gasoline allocation. Accordingly, exception relief was denied.

The City of Naples, Naples, Fla., DEE–7744, motor gasoline

The City of Naples filed an Application for Exception from the provisions of 10 CFR § 211.102 in which it sought an increase in its base period allocation of motor gasoline. In considering the City's request, the DOE determined that the City was able to purchase sufficient supplies of gasoline to meet its needs. Consequently, exception relief was denied.

City of Philadelphia/Federal Bureau of Investigation, Philadelphia, PA., BEE–1080, motor gasoline

The Federal Bureau of Investigation Branch Office in Philadelphia filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in the base period allocation of motor gasoline of the City of Philadelphia. In considering the request, the DOE found that exception relief was necessary to enable the FBI to obtain sufficient motor gasoline to perform its law protection functions and emergency services. Accordingly, exception relief was granted.

Colony Oil Service, Newport News, Va., DEE–6945, gasohol

Colony oil Service filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an allocation of unleaded gasoline so that it could blend and market gasohol. In considering the request, the DOE found that the firm was not in an advantageous position to further the production and use of gasohol. Accordingly, exception relief was denied.

Cray Energy, Bellows Falls, VT., BEE–0616, gasohol

Cray energy filed an Application for Exception from the provisions of 10 CFR § 211. If the request were granted, the firm would receive an increased allocation of motor gasoline for use in the production and marketing of gasohol. The Decision found that the DOE allocation program is not limiting the firm's access to sufficient volumes of unleaded gasoline for its gasohol program. Accordingly, the firm's Application was denied.

H–30, Inc., Wichita, Kans., DEE–5735 crude oil

H–30, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D in which the firm requested a retroactive price increase for crude oil produced at the firm's Lukens Lease between August 1976 and November 1978. In considering the request, the DOE found that the firm had failed to properly certify the Lukens Lease as a stripper well property as required under 10 CFR § 212.131(a). The DOE also found that H–30, Inc. would not suffer a serious financial hardship in the absence of exception relief. Accordingly, exception relief was denied.

Husky Oil Co., Denver, Colo., BEE–1248, gasohol

Husky Oil Company filed an Application for Exception from the provisions of 10 CFR § 212.83 in which the firm sought permission to treat gasohol as a separate category and grade of gasoline under the refiner price regulations. In considering the request, the DOE found that temporary exception relief was necessary to further the production and marketing of gasohol. Accordingly, exception relief was granted.

J. T. Collier & Sons Oil Co., Jesup, Ga., BEE–0566, gasohol

J. T. Collier & Sons Oil Co. filed a Request for Exception from the Motor Gasoline Allocation Regulations. In considering the exception request, the DOE found that the allocation regulations impede Collier's gasohol blending and marketing operations and thereby cause the applicant to experience a gross inequity. Accordingly, exception relief was granted.

Kansas Marine Dealers Association, Beverly, Kans., DEE–7849, motor gasoline

Kansas Marine Dealers Association (KMDA) filed an Application for Exception from the provisions of 10 CFR Part 212 in which the Association sought an increase in the legally allowable retail margin for motor gasoline for its member marinas. In considering the request, the DOE found that the Association had failed to provide sufficient financial data concerning the operations of the marinas involved to enable OHA to properly evaluate the propriety of granting price relief. The Decision also noted that while KMDA's Application apparently sought price relief for marinas as a class, the threshold criteria for filing a class exception had not been met. Accordingly, exception relief was denied.

Mat Hurwitz & Sons, Newton Lower Falls, Mass., DEE–7482, motor gasoline

Mat Hurwitz and Sons filed an Application

for Exception from the provisions of 10 CFR § 210.62 in which the firm sought permission to sell motor gasoline to customers at its

stripper well crude oil the crude oil which he produced and sold from the Hawthorne Lease, located in Jones County, Texas, during

to further the national objective of increasing the use of alcohol extended fuels. Accordingly, exception relief was denied.

previously issued to the firm, and therefore denied the Application for Modfication. Accordingly, the firm's Application for Stay and Application for Temporary Stay were

submitted to the DOE by Laketon Asphalt Refining, Inc. in the firm's Application for Exception from the provisions of 10 CFR § 211.67 (the Entitlements Program). The DOE

requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the

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for Exception from the provisions of 10 CFR § 210.62 in which the firm sought permission to sell motor gasoline to customers at its retail outlet by appointment only when, in its judgment, it is necessary to do so. In considering the request, the DOE found that, because of the discriminatory treatment of customers that would result if the request were granted, the firm would have to make a very compelling showing of serious hardship or gross inequity before it would be entitled to relief, and that the firm did not make such a showing at the present time. The DOE also pointed out that the firm's request was based on speculative claims and that it has consistently held that exception relief should not be granted on the basis of mere speculation regarding future contingencies. Accordingly, exception relief was denied.

McWhirter Distributing Co., Inc., Polpet, Inc., J. E. Dewitt, Inc., San Francisco, Calf., DEE–6506, DEE–6507, DEE–6508, motor gasoline

McWhirter Distributing Company, Inc., Polpet, Inc. and J. E. DeWitt, Inc. filed Applications for Exception from the provisions of 10 CFR § 211.102 in which the firms sought an increase in their base period allocations of motor gasoline. In considering the requests, the DOE determined that the firms had failed to demonstrate that their financial positions would be adversely affected to a significant degree in the absence of exception relief. Accordingly,the Application for Exception was denied.

Mutual of New York, Columbus, Ohio, DEE–7835, temperature restrictions

Mutual of New York filed an Application for Exception from the provisions of 10 CFR Part 490 in which the firm sought permission to lower the temperature to 72°F during the cooling season in its offices located at 1241 Dublin Rd., Columbus, Ohio. In considering the request, the DOE found that the firm failed to establish that the Temperature Restrictions cause its employees to incur a special hardship, inequity or unfair distribution of burdens. Accordingly, exception relief was denied.

Andrew Posey, Florence, Ala., BEO–0584, motor gasoline

Andrew Posey filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that no exception was necessary to permit the firm an increase in its base period allocation, since the firm could transfer an allocation associated with a former outlet owned by the firm pursuant to 10 CFR § 211.106(e). However, the DOE held that an exception was necessary to permit the firm's allocation, which had been supplied by two different branded suppliers, to be combined and furnished by one supplier. Accordingly, exception relief was granted.

W. H. Price, Granbury, Tex., DEE–1949 crude oil

On October 10, 1978, W. H. Price filed an Application for Exception from the provisions of 10 CFR, Part 212, Subparts D and I, which, if granted, would permit Price to recertify as stripper well crude oil the crude oil which he produced and sold from the Hawthorne Lease, located in Jones County, Texas, during the period September 1, 1976 through March 31, 1978. The relief would also permit Price to retroactively charge exempt prices for that crude oil. In considering the request, the DOE determined that Price had failed to show just cause for his initial improper certification of the crude oil or that the requested relief was warranted on the ground of serious hardship. Accordingly, exception relief was denied.

Shell Oil Co., Anaheim, Calif., BEE–1016, motor gasoline

Shell Oil Company filed a request for Exception from the Motor Gasoline Allocation Regulations. In considering the exception request the DOE found that Shell had not established that it or the residents of Anaheim, California were experiencing a gross inequity as a result of the base period allocation of an independently operated, Shell-owned service station located in Anaheim. Accordingly, the request was denied.

Taylor's Chevron, American Forks, Utah, BEO–0707, motor gasoline

Taylor's Chevron filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm was not experiencing a serious financial hardship. The DOE further found that the residents of the community were not bearing a disproportionate burden. Accordingly, exception relief was denied.

Tomales Garage and Machine Shop, Tomales, Calif., DEE–5862, motor gasoline

Tomales Garage and Machine Shop filed an Application for Exception seeking an increase in the base period allocation of motor gasoline of a retail outlet that it operates. After considering the request, the DOE determined that Tomales had failed to demonstrate that existing supplies of motor gasoline were insufficient to meet the needs of the Tomales, California community. Accordingly, exception relief was denied.

Tuner-up of Boston, Boston, Mass., BEE–0055, motor gasoline

Tuner-up of Boston filed an Application for Exception from the provisions of 10 CFR § 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had made its investment in the outlet after the establishment of the updated base period, and therefore should not have expected that it would receive additional quantities of motor gasoline. Accordingly, the firm's Application for Exception was denied.

Valpo Oil Supply, Valapariso, Ind., BEE–0591, gasohol

Valpo Oil Supply filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased allocation of unleaded motor gasoline so that it could blend and market gasohol. In considering the request, the DOE found that the firm was not in an advantageous position to further the national objective of increasing the use of alcohol extended fuels. Accordingly, exception relief was denied.

West Paterson Amoco, West Paterson, N.J., BEO–0619, motor gasoline

West Paterson Amoco filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm has failed to demonstrate that the implementation of the new base period caused it to suffer a gross inequity. Accordingly, exception relief was denied.

Winan Avenue Missionary Baptist Church, Hot Springs, Arkansas, DEE–8229, Temperature Restrictions.

The Winan Avenue Missionary Baptist Church filed an Application for Exception from the provisions of 10 CFR Part 490 in which the firm sought permission to raise the maximum temperature in its building to 72°F for certain time periods. In considering the request, the DOE found that the firm failed to establish that the Temperature Restrictions cause it to incur a special hardship, gross inequity, or unfair distribution of burdens. Accordingly, exception relief was denied.

Zwierzynski Marathon Service, South Bend, Indiana, BEO–0315, Motor Gasoline.

Zierzynski Marathon Service filed an Application for Exception from the provisions of 10 CFR Part 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the capital investments made by the firm with the expectation of increasing sales of motor gasoline were either undertaken prior to the unusual growth adjustment period and should therefore be reflected in the firm's allocation or were made subsequent to the updating of the base period when the firm should have been aware of the limitation on its allocation. The DOE further determined that the firm had failed to demonstrate that in the absence of exception relief it would be adversely affected to a significant degree. Accordingly, exception relief was denied.

Request for Modification and/or Rescission

MGPC, Inc., Los Angeles, California, BRR–0061; BRS–0108; BRT–0108; Natural Gas Liquids.

On September 26, 1980, MGPC, Inc., formerly McCulloch Gas Processing Corporation, filed an Application for Modification, Application for Stay and Application for Temporary Stay relating to DOE Orders issued to the firm on October 26, 1979 and May 22, 1980, which respectively granted in part a Motion for Evidentiary Hearing and Motion for Discovery filed by MGPC, Inc. on February 28, 1979. *McCulloch Gas Processing Corporation,* 4 DOE ¶ 82,565 (1979); *McCulloch Gas Processing Corporation,* 5 DOE ¶ 82,569 (1980). If the firm's Applications were granted, the Orders would be modified and the implementation of the Evidentiary Hearing Order would be stayed pending such modification. In considering the request, the DOE determined that MGPC, Inc. had presented no proper basis for the modification of the Orders previously issued to the firm, and therefore denied the Application for Modfication. Accordingly, the firm's Application for Stay and Application for Temporary Stay were also denied.

Motions for Discovery

Chevron U.S.A., Inc., San Francisco, California, BEJ–0109, BED–0109, Motor Gasoline.

On July 25, 1980, Chevron U.S.A., Inc. filed Motions for Discovery and Protective Order in which the firm sought a confidential copy of an Application for Exception filed by Zitro Energy Consultants, Inc. In considering the requests, the DOE found that since a Proposed Decision and Order had not yet been issued in the Zitro proceeding, Chevron's Application was premature. Accordingly, Chevron's Motions for Discovery and Protective Order were dimissed without prejudice to a refiling at a later date.

Chevron U.S.A., Inc., Washington, D.C., BEJ–0122, BED–0122, Crude Oil.

Chevron U.S.A., Inc. filed Motions for Discovery and Protective Order pursuant to the provisions of 10 CFR § 205.66 in which the firm sought confidential copies of an Application for Exception, Application for Stay, and Application for Temporary Exception filed by Copano Refining. Upon examination of the Motions for Discovery and Protective Order, the DOE found that it was evident that such a filing was intended specifically for use at the objection stage of an exception proceeding. While finding that special circumstances might exist in a proceeding which would justify a departure from the terms of the procedural regulation whereby the DOE would consider a Motion for Discovery prior to the issuance of a Proposed Decision and Order, Chevron had not even alleged that any special circumstances existed which would warrant a departure. Accordingly, Chevron's request was denied.

Inexco Oil Co., True Oil Purchasing Co., Houston, Tex., Casper, Wyo., DRD–0264; DRH–0264; DRH–0070, Crude Oil

Inexco Oil Company filed a Motion for Discovery and a Motion for Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order issued to the firm by the ERA Southwest District Office of Enforcement. True Oil Purchasing Company also filed a Motion for Evidentiary Hearing in the proceeding. In considering the Motions, the DOE determined that the requested discovery and evidentiary hearings did not relate to contested findings of fact concerning the firms' posted price and due process claims. However, the DOE concluded that Inexco should be provided with the identity of all enforcement proceedings involving May 15, 1973 posterd prices for crude oil in the Powder River Basin, Wyoming. Accordingly, Inexco's Motion for Discovery was granted in part, and the Motions for Evidentiary Hearing were denied.

Texaco Inc., Stamford, Conn., BED–0081; BEJ–0081, crude oil

Texaco Inc. filed a Motion for Discovery in which it sought confidential information submitted to the DOE by Laketon Asphalt Refining, Inc. in the firm's Application for Exception from the provisions of 10 CFR § 211.67 (the Entitlements Program). The DOE determined that the issues raised by Texaco were legal issues, and the information that Texaco sought would not advance the resolution of those issues. The Motion was therefore denied.

Interim Order

Whitewater Petroleum Terminals, Inc., Chicago, Ill., BEN–0021, gasohol

Whitewater Petroleum Terminals, Inc. filed an Application for Interim Exception Relief from the provisions of 10 CFR § 211.102 in which the firm sought an immediate increase in its allocation of motor gasoline for the express purpose of producing gasohol and regohol. In considering the request, the DOE found that the firm had failed to demonstrate that it would experience an irreparable injury or that the viability of its current gasohol program would be jeopardized if it did not receive immediate exception relief. Accordingly, interim exception relief was denied.

Supplemental Order

On its own initiative the Office of Hearings and Appeals issued the following Supplemental Order which corrects two minor factual errors and several clerical errors in the Decision and Order, *Conoco, Inc.,* BFA–0453 (September 25, 1980).

Conoco, Inc., Washington, D.C., BFX–0117

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Name, Case No., and Location

Cities Service Co./USA Petroleum Corp., BEJ–0136; Tulsa, OK
United Energy Co., Chevron USA, Inc., BEJ–0143; San Francisco, CA

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted.

Company Name, Case No., and Location

Pinehurst Citgo, DEE–3524; Baltimore, MD
Scott Blvd. Chevron, BXE–0453; Decatur, GA
Southern Oil Co., DEE–3876; Emelle, AL
Tom's Arco, BEO–1049; Indiana, PA

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Case No., and Location

Affiliated Brokers, Inc., DEE–5949; Anaheim, CA
Bolling & Macklin's Shell, BEO–0601; Chicago, IL
Bondurant Shell Service Center, BEO–0258; Jacksonville, FL
Bubble Machine, BEO–0563; San Francisco, CA
Ernest J. Short & Son, DEE–4861; Lordsburg, NM
Kenneth W. Grundset, BEO–1159; Brooksville, FL
Kingsville Exxon, BEO–0128; Kingsville, OH
Len's Self-Service & Mini Shops, DEE–7490; Oak Brook, IL
Mission Hills Property Corp., BEO–0450; Palm Springs, CA
Purolator Courier Corp., BEO–0470; Phoenix, AZ
Ricky Adams Chevron, BEO–0541; Government Camp, OR
Rodelo's Service, BEO–0417; Chino, CA
The Bubble Machine, BEO–1305; Culver City, CA
The Hood Co., BEO–1119; Gainesville, FL
Triple G Drive Inn, BEO–1017; Barnett, MO
V & Y Garage, Inc., DEE–7262; Watertown, MA
Valley Center Supply, BEO–0662; Shelton, WA

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name and Case No.

Airport Limousine Service, DEE–7163
Broward Pure Oil, DEE–5829
Colorado Gasohol, Inc., BEE–1009
Genico Distributors, Inc., BSG–0035
Gibbons Oil Co., DRD–0332
Greenwood Oil Co., BEE–1175
Gulf Oil Corp., BEL–1304
J. S. Pate Oil Co., Inc., DES–4978
North Side Center, BXE–1190
Park & 66th Exxon, BEE–0684
Standard Oil of Ohio, BEL–1391
Tenneco Oil Co., BEL–1401
Wright & Wright Auto Repair, DEE–7437
Whitewater Petroleum Terminals, Inc., BEL–0014
341 Tract Unit of the Citronelle Field, DEL–7746

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a

commercially published loose leaf reporter system.

George B. Breznay,

Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to the Alaska Pipline Company for approval to construct two oil fired

Emissions Limitations

Pollutant (tons per year)

conditions including allowable emissions of: 504 tons/yr NO_x and 28 tons/yr particulate.

commercially published loose leaf reporter system.

George B. Breznay,
Director, Office of Hearings and Appeals.
November 24, 1980.
[FR Doc. 80-37176 Filed 11-28-80; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY
[A-10-FRL 1686-4]

Air Quality; Issuance of PSD Permit to Alyeska Pipeline Co.

Notice is hereby given that on September 30, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to the Alaska Pipline Company for approval to construct two oil fired turbines at pump station No. 5 and modify pump stations No.2 and No. 7 on the Trans Alaska Pipeline System in Alaska. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations subject to certain conditions, including:

1. Emissions of nitrogen oxides (NO_x), carbon monoxide (CO) and sulfur dioxide (SO) shall not exceed the following:

Emission Limitations

Pump station	Number of units	Description	Rating	Pollutant limit (Total tons per year) NO_x*	CO	SO_2
2	2	Pump turbine	13,500 hp	317.2	400.0	
	[3]	Turbine generator	800 kw	34.4	25.2	
	2	Diesel generator	150 kw	54.4	11.8	
	1	Incinerator	150lb/hr	4.4	4.4	
	1	Heater	18x10⁶Btu/hr	20.1	1.5	
	2	Heater	15x10⁶Btu/hr	18	1.0	
		Total for pump station	2	448.5	443.9	
5	2	Pump turbine	13,500 hp	696.0		[2]344.0
7	1	Pump turbine	13,500 hp	348.0		

[1]One unit is for standby. Emission limits for any other existing equipment should be added to these limits to obtain total for

[2]The emission limit is based on a fuel sulfur content of 0.3 percent.
*NO_x concentration (percent by volume at 15 percent O_2 dry basis per turbine) must meet the following calculation:

$$[0.015\ \frac{(14.4)}{Y} + F]^*$$

*Y = manufacturer's rated heat rate at peak load in kilojoules per watt hour based on the lower heating value of the fuel. The value of Y cannot exceed 14.4.
F is a function of the fuel nitrogen content as follows:

N (fuel bound nitrogen by percent weight)	F
N ≤ 0.015	0
0.015 < N ≤ 0.1	0.04N
0.1 < N ≤ 0.25	0.004 + 0.0067(N - 0.1)
N > 0.25	0.005

[A-10-FRL 1686-2]

Air Quality; Issuance of PSD Permit to Atlantic Richfield Co.—SOHIO Petroleum Co.

Notice is hereby given that on June 13, 1980 the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Atlantic Richfield Company—SOHIO Petroleum Company for approval to install additional gas fired turbines and heaters in the Prudhoe Bay oil field at Prudhoe Bay, Alaska. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations subject to certain conditions, including:

1. Emissions of nitrogen oxides (NO_x), particulate matter (PM), and carbon monoxide (CO) shall not exceed the following:

Emissions Limitations

Location	Equipment	NO_x	Pollutant (tons per year) CO	PM
G. C. No. 1	Turbines [1]	2553	[illegible]	[illegible]
	Heaters [1]	184	32	19
G. C. No. 2	Turbines [1]	4615	[illegible]	115
	Heaters [1]	219	36	31
G. C. No. 3	Turbines [1]	2553	476	63
	Heaters [1]	184	32	19
Well pads	Heaters [1]	133	13	9
Central compressor plant	Turbines [1]	645	120	15
	Heaters [1]	22	2	1
F. S. No. 1	Turbines [1]	3049	569	76
F. S. No. 2	Turbines [1]	[illegible]	742	91
	Heaters [1]	35	8	8
F. S. No. 3	Turbines [1]	3978	742	91
Total		22151	4109	582

[1]Gas Turbines:
NO_x — 150 (14.4/Y) ppm.[2]
CO — 109.6 lb CO/10^6 scf (fuel).
PM — 14lb PM/10^6 scf (fuel) 10 percent Opacity Limit.
[1]Process heaters:
43×10^6 Btu/hr — NO_x — 0.08 lb $NO_x/10^6$ Btu.
43×10^6 Btu/hr — NO_x — 0.19 lb $NO_x/10^6$ Btu.
CO — 0.018 lb CO/10^6 Btu.
PM — 0.011 lb PM/10^6 Btu.
5 percent Opacity Limit.

[2]NO_x emissions factor for gas-fired turbines is modified by an efficiency factor (Y) which cannot exceed 14.4 kilojoules/watt hour (manufacturer's rated heat rate at rated peak load).
Based on 15 percent oxygen on a dry basis.

2. With the exception of NO_x, PM, and CO, increases in potential emissions of any pollutant regulated under the Clean Air Act resulting from this modification will be less than 250 tons per year.

Under Section 307(b)(1) of the Clean Air Act, judicial review of the PSD Permit is available *only* by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington 98101.

Dated: November 20, 1980.
Donald P. Dubois,
Regional Administrator.
[FR Doc. 80-37238 Filed 11-28-80; 8:45 am]
BILLING CODE 6560-38-M

[A-9-FRL 1687-3]

Air Quality; Issuance of PSD Permit to Ball Glass Container Group

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Ball Glass Container Group, Placer County, California, EPA project number SAC 79-02.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on February 13, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct a bottle glass manufacturing plant to be located 5 miles north of Roseville, Placer County, California.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including allowable emissions of: 504 tons/yr NO_x and 28 tons/yr particulate.

Best Available Control Technology (BACT) requirements include: for NO_x: high electric boost to furnace and excess oxygen control.

Continuous monitoring is required for NO_x, and the source is subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E-4-1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556-3450.

Dated: November 14, 1980.
Carl C. Kohnert, Jr.
Acting Director, Enforcement Division, Region IX.

[FR Doc. 80-37224 Filed 11-28-80; 8:45 am]
BILLING CODE 6560-38-M

[A-9-FRL 1687-2]

Air Quality; Issuance of PSD Permit to Champlin Petroleum Co.

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Champlin Petroleum Company, Wilmington, California, EPA project number LA 79-05.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on March 21, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to proceed with Phase II modernization of Champlin Petroleum's Wilmington Refinery located in Wilmington, California. The

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project will increase production of gasoline components and finished gasoline without increasing crude throughput.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including allowable emissions of: 245 tons/yr SO_2.

Best Available Control Technology (BACT) requirements include: for fluid catalytic cracking unit: desulfurization of gas oil to 0.1% sulfur and sulfur scavaging zeolite catalyst; for HF alky and Cat Poly Process heaters: refinery gas H_2S limit of 230 mg/dscm.

Continuous monitoring is required for stack gas SO_2 concentration and stack gas volumetric flow rate. The source is subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E–4–1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556–3450.

Dated: November 14, 1980.

Carl C. Kohnert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 80-37223 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[A–9–FRL 1687–4]

Air Quality: Issuance of PSD to Creole Corp.

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Creole Corporation, a subsidiary of Texas Industries, Inc., Plaster City, Imperial County, California, EPA project number SE 78–09.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on May 20, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct a Portland Cement plant and a limestone quarry with a primary crusher to be located in Plaster City, Imperial County, California.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including allowable emissions of: 419 tons/yr particulates; 1690 tons/yr NO_x; and 890 tons/yr SO_2.

Best Available Control Technology (BACT) requirements include: for particulates: baghouse dust collectors; and for NO_x and SO_2: precalciner/suspension preheater system.

The source is subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E–4–1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105 (415) 556–3450.

Dated: November 14, 1980.

Carl C. Kohnert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 80-37225 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[A–9–FRL 1686–1]

Air quality; Issuance of PSD Permit to Cyprus Hawaiian Cement Corp.

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Cyprus Hawaiian Cement Corporation, 91–055 Kaomi Loop, Ewa Beach, Hawaii 96707, EPA project number HI 80–01.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on August 26, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above the approval to convert their cement manufacturing plant from use of fuel oil to coal.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations.

Best Available Control Technology (BACT) requirements include: sulfur content of coal <1.1 lbs/10^6 BTU; sulfur discharge must be <0.9 lbs/10^6 BTU, maximum 2 hour average; off gases from Raymond Coal Mill must be vented to a (existing) baghouse. Particulates must not exceed 5.5 lbs/hr; coal storage bin and coal unloading facility must be vented to baghouses, scrubbers, or equivalent devices; fugitive dust must be controlled by: covering, wet supression, stabilization systems, or equivalent; and when coal is delivered: unpaved plant haul roads must be watered, coal delivery trucks must be limited to 10 mph when on unpaved roads, and the tops of any open coal delivery trucks must be fitted with a tight fitting tarpaulin.

DATE: The PSD Permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E–4–1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105 (415) 556–3450.

Dated: November 14, 1980.

Carl C. Kohnert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 80-37230 Filed 11-27-80; 8:45 am]

BILLING CODE 6560-38-M

[A–10–FRL 1686–1]

Air Quality; Issuance of PSD Permit to the Department of Energy

Notice is hereby given that on September 30, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to the Department of Energy for approval to resume operation of the Hanford nuclear fuel reprocessing facilities near Richland, Washington. This permit has been issued under EPA's Prevention of Significant Air Deterioration (40 CFR 52.21) regulations subject to certain conditions, including:

1. Emissions of nitrogen oxides (NO_x) shall not exceed the following:

NO_x Emission Limitations

Source	Concentration—volume percent, dry basis	Kilogram per day	Mass emission rate metric tons per year
Purex plant			
NO_x absorber exit	2.0	1,160	
Main stack		2,250	424
Uranium oxide plant			
Exit of final condenser (upstream of dilution air addition)	4.0	858	50

2. With the exception of NO_x, increases in potential emissions of any pollutant regulated under the Clean Air Act resulting from this operation will be less than 250 tons per year.

Under Section 307(b)(1) of the Clean Air Act, judicial review of the PSD Permit is available *only* by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington, 98101.

Dated: November 20, 1980.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 80-37239 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[A–9–FRL 1686–8]

Air Quality; Issuance of PSD Permit to Gulf Oil Exploration and Production Co.

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Gulf Oil Exploration and Production Company, Kern County, California, EPA project number SJ 78–82.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on February 21, 1980 the Environmental Protection Agency issues a PSD permit to the applicant named above for approval to construct the following equipment: eight (8) 30 MMBTU/hr steam generators; two (2) 4.2 MMBTU/hr heater treaters located in Section 32, T26S, R21E; and one (1) 30 MMBTU/hr steam generator located in Section 30, T26S, R21E, Lost Hills Oil Field, Kern County, California.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including allowable emissions of: 345 tons/yr NO_x.

Best Available Control Technology (BACT) requirements include: excess O_2 control and low NO_x burners.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E–4–1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556–3450.

Dated: November 14, 1980.

Carl C. Kohnert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 80-37221 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[Ap10–FRL 1686–5]

Air Quality; Issuance of PSD Permit to Pacific Alaska LNG Associates

Notice is hereby given that on August 28, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Pacific Alaska LNG Associates for approval to construct a natural gas liquefaction facility in Nikiski, Alaska.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations subject to certain conditions, including:

1. Emissions of oxides of nitrogen (NO_x) and carbon monoxide (CO) shall not exceed the following:

Emission Limitations

Source	Pollutant	Kilograms per day	Emission factor
Gas Turbines 11-TC-1 through 11-TC-4 and 16-TC-1 through 16-TC-4.	NO_x	13,500	150 (E)[1] ppm at 15% O_2 dry basis.
	CO	650	640 kg/10^6m^3 gas (40 lb/10^6 scf gas).
Gas Turbine 47-G-1 (Critical Service Generator).	NO_x	200	150(E) [1]ppm at 15% O_2 dry basis.
	CO	31	1,280 kg/10^6m^3 gas (80 lb/10^6 scf gas).
All Process Heaters.	NO_x	125	43 ng/J (0.1 lb/10^6Btu).
	CO	22	270 kg/10^6m^3 gas (17 lb/10^6 scf gas).
LNG Ships	NO_x	[2] 5	
	CO	[2] 20	

[1] Emission Rate (E)= 14.4 kJ/watt hr/actual ISO heat rate.
[2] Tons per year.

With the exception of NO_x and CO, potential emissions of any pollutant regulated under the Clean Air Act will be less than 250 tons per year.

Under Section 307(b)(1) of the Clean Air Act, judicial review of the PSD Permit is available *only* by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington 98101.

Dated: November 20, 1980.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 80-37236 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[A–9–FRL 1686–5]

Air Quality; Issuance of PSD Permit to Pacific Gas and Electric Co.

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Pacific Gas and Electric Company (PG&E), 77 Beale Street, San Francisco, California 94106, EPA project number NC 79–01.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on January 8, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to expand the Geysers Geothermal Plant, Geysers Unit 17, 120 MW.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including allowable emissions of: 12 kg/hr H_2S.

Best Available Control Technology (BACT) requirements include: surface condenser/stretford process system.

Air Quality Impact Modeling is required for H_2S, and the source is subject to continuous monitoring requirements.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Cean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E–4–1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556–3450.

Dated: November 14, 1980.

Carl C. Kohnert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 80-37224 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[A–10–FRC 1686–6]

Air Quality Issuance of PSD Permit to Potlatch Corp.

AGENCY: Environmental Protection Agency (EPA), Region X.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Potlatch Corporation, Lewiston, Idaho, EPA project number ID 80–01.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on April 2, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct a wood waste boiler.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including allowable emissions of: 100 tons/yr particulates; 1,000 tons/yr NO_x; and 1,000 tons/yr SO_2.

Best Available Control Technology (BACT) requirements include: for particulates: multiclone dust collectors; and for NO_x and SO_2: boiler design.

The source is subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E–4–1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556–3450.

Dated: November 14, 1980.

Carl C. Kohnert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 80-37222 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[A–10–FRL 1686–7]

Air Quality; Issuance of PSD Permit to Boise Cascade Corp.

AGENCY: Environmental Protection Agency (EPA), Region X.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Boise Cascade Corporation, Wallula, Washington, EPA project number WA 80–01.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on April 2, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct a wood waste boiler.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations.

Best Available Control Technology (BACT) requirements include: 35 high

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E–4–1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556–3450.

Dated: November 14, 1980.

Carl C. Kohnert, Jr.,

Acting Director, Enforcement Division, Region IX.

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Dated: November 14, 1980.

Carl C. Kohnert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 80-37234 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[A-9-FRL 1688-3]

Air Quality; Issuance of PSD Permit to Petro-Lewis Corp.

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Petro-Lewis Corp., 717 17th Street, P.O. Box 2250, Denver, Colorado 80201, EPA project number SJ 79-28.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on May 8, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct and operate a gas generator and associated equipment for recovering heavy crude oil.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including allowable emissions of: NO_x.

Best Available Control Technology (BACT) requirements include: use of no more than 7200 ft^3 of natural gas per hour for the 1000 hp compressor engine and a closed hydrocarbon vapor recovery system on 11 cyclically stimulated producing wells.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E-4-1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556-3450.

Dated: November 14, 1980.

Carl C. Kohnert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 80-37232 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[A-10-FRC 1686-6]

Air Quality Issuance of PSD Permit to Potlatch Corp.

Notice is hereby given that on September 30, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Potlatch Corporation for approval to construct a wood waste-fired power boiler in Lewiston, Idaho. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR Part 52.21) regulations subject to certain conditions, including:

1. Emissions of nitrogen oxides (NO_x) shall not exceed the following:

Emission Limitations

Source	Mode	Concentration	Tons per year
Power Boiler No. 4.	Wood waste-oil...	0.3 lb/10^6 Btu....	
	Wood waste/gas.	0.2 lb/10^6 Btu....	
Total.....	.....	.....	642

2. With the exception of NO_x, increases in potential emissions of any pollutant regulated under the Clean Air Act resulting from this construction will be less than 250 tons per year.

Under section 307(b)(1) of the Clean Air Act, judicial review of the PSD Permit is available *only* by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days of today. Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington 98101.

Dated: November 20, 1980

Donald P. Dubois,

Regional Administrator.

[FR Doc. 80-37220 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[A-9-FRL 1687-5]

Air Quality; Issuance of PSD Permit to Procter and Gamble Paper Products Co.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Procter and Gamble Paper Products Company, Oxnard, California, EPA project number LA 79-08.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on April 2, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct a cogenerator gas turbine at the company's paper products plant located in Oxnard, California. The turbine will have a maximum output of 19.3 MW.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including allowable emissions of: 232 ton/yr NO_x.

Best Available Control Technology (BACT) requirements include: water injection and New Source Performance Standards emission rates for NO_x.

Continuous monitoring is required of water to fuel ratio being fired in the turbine.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E-4-1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556-3450.

Dated: November 14, 1980.

Carl C. Kohnert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 80-37226 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[A-9-FRL 1687-8]

Air Quality; Issuance of PSD Permit to Ranchers Cotton Oil

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Ranchers Cotton Oil, 2691 South Cedar Ave., P.O. Box 2596, Fresno, California 93745, EPA project number SJ 79-13.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on June 3, 1980 the Environmental Protection Agency issued a PDS permit to the applicant named above for approval to construct and operate a 400 ton per day cottonseed processing plant.

This permit has been issued under EPA's Prevention of Significant Air

Quality Deterioration (40 CFR 52.21) regulations.

Best Available Control Technology (BACT) requirements include: 35 high efficiency cyclones.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E-4-1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556-3450.

Dated: November 14, 1980.

Carl C. Kohnert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 80-37229 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[A-9-FRC 1687-1]

Air Quality; Issuance of PSD Permit to Southwestern Portland Cement Co.

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Southwestern Portland Cement Company, Victorville, California, EPA project number SE 79-02.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on February 11, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct and install coal handling, grinding and burning systems for the conversion from oil to coal firing at the company's River Plant located in Victorville, San Bernardino County, California.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including allowable emissions of SO_2 as follows: average limit of 1.1 lb/10^6 BTU either per trainload or coal received or on a 7-day basis if coal is not received by train.

The source is subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E-4-1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556-3450.

Dated: November, 14, 1980.

Carl C. Kohnert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 80-37222 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[A-9-FRL 1687-7]

Air Quality; Issuance of PSD Permit to Southwestern Portland Cement Co.

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Southwestern Portland Cement Company, San Bernardino County, California, EPA project number SE 79-03.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on January 29, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct and install coal handling, grinding and burning systems for the conversion from oil to coal firing at the company's Black Mountain Plant located 15 minutes northeast of Victorville, San Bernardino County, California.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations.

The source is subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E-4-1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556-3450.

Dated: November 14, 1980.

Carl C. Kohnert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 80-37228 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[A-9-FRL 1688-6]

Air Quality; Issuance of PSD Permit to Texaco, Inc.

AGENCY: Evironmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Texaco, Inc., 3350 Wilshire Blvd., P.O. Box 3756, Los Angeles, California 90051, EPA project number NCC 78-04.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on April 4, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct and operate steam generators, heater treaters and an atmospheric boiler in the San Ardo Oil Field.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including allowable emissions of: NO_x at 0.40 lbs/MMBTU for 3 20 MMBTU/hr steam generators, 2 hour average, and 2.8 lbs/hr for the 50 MMBTU/hr waste gas incinerator; SO_2 at 0.52 lbs/MMBTU for 3 20 MMBTU/hr steam generators and 0.21 lbs/MMBTU for 9 existing 50 MMBTU/hr steam generators, maximum 2 hour averages, and 9.0 lbs/hr for the 50 MMBTU/hr waste gas incinerator.

Best Available Control Technology (BACT) requirements include:

(1) No more than 288 barrels/day of oil for 3 20 MMBTU/hr steam generators, less than 2% sulfur by weight;

(2) < 1.5 mmscf/day of natural gas to be used in 9 7.5 MMBTU/hr heater treaters; < 1.5 mmscf/day of natural gas to be used in 1 9.5 MMBTU/hr atmospheric boiler; and < 0.135 mmscf/day of natural gas to be used in 1 50 MMBTU/hr waste gas incinerator;

(3) Scrubbers for: 3 20 MMBTU/hr steam generators (TX-2-4662, TX 2-3391 and TX 2-3389), and 9 50 MMBTU/hr steam generators (TX 2-4781 through 4788 and TX 2-5299);

(4) Nickel chloride scrubbing system for H_2S on the 50 MMBTU/hr waste gas incinerator;

(5) Vapor recovery system for all producing wells affected by steam stimulation; and

(6) Fencing of field to prevent exposure of public to high concentrations of NO_x.

Air Quality Impact Modeling is required for NO_x. Continuous monitoring is required for SO_2.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E–4–1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556–3450.

Dated: November 14, 1980.

Carl C. Kohnert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 80-37235 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[A–9–FRL 1687–6]

Air Quality; Issuance of PSD Permit to Tosco Corp.

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Tosco Corporation, Bakersfield, California, EPA project number SJ 78–26.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on June 18, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct a 119 MMBTU/hr CO boiler on an existing thermofor catalytic cracking unit, located in at the Tosco Refinery in Bakerfield, California.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including allowable emissions of: 180 tons/yr NO_x.

Best Available Control Technology (BACT) requirements include: an emission rate of 0.3 lb/MMBTU for NO_x.

The source is subject to New Source Performance Standards.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E–4–1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556–3450.

Dated: November 14, 1980.

Carl C. Kohnert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 80-37227 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[A–9–FRL 1688–4]

Air Quality; Issuance of PSD Permit to Tucson Electric Power Company

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Tucson Electric Power Co., 220 W. Sixth Street, P.O. Box 711, Tucson, Arizona 85705, EPA project number AZ 79–01.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on April 11, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct and operate one 350 MW coal fired electric generating station.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including allowable emissions of: SO_2 at 0.218 lbs/10^6 BTU or 817 lbs/hr maximum, particulate matter at 0.026 lbs/10^6 BTU, and NO_x at 0.44 lbs/10^6 BTU.

Best Available Control Technology (BACT) requirements include: for SO_2: calcium oxide spray scrubber; for particulate matter: baghouse; and for fugitive dust: negative pressure bag type air filtration systems to control dust from coal and lime storage silos, a fabric filter collection system to collect fly ash at the fly ash storage silo, and fly ash will be conditioned with water for transport by trucks to disposal site.

Air Quality Impact Modeling is required for SO_2 and particulate matter, and the source is subject to continuous monitoring requirements and New Source Performance Standards (NSPS).

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E–4–1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 556–3450.

Dated: November 14, 1980.

Carl C. Kohnert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 80-37233 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[A–10–FRL 1686–3]

Air Quality; Issuance of PSD Permit to Washington Water Power Co.

Notice is hereby given that on July 28, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Washington Water Power Company for approval to construct a wood waste-fired power plant near Kettle Falls, Washington. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations subject to certain conditions, including:

1. Emissions of nitrogen oxide (NO_x), particulate matter (PM), hydrocarbons (HC) and carbon monoxide (CO) shall not exceed the following:

Emission Limitations

Pollutant	Pounds per hr	Tons per year	Emission factor
Particulate matter	26	114	0.02 gr/dscf at 12 pct CO_2
Opacity:			
NO_x	104	456	
CO	160	701	
Hydrocarbons	160	701	

2. With the exception of particulate matter, oxides of nitrogen, carbon monoxide and hydrocarbons, increases in potential emissions of any pollutant regulated under the Clean Air Act resulting from this construction will be less than 250 tons per year.

Under Section 307(b)(1) of the Clean Air Act, judicial review of the PSD Permit is available *only* by the filing of a petition for review in the Ninth Circuit Court of Appeals within 60 days today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following location: EPA, Region 10, 1200 Sixth Avenue, Room 11C, Seattle, Washington 98101.

Dated: November 20, 1980.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 80-37237 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[A–9 FRL 1688–2]

Air Quality; Issuance of PSD Permit to Watson Energy Systems

AGENCY: Environmental Protection Agency (EPA), Region IX.

ACTION: Notice.

SUMMARY: Notice of Approval of Prevention of Significant Air Quality Deterioration (PSD) permit to: Watson Energy Systems, 3435 Wilshire Blvd., Suite 1500, Los Angeles, California 90010, EPA project No. LA 77–02.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on January 3, 1980 the Environmental Protection Agency issued a PSD permit to the applicant named above for approval to construct and operate a resource recovery steam generating plant.

This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration (40 CFR 52.21) regulations and is subject to certain conditions including allowable emissions of: 64 lbs/hr SO_x.

Best Available Control Technology (BACT) requirements include: wet scrubbers for SO_x. Offsets apply for SO_x and NO_x.

Air Quality Impact Modeling is required for SO_2 and NO_x, and the source is subject to continuous monitoring requirements.

DATE: The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Ninth Circuit Court of Appeals. A petition for review must be filed by January 30, 1981.

FOR FURTHER INFORMATION CONTACT: Copies of the permit are available for public inspection upon request; address requests to: Cecilia Dougherty, Permits Clerk, E–4–1, U.S. Environmental Protection Agency, Region IX, Permits Branch, 215 Fremont Street, San Francisco, California 94105, (415) 566–3450.

Dated: November 14, 1980.

Carl C. Kohnert, Jr.,

Acting Director, Enforcement Division, Region IX.

[FR Doc. 80-37231 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-38-M

[WH–FRL 1685–5]

Grants for Construction of Treatment Works, Exclusion of Major Industrial Users; Impact Analysis

November 24, 1980.

AGENCY: Environmental Protection Agency.

ACTION: Request for Comments.

SUMMARY: We are requesting comments from municipalities, industries and other interested parties regarding the potential effect of a recent amendment, Pub. L. 96–483, to the Federal Water Pollution Control Act. Section 3 of that amendment provides that grant assistance shall not be used after November 15, 1981, for the construction of any portion of a publicly owned wastewater treatment works designed to serve a major industrial user. Your comments will be considered during the conduct of our study of the effect of that provision. In accordance with section 4 of the new Law, we intend to report our findings, both qualitative and quantitative, to the Congress before March 15, 1981.

DATES: Comments must be submitted before December 31, 1980.

ADDRESS: Send comments to: Industrial Users Study, Municipal Construction Division (WH–547), Room 1217A, 401 M Street, S.W., Washington, D.C., 20460

FOR FURTHER INFORMATION CONTACT: Thomas A. Whalen, (202) 426–8902.

SUPPLEMENTARY INFORMATION: Public Law 96-483 is an Act to extend certain authorizations in the Clean Water Act and for other purposes. One of those purposes was to repeal the industrial cost recovery, the so-called ICR, requirement that was originally enacted as part of the 1972 Act. The original ICR requirement, on which a moratorium had been imposed in 1977, required that each municipality recover without interest, that portion of the Federal grant used to construct the industrial portion of a publicly owned treatment works.

However, section 3 of the new Law states:

> No grant made after November 15, 1981, for a publicly owned treatment works, other than for facility planning and the preparation of construction plans and specifications, shall be used to treat, store, or convey the flow of any industrial user into such treatment works in excess of a flow per day equivalent to fifty thousand gallons per day of sanitary waste. This subsection shall not apply to any project proposed by a grantee which is carrying out an approved project to prepare construction plans and specifications for a facility to treat wastewater, which received its grant approval before May 15, 1980.

We are requesting your comments as input to the study and report that is required by section 4 of Pub. L. 96–483:

> The Administrator of the Environmental Protection Agency shall study and report to the Congress not later than March 15, 1981, on the effect of the amendment made by section 3 on the construction of publicly owned treatment works, industrial participation in publicly owned treatment works, treatment of industrial discharges, and the appropriate degree of Federal and non-Federal participation in the funding of publicly owned treatment works.

Depending upon the nature of your comments and other sources of information, the report to Congress may also identify specific communities and projects affected by the amendment, especially those areas that are rural, have high unemployment or are economically distressed. In addition, we intend to develop information on the amounts and capital costs impacts of industrial flows both above and below the 50,000 gallon per day cut-off that are proposed for treatment in municipal plants. Therefore, your cooperation is critical to this effort and your comments will be appreciated.

Henry L. Longest II,

Deputy Assistant Administrator for Water Program Operations (WH–546).

[FR Doc. 80-37283 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-29-M

[ER–FRL 1685–6]

Intent to Prepare an Environmental Impact Statement

AGENCY: Environmental Impact Statement Preparation Section, Region III, Environmental Protection Agency.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (EIS).

PURPOSE: To fulfill the requirements of Section 102(2)(C) of the National Environmental Policy Act, EPA has identified a need to prepare an EIS and therefore issues this Notice of Intent pursuant to 40 CFR 1501.7.

FOR FURTHER INFORMATION CONTACT: Ms. Rochelle Volin, Environmental Impact Statement Preparation Section (3IR60), U.S. Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, telephone: (Commercial) 215–597–8335; (FTS) 8–597–8335.

1. Description of proposed action: An EIS will be prepared to assess the impacts of the upgrading and expansion of the Savage Wastewater Treatment Plant, Howard County, Maryland. The facility is currently under construction

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and is being expanded to a 15 million gallon per day facility with phosphorous removal units and filtration facilities. The Savage Plant will discharge treated wastewater into the Little Patuxent River via a 3¾ mile extended outfall sized for the anticipated year 2000 needs of 25 million gallons per day.

2. Public and Private Participation in the EIS Process: Full participation by interested Federal, State and local agencies as well as other interested private organizations and parties is invited. The public will be involved to the maximum extent possible and is encouraged to participate in the planning process.

3. Issues: This EIS is being prepared in response to a citizen suit concerning potential impacts to the Patuxent River and its estuary as a result of an expansion of the Savage Wastewater Treatment Plant.

The EIS will evaluate the following specific issues of concern:

1. Potential impact from increased nitrogen discharges;

2. Potential for bacteria and viruses from discharge;

3. Increase eutrophication potential;

4. Lower Patuxent River as possible public drinking water source;

5. Other issues specified to EPA by cooperating governmental agencies and citizens.

4. Scoping: A scoping meeting was held on October 20 in Howard County with representatives of Maryland's Office of Environmental Programs, Howard County Department of Public Works, and concerned citizens groups. A public meeting wil be scheduled to meet with citizens and groups in the area. For additional information, contact the person indicated above. Public notice will be given prior to all subsequent meetings.

5. Timing: EPA estimates the Draft EIS will be available for public review and comment in 11 months after initiation of the project.

6. Requests for Copies of Draft EIS: All interested parties are encouraged to submit their names and address to the person indicated above for inclusion on the distribution list for the draft EIS and related public notices.

Dated: November 21, 1980.

William N. Hedeman, Jr.

Director, Office of Environmental Review (A-104).

[FR Doc. 80-37258 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-37-M

[RD-FRC 1688-6]

Ambient Air Monitoring Reference and Equivalent Methods; Equivalent Method Designation

Notice is hereby given that EPA, in accordance with 40 CFR Part 53 (40 FR 7044, 41 FR 11255), has designated another equivalent method for the measurement of ambient concentrations of sulfur dioxide. The new equivalent method is an automated method (analyzer) which utilizes a measurement principle based on "second derivative spectroscopy." The method is:

EQSA-1280-049, "Lear Siegler Model AM2020 Ambient SO_2 Monitor," operated on the 0-0.5 ppm range, at a wavelength of 299.5 nm, and with a 5 minute integration period.

The method is available from Lear Siegler, Inc., Environmental Technology Division, 74 Inverness Drive East, Englewood, Colorado 80112.

A notice of receipt of application for this method appeared in the **Federal Register**, Volume 45, September 26, 1980, page 63911.

A test analyzer representative of this method has been tested by the applicant, in accordance with the test procedures specified in 40 CFR Part 53. After reviewing the results of these tests and other information submitted by the applicant, EPA has determined, in accordance with Part 53, that this method should be designated as an equivalent method. The information submitted by the applicant will be kept on file at the address shown below and will be available for inspection to the extent consistent with 40 CFR Part 2 (EPA's regulations implementing the Freedom of Information Act).

As an equivalent method, this method is acceptable for use by States and other control agencies for purposes of 40 CFR Part 58, Ambient Air Quality Surveillance (44 FR 27571, May 10, 1979). For such use, the method must be used in strict accordance with the operation or instruction manual provided with the method and subject to any limitations (e.g., operating range) specified in the applicable designation (see description of the method above). Vendor modifications of a designated method used for purposes of Part 58 are permitted only with prior approval of EPA, as provided in Part 53. Provisions concerning modification of such methods by users are specified under Section 2.8 of Appendix C to Part 58 (44 FR 27585).

Part 53 requires that sellers of designated methods comply with certain conditions. These conditions are given in 40 CFR 53.9 and are summarized below:

(1) A copy of the approved operation or instruction manual must accompany the analyzer when it is delivered to the ultimate purchaser.

(2) The analyzer must not generate any unreasonable hazard to operators or to the environment.

(3) The analyzer must function within the limits of the performance specifications given in Table B-1 of Part 53 for at least 1 year after delivery when maintained and operated in accordance with the operation manual.

(4) Any analyzer offered for sale as a reference or equivalent method must bear a label or sticker indicating that it has been designated as a reference or equivalent method in accordance with Part 53.

(5) If such an analyzer has one or more selectable ranges, the label or sticker must be placed in close proximity to the range selector and indicate which range or ranges have been included in the reference or equivalent method designation.

(6) An applicant who offers analyzers for sale as reference or equivalent methods is required to maintain a list of ultimate purchasers of such analyzers and to notify them within 30 days if a reference or equivalent method designation applicable to the analyzer has been cancelled or if adjustment of the analyzers is necessary under 40 CFR 53.11(b) to avoid a cancellation.

(7) An applicant who modifies an analyzer previously designated as a reference or equivalent method is not permitted to sell the analyzer (as modified) as a reference or equivalent method (although he may choose to sell it without such representation), nor to attach a label or sticker to the analyzer (as modified) under the provisions described above, until he has received notice under 40 CFR 53.14(c) that the original designation or a new designation applies to the method as modified or until he has applied for and received notice under 40 CFR 53.8(b) of a new reference or equivalent method determination for the analyzer as modified.

Aside from occasional breakdowns or malfunctions, consistent or repeated non-compliance with any of these conditions should be reported to: Director, Environmental Monitoring Systems Laboratory, Department E (MD-77), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

Designation of this equivalent method will provide assistance to the States in establishing and operating their air quality surveillance systems under Part

58. Additional information concerning this action may be obtained by writing to the address given above. Technical questions concerning the method should be directed to the manufacturer.

Dated: November 24, 1980.

Stephen J. Cage,

Assistant Administrator for Research and Development.

[FR Doc. 80-37257 Filed 11-28-80; 8:45 am]

BILLING CODE 6560-35-M

Office of Energy Conservation and Solar Energy

Energy Conservation Program for Consumer Products; Representative Average Unit Cost of Energy

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: In this notice, the Department of Energy is providing the representative average unit costs of residential energy for electricity, natural gas, No. 2 heating oil and propane, as part of the energy conservation program for consumer products. This program was established by the Energy Policy and Conservation Act, as amended by the National Energy Conservation Policy Act.

EFFECTIVE DATE: The representative average unit costs of energy contained in this notice will become effective December 31, 1980 and will remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT: James A. Smith, U.S. Department of Energy, Office of Conservation and Solar Energy, Division of Buildings and Community Systems, Consumer Products Efficiency Branch, Room GH-065, Mail Station GH-068, 1000 Independence Ave., SW, Washington, D.C. 20585, (202) 252-9127.

SUPPLEMENTARY INFORMATION: Section 323 of the Energy Policy and Conservation Act (Act)[1] requires that the Department of Energy (DOE) prescribe test procedures for the determination of the estimated annual operating costs and other measures of energy consumption for certain consumer products specified in the Act. DOE has prescribed test procedures for the types of covered products listed in Section 322(a)(1)-(13) of the Act. Those test procedures are found in 10 CFR Part 430, Subpart B.

Section 323(b) of the Act requires that the estimated annual operating cost of a covered product be calculated from measurements of energy use in a representative average-use cycle, and from representative average unit costs of the energy needed to operate such product during such cycle. The section further requires DOE to provide information regarding the representative average unit costs. In this notice, DOE is providing representative average unit costs of energy for use wherever such costs are needed to perform calculations in accordance with the test procedures.

On July 15, 1977 (42 FR 36549), DOE's predecessor, the Federal Energy Administration, first published representative average unit costs of residential energy for use in the test procedures. On June 27, 1979 (44 FR 37534), DOE published the first update of representative average unit costs of energy. Effective December 31, 1980, those earlier cost figures will be superseded by the cost figures stated in this notice.

DOE's Energy Information Administration (EIA) has developed the representative average unit costs of energy found in this notice. Representative average unit cost forecasts were developed somewhat differently for each fuel type.

Residential No. 2 heating oil prices and residential propane prices were generated from the EIA Short-Term Cost Distribution Model, which forecasts prices of selected petroleum products based on changes in crude oil costs, seasonal patterns in retail prices, and established trends in margins and operating expenses. For purposes of these forecasts, propane prices were assumed to change at the same rate as the rate for No. 2 heating oil.

Natural gas price forecasts were generated by relating estimated future production to the regulated prices of the various classes of natural gas created by the Natural Gas Policy Act (NGPA) 1978 (Pub. L. 95-621). The historical markup of wellhead prices to residential prices was then used to generate final residential price forecasts.

Residential electricity price forecasts were generated by relating electricity prices to the costs of primary fuels used by electric utility generating plants, basically residual fuel oil, natural gas, and coal.

A more extensive explanation of the development of the representative average unit costs found in this notice is given in volume Three of EIA's *Annual Report to Congress, 1979* DOE/EIA-0173(79)/3. Copies of this report are available at the Energy Information Clearinghouse, 1726 M Street, NW, Washington, D.C. 20461.

It is anticipated that DOE will revise the representative average unit costs of energy on an annual basis. The publication date is expected to be on or about January 1, of each year to coincide with the Federal Trade Commission deadline for data submission by manufacturers of the estimated annual energy cost for covered consumer appliances.

The representative average unit costs stated in Table 1 are provided pursuant to Section 323(b)(2) of the Act and will become effective December 31, 1980. They will remain in effect until further notice.

Issued in Washington, D.C., November 21, 1980.

T. E. Stelson,

Assistant Secretary, Conservation and Solar Energy.

Table 1.—*Estimated Representative Average Unit Costs of Energy for Four Residential Energy Sources (1981)*

Type of energy	Representative average unit costs of energy		
	In common terms	As required by test procedure	In comparable terms[1]
(a)	(b)	(c)	(d)
Electricity[2]	5.64¢/kWh[3]	$0.0564/kWh	$16.53
Natural gas[4]	42.6¢/therm or $4.33/[5] 1,000 ft³.	$4.26×10⁻⁶/Btu	4.26
No. 2 heating oil[6]	124.0¢/gal	$8.94×10⁻⁹/Btu	8.94
Propane[7]	78.4¢/gal	$8.62×10⁻⁹/Btu	8.62

[1] Dollars per million Btu (British thermal units).
[2] 1 kWh = 3,413 Btu's.
[3] kWh stands for kilowatt hour.
[4] 1 therm = 100,000 Btu's or 1 ft³ = 1,016 Btu's.
[5] 1,000 ft³ 1,000 cubic feet.
[6] 1 gal = 136,700 Btu's.
[7] 1 gal = 91,000 Btu's.

[FR Doc. 80-37157 Filed 11-28-80; 8:45 am]

BILLING CODE 6450-01-M

[1] References to the "Act" refer to the Energy Policy and Conservation Act (Public Law 94-163) as amended by the National Energy Conservation Policy Act (Public Law 95-619).

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FEDERAL RESERVE SYSTEM

Bank Leumi Le-Israel B.M., et al; Proposal to Retain Leumi Financial Corporation

Bank Leumi le-Israel B.M., Tel Aviv, Israel; Otzar Hityashvuth Hayehudim B.M., Tel Aviv, Israel; JCT Trust Company Limited, Tel Aviv, Israel; and the Trust Created by Otzar Hityashvuth Hayehudim Jewish Colonial Trust Limited, London, England and JCT Trust Company Limited, Tel Aviv, Israel, have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b) of the Board's Regulation Y (12 CFR 225.4(b)), for permission to retain direct and indirect control of Leumi Financial Corporation, New York, New York.

Applicants state that the proposed subsidiary would continue to engage in the activities of making, acquiring, and servicing commercial loans and other extensions of credit. These activities would be performed from offices of Applicants' subsidiary in New York, New York, and the geographic areas to be served are the States of New York, New Jersey and Connecticut. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 19, 1980.

Board of Governors of the Federal Reserve System, November 20, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37139 Filed 11-28-80; 8:45 am]

BILLING CODE 6210-01-M

Northern Bancshares, Inc., Formation of Bank Holding Company

Northern Bancshares, Inc., Chillicothe, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank of Chillicothe, Chillicothe, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 19, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 20, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37140 Filed 11-28-80; 8:45 am]

BILLING CODE 6210-01-M

Northwest Investment Company of Cloquet, Inc., Proposed Retention of Leasing Activities

Northwest Investment Company of Cloquet, Inc., Cloquet, Minnestoa, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4 (b)(c)), for permission to continue to engage in equipment leasing activities. These activities would be performed from offices of Applicant in Cloquet, Minnesota, and the geographic area to be served consists of an area within 25 miles of Cloquet, Minnesota, including Duluth, Minnesota, and Superior, Wisconsin. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of §22.5.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration or resources, decreased or unfair competition, conflicts of interests, of unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 19, 1980.

Board of Governors of the Federal Reserve System, November 20, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37138 Filed 11-28-80; 8:45 am]

BILLING CODE 6210-01-M

Federal Open Market Committee; Domestic Policy Directive October 21, 1980

In accordance with § 271.5 of its rules regarding availability of information, there is set forth below the Committee's Domestic Policy Directive issued at its meeting held on October 21, 1980.[1]

The information reviewed at this meeting suggests that real GNP increased somewhat in the third quarter following the sharp contraction in the second quarter, while prices on the average continued to rise rapidly. The recovery in retail sales and housing starts that began in June continued during the third quarter. Industrial production and nonfarm payroll employment expanded in September for the second consecutive month, and the unemployment rate edged down from 7.6 to 7.5 percent. The rise in the index of average hourly earnings moderated in the third quarter, but the rise over the first nine months of the year was about as rapid as in 1979.

The weighted average value of the dollar in exchange markets on balance has risen somewhat over the past month. The U.S. trade deficit in August remained well below the monthly average in the second quarter.

M–1A and M–1B continued to grow rapidly in September, although not so rapidly as in August, while growth in M–2 moderated further. From the fourth quarter of 1979 to September, growth of M–1A was slightly above the midpoint of the range set by the Committee for growth over the year ending in the fourth quarter of 1980, while growth of M–1B and M–2 was somewhat above the upper limits of their ranges. Expansion in commercial bank credit was relatively rapid in both August and September. On balance short-term market interest rates have risen considerably further since mid-September while long-term rates have changed little; average rates on new home mortgage commitments have continued upward. An increase in Federal Reserve discount rates from 10 to 11 percent was announced on September 25.

The Federal Open Market Committee seeks to foster monetary and financial conditions that will help to reduce inflation, encourage economic recovery, and contribute to a sustainable pattern of international transactions. At its meeting in July, the Committee agreed that these objectives would be furthered by growth of M–1A, M–1B, M–2 and M–3 from the fourth quarter of 1979 to the fourth quarter of 1980 within ranges of 3½ to 6 percent, 4 to 6½ percent, 6 to 9 percent, and 6½ to 9½ percent respectively. The associated range for bank credit was 6 to 9 percent. For the period from the fourth quarter of 1980 to the fourth quarter of 1981, the Committee looked toward a reduction in the ranges for growth of M–1A, M–1B, and M–2 on the order of ½ percentage point from the ranges adopted for 1980, abstracting from institutional influences affecting the behavior of the aggregates. These ranges will be reconsidered as conditions warrant.

In the short run, the Committee seeks behavior of reserve aggregates consistent with growth of M–1A, M–1B, and M–2 over the September-to-December period at annual rates of about 2½ percent, 5 percent, and 7¼ percent respectively, or somewhat less, provided that in the period before the next regular meeting the weekly average federal funds rate remains within a range of 9 to 15 percent.

If it appears during the period before the next meeting that the constraint on the federal funds rate is inconsistent with the objective for the expansion of reserves, the Manager for Domestic Operations is promptly to notify the Chairman, who will then decide whether the situation calls for supplementary instructions from the Committee.

By order of the Federal Open Market Committee, November 21, 1980.

Murray Altmann,

Secretary.

[FR Doc. 80-37141 Filed 11-28-80; 8:45 am]

BILLING CODE 6210-01-M

[1] The Record of Policy Actions of the Committee for the meeting of October 21, 1980, is filed as part of the original document. Copies are available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

Bank Holding Companies; Proposed "de Novo" Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, incresed competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should indentify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than December 22, 1980.

A. *Federal Reserve Bank of Philadelphia* (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

Philadelphia National Corporation, Philadelphia, Pennsylvania (financing, insurance, and mortgage banking activities; Delaware and adjacent areas): to engage, through its subsidiary, Signal Mortgage Corporation of Delaware, in making personal installment loans secured by mortgages other than first liens on the borrower's real estate; selling casualty insurance, credit life insurance and credit accident and health insurance in connection with such loans; reinsuring such insurance through other indirect subsidiaries, and generally engaging in the business of second-mortgage lending. These activities would be conducted from offices in New Castle, Newark, and Wilmington, Delaware, serving all of Delaware and adjacent areas in Pennsylvania and Maryland.

B. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

Omaha National Corporation, Omaha, Nebraska (mortgage banking activities; Oklahoma): to engage through its subsidiary Realbanc, Inc., in making, acquiring, and servicing loans and other extensions of credit secured by real estate mortgages. These activities would be conducted from an office in Tulsa, Oklahoma, serving an area within a 100-mile radius of Tulsa. Comments on this application must be received by December 18 1980.

C. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

Old National Bancorporation, Spokane, Washington (financing and insurance activities; Washington): to engage, through its subsidiary, Old National Financial Services, Inc., in making or acquiring for its own account or for the account of others, loans and other extensions of credit, including the making of consumer installment loans, purchasing consumer installment sales finance contracts, and the making of loans to small businesses and in acting as an insurance agent or broker for the purpose of selling credit life and credit accident and health insurance in connection with extensions of credit by Old National Financial Services, Inc., and acting as an agent or broker for the purpose of selling property and casualty insurance on personal property subject to security interests held by Old National Financial Services, Inc., and to engage, through its subsidiary, Union Securities Co., in acting as an insurance agent or broker for the purpose of selling credit life and credit accident and health insurance in connection with extensions of credit by Old National Financial

Services, Inc., and acting as an agent or broker for the purpose of selling property and casualty insurance on personal property subject to security interest held by Old National Financial Services, Inc. These activities would be conducted from an office in Seattle, Washington, serving the State of Washington.

D. *Other Federal Reserve Banks.* None.

Board of Governors of the Federal Reserve System, November 21, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37203 Filed 11-28-80; 8:45 am]

BILLING CODE 6210-01-M

Burr Oak Banco, Inc., Formation of Bank Holding Company

Burr Oak Banco, Inc., Burr Oak, Kansas, has applied for the Board's approval under section 3(a)(1)) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring 90.8 per cent or more of the voting shares of Burr Oak State Bank, Burr Oak, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 24, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 24, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board

[FR Doc. 80-37198 Filed 11-28-80; 8:45 am]

BILLING CODE 6210-01-M

Childress Bancshares, Inc.; Formation of Bank Holding Company

Childress Bancshares, Inc., Childress, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First National Bank in Childress, Childress, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 24, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 24, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37199 Filed 11-28-80; 8:45 am]

BILLING CODE 6201-01-M

First City Bancorporation; Acquistion of Bank

First City Bancorporation, Houston, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Central Park Bank, San Antonio, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 22, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 21, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37205 Filed 11-28-80; 8:45 am]

BILLING CODE 6210-01-M

First Citizens Bankshares, Inc.; Formation of Bank Holding Company

First Citizens Bankshares, Inc., Glenville, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of First Citizens Bank, Glenville, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 24, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 24, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37201 Filed 11-28-80; 8:45 am]

BILLING CODE 6210-01-M

First Union Bancorporation, Firstsub, Inc.; Acquisition of Bank and Formation of Bank Holding Company

First Union Bancorporation, St. Louis, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire indirectly 84.2 percent of the voting shares of Columbia Union Bank and Trust Company, Kansas City, Missouri. These shares would be acquired and held by Firstsub, Inc., St. Louis, Missouri, a wholly-owned subsidiary of First Union Bancorporation, and Firstsub, Inc., has applied for the Board's approval under section 3(a)(1) of the Act (12 U.S.C. 1842(a)(1)) to become a bank holding company as a result of the acquisition. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the applications should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 24, 1980. Any comment on an applications that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions

of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 24, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37198 Filed 11-28-80; 8:45 am]

BILLING CODE 6210-01-M

First United Bancoporation, Inc.; Acquisition of Bank

First United Bancorporation, Inc., Fort Worth, Texas, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent (less directors' qualifying shares) of the voting shares of The Southwest State Bank, Brownwood, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 15, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 24, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37200 Filed 11-28-80; 8:45 am]

BILLING CODE 6210-01-M

Middle River Bancshares, Inc.; Formation of Bank Holding Company

Middle River Bancshares, Inc., Middle River, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 94.11 per cent of the voting shares of First National Bank of Middle River, Middle River, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 22, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 21, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board

[FR Doc. 80-37202 Filed 11-28-80; 8:45 am]

BILLING CODE 6210-01-M

Savannah Bancshares, Inc.; Formation of Bank Holding Company

Savannah Bancshares, Inc., Savannah, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First Community State Bank of Savannah, Savannah, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 22, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 21, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37206 Filed 11-28-80; 8:45 am]

BILLING CODE 6210-01-M

Texas Commerce Bancshares, Inc.; Acquisition of Bank

Texas Commerce Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(5) of the Bank Holding Company Act (12 U.S.C. 1842(a)(5)) to acquire 100 percent of the voting shares of Banc-Southwest Corporation, Amarillo, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 22, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 21, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37204 Filed 11-28-80; 8:45 am]

BILLING CODE 6210-01-M

Union Bancshares, Inc.; Formation of Bank Holding Company

Union Banchares, Incorporation, San Antonio, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Union State Bank, San Antonio, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 24, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 21, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37197 Filed 11-28-80; 8:45 am]

BILLING CODE 6210-01-M

Union Bank Corp.; Formation of Bank Holding Company

Union Bank Corporation, Upton, Wyoming, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C.

1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (except directors' qualifying shares) of Union State Bank,

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

30 CFR Part 715—General Performance Standards

Section 715.13(d) requires submission of plans for alternative post-mining use

and (6) require approximately 240 underground coal mine operators to submit dam construction plans and annual reports of modifications or

30 CFR Part 735—Grants for Program Development and Administration and Enforcement

Section 735.13(a) requires 23 State

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for

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1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (except directors' qualifying shares) of Union State Bank, Upton, Wyoming. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 22, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 21, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37207 Filed 11-28-80; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on November 20, 1980. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB and OSM requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before December 19, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Civil Aeronautics Board

The CAB requests an extension without change clearance of the reporting requirements contained in §§ 245.12, 245.13, 245.14 and 245.15 of Part 245 of the Board's Economic Regulations—Reports of Ownership of Stock and Other Interests. The CAB states that submission of the data is mandatory under the Federal Aviation Act of 1958, as amended, and that respondents are estimated to number approximately 35 and reporting burden to average 1.5 hours for reporting under § 245.12 or 245.13, 3 hours for reporting under § 245.14, and 30 minutes for reporting under § 245.15; according to which section applies to each respondent.

The CAB requests an extension without change clearance of Form 2786—Report of Ownership of Stock and Other Interests Under section 407(c) of the Federal Aviation Act of 1958 and Part 245 of the Economic Regulations. Form 2786 requires that officers and directors of air carriers disclose, on an annual basis, interests held in any air carrier, common carrier, or person engaged in a phase of aeronautics. The CAB estimates that respondents will number approximately 2,000 and that reporting burden will average 30 minutes per report filed.

Office of Surface Mining

The Office of Surface Mining, Department of the Interior, requests an extension without change clearance of the reporting and recordkeeping requirements contained in its Interim Regulatory Programs, as set out below. The Office of Surface Mining has determined that such information is necessary to perform its responsibilities under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* and must be collected, submitted or retained. The Office of Surface Mining has reviewed the requirements set out below and revised, where necessary, the number of respondents and burden hours associated with them. The requirements contained in each part are as follow:

30 CFR Part 710—Initial Regulatory Program

Section 710.4(b) requires approximately 13 states to submit weekly copies of mine inspection reports. OSM estimates reporting time to average 30 minutes per report.

30 CFR Part 715—General Performance Standards

Section 715.13(d) requires submission of plans for alternative post-mining use of the land for each of the approximately 1,240 surface coal mines subject to this provision. Reporting time is estimated by OSM to average from 8 to 40 hours per mine with an average of about 24 hours. Section 715.17(b) requires approximately 4,965 surface coal mine operators to submit copies of their quarterly NPDES permit surface water analyses report to OSM. Reporting time is estimated by OSM to be approximately 30 minutes per quarter. Sections 715.18(b) (2) and (6) require approximately 497 surface coal mine operators to submit dam construction plans and annual reports of modifications or changes in the geometry of the impounding structure. Reporting time is estimated by OSM to be one hour per construction plan and 15 minutes per annual report. Section 715.19(b) requires a submission of preblast survey reports by each of the approximately 497 surface coal mine operators subject to this provision. The reporting time is estimated by OSM to be 8 hours per operator. Sections 715.19 (c) and (d) require publication and distribution of initial and revised blasting schedules to the public for each of the approximate 4,460 surface coal mine operators. The reporting time is estimated by OSM to be 45 minutes per mine operator. Section 715.19(e)(4) requires maintenance of blasting logs for at least 3 years for approximately 4,460 surface coal mine operators. Recordkeeping time is estimated by OSM to be 78 hours annually per mine operator.

30 CFR Part 716—Special Performance Standards

Sections 716.7(c), (d) and (e) require approximately 76 surface coal mine operators to conduct soil surveys, document the presence of prime farmlands, and submit, on a one-time basis, plans for mining and restoring prime farmlands. OSM estimates the reporting time to be from 5 to 10 hours per operator.

30 CFR Part 717—Underground Mining

Section 717.17(b) requires the submission of a copy of the quarterly NPDES permit water analyses report to OSM for each of the approximately 3,426 underground coal mine operators subject to this provision. The reporting time is estimated by OSM to be one-half hour per report. Sections 717.18(b)(2) and (6) require approximately 240 underground coal mine operators to submit dam construction plans and annual reports of modifications or changes in the geometry of the impounding structures. Reporting time is estimated to be one hour per construction plan and 15 minutes per annual report.

30 CFR Part 718—Adoption of State Standards

Section 718.1(b) establishes procedures for States in identifying more stringent State standards and for requesting a review of laws for adoption and application in their State, as Federal standards. OSM estimates 10 States may make such a request and reporting time will be 1½ hours per State request.

30 CFR Part 720—State Enforcement Activities

Section 720.13(a) and (b) require approximately 13 States to file copies of their weekly mine inspection reports and copies of initial, revised or renewed permits with OSM. The reporting time is estimated by OSM to be 52 hours annually per inspection report and 1 hour per permit.

30 CFR Part 725—Reimbursement to States

Section 720.15 establishes procedures for approximately 13 States for submitting annual grant applications. The reporting time is estimated by OSM to be 160 hours per application. Section 725.23(a) requires an annual submission, by approximately 13 State grantees, of a Financial Status Report and Performance Report in accordance with OMB's Circular A-102, Attachments H and L The reporting time is estimated by OSM to be 40 hours per grantee. Section 725.24 requires approximately 13 State grantees to maintain books and records sufficient to reflect use of grant monies. OSM estimates the record maintenance time per State grantee as 240 hours.

The Office of Surface Mining, Department of the Interior, requests an extension without change clearance of the reporting and recordkeeping requirements contained in its Permanent Regulatory Program as set out below. The Office of Surface Mining has determined that such information is necessary to perform its responsibilities under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et. seq.* and must be collected, submitted or retained. The Office of Surface Mining has reviewed these requirements and revised, where necessary, the number of respondents and burden hours associated with them as set out below.

30 CFR Part 735—Grants for Program Development and Administration and Enforcement

Section 735.13(a) requires 23 State agencies to submit annual summaries of their program development budgets. Section 735.13(b) requires 23 State agencies, commencing October 1, 1980, to submit projected regulatory program budgets 18 months prior to the applicable Federal fiscal year and current regulatory program budgets 3 months prior to the applicable Federal fiscal year. The reporting time is estimated by OSM to be 100 hours per program development budget summary and 24 hours per projected and current regulatory program budget. Section 735.16(e) establishes annual grant application procedures for cooperative agreement grants for the 5 States subject to this provision. Reporting time is estimated by OSM to be 16 hours annually. Section 735.16 establishes procedures for submission of applications for annual grants. The reporting time is estimated by OSM to be 160 hours annually for the 23 States subject to this provision. Section 735.26 establishes annual financial reporting requirements for the 23 States subject to this provision. Reporting time is estimated by OSM to be 40 hours per report. Section 735.27 requires continuous maintenance of financial records by each of the 23 States. Recordkeeping time is estimated by OSM to average 240 hours.

30 CFR Part 795—Small Operator Assistance Program

Section 795.12 requires State regulatory authorities, to the extent possible, with available funds, to select and pay qualified laboratories to collect, report, and make available results of test borings and core samples to small coal mine operators. Reporting time is estimated by OSM to be 80 hours for each of the 23 State regulatory authorities subject to this provision. Section 795.16 establishes the minimum data requirements for studies to be conducted for approximately 1,754 eligible small coal mine operators by an estimated 500 qualified laboratories. Reporting time is estimated by OSM to be 176 hours per study.

Norman F. Heyl,

Regulatory Reports, Review Officer.

[FR Doc. 80-37216 Filed 11-28-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary for Planning and Evaluation

[HEW-100-79-0165]

Symposium on Policy and Program Issues Related to Child and Family Services to Black Americans; Program Completion

Pursuant to Section 606 of the Community Services Act of 1974, (Pub. L. 93-644) 42 U.S.C. 2946, this agency announces the results, findings, data and recommendations reported as a result of activities associated with HHS project entitled, "Symposium on Policy and Program Issues Related to Child and Family Services to Black Americans."

The final report describes the Symposium which was held at the Harambee House Hotel in Washington, D.C. on April 30, May 1-2, 1980. The primary objectives of the Symposium were (1) to identify and discuss policy and program issues in selected program areas (child health, child welfare, and child care) that are of priority concern to Black families; (2) to develop a set of criteria which may be used to assess the responsiveness of future policies and programs to the needs of Black families; and (3) to develop recommendations and strategies for effectively incorporating these criteria into the health and human services system. Another objective was to identify recommendations concerning specific research initiatives and other activities which could increase the responsiveness of HHS programs to the needs of Black children and their families.

Participants in the Symposium consisted of individuals from the public and private sector. The non-federal participants included state and local practitioners, researchers from various social sciences and advocates that are involved in the child health and social services. The federal participants included those in key HHS policymaking positions.

The report specifically discusses recommended criteria which may be used to assess the responsiveness of future policies and programs to the needs of Black families. These criteria address agreed-on characteristics, needs, and concerns of Black families and their communities, and may be used as an assessment tool by HHS policymakers and program managers in future policy development, policy implementation, and program monitoring and enforcement process activities. The criteria are expected to be employed to respond to the needs of

Black families and other minority and non-minority family needs by highlighting the importance of family

(AFDC) and aid to needy aged, blind, or disabled persons, and the "Federal medical assistance percentages" are for

Federal Percentages and Federal Medical Assistance Percentages, Effective Oct. 1, 1981-Sept. 30, 1983—Continued

mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special

and distribution of a Final Environmental Impact Statement.

Appendix—EIS on Franklin Farm,

Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental

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Black families and other minority and non-minority family needs by highlighting the importance of family diversity.

Finally, a series of implementation steps emerged from the Symposium discussions. These steps and recommended research activities were recommended for consideration by HHS.

A copy of the report will be available as soon as possible from the national Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

Dated: November 13, 1980.

John L. Palmer,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 80-37146 Filed 11-28-80; 8:45 am]

BILLING CODE 4110-12-M

Office of the Secretary

Federal Financial Participation in State Assistance Expenditures

AGENCY: Office of the Secretary, HHS.

ACTION: Notice of Federal Matching Shares for Aid to Families with Dependent Children, Medicaid and Aid to Needy Aged, Blind, or Disabled Persons for October 1, 1981—September 30, 1983.

SUMMARY: This notice announces the "Federal percentages" and "Federal medical assistance percentages" that we will use in determining the amount of Federal matching in State welfare expenditures. The table gives figures for each of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, and the Northern Mariana Islands. These programs are under titles I, IV–A, X, XIV, XVI, (AABD), and XIX of the Social Security Act (the Act). The percentages in this notice apply to State expenditures for assistance payments. The statute provides separately for Federal matching of administrative costs.

Sections 1101(a)(8) and 1905(b) of the Social Security Act require the Secretary of Health and Human Services to publish these percentages each even-numbered year. The Secretary is to figure the percentages, by formulas in those sections of the Act, from the Department of Commerce's statistics of average income per person in each State and in the nation as a whole. The percentages are within upper and lower limits given in those two sections of the Act.

The "Federal percentages" are for Aid to Families with Dependent Children (AFDC) and aid to needy aged, blind, or disabled persons, and the "Federal medical assistance percentages" are for Medicaid. However, under section 1118 of the Act, States with approved Medicaid plans may claim Federal matching funds for expenditures under approved State plans for these other programs using either the Federal percentage or the Federal medical assistance percentage. These States may claim at the Federal medical assistance percentage without regard to any maximum on the dollar amounts per recipient which may be counted under paragraphs (1) and (2) of sections 3(a), 403(a), 1003(a), 1403(a), and 1603(a) of the Act.

DATES: The percentages listed will be effective for each of the eight quarter-year periods in the period beginning October 1, 1981, and ending September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Emmett Dye, Office of Research and Statistics, Social Security Administration, Room 921, 1875 Connecticut Ave., NW, Washington, D.C. 20009—Telephone (202) 673–5610.

(Catalog of Federal Domestic Assistance Program Nos. 13.808—Assistance payments—Maintenance Assistance (State Aid); 13.714—Medical Assistance program)

Dated: November 25, 1980.

Patricia Roberts Harris,

Secretary of Health and Human Services.

Federal Percentages and Federal Medical Assistance Percentages, Effective Oct. 1, 1981–Sept. 30, 1983

[Fiscal years 1982 and 1983]

State	Federal percentages	Federal medical assistance percentages
Alabama	65.00	71.13
Alaska	50.00	50.00
Arizona	55.41	59.67
Arkansas	65.00	72.16
California	50.00	50.00
Colorado	50.00	52.28
Connecticut	50.00	50.00
Delaware	50.00	50.00
District of Columbia	50.00	50.00
Florida	53.24	57.92
Georgia	62.53	66.28
Guam	50.00	[1] 50.00
Hawaii	50.00	50.00
Idaho	61.88	65.43
Illinois	50.00	50.00
Indiana	51.92	56.73
Iowa	50.89	55.35
Kansas	50.00	52.50
Kentucky	64.38	67.95
Louisiana	63.17	66.85
Maine	66.00	70.63
Maryland	50.00	50.00
Massachusetts	50.00	53.56
Michigan	50.00	50.00
Minnesota	50.00	54.39
Mississippi	65.00	77.36
Missouri	55.98	60.38
Montana	61.49	65.34
Nebraska	53.46	58.12
Nevada	50.00	50.00
New Hampshire	54.91	59.41
New Jersey	50.00	50.00
New Mexico	63.55	67.19
New York	50.00	50.66
North Carolina	64.23	67.81
North Dakota	57.90	62.11
Northern Mariana Islands	50.00	100.00
Ohio	50.11	55.10
Oklahoma	55.46	59.91
Oregon	50.00	52.81
Pennsylvania	51.96	56.78
Puerto Rico	50.00	[1] 50.00
Rhode Island	53.08	57.77
South Carolina	65.00	70.77
South Dakota	64.65	68.19
Tennessee	60.00	68.53
Texas	50.83	55.75
Utah	65.00	68.64
Vermont	65.00	68.59
Virgin Islands	50.00	100.00
Virginia	51.93	56.74
Washington	50.00	50.00
West Virginia	64.38	67.95
Wisconsin	53.35	58.02
Wyoming	50.00	50.00

[1] For purposes of section 1118 of the Social Security Act, the percentage used under titles I, X, XIV, and XVI and Part A of title IV will be 75 per centum.

[FR Doc. 80-37288 Filed 11-28-80; 8:45 am]

BILLING CODE 4110-07-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Environmental Quality

[Docket No. NI-35]

General Motors Plant Relocation, Kansas and Franklin Farms, Va.; Intended Environmental Impact Statements

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for each of the following projects under HUD programs as described in the appendices of the Notice: General Motors Plant Relocation, Kansas City, Kansas; and Franklin Farms, Fairfax, Virginia. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person or address indicated in the appropriate part of the appendices.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C., November 19, 1980.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

Appendix—EIS on General Motors Plant Relocation, Kansas City, Kansas

The City of Kansas City, Kansas has a proposal into the U.S. Department of Housing and Urban Development for Urban Development Action Grant funds under Title I of the Housing and Community Development Act of 1974 (Pub. L. 93–383) to be used for the General Motors Plant Relocation. A Draft Environmental Impact Statement will be prepared by the City of Kansas City, Kansas, in accordance with the National Environmental Policy Act of 1969 (Pub. L. 91–190) on such project.

Description. The project will relocate the existing General Motors Assembly Plant from Fairfax Industrial District to the western portion of Kansas City, Kansas. There are 540 acres in the site. HUD funds will be used for roads, storm and sanitary sewers, pipe relocation, a fire station, and improvements to railroad rights-of-way. The application to HUD is for $23,000,000 of the total project cost of $432,000,000. A grant proposal has been sent to EPA.

Need. It has been determined that a project of this magnitude will constitute an action significantly affecting the quality of the human environment.

Alternatives. Among the alternatives available are (1) accept the project as proposed, (2) change it to different locations, and (3) no project.

Scoping. There will be a scoping meeting. For further information on this meeting contact Ms. Midge Nutman, Grants Coordinator, at the address below. Her phone number is 913–321–2708.

Contact. All interested agencies, groups and persons are invited to submit written comments on this project and the Draft Environmental Impact Statement to the Kansas City Department of Economic Development, Seventh Floor, Municipal Building, 701 North Seventh Street, Kansas City, Kansas 66101. Such written comments should be received at the address specified on or before December 31, 1980, and all comments so received will be considered prior to the preparation and distribution of a Final Environmental Impact Statement.

Appendix—EIS on Franklin Farm, Fairfax, Virginia

The Washington, D.E. Area Office of the Department of Housing and Urban Development intends to prepare an EIS for Franklin Farm, a proposed residential development. That development will be located between West Ox Road and Centerville Road in Fairfax County. The purpose of this Notice is to solicit from all interested persons, local, state and Federal Agencies, recommendations regarding issues to be addressed in depth in the Environmental Impact Statement.

Description. Franklin Farm will be located approximately 2 miles north of Chantilly. The main access roads will be Route 50 and Ox Road. Burke Centre Partnerships, the developer, proposes a total development of 1646 units on a 823 acre tract.

Need. Pursuant to 24 CFR Part 50, Procedures for Protection and Enhancement of Environmental Quality—HUD has determined that an Environmental Impact Statement will be prepared for this project because of its size.

Alternatives Perceived. The alternatives are: (1) Accept the project as submitted; (2) higher density development; (3) lower density development; (4) development of alternatives to mitigate major adverse impacts that may be uncovered during the EIS process; and (5) reject the project.

Scoping. A scoping meeting will be held. For further information contact the person listed below.

Comments. Comments should be sent on or before December 22, 1980, to Terry C. Chisholm, Area Manager, HUD, D.C. Area Office, 1875 Connecticut Avenue NW, Washington, D.C. 20009. HUD plans to have the Draft ready by February 13, 1981, for publication.

[FR Doc. 80-37214 Filed 11-28-80; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. NI-34]

Quintas de Dorado Housing Project, Dorado, Puerto Rico; Intended Environmental Impact Statement

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following project under HUD programs as described in the appendix of the Notice: Quintas de Dorado Housing Project, Dorado, Puerto Rico. This Notice is required by the Council on Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS shoud consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies have jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C. November 19, 1980.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

Appendix—EIS for Quintas de Dorado Housing Project, Dorado, Puerto Rico

The Department of Housing and Urban Development, Region II, Caribbean Area Office, intends to prepare an Environmental Impact Statement (EIS) on the project described below and solicits comments and information for consideration in the EIS.

Description: The project location is Dorado, Puerto Rico, Higuillar Ward, Km 8.2, State Road No. 693. The project may be assisted under the following Federal Programs: 203 (b) 235.

Quintas de Dorado is the latest subdivision in a development of 1430 detached residential units. The first stage of the development, consisting of 289 residential lots, has received an environmental clearance from HUD. Approximately 200 units of the Stage 1 development have been built. Stages 2, 3 and 4 will total 1141 units at the termination of Quintas de Dorado.

Need: It has been determined to prepare an Environmental Impact Statement due to the size of the development.

Alternatives: Alternatives to be considered include changes to size design or no project.

Scoping: A scoping meeting with the participation of cooperating government agencies and the general public will be held. For information on this meeting contact the person listed below.

Comments: Estimated date for completion of Draft EIS: February 4, 1981. A copy of the draft will be published in Spanish, and will be available for inspection at the Area

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Office. All comments will be considered when preparing the Draft and become part of the project's environmental file. These comments must be mailed or delivered to HUD at the following address on or before December 22, 1980. Jose' R. Febres-Silva, Area Manager, U.S. Department of Housing and Urban Development, U.S. Courthouse and Federal Building, Carlos Chardon Avenue, Room 428, Hato Rey, Puerto Rico 00918.

[FR Doc. 80-37213 Filed 11-28-80; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

White Earth and the Red Cliff Chippewa Indians; Plans for the Use of the Twenty Percent Program Funds of the Reservation Groups' Shares of Judgment Funds in Dockets 18-C and 18-T Before the Indian Claims Commission

November 18, 1980.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 208 DM 8.

A plan for the use of certain judgment funds of the White Earth and Red Cliff Reservation groups of the Mississippi and Lake Superior Bands of Chippewa Indians, pursuant to the provisions of the Act of October 19, 1973, 87 Stat. 466, became effective on February 1, 1979. Under the plan, twenty (20%) percent of the groups' shares of the Mississippi and Lake Superior funds awarded in Dockets 18–C and 18–T were set aside for the program aspect of the plan to be developed at a later date. Plans for the use of the program funds of the White Earth and Red Cliff Reservation groups were submitted to the Congress by a letter dated August 18, 1980, and was received (as recorded in the Congressional Record) by the House of Representatives on August 21, 1980, and by the Senate on August 22, 1980. Congress not having adopted a resolution disapproving it, the program plans became effective on September 22, 1980.

The plans read as follows:

"*White Earth Reservation, Minnesota.* In accordance with Resolution No. 55–80, as amended July 8, 1980, by the White Earth Reservation Business Committee, the twenty percent program funds and the interest and investment income accrued, shall be apportioned and utilized in the following manner:

A. Twenty (20) percent of such funds, and interest and investment accruing thereon, shall be utilized in a Reservation Economic Development program, for such purposes as matching funds for federal, state and local programs and assistance to the White Earth Reservation Business Committee to establish and develop on-reservation based businesses.

B. Three (3) percent of such funds, and interest and investment income accruing thereon, shall be utilized in a Reservation Maintenance Program.

C. Thirty-two (32) percent of such funds, and interest and investment income securing thereon, shall be utilized as leverage capital to be used as security for loans, investments and other capital development projects for the White Earth Reservation.

D. Twenty (20) percent of such funds, including interest and investment income accruing thereon, shall be utilized for developing a land base.

E. Ten (10) percent of such finds, and interest and investment income accruing thereon, shall be utilized for Education and Social Programs.

F. Fifteen (15) percent of the program funds, including interest and investment income accruing thereon, shall be utilized in the reassumption of jurisdiction and all other rightful duties and obligations of a self-sufficient and self-determining reservation such as zoning, law enforcement, game management, land use and other regulatory controls within the White Earth Reservation in accordance with and in furtherance of the mandate by Congress.

There shall be established six separate program accounts apportioned in the percentages above, including the interest and investment income accrued. The funds shall continue to be invested by the Secretary (hereinafter 'Secretary'), pursuant to 25 U.S.C. 162a, until such time as specific plans for the use of the program funds and tribal budgets are developed by the White Earth Reservation Business Committee, which shall be subject to approval by the Secretary. Should funds of a program account be in excess of needs, adjustments between program accounts may be made in tribal budgets developed by the governing body.

Red Cliff Reservation, Wisconsin. In accordance with Resolution No. 3–3–80G of the Red Cliff Tribal Council, the twenty percent program funds and the interests and investment income accrued thereon, shall be utilized in a Land Acquisition Program. Until such time the funds are needed for the program, the funds shall be held and invested by the Secretary under 25 U.S.C. 162a. The Red Lake Tribal Council shall be required to submit a plan and tribal budgets for the use of the funds, which shall be subject to approval by the Secretary.

Should funds of the Red Cliff plan be in excess of needs, the tribal council may propose other uses of such funds to be included in annual tribal budgets, which shall be subject to approval of the Secretary.

Thomas W. Fredericks,
Deputy Assistant Secretary-Indian Affairs.

[FR Doc. 80-37253 Filed 11-28-80; 8:45 am]
BILLING CODE 4310-02-M

Bureau of Land Management

New Mexico; Southeast Oklahoma Management Framework Plan—Coal Lease Modification Application by Lone Star Steel Co.

November 17, 1980.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of the Amendment of the Southeast Oklahoma Management Framework Plan (MFP).

SUMMARY: This notice is to advise the public that the Albuquerque District of the Bureau of Land Management will amend portions of the Southeast Oklahoma Management Framework Plan. This action is in response to an application for a federal coal lease modification. The applicant holds leases for the coal reserves on both sides of the proposed 50 acre modification area. The modification area includes approximately 6½ acres of strippable federal coal reserves under private surface that would be difficult to recover in other, future mining operations, due to its location.

SUPPLEMENTARY INFORMATION: The Albuquerque District of the Bureau of Land Management will amend portions of the Southeast Oklahoma Management Framework Plan (MFP), in response to a federal coal lease modification application by Lone Star Steel Company for the Milton Mine, operated by Dahlgren Contractors, Inc. The requested 50 acre modification would allow for the recovery of coal from approximately 6½ acres of federal coal reserves under private surface. It is doubtful that the coal could ever be profitably mined as a separate, future operation.

The proposed modification area is located three miles northeast of the unincorporated community of Milton, in LeFlore County, Oklahoma, and includes the following described lands:

Indian Meridian, Oklahoma

T. 8 N., R. 24 E.
Sec. 18, NE¼NW¼, NW¼SE¼NW¼

This area is part of the Oklahoma Subregion of the Western Interior Federal Coal Production Region. Lone Star Steel Company is interested in surface mining the Upper and Lower Hartshorne coal beds of the Hartshorne Formation, which have a high development potential and good metallurgical characteristics.The application for modification was submitted under 43 CFR Subpart 3432 guidelines.

Background standards and procedures for this MFP amendment preparation are contained in 43 CFR Part 3400 and 43 CFR Part 1600. The standards for this review are also discussed in the Final Environmental Statement-Federal Coal Management Program describing the Secretary of Interior's preferred coal program and alternatives, released in April 1979.

The MFP amendment, planned for completion by March 1981, will incorporate the coal lease modification application into the planning process for timely evaluation in relation to the Lone Star Steel mining schedule. During the amendment process an environmental assessment (EA) of the proposed modification will be conducted by staff specialists of the Oklahoma Resource Area Office of the Albuquerque District.

An interdisciplinary team will conduct the review, environmental assessment, and amendment process. Disciplines to be represented include cultural resources, geology, hydrology, realty, recreation, socioeconomics, soils, vegetation, and wildlife.

Public participation opportunities will be provided in the following ways: (1) A news release will appear in local newspapers, asking interested parties to identify issues of concern and impacts that should be addressed; (2) A notice of intent to amend the MFP will be sent to federal, state, and local governments that would be concerned with the plan or have land use regulatory authority in the vicinity of the proposed modification, also asking them to identify issues and concerns; (3) A draft MFP amendment and EA will be distributed for public review in January 1981. Thirty days will be provided for public review and comment; and (4) Public comments will be considered in preparation of the final amendment and EA, which will be completed and made available to the public in March, 1981.

For further information contact Jim Gegen at the Bureau of Land Management, Oklahoma Resource Area Office, 200 NW Fifth Street, Room 548, Oklahoma City, Oklahoma 73102, phone (405) 231–4481. Documents relevant to the planning process are also available for public inspection at the above address.

L. Paul Applegate,
District Manager.

[FR Doc. 80-37126 Filed 11-28-80; 8:45 am]
BILLING CODE 4310-84-M

Colorado and Wyoming; Lease Sale Schedule for Federal Coal in the Green River-Hams Fork Coal Production Region

Corrections

In FR Doc. 80–35788 appearing at page 75770 in the issue for Monday, November 17, 1980, make the following corrections.

On page 75770, in the third column, under **"Legal Description of Federal Coal in Danforth Hills No. 1 Track"**, in the fifth line, "Lots 1, 3, 4, 5" should have read "Lots 1, 3, 5".

On page 75770, in the third column, under **"Legal Description for Federal Coal in the Medicine Bow Track"**, in the third line, "Lots 1, 7" should have read "Lots 1—7".

On page 75770, in the third column, under **"Legal Description for Federal Coal in the Medicine Bow Track"**, in the fifth line, "Lots 1—4, E½, E½, E½W½", should have read "Lots 1—4, E½, E½W½.

On page 75771, in the first column, in the fourth line, "SE¼NW¼E½ * * *" should have read "SE¼, NW¼,E½ * * *".

On page 75771, in the first column, in the sixth line, "T. 23 N., R. 83" should have read "T. 23 N., R. 84".

On page 75771, in the first column, in the ninth line, "T. 24 N., R. 83" should have read "T. 24 N., R. 84".

BILLING CODE 1505-01-M

[AA–39570]

Alaska Native Claim Selection

On March 24, 1980, Cook Inlet Region, Inc., filed selection application AA–39570 under the provisions of Secs. 12(b)(6) of the act of January 2, 1976 (89 Stat. 1151), and I.C.(2) of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976, for the surface and subsurface estates of certain lands located in Seward, Alaska.

Section 12(b)(6) of the act of January 2, 1976, authorizes conveyance of lands to Cook Inlet Region, Inc., from a selection pool established by the Secretary of the Interior and the General Services Administrator.

The lands are located outside the boundaries of Cook Inlet Region. With the concurrence of the State of Alaska and Cook Inlet Region, Inc., the lands and improvements within selection AA–39570 were placed in the pool of properties available for selection by Cook Inlet Region, Inc., subject to valid existing rights, by notice dated July 12, 1979.

The selection application of Cook Inlet Region, Inc., as to the lands described below is properly filed and meets the requirements of the act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands are considered proper for acquisition by Cook Inlet Region, Inc., and are hereby approved for conveyance pursuant to Sec. 12(b)(6) of the act of January 2, 1976:

Seward Meridian, Alaska (Surveyed)

T. 1 S., R. 1 W.
Lot 3, Block 3, Federal Addition to Seward Townsite.
Containing .18 acre.

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act (ANCSA).

The grant of the above-described lands shall be subject to: Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)(2)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

Section 12(b)(6) of Public Law (Pub. L.) 94–204 provides that conveyances pursuant to this section shall be made in exchange for lands or rights to select lands outside the boundaries of Cook Inlet Region as described in Sec. 12(b)(5) of this act and on the basis of values determined by appraisal. The lands and improvements described above have been appraised at a value of $18,500. Under Sec. I.C.(2)(e) of the Terms and Conditions, this property constitutes 37.00 acre/equivalents. Upon acceptance of title to these lands, Cook Inlet Region, Inc., will relinquish its

selection rights to 37.00 acres of its out-of-region entitlement. Conveyance of the remaining entitlement to Cook Inlet

ACTION: Extended Comment Period, Draft Grand Gulch Plateau Management Plan.

notice, unless either applicant has advised the Commission that the transfer will not be consummated or

the other, points in the United States, except Hawaii and Alaska, and from New York, NY and Metuchen, NJ and points within 25 miles of Metuchen to

between Houston and job sites within the State of Texas; *steel forms*, between Houston and job sites in the State of Texas, and from job sites to job sites

parts thereof between incorporated cities, towns and villages only when the commodity to be transported weighs 4,000 pounds or more in a single piece or

selection rights to 37.00 acres of its out-of-region entitlement. Conveyance of the remaining entitlement to Cook Inlet Region, Inc., shall be made at a later date.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times. Any party claiming a property interest in lands affected by this decision, and agency of the Federal government, or regional corporation may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, 701 C Street, P.O. Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. The time limits for filing an appeal are:

1. Parties receiving service of this decision by mail shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until December 31, 1980, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Ann Johnson,

Chief, Branch of Adjudication.

[FR Doc. 80-37137 Filed 11-28-80; 8:45 am]

BILLING CODE 4310-84-M

Draft Grand Gulch Plateau Management Plan; Extension of Comment Period

November 21, 1980.

AGENCY: Bureau of Land Management, Interior.

ACTION: Extended Comment Period, Draft Grand Gulch Plateau Management Plan.

As a result of requests from the public, the public comment period on the Draft Grand Gulch Plateau Management Plan has been extended thirty days, to January 1, 1981. This changes the comment deadline as noted on page 67161 of the October 9, 1980, **Federal Register.**

Requests for copies of the Draft Plan and comment form should be addressed to: Bureau of Land Management, Moab District Office, P.O. Box 970, Moab, Utah 84532. Copies can also be obtained by calling (801) 259–6111, Ext. 252. Comments must be received at the Moab District Office or the San Juan Resource Area Office by January 1, 1981.

FOR FURTHER INFORMATION CONTACT:
Ed Scherick, Area Manager, San Juan Resource Area, P.O. Box 7, Monticello, Utah 84535 (801) 587–2201.

S. Gene Day,

District Manager.

[FR Doc. 80-37256 Filed 11-28-80; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Decision-Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed on or before December 22, 1980. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices on or before December 31, 1980, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

By the Commission, Review Board Number 5, Members Krock, William and Taylor.

Supplemental (Republication)

MC–FC–78702. By decision of July 6, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1151, Review Board Number 5 approved the transfer to CARAVAN COACH LINES, INC. of Certificate Nos. MC 138730 (Sub-1 and 2) issued July 3, 1974 and December 15, 1975, License No. MC 130616F issued June 26, 1980 and those Certificates to be issued, formerly bearing Certificate Nos. MC 36031 (lead and Sub-4) and Certificate No. MC 41097, to Caravan Tours, Inc.

The foregoing Certificates authorize the transportation (a) of passengers and their baggage in charter operations, with restrictions, from points in Morris, Passaic, Sussex, Essex, Union, Hudson, Middlesex, Warren and Somerset Counties, NJ to New York, NY and points in Nassau, Suffolk, Rockland, and Westchester Counties, NY, and points in Bucks, Philadelphia, Monroe, Lehigh (except Allentown), Pike, Montgomery, Delaware, Northampton (except Easton and Bethlehem), and Wayne Counties, PA; (b) of Passengers and their baggage and express, in regular routes service (1) between McAfee, NJ and junction Interstate Hwy 80 and 287, between Franklin, NJ and junction NJ Hwy 23 and Interstate Hwy 80, between Bernardsville, NJ and Kennedy International Airport, between Bernardsville, NJ and junction U.S. Hwy 46 and Interstate Hwy 80, between Morristown, NJ and Newark Airport, between Parsippany, NJ and Newark Airport, and between junction Garden State Parkway and Interstate Hwy 80 and Newark Airport, and (2) between New York, NY and Newark Airport; and (c) passengers in charter operations between New York and Mamaroneck, NY, Atlantic City, NJ and points in Hudson, Bergen, Essex, Union, Morris, Passaic, Middlesex and Monmouth Counties, NJ, on the one hand, and, on the other, points in the United States, except Hawaii and Alaska, and from New York, NY and Metuchen, NJ and points within 25 miles of Metuchen to points in New Jersey, New York, Pennsylvania, Maryland, Delaware, Oklahoma, Connecticut, Maine, Virginia, Kentucky, North Carolina, South Carolina, Tennessee, Alabama, Georgia, Florida and the District of Columbia. The License authorizes operations as a broker in arranging transportation by motor vehicle of passengers and their baggage, in special or charter operations, beginning and ending at points in Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Ocean, Passaic, Somerset, Sussex, Union and Warren Counties, NJ, and extending to points in the United States.

Applicant's representative is: L. C. Major, Jr., P.O. Box 11278, Alexandria, VA 22312.

Note.—This summary is being republished because certain authority transfered was not indicated in the original publication.

MC–FC–78753. By decision of September 26, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1132 Review Board Number 5 approved the transfer to Service Cartage Company, Lemont, Illinois of Permit No. MC 146896 (Sub-1F) issued (date) August 26, 1980 to Paul R. Cheney, d/b/a Cheney Trucking Company, Lemont, Illinois authorizing common carrier transportation over irregular routes, transporting (1) *rolled paper mill products,* from the facilities of Prairie State Paper Mills, of Joliet, IL, to points in Indiana, Iowa, Kentucky, Michigan, Minnesota, Ohio, and Wisconsin, and (2) *Materials, supplies and equipment* used in the manufacture of the commodities in (1) above (except commodities in bulk), in the reverse direction, under continuing contract(s) with Prairie State Paper Mills, a division of Chippewa Paper Products Company, of Joliet, IL subject to the following conditions:

Applicant's representative is: Patrick H. Suytho, Esq. (312) 263–2397, 19 South LaSalle St., Suite 521, Chicago, IL 60603.

MC–FC–78805. By decision of October 20, 1980, issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to Continental Freightways, Inc. of Certificate of Registration No. MC 121037 (Sub-1) issued April 21, 1978 of Texas Con-Tran, Inc. authorizing the transportation of (1) *household goods, used office furniture and equipment, livestock, livestock feedstuffs, farm machinery and grain,* from Houston to all points in Texas and from all points in Texas to Houston; *reinforcing steel,* between Houston and job sites within the State of Texas; *steel forms,* between Houston and job sites in the State of Texas, and from job sites to job sites within the State of Texas; *household goods, used office furniture and equipment, livestock feedstuffs, farm machinery and grain* from dealer to dealer; (2) *oilfield equipment and pipe,* when moving as oilfield equipment; *pipe* when it is to be used in the construction of pipe lines of any and every other character or use other than oilfield equipment between the points within the area covered by the existing certificate of the applicant; except that the applicant is prohibited from transporting pipe when not moving as oilfield equipment, where both origin and destination are places on the certificated routes of regular route common carrier motor carriers, when such pipe is less than four inches (4") in diameter and is also less than twenty-eight feet (28') in length; (3) *trenching machines, tractors, drag lines, back fillers, caterpillars, road building machinery, batch bins, ditching machinery, bulldozer, heavy mixers, finishing machinery, power hoists, cranes, heavy machinery, pile driving rigs, paving machines and equipment, graders, construction equipment, boilers, scrapers, irrigation and drainage machinery, road maintainers, electric motors, pumps, transformers, circuit breakers, turbines, bridge construction equipment, shovels, planes, lathes, air compressors, rotaries, prefabricated houses, bulk station storage tanks, heavy tanks, pump machinery, erection machinery and equipment, refinery machinery and equipment, boats and prefabricated steel girders, threshing machinery, sawmill machinery, telephone and telegraph poles, creosote and other pilings heavy furnaces or ovens, pipe* (including iron, steel, concrete, composition or corrugated), *punches, presses, iron or steel girders, beams, columns, posts, channels and trusses, generators and dynamos, iron or steel castings sheets and plates, industrial hammers, industrial machinery,* including laundry, ice making, air conditioning, baker, bottling, gin, crushing, dredging, mill, brewery, textile, water plant and wire covering, twisting or laving, derricks, hoists, steam or internal combustion engines rollers, power shovels, safes, vaults, bank doors, and gasoline, fuel oil and other storage tanks, when said commodity are not moving as oilfield equipment, the holder of this authority may transport the above-named commodities together with its attachments and its detached parts thereof between incorporated cities, towns and villages only when the commodity to be transported weighs 4,000 pounds or more in a single piece or when such commodity, because of physical characteristics other than weight, requires the use of "special devices, facilities or equipment" for the safe and proper loading or unloading thereof; (4) *absorber* (scrubbers); *air or gas lift equipment; amplifiers,* seismic; *anodes,* magnesium; *armatures* (heavy) and parts; *assemblies,* backside, cashinghead, Christmas tree, stuffing, knock-off, screen setting, seating and set shoe; *asphalt plant; asphalt or pipe line (sic) coatings,* in barrels or drums; *bailers; barges; benders; pipe; blowout preventers;* boons, crane, truck, dragline, derrick and tractor; *brakes and parts, bridges,* portable; *buckets,* clam shell, dragline and shovel; *bug blowers; cable tool drilling machines; cable tools; cat heads; chains,* loading, in barrels; *casing spiders; chlorine and other chemicals* in steel cylinders or tanks (not tank trucks); *gas compressors; connection racks; conveyors; corebarrels; coring units; clutches* (heavy); *crown blocks; crank shafts* (heavy); *cross-areas* and their hardware; cross-ties; *cylinders* engine and compressor; *dehydration units; derrick ramps; derrick starting leg; derrick skids; derrick steps; derrick substructure; drill bits; drill collars; drilling line; drilling hose; draw works; drilling rig machinery; elevators; elevator bails; engine substructures; empty cylinders; extensions, derrick base; engine compound; finger boards; floor skids; fronts,* rig or derrick; *fishing tools; fouble boards; fuel, oil and gasoline,* (not including movement in tank trucks or tank trailers); *garages,* portable; *guards,* chain and belt *grief stems or kelly joints; guns,* mud; *gravity meters; heat exchangers; hooks; jack shafts; kelly and pipe straightener; ladders,* derrick; *light plants; machinery,* pipe screening, pipe screwing, pipe slotting, pipe threading or cutting, pipe wrapping, *water well machinery; water well surveying machinery; milling machine; marsh buggies; magnetic field balances; magnetometers; masts; monorail systems; mud boats; mud houses; mud mixers; mud tanks;* mufflets, (heavy); *mouse holes; nipples,* iron, cement; *perforators; planers,* power; *plow; poles,* gin; *power transmission equipment* (towers); *pressure devices; rails,* steel; railroad engines, *cars and equipment; rate holes; radiators* (heavy); *reamers; reinforcing steel; retorts,* iron or steel; *river clamps; rods, reinforcing and sucker (single and bundles); recording equipment; road lumber; rig timbers; seismic shooting*

equipment; slips; shale shakers; screens; substitutes; speed *reducers; smoke stacks; starting units; stand pipes; swivels; suctions; spears and fishing*

of Registration No. MC–121037 (Sub-No. 1) reissued June 27, 1967, to Continental Freightways, Inc., of Houston, TX, evidencing a right to engage in

Province of Manitoba, Canada.
Applicant's representative is: Richard F. Millar (213) 331–7979, 16742 Bygrove, Covina, CA 91722.

demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of

requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the

equipment; slips; shale shakers; screens; substitutes; speed *reducers; smoke stacks; starting units; stand pipes; swivels; suctions; spears and fishing tools; take-off,* power; *tool joints towers; treating plants; tongs; traveling blocks; tubing and tubing heads; valves; V-belt drives; utility houses; welding machines; wire line, rope or cable,* on reels; *lift equipment,* anchors; *angles* (heavy; *mud,* including drilling mud *and conditioners* (not including movements in tank trucks or tank trailers); *propellers or shafts; blades,* including bit, scraper and grader; *boring machines or mills,* including parts and equipment; *dam and powerplant machinery and equipment* (control gates) *collars,* including drill or pipe; *counter balances,* including counter shafts and weights; *hoppers; printing machines; telephone equipment* (cables, reels, switchboards); *tools* in boxes and houses; *trailer, mounted units,* including mounted workover units; *treaters; blocks; jacks* (heavy); *joints,* including expansion or kelly; *core drilling machines; core drilling equipment; protectors* (attached to pipe); and *heaters,* when not moving as oilfield equipment. The holder of this authority may transport the above-named commodities (beginning with the commodity "Absorbers") together with its attachments and its detached parts thereof, between points in the pick-up and delivery limits of the regular route common carrier motor carriers in incorporated cities, towns, and villages only when the commodity to be transported weight 4,000 pounds or more in a single piece or when such commodity, because of physical characteristics other than weight, require the use of "special devices, facilities or equipment" for the safe and proper loading or unloading and transportation thereof. The term "special devices, facilities or equipment" is construed to mean only those operated by motive or mechanical power; and all commodities to be transported, beginning with "trenching machines", together with attached and detached parts thereof, must require specialized equipment for the safe and proper loading or unloading and transportation thereof, between all points in Texas.

Applicant's representative is Les Procter, Esq., Procter, Jones & Smith, 805 Capital National Bank Bldg., Austin, TX 78701.

MC–FC–78806. By decision of October 22, 1980 issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5 approved the transfer to Luther McGill, Inc., of Houston, TX, of a portion of Certificate of Registration No. MC–121037 (Sub-No. 1) reissued June 27, 1967, to Continental Freightways, Inc., of Houston, TX, evidencing a right to engage in transportation in interstate commerce corresponding in scope to a portion of Texas Specialized Motor Carrier Certificate of Convenience and Necessity No. 5152 dated March 8, 1978 issued by the Railroad Commission of Texas, authorizing the transportation of household goods, used office furniture and equipment, livestock, livestock feedstuff, farm machinery, and grain from Houston, TX, to points in Texas, and from points in Texas to Houston, TX. The transfer of the involved portion of these State rights was approved by the Railroad Commission of Texas, by order of August 25, 1980. Transferee presently holds no authority from this Commission. Applicant's representative is: John R. Whisenhunt, Robinson, Felts, Starnes & Latting, P.C., P.O. Box 2207, Austin, TX 78768.

MC–FC–78836. By decision of November 7, 1980, issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5 approved the transfer to Scott Davis and James Ketchum, a partnership d/b/a Valley Express, of Selah, WA, of Permit No. MC–141732, issued 4/5/77 to Varco Trucking, Inc., (Arthur W. Kirschenmann, Trustee in Bankruptcy), of Yakima, WA, authorizing the transportation of fruit juice and fruit juice concentrates (except in bulk), from points in Yakima and Chelan Counties, WA, to points in California and Oregon, under contract with Tree Top, Incorporated, of Selah, WA. Applicant's representative is: Douglas A. Wilson, 303 E. "D" St., Suite 2, Yakima, WA 98901. TA lease is not sought. Transferee holds no authority.

MC–FC–78837. By decision of November 7, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132, Review Board Number 5 approved the transfer to Richard F. Millar d/b/a Richard F. Millar Trucking, Covina, California of Certifiate No. MC–134671 (Sub-No. 1) issued 4/20/72 to T.C. Eaton doing business as Bee Line Distributors, Ltd., Winnipeg 22, Manitoba, Canada, authorizing the transportation over IRREGULAR ROUTES: *meats and meat products,* from the ports of entry on the United States–Canada boundary line at or near Pembina, ND, and Noyes, MN, to points in California, Nevada, and Arizona, with no transportation for compensation on return except as otherwise authorized. RESTRICTION: The authority granted herein is restricted to the transportation of shipments originating at points in the Province of Manitoba, Canada. Applicant's representative is: Richard F. Millar (213) 331–7979, 16742 Bygrove, Covina, CA 91722.

MC–FC–78843. By decision of November 10, 1980 issued under 49 U.S.C. 10926 and the transfer rules at 49 C.F.R. 1132 Review Board Number 5 approved the transfer to Mr. G's Warehousing Corp. of Certificate No. MC–133572 issued December 13, 1973 to Alliance Furniture Delivery, Inc. authorizing the irregular-route transportation of *new furniture,* between New York, NY, on the one hand, and, on the other, points in that part of New Jersey and New York within 100 miles of Columbus Circle, New York City, NY. Applicant's representative is: Arthur J. Piken, Esq., Piken & Piken, Attorneys At Law, Queens Office Tower, 95–25 Queens Boulevard, Rego Park, NY 11374.

MC–FC–78844. By decision of November 7, 1980 issued under 49 U.S.C 10926 and the transfer rules at 49 CFR 1132, Review Board Number 5 approved the transfer to Redding Lumber Transport, Inc. of Redding, of Permit No. MC–138651 (Sub-No. 1) issued January 20, 1975 to Ralph Hyder, Inc. authorizing the transportation over irregular routes of *wooden shakes and shingles,* from points in Clallam, Cowlitz, Grays Harbor, Jefferson, Lewis, and Snohmeh Counties, WA, and Tillamook County, OR to points in California, Nevada, and Arizona. *Restriction:* The operations authorized are limited to a transportation since to be performed, under a continuing contract, or contracts, with Weseo Cedar, Inc. of Eugene, OR. Applicant's representative: David D. White, Attorney at Law, 2400 S.W. 4th Avenue, Portland, OR.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-37142 Filed 11-28-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provided, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by application within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problesm (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expresly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices on or before December 31, 1980 or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 377

Decided: November 18, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Carleton not particiating.

MC 44735 (Sub-47F), filed November 13, 1979, previously published in the FR issue of April 3, 1980. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12, Kansas City, MO 64126. Representative: William B. Barker, 641 Harrison St., Topeka, KS 66603. Transporting (1) *clay (except in bulk), clay products, concrete products,* and *refractory products (except clay products),* between points in AR, KS, MO, OK, IL, IA, NE, and TX, on the one hand, and, on the other, points in LA, MS, and TN.

Note.—This partial republication corrects the commodity description.

Volume No. 383

Decided: November 24, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 145577 (Sub-26F), filed June 9, 1980. Applicant: GULLETT–GOULD, LTD., P.O. Box 406, Union City, IN 47390. Representative: Jerry B. Sellman, 50 W. Broad St., Columbus, OH 43215. Transporting (1) *photographic equipment* and (2) *materials, supplies and products* used in the manufacture and processing of photographs (except in bulk), between the facilities of Eastman Kodak Company at Rochester, NY, and Windsor, CO, to points in CA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-37144 Filed 11-28-80; 8:45 am]

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[Finance Docket No. 29430; AB-216 (Sub-No. 1)[1]

NWS Enterprises, Inc.—Control—Norfolk and Western Railway Co. and Southern Railway Co.; Norfolk, Franklin and Danville Railway Co.—Abandonment Between South Hill, VA. and Blanche, NC.

AGENCY: Interstate Commerce Commission.

ACTION: Waiver and clarification of regulations related to railroad consolidation and related railroad abandonment.

SUMMARY: Petitioner's requests for waiver of specific filing requirements of the regulations regarding railroad consolidations, 49 CFR Part 1111, and railroad abandonment 49 CFR Part 1121 are granted.

SUPPLEMENTARY INFORMATION: On October 16, 1980, the Norfolk and Western Railway Company (NW) and the Southern Railway Company (SR) filed a supplementary petition seeking waiver and clarification of our railroad consolidation regulations, 49 CFR Part 1111.[2]

The supplementary waiver petition was filed in anticipation of petitioners submitting a consolidation application under 49 U.S.C. 11343 and 11344 later this year. Petitioners expect to file their application on or about December 1, 1980. The application will seek Commission approval for a new holding company, NWS Enterprises, Inc. (NWS), to acquire control of NW and SR and of the Delaware and Hudson Railway Company (DH), whose stock is held entirely by Dereco, Inc. a wholly-owned subsidiary of NW.

Specifically petitioners seek a waiver or clarification of the following sections of the regulations:

1111.2(b)(1)(ii)—Revenue Carload Interchange Data.
1111.1(d)(10)—Encumbered Property.
1111.4(c)(2)(vi)—Filing of Directly Related Application.

On October 15, 1980, NW and its subsidiary the Norfolk, Franklin and Danville Railway Company (NFD) filed a petition seeking partial waiver of the railroad abandonment regulations at 49 CFR Part 1121 as they apply to a proposed abandonment of NFD right of way which will be related to the consolidation in F.D. No. 29430.

Petitioners seek waiver of the regulations at 49 CFR 1121.32, specifically the following sections:

1121.32(c)(4, 5)—Carload Commodity Group Tonnages.
1121.32(d)(1, 2, 4, 5)—Revenue and Cost Data.

(1) Consolidation Regulations

Section 1111.2(b)(1)(ii), Exhibit A–14(ii)

Section 1111.2(b)(1)(ii) requires submission of detailed revenue carload interchange data in a prescribed form denominated Tables A and B. In our earlier order we allowed petitioners to submit the data in Tables A and B for SR on a consolidated system basis and individually for NW and DH. Petitioners here seek waiver to allow DH to omit in Tables A and B the breakdown of interline received traffic by connecting carrier and for DH to omit in Table B the destination state of overhead and interline forwarded traffic.

Petitioners seek this waiver because the DH data base does not include a breakdown of the information for which waiver is sought. The data could be collected only through manual processing of all waybills. Since DH does not function as a part of the NW system, and will be an "applicant" only in a technical sense, we believe requiring this information would put an undue burden upon petitioners. The waiver will be granted. Petitioners' proposed formats for Tables A and B related to DH, which we accept, are set forth in the Appendix.

Section 1111.1(d)(10)

Petitioners seek clarification of § 1111.1(d)(10) which requires applicants to provide certain information "if any of the property covered by application is encumbered and applicant has agreed to assume obligations or liability in respect thereof." Petitioners are concerned with this requirement as it relates to the property of DH. Although DH will be an "applicant" in the technical sense, neither NW, SR nor NWS has agreed to assume any obligation or liability with respect to any encumbrance on DH properties. Petitioners intend to supply the valuation data for DH properties as required by § 1111.1(d)(7) but seek clarification that § 1111.1(d)(10) does not require information regarding encumbrances on those properties.

DH is presently operated independently of NW. We have recently rejected a petition by the State of New York to include DH in the NW system, thereby maintaining the autonomous operation of DH as a separate and distinct business entity, *Norfolk & W. Ry. Co. and New York, C. & St. L. R. Co. Merger*, 363 I.C.C. 270 (1980). Petitioners will not assume the obligations or liabilities of DH, and we do not believe Section 1111.1(d)(10) requires information to be provided regarding those obligations and liabilities. The waiver will be granted.

Section 1111.4(c)(2)(vi)

Pursuant to § 1111.4(c)(2)(vi) of the consolidation regulations, all directly related applications must be filed concurrently with the control application.

Petitioners are preparing an application seeking approval of control by NWS of Southern Region Motor Transport, Inc. (SRMT) a motor carrier subsidiary of the Central of Georgia Railroad Company which is in turn a subsidiary of SR. As a result of the acquisition of control of SR by NWS, NWS will obtain indirect control of SRMT necessitating approval under 49 U.S.C. 11343 and 11344. Our regulations, 49 CFR 1134.50(a) and 49 CFR 1003.1, require an application for authority to acquire control of a motor carrier be filed on form OP–F–45. Item 4 of Appendix B of that form requires submission of an abstract of recent interstate shipments handled by SRMT.

Petitioners state that SRMT is a small carrier operating primarily within Georgia. Its authority is restricted to service auxiliary or supplemental to rail service. It is actively operating and had 1979 gross revenues of $1.8 million. SRMT does not keep computerized records, and preparing an abstract as required would entail a burdensome manual effort and be virtually impossible to complete by the anticipated December 1, 1980, filing date. Extracting SRMT movements from SR's general traffic records would involve a similarly burdensome process.

Petitioners suggest that the sample of movements handled by SR which is being prepared for the rail diversion study, Exhibit A–16 is representative of movements handled by SRMT auxiliary to rail. Also, the commodities groups to be submitted for SR as part of Exhibit A–15(iii) reflect most commodities transported by SRMT.

Petitioners request waiver of the requirement that an SRMT abstract of movements be produced and submitted as a part of the directly related application for approval of SRMT by NWS.

We anticipate that the indirect control of SRMT by NWS will have little effect on SRMT's future operations. NWS's incentives in operating SRMT will be essentially those faced by SR. The information we require will be provided in the data for SR, and the abstract of shipments would serve no useful purpose. In light of the inordinate burden of compiling the abstract, the waiver is granted.

Abandonment Regulations

NFD is a wholly-owned subsidiary of NW. It extends generally parallel to the Virginia-North Carolina border approximately 200 miles from Norfolk to Danville, VA. NFD connects with NW at Suffolk and Denniston, VA, and with SR at Suffolk, Clarksville and Danville, VA.

An application, directly related to the control transaction in FD 29430, will be filed by NW and SR to enable SR to acquire approximately eight miles of NFD from Danville, VA, to Blanche, NC. The operating plan to be proposed in the control application will include rerouting all NFD overhead traffic moving between South Hill, VA, and Blanche, NC.

These operational changes prompted by the proposed affiliation make it desirable for petitioners to abandon 79.9 miles of NFD trackage between milepost 117, west of South Hill, VA, and milepost 196.9, east of Blanche, NC. The application for abandonment, since it is directly related, must be filed along with the consolidation application.

The proposed abandonment is designed to eliminate redundant lines in the new NWS system. Petitioners state that most of the traffic moving over NFD between mileposts 117 and 196.9 is originated or terminated in Danville, VA. After abandonment, petitioners will route traffic from Danville over SR to Altavista, VA, to connect with NW, and then over NW to return to NFD trackage at Suffolk, VA. Present NFD traffic for interchange with NW at Denniston, VA will be handled over SR and NW mainlines.

Petitioners allege that eliminating the overhead traffic from the portion of NFD sought to be abandoned results in a light density line. Petitioners estimate that in 1979, 500 carloads originated or terminated along this line.

Petitioners seek specific waivers of the regulations requiring carload, commodity and cost data on traffic overhead to the line to be abandoned. In support of this waiver request, petitioners set forth a methodology for presenting evidence of the line's unprofitability based on remaining local traffic.

Alternatively, petitioners seek waiver of the requirement of concurrent filing at 49 CFR 1111.4(c)(2)(vi).

Commodity, Cost and Revenue—Sections 1121.32(c)(4, 5) and 1121.32(d)(1, 2, 4, 5)

Since the consolidated company expects to retain the overhead traffic now moving on the NFD line, petitioners request waiver of §§ 121.32(c)(4, 5) and 1121.32(d) (1, 2, 4, 5) dealing with carload commodity group tonnage and revenue and cost data related to such traffic. Petitioners estimate that over 22 man-months of time would be required to generate commodity, revenue and cost data on this overhead traffic due to non-computerized record keeping by NFD.

The overhead traffic will be retained by rerouting and has no bearing on the proposed abandonment. In this context, detailed information about overhead traffic is of no value to this Commission. The justification, if any, for continued service over this line must come from the local traffic on the line. See *Southern Pacific Transp. Co.—Abandonment*, 360 I.C.C. 138, 140 (1979); and *Seaboard Coast Line R. Co.—Abandonment*, 360 I.C.C. 123, 127 (1979). *Proposed Methodology for Determining Line Profitability.*

Petitioners recognize that a grant of the waiver would render the informational requirements at 49 CFR 1121.41—46 largely inapplicable. Accordingly, petitioners have developed an alternative methodology for calculating the profitability of the line sought to be abandoned without using the information required in these sections as applied by § 1121.32(d)(1).

Section 1121.32(d)(1) requires that avoidable costs be computed in accordance with the methodology prescribed in § 1121.42, which in turn requires that almost all costs shown be those actually incurred on the line proposed for abandonment. However, actual on-branch costs include cost elements attributable to the overhead traffic since local and overhead traffic are usually moved in the same train and the maintenance of way program is conducted for the benefit of both types of traffic. Petitioners state that our regulations do not provide a method for determining what actual costs might be strictly attributable to local traffic.

NFD suggest that it can present a reliable hypothetical picture of the economics of continued service over the South Hill to Blanche segment of its line after overhead traffic is removed. This profitability study, using data for 1979 and the first half of 1980, will be a comparison, of actual on and off-branch revenues on local traffic to the cost of a proposed train operation and maintenance of way program necessary to serve local shippers on that segment. In general NFD system unit costs would be applied to the proposed operation. The proposed operation would be explained in detail in the application, and all assumptions regarding required service would be stated.

Petitioners indicate that they will utilize the following format in their submission:

Revenues—Exhibit 1, lines 1–4:

Freight revenues will be developed solely for the actual traffic originated and terminated on the line. Car initial and number, car type and station data will be drawn from waybill information. Ton miles moved on and off-branch, gross revenues and revenues attributable on and off-branch will be developed. All other revenue will be computed according to section 1121.41(b).

On-branch costs, Exhibit 1, line 5.

Maintenance of way expenses will be developed as follows: Roadway maintenance will be calculated by dividing the total NFD maintenance of way expenses including a fringe benefit additive to labor by the total miles of NFD. This figure will then be multiplied by the number of miles proposed to be abandoned. Joint facility expenses will be calculated as set forth in the regulations. No avoidable cost will be shown for structures.

Maintenance of equipment will include only the cost of locomotive ownership and repair and maintenance of locomotive units attributable to the branch based on NFD total costs and locomotive unit miles on the line over which the proposed local operation would run.

Transportation expenses will be calculated for engine and train crews, road fuel and miscellaneous other road expenses. Wages and other road expenses will be developed using NFD system unit costs for train miles running and for train miles switching multiplied by the estimated number of train miles running and train miles switching for the proposed operation. Road fuel expenses will be allocated on the basis of locomotive unit miles.

No general administrative costs will be claimed as avoidable costs.

Freight car costs will be computed on the basis of an estimated average per diem or car hire determined by a ten percent sample of local cars moving on the line in 1979. This average car hire will be multiplied by (1) two days per car on-branch to determine daily car costs, and (2) the estimated on-branch car miles for the proposed operation to obtain mileage car costs. The sum of daily car costs and mileage car costs will represent on-branch freight car costs.

Return on investment will be calculated in accordance with the regulations.

No avoidable costs will be included for taxes, administration, casualty reserve account or rehabilitation.

[1] This petition was originally filed as AB–10 (Sub.No. 23F) in the Norfolk and Western Railway Company abandonment series. Although NFD is a subsidiary of NW it has been given its own abandonment number—AB–216.

[2] Petitioners filed an original petition for waiver of the consolidation regulations on July 24, 1980 which was supplemented September 10, 1980. The original petition, as supplemented, was granted by the Commission by order of September 30, 1980, served October 1, 1980, and published at 45 FR 66911 of October 8, 1980.

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Off-branch costs, Exhibit 1, line 6.

Off-branch costs for 1979 will be computed in accordance with section 1121.42(n)(4). Off-branch costs for the first half of 1980 will be calculated using the 1979 off-branch costs for a six-month operation indexed by the Association of American Railroads Quarterly Material Price and Wage Index for 1980.

Subsidization costs, Exhibit 1, lines 8–11.

No subsidization costs will be calculated.

Return on value, Exhibit 1, lines 12–14.

Return on value will be calculated in accordance with sections 1121.44 and 1121.45.

Estimated subsidy, Exhibit 1, line 16.

An estimated subsidy will be calculated.

The overhead traffic on this line will probably be retained by the consolidated company, and thus becomes irrelevant to the issue of abandonment. In light of the great difficulty petitioners face in developing information pertaining to overhead traffic, their development of a methodology to show line profitability without overhead traffic data, and the absence of any need to include that data in determining the issue of abandonment, we believe the requested waiver should be granted.

We have set forth petitioners' proposed revenues and costing methodology in some detail to provide adequate notice to potential parties and the public. The overhead traffic excluded from petitioners' alternate profitability study is not necessary for our purposes because the overhead traffic will be retained. Additionally, petitioners' methodology, if implemented properly will provide the information necessary for our determination of the abandonment application. However, petitioners specifically did not request our imprimatur upon their proposed revenue and costing methodology and thus it will not be given. The methodology advanced shows only that a reasonable means exists to arrive at estimates of profitability absent overhead traffic data. The actual implementation of this methodology depends on the development of unit costs and the accuracy of the service units to be developed for the estimated service pattern on the line. The methodology used to develop these should be discussed in detail and very clearly outlined in the application. The methodology advanced by petitioners remains subject to examination and dispute by other interested parties.

In light of our grant of this waiver request, the alternative request for waiver need not be discussed. *It is ordered:*

(1) The petitions for waiver or clarification in Finance Docket No. 29430 and AB–216 (Sub-No. 1) are granted to the extent indicated in this decision.

(2) This decision shall be effective upon service.

Decided: November 20, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,
Secretary.

Table A.—*Revenue Carloads Interchanged—January 1979 to December 1979; D. & H.*

Gateway	Connecting line-haul railroad or water carrier	Applicant's Revenue Carloads: Originated on applicant's line	Terminated on applicant's line	Overhead (bridge): Delivered by applicant	Overhead (bridge): Received Total applicant	Interchanged	Total cars by
Washington, D.C.	C. & O.	X,XXX		X,XXX		X,XXX	X,XXX
	Not identified		X,XXX				X,XXX
	SOU			X,XXX	X,XXX	X,XXX	X,XXX
Total		X,XXX	X,XXX	X,XXX		X,XXX	X,XXX

NOTE.—The D. & H. data base does not contain the identification of the connecting line-haul railroad or water carrier on interline received traffic.

Table B.—*Revenue Carloads Interchanged, State-to-State Movements, by Gateway—January 1979 to December 1979; D. & H.*

Washington, D.C., FSAC XXXXX

Connecting line-haul railroad or water carrier	Origin State	Destination State	Revenue carloads
C. & O.	New York	Not identified[2]	X,XXX
Not identified[1]	Georgia	not identified[2]	X,XXX
SOU	Virginia	Not identified	X,XXX
Total			xX,XXX

[1] The D. & H. data base does not contain the identification of the connecting line-haul railroad or water carrier on interline received traffic.
[2] The D. & H. data base does not contain the destination state on interline forwarded and overhead traffic.

[FR Doc. 80-37145 Filed 11-28-80; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. 37]

Petitions, Applications, Alternate Route Deviations, Intrastate Applications, Gateways, and Pack & Crate

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this **Federal Register** notice. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 56679 (Sub-66F) (2nd republication). Applicant: BROWN TRANSPORT CORP., 352 University Avenue, S.W., Atlanta, GA 30310. Representative: Leonard S. Cassell, 352 University Avenue, S.W., Atlanta, GA 30310. An Order of the Commission, Division 2, decided August 29, 1980, and served October 9, 1980, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of (1) *general commodities* (except those of unusual value, Classes A and B explosives, commodities in bulk, commodities requiring special equipment, household goods as defined by the Commission, and motor vehicles), (a) between points in Duval County, FL, and Chatham County, GA, on the one hand, and, on the other, points in Alabama, Georgia, and Tennessee, and (b) between points in Duval County, FL, on the one hand, and, on the other, points in Florida; and (2) empty containers, trailers and trailer chassis, between points in Alabama, Florida, Georgia and Tennessee.

MC 119349 (Sub-18F) (1st republication), filed June 4, 1979, published in the **Federal Register** issue of January 8, 1980, and republished this issue. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, FL 33450. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh Street, N.W., Washington, DC 20001. An Order of the Commission, Review Board Number 3, decided October 14, 1980, and served October 27, 1980, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of *petroleum and petroleum products, vehicle body dealer, and sound deadener compound,* (except commodities in bulk), from Congo and St. Marys, WV, to points in Alabama, Louisiana, Oklahoma, Texas, California, Minnesota, Colorado, Illinois, New Mexico, Arizona, South Carolina, Michigan, and Utah. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 119349 (Sub-31F) (1st republication), filed September 19, 1979, published in the **Federal Register** issue of February 20, 1980, and republished this issue. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, FL 33450. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh Street, N.W., Washington, DC 20001. An Order of the Commission, Review Board Number 3, decided October 6, 1980, and served October 21, 1980, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of *bananas,* from Galveston, TX, to points in Texas, Oklahoma, Arkansas, Missouri, Illinois, Indiana, Michigan, Iowa, Wisconsin, Kentucky, Nebraska, North Dakota, South Dakota, Minnesota, Colorado, Kansas, and Louisiana. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 142268 (Sub-3) (M2F) (Notice of Petition to Modify Certificate), filed June 6, 1980, previously noticed in **Federal Register** issue of July 28, 1980. Petitioner: GORSKI BULK TRANSPORT, INC., R.R. No. 4, Harrow, Ontario, Canada NOR 1GO. Representative: Robert G E. McFarland, 2855 Coolidge St., Suite 201–A, Troy, MI 49084. Petitioner holds a motor *common carrier* Certificate in MC 142268 Sub-3 issued November 25, 1977, authorizing transportation over irregular routes, of *alcoholic beverages,* in bulk, in tank vehicles, from Bardstown, KY, to points on the U.S.-Canada boundary line, located in MI, NY, NH, and VT, restricted to traffic destined to Montreal, Quebec, Canada. By the instant petition, petitioner seeks to modify the territorial description to read as a radial movement in lieu of a from and to movement.

Note.—This republication changes the State of origin from NY to KY.

MC 144989 (Sub-6F) (1st republication), filed May 25, 1979, published in the **Federal Register** issue of January 15, 1980, and republished this issue. Applicant: BLUE RIDGE MOUNTAIN CONTRACT CARRIER, INC., P.O. Box 1965, Dalton, GA 30720. Representative: S. H. Rich, 1600 Cromwell Ct., Charlotte, NC 28206. An Order of the Commission, Review Board 2, decided September 15, 1980, and served October 1, 1980, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a contract carrier, by motor vehicle, over irregular routes, in the transportation of (1) carpeting, from points in Floyd and Gordon Counties, GA, to points in Arizona, California, Connecticut, Illinois, Indiana, Maine, Massachusetts, New York, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Virginia, and Washington, and (2) materials used in the Manufacture of carpeting, from points in the destination States in (1) above to points in Floyd and Gordon Counties, GA under continuing contracts with Marglen Industries, Inc., of Rome, GA.

MC 147939 (Sub-2F) (1st republication), filed October 5, 1979, published in the **Federal Register** issue of February 26, 1980, and republished this issue. Applicant: CHARLOTTE VAN & STORAGE COMPANY, INC., P.O. Box 3544, Charlotte, NC 28203. Representative: Frank E. Watson, III, P.O. Box 3544, Charlotte, NC 28203. An Order of the Commission, Review Board No. 1, decided September 23, 1980, and served October 3, 1980, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a common carrier, by motor vehicle, over irregular routes, in the transportation of new furniture and furnishings, from points in North Carolina to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, Rhode Island, Tennessee, Vermont, and South Carolina.

Permanent Authority Decisions, Decision-Notice; Substitution Applications: Single-Line Service for Existing Joint-Line Service

Decided: November 3, 1980.

V 45 / 232 DEC 1980 UMI

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petitions may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission within 30 days of publication of this decision-notice.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occured within the one-year period immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by any carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concerning the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operationss are consistent with the public interest and the transportation policy of 49 U.S.C.10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930 (a) (formerly section 210 of the Interstate Commerce Act).

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 4. Members Fitzpatrick, Fisher, and Dowell. Member Dowell not participating.

MC 83745 (Sub-10F), filed March 11, 1980, previously noticed in the **Federal Register** issue of June 16, 1980 on pg. 40697. Applicant: UNIVERSAL TRUCKING, INC., 6020 Hohman Ave., Hammond, IN 47320. Representative: Joel H. Steiner, 39 South LaSalle, St., Chicago, IL 60603. to operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *commodities* which because of their size or weight require special equipment, between Chicago, IL, Pittsburgh, PA and those points within 25 miles of Pittsburgh, PA, points in IN, OH, and those in IL on and south of U.S. Hwy 24, on the one hand, and, on the other, points in MI, KY, WV, and TN. (Hearing site: Chicago, IL.)

Note.—The sole purpose of this application is to substitute single-line for joint-line operations. The original publication was noticed with the broker applications.

Motor Carrier Intrastate Applications(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

New York Docket No. T–434, filed November 12, 1980. Applicant: HELMERS FUEL AND TRUCKING, INC., Main Street, Old Forge, NY 13420. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities as follows: Between all points in Oneida, Herkimer, Hamilton, Franklin, and Essex Counties. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

New York Docket No. T–9810, filed October 27, 1980. Applicant: GRAND ISLAND SALES & SERVICE, INC., 2024 Grand Island Blvd., Grand Island, NY 14072. Certificate of Public Convenience and Necessity sought to operate a

freight service, as follows: Transportation of: General commodities as follows: Between all points in Erie and Niagara Counties. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Request for procedural information should be addressed to Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

Texas Docket No. 002627D2A, filed November 3, 1980. Applicant: CENTRAL FREIGHT LINES, INC., 5601 West Waco Drive, P.O. Box 238, Waco, TX 76703. Representative: Phillip Robinson, P.O. Box 2207, Austin, TX 78768. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General commodities, as follows: Between Corsicana, Texas and Tyler, Texas as follows: From Corsicana, Texas, over Texas Highway 31 to Tyler, Texas and return over the same route serving the termini and all intermediate points.

Note.—Applicant proposes to tack and coordinate the proposed additional services with all services authorized in intrastate commerce under Certificates 2627, 2054, 4336 and 4337 and with all services now authorized in interstate and foreign commerce under authorities granted in Docket MC 30867 and all subs thereunder.

Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Transportation Division, Railroad Commission of Texas, P.O. Drawer 12967, Capitol Station, Austin, TX 78711, and should not be directed to the Interstate Commerce Commission.

Irregular-Route Motor Common Carriers of Property—Elimination of Gateway Letter Notices

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before December 11, 1980. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to say commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

The following applicants seek to operate as a *common carrier,* by motor vehicles, over irregular routes.

MC 107403 (Sub-E699) (correction), filed March 22, 1979, published in the **Federal Register** July 24, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: George B. Black, Jr. (same as above). The destination points included WV and here is corrected to substitute WY for WV. The remainder of the letter-notice stands as previously published.

MC 107403 (Subs-E712 and E713) (correction) filed March 22, 1979, published in the **Federal Register** July 24, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Avenue, Lansdowne, PA 19050. Representative: George B. Black, Jr. (same as above). The origin point was previously published as MO and is here corrected to MD. The remainder of the letter-notices stand as previously published.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80–37143 Filed 11–28–80; 8:45 am]
BILLING CODE 7035–01–M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted

Motor Carriers of Property

Notice No. F–76

The following applications were filed in Region I. Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 135454 (Sub-1–1TA), filed November 10, 1980. Applicant: DENNY TRUCK LINES, INC., 893 Ridge Road, Webster, NY 14580. Representative: John F. O'Donnell, Barrett and O'Donnell, 60 Adams St., P.O. Box 238, Milton, MA 02187. *Containers* from points in NJ to Rochester, NY. Supporting shipper: Genesee Brewing Company, Inc., 445 St. Paul Street, Rochester, NY 14605.

MC 147738 (Sub-1–1TA), filed November 13, 1980. Applicant: FALCON EXPRESS FORWARDERS, INC., 8 Lawrence Street, Belleville, NJ 07109. Representative: Thomas F. X. Foley, Esq., P.O. Box F, Colts Neck, NJ 07722. *Beer and malt beverages, and materials and supplies used in the processing of beer and malt beverages,* between Fogelsville, PA and New York, NY under a continuing contract(s) with the F & M Schaefer Brewing Company of Fogelsville, PA and New York, NY. Supporting shipper: F & M Schaefer Brewing Company, P.O. Box 2568, Allentown, PA 18001.

MC 129600 (Sub-1–13TA), filed November 14, 1980. Applicant: POLAR TRANSPORT, INC., 176 King Street, Hanover, MA 02339. Representative: A. C. Gardner, 176 King Street, Hanover, MA 02339. *General commodities (except household goods as defined by the Commission and Classes A and B explosives),* between points in the US, restricted to the transportation of traffic for Ascott Associates Co. Supporting shipper: Ascott Associates Co., 378 Commercial Street, Malden, MA 02148.

MC 59640 (Sub-1–14TA), filed November 6, 1980. Applicant: PAULS

TRUCKING CORPORATION, Three Commerce Drive, Cranford, NJ 07016. Representative: Michael A. Beam, Three

Stop, 307 Hartford Pike, Shrewsbury, MA 01545; Noar's Oil Co., 38 Albany Street, Worcester, MA 01624; Agway

DOWNEAST DISPATCH, INC., 38 Rolfe Lane, Newbury, MA 01950. Representative: John C. Lightbody, Esq.,

tumblers, plates, egg cartons, meat trays, and sandwich containers, and machinery, equipment and supplies

on the other, points in CT, ME, MA, NH, NJ, NY, PA, RI and VT. Supporting shippers: Crocker Technical Papers, Inc.,

Independent Tallow Company, 39 Cedar St., Woburn, MA 01801.

MC 138304 (Sub-1–6TA), filed

TRUCKING CORPORATION, Three Commerce Drive, Cranford, NJ 07016. Representative: Michael A. Beam, Three Commerce Drive, Cranford, NJ 07016. *Contract carrier*: irregular routes: *Such commodities as are dealt in by home centers and department stores, and equipment, materials and supplies used in the conduct of such businesses, (except commodities in bulk)* between points in the US, except not between Jersey City, NJ, Canton, OH, Worcester, MA, and Rochester, NY, on the one hand, and, on the other, points in DE, FL, ME, MD, MA, NH, NJ, NY, NC, OH, PA, VT and VA, under continuing contract(s) with Ames Department Stores, Inc., Rocky Hill, CT. Supporting shipper: Ames Department Stores, Inc., 2418 Main Street, Rocky Hill, CT 06067.

MC 128343 (Sub-1–21TA), filed November 12, 1980. Applicant: C-LINE, INC., 303 Jefferson Blvd., Warwick, RI 02888. Representative: Ronald N. Cobert, 1730 M Street, NW, Washington DC 20036. *Contract carrier*: irregular routes: *(1) Band steel, cold rolled steel, flat wire, iron and steel articles,* from Pawtucket, RI to points in MD and *(2) materials, equipment and supplies used in the manufacture and distribution of band steel, cold rolled steel, flat wire, and iron and steel articles,* from points in MD to Pawtucket, RI, restricted to services under a continuing contract(s) with Newman Crosby Steel Co., Inc. Supporting shipper: Newman Crosby Steel Co., Inc., 10 Dean Street, Pawtucket, RI 02862.

MC 124373 (Sub-1–2TA), filed November 10, 1980. Applicant: NELMAR TRUCKING CO., 273 Paterson Avenue, East Rutherford, NJ 07073. Representative: E. Stephen Heisley, Suite 805, 666 11th St., NW, Washington, DC 20001. *Contract carrier:* irregular routes: *Household appliances and electrical goods; materials, equipment and supplies as are dealt in, used by or sold in the manufacture, sale or distribution* thereof between Columbia, MD on the one hand, and points in MD, DE, PA, NJ, NY, CT, MA, NH and VA on the other under a continuing contract with General Electric Co., Appliance Park East, Columbia, MD. Supporting shipper: General Electric Co., Appliance Park East, Columbia, MD 21046.

MC 139977 (Sub-1–1TA), filed November 10, 1980. Applicant: GEORGE J. SUMMERS, 23 Church Street, Upton, MA 01568. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181. *Liquid petroleum products, in bulk, in tank vehicles,* between points in MA, RI and Tolland and Windham Counties, CT. Supporting shipper(s): Flynn's Truck Stop, 307 Hartford Pike, Shrewsbury, MA 01545; Noar's Oil Co., 36 Albany Street, Worcester, MA 01624; Agway Petroleum Corp., 21 Elm Street, Millbury, MA 01527; Lemieux Garage, Inc., Canal Street, Millbury, MA 01527.

MC 152603 (Sub-1–1TA), filed November 10, 1980. Applicant: F. J. O'HARA & SONS, INC., 211 Northern Avenue, Boston, MA 02210. Representative: John F. O'Donnell, Barrett and O'Donnell, 60 Adams St., P.O. Box 238, Milton, MA 02187. *Contract carrier:* irregular routes: *Marine Petroleum Products,* from Boston, MA to Portland, ME and Providence, RI, under continuing contract(s) with Texaco, Inc. Supporting shipper: Texaco USA, division of Texaco, Inc., 1111 Rusk, Houston, TX 77052.

MC 152602 (Sub-1–1TA), filed November 10, 1980. Applicant: HENRY D. SCHMAELZLE, d.b.a. H. AND S. LIMITED, 22 Montowese Avenue Ext., North Haven, CT 06473. Representative: Henry D. Schmaelzle, McGowan 6–N, 660 Mix Avenue, Hamden, CT 06473. *Telephone cable on reels, empty reels, and scrap cable on reels,* between points in the states of MA, CT, NY, NJ, PA, DE, MD, and between Orange, CT, and Cicero, IL. Supporting shipper: Southern New England Telephone Company, 48 Boston Post Road, Orange, CT 06477.

MC 7840 (Sub-1–4TA), filed: November 7, 1980. Applicant: ST. LAWRENCE FREIGHTWAYS, INC., 650 Cooper Street, Watertown, NY 13601. Representative: Werner J. Steinaker, 650 Cooper Street, Watertown, NY 13601. *Paper and paper products, and plastic and plastic products, and material, equipment and supplies used in the manufacture and distribution of such commodities* between Guilderland Center, NY and points in the US (except AK and HI). Supporting shipper: Crown Zellerback Corp., One Bush Street, South Glens Falls, NY 12801.

MC 17051 (Sub-1–4TA), filed November 13, 1980. Applicant: BARNET'S EXPRESS, INC., 758 Lidgerwood Avenue, Elizabeth, NJ 07202. Representative: Irving Klein, 371 Seventh Avenue, New York, NY 10001. *Wearing apparel and materials, equipment and supplies used in the manufacture thereof* between the New York, NY Commercial Zone on the one hand, and, on the other Lepanto, AR. Supporting shipper: Lepanto Garment Co., Division of Minotola Industries, Inc., 410 South 4th St., Vineland, NJ 08360.

MC 152596 (Sub-1–1TA), filed November 10, 1980. Applicant: DOWNEAST DISPATCH, INC., 38 Rolfe Lane, Newbury, MA 01950. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, ME 04101. *General commodities* between points in CT, MA, ME (except points Aroostook and Washington counties), NH, NJ, NY, PA, RI, and VT. Supporting shipper(s): There are 6 statements in support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 151740 (Sub-1–2TA), filed November 12, 1980. Applicant: LARRYMAR CORPORATION, P.O. Box 5, Route 541, Mt. Holly, NJ 08060. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. & Cottman St., Jenkintown, PA 19046. *Contract carrier:* irregular routes: *Asphalt and asphalt products* from Philadelphia, PA and Cockpit Point, VA to Jessup, MD, under continuing contract(s) with Trumbull Asphalt Division of Owens-Corning Fibreglas Corp. Supporting shipper: Trumbull Asphalt Division of Ownes-Corning Fibreglas Corporation, 59th and Arch Rd., Summit, IL 60501.

MC 124060 (Sub-1–1TA), filed November 10, 1980. Applicant: P. & P., INC., d.b.a. JOHNNY'S EXPRESS, 11 Hobart Court, Rochelle Park, NJ 07662. Representative: George A. Olsen, P.O. Box 357, Gladston, NJ 07934. *Contract carrier:* irregular routes: *Automotive materials, equipment, and supplies,* between South Plainfield, NJ, on the one hand, and, on the other, points in NY. Supporting shipper: Genuine Parts Company, 1770 New Durham Rd., South Plainfield, NJ 07080.

MC 152595 (Sub-1–1TA), filed November 10, 1980. Applicant: C.L.D. TRANSPORTATION CO., INC., 751 Broadway, Bayonne, NJ 07002. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. *Passengers and their baggage, in special operations,* beginning and ending at points in Staten Island, Brooklyn and Queens Counties, NY and extending to Atlantic City, NJ. Supporting shipper(s): Greate Bay Hotel and Casino, Inc., So. Indiana Ave., Atlantic City, NJ; Harrah's Marino Hotel Casino, 1725 Brigantine Blvd., Atlantic City, NJ 08401

MC 152621 (Sub-1–1TA), filed November 13, 1980. Applicant: RUSH TRANSPORT, INC., Mapletree Industrial Park, P.O. Box 272, Palmer, MA 01069. Representative: James M. Burns, 1383 Main Street—Suite 413, Springfield, MA 01103. *Plastic film, sheeting, and bags, and rigid plastic articles consisting of trays, cups, bowls, tumblers, plates, egg cartons, meat trays, and sandwich containers, and machinery, equipment and supplies used in the manufacture and distribution of plastic articles,* between Bakersfield, CA. Canandiagua, NY, Covington, GA, Frankfort, IL, Jacksonville, IL, Lowell, MA, Macedon, NY, Shawnee, OK, Stratford, CT, Temple, TX, Washington, NJ and Woodland, CA. and points in the US. Supporting shipper: Mobil Chemical Company—Plastics Division, Macedon, NY 14502.

MC 59264 (Sub-1–3TA), filed November 13, 1980. Applicant: SMITH & SOLOMON TRUCKING COMPANY, P.O. Box 2015, How Lane, New Brunswick, N.J. 08903. Representative: Herbert Burstein, Esq., Zelby, Burstein, Hartmen & Burstein, One World Trade Center—Suite 2373, New York, NY 10048. *Footwear, viz, boots, shoes, sandals, slippers, rubber outerwear, advertising displays, accessories and supplies used in retail shoe stores* (1) between Lebanon, NJ on the one hand and points in MD, VA, and DC on the other hand; and (2) from New York, NY and Philadelphia, PA to Lebanon, NJ, restricted to shipments moving in steamship containers having prior transportation. Supporting shipper: Meldisco Division of Melville Corp., 401 Hackensack Ave., Hackensack, NJ 07601.

MC 151766 (Sub-1–2TA), filed November 13, 1980. Applicant: DIAMOND K TRUCKING CO. INC., 23 Terminal Road, Lyndhurst, NJ 07071. Representative: Richard Kasten, 23 Terminal Road, Lyndhurst, NJ 07071. *General commodities in containers with the exception of Class A & B explosives and household goods* between the New York, NY Commercial Zone on the one hand, and on the other, NY, CT, MA, PA, WV and NJ. Supporting shipper: Lyndal Chemical Co., 624 Schuyler Ave., Lyndhurst, NJ; Millmaster Onyx Co., Inc., Schuyler Ave. at Kingsland, Lyndhurst, NJ; Finetex, Inc., 418 Falmouth Ave., Elmwood Park, NJ; Delta Tanning Corp., 1615 51st Street, North Bergen, NJ.

MC 120641 (Sub-1–1TA), filed November 17, 1980. Applicant: DEE TRANSPORTATION, INC., 217 South Ashburnham Road, Westminster, MA 01473. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181. *(1) Foodstuffs, paper and paper products; and (2) equipment, material and supplies used in the manufacture, processing and distribution of the commodities named in (1) above,* between Fitchburg and Westminster, MA, on the one hand, and, on the other, points in CT, ME, MA, NH, NJ, NY, PA, RI and VT. Supporting shippers: Crocker Technical Papers, Inc., P.O. Box 696, Fitchburg, MA 01420; Dawley & Shepard, Inc., 1 Miller Wquare, Westminster, MA 01473.

MC 149536 (Sub-1–2TA), filed November 17, 1980. Applicant: RODCO LEASING, INC., 380 Union Street, West Springfield, MA 01089. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Paper and paper articles, and equipment, materials and supplies used in the manufacture, sale and distribution of such commodities,* between points in Hampden County, MA and points in the contiguous 48 states. Supporting shipper: Jen-Coat, Inc., 132 N. Elm Street, Westfield, MA 01085.

MC 151632 (Sub-1–4TA), filed November 17, 1980. Applicant: EASTWOOD CARRIERS, INC., P.O. Box 1073, Lockhouse Road, Westfield, MA 01086. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. *Foodstuffs and equipment, materials and supplies used in the manufacture, sale and distribution of such commodities,* between Clinton, MA and points in the contiguous 48 states. Supporting shipper: Van Brode Milling Company, Inc., Clinton, MA 01510.

MC 141932 (Sub-1–13TA), filed November 17, 1980. Applicant: POLAR TRANSPORT, INC., 176 King Street, Hanover, MA 02339. Representative: Alton C. Gardner, 176 King Street, Hanover, MA 02339. *General commodities (except household goods as defined by the Commission and Classes A and B explosives)* between points in the U.S. Supporting shippers: Brockport Cold Storage Co., Inc., P.O. Box C, 98 Spring St., Brockport, NY; Stadler Packing Co., Columbus, IN 47201; Loroco Industries, Inc., 5000 Creek Road, Cincinnati, OH 45242.

MC 152731 (Sub-1–1TA), filed November 18, 1980. Applicant: RAPID RUBBISH REMOVAL, INC., P.O. Box 638, St. Johnsbury, VT 05819. Representative: Richard P. Gorman (same address as applicant). *Non-radioactive hazardous waste materials,* between points in all states east of the Mississippi River. Supporting shippers: Colt Industries, Inc., St. Johnsbury, VT 05819; Jones and Lambson, Inc., Springfield, VT 05156.

MC 112963 (Sub-1–9TA), filed November 14, 1980. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, Mass. 01866. Representative: Leonard E. Murphy, 764 Boston Road, Pinehurst, Mass. 01866. *Meat scraps, in bulk, in dump vehicles,* from Woburn, MA to Kearny, NJ. Supporting shipper: Independent Tallow Company, 39 Cedar St., Woburn, MA 01801.

MC 138304 (Sub-1–6TA), filed November 18, 1980. Applicant: NATIONAL PACKERS EXPRESS, INC., 90 Fisk Street, Jersey City, NJ 07305. Representative: Craig B. Sherman, Attorney at Law, Broad and Cassel, Barnett Bank Building, 1108 Kane Concourse, Bay Harbor Islands, FL 33154. *(1) Non-edible grain flour, edible grain flour, dry beverage preparations, breadcrumbs, non-medicated syrup, and bread cubes, and (2) materials used in the manufacture of the commodities in (1) above,* from points in Queens County, NY; Evansville, IN; and Ponchatoula, MS to all points in the U.S. Restricted against transportation of commodities in bulk and restricted to traffic originating at the plant sites and facilities of Modern Maid Food Products, Inc., and destined to the named destination points. Supporting shipper: Modern Maid Food Products, Inc., 200 Garden City Plaza, Garden City, NY 11530.

MC 40815 (Sub-1–2TA), filed November 7, 1980. Applicant: HARRAN TRANSPORTATION CO., INC., 1417 Jerusalem Avenue, North Merrick, NY 11566. Representative: William H. Shawn, Suite 501, 1780 M Street, N.W., Washington, DC 20036. *Passengers and their baggage in the same vehicle with passengers, in one-way and round-trip charter and special operations,* between New York, NY, and points in Rockland, Nassau and Suffolk Counties, NY, on the one hand, and, on the other, points in the US (except Hawaii). Supporting shippers: There are 7 statements in support attached to this application which may be examined at the ICC Regional Office in Boston, MA.

MC 152677 (Sub-1–1TA), filed November 17, 1980. Applicant: LEISURE TIME TOURS, INC., P.O. Box 587, Mahwah, NJ 07430. Representative: Larsh B. Mewhinney, Esq., Moore, Berson, Lifflander & Mewhinney, 555 Madison Avenue, 29th Floor, New York, NY 10022. *Contract carrier:* irregular routes: *Passengers and their baggage, in vehicles having a capacity not in excess of 25 passengers,* between New York, NY and Philadelphia, PA, on the one hand, and, on the other, Atlantic City, NJ, under contract with GNAC Corp. Supporting shipper: GNAC Corp., Boston at Pacific, Atlantic City, NJ 08404.

MC 128343 (Sub-1–22TA), filed November 17, 1980. Applicant: C–LINE, INC., 340 Jefferson Boulevard, Warwick, RI 02888. Representative: Ronald N. Cobert, 1730 M Street, N.W., Washington, DC 20036. *Contract carrier:* irregular routes: (1) *Copper Rod and Cathodes,* from Baltimore, MD to points in RI and (2) *materials, equipment and supplies used in the manufacture and the distribution of copper rod and*

homes and the commodities and supplies used in the manufacture and sale of such commodities, between Rowan and Cabarrus Counties, NC, on

west and north of a line beginning at the NY-VT State boundary, then west on NY State Highway 8 to its intersection with NY State Highway 28, then north

1284 N. Telegraph Rd., Monroe, MI 48161.

MC 102616 (Sub-II–22TA), filed November 14, 1980. Applicant:

Homestead, Pittsburgh and commercial zone, Phila. and commercial zone, PA; Baltimore and commercial zone, Sparrows Point, MD, Beech Bottom and

Cathodes, from Baltimore, MD to points in RI and (2) *materials, equipment and supplies used in the manufacture and the distribution of copper rod and cathodes* from points in RI to Baltimore, MD. Restricted to services under a continuing contract(s) with Kennecott Minerals Company, a Division of Kennecott Corporation of Salt Lake City, UT. Support shipper: Kennecott Minerals Company, a Division of Kennecott Corporation, 10 East South Temple, P.O. Box 11248, Salt Lake City, UT 84147.

MC 152679 (Sub-1–2TA), filed November 18, 1980. Applicant: ONORIO GIANCARLO d.b.a. G–2 TRUCKING, 233 Thomas Avenue, Lyndhurst, NJ 07071. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Freight of all kinds having a prior or subsequent movement by air* from Newark, NJ airport and LaGuardia and John F. Kennedy Airports, NY to airports in the US in and west of IL, AR, LA, MO and WI. Supporting shipper: Right-O-Way, Inc., 57 St. Charles Street, Newark, NJ 07105.

MC 50307 (Sub-1–1TA), filed November 18, 1980. Applicant: INTERSTATE DRESS CARRIERS, INC., 215 County Avenue, Secaucus, New Jersey 07094. Representative: Arthur Liberstein, P.C., 888 Sevenue Avenue, New York, NY 10106. *Wearing apparel and materials, supplies and equipment used in the manufacture of wearing apparel, except commodities in bulk,* between Braintree and Randolph, MA, on the one hand, and, on the other, points in PA. Supporting shipper: Collegetown Manufacturing, a Division of Interco, Inc., Collegetown Drive, Braintree, MA 02184.

MC 142974 (Sub-1–1TA), filed November 19, 1980. Applicant: SURE TRANSPORT, INC., Industrial Center, P.O. Box G, Lincoln, RI 02865. Representative: David M. Marshall, Marshall and Marshall, 101 State Street—Suite 304, Springfield, MA 01103. *Contract carrier:* irregular routes: *Such commodities as are dealt in by a manufacturer of children's clothing and piece goods,* between the facilities of Health-Tex, Inc. at Cumberland, RI, on the one hand, and, on the other, points, in AL, GA, VA, and ME, under continuing contract(s) with Health-Tex, Inc. Supporting shipper: Health-Tex, Inc., 88 Martin Street, Cumberland, RI 02864.

MC 2860 (Sub-1–22TA), filed November 17, 1980. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, NJ 08360. Representative: Gerald S. Duzinski (same address as applicant). *Pre-cut log homes and the commodities and supplies used in the manufacture and sale of such commodities,* between Rowan and Cabarrus Counties, NC, on the one hand, and, on the other, all points in the US. Restricted to traffic originating at or destined to the facilities of Lincoln Log Homes. Supporting shipper: Lincoln Log Homes, Inc., 1908–A North Main Street, Kannapolis, NC 28081.

MC 152729 (Sub-1–2TA), filed November 18, 1980. Applicant: CATARACT INDUSTRIAL WAREHOUSING, INC., 4626 Royal Avenue, Niagara Falls, New York 14303. Representative: Michael A. Wargula, Esq., 2550 Main Place Tower, Buffalo, New York 14202. *Contract carrier:* irregular route: *Hazardous waste and toxic materials,* between points in the US (except AL and HI) under continuing contract(s) with Frontier Chemical Waste Process, Inc. Supporting shipper: Frontier Chemical Waste Process, Inc., 4626 Royal Avenue, Niagara Falls, NY 14303.

MC 143445 (Sub-1–7TA), filed November 17, 1980. Applicant: MMAR TRANSPORTATION, INC., 128 Pennsylvania St., Kearney, NJ 07032. Representative: Dean N. Wolfe, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. *Household appliances, and materials and supplies used in the manufacture and distribution of household appliances* between points in NJ, CA, OH, TN, KY, IL, MO, TX, GA, FL, and IN. Supporting shipper: Emerson Quite Kool Corporation, 400 Woodbine Avenue, Woodbridge, NJ 07095.

MC 152694 (Sub-1–1TA), filed November 18, 1980. Applicant: PAGLUIGHI TRUCKING, INC., 1190 Hendee Road, Vineland, NJ 08360. Representative: Frederic L. Wood, Nicholas J. DiMichael, 914 Washington Building, Washington, D.C. 20005. *Frozen foodstuffs,* between Cumberland County, NJ, on the one hand, and, on the other hand, points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, and VA. Supporting shipper: Southland Frozen Foods, Inc., 1 Linden Place, Great Neck, NY 10021.

MC 66807 (Sub-1–2TA), filed November 17, 1980. Applicant: MANUFACTURERS EXPRESS, INC., 294 Kimberly Avenue, New Haven, CT 06519. Representative: Gerald A. Joseloff, P.O. Box 3258, Hartford, CT 06103. *General Commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission)* between the facilities of Charter Oak Shippers Cooperative Association, Inc. in CT, on the one hand, and, on the other, all points in CT. Supporting shipper: The Charter Oaks Shippers Cooperative Association, 1 Parkland Drive, Darien, CT 06820.

MC 147035 (Sub-1–1TA), filed November 19, 1980. Applicant: J. HOWARD LEASING, INC., Quaker Drive, Uxbridge, MA 01567. Representative: James F. Martin, Jr., 8 W. Morse Road, Bellingham, MA 02019. *Contract Carrier:* irregular routes; *meats, meat products and meat by-products, as described in Section A of Appendix 1 to the report in Description in Motor Carrier Certificates 61 M.C.C. 209 and 766,* between points in the US under continuing contracts with A. J. Cunningham Packing Corp., Quincy, MA. Supporting shipper: A. J. Cunningham Packing Corp., 1776 Heritage Dr., Quincy, MA 02171.

The following applications were filed in region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 94265 (Sub-II–25TA), filed November 12, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. *Non-exempt food or kindred products* from Jefferson and Orleans Parishes , LA to points in AL, AR, CO, DE, FL, GA, IL, IN, IA, KS, KY, LA, NI, MS, MA, MO, NE, NJ, NM, NC, ND, OK, PA, SC, SD, TN, TX, VA, WV, WI and DC, for 270 days. Supporting shipper: New Orleans Cold Storage and Warehouse Co., Ltd., 3401 Alvar, P.O. Box 26308, New Orleans, LA 70186.

MC 145242 (Sub-II–1TA), filed November 10, 1980. Applicant: CASE HEAVY HAULING, INC., P.O. Box 267, Warren, OH 44482. Representative: Beery & Spurlock Co., 275 E. State St., Columbus, OH 43215. *Commodities which because of size or weight require the use of special equipment,* (1) between points in Fairfield County, CT; points in the Chicago, IL Commercial Zone; Jefferson County, KY; Baltimore, MD Commerical Zone; Baltimore, Harford, Wicomico Counties, MD; Belmont, Columbiana, Cuyahoga, Jefferson, Lorain, Mahoning, Marion, Medina, Monroe, Portage, Stark, Summit, Trumbull, and Wayne Counties, OH; Allegheny, Beaver, Cumberland, Lancaster, Lebanon, Lawrence, Mercer, Northampton, Schuylkill, Washington, Westmoreland Counties, PA; Brooke, Cabell, Hancock, Jackson, Kanawha, Marshall and Wood Counties, WV, on the one hand, and, on the other, AL, AZ, AR, CA, CO, FL, GA, ID IL, IN, IA, KS, LA, ME, points in MD on and west of U.S. Highway 15, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, points in NY on, west and north of a line beginning at the NY-VT State boundary, then west on NY State Highway 8 to its intersection with NY State Highway 28, then north on NY State Highway 28 to its intersection with NY State Highway 12, then south on NY State Highway 12 to Utica, NY, then west on Interstate Route 90 to its intersection with NY State Highway 21, then south on NY State Highway 21 to its intersection with NY State Highway 417, then west on NY State Highway 417 to its intersection with NY State Highway 19, then south on NY State Highway 19 to the NY–PA State line, NC, ND, OK, OR, SC, SD, TN, TX, UT, VT, WA, WI, and WY. (2) between Genessee, Kent, Livington, Macomb, Oakland, St. Clair and Wayne Counties, MI, on the one hand, and, on the other, all points in and east of ND, SD, NE, KS, OK, and TX, for 270 days. Supporting shippers: Copperweld Steel, Inc., P.O. Box 351, Warren, OH 44482. Van Huffle Tube, P.O. Box 1540, Warren, OH 44482. Crucible Steel, P.O. Box 226, Midland, PA 15059. Kaiser Aluminum Co., P.O. Box 98, Ravenswood, WV 26164.

Note.—Purpose of this application is to eliminate interline service between commonly controlled companies: Case Heavy Hauling, Inc., Ohio Fast Freight, Inc., and Bellevue Trucking, Inc.

MC 144513 (Sub-II–1TA), filed November 10, 1980. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster St., Lodi, OH 44254. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. (1) *Vinyl siding and related accessories,* from the facilities of Alside, Inc, at or near West Salem, OH, to points in the US (except AK and HI); and (2) *Materials, equipment and supplies used in the production and distribution of commodities named in (1) above* (except in bulk), from points in the US (except AK and HI), to the facilities of Alside, Inc. at or near West Salem, OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Alside, Inc., 3773 Akron, Cleveland Road, Akron, OH 44309.

MC 152637 (Sub-II–1TA), filed November 12, 1980. Applicant: D–X TRUCKING, INC., 5660 Southwyck Blvd., Toledo, OH 43614. Representative: Michael M. Briley, P.O. Box 2068, Toledo, OH 43603. Contract, irregular: *New furniture and furniture parts (crated and uncrated); and materials, equipment and supplies used in the manufacture and distribution thereof* between pts. in the U.S. under continuing contracts with La-Z-Boy Chair Co. of Monroe, MI, for 270 days. Supporting shipper: La-Z-Boy Chair Co., 1284 N. Telegraph Rd., Monroe, MI 48161.

MC 102616 (Sub-II–22TA), filed November 14, 1980. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Rd., Akron, OH 44313. Representative: W. M. Kiefaber (same as applicant). *Petroleum products, in bulk,* from Rock Island, IN to E. St. Louis, IL and St. Louis, MO, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Rock Island Refining Corp., P.O. Box 68007, Indianapolis, IN 46268.

MC 114123 (Sub-II–2TA), filed November 14, 1980. Applicant: HERMAN R. EWELL, INC., East Earl, PA 17519. Representative: J. Bruce Walter, P.O. Box 1146, Harrisburg, PA 17108. *Sugar, in bulk, in tank vehicles,* between (1) New York, NY, and pts. in MA, CT, PA, NJ, DE, MD, VA and WV; and (2) between Baltimore, MD and pts. in NY, PA, NJ, DE, VA and WV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Amstar Corp., P.O. Box 356, Delaware Ave. and Reed St., Philadelphia, PA 19105.

MC 152672 (Sub-II–1TA), filed November 14, 1980. Applicant: A. ROGER LEASING, LTD., 850 Beaver Grade Road, Corapolis, PA 15108. Representative: Barry Weintraub, Suite 800, 8133 Leesburg Pike, Vienna, VA 22180. *Contract; Irregular: (1) iron and steel, and (2) iron and steel products,* between Cannonsburg, PA and Wilmington, DE, on the one hand, and on the other points in the United States (except AL and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Forbes Steel & Wire Corporation, P.O. Box 329, Cannonsburg, PA 15317.

MC 152672 (Sub-II–2TA), filed November 14, 1980. Applicant: A. ROGER LEASING, LTD., 850 Beaver Grade Road, Corapolis, PA 15108. Representative: Barry Weintraub, Suite 800, 8133 Leesburg Pike, Vienna, VA 22180. Contract; Irregular: (1) *metal products,* and (2) *materials, supplies and equipment used in the manufacture and distribution of* (1) above, between points in the United States (except AL and HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Copperweld Corporation, Box 1000, Glassport, PA 15045.

MC 144859 (Sub-II–2TA), filed November 14, 1980. Applicant: SCOTT PALLETS, INC., P.O. Box 341, Amelia, VA 23002. Representative: Jo Anne Scott (same as applicant). *Contract Irregular:* (1) *Tires, rubber from points in OH and PA to points in VA.* (2) *Steel bars, shapes and steel products* from Aliquippa, Beaver, Falls, Carnegie, Homestead, Pittsburgh and commercial zone, Phila. and commercial zone, PA; Baltimore and commercial zone, Sparrows Point, MD, Beech Bottom and Wierton, WV, Cleveland and commercial zone and Martins Ferry, OH to Richmond and commercial zone, VA; and from Atlanta and commercial zone to Savannah, GA, Charleston and commercial zone, Darlington and commercial zone Georgetown and commercial zone, Florence and commercial zone, SC and Charlotte and commercial zone, NC to Richmond and commercial zone and Ashland, VA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Steel Service, Inc., 204 S. Leadbetter Rd., Ashland, VA 23005.

MC 152640 (Sub-II–1TA), filed November 13, 1980. Applicant: RAPID DISTRIBUTION SERVICE, INC., 2392 No. DuPont Hwy., Dover, DE 19901. Representative: Samuel W. Earnshaw, 833 Washington Bldg., Washington, DC 20005. *Contract; irregular: Lumber, or wood products (except furniture) and rubber or miscellaneous plastic products* between Ottawa County, MI and pts. in the US under continuous contract(s) with John Thomas Batts, Inc., Zeeland, MI for 270 days. Supporting shipper(s): John Thomas Batts, Inc., 421 Centennial St., Zeeland, MI 49464.

MC 136343 (Sub-II–15TA), filed November 14, 1980. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, PA 17108. *Plastic articles (except in bulk)* from the facilities of Union Carbide Corp. near Cartersville, GA, East Hartford, CT, Rogers, AR and Southampton, PA to points in and east of ND, SD, NE, KS, OK and TX for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Union Carbide Corp., 270 Park Ave., New York, NY 10017.

MC 1824 (Sub-2–12TA), filed November 13, 1980. Applicant: PRESTON TRUCKING CO., 151 Easton Blvd., Preston, MD 21655. Representative: Charles S. Perry (same as applicant). *Foodstuffs, and materials, equipment, and supplies used in the manufacture, packaging, and distribution thereof,* between Baltimore, MD, and Atlanta, GA, on the one hand, and, on the other, points in AL, AR, CO, CT, DE, FL, GA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC, restricted to shipments originating at or destined to the facilities of J. H. Filbert, Inc. for 270 days. Supporting shipper(s): J. H. Filbert,

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Inc., 3701 Southwestern Blvd., Baltimore, MD 21229.

MC 151707 (Sub-II–3TA), filed November 14, 1980. Applicant: PIONEER TRUCKING, INC., 1105 N. Market St., 15th Floor, Wilmington, DE 19801. Representative: Dennis Kupchik (same address as applicant). *Contract; irregular: Hermetic Motor Parts and materials used in their manufacture* between points in the U.S. (except AK and HI) under a continuing contract or contracts with Copeland Electric Corp., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Copeland Electric Corp., 957 West Mullins, Humboldt, TN 38343.

MC 152673 (Sub-II–1TA), filed November 14, 1980. Applicant: ODENTON SHELL SERVICENTER, INC., 1144 Annapolis Rd., Odenton MD 21113. Representative: Rony Werthamer, 6507 Glenwick Ct., Baltimore, MD 21209. *Machinery and supplies, self-propelled vehicles, (except automobiles) and transportation equipment in towaway service* between pts. in DE, DC, MD, NJ, NY, PA, VA, and WV for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): LPM Parts & Service of Baltimore, Inc., 1414 Cherry Hill Rd., Baltimore, MD 21225. Maryland Industrial Trucks, Inc., 8232 Telegraph Rd., Odenton, MD 21113. Hayward Baker Co., 1875 Mayfield Rd., Odenton, MD 21113.

MC 107012 (Sub-II–108TA), filed November 14, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Such merchandise as dealt in or used by commercial, institutional, or industrial establishments,* between Los Angeles County, CA and Atlanta, GA on the one hand and on the other points in the US (except AK and HI) for 270 days. Restricted to traffic originating at or destined to the facilities of the Purex Industries, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Purex Industries, Inc., 24600 S. Main St., Carson, CA 90749.

Note.—Common control may be involved.

MC 150339 (Sub-2–19TA), filed November 14, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same as applicant). *Contract; irregular: General commodities, except household goods as defined by the Commission and classes A & B explosives,* (1) between the facilities of Ralston Purina Co. in Union City, GA, and points in NC, and (2) between Dunkirk and Buffalo, NY, on the one hand, and, on the other, points in Cumberland County, PA, under a continuing contract(s) with Ralston Purina Co., 5001 W. Fayetteville Road, Fairburn, GA 30213, and Ralston Purina Co., 5909 Brandy Lane, Mechanicsburg, PA 17055 for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Ralston Purnia Co., 5001 W. Fayetteville Rd., Fairburn, GA 30213, and Ralston Purina Co., 6509 Brandy Lane, Mechanicsburg, PA 17055.

MC 107012 (Sub-II–107TA), filed November 12, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Energy saving articles* from Chattsworth, CA to AL, AR, AZ, CO, GA, ID, IL, IN, IA, KY, MI, MN, MO, NJ, OH, OR, PA, NC, TN, TX, UT, VA, WA, and WI for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Energy House, Inc., 9183 Kelvin, Chattsworth, CA 91311.

Note.—Common control may be involved.

MC 150339 (Sub-2–18TA), filed November 10, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same as applicant). *Contract; irregualr: Drugs, hospital supplies, intravenous solution, and toilet preparations,* from Rocky Mount, NC, to Jersey City, NJ, under a continuing contract(s) with Abbott Laboratories, 1400 Sheridan Road, North Chicago, IL 60064 for 270 days. An underlying ETA seeks 120 days authority.Supporting shipper(s): Abbott Laboratories, 1400 Sheridan Rd., North Chicago, IL 60064.

MC 107012 (Sub–II–106TA), filed November 10, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Bath tubs and shower units* from Jacksonville, FL to points in the US (except AK and HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Waugh & Co., Inc., 2203 W. Beaver St., Jacksonville, FL 32203.

Note.—Common control may be involved.

MC 146865 (Sub-II–2TA), filed November 14, 1980. Applicant: M. T. SERVICES, INC., d.b.a. BRENNAN EXPRESS, P.O. Box 18402, Baltimore, MD 21237. Representative: Raymond P. Keigher, 401 E. Jefferson St., Suite 102, Rockville, MD 20850. *Caprolactam and containers,* between Hopewell, VA, on the one hand, and, on the other, Newport News, Norfolk and Portsmouth, VA for 270 days. Supporting shipper: The Fibers & Plastics Co., Div. of Allied Chemical Corp., P.O. Box 31, Petersburg, VA 23804.

MC 144269 (Sub-2–1TA), filed November 10, 1980. Applicant: MESSA ENTERPRISES, INC., P.O. Box 2000, Wise, VA 24293. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Contractors equipment and heavy machinery and such commodities which, because of size or weight, require the use of special equipment or handling, and related tools, parts, accessories and attachments moving incidentally thereto as part of the same shipment,* between points in FL on the one hand, and, on the other, points in VA, WV, TN and KY for 270 days. There are 5 supporting shippers. Their statements may be examined at the I.C.C. Regional Office, Philadelphia, PA.

MC 106920 (Sub-II–11TA), filed November 10, 1980. Applicant: RIGGS FOOD EXPRESS, INC., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St., N.W., Washington, D.C. 20001. *Foodstuffs and materials, equipment and supplies used in the manufacture and distribution of foodstuffs (except commodities in bulk)* between Archbold, OH, on the one hand, and, on the other, pts in the U.S. in and east of MT, WY, CO, and NM; restricted to traffic moving from or to the facilities of Beatrice Frozen Specialties, Division of Beatrice Foods Co. in Archbold, OH for 270 days. Supporting shipper: Beatrice Frozen Specialties, Division of Beatrice Foods Co., 601 McArthur St., Archbold, OH 43502.

MC 119118 (Sub-II–3TA), filed November 10, 1980. Applicant: McCURDY TRUCKING, INC., P.O. Box 388, Latrobe, PA, 15650. Representative: Richard C. McGinnis, 711 Washington Bldg., Washington, DC 20005. *Malt beverages, in containers,* from Evansville, IN, to points in VA, fr 270 days. Supporting shipper: Tidewater Distributing Co., Inc., 1370 Ingleside Road, Norfolk, VA, 23502.

MC 107012 (Sub-II–109TA), filed November 19, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant) *Commodities dealt in or used by retail stores,* from North Bergen, NJ to Nashville, TN for 270 days. An underlying ETA seeking authority for 120 days. Supporting shipper: Mid-Tenn Freight Association, 245 Great Circle Rd., Nashville, TN 37228.

Note.—Common control may be involved.

MC 150339 (Sub-2–20TA), filed November 17, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same as applicant). *Contract; irregular: Cheese,* (1) from Monroe, WI, to Pittsburgh, PA, and (2) from Pittsburgh, PA, to points in WI, IL, MI, IN, KY, TN, MS, AL, DC, GA, FL, SC, NC, VA, WV, OH, PA, MD, DE, NJ, NY, ME, MA, CT, VT, NH, and RI, under continuing contract(s) with Dairyland Cheese Corp., 4700 Campbells Run Rd., Pittsburgh, PA 15205. An underlying ETA seeks 120 days authority. Supporting shipper(s): Dairyland Cheese Corp., 4700 Campbells Run Rd., Pittsburgh, PA 15205.

MC 150339 (Sub-2–21TA), filed November 19, 1980. Applicant: PIONEER TRANSPORTATION SYSTEMS, INC., 151 Easton Blvd., Preston, MD 21655. Representative: J. Cody Quinton, Jr. (same as applicant). *Contract; irregular: Filters, and materials, equipment and supplies used in the manufacture thereof,* between Henderson, NC, on the one hand, and, on the other, points in the US (except AK and HI) for 270 days under continuing contract(s) with Facet Enterprises, Inc., US Hwy 1 Bypass, Henderson, NC 27536. An underlying ETA seeks 120 days authority. Supporting shipper(s): Facet Enterprises Inc., US Hwy 1 Bypass, Henderson, NC 27536.

MC 152724 (Sub-II–1TA), filed November 19, 1980. Applicant: MID–ATLANTIC FREIGHT CARRIERS, INC., 869 North Liberty St., Harrisonburg, VA 22801. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. *Stoves, materials, equipment, and supplies used in the manufacture thereof,* between Harrisonburg, VA on the one hand, and, on the other, points in the US (except AK and HI), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Sierra Manufacturing Co. of VA, P.O. Box 346, Harrisonburg, VA 22801.

MC 21866 (Sub-2–36TA), filed November 14, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. *Baked goods,* from the facilities of Penn Dutch Cookie Company, a division of Merico, Inc., at Fleetwood and Blandon (Berks County), PA, to points in the United States (except AK, HI and PA), for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): Penn Dutch Cookie Company, a division of Merico, Inc., 19 West Poplar Street, Fleetwood, PA 19522.

MC 152462 (Sub-II–1TA), filed November 14, 1980. Applicant: ACKERMAN TRUCKING, P.O. Box 565, Gouldsboro, PA 18424. Representative: Peter Wolff, 722 Pittston Ave., Scranton, PA 18505. Coal, in bulk from Carbon County, PA to Port Newark, NJ for 270 days. An underlying ETA seeks 120 days. Supporting shipper(s): Ashland Energies, Inc., 29 North Street, Plymouth, PA 18651.

MC 152639 (Sub-II–1TA), filed November 12, 1980. Applicant: HE & WI LEASING, INC., 20878 Burgandy Dr., Strongsville, OH 44136. Representative: Lynn R. Delnoce, 10576 Broadview Rd., Broadview Heights, OH 44147. *Steel shot, coke, coal and alloys,* between OH, IN, IL, MI, NY, PA, RI, CT, WI, MA, WV, TN, AL, GA, TX, AK, MO, OK, IA, NC, SC, VA, MS, MN, VT, NH, KY, LA. An underlying ETA seeks 120 days authority. Supporting shipper(s): Hickman Williams & Co., 14600 Lakewood Dr., Lakewood, OH 44107.

MC 150693 (Sub-II–3TA), filed November 7, 1980. Applicant: GENERAL MOTOR LINES, INC., P.O. Box 9583, Baltimore, MD 21237. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Contract; irregular: *General commodities in containers (except Classes A & B Explosives) restricted to traffic having a prior or subsequent move by water,* between Baltimore, MD on the one hand, and, on the other, points in the U.S., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Harper Robinson Company, 1st National Bank, 8th Floor, Redwood & Light Streets, Baltimore, MD 21202.

MC 147804 (Sub-II–1TA), filed November 13, 1980. Applicant: R. E. HUSMAN EXPRESS, INC., 3926 Hemphill Way, Cincinnati, OH 45236. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *(1) mattresses; box springs; convertible sofa beds; upholstered furniture; batting; padding; frames; springs or molds; unwoven, knitted or stitched cloth; cotton or synthetic fiber; and filter media including filtering discs, cellulose sponges and brushes; and (2) equipment, material and supplies used in the manufacture, sale and distribution of the commodities named in (1) above (except commodities in bulk),* between Hamilton County, Warren County, Preble County and Columbiana County, OH; Laurel County, KY; Middlesex County, NJ; and Pontotoc County, MS; on the one hand, and, on the other, points in the U.S. in and east of MN, IA, MO, AR and LA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Stearns & Foster Co., Wyoming & Williams Ave., Lockland, OH 45215.

MC 124821 (Sub-II–27TA), filed November 10, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. *Zinc, lead, copper, zinc oxide, zinc dust and zinc dross,* from points in PA to points in NY, NJ, DE, MA, CT, RI, IN, IL for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): St. Joe Minerals, Inc., P.O. Box A, Monaca, PA 15061.

MC 119496 (Sub-II–1TA), filed November 13, 1980. Applicant: THE JAMES GIBBONS COMPANY, P.O. Box 253, Annapolis Junction, MD 20701. Representative: William F. King., Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. *Plastic bottles and containers and materials, supplies and equipment used in the manufacture thereof,* moving in shipper's trailers, between the facilities of Bercon Packaging, Inc., Berwick, PA and Jessup, MD, on the one hand, and, on the other, points in DE, MD, NC, NJ, NY, OH, PA, VA, WV and DC for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Bercon Packaging, Inc., 1800 North Market Street, Berwick, PA 18603.

MC 150958 (Sub-II–2TA), filed November 10, 1980. Applicant: GRANNY'S EXPRESS, INC. 2101 Ross Ave., Cincinnati, OH 45212. Representative: E. H. van Deusen, P.O. Box 97, Dublin, OH 43017. *Contract:* Irregular: *Cleaning compounds, Herbicides, Insecticides, Roofing Materials, Oil and Grease,* (except in bulk), from Sharonville, OH to Atlanta, GA, Orlando, FL, Dallas, TX, Grand Rapids and Detroit, MI, Chicago, IL, and Davenport, IA. Supporting shipper: Dubois Chemical Div., Chemed Corp., 3630 E. Kemper Rd., Sharonville, OH 45241.

MC 129124 (Sub-II–3TA), filed November 7, 1980. Applicant: SAMUEL J. LANSBERRY, INC., Intersection of Rt. 322 & 970, P.O. Box 58, Woodland, PA 16881. Representative: John C. Fudesco, 1333 New Hampshire Ave., NW, Suite 960, Washington, DC 20036. *Coal, in bulk in dump vehicles,* from points in Luzerne County, PA to points in Hartford County, CT, Essex County MA and Suffolk County, NY. An underlying ETA seeks 120 day authority. Supporting shipper: Charles Fox, 20th & Vine Street, Hazelton, PA 18201.

MC 8575 (Sub-II–1TA), filed November 7, 1980. Applicant:

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FERGUSON VAN LINES, INC., 3999 Erie Ave., Cincinnati, OH 45206. Representative: Howard Gould, 2613 Carew Tower, Cincinnati, OH 45202. *Household goods* between points in the U.S. for 270 days. Supporting shipper(s): There are fourteen supporting shippers' statements attached to this application which may be examined at the Phila. Regional office.

MC 124821 (Sub-II–26TA), filed November 10, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18515. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. *Foodstuffs,* between Franklin Park, IL and points in the U.S. in and east of WI, IL, KY, TN and MS, for 270 days. Supporting shipper(s): Fearn International Inc., 9353 Belmont Ave., Franklin Park, IL 60131.

MC 140889 (Sub-II–5TA), filed November 7, 1980. Applicant: FIVE STAR TRUCKING, INC., 4720 Biedler Rd., Willoughby, OH 44094. Representative: Ignatius B. Trombetta, 1220 Williamson Building, Cleveland, OH 44114. Type of Service: Contract, irregular: *Refractories, foundry supplies, including fluxes, chemical and mineral mixtures, except in bulk* from points in Cuyahoga County, OH to points within TX, OK, IL, IN, WI; Utah County, UT; Clackamas County, OR; Riverside County, CA; and St. Louis County, MN. Shipper: Foseco, Inc., 20200 Sheldon Rd., Brookpark, OH 44142.

MC 141124 (Sub-II–2TA), filed November 6, 1980. Applicant: EVANGELIST COMMERCIAL CORPORATION, P.O. Box, 15000, Wilmington, DE 19850. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. *Foundry facing and foundry materials and supplies (except in bulk),* between the facilities of Hill and Griffith Co. at Burbank, OH; Chicago, IL and Birmingham, AL, on the one hand, and, on the other, points in the U.S. east of the Mississippi River. An underlying ETA seeks 120 days authority. Supporting shipper(s): The Hill and Griffith Co., 1262 State St., Cincinnati, OH 45204.

MC 65475 (Sub-II–7TA), filed November 6, 1980. Applicant: JETCO, INC., 4701 Eisenhower Ave., Alexandria, VA 22304. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Floating pier systems and equipment, materials, and supplies used in the construction thereof,* between points in the U.S. (except AK and HI), restricted to shipments originating at or destined to facilities or construction sites of Marinas Internationale Ltd. or its suppliers. An underlying ETA seeks 120 days authority. Supporting shipper: Marinas Internationale Ltd., 1485 Chain Bridge Rd., Ste. 101, Mclean, VA 22101.

MC 152627 (Sub-II–1TA), filed November 7, 1980. Applicant: BOB HEAD, Box 518, Indiana, PA 15701. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Oilfield and gas field drilling and production equipment, supplies and materials* between points in PA, on the one hand, and, on the other, points in OH, MD, NY and WV. An underlying ETA seeks 120 days authority. Supporting shipper(s): Eastman Whipstock, Inc., P.O. Box. 3142, Morgantown, WV 26505. Ingersoll-Rand Compression Services, Suite 2300, One Williams Center, Tulsa, OK 74172. McJunkin Corp., Jack Drive, Indiana, PA 15701. The Continental Supply Co., Robinson Plaza, III, Suite 315, Pittsburgh, PA 15205.

MC 115181 (II–11TA), filed November 6, 1980. Applicant: HAROLD M. FELTY, INC., R. D. #1, Box 148, Pine Grove, PA 17963. Representative: Lee E. High, 541 Penn Street, Reading, PA 19601. *Petroleum Coke,* in bulk, in dump vehicles, from Baltimore, Maryland, to St. Mary's, Pennsylvania, and Niagara Falls, New York. An underlying ETA seeks 120 days authority. Supporting shipper: Airco Carbon Division, 800 Theresia St., St. Mary's PA 15857.

MC 143394 (Sub-II–18TA), filed November 6, 1980. Applicant: GENIE TRUCKING LINE, INC., 70 Carlisle Springs Rd., P.O. Box 840, Carlisle, PA 17013. Representative: G. Kenneth Bishop (same as applicant). Contract: Irregular: *General Commodities (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* Between New York, NY, Philadelphia, PA, Chicago, IL, and points in the U.S. under continuing contract(s) with Acme Fast Freight, Inc., New York, NY, for 270 days. Supporting shipper: Acme Fast Freight, Inc., 201 11th Avenue, New York, NY 10001.

MC 134235 (Sub-II–1TA), filed November 7, 1980. Applicant: KUHNLE BROTHERS, INC., P.O. Box 375, Newbury, OH 44065. Representative: Neal A. Jackson, 1156 15th St., NW., Washington, DC 20005. *Calcium chloride, in bulk,* from Ludington and midland, MI, to Cleveland and Orwell, OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: The Broadway Supply Co., 7525 Bessemer Ave., Cleveland, OH 44127.

MC 107012 (Sub-II–110TA), filed November 20, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: Bruce W. Boyarko (same as applicant). *General commodities,* from the facilities of A & D Transco at or near Seattle, WA to points in and east of ND, SD, NE, CO, OK and TX for 270 days. An underlying ETA is seeking 120 days. Supporting shipper: A & D Transco, 1762 6th Ave., South, Suite 123, Seattle, WA 98134.

Note.—Common control may be involved.

MC 110525 (Sub-II–19TA), filed November 17, 1980. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E Lancaster Ave., Downingtown, PA 19335. Representative: Thomas J. O'Brien (same as applicant). *Liquid "Hydan" and animal feed supplements, in bulk in tank vehicles* from Newport, TN facility of E.I. du Pont de Nemours to points in AR, MS for 270 days. Supporting shipper: E. I. du Pont de Nemours & Co., 1017 Market St., Wilmington, DE 19898.

MC 152702 (Sub-II–1TA), filed November 17, 1980. Applicant: CHESAPEAKE PIEDMONT CORP., 1210 Gallop Ave., P.O. Box 1452, Chesapeake, VA 23320. Representative: John Warren Ford, 9612 14th View St., Norfolk, VA 23503. Contract, irregular: *Beer and soft drinks and materials, equipment and supplies used in the manufacture, distribution and sale of beer and soft drinks,* between Norfolk and Williamsburg, VA on the one hand, and on the other Elizabeth City, NC, under a continuing contract with City Beverage Co., Inc., for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: City Beverage Co., Inc., P.O. Box 1036, Elizabeth City, NC 27909.

MC 152494 (Sub-II–1TA), filed November 17, 1980. Applicant: CHESSIE MOTOR EXPRESS, INC., P.O. Box 6419, 3200 Terminal Tower, Cleveland, OH 44101. Representative: Eugene D. Anderson, 910 17th St., NW., Suite 428, Washington, D.C. 20006. *General Commodities (except when transported in flatbed or tank trailers and further restricted against transportation of household goods, Class A & B explosives, commodities which because of size or weight require special equipment, and driveaway transportation)* between points in CT, DC, IL, IN, KY, MA, MD, ME, MI, MO, NJ, NY, OH, PA, RI, VA, WI, WV, and from Philadelphia, PA, to Jacksonville, Miami and Orlando, FL, (restricted to transportation which auxiliary to or supplemental of a railroad; or restricted to transportation which has a prior or subsequent move by rail; or restricted to transportation where the origin or destination is a point served by the

Chessie System), for 270 days. Applicant intends to interline. An underlying ETA seeks 120 days authority. Supporting shipper(s): Chessie System, 3200 Terminal Tower, Cleveland, OH 44101.

MC 94851 (Sub-II–1TA), filed November 17, 1980. Applicant: HOWARD W. CLARK, INC., 8201 Stayton Dr., Jessup, MD 20794. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Ste. 605, Washington, DC 20014. *Contract, Irregular: Electrical and gas appliances, including, but not limited to washing machines, drying machines, TV sets, central heating and air conditioning units, room air conditioning units, room air conditioners, refrigerators, ranges and toasters,* between points in Howard County, MD, on the one hand, and points in DC, DE, NJ, PA, and VA, on the other, for 270 days. Supporting shipper: General Electric Co., Appliance Park-East, Columbia, MD 71046.

MC 149043 (Sub-II–5TA), filed November 17, 1980. Applicant: EASTERN TANK LINES, INC., 5536 Brentlinger Drive, Dayton, OH 45414. Representative: H. Neil Garson, 3251 Old Lee Hwy., Suite 400, Fiarfax, VA 22030. (1) *Vegetable Oils, Vegetable Oil Shortenings and Food Stuffs, in bulk* in tank vehicles from the facility of Capital City Products Co. at Columbus, OH to pts, in the US (except AK & HI) and (2) *Material and supplies used in the manufacture of Vegetable Oils, Vegetable Oil Shortenings, and Food Stuffs in bulk* tank vehicles from pts. in the US (except AK & HI) to the facility of Capital City Products Co. at Columbus, OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: CAPITAL CITY PRODUCTS CO., Division of Stokely Van Camp, Inc., P.O. Box 569, Columbus, OH 43216.

MC 79550 (Sub-II–3TA), filed November 17, 1980. Applicant: ERSKINE TRUCKING, INC., 6210 Center Rd., Lowellville, OH 44436. Representative: James Duvall, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. *Reinforced concrete pipe* from the facilities of Price Brothers Company at or near Dayton, OH, to points in Onondaga County, NY. An underlying ETA seeks 120 days authority. Supporting shipper(s): Price Brothers Company, P.O. Box 825, Dayton, OH 45401.

MC 647 (Sub-II–TA), filed November 17, 1980. Applicant: Exhibitors Service Co., 85 Helen St., McKees Rocks, PA 15136. Representative: Samule P. Delisi, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Frozen foods,* from Avon, NY to Mogadore, Solon, Akron, Youngstown, Bellaire, Barnesville, Canton, Warrensville, Massillon, Maple Heights, Bedford Heights and West Austintown, OH, and from Avon, Fulton, North Rose, Sodus, Fairport, Mt. Morris, Rochester and Syracuse, NY to Cleveland, OH, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: General Foods Corp., 250 North St., White Plains, NY 10625.

MC 145282 (Sub-II–TA), filed November 17, 1980. Applicant: Falcon Transport, Inc., P.O. Box K, Bird-in-Hand, PA 17505. Representative: James E. Brown, 36 Brunswick Rd., Depew, NY 14043. *Iron, steel, aluminum and copper and iron, steel, aluminum and copper articles, and materials supplies and equipment used in the manufacture and distribution of such commodities* between Lancaster County, PA and points in DE, IL, IN, KY, MD, MI, NJ, NY, OH, VA and WV, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: High Steel Service Center, 401 Steel Way, P.O. Box 4037, Lancaster, PA 17604.

MC 121327 (Sub-II–1TA), filed November 18, 1980. Applicant: FINK'S FAST FREIGHT, INC., 911 South Prince St., Lancaster, PA 17604. Representative: Maxwell A. Howell, 100 Investment Bldg., 1511 K St., N.W., Washington, D.C. 20005. *General Commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* between pts. in the Lancaster, PA Commercial Zone, on the one hand, and, on the other, pts. in Adams, York, Lancaster, Lebanon, Dauphin and Cumberland Counties, PA. The transportation service authorized herein is restricted to the transportation of interstate shipments moving in interline service with Friedman's Express, Inc., Wilkes-Barre, PA. An underlying ETA seeks 120 days authority. Supporting shipper: Friedman's Express, Inc., P.O. Box 480, Wilkes-Barre, PA 18703.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 138635 (Sub-3–14TA), filed November 20, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same address as applicant). *General Commodities (except those of unusual value, classes A and B explosives, commodities in bulk and those requiring special equipment),* between New Orleans and its commerical zone and Jefferson Parish, LA, on the one hand, and, on the other, points in the U.S. restricted to traffic originating at or destined to the facilities of New Orleans Cold Storage & Warehouse Co., Ltd. Supporting shipper: New Orleans Cold Storage & Warehouse Co., Ltd., P.O. Box 895, Metairie, LA 70004.

MC 151040 (Sub-3–2TA), filed November 18, 1980. Applicant: RTL HOLDINGS, INC., P.O. Box 2408–R, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). *Contract carrier:* irregular: *Non-ferrous metals and non-ferrous metal products* between Maricopa County, AZ, on the one hand, and on the other, Colbert County, AL; Lawrence County, AL; or Maury County, TN; under a continuing contract or contracts with Metal Exchange Corporation. Supporting shipper: Metal Exchange Corporation, 111 West Port Plaza, Suite 704, St. Louis, MO 63141.

MC 121654 (Sub-3–28TA), filed November 18, 1980. Applicant: COASTAL TRANSPORT & TRADING CO., P.O. Box 7438, Savannah, GA 31408. Representative: Bruce E. Mitchell, P.C., 3390 Peachtree Rd., N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Lawn Care Equipment, and Materials and Supplies used in the manufacture and distribution of such equipment* from Orangeburg, SC to points in RI, CT, MA, NY, PA, VA, NC, TX, GA, LA, DE, MD, MS, AL, WV and OH. Supporting shipper: Roper Outdoor Products, P.O. Box 1687, Orangeburg, SC 29115.

MC 126436 (Sub-3–83TA), filed November 18, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd., N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Fiber glass products, and materials, equipment and supplies used in the manufacture, distribution and sale thereof (except in bulk)* (1) from facilities of PPG Industries, Inc., at or near Fort Lauderdale, FL to points in AZ, AR, CA, CO, KS, LA, MO, NM, OK, and TX; and (2) from Charlotte, NC to facilities of PPG Industries, Inc., at or near Fort Lauderdale, FL under continuing contract(s) with PPG Industries, Inc. Supporting shipper: PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222.

MC 128720 (Sub-3–14TA), filed November 18, 1980. Applicant: MERCHANTS FREIGHT LINE, INC., 1185 Omohundro Drive, Nashville, TN 37210. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *General commodities (except those of unusual value, classes A and B explosives,*

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household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Simpson County, KY, on the one hand, and points in MI, on the other. Supporting shipper(s): There are 30 certificates of support submitted with this application.

Note.—Applicant intends to tack with its existing authority under MC 128720 and subs at Simpson County, KY, and interline at all authorized points.

MC 148016 (Sub-3–2TA), filed November 19, 1980. Applicant: McWHORTER-GRAY ENTERPRISES, INC., 1010 Highway 15 North, Ripley, MS 38663. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. *Hazardous waste materials* from Braintree, to Emelle, AL under a continuing contract or contracts with Recycling Industries, Inc. Supporting shipper: Recycling Industries, Inc., 385 Quincy Avenue, Braintree, MA 02184.

MC 152658 (Sub-3–1TA), filed November 19, 1980. Applicant: HUCKS PIGGYBACK SERVICE, INC., 1200 N. Tryon Street, Charlotte, NC 28206. Representative: Eric Meierhoefer, Suite 423, 1511 K Street N.W., Washington, DC 20005. *General commodities (except household goods as defined by the Commission and classes A and B explosives, having prior or subsequent movement by rail or in foreign commerce),* between points in Gaston and Mecklenburg Counties, NC, on the one hand, and, on the other, points in NC and SC. Supporting shippers: National Piggyback Service, Inc., 831 Baxter St., Suite 202, Charlotte, NC 28202; Rauch Industries, Inc., P.O. Box 609, Gastonia, NC 28052; and Magla Products, 1066 Clinton Ave., Irvington, NJ 07111.

MC 134064 (Sub-3–9TA), filed November 19, 1980. Applicant: INTERSTATE TRANSPORT, INC., 1600 Highway 129 South, Gainesville, GA 30505. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Such commodities as are dealt in by retail, discount department, or variety stores, except commodities in bulk,* between Atlanta, GA and points in its commercial zone and Charlotte, NC and points in its commercial zone; restricted to traffic either originating at or destined to the facilities of Richway, a Division of Federated Department Stores, Inc. Supporting shipper: Richway, a Divsion of Federated Department Stores, Inc., 615 Stonehill Dr., S.W., Atlanta, GA 30336.

MC 144827 (Sub-3–21TA), filed November 19, 1980. Applicant: DELTA MOTOR FREIGHT, INC., P.O. Box 18423, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. (1) *Cleaning compounds, food preservatives, extracts and flavorings and flavoring concentrates* from Louisville, KY; Dallas, TX; and Orlando, FL; to points in the U.S. and (2) *materials and supplies used in the manufacture and distribution of commodities in (1)* from points in the U.S. to Louisville, KY; Dallas, TX; and Orlando, FL. Supporting shipper: Southland Corporation, Chemical Division, 5801 Marvin D. Love Freeway, Suite 400, Dallas, TX 75237.

MC 121796 (Sub-3–1TA), filed November 19, 1980. Applicant: MOUNTAIN EXPRESS, INC., P.O. Box 788, Crossville, TN 38555. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37219. *General Commodities (except household goods as defined by the Commission, classes A and B explosives and commodities which because of size or weight require special equipment or handling)* between points in Cumberland, White and Van Buren Counties, TN, on the one hand, and, on the other, points in the U.S., except AK, HI and TN. Supporting shippers: There are 12 supporting shipper statements attached to this application which may be examined at the regional offices of the ICC in Atlanta, GA.

MC 144827 (Sub-3–22), filed November 20, 1980. Applicant: DELTA MOTOR FREIGHT, INC., P.O. Box 18423, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *Institutional furniture* from Temple, TX, to Los Angeles, CA; Denver, CO; Newark, NJ; Kent, WA; Raleigh, NC; and Sumter, SC. Supporting shipper: Artco-Bell Corporation, P.O. Box 608, Temple, TX 76501.

MC 146782 (Sub-3–8TA), filed November 20, 1980. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Avenue, South, Nashville, TN 37201. Representative: Stephen L. Edwards, 806 Nashville Bank & Trust Building, Nashville, TN 37201. *Iron and steel articles having a prior interstate movement by water,* from Davidson County, TN, to Hendersonville, TN. Supporting shipper: Weirton Steel Division, MAB, Weirton, WV 26062.

MC 136464 (Sub-3–13TA), filed November 20, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same address as applicant). *(1) Foodstuffs and (2) supplies, materials and equipment used in the manufacture, distribution and sale of (1) above* between points in the United States under continuing contract(s) with Mrs. Smith's Frozen Foods. Supporting shipper: Mrs. Smith's Frozen Foods, P.O. Box 298, Pottstown, PA 19464.

MC 111485 (Sub-5TA), filed November 20, 1980. Applicant: PASCHALL TRUCK LINES INC., Route 4, Murray, KY 42071. Representative: Robert H. Kinker, 314 West Main Street, P.O. Box 464, Frankfort, KY 40602. *Household appliances, accessories, and materials used in the manufacture, sale, and distribution of household appliances,* between the facilities of The Tappan Company at or near (a) Mansfield, OH, (b) Nashville, TN, and (c) Dalton, GA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: The Tappan Company, 801 Smith Industrial Drive, Dalton, GA 30720.

MC 106074 (Sub-3–16TA), filed November 19, 1980. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy. 221, S., Forest City, NC 28043. Representative: John J. Capo, Attorney, P.O. Box 720434, Atlanta, GA 30328. *Plastic materials, other than expanded mass,* between Grand Junction, TN and Lovelady, TX, on the one hand, and, on the other, all pts. in the U.S. (except AK and HI). Supporting shipper: Phillips Petroleum Company, 734 Adams Bldg., Bartlesville, OK 74004.

MC 2934 (Sub-3–21TA) (republication—originally published in **Federal Register** of November 3, 1980, page 72816, volume 45, No. 214), filed October 16, 1980. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same as above). *New office furniture, fixtures and parts for manufacturing thereof,* from Muscatine, IA and Cedartown, GA to points and places in the states of: AL, AR, CT, DE, DC, FL, GA, IL, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and WI. Supporting shipper: The Hon Company, P.O. Box 820, Muscatine, IA 52761.

MC 74761 (Sub-3–1TA), (republication—originally published in **Federal Register**, of 11–03–80 page 72815, Volume 45, No. 214), filed October 20, 1980. Applicant: TRAILWAYS TAMIAMI, INC., P.O. Box 56669, 200 Spring Street NW., Atlanta, GA 30303. Representative: Gregory A. Presnell and Robert B. Nadeau, Jr., 17th Floor, CNA Bldg., P.O. Box 231, Orlando, FL 32802. *Common carrier,* regular routes, *passengers and their baggage, and express and newspapers in the same vehicles with passengers, (charter and special operations not involved),* (a) Between Jacksonville, FL and Tallahassee, FL: from Jacksonville over Interstate Hwy. 10 to junction U.S. Hwy. 90 (approximately 8 miles east of Tallahassee), then over U.S. Hwy. 90 to Tallahassee, and return over the same route, serving the intermediate points of Lake City and Live Oak via the following access roads: U.S. Hwy. 441 and 41, Interstate Hwy. 75 and U.S. Hwy. 129: (b) Between Jacksonville, FL and Gainesville, FL: from Jacksonville over U.S. Hwy. 301 to Waldo, then over FL Hwy. 24 to Gainesville, and return over the same route, serving all intermediate points; (c) Between Tampa, FL and Clearwater, FL: from Tampa over FL Hwy. 60 to Clearwater, and return over the same route, serving no intermediate points; (d) Between Daytona Beach, FL and Fort Lauderdale, FL: from Daytona Beach over U.S. Hwy. 92 to junction Interstate Hwy. 95, then over Interstate Hwy. 95 to junction Florida's Turnpike, then over Florida's Turnpike to junction FL Hwy. 74 (Palm Beach Gardens Interchange 44), then over FL Hwy. 74 to junction Interstate Hwy. 95, then over Interstate Hwy. 95 to Fort Lauderdale, and return over the same route, serving all intermediate points; (e) Between Titusville, FL and junction FL Hwy. 50 to junction Interstate 95: from Titusville over FL Hwy. 50 to junction Interstate Hwy. 95, and return over the same route, serving all intermediate points; (f) Between Cocoa, FL and junction FL Hwy. 520 and Interstate Hwy. 95: from Cocoa over FL Hwy. 520 to junction Interstate Hwy. 95, and return over the same route, serving all intermediate points; (g) Between Melbourne, FL and junction U.S. Hwy. 192 and Interstate Hwy. 95: from Melbourne over U.S. Hwy. 192 to junction Interstate Hwy. 95, and return over the same route, serving all intermediate poins; (h) Between Fort Pierce, FL and junction FL Hwy. 68 and Interstate Hwy. 95: from Fort Pierce over FL Hwy. 68 to junction Interstate Hwy. 95, and return over the same route, serving all intermediate points; also between Fort Pierce and junction FL Hwy. 70, Florida's Turnpike, and Interstate Hwy. 95: from Fort Pierce over FL Hwy. 70 to junction Florida's Turnpike and Interstate Hwy. 95, and return over the same route, serving all intermediate points; (i) Between Fort Pierce, FL and Orlando, FL: from Fort Pierce over FL Hwy. 70 to junction Florida's Turnpike, then over Florida's Turnpike to junction U.S. Hwy. 441, then over U.S. 441 to Orlando, and return over the same route, serving junctions FL Hwy. 70, Florida's Turnpike and Interstate Hwy. 95, Florida's Turnpike and FL Hwy. 60, Florida's Turnpike and combined U.S. Hwys. 192 and 441 for purposes of joinder only; also between Yeehaw junction, FL and junction FL Hwy. 60 and Florida's Turnpike: from Yeehaw junction over FL Hwy. 60 to junction Florida's Turnpike, and return over the same route, serving the termini for purposes of joinder only; (j) Between Titusville, FL and Melbourne, FL: from Titusville over U.S. Hwy. 1 to Melbourne, and return over the same route, serving all intermediate points. Note: Common control may be involved. Supporting shippers: There are 38 statements of support which may be examined at the ICC Regional Office, Atlanta, Georgia. Applicant intends to tack with existing authority and interline at Jacksonville and West Palm Beach, FL.

MC 30446 (Sub-3–5TA), filed November 17, 1980. Applicant: BRUCE JOHNSON TRUCKING COMPANY, INC., P.O. Box 5647, Charlotte, NC 28225. Representative: Charles Ephraim, Suite 406, 918 16th Street, NW, Washington, DC 20006. *Common carrier:* regular: *General commodities (except household goods and Classes A and B explosives)* (1) Between the junction of Interstate Hwy 75 and the GA–TN State line and junction of Interstate Hwy 75 and the FL–GA State line, over Interstate Hwy 75; (2) Between the junction of Interstate Hwy 20 and the AL–GA State line and Florence, SC, over Interstate Hwy 20; (3) Between the junction of Interstate Hwy 85 and the AL–GA State line and Henderson, NC, over Interstate Hwy 85; (4) Between the junction of U.S. Hwy 80 and Macon, GA, over U.S. Hwy 80; (5) Between the junction of U.S. Hwy 82 and the AL–GA State line and Wilmington, NC: from junction of U.S. Hwy 82 and AL–GA State line over U.S. Hwy 82 to junction U.S. Hwy 17, then over U.S. Hwy 17 to Wilmington, and return over the same route; (6) Between the junction of U.S. Hwy 84 and the AL–GA State line and Waycross, GA, over U.S. Hwy 84; (7) Between Macon, GA and Savannah, GA over Interstate Hwy 16; (8) Between Macon, GA, and Jesup, GA: from Macon over U.S. Hwy 23 to Chauncey, GA, then over U.S. Hwy 341 to Jesup, and return over the same route; (9) Between Atlanta, GA and Clinton, SC: from Atlanta over U.S. Hwy 78 to Athens, GA, then over GA Hwy 72 to the GA–SC State Line, then over SC Hwy 72 to Clinton, SC, and return over the same route; (10) Between Atlanta, GA and Greenville, SC: from Atlanta over U.S. Hwy 23 to Baldwin, GA, then over U.S. Hwy 123 to Greenville, and return over the same route; (11) Between Augusta, GA and junction GA Hwy 17 and U.S. Hwy 301: from Augusta over U.S. Hwy 25 to Millen, GA, then over GA Hwy 17 to junction U.S. Hwy 301; (12) Between Athens, GA and Waynesboro, GA: from Athens over U.S. Hwy 441 to Milledgeville, GA, then over GA Hwy 24 to Waynesboro, and return over the same route; (13) Between junction Interstate Hwy 16 and U.S. Hwy 25 near Register, GA and Roanoke Rapids, NC: from junction Interstate Hwy 16 and U.S. Hwy 25 over U.S. 25 to Statesboro, GA, then over U.S. Hwy 301 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Roanoke Rapids, and return over the same route, Service in connection with the above specified routes is authorized to and from all intermediate and off-route points in Georgia, North Carolina and South Carolina. Applicant intends to interline at Asheville, Fayetteville, Charlotte, Greensboro, Hickory, Raleigh, and Wilmington, NC; Charleston, Columbia, Greenville and Greer SC; and Augusta, Savannah, Atlanta, Macon, Rome, Columbus, Valdosta, Waycross and Athens, GA. There are 109 statements of support attached to this application which may be reviewed at the ICC Regional office in Atlanta, GA.

MC 103051 (Sub-3–6TA), filed November 17, 1980. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Ave., N., Nashville, TN 37209. Representative: Russell E. Stone (same address as applicant). *Chemicals, in bulk* from points in TN to points in the U.S. Supporting shipper: There are 6 statements of support of this application, which may be examined at the Interstate Commerce Commission Regional Office at Atlanta, GA.

MC 152669 (Sub-3–1TA), filed November 17, 1980. Applicant: C & C TRUCKING, INC., Route 9, Box 22A, Statesville, NC 28677. Representative: Timothy C. Miller, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. *Carpet padding and materials and supplies used in the distribution and sale thereof,* from the facilities of Walk-On-Products, Inc., at Statesville, NC to Birmingham and Mobile, AL, Phoenix, AZ, Jacksonville, FL, Atlanta, GA, Idaho Falls and Twin Falls, ID, Morris, IL, Louisville, KY, Detroit, MI, Minneapolis, MN, Kansas City and St. Louis, MO, Las Vegas, NV, Albuquerque, NM, Columbus, OH, Tulsa, OK, Memphis, TN and Salt Lake City, UT. Supporting shipper: Walk-On-Products, Inc., Highway 90N., Statesville, NC 28677.

MC 126195 (Sub-3–1TA), filed September 15, 1980. Republication—

originally published in **Federal Register** of 10–01–80, page 65082, volume 45, No. [illegible] *classes A & B explosives)* between points in TN and GA, on the one hand, and, points in the U.S., on the other

MC 146096 (Sub-3–1TA), filed November 17, 1980. Applicant: BARRY D STROUPE TRUCKING, Route 2 Box 32

Supporting shipper: Driller Service, 792 Highland Avenue, Hickory, NC 28601. Applicant intends to tack with existing authority.

WY, NE, MO, IA, NM, TX, AR, MS, AL, LA, KS and OK. Supporting shipper: Abbott Laboratories, Inc., P.O. Box 1009, Laurinburg, NC 28352.

shipper: Bolen-Brunson-Bell Lumber Co., P.O. Box 11485, Memphis, TN 38111.

MC 152075 (Sub-3–1TA), filed November 18, 1980. Applicant: EDDIE C

originally published in **Federal Register** of 10–01–80, page 65062, volume 45, No. 192. Applicant: COLEY MOVING & STORAGE, INC., Industry Dr., P.O. Box 941, Burlington, NC 27215. Representative: Carl B. Coley (same as above). *Contract carrier,* irregular routes; *Toilet prep-compounds, waxes, polishes, brushes, and premiums of general merchandise such as irons, blankets, similar gifts,* from Burlington, NC to points in NC and counties of Chesterfield, Marlboro, Marion, Dillon and Horry, SC, under a continuing contract with Stanley Home Products Company, Westfield, MA. Supporting shipper: Stanley Home Products, Inc., Richmond, VA 23228.

Note.—Applicant intends to tack with existing authority MC–126195.

MC 152056 (Sub-3–1TA), filed November 17, 1980. Applicant: RHETT BUTLER TRUCKING, INC., Route 6, Box 83, Andalusia, AL 36420. Representative: Maurice F. Bishop, 603 Frank Nelson Bldg., Birmingham, AL 35203. *Foodstuffs, supplies and ingredients used in the manufacture of non-exempt food or kindred products,* between Morgan County, IL, on the one hand, and, on the other, points in AL, NC, SC, KY, LA, MS, TN and TX. Supporting shipper: Anderson Clayton Foods Division of Anderson Clayton & Co., P.O. Box 26165, Dallas, Texas 75266.

MC 148822 (Sub-3–7TA), filed November 17, 1980. Applicant: SUPER TRUCKERS, INC., 3900 Commerce Avenue, Fairfield, Alabama 35064. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. Contract carrier: irregular route: *primary metal products, fabricated metal products,* machinery and *materials, equipment and supplies* used in the manufacture thereof, between points in the U.S. under continuing contract with Tyler-Kalt, Inc. of Olive Branch, MS. Supporting shipper: Tyler-Kalt, Inc., Olive Branch, MS.

MC 151622 (Sub-3–2TA), filed November 17, 1980. Applicant: SERVICE TRUCKING, INC., P.O. Box 158, Eustis, FL 32726. Representative: Gene Baugh (same address as applicant). *Foodstuff,* between points in the U.S., except AK and HI. Supporting shipper: Food Wholesalers, Inc., 2907 7th Avenue, South, St. Petersburg, FL 33712.

MC 145596 (Sub-3–4TA), filed November 17, 1980. Applicant: A & M EXPRESS, INC., 1136 Haley Road, Murfreesboro, Tennessee 37130. Representative: Robert L. Baker, 618 United American Bank Building, Nashville, Tennessee 37219. *General commodities (except household goods as defined by the Commission and classes A & B explosives)* between points in TN and GA, on the one hand, and points in the U.S., on the other. There are 24 supporting shipper statements attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 152527 (Sub-3–1TA), filed November 17, 1980. Applicant: Ralph C. Gaddis, Route 10, East Butler Road, Greenville, S.C. Representative: Jerry Chapman, P.O. Box 243, Mauldin, S.C. 29662. *Pianos,* from points in MS, AR and TN to points in SC and NC. Supporting shippers: Cagle Music Co., 78 Patton Avenue, Asheville, N.C. 28801, Davis Music Co., Wade Hampton Mall, Greenville, S.C. 29615, Galloway Music House, 202 N. Pleasantburg Dr., Greenville, S.C. 29607.

MC 85970 (Sub-3–16TA), filed November 17, 1980. Applicant: SARTAIN TRUCK LINE, INC., 1625 Hornbrook Street, Dyersburg, TN 38024. Representative: Larry Kilzer (same as applicant). Common; Regular. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* between St. Louis, MO and Memphis, TN, serving no intermediate points; from St. Louis, MO, over I–55 to its junction with I–155, then over I–155 to Dyersburg, TN, then over U.S. Hwy 51 to Memphis, TN, and return over the same route. Supporting shippers: There are 16 supporting shippers. Their statements may be examined at the Atlanta Regional Office.

Note.—Applicant intends to interline at St. Louis, MO and Memphis, TN.

MC 142680 (Sub-3–4TA), filed November 17, 1980. Applicant: SUMTER TIMBER CO., INC., P.O. Box 104, Cuba, AL 36907. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. *Lumber,* from the facilities of Linden Lumber Co. at or near Linden, AL to points in GA, FL, and LA. Supporting shipper: Linden Lumber Co., P.O. Box 506, Linden, AL 36748.

MC 146060 (Sub-3–1TA), filed November 17, 1980. Applicant: S & S TRUCKING COMPANY, 120 South Oakland Avenue, Statesville, NC 28677. Representative: James M. Sample, Jr. (same address as applicant). *Contract:* Irregular: *Artist and Office Materials and Supplies* from Statesville, NC to MN, IA, MO, AR and LA, and points East, excluding NC, under a continuing contract(s) with Hunt Manufacturing Company. Supporting shipper: Hunt Manufacturing Company, P.O. Box 5030, Statesville, NC 28677.

MC 146096 (Sub-3–1TA), filed November 17, 1980. Applicant: BARRY D STROUPE TRUCKING, Route 2 Box 32 BA, Kings Mt., NC 28086. Representative: W. G. Reese III, 623 E. Artesia, Carson, CA 90746. *Contract:* Irregular: *Cylinder liner board, jacquard board, machinery, parts, astro packing,* Between the facilities of Shelby Baxter Corporation located at or near Shelby NC, Hawthorne, NJ, Whippany, NJ, and Florence, KY, on the one hand, and on the other, points and places in NC, NJ, MA, KY. Supporting shipper: Shelby Baxter Corporation, 211 N. Poston St., Shelby, NC 28150.

MC 146467 (Sub-3–1TA), filed October 17, 1980. Republication—originally published in **Federal Register** of 11/05/80, page 73547, volume 45, No. 216. Applicant: TRIAD MOTOR LINES, INC., Route 8, Box 374, Burlington, NC 27215. Representative: Jeffrey A. Vogelman, Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. *Passengers and their baggage, in the same vehicle with passengers, in charter service,* beginning and ending at points in Alamance County, NC, and extending to points in AL, FL, GA, IN, KY, LA, MD, MS, NY, OH, PA, SC, TN, VA, WV, and DC. Supporting shipper: There are 15 appendix of support attached which may be reviewed at the Atlanta Regional Office.

MC 145230 (Sub-3–3TA), filed November 18, 1980. Applicant: H & S TRUCKING, INC., P.O. Box 127, 456 Main Street, Wesson, MS 39191. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. Contract carrier: irregular: *Building materials and supplies* between points in the United States under a continuing contract or contracts with Woodstock, Inc. Supporting shipper: Woodstock, Inc., P.O. Box 569, Terry, MS 39170.

MC 117943 (Sub-3–1TA), filed October 28, 1980. Applicant: J. M. BOOTH TRUCKING, INC., P.O. Box 265, Tavares, FL 32778. Representative: David C. Venabe, Suite 805, 666 Eleventh Street, NW, Washington, DC 20001. *Foodstuffs (except commodities in bulk, in tank vehicles* from the plantsite of Adams Packing Association, Inc., at or near Memphis, TN, to points in the U.S. (except AK and HI). Supporting shipper: Adams Packing Association, Inc., P.O. Box 37, Auburndale, FL 33823.

MC 121306 (Sub-3–1TA), filed October 27, 1980. Applicant: SUPERIOR MOTOR EXPRESS, INC., P.O. Box 98, Gold Hill, NC 28071. Representative: William L. Earnhardt (address same as applicant). *Iron and steel articles,* from Charleston, SC to GA, NC, SC, TN, and VA.

Supporting shipper: Driller Service, 792 Highland Avenue, Hickory, NC 28601. Applicant intends to tack with existing authority.

MC 138635 (Sub-3–13TA), filed October 28, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton (same as above). *(1) Automotive Parts and (2) equipment, supplies and material used in the manufacture of (1) above* between points in the U.S. Supporting shipper: Carroll Shelby Industries, Inc., 19021 S. Figueroa, Gardena, CA 90248.

MC 146451 (Sub-3–24TA), filed October 27, 1980. Applicant: WHATLEY-WHITE, INC., P.O. Box 6, Dothan, AL 36302. Representative: Bruce E. Mitchell, Fifth Floor, Lenox Towers South, 3390 Peachtree Road NE., Atlanta, GA 30326. *Textiles and textile products and materials, equipment and supplies used in the manufacture and distribution of such products* between points in the US, restricted to the transportation of traffic moving from or to facilities of Union Underwear Company, Inc. of Bowling Green, KY. Supporting shipper: Union Underwear Company, Inc., P.O. Box 780, Bowling Green, KY 42101.

MC 130850 (Sub-3–1TA), filed November 18, 1980. Applicant: LOW COUNTRY ADVENTURES, LTD., Nine Pope Greenwood, P.O. Box 4942, Hilton Head Island, SC 29926. Representative: Charlene Barrett (same address as applicant). *Passengers and their baggage in charter or special operations* beginning and ending at Hilton Head Island, SC and extending to points and places in Chatham, Effingham, and Fulton Counties, GA. Supporting shippers: Hyatt on Hilton Head Island, P.O. Box 6167, Hilton Head Island, SC 29926; Sea Pines Plantation Company, Hilton Head Island, SC 29938; Sand Dollar Management Corp., P.O. Box 5606, Hilton Head, SC 29926; and Holiday Inn, South Forest Beach Drive, Hilton Head Island, SC 29926.

MC 136709 (Sub-3–2TA), filed November 17, 1980. Applicant: WALLACE TRUCKING COMPANY, Route 4 Box A–71, Laurinburg, NC 28352. Representative: F. Kent Burns, P.O. Box 2479, Raleigh, NC 27602. *Medical supplies, health care products, rigid, flexible, and/or devices, intravenous, saline, nutritional, and anticoagulant solutions in glass or plastic collecting or dispensing containers or sets and materials used in making, packing or shipping of such solutions, containers, devices or sets* between Laurinburg, NC and VA, MD, RI, DE, DC, NJ, PA, NY, CT, MA, NH, VT, ME, WV, TN, KY, IN, IL, OH, MI, WI, CA, NV, AZ, UT, CO, WY, NE, MO, IA, NM, TX, AR, MS, AL, LA, KS and OK. Supporting shipper: Abbott Laboratories, Inc., P.O. Box 1009, Laurinburg, NC 28352.

MC 31675 (Sub-3–25TA), filed November 18, 1980. Applicant: NORTHERN FREIGHT LINES, INC., P.O. Box 34303, Charlotte, N.C. 28234. Representative: Jay R. Hanson (same as above). *General Commodities in Containers* between Charleston, S.C. and points in and east of MN, IA, MO, AK and LA. Supporting shipper(s): International Forwarders, Inc., 1122 Morrison Drive, P.O. Box 550, Charleston, S.C. 29402; Harper Robinson and Company, 205 King Street, P.O. Box 971, Charleston, S.C. 29402; Hipage Co., Inc., 24 Vendue Range, P.O. Box 841, Charleston, S.C. 29402.

MC 91306 (Sub-3–7TA), filed November 18, 1980. Applicant: JOHNSON BROTHERS TRUCKERS, INC., 1858 9th Avenue, N.E., Hickory, NC 28601. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. *New furniture and new furniture parts, and materials and supplies used in the manufacture and distribution thereof,* (1) from points in Guilford, Davie, McDowell, Davidson, Randolph and Iredell Counties, NC, to points in DC, DE, MD, NY, NJ, PA, MA, CT and RI; (2) from points in Burke and Cleveland Counties, NC, to points in MA, CT, RI, DC and MD; and (3) from points in DC, DE, MD, NY, NJ, PA, MA, CT and RI, to points in Guilford, Davie, Burke, Cleveland, Davidson, Randolph, Iredell and McDowell Counties, NC. Supporting shippers: There are 12 statements of support which may be examined at the Atlanta, GA, Regional Office.

MC 2900 (Sub-3–24TA), filed November 17, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408–R, Jacksonville, FL 32203. Representative: S. E. Somers, Jr. (same address as applicant). *Rum, alcoholic beverage, in bulk, in trailers or containers* restricted to shipments having prior or subsequent movement by water between Duval County, FL, on the one hand, and on the other, points in the State of KY. Supporting shipper: Crowley Maritime Corporation, Caribbean Div., P.O. Box 2110, Jacksonville, FL 32203.

MC 147886 (Sub-3–6TA), filed November 18, 1980. Applicant: A M & M, INCORPORATED, P.O. Box 1627, Jackson, TN 38301. Representative: R. Connor Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *Lumber and lumber mill products* from AL, AR and MS to points in TN on and west of the Tennessee River. Supporting shipper: Bolen-Brunson-Bell Lumber Co., P.O. Box 11485, Memphis, TN 38111.

MC 152075 (Sub-3–1TA), filed November 18, 1980. Applicant: EDDIE C. HALE d.b.a. EDDIE C. HALE, 5135 Barbara Courts, Hixson, TN 37343. MC 152075R–3–1 (Sub-TA), Oct. 8, 1980. Representative: Eugene W. Ward, Atty., Suite 300, Young Executive Bldg., 1300 Division St., Nashville, TN 37203. *Contract Carrier:* Irregular Routes: *Stoves, heaters, fireplace inserts, parts and accessories for stoves, heaters, and fireplace inserts,* between Chattanooga, TN, South Pittsburg, TN, and Bridgeport, AL, and points and places in: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NV, NY, NJ, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VA, WV, and WI. Supporting shipper: United States Stove Co., P.O. Box 5439, Chattanooga, TN 37406.

MC 144715 (Sub-3–7TA), filed November 14, 1980. Applicant: ANDERSON & WEBB TRUCKING CO., INC., P.O. Box 1523, 542 West Independence Blvd., Mt. Airy, NC 27030. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. *Pork skins,* from points in VA, NC, SC, KY, TN, GA, FL, AR, AL, MS, MO, OH, IN, IA, KS, OK, MT, CO, and IL to Laredo, TX, and points in its commercial zone. Supporting shipper: Midwest Commodity Export Services, 1400 Gulf Shore Blvd., N. Naples, FL 33940.

The following protests were filed in region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304, Chicago, IL 60604.

MC 121309 (Sub-4–1TA), filed November 18, 1980. Applicant: P. A. JOHNSON & CO., 7701 W. 59th Street, Summit, IL 60501. Representative: Joseph T. Bambrick, Jr., P.O. Box 216, Douglassville, PA 19518. *General Commodities (except classes A and B explosives, commodities in bulk, those of unusual value, and used household goods as defined by the Commission)* between points in the following counties in IL, Boone, Bureau, Cass, Champaign, Cook, DeWitt, KeKalb, DuPage, Ford, Fulton, Grundy, Henry, Iroquois, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Logan, Macon, Marshall, McHenry, McLean, Menard, Ogle, Peoria, Platt, Putman, Rock Island, Sangamon, Stark, Stephenson, Tazewell, Vermilion, Whiteside, Will, Winnebago, Woodford; counties in IN, Lake, LaPorte, Marshall, Porter, St. Joseph, Starke; counties in WI, Dane, Green, Jefferson, Kenosah, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington,

Waukesha. Supporting shippers: There are 8 statements of support attached.

MC 151993 (Sub-4–1TA), filed November 17, 1980. Applicant: ROBERT L. KOEHLER, 1 Lakeview Drive, Sheboygan, WI 53081. Representative: Robert L. Koehler (same address as applicant). *Contract carrier:* irregular routes: *Plastic products,* from Sheboygan, WI to points in the U.S. (except AK and HI). Supporting shipper: Chamber of Commerce, Box 687, Sheboygan, WI 53081.

MC 125708 (Sub-4–14TA), filed November 17, 1980. Applicant: CLARENCE E. SCHMIDT d.b.a. C & J TRUCKING, Route 2, Beaver Dam, WI 53916. Representative: John L.

Albert P. Barber (same address as applicant). *Automobiles and trucks,* in secondary movements, in truckaway

MC 147284 (Sub-4–7TA), filed November 18, 1980. Applicant: JAT EXPRESS, INC., Rt. R. 1, Box 405,

MC 152701 (Sub-4–1TA), filed November 19, 1980. Applicant: KRYDER'S INC., P.O. Box 57—14513 Leo

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Waukesha. Supporting shippers: There are 8 statements of support attached.

MC 151663 (Sub-4–1TA), filed November 18, 1980. Applicant: CLINGON TRUCKING, INC., 811 Superior, Rockford, IL 61111. Representative: Martin J. Kennedy, 120 W. Madison, Suite 718, Chicago, IL 60602. *Iron and steel articles, rubber products, metal fittings and empty steel bins* between Rockford, IL and points in Cook and DuPage Counties, IL on the one hand, and Euclid, OH, Cleveland, OH, Iola, KS, Kansas City, KS, Louisville, KY, Detroit, MI, Decorah, IA, Kansas City, MO, and St Louis, MO, on the other. An underlying ETA seeks 120 days authority. There are 6 supporting shippers.

MC 88818 (Sub-4–1TA), filed November 17, 1980. Applicant: WEDUL TRUCK LINE, P.O. Box 293, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Salt, in bulk,* from Superior, WI to points in MN. An underlying ETA seeks 120 days authority. Supporting shipper: Cutler-Magner Company, Salt Division. 12th Ave. W. and Waterfront, Duluth, MN 55806.

MC 150980 (Sub-4–3TA), filed November 13, 1980. Applicant: PATRICK DERRO d.b.a. DERRO CARTAGE CO., 10701 South Keeler Ave., Oak Lawn, IL 60453. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. *General Commodities (except Class A & B explosives, household goods as defined by the Commission, articles requiring special handling or articles of unusual value)* between Chicago, IL and its commercial zone on the one hand, and, on the other points in OH, IN, MI, WI and IL. Restricted to the transportation of traffic having a prior or subsequent movement by rail or water. An underlying ETA seeks 120 days authority. There are 5 supporting shippers.

MC 141869 (Sub-4–1TA), filed November 17, 1980. Applicant: ROYAL COACH LINES, INC., 1600 Junction Avenue, Racine, WI 53403. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Common; Regular; *Passengers and their baggage* between Sheboygan, WI on the one hand, and O'Hare Field, Chicago, IL on the other beginning at Sheboygan, WI on Interstate 43 and US 141 south to Junction 94 then on 94 to O'Hare Field and return over the same route serving points in the counties of Sheboygan, Ozaukee and Washington as intermediate and off-route points. Supporting shippers: Travel & tours, Inc., 625 North 8th St., Sheboygan, WI 53081; Chamber of Commerce, Box 687, Sheboygan, WI 53081.

MC 125708 (Sub-4–14TA), filed November 17, 1980. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 1473 Ripley Road, Lake Station, IN 46405. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. (1) *Wood fence posts, wire fencing, steel fence posts, fence post fittings, coiled wire and pipe* from points in TX, to points in ND, SD, NE, KS, OK, MN, IA, MO, AR, LA, WI, IL, IN, KY, TN, MS, AL, and CO; (2) *Materials and suppolies on return.* An underlying ETA seeks 120 days authority. Supporting shipper(s): Halco Fence and Wire, 8008 C. W. Hawn Freeway, Dallas, TX 75217. Gilbert Merrill Steel Co., 5310 Haven Hill Rd., Dallas, TX 75150.

MC 147216 (Sub-4–1TA), filed November 14, 1980. Applicant: CARL KLEMM, INC., 1126 Terry Lane, P.O. Box W197, De Pere, WI 54115, De Pere, WI 54115. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Petroleum products* from Green Bay, WI, to Covington, MI. An underlying ETA seeks 120 days authority. Supporting shipper: Grosskopf Oil, Inc., 811 East Green Bay Street, Shawano, WI 54166.

MC 124078 (Sub-4–47TA), filed November 13, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Commodities,* in bulk, between all points in the U.S. Supporting shipper: Continental Trading Co., 792 Windsor Street, Atlanta, GA 30315.

MC 109633 (Sub-4–3TA), filed November 18, 1980. Applicant: ARBET TRUCK LINES, INC., P.O. Box 697, Sheffield, IL 61361. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. *Containers, container ends and closures; commodities manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers; and materials, equipment and supplies used in the manufacture and distribution of containers, container ends and closures,* Between the plant sites of Boise Cascade Corp. at Whiting, IN, West Chicago, IL and St. Louis, MO (Champs Village), on the one hand, and on the other, points in the states of IL, MIN and WI. Supporting shipper: Boise Cascade Corporation; P.O Box 7747; Boise, ID 83707. An underlying E.T.A. seeks 120 days authority.

MC 152619 (Sub-4–1TA), filed November 18, 1980. Applicant: CLARENCE E. SCHMIDT d.b.a. C & J TRUCKING, Route 2, Beaver Dam, WI 53916. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. *Foodstuffs,* from points in Dodge County, WI to points in IL, MD, MI, NY, NJ, OH, PA, and DC. An underlying ETA seeks 120 days authority. Supporting shipper: Royer Cheese Corp., 407 Dayton St., Mayville, WI 53050; and, Heim Cheese Co., Inc., P.O. Box 32, Lowell, WI 53557.

MC 144599 (Sub-4–1TA), filed November 17, 1980. Applicant: TRANSFER, INC., 4750 Kentucky Avenue, Indianapolis, IN 46241. Representative: Robert W. Loser, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. *General commodities* (except household goods as defined by the Commission and classes A and B explosives), between the facilities of Trans-City Terminal Warehouse, Inc., Marion County, IN, and points and places in AR, GA, IL, IN, KY, MI, MO, NJ, OH, PA, TN, TX, VA, WV, and WI. Supporting shipper: Trans-City Terminal Warehouse, Inc., 4750 Kentucky Avenue, Indianapolis, IN 46241. An underlying ETA seeks 120 days authority.

MC 143417 (Sub-4–1), filed November 18, 1980. Applicant: FLASH INTERSTATE DELIVERY SYSTEM, INC., 4711 West 16th St., Cicero, IL 60650. Representative: Barry Roberts, 888 17th Street, NW., Washington, DC 20006. *General commodities (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment)* from Chicago, IL to points in CT, IN, MA, MD, NJ, NY, PA, RI, WI, DC, OH and the lower peninsula of MI restricted to traffic having a prior movement by rail in TOFC service. Supporting shipper: Co-Operative Shippers, Inc., 2608 S. Damen Avenue, Chicago, IL 60608.

MC 135561 (Sub-4–1), filed November 18, 1980. Applicant: N. E. FINCH CO., 1120 West Camp St., East Peoria, IL 61611. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Earth moving, construction and materials handling machinery and equipment, engines, and materials and supplies used in the manufacture thereof,* between points in Scott County, IA on the one hand, and on the other, points in IL. Supporting shipper: Caterpillar Tractor Co., 100 NE. Adams St., Peoria, IL 61629.

MC 30837 (Sub-4–8TA), filed November 18, 1980. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4314–39th Avenue, Kenosha, WI 53142. Representative:

Albert P. Barber (same address as applicant). *Automobiles and trucks,* in secondary movements, in truckaway service, from Baltimore, MD, to points in IL, DE, IN, KY, MD, MI, MN, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI and DC, in foreign commerce, restricted to traffic originating at the facilities of Recie Nationale Des Usines (Renault) in France. An underlying ETA being filed simultaneously. Supporting shipper: American Motors Corporation, 14250 Plymouth Road, Detroit, MI 48232.

MC 143699 (Sub-4–1TA), filed November 18, 1980. Applicant: QUALITY CONTRACT CARRIERS, INC., 1009 West Edgewood Avenue, Indianapolis, IN 46217. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Contract irregular: Such commodities as are dealt in or used by manufacturers and distributors of paint, chemicals, and related articles (except in bulk)* from points in OH, KY, and IL to points in CA (under continuing contract with The Sherwin Williams Company). Supporting shipper: The Sherwin Williams Company, 101 Prospective Avenue, Cleveland, OH 44101.

MC 126555 (Sub-4–24TA), filed November 18, 1980. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, SD 57709. Representative: Barry C. Burnette (same as applicant). *Lumber and Wood Products* between points in AR, CO, IA, ID, KS, MN, MO, MT, ND, NE, NM, OK, OR, SD, TX, UT, VA, WA and WY. Supporting shipper: Weyerhauser Company, 1820 Industrial Ave., Sioux Falls, SD 57104.

MC 113434 (Sub-4–6TA), filed November, 1980. Applicant: GRA-BELL TRUCK LINE, INC., P.O. Box 1001, A5253—144th Avenue, Holland, MI 49423. Representative: Roger Van Wyk, P.O. Box 1001, A5253—144th Avenue, Holland, MI 49423. *Plastic containers* between Newark, OH and Sunman, IN. Supporting shipper: Sewell Plastic, Inc., Old Route 119 South, New Stanton, PA 15672.

MC 144884 (Sub-4–1TA), filed November 18, 1980. Applicant: ARTHUR E. JOHNSTON & MICHAEL A. JOHNSTON d.b.a. JOHNSTON TRUCKING, P.O. Box 325, Spearfish, SD 57783. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SC 57701. *Lumber and Lumber Products* from Hulett, WY and points in its Commercial Zone to points in IL, IN, KY, MI, MO, OH, OK, and PA. An underlying ETA seeks 120 days authority. Supporting shipper: Devils Tower Forest Products, P.O. Box 218, Hulett, WY 82710.

MC 147264 (Sub-4–7TA), filed November 18, 1980. Applicant: JAT EXPRESS, INC., Rt. R. 1, Box 405, Muncie, IN 47302. Representative: Paul R. Bergant, 1113 E. Walnut St., Rogers, AR 72756. *Meat, meat products and meat by-products and articles distributed by meat packinghouses* as described in sections A & C of Appendix I to the Report of Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except commodities in bulk and hides), between points in the U.S. Supporting shippers: Price Brokerage Company, 130 S. State Road, Springfield, PA 19064. Muncie Cold Storage, P.O. Box 2, Muncie, IN 47305. B. DeYoung & Company, Inc., P.O. Box 2136, Clearwater, FL 33517.

MC 15975 (Sub-4–18T), filed November 18, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). *Household appliances, parts thereof, radio and television receiving sets, sound reproducing or recording equipment,* and materials and supplies used in the manufacture and distribution of the foregoing commodities, between Appliance Park, Louisville, KY, on the one hand, and, on the other, points in the States of AR, IL, MI, Mo, GA, and MD for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): General Electric Company, Major Applicance Business Group, Appliance Park, Louisville, KY 40225.

MC 114194 (Sub-4–11TA), filed November 18, 1980. Applicant: KREIDER TRUCK SERVICE, INC., 1600 Collinsville Ave., Madison, IL 62060. Representative: William J. O'Donnell (same address as applicant). *Bulk salt,* from Chicago, IL, Dubuque, IA, Milwaukee, WI, Mt. Vernon, IN, and St. Louis, MO, to all points in the U.S. (except AK and HI). Supporting shipper: Domtar Industries, Inc., 9950 W. Lawrence Ave., Suite 400, Schiller Park, IL 60176.

MC 151899 (Sub-4–3TA), filed November 18, 1980. Applicant: BLACKHAWK EXPRESS, INC., 89 North Main, Ft. Atkinson, WI 53538. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. *Contract:* Irregular: *(a) wire, springs and coils and (b) equipment, materials and supplies used in the manufacture of the commodities in (a) above* between Millbury, MA on the one hand, and, on the other, points in the U.S. in and East of ND, SD, NE, CO, OK and TX. An underlying ETA seeks 120 days authority. Supporting shipper: New England High Carbon Wire Corp., 50 Howe Ave., Millbury, MA 01527.

MC 152701 (Sub-4–1TA), filed November 19, 1980. Applicant: KRYDER'S INC., P.O. Box 57—14513 Leo Road, Leo, IN 46765. Representative: Jerry P. Carnes (same address as applicant). *Contract:* Irregular: *Industrial batteries for recycling purposes; and iron and steel articles* between IL, IN, and MI, on the one hand, and on the other, points in TX under continuing contracts with Dallas Scrap Bailing. Supporting shipper: Dallas Scrap Bailing, 3920 Singleton Blvd., Dallas, TX 75212.

MC 76266 (Sub-4–13TA), (republication), filed October 22, 1980. Applicant: ADMIRAL MERCHANTS MOTOR FREIGHT, INC., 215 South 11th Street, Minneapolis, MN 55403. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Such commodities as are used in the manufacture and erection of steel storage tanks (except commodities in bulk),* from the facilites of G.A.T.X. Tank Erection Corporation in East Chicago, IN to points in the U.S. (except AK and HI). Supporting shipper: G.A.T.X. Tank Erection Corporation, P.O. Box 440, East Chicago, IN 56312.

MC 125708 (Sub-4–15TA), filed November 18, 1980. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 1473 Ripley Road, Lake Station, IN 46405. Representative: Edward F. V. Pietrowski, 3300 Birney Avenue, Moosic, PA 18507. *Lumber, wooden pallets, blocking material, lumber products and pallet parts* between Wayne County, MO and points in IL, MI, WI, IN, IA, MN, AR, TN and KY. There are six supporting shippers.

MC 152706 (Sub-4–1TA), filed November 18, 1980. Applicant: MIDWEST OIL TRANSIT, INC., 4902 West 86th St., Indianapolis, IN 46268. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, 320 North Meridian St., Indianapolis, IN 46204. *Asphalt flux (also known as vacuum tower bottoms) and No. 6 fuel oil* from Marion County, IN, to Hamilton County, OH. An underlying ETA seeks 120 day authority. Supporting shipper: Rock Island Refining Corp., 5000 W. 86th St., Indianapolis, IN 46268.

MC 144867 (Sub-4–3TA), filed November 19, 1980. Applicant: R & J TRANSPORT, INC., 929 North 24th St., Manitowoc, WI 54220. Representative: Michael J. Wyngaard, 150 East Gilman St., Madison, WI 53703. *Machinery, equipment, machinery parts and accessories, and materials, equipment and supplies used or useful in the manufacture, sale or distribution of machinery and equipment, parts and accessories,* between Outagamie

County, WI, on the one hand, and, on the other, points in the United States (except AK and HI). Underlying ETA

MC 142310 (Sub-4–5TA), filed, November 19, 1980. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W.

we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section

address as applicant). Over regular routes, transporting *passengers and their baggage and express and newspapers,* in the same vehicle with

By the Commission.
Agatha L. Mergenovich,
Secretary.

Director, Exhibits Service, Associate Directorate for Programs—Vacant
Director, Office of Comptroller Services, Associate Directorate for

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County, WI, on the one hand, and, on the other, points in the United States (except AK and HI). Underlying ETA seeks 120 days authority. Supporting shipper: Appleton Machine Company, 2111 North Sandra St., Appleton, WI 54911.

MC 140553 (Sub-4–4TA), filed November 18, 1980. Applicant: ROGERS TRUCK LINE, INC., 801 Erie St., Logansport, IN 46947. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. *Malt beverages and related advertising materials,* from Milwaukee, WI and St. Paul, MN, to points in NE. An underlying ETA seeks 120 days authority. Supporting shipper: L&M Distributing Co., 1110 W 26th St., Scottsbluff, NE 69361.

MC 152709 (Sub-4–1TA), filed November 19, 1980. Applicant: INTERMODAL MARKETING CORP., 1448 Wabash Avenue, Suite 406, Detroit, MI 48216. Representative: Robert E. McFarland, 2855 Coolidge, Suite 201A, Troy, MI 48084. *Pre-recorded phonograph records, tapes, advertising material and display racks,* between points in Wayne, Oakland, and Macomb Counties, MI, on the one hand, and, on the other, Livingston County, MI. Restricted to shipments having a prior or subsequent movement by rail. Supporting shipper: Handleman Company, 1055 West Maple Road, Clawson, MI 48107.

MC 152719 (Sub-4–1TA), filed, November 19, 1980. Applicant: DONALD L. HUSSMAN d.b.a. HUSSMANN TRUCKING CO., 4035 N. 72nd Street, Milwaukee, WI 53216. Representative: Daniel R. Dineen, 710 N. Plankinton Avenue, Milwaukee, WI 53203. *Contract* irregular: *Such commodities as are dealt in or used by a manufacturer of cheese and cheese products* between points in Fond Du Lac County, WI, on the one hand, and, on the other, points in CT, IL, IN, MA, MI, NJ, NY, OH, PA, WV, and DC, under a continuing contract with Park Cheese Company, Inc. Supporting shipper: Park Cheese Company, Inc., 233 W. Division St., Fond Du Lac, WI, 54935.

MC 152708 (Sub-4–1), filed, November 19, 1980. Applicant: GOODLUCK REFRIGERATION SERVICE, INC., 67200 Hartway, Romeo, MI 48065. Representative: Wallace H. Glendening, 1800 First National Building, Detroit, MI 48226. *Contract Irregular: Culture media and laboratory reagents, and supplies and materials related in the manufacture thereof,* between points in the U.S. under continuing contract or contracts with BBL Microbiology Systems of Cockeysville, MD. Supporting Shipper: BBL Microbiology Systems, Cockeysville, MD 21030.

MC 142310 (Sub-4–5TA), filed, November 19, 1980. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703. *Such commodities as are dealt in by wholesale, retail, and chain food business houses* from Northlake, IL and Shakopee, MN to points in WI and the Upper Peninsula of MI. An underlying ETA seeks 120 days authority. Supporting shipper: Hunt-Wesson Foods, Inc., P.O. Box 127, Rossford, OH 43460.

MC 145102 (Sub-4–5TA), filed, November 19, 1980. Applicant: JWI TRUCKING, INC., 8100 N. Teutonia Avenue, Milwaukee, WI 53209.. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, Wisconsin 53703.. *Contract* Irregular *Wearing apparel and materials, equipment and supplies* used or useful in the manufacture, sale or distribution of wearing apparel, from Kenosha, WI to Carson City, NV. Underlying ETA seeks 120 days authority. Supporting Shipper: Jockey International, Inc., 2300 60th Street, Kenosha, Wisconsin 53140.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-37276 filed 11-28-80; 8:45 am]
BILLING CODE 7035-01-M

Permanent Authority Applications

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rule of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transporation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before January 15, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP3–082

Decided: November 18, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman. Member Eaton not participating.

MC 152174 (Sub-1F), filed October 22, 1980. Applicant: IBI SECURITY SERVICE, INC., 29–19 39th Avenue, Long Island City, NY 11101. Representative: Bruce J. Robbins, 118–21 Queens Boulevard, Forest Hills, NY 11375. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeded 100 pounds, between points in the U.S.

Volume No. OP3–065

Decided: November 19, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 1515 (Sub-294F), filed October 7, 1980, previously noticed in the **Federal Register** on November 4, 1980. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: L. J. Celmins (same address as applicant). Over regular routes, transporting *passengers and their baggage and express and newspapers,* in the same vehicle with passengers, (1) between junction CA Hwy 22 and Interstate Hwy 405 at or near Westminster, CA and junction Interstate Hwy 405 and Interstate Hwy 5 near Irvine, CA over Interstate Hwy 405; (2) between junction Interstate 405 and unnumbered Hwy (Magnolia Ave.) and Santa Ana, over unnumbered Hwy (Magnolia Ave.) and Santa Ana, over unnumbered Hwy, in (1) and (2) above, serving all interemediate points.

Note.—This republication is necessary to show the docket number as MC–1515 Sub 294F.

Volume No. OP4–132

Decided: November 21, 1980.

By the Commission, Review Board Number 3, members Parker, Fortier and Hill

MC 126477 (Sub-10F), filed: November 13, 1980. Applicant: JET AIR FREIGHT & PARCEL DELIVERY, INC., P.O. Box 9313, Fort Wayne, IN 46899. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 152656F, filed November 10, 1980. Applicant: ELROY H. DOMMER d.b.a., ELROY DOMMER TRUCKING, Route 1, Seymour, WI 54165. Representative: Perry D. Pierre, 222 N. Main St., Seymour, WI 54165. Transporting *food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers,* by the owner of the motor vehicle in such vehicle, between points in the U.S., under continuing contract(s) with InoFood Corp. of Merrill, WI.

MC 15546 (Sub-1F), filed: November 12, 1980. Applicant: KIRCHWEHM BROS. CARTAGE CO., INC., 1700 W. Carroll Ave., Chicago, IL 60612. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the United States Government, between points in the U.S.

By the Commission.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-37275 Filed 11-28-80; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL COMMUNICATION AGENCY

Performance Review Board Members

AGENCY: International Communication Agency.

ACTION: Notice.

SUMMARY: This Notice is issued to revise the membership of the International Communication Agency (USICA) Performance Review Board.

DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Alvin H. Cohen, Special Assistant to the Director, Office of Personnel Services, International Communication Agency, 1776 Pennsylvania Ave. NW., Washington, D.C. 20547 (202–724–9921).

SUPPLEMENTARY INFORMATION: In accordance with Section 4314(c) (1) through (5) of the Civil Service Reform Act of 1978 (Public Law 95–454), the following list amends the International Communication Agency Notice (44 FR 66996, November 21, 1979), effective November 21, 1979:

Acting Chairperson: Associate Director for Broadcasting—Mary G. F. Bitterman
Career SES: Deputy Director, Office of Programs, Associate Directorate for Broadcasting—Claude B. Groce
Manager, Office of Program Development and Coordination, Television and Film Service, Associate Directorate for Programs—John H. Deviney
Senior Advisor, Associate Directorate for Educational and Cultural Affairs—Mildred K. Marcy
Director, Office of Personnel Services, Associate Directorate for Management—Angie Garcia
Non-Career SES: General Counsel—Michael A. Glass
Foreign Service Information Officer (FSIO): Associate Director, Associate Directorate for Programs—John W. Shirley
Executive Secretary: Special Assistant to the Director, Office of Personnel Services—Alvin H. Cohen
Alternates:
Career SES: Director, Office of Engineering and Technical Operations, Associate Directorate for Broadcasting—Vacant
Chief, News and Current Affairs, Associate Directorate for Broadcasting—Alan L. Heil, Jr.
Director, Exhibits Service, Associate Directorate for Programs—Vacant
Director, Office of Comptroller Services, Associate Directorate for Management—Stanley M. Silverman
Non-Career SES: Director, Office of Academic Programs, Associate Directorate for Educational and Cultural Affairs—Stanley Nicholson
Foreign Service Information Officer (FSIO): Director, Office of East Asian and Pacific Affairs—Norris P. Smith, Acting

The following names announced in the International Communication Agency Notice (44 FR 66996, November 21, 1979) are removed from the International Communication Agency Performance Review Board Register:

John P. Clyne, Deputy Director, Office of Personnel Services, Associate Directorate for Management (Executive Secretary)
Julia Chang Bloch, Deputy Director, Office of African Affairs
Alan Carter, Director, Office of East Asian and Pacific Affairs
John K. Jacobs, Director, Exhibits Service, Associate Directorate for Programs
James D. Isbister, Associate Director for Management
Gordon Winkler, Deputy Associate Director, Associate Directorate for Programs.

Dated: November 21, 1980.

John E. Reinhardt,
Director, International Communication Agency.

[FR Doc. 80-37212 Filed 11-28-80; 8:45 am]
BILLING CODE 8230-01-M

International Convention Advisory Commission

Meeting

Notice is hereby given in accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. Appendix I, that a meeting of the International Convention Advisory Commission will be held on Tuesday, December 16, 1980 9:00 a.m., New Executive Office Building, Room 10105, Washington, D.C.

The Commission will consider work plan implementation, domestic procedures for implementation of the Convention, applications for international trade in species protected by the Convention, and miscellaneous business pertaining to the third meeting of the Conference of the Parties in New Delhi.

For further information contact Dr. William Y. Brown, Executive Secretary, International Convention Advisory

Commission, Washington, D.C. 20240, telephone 202/343-7407. Opportunity will be given for oral or written presentations provided that appointments are made with Dr. Brown by 5:00 p.m., December 12, 1980.

Dated: November 26, 1980.

Jane H. Yarn,
Chairman, International Convention Advisory Commission.

[FR Doc. 80-37171 Filed 11-28-80; 8:45 am]
BILLING CODE 4310-48-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-17325; File No. SR-CBOE-80-8]

Chicago Board Options Exchange, Inc.; Self-Regulatory Organizations; Proposed Rule Changes

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 8, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission proposed rule changes as follows:

Statement of the Terms of Substance of the Proposed Rule Changes

Rule 1.1. Existing definitions of the terms "put," "call," "exercise price," "aggregate exercise price" and "covered" in the Rule are proposed to be amended to make those terms applicable to options on Government securities, and certain additional definitions are proposed to be added to the Rule to clarify the meaning of the modifications to existing definitions.

In particular, paragraphs (n) and (o), defining "put" and "call," respectively, would be amended to provide that the holder of a Government securities option has the right to sell to or purchase from the Clearing Corporation, as the case may be, in accordance with the terms of the option, $100,000 principal amount of particular Government securities.

Paragraph (s) of the Rule would modify the term "exercise price," in the context of Government securities options, to refer to the specified percentage of the principal amount at which the particular underlying Government security may be purchased or sold upon exercise of an option.

Paragraph (t) of the Rule is proposed to be amended so that the term "aggregate exercise price," in the context of Government securities options, would mean the exercise price of an option multiplied by the principal amount of the particular Government security underlying the option.

Paragraph (y) of the Rule is proposed to be amended so that the term "covered," in the context of Government securities options, would correlate appropriately (i) short positions in Government securities call options with long positions in either the underlying security or in Government securities call options and (ii) short positions in Government securities put options with long positions in such options, based on the exercise price of the offsetting options positions or the principal amount of the offsetting Government securities position.

Paragraph (ff) of the Rule would define the term "Government securities" in a manner confining that term to Government securities which are Government notes or bonds, as defined in paragraphs (gg) and (hh) of the Rule, especially Treasury notes and bonds (although the term "Government securities" is defined sufficiently broadly to refer to the several types of such securities).

Paragraph .016 of Interpretations and Policies pursuant to Rule 4.3. The stated policy would permit members to maintain wire connections for the purpose of obtaining timely information on price movements in Treasury securities.

Rules 4.11 and 4.12. Rules 4.11 and 4.12 would be amended to provide for new position and exercise limits on Treasury securities options, expanding the limits to 2,000 contracts in the case of underlying Treasury securities having an initial public issuance of more than $2 billion.

Rule 5.1. The Rule is proposed to be amended to apply to Treasury securities options, specifying that all option contracts for Treasury Securities shall be designated by reference to the coupon rate and date of maturity in addition to the other criteria set forth for all options.

Rule 5.3. A new paragraph (d) would be added to the Rule to provide for Treasury securities options, establishing minimum original public sale criteria for eligible Treasury securities.

Rule 5.4. The Rule is proposed to be amended to provide for the withdrawal by the Securities Committee of approval of securities underlying options, including Government securities. A new interpretation and policy under the Rule (paragraph .03) would be added to confine underlying Treasury securities to the most recently issued and actively traded and to ensure that specified minimum amounts of such securities underlying options remain outstanding.

Rule 5.5. The Rule would be amended to provide for commencement of Treasury securities options trading on a particular underlying Treasury security any time after its initial public auction.

Rule 5.6. Paragraph (a) of the Rule is proposed to be amended to provide for determination by the Securities Committee of the expiration month and year in the case of Government securities options, to establish particular expiration months for series of such options, to set a 9-month expiration cycle for such series, and to provide for the fixing of exercise prices by reference to current market prices for Government securities.

Paragraph .01 of Interpretations and Policies pursuant to Rule 6.1. The paragraph would establish hours for trading Government securities options corresponding to the hours during which Government securities ordinarily are traded in the cash market.

Paragraph .01 of Interpretations and Policies pursuant to Rule 6.2. The paragraph is proposed to be amended to provide for commencement of the opening rotation in Government securities options following the availability of quotations for Government securities on the quotation display mechanism(s) approved by CBOE and to provide for those occasions on which such quotations are not available.

Rules 6.3 and 6.4. These Rules are proposed to be amended to provide for trading halts and suspensions with respect to Government securities options in the event current quotations are unavailable.

Rule 6.41. Paragraph (a) is proposed to be amended to provide that bids and offers for Government securities options shall be expressed in terms of a percentage of the nominal principal amount, assuming a stated rate of interest equal to the designated rate. A new paragraph .02 would be added to the Interpretations and Policies pursuant to the Rule to establish that such bids and offers shall be expressed in terms of 1/64th of 1 percent of the nominal principal amount unless a different percentage is approved by the Floor Procedure Committee.

Paragraph .01 of Interpretations and Policies pursuant to Rule 6.45. The paragraph is proposed to be amended to treat orders to sell Government securities options at a price of 1/64th of 1% in the same fashion as orders to sell stock options at a price of 1/16th.

Rule 6.54. The Rule and the Interpretations and Policies thereunder are proposed to be amended to treat orders for Government securities options priced at one cent per $1,000 of nominal principal amount in the same manner as orders for stock options priced at one cent per share.

Paragraph .01 of Interpretations and Policies pursuant to Rule 6.56. The paragraph would be revised to specify 8:00 a.m. (Chicago time) of the following business day as the time by which unmatched trades in Government securities options must be resolved.

Rule 6.73. Paragraph (b) of the Rule is proposed to be amended to provide that, with respect to Government securities options, contingency and one-cancels-the-other orders may be executed by a Floor Broker on the basis of the most reliable price information as to Government securities reasonably available to the Floor Broker.

Rule 8.7. Paragraph (b) of the Rule is proposed to be amended to establish levels of generally acceptable spreads between market maker bids and offers for Government securities options depending upon the last transaction price for such options.

Rule 9.7. Paragraph (a) of the Rule is proposed to be amended to require special approval of customers' accounts prior to acceptance by members of orders from customers to purchase or write Government securities options. Paragraph (e) of the Rule is proposed to be amended to require customers whose accounts have been approved for Government securities options transactions to be provided with a current Clearing Corporation prospectus on Government securities options.

Rule 9.15. The Rule is proposed to be amended to provide for the delivery of the Clearing Corporation prospectus on Government securities options.

Rule 9.21. The Rule is proposed to be amended to require that written materials concerning Government securities options disseminated thereunder must be accompanied or preceded by a current Clearing Corporation prospectus on Government securities options, and that advertisements with respect to GNMA options must state the name and address of a person from whom such a prospectus may be obtained.

Rule 11.2. The Rule is proposed to be amended to differentiate between positions of block size and smaller positions in Government securities options in allocating exercise notices.

Paragraph .01 of Interpretations and Policies to Rule 10.1. The paragraph is proposed to be amended to specify 8:00 a.m. (Chicago time) as the time by which unmatched transactions in GNMA options rejected overnight by the Clearing Corporation must be resolved.

Rule 11.3. The Rule is proposed to be amended to require, in connection with the exercise of Government securities options, the payment of accrued interest thereon.

Rule 12.3. Paragraph (a) of the Rule is proposed to be amended, by adding a new subparagraph (5) thereof, to establish percentages of the market value of equivalent units of Government securities underlying an option as the required margin in connection with a short position in such an option as follows: 3 percent of the market value for Government securities having a remaining term to maturity of five years or more; 2 percent of the market value for Government securities having a remaining term to maturity of three years or more but less than five years; and 1 percent of the market value for Government securities having a remaining term to maturity of two years or more but less than three years. Further, paragraph (b) of the Rule is proposed to be amended with respect to related securities positions so that, when the security in the long position is a Government securities option and the security in the short position is the related Government security, the margin required shall be the lesser of the margin required on the short security or the amount by which the exercise price of the related option exceeds the market value of the underlying security. Finally, paragraph (b) is proposed to be amended to accord to members who are dealers reporting positions to the New York Federal Reserve Bank treatment identical to that now afforded market maker and specialist members.

CBOE's Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to implement CBOE's market for the trading of options on Government securities, initially limited to securities issued by the United States Treasury. CBOE intends the proposed rule change to become effective 30 days following Commission approval. Although most of CBOE's current rules are consistent with the trading of options on Government securities, there are certain qualitative and quantitative differences between stocks, which presently underlie CBOE options, and Government securities that necessitate amendments to several CBOE rules. The proposed rule change reflects amendments to CBOE rules that are presently applicable only to trading of options on underlying stocks so as to make those rules also applicable to trading of options on underlying Government securities. However, in drafting each proposed amendment, the same substantive basis or policy followed in formulating a rule with respect to options on underlying stocks has been retained, modified only as necessary to reflect the particular standards or practices of the Government securities market. Certain of the proposed amendments are more substantive than others, and merit a brief explanation.

The position limits proposed in Rule 4.11 reflect that the Government securities market is largely an institutional market in which the average trade size is $1,000,000 principal amount (i.e., the equivalent of 10 Government securities options having a unit of trading of $100,000 principal amount of the underlying Government security). In view of this large average trade size, it is necessary that position limits for Government securities options be sufficiently large to provide useful hedging opportunities for institutions and other Government securities traders. Accordingly, it is proposed to establish a two-tiered position limit, with a 1,000 contract limit applicable to securities having an original issue of $2 billion or less and a 2,000 contract limit applicable to securities having an original issue over $2 billion. Exercise limits (Rule 4.12) are set at the same levels as position limits.

The purpose of Rules 5.3 and 5.4, in establishing criteria for the listing and delisting of options covering particular Treasury securities, is to ensure that the Treasury securities chosen for options trading are widely held and actively traded. For this reason, it is provided that only the larger Treasury issues may be selected as underlying securities, and that even these will ordinarily remain as underlying securities only for one year following their original selection, since CBOE will ordinarily not introduce series with new expiration months on an underlying note or bond six months after the inception of options trading on that particular underlying Treasury security. After six months, CBOE will ordinarily commence options trading on a more recently issued Treasury note or bond.

The proposed amendment to Rule 5.5 is to make it clear that options trading on a particular underlying Treasury issue may commence immediately following the public auction, when trading in the underlying security itself commences on a when issued basis.

Although not reflected in Rule 5.6 governing the terms of options, it will be the policy of CBOE to open additional series of options covering a particular underlying Treasury security at intervals (currently anticipated to be 1 percentage point intervals whenever the bid price for the underlying security reaches the

mid-point between such intervals) appropriate to current market conditions in light of such factors as volatility and

disclosure requirements for options on Government securities, and to impose on *all* recommendations relating to

with respect to stocks. CBOE's discussions with Government securities investors and primary dealers have

Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-

Accordingly, the Applicant believes that the requested exemption is appropriate, in the public interest, and consistent with the protection of

Massachusetts Electric Company ("WMECO"), each a public utility subsidiary of Northeast Utilities, a registered holding company, have filed a

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mid-point between such intervals) appropriate to current market conditions in light of such factors as volatility and liquidity.

Under Rules 6.3 (Trading Halts) and 6.4 (Suspension of Trading), it is proposed that the appropriate officials have authority to halt or suspend trading in Government securities options when conditions detrimental to the maintenance of a fair and orderly market are present. Included among such conditions is the unavailability of current quotations in the underlying Government security. This reflects that Government securities are ordinarily traded on the basis of current quotations, not last sale reports; it is intended that CBOE options on Government securities will also be traded on the basis of such current quotations.

The changes to Rules 6.41 and Interpretation 6.42.01 make clear that premiums for options on Government securities will be expressed in terms of a percentage of the principal amount of the underlying security, and that quotations for Government securities options ordinarily will be expressed in terms of 1/64th of 1 percent.

Under Rule 6.73(b), it is proposed that a Floor Broker handling an order in a Government securities option that is dependent upon a quotation for the underlying security shall be responsible for satisfying the dependency requirement on the basis of the most reliable information reasonably available to him concerning current quotations for the underlying Government security. Thus the Floor Broker is not limited to quotation information obtained from the quotation display mechanism, but may also utilize such information obtained from other reliable sources.

Separate market-maker obligations for Government security options are proposed in Rule 8.7(b) with respect to the maximum spread between the "bid" and "ask", with the size of the maximum spread depending upon the price at which the option last traded. Such spreads also are intended to reflect customarily spreads in the market for the underlying security. This requirement and the absence of specific standards of continuity reflect the unique characteristics of the Government securities market, including that it is a dealer market, and that Government securities are less volatile than stocks.

It is proposed to amend CBOE's rules relating to account approval, suitability of recommendations and disclosure (Rules 9.7, 9.9, 9.15 and 9.21) to provide separate account approval and disclosure requirements for options on Government securities, and to impose on *all* recommendations relating to Government security options the higher suitability standards that presently apply to recommendations of certain writing transactions.

Rule 11.3 (Delivery and Payment) will be amended to make it explicit that, in accordance with the standard procedures in the Government securities market with respect to the treatment of accrued interest, the exercising holder of a call option or the writer of a put option assigned an exercise notice must pay both the exercise price of the Government securirty option plus interest on the underlying Government security accrued from but not including the last interest payment date to and including the exercise settlement date.

It is proposed to amend Rule 12.3 to provide minimum margin requirements for option contracts on Government securities carried in a short position in a customer account. The proposed margin requirements were arrived at after considering the current practices of banks that extend credit secured by Government securities, the existing margin requirements applicable to futures contracts on Government securities, and the proprietary haircuts prescribed by Rule 15c3–1. Rule 12.3 will exempt from customer margin requirements those persons who are Government securities dealers reporting their positions to the New York Federal Reserve Bank, reflecting that those dealers have no margin requirements respecting their short positions in Government securities themselves. The proposed amendment to Rule 12.3(b)(1) that limits the margin required for short positions in Government securities that are offset by long positions in call options covering the securities sold short reflects the reduced risk of such covered short positions.

The proposed rule change is adopted pursuant to Section 6(b)(5) of the Securities Exchange Act of 1934, as amended, in that the rules proposed hereby are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest in connection with transactions in options covering underlying Government securities.

CBOE believes that its proposed market for options on Government securities is is consistent with the standards of Section 6(b)(5) since it expects such a market to provide the same increased investment flexibility with respect to Government securities as the present options market provides with respect to stocks. CBOE's discussions with Government securities investors and primary dealers have strengthened its conclusion that such a market is both feasible and in the interests of investors. The basic economic function of a Government securities option will be essentially similar to that of an option on common stock: to separate the risks and opportunities of investing in securities, and to redistribute those risks and opportunities between the holder and writer of the option. CBOE expects that Government securities options will be used primarily to hedge against adverse price fluctuations in Government securities resulting from changes in interest rates and other economic developments which affect the money and capital markets.

In January 1976, CBOE established a Fixed Income Securities Task Force consisting of CBOE members and commercial banks experienced in the options market or in the market for fixed income securities to assess the feasibility of providing a market in options on such securities. Comments received informally from members of the Task Force and other potential participants in such an options market were generally in favor of developing such a market, and selecting Government notes and bonds as the underlying fixed income securities, as reflected in the proposed rule change. Formal comments on the proposed rule change have not been solicited or received.

CBOE believes that the proposed rule change will not impose any burden on competition.

On or before January 5, 1981, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and published its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or,

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying at the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 2, 1981.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 21, 1980.

[FR Doc. 80-37191 Filed 11-28-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-639]

Combined Insurance Company of America; Application and Opportunity for Hearing

November 21, 1980.

Notice is hereby given that the Combined Insurance Company of America, ("CICA"), an Illinois Corporation, has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), seeking an exemption from the reporting requirements of Sections 13 and 15(d) of that Act.

The application states, in part: 1. CICA is a reporting company under Section 15(d) of the 1934 Act.

2. In 1979, CICA caused the formation of Combined International Corporation ("CIC"), a Delaware corporation, for the purpose of effecting a plan of exchange (the "Plan") whereby CIC would become the sole shareholder of CICA and CICA shareholders would become shareholders of CIC. The Plan was effected on March 30, 1980 and the company stock of CIC was listed on the New York Stock Exchange.

3. Both CIC and CICA have December 31 fiscal years and CIC currently represents CICA's identical business enterprises.

4. Any reports to be filed by CICA would be substantially duplicative of that information provided to the Commission with respect to CIC and would require additional expense.

5. CICA believes that the 108 holders of its currently outstanding $8,776,000 aggregate principal amount of 4¼% Subordinated Debentures Due 1998, exchangeable for common stock of American International Group, Inc., will have sufficient information respecting CICA available to them by reason of CIC's filings pursuant to Section 13 of the 1934 Act.

Accordingly, the Applicant believes that the requested exemption is appropriate, in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1934 Act.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than December 16, 1980, may submit to the Commission in writing his views on any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed to: Secretary, Securities and Exchange Commission, 500 North Capitol St., NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after that date, an order granting the application in whole or in part may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37192 Filed 11-28-80; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21801; 70-5929]

Connecticut Light & Power Co. et al.; Proposal To Sell Interest In Electric Generating Facility

November 21, 1980.

In the matter of the Connecticut Light & Power Company, Selden Street, Berlin, Connecticut 06037; Western Massachusetts Electric Company, 174 Brush Hill Avenue, West Springfield, Massachusetts 01089; the Hartford Electric Light Company, Selden Street, Berlin, Connecticut 06037.

Notice is hereby given that the Connecticut Light & Power Company ("CL&P") The Hartford Electric Light Company ("HELCO") and Western Massachusetts Electric Company ("WMECO"), each a public utility subsidiary of Northeast Utilities, a registered holding company, have filed a post-effective amendment to a declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 12(d) of the Act and Rule 44 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended declaration, which is summarized below, for a complete statement of the proposed transaction.

By orders dated December 29, 1978 (HCAR No. 20854), February 7, 1979 (HCAR No. 20915) and June 26, 1979 (HCAR No. 21118) CL&P was authorized to sell portions of its 11.97760% joint ownership interest in Seabrook Unit Nos. 1 and 2 ("Seabrook Project"), nuclear-fired electric generating facilities presently under construction in Seabrook, New Hampshire. Pursuant to those orders CL&P sold an aggregate 7.48443% interest to Bangor Hydro-Electric Company, Town of Hudson Massachusetts Light & Power Company, Taunton Municipal Lighting Plant Commission, Maine Public Service Company, Massachusetts Municipal Wholesale Electric Cooperative and Vermont Electric Cooperative, Inc. Jurisdiction was reserved over further sales of CL&P's remaining interest in the Seabrook Project pending completion of the record with respect to those transactions. CL&P has now filed a post-effective amendment to its declaration seeking authorization to sell a 0.43332% interest in the Seabrook Project to Fitchburg Gas and Electric Light Company ("Fitchburg"). Assuming a transfer on December 31, 1980, the consideration to be received by CL&P from Fitchburg is estimated at $5,543,000.

The Commission's order of June 26, 1979 stated that CL&P also intended to sell portions of its remaining interest in the Seabrook Project to Montaup Electric Company ("Montaup") and New Bedford Gas and Edison Light Company ("New Bedford") as well as to Fitchburg. New Bedford subsequently decided not to proceed with its purchase. In addition, the Massachusetts Department of Public Utilities denied Montaup's request for approval of its purchase from CL&P of an interest in the Seabrook Project. CL&P has withdrawn its request for authorization to sell such interests and after consummation of the proposed sale to Fitchburg will retain a 4.05985% ownership interest in the Seabrook Project. It is estimated that as a result of

the proposed transfer to Fitchburg, CL&P will reduce its expenditures for capital

[File No. 81-637]

Glendale Federal Savings and Loan

[Release Nos. 33-6264; 34-17316; IC-11452; IA-740; File No. 4-241]

Monthly Statistical Review. The Group's analysis is now being reviewed with respect to the implementation of its questionnaire and distributed it to 31 senior level economic/statistical personnel representing Federal

All comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street,

the proposed transfer to Fitchburg, CL&P will reduce its expenditures for capital programs, including nuclear-fuel expenditures, by $7,637,000 for the years 1981 through 1985.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. The proposed transfer to Fitchburg has been approved by the Connecticut Department of Public Utility Control, the Massachusetts Department of Public Utilities and the New Hampshire Public Service Commission. The United States Nuclear Regulatory Commission must authorize the amendment of the construction permits for Seabrook Unit Nos. 1 and 2 to reflect the proposed transfer to Fitchburg. It is stated that no other state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 15, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37188,Filed 11-28-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-637]

Glendale Federal Savings and Loan Association, as Originator and Servicer; Application and Opportunity for Hearing

November 21, 1980.

Notice is hereby given that Glendale Federal Savings and Loan Association (the "Applicant"), has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for exemption from certain reporting requirements under Section 13 of the 1934 Act.

The Application states in part: In the absence of an exemption, the Applicant would be required to file reports adhering to all the item requirements of Form 10-K, 10-Q and 8-K of the 1934 Act.

Applicant believes that the exemptive order requested by it is appropriate in view of the fact that Form 10-Q and certain items of Form 10-K of the 1934 Act are inapplicable to the pass-through mortgage pool arrangement.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the office of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than December 16, 1980, may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, N.W., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37195 Filed 11-28-80; 8:45 am]

BILLING CODE 8010-01-M

[Release Nos. 33-6264; 34-17316; IC-11452; IA-740; File No. 4-241]

Comprehensive Review of the Commission's Statistical Program

AGENCY: Securities and Exchange Commission.

ACTION: Announcement of a comprehensive review of the Commission's statistical program.

SUMMARY: The Securities and Exchange Commission has announced that it is undertaking a comprehensive review of its statistical program. The Commission has begun an internal review, but it also seeks the views and insights of the public, particularly the users of its published statistical data. The purpose of this announcement, therefore, is to encourage the submission of constructive commentary and suggestions for enhancing the usefulness of the Commission's statistical program.

DATE: Comments must be received on or before January 31, 1981.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to file No. 4-241. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Jeffry L. Davis, Assistant Director, of Economic and Policy Analysis (telephone 202/272-2850), Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission is undertaking a comprehensive review of its statistical program, focusing upon: (1) The benefits to the Commission, other government agencies and the public of continuing to publish statistical data; (2) the specific needs served by the publication of specific data series; (3) the identification of additional data series for which there exists a public need; (4) the availability of alternative data sources; and (5) the costs associated with the collection, processing and publication of data series, individually and collectively.

On an internal basis, this review began several months ago with the formation of a Statistical Strategy Planning Group within the Commission's Directorate of Economic and Policy Analysis. This Group was assigned the task of analyzing, from a practical cost-benefit perspective, all statistical data series published in the Commission's *Monthly Statistical Review*. The Group's analysis is now being reviewed with respect to the implementation of its recommendations.

During the course of the review by the Statistical Strategy Planning Group, and in consultation with the Group, the editorial management of the *SEC Monthly Statistical Review* was restructured. An Editor, an Associate Editor and an Editorial Board (consisting of professional economists) were appointed in order to establish clearer lines of responsibility for the publication. The Editorial Board's first priority was to accomplish, as soon as possible, any revisions in the format of the publication and the presentation of the data series which the Board deemed to be necessary and desirable. As a result of the Board's efforts, the Commission's *Statistical Bulletin* has been renamed the *SEC Monthly Statistical Review;* the explanatory notes accompanying the data presentations have been expanded and improved, some of the statistical tables have been modified in format, content and frequency of publication; a brief "Statistical Highlights" feature and a list of other publications have been added; and additional changes have been planned, including the republication of Executive Summaries from recent Commission studies and changes in the coverage of the published tables.

As part of the internal program review, the Commission staff conducted an audit of its Registered Offerings Statistics ("ROS") data base. The ROS data base is continuously updated and maintained by the Commission staff using as primary source documents the registration statements filed with the Commission. The labor intensity of this maintenance effort creates the potential for human error, while its public availability (on computer tape) and its usage within the Commission impose a high standard of reliability. For these reasons, an audit was designed to measure the reliability of the data base. In view of the potential for error, the results were encouraging; the measured error rate was only slightly greater than two percent. In addition, the audit has provided the staff with guidance for improving the process by which the data base is maintained; such improvements are expected to produce an even lower error rate.

While this release is an attempt to generate suggestions and comments, the Commission has already sought such input from other government agencies. In cooperation with the Office of Federal Statistical Policy Standards, the Commission has designed a questionnaire and distributed it to 31 senior level economic/statistical personnel representing Federal government agencies which are most likely to use or have need for the statistical data produced by the Commission. The questionnaire seeks responses to detailed questions regarding whether or not each data series is used, how frequently it is used, for what purpose it is used, whether alternative sources exist, and how the presentation of the series might be improved.

The Commission's statistical program review is a part of a larger effort to enhance, within the constraints of the Commission's limited resources, the reliability and usefulness of its regulatory data bases. Thus, this review is linked, for example, with the Commission's recently announced proposal to revise the Financial and Operational Combined Uniform Single (FOCUS) Report (in Securities Exchange Act Release No. 17138, September 9, 1980; 45 FR 62092, September 18, 1980), which is the key data gathering source for the Commission's broker-dealer regulatory data base. The FOCUS Report revision and this broader review are representative of the Commission's regulatory data base management initiatives and, for this reason, they share the objective of achieving maximal benefit from the most efficient application of the Commission's limited statistical resources.

The Commission encourages comments from all sectors of the public and particularly from regular users and potential users of the Commission's statistical data. The Commission requests specific comments on the data series published in the *SEC Monthly Statistical Review;* those series fall into the following categories: (1) Stock Market Statistics; (2) Options Market Statistics; (3) Securities Offering Statistics; (4) Securities Registration Statistics; (5) Pension Fund Statistics; (6) Institutional Stock Transaction and Stockholding Statistics; and (7) Broker-Dealer Financial Statistics. Where possible, comments should refer to specific data series and should indicate for each category how the data is used, how frequently it is used, whether alternative sources are available and the identity of such sources, and how the data could be improved to meet the needs of the user. Although the Commission seeks specific comments relating to identified data series, it welcomes any other constructive comments relevant to its statistical program.

All comments should be addressed to the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 and should refer to File No.4-241. All correspondence with regard to this release will be available for public inspection at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C. 20549.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37189 Filed 11-28-80; 8:45 am]

BILLING CODE 8010-01-M

[File No.: 81-645]

Las Vegas Bancorporation; Application and Opportunity for Hearing

November 21, 1980.

Notice is hereby given that Las Vegas Bancorporation ("Applicant"), has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for exemption from the periodic reporting requirements under Section 13 of the 1934 Act.

The Application states in part: In the absence of an exemption, Applicant would be required to file periodic reports required by Section 13 of the 1934 Act.

Applicant believes that the exemptive order it requests is appropriate in view of the limited trading interest and number of stockholders, the fact that financial statements and statistical information were deemed by the Commission to be unnecessary in Applicants' registration statement, the costs and management burdens that compliance would cause, and the protection for investors afforded by review by various banking authorities.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the Office of the Commission at the Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person not later than December 16, 1980 may submit to the Commission in writing his views on any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or

requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37194 Filed 11-28-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21803; 70-6518]

New England Electric System, et al.; Proposal for One Subsidiary to Enter Into Joint Venture To Build a Collier, for Another Subsidiary To Lease the Collier From the Joint Venture and for the Holding Company to Make Certain Guarantees and Advances in Connection With Those Transactions

November 24, 1980.

In the matter of New England Electric System, New England Energy Incorporated, New England Power Company, 25 Research Drive, Westborough, Massachusetts 01581.

Notice is hereby given that New England Electric System ("NEES"), a registered holding company, New England Energy Incorporated ("NEEI"), a fuel supply subsidiary of NEES, and New England Power Company ("NEPCO"), an electric utility subsidiary of NEES, have filed a joint application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a), 10, 12(b), 12(f) and 13(b) of the Act and Rules 45(b)(3) and 86 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

The applicants-declarants seek authorization for (1) NEEI to enter into a joint venture to build, own or lease, and operate a self-unloading coal-fired collier; (2) for NEPCO to charter the vessel from the joint venture for a term of 24½ years; (3) for NEES to make certain guarantees in connection with these transactions and (4) for NEES to advance to NEEI and NEEI to provide to the joint venture funds for initial capital and for construction of the collier. The applicants-declarants also seek an exception under Section 13(b) from the service-at-cost requirement of that Section.

NEPCO is presently engaged in the conversion to coal of its three oil-fired electric generating units at Brayton Point. These units have a combined generating capacity of 1162 megawatts and upon conversion by the end of 1981 will have annual coal requirements of approximately 3 million tons. NEPCO also plans to convert to coal its three oil-fired units at Salem Harbor, assuming such conversion is economically and environmentally feasible. These units have a combined generating capacity of 317 megawatts and when fully converted will have annual coal requirements of 600,000 tons. The Brayton Point and Salem Harbor units were coal fired prior to their conversion to oil burning in 1968. Because rail service to Salem Harbor is poor and is nonexistant to Brayton Point, coal was delivered to those plants by sea prior to 1968. NEPCO states that such transportation of coal to Brayton Point and Salem Harbor by large ocean-going vessel remains more economical than any rail transportation that is currently or likely to become available.

Coal will be purchased from mines in Virginia, West Virginia and Pennsylvania and shipped by rail to East Coast ports where it will be loaded onto the collier to be built by the joint venture for shipment to Brayton Point or Salem Harbor. In order to maximize flexibility and minimize the chances of a disruption in supply, three railroads will be contracted with to deliver coal to the port or ports served by each railroad.

NEPCO is now chartering vessels to provide the coal for its reconverted generating plants. It states that for the past ten years there has been no substantial movement of coal by water along the East Coast, and for the preceding ten years the trade was diminishing. As a result the few vessels left which are appropriate for carrying coal are all thirty or more years old. These ships are deteriorating and their hulls are becoming too thin to withstand the use of onshore unloading equipment without extensive repairs. Both in the past and at present, movements of coal depend on vessels charted by the shipper. In light of these factors it was decided that the most economical alternative available was to build a new collier.

NEEI and Keystone Shipping Company ("Keystone"), a nonaffiliate, as members of the joint venture, having signed a letter of intent with the Quincy Shipbuilding Division of the General Dynamics Corporation to enter into a contract for the construction of the collier. The price for the vessel will be $57,500,000, escalated at 7% per annum from October 31, 1980, to the date of executive of the contract. In addition to the price paid under the construction contract the cost of additional equipment and other costs will bring the total estimated cost of the vessel to approximately $65 million. The delivery date will be December 31, 1982, extended for each day from October 31, 1980, to the execution of the contract.

Under the letter of intent NEES has agreed to provide at the time of execution of the construction contract a guarantee of the joint venture's obligations thereunder.

The vessel will be 665 feet in length and will have a summer mean draft of about 32', fully loaded and with normal bunkers, water and stores. This draft is the maximum which can be accomodated at Salem Harbor without additional dredging. It also permits use of most other major East Coast ports. The vessel will be designed to burn coal as fuel, but will also be fitted from burning bunker oil. This dual capability will permit the vessel to burn low sulfur fuel oil, if required for environmental reasons, while entering and leaving port. Its fuel consumption is expected to be about 442 barrels of fuel oil, or about 100 tons of steam coal per day, when making 15 knots, fully loaded, at sea under normal conditions. The vessel will be designed to receive cargo at a sustained rate of up to 5,000 short tons per hour under normal conditions. The collier will have a capacity of approximately 36,000 tons which will enable it to carry approximately 80% of the total coal requirements at Brayton Point, approximately 2.4 million tons annually. The remaining transportation requirements will be covered by open market charters of additional ships. The collier will have a self-unloading capability of 3,500 tons per hour. Without this capability new onshore unloading facilities having a unloading capacity of 600 tons per hour would have to be constructed at Brayton Point and Salem Harbor at a cost of approximately $14 million at each site. The shipboard unloading mechanism is estimated to cost $9 million. The higher rate of unloading will give the collier a faster turn-around time, reducing the delivered cost of coal and allowing the ship to accomodate its schedule of deliveries. On the basis of these features, the self unloading is expected to cost about $1.20 a ton, compared to $4.50 a ton for reliance on shore facilities.

The collier will be owned by New England Collier Company, a joint venture of NEEI and Keystone, which will charter the vessel to NEPCO for a period of 24 years, 6 months, commencing at the time of delivery of the collier to the joint venture. NEEI will have a 51% participation in the joint venture, with Keystone having the other 40%. The initial capital of the joint venture will be $450,000 to be contributed by each participant in its respective interest percentage. Except as otherwise provided, additional advances, as well as profits and losses, will be in the ratio of the participating interests. Such additional advances will be made as necessary to provide additional funds for working capital and for the construction and operation of the collier and for the financing thereof. The advances will be deemed loans repayable by the joint venture and will be subordinated, if necessary, to other obligations incurred by the joint venture in connection with financing the construction of the ship.

The joint venture contemplates that NEEI will arrange for, and negotiate the terms of, the financing of construction of the vessel, with the concurrence of Keystone and NEPCO. The perferred method of financing will be a leveraged lease under which a lessor will receive an assignment of the construction contract from the joint venture, pay for contruction of the vessel, and charter the vessel to the joint venture under a demise charter which will be, in all material respects, the equivalent of a leveraged lease. It is anticipated that the lessor will finance the construction with 70% bonds guaranteed by the U.S. Maritime Administration and 30% equity supplied by the lessor. The lessor will receive the benefits of investment tax credit and other tax benefits. Charges payable by the joint venture under the demise charter will reflect lessor's cost of financing, as negotiated by NEEI and approved by Keystone. It is expected that the lessor's financing will be secured by a mortagage of the vessel, as well as an assignment of the joint venture's rights under the charter with NEPCO. It is also proposed that NEES and Keystone's parent company, Chas. Kurz & Co., Inc., will guarantee the performance of their respective subsidiaries under the demise charter. This guarantee will cover the payment by the joint venture of all costs under the demise charter under all circumstances, including the situation in which payments by NEPCO under the charter are based on market value which is less than such costs under the demise charter. The joint venture will be managed by a management committee comprised of two representatives of NEEI and one representative of Keystone.

The joint venture has slected the shipyard and agreed on the construction price as stated above. The joint venture is to advance in installments 16.22% of the contract price during the first year, about 58.7% during the balance of the construction period, pay 23.1% on delivery and the final 2% within 3 months thereafter. Until financing is arranged, 51% of those advances will be provided by NEES, directly or indirectly.

It is expected that the delivery date will be in the first quarter of 1983. The contract provides that the vessels will be delivered to NEPCO under the charter, simultaneously with the delivery by the shipyard, after completion of dock and sea trials. It contains various alternatives for dealing with possible defects under the construction contract. In general, if the vessel is not delivered, the charter terminates. NEPCO has the right under the charter to monitor construction of the vessel and to require the joint venture to assign to it warranty rights against the shipyard and its materialmen and subcontractors. After any such transfer of rights, the joint venture shall not be liable to NEPCO for any claims arising from construction of the vessel.

NEPCO will pay to the joint venture under the charter an annual fixed rate during each calendar year which will be 90% of the then current market rate for similar coal-carrying vessels as determined by NEPCO and the joint venture annually in accordance with further provisons. Payments will be made in equal monthly installments in advance on the first day of each month.

The annual fixed rate will be set by the first day of October immediately preceding a calendar year. It will be based on charges for the use of vessels similar to the collier, engaged in the same trade over the same geographic route for periods of one year or more. For the purpose, vessels similar to the collier will mean coal-fired, self-unloading, United States flag vessels of 20,000 to 40,000 deadweight tons. If there is no such market rate for coal-fired vessels, the market rate for oil-fired vessels will be utilized. If there is not a market rate for self-unloading vessels, an amount of $1.20 per short ton of coal will be added to the market rate for vessels which are not self-unloading. In setting the annual fixed rate, the joint venture and NEPCO will consider all relevant charters known to them as having been made during the preceding twelve-month period for performance during the next calendar year. If no such chater known to the joint venture and NEPCO, they will consider charters made for the previous year. If agreement cannot be reached on the annual fixed rate for a coming year the matter is to be submitted to arbitration. The annual fixed rate will be subject to escalation on a quarterly basis if certain changes occur in the consumer price index and in fuel price. Increases and decreases in the annual fixed rate from year to year will be subject to certain limitations set forth in the charter.

The joint venture will be responsible for the maintenance and operations of the collier and will contract with Keystone Shipping Company to operate the vessel as its agent. In this capacity, Keystone will, subject to approval by NEEI and/or NEPCO in certain instances, negotiate the construction contract and supervise construction of the collier, apply for all necessary approvals for design, construction, licensing and operation of the ship and file all applications with the U.S. Maritime Administration required to consummate the financing of the vessel. It is expected that the joint venture will be able to provide the services of the collier to NEPCO at a 10 percent discount from the market price for such services, as defined under a complex formula contained in the charter. Applicants-declarants state that this venture involves the kind of special and unusual circumstances which entitle it to an exemption from general service-at-cost requirement of Section 13(b) of the Act.

NEPCO will have the right to subcharter the collier or to request the joint venture to find alternate employment for the vessel. The proceeds of any such subcharter or employment will be applied against the charter hire. Any excess of proceeds of such alternate employment over the highest subcharter hire previously received by NEPCO will go to the joint venture.

NEEI will be reimbursed monthly by the joint venture for expenses and costs incurred in discharging its obligations under the joint venture agreement. Keystone will be reimbursed monthly for expenses and costs incurred in discharging its obligations under the agreement. Such reimbursement will be at Keystone's prevailing rates except to the extent that such reimbursement is otherwise provided for under agreement

between Keystone and the Joint Venture.

The charter may be terminated by

[File No. 81-640]

Wood County Telephone Co.; [illegible]

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring [illegible]

Dated: November 19, 1980.

A. Vernon Weaver,

Administrator.

the applicant (the small business concern for a direct loan or the participating lender for a participation

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between Keystone and the Joint Venture.

The charter may be terminated by NEPCO upon six months notice to the joint venture and is also terminable upon the occurrence of certain events. In those specified events the joint venture is entitled to require NEPCO to assume all of the joint venture's obligations. Upon such payment, all rights in the collier, or insurance or requisition proceeds, become the property of NEPCO.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transactions will be filed by amendment. It is stated that no state or federal regulatory authority other than this Commission has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 18, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37180 Filed 11-28-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-640]

Wood County Telephone Co.; Application and Opportunity for Hearing

November 21, 1980.

Notice is hereby given that Wood County Telephone Company ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934 (the "1934 Act") for an order granting Applicant an exemption from the provisions of Section 12(g) of the 1934 Act.

The Applicant states, in part:

(1) Applicant furnished telephone service to those portions of Wood, Juneau, Adams, and Portage Counties which are within a 16 mile radius of the City of Wisconsin Rapids in central Wisconsin;

(2) Applicant is regulated as a public utility by the Public Service Commission of Wisconsin and is subject to the reporting requirements of that Commission;

(3) All of the subscriber-stockholders of Applicant are Wisconsin residents; and

(4) There is no trading market for Applicant's securities.

Applicant contends that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commission at 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person no later than December 16, 1980, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37193 Filed 11-28-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17330; File No. SR-PSE-80-21]

Pacific Stock Exchange Inc.; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-24, 16 (June 4, 1975), notice is hereby given that on November 17, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE") proposes to add Section 2(f) to Rule II of its Rules to provide for a Registered Specialist Assistant for each specialist.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to provide enhanced coverage of each specialist post by requiring a Registered Specialist Assistant for each Specialist, with such Registered Specialist Assistant able to transact business at the post with full authority of the specialist.

The proposed changes are consistent with Section 6(b)(5) of the Act in that they will serve to promote just and equitable principles of trade and to protect investors and the public interest.

Comments have neither been solicited nor received from members on the proposed rule change.

The proposed rule change imposes no burden on competition.

On or before January 5, 1981, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W. Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 22, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons

Secretary.

November 24, 1980.

[FR Doc. 80-37287 Filed 11-28-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Amendment to Final SBA Procedure Implementing National Environmental Policy Act

AGENCY: Small Business Administration.

ACTION: Amending Final SBA NEPA Procedures.

SUMMARY: The Small Business Administration published its final procedures to implement NEPA on February 1, 1980 (45 FR 7358). Paragraph 4a of these procedures indicated that this expansion of the procedures would be made in the future. This amendment adds the NEPA guidelines for financial assistance applicants as appendix 2 to the basic procedures.

EFFECTIVE DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Questions about this amendment can be directed to: Richard L. Wray, Financial Analyst, Small Business Administration, 1441 L Street NW, Washington, D.C. 20416. Telephone (202) 653-6470.

Accordingly, the following amendment to the Standard Operating Procedure previously published is adopted.

Dated: November 19, 1980.

A. Vernon Weaver,

Administrator.

[SOP 90-57]

Appendix 2

NEPA Guidelines for Financial Assistance Applicants

1. These guidelines apply to all applicants for regular 7(a) business loans, 7(h) Handicapped Assistance Loans, 7(l) Energy Loans Section 502 and 503 Local Development Company Loans and Section 7(b) and 7(g) physical and non-physical disaster loans.

2. These guidelines apply to any such loans if the use of loan proceeds (total loan, not just SBA share) exceeds $300,000 for construction reconstruction and/or the acquisition of land. All other loans are categorically excluded.

3. The loan officer screening the application will make the initial evaluation of the possibility that a loan could result in a significant environmental impact if the loan is approved. Loans that are not categorically excluded will be forwarded to the district director. When the district director determines that a NEPA decision is required before the loan could be approved (see figure 1, Sample Format—District Director's Evaluation), the loan officer will contact the applicant (the small business concern for a direct loan or the participating lender for a participation or guarantee loan) and notify it that it may take several weeks to complete the assessment or Environmental Impact Statement. Determine if the applicant wants to withdraw the application rather than submit the additional forms and wait for the formal NEPA decision procedures to be completed. Any such application presented under the BCP plan will be immediately converted to the regular 7(a) business loan procedure unless the applicant withdraws it.

4. All such applicants will be required to complete SBA Form 1231, "Small Business Administration Applicant's Environmental Impact Data."

5. The district director, based on SBA Form 1231, will have an environmental assessment prepared. Unless SBA makes a determination of "no significant impact," an Environmental Impact Statement will also be prepared. (See 40 CFR 1508.9 and 1508.13.)

6. An Environmental Impact Statement (EIS) is a detailed study intended to generate full consideration of all direct and indirect environmental results or effects of loan approval. The format for an EIS appears in 40 CFR 1502.10. The EIS for an SBA loans must be prepared by SBA personnel or by a contractor selected by and paid by SBA.

Figure 1.—*Sample Format—District Director's Evaluation*

Environmental factors	Possible environmental impact			
	None	Minor	Potentially significant	Comments/ explanation
Impact of land acquisition/construction on:				
Wetlands				
Wooded areas				
Floodplain				
Wild life refuge				
Wild/scenic rivers				
Historic preservation sites				
Other				
Possible pollution of:				
Air/water				
Noise				
Adequacy of:				
Housing				
Transportation				
Water supply				
Sewer/waste treatment facilities				
Parking				

[FR Doc. 80-37161 Filed 11-28-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Draft Environmental Impact Statement (DEIS) for Navigational Aids Proposed for Torrance, Calif., Municipal Airport

Notice is hereby given that the Federal Aviation Administration (FAA) has prepared a Draft Environmental Impact Statement for the installation of navigational aids at Torrance Municipal Airport, Torrance, California. The proposal consists of three electronic aids (glide slope and middle marker for Runway 29R, and distance measuring equipment at the existing localizer, and five visual aids (medium intensity

approach lights with runway alignment indicators for Runway 29R, visual approach slope indicators for Runways 29R, 29L and 11L and runway end identifier lights for Runway 29L).

Two public meetings will be held for the purpose of receiving public comments on the draft environmental statement.

The meetings will be held on January 7, 1981, at the Lomita City Hall, 24300 Narbonne Avenue, Lomita, California, at 7:00 p.m., and on January 8, 1981, at the Torrance Recreation Center, 3341 Torrance Boulevard, Torrance, California, at 7:00 p.m. Interested parties may attend either meeting or submit comments in writing by January 14, 1981 to the address below.

For further information concerning the proposed action or the environmental impact statement contact: Stan Walsh, Project Manager, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009; Telephone: 213–536–6420.

Issued in Los Angeles, California on November 17, 1980.

H. C. McClure,

Acting Director, Western Region.

[FR Doc. 80-36780 Filed 11-28-80; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Separation Study Review Group; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Separation Study Review Group to be held on December 18–19, 1980 in Conference Room 281, 1717 H Street NW., Washington, D.C. commencing at 9 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Seventh Meeting Held on July 24–25, 1979; (3) FAA Summary of Operational Performance of Data Sample Subsets; (4) Suggestions for FAA Follow-up Action; (5) Preparation of Summary Report of Group Activities; and (6) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on November 18, 1980.

Karl R. Bierach,

Designated Officer.

[FR Doc. 80-37127 Filed 11-28-80; 8:45 am]

BILLING CODE 4910-13-M

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

SES Performance Review Board

Sec. 4314(c) (1) through (5) of title 5 U.S.C. requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Boards. The Board shall review and evaluate the initial appraisal of a senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Members of the Performance Review Board appointed by the Honorable John W. Snyder, Chairman, Board of Trustees, are:

Honorable Charles S. Murphy, General Counsel Harry S. Truman Scholarship Foundation

Louis H. Blair, Ph. D., President's Radiation Policy Council

Malcolm C. McCormack,

Executive Secretary.

November 24, 1980.

[FR Doc. 80-37147 Filed 11-28-80; 8:45 am]

BILLING CODE 6115-01-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 232
Monday, December 1, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, December 2, 1980.

PLACE: Commission conference room, 5240, fifth floor, Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Freedom of Information Act Appeal No. 80–9–FOIA–1–MM, concerning information in a charge file collected at a fact finding conference.
2. Freedom of Information Act Appeal No. 80–9–FOIA–498, involving a request for copies of Commission charges against respondents who are not represented by the requester.
3. Freedom of Information Act Appeal No. 80–8–FOIA–417, concerning information in an Age Discrimination in Employment Act charge file.
4. Freedom of Information Act Appeal No. 80–8–FOIA–486, involving a request for documents which served as a basis for a Commissioner's charge.
5. Proposed Revised Commission Deferral Regulation 1601.13.
6. Final Guidelines on Discrimination Because of National Origin.
7. Adjustment of Field Structure; Office of Government Employment.
8. Report on Commission Operations by the Executive Director.

Closed to the public:

1. Litigation Authorization: General Counsel Recommendations.
2. Reconsideration of previous Litigation Authorization.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Treva I. McCall, Acting Executive Officer, Executive Secretariat, at (202) 634–6748.

This Notice Issued November 25, 1980.

[S–2181–80 Filed 11–26–80; 12:06 pm]

BILLING CODE 6570-06-M

2

FEDERAL COMMUNICATIONS COMMISSION.

Additional item to be considered at November 25th special open meeting.

The subject matter listed below was inadvertently omitted from the November 18th Public Notice (#01767) which listed the subjects to be considered at the Tuesday, November 25, 1980, Special Open Meeting, starting at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, D.C.

Agenda, Item Number, and Subject

General—5—Preparations for the 1982 ITU Planning Plenipotantiary Conference.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: November 25, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S–2177–80 Filed 11–26–80; 10:01 am]

BILLING CODE 6712-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of agency meeting.

Pursuant to subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 3:00 p.m. on Tuesday, November 25, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met by telephone conference call to consider the following matters:

Request of Canadian State Bank (In Organization), Yukon, Oklahoma, for modification of a condition imposed in approving an application for Federal deposit insurance.

Recommendation regarding the liquidation of assets acquired by the Corporation from International City Bank and Trust Company, New Orleans, Louisana.

In calling the meeting, the Board determined, on motion of Director William M. Isaac (Appointive), seconded by Chairman Irvine H. Sprague,concurred in by Mr. H. Joe Selby, acting in the place of Director John G. Heimann (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: November 25, 1980.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Assistant Executive Secretary.

[S–2180–80 Filed 11–26–80; 11:05 am]

BILLING CODE 6714-01-M

4

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, 226, 76840, November 20, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 11 a.m., Wednesday, November 26, 1980.

PLACE: Board room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

CHANGES IN THE MEETING: The following items have been added to the open meeting:

Office of Neighborhood Reinvestment.

Technical Correcting Amendments Relating to Credit Card Authority.

Holding Company Acquisition—Heron International Limited, London, England, to Acquip, Pima Savings & Loan Association, Tucson, Arizona.

Conversion to a Federal Mutual Savings Bank—Anchor Savings Bank, Brooklyn, New York.

TIME AND DATE: 9 a.m.–6 p.m., Friday and Saturday, December 5–6, 1980.

PLACE: Fairmont Hotel, Bayou Room 2, Dallas, Texas.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

Issued: November 25, 1980.

Dan J. Bradley,

President.

PLACE: Conference room, room 500, 2000 L Street NW., Washington, D.C. 20286.

STATUS: Closed.

Closed meetings will be held on Tuesday, December 2, 1980, at 10 a.m. and on Thursday, December 4, 1980, at 10 a.m.

3. Consideration of whether to issue a release announcing that requestors of no-action and interpretive letters from the

Conversion to a Federal Mutual Savings Bank—Anchor Savings Bank, Brooklyn, New York.
Trust Powers Authorization.

[S-2184-80 Filed 11-28-80; 12:51 pm]
BILLING CODE 6720-01-M

5

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 45, 226–76840, November 20, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, November 26, 1980.

PLACE: Board room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

CHANGES IN THE MEETING: The board meeting previously scheduled for 9:30 a.m., has been changed to 11 a.m.

[S-2185-80 Filed 11-28-80; 12:51 pm]
BILLING CODE 6720-01-M

6

FEDERAL RESERVE SYSTEM.

Board of Governors.

TIME AND DATE: 10 a.m., Wednesday, December 3, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Appointment of new members to the Consumer Advisory Council. (This matter was originally announced for a meeting on November 24, 1980.)
2. Proposed changes to the Plans administered under the Federal Reserve System's employee benefits program. (This matter was originally announced for a meeting on December 1, 1980.)
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: November 25, 1980.

Theodore E. Allison,
Secretary of the Board.

[S-2176-80 Filed 11-28-80; 9:45 am]
BILLING CODE 6210-01-M

7

LEGAL SERVICES CORPORATION.

Board of directors meeting.

TIME AND DATE: 9 a.m.–6 p.m., Friday and Saturday, December 5–6, 1980.

PLACE: Fairmont Hotel, Bayou Room 2, University Place, New Orleans, Louisiana.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of September 5, 1980 Meeting.
3. Report on Congressional Reauthorization, fiscal year 1981 Appropriation and Board Nominations.
4. Report from Committee on Appropriations and Audit:
- Budget Review and Modification Guidelines.
- Legal Services Corporation's fiscal year 1980 Annual Audit.
- Proposed Consolidated Operating Budget for FY 1981.
- Proposed Budget for fiscal year 1982 Budget Request.

5. Report form Committee on Operations:
- Proposed Amendment to 45 CFR Part 1612.

6. Report form Committee on Provision of Legal Services:
- *A Plan for the Future,* a report by Howard Sacks.

7. Future Meeting Dates.
8. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Khasakhala, Office of the President, 202–272–4040.

Issued: November 25, 1980.

Dan J. Bradley,
President.

[S-2178-80 Filed 11-28-80; 10:15 am]
BILLING CODE 6820-35-M

7

LEGAL SERVICES CORPORATION.

Appropriations and Audit Committee meeting.

TIME AND DATE: 6 p.m.–9 p.m., Thursday, December 4, 1980.

PLACE: Fairmont Hotel, Orleans Room Mezzanine, University Place, New Orleans, Louisiana.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda.
2. Approval of Minutes of November 18, 1980 Meeting.
3. Preliminary Final Consolidated Operating Budget for fiscal year 1980.
4. Proposed Consolidated Operating Budget for fiscal year 1981.
5. Proposed Budget for fiscal year 1982 Budget Request.
6. Other Business.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Khasakhala, Office of the President, 202–272–4040.

Issued: November 25, 1980.

Dan J. Bradley,
President.

[S-2179-80 Filed 11-28-80; 10:15 am]
BILLING CODE 6820-35-M

9

NUCLEAR REGULATORY COMMISSION.

DATE: Week of December 1.

STATUS: Open.

MATTERS TO BE CONSIDERED: Monday, December 1:

2 p.m.

Briefing on Environmental Releases at NFS-Erwin and Other Fuel Cycle Plants (approximately 1 hour, public meeting) (rescheduled from November 26).

Tuesday, December 2:

10 a.m.

Briefing on Ice Condenser and Mark III Containments (approximately 1½ hours, public meeting).

Wednesday, December 3:

2 p.m.

1. Briefing on Development of Requirements in a Fire Protection Rule for Future Plants (approximately 1½ hours, public meeting).
2. Affirmation Session (approximately 10 minutes, public meeting):
a. Revised Criteria for States.
b. Protection of Unclassified Safeguards Information.
c. PRM from Public Citizen Litigation Group on Required Levels of Financial Protection.
d. Advance Notice of Proposed RM Concerning Design and Other Changes after CP Issuance.
e. Rulemaking in 10 CFR Part 2.
f. ALAB–613 in the Matter of Pennsylvania Power & Light Co.

ADDITIONAL INFORMATION: Discussion of Indian Point, scheduled for 2 p.m. November 25, is rescheduled for 2 p.m., November 26.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498.

Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

November 25, 1980.

Walter Magee,
Office of the Secretary.

[S-2187-80 Filed 11-28-80; 3:17 pm]
BILLING CODE 7590-01-M

10

POSTAL RATE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday and 9:30 a.m., Thursday, December 3–4, 1980.

PLACE: Conference room, room 500, 2000 L Street NW., Washington, D.C. 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Issues in Docket No. R80–1. (Meetings closed pursuant to 5 U.S.C. § 552b(c)(10).)

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, NW., Washington, D.C. 20268; telephone (202) 254–5614.

[S-2186-80 Filed 11-28-80; 2:06 pm]
BILLING CODE 7715-01-M

11

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

STATUS: Closed meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Thursday, November 20, 1980.

CHANGES IN THE MEETING: Additional items. The following additional items were considered at a closed meeting scheduled for Tuesday, November 25, 1980, at 10 a.m.:

Consideration of *amicus* participation.
Litigation matter.
Institution of injunctive action.

Chairman Williams and Commissioners Loomis, Friedman, and Thomas determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Wojtas at (202) 272–2178.

November 26, 1980.

[S-2182-80 Filed 11-26-80; 12:43 pm]
BILLING CODE 8010-01-M

12

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of December 2, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, December 2, 1980, at 10 a.m. and on Thursday, December 4, 1980, following the 10 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Friedman, and Thomas determained to held the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, December 2, 1980, at 10 a.m., will be:

Institution of injunctive actions.
Institution of administrative proceeding of an enforcement nature.
Settlement of administrative proceeding of an enforcement nature.
Settlement of injunctive action.
Regulatory matter bearing enforcement implications.
Litigation matter.
Freedom of Information Act appeal.
Opinion.

The subject matter of the closed meeting scheduled for Thursday, December 4, 1980, following the 10 a.m. open meeting, will be:

Formal orders of investigation.
Dismissal of an injunctive action.
Settlement of administrative proceeding of an enforcement nature.
Regulatory matter regarding financial institutions.
Freedom of Information Act appeals.

The subject matter of the open meeting scheduled for Thursday, December 4, 1980, at 10 a.m., will be:

1. Consideration of whether to grant the appeal of Thomas J. Madden, seeking access to documents concerning the request for acceleration of the effective date of the registration statement of XOIL Energy Resources, Inc. For further information, please contact Andrew W. Sidman at (202) 272–2454.
2. Consideration of whether to grant the request of Joel Seligman, Associate Professor of Law at the Northeastern University School of Law in Boston, Massachusetts, to read and copy exhibits to certain Commission Minutes. Mr. Seligman has requested the material for a booklength history of the Commission which he is writing. For further information, please contact Theodore Bloch at (202) 272–2454.
3. Consideration of whether to issue a release announcing that requestors of no-action and interpretive letters from the Division of Corporation Finance should submit an original and seven copies of their requests. The announcement would also reiterate certain previously announced procedures to be followed by such requestors. For further information, please contact Ann M. Glickman at (202) 272–2573.
4. Consideration of whether to adopt an amendment to Rule 13d–2(a) under the Securities Exchange Act of 1934 which would remove the availability of an exception from the requirements to file amendments to statements filed on Schedule 13D. For further information, please contact W. Scott Cooper at (202) 272–2589.
5. Consideration of whether to affirm action, taken by the Duty Officer, authorizing publication of a release extending the comment period on proposed amendments to Form S–18 and Item 2 of Regulation S–K and a proposal to rescind Form S–3 until December 21, 1980. For further information, please contact Michael J. Eizelman at (202) 272–2644.
6. Consideration of whether to publish for comment a proposal to standardize financial statement requirements in management investment company prospectuses and reports to shareholders. Based on these standardized financial statement requirements, open-end companies would then be permitted to incorporate by reference financial statements contained in any report to shareholders into the prospectus or to transmit a copy of the currently effective prospectus as the equivalent of any report to shareholders. For further information, please contact Dianne E. O'Donnell at (202) 272–2115.
7. Consideration of whether to issue a release of a study entitled "Rule 242: A Monitoring Report on the First Six Months of Its Use." The Report sets forth the findings of an empirical study of the offerings made in reliance upon Rule 242 and the issuers utilizing the Rule. For further information, please contact Jeffry L. Davis at (202) 272–2850.

At time changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Wojtas at (202) 272–2178.

November 25, 1980.

[S-2183-80 Filed 11-28-80; 12:44 pm]
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Part II

Department of Health and Human Services

Health Care Financing Administration

Medicare Program; Withholding of Payments to Practitioners, Providers, and Suppliers of Services When There Is Evidence of Fraud

DEPARTMENT OF HEALTH AND HUMAN SERVICES

for suspension of payments to practitioners, providers, or suppliers of services when there is reliable evidence

the affected party to impede an investigation. The administrative review elaborates on the same fraudulent acts

writing for consideration by HCFA with respect to whether the proper amount is being withheld or whether the

(d) Within 10 days after the review, HCFA would inform the affected party in writing of its decision to continue or

(2) The circumstances requiring the withholding serve as part of the basis for any of the following actions taken

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405 and 420

Medicare Program; Withholding of Payments to Practitioners, Providers, and Suppliers of Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposal would amend existing regulations to provide timely notice and administrative review when Medicare payments for services are withheld because there is evidence of fraud. This proposal would specify what constitutes evidence of fraud sufficient to support withholding: where a case is under criminal investigation, or a formal criminal charge has been issued, or a civil suit has been filed, or the procedures for exclusion from the Medicare program have been initiated because of fraud related to the Medicare program.

The purpose of this proposal is to specify in regulations procedures to protect the interests of providers, practitioners, and suppliers of service without compromising pending actions or procedures or the ability of the Federal government to protect funds.

DATE: To assure consideration, comments should be received by January 30, 1981.

ADDRESSES: Address comments to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17073, Baltimore, Maryland 21235.

If you prefer, you may deliver your comments to: Room 309–G, Hubert H. Humphrey Building, 200 Independence Ave, SW., Washington, D.C. or to Room 789, East High Rise Building, 6401 Security Boulevard, Baltimore, Maryland.

Please refer to File Code BQC–4–P. Agencies and organizations are requested to submit comments in duplicate. Comments will be available approximately 2 weeks after publication in Room 309–G of the Department's office at 200 Independence Avenue, SW., Washington D.C. on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202–245–7890).

FOR FURTHER INFORMATION CONTACT: Irwin Cohen, 301–594–8213.

SUPPLEMENTARY INFORMATION:

Background

Current Medicare regulations at 42 CFR 405.371(b) specify the proceedings for suspension of payments to practitioners, providers, or suppliers of services when there is reliable evidence of fraud or willful misrepresentation. The regulations do not define "reliable evidence of fraud," nor do they require notice to the affected party within a specified period or opportunity for that party to submit information with respect to whether withholding (suspension of Medicare payments) should be made.

The proposed regulations would specify when a withholding action will be taken. They would also provide for procedures for notice and opportunity for the affected party to submit information.

Major Provisions

1. When Payment May Be Withheld

Current regulations do not specify what constitutes sufficient evidence of fraud to warrant withholding. The proposed regulations would provide that evidence of fraud is sufficient to support a withholding when it is substantiated by a legal action or investigation that is initiated because of irregularities in either the Medicare or Medicaid program. In addition, the circumstances that cause the overpayment in Medicare and serve as the basis for withholding payments would also have to be part of the basis for the legal action or investigation initiated against the affected party.

Thus, we propose that there is evidence of fraud when any of the following occurs:

(a) HCFA has referred a case in writing to the legally responsible authorities for criminal investigation.

(b) HCFA is notified in writing by legally responsible authorities that a criminal investigation has begun.

(c) A civil suit has been filed.

(d) A formal criminal charge has been issued.

(e) Procedures for exclusion from the Medicare program have been initiated.

Because these actions are serious steps that are taken only after development of a case and thorough consideration of all the factors involved, we consider these steps substantiate sufficient evidence of fraud to warrant withholding to protect trust fund monies.

2. HCFA Decision Not to Withhold

Our program integrity experience has indicated that a withholding action or the release of evidentiary material during administrative review may at times have an adverse impact on investigation, prosecution, or civil action. A withholding action could alert the affected party to impede an investigation. The administrative review elaborates on the same fraudulent acts that are the basis for such procedures as criminal prosecutions, and this could prejudice the parties involved. Ultimately, the efforts of HHS to eliminate fraud would be impeded. Therefore, the proposed regulations would provide that HCFA may choose not to withhold after consultation with the investigative or proscecutive authorities if it determines that withholding at that time would adversely affect the case.

Since the reason for taking an action to withhold payments is to protect the program against financial loss, HCFA may also decide not to withhold if it determines that there is no financial risk to the government.

3. Notice of Withholding

The intermediary or carrier would furnish the practitioner, provider, or supplier of services with a written notice of withholding within 5 days after initiating the withholding action.

The intermediary or carrier would develop this notice in conjunction with HCFA and would send it by certified mail, return receipt requested. The notice would state the following:

(a) The reasons for the withholding.

(b) The amount of withholding.

(c) That there will be no payment for assigned claims submitted to a carrier under Part B of the Medicare program; or that there will be a reduction in the interim payment for claims submitted to an intermediary under Part A or Part B of the Medicare program. The amount withheld from interim payments will not exceed the approximate costs attributable to the particular service or cost center in which overpayment is suspected.

(d) That the practitioner, provider, or supplier of services continues to be bound by the terms of the assignment or provider agreement and may not charge beneficiaries or third parties any amounts not allowed under the assignment or provider agreement.

(e) That if the withholding exceeds 12 months, HCFA will offer the practitioner, provider, or supplier of services an administrative review within 10 days after the end of the 12-month period.

(f) That HCFA may suspend the administrative review if a criminal charge has been issued or if a civil fraud suit has been filed, pending the resolution of such actions.

(g) That the practitioner, provider, or supplier may at any time submit additional information or argument in writing for consideration by HCFA with respect to whether the proper amount is being withheld or whether the withholding action could be terminated.

4. Amount of Withholding

The intermediary or carrier would withhold only that amount of funds required to protect against the estimated overpayment and would repay any funds withheld in excess of the final determination of overpayment.

5. Administrative Review

When payments are withheld in cases involving evidence of fraud, HCFA wishes to postpone an administrative review lest the review prejudice parties involved in such procedures as investigations or criminal actions. However, we do not wish to continue the withholding of Medicare payments for an indefinite period without opportunity for administrative review.

We are proposing, therefore, that when a withholding based on evidence of fraud goes into effect, the practitioner, provider, or supplier of services would be entitled to notice and an opportunity to submit facts contesting the withholding. In addition, ordinarily within 12 months and 10 days of the date of the withholding action, HCFA would either offer an administrative review to the affected party, to determine whether to continue or discontinue the withholding, or terminate the withholding action and pay the funds withheld.

HCFA could defer the administrative review beyond the 12-month period if a criminal charge has been issued or a civil action has been filed. In these cases, the issues which would be considered during administrative review would be adequately adjudicated in those actions.

The administrative review would be nonadversary in nature and afford the affected party the opportunity to present additional evidence in writing or in person. The procedures for the administrative review would be as follows:

(a) When the affected party requests a review, HCFA, within 10 days, would provide a notice that contains the specific facts upon which the withholding is based.

(b) The affected party would have 90 days to study the material and to request, in writing, an opportunity to contest the withholding.

(c) If the affected party requests an opportunity to contest the withholding, a HCFA official not involved in the withholding would conduct a review within 15 days.

(d) Within 10 days after the review, HCFA would inform the affected party in writing of its decision to continue or discontinue the withholding of payments. That notice would contain specific findings as to the facts upon which the continued withholding is based and a statement explaining the final decision.

42 CFR Chapter IV is amended as set forth below:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

1. Section 405.371(b) is revised to read as follows:

§ 405.371 Proceeding for suspension.

* * * * *

(b) *Fraud.* The provisions of paragraph (a) of this section shall not apply where HCFA has evidence that the circumstances giving rise to the need for a suspension of payments involve fraud. For procedures in cases involving evidence of fraud, see part 420 of this chapter.

2. Part 420 is amended by adding a new Subpart D to read as follows:

PART 420—PROGRAM INTEGRITY

* * * * *

Subpart D—Withholding of Payments in Cases of Suspected Fraud

Sec.
420.300 Scope of subpart.
420.301 Basis for withholding.
420.302 Withholding of payments by intermediary or carrier.
420.303 Notice of withholding.
420.304 Administrative review.

Authority: Section 1102 of the Social Security Act (42 U.S.C. 1302).

Subpart D—Withholding of Payments in Cases of Suspected Fraud

§ 420.300 Scope of subpart.

This subpart sets forth criteria and procedures for withholding payments to practitioners, providers, and suppliers of services when a withholding action is necessary to protect against overpayment and there is evidence that the circumstances giving rise to the need for withholding involve fraud. Payments are withheld in order to protect the Goyernment from financial loss.

§ 420.301 Basis for withholding.

(a) HCFA will instruct the intermediary or carrier to withhold payments under Medicare for items or services furnished by a practitioner, provider, or supplier of services when—

(1) Withholding is necessary to protect against overpayment; and

(2) The circumstances requiring the withholding serve as part of the basis for any of the following actions taken against that practitioner, provider, or supplier because of conduct in the Medicare or Medicaid program:

(i) HCFA has referred a case in writing to a legally responsible authority for criminal investigation.

(ii) A legally responsible authority has notified HCFA in writing that a practitioner, provider, or supplier is under criminal investigation.

(iii) A formal criminal charge has been issued.

(iv) A civil fraud suit has been filed.

(v) HCFA has initiated exclusion procedures in accordance with § 420.102 of this part because of fraud.

(b) HCFA may defer withholding payments if it determines that—

(1) Withholding will adversely affect the investigation or legal actions under paragraph (a) of this section; or

(2) There is no financial risk to the government.

§ 420.302 Withholding of payment by intermediary or carrier.

When HCFA determines that a withholding action is required, it will notify the intermediary or carrier to—

(a) Withhold only that amount of funds required to protect against overpayment; and

(b) Begin immediately withholding payments, including payments for claims the intermediary or carrier has on hand, in the following manner:

(1) Withhold payments for all assigned claims submitted to the carrier under Part B of the Medicare program; or

(2) Reduce the interim payments for claims submitted to the intermediary under Part A or Part B of the Medicare program. The amount withheld from the interim payments must not exceed approximate costs attributable to the particular service or cost center in which overpayment is suspected.

§ 420.303 Notice of withholding.

(a) *Timing of notice.* The intermediary or carrier shall notify the affected party of the withholding action by certified mail, return receipt requested, within 5 days of taking such action.

(b) *Content of notice.* The notice will state—

(1) The reasons why payment is being withheld;

(2) The effective date of withholding;

(3) The circumstances (see § 420.304 (a) of this subpart) under which HCFA will either terminate the withholding or offer an administrative review to the affected party;

(4) The amount of the withholding;

(5) The extent of the withholding:
(i) That withholding applies to all specified in § 420.301(a)(2)(iii) and (iv) of this subpart.

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(5) The extent of the withholding:

(i) That withholding applies to all assigned claims submitted to a carrier under Part B of the Medicare program; or

(ii) That, for claims submitted to an intermediary under Part A or Part B of the Medicare program, the withholding of interim payments will not exceed approximate costs of the particular service or cost center in which overpayment is suspected;

(6) That the affected party must continue to comply with the terms of the assignment or provider agreement and may not charge beneficiaries or third parties any amounts not allowed under the assignment or provider agreement; and

(7) That the affected party may, at any time, submit additional information or argument in writing for consideration by a HCFA official with respect to whether the withholding will be terminated or continued or whether the correct amount is withheld.

(c) *Result of review of information.* HCFA will consider evidence or written argument received from the affected party in accordance with paragraph (b)(7) of this section and will furnish a written notice, within 15 days of the receipt of that evidence, stating whether withholding of payments will be continued or discontinued, and whether or not the amount withheld has been adjusted.

§ 420.304 Administrative review.

(a) *Right to review.* Except as provided in paragraph (b) of this section, HCFA will either offer an administrative review or terminate the withholding and pay the funds withheld, when the earliest of the following occurs:

(1) The investigative or prosecutive authority determines that fraud has not been committed by the affected party.

(2) Civil or criminal proceedings initiated against the affected party, specified in § 420.301(a)(2)(iii) and (iv) of this subpart, are completed.

(3) Exclusion procedures in accordance with § 420.102 of this part are completed.

(4) Withholding continues for a 12-month period without the initiation of an administrative review. In this case, HCFA will either offer the administrative review, or terminate the withholding and pay the funds withheld, within 10 days after the 12-month period.

(b) *Suspension of administrative review.* HCFA may suspend the administrative review pending the completion of those legal proceedings initiated against the affected party specified in § 420.301(a)(2)(iii) and (iv) of this subpart.

(c) *Conduct of the review.* When a provider, practitioner, or supplier of services requests a review offered under paragraph (a) of this section, HCFA will observe the following procedures:

(1) Within 10 days of receipt of the request for a review, HCFA will mail a notice to the affected party that—

(i) Informs the affected party of the specific facts upon which the withholding is based; and

(ii) Provides the affected party 90 days to study this information and to request the opportunity to contest it.

(2) If the affected party requests the opportunity to contest the information, HCFA will provide the affected party an opportunity to present his or her case, in writing or in person, within 15 days to a HCFA official not involved in the withholding.

(3) Within 10 days after the affected party presents his or her case, HCFA will notify the party in writing of its decision to continue or discontinue the withholding. That notice will contain specific findings of fact and a statement explaining the final decision.

(Sec. 1102, of the Social Security Act (42 U.S.C. 1302))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance Program; No. 13.774, Medicare—Supplementary Medical Insurance Program)

Dated: November 5, 1980.

Howard Newman,

Administrator, Health Care Financing Administration.

Approved: November 17, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-38663 Filed 11-28-80; 8:45 am]

BILLING CODE 4110-35-M

federal register

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Part III

Department of Transportation

Office of the Secretary, Federal Highway Traffic Safety Administration, Urban Mass Transportation Administration, National Highway Traffic Safety Administration

Transportation Systems Management (TSM) Program

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Notice Number 80-20]

Comprehensive Transportation System Management Assistance and Complementary DOT Programs

SUMMARY: The Department of Transportation (DOT) is soliciting proposals for Transportation System Management (TSM) approaches to improving the operation of local transportation systems. Four DOT programs are being coordinated to contribute to this effort. Notices of Solicitation for three of these programs are being published immediately following this Notice; the fourth, the Innovative Grants Program of the National Highway Traffic Safety Administration (NHTSA), was announced earlier. Together, these announcements represent a significant advance in DOT's support for local TSM activity.

FOR FURTHER INFORMATION: Questions and comments on the coordination of agency programs, and on DOT's general approach as expressed in this overview Notice should be directed to Don Ryan, Office of the Assistant Secretary for Budget and Programs, Department of Transportation, Washington, D.C. 20590; or phone (202) 426-9603. Questions and comments on the individual agency program solicitations which follow should be directed as each Notice of Solicitation indicates.

Background

The joint planning regulations of FHWA and UMTA that comprise the Urban Transportation Planning Process (23 CFR 450.116 and Appendix A) require Transportation System Management (TSM) planning in both short and long range planning. TSM is based on the proposition that system capacity is as much a function of operating efficiency as of physical facilities. Emphasis is shifted to improvements in service and operations as the preferred means of assuring and improving mobility. Beyond mobility demands, TSM planning accounts for related considerations, such as energy conservation, air quality, urban revitalization environmental enhancement and fiscal constraints, which have recently taken on increased importance.

TSM measures generally include, but are not limited to, ride-sharing, alternative work schedules, transit service improvements, parking management, pedestrian and bicycle facilities and programs, High Occupancy Vehicle (HOV) lanes, traffic signalization, efficient driving techniques and vehicle maintenance, and related public information, marketing, and operational support activities.

TSM actions have several important characteristics. Two in particular are: (1) they are usually, but not uniformly, low capital projects that emphasize more efficient use of existing vehicles and facilities rather than new vehicles or construction; and (2) they are often synergistic in nature, the combined effect of a package of related, reinforcing actions being greater than the cumulative effect of the same projects deployed in isolation from one another.

The DOT recognizes that successful nationwide application of TSM practices requires coordinated support from this Department for local transportation planners and decisionmakers. Three major actions have already been undertaken: (1) revising state-level and urban transportation planning regulations (a first round of revisions completed August 29, 1980 [45 FR 58022] and a second round issued for public comment on October 30, 1980, [45 FR 71990]) to fully acknowledge the importance placed on TSM activities; (2) making TSM planning and implementation activities eligible items under most FHWA and UMTA regular program funding and certain NHTSA funding; and (3) undertaking a broad range of TSM training, guidance, and information sharing programs. DOT's purposes in taking these actions, and in making today's program announcements, may be summarized as follows:

(1) To encourage strategic local planning and programs to meet transportation, energy, air quality, economic development, goods movement and other goals (Note: such planning activities are eligible items under most regular DOT program funding, and are not an intended use of the program funds announced today);

(2) Subject to that planning, to encourage the packaging of mutually-reinforcing TSM transportation actions into comprehensive TSM strategies;

(3) To join DOT and other Federal, State, local and private resources together in support of those strategies;

(4) To structure DOT financial and technical assistance to be convenient to, and supportive of, comprehensive community TSM planning.

This Notice, and the individual program Notices which follow, represent an effort to describe and associate complementary DOT programs in a comprehensive way. The programs contained in these Notices share, and contribute in different ways to, the goals of Transportation System Management. By offering to potential applicants the opportunity to develop comprehensive strategies that serve these goals, and by structuring its process to acknowledge such approaches, the DOT hopes to advance both the goals and the usefulness of the program support provided.

Program Description

Three program announcements are being published by DOT agencies today. They are:

(1) *Comprehensive Transportation System Management (TSM) Assistance*—Federal Highway Administration (FHWA), Urban Mass Transportation Administration (UMTA), National Highway Traffic Safety Administration (NHTSA);

(2) *Ridesharing Discretionary Grant Program* (FHWA);

(3) *Innovative Techniques and Methods in the Management and Operations of Public Transportation* (UMTA).

These three programs, together with NHTSA's Innovative Grants Program (discussed below), may all be used to support TSM strategies, although each may have other specific purposes. Resources from the four programs may be used in conjunction with other Federal, State, local and private resources to advance local TSM goals—and this is expressly encouraged in program criteria. In particular, use of other DOT regular program funds, such as UMTA Section 5 funds and most Federal-aid Highway funds, is encouraged and will be recognized in the award of funds advertised in today's publications.

The goals and provisions of the individual programs are closely related but distinctive. Applicants are encouraged to read the notices carefully in order to understand both the distinctions and the common or complementary aspects of each. In particular a review of the criteria for awards and the categories of eligible projects will help to clarify this, (categories or projects eligible for funding from more than one program are so noted).

The Comprehensive TSM Assistance Program is new this year. It is intended to encourage comprehensive local TSM approaches, especially those that may produce energy savings, and to act as a means of associating the TSM aspects of the other DOT programs.

FHWA's Ridesharing Discretionary Grant Program is intended to promote broad application of innovative ridesharing techniques, with special consideration given to ridesharing efforts that have active employer commitment and involvement.

UMTA's Innovative Techniques and Methods program, also new this year, provides assistance for improvements in the management and operation of public transportation services, including support for TSM activities that complement and contribute to such improvements.

NHTSA's Innovative Grants program is primarily directed to highway safety activities, but may be applied to projects which advance both safety and driver/vehicle efficiency goals.

Procedure for Applications

Potential applicants may submit proposals individually to any of these programs, or they may submit a single comprehensive TSM proposal to the Comprehensive TSM Assistance Program (see individual program Notices for specifics of applicant eligibility). If applicants elect the comprehensive approach, specific elements of their proposals are eligible for funding from any of the four agency programs wherein that element qualifies as an eligible project. Thus a comprehensive package of TSM actions which included an HOV lane designation, a ridesharing program and an employer-subsidized transit fare prepayment project would be considered eligible for funding under each of three programs. This wider eligibility is intended as an incentive to communities to undertake comprehensive planning and implementation. This approach is illustrated schmeatically on the following chart:

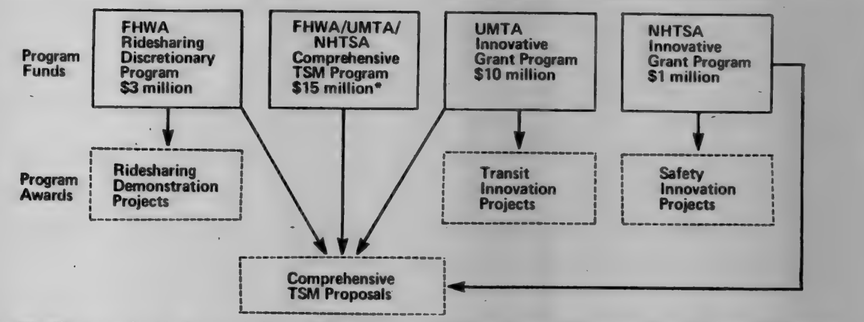

*This $15 million comes from funds earmarked by the Congress in the DOT's Fiscal Year 1981 Appropriations Act. $10 million is administratively located in NHTSA, and $5 million in UMTA's Innovative Techniques category, and these amounts are subject to the statutory obligations of those agencies. However, the full $15 million will be functionally administered as a single program, with FHWA the lead agency, as described in this and the following Notices of Solicitation:

The Conference Committee Report gives the following direction to DOT:

The conferees have earmarked $10,000,000 under this heading [NHTSA] and $5,000,000 of the funds included for urban discretionary grants [UMTA] to accomplish the energy conservation and air quality objectives of the transporation systems management program. In addition to these funds, the conference agreement also provides funding for certain programs of the Federal Highway Administration, Urban Mass Transportation Administration and the National Highway Traffic Safety Administration which have similar objectives to those of the transportation systems management program.

The conferees expect these programs to be coordinated and consolidated to the maximum extent possible so that the most efficient use of funds is made to meet these objectives in the most cost effective manner.

An applicant may also make application directly to any of the three individual agency programs. Since there are distinctions among the programs, such a separate application may be appropriate. For example, a transit agency may wish to improve run-cutting and scheduling operations of its passenger information systems. Such projects are encouraged by UMTA, and would be considered for funding from its Innovative Techniques and Methods program.

Applications for Comprehensive TSM Assistance grants will be submitted through usual FHWA channels (even if they contain projects which may ultimately be funded from more than one program). Proposals will be reviewed at the Federal regional level by a panel of FHWA, UMTA, and NHTSA regional staff. All proposals will then be forwarded to the DOT in Washington, where a panel of the same agencies will coordinate award decisions, including decisions on which individual projects in a TSM package will be funded from which program funds.[1]

Applications to individual programs, for any projects eligible within the criteria and project categories of that program, should proceed through agency channels as

[1] Note that certain statutory provisions such as labor protection may apply to some program funds and not others. Compliance with these provisions wherever possible will assure broadest eligibility.

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indicated in the solicitation. Awards will be made separately by the agency involved, but in close coordination with the other DOT agencies.

Proposals submitted to either the Comprehensive TSM Assistance Program or to individual programs will be due to the appropriate DOT field office by March 1, 1981. This will allow comprehensive proposals and individual program proposals to be considered simultaneously, and will allow DOT agencies to weigh the merits of combined or separate funding of proposals.

Innovative Grants Program—NHTSA

A Notice of Proposed Rulemaking for NHTSA's Innovative Grants program was published in the **Federal Register** on October 23 (45 FR 70282). NHTSA expects to adopt a Final Rule on this program on or about December 15, 1980, and will be soliciting soliciting proposals at that time. Submissions will be due on March 1, 1981, as with the other programs.

Although the primary focus of the NHTSA program is on innovative methods of improving highway safety, some eligible projects may also have an energy conservation dimension. Driver training, inspection and maintenance, and other programs may be structured to improve driver and vehicle operating efficiencies as well as safety, and to that extent may be considered by DOT as eligible for funding under both the Innovative Grants and Comprehensive TSM Assistance programs. Such projects may be submitted as part of a comprehensive community TSM proposal, subject to the criteria for both programs. Of course innovative highway safety, or safety and energy efficiency proposals may still be submitted directly to NHTSA to compete only for NHTSA funding.

(Department of Transportation Act, 49 U.S.C. Section 1651 et seq.)

Issued in Washington, D.C. on November 21, 1980.

Angus Duncan,

Director of Energy Policy, Office of the Secretary.

[FR Doc. 80-37165 Filed 11-28-80; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Urban Mass Transportation Administration

National Highway Traffic Safety Administration

Comprehensive Transportation System Management Assistance Program: Solicitation of Interest

AGENCIES: Federal Highway Administration (FHWA), Urban Mass Transportation Administration (UMTA), and National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation Appropriations Act for 1981 (Pub. L. 96-400, 94 Stat. 1681) and the Conference Report (H.R. Rep. No. 96-1400, 95th Cong., 2nd Sess. 12, 15 (1980)) provide $15 million of discretionary funds ($10 million from NHTSA State and Community Highway Safety funds and $5 million from UMTA urban discretionary grants) for a joint FHWA, UMTA, NHTSA program to accomplish energy conservation, air quality, and related objectives. FHWA has the lead administrative responsibility for the program. This program is to be coordinated with other programs of FHWA, UMTA, and NHTSA, which have similar objectives. This solicitation of interest for the Comprehensive Transportation System Management Assistance Program is being jointly announced with the UMTA program for Innovative Techniques in the Management and Operation of Public Transportation and the FHWA Ridesharing Discretionary Program

The intent of these TSM program funds is to stimulate wider implementation of comprehensive TSM programs and projects.

DATE: Letters of interest for the TSM program should be sumitted by the appropriate State agency to the Federal Highway Administration division office by March 1, 1981.

FOR FURTHER INFORMATION CONTACT:

Gary Maring, Chief, Transportation System Management Branch, 202-426-0210, or Lee J. Burstyn, Office of the Chief Counsel, 202-426-0754, Federal Highway Administration, 400 7th Street, SW., Washington, D.C. 20590. Office hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday.

SUPPLEMENTARY INFORMATION:

Introduction

Transportation plans and programs are being called upon to an increasing extent to support other important national and local objectives such as energy conservation, air quality, safety, urban revitalization, and economic development. At the same time, increasing costs of constructing transportation facilities and decreasing fiscal resources make major new investments extremely difficult. These factors have made it increasingly important that existing transportation resources—facilities, equipment, and services—be operated in the most effective and efficient manner possible. It is this need that led to the concept of TSM and its inclusion as a required element in the transportation plans for urbanized areas.

Although progress has been made in implementation of certain types of TSM projects, comprehensive strategies and programs have generally not been implemented. The intent of this new program is to stimulate broader implementation of a wide range of generally proven TSM techniques. The funds will be used to encourage increased use of regular program funds of FHWA, UMTA, and NHTSA for TSM. To maximize effectiveness of the program in achieving its objectives such as energy conservation, States and local areas are strongly encouraged to package comprehensive TSM strategies that encompass three broad areas: (1) improving transportation system efficiency by increasing occupancies, e.g., through ridesharing, high occupancy vehicle (HOV) techniques, parking management, (2) providing alternatives to the automobile, e.g., pedestrian and bicycle improvements, (3) improving driver efficiency, e.g., driver training programs for energy conservation.

The following list, which is not intended to be all inclusive, provides examples of eligible project elements.

Examples of Eligible Expenditures for TSM Program

—Ridesharing * □

- Promotion and marketing
- Matching
- Vanpool acquisitions
- Preferential parking

—Alternative Work Schedules *

- Flexitime programs
- Staggered work hour programs
- Compressed work week programs

—HOV Facilities * □

- Designation of HOV lanes on arterials and freeways (contra-flow or with-flow)
- HOV bypass of ramp meter
- HOV signal preemption or progression
- Fringe parking (leasing or minor construction)
- Enforcement and initial operation

—Traffic Signalization

- Signal timing
- Signal interconnect
- Signal control systems
- Surveillance and control systems

—Transit Service Improvements

- Transit marketing
- Integration of Service
- Transit shelters
- Transit pricing
- Parking related transit incentives
- Signal preemption

—Pedestrian and Bicycle Facilities

- Pedestrian facilities such as paths, over and underpasses, shelters, skyways, and curb cuts
- Auto restricted zones
- Bycycle signing, lanes, paths, and lockers
- Neighborhood enhancement

—Parking Management Programs

- Supply management
- Pricing
- Residential parking permit programs
- Enforcement

—Goods Movement

- Truck routing
- Loading zone designation and enforcement
- Terminal access

—Vehicle Use Δ

- Fuel economy aspects of police and other fleet operations
- Driver training in energy-efficient driving; especially for new drivers and heavy duty vehicle drivers
- Energy efficient trip planning, choice of mode, and vehicle selections
- Energy efficient vehicle inspection, maintenance, and repair; e.g., tire inflation, engine tuning, use of reduced friction lubricants; wheel alignment
- Distribution of energy conservation awareness material through driver licensing and vehicle registration channels
- Associated public information, education, and training for all of the above

The anticipated length of funding for a TSM project or program is not expected to exceed 2 years.

* Certain of these expenditures are also eligible under the Ridesharing Discretionary Program

□ Certain of these expenditures are also eligible under the UMTA program for Innovation Techniques in the Management and Operation of Public Transportation

Δ Certain of these expenditures are also eligible under the Innovative Grants Program of NHTSA

Eligible Participant

Any public agency with authority to administer such programs is invited to express its interest in the TSM program. Other interested private or nonprofit agencies that wish to submit letters of interest may do so by working in cooperation with an eligible public agency to sponsor the proposed program or project.

One lead agency should coordinate development and submittal of the letter of interest for the entire package of TSM improvements. The metropolitan planning organization (MPO) must endorse the letter of interest.

Financing

The program will provide discretionary funds to State and local agencies to increase implementation of comprehensive TSM programs. There is a strong emphasis to use these new TSM funds in combination with regular program funds, of FHWA, UMTA, NHTSA, and other Federal, State, local, and private funds. Except for certain driver efficiency activities (listed under Vehicle Use in this Notice), these should be new TSM funding commitments beyond those programmed as of December 1, 1980. While no explicit local match is required for this program, DOT expects significant evidence of the applicant's commitment to support and continue the activities from this program. A suggested minimum commitment would be $2 of new TSM funding (including local match for regular Federal program funds) for each $1 sought from this program. For driver efficiency programs, existing rather than new commitments would be acceptable.

Program sponsors are encouraged to use regular program funds,, e.g., apportioned Federal-aid highway funds, UMTA Section 3 or 5 grants, NHTSA funds, for those project or program items normally eligible under the existing funding categories, especially for significant capital elements, and to use the additional discretionary funds being requested for elements that have not traditionally been funded.

Specific requirements for data collection and project monitoring and evaluation will be determined after project selection, but such expenditures are expected to be modest and should normally not exceed 10 percent of the total discretionary funds requested. Requests for funding from the new TSM program funds are normally not expected to exceed $500,000 per project as these funds are considered as "seed" money for implementation of larger TSM programs.

Selection Criteria

The following criteria, not necessarily in order of importance, will be used to determine which of the interested parties will be selected to participate in the program:

1. Commitment of other State, local, or Federal program funds (e.g., apportioned Federal-aid funds; UMTA program funds; NHTSA program funds) and other program resources to the TSM proposal.
2. Cost and energy conservation effectiveness of program.
3. Commitment of State or local area to a comprehensive and continuing TSM program (package)—one that emphasizes activities which contribute to and enforce each other.
4. Contribution of program to adopted community energy conservation and related environmental, urban revitalization, and economic goals.
5. Extent to which the proposal is a result of the planning process and the TSM component.
6. Commitment of funds awarded under this program to nonconstruction, low-capital elements not normally funded with regular program funds.
7. Private sector participation in the project funding, development, and operation.

Contents of Letters of Interest

Letters of interest (totaling not more than 30 pages) should include at least the following:

1. An overall statement of the proposed program goals and objectives, involved parties, and target area. For larger urban areas, the programs or project may be areawide or only encompass a portion of the urban area, e.g., central business district (CBD) or other major problem areas.
2. A narrative description of the TSM program, including but not limited to descriptions of:

a. Program area including demographic (population, vehicles, and other vital statistics) and economic characteristics,
b. Existing TSM projects in program area,
c. Specific problems to be addressed,
d. A description of proposed program elements,
e. Anticipated benefits and impacts of proposed program including costs and energy effectiveness, and

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f. Legal, zoning, regulatory or institutional barriers, and means to address them.

3. A statement of previous and current TSM activities including annual financial level of effort and funding sources.

4. A breakdown of program cost by element (e.g., parking, pedestrian, driver efficiency), by funding sources, a program cost summary, and anticipated program revenues if appropriate. Budgets are expected to cover the entire duration of programs (i.e., up to 2 years). A sample budget format follows:

I. Funding Source Summary for Total Program

Program element	A	B	Total
Regular Federal funds:			
FHWA (Identify type)	$	$	$
UMTA (Identify type)	$	$	$
NHTSA (Identify type)	$	$	$
Other (Identify type)	$	$	$
State funds (Identify type)	$	$	$
Local funds (Identify type including soft match):			
City	$	$	$
County	$	$	$
Private Employer, etc	$	$	$
New TSM Program funds requested	$	$	$
Totals	$	$	$

II. Program Cost Summary

1. Employee salaries
2. Employee travel
3. Computer expenses
4. Consultant or other contracts
5. Data collection, project monitoring, and evaluation
6. Capital cost elements
7. Operational cost elements

III. Expected Program Revenues (If applicable)

5. Demonstration of local commitment evidenced by attaching the following information:

a. A resolution of the governing body of the party authorizing submittal of the letter of interest.

b. Identification of urbanized area and endorsement of the program by the MPO.

c. Where the MPO is not the areawide A–95 clearinghouse agency, a record of A–95 review.

d. Letters of endorsement and commitment from public and private organizations, including private employers who will participate in the program.

Interested Party Responsibilities

The letter of interest and attachments should be sent to the appropriate State agency with a certification that the proposed program will be included in the TIP for the local area. The State should certify that the proposed project(s) will be included in the State 105 program, and the State Highway Safety Plan as appropriate. Copies of all letters of interest should be forwarded by the State to the FHWA division office by March 1, 1981.

If selected for funding consideration, the program sponsor must plan, implement, collect data, monitor and evaluate project activities under agreement with the State transportation agency and the FHWA and participate with other program sponsors in meetings or workshops as appropriate.

Projects using the UMTA urban discretionary grant funds must meet normal requirements of these funds including Sections 3(d), 3(e). 3(f), 3(g), and 13(c) of the UMT Act.

Time Schedule

Letters of interest should be submitted by the State to the FHWA division office no later than March 1, 1981. They will then be forwarded by FHWA division offices to FHWA regional offices where they will be coordinated with UMTA and NHTSA regional offices. Letters of interest with regional comments will be forwarded to the FHWA Headquarters Office in Washington, D.C. Preliminary selection will be made at Headquarters by a panel of representatives from FHWA, UMTA, and NHTSA. The preliminary announcement of selected programs will be made as soon as possible thereafter.

Evaluation

Evaluation of this program will require the administering agency to monitor and collect items to be described, submit quarterly reports, an annual program summary, and a final program evaluation report.

Quarterly and annual reports shall include:

1. Accomplishments during period,
2. Difficulties encountered and recommendations for improvement,
3. Funds expended for period and to date, and
4. Work planned for upcoming period.

The project final report shall include a description of overall program accomplishments, quantitative results attributable to the program, program expenditures and revenues, program activities to be continued. Measures of effectiveness to be monitored and reported for the program or project area will include, as approprate, items such as changes in vehicle occupancy, traveltime, VMT, transit ridership, parking utilization, accidents, energy consumption.

This solicitation of interest is being issued under the provisions of the Department of Transportation Appropriations Act, 1981, Pub. L. 96–400, 94 Stat. 1681.

Issued on:

John S. Hassell, Jr.,
Federal Highway Administrator.
Joan Claybrook,
National Highway Traffic Safety Administrator.
Theodore C. Lutz,
Urban Mass Transportation Administrator.

[FR Doc. 80-37166 Filed 11-28-80; 8:45 am]
BILLING CODE 4910-22-M

Federal Highway Administration

National Ridesharing Discretionary Program; Solicitation of Interest

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Highway Administration (FHWA) issues this information notice for any parties that may be interested in participating in a ridesharing discretionary funding program. The program will be the basis of a continuing effort to further test innovative and/or comprehensive approaches to ridesharing. This solicitation of interest is being jointly announced with the Urban Mass Transportation Administration program for Innovative Techniques in the Management and Operation of Public Transportation and the Comprehensive Transportation System Management Assistance Program.

DATE: Letters of interest for the initial round of discretionary funding should be submitted by the State transportation agency to the appropriate FHWA division office on or before March 1, 1981.

FOR FURTHER INFORMATION CONTACT:
Barbara Reichart, Chief, Ridesharing Branch, Office of Highway Planning, 202–426–0210; or Ruth Johnson, Office of the Chief Counsel, 202–426–0781, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

Introduction

The Ridesharing Discretionary Program is being announced jointly with the Urban Mass Transportation Administration (UMTA) program for Innovative Techniques in the Management and Operation of Public Transportation and the FHWA, UMTA, NHTSA Comprehensive TSM Assistance Program. Potential applicants may submit letters of interest directly for the Ridesharing Discretionary Program or the UMTA program or may submit a comprehensive proposal including ridesharing elements to the Comprehensive TSM Assistance Program. If applicants elect the comprehensive approach, specific elements of their proposals are eligible for funding from any of the announced programs wherein that element appears as an eligible project or category.

The objective of this Ridesharing Discretionary Program is to gain broader application of positive ridesharing techniques developed in previous efforts by FHWA, UMTA, or others, or developed in projects selected under the National Ridesharing Demonstration Program. Special consideration and priority for funding will be given to proposals that include approaches such as:

1. Innovative mechanisms to secure employer commitment and involvement (e.g., alternative institutional and management arrangements, turnkey marketing).
2. Programs to coordinate small employers who might not otherwise find sponsoring a ridesharing program practical.
3. Multi-shift vanpool or buspool programs at employment centers with consecutive shifts (i.e., hospitals, utility plants, etc.).
4. Vanpool programs using "seed" vans to initiate programs.
5. Work site buspools.
6. Non-commuter ridesharing.
7. Multiple uses of pool vehicles.
8. Programs aimed at site specific problems such as major new construction sites, office parks, regional shopping centers.
9. Innovative funding and financing arrangements.
10. Innovative matching services.

The anticipated length of a project is 2 years.

Eligible Participant

Any public agency with authority to administer ridesharing projects involving the expenditure of Federal-aid highway funds and/or Urban Mass Transportation transit assistance funds is invited to express its interest in the program. Other interested parties who wish to submit letters of interest may do so by working in coordination with an eligible public agency to sponsor the proposed project.

Financing

The program will provide funding to State and local agencies to explore innovative approaches to increase the use of ridesharing. Funding will consist of a 75 percent Federal share and a 25 percent non-Federal local match. The local share may include in-kind contributions such as the value of donated advertising and radio and TV public service announcements, donated personnel and computer hardware and software. Sponsors are especially encouraged to gain the financial support of private employers either in cash (e.g., a fee for each employee newly joining a carpool, vanpool, or buspool) or in commitment of staff time or other resources.

All project-related activities eligible for Federal-aid funding under the Federal-aid carpool and vanpool program are eligible expenses under the discretionary program. Project sponsors are encouraged to use conventional Federal-aid funds for those project items normally eligible under the existing funding categories especially for highway-related incentives such as high occupancy vehicle facility signing and to use the discretionary funds being requested in the development of a comprehensive ridesharing program utilizing a variety of innovative approaches (such as those outlined in the introduction) as well as for data collection and project monitoring.

It is anticipated that data collection and project monitoring will be budgeted at approximately 10 percent of total funds requested. Request for funding are not expected to exceed $300,000 per project.

Evaluation

Evaluation of the discretionary program projects will require the administering agency to submit quarterly reports and an annual summary report.

Quarterly reports shall contain a brief narrative discussion containing information leading to preparation of the yearly report and covering each of the following:

1. Activities and accomplishments during this quarter.
2. Difficulties encountered and recommendations of improvement.
3. Work planned for the upcoming quarter.

In addition the report shall contain a funding summary including funds expended during the quarter, total funds expended to date, funds remaining and funds to be expended in the upcoming quarter.

At the end of the first year an interim report shall be submitted summarizing the years accomplishments. At the conclusion of the project a final report shall be submitted containing the following:

1. Activities and Accomplishments

Include in this section specific quantitative results attributable to the program. The results in this section should be clearly defined and utilize visual aids (charts, graphics, etc.) when appropriate. Measures of effectiveness discussed in this section should include:

a. Number and type of employer sponsored programs initiated or expanded, percent of work force participating, type and effectiveness of employer provided initiatives, and annual employer cost.
b. Change in peak period vehicle occupancy rates
c. Reduction in parking demand
d. Estimated reduction in VMT
e. Percent increase in ridesharing by mode (i.e., carpools, vanpools, buspools, etc.)
f. Estimated attrition and replacement rates
g. Estimated energy savings (i.e., gallons of gasoline)
h. Estimated reduction in mobile source pollutants
i. Cost effectiveness (i.e., dollars expended per new ridesharer attracted).

2. Discussion of results:

Include in this section a summary of all project activities intended to increase ridesharing and a discussion of their relative success or failure in achieving the desired objectives. Also discuss reasons why activities succeeded or failed.

3. Work planned to incorporate the positive elements of the project into an ongoing program:

Include a discussion of project strategies to be continued and activities planned to correct past deficiencies.

4. A summary of funds expended.

Selection Criteria

The following criteria, not necessarily in order of importance, will be used to determine which of the interested parties will be invited to participate in the programs:

a. Innovative features regarding marketing incentives, financing, regulations, insurance, matching, management, and other aspects that have the potential to increase the level of ridesharing activity nationally as well as locally.

b. Private sector participation in the project funding, development, and operation. (Special consideration will be given to those projects which are comprehensive in nature

and include a definite commitment of resources from the employer or developer.)

c. Commitment of personnel from local agencies such as ridesharing offices, traffic and planning departments, and transit operators to participate in the implementation of a comprehensive ridesharing program.

d. Commitment of State, local, and Federal program funds and resources, particularly past and projected commitment of Federal-aid Urban and/or Primary Systems funds, to implement ridesharing programs and incentives.

e. Degree of community involvement and support from public officials, public and private bus operators, employers and other relevant groups as evidenced by letters of endorsement.

f. Endorsement and willingness of State and local officials to cooperate in the development and implementation of a comprehensive ridesharing program.

g. Cost and energy conservation effectiveness of program. (e.g., Level of anticipated increase in number of ridesharers per dollar of public funds spent.)

h. Degree of management capability to develop and adequately evaluate a comprehensive ridesharing program.

i. Degree of coordination with other energy conserving transportation measures.

Contents of Letters of Interest

Letters of interest should include, in the following order:

a. A concise statement of the proposed projects goals and objectives. Objectives should be quantified to the extent possible. For large urban areas the project may encompass only a segment of the urban area.

b. A narrative description of the activities to be carried out during the project. The narrative should contain a comprehensive discussion of the activities to be implemented with each element discussed individually. In addition, the narrative should state what approaches will be used to match potential poolers, incentives to be developed for pooling, involve employers or groups of employers or employees, involve public and private bus operators in forming buspools, identify legal, zoning, regulatory, or institutional barriers to the formation and encouragement of carpools, vanpools, and buspools, and planned activities to eliminate these barriers and the projects connection with any previous ridesharing activities.

This narrative should be limited to a maximum of 10 pages.

c. A statement of previous and current ridesharing activities, if any, specifically identifying annual financial level of effort and funding sources, size of staff, number of requested matches, number of carpools/vanpools formed, evaluation results, marketing and promotional activities, and legal or regulatory actions taken to encourage ridesharing. If a new ridesharing effort is proposed a statement summarizing past ridesharing efforts by others (either public or private) should be prepared.

d. A breakdown of project cost by project element, by funding sources, and a project cost summary. A sample budjet format follows below indicating the categories to be used.

I. Project Element Summary:	
1. Element A	$
2. Elemeht B	$
3. Element C	$
Total	$
II. Funding Source Summary:	
Federal-aid funds	$
FHWA (identify type)	$
UMTA (identify type)	$
Other (identify type)	$
Total	
Local Match (Specify if in-kind services):	
City A	$
City B	$
Employer	$
County	$
State	$
Other	$
Total	$
Discretionary Funds Requested (Requires 25% no-Federal match) Total.	$

Budgets are expected to cover the entire 2 year duration of the project.

III. Project Cost Summary:	
1. Employee salaries professional	$
2. Employee salaries clerical	$
3. Employee benefits	$
4. Travel	$
5. Computer expenses	$
6. Marketing	$
7. Consultant contracts	$
8. Other contracts (specify)	$
9. Data collection and evaluation	$
10. Vanpool vehicle acquistion	$
11. Other project costs (specify)	$
12. Contingencies	$
Total	$

e. A copy of the following information should be included:

1. A resolution by the governing body of the party authorizing submittal of the letter of interest.

2. Identification of the urbanized area and endorsement of the proposed project by the metropolitan planning organization (MPO).

3. Where the MPO is not the areawide A–95 Clearinghouse agency, a record of A–95 review.

f. Letters of endorsement and commitment from public and private organizations should be included as an attachment and will not be considered part of the letter of interest. No other attachments should be included.

g. Letters of commitment from employers to participate in the ridesharing program.

The Letters of Interest should not exceed 25 pages.

Interested Parties' Responsibilities

Copies of the letter of interest should be sent to the State transportation agnency, if the interested party is other than the State Transportation agency, with a certification that the proposed project, if preliminarily selected for funding, will be included in the Transportation Improvement Program for the local area and State 105 program. If selected for funding consideration, the project sponsor must plan, implement, collect data, document, monitor and evaluate project activities under agreement with State transportation agency and the FHWA, and participate in ridesharing workshops with other project sponsors and agency representatives.

Time Schedule

Letters of interest (for the intial round of discretionary funding) should be submitted by the State transportation agency to the appropriate FHWA division office on or before March 1, 1981. They will then be forwarded through FHWA division and regional offices to the FHWA Headquarters office in Washington, D.C. Project received after March 1 will be considered as additional funding becomes available.

Preliminary selection will be made by FHWA. The announcement of selected projects will be made as soon as possible thereafter.

This solicitation of interest is being issued under the authority of sections 126 (e) and (f) of the Surface Transportation Assistance Act of 1978, Pub. L. 95–599, 92 Stat, 2706, and the interim delegation of authority issued by the Office of the Secretary on January 4, 1979.

Issued on: November 25, 1980.

John S. Hassell, Jr.,

Federal Highway Administrator.

[FR Doc. 80–37167 Filed 11–28–80; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Part 644

[Docket No. 80–D]

Innovative Techniques and Methods in the Management and Operation of Public Transportation

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 4(i) of the Urban Mass Transportation Act of 1964, as amended, authorizes the Urban Mass Transportation (UMTA) to make grants to States and local public bodies "for projects for the deployment of innovative techniques and methods in the management and operation of public transportation services." UMTA is proposing policies and procedures for administering and applying for grants for projects using such innovative techniques and methods. During the period of this rulemaking, UMTA will use these proposed policies and procedures as guidance in administering the Section 4(i) program.

DATES: Comments must be received on or before February 25, 1981.

ADDRESS: Comments must be submitted to UMTA Docket No. 80–D, 400 7th Street, S.W., Washington, D.C. 20590. All comments and suggestions received will be available for examination in room 9320 at the above address between 8:30 a.m. and 5:00 p.m., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed, stamped postcard is included with each comment.

FOR FURTHER INFORMATION CONTACT: Norm Ensrud, Office of Service and Methods Demonstrations, (202) 426–4984.

SUPPLEMENTARY INFORMATION: All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. Comments received after the expiration of the comment period will be considered to the extent feasible.

The Administrator has determined that this regulation is not a significant regulation under the criteria in the DOT Order for Improving Government Regulations (44 FR 11042, February 26, 1979).

The proposed regulations set out the procedures for application for a grant program. Therefore, under the DOT Order, a full evaluation is not warranted because the expected economic impact of the proposed regulations is minimal. The provision of OMB Circular A–95 apply to this Notice of Proposed Rulemaking. It covers the following program as listed in the Catalog of Federal Domestic Assistance: 20.506—Urban Mass Transportation Demonstration Grants.

Discussion of Proposal and Background

The purpose of the proposed regulations is to prescribe policies and procedures for administering a grant program designed to foster the adoption of innovative techniques and methods in the management and operation of public transportation services (referred to as "innovations" in this document). Section 4(i) of the Urban Mass Transportation Act of 1964, as amended, (the Act) through the delegation of authority by the Secretary of Transportation, authorizes the Urban Mass Transportation Administration (UMTA) to make grants to States and local public bodies for projects for the deployment of innovative techniques and methods in the management and operation of public transportation services. Congress has appropriated $15 million for the Section 4(i) Program in Fiscal Year 1981, although it has earmarked a portion of these funds, $5 million, for transportation systems management (TSM) projects. $10 million assigned by Congress to the National Highway Traffic Safety Administration (NHTSA) has also been earmarked for TSM activities, and the two amounts will be combined into a single Comprehensive TSM Assistance Program administered cooperatively by UMTA, NHTSA, and the Federal Highway Administration. UMTA will use the remaining $10 million appropriated for the Section 4(i) program for projects which focus primarily upon transit industry activities. Packaging of transit and other local TSM projects that are mutually reinforcing is encouraged in the Section 4(i) Program.

Concurrent with this proposed rulemaking for the Section 4(i) program, FHWA, NHTSA and UMTA are announcing and describing their $15 million Comprehensive TSM Assistance Program referred to above. These funds will be used for projects in three areas: (a) improving transportation system efficiency by increasing occupancies, e.g., ridesharing, alternative work schedules, parking management, High Occupancy Vehicle (HOV) techniques, (b) providing alternatives to the auto, e.g., pedestrian and bicycle facilities, (c) improved driver efficiency, e.g., driver training programs for energy conservation.

UMTA is presently inviting project proposals to utilize the $10 million of Section 4(i) funds intended primarily for transit industry innovations. During the period of this rulemaking, applications will be considered for Section 4(i) grants using the proposed regulations as guidance. Applications must be received on or before March 1 of the fiscal year in which Federal assistance is sought.

The Section 4(i) program is intended to promote the adoption of proven innovative techniques and methods in public transportation. Several UMTA offices have been administering research and demonstration programs. From these programs, as well as from elsewhere in the public transportation field, various innovative techniques and methods have been developed. However, their adoption has been uneven. This program is intended to remedy this situation.

In each fiscal year grants for any one State may not exceed 12½% of the funds available for all grant recipients. The grants will be made on a competitive and discretionary basis in accordance with the procedures proposed in this document.

The innovative techniques and methods under consideration for this grant program can be generally described as those: (1) of fairly recent origin (last ten years); (2) of proven benefit to urban transportation in improved service, improved management or reduced total or unit cost; and (3) that have thus far not been adopted as widely as they might be.

Attention is drawn particularly to those techniques and methods developed and/or demonstrated by UMTA's Office of Service and Methods Demonstrations and Office of Transportation Management. The following major categories of innovations exemplify those that should be considered (this list is not all inclusive):

Conventional Transit

—High Occupancy Vehicle (HOV) Priority Projects
—Designation and operation of exclusive bus and HOV roadways
—Designation and operation of Contra Flow HOV lanes on Freeways, arterials or Central Business District (CBD) Streets
— Metered Freeway Access ramps with preferential entry for HOVs
—Exclusive lanes at toll plazas or other bottlenecks.
—Reserve concurrent flow HOV arterial lanes
—Signal preferential techniques for buses (may be preemption or progression)
—Transit Malls—bus only CBD streets with improved facilities for pedestrians

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The Office of Service and Methods Demonstrations has developed a number of concepts in this area, but for fiscal year 1981 these types of projects may also be proposed under the joint FHWA, NHTSA, UMTA TSM program.

Most of the major cost elements in this category of projects will qualify under existing programs such as UMTA's Section 3 and FHWA's Federal Aid to Urban Systems (FAUS) or Interstate programs. Use of these funds is encouraged for the high capital costs of HOV priority projects.

Paratransit and Special User Transit

—Brokering—special user groups coordinated service arrangements
—Ridersharing/Brokering—comprehensive buspool, vanpool, carpool projects either areawide or targeted to major employment concentrations or special user groups, particularly if under the control of the transit operator.
—Bicycle/Transit Integration
—User Side subsidy—to target groups or general public

Note.—All transit authority ridesharing efforts must be closely coordinated with any area wide ridesharing activities that may already be underway.

Pricing Policy Projects

—Central Business District Fare-Free Zones
—Premium Fares for Premium Service
—Parking Pricing Strategies and associated transit services
—Transit Fare Prepayment
—Promotional Fare Incentives
—Improved Transfer Policies
—Transit Fare Integration

Note.—Local efforts are encouraged that lead to a comprehensive and coordinated set of transportation pricing policies. These policies would discourage single driver trips through such actions as peak surcharges on parking and would encourage transit use and ridesharing through transit fare integration, employer discounts of transit passes and preferential low cost parking for vanpools and carpools. These activities may also be proposed as part of a broad package of actions under the joint FHWA/UMTA/NHTSA TSM umbrella program.

Operations and Maintenance

—Various computer programs for improving management efficiency such as RUCUS (run cutting and sheduling), and SIMS (maintenance and inventory management), and also more general programs to provide a wider range of management information
—Automated data collection systems at bus service islands to measure vehicle use of various fluids, and detect faults by computer analysis before they become road failures
—Introduction of superior maintenance manuals, and associated maintenance training programs

Human Resources Projects

—Various kinds of employee training programs from among a number of such efforts that have been developed over recent years including, but no limited to, a general orientation course for all employees, technical training for bus operators, and various kinds of professional and managerial development programs for white collar employees
—Implementation of the so-called Validated Test Battery for the selection of bus driver candidates
—Development and institution of an employee assistance program to channel workers who are troubled with alcohol-related problems, drugs, domestic issues or financial difficulties into appropriate social services for their remedy
—Design and implementation of employee training programs on a multi-property basis for blue collar and/or managerial personnel

Marketing

—Passenger information systems, such as automated displays telling when trains or buses are due, or telephone information centers to provide transit information to callers
—Unified public information programs for a region where public transportation is provided by a number of different transit operators and agencies
—Marketing programs for an entire transit system, or for some specified target market within an overall system.

Nothing in the above listing should preclude an applicant from considering or including other promising innovations not listed. Also, applicants are encouraged to combine several innovations into a comprehensive program of projects. In addition, innovations not well documented through UMTA programs may still have enough operational results through other transit sources that transit operators are familiar with them, *i.e.* timed transfer. These innovations may also be proposed for funding in the Section 4(i) program.

In consideration of the foregoing, it is proposed that a new Part 644 be added to Title 49 of the Code of Federal Regulations to read as follows:

PART 644—INNOVATIVE TECHNIQUES AND METHODS PROGRAM

Sec.

644.101 Purpose.
644.103 Definitions.
644.105 Eligible project expenditures.
644.107 Content of applications.
644.109 Responsibilities of applicant.
644.110 Local share.
644.111 Environmental requirements.
644.112 Labor protection requirements.
644.113 Public hearing requirement.
644.115 Civil Rights Act Title VI responsibilities.
644.116 Minority business enterprise obligation.
644.117 Compliance with handicapped regulations.
644.118 Charter and school bus operations.
644.119 Project selection criteria.
644.121 Grant agreements.

Authority: 49 U.S.C. 1603(i); 49 CFR 1.51.

§ 644.101 Purpose.

(a) Section 4(i) of the Urban Mass Transportation Act of 1964, as amended (hereinafter referred to as the Act), authorizes the Urban Mass Transportation Administration (UMTA), through the delegation of authority by the Secretary of Transportation, to make grants to States and local public bodies "for projects for the deployment of innovative techniques and methods in the management and operation of public transportation services."

(b) This part prescribes UMTA policies and procedures for administering grant programs for projects using innovative techniques and methods in the management and operation of public transportation services.

§ 644.103 Definitions.

As used in this part:

(a) "Applicant" means a State, State agency, or local public body. An applicant may be a State, State agency City, County, Transportation Authority or District, Metropolitan Planning Organization, Indian Tribe, or other public body.

(b) "Program" means the Grant Program for projects using innovative techniques and methods in the management and operation of public transportation services.

(c) "Operating subsidies" are costs directly related to system operations and include expenses for driver salaries and for maintenance.

§ 644.105 Eligible project expenditures.

(a) Project costs eligible for Federal funds under this Part include, but are not limited to expenditures incurred after grant approval for—

(1) Final planning and design necessary for implementation of the project;
(2) Capital facilities;
(3) Operating subsidies;
(4) Public information activities;
(5) Police enforcement;
(6) Project administration;
(7) Data collection; and
(8) Evaluation.

(b) Program funds are not intended to be used to provide subsidies for presently existing operations. Reasonable expenses for operating costs which are an intergral part of new projects and reasonable expenses for project supervision, monitoring and evaluation costs are eligible for Federal funds under this part if properly distributed as project expenses. An overall evaluation effort for Section 4(i) projects will be carried out by an independent contractor retained by U.S. DOT. Data will be supplied by the grantee as in all Service & Methods Demonstration.

(c) Private transportation companies may participate through contractual arrangements with the applicant.

(d) Each proposal and the associated funding request must present a fully developed project which does not depend upon future Section 4(i) program funds for continuation. It is anticipated that on-going financial assistance programs, for example Section 5 and Section 18, would provide the Federal share of continuation costs.

§ 644.107 Content of applications.

Each application must include:

(a) The following statements and attachments:

(1) An application (Federal Form 424).

(2) A resolution of the Board of Directors or Council or other body with legal responsibility, authorizing the application.

(3) An assurance of compliance with 49 CFR Part 27 (Nondiscrimination on the Basis of Handicap in Federally-Assisted Programs and Activities Receiving or Benefitting From Federal Financial Assistance).

(4) An opinion of counsel supporting the Applicant's authority to contract for and receive a Federal grant under this part and assuring that pertinent Federal, State and local laws present no legal impediment to approving a grant to the applicant.

(5) A review in accordance with Office of Management and Budget Circular No. A-95 as revised.

(6) Evidence that the project has been included in the area's Transportation Improvement Program (TIP). If an applicant's proposed project will be used to provide, by contact or otherwise, for the operation of mass transportation facilities or equipment in competition with, or supplementary to, the service provided by an existing private mass transportation company, the application must contain sufficient information to permit the Administrator to find that the program, to the maximum extent feasible, proves for the participation of private mass transportation companies.

(b) A concise statement of the innovation(s) to be implemented. The project description should not exceed 20 single-spaced typewritten pages exclusive of statements of commitment or letters of endorsement by other involved organizations and graphic material such as maps, figures, photographs, tables, and charts. The project description must contain:

(1) A statement of objectives.
(2) A brief description of project area.
(3) A brief description of project population.
(4) A brief description of existing transit service in the project area.
(5) a description of proposed project with a statement of the benefits to be derived.
(6) A cost description of proposed operations.
(7) A description of estimated patronage or project impact on travel, if relevant.
(8) A description of estimated project revenue, if relevant.
(9) A description of capital costs, if relevant.
(10) A description of other costs.
(11) A description of other impacts including impact on evergy consumption, if relevant.
(12) An identification of other participating organizations and their responsibilities, if relevant.
(13) A statement of commitment or letters of endorsement by other involved organizations, if any.
(14) A commitment of other Federal, State or local funds or programs to share in the cost of the project, if any.
(15) A description of how service provided will be monitored and evaluated in light of local objectives for the project.
(16) A project time schedule and funding plans for continuation past the period of service to be governed under this grant.
(17) A description of local funding.
(18) A cover summary sheet containing the following:
(i) The name, address and telephone number of the applicant agency;
(ii) The contact person responsible for the proposed project;
(iii) The total amount of Federal funds being requested under the program divided into appropriate categories, i.e. capital costs, operating costs, implementation planning/design costs and, monitoring and evaluation cost;
(iv) The amount of funding commitments or participation of other Federal, State or local programs and contributions; and
(v) The time period of service to be provided.

§ 644.109 Responsibilities of applicant.

Each applicant for section 4(i) funds must—

(a) Submit ten (10) copies of the proposal to the appropriate UMTA Regional Office;

(b) Administer projects approved under this Part; and

(c) Enter into an agreement with UMTA governing each project.

§ 644.110 Local share.

At least 20% of the cost of a project must be provided from a non-Federal source and/or from a Federal source only when appropriate Federal legislation specifically authorizes its use as local share.

§ 644.111 Environmental requirements.

For each project selected for funding by UMTA and prior to the obligation of any program funds, the applicant must comply with the environmental procedures described in Part 622 of this Title.

§ 644.112 Labor protection requirements.

(a) Each applicant shall make fair and equitable arrangements to protect the interests of employees affected by an UMTA grant, as required by Section 13 (c) of the UMT Act.

(b) Section 13(c) of the UMT Act is administered by the Department of Labor in accordance with guidelines published in 29 CFR Part 215. Section 215.2 of the guidelines sets out the information that must be included in a grant application.

(c) Each application must contain information to assist the Secretary of Labor in certifying that fair and equitable arrangements have been made to protect affected employees. Such information must include the names and addresses of labor unions representing employees of the transit systems to be assisted and any other transportation systems to be affected.

(d) The grant agreement will specify the terms and conditions of the arrangements, as certified by the Secretary of Labor.

§ 644.113 Public hearing requirements.

(a) Each applicant whose project is selected for funding consideration by UMTA must provide the opportunity for a public hearing by publishing a notice that a hearing will be held if a written request for a hearing is received. It is not necessary to initiate this process before the selection for funding consideration is made by UMTA. The notice process and any subsequent hearing must be completed prior to the execution of the grant agreement.

(b) Each applicant must provide the public at least thirty days to request a public hearing.

(c) If a written request for a hearing is received by an applicant after publication of the notice required by paragraph (a), the applicant must hold a hearing.

(d) Each notice must be published in a newspaper of general circulation in the proposed service area of the proposal.

(e) Each notice required by paragraph (a) must describe the proposed project in detail sufficient to inform the public of the following:

§ 644.116 Minority business enterprise obligation.

That grant recipient must administer its Innovative Techniques and Methods

(d) The energy conservation effectiveness of the program;

(e) The extent to which the proposal is a direct result of the planning process

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(e) Each notice required by paragraph (a) must describe the proposed project in detail sufficient to inform the public of the following:
(1) The name of the applicant
(2) The location of service area of the proposed project
(3) A description of the proposed project
(f) Each notice must indicate that—
(1) That views of interested parties may be submitted orally or in writing at the hearing;
(2) That a copy of the application and the transcript, if a hearing is held, are available for public inspection, and state the location where they are available;
(3) That any person interested in having a public hearing must request the hearing in writing;
(4) That if any written request is received, a hearing will be held;
(5) The name of the person and the address to which the written request must be sent;
(6) The deadline for submission of requests (at least thirty days after publication of the notice).
(g) If a request for a hearing is received, a notice containing the subject date, time, and location of the hearing must be published at least thirty days before the hearing.
(h) Each applicant must submit certified copies of the notice required by paragraph (a).
(i) If a public hearing is held, the applicant must ensure that—
(1) A transcript of the hearing is made;
(2) The transcript is kept on file; and
(3) The transcript is available for public inspection.
(The transcript may be an electronic tape recording.)
(j) If UMTA determines that the notice of intent to hold a public hearing or the public hearing itself (if held) was inadequate to give interested parties an adequate opportunity to present their views with regard to the proposed subject, it may require the applicant to publish an additional notice or to conduct an additional hearing.

§ 644.115 Civil Rights Act title VI responsibilities.

The grant recipient must administer its Innovative Techniques and Methods program in such a manner as to ensure that no person in the United States will, on the grounds of race, color, sex, or national origin be excluded from the participation in, be denied the benefits of, or otherwise be subjected to discrimination under the program. The requirements concerning Title VI responsibilities are in Part 21 of this Title.

§ 644.116 Minority business enterprise obligation.

That grant recipient must administer its Innovative Techniques and Methods program in such a manner as to ensure that minority business enterprises as defined in Part 23 of this Title have the maximum opportunity to participate in the performance of contracts and subconstracts financed in whole or in part with Federal funds under this program. In this regard all grant recipients must take all necessary and reasonable steps in accordance with Part 23 of this Title to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Grant recipients and their contractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department of Transportation assisted contracts.

§ 644.117 Compliance with handicapped regulations.

The grant recipient must administer its Innovative Techniques and Methods program in such a manner as to ensure that no otherwise qualified handicapped individual will, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under the program. The regulations governing nondiscrimination on the basis of handicap are in Part 27 of this Title.

§ 644.118 Charter and school bus operations.

Any grant recipient under the Innovative Techniques and Methods program who engages in charter or school bus operations is subject to the regulations governing charter bus operations in Part 604 of this Title or the regulations governing school bus operations in Part 604 of this Title.

§ 644.119 Project selection criteria.

UMTA will consider the following criteria in selecting projects to receive grants under this Part (Projects need not address all criteria to be considered worthy of funding.):
(a) The cost-effectiveness of the project with respect to improving the quality of public transportation service and/or the efficiency of management and operations;
(b) The innovative character of project;
(c) The likelihood of project continuation after the expiration of the subject grant (Section 5 and 18 of UMTA Act are probable sources of funding. Degree of commitment shown for these funds is highly important);
(d) The energy conservation effectiveness of the program;
(e) The extent to which the proposal is a direct result of the planning process and of the Transportation System Management Component, reflecting the commitment of the State or local area to a comprehensive and continuing TSM program (contains several reinforcing actions);
(f) The commitment of State, local and/or Federal program funding and other program resources;
(g) The degree of commitment and leadership of private and public organizations with operational, regulatory, pricing, etc. authority to carry out project;
(h) The readiness to implement; state of completion of project planning and design;
(i) The private sector (e.g. service providers, employers) participation in the project funding, development, and/or operation;
(j) The effect of the project upo existing public transportation services;
(k) The reasonableness of and justification for estimated costs and effects;
(l) The contribution of program to adopted community energy conservation and related environmental, urban revitalization and economic goals.

§ 644.121 Grant agreements.

The terms and conditions which control the administration of a project selected for funding will be contained in a grant agreement jointly executed by UMTA and the applicant.

(49 U.S.C. 1603(i); 49 CFR 1.51)

Dated: November 25, 1980.

Theodore C. Lutz,

Administrator.

[FR Doc. 80-37166 Filed 11-28-80; 8:45 am]

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federal register

Monday
December 1, 1980

Part IV

Department of Transportation

Coast Guard

Coast Guard Consumer Program

DEPARTMENT OF TRANSPORTATION

Coast Guard

recreation areas; marine conultants and engineers; boat and recreational equipment dealers; and boat and

decisionmaking; and making it easier for persons to communicate their views to the Coast Guard and influence the

number in every telephone book that shows a listing for other local Coast Guard offices.

3. *Comment:* Having the duties of the Consumer Affairs Officer and the responsibility for regulating consumers

the proposed regulation. The procedure for planning consumer participation in both proposed policies and regulations

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DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 80-062]

Coast Guard Consumer Program

AGENCY: U.S. Coast Guard, DOT.

ACTION: Adoption of the Coast Guard final consumer program

SUMMARY: This notice contains the Coast Guard final Consumer Program. The Consumer Program has been prepared in response to Executive Order 12160, entitled "Providing for Enhancement and Coordination of Federal Consumer Programs", published in the Federal Register on September 28, 1979 (44 FR 44787). The Executive Order requires that Government agencies establish improved procedures that will provide for—

(1) An identifiable and accessible consumer affairs officer that will represent the consumer perspective in the development of agency rules, legislation, policies, and programs;

(2) Early and meaningful consumer participation in the review and development of rules, policies, and programs;

(3) Development and distribution of information materials for consumers;

(4) Consumer affairs training for agency personnel and, to the extent appropriate, technical assistance and training for consumers; and

(5) Systematic procedures for consumer complaint handling.

EFFECTIVE DATE: December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Commander Neal Mahan, Office of Boating, Public, and Consumer Affairs (G-BA), Room 4224, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, DC 20593. Telephone: (202) 426-1080. Office hours are from 6:30 a.m. to 5:00 p.m., Monday thru Thursday.

SUPPLEMENTARY INFORMATION: The Coast Guard draft Consumer Program was published in the **Federal Register** on June 9, 1980 (45 FR 39192). Interested persons were invited to comment. The comment period closed on August 9, 1980. A total of 17,700 copies of the draft Consumer Program were sent to various Coast Guard and Department of Transportation mailing lists. Some of the specific persons or groups on these lists who received copies of the draft consumer Program were: National, State, and local consumer organizations; boating writers and editors of magazines and newspapers: yacht clubs and boating associations; Coast Guard Auxiliary Flotillas; U.S. Power Squadrons; operators of marinas and recreation areas; marine conultants and engineers; boat and recreational equipment dealers; and boat and associated equipment manufacturers.

A total of 117 written comments were received. This total breaks down as follows:

Individual consumers—29
Consumer organizations—19
Business or trade organizations—62
State governments—1
Coast Guard Districts—6

Forty-one commenters indicated that they thought the draft Consumer Program was an adequate or good program and offered no other comment. The remaining 76 commenters offered some criticism or suggestion to improve the program. In the following discussion, the various comments that express similar thoughts or substance are grouped and represented as one comment. After each comment is presented, the Coast Guard response is discussed. The comments are broken down into two broad categories: comments that are general in nature, and comments that address a specific section of the Consumer Program.

Note.—The draft Consumer Program was broken down into six sections: Oversight for Consumer Affairs; Consumer Perspective; Consumer Participation; Informational Materials; Education and Training; and Complaint Handling.

General Comments

1. *Comment:* The Consumer Program will only result in more bureaucracy; it will result in unnecessary and unwanted interference in the private sector; it will take manpower and resources away from other more important and vital tasks in the Coast Guard; the cost of the program will outweigh any benefit.

Coast Guard Response: The Consumer Program will not create more bureaucracy. The Coast Guard intends to implement the Consumer Program using essentially its present organization and personnel resources. In some instances, there have been changes of individual job titles or titles of organizational groups in the Coast Guard to reflect a greater emphasis on communiciating with consumers.

Neither will the Consumer Program create bureaucratic methods to burden either the public or personnel within the Coast Guard. One of the principal objectives of the Consumer Program is to improve public participation in Coast Guard decisionmaking. Expressed in its simpliest terms, this means making it easier for persons to become aware at an early stage of decisions-in-the-making that can affect them; making it easier for persons to understand the problems and issues involved in the decisionmaking; and making it easier for persons to communicate their views to the Coast Guard and influence the decision. It is important to understand that many of the participation techniques and consumer education procedures outlined in the Coast Guard Consumer Program are in place now and, in some instances, have been in use for many years. The Coast Guard Consumer Program does, of course, envision some new procedures. For example, the Consumer Program provides for early notice to consumers of the opportunity to participate in the formulation of important policies that can affect them. To do this, the Consumer Program takes the type of public notice and comment procedure now used in rulemaking and extends it to the areas of policy formulation. The Consumer Program also promises more positive and concerted efforts to publicize participation opportunities through consumer media and direct mailings—more than just publishing a notice in the **Federal Register.** These are relatively modest but important changes that can be accomplished in the Coast Guard without large outlays of funds and increases in personnel.

2. *Comment:* The draft Consumer Program is written in typical Government "gobbledygook"; it's difficult to read and almost impossible to understand. One commenter stated that he believed the Consumer Program was really an "anti-consumer" tract designed to "bore the consumer to death".

Coast Guard Response: We have attempted to write the final Consumer Program in a style and format that will make it easier to understand.

3. *Comment:* The Consumer Program should not exclude non-consumers.

Coast Guard Response: It has long been recognized that the consumer, particularly the private individual, has had more difficulty participating in Government on an equal footing with other interest groups who are usually well organized and financed. For this reason, a basic purpose of Executive Order 12160 and the Coast Guard's Consumer Program is to take affirmative steps to make it easier for a consumer to be well informed and able to participate. However, the Consumer Program does not exclude anyone. All the participation techniques and information materials described in the Consumer Program are open and available to any interested person.

Specific—Oversight for Consumer Affairs

1. *Comment:* List the Coast Guard Consumer Affairs Officer's telephone number in every telephone book that shows a listing for other local Coast Guard offices.

Coast Guard Response: To allow the consumer to reach the Consumer Affairs Officer's telephone number, located at Coast Guard Headquarters in Washington, D.C., would involve establishing a group of toll free telephone lines. It would also be reasonable to expect that to service the incoming calls, we would have to add a staff to handle or refer the complaints and inquiries. A more practical alternative for people who have a complaint or information inquiry that they want to make by telephone is to call the most appropriate Coast Guard office listed in the local telephone directory, or call the nearest Coast Guard District office. If they cannot handle the complaint or inquiry directly, they will in most instances be able to arrange for the appropriate Coast Guard person to contact the consumer. To help persons know where to go with a complaint or inquiry, the section on Consumer Perspective in the final Consumer Program has been revised to describe the Coast Guard organization (both at the Headquarters and field level) and the area of responsibility for each.

Specific—Consumer Perspective

1. *Comment:* The scope and effect of the Consumer Program would be clearer if specific classes or groups of consumers were identified. Also, the roles and responsibilities of the Coast Guard District (field) offices and personnel should be more fully described with respect to consumer affairs.

Coast Guard Response: The section on Consumer Participation in the final Consumer Program describes the functions of the various Headquarters' programs and their consumer constituency. We also describe the District organization and the responsibilities of the various units in the District as they relate to the consumer.

2. *Comment:* In terms the layman or consumer can understand, describe more clearly the duties of the Consumer Affairs Officer, how he participates in the proceedings of the Marine Safety Council, the duties of the Special Assistant Consumer Affairs Officer and his staff, and how they work with other Headquarters offices and field offices on consumer matters.

Coast Guard Response: The section on Consumer Perspective has been rewritten in the final Consumer Program to do this.

3. *Comment:* Having the duties of the Consumer Affairs Officer and the responsibility for regulating consumers combined in one billet (Chief of the Office of Boating, Public, and Consumer Affairs) involves a conflict of interest; it means one person must represent two potentially conflicting interests. The Coast Guard should have a separate billet and organization devoted to consumer affairs alone.

Coast Guard Response: A separate Consumer Affairs Officer billet and organization would be more costly (see comment #1 under GENERAL COMMENTS). We believe we can achieve the consumer participation and consumer education goals of Executive Order 12160 without establishing a totally separate "watchdog" organization within the Coast Guard. The basic premise in the Consumer Program is that the decisionmakers will give fair consideration to consumer participation and input if they are given the guidance and techniques to obtain that input. With regard to staffing, additional consumer affairs specialists and clerical support personnel may be added to the staff of the Consumer Affairs Officer only if the workload requires it as the consumer program develops.

Specific—Consumer Participation

1. *Comment:* The draft Consumer Program states that the Consumer Affairs Officer will recommend a comprehensive plan of participation techniques to obtain consumer input on proposed policies and regulations that can have significant consumer impact. The final Consumer Program should define what is significant.

Coast Guard Response: The final Consumer Program does establish general criteria for the type of proposed policies that ought to be considered significant enough to warrant a specific consumer plan for participation. These basic criteria are necessary because without them the Consumer Affairs Officer and Coast Guard personnel would have to consider and review the need for consumer participation on a multitude of routine and minor policy decisions that are made every day in the Coast Guard.

The final Consumer Program does not set criteria for the type of regulations that need to be reviewed because, as a matter of procedure, all proposed regulations are reviewed either in the District or at Headquarters to determine the type of consumer participation techniques that should be used. Generally, the scope and variety of participation methods used will be proportional to the scope and impact of the proposed regulation. The procedure for planning consumer participation in both proposed policies and regulations is discussed in greater detail in our final Consumer Program in the section on Consumer Participation.

2. *Comment:* I would like to participate in Coast Guard proceedings on rulemaking and decisionmaking that can affect the consumer, but after reading the draft Consumer Program, I'm not sure how to do it.

Coast Guard Response: When the Coast Guard undertakes a particular consumer particpation technique, it will as part of the process explain how an interested person can particpate in the particular proceeding. To do this, it will also be necessary for the Coast Guard to devise ways to seek out consumers and make them aware of the opportunity to participate in a particular proceeding. One method the Coast Guard may use to alert consumers is by sending notices and news releases to the media sufficiently far in advance of the proceeding to give them time to publicize it. Another method the Coast Guard employs, particularly in the boating safety area, is the use of direct mail-outs to persons who have indicated a particular interest in one aspect or another of boating safety issues. If you received this copy of the final Consumer Program in the mail, you are already on one of these mailing lists. If you didn't receive it directly and you want to be put on the mailing list, or if you have an acquaintance who want to be put on the mailing list, use Appendix C.

3. *Comment:* The individual "grass roots" consumer—as distinguished from a representative of an organized consumer group—is not financially able to take time off from work and travel to open meetings or hearings. The Coast Guard Consumer Program should provide a modest program of financial assistance to facilitate consumer participation.

Coast Guard Response: In view of the concerns expressed by many commenters on the cost and need for a Consumer Program, we feel that establishing a financial assistance program to stimulate consumer participation would be premature at this point. In any event, open meetings and hearings are only one of several participation techniques that are used to obtain consumer input, although we realize that hearings are probably the best way to establish a dialogue. To make it easier for consumers to participate, Coast Guard hearings are held in the community concerned with the issues, whenever possible. Also, hearings concerned with consumer issues are held in the evenings, after

working hours, to make it easier for consumers and other interested

Development in the U.S. Department of Transportation. He is president of Michigan State University and has been

members and has frequently represented the views of its membership in Federal legislative and regulatory

comment on and participate in rulemaking that affects them.

Coast Guard Response: Most Coast Guard rulemaking does not apply to

Statistics" has been sent to the commenter.

4. *Comment:* The Coast Guard should publish information for buyers and users

explain the general type of technical assistance that is available.

Specific—Complaint Handling

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working hours, to make it easier for consumers and other interested individuals to attend.

4. *Comment:* Will an Advance Notice of Proposed Rulemaking (ANPRM) be used in every case of rulemaking?

Coast Guard Response: No. Use of an ANPRM may not be appropriate in every type of rulemaking action. The Consumer Participation section of the final Consumer Program has been revised to describe the situations in which an ANPRM would be most appropriate.

5. *Comment:* The draft Consumer Program describes consumer participation procedures for rulemaking at Coast Guard Headquarters. What are the consumer participation methods for rulemaking programs and other actions carried out at the District level?

Coast Guard Response: The consumer participation procedures described in the final Consumer Program are essentially the same for both Headquarters actions and District actions. They represent techniques and methods to involve the consumer that can be carried out at either level. In the area of rulemaking, Districts have been delegated authority to issue certain types of local regulations in their area. The kinds of regulations and the participation methods used for them are discussed further in the final Consumer program in the section on Consumer Participation.

6. *Comment:* Who are the public members of the National Boating Safety Advisory Council (NBSAC) and how are the public members of NBSAC selected?

Coast Guard Response: Membership in NBSAC is open to the public. Members are appointed by the Secretary of Transportation. Public members are chosen for their expertise in boating and their demonstrated ability to forcefully represent the views of boating enthusiasts in a forum such as NBSAC. Each member of NBSAC is appointed for a 3 year term. Appointments have been staggered so that from two to three vacancies for public members occur each year.

As of November 15, 1980, the current public members of NBSAC, and their State of residence, are:

(1) Dr. Cecil Mackey (Michigan), Chairman. Dr. Mackey is a knowledgeable boater with wide experience in dealing with transportation issues, both at the national and local level. He has served as Director of the Office of Transportation in the U.S. Department of Commerce, been a member of the Florida Governor's Advisory Committee on Transportation, and held the post of Assistant Secretary for Policy Development in the U.S. Department of Transportation. He is president of Michigan State University and has been appointed as Chairman of NBSAC.

(2) Mrs. Bolling Douglas (Georgia). Mrs. Douglas is a professional marine surveyor. She is also an active boater who has served in almost every elected office in the U.S. Coast Guard Auxiliary. She is the first woman elected to the rank of Commodore in the Coast Guard Auxiliary and to membership in the National Association of Marine Surveyors, Inc.

(3) Mr. Newell Garden (Massachusetts). Mr. Garden is Director of Public Relations with Raytheon Co. He is an experienced boater who has written numerous articles for boating publications and for presentation before forums such as the National Safety Congress and National Boating Education Conference. He has received numerous public service awards for his contributions to boating safety and is a member of the New England Safe Boating Council, the International Association of Boating Writers, the Institute of Navigation, and the American Society of Naval Engineers.

(4) Mr. Richard Johnson (Minnesota). Mr. Johnson is a prominent attorney and civic leader in his community. He has served in the Coast guard Auxiliary as Flotilla Commander, District Captain, and Department Chief, and has also held positions of responsibility in the U.S. Power Squadrons. In 1975, he was awarded the Busch Michelob Schooner, one of the highest and most prestigious public service awards in the recreational boating field.

(5) Mrs. Jean Lang (Florida). Mrs. Lang is Executive Editor of Pleasure Boating magazine and a free lance boating writer. She has held offices in the U.S. Power Squadrons and Coast Guard Auxiliary, and has wide personal experience in boating activities, including being perhaps the only woman to complete a solo cruise in a small boat from Florida to Lake Erie on the Intra-Coastal Waterway.

(6) Mr. Walter Miles (California). Mr. Miles is active in sailing, surfing, and river rafting. He is also a licensed scuba diver. Mr. Miles is a past chairman of a California State advisory committee on boating safety. He is president of a real estate investment firm.

(7) Mr. Richard Schwartz (Virginia). Mr. Schwartz is Executive Director of the Boat Owners Association of the United States (BOAT/U.S.). This organization represents the interests of approximately 65,000 members who are boat owners and boating enthusiasts. BOAT/U.S. provides a number of consumer oriented services to its members and has frequently represented the views of its membership in Federal legislative and regulatory proceedings affecting recreational boating.

Specific—Informational Materials

1. *Comment:* Informational materials fail to reach the average person; in particular, boating safety materials should be sent to yacht clubs, marinas, and boat dealers for distribution to their members and clients. A marine surveyor stated that he had asked the Coast Guard on several occasions for bulk quantities of pamphlets to hand out to his clients and had received no response or been told that bulk quantities were not available.

Coast Guard Response: The Coast Guard distributes a variety of informational material through a variety of channels. We regularly send some types of information (mainly Boating Safety Circulars and reprints of boating safety regulations) to an extensive mailing list of boat dealers, yacht clubs, and marinas. Boating safety information in the form of pamphlets is distributed by other means. The Coast Guard presently has many different boating safety pamphlets and booklets that cover a variety of topics. These free pamphlets are distributed to the public by Coast Guard Auxiliarists and Coast Guard Boating Safety Detachments at boat shows and visits to marinas, dealers, and yacht clubs. The pamphlets are also made available for distribution to the 29 member organizations of the National Safe Boating Council. This Council represents over six million recreational boaters and water enthusiasts. Auxiliarists also distribute the pamphlets as part of the Courtesy Marine Examination.

The printing and distribution of all these pamphlets are planned in some detail. Thus the Coast Guard doesn't keep a large excess of pamphlets in storage. However, we should in most instances be able to make limited quantities of pamphlets available to persons who want them to distribute to recreational boaters. Persons who want pamphlets for this purpose should contact the Special Assistant Consumer Affairs Officer (see address in the Oversight section of the final Consumer Program) to discuss the specific type of pamphlet and quantity desired. If the Coast Guard has a suitable number of extra copies not already dedicated for distribution, we will make them available.

2. *Comment:* More effort should be devoted to keeping commercial fishermen informed of the opportunity to comment on and participate in rulemaking that affects them.

Coast Guard Response: Most Coast Guard rulemaking does not apply to commercial fishing vessels because they are specifically exempted by many of the various laws that authorize the regulatory programs. However, when the Coast Guard does develop a policy or regulation that will affect commercial fishermen, the participation methods outlined in the final Consumer Program will be followed. For example, the Coast Guard will send appropriate notices to commercial fishing periodicals (such as the "National Fisherman" and "The Fish Boat") to make the commercial fisherman aware of the opportunities to participate. Further work will also be done to develop mailing lists of fishing vessel owners and operators and industry organizations so that notices may be sent by direct mail. Anyone interested in getting on a mailing list for these kinds of notices may use Appendix C to let us know.

3. *Comment:* The draft Consumer Program noted that consumer advisory news releases, describing boating hazards and preventative measures, were sometimes developed after analysis of Boating Accidents Reports. The commenter stated that the Boating Accident Reports should be given wide distribution.

Coast Guard Response: Boating Accident Reports are reports that the boat operator is required to file if he has an accident involving loss of life, property damage above $200.00, or personal injury requiring medical treatment beyond first aid. The reports are sent to the jurisdiction in which the boat is numbered. Thousands of reports are filed each year. It would be impractical to distribute or reprint the reports for public information purposes (in some cases, the reports are protected and not releasable to the public). The Coast Guard does, however, prepare accident statistics and summaries based on analyses of these Boating Accident Reports. These accident statistics are published in an annual report entitled "Boating Statistics". Each year when the report is published, a news release is distributed to the boating press and boating interest groups. The news release summarizes the accident trends revealed in the report and explains how an interested person may obtain a copy of the report. Anyone wanting a copy of the latest "Boating Statistics" can write to the Special Assistant Consumer Affairs Officer (address is listed in the Oversight section in the final Consumer Program). A copy of the latest "Boating Statistics" has been sent to the commenter.

4. *Comment:* The Coast Guard should publish information for buyers and users of boats that explain Coast Guard Safety requirements.

Coast Guard Response: The Coast Guard does publish such information. The section on Informational Materials in the final Consumer Program has been revised to explain that this type of boating safety information material is available and how it may be obtained. One of these in particular, a pamphlet entitled "Federal Requirements for Recreational Boats", discusses safety requirements and safe boating practices that a prospective boat operator should know. This particular pamphlet is available in both English and Spanish.

Specific—Education and Training

1. *Comment:* Train and indoctrinate Coast Guard personnel, civilian employees, and Auxiliarists to empathize with the consumer. Make consumer affairs a specific aspect of performance considered in promotion and retention evaluations of personnel in positions having relations with consumers.

Coast Guard Response: The Coast Guard does, in a general way, presently evaluate personnel on their ability to establish good working relations with the public. However, as we gain experience in implementing the Consumer Program, it may be possible to develop specific criteria and guidelines that can be added to the annual performance evaluations of personnel concerned with consumer affairs. This would emphasize the importance of consumer affairs abilities and ensure that the best suited people fill the billets with consumer impact. As for training, we expect that as all the Government agencies gain experience in implementing their Consumer Programs, training courses and methods of instruction will become widely available. Coast Guard personnel concerned with consumer affairs will take this training as it becomes available.

Finally, the Education and Training section of the final Consumer Program has been revised to explain how the Coast Guard will use a directive, called a Commandant's Instruction, to inform and educate its personnel concerning the policies embodied in the Consumer Program.

2. *Comment:* Clarify or explain what sort of technical assistance is available for consumers.

Coast Guard Response: The Education and Training section of the final Consumer Program has been revised to explain the general type of technical assistance that is available.

Specific—Complaint Handling

1. *Comment:* After reading the draft Consumer Program, it is not clear who a consumer should contact with a complaint.

Coast Guard Response: The section on Complaint Handling has been revised in the final Consumer Affairs Plan to clarify who a consumer can contact with any particular complaint and how the Coast Guard generally handles and responds to complaints.

2. *Comment:* The Consumer Affairs Officer at Headquarters should have access to consumer complaints handled at the District (field) level. With this type of feedback, the Consumer Affairs Officer can act to correct recurring problems or complaints.

Coast Guard Response: As noted in the revised section on Complaint Handling in the final Consumer Program, a study will be done to develop an improved system of complaint handling in the Coast Guard and other DOT administrations. We expect that one result of the study will be a system of complaint handling in which periodic summaries are prepared of consumer complaints received in Headquarters offices and in the District (field) offices. These summaries will be reviewed by the Consumer Affairs Officer and Special Assistant Consumer Affairs Officer so that recurring patterns of complaints can be identified and effective solutions to the complaints devised.

3. *Comment:* The draft Consumer Program states that when the Coast Guard receives a consumer complaint concerning a particular Coast Guard policy or requirement, a project manager is appointed to evaluate the complaint and, if necessary, a project is started to relieve the problem. The commenter interprets this to mean that the Coast Guard will add more personnel to its roster and establish a separate staff for the purpose of evaluating complaints and taking corrective action.

Coast Guard Response: The Coast Guard is not adding a separate staff of additional personnel just to study and act on consumer complaints. What we intended to indicate in the draft Consumer Program is that when a consumer complaint is received, it is referred to the appropriate program official who oversees the particular policy or requirement. If the Coast Guard program official decides that the complaint warrants a change in the policy or requirement, he takes action to make the change. This is the general method of handling complaints that the

Coast Guard has used for many years. The Complaint Handling section of the

Appendix A—Organizational Chart.
Appendix B—Coast Guard District (field) Offices.

2. *Coast Guard Consumers.* The Coast Guard considers its consumers to be

laws, and regulations on a face-to-face basis with the public.

Appendix A is an organization chart

Auxiliarists are organized into Flotillas. There are approximately 1400 Flotillas in operation across the country.

Offices (MIO's) located throughout the District. Some of the MIO's are collocated with a captain of the Port

Coast Guard has used for many years. The Complaint Handling section of the final Consumer Program has been revised to more clearly explain the general method which the Coast Guard uses to handle and respond to consumer complaints.

4. *Comment:* The Coast Guard should send a monthly questionnaire, containing a standardized complaint form, to all boat repair and service facilities to solicit complaints and reports of faulty boat construction and equipment that they have observed.

Coast Guard Response: It is not practical or necessary to send monthly questionnaires to all boat repair and service facilities in the United States. The Coast Guard does act on reports concerning alleged safety defects in boats and certain types of associated equipment. The Complaint Handling section of the final Consumer Program has been revised to explain how complaints of alleged safety defects in boats should be submitted to the Coast Guard and what information should be included in the complaint.

5. *Comment:* The draft Consumer Program states that consumer complaints concerning alleged safety defects in boats are evaluated and, if necessary, investigations are conducted in the field. The commenter infers that this was included in the Consumer Program as a result of the President's Executive Order and that the Coast Guard will have to increase its budget and add more personnel to provide this service.

Coast Guard Response: The Coast Guard's responsibilities concerning the investigation of possible safety defects in boats, and the power to require manufacturers to conduct safety recalls, is established under the Federal Boat Safety Act of 1971. Thus, the Coast Guard has been providing this kind of consumer protection, as a statutory obligation, for more than nine years. No increases in budget or personnel are anticipated in this area as a result of the Executive Order or our Consumer Program.

In consideration of the foregoing comments, the Coast Guard Consumer Program has been revised. The text of the Coast Guard final Consumer Program follows:

U.S. Coast Guard

Consumer Program

Contents:

I. Oversight for Consumer Affairs.
II. Consumer Affairs Perspective.
III. Consumer Participation.
IV. Informational Materials.
V. Education and Training.
VI. Complaints Handling.
Appendix A—Organizational Chart.
Appendix B—Coast Guard District (field) Offices.
Appendix C—How to Get More Information.

I. Oversight for Consumer Affairs

1. *Purpose.* This section identifies the persons in the Coast Guard who are responsible for implementing a consumer program that complies with Executive Order 12160.

2. *Consumer Affairs Officer.* The role of the Consumer Affairs Officer in the Coast Guard is carried out by the Chief of the Office of Boating, Public, and Consumer Affairs in Coast Guard Headquarters. He reports directly to the Commandant of the Coast Guard and has overall responsibility for providing a Coast Guard consumer program that meets Executive Order 12160. The different duties of the Chief of the Office of Boating, Public, and Consumer Affairs, and his relationship to other officials in the Coast Guard, are described in more detail in the section on Consumer Affairs Perspective.

3. *Special Assistant Consumer Affairs Officer.* The Special Assistant Consumer Affairs Officer is a full-time consumer affairs specialist who reports directly to the Chief of the Office of Boating, Public, and Consumer Affairs. His only duties are to supervise the Coast Guard's Consumer Program on a daily basis. Under the general direction of the Chief of the Office of Boating, Public, and Consumer Affairs, the Special Assistant Consumer Affairs Officer is responsible for formulating specific policies and procedures within the Coast Guard to ensure that the Consumer Program described in this notice is carried out. The Special Assistant Consumer Affairs Officer may be contacted by writing or calling: Office of Boating, Public, and Consumer Affairs, U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, D.C. 20593, (Telephone: 202–426–1080).

Coast Guard Headquarters offices currently operate on a four-day work week, 10 hours each day. The Special Assistant Consumer Affairs Officer can be reached between the hours of 6:30 a.m. and 5:00 p.m., Monday thru Thursday.

II. Consumer Affairs Perspective

1. *Purpose.* This section explains how the Coast Guard is organized and describes the programs that impact on consumers. This section also describes how the Consumer Affairs Officer and Special Assistant Consumer Affairs Officer participate in the development of Coast Guard rules, legislation, policies, and programs that affect the consumer.

2. *Coast Guard Consumers.* The Coast Guard considers its consumers to be users or purchasers of marine transportation and recreational goods and services as well as persons who are directly affected by a marine transportation activity or by water quality. This is a very broad definition. To give the reader some idea of whom or Consumer Program is directed toward, we have, in the following descriptions of Coast Guard programs, named some of the specific groups of persons we think are the principal consumers. Omission of a group of persons from the list, however, does not mean that they are excluded in any way from the Consumer Program.

3. *Coast Guard Consumer-Oriented Programs.* Coast Guard Headquarters in Washington, D.C. is made up of offices that make policies and regulations for various Coast Guard programs. Some of these offices oversee programs that are not consumer oriented but instead are concerned with internal management of Coast Gaurd affairs. An example is the Office of Personnel which is basically concerned with recruiting, training, and assigning Coast Guard personnel. Since these internally-oriented offices have little effect on consumers, they are not described here. There are, however, five offices at Coast Guard Headquarters that carry out programs which do have an effect on consumers.

The person in charge of each office is a Coast Guard officer with the rank of rear admiral. They report to the officer in charge of the Coast Guard, who is called the Commandant. Each Headquarters office formulates policies and regulations concerning their particular area of responsibility. These policies and regulations flow from laws in which the Congress and the President have given the Coast Guard the responsibility and authority to do certain things.

The policies and regulations formulated at Headquarters are enforced or carried out at a local level by Coast Guard personnel organized into Districts. There are 12 Coast Guard Districts. Each is responsible for enforcing Coast Guard policies, laws, and regulations in a specific geographic area. The officer in charge of a District is called a District Commander. They are rear admirals or vice admirals. There are branches or divisions in each District office which specialize in enforcing the different policies and regulations formulated in the Headquarters offices. The District Commanders have personnel, ships, and airplanes under their operational control that carry out or enforce the policies,

laws, and regulations on a face-to-face basis with the public.

Appendix A is an organization chart which shows the relationships between the five consumer programs at Headquarters and the District and operational levels. Appendix b lists the addresses and telephone numbers of each of the 12 Coast Guard Districts and shows their approximate geographic boundaries. The five consumer-oriented programs and described below.

(a) *The Office of Boating, Public, and Consumer Affairs.* This office directs a variety of activities aimed at making recreational boating safer and more enjoyable. It formulates safety regulations applicable to operators of boats and manufacturers of boats and associated equipment. The office administers a safety recall or a defect notification program under which boat manufacturers may be required to notify owners of safety defects discovered in their boats. The manufacturers also have to correct the safety defect. The office develops boating safety information materials for use by the public.

In the District Office, these safety and educational aspects of the program are carried out by a Boating Safety Division. Each Boating Safety Division has a number of Boating Safety Detachments (BOSDETS) under its control. These three-man detachments provide training to Coast Guard, State, and local law enforcement personnel, make informal visits to boat manufacturers and dealers, and promote boating safety by providing safety information at boat shows, meetings of boating organizations, and other public contracts. Each Boating Safety Division also has technical specialists who work with boat manufacturers in the District to insure compliance with Coast Guard boating safety regulations.

At the Headquarters level, the Office of Boating, Public, and Consumer Affairs also sets policies for the training, organization, and utilization of the Coast Guard Auxiliary, an organization of more than 40,000 volunteer boaters. The Auxiliary policies and procedures set at Headquarters are implemented in the District by an Auxiliary Affairs Branch in the Boating Safety Division. Using their own boats, Auxiliarists augment regular Coast Guard forces by conducting rescue, assistance, and safety patrol operations. Auxiliarists also conduct boating safety education courses open to the public and conduct Courtesy Marine Examinations in which, at the invitation of the owner, they will inspect a recreational boat to insure it meets recommended safety requirements. At the operational level, Auxiliarists are organized into Flotillas. There are approximately 1400 Flotillas in operation across the country.

Because the Office of Boating has traditionally had the closest contact with the public, the public affairs and consumer affairs functions are located in this Headquarters office as well. The public affairs program is concerned with keeping the public informed of Coast Guard activities, missions, and programs. To do this, it prepares and distributes public information materials such as pamphlets, booklets, magazine articles, and radio and T.V. materials. As described in the Oversight section, the Chief of the Office of Boating, Public, and Consumer Affairs, assisted by the Special Assistant Consumer Affairs Officer, also carries out the Coast Guard's Consumer Program to ensure that consumers are informed of all Coast Guard regulations, policies, and programs that can affect them, and that they have the opportunity to participate in their formulation in a meaningful way.

The principal consumers in the area of Boating Safety are persons interested in boating education, owners and operators of recreational boats, and persons who are guests or passengers on recreational boats.

(b) *The Office of Merchant Marine Safety.* This office formulates regulations and policies concerned with the safe design, construction, and manning of commercial vessels. Most large commercial vessels subject to the program are required to be inspected periodically by the Coast Guard to determine if they meet applicable safety requirements.

In addition to commercial vessels, the program includes safety regulation of fixed structures and artificial islands on the outer continental shelf, cargo transfer systems, and regulation of cargo containers, vessel documentation, investigation of marine casualties or accidents, and licensing and certification of merchant seamen and officers. The Office of Merchant Marine Safety also administers the Coast Guard Approval program for certain types of lifesaving and safety equipment such as lifeboats, personal flotation devices, distress signals, and fire extinguishing systems. Coast Guard Approval involves a testing and inspection process designed to insure that the equipment meets Coast Guard safety specifications.

The policies and regulations formulated by the Office of Merchant Marine Safety are implemented in each District office by a Marine Safety Division. The Division has under its control a number of Marine Inspection Offices (MIO's) located throughout the District. Some of the MIO's are collocated with a captain of the Port Office (described later under the Office of Marine Environment and Systems). Such a combined office is called a Marine Safety Office (MSO). One of the principal functions of the MIO/MSO is to inspect commercial vessels in their jurisdiction for compliance with merchant marine safety regulations and issue certificates of inspection.

The principal consumers in the area of Merchant Marine Safety are persons who pay to ship cargo and persons who are paying passengers on commercial vessels; persons who apply for seaman and officer licenses; owners of vessels eligible for documentation; persons who work on offshore structures; and users of Coast Guard Approved equipment.

(c) *The Office of Navigation.* The main objective of the programs administered by this office is to facilitate safe and efficient navigation on U.S. navigable waters and the high seas. One of the main programs in this area is the placement and maintenance of navigation aids that help the mariner fix or determine his position accurately. Navigation aids administered by the office include short range aids (such as buoys and lights) that help the mariner navigate when he is close in to shore, and long range aids (principally electronic forms of navigation such as LORAN and OMEGA) that enable vessels and airplanes to fix their position when far from land. The office also issues regulations governing the maintenance and use of privately-owned navigation aids.

The various navigation aids that are provided through policies established by this office are maintained and administered in each District office by an Aids to Navigation Branch. At the operational level, the Aids to Navigation Branch ensures that the aids are maintained by special Coast Guard vessels called buoy tenders and by teams of Coast Guard personnel called Aids to Navigation Teams who operate from shore stations. As part of the Navigation program, each District publishes Local Notices to Mariners that report changes to or deficiencies in navigation aids in the District. These notices also contain other marine information, such as information on naval operations or marine regattas, that can affect navigation in waterways in the District, and they frequently contain information on rulemaking projects. Mariners can get on the mailing list for Local Notices to mariners by contacting the nearest District office.

Another major program in the Office of Navigation is bridge administration.

This program ensures that all bridges over navigable waters are constructed, maintained, and operated in a way that

areas. Coast Guard aircraft are also used to perform ice surveillance patrols to evaluate ice conditions and

a variety of special equipment, the teams can contain and clean up serious spills. At the District level, the pollution

Environment and Systems are persons who ship petroleum products and other chemical cargoes; persons who purchase

changes in the Work Plan or proposed content of the regulation to account for the needs and interests of consumers. At

with the Commandant to discuss activities, problems, and plans in their programs. These staff conferences

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This program ensures that all bridges over navigable waters are constructed, maintained, and operated in a way that does not obstruct or unreasonably hinder waterborne traffic passing beneath the bridge. The Coast Guard must approve the location and plans for new bridges and any alterations to existing bridges. The Coast Guard also regulates the opening and closing periods of many drawbridges. This kind of regulation usually involves a compromise in order to provide for the needs of both land traffic passing over the drawbridge and water traffic passing beneath.

The administration of the bridge program is hadled in each District by a Bridge Branch. The District is also responsible for formulating the drawbridge regulations. The actual operation of the drawbridge is the responsibility of the owner of the bridge.

The principal consumers in the Navigation programs are owners and operators of recreational, commercial, and military vessels that use navigation aids; passengers on these vessels; persons who ship cargo on these vessels; general, commercial, and military air traffic that use Coast Guard long range navigation aids; owners or operators of vessels that pass beneath bridges; and owners or operators of land vehicles that pass over the bridges.

(d) *The Office of Operations.* The programs administered by this office that have the greatest impact on consumers are in the area of law enforcement, ice operations, and search and rescue operations. Because the Office of Operations has a variety of Coast Guard cutters, patrol boats, aircraft, and helicopters under its control, this office enforces many of the Coast Guard laws and regulations on the water. This office also enforces Federal laws not specifically assigned to other offices in the Coast Guard. Two such enforcement programs deal with preventing drug and other forms of smuggling, and enforcing laws governing the U.S. Fishery Conservation Zone (FCZ) that extends 200 nautical miles off the U.S. coasts. Fishing law enforcement generally involves surveillance of fishing operations in the FCZ and boarding fishing vessels, both U.S. and foreign, to prevent overfishing certain fish stocks and use of illegal fishing methods.

The ice operations program is designed to ensure that ice-laden waterways and routes used for commerce remain passable. This includes not only icebreaking operations in U.S. domestic waters but also using Coast Guard icebreakers to keep sea lanes open to U.S. installations in polar areas. Coast Guard aircraft are also used to perform ice surveillance patrols to evaluate ice conditions and recommend ship routes through ice areas.

Another important program administered by the Office of Operations is search and rescue (SAR). This mission is one of the Coast Guard's earliest and most important functions and continues to have a high priority in Coast Guard operations. The Coast Guard uses a variety of ships and aircraft to provide SAR services to persons in distress in the marine environment.

The programs of the Office of Operations are implemented in each District office by the Operations Division. In the case of the SAR program, each District controls its SAR forces through a Rescue Coordination Center (RCC). The RCC plans and directs the SAR activities of assigned Coast Guard Ships, stations, and aircraft in response to distress incidents that occur within its area of control.

The principal consumers in the Operations program area include people who fish in the Fisheries Conservation Zone or people who purchase fish caught there; people who ship cargo on or work on commercial vessels that operate in ice-laden water; people who ship cargo on or work on commercial vessels and aircraft, and people who travel on recreational boats, that operate in the marine environment and that would benefit from Coast Guard SAR services if in distress.

(e) *The Office of Marine Environment and Systems.* This office is concerned with preventative measures and programs to protect the marine environment. In this respect, the office is concerned primarily with prevention of oil pollution and other forms of water pollution, and with clean-up and containment of spills if accidents occur. To prevent pollution, the office administers a comprehensive set of regulations applicable to vessels and oil transfer facilities. To provide for coordinated response to serious pollution incidents, the office staffs and operates a National Response Center (NRC) at Headquarters. The NRC receives reports of pollution and coordinates containment and clean-up activities. To allow the public to quickly and easily report water pollution anywhere in the country, the NRC maintains a toll free telephone number: 800–424–8802. To combat major pollution incidents, the NRC can call upon a National Strike Force which is divided into three highly trained teams of Coast Guard personnel located on the Atlantic, Pacific, and Gulf coasts. Using a variety of special equipment, the teams can contain and clean up serious spills. At the District level, the pollution prevention regulations and policies originated by Headquarters are implemented by a Marine Environment Protection Branch.

Another major program administered by the Office of Marine Environment and Systems is port safety and security. This program is concerned with regulation of the wide variety of marine activities that take place in the nations ports and adjacent waterways. Some of the things this program is concerned with are prevention of accidents in cargo handling, particularly oil and hazardous cargo; prevention of sabotage to port facilties, prevention of fires in port areas; reducing the probability of ship collisions in port areas; and providing for cargo security in the terminal complex.

In each District, the port safety and security program is administered by a Port Safety Branch. In more than 50 of the country's major ports, the function of port safety and security is supervised at an operational level by a Captain of the Port (COTP). As previously mentioned, some of the COTP's and Marine Inspections Offices are combined to form Marine Saftey Offices (MSO's). Some of the main concerns of the COTP/MSO are monitoring and supervising oil and hazardous cargo transfer operations, cleaning up pollution, conducting habor patrol, inspecting waterfront facilities, establishing safety and security zones and achorage areas in the port area, and controlling vessel movements in the port area.

In some ports, where the volume of waterborne traffic, past vessel collisons, and the dangerous nature of cargos have indicated the need for a means of continuous surveillance and separation of vessel movements, the Coast Guard has established Vessel Traffic Systems (VTS). Using radio communication and surveillance methods, such as radar, information on vessel positions and movements is collected by a shore-based Vessel Traffic Center (VTC). The VTC can then provide comprehensive and accurate information to vessels in the VTS area on the movements of other vessels and other relevant navigation information. In this way, ships in the VTS are alerted to potential collision situations or conflict situations so that corrective action can be taken. There are VTS's now in operation in the ports of Puget Sound, San Francisco, Houston, New Orleans, Valdez (Alaska), and New York City.

The principal consumers in programs administered by the Office of Marine

Environment and Systems are persons who ship petroleum products and other chemical cargoes; persons who purchase petroleum products and other chemicals shipped as cargoes; persons who live or work in or near port terminal areas; and persons who ship or receive other types of goods on vessels trading at U.S. ports.

4. *Representing the Consumer Perspective.* (a) *Rulemaking.* All regulations formulated in Coast Guard Headquarters are reviewed by a Marine Safety Council before being published in the **Federal Register.** The Marine Safety Council is composed of seven Headquarters office chiefs. They are the Chief Counsel (who acts as chairman of the Council), the Chief of the Office of Boating, Public, and Consumer Affairs, the Chief of the Office of Engineering, the Chief of the Office of Merchant Marine Safety, the Chief of the Office of Navigation, the Chief of the Office of Operations, and the Chief of the Office of Marine Environment and Systems. The basic purpose of the Marine Safety Council is to critically review all important aspects of a regulation being developed in the Coast Guard and to advise the Commandant on whether or not the Coast Guard should proceed with the project and publish the regulation. The Council does this primarily by means of reviewing a Regulatory Work Plan submitted by the office originating the regulation. Among other things, the Work Plan documents and describes the need for the regulation, the objectives of the regulation, alternatives to the regulation that have been considered and rejected, and an assessment of the impact that the regulation will have on the public (e.g. environmental, economic, and energy impacts). The Council reviews these aspects of the regulatory project and either approves the Work Plan as submitted, or requires specific changes in the approach or content of the regulation before it is published.

The Consumer Affairs Officer (Chief, Office of Boating, Public, and Consumers Affairs) is a voting member of the Marine Safety Council. Assisted by the Special Assistant Consumer Affairs Officer, he has the opportunity to thoroughly review and analyze each Work Plan prior to Council meetings and to present the consumer viewpoint or perspective on the Work Plans. Moreover, because a Work Plan is usually presented for Council approval before any substantial work is invested in drafting the regulation itself, the Consumer Affairs Officer has the opportunity to present the consumer perspective early in the rulemaking process. If necessary, he recommends changes in the Work Plan or proposed content of the regulation to account for the needs and interests of consumers. At this time, he may also ensure that the originating office takes reasonable steps to obtain participation of affected consumers in the formulation of the regulation. This is done by means of a Participation Plan that is one of the required parts of a Work Plan. Use of the Participation Plan will be described in more detail in par. 2 of the section on Consumer Participation. Finally, if the Consumer Affairs Officer's comments or requested revisions cannot be resolved before the Marine Safety Council, he can, if necessary, bring his comments to the attention of the Commandant before the regulation is published.

(b) *Legislation.* The various Headquarters offices frequently draft proposed legislation to amend and improve the basic laws under which they operate. Sometimes, the offices also propose entirely new laws they feel are necessary to address problems developing in their programs. However, before the draft legislation is forwarded to Congress for their consideration, the originating office must first obtain the review and clearance of other offices in Headquarters. Generally, this is done by circulating an internal memo referred to as a Legislative Proposal. The format of the memo is similar in many respects to the Regulatory Work Plan. It discusses and documents the most important aspects of the legislation such as the need, objectives, impacts, etc. As a Headquarters office chief, the Consumer Affairs Officer, assisted by the Special Assistant Consumer Officer, has ample opportunity to analyze the draft legislation and present the consumer perspective as appropriate. If necessary, the Consumer Affairs Officer can present written comments on the draft legislation to ensure that consumer interests are taken into account. If problems or disputes arise, his comments concerning the consumer perspective can be brought to the attention of the Commandant before the draft legislation is ultimately approved and sent to Congress.

(c) *Policies and Programs.* Policies and programs are developed in Coast Guard Headquarters in a variety of ways. Unlike regulations and legislation, where there is a readily identifiable document involved, there is no formal and specific piece of paper that necessarily identifies an emerging policy or program that can affect consumers. Thus, formal review and comment on policies and programs are more difficult and subtle. However, all Headquarters office chiefs do regularly meet together with the Commandant to discuss activities, problems, and plans in their programs. These staff conferences usually take place on a daily basis. In addition, the Commandant holds a Flag Officers Conference in Washington, D.C. each year which all the Headquarters office chiefs and District Commanders attend. One of the basic purposes of the conference is to gather together the top decisionmakers in the Coast Guard to discuss new program initiatives and directions. As an office chief, the Consumer Affairs Officer is made aware in these forums of policy and program developments throughout the Coast Guard. As an office chief, he has immediate access to the Commandant and operates as an equal with the other office chiefs. Thus, the Consumer Affairs Officer is able to represent the consumer perspective, as appropriate, in the development of policies and programs that affect Coast Guard consumers. If he determines that consumer involvement in an evolving policy or program is warranted, he can work with the appropriate office chief to provide meaningful and early means of participation. The specific procedure for providing for Consumer Participation in policymaking is described in more detail in par. 3 of the section on consumer participation.

III. Consumer Participation

1. *Purpose.* This section describes the procedures the Coast Guard will use for early and meaningful participation by consumers in the development and review of rules, policies, and programs.

2. *Rulemaking.* (a) *Participation Plan.* A Participation Plan will be prepared, as part of the Work Plan, by each office that originates a regulations project. The Participation Plan will—

(i) Identify the persons or interest groups directly affected by the regulation, including the consumers or consumer groups that could reasonably have an interest in participating in the rulemaking;

(ii) Explain what methods will be used to obtain the participation of these persons or groups;

(iii) Explain what methods will be used to notify these persons of the opportunity to participate; and

(iv) Explain the length of comment period to be used or the time at which the various participation methods will be closed.

Note.—The authority to issue regulations for security zones, safety zones, anchorage areas, and drawbridges, has been delegated by the Commandant to District Commanders. This was done because of the local and, in many instances, temporary nature of the regulations and because the District

Commander is in the best position to determine the need for the regulations. Because of the need to prepare them locally, and often the need to prepare them as quickly as possible, these regulations are not preceded by a Work Plan. Nor are they reviewed by the Marine Safety Council or the Consumer Affairs Officer. The District Commanders do, however, use many of the participation techniques covered in this section (mainly public hearings, notices in local media, and Local Notices to Mariners).

(b) *Participation Methods.* The following methods (in addition to a Notice of Proposed Rulemaking, where required) shall be considered and used as appropriate:

(i) *Early Solicitation of Comments.* This notice can be used at the earliest stages of a rulemaking project to obtain consumer and public participation. It would be used in instances where the final decision to actually undertake a rulemaking project has not been made. Thus, this notice might be used before the Work Plan is presented to the Marine Safety Council. The notice could be published in the "Notice" section of the **Federal Register** and also distributed to consumers by other notification methods. Examples of appropriate uses of this type of notice would be—

- Soliciting comment on whether problems are being encountered in the application of particular regulations.
- Soliciting suggestions or comments as to areas where regulations should be revoked or revised, or new regulations issued.
- Soliciting comment on a request from a member of the public for exemption from or waiver of particular regulations.

(ii) *Notice of Intent.* This notice would also be used at an early stage in the rulemaking process, but it would be used after a decision has been made to proceed with the rulemaking project. The purpose of the notice is to alert interested parties that a regulatory project is being undertaken. At a minimum, the notice would include a brief summary of the nature of the rulemaking project and the name, address, and telephone number of a person from whom information may be obtained concerning the project. This notice would be published in the "Notice" section of the **Federal Register** or distributed to consumers by other notification methods.

(iii) *Advance Notice of Proposed Rulemaking.* This is a notice published in the "Proposed Rules" section of the **Federal Register.** It would also be distributed to consumers and other interested parties by other notification methods. If it is used, it is issued prior to the Notice of Proposed Rulemaking. It is often used as a method of obtaining public participation in the actual formulation of the proposed rules or some aspect of the proposed rules. It is particularly useful when the office in charge of the rulemaking project feels it needs some additional information in order to formulate or justify the proposed regulations. The format of the Advance Notice is flexible. It may contain a general description of the project and alternatives, or it may request comments on other specific questions or areas of concern. The Advance Notice is also helpful in obtaining data on possible economic or environmental effects of the prospective rules.

(iv) *Surveys.* Surveys are another method that can be used to obtain data and information on which to base a rule. They may take the form of questionnaires addressed to individuals, or surveys taken by telephone or door-to-door visit. Surveys are often the most reliable means of collecting statistical information that may be required for the rulemaking project. Their use is also appropriate in those cases where demographic data is required or where the information requirements are quite lengthy. Surveys require prior approval of the President's Office of Management and Budget. Thus, more planning and lead time is usually necessary for the use of surveys than with other participation methods.

(v) *Open Conferences or Meetings.* These are open meetings that may be held before a Notice of Proposed Rulemaking is issued if it would help narrow or clarify issues. For example, they can be held to clarify or explain technical issues involved in a rulemaking project. In this way, the consumer may be better able to participate in the rulemaking on an equal footing with more technically oriented interest groups. Advance notice of the meeting, through the **Federal Register** or other notification methods, will be neccessary to alert interested persons. The notice will contain an agenda for the meeting and should explain how a consumer or other interested person may obtain background material or briefing notes prior to the meeting, if this material is available.

(vi) *Public Hearings.* Public hearings are also open meetings except that they are normally held after publication of a Notice of Proposed Rulemaking. The hearing is held to receive the views of interested persons on the proposed regulations. The meeting format permits discussion of issues and public comments, and permits clarification of ambiguities or misunderstandings not possible with written comments alone. Advance notice of public hearings is usually provided in the Notice of Proposed Rulemaking. Other methods of notification will also be used.

(vii) *Advisory Committees.* Establishing an advisory committee may be appropriate if the rulemaking project has broad impact and particularly if it involves a standing rulemaking program in which regulations may be issued over a relatively long period of time. Use of an advisory committee will permit the Coast Guard to obtain advice on a regular basis from representatives of the various interest groups involved. Because there are laws governing the establishment and use of advisory committees, and because the Secretary of Transportation must approve each advisory committee established in the Department of Transportation, use of this participation method requires considerable lead time and advance planning. The sponsoring office must be able to show that it needs the advice of the advisory committee and that it cannot obtain the quality of advice necessary in any other way.

(c) *Notification Methods.* Publication of rulemaking notices and documents in the **Federal Register** satisfies legal requirements for notice to the public. However, few consumers subscribe to the **Federal Register.** For this reason, the Participation Plan of every rulemaking project that affects consumers will describe positive efforts that will be used to notify consumers and other interested persons of the opportunity to participate in the rulemaking projects. The following notification methods will be considered and used as appropriate:

(i) *Mailing Lists.* This method can be used to distribute reprints of **Federal Register** documents, consumer news releases, and other informational materials directly to interested persons.

Note.—Appendix C is provided as a convenience for interested persons who want to be added to a Coast Guard mailing list for a particular type of information.

(ii) *News Releases.* This method can be used to make newspaper and magazine editors and writers aware of participation opportunities so that they, in turn, can inform their readers. Some of these publications, particularly monthly magazines, are cast for in advance. Thus, ample lead time must be allowed for the articles to actually get into the hands of consumers.

(iii) *Local Notices to Mariners.* Brief summaries of participation opportunities may be inserted in Local Notices to Mariners. These are published and distributed by each Coast Guard District. This method is particularly appropriate when the rulemaking affects marine transportation activity in a particular locale.

(iv) *Press conferences; Radio and T.V. talk shows.* These methods might be used if the rulemaking has very wide consumer interest and media appeal.

(v) *Articles in Coast Guard Periodicals.* Brief notices or articles that summarize the rulemaking issues and opportunity to participate may be placed in Coast Guard periodicals distributed to the public (e.g., Safe Boating Newsletter, Boating Safety Circular). Because these periodicals are cast far in advance, ample lead time must be allowed for the articles to actually get into the hands of consumers.

3. *Standard Procedure for Participation in Programs and Policies.*

(a) *Applicability.* This procedure applies to proposed actions or decisions that would affect the consumer in a form other than a regulation or law.

(b) *Significant Policies.* Each Headquarters office chief and each District Commander is responsible for notifying the Consumer Affairs Officer of evolving policies or programs that could have a significant impact on consumers. In identifying policies or programs that could have a significant impact on the consumer, the following criteria will be considered:

- Policy matters that will require a major policy decision on the part of the Commandant.
- Policy that has the potential to require major new funding initiatives or that otherwise may have a major affect on program budget and resources.
- Policy matters that are controversial among consumers.
- Policy that has the potential for imposing significant costs or economic burdens on the consumer.
- Policy matters that have a significant impact on transportation safety.

(c) *Public Participation Plan.* The Headquarters office chief or District Commander responsible for the policy will designate a member of his staff to work with the Special Assistant Consumer Affairs Officer in preparing a Participation Plan that will provide a way to inform consumers of the proposed policy and give them an opportunity to present their views and comments before a final decision is made. The Participation Plan will address the same types of considerations covered by the Participation Plan used in rulemaking (par. 2(a) of this section).

(d) *Participation Methods.* The following participation methods will be considered and used as appropriate:

(i) *Advance Notices of Proposed Policy.* This notice would be published in the "Notices" section of the **Federal Register** and also distributed to consumers through other notification methods. The notice would explain what the proposed policy is and the reason why the Coast Guard is proposing the policy. The notice would solicit the views and comments of interested persons and describe any other methods of public participation to be used in the formulation of the final policy.

(ii) *Notice of Policy or Withdrawal of Proposed Policy.* This notice would also be published in the "Notice" section of the **Federal Register** and distributed by other notification methods. The notice would summarize consumer comments and other participation and explain the Coast Guard's intended action on the proposed policy.

(iii) *Other methods.* Consideration will be given to use of the other participation methods described under rulemaking (par. 2(b) of this section) as appropriate.

(e) *Notification Methods.* The notification methods described under rulemaking (par. 2(c) of this section) will be used, as appropriate, to inform consumers of the opportunity to participate in formulation of the policy.

4. *Consumer Forums.* In addition to the specific participation methods mentioned above, the Coast Guard periodically holds various other meetings or seminars that are open to the public and at which consumers can, with prior arrangement, meet with Coast Guard officials to discuss topics of interest to consumers. These forums are briefly described below.

(a) *Advisory Committees.* There are currently five Federal Advisory Committees used by the Coast Guard to obtain expert advice in some of our program areas that have consumer impact. In addition, a sixth committee, called the Towing Safety Advisory Committee, is being formed and should be established early in 1981. The committees meet at various times during the year. The meetings are open to the public. Unless seating capacity is a problem, there are normally no prior arrangements necessary for an interested person to attend and observe one of the meetings. However, if a person wishes to make a presentation or otherwise speak before the advisory committee, he should contact the Coast Guard sponsor of the committee in advance. The agendas for the meetings are normally quite full and often cast far in advance. Nevertheless, the committees can be used as open forums in which consumers can discuss matters of concern in areas covered by the committee. A brief description of each committee is given below. If you want further information concerning one of the committees, contact the Special Assistant Consumer Affairs Officer (address in section on Oversight).

(i) *National Boating Safety Advisory Council.* The Council advises the Coast Guard on the formulation of boating safety regulations and other significant issues in boating safety. Members are drawn equally from three sectors of the public: Boating industry, State Boating Law Administrators, and general boating public.

(ii) *Chemical Transportation Advisory Committee.* This committee advises the Cost Guard on rulemaking and policy matters involved in the water transportation of hazardous materials such as petroleum products, chemicals, and liquid natural gas. Members of the committee represent industry, environmentalists, and public interest groups.

(iii) *New York Harbor Vessel Traffic Services Advisory Committee.* This committee provides the Coast Guard with advice on the development and operation of the Vessel Traffic Service in New York harbor. The committee is composed of Federal, State, and local government representatives, as well as representatives of the marine industry, port authorities, and environmental concerns.

(iv) *Rules of the Road Advisory Committee.* This committee advises the Coast Guard on navigation rules and maritime practices relating to the Rules of the Road. The committee is composed of members chosen for their expertise in navigation rules, maritime practices, and problems relating to the Rules of the Road.

(v) *Ship Structure Committee.* The purpose of this committee is to advise the Coast Guard on methods of improving the design, materials, and construction of commercial vessels. Members are drawn from government and industry professional organizations such as Maritime Administration, the American Bureau of Shipping, and the U.S. Navy.

(vi) *Towing Safety Advisory Committee.* The purpose of this committee is to advise the Coast Guard on matters relating to shallow-draft and inland and coastal waterway navigation and towing safety. Members are drawn from the barge and towing industry, the offshore supply vessel industry, port authorities and terminal operators, cargo shippers, and members of the general public.

(b) *National Boating Safety Education Seminar.* This is a two or three day seminar, usually held each year in

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March, co-sponsored by the Coast Guard and the National Safe Boating Council, Inc. The purpose of the seminar is to provide a forum in which educators and others interested in boating education and boating safety can gather together to exchange information on new advances and techniques in boating education. The seminar features formal presentations, informal workshops, and space for displays and exhibits. Past attendees at the seminar have included representatives of the American and Canadian Red Cross, the Boy Scouts of America, the National Aquatics Council, the American Association of Health, Physical Education and Recreation, representatives of the marine industry, and representatives of Federal and State governments. Anyone interested in boating safety and boating education is encouraged to attend. For more information concerning the seminar, contact the Special Assistant Consumer Affairs Officer (address in section on Oversight).

(c) *Suggestions for Other Consumer Forums.* As the Coast Guard gains more experience in implementing the Consumer Program, we may hold other kinds of consumer forums. We would welcome any comments or suggestions you might have as to other types of meetings or forums that would be helpful. Interested persons should send these comments to the Special Assistant Consumer Affairs Officer (address in section on Oversight). The comments should include suggestions on format and objectives of the forum, location, time, and type of participants.

IV. Informational Materials

1. *Purpose.* The purpose of this section is to describe informational materials produced by the Coast Guard for consumers in the areas of agency responsibilities and services, procedures for consumer participation, and aspects of the marketplace (how to use a service or product).

2. *Information on Coast Guard Services.* We have in this Consumer Program given a relatively full description of Coast Guard responsiblities and services that affect the consumer (par. 3 in section on Consumer Affairs Perspective).

3. *Information on How to Participate.* When the Coast Guard uses any of the particular participation methods described in the section on Consumer Participation, we will explain how to participate in the proceeding and will use positive identification methods to make consumers aware of the opportunity to participate. One of the most direct methods we use to inform consumers of the opportunity to participate is the mailing list. You can use Appendix C to let us know in what specific areas you would like to be kept informed of opportunities to participate.

4. *Marketplace Information.* (a) *Pamphlets.* The Coast Guard produces a variety of free pamphlets for consumers on marine safety and transportation topics. For the most part, they inform consumers on how to use a marine transportation product (e.g. various boating safety pamphlets) or service (e.g. pamphlet on services provided by the Coast Guard Auxiliary). These pamphlets are revised periodically. Rather than provide a list of pamphlets here that may become outdated, we will maintain a bibliography of current consumer information pamphlets. The bibliography will give the title of each pamphlet, a brief description of its contents or purposes, and explain how a copy can be obtained. Interested persons can get a copy of the pamphlet bibliography by contacting the Special Assistant Consumer Affairs Officer (address in Oversight section).

(b) *Audiovisuals.* The Coast Guard also produces audiovisual materials, such as films, and slide-tape productions, mostly on boating safety topics. Most of these are designed to be shown to the public by Coast Guard Boating Safety Detachments and Auxiliary personnel. Some of the materials, however, are loaned to schools and boat clubs. As with pamphlets, the inventory of consumer audiovisual materials changes. Thus, we will also maintain a current bibliography of audiovisual materials that can be made available to individuals or groups. A copy of the audiovisual bibliography can be obtained by contacting the Special Assistant Consumer Affairs Officer.

(c) *News Releases.* The Coast Guard regularly uses news releases to inform consumer-oriented media of rulemaking proceedings and other opportunities to participate, safety tips and safety precautions, and other information on Coast Guard programs and services. Interested persons may use Appendix C to get on the mailing list for these news releases.

(d) *Coast Guard Periodicals.* The Coast Guard produces several newsletters and circulars intended to inform the public and consumers concerning maritime safety topics. A brief description of each periodical is given below. Interested persons may use Appendix C to get on a mailing list for these periodicals.

(i) *Boating Safety Circular.* This circular explains boating safety regulations and developments in the boating safety program. Frequently, the Circular also contains a listing of boats or associated equipment involved in safety defect (recall) campaigns. The Circular is sent to boat and associated equipment manufacturers, dealers, marinas, yacht clubs, and interested individuals. There is no set publication schedule. On an average, the Circular is published four to five times a year.

(ii) *Safe Boating Newsletter.* This newsletter covers practically all aspects of the regulatory and educational functions of the boating safety program. The newsletter is produced quarterly and sent to boating educators, boating media writers and editors, various boating safety organizations, and interested individuals.

(iii) *Proceedings of the Marine Safety Council.* This magazine is slanted toward covering Coast Guard programs concerned with commercial vessel safety and marine industry. It is published monthly and sent to interested individuals, industry, and professional marine interests.

5. *Information for Consumer Forums and Open Meetings.* Whenever the Coast Guard holds an open meeting or consumer forum to discuss rulemaking or policymaking of interest to consumers, the office sponsoring the meeting will publish a notice of the meeting in the **Federal Register.** They will also make use of one or more of the notification methods described in the section on Consumer Participation. The notice will include an agenda for the meeting and describe how interested persons can participate in the meeting. If background or briefing materials will be available, the notice should also explain how an interested person can obtain these materials prior to the meeting. Whenever specific consumer issues or problems will be discussed at the meeting, particularly if the proceeding involves technical issues in which the Coast Guard wants to get the consumer viewpoint, the sponsoring office should prepare a briefing paper for consumers that can be obtained prior to the meeting. The briefing paper will explain and provide background information on key issues to be discussed at the meeting. The briefing paper should be written in language that a layman can understand. The purpose of preparing the briefing paper is to allow consumers, or other interested persons, to come to the meeting prepared to participate and make the best use of the time available.

6. *Periodic Evaluation of Informational Materials.* As part of an annual evaluation conducted by the Office of Consumer Liaison in the Office of the Secretary of Transportation, the Coast Guard will review its consumer information materials to determine if they are up to date, effective, and if new or revised publications are necessary. In addition, the Coast Guard would welcome any consumer comments on our informational materials. Comments and suggestions to improve existing materials, and ideas for new informational materials, should be sent to the Special Assistant Consumer Affairs Officer (address in Oversight section).

V. Education and Training

1. *Purpose.* This section describes how Coast Guard personnel will be trained and educated to carry out the Consumer Program. This section also describes the types of technical assistance and training the Coast Guard will provide for consumers.

2. *Education and Training of Coast Guard Personnel.* Training and education of Coast Guard personnel in carrying out the provisions of this Consumer Program will be the responsibility of the Special Assistant Consumer Affairs Officer. This training will be accomplished primarily by means of a Commandant's Instruction. This is a comprehensive directive which sets policy and procedure concerning a particular subject that's applicable to all Coast Guard personnel, both at Headquarters and in the Districts. It will spell out specific practices and procedures necessary to implement this Consumer Program in the Coast Guard. If necessary, the Special Assistant Consumer Affairs Officer will augment the Commandant's Instruction with briefing or training sessions for Headquarters and District personnel who work in policy positions that affect consumers.

3. *Technical Assistance to Consumers.* The Coast Guard can provide assistance to consumers by answering technical or procedural questions about Coast Guard rules, policies, and programs. Consumers can send their questions to the Headquarters office or District office concerned, or if they are not sure who is best able to answer the question, consumers can send the question to the Special Assistant Consumer Affairs Officer who will either answer it directly or refer it to the appropriate subject matter specialist.

The Coast Guard also provides assistance in the boating safety area in the form of formal training courses and inspections provided by the Coast Guard Auxiliary. The Auxiliary currently conducts six different public education courses on boating safety subjects. The courses are conducted by specially trained instructors in many of the Auxiliary Flotillas.

In addition to these public education courses, many of the Auxiliary Flotillas can inspect a consumer's boat to determine if it has recommended safety equipment and meets Coast Guard safety regulations. The inspection is called a Courtesy Marine Examination. It is performed at the invitation of the boat owner. The inspections are primarily educational in nature and solely for the benefit of the boat owner. If the boat fails the inspection, no penalty action of any kind is taken.

If the boat passes the inspection, the owner is awarded a Courtesy Marine Examination decal that can be displayed on the boat. Persons interested in taking the Auxiliary training courses or in obtaining a Courtesy Marine Examination inspection should contact the Director of Auxiliary in the nearest Coast Guard District (see Appendix B).

VI. Complaint Handling

1. *Purpose.* This section explains how the Coast Guard currently handles consumer complaints. This section also gives guidance on how to submit a complaint.

2. *Coast Guard Handling of Complaints.* When a Coast Guard office receives a complaint, it is referred to a program specialist who works in the specific area related to the complaint. Based on his knowledge of the Coast Guard program, and any research or fact finding necessary, this Coast Guard person prepares a response to the complaint. The Coast Guard generally tries to answer correspondence within two weeks. If that is not possible, an interim response is sent to let the consumer know that we are working on his complaint. In acknowledging receipt of an incoming letter, or when referring the letter to another person in the Coast Guard, many Coast Guard offices use a post-card size form (form CG–4217, Acknowledgement/Referral) to provide an interim response. The form shows who the letter was referred to for action and an approximate target date for the Coast Guard final response.

Many times, the Coast Guard final response to a complaint is an explanation or justification of a Coast Guard position or policy. In some instances, however, the complaint may trigger a change. In this case, the response will indicate that the Coast Guard is undertaking some change as a result of the complaint. In either event, an attempt is made to be as responsive to the complaint as possible.

Coast Guard correspondence that responds to a complaint concerning Coast Guard programs or policies, particularly if the complaint is the first of its kind, is frequently signed by the Headquarters office chief, or in the Districts, by the District Commander. Sometimes, however, the Coast Guard response may be signed at a lower level. In this case, copies of outgoing correspondence (collected into what is sometimes referred to as the "reader file") are periodically reviewed by the Headquarters office chief or District Commander, or his deputy. By either method, Coast Guard officials are aware of the nature and trend of consumer complaints in their area and the Coast Guard response.

3. *How to Submit A Complaint.* (a) *District or Headquarters?* As we indicated above, consumer complaints are referred to a subject matter specialist who works in the area related to the complaint. Thus, a consumer will usually get a faster response if he sends his letter to the office most directly concerned. This is one of the reasons we went to some lengths in the section on Consumer Perspective to describe who does what in the Coast Guard. Nevertheless, a person may have a complaint concerning a particular program and not be sure whether it should be sent to a Headquarters office or to the District office. The Headquarters office is concerned with formulating policies and regulations and they have the most significant say in changing the policy or regulation. The District on the other hand is concerned with carrying out the policy or regulation at the local level and is in the best position to correct mistakes or problems in this respect (for example, the placement or maintenance of a specific buoy in a particular waterway). In any event, if the consumer is not sure of whom to send the complaint to, he or she may send the complaint to the Special Assistant Consumer Affairs Officer (see address in Oversight section). He will either answer the complaint directly or ensure that the complaint is reviewed and responded to by the most appropriate person in the Coast Guard.

(b) *Possible Safety Defects in Boats.* Complaints regarding possible safety defects in boats require special handling. As we indicated in the section on Consumer Perspective, the Coast Guard has special responsibilities established in law concerning safety defects on boats. The law empowers the Coast Guard to ensure that manufacturers of boats and certain types of equipment notify the retail owner whenever a safety defect is discovered in the boat or equipment and that the manufacturers undertake to correct the defect at no cost to the

consumer. These notification and correction requirements apply only to manufacturers of boats and manufacturer concerning the alleged defects. Include copies of the correspondence, if available.

consumer. These notification and correction requirements apply only to manufacturers of boats, and manufacturers of inboard engines, outboard engines, and stern drive units sold for use in boats.

The defect notification program is coordinated at Headquarters in the Office of Boating, Public, and Consumer Affairs. Complaints concerning possible safety defects in boats should be sent to: Office of Boating, Public, and Consumer Affairs, Boating Technical Division (G-BBT), U.S. Coast Guard Headquarters, 2100 Second St. SW., Washington, DC 20593.

The complaint or alleged safety defect is reviewed and, if necessary, investigations or inspections are carried out by technical specialists in the Districts. It is important for consumers to understand that the law defines a safety defect as any defect that creates a substantial risk of personal injury to the public. Consumers sometimes complain of poor workmanship or cheap materials that, on careful evaluation by the Coast Guard, do not necessarily present a substantial risk of personal injury. In these cases, the Coast Guard cannot compel the manufacturer to recall the boat or correct the problem. In these cases, the consumer must seek a solution under some other remedy. In most cases, this involves seeking correction of the problem under the manufacturer's warranty, if it still applies.

Consumers reporting alleged safety defects should if possible provide the following information:

(i) Give the complete name or model designation of the boat (or outboard engine, inboard engine, or stern drive unit).

(ii) Provide a general description of the boat, including its type and hull material and any model year designation assigned by the manufacturer. This information can help the Coast Guard identify specific models since some manufacturers over a period of time apply the same name or model designation to different boats.

(iii) Give the twelve-digit hull identification number (HIN) affixed to the outside of the boat transom. If the boat has no HIN (only boats manufactured after November 1, 1972 are required to have HINs), then provide any other kind of serial number assigned by the manufacturer.

(iv) Provide a complete description of the alleged safety defect. Include photographs of the defect if possible, or drawings, or copies of boat plans if available, to help illustrate the defect.

(v) Give a summary of any correspondence with the dealer or manufacturer concerning the alleged defects. Include copies of the correspondence, if available.

Providing this information will help the Coast Guard resolve the complaint as quickly and as accurately as possible.

4. *Improving Coast Guard Complaint Handling.* As part of the Department of Transportation final Consumer Porgram, the Office of the Secretary of Transportation has undertaken a department-wide study that should result in an improved system for complaint handling that can be used as a model by all the administrations in the Department, including the Coast Guard. The target date for completing the study and developing the model system is May 1, 1981. At that time, the new system of complaint handling will be explained in an updated version of the information pamphlet entitled "Finding Your Way in DOT". This pamphlet is produced in the DOT office of Consumer Liaison. Anyone wishing to be put on the mailing list for the 1981 updated version should write to the Office of Consumer Liaison, Department of Transportaiton, Washington, DC 20590, or use Appendix C to indicate that you would like a copy when it becomes available.

Dated: November 25, 1980.

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating, Public and Consumer Affairs.

BILLING CODE 4910-14-M

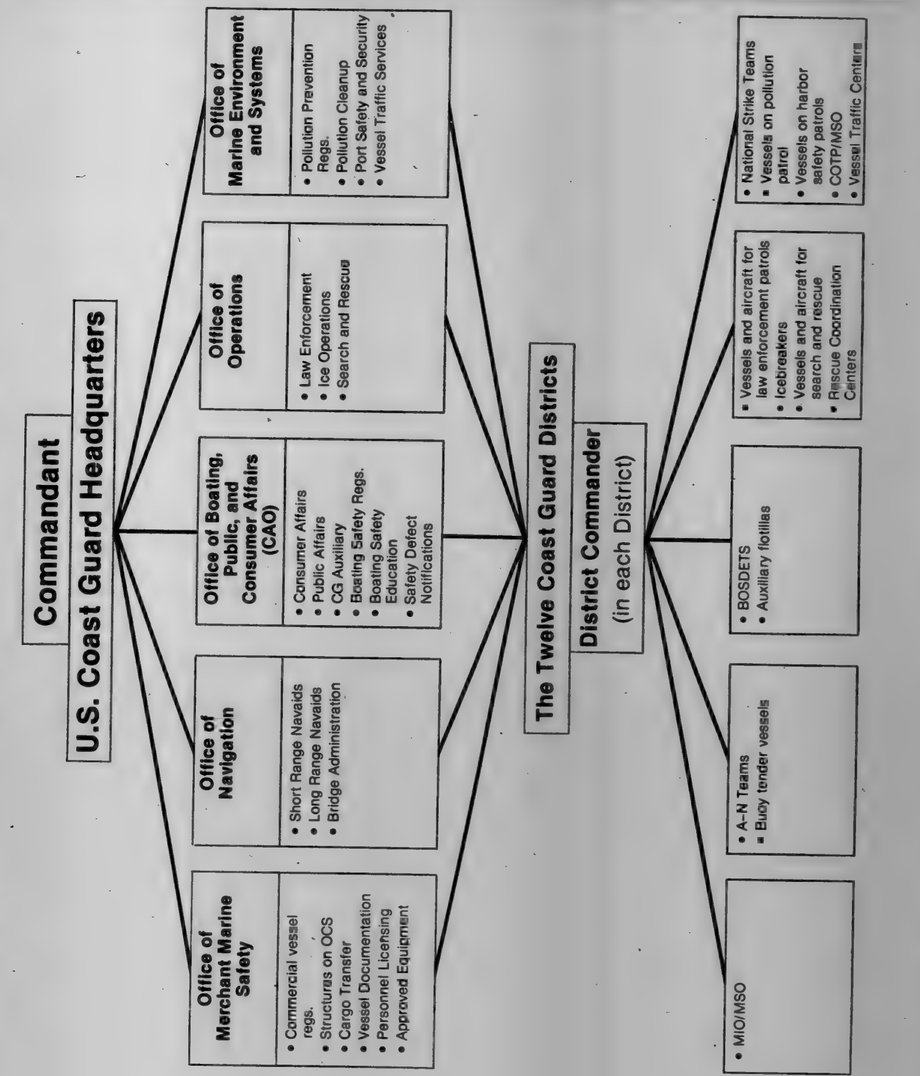

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U.S. Coast Guard Districts

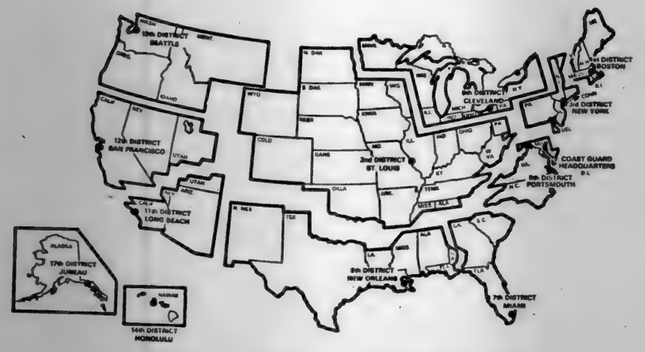

ADDRESSES OF COAST GUARD DISTRICT COMMANDERS

Commander
First Coast Guard District
150 Causeway Street
Boston, Massachusetts 02114
(Tel: 617-223-3607)

Commander
Second Coast Guard District
1430 Olive St.
St. Louis, Missouri 63103
(Tel: 314-425-4627)

Commander
Third Coast Guard District
Governor's Island
New York, New York 10004
(Tel: 212-668-7974)

Commander
Fifth Coast Guard District
Federal Office Building
431 Crawford Street
Portsmouth, Virginia 23705
(Tel: 804-398-6202)

Commander
Seventh Coast Guard District
1018 Federal Building
51 SW 1st Avenue
Miami, Florida 33130
(Tel: 305-350-5758)

Commander
Eighth Coast Guard District
Hale Boggs Federal Bldg.
500 Camp Street
New Orleans, Louisiana 70130
(Tel: 504-589-6198)

Commander
Ninth Coast Guard District
1240 East 9th Street
Cleveland, Ohio 44199
(Tel: 216-522-3912)

Commander
Eleventh Coast Guard District
Union Bank Building, Oceangate Blvd.
Long Beach, California 90822
(Tel: 213-590-2213)

Commander
Twelfth Coast Guard District
630 Sansome Street
San Francisco, California 94216
(Tel: 415-556-3228)

Commander
Thirteenth Coast Guard District
Federal Building
915 2nd Avenue
Seattle, Washington 98174
(Tel: 206-442-5896)

Commander
Fourteenth Coast Guard District
PJKK Federal Bldg.,
300 Ala Moana Blvd.
Honolulu, Hawaii 96850
(Tel: 808-546-2861)

Commander
Seventeenth Coast Guard District
P. O. Box 3-5000
Juneau, Aklaska 99801
(Tel: 907-586-7290)

APPENDIX B

HOW TO GET MORE INFORMATION

I would like to be put on a mailing list to receive notices and other information on opportunities to participate in the development of Coast Guard regulations and policies in the following consumer areas:

- Boating Safety
- Commercial Vessel Safety
- Offshore Structures
- Cargo Transfer
- Personnel Licensing
- Approval Specifications
- Navigation Aids
- Bridges
- Fisheries Law Enforcement
- Other Law Enforcement
- Search and Rescue
- Water Pollution
- Port Safety & Security
- Vessel Traffic Systems
- Ice Operations
- Other (please specify) _____

I would like to receive the following publications:

- Finding Your Way in DOT (1981 edition)
- Bibliography of Consumer Pamphlets
- Bibliography of Consumer Audiovisusuals
- Boating Safety Circulars
- Boating Safety Newsletters
- Other (please specify) _____

I would classify myself as follows insofar as Coast Guard programs are concerned:

- individual consumer
- industry or business
- member of consumer organization
- other (please specify) _____

Name _____
Organization _____
Address _____

* * * * * * * * * * * * * * * * *

YOU MAY REPRODUCE THIS APPENDIX AND GIVE IT TO SOMEONE ELSE INTERESTED IN GETTING MORE INFORMATION ON PARTICIPATION IN COAST GUARD PROGRAMS.

* * * * * * * * * * * * * * * * *

SEND TO: Special Assistant Consumer Affairs Officer
Office of Boating, Public, and Consumer Affairs (G-BA/42)
U. S. Coast Guard Headquarters
Washington, DC 20593

[FR Doc. 80-37279 Filed 11-28-80; 8:45 am]
BILLING CODE 4910-14-C

APPENDIX C

Monday
December 1, 1980

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federal register

Monday
December 1, 1980

Part V

Environmental Protection Agency

Water Pollutants; Withdrawal of Proposal To Add Ammonia to Toxic Pollutant List and Denial of Petition To Add Ammonia and Sulfide to Conventional Pollutant List

V 45 / 232 2 DEC 1 80 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 401

[WH-FRL1642-6]

Toxic Pollutant List; Notice of Withdrawal of Proposal To Add Ammonia

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposal withdrawal.

SUMMARY: Following receipt and evaluation of public comments, the Environmental Protection Agency withdraws its proposal to add ammonia to the toxic pollutants list at this time. While ammonia is acutely and chronically toxic to aquatic life, it is not persisternt in the aquatic environment and poses no human health threat at levels typically found in ambient water as a result of point source discharges.

EFFECTIVE DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Davie Sabock (202) 245–3042.

SUPPLEMENTARY INFORMATION:

Background

On January 3, 1980 45 FR 803 EPA proposed the addition of ammonia to the toxic pollutants list. This proposal was based on evidence of acute and chronic toxicity to certain aquatic species of point source discharges of the pollutant.

Following analysis of public comments, EPA again evaluated the proposed listing of ammonia as a toxic pollutant. The Agency now withdraws that proposal because: 1. Ammonia in water poses no human health threat at levels typically found in ambient water as a result of point source discharges.

2. Ammonia is biodegradable and does not persist in the aquatic environment.

3. Ammonia is not normally present in ambient waters at concentrations toxic to warmwater fish species.

4. Water Quality Standards and technology-based effluent limitations provide for adequate protection of aquatic organisms from point source ammonia discharges.

5. Listing ammonia as a toxic pollutant would affect only industrial point source discharges, which account for only about 10 percent of the ammonia discharged to waters.

As a "non-toxic, non-conventional" pollutant ammonia remains subject to effluent limitations representing "best available technology economically achievable" ("BATEA"). The regulatory effect of designating ammonia as a toxic pollutant would have been to make economic (301(c)) and water-quality based (301(g)) waivers from BATEA unavailable to industrial dischargers. However, since ammonia poses no human health threat, is not persistent and is highly toxic to only a limited group of sensitive aquatic species, the wholesale elimination of waivers is inappropriate. State water quality standards and environmental assessments under (301(g)) should ensure adequate protection of any biological areas of concern.

Furthermore, EPA has estimated that about 10 percent of ammonia discharged to U.S. waters comes from industrial sources, the remainder coming from POTW's, which would be unaffected by the proposed listing. Other major sources of ammonia in water are precipitation and agricultural runoff. Since industry contributes such a small fraction of the ammonia reaching U.S. waters, even complete elimination of industrial sources would not materially lower that burden. Therefore, even if listing ammonia as a toxic pollutant were justified by its properties, such listing would not lead to more effective treatment.

In making its decision to withdraw the proposal to list ammonia as a toxic pollutant, EPA carefully considered the 219 public comments received. These comments (217 against the proposal, 2 for it) are summarized below as information only. The comments presented below summarize the major views expressed by the public. Inclusion herein does not suggest that the Agency necessarily agrees with the conclusions expressed. Therefore, they are not to be considered as suggesting an Agency position.

1. Most of the ammonia reaching natural waters comes from uncontrollable non-point sources, such as agricultural runoff, decay of organic material and precipitation. Since less than 10 percent is of industrial origin, control of these sources would not result in measurable benefits.

2. EPA's listing of ammonia as a toxic pollutant would result in extremely stringent treatment requirements which would have to be met even in areas where increased ammonia removal would not materially improve the lot of aquatic organisms. Various industrial commenters estimated unnecessary treatment costs for their industries ranging from hundreds of millions to billions of dollars.

3. Section 307(a) was intended by the Congress for use only on chemicals posing a serious threat to human health, aquatic life, or both, which could not be otherwise controlled. Ammonia is a non-persistent substance which poses no human health hazard and is essential to all life. Because of this it does not qualify for addition to the toxic pollutant list.

4. EPA has not presented an evaluation of how well current controls are working or an estimate of improvements to be expected from adding ammonia to the toxic pollutants list.

5. Total ammonia should not be listed as a toxic pollutant because in natural waters only a fraction of total ammonia is in the toxic un-ionized form. Since this fraction varies with water quality and temperature, the parameter of concern should be un-ionized ammonia.

6. Fish have survived in paper mill effluents which far exceed "Red Book" water quality criteria for ammonia. Fish farms with ammonia levels far in excess of criteria have supported growth and development of catfish, *gambusia*, shad, largemouth bass, bluegill and green sunfish for more than a year. This suggests that the criterion, based on laboratory tests with trout, is overprotective when applied to warmwater fishes.

7. Dischargers who have evaluated aquatic biota of receiving waters before and after installation of facilities discharging ammonia have found no differences in these ecosystems that would be attributed to ammonia.

8. Since the costs associated with complying with regulations resulting from listing ammonia as toxic pollutant would exceed $100 million, EPA is required by Executive Order 12044 to perform a "Regulatory Analysis." Since EPA has not done this, the proposal to list ammonia is premature.

9. EPA has not complied with OMB directives requiring cost/benefit analyses. Therefore, the proposal to list ammonia is premature.

10. Data purporting to show synergism with dieldrin are irrelevant because of the strict controls already applied to that pesticide.

11. Ammonia is used in treatment of drinking water and should, therefore, not be listed as a toxic pollutant.

12. Listing ammonia as a toxic pollutant could require publicly owned treatment works (POTW's) to install treatment facilities, even though EPA construction grants for advanced waste treatment (AWT) are available only if the grantee can show that AWT would provide significant improvement in water quality and human health.

13. EPA has not attempted to estimate the number of fish kills which would be prevented by listing ammonia as a toxic pollutant, nor has it shown that fish kills mentioned in the **Federal Register** are attributable to point source ammonia discharges.

14. Production data are unrelated to how much ammonia enters the waters of the United States and are, therefore, irrelevant.

15. Marine waters are so well suited for absorbing and using ammonia that ammonia poses no problem in such waters.

16. Inclusion of ammonia on the toxic pollutant list would hamper development of the synthetic fuels industry.

17. Some wastewater treatment systems require the addition of ammonia as a nutrient to support microorganisms which remove other pollutants.

18. It is unfair to require industries to remove ammonia to lower levels than other dischargers.

19. It is wasteful to remove ammonia to levels required to protect organisms not native to the area. For instance, warmwater areas will not support trout, but the criterion is established to protect trout. Warmwater fishes tolerate much higher ammonia levels. EPA failed to consider "the usual or potential presence of affected organisms," as required by the CWA.

20. Removing ammonia from wastewaters as a result of listing it as a toxic pollutant might cause increased ammonia pollution in other media.

21. Not all of the six factors required to be considered for placing a substance on the toxic pollutant list indicate that ammonia is hazardous.

22. EPA proposed adding ammonia to the toxic pollutants list for administrative convenience.

Dated: November 24, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80–37217 Filed 11–28–80; 8:45 am]

BILLING CODE 6560–29–M

V 45 / 232 DEC 80 UMI

ENVIRONMENTAL PROTECTION AGENCY

[WH-FRL 1642-6a]

Conventional Pollutant List; Notice Denying the Addition of Ammonia and Sulfide

AGENCY: Environmental Protection Agency.

ACTION: Notice of petition denial.

SUMMARY: Following receipt and evaluation of public comments, the Environmental Protection Agency denies the proposal to add ammonia and sulfide to the conventional pollutants list as petitioned by the American Iron and Steel Institute. While ammonia and sulfide are oxygen demanding, naturally occurring, and biodegradable, they have not traditionally been the primary focus of wastewater control.

Background

Pursuant to section 304(a)(4) of the Clean Water Act (CWA), the Administrator shall, as appropriate and from time to time, publish information identifying conventional pollutants. In a previous action published at 43 FR 32857 (July 28, 1978), the Environmental Protection Agency described pollutant criteria employed to substantiate the listing of a substance as a conventional pollutant. Based on a review of the Clean Water Act and its legislative history, the Agency identified three classes of substances which may comprise conventional pollutants: oxygen demanding substances, solids and nutrients. One group of criteria represents characteristics common to all of these classes: pollutants which are naturally occurring, biodegradable, oxygen demanding materials, and solids which have similar characteristics to naturally occurring biodegradable substances. The second criterion is that the pollutants traditionally have been the primary focus of wastewater control.

The Agency received 39 comments on the petition, comments which both supported and opposed the petition. (A summary of the specific comments received is attached as an Appendix to this notice.) After consideration of the public comments and evaluation of ammonia and sulfide in light of the listing criteria, the Agency has determined to deny the petition.

Discussion:

Evaluation of Ammonia and Sulfide According to the Conventional Pollutants Selection Criteria

The Agency agrees with petitioners that ammonia and sulfide are oxygen-demanding substances, that they are naturally occurring, and that they are biodegradable. The Agency disagrees, however, that either ammonia or sulfide have been the primary focus of wastewater control. The bases for these conclusions are set out below: (a) Oxygen-Demanding Substance: this criterion applies to any substance which throughout the course of its decomposition, whether biological, chemical, or photochemically depletes the dissolved oxygen concentration in water. Ammonia and sulfide both exhibit this characteristic. The oxygen demand of ammonia can be easily realized by way of a stoichiometric relationship involving oxygen and ammonia nitrogen conversion to nitrate. This biological conversion demonstrates a theoretical ratio of about 4.6 molecules of oxygen to 1 molecule of ammonia. Sulfides can be biologically oxidized, the resulting products being sulfates or elemental sulfur. The demand for oxygen is about 2 to 1.

(b) Naturally Occurring: Ammonia and sulfide are both ubiquitous in the aquatic environment because of their involvement in the natural nitrogen and sulfur cycles respectively. Consequently, both moieties include elements essential for specific life functions.

(c) Biodegradable: The criterion refers to the rate at which a living organism will reduce an original chemical concentration or alter the original chemical into another substance with different characteristics. Because ammonia and sufide are necessary for certain forms of life, they are assimilated as nutrients reducing their concentrations or changing their original chemical forms.

(d) A Traditional and Primary Focus of Wastewater Control: This criterion refers to those pollutants intended to be removed by conventional primary and secondary treatment. This conclusion is based on the definition of the BCT test (44 FR 50733, August 29, 1979), which indicates that conventional pollutants are those removed by primary and secondary treatment at Publicly Owned Treatment Works (POTW). Neither ammonia nor sulfide have traditionally been the primary focus of this conventional treatment technology. With respect to ammonia, nitrogen removal technologies exist, but are recognized by the Agency as wastewater treatment beyond conventional (see Process Design Manual for Nitrogen Control U.S. EPA Technology Transfer Document, October 1975, p. 2–21). Ammonia therefore is outside the ambit of traditional wastewater control.

Sulfide likewise is not intentionally removed by conventional wastewater treatment. Sulfide removal technologies do exist for specific industries but are not a primary focus in the design of municipal wastewater treatment plants (i.e., POTW's) (see Development Document for Effluent Guidelines and New Source Performance Standards for the Petroleum Refining Point Source Category, April 1974, U.S. EPA, p. 143). Sulfide thus does not meet the criterion of being traditionally the primary focus of wastewater treatment.

It should be noted that conventional primary and secondary treatment can result in some *incidental* removal of either ammonia or sulfide. Incidental pollutant removal is not, however, equivalent to intended removal. Obviously, only intended removal can be the primary focus in treatment technology.

The Agency therefore determines that neither ammonia nor sulfide is a primary focus of traditional wastewater treatment, and consequently denies the listing petition. This action is factually consistent with our earlier actions in determining whether to list substances under section 304(a)(4). Thus, oil and grease, listed as conventional pollutants in 44 FR 44501 (July 30, 1979), are intentionally removed in conventional wastewater treatment facilities. Phosphorus, which the Agency decided against listing as a conventional pollutant in the same rulemaking, "is not commonly treated by POTW's employing secondary treatment * * *" and as such has not traditionally been a primary focus of wastewater control (*id.*).

In the rulemaking for phosphorus, the Agency stated that whether a substance is commonly treated by secondary treatment is not relevant in designating conventional pollutants (44 FR at 44502). This was an erroneous statement. What was in fact intended was that for phosphorus, this criterion was not of primary concern. Instead, the Agency placed greater importance on phosphorus being an environmental problem only in limited geographical areas (*id.*). Non-conventional status therefore was desirable to retain regulatory flexibility (i.e., sections 301(c) and 301(g) waivers from BAT when justified), which flexibility would be unavailable if phosphorus were listed as a conventional pollutant.

Although not necessary to the disposition of this petition, in EPA's judgment the retention of ammonia and sulfide as non-conventional pollutants may be less impactive than listing them as conventional pollutants under section 304(a)(4). Conventional pollutants are subject without exception to Best Conventional Pollutant Control Technology (BCT). Non-conventional pollutants are subject to Best Available Technology Economically Achievable (BAT) but may be eligible for economic or water-quality based waivers under sections 301(c) and 301(g), respectively. Although relative costs have not yet been quantified, it may be that BAT waivers (if granted) would prove less costly than (mandatory) imposition of BCT.[1]

Conclusion

Since ammonia and sulfide do not meet the criteria for listing as conventional pollutants, the petition is denied.

Date: November 24, 1980.

Douglas M. Costle,
Administrator.

Appendix

Summary of Public Comments

1. EPA water quality based effluent requirements will adequately protect aquatic life from potential ammonia toxicity.

2. Sulfide is not naturally occurring in the sense of normally being present at background levels in receiving streams. It is not biodegradable like the organic constituents of municipal and industrial wastewaters, and it can exert considerable chemical oxygen demand. Furthermore, it has not traditionally been within the primary focus of wastewater control.

3. Advanced treatment for ammonia removal is notorious for high costs and expenses, low reliability and seasonal variation. Also, because the cost and extent of removal vary so greatly depending on the treatment, no reasonably meaningful comparison of costs and levels of ammonia removal in POTW's and costs and removal efficiencies via BCT is possible.

4. Ammonia is naturally occurring, biodegradable, oxygen demanding material, and a pollutant that has traditionally been the primary focus of wastewater control. Support for these statements can be found in a number of EPA and scientific documents; i.e., ammonia effluent limits appear in many guidelines for industrial point source categories, and ammonia treatment technology is detailed in the EPA Technology Transfer document "Process Design Manual for Nitrogen Control."

5. EPA should analyze the economic consequences of adding sulfide to the conventional pollutants list on other industries not affiliated with the American Iron and Steel Institute.

6. By placing ammonia and sulfide on the conventional pollutants list, the Agency's authority to make modifications in effluent limits for either chemical would be eliminated. The availability of BATEA modifications is preferred to the loss of these modifications as a result of ammonia and sulfide being conventional pollutants.

7. EPA should add ionized ammonia to the conventional pollutants list.

8. Since ammonia is toxic only in the high concentrations which are usually associated with spills and runoff, control should be site-specific.

9. Since EPA failed to demonstrate an ammonia-induced toxicity problem resulting from industrial discharge in U.S. waters, ammonia should remain a non-conventional pollutant and be regulated on a case-by-case basis by way of BATEA waivers.

10. Since EPA decided not to add phosphorus to the conventional pollutants list because of its impact on a limited number of streams (see 44 FR 44501; July 30, 1979), ammonia should on the same basis, remain a non-conventional pollutant.

11. EPA should make available the information it will consider on a case-by-case determination of BCT for removal of ammonia in lieu of the tests under Section 304(b)(4)(B). No lesser standards for review of BCT are appropriate than those employed for POTW's (i.e., a showing of: significant water quality improvement, mitigation of public health problems, financial impact on owner/operator of treatment facility, and the inflationary costs for interim delays).

12. EPA should develop a similar notice for adding ammonia and sulfide to the conventional pollutants list as it did for adding ammonia to the toxic pollutants list. As presented in the notice for ammonia and sulfide, there is no technical information from which a thorough understanding of the problem can be established. Additionally, because of the lack of established BCT and BATEA effluent limits, no comment can be appropriately formulated.

[1] Additional discussion of this issue appears in the Agency's notice withdrawing its proposal to list ammonia as a toxic pollutant under section 307(a) (45 FR 803).

[FR Doc. 80-37218 Filed 11-28-80; 8:45 am]
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federal register

Monday
December 1, 1980

Part VI

Department of the Interior

Heritage Conservation and Recreation Service

National Registry of Natural Landmarks

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation

the special status of the area. A bronze plaque may also be presented for

Dated: November 25, 1980.

Chris Therral Delaporte,

activities, carved by glacial ice and running water, revealing abrupt

of the 76 major volcanoes of the Alaska Peninsula and Aleutian

Special young flow of basalt interbedded with layers of tuff,

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DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

National Registry of Natural Landmarks

AGENCY: Heritage Conservation and Recreation Service, Department of the Interior.

ACTION: Public notice.

SUMMARY: This notice lists all natural landmarks currently included on the National Registry of Natural Landmarks. The listing provides information on each landmark's location, natural values, designation date, ownership, and owner agreement status. Federal agencies should consider the existence and location of natural landmarks when assessing the impact of their actions on the environment under Section 102(2)(c) of the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321).

FOR FURTHER INFORMATION CONTACT: Mr. Frank Ugolini, Division of State Heritage Programs, Heritage Conservation and Recreation Service, Washington, D.C. 20243 (202–343–4243).

SUPPLEMENTARY INFORMATION: The Secretary of the Interior established the National Natural Landmarks Program in 1962 to identify and encourage the preservation of the full range of ecological and geological features that are nationally significant examples of the Nation's natural heritage. Potential natural landmarks are identified through studies conducted by the Heritage Conservation and Recreation Service (HCRS) and other sources, evaluated by expert natural scientists, and, if judged nationally significant, designated as landmarks by the Secretary of the Interior. Once a landmark is designated, it is included on the National Registry of Natural Landmarks, which currently lists 537 natural landmarks.

The act of designating an area as a natural landmark is not a land withdrawal and in no way affects the ownership of the site. It does not dictate the type or intensity of activity that may be undertaken in a landmark. Landmark preservation is often made possible only through the long-term commitment of public and private owners to protect an area's outstanding natural values. The Department encourages owners and managers to protect the nationally significant values of their landmark, but this cooperation is voluntary and does not restrict the uses to which the land may be put. Owners who enter into a voluntary agreement with HCRS to protect their landmark are eligible to receive a certificate which recognizes the special status of the area. A bronze plaque may also be presented for appropriate display on the site.

Federal agencies should consider the existence and location of natural landmarks when they assess the effects of their actions on the environment under Section 102(2)(c) of the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321).

HCRS prepares an annual report for the Secretary of the Interior to transmit to the Congress which identifies all natural landmarks which exhibit known or anticipated damage or threats to the integrity of their resources (90 Stat. 1940; 16 U.S.C. 1a–5).

National Registry of Natural Landmarks

The National Registry of Natural Landmarks includes nationally significant ecological and geological features in 48 States, American Samoa, Guam, Puerto Rico, and the Virgin Islands. Of the 537 landmarks listed on the National Registry of Natural Landmarks, one-half are administered solely by public agencies, e.g., Federal, State, county, or municipal governments. Almost one-third are owned entirely by private parties. The remaining natural landmarks are owned or administered by a mixture of public and private owners.

The following list includes all natural landmarks included on the National Registry of Natural Landmarks as of December 1, 1980. The landmarks are arranged alphabetically by State and county. The number of landmarks in each State is enclosed in parentheses following each State's name. A description of each landmark's location, natural values, designation date, ownership, and owner agreement status is provided. Each landmark's *designation date* is enclosed in parentheses ( ), and more than one date indicates that the area's boundary was changed after its original designation. *Ownership* data is arranged in the following arbitrary order and does not reflect the relative amount of land owned by any party: Federal, State, County, Municipal, Private. An asterisk (*) indicates that the owner(s) of a landmark have entered into a *voluntary agreement* to protect the area's natural values.

Because many natural landmarks are privately owned and/or not managed for public access, landowner permission must be obtained before a visit is made to a natural landmark. The specific location for some landmarks is not provided because of an owner's request for minimum publicity and/or the fragility of the landmark's natural features.

Dated: November 25, 1980.

Chris Therral Delaporte,

Director, Heritage Conservation and Recreation Service.

ALABAMA (6)

Baldwin County

MOBILE-TENSAW RIVER BOTTOMLANDS (extends into Mobile and Washington Counties)—Extends from Mobile Bay north for 35 miles. One of the most important wetlands in the Nation containing a variety of habitats, from mesic floodplains and freshwater swamps to brackish water marshes, supporting several rare and endangered species. (May 1974) Owner: State, Private

Franklin County

*DISMALS—Four miles northeast of Hackleburg. A sandstone gorge supporting a virgin, disjunct, montane climax forest containing exceptionally diverse plant life. (May 1974) Owner: Private

Limestone County

*BEAVERDAM CREEK SWAMP—Ten miles northeast of Decatur. A large protected tupelo gum swamp which occurs in the Interior Low Plateaus region, rather than its usual occurrence in the Gulf Coastal Plain region. (May 1974) Owner: Federal

Madison County

*SHELTA CAVE— Within the city limits of Huntsville. A large cave with an underground lake, noted for its complex, especially aquatic, fauna. (October 1971) Owner: Private

Marshall County

*CATHEDRAL CAVERNS—Four miles northeast of Grant. A series of large chambers containing impressive stalagmites, totem poles, dripstone slopes and walls, and flowing underground streams. (June 1972) Owner: Private

Morgan County

NEWSOME SINKS KARST AREA—Between Morgan City and Union Hall. Classic example of karst development, containing more than 40 caves. (November 1973) Owner: Private

ALASKA (17)

*ANIAKCHAK CRATER—24 miles southeast of Port Heiden. One of the largest explosive craters in the world, the area contains Surprise Lake, the headwaters of the Aniakchak River. (November 1967) Owner: Federal

*ARRIGETCH PEAKS—250 miles northwest of Fairbanks. Illustrates several phases of alpine glacier activities, carved by glacial ice and running water, revealing abrupt transitions from metaphoric to granitic rock, and containing illustrations of tundra and boreal forest ecology. (April 1968) Owner: Federal

*BOGOSLOF ISLAND—25 miles north of Umnak Island in the Aleutian Archipelago. Remnant of three volcanic eruptions, habitat for over 5,000 Stellar's sea lions, and nesting ground for over 50,000 sea birds. (November 1967) Owner: Federal

*McNEIL RIVER STATE GAME SANCTUARY—200 miles southwest of Anchorage. Includes the mouth of the McNeil River with a series of low, shallow falls which afford good wading and visibility for brown bears fishing for salmon. (April 1968) Owner: State

*CLARENCE RHODE NATIONAL WILDLIFE RANGE—On the Bering Sea Coast between Hooper Bay and Kipnuk. Excellent example of coastal and upland tundra habitat, and nesting grounds for over one-half of the world's population of black brant, cackling geese and emperor geese. (October 1968) Owner: Federal

*ILIAMNA VOLCANO—135 miles southwest of Anchorage. Example of a cone-shaped stratovolcano resembling in past history, composition, and appearance the volcanoes of the Pacific Northwest. (January 1976) Owner: Federal

*LAKE GEORGE—44 miles northeast of Anchorage. Most impressive "self-dumping" lake in the country, it is damned each winter and swells with water until summer, when the dam breaks and the water is dumped in a spectacular torrent into the Knik River. (April 1967) Owner: Federal

*MALASPINA GLACIER—25 miles west of Yakutat. Largest piedmont glacier in North America and one of the largest outside the ice cap regions of the world. (October 1968) Owner: Federal

MIDDLETON ISLAND—155 miles southeast of Anchorage. Significant illustration of tectonic uplift as a result of earthquakes, containing important fossil evidence of the Pliocene and Pleistocene Epochs. (April 1968) Owner: Federal, Private

*MOUNT VENIAMINOF—20 miles northeast of Port Moller. Unique active volcano of uncommon size, an important calving ground for caribou, and only known glacier on the continent with an active volcanic vent in its center. (November 1967) Owner: Federal

*REDOUBT VOLCANO—110 miles southwest of Anchorage. An active stratovolcano, and the second highest of the 76 major volcanoes of the Alaska Peninsula and Aleutian Islands. Visible from Anchorage. (January 1976) Owner: Federal

*SHISHALDIN VOLCANO—50 miles west of Cold Bay in the Aleutian Archipelago. Tallest of known volcanoes on Unimak Island, active today and completely unpredictable. (November 1967) Owner: Federal

*SIMEONOF NATIONAL WILDLIFE REFUGE—In the Shumagin Island Group south of the Alaskan Peninsula. Ancestral hauling ground for sea otters. (October 1968) Owner: Federal

*UNGA ISLAND—500 miles southwest of Anchorage in the Shumagin Island Group. Fossil forest resulting from volcanic activity in the Tertiary Period. It is unknown how these tree specimens came to be on the island. (April 1968) Owner: Federal

*WALKER LAKE—250 miles northwest of Fairbanks. Striking example of the geological and biological relationships of a mountain lake at the northern limit of forest growth on the southern slope of the Brooks Range, supporting a full range of ecological communities. (April 1968) Owner: Federal, Private

*WALRUS ISLANDS—375 miles southwest of Anchorage in Bristol Bay. Farthest southern primary haul out area for walruses and the only remaining area in the United States where they haul out in appreciable numbers. Over 4000 have been counted here during the summer. (April 1968) Owner: State

*WORTHINGTON GLACIER—30 miles east of Valdez. Typical small valley glacier including fine examples of most glacial features from accumulation area to end moraine. Probably the most accessible glacier in Alaska. (October 1968) Owner: Federal, State

AMERICAN SAMOA (7)

*AUNUU ISLAND—Off the northeastern coast of Tutuila Island. Site of recent episodes of volcanism backed by a geologically recent tuff cone. (November 1972) Owner: Communal lands

CAPE TAPUTAPU—On the western tip of Tutuila Island. Natural exhibit of shoreline, offshore volcanic rocks and blowholes sculptured by heavy sea wave action. (November 1972) Owner: Communal lands

FOGAMAA CRATER—On the southwestern coast of Tutuila Island. One of very few illustrations of the most recent episode of volcanism in American Samoa. (November 1972) Owner: Communal lands

*LEALA SHORELINE—On the southwestern coast of Tutuila Island. Special young flow of basalt interbedded with layers of tuff, illustrating erosion by wave action and covered with dense tropical vegetation. (November 1972) Owner: Communal lands

*MATAFAO PEAK—One and one-half miles south of the city of Pago Pago. Highest peak on Tutuila Island, one of five great masses of volcanic rocks extruded as moltem magma during the major episodes of volcanism which created Tutuila Island. (November 1972) Owner: Communal lands

*RAINMAKER MOUNTAIN—Just east of Pago Pago Harbor. One of the same extrusions as Matafao Peak, and an outstanding example of several gigantic plugs which created Tutuila Island. (November 1972) Owner: Communal lands

VAIAVA STRAIT—On the north-central coast of Tutuila Island. Classic illustration of steep cliffs and erosion-resistant outliers formed by wave action on a volcanic land mass. (November 1972) Owner: Communal lands

ARIZONA (8)

Cochise County

*RAMSEY CANYON—Seven miles south of Sierra Vista. A vertical-sided gorge containing a well-defined microclimatic habitat, which consists of an extension of Mexican flora and fauna into the American side of the International Boundary, and contains plants which normally occur only at higher elevations. (March 1963) Owner: Private

WILLCOX PLAYA—Four miles south of Willcox. The dry remnant of Pluvial Lake Cochise whose natural deposits contain a rich record of climatic effects and fossil pollen during the pluvial periods of the Pleistocene. The largest "dry lake" in Arizona. (April 1966) Owner: Federal

Coconino County

*BARRINGER METEOR CRATER—15 miles west of Winslow. The largest impact crater yet discovered in the United States. Impact believed to have occurred some 22,000 years ago. (November 1967) Owner: Private

Mohave County

HUALAPAI VALLEY JOSHUA TREES—45 miles north of Kingman. Best existing display of Joshua tree species and a superb sample of a Mohave Desset ecological unit. (April 1967) Owner: Federal, State, Private

Navajo County

*COMB RIDGE—Only known location for tritylodont fossils in North

America, supporting the theory of continental drift. (January 1976) Owner: Private (Navajo Indian Nation)

Santa Cruz County

*CANELO HILLS CIENEGA—One and one-half miles northwest of Canelo. Last remaining extensive southwestern desert grasslands (cienega) along the United States-Mexican border. The area supports the only known thriving populations of Colorado chub and Sonora sucker in the entire country. (December 1974) Owner: Private

ONYX CAVE—Seven miles northwest of Sonoita. Considered to be the finest cave in Arizona. Integrity of resource threatened by vandalism. (May 1974) Owner: Private

*PATAGONIA-SONOITA CREEK SANCTUARY—One mile from Patagonia. Permanent stream-bottom habitat supporting rare aquatic biota, and the only habitat of the Gila Topminnow. Only known U.S. nesting spot for the rare rose-throated becard. (January 1970) Owner: Private

ARKANSAS (5)

Desha County

*WHITE RIVER SUGARBERRY NATURAL AREA—Four miles northwest of the village of Snow Lake. Partialy virgin forest containing excellent examples of three bottomland hardwood forest types and a wildlife population typical of the forest types present. (December 1974) Owner: Federal

Fulton County

MAMMOTH SPRING—Northeastern edge of Mammoth Spring. Third largest spring in the Ozark Mountains, and a classic example of a spring originating as a resurgent subterranean stream. (June 1972) Owner: State

Mississippi County

*BIG LAKE NATURAL AREA—Three miles east of Manila. Contains a significant amount of virgin timber, a mix of southern, Ozark and midwestern flora, and supports several threatened or endangered bird species. (December 1974) Owner: Federal

Polk County

*ROARING BRANCH RESEARCH NATURAL AREA—Four miles north of the village of Athens. Steep ravine containing a virgin mesophytic forest type representing a relict outlier of forests characteristic of Tennessee, Kentucky, and Indiana, and plant species rare in the Ouachitas. (December 1976) Owner: Federal

Saline County

*LAKE WINONA NATURAL AREA—38 miles west of Little Rock. Large virgin shortleaf pine forest reminiscent of ones that once covered large areas of Arkansas. (December 1976) Owner: Federal

CALIFORNIA (29)

Amador County

BLACK CHASM CAVE—One mile south-southeast of Volcano. A small three-level cave containing an outstanding variety of speleothems and some of the best helictite formations in the West. (January 1976) Owner: Private

El Dorado County

*EMERALD BAY—16 miles south of Tahoe City. A vividly colored oval embayment of Lake Tahoe formed by moraines left as parallel glaciers receded. An outstanding example of glacial geology. (October 1968) Owner: State

Imperial County

*IMPERIAL SAND HILLS—15 miles west of Yuma. One of the largest dune patches in the United States. An outstanding example of dune geology and ecology in an arid land. (October 1966) Owner: Federal, Private

SAN FELIPE CREEK AREA—18 miles northwest of Westmoreland. Marsh area containing probably the last remaining natural desert stream in the Colorado Desert. (May 1974) Owner: Federal, Private

Inyo County

*DEEP SPRINGS MARSH—20 miles southeast of Bishop. Possibly the only habitat for the black toad and an example of increasingly rare desert marsh. (May 1975) Owner: Private

*FISH SLOUGH (extends into Mono County)—Eight miles north of Bishop. Large, essentially undisturbed desert wetland with rare or endangered desert wildlife which provides habitat for one native and several introduced endangered species. (May 1975) Owner: Federal, State, Municipal, Private

Kern County

SHARKTOOTH HILL—One of the most abundant, diverse and well-preserved fossil marine vertebrate sites in the world. (May 1976) Owner: Private

Los Angeles County

*RANCHO LA BREA—Hancock Park, Wilshire Boulevard, Los Angeles. World-famous natural asphalt tar pits in which Pleistocene animals became entrapped in their quest for fresh water. (March 1963) Owner: Municipal

Marin County

*AUDUBON CANYON RANCH—20 miles northeast of San Francisco. Largest known nesting area for great blue herons and American egrets on the West Coast. (October 1968) Owner: Private

Mendocino County

*ELDER CREEK—Four miles north of Branscomb. Largely undisturbed watershed containing large old stands of Douglas fir, broadleaf evergreens, and deciduous trees as well as a wide variety of wildlife. (March 1963) Owner: Private

*PYGMY FOREST—Five miles south of Fort Bragg. Unique forests of low, stunted trees and shrubs caused by a complex eclogical condition associated with underlying wave terraces and their unusual soils. (June 1969, November 1973) Owner: State

Monterey County

*POINT LOBOS—Ten miles south of Monterey. An outstanding example of terrestrial and marine environments in close association, the only known habitat of Monterey cypress and variegated Brodiaea, and one of only two or three areas containing the Gowan's Cypress and sea otter. It is a sanctuary for thousands of sea and shore birds. (April 1967) Owner: State

Sacramento County

AMERICAN RIVER BLUFFS AND PHOENIX PARK VERNAL POOLS—Near Fair Oaks. Contains outstanding examples of rare plant community types—the blue oak woodlands and vernal pools. (January 1976) Owner: Federal, County, Private

COSUMNES RIVER RIPARIAN WOODLANDS—Southeast of Sacramento. Small remnant of a rapidly disappearing riparian woodland community type that once formed a major part of the California Central Valley. (January 1976) Owner: Private

San Benito County

*SAN ANDREAS FAULT—Illustrated at a site eight miles south of Hollister. One of the best locations illustrating earth displacement caused by small crustal movements is at the Cienega Winery where one half of a building has moved eight inches in nine years. (April 1965) Owner: Private

San Bernardino County

AMBOY CRATER—Just west of the town of Amboy. Excellent example of a recent volcanic cinder cone with an unusually flat crater floor. (May 1973) Owner: Federal, Private

CINDER CONE NATURAL AREA—24 miles east of Baker. A complex of over 20 large cinder cones of recent origin with extensive and continuous lava flows. (May 1973) Owner: Federal, State

*MITCHELL CAVERN AND WINDING STAIR CAVE—23 miles northwest of Essex. Most important solution caverns known in the Mohave Desert region developed in the Bird Spring Formation of Permian age. Other caves are located within the landmark boundary. (May 1975) Owner: State

*RAINBOW BASIN—Eight miles north of Barstow. Contains significant fossil evidence of insects, larger Miocene mammals and mammal tracks, as well as deep erosion canyons with rugged rims. An outstanding example of geologic processes. (April 1966) Owner: Federal

*TRONA PINNACLES—Seven miles south of Argus. Relict form from ancient Ice Age lakes containing unique formations of calcium carbonate known as "Tufa". (November 1967) Owner: Federal

TURTLE MOUNTAINS NATURAL AREA—30 miles south-southwest of Needles. Two mountain sections entirely different in composition which illustrate past volcanic phenomena with superimposed sculpturing of mountain landforms by weathering and uplift. (May 1973) Owner: Federal, State

San Diego County

ANZA-BORREGO DESERT STATE PARK (extends into Imperial and Riverside Counties)—The vast majority of this site is located in eastern San Diego County. Largest desert State park in the Nation containing some of the best examples of the various desert biotic communities in the Colorado Desert and excellent examples of desert geological phenomena. (May 1974) Owner: State, Municipal, Private

*MIRAMAR MOUNDS—12 miles north of central San Diego. This area includes features called "mima mounds," which are found in only three or four locations in the country. Contains rare vernal pools found only in California. (June 1972) Owner: Federal

TIJUANA RIVER ESTUARY—Between the city of Imperial Beach and the U.S.-Mexican International Boundary. One of the finest remaining salt water marshes on the California coastline, containing three species of endangerd birds and an improtant habitat for other wildlife, especially waterfowl. (May 1973) Owner: Federal, State, Municipal, Private

TORREY PINES STATE RESERVE—Along the northwestern edge of San Diego city limits. Unique and undisturbed biological community supporting endangered bird species. Torrey pine forests occur naturally only here and on Santa Rosa Island, 175 miles to the northwest. High bluffs and sea cliffs are examples of geological processes. (May 1977) Owner: State

San Luis Obispo County

NIPOMO DUNES-POINT SAL COASTAL AREA (extends into Santa Barbara County)—Extends from Pismo Beach south for 17 miles. Contains the largest, relatively undisturbed coastal dune tract in California, supporting both rare and endangered plants and animals and great species diversity. Also contains one of the last remaining tracts of pristine rocky coastline in the South Coast Ranges. (May 1974) Owner: Federal, State, County, Private

San Mateo County

ANO NUEVO POINT AND ISLAND—20 miles north of Santa Cruz. The only near-shore breeding ground for the northern elephant seal in the U.S., and habitat for Steller sea lions, California sea lions, and harbor seals. The processes of wave cutting, geologic uplift, and sea level fluctuation are well represented along Ano Nuevo Point. (August 1980) Owner: State

Siskiyou County

*MOUNT SHASTA—60 miles north of Redding. One of the world's largest and most impressive stratovolcanoes containing five glaciers and consisting of four distinct but overlapping cones. Second highest of the 15 main volcanoes in the Cascade Range; only Mt. Rainier is higher. (December 1976) Owner: Federal

Tulare County

*PIXLEY VERNAL POOLS—Six miles northeast of Pixley. One group of few remaining natural vernal pools containing certain endemic plant species. Over 26 families and 100 species are represented here. (November 1973) Owner: Private

COLORADO (11)

Clear Creek County

*SUMMIT LAKE—13 miles southwest of Idaho Springs. Habitat for a variety of rare alpine-arctic plants, some of which occur only here and at the Arctic Circle. (April 1965) Owner: County, Municipal

Douglas County

*ROXBOROUGH STATE PARK—20 miles southwest of Denver. Excellent example of the tilted and faulted sedimentary strata of the Colorado Front Range environment; contains fine exposures of hogbacks, unusual erosional patterns in Fountain Sandstone, and atypical occurrences of at least two front range plant communities. (April 1980) Owner: State

El Paso County

*GARDEN OF THE GODS—Ten miles northeast of Pikes Peak. Outstanding illustration of the results of uplifting forces that produced the Front Range of the Rocky Mountains to the west, containing uncommon honey ants, and one of the best Colorado habitats for white-throated swifts, swallows, and canyon wrens. (October 1971) Owner: Municipal

Fremont County

GARDEN PARK FOSSIL AREA—One of the oldest and richest sites containing dinosaur, fish, crocodile, turtle, and mammal fossils in the United States. (November 1973) Owner: Federal

*INDIAN SPRINGS TRACE FOSSIL SITE—Northeast of Canon City. Best trace fossil locality in North America for illustrating the markings and movements of ancient animal life. (March 1979) Owner: Private

Hinsdale County

SLUMGULLION EARTHFLOW—Two miles south of Lake City. Seven-hundred-year-old, 1,000-acre landflow composed of volcanic rock which formed a dam that created Lake San Cristobal. A younger land flow, currently active, is moving as much as twenty feet per year along the path of the earlier flow. (October 1965) Owner: Federal, Private

Huerfano County

SPANISH PEAKS (extends into Las Animas County)—25 miles southwest of Walsenburg. One of the best exposed examples of igneous dikes known; dikes are formed when molten igneous material is forced into a fracture or fault before becoming solidified. There may be over 500 such dikes in the area. (January 1976) Owner: Federal, Private

Jefferson County

MORRISON FOSSIL AREA—Just north of Morrison. First major site for the discovery of giant dinosaur fossil bones in North America. The fossils represent nine species, seven of which were newly discovered. (November 1973) Owner: Municipal, Private

Las Animas County

RATON MESA—Ten miles south of

Levy County

*MANATEE SPRINGS—Manatee

spruce bog in New England where peat moss underlies the bog up to a maximum depth of 51 feet. (May 1977) Owner: Federal

swamp. Most vegetation is tropical hammock forest, the largest and best example of the type known in the

woodland wildlife habitat. (December 1974) Owner: State, Private

northwest of Savannah. Best remaining cypress-gum swamp forest

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Las Animas County

RATON MESA—Ten miles south of Trinidad. Illustration of a mesa preserved by a thick lava cap which has resisted destruction from weathering and erosion. Only significant reference available illustrating the magnitude of erosion involved in developing the land surface of the Great Plains adjacent to the lower foothills of the Rocky Mountains. (April 1967) Owner: Private

Park County

*LOST CREEK SCENIC AREA—40 miles southwest of Denver. Illustrates structure of land through weathering along joint planes, containing spires, pinnacles, narrow ridges and steep narrow gorges. Lost Creek disappears and reappears at the surface at least nine times. (October 1966) Owner: Federal

Saguache County

RUSSELL LAKES—Ten miles south of Saguache. The most extensive bullrush marsh area in Colorado, this area contains a number of shallow, largely alkaline lakes and supports large numbers of flora and fauna. The area is also an outstanding resting and breeding habitat for waterfowl. (May 1975) Owner: Private

CONNECTICUT (7)

Hartford County

*DINOSAUR TRACKWAY—Five miles south of Hartford. One of the largest known exposures of dinosaur tracks on a single bedding plane. From the over one thousand fossilized tracks, over three types of reptiles have been identified. (April 1968) Owner: State

McLEAN GAME REFUGE NATURAL AREAS—Four miles north-northwest of Simsbury. Two separate land tracks representing an excellent forest in southern New England, containing evidence of glacial activity and considerable species diversity. (November 1973) Owner: Private

Litchfield County

*BARTHOLOMEW'S COBBLE (extends into Berkshire County, Massachusetts)—One mile west of Ashley Falls, Massachusetts. Greatest natural concentration of ferns in the United States, containing 43 fern species and a remarkable assemblage of carefully documented plants and animals. (October 1971) Owner: Private

*BECKLEY BOG—Two and one-half miles southeast of Norfolk. The most southerly sphagnum-heath-black spruce bog in New England where peat moss underlies the bog up to a maximum depth of 51 feet. (May 1977) Owner: Private

BINGHAM POND BOG—One mile east of the New York State boundary. Extremely rare in Connecticut, an undisturbed cold northern spruce bog which is atypical due to the lack of sphagnum moss as a component of the floating mat on the bog. (May 1973) Owner: Private

Middlesex County

CHESTER CEDAR SWAMP—Two miles west-southwest of Chester. Finest remaining Atlantic white cedar swamp in Connecticut and an outstanding second-growth wooded swampland containing a small elongate pond with is adjacent bogland and some upland forest. (May 1973) Owner: State, Private

New London County

PACHAUG-GREAT MEADOW SWAMP—One and one-half miles northeast of Voluntown. Most extensive and one of the two best Atlantic white cedar swamps in Connecticut, the area includes the Pachaug River and the Great Meadow Brook. (May 1973) Owner: State, Private

FLORIDA (17)

Alachua County

*DEVIL'S MILLHOPPER—Six miles northwest of Gainesville. An excellent example of karst topography in the Southeast and an important cultural and historic site in the Alachua area. The generally dry sink is an example of several ecosystems with many microhabitats and major plant associations which demonstrate vertical zonation. (December 1974) Owner: State

PAYNES PRAIRIE—Southern edge of Gainesville. Largest and most diverse freshwater marsh in northern Florida and a major wintering ground for many species of waterfowl, as well as habitat for other wildlife, including two endangered species. A superlative example of prairie formation in a karst area, containing the Alachua Sink, one of Florida's largest and most famous sinks. (December 1974) Owner: State, Private

SAN FELASCO HAMMOCK—The center of the site is nine miles northwest of Gainesville. Largest remaining example of northern Florida's climax forest ecosystem, the upland mesic hammock, containing an extraordinary diversity of botanical resources supporting high quality woodland wildlife habitat. (December 1974) Owner: State, Private

Baker County

*OSCEOLA RESEARCH NATURAL AREA—20 miles northeast of Lake City. Includes an undisturbed mixed hardwood swamp with associated pine flatwoods and cypress swamp. The flatwoods are excellent wildlife habitat, and the presence of virgin cypress is a rare feature. (December 1974) Owner: Federal

Collier County

*BIG CYPRESS BEND—One mile west of State Route 29 on Tamiami Trail (U.S. 41). Includes about 215 acres of undisturbed virgin cypress, sawgrass prairie, and palmetto hammocks. (October 1966) Owner: State

*CORKSCREW SWAMP SANCTUARY—25 miles southeast of Fort Myers. Largest remaining stand of virgin bald cypress in North America, containing a wide variety of flora, including pond cypress, wet prairie and pineland, and sanctuary for a considerable wildlife population. (March 1963) Owner: Private

Columbia County

*ICHETUCKNEE SPRINGS (extends into Suwanee County)—Ichetucknee Springs State Park, 22 miles southwest of Lake City. Illustration of a large artesian spring group and the geologic history of the Floridian aquifer from which Florida's great springs emanate, containing abandoned relict channels ancestral to the present underground solution channels. (October 1971) Owner: State

Jackson County

FLORIDA CAVERNS NATURAL AREA—Two miles north of Marianna. Unique disjunct relict community from a former temperate hardwood forest which has remained intact and isolated since the end of the Wisconsin glacial period and probably longer. The cave harbors three species of bats, including the Indiana bat, an endangered species, which used the cave for winter hibernation. (December 1976) Owner: State

Lake County

EMERALDA MARSH (extends into Marion County)—Ten miles northeast of Leesburg. Virtually undisturbed inland freshwater riverine sawgrass marsh supporting several species of waterfowl, and including endangered and threatened species. Also provides an important fishery. (December 1974) Owner: Private

Levy County

*MANATEE SPRINGS—Manatee Springs State Park, 50 miles west-southwest of Gainesville. Ranks about sixth in size among the great artesian springs of Florida in close proximity to karst sinkholes, with proven underground connections with the headspring, and connecting with the Suwannee River. (October 1971) Owner: State

WACCASASSA BAY STATE PRESERVE—40 miles west of Ocala. Example of northern Florida coastal ecosystem, including transition from mangrove to saltmarsh to brackish marsh to freshwater marsh along the Waccasassa River to hardwood hammock forest, serving as habitat for at least three endangered species. (December 1976) Owner: State

Liberty County

TORREYA STATE PARK—12 miles north of Bristol along the Apalachicola River. Very significant relict habitat for ancient flora, including stinkingcedar, Florida yew and Croomia, which are descendants of the Arcto-Tertiary Geoflora which existed some 63 million years ago. (December 1976) Owner: State

Marion County

*RAINBOW SPRINGS—Four miles north-northeast of Dunnellon. Second of Florida's great artesian springs on the basis of its rate of discharge, and first as a single outlet spring, with glass-bottom cruise boats for observing spring cavities and aquatic life. (October 1971) Owner: Private

*SILVER SPRINGS—Five miles northeast of Ocala. Largest spring group in the United States, with glass-bottom boat rides. (October 1971) Owner: Private

Martin County

*REED WILDERNESS SEASHORE SANCTUARY—Eight miles south of Stuart. Unaltered east coast of Florida seashore, including semitropical plant associations of mangrove swamps, coastal strand and shell mound types, encompassing northern portion of Jupiter Island, and providing increasingly rare nesting site for Atlantic loggerhead turtles. (November 1967) Owner: Federal

Monroe County

*LIGNUMVITAE KEY—One-half mile north of the U.S. 1 causeway near the northern end of Matecumbe Key. One of the highest keys in the Florida Key chain providing a wide range of habitat, from wave-washed exposures of Key Largo limestone to mangrove swamp. Most vegetation is tropical hammock forest, the largest and best example of the type known in the United States. (October 1968) Owner: State

Wakulla Count

*WAKULLA SPRINGS—15 miles south of Tallahassee. An independent freshwater ecosystem and one of the largest and deepest springs in Florida, rich in aquatic vegetation, fish, turtles, alligators, and birds, lined with huge cypress trees and a well-developed hardwood hammock, containing significant fossil evidence from earlier eras. (October 1966) Owner: Private

GEORGIA (12)

Bartow County

*SAG PONDS NATURAL AREA—Five miles southeast of Adairsville. Unique for their combination of dissimilar vegetation, containing relict flora persisting from the Pleistocene and significant fossils, evidence of the development of life. The six ponds illustrate the various stages of ecological succession. (May 1974) Owner: Private

Charlton County

*OKEFENOKEE SWAMP (extends into Clinch and Ware Counties)—Okefenokee National Wildlife Refuge, the center of the site is 28 miles south of Waycross. Largest and most primitive swamp in the country containing a diversity of ecosystems, and a refuge for native flora and fauna including many uncommon, threatened and endangered species. (December 1974) Owner: Federal

Chatham County

*WASSAW ISLAND—14 miles south of Savannah, in the Atlantic Ocean. Only island of Golden Isles with an undisturbed forest cover and one of the few remaining examples of the sea island ecosystem with a high degree of integrity, illustrating the building of the island from the sands of the Coastal Plain, and supporting a wide array of unusual animals. (April 1967) Owner: Federal, Private

Columbia County

HEGGIE'S ROCK—17 miles northwest of Augusta. An undisturbed example of the characteristic plant species, community zonation, and successional stages occuring on well-exposed granitic outcrops. (August 1980) Owner: Private.

Effingham County

EBENEZER CREEK SWAMP—The center of the site is 22 miles north-northwest of Savannah. Best remaining cypress-gum swamp forest in the Savannah River Basin illustrating the relationship and interactions between river and creek, and providing spawning grounds for the anadromous striped bass and habitat for the American alligator. (May 1976) Owner: Private

Emanuel County

*CAMP E.F. BOYD NATURAL AREA—Eight miles southwest of Swainsboro. Representative of rapidly disappearing floodplain—upland sand ridge ecosystem of the Coastal Plain and habitat for several rare plants and endangered species (May 1974) Owner: Private

Floyd County

*MARSHALL FOREST—Near Rome. Loblolly pine-shortleaf pine forest believed to have originated following an intense fire at about the time the Cherokee Indians were forcibly removed to Oklahoma, including a ten-acre stand of virgin yellow poplar. (April 1966) Owner: Private

Harris County

*CASON J. CALLAWAY MEMORIAL FOREST—One mile west of Hamilton. Outstanding example of transitional conditions between eastern deciduous and southern coniferous forest types, containing the entire Barnes Creek watershed, an unpolluted stream system. (June 1972) Owner: Private

McIntosh County

*LEWIS ISLAND TRACT—Eight miles west-northwest of Darien. One of the most extensive bottomland hardwood swamps in Georgia, containing stands of virgin bald cypress and associated swamp hardwood species, and supporting uncommon wildlife species. (May 1974) Owner: State

Rockdale County

PANOLA MOUNTAIN—15 miles southeast of Atlanta. The most natural and undisturbed monadnock of exposed granitic rock in the Piedmont region. The area supports a variety of plant communities. (August 1980) Owner: State

Seminole County

SPOONER SPRINGS—14 miles west of Bainbridge. One of the largest and least disturbed sinkhole wetlands in Georgia, supporting an abundance of the American alligator. (May 1974) Owner: Private

Tattnall County

*BIG HAMMOCK NATURAL AREA—Ten miles southwest of Glennville.

Contains relatively undisturbed broadleaf evergreen hammock forest and includes rare and endangered

water bird habitat in Hawaii, and one of the few remaining brackish-water ecosystems providing refuge for both

succession on very young lava flows. (April 1968, August 1980) Owner: Federal

An outstanding example of pristine western red cedar forest. Two communities are represented: cedar/

southeast of Carbondale. Outstanding remnant of the swampy flood plain forest and open swamp that once

Pope County

BELL SMITH SPRINGS—Shawnee

Contains relatively undisturbed broadleaf evergreen hammock forest and includes rare and endangered species. (May 1976) Owner: State

GUAM (4)

*FACPI POINT—On the southwestern coast of Guam. An illustration of the major episode of volcanism which created Guam Island. (November 1972) Owner: Government of Guam

*FOUHA POINT—On the southwestern coast of Guam, one mile northwest of the village of Umatac. Contains exposures of volcanic rock with a nearby intertidal platform of two levels of coralline limestone. (November 1972) Owner: Government of Guam

*MOUNT LAMLAM—Three miles north-northeast of Umatac. Third key site on Guam disclosing the major volcanism which created the island. (November 1972) Owner: Government of Guam

*PUNTAN DOS AMANTES—Two miles north of Tumon. Illustrates the limestone deposition and subsequent subterranean erosion phases of Guam's geologic history. The area contains a 370-foot high cliff exposure of massive limestone. (November 1972) Owner: Government of Guam

HAWAII (7)

Island of Hawaii

MAKALAWENA MARSH—Near Kawikahale Point. One of two remaining ponds in Hawaii that support a resident population of the endangered, nonmigratory Hawaiian stilt, nesting site for the Hawaiian coot, and the only known breeding site of the black-crowned night heron on the Island of Hawaii. (June 1972) Owner: Private

MAUNA KEA—25 miles west-northwest of the city of Hilo. Exposed portion of the highest insular mountain in the United States, containing the highest lake in the country and evidence of glaciation above the 11,000-foot level. Most majestic expression of shield volcanism in the Hawaiian Archipelago, if not the world. (November 1972) Owner: State

Island of Maui

IAO VALLEY—West of the city of Wailuku. Valley and volcanic rocks on its enclosing slopes illustrate the major episode of volcanism which created the western portion of the island. Amphitheatral is shape due to erosion on the volcanic rocks of a great caldera. (November 1972) Owner: State; Private

*KANAHA POND—One mile west of Kahului Airport. Most important water bird habitat in Hawaii, and one of the few remaining brackish-water ecosystems providing refuge for both resident and migratory bird populations. (June 1971) Owner: State

Island of Molokai

NORTH SHORE CLIFFS—Between the villages of Halawa and Kalaupapa. Finest exposures of ancient volcanic rocks resulting from the major episode of volcanism creating Molokai, among the most ancient in the Hawaiian Island chain. (November 1972) owner: State, Private

Island of Oahu

*DIAMOND HEAD—In the city of Honolulu. One of the best exposed and preserved examples of a typical volcanic cone of altered basaltic glass. Shows the bedding structure of the cone and the character of the rock. (February 1968) Owner: Federal, State

KOOLAU RANGE PALI—Three miles south of Kaneohe. The Pali is to the Island of Oahu what the Great Western Divide is to Sequoia National Park. Faulting and stream erosion are among the principal processes which gave the cliffs their configuration. (November 1972) Owner: Private

IDAHO (11)

Adams County

*SHEEP ROCK—Payette National Forest, 35 miles northwest of Council and two miles east of the Snake River. Provides the best view of the horizontally layered lavas that represent successive flows on the Columbia River Basalt Plateau, and an unobstructed view of two contrasting series of volcanic rocks separated by a major unconformity—an important geologic phenomenon. (December 1976) Owner: Federal

Baingham County

HELL'S HALF ACRE LAVA FIELD (extends into Bonneville county)—The center of the site is 20 miles west of Idaho Falls. A complete, young, unweathered, fully exposed pahoehoe lava flow and an outstanding example of pioneer vegetation establishing itself on a lava flow. (January 1976) Owner: Federal, State

Blaine County

GREAT RIFT SYSTEM (extends into Minidoka and Power Countries)—43 miles northwest of Pocatello. As a tensional fracture in the Earth's crust that may extend to the crust-mantle interface, The Great Rift System is unique in North America and has few counter parts in the world. It also illustrates primary vegetation succession on very young lava flows. (April 1968, August 1980) Owner: Federal

Butte County

*BIG SOUTHERN BUTTE—37 miles northwest of Blackfoot. The view from this butte illustrates the scope and dimensions of Quaternary volcanism in the western United States and the largest area of volcanic rocks of young age in the United States. (January 1976) Owner: Federal

Cassia County

CASSIA SILENT CITY OF ROCKS—16 miles southeast of Oakley. Contains monolithic landforms created by exfoliation processes on exposed massive granite plutons, and the best example of bornhardts in the country. (may 1974) Owner: Federal, State, Private

Elmore County

CRATER RINGS—Two adjacent and symmetrical pit craters that are among the few examples of this type of crater in the continental United States. The pit craters, which are volcanic conduits in which the lava column rises and falls, were formed by explosions followed by collapse. (April 1980) Owner: Federal

Fremont County

BIG SPRINGS—54 miles northeast of Rexburg. The only first magnitude spring in the country which issues forth from rhyolitic lava flows. It is the source of the South Fork of the Henrys Fork River. (August 1980) Owner: Federal

Gooding County

NIAGARA SPRINGS—20 miles west of Twin Falls. The least developed of the large springs discharging into the Snake River from the Snake River Plain aquifer system. It is outstandingly illustrative of the enormous volume of water transmitted through this aquifer. (April 1980) Owner: Private

Jefferson County

MENAN BUTTES (extends into Madison County)—Ten miles west of Rexburg. Contains outstanding examples of glass tuff cones, which are found in only a few places in the world. Their large size and unusual composition make them particularly instructive of an unusual aspect of basaltic volcanism. (April 1980) Owner: Federal, Private.

Shoshone County

HOBO CEDAR GROVE BOTANICAL AREA—12 miles northeast of Clarkia.

An outstanding example of pristine western red cedar forest. Two communities are represented: cedar/Oregon boxwood on the uplands and cedar/fern on the lowlands. (April 1980) Owner: Federal

Twin Falls County

HAGERMAN FAUNA SITES—Southwest of Hagerman. Contains the world's richest known deposits of Upper Pliocene age terrestrial fossils, therefore considered to be of international significance. (May 1975) Owner: Federal, State

ILLINOIS (16)

Alexander County

*HORSESHOE LAKE NATURE PRESERVE—11 miles northwest of Cairo. Contains diverse aquatic and terrestrial flora and fauna and mature stands of bald cypress. The site is on the migration corridor of many waterfowl, as well as being an overwintering site for thousands of Canada geese. (November 1972) Owner: State

Carroll County

*MISSISSIPPI PALISADES—North of Savanna. Topography containing deep V-shaped valleys, caves and sinks, massive cliffs along the Mississippi River, and supporting numerous species of plant and animal life. (November 1972) Owner: State

Cook County

*BUSSE FOREST NATURE PRESERVE—23 miles northwest of Chicago. Situated on the floodplain and morainal uplands along Salt Creek. One of the best remaining examples of mesic and dry-mesic upland forest in the Eastern Central Lowlands. The area has been protected for so long that there is no evidence of past logging throughout most of the site. (February 1980) Owner: County

Jackson County

LITTLE GRAND CANYON AREA—Ten miles west of Carbondale. Exceptional examples of a large box canyon with vertical overhanging walls. Contains a great diversity of ecosystems, including sandstone outcrops and overhangs, ravine slope forest, dry site oak-hickory forest, and hill prairies. The ravine is nationally known as a seasonal haven for a great variety of snakes that hibernate there. (February 1980) Owner: Federal

Johnson County

BUTTONLAND SWAMP (extends into Pulaski County)—32 miles southeast of Carbondale. Outstanding remnant of the swampy flood plain forest and open swamp that once covered an extensive area at the junction of the Mississippi and Ohio River valleys. Has many large trees including three trees larger than any on record for the species in the nation. (February 1980) Owner: Private

*HERON POND–LITTLE BLACK SLOUGH NATURAL AREA—25 miles south of Marion. This is the largest remaining cypress-tupelo swamp in Illinois. The site contains a heron rookery. The valley is an outstanding example of alluvial, colluvial, and lacustrine sedimentation within an entrenched meandering valley system. (November 1972, February 1980) Owner: State, Private

Lake County

ILLINOIS BEACH NATURE PRESERVE—Illinois Beach State Park, three miles north-northeast of Waukegan. An area of beach ridges that supports a great diversity of natural communities, including savanna, sand prairie, wetland, and beach communities. Area supports over 60 species of animals and plants that are threatened or endangered in Illinois. (February 1980) Owner: State

*VOLO BOG NATURE PRESERVE—One and one-half miles north-northwest of Volo. A rare site in Illinois, containing many unusual or rare plants, which is characteristic of the classic northern quaking bog. (November 1972) Owner: State

*WAUCONDA BOG NATURE PRESERVE—On the southern edge of the village of Wauconda. Mature bog that contains the furthest southern extension of bog vegetation in Illinois, representing an unusual biotic community in that region. (November 1972) Owner: State

McLean County

*FUNKS GROVE—11 miles southwest of Bloomington. Rare example of virgin forests once isolated on the prairies of the Midwest, illustrating a transition between oak-hickory association of the region and the western mesophytic association to the east. (May 1974) Owner: University of Illinois, Private

Piatt County

*ALLERTON NATURAL AREA—28 miles southwest of Champaign. Example of rapidly disappearing Illinois stream valley ecosystem containing relatively undisturbed examples of bottomland and upland forests. (January 1970) Owner: University of Illinois

Pope County

BELL SMITH SPRINGS—Shawnee National Forest. Fragile area containing some of the best examples of ecosystems typical of sharply-dissected sandstone substrates. Also contains fine examples of landforms created by stream erosion and mass wasting. (February 1980) Owner: Federal

LUSK CREEK CANYON—15 miles south of Harrisburg. Excellent example of a gorge-like valley formed by mass wasting and stream erosion in lower Pennsylvania sandstones. Also contains good examples of two major forest ecosystems; ten endangered or threatened Illinois plant species occur here. (February 1980) Owner: Federal, State

Union County

GIANT CITY—Giant City State Park, 15 miles south of Harrisburg. Exceptional example of gravity sliding consisting of massive joint-bounded sandstone blocks of Pennsylvanian Age. Rich flora includes xeric oak woods, oak-hickory and mesic forests dominated by sugar maple. (February 1980) Owner: State

*LaRUE-PINE HILLS ECOLOGICAL AREA—Shawnee National Forest, the center of the site is four miles north of Wolf Lake. Contains one of the finest assemblages of diverse vegetation in the Midwest representing species of northern, southern, eastern, and western affinities, including 40 species rare in Illinois. (May 1974) Owner: Federal, Southern Illinois University

Wabash County

*FOREST OF THE WABASH—Beall Woods Conservation Area, three miles south of Mount Carmel. Essentially undisturbed upland and bottomland forests lying along the Wabash River. The upland forest consists of probably the finest remaining example of oak-hickory forest in this part of the country. (October 1965) Owner: State

INDIANA (28)

Crawford County

*WYANDOTTE CAVE—Harrison—Crawford State Forest, 30 miles west of New Albany. 23 miles of explored passageways, vertical relief encompassing several levels, containing huge rooms, gigantic domepits, rubble breakdown and stalagmites. One of the great cave systems within the karst region of the east-central United States. (June 1972) Owner: State

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Fayette County

*SHRADER-WEAVER WOODS—Seven miles northwest of Connersville. Outstanding presettlement beech-maple forest containing unusually large trees, such as a 56" d.b.h. burr oak and a 34" d.b.h. black maple. (May 1974) Owner: State

Floyd County

OHIO CORAL REEF (FALLS OF THE OHIO) (extends into Jefferson County, Kentucky)—In the Ohio River between Jeffersonville, Indiana, and Louisville, Kentucky. Classic example of a Silurian and Devonian coral community from which nearly 900 nominal species have been founded on specimens collected here. The lower part of Jeffersonville limestone is composed of corals, matrix, and leiitle else. (October 1966) Owner: State

Fountain County

*PORTLAND ARCH NATURE PRESERVE—Seven miles northeast of Covington. Contains massive crossbedded sandstone cliffs and a seven and one-half foot high natural bride, as well as many plant species unknown elsewhere in the State, some being relicts occurring here due to the unusual climate created by the canyon. (May 1973) Owner: State

Gibson County

HEMMER WOODS—Two miles northeast of Buckskin. Illustrates the transition from lowland to upland forest, containing one of the best mixed lowland stands remaining in Indiana, the largest known specimens of tulip tree in the State, and a great abundance of wildflowers. (November 1973) Owner: State, Private

Harrison County

HARRISON SPRING—Fragile area that has been vandalized in the past and is now closed to the public. Largest spring in Indiana and one of the best examples of alluviated cave springs in the U.S. due to its location in an abandoned meander loop, and the natural levee around its periphery. (February 1980) Owner: Private

Jefferson County

OFFICERS' WOODS—Seven miles northwest of Madison. One of the finest remnants of beech-maple forest south of the Wisconsin-age glacial boundary in Indiana. Two stands with slightly different composition, one of which contains an exceptionally high density of valuable black gum. (December 1974) Owner: Private

Lagrange County

*TAMARACK BOG NATURE PRESERVE—Pigeon River State Game Preserve, one mile southeast of the town of Mongo. Contains the largest, well-developed tamarack swamp-bog forest in Indiana supporting six distinct vegetation types and more than 34 mammal species. Also supports water birds, amphibians and fishes. (November 1973) Owner: State

Lake County

HOOSIER PRAIRIE—Two miles southwest of Griffith. Last large tract of prairie near the eastern margin of the "Prairie Peninsula", containing a great diversity of community types. Almost 300 vascular plant species have been identified here. (May 1974) Owner: State

La Porte County

*PINHOOK BOG—Indiana Dunes National Lakeshore, four miles south of Waterford. A living demonstration of the textbook description of ecological succession from pond to woodland, lying within a bowl-shaped depression likely to be a glacial kettle, and surrounded by wooded hills. (October 1965) Owner: Federal

Lawrence County

*DONALDSON CAVE SYSTEM AND WOODS—Spring Mill State Park, five miles east of Mitchell. A tract containing 80 acres of prime virgin forest and a cave system associated with the Indiana karst region, including three separate units which are interconnected by underground passageways. (June 1972, November 1973) Owner: State

Montgomery County

*BECKVILLE WOODS—Three miles south of Shannondale. One of the finest near-virgin remnant forests in the Tipton Till Plain of central Indiana, containing a great diversity of tree species due to a pronounced moisture gradient producing different habitats, and a great blue heron rookery. (December 1974) Owner: Private

*PINE HILLS NATURAL AREA—15 miles west-southwest of Crawfordsville. The tract is sharply dissected by deep, stream-carved canyons which have left narrow rock ridges or backbones, probably the most remarkable examples of incised meanders in the eastern United States. Contains a variety of habitats and a number of plant species considered to be Pleistocene relicts. (April 1968) Owner: State

Orange County

*PIONEER MOTHERS' MEMORIAL FOREST—Wayne—Hoosier National Forest, one mile southeast of Paoli. One of the best examples of an original, undisturbed presettlement forest in Indiana containing the finest examples of forest-grown walnut trees in America. (May 1974) Owner: Federal

*RISE AT ORANGEVILLE—South of West Road in Orangeville. The State's second largest spring and the clearest illustration of subterranean stream resurgence in the famed Lost River Karst area. (June 1972) Owner: Private

*TOLLIVER SWALLOWHOLE—Four miles north-northwest of Paoli. Extraordinary example of the disappearing stream aspect of karst topography. An elongated channel with a small opening at the bottom of the west end of the channel that opens into a segment of underground Lost River. (June 1972) Owner: Private

*WESLEY CHAPEL GULF—Two miles southeast of Orangeville. The most significant and spectacular feature of the Lost River Basin, one of the world's great karst areas. Probably the largest sinkhole in Indiana and a classic illustration of a uvala (feature formed by the coalescence of a series of sinkholes). (June 1972) Owner: Private

Owen County

HOOT WOODS—Three miles northwest of Freedom. Relatively undisturbed, isolated beech-maple forest where near climax conditions prevail. (November 1973) Owner: Private

Parke County

*ROCKY HOLLOW-FALLS CANYON NATURE PRESERVE—Turkey Run State Park, nine miles north of Rockville. Forest area containing virgin beech-maple stands, several steep sandstone gorges that harbor virgin boreal relict populations of eastern hemlock and Canada yew and some of the largest black walnut in the Midwest. (December 1974) Owner: State

Porter County

*COWLES BOG—Indiana Dunes National Lakeshore, ten miles west of Michigan City. Illustrates marsh and bog, as well as transition to swamp and includes flora common to these habitats. (October 1965) Owner: Federal

*DUNES NATURE PRESERVE—Indiana Dunes State Park, along the southeastern shore of Lake Michigan between Dune Acres and Beverly Shores. The best remaining example of undeveloped and relatively unspoiled dune landscape along the southern shore of Lake Michigan, a portion of which is known as the "Birthplace of American Ecology". Also contains Ancient Pines Nature Area, a prehistoric forest now exposed by dune blowouts. (December 1974) Owner: State

Putnam County

BIG WALNUT CREEK—35 miles west of Indianapolis. A branch of the Eel River formed as a result of glacial melt and postglacial water erosion, and one of the few stands in the State where beech, sugar maple and tulip poplar grow on alluvial Genesee soil. Includes relict species of a postglacial forest which occupied the area 5,000 to 6,000 years ago. (April 1968) Owner: Private

*FERN CLIFF—Seven miles southwest of Greencastle. Contains exceptional occurrences of mosses and liverworts including a noteworthy number of rare species. One of the best sites for bryophytes in the Central states. (February 1980) Owner: Private

Randolph County

CABIN CREEK RAISED BOG—14 miles east-southeast of Muncie. A fen (alkaline bog) elevated some ten feet above the general flood plain level of Cabin Creek, supporting very rich flora, including many species at or near their range limits. (December 1974) Owner: Private

DAVIS–PURDUE AGRICULTURAL CENTER FOREST—13 miles northeast of Muncie. Best old growth oak-hickory forest on the Tipton Till Plain and possibly one of the finest such forests in the eastern United States, containing exceptionally large individuals of several tree species. (December 1974) Owner: Purdue University

Shelby County

*MELTZER WOODS—Two miles southwest of Blue Ridge. A presettlement forest now in dynamic equilibrium containing a juxtaposition of two contrasting forest types (beech-maple and lowland mixed forests) and exceptionally large individuals of several tree species. (November 1973) Owner: Private

Spencer County

*KRAMER WOODS—One and one-half miles southwest of Patronville. This area is the only example of Shumard's red oak-pin oak-hickory dominated stand of lowland mixed forest of any size in Indiana. (November 1973) Owner: Private

Vanderburgh County

*WESSELMAN PARK WOODS—Within the city limits of Evansville. Presettlement lowland mixed forest with the highest basal area per acre of any known stand in Indiana, dominated by sweet gum-tulip tree. (November 1973) Owner: Municipal

IOWA (5)

Clay County

*DEWEY PASTURE AND SMITH'S SLOUGH (extends into Palo Alto County)—Four miles north-northwest of Ruthven. Section of pothole lakes created during the last glacial epoch, containing considerable habitat diversity including wetlands, tallgrass prairie, and woodland supporting significant waterfowl population. (May 1975) Owner: State

Dickinson County

CAYLER PRAIRIE—Five miles west of West Okoboji. An example of increasingly rare virgin prairie grassland; a unique outdoor laboratory. (October 1965) Owner: State

Dubuque County

*WHITE PINE HOLLOW PRESERVE—20 miles northwest of Dubuque. Only known remaining white pine tract in Iowa. (November 1967) Owner: State

Hamilton County

ANDERSON GOOSE LAKE—One mile east of Jewell. One of few essentially natural glacial pothole lakes remaining in the State, and important waterfowl habitat. (May 1975) Owner: Private

Howard County

HAYDEN PRAIRIE—12 miles northwest of Cresco. A true prairie remnant where Iowa State University conducted research showing that true prairie declines when the quantity of litter exceeds annual herbage yield. Occasional burning or mowing corrects this, and gives minor plants an opportunity for establishment. (October 1965) Owner: State

KANSAS (5)

Clark County

BIG BASIN PRESERVE—13 miles west-northwest of Ashland. Excellent example of collapse feature formed by groundwater geological processes, and bluestem-grama prairie which is intensively grazed elsewhere in the central Great Plains. (March 1979) Owner: State

Douglas County

*BAKER UNIVERSITY WETLANDS—Three miles south of Lawrence. Undisturbed examples of wetland prairie, and breeding ground for pintails, mallards and Canada geese. (June 1969) Owner: Private

BALWIN WOODS—11 miles south of Lawrence. A unique remnant oak-hickory stand approaching climax condition, located at the western edge of the eastern deciduous forest. (November 1980) Owner: Private

Gove County

*MONUMENT ROCKS NATURAL AREA—23 miles south of Oakley. This area includes pinnacles, small buttes, and spires of chalk of the Niobrara formation, erosional remnants of sediments deposited in the ancient Kansas sea of Cretaceous time, and is a rich source of fossils of Cretaceous marine animals. (October 1968) Owner: Private

Ottawa County

*ROCK CITY—Two and one-half miles southwest of Minneapolis. A unique cluster of about 200 great spherical sandstone concretions occurring in the midst of rolling farmland. (January 1976) Owner: Private

KENTUCKY (4)

Henderson County

HENDERSON SLOUGHS (extends into Union County)—Four miles northeast of Uniontown. One of the largest wetlands remaining in the State and an important habitat for waterfowl and other wildlife. Also the "home" of John James Audubon. (May 1974) Owner: Federal, State

Jefferson County

OHIO CORAL REEF (FALLS OF THE OHIO)—(see INDIANA)

Laurel County

*ROCK CREEK RESEARCH NATURAL AREA—Daniel Boone National Forest, two miles west of Baldrock. One of the few virgin hemlock-hardwood forests remaining in the State. (May 1975) Owner: Federal

Letcher County

LILLY CORNETT WOODS—25 miles southeast of Hazard. Probably the only surviving virgin tract of any size in the Cumberland Mountains section of the Mixed Mesophytic Forest, which is characterized by a great variety of tree species. (June 1971) Owner: State

Menifee County

RED RIVER GORGE (extends into Powell and Wolfe counties)—Daniel

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Boone National Forest, 50 miles east-southeast of Lexington. Contains examples of geological formations, including 41 natural bridges, and supports an extremely diverse flora, including endemic, rare and relict species. (January 1976) Owner: Federal, Private

MAINE (13)

Aroostook County

CRYSTAL BOG—Four miles southeast of Patten. One of the largest and most outstanding untouched sphagnum bogs in the State, containing stands of tamarack, black spruce and hemlock. (May 1973) Owner: Private

Cumberland County

*NEW GLOUCESTER BLACK GUM STAND—Two miles southwest of Upper Gloucester. Rare and outstanding small remnant of essentially virgin black gum-dominated swamp forest, near the northernmost limit for this species. (May 1975) Owner: Private

Franklin County

BIGELOW MOUNTAIN (extends into Somerset County)—The center of the site is six miles east of Stratton. One of the best and most representative alpine vegetation zones among lower elevation New England mountains. (May 1975) Owner: State

Kennebec County

*COLBY-MARSTON PRESERVE—Two miles north of Belgrade. Classic example of a northern sphagnum bog with distinct and well-defined vegetation zonation. A kettle hole bog surrounded by hemlock—white pine and northern hardwood forests. (May 1973) Owner: Private

PENNEY POND—JOE POND COMPLEX—Two and one-half miles south of Belgrade. Relatively untouched wetland area in a glacial outwash plain, containing a number of vegetative communities. (May 1973) Owner: Private

Lincoln County

MONHEGAN ISLAND—Ten miles south of Port Clyde, in the Atlantic Ocean. The northern half of the island is covered with dense, almost pure, red spruce forest. The island is located on the Atlantic flyway and supports a variety of bird species. (April 1966) Owner: Private

Penobscot County

*ORONO BOG—Six miles southwest of Old Town. An outstanding example of a northern sphagnum bog; and one of the best natural orchid areas in Maine. (May 1973) Owner: Private

*PASSADUMKEAG MARSH AND BOGLANDS—Two miles east of Passadumkeag. Passadumkeag Esker, or Enfield Horseback, a classic illustration of an esker, and one of the largest and finest unspoiled wetlands in the State. (May 1973) Owner: Municipal, Private

Piscataquis County

*GULF HAGAS—14 miles east of Greenville. Significant illustration of the geological formation of a steep-walled, youthful gorge cut by a wild river through folded and tilted slates and siltstones, containing an excellent spruce-fir forest on the walls of the gorge. (April 1968) Owner: Private

*MOUNT KATAHDIN—Baxter State Park, 30 miles north of Millinocket. Outstanding example of glacial-geological features, such as kames, eskers, drumlins, kettleholes and moraines, containing virgin forests and alpine-tundra ecosystems surrounding unaltered lakes and streams. (November 1967) Owner: State

*THE HERMITAGE—Six miles northwest of Katahdin Iron Works. One of the very few undisturbed old growth white pine stands left in all of New England, also containing hemlock and northern hardwood stands. (May 1977) Owner: Private

Washington County

CARRYING PLACE COVE BOG—One and one-half miles south of South Lubec. One of the finest examples of coastal raised plateau bogs, of which there are only six undisturbed, fully featured examples in the nation. Also a fine example of a tombollo (tied island) eroded by the sea and encroached upon by a tidal beach. (April 1980) Owner: State

MEDDYBEMPS HEATH—Three miles west of Meddybemps. Outstanding example of a large, undisturbed northern bog, interspersed with small wooded islands, containing two major streams surrounded by vast, high heath shrub vegetation, and ringed with stands of black spruce and larch. (May 1973) Owner: Private

MARYLAND (6)

Baltimore County

*LONG GREEN CREEK AND SWEATHOUSE BRANCH—Gunpowder Falls State Park, two miles north of Perry Hall. Mature beech-tulip poplar-white oak forest representative of the climax mesic forest type in the region, containing an outstandingly rich herbaceous flora. (May 1977) Owner: State

Calvert County

*BATTLE CREEK CYPRESS SWAMP—On State Route 506, between Bowens and Port Republic. One of the most northerly cypress swamps in the country, containing a wide range of plant and animal life. (April 1965) Owner: Private

Cecil County

GILPIN'S FALLS—Seven miles northwest of Elkton. The area exposes a spectacular sequence of early Paleozoic rocks and probably the best outcrop of undeformed early paleozoic metavolcanic pillow basalts in the Middle Atlantic States. It is also a prime example of a Fall Zone stream. (August 1980) Owner: Private

Frederick County

SUGAR LOAF MOUNTAIN—16 miles south of Frederick. Solutions to problems about age and structural relationships of rocks of the Piedmont Province are found here. Appears to be either an outlier to the east of the main mass of Catoctin Mountain or a root remnant of the ancient Appalachia land mass. (June 1969) Owner: Private

Garrett County

*CRANESVILLE SWAMP NATURE SANCTUARY (extends into Preston County, West Virginia)—Nine miles north of Terra Alta, West Virginia. Occupies a natural bowl where cool, moist conditions are conducive to plant and animal communities of more common northern locations. (October 1964) Owner: Private

Prince Georges County

BELT WOODS—15 miles east of Washington, D.C. One of few remaining old-growth upland forests in the Atlantic Coastal Plain physiographic province. An example of upland hardwood forest dominated by tulip poplar and white oak, supporting a dense and diverse bird population. (December 1974) Owner: Private

MASSACHUSETTS (9)

Berkshire County

*BARTHOLOMEW'S COBBLE—(see CONNECTICUT)

COLD RIVER VIRGIN FOREST—Mohawk Trail State Forest, nine miles southeast of North Adams. Probably the only virgin hemlock-northern hardwood forest in New England with the hemlocks and sugar maples exceeding 400 years in age. (April 1980) Owner: State

Bristol County

*ACHUSHNET CEDAR SWAMP—Northwestern edge of New Bedford. One of the State's largest, wildest and most impenetrable swamps, and an outstanding example of the diversity of conditions and species in the glaciated section of the oak-chestnut forest type. (June 1972) Owner: State

Dukes County

*GAY HEAD CLIFFS—On the western tip of Martha's Vineyard. An unusual cross section of Raritan and Magothy sediments of Cretaceous age and fossil-bearing sands of Miocene and either Pliocene or Pleistocene ages that rise as much as 150 feet above sea level, resting on the continental shelf and detached from the mainland. (October 1965) Owner: Municipal

Essex County

LYNNFIELD MARSH (extends into Middlesex County)—Between Wakefield and South Lynnfield. The area preserves the habitat requirements of many bird species and serves as breeding ground for the King Rail and Least-Bittern, rare species in the region. (June 1972) owner: Municipal, Private

Franklin County

*HAWLEY BOG—One mile northwest of Hawley. Unspoiled cold northern boreal sphagnum-heath bog occupying an old shallow glacial lake basin which demonstrates bog succession from the central open water pond to the surrounding spruce-fir forest. (May 1974) Owner: State

Hampden County

*FANNIE STEBBINS REFUGE—Five miles south of Springfield. The area contains the only sizeable example of Connecticut River floodplain under preservation, exhibiting many successional stages including upland and floodplain forest, swamp, marsh, ponds, and meadows. (June 1972) Owner: Municipal, Private

Nantucket County

MUSKEGET ISLAND—Five miles northwest of Nantucket Island. The only known locality where the Muskeget vole is found, and southern-most station where the grey seal breeds. The area supports an enormous nesting population of herring and black-backed gulls. (April 1980) Owner: Municipal, Private

Plymouth County

NORTH AND SOUTH RIVERS—Centered about 20 miles southeast of Boston. Classic examples of drowned river mouth estuaries, supporting at least 45 species of fish and several species of birds. The site contains saltmarsh, brackish marsh and freshwater marsh areas. (May 1977) Owner: State, Municipal, Private

Worchester County

POUTWATER POND—North of Holden. An undisturbed sphagnum-heath bog in southern New England, illustrating ecological succession from open water in a glacial depression to upland forest. (June 1972) Owner: Private

MICHIGAN (11)

Bay County

*TOBICO MARSH—Tobico Marsh State Game Area, seven miles north of Bay City. Relatively undisturbed area with three distinct habitats: a wide expanse of open water, marshland, and a mixed hardwood forest used by large numbers of migrating waterfowl. (January 1976) Owner: State

Berrien County

GRAND MERE LAKES AREA—Two miles southwest of Stevensville. The site contains four low areas created during the evolution of postglacial ancestors of Lake Michigan, providing a unique ecological area documenting the evolution of aquatic to terrestrial communities, surrounded by a buffer zone of dunes, and containing many rare relict species. (April 1968) Owner: State, Private

WARREN WOODS NATURAL AREA—Three miles north of Three Oaks. Last known stand of virgin beech-maple forest in southern Michigan containing outstanding individual specimens of sycamore, beech, maple and other northern hardwoods. (November 1967) Owner: Private leased to State

Cass County

*NEWTON WOODS—28 miles southwest of Kalamazoo. One of the last remaining old-growth oak-mixed hardwood stands on Michigan's lower peninsula. (January 1976) Owner: Michigan State University

Ingham County

*TOUMEY WOODLOT—On the Michigan State University campus in East Lansing. An extremely rare example of a virgin stand of beech-maple forest serving as an important source for ecological research. (January 1976) Owner: Michigan State University

Jackson County

*BLACK SPRUCE BOG NATURAL AREA—Ten miles northeast of Jackson. Boreal bog forest illustrating the last stage of succession in the sphagnum bog ecosystem, containing an excellent stand of black spruce. (December 1976) Owner: State

Marquette County

*DUKES RESEARCH NATURAL AREA—Upper Peninsula Experimental Forest, 17 miles southeast of Marquette. Undisturbed white cedar and mixed conifer swamp containing old-growth hardwood stands. (May 1974) Owner: Federal

Missaukee County

*DEAD STREAM SWAMP (extends into Roscommon County)—Houghton Lake State Forest, 30 miles northeast of Cadillac. A large example of a northern white cedar swamp considered to be the climax in bog forest development. (January 1976) Owner: State

Oakland County

*HAVEN HILL STATE NATURAL AREA—Highland State Recreation Area, 14 miles west of Pontiac. This area contains all of southern Michigan's principal forest types in one small tract, supporting 17 mammal and over 100 bird species. (January 1976) Owner: State

Roscommon County

ROSCOMMON VIRGIN PINE STAND—Ten miles east of Roscommon. A State natural area containing one of the best old growth red pine stands in the Superior Upland natural region, with evidence of fires in 1798, 1888, and 1928 present. (November 1980) Owner: State

Schoolcraft County

*STRANGMOOR BOG—Seney National Wildlife Refuge, southwest of Seney. One of the most southern, undisturbed, patterned or stringed bogs in the country, resulting from the underlying arrangement of sand knolls or extinct dunes on a sloping sand plain. (November 1973) Owner: Federal

MINNESOTA (8)

Anoka County

*CEDAR CREEK NATURAL HISTORY AREA—ALLISON SAYANNA (extends into Isanti County)—30 miles north of Minneapolis. Relatively undisturbed ecological area where three biomes meet (tall grass prairie, eastern deciduous forest and boreal coniferous forest), supporting 61 species of mammals and 183 species of birds. A nationally and internationally famous research center. (May 1975, February 1980) Owner: State, Private

Beltrami County

*UPPER RED LAKE PEATLAND—The

significant upland bogs. (February 1980) Owner: Federal

St. Louis County

providing habitat for many species of flora and fauna, including a large population of greater prairie chicken.

Plateaus, containing a nearly pure stand of disjunct water tupelo and very rare yellow fringed-orchids. (December 1974) Owner: Federal,

vertebrate fossils. (November 1973) Owner: Crow Indian Reservation, Private

of several lakes impounded by the Cordilleran Ice Sheet during the Quarternary Period containing flood

Beltrami County

*UPPER RED LAKE PEATLAND—The center of the site is 15 miles northwest of Waskish. One of the largest peatlands remaining in the conterminous United States illustrating a variety of geological features and plant associations, especially the dominant and rare string bog, and an outstanding habitat for wildlife including endangered species. (May 1975) Owner: Federal, State, Red Lake Indian Tribe

Big Stone County

*ANCIENT RIVER WARREN CHANNEL (extends into Traverse County, Minnesota and Roberts County, South Dakota) near Browns Valley. A channel cut by the Ancient River Warren during the Ice Age, containing the Hudson Bay-Gulf of Mexico divide and two lakes on either side as evidence of the irregularities in ice age sedimentation. (April 1966) Owner: State, Private

Cass County

PINE POINT RESEARCH NATURAL AREA—Chippewa National Forest, 26 miles southeast of Bemidji. Contains undisturbed stands of red pine and mixed pine that have been protected for over 70 years; as well as bald eagle and osprey nests. (February 1980) Owner: Federal

Clearwater County

*ITASCA NATURAL AREA—Itasca State Park, 30 miles southwest of Bemidji. The area contains some of the finest remaining stands of virgin red pine, spruce-balsam, and maple-basswood-aspen forest, supporting 141 bird and 53 mammal species, including bald eagles. (October 1965) Owner: State

Koochiching County

*LAKE AGASSIZ PEATLANDS—30 miles south of International Falls. An example of the extensive peatlands occupying the bed of ancient glacial Lake Agassiz, illustrating the process of peat accumulation over about 11,000 years. The area contains Myrtle Lake Bog, which developed contrary to the usual successional process of lake filling, and is an excellent example of both raised and string bogs. (October 1965) Owner: State

Lake County

KEELEY CREEK NATURAL AREA—Superior National Forest, 12 miles southeast of Ely. The area contains large tract of undisturbed mixed pine and black spruce forests with rare mature jackpine stands; and significant upland bogs. (February 1980) Owner: Federal

St. Louis County

LAC LA CROIX RESEARCH NATURAL AREA—Boundary Waters Canoe Area, 24 miles northwest of Ely. This area consists of old-growth virgin pine forests, and contains most of the physiographic and ecological features characteristic of the Boundary Waters region. (February 1980) Owner: Federal

MISSISSIPPI (5)

Calhoun County

*CHESTNUT OAK DISJUNCT—16 miles north of Bruce. An isolated chestnut oak stand well removed from its normal range, surrounded by loblobby pine forest. (October 1966) Owner: Private

Madison County

*MISSISSIPPI PETRIFIED FOREST—17 miles north of Jackson. A relatively undisturbed accumulation of ancient fir and maple driftwood which was buried in Tertiary sands and subsequently covered with loess. Surface water has eroded gullies and exposed the logs. (October 1965) Owner: Private

Scott County

*BIENVILLE PINES SCENIC AREA—Bienville National Forest, south of the town of Forest. One of the largest, protected old-growth loblobby pine stands in the region. (May 1976) Owner: Federal

*HARRELL PRAIRIE HILL—Bienville National Forest, two miles southeast of the town of Forest. Tall grass prairie that is one of the last and most representative remnants of the Jackson Prairie, a disjunct of the Black Belt region in Mississippi and Alabama. (May 1976) Owner: Federal

Sharkey County

*GREEN ASH-OVERCUP OAK-SWEETGUM RESEARCH NATURAL AREAS—Delta National Forest, three noncontiguous tracts that are 18 miles west-northwest of Yazoo City. Contains three very rare remnants of virgin bottomland hardwood forest remaining in the Mississippi River delta region. Some of the oldest sweetgum stands are 250 to 300 years old. (May 1976) Owner: Federal

MISSOURI (14)

Barton County

*GOLDEN PRARIE—16 miles northeast of Carthage. Example of an essentially virgin tall grass prairie ecosystem providing habitat for many species of flora and fauna, including a large population of greater prairie chicken. (May 1975) Owner: Private

Callaway County

*TUCKER PRAIRIE—Seven miles north-northwest of Fulton. Virgin tall grass prairie occurring within the transition zone between the oak-hickory forest and typcial tall grass prairie. (May 1975) Owner: Private

Camden County

CARROLL CAVE—Dendritic system of subsurface karst streams and tributaries. A dangerous cave which must not be visited without owner permission. (May 1977) Owner: Private

Clay County

*MAPLE WOODS NATURAL AREA—A nearly virgin sugar maple and mockernut hickory forest; the combination of these two forest species is rare in the region. (April 1980) Owner: State

Crawford County

*ONONDAGA CAVE—Five miles southeast of Leasburg. The cave contains an unusually large and varied number of speleothems, and a ponded stream with a mean flow of about one million gallons per day. (April 1980) Owner: Private

Marion County

*MARK TWAIN AND CAMERON CAVES—Two miles southeast of Hannibal. Two caves on either side of a small valley, Cave Hollow, which are exceptionally good examples of the maze type of cavern development. (June 1972) Owner: Private

Oregon County

GREER SPRING—52 miles west of Poplar Bluff. The second largest spring in the Ozarks which discharges into a high quality, cascading stream. A very diverse forest surrounds the spring and river. (April 1980) Owner: Private

Phelps County

*MARAMEC SPRING—Maramec Spring Park, eight miles southeast of St. James. One of the large springs in the Missouri Ozarks, and a source of water power from 1826 to 1877 for an ironworks, the ruins of which are still visible. (October 1971) Owner: Private

Ripley County

*CUPOLA POND—Mark Twain National Forest, 12 miles south-southeast of Fremont. One of the most ancient sinkhole ponds in the Ozark

Plateaus, containing a nearly pure stand of disjunct water tupelo and very rare yellow fringed-orchids. (December 1974) Owner: Federal

St. Clair County

*TABERVILLE PRAIRIE—Two and one-half miles north of Taberville. One of the largest remaining virgin tall grass prairies containing typical prarie flora and fauna. (May 1975) Owner: State

Ste. Genevieve County

PICKLE SPRINGS—Seven miles east of Farmington. A deep, forested gorge containing one of the finest Pleistocene relict habitats in Missouri, supporting numerous relict herbaceous plant species including one rare moss of tropical affinity and several plant species characteristic of the Appalachian Mountains. (May 1975) Owner: Private

Stone County

*MARVEL CAVE—50 miles south of Springfield. Dome-shaped sinkhole entrance and giant domepits below, including one of the great dripstone units of all Ozark caves. (June 1972) Owner: Private

Taney

*TUMBLING CREEK CAVE—A large, varied cave that contains the most diverse fauna known for any cave west of the Mississippi River, including a large colony of the endangered grey bat. This is a fragile cave that can be critically damaged by unsupervised visitation. (April 1980) Owner: Private

Warren County

WEGENER WOODS—One-quarter mile north of Holstein. Rare, essentially virgin oak-hickory-dominated forest in a condition of gradual change to a sugar maple-dominated forest, offering an opportunity to study the composition and dynamics of the presettlement condition of the eastern decidious forest. (May 1975) Owner: Private

MONTANA (10)

Beaverhead County

*RED ROCK LAKES NATIONAL WILDLIFE REFUGE—Two miles north of Lakeview. Relatively undisturbed, high-altitude ecosystem types representative of presettlement conditions, including wetlands supporting waterfowl and several uncommon species. (May 1976) Owner: Federal

Big Horn County

CLOVERLY FORMATION SITE—The area contains early Cretaceous vertebrate fossils. (November 1973) Owner: Crow Indian Reservation, Private

Carbon County

BRIDGER FOSSIL AREA—This site contains fossils of *Deinonychus antirrhopus*, a new genus and species of carnivorous dinosaur which was only about three feet tall and eight feet in length. (November 1973) Owner: Federal

Carter County

*CAPITOL ROCK—30 miles southeast of Ekalaka. Remnant of the once continuous blanket of Tertiary deposits that covered much of the Great Plains. Late Cretaceous, Paleocene, Oligocene, and Miocene strata are well displayed. (December 1976) Owner: Federal

Choteau County

SQUARE BUTTE—49 miles east of Great Falls. An igneous rock intrusion between sedimentary beds (laccolith) which provides one of the best examples of banded magmatic rock in the U.S., with a clear distinction between dark and light colored fractions. The butte's flat crest supports relatively natural grassland communities. (August 1980) Owner: Federal, Private

Gallatin County

MIDDLE FORK CANYON—30 miles north of Bozeman. The area illustrates rocks deformed by crustal movements that created the Rocky Mountains, and includes an outstanding example of a canyon cut across the grain of the geologic structure by a superposed stream. (May 1977) Owner: Federal, Private

Garfield County

*HELL CREEK FOSSIL AREA—near Jordan. Fossils representative of large dinosaurs, including *Tyrannosaurus rex, Ankylosaurus magniventris, Brachychampsa fontana* (oldest known ture alligator), and *Triceratops prorsus* (a horned disosaur). (October 1966) Owner: Federal, Private

McCone County

*BUG CREEK FOSSIL AREA—east-northeast of Hell Creek Fossil Area. The site contains small mammal fossils. Taken together with the Hell Creek Fossil Area, the two sites span the decline of dinosaurs and beginning of mammalian dominance. (April 1966) Owner: Federal

Sanders County

*GLACIAL LAKE MISSOULA—12 miles north of Perma. This was the largest of several lakes impounded by the Cordilleran Ice Sheet during the Quarternary Period containing flood ripples 15 to 50 feet high, 100 to 250 feet broad, and from 100 yards to one-half mile long. (April 1966) Owner: Private

Sheridan County

MEDICINE LAKE SITE—20 miles north of Culbertson. An exceptional example of the processes of continental glaciation, including till, outwash, eskers, kames, and terrace deposits. A variety of grassland plant and animal species are found here. (August 1980) Owner: Federal

NEBRASKA (2)

Cherry County

*VALENTINE NATIONAL WILDLIFE REFUGE—25 miles south of Valentine. One of the few remaining examples of the Sandhill tall grass prairie ecosystem unique to the central Great Plains. It provides habitat for many rare species. (January 1976) Owner: Federal

Sarpy County

*FONTENELLE FOREST—One mile south of Omaha. The largest remaining stand of virgin forest in the State, also containing high bluffs, river floodplain of the Missouri River and 20 acres of true prairie. (March 1963) Owner: Private

NEVADA (6)

Clark County

*VALLEY OF FIRE—35 miles northeast of Las Vegas. An outstanding example of overthrusting, a great fold has been exposed through erosion processes creating huge rock formations, deep canyons, and a great variety of colors. The area supports Gila Monsters in the northern extreme of their range. (April 1968) Owner: State

Elko County

RUBY MARSH (extends into White Pine County)—Ruby Lake National Wildlife Refuge, 50 miles south-southeast of Elko. One of the largest and finest natural wetlands in the State, and a stopover and nesting area for many migratory birds, including the greater sandhill crane and trumpeter swan. (November 1972) Owner: Federal

Nye County

*HOT CREEK SPRINGS AND MARSH—35 miles south of Lund. The White River springfish, a relict species, is found in large numbers here. The area is outstanding both as

spring and wetland area. (November 1972) Owner: State

*ICHTHYOSAUR SITE—within Berlin-

stable bog-forest supporting an unusual variety of birdlife. (June 1972) Owner: State, Private

Management Area, two miles southeast of Manahawkin. This site contains a mature bottomland hardwood forest dominated by

of the blue grama-buffalograss prairie of the Great Plains considered to be typical of the pre-cattle grazing era. Two of the three dominant natural

NEW YORK (26)

Albany County

*BEAR SWAMP—Three miles south of

exposure of glacialage potholes eroded by meltwater floods in the eastern United States. (May 1976) Owner: State

spring and wetland area. (November 1972) Owner: State

*ICHTHYOSAUR SITE—within Berlin-Ichthyosaur State Park, 20 miles east of Gabbs. The only known site containing fossil remains of 37 of the largest form of ichthyosaur, some up to 45 feet in lenght. (May 1973) Owner: Federal

LUNAR CRATER—70 miles east-northeast of Tonopah. A 400-acre depression that is thought to have been formed by a past volcanic explosion, and one of two maars in the volcanic field of Pancake Range. (May 1973) Owner: Federal

TIMBER MOUNTAIN CALDERA—Nellis Air Force Gunnery Range and Nevada Test Site. A restricted area containing a remnant of an elliptical caldera developed in the late Miocene and early Pliocene, about eight to ten miles in extent, surrounded by a moat-like depression extending to the rim of an older caldera. (May 1973) Owner: Federal

NEW HAMPSHIRE (8)

Carroll County

*HEATH POND BOG—Two miles northeast of Center Ossipee. A prime, unspoiled example of bog succession from open water to sphagnum-heath-black spruce bog. (June 1972) Owner: State

*MADISON BOULDER—Three miles north of Madison. A rectangular granite boulder 83 feet long, 37 feet wide and 23 feet high. The largest known glacial erratic in North America. (January 1970) Owner: State

WHITE LAKE PITCH PINE—Seven miles northeast of Center Ossippee. A mature, undisturbed pitch pine and bear oak forest which is becoming rare in the Northeast. (April 1980) Owner: State

Coos County

EAST INLET NATURAL AREA—Northeast of the Second Connecticut Lake, 50 miles north of Berlin. Virgin spruce-fir forest and spruce-tamarack bog in one unit. Excellent for study of edaphic influences on environment. (June 1972) Owner: Private

*FLOATING ISLAND—Two and one-half miles east-northeast of Erroll. Superb ecological community illustrating characteristics of a bog, pond, and river complex. Last potential habitat in New Hampshire for two endangered species—osprey and bald eagle. (June 1972) Owner: Private

*PONDICHERRY WILDLIFE REFUGE—Two miles northeast of Whitefield Airport in Jefferson. A relatively stable bog-forest supporting an unusual variety of birdlife. (June 1972) Owner: State, Private

Grafton County

*FRANCONIA NOTCH—16 miles south of Littleton. A deep gorge formed by glacial movement, including landslide scars, talus slopes and stream-cut gorges. (June 1971) Owner: State

Strafford County

SPRUCE HOLE BOG—Two miles west-southwest of Durham. A complete ecological community occupying a true kettle hole, the last of six similar sites that have been destroyed. (June 1972) Owner: Private

NEW JERSEY (10)

Cape May County

*STONE HARBOR BIRD SANCTUARY—In the southern end of Stone Harbor. The site is used exclusively as a sanctuary for birds and is probably the greatest single influence increasing the heron populations in New Jersey. (October 1965) Owner: Private

Essex County

RIKER HILL FOSSIL SITE—In Roseland. One of the only two known localities of major size along the Northeastern coast where large numbers of various kinds of dinosaurian footprints can be preserved in situ. (June 1971) Owner: County

Middlesex County

PIGEON SWAMP—The centered the site is eight miles southwest of New Brunswick. This 1,250-acre landmark contains a complex of habitats from open ponds to upland hardwood forest, significant because it contains a sizeable example of mature inner coastal plain lowland hardwood forest. (December 1976) Owner: State, Private

Morris County

GREAT SWAMP—Great Swamp National Wildlife Refuge, seven miles south of Morristown. Great swamp is a unique blend of unspoiled forest, swamp, and marshland with many kinds of wildlife. (April 1966) Owner: Federal

*TROY MEADOWS—One-half mile from Troy Hills. The area contains the last unpolluted freshwater marsh of any size in this region. It is an important habitat for a variety of birds and animals. (November 1967) Owner: State, Private

Ocean County

MANAHAWKIN BOTTOMLAND HARDWOOD FOREST—Manahawkin Fish and Wildlife Management Area, two miles southeast of Manahawkin. This site contains a mature bottomland hardwood forest dominated by sweetgum, red maple and black gum. It is one of the finest remaining examples of bottomland hardwood forests in the northern Atlantic Coastal Plain region. (January 1976) Owner: State

Passaic County

*GREAT FALLS OF PATERSON—Paterson. The site is a unique illustration of a series of geological events and processes which influenced the present day landforms over a large area of north-central New Jersey. (April 1967) Owner: Municipal

Somerset County

*WILLIAM L. HUTCHESON MEMORIAL FOREST—Six miles west of New Brunswick. The site contains a virgin mixed oak upland forest dominated by white, red, and black oaks. It is probably the best example of an old growth mixed forest in New Jersey. (December 1976) Owner: State

*MOGGY HOLLOW NATURAL AREA—Two miles east of Far Hills. A 90-foot gorge which formerly was the outlet for ancient glacial Lake Passaic. The area is a superlative illustration of a phase of ice age glaciation. (January 1970) Owner: Private

Warren County

*SUNFISH POND—Three miles northeast of the Delaware Water Gap. A spring-fed mountain lake surrounded by a hardwood forest. It is an outstanding illustration of glacial sculpture. (January 1970) Owner: State

NEW MEXICO (10)

Chaves County

BITTER LAKE GROUP—Nine miles northeast of Roswell. Contains sinkhole depressions formed by solution of gypsum-bearing rocks and suports shrub-grassland vegetation representative of the northern Chihuahuan Desert. (August 1980) Owner: Federal

Dona Ana County

KILBOURNE HOLE—26 miles southwest of Las Cruces. An uncommon volcanic feature known as a maar, which is a depression caused by volcanic explosion that emits little volcanic material except gas. (May 1975) Owner: Federal, Private

Harding County

BUEYEROS SHORTGRASS PLAINS—17 miles east of Bueyerors. An example of the blue grama-buffalograss prairie of the Great Plains considered to be typical of the pre-cattle grazing era. Two of the three dominant natural grazing animals (antelope and prairie dogs) are still in the area. (February 1980) Owner: Private

Lincoln County

BORDER HILLS STRUCTURAL ZONE—24 miles west of Roswell. One of the several buckles on the Pecos slope located in otherwise gently dipping Permian strata. (February 1980) Owner: Federal, Private

*FORT STANTON CAVE—Seven miles west of Lincoln, The cave is characterized by very long and large open passages containing distinctive examples of selenite needles, starbursts, and velvet flowstone. (May 1974) Owner: Federal

*TORGAC CAVE—20 miles southeast of Corona. Significant because of its abundant and intricate gypsum speleothems. It is the type site for Torgac-type helictities. (May 1974) Owner: Federal

Rio Arriba County

*GHOST RANCH—South of Canjilon. The tract is predominantly shale and sandstone, and has yielded fossils, including many well-preserved skeletons of *Coelophsis*, the oldest and most primitive carnivorous dinosaur. (January 1976) Owner: Private

VALLES CALDERA (extends into Sandoval County)—30 miles northwest of Santa Fe. A large subcircular depression, 12 to 15 miles in diameter, with scalloped walls rising from a few hundred to more than 2,000 feet above the present floor. It is one of the largest calderas in the world. (May 1975) Owner: Private

San Juan County

*SHIP ROCK—35 miles west of Farmington. Shiprock is an outstanding example of an exposed volcanic neck accompanied radiating dikes; it towers 1400 feet above the surrounding plain. (May 1975) Owner: Indian Reservation

Valencia County

*GRANTS LAVA FLOW (extends 25 miles south from Grants)—A classic example of recent extrusive volcanism. It contains lava flows that appear very fresh and unweathered. Its gigantic pressure ridges, collapse depressions and lava tubes are outstanding. (July 1969) Owner: Federal, State, Private

NEW YORK (26)

Albany County

*BEAR SWAMP—Three miles south of Westerlo. A low swampy woodland consisting of red maple, yellow birch, black ash, white elm, white pine, and hemlock. Its most outstanding feature is the great laurel covering 60 acres of the swamp. (May 1973) Owner: Private

Allegany County

*MOSS LAKE BOG—Two miles southwest of Houghton. The site is a classic example of a postglacial sphagnum bog invading and filling a small kettle lake, with the various stages of bog succession well illustrated. (May 1973) Owner: Private

Cattaraugus County

*DEER LICK NATURE SANCTUARY—Four miles southeast of Gowanda. The area includes a gorge that clearly illustrates exposed stratifications of the Onondaga Escarpment, and supports a mature northern hardwood forest. (November 1967) Owner: Private

Dutchess County

*THOMPSON POND—20 miles east of Kingston. The 75-acre, glacially created pond is not more than four feet deep, fringed by cattail marshes, with reeds and water lillies in deeper water. Well-developed ecosystems from the open pond to the mountain cliffs illustrate great ecological diversity. (May 1973) Owner: Private

Genesee County

*BERGEN-BYRON SWAMP—between Bergen and Byron, 25 miles west of Rochester. This landmark consists of an area of some 2,000 acres that is unusually rich in plant and animal life. (November 1963) Owner: Private

*FOSSIL CORAL REEF—Four miles northwest of Le Roy. An exposed fossil site in an abandoned limestone quarry surrounded by woodland. It is extremely rich in fossil coral specimens. (November 1967) Owner: Private

*OAK ORCHARD CREEK MARSH (extends into Orleans County) Iroquois National Wildlife Refuge, seven miles southeast of Medina. The area is a relatively undisturbed marsh that is rare for this part of New York State. (May 1973) Owner: Federal

Hedrkimer County

MOSS ISLAND—Within the city limits of Little Falls. The island is part of an uplifted fault block of ancient crystalline rock. It contains the best exposure of glacialage potholes eroded by meltwater floods in the eastern United States. (May 1976) Owner: State

Jefferson County

*DEXTER MARSH—Two miles southwest of Dexter. The site is a relatively undisturbed, extensive example of a large bay-head marsh complex at the eastern end of Lake Ontario. (May 1973) Owner: State

*IRONSIDES ISLAND (extends into St. Lawrence County)—In the St. Lawrence River, eight miles northeast of Alexandria Bay. A glacier-scoured granite knoll, the most significant feature is the breeding colony of great blue herons. (April 1967) Owner: Private

LAKEVIEW MARSH AND BARRIER BEACH—20 miles southwest of Watertown. One of the best and most extensive marshlands that lies in protected bays and behind barrier beaches along the shores of eastern Lake Ontario. The marsh-swamp-pond complex demonstrates great wetlands diversity. (May 1973) Owner: State

Livingston County

*FALL BROOK GORGE—One and one-half miles south of Geneseo. One of America's finest exposures of Upper and Middle Devonian age strata. Significant fossil remains are found at this site. (January 1970) Owner: Private

Monroe County

HART'S WOOD—Ten miles southeast of Rochester. A rare remnant of the original beech-maple forest that once occupied a large glaciated area extending from southeastern Wisconsin to north-central New York. (June 1972) Owner: Municipal

*MENDON PONDS PARK—11 miles south of Rochester. A unique complex of glacial features including kames, eskers, esker fans, kettleholes, erratics, bogs, and ponds. (November 1967) Owner: County

Onondaga County

ROUND LAKE—Green Lakes State Park, two miles northeast of Fayettevile. The site contains one of eleven meromictic lakes reported in the United States, and about 20 acres of outstanding virgin mesophytic forest that adjoin the lake. (May 1973) Owner: State

Rockland County

HOOK MOUNTAIN AND NYACK BEACH STATE PARK—One mile north of Nyack. The area contains a portion of the Palisade Sill. The

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geological features are deposits characteristics of the filling of basins that developed during rifting and opening of the North Atlantic Basin 180–200 million years ago. (April 1980) Owner: State

*IONA ISLAND MARSH—Two miles south of Fort Montgomery. A brackish estuarine marsh in a near natural state that fringes the Hudson River. Many rare plants are found here. (May 1974) Owner: State

Saratoga County

*PETRIFIED GARDENS—Four miles west of Saratoga Springs. The area includes the best exposure of fossil reefs made up of calcareous algae, known as cryptozoon, which constitute a milestone in the evolution of plant life. (April 1967) Owner: Private

Seneca County

*MONTEZUMA MARSHES—Montezuma National Wildlife Refuge, four miles northeast of Seneca Falls. A marsh dominated by broadleaved cattail. A small 100-acre area within the site is one of the best examples of undisturbed swamp woodlands in New York or New England. (May 1973) Owner: Federal

Suffolk County

BIG REED POND—Three miles west of Montauk Point. The fresh water pond supports a herd of whitetail deer and other wildlife, and has no extensive man-made development along its shoreline. (May 1973) Owner: County

GARDINER'S ISLAND—100 miles east of New York City, in Block Island Sound off Long Island. The island is a breeding ground for osprey and is an important habitat of other fauna, particularly waterfowl and shore birds. (April 1967) Owner: Private

LONG BEACH, ORIENT STATE PARK—One mile south of Orient. One of the finest remaining examples in New York of a sandgravel spit illustrating succession from salt marsh to maritime forest. The area contains a breeding colony of common and roseate terns, species which are becoming scarce in other North Atlantic breeding grounds. (April 1980) Owner: State

Tompkins County

*MCLEAN BOGS—One and one-half miles east-southeast of McLean. The bogs contain rare plant species and one of the best examples of a northern deciduous forest in New York. (May 1973) Owner: Private

Ulster County

ELLENVILLE FAULT-ICE CAVES—Five miles southeast of Ellenville. The largest known exposed fault system in the United States, along with a series of ice caves formed from fault debris. (November 1967) Owner: Municipal

Wayne County

*ZURICH BOG—Nine miles north of Newark. A good example of northern bog and bog forest vegetation that is uncommon in north-central New York State. (May 1973) Owner: Private

Westerchester County

*MIANUS RIVER GORGE—Two miles south of Bedford. An exceptional illustration of piedmont physiography and geomorphology. It contains an excellent climax hemlock forest. (November 1963) Owner: Private

NORTH CAROLINA (11)

Alleghany County County

*STONE MOUNTAIN (extends into Wilkes County)—Stone Mountain State Park, nine miles southeast of Sparta. The best example of a monadnock in massive granite in North Carolina. Unique, endemic plants persist on the granite outcrops. (May 1974) Owner: State

Ashe County

LONG HOPE CREEK SPRUCE BOG (extends into Watauga County)—Ten miles north-northeast of Boone. One of the rarest plant communities of North Carolina and the Southeast, including American yew and buckbean. (May 1974) Owner: Private

MOUNT JEFFERSON STATE PARK—One mile east of West Jefferson. The mountain's uppermost forest is virtually undisturbed northern red oak and represents one of the finest remaining examples of oak-chestnut forest in the Southeast. (May 1974) Owner: State

Beaufort County

GOOSE CREEK STATE PARK NATURAL AREA—Ten miles east of Washington. An excellent example of a gently sloping mainland undergoing rapid ocean transgression. Contains the following diverse ecological units: brackish creeks and marshes, marsh transition areas, river swamp forest, and low pine forests. (April 1980) Owner: State

Brunswick County

GREEN SWAMP—Nine miles north of Supply. The largest and most unique mosaic of wetland communities in the Carolinas. The site is also a refuge for rare animal species. (May 1974) Owner: Private

Dare County

NAGS HEAD WOODS AND JOCKEY RIDGE—One and one-half miles northwest of Nags Head on Bodie Island. The site illustrates the entire series of dune development and plant succession from shifting open dunes to forested stabilized dunes. (May 1974) Owner: State, County, Municipal, Private

Davie County

ORBICULAR DIORITE—An unusual plutonic igneous rock consisting of hornblende, pyroxene, and feldspars. (August 1980) Owner: Private

Onslow County

BEAR ISLAND—Hammocks Beach State Park, four miles south-southeast of Swansboro. The area contains one of the largest and best examples of coastal aeolian landforms in the Atlantic Coastal Plain. Dune movement has created a dynamic landscape of outstanding scenic beauty. (April 1980) Owner: State

Surry County

*PILOT MOUNTAIN—Pilot Mountain State Park, three miles south of Pilot Mountain. A classic monadnock that harbors disjunct Blue Ridge Mountain vegetation. (May 1974) Owner: State

Wake County

*PIEDMONT BEECH NATURAL AREA—William B. Umstead State Park, seven miles northwest of Raleigh. Perhaps the finest example of mixed mesophytic forest in the eastern Piedmont of North Carolina, with unusually fine climax stands of beech in portions of the site. (May 1974) Owner: State

Yancey County

*MOUNT MITCHELL STATE PARK—20 miles northeast of Asheville. Mount Mitchell (6,684 feet above sea level) is the highest mountain in the eastern half of the United States. The park has the most extensive stand of Fraser's fir remaining in America. (May 1974) Owner: State

NORTH DAKOTA (4)

Billings County

*TWO-TOP MESA AND BIG TOP MESA—14 miles northwest of Fairfield. Both mesas, one mile apart, are located in a badlands terrain of sandstones, siltstones and clay. The mesas are characterized by an unbroken cover of grass on flat relief. (October 1965) Owner: Federal

Cavalier County

RUSH LAKE—Five miles south of Hannah. A large, shallow, essentially

undisturbed prairie pothole lake that is an important staging area for waterfowl. (May 1975) Owner: Private

Kidder County

SIBLEY LAKE—Five miles north of Dawson. A large, permanent alkaline lake, it provides a breeding and resting area for one of the largest and most diverse waterbird populations found in pothole lakes in the State. (May 1975) Owner: State, Private

Stutsman County

FISCHER LAKES—25 miles northwest of Jamestown. Highly representative of the glacial moraine and pitted outwash plain surface of North Dakota. The area contains relatively undisturbed grasslands and lush prairie woodlands. (April 1980) Owner: State, Private

OHIO (23)

Adams County

*BUZZARDROOST ROCK–LYNX PRAIRIE–THE WILDERNESS—25 miles west of Portsmouth. The site contains a number of different plant associations, including many rare or uncommon species. Has an almost 50-year history of scientific observations. (April 1967, December 1974, February 1980) Owner: Municipal, Private

SERPENT MOUND CRYPTOEXPLOSIVE STRUCTURE (extends into Highland and Pike Counties)—31 miles southwest of Chillicothe. A structure of undetermined origin exposed by differential erosion. It is the smaller of two such outstanding cryptoexplosive structures in the Interior Low Plateaus and is the classic American example. (February 1980) Owner: Private

Ashland County

*CLEAR FORK GORGE—Mohican State Park, four miles south of Loudenville. A geologically significant area of the Mohican River Valley that clearly shows evidence of stream reversal due to the Wisconsin glacier. (November 1967) Owner: State

CRALL WOODS—Five miles south-southwest of New London. A near-virgin remnant maple-basswood-beech hardwood forest representing the original vegetation found in Ohio's glaciated till plain. (December 1974) Owner: Private

Belmont County

*DYSART WOODS—11 miles southwest of St. Clairsville. The area contains one of the finest remaining samples of the once superb white oak forests of eastern Ohio. (April 1967) Owner: Ohio University

Butler County

*HUESTON WOODS (extends into Preble County)—Hueston Woods State Park, four miles north of Oxford. A noteworthy example of a beech-maple climax forest that has never been cut. (April 1967) Owner: State

Champaign County

*CEDAR BOG—Cedar Bog State Memorial, seven miles north of Springfield. An excellent example of a marl swamp, containing a white cedar stand preserved in virgin condition. (April 1967) Owner: State

Cuyahoga County

*ARTHUR B. WILLIAMS MEMORIAL WOODS—Within Mayfield. The site contains a remarkably pristine remnant beech-maple forest, among the finest timber stands remaining in the state of Ohio. (December 1974) Owner: Municipal

*TINKERS CREEK GORGE—12 miles southeast of Cleveland. Oak-hickory and beech-maple-hemlock predominate in this virgin forest. (November 1967) Owner: Municipal

Delaware County

HIGHBANKS NATURAL AREA (extends into Franklin County)—13 miles north of Columbia. A forested bluff overlooking the Olentangy River and containing a diverse and healthy herbaceous layer as well as outstanding examples of oak-hickory, beech-maple, and floodplain hardwood forests. The bluffs are crested with a disjunct acid xeric community of lichens and mosses. (February 1980) Owner: County

Erie County

*GLACIAL GROOVES STATE MEMORIAL—On Kelleys Island, five miles offshore from Marblehead. This area is made up of very large limestone glacial grooves that measure several feet in depth. (November 1967) Owner: State

Fairfield County

*BLACKLICK WOODS—One mile south of Renoldsburg. The tract is an outstanding example of relatively undisturbed, old-growth beech-maple and swamp forest communities of the type that once covered that flat till plain of central Ohio. (December 1974) Owner: County

Fulton County

*GOLL WOODS—Goll Woods State Forest, three miles northwest of Archbold. One of the best remaining examples of an oak-hickory-dominated forest in the State. (December 1974) Owner: State

Geauga County

*HOLDEN NATURAL AREAS (extends into Lake County)—30 miles east of Cleveland. A complex of three natural areas: Steblins Gulch, possessing geological formations of Chardon, Brea sandstone, Bedford and Cleveland types; Bole Forest, a northern hardwood virgin forest; and Hanging Rock Farm, a stand of natural northern hardwoods. The three areas serve as a unique control to arboretum lands abutting this landmark. (November 1967) Owner: Private

WHITE PINE BOG FOREST-Three miles south-southwest of Burton. The only remaining near virgin remnant white pine boreal bog in Ohio. (January 1976) Owner: Municipal, Private

Greene County

*CLIFTON GORGE—Ten miles south of Springfield. The gorge is exemplary of interglacial and postglacial canyon cutting into the dolomites of the Niagara Escarpment. (April 1967) Owner: State

*GLEN HELEN NATURAL AREA—In Yellow Springs. Yellow Springs has built a travertine bowl around its pool. Downstream, Yellow Spring Creek is deeply incised into the dolomitic base rock. Old growth hardwoods dominate the surround valley. (October 1965) Owner: Antioch College

Hamilton County

HAZELWOOD BOTANICAL PRESERVE—One-half mile east of Hazelwood. The highly detailed study of its plant ecology by John G. Segelken, published in 1929, makes this area an ecological benchmark. (December 1974) Owner: University of Cincinnati

Highland County

FORT HILL STATE PARK MEMORIAL—Three mile north-northwest of Sinking Spring. Possesses excellent outcrops of Silurian, Devonian, and Mississippian sedimentary bedrock, a natural bride, and an example of glacial stream reversal. (December 1947) Owner: State

Lake County

*MENTOR MARSH—Near Painesville. The site consists of marsh vegetation, aquatic plants, swamp and bottomland forest, and upland forest. A migration stopover and year-round habitat for birds and mammals, the site is a rarity in heavily populated northern Ohio. (October 1964) Owner: State, Municipal

Licking County

CRANBERRY BOG—20 miles east of Columbus. The dominant vegetation

Lake County

*FORT ROCK STATE MONUMENT—49 miles south-southeast of Bend. A

Cumberland County

*FLORENCE JONES REINEMAN WILDLIFE SANCTUARY (extends into Perry County)—Eight miles

hardwood forest regions of North America. (May 1973) Owner: Federal

Monroe County

Mountains section of Pennsylvania. (December 1974) Owner: State

Warren County

karst. It is the only place in Puerto Rico where the great Eocene-Oligocene unconformity can be clearly seen. (February 1980) Owner:

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Licking County

CRANBERRY BOG—20 miles east of Columbus. The dominant vegetation of this cranberry sphagnum bog is a relict of post-glacial time. It is a "floating island" in Buckeye Lake and is the only known bog of its type in existence. (October 1968) Owner: State

Portage County

MANTUA SWAMP—At the southeastern edge of Mantua. The area contains many different wetland communities including a floodplain swamp forest, cattail marshes, a beaver pond, and a relict boreal bog. (January 1976) Owner: State, Private

Wayne County

*BROWN'S LAKE BOG—11 miles southwest of Wooster. This site is well known to Ohio biologists and ecologists as one of the few, well-preserved, virgin boreal acid bogs remaining in a region where wetland has been drained for agricultural use. (April 1967) Owner: Private

OKLAHOMA (2)

Canadian County

DEVIL'S CANYON—22 miles west-southwest of El Reno. The disjunct flora containing many mesic plant species, and the close proximity of two distinctly different vegetation types, oak woodland-tall grass prairie ecotone and eastern deciduous forest vegetation, together form a unique ecological community. (December 1974) Owner: Private

McCurtain County

*McCURTAIN COUNTY WILDERNESS AREA—The center of the site is 12 miles south of Smithville. The area's overall size and high degree of integrity make it a classic example of a xeric upland oak-pine forest. (December 1974) Owner: Federal, State

OREGON (4)

Deschutes County

*HORSE RIDGE NATURAL AREA—16 miles southeast of Bend. The area is distinguished by a high quality example of western juniper woodland in vigorous condition. (April 1967) Owner: Federal

*NEWBERRY CRATER—Deschutes National Forest, 24 miles south-southeast of Bend. The crater is a basin at the top of a dormant, though young volcano which is the largest Pleistocene volcano east of the Cascade Range. (January 1976) Owner: Federal

Lake County

*FORT ROCK STATE MONUMENT—49 miles south-southeast of Bend. A striking example of a circular, fortlike volcanic outcrop. (January 1976) Owner: State

Multnomah County

*CROWN POINT—24 miles east of Portland. A promontory rising nearly vertically about 725 feet above the Columbia River. It provides a strategic vantage point for observing a classic illustration of riverine processes. (April 1971) Owner: State

PENNSYLVANIA (25)

Berks County

*HAWK MOUNTAIN SANCTUARY—30 miles north of Reading. It is a sanctuary for hawks migrating along its ridge and a fine example of the geology and ecology of the forested ridges of the eastern Appalachians. (October 1965) Owner: Private

Bucks County

MONROE BORDER FAULT—Two miles south of Riegelsville. The fault illustrates an episode of orogenic compression in which Precambrian rocks were thrust northward over lower Paleozoic deposits. (August 1980) Owner: State

Carbon County

*HICKORY RUN BOULDER FIELD—Hickory Run State Park, five miles southeast of White Haven. A geologically significant field of unsorted, loosely packed boulders that resulted from periglacial conditions and that is unique in the country by reason of its large size and low (one percent) gradient. (November 1967) Owner: State

Centre County

*BEAR MEADOWS NATURAL AREA—Six miles southeast of State College. The area includes a shallow peat bog, and a surrounding buffer zone of typical Appalachian forest. The vast accumulation of pollen in the peat has helped understanding of vegetational and climatic changes in this region. (October 1965) Owner: State

Clarion County

*COOK FOREST—Cook Forest State Park, one mile north of Cooksburg. It is a significant relict of the forest type that once covered northern Pennsylvania. Eastern white pine predominates with some hemlock and mixed hardwood. (November 1967) Owner: State

Cumberland County

*FLORENCE JONES REINEMAN WILDLIFE SANCTUARY (extends into Perry County)—Eight miles northwest of Carlisle. The area is a large, protected ecological community that lies on the migration route of various hawks. (November 1972) Owner: Private

Erie County

*PRESQUE ISLE—Near Erie. The isle is actually a peninsula or "flying spit" formed by sands carried by the currents of Lake Erie. It is an impressive illustration of this type of formation. (November 1967) Owner: State

TITUS AND WATTSBURG BOGS—Two different bogs in excellent condition that are representative of their ecosystem types and noted for rare and unusual species among their rich but divergent floras. (May 1977) Owner: Private

Fayette County

*FERNCLIFF PENINSULA NATURAL AREA—Ohiopyle State Park, 20 miles southeast of Connellsville. This area is one of the best and most typical late successional forests in the Allegheny Mountains. (November 1972) Owner: State

Lancaster County

*FERNCLIFF WILDFLOWER AND WILDLIFE PRESERVE—Three miles west of Wakefield. The vegetation in the preserve, which is thought to be virgin, is an excellent example of a mixed mesophytic forest. (November 972) Owner: Private

Lawrence County

*McCONNELL'S MILL STATE PARK—40 miles north of Pittsburgh. An outstanding geological example of land and watershed formation indirectly resulting from glacial diversion of a stream. (November 1972) Owner: State

Luzerne County

*THE GLENS NATURAL AREA (extends into Sullivan County)—In Ricketts Glen State Park, 25 miles east of Williamsport. A relict eastern deciduous forest containing examples of stream erosion, and spectacular waterfalls. (April 1968) Owner: State

McKean County

TIONESTA SCENIC AND RESEARCH NATURAL AREAS (extends into Warren County)—Allegheny National Forest, seven miles south of Ludlow. The area is the largest virgin forest in the hemlock-white pine/northern

hardwood forest regions of North America. (May 1973) Owner: Federal

Monroe County

TANNERVILLE CRANBERRY BOG—Five miles northwest of Stroudsburg. One of best developed boreal bogs in Pennsylvania and perhaps the most southern black spruce-tabarack bog along the eastern seaboard. (December 1974) Owner: Private

Perry County

*BOX HUCKLEBERRY SITE—Two miles south of New Bloomfield. One of the few localities where the box huckleberry plant is found. (April 1967) Owner: State

*HEMLOCKS NATURAL AREA—Tuscarora State Forest, 12 miles south of Blain. A virgin forest that has more resemblance to the hemlock-northern hardwood forests than to the oak-chestnut forests in which it is located. (November 1972) Owner: State

*SUSQUEHANNA WATER GAPS—18 miles north of Harrisburg. An excellent, typical example of a geological process that produces water gaps. (April 1968) Owner: State

Philadelphia County

*TINICUM WILDLIFE PRESERVE—Philadelphia. The area contains representative tidal marsh flora and fauna and an excellent wildlife population. (October 1965) Owner: Federal

*WISSAHICKON VALLEY—Fairmount Park, Philadephia. A virtually untouched valley, ecologically varied and complete, that exists within the bounds of one of America's great metropolitan complexes. (November 1963) Owner: Municipal

Snyder County

*SNYDER-MIDDLESWARTH NATURAL AREA—Five miles west of Troxelville. An outstanding example of a relict forest composed predominantly of hemlock, birch, and pine, with scattered oaks. (November 1967) Owner: State

Tioga County

*PINE CREEK GORGE—A 12-mile roadless stretch along Pine Creek between Ansonia and Blackwell. It contains superlative scenery, geologic and ecologic value, and is one of the finest examples of a deep gorge in the eastern U.S. (April 1968) Onwer: State

REYNOLDS SPRING AND ALGERINE SWAMP BOGS—Tioga State Forest, three miles south of Leetonia. Reynolds Spring Bog is one of the finest and most representative high mountain bogs in the Allegheny Mountains section of Pennsylvania. (December 1974) Owner: State

Warren County

*HEARTS CONTENT SCENIC AREA—Allegheny National Forest, 14 miles southwest of Warrent. A virgin forest site consisting of white pine over 400 years old and hemlocks about 50 years younger. (May 1973) Owner: Federal

TAMARACK SWAMP—Four miles northeast of Columbus. A large headwater swamp occurring in a glacially blocked stream valley. The two bogs are the finest example of kettle hole bogs in this region. (May 1977) Owner: State

Wayne County

*LAKE LACAWAC—25 miles east of Scranton. One of the southern-most lakes of glacial origin in the northeastern United States. (April 1968) Owner: Private

PUERTO RICO (5)

BANO DE ORO NATURAL AREA—Caribbean National Forest, six miles southwest of Luquillo. Contains virgin forest and is the only area in Puerto Rico with subtropical wet and rain forest and lower montane wet and rain forest, dwarf forest, and *Pterocarpus* in a contiguous area. Also contains many endemic plant and animal species. (April 1980) Owner: Federal

CABO ROJO—At the extreme southwestern tip of Puerto Rico. This scenic site includes an excellent example of a tombolo (tied island) with double spit, mangroves, beaches, reddish cliffs, xeric vegetation, and seabird nesting habitat. (April 1980) Owner: Federal, Commonwealth of Puerto Rico

MONA AND MONITA ISLANDS—Two separate islands in the Caribbean, west of the main island of Puerto Rico. The sea caves on these islands are probably the largest, most extensive and most unusual in the world. The islands harbor a significant endemic biota and provide important seabird rookery areas. (May 1975) Owner: Federal, Commonwealth of Puerto Rico

PUERTO MOSQUITO—One mile east of Esperanza. A deep inlet in the cliffed southern coast of Vieques Island which is considered the best example of a bioluminescent bay in the United States. (August 1980) Owner: Federal, Commonwealth of Puerto Rico

RIO ABAJO FOREST—Nine miles south of Arecibo. An excellent example of karst topography with numerous sinkholes and well-developed tower karst. It is the only place in Puerto Rico where the great Eocene-Oligocene unconformity can be clearly seen. (February 1980) Owner: Commonwealth of Puerto Rico

RHODE ISLAND (1)

Washington County

ELL POND—Two miles southwest of Rockville. A kettlehole lake bounded by a red maple-Atlantic white cedar swamp and by steep granitic monadnocks. The combination of a hydric plant community and a xeric plant community within such a small area provides an excellent opportunity for ecological research and education. (May 1974) Owner: State, Private

SOUTH CAROLINA (4)

Berkeley County

*FRANCIS BEIDLER FOREST (extends into Dorchester ounty)—35 miles northwest of Charleston. One of the last large virgin stands of bald cypress-tupelo gum swamp in the United States with five major community types providing habitat for a rich diversity of species. (March 1979) Owner: Private

McCormick County

*JOHN DE LA HOWE FOREST—23 miles southwest of Greenwood. An old-growth stand of oak-pine forest protected against fire and timbering since 1797, and one of the best remaining examples of this type forest in the Piedmont. (January 1976) Owner: State

*STEVENS CREEK NATURAL AREA—A Pleistocene relict ecosystem harboring flora considered unusual for its combination of plants in this southern location due to unique microenvironmental conditions. (March 1979) Owner: State

Richland County

CONGAREE RIVER SWAMP—20 miles southeast of Columbia. The most extensive, mature cypress-gum swamp and bottom-land hardwood forest complex in the State and a sanctuary for wildlife. (May 1974) Owner: Federal, Private

SOUTH DAKOTA (12)

Brule County

*RED LAKE—Eight miles southeast of Chamberlain. One of the largest remaining natural and unmanipulated prairie pothole lakes, and a valuable waterfowl breeding and resting area. (May 1975) Owner: State

Charles Mix County

BIJOU HILLS—23 miles northwest of

Marshall County

*SICA HOLLOW (extends into Roberts

development and underground drainage, containing several smaller caves within the area. (November

virgin mixed mesophytic forest stand representative of the primeval eastern deciduous forest biome. (May 1974)

Burnet County

*LONGHORN CAVERN—Longhorn Cavern State Park, 11 miles southwest

Gillespie County

*ENCHANTED ROCK (extends into Llano County), 12 miles southwest of

Charles Mix County

BIJOU HILLS—23 miles northwest of Platte. An excellent example of an erosional remnant of soft clays and shales capped by a channel sandstone and quartzite. (January 1976) Owner: Private

Custer County

*CATHEDRAL SPIRES AND LIMBER PINE NATURAL AREA—Custer State Park, 23 miles southwest of Rapid City. An excellent, rare example of joint-controlled weathering of granite, as well as a disjunct relict stand of limber pine. (May 1976) Owner: State

Fall River County

MAMMOTH SITE OF HOT SPRINGS—Within the city limits of Hot Springs. One of the largest concentrations of mammoth remains in the U.S., this two-acre tract includes a variety of other verterate remains, including peccary, bear, coyote, camel, and rodents. (August 1980) Owner: Private

Gregory County

*FORT RANDALL EAGLE ROOST—Directly below the Fort Randall Dam, on the Missouri River. Two endangered species, the bald and golden eagles, use this site as a prime winter roosting area. (November 1967) Owner: Federal

Harding County

*THE CASTLES—20 miles east-southeast of Buffalo. Steep-walled, flat-topped buttes standing 200 to 400 feet above the surrounding prairie containing exposed rock of upper Cretaceous, Paleocene, Oligocene, and Miocene age. Cretaceous and Tertiary beds contain a variety of flora and fauna fossils. (December 1976) Owner: Federal

Kingsbury County

*LAKE THOMPSON—Eight miles southeast of De Smet. Largest natural lake bed in South Dakota, containing a large undisturbed and unmanipulated marsh. Also an outstanding waterfowl breeding and resting area. (May 1975) Owner: State

Lake County

BUFFALO SLOUGH—20 miles north of Sioux Falls. An excellent example of a prairie pothole (a product of glacial activity), the surrounding native emergent vegetation, and native bluestem prairie. The area is used extensively by many species of waterfowl and small mammals. (August 1980) Owner: State

Marshall County

*SICA HOLLOW (extends into Roberts County)—Ten miles northwest of Sisseton. The area displays many facets of natural history, including the glacial story of the River Warren, pothole lakes on the upland of Coteau, grasslands and prairie, and ravines where eastern-type deciduous forests grow. Includes the eastern face of the escarpment of the Coteau des Prairie. (November 1967) Owner: State

Meade County

*BEAR BUTTE—Five miles north of Fort Meade. A cone-shaped mass of igneous rock standing alone, 1,300 feet above the surrounding plains, which illustrates the geological processes of igneous intrusion, folding and faulting, and exposure by differential erosion. (April 1965) Owner: State

Robert County

*ANCIENT RIVER WARREN CHANNEL (see MINNESOTA) COTTONWOOD SLOUGH-DRY RUN—Extends for 11 miles south of Victor. A glaciated finger outlet of the world's largest Pleistocene glacial lake, and a completely undisturbed wetland complex which includes potholes, streams, shallow open water, lakes, and marsh. (May 1975) Owner: State, Private

Washabaugh County

*SNAKE BUTTE—Pine Ridge Reservation. One of two sand calcite deposits in the world. Collecting of specimens is damaging the site's integrity. (November 1967) Owner: Indian Reservation

TENNESSEE (13)

Coffee County

*ARNOLD ENGINEERING DEVELOPMENT CENTER NATURAL AREAS—Two non-contiguous tracts, respectively located four miles south-southast and seven miles southeast of Manchester. Extremely rare virgin swamp forest and pristine example of an open marsh; both tracts contain disjunct plant species whose distribution is normally confined to the Coastal Plain province. (December 1974) Owner: Federal

*MAY PRAIRIE—Three and one-half miles southeast of Manchester. The largest and best relict prairie remaining in the State. (May 1974) Owner: State

Cumberland County

GRASSY COVE KARST AREA—Nine miles southeast of Crossville. One of the Nation's best illustrations of karst development and underground drainage, containing several smaller caves within the area. (November 1973) Owner: Private

Franklin County

DICK COVE—Two and one-half miles northwest of Sewanee. A near virgin forest important for study of Mixed Mesophytic Region and Western Mesophytic Region forest relationships. (May 1973) Owner: Private

Grundy County

CONLEY HOLE—Two miles southeast of Viola. One of the most spectacular and outstanding examples of a pit cave in the United States. Due to its dangerous nature, entrance is limited to adequately equipped, experienced speleologists. (November 1973) Owner: Private

*SAVAGE GULF—25 miles southeast of McMinnville. The best and largest virgin forest left in the Mixed Mesophytic Region of the Eastern Deciduous Forest. (June 1971) Owner: State

Hardeman County

*McANULTY'S WOODS—Within the city limits of Bolivar. Only known example in western Tennessee of the upland forests of the Mississippi Embayment section of the Western Mesophytic Forest Region. (May 1973) Owner: Private

Lake County

*REELFOOT LAKE (extends into Obion County)—18 miles west-southwest of Union City—An area of cypress swamps, saw-grass jungles, water lily glades and scattered bodies of open water formed in the winter of 1811–12 as a result of shocks known as the New Madrid earthquake, the most severe of any recorded in the country. The site contains domes, sunken lands, fissures, sinks, sand blows and large landslides. (April 1966) Owner: State

Monroe County

*LOST SEA (CRAIGHEAD CAVERNS)—Five miles southeast of Sweetwater. Cavern system including the largest known underground lake in the country, an abundance of crystal clusters called anthodites, stalactites and stalagmites, and a waterfall. The area once yielded bones and footprints of a giant Pleistocene jaguar. (November 1973) Owner: Private

Rhea County

*PINEY FALLS—Two miles north of Spring City. The area contains a rare

virgin mixed mesophytic forest stand representative of the primeval eastern deciduous forest biome. (May 1974) Owner: State

Van Buren County

*BIG BONE CAVE—Five miles west-northwest of Spencer. Site of discoveries of the bones of *Megalonyx jeffersoni* and other extinct animals. (November 1973) Owner: State

Warren County

*CUMBERLAND CAVERNS (HIGGINBOTHAM AND HENSHAW CAVES)—Five miles east of McMinnville. One of the largest cave systems in the country. Two interconnecting caves known to be at least 16 miles in extent containing stalagmites and stalactites, helictites, flowstone, cave pearls, botryoidal coral, gypsum flowers, needles, and pure white gypsum snow, as well as a wide variety of cave life. (November 1973) Owner: Private

Wilson County

*CEDAR GLADES NATURAL AREA—Cedars of Lebanon State Forest, ten miles south of Lebanon. Unique cedar glade community, a rare and endangered ecosystem. (November 1973) Owner: State

TEXAS (17)

Armstrong County

*PALO DURO CANYON STATE PARK (extends into Randall County)—22 miles south-southwest of Amarillo. Canyon formed by the headward erosion of a fork of the Red River containing cross-sectional views of sedimentary rocks representing four geological periods and some Trisassic and Pliocene vertebrate fossils. (May 1976) Owner: State

Bailey County

MULESHOE NATIONAL WILDLIFE REFUGE—59 miles northwest of Lubbock. The area contains playa lakes (shallow, flat-bottomed depressions) and shortgrass grama grasslands characteristic of the High Plains. The lakes attract enormous seasonal concentrations of waterfowl. (August 1980) Owner: Federal

Bandera County

*LOST MAPLES STATE NATURAL AREA (extends into Real County)—61 miles northwest of San Antonio. An excellent illustration of Edwards Plateau flora and fauna, and a relict population of bigtooth maple. It contains the largest known nesting population of the rare golden-cheeked warbler. (February 1980) Owner: State

Burnet County

*LONGHORN CAVERN—Longhorn Cavern State Park, 11 miles southwest of Burnet. A cavern formed in limestone of Ordivician age at least 450 million years old, unsurpassed as a natural exhibit of features such as crystals of calcite, potholes, solution domes, channels and pits of unusual geologic interest. (October 1971) Owner: State

Cameron County

BAYSIDE RESACA AREA—28 miles north of Brownsville. The area contains an excellent example of a resaca, or meandering channel, which supports a variety of vegation including several types of coastal salt marsh communities, and a number of rare and unusual bird species which enter the U.S. only at the southern tip of Texas. (August 1980) Owner: Federal

Colorado County

*ATTWATER PRAIRIE CHICKEN PRESERVE—55 miles west of Houston. The only significant segment of gulf coastal prairie that has rejuvenated and restored itself through protection and proper range management. The area now provides habitat for the Attwater prairie chicken, an endangered species. (April 1968) Owner: Federal

Comal County

*NATURAL BRIDGE CAVERNS—16 miles west of New Braunfels. A multilevel cavern system replete with beautiful and unusual "fried egg" speleothems and intricate helictites. (October 1971) Owner: Private

Ector County

*ODESSA METEOR CRATER—Ten miles southwest of Odessa. One of only two known meteor sites in the country, the largest of two meteor impact craters at the site being 550 feet in diameter. Meteorites of nickel-iron composition have been found within the craters and two square miles north and northwest of them. (April 1965) Owner: County

Edwards County

*DEVIL'S SINKHOLE—Nine miles northeast of Rocksprings. A deep, bell-shaped, collapsed limestone sink, the pit of which flares into an extensive system of passageways and caverns. It houses a colony of bats estimated to number in the tens of millions. (October 1971) Owner: Private

Gillespie County

*ENCHANTED ROCK (extends into Llano County)—12 miles southwest of Oxford. A classic illustration of a batholith and of the exfoliation process exposed on its dome-shaped surface, composed of coarse-grained pink granite uniform in composition and texture throughout, and unique in the Llano Uplift area. (October 1971) Owner: State

Hays County

*EZELL'S CAVE—Within the city limits of San Marcos. Biologically significant because it houses at least 36 species of cave fauna, including six endemic aquatic species and one major order of small crustaceans formerly thought to have been restricted to the Mediterranean area. (October 1971) Owner: Private

Hildago County

*SANTA ANA NATIONAL WILDLIFE REFUGE—Seven miles south of Alamo. A living museum of the lowland forested area of the Lower Rio Grande Valley, containing jungle-like vegetation and providing habitat for over 300 species of birds and some rare mammals. (October 1966) Owner: Federal

Montague County

GREENWOOD CANYON—Along a tributary of the Braden Branch. A rich source of Cretaceous fossils. (May 1975) Owner: Private

Randall County

HIGH PLAINS NATURAL AREA—26 miles southwest of Amarillo. A grama-buffalo shortgrass association representative of the High Plains region. (August 1980) Owner: Federal

Somervell County

*DINOSAUR VALLEY—Dinosaur Valley State Park, four miles west of Glen Rose. Fossil footprint trackways exposed in the bed of the Paluxey River and tributary creeks that give important information on the habits and locomotion methods of large dinosaurs. (October 1968) Owner: State

Sutton County

*CAVERNS OF SONORA—16 miles southwest of Sonora. The cave displays unusual formations, such as bladed helictites and coralloid growths. (October 1965) Owner: Private

Tarrant County

FORT WORTH NATURE CENTER AND REFUGE—Within the city limits of

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Fort Worth. A portion of the larger refuge containing remnants of the Fort Worth Prairie, a unique oak-hickory forest association called cross timbers, riparian forest, and limestone ledges and marshes. (November 1980) Owner: Municpal

UTAH (4)

Emery County

*CLEVELAND-LLOYD DINOSAUR QUARRY—Seven miles east of Cleveland. The quarry has provided more than 10,000 fossil bones from at least seven different genera of the Jurassic Period and representing more than 60 individual animals. Restricted access. (October 1965) Owner: Federal

Garfield County

LITTLE ROCKIES—43 miles south-southeast of Hanksville. The area exhibits a particular type of igneous structure of fundamental significance in understanding geological processes, and represents the classic site of such formations to geologists around the world. (May 1975) Owner: Federal, State

Salt Lake County

*NEFFS CANYON CAVE—Wasatch National Forest. An extremely dangerous cave with no significant horizontal passages. Most passages dip steeply at a 45–60 degree gadient. The cave was formed by the capture of a surface stream. (May 1977) Owner: Federal

Washington County

*JOSHUA TREE NATURAL AREA—Ten miles southwest of St. George. The only Joshua tree forest in Utah and one of the northernmost stands of tree yuccas in the country. Contains vegetation and animals predominantly of Mohave Desert affinity. (October 1966) Owner: Federal

VERMONT (11)

Addision County

BATTELL BIOLOGICAL PRESERVE—Four miles east of Middlebury. A rare, undisturbed, virgin hemlock northern hardwoods climax forest. (May 1976) Owner: Private

CORNWALL SWAMP—Two miles southeast of Cornwall. The largest, unbroken red maple swamp in the State. (November 1973) Owner: State, Private

LITTLE OTTER CREEK MARSH—Two miles north-northwest of Ferrisburg. An outstanding, unspoiled example of a shallow water marsh maintaining itself under prevailing natural conditions. (May 1973) Owner: State, Private

Bennington County

*FISHER-SCOTT MEMORIAL PINES—Two miles north of Arlington. A unique stand of old-growth white pine representing the culmination of the white pine subclimax forest in New England, containing the largest pines in Vermont. (May 1976) Owner: State

Chittenden County

*CAMEL'S HUMP (extends into Washington County)—Midway between Montpelier and Burlington. An exceptional illustration of the complex anticlinal deformation which formed the Green Mountains, and the altitude-related zonation of its biota, containing the second largest extent of alpine-tundra vegetation in Vermont. (April 1968) Owner: State

MOUNT MANSFIELD NATURAL AREA (extends into Lamoille County)—Three miles east of Underhill Center. An isolated, little-disturbed site with virgin spruce-fir forest on its upper slopes and and exceptional alpine tundra area on the summit ridge. (April 1980) Owner: State, Private

Franklin County

FRANKLIN BOG—One mile east-northeast of Franklin. A magnificent example of an unspoiled, large cold northern sphagnum-heath bog. (May 1973) Owner: Private

Lamoille County

MOLLY BOG—Three and one-half miles northeast of Stowe. A beautiful, classic example of a small, early successional, absolutely unspoiled cold northern bog. (May 1973) Owner: State, Private

Orleans County

*BARTON RIVER MARSH—Three miles south of Newport. One of the best large, shallow, fresh water marshes in New England. (May 1973) Owner: State

*LAKE WILLOUGHBY NATURAL AREA—Town of Westmore. The deepest lake in Vermont, and an exceptionally fine example of a trough cut by glacial scouring, containing multiple examples of the work of glaciers. (November 1967) Owner: State

Rutland County

GIFFORD WOODS—Nine miles northeast of Rutland. A prime example of an undisturbed, old growth northern hardwood climax forest. (April 1980) Owner: State

VIRGINIA (9)

Accomack County

VIRGINIA COAST RESERVE (extends into Northampton County)—Ten miles south of Assateague Island. An extensive, relatively undisturbed barrier island-lagoon complex serving as a valuable refuge for migratory shorebirds and waterfowl and for colonial nesting birds. (March 1979) Owner: Private

Augusta County

GRAND CAVERNS—On the southern edge of Grottoes. The Caverns contain unique shield formations as well as draperies, flowstone, stalactites and stalagmites. (November 1973) Owner: Regional Park Authority, Private

Bath County

BUTLER CAVE—BREATHING CAVE—One half mile north of Burnsville. A tract containing two major cave systems, a 40-foot waterfall, a natural bridge, unusually fine "floating" crystalline formations, and an underground lake. (November 1973) Owner: Private

King George County

*CALEDON STATE PART—Five miles north-northeast of King George. One of the best examples of an old, undisturbed, oak-tulip poplar-dominated virgin upland forest in the country. (December 1974) Owner: State

Nansemond County

GREAT DISMAL SWAMP—20 miles southwest of Norfolk. A remnant of the original Great Dismal Swamp containing geological and ecological elements unique in the Nation, if not the world. The variety of flora and fauna make it a superb outdoor laboratory for the study of ecological processes. (June 1972) Owner: Federal

Page County

LURAY CAVERNS—One and one-half miles west of Luray. A cave which is ornately decorated with cascades, columns, stalactites, stalagmites and pools. Discovered in 878. (November 1973) Owner: Private

Rockbridge County

RICH HOLE—George Washington National Forest, 13 miles northwest of Lexington. An outstanding example of a "cove" hardwood forest, a well-protected watershed containing a virgin forest with remarkably large trees of several species. (December 1974) Owner: Federal, Private

Sussex County

*CHARLES C. STEIRLY NATURAL AREA—Two miles west of Dendron. An essentially virgin stand of climax bald cypress-water tupelo swamp forest. (December 1974) Owner: State

Virginia Beach

*SEASHORE NATURAL AREA—Virginia Beach. Parallel dunes densely wooded with two distinct forest types of semitropical character, and a sanctuary for abundant wildlife. (April 1965) Owner: State

VIRGIN ISLANDS (7)

St. Croix

GREEN CAY—Two-and-one-half miles east of Christiansted, one-quarter mile off St. Croix's norther shore. The cay is the nesting ground for the American oyster catcher, brown pelican and other shore birds. It is also one of only two islands where the St. Croix ground lizard, now extinct on St. Croix and listed as an endangered species, still exists. (August 1980) Owner: Federal

SAND POINT—One mile south of Federiksted. The only place in the U.S. which is regularly used for nesting by the endangered leatherneck sea turtle. In addition, unique sand spits enclose a salt pond at this site. (August 1980) Owner: Virgin Islands Government, Private

SALT RIVER BAY—Three and one-half miles northwest of Christiansted. The best remaining stands of mangrove in the Virgin Islands are found here, illustrating the zonation of red, black, and white mangrove. (February 1980) Owner: Virgin Islands Government, Private

VAGTHUS POINT—The best-known fossil locality for Upper Cretaceous rocks in the Virgin Islands. (February 1980) Owner: Private

St. John

LAGOON POINT—On the southeastern shore of St. John, between Johnson Bay and Friis Bay. An excellent example of a Caribbean fringing reef. The site also includes a mangrove area and a salt pond. (February 1980) Owner: Virgin Island Government, Private

St. Thomas

COKI POINT CLIFFS—Three and one-half miles east of Charlotter Amalie. These sea cliffs are one of the rare localities on St. Thomas Island where fossils are found. (February 1980) Owner: Virgin Island Government, Private

WEST END CAYS—A group of cays off the western coast of St. Thomas Island. A high quality nesting area for many sea birds with different nesters on each cay. (February 1980) Owner: Virgin Island Government

WASHINGTON (10)

Asotin County

GRANDE RONDE FEEDER DIKES—25 miles south of Clarkston. The best example of basalt dikes, the congealed feeder sources of the Columbia River basalt plateau. The site illustrates how these flows originated by eruption along multiple fissures. (August 1980) Owner: Private

GRANDE RONDE GOOSENECKS—20 miles south of Asotin. A 1,500 foot deep canyon which follows a tortuous path along meanders, illustrating regional uplift and forced entrenchment of a stream. (April 1980) Owner: Federal, State, Private

Benton County (extends into Walla Walla County)

WALLULA GAP—16 miles south of Pasco. The largest, most spectacular, and most significant of the several large water gaps through basalt anticlines in the Columbia River basin. (July 1980) Owner: Federal, Public Hospital, Private

Clallam County

*POINT OF ARCHES—Ten miles south of Cape Flattery. Relatively isolated pristine spectrum of environmental conditions from rocky tidelands to climax upland vegetation, and an outstanding exhibit of sea action in sculpturing a rocky shoreline. (June 1971) Owner: Federal, State

Grant County

*GRAND COULEE—between Grand Coulee and Soap Lake. An illustration of a series of geological events including outpourings of lava, advance and recession of glacial ice, formation and retreat of waterfalls, and the cutting of the Columbia River channel. (April 1965) Owner: Federal, State, Private

Kittitas County

*GINKGO PETRIFIED FOREST—29 miles east of Ellensburg. Thousands of logs petrified in lava flows containing an unusually large number of tree species. Logs of the gink go tree, rarely found as fossil wood, are located here. (October 1965) Owner: State

UMTANUM RIDGE WATER GAP—14 miles north of Yakima. One of the anticlinal ridges in the Yakima Folded Ridges subsection of the Columbia Basin, illustrating the geological processes of tectonic folding and antecedent stream cutting. (November 1980) Owner: Federal, State, Private

Pierce County

NISQUALLY DELTA (extends into Thurston County)—15 miles east of Olympia. An unusually fine example of an estuarine ecosystem, and the only natural resting area for migratory waterfowl in the southern Puget Sound region. (June 1971) Owner: Federal, State, Private

Thurston County

*MIMA MOUNDS—One and one-half miles west of Little Rock. Prairie containing unusual soil pimples of black silt-gravel ranging in height from barely perceptible to a maximum of seven feet. (April 1966) Owner: State

Whitman County

STEPTOE AND KAMIAK BUTTES—50 miles south of Spokane. Isolated mountain peaks of older rock surrounded by basalt, rising above the surrounding lava plateau, part of outliers of Couer d'Alene Mountains of Idaho. (October 1965, April 1980) Owner: State, County, Private

WEST VIRGINIA (14)

Greenbrier County

GREENBRIER CAVERNS—Three miles southeast of Ronceverte, extending north and south of Organ Cave. The largest cave system in the State, containing seven caves, one of which, Organ Cave, is noted for its saltpeter troughs and vats. (November 1973) Owner: Private

*LOST WORLD CAVERNS—Two miles north of Lewisburg. Similar to Carlsbad Caverns in New Mexico, these caverns feature terraced pedestal-like stalagmites, flowstone, curtains, rimstone, domepits, and waterfalls. (November 1973) Owner: Private

Monroe County

GREENVILLE SALTPETER CAVE—One-quarter mile north of Greenville. The largest of the saltpeter caves in West Virginia, containing rimstone pools and saltpeter deposits. (November 1973) Owner: Private

Pendleton County

GERMANY VALLEY KARST AREA—Between Riverton and Mouth of Seneca. One of the largest cove or intermountain karst areas in the country, unique because all the ground water recharge and solution activities are linked with precipitation within the cove. (May 1973) Owner: Federal, Private

SENNETT-THORN MOUNTAIN CAVE SYSTEM—One-half mile northwest of Moyers. The cave includes rooms at various levels connected by crawlways and vertical shafts, waterfalls, and deep pits. (November 1973) Owner: Private

Pocahontas County

*CRANBERRY GLADES BOTANICAL AREA—Monongahela National

habitats seldom found in the eastern United States, and is unique as a northern boreal relict community at

Forest County

BOSE LAKE HEMLOCK HARDWOODS—13 miles east of

representative of the northern coniferous forest complex. One of the few sizable areas in the Lake States

COMO BLUFF (extends into Carbon County)—Five miles east of Medicine Bow. Source of the first and best

V 45 / 232 DE 1 80 UMI

Pocahontas County

*CRANBERRY GLADES BOTANICAL AREA—Monongahela National Forest, five miles northwest of Hillsboro. The largest and best example of "cranberry glades" in West Virginia where natural cold air drainage and moist substrate has provided an ideal setting for a northern sphagnum bog, containing three major vegetation types: bog forest, shrub thickets, and open glade. (December 1974) Owner: Federal

*GAUDINEER SCENIC AREA (extends into Randolph County)—Monongahela National Forest, five miles north of Durbin. The best of the remaining virgin red spruce forest in the State. (December 1974) Owner: Federal

SWAGO KARST AREA—Three miles west of Marlington. A classic illustration of features associated with karst topography and terrain, including caverns and other passages. (November 1973) Owner: Federal, Private

Preston County

*CATHEDRAL PARK—Four miles west of U.S. 219 on U.S. 50. Contains a remnant virgin hemlock forest and dense thickets of great rhododendron. A cool, poorly drained site. (October 1965) Owner: State

*CRANESVILLE SWAMP NATURE SANCTUARY—(see MARYLAND)

Randolph County

BLISTER RUN SWAMP—Monongahela National Forest, four miles northwest of Durbin. A good, high altitude balsam fir swamp, probably the southern-most extension of this type forest, providing habitat for several uncommon and rare plants. (December 1974) Owner: Federal

*SHAVERS MOUNTAIN SPRUCE-HEMLOCK STAND—Monongahela National Forest, seven miles northwest of Harman. An old-growth red spruce-hemlock stand called a "spruce flat", a disjunct component of the more northern Hemlock-White Pine-Northern Hardwood forest region. (December 1974) Owner: Federal

Tucker County

*BIG RUN BOG—Seven miles east of Parsons. The area contains a relict Pleistocene high altitude northern sphagnum-red spruce bog far south of its normal range, with large numbers of rare plants and animals. (December 1974) Owner: Federal

CANAAN VALLEY—Five miles east of Davis. A splendid "museum" of Pleistocene habitats. The area contains an aggregation of these habitats seldom found in the eastern United States, and is unique as a northern boreal relict community at this latitude by virtue of its size, elevation and diversity. (December 1974) Owner: Private

*FISHER SPRING RUN BOG—Monongahela National Forest, 11 miles southeast of Davis. An excellent example of a sphagnum-red spruce bog illustrating vegetation zonation. (December 1974) Owner: Federal

WISCONSIN (17)

Ashland County

KAKAGON SLOUGHS—Two miles north of Odanah. An excellent representative of a true freshwater delta by virtue of its large size, complex mixture of marsh, bog and dune vegetation types and undisturbed condition. Perhaps the finest marsh complex on the upper Great Lakes. (November 1973) Owner: Indian Reservation

Bayfield County

MOQUAHA BARRENS RESEARCH NATURAL AREA—16 miles west of Ashland. Representative of the jack pine-scrub oak barrens (savannas) of the glacial outwash area of northwestern Wisconsin. (February 1980) Owner: Federal

Buffalo County

CHIPPEWA RIVER BOTTOMS—One-half mile north of Wabasha, Minnesota. The largest single stand of bottomland hardwood forest along the once widespread post glacial forest, including a large great blue heron rookery. (November 1973) Owner: Federal, State

Door County

*RIDGES SANCTUARY-TOFT'S POINT—MUD LAKE AREA—Two and one-half miles northeast of Baileys Harbor. A series of sand ridges and swales with associated boreal forest and bog vegetation, and unusually high species diversity, as well as the best mixed stand of large red and white pine, hemlock, and northern hardwoods on the westernshore of Lake Michigan. (November 1967, May 1974) Owner: State, Private

Fond du Lac County

SPRUCE LAKE BOG—Kettle Moraine State Forest, two miles northwest of Dundee. A superb, unspoiled example of a northern bog possessing a relict flora and fauna from early post-glacial times. (November 1973) Owner: State, Private

Forest County

BOSE LAKE HEMLOCK HARDWOODS—13 miles east of Eagle River. A mature northern hardwood-hemlock stand containing the best virgin stand of hemlock in Wisconsin. (February 1980) Owner: Federal

Grant County

*WYALUSING HARDWOOD FOREST—Wyalusing State Park, six miles north of Bagley. The area exhibits high biological diversity illustrating nine major vegetation types, and contains several rare plant species and abundant wildlife, including some endangered species. (November 1973) Owner: State

Green County

ABRAHAM's WOODS—Two miles southwest of Albany. A remnant of regional climax maple-basswood forest, rare in southern Wisconsin. (November 1973) Owner: University of Wisconsin

Iowa County

AVOCA RIVER-BOTTOM PRAIRIE—47 miles west of Madison. The largest intact prairie in Wisconsin, containing a nearly full complement of species. (February 1980) Owner: State

Kenosha County

CHIWAUKEE PRAIRIE—Five miles south of Kenosha. The best remaining wet prairie in the State, a remnant of once widespread vegetation along the southern shores of Lake Michigan, including several rare plant species. (November 1973) Owner: State, Private

Manitowac County

POINT BEACH RIDGES—Eight miles northeast of Manitowoc. Alternating ridges and swales formed by previous water levels of lake Michigan exhibit a range of successional vegetation stages. (February 1980) Owner: State

Marquette County

*SUMMERTON BOG—Three miles southeast of Oxford. A relatively large, undisturbed, and floristically diverse area illustrating the slow, natural invasion of post-glacial plant communities into a predominantly relict glacial community, and providing habitat for many rare plant and animal species. (November 1973) Owner: Private

Oneida County

FINNERFUD FOREST SCIENTIC AREA—Two miles southwest of Minocqua. An excellent representative of the northern coniferous forest complex. One of the few sizable areas in the Lake States containing red pine forest over 100 years of age. (November 1973) Owner: University of Wisconsin

Ozaukee County

CEDARBURG BOG—Four miles west of Saukville. The largest and most outstanding bog in southeastern Wisconsin, serving as a refugium for many northern species of plants and birds and providing habitat for a great variety of wildlife. (November 1973) Owner: State, University of Wisconsin

Sauk County

BARABOO RANGE—30 miles northwest of Madison. An example of an exhumed mountain range illustrating changing landscape through geologic time. The climate, soils, fauna and vegetation exhibit great local diversity. (February 1980) Owner: State, Private

Sawyer County

*FLAMBEAU RIVER HEMLOCK-HARDWOOD FOREST—Flambeau River State Forest, 20 miles southwest of Park Falls. The best and largest remnant of the old growth conifer-hardwood forest in Wisconsin, severely damaged by a windstorm in 1977, is in progress of regeneration. (November 1973) Owner: State

Vernon County

KICKAPOO RIVER NATURAL AREA—Between Ontario and La Farge. The area contains the largest undisturbed concentration of exposed seeping sandstone in the State, and is a good example of a river in the Driftless Area with many entrenched meanders. A combination of geologic factors create a multitude of microhabitats resulting in a highly diverse ecological situation supporting many flora species, some of which are endangered. (May 1975) Owner: Federal, State

Wyoming (7)

Albany County

BIG HOLLOW—Seven miles west of Laramie. A 40-square mile wind deflation basin scoured out by high winds during a prehistoric dry period, considered the largest demonstrable example of its type in the 48 contiguous States. (November 1980) Owner: Federal, State, Private

*BONE CABIN FOSSIL AREA—One of the most significant sites for Jurassic terrestrial vertebrate fossils, including Jurassic mammals. (November 1973) Owner: Private

COMO BLUFF (extends into Carbon County)—Five miles east of Medicine Bow. Source of the first and best examples of Jurassic mammals and the discovery of 80 new vertebrate species. (April 1966, November 1973) Owner: Federal, State, Private

Big Horn County

*CROOKED CREEK NATURAL AREA—15 miles northeast of Lovell. A rich source of fossils of Early Cretaceous land vertebrates. (April 1966) Owner: Federal

Fremont County

RED CANYON—15 miles south of Lander. A classic example of a dissected cuesta, consisting of gently sloping plains bounded on one edge by an escarpment. (November 1980) Owner: Federal, State, Private

Niobrara County

LANCE CREEK FOSSIL AREA—25 miles north of Lusk. Represents one of the most fossiliferous continental deposits of Mesozoic age anywhere in the world. (April 1966, November 1973) Owner: Federal, State, Private

Teton County

TWO OCEAN PASS—On the Continental Divide in Teton National Forest, 50 miles northeast of Jackson. Waters from the meadow at this pass divide to flow in opposite directions, toward the Gulf of Mexico and toward the Pacific Ocean. This is the point at which the Pacific Drainage cutthroat trout crossed the divide into the Mississippi Drainage. (October 1965) Owner: Federal

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federal register

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Part VII

Environmental Protection Agency and Department of the Treasury

Customs Service

Chemical Imports and Exports; Special Classes of Merchandise

ENVIRONMENTAL PROTECTION AGENCY

imports subject to TSCA. The U.S. Customs Service has published the proposed section 13 rule elsewhere in

and the importer chooses to export noncomplying shipments.

In addition, because TSCA defines importers as manufacturers, importers

importer has discharged all his TSCA obligations related to the import, is proposed to be accomplished by a brief statement to be typed on an entry

only to chemical substances intentionally present in the import. Byproducts, coproducts, and impurities are not generally subject to section 5

certification of compliance on the appropriate entry document. The importer who certifies may, in a particular case, be the person primarily

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 707

[OPTS 130000; (TSH-FRL 1506-1]

Chemical Imports and Exports; Proposed Policy Statement for Chemical Substances; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA)

ACTION: Proposed policy statement

SUMMARY: EPA solicits public comment on a proposed policy on imports of chemicals subjects to the Toxic Substances Control Act (TSCA or the Act). The policy concerns the rule proposed today by the U.S. Customs Service (Customs), Treasury Department, by authority of section 13 of TSCA; 19 U.S.C. 2612.

DATE: Comments must be postmarked by March 2, 1981. For information on public meetings, see below.

ADDRESS: Comments must hear the document control number OPTS-130000 and must be submitted to: Document Control Officer (TS-793), U.S. Environmental Protection Agency, Office of Pesticides and Toxic Substances, 401 M Street, SW., Washington, D.C. 20460.

All comments received, as well as public records in this proceeding, will be available for public inspection from 8:00 a.m. to 4:00 p.m. at: U.S. Environmental Protection Agency, Office of Pesticides and Toxic Substances Reading Room, Room 447 East Tower, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Industry Assistance Office (TS-799), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; 800-424-9065 toll free; in Washington, D.C. 554-1404.

SUPPLEMENTARY INFORMATION: This notice solicits comment on a statement of policy concerning EPA responsibilities under section 13 of TSCA (15 U.S.C. 2612). This section requires the U.S. Treasury Department to refuse entry into the U.S. customs territory of chemical substances, mixtures, and articles containing chemical substances or mixtures that do not comply with rules under TSCA, or that are offered for entry in violation of TSCA or rules or orders in effect under TSCA. Further, section 13 requires the Treasury Department to consult with EPA and to issue rules to control imports subject to TSCA. The U.S. Customs Service has published the proposed section 13 rule elsewhere in today's **Federal Register.**

This proposed policy statement concerns EPA's responsibilities under the proposed rule. This statement is not subject to the notice and comment provisions of the Administrative Procedure Act (5 U.S.C. 553). However, EPA has chosen to publish its policy in proposal form in order to solicit public comment on the subject of ensuring that imported chemical substances meet the requirments of TSCA. In developing this policy, informal meetings on the practical aspects of fulfilling the requirements for imports proposed in the section 13 rule published today, were held with importing industry representatives, foreign government representatives, and other interested persons. The discussion during those meetings, as well as the concerns of the agencies involved, have been considered in developing this proposed statement.

TSCA's Treatment of Imports

The policy of Congress toward regulations of imports under TSCA is expressed in the legislature history of the Act: "[I]mported chemical substances and mixtures will be subject to regulation in the same manner as domestically produced chemical substances and mixtures are. In addition, importers of chemical sustances and mixtures will have the same responsibilities and obligations as domestic manufacturers." H.R. Rep. No. 94-1341, 94th Cong. 2d Session 12-13 (1976).

The Act recognizes the critical position of importers in protecting health and the environment from exposure to hazardous chemicals by defining "manufacture" to include importation in addition to domestic production and manufacture (Section 3(7); 15 U.S.C. 2602). Consequently, whenever the Act places responsibilities on domestic manufacturers, the responsibilities also extend to importers.

The TSCA regulations that apply to importers, because they are defined as manufacturers, include, among other things, section 5 rules for chemicals not on the TSCA Inventory and for chemicals subject to notification for significant new uses, and controls and labeling requirements under section 6. Such rules under section 5 and section 6 must be complied with before chemicals may be imported. Importers are also subject to export notification requirements under section 12 when entry is denied for an intended import, and the importer chooses to export noncomplying shipments.

In addition, because TSCA defines importers as manufacturers, importers are subject to rules such as testing requirements under section 4 and reporting requirements under section 8. However, because such rules do not apply to individual chemical shipments, and because compliance with such rules may be a lengthy procedure, importation would not depend on the importers' satisfaction of section 4 and section 8 requirements.

Likewise, importers are subject as manufacturers to sanctions for violations of the Act. Section 16 of TSCA describes civil penalties and criminal penalties to be invoked in proper cases. Moreover, section 17 provides for specific enforcment of the Act by the district courts of the United States, and for seizure and condemnation of noncomplying chemical substances, mixtures, and articles by process of libel. If an imported shipment does not comply with the Act, EPA will seek appropriate remedies under TSCA against persons responsible for the violations. These sanctions are in addition to those which may independently be prescribed for violation of the Customs rule.

The Proposed Customs Section 13 Rule

The proposed rule would require the importer of a chemical substance in bulk or mixture to certify at the port of entry that the shipment and its entry comply with TSCA and all applicable rules developed under TSCA. In some cases, the importer would also be required to submit a Special Chemical Import Report Form. The proposed rule also describes entry and detention procedures that would be used to ensure compliance.

Customs would have the responsibility for detaining all shipments that fail to comply with TSCA and all applicable rules and orders under TSCA. EPA's responsibilities under the proposed rule would be to determine whether detained shipments or their entries comply; to notify Customs which shipments should be detained; and to identify steps necessary to bring detained shipments into compliance, or to be taken when shipments are not brought into compliance. Because of its relevant knowledge and expertise, EPA would also be responsible for storage and disposal of abandoned noncomplying shipments.

Meaning of Certification

Certification that a chemical import complies with TSCA, and that an importer has discharged all his TSCA obligations related to the import, is proposed to be accomplished by a brief statement to be typed on an entry document or invoice and to be signed by the importer. The statement would read: "I certify that all chemical substances in this shipment comply with all rules under TSCA and that I am not offering a chemical substance for entry in violation of TSCA or any rule or order under TSCA."

It should be noted that certification means to comply with rules in effect under TSCA, and that no more detailed information than is needed to comply with other TSCA rules would be needed to comply with the section 13 certification requirement. The section 13 rule requires importers to certify that other TSCA requirements are satisfied; section 13 by itself does not impose additional substantive requirements.

The exact TSCA requirements concerning chemical imports will continually change as new chemical substances are added to the Inventory after premanufacture review under section 5 of the Act, and as new rules are developed under other sections of TSCA. Consequently, it will be important for importers to remain informed of TSCA rules.

Inventory and Premanufacture Notice Requirements

Section 5(a)(1) of TSCA imposes an important duty on persons who intend to import new chemical substances into the United States. Persons who import chemical substances not on the TSCA Inventory must submit section 5 notices 90 days prior to import. If a chemical substance is not on the Inventory, its importation would comply with TSCA requirements only if (a) the chemical substance had completed EPA review under section 5, or (b) it were exempt from section 5 requirements.

A chemical substence is considered to be on the Inventory if it is on the EPA Master Inventory File. This includes the most recently published chemical substances Inventory (including any supplements or revisions) and substances accepted for inclusion on the Inventory but not yet published. At the time of this proposal, the most recently published Inventory is the Revised Inventory. This consists of the Initial Inventory published on June 1, 1979, together with the Cumulative Supplement published on July 30, 1980.

It should not noted that the TSCA section 5 requirements apply to chemical substances manufactured or processed for commercial purposes. Thus, regarding compliance with Section 5, the importer certification would apply only to chemical substances intentionally present in the import. Byproducts, coproducts, and impurities are not generally subject to section 5 requirements. Moreover, there are specific exemptions from section 5 requirements. One exemption applies to chemical substances imported solely for research and development. The importer would himself determine whether an import were intended solely for research and development. Another exemption applies to chemical substances imported for test marketing purposes. However, persons importing chemical substances for test marketing purposes must apply for an exemption from section 5 requirements. For additional information on section 5 requirements, see: Proposed Premanufacture Notification Requirements and Review Procedures, published in the **Federal Register** of January 10, 1979 (44 FR 2242); Premanufacturing Notification Requirements and Review Procedures, Statement of Interim Policy, published in the **Federal Register** of May 15, 1979 (44 FR 28564); Reproposal of Premanufacture Notice Form and Provisions of Rules, published in the **Federal Register** of October 16, 1979 (44 FR 59764).

Other Requirements

Certification of compliance with TSCA also means that imported chemical substances and their importation comply with any applicable chemical control or reporting requirements in effect under TSCA. These requirements include, among others, significant new use notification requirements under section 5(a)(2); prohibitions or limitations on production, processing, or distribution under sections 5(e), 5(f), or 6; labeling rules under section 6; and orders under section 7. Importers will need to be aware of rules that apply to intended imports of chemical substances in bulk or mixtures in order to ensure that applicable rules have been observed.

Where labeling is required before shipments can enter, certification of compliance with the labeling requirements will be part of this general certification. An opportunity to comment on the basis for this certification and EPA enforcement policy will be provided when such a labeling rule is proposed.

It should be noted that importers' responsibilities under sections 4 and 8 are excluded from these certification requirements.

Basis for Certification; Enforcement

Under the proposed section 13 rule, the importer is required to place the certification of compliance on the appropriate entry document. The importer who certifies may, in a particular case, be the person primarily liable for payment of duties or one of his agents. In some cases, a domestic purchaser may cause the importation and handle the entire entry process himself, without employing agents. In other cases, brokers or other agents may be used. In any case, the person certifying compliance must ensure that the imported chemicals are in compliance with the law.

Whenever the documents accompanying the imported shipment identify the chemical exactly, the person who is certifying compliance can check the identity against requirements under TSCA. When the chemical substance or mixture is imported under a name that does not identify it exactly, and the person certifying does not otherwise know the identity, he should attempt to discover the chemical constituents of the shipment by contacting another party to the transaction (e.g., his principal or the foreign manufacturer). This person may be able to identify the components of the substance or mixture, or at least state that the substance or mixture complies with TSCA. The greater the effort an importer makes to learn the identities of the imported substances, the smaller his chance of committing a violation by importing a noncomplying shipment. If a shipment were ultimately determined to have violated TSCA, the good faith effort of the importer to verify compliance, as evidenced by documents contained in his files, would obviate or mitigate the assessment of a civil penalty under section 16 of TSCA.

Chemicals Subject to Rule

Under the proposed rule, certification of compliance with TSCA would be required for chemical substances imported in bulk or mixtures. The certification requirement would become effective 30 days after the promulgation of the section 13 rule.

The proposed rule would not require certification for chemical substances imported as part of articles. The primary reason for not requiring certification of articles at this time is the impossibility of identifying their component chemical substances and mixtures for purposes of determining whether they are on the Inventory. If it becomes necessary to obtain information about individually regulated chemicals imported as part of articles, EPA could develop Special Chemical Import Report Forms as part of rulemakings on specific chemicals. Importer certification of TSCA compliance for all articles would, as a

practical matter, be an unenforceable requirement.

"Article" means a manufactured item which (i) is formed to a specific shape or design during manufacture, (ii) has end

the creation of unnecessary technical barriers to foreign trade.

The Standards Code is not intended to

the Hospitality House—Motor Inn, 2000 Jefferson Davis Highway (across from Crystal City Plaza), Arlington, Virginia

Regulatory Analysis under Executive Order No. 12044.

Therefore it is proposed to add to Part

shipment comply with all rules under TSCA and that I am not offering a chemical substance for entry in violation

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practical matter, be an unenforceable requirement.

Special Chemical Import Report Forms

The proposed section 13 rule contains a provision for future development of Special Chemical Import Report Forms. These forms could be required for entry in cases when EPA needs information beyond the importer's certification. For example, a chemical specific control rule might require importers to report quantities imported. If EPA found it necessary to have this information reported at the time of entry, a Special Chemical Import Report Form could be developed. However, forms are *not* proposed at this time. Instead, when the need for such a form arises, it will be developed as part of the appropriate chemical-specific control rule under TSCA, with review and comment opportunity at that time.

Relevant Definitions

Because importers' compliance with the proposed section 13 rule would hinge on whether shipments and their importation are in compliance with other rules developed under TSCA, an effort has been made toward consistency among section 13 definitions and those developed under other sections of TSCA. For example, the meaning for "article" in the section 13 rule parallels the definition used in the TSCA Inventory rule (40 CFR 710.2(f); 710.4(d)(5)), and in the proposed Premanufacture Notification rule (44 FR 2264, at 40 CFR 720.2; 44 FR 2267, at 40 CFR 720.13(e)(5)), and encompasses the definition used in the proposed PBB-TRIS information reporting rule (44 FR 59109, at 40 CFR 713.11(a)). The phrase, "chemical substance in bulk form" used in the section 13 rule has not been specifically defined in rules previously developed under TSCA. However, this definition parallels a TSCA Inventory "note" regarding reporting chemical substances imported in bulk form (40 CFR 710.3(a)(2)(ii)), and also the definition of "import in bulk form" in the proposed Premanufacture Notification rule (44 FR 2265, at 40 CFR 720.2), in the proposed PBB-TRIS information reporting rule (44 FR 59109, at 40 CFR 713.11(e)), and in the proposed General Recordkeeping and Reporting Rules (45 FR 13655, at 40 CFR 712.12(e)). It is also important that the section 13 definition for the term "importer" be compatible with Customs practice. In this policy, "importer" is defined by reference to the Customs proposed section 13 rule. This adopts the general Customs definition at 19 CFR 101.1(k).

The definitions of these terms are repeated here for convenience:

"Article" means a manufactured item which (i) is formed to a specific shape or design during manufacture, (ii) has end use function(s) dependent in whole or in part upon its shape or design during end use and (iii) has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article and that may occur as described below; except that fluids and particles are not considered articles regardless of shape or design. The allowable changes of composition, referred to above, are those which result from a chemical reaction that occurs upon end use of other chemical substances, mixtures, or articles such as adhesives, paints, miscellaneous cleaners or other household products, fuels and fuel additives, water softening and treatment agents, photographic films, batteries, matches, and safety flares in which the chemical substance manufactured upon end use of the article is not itself manufactured for distribution in commerce or for use as an intermediate.

"Chemical substance in bulk form" means a chemical substance (other than as part of a mixture or article) in containers used for purposes of transportation or containment, provided that the chemical substance is intended to be removed from the container and has an end use or commercial purpose separate from the container.

"Importer" means the person primarily liable for the payment of any duties on the merchandise, or an authorized agent acting on his behalf. The importer may be: (1) the consignee, or (2) the importer of record, or (3) the actual owner of the merchandise if an actual owner's declaration and superseding bond has been filed in accordance with Section 141.20 of this chapter, or (4) The transferee of the merchandise, if the right to withdraw merchandise in a bonded warehouse has been transferred in accordance with subpart C of Part 144 of this chapter.

Note.—"Chapter" refers to Chapter I of 19 CFR, U.S. Customs Service, Department of the Treasury.

International Cooperation

In proposing these requirements, EPA recognizes its obligations under Title IV of the Trade Agreements Act of 1979 (Public Law 96–39). That recently enacted law provides the legal framework for implementing trade agreements entered into by the United States; Title IV (Standards Code) sets forth principles and procedures for Federal agencies, including EPA, to follow in their rulemakings, to prevent the creation of unnecessary technical barriers to foreign trade.

The Standards Code is not intended to prevent Federal agencies from making rules or setting standards affecting international trade, for example, in chemical products, if such measures have a demonstrable purpose to achieve a legitimate domestic objective, such as protecting health, safety, and the environment within the United States, and do not serve to exclude imported products that fully meet the objectives of such measures. The Standards Code states, however, that agencies involved in such rulemakings shall consider the adoption of existing international standards, if they are appropriate, and ensure that imported products are treated no less favorably than like domestic or other imported products. Although there are no existing international standards for control of imported chemicals, at such time as international agreement is reached, EPA would be prepared to modify this policy as needed. However, EPA considers that the TSCA section 13 policy complies with the principles of the international Standards Code. In addition, the certification required by this policy is designed to acknowledge compliance with TSCA requirements that are also in effect for domestically manufactured chemicals.

EPA Assistance

EPA is considering how to most efficiently publicize the TSCA requirements for chemical imports. The Office of Pesticides and Toxic Substances, Industry Assistance Office (IAO) will answer specific questions to help determine whether a chemical is on the Inventory. In addition, if comments indicate that it would be helpful, periodic TSCA fact sheets could be made available to U.S.-based foreign embassies, U.S. embassies abroad, and U.S. Customs offices both here and abroad. Fact sheets could also be made available to U.S. and foreign importing organizations and individuals. However, to ensure that TSCA fact sheet information would be useful, EPA requests comments on the information that importers would find most helpful in such fact sheets.

Public Meetings

On February 24, 1981 (12-4 p.m.) and February 25, 1981 (12-4 p.m.), EPA personnel responsible for developing this proposal will be available to meet with interested persons from companies, trade associations, organized labor, and citizen organizations who request time to present oral comments on the proposal. The meetings will be held at the Hospitality House—Motor Inn, 2000 Jefferson Davis Highway (across from Crystal City Plaza), Arlington, Virginia 22202 (703–920–8600). The Agency will make transcripts or summaries to include in the official public record.

Persons should call EPA's Industry Assistance Office at the number listed above under "For Further Information Contact" to request time to present oral comment at these meetings.

In line with EPA's desire to facilitate input from smaller companies and local organizations, the Agency would hold a meeting outside of Washington in a locale central to a group requesting such a meeting where there is demonstrated interest in and need for it.

While the meetings will be open to the public, participation will be limited to those requesting an opportunity to comment and EPA personnel designated for the session.

Official Record

EPA has established an official record for this policy (docket number OPTS 130000). This record is available for public inspection in the Office of Pesticides and Toxic Substances, Room 447 East Tower, from 8 a.m. to 4 p.m. on working days. This record includes (1) the rule proposed by Customs (45 FR ——), (2) this proposed policy statement, (3) written and substantive oral comments, (4) minutes or transcripts of public meetings held on the policy, (5) the economic impact statement prepared on alternative section 13 requirements, and (6) any other material the Administrator identifies on or before the promulgation date of the policy statement.

Two informal public meetings were held with industry and foreign government representatives on December 11 and December 13, 1979, respectively. Minutes of these meetings are included in the record, along with copies of the materials distributed to meeting participants before and during the meeting: a summary of the draft rule, and a list of discussion topics on which EPA particularly solicited information.

Also included in the record is the Economic Impact Assessment of the Section 13 Importer Regulations of the Toxic Substances Control Act, prepared by Fred C. Hart Associates, Inc., final report dated November 6, 1979.

EPA will designate the complete record on or before the date that the policy is final. The final policy statement will permit persons to point out any errors or omissions in the record.

EPA has determined that this document does not contain a major proposal requiring preparation of a Regulatory Analysis under Executive Order No. 12044.

Therefore it is proposed to add to Part 707 a new Subpart B consisting of § 707.20 to read as follows:

PART 707—IMPORTS AND EXPORTS

Subpart A—[Reserved]

Subpart B—General Import Requirements and Restrictions

§ 707.20 Chemical substances import policy.

(a) *Scope.* (1) This statement addresses the policy of the Environmental Protection Agency (EPA) on importation of chemical substances, mixtures, and articles under section 13 of the Toxic Substances Control Act (TSCA; 15 U.S.C. 2601 et seq.). In particular, it addresses aspects of the regulation proposed by the United States Customs Service (Customs), Department of the Treasury (published in today's **Federal Register**), to implement section 13 of TSCA, 15 U.S.C. 2612. Section 13 requires the Secretary of the Treasury to refuse entry into the Customs territory of the United States of a chemcial substance, mixture, or article if it does not comply with rules in effect under TSCA, or if it is offered for entry in violation of TSCA or rules or orders under TSCA.

(2) In addition to this statement of policy, EPA will continue, as necessary, to address problems associated with imports in rulemakings under individual sections of TSCA, e.g. sections 5, 6, and 7. Interested persons should refer to the records of these individual rulemaking actions for specific information and guidance.

(b) *Basic objectives of section 13.* (1) TSCA is intended to be comprehensive, and assure protection of health and the environment from unreasonable risks associated with chemicals whether the chemicals are imported or produced domestically. This intent is manifested by the inclusion of importation in the Act's definition of the term "manufacture," which says in pertinent part: "[M]anufacturer means to import . . ., produce, or manufacture" (15 U.S.C. 2602 § 3(7)). Thus, importers are responsible for ensuring that chemical importation complies with TSCA just as domestic manufacturers are responsible for ensuring that chemical manufacture complies with TSCA.

(2) The section 13 rule requires importers to sign the following statement for each import of chemical substances in bulk or mixture: "I certify that all chemical substances in this shipment comply with all rules under TSCA and that I am not offering a chemical substance for entry in violation of TSCA or any rule or order under TSCA." The certification will document that, in accordance with TSCA, the importer has taken the necessary steps to ensure compliance.

(3) The U.S. is involved in a major effort toward international harmonization in the control of chemicals. At such time as international agreement is reached on this issue, EPA would be prepared to modify its policy if needed. EPA believes that its international harmonization efforts in the control of chemicals will protect human health and the environment while fulfilling its obligations under the Trade Agreements Act of 1979.

(c) *The section 13 rule.*—(1) *General Certification.* (A) The rule promulgated under section 13 of TSCA by the Customs Service, in consultation with EPA, implements the requirement of section 13 that chemical substances, mixtures, or articles not in compliance with TSCA, or whose importation is not in compliance with TSCA, shall be denied entry into the Customs territory of the United States. The rule requires that importers certify by a statement, on the entry document or invoice, that any import shipment of a chemical substance in bulk or as part of a mixture complies with TSCA, and that it is not offered for entry in violation of TSCA or any rule or order under TSCA.

(B) EPA expects that this certification will be based upon actual knowledge of the importer in most cases. However, EPA realizes that sometimes importers may not have actual knowledge of the chemical composition of imported mixtures. In these cases, the importer should attempt to discover the chemical constituents of the shipment by contacting another party to the transaction (e.g., his principal or the foreign manufacturer). This person may be able to identify the components of the substance or mixture, or at least state that the substances or mixture complies with TSCA. The greater the effort an importer makes to learn the identities of the imported substances and their compliance with TSCA, the smaller his chance of committing a violation by importing a noncomplying shipment. If a shipment were ultimately determined to have violated TSCA, the good faith effort of the importer to verify compliance, as evidenced by documents contained in his files, would obviate or mitigate the assessment of a civil penalty under section 16 of TSCA.

(2) *Special Chemical Import Report Form.* The section 13 rule provides for use of a special form to be required by

EPA in connection with rules made under other sections of TSCA. The contents, procedures, and compliance policy for this form will be prescribed

Dated: November 21, 1980.

Douglas M. Costle,
Administrator.

[FR Doc. 80-37244 Filed 11-28-80; 8:45 am]

Section 13 further provides that if a chemical substance, mixture, or article is refused entry, the Secretary shall notify the consignee of he entry refusal.

days after publication of the EPA's Revised Inventory. Until 30 days after publication of the Revised Inventory, importers can report chemicals which

However, neither TSCA nor any other law authorizes EPA or Customs to place such requirements directly upon the foreign exporter. The responsibility of

distribution in commerce, use, or disposal of a chemical substance. Under section 7, TSCA, the Administrator may commence a civil action in a U.S. district

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EPA in connection with rules made under other sections of TSCA. The contents, procedures, and compliance policy for this form will be prescribed during rulemaking for these other rules. The EPA's intent is to reserve use of this form to cases in which individual regulatory actions have been taken on specified chemicals.

(3) *EPA enforcement.* (A) EPA and the Customs Service will monitor chemical imports to determine if shipments and their import comply with the certificaton requirements and the substantive mandates of TSCA. Customs will refuse entry to any shipment until such time as the certification is properly submitted. Customs will also detain a shipment if there are reasonable grounds to believe that such shipment or its import violates TSCA or regulations or orders thereunder. A violative shipment must either be brought into compliance, exported, or voluntarily abandoned within the time periods prescribed in § 12.124 of the section 13 rule.

(B) When EPA determines that a shipment should be detained, EPA will identify the reasons for the detention and the necessary actions for the importer to bring the shipment into compliance with TSCA. If EPA has given this information to Customs before the district director issues the detention notice, the information will become part of the detention notice. If this information is not included in the detention notice, the importer should contact one of EPA's regional offices for guidance as to the proper procedures for correcting any deficiencies in the shipment. As part of the final policy, an individual in each of the ten regions will be designated as a TSCA import contact, and a list of appropriate telephone numbers will be published.

(C) If Customs detains or refuses entry of a shipment (other than for failure to make the general certification) and the importer takes measures necessary to bring the shipment into conformity with the requirements of TSCA, and EPA official will reassess the shipment to determine its current compliance status. Assuming a shipment is no longer in violation, EPA will notify the district director who will then release the shipment. This notice will also serve as a determination to permit entry under § 12.123(c) if a shipment is brought into compliance before the § 12.123(c) decision-making process has been completed. If compliance is achieved after a § 12.123(c) determination (adverse to the importer) has been made, the EPA notice to the district director will serve as a reversal of the decision to refuse entry.

(4) *EPA assistance.* Assistance in determining whether a chemcial shipment is in compliance with TSCA can be obtained from the Industry Assistance Office (TS–799), U.S. Environmental Protection Agency 401 M Street, SW, Washington, D.C. 20460; 800–424–9065, toll free; in Washington, D.C., 554–1404.

(Sec. 13 (90 Stat. 2034; 15 U.S.C. 2612))

Dated: November 21, 1980.

Douglas M. Costle,
Administrator.

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DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 12 and 127

Special Classes of Merchandise

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to inform the importing public about the Toxic Substances Control Act ("TSCA") and to amend the Customs Regulations to regulate the entry of any chemical substance, imported in bulk or as part of a mixture, or article containing a chemical substance or mixture into the customs territory of the United States. The proposed amendments, which have been developed after consultation with the Environmental Protection Agency ("EPA"), are designed to implement TSCA by requiring the importer of a chemical shipment to certify at the port of entry that the shipment is in compliance with TSCA and all rules and orders under TSCA.

DATE: Comments must be received on or before March 2, 1981.

ADDRESS: Comments may be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Entry Examination and Liquidation Branch, Duty Assessment Division, Office of Trade Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229, 202–568–8651; or Industry Assistance Office (TS 799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 800–424–9065 (Toll Free), calls within the District of Columbia—554–1404.

SUPPLEMENTARY INFORMATION:

Background

The Toxic Substances Control Act ("TSCA"), Pub. L. 94–469, approved October 11, 1976, was enacted by the Congress to regulate commerce and protect human health and the environment by requiring testing and necessary use restrictions on certain chemical substances, and for other purposes. Section 13, TSCA, directs the Secretary of the Treasury, after consultation with the Administrator, Environmental Protection Agency ("EPA"), to refuse entry into the customs territory of the United States (the "customs territory") of any chemical substance, mixture, or article containing a chemical substance or mixture that:

1. Fails to comply with any rule in effect under TSCA, or
2. Is offered for entry in violation of section 5 or 6, TSCA, a rule or order issued under section 5 or 6, or an order issued in a civil action brought under section 5 or 7, TSCA.

Section 13 further provides that if a chemical substance, mixture, or article is refused entry, the Secretary shall notify the consignee of he entry refusal, not release the shipment to the consignee, except under bond, and cause its disposal or storage under such rules as the Secretary may prescribe if the shipment has not been exported by the consignee within 90 days from the date of receipt of the notice of entry refusal.

To implement the provisions of section 13, Customs and EPA have developed proposed amendments to Parts 12 and 127, Customs Regulations (19 CFR Parts 12, 127), to regulate the entry of any chemical substance, imported in bulk or as part of a mixture, or an article containing a chemical substance or mixture into the customs territory.

Reporting Requirements

Importer Certification

Proposed § 12.121, Customs Regulations, would require each importer of a chemical substance, mixture, or article containing a chemical substance or mixture subject to a specific regulation under TSCA, to certify to the district director of Customs at the port of entry that the shipment is in full compliance with TSCA and all rules and orders under TSCA. The certification would appear as a signed, typed statement (1) on the entry summary document, or, for those entries which do not have entry summaries, on the appropriate entry document, or (2) in the event of release under a special permit for an immediate delivery, as provided for in § 142.21, Customs Regulations, or entry, as provided for in § 142.3, Customs Regulations, either on the importer's invoice or an attachment to the invoice, or (3) on the Special Chemical Import Report Form, if the importer is required to submit this form, as explained below.

By signing the certification statement, the importer certifies the following:

1. The shipment is in compliance with the premanufacture notification requirements of section 5, TSCA, which provide that, unless exempted by the Administrator, EPA, a person must notify the Administrator at least 90 days before manufacture, importing, or processing, if the person intends to:

(a) Manufacture or import for a commercial purpose a new chemical substance (one not included on the Inventory compiled pursuant to section 8(b), TSCA), or

(b) Manufacture, import, or process any chemical substance for a use which the Administrator has determined, by rule, is a significant new use. (No significant new use rules have been promulgated to date).

EPA's initial Toxic Substances Control Act Chemical Substances Inventory was issued on June 1, 1979, and the premanufacture notification requirements for chemical substances imported in bulk became effective on July 1, 1979. For Chemical substances as part of mixtures, premanufacture notification requirements will begin 30

days after publication of the EPA's Revised Inventory. Until 30 days after publication of the Revised Inventory, importers can report chemicals which are not included on EPA's Initial Inventory and that they import as part of a mixture or article for the first time after December 31, 1979. These chemicals will be included on EPA's Revised Inventory.

2. The shipment does not violate any rule in effect under TSCA or any rule or order issued under sections 5, 6, or 7, TSCA. These rules or orders may pertain to limitations under section 5(e) or (f) on importing new chemical substances or chemical substances to be imported for a significant new use, chemical control regulations under section 6, or judicial orders under section 7.

3. All required information submittals are complete and accurate.

Special Chemical Import Report Form

To enforce TSCA, in certain cases EPA may require information beyond the importer's certification. Proposed section 12.121(b) provides that if required by the Administrator by rule under TSCA for a chemical substance, the importer shall submit an EPA Special Chemical Import Report Form to the district director at the port of entry. This form would certify that the shipment is in compliance with TSCA and all rules developed under TSCA, and would also require certain information such as amount imported, intended use, distribution, disposal, exposure, or other information, as required by a rule under TSCA.

To date, EPA has not issued any rules which would require the submission of a Special Chemical Import Report Form. EPA plans to develop the form as the need to control imports of specific chemicals arises. When developed, the form will be subject to clearance and approval of the Office of Management and Budget and EPA will provide notice and an opportunity for public comment.

Alternatives to Importer Certification Considered

EPA and Customs considered other alternatives to requiring importer certification of compliance with TSCA, recognizing that some importers may not have complete information about their chemical shipments. In some cases, the foreign exporter is not the chemical manufacturer. In other cases, the foreign manufacturer may be reluctant to divulge specific information regarding the shipment.

The most direct way to secure this information would be to require the exporter to submit the necessary data. However, neither TSCA nor any other law authorizes EPA or Customs to place such requirements directly upon the foreign exporter. The responsibility of reporting must be on the importer.

EPA also considered requiring the importer to submit detailed reports, including the chemical identity and tradenames of the merchandise. These reports could provide a more thorough information base on which to make decisions regarding chemical importations. EPA is not proposing this option, however, for several reasons. The initial problem that importers would face in securing general information about chemical shipments would most likely escalate if importers asked for specific chemical information such as processing specifications or the proportions of a chemical substance in a mixture.

Even if importers could provide specific chemical information, much of it would not be useful because most Customs officials are not trained to interpret chemical reports and would not have time to check long tradenames against lists cross-referenced with regulated chemicals. It also would be nearly impossible for EPA to develop a useful tradename list because of the number of countries producing chemicals, the number of individual foreign manufacturers and processors, and the constant need to update the list.

EPA and Customs view the proposed regulations as the most reasonable and least burdensome approach to monitoring imported chemical shipment. An economic impact report, "Economic Impact Assessment of the Section 13 Importer Regulations of the Toxic Substances Control Act" (see below), analyzes the private sector costs of various means of providing importer certification. The proposed regulations appear to be the most feasible approach. Also, by asking the foreign exporter and/or manufacturer about compliance with TSCA, the importer would be educating the foreign chemical market about United States requirements for chemical importation. This education process should facilitate overall achievement of TSCA objectives. Eventually, the proposed reporting system could be amended to reflect change or development in international import agreements.

Detention of Shipments

Under TSCA, EPA is authorized to control chemical substances found to pose an unreasonable risk to human health or the environment. Sections 5 and 6, TSCA, permit the Administrator to issue a rule or order to prohibit or limit the manufacture, processing, distribution in commerce, use, or disposal of a chemical substance. Under section 7, TSCA, the Administrator may commence a civil action in a U.S. district court for seizure of an imminently hazardous chemical substance or mixture or any article containing such a substance or mixture. To minimize any risk to health or the environment, proposed § 12.122(a) provides that the district director at the port of arrival shall detain, at the importer's risk and expense, shipments of chemical substances, mixtures, or articles: (1) which have been banned from the customs territory by a rule or order issued under sections 5 or 6, TSCA, or (2) which have been ordered seized because of imminent hazard pursuant to section 7, TSCA, or (3) as otherwise directed by the Administrator.

Proposed § 12.122(b) provides for detention of a chemical shipment at the port of entry, at the importer's risk and expense, whenever: (1) the importer fails to certify compliance with TSCA, or (2) the Administrator, after giving notice with reasons to the importer, notifies the district director to detain the shipment, or (3) the district director has reasonable grounds to believe that the shipment is not in compliance with TSCA or any regulations and orders issued under TSCA. In the event of detention, the district director will promptly notify the importer and the Administrator and explain the reasons for detention.

Procedure After Detention

Submission of Written Documentation

Proposed § 12.123 provides that the importer may submit written documentation to the Administrator, with a copy to the district director at the port of entry, within 20 days from the date of the notice of detention to show cause why the shipment should not be refused entry. The importer may also obtain custody of the detained shipment by furnishing a Customs bond for the return of the shipment to Customs custody.

Determination by the Administrator

The Administrator, after consideration of the available evidence and within 30 days from the notice of detention, will determine whether the detained shipment complies with TSCA. If the Administrator finds that the shipment is in compliance, the district director shall release the shipment to the importer. If the Administrator finds that the shipment is not in compliance, the district director shall either refuse to deliver the shipment to the importer and explain the reasons for this refusal, or, if

the shipment has been released on bond, demand the redelivery of the shipment under the terms of the bond and explain

timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with

Chemical Substances in Bulk and as Part of Mixtures and Articles

§ 12.118 Toxic Substances Control Act.

containers used for purposes of transportation or containment, provided that the chemical substance is intended to be removed from the container and

(3) As otherwise directed by the Administrator.

(b) The district director at the port of entry shall detain shipments of chemical

importer. If the Administrator finds that the shipment is not in compliance, the district director shall:

(1) Refuse delivery to the importer,

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the shipment has been released on bond, demand the redelivery of the shipment under the terms of the bond and explain the reasons for this demand.

Time Limitations

Proposed § 12.124 provides that the importer of a detained shipment shall bring the shipment into compliance with TSCA or remove it from the customs territory within 90 days after notice of detention or 30 days after demand for redelivery, whichever comes first. The district director, upon notification by the Administrator, may grant a 30-day extension if the importer is unable to bring the merchandise into compliance with TSCA or remove it from the customs territory within the required time period due to delays caused by EPA or Customs.

Notice of Intent To Abandon or Export a Detained Shipment

If a shipment does not comply with TSCA, the importer may abandon or export it. Under proposed section 12.126, if the importer decides to abandon the shipment, written notice of intent to abandon must be presented to the district director and the Administrator. By submission of this certification, the importer waives any right to export the shipment and the importer remains liable for any expenses incurred in the storage and/or disposal of the merchandise. Under proposed section 12.125, if the importer decides to export the shipment, written notice of exportation must be presented to the district director and the Administrator.

Storage or disposal of Shipments

Under proposed § 12.127, a detained shipment shall be considered to be unclaimed and abandoned and shall be stored or disposed of by the Administrator if the importer has not brought the shipment into compliance within the required time period and any extension specified in proposed § 12.124, and (1) has not exported the shipment within the required time period and any extension specified in proposed § 12.124, or (2) has certified intent to abandon the shipment.

Authority

This amendment is proposed under the authority of section 13, 90 Stat. 2034 (15 U.S.C. 2612), R.S. 251, as amended (19 U.S.C. 66), and sections 624, 46 Stat. 759 (19 U.S.C. 1624).

Comments

Before adopting this proposal, consideration will be given by EPA and Customs to any written comments, preferably in quadruplicate, submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Research Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229. Comments will also be available for public inspection from 8:00 a.m. to 4:00 p.m. at the Environmental Protection Agency, Office of Pesticides and Toxic Substances Reading Room, 447 East Tower, 401 M Street, SW., Washington, D.C. 20460, as part of E.P.A. docket number OPTS 3000.

Economic Impact Analysis Statement

Estimated costs for industry compliance with this regulation are contained in a report entitled, "Economic Impact Assessment of the Section 13 Importer Regulations of the Toxic Substances Control Act", dated November, 1979. This report indicates that total cost to industry will be approximately $2.3 million.

The economic impact study is available for review at the Environmental Protection Agency, Office of Pesticides and Toxic Substances, Reading Room, Room 447 East Tower, 401 M Street, SW., Washington, D.C. 20460.

Inapplicability of Executive Order 12044

This document is not subject to the Treasury Department directive implementing Executive Order 12044, "Improving Government Regulations," because the regulation was in process before May 22, 1978, the effective date of the directive.

EPA has determined that this document does not contain a major proposal requiring preparation of a Regulatory Analysis under Executive Order 12044.

Drafting Information

The principal author of this document was Laurie Strassberg Amster, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs and EPA offices participated in its development.

Proposed Amendments

PART 12—SPECIAL CLASSES OF MERCHANDISE

It is proposed to amend Part 12, Customs Regulations (19 CFR Part 12), by adding new §§ 12.118 through 12.127 to read as follows:

Chemical Substances in Bulk and as Part of Mixtures and Articles

§ 12.118 Toxic Substances Control Act.

The importation into the customs territory of the United States of a chemical substance in bulk or as part of a mixture or article is governed by the Toxic Substances Control Act ("TSCA") (15 U.S.C. 2601 *et seq.*), and by regulations issued under the authority of section 13(b), TSCA (15 U.S.C. 2612(b)) by the Secretary of the Treasury in consultation with the Administrator, Environmental Protection Agency, ("EPA").

§ 12.119 Scope.

Sections 12.120 through 12.127 apply to the importation into the customs territory of the United States of chemical substances in bulk and as part of mixtures under TSCA.

Sections 12.120 through 12.127 may also apply to articles containing a chemical substance or mixture if so required by the Administrator by specific rule under TSCA.

§ 12.120 Definitions.

Except as otherwise provided below, the terms used in §§ 12.121 through 12.127 have the meanings set forth for those terms in TSCA.

(a) "Article"

(1) "Article" means a manufactured item which:

(i) Is formed to a specific shape or design during manufacture,

(ii) Has end use function(s) dependent in whole or in part upon its shape or design during end use, and

(iii) Has either no change of chemical composition during its end use or only those changes of composition which have no commercial purpose separate from that of the article and that may occur as described in § 12.120(a)(2) below; except that fluids and particles are not considered articles regardless of shape or design.

(2) The allowable changes of composition, referred to in § 12.120(a)(1), are those which result from a chemcial reaction that occurs upon end use of other chemical substances, mixtures, or articles such as adhesives, paints, miscellaneous cleaners or other household products, fuels and fuel additives, water softening and treatment agents, photographic films, batteries, matches, and safety flares in which the chemical substance manufactured upon end use of the article is not itself manufactured for distribution in commerce or for use as an intermediate.

(b) "Chemical substance in bulk form" means a chemical substance (other than as part of a mixture or article) in

containers used for purposes of transportation or containment, provided that the chemical substance is intended to be removed from the container and has an end use or commercial purpose separate from the container.

§ 12.121 Reporting requirements.

(a) *All chemical substances in bulk or mixtures.* The importer of a chemical substance, imported in bulk or as part of a mixture, shall certify to the district director at the port of entry that the chemical shipment is in compliance with TSCA and all rules and orders under TSCA. The importer shall make this certification by signing the following statement:

> I certify that all chemical substances in this shipment comply with all rules under TSCA and that I am not offering a chemical substance for entry in violation of TSCA or any rule or order under TSCA.
>
> This certification shall appear as a typed statement.

(1) On the entry summary document, or, for those entries which do not have entry summaries, on the appropriate entry document, or

(2) In the event of release under a special permit for an immediate delivery, as provided for in section 142.21 of this chapter, or entry, as provided for in section 142.3 of this chapter, either on the importer's invoice or an attachment to the invoice, or

(3) On the Special Chemical Import Report Form, if the importer is required to submit this form as provided for in paragraph (b) of this section.

(b) *Certain regulated chemical substances.* If specifically required by the Administrator by rule under TSCA, each importer of a chemical substance, imported in bulk or as part of a mixture, shall submit an EPA Special Chemical Import Report Form to the district director at the port of entry.

(c) *Chemical substance or mixture as part of articles.* Each importer of a chemical substance or mixture as part of an article shall meet the reporting requirements set forth in paragraphs (a) and (b) of this section only if required by a rule or order under TSCA.

§ 12.122 Detention of certain shipments.

(a) The district director at the port of arrival shall detain, at the importer's risk and expense, shipments of chemical substances, mixtures, or articles:

(1) Which have been banned from the customs territory of the United States by a rule or order issued under sections 5 or 6 of TSCA (15 U.S.C. 2604 or 2605) or

(2) Which have been ordered seized because of imminent hazard as specified under section 7 of TSCA (15 U.S.C. 2606) or

(3) As otherwise directed by the Administrator.

(b) The district director at the port of entry shall detain shipments of chemical substances, mixtures, or articles at the importer's risk and expense, in the following situations:

(1) Whenever the Administrator has reasonable grounds to believe that the shipment is not in compliance with TSCA, gives detention notice with reasons to the importer, and notifies the district director to detain the shipment; or

(2) Whenever the district director has reasonable grounds to believe that the shipment is not in compliance with TSCA; or

(3) Whenever the importer fails to certify compliance with TSCA as required by § 12.121.

Upon detention of a shipment, the district director shall give prompt notice to the Administrator and the importer. The notice shall include the reasons for detention.

§ 12.123 Procedure after detention.

(a) *Submission of written documentation.* If a shipment is detained by a district director under section 12.122, the importer may submit written documentation to the Administrator with a copy to the district director within 20 days from the date of notice of detention to show cause why the shipment should not be refused entry.

(b) *Release on Bond.* The district director may release to the importer a shipment detained for any of the reasons given in § 12.122 when the district director has reasonable grounds to believe that the shipment may be brought into compliance, or when the district director deems it appropriate under § 141.66 of this chapter. Any such release shall be conditioned upon furnishing a bond on Customs Form 7551, 7553, or 7595 for the return of the shipment to Customs custody. The bond shall be for the full amount required in § 113.14 of this chapter. If a shipment of a chemical substance, mixture, or article is released to the importer under bond, the shipment shall be held intact and shall not be used or otherwise disposed of until the Administrator makes a final determination on entry as provided for in paragraph (c) of this section.

(c) *Determination by the Administrator.* After consideration of the available evidence and within 30 days from the notice of detention, the Administrator shall notify the district director of his decision either to permit or refuse entry of the shipment. If the Administrator finds that the shipment is in compliance with TSCA, the district director shall release the shipment to the importer. If the Administrator finds that the shipment is not in compliance, the district director shall:

(1) Refuse delivery to the importer, with reasons for such refusal, or

(2) If the shipment has been released on bond, demand its redelivery under the terms of the bond, giving reasons for such demand. If the merchandise is not redelivered within 30 days from the date of the redelivery notice, the district director shall assess liquidated damages in the full amount of the bond.

§ 12.124 Time limitations and extensions.

(a) *Time Limitations.* The importer of a shipment of chemical substances, mixtures, or articles which has been detained under § 12.122 shall bring the shipment into compliance with TSCA or export the shipment from the customs territory of the United States within 90 days after notice of detention or 30 days of demand for redelivery, whichever comes first.

(b) *Time Extensions.* The district director, upon notification by the Administrator, may grant an extension of not more than 30 days if, due to delays caused by the Environmental Protection Agency or the Customs Service:

(1) The importer is unable, for good cause shown, to bring a shipment into compliance with the Act within the required time period; or

(2) The importer is unable to export the shipment from the customs territory of the United States within the required time period.

§ 12.125 Notice of exportation.

Whenever the Administrator directs the district director to refuse entry under § 12.123 and the importer exports the non-complying shipment within the 90 day period of notice of refusal of entry or within 30 days of demand for redelivery, the importer shall give written notice of the fact of exportation to the Administrator and the district director.

The importer shall include the following information in the notice of exportation:

(a) The name and addres of the exporter or his agent;

(b) A description of the chemical substances, mixtures, or articles exported;

(c) The destination (country);

(d) The port of arrival at the destination;

(e) The carrier;

(f) The date of exportation; and

(g) The bill of lading or the air waybill number.

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§ 12.126 Notice of abandonment.

If the importer intends to abandon the shipment after receiving notice of refusal of entry, the importer shall present a written notice of intent to abandon to the district director and the Administrator. Notification under this section is a waiver of any right to export the merchandise. The importer shall remain liable for any expenses incurred in the storage and/or disposal of abandoned merchandise.

§ 12.127 Decision to store or dispose.

A shipment detained under section 12.122 shall be considered to be unclaimed or abandoned and shall be turned over to the Administrator for storage or disposition as provided for in § 127.28(i) of this chapter if the importer has not brought the shipment into compliance with TSCA within time limitations or extensions specified according to § 12.124 and:

(a) Has not exported the shipment within time limitations or extensions specified according to § 12.124; or

(b) Has certified intent to abandon the shipment in accordance with § 12.126.

PART 127—GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

It is proposed to amend Part 127, Customs Regulations (19 CFR Part 127), by adding a new subsection (i) to section 127.28, to read as follows:

§ 127.28 [Amended]

* * * * *

(i) *Chemical substances, mixtures, and articles containing chemical substances or mixtures.* Chemical substances, mixtures, and articles containing chemical substances or mixtures, as these items are defined in section 3, Toxic Substances Control Act ("TSCA") and section 12.120 of this chapter, shall be inspected by a representative of the Environmental Protection Agency to ascertain whether they comply with TSCA and the regulations and orders issued thereunder. If found not to comply with these requirements they shall be exported or otherwise disposed of immediately in accordance with the provisions of § 12.125 through 12.127 of this chapter.

Approved: November 14, 1980.

William T. Archey,

Commissioner of Customs.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 80-37245 Filed 11-28-80; 8:45 am]

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federal register

Monday
December 1, 1980

Part VIII

Department of Agriculture

Federal Grain Inspection Service

Fees for Original Grain Inspection and Official Weighing Services

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Fees for Original Grain Inspection and Official Weighing Services

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS or Service) is increasing the fees assessed for original grain inspection and official weighing services performed by FGIS in the United States. This rule expands the application of the minimum fee for the performance of FGIS original inspection, reinspection, appeal inspection, and official weighing in the United States to apply when the service is performed in 2 hours or less when the hourly rate applies. This rule will provide for a 30-consecutive-minute grace period before standby fees are assessed for other than online original grain inspection services performed on grain in trucks, boxcars, hopper cars, and barges in the United States. This rule increases the amount an official agency may be reimbursed by FGIS for locating and forwarding appeal file samples requested by FGIS. This rule implements several minor changes in wording for the purpose of uniformity between the fee schedules for services performed by FGIS in the United States and Canada. These changes in the fees are being made to equate the fees as nearly as possible with the cost of the service and to maintain a reasonable operating reserve.

EFFECTIVE DATE: January 4, 1981.

FOR FURTHER INFORMATION CONTACT: John W. Marshall, Director, Inspection Division, telephone (202) 447-8497, or George T. Lipscomb, Director, Weighing Division, telephone (202) 447-4851. USDA, FGIS, 1400 Independence Avenue, SW., Washington, D.C. 20250.

The Final Impact Statements (Inspection and Weighing) describing the options considered in developing this final rule and the impact of implementing each option are available on request from the Director, Issuance and Coordination Staff, USDA, FGIS, Room 1127, Auditors Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 447-3910.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified "significant."

Leland E. Bartelt, Administrator, FGIS, has determined that a situation exists which warrants publication of this final action to effectuate at the earliest possible date the collection of fees which are reasonable and as nearly as practicable cover the costs of providing inspection and weighing services, excluding administrative and supervisory costs, as prescribed by sections 7(j) and 7A(1) of the United States Grain Standards Act, as amended (7 U.S.C. 79(j), 79a(1)) (Act). The need for the increase in the fees for the services and the amount of the increase are based on facts within the knowledge of FGIS. The level of the fees remains unchanged for reinspection and appeal inspection services performed by FGIS in the United States and for original inspection, reinspection, appeal inspection, and weighing services performed by FGIS in Canada.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that publication of a notice of proposed rulemaking and other public procedures on the provisions of §§ 800.71, 800.72, and 800.73 of the regulations under the Act, as set forth in this document, are impractical and unnecessary, and good cause is found for making these changes effective January 4, 1981.

Original Inspection Service Fees

In December 1979, FGIS changed the fees for online original inspection services from a unit-of-grain method to an hourly method of assessment. In adopting the hourly method, FGIS concluded that this method would establish fees as nearly as practicable to cover costs incident to the performance of the service and more adequately meet the general needs of the users of the service. However, during fiscal year 1980, sufficient revenue was not generated to cover program costs. During the past fiscal year, increases in salaries and general program costs have resulted in a sharp decrease in the operating reserve. The operating reserve is maintained for contingencies when fees may not cover costs of providing the service. As a result, it has been determined that fee increases of 16 percent for contract hourly services, 20 percent for services performed on a unit basis, and 25 percent for noncontract hourly services are necessary to minimize operating reserve losses. This increase will reduce the rate of loss for the original inspection program. However, the FGIS fee schedule for original inspection services will be closely monitored throughout the year to determine if the level of the fees is adequate to maintain a reasonable operating reserve.

Assessment of Standby Fees for Original Inspection Services

As currently reflected in § 800.72(b) of the regulations under the Act, standby fees for original inspection services shall be assessed in all cases, except no fee shall be assessed for standby time under a service contract. FGIS has determined that a grace period of 30 consecutive minutes shall be provided before fees for standby time are assessed in conjunction with the performance of other than online original inspection of grain in trucks, boxcars, hopper cars, and barges. Other than online original inspection service is defined as an inspection service which is based on official samples not obtained from a flowing stream of grain during the loading or unloading of grain. This change will more closely reflect the utilization of this inspection service and reduce the economic impact on the grain industry.

Reimbursement for Locating and Forwarding Appeal File Samples

FGIS currently reimburses official agencies, upon request, $1.50 for locating and forwarding each file sample FGIS requests for appeal inspection purposes. FGIS has determined that due to increases in salary costs of official agency personnel and postage costs, this reimbursable amount will be increased to $2.50 per file sample requested for appeal inspections. This change will reduce the economic impact on the official agencies performing original inspection services.

Official Weighing Service Fees

On December 3, 1978, FGIS reduced the hourly fees for official weighing services performed in the United States by approximately 20 percent in order to maintain a reasonable operating reserve. Increases in salaries and general program costs during fiscal year 1980 have resulted in a sharp decrease in the operating reserve. As a result, it has been determined that fee increases of 16 percent for contract hourly services and 25 percent for noncontract hourly services are necessary to minimize operating reserve losses. This increase will reduce the rate of loss for the official weighing program.

Further, these changes in the fees for official weighing services do not reflect the recent amendment to the Act, which affects the scope of the inbound weighing program (Pub. L. 96-437, 94 Stat. 1870). When the impact of this amendment is known, FGIS will again evaluate the fees for official weighing services to determine if the level of the fees reflects the cost of the service, in addition to determining if the fees are adequate to maintain a reasonable operating reserve.

Minimum Fee

The minimum fee per service request, as currently reflected in section 800.71 of the regulations under the Act, is applicable when the request for service is cancelled after the service representative(s) arrives at the point of service. FGIS has determined that the application of the minimum fee will be expanded to include when the original inspection, reinspection, appeal inspection, and official weighing service is performed in 2 hours or less when the hourly rates applies. This change will equate the fees more closely to the cost to FGIS of providing the service.

Miscellaneous Changes

In § 800.71(a) of the regulations under the Act, as published in the **Federal Register** (45 FR 15822-15824) several variations have been noted in the footnotes which apply to schedules A and B. To provide uniformity between the footnotes in schedules A and B, several minor changes in wording have been made. In addition, new footnotes have been added which will clarify the schedules as well as assure uniformity in application of the fee schedules.

Accordingly, 7 CFR 800.71(a), 800.72(b), 800.73 (a) and (b) (this information may be found in 45 FR 15822-15824 because 7 CFR Part 800 has not yet been published in the Code of Federal Regulations) are hereby amended to read as follows:

§ 800.71 Fees assessed by the service.

(a) *Official inspection and weighing services.* The fees shown in schedules A and B apply to official grain inspection and weighing services performed by the Service in the United States and Canada.

Table 1.—*Schedule A—Fees for Official Inspection and Weighing Services Performed by the Service in the United States*[1]

Inspection services (bulk or sacked grain)	Orginal inspection service	Reinspection and appeal inspection service[2,3]
(1) Official sample-lot inspection service (white certificate):		
(i) For official grade and official factor determinations:		
(A) Online inspection services (per man-hour per service representative):[4]		
(1) Contract service:		
(a) Regular workday	$13.00	(5)
(b) Nonregular workday	16.60	(5)
(2) Noncontract service:		
(a) Regular workday	16.00	(6)
(b) Nonregular workday	20.00	(6)
(B) Other than online inspection services:		
(1) Truck or trailer (per truck or trailer or part truck or part trailer)	7.80	$16.00
(2) Boxcar (per car or part car)	12.00	19.60
(3) Hopper car (per car or part car)	16.25	23.80
(4) Barge (per 1,000 bushels or fraction thereof)	3.00	3.50
(5) Ship, bin, and all other lots of grain (per 1,000 bushels or fraction thereof) (but see 2 below)	(5)	3.50
(C) Based on official file sample (any lot or part lot)	(6)	[10] 13.50
(ii) For official factor or official criteria determinations:		
(A) Based on a sample used for official grade and official factor determinations not obtained during loading or unloading:		
(1) Factor determination (per factor)	5.00	5.45
(2) Protein test (per sample)	4.00	4.35
(B) Based on new sample (any lot or part lot)	(7)	(7)
(2) Special inspection services (sampling, stowage examination, testing of inspection equipment, demonstrating official inspection functions, furnishing standard illustrations, and related services) (per man-hour per service representative):[8]		
(i) Regular workday	16.00	21.80
(ii) Nonregular workday	20.00	21.80
(3) Warehouseman's sample-lot inspection service (yellow certificate) or submitted sample inspection service (pink certificate):		
(i) For official grade and official factor determinations (per sample)	6.50	13.50
(ii) For official factor or official criteria determinations:		
(A) Factor determinations (per factor)	5.00	5.45
(B) Protein test (per sample)	4.00	4.35
(4) Minimum fee per service request (applicable when the request for service is cancelled after the service representative(s) arrives at the point of service or when the service is performed in 2 hours or less when hourly rates apply—fee does not include standby):		
(i) Grain in trucks, trailers, boxcars, or hopper cars	(9)	(9)
(ii) All other lots of grain and special services (per man-hour per service representative) (2 hour minimum):		
(A) Regular workday	16.00	21.80
(B) Nonregular workday	20.00	21.80
(5) Standby (per man-hour per service representative):[9]		
(i) Regular workday	16.00	21.80
(ii) Nonregular workday	20.00	21.80
(6) Extra copies of certificates (per copy):[11]	2.50	2.50

NOTE.—The footnotes for table 1 are shown at the end of table 2.

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Table 2

Weighing services (bulk or sacked grain)	Official weighing services					
	Specified inspection point			Noninspection point		
	Contract service		Noncontract service		Contract service	
	Regular workday	Non-regular workday	Regular workday	Non-regular workday	Regular workday	Non-regular workday
(1) Official weighing or supervision of weighing services (per man-hour per Service representative)	$13.00	$16.60	$16.00	$20.00	$13.00	$16.60
(2) Special weighing services, (stowage examination, testing of weighing equipment, checkweighing sacked grain, check-loading sacked grain, demonstrating official weighing functions, and related services) (per man-hour per Service representative) [8]	13.00	16.60	16.00	20.00	13.00	16.60
(3) Minimum fee per service request is 2 hours per Service representative (applicable when the request for service is cancelled after the Service representative(s) arrives at the point of service or when the service is performed in 2 hours or less when hourly rates apply—fee does not include standby) (per man-hour per Service representative)	[5]	[5]	16.00	20.00	[5]	[5]
(4) Standby (per man-hour per Service representative) [9]	[5]	[5]	16.00	20.00	[5]	[5]
(5) Extra copies of certificates and reports (per copy) [10 11]	2.50	2.50	2.50	2.50	2.50	2.50

[1] The fees include the cost of performing official inspection and official class X or class Y weighing functions by service representatives. For incidental costs included in the fees, and fees in addition to the unit and the hourly fees, see § 800.72, paragraphs (a) and (b).

[2] If it is found that there was a material error in the inspection from which a reinspection, an appeal inspection, or a board appeal inspection is taken, the specified reinspection, appeal inspection, or board appeal inspection fee shall not be assessed, but see § 800.72(b) for fees that are assessed in all instances. For definition of a material error, see § 800.73(h).

[3] Board appeal inspections are based on file samples. The fee for Board appeal inspection service shall be $34.00 per sample during a regular workday and $40.00 per sample during a nonregular workday except for protein which shall be $15.00 per sample.

[4] Online inspection services include all inspection services which are based on official samples obtained from a flowing stream of grain during the loading or unloading of grain

[5] Not applicable.

[6] The unit fee.

[7] Same fees as in (1)(i)(B), plus applicable sampling charge—see (2).

[8] Only one inspection or weighing fee, as applicable, will be charged for these services whether performed singly or concurrently.

[9] For application of fee for standby, see § 800.72(b).

[10] If at the request of the service a file sample is located and forwarded by an agency for official appeal, the agency may, upon request, be reimbursed at the rate of $2.50 per sample by the Service for the cost of locating and forwarding the sample(s).

[11] For application of fee for extra copies of certificates, see § 800.160(c)(3).

Table 1.—*Schedule B—Fees for Official Inspection and Weighing Services Performed by the Service in Canada* [1]

Services (bulk or sacked grain)	Regular workday	Nonregular workday
(1) Original inspection, or official weighing, or special services: [2]		
(i) Contract service (per man-hour per service representative)	$20.00	$24.00
(ii) Noncontract service (per man-hour per service representative)	30.00	36.00
(2) Reinspection and appeal inspection (per man-hour per service representative) [3 4]	32.00	38.00
(3) Board appeal inspection (per sample) [3 4]	34.00	40.00
(4) Minimum fee per service request:		
(i) Noncontract, original inspection, or original weighing, or special services (per service representative) [5]	90.00	108.00
(ii) Reinspection, or appeal inspection (per service representative) [5 6]	96.00	114.00
(5) Standby (per man-hour per service representative) [7]	30.00	36.00
(6) Extra copies of certificates (per copy) [8]	2.50	2.50

[1] The fees include the cost of performing official inspection and official class X or class Y weighing functions by service representatives. For incidental costs included in the fees, and fees in addition to the unit and the hourly fees, see § 800.72, paragraphs (a) and (b).

[2] Special services include, but are not limited to the following: sampling, stowage examination, testing of inspection or weighing equipment, demonstrating official inspection or weighing functions, furnishing standard illustrations, checkweighing of sacked grain, checkloading of sacked grain, and related services.

[3] If it is found that there was a material error in the inspection from which a reinspection, an appeal inspection, or a board appeal inspection is taken, the specified reinspection, appeal inspection, or board appeal inspection fee shall not be assessed, but see § 800.72(b) for fees that are assessed in all instances. For definition of a material error see § 800.73(h).

[4] Appeal inspections are based on file samples. Board appeal inspections for protein shall be $15.00 per sample.

[5] Applicable when the requested service is performed in 3 hours or less, or the request for service is cancelled after the service representative(s) arrives at the point of service.

[6] Not applicable if the reinspection or appeal inspection is performed concurrently with an original inspection.

[7] For application of fee for standby, see § 800.72(b).

[8] For application of fee for extra copies of certificates, see § 800.160(c)(3).

§ 800.72 Explanation of service fees and additional fees.

* * * * *

(b) *Fees in addition to unit and hourly fees.* Fees for standby time shall be assessed in all cases except no fee shall be assessed for: (1) 30 consecutive minutes of standby time in conjunction with other than online original inspection of grain in trucks, boxcars, hopper cars, and barges in the United States; and (2) standby time under a service contract for (i) official inspection and Class X or Class Y weighing services in the United States, and (ii) for official inspection and Class X weighing services in Canada.

§ 800.73 Computation and payment of service fees; general fee information.

(a) *Computing hourly rates.* Hourly rates shall begin when the Service representative arrives at the point of service and is available to perform service and shall end when the representative departs from the point of service, computed to the nearest quarter hour (less mealtime, if any). For application of minimum fee per service request, see § 800.71, schedules A and B.

(b) *Computing Standby.* Subject to the provisions of § 800.72(b), standby time shall be computed whenever a Service representative: (1) Has been requested by an applicant to perform a service at a specified time and location; (2) is on duty and is ready to perform the service requested; (3) is unable to perform the service requested because of a delay by the applicant for any reason; and (4) is not released by the applicant for the performance of other duties. Standby time shall be computed to the nearest quarter hour (less mealtime, if any) for each Service representative.

* * * * *

(Secs. 8 and 9, Pub. L. 94–582, 90 Stat. 2873, 2877 (7 U.S.C. 79(j), 79a(1)))

Done in Washington, D.C., on November 25, 1980.

L. E. Bartelt,

Administrator.

[FR Doc. 80-37341 Filed 11-28-80; 8:45 am]

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The following agencies have agreed to publish This is a voluntary program. (See OFR

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1911-1919	5.50	1300-end	6.00
30 Parts:		50	8.00
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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—DECEMBER 1980

This table is for determining dates in documents which give advance notice of compliance, impose time limits on public response, or announce meetings.

Agencies using this table in planning publication of their documents must allow sufficient time for printing production.
In computing these dates, the day after publication is counted as the first day. When a date falls on a weekend or a holiday, the next Federal business day is used. (See 1 CFR 18.17)
A new table will be published in the first issue of each month.
All January, February, and March dates are in 1981.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
December 1	December 16	December 31	January 15	January 30	March 2
December 2	December 17	January 2	January 16	February 2	March 2
December 3	December 18	January 2	January 19	February 2	March 3
December 4	December 19	January 5	January 19	February 2	March 4
December 5	December 22	January 5	January 19	February 3	March 5
December 8	December 23	January 7	January 22	February 6	March 9
December 9	December 24	January 8	January 23	February 9	March 9
December 10	December 26	January 9	January 26	February 9	March 10
December 11	December 26	January 12	January 26	February 9	March 11
December 12	December 29	January 12	January 26	February 10	March 12
December 15	December 30	January 14	January 29	February 13	March 16
December 16	December 31	January 15	January 30	February 17	March 16
December 17	January 2	January 16	February 2	February 17	March 17
December 18	January 2	January 19	February 2	February 17	March 18
December 19	January 5	January 19	February 2	February 17	March 19
December 22	January 6	January 21	February 5	February 20	March 23
December 23	January 7	January 22	February 6	February 23	March 23
December 24	January 8	January 23	February 9	February 23	March 24
December 26	January 12	January 26	February 9	February 24	March 26
December 29	January 13	January 28	February 12	February 27	March 30
December 30	January 14	January 29	February 13	March 2	March 30
December 31	January 15	January 30	February 17	March 2	March 31

CFR CHECKLIST; 1979/1980 ISSUANCES

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1979/1980. New units issued during the month are announced on the back cover of the daily **Federal Register** as they become available.

For a checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription service to all revised volumes is $450 domestic, $115 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1980):

Title	Price
1	$4.50
2 [Reserved]	
3	7.50
4	6.50
5	8.00
6	3.75
7 Parts:	
0–52	8.50
53–209	7.00
210–299	7.00
300–399	5.50
400–699	6.50
700–899	7.00
900–944	7.00
945–980	5.50
981–999	5.50
1000–1059	7.00
1060–1119	7.00
1120–1199	6.00
1200–1499	7.00
1500–1899	6.50
1900–2799	8.50
2852	8.50
2853–end	6.00
8	5.50
9 Parts:	
1–199	7.00
200–end	6.50
10 Parts:	
0–199	7.50
200–499	8.50
500–end	7.50
11 (Rev. 4/1/80)	4.75
12 Parts:	
1–199	6.00
200–299	9.00
300–end	11.00
13	7.00
14 Parts:	
1–59	8.50
60–199	8.50
200–1199	8.00
1200–end	6.00
15	9.00
16 Parts:	
0–149	7.00
150–999	6.00
1000–end	6.50

CFR Unit (Rev. as of Apr. 1, 1980):

17 Parts:	
0–239	7.50
240–end	7.50
18 Parts:	
1–149	7.50
150–end	8.50
19	9.00
20 Parts:	
01–399	5.50
400–499	7.50
500–end	7.50
21 Parts:	
01–99	6.00
100–169	7.00
170–199	6.00
200–299	4.50
300–499	8.00
500–599	7.50
600–799	5.00
800–1299	5.50
1300–end	4.50
22	8.00
23	7.00
24 Parts:	
0–499	11.00
500–1699	9.00
1700–end	6.00
25	8.00
26 Parts:	
1 (§§ 1.0–1.169)	8.50
1 (§§ 1.170–1.300)	6.50
1 (§§ 1.301–1.400)	6.00
1 (§§ 1.401–1.500)	7.00
1 (§§ 1.501–1.640)	6.50
1 (§§ 1.641–1.850)	7.50
1 (§§ 1.851–1.1200)	8.00
1 (§§ 1.1201–end)	9.00
2–29	7.50
30–39	6.50
40–299	7.50
300–499	6.00
500–599	6.50
600–end	5.00
27 Parts:	
1–199	6.50
200–end	7.50

CFR Unit (Rev. as of July 1, 1980):

29 Parts:	
0–499	9.00
1900–1910	9.00
1911–1919	5.50
1300–end	6.00
30 Parts:	
0–199	7.50
50	8.00
31 Parts:	
0–199	6.00
200–end	7.50
32 Parts:	
1–39 (Supplement)	6.00
33 Parts:	
200–end	8.50
34	6.00
37	6.00
40 Parts:	
0–51	7.50
52	8.00
53–80	7.50
81–99	8.50
100–399	13.00
400–424	7.50
425–end	7.50
41 Chapters:	
8	4.50
9 (Supplement)	3.00
18 (Vol. I)	7.50
18 (Vol. II)	9.00
18 (Vol. III)	7.50
102–end	7.00
CFR Index	8.50

CFR Unit (Rev. as of Oct. 1, 1979):

42 Parts:	
1–399	8.00
400–end	8.00
43 Parts:	
1–999	5.50
1000–end	9.00
44	5.50
45 Parts:	
1–99	6.50
100–149	7.00
150–199	7.00
200–499	5.00
500–1199	7.00
1200–end	6.50
46 Parts:	
1–29	4.25
30–40	4.50
41–69	6.50
70–89	4.75
90–109	4.75
110–139	4.25
140–155	5.50
156–165	5.50
166–199	5.25
200–end	8.50
47 Parts:	
0–19	6.50
20–69	8.00
70–79	7.00
80–end	8.00
48 [Reserved]	
49 Parts:	
1–99	4.75
100–177	7.00
178–199	7.00
200–399	7.00
400–999	7.00
1000–1199	7.00
1200–1299	9.00

AGENCY ABBREVIATIONS
Used in Highlights and Reminders

(This List Will Be Published Monthly in First Issue of Month.)

ERA Economic Regulatory Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHA Hearings and Appeals Office, Energy Department

ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office
LMSEO Labor Management Standards Enforcement Office
MSHA Mine Safety and Health Administration
OSHA Occupational Safety and Health Administration
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service

AGENCY ABBREVIATIONS
Used in Highlights and Reminders

(This List Will Be Published Monthly in First Issue of Month.)

USDA Agriculture Department
AMS Agricultural Marketing Service
APHIS Animal and Plant Health Inspection Service
ASCS Agricultural Stabilization and Conservation Service
CCC Commodity Credit Corporation
CEA Commodity Exchange Authority
EMS Export Marketing Service
EOA Energy Office, Agriculture Department
EQOA Environmental Quality Office, Agriculture Department
ESCS Economics, Statistics, and Cooperatives Service
FmHA Farmers Home Administration
FAS Foreign Agricultural Service
FCIC Federal Crop Insurance Corporation
FGIS Federal Grain Inspection Service
FNS Food and Nutrition Service
FS Forest Service
FSQS Food Safety and Quality Service
IGO Inspector General Office
RDS Rural Development Service
REA Rural Electrification Administration
RTB Rural Telephone Bank
SCS Soil Conservation Service
SEA Science and Education Administration
TOA Transportation Office, Agriculture Department

COMMERCE Commerce Department
BEA Bureau of Economic Analysis
Census Census Bureau
EDA Economic Development Administration
FSPSO Federal Statistical Policy and Standards Office
FTZB Foreign-Trade Zones Board
ITA International Trade Administration
MA Maritime Administration
MBDA Minority Business Development Agency
NBS National Bureau of Standards
NOAA National Oceanic and Atmospheric Administration
NSA National Shipping Authority
NTIA National Telecommunications and Information Administration
NTIS National Technical Information Service
PTO Patent and Trademark Office
USTS United States Travel Service

DOD Defense Department
AF Air Force Department
Army Army Department
DCAA Defense Contract Audit Agency
DIA Defense Intelligence Agency
DIS Defense Investigative Service
DLA Defense Logistics Agency
DMA Defense Mapping Agency
DNA Defense Nuclear Agency
EC Engineers Corps
Navy Navy Department

ED Education Department
CROED Civil Rights Office, Education Department
MSI Museum Services Institute
NIE National Institute of Education

DOE Energy Department
APA Alaska Power Administration
BPA Bonneville Power Administration
EIA Energy Information Administration
ERA Economic Regulatory Administration
ERO Energy Research Office
ETO Energy Technology Office
FERC Federal Energy Regulatory Commission
OHA Hearings and Appeals Office, Energy Department
SEPA Southeastern Power Administration
SOLAR Conservation and Solar Energy Office
SWPA Southwestern Power Administration
WAPA Western Area Power Administration

HHS Health and Human Services Department
ADAMHA Alcohol, Drug Abuse, and Mental Health Administration
CDC Centers for Disease Control
ESNC Educational Statistics National Center
FDA Food and Drug Administration
HCFA Health Care Financing Administration
HDSO Human Development Services Office
HRA Health Resources Administration
HSA Health Services Administration
NIH National Institutes of Health
NIOSH National Institute for Occupational Safety and Health
PHS Public Health Service
RRO Refugee Resettlement Office
RSA Rehabilitation Services Administration
SSA Social Security Administration

HUD Housing and Urban Development Department
CARF Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD Community Planning and Development, Office of Assistant Secretary
EQO Environmental Quality Office, Housing and Urban Development Department
FHC Federal Housing Commissioner, Office of Assistant Secretary for Housing
FHEO Fair Housing and Equal Opportunity, Office of Assistant Secretary
GNMA Government National Mortgage Association
ILSRO Interstate Land Sales Registration Office
NCA New Communities Administration
NCDC New Community Development Corporation
NVACP Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR Interior Department
BIA Bureau of Indian Affairs
BLM Bureau of Land Management
FWS Fish and Wildlife Service
GS Geological Survey
HCRS Heritage Conservation and Recreation Service
Mines Mines Bureau
NPS National Park Service
OHA Office of Hearings and Appeals, Interior Department
SMREO Surface Mining Reclamation and Enforcement Office
WPRS Water and Power Resource Service

JUSTICE Justice Department
DEA Drug Enforcement Administration
BJS Bureau of Justice Statistics
INS Immigration and Naturalization Service
LEAA Law Enforcement Assistance Administration
NIC National Institute of Corrections
NIJ National Institute of Justice
OJARS Justice Assistance, Research and Statistics Office
PARCOM Parole Commission

LABOR Labor Department
BLS Bureau of Labor Statistics
BRB Benefits Review Board
ESA Employment Standards Administration

ETA Employment and Training Administration
FCCPO Federal Contract Compliance Programs Office
LMSEO Labor Management Standards Enforcement Office
MSHA Mine Safety and Health Administration
OSHA Occupational Safety and Health Administration
P&WBP Pension and Welfare Benefit Programs
W&H Wage and Hour Division

STATE State Department
FSGB Foreign Service Grievance Board

DOT Transportation Department
CG Coast Guard
FAA Federal Aviation Administration
FHWA Federal Highway Administration
FRA Federal Railroad Administration
MTB Materials Transportation Bureau
NHTSA National Highway Traffic Safety Administration
OHMR Office of Hazardous Materials Regulations
OPSR Office of Pipeline Safety Regulations
RSPA Research and Special Programs Administration
SLSDC Saint Lawrence Seaway Development Corporation
UMTA Urban Mass Transportation Administration

TREASURY Treasury Department
ATF Alcohol, Tobacco and Firearms Bureau
Customs Customs Service
Comptroller Comptroller of the Currency
ESO Economic Stabilization Office (temporary)
FS Fiscal Service
IRS Internal Revenue Service
Mint Mint Bureau
PDB Public Debt Bureau
RSO Revenue Sharing Office
SS Secret Service

Independent Agencies
AC Aging, Federal Council
ANGTS Alaska Natural Gas Transportation System, Office of Federal Inspector
ATBCB Architectural and Transportation Barriers Compliance Board
CAB Civil Aeronautics Board
CASB Cost Accounting Standards Board
CEQ Council on Environmental Quality
CFTC Commodity Futures Trading Commission
CITA Textile Agreements Implementation Committee
CPSC Consumer Product Safety Commission
CRC Civil Rights Commission
CSA Community Services Administration
CWPS Wage and Price Stability Council
EEOC Equal Employment Opportunity Commission
EPA Environmental Protection Agency
ESC Endangered Species Committee
ESSA Endangered Species Scientific Authority
EXIMBANK Export-Import Bank of the U.S.
FCA Farm Credit Administration
FCC Federal Communications Commission
FCSC Foreign Claims Settlement Commission
FDIC Federal Deposit Insurance Corporation
FEC Federal Election Commission
FEMA Federal Emergency Management Agency
FEMA/USFA United States Fire Administration
FFIEC Federal Financial Institutions Examination Council
FHLBB Federal Home Loan Bank Board
FHLMC Federal Home Loan Mortgage Corporation
FLRA Federal Labor Relations Authority
FMC Federal Maritime Commission
FRS Federal Reserve System
FTC Federal Trade Commission
GAO General Accounting Office
GPO Government Printing Office
GSA General Services Administration
GSA/ADTS Automated Data and Telecommunications Service
GSA/FPRS Federal Property Resources Service
GSA/FSS Federal Supply Service
GSA/NARS National Archives and Records Services
GSA/OFR Office of the Federal Register
GSA/PBS Public Buildings Service
GSA/TPUS Transportation and Public Utilities Service
ICA International Communication Agency
ICC Interstate Commerce Commission
ICP Interim Compliance Panel (Coal Mine Health and Safety)
IDCA International Development Cooperation Agency
IDCA/AID Agency for International Development
ITC International Trade Commission
IRLG Interagency Regulatory Liaison Group
LSC Legal Services Corporation
MB Metric Board
MSPB Merit System Protection Board
MWSC Minimum Wage Study Commission
NACEO National Advisory Council on Economic Opportunity
NASA National Aeronautics and Space Administration
NCCB National Consumer Cooperative Bank
NCH National Council for the Handicapped
NCUA National Credit Union Administration
NFAH National Foundation for the Arts and the Humanities
NLRB National Labor Relations Board
NRC Nuclear Regulatory Commission
NSF National Science Foundation
NTSB National Transportation Safety Board
OMB Office of Management and Budget
OMB/FPPO Federal Procurement Policy Office
OPIC Overseas Private Investment Corporation
OPM Office of Personnel Management
OPM/FPRAC Federal Prevailing Rate Advisory Committee
OSTP Office of Science and Technology Policy
PADC Pennsylvania Avenue Development Corporation
PBGC Pension Benefit Guaranty Corporation
PRC Postal Rate Commission
PS Postal Service
ROAP Reorganization Office of Assistant to President
RRB Railroad Retirement Board
SBA Small Business Administration
SEC Securities and Exchange Commission
SFC Synthetic Fuels Corporation
Trade Trade Representative, Office of United States
TVA Tennessee Valley Authority
VA Veterans Administration
WRC Water Resources Council

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

AGRICULTURE DEPARTMENT

Food Safety and Quality Service—

72089 10-31-80 / U.S. standards for grades of Florida grapefruit, tangerines, oranges and tangelos

ENERGY DEPARTMENT

Economic Regulatory Administration—

74432 11-7-80 / Crude oil reseller regulations

ENVIRONMENTAL PROTECTION AGENCY

72147 10-31-80 / Approval and disapproval of revisions to North Coast Air Basin portion of California State Implementation Plan

72151 10-31-80 / Approval of revision to Alabama State Implementation Plan

72158 10-31-80 / Approval of revision to Pennsylvania State Implementation Plan

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

68822 11-30-80 / Diagnostic X-ray systems and their major components; amendments to performance standard

Office of the Secretary—

64911 10-1-80 / Price negotiation policies and techniques

Social Security Administration—

71791 10-30-80 / Federal old-age, survivors, and disability insurance benefits; Payment for medical evidence of record

JUSTICE DEPARTMENT

Drug Enforcement Administration—

64572 9-30-80 / Exempt chemical preparation containing controlled substances

64570 9-30-80 / Pipradrol and SPA in Schedule IV; schedules of controlled substances

64571 9-30-80 / Placement of Sufentanil and Tilidine in Schedule 1; schedules of controlled substances

PENSION BENEFIT GUARANTY CORPORATION

75209 11-14-80 / Valuation of plan benefits; Amendment adopting additional PBGC rates

75210 11-14-80 / Valuation of plan benefits; Mortality rates

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

71960 10-30-80 / Fuel venting and exhaust emission requirements for turbine engine powered airplanes; Compliance with EPA smoke emissions standard for JT 3D engines

TREASURY DEPARTMENT

Internal Revenue Service—

72653 11-3-80 / Manufacturers and retailers excise taxes; tax free articles exported and returned unused to U.S., guidance to importers

Listing of Public Laws

Last Listing November 28, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S.J. Res. 156 / Pub. L. 96-485 To authorize the President to issue a proclamation designating the week of November 23 through 29, 1980, as "National Family Week". (Nov. 26, 1980; 94 Stat. 2368) Price $1

12-2-80
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Pages 79741-80096

federal register

Tuesday
December 2, 1980

Highlights

79741 **Food Stamps** USDA/FNS, in an emergency final rule, sets forth standard deductions and Thrifty Food Plan amounts effective for the period of 1–1–81 through 12–31–81

80012 **Low and Moderate Income Housing** HUD establishes prototype limits for development of low-income public housing and Indian housing new construction projects; effective 12–2–80 (Part II of this issue)

79912 **Grant Programs—Social** HHS/HDSO issues by-annual publication of allotment percentages for States under the Child Welfare Services State Grants Program for Fiscal Years 1982 and 1983

80084 **Air Pollution Control** EPA promulgates rules to assure reasonable progress toward visibility protection for Federal Class I areas (Part IV of this issue)

79957 **Government Employees** OPM is seeking ways in which health benefits carriers can organize and represent a group of comprehensive medical plans under a single contract; comments by 2–2–81

79919 **Polychlorinated Biphenyls (PCB's)** USDA/FSQS extends comment period on proposed regulations affecting use of PCB-containing equipment and liquid PCB in Federally inspected meat, poultry, and egg establishments; comments by 3–4–81

CONTINUED INSIDE

Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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There are no restrictions on the republication of material appearing in the **Federal Register**.

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

79967 **Securities** Treasury/Sec'y announces the auction of Series C–1986 Notes

79759 **Security Information** DOD/Sec'y establishes DOD system for classification, downgrading, declassification, and safeguarding of national security information; effective 10–31–80

79878 **Grant Programs—Education** ED gives notice of cancellation of closing date for new applications for Fiscal Year 1981 in the Biomedical Sciences Program, and announces that the revised closing date for noncompeting continuation applications is 1–7–81

79843 **Government Procurement** OMB makes available for review and comment, portions of draft Federal Acquisition Regulation regarding federal supply schedule contracting and ordering from federal supply schedule contracts; comments by 2–6–81

80078 **Pesticides** Labor/OSHA requests comments and announces public meetings regarding possible regulation of occupational exposure to pesticides during manufacturing and formulating processes; comments by 1–31–81 (Part III of this issue)

79746 **Disaster Assistance** USDA/ASCS amends regulations to impose $100,079846 payment limitation on disaster payments for 1980 and 1981 crops; effective 12–2–80

79846 **Improving Government Regulations** OPM publishes semiannual agenda of regulations

79823 **Eyeglasses** FTC requests comment on its investigation of the impact of various state and private restraints on practice of optometry; comments by 2–2–81

79959 **Government Employees** OPM revises minimum educational requirements for Dietitian and Nutritionist Series to conform with current professional educational standards; effective 12–2–80

Privacy Act Documents

79867 DOD/DMA
79875 DOD/Navy
79876 DOD/Sec'y

79970 **Sunshine Act Meetings**

Separate Parts of This Issue

80012 **Part II, HUD**
80078 **Part III, Labor/OSHA**
80084 **Part IV, EPA**

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Rules and Regulations

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Tuesday, December 2, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 273

[Amdt. 183]

Food Stamp Program: Standard Deductions, Dependent Care/Excess Shelter Expense Deductions and Thrifty Food Plan Amounts for the 48 States and the District of Columbia, Alaska, Hawaii, Guam, the Virgin Islands, and Puerto Rico

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency final rule.

SUMMARY: The Food Stamp Act of 1977, requires that the Thrifty Food Plan (the least costly of the Department's four food plans) be used as the basis for uniform coupon allotments for all households eligible for the Food Stamp Program. The Act also provides that households shall be entitled to a standard deduction amount and a combined deduction amount for dependent care/excess shelter expenses in determining household eligibility. The 1980 amendments to the Act require the Secretary to adjust the Thrifty Food Plan and the deduction amounts each January to reflect price changes published in the Consumer Price Index (CPI) as they relate to items covered by the food plan and the deductions. In accordance with the Act, this emergency final rule sets forth the amounts of the standard deductions, dependent care/excess shelter expense deductions, and Thrifty Food Plan amounts to be effective for the period of January 1, 1981 through December 31, 1981 for the 48 States and the District of Columbia, Alaska, Hawaii, Guam, the Virgin Islands, and Puerto Rico. The 1980 amendments to the Act also specify that the Consumer Price Index for all Urban Consumers (CPI–U) shall be the CPI used for adjusting the deduction amounts. This final rule amends current regulations to require that the CPI–U will also be used to adjust the Thrifty Food Plan, to provide uniformity with adjustments made to the deduction amounts.

Additionally, this final action revises current regulatory language regarding mass changes in eligibility standards to conform with other parts of current regulations which specify that such mass changes will occur annually.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Larry R. Carnes, Chief, Policy and Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250; 202–447–9075. The Final Impact Statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." Robert Greenstein, Administrator, Food and Nutrition Service, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this emergency final action. Pursuant to the administrative procedure provisions in 5 U.S.C. 553; it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest, and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register**, due to the legislative mandate for placing this notice into effect January 1, 1981, and the lead-time needed by State agencies for implementation.

BACKGROUND: Pub. L. 96–249, 94 Stat. 357, May 26, 1980, changed the timing for making adjustments to the Thrifty Food Plan amounts and standard deduction amounts from semi-annual adjustments each July 1 and January 1 to annual adjustments each January 1. The law also specified the annual adjustment to the dependent care/excess shelter expense deduction amounts would be done each January, in lieu of each July. Additionally, the law prescribed the manner in which these annual adjustments will be computed for January 1, 1981, January 1, 1982 each January 1 thereafter.

This final action only addresses the procedures prescribed in Pub. L. 96–249 for computing the January 1, 1981 adjustments. The procedures prescribed for future January adjustments will be addressed at the appropriate time such adjustments will take effect. Some new deduction provisions contained in Pub. L. 96–249 that will also not be addressed until later rulemakings are: an expanded medical deduction for the elderly, a medical deduction for the blind and disabled in certain areas, and the separation of the dependent care deduction from the excess shelter expense deduction. These provisions do not become effective under Pub. L. 96–249 until fiscal year 1982.

On June 13, 1980, the Department issued regulations (45 FR 64067) which, in accordance with Pub. L. 96–249, require the use of the Consumer Price Index for all Urban Consumers (CPI–U) as the instrument for updating the standard deductions and for revising the excess shelter expense deduction ceiling. The actual amendatory language of Pub. L. 96–249 to mandate this change did not specifically result in a mandate to also use the CPI–U when updating the Thrifty Food Plan to reflect food price changes published by the Bureau of Labor Statistics (BLS), Office of Management and Budget. In absence of explicit legislative mandate in this regard, the Department tested the effect of using the CPI–U in updating the Thrifty Food Plan. For three consecutive months (June, July and August 1980), the Department computed changes to the Thrifty Food Plan for a 4-person household (48 States and D.C.) based on both the CPI–U and CPI–W. After applying established rounding procedures, there was no significant difference between the two sets of figures. In light of this, the Department has adopted the use of the CPI–U for updating the Thrifty Food Plan amounts. Additionally, this action establishes a uniform updating procedure between the

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revisions to the income standards, the deduction ceilings and the Thrifty Food Plan, which all have a direct bearing on determining the amount of coupons households are entitled to receive. Therefore, food price adjustments to the Thrifty Food Plan (the plan used in adjusting coupon allotments) for the 48 States and the District of Columbia, Alaska, and Hawaii will be made using the CPI–U.

Additionally, because the Thrifty Food Plan for Alaska does not include data for any population center other than Anchorage, the Department developed an interim formula to adjust this Thrifty Food Plan to reflect higher food prices in cities and towns outside of Anchorage. This additional adjustment to the Alaska Thrifty Food Plan was first used with the January 1980 updates and has again been used for January 1981. The adjustment to the Alaska Thrifty Food Plan includes a 9.3% increase over the amount of the adjustment which would have been derived using only the food price data for Anchorage.

Food prices for Puerto Rico are obtained monthly from the pricing system under the Government of the Commonwealth of Puerto Rico; food prices for the Virgin Islands and Guam are collected under special arrangements between the Department and the Bureau of Labor Statistics (BLS) during March, June, September and December. As mandated by the Food Stamp Act of 1977, the cost of the Thrifty Food Plan is adjusted to reflect the cost of food in Puerto Rico, the Virgin Islands, and Guam but cannot exceed the cost of food in the fifty States and the District of Columbia.

Thrifty Food Plan—48 States and the District of Columbia, Alaska, Hawaii, Guam, the Virgin Islands and Puerto Rico

Section 3(0) of the Food Stamp Act of 1977, as amended by Pub. L. 96–249, requires that the Thrifty Food Plan shall be the basis for uniform allotments for all households regardless of their actual composition, except that the Secretary shall: (1) make cost adjustments taking into account economies of scale; (2) make household size adjustments in the Thrifty Food Plans for Alaska and Hawaii to reflect the cost of food in those States; (3) make cost adjustments in the separate Thrifty Food Plans for Guam, Puerto Rico, and the Virgin Islands of the United States to reflect the cost of food in those States, but not to exceed the cost of food in the fifty States and the District of Columbia; and (4) adjust the cost of such diet every January 1st to the nearest dollar increment to reflect changes in the cost of food. For January 1, 1981, the adjustment to the Thrifty Food Plan shall reflect changes in the cost of food for the 12 months ending the preceding September 30. Under this provision, an adjustment has been made in the cost of the Thrifty Food Plan amounts by household size for all areas, except Puerto Rico (appearing in Appendix A of § 273.10 of the Food Stamp Program Regulations). The adjustments in all areas are based on the cost of the Thrifty Food Plan in September. The September price data for Puerto Rico is not yet available; therefore, the adjustments to the Thrifty Food Plan for Puerto Rico will be published in a later rulemaking.

Standard Deductions—48 States and the District of Columbia, Alaska, Hawaii, Guam, the Virgin Islands, and Puerto Rico

Section 5(e) of the Food Stamp Act of 1977, as amended by Pub. L. 96–249, provides that a standard deduction shall be used in computing household income. Such standard deduction shall be adjusted annually every January 1 to the nearest $5 to reflect changes in the CPI–U for items other than food. For January 1, 1981, the adjustment to the standard deduction shall reflect changes for the 12 months ending the preceding September 30. In accordance with the Act, the standard deduction, effective for the period of January 1, 1981 through December 31, 1981 for the 48 States and District of Columbia shall be $85. The standard deductions for the outlying areas (appearing in Appendix B of § 273.9 of the Food Stamp Program Regulations) shall be $145 in Alaska, $120 in Hawaii, $170 in Guam, $75 in the Virgin Islands, and $50 in Puerto Rico.

Dependent Care/Shelter Deductions—48 States and the District of Columbia, Alaska, Hawaii, Guam, the Virgin Islands, and Puerto Rico

Section 5(e) of the Food Stamp Act of 1977, as amended by Pub. L. 96–249, provides that households shall also be entitled to a dependent care deduction, the maximum allowable level of which shall be the same as that for the excess shelter expense deduction. The Act also requires that the maximum amount of excess shelter deduction or combination of both be adjusted annually each January to the nearest $5 increment to reflect changes in the shelter, fuel, and utilities component of the housing costs portion of the CPI–U. For January 1, 1981, the adjustment to the dependent care/excess shelter expense deduction shall reflect changes for the 18 months ending the preceding September 30. In accordance with the Act, effective for the period of January 1, 1981 through December 31, 1981, the dependent care/excess shelter deduction for the 48 States and the District of Columbia shall be $115. The dependent care/excess shelter expense deductions for the outlying areas (appearing in Appendix C of § 273.9 of the Food Stamp Program Regulations), shall be $200 in Alaska, $165 in Hawaii, $140 in Guam, $40 in Puerto Rico, and $85 in the Virgin Islands.

Conforming Revisions to the CFR

In 7 CFR Part 273, § 273.12, paragraph (e)(1) relating to mass changes for the Federal adjustments to eligibility standards, allotments, and deductions is being revised to reflect that such mass changes will now occur annually each January for the allotments and deductions and each July for the income eligibility standards.

Accordingly, Part 273 of the regulations is amended as follows:

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

7 CFR Part 273 is amended as follows:

§ 273.9 [Amended]

(1) In § 273.9, paragraphs (d)(1), (d)(4) and (d)(5) are amended by:

(a) Changing the figure of $75 appearing in the first sentence of paragraph (d)(1) to read $85.

(b) Changing the figure of $90 appearing in the second sentence of both paragraphs (d)(4) and (d)(5) to read $115, respectively.

* * * * *

(2) Appendixes B and C to § 273.9 are revised as follows:

Appendix B.—*Standard deductions for the outlying areas*

Outlying area	Previous unrounded standard deduction (January–December 1980)	Unrounded standard deduction [1] (January–December 1981)	Rounded standard deduction (January–December 1981)
Alaska	129.04	146.09	145
Hawaii	107.89	122.14	120
Guam	150.16	170.00	170
Puerto Rico	45.20	51.17	50
Virgin Islands	64.15	72.62	75

[1] CPI adjustment for the period of September 1979 to September 1980 is 1.1321.

Appendix C.—*Maximum excess shelter/dependent care deductions for the outlying areas*

Outlying area	Previous unrounded shelter deducton (July 1979–December 1980)	Unrounded shelter deduction [1] (January–December 1981)	Rounded shelter deduction (January–December 1981)
Alaska	157.87	198.21	200
Hawaii	131.56	165.18	165
Guam	110.69	138.98	140
Puerto Rico	32.68	41.01	40
Virgin Islands	67.15	84.31	85

[1] CPI adjustment for shelter, fuel, utilities for the period of March 1979 to September 1980 is 1.25554.

(3) In § 273.10, paragraph (e)(4)(ii) is revised to read as follows:

§ 273.10 Determining household eligibility and benefit level.

* * * * *

(e) *Calculation of net income and benefit levels.* * * *

* * * * *

(4) * * *

(ii) *Annual adjustment.* Effective January 1, 1981, the Thrifty Food Plan amounts shall be adjusted annually to reflect changes in the Consumer Price Index for all Urban Consumers (CPI–U) for the cost of food. The annual adjustments shall be rounded to the nearest whole dollar (amounts of 50 cents shall be rounded to the next highest whole dollar). The January 1, 1981 adjustment shall reflect changes in the price of food for the 12 months ending the preceding September 30.

* * * * *

(4) Appendix A to § 273.10 is revised to read as follows:

§ 273.10 Determining household eligibility and benefit levels.

* * * * *

Appendix A

Thrifty Food Plan—48 States and the District of Columbia, Alaska, Hawaii, Guam, The Virgin Islands, and Puerto Rico

Benefit determination. To determine the monthly allotment to be issued to households: Subtract 30 percent of the household's net monthly income from the Thrifty Food Plan amount shown below for that size household for the appropriate area involved, as set forth in § 273.10(e)(2)(ii). (All one- and two-person households shall receive a minimum monthly allotment of $10.00):

Thrifty Food Plan Amounts—September 1980

Household size	48 States [1] and District of Columbia	Alaska [2]	Hawaii [3]	Guam [3]	Virgin Islands [3]
1	$70	108	80	101	88
2	128	197	175	185	161
3	183	283	250	256	230
4	233	359	316	337	292
5	277	426	378	400	347
6	332	512	453	480	416
7	367	565	501	531	460
8	419	646	572	607	526
Each additional member	+53	+81	+72	+76	+66

[1] Adjusted to reflect the cost of food in September and adjusted for each household size in accordance with economics of scale.

[2] Adjusted to reflect cost of food in this State based on September food price data increased by 9.3 percent to account for higher food prices in cities and towns outside of Anchorage.

[3] Adjusted to reflect cost of food in this State based on September food price data.

(5) In § 273.12, paragraph (e)(1)(i) is revised to read as follows:

§ 273.12 Reporting changes.

* * * * *

(e) *Mass changes.* * * *

(1) *Federal adjustments to eligibility standards, allotments, and deductions, and State adjustments to utility standards.* (i) These adjustments shall go into effect for all households at a specific point in time. Annual adjustments to the Thrifty Food Plan, the standard deduction, and the shelter/dependent care deduction shall be effective for all January issuances. Annual adjustments to the income eligibility standards shall be effective for all July issuances. State agencies may wish to consider timing the annual adjustments of their utility standards to coincide with the Federal shelter deduction adjustment.

* * * * *

(91 Stat 958 (7 U.S.C. 2011–2027)).

(Catalog of Federal Domestic Assistance, No. 10.551, Food Stamp)

Carol Tucker Foreman,

Assistant Secretary.

November 21, 1980.

[FR Doc. 80-37278 Filed 12-1-80; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Stabilization and Conservation Service

7 CFR Part 713

[Amdt. 4]

Feed Grain, Upland Cotton and Wheat Programs for Crop Years 1978–81

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Emergency final rule.

SUMMARY: The Federal Crop Insurance Act of 1980 (Pub. L. 96–365, 94 Stat. 1312, approved September 26, 1980) extends through the 1981 crops, the disaster provisions of the feed grain, upland cotton, wheat, and rice programs administered by the Agricultural Stabilization and Conservation Service (ASCS). Furthermore, the Federal Crop Insurance Act of 1980 (hereinafter referred to as "the Act") authorizes the Federal Crop Insurance Corporation (FCIC) to pay a portion of the premium for crop insurance coverage. However, the Act amended the Agricultural Act of 1949 to prohibit a producer from being eligible for the 1981 crop year for both subsidized Federal Crop Insurance and disaster payments (low yield and prevented planting) under the feed grain, upland cotton, wheat and rice programs. This prohibition applies to the producer's share of production from any acreage for a particular crop on the same farm. This document implements the provisions of the Act of 1980 as the provisions pertain to feed grains, upland cotton and wheat. The provisions of the Act of 1980 relating to the rice program will be incorporated by amendment to 7 CFR Part 730.

EFFECTIVE DATE: December 2, 1980. Written comments may be submitted no later than February 2, 1981.

ADDRESS: Interested persons are invited to send written comments to Director, Production Adjustment Division; Agricultural Stabilization and Conservation Service, USDA, Room 3630–S; P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles J. Riley at the above address. (202) 447–7633. The Final Impact Statement describing the options considered in developing this emergency final rule and the impact of implementing each option is being prepared and will shortly be available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: Program titles and numbers from the "Catalog of Federal Domestic Assistance" are: Cotton Production Stabilization, 10.052; Feed Grain Production Stabilization, 10.055; and Wheat Production Stabilization, 10.058. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

This emergency final rule has been reviewed under USDA procedures

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established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." In compliance with Secretary's Memorandum No. 1955 and the final report issued by the Secretary with respect to Executive Order 12044 and entitled "Improving USDA Regulations" (43 FR 50988), it is determined after review of these regulations contained in 7 CFR Part 713 for need, currency, clarity and effectiveness, that no additional changes be proposed at this time. Any comments which are offered during the public comment period on these proposals, however, will be evaluated.

Ray Fitzgerald, Administrator, Agricultural Stabilization and Conservation Service (ASCS) has determined that an emergency situation exists which warrants publication without opportunity for public comment period on this final action. Farmers are now planting or have planted their winter wheat and barley. FCIC will shortly request those producers to elect whether or not to receive subsidized crop insurance. Therefore, it is important that the changes being made in this final rule be announced as soon as possible.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 533, and Executive Order 12044, it is found upon good cause that notice and other public rulemaking requirements with respect to this emergency final action are impracticable and contrary to the public interest, and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.** Comments will be solicited for 60 days after publication of this document. This emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Under the Act, producers can purchase crop insurance that will reimburse them for crop losses of up to 75 percent of their yield. These producers can elect to have FCIC subsidize the premium. The maximum amount that FCIC will subsidize is up to 30 percent of the premium for coverage of crop losses for up to 65 percent of the established crop yield. The Act also amends the Agricultural Act of 1949 in order to extend the disaster payment provisions of the feed grain, upland cotton, wheat, and rice programs as administered by ASCS through the 1981 crop. However, the Act provides that a producer who elects to take advantage of the subsidized crop insurance for the producer's interest in the particular crop is ineligible for disaster payments under the ASCS programs for that producer's share of the particular crop on the farm.

This emergency final rule amends the current program regulations found at 7 CFR Part 713 to incorporate these provisions. In accordance with the Act, this amendment provides that:

(a) A producer who has elected to receive subsidized crop insurance from FCIC with respect to the producer's interest in one or more of the 1981 wheat, feed grain and upland cotton crops on a farm is ineligible to receive disaster payments (prevented planting and low yield) from ASCS with respect to the producer's interest in any such crop on the farm.

(b) A producer on a farm will not be considered to have subsidized insurance on a crop on that farm unless the producer's interest in any portion of the acreage of the crop on that farm is actually insured. As described in the FCIC insurance policy, insurance will not attach to a given acreage under specified circumstances. If the insurance for a particular commodity does not attach to any of the acreage on a farm in which the producer has an interest, the producer remains eligible for ASCS disaster payments for the producer's share of that commodity on the farm.

(c) The election between subsidized crop insurance coverage and eligibility for ASCS disaster payments applies to the producer's share of the crop on the farm. Thus, if two producers share in a crop, one producer can elect to obtain subsidized insurance without affecting the other producer's eligibility for ASCS disaster payments. In order to be eligible for ASCS disaster payments, the producer must certify that the producer's share of the crop on the farm as reported to ASCS and FCIC, is identical.

(d) The total quantity of the crop produced on the farm eligible for deficiency payments will be reduced by the total quantity of the crop on which low yield disaster payments are made in accordance with the Agricultural Act of 1949, as amended. This reduction of payments will be calculated on the basis of the producer's share in the production of the crop rather than on the basis of total production of the crop on the farm. (No change is required in § 713.19 to implement this interpretation.) Thus, if two producers share in a crop, with one producer electing ASCS disaster payment eligibility and the other electing subsidized Federal Crop Insurance, and the farm would otherwise qualify for low yield payment, payments would be as follows:

(1) The producer who receives a low yield payment would receive a reduced deficiency payment. (Pursuant to the Agricultural Act of 1949, as amended, the deficiency payment for this producer would be based on the producer's share of the total quantity of the production of the crop on the farm eligible for deficiency payments less the producer's share of quantity of production of the crop on the farm on which a low yield disaster payment is made.)

(2) The producer who is ineligible for a low yield payment due to the producer's election to obtain subsidized FCIC crop insurance would receive the full deficiency payment.

Accordingly, the regulations at 7 CFR Part 713 are amended as follows:

Final Rule

Section 713.16 is amended by revising the first sentence and by adding a paragraph (c) to read as follows:

§ 713.16 Disaster payments.

Prevented planting and low yield disaster payments are authorized only for 1978 through 1981. * * *

* * * * *

(c) *Ineligibility of producers with subsidized crop insurance.*

(1) A producer shall be ineligible for disaster payments under this section for the producer's interest in a particular crop on a farm when all of the following conditions apply:

(i) The producer has obtained crop insurance for the producer's interest for that crop on the farm from the Federal Crop Insurance Corporation (FCIC).

(ii) The producer has elected pursuant to the Federal Crop Insurance Act of 1980 (Pub. L. 96–365, 94 Stat. 1312, approved September 26, 1980), to pay a reduced premium for the insurance (i.e., has "subsidized insurance").

(iii) Some of the crop acreage on the farm in which the producer has an interest is actually insured under the terms of the insurance policy.

(2) Each producer shall certify on the application for payment:

(i) Whether or not the producer has subsidized crop insurance on the producer's share of the crop on the farm.

(ii) When the producer has obtained subsidized FCIC insurance, that the interest of the producer in the crop on the farm reported to ASCS is identical to that reported to FCIC. ASCS payment shares may differ from the interest in the crop only in accordance with division of payment rules in Part 794 of this chapter.

(3) Terminating or voiding of the FCIC insurance policy after an insurable acreage is planted shall not reestablish eligibility for ASCS disaster payments.

(Secs. 103(f), 105A, 107A, and 1001, 91 Stat. 934, 91 Stat. 928, 91 Stat. 921, 94 Stat. 119, 94 Stat. 1312; 7 U.S.C. 1444(f), 7 U.S.C. 1444c, 7 U.S.C. 1445b, 7 U.S.C. 1421 note, 7 U.S.C. 1501 note)

Signed at Washington, D.C. on November 21, 1980.

Bill Cherry,

Acting Administrator, ASCS.

[FR Doc. 80-37296 Filed 12-1-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 730

[Amdt. 3]

Rice Program for Crop Years 1978–81

AGENCY: Agricultural Stabilization and Conservation Service.

ACTION: Emergency final rule.

SUMMARY: The Federal Crop Insurance Act of 1980 (Pub. L. 96–365, 94 Stat. 1312, approved September 26, 1980) extends through the 1981 crops, the disaster provisions of the feed grain, upland cotton, wheat, and rice programs administered by the Agricultural Stabilization and Conservation Service (ASCS). Furthermore, the Federal Crop Insurance Act of 1980 (hereinafter referred to as "the Act") authorizes the Federal Crop Insurance Corporation (FCIC) to pay a portion of the premium for crop insurance coverage. However, the Act amended the Agricultural Act of 1949 to prohibit a producer from being eligible for the 1981 crop year for both subsidized Federal Crop Insurance and disaster payments (low yield and prevented planting) under the feed grain, upland cotton, wheat and rice programs. This prohibition applies to the producer's share of production from any acreage for a particular crop on the same farm. This document implements the provisions of the Act as the provisions pertain to rice. The provisions of the Act relating to the feed grain, wheat, and upland cotton programs will be incorporated by amendment to 7 CFR Part 713.

EFFECTIVE DATE: December 2, 1980. Written comments may be submitted no later than February 2, 1981.

ADDRESS: Interested persons are invited to send written comments to Director, Production Adjustment Division; Agricultural Stabilization and Conservation Service, USDA, Room 3630–S; P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Charles J. Riley at the above address. (202) 447–7633. The Final Impact Statement describing the options considered in developing this emergency final rule and the impact of implementing each option is being prepared and will shortly be available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: Program title and number from the "Catalog of Federal Domestic Assistance" is: Rice Production Stabilization, 10.065. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local government are informed of this action.

This emergency final rule has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." In compliance with Secretary's Memorandum No. 1955 and the final report issued by the Secretary with respect to Executive Order 12044 and entitled "Improving USDA Regulations" (43 FR 50988), it is determined after review of these regulations contained in 7 CFR Part 730 for need, currency, clarity and effectiveness, that no additional change be proposed at this time. Any comments which are offered during the public comment period on these proposals, however, will be evaluated.

Ray Fitzgerald, Administrator, Agricultural Stabilization and Conservation Service (ASCS) has determined that an emergency situation exists which warrants publication without opportunity for public comment period on this final action. Farmers are now preparing to plant their rice acreage. FCIC will shortly request those producers to elect whether or not to receive subsidized crop insurance. Therefore, it is important that the changes being made in this final rule be announced as soon as possible.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 533, and Executive Order 12044, it is found upon good cause that notice and other public rulemaking requirements with respect to this emergency final action are impracticable and contrary to the public interest, and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.** Comments will be solicited for 60 days after publication of this document. This emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Under the Act, producers can purchase crop insurance that will reimburse them for crop losses up to 75 percent of their yield. These producers can elect to have FCIC subsidize the premium. The maximum amount that FCIC will subsidize is up to 30 percent of the premium for coverage of crop losses for up to 65 percent of the established crop yield. The Act also amends the Agricultural Act of 1949 in order to extend the disaster payment provisions of the feed grain, upland cotton, wheat, and rice programs as administered by ASCS through the 1981 crop. However, the Act provides that a producer who elects to take advantage of the subsidized crop insurance for the producer's interest in the particular crop is ineligible for disaster payments under the ASCS programs for that producer's share of the particular crop on the farm.

This emergency final rule amends the current program regulations found at 7 CFR Part 730 to incorporate these provisions. In accordance with the Act, this amendment provides that:

(a) A producer who has elected to receive subsidized crop insurance from FCIC with respect to the producer's interest in the rice crop on a farm is ineligible to receive disaster payments (prevented planting and low yield) from ASCS with respect to the producer's interest in the rice on the farm.

(b) A producer on a farm will not be considered to have subsidized insurance on rice on that farm unless the producer's interest in any portion of the acreage of the crop on that farm is actually insured. As described in the FCIC insurance policy, insurance will not attach to a given acreage under specified circumstances. If the insurance for a particular commodity does not attach to any of the acreage on a farm in which the producer has an interest, the producer remains eligible for ASCS disaster payments for the producer's share of that commodity on the farm.

(c) The election between subsidized crop insurance coverage and eligibility for ASCS disaster payments applies to the producer's share of the crop on the farm. Thus, if two producers share in a crop, one producer can elect to obtain subsidized insurance without affecting the other producer's eligibility for ASCS disaster payments. In order to be eligible for ASCS disaster payments, the producer must certify that the producer's share of the crop on the farm, as reported to ASCS and FCIC, is identical.

(d) The total quantity of the crop produced on the farm eligible for deficiency payments will be reduced by

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the total quantity of the crop on which low yield disaster payments are made in accordance with the Agricultural Act of 1949, as amended. This reduction of payments will be calculated on the basis of the producer's share in the production of the crop rather than on the basis of the total production of the crop on the farm. (No change is required in § 713.19 to implement this interpretation.) Thus, if two producers share in a corp, with one producer electing ASCS disaster payment eligibility and the other electing subsidized Federal Crop Insurance, and the farm would otherwise qualify for low yield payment, payments would be as follows:

(1) The producer who receives a low yield payment would receive a reduced deficiency payment. (Pursuant to the Agricultural Act of 1949, as amended, the deficiency payment for this producer would be based on the producer's share of the total quantity of the production of the crop on the farm eligible for deficiency payments less the producer's share of quantity of production of the crop on the farm on which a low yield disaster payment is made.)

(2) The producer who is ineligible for a low yield payment due to the producer's election to obtain subsidized FCIC crop insurance would receive the full deficiency payment.

Accordingly, the regulations at 7 CFR Part 730 are amended as follows:

Final Rule

Section 730.25 is amended by revising the first sentence and by adding a paragraph (c) to read as follows:

§ 730.25 Disaster payments.

Prevented planting and low yield disaster payments are authorized only for 1978 through 1981. * * *

* * * * * *

(c) *Ineligibility of producers with subsidized crop insurance.*

(1) A producer shall be ineligible for disaster payments under this section for the producer's interest in rice on a farm when all of the following conditions apply:

(i) The producer has obtained crop insurance for the crop year for the producer's interest in rice on the farm from the Federal Crop Insurance Corporation (FCIC).

(ii) The producer has elected pursuant to the Federal Crop Insurance Act of 1980 (Pub. L. 96-365, 94 Stat. 1312, approved September 26, 1980), to pay a reduced premium for the insurance (i.e., has "subsidized insurance").

(iii) Some of the crop acreage on the farm in which the producer has an interest is actually insured under the terms of the insurance policy.

(2) Each producer shall certify on the application for payment:

(i) Whether or not the producer has subsidized crop insurance on the producer's share of the crop on the farm.

(ii) When the producer has obtained subsidized FCIC insurance, that the interest of the producer in the crop on the farm reported to ASCS is identical to that reported to FCIC. ASCS payment shares may differ from the interest in the crop only in accordance with division of payment rules in Part 794 of this chapter.

(3) Terminating or voiding of the FCIC insurance policy after an insurable acreage is planted shall reestablish eligibility for ASCS disaster payments.

(Secs. 101(h), 408(b), and 1001 of the Agricultural Act of 1949, as amended, 91 Stat. 940, 91 Stat. 944, 94 Stat. 119 (7 U.S.C. 1441, 1428(b), 1421 note); sec. 352 of the Agricultural Adjustment Act of 1938, as amended, 52 Stat. 60, 91 Stat. 940 (7 U.S.C. 1352))

Signed at Washington, D.C. on November 21, 1980.

Bill Cherry,

Acting Administrator, ASCS.

[FR Doc. 80-37295 Filed 12-1-80; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 795

Annual Programs for Wheat, Feed Grains, Upland Cotton and Rice; Disaster Payment Limitation

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document amends the payment limitation regulations to impose a $100,000 payment limitation on disaster payments for the 1980 and 1981 crops that a person is entitled to receive under one or more of the annual programs for wheat, feed grains, upland cotton, and rice, as required by the Food and Agriculture Act of 1977, as amended by the Agricultural Adjustment Act of 1980.

EFFECTIVE DATE: December 2, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Coplin, Production Adjustment Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447-4541.

SUPPLEMENTARY INFORMATION: Program titles and numbers from the "Catalog of Federal Domestic Assistance" are: Cotton Production Stabilization, 10.052; Feed Grain Production Stabilization, 10.55; and Wheat Production Stabilization, 10.058, and Rice Production Stabilization, 10.065. This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant." In compliance with Secretary's Memorandum No. 1955 and the final report issued by the Secretary with respect to Executive Order 12044 and entitled "Improving USDA Regulations" (43 FR 50988), it is determined after review of these regulations contained in 7 CFR Part 795 for need, currency, clarity and effectiveness, that no additional changes be proposed at this time. J. A. Wells, Director, Production Adjustment Division, Agricultural Stabilization and Conservation Service, has determined that since these changes in the regulations governing the maximum payment limitations for the 1980 and 1981 crops are mandated by the Food and Agriculture Act of 1977, as amended by the Agricultural Adjustment Act of 1980, it is hereby found and determined that compliance with notice and public procedure requirements of Executive Order 12044 and 5 U.S.C. 533 are impracticable and contrary to the public interest, and good cause is found for making this final action effective less than 30 days after publication in the **Federal Register.** Thus, this final rule shall become effective December 2, 1980.

This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A-95, was not used to assure that units of local government are informed of this action.

The regulations are revised in accordance with Section 101 of the Food and Agriculture Act of 1977, as amended (Pub. L. 95-113, 91 Stat. 917, approved September 29, 1977), which provides that the total amount of payments a person shall be entitled to receive under one or more of the wheat, feed grains and upland cotton programs shall be limited to $40,000 for the 1978 crop, $45,000 for the 1979 crop and $50,000 for each of the 1980 and 1981 crops. Section 101 of the Food and Agriculture Act of 1977, as amended, also changed the limitation payments under the rice program to $52,250 for the 1978 crop, $50,000 for the 1979 crop, and $50,000 for each of the 1980 and 1981 crops. The statute provides an exclusion for any part of any payment which is determined by the Secretary to represent compensation for disaster loss or resource adjustment (excluding land diversion payments) or public access for recreation. The Agricultural Adjustment Act of 1980 (Pub. L. 96-213, 94 Stat. 119, approved March 18, 1980) provides that, effective for the 1980 and 1981 crops, the total amount of disaster payments that a person shall be entitled to receive under one or more of the annual programs for wheat, feed grains, upland cotton, and rice shall not exceed $100,000.

Accordingly, 7 CFR 795 is amended as follows, effective beginning with the 1980 crop year:

Final Rule

1. Section 795.1 is amended by revising paragraphs (a) and (b) to read as follows:

§ 795.1 Basis and purpose.

(a) Section 101 of the Agricultural Act of 1970, as amended by the Agriculture and Consumer Protection Act of 1973, provides that the total amount of payments a person shall be entitled to receive under one or more of the annual programs for wheat, feed grains, and upland cotton for the 1974 through 1977 crops shall not exceed $20,000. Section 101 of the Food and Agriculture Act of 1977, as amended (Pub. L. 95-113, 91 Stat. 917, approved September 29, 1977), changed the limitation for wheat, feed grains, and upland cotton to $40,000 for the 1978 crop, $45,000 for the 1979 crop and $50,000 for each of the 1980 and 1981 crops and provided an exclusion for any part of any payment which is determined by the Secretary to represent compensation for disaster loss or resource adjustment (excluding land diversion payments) or public access for recreation. The Agricultural Adjustment Act of 1980 (Pub. L. 96-213, 94 Stat. 119, approved March 18, 1980) provides that, effective for the 1980 and 1981 crops, the total amount of disaster payments that a person shall be entitled to receive under one or more of the annual programs for wheat, feed grains, upland cotton, and rice shall not exceed $100,000.

(b) Section 101 of the Agricultural Act of 1949, as amended by the Rice Production Act of 1975, provides that the total amount of payments which a person shall be entitled to receive during a crop year under the rice program for 1976 and 1977 under the Act shall not exceed $55,000. Section 101 of the Food and Agriculture Act of 1977, as amended, changed the limitation for rice to $52,250 for the 1978 crop, $50,000 for the 1979 crop, $50,000 for one or more of the annual programs for wheat, feed grains, upland cotton, and rice for each of the 1980 and 1981 crops, and provided an exclusion for any part of any payment which is determined by the Secretary to represent compensation for disaster loss or resource adjustment (excluding land diversion payments) or public access for recreation. The Agricultural Adjustment Act of 1980 provides that effective for the 1980 and 1981 crops, the total amount of disaster payments that a person shall be entitled to receive under one or more of the annual programs for wheat, feed grains, upland cotton, and rice shall not exceed $100,000.

2. Section 795.2 is amended by revising paragraphs (a), (b) and (c) to read as follows:

§ 795.2 Applicability.

(a) The provisions of this part are applicable to all payments made pursuant to the regulations in this chapter for 1978 through 1981 wheat, feed grains, upland cotton and rice programs, as provided for by the Agricultural Act of 1949, as amended.

(b) For 1978 and 1979 crop years:

(1) The total amount of payments which a person shall be entitled to receive under one or more of the annual programs for wheat, feed grains, and upland cotton shall be limited to $40,000 for 1978 and $45,000 for 1979, respectively.

(2) The total amount of payments which a person shall be entitled to receive under the annual rice program shall be limited to $52,250 for 1978 and $50,000 for 1979, respectively.

(3) The limitation shall not be applicable to loans and purchases or any part of any payment which represents compensation for disaster loss or resource adjustment (excluding land diversion payments) or public access for recreation.

(c) For the 1980 and 1981 crop year:

(1) The total amount of payments (excluding disaster payments) which a person shall be entitled to receive under one or more of the annual programs for wheat, feed grains, upland cotton, and rice shall not exceed $50,000. This limitation shall not be applicable for loans, purchases, resource adjustments (excluding land diversion payments), or public access for recreation.

(2) The total amount of disaster payments that a person shall be entitled to receive under any one or more the annual programs for wheat, feed grains, upland cotton, or rice, for any crop year, shall not exceed $100,000.

(Sec. 101, Pub. L. 91-524, 84 Stat. 1358 (7 U.S.C. 1307) as amended by Pub. L. 93-86, 87 Stat. 221; Pub. L. 95-156, 91 Stat. 1264 (7 U.S.C. 1337 note); sec. 101, Pub. L. 95-113, 91 Stat. 917 (7 U.S.C. 1308) as amended by Pub. L. 96-213, 94 Stat. 120)

Signed at Washington, D.C. on November 21, 1980.

Bill Cherry,

Acting Administrator, Agricultural Stabilization and Conservation.

[FR Doc. 80-37297 Filed 12-1-80; 8:45 am]

BILLING CODE 3410-05-M

Farmers Home Administration

7 CFR Part 1901

Loan and Grant Approval Authorities

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is revising its regulation regarding its loan and grant approval authorities. The intended effect of this section is to reflect the responsibilities of the District Directors. This is a result of the internal reorganization in the agency.

EFFECTIVE DATE: December 2, 1980.

FOR FURTHER INFORMATION CONTACT: Antonio O. Izquierdo, Loan Officer, Rural Rental Housing Loan Division, Room 5331, South Agriculture Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, Telephone: (202) 447-7207.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's memorandum 1955 to implement Executive Order 12044, and has been determined to be exempt from those requirements. Richard A. Gartman, Management Analyst, made this determination because this item involves only agency management. The FmHA programs and projects which are affected by this instruction are subject to state and local clearinghouse review in the manner delineated in FmHA Instruction 1901-H.

The Catalog of Federal Domestic Assistance Numbers are:

10.405 Farm Labor Housing Loans and Grants
10.410 Low to Moderate Income Housing Loans
(Rural Housing Loans—Section 502—Insured)
10.411 Rural Housing Site Loans
(Section 523 and 524 Site Loans)
10.415 Rural Rental Housing Loans
10.417 Very Low-Income Housing Repair Loans and Grants
10.420 Rural Self-Help Housing Technical Assistance)
(Section 523 Technical Assistance)
10.422 Business and Industrial Loans
10.427 Rural Rental Assistance Payments
10.429 Above Moderate Income Housing Loans
(Guaranteed Rural Housing Loans)
10.431 Technical and Supervisory Assistance Grants

Subpart A of Part 1901, Title 7, Code of the Federal Regulations, is revised to read as follows:

Subpart A—Loan and Grant Approval Authorities

Sec.
1901.1 Purpose

delegate their approval authorities to State Office employees within the applicable loan program by issuing a State Supplement.

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Reg. D; Docket No. R-0332]

acquired from its United States offices. This amendment affects the amount of required reserves on Eurocurrency liabilities for depository institutions

foreign bank (including offices thereof located outside the United States) after deducting a capital equivalency allowance, and (2) assets held by its

October 6, 1979, from its United States offices, and

(iii) Credit outstanding from its non-United States offices to United States

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Subpart A—Loan and Grant Approval Authorities

Sec.
1901.1 Purpose
1901.2 Policy
1901.3 Approval Documents
1901.4 Authorities and Responsibilities
1901.5 Other program considerations
1901.6—1901.50 [Reserved]

Authority: 42 U.S.C. 1480, 7 U.S.C. 1819, 5 U.S.C. 301; sec. 10 Pub. L. 93–357, 88 Stat. 392, Title II of the Emergency Agricultural Adjustment Act of 1978, 92 Stat. 429, 7 CFR 2.23, 7 CFR 2.70.

PART 1901—PROGRAM RELATED INSTRUCTIONS

Subpart A—Loan and Grant Approval Authorities

§ 1901.1 Purpose.

This subpart contains the loan and grant approval authorities by program of field officials of the Farmers Home Administration (FmHA).

§ 1901.2 Policy.

The loan and grant approval authorities will be given to the County Supervisor and District Director to the maximum extent possible, consistent with program requirements and available resources. Appropriate reviews, concurrence, and authorization, as required by FmHA regulations must be obtained for all loans and/or grants in excess of the amounts indicated in Exhibits A, B, C, D and E (available in any FmHA County or District Office or, if desired, from FmHA National Office).

§ 1901.3 Approval documents.

(a) Final approval documents for all insured loans and/or grants will be executed, to the maximum extent possible, by the County Supervisor or District Director, as appropriate.

(b) State Directors, District Directors, State Program Loan Chiefs, and County Supervisors are authorized to execute the Lender's Agreement, Loan Note Guarantee, and Assignment Guarantee Agreement in accordance with approval authorities.

§ 1901.4 Authorities and responsibilities.

(a) *Authority of supervising officials.* Supervising officials have their own authority and also the authority given to officials under their supervision.

(b) *Authority of acting officials.* Acting officials have the authority and responsibility of their regular and acting positions unless limited by designation document.

(c) *Redelegation of authority by State Directors.* Unless restricted by memorandum from the Administrator, or FmHA regulations, State Directors can delegate their approval authorities to State Office employees within the applicable loan program by issuing a State Supplement.

(d) *Redelegations of authority by District Directors.* With the prior written concurrence from the State Director, District Directors can delegate their approval authority to Assistant District Directors by memorandum. Authority will not be redelegated, however, until the Assistant District Director receives adequate training and has sufficient expertise.

(e) *Restriction of approval authority by Administrator.* The Administrator can make written restrictions or revocations of the authority given to any loan approval official.

(f) *Restrictions of approval authority by State Directors.* A State director can make written restrictions or revocations for not more than 6 months, of the authority given to an individual.

(g) *Restrictions on Assistant County Supervisors.*

(1) Newly appointed Assistant County Supervisors will not approve loans until they receive adequate training and written authority from the State Director.

(2) County Supervisors and District Directors must certify that training requirements have been completed.

(h) *Restrictions on Emergency Loan Supervisors and Assistant Emergency Loan Supervisors.* Emergency Loan Supervisors and Assistant Emergency Loan Supervisors will not approve loans until they receive adequate training and receive written authority from the State Director.

§ 1901.5 Other program considerations.

See Exhibits A, B, C, D and E for dollar amounts (available in any FmHA County or District Office or, if desired, from FmHA National Office). See appropriate program Instructions for other considerations.

§§ 1901.6—1901.50 [Reserved]

Note.—This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statements". It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Dated: November 20, 1980.

Gordon Cavanaugh,
Administrator, Farmers Home Administration.

[FR Doc. 80-37374 Filed 12-1-80; 8:45 am]
BILLING CODE 3410-07-M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Reg. D; Docket No. R-0332]

Reserve Requirements of Depository Institutions; Eurocurrency Liabilities

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board has amended Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) to permit a U.S. depository institution or Edge or Agreement Corporation to use net balances advanced to its foreign branches to offset the amount of credit extended by its foreign branches to United States residents and the amount of assets sold to its foreign branches or to foreign offices of an affiliated Edge or Agreement Corporation. In addition, a United States branch or agency of a foreign bank will be permitted to use net balances advanced to its foreign bank (including its branches located outside the United States) to offset the amount of assets sold to its foreign bank (including its branches located outside the United States), its parent holding company, and non-United States offices of an affiliated Edge or Agreement Corporation. This action will result in more equitable application of reserve requirements on Eurocurrency liabilities by eliminating the possibility that institutions would hold double reserves as a result of certain Eurocurrency transactions.

EFFECTIVE DATE: The maintenance period beginning December 11, 1980, for transactions occurring during the reserve computation period beginning November 27, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452–3625), or Paul S. Pilecki, Attorney (202/452–3281), Legal Division; Sydney J. Key, Economist, Division of International Finance (202/452–3697), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Board of Governors has adopted amendments to Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204) to permit a depository institution to reduce, by the amount of its net advances to its foreign branches, the amount of its Eurocurrency liabilities representing credit extended to United States residents by its foreign branches and assets held by its foreign branches or by foreign offices of an affiliated Edge or Agreement Corporation that were

acquired from its United States offices. This amendment affects the amount of required reserves on Eurocurrency liabilities for depository institutions organized under the laws of the United States and its States and for Edge and Agreement Corporations ("domestic institutions").

In addition, the Board has amended Regulation D to permit a United States branch or agency of a foreign bank ("branch or agency") to reduce the amount of its Eurocurrency liabilities representing assets acquired from the United States branch or agency that are held by its foreign bank (including offices thereof located outside the United States), by its parent holding company, or by foreign offices of an affiliated Edge or Agreement Corporation by the amount of its net advances to its foreign bank (including offices thereof located outside the United States). Branches and agencies are not subject to reserve requirements on the amount of credit extended to U.S. residents by their overseas offices.

Under Regulation D, at present, Eurocurrency liabilities of a domestic institution include the sum of (1) positive net balances due to its non-United States offices from its United States offices; (2) assets held by its non-United States offices that were acquired after October 6, 1979, from its United States offices ("assets sold"); and (3) credit outstanding from non-United States offices of a depository institution to United States residents with certain exceptions ("loans to U.S. residents"). Thus, the amount of assets sold to foreign branches and the amount of branch loans to U.S. residents cannot be offset by any negative net balances due to its foreign offices by a domestic depository institution. However, if an institution were a net lender of funds to its foreign branches, funds that were advanced to the foreign branches and used to purchase assets from the U.S. office or for a loan to a U.S. resident might be counted twice for reserve purposes, since the funds advanced to the foreign branches already may have been subject to reserve requirements as a domestic transaction. Therefore, the Board has amended the definition of "Eurocurrency liabilities" so that net balances of a domestic institution advanced to its foreign branches may be used to offset the amount of its foreign branch loans to U.S. residents and the amount of assets sold to its foreign branches.

With regard to branches and agencies, Eurocurrency liabilities include the sum of (1) positive net balances due to its foreign bank (including offices thereof located outside the United States) after deducting a capital equivalency allowance, and (2) assets held by its foreign bank (including offices thereof located outside the United States), by its parent holding company, or by non-United States offices of an affiliated Edge or Agreement Corporation ("assets sold by branches and agencies") that were acquired from the branch or agency after October 6, 1979. Since similar considerations that apply to the offsetting of assets sold by domestic institutions apply in the case of assets sold by branches and agencies, a branch or agency will be permitted to offset the amount of its assets sold by the amount of any net advances to its foreign bank, including offices thereof located outside the United States. A branch or agency also will be permitted to apply its capital equivalency allowance to offset assets sold in computing the amount of Eurocurrency liabilities.

These amendments are effective for reserves required to be maintained during the seven-day period beginning December 11, 1980, against Eurocurrency liabilities outstanding during the reserve computation period beginning November 27, 1980. The Board believes that these modifications will provide more equitable treatment to depository institutions and branches and agencies consistent with the needs of monetary policy. Consequently, the Board, for good cause finds that the notice, public procedure, and deferral of effective date provisions of 5 U.S.C. § 553(b) with regard to this action are impracticable and contrary to the public interest.

Effective December 11, 1980, pursuant to the Board's authority under sections 19, 25 and 25(a) of the Federal Reserve Act (12 U.S.C. §§ 461 *et seq.*, 601 *et seq.*, 611 *et seq.*) and section 7 of the International Banking Act of 1978 (12 U.S.C. 3105), Regulation D (12 CFR Part 204) is amended as follows:

In § 204.2, paragraph (h) is revised to read as follows:

§ 204.2 Definitions.

* * * * *

(h) *"Eurocurrency liabilities"* means: (1) For a depository institution or an Edge or Agreement Corporation organized under the laws of the United States, the sum, if positive, of the following: (i) Net balances due to its non-United States offices from its United States offices,

(ii) Assets (including participations) held by its non-United States offices or by non-United States offices of an affiliated Edge or Agreement Corporation that were acquired after October 6, 1979, from its United States offices, and

(iii) Credit outstanding from its non-United States offices to United States residents (other than assets acquired and net balances due from its United States offices), except credit extended (A) in the aggregate amount of $100,000 or less to any United States resident, (B) by a non-United States office that at no time during the computation period had credit outstanding to United States residents exceeding $1 million, or (C) to an institution that will be maintaining reserves on such credit pursuant to this Part. Credit extended to a foreign branch, office, subsidiary, affiliate or other foreign establishment ("foreign affiliate") controlled by one or more domestic corporations is not regarded as credit extended to a United States resident if the proceeds will be used in its foreign business or that of other foreign affiliates of the controlling domestic corporation(s).

(2) For a United States branch or agency of a foreign bank, the sum, if positive, of the following: (i) Net balances due to its foreign bank (including offices thereof located outside the United States) after deducting an amount equal to 8 per cent of the following: The United States branch's or agency's total assets less the sum of United States currency and coin, cash items in process of collection, unposted debits, balances due from depository institutions organized under the laws of the United States, balances due from other foreign banks, balances due from foreign central banks, and net balances due from its foreign bank and the foreign bank's United States and non-United States offices, and

(ii) Assets (including participations) held by its foreign bank (including offices thereof located outside the United States), by its parent holding company, or by non-United States offices of an affiliated Edge or Agreement Corporation that were acquired after October 6, 1979, from the United States branch or agency (other than assets required to be sold by Federal or State supervisory authorities).

* * * * *

By order of the Board of Governors, November 26, 1980.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 80-37385 Filed 12-1-80; 8:45 am]
BILLING CODE 6210-01-M

12 CFR Part 225

[Regulation Y; Docket No. R-0310]

published notice, the Board also requested comments as to whether the activities of "advising State and local governments about methods available to

flexible in determining that particular services constitute "providing financial advice" rather than "management consulting" when the services are

U.S.C. 1371(d)) establishes the automatic market entry (AME) program. Under this provision, a carrier may apply to the Board at designated times for one new

Accordingly, the Board amends 14 CFR part 322, *Automatic Market Entry Procedures* as follows:

1. The authority citation for Part 322

communities as eligible points. Under the Federal Aviation Act, eligible points are guaranteed essential air transportation by the CAB, with Federal

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12 CFR Part 225

[Regulation Y; Docket No. R-0310]

Proposal To Permit Bank Holding Companies To Engage in Real Estate Advisory Services and Real Estate Appraisal Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board has adopted a final rule that adds the performance of appraisals of real estate to the list of those activities permissible for bank holding companies. The Board modified the proposed rule by including appraisals of single-family residences in the final rule and invited public comment on this modification.

The Board also determined that the activities of "advising State and local governments about methods available to finance real estate development projects," and "evaluating projected income to determine for State and local governments whether debt resulting from proposed development projects can be adequately serviced," are authorized by the provision of Regulation Y (12 CFR § 225.4(a)(5)(v)) that permits bank holding companies to provide financial advice to State and local governments.

EFFECTIVE DATE: December 31, 1980. Comments will be accepted on the modification made to the proposal until January 15, 1981.

ADDRESS: Comments, which should refer to Docket No. R-0310, may be mailed to Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551, or delivered to Room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected at Room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in section 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: Michael E. Bleier, Senior Counsel (202-452-3721), or Michael L. Kadish, Attorney (202-452-3428), Legal Division, Board of Governors of the Federal Reserve System.

SUPPLEMENTARY INFORMATION: In conjunction with an application by First Chicago Corporation, Chicago, Illinois, the Board in June 1980, published notice of a proposed amendment to its Regulation Y that would add the performance of appraisals of real estate other than single-family residences to the list of activities permissible for bank holding companies and their nonbank subsidiaries. (45 FR 44963 (1980)). In the published notice, the Board also requested comments as to whether the activities of "advising State and local governments about methods available to finance real estate development projects," and "evaluating projected income to determine for State and local governments whether debt resulting from proposed development projects can be adequately serviced," are closely related to banking.

In the case of performing appraisals of real estate other than single-family residences, the record reflected that banks have performed this service either in connection with extensions of credit involving real estate lending or as a discrete activity. In addition, it appears that the proposed appraisal activity calls upon the necessary skills and resources often possessed by banking organizations. The record indicated that banks also perform appraisals of single-family residences. On the basis of the record, the Board determined that the activity of performing appraisals of real estate, including single-family residences, is closely related to banking and that its performance by bank holding companies is likely, in general, to yield net benefits to the public. The Board requests interested persons to comment on the rule as modified.

The Board also determined that the proposed real estate advisory services are currently authorized by § 225.4(a)(5)(v) of Regulation Y (12 CFR 225.4(a)(5)(v)), which provides that a bank holding company may engage in the nonbanking activity of "acting as investment adviser to the extent of . . . (v) providing financial advice to State and local governments, such as with respect to the issuance of their securities."

Certain comments received by the Board noted that aspects of these advisory services may be within the scope of the activity of "management consulting," as defined in footnote two to § 225.4(a)(5) of Regulation Y (12 CFR 225.4(a)(5)(n.2)). The Board has previously found that it is not permissible for bank holding companies to offer management consulting services to nonaffiliated companies, with the exception of banks. The Board's action does not authorize bank holding companies to engage in such management consulting activities; however, the Board indicated that in view of the relationship that has traditionally existed between banks and State and local governments, and the net public benefits that would result from provision of advice to these governments by bank holding companies, the Board would be more flexible in determining that particular services constitute "providing financial advice" rather than "management consulting" when the services are provided solely to State and local governments rather than other nonbank organizations.

A fuller discussion of the Board's consideration of these activities is included in its Order regarding the associated application by First Chicago Corporation to retain its subsidiary, Real Estate Research Corporation, which has been published in the notice section of this issue of the **Federal Register** for the information of interested persons. This action is taken pursuant to the Board's authority under sections 4(c)(8) and 5(b) of the Bank Holding Company Act, 12 U.S.C. §§ 1843(c)(8) and 1844(b).

Effective December 31, 1980, § 225.4(a) of Part 225 of 12 CFR Chapter II is amended by adding the following new paragraph (14) immediately following § 225.4(a)(13):

§ 225.4 Nonbanking Activities

* * * * *

(a) * * *

(14) Performing appraisals of real estate.

Board of Governors of the Federal Reserve System, November 26, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-37366 Filed 12-1-80; 8:45 am]

BILLING CODE 6210-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 322

[Regulation PR-226; Procedural Regulations, Amendment No. 4 to Part 322]

Automatic Market Entry Procedures; First and Second Round Applications

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB requires that automatic market entry route applications be served on the airports, communities, and States affected. This action is taken so that interested parties will have notice of the pending application prior to Board action on it.

DATES: Adopted: November 26, 1980. Effective: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: David Schaffer, Officer of the General Counsel, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; (202) 673-5442.

SUPPLEMENTARY INFORMATION: Section 401(d)(7) of the Federal Aviation Act (49 U.S.C. 1371(d)) establishes the automatic market entry (AME) program. Under this provision, a carrier may apply to the Board at designated times for one new route per year. The Board must grant the carrier a certificate for that route within 60 days unless a protective notice for that route has been filed or it finds either that the carrier is not fit, willing, and able to serve that route or, in extraordinary circumstances, that granting the application would cause immediate and substantial harm to the national air transportation system.

By PR-186, 43 FR 60433, December 28, 1978, the Board added a new Part 322 to Title 14 of the CFR. This rule established procedures for filing and for Board action on AME applications. These procedures did not provide for service of the application on other parties. Service was considered unnecessary because Board action on the application did not depend on a determination of consistency with the public convenience and necessity, as did other route applications, and it was originally intended that the Board would issue a show-cause order prior to final action on the application. As described at 43 FR 60434, interested persons would have had 10 days to respond to that order and voice their objections to the AME application.

In practice, the Board has acted by final order on AME applications. No show-cause orders have been issued. During the most recent AME round last winter, some communities claimed that they were denied due process because they were not served with the application and thus lost their opportunity to object.

In order to remove any appearance of unfairness, the Board has decided to require that AME applications be served on the airports, communities, and States affected. Under 14 CFR 302.6(c), they will then have 7 days to file objections to the application. Protective notices will not be affected by this requirement. They will be posted in the Board's Docket Section as has been our practice.

We are therefore amending §§ 322.2 and 322.3 to impose a service requirement. A conforming amendment is also made in § 322.9 to make clear that carriers must comply with the manner and proof of service requirements in § 302.8, but need not serve all the parties as required by § 302.8(a)(2). Service must be made only on those listed in § 322.2(d).

Since this is a rule of agency procedure and practice, the Board finds that notice and public procedure are unnecessary.

Accordingly, the Board amends 14 CFR part 322, *Automatic Market Entry Procedures* as follows:

1. The authority citation for Part 322 reads as follows:

Authority: Sec. 204, 401, Pub. L. 85-726, as amended, 72 Stat. 743, 754; 49 U.S.C. 1324, 1371.

2. A new paragraph (d) is added to § 322.2, to read:

§ 322.2 First-round applications.

* * * * *

(d) An application for Automatic Market Entry—First Round shall be served on the following, for each point applied for:

(1) The aviation regulatory agency of the State, territory or possession of the United States in which the point is located or, if there is no aviation regulatory agency, the Governor or other chief executive of the State, territory, or possession;

(2) The mayor or other chief executive of each city involved; and

(3) The airport authority of each airport that the applicant proposes to serve.

3. A new paragraph (d) is added to § 322.3, to read:

§ 322.3 Second-round applications.

* * * * *

(d) An application for Automatic Market Entry—Second Round shall be served on the persons or entities listed in § 322.2(d).

4. Section 322.9 is amended to read:

§ 322.9 Conformity with Subpart A of Part 302.

The provisions of Subpart A of Part 302 of this chapter, except for § 302.8(a)(2) of this chapter and any other provisions that are inconsistent with this part, shall apply to proceedings under this part.

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-37490 Filed 12-1-80; 8:45 am]

BILLING CODE 6320-01-M

[Regulation PR-227; Procedural Regulations, Amendment No. 2 to Part 325]

14 CFR Part 325

Essential Air Service Procedures; Designating Additional Small Communities as Eligible Points

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB adopts procedures for designating additional small communities as eligible points. Under the Federal Aviation Act, eligible points are guaranteed essential air transportation by the CAB, with Federal subsidy if necessary.

DATES: Adopted: November 26, 1980. Effective: November 26, 1980.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Jr., Chief, Essential Air Services Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-5408; or David Schaffer, Office of General Counsel, (202) 673-5442.

SUPPLEMENTARY INFORMATION: Under section 419 of the Federal Aviation Act, which was added by the Airline Deregulation Act of 1978 (Pub. L. 95-504), any community that was listed on an air carrier's section 401 certificate on October 24, 1978 is an eligible point. Eligible points are assured that they will receive essential air transportation, even if Federal subsidy is necessary to support it.

In addition to those communities listed on a carrier's certificate, section 419(b) provides that other communities may be designated eligible points if they meet the Board's criteria. By PR-1166, 44 FR 76767, December 28, 1979, the Board adopted traffic and isolation criteria for designating additional eligible points. The Board will use these to decide whether communities that were deleted from an air carrier's certificate between 1968 and 1978, and other communities in Alaska and Hawaii, should be designated eligible points. This amendment of Part 325 sets forth the procedure for making these designations.

The procedures established here are similar to those now used for making essential air transportation determinations. These procedures will lead to a thorough evaluation of each community's need and justification for guaranteed air transportation, and an expeditious issuance of our findings.

Under these procedures, a determination will be issued designating the candidate community as eligible or ineligible. OR——, adopted today, delegates authority to the Director of the Bureau of Domestic Aviation (BDA) to make these designations. A community will have 60 days to appeal this finding. If an appeal is filed, a three-member appeals panel may be appointed. This panel will consist of one representative each from the Office of General Counsel, the Office of Community and Congressional Relations, and BDA. The members of this panel, Board members, or other senior Board officials may visit the community to hear the views of local

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citizens and will make a recommendation to the Board. In all cases, the final decision will rest with the Board.

Appeals must conform to the requirements in §§ 325.11 and 325.12 governing the form and service of documents. Unlike essential air service determinations, eligible point designations will not be reviewed on a regular basis by the Board. Nor will the Board entertain petitions for modification of these designations. Section 419(b)(3) of the Act provides, however, that the designation of a community as an eligible point may be withdrawn if the community no longer meets the Board's criteria.

Since this amendment is procedural in nature, and merely extends the application of existing procedures in a closely related area, the Board finds that notice and public procedure are unnecessary and that it may take effect immediately.

Accordingly, the Board amends 14 CFR Part 325, *Essential Air Service Procedures*, as follows:

1. The authority for part 325 is:

Authority: Secs. 204, 419, Pub. L. 85-726, as amended, 72 Stat. 743, 92 Stat. 1732; 49 U.S.C. 1324, 1389.

2. The Table of Contents is amended by revising §§ 325.5 and 325.7, to read:

Sec.

* * * * *

325.5 Determinations and designations.

* * * * *

325.7 Appeal of the determination or designation.

* * * * *

3. Section 325.1 is amended to read:

§ 325.1 Purpose.

The purpose of this part is to establish procedures to be followed in designating eligible points and in determining essential air transportation levels for eligible points, and in the appeals and periodic reviews of these determinations, under section 419 of the Act.

4. Section 325.2 is amended to read:

§ 325.2 Applicability.

This part applies to essential air service determinations for communities designated as eligible under section 419(a) of the Act and to eligible point designations and essential air service determinations for communities that qualify under section 419(b) of the Act. It applies to the gathering of data by the Board, and to the participation of State, local, and other officials and other interested persons in the designation and determination processes.

Note.—Criteria for designating eligible points under Section 419(b) are contained in Part 270 of this chapter. Guidelines for deciding essential air service levels are contained in Part 398 of this chapter.

5. Section 325.5 is amended by revising the title and paragraph (b)(2) and by adding new paragraphs (c) and (d) so that it reads:

§ 325.5 Determinations and designations.

* * * * *

(b) The Board will issue a determination of the essential level of air service for a point within 6 months after each of the following events:

(1) * * *

(2) It designates that point as an eligible point under section 419(b) of the Act and either paragraph (c) of this section, paragraph (d) of this section, or § 325.7(e); or

(3) * * *

(c) Not later than January 1, 1982, the Board will designate the communities described in § 270.2(a) and (b) as eligible points or as ineligible.

(d) On or after January 1, 1982, the Board may designate communities in Alaska or Hawaii as eligible points if they apply for such designation.

6. A new paragraph (c) is added to § 325.6, to read:

§ 325.6 Periodic reviews.

* * * * *

(c) The Board may review the designation under section 419(b) of a community as an eligible point to determine whether that point continues to meet the criteria in part 270 of this chapter.

7. In § 325.7, paragraphs (b), (c), (f), and (g) are revised and the title of the section is revised, to read:

§ 325.7 Appeal of the determination or designation.

* * * * *

(b) Any person objecting to the designation of a point as ineligible under section 419(b) of the Act may within 60 days after the designation is issued file in the Board's Docket Section a document titled "Appeal of Eligible Point Designation."

(c) The Board shall appoint an appeal panel of three employees: one from the Bureau of Domestic Aviation, one from the Office of Community and Congressional Relations, and one from the Office of the General Counsel. The three-member panel shall process the appeal and make a recommendation to the Board.

* * * * *

(f) If no appeal is filed within the 60 day period, a determination or designation will become final, unless stayed by the Board.

(g) Pending the outcome of an "Appeal of Essential Service Determination," the essential air service for the eligible point involved shall be the level set by the determination issued under § 325.5.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-37491 Filed 12-1-80; 8:45 am]

BILLING CODE 6320-01-M

[Regulation OR-1751; Organization Regulations, Amendment No. 106 to Part 385]

14 CFR Part 385

Delegation to the Director, Bureau of Domestic Aviation

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The CAB is delegating to the Director, Bureau of Domestic Aviation, the authority to designate communities as eligible or ineligible in accordance with the small community air service section of the Federal Aviation Act.

DATES: Effective: November 26, 1980. Adopted: November 26, 1980.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Jr., Chief, Essential Air Services Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5408.

SUPPLEMENTARY INFORMATION: Section 419 of the Federal Aviation Act of 1958, which was added by the Airline Deregulation Act of 1978, Pub. L. 95-504, requires the Board to review each point in the United States which was deleted from a carrier's section 401 certificate between July 1, 1968 and October 24, 1978, to determine whether that point shall be designated as an eligible point. Under section 419, eligible points will be guaranteed essential air transportation. The Act directed the Board to issue criteria for evaluating these points before January 1, 1980, and to complete its review and designation of points before January 1, 1982.

On December 20, 1979, the Board adopted a new Part 270, ER-1166, 44 FR 76767, December 28, 1979, *Criteria for Designating Eligible Points.* Subsequently, letters and questionnaires were sent to the candidate communities and to the respective State transportation agencies indicating the criteria that would be used and requesting information for our analysis.

In reviewing and designating additional points, we have decided to follow steps similar to those used for issuing the esential air transportation determinations under 14 CFR Part 325. By PR-227, adopted today, these procedures have been incorporated into Part 325. This rule delegates authority to the Director of the Bureau of Domestic Aviation to issue orders designating points as eligible or ineligible under § 325.5(c) or (d).

Since this is a rule of agency procedure and practice, the Board finds that notice and comment are unnecessary and that it may be effective immediately.

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 385, *Delegations and Review of Action Under Delegation; Nonhearing Matters* as follows:

1. The authority citation for Part 385 reads as follows:

Authority: Sec. 204, Pub. L. 85-726, as amended, 72 Stat. 743; 49 U.S.C. 1324. Reorganization Plan No. 3 of 1961, 75 Stat. 837, 5 U.S.C. Appendix.

2. A new paragraph (c) is added to § 385.13 to read:

§ 385.13 Delegation to the Director, Bureau of Domestic Aviation.

The Board delegates to the Director, Bureau of Domestic Aviation, the authority to:

* * * * *

(c) Issue orders designating points as eligible or ineligible in accordance with section 419(b) of the Act and § 325.5 of the chapter.

* * * * *

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-37492 Filed 12-1-80; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3049]

Genstar Limited; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires, among other things, a Canadian corporation engaged in various business enterprises, including the manufacture and sale of portland cement and gypsum wallboard, to cease, for a prescribed period, from entering into or carrying out supply agreements with U.S. competitors that provide for the exchange of cost and pricing information and permit the firm to share in profits realized from the resale of its products in the United States. The firm is also prohibited, for a specified time, from selling or delivering to any "Cement Facility" for further processing or resale, products produced at company-owned cement manufacturing plants located outside the United States. Further, for each calendar year, beginning January 1, 1981 and ending December 31, 1984, respondent is required to make available for sale to manufacturers having cement facilities located in the "Northwest Cement Market," all cement or clinker produced at its plant at Tilbury Island, British Columbia, that is not sold to Canadian customers. Additionally, the firm is prohibited from acquiring, without prior Commission approval, any portland cement or gypsum wallboard manufacturing plant that is located within geographic areas set forth in the order.

DATES: Complaint and order issued Nov. 10, 1980.[1]

FOR FURTHER INFORMATION CONTACT: Leroy Richie, Director, 6R, New York Regional Office, Federal Trade Commission, 2243-EB Federal Bldg., 26 Federal Plaza, New York, N.Y. 10007, (212) 264-1207.

SUPPLEMENTARY INFORMATION: On Monday, April 28, 1980, there was published in the **Federal Register**, 45 FR 28158, a proposed consent agreement with analysis In the Matter of Genstar Limited, a Canadian corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Acquiring Corporate Stock or Assets: § 13.5 Acquiring corporate stock or assets; § 13.5-20 F.T.C. Act. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-45 Maintains records; § 13.533-51 Making supply of product(s) available to competitors.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Carol M. Thomas,

Secretary.

[FR Doc. 80-37338 Filed 12-1-80; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order filed with the original document.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

General Regulations Under the Commodity Exchange Act; Records of Commodity Futures Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is amending its general regulations under the Commodity Exchange Act with respect to rule 1.35(g). Rule 1.35(g)(1) has required that contract markets record to the nearest minute the time of execution of each futures transaction ("one-minute timing".) The amendment to the Commission's rules provides for the adoption of a February 20, 1979 proposal which deletes the one-minute timing requirement of rule 1.35(g)(1) and instead requires that contract markets divide their hours of trading into consecutive time periods, generally known as "bracket" periods, that are separately identified and each no longer than thirty minutes. The Commission's amendment also provides for (1) revocation of the one-minute timing exemption provided by rule 1.35(g)(2); (2) addition of a requirement that contract markets, upon the request of the Director of the Division of Trading and Markets, submit accuracy reports concerning certain transaction information which rules 1.35 (d) and (e) require to be recorded and maintained; and (3) authorization for a contract market, upon approval by the Commission, to institute such superior time sequencing methods as it may develop. The Commission also announced that rule 1.35a-(T), which adopted thirty-minute bracketing on a temporary basis, would expire as scheduled on January 1, 1981.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: David J. Gelfand, Division of Trading and Markets, Commodity Futures

Trading Commission, 2033 K Street NW., Washington, D.C. 20581, (202) 254-8955.

SUPPLEMENTARY INFORMATION: On

minute timing in lieu of an accurate system of thirty-minute bracketing should be adopted on a permanent basis, modified, or allowed to expire.

During the course of this exemption this test period have not provided the Commission with a basis upon which to make a final determination concerning the regulatory need for one-minute

more effective than means currently employed by the exchanges.

Although the Commission remains dissatisfied with the progress which

to exchange concerns that one-minute timing would involve substantial costs and that the purposes of one-minute timing could be accomplished by other

A floor broker on the Kansas City Board of Trade ("KCBT") offered the only comments critical of the Commission's proposal. He noted that

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Trading Commission, 2033 K Street NW., Washington, D.C. 20581, (202) 254–8955.

SUPPLEMENTARY INFORMATION: On February 20, 1979 the Commission published in the **Federal Register** proposed revisions to its rule 1.35, which requires contract markets and members of contract markets to make and keep records of commodity futures transactions.[1] As proposed, rule 1.35(g) would be revised by deleting the existing requirement that times of execution be mechanically or electronically verified to the nearest minute and by requiring instead that contract markets divide their hours of trading into consecutive time periods, generally known as "bracket" periods, that are separately identified and that are each no more than thirty minutes long.[2] Rule 1.35(e) would be revised by replacing the requirement that a contract market maintain, or cause to be maintained by its clearing organization, a single record showing the mechanically or electronically verified time of execution to at least the nearest minute with a requirement that contract markets include, as part of such single record of each futures transaction, the time period within which each transaction was executed. Finally, rule 1.35(d) would be revised to require members of contract markets to include, as part of the record of each futures transaction they execute, the time period within which the transaction was executed. It is these proposed rules, with minor modifications, which the Commission has determined to adopt, effective January 1, 1981.

In proposing these amendments to rule 1.35(g), the Commission reaffirmed its belief that the original objectives of one-minute timing should be attained and that they are attainable. Those objectives are (1) to help prevent potential dual trading abuses, (2) to enable each contract market and the Commission to reconstruct the sequence of transactions to facilitate the detection of other trade practice abuses, (3) to make available further data to prove trade practice abuses that might be detected by other means, and (4) to provide accurate time of execution information for the purpose of conducting general market studies to evaluate the impact of trading activity over a given period of time.[3] In proposing the amendments to rule 1.35(g), the Commission was responding to exchange concerns that one-minute timing would involve substantial costs and that the purposes of one-minute timing could be accomplished by other less costly means, specifically, by a system of bracketing trades by time of execution.

Moreover, the Commission noted its awareness that the one-minute timing requirement was "an innovative approach to the problem of protecting the trading public from potential trade practice abuses" and that given the untested nature of that approach the Commission did not feel bound to be limited to solely that approach if other systems could demonstrate their ability to achieve the objectives of one-minute timing while also proving to be less costly. On the basis of reports which the Commission had been receiving since early 1978, the Commission concluded that bracketing trades within thirty minute periods, if done accurately, might prove to be an effective and less costly alternative to one-minute timing. On the basis of those reports and studies undertaken by the Commission's staff, the Commission proposed the February 20, 1979 revisions to rule 1.35(g).

The proposed amendments generated substantially favorable comment when initially proposed. Commentators included five commodity futures exchanges, one clearing house for an exchange and two exchange members—a commercial miller and a floor broker. In general, the exchanges, clearing association and commercial member commended the Commission's proposal as a practical and reasonable step toward the goals of market reconstruction and prevention of trading abuses.[4] Among other things, they stated that it would be impossible to comply with a one-minute timing requirement without seriously disrupting certain futures markets;[5] source records (*i.e.*, trading cards, orders, office records) were available as a means of accurately obtaining alternative timing information; and that they appreciated the importance of preventing customer abuse and of attaining "the highest achievable levels of accuracy" with respect to bracket information. The commercial member noted that in its years of experience, it had not had a problem that was not easily resolved with existing transaction information.

A floor broker on the Kansas City Board of Trade ("KCBT") offered the only comments critical of the Commission's proposal. He noted that members on the KCBT had been timing trades on a one-minute basis for more than a year and questioned how trade practices could be audited effectively by a contract market without one-minute timing. He also observed that while the KCBT is not the busiest of all futures markets, the average trade size on the KCBT is much smaller than on larger markets and that consequently a broker on the KCBT "writes" (and records the time of execution of) as many trades as a broker on a larger market. Moreover, he expressed his belief that during the KCBT's busiest moments, its floor brokers were as busy as brokers on any other exchange.[6]

Notwithstanding the broad support evidenced by the commentators in favor of thirty-minute bracketing, the Commission determined not to adopt the proposed rules at that time,[7] but instead directed its staff to prepare a temporary exemption from the one-minute timing requirement of rule 1.35(g), during which period the exchanges would be provided with a further opportunity to demonstrate that bracketing was an effective means of achieving the four stated objectives of one-minute timing. On December 7, 1979, the Commission adopted rule 1.53a–(T) to implement the temporary exemption.[8]

In doing so, the Commission announced that before it made a final determination on this matter, it wanted to provide those exchanges which supported thirty-minute bracketing with an opportunity to demonstrate their capabilities to use such systems to achieve the objectives of one-minute timing and to test such capabilities in a test "conducted under conditions of actual trading for a length of time that will yield sufficient data upon which to make a decision based on empirical analysis.[9]" The Commission committed itself to review the operation of thirty-minute bracketing to determine whether the temporary exemption from one-

[1] *See* 44 FR 10392 (February 20, 1979).

[2] The **Federal Register** release also described in detail the history of the Commission's initial consideration of rule 1.35(g) and the considerations which led it to adopt that rule.

[3] *See* 41 FR 56134 (December 23, 1976) and 44 FR 10392 at 95 (February 20, 1979).

[4] The Amex Commodities Exchange, Inc. noted that it currently had a one-minute timing system in place and expressed its concern that the proposed rule not prevent it from continuing to operate that system as an alternative to thirty-minute bracketing.

[5] The MidAmerica Commodity Exchange noted that one-minute timing worked well enough in slow markets, but accuracy deteriorates during fast markets to the point where the record is not helpful.

[6] The member also noted his distress at seeing the larger exchanges adding new contracts while unable to police their existing contracts.

[7] The Commission's reluctance to adopt the proposed rules at that time was based on its concerns that substantial questions remained concerning whether thirty-minute bracket periods could achieve the objectives of one-minute timing. *See* 44 FR 71817, 18 (December 12, 1979).

[8] 44 FR 71817 (December 12, 1979).

[9] *Id.* For purposes of gathering information concerning the use of bracketing information, rule 1.35a–(T) also required the contract markets to submit reports requested by the Director or a Deputy Director of the Division of Trading and Markets.

minute timing in lieu of an accurate system of thirty-minute bracketing should be adopted on a permanent basis, modified, or allowed to expire.

During the course of this exemption period, the Commission has received extensive reports from most of those exchanges which chose to employ thirty-minute bracketing in lieu of one-minute timing.[10] In general, these reports showed that the Exchange made efforts during the experimental period to improve the accuracy of bracket information recorded by members. These efforts consisted of increased monitoring of bracket information accuracy, warnings of possible disciplinary action for repeated inaccuracies, and, in some instances, actual disciplinary sanctions. The overall accuracy levels reported by the exchanges do not appear, for the most part, to be sufficient to assure the effective use of bracketing information as a means of assisting in the detection or proof of trade practice abuses.[11]

With respect to the use of bracket information by exchanges, the reports disclosed that exchanges generally used such information for reconstructing trades when investigating customer complaints and trade practice matters. Perhaps most significant, however, were the exchanges' repeated assertions, particularly those of the CME and CBT, that the use of bracketing information was largely insignificant in their investigatory procedures. As noted earlier, when conducting specific trade practice investigations, staff of those exchanges assert that they rely on original source documents, which reveal more specific timing information concerning the handling of orders than is disclosed by the recorded bracket.

Thus, while informative, the reports which the Commission received during this test period have not provided the Commission with a basis upon which to make a final determination concerning the regulatory need for one-minute timing. On the one hand, four exchanges have demonstrated their ability to obtain one-minute timing information with respect to all trades executed on their contract markets.[12] The Commission, however, has not yet committed the resources necessary to prove the utility of this information in performing a market analysis or in pursuit of alleged trading abuses. The availability of such information would, at a minumum, facilitate trade practice investigations and, in some instances, provide exchange or Commission staff with the ability to detect violations of the Act, Commission regulations or exchange rules which might not otherwise be detected from timing information available only from source documents.

On the other hand, however, the exchanges have stated their belief that current trade practice procedures are adequate and provide them with the means to achieve the four objectives which the Commission cited as underlying its proposal to require one-minute timing. While the Act and Commission regulations require each exchange to maintain an affirmative action program for rule enforcement, the Commission is reluctant to impose its view of how such a program should be implemented absent a demonstrated deficiency in the means chosen by an exchange. Further, the exchanges have indicated that one-minute timing is, at best, only a partial solution to the problem of trade practice surveillance and detection. In active markets, and during openings and closings, abuses may occur within the space of seconds, thus largely mitigating any additional order sequencing capability which would be provided by one-minute timing. Finally, the Commission does not believe it is necessary or appropriate to require major changes in exchange systems or procedures without a demonstration that the current methods employed by the exchanges are inadequate under the Act and that the required changes, if implemented, would fulfill the objectives which the Commission has defined in a manner more effective than means currently employed by the exchanges.

Although the Commission remains dissatisfied with the progress which exchanges have made toward implementing systems or procedures better designed to prevent and detect trade practice abuses, it is not prepared to conclude that a one-minute timing requirement should be a mandatory means of meeting its objectives. In this regard, the Commission notes that the concerns which led it to propose amendments to rule 1.35(g) in February, 1979 remain valid.[13] Moreover, the Commission believes that its continued commitment to one-minute timing as the sole or primary means of addressing problems of trade practice abuses serves little purpose at this time. The Commission expresses its expectation that the deletion of that specific means of trade practice compliance as Commission policy will encourage exchanges and other interested persons to focus on the possible problems of trade practice abuses. Accordingly, the Commission has determined to adopt, with minor modifications discussed below, its proposals of February 20, 1979 as final rules.

[10] The Director of the Division of Trading and Markets, as authorized by rule 1.35a–(T), requested each exchange using thirty-minute bracketing to submit four bi-monthly reports. The focus of these reports was the accuracy achieved by each exchange's members in recording bracket information and the uses for which each exchange employed the bracket information. The Commodity Exchange, Inc. ("Comex"); Board of Trade of the City of Chicago ("CBT"); New York Cotton Exchange ("Cotton"); Coffee, Sugar and Cocoa Exchange ("C.S&C"); and the MidAmerica Commodity Exchange ("MACE") each submitted the four requested reports. The Chicago Mercantile Exchange ("CME") submitted only the first of four requested reports. The Minneapolis Grain Exchange, Kansas City Board of Trade, Amex Commodities Exchange and the New York Mercantile Exchange each employed timing systems in substantial compliance with the one-minute timing requirement of rule 1.35(g) and thus were not subject to the reporting requirement.

[11] In the final bimonthly submission of each exchange, the following accuracy levels were reported: Comex—87%, CBT—74%, (Exchange estimate); Cotton—93%, C.S&C—85%, MACE—70%.

[12] The availability of one-minute timing information should not in itself be viewed as providing a comprehensive rule enforcement program. An effective affirmative action program under Section 5a(8) of the Act and Commission regulation 1.51 must include the routine use of all trade practice information available to the exchange for surveillance, investigation and enforcement purposes.

[13] *See* 44 FR 10392, 95–96 (February 20, 1979).

Adoption of Final Rules

The Commission has determined to implement its decision to delete one-minute timing as a stated requirement of the Commission's regulations at this time by adopting, effective January 1, 1981, the amendments to rules 1.35(d), (e), and (g) which it proposed in February, 1979. With the adoption of that proposal, rule 1.35(d) is amended to require each member of a contract market to include, on the member's trading card or other record of purchases and sales the time period of each transaction as described in rule 1.35(g), in addition to that information already required by rule 1.35(d). Similarly, rule 1.35(e) is amended to require each contract market or its clearing organization to maintain a single record which, in addition to that information currently required by rule 1.35(e), shall show for each futures trade the time period as described in rule 1.35(g).

Rule 1.35(g) in its current form is deleted in its entirety. In its place, the Commission has adopted new rule 1.35(g) as proposed, with two additions. Rule 1.35(g)(1) thus will require simply that each contract market divide its trading day into consecutive, separately identified time periods each of which is no more than thirty minutes long. In addition, rule 1.35(g)(1) as adopted will

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provide that a contract market may establish such superior time sequence indicia as may be authorized by the Commission and that a contract market which has adopted, pursuant to previous Commission authorization, a superior time sequence indicia may continue to use such indicia.

The Commission determined to add this clause to rule 1.35(g)(1) in order to provide contract markets which desired to adopt, or continue to employ, more precise means of sequencing transactions with a specific procedure for obtaining such authorization. The Commission's adoption of this provision recognizes that a number of contract markets successfully have employed such superior time sequence indicia and is intended to encourage those contract markets which have realized benefits from such systems to continue to use them.[14] Moreover, the Commission is hopeful that, by providing contract markets with the opportunity to employ more precise timing or sequence indicia, it will foster among the exchanges experimentation designed to identify and implement more effective means of fulfilling the four objectives which the Commission cited when initially adopting a one-minute timing requirement. The Commission will exercise broad discretion to authorize, on an experimental or permanent basis, those systems which represent improvements over thirty-minute bracketing and which the contract markets believe may assist them in providing more effective surveillance and rule enforcement procedures without imposing the burdens which those contract markets believe are inherent in one-minute timing.

Further, the Commission has added a second paragraph to rule 1.35(g). Rule 1.35(g)(2) would require the contract markets to respond to requests by the Director of the Division of Trading and Markets for information which demonstrates that the contract market is exercising due diligence in maintaining a continuing affirmative action program to assure the accuracy of all information recorded under 1.35(e). When the Commission initiallly proposed these amendments to rule 1.35(g), it emphasized that "inaccuracies in recording the correct bracket indicator reduce significantly the effectiveness of bracketing as a means to reconstruct trading sequences."[15] The Commission also noted the responsibilities of the contract markets under rule 1.51 and observed that "contract markets will find it to their advantage to maintain highly accurate transaction information since rule 1.51 requires them to scrutinize trading practices."[16]

As the Commission noted earlier, its determination to adopt a bracketing requirement in lieu of continued adherence to a policy of one-minute timing is not based on its satisfaction with results demonstrated thus far by exchanges using thirty-minute bracketing or with the accuracy of recording bracket periods achieved by any exchange to date. Its belief that bracketing should be permitted to continue as an acceptable means of preventing and detecting trade practice abuses is based on its expectation that exchanges can achieve extremely high levels of accuracy [17] and that such levels of accuracy will provide an adequate means of achieving the objectives which the Commission historically has associated with one-minute timing.

In order to assure that the exchanges recognize their responsibilities to obtain such levels of accuracy, and take appropriate measures both to achieve high accuracy levels and to use the rule 1.35(e) information in their surveillance and rule enforcement programs, the Commission believes it is appropriate to require the exchanges to submit such reports concerning the accuracy of rule 1.35(e) information and its use as the Director of the Division of Trading and Markets believes are necessary to monitor effectively the exchanges' compliance with rule 1.51. In proposing the amendments to rule 1.35(g), the Commission noted that in order to conduct such analysis, "the Commission will continue to study the effectiveness of bracketing in reconstructing trade sequences and may continue to require exchanges to submit market reconstruction and accuracy-test reports." [18] While narrower in scope than the Commission's general authority to conduct investigations under Section 8 of the Act and Part 11 of the Commission's regulations, the adoption of this provision is intended to fucus the attention of the exchanges on their particular responsibilities with respect to this critical area of self-regulatory responsibility.

[14] The Commission has previously authorized the New York Mercantile Exchange, Minneapolis Grain Exchange, and the Kansas City Board of Trade to employ the timing systems which they are currently using, each of which the Commission found to be in substantial compliance with the one-minute timing requirement of former rule 1.35(g).

[15] 44 FR 10392, 95 (February 20, 1979).

[16] *Id.*

[17] In this regard, those exchanges which commented on the Commission's proposal to adopt these amendments to rule 1.35(g) generally noted their agreement that exchanges should attain "the highest achievable levels of accuracy."

[18] 44 FR 10392, 95 (February 20, 1979).

Future Commission Consideration of Time-Sequencing Requirements

The Commission's determination not to continue with one-minute timing as a requirement of its regulations is influenced considerably by the lack of evidence that technology is currently available to permit all of the exchanges to adopt one-minute timing systems and the concern that, absent such technology, the adoption of one-minute timing as an absolute requirement would invite major disruptions to the effective performance of the nation's commodity futures markets. Until such time as the Commission is persuaded that technological or other program or systems developments are capable of implementing more precise timing, time-stamping or transaction sequencing systems, without posing a significant threat of market disruption, the Commission does not believe that a continued commitment to one-minute timing is in the public interest.

The Commission, however, is also concerned that with the recently increased volume of trading on most exchanges, the uniform failure of the exchanges to move more aggressively toward greater use of automated facilities for order handling, transaction reporting and trade comparison jeopardizes not only the exchanges' ability to perform adequate market reconstructions, but more fundamentally the exchanges' capacity to withstand further increases in volume and operate in a viable manner. In this context, the Commission's concerns with respect to the objectives of one-minute timing represent only one aspect of a more far-reaching problem. Thus, the Commission urges the exchanges to address the need for improved order handling, transaction reporting and trade comparison systems as an objective of highest priority. Within that objective, however, the exchanges should direct particular attention to implementing systems which permit the expeditious reconstruction of all market activity and provide a means of tracing, through an audit trail, the handling of each order transmitted to the floor of an exchange or executed by a member for his own account on the floor.

Text of Amended Rules

In consideration of the foregoing and pursuant to Sections 4f, 4g, 4j, 5, 8 and 8a of the Commodity Exchange Act, 7 U.S.C. 6f, 6g, 6j, 7, 12 and 12a (1976), Pub. L. 95-405, 92 Stat. 865 *et seq.*, the Commission has revised § 1.35 (d), (e) and (g) of Part 1 of Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

§ 1.35. Records of cash commodity and futures transactions.

* * * * *

(d) *Members of Contract Markets.* Each member of a contract market who, in the place provided by the contract market for the meeting of persons similarly engaged, executes purchases or sales of any commodity for future delivery on or subject to the rules of such contract market, shall prepare regularly and promptly a trading card or other record showing such purchases and sales. Such trading card or record shall show his own name, the name of the member firm clearing the trade, the date, time period (as described in § 1.35(g)), price, quantity, commodity and future, and shall clearly identify the opposite floor broker or floor trader with whom such transaction was executed, and the opposite clearing member (if, in accordance with the rules or practice of the contract market such opposite clearing member is made known to him).

(e) *Contract markets.* Each contract market shall maintain or cause to be maintained by its clearing organization a single record which shall show for each futures trade: The date, time period (as described in § 1.35(g)), commodity, future, quantity, price, floor broker or floor trader buying, clearing member buying, floor broker or floor trader selling, clearing member selling, and symbols indicating the buying and selling customer types. The customer type indicators shall show, with respect to each person executing the trade, whether such person: (1) Was trading for his own account;

(2) Was trading for his clearing member's house account;

(3) Was trading for another member present on the exchange floor, or an account controlled by such other member, or

(4) Was trading for any other type of customer.

The record required by this paragraph (e) of this section shall show, by appropriate and uniform symbols, exchanges of futures for cash, transfer trades, and trades cleared on dates other than the date of the execution. Except as otherwise approved by the Commission for good cause shown, the record required by this paragraph (e) of this section shall be maintained in a format and coding structure approved by the Commission (i) in hard copy or on microfilm as specified in § 1.31 and (ii) for 60 days in computer-readable form on compatible magnetic tapes or discs.

* * * * *

(g)(1) Each contract market shall divide its trading day into consecutive, separately identified time periods. Such periods shall be no more than thirty minutes long. A contract market may establish such superior time sequence indicia as may otherwise be authorized by the Commission. A contract market which, pursuant to previous Commission authorization, has adopted superior time sequence indicia may comply with this section by continuing to use such indicia.

(2) A contract market, in order to demonstrate that it is exercising due diligence in maintaining the continuing affirmative action program required of it by the Act and § 1.51 of these regulations, shall submit to the Commission such reports as the Director of the Division of Trading and Markets requests concerning the accuracy of all information recorded under § 1.35(e) and the use of such information in the contract market's affirmative action program.

Issued in Washington, D.C., on November 26, 1980.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc. 80-37408 Filed 12-1-80; 8:45 am]
BILLING CODE 6351-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs; Change of Sponsor Name

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) amends the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) held by Good-Life, Inc., providing for a change of sponsor name.

EFFECTIVE DATE: December 2, 1980.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: Good-Life, Inc., Good-Life Drive, P.O. Box 687, Effingham, IL 62401, filed a supplemental NADA (110-045) providing for a change in sponsor name from Good-Life Chemicals, Inc. The regulations in 21 CFR 510.600(c) are amended to reflect the change of sponsor name.

This action, a sponsor name change, does not involve changes in manufacturing facilities, equipment, procedures or personnel. Under the Bureau of Veterinary Medicine supplemental approval policy (42 FR 64367; December 23, 1977), approval of this action did not require reevaluation of the safety and effectiveness data in the parent application.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 510.600 is amended as follows:

§ 510.600 [Amended]

In paragraph (c)(1) in the entry for "Good-Life Chemicals, Inc.," and in paragraph (c)(2) in the entry for "021810" by deleting the current firm name and inserting in its place "Good-Life, Inc."

Effective date: This regulation is effective December 2, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: November 19, 1980.

Robert Baldwin,
Associate Director for Scientific Evaluation.

[FR Doc. 80-37221 Filed 12-1-80; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Part 522

Methocarbamol Injection; Implantation or Injectable Dosage Form New Animal Drugs not Subject to Certification

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by A. H. Robins Co., Inc., providing for revised specifications for methocarbamol injection used in treating dogs, cats, and horses for inflammatory and traumatic muscle conditions.

EFFECTIVE DATE: December 2, 1980.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3430.

SUPPLEMENTARY INFORMATION: A. H. Robins Co., Inc., 1211 Sherwood Ave., Richmond, VA 23220, filed a supplemental NADA (38-838) providing

that methocarbamol injection will no longer contain sodium bisulfate. The product is used as an adjunct in the treatment of dogs, cats, and horses for acute inflammatory and traumatic muscle conditions and spasms. The regulations are amended to reflect the deletion of the ingredient sodium bisulfate under specifications and, editorially, to reflect current format.

The agency has determined pursuant to 21 CFR 25.24(d)(1) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Under the Bureau of Veterinary Medicine's supplemental NADA approval policy (42 FR 64367; December 23, 1977), this is a Category II approval, which did not require reevaluation of the safety and effectiveness data in the parent application.

Approval of this NADA is an administrative action that does not require preparation of a freedom of information summary as described in 21 CFR 514.11(e)(2).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), Part 522 is amended by revising § 522.1380, to read as follows:

§ 522.1380 Methocarbamol injection.

(a) *Specifications.* The product is a sterile, pyrogen-free solution, each milliliter containing 100 milligrams of methocarbamol, 0.5 milliliter of polyethylene glycol 300, and water for injection q.s. Its pH is 5.2 to 5.6.

(b) *Sponsor.* See 000031 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Amount*—(i) *Dogs and cats.* 20 milligrams per pound of body weight for moderate conditions, 25 to 100 milligrams per pound of body weight for severe conditions (tetanus and strychnine poisoning), total cumulative dose not to exceed 150 milligrams per pound of body weight.

(ii) *Horses.* 2 to 10 milligrams per pound of body weight for moderate conditions, 10 to 25 milligrams per pound of body weight for severe conditions (tetanus), additional amounts may be needed to relieve residual effects and to prevent recurrence of symptoms.

(2) *Indications for use.* As an adjunct for treating acute inflammatory and traumatic conditions of the skeletal muscles and to reduce muscular spasms.

(3) *Limitations.* For intravenous use only. For dogs, administer rapidly half the estimated dose, pause until the animal starts to relax, then continue administration to effect. For horses, administer rapidly to effect. Not for horses intended for food use. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. December 2, 1980.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: November 24, 1980.

Robert Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 80-37282 Filed 12-1-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 918-80]

Designation of Central or Competent Authority Under Treaties on Mutual Assistance in Criminal Matters

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The Treaty between the United States of America and the Swiss Confederation on Mutual Assistance in Criminal Matters, which entered into force on January 23, 1977, provides for mutual assistance in the investigation and prosecution of criminal matters. Similar mutual assistance treaties with other countries have been, are being, and will be negotiated. All of these treaties provide or will provide that requests for assistance be handled by a "Central Authority" or "Competent Authority" and that for the United States the Central or Competent Authority shall be the Attorney General or his designee. Title 28, Code of Federal Regulations, § 0.64-1 designates the Assistant Attorney General in charge of the Criminal Division as the Central Authority to handle requests for assistance under the Swiss Treaty. This order expands that section to cover not only the Swiss Treaty, but any mutual assistance treaty relating to criminal investigations and prosecutions which will enter into force in the future. It also authorizes the Assistant Attorney General, Criminal Division, to redelegate his authority to his Deputy Assistant Attorneys General and to the Director, Office of International Affairs, Criminal Division.

EFFECTIVE DATE: December 2, 1980.

FOR FURTHER INFORMATION CONTACT: Michael Abbell, Criminal Division, U.S. Department of Justice, Washington, D.C. 20530. (202-724-7600).

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, and provisions of treaties between the United States of America and other countries on mutual assistance in criminal matters it is hereby ordered as follows: 1. Section 0.64-1 of Title 28, Code of Federal Regulations is amended to read as follows:

§ 0.64-1 Central of competent authority under treaties on mutual assistance in criminal matters.

The Assistant Attorney General in charge of the Criminal Division shall have the authority and perform the functions of the "Central Authority" or "Competent Authority" (or like designation) under treaties between the United States of America and other countries on mutual assistance in criminal matters which designate the Attorney General or the Department of Justice as such authority. The Assistant Attorney General, Criminal Division, is authorized to redelegate this authority to his Deputy Assistant Attorneys General and to the Director, Office of International Affairs, Criminal Division.

2. The section heading in the table of contents of Part 0 of Chapter I, Title 28, Code of Federal Regulations for § 0.64-1 is amended to read as follows:

Sec.
§ 0.64-1 Central or Competent Authority under treaties on mutual assistance in criminal matters.

Dated: October 28, 1980.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80-37375 Filed 12-1-80; 8:45 am]

BILLING CODE 4410-01-M

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28 CFR Part 0

Redelegation of Authority to Deputy Assistant Attorneys General and Director of the Office of International Affairs Respecting Authority To Act as Central or Competent Authority Under Mutual Assistance Treaties in Criminal Matters

AGENCY: Department of Justice, Criminal Division.

ACTION: Final rule.

SUMMARY: This directive redelegates to each of the Deputy Assistant Attorneys General and the Director of the Office of International Affairs of the Criminal Division the authority delegated to the Assistant Attorney General in charge of the Criminal Division under 28 CFR 0.64-1 to exercise all of the power and authority vested in the Attorney General under mutual assistance treaties in criminal matters with respect to processing requests for assistance under such treaties.

EFFECTIVE DATE: November 18, 1980.

FOR FURTHER INFORMATION CONTACT: Michael Abbell, Director, Office of International Affairs, Criminal Division, Department of Justice, Washington, D.C. 20530 (202-724-7600).

Criminal Division

Directive No. 81

By virtue of the authority vested in me by § 0.64-1 of Title 28 of the Code of Federal Regulations, the authority delegated to me by that section to exercise all of the power and authority vested in the Attorney General under mutual assistance treaties in criminal matters is hereby redelegated to each of the Deputy Assistant Attorneys General and to the Director of the Office of International Affairs, Criminal Division.

Dated: November 18, 1980.

Philip B. Heymann,

Assistant Attorney General, Criminal Division.

[FR Doc. 80-37378 Filed 12-1-80; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 159

[DOD Directive 5200.1, DOD 5200.1-R]

DOD Information Security Program

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This document establishes the DOD system for classification, downgrading, declassification, and safeguarding of national security information and supplements the earlier published Part 159 of this title which set forth policy regarding the DOD Information Security Program in compliance with Executive Order 12065.

EFFECTIVE DATE: October 31, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur F. Van Cook, Director, Information Security Directorate, Office of the Deputy Under Secretary of Defense (Policy Review), Telephone 202-695-2289.

SUPPLEMENTARY INFORMATION: In FR Document 72-12210 appearing in the **Federal Register** (37 FR 15655) on August 3, 1972, the Office of the Secretary of Defense published DOD Regulation 5200.1-R (32 CFR 159) prescribing the DOD Information Security Program Regulation. An amendment was issued effective February 16, 1973, and published as FR Doc. 73-5015 (32 FR 6994) on March 15, 1973. A complete revision, effective November 1973, was issued in FR Doc. 74-10965, appearing in the **Federal Register** (39 FR 18228) on May 23, 1974. In FR Doc. 79-7096, appearing in the **Federal Register** (44 FR 12670) on March 8, 1979, the Office of the Secretary of Defense Published DOD Directive 5200.1 (Part 159 of this title). This rule implements the directive and is published pursuant to the provision of section 5-402 of Executive Order 12065.

Accordingly, 32 CFR Chapter I, Part 159, is amended by designating the §§ 159.1 through 159.4 as Subpart A—Policy, and by adding Subparts B through P, reading as follows:

PART 159—DOD INFORMATION SECURITY PROGRAM

Subpart A—Policy

* * * * *

Subpart B—General Provisions

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159.22 Duration of original classification.
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159.40 General provisions.
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159.50 Storage and storage equipment.
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159.60 Policy.
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159.80 Methods of transmission or transportation.
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159.83 [Reserved]

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Sec.
159.90 Policy.
159.91 Methods of destruction.
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Subpart K—Security Education

Sec.
159.100 Responsibility and objectives.
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Subpart L—Foreign Government Information

Sec.
159.110 Classification.
159.111 Declassification.
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159.113 Protective measures.
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Subpart M—Special Access Programs

Sec.
159.120 Policy.
159.121 Establishment of special access

Disclosure of Classified Defense Information," dated April 29, 1966.

(h) DOD 5200.2-R, "Personnel Security Program," dated December 1979.

(aa) DOD 5220.22-R, "Industrial Security Regulation," dated January 1979.

(bb) DOD 5220.22-M, "Industrial

system for classification, downgrading and declassification of information; sets forth policies and procedures to safeguard such information; and provides for oversight and enforcement

or COMSEC information. Classification principles and procedures, markings, downgrading, and declassification actions prescribed in this Regulation apply to SCI and COMSEC information

related to national security that might be derived from telecommunications, or (2) to ensure the authenticity of such telecommunications.

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Subpart M—Special Access Programs

Sec.
159.120 Policy.
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159.122 Reporting on special access programs.
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Subpart N—Program Management

Sec.
159.130 Executive branch oversight and policy direction.
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159.140 Individual responsibility.
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Subpart P—Reserved

Sec.
159.150 [Reserved]
Appendix A: Equivalent Foreign and International Pact Organization Security Classifications.
Appendix B: General Accounting Office Officials Authorized to Certify Security Clearances.
Appendix C: Instructions Governing Use of Code Words, Nicknames, and Exercise Terms.
Appendix D: Federal Aviation Administration Air Transportation Security Field Officers.

Authority: EO 12065, 5 U.S.C. 301.

Subpart B—General Provisions

§ 159.10 References.

(a) DOD Directive 5200.1, "DOD Information Security Program," dated November 29, 1978.

(b) Executive Order 12065, "National Security Information," dated June 28, 1978.

(c) "Information Security Oversight Office Directive No. 1 Concerning National Security Information," dated October 2, 1978.

(d) DOD Directive 5230.9, "Clearance of Department of Defense Public Information," dated December 24, 1966.

(e) DOD Directive C–5200.5, "Communications Security (COMSEC) (U)," dated April 13, 1971.

(f) DOD Instructions 5200.22, "Reporting of Security and Criminal Violations," dated July 19, 1978.

(g) DOD Directive 5210.50, "Investigation of and Disciplinary Action Connected with Unauthorized Disclosure of Classified Defense Information," dated April 29, 1966.

(h) DOD 5200.2–R, "Personnel Security Program," dated December 1979.

(i) DOD Directive 5400.4, "Provision of Information to Congress," dated January 30, 1978.

(j) DOD Directive 7650.1, "General Accounting Office Comprehensive Audits," dated July 9, 1958.

(k) DOD Directive 5220.22, "Department of Defense Industrial Security Program," dated December 1, 1976.

(l) DOD Directive 5230.11, "Disclosure of Classified Military Information to Foreign Governments and International Organizations," dated March 2, 1979.

(m) DOD Directive 5200.15, "Control of Dissemination of Foreign Intelligence," dated January 26, 1976.

(n) DOD Directive 5210.2, "Access to and Dissemination of Restricted Data," dated January 12, 1978.

(o) DOD Instruction C–5210.21, "Implementation of NATO Security Procedure (U)," dated December 17, 1973.

(p) DOD Directive 5200.30, "Guidelines for Systematic Review of 20-Year-Old Classified Information in Permanently Valuable DOD Records," dated June 18, 1979.

(q) DOD Directive 5400.7, "DOD Freedom of Information Act Program," dated March 24, 1980.

(r) DOD Instruction 7230.7, "User Charges," dated June 12, 1979.

(s) DOD Directive 5220.6, "Industrial Personnel Security Clearance Program," dated December 20, 1976.

(t) Joint Army-Navy-Air Force Publication (JANAP) #119 (C), November 1976 and #299, September 1971.

(u) Allied Communication Publications (ACP) #119A, August 1970.

(v) National Security Agency KAG I–D, December 1967.

(w) DOD Directive 5535.2, "Secrecy of Certain Inventories and Withholding of Patent; Delegation of Authority to Secretaries of Army, Navy, and Air Force," dated September 30, 1966.

(x) DOD Directive 5200.12, "Security Sponsorship and Procedures for Scientific and Technical Meetings Involving Disclosure of Classified Military Information," dated June 15, 1979.

(y) DOD Directive 5000.7, "Official Temporary Duty Travel Abroad," dated June 14, 1977.

(z) DOD Directive 5400.10, "Office of the Secretary of Defense/Organization of the Joint Chiefs of Staff Implementation of the DOD Freedom of Information Program," dated January 6, 1976.

(aa) DOD 5220.22–R, "Industrial Security Regulation," dated January 1979.

(bb) DOD 5220.22–M, "Industrial Security Manual for Safeguarding Classified Information," dated April 1980.

(cc) DOD Directive 5210.56, "Use of Force by Personnel Engaged in Law Enforcement and Security Duties," dated May 6, 1969.

(dd) DOD Directive 5400.11, "Personal Privacy and Rights of Individuals Regarding Their Personal Records," dated August 4, 1975.

(ee) National COMSEC Instruction 4005, dated October 12, 1979.

(ff) DOD Directive 3224.3, "Physical Security Equipment: Assignment of Responsibility for Research, Engineering, Procurement, Installation, and Maintenance," dated December 1, 1976.

(gg) DOD Instruction 1000.13, "Identification Cards for Members of the Uniformed Services, Their Dependents, and Other Eligible Personnel," dated July 16, 1979.

(hh) DOD 5200.1–H, "Department of Defense Handbook for Writing Security Classification Guidance," dated October 1980.

(ii) DOD Directive 5030.47, "National Supply System," dated May 27, 1971.

(jj) DOD Directive 4540.1, "Operating Procedures for United States Military Aircraft Over the High Seas," dated June 23, 1962.

(kk) DOD Directive 5210.41, "Security Criteria and Standards for Protecting Nuclear Weapons," dated September 12, 1978.

(ll) DOD Directive 5200.28, "Security Requirements for Automatic Data Processing (ADP) Systems," dated December 18, 1972.

(mm) DOD 5200.28–M, "ADP Security Manual: Techniques and Procedures for Implementing, Deactivating, Testing, and Evaluating Secure Resource-Sharing ADP Systems," dated January 1973.

(nn) National Communications Security Committee (formerly USCSB) Policy Directive 14–2, dated May 1, 1974.

(oo) DOD 5200.1–I, "DOD Index of Security Classification Guides"[1].

(pp) DOD Directive 7920.1, "Life Cycle Management of Automated Information Systems (AIS)," dated October 17, 1978.

§ 159.11 Purpose and applicability.

(a) *Purpose.* It is the purpose of this Regulation to ensure that information of the Department of Defense relating to national security is protected, but only to the extent and for such period as is necessary. This Regulation establishes a

[1] Published on a semiannual basis.

system for classification, downgrading and declassification of information; sets forth policies and procedures to safeguard such information; and provides for oversight and enforcement.

(b) *Applicability.* This Regulation governs the Department of Defense Information Security Program and takes precedence over all Component regulations which implement that Program. In accordance with the provisions of § 159.10 (a), (b), and (c), it establishes, for uniform application throughout the Department of Defense, the policies, standards, criteria and procedures for the security classification, downgrading, declassification and safeguarding of information that is owned by, produced for or by, or under the control of the Department of Defense or the Components thereof.

(c) *Non-government operations.* Except as otherwise provided herein, the provisions of this Regulation that are relevant to operations of nongovernment personnel entrusted with classified information shall be made applicable thereto by contract or other legally binding instrument. (See § 159.10 (k), (aa), and (bb).)

(d) *Combat operations.* The provisions of this Regulation relating to accountability, dissemination, transmission, or safeguarding of classified information may be modified by military commanders but only to the extent necessary to meet local conditions in connection with combat or combat-related operations. Classified information should be introduced into forward combat areas or zones or areas of potential hostile activity only to the extent essential to accomplishment of the military mission.

(e) *Atomic energy material.* Nothing in this Regulation supersedes any requirement related to "Restricted Data" in the Atomic Energy Act of August 30, 1954, as amended, or the regulations of the Department of Energy under that Act. "Restricted Data" and material designated as "Formerly Restricted Data," shall be handled, protected, classified, downgraded and declassified in conformity with the provisions of the Atomic Energy Act and the regulations issued pursuant thereto.

(f) *Sensitive compartmented and communications security information.* Sensitive Compartmented Information (SCI) and communications security (COMSEC) information shall be handled and controlled in accordance with applicable national and departmental directives and instructions. Other classified information, while in established SCI or COMSEC areas, may be handled in the same manner as SCI or COMSEC information. Classification principles and procedures, markings, downgrading, and declassification actions prescribed in this Regulation apply to SCI and COMSEC information. (See also § 159.131(a)(3).)

(g) *Automatic data processing systems.* This Regulation applies to protection of classified information processed, stored or used in, or communicated, displayed or disseminated by an automatic data processing (ADP) system. Additional security policy, responsibilities, and requirements applicable specifically to ADP systems are contained in § 159.10 (ll) and (mm).

§ 159.12 Definitions.

(a) *Definitions.* As used herein, the following terms and meanings shall be applicable.

(b) *Classification authority.* The authority vested in an official of the Department of Defense to classify originally information or material that, pursuant to the provisions of this Regulation, is determined by that official to require protection against unauthorized disclosure in the interest of national security. It is also the authority to prolong classification, within the limits prescribed by the Regulation, only so long as the basis for original classification remains.

(c) *Classification guides.* Guidance issued or approved by an original Top Secret classification authority that identifies information or material to be protected from unauthorized disclosure and specifies the level and duration of classification assigned or assignable to such information or material under authority of § 159.10(b). For purposes of this Regulation, this term does not include DD Form 254, "Contract Security Classification Specification."

(d) *Classified information.* Information or material that is: (1) owned by, produced for or by, or under the control of the United States Government, and (2) determined pursuant to Executive Order 12065 or prior orders and this Regulation to require protection against unauthorized disclosure, and (3) so designated.

(e) *Classifier.* An individual who makes a classification determination and applies a security classification to information or material. A classifier may be an original classification authority or a person who derivatively assigns a security classification based on a properly classified source or a classification guide.

(f) *Communications security (COMSEC).* The protection resulting from any measures taken to: (1) deny unauthorized persons information related to national security that might be derived from telecommunications, or (2) to ensure the authenticity of such telecommunications.

(g) *Component.* The Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands and the Defense Agencies.

(h) *Compromise.* The disclosure of classified information to persons not authorized access thereto.

(i) *Critical nuclear weapon design information.* That Top Secret Restricted Data or Secret Restricted Data revealing the theory of operation or design of the components of a thermo-nuclear or implosion-type fission bomb, warhead, demolition munition or test device. Specifically excluded is information concerning arming, fuzing, and firing systems; limited life components; and total contained quantities of fissionable, fusionable, and high explosive materials by type. Among these excluded items are the components which DoD personnel set, maintain, operate, test, or replace.

(j) *Custodian.* An individual who has possession of or is otherwise charged with the responsibility for safeguarding or accounting for classified information.

(k) *Declassification.* The determination that classified information no longer requires, in the interests of national security, any degree of protection against unauthorized disclosure, together with a removal or cancellation of the classification designation.

(l) *Declassification event.* An event that eliminates the need for continued classification of information.

(m) *Derivative classification.* A determination that information is in substance the same as information that is currently classified, and a designation of the level of classification.

(n) *Document.* Any recorded information regardless of its physical form or characteristics, including, without limitation, written or printed matter, data processing cards and tapes, maps, charts, paintings, drawings, engravings, sketches, working notes and papers, reproductions of such things by any means or process, and sound, voice, magnetic or electronic recordings in any form.

(o) *Downgrade.* A determination that classified information requires, in the interests of national security, a lower degree of protection against unauthorized disclosure than currently provided, together with a changing of the classification designation to reflect such lower degree of protection.

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(p) *Foreign government information.* Information that is (1) provided to the United State by a foreign government or international organization of governments in the expectation, express or implied, that the information is to be kept in confidence; or (2) produced by the United States pursuant to a written joint arrangement with a foreign government or international organization of governments requiring that either the information or the arrangement, or both, be kept in confidence. Such a written joint arrangement may be evidenced by an exchange of letters, a memorandum of understanding, or other written record.

(q) *Formerly restricted data.* Information removed from the Restricted Data category upon a joint determination by the Department of Energy (or antecedent agencies) and the Department of Defense that such information relates primarily to the military utilization of atomic weapons and that such information can be adequately safeguarded as classified defense information. For purposes of foreign dissemination, however, such information is treated in the same manner as Restricted Data.

(r) *Information.* Knowledge that can be communicated by any means.

(s) *Information security.* The result of any system of administrative policies and procedures for identifying, controlling, and protecting from unauthorized disclosure information the protection of which is authorized by executive order or statute.

(t) *Material.* Any product or substance, on, or in which, information is embodied.

(u) *National security.* The national defense and foreign relations of the United States.

(v) *Original classification.* An initial determination that information requires, in the interest of national security, a specific degree of protection against unauthorized disclosure together with a designation signifying that such a determination has been made.

(w) *Regrade.* A determination that classified information requires a different degree of protection against unauthorized disclosure than currently provided, together with a change of classification designation that reflects such different degree of protection.

(x) *Restricted data.* All data concerning (1) design, manufacture or utilization of atomic weapons; (2) the production of special nuclear material; or (3) the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act. (See also Section 11y, Atomic Energy Act of 1954, as amended, and "Formerly Restricted Data," paragraph (q) of this Section.)

(y) *Sensitive compartmented information.* All information and material that requires special controls for restricted handling within compartmented intelligence systems and for which compartmentation is established.

(z) *Special access program.* Any program imposing "need-to-know" or access controls beyond those normally provided for access to Confidential, Secret, or Top Secret information. Such a program includes, but is not limited to, special clearance, adjudication, or investigative requirements, special designation of officials authorized to determine "need-to-know," or special lists of persons determined to have a "need-to-know."

(aa) United States and its territories, possessions, administrative, and commonwealth areas. The 50 States; the District of Columbia; the Commonwealth of Puerto Rico; the Territories of Guam, American Samoa, and the Virgin Islands; the Trust Territory of the Pacific Islands; the Canal Zone; and the Possessions, Midway and Wake Islands.

(bb) *Upgrade.* A determination that certain classified information requires, in the interests of national security, a higher degree of protection against the unauthorized disclosure than currently provided, together with a changing of the classification designatfon to reflect such higher degree.

§ 159.13 Policies.

(a) *Classification.* (1) *Basic policy.* Except as provided in the Atomic Energy Act of 1954, as amended, Executive Order 12065, as implemented by § 159.10(c) and this Regulation, provides the only basis for classifying information. It is the policy of the Department of Defense to make available to the public as much information concerning its activities as possible consistent with the need to protect the national security. Accordingly, security classification shall be applied only to protect the national security.

(2) *Resolution of doubts.* Unnecessary classification and higher than necessary classification shall be scrupulously avoided. If there is reasonable doubt which designation of security classification is appropriate, or whether information or material should be classified at all, *the less restrictive treatment should be used.*

(3) *Duration.* Classification shall not be continued longer than necessary for the protection of national security. Each decision to classify requires a simultaneous determination of the duration such classification must remain in force.

(b) *Declassification.* Declassification of information shall be given emphasis comparable to that accorded to classification. Decisions concerning declassification shall be based on the loss of the information's sensitivity with the passage of time or upon the occurrence of a declassification event.

(c) *Safeguarding.* Information classified under the provisions of this Regulation shall be afforded the level of protection against unauthorized disclosure commensurate with the level of classification assigned under the varying conditions which may arise in connection with its use, dissemination, storage, movement or transmission, and destruction.

§ 159.14 Security classification designations.

(a) *General.* Information or material that requires protection against unauthorized disclosure in the interest of national security shall be classified in one of three designations, namely: "Top Secret," "Secret," or "Confidential." The markings "For Official Use Only," and "Limited Official Use" shall not be used to identify classified information. Moreover, no other term such as "Sensitive," "Conference," or "Agency" shall be used in conjunction with the authorized classification designations.

(b) *"Top Secret".* "Top Secret" shall be applied only to information or material the unauthorized disclosure of which could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security.

(c) *"Secret".* "Secret" shall be applied only to information or material the unauthorized disclosure of which could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence

operations; and compromise of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security.

(d) *"Confidential".* "Confidential" shall be applied to information or material the unauthorized disclosure of which could reasonably be expected to cause identifiable damage to the national security. Examples of "identifiable damage" include the compromise of information that indicates strength of ground, air, and naval forces in the United States and overseas areas; disclosure of technical information used for training, maintenance, and inspection of classified munitions of war; revelation of performance characteristics, test data, design, and production data on munitions of war.

§ 159.15 Authority to classify, downgrade and declassify.

(a) *Original classification authority.* (1) *Control.* Authority for original classification of information as Top Secret, Secret or Confidential may be exercised only by the Secretary of Defense, the Secretaries of the Military Departments, and by officials to whom such authority is specifically delegated in accordance with and subject to the restrictions of this Section. In the absence of an original classification authority, the person designated to act in his or her absence may exercise the classifier's authority.

(2) *Delegation of classification authority.* Original classification authority shall not be delegated to persons who only reproduce, extract, or summarize classified information, or who only apply classification markings derived from source material or as directed by a classification guide. Delegations of original classification authority shall be limited to the minimum number required for efficient administration and to those officials whose duties involve the origination and evaluation of information warranting classification at the level stated in the delegation.

(i) *Top secret.* Only the Secretary of Defense, the Secretaries of the Military Departments may delegate original Top Secret classification authority. Such delegation may only be made to principal subordinate officials who are determined by the respective Secretaries to have frequent need to exercise such authority. The delegation of authority shall include specific notice as to whether the Top Secret classification authority is authorized to delegate original Secret and Confidential classification authority.

(ii) *Secret and confidential.* Only the Secretary of Defense, the Secretaries of the Military Departments, and officials with original Top Secret classification authority authorized to do so, may delegate original Secret and Confidential classification authority to subordinate officials whom they respectively determine to have frequent need to exercise such authority.

(iii) Each delegation of original classification authority shall be in writing and shall specify the title of the position held by the recipient.

(iv) Officials to whom original classification authority is delegated may not redelegate such authority.

(3) *Restrictions.* Only the Secretary of Defense, the Secretaries of the Military Departments and those officials specifically designated to act for them in their absence are authorized to prolong the duration of classification beyond 20 years from the date of original classification. Other officials designated to exercise original classification authority, pursuant to this Regulation, are authorized to prolong classification as follows:

(i) Except as provided in paragraph (a)(3)(iii) of this Section, original Top Secret classification authorities may prolong classification not more than 20 years from the date of original classification.

(ii) Original Secret and Confidential classification authorities may prolong classification not more than 6 years from the date of original classification.

(iii) An original Top Secret classification authority shall prolong the classification of foreign government information to provide for declassification review 30 years from the date of original classification or the date it was acquired or classified by the United States, whichever is earlier, unless an earlier date for declassification has been specified or approved by the foreign government or international organization of governments concerned.

(4) *Requests for classification authority.* (i) A request for the delegation of original classification authority shall be made only when the following conditions exist:

(A) The normal course of operations or missions of the organization is such as to result in the origination of information warranting classification.

(B) There is a substantial degree of local autonomy in operations or missions as distinguished from dependence upon a higher level of command or supervision for relatively detailed guidance.

(C) There is adequate knowledge by the originating level to make sound classification determinations as distinguished from having to seek such knowledge from a higher level of command or supervision.

(D) There is a valid reason why already designated classification authorities in the originator's chain of command or supervision have not issued or cannot issue classification guidance sufficient to meet the originator's normal needs.

(ii) Each request for a delegation of original classification authority shall:

(A) Identify the title of the position held by the nominee and the nominee's organization;

(B) Contain a description of the circumstances, consistent with paragraph (a)(4)(i) of this Section, which justifies the delegation of such authority; and

(C) Be submitted through established channels to the Secretary of Defense, the Secretary of the appropriate Military Department, or the appropriate Top Secret classification authority authorized to act on such requests. (See paragraph (c) of this Section.)

(b) *Derivative classification responsibility.* Derivative application of classification markings is a responsibility of those who incorporate, paraphrase, restate, or generate in new form, information which is already classified, or those who apply markings in accordance with guidance from an original classification authority. Persons who apply derivative classifications should take care to determine whether their paraphrasing, restating or summarizing of classified information has removed all or part of the basis for classification. Persons who apply such derivative classification markings shall:

(1) Respect original classification decisions;

(2) Verify the information's current level of classification so far as practicable before applying the markings; and

(3) Carry forward to any newly created documents the assigned dates or events for declassification or review and any additional authorized markings. Where checks with originators or other appropriate inquiries show that no classification or a lower classification than originally assigned is appropriate, the information shall be marked accordingly.

(c) *Record and report requirements.* (1) Records of designations of original classification authority shall be maintained as follows:

(i) *Top secret authorities.* A current listing by title and organization of officials designated to exercise original

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Top Secret classification authority shall be maintained by:

(A) The Office of the Deputy Under Secretary of Defense (Policy Review) for the Office of the Secretary of Defense; the Organization of the Joint Chiefs of Staff; the Headquarters of each Unified Command and the Headquarters of Subordinate Joint Commands; and the Defense Agencies.

(B) The Offices of the Secretaries of the Military Departments for the officials of their respective departments, including Specified Commands but excluding officials from their respective departments who are serving in Headquarters elements of Unified Commands and Headquarters of Joint Commands subordinate thereto.

(ii) *Secret and confidential authorities.* A current listing by title and organization of officials designated to exercise original Secret and Confidential classification authority shall be maintained by:

(A) The Office of the Deputy Under Secretary of Defense (Policy Review) for the Office of the Secretary of Defense.

(B) The offices of the Secretaries of the Military Departments for the officials of their respective departments, including Specified Commands but excluding officials from their respective departments who are serving in Headquarters elements of Unified Commands and Headquarters elements of Joint Commands subordinate thereto.

(C) The Director, Joint Staff, for the Organization of the Joint Chiefs of Staff.

(D) The Commanders-in-Chief of the Unified and Specified Commands, for their respective Headquarters and the Headquarters of Subordinate Joint Commands.

(E) The Directors of the Defense Agencies, for their respective agencies.

(iii) If the listing of titles of positions and organizations prescribed in paragraphs (c)(1)(i) and (c)(1)(ii) discloses intelligence or other information that either qualifies for security classification protection or otherwise qualifies to be withheld from public release under statute, some other means may be recommended by the DoD component by which original classification authorities can be readily identified. Such recommendations shall be submitted to the Office of the Deputy Under Secretary of Defense (Policy Review) for approval.

(iv) The listings prescribed in paragraphs (c)(1)(i) and (c)(1)(ii) shall be reviewed at least annually by the senior official designated in or pursuant to § 159.131(a)(1), 159.132(b) or 159.132(c) or his or her designee to ensure that officials so listed have demonstrated a continuing need to exercise original classification authority.

(2) The DoD Components that maintain listings of designated original classification authorities shall, upon request, submit copies of such listings to the Office of the Deputy Under Secretary of Defense (Policy Review).

(d) *Declassification and downgrading authority.* (1) Authority to declassify and downgrade information classified under provisions of this Regulation shall be exercised as follows:

(i) By the Secretary of Defense and the Secretaries of the Military Departments, with respect to all information over which their respective Departments exercise final classification jurisdiction;

(ii) By the official who authorized the original classification, if that official is still serving in the same position, by a successor, or by a supervisory official of either; and

(iii) By other officials designated for the purpose in accordance with paragraph (d)(2) of this Section.

(2) The Secretary of Defense, the Secretaries of the Military Departments, the Chairman of the Joint Chiefs of Staff, the Directors of the Defense Agencies, or their senior officials designated under § 159.132(b) or 159.132(c) shall designate additional officials at the lowest practicable echelons of command and supervision to exercise declassification and downgrading authority over classified information in their functional areas of interest. Records of officials so designated shall be maintained in the same manner as is prescribed in paragraph (c)(1)(i) of this Section for the records of designations of original classification authority.

§159.16 [Reserved]

Subpart C—Classification

§159.20 Classification responsibilities.

(a) *Accountability of classifiers.* (1) Classifiers are accountable for the propriety of the classifications they assign, whether by exercise of original classification authority or by derivative classification.

(2) An official who classifies a document or other material and is identified thereon as the classifier is and continues to be an accountable classifier even though the document or material is finally approved or signed at a higher level in the same organization. (See § 159.40(e).)

(b) *Classification approval.* (1) When an official signs or finally approves a document or other material already marked to reflect a particular level of classification, he or she shall review the information contained therein to determine if the classification markings are appropriate. If, in his or her judgment, the classification markings are not supportable, he or she shall, at that time, cause such markings to be removed or changed as appropriate to reflect accurately the classification of the information involved.

(2) A higher level official through or to whom a document or other material passes for signature or final approval becomes jointly responsible with the accountable classifier for the classification(s) assigned. Such official has discretion to decide whether his subordinates who have classification authority shall be identified as accountable classifier when they have exercised that authority.

(c) *Classification planning.* (1) Advance classification planning is an essential part of the development of any plan, operation, program, research and development project, or procurement action that involves classified information. Classification aspects must be considered from the outset to assure adequate protection for the information and for the activity itself, and to eliminate impediments to the execution or implementation of the plan, operations order, program, project or procurement action.

(2) The commander or official charged with the development of any plan, program or project, in which classification is a factor, shall include therein, under a clearly identifiable title or heading, classification guidance covering the information involved in that effort. The guidance shall conform to the requirements contained in § 159.23 of this Subpart.

(d) *Challenges to classification.* If holders of classified information have substantial reason to believe that the information is classified improperly or unnecessarily or that an improper period for continued classification has been assigned, they are encouraged to discuss it with their security manager (§ 159.132(e)) or the classifier of the information with a view to bringing about corrections if appropriate. Alternatives are set out below in the event the holder desires to pursue the challenge formally.

(1) Each DoD Component will establish, as part of its information security program, procedures whereby holders of classified information may challenge the decision of the classifier of the information. Each Component will designate one or more offices to which challenges to classification and appeals therefrom may be submitted. Its procedures shall provide for preservation of the anonymity of the challenger. These procedures shall be

publicized within the Component through its supplement to this Regulation or other suitable publication.

(2) Challenges to classification made under the provisions of this paragraph shall include sufficient description of the information or document being challenged to permit identification of the information or document and the classifier thereof with reasonable effort. Challenges to classification shall also include the reason(s) why the challenger believes that the information is classified improperly or unnecessarily or that an improper period for continued classification has been assigned.

(3) Challenges received under the provisions of this paragraph will be acted upon within thirty days of receipt. The challenger shall be notified of any changes made as a result of the challenge or the reasons why no change is made. Such notice shall, in appropriate cases, advise the challenger that, within thirty days, the decision may be appealed to an official designated by the Component for that purpose.

(4) Within thirty days after receipt of an appeal, the designated official will consider the appeal, requesting additional information as necessary from either the challenger or classifier and may reverse, amend or uphold the initial decision of the classifier, informing both the challenger and classifier of the determination made as well as the option of further appeal to the Defense or Military Department Information Security Committee, as appropriate (see § 159.132(b) and 159.132(c)).

(5) Pending final determination of a challenge to classification and appeal, the information or document in question shall be safeguarded as required for the level of classification initially assigned.

(6) The fact that an employee or military member of the Department of Defense has issued a challenge to classification shall not in any way result in or serve as a basis for adverse personnel action.

(7) The provisions of this paragraph do not apply to or affect declassification review actions undertaken under the mandatory review requirements of Subpart D, § 159.32 or under the provisions of § 159.10(q).

§ 159.21 Classification principles, criteria, and considerations.

(a) *Reasoned judgment.* Reasoned judgment shall be exercised in making classification decisions. A positive basis must exist for classification. Both advantages and disadvantages of classification must be weighed. If, after consideration of the provisions of this Section of the Regulations, there is reasonable doubt whether the information in question should be classified at all, the information should not be classified.

(b) *Identification of specific information.* Before a classification determination is made, each item of information that may require protection shall be identified exactly. This requires identification of that specific information which comprises the basis for a particular national advantage or advantages which, if the information were compromised, would or could be damaged, minimized, or lost, thereby adversely affecting the national security.

(c) *Specific classifying criteria.* A determination to classify shall be made only by an original classification authority and only when, *first,* the information is within categories (1) through (7), below; and *second,* the unauthorized disclosure of the information reasonably could be expected to cause at least identifiable damage to the national security. The determination involved in the first step is separate and distinct from that in the second. The fact that the information falls under one or more of the criteria shall not be presumed to mean that the information *automatically* meets the damage criteria. Information may not be considered for classification unless it concerns:

(1) Military plans, weapons, or operations;

(2) Foreign government information;

(3) Intelligence activities, sources or methods;

(4) Foreign relations or foreign activities of the United States;

(5) Scientific, technological, or economic matters relating to the national security;

(6) United States Government programs for safeguarding nuclear materials or facilities; or

(7) Other categories of information which are related to national security and which require protection against unauthorized disclosure as determined by the Secretary of Defense or Secretaries of the Military Departments. Recommendations concerning the need to designate additional categories of information that may be considered for classification shall be forwarded through channels to the appropriate Secretary for determination. Each such determination shall be reported promptly to the Director for Information Security, Office of the Deputy Under Secretary of Defense (Policy Review), for promulgation in an Appendix to this Regulation and reporting to the Director of the Information Security Oversight Office.

(d) *Presumption of damage.* Unauthorized disclosure of foreign government information (see § 159.111(a)) or the identity of a confidential foreign source is presumed to cause at least identifiable damage to the national security.

(e) *Prohibition.* (1) Classification may not be used to conceal violations of law, inefficiency, or administrative error, to prevent embarrassment to a person, organization or agency, or to restrain competition.

(2) Basic scientific research information not clearly related to the national security may not be classified. (See § 159.21(f).)

(3) A product of non-government research and development that does not incorporate or reveal classified information to which the producer or developer was given prior access may not be classified until and unless the government acquires a proprietary interest in the product. This prohibition does not affect the provisions of the Patent Secrecy Act of 1952 (35 U.S.C. 181–188). (See § 159.26.)

(4) References to classified documents that do not disclose classified information may not be classified or used as a basis for classification.

(5) Classification may not be used to limit dissemination of information that is not classifiable under the provisions of Executive Order 12065 of this Regulation or to prevent or delay the public release of such information.

(6) No document originated on or after 1 December 1978 may be classified after receipt of a request for the document under the Freedom of Information Act or the Mandatory Review provisions of Subpart D, § 159.32 unless such classification is consistent with this Regulation and is authorized by the Secretary or Deputy Secretary of Defense or by the Secretaries or Under Secretaries of the Military Departments. Documents originated before 1 December 1978 and subject to such a request may not be classified unless such classification is consistent with this Regulation and is authorized by an official with Top Secret classification authority. Classification authority under this provision shall be exercised personally, on a document-by-document basis and subject to the provisions of § 159.27(b).

(7) Classification may not be restored to documents containing information already declassified and released to the public under this or prior Regulations.

(8) A compilation of official public releases may not be classified.

(f) *Classifying scientific research data.* Ordinarily, except for information which meets the definition of Restricted

Data, basic scientific research or results thereof shall not be classified. However, classification would be appropriate if the information concerns an unusually

information that downgrading or declassification is warranted. Similar consideration must be given to related items of information in all programs,

fully supported by a written explanation which will be provided with the material so classified. (See also paragraph (e) of this Section and § 159.41(d).)

classification will continue *throughout the entire period the classification will be in effect* and only for the following reasons:

known holders of the information can be notified of such action prior to the date or event previously set for declassification.

is expressly designated to serve as the executive or administrative agent for the particular effort.

(c) *Other multiservice interest cases.*

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Data, basic scientific research or results thereof shall not be classified. However, classification would be appropriate if the information concerns an unusually significant scientific "breakthrough" and there is sound reason to believe it is not known or within the state-of-the-art of other nations, and it supplies the United States with an advantage directly related to national security.

(g) *Classifying documents.* Each document and portion thereof shall be classified on the basis of the information it contains or reveals. The fact that a document makes reference to a classified document is not a basis for classification unless the reference, standing alone, reveals classified information. (See paragraph (e)(4) of this Section.) The overall classification of a document, file folder, or group of physically-connected documents shall be at least as high as that of the most highly classified component. The subject or title of a classified document should normally be unclassified. When the information revealed by a subject or title warrants classification, an unclassified short title shall be added for reference purposes.

(h) *Classifying material other than documents.* (1) Items of equipment or other physical objects shall be classified only when classified information may be derived from them by visual observation of their internal or external appearance or structure, or by their operation, test, application or use. The overall classification assigned to end items of equipment or objects shall be at least as high as the highest classification of any of its integrated parts.

(2) If mere knowledge of the existence of the item of equipment or object would compromise or nullify its national security advantage, its existence would warrant classification.

(i) *State of the art and intelligence.* Classification requires consideration of the information available from intelligence sources concerning the extent to which the same or similar information is known or is available to others. It is also important to consider whether it is known, publicly or internationally, that the United States has the information or even is interested in the subject matter. The state of the art in other nations may often be a vital consideration.

(j) *Effect of open publication.* Appearance in the public domain of information currently classified or being considered for classification does not preclude initial or continued classification; however, such disclosures require immediate reevaluation of the information to determine whether the publication has so compromised the information that downgrading or declassification is warranted. Similar consideration must be given to related items of information in all programs, projects or items incorporating or pertaining to the compromised items of information. In these cases, if the release is shown to have been made or authorized by an official of the Executive Branch authorized to declassify and release such information, classification of clearly identified items shall no longer be continued. However, holders should continue classification until advised to the contrary by a competent Government authority.

(k) *Reevaluation of classification because of compromise.* Classified information, and information related thereto, that is or may have been compromised, shall be reevaluated and acted upon as follows:

(1) The original classifying authority, upon learning that a compromise or probable compromise of specific classified information has occurred, shall:

(i) Reevaluate the information involved and determine whether: (A) the classification should be continued without changing the specific information involved; (B) the specific information, or parts thereof, should be modified to minimize or nullify the effects of the reported compromise and the classification retained; (C) declassification or downgrading is warranted.

(ii) When such determination is within categories (k)(1)(i) (B) or (C) of this Section, give prompt notice thereof to all holders of such information.

(2) Upon learning that a compromise or probable compromise has occurred, any official having original classification jurisdiction over related information shall reevaluate the related information and determine whether one of the courses of action enumerated in paragraph a.1., above, should be taken or, in lieu thereof, upgrading of the related information is warranted. When such a determination is within categories (k)(1)(i) (B) or (C) of this Section, or that upgrading of the related items is warranted, prompt notice of the determination shall be given to all holders of the related information. (See Subpart G.)

(l) *Compilation of information.* A compilation of unclassified items of information shall normally not be classified. In unusual circumstances, classification may be required if the combination of unclassified items of information provides an added factor which warrants classification under § 159.21(c). Classification on this basis shall be used sparingly and shall be fully supported by a written explanation which will be provided with the material so classified. (See also paragraph (e) of this Section and § 159.41(d).)

(m) *Extracts of information.* Information extracted from a classified source will be derivatively classified, or not classified, as the case may be, in accordance with the classification markings shown in the source. The overall marking and internal marking of the source should supply adequate classification guidance to the person making the extraction. If internal markings or classification guidance are not found in the source and no reference is made to an applicable classification guide that is available for use by the person making the extraction, the extracted information will be classified according to either the overall marking of the source, or guidance obtained from the classifier of the source material.

§ 159.22 Duration of original classification.

(a) *General.* At the time a determination is made by an official with authority to originally classify information as Top Secret, Secret or Confidential, a simultaneous decision must be made by that official as to the duration of time such classification must remain in force. In arriving at the latter decision, the classifier must exercise careful judgment as to how far in the future the basis for original classification will remain valid. Only in cases where a specific determination has been made that earlier declassification should not be accomplished, may original classification authorities specify declassification dates or events at the limit of their authority as prescribed in § 159.15(a)(3).

(b) *Duration of classification.* (1) Information shall be classified only so long as its unauthorized disclosure would result in at least identifiable damage to the national security. Any willful extension beyond that period is a violation of this Regulation.

(2) Dates or events on which automatic declassification should occur shall be as early as possible consistent with the national security and, except as provided in paragraph (b)(3) of this Section, shall be no more than six years from the date of original classification. Any event specified for the determination of declassification shall be an event certain to occur.

(3) Classification may be prolonged for more than six years only by officials designated as original Top Secret classification authorities. This authority shall be used only when such officials determine that the two conditions specified in § 159.21(c) for original

classification will continue *throughout the entire period the classification will be in effect* and only for the following reasons:

(i) The information is "foreign government information" as defined in this Regulation;

(ii) The continuing protection of the information is specifically required by statute;

(iii) The continuing protection of the information is essential to the national security because it reveals intelligence sources or methods which, if lost, cannot be regained or replaced promptly;

(iv) The continuing protection of the information is essential to the national security because it pertains to communications security;

(v) The information reveals vulnerability or capability data the unauthorized disclosure of which can reasonably be expected to result in nullifying the effectiveness of a system, installation or project important to the national security;

(vi) The information concerns plans important to national security the unauthorized disclosure of which can reasonably be expected to result in nullifying the effectiveness of the plan itself or impeding its orderly implementation;

(vii) The information concerns specific foreign relations matters the continued protection of which is essential to the national security; or

(viii) Disclosure of the information would place a person in immediate jeopardy.

(4) A Top Secret classification authority who prolongs a classification for more than six years shall set a specific date or event for declassification or a specific date for review for declassification which shall be as early as possible consistent with the national security and subject to the following limitations:

(i) The date or event may not be more than twenty years from the date of original classification;

(ii) A twenty-year declassification review date may be set only when consistent with § 159.10(p) (see also Subpart L, Foreign Government Information); and

(iii) When classification is extended for more than six years, the identity of the original Top Secret classification authority and reasons for the extension of classification will be recorded as prescribed by § 159.40(d).

(c) *Subsequent extension of duration of classification.* The duration of classification specified at the time of original classification may be extended only by officials with requisite original classification authority and only if all known holders of the information can be notified of such action prior to the date or event previously set for declassification.

§ 159.23 Classification guides.

(a) *General.* (1) A classification guide shall be issued for each classified system, program, plan, or project as soon as practicable prior to the initial funding or implementation of the system, program, plan or project. Successive operating echelons shall prescribe such further detailed supplemental guides as may be deemed essential to assure accurate and consistent classification. In preparing classification guides, originators should review § 159.10(hh), DoD 5200.1–H, "DoD Handbook for Writing Security Classification Guidance."

(2) Classification guides shall:

(i) Identify the information elements to be protected, using categorization to the extent necessary to ensure that the information involved can be identified readily and uniformly;

(ii) State which of the classification designations (i.e., Top Secret, Secret, or Confidential) applies to the information;

(iii) State the duration of classification in terms of a period of time or future event and specify the action to be taken at that time, that is, declassification or review for declassification. When such duration is to exceed six years, the reason for such extension shall be provided in the guide. However, if the inclusion of classified reasons would result in a level of classification for a guide that would inhibit its desirable and required dissemination, those reasons need be recorded only on or with the record copy of the guide (§ 159.22(b)(3)); and

(iv) Either specifically indicate that the designations, time limits, markings, and other requirements of Executive Order 12065 are to be applied to information classified pursuant to the guide in accordance with this Part or specify how they are to be applied.

Each classification guide shall be approved personally and in writing by an official with original Top Secret classification authority whose identity shall appear on the guide. Such approval constitutes an original classification decision.

(b) *Multiservice interest.* For each classified system, program, project, plan or item involving more than one Component of the Department of Defense, a classification guide shall be issued by: (1) the element in the Office of the Secretary of Defense that assumes or is expressly designated to exercise overall cognizance over it; or (2) the Department of Defense Component that is expressly designated to serve as the executive or administrative agent for the particular effort.

(c) *Other multiservice interest cases.* The Deputy Under Secretary of Defense (Policy Review) shall develop, in coordination with the designated senior official (§ 159.132(b) and (c)) of each interested Department of Defense Component, and issue appropriate classification guides covering general subject matters that will be involved in individual systems or equipments and for which it is deemed essential to establish proper bases for uniform, consistent classification assignments.

(d) *Research, development, test and evaluation.* A program security classification guide shall be developed for each system and equipment development program that involves research, development, test and evaluation (RDT&E) of technical information. For each such program covered by an approved Decision Coordinating Paper (DCP) or Program Memorandum (PM), initial basic classification guidance applicable to technical characteristics of the system or equipment shall be developed and submitted with the proposed DCP or PM to the Under Secretary of Defense for Research and Engineering for approval. A detailed classification guide shall be developed and issued as near in time as possible to the approval of the DCP or PM.

(e) *Project phases.* Whenever possible, classification guides shall cover specifically each phase of transition, i.e., research, development, test and evaluation, procurement, production, service use and obsolescence, with changes in assigned classifications to reflect the changing sensitivity of the information involved.

(f) *Review of classification guides.* (1) Classification guides shall be reviewed by the originator for currency and accuracy not less than once every two years. Changes shall be issued promptly. If no changes are made, the originator shall so annotate the record copy and show the date of the review.

(2) Classification guides issued prior to 1 December 1978 that are in current use must be updated to meet the requirements of paragraph (a) of this Section in accordance with pertinent provisions of this Part. Such updating should be completed prior to December 1, 1978. Converting previous declassification determinations directed by classification guides shall be accomplished in accordance with the following:

(i) Classifications subject to the General Declassification Schedule of Executive Order 11652: The date for

declassification shall be restated as a finite date.

(ii) Classifications exempt from the General Declassification Schedule of Executive Order 11652: The date for declassification shall be restated as a finite date.

(iii) Classifications assigned under Executive Order 10501, as amended: The date for declassification shall be restated as a finite date.

(3) Classification guides, except as provided in paragraph (h)(2) of this Section, issued pursuant to the provisions of this Part shall be listed in the "DoD Index of Security

completed within thirty (30) days. Failure to reach a decision within thirty (30) days shall be cause for referral to the next level of consideration.

it shall be assigned a classification and be marked and safeguarded accordingly.

(2) If the patent application does not contain information that warrants

request for evaluation shall make or obtain a determination whether a classification would be assigned if it were government information. If the

of the assigned classification will occur on a specified date or upon the occurence of a stated event.

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declassification shall be restated as a finite date.

(ii) Classifications exempt from the General Declassification Schedule of Executive Order 11652:

(A) A date for declassification at the end of any period not in excess of twenty years from the date of original classification may be carried forward but shall be restated as a finite date, i.e., day, month and year.

(B) A date for declassification in excess of twenty years from the date of original classification or an indeterminate date or event for declassification may not be carried forward but shall be converted to a finite date for declassification or for review for declassification not more than twenty years from the date of original classification.

(C) In any case where a classification guide provides for the classification of foreign government information as defined herein, a date for declassification review shall be set at thirty years from the date of origin, acquisition or classification of the information by the United States, whichever is earlier.

(g) *Distribution of classification guides.* (1) A copy of each approved classification guide and changes thereto other than those covering Sensitive Compartmented Information (SCI) shall be sent to the Director of Freedom of Information and Security Review, Office of the Assistant Secretary of Defense (Public Affairs) and to the Director of Information Security, Office of the Deputy Under Secretary of Defense (Policy Review). A copy of each approved classification guide covering SCI shall be submitted to and maintained by the Senior Intelligence Officer who has security cognizance over the issuing activity.

(2) Two copies of each approved classification guide and changes thereto shall be sent by the originator to the Administrator, Defense Technical Information Center (DTIC), Defense Logistics Agency unless such guide is classified Top Secret, or covers Sensitive Compartmented Information, or is determined by the approver of the guide to be too sensitive for automatic distribution to DoD Components. Each classification guide forwarded to DTIC must bear one of the following distribution limitation statements on its front cover or first page if there is no cover:

(i) "U.S. Govt and its contractors."
(ii) "U.S. Gov't only."
(iii) "DoD and DoD contractors only."
(iv) "DoD only."

(h) *Index of security classification guides.* (1) All security classification guides, except as provided in paragraph (h)(2) of this Section, issued pursuant to the provisions of this Part shall be listed in the "DoD Index of Security Classification Guides," DoD 5200.1–I (§ 159.10(00)) on the basis of information provided on DD Form 2024, "DoD Security Classification Guide Data Elements." The originator of each guide shall execute DD Form 2024 when the guide is approved, changed, revised, reissued, cancelled and when its biennial review is accomplished. The original copy of each executed DD Form 2024 will be forwarded to the Office of the Deputy Under Secretary of Defense (Policy Review) which will maintain the Index. Report Control Symbol DD–POL (B & AR) 1418 applies to this information collection system.

(2) Any classification guide that, because of classification considerations, is not listed in accordance with subparagraph a., above, shall be reported by the originator to the Director of Information Security, Office of the Deputy Under Secretary of Defense (Policy Review). The report shall include the title of the guide, its date, the classification of the guide, and identification of the originating activity. A separate classified list of such guides will be maintained. Report Control Symbol DD–POL (B & AR) 1418 applies to this information collection system.

§ 159.24 Resolution of conflicts.

(a) *General.* When two or more offices, headquarters or activities disagree concerning a classification, declassification, or regrading action, the disagreement must be resolved promptly.

(b) *Procedures.* If agreement cannot be reached by informal consultation, the matter shall be referred for decision to the lowest superior common to the disagreeing parties. If agreement cannot be reached at the major command (or equivalent) level, the matter shall be referred for decision to the headquarters office having overall classification management responsibilities for the Component. That office shall also be advised of any disagreement at any echelon if it appears that prompt resolution is not likely.

(c) *Final Decision.* Disagreements between Department of Defense Component headquarters, if not resolved promptly, shall be referred for final resolution to the Office of the Deputy Under Secretary of Defense (Policy Review). If appropriate, that office may refer the question to the DoD Information Security Committee (§ 159.131(b)) for action.

(d) *Timing.* Action under this Section at each level of consideration shall be completed within thirty (30) days. Failure to reach a decision within thirty (30) days shall be cause for referral to the next level of consideration.

§ 159.25 Obtaining classification evaluations.

(a) *Procedures.* If a person not authorized to classify originates or develops information that he or she believes should be safeguarded, he or she shall:

(1) Safeguard the information in the manner prescribed for the intended classification;

(2) Mark the information (or cover sheet) with the intended classification designation prescribed in § 159.14;

(3) Transmit the information under appropriate safeguards to an appropriate classification authority for evaluation. The transmittal shall state that the information is tentatively marked to protect it in transit. If such authority is not readily identifiable, the information should be forwarded to a headquarters activity of a Department of Defense Component, to the headquarters office having overall classification management responsibilities for a Department of Defense Component or to the Deputy Under Secretary of Defense (Policy Review). A determination whether to classify the information shall be made within 30 days of receipt;

(4) Upon decision by the classifying authority, the tentative marking shall be removed. If a classification is assigned, appropriate markings shall be applied; but

(5) In an emergency requiring immediate communication of the information, after taking the action prescribed by paragraphs (a)(1) and (2) of this Section above, transmit the information and then proceed in accordance with paragraph (a)(3) of this Section..

§ 159.26 Information developed by private sources.

(a) *General.* There are some circumstances in which information not meeting the definition in § 159.12(d) may warrant protection in the interest of national security

(b) *Patent Secrecy Act.* The Patent Secrecy Act of 1952 (35 U.S.C. 181–188) provides that the Secretary of Defense, among others, may determine that disclosure of an invention by granting of a patent would be detrimental to national security. See § 159.10 (w). A patent application on which a secrecy order has been imposed shall be handled as follows within the Department of Defense:

(1) If the patent application contains information that warrants classification, it shall be assigned a classification and be marked and safeguarded accordingly.

(2) If the patent application does not contain information that warrants classification, the following procedures shall be followed:

(i) A cover sheet (or cover letter for transmittal) shall be placed on the application with substantially the following language:

The attached material contains information on which secrecy orders have been issued by the United States Patent Office after determintion that disclosure would be detrimental to national security (Patent Secrecy Act of 1952, 35 U.S.C. 181–188). Its transmission or revelation in any manner to an unauthorized person is prohibited by law. Handle as though classified: CONFIDENTIAL (or such other classification as would have been assigned had the patent application been within the definition provided in § 159.12(d).)

(ii) The information shall be withheld from public release; its dissemination within the Department of Defense shall be controlled; the applicant shall be instructed not to disclose it to any unauthorized person; and the patent application (or other document incorporating the protected information) shall be safeguarded in the manner prescribed for equivalent classified material.

(3) If filing of a patent application with a foreign government is approved under provisions of the Patent Secrecy Act of 1952 and agreements on interchange of patent information for defense purposes, the copies of the patent application prepared for foreign registration (but only those copies) shall be marked at the bottom of each page as follows:

Withheld under the Patent Secrecy Act of 1952 (35 U.S.C. 181188).

Handle as: CONFIDENTIAL (or such other level as has been determined).

(c) *Independent research and development.*(1) Information in a document or material that is a product of government-sponsored independent research and development conducted without access to classified information may not be classified unless the Government first acquires a proprietary interest in such product.

(2) If no prior access was given but the person or company conducting the independent research or development believes that protection may be warranted in the interest of national security, the person or company should safeguard the information in accordance with § 159.25(a) and submit it to an appropriate Department of Defense element for evaluation. The Department of Defense element receiving such a request for evaluation shall make or obtain a determination whether a classification would be assigned if it were government information. If the determination is negative, the originator shall be advised that the information is unclassified. If the determination is affirmative, the Department of Defense element shall make or obtain a determination whether a proprietary interest in the research and development will be acquired. If such an interest is acquired, the information shall be assigned proper classification. If no such interest is acquired, the originator shall be informed that there is no basis for classification and the tentative classification shall be cancelled.

(d) *Other private information.* The procedure specified in § 159.25(a) shall apply in any case not specified in paragraph (c) of this Section such as an unsolicited contract bid, in which private information is submitted to a Department of Defense element for a determination of classification.

§ 159.27 Regrading.

(a) *Raising to a higher level of classification.* The upgrading of classified information to a higher level than previously determined, by officials with appropriate classification authority and jurisdiction over the subject matter, is permitted only when all known holders of the information: (1) can be notified promptly of such action, and (2) are authorized access to the higher level of classification or the information can be retrieved from those not authorized access to information at the contemplated higher level of classification.

(b) *Classification of information previously determined to be unclassified.* Unclassified information, once communicated as such, may be classified only when the classifying authority: (1) makes the determination required for upgrading in paragraph (a) of this Section, (2) determines that control of the information has not been lost by such communication and can still be prevented from being lost, and (3) in the case of information released to secondary distribution centers, such as the Defense Technical Information Center, determines that no secondary distribution has been made and can still be prevented.

(c) *Notification.* All known holders of information that has been upgraded shall be notified promptly of the upgrading action.

(d) *Downgrading.* When it will serve a useful purpose, original classification authorities may, at the time of original classification, specify that downgrading of the assigned classification will occur on a specified date or upon the occurence of a stated event.

§ 159.28 Industrial operations.

(a) *Classification in industrial operations.* Classification of information in private industrial operations shall be based only on guidance furnished by the Government. Industrial management may not make original classification determinations and shall implement the classification decisions of the U.S. Government contracting authority.

(b) *Contract security classification specification.* DD Form 254, "Contract Security Classification Specification," shall be used to convey contractual security classification guidance to industrial management. DD Forms 254 shall be changed by the originator to reflect changes in classification guidance and reviewed for currency and accuracy not less than once every two years. Changes shall be in strict conformance with the provisions of this Part and § 159.10 (aa) and (bb) and shall be provided to all holders of the DD Form 254 as soon as possible. When no changes are made as a result of the biennial review, the originator shall so notify all holders of the DD Form 254 in writing.

§ 159.29 [Reserved]

Subpart D—Declassification and Downgrading

§ 159.30 General provisions.

(a) *Policy.* Declassification of information shall be given emphasis comparable to that accorded classification. Information classified pursuant to Executive Order 12065 and prior orders shall be declassified as early as national security considerations permit. Decisions concerning declassification shall be based on the loss of sensitivity of the information with the passage of time or on the occurrence of an event which permit declassification. When information is reviewed for declassification, pursuant to this Part or § 159.10(q), information shall be declassified unless the declassification authority designated pursuant to § 159.15(d) determines that the information continues to meet the classification requirements prescribed in § 159.21(c) despite the passage of time.

(b) *Responsibility of officials.* Officials authorized, pursuant to § 159.15(d) to declassify or downgrade information that is under the final classification jurisdiction of the Department of Defense shall take such action in accordance with the provisions of this Subpart.

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(c) *Exceptional cases.* It is presumed that information that continues to meet the classification requirements of § 159.21 requires continued protection. In some cases, however, the need to protect such information may be outweighed by the public interest in disclosure of that information and in such cases the information should be declassified. When such questions arise concerning DoD information, they shall be referred to the Secretary of Defense, the Secretary of a Military Department, the senior departmental official with responsibility for processing Freedom of Information Act requests or Mandatory Review requests under § 159.32 an official with TOP SECRET classification authority, or in the case of classified Presidential information, to the Archivist of the United States. That official, after consultation with other agencies of DoD Components having interest, shall determine whether the public interest in disclosure outweighs the damage to national security that might reasonably be expected from disclosure and, if so, declassify the information. In determining whether it may be in the public interest to declassify and release information the cognizant official shall consider, among other factors, whether disclosure could reasonably be expected to contribute constructively to public debate on an issue of public interest. (See also § 159.111(a) with respect to foreign government information.)

(d) *Declassification by the Director of the Information Security Oversight Office.* If the Director of the Information Security Oversight Office, General Services Administration, determines that information is classified in violation of Executive Order 12065, the Director may require the activity that originally classified the information to declassify it. Any such decision by the Director may be appealed through the Director for Information Security, Office of the Deputy Under Secretary of Defense (Policy Review), to the National Security Council. The information shall remain classified until the appeal is decided or until one year from the date of the determination by the Director of the Information Secruity Oversight Office, whichever comes first.

§ 159.31 Systematic review.

(a) *General.* (1) The Secretary of Defense and the Secretaries of the Military Departments may prolong beyond twenty years classification of information over which they exercise classification jurisdiction utilizing the procedures outlined in paragraph (c) of this Section. This authority may not be delegated. When classification is prolonged beyond twenty years, a date no more than ten years later shall be set for declassification or the next review. That date and the action specified shall be marked on the document. Subsequent reviews for declassification shall be set at no more than ten year intervals unless a longer interval has been authorized by the Director of the Information Security Oversight Office. Requests for such authorization shall be processed as prescribed in paragraph (a)(2) of this Section.

(2) A Department of Defense Component request for extension of the period between subsequent reviews for declassification of specific categories of documents or information shall be submitted to the Deputy Under Secretary of Defense (Policy Review) and shall include personal certification by the head of the Component that the classified information for which the waiver is sought was systematically reviewed as required, that a definitive date for declassification could not be determined, that results of the review established an identifiable need to retain classification for a period in excess of twenty additional years and a recommendation concerning the interval before the next required review is expected to be required or for automatic declassification.

(3) The Secretary of Defense and the Secretaries of the Military Departments shall designate experienced personnel to assist the Archivist of the United States in the systematic review of twenty-year old U.S. originated information and thirty-year old foreign government information. (See § 159.21(c)(4) for procedures.) Such personnel shall:

(i) Provide guidance and assistance to National Archives employees in identifying and separating documents and specific categories of information within documents that are deemed to require continued classification;

(ii) Submit to the Secretary of Defense or Secretary of the appropriate Military Department recommendations for continued classification that identify documents or specific categories of information so separated; and

(iii) Refer doubtful cases to the DoD Component having classification jurisdiction over the information or material for resolution.

(b) *Systematic review guidelines and automatic declassification.* (1) The Director of Information Security, Office of the Deputy Under Secretary of Defense (Policy Review), in coordination with DoD Components, shall review, evaluate, and recommend revisions of § 159.10(p). (See also Subpart L, Foreign Government Information.)

(2) All information, except foreign government information (see Subpart L), not identified in § 159.10(p) as requiring review and for which a prior automatic declassification date has not been established shall be declassified automatically at the end of twenty years from the date of original classification.

(c) *Systematic review procedures.* (1) Except for foreign government information covered by Subpart L, classified information constituting permanently valuable records of the Department of Defense, as defined by 44 U.S.C. 2103, and such information in the possession and control of the Administrator of General Services, pursuant to 44 U.S.C. 2107 or 2107 note, shall be systematically reviewed as it becomes twenty years old. Classified non-permanent records that are scheduled to be retained for more than twenty years need not be systematically reviewed but shall be reviewed for declassification upon request. Transition to systematic review at twenty years shall be implemented as rapidly as possible and shall be completed by December 1, 1988.

(2) Heads of Department of Defense Components shall, as early as possible but not later than February 1, 1979, direct that all security classified records twenty years old or older under DoD Component possession and control, including those held in Federal Records Centers or other storage areas, be surveyed to identify those that require scheduling for future disposition. Such scheduling must be accomplished by December 1, 1980.

(3) All DoD classified information transferred to the General Services Administration for accession into the Archives of the United States that is permanently valuable and more than 20 years old will be systematically reviewed for declassification by the Archivist of the United States with the assistance of the DoD personnel designated for the purpose pursuant to paragraph (a)(3) of this Section. Such information shall be downgraded or declassified by the Archivist of the United States in accordance with Executive Order 12065, the directives of the Information Security Oversight Office, and § 159.10(p).

(4) All twenty-year-old DoD classified information that is permanently valuable and in the possession or control of the Components of the Department of Defense, including that held in Federal Records Centers or other storage areas, shall be systematically reviewed for declassification by the DoD Component exercising control of such information. Systematic declassification review conducted by

DoD Components and personnel designated pursuant to paragraph (a)(3) of this Section shall proceed as follows:

(i) Information over which the Department of Defense exercises exclusive or final original classification authority and that, in accordance with § 159.10(p) the responsible reviewer determines is to be declassified, shall be marked accordingly.

(ii) Information over which the Department of Defense exercises exclusive or final original classification authority and that, in acordance with § 159.10(p) has been recommended for continued protection by the responsible reviewer shall be identified by category by the reviewer and referred through established channels to the Secretary of Defense or the Secretary of a Military Department, as appropriate. These submissions shall:

(A) Identify the information;

(B) Recommend classification beyond twenty years to a specific future event certain to occur or for a specific period of time not to exceed ten years or, in the alternative, recommend a subsequent review date not more than ten years later; and

(C) State the reason for the recommended continued classification.

(iii) The Secretary of Defense or Secretary of the Military Department as appropriate shall determine personally and in writing which category(ies) of information shall remain classified and the dates for automatic declassification or subsequent review. The Archivist of the United States shall be notified in writing of this decision.

(5) Classified information over which the Department of Defense does not exercise exclusive or final original classification authority may be declassified only in accordance with the systematic review guidelines, promulgated pursuant to § 159.10(p), of the agency responsible for the classification. If such guidelines are not available or authorized for use by Department of Defense personnel, the information shall be referred to the responsible agency.

(d) *Systematic review of classified cryptologic information.* Notwithstanding any other provision of this Regulation, systematic review and declassification of classified cryptologic information shall be conducted in accordance with special procedures developed by the Director, National Security Agency, and approved by the Secretary of Defense pursuant to § 159.10 (b) and (p).

§ 159.32 Mandatory review.

(a) *Information covered.* Upon request by a member of the public or a government employee or agency to declassify and release such information, any classified information shall be subject to review by the originating or responsible Department of Defense Component for declassification in accordance with this Section.

(b) *Presidential information.* (1) Information ten or more years old originated by the President, the White House Staff, committees or commissions appointed by the President, or by others acting on behalf of the President, is, upon request, subject to mandatory review for declassification in accordance with procedures developed by the Archivist of the United States pursuant to § 159.10(b).

(2) Such information less than ten years old is exempt from the provisions of this Section.

(c) *Submission of requests for review.* Requests for mandatory review of Department of Defense classified information shall be submitted as follows:

(1) Requests shall be in writing and reasonably describe the information sought with sufficient particularity to enable the Component to identify documents containing that information and be reasonable in scope, e.g., does not involve such a large number or variety of documents as to leave uncertain the identity of the particular information sought.

(2) Requests shall be submitted to the Office of the Assistant Secretary of Defense (Public Affairs), the Military Department, or other Component most concerned with the subject matter that is designated pursuant to § 159.10(q) to receive requests for records under the Freedom of Information Act. These offices are identified in appropriate Sections of Title 32 of the Code of Federal Regulations for each Department of Defense Component.

(d) *Requirements for processing.* Unless otherwise directed by the Assistant Secretary of Defense (Public Affairs) requests for mandatory review shall be processed as follows:

(1) The designated office shall acknowledge receipt of the request. When a request does not satisfy the conditions of paragraph (c)(1) of this Section, the requester shall be notified that unless additional information is provided or the scope of the request narrowed no further action will be undertaken.

(2) Component action upon the initial request shall be completed within sixty days (forty-five working days). If no determination has been made within sixty days (forty-five working days) of receipt of the request, the requester shall be notified of his right to appeal and of the procedures for making such an appeal.

(3) The designated office shall determine whether, under the declassification provisions of this Part, the requested information may be declassified, and, if so, make such information available to the requester, unless withholding is otherwise warranted under applicable law. If the information may not be released in whole or in part, the requester shall be given a brief statement as to the reasons for denial, notice of the right to appeal the determination within sixty days (forty-five working days) to a designated appellate authority (including name, title, and address of such authority), and the procedures for such an appeal.

(4) When a request is received for information classified by another Department of Defense Component or an agency outside the Department of Defense, the designated office shall:

(i) Forward the request to such Department of Defense Component or outside agency for review together with a copy of the document containing the information requested, where practicable, and where appropriate, with its recommendation to withhold any of the information;

(ii) Notify the requester of the referral unless the Component or outside agency to which the request is referred objects to such notice on grounds that its association with the information requires protection; and

(iii) Request, when appropriate, that the Component or outside agency notify the referring office of its determination.

(5) If the request requires the rendering of services for which fees may be charged under Title 5 of the Independent Offices Appropriation Act, 31 U.S.C. 483a in accordance with § 159.10(r), the Component may calculate the anticipated amount of fees to be charged and ascertain the requester's willingness to pay the allowable charges as a precondition to taking further action upon the request.

(6) A requester may appeal to the head of a DOD Component or his designee whenever that DOD Component has not acted on an initial request within sixty days or the requester has been notified that requested information may not be released in whole or in part. Within thirty days after receipt, an appellate authority shall determine whether continued classification of the requested information is required in whole or in part, notify the requester of its determination, and make available to the requester any information determined to be releasable. If continued classification is required

under the provisions of this Regulation, the requester shall be notified of the reasons therefor. If so requested, an appellate authority shall communicate

downgrading or declassifying such information or material.

(c) *Transfer for storage or retirement.* Whenever practicable, classified

(c) *Reproduction for declassification review.* The provisions of § 159.71(j) shall not restrict the reproduction of documents for the purpose of facilitating

(iv) The date or event for automatic declassification or for review for declassification;

(v) Documents classified for more than six years shall also be marked with

authority who made the determination shall be identified on the "Classified by" line, unless the classifier is also the signer or approver of the document. (See § 159.43(c).)

particular information to which classification is assigned is otherwise sufficiently identified consistent with the intent of paragraph (c) of this Section. In any case, the classification

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under the provisions of this Regulation, the requester shall be notified of the reasons therefor. If so requested, an appellate authority shall communicate its determination to any referring DOD Component or outside agency.

(e) *Foreign government information.* Requests for mandatory review for the declassification of foreign government information shall be processed and acted upon in accordance with the provisions of this Section subject to the provisions of § 159.111(c).

(f) *Prohibition.* No Component in possession of a document shall in response to a request under the Freedom of Information Act or this Section refuse to confirm the existence or non-existence of the document, unless the fact of its existence or non-existence would itself be classifiable under this Part.

§ 159.33 Declassification of transferred documents or material.

(a) *Material officially transferred.* In the case of classified information or material transferred pursuant to statute or Executive Order from one department or agency to another in conjunction with a transfer of functions (not merely for storage purposes), as distinguished from transfers merely for purposes of storage, the receiving department or agency shall be deemed to be the original classifying authority over such material for purposes of downgrading and declassification.

(b) *Material not officially transferred.* When any Component has in its possession classified information or material originated in an agency outside the Department of Defense that has ceased to exist and such information or material has not been transferred to another department or agency within the meaning of paragraph (a) of this Section, or when it is impossible to identify the originating agency, the DOD Component shall be deemed to be the originating agency for the purpose of declassifying or downgrading such information or material. If it appears probable that another department, agency, or Component may have a substantial interest in the classification of such information, the Component deemed to be the originating agency shall notify such other department, agency, or Component of the nature of the information or material and any intention to downgrade or declassify it. Until 60 days after such notification, the Component shall not declassify or downgrade such information or material without consulting the other department, agency, or Component. During such period, the other department, agency, or Component may express objections to downgrading or declassifying such information or material.

(c) *Transfer for storage or retirement.* Whenever practicable, classified documents shall be reviewed for downgrading or declassification before they are forwarded to a Records Center for storage or to the National Archives for permanent preservation. Any downgrading or declassification determination shall be indicated on each document by markings as required by Subpart E.

§ 159.34 Downgrading.

(a) *Automatic downgrading.* Classified information marked for automatic downgrading in accordance with this or prior regulations or executive orders is downgraded accordingly without notification to holders.

(b) *Downgrading upon reconsideration.* Classified information not marked for automatic downgrading may be assigned a lower classification designation by the originator or by an official authorized to declassify the same information. (See § 159.15(d).) Prompt notice of such downgrading shall be provided to known holders of the information.

§ 159.35 Miscellaneous.

(a) *Notification of changes in declassification.* When classified material has been properly marked with specific dates or events for declassification it is not necessary to issue notices of declassification to any holders. However, when declassification action is taken earlier than originally scheduled, or the duration of classification is extended, the authority making such changes shall ensure prompt notification of all holders to whom the information was originally transmitted. The notification shall specify the marking action to be taken, the authority therefor and the effective date. Upon receipt of notification, recipients shall effect the proper changes and shall notify holders to whom they have transmitted the classified information. See § 159.43 (a) and (e) for markings and the use of posted notices.

(b) *Foreign relations series.* In order to permit the State Department editors of Foreign Relations of the United States to meet their mandated goal of publishing twenty years after the event, DOD Components shall assist the editors in the Department of State by facilitating access to appropriate classified materials in their custody and by expediting declassification review of items from their files selected for possible publication.

(c) *Reproduction for declassification review.* The provisions of § 159.71(j) shall not restrict the reproduction of documents for the purpose of facilitating declassification review under the provisions of this Chapter or the Freedom of Information Act, as amended. After review for declassification, however, those reproduced documents that remain classified must be destroyed in accordance with Subpart J.

§ 159.36 [Reserved]

Subpart E—Marking

§ 159.40 General provisions.

(a) *Designation.* Subject to the exception in paragraph (c) of this Section, information determined to require classification protection under the provisions of this Part shall be so designated. Designation by means other than physical marking may be used but shall be followed by physical marking as soon as possible.

(b) *Purpose of designation.* Designation by physical marking, notation, or other means serves to warn the holder about the classification of the information involved; to indicate the degree of protection against unauthorized disclosure that is required for that particular level of classification; and to facilitate downgrading and declassification actions.

(c) *Exception.* No article which has appeared, in whole or in part, in newspapers, magazines or elsewhere in the public domain, or any copy thereof, that is being reviewed and evaluated to compare its content with classifed information that is being safeguarded in the Department of Defense by security classification, may be marked with any security classification, control or other kind of restrictive marking. The results of the review and evaluation, if classified, shall be separate from the article in question.

(d) *Documents or other material in general.* (1) At the time of original classification, the following shall be shown on the face of paper copies of originally classified documents:

(i) The identity of the original classification authority, unless he or she is the signer or approver of the document;

(ii) The date of classification and office of origin. The date and office of origin on a document at the time of its origination may be considered the date of classification and identification of the office of origin;

(iii) The overall classification of the document (see § 159.14(a));

(iv) The date or event for automatic declassification or for review for declassification;

(v) Documents classified for more than six years shall also be marked with the identity by title of the TOP SECRET classification authority who authorized prolonged classification, unless that official also is the signer or approver, and annotated with the reasons the classification is expected to remain necessary despite the passage of time. The reasons may be stated by reference to the appropriate criteria listed in § 159.22(b)(3); and

(vi) Any downgrading action to be taken and the date thereof.

(2) At the time of origin, paper copies of derivatively classified documents shall show on their face:

(i) The source of classification, i.e., a source document or classification guide. If classification is derived from more than one source, the phrase "multiple sources" will be shown and the identification of each source will be maintained with the file or record copy of the document;

(ii) The office of origin of the derivatively classified document;

(iii) The overall classification of the document (see § 159.14(a));

(iv) The date or event for declassification or for review for declassification, carried forward from the classification source (see § 159.43(c)(3)). If the classification is derived from multiple sources, the latest date or event shall be shown; and

(v) Any downgrading action to be taken and the date thereof.

(3) In addition to the foregoing, paper copies of classified documents shall be marked as prescribed in § 41 of this Subpart, in Subpart L, if the document contains foreign government information, and with any applicable special notation listed in § 44 of this Subpart. Such notations shall be carried forward from source documents to derivatively classified documents when appropriate.

(4) Material other than paper copies of documents shall show the required information on the material itself or if that is not practical, in related or accompanying documentation. (See § 159.42(a).)

(e) *Indentification of classification authority.* (1) Identification of a classification authority shall be shown on the "Classified by" line prescribed under § 159.43(c) and shall be such that, standing alone, it is sufficient to identify a particular official, source document or classification guide.

(i) If any information in a document or material is classified as an act of original classification, the classification authority who made the determination shall be identified on the "Classified by" line, unless the classifier is also the signer or approver of the document. (See § 159.43(c).)

(ii) If the classification of all information in a document or material is derived from a single source (for example, a source document or classification guide), the "Classified by" line shall identify the source document or classification guide, including its date when necessary to insure positive identification. (See § 159.43(c).)

(iii) If the classification of information contained in a document or material is derived from more than one source document, classification guide, or combination thereof, the "Classified by" line shall be marked "multiple sources" and identification of all such sources shall be maintained with the file or record copy of the document. (See § 159.43(c).)

(iv) If an official with requisite classification authority has been designated by the head of an activity to approve security classifications assigned to all information leaving the activity, the title of that designated official shall be shown on the "Classified by" line. The designated official shall maintain records adequate to support derivative classification actions. (See § 159.43(c).)

(2) Guidance concerning the identification of the classification authority on electronically transmitted messages is contained in § 159.41(h).

(f) *Wholly unclassified material.* Normally, unclassified material shall not be marked or stamped "Unclassified" unless it is essential to convey to a recipient of such material that it has been examined with a view to imposing a security classification and that it has been determined that it does not require classification.

§ 159.41 Specific markings on documents.

(a) *Overall and page marking.* Except as otherwise specified for working papers (see § 159.72(e)), the overall classification of a document, whether or not permanently bound, or any copy or reproduction thereof, shall be conspicuously marked, stamped or affixed permanently at the top and bottom on the outside of the front cover (if any), on the title page (if any), on the first page, and on the outside of the back cover (if any). Each interior page shall be marked top and bottom according to its content. Alternatively, the overall classification of the document may be conspicuously marked or stamped at the top and bottom of each interior page when such marking is necessary to achieve production efficiency and the particular information to which classification is assigned is otherwise sufficiently identified consistent with the intent of paragraph (c) of this Section. In any case, the classification marking of a page shall not supersede the classification marking of portions (paragraph (c) of this Section) of the page marked with lower levels of classification.

(b) *Marking components.* The major components of some complex documents are likely to be used separately. In such instances, each major component shall be marked as a separate document in accordance with § 40 of this Subpart. Examples include: (1) each annex, appendix, or similar component of a plan, program or operations order; (2) attachments and appendices to a memorandum or letter; (3) each major part of a report.

(c) *Portion marking.* (1) Each section, part, paragraph, subparagraph, or similar portion of a classified document shall be marked to show the level of classification of the information contained in or revealed by it, or that it is unclassified. Portions of documents shall be marked in a manner that eliminates doubt as to which of its portions contains or reveals classified information. Classification levels of portions of a document, except as provided in paragraph (e) of this Section, shall be shown by the appropriate classification symbol placed immediately following the portion letter or number, or in the absence of letters or numbers, immediately before the beginning of the portion. In marking sections, parts, paragraphs, subparagraphs, or similar portions, the parenthetical symbols "(TS)" for Top Secret, "(S)" for Secret, "(C)" for Confidential, and "(U)" for unclassified, shall be used. When appropriate, the symbols "RD" for Restricted Data and "FRD" for Formerly Restricted Data shall be added, e.g., "(S–RD)" or "(C–FRD)." In addition, portions that contain Critical Nuclear Weapon Design Information (CNWDI) will be so marked "(N)" following the classification, e.g., "(S–RD) (N)." To illustrate the foregoing, if a lead-in paragraph is unclassified and a subparagraph is Secret-Restricted Data-Critical Nuclear Weapon Design Information, the markings will be:

"1. (U) This is the unclassified lead-in paragraph.

a. (S–RD) (N) This is the classified subparagraph."

(2) Portion marking of Department of Defense documents containing foreign government information shall be in accordance with § 159.112(e).

(3) Illustrations, photographs, figures, graphs, drawings, charts and similar

portions of classified documents will be clearly marked to show their classification or unclassified status. Such markings shall not be abbreviated

(f) *File, folder, or group of documents.* When a file, folder, or group of classified documents is removed from secure storage it shall be marked conspicuously

such messages. The originator is responsible for maintaining adequate records as required by § 159.40(d)(2) to show the source of an assigned

to recipients. The following procedures for marking various kinds of material containing classified information are not all inclusive and may be varied to

shall be marked at the beginning and end of each reel by titles bearing the appropriate classification and applicable associated makings. Such

individually as prescribed in paragraph 4–200.

(e) *Removable automatic data processing and word processing storage*

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portions of classified documents will be clearly marked to show their classification or unclassified status. Such markings shall not be abbreviated and shall be prominent and placed within or contiguous to the portion. Captions of such portions shall be marked on the basis of their content alone by placing the symbol "(TS)," "(S)," "(C)," or "(U)" immediately preceding the caption.

(4) If, in an exceptional situation, parenthetical portion marking is determined to be impracticable, the document shall contain a statement sufficient to identify the information that is classified and the level of such classification. Thus, for example, each portion of a classified document need not be separetely marked if all portions are classified at the same level provided a statement to that effect is included in the document.

(5) When elements of information in one portion require different classifications, but segregation into separate portions would destroy continuity or context, the highest classification required for any item shall be applied to that portion or paragraph.

(6) The Director of the Information Security Oversight Office may, for good cause, grant and revoke waivers of the foregoing portion marking requirements. A request by a DoD Component for a waiver of portion marking requirements shall be submitted to the Deputy Under Secretary of Defense (Policy Review) and include the following: (i) identification of the information or class of documents for which such waiver is sought; (ii) detailed explanation of why the waiver should be granted; (iii) the Component's judgment as to the anticipated dissemination of the information or class of documents for which the waiver is sought and (iv) the extent to which such information subject to the waiver may be a basis for derivative classification.

(d) *Compilations.* Where classification is required to protect a compilation of information under § 159.21(l), the overall classification assigned to such documents shall be placed conspicuously at the top and bottom of each page and on the outside of the front and back covers, if any, and an explanation of the basis for the assigned classification shall be included on the document or in its text.

(e) *Subjects and title of documents.* Subjects or titles of classified documents shall be marked with the appropriate symbol, "(TS)", "(S)", "(C)", or "(U)" placed immediately following and to the right of the item. When applicable, other appropriate symbols, e.g., "(RD)" or "(FRD)", shall be added.

(f) *File, folder, or group of documents.* When a file, folder, or group of classified documents is removed from secure storage it shall be marked conspicuously according to the highest classification of any classified document included therein or shall have an appropriate classified document cover sheet affixed.

(g) *Transmittal documents.* A transmittal document, including endorsements and comments when such endorsements and comments are added to the basic communication, shall carry on its face a prominent notation as to the highest classification of the information transmitted by it, and a legend showing the classification, if any, of the transmittal document, endorsement or comment standing alone. For example, an unclassified document that transmits as an attachment a classified document shall bear a notation substantially as follows: "UNCLASSIFIED WHEN SEPARATED FROM CLASSIFIED ENCLOSURE." (See also § 159.44(a)(1).)

(h) *Electronically transmitted messages.* (1) The copy of a classified message (e.g., DD Form 173, Joint Messageform) approved for electronic transmission and maintained as the record copy shall be marked as required by § 159.40(d) for other documents. Additionally, copies not electronically transmitted (such as, mail and courier copies) shall be marked as required by § 159.40(d).

(2) The first item of information in the text of a classified electronically transmitted message shall be its overall classification. Paper copies of classified electronically transmitted messages shall be marked at the top and bottom with the assigned classification. Portions shall be marked as prescribed herein for paper copies of documents. When such messages are printed by an automated system, classification markings may be applied by that system, provided that the markings so applied are clearly distinguishable on the face of the document from the printed text.

(3) The originator of a classified electronically transmitted message shall be considered the accountable classifier under § 159.20(a). The highest level official identified on the message as the sender thereof or, in the absence of such identification, the head of the organization originating the message, is deemed to be the classifier of the message and, subject to the provisions of § 159.22(b) (3) and (4), is deemed to be the official who authorized the prolonged classification of any such message classified for more than 6 years. Thus, "classified by" and "extended by" lines are not required on such messages. The originator is responsible for maintaining adequate records as required by § 159.40(d)(2) to show the source of an assigned derivative classification and, in the case of an original classification prolonged more than six years, the reason and extension authority.

(4) The last line of text of a classified electronically transmitted message shall show the date or event for automatic declassification or for review for declassification and, for any such message originally classified for more than six years, the reason for prolonged classification, by abbreviated markings from § 159.43(c). The foregoing is not required for messages that contain information identified as Restricted Data or Formerly Restricted Data.

(5) Any document, the classification of which is based solely upon the classification of the content of a classified electronically transmitted message, shall cite the message on the "classified by" line of the newly created document.

(6) Section 159.10(c) provides that with respect to electronically transmitted messages, a single line of abbreviations or codes may be utilized to satisfy most of the marking requirements of this Chapter provided that the full text represented by each such abbreviation or code and its relation to each pertinent paragraph of this Chapter is readily available to each expected user of the classified message involved. The use of such codes or abbreviations by DoD Components, however, is prohibited, unless approved by the Deputy Under Secretary of Defense (Policy Review) or authorized by an amendment to this Regulation.

(i) *Translations.* Translations of United States classified information into a language other than English shall be marked to show the United States as the country of origin, with the appropriate U.S. classification markings and the foreign language equivalent thereof. (See Appendix A.)

§ 159.42 Markings on special categories of material.

(a) *General provisions.* Security classification and applicable associated markings (see § 159.40(d) and § 159.42(i) assigned by the classifier shall be conspicuously stamped, printed, written, painted, or affixed by means of a tag, sticker, decal or similar device, on classified material other than paper copies of documents, and on containers of such material, if possible. If marking the material or container is not practicable, written notification of the security classification and applicable associated markings shall be furnished to recipients. The following procedures for marking various kinds of material containing classified information are not all inclusive and may be varied to accommodate the physical characteristics of the material containing the classified information and to accommodate organizational and operational requirements.

(b) *Charts, maps and drawings.* Charts, maps and drawings shall bear the appropriate classification marking under the legend, title block or scale, in a manner that differentiates between the overall classification of the document and the classification of the legend or title itself. The higher of these markings shall be inscribed at the top and bottom of each such document. When folding or rolling charts, maps or drawings would cover the classification markings, additional markings shall be applied that are clearly visible when the document is folded or rolled. Applicable associated markings shall be included in or near the legend, title or scale block.

(c) *Photographs, films and recordings.* Photographs, films (including negatives), recordings, and their containers shall be marked in such a manner as to assure that a recipient or viewer will know that classified information of a specified level of classification is involved.

(1) *Photographs.* Negatives and positives shall be marked, whenever practicable, with the appropriate classification designation and applicable associated markings. Roll negatives or positives may be so marked at the beginning and end of each strip. Negatives and positives shall be kept in containers bearing conspicuous classification markings. All prints and reproductions shall be conspicuously marked with the appropriate classification designation and application and applicable associated markings on the face side of the print if possible. Where such markings cannot be applied to the face side, they may be stamped on the reverse side or affixed by pressure tape label, stapled strip or other comparable means. (NOTE: When self-processing film or paper is used to photograph or reproduce classified information, all parts of the last exposure shall be removed from the camera and destroyed as classified waste, or the camera shall be protected as classified.)

(2) *Transparencies and slides.* Applicable classification markings shall be shown clearly on the image of each transparency or slide, if possible, or on its border, holder, or frame. Other applicable associated markings shall be shown on the border, holder, or frame.

(3) *Motion picture films.* Classified motion picture films and video tapes shall be marked at the beginning and end of each reel by titles bearing the appropriate classification and applicable associated makings. Such markings shall be visible when projected. Reels shall be kept in containers bearing conspicuous classification and applicable associated markings.

(4) *Recordings.* Sound, magnetic or electronic recordings shall contain at the beginning and end a clear statement of the assigned classification that will provide adequate assurance that any listener or viewer will know that classified information of a specified level is involved. Recordings shall be kept in containers or on reels that bear conspicuous classification and applicable associated markings.

(5) *Microforms.* Microforms are images, usually produced photographically on transparent or opaque materials, in sizes too small to be read by the unaided eye. Accordingly, the assigned security classification and abbreviated applicable associated markings shall be conspicuously marked on the microform medium or its container, so as to be readable by the unaided eye. These markings shall also be included on the image so that when the image is enlarged and displayed or printed, the markings will be conspicuous and readable. Such marking will be accomplished as appropriate for the particular microform involved. For example, roll film microforms (or roll microfilm employing 16, 35, 70, or 105 mm films) may generally be marked as provided for roll motion picture film in paragraph (c)(3) of this Section and decks of "aperture cards" may be marked as provided in paragraph (d) of this Section for decks of automatic data processing punched cards. Whenever possible, microfiche, microfilm strips, and microform chips shall be marked in accordance with this paragraph.

(d) *Decks of automatic data processing punched cards.* When a deck of classified automatic data processing punched cards is handled and controlled as a single document, only the first and last card require classification markings. An additional card shall be added (or the job control card modified) to identify the contents of the deck and the highest classification therein. Such additional card shall include applicable associated markings. Cards removed for separate processing or use and not immediately returned to the deck shall be protected to prevent compromise of any classified information contained therein, and for this purpose shall be marked individually as prescribed in paragraph 4–200.

(e) *Removable automatic data processing and word processing storage media.* (1) *External.* Removable information storage media and devices, used with automatic data processing (ADP) systems and typewriters or word processing systems, shall bear external markings clearly indicating the classification of the information and applicable associated markings. Included are media and devices that store information recorded in analog or digital form and that are generally mounted or removed by the users or operators. Examples include magnetic tape reels, cartridges and cassettes; removable discs, disc cartridges, disc packs and diskettes; paper tape reels; and magnetic cards.

(2) *Internal.* ADP systems and word processing systems employing such media shall provide for internal classification marking to assure that classified information contained therein which is reproduced or generated, will bear applicable classification and associated markings. An exception may be made by the Component head, or designee, for the purpose of exempting existing word processing systems where the internal classification and applicable associated markings cannot be implemented without extensive system modification, provided procedures are established to ensure that users and recipients of the media, or the information therein, are clearly advised as to the applicable classification and associated markings. For ADP systems, exceptions may be authorized by the DoD Component Designated Approving Authority (ies), designated pursuant to § 159.10(ll). For purposes of these exemption provisions, "existing systems" means word processing and ADP systems already acquired, or, in the case of associated automated information systems, those for which the life cycle management process has already progressed beyond the "definition/design" phase as set forth in § 159.10(pp). (Requirements for the security of nonremovable ADP storage media and clearance or declassification procedures for various ADP storage media are contained in § 159.10(mm).)

(f) *Documents produced by ADP equipment.* At a minimum, the first page, and the front and back covers, if any, of documents produced by ADP equipment shall be marked as prescribed in § 159.41(a). Classification markings of interior pages may be applied by the ADP equipment or by other means. When the application of applicable

associated markings prescribed by § 159.40(d) by the ADP equipment is not consistent with economic and efficient use of such equipment, such markings

§ 159.43 Classification authority, duration and change markings.

(a) *Declassification and regrading marking procedures.* Whenever

has not been updated to conform with this Part shall be treated as follows:

(i) If the guide specifies a declassification date or event 20 years or less from the date of original

messages, only a completed "classified by" line is added above such a marking.

§ 159.43(c) Notes

Note 1: Insert identification of original classification authority. This line may be

action, and the storage unit to which it applies.

(2) When individual documents or materials are permanently withdrawn from storage units, they shall be

(d) *Intelligence sources and methods information.* Classified information or material involving intelligence sources and methods and subject to specific dissemination controls established in

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associated markings prescribed by § 159.40(d) by the ADP equipment is not consistent with economic and efficient use of such equipment, such markings may be applied to a document produced by ADP equipment by superimposing upon the first page of such document a "Notice of Declassification Instructions and Other Associated Markings." Such notice shall include the date or event for declassification or review for declassification and all other such applicable markings. If individual pages of a document produced by ADP equipment are removed or reproduced for distribution to other users, each such page or group of pages shall be marked as prescribed in § 159.40(d) or by superimposing on each such page or group of pages, a copy of any "Notice of Declassification Instructions and Other Associated Markings" applicable to such page or group of pages.

(g) *Material for training purposes.* In utilizing unclassified documents or material to simulate classified documents or material for training purposes, such documents or material shall be marked "(insert classification designation) for training, otherwise unclassified."

(h) *Miscellaneous material.* Documents and material such as rejected copy, typewriter ribbons, carbons, and similar items developed in connection with the handling, processing, production, and utilization of classified information shall be handled in a manner that assures adequate protection of the classified information involved and destruction at the earliest practicable moment (see § 159.51). Unless a requirement exists to retain this type of material or documents for a specific purpose, there is no need to mark, stamp, or otherwise indicate that the information is classified.

(i) *Special access program documents and material.* Additional markings as prescribed in directives, regulations and instructions relating to an approved special access program shall be applied to documents and material containing information subject to the special access program. Such additional markings shall not serve as the sole basis for continuing classification of the documents or material to which the markings have been applied. When appropriate, such markings shall be excised to facilitate timely declassification, downgrading or removal of the information from special control procedures.

(j) *Associated markings.* Other applicable associated markings required for documents by § 159.40(d) shall be accomplished as prescribed in this Section or in any other appropriate manner.

§ 159.43 Classification authority, duration and change markings.

(a) *Declassification and regrading marking procedures.* Whenever classified information is downgraded or declassified earlier than originally scheduled, or upgraded, the material shall be marked promptly and conspicuously to indicate the change, the authority for the action, the date of the action and the identity of the person taking the action. In addition, except for upgrading (see paragraph (d) of this Section), prior classification markings shall be canceled, if practicable, but in any event those on the first page, and the new classification markings, if any, shall be substituted. In cases where classified information is downgraded or declassified in accordance with the downgrading and declassification markings prescribed in paragraph (c) of this Section, such markings shall be a sufficient notation of the authority for such action.

(b) *Applying derivative declassification dates.* (1) New material that derives its classification from information classified on or after December 1, 1978 shall be marked with the declassification date, event, or date for review assigned to the source information.

(2) New material that derives its classification from information classified prior to December 1, 1978, shall be treated as follows:

(i) If the source material bears a declassification date or event not more than 20 years from the date of origin, the date or event shall be carrried forward to the new material;

(ii) If the source material bears no declassification date or event, or bears an indeterminate date or event such as "Upon Notification by Originator," "Cannot Be Determined," "Impossible to Determine," etc., or is marked for declassification beyond 20 years from date of origin, the new material shall be marked with a date for review for declassification at 20 years from the date of original classification of the source material; and

(iii) If the source material is foreign government information bearing no date or event for declassification or is marked for declassification beyond 30 years from date of origin, the new material shall be marked for review for declassification at 30 years from the time the information was originated by the foreign government or international organization of governments, or acquired or classified by the DoD, whichever is earlier.

(3) New material that derives its classification from a classification guide issued prior to December 1, 1978 that has not been updated to conform with this Part shall be treated as follows:

(i) If the guide specifies a declassification date or event 20 years or less from the date of original classification, that date or event shall be applied to the new material.

(ii) If the guide specifies a declassification date or event more than 20 years from the date of original classification, or no declassification date or event, or an indeterminate date or event as in paragraph (b)(2)(ii) of this Section, a date for review for declassification at 20 years from the date of original classification shall be applied to the new material.

(c) *Commonly Used Markings.* At the time of origin, each classified document is marked on its face with one or more standard markings as follows:

(1) *Original Classification Not to Continue More than Six Years.* The following markings are used with an original classification that will not continue beyond six years § 159.40(d)(1):

Classified by ——— (See Note 1).
Declassify on ——— (See Note 2).
Message Abbreviation: DECL ——— (See Note 3).

(2) *Original Cassification to Continue More than Six Years but Not in Excess of 20 Years.* The following markings are used with an original classification that will continue beyond six years but not in excess of 20 years § 159.40(d)(1):

Classified by ——— (See Note 1).
Declassify on ——— (See Note 4.a.),
or
Review on ——— (See Note 4.b.).
Extended by ——— (See Note 5).
Reason ——— (See Note 6.a.).
Message Abbreviations:
DECL ——— (See Note 3), *or*
REVW ——— (See Note 7).
REAS ——— (See Note 6.b.).

(3) *Derivative Classification.* The following markings are used with a derivative classification § 159.40(d)(2):

Classified by ——— (See Note 8).
Declassify on ——— (See Note 9.*a.*),
or
Review on ——— (See Note 9.*b.*).
Message Abbreviations:
DECL ——— (See Note 3), *or*
REVW ——— (See Note 7).

(4) *Downgrading.* The following marking is used to specify a downgrading § 159.40(d) (1) and (2):

Downgrade to ——— on ——— (See Note 10).
Message Abbreviation: DG/ / ——— (See Note 11).

(5) The Restricted Data and Formerly Restricted Data markings (§ 159.44 (b) and (c)) are, in themselves, evidence of extended classification. Therefore, except for electronically transmitted

messages, only a completed "classified by" line is added above such a marking.

§ 159.43(c) Notes

Note 1: Insert identification of original classification authority. This line may be omitted if the original classification authority is also the signer or approver of the document.

Note 2: Insert the specific date or an event certain to occur.

Note 3: Insert day, month and year for declassification, e.g., "6 June 79" or an event certain to occur.

Note 4: Insert: *a.* The specific date or an event certain to occur; *b.* The date for declassification review.

Note 5: Insert identification of original Top Secret classification authority. This line may be omitted if the authority is the signer or approver of the document.

Note 6: Insert: *a.* The Section citation 159.22(b)(3) and the number (i thru viii) that identifies the applicable reason for the extended period of classification, e.g., "§ 159.22(b)(3)(vii)" or "§ 159.22(b)(3)(iii) and (v);" *b.* Only the number (i thru viii) that identifies the applicable reason, e.g., "vii" or "iii & v."

Note 7: Insert day, month, and year for declassification review, e.g., "6 June 89."

Note 8: Insert identity of the single security classification guide, source document, or other authority for the classification. If more than one such source is applicable, insert the words "multiple sources."

Note 9: Insert: *a.* The specific date or event for declassification (when multiple sources are used, the latest of the declassification dates applicable to any of the source material is applied to the new document); *b.* The date for declassification review, as indicated by the source security classification guide or other source document as appropriate (when multiple sources are used, the latest of the declassification review dates applicable to any of the source material is applied to the new document).

Note 10: Insert Secret or Confidential and specific date or event, e.g., "Downgrade to *CONFIDENTIAL* on *6 July 1983.*"

Note 11: Insert "S" or "C" to indicate the downgraded classification and specific date or event, e.g., "DG/C/6 June 83."

(d) *Upgrading.* When material is upgraded it shall be promptly and conspicuously marked as prescribed in § 159.43(a) except that in all such cases the old classification markings shall be canceled and new markings substituted therefor.

(e) *Limited use of posted notice for large quantities of material.* (1) When the volume of material is such that prompt remarking of each classified item cannot be accomplished without unduly interfering with operations, the custodian may attach downgrading and declassification notices to the storage unit in lieu of the remarking required by § 159.43(a). Each notice shall specify the authority for the downgrading or declassification action, the date of the action, and the storage unit to which it applies.

(2) When individual documents or materials are permanently withdrawn from storage units, they shall be remarked promptly as prescribed by § 159.43(a). However, when documents or materials subject to a downgrading or declassification notice are withdrawn from one storage unit solely for transfer to another, or a storage unit containing such documents or materials is transferred from one place to another, the transfer may be made without remarking if the notice is attached to or remains with each shipment.

§ 159.44 Additional warning notices.

(a) *General provisions.* (1) In addition to the marking requirements prescribed in § 159.40(d), the warning notices prescribed in this Section shall be prominently displayed on classified documents or materials, when applicable. In the case of documents, these warning notices shall be marked conspicuously on the outside of the front cover, or on the first page if there is no front cover. Transmittal documents, including those that are unclassified § 159.41(g), shall also bear these additional warning notices, when applicable.

(2) When display of warning notices on other materials is not possible, their applicability to the information shall be included in the written notification of the assigned classification.

(3) Stamps in use before 1 December 1978 for application of warning notices previously authorized for RESTRICTED DATA and INTELLIGENCE SOURCES AND METHODS may no longer be used.

(b) *Restricted data.* Classified documents or material containing Restricted Data as defined in the Atomic Energy Act of 1954, as amended, shall be marked as follows:

"Restricted Data"

"This material contains Restricted Data as defined in the Atomic Energy Act of 1954. Unauthorized disclosure subject to administrative and criminal sanctions."

(c) *Formerly restricted data.* Classified documents or material containing Formerly Restricted Data, as defined in Section 142.d, Atomic Energy Act of 1954, as amended, but no Restricted Data, shall be marked as follows:

"Formerly Restricted Data"

"Unauthorized disclosure subject to administrative and criminal sanctions. Handle as Restricted Data in foreign dissemination. Section 144.b, Atomic Energy Act, 1954."

(d) *Intelligence sources and methods information.* Classified information or material involving intelligence sources and methods and subject to specific dissemination controls established in § 159.10(m), shall be marked with the following additional warning notice:

"Warning Notice—Intelligence Sources and Methods Involved."

(e) *COMSEC material.* COMSEC documents, prior to release to contractors, will contain on the title page, or first page if no title page exists, the following notation:

"COMSEC Material—Access by Contractor Personnel Restricted to U.S. Citizens Holding Final Government Clearance."

This notation shall be placed on COMSEC documents or material at the time of their origination when release to contractors can be anticipated. Other COMSEC documents or material shall be marked in accordance with § 159.10(ee)). Foreign dissemination of COMSEC information is governed by § 159.10(nn)).

(f) *Dissemination and reproduction notice.* Classified information that is determined by a DoD originator to be subject to special dissemination or reproduction limitations, or both, shall include, as applicable, a statement or statements on its cover sheet, first page or in the text, substantially as follows:

"Reproduction requires approval of originator or higher DoD authority."

"Further dissemination only as directed by *(Insert appropriate office or official)* or higher DoD authority."

(g) *Other notations.* Other notations of restrictions on reproduction, dissemination or extraction of classified information may be used as authorized by § 159.10 (e), (m), (n), (o), (p), (t), and (v).

§ 159.45 Remarking old material.

(a) *General.* Documents and material already marked under Executive Order 11652, as amended, or predecessor orders and directives shall be remarked in conformity with this Section when (1) information extracted from material so marked is to be conveyed or (2) the document or material itself is to be disseminated in any manner, or (3) the document or material is reviewed for specific purposes under Subpart D. When such document or material is withdrawn temporarily from files or storage merely for reference purposes, transfer to other files, or storage within the same activity it need not be remarked.

(b) *Foreign government information.* Documents or material classified before

December 1, 1978 that contain foreign government information shall be marked for review for declassification 30 years

(2) When such information is determined to have been automatically declassified under paragraph (e)(1) (i),

drawer attesting to the security capabilities of the container and lock (on some early cabinets, the label was

cabinet by welding, rivets, or peened bolts.

(3) *Specialized security equipment.* (i) Field safe and one-drawer container

volume or records currently on hand to make the needed security storage space available.

prescribed in paragraph (c) of this Section.

(f) *Repair of damaged security*

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December 1, 1978 that contain foreign government information shall be marked for review for declassification 30 years from the date of origin, e.g., "Review on *(insert date)*."

(c) *Remarking documents or material marked "Subject to the General Declassification Schedule" or "Advanced Declassification Schedule".* A document or material, classified prior to December 1, 1978 and marked for automatic declassification in accordance with the General Declassification Schedule (GDS) or an Advanced Declassification Schedule (ADS) under Executive Order 11652 need not be remarked. However, should a determination be made under § 159.22 to extend classification beyond the declassification date or event specified by the GDS or an ADS, the document or material shall be remarked in accordance with § 159.43(c)(2). Such extension may be made only in accordance with § 159.15(a).

(d) *Remarking documents or material marked as "Exempt from the GDS" or not marked with any declassification instructions.* A document or material classified before December 1, 1978 and marked as exempt from the GDS under Executive Order 11652 with a date or event for declassification 20 years or less from the date or origin, shall not be remarked. However, if a document or material exempted or excluded from the GDS is marked with a declassification date in excess of 20 years from the date of origin or does not bear a specific declassification date or event, it shall be marked with a date for review for declassification at 20 years from the date of origin of the document, e.g., "Review on *(insert date)*." (See also paragraph (b) of this Section).

(e) *Remarking documents or material marked "Group 4."* (1) Information classified under Executive Order 10501, as amended, that is contained in a document or material marked as Group 4 and still so marked, was placed by Executive Order 11652 under the General Declassification Schedule and subject to automatic declassification thereunder as follows:

(i) All such information originally classified as Top Secret becomes declassified on December 31 of the tenth year from the year of origin or December 31, 1982, whichever is earlier;

(ii) All such information originally classified as Secret becomes declassified on December 31 of the eighth year from the year of origin or December 31, 1980, whichever is earlier; and

(iii) All such information originally classified as Confidential became declassified on December 31, 1976.

(2) When such information is determined to have been automatically declassified under paragraph (e)(1) (i), (ii) or (iii) of this Section, remarking of a document or material is not necessary but old classification markings shall be canceled on at least the first page. In cases where such information remains classified under paragraph (e)(1) (i) or (ii) of this Section, a finite date for declassification shall be shown on a "declassify on" line, prior classification markings canceled on at least the first page, and current classification designations substituted therefor. However, should a determination be made under § 159.22 to extend classification beyond the declassification date or event specified by the GDS, the document or material shall be remarked in accordance with § 159.43(c)(2). Such extension may be made only in accordance with § 159.15(a).

(f) *Remarking documents or material marked group 1, 2 or 3, or not group marked.* Information classified before June 1, 1972 that is contained in a document or material marked as Group 1, 2 or 3 under Executive Order 10501 as amended, or not group marked, shall be remarked to show a date for review for declassification 20 years from the date of origin, e.g., "Review on (*insert date*)." (See also paragraph (b) of this Section.)

(g) *Earlier declassification.* Nothing in this Section shall be construed to preclude declassification under § 159.30(a).

§ 159.46 [Reserved].

Subpart F—Safekeeping and Storage

§ 159.50 Storage and storage equipment.

(a) *General policy.* Classified information shall be stored only under conditions adequate to prevent unauthorized persons from gaining access. The requirements specified in this Regulation represent the minimum acceptable security standards. DoD policy concerning the use of force for the protection of property or information is specified in § 159.10(cc).

(b) *Standards for storage equipment.* The General Services Administration (GSA) establishes and publishes minimum standards, specifications and supply schedules for containers, vaults, alarm systems and associated security devices suitable for the storage and protection of classified information. Heads of DoD Components may establish additional supplementary controls to prevent unauthorized access. Security filing cabinets conforming to Federal specifications bear a Test Certification Label on the locking drawer attesting to the security capabilities of the container and lock (on some early cabinets, the label was located on the wall inside the locked drawer compartment). Such cabinets manufactured after February 1962 will also be marked "General Services Administration Approved Security Container" on the outside of the top drawer.

(c) *Storage of classified information.* Whenever classified information is not under the personal control and observation of an authorized person, it will be guarded or stored in a locked security container as prescribed below:

(1) *Top secret.* Top Secret information shall be stored in:

(i) A safe-type steel file container having a built-in, three position, dial-type combination lock approved by the General Services Administration, or a Class A vault or vault type room that meets the standards established by the head of the DoD Component concerned. When located in buildings, structural enclosures, or other areas not under U.S. Government control, the storage container, vault, or vault-type room must be protected by an alarm system or guarded during non-operating hours.

(ii) An alarmed area, provided such facilities are adjudged by the local responsible official to afford protection equal to or better than that prescribed in 1. above. When an alarmed area is utilized for the storage of Top Secret material, the physical barrier must be adequate to prevent (A) surreptitious removal of the material, and (B) observation when observation would result in the compromise of the material. The physical barrier must be such that forcible attack will give evidence of attempted entry into the area or room. The alarm system must as a minimum provide immediate notice to a security force of attempted entry. Under field conditions, the field commander will prescribe the measures deemed adequate to meet the storage standards contained in paragraphs (c)(1)(i) and (ii) of this Section.

(2) *Secret and Confidential.* Secret and Confidential information shall be stored in the manner prescribed for Top Secret; or in a Class B vault, or a vault-type room, strong room, or secure storage room, that meets the standards prescribed by the head of the DoD Component; or, until phased out, in a steel filing cabinet having a built-in, three-position, dial type combination lock; or, as a last resort, an existing steel filing cabinet equipped with a steel lock bar, provided it is secured by a GSA approved changeable combination padlock. In such instances, the keeper(s) and staple(s) must be secured to the

cabinet by welding, rivets, or peened bolts.

(3) *Specialized security equipment.* (i) Field safe and one-drawer container. One-drawer field safes, and GSA approved security containers are used primarily for storage of classified information in the field and in transportable assemblages. Such containers must be securely fastened or guarded to prevent the theft of the container.

(ii) *Map and plan file.* A GSA approved Map and Plan file has been developed for storage of odd-sized items such as computer cards, maps, and charts.

(4) *Other storage requirements.* Storage areas for bulky material containing classified information, other than Top Secret information, shall have access openings secured by GSA-approved changeable combination padlocks (Federal specification FF–P110 series) or keyed-operated padlocks with high security cylinders (exposed shackle, Military specification P–43951 series, or shrouded shackle, Military specification P–43607 series).

(i) When combination padlocks are used, the provisions of paragraph (e) of this Section apply.

(ii) When keyed-operated high security padlocks are used, keys shall be controlled as classified information with classification equal to the classification of the information being protected and:

(A) A key and lock custodian shall be appointed to ensure proper custody and handling of keys and locks;

(B) A key and lock control register shall be maintained to identify keys for each lock and their current location and custody;

(C) Keys and locks shall be audited each month;

(D) Keys shall be inventoried with each change of custodian;

(E) Keys shall not be removed from the premises;

(F) Keys and spare locks shall be protected in a secure container;

(G) Locks shall be changed or rotated at least annually, and shall be replaced upon loss or compromise of their keys; and

(H) Master keying is prohibited.

(d) *Procurement and phase-in of new storage equipment.* (1) *Preliminary survey.* DoD activities shall not procure new storage equipment until:

(i) A current survey has been made of on-hand security storage equipment and classified records, and

(ii) It has been determined, based upon the survey, that it is not feasible to use available equipment or to retire, return, declassify or destroy a sufficient volume or records currently on hand to make the needed security storage space available.

(2) *Purchase of new storage equipment.* New security storage equipment shall be procured from those items listed on the GSA Federal Supply Schedule. Exceptions may be made by heads of Components, with notification to the Deputy Under Secretary of Defense (Policy Review).

(3) Nothing in this chapter shall be construed to modify existing Federal Supply Class Management Assignments made under § 159.10(ii).

(e) *Designations and combinations.* (1) *Numbering and designating storage facilities.* There shall be no external mark as to the level of classified information authorized to be stored therein. For identification purposes each vault or container shall externally bear an assigned number or symbol.

(2) *Combinations to containers.* (i) *Changing.* Combinations to security containers shall be changed only by individuals having that responsibility and an appropriate security clearance. Combinations shall be changed:

(A) When placed in use;

(B) Whenever an individual knowing the combination no longer requires access;

(C) When the combination has been subject to possible compromise;

(D) At least annually; or

(E) When taken out of service. Built-in combination locks shall be reset to the standard combination 50–25–50: combination padlocks shall be reset to the standard combination 10–20–30.

(ii) *Classifying combinations.* The combination of a vault or container used for the storage of classified information shall be assigned a security classification equal to the highest category of the classified information authorized to be stored therein.

(iii) *Recording storage facility data.* A record shall be maintained for each vault, secure room or container used for storing classified information, showing location of the container, the names, home address and home telephone number of the individual having knowledge of the combination.

(iv) *Dissemination.* Access to the combination of a vault or container used for the storage of classified information shall be given only to those individuals who are authorized access to the classified information stored therein.

(3) *Electrically actuated locks.* Electrically actuated locks (e.g., cypher and magnetic strip card locks) do not afford the required degree of protection of classified information and may not be used as a substitute for the locks prescribed in paragraph (c) of this Section.

(f) *Repair of damaged security containers.* Neutralization of lock-outs or repair of any damage that affects the integrity of a security container approved for storage of classified information shall be accomplished only by authorized persons who are cleared or continuously escorted while so engaged.

(1) A GSA-approved security container is considered to have been restored to its original state of security integrity if:

(i) All damaged or altered parts (e.g., locking drawer, drawer head, etc.) are replaced; or

(ii) When a container has been drilled immediately adjacent to or through the dial ring to neutralize a lock-out, the replacement lock is equal to the original equipment and the drilled hole is repaired with a tapered, hardened tool-steel pin, or a steel dowel, drill bit, or bearing with a diameter slightly larger than the hole and of such length that when driven into the hole there shall remain at each end of the rod a shallow recess not less than ⅛ inch nor more than 9/16 inch deep to permit the acceptance of substantial welds, and the rod is welded both on the inside and outside surfaces. The outside of the drawer head shall then be puttied, sanded, and repainted in such a way that no visible evidence of the hole or its repair remains on the outer surface after replacement of the damaged parts (e.g., new lock).

(2) GSA-approved containers which have been drilled in a location or repaired in a manner other than as described in paragraph a., above, will not be considered to have been restored to their original state of security integrity. The "Test Certification Label" on the inside of the locking drawer and the "General Services Administration Approved Security Container" label, if any, on the outside of the top drawer shall be removed from such containers.

(3) If damage to a GSA-approved security container is repaired with welds, rivets, or bolts that cannot be removed and replaced without leaving evidence of entry, the cabinet is limited thereafter to the storage of Secret and Confidential material.

(4) If the damage is repaired using methods other than those permitted in paragraphs (f) (1) and (3) of this Section, use of the container will be limited to unclassified material and a notice to this effect will be permanently marked on the front of the container.

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§ 159.51 Custodial precautions.

(a) *Responsibilities of custodians.* (1) Custodians of classified information shall be responsible for providing protection and accountability for such information at all times and for locking classified information in appropriate security equipment whenever it is not in use or under direct supervision of authorized persons. Custodians shall follow procedures that ensure that unauthorized persons do not gain access to classified information.

(2) Only the head of an activity, or a designee, may authorize removal of classified information from designated working areas in off-duty hours provided that appropriate activity regulations ensure maximum protection possible under the circumstances.

(b) *Care during working hours.* DOD personnel shall take precaution to prevent unauthorized access to classified information.

(1) Classified documents removed from storage shall be kept under constant surveillance and face down or covered when not in use.

(2) Preliminary drafts, carbon sheets, plates, stencils, stenographic notes, worksheets, typewriter ribbons, and other items containing classified information shall be either (i) destroyed immediately after they have served their purpose, or (ii) shall be given the same classification and secure handling as the classified information they contain.

(3) Destruction of typewriter ribbons shall be accomplished in the manner prescribed for classified working papers of the same classification. After the upper and lower sections have been cycled through and overprinted five times in all ribbon or typing positions, fabric ribbons may be treated as unclassified regardless of their classified use thereafter. Carbon and plastic typewriter ribbons and carbon paper that have been used in the production of classified information shall be destroyed in the manner prescribed for working papers of the same classification after initial usage. As an exception to the foregoing, any typewriter ribbon which remains substantially stationary in the typewriter until it has received at least five consecutive impressions may be treated as unclassified.

(c) *End-of-day security checks.* Heads of activities shall establish a system of security checks at the close of each working day to ensure that:

(1) All classified material is stored in the manner prescribed;

(2) Burn bags are properly stored or destroyed;

(3) Wastebaskets do not contain classified material; and

(4) Optional Form No. 62 or other designated standard form shall be used by DoD Components for security container check purposes.

(d) *Emergency planning.* (1) Plans shall be developed for the protection, removal, or destruction of classified material in case of fire, natural disaster, civil disturbance, or enemy action. Such plans shall establish detailed procedures and responsibilities for the protection of classified material to ensure that it does not come into the possession of unauthorized persons.

(2) These emergency planning procedures do not apply to material related to Communications Security (COMSEC). Planning for the emergency protection including emergency destruction under no-notice conditions of classified COMSEC material shall be developed in accordance with the requirements of § 159.10(v).

(3) Emergency plans shall provide for the protection of classified material in a manner that will minimize the risk of injury or loss of life to personnel. In the case of fire or natural disaster, the immediate placement of authorized personnel around the affected area, preinstructed and trained to prevent the removal of classified material by unauthorized personnel, is an acceptable means of protecting classified material and reducing casualty risk. Such plans shall provide for emergency destruction to preclude capture of classified material when determined to be required. This determination shall be based on an overall commonsense evaluation of the following factors:

(i) Level and sensitivity of classified material held by the activity;

(ii) Proximity of land-based commands to hostile or potentially hostile forces or to communist-controlled countries;

(iii) Flight schedules or ship deployments in the proximity of hostile or potentially hostile forces or near communist-controlled countries;

(iv) Size and armament of land-based commands and ships;

(v) Sensitivity of operational assignment (contingency planning should also be considered); and

(vi) Potential for aggressive action of hostile forces.

(4) When preparing emergency destruction plans, consideration shall be given to the following:

(i) Reduction of the amount of classified material held by a command as the initial step toward planning for emergency destruction;

(ii) Storage of less frequently used classified material at more secure commands in the same geographical area (if available);

(iii) Transfer of as much as possible of retained classified material to microforms, thereby reducing the bulk that needs to be evacuated or destroyed;

(iv) Emphasis on the priorities for destruction, designation of personnel responsible for destruction, and the designation of places and methods of destruction. Additionally, if any destruction site or any particular piece of destruction equipment is to be used by more than one activity or entity, the order or priority for use of the site or equipment must be clearly delineated;

(v) Identification of the individual who is authorized to make the final determination as to when emergency destruction is to begin and the means by which this determination is to be communicated to all subordinate elements maintaining classified information;

(vi) Authorization for the senior individual present in an assigned space containing classified material to deviate from established plans when circumstances warrant; and

(vii) Emphasis on the importance of beginning destruction sufficiently early to preclude loss of material. The effect of premature destruction is considered inconsequential when measured against the possibility of compromise.

(5) The emergency plan shall require that classified material holding be assigned a priority for emergency evacuation or destruction. Priorities should be based upon the potential effect on the national security should such holdings fall into hostile hands, in accordance with the following general guidelines:

(i) *Priority One.* Exceptionally grave damage (Top Secret material);

(ii) *Priority Two.* Serious damage (Secret material); and

(iii) *Priority Three.* Identifiable damage (Confidential material).

(6) If, as determined by appropriate threat analysis, Priority One material cannot otherwise be afforded a reasonable degree of protection from hostile elements in a no-notice emergency situation, then provisions shall be made for installation of Anti-compromise Emergency Destruct (ACED) equipment to ensure timely initiation and positive destruction of such material [1] in accordance with the

[1] Technological limitations, particularly as to personnel and structural safety, place constraints on the amount of material that can be accommodated in buildings, ships, and aircraft by current ACED systems; therefore, only Priority One material reasonably can be so protected at this time. Nevertheless, after processing Priority One material in an emergency situation involving possible loss to

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standard establishment in subsection III.B., § 159.10(ff), i.e., "With due regard for personnel and structural safety, the ACED system shall reach a stage in destruction sequences at which positive destruction is irreversible within 60 minutes at shore installations, 30 minutes in ships, and 3 minutes in aircraft following activation of the ACED system.[200]

(7) An ACED requirement is presumed to exist and provision shall be made for an ACED system to protect Priority One material in the following environments:

(i) Shore-based activities located in or within 50 miles of potentially hostile countries, or located within or adjacent to countries with unstable governments;

(ii) Reconnaissance aircraft, both manned and unmanned, that operate within JCS-designated reconnaissance reporting areas (see SM 701–76, Volume II, "Peacetime Reconnaissance and Certain Sensitive Operations");

(iii) Naval surface noncombatant vessels operating in hostile areas when not accompanied by a combatant vessel;

(iv) Naval subsurface vessels operating in hostile areas; and

(v) U.S Navy "Special Project" ships (Military Sealift Command-operated) operating in hostile areas.

(8) Except in the most extraordinary circumstances, ACED is not applicable to commands and activities located within the United States. Should there be reason to believe that an ACED requirement exists in environments other than in those listed in paragraph (d)(7) of this Section, a threat and vulnerability study should be prepared and submitted to the head of the DoD Component concerned or his designee for this purpose, for approval. The threat and vulnerability study should include, as a minimum, the following data, classified if appropriate:

(i) Volume and type of Priority One material held by the activity, i.e., paper products, microforms, magnetic tape, circuit boards, etc.;

(ii) A statement certifying that the amount of Priority One material held by the activity has been reduced to the lowest possible level;

(iii) An estimate of the time, in excess of the timeframes cited above, required to initiate irreversible destruction of Priority One material held by the activity, and the methods by which destruction of that material would be attempted in the absence of an ACED system;

(iv) Size and composition of the activity;

(v) Location of the activity and the degree of control it, or other United States authority, exercises over security; and

(vi) Proximity to potentially hostile forces and potential for aggressive action by such forces.

(9) When a requirement is believed to exist for ACED equipment not in the General Service Administration or DoD inventories, the potential requirement shall be submitted to the Deputy Under Secretary of Defense (Policy Review), for validation in accordance with subsection V.B., § 159.10(ff).[3]

(10) In determining the method of destruction of other than Priority One material, any method specified for routine destruction or any other means that will ensure positive destruction of the material may be used. Ideally, any destruction method should provide for early attainment of a point at which the destruction process is irreversible. Additionally, classified material may be jettisoned at sea to prevent its easy capture. It should be recognized that such disposal may not prevent recovery of the material. Where none of the methods previously mentioned can be employed, the use of other means, such as dousing the classified material with a flammable liquid and igniting it, or putting to use the facility garbage grinders, sewage treatment plants, boilers, etc., should be considered.

(11) Under emergency destruction conditions, destruction equipment would be operated at maximum capacity and without regard to pollution, preventive maintenance, and other restraints that might otherwise be observed.

(12) Commands and activities that are required to maintain an ACED system pursuant to paragraph (d)(7) of this section, shall conduct drills periodically to ensure that responsible personnel are familiar with the emergency plan. Such drills should be used to evaluate the anticipated effectiveness of the plan and the prescribed equipment and should be the basis for improvements in planning and equipment use. Actual destruction should not be initiated during drills.

(e) *Telecommunications conversations.* Classified information shall not be discussed in telephone conversations except as authorized over approved secure communications circuits.

(f) *Security of meetings and conferences.* Security requirements and procedures governing disclosure of classified information at conferences, symposia, conventions, and similar meetings, as well as requirements governing the sponsorship and attendance at such meetings, is governed by §§ (x), (aa) and (bb).

(g) *Safeguarding of U.S. classified information located in foreign countries.* In addition to the requirements for development of emergency destruction plans as specified in paragraph (d) of this section, the following measures shall be employed for the protection of classified information located in foreign countries:

(1) U.S. classified information in countries other then NATO countries, Australia, New Zealand or Japan, shall be stored in areas that are maintained under U.S. control on a 24 hour basis. At a minimum, this provision requires establishment of a system of on-site duty or watch officers.

(2) U.S. classified information that has been determined by appropriate authority to be releasable to the host government shall be segregated from that information which has been determined not to be releasable. The arrangements made for segregation will depend upon the volume of classified information involved. For example, if the volume of classified information maintained makes it impractical to store releasable classified information in one security container and nonreleasable classified information in another, then the requirement may be met by storing the classified information in different drawers of the same security container. In individual cases, a cognizant Component head or designee may waive the requirement for segregation when such segregation is not feasible or practical.

(3) Foreign personnel shall be escorted when in areas where U.S. non-releasable classified information is handled or stored. As an alternative in the case of exchange officers, and when required by operational necessity, foreign personnel may be permitted unescorted access during duty hours to areas where U.S. nonreleasable classified information is stored in an appropriate locked security container or is under the direct, personal supervision of U.S. personnel.

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hostile forces, it is imperative that Priority Two material and then Priority Three material be destroyed insofar as is possible by whatever means available.

[2] The time frames indicated above are those for the initiation of irreversible destruction, not necessarily for the completion of such destruction.

[3] Information on ACED systems may be obtained from the Office of the Chief of Naval Operations, (OP–009D), Navy Department, Washington, D.C. 20350.

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§ 159.52 [Reserved]

Subpart G—Compromise of Classified Information

§ 159.60 Policy.

Compromise of classifed information presents a threat to the national security. Once a compromise is known to have occurred the seriousness of damage to U.S. interests must be determined and appropriate measures taken to negate or minimize the adverse effect of such compromise. Where possible, action also should be taken to regain custody of the documents or material which were compromised. In all cases, however, appropriate action must be taken to identify the source and reason for the compromise and remedial action taken to ensure further compromises do not occur. The provisions of § 159.10(f) and (g) apply to compromises covered by this Subpart.

§ 159.61 Cryptographic information.

The procedures for handling compromises of cryptographic information are set forth in § 159.10(v).

§ 159.62 Responsibility of discoverer.

Any person who has knowledge of the actual or possible compromise as defined in § 159.12(h) of classified information shall immediately report such fact to a responsible official.

§ 159.63 Preliminary inquiry.

A designated responsible official shall initiate a preliminary inquiry to determine the circumstances surrounding an actual or possible compromise. The preliminary inquiry shall establish one of the following:

(a) That a compromise of classified information did not occur or that the compromise could not reasonably be expected to cause identifiable damage to the national security. If in such instances, the official finds no indication of significant security weakness, the report of initial inquiry will be sufficient to resolve the incident and, when appropriate, support the administration of disciplinary action;

(b) That an actual compromise did occur or that probability of identifiable damage to the national security cannot be discounted. Upon this determination, the responsible official will:

(1) Report the circumstances to an appropriate authority as specified in Component instructions;

(2) If the responsible official is the originator, he shall take the action prescribed in § 159.66; and

(3) If the responsibe official is not the originator, notify the originator of the known details of the compromise, including identification of the classified information. If the originator is unknown, notification will be sent to the office specified in Component instructions.

§ 159.64 Investigation.

If it is determined that further investigation is warranted, such investigation will include the following:

(a) Complete identification of each item of classified information involved;

(b) A thorough search for the classified information;

(c) Identification of any person or procedure responsible for the compromise. Any person so identified shall be apprised of the nature and circumstances of the compromise and be provided an opportunity to reply to the violation charged. If such person does not choose to make a statement this fact shall be included in the report of investigation;

(d) A statement that compromise occurred or is probable, or a statement that compromise did not occur or that there is minimal risk of damage to the national security; and

(e) Compilation of the data in paragraphs (a) through (d) of this Section, in a report to the authority ordering the investigation.

§ 159.65 Responsibility of authority ordering investigation.

(a) The report of investigation shall be reviewed to ensure compliance with this Part and instructions issued by Components.

(b) The recommendations contained in the report of investigation shall be reviewed to determine sufficiency of remedial, administrative or disciplinary action proposed and, if adequate, the report of investigation forwarded with recommendations through supervisory channels. See § 159.141 and 142.

§ 159.66 Responsibility of originator.

The originator or an official higher in the originator's supervisory chain will, upon receipt of notification of loss or possible compromise of classified information, take action as prescribed in § 159.21(k).

§ 159.67 Espionage and deliberate compromise.

Cases of espionage and deliberate compromise shall be reported in accordance with § 159.10 (f) and (g) and implementing issuances.

§ 159.68 Unauthorized absentees.

When an individual who has had access to classified information is on unauthorized absence, inquiry, as appropriate under the circumstances, to include consideration of the length of absence and the degree of sensitivity of the classified information involved, shall be conducted to detect if there are any indications of activities, behavior or associations that may be inimical to the interests of national security. Where such indications are detected, a report shall be made to the Component counterintelligence organization.

§ 159.69 [Reserved]

Subpart H—Access, Dissemination and Accountability

§ 159.70 Access.

(a) *Policy.* Except as otherwise provided for in paragraph (f) of this Section no person may have access to classified information unless that person has been determined to be trustworthy and unless access is necessary for the performance of official duties. A personnel security clearance is an indication that the trustworthiness decision has been made. Procedures shall be established by the head of each Component to prevent unnecessary access to classified information. There shall be a demonstrable need for access to classified information before a request for a personnel security clearance can be initiated. The number of people cleared and granted access to classified information shall be maintained at the minimum number that is consistent with operational requirements and needs. No one has a right to have access to classified information solely by virtue of rank or position. The final responsibility for determining whether an individual's official duties require possession of or access to any element or item of classified information, and whether the individual has been granted the appropriate security clearance by proper authority, rests upon the individual who has authorized possession, knowledge, or control of the information and not upon the prospective recipient. These principles are equally applicable if the prospective recipient is an organizational entity, including commands, other Federal Agencies, Defense contractors, foreign governments, and others.

(b) *Determination of trustworthiness.* (1) Except as provided in paragraphs (f), (g) and (h) of this Section no person shall have access to classified information unless a determination has been made of that person's trustworthiness. This determination, referred to as a security clearance, shall be based on an investigation in accordance with the standards and criteria of § 159.10 (h). Interim clearances may be granted in accordance with the provisions of § 159.10(h).

(2) United States citizen employees of contractors with classified Government contracts may be granted Confidential clearances by the contractor under the Industrial Security Program, except that such clearances are not valid for Sensitive Compartmented Information, Restricted Data, Cryptographic information, COMSEC information, ACDA, or NATO information classified Confidential.

(c) *Continuous evaluation of eligibility.* (1) DoD activities shall report to an appropriate clearing authority information relative to the criteria of § 159.10 (h) concerning individuals who are cleared or are in the process of being cleared including contractor personnel cleared under the Defense Industrial Security Program. Reports involving contractor personnel shall be submitted to the Defense Industrial Security Clearance Office, Columbus, Ohio.

(2) All DoD activities shall continually evaluate information coming into their possession regarding persons granted security clearances to ensure the criteria cited in DoD Directive 5210.8 continue to be satisfied.

(3) Such evaluation is premised upon close coordination with security, personnel, medical, legal and supervisory officials to assure that all information available within a command is evaluated when it pertains to an individual who is cleared or is being considered for clearance.

(d) *Determination of need-to-know.* In addition to a security clearance, an individual must have a need for access to the classified information or material sought in connection with the performance of official duties or contractual obligations. The determination of that need shall be made as provided in paragraph (a) of this Section.

(e) *Revocation of security clearance for cause.* A security clearance will be revoked by the appropriate clearing authority when it is determined, in accordance with applicable regulations, that such clearance is no longer clearly consistent with the interests of national security.

(f) *Access by persons outside the executive branch.* Classified information may be made available to individuals or agencies outside the Executive Branch provided that such information is necessary for performance of a function from which the Government will derive a benefit or advantage, and that such release is not prohibited by the originating department or agency. Heads of DoD Components shall designate appropriate officials to determine, prior to the release of classified information, the propriety of such action in the interest of national security and assurance of the recipient's trustworthiness and need-to-know.

(1) *Congress.* Access to classified information or material by Congress, its committees, members, and staff representatives shall be in accordance with § 159.10(i). Any DoD employee testifying before a Congressional committee in executive session in relation to a classified matter shall obtain the assurance of the committee that individuals present have a security clearance commensurate with the highest classification of the information that may be discussed. Members of Congress, by virtue of their elected positions, are not investigated or cleared by the Department of Defense.

(2) *Government Printing Office (GPO).* Documents and material of all classifications may be processed by the GPO, which protects the information in accordance with Department of Defense/Government Printing Office Agreement, dated June 26, 1956.

(3) *Representatives of the General Accounting Office (GAO).* Representatives of the GAO may be granted access to classified information originated by and in possession of the DOD when such information is relevant to the performance of the statutory responsibilities of that office, as set forth in § 159.10(j). Officials of the GAO, as designated in Appendix B, are authorized to certify security clearances, and the basis therefor. Certifications will be made by these officials pursuant to arrangements with the DOD Component concerned. Personal recognition or presentation of official GAO credential cards are acceptable for identification purposes.

(4) *Industrial, educational and commercial entities.* (i) Bidders, contractors, grantees, educational, scientific or industrial organizations may have access to classified information only when such access is essential to a function that is necessary in the interest of the national security, and the recipients are cleared in accordance with § 159.10(aa).

(ii) Contractor employees whose duties do not require access to classified information are not eligible for personnel security clearance and cannot be investigated under the Defense Industrial Security Program. In exceptional situations, where a military command is vulnerable to sabotage and its mission is of critical importance to national security, National Agency Checks may be conducted on such individuals with the approval of the Deputy Under Secretary of Defense (Policy Review).

(5) *Historical Researchers.* Persons outside the Executive Branch who are engaged in historical research projects may be authorized access to classified information provided that an authorized official within the DOD Component with classification jurisdiction over the information:

(i) Makes a written determination that such access is clearly consistent with the interests of national security in view of the intended use of the material to which access is granted by certifying that the requester has been found to be trustworthy pursuant to paragraph (b)(1) of this Section;

(ii) Limits such access to specific categories of information over which that Component has classification jurisdiction and to any other category of information for which the researcher obtains the written consent of a Component or non-DOD department or agency that has classification jurisdiction over information contained in or revealed by documents within the scope of the proposed historical research;

(iii) Maintains custody of the classified material at a DOD installation or activity or authorizes access to documents in the custody of the National Archives and Records Service;

(iv) Obtains the researcher's agreement to safeguard the information and to submit any notes and manuscript for review by all Components or non-DOD departments or agencies with classification jurisdiction for determination that no classified information is contained therein by execution of a statement entitled "Conditions Governing Access to Official Records for Historical Research Purposes"; and

(v) Issues an authorization for access valid for not more than 2 years from the date of issuance that may be renewed under regulations of the issuing Component.

(6) *Former Presidential Appointees.* Persons who previously occupied policy making positions to which they were appointed by the President, may not remove classified information upon departure from office as all such material must remain under the security control of the U.S. Government. Such persons may be authorized access to classified information that they originated, received, reviewed, signed, or that was addressed to them while serving as such an appointee, provided that an authorized official within the DOD Component with classification jurisdiction for such information;

(i) Makes a written determination that such access is clearly consistent with the interests of national security in view of the intended use of the material to which access is granted and by certifying that the requester has been found to be trustworthy pursuant to paragraph (b)(1) of this Section;

(ii) Limits such access to specific categories of information over which that component has classification jurisdiction and to any other category of information for which the former appointee obtains the written consent of a Component or non-DOD department or agency that has classification jurisdiction over information contained in or revealed by documents with the scope of the proposed access;

(iii) Retains custody of the classified material at a DOD installation or activity or authorizes access to documents in the custody of the National Archives and Records Service; and

(iv) Obtains the former Presidential appointee's agreement to safeguard the information and to submit any notes and manuscript for review by all Components or non-DOD departments or agencies with classification jurisdiction for determination that no classified information is contained therein.

(7) *Judicial proceedings.* (i) An individual or agency that receives an order or subpoena issued by a Federal or State court of record to produce classified information shall immediately refer such order or subpoena to the cognizant Judge Advocate General's or General Counsel's office. Such office shall contact the originator of the information to determine if declassification can be effected.

(ii) If declassification is not possible, cognizant legal counsel shall take appropriate action to protect such information.

(iii) If no alternative exists to release of such information for use in a judicial proceeding, cognizant legal counsel shall take all proper steps to ensure the cooperation of the court and opposing counsel in safeguarding and retrieving the information. The steps taken to protect classified information will vary depending on the circumstances of each case. The following are examples of restrictions on the handling of classified information that may be recommended for inclusion in any court order:

(A) Every effort shall be made to limit dissemination to *in camera* review by the Judge of the court of record to determine the relevancy of the information in question.

(B) Classified material will not be authorized for introduction into evidence at a civil trial before a jury. Attendance at any proceeding where classified information is to be introduced shall be limited to the presiding judge of a court and those attorneys and other persons whose duties require knowledge or possession of the information and who have been cleared by DoD.

(C) All proceedings shall be held in a secured court or hearing room pursuant to DoD security procedures and regulations.

(D) Dissemination and accountability controls must be established for all classified information marked for identification or offered or introduced into evidence.

(E) The transcript of the proceeding shall be appropriately marked to show the classified portions.

(F) All classified information shall be handled and stored in a manner consistent with DoD security procedures.

(G) Any notes, drafts, or other documents produced by non-DoD individuals, no longer required by any party to the proceeding shall be transferred to the DoD for destruction.

(H) All recipients of classified information disclosed under the provisions of this section shall be advised of the classification level, safeguarding and storage requirements, and their liability in the event of unauthorized disclosure.

(I) At the conclusion of the proceeding, all classified information must be returned to the DoD or placed under seal of the Court of Record.

(g) *Access by foreign nationals, foreign governments, international organizations, and immigrant aliens.* (1) Classified information may be released to foreign nationals, foreign governments and international organizations, only when authorized under the provisions of the National Disclosure Policy and § 159.10(1); and

(2) Secret and Confidential information may be released to immigrant aliens who reside and intend to reside permanently in the United States, in the performance of official duties, provided they have been granted a security clearance based upon a favorable Background Investigation.

(3) Immigrant aliens may be granted a Limited Access Authorization to Top Secret information for a specific contract or program provided that the head of the Component concerned makes a personal written determination that such access is essential to meet Government requirements and that the individual is reliable and trustworthy in accordance with (h). A report of each such determination shall be furnished to the Deputy Under Secretary of Defense (Policy Review).

(4) Access to COMSEC information by persons and activities subject to this paragraph shall be in accordance with policy issuances of the National Communications Security Committee (NCSC).

(h) *Other situations.* When necessary in the interests of national security heads of DoD Components, or their single designee, may authorize access by persons outside the Federal Government, other than those enumerated in paragraphs (f) and (g) of this Section to classified information upon determining that (1) the recipient is trustworthy for the purpose of accomplishing a national security objective and (2) that the recipient can and will safeguard the information from unauthorized disclosure.

(i) *Access required by other executive branch investigative and law enforcement agents.* (1) Normally, investigative agents of other departments or agencies may obtain access to DoD information through established liaison or investigative channels.

(2) When the urgency or delicacy of a Federal Bureau of Investigation (FBI), Drug Enforcement Administration (DEA), or Secret Service investigation precludes use of established liaison or investigative channels, FBI, DEA or Secret Service agents may obtain access to DoD information as required. However, this information shall be protected as required by its classification. Prior to any public release of the information so obtained the approval of the head of the activity or higher authority shall be obtained.

§ 159.71 Dissemination.

(a) *Policy.* Components shall establish procedures consistent with this Regulation for the dissemination of classified material. The originating official or activity may prescribe specific restrictions on dissemination of classified information when necessary. (See § 159.44(f).)

(b) *Restraints on special access requirements.* Special requirements with respect to access, distribution and protection of classified information shall require prior approval in accordance with Subpart m.

(c) *Information originating in a non-DoD department or agency.* Except under rules established by the Secretary of Defense, or as provided by Section 102 of the National Security Act, 50 U.S.C. Section 403, classified information originating in a department or agency other than DoD shall not be disseminated outside the DoD without the consent of the originating department or agency.

(d) *Foreign intelligence information.* Dissemination of foreign intelligence information shall be in accordance with the provisions of § 159.10(m).

(e) *Restricted data and formerly restricted data.* Information bearing the warning notices prescribed in § 159.44 (b) and (c) shall not be disseminated outside authorized channels without the consent of the originator. Access to and dissemination of Restricted Data by DoD personnel shall be subject to § 159.10(n).

(f) *NATO information.* Classified information originated by NATO shall be safeguarded in accordance with § 159.10(o).

(g) *COMSEC information.* COMSEC information shall be disseminated in accordance with § 159.10(v).

(h) *Dissemination of top secret information.* (1) Top Secret information, originated within the DoD, may not be disseminated outside the DoD without the consent of the originating DoD Component, or higher authority.

(2) Top Secret information, whenever segregable from classified portions bearing lower designations, shall be distributed separately.

(i) *Dissemination of secret and confidential information.* Classified information other than Top Secret, originated within DoD, may be disseminated within the Executive Branch, unless prohibited by the originator. (See § 159.44(f).)

(j) *Restraint on reproduction.* Except as provided in § 159.35(c), portions of documents and materials that contain Top Secret information shall not be reproduced without the consent of the originator or higher authority. Any stated prohibition against reproduction shall be strictly observed. (See § 159.44(f).) The following measures apply to reproduction equipment and to the reproduction of classified information:

(1) Copying of documents containing classified information shall be minimized;

(2) Officials authorized to approve the reproduction of Top Secret and Secret information shall be designated by position title and shall review the need for reproduction of classified documents with a view toward minimizing reproduction;

(3) Specific reproduction equipment shall be designated for the reproduction of classified information. Rules for reproduction of classified information shall be posted on or near the designated equipment;

(4) Notices prohibiting reproduction of classified information shall be posted on equipment used only for the reproduction of unclassified information;

(5) Components shall ensure that equipment used for reproduction of classified material does not leave latent images in the equipment or on other material;

(6) All copies of classified documents reproduced for any purpose including those incorporated in a working paper are subject to the same controls prescribed for the document from which the reproduction is made; and

(7) Records shall be maintained to show the number and distribution of reproduced copies of all Top Secret documents, of all classified documents covered by special access programs distributed outside the originating agency, and of all Secret and Confidential documents which are marked with special dissemination and reproduction limitations. (See § 159.44(f).)

(k) *Code words, nicknames and exercise terms.* The use of code words, nicknames and exercise terms are subject to Appendix C.

(l) *Scientific and technical meetings.* Use of classified information in scientific and technical meetings is subject to § 159.10(x).

§ 159.72 Accountability and control.

(a) *Top secret information.* DOD activities shall establish the following procedures:

(1) *Control officers.* Top Secret Control Officers, and alternates, shall be designated within offices to be responsible for receiving, dispatching, and maintaining accountability registers of Top Secret documents. Such individuals shall be selected on the basis of experience and reliability, and shall have appropriate security clearances.

(2) *Accountability.* Top Secret accountability registers shall be maintained by each originating and recipient office for all Top Secret documents and material in its custody. The name and title of all individuals, including stenographic and clerical personnel to whom information in such documents and materials has been disclosed, and the date of such disclosure, shall be recorded therein. Disclosures to individuals who may have had access to containers in which Top Secret information is stored, or who regularly handled a large volume of such information, need not be so recorded. Such individuals, when identified on a roster, are deemed to have had access to such information on the listed date. Disclosure records shall be retained for 2 years after the documents or materials are transferred, downgraded, or destroyed.

(3) *Inventories.* All Top Secret documents and material shall be inventoried at least once annually. The inventory shall reconcile the Top Secret accountability register with the documents or material on hand. At such time, each document or material shall be examined for completeness. Component senior officials (§ 159.32(b) and (c)) may authorize the annual inventory of Top Secret documents and material in repositories, libraries, or activities that store large volumes of Top Secret documents or material to be limited to documents and material to which access has been granted within the past year, and 10 percent of the remaining inventory. If a storage system contains large volumes of information and security measures are adequate to prevent access by unauthorized persons, a request for waiver of the annual inventory requirement accompanied by full justification may be submitted to the Deputy Under Secretary fo Defense (Policy Review).

(4) *Retention.* Top Secret documents shall be reproduced and retained only to the extent necessary to satisfy current requirements. Custodians shall destroy non-record copies of Top Secret documents when no longer needed. Record copies of documents that cannot be destroyed shall be reevaluated and, when appropriate, downgraded, declassified, or retired to designated records centers.

(5) *Receipts.* Top Secret documents and material will be accounted for by a continuous chain of receipts.

(6) *Serialization.* Copies of Top Secret documents and material shall be numbered serially.

(b) *Secret information.* Administrative procedures shall be established controlling Secret material (1) originated or received by an activity; (2) distributed or routed to a subelement of such activity; and (3) disposed of by the activity by transfer of custody or destruction. The control system for Secret must be determined by the practical balance of security and operating efficiency.

(c) *Confidential information.* Administrative controls shall be established to protect Confidential information received, originated, transmitted or stored by an activity.

(d) *Receipt of classified material.* Procedures shall be developed within DOD activities to protect incoming mail, bulk shipments, and items delivered by messenger until a determination is made whether classified information is contained therein. Screening points shall be established to limit access to

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classified information to cleared personnel.

(e) *Working papers.* Working papers are documents and material accumulated or created in the preparation of finished documents and material. Working papers containing classified information shall be:

(1) Dated when created;

(2) Marked with the highest classification of any information contained therein;

(3) Protected in accordance with the assigned classification;

(4) Destroyed when no longer needed; and

(5) Accounted for, controlled, and marked in the manner prescribed for a finished document of the same classification when one or more of the following occur:

(i) Released by the originator outside the activity or transmitted through message center channels within the activity; or

(ii) Filed permanently; or

(iii) Retained more than 90 days from date of origin; or

(iv) Top Secret information is contained therein.

§ 159.73 [Reserved]

Subpart I Transmission

§ 159.80 Methods of transmission or transportation.

(a) *Policy.* Classified information may be transmitted or transported only as specified in this chapter.

(b) *Top Secret Information.* Transmission of Top Secret information shall be effected only by:

(1) The Armed Forces Courier Service (ARFCOS),

(2) Authorized Component Courier Services,

(3) If appropriate, the Department of State Courier System,

(4) Cleared and designated personnel traveling on a conveyance owned, controlled or chartered by the Government or DOD contractors,

(5) Cleared and designated U.S. Military personnel and Government civilian employees by surface transportation,

(6) Cleared and designated U.S. Military personnel and Government civilian employees on scheduled commercial passenger aircraft within and between the United States, its Territories and Canada, when approved in accordance with § 159.82(d)(1).

(7) Cleared and designated U.S. Military personnel and Government civilian employees on scheduled commercial passenger aircraft on flights outside the United States, its territories, and Canada, when approved in accordance with § 159.82(d)(2).

(8) Cleared and designated DOD contractor employees within and between the United States and its Territories provided that: the transmission has been authorized in writing by the appropriate contracting officer or his designated representative and, the designated employees have been briefed in their responsibilities as couriers or escorts for the protection of Top Secret material. Complete guidance for Top Secret transmission is specified in § 159.10 (aa) and (bb).

(9) A cryptographic system authorized by the Director, NSA, or via a protected distribution system designed and installed to meet the standards included in the National COMSEC and Emanations Security (EMSEC) Issuance System.

(c) *Secret information.* Transmission of Secret information may be effected by:

(1) Any of the means approval for the transmission of Top Secret information except that Secret information may be introduced into the Armed Forces Courier Service (ARFCOS) only when the control of such information cannot be otherwise maintained in U.S. custody. This restriction does not apply to Sensitive Compartmented Information and COMSEC information.

(2) Appropriately cleared contractor employees within and between the United States and its Territories provided that: (i) the designated employees have been briefed in their responsibilities as couriers or escorts for protecting Secret information; (ii) the classified information remains under the constant custody and protection of the contractor personnel at all times; and (iii) the transmission otherwise meets the requirements specified in § 159.10(aa) and (bb). In other areas, appropriately cleared DOD contractor employees may transmit Secret information only when: (iv) the information is not transported across international borders; (v) time limitations do not permit the use of U.S. Government channels; (vi) the transmission is begun and completed during normal duty hours of the same day and by surface means only; and (vii) the transmission otherwise meets the requirements specified in § 159.10(aa) and (bb);

(3) United States Postal Service registered mail within and between the United States and its Territories;

(4) United States Postal Service registered mail through Army, Navy, or Air Force Postal Service facilities, outside the United States and its Territories provided that the information does not at any time pass out of United States citizen control and does not pass through a foreign postal system or any foreign inspection;

(5) United States Postal Service and Canadian registered mail with registered mail receipt between United States Government and Canadian government installations in the United States and Canada;

(6) Carriers authorized to transport Secret information via a Protective Security Service (PSS) under the Department of Defense Industrial Security Program. This method is authorized only within the United States boundaries and only when the size, bulk, weight, nature of the shipment, or escort considerations make the use of other methods impractical. Routings for these shipments will be obtained from the Military Traffic Management Command;

(7) The following carriers under appropriate escort: Government and Government contract vehicles including aircraft, ships of the United States Navy, civil service operated United States Naval ships, and ships of U.S. registry. Appropriately cleared operators of vehicles, officers of ships or pilots of aircraft who are United States citizens may be designated as escorts provided the control of the carrier is maintained on a 24-hour basis. The escort shall protect the shipment at all times, through personal observation or authorized storage to prevent inspection, tampering, pilferage, or unauthorized access. However, observation of the shipment is not required during the period it is stored in an aircraft or ship in connection with flight or sea transit, provided the shipment is loaded into a compartment that is not accessible to any unauthorized persons or in a specialized secure, safe-like container that is:

(i) Constructed of solid building material that provides a substantial resistance to forced entry;

(ii) Constructed in a manner that precludes surreptitious entry through disassembly or other means, and that attempts at surreptitious entry would be readily discernible through physical evidence of tampering; and

(iii) Secured by a numbered cable seal lock affixed to a high security hasp. The hasp must be installed in a manner that precludes surreptitious removal.

(8) Use of specialized containers aboard aircraft requires that:

(i) Appropriately cleared personnel maintain observation of the material as it is being loaded aboard the aircraft and that observation of the aircraft continues until it is airborne;

(ii) Observation by appropriately cleared personnel is maintained at the destination as the material is being off-loaded and at any intermediate stops. Observation will be continuous until custody of the material is assumed by appropriately cleared personnel.

(d) *Confidential information.* Transmission of Confidential information may be effected by:

(1) Means approved for the transmission of Secret information. However, United States Postal Service registered mail shall be used for Confidential only as indicated in subparagraph b below;

(2) United States Postal Service registered mail for:

(i) Confidential information of NATO;

(ii) Other Confidential material to and from FPO or APO addressees located outside the United States and its Territories;

(iii) Other addressees when the originator is uncertain that their location is within the United States boundaries. Use of return postal receipts on a case by case basis is authorized.

(3) United States Postal Service First Class Mail between Department of Defense Component locations anywhere in the United States and its Territories. However, the outer envelope/wrappers of such Confidential material shall be endorsed "Postmaster: Do Not Forward, Return to Sender." Certified or, if appropriate, registered mail shall be used for material directed to DOD contractors and to non-DOD agencies of the Executive Branch. United States Postal Service Express Mail Service may be used between DOD Component locations, between DOD contractors, and between DOD Components and DOD contractors.

(4) Within United States boundaries, commercial carriers that provide a Signature Security Service (SSS). Information concerning commercial carriers that provide SSS may be obtained from the Military Traffic Management Command (MTMC).

(5) In the custody of commanders or masters of ships of United States registry who are United States citizens. Confidential information shipped on ships of United States registry may not pass out of United States Government control. The commanders or masters must give and receive classified information receipts and agree to: (i) Deny access to the Confidential material by unauthorized persons, including customs inspectors, with the understanding that Confidential cargo that would be subject to customs inspection will not be unloaded; and

(ii) Maintain control of the cargo until a receipt is obtained from an authorized representative of the consignee.

(6) Such alternative of additional methods of transmission as the head of any Component may establish by rule or regulation, provided those methods afford at least an equal degree of security.

(e) *Transmission of classified information to foreign governments.* (1) Subsequent to a determination by competent authority that classified information may be released to a foreign government, it shall be transmitted only: (i) To an embassy or official agency or representative of the recipient government, or

(ii) For on-loading aboard a ship, aircraft or other carrier designated by the recipient government at the point of departure from the United States, or its territories, provided that at the time of delivery a duly authorized representative of the recipient government is present at the point of departure to accept delivery, to ensure immediate loading, and to assume security responsibility for the classified material.

(2) Classified material shall be transferred on a government-to-government basis by duly authorized representatives of each government, and shall not pass to a foreign government until a delivery receipt, to include a United States postal receipt where applicable, has been executed by a duly authorized representative of the recipient foreign government.

(3) Each contract, agreement or arrangement that contemplates transfer of classified material to a foreign government at a point within the United States, its Territories or possessions, shall designate a point of delivery in accordance with paragraphs (e)(1) (i) or (ii) of this section. If delivery is to be a point as described in paragraph (e)(1)(ii) of this section, the contract, agreement or arrangement shall provide for:

(i) United States Government storage, or

(ii) Storage by a cleared commercial carrier or other U.S. cleared storage point, or

(iii) Storage at a storage point owned or controlled by the recipient foreign government, at or near the delivery point so that the classified material may be temporarily stored in the event the carrier designated by the recipient foreign government is not available for loading, or.

(iv) Storage facilities used or designated must afford the classified material the protection required by this Regulation. Any storage facility referred to in paragraph (e)(3)(iii) of this section shall be protected by a trained guard force consisting of nationals of the recipient government, or U.S. citizens for whom security assurances have been provided by the Department of Defense to the recipient foreign government. In addition, an industrial security representative of the Defense Contract Administration Services Region (DCASR) located in the geographical area will, upon request, visit the storage facility and furnish guidance with regard to the physical safeguards required. Continued inspection to ensure the facility is continuing to provide protection required by this Regulation will be made by a DCASR with the cooperation of the foreign government concerned.

(4) Classified material to be delivered to a foreign government within the recipient country shall be transmitted in accordance with the provisions of this Chapter. Unless the material is accompanied by a designated or approved courier or escort, it shall, on arrival in the recipient country, be delivered to a United States Government representative who shall arrange for transfer to a duly authorized representative of the recipient foreign government.

(5) Classified material to be delivered to the representative of a foreign government within a third country shall be delivered by a U.S. courier or escort to such representative at an agency or installation of the United States or of the recipient country that has extraterritorial status or is otherwise exempt from the jurisdiction of the third country.

(f) *Consignor-consignee responsibility for shipment of bulky material.* The consignor of a bulk shipment shall: (1) Normally, select a carrier that will provide a single line service from the point of origin to destination, when such a service is available;

(2) Ship packages weighing less than 200 pounds in closed vehicles only;

(3) notify the consignee, and military transshipping activities, of the nature of the shipment (including level of classification), the means of shipment, the number of seals, if used, and the anticipated time and date of arrival by separate communication at least 24 hours in advance of arrival of the shipment. Advise the first military transshipping activity that, in the event the material does not move on the conveyance originally anticipated, the transshipping activity should so advise the consignee with information of firm transshipping date and estimated time of arrival. Upon receipt of the advance notice of a shipment of classified material, consignees and transshipping

activities shall take appropriate steps to receive the classifed shipment and to protect it upon arrival.

be a sufficient enclosure provided the shell or body does not reveal classified information.

package, they shall be wrapped in a single inner envelope or container. A receipt listing all classified information for which a receipt is requested shall be

§ 159.82 Restrictions, procedures and authorization concerning escort/hand-carrying or classified information.

(a) *General restrictions.*

(3) In the case of the hand-carry of classified information across international borders, arrangements have been made to ensure that such

packaged containers shall be processed as follows:

(i) The Government or contractor official who has authorized the transport

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activities shall take appropriate steps to receive the classifed shipment and to protect it upon arrival.

(4) Annotate the bills of lading to require the carrier to notify the consignor immediately, by the fastest means, if the shipment is unduly delayed enroute. Such annotations shall not, under any circumstances, disclose the classifed nature of the commodity. When seals are used annotate substantially as follows: Do not break seals except in emergency or upon authority of consignor or consignee. If broken apply carrier's seals as soon as possible and immediately notify consignor and consignee.

(5) Require the consignee to advise the consignor of any shipment not received more than 48 hours after the estimated time of arrival furnished by the consignor or transshipping activity. Upon receipt of such notice, the consignor shall immediately trace the shipment. If there is evidence that the classified material was subjected to compromise, the procedures set forth in Chapter VI of this Regulation for reporting compromises shall apply.

(g) *Transmission of communications security (COMSEC) information.* Communications Security (COMSEC) information shall be transmitted in accordance with § 159.10 (v).

(h) *Transmission of restricted data.* Restricted Data shall be transmitted in the same manner as other information of the same security classification. The transporting and handling of nuclear weapons or nuclear components shall be in accordance with § 159.10 (jj) and (kk) and applicable Component directives.

§ 159.81 Preparation of material for transmission or shipment.

(a) *Envelopes or containers.* Whenever classified information is transmitted, it shall be enclosed in two opaque sealed envelopes or similar wrappings where size permits, except as provided below.

(2) Whenever classified material is transmitted of a size not suitable for transmission in accordance with subparagraph a. above, it shall be enclosed in two opaque sealed containers, such as boxes or heavy wrappings.

(i) If the classified information is an internal component of a packageable item of equipment, the outside shell or body may be considered as the inner enclosure provided it does not reveal classified information.

(ii) If the classified material is an inaccessible internal component of a bulky item of equipment that is not reasonably packageable the outisde or body of the item may be considered to be a sufficient enclosure provided the shell or body does not reveal classified information.

(iii) If the classified material is an item or equipment that is not reasonably packageable and the shell or body is classified it shall be concealed with an opaque covering that will hide all classified features.

(iv) Specialized shipping containers, including closed cargo transporters, may be used in lieu of the above packaging requirements. In such cases, the container may be considered the outer wrapping or cover.

(3) Material used for packaging shall be of such strength and durability as to provide security protection while in transit, to prevent items from breaking out of the container, and to facilitate the detection of any tampering with the container. The wrappings shall conceal all classified characteristics.

(4) Closed and locked vehicles or compartments, or cars shall be used for shipments of classified information except when another method is authorized by the consignor. In any event, individual packages weighing less than 200 pounds gross shall be shipped only in a closed vehicle.

(5) To minimize the possibility of compromise of classified material caused by improper or inadequate packaging thereof, responsible officials shall ensure that proper wrappings are used for mailable bulky packages. Responsible officials shall require the inspection of bulky packages to determine whether the material is suitable for mailing or whether it should be transmitted by other approved means.

(b) *Addressing.* (1) Classified information shall be addressed to an official Government activity or DOD contractor with a facility clearance and not to an individual. This is not intended, however, to prevent use of office code numbers or such phrases in the address as "Attention: Research Department," or similar aids in expediting internal routing, in addition to the organization address.

(2) Classified written information shall be folded or packed in such a manner that the text will not be in direct contact with the inner envelope or container. A receipt form shall be attached to or enclosed in the inner envelope or container for all Secret and Top Secret information; Confidential information will require a receipt only if the originator deems it necessary. The mailing of written materials of different classifications in a single package should be avoided. However, when written materials of different classifications are transmitted in one package, they shall be wrapped in a single inner envelope or container. A receipt listing all classified information for which a receipt is requested shall be attached or enclosed. The inner envelope or container shall be marked with the highest classification of the contents.

(3) The inner envelope or container shall show the address of the receiving activity, classification, including, where appropriate, the "Restricted Data" marking, and any applicable special instructions. It shall be carefully sealed to minimize the possibility of access without leaving evidence of tampering.

(4) An outer or single envelope or container shall show the complete and correct address and the return address of the sender.

(5) An outer cover or single envelope or container shall not bear a classification marking, a listing of the contents divulging classified information, or any other unusual data or marks that might invite special attention to the fact that the contents are classified.

(6) Care must be taken to ensure that classified information intended only for the United States elements of international staffs or other organizations is addressed specifically to those elements.

(c) *Receipt systems.* (1) Top Secret information shall be transmitted under a chain of receipts covering each individual who gets custody.

(2) Secret information shall be covered by a receipt between activities and other authorized addressees.

(3) Receipts for Confidential information are optional.

(4) Receipts shall be provided by the transmitter of the material and the forms shall be attached to the inner cover.

(i) Postcard receipt forms may be used.

(ii) Receipt forms shall be unclassified and contain only such information as is necessary to identify the material being transmitted.

(iii) Receipts shall be retained for at least two years.

(5) In those instances where a fly-leaf (page check) form is used with classified publications the postcard receipt will not be required.

(d) *Exceptions.* Exceptions may be authorized to the requirements contained in this Chapter by the head of component concerned or his designee, provided the exception affords equal protection and accountability to that provided above. Proposed exceptions that do not meet these minimum standards shall be submitted to the Deputy Under Secretary of Defense (Policy Review) for approval.

§ 159.82 Restrictions, procedures and authorization concerning escort/hand-carrying or classified information.

(a) *General restrictions.* Appropriately cleared personnel may be authorized to escort/hand carry classified material between their duty station and an activity to be visited subject to the following conditions: (1) The storage provisions of § 159.50 shall apply at all stops enroute to the destination, unless the information is retained in the personal possession and constant surveillance of the individual at all times. The hand carrying of classified information on trips that involve an overnight stopover is not permissible without advance arrangements for proper overnight storage in a Government installation or a cleared contractor's facility.

(2) Classified material shall not be read, studied, displayed, or used in any manner in public conveyances or places.

(3) When classified material is carried in a private, public, or Government conveyance, it shall not be stored in any detachable storage compartment such as automobile trailers, luggage racks, aircraft travel pods or drop tanks.

(4) Responsible officials shall provide a written statement to all individuals escorting or carrying classified material aboard commercial passenger aircraft authorizing such transmission. The authorization statement may be included in official travel orders and should ordinarily permit the individual to pass through passenger control points without the need for subjecting the classified material to inspection. Specific procedures for carrying classified documents aboard commercial aircraft are contained in paragraph (c) of this Section.

(5) Each activity shall list all classified information carried or escorted by travelling personnel. All classified information shall be accounted for.

(6) Individuals authorized to carry or escort classified material shall be fully informed of the provisions of this Chapter prior to departure from their duty station.

(b) *Restrictions on hand-carrying classified information aboard commercial passenger aircraft.* Classified information shall not be hand-carried aboard commercial passenger aircraft unless: (1) There is neither time nor means available to move the information in the time required to accomplish operational objectives or contract requirements, including request-for-quotation (RFQ) and request-for-bid (RFB).

(2) The hand-carry has been authorized by an appropriate official in accordance with paragraph

(3) In the case of the hand-carry of classified information across international borders, arrangements have been made to ensure that such information will not be opened by customs, border, postal, or other inspectors, either U.S. or foreign.

(4) The hand-carry is accomplished aboard a U.S. carrier. Foreign carriers will be utilized only when no U.S. carrier is available and then the approving official must ensure that the information will remain in the custody and physical control of the U.S. escort at all times.

(c) *Procedures for hand-carrying classified information on commercial passenger aircraft.* (1) *Basic requirements.* (i) Advance and continued coordination by the DoD activity and contractor officials shall be made with departure airline and terminal officials and, where possible, with intermediate transfer terminals to develop mutually satisfactory arrangements within the terms of this issuance and FAA guidance. Specifically, a determination should be beforehand as to whether documentation described in subparagraph d., below will be required. Local Federal Aviation Administration Security Officers can be of assistance in making this determination. As an aid in coordination and planning, a listing of FAA field offices is at Appendix D.

(ii) The individual designated as courier shall be in possession of either DD Form 2 (any color) or other DoD or contractor picture identification card and written authorization to carry classified information.

(iii) The courier shall be briefed as to the provisions of this Chapter.

(2) *Procedures for Carrying Classified Information in Envelopes.* Persons carrying classified information should process through the airline ticketing and boarding procedure in the same manner as all other passengers except for the following:

(i) The classified information being carried shall contain no metal bindings and shall be contained in sealed envelopes. Should such envelopes be contained in a briefcase or other carry-on luggage, the briefcase or luggage shall be routinely offered for opening for inspection for weapons. The screening officials may check envelope by X-ray machine, flexing, feel, weight, etc., without opening the envelopes themselves.

(ii) Opening or reading of the classified document by the screening official is not permitted.

(3) *Procedures for Transporting Classified Information in Packages.* Classified information in sealed or packaged containers shall be processed as follows:

(i) The Government or contractor official who has authorized the transport of the classified information shall notify the appropriate air carrier in advance.

(ii) The passenger carrying the information shall report to the affected airline ticket counter prior to boarding, present his documentation, and the package or cartons to be exempt from screening. The airline representative will review the documentation and description of the containers to be exempt.

(iii) If satisfied with the identification of the passenger and his documentation, the official will provide the passenger with an escort to the screening station and authorize the screening personnel to exempt the container from physical or other type inspection.

(iv) If the airline official is not satisfied with the identification of the passenger and/or the authenticity of his documentation, the passenger will not be permitted to board, and not be subject to further screening for boarding purposes.

(v) The actual loading and unloading of the information will be under the supervision of a representative of the air carrier; however, appropriately cleared personnel shall accompany the material and keep it under surveillance during loading and unloading operations. In addition, appropriately cleared personnel must be available to conduct surveillance at any intermediate stops where the cargo compartment is to be opened.

(vi) DOD Components and contractor officials shall establish and maintain appropriate liaison with local FAA officials, airline representative and airport terminal administrative and security officials. Prior notification is emphasized to ensure that the airline representative can make timely arrangements for courier screening.

(4) *Documentation.* (i) When authorized to carry sealed envelopes or containers containing classified information both Government and contractor personnel shall present an identification card carrying a photograph, descriptive data, and signature of the individual. (If the identification card does not contain date of birth, height, weight, and signature, these items must be included in the written authorization.)

(A) DOD personnel shall present an official identification issued by an agency of the U.S. Government.

(B) Contractor personnel shall present identification issued by the contractor or the U.S. Government. Contractors' identification cards shall carry the name

of the employing contractor, or otherwise be marked to denote "contractor."

(C) The courier shall have the original

classified information within the United States, its Territories and Canada.

(ii) The Director, DIS, shall provide for authorization for contractor personnel to

unacceptable degree of operating inefficiency.

§ 159.93 Classified waste.

(e) Inform personnel of the techniques employed by foreign intelligence activities in attempting to obtain classified information and their responsibility to report such attempts;

material, and execute a Security Termination Statement. This statement shall include: (1) An acknowledgment that the individual has read the appropriate provisions of the Espionage

security in the event of unauthorized disclosure of such information. Therefore, foreign government information shall be classified at least Confidential, but higher whenever the

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of the employing contractor, or otherwise be marked to denote "contractor."

(C) The courier shall have the original of a letter authorizing the individual to carry classified information. A reproduced copy is not acceptable; however, the traveler shall have sufficient authenticated copies to provide a copy to each airline involved. The letter shall be prepared on letterhead stationary of the agency or contractor authorizing the carrying of classified material. In addition, the letter shall: (1) Give the full name of the individual and his employing agency or company;

(2) Describe the type of identification the individual will present (e.g., Naval Research Laboratory Identification Card, No. 1234; ABC Corporation Identification Card No. 1234);

(3) Describe the material being carried (e.g., three sealed packages, 9" x 8" x 24", addressee and addressor);

(4) Identify the point of departure, destination and known transfer points;

(5) Carry a date of issue and an expiration date;

(6) Carry the name, title, and signature of the official issuing the letter. Each package or carton to be exempt shall be signed on its face by the official who signed the letter; and

(7) Carry the name of the Government agency designated to confirm the letter of authorization, and its telephone number. The telephone number of the agency designated shall be an official U.S. Government number.

(ii) Information relating to the issuance of DOD identification cards is contained in § 159.10(gg). The Green, Gray, and Red forms of DD Form 2 and other DOD and contractor picture-ID card are acceptable to FAA. Components shall provide for the issuance of DD Form 1173 to civilian employees selected for courier duties, if individuals have not been issued other acceptable ID cards.

(iii) The Director, Defense Investigative Service (DIS), shall provide for the issuance of DIS/ID card or DD Form 1173 when required by contractor employees selected for courier or hand-carrying duties, when the employer involved does not have an appropriate identification medium.

(d) *Authority to approve escort/hand-carry of classified information aboard commercial passenger aircraft.* (1) Within the United States, its Territories and Canada.

(i) Officials within DOD Components who have been authorized to approve travel orders and designate couriers may approve the escort/hand-carry of classified information within the United States, its Territories and Canada.

(ii) The Director, DIS, shall provide for authorization for contractor personnel to hand-carry classified material.

(2) Outside the United States, its Territories and Canada.

The head of a DOD Component, or his single designee, may authorize the escort/hand-carry of classified information outside the area encompassed by the United States, its Territories and Canada.

§ 159.83 [Reserved]

Subpart J—Disposal and Destruction

§ 159.90 Policy.

Documentary record information originated or received by a Component in connection with the transaction of public business, and preserved as evidence of the organization, functions, policies, operations, decisions, procedures, or other activities of any department or agency of the Government, or because of the informational value of the data contained therein, may be disposed of or destroyed only in accordance with DOD Component record management regulations. Nonrecord classified information and other material of similar temporary nature, shall be destroyed when no longer needed under procedures established by the head of the cognizant Component consistent with the following requirements.

§ 159.91 Methods of destruction.

Classified documents and material shall be destroyed by burning or, with the approval of the cognizant Component head or designee, by melting, chemical decomposition, pulping, pulverizing, shredding, or mutilation sufficient to preclude recognition or reconstruction of the classified information.

§ 159.92 Records of destruction.

(a) Records of destruction are required for Top Secret and Secret information. The record shall be dated and signed at the time of destruction by two witnesses for Top Secret information and one witness for Secret. In the case of information placed in burn bags for central disposal, the destruction record need only be signed by the witnessing official or officials when the information is so placed.

(b) Records of destruction shall be maintained for a minimum of two years. In individual cases involving Secret information, a cognizant Component head or designees may waive the requirement for destruction records if compliance would create an unacceptable degree of operating inefficiency.

§ 159.93 Classified waste.

Waste material, such as handwritten notes, carbon paper, typewriter ribbons, working papers, et cetera, which contains classified information must be protected in a manner to prevent unauthorized disclosure of the information. Classified waste shall be destroyed, when no longer needed, by a method described in § 159.91. Destruction records are not required.

§ 159.94 [Reserved]

Subpart K—Security Education

§ 159.100 Responsibility and objectives.

Heads of DOD Components shall establish security education programs for their personnel. Such programs shall stress the objectives of classifying less information, declassifying more, and improving protection of information that requires it. They shall also place emphasis on the balance between the need to release the maximum information appropriate under the Freedom of Information Act and the interest of the Government in protecting the national security.

§ 159.101 Scope and principles.

The security education program shall include all personnel authorized or expected to be authorized access to classified information. Each Component shall design its program to fit the requirements of different groups of personnel. Care must be exercised to assure that the program does not evolve into a perfunctory compliance with formal requirements without achieving the real goals of the program. The program shall, as a minimum, be designed to: (a) Advise personnel of the adverse effects to the national security that could result from unauthorized disclosure and of their personal, moral, and legal responsibility to protect classified information within their knowledge, possession, or control;

(b) Indoctrinate personnel in the principles, criteria, and procedures for the classification, downgrading, declassification, marking, and dissemination of information, as prescribed in this Regulation, and alert them to the strict prohibitions on improper use and abuse of the classification system;

(c) Familiarize personnel with procedures for challenging classification decisions believed to be improper or to prolong classification unnecessarily;

(d) Familiarize personnel with the security requirements of their particular assignment;

(e) Inform personnel of the techniques employed by foreign intelligence activities in attempting to obtain classified information and their responsibility to report such attempts;

(f) Advise personnel of the penalties for engaging in espionage activities;

(g) Advise personnel of the strict prohibition against discussing classified information over an unsecure telephone or in any other manner that permits interception by unauthorized persons;

(h) Inform personnel of the penalties for willful violation or disregard of the provisions of this Regulation;

(i) Instruct personnel that individuals having knowledge, possession, or control of classified information must determine, prior to disseminating such information, that the prospective recipient (1) has been cleared for access by competent authority, (2) needs the information in order to perform his official duties and (3) can properly protect (or store) the information.

§ 159.102 Refresher briefings.

Programs shall be established to provide periodic security training for personnel having continued access to classified information. The elements outlined in § 159.101, above, shall be tailored to fit the needs of experienced personnel.

§ 159.103 Foreign travel briefing.

Personnel who have had access to classified information shall be given a Foreign Travel Briefing, prior to travel, to alert them of their possible exploitation under the following conditions: (a) Travel to or through Communist-controlled countries.

(b) Attendance at international scientific, technical, engineering or other professional meetings in the United States or in any country outside the United States where it can be anticipated that representatives of Communist-controlled countries will participate or be in attendance. (See also § 159.10(aa).)

Individuals who frequently travel, or attend or host meetings of foreign visitors of the types described in subparagraph b. need not be briefed for each such occasion, but shall be provided a thorough briefing at least once each six-month period and a general reminder of security responsibilities prior to each such activity.

§ 159.104 Debriefings.

(a) Upon termination of employment or contemplated absence from duty or employment for sixty days or more, military members and employees shall be debriefed, return all classified material, and execute a Security Termination Statement. This statement shall include: (1) An acknowledgment that the individual has read the appropriate provisions of the Espionage Act, other criminal statutes, DoD regulations applicable to the level of classified information to which the individual has had access, and understands the implications thereof;

(2) A declaration that the individual no longer has any documents or material containing classified information in his possession;

(3) An acknowledgement that the individual will not communicate or transmit classified information to any unauthorized person or agency; and

(4) An acknowledgement that the individual will report without delay to the Federal Bureau of Investigation or the DOD Component concerned any attempt by any unauthorized person to solicit classified information.

(b) When an individual refuses to execute a debriefing statement, that fact shall be reported immediately to the security office of the cognizant organization concerned.

(c) The Security Termination Statement shall be retained by the DOD Component that authorized the individual access to classified information for the period specified in the Component's records retention schedules, but for a minimum of two years after the individual is debriefed.

§ 159.105 [Reserved]

Subpart L—Foreign Government Information

§ 159.110 Classification.

(a) *Classification.* (1) Foreign government information classified by a foreign government or international organization of governments shall retain its original classification designation or be assigned a United States classification designation that will ensure a degree of protection equivalent to that required by the government or organization that furnished the information. Original classification authority is not required for this purpose.

(2) Foreign government information that was not classified by a foreign entity but was provided with the expectation, expressed or implied, that it be held in confidence must be classified. The two-step procedure for classification prescribed in § 159.21(c) does not apply to the classification of such foreign government information because Executive Order 12065 (§ 159.10(b)) states a presumption of at least identifiable damage to the national security in the event of unauthorized disclosure of such information. Therefore, foreign government information shall be classified at least Confidential, but higher whenever the damage criteria of § 159.14 (b) and (c) are determined to be met. Original classification authority is required for this purpose (see § 159.15(a)(3)(iii) when classification is to be prolonged beyond 6 years).

(b) *Duration of classification.* (1) Foreign government information is exempt from the automatic declassification and twenty-year systematic review requirements of Subpart D.

(2) Unless guidelines developed pursuant to paragraph (c) of this Section prescribe dates or events for declassification or for review for declassification: (i) Foreign government information shall not be assigned a date or event for automatic declassification unless specified or agreed to by the foreign entity.

(ii) Foreign government information classified by the Department of Defense on or after December 1, 1978 shall be assigned a date for review for declassification at thirty years from the time the information was originated by the foreign entity, or acquired or classified by the Department of Defense, whichever is earlier. Such information received undated shall be dated upon receipt. The provisions of § 159(a)(3)(iii) are applicable to this body of information.

§ 159.111 Declassification.

(a) *Policy.* In weighing the need to protect information against the possible public interest in disclosure as prescribed in § 159.30(c), officials shall respect the intent of this Regulation to protect foreign government information and confidential foreign sources.

(b) *Systematic review.* (1) The Secretary of Defense, in consultation with the Archivist of the United States and, where appropriate, with the foreign government or international organization concerned, developed systematic review guidelines for thirty-year old foreign government information in the possession or under the control of the Department of Defense. These guidelines shall be kept current through review by the Secretary of Defense at least once every two years unless earlier review for revision is requested by the Archivist of the United States. The senior Department of Defense official having responsibility for the Information Security Program pursuant to § 159.131 shall perform administrative functions necessary to effect such review by the Secretary. These guidelines are

authorized for use by the Archivist of the United States and may, upon approval of the Secretary of Defense, be

designations. A table of equivalents is contained in Appendix A.

(b) *Marking NATO documents.*

§ 159.110(a)(2) and marked with the appropriate United States classification.

(e) *Marking of foreign government information in DoD Documents.* Except

(a) Normal management and safeguarding procedures are not sufficient to limit "need-to-know" or access;

accordance with the procedures specified above. DOD Components shall review annually any Special Access

§ 159.125 [Reserved]

Subpart N—Program Management

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authorized for use by the Archivist of the United States and may, upon approval of the Secretary of Defense, be used by any agency having custody of the information.

(2) Thirty-year old foreign government information shall be reviewed in accordance with guidelines developed under paragraph (b)(1) of this Section. If, after applying the guidelines to this information, the reviewer determines that continued classification would be appropriate, the reviewer shall submit a recommendation for extension to the Secretary of Defense or the Secretary of the appropriate Military Department.

(3) The Secretary of Defense and the Secretaries of the Military Departments may extend the classification of foreign government information beyond thirty years when, in accordance with the provisions of this Regulation, such extension is warranted. This authority may not be delegated. When classification is extended beyond thirty years, a date no more than ten years later may be set for declassification or for the next review. That action and date shall be marked on the document. Subsequent reviews for declassification shall be set at no more than ten-year intervals unless a longer interval has been authorized pursuant to § 159.31(a).

(c) *Mandatory review.* Requests for mandatory review for declassification of foreign government information shall be processed and acted upon in accordance with the provisions of § 159.32 except that foreign government information will be declassified only in accordance with the guidelines developed for such purpose and after necessary consultation with other Department of Defense Components or government agencies with subject matter interest. In cases where these guidelines cannot be applied to the foreign government information requested, or in the absence of such guidelines, consultation with the foreign originator through appropriate channels normally should be effected prior to final action on the request. When the responsible Component is knowledgeable of the foreign originator's view toward declassification or continued classification of the types of information requested, consultation with the foreign originator may not be necessary.

§ 159.112 Marking.

(a) *Equivalent United States classification designations.* Except for the foreign security classification designation RESTRICTED, foreign classification designations, including those of international organizations of governments i.e., NATO, generally parallel United States classification designations. A table of equivalents is contained in Appendix A.

(b) *Marking NATO documents.* Classified documents originated by NATO, if not already marked with the appropriate classification in English, shall be so marked. Markings required under § 159.43(c) shall not be placed on documents originated by NATO. The date for declassification or review shall be marked on such documents only as required by § 159.111(b)(3). Documents originated by NATO that are marked RESTRICTED shall be marked with the following additional notation: "To be safeguarded in accordance with USSAN Instruction 1–69." (See § 159.10(o).)

(c) *Marking other foreign government documents.* (1) If the security classification designation of foreign government documents is shown in English, no other classification marking shall be applied. If the foreign classification designation is not shown in English, the equivalent overall United States classification designation (Appendix A) shall be marked conspicuously on the document. In those cases where foreign government documents are marked with a classification designation having no United States equivalent, as in the last column of appendix A, such documents shall be marked in accordance with paragraph (c)(2) of this section.

(2) Certain foreign governments use a fourth classification designation as shown in the last column of Appendix A. Such designations equate to the foreign classification Restricted. If foreign government documents are marked with any of the classification designations listed in the last column of Appendix A, whether or not in English, no other classification marking shall be applied. In all such cases, the notation "This material is to be safeguarded in accordance with § 159.113 DOD 5200.1–R" shall be shown on the face of the document.

(3) Dates for declassification or for review for declassification shall be marked on foreign government documents only as required by § 159.111(b)(3).

(4) Other marking requirements prescribed by this Regulation for United States classified documents are not applicable to documents of foreign governments or international organizations of governments.

(d) *Marking of DoD classification determinations.* Foreign documents containing foreign government information not classified by the foreign government but provided to the Department of Defense in confidence shall be classified as prescribed in § 159.110(a)(2) and marked with the appropriate United States classification.

(e) *Marking of foreign government information in DoD Documents.* Except where such markings would reveal intelligence information, foreign government information incorporated in DoD documents shall, when practicable, be identified in a manner that ensures that such information is not declassified prematurely or make accessible to nationals of a third country without consent of the originator. This requirement may be satisfied by including the appropriate identification in the portion or paragraph classification markings, e.g., (NATO–S), (U.K.–C), or (FRG–Restricted). All other markings prescribed by § 159.40(d) are applicable to these documents. In addition, DoD classified documents that contain extracts of NATO classified information shall bear a marking substantially as follows on the cover or first page: "This document contains NATO classified information."

§ 159.113 Protective measures.

(a) *NATO classified information.* NATO classified information shall be safeguarded in accordance with the provisions of § 159.10(o).

(b) *Other foreign government information.* (1) Classified foreign government information other than NATO information shall be protected as is prescribed by this Regulation for United States classified information of a comparable level.

(2) Foreign government information marked under § 159.112(c)(2) shall be protected as United States Confidential, except that such information may be stored in locked filing cabinets, desks or other similar closed spaces that will prevent access by unauthorized persons.

§ 159.114 [Reserved]

Subpart M—Special Access Programs

§ 159.120 Policy.

It is the policy of the Department of Defense to utilize the standard classification categories and the applicable sections of Executive Order 12065 and its implementing Information Security Oversight Office Directive, to limit access to classified information on a "need-to-know" basis to personnel who have been determined to be trustworthy. It is the further policy to apply the "need-to-know" principle in the regular system so that there will be no need to resort to formal Special Access Programs. In this context, Special Access Programs may be created or continued only on a specific showing that:

(a) Normal management and safeguarding procedures are not sufficient to limit "need-to-know" or access;

(b) The number of persons who will need access will be reasonably small and commensurate with the objective of providing extra protection for the information involved; and

(c) The special access controls balance the need to protect the information against the full spectrum of needs to use the information.

§ 159.121 Establishment of special access programs.

(a) Procedures for the establishment of Special Access Programs involving NATO classified information are based on international treaty requirements § 159.10(o).

(b) The policies and procedures for access to and dissemination of Restricted Data and Critical Nuclear Weapon Design Information are contained in § 159.10(n).

(c) Special Access Programs for foreign intelligence information under the cognizance of the Director of Central Intelligence or the National Communications Security Committee (NCSC) originate outside the Department of Defense. However, coordination with the Deputy Under Secretary of Defense (Policy Review) is necessary prior to the establishment or implementation of any such programs by any DoD Component. The information required by § 159.122 will be provided.

(d) Special Access Programs, other than those specified in subparagraphs (a), (b), and (c) of this Section, that the Departments of the Army, Navy, and Air Force desire to establish after the promulgation date of this Regulation, shall be submitted with the information referred to in § 159.122, to the Secretary of the respective Department for approval. If the Secretary of the Military Department approves the establishment of such program, a copy of the information and rationale for approval shall be furnished to the Deputy Under Secretary of Defense (Policy Review).

(e) Special Access Programs, other than those specified in paragraph (a), (b), and (c) of this Section, that are desired to be established in any DOD Component other than the Military Departments shall be submitted with the information referred to in § 159.122 to the Deputy Under Secretary of Defense (Policy Review) for approval.

(f) Special Access Programs are required to be reviewed regularly, and all such programs, except those required by treaty or international agreement, shall terminate automatically every five years unless reestablished in accordance with the procedures specified above. DOD Components shall review annually any Special Access Programs they have.

§ 159.122 Reporting on special access programs.

Each Special Access Program required to be reported under § 159.121 including each subprogram shall be described in the following manner:

(a) Department or Agency ———, and subunit, if applicable;

(b) Unclassified name or short title of program;

(c) Relationship, if any, to other programs in the DOD or other government agency;

(d) Rationale for establishment of the Special Access program. The reason why the normal management and safeguarding procedures for classified information are inadequate must be explained.

(e) Estimated number of persons to be granted Special Access.

Number of such persons in requesting department or agency ——

Number of such persons in other DOD Components ——

Number of such persons in non-DOD departments or agencies ——

Total ——

(f) Attach a copy of all instructions pertaining to the program security requirements including, but not limited to, those governing access to program information.

§ 159.123 Accounting for special access programs.

The Deputy Under Secretary of Defense (Policy Review) shall maintain a listing of those special access programs coordinated with his office under § 159.121(c) and (d).

§ 159.124 Notification.

(a) The Secretaries of the Military Departments or their designees and the Deputy Under Secretary of Defense (Policy Review) for other DOD Components shall, in those Special Access Programs affecting contractors, make the programs applicable by legally binding instruments and provide copies to the Director, Defense Investigative Service (DIS), ATTN: Director for Industrial Security.

(b) To the extent necessary for the Director, DIS to execute his security responsibilities with respect to special access programs under his security cognizance, DIS personnel shall have access to all information relating to the administration of these programs.

§ 159.125 [Reserved]

Subpart N—Program Management

§ 159.130 Executive branch oversight and policy direction.

(a) *National Security Council.* Pursuant to the provisions of Executive Order 12065 (§ 159.10(b)), the National Security Council (NSC) may review all matters with respect to its implementation and shall provide overall policy direction for the Information Security Program.

(b) *Administrator of General Services.* The Administrator of General Services is responsible for implementing and monitoring the Information Security Program established pursuant to Executive Order 12065. In accordance with the Order, this responsibility shall be delegated to an Information Security Oversight Office (ISOO).

(c) *Information Security Oversight Office.* (1) *Composition.* The Information Security Oversight Office has a full-time Director appointed by the Administrator of General Services with approval of the President. The Director is supported by a staff appointed by the Administrator of General Services.

(2) *Functions.* The Director of the Information Security Oversight Office is charged with the following principal functions that pertain to the Department of Defense: (i) Oversee DOD actions to ensure compliance with Executive Order 12065 and implementing Directives, e.g., § 159.10 (c), and this Part;

(ii) Consider and take action on complaints and suggestions from persons within or outside the Government with respect to the administration of the Information Security Program, including appeals from decisions on declassification requests made pursuant to § 159.32(b);

(iii) Report annually to the President through the Administrator of General Services and the NSC on the implementation of Executive Order 12065;

(iv) Reveiw the DOD implementing Regulation (DOD 5200.1–R) and DOD guidelines for systematic declassification review;

(v) Conduct on-site reviews of the Information Security Program of each DOD Component that handles classified information; and

(vi) Require that Department of Defense information classified in violation of Executive Order 12065 be declassified (see § 159.30(d).

(3) *Information requests.* The Director of the Information Security Oversight Office is authorized to request information or material concerning the

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Department of Defense, as needed by the Office in carrying out its functions.

(4) *Coordination.* Heads of DOD Components shall ensure that any significant requirements levied directly on the Component by the Information Security Oversight Office are brought to the attention of the Office of the Deputy Under Secretary of Defense (Policy Review).

(d) *Interagency Information Security Committee.* Pursuant to Executive Order 12065, an Interagency Information Security Committee (IISC) has been established. It is chaired by the Director of the Information Security Oversight Office and is comprised of representatives of the Secretaries of State, Defense, Treasury, and Energy, the Attorney General, the Director of Central Intelligence, the National Security Council, the Domestic Policy Staff, and the Archivist of the United States. Representatives of other agencies may be invited to meet with the Committee on matters of particular interest to those agencies. The Committee shall meet at the call of the Chairperson or at the request of a member agency and shall advise the Chairperson on implementation of Executive Order 12065. The Deputy Under Secretary of Defense (Policy Review), or a designee, is the representative of the Secretary of Defense on the Committee.

§ 159.131 Department of Defense.

(a) *Management responsibility.* (1) The Deputy Under Secretary of Defense (Policy Review) is the senior DOD official having authority and responsibility to ensure effective and uniform compliance with and implementation of Executive Order 12065 and its implementing Directive § 159.10 (b) and (c). As such, the Deputy Under Secretary of Defense (Policy Review) shall have primary responsibility for providing guidance, oversight and approval of policy and procedures governing the DoD Information Security Program. The Deputy Under Secretary of Defense (Policy Review) may approve waivers or exceptions to the provisions of this Regulation to the extent such action is consistent with § 159.10 (b) and (c).

(2) The heads of DOD Components may approve waivers to the provisions of this Part only as specifically provided for elsewhere herein.

(3) The Director, National Security Agency (NSA), is, pursuant to § 159.10(a), authorized, to impose special requirements with respect to the marking, reproduction, distribution, accounting, and protection of and access to classfied cryptologic information. In this regard, the Director, NSA, may approve waivers or exceptions to these special requirements. However, the authority to lower any COMSEC security standards rests with the Secretary of Defense. Requests for approval of such waivers or exceptions to established COMSEC security standards which, if adopted, will have the effect of lowering such standards, shall be submitted to the Deputy Under Secretary of Defense (Policy Review) for approval by the Secretary of Defense.

(b) *DOD Information Security Committee.* The Department of Defense Information Security Committee (DISC) established pursuant to § 159.10(a) is comprised of the Deputy Under Secretary of Defense (Policy Review), Chairperson, and representatives of the General Counsel, the Under Secretary of Defense (Research and Engineering), the Assistant Secretary of Defense (Public Affairs), and the Deputy Assistant Secretary of Defense (Administration). Other officials of the Department of Defense may be invited to meet with the Committee on matters of specific interest. The Committee shall: (1) Receive, consider and take action upon all suggestions and complaints with respect to the administration of the Department of Defense Information Security Program not resolved at the Component level;

(2) Review and evaluate the effectiveness of the administration of the Information Security Program by DOD Components, developing and recommending new or revised uniform policies, standards, criteria or procedures necessary to meet changing conditions or to correct deficiencies in the Information Security Program; and

(3) Meet at the call of the Chairperson and establish its own rules of procedure.

§ 159.132 DOD components.

(a) *General.* The head of each Component shall establish and maintain an Information Security Program designed to ensure compliance with the provisions of this Regulation throughout the Component.

(6) *Military departments.* The Secretary of each Military Department shall designate a senior official who shall be responsible for compliance with and implementation of this Regulation within the Department. The Secretaries of the Military Departments shall also designate a senior official to chair an Information Security Committee that shall have authority and responsibility to perform functions for their respective Military Department similar to those described in §159.131(b).

(c) *Other components.* The head of each other Component shall designate a senior official who shall be responsible for compliance with and implementation of this Regulation within their respective Component.

(d) *Program monitorship.* The senior officials designated under paragraphs (b) and (c) of this Section are responsible within their respective jurisdictions for monitoring, inspecting and reporting on the status of administration of the DOD Information Security Program at all levels of activity under their cognizance.

(e) *Field program management.* Throughout the DOD, each activity shall assign an official to serve as security manager for the activity. This official shall be responsible for administration of an effective Information Security Program in that activity with particular emphasis on security education and training; assignment of proper classifications; downgrading and declassification; and safeguarding.

§ 159.133 Reports requirements.

Reports requirements. DOD Components shall submit, on a fiscal year basis, a consolidated report concerning the Information Security Program of the Component on Standard Form 311, "Agency Information Security Program Data" to reach the Office of the Deputy Under Secretary of Defense (Policy Review) by October 20 of each year. Standard Form 311 shall be completed in accordance with the instructions thereon and augmenting instructions issued by the Office of the Deputy Under Secretary of Defense (Policy Review). That office shall submit the DOD report (Standard Form 311) to the Information Security Oversight Office by October 31 of each year. Interagency Report Control Number 0230–GSA–SA applies to this information collection system as well as to that contained in § 159.15(c).

§ 159.134 [Reserved]

Subpart 0—Administrative Sanctions

§ 159.140 Individual responsibility.

All personnel, civilian or military, of the Department of Defense are responsible individually for complying with the provisions of this Regulation in all respects.

§ 159.141 Violations subject to sanctions.

Military and civilian personnel of the Department of Defense are subject to administrative sanctions if they:

(a) Knowingly and willfully classify or continue the classification of information in violation of Executive Order 12065, any implementing directives or this Part;

(b) Knowingly, willfully and without authorization disclose information properly classified under Executive Order 12065 or prior orders or compromise properly classified information through negligence; or

(c) Knowingly and willfully violate any other provision of Executive Order 12065, any implementing directive of this Part.

Sanctions include but are not limited to warning notice, reprimand, termination of classification authority, suspension without pay, forfeiture of pay, removal or discharge and will be imposed upon any person, regardless of office or level of employment, responsible for a violation specified under this paragraph as determined appropriate in the particular case in accordance with applicable law and regulations of this Department. Nothing in this Regulation prohibits or limits action under the Uniform Code of Military Justice based upon violations of that Code.

§ 159.142 Corrective action.

The Secretary of Defense, the Secretaries of the Military Departments, and the heads of other DoD Components shall ensure that appropriate and prompt corrective action is taken whenever a violation under § 159.141 occurs or repeated administrative discrepancies or repeated disregard of requirements of this Regulation occurs (§ 159.143).

§ 159.143 Administrative discrepancies.

Repeated administrative discrepancies in the marking and handling of classified documents and material such as failure to show classification authority; failure to apply internal classification markings; incorrect computation of dates for declassification; failure to adhere to the requirements of this Part that pertain to dissemination, storage, accountability, and destruction, and that are determined not to constitute a violation under § 159.141 may be grounds for adverse administrative action including warning, admonition, reprimand or termination of classification authority as determined appropriate in the particular case, in accordance with applicable policies and procedures.

§ 159.144 Reporting violations.

(a) Whenever a violation under § 159.141 occurs, the Director of Information Security, Office of Deputy Under Secretary of Defense (Policy Review), shall be informed of the date and general nature of the occurrence including the relevant paragraphs of this Regulation, the sanctions imposed, and the corrective action taken. Notification of such violations shall be furnished to the Director of the Information Security Oversight Office in accordance with paragraph 5–504 of § 159.10(b) by the Deputy Under Secretary of Defense (Policy Review).

(b) Any action resulting in unauthorized disclosure of properly classified information that constitutes a violation of the criminal statutes and evidence reflected in classified information of possible violations of Federal criminal law by a DoD employee and of possible violations by any other person of those Federal criminal laws specified in guidelines adopted by the Attorney General shall be the subject of a report processed in accordance with § 159.10 (g) and (f).

(c) Any action reported under paragraph (b) of this Section shall be reported to the Attorney General by the General Counsel, Department of Defense.

§ 159.145 [Reserved]

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APPENDIX A

Equivalent Foreign and International Pact Organization Security Classifications

COUNTRY	TOP SECRET	SECRET	CONFIDENTIAL	
Argentina	ESTRICTAMENTE SECRETO	SECRETO	CONFIDENCIAL	
Australia	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Austria	STRENG GEHEIM	GEHEIM	VERSCHLUSS	NUR FÜR DEN DIENSTGEBRAUCH
Belgium (French)	TRES SECRET	SECRET	CONFIDENTIEL	DIFFUSION RESTREINTE
(Flemish)	ZEER GEHEIM	GEHEIM	VERTROUWELIJK	BEPERTKE VERSPREIDING
Bolivia	SUPERSECRETO or MUY SECRETO	SECRETO	CONFIDENCIAL	
Brazil	ULTRA SECRETO	SECRETO	CONFIDENCIAL	RESERVADO
Cambodia	TRES SECRET	SECRET	SECRET/CONFIDENTIEL	
Canada	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Chile	SECRETO	SECRETO	RESERVADO	RESERVADO
Columbia (two systems)	MUY SECRETO ESTRICTAMENTE RESERVADO	SECRETO SECRETO	CONFIDENCIAL RESERVADO	CONFIDENCIAL RESERVADO
Costa Rica	ALTO SECRETO	SECRETO	CONFIDENCIAL	
Denmark	YDERST HEMMELIGT	HEMMELIGT	FORTROLIGT	TIL TJENESTE BRUG
Ecuador	SECRETISIMO	SECRETO	CONFIDENCIAL	RESERVADO

Country	TOP SECRET	SECRET	CONFIDENTIAL	
El Salvador	SECRETISIMO	SECRETO	CONFIDENCIAL	RESERVADO
Ethiopia	YEMIAZ BIRTOU MISTIR	MISTIR	KILKIL	
Finland	ERITTAIN SALAINEN	SALAINEN	KENKILÖKOHTAINEN	VAINVIRKAPALVELUKSISSAKÄYTETTÄVÄKSI
France	TRES SECRET	SECRET DEFENSE	CONFIDENTIEL DEFENSE	DIFFUSION RESTREINTE
Germany	STRENG GEHEIM	GEHEIM	VERTRAULICH	VS-NUR FÜR DEN DIENSTGEBRAUCH
Greece	ΑΚΡΩΣ ΑΠΟΡΡΗΤΟΝ	ΑΠΟΡΡΗΤΟΝ	ΕΜΠΙΣΤΕΥΤΙΚΟΝ	ΠΕΡΙΟΡΙΣΜΕΝΗΣ ΧΡΗΣΕΩΣ
Guatemala	ALTO SECRETO	SECRETO	CONFIDENCIAL	RESERVADO
Haiti		SECRET	CONFIDENTIAL	
Honduras	SUPER SCERETO	SECRETO	CONFIDENCIAL	RESERVADO
Hong Kong	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Hungary	SZIGORÚAN TITKOS	TITKOS	BIZALMAS	
Iceland	ALGJORTI	TRUNADARMAL		
India	TOP SECRET	SECRET CONFIDENTIAL	CONFIDENTIAL	RESTRICTED
Indonesia	SANGAT RAHASIA	RAHASIA	KEPERT JAJAAN	TERBATAS
Iran	BEKOLI SERRI بکلی سری	SERRI سری	KHEILI MAHRAMANEH خیلی محرمانه	MAHRAMANEH محرمانه
Iraq	سري بلغو (Absolutely secret)	سري (Secret)	مكتوم	محدود (Limited)

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Country	TOP SECRET	SECRET	CONFIDENTIAL	
Ireland Gaelic	TOP SECRET AN-SICREIDEACH	SECRET SICREIDEACH	CONFIDENTIAL RUNDA	RESTRICTED SRIANTA
Israel	SODI BEYOTER סודי ביותר	SODI סודי	SHAMUR שמור	MUGBAL מוגבל
Italy	SEGRETISSIMO	SEGRETO	RISERVATISSIMO	RISERVATO
Japan	KIMITSU 機密	GOKUHI 極密	HI 秘	TORIATSUKAICHUI 取扱注意 BUGAIHI部外秘
Jordan	سري جدا	سري	مكتوم	محدود
Korea	I급 비밀 ILKUP PIMIL	II급 비밀 IKUP PIMIL	III급 비밀 SAM KUP PIMIL	
Laos	TRES SECRET	SECRET	SECRET/CONFIDENTIEL	DIFFUSION RESTREINTE
Lebanon	TRES SECRET	SECRET	CONFIDENTIEL	
Luxembourg	TRES SECRET	SECRET DEFENSE	CONFIDENTIEL DEFENSE	DIFFIUSION RESTREINTE
Mexico	SECRETO	SECRETO	CONFIDENCIAL	
Netherlands	ZEER GEHEIM	GEHEIM	CONFIDENTIEEL or VERTROUWELIJK	DIENSTGEHEIM
New Zealand	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Nicaragua	ALTO SECRETO	SECRETO	CONFIDENCIAL	RESERVADO
Norway	STRENGT HEMMELIG	HEMMELIG	KONFIDENEIELT	
Pakistan	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Paraguay	ALTO SECRETO	SECRETO	CONFIDENCIAL	RESERVADO

Country	TOP SECRET	SECRET	CONFIDENTIAL	
Peru	ESTRICTAMENTE SECRETO	SECRETO	RESERVADO	CONFIDENCIAL
Philippines	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Portugal	MUITO SECRETO	SECRETO	CONFIDENCIAL	RESERVADO
Spain	MAXIMO SECRETO	SECRETO	CONFIDENCIAL	DIFFUSSION LIMITADA
Sweden (Red Borders)	HEMLIG	HEMLIG	HEMLIG	
Switzerland	(Three languages. TOP SECRET has a registration number to distinguish from SECRET and CONFIDENTIAL.)			
French	SECRET	SECRET	SECRET	RESERVE A L'USAGE EXCLUSIVE DU SERVICE
German	STRENG GEHEIM	GEHEIM	VERTRAULICH	NUR FÜR DIENST-LICHEN GEBRAUCH
Italian	SEGRETO	SEGRETO	SEGRETO	AD EXCLUSIVO USO DI SERVIZIO
Taiwan	絕對機密	極機密	機密	密
Thailand	LUB TI SOOD ลับที่สุด	LUB MAAK ลับมาก	LUB ลับ	POK FID ปกปิด
Turkey	ÇOK GİZLİ	GİZLİ	ÖZEL	HİZMETE ÖZEL
Union of South Africa English	TOP SECRET	SECRET	CONFIDENTIAL	RESTRICTED
Afrikaans	UITERS GEHEIM	GEHEIM	VERTROULIK	BEPERK
United Arab Republic (Egypt)	سري للغاية TOP SECRET	سري جدا VERY SECRET	سري SECRET	محظور OFFICIAL

Appendix B—General Accounting Office Officials Authorized To Certify Security Clearances

(See § 159.70(f)(3))

and which assigns to the word a classified meaning, or which originates nicknames and exercise terms using the procedure established by the Joint Chiefs of Staff.

b. *Code Word.* Word selected from those chosen with sufficient care to ensure that it does not:

(a) Express a degree of hellicosity inconsistent with traditional American ideals or current foreign policy.

Country			
United Kingdom	TOP SECRET	SECRET	CONFIDENTIAL RESTRICTED
Uruguay	SECRETO	SECRETO	CONFIDENCIAL RESERVADO
USSR	СОВЕРШЕННО СЕКРЕТНО	СЕКРЕТНО	ОСОБОЙ ВАЖНОСТИ НЕ ПОДЛЕЖИТ ОГЛАШЕНИЮ
Viet Nam French	TRES SECRET	SECRET	CONFIDENTIEL MAT
Vietnamese	MAT	MAT	TU MAT
INTERNATIONAL ORGANIZATION	TOP SECRET	SECRET	CONFIDENTIAL (SEE CHAPTER XI)
NATO	COSMIC TOP SECRET	NATO SECRET	NATO CONFIDENTIAL NATO RESTRICTED

NOTES: In all instances foreign security classification systems are not exactly parallel to the United States system and exact equivalent classifications cannot be stated. The classifications given above represent the nearest comparable designations which are used to signify degrees of protection and control similar to those prescribed for the equivalent United States classifications.

"ATOMAL" information is an exclusive designation used by NATO to identify "Restricted Data" or "Formerly Restricted Data" information released by the Government of the United States to NATO.

BILLING CODE 3810-70-C

Appendix B—General Accounting Office Officials Authorized To Certify Security Clearances

(See § 159.70(f)(3))

The Comptroller General, Deputy Comptroller General and Assistant Comptroller General and Assistants to the Comptroller General
The General Counsel and Deputy General Counsel
The Director and Deputy Director, Personnel; the Security Officer
The Director and Deputy Director, Office of Internal Review
The Director and Assistants to the Director of the Office of Program Planning and the Office of Policy
The Director and Deputy Directors of the Community and Economic Development Division
The Director, Deputy Directors, Associate Directors, Deputy Associate Directors, Senior Group Directors, and the Assistant to the Director for Planning and Administration of the Energy and Minerals Division
The Director, Deputy Directors, Associate Directors and Division Personnel Security Officer of the Human Resources Division
The Directors, Deputy Directors, and Associate Directors, of the following Divisions:
Claims
Field Operations
Financial and General Management Studies
General Government
International
Logistics and Communications
Procurement and Systems Acquisition
Program Analysis Division
Directors and Managers of International Division Overseas Offices as follows:
Director European Branch, Frankfurt, Germany
Director Far East Branch, Honolulu, Hawaii
Manager, Sub Office, Bangkok, Thailand
Regional Managers and Assistant Regional Managers of the Field Operations Division's Regional Offices as follows:
Atlanta, Georgia
Boston, Massachusetts
Chicago, Illinois
Cincinnati, Ohio
Dallas, Texas
Denver, Colorado
Detroit, Michigan
Kansas City, Missouri
Los Angeles, California
New York, New York
Norfolk, Virginia
Philadelphia, Pennsylvania
San Francisco, California
Seattle, Washington
Washington, D.C.

Appendix C—Instructions Governing Use of Code Words, Nicknames, and Exercise Terms

(See § 159.71(k))

1. Definitions

a. *Using Component.* The DoD Component to which a code word is allocated for use.

and which assigns to the word a classified meaning, or which originates nicknames and exercise terms using the procedure established by the Joint Chiefs of Staff.

b. *Code Word.* Word selected from those listed in Joint Army, Navy, Air Force Publication (JANAP) 299 and subsequent volumes, and assigned a classified meaning by appropriate authority to insure proper security concerning intentions, and to safeguard information pertaining to actual, real world military plans or operations classified as Confidential or higher. A code word shall not be assigned to test, drill or exercise activities. A code word is placed in one of three categories:

(1) *Available.* Allocated to the using component. Available code words *individually* will be unclassified until placed in the active category.

(2) *Active.* Assigned a classified meaning and current.

(3) *Canceled.* Formerly active, but discontinued due to compromise, suspected compromise, cessation or completion of the operation to which the code word pertained. Canceled code words *individually* will be unclassified and remain so until returned to the active category.

c. *Nickname.* A combination of two separate unclassified words which is assigned an unclassified meaning and is employed only for unclassified administrative, morale, or public information purposes.

d. *Exercise Term.* A combination of two words, normally unclassified, used exclusively to designate a test, drill or exercise. An exercise term is employed to preclude the possibility of confusing exercise directions with actual operations directives.

2. Policy and Procedure

a. *Code Words.* The Joint Chiefs of Staff are responsible for allocating words or blocks of code words from JANAP 299 to DoD Components. DoD Components may request allocation of such code words as required and may reallocate available code words within their organizations, in accordance with individual policies and procedure, subject to applicable rules set forth herein.

(1) A permanent record of all code words shall be maintained by the Joint Chiefs of Staff.

(2) The using component shall account for available code words and maintain a record of each active code word. Upon being canceled, the using component shall maintain the record for two years; thence the record of each code word may be disposed of in accordance with current practices, and the code word returned to the available inventory.

b. *Nicknames.* (1) Nicknames may be assigned to actual, real world events, projects, movement of forces, or other nonexercise activities involving elements of information of any classification category, but the nickname, the description or meaning it represents, and the relationship of the nickname and its meaning must be unclassified. A nickname is not designed to achieve a security objective.

(2) Nicknames, improperly selected, can be counterproductive. A nickname must be chosen with sufficient care to ensure that it does not:

(a) Express a degree of bellicosity inconsistent with traditional American ideals or current foreign policy;

(b) Convey connotations offensive to good taste or derogatory to a particular group, sect, or creed; or,

(c) Convey connotations offensive to our allies or other Free World nations.

(3) The following shall not be used as nicknames:

(a) Any two-word combination voice call sign found in JANAP 119 or Allied Communications Publication (ACP) 119. (However, single words in JANAP 119 or ACP 119 may be used as part of a nickname if the first word of the nickname does not appear in JANAP 299 and subsequent volumes.)

(b) Combination of words including word "project," "exercise," or "operation."

(c) Words which may be used correctly either as a single word or as two words, such as "moonlight."

(d) Exotic words, trite expressions, or well-known commercial trademarks.

(4) The Joint Chiefs of Staff shall:

(a) Establish a procedure by which nicknames may be authorized for use by DoD Components.

(b) Prescribe a method for the using Components to report nicknames used.

(5) The heads of DoD components shall:

(a) Establish controls within their organizations for the assignment of nicknames authorized under subparagraph (4)(a) above.

(b) Under the procedures established, advise the Joint Chiefs of Staff of nicknames as they are assigned.

c. *Exercise Term.* (1) Exercise terms may be assigned only to test, drills or exercises for the purpose of emphasizing that the event is a test, drill or exercise and not an actual real world operation. The exercise term, the description or meaning it represents, and the relationship of the exercise term and its meaning can be classified or unclassified: A classified exercise term is designed to simulate actual use of DoD code words and must be employed using identical security procedures throughout the planning, preparation and execution of the test, drill or exercise to ensure realism.

(2) Selection of exercise terms will follow the same guidance as contained in paragraphs 2.b.(2) and (3) above.

(3) The Joint Chiefs of Staff shall:

(a) Establish a procedure by which exercise terms may be authorized for use by DoD Components.

(b) Prescribe a method for using Components to report exercise terms used.

(4) The heads of DoD Components shall:

(a) Establish controls within their organizations for the assignment of exercise terms authorized under subparagraph (3) above.

(b) Under the procedures established, advise the Joint Chiefs of Staff of exercise terms as they are assigned.

3. Assignment of Classified Meanings to Code Words

a. The DoD Component responsible for the development of a plan or the execution of an

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operation shall be responsible for determining whether to assign a code word.

b. Code words shall be activated for the following purposes only:

(1) To designate a classified military plan or operation;

(2) To designate classified geographic locations in conjunction with plans or operations referred to in (1) above; or,

(3) To conceal intentions in discussions and messages or other documents pertaining to plans, operations, or geographic locations referred to in (1) and (2) above.

c. The using Component shall assign to a code word a specific meaning classified Top Secret, Secret, or Confidential, commensurate with military security requirements. Code words shall not be used to cover unclassified meanings. The assigned meaning need not in all cases be classified as high as the classification assigned to the plan or operation as a whole.

d. Code words shall be selected by each using Component in such manner that the word used does not suggest the nature of its meaning.

e. A code word shall not be used repeatedly for similar purposes; i.e., if the initial phase of an operation is designated "Meaning," succeeding phases should not be designated "Meaning II" and "Meaning III," but should have different code words.

f. Each DoD Component shall establish policies and procedures for the control and assignment of classified meanings to code words, subject to applicable rules set forth herein.

4. Notice of Assignment, Dissemination, and Cancellation of Code Words and Meanings

a. The using Component shall promptly notify the Joint Chiefs of Staff when a code word is made active, indicating the word, and its classification. Similar notice shall be made when any changes occur, such as the substitution of a new word for one previously placed in use.

b. The using Component is responsible for further dissemination of active code words and meanings to all concerned activities, to include classification of each.

c. The using Component is responsible for notifying the Joint Chiefs of Staff of canceled code words. This cancellation report is considered final action, and no further reporting or accounting of the status of the canceled code word will be required.

5. Classification and Downgrading Instructions

a. During the development of a plan, or the planning of an operation by the headquarters of the using Component, the code word and its meaning shall have the same classification. When dissemination of the plan to other DoD Components or to subordinate echelons of the using Component is required, the using Component may downgrade the code words assigned below the classification assigned to their meanings in order to facilitate additional planning implementation, and execution by such other Components or echelons. To facilitate this planning code words shall not be downgraded below Confidential.

b. A code word which is replaced by another code word due to a compromise or suspected compromise, or for any other reason, shall be canceled, and classified Confidential for a period of two years, after which the code word will become Unclassified.

c. When a plan or operation is discontinued or completed, and is not replaced by a similar plan or operation but the meaning cannot be declassified, the code word assigned thereto shall be canceled and classified Confidential for a period of two years, or until the meaning is declassified, whichever is sooner, after which the code word will become Unclassified.

d. In every case, whenever a code word is referred to in documents, the security classification of the code word shall be placed in parentheses immediately following the code word, i.e., "Label (C)."

e. When the meaning of a code word no longer requires a classification, the using Component shall declassify the meaning and the code word and return the code word to the available inventory.

6. Security Practices

a. The meaning of a code word may be used in a message or other document, together with the code word, only when it is essential to do so. Active code words may be used in correspondence or other documents forwarded to addressees who may or may not have knowledge of the meaning. If the context of a document contains detailed instructions or similar information which indicates the purpose or nature of the related meaning, the active code word shall not be used.

b. In handling correspondence pertaining to active code words, care shall be used to avoid bringing the code words and their meanings together. They should be handled in separate card files, catalogs, indexes, or lists, enveloped separately and dispatched at different times so they do not travel through mail or courier channels together.

c. Code words shall not be used for addresses, return addresses, shipping designators, file indicators, call signs, identification signals, or for other similar purposes.

7. All code words formerly categorized as "inactive" or "obsolete" shall be placed in the current canceled category and classified Confidential. Unless otherwise restricted, all code words formerly categorized as "canceled" or "available" shall be individually declassified. All records associated with such code words may be disposed of in accordance with current practices, provided such records have been retained at least two years after the code words were placed in the former categories of "inactive," "obsolete," or "canceled."

Appendix D—Federal Aviation Administration Air Transportation Security Field Offices

(See § 159.82(c)(1)(i))

City and State
Anchorage, Alaska
Atlanta, Georgia
Baltimore, Maryand
Boston, Massachusetts
Chicago (O'Hare), Illinois
Cleveland, Ohio
Dallas, Texas
Denver, Colorado
Detroit, Michigan
Honolulu, Hawaii
Houston, Texas
Kansas City, Missouri
Las Vegas, Nevada
Los Angeles, California
Miami, Florida
Minneapolis, Minnesota
Newark, New Jersey
New Orleans, Louisiana
New York (John F. Kennedy), New York
New York (La Guardia), New York
Philadelphia, Pennsylvania
Pittsburgh, Pennsylvania
Portland, Oregon
Saint Louis, Missouri
San Antonio, Texas
San Diego, California
San Francisco, California
San Juan, Puerto Rico
Seattle, Washington
Tampa, Florida
Tucson, Arizona
Washington (Dulles), Washington, D.C.
Washington (National), Washington, D.C.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

November 26, 1980

[FR Doc. 80-37347 Filed 12-1-80; 8:45 am]

BILLING CODE 3810-70-M

VETERANS ADMINISTRATION

38 CFR Part 36

Increase in Maximum Permissible Interest Rate on Mobile Home Loans

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is increasing the maximum permissible interest rate on guaranteed mobile home loans. The maximum interest rates are increased because the former rates were not sufficiently competitive to induce private sector lenders to make VA guaranteed mobile home loans. The increases will attract funds for GI mobile home loans; thereby, allowing veterans to purchase mobile homes with the assistance of no downpayment VA loans.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, 202-389-3042.

SUPPLEMENTARY INFORMATION: The Administrator is required to establish a maximum interest rate for mobile home loans guaranteed by the Veterans Administration as he finds the capital markets demand. Recent market indicators, including the general increase in interest rates charged on conventional mobile home loans and the increase in the prime interest rate, have shown that the capital markets have become more restrictive. The maximum rates formerly in effect for VA guaranteed mobile home loans were not sufficiently competitive to induce private sector lenders to make VA guaranteed mobile home loans. To assure a continuing supply of funds for mobile home loans through the VA loan guaranty program, it has been determined that an increase in the maximum permissible rates is necessary. The increased return to the lender will make VA loans competitive with other available investments and assure a continuing supply of funds for guaranteed mobile home loans.

The increase in the interest rate applies to mobile home unit loans, mobile home lot and site preparation loans, and combination loans involving the purchase of a mobile home unit and lot.

The increases in the maximum interest rates are accomplished by amending sections 36.4212(a) (1), (2), and (3), Title 38, Code of Federal Regulations. Compliance with the procedure for publication of proposed regulations prior to final adoption is waived because compliance would create an acute shortage of loan funds pending the final date which would necessarily be more than 30 days after publication in proposed form.

Approved: November 20, 1980.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

In § 36.4212, paragraph (a) is revised to read as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed or insured pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to the respective effective date: (38 U.S.C. 1819(f))

(1) Effective November 24, 1980, 16½ percent simple interest per annum for a loan which finances the purchase of a mobile home unit only.

(2) Effective November 24, 1980, 16 percent simple interest per annum for a loan which finances the purchase of a lot only and the cost of necessary site preparation, if any.

(3) Effective November 24, 1980, 16 percent simple interest per annum for a loan which will finance the simultaneous acquisition of a mobile home and a lot and/or the site preparation necessary to make a lot acceptable as the site for the mobile home.

* * * * *

(38 U.S.C. 210(c), 1819(g))

[FR Doc. 80-37467 Filed 12-1-80; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 35

Increase in Maximum Permissible Interest Rate on New Guaranteed, Insured and Direct Loans for Homes and Condominiums, and for Home Improvement Purposes

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is increasing the maximum interest rates on guaranteed, insured and direct loans for homes and condominiums and for energy conservation and other home improvement loans. The maximum interest rates are increased because the former interest rate was not sufficiently competitive to induce private sector lenders to make VA guaranteed or insured loans without imposing substantial discounts. The increase in the interest rates will assure a continuing supply for funds for home mortgages and improvement purposes.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Ave., NW, Washington, D.C. 20420 (202-389-3042).

SUPPLEMENTARY INFORMATION: The Administrator is required to establish a maximum interest rate for home and condominium loans and energy conservation and home improvement loans-guaranteed, insured or made by the Veterans Administration as he finds the mortgage money market demands. Recent market indicators—including the rate of discount charged by lenders on VA and Federal Housing Administration loans, the general increase in interest rates charged by lenders on conventional loans, and the results of the bi-weekly Federal National Mortgage Association auctions—have shown that the mortgage money market has become more restrictive. The maximum rates in effect for VA guaranteed home and condominium loans and those for energy conservation and home improvement purposes have not been sufficiently competitive to induce private sector lenders to make these types of VA guaranteed or insured loans without imposing substantial discounts. To assure a continuing supply of funds for home mortgages through the VA loan guaranty program, it has been determined that an increase in the maximum permissible rate applicable to home and improvement loans is necessary. The increased return to the lender will make VA loans competitive with other available investments and assure a continuing supply of funds for guaranteed and insured mortgages.

The increase in the maximum interest rate is accomplished by amending §§ 36.4311 and 36.4503(a) of title 38, Code of Federal Regulations. Compliance with the procedure for publication of proposed regulations prior to final adoption is waived because compliance would create an acute shortage of mortgage funds pending the final date which would necessarily be more than 30 days after publication in proposed form.

Approved: November 20, 1980.

Max Cleland,

Administrator.

1. In § 36.4311, paragraphs (a) and (b) are revised to read as follows:

§ 36.4311 Interest rates.

(a) Excepting loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration which specify an interest rate in excess of 13½ per centum per annum, effective November 24, 1980, the interest rate on any home or condominium loan guaranteed or insured wholly or in part on or after such date may not exceed 13½ per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

(b) Effective November 24, 1980, the interest rate on any loan solely for energy conservation improvements or other alterations, improvements or repairs, which is guaranteed or insured wholly or in part on or after such date may not exceed 16 per centum per annum on the unpaid principal balance. (38 U.S.C. 1803(c)(1))

* * * * *

2. In § 36.4503, paragraph (a) is revised to read as follows:

§ 36.4503 Amount and amortization.

(a) The original principal amount of any loan made on or after October 1, 1978, shall not exceed an amount which bears the same ratio to $33,000 as the amount of the guaranty to which the veteran is entitled under 38 U.S.C. 1810 at the time the loan is made bears to $25,000. This limitation shall not preclude the making of advances,

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otherwise proper, subsequent to the making of the loan pursuant to the provisions of § 36.4511. Except as to home improvement loans, loans made by the Veterans Administration shall bear interest at the rate of 13½ percent per annum. Loans solely for the purpose of energy conservation improvements or other alterations, improvements, or repairs shall bear interest at the rate of 16 percent per annum. (38 U.S.C. 1811(d)(1) and (2)(A))

* * * * *

(38 U.S.C. 210(c), 1803(c))

[FR Doc. 37468 Filed 12-1-80; 8:45 am]

BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 111

Third-Class Carrier Route Presort

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: Third-class carrier route presort mail was implemented as a temporary classification change, pursuant to 39 U.S.C. 3641, on January 18, 1979 (44 FR 3797) and became a permanent classification by action of the Governors of the Postal Service on April 23, 1980 (45 FR 27859). Interim regulations governing the temporary implementation period were published January 26, 1979 (44 FR 5422), and amended March 11, 1980 (45 FR 15530), with comments invited for consideration in final rulemaking. Five comments were received and have been considered. In order to fully implement this mail classification change, the Postal Service herein sets forth permanent implementing regulations which adopt the interim regulations, with changes made as a result of the comments received, and the changes necessitated by the decision of the Governors of the Postal Service (45 FR 27859).

EFFECTIVE DATE: Immediately. The interim regulations which have been in effect on a temporary basis since January 28, 1979 (44 FR 5422), are hereby replaced. However, until January 1, 1981, mailers may show the abbreviation *CAR–RT*, contained in the interim rules (44 FR 5424), rather than *CAR–RT SORT*, contained in section 662.3 of the final rule. Likewise, mailings which do not contain the *Bulk Rate* endorsement in addition to the *Carrier Route Presort* endorsement (section 662.2 of the final rule) will be accepted until January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Lynn M. Martin, (202) 245–4353.

SUPPLEMENTARY INFORMATION: Interim regulations governing the temporary implementation of the carrier route presort level rate were published on January 26, 1979 for comment in the **Federal Register**. The Postal Service received written comments in response to the proposal from five individuals and organizations.

Three commenters suggested that the requirement that carrier route packages be labeled with a facing slip be eliminated. Two alternatives have been provided:

(1) Facing slips are not required when packages for one carrier route are put inside a sack that is labeled to that route,

(2) The route information may be placed directly on the piece on the top line of the address or on the line above or two lines above the address in lieu of using facing slips.

Two commenters proposed eliminating the maximum size limits. The interim regulations were amended by the **Federal Register** notice published on March 11, 1980 (45 FR 15530) to increase the maximum size limits. Those increased maximum size limits, 11½ inches in width, 13½ inches in length, and ¾ of an inch in thickness, were included in the permanent classification change contained in the decision of the Governors of the Postal Service (45 FR 27859), and have been adopted in the final rule.

One commenter proposed that the minimum volume requirements be lowered from 2,000 pieces to as few as 200 pieces. The permanent classification change adopted by the Governors of the Postal Service on April 20, 1980 (45 FR 27859), included minimum volume eligibility requirements of 200 pieces or 50 pounds for the carrier route presort level rate. The final rule incorporates this change.

One commenter suggested that the third-class carrier route presort level rate be extended to nonprofit mailers, so that the "net rate" for nonprofit carrier route presort mail would be 1.2¢. The permanent classification change adopted by the Governors of the Postal Service on April 20, 1980 (45 FR 27859), included a third-class carrier route presort level rate for nonprofit mailers. The nonprofit third-class carrier route presort level rate was phased by the Governors pursuant to 39 U.S.C. 3626 in accordance with established practices. The final rule incorporates the nonprofit carrier route presort level rate.

Two commenters suggested eliminating the regulation which requires a piece to be part of a group of 10 or more pieces to the same carrier route in order to qualify for the third-class carrier route presort level rate. Third-class packages of less than 10 pieces do not result in adequate cost reductions to warrant the carrier route presort level rate. Consequently the final rule provides that less that 10 pieces to a carrier route are not eligible for the third-class carrier route presort level rate.

Two commenters suggested eliminating the five percent limit on nonqualifying (residual) pieces to any single 5-digit ZIP Code. The Postal Service is currently exploring the feasibility of preparation requirements and verification procedures which would preclude the necessity for a limit on the number of residual pieces in a carrier route presort level rate mailing. Since such procedures have not yet been developed, this change is not being adopted at this time.

One commenter asked the Postal Service to charge mailers additional postage for the number of pieces found to be incorrectly sorted, rather than for all the pieces mailed to that 5-digit ZIP Code destination, when the missorted pieces exceed 5 percent of the total pieces mailed for delivery within a 5-digit ZIP Code area. Mailings which are not properly prepared and presorted disrupt postal operations and increase piece handling costs. While it is essential to the Postal Service to minimize the number of missorted pieces, the cost to identify and collect deficient postage on an individual piece basis would exceed the amount of postage collected. Charging the higher rate on all pieces mailed to the 5-digit ZIP Code area is considered to be a necessary and reasonable incentive to mailers to maintain their carrier route presort list in a current status without penalizing them for properly prepared pieces sent to other 5-digit ZIP Code destinations.

One commenter requested that the Postal Service eliminate the charge-back for sorting errors if the errors were the result of the Postal Service incorrectly sequencing address cards in order of carrier delivery. The Postal Service does not adopt this proposal because third-class carrier route presort level rate mail is not required to be walk-sequenced. The mailer is responsible for sorting mail in accordance with the current official scheme. The mailer is considered to have made a sorting error only if the mail is not labeled and sorted to the correct carrier route within 75 days after the date of the issuance of an official scheme.

One commenter suggested that the requirement that the pieces in a third-class carrier route presort level rate mailing be of identical size and weight be eliminated. Generally, nonidentical weight mailings greatly increase the complexity of Postal Service acceptance and verification procedures. Furthermore, the target market for the carrier route presort level rate is saturation mailings by individual mailers of identical pieces. Widespread interest in nonidentical size and weight carrier route presort level rate mailings is not anticipated. This suggestion was not adopted.

One commenter was concerned that the requirement to sack to a carrier route or to a 5-digit ZIP Code (carrier routes) would result in partially full sacks which could endanger safe delivery of mail and result in increased handling costs for both the Postal Service and mailers. The commenter therefore proposed that the regulation be changed to permit qualifying carrier route packages to be placed in 3-digit or Sectional Center Facility (SCF) sacks. Sacks containing less than the minimum volume to which sacks must be prepared have been allowed for some time. Furthermore, placing carrier route packages in 3-digit or SCF sacks would result in increased handling by the Postal Service. This recommendation is not being adopted.

One commenter requested that the Postal Service clarify the proper use of Red Label D on packages in a third-class carrier route presort level rate mailing. Residual pieces may be packaged by route (in which case the package would contain fewer than 10 pieces), or they may be packaged with other pieces for different routes within the same 5-digit ZIP Code area (a 5-digit package). A Red Label D must be affixed to all such packages of residual pieces.

One commenter requested clarification as to whether residual (nonqualifying) pieces may bear the *Carrier Route Presort* endorsement. Residual pieces eligible for inclusion in a third-class carrier route presort level rate mailing may bear the *Carrier Route Presort* endorsement. It should be noted that only residual pieces up to 5% of the qualified pieces to a 5-digit ZIP Code area are eligible for inclusion in a third-class carrier route presort level rate mailing. Residual pieces exceeding the 5% limit may not be included in a third-class carrier route presort level rate mailing and therefore may not bear the *Carrier Route Presort* endorsement. The Postal Service is currently exploring the feasibility of using verification and sampling procedures which would enable the *Carrier Route Presort* endorsement to appear on all residual pieces presented with a qualified carrier route presort level rate mailing provided postage is paid for the residual pieces at the higher all other level bulk rate. Since such procedures have not yet been developed, this change is not being adopted at this time.

One commenter suggested that the wording in section 622.11f (section 134.24a(9) in the interim regulations), permitting the use of simplified forms of address for third-class carrier route presort level rate mailings, be changed from "may qualify" (permissive) to "shall qualify" (mandatory). This suggestion was not adopted. Use of a simplified form of address does not in itself qualify pieces for the carrier route presort level rate. All eligibility and preparation requirements for the carrier route presort level rate must be met for mailing pieces bearing a simplified form of address in order for the pieces to be eligible for that rate level.

One commenter suggested that the requirement that 20 pounds, or 1,000 cubic inches of carrier route packages for a route be placed in a carrier route sack is confusing. The commenter suggested that the requirement should be changed to ⅓ of a sack. The 20 pound/1,000 cubic inch requirement for sacking is a more precise definition that ⅓ of a sack. The suggested language change was not adopted.

One commenter suggested that language be added to prescribe the size of rubber bands which may be used to secure carrier route packages. The commenter also suggested that language be added to prescribe the maximum size of pieces which may be secured by this method. In the absence of a demonstrated need for such regulations the suggestion was not adopted.

The decision of the Governors of the Postal Service to make the third-class carrier route presort level rate a permanent classification (45 FR 27859) stipulated that nonprofit organizations are eligible for this rate. Accordingly, the endorsement requirements for the third-class carrier route presort level rate must be changed so that the Postal Service, for cost accounting purposes, can determine whether pieces in a particular mailing are eligible for the nonprofit carrier route presort level rate or the regular carrier route presort level rate. The endorsement requirements are therefore changed to provide that pieces in a carrier route presort level rate mailing must contain both the *Bulk Rate* or *Nonprofit Organization* endorsement as appropriate and the *Carrier Route Presort* endorsement. In addition, the authorized abbreviation of the *Carrier Route Presort* endorsement has been shown in instructions set forth in the Postal Bulletin for the past nine months as *CAR–RT SORT*. This differs from the authorized abbreviation of *CAR–RT* set forth in the interim regulations (44 FR 3797). In order to make the requirement conform to current practice, the only authorized abbreviation set forth in these permanent regulations is *CAR–RT SORT*. These two provisions affecting the endorsement requirements will become mandatory January 1, 1981, in order to give mailers additional time to bring their mailings into compliance. Until that time, mailers may use either *CAR–RT* or *CAR–RT SORT* as an abbreviation for *Carrier Route Presort*.

When the interim regulations were published in the **Federal Register** on January 26, 1979, they were drafted as an amendment to Chapter 1 of the Postal Service Manual. Since that time, Chapter 1 of the Postal Service Manual has been replaced by the Domestic Mail Manual, which went into effect on July 30, 1979 (44 FR 39742). The final rule has therefore been renumbered as an amendment to Chapter 6 of the Domestic Mail Manual.

In view of the considerations listed above, the Postal Service hereby adopts, as amended, the following changes to the Domestic Mail Manual, which is incorporated by reference in the **Federal Register** (39 CFR 111.1).

PART 622—THIRD-CLASS BULK MAIL

1. In Part 622, revise 622.1 to read as follows:

622.1 Eligibility

.11 Carrier Route Presort Level. a. Minimum Quantity. Each mailing must consist of at least 200 pieces or 50 pounds of mail presorted to carrier routes, in accordance with 667.3. Each piece must be part of a group of 10 or more pieces sorted to the same carrier route, rural route, highway contract route, lockbox section, or general delivery unit, in order to be eligible for the carrier route presort level rate.

b. Residual. Residual pieces (those not part of a group of 10 or more pieces to a particular carrier route) may be included in a carrier route presort rate mailing and may bear the *Carrier Route Presort* endorsement subject to the following provisions:

(1) Residual pieces do not count toward the minimum quantity requirements for the carrier route presort level rate.

(2) The number of residual pieces to any single 5-digit ZIP Code area may not exceed 5 percent of the total qualifying presorted carrier route pieces addressed to that 5-digit area.

(3) Residual pieces are not eligible for the carrier route presort level rate and must have postage paid at the

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appropriate third-class "all other" level bulk rate.

(4) Residual pieces must be prepared in accordance with 667.3

c. Identical Weight and Size. Pieces must be of identical weight and size and must not exceed 11⅛ inches in width, 13½ inches in length or ¾ of an inch in thickness. *Exception:* Merchandise samples with detached labels may exceed these dimensions if the detached labels meet the requirements of 664.

d. Listing Required. Mailers must, at the time of each mailing, provide the post office a listing indicating the number of qualifying and residual pieces mailed to each 5-digit ZIP Code area. After the first mailing, the postmaster may authorize the mailer to retain the records and submit them upon request by the postmaster. These records must be kept for a period of 90 days following the date of mailing, or until any pending action regarding the recalculation of postage is resolved to the satisfaction of the Postal Service (see 622.11e).

e. Current Scheme. (1) Proper Makeup. Mailers are responsible for the proper makeup of mail to carrier routes according to the latest official Postal Service scheme. Postage on mailings with more than a 5 percent error in the makeup to carrier routes in the 5-digit ZIP Code area will be recalculated at the "all other" level third-class bulk rate for all pieces delivered in that 5-digit ZIP Code area.

(2) Obtaining Schemes. (a) Official hardcopy schemes. Mailers may obtain hard copies of official delivery schemes by sending a written request to the following address: CRIS, P.O. Box 14950, Memphis, TN 38114.

Note.—In the request mailer's must specify whether they wish hard copy schemes for specific 5-digit ZIP Codes, for specific 3-digit ZIP Codes, for a specific Postal Service region or for the nation.

(b) Official national scheme tape. Official scheme information in machine sensible form is available for one or more postal regions, or for the entire United States. Mailers may order the tapes from: General Manager, Management Services Division, CRIS Project, U.S. Postal Data Center, San Bruno, CA 94097.

Note.—In the request, the mailer must specify which Postal Service regions are desired and which of the following magnetic tape characteristics are required:

—7 or 9 track
—800, 1,600, or 6,250 bits per inch
—ASCII or EBCDIC
—If Header/Trailer Labels are desired

(c) Other methods. Mailers may, under the provisions of 945.4, request a copy of the city scheme used by clerks for sorting mail. They may also request that the Postal Service sort address cards, plates or stencils by carrier routes. However, the mailer is responsible for sorting in accordance with the latest official scheme provided in 622.11e(2) (a) or (b). The mailer is considered to have made a sorting error only if the mail was not sorted according to the latest official scheme.

f. Simplified Address. Pieces bearing a simplified address as provided for in 122.4 may qualify for the third-class carrier route presort level rate.

.12 All Other Presort Level. Mailings of at least 200 pieces or 50 pounds, presorted in accordance with 667 (except the requirements in 667.3 for the carrier route presort level rate, which is optional) are eligible for the third-class bulk "all other" presort level rates.

.13 Processing Category. All pieces in a bulk rate mailing must be of the same characteristic type as defined in 128, (i.e., letter size, flats, machinable parcels, or irregular parcels).

PART 651—WEIGHT AND SIZE LIMITS

2. In part 651, revise 651.2 to read as follows:

651.2 Size, Shape, and Ratio

.21 General Standards. Except as provided in 651.22, there is no maximum size limit. The following standards apply to all material mailed at third-class rates other than keys and identification devices mailed in accordance with 611.4:

a. All mailing pieces must be at least 0.007 of an inch thick.

b. All mailing pieces which are ¼ of an inch thick or less must be:

(1) Rectangular in shape,
(2) At least 3½ inches, high, and
(3) At least 5 inches long.

Note.—Third-class mailing pieces other than keys and identification devices which do not meet these minimum size standards are prohibited from the mails.

.22 Carrier Route Presort Rate Mailings. a. The maximum size for mail qualifying for the carrier route presort level rate is 13½ inches in length, 11½ inches in width, and ¾ of an inch in thickness, except as provided in 651.226.

b. Merchandise samples with detached labels may be sent at the carrier route presort level rate even though their dimensions may exceed 13½ inches in length, 11½ inches in width, and ¾ of an inch in thickness if the detached labels meet the requirements of 664.

.23 Recommendation. To insure prompt and efficient processing of third-class mail, it is recommended that envelopes, cards and self-mailers have an aspect ratio of width (height) to length between 1 to 1.3 and 1 to 2.5 inclusive. (See 652 for nonstandard mail surcharge.)

PART 662—MARKETING

3. In part 662, add a new 662.3 to read as follows:

662.3 Carrier Route Presort Rate

a. In addition to the endorsement required in 662.2, identifying words *Carrier Route Presort* or the abbreviation *CAR–RT SORT* must be incorporated in the permit imprint indicia, or it may be printed or rubber stamped above the address in the area to the left or below the permit imprint, meter stamps, or precanceled stamps on pieces entered at the carrier route presort level rate. Alternatively, the *Carrier Route Presort* endorsement may be located in the address area on either the line above the address or two lines above the address. (The preferred position is two lines above the address.) Residual pieces included in a carrier route presort level rate mailing in accordance with the provision of 662.11b, may bear the *Carrier Route Presort* endorsement.

b. If the endorsement is located in the address area: (1) No other information may appear on the endorsement line except the route information when mailers label their carrier route packages in the manner prescribed in 667.311b.

(2) One of the following formats must be used:

CAR–RT SORT, Resident, 1300 Waterford Dr., District Heights, MD 20028

Carrier Route Presort, Resident, 1300 Waterford Dr., District Heights, MD 20028

CAR–RT SORT, Postal Customer

Carrier Route Presort, Postal Customer 8

CAR–RT SORT **CR 22, Resident, 1300 Waterford Drive, District Heights, MD 20028

Carrier Route Presort **CR 22, Resident, 1300 Waterford Drive, District Heights, MD 20028

CAR–RT SORT **CR 22, Resident, 1300 Waterford Drive, District Heights, MD 20028

Carrier Route Presort **CR 22, Resident, 1300 Waterford Drive, District Heights, MD 20028

CAR–RT SORT **LS 0101, 24632176190 BC 789, Resident, P.O. Box 961, New York, NY 10001

Carrier Route Presort **CR 22, Resident, 1300 Waterford Drive, District Heights, MD 20028

CAR–RT SORT **LS 0101, 24632176190 BC 789, Resident, P.O. Box 961, New York, NY 10001

Carrier Route Presort **CR 22, Resident, 1300 Waterford Drive, District Heights, MD 20028

PART 667—PREPARATION OF BULK RATE MAILINGS

4. In part 667, renumber present 667.3—667.5 as new 667.4—667.6, respectively, and add a new 667.3 to read as follows:

667.3 Preparation Requirements for Carrier Route Presort Level Rate

.31 Packaging

.311 Carrier Packages. When there are 10 or more pieces addressed to the same carrier route, rural route, lockbox section or general delivery unit, the mailer must prepare them in packages of 10 or more pieces. A package of letter size mail should not exceed 4 inches in thickness. All pieces in a package must be faced in the same direction and securely wrapped or tied together. Rubber bands are the preferred method of securing packages. Whenever a carrier package is not placed in a sack labeled to show that it contains only packages for the same carrier route, rural route, highway contract route, lockbox section, or general delivery unit, the mailer must use one of the following procedures to label the package:

a. The mailer may prepare packages with a facing slip which must be affixed to the front of the package and marked as shown below:

Line 1: City, State and 5-Digit ZIP Code of Address.
Line 2: Carrier Route, Rural Route, Highway Contract Route, Lockbox Section, or General Delivery Unit.
Line 3: Office of Mailing.
Sample:

SAN FRANCISCO CA 94133
RURAL ROUTE 12
BOSTON MA 021

b. Packages made up to individual carrier routes, rural routes, highway contract routes, lockbox sections, or general delivery units may be prepared without facing slips when the following conditions are met:

(1) The carrier route information consisting of a descriptive prefix (or its abbreviation), plus a two-digit route number or four-digit numeric code, must be on the top line of the address, either alone (the preferred format) or with other information (addressee, account data, etc.). Alternatively, the carrier route information may appear with the *Carrier Route Presort* endorsement on the line above or two lines above the address when the *Carrier Route Presort* endorsement is located in the address area in accordance with 662.3 a and b.

(2) The descriptive prefix "carrier route," "rural route," "highway contract route," or "lockbox section" must either be spelled out (the preferred format) or abbreviated as follows:

Carrier Route—CR
Rural Route—RR
Highway Contract Route—SR
Lockbox Section—LS

(3) The descriptive prefix must be followed by one blank space and a two-digit route number when the ZIP Code is included in the address. If the ZIP Code is omitted from the address, the descriptive prefix must be followed by one blank space and a four-digit numeric route code. This four-digit route code must consist of the last two digits of the ZIP Code followed by the two-digit carrier route number.

(4) The carrier route information must be right justified.

(5) The carrier route information must be preceded by at least two asterisks (**), or other distinctive non-alphabetic or non-numeric characters. The following are examples of address formats:

** Carrier Route 22
Resident
1300 Waterford Drive
District Heights, MD 20028

** CR 22
Resident
1300 Waterford Drive
District Heights, MD 20028

** CR 22
Resident
1300 Waterford Drive
District Heights, MD 20028

** Rural Route 05
Postal Customer
1602 Country Lane
Burke, VA 22015

Postal Customer **RR 1505

CAR-RT SORT **CR 22
Resident
1300 Waterford Drive
District Heights, MD 20028

(6) At least 10 spaces must be allowed for carrier route information if it is included with other information on the top line.

.312 Residual Packages. a. Residual pieces to a single carrier route (less than 10 pieces) may be secured in packages in accordance with 667.311. Such residual carrier packages must be labeled with a Red Label D to facilitate postal verification and handling. In addition, such residual carrier packages may also be labeled to the carrier route in accordance with 667.311 a or b. Residual carrier packages may not be placed in carrier route sacks.

b. Residual pieces not packaged according to carrier route as provided in 667.312a, must be made up into 5-digit packages. All 5-digit packages of residual mail must bear a Red Label D to facilitate postal verification and handling.

.32 Sacking

.321 Carrier Route Sacks. When there are 20 pounds or 1,000 cubic inches of qualifying carrier packages to the same carrier route, the packages must be placed in a carrier route sack. Sacks containing lesser quantities of qualifying packages for the same carrier route may be prepared. Each sack must be labeled in the following manner:

Line 1: City, State and 5-Digit ZIP Code Destination.
Line 2: Contents and Carrier Route, or Rural Route, Lockbox Section, Highway Contract Route, or General Delivery Unit.
Line 3: Office of Mailing.
Sample:

SAN FRANCISCO, CA 94133
3C LTRS—CARRIER ROUTE 18
PORTLAND, OR 972

.322 Carrier Routes Sacks. All qualifying carrier packages which are not placed in carrier route sacks must be placed in carrier routes sacks labeled to a 5-digit ZIP Code destination. All packages of residual pieces must be placed in carrier routes sacks labeled to a 5-digit ZIP Code destination. Each sack must be labeled in the following manner:

Line 1: City, State and 5-Digit ZIP Code Destination.
Line 2: Contents followed by the words CARRIER ROUTES.
Line 3: Office of Mailing.
Sample:

SAN FRANCISCO, CA 94133
3C LTRS—CARRIER ROUTES
BOSTON, MA 021

.33 Trays. The accepting post office may authorize the use of trays or other containers instead of sacks provided the separation to individual carrier routes will be adequately maintained throughout all postal handlings, the route is identified, and all address labels are faced in the same direction.

PART 681.2—BULK MAILINGS

5. In part 681.2, revise .21 to read as follows:

.21 Identical Weight Pieces. Postage may be paid by any of the following methods:

a. Meter stamps (see 144).

Note.—Carrier route presort level rate mailings may be metered in either of two ways:

(1) Pieces eligible for the carrier route presort level rate metered at that rate with

residual pieces metered at the "all other" level rate.

(2) The entire mailing metered at the carrier route presort level rate, with additional

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 22

CFR Part 22, adopted on April 9, 1980, EPA set forth the procedures it will use in the assessment of penalties under several acts. Rules governing orders

M Street S.W., Washington, D.C. 20460
Kansas Department of Health and Environment, Bureau of Air Quality

Date: November 26, 1980.
Douglas M. Costle,
Administrator.

Note.—Incorporation by reference of the

designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping

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residual pieces metered at the "all other" level rate.

(2) The entire mailing metered at the carrier route presort level rate, with additional postage for residual pieces paid by means of a meter strip affixed to the back of Form 3602–PC, *Statement of Mailing—Bulk Rates.*

b. Precanceled stamps or precanceled stamped envelopes (see 143).

c. Permit imprints (cash), (see 145).

PART 682—MAILING STATEMENT FOR BULK MAILINGS

6. Revise part 682 to read as follows:

682.1 Type of Mailing Statement Required

The mailer must complete and submit the appropriate mailing statement with each mailing:

a. Form 3602, *Statement of Mailing Matter with Permit Imprints,* for mail with permit imprints (see 145); or

b. Form 3602–PC, *Statement of Mailing—Bulk Rates,* for mail bearing precanceled stamps or meter stamps.

Note.—All mailing statements are subject to verification by the Postal Service.

682.2 Preparation of Form 3602 for Carrier Route Presort Level Rate Mailings

Postage for carrier route presort level rate mailings paid for by permit imprint is computed in the following manner on Form 3602:

a. Enter the total number of pieces or pounds (including residual) and multiply by the appropriate "all other" level per piece or per pound rate.

b. Enter the total number of qualifying carrier route presorted pieces and multiply by the applicable per piece rate reduction.

c. Subtract the result in step b. from that in step a.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of these changes will be published in the **Federal Register** as provided in 39 CFR 111.3 (39 U.S.C. 401(2), 404(2)).

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 80-37353 Filed 12-1-80; 8:45 am]

BILLING CODE 7715-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 22

[EN-FRC 1689-5]

Consolidated Rules of Practice Governing Administrative Assessment of Civil Penalties and Revocation or Suspension of Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Suspension of portion of final rule.

SUMMARY: This action suspends those provisions of the Consolidated Rules of Practice which require that, prior to issuing a compliance order under the Solid Waste Disposal Act, the Administrator of EPA provide notice to the violator and allow a thirty day period for compliance. These requirements were formerly found in § 3008 of the Act but were eliminated by the Solid Waste Disposal Act Amendments of 1980. This suspension permits compliance orders to be issued in the manner now set forth in the Act.

EFFECTIVE DATE: December 2, 1980.

FOR FURTHER INFORMATION CONTACT: Philip Savitz, Office of Enforcement (EN–338), Washington, D.C. 20460, (202) 755–0994.

SUPPLEMENTARY INFORMATION: Section 3008 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, 42 U.S.C. 6928, provides that whenever the Administrator of the Environmental Protection Agency determines that any person is in violation of any requirement of Subtitle C of the Act, the Administrator may issue an order requiring compliance and assessing a penalty. As originally worded, § 3008 required that the Administrator, prior to issuing such order, provide notice to the violator of his/her failure to comply with the requirements of the Act. If the violation extended beyond the thirtieth day after notice was given, an order could then be issued.

On October 21, 1980, the President signed into law the Solid Waste Disposal Act Amendments of 1980. Section 3008 was amended to delete the requirements that the Administrator provide notice of the violation and a thirty day period for compliance prior to issuing an order. The section was also amended to specify that the order can require immediate compliance.

In the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation or Suspension of Permits, 40 CFR Part 22, adopted on April 9, 1980, EPA set forth the procedures it will use in the assessment of penalties under several acts. Rules governing orders issued under § 3008 of the Solid Waste Disposal Act are set forth in 40 CFR 22.37. This provision reflects the language of § 3008 as formerly written.

In order that a procedure consistent with the amendments to § 3008 may be implemented as soon as possible, those portions of 40 CFR 22.37 requiring a notice of violation and thirty day period for compliance prior to the issuance of an order are hereby suspended.

It is anticipated that in the near future EPA will publish a proposed rulemaking which would amend the Consolidated Rules of Practice to address these and other issues.

§ 22.37 [Partially suspended]

In 40 CFR 22.37, paragraphs (b), (c), (d) and subparagraphs (1) and (3) of paragraph (e) are suspended until further notice.

This suspension is issued under authority of the Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.

Dated: November 25, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-37397 Filed 12-1-80; 8:45 am]

BILLING CODE 6560-33-M

40 CFR Part 52

[A-7-FRL 1689-4]

Revision to State Implementation Plan for Kansas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: The EPA proposed in the February 11, 1980 **Federal Register** (45 FR 9012) to approve an 18-month extension until July 1, 1980, for the submission of an implementation plan to provide for attainment of the secondary particulate standard in Topeka. This notice describes the EPA's final action on the proposed extension.

DATES: This extension is approved effective December 31, 1980.

ADDRESSES: Copies of the state submission, the comments received on the proposed rulemaking and an evaluation document are available at the following locations:

Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106

Public Information Reference Unit, Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460

Kansas Department of Health and Environment, Bureau of Air Quality and Occupational Health, Forbes Field, Topeka, Kansas 66620

Kansas City-Wyandotte County Health Department, Air Pollution Control Division, 619 Ann Avenue, Kansas City, Kansas 66101

Mid-America Regional Council, 20 West Ninth Street, Kansas City, Missouri 64105

A copy of the state submission and this notice is available at:

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mary C. Carter at (816) 374–3791 (FTS 758–3791).

SUPPLEMENTARY INFORMATION: On October 22, 1979, the Kansas Department of Health and Environment (KDHE) submitted a request to the EPA pursuant to Section 110(b) of the Clean Air Act and 40 CFR 51.31, that the state be granted an extension until July 1, 1980, for the submission of an implementation plan to provide for the attainment of the secondary particulate standard in the Topeka secondary nonattainment area. According to 40 CFR 51.31(c), before an extension can be granted, the state must show that emission reductions beyond those achievable through the application of reasonably available control technology (RACT) will be required for the secondary TSP standard to be attained.

The state has demonstrated that the eleven point sources impacting on the nonattainment area are controlled at a level considered to represent RACT, and that further reductions in area emissions are necessary to attain the secondary TSP standard. One comment was received in regard to the EPA's February 11, 1980 proposal to grant the extension. This comment was in support of the proposed extension.

Under Executive Order 12044, the EPA is required to judge whether a regulation is "significant" and, therefore, subject to the procedural requirements of the order of whether it may follow other specialized development procedures. The EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of final rulemaking is issued under the authority of Section 110(b) of the Clean Air Act as amended.

Date: November 26, 1980.

Douglas M. Costle,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Kansas was approved by the Director of the Federal Register on July 1, 1980.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. Section 52.880 is added to read as follows:

Subpart R—Kansas

* * * * *

§ 52.880 Requests for 18-month extensions.

(a) On October 22, 1979 the Kansas Department of Health and Environment submitted a request that the State be granted an extension until July 1, 1980 for the submission of a State implementation plan to satisfy the requirements for secondary particulate nonattainment in Topeka; this extension is approved by the Administrator.

[FR Doc. 80-37427 Filed 12-1-80; 8:45 am]

BILLING CODE 6560-35-M

40 CFR Part 228

[WH-FRL 1689-2]

Ocean Dumping; Final Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates a temporary ocean dumping site in the San Nicolas Basin, on the Southern California Outer Continental Shelf, for the disposal of formation cuttings, waste drilling mud and non-perishable solid waste from exploratory oil drilling wells on Tanner Bank. This action is necessary so that a suitable location will be available for the disposal of materials from drilling operations in ecologically sensitive areas near Tanner Banks. This action will have the effect of designating an approved ocean dumping site for this purpose.

DATE: Variable; this site designation shall become effective at the time an ocean dumping permit is issued for its use.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202/472–2836.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq., (hereafter "the Act") gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management. This proposed site designation is being made pursuant to that authority.

The EPA ocean dumping regulations (40 CFR Chapter I, Subchapter H, 228.4) state that ocean dumping sites will be designated by publication in this Part 228. A list of "Approved Interim and Final Ocean Dumping Sites" was published in January 11, 1977 (42 FR 2461) and extended on January 16, 1980 (45 FR 3053 et seq.).

Section 228.4(b) of the ocean dumping regulations and criteria states that the Administrator may designate specific locations for temporary use for disposal of small amounts of materials under a special permit without disposal site designation studies when such materials satisfy the criteria and the Administrator determines that the quantities to be disposed of will not result in significant impact on the environment.

In December 1975 the Department of the Interior (DOI) leased an area of the Tanner Bank, located on the Southern California Outer Continental Shelf, for exploratory oil drilling. To protect areas of particular biological significance on the Tanner and Cortes Banks, Stipulation No. 6 of the DOI leases requires that drill cuttings and waste drilling mud generated by wells on leases within five miles of the 80-meter isobath on these banks be transported to an area at least ten miles outside the 80-meter isobath for disposal. In addition, this stipulation prohibits the disposal of garbage and other solid waste within five miles of the isobath.

EPA Region IX has received applications from Shell Oil Company, Exxon Company, and Texaco, Inc., for special permits to dump into ocean waters outside the isobath formation cuttings, waste drilling mud, and non-perishable solid waste generated by exploratory wells on Tanner Bank. These materials cannot be discharged directly because of Stipulation No. 6. The maximum volumes proposed for dumping over a three-year period are as follows:

Shell—13,380 cubic meters
Texaco—3,261 cubic meters
Exxon—6,657 cubic meters

Because there is no approved EPA Pacific Ocean disposal site for dumping wastes generated by offshore oil drilling rigs, EPA today designates a new temporary ocean dumping site for the disposal of these materials.

The site is one square nautical mile in size with the northwest corner located at 32d 55' north latitude and 119d 17' west longitude. The depth at the proposed site is approximately 400 fathoms (2,400 feet).

The disposal area was selected in consultation with the National Marine Fisheries Service, the DOI Fish and Wildlife Service, State of California Department of Fish and Game, United States Navy, and EPA Region IX. Among the factors influencing site selection were the need to avoid both shallow waters, which might be productive spawning areas, and also excessively deep waters which might hinder monitoring efforts. In addition, the site selected would not interfere with the Navy submarine transit zones.

EPA Region IX, after reviewing pertinent toxicity data and other information, has determined that the material proposed for dumping is in compliance with the Criteria and the dumping will not result in unreasonable environmental degradation.

On Friday, March 3, 1978, EPA published a proposed designation of this site as an EPA-approved ocean dumping site (43 FR 8811). Two commenters replied. One supported the proposed rulemaking as an environmentally sound method of disposal of these materials. The other commenter suggested that dredged material bioassay procedures be used to determine the toxicity of the drilling muds. EPA is currently reviewing the appropriateness of these procedures in assessing the toxicity of drilling muds. However, data indicate that these muds pass applicable existing bioassay tests. Toxicity data for the liquid and suspended particulate phases have been provided by the applicants and are available from EPA Region IX. These bioassay results show that the drilling muds will have no problem complying with the Limiting Permissible Concentration under the conditions of the proposed disposal.

The drilling muds used in the bioassays did not produce a solid phase as defined in 6227.32(b)(2). Field studies have shown that the discharge of drilling muds to the surface of open ocean waters will not form a "solid phase" layer. Cuttings and mud are observed to separate upon discharge with the cuttings falling to the sea floor and the muds remaining near the surface and confined to the turbulent vessel wake. Small amounts of mud do adhere to the cuttings and are carried to the bottom. However, there was no detectable accumulation of drilling muds on the ocean floor.

Management authority for this site will be delegated to the Regional Administrator, Region IX, EPA.

The proposed site designation is hereby promulgated without change, as set forth below.

(33 U.S.C. 1412, 1418)

Dated: November 25, 1980.

James N. Smith,

Associate Assistant Administrator for Water and Waste Management.

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is amended by adding to § 228.12(b) an ocean dumping site under the management of the EPA Region IX Regional office as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(6) San Nicolas Basin Ocean Dumping Site—Region IX.

Location—Latitude and Longitude (northwest corner)—32°55' north latitude, 119°17' west longitude.

Size—1 square nautical mile.

Depth—400 fathoms (2,400 feet).

Primary use—disposal of formation cuttings, waste drilling mud, and non-perishable solid waste.

Period of use—three years after issuance of an ocean dumping permit for use of this site.

[FR Doc. 80-37378 Filed 12-1-80; 8:45 am]

BILLING CODE 6560-29-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA-5944]

Suspension of Community Eligibility Under the National Flood Insurance Program

Corrections

In FR Doc. 80-35282 appearing on page 74926 in the issue of Thursday, November 13, 1980, on page 74927, in the table, last Column reading "Date" delete the first "Do." and insert "Dec. 2, 1980"; and in the footnote, delete "Date Certain" and insert "December 2, 1980".

BILLING CODE 1505-01-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

Corrections

In FR Doc. 80-34451 appearing at page 73668 in the issue of Thursday, November 6, 1980, make the following changes:

(1) On page 73671, in the table for "Minnesota", under "Lake Wabosso–Grass Lake Connection", "Mouth at Grass Lake" should be entered under "Location".

(2) On page 73675, in the table for "Ohio", under "New Germany Branch", in the last Column, insert "*871" below "*849".

BILLING CODE 1505-01-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

Corrections

In FR Doc. 80-32879 appearing on page 70452 in the issue of Friday, October 24, 1980, make the following changes:

(1) On page 70456, in the table for "Indiana, Mississinewa River", second entry of the last column, "*Elevation in feet (NGVD)", "*873" should read "*883".

(2) On page 70459, in the table for "Indiana, White Lick Creek Tributary 3", sixth and seventh entries under "Location" should read:

"Just downstream of County Road 100 North Just upstream of County Road 100 North".

BILLING CODE 1505-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1108

[Ex Parte No. 55 (Sub-No. 22)]

Environmental Considerations; Revision of National Environmental Policy Act Guidelines

Decided November 5, 1980

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: On March 10, 1980, the Interstate Commerce Commission published (45 FR 15236 (1980)) proposed rules revising existing guidelines which implement section 102 of the National Environmental Policy Act of 1969 (NEPA). These rules were intended to enhance the Commission's NEPA process by providing for streamlined reporting requirements, brief and concise environmental documentation, and expeditious administrative treatment without sacrificing opportunities for public involvement. Public comment was invited. This document addresses the public comments, many of which prompted

modifications to the rules as proposed, and promulgates final NEPA rules.

DATES: These rules are effective January 2, 1981 and shall apply to proceedings in progress on their effective date to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Carl Bausch or Steve Botts, Energy and Environment Branch, Office of Policy and Analysis, Interstate Commerce Commission, Washington, DC 20423 (Telephone (202) 275-7916).

SUPPLEMENTAL INFORMATION: Public comments are addressed and other modifications are explained on a section-by-section basis, as follows:

Section 1108.1

In the explanation accompanying proposed § 1108.1, the Commission stated that it would follow the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of NEPA to the extent practicable. The Council suggests that the explanation be amended to provide that the Commission follow its regulations except where compliance is inconsistent with the Commission's statutory requirements. The explanation following proposed § 1108.1 is not part of the final rules. The Council's suggested language change, however, captures the spirit of the Commission's intended compliance efforts.

Section 1108.2

This section has been expanded slightly to make it clear that the Director of the Office of Policy and Analysis is responsible for the preparation of environmental documentation required by the Commission's NEPA rules.

Section 1108.6

Although public reaction to the proposed classifications of actions was mixed, our experience supports, with one exception (commuter and passenger fare increases), the classifications proposed. We have considered the environmental impacts (not necessarily including energy-related impacts which remain ascertainable under the provisions of 49 CFR 1106) associated with each class of action on numerous occasions. In each case, irrespective of the proposed action's magnitude, the locale involved, or existing ambient conditions, no environmental significance was detected.[1]

Measures to mitigate potentially adverse environmental impacts have been suggested in the analyses for some cases in which no environmental significance was found. Notwithstanding future categorical exclusion from the NEPA process, it will be possible, with respect to each affected class of action, to develop an environmental record and to impose conditions to mitigate potentially adverse environmental impacts. The public processes followed by the Commission in its administration of the Interstate Commerce Act ensure that relevant environmental information may be submitted in timely fashion for the record.

It should be emphasized that none of the classifications, including categorical exclusions, is invariable. Moreover, many of the final reporting requirements, which apply to all classes of action, contain analytical thresholds. Application of these thresholds to a factual setting will serve more clearly and practically than mere classification to distinguish the type of documentation required in a given action.

Several comments contained the suggestion that commuter and passenger fare increases imprudently were proposed for categorical exclusion. Impacts associated with a commuter or passenger fare increase relate directly to the magnitude of the increase. While significant impacts seldom are associated with this class of action, where fare increases are substantial there is the potential for environmentally disruptive commuter defections. Of particular concern are defections to less energy efficient modes, although air quality, noise levels, and planning also may be affected.

Commuter and passenger fare increases are designated in the final rules as a class of action normally requiring an environmental assessment. This designation, however, is not without qualification. In recognition of the direct relationship between environmental impacts and the magnitude of fare increases, a report will be required only if the proposed increase, when considered together with other increases over the previous 3 years, exceeds by 30 percent (on a compound basis) the combined inflation rate (as measured by the Consumer Price Index) for those years. This threshold, which was derived from experience with commuter and passenger fare increases, represents a realistic triggering device for potentially adverse environmental impacts.

The commuter and passenger fare increase threshold has an empirical and a theoretical base. Empirically, there is virtually no correlation between fare increases and passenger diversion for cases in which the threshold has not been surpassed.[2] The only theoretically appropriate demand estimation model assumes that commuter ridership is determined by automobile operating costs and transit fares. Although other factors, such as transit time, quality of equipment, reliability, distance traveled, and weather contribute to transportation demand, none of these factors statistically is considered significant for this class of action. Since automobile operating costs generally rise faster than rate levels established in the threshold, increases below that threshold should not cause substantial ridership diversion.

In only one case, SC No. 69097. *Increased Commuter Fares, Greyhound Lines, Inc., Between Washington, DC, and Baltimore and Annapolis, MD.*, involving a 100-percent fare increase, were increased transit fares found to

[1] See *e.g., Louisville & N. R. Co.—Trackage Rights*, 360 I.C.C. 115 (1979), affirmed mem. *People of State of Ill.* v. *I.C.C.*, 622 F.2d 591 (1980), petition for cert. filed. No. 80-41 (7th Cir. July 10, 1980) * (application for trackage rights and common use of rail terminal); F.D. No. 29099, *Petition of the City of St. Louis, MO for Order Requiring Grant of Trackage Rights and Authorizing Related Changes in Terminal Operations*, decided March 10, 1980 (not printed) and F.D. No. 29186 (Sub-No. 1), *Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul, and Pacific Railroad Company, Debtor—Trackage Rights—Over Indiana Harbor Belt Railroad Co., Between North Harvey, IL, and Gibson, IN, and Consolidated Rail Corporation Between Gibson, IN, and Terre Haute, IN*, decided by the entire Commission April 15, 1980, supplemented in decision of May 2, 1980 (not printed) (trackage rights proceedings); Ex Parte No. 318, *Increased Freight Rates and Charges—1976*, decided by the entire Commission August 2, 1976 (not printed), appeal dismissed *Council of Forest Indus. of British Col.* v. *I.C.C.*, 570 F.2d 1056 (1978), vacated on other grounds, *National Ass'n of Recycling, Etc.* v. *I.C.C.*, 585 F.2d 522 (1978), and *Increases in Freight Rates and Charges—1973*, 346 I.C.C. 305 (1973), 346 I.C.C. 400 (1974), 350 I.C.C. 678 (1975), 351 I.C.C. 414 (1975), affirmed in part, revised in part on other grounds, *Asphalt Roofing Mfg. Assoc.* v. *I.C.C.*, 567 F.2d 994 (1977) (general freight rate proceedings); *Maine Central R. Co.* v. *Amoskeag Co.* 360 I.C.C. 147 (1979), initially remanded on motion to enjoin administrative hearings pending preparation by Commission of environmental documentation and appropriate NEPA rules, *Maine Central R. Co.* v. *I.C.C.*, 410 F. Supp. 653 (1975) and 410 F. Supp. 657 (1976) (proceeding not involving changes in carrier operations); No. MC-123407 (Sub-No. 289), *Sawyer Transport, Inc., Extension—Washington and Oregon Lumber*, decided January 19, 1977 (not printed) (motor carrier licensing proceeding); *Hennepin Towing Co. Ext.—Upper Mississippi River*, 343 I.C.C. 422 (1973), affirmed *Union Mechling* v. *United States*, 390 F. Supp. 391 (1974) (water carrier proceeding); and Ex Parte No. MC-96 (Sub-No. 2), *Passenger Broker Entry Control*, decided by the entire Commission November 8, 1979, appeal docketed *National Tour Brokers Association* v. *United States of America and the Interstate Commerce Commission*, No. 80-1037 (D.C. Cir. April 15, 1980) (broker proceeding).

[2] See, for example, the proposals in SC No. 69411, *Rockland Coaches, Inc., Increase in Interstate Fares*; SC No. 69096, *Real Transit Company Proposed Fare Increase*; No. M-29665, *Rockland Coaches, Inc.*; No. 36754, *Manhattan Transit Company*; No. 36775, *Hudson Transit Lines*; and No. 36178, *Increased Fares, Baltimore and Ohio Railroad Company*.

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have significant diversion potential. It is noteworthy that even there, where the fare increase applied to two routes, significant diversion potential was found on only one of the routes. It is possible, therefore, that adverse impacts will not even accompany fare increases far in excess of the established threshold.

While proposals to increase commutation and passenger fares may be examined, intercity bus fare adjustments, as a class of action, remains categorically excluded from the NEPA process for the following reasons: (1) Intercity bus companies are extemely competitive on high volume routes where the greatest potential for diversion exists. The marginal differences in energy consumption and environmental quality caused by ridership diversion from high volume intercity bus routes to alternative modes (essentially, the automobile) and routes are insignificant; (2) On low volume intercity bus routes the diversion potential of fare increases is not substantial enough to cause materially adverse impacts; (3) Unlike surburban passenger demand, intercity passenger demand involves a far more complex set of variables which make difficult the accurate estimation of diversion potential attributable to a single factor, such as a rate increase; and (4) The automobile option typically is not as readily available to intercity bus riders as it is to surburban commuters. The potential for diversion to automobile, therefore, is not as great.

The Council on Environmental Quality has suggested that categorical exclusion of all actions not otherwise identified in the rules is inappropriate. We agree that categorical exclusion of such actions is inconsistent with the letter and spirit of NEPA and with this public process. Accordingly, proposed § 1108.6(c)(9) has been deleted from the final rules. Coincidentally, § 1108.6(d) has been modified to provide that where a categorically excluded action has the potential for environmental significance, an assessment or impact statement nevertheless may be prepared.

Section 1108.7

In response to several comments critical of the proposed reporting requirements, they have been revamped. Virtually all of the final reporting requirements will take the form of straightforward questions. With one exception (item 11, applicable to rail line construction cases only), these questions are to be addressed in every Environmental Report. Of course, not all questions will apply to each class of action, in which case applicant need only respond that such questions are inapplicable.

Many of the final reporting requirements also contain threshold levels beneath which, in the Commission's experience, no serious impacts are present.[3] In some cases, circumstances may exist which require further analysis of impact areas where thresholds are not surpassed; nevertheless, we are satisfied that the established threshold levels are proper and useful indicators. Although the final reporting requirements will facilitate independent preparation of Environmental Reports, applicants are encouraged to consult with the Energy and Environment Branch, particularly where potentially controversial actions are contemplated.

Provision for waiver of reporting requirements has been moved from proposed § 1108.9 to this section in the final rules. Waiver generally is appropriate where it can be shown that adverse environmental impacts will not flow from a proposed action or where other circumstances are present under which the filing of an Environmental Report would constitute an unreasonable burden. This explanation also is incorporated into the waiver provision.

Section 1108.9

Time limits for consideration of environmental documentation by the public and others have been established and incorporated into this section of the final rules. The time limits established, however, may be modified in any case where circumstances require. Notification of any such modification will be provided.

An additional provision requiring advanced notice from a prospective rail line construction applicant has been added to this section. The purpose of this provision is to avoid needless delay in processing the application and to facilitate preparation of applicant's Environmental Report.

Section 1108.10

We recognize, as was suggested in one comment, that proposed § 1108.10(i) is superfluous. Environmental documentation is designed to assist in understanding the effects of a proposed action. It is not necessary that a decisionmaking accept, reject, or modify an environmental document or any part of it. Proposed § 1108.10(i) has been deleted from the final rules.

Concern was expressed in one comment that the provision making available to the public all environmental documentation does not protect against disclosure of confidential material. Since none of the reporting requirements calls for disclosure of information which could be considered confidential, there is no need for a protective provision in the rules. In the unlikely event the issue arises, however, we believe that it properly should be resolved in the context of the proceeding in which it is presented and not in this rulemaking.

We observe, in response to one comment, that the Commission invariably fulfills its responsibilities under the National Historic Preservation Act. The Commission, however, is charged with administration of a procedurally complex statute containing stringent decisional time limits which make difficult the establishment of procedures under which historic matters will be considered. Although we will continue to fulfill our responsibilities under the National Historic Preservation Act, we are disinclined here to adopt implemental procedures from which continual deviation may be necessary.

One comment suggests that the provision (§ 1108.10(h)) of the final rules restricting oral hearing on environmental documentation only to proceedings in which good cause is shown frustrates NEPA's directive that environmental documentation accompany the proposal through existing agency review processes. We find it difficult to conceive how existing review processes would be circumvented if cross-examination of an environmental document were not allowed since this would not affect the decisionmaker's consideration of the document. It is questionable whether oral hearings are even part of existing Commission review processes for NEPA purposes. See *Aberdeen & Rockfish R. Co.* v. *SCRAP*, 422 U.S. 289, 320–21 (1975).

Where oral hearing on an environmental document is permitted, we believe that the purposes of NEPA would be furnished if the draft rather than the final document were subject to cross-examination. This approach will avoid duplication of effort and will strengthen the final environmental document. Section 1108.10(h) will be modified accordingly.

[3] A thoroughgoing review of past documentation reveals that, with respect to energy consumption, air quality, and noise levels, significant impacts have never been detected in any case in which the threshold levels established in § 1108.7(c) (4), (5), and (6), respectively, were not surpassed. The energy threshold is fixed at a point of approximate equivalency in terms of energy consumption for competitive transportation modes. The air quality thresholds reserve only *de minimus* increases in emissions while deferring appropriately to State Implementation Plans. The noise thresholds generally reflect protective levels recognized by the Environmental Protection Agency.

Section 1108.10(c) also has been modified to describe the manner in which environmental documentation will be distributed and made available to the public. We believe that this modification will result in substantial savings without impairing the NEPA process.

Section 1108.11

This is a new section which contains the repealer provision for the Commission's EPACA rules (49 CFR 1106).[4]

Other comments addressing the notice of proposed rulemaking will not be treated here because the substance of such comments either lacked merit or was treated adequately in the proposed rules.

Some minor language changes have been effected in the final rules for purposes of clarity and providing more concise guidance. Some subsections have been redesigned to comport with changes made in the final rules.

This notice of final rulemaking is promulgated under the authority of 42 U.S.C. 4332, 49 U.S.C. 10321, and 5 U.S.C. 553.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Title 49, Part 1108 is revised to read as follows:

1108 Environmental considerations.
1108.1 Purpose.
1108.2 Responsibility for administration of the Commission's NEPA rules.
1108.3 Information and assistance.
1108.4 Definitions.
1108.5 Determinative criteria.
1108.6 Classification of actions.
1108.7 Reporting requirements.
1108.8 Scoping.
1108.9 Timing, comments, and Commission action.
1108.10 Commission procedures and public involvement.
1108.11 Effect of rules.

Authority: 42 U.S.C. 4332, 49 U.S.C. 10321, 5 U.S.C. 553.

§ 1108.1 Purpose.

These rules implement section 102 of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332, and are designed to assure adequate consideration of environmental factors throughout the decisionmaking process.

[4] We note in response to one comment that notice of general freight rate proceedings is provided to the public which would have ample opportunity under existing procedures to comment concerning the energy impacts of such actions.

§ 1108.2 Responsibility for administration of the Commission's NEPA rules.

The Director of the Office of Policy and Analysis is responsible for administration of the Commission's NEPA rules and for the preparation of environmental documents required under such rules.

§ 1108.3 Information and assistance.

Information, including the status of studies, the availability of reference materials, as well as informal interpretations of the Commission's NEPA process and other forms of assistance will be made available upon request to: Energy and Environment Branch (Room 5377), Office of Policy and Analysis, Interstate Commerce Commission, 12th & Constitution Ave. NW., Washington, D.C. 20423, Telephone: 202–275–7916.

§ 1108.4 Definitions.

In addition to those definitions contained in the Council on Environmental Quality's Regulations (40 CFR 1508), the following definitions apply to the Commission's NEPA process:

(a) "Act" means the Interstate Commerce Act, Subtitle IV of Title 49, United States Code, as amended.

(b) "Assessment" means a concise public document for which the Commission is responsible, that serves:

(1) briefly to provide sufficient information for determining whether to prepare an environmental impact statement or to make a finding of no significant impact; and

(2) to facilitate preparation of an environmental impact statement when one is necessary.

(c) "Commission" means the Interstate Commerce Commission.

(d) "Environmental Impact Statement" (EIS) means a detailed written statement as required by section 102(2)(c) of NEPA.

(e) "Finding of No Significant Impact" is a document issued by the Commission briefly presenting the reasons why an action not categorically excluded will not have a significant effect on the quality of the human environment and for which an environmental impact statement therefore will not be prepared.

(f) "Environmental Report" or "report" means an analytical document which briefly evaluates the environmental impacts of a proposed action and alternatives. It is to be filed by an applicant with the Commission pursuant to the requirements of this part.

§ 1108.5 Determinative Criteria.

In determining whether a "major Federal action," as that term is defined at 40 CFR 1508, has the potential to affect significantly the quality of the human environment, the Commission will be guided by the definition of "significantly" at 40 CFR 1508.

§ 1108.6 Classification of actions.

(a) Rail line construction is a class of action that has the potential for significant environmental impact and will normally require an Environmental Impact Statement (EIS).

(b) The following classes of action may involve significant envrionmental impacts, but normally will be addressed in an environmental assessment:

(1) Abandonment, acquisition, or operation of a line of railroad;

(2) Railroad merger, control, or consolidation proceedings;

(3) Discontinuance of passenger trains;

(4) Individial and general freight rate proceedings involving recyclable commodities;

(5) Commutation or suburban passenger fare increases, but only if the proposed increase, when considered together with other increases over the previous 3 years, exceeds by 30 percent (on a compounded basis) the combined inflation rate (as measured by the Consumer Price Index) for those years; and

(6) Legislative proposals, policymakings, and rulemaking proposals affecting carrier operations.

(c) Environmental impacts associated with the following classes of action are insignificant (or ascertainable under other reporting requirements) and, therefore, environmental reports and documentation normally need not be prepared under this part:

(1) Interpretation of operating rights and tariffs;

(2) Proceedings involving only a change in ownership or similar changes, such as issuance of securities or reorganization, but not involving a change in carrier operations including overall levels of employment;

(3) Individual and general freight rate proceedings except to the extent recyclable commodities are involved;

(4) Motor and water carrier, broker, and freight forwarder licensing;

(5) Intercity bus fare adjustments;

(6) Revocation or substantial modification of motor carrier service; and

(7) Applications for common use of rail terminals and trackage rights proceedings.

(d) The classifications established in paragraphs (a), (b), and (c) of this

section are not invariable and, where circumstances warrant, the Commission, on its own initiative or upon request, may reclassify, waive or otherwise

(ii) Will the movement and/or recovery of recyclable commodities be affected? If so, describe the effects.

(iii) Will the proposed action cause

stream salvage operations)? If not, describe any inconsistency.

(ii) Will permits under sections 402 and 404 of the Federal Water Pollution

resulting from new or diverted traffic operating over the new line.

(vi) A description of effects, including impacts on essential public services

submissions. The notice of intent to prepare an environmental impact statement normally will include a preliminary outline of the scope of the

The notice may include a preliminary scope of the environmental study.

(c) Completion of both draft and final EIS's will be announced to the public through a Notice of Availability;

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section are not invariable and, where circumstances warrant, the Commission, on its own initiative or upon request, may reclassify, waive or otherwise modify requirements with respect to any proposed action. Where an action categorically excluded from environmental analysis may have significant environmental impacts, an assessment or an EIS may be prepared.

§ 1108.7 Reporting requirements.

(a) Each applicant initiating one or more of the classes of action identified in sections 1108.6 (a) or (b) must submit with its application an Environmental Report as provided in (c) below which will form the basis of any environmental document. Where it is determined that a report should be prepared by an applicant in a categorically excluded proceeding, the applicant will be notified separately and shall submit a report within time limits established in the notification.

(b) Where information required by this part is otherwise included in applicant's pleadings, it may be incorporated by reference into the Environmental Report.

(c) Each Environmental Report shall respond completely to the following questions relative to the proposed action, to the extent applicable. If a question is inapplicable, so state.

(1) *Alternatives.* Have alternatives to the proposed action (*e.g.*, no action or partial approval) been considered? If so, summarize the major environmental impacts associated with each alternative.

(2) *Transportation System.* (i) Will existing regional or local transportation systems or patterns be substantially affected? If so, describe the effects. (ii) Will traffic (passengers or freight) be diverted to other transportation modes or systems? If so, quantify the extent of expected diversion.

(3) *Land Use.* (i) Is the proposed action consistent with regional and/or local land use plans (Local and/or regional planning agencies should be consulted in this regard)? If not, describe any inconsistency. (ii) Is a designated Coastal Zone Management area involved? If so, is the proposed action consistent with the affected State's Coastal Zone Management program?

(iii) Are designated wetlands or 100-year flood plains affected? If so, describe the effects. (iv) Are prime agricultural lands, as designated by the Soil Conservation Service, affected? If so, describe the effects.

(4) *Energy.* (i) Will the development of transportation of energy resources be affected? If so, describe the effects.

(ii) Will the movement and/or recovery of recyclable commodities be affected? If so, describe the effects.

(iii) Will the proposed action cause diversion of traffic from rail to motor carriers in excess of (A) 1,000 rail carloads per year or (B) an average of 50 rail carloads per mile per year for all or any part of an affected rail line? If so, quantify the net change in energy consumption as a result of diversion, providing commodity, tonnage, and carload data by station where only part of an affected rail line is involved.

(5) *Air.* Will the proposed action result in (i) a minimum increase in rail traffic of 50 percent or three trains per day on an affected rail line, (ii) an increase in rail yard activity of 20 percent as measured in carload activity or (iii) an increase in motor carrier traffic of either 50 vehicles per day or an increase in truck traffic exceeding 10 percent of the average daily traffic on a given highway segment? If any of the enumerated thresholds is exceeded, quantify the anticipated increase in air emissions. If a class I or nonattainment area is affected, are increased emissions within parameters of the affected State Implementation Plan?

(6) *Noise.* If any of the thresholds identified in item (5) is surpassed, will the proposed action cause an increase in noise levels exceeding either (i) a four decibel incremental increase or (ii) 65 decibels (Utilize the Leg method or its equivalent in Ldn. See *e.g.*, U.S. Environmental Protection Agency, Protective Noise Levels (Nov. 1978))? If so, are sensitive receptors (*e.g.*, schools, libraries, and hospitals) in the affected area? If so, how much above existing or ambient conditions will noise increase for senstive receptors?

(7) *Safety.* Will public health or safety (including vehicle delay time at railroad grade crossings) be affected? If so, describe the effects.

(8) *Wildlife.* (i) Will endangered or threatened species be affected or will critical habitants be destroyed or modified (usually considered only in the context of construction and abandonment proceedings for which applicant should consult with the Fish and Wildlife Service or the Marine Fisheries Service)? If so, describe the effects.

(ii) Will wildlife sanctuaries or refuges, National of State parks or forests be affected? If so, identify each affected site and describe the impacts.

(9) *Water.* (i) Is the proposed action consistent with applicable Federal, State and/or local water quality standards (usually considered only in the context of rail line construction applications and abandonments which will require in-stream salvage operations)? If not, describe any inconsistency.

(ii) Will permits under sections 402 and 404 of the Federal Water Pollution Control Act (33 U.S.C. 1342, 1344) be required? If so, have permits been sought or issued?

(10) *Historic.* (i) Are sites or structures listed in the *National Register of Historic Places* affected? If so, describe the effects.

(ii) Will sites or structures 50 years old or older be affected? If so, and such sites or structures are not listed in the *National Register of Historic Places*, applicant would submit, at the earliest possible juncture, a description of the line, including a map, as well as photographs and descriptions of such structures to the appropriate State Historic Preservation Office for review and include a copy of the cover letter in the Environmental Report.

(iii) Will culturally significant locations, archaeological sites, or unique land forms be affected (usually considered only in the context of rail line construction applications)? If so, applicant should consult with the involved State Historic Preservation Office.

(11) *Additional Reporting Requirements for Rail Line Construction Cases Only.* In addition to the reporting requirements enumerated above, the following information (which is not necessarily all-inclusive) should be included in Environmental Reports submitted for rail line construction applications:

(i) A description of the proposed route corridor and line location by State, county, and subdivision with a plan view at a scale not to exceed 1:24,000 (7½ minute U.S.G.S. quadrangle map) showing the relationship to the existing transportation network including the location of all highway and road crossings together with right-of-way requirements according to ownership and land use type.

(ii) A description of alternative route corridors considered by the applicant together with a statement of reasons for not selecting such corridors.

(iii) A description of construction plans including labor force requirements, the location of borrow pits, if any, and earthwork estimates.

(iv) A description of operations to be conducted upon project completion including freight to be transported, the annual number of train movements and types of cars, motive power requirements, estimated labor force, and proposed maintenance-of-way practices.

(v) A description of the effects, including indirect or down-line impacts, resulting from new or diverted traffic operating over the new line.

(vi) A description of effects, including impacts on essential public services (*e.g.*, fire, police, ambulance, neighborhood schools, et cetera) for communities traversed by the proposed line.

(vii) A discussion of societal impacts including expected change in employment both during and after construction, and the expected net change in annual salaries and wages by county for those counties which will experience a net change of 50 or more employees.

(viii) A description and assessment of the impacts associated with the construction period and a description of mitigation measures planned to minimize each adverse impact.

(d) Where thresholds identified in (c) above are exceeded or where the proposed action otherwise may cause materially adverse impacts, the report should consider and describe appropriate mitigating measures.

(e) Submission of materials and information called for by this part shall not preclude the Energy and Environment Branch from requiring additional pertinent information necessary to make a determination of the proposed action's environmental significance.

(f) The Commission, on its own initiative or upon request, may waive or modify, in whole or part, the provisions of this section. Waiver generally is appropriate where it can be shown that materially adverse environmental impacts will not flow from a proposed action or where other circumstances are present under which the filing of an Environmental Report would constitute an unreasonable burden.

§ 1108.8 Scoping.

(a) Scoping is normally employed in actions for which an EIS is prepared (1) to identify environmental issues which should be treated and (2) to deemphasize insignificant issues, narrowing the scope of the environmental impact statement process accordingly. Where the Commission is preparing an EIS in cooperation with other agencies, the scoping process may be used to allocate responsibility for the preparation of parts of the EIS among lead and cooperating agencies. If, in preparing an environmental assessment, it becomes apparent that the proposed action has the potential to affect significantly the quality of the human environment, the scoping process generally will be engaged.

(b) Scoping generally will be accomplished through written submissions. The notice of intent to prepare an environmental impact statement normally will include a preliminary outline of the scope of the study to be conducted. Written comments addressing the proposed scope will be invited. All comments received will be considered before a final scoping plan for the environmental study is formulated and published. Where appropriate (typically where issues are complex and in dispute) scoping may take place at a meeting which will be open to interested agencies, parties, and the public.

§ 1108.9 Timing, comments, and Commission action.

(a) Applicants are encouraged to consult with the Energy and Environment Branch for guidance at the earliest possible time prior to instituting a formal proceeding.

(b) If construction and operation of a rail line is contemplated, the prospective applicant is required to notify the Energy and Environment Branch of its intention before beginning work on its Environmental Report, but at least 6 months prior to the date its application is to be filed.

(c) Written comments on a draft EIS will normally be accepted during the 45-day period following service of the draft EIS.

(d) Where oral hearings are to be held in a proceeding for which an EIS has been prepared, the draft EIS will normally be made available to the public at least 15 days prior to any portion of the hearing relating to the EIS.

(e) To the maximum extent practicable, no decision will be made on the merits of an application for at least 90 days following service of the draft EIS and 30 days following service of the final EIS.

(f) The Commission, on its own initiative or upon request, may waive or modify the provisions of this section relative to timing, comments, and Commission action.

§ 1108.10 Commission procedures and public involvement.

(a) All Environmental Reports and related material will be analyzed independently by the Energy and Environment Branch at the earliest opportunity and environmental documentation, as necessary, will be prepared. All environmental documentation will be made available to parties and the public.

(b) A Notice of Intent to prepare an EIS will be published in the **Federal Register** upon a determination that a proposed major action has the potential for significant environmental impacts. The notice may include a preliminary scope of the environmental study.

(c) Completion of both draft and final EIS's will be announced to the public through a Notice of Availability published (normally by the Environmental Protection Agency) in the **Federal Register**. A Notice of Availability of a draft EIS will invite comments and fix the commenting period. Copies of draft and final EIS's will be served on all parties to the proceeding who have filed an Environmental Report, on Federal agencies with jurisdiction by law or special expertise, and as otherwise appropriate. All other parties will receive by mail a notification that the draft or final EIS has been prepared. These parties and other interested persons may obtain copies of the draft or final EIS upon request made to the Commission's Energy and Environmental Branch.

(d) Comments on a draft EIS will be considered by the Branch. In response to comments any one or more of the following measures may be taken:

(1) Modify findings with respect to alternatives including the proposed action;

(2) Develop and evaluate alternatives of merit not previously given serious consideration;

(3) Supplement, improve, or modify the statement as relevant;

(4) Make factual corrections;

(5) Explain why comments do not warrant further response;

(6) Take such other action as may be necessary consistent with the basic purposes of NEPA and relevant authorities.

(e) If an EIS is supplemented, notice and comment procedures outlined above will be followed to the extent practicable.

(f) Other environmental documents (*e.g.*, Environmental Assessments and Findings of No Significant Impact) will be made available to the public.

(g)(1) A Finding of No Significant Impact or an Assessment prepared for an action in which formal adjudicative proceedings are ordered will be made available through notice which will be served on parties of record and published in the **Federal Register** and/or published in newspapers in the affected area. The notice will invite comments and fix the commenting period.

(2) Comments on a Finding of No Significant Impact or an Assessment will be considered by the Energy and Environment Branch. If warranted, any one or more of the measures outlined in paragraph (d) of this section may be taken in response to comments on Findings of No Significant Impact or

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Assessments. In addition, if major issues suggesting significant environmental impacts were overlooked, further evaluation in the form of an EIS may be recommended.

(h) Commission staff responsible for preparing an environmental document shall be subject to cross-examination on the contents of the draft document only where good cause is shown. Good cause contemplates, among other things, a showing that normal written commenting procedures are inadequate.

(i) All final environmental documents including supplements together with comments and responses, if any, and other relevant material will become part of the record of the proceeding, including formal rulemaking and adjudicatory proceedings. The documents shall accompany the proposal through the existing agency review processes.

(j) The decisionmaker will consider the range of alternatives discussed in environmental documents.

§ 1108.11 Effect of rules.

These rules repeal the reporting requirements contained in 49 CFR 1106 for those classes of action described in §§ 1106.5(a) (1), (2), (5), (7), and (9). The reporting requirements contained in 49 CFR 1106 are repealed for that class of action described in § 1106.5(a)(3) only to the extent that the threshold specified in 49 CFR 1108.6(b)(5) is exceeded.

363 I.C.C.

[FR Doc. 80-37335 Filed 12-1-80; 8:45 am]
BILLING CODE 7035-01-M

49 CFR Part 1111

[Finance Docket No. 30,000 [1]; Ex Parte No. 282 (Sub-3)]

Union Pacific Corporation and Union Pacific Railroad Company—Control—Missouri Pacific Corporation and Missouri Pacific Railroad Co.; Railroad Consolidation Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Correction of Final Procedural Rules.

SUMMARY: The Commission has revised the procedural requirements for applications which seek authority to enter a transaction under the provisions of 49 U.S.C. 11343–11346. A class of persons (railroads involved in enumerated transactions) have been exempted from regulation. The Commission has decided to dismiss several petitions for waiver and clarification filed in response to those rules. Petitioners will receive the relief they seek because the Commission has determined that a provision of a final rule published in September was incorrectly included in those rules. The Commission is substituting a provision which had appeared in an earlier notice of proposed rulemaking to correct the final rule.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: Ernest B. Abbott (202) 275–3002.

SUPPLEMENTARY INFORMATION: In its petition filed November 7, 1980, the Burlington Northern Inc. (BN) requests us to clarify or waive Section 1111.4(d)(5) of our Consolidation Procedures as they appear at 45 FR 62998 (September 23, 1980). That provision would require protestants in a consolidation proceeding to file traffic studies and all testimony in opposition to the proceeding within 90 days after the primary application has been accepted.

BN requests that we either clarify or waive this provision in order to permit protestants to file all opposition testimony and evidence not later than 45 days after the close of applicants' case-in-chief. BN states that if § 1111.4(d)(5) is not waived, parties will be required to file opposition testimony by January 13, 1981. BN claims that this deadline would not give protestants adequate time to analyze material obtained through discovery, and would not allow protestants to incorporate into their direct case any information derived from the written comments of other parties or from cross-examination of applicants' witnesses. BN further argues that the requirement that opposition testimony be filed within 90 days of acceptance of the primary application was adopted without notice and comment and therefore, violates the Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*

The Missouri-Kansas-Texas Railroad Company and the Southern Pacific Transportation Company and St. Louis Southwestern Railway Company have filed petitions in support of the BN's petition. Applicants Union Pacific Corporation, Pacific Rail System, Inc., Union Pacific Railroad Company, Missouri Pacific Railroad Company and the Western Pacific Railroad Company oppose BN's request.

After reviewing our records, we have determined that § 1111.4(d)(5) was incorrectly published in the **Federal Register**. That provision was inserted in the final rule through a notice to the parties from Secretary Mergenovich, served September 19, 1980, and was not voted upon by the Commission. Therefore, the provision is not part of our final rule and is not effective, for this or any other consolidation proceeding.

However, the text of the supplementary information accompanying the final Consolidation Procedures indicates that the Commission has considered that portion of subsection (d)(5) which requires any protestant planning to question the accuracy of diversion estimates to submit its own traffic study within 90 days after acceptance of the primary application. That portion of subsection (d)(5) was proposed in November 1979,[2] and therefore, was subject to public comment. Only the Soo Line Railroad Company (Soo Line) had anything to say about the provision; it requested that the 90 day deadline for responsive traffic studies be extended to 150 days. In the Supplementary Information accompanying adoption of final consolidation procedures,[3] we declined to implement the Soo Line's suggestion and stated that we intended to retain the proposed 90 day deadline.

For the reasons stated in the **Federal Register** notice promulgating our final *Railroad Consolidation Procedures*, 45 FR 62991 *et seq.*, September 23, 1980, we have decided to adopt our November 1979 proposal limiting the time for filing opposing traffic studies.[4] Therefore, accordingly, § 1111.4 has been corrected by the substitution of the following subparagraph:

§ 1111.4(d)(5) In order for a protestant to question the accuracy of diversion estimates, other than through cross-examination, it must prepare and file with the Commission a traffic study that complies with the requirements of § 1111.2(b)(3). This traffic study must be filed within 90 days after the primary application is accepted.

We will not today set a deadline in Finance Docket No. 30,000 *et al.* for protestants' direct evidence. This and other deadlines which we have not previously set will be scheduled by the Administrative Law Judge assigned to the proceeding.

It is ordered:

1. Part 1111 of Title 49 of the Code of Federal Regulations is corrected as described above.

2. The petitions for clarification and/or waiver filed by the Burlington Northern, Inc., the Missouri-Kansas-Texas Railroad Company and the Southern Pacific Transportation Company and the St. Louis Southwestern Railway Company are dismissed.

3. This decision is effective on November 24, 1980.

Decided: November 21, 1980.

By the Commission. Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis and Gilliam. Commissioner Clapp absent and not participating in the disposition of this proceeding.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-37438 Filed 12-1-80; 8:45 am]
BILLING CODE 7035-01-M

[1] Embraces Finance Dockets Nos. 30,000 (Sub-Nos. 1–10) and Nos. MC–F–14448 and 14449.

[2] 44 FR 66626, November 26, 1979.

[3] 44 FR 62994 September 23, 1980.

[4] 44 FR 66626 November 26, 1979.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

Salmon Fishery; Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Clarification to regulations.

SUMMARY: Final regulations for the commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California were published on Thursday, July 31, 1980 (45 FR 50764). The proposed regulations which had been published on May 1, 1980 (45 FR 29250) contained language in § 661.4 relating to the effective date which, in the final regulations, was deemed redundant. However, in order to dispel any question about the effective dates of these regulations, the public is advised that these regulations are effective until superseded or otherwise modified. This is consistent with the 1980 amendment to the plan for the commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, Regional Director, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109. Telephone: (206) 422–7575.

Signed this 26th of November, 1980.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 80-37498 Filed 12-1-80; 8:45 am]
BILLING CODE 3510-22-M

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Proposed Rules

Federal Register
Vol. 45, No. 233
Tuesday, December 2, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 982

Filberts Grown in Oregon and Washington; Proposed Free and Restricted Percentages for the 1980–81 Marketing Policy Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would establish free and restricted percentages of 29 percent and 71 percent, respectively, for inshell filberts for the marketing policy year beginning August 1, 1980. The action is taken under the marketing order for filberts grown in Oregon and Washington to promote orderly marketing conditions.

DATES: Written comments to this proposal must be received by December 12, 1980.

ADDRESSES: Send two copies of comments to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, where they will be made available for inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5053. The Draft Impact Statement describing the options considered in developing this proposal and the impact of implementing each option is available on request from J. S. Miller.

SUPPLEMENTARY INFORMATION: This proposal has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044 and has been classified not "significant".

J. S. Miller has determined that an emergency situation exists which warrants less than a 60-day comment period. The final regulation would apply to 1980 crop filberts which handlers will be receiving and processing in volume soon. Therefore, they need to know as soon as possible what volume regulations may apply to the handling of this crop to plan their operations.

This proposal was recommended by the Filbert Control Board. The Board is established under the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The proposed percentages are based upon the following estimates by the Filbert Control Board for the 1980–81 marketing policy year.

	Tons
Inshell supply:	
(1) Total Production	14,500
(2) Less substandard, farm use, etc.	435
(3) Merchantable production	14,065
(4) Plus carryover August 1, 1980, subject to regulation	133
(5) Supply subject to regulation (item 3 plus item 4)	14,198
Inshell requirements:	
(6) Trade demand	4,500
(7) Plus carryover July 31, 1981, for needs early next season	700
(8) Total	5,200
(9) Less carryover August 1, 1980, not subject to regulation	1,126
(10) Inshell requirements	4,072
Percentages:	
(11) Free percentage (item 10 divided by item 5)	29
(12) Restricted percentage (100 percent minus 29 percent)	71

The free percentage prescribes that portion of the merchantable supply subject to regulation which may be handled as inshell filberts. The restricted percentage prescribes that portion which must be withheld from such handling. Restricted filberts may be shelled (for domestic or foreign consumption), exported, or disposed of in outlets determined by the Filbert Control Board to be noncompetitive with normal market outlets for inshell filberts.

The proposal is as follows:

§ 982.230 Free and restricted percentages—1980–81 marketing policy year.

The free and restricted percentages for merchantable filberts for the 1980–81 marketing policy year shall be 29 percent and 71 percent, respectively.

Dated: November 25, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 80-37336 Filed 12-1-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1135

[Docket No. AO–380]

Milk in the Southwestern Idaho-Eastern Oregon Marketing Area; Notice of Extension of Time for Filing Exceptions to the Revised Recommended Decision on Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing exceptions to proposed rule.

SUMMARY: This notice extends the time for filing exceptions to a revised recommended decision concerning a proposed order for the Southwestern Idaho-Eastern Oregon marketing area. Counsel for proponent cooperative associations requested additional time to complete an analysis of the decision.

DATE: Exceptions now are due on or before December 8, 1980.

ADDRESS: Exceptions (4 copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued October 19, 1978; published October 24, 1978 (43 FR 49704).

Correction: Published October 27, 1978 (43 FR 50187).

Correction: Published November 13, 1978 (43 FR 52496).

Extension of time for filing briefs: Issued February 23, 1979; published February 28, 1979 (44 FR 11236).

Recommended decision: Issued August 13, 1979; published August 16, 1979 (44 FR 48128).

Extension of time for filing exceptions: Issued September 14, 1979; published September 19, 1979 (44 FR 54307).

Notice of reopened hearing: Issued November 27, 1979; published November 30, 1979 (44 FR 68853).

Notice of rescheduling of reopened hearing: Issued December 19, 1979; published December 27, 1979 (44 FR 76551).

Revised recommended decision: Issued October 21, 1980; published October 27, 1980 (45 FR 71198).

Notice is hereby given that the time for filing exceptions to the above listed revised recommended decision is hereby extended to December 8, 1980.

This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Signed at Washington, D.C., on November 28, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-37435 Filed 12-1-80; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Quality Service

7 CFR Part 2859

9 CFR Parts 308 and 381

Prohibition of Polychlorinated Biphenyls (PCB's) and PCB-Containing Equipment or Machinery and Liquid PCB in Federally Inspected Meat Establishments, Poultry Product Establishments and Egg Product Plants; Extension of Comment Period

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Extension of comment period.

SUMMARY: On May 9, 1980, the Department of Agriculture (USDA), the Food and Drug Administration (FDA), and the Environmental Protection Agency (EPA) announced individual proposed regulations affecting the use of PCB-containing equipment in food, feed, agricultural pesticide and fertilizer facilities. On October 28, 1980, the comment periods on each were extended to December 4, 1980, in order to conduct an informal public meeting and allow submission of additional comments on these proposals. This notice extends the written comment period on the USDA proposal an additional 90 days, until March 4, 1981. Elsewhere in this issue of the **Federal Register** are notices extending the comment periods on the FDA and EPA proposals.

DATE: Written comments must be received on or before March 4, 1981.

ADDRESS: Written comments and requests for transcripts of the November 7, 1980, meeting between the agencies and industry representatives may be sent to: Regulations Coordination Division, Attn: Annie Johnson, Room 2637, South Agriculture Building, Food Safety and Quality Service, Compliance Program, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: For information on the technical aspects of the proposals contact: Mr. Bartie T. Woods, Director, Facilities, Equipment and Sanitation Division, Meat and Poultry Inspection Program, U.S. Department of Agriculture, Food Safety and Quality Service, Washington, D.C. 20250, (202) 447–5627.

SUPPLEMENTARY INFORMATION: On May 9, 1980, USDA proposed to require that all equipment or machinery containing liquid PCB at levels greater than 50 parts per million (ppm) by weight (except capacitors with less than 3 pounds of PCB's) would have to be either removed from the meat, poultry, and egg product plants and establishments under its inspection, or drained and flushed so that they no longer contain PCB's in the liquid medium at levels greater than 50 ppm by weight. In addition, any liquids with PCB's above 50 ppm could no longer enter or be held on the premises for any reason (45 FR 30980–30983). This proposal was one of three proposals coordinated and issued by USDA, FDA, and EPA on the use of PCB-containing equipment or machinery in or around food, feed, food-and-feed-packaging material plants or storage facilities and in facilities manufacturing, processing, or storing fertilizers or agricultural pesticides (45 FR 30980; 30984; 30989).

The close of the comment period for the USDA proposal has been extended twice. It was extended from July 7, 1980, to November 4, 1980 (45 FR 44317), and for an additional 30 days from November 4, 1980, to December 4, 1980 (45 FR 71364). The comment periods on the FDA and EPA proposals were similarly extended. FDA extended its comment period from July 7, 1980, to November 4, 1980 (45 FR 44325), and EPA extended its comment period from July 8, 1980, to November 5, 1980 (45 FR 47168). The October 28, 1980, notice (45 FR 71364) was a joint USDA/FDA/EPA extension of the comment periods on all three proposals to December 4, 1980.

The last extension was granted to allow interested persons to meet with the three agencies on an informal basis to make presentations on a number of issues concerning the proposals and to submit written comments subsequent to the meeting. The joint agency meeting was held on November 7, 1980, in Washington, D.C. A number of industry representatives attended. Most of the oral presentations concerned the possible adverse economic impacts of the proposed actions. In addition, requests were made at the meeting, and subsequently in writing, to further extend the comment period on the proposals. Transcripts of the meeting are now available from the Department of Agriculture, Food Safety and Quality Service.

USDA, after consultation with FDA and EPA, has concluded that an additional 90-day extension of the written comment period on its proposal should be granted. The extent of the foreseeable economic impacts on the food industry, as raised at the meeting, and the consequent need to fully explore all alternatives prior to final rulemaking warrant this extension. This extension will also allow for comment by the people who did not attend the November 7, 1980, meeting, based upon the transcript of that meeting.

Elsewhere in this issue of the **Federal Register** are notices extending the comment periods for the FDA and EPA proposals.

Done at Washington, D.C., on November 26, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 80-37436 Filed 12-1-80; 8:45 am]

BILLING CODE 3410-DM-M

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Action Plan Developed as a Result of the Three Mile Island Accident

AGENCY: Nuclear Regulatory Commission.

ACTION: Extension of comment period.

SUMMARY: The Commission is further extending the comment period on the "NRC Action Plan Developed as a Result of the TMI–2 Accident", NUREG–0660 (45 FR 50613). The initial comment period expired October 28, 1980, and was extended by the Commission to December 12, 1980 (45 FR 76446). This extension is necessary to permit public comment on recent modifications to the Plan.

DATE: Comment period expires December 24, 1980.

ADDRESSES: Written comments should be sent to the Secretary of the Commission, Attention: Docketing and Service Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Mr. Warren Minners, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone 301–492–7581).

SUPPLEMENTARY INFORMATION: On July 30, 1980, the Commission published the "NRC Action Plan Developed as a Result of the TMI–2 Accident", NUREG–0660 (45 FR 50613). Public comments on the Plan were to be filed by October 28, 1980. This period was later extended to December 12, 1980 (45 FR 76446).

After initial publication of the Plan in July, 1980, the NRC staff developed clarifications and supplements on those portions of the Plan approved by the

ADDRESS: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555,

identified during the comment period on this Notice of Intent.

Although the NRC staff considered a wide range of information in arriving at

the approach).[2] Indicate why any identified alternatives are not worthy of further consideration.

2. Address the relevancy of the issues identified in Appendix B and the staff's

each of the criteria will also be defined (see Appendix B).

The scoping process will be completed by the preparation and publication of a Scoping Summary Report. This report

III.2.b.1 Siting Policy Task Force recommendation (ANR, Item B, Alternative A).

III.2.b.2 Three tier approach (ANR, Item B, Alternative B).

After initial publication of the Plan in July, 1980, the NRC staff developed clarifications and supplements on those portions of the Plan approved by the Commission. These revisions were reviewed and approved by the Commission, and were issued on October 31, 1980, as "Clarification of TMI Action Plan Requirements", NUREG–0737. This extension of the public comment period is intended to permit comment on the Action Plan as revised by NUREG–0737.

Copies of both NUREG–0660 and NUREG–0737 are available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. Copies of these documents may be obtained by those wishing to comment (at no charge) by written request addressed to: NRC GPO Sales Program, Attention: Sales Manager, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (phone 301–492–9530).

Dated at Bethesda, Maryland, this 25th day of November, 1980.

For the Nuclear Regulatory Commission.

Frank Schroeder,

Acting Director, Division of Safety Technology, NRR.

[FR Doc. 80-37308 Filed 12-1-80; 8:45 am]

BILLING CODE 7590-01-M

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10 CFR Parts 50, 51, and 100

Environmental Impact Statement for Reactor Siting Criteria

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement for Revision of the Regulations Governing the Siting of Nuclear Power Plants.

SUMMARY: On July 29, 1980, the Nuclear Regulatory Commission published for comment "Advance Notice of Rulemaking: Revision of Reactor Siting Criteria" (ANR) in the **Federal Register** (45 FR 50350). As part of this rulemaking, the NRC intends to prepare an Environmental Impact Statement (EIS). This notice of Intent requests comment on (1) the range of alternatives which should be evaluated for each of the items identified in the ANR as suitable to be addressed in the regulations, and (2) the issues which should be evaluated in the EIS.

DATE: Comment period expires January 16, 1981.

Note.—Comments received after the expiration date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed on or before that date.

ADDRESS: Written comments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docket and Service Branch.

Single copies of the "Advance Notice of Rulemaking: Revision of Reactor Siting Criteria" and the "Report of the Siting Policy Task Force," NUREG–0625, may be obtained without charge by writing to the Director, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

IAEA Safety Guide 50–SG–S4, "Site Selection and Evaluation for Nuclear Power Plants with Respect to Population Distribution," (International Atomic Energy Agency, Vienna, 1980) may be examined at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. or at local public document rooms in the vicinity of nuclear power plant sites or copies may be purchased from UNIPUB, 345 Park Avenue South, New York, NY 10010.

FOR FURTHER INFORMATION CONTACT: Contact Dr. William R. Ott, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 443–5966.

SUPPLEMENTARY INFORMATION: This Notice of Intent is part of the scoping process for the EIS which the NRC is planning to prepare in connection with the proposed revision of its regulations governing the siting of nuclear power plants. The purpose of this scoping process is to define both the alternatives (for specifying criteria for identified topics) which will be examined in detail and the issues tat will be addressed in comparing the alternatives in the environmental impact statement.

Scope of the Rulemaking and the Environmental Impact Statement

The items under consideration for rulemaking were identified in "Advance Notice of Rulemaking: Revision of Reactor Siting Criteria" (45 FR 50350) (ANR) and are listed in Table 1. This set of items together with the restrictions established in the ANR establishes the presently intended scope of the rulemaking. Additional items identified by commenters will be considered if the NRC staff judges that they are sufficiently important to the overall success of this rulemaking that they require immediate resolution. Specific alternatives for establishing criteria with respect to some of these items were listed in the ANR. In addition, for the purposes of the scoping process for the EIS, the NRC staff will consider alternatives for criteria that may be identified during the comment period on this Notice of Intent.

Although the NRC staff considered a wide range of information in arriving at the recommendations [1] which formed the main thrust of the ANR, additional technical studies will be required to fully document the impacts of the proposed criteria and reasonable alternatives to those criteria. The NRC staff has developed a tentative outline for the EIS to aid in identifying areas in which additional studies will be needed. Appendix A presents this tentative outline with notations after appropriate sections indicating whether the ANR or the NRC FY 1980 Authorization Act is the primary basis for the section. Appendix B presents a more detailed discussion of the technical approach for assessing issues that the NRC staff believes may be important in making informed choices among the alternatives.

Table 1.—Items Under Consideration for Rulemaking

- Demographic criteria
  - Fixed exclusion distance
  - Fixed protective action distance
  - Population density
  - Population distribution
- Minimum standoff distance from external hazards
  - Airports
  - LNG and LPG terminals and pipelines
  - Large quantities of explosive or toxic materials
  - Major dams
  - Navigable waterways which are transportation routes for hazardous materials
  - Other nuclear power plants
- Interdiction of contaminated groundwater
- Consideration of post-licensing changes in off-site activities
- Prohibition of sites requiring unique or unusual design to compensate for site inadequacies
- Site approval at earliest decision point; criteria for reopening
- NRC review termination upon State agency disapproval

Relative to the issues identified in the appendices, comments will be most useful which:

1. Suggest other realistic alternatives to those presented in Appendix A, Chapter III (e.g., a specific approach or combination of approaches for establishing demographic criteria together with a technical justification of

[1] "Report of the Siting Policy Task Force," NUREG–0625, August 1979.

the approach).[2] Indicate why any identified alternatives are not worthy of further consideration.

2. Address the relevancy of the issues identified in Appendix B and the staff's planned approach to analysis of these issues.

3. Identify and justify any other issues which should be considered in this rulemaking.

Scoping Process for the EIS

The scoping process for the EIS will consist of publication of the ANR and this Notice of Intent and consideration of the comments on each in preparation of the Scoping Summary Report. No public scoping meeting is planned; participation in the scoping process will be limited to written responses to this Notice of Intent. A special mailing of this Notice will be made to persons, organizations and agencies who have indicated an interest in this subject area. Federal agencies identified by the Council on Environmental Quality as having special expertise in this area will be included in this mailing. Other agencies which have jurisdiction by law or special expertise with respect to any environmental impact involved, or which are authorized to develop and enforce relevant standards are invited to participate in this scoping effort. Affected State and local agencies or any affected Indian tribes that wish to participate by commenting are invited to do so. At the conclusion of the comment period for this Notice of Intent, the NRC staff will assess the comments on both this Notice and the ANR; and will define the alternative criteria which will be considered in detail in the EIS. Since there will likely be considerable overlap and redundancy amongst various suggested alternative criteria, the staff will utilize its judgment and experience to establish a reasonable number of alternatives (which may differ from those tentatively listed in Appendix A) that have significant differences but have a good chance of equitably establishing appropriate siting restrictions for future nuclear power plants. The issues to be examined for each of the criteria will also be defined (see Appendix B).

The scoping process will be completed by the preparation and publication of a Scoping Summary Report. This report will include a final statement of the items that will be covered in this rulemaking, the reasons for deleting any of the items included in the ANR and a revised and more detailed outline for the EIS. A brief description of the reasons for including alternative criteria not presently identified, eliminating alternatives presently under consideration or combining similar alternatives will be presented. The report will also identify any issues with respect to these alternatives which have been included for detailed examination or have been dismissed from further consideration as peripheral, insignificant or adequately covered elsewhere. The report will also provide information on (1) the schedule for completion of the rulemaking, (2) related environmental studies, and (3) arrangements for others to prepare background information for the EIS. Copies of this report will be distributed to those who participated in the scoping process by commenting on the ANR or Notice of Intent.

Appendix A—Tentative Table of Contents for Siting EIS

I. Summary

I.1 Introduction.
I.2 Description of Proposed Action.
I.3 Description of Alternatives.
I.4 Summary of Major Issues (Including Unresolved Issues).
I.5 Identification of Preferred Alternatives.

II. Purpose and Need for the Action

II.1 Purpose of Promulgation of Reactor Siting Criteria.
II.2 Need for Reactor Siting Criteria; discussion of No Action Alternatives.

III. Identification of Alternatives

III.1 Introduction.
III.1.a. Discussion of AND and EIS Scoping Process as determinants of Scope of Rulemaking and Analyses of Alternatives.
III.1.b. Long Term Goals for Revision of Siting Criteria; Rationale for Selection of Criteria (ANR, Item A)
III.1.b1 Separation of siting from design (LWR specific?).
III.1.b.2 Desired degree of remoteness; regionalization.
III.1.b.3 Consideration of accidents beyond the design basis.
III.1.b.4 Attainable risk for nuclear compared to risks from other power generation sources (Individual vs. Societal Risk).
III.2 Demographic Criteria (ANR, Item B; NRC FY 80 Authorization Act).
III.2.a. Exclusion distance (ANR, Item B).
III.2.b. Specification of population density limit (ANR, Item B).
III.2.b.1 Siting Policy Task Force recommendation (ANR, Item B, Alternative A).
III.2.b.2 Three tier approach (ANR, Item B, Alternative B).
III.2.b.3 Single limit (ANR, Item B, Question 2).
III.2.b.4 Incorporation of meteorological and topographical constraints (ANR, Item B, ACRS comments).
III.2.c. Specification of population distribution limit (ANR, Item B).
III.2.c.1 Siting Policy Task Force recommendation (ANR, Item B, Alternative A).
III.2.c.2 Three tier approach (ANR, Item B, Alternative B).
III.2.c.3 Single value, uniform limit (ANR, Item B, Question 2).
III.2.c.4 Incorporation of meteorological and topographical constraints (ANR, Item B, ACRS comments).
III.3 Restrictions on Proximity to External Hazards (ANR, Item C).
III.3a. Practicality of proximity limitation (i.e. standoff distance) for each type of hazard (ANR, Item C, Alternative A).
III.3.b. Feasibility of design performance requirements (ANR, Item C, ACRS comments with regard to other nuclear plants).
III.3.c. Three tier approach (ANR, Item C, Alternative B).
III.3.d. Defer generic resolution; continue case-by-case determinations.
III.4 Capability to Interdict Contaminated Groundwater (ANR, Item D).
III.4.a. Unacceptable site characteristics plus performance requirements.
III.4.b. Performance requirements.
III.4.c. Case-by-case review for compliance with performance requirements.
III.5 Post-Licensing Changes in Offsite Activities (ANR, Item E).
III.5.a. Passive controls (ANR, Items F1, F2).
III.5.a.1 Private sector; notification requirements.
III.5.a.2 Local authorities; information requirements.
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III.5.b. Generic responses restricting plant operation; criteria for action (ANR, Item F4, Questions 2 and 3).
III.5.c. Legislation to acquire direct control (ANR, Item F, Question 1).
III.6 No site characteristics requiring unique or unproven compensating design features. (Alternative is case-by-case design review.) (ANR, Item G).
III.7 Site approval at earliest decision point. (Alternative is no action.) (ANR, Item H).
III.8 Termination of Review Upon Disapproval by State Agency Whose Approval is Necessary (ANR, Item I).
III.8.a. Letter from governor (ANR, Item I, Question 2).
III.8.b. State designated overall approval authority (ANR, Item I, Question 2).
III.8.c. Any State Agency (ANR, Item I, Question 2).
III.8.d. No Response to State Agency Disapprovals (ANR, Item I, Question 2).

[2] To help the public provide informed comment on the range of alternatives for setting demographic criteria which may be appropriate for consideration in the EIS, copies of IAEA Safety Guide 50–SG–S4 "Site Selection and Evaluation for Nuclear Power Plants with Respect to Population Distribution" are available for examination at the Commission's Public Document Room at 1717 H Street NW., and at all local Public Document Rooms. This guide presents a survey of procedures used by regulatory authorities in IAEA member nations for considering population in reactor reviews. There is no special significance given to any of these approaches by the NRC staff but this summary does present most of the alternatives which may be reasonable to consider in establishing demographic criteria.

IV. Issues Important to the Specification of Reactor Siting Criteria

IV.1 Radiological Source Terms (Releases) and the Consequences of a Full

Proposed criteria will be compared with realistic alternatives on the basis of impacts on public health and safety. For demographic criteria this means that

availability and violation of safety criteria. The benefits of regionally based criteria versus nationwide criteria will be examined. Basic information will be

capability for groundwater interdiction would be examined.

X. *Issue:* Post-Licensing Land Use Control.

Proposed Analytical Approach: (EIS Section IV.8.)

The implications of establishing automatic review termination with

and the Bureau of Consumer Protection's study on the duplication of eyeglass lenses without a prescription (entitled "A Comparison of a Random Sample of

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IV. Issues Important to the Specification of Reactor Siting Criteria

IV.1 Radiological Source Terms (Releases) and the Consequences of a Full Range of Accidents (ANR, Item B; NRC FY 80 Authorization Act).

IV. 2 Feasibility of Protective Actions (ANR, Item B, ACRS comments; NRC FY 80 Authorization Act).

IV.2.a. Population effects.

IV.2.b. Transportation constraints.

IV.2.c. External hazard initiators.

IV.3 Site Availability (NRC FY 80 Authorization Act).

IV.3.a. Population density and distribution criteria effects (Meterorology, topography, and regionalization) (ANR, Item B).

IV.3.b. Effects of Physiographic constraints (NRC FY 80 Authorization Act).

IV.3.c. Land use/external hazards considerations (ANR, Item C).

IV.3.d. Impacts of criteria with respect to alternative fuels (ANR, Item A).

IV.3.e. Groundwater interdiction requirements effects (ANR, Item D).

IV.3.f. Use of Existing sites or Federal lands (ANR, Item F).

IV.3.g. Effect of prohibition on sites requiring unusual or unproven design to compensate for site deficiencies (ANR, Item G).

IV.4 Socioeconomic Impacts.

IV.5 Serverity of External Hazards (ANR, Item C).

IV.6 Effects of Post-Licensing Land Use Control (ANR, Item 5).

IV.7 Implications of Site Approval at Earliest Decision Point (ANR, Item H).

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V. Comparison of Alternatives; Selection of Proposed Criteria

V.1 Introduction; Discussion of Comparative Analyses Consistent with Siting Goals.

V.1.a. Separation of siting from design.

V.1.b. Degree of remoteness; regionalization.

V.1.c. Accidents beyond the design basis.

V.1.d. Attainable risk with respect to other power generation sources.

V.2 Demographic Criteria.

V.2.a. Exclusion distance.

V.2.b. Population density limits.

V.2.c. Population distribution limits.

V.3 Proximity Restrictions for External Hazards.

V.4 Groundwater Interdictive Capability.

V.5 Post-Licensing Changes in Offsite Activities.

V.6 Unique or Unusual Design Prohibition.

V.7 Early Site Approval.

V.8 Deferral to State Agency Disapproval.

VI. List of Preparers

VII. Appendices

Appendix B.—Tehnical Approach to Detailed Analyses

I. *Issue:* Radiological consequences of accidents.

Proposed Analytical Approach: (EIS Section IV.1.)

Proposed criteria will be compared with realistic alternatives on the basis of impacts on public health and safety. For demographic criteria this means that variation in doses to the maximally exposed individual and the population from a full range of accident releases must be examined for alternative ways of specifying constraints on population density and distribution. The consequences will be evaluated with an updated version of the Reactor Safety Study Consequences Model (CRAC) computer code. Existing sites and a hypothetical site will be evaluated. Consequences considered will include early fatalities, injuries, latent fatalities, and property damage. Both individual and societal risk will be evaluated but may differ in relative importance for establishing different criteria. (Comment on the role of societal versus individual risk as determinants of exclusion distance and population density and distribution limits would be useful.)

II. *Issue:* Feasibility of Protective Actions.

Proposed Analytical Approach: (EIS Section IV.2.)

The topics under consideration for rulemaking with respect to demographic criteria and external hazards will be examined to determine whether the capability to take protective action in the vicinity of a site under accident conditions might be impaired or enhanced by various choices of alternative criteria.

III. *Issue:* Definition of region.

Proposed analytical Approach: (EIS Section IV.3.a.)

Alternative schemes of regionalization will be examined to determine a proper basis for establishing regional criteria. Socioeconomic and physiographic units will be examined to establish potential regional breakdowns. Effects of uniformity of population distribution, water resource restrictions and any other appropriate regional concerns will be considered when deciding on the proper regionalization scheme. (Comment would be useful with regard to appropriate determinants of region.)

IV. *Issue:* Site availability.

Proposed Analytical Approach: (EIS Sections IV.3.a and IV.3.b.)

Consistent with the intent of the NRC FY80 Authorization Act, the new demographic criteria should not preclude further siting of nuclear power plants in any region of the United States. An assessment will be made for each region that identifies the variation in availability of sites for nuclear power plants as a function of the structure of the criteria and the variation in numerical values as well as realistic constraints on siting such as water availability and violation of safety criteria. The benefits of regionally based criteria versus nationwide criteria will be examined. Basic information will be developed from existing siting studies which, taken together, cover large portions of the country.

(V) *Issue:* Socioeconomic Impacts.

Proposed Analytical Approach: (EIS Section IV.4.)

The socioeconomic impacts of varying degrees of remoteness will be investigated. Economic impacts of increased transmission distances, impacts on land use and other factors will be addressed along with sociological penalties and inequities in distribution of cost and benefits of such siting.

VI. *Issue:* Severity of External Hazards.

Proposed Analytical Approach: (EIS Sections IV.3.c and IV.5.)

A literature review will be performed to establish the potential level of hazard associated with the external hazards listed in the ANR and any other appropriate topics. Staff practice for dealing with these hazards will be assessed. Available models for characterizing the effect of a hazardous external event will be evaluated. The feasibility of establishing a meaningful protective distance will be examined. The availability of sites associated with the demographic criteria proposed by the staff will be reexamined to determine whether the standoff criteria will significantly alter site availability.

VII. *Issue:* Engineering Alternatives to Standoff Distances.

Proposed Analytical Approach: (EIS Sections III.3 and IV.5.)

The feasibility of design performance requirements as opposed to specific standoff distances will be evaluated.

VIII. *Issue:* Precluding Siting of Nuclear Reactors in any Region of the United States.

Proposed Analytical Approach: (EIS Section IV.3.d.)

Energy generation from any source has its associated risk and risks from some energy sources may be greater than that of the nuclear option. Therefore, it has been suggested that the siting criteria should not be so stringent as to preclude the use of nuclear power from any region of the United States. The implications of not precluding nuclear power from any region of the United States will be examined.

IX. *Issue:* Effect of Groundwater Interdiction Criteria on Site Availability.

Proposed Analytical Approach: (EIS Section IV.3.e.)

The effect on site availability of alternative siting criteria that assure the capability for groundwater interdiction would be examined.

X. *Issue:* Post-Licensing Land Use Control.

Proposed Analytical Approach: (EIS Section IV.6.)

The feasibility of passive and active controls on post-licensing land use in the vicinity of a nuclear plant would be explored. Alternative controls on population risk (given that criteria are exceeded) such as changes in operating procedures or authorized power level or additional risk reducing engineering systems would be addressed.

XI. *Issue:* Use of Existing Sites.

Proposed Analytical Approach: (EIS Section IV.3.f.)

The existing sites would be examined for various levels of criteria to determine which sites were acceptable under each proposal. The feasibility of adding additional units to each of these sites would then be examined and an estimate made by region of remaining siting capacity. Using the characteristics of the selected site, an estimate would be prepared of the availability of multi-unit sites as a modification of the availability information for the various demographic criteria and standoff distances.

XII. *Issue:* Use of Federal Lands.

Proposed Analytical Approach: (EIS Section IV.3.f.)

Federal land would be surveyed to establish suitability for location of single unit plants up through many-unit energy centers. The historical availability of Federal land would be explored for uses such as public power supply systems (Bonneville Power Authority, Tennessee Valley Authority, etc.), oil shale lease program, forestry timber management, water supply projects. The possible benefits would be examined regionally from well planned use of Federal lands to supplement areas already available to utilities and implement a multi-unit existing site approach. The degree of improvement in criteria that is possible if the availability associated with the recommended criteria is held constant after Federal lands are added would be assessed.

XIII. *Issue:* Use of Unusual or Unproven Engineering Design to Compensate for Site Deficiencies.

Proposed Analytical Approach: (EIS Section IV.3.q.)

An estimate would be made of the effect on site availability of instituting such a requirement, particularly where large areas might have a common deficiency which might preclude siting from a large region.

XIV. *Issue:* Termination of Review After State Disapproval.

Proposed Analytical Approach: (EIS Section IV.8.)

The implications of establishing automatic review termination with respect to various levels of State disapproval will be examined.

Dated at Bethesda, Maryland, this 21st day of November 1980.

For the Nuclear Regulatory Commission.

Ray G. Smith,

Acting Director, Office of Standards Development, U.S. Nuclear Regulatory Commission.

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FEDERAL TRADE COMMISSION

16 CFR Part 456

Eyeglasses II

AGENCY: Federal Trade Commission.

ACTION: Advance notice of proposed rulemaking and request for comments.

SUMMARY: This Notice requests comment on the Commission's investigation of the impact of various state and private restraints on the practice of optometry and opticianry. This investigation, known as "Eyeglasses II," has focused on certain restrictions on forms of commercial ophthalmic practice, limitations on the scope of practice of opticianry, and on the over-the-counter sale of ready-to-wear reading glasses. The Commission staff has prepared a report that suggests that some of the restrictions at issue may raise prices and may have little or no effect on the quality of vision care. The Commission has made no determination on the findings and recommendations of the staff and is seeking public comment before doing so. The Commission is requesting public comment on the issues presented by the investigation and on what action, if any, the Commission should take.

DATES: Comments should be received on or before February 2, 1981.

ADDRESSES: Comments should be submitted to: Secretary, Federal Trade Commission, 6th & Pennsylvania Ave., NW., Washington, D.C. 20580, Attention: Eyeglasses II.

Additional Materials Available for Review: Copies of the materials discussed in this Notice: the Staff Report (entitled "State Restrictions on Vision Care Providers: The Effects on Consumers" and dated July 1980), the Bureau of Economics Report (entitled "Staff Report on Effects of Restrictions on Advertising and Commercial Practice in the Professions: The Case of Optometry" and dated September 1980) and the Bureau of Consumer Protection's study on the duplication of eyeglass lenses without a prescription (entitled "A Comparison of a Random Sample of Eyeglasses") may be obtained from: Public Reference Room (Room 130), Federal Trade Commission, 6th & Pennsylvania Ave., NW., Washington, D.C. 20580, telephone (202) 523-3467.

FOR FURTHER INFORMATION CONTACT: Christine Latsey, Attorney, Bureau of Consumer Protection, Federal Trade Commission, Room 281, 6th & Pennsylvania Ave., NW., Washington, D.C. 20580, telephone (202) 523-3426.

SUPPLEMENTARY INFORMATION:

Part A—Background Information

The Federal Trade Commission began to study the retail ophthalmic industry in 1975 when it directed its staff to examine the adequacy of information available to consumers of vision care. That investigation examined state and private restrictions on advertising of eyeglasses and eye examinations, and the impact of these restraints on the cost, availability, and quality of vision care. Based on the evidence gathered, the Commission found that state bans on truthful advertising by vision care providers and the failure of those providers to release optical prescriptions were unfair acts or practices, violating Section 5 of the Federal Trade Commission Act. It issued a trade regulation rule eliminating total bands on truthful advertising and requiring that consumers be provided with copies of their corrective lens prescriptions after eye examinations. (16 CFR Part 456). On February 6, 1980, the U.S. Court of appeals for the District of Columbia Circuit in *American Optometric Association* v. *FTC*, 627 F. 2d 896 (D.C. Cir. 1980), remanded the advertising portions of the Eyeglasses Rule in light of the Supreme Court decision in *Bates* v. *State Bar of Arizona*, 433 U.S. 350 (1977), decided after the record in the Eyeglasses Rulemaking was closed. The Court in *Bates* found the right of lawyers to advertise is protected free speech under the First Amendment of the Constitution. The prescription release requirement of the Eyeglasses Rule was upheld by the D.C. Circuit. In response to the remand, the Commission has asked for public comment concerning whether or not changes in state and private regulation of advertising have occurred or are occurring which would eliminate the need for Commission action in this area and whether unwarranted public or private burdens and limitations on advertising continue to exist. (45 FR 72683 (Nov. 3, 1980)).

In the course of that investigation, the Commission staff found that advertising bans were only one part of a larger system of public and private restraints on ophthalmic practice which may be

to that report, appropriate sections of the report are provided in parentheses.

1. *Commercial Practice Restraints* (Part 1 of Staff Report). "Commercial practice" in the retail optical market is

"quickie" examinations when decisions concerning pricing, business conduct, and quality of service are in the hands of lay individuals or firms. It is also alleged that commercial firms prescribe

and in cities where commercial firms were absent.

The study found that (1) prices were significantly lower in cities where commercial practice and advertising are

important. The average thoroughness of eye examinations was the same in markets that permit commercial practice as in those that prohibit it. Within markets that permit commercial

These state-imposed restrictions on the ability of opticians to fit contact lenses may have significant effects on consumers. If opticians are not permitted to fit contact lenses,

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In the course of that investigation, the Commission staff found that advertising bans were only one part of a larger system of public and private restraints on ophthalmic practice which may be anticompetitive and may harm consumers.

On January 20, 1976, the Commission announced to the public its second investigation of the vision care market, known as "Eyeglasses II." This investigation has focused primarily on two categories of restrictions: limitations on forms of commercial practice by ophthalmic providers and limitations on the scope of practice of opticinary. The Commission staff conducted three studies to generate empirical information concerning the price and quality of care effects of these restrictions. One of these studies, conducted by the FTC's Bureau of Economics, focuses on the effects of commercial practice restrictions ("BE Study"). This study has been completed and publicly released. The second study evaluated the ability of opticians to duplicate a pair of eyeglasses without a prescription. This study has also been completed and publicly released. The third study compared the ability of opticians, optometrists and ophthalmologists to fit contact lenses. This study is not yet complete and only preliminary results are available.

Part B—Objectives

The objective of the Commission's investigation is to prevent consumer injury arising from public and private restraints which increase consumer prices but which do not appear necessary to protect the public health and safety. The principal question the Commission is exploring is the impact of the restrictions discussed below on the price, quality and availability of vision care. The Commission's investigation has sought, through the development of statistically valid market research, to determine whether higher prices result from these restrictions and, if so, whether offsetting consumer benefits also result from these restrictions.

Part C—Description of the Investigation

The following section discusses the various restrictions at issue in this investigation and the studies the Commission staff undertook to provide reliable evidence on the issue of whether these restraints maintain or enhance the quality of vision care. A more detailed discussion of the issues and economic studies is found in the report prepared by the FTC staff entitled "State Restrictions on Vision Care Providers: The Effects on Consumers (Eyeglasses II)." To facilitate reference to that report, approopriate sections of the report are provided in parentheses.

1. *Commercial Practice Restraints* (Part 1 of Staff Report). "Commercial practice" in the retail optical market is generally understood to refer to large-scale, high-volume businesses, while "professional" or "non-commercial practice" is more often used to describe small firms or solo practitioners. The Commission staff has examined four major restraints on commercial practice imposed by state law: (1) Restrictions on the employment of optometrists and opticians by lay individuals and non-professional corporations; (2) limitations on the number of branch offices an optometrist or optician may operate; (3) restrictions on the practice of optometry and opticianry in commercial locations or on the premises of mercantile establishments such as department stores; and (4) bans on the use of trade names by optometrists.

In addition to these legal impediments to the practice of optometry and opticianry in commercial settings, the private associations of ophthalmic practitioners may also discourage commercial practice. The Commission has no current information on the extent to which state and national associations may discourage their memberships from commercial practice. The Commission is thus seeking public comment regarding restraints on commercial practice which may be imposed by professional associations either through explicit directives such as codes of ethics or by more indirect means.

Some of the state laws may prevent practitioners from locating in areas such as department stores or shopping centers or adjacent to existing optical dispensaries where the potential for developing higher-volume practices exits. Other state laws create employment restrictions which prevent an optometrist from working for an individual optician, retail optical chain or department store having an optical department. If an optometrist does not wish to be responsible for dispensing eyeglasses, but may not be employed by a store with an optical department or may not locate near an optician, he or she may be at a competitive disadvantage with individual dispensing optometrists who offer "one-stop service" (*i.e.*, examination and dispensing in a single transaction).

Opponents of commercial practice maintain that large firms are primarily profit-motivated, and therefore may be uninterested in maintaining the traditional doctor-patient relationship. Some opponents claim that commercial practitioners are pressured to cut corners and to perform poor-quality "quickie" examinations when decisions concerning pricing, business conduct, and quality of service are in the hands of lay individuals or firms. It is also alleged that commercial firms prescribe unnecessary corrective lenses to increase profits. Finally, some opponents of commercial practice maintain that commercial firms dispense frames and lenses of inferior quality.

To assess the validity of the above contentions, the Commission's Bureau of Economics conducted a study to determine whether the price and quality of goods and services provided by optometrists who advertise or who practice in commercial settings are different from that provided by optometrists in non-commercial or professional settings. Price and quality data were collected from both types of providers for both eye examinations and eyeglasses.

Quality was measured in four ways: (1) The thoroughness of the eye examination in terms of the procedures performed and equipment used; (2) the accuracy of the ophthalmic prescription; (3) the accuracy and workmanship of the eyeglasses prepared from that prescription; and (4) the extent of unnecessary prescribing of eyeglasses.

In this study, healthy but nearsighted survey subjects received a week of training from faculty members at the Pennsylvania College of Optometry (PCO) and the School of Optometry of the State University of New York (SUNY). The survey subjects were trained to identify, recall, and record the major components of a complete optometric eye examination. Three major components of an eye examination were identified as constituting a complete eye examination by the study supervisor, in conjunction with PCO and SUNY. These components are: (1) The case history (a series of questions to determine the patient's history of medical and visual care); (2) the eye health examination (a series of tests and procedures used to detect eye diseases); and (3) the vision test (a series of tests and procedures to determine visual performance and prescriptive needs).

During the week-long training, faculty members from each of the two schools performed complete eye examinations on each subject. These examinations provided the baseline data against which the accuracy of the prescriptions written by the optometrists in the field were evaluated. After the training, the subjects purchased both examinations and prescription eyeglasses from randomly selected optometrists in cities where large commercial firms exited

and in cities where commercial firms were absent.

The study found that (1) prices were significantly lower in cities where commercial practice and advertising are not restricted; (2) commercial optometrists charged lower prices than non-commercial optometrists; and (3) non-commercial providers who operated in markets where commercial practice was permitted charged less than their counterparts in cities where commercial practice was proscribed. Specifically, the results showed that the average price charged for an eye examination plus eyeglasses was $72 in markets where commercial practice was permitted as opposed to a price of $94 in cities where commercial practice was restricted.

The BE study also offers information on quality of care. When comparing the overall quality of care in cities where commercial practice was permitted and cities where commercial practice was restricted, the results show that there is no difference in quality as measured by each of the four standards used in the study. When comparing the quality of care between commercial and non-commercial optometrists, the results show no difference between the two types of providers on three of the four quality measures: commercial optometrists performed as well as non-commercial optometrists with respect to prescription accuracy, accuracy and workmanship of the eyeglasses, and the extent of unnecessary prescribing.

On only one measure of quality—the thoroughness of the eye examination—did the BE results show there to be a difference in quality between commercial providers as compared to non-commercial providers. Non-commercial optometrists performed, on the average, more thorough eye examinations in terms of total number of procedures performed than did commercial optometrists. The Commission is interested in receiving comment on the precise consumer impact of this difference. The Commission notes that the BE study is a process or input study, not a patient outcome study. The Commission would like to know whether there is evidence that less thorough use of the designated procedures may translate into adverse patient outcomes such as failure to detect ocular or systemic diseases.

The staff report notes that the distinction between BE's findings on the comparative quality between cities with and without commercial practice, and the intra-market comparison of commercial providers and non-commercial providers within markets that permit commercial practice, may be important. The average thoroughness of eye examinations was the same in markets that permit commercial practice as in those that prohibit it. Within markets that permit commercial practice, the average thoroughness of eye examinations was lower for commercial providers than for non-commercial optometrists. However, the statistical range of thoroughness in examinations, and the percentage of optometrists falling in each category of thoroughness, was the same in both commercial and non-commercial States, even though only non-commercial practitioners comprise the restrictive market.

2. *Scope of Practice Restraints* (*Parts II and IV of Staff Report*). The second aspect of the Eyeglasses II investigation concerns state-imposed restrictions on the scope of practice of opticianry; *i.e.*, limitations on the services that opticians may legally provide to the public. The restrictions at issue prevent opticians in some States from fitting contact lenses or from producing a new lens or pair of eyeglasses by duplicating an existing lens or pair of eyeglasses.

(*a*) *Contact Lens Fitting by Opticians* (*Part IV of Staff Report*). In order to obtain contact lenses, a consumer must first be examined by an ophthalmologist or optometrist who determines the nature and degree of visual correction required. Additional steps must then be taken if one is to be fitted with contact lenses rather than eyeglasses. For example, the curvature of the consumer's cornea must be measured with a keratometer. The consumer must be taught to insert and remove the contact lenses, and how to clean and care for the lenses. The fit of the lenses must be evaluated through the use of a biomicroscope, both when the lenses are first fitted and on any subsequent follow-up visits to the fitter's office during the period of time the wearer is adapting to the lenses.

Ophthalmologists and optometrists are permitted in all 50 States and the District of Columbia to fit contact lenses. Opticians are prohibited from performing some or all of the contact lens fitting procedures in many States.

Some states expressly prohibit opticians from fitting contact lenses. Other states allow opticians to fit contact lenses but only if they do so under the supervision of an ophthalmologist or optometrist. Several states' laws do not clearly define just what contact lens fitting procedures opticians may or may not perform, and the state courts which have been called upon to interpret such laws have reached inconsistent conclusions.

These state-imposed restrictions on the ability of opticians to fit contact lenses may have significant effects on consumers. If opticians are not permitted to fit contact lenses, consumers' purchase alternatives are limited to opthalmologists and optometrists, and prices may be unecessarily high. The justification offered for restrictions on opticians fitting contact lenses is that opticians may not be adequately trained to perform this function. An improper fit could result in physiological damage to the eye. Many people therefore believe that anyone who fits contact lenses should be formally trained and tested through either certification or licensure. Opticians, however, are licensed in only 20 states, and in many of those states the licensing examination does not assess contact lens fitting proficiency.

There is little empirical data currently available indicating what effects such state restrictions have on contact lens prices and quality of care. In an attempt to generate relevant empirical data about relative prices and fitting skills, the Commission staff has designed a study of recently-fitted contact lens wearers. Representatives of the Contact Lens Association of Ophthalmology, the American Optometric Association, and the Opticians Association of America (through the National Committee of Contact Lens Examiners) helped design and perform the study.

Through the use of two national market research firms, the Commission staff identified approximately 500 recently-fitted contact lens wearers in nineteen metropolitan areas who were willing to be interviewed and examined by the Commission's staff and consultants. Each wearer was examined by an optometrist, ophthalmologist, and an optician who did not know the identity of or the type of provider who originally fitted the lenses for that wearer. In addition, members of the Commission's staff interviewed each wearer to ascertain the source of the initial contact lens fitting and any replacement lenses obtained, the price of the lenses and fitting services, the lens care and wearing habits of the wearer and other significant information which may bear on the quality issue.

The field examinations have been completed, and the data must now be analyzed by the staff. The results of the study will provide, for the first time, significant empirical data about contact lens fitting. The prices charged and quality of care provided by opthalmologists, optometrists, and opticians (both in states which license opticians and in states which do not)

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can be directly compared. The effects on consumers of state laws on contact lens fitting can be evaluated by comparing price and quality data from states which restrict opticians who wish to fit contact lenses and those states which do not. In addition, this study will supplement Commission research into the effects of state laws which restrict commercial practice by eye care providers by permitting a comparison of contact lens fitting practices of commercial versus non-commercial optometrists.

(b) *Duplication of Lenses Without a Prescription (Part II of Staff Report).* The other scope of practice restraint at issue in Eyeglasses II concerns the duplication of eyeglass lenses by opticians. Consumers may seek to have their eyeglasses duplicated in order to replace a scratched lens, to have a pair of prescription sunglasses prepared, to change frame styles, or simply to obtain a spare pair of eyeglasses.

Duplication of lenses without a prescription is accomplished with the use of an optical focimeter, a device which measures the optical characteristics of lenses. In some states opticians are expressly prohibited from duplicating lenses by performing this procedure. In others, duplication without a valid prescription is deemed to be the practice of optometry (and accordingly makes it illegal for an optician to duplicate lenses). In still other states, the statutes do not clearly define whether duplication of lenses by opticians is legal.

The justifications advanced in support of duplication restrictions are that opticians may not be able to duplicate eyeglasses accurately without reference to the prescription, and that duplication may be used by consumers to bypass the eye examination process.

Restrictions on duplication of lenses may increase costs for consumers who wish to purchase a duplicate pair of eyeglasses. The staff report sets forth three alternatives available to a consumer who cannot have a broken lens replaced or cannot have a duplicate pair of eyeglasses prepared from an existing pair. One is to return to the provider from whom the original eyeglasses were obtained and who is likely to have a copy of the prescription on file. If forced to return to the original dispenser, the consumer cannot shop for a better bargain. In addition, it may be inconvenient or even impossible for the consumer to return to the original dispenser (for example, where a consumer has moved to another city). The second alternative for the consumer is to undergo another eye examination. This will cost, on the average, $25 in addition to the cost of the new eyeglasses and may be an unnecessary expense if the consumer has recently undergone an eye examination. The third alternative is to go to a new provider and have new eyeglasses prepared from the original lens prescription if the consumer has a copy of his or her current prescription. Under this option consumers are able to select a new provider if they still have their prescriptions or can obtain them from the original examiners or dispensers.

Although the Commission's Eyeglasses Rule requires optometrists and ophthalmologists to offer prescriptions to their patients upon completion of eye examinations, the Rule does not require that dispensers of eyeglasses return the prescriptions they fill to consumers or that they release prescriptions upon their patients' request to new providers. There is some evidence that even when consumers ask for their prescriptions to be returned to them following the purchase of eyeglasses, some providers refuse to do so, or only return a document which is a laboratory work order or an unsigned copy of the prescription. In some states such documents may not be legally filled by a subsequent provider.

The Commission staff has conducted a shopper survey of opticians to obtain price and quality data about the duplication process. The survey was conducted in two states: New York, which licenses opticians, and Pennsylvania, which does not. Both states permit opticians to duplicate eyeglass lenses without a prescription. Completed pairs of eyeglasses were purchased and one lens in each pair of eyeglasses was scratched to provide the reason for having the lens duplicated. Survey subjects, posing as consumers, then visited randomly-selected opticians and had the scratched lenses duplicated. Three categories of lens prescriptions were used to represent varying degrees of difficulty in the lens duplication process (the hypothesis being that the more sever the prescribed correction, the more difficult it would be to duplicate the lens correctly).

The duplication study results indicate that the cost for lens duplication services is much lower than the cost of obtaining new eye examination and new eyeglasses based on the prescription written following that eye examination.

The results show no statistically significant difference between New York and Pennsylvania in terms of the accuracy with which the lenses were duplicated. The results of the study, however, present some concern regarding the accuracy of the duplication process itself. The study results indicate that the more severe the prescription involved (*i.e.*, the higher the dioptric power of the sphere and cylinder or whether a prism was present in the lens), the more difficult it was to duplicate the lens correctly. In those cases where a prism was present in the lens being duplicated, over 90 percent of the lenses failed to meet the ANSI standard. The standards that were used to determine whether the lenses were properly duplicated are the 1979 American National Standards Institute (ANSI) Z80.1 Standard for Ophthalmic Lenses, the only uniform national lens tolerances available for use in the study.

In assessing the results of this study in terms of the desirability of obtaining duplicate or replacement lenses through the process of duplication of one's existing eyeglasses, the Commission staff believes that two points must be kept in mind. The first is that if a consumer wishes to obtain a duplicate or replacement pair of eyeglasses which reproduces the visual correction present in his or her existing eyeglasses, the process of duplication is more accurate than undergoing a new eye examination. Data from the BE study concerning the prescriptions written by different optometrists for the same patient juxtaposed against the data from the duplication study demonstrate that the mean deviations achieved by opticians in duplicating lenses are significantly less than the mean deviations in the prescriptions written for the same patient. The second point is that the failure to achieve the ANSI tolerances may not necessarily result in an adverse patient response. There appears to be no reliable research in the optical literature assessing the amount of variation from the ANSI tolerances which can be comfortably tolerated by a patient.

3. *Ready-to-Wear Reading Glasses (Part III of Staff Report).* Ready-to-wear or non-prescription reading glasses are magnifying lenses placed in regular eyeglass frames to provide magnification for close vision tasks. They are worn by people who suffer from presbyopia, which is the decreased ability of the normal eye to focus on near objects and printed material.

In most states, ready-to-wear reading glasses are sold in department stores, drug stores and other commercial establishments. They generally retail from $5.00 to $13.00 per pair. Single-vision prescription eyeglasses usually cost two to ten times more.

Most states permit ready-to-wear reading glasses to be sold without an ophthalmic prescription. Five states, however, have statutorily restricted the sale of these eyeglasses, permitting them to be sold only by optometrists and ophthalmologists, or by opticians upon the prescription of an ophthalmologist or optometrist. The only U.S. manufacturer of these glasses has indicated that there is a growing trend to enact similar restrictions in other states.

Two possible quality justifications for restricting the sale of these glasses have been identified. This first is the quality of ready-to-wear eyeglasses as compared to the quality of prescription lenses. Second, presbyopic consumers whose visual needs are satisfied by ready-to-wear glasses might feel no need to obtain regular eye examinations. As a result, ocular or medical diseases may go undetected.

The staff report indicated that the effect of such a restriction may be an increase in the number of eye examinations and the substitution of prescription eyewear for ready-to-wear glasses. Preliminary evidence indicates that dispensing optometrists, ophthalmologists and opticians tend not to offer ready-to-wear reading glasses for sale if the over-the-counter sale of these glasses in department and drug stores is prohibited.

Part D—Alternatives Under Consideration

The Commission is requesting public comment on what course of action, if any, it should take regarding the above-described investigation. Possible alternatives for Commission action are discussed below in conjunction with each category of restriction at issue.

1. *Commercial Practice Restrictions.* While the staff's report contains evidence that state laws which restrict the ability of optometrists and opticians to practice in commercial settings raise consumer prices but do not result in consumers receiving higher quality care, these findings have not yet been submitted to public scrutiny. Other issues, not fully considered to date, may be raised during a comment period. The Commission, therefore, is interested in receiving public comment on staff's analysis and findings concerning consumer injury before deciding whether to take any action in this area.

There are several possible ways for the Commission to proceed to examine these restrictions. One possible action is for the Commission to commence a rulemaking proceeding aimed at lifting certain restraints on commercial practice. A second approach would be for the Commission to develop a model state statute, or set of principles to guide state legislatures when considering legislation on the commercial practice of optometry and opticianry. Third, the Commission could put out an industry guide to govern the future conduct of private associations. Finally, the Commission could take no action and close this aspect of the investigation.

a. Proposed Rulemaking. The Commission staff has recommended that the Commission commence a rulemaking proceeding to explore a possible trade regulation rule. This recommendation is based on the results of the BE study (which are corroborated by earlier studies) indicating that prices are significantly lower in cities where commercial practice is permitted, and that the quality justifications raised by opponents of commercial practice may be unsupported. The removal of commercial practice restraints may therefore benefit consumers by reducing the price of vision care and making vision care more accessible without lowering overall quality. The rulemaking proceeding would enable the Commission to test the validity of the staff's evidentiary findings and provide a forum for discussion and debate on the implications of those findings.[1]

If a rulemaking were undertaken by the Commission, the staff has proposed that it address restrictions on commercial practice in four areas: (1) Employment of optometrists and opticians; (2) location of practice; (3) branch offices and (4) use of trade names. The staff's initial proposal would not preempt state laws designed to control specific abusive practices which might attend commercial practice as long as the state does not totally proscribe the ability of optometrists and opticians to practice in commercial settings. For example, to the extent that states are concerned about lay interference in the doctor-patient relationship, state laws that prevent lay employers from interfering in the professional judgments of optometrists and opticians would not be preempted. In addition, even though the staff's proposed action would permit a practitioner to own or operate branch offices, a state could require that a licensed optometrist must be in charge of each branch office and on the premises if eye examinations are being offered there.

[1] Although the staff's report contains draft rule language and a section-by-section analysis of the draft rule, the Commission is not requesting comment on the language of the staff's proposed rule. That language is included only for information. The FTC Improvements Act of 1980 requires that an Advance Notice of Proposed Rulemaking (ANPR) be published requesting comment on alternative courses of action which the Commission might pursue, but does not require the preparation or release of draft rule language with the issuance of an ANPR. The Commission's exercise of its discretion to publish the draft rule language and section-by-section analysis included in the staff report should not be viewed as precedent for future Commission proceedings at the ANPR stage.

The staff's proposal raises several serious questions about the extent of the Commission's authority to remedy any consumer injury found to be caused by commercial practice restrictions. The Commission is therefore requesting comment on the following legal and policy issues.

(1) The Commission is requesting comment on the staff's proposal regarding limitations on the use of trade names by optometrists. In 1979, the Supreme Court held that a Texas optometric trade name ban did not violate free speech rights protected by the First Amendment. (*Friedman* v. *Rogers*, 440 U.S. 1 (1979)). The Court found on the record before it that the trade name ban in question protected consumers from possible deception, and held that this possibility of deception was a sufficient state interest to outweigh the First Amendment right to convey that information. The Commission is interested in receiving comment on whether there is any evidence of consumer deception in states where the use of optometric trade names is permitted. In addition, the Commission is seeking comment on whether it would be possible for commercial ophthalmic practice to develop if employment, branching and location restrictions, but not trade name bans, were eliminated.

(2) The promulgation of any trade regulation rule would require a finding by the Commission that the restrictions at issue are "unfair acts or practices." (Section 18(a)(1)(B), of the Federal Trade Commission Act, 15 U.S.C. Section 57a(a)(1)(B), contains the Commission's rulemaking authority concerning "unfair acts or practices.") The unfairness test used in the Eyeglasses I proceeding requires a showing that the acts or practices at issue result in substantial consumer injury and, that the challenged conduct offends public policy.

To satisfy the "public policy" component of the unfairness test, the staff in relying on federal policy which advocates access to quality health care at a reasonable cost as a priority of the federal government. The 1977 Amendments to Titles XV and XVI of the Public Health Service Act, for example, call for the strengthening of competitive forces in the health services sector wherever competition and consumer choice can constructively serve to advance the purposes of cost effectiveness and access to health care. (Pub. L. No. 96–79, Section 1502, 93 Stat. 592).

The states have enunciated a separate public policy in enacting commercial practice restraints: To ensure that their citizens receive quality vision care. Can

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the Commission find the public policy component of the unfairness test has been satisfied given the articulated state goal?

(3) Even if the Commission finds that the unfairness test can be met, did Congress intend the Commission to issue trade regulation rules which would preempt state law? The Commission staff believes that the legislative history of the Magnuson-Moss amendments, which clarified the Commission's rulemaking authority, indicates Congress' intent that Commission rules under Section 18 preempt inconsistent state law. Although the courts have held that Commission rules do preempt some state laws (see *Katharine Gibbs* v. *FTC*, 612 F.2d 658 (2d Cir. 1979)), the question of whether Commission rules preempt inconsistent state laws which rise to the level of "state action" has not yet been passed upon by the courts.

The doctrine of "state action" as it has been developed by the Supreme Court in *Parker* v. *Brown*, 317 U.S. 341 (1943), and its progeny, provides antitrust immunity to conduct that is part of a clearly expressed state policy and that is actively supervised by the state itself. See *California Retail Liquor Dealers Ass'n* v. *Midcal Aluminum, Inc.*, 100 S. Ct. 937 (1980), for the Court's most recent discussion of the "state action" doctrine.

If the *Parker* "state action" doctrine applies to rulemaking under the FTC Act, then state laws that constitute "state action" couuld not be reached under Section 5 rules even if Magnuson-Moss trade regulation rules are otherwise held to be preemptive of inconsistent state laws. The courts have not yet resolved the question of whether the "state action" doctrine of *Parker* v. *Brown* applies to FTC Act rulemaking. Even if the courts were to hold that *Parker* does not apply to FTC Act rulemaking, or that the laws in question do not rise to the level of state action, would it be in the public interest for the Commission to take action in this area of traditional state concern, if the data demonstrate substantial consumer injury and the laws in question do not further the espoused state interest?

b. Model State Law. Another alternative course of action would be for the Commission to issue a public report along with a model state law or guidelines for voluntary change by the states concerning commercial ophthalmic practice. The Commission is seeking comment on whether a model state statute is the most appropriate approach for the Commission to take.

Set out below are possible ways in which states could modify their laws to permit commercial practice but at the same time ensure that quality of vision care is protected. The Commission would like public comment on these specific proposals as well as suggestions for other provisions which could be included in a model state law if the Commission decides to pursue this option. By including these specific examples within this notice, the Commission is not endorsing them or the need for them, nor is the list intended to be exhaustive.

It has been argued that the employment of optometrists by lay corporations and lay individuals could result in interference in the doctor-patient relationship by the lay employers. A statutory provision designed to guard against this is exemplified by a legislative proposal introduced in the state of Ohio (H.B. 432, 111th Ohio General Assembly, Regular Session (1975–76)). That bill would have specifically permitted commercial ophthalmic practice but would also have prevented employers from interfering in the professional judgment of licensed optometrists:

> "The Board (of Optometry) shall not make any rule prohibiting, limiting, or restricting the location where the practice of optometry may be conducted or affecting the right of an optometrist to seek and obtain employment with any person, organization or association provided that licensed optometrist is the individual who performs the practice of optometry as defined * * * (elsewhere in Code of Optometry). In the event that any person, organization, or association employing a licensed optometrist is found by a court of competent jurisdiction to be intefering with the proper exercise of the professional judgment of a licensed optometrist in the practice of optometry, the Board may forbid any licensed optometrist from seeking and accepting employment with such person, organization, or association for a specified and limited period of time to be determined by the board."

Another issue involving lay employment of optometrists and opticians is the propriety of compensation schemes that reward high-volume practice. The Commission staff has received evidence that some commercial firms have utilized incentives to increase sales, such as offering sales commissions, giving bonuses for selling a second pair of eyeglasses and paying employees qn a "per head" basis for examinations performed. It is alleged that such systems of remuneration result in unnecessary sales of eyeglasses and incomplete examinations. Although the results of the BE study indicate that commercial optometrists do not prescribe eyeglasses any more frequently than non-commercial optometrists, the results also indicate that commerical optometrists on the average perform less thorough examinations. The extent that a state is concerned with overprescription and the thoroughness of examinations, it could control the system of remuneration to prohibit compensation schemes which provide economic incentives rewarding high-volume practice. For example, the statutory provision could require that the optometrist or optician be paid on a fixed salary basis. Where a leasing (landlord-tenant) arrangement rather than direct employment is involved, the provision could require that the optometrist not lease or occupy space when the rent paid varies according to gross receipts, net profit and/or numerical volume of the patients examined by such licensed optometrist. Such a provision is found in Rhode Island's Optometry Practice Act (R.I. Gen. Laws Section 5–35–20).

One of the primary justifications for commerical practice restraints is that they maintain or enhance the quality of vision care. The results of the BE study show that overall quality of care is the same in markets where commerical practice is permitted as in markets where commercial practice is proscribed. Of the four quality measures used in the study, in one—the thoroughness of eye examination—commercial optometrists on the average scored lower than non-commercial optometrists. As between the two types of markets, *i.e.*, markets where commerical practice is permitted and markets where commercial practice is prohibited, the percentage of optometrists who give less thorough eye examinations is about the same. A possible way for the states to regulate the quality of services provided both by non-commercial as well as commercial providers is through direct regulation of examination procedures. A model state law could establish minimum standards for both office equipment and examination procedures.

A few states have already adopted this approach. For example, New Jersey requires that "prior to prescribing for or providing eyeglasses or spectacles a complete minimum examination shall be made * * *" The New Jersey State Board of Optometry has enumerated 16 tests which constitute the minimum examination (N.J. Stat. Ann. Section 13:38–8 (West)). In Michigan, the State Board of Optometry has specified certain items of equipment which optometrists are required to "have and use." (Rules and Regulations of the Michigan State Board of Examiners in Optometry, Section 338.262.) Maine has also enacted a statutory provision which

sets standards for minimum eye examinations. These are (1) history of visual problems and care; (2) visual acuity of each eye, uncorrected and with best correction; (3) examination for any abnormal condition or significant characteristics of internal and external ocular tissues; (4) advice for medical referral when indicated; (5) objective and subjective refraction of the eyes; and (6) cover test and/or muscle balance tests.

A model state law provision could also be developed to control quality of care in branch offices. States could enact a provision regulating the services provided at each office by requiring that ophthalmic goods, services, and eye examinations offered at each office only be supplied by a person qualified under state law to do so.

A model statutory provision regarding location of practice could permit an optometrist or optician to locate in a drug store, department store, shopping mail or other mercentile location while banning such location in areas which violate state zoning laws or constitute a public health hazard.

Model provisions regarding the use of trade names could permit the use of trade names but regulate their use to prevent deception. One possibility would be to require that all offices under common ownership operate under the same name to avoid creating a false impression of competition. Another way to ensure professional identification is to require, as Texas and many other states have done, that the optometrist's license to practice be prominently posted at each office at which he or she practices.

C. *Voluntary Guide.* Finally, the Commission could issue a voluntary guide governing restrictions that derive from private action, either after the conclusion of a rulemaking proceeding or instead of initiating a proceeding. The guide could include some or all of the provisions recommended by the Commission staff for a trade regulation rule, and would define the kinds of restrictions on commerical practice that the Commission believed to be in violation of Section 5 of the Federal Trade Commission Act. Enforcement of the restrictions, however, would not lead to the same kinds of sanctions as would violation of a rule promulgated under Section 18 of the FTC Act.

2. *Duplication of Lenses.* The results of the duplication and Bureau of Economics studies suggest several hypotheses. First, when consumers are required to obtain new eye examinations earlier than they otherwise would in order to obtain duplicate pairs of eyeglasses or replacements for broken lenses or frames in states where duplication is proscribed, they may incur a substantial and frequently unnecessary expense. Second, a consumer may be more likely to obtain a duplicate or replacement pair of eyeglasses which more closely reproduces the visual correction present in his or her existing eyeglasses by having the lenses duplicated than by undergoing a new eye examination. And third, the greater the power of the prescriptive requirements of a pair of eyeglasses the greater is the significance of error likely to be introduced via duplication.

The Commission is considering several options in this area. The Commission could take no action and close this part of the investigation. Another alternative would be to commence a rulemaking proceeding to explore a possible trade regulation rule which would permit opticians to duplicate a lens or pair of lenses without a prescription. The Commission is interested in receiving comment on the appropriateness of this course of action in light of the results of the duplication study.

• As discussed in Part C of this notice, the duplication study results indicate that the more severe the prescription involved (*i.e.*, the higher the dioptric power of the sphere and cylinder or whether a prism was present in the lens), the more difficult it was to duplicate the lens correctly. The statistical findings and deviations from the ANSI tolerances are found on pp. 117, 120, and 122 of the staff's report. Although the ANSI standards were designed as a guide in the fabrication of lenses and do not necessarily correspond to the amount of deviation a person's eyes can tolerate, as the staff report states, the mean deviation in the prism parameter of the prism lenses was so great (nearly a full diopter as opposed to the ANSI tolerance which is 0.33 diopter) that, in most instances, a person's eyes would not be able to tolerate an imbalance of that magnitude. The Commission is seeking public comment on the significance of these results in terms of using the "duplication process" as a means of obtaining replacement or a second pair of eyeglasses. Because of the results of this study—indicating at least some margin of error in the duplication process—the staff has not recommended that the Commission take any action concerning state laws that prohibit opticians from duplicating lenses without a prescription.

Another possible course of action would be to propose a rulemaking proceeding to consider a possible trade regulation rule to extend the prescription release requirement of the Eyeglasses I Rule (16 CFR 456.7) to require that upon filling a prescription for spectacle lenses, the dispenser (whether an ophthalmologist, optometrist or optician) return a fillable prescription to the consumer.

This is the proposed course of action recommended by the Commission staff. The failure of dispensers of eyeglasses to return spectacle prescriptions to consumers may constitute a violation of Section 5 of the FTC Act for the same reasons articulated in support of the original prescription release requirement of Section 456.7 of the Eyeglasses I Rule. The prescription release requirement of this Rule was upheld by the United States Court of Appeals for the District of Columbia Circuit in *American Optometric Association* v. *FTC, supra.*

This proposal would not affect state laws that prohibit the duplication of lenses without a prescription, but would enable the consumer to obtain replacement or duplicate pairs of eyeglasses from the original lens specifications. Consumers would thus be able to obtain duplicate or replacement lenses from the dispensers of their choice. Under this recommendation states or individual eye doctors would be free to impose an expiration date on the prescription, thereby preventing consumers from bypassing needed examinations by obtaining duplicate or replacement lenses with an outdated prescription.

The staff's recommendation would require all dispensers of eyeglasses to return to the consumer a fillable prescription at the time eyeglasses are purchased, but would not require dispensers of eyeglasses to release prescriptions over the telephone. If a telephone release requirement is not also imposed, some consumers who may have misplaced or lost their prescriptions may still not be able to obtain duplicate or replacement lenses readily. Imposing such an obligation on practitioners, however, may impose a greater cost of doing business since it requires that records be maintained for a certain period of time. Moreover, if such a requirement were imposed, who should have the right to receive the lens specifications by telephone—the consumer or the new dispenser or both? The Commission is interested in receiving public comment on whether a telephone release requirement should also be imposed if the Commission ultimately adopts the staff's recommendation that dispensers be

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required to return eyeglasses prescriptions to consumers.

3. *Fitting of Contact Lenses by Opticians.* Eliminating state laws that prohibit opticians from fitting contact lenses would enlarge the scope of practice of opticianry in states with these restrictions. Despite the fact that the results of the Commission's contact lens study are not yet known, for a number of reasons the Commission does not intend to propose a trade regulation rule preempting state laws that restrict opticians in the fitting of contact lenses.

Even though existing laws concerning the fitting of contact lenses may exclude many competent providers from the market, opticians are licensed in only 20 states, and in most of those states the contact lens fitting prificiency of those opticians is not currently assessed. If the Commission were to preempt outright bans of contact lens fitting by opticians, it might also have to set out appropriate entry requirements or rely on the states themselves to respond with more carefully tailored entry requirements to ensure that only qualified providers are permitted to fit contact lenses. The design and administration of a licensing scheme would be a complicated and controversial endeavor. It would be particularly difficult for the Commission to ensure that the licensing examination was up-to-date in this area—where new fitting techniques and new lens materials and designs appear frequently. Moreover, in addition to their use to correct "normal" vision deficiencies, contact lenses are used therapeutically to treat diseased or traumatized eyes. The contact lens study will only provide data concerning cosmetic fits. These practical difficulties may not exist in other scope of practice contexts, but for the above reasons, the staff has not recommended, and the Commission is not considering, the preemption of state scope of practice laws regarding initial contact lens fitting by opticians.

Nevertheless, because current entry requirements for contact lens fitters may exclude many competent providers from the market and force consumers to spend more than necessary to obtain quality contact lens care (preliminary analysis of price information obtained in the contact lens study indicates that prices may be lower in areas where opticians are permitted to engage in contact lens fitting and where commercial optometric practice is permitted), the staff has recommended that the issue of initial contact lens fitting be explored in separate public hearings which could result in the issuance of a model state law. The results of the contact lens study should provide reliable statistical evidence concerning price differentials and the comparative level of quality of contact lens fitting services among ophthalmologists, optometrists, and opticians. The Commission invites comment on this proposal.

The staff has also recommended that the prescription release requirement in the Eyeglasses I Rule be expanded to require that the original contact lens fitter provide each consumer with a copy of his or her complete contact lens specifications at the completion of the initial contact lens fitting and dispensing process. This modification would involve no preemption of state law and would not in any way affect who may initially fit or dispense contact lenses under state law. Under the proposal, consumers could comparison shop and obtain replacement contact lenses from the provider of his or her choice. Preliminary data indicate that contact lens wearers purchase, on the average, one replacement lens per year, and show a wide price dispersion for replacement contact lenses. Thus, the ability to shop among fitters of contact lenses for replacement lenses may be important. A rule provision requiring that consumers be given their complete contact lens prescriptions following the initial fitting process could enable those who have purchased replacement lenses from higher-priced providers to obtain lenses from lower-priced providers without undergoing a new fitting procedure.

Comment is being sought on one important justification offered for the refusal of providers to release complete contact lens prescriptions to their patients. Some contact lens fitters have asserted that when replacement lenses are dispensed, it is important to check the fit of the lens on the patient's eye before the patient is allowed to take the new lens home. Those fitters who assert the importance of such an examination maintain that if their patients are given copies of their contact lens specifications enabling them to obtain replacement contact lenses from the fitter of their choice, they cannot be assured of receiving an "on eye" examination. Preliminary data from the staff's contact lens study indicate that, in the majority of instances, neither ophthalmologists, optometrists nor opticians perform such an examination when dispensing replacement contact lenses to their patients. Comment is specifically sought on the necessity of such an examination and the desirability of providing consumers with their complete contact lens specifications.

4. *Ready-to-Wear Reading Glasses.* At this time the Commission has little available evidence concerning the quality of care issues raised by the over-the-counter dispensing of reading glasses. The Commission would like public comment concerning the quality of care issues discussed in Part B of this Notice and whether the aforementaioned issues concerning ready-to-wear reading glasses should be pursued further by the Commission.

5. *Other Issues.* In addition to the modifications in the Eyeglasses Rule that would be required if staff's recommendations in the area of replacement contact lenses and lens duplication were ultimately adopted, staff has recommended that other modifications of the Eyeglasses Rule be considered. These changes would eliminate areas of confusion concerning the scope of the Eyeglasses Rule, and would reflect changes in the optical market which have occurred in the past three years.

First, staff has recommended that the definition of the term "prescription" be modified to eliminate all references to contact lenses. Confusion had arisen as to whether eye doctors are required by the rule to state that patients who had been examined were "OK for contact lenses." Consistent with staff's recommendation that the Commission not employ rulemaking to address the question of who should be permitted to fit contact lenses, staff has recommended that the prescription not be required to include this determination.

Second, staff has suggested that the prescription release requirement contained in the Eyeglasses Rule might be modified to require that prescriptions be given to patients only in those instances where the consumer has requested it. Evidence exists that consumers have an increased awareness of their right to seek, and obtain, a prescription. Other data have shown that requiring tender of the prescription in every instance has generated some confusion in consumer's minds as to whether they should in every case fill that prescription.

Finally, staff has recommended other non-substantive changes in the Eyeglasses Rule. These changes, such as referring to consumers of eye examinations as "patients" instead of "consumers" are discussed in the staff report. The Commission invites comment concerning these proposed modifications.

Part E—Rulemaking Procedures

If the Commission adopts the staff's recommendations, a notice of proposed rulemaking asking for public comment on the proposed rule and requests to appear at public hearings which will be scheduled following the comment period will be published in the **Federal Register.** There are three different hearing formats that may be used if the Commission decides to initiate a rulemaking proceeding: (1) The standard rulemaking hearing procedure set forth in § 1.13 of the Commission's Rules of Practice (16 CFR 1.13); (2) the bifurcated hearing format (as was used in the Children's Advertising rulemaking proceeding); and (3) a variation of the standard procedure in which no issues are designated (as was used in the Thermal Insulation rulemaking proceeding).

Under the Commission's standard rulemaking procedure a notice of proposed rulemaking is published for public comment. Prior to any hearings, disputed issues of material fact are designated. Informal hearings are held on the proposed rule at which public testimony is heard. Witnesses may be cross-examined and rebuttal testimony presented on disputed issues only.

The bifurcated hearing procedure involves two levels of hearings. First, there would be a legislative hearing in which those persons who wished to present their views orally would so advise the Presiding Officer and furnish him or her with verbatim copies of the statements they wished to read or summarize. No participants would be allowed to cross-examine any other participants at this hearing, but could submit written questions to the Presiding Officer who could ask those or any other questions. If, after the review of the record of that hearing and the written comments received during the comment period, the Commission determined that there were disputed issues of material fact that were necessary to resolve, a second hearing would be held to resolve those issues. At this "disputed issues" hearing, cross-examination and the presentation of rebuttal witnesses would be allowed.

The "no designated issues" procedure follows the standard rulemaking procedure, however, no disputed issues are designated. Cross-examination of witnesses and presentation of rebuttal testimony at public hearings is subject only to time limitations.

The Commisson staff has recommended that the standard procedures be used if a rulemaking proceeding is commenced. The Commission requests public comment on which format should be followed.

Part F—Request for Comments

The Commission has not reached any conclusion concerning what course of action, if any, to take concerning the form of practice and scope of practice restraints at issue in this investigation. Before considering the staff recommendations, the Commission wishes to receive comments on the staff's analysis, the staff report, and the Bureau of Economics and duplication studies. The Commission believes that such public comment could greatly enhance its understanding of the issues to be considered. Interested persons are invited to address any issues of fact, law, policy or procedure, and to suggest any alternative courses of action which they believe should be considered by the Commission

By direction of the Commission.

Carol M. Thomas,

Secretary.

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COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Speculative Position Limits

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commodity Futures Trading Commission ("Commission") is proposing that speculative position limits be in effect in all commodity futures contracts traded on designated contract markets. Under the Commission's proposed rule, contract markets would, for all futures contracts not currently subject to exchange and Commission imposed limits, set limits on the amount of contracts for future delivery which any one trader, or group of traders acting in concert, may own or control. Transactions classified as hedging by the contract markets would be exempt from these additional exchange imposed limits.

Section 4a(1) of the Commodity Exchange Act ("Act"), 7 U.S.C. 6a(1) (1976), authorizes the Commission to establish speculative position and trading limits to protect the market place from distruptions by eliminating from the market those excessive speculative positions which cause sudden or unreasonable fluctuations or unwarranted changes in the price of a commodity which Congress has found to present a burden on interstate commerce. Requiring contract markets to set such limits in those cases where no such limits are currently in effect is consistent with their self-regulatory responsibilities in this area and will permit the exercise of their knowledge of these markets in establishing specific levels for speculative position limits.

DATES: Comments must be received on or before March 2, 1981.

FOR FURTHER INFORMATION CONTACT: Blake Imel, Deputy Director, (202) 254-3203, or John P. Connolly, Chief Counsel, (202) 254-3821, Division of Economics and Education, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION: The Commission is seeking public comment on a proposal that speculative position limits be established in all contracts for future delivery traded on futures markets where such limits are not currently in effect and that the contract markets should be responsible for setting such limits. Section 8a(5) of the Act authorizes the Commission to make and promulgate such rules and regulations as, in the judgement of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of the Act. The Commission believes that this proposed rule which would permit the contract markets to establish such speculative limits is a reasonable means of achieving that statutory purpose.

The Commission notes that under Sections 5(d) and 5(g) of the Act, 7 U.S.C. 7(d) and 7(g) (1976), boards of trade have an initial and continuing obligation for designation as a contract market to provide for the prevention of the manipulation of prices and to demonstrate that transactions for future delivery will not be contrary to the public interest. Indeed, various contract markets have voluntarily placed speculative position limits on 23 contracts involving 17 commodities.

In Section 3 of the Act, 7 U.S.C. 5 (1976), Congress has declared that:

> [T]ransactions in commodities involving the sale thereof for future delivery * * * are affected with a national public interest; * * * that the transactions and prices of commodities on such boards of trade are susceptible to speculation, manipulation, and control, and sudden or unreasonable fluctuations in the price thereof frequently occur as a result of such speculation, manipulation, or control, * * * and that such fluctuations in prices are an obstruction to and a burden upon interstate commerce in commodities and the products and byproducts thereof and render regulation imperative for the protection of such commerce and the national public interest therein.

Consistent with this finding and the need for regulation, Congress expressly

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recognized in Section 4a(1) of the Act, 7 U.S.C. 6a(1), that:

> [E]xcessive speculation in any commodity (under futures contracts) * * * causing sudden or unreasonable fluctuations or unwarranted changes in the price of such commodity, is an undue and unnecessary burden on interstate commerce in such commodity.

Accordingly, "[f]or the purpose of diminishing, eliminating, or preventing such burden," the Commission has been authorized:

> [To] proclaim and fix such limits on the amount of trading which may be done or positions which may be held by any person * * * as the Commission finds are necessary to diminish, eliminate, or prevent such burden.

In addition, Congress has prescribed that "the positions held * * * by any persons directly or indirectly controlled by * * * (al person" shall be treated as his own, and that the "limits upon positions" were also applicable "to positions held by * * * two or more persons acting pursuant to an expressed or implied agreement or understanding" as if the aggregate of their positions "were held by * * * a single person." *Ibid.*

The legislative history of the Act reflects that, Section 4a(1) of the Act was intended as a prophylactic measure directed toward removing the substantial risk of manipulative activity and other market disruptions that is possible when one person or group holds an unusually large speculative position.

Further, a staff review of the levels of Federal limits specified pursuant to this authority indicates that they were set at (or subsequently adjusted to) a level near or exceeding the outer bounds of the usual range of observed speculative position sizes. To the extent that the Commission has reviewed the levels at which exchanges have specified limits, it appears that exchanges have followed the same principle as the Commodity Exchange Commission in that such limits generally affect a relatively small number of traders.

In addition, the Commission notes that by April, 1975, position limits were in effect for almost all actively traded commodities then under regulation, and that limits for positions in about one half of these actively traded commodities had been specified by the contract markets.[1]

[1] Commodity Exchange Authority regulations included limits for wheat, corn, oats, soybeans, cotton, eggs and potatoes. Exchange rules included limits for live cattle, feeder cattle, live hogs, frozen pork bellies, soybean oil, soybean meal, and grain sorghums.

Prior Commission Consideration

To date, the Commission has retained those Federal speculative position limits which were in effect immediately prior to April 21, 1975, the effective date of the Commodity Futures Trading Commission Act of 1974, but has not established limits for any additional commodities.[2] Further, the Commission has considered two reports concerning the application and desirability of speculative position limits.

The Commission's Advisory Committee on the Economic Role of Contract Markets considered speculative position limits, focusing on the use of such limits as a method of dealing with problems in the delivery month. Among other things, the Advisory Committee concluded:

> Speculative position limits have served as a tool for Government regulation of futures trading in several agricultural commodities since 1938. However, these limits provide little control over the activities of large hedgers, and virtually no control during the crucial delivery months.[3]

In formulating this position, the Advisory Committee apparently did not consider the potential for extraordinarily large positions to affect the pricing structure of the whole market. The Advisory Committee Report recommended that speculative position limits, because of perceived inherent shortcomings, should be supplanted by a more flexible monitoring and surveillance program and noted that speculators usually do not even approach the speculative limits in their trading:

> Very few speculators operate on a large scale, compared to current Federal speculative position limits * * *. In the commodities where * * * speculative position limits are currently in effect, few speculators, on the average, have holdings near the limit. *Ibid* at p. 15.

In November 1977, the Commission considered a report on speculative limits which had been prepared by its Office of the Chief Economist.[4] That report addressed the questions of (1) whether there should be limits and for the what groups of commodities, (2) what limits should be imposed, and (3) whether the Commission or the exchanges should set the limits.

The 1977 analysis concluded that a trader's position has a continual effect on price and noted that:

> * * * when a trader's position is small relative to the market, that position will have a negligible influence on the price level and changes in that position will have a negligible influence on price changes. Alternatively, for sufficiently large positions, or changes in them, the market must be induced through successive adjustments in the level of price to accommodate that position and changes in it. Other things held equal, sufficiently large positions and trades can become a perceptible market factor. It is definitional that the largest trades and positions in the market will have the largest potential influence on price. *Ibid.* at pp. 17–18.

The analysis further concluded that:

> * * * greater breadth of supply, storability, and fungibility of the commodity along with low transportation costs, ease of delivery, and liquidity in the cash and futures markets tend to promote (but do not guarantee) arbitrage between the cash and futures markets. This arbitrage, if it is exists to any appreciable degree, causes the cash and futures markets to be highly interrelated, thus limiting the potential for a large position in the futures to influence price levels. *Id.* at pp. 19–20.

Based on the above, the report recommended that:

> The Commission (should) adopt a policy of establishing speculative limits in those markets where the characteristics of the commodity, its marketing system, and the contract lend themselves to undue influence from large scale speculative positions.
>
> In markets where position limits are deemed to be necessary, they should be established under a safety net guideline. Such limits would be established only to curtail extraordinary speculative positions which are not offset by comparable commercial positions. No special exemptions for spread positions should be permitted. *Ibid.* at p. 5.

In addition, this staff study recommended that where limits are necessary, the exchanges should set and review the limits subject to Commission approval. The study noted that the exchanges have the necessary competence and knowledge of the particular commodity to establish the limits. (*Id.* at p. 49).[5]

[2] Pursuant to Section 41 of the Commodity Futures Trading Commission Act, 88 Stat. 1414, all regulations previously adopted by the Commodity Exchange Authority continue in full force and effect to the extent that they are not inconsistent with the provisions of the Commodity Exchange Act, as amended, or unless and until terminated, modified or suspended by the Commission. The Commission amended its speculative limits for wheat in 1976 by raising the level from 2,000,000 to 3,000,000 bushels. 17 CFR 150.12 (1980). In addition, in 1979 the Commission amended Part 150 of its rules by eliminating all limits on daily speculative trading volume then in effect. 44 FR 7124–28 (February 6, 1979).

[3] "Report of the Commodity Futures Trading Commission Advisory Committee on the Economic Role of Contract Markets," July 17, 1976, pp. 4–5.

[4] "Speculative Limits," a staff paper prepared for Commission discussion by the Office of the Chief Economist, June 24, 1977.

[5] In addition, in advance of the November 1977 Commission consideration of the staff recommendations, the Office of the Chief Economist suggested that the Commission consider as an alternative to the more traditional speculative

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Current Considerations

As mentioned above, concern over an inability to deal with maturing futures problems through speculative limits appears to underlie the prior recommendations to the Commission concerning the effectiveness of speculative limits as a regulatory tool. Recent activity in the silver markets, however, has caused the Commission to reconsider the intended purpose of speculative limits and the markets in which limits might serve that purpose. In silver, extraordinarily large futures positions were held by a few speculative accounts and may have contributed to the rapid rise and subsequent collapse in the price of that commodity. Further, the concentration of disproportionately large numbers of futures contracts in the hands of one group of speculators was responsible for certain adverse consequences arising from the collapse in the silver market. Had limits on the amount of total open commitments which any trader or group can own or control been in effect, such occurrences may have been prevented.[6]

More generally, the Commission believes that a trader's net position has a continued effect on price, and if sufficiently large can become a perceptible market factor. In this context, the Commission observes that speculative position limits serve to decrease the potential for positions to influence the general price level. Moreover, by limiting the ability of one person or group to obtain extraordinarily large positions, speculative limits diminish the possibility of accentuating price swings if large positions must be liquidated abruptly in the face of adverse price movements or for other reasons.

As noted previously, prior to 1975, the Commodity Exchange Commission and the exchanges acted to impose speculative limits on most actively traded contracts then under Federal regulation. For the most part such contract markets were designated to trade domestic agricultural commodities. However, the Commission is now considering whether to extend this practice to all contracts under regulation.

The Commission recognizes that certain characteristics of a commodity and liquidity in the cash and futures markets tend to promote arbitrage between cash and futures and may limit the potential for large positions to influence price. Further, the Commission believes that on this basis there may be some appreciable differences between contracts under Federal regulation prior to April 21, 1975 and those which came under regulation at or since that time. The recent events in silver, however, suggests that the capacity of any futures market to absorb large positions in an orderly manner is not unlimited.

The Commission, of course, has the authority under Section 4a(1) of the Act to set speculative position limits. The Commission however, wishes to consider whether contract markets should discharge their self-regulatory responsibilities by employing their knowledge of their markets in recommending specific levels for speculative position limits.

The Proposed Rule

The rule as proposed by the Commission requires contract markets for all contracts not currently subject to exchange or Commission limits to set limits on the amount of contracts for future delivery. The rule generally parallels the language and legislative intent of Section 4a of the Act and is summarized below.

Purpose of the Rule

The purpose of proposed Rule 1.61 is to prevent excessive speculation arising from extraordinarily large speculative positions which may cause sudden or unreasonable fluctuations or unwarranted changes in the price of a commodity. The rule specifies that contract markets shall within 90 days of the effective date of the rule, establish speculative position limits which may fix different and separate limits for different contracts in the same commodity,[7] different limits for different futures. Further, the proposed rule provides contract markets with latitude in exempting spread, straddle or arbitrage positions or in proposing different limits for such positions. In addition, as discussed below, nothing in the proposed rule prohibits contract markets from specifying lower limits for the expiration period of individual contract months. Contract markets would be expected to use their knowledge of the markets in adopting speculative position limits that would accomplish the intended purpose of the rule.

Any bylaw, rule, regulation or resolution adopted by a contract market would, of course, be subject to Commission approval under Section 5a(12) of the Act and § 1.41(b) of the regulations. Although the Commission is not currently proposing specific standards which contract markets must adhere to in specifying these limits, it has developed the general concepts under which it would review the limits proposed by the cohtract markets.

As noted above, the Commission believes there to be an increased potential for speculative positions to cause unreasonable fluctuations or unwarranted changes in price when such positions are allowed to become extraordinarily large in relation to positions customarily held by speculative traders and/or large in relation to the market. The Commission has also observed that for a number of markets not subject to position limits, natural market dynamics apparently restrict the size of positions which speculators will normally hold. In these cases, the largest speculative traders will only infrequently assume positions which are large in relation to the range of position sizes normally assumed by speculative traders. This suggests that there is an appropriate level or range of acceptable levels at which speculative limits could be set in order to accomplish the prophylactic purpose of the proposed rule, i.e., levels which would not limit the preponderance of

[7] Part 150 of the Commission's regulations, 17 CFR Part 150 (1980), generally establishes limits upon the speculative position that any person or group may hold in futures contracts for a particular commodity on a single contract market. However, the Commission currently permits some contract markets to list for concurrent trading, contracts in the same commodity which differ in respects other than the month of delivery. The proposed rules would permit the contract markets to propose speculative limits which would apply separately to such different contracts.

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limits, a proposed rule 1.52 which would concern only maturing futures. As proposed by the staff, this rule would have limited individual positions in an expiring future to a fixed percentage of the open interest unless the exchange made a determination that the holding of such positions did not constitute a threat for orderly trading in such maturing future or maturing futures. Although the Commission did not then adopt the other recommendations discussed above, it subsequently published the rule relating to maturing futures for public comment. See 43 FR 15438 (April 13, 1978). After reviewing the comments received on the proposal, the staff recommended that the Commission not adopt the proposed rule, since at times there may not be sufficient information available to the exchanges to allow them to make a valid determination as required by the proposed rule.

[6] Both the Chicago Board of Trade ("CBT") and the Commodity Exchange, Inc. ("Comex"), have adopted and the Commission has approved under Section 5a(12) of the Act position limits for silver. In October 1979 and January 1980, respectively, the CBT and Comex adopted temporary emergency rules which imposed position limits on traders in silver. On the CBT, the net speculative positions held or controlled by any one trader or group of traders were limited to 600 contracts in any one future or all futures combined. Comex imposed a limit of 2,000 contracts net long or short in all futures combined and a limit of 500 contracts gross long and short in the current or next succeeding month. These limits exempted only those traders holding short positions offset by physical inventory or by a forward purchase of silver. Both rules applied retroactively to existing open silver positions. Subsequent to their imposition on an emergency basis, the Comex and CBT adopted their speculative position limits as permanent rules.

traders but would prevent traders from obtaining extraordinarily large speculative positions.

Accordingly, in reviewing limits

this requirement parallels the standards which contract markets have adopted with respect to limits which they have imposed.

The proposed rule requires that contract markets submit to the commission any bylaw, rule, regulation, or resolution which provides for

limits under proposed Rule 1.61, which has been approved by the Commission under Section 5a(12) of the Act.

Existing Limits

Costs to Contract Markets

If contract markets are required to establish limits for all contracts which are traded, they will incur certain costs

which have established speculative limits also collect certain reports in order to enforce compliance with their limits.

traders but would prevent traders from obtaining extraordinarily large speculative positions.

Accordingly, in reviewing limits submitted by contract markets under the proposed rule, the Commission would review for each contract the historical distribution of net speculative positions in all futures combined, speculative positions in individual futures, and positions such as straddles, spreads, or arbitage.[8] The Commission would consider recent trends in position patterns and whether certain position levels have been maintained only infrequently, or although continuously in effect, are unusual in size relative to the preponderance of speculaitve positions normally observed in the market. In addition, the Commission would consider other factors which might bear on the effect individual position sizes have on price such as the breadth and liquidity of the cash market underlying each delivery month, and any other such factors that a contract market might wish to bring to the attention of the Commission.

The Commission recognizes that comparisons of proposed limits to historical trading patterns would not be appropriate in certain cases (e.g., for newly proposed contracts which have not commenced trading and contracts which have ceased to trade) and will consider carefully the justification which the contract market submits pursuant to paragraph (b) of the proposed rule.

Aggregation

The proposed rule requires that in determining whether any person has exceeded the contract markets' limits, the positions held and trading done by any persons directly or indirectly controlled by such person shall be included with the positions held and trading done by such person. Further, the limits shall apply to the positions held by, and trading done by, two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by, or the trading were done by, a single person (the "Aggregation Standard").[9] This aggregation standard applies to all speculative limits specified in Part 150 of the Commission's regulations. In addition, the Commission believes that this requirement parallels the standards which contract markets have adopted with respect to limits which they have imposed.

Exemptions

Limits specified by the contract markets under the proposed rule would not apply to transactions and positions defined as bona fide hedging by the contract market in accordance with the Commission's definition of bona fide hedging contained in § 1.3(z)(1) of its regulations. Since that section of the regulations contains the Commission's general definition of bona fide hedging transactions and positions, this requirement provides the contract markets with considerable latitude in specifying what transactions or positions will constitute bona fide hedging, and limiting the amount of any such exemption.

With respect to its general definition of hedging, the Commission has enumerated in paragraph two of § 1.3(z) the nature and size of certain positions which it believes are risk-reducing and which may be established and liquidated in an orderly manner. In addition, the third paragraph of § 1.3(z) provides that the Commission may determine on an individual basis the size and nature of additional positions which it believes are in conformity with these same requirements of its general definition of bona-fide hedging.[10]

The proposed rule requires that contract markets submit to the commission any bylaw, rule, regulation, or resolution which provides for exemptions from speculative positions, including any exemptions for bona fide hedging transactions or positions. The proposed rules also require that contract markets provide the Commission with a description of the procedure by which the contract market will determine hedging exemptions. This may include an enumeration of positions which the contract market specifically proposes to classify as bona fide hedging. In this connection, the Commission notes that its current enumerated definition of bona fide hedging transactions and positions in § 1.3(z)(2) of the regulations does not necessarily apply to those commodities where limits have not been established pursuant to Section 4a of the Act. In addition, proposed Rule 1.61 provides that any other exemption from the proposed rule must be described and justified.

Contracts Which Have Ceased To Trade and Boards of Trade Seeking Designation as Contract Markets

The proposed rule requires that contract markets within ninety days of the effective date of the rule, fix limits for all contracts for which neither exchange nor Commission limits are in effect. This, of course, would include contracts which have ceased to trade. The Commission is seeking specific comment on whether or not such contracts should be exempted from this rule until such time as they resume trading. The Commission notes that requiring contract markets to adopt speculative limit rules for contracts which have ceased to trade may be an unnecessary burden on the contract markets.

In addition, the Commission intends that at such time as it establishes an effective date for this proposed rule, any board of trade seeking designation as a contract market will be required to submit with its application, a bylaw, rule, regulation or resolution which complies with the requirements of proposed Rule 1.61.

Enforcement of the Limits

The Commission specifically requests comments on the adoption of a Commission rule which would make it unlawful for any person to violate a contract market bylaw, rule, regulation or resolution establishing speculative limits under proposed Rule 1.61, which has been approved by the Commission under Section 5a(12) of the Act.

Existing Limits

Since a primary purpose of this proposal is to have speculative limits fixed in all contracts, the proposed rule does not apply to those contracts for which either Commission or exchange limits are in effect. However, the Commission is considering the regulatory objective of including all contracts subject to exchange or Commission imposed limits within the scope of proposed Rule 1.61. Therefore, the Commission seeks comment on whether the requirements of this proposed rule should apply to Commission approval under Section 5a(12) of the Act of any existing exchange limits. The Commission also seeks specific comment on whether it should consider submissions pursuant to the requirements of proposed Rule 1.61 from contract markets which are currently subject to limits contained in Part 150 of the Commission's regulations.

Maturing Futures Limits

As noted previously, the Commission has considered rules which attempt to prevent specific problems of market congestion and price manipulation in expiring futures. The Commission continues to be concerned and has directed its staff to consider whether rules might be developed that will deal with these problems. The Commission recognizes that several contract markets have addressed this problem by setting a lower speculative position limit in the delivery month than in other months and by limiting the types and amounts of bona fide hedging positions which are exempt from the position limits during this period. For example, the Chicago Mercantile Exchange specifies a limit of 600 contracts in each live cattle future, except during the delivery month when the limit is 300 contracts.[11]

Therefore the Commission specifically requests comment on whether, if it adopts the present proposal, it should also include specific provisions which would require contract markets to address the potential for problems in the delivery month of a contract by adopting separate limits which are applicable to the delivery month for such contracts and by limiting positions which might be classified as bona fide hedging during the delivery month.

Costs to Contract Markets

If contract markets are required to establish limits for all contracts which are traded, they will incur certain costs associated with determining appropriate levels at which to set limits and in enforcing compliance. During the month of September 1980, there was trading in 39 contracts for which neither Commission nor exchange limits were in effect.[12]

Since the cost to establish limits for contract markets will depend on the precise manner in which they will be determined, the Commission is seeking specific comment on such costs. As indicated previously, in reviewing rules submitted by the contract markets pursuant to this proposal, the Commission will rely to a certain extent on historical data showing information on traders' position sizes. The Commission can, of course, make such aggregate data available to the contract markets subject to the limitations contained in Section 8 of the Act, in order to aid them in making their determinations and to reduce their costs in establishing speculative limits.

With respect to enforcing compliance with speculative limits, the Commission is aware that this may require contract markets to collect reports concerning traders' futures and cash positions. The Commission currently collects reports on the size of futures and cash positions carried by individual traders and through these reports monitors compliance with its speculative position limits.[13] In general, contract markets which have established speculative limits also collect certain reports in order to enforce compliance with their limits.

The large trader reports currently required by the Commission serve a broad function in the Commission's market surveillance program and are required whether or not Commission speculative limits are in effect. In this respect, the Commission has proposed that contract markets be required to collect those reports which the Commission currently receives from FCMs and foreign brokers.[14] The purpose of this proposal was to allow the Commission to move towards an oversight role in the area of market surveillance. If the Commission were to adopt this rule, it expects that contract markets could use such reports in connection with their enforcement of any limits they adopted pursuant to this rule. The Commission will consider public comments submitted in response to its proposal of August 27, 1980, in determining the reporting burden which may be placed on the industry in enforcing compliance with speculative limits. The Commission invites further comment on any additional reporting costs which may result if the Commission determines to adopt the current proposed rule.

Accordingly, pursuant to the authority in Sections 4a(1), 5, 5a, 6c and 8a of the Commodity Exchange Act, as amended, 7 U.S.C. 6a(1), 7, 7a, 13a–1 and 12a (1976 and Supp. III 1979), the Commission proposes to add a new § 1.61 to Part 1 of its regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

§ 1.61 Speculative position limits.

(a) For the purpose of preventing excessive speculation in any commodity under contracts of sale of such commodity for future delivery, arising from those extraordinarily large positions which may cause sudden or

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[8] Since each leg of a spread represents a "one-sided position" in each future in which it is placed, the Commission believes that an extraordinarily large spread position has the potential of distorting the price relationship of those two futures and their relationship with other futures.

[9] See Section 4a(1) of the Commodity Exchange Act, 7 U.S.C. 6a(1)(1976).

[10] Section 1.3(z)(1) provides in pertinent part:

"Bona fide hedging transactions and positions shall mean transactions or positions in a contract for future delivery on any contract market, where such transactions or positions normally represent a substitute for transactions to be made or positions to be taken at a later time in a physical marketing channel and where they are economically appropriate to the reduction of risks in the conduct and management of a commercial enterprise * * *"

* * * * *

"Notwithstanding the foregoing, no transactions or positions shall be classified as bona fide hedging for purposes of Section 4a of the Act unless their purpose is to offset price risks incidental to commercial cash or spot operations and such positions are established and liquidated in an orderly manner in accordance with sound commerical practices and unless the provisions of paragraphs (z) (2) and (3) of this section and §§ 1.47 and 1.48 of the regulations have been satisfied."

Paragraph two of § 1.3(z) enumerates the size and nature of specific transactions and positions which the Commission considers to be within this general definition of bona fide hedging in paragraph one for those commodities where speculative limits are currently in effect pursuant to Section 4a of the Act. In this second paragraph, the Commission has also limited the amount of certain long and short positions which it will consider to be bona fide hedging when they are maintained in the five last trading days of an expiring future.

The third paragraph of § 1.3(z) provides that for purposes of determining exemptions from limits on positions fixed pursuant to Section 4a of the Act, the Commission may recongnize as bona fide hedging purchases and sales other than those enumerated in paragraph two, provided that, a filing is made in accordance with § 1.47 of the regulations. Section 1.47 provides that the Commission "shall specify the extent to which the Commission has determined that transactions and positons may be classified as bona fide hedging."

[11] Rule 1702E of the Chicago Mercantile Exchange.

[12] Trading occurred in the following contracts during September, 1980, for which neither exchange nor Commission limits were in effect:

Chicago Board of Trade: Gold, GNMA mortgages (CD and CDR), Long Term Treasury Bonds, Commercial Paper (30-Day and 90-Day);

Chicago Mercantile Exchange: Gold, U.S. Silver Coins, British Pound, Canadian Dollar, Deutsche Mark, Japanese Yen, Mexican Peso, Swiss Franc, 90-Day Treasury Bills, One Year Treasury Bills;

MidAmerica Commodity Exchange: Gold, Silver;

Commodity Exchange, Inc.: Gold, Copper, 90-Day Treasury Bills;

Coffee, Sugar and Cocoa Exchange: Coffee "C", Sugar (#11 and #12), Cocoa;

New York Cotton Exchange: Frozen Concentrated Orange Juice, Propane;

New York Mercantile Exchange: Paladium, Platinum, U.S. Silver Coins, Imported Lean Beef, No. 2 Heating Oil (New York delivery);

New York Futures Exchange: 90-Day Treasury Bills, Long Term Treasury Bonds, British Pound, Canadian Dollar, Deutsche Mark, Japanese Yen, Swiss Franc.

[13] The Commission currently requires that certain traders, futures commission merchants (FCMs) and foreign brokers file reports with the Commission concerning futures and cash positions. Part 15 of the regulations defines a reportable futures position as a position in any one future of a commodity on any one contract market in excess of the number of contracts specified by the Commission in § 15.03(a) of the regulations. Under Part 17 of the regulations, FCMs and foreign brokers are required to report such positions to the Commission on series 01 reports and to identify on a 102 form the trader which owns or controls the positions. With the exception of foreign traders in certain commodities, a trader under Part 18 of the regulations which owns or controls a reportable position in a commodity, must report all positions in such commodity as well as any transactions, exchanges of futures for physicals and deliveries made or taken. In addition, traders must classify their positions as speculative or hedging. Under Part 19 of the regulations, traders who own or control futures positions in commodities for which Commission limits are in effect and which are above the levels specified in § 15.03(b) of the regulations must file reports concerning their cash positions in such commodities.

[14] 45 FR 57141 (August 27, 1980).

unreasonable fluctuations or unwarranted changes in the price of such commodity, each board of trade seeking designation as a contract

submit, a bylaw, rule, regulation or resolution establishing speculative position limits if such contract market for the commodity for which such

The comment period for those proposed rules expired on December 1, 1980. Based on a number of requests, the Corps of Engineers is extending the

on these proposed changes in the North Carolina implementation plan.

DATE: To be considered, written comments must be received on or before

tanks, (3) coating of miscellaneous metal parts and products, (4) factory surface coating of flat wood paneling, (5) graphic arts, (6) manufacture of

levels between different print lines in a facility. This amounts to an internal plant bubble, and any use of the option will require a source-specific

unreasonable fluctuations or unwarranted changes in the price of such commodity, each board of trade seeking designation as a contract market shall submit with its application and each contract market shall, within 90 days of the effective date of this section, adopt a bylaw, rule, regulation or resolution which shall limit the maximum net long or net short position which any one person hold or control under contracts for future delivery of any commodity subject to the rules of such contract market: *Provided,* That, nothing in this section shall be construed to prohibit a contract market from fixing different and separate position limits for different futures contracts based on the same commodity, different position limits for different futures, or for delivery months, or from exempting positions which are normally known in the trade as "spreads, straddles, or arbitrage" or from fixing limits which apply to such positions which are different from limits fixed for other positions.

(b) In addition to that information required to be submitted pursuant to Rule 1.41(b), each submission of a board of trade or contract market under this section shall include the following:

(1) Any bylaw, rule, regulation or resolution which provides for exemptions from such limits, including an exemption for bona fide hedging.

(2) A description of the method of enforcement of such proposed position limits, which shall include a description of the procedures by which contract markets will determine hedging exemptions and the method of monitoring compliance with rules concerning bona fide hedging positions or any other exemptions.

(c) No bylaw, rule, regulation or resolution adopted pursuant to paragraph (a) of this section shall apply to bona fide hedging transactions as defined by a contract market in accordance with § 1.3(z)(1) of the Commission's regulations: *provided,* That such hedging transactions are in accord with sound commercial practices and are allowed in an amount that maybe established and liquidated in an orderly fashion as determined by each contract market; provided further that, a contract market may provide for such other exemptions from its position limits adopted pursuant to paragraph (a) of this section, as the Commission may approve pursuant to Section 5a(12) of the Act.

(d) Unless directed by the Commission upon review of the informaton required by paragrph (b) of this section, this section shall not require a contract market to adopt or submit, a bylaw, rule, regulation or resolution establishing speculative position limits if such contract market for the commodity for which such contract market is designated is subject to limits under Part 150 of the Commission's regulations, or has previously adopted such a bylaw, rule, regulation or resolution which has been approved by the Commission pursuant to Section 5a(12) of the Act, or which the contract market is required to enforce pursuant to Commission Rule 1.53.

(e) In determining whether any person has exceeded the limits established under this section, the positions held and trading done by any persons directly or indirectly controlled by such person shall be included with the positions held and trading done by such person; and further, such limits upon positions and trading shall apply to positions held by, and trading done by, two or more persons acting pursuant to an expressed or implied agreement or understanding, the same as if the positions were held by, or the trading were done by, a single person.

(f) Each contract market shall file with the Commission within 90 days of a request by the Commission, or within such longer period as the Commission may specify in its requests, a written statement which justifies the existing level of position limits set by the contract market and the general exemptions provided therefrom.

Issued in Washington, D.C., on November 26, 1980, by the Commission.

Jane K. Stuckey,

Secretary to the Commission.

[FR Doc. 80-37408 Filed 12-1-80; 8:45 am]

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DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Parts 320 through 330

Permit Regulations for Controlling Certain Activities in Waters of the United States; Extension of Comment Period

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On September 19, 1980, the Corps of Engineers published a Notice of Proposed Rulemaking in the **Federal Register** (45 FR 62732–62777) soliciting comments on proposed amendments to permit regulations which control certain activities in water of the United States. The comment period for those proposed rules expired on December 1, 1980. Based on a number of requests, the Corps of Engineers is extending the period for submitting comments until 31 December 1980.

DATE: Comments must be received on or before December 31, 1980.

ADDRESS: Office of the Chief of Engineers: Attn: DAEN–CWO–N; Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis Clark or Mr. Bernie Goode, Regulatory Functions Branch, phone number (202) 272–0199 or Mr. Martin Cohen, Chief, Counsel's Office, phone number (202) 272–0035.

Dated: November 25, 1980.

Forrest T. Gay III,

Colonel, Corps of Engineers, Executive Director, Engineer Staff.

[FR Doc. 37400 Filed 12-1-80; 8:45 am]

BILLING CODE 3710-92-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 1689-1]

Approval and Promulgation of Implementation Plans; North Carolina: Set II VOC Regulations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve, with one exception, the RACT (Reasonably Available Control Technology) regulations which North Carolina, in fulfillment of a commitment made in its 1979 ozone revisions, has adopted for sources of volatile organic compounds (VOC) covered by the second set of Control Techniques Guidelines (CTGs), those issued by EPA between January 1978 and January 1979. These regulations provide for the control of VOC from sources which are located in ozone nonattainment areas and which have emissions before control of 100 tons per year or more. At present, the only ozone nonattainment area in the State is Mecklenburg County (Charlotte). The State did not adopt regulations applicable to petroleum refinery leaks or the manufacture of synthesized pharmaceuticals since there are no such sources in Mecklenburg County. The State has also made revisions in its existing VOC regulations, and EPA proposes to approve these changes also. The public is invited to submit written comments on these proposed changes in the North Carolina implementation plan.

DATE: To be considered, written comments must be received on or before January 2, 1981.

ADDRESSES: Comments should be directed to Walter Bishop of EPA Region IV's Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365. Copies of the materials submitted by North Carolina may be examined during normal business hours at the EPA Region IV library, at the Public Information Reference Unit of EPA's Washington, D.C. office at 401 M Street, SW., at the offices of the North Carolina Division of Environmental Management in Raleigh and elsewhere in the State, or at the Mecklenburg County Department of Environmental Health in Charlotte.

FOR FURTHER INFORMATION CONTACT: Walter Bishop, EPA Region IV, Air Programs Branch, 404/881–3043 or FTS 257–3043.

SUPPLEMENTARY INFORMATION: On September 10, 1980 (45 FR 59578), EPA gave full approval to the implementation plan revisions which North Carolina had submitted for the Mecklenburg County (Charlotte) ozone nonattainment area. Included in the revisions were RACT (Reasonably Available Control Technology) regulations for the control of eleven categories of sources of volatile organic compounds (VOC) covered by EPA's Control Techniques Guidelines (CTGs). For a discussion of the role of such regulations in the control of ozone, the reader may consult the general preamble to Agency action on revisions for nonattainment areas (**Federal Register** of April 4, 1979, page 20376) and the two supplements thereto (44 FR 50371, August 28, 1979 and 44 FR 53761, September 17, 1979). In the Mecklenburg County ozone plan, the State made a commitment to adopt regulations based on subsequently issued CTGs.

On June 12, 1980, following notice and public hearing in conformity with 40 CFR 51.4, the North Carolina Environmental Management Commission adopted revisions in its existing VOC regulations, 15 NCAC 2D.0900, and adopted regulations for the added source categories for which EPA had issued CTGs in the period January 1978 through January 1979 (Set II). These revisions were submitted for EPA's approval on June 23, 1980. The regulations added are in conformity with the CTGs and apply to the following nonattainment area sources which emit as much as 100 tons per year before control: (1) Gasoline truck tanks and vapor collection systems, (2) petroleum liquid storage in external floating roof tanks, (3) coating of miscellaneous metal parts and products, (4) factory surface coating of flat wood paneling, (5) graphic arts, (6) manufacture of pneumatic rubber tires, and (7) perchloroethylene dry cleaning systems. The added regulations also provide for the determination of solvent in filter waste. By a letter dated July 31, 1980, the State certified that there are no petroleum refineries or manufacturers of synthesized pharmaceuticals in Mecklenburg County and thus no need for regulations applicable to these two remaining source categories in the Set II CTGs.

During EPA's review of the State's submitted regulations, it was noted that the automobile customizing exemption associated with regulations 2D.0934, Miscellaneous Metal Parts, and the emission limits associated with 2D.0937, Manufacture of Pneumatic Rubber Tires, deviate from the levels envisioned in the Agency's CTGs. The State has provided documentation that the allowed exemptions under 2D.0934 will not impact any potential 100 tons per year source. Also, the emission limits of 2D.0937 were developed after a plant-specific RACT review, and the stipulated emission limits are enforceable using existing test methods and evaluation techniques.

Regulation 2D.0936, Graphic Arts, allows emission control well below the limits indicated as RACT in the CTG. Specifically, the required capture efficiencies are too low to insure sufficient control. Therefore, regulation 2D.0936 is not fully approvable as now written. EPA proposes to conditionally approve this regulation subject to the State's making an equivalency demonstration to within 5% of the CTG limits or modifying the regulation to reflect RACT level control.

Corrections in the regulation must be submitted to EPA by May 1, 1980. If the corrections are not submitted by that date, EPA will take action to disapprove the ozone control strategy for Mecklenburg County.

The State prepared a study of the socioeconomic impact of the new regulations and subjected it to public comment, the study and the comments received in response were submitted to EPA with the revisions.

EPA proposes to approve the added regulations as RACT except for regulation 2D.0936, Graphic Arts, as indicated above. It should also be noted with regard to regulation 2D.0936 that it provides, in paragraph (c)(4), for a demonstration of compliance through the use of a mixture of waterborne and solvent based inks. Paragraph (c)(4) allows the bubbling of emission control levels between different print lines in a facility. This amounts to an internal plant bubble, and any use of the option will require a source-specific implementation plan revision.

The following remarks apply to changes adopted in June 1979 in the existing VOC regulations.

In addition to methane, ethane, and trichlorotrifluorethane, the following compounds are not regulated now: methyl chloroform and methylene chloride. In this connection, the reader should refer to the Agency's latest policy statement on halogenated hydrocarbons and State implementation plans (**Federal Register** of July 22, 1980, pp. 48941–42). In brief, EPA has no basis for disapproving the exemption of these compounds (i.e., methyl chloroform and methylene chloride) from controls developed to meet the ozone standard because neither compound is a ozone precursor. However, EPA wishes to point out that there is a strong possibility that the Agency may take further regulatory action to control these compounds.

Regulation .0905, Petition for Alternative Controls, is amended to apply to the added source categories. An application of this regulation must be the subject of a plan revision submitted for EPA's approval.

Regulations .0907, .0908, and .0909 are amended to provide, for the added source categories, compliance schedules for equipment installation or modification and for use of low solvent content coating technology. These are identical to the existing schedules except that the increments of progress are later by one year.

Regulation .0910, Alternative Compliance Schedules, is amended by making its provisions applicable to the added source categories. In addition, provision is made for alternative schedules deferring final compliance for Set II sources beyond December 1982 and up until December 1987 provided the source's noncompliance does not interfere with attainment of the ozone standard by December 1982. Any application of this or other provisions of regulation .0910 must be the subject of a plan revision submitted for EPA's approval.

EPA proposes to approve these revisions in the North Carolina VOC regulations except new regulation to D.0936, for which conditional is proposed. The public may participate in this rulemaking by submitting written comments. After weighing pertinent comments received together with all other information available to him, the Administrator will take final action. EPA has determined that this is a

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specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 172, Clean Air Act (42 U.S.C. 7410 and 7502))

Dated: October 28, 1980.

Rebecca W. Hanmer,

Regional Administrator.

[FR Doc. 80-37377 Filed 12-1-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 55

[AS-FRL 1689-3]

State and Federal Administrative Enforcement of Implementation Plan Requirements After Statutory Deadlines; Proposed Delayed Compliance Order for Virginia Electric & Power Co.'s Possum Point Generating Station

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency proposes to issue an administrative order to Virginia Electric and Power Company's Possum Point Generating Station requiring its Boilers Number 3 and 4 in Prince William County, Virginia to achieve compliance with air pollution requirements under the Virginia State Implementation Plan by January 1, 1984.

DATE: Written comments and requests for a public hearing (and reasons therefor) must be received no later than January 2, 1981.

ADDRESS: All comments and requests for a public hearing should be submitted to: U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106; Attn: Director, Air, Toxics & Hazardous Materials Division.

FOR FURTHER INFORMATION CONTACT: Mr. Lewis K. Felleisen, Regional Energy Coordinator, Environmental Protection Agency, Sixth & Walnut Streets, Philadelphia, Pennsylvania 19106 (215-597-9944).

SUPPLEMENTARY INFORMATION: EPA has developed an administrative order it proposes to issue under Section 113(d)(5) of the Clean Air Act ("the Act") 42 U.S.C. 7413(d)(5) to the Virginia Electric and Power Company (the "Company") requiring its Units 3 and 4 at the Possum Point Power Station in Prince William County, Virginia to achieve compliance with Virginia State Air Pollution Control Board, Section IV, Rules 2 and 3 of the Virginia State Implementation Plan by April 1, 1984. The order requires the Company to install control equipment on Units 3 and 4 according to the compliance schedule set forth in the order, contains interim emission reduction requirements, specifies emission limitations, fuel quality characteristics, and requires monitoring and reporting of air quality and air pollutant emissions data. If the order is issued, the Company's compliance with its terms will preclude any further enforcement action against the Company by EPA under Section 113 of the Act and any citizens' suits under Section 304 of the Act for violations of the Virginia State Implementation Plan provisions for Units 3 and 4 covered by the order. The purpose of this notice is to invite public comments on whether or not EPA should issue this order under Section 113(d)(5) and, if significant public interest exists, to offer an opportunity for public hearing to discuss this issue.

The actual terms of the order, as set forth below, may be modified prior to final EPA issuance. Background information applicable to the Company's Possum Point Generating Station may be viewed during normal business hours at the address provided above.

All interested persons are invited to submit written comments on the proposed order. Comments, submitted in person or by mail on or before January 2, 1981, will be considered in determining whether EPA should issue the order. Any person may request a public hearing on the subject order by submitting a request in writing and reasons therefor to the above Regional Office on or before January 2, 1981. If there is significant public interest in such a hearing, it will be conducted by EPA Region III following 30 days prior notice of the time and place of the hearing.

The Clean Air Act Amendments ("the Amendments") of 1977 have changed the authority of the Administrator to issue extensions of compliance dates to sources which receive orders from Department of Energy prohibiting the use of oil or gas as a primary energy source under either Section 2(a) of the Energy Supply and Environmental Coordination Act (ESECA) or any superseding legislation. Such extensions were issued under Section 119 of the Clean Air Act ("the Act") as in effect prior to the amendments, and regulations implementing Section 119 were codified under 40 CFR Part 55. Section 112 of the Amendments repealed Section 119 and added a new Section 113(d) which provides for the issuance of extensions to all sources generally and to prohibited sources specifically [113(d)(5)]. Furthermore, ESECA was superseded by the Power Plant and Industrial Fuel Use Act ("FUA") on November 9, 1978.

The Clean Air Act Amendments of 1977 changed the ESECA/FUA program in four major respects. These changes are:

(1) Sources able to comply with the applicable State Implementation Plan by December 31, 1985 may be eligible for an extension as opposed to the previous date of January 1, 1979;

(2) Extensions are to be provided for via Section 113(d)(5), Delayed Compliance Orders, rather than Section 119, Compliance Date Extensions;

(3) The regional limitation of old Section 119(c)(2)(D) has been made a rebuttable presumption by the new Section 113(d)(5)(D).

Therefore, if the subject order is issued by EPA, 40 CFR Part 55 would be amended based upon the actual term of Order No. R-III-CC-005 appearing below:

Before the United States Environmental Protection Agency—Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pa. 19106

In the matter of Virginia Electric & Power Co. Possum Point Power Station; Order No. R-III-CC-005.

This Order is issued pursuant to Section 113(d)(5) of the Clean Air Act ("the Act"), as amended, 42 U.S.C. 7413(d)(5). This Order contains a schedule for compliance, interim requirements, monitoring and reporting requirements, and other requirements of this Section of the Act. Public notice has been provided pursuant to Section 113(d)(1) of the Act, 42 U.S.C. 7413(d)(1), and a copy of this Order has been provided to the Governor of the Commonwealth of Virginia to seek his concurrence.

Findings

On January 23, 1980, Virginia Electric and Power Company (the "Company") received notice of a proposed Prohibition Order from the Economic Regulatory Administration of the Department of Energy ("DOE") pursuant to Section 301(b) of the Power Plant and Industrial Fuel Use Act of 1978 ("FUA"), 42 U.S.C. 8341(b) (1978 Cum. Supp.), as implemented by 10 CFR Part 504, 44 FR 43176 (1979). Said Order prohibited, upon issuance of a final Prohibition Order, any further burning of natural gas or petroleum products as the primary energy source for the Company's Possum Point Unit 4 ("Unit 4") at the Possum Point Power Station in Prince William County, Virginia. Furthermore, on May 16, 1980, the Company received notice of a similar proposed Prohibition Order from DOE prohibiting, upon issuance of a final Prohibition Order, any further burning of natural gas or petroleum products as the primary energy source for the Company's Possum Point Unit 3 ("Unit 3").

Both Units 3 and 4 were burning petroleum products as their primary energy source at the time the DOE proposed Prohibition Order was issued. The burning of coal as the primary energy source for Units 3 and 4 would result in the Possum Point Power Station not being in compliance with applicable air pollution requirements of the Virginia State Implementation Plan ("SIP"). The Company, therefore, formally requested from the United States Environmental Protection Agency ("EPA") an order under Section 113(d)(5) of the Act to allow the burning of coal as the primary energy source at both Units 3 and 4.

The Company demonstrated that emissions resulting from the conversion of Units 3 and 4 to coal would not cause or contribute to any violation of the national primary ambient air quality standard for particulate matter in the National Capital Intrastate Air Quality Control Region ("AQCR").

The District of Columbia is located in the National Capital Intrastate AQCR. Portions of the District of Columbia are currently designated as not attaining the national primary ambient air quality standards for particulates (43 FR 40507 (1978)). Recent air quality data, however, have indicated that the national primary ambient air quality standards for particulates are currently being attained in the District. Data for calendar years 1978 and 1979 indicate that, with the exception of one monitor, there were no recorded violations of the national primary ambient air quality standard for particulates during those years at any of the monitors located within the District that are sited in accordance with Appendix E of 40 CFR Part 58, EPA's Ambient Air Quality Monitoring, Data Reporting, and Surveillance provisions (44 FR 27558 (1979)). The one monitor, designated as the Tenley monitor by the District of Columbia Department of Environmental Services, Bureau of Air and Water Quality, recorded two violations of the 24-hour national primary ambient air quality standard for particulates in August, 1978. A subsequent analysis of these violations indicated that they could be attributed to nearby construction activity on Washington's Metro system, and that the violations did not accurately represent a wide-spread, or on-going problem. The air quality data recorded at the Tenley monitor during 1979 showed that the monitor was well below the national primary ambient air quality standard for particulates. For these reasons EPA has determined that section 113(d)(5)(D) of the Act does not apply for the purposes of this order.

The Administrator of EPA ("Administrator") has determined that the emission limitations, requirements regarding the pollution characteristics of the coal, and other enforceable measures contained in the Order, satisfy the requirements of Section 113(d)(5)(B) of the Act. Furthermore, pursuant to Section 113(d)(5)(B) of the Act, the Administrator has determined that compliance with the requirements of this Order will assure that, throughout the period before the date for final compliance established in the Order, the burning of coal by Units 3 and 4 will not result in emissions which will cause or contribute to concentrations of any air pollutant in excess of any national primary ambient air quality standard for such pollutant.

Pursuant to Section 113(d)(6) of the Act, the Administrator has determined that the Compliance Schedule set forth below is as expeditious as practicable.

Finally, pursuant to Section 113(d)(7) of the Act, the Administrator has determined that the Order provides that Units 3 and 4 shall use the best practicable system or systems of continuous emission reduction, taking into account the requirements with which the Unit must ultimately comply, during the period this Order is in effect. Both Units 3 and 4 shall also comply with such interim requirements as the Administrator has determined are reasonable and practicable, inculding such measures as are: (1) Necessary to ensure avoidance of imminent and substantial endangerment to the health of persons; and (2) ensure that Units 3 and 4 comply with the requirements of the Virginia SIP insofar as they are able to do so. Therefore, based upon a thorough review of the information obtained from all sources, including public comment, the Administrator has decided to issue the following Order.

Order

It is hereby Ordered that:

SIP Limitation

I. During the period this Order is in effect, Units 3 and 4 shall not be subject to § IV, Rule 2 (effective March 17, 1972) and Rule 3 (effective March 17, 1972, as amended, August 11, 1972) of the Federally-approved Virginia Regulations for the Control and Abatement of Air Pollution (hereinafter referred to as "Rules 2 and 3"), but shall comply with the interim limitations and compliance schedule set forth in this Order. Possum Point Units 1, 2, and 5 ("Units 1, 2 and 5") and the combustion turbines located at the Possum Point Power Station shall remain subject to Rules 2 and 3. During the period this Order is in effect, the total heat input for Possum Point Units 1, 2 and 5, and the combustion turbines, shall be 11,550 million BTUs per hour, and this heat input rate will be used for determining the maximum allowable amount of particulate matter that may be emitted from these units pursuant to Rule 3. At this heat input rate, Rule 3 allows a maximum emission rate of 1,155 pounds of particulate matter per hour.

Compliance Schedule

II. The Company's Units 3 and 4 shall comply with the requirements of Rules 2 and 3 as expeditiously as practicable, but in no event later than the dates specified in the following schedule:

A. For Unit 3:

1. Not later than June 1, 1981: Enter into contracts for particulate emission controls and other equipment necessary for final compliance with Rules 2 and 3.

2. Not later than January 1, 1983: Initiate on-site construction or installation of continuous particulate emission control systems.

3. Not later than January 1, 1984: Complete on-site construction or installation of continuous particulate emission control systems.

4. Not later than April 1, 1984: Perform particulate emission tests and submit the test report. The test report results must demonstrate compliance with Rules 2 and 3 and said results must be obtained in conformance with the procedures set forth in Appendix A to 40 CFR Part 60.

B. For Unit 4:

1. Not later than April 1, 1980: Enter into contracts for particulate emission controls and other equipment necessary for final compliance with Rules 2 and 3.

2. Not later than August 1, 1981: Initiate on-site construction or installation of continuous particulate emission control systems.

3. Not later than August 1, 1982: Complete on-site construction or installation of continuous particulate emission control systems.

4. Not later than November 1, 1982: Perform particulate emission tests and submit the test report. The test report results must demonstrate compliance with Rules 2 and 3 and said results must be obtained in conformance with the procedures set forth in Appendix A to 40 CFR Part 60. For the purposes of determining compliance with Rule 3, Unit 4's heat input (2.332 million BTUs per hour) shall be added to the heat input of Units 1, 2, 5 and the combustion turbines. The total heat input for Units 1, 2, 4, 5 and the combustion turbines shall be 13,882 million BTUs per hour, and this heat input will be used for determining the maximum allowable amount of particulate matter that may be emitted from these units pursuant to Rule 3. At this heat input rate, Rule 3 allows a maximum emission rate of 1,388 pounds of particulate matter per hour.

C. In the event the Company is unable to comply with any of the schedule increments established in subparagraphs II.A or II.B above, and such failure is caused by or due to circumstances beyond the control of the Company, the time for compliance with such schedule increment and all subsequent schedule increments shall be extended for a period equal to the delay resulting from such circumstances. Any delay that is caused by such circumstances shall not be deemed a violation of this Order. Increased costs or expenses associated with the implementation of actions called for by this Order shall not, by themselves, be considered circumstances beyond the control of the Company for the purposes of this paragraph. The burden of providing that any delay is caused by circumstances beyond the control of Company shall rest with the Company.

III. With respect to the interim milestones contained in the Compliance Schedule set out in subparagraphs (A) and (B) of Paragraph II hereinabove, the Company shall submit written notice to the Director, Air, Toxics and Hazardous Materials Division, EPA Region III, no later than ten (10) calendar days after each milestone has been achieved, but no later than ten (10) calendar days after the final date set for achieving each such milestone, if it has not been achieved. Furthermore, the Company shall submit a construction progress report to said Director no later than four (4) months after the effective date of this Order, and every four (4) months thereafter.

Interim Requirements

IV. During the period this Order is in effect, Units 3 and 4 shall comply with the following interim requirements:

A. Units 3 and 4 shall burn coal with an ash content not to exceed 8.5 pounds of ash

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per million BTU's (e.g., coal having an ash content of twelve percent (12%) and a heating value of twelve thousand (12,000) BTU's per pound, or the equivalent thereof).

B. Unit 3 shall not at any time emit in excess of one thousand four hundred and thirty-nine (1,439) pounds of particulate matter per hour at maximum load.

C. Unit 4 shall not at any time emit in excess of three thousand nine hundred and sixty-four (3,964) pounds of particulate matter per hour at maximum load.

D. The Company shall continue to take measures to improve the performance of the particulate emission control equipment on Units 3 and 4 where it is reasonable and practicable to do so. Such measures may include, but are not limited to, adjustments and modifications to the existing control equipment or the training of operators to optimize particulate emission control equipment performance.

Any modifications to this Order shall be made by the Administrator pursuant to Section 113(d)(5) of the Act and promulgated pursuant to the procedures for informal rulemaking.

V. The Company is not relieved by the terms of this Order from compliance with any requirement imposed by EPA and/or the courts pursuant to Section 303 of the Act.

Emission Monitoring and Reporting Requirements

VI. The Company shall comply with the following emission monitoring and reporting requirements at the Possum Point Power Station on or before the dates specified below:

A. Emission and Ambient Air Quality Monitoring

1. No later than thirty (30) calendar days after the effective date of this Order, the Company shall submit to the Director, Air, Toxics and Hazardous Materials Division, EPA Region III, a proposal for an air quality monitoring network to be set up by the Company in the vicinity of the Possum Point Power Station. Said network shall include monitors capable of measuring 24-hour average particulate concentrations and may include the monitors currently owned and operated by the Company.

2. No later than ninety (90) calendar days after receiving EPA approval of the network proposed under subparagraph VI.A.1. of this Order, the Company shall complete installation of and begin operation of the EPA-approved network, including any modifications made in the network by the Director, Air, Toxics and Hazardous Materials Division, EPA Region III.

3. No later than ninety (90) calendar days after the effective date of this Order, the Company shall submit to the Director, Air, Toxics and Hazardous Materials Division, EPA Region III, the methods, procedures and devices the Company intends to use to obtain the information required by subparagraph VI.B of this Order.

4. No later than thirty (30) calendar days after receiving EPA approval of the monitoring and information gathering system proposed under subparagraph VI.A.3. of this Order, the Company shall implement such system as approved by EPA, including any modifications to the proposed system made by the Director, Air, Toxics and Hazardous Materials Division, EPA Region III. Said Director may allow additional time to install monitoring equipment.

5. No later than sixty (60) calendar days after commencing the burning of coal as the primary energy source in Units 3 and 4, the Company shall perform particulate emissions tests on Units 3 and 4. Furthermore, no later than September 1, 1982, the Company shall perform additional particulate emissions tests on Unit 3. Such tests shall be performed in accordance with Appendix A of 40 CFR Part 60 (1979). The Company shall provide written notification to the EPA Region III Regional Energy Coordinator a minimum of fifteen (15) days prior to the scheduled date for conducting such tests. The Company shall submit to the Regional Energy Coordinator, EPA Region III, a complete written report containing all information pertinent to the performance and results of the particulate emissions tests on Units 3 and 4 no later than thirty (30) calendar days after completing such tests.

6. No later than thirty (30) calendar days after the effective date of this Order, the Company shall install and operate continuous opacity monitors required under subparagraph VI. B.1.c of this Order.

7. No later than ninety (90) calendar days after the effective date of this Order, the Company shall conduct a Performance Specification Test (PST) for the continuous opacity monitors required in subparagraph VI.A.6. of this Order in accordance with Performance Specification 1, Appendix B of 40 CFR Part 60 (1979). The Company shall submit written notice to the Regional Energy Coordinator, EPA Region III, at least thirty (30) calendar days prior to conducting the PST.

8. No later than forty-five (45) calendar days after the completion of the PST required under subparagraph VI.A.7. of this Order, the Company shall submit a written report containing all information pertinent to the PST to the Regional Energy Coordinator, EPA Region III.

B. Recordkeeping and Noncompliance Reporting

1. The Company shall maintain monthly records both of air quality monitoring data and of air pollutant emissions. The Company shall submit copies of these records to the Regional Energy Coordinator, EPA Region III, no later than fifteen (15) calendar days after the end of each calendar month. Said air pollutant emission records shall detail daily particulate emissions from Units 3 and 4 as determined by the application of EPA emission factors and shall at minimum include:

a. A description of the types and amounts of fuel consumed each day of the preceding month;

b. An analysis of the fuel received each week including sulfur content, ash content and high heating value; and

c. For Units 3 and 4, a record of the opacity acquired by means of continuous opacity monitoring devices in the stacks for Units 3 and 4. Such continuous opacity monitoring devices shall be installed, calibrated, and maintained in accordance with Performance Specification 1, Appendix B of 40 CFR Part 60.

2. No later than thirty (30) days after the effective date of this Order, the Company shall submit for EPA approval procedures by which the Company will obtain and record data about the operating parameters of the electrostatic precipitators on each coal-fired unit at the Possum Point Power Station. Said procedures shall be implemented within thirty (30) days after they are approved by EPA. The Company shall also maintain records of discharge electrodes which are shorted or cut out. The records and data collected pursuant to this subparagraph shall be kept on file at the Possum Point Power Station for not less than twelve (12) months after they are collected and shall be available for inspection by EPA during the time.

3. If, for any reason, the Company does not comply or will be unable to comply with any requirement of this Order, the Company shall submit written notice to the Director, Air, Toxics and Hazardous Materials Division, EPA Region III, no later than five (5) calendar days after becoming aware of such noncompliance. Such notice shall include:

a. A description of the noncompliance and its cause;

b. The period during which noncompliance has occurred and/or is expected to occur; and

c. The steps taken to reduce, eliminate and prevent recurrence of the noncompliance.

4. If the air quality monitoring data collected by the Company pursuant to subparagraph VI.A. of this Order indicate that the national primary ambient air quality standards for particulates are being exceeded, the Company shall notify the Director, Air, Toxics and Hazardous Materials Division, EPA Region III, of such occurrence by telephone or other means, no later than seventy-two (72) hours after the Company becomes aware of such noncompliance. This notification shall be followed by a letter no later than seven (7) days after such notification.

C. Control Equipment Performance

1. No later than sixty (60) calendar days after the effective date of this Order, and every six (6) months thereafter, the Company shall submit to the Director, Air, Toxics and Hazardous Materials Division, EPA Region III, a report that describes the Company's efforts during the reporting period to improve the performance of the particulate emission control equipment on Units 3 and 4, as required in subparagraph IV.D. of this Order.

VII. The period of effectiveness of this Order shall not include any interval after EPA finds and notifies the Company that (1) a national primary ambient air quality standard for particulates is being exceeded in the National Capital Intrastate AQCR and (2) the Company has failed to submit evidence, or, if such evidence has been submitted, it is inadequate in the judgment of EPA to show, that the requirements of Sections 113(d)(5)(D)(i) through (iii) of the Act have been satisfied. During such intervals, if any, full compliance with the standards and limitations of the SIP (excluding this Order) shall be required of the Company, and violations by the Company of the SIP shall be subject to enforcement action under any and all authorities of Section 113 of the Act.

VIII. Nothing herein shall affect the responsibility of the Company to comply with any other applicable State, local or other Federal Regulations.

IX. The Company shall submit a copy of all correspondence and reports required under this Order to the Director, Enforcement Division, EPA Region III.

X. The Company is hereby notified that its failure to achieve final compliance at its Possum Point Power Station with the applicable particulate emission regulations of the Virginia SIP by November 1, 1982 for Unit 4 or April 1, 1984 for Unit 3, or such other date as may be specified in a second Order pursuant to Subsection 113(d) of the Act, if issued, may result in a requirement to pay a noncompliance penalty under Section 120 of the Act, 42 U.S.C. 7240. Such requirement may be imposed at an earlier date, as provided by Section 113(d) and Section 120 of the Act, in the event that either this Order is terminated as provided in Paragraph XI below, or in the event that any requirement of this Order is violated as provided in Paragraph XII, below. In any event, the Company will be formally notified, pursuant to Section 120(b)(3) of the Act and any regulations promulgated thereunder, of its noncompliance.

XI. This Order shall be terminated in accordance with Section 113(d)(8) of the Act if the Administrator or his delegatee determines, on the record, after notice and hearing, that the inability of the Company to comply with Rules 2 and 3, as approved by EPA, no longer exists with respect to its Possum Point Power Station. In addition, if the Company is able to demonstrate compliance with Rules 2 and 3 prior to April 1, 1984, then this Order may be terminated at that earlier date by mutual agreement of the Administrator and the Company.

XII. Violation of any requirement of this Order shall result in one or more of the following actions:

A. Enforcement of such requirement pursuant to Section 113(a), (b), or (c) of the Act, 42 U.S.C. 7413(a), (b) or (c);

B. Revocation of this Order, after notice and opportunity for a public hearing;

C. Notification of noncompliance and commencement of action pursuant to Section 120 of the Act.

XIII. This Order is effective upon publication in the **Federal Register** and after having received concurrence from the Governor of the Commonwealth of Virginia.

Date: ————————.

————————,

Administrator or Delegatee, U.S. Environmental Protection Agency.

Waiver of Rights to Challenge Order

Virginia Electric and Power Company (the "Company") by the duly authorized undersigned, hereby consents to the findings made and to the terms of this Order and waives any and all rights under provision of law to challenge this Order; however, the Company expressly reserves the right to assert any other defense or to seek such other relief as may be available to it in any enforcement action or other action taken pursuant to this Order or otherwise.

Date: ————————.

(42 U.S.C. 7413(d))

Dated: October 28, 1980.

Jack Schramm,

Regional Administrator.

[FR Doc. 80-37379 Filed 12-1-80; 8:45 am]

BILLING CODE 6560-36-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-732; RM-3639]

FM Broadcast Station in Ainsworth, Nebr.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel to Ainsworth, Nebraska, in response to a petition filed by K.B.R. Broadcasting Company. The proposed channel would provide for a first local FM broadcast service to Ainsworth.

DATES: Comments must be filed on or before January 13, 1981, and reply comments must be filed on or before February 2, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Ainsworth, Nebr.), BC Docket No. 80-732, RM-3639.

Adopted: November 18, 1980.

Released: November 21, 1980.

1. *Petitioner, Proposal, Comments.* (a) A petition for rule making [1] was filed by K.B.R. Broadcasting Company ("petitioner"), proposing the assignment of Channel 224A to Ainsworth, Nebraska, as that community's first FM assignment.

(b) The channel can be assigned to Ainsworth in compliance with the minimum distance separation requirements.

(c) Petitioner states that it will apply for the channel if assigned.

2. *Community data*—(a) *Location.* Ainsworth, seat of Brown County is located in the north-central part of Nebraska, approximately 205 kilometers (140 miles) southeast of Norfolk.

(b) *Population.* Ainsworth—2,073 [2], Brown County—4,021.

(c) *Local Aural Broadcast Service.* Ainsworth is served locally by full-time AM Station KBRB, licensed to petitioner.

3. *Economic consideration.* Petitioner states that the economy is based primarily on agriculture. It has experienced a growth in population from 1970 to 1978, and anticipates continued growth based on several small local industries, and the approval of a large irrigation project for the Niobrara River near Ainsworth. Petitioner has submitted demographic and economic information to demonstrate the need for a first FM assignment to Ainsworth.

4. In view of the fact that the proposed FM channel could provide a first local aural broadcast service to Ainsworth, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to the following city:

City	Channel No.	
	Present	Proposed
Ainsworth, Neb		224A

5. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before January 13, 1981, and reply comments on or before February 2, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

[1] Public Notice of the petition was given on April 25, 1980, Report No. 1226.

[2] Population figures are taken from the 1970 U.S. Census.

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Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80-732, RM-3639]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only reasubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial fo the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW, Washington, D.C.

[FR Doc. 80-37354 Filed 12-1-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-157; RM-3363]

FM Broadcast Station in Santa Barbara, Calif.; Order Extending Time for Filing Comments and Reply Comments.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment and reply period.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in BC Kocket No. 80-157 concerning a proposal to assign VHF TV Channel 10 to Santa Barbara, California. McGraw Hill Broadcasting Company, Inc. requests an extension to prepare and submit a report on its study of the propagation characteristics along the southern California coast.

DATES: Comments must be filed on or before December 15, 1980, and reply comments on or before January 5, 1981.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: November 14, 1980.

Released: November 25, 1980.

By the Chief, Policy and Rules Division:

1. On April 11, 1980, the Commission adopted a *Notice of Proposed Rule Making*, 45 FR 28770, concerning the above entitled proceeding. The current dates for filing comments and reply comments, which were already extended previously, are November 14, 1980, and December 5, 1980.

2. On November 7, 1980, counsel for McGraw Hill Broadcasting Company, Inc., licensee of Station KGTV-TV, San Diego, California, filed a request to extend the time for filing initial comments to December 5, 1980. Counsel states that the study of the unusual propagation of television signals along the southern California coast has been completed. However, additional time is needed to prepare the report in final form.

3. As we indicated in the previous extension *Order*, we would provide McGraw-Hill with sufficient time to prepare its study of the propagation characteristics of this area for the purpose of establishing that a different standard than the mileage separations should be used in considering the assignment of VHF TV Channel 10 to Santa Barbara. We recognize that a study of this type requires a lot of time in order to provide valuable data. The study which is being undertaken by the Commission and the Institute for Telecommunication Sciences (ITS) and previously mentioned in the last extension *Order* as relevant to this proceeding is not expected to be completed before the end of this year. Thus the extension sought herein would not delay this proceeding. It will also be necessary to extend the reply comment date.

4. Accordingly, it is ordered, that the dates for filing comments and reply comments are extended to and including December 15, 1980, and January 5, 1981, respectively.

5. This action is taken pursuant to authority found in Section 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 37363 Filed 12-1-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-493; RM-3609]

FM Broadcast Station in Munising, Mich.; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Extension of comment and reply period.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in the proceeding involving the proposed assignment of an FM channel to Munising, Michigan. Petitioner, Laidlaw and Associates, requests the additional time to evaluate other opportunities and decide if it should proceed in this matter.

DATES: Comments must be filed on or before December 1, 1980, and reply comments on or before December 21, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

Adopted: November 14, 1980.

Released: November 24, 1980.

1. On August 16, 1980, the Commission adopted a *Notice of Proposed Rule Making*, proposing the assignment of Channel 252A to Munising, Michigan, 45 FR 63530. Comments are presently due November 17, 1980, and reply comments December 8, 1980.

2. Counsel for Laidlaw and Associates, petitioner in the above rule making proceeding, filed a request seeking an extension of time for filing comments to and including December 1, 1980. He states that the additional time is needed to evaluate certain business opportunities and make a decision relative to their desire to proceed in the above captioned matter. He notes that no other party has expressed an interest in this proceeding.

3. Since no other party would be affected by the extra time, we are granting the extension. It will also be necessary to extend the reply comment deadline.

4. Accordingly, it is ordered, that the dates for filing comments and reply comments in BC Docket No. 80-493 are extended to and including December 1, 1980, and December 21, 1980, respectively.

5. This action is taken pursuant to Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's Rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-37362 Filed 12-1-80; 8:45 am]

BILLING CODE 6712-01-M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

48 CFR Parts 8 and 38

Federal Supply Schedule Contracting and Ordering From Federal Supply Schedule Contracts

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of availability and request for comment on draft Federal Acquisition Regulation (FAR).[1]

SUMMARY: The Office of Federal Procurement Policy is making available for public and Government agency review and comment, the portions of the draft Federal Acquisition Regulation regarding Federal Supply Schedule Contracting and Ordering from Federal Supply Schedule Contracts. Availability of additional segments for comment will be announced on later dates. The FAR is being developed to replace the current system of procurement regulations.

DATE: Comments on 48 CFR Subpart 8.4 and Part 38 must be received on or before February 6, 1981.

All comments on previously published portions of the draft FAR which were due between December 1979 and October 1980 must be received prior to December 31, 1980 to be considered. No comments due before December 1979 will be accepted any longer. (See Supplementary Information below.) During the remainder of the FAR project, all comments must be submitted during the designated comment period.

ADDRESS: Obtain copies of the draft regulation from and submit comments to William J. Maraist, Assistant Administrator for Regulations, Office of Federal Procurement Policy, 726 Jackson Place, N.W., Room 9025, Washington, D.C. 20503. Federal agency requests must be directed to the FAR Agency Contact Point (see **Federal Register** Vol. 45, No. 125, June 26, 1980, p. 43236 for list).

FOR FURTHER INFORMATION CONTACT: William Maraist (202)395-3300.

SUPPLEMENTARY INFORMATION: The fundamental purpose of the FAR is to reduce proliferation of regulations; to eliminate conflicts and redundancies; and to provide an acquisition regulation that is simple, clear and understandable. The intent is not to create new policy. However, because new policies may arise concurrently with the FAR project, the notice of availability of draft regulations will summarize the section or part available for review and describe any new policies therein.

Phase II of the FAR Project, comment evaluation and final drafting, is under way. Because of our desire to have maximum participation of all interested parties in the development of this regulation, the comment phase was held open since the first segment was published in August 1978. Phase II will involve placing all comments received side-by-side with the initial FAR draft on a hard-copy spread sheet. It is therefore essential to have all comments at one time for this Phase. The comment due dates indicated in this and future notices (see Date, above) must be observed for this purpose.

The following portions of the draft Federal Acquisition Regulation are available upon request for public and Government agency review and comment by February 6, 1981.

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

Subpart 8.4—Ordering From Federal Supply Schedule Contracts

This subpart explains the federal supply schedule program, and responsibilities and procedures for using schedules, and placing and administering orders under schedule contracts. The text is based on a variety of regulatory and non-regulatory sources such as 41 CFR 5A-73, 41 CFR 101-26.4, the GSA Federal Supply Schedule Program Guide, GSA training material, and actual schedules. Therefore, although the draft does not include any policy changes, much of it does not parallel DAR coverage of the subject. The FPR contains no corresponding coverage.

The draft incorporates the requirements of a relatively recent amendment (E-239) to 41 CFR 101-26.401, published in April 1980. The amendment requires ordering offices to periodically compare prices quoted in schedules with those of products from other commerical sources on the open market, and to inform the Federal Supply Service when a lower price is found.

PART 38—FEDERAL SUPPLY SCHEDULE CONTRACTING

This part prescribes policies and procedures governing the federal supply schedule program and the establishment and administration of schedule contracts.

There is no corresponding coverage in the DAR or the FPR. Sources for this new material include 41 CFR 5A-73 (the GSA Procurement Regulatons), 41 CFR 101-26.4, the GSA Federal Supply Schedule Program Guide and GSA training material.

Part 38 essentially presents an organized collection of existing concepts, rules, and procedures. However, the threshold for retaining an item in future schedules has been changed from anticipated purchases of at least $2000 for a contract period to anticipated purchases of at least $10,000

[1] Federal Acquisition Regulation filed as part of the original document.

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for a contract period. This change is based on the recommendation of the Office of Contracts, Federal Supply Service, General Services Administration.

Dated: November 25, 1980.

LeRoy J. Haugh,

Associate Administrator for Regulatory Policies and Practices.

[FR Doc. 80-37372 Filed 12-1-80; 8:45 am]

BILLING CODE 3110-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

Atlantic Bluefin Tuna; Proposed Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Proposed Amendment to the Regulations Governing the Atlantic Bluefin Tuna Fishery.

SUMMARY: These regulations governing the Atlantic bluefin tuna fishery are proposed to be amended under the authority of the Atlantic Tunas Convention Act of 1975. These amendments: (1) prohibit the use of longlines in a directed fishery for Atlantic bluefin tuna; and (2) change the incidental catch provisions of the present regulations for longline vessels operating south of the Cape Hatteras area from 2 percent of all other species on board at the end of a trip, to two giant Atlantic bluefin tuna per vessel, per trip; and (3) prohibit licensed buy-boats from purchasing or transporting any Atlantic bluefin tuna captured incidentally by longlines.

These proposed regulations are expected to take effect by mid January 1981. The National Marine Fisheries Service (NMFS) has prepared an Environmental Assessment to address the impact of these emergency regulations.

DATES: Comments will be received by the Northwest Regional Director until December 29, 1980. The hearing dates are shown in Supplementary Information below.

ADDRESSES: Send comments to the person and the address listed in the "For Further Information" section below. The location of the hearings are listed in the Supplementary Information section below.

FOR FURTHER INFORMATION CONTACT: Mr. Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, State Fish Pier, 14 Elm Street, Gloucester, Massachusetts 01930; Telephone: (617) 281-3600.

SUPPLEMENTARY INFORMATION: On March 21, 1969, the International Convention for the Conservation of Atlantic Tunas (the Convention, 20 UST 2887; TIAS 6767) entered into force for the United States. The United States, as a party to that Convention, implemented its obligations by enacting the Atlantic Tunas Convention Act of 1975 (16 U.S.C. Sections 971 *et seq*).

The Act, among other things, provides authority to the Secretary of Commerce to promulgate regulations which implement recommendations adopted by the Commission (ICCAT) established under the provisions of the Convention. Regulations with respect to Atlantic bluefin tuna were first promulgated during the summer of 1975. These regulations, as revised, establish fishing seasons, quotas, reporting requirements, enforcement procedures and penalties. They implement two recommendations of the Commission adopted during 1974 in light of evidence indicating a continuing decline in the abundance of Atlantic bluefin tuna. These recommendations, which are binding upon the United States, have remained in effect since their adoption. They are as follows:

(1) That the Contracting Parties take the necessary measures to prohibit any taking and landing of bluefin tuna weighing less than 6.4 kg (14 pounds). Notwithstanding the regulations, the Contracting Parties may grant tolerances to boats which have incidentally captured bluefin weighing less than 6.4 kg, with the condition that this incidental catch should not exceed 15 percent of the number of fish per landing of the total bluefin catch of said boats or its equivalent in percentage by weight.

(2) That as a preliminary step, the Contracting Parties that are actively fishing for bluefin tuna or those that incidentally catch it in significant quantities shall take the necessary measures to limit the fishing mortality of bluefin tuna to recent levels.

In implementing these recommendations the Commission clarified that interpretation of recent levels (of fishing mortality of bluefin tuna), referred to in the second proposal, should be left to each member state. It was also suggested that each country should be free to choose whether to limit catch or effort. This flexibility is particularly necessary because bluefin statistics for some countries are presently inadequate.

In accordance with Section 6(d) of the Act, regulations with respect to bluefin tuna were promulgated during the summer of 1975. These regulations as revised, establish fishing seasons, quotas, reporting requirements, and enforcement procedures and penalties. The regulations are written in a manner which reflects the relationship of recent fishing mortality levels to a particular size tuna, i.e., school fish (up to 135 lbs.), mediums (136-310 lbs.), and giant (over 310 lbs.).

The Atlantic bluefin tuna fishery consists of several components, each using a specific type of gear pursuing a specific size of tuna. The purse seine fishery employs 80- to 165-foot vessels that use purse seine nets nearly half a mile long. These long nets are used to encircle the fish and are drawn around and under the schools. These vessels fish for school-size tuna off the Middle Atlantic coast and giant-size Atlantic bluefin tuna off the New England coast. The handgear fishermen employ rather small boats (20-65 feet long) and use harpoons, longline, and rod and reel to catch bluefin tuna. Those handgear fishermen who fish off the Middle Atlantic coast catch mostly school-size tuna with rod and reel. There are some fishermen fishing by handgear methods off the southeast and Gulf coasts but the effort expended there is small compared to that of the Middle Atlantic coast. An estimated 15,000 handgear fishermen fish off the coast of New England for giant-size tuna.

The longline fishery employs gear consisting of a main or "ground" line extending anywhere from several hundred yards to 50 miles or more. Attached to this are branch lines or "gangions" which have a baited hook affixed to the end. Japanese longliners operate with high success in the waters off the Atlantic and Gulf of Mexico coastlines of the United States. These vessels tend to be large (over 100 feet) and use lengthy and sophisticated longline gear. U.S. longliners tend to be smaller (40-90 feet), and until late 1979, engaged primarily in a directed fishery for swordfish, with occasional incidental catches of Atlantic bluefin tuna.

During the 1980 winter/spring fishery in the Gulf of Mexico, a number of U.S. longline vessels fishing for swordfish began to land increasing quantities of giant Atlantic bluefin tuna.

The high ex-vessel prices paid for incidental catches of bluefin in 1980 have encouraged many U.S. fishermen to consider pursuing them as the target species in the 1981 winter/spring fishery. The successful Japanese longline operations in the Gulf of Mexico have served to demonstrate the availability of this species. For example, estimates have been made of up to 500 vessels entering this fishery over the next 2 years as a result of poor economic conditions in the shrimp industry. The NMFS is concerned that the resource is not strong enough to withstand additional heavy fishing pressure, and that the development of a new Atlantic bluefin tuna directed fishery is contrary to our ICCAT commitments. Many industry representatives have petitioned the NMFS for either a longline quota or additional provisions in the regulations clarifying our position on the development of this fishery.

The NMFS believes that amendments to the present regulations are necessary.

(1) The lack of specified regulations could encourage a substantial investment in the next few months by U.S. industry in fishing gear and processing facilities to develop a directed longline fishery for Atlantic bluefin tuna. Implementation of restrictive regulations after having geared up for this fishery would cause economic hardships and vocational displacement within the industry.

(2) Under the present regulations, longline catches of giant Atlantic bluefin tuna in the Gulf of Mexico are assigned to the southern handgear quota of 90 tons (approximately 270 fish). If no new regulations are in effect by the start of the Gulf of Mexico fishery which may begin by early January, the southern quota could be captured by these longliners before the end of the winter/spring Gulf fishery necessitating a closure by the NMFS. Not only would this have the effect of preventing any further incidental retention of giant Atlantic bluefin tuna by vessels in the Gulf of Mexico thereby closing the summer and fall giant handgear fishery off the Mid-Atlantic coast before that fishery ever began, but would have adverse economic effects on the coastal areas where the handgear fishery for giant Atlantic bluefin tuna are conducted. This would also eliminate the substantial nonpriced recreational benefits normally associated with this fishery.

(3) Lack of immediate regulations addressing an Atlantic bluefin tuna longline fishery could result in detrimental and long-term impacts upon the resource. Under the present system, the regulations are designed to address the purse seine and handgear fisheries, making the enforcment of longline activities difficult, especially south of Cape Hatteras. This could lead to extensive overfishing which, in addition to possibly damaging an already troubled resource, risk our present ICCAT commitment to keep fishing mortality at recent levels.

Atlantic bluefin tuna annually migrate into the Gulf of Mexico beginning in January, and at that time would be available to a domestic longline fishery. Any significant delay in implementing these regulations could render them ineffective in this winter's fishery.

Executive Order 12044

The Assistant Administrator has initially determined that this action is nonsignificant under Executive Order 12044. The action does not constitute a significant change to the current regulations.

National Environmental Policy Act of 1969 (NEPA)

The development and implementation of this amendment is deemed a nonsignificant Federal action which does not affect the quality of the human environment.

Public Comments:

The NMFS will hold the following public hearings to receive comments on the proposed regulations:

Date and location	Time
Dec. 8, 1980; City Hall, City of Madiera Beach, Madiera Beach, Fla. 33708, Tel: (813) 391-9951.	7:00 p.m. to 9:30 p.m.
Dec. 9, 1980; Best Western Executive Inn, 3224 South U.S. 1, Ft. Pierce, Fla. 33450, Tel: (305) 465-7000.	7:00 p.m. to 9:30 p.m.
Dec. 10, 1980; Texas A&M Research Center, Highway 44, Corpus Christe, Tex. 78408, Tel: (512) 265-9201.	7:00 p.m. to 9:30 p.m.
Dec. 11, 1980; Best Western Int'l Hotel, 2610 Williams Blvd., Kenner, La. 70062, Tel: (504) 466-1401.	7:00 p.m. to 9:30 p.m.
Dec. 16, 1980; Holiday Inn, Route 1, 1 Newbury Street, Peabody, Mass. 01960, Tel: (617) 535-4600.	7:00 p.m. to 9:30 p.m.
Dec. 18, 1980; Holiday Inn, 160 Holiday Plaza, Newark, N.J. 07114, Tel: (201) 589-1000.	7:00 p.m. to 9:30 p.m.

Public comment on these proposed regulations is invited during the next 30 days.

Signed in Washington, D.C. this 24th day of November, 1980.

(Atlantic Tunas Convention Act of 1975, 16 U.S.C. 971-971(h))

Terry L. Leitzell,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

Accordingly, 50 CFR Part 285 is proposed to be amended as follows:

1. Section 285.1 is amended by adding the following definition.

§ 285.11 [Amended]

"Handline" or "handline gear" means fishing gear which is released by hand and consists of one main line of variable length to which is attached leaders and hooks, with the number of leaders and hooks not to exceed 2. Handlines are retrieved only by hand, and not by mechanical means.

"Longline" or "longline gear" means fishing gear which is set horizontally, either anchored, floating, or attached to a vessel, which consists of a main or groundline of gangions and hooks numbering in excess of 2. A longline may be retrieved by hand or mechanical means.

* * * * *

2. Section 285.25 is amended by adding the following provisions.

§ 285.25 [Amended]

* * * * *

(bb) Fish for, take or catch giant Atlantic bluefin tuna with longline gear except as provided in § 285.31(d).

(cc) Fish for take or catch giant Atlantic bluefin tuna while having longline gear on board that vessel if the vessel is registered in the general category pursuant to § 285.2(b)(1).

3. Section 285.31 is amended by revising subsection (b) and adding a new subsection (d) as follows:

§ 285.31 [Amended]

* * * * *

(b) *Herring, mackerel, menhaden and tuna (other than Atlantic bluefin tuna) purse seine vessel and vessels using fixed gear other than traps and longlines (pounds, weirs, and gill-nets).* Any person operating a vessel fishing principally for species of fish other than Atlantic bluefin tuna and possessing an Atlantic bluefin certificate under § 285.21 may take, during any fishing trip, Atlantic bluefin tuna of any size class: Provided that, the amount of Atlantic bluefin tuna taken does not exceed 2 percent, by weight, of all other fish on board the vessel at the end of the fishing trip.

* * * * *

(d) *Longlines.* Any person operating a vessel using longline gear and possessing an Atlantic bluefin tuna certificate under § 285.21, shall be permitted to land Atlantic bluefin tuna of any size class, as an incidental catch provided that the amount of Atlantic bluefin tuna does not exceed:

(i) 2 fish per vessel, per trip, south of 36° N Latitude; and

(ii) North of 36° N. Latitude 2 percent by weight of all other fish on board at the end of the fishing trip.

When projected U.S. landings of Atlantic bluefin tuna reach a point where recent mortality levels will be exceeded, the Regional Director shall publish a Notice in the **Federal Register** prohibiting any further retention of giant

Atlantic bluefin tuna captured incidentally by longline.

[FR Doc. 80-37091 Filed 12-1-80; 8:45 am]

specification of joint venture processing (JVP) is therefore zero.

The Assistant administrator has determined that this amendment to the

2. 50 CFR Part 611 is amended by revising 3.A. of Appendix 1 of § 611.20 as follows:

Semi-Annual Agenda of
regulations scheduled for review or development,
January 1 through June 30, 1981

Atlantic bluefin tuna captured incidentally by longline.

[FR Doc. 80-37091 Filed 12-1-80; 8:45 am]
BILLING CODE 3510-22-M

50 CFR Part 611

Seamount Groundfish Fishery Resources; Preliminary Fishery Management Plan Amendment and Proposed Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Approval of preliminary fishery management plan amendment; proposed rulemaking.

SUMMARY: An amendment to the preliminary fishery management plan (PMP) for seamount groundfish fishery resources is approved. The amendment extends the PMP beyond 1980 and provides additional information to comply with Pub. L. 95-354 (the "Processor Preference Amendment"). Regulations to implement the admendment are proposed for public comment.

DATE: Comments must be submitted on or before January 2, 1981.

ADDRESS: Comments should be addressed to Denton R. Moore, Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Alan W. Ford, Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, California 90731. Telephone 213-548-2575.

SUPPLEMENTARY INFORMATION: In 1977 the NOAA Assistant Administrator for Fisheries prepared the PMP to manage the foreign seamount groundfish fishery under the Fishery Conservation and Management Act of 1976 (the FCMA) (Pub. L. 94-265). The PMP was published in the **Federal Register** on February 10, 1977 (42 FR 8568).

In 1980, the total optimum yield of 2,000 metric tons (m.t.) was allocated entirely to the total allowable level of foreign fishing (TALFF). The same amount is to be allocated to the annual TALFF starting in 1981 and in each year thereafter, unless amended.

As required by Pub. L. 95-354, the National Marine Fisheries Service has considered the likelihood that United States fishermen will harvest and deliver seamount groundfish to foreign processors ("joint ventures"), and has concluded that no joint venture will take place in the foreseeable future. The specification of joint venture processing (JVP) is therefore zero.

The Assistant administrator has determined that this amendment to the PMP is necessary and appropriate to the conservation and management of seamount groundfish resources, and that the amendment is consistent with provisions of the FCMA and other applicable laws. He has therefore prepared this amendment and the proposed regulations set forth below. The Assistant Administrator also has determined that this action does not require the preparation of an environmental assessment or an environmental impact statement under the National Environment Policy Act of 1969; and that it does not constitute a significant regulation requiring the preparation of a regulatory analysis under Executive Order 12044.

(16 U.S.C. 1801 *et seq.*)

Signed at Washington, D.C., this 26th day of November 1980.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

A. The Preliminary Fishery Management Plan for the Seamount Groundfish Fishery, Resources, Section 4.0 (42 FR 8568) is amended by adding the following paragraph (F):

§ 4.0 Optimality.

* * * * *

(F) *Joint venture operations.* There have been no indications that U.S. fishing vessels desire or intend to enter into joint ventures with foreign processing vessels. There is no record of domestic activity in the fishery in the past, nor is there information to suggest that domestic harvest for either domestic or joint venture processing is likely to occur.

B. For the reasons set out in the preamble, it is proposed that 50 CFR Part 611 be amended as follows:

1. 50 CFR Part 611 is amended by revising paragraph 611.80(b)(2) to read as follows

§ 611.80 Seamount groundfish fishery.

* * * * *

(b) * * *

(2) *TALFF, DAH, DAP, JVP, Reserve.* The total allowable level of foreign fishing (TALFF), domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and reserve for seamount groundfish are listed in Appendix 1 to Section 611.20. These specifications are valid for each calendar year unless amended.

* * * * *

2. 50 CFR Part 611 is amended by revising 3.A. of Appendix 1 of § 611.20 as follows:

§ 611.20 Total allowable level of foreign fishing.

* * * * *

Appendix 1—OY, DAH, JVP, TALFF

* * * * *

3. Western Pacific Ocean Fisheries.

A. Seamount Groundfish Fishery.

Express DAH, DAP, JVP, and reserve as "zero" in each case.

* * * * *

[FR Doc. 80-37497 Filed 12-1-80; 8:45 am]
BILLING CODE 3510-22-M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. 1

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Office of Personnel Management.

ACTION: Semiannual agenda of regulations.

SUMMARY: The following Office of Personnel Management regulations are scheduled for review or development during the 6-month period from January 1, through June 30, 1980. This publication in the **Federal Register** does not impose any binding obligation on the Office of Personnel Management with regard to any specific item on the Agenda. Regulatory action in addition to the items listed is not precluded.

FOR FURTHER INFORMATION CONTACT: Beverly M. Jones, Issuance System Office, Office of Planning and Evaluation, 202-254-7086.

Office of Personnel Mangement.

Beverly M. Jones,

Issuance System Manager.

BILLING CODE 6325-01-M

Semi-Annual Agenda of
regulations scheduled for review or development,
January 1 through June 30, 1981

CFR Part (and subpart or section number if applicable) or Other Authority	Title of Affected Part	Brief Description	Knowledgeable Official, Responsible Office, and Telephone Number
1. 5 CFR Parts 1 through 9	Civil Service Rules	In conjunction with an extensive revision of E.O. 9830 on Federal Personnel Administration, the Civil Service Rules will be eliminated as a separate body of regulation. Provisions of the Rules which must be retained will be incorporated in the revised Executive order or in civil service regulations. The regulatory changes should be accomplished within the next six months.	Anne Kirby, Office of Planning and Evaluation, (202) 632-6077
2. 5 CFR Part 213	Excepted Service	Delete specific position titles. Proposed regulation January 1981.	Tracy Spencer In-Service Placement Staffing Services (202) 632-6000
3. 5 CFR Part 290	Civilian Personnel Reporting	Proposed new part will be developed to reflect revisions to those portions of E.O. 9830 prescribing regulations pertaining to civilian personnel and employment information to be reported by agencies to OPM. Estimated target date is June 1981.	Stan Suser, Work Force Information Division, ACE, (202) 632-6739
4. 5 CFR Part 293	Personnel Records and Files	Proposed regulations establishing an Employee Performance Folder as part of an overall performance file system are in the final stages of internal OPM clearance. Expected publication for a 60-day comment period is January 1981.	William H. Lynch, Work Force Information Division, ACE, (202) 254-9790, (202) 254-9793

CFR Part (and subpart or section number if	Title of Affected Part	Brief Description	Knowledgeable Official, Responsible Office, and Telephone Number

CFR Part (and subpart or section number if applicable) or Other	Title of Affected Part	Brief Description	Knowledgeable Official, Responsible Office, and Telephone Number

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CFR Part (and subpart or section number if applicable) or Other Authority	Title of Affected Part	Brief Description	Knowledgeable Official, Responsible Office, and Telephone Number
5. 5 CFR Part 305, Subpart F	Career Executive Assignments	Regulations to provide for the noncompetitive appointment of certain present and former SES career appointees. Final regulations to be published by June 1981.	Ann Ugelow SES Division, EPMD (202) 632-6820
6. 5 CFR Part 317, Subpart G	SES Career Appointment by Reinstatement	Regulations to cover reinstatement to an SES career appointment following (a) a voluntary separation from SES, or (b) a Presidential appointment. Final regulations to be published by June 1981.	Ann Ugelow SES Division, EPMD (202) 632-6820
7. 5 CFR Part 317, Subpart H	Career Appointees: Retention of SES Provisions following a Presidential Appointment	Regulations to implement 5 U.S.C. 3392(c) regarding the right of SES career appointees to retain certain SES provisions while serving under a Presidential appointment, by and with the consent of the Senate. Final regulations to be published by June 1981.	Ann Ugelow SES Division, EPMD (202) 632-6820
8. 5 CFR Part 334	Temporary assignment of employees between Federal agencies and State governments.	Proposed rulemaking on procedures for providing merit pay for IPA mobility assignees: Target date, March 1981.	Audrey Harris Intergovernmental Personnel Programs (IPP) (202) 632-5373
9. 5 CFR Part 352	Reemployment Rights	Proposed subpart I for reemployment rights for Federal employees who accept assignment with the Panama Canal Commission. Proposed regulations 1-15-81.	Leota Shelkey Office of Policy Analysis and Development Staffing Services (202) 632-6817

CFR Part (and subpart or section number if applicable) or Other Authority	Title of Affected Part	Brief Description	Knowledgeable Official, Responsible Office, and Telephone Number
10. 5 CFR Parts 335, 351, 432, 752 and 771	Promotion and Internal Placement; Reduction In Force; Reduction in Grade and Removal on Unacceptable Performance; Adverse Actions; Agency Administrative Grievance System	Proposed regulations to formalize agency authority to make temporary reassignments. Proposed regulations, 1-15-80.	Leota Shelkey Office of Policy Analysis and Development Staffing Services (202) 632-6817
11. 5 CFR Part 351	Reduction In Force	Clarification of how agencies establish and use trainee and developmental positions in RIF. Final regulations, 2-1-81.	Tom Glennon Office of Policy Analysis and Development Staffing Services (202) 632-6817
12. 5 CFR Part 351	Reduction In Force	Identification of employees with positions transferring under transfer of function provisions. Final regulations 2-1-81.	Tom Glennon Office of Policy Analysis and Development Staffing Services (202) 632-6817
13. 5 CFR § 410.302	Training: Selection and Assignment of Trainees	Revised regulations governing selections for training leading to promotions or other employment decisions. Proposed rulemaking is in the OPM internal clearance process. Final regulations by March 2, 1981.	Constance Guitian Training Policy Division, WED (202) 653-6171
14. 5 CFR §410.503	Training: General Prohibitions on Training Through Non-Government Facilities	Revised regulations to clarify requirement to consider already qualified employees before training in non-government facilities. Proposed rulemaking is in the OPM internal clearance process. Final regulations by March 2, 1981.	Constance Guitian Training Policy Division, WED (202) 653-6171
15. 5 CFR §410.509	Training Agreement to Continue in Service and Failure to Fulfill Agreement to Continue in Service	Revised regulations to clarify procedures governing continued service agreements. Proposed rulemaking is in the OPM internal clearance process. Final regulations by January 15, 1981.	Constance Guitian Training Policy Division, WED (202) 653-6171

CFR Part (and subpart or section number if	Title of Affected Part	Brief Description	Knowledgeable Official, responsible Office, and Telephone Number

CFR Part (and subpart or section number if	Title of Affected Part	Brief Description	Knowledgeable Official, Responsible Office, and Telephone Number

CFR Part (and subpart or section number if Applicable) or Other Authority	Title of Affected Part	Brief Description	Knowledgeable Official, responsible Office, and Telephone Number
16. 5 CFR §410.601	Training: Determination of Necessary Expenses of Training	Proposed regulations to standardize per diem for extended training assignments published October 14, 1980. Final regulations by January 30, 1981.	Michael Kurup Training Policy Division, WED (202) 653-6171
17. 5 CFR Part 412	Executive and Management Development	Regulations requiring agencies to establish programs for the development of candidates for and members of the Senior Executive Service, and providing criteria for such programs, as required by the Civil Service Reform Act of 1978, and requiring agencies to establish management development systems and/or programs. Final regulations January 1981.	Merle Junker, Executive and Management Development Division, EPMD (202) 632-4661
18. 5 CFR Part 430	Performance Appraisal	Revision to existing regulations may be necessary based on the review of agency implementation of performance appraisal systems. The need for revision to be determined by June 30, 1981.	Nat Brown Special Programs Consulting Division, WED (202) 632-8950
19. 5 CFR Part 470	Personnel Research Programs and Demonstration Projects	Add new Part 470 to implement programs for conducting R&D projects. Development continuing.	Donald Hill, Office of Planning and Evaluation (202) 632-6898
20. 5 CFR §511.601 Through §511.703	Position Classification Reviews: Effective Dates of Position Classification Actions and Decisions	Revisions to regulations to incorporate changes brought about by CSRA and Reorganization Plan #2. Revised processing requirements. Proposed regulations published in May 1980. Final regulations to be published January 1981.	Frank T. Catenaccio, Classification appeals Office, ACE (202) 632-7744
21. 5 CFR Part 531, Subpart E	Salary Retention	Will be revoked in January 1981 after publication of final regulations on grade and pay retention in Part 536.	Roger Menke, Office of Pay and Benefits Policy, Compensation (202) 632-4684

CFR Part (and subpart or section number if applicable) or Other Authority	Title of Affected Part	Brief Description	Knowledgeable Official, Responsible Office, and Telephone Number
22. 5 CFR Part 532	Prevailing Rate Systems	Comprehensive new regulations for Federal Wage System. Proposed regulations published in May 1980; development of final regulations will begin by December 1980.	Richard Newbold, Pay Programs, Compensation (202) 632-5454
23. 5 CFR Part 539	Conversions Between Pay Systems	Will be revoked in January 1980 after publication of final regulations on grade and pay retention in part 536.	Roger Menke, Office of Pay and Benefits Policy, Compensation (202) 632-7744
24. 5 CFR Part 550	Pay Administration	Proposed revision on pay for irregular or intermittent duty involving physical hardship or hazard. Project delayed indefinitely.	Richard J. Carney, Pay Programs, Compensation (202) 632-6327
25. 5 CFR Parts 550 and 610	Pay Administration and Hours of Work	Proposed regulations to allow agencies to "round up" and "round down" to nearest quarter hour (or fractions less than a quarter of an hour) for crediting irregular, unscheduled overtime work. To be issued by June 30, 1981.	Mary Angel, Office of Pay and Benefits Policy, Compensation (202) 632-4684
26. 5 CFR Part 550	Pay Administration (General)	Proposed regulations on the installment collection of indebtedness because of erroneous payments made by an agency. To be issued by March 1, 1981.	Patricia Rochester, Office of Pay and Benefits Policy, Compensation (202) 632-4634
27. 5 CFR Part 550, Subpart G	Pay Administration, Severance Pay	Proposed revision of regulations on treatment of employees who accept employment with a successor non-Federal or non-appropriated fund organization, to be published by June 30, 1981.	Jan B. Karicher, Office of Pay and Benefits Policy, Compensation (202) 632-4684

CFR Part (and subpart or section number if Applicable) or Other Authority	Title of Affected Part	Brief Description	Knowledgeable Official, responsible Office, and Telephone Number
28. 5 CFR Part 550, Subpart H	Pay Administration, Severance Pay	Proposed revision of regulations on treatment of employees who accept employment with a successor non-Federal or non-appropriated fund organization, to be published by June 30, 1981.	Jan B. Karicher, Office of Pay and Benefits Policy, Compensation (202) 632-4684
29. 5 CFR Part 551	Pay Administration	Proposed revision on pay for irregular or intermittent duty involving physical hardship or hazard. Project delayed indefinitely.	Richard J. Carney, Pay Programs, Compensation (202) 632-6327
30. 5 CFR Part 610	Hours of Work	Proposed regulations to allow agencies to "round up" and "round down" to nearest quarter hour (or fractions less than a quarter of an hour) for crediting irregular, unscheduled overtime work. To be issued by June 30, 1981.	Mary Angel, Office of Pay and Benefits Policy, Compensation (202) 632-4684
31. 5 CFR Part 630	Absence and Leave	Proposed regulations on the use of sick leave for adoption purposes. To be issued by June 30, 1981.	Patricia Rochester, Office of Pay and Benefits Policy, Compensation (202) 632-4634
32. 5 CFR Part 630	Absence and Leave	Proposed regulations on the use of sick leave for adoption purposes. To be issued by June 30, 1981.	Jan B. Karicher, Office of Pay and Benefits Policy, Compensation (202) 632-4684

CFR Part (and subpart or section number if applicable) or Other Authority	Title of Affected Part	Brief Description	Knowledgeable Official, Responsible Office, and Telephone Number
33. 5 CFR Part 630	Absence and Leave	Proposed regulations on the use of sick leave for adoption purposes. To be issued by June 30, 1981.	Mary Angel, Office of Pay and Benefits Policy, Compensation (202) 632-4684
34. 5 CFR Part 630	Absence and Leave	Proposed regulations on the use of sick leave for adoption purposes. To be issued by June 30, 1981.	Patricia Rochester, Office of Pay and Benefits Policy, Compensation (202) 632-4634
35. 5 CFR Part 630	Absence and Leave	Proposed regulations on the use of sick leave for adoption purposes. To be issued by June 30, 1981.	Jan B. Karicher, Office of Pay and Benefits Policy, Compensation (202) 632-4684
36. 5 CFR Part 630	Absence and Leave	Proposed regulations on the use of sick leave for adoption purposes. To be issued by June 30, 1981.	Mary Angel, Office of Pay and Benefits Policy, Compensation (202) 632-4684
37. 5 CFR Part 630	Absence and Leave	Proposed regulations on the use of sick leave for adoption purposes. To be issued by June 30, 1981.	Patricia Rochester, Office of Pay and Benefits Policy, Compensation (202) 632-4634
38. 5 CFR Part 630	Absence and Leave	Proposed regulations on the use of sick leave for adoption purposes. To be issued by June 30, 1981.	Jan B. Karicher, Office of Pay and Benefits Policy, Compensation (202) 632-4684

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CFR Part (and subpart or section number if applicable) or Other Authority	Title of Affected Part	Brief Description	Knowledgeable Official, Responsible Office, and Telephone Number
28. 5 CFR Part 550, Subpart J	Pay Administration, Adjustment of Work Schedules for Religious Observances	Proposed regulations to implement title IV of the Federal Employees Flexible and Compressed Work Schedule Act of 1978 to be published by June 30, 1981.	Dwight W. Brown, Office of Pay and Benefits Policy, Compensation (202) 632-4634
29. 5 CFR Part 551	Pay Administration Under the Fair Labor Standards Act	Proposed regulations to implement the Fair Labor Standards Act in the Federal Government to be published in late 1980 or early 1981.	Dwight Brown, Office of Pay and Benefits Policy, Compensation (202) 632-5530
30. 5 CFR Part 591	Allowances and Differentials	New regulations to be proposed on allowances for uniforms. Project delayed indefinitely.	Richard J. Carney, Pay Programs, Compensation (202) 632-6327
31. 5 CFR Parts 550 and 610	Pay Administrative and Hours of Work	Proposed regulations to clarify the definition of the phrase "regularly scheduled" as it applies to scheduling workweeks under chapters 55 and 61 of title 5, U.S. Code, to be issued by April 30, 1981.	Dwight W. Brown, Office of Pay and Benefits Policy, Compensation (202) 632-4634
32. 5 CFR 630, Subpart I	Court Leave	Proposed regulations on the application of court leave to be issued by April 30, 1981.	Jan B. Karicher, Office of Pay and Benfits Policy, Compensation (202) 632-4684
33. 5 CFR Part 715	Voluntary Actions	Revised regulations to cover distinctions between voluntary and involuntary actions. Final regulations by April 1, 1981.	Cynthia Field Employee Relations Branch, WED (202) 632-7778
34. 5 CFR Part 720	Special Emphasis Programs	Proposed regulations to implement expected revisions of E.O. 9830 and to reinforce OPM's authority in this area following Reorganization Plan No. 1 (Oct. 1, 1979), regarding programs such as the following: Federal Women's Programs, Hispanic Employment Program, Outreach and Upward Mobility Programs, Selective Placement Programs and Veterans Employment Programs. Target date: June 30, 1981.	A. Diane Graham, Office of Affirmative Employment Programs (202) 632-4420

CFR Part (and subpart or section number if applicable) or Other Authority	Title of Affected Part	Brief Description	Knowledgeable Official, Responsible Office, and Telephone Number
35. 5 CFR Part 731	Suitability	Authorities; disqualification standards, rating actions and appeal rights. Will be revised to reflect (1) OPM's policy of increased delegation of its decision-making authorities to agencies and as necessary (2) new procedures for providing due process. Proposed regulations, 4-1-81.	Robert Hubbard Division of Personnel Investigations, Staffing Services (202) 632-6152
36. 5 CFR Part 732	Security and Related Determinations	Reemployment eligibility and action by the Office of Personnel Management. Proposed regulations, 4-1-81.	Robert Hubbard, Division of Personnel Investigations, Staffing Services (202) 632-6152
37. 5 CFR Part 735	Employee Responsibilities and Conduct	Proposed regulations revising 5 CFR Part 735 re standards of conduct. Expected to be available for public comment by April 1, 1981.	David Reich Office of Government Ethics (202) 632-7642
38. 5 CFR Part 754	Adverse Actions by OPM	Revised regulations to cover all disciplinary and non-disciplinary actions OPM can direct agencies to take. Final regulations by June 30, 1981.	Wilma Lehman Employee Relations Branch, WED (202) 632-7778
39. 5 CFR Part 831	Retirement; Early Retirement Coverage for Law Enforcement and Firefighter Personnel Serving in Administrative Positions	Proposed regulations published January 4, 1980, to delete the regulatory requirement that early retirement coverage attaches to an officer or firefighter only if experience is a basic qualification for filling the position. Proposed rules will be reissued by January 31, 1981.	Jane Lohr, Office of Pay and Benefits Policy, Compensation (202) 632-4634
40. 5 CFR Parts 831, 870, 871 and 890	Retirement; Retention of Benefits upon Employment by Indian Tribal Organizations	Final regulations to be published by June 30, 1980 to provide for retention of CSR, FEHB, and FEGLI coverages by certain Federal employees who transfer to tribal organization employment.	Gay Gardner, Office of Pay and Benefits Policy, Compensation (202) 632-4634

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CFR Part (and subpart or section number if applicable) or Other Authority	Title of Affected Part	Brief Description	Knowledgeable Official, Responsible Office, and Telephone Number
41. 5 CFR Part 831	Retirement; Elimination of Age 70 Mandatory Retirement	Interim regulations to implement Pub. L. 95-256 will be issued by January 31, 1981.	Jane Lohr, Office of Pay and Benefits Policy, Compensation (202) 632-4634
42. 5 CFR Parts 870, 871, and 890	FEGLI and FEHB	Final regulations to describe an employee's eligibility for FEGLI and FEHB coverage if he or she is in a career related work-study program to be issued by June 30, 1981.	John Ray, Office of Pay and Benefits Policy, Compensation (202) 632-4684.
43. 5 CFR Parts 831 and 890	Retirement and FEHB	Final regulations to amend the definition of a child to include dependency requirements, to be issued by March 31, 1981.	Mary Angel, Office of Pay and Benefits Policy, Compensation (202) 632-4684
44. 5 CFR Parts 870, and 871	Life Insurance and Optional Life Insurance	Final regulations to implement the Federal Employees Group Life Insurance Act of 1980; to be published by June 30, 1981.	John Landers, Office of Pay and Benefits Policy, Compensation (202) 632-4684.
45. 5 CFR Part 890	FEHB	Final regulations to permit certain survivor annuitants to elect the survivor annuity of one deceased spouse and the health benefits enrollment of another deceased spouse; to be issued by June 30, 1981.	John Ray, Office of Pay and Benefits Policy, Compensation (202) 632-4684
46. 5 CFR Part 890	FEHB; Conversion of Health Benefit Coverage	This project, included on the last semiannual agenda, will not be completed. Initial study has indicated that §890.102(b) can be interpreted to permit an extension of the time limit when timely conversion was prevented due to administrative error.	Gus Ghessie, Office of Pay and Benefits Policy, Compensation (202) 632-4684
47. 5 CFR Part 890, Subpart B	FEHB (Health Benefits Plans)	Final regulations on documentation information, etc. required of FEHB carriers to conform to Federal procurement regulations; to be issued by June 30, 1981.	Mary Ann Mercer, Office of Pay and Benefits Policy, Compensation (202) 632-4634.

CFR Part (and subpart or section number if applicable) or Other Authority	Title of Affected Part	Brief Description	Knowledgeable Official, Responsible Office, and Telephone Number
48. 5 CFR Part 890, Subpart C	FEHB (Registration and Enrollment)	Proposed change to enable Federal employees enrolled for high option FEHB coverage to elect low option coverage upon becoming eligible under the Civilian Health and Medical Program of the Uniformed Services; to be published by June 30, 1981.	Mary Ann Mercer, Office of Pay and Benefits Policy, Compensation (202) 632-4634
49. 5 CFR §930.204	Program for Specific Positions and Examinations (Miscellaneous) - Subpart B—Appointment, Pay and Removal of Administrative Law Judges.	Proposed regulations to govern promotion of Administrative Law Judges (ALJs) within one agency. (OPM would retain the sole responsibility for selecting the most qualified ALJs to fill the positions.)	John E. Flannery, Office of Administrative Law Judges, EPMD (202) 632-4604
50. 5 CFR §900.800	Intergovernmental Personnel Act Programs	Proposed regulations on nondiscrimination on the basis of age in programs or activities receiving Federal financial assistance from the Office of Personnel Management: Development continuing.	Richard Romero, Office of Intergovernmental Personnel Programs (202) 632-7274
51. 5 CFR Part 1001 Subpart C	Regulations Governing Employees of the Office of Personnel Management; Employee Responsibilities & Conduct	Major Revision-Specifics to be Determined. No target date.	Kym Davis, Acting Chief, Labor And Employee Relations Branch, Workforce Management Division, Office of Personnel. (254-9563)

[FR Doc. 80-37348 Filed 12-1-80; 8:45 am]
BILLING CODE 6325-01-C

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 109, 110, 225, 226, 500, and 509

[Docket No. 80N-0128]

Current Good Manufacturing Practice Relating to Poisonous and Deleterious Substances in Food, Feed, and Food-Packaging Materials Plants; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; further extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is further extending the period for submitting comments on the notice of proposed rulemaking to prohibit or limit the amount of polychlorinated biphenyls (PCB's) in sealed electrical transformers and capacitors used or stored in or around food, feed, and food- and feed-packaging materials manufacturing and storage facilities. This action is based on a request for extension of the comment period received by FDA.

DATE: Comments must be submitted on or before Marcy 4, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 9, 1980 (45 FR 30984), FDA proposed to prohibit or limit the amount of polychlorinated biphenyls (PCB's) in sealed electrical transformers or capacitors used or stored in or around food, feed, and food- and feed-packaging materials manufacturing and storage facilities. FDA requested that comments submitted in response to that proposal include information regarding the numbers, types, and locations of PCB-containing transformers or capacitors used or stored in or around FDA-regulated food, feed, or food-packaging materials plants and storage facilities, a reasonable time estimate for replacing such electrical equipment or replacing the PCB fluid in such equipment, and an estimate of the cost involved. Interested persons were requested to submit comments by July 7, 1980.

In the **Federal Register** of July 1, 1980 (45 FR 44325), FDA extended the comment period to November 4, 1980, in response to requests for additional time to comment.

In the **Federal Register** of October 28, 1980 (45 FR 71364), FDA together with Food Safety and Quality Service, USDA, and Environmental Protection Agency announced an informal public meeting on the subject proposal to be held November 7, 1980. The same notice extended the comment period to December 4, 1980.

FDA has received a request for further extension of the comment period to March 4, 1981, from the law firm of Wald, Harkrader and Ross, Washington, DC, on behalf of the Utilities Solid Waste Activities Group, the Edison Electric Institute, and the National Rural Electric Cooperative Association. The request, dated November 13, 1980, is on file with the Dockets Management Branch, Food and Drug Administration.

After carefully evaluating the merits of the request for extension of the comment period received, FDA has concluded that an extension of the comment period is necessary to provide adequate time for the compilation and submission of data and information that the agency requested be included in comments to assist FDA in developing an appropriate final rule on the proposal.

Accordingly, interested persons may, on or before March 4, 1981, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 26, 1980.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-37575 Filed 12-1-80; 8:45 am]

BILLING CODE 4110-03-M

Notices

Federal Register
Vol. 45, No. 233
Tuesday, December 2, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

Nitrites and Alternative Curing Agents; Meetings

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The National Academy of Sciences' National Research Council committee studying nitrites and alternative curing agents, plans to hold a public meeting on Thursday, January 22, 1981. The meeting will be held in the auditorium of the National Academy of Sciences, 2100 C Street, NW., Washington, DC, from 10:00 a.m. until 3:00 p.m. The purpose of the meeting is to receive information from individuals and organizations on health risks and benefits of nitrites and nitrates and on the status of research on alternatives to nitrites.

DATES: Written comments must be received on or before December 15, 1980. Persons wishing to make oral presentations must make a written request and submit a manuscript on or before December 15, 1980.

ADDRESSES: Written comments and written requests for oral presentations should be sent to: Dr. Robert A. Mathews, National Academy of Sciences (WG-1003), 2101 Constitution Avenue, NW., Washington, DC 20418.

FOR FURTHER INFORMATION CONTACT: Dr. Robert A. Mathews or Dr. Roy Widdus, National Academy of Sciences (WG-1003), 2101 Constitution Avenue, NW., Washington, DC 20418. Telephone numbers are: Dr. Robert A. Mathews, (202) 389-6085; Dr. Roy Widdus, (202) 389-6551.

SUPPLEMENTARY INFORMATION: The National Academy of Sciences National Research Council committee, studying nitrites and alternative curing agents, plans to hold a public meeting on Thursday, January 22, 1981. The meeting will be held in the auditorium of the National Academy of Sciences, 2100 C St., NW., Washington DC, from 10:00 a.m. until 3:00 p.m.

The National Academy of Sciences' National Research Council study is being conducted at the request of the Food and Drug Administration and the U.S. Department of Agriculture. It is anticipated that the report on the health and risk benefits of nitrites and nitrates will be issued in November 1981, and on alternative curing agents in February 1982.

The purpose of the meeting on January 22, 1981, is to receive information from individuals and organizations on health risks and benefits of nitrites and nitrates and on the status of research on alternatives to nitrites. The committee is especially interested in obtaining scientific information which is not available in the published literature.

Those who wish to submit material to the committee should send a minimum of two copies to Dr. Robert A. Mathews, National Academy of Sciences, (WG-1003), 2101 Constitution Ave., NW., Washington, DC 20148. Materials submitted must be received no later than Friday, December 15, 1980. Persons wishing to make oral presentations must make such a request in writing and submit a manuscript on the subject of their presentation to the National Academy of Sciences by December 15, 1980. The anticipated time limit in oral presentations is 5 to 10 minutes.

Multiple copies of submitted material must be provided if its distribution at the meeting is desired.

Done at Washington, DC on November 26, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 80-37461 Filed 12-1-80; 8:45 am]

BILLING CODE 3410-DM-M

Office of the Secretary

Human Nutrition Advisory Committee; Meeting

The Human Nutrition Advisory Committee will meet December 8, 9, 10, at the Twin Bridges Marriott Hotel, 33 Jefferson Davis Highway, Arlington, Virgina.

Notice of the meeting was inadvertently omitted from the notice of intent to re-establish the committee published in this register, November 7, 1980. It would be in extreme inconvenience to members to reschedule to a later date.

The purpose of the meeting is to obtain necessary public advice and participation in the development of policies and programs relating to nutrition in an effort to identify and meet the nutritional needs of the public.

The meeting will be open to the public. Persons who wish to attend should notify the Human Nutrition Policy Coordinator, Office of Secretary, Room 419-A, Administration Building, USDA, Washington, D.C., 20250, telephone (202) 447-4119. Written statements may be filed with the board before or after the meeting.

Dated: November 26, 1980.

Carol Tucker Foreman,

Assistant Secretary and Co-Chairperson, Human Nutrition Advisory Committee.

Dr. Anson Bertrand,

Director and Co-Chairperson, Human Nutrition Advisory Committee.

[FR Doc. 80-37463 Filed 12-1-80; 8:45 am]

BILLING CODE 3410-01-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations (See, 14 CFR 302.1701 et seq.), Week Ended November 21, 1980

The due date for answers, conforming applications, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (Weekly listing from the weekly list of applications filed with follow.)

Subpart Q Applications

The due date for answers, conforming applications, or motions to modify scope are set forth below for each application. Following the answer period the Board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in

appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
11-21-80	38988	United Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests amendment of its Certificate of Public Convenience and Necessity for Route 1 to add the point Wichita, Kansas. Conforming Applications, motions to modify scope, and Answers may be filed by December 19, 1980.

Phillis T. Kaylor,

Secretary.

[FR Doc. 80-37456 Filed 12-1-80; 8:45 am]

BILLING CODE 6320-01-M

[Docket 38767]

New York Air Fitness Investigation; Oral Argument and Brief Date

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that briefs in this proceeding must be filed by 3:00 P.M. (local time) on December 3, 1980, and that oral argument is assigned to be held before the Board on Thursday, December 4, 1980, at 9:00 A.M. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, N.W., Washington, D.C.

Each party that wishes to participate in the oral argument shall so advise the Secretary in writing, on or before Monday, December 1, 1980, together with the name of the person who will represent it at the argument.

Dated at Washington, D.C., November 26, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-37458 Filed 12-1-80; 8:45 am]

BILLING CODE 6320-01-M

Pan American World Airways, Inc.; Foreign Air Transportation to Bombay, India

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause: Order 80-11-131.

SUMMARY: The Board proposes to amend the certificate of public convenience and necessity for Route 132 of Pan American World Airways, Inc. to authorize scheduled foreign air transportation to Bombay, India.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall, no later than December 22, 1980, file a statement of such objections with the Civil Aeronautics Board (20 copies, addressed to Docket 37951, Dockets Section, Civil Aeronautics Board, Washington, D.C. 20428) and mail copies to the applicant, the Departments of State and Transportation and the Ambassador of India in Washington, D.C.

A statement of objections must cite the docket number and must include a summary of testimony, statistical data or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed certificate.

To get a copy of the complete order, request it from the Civil Aeronautics Board, Distribution Section, Room 516, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the Washington metropolitan area may send a postcard request.

For further information, contact Christina R. Pfirrman (202-673-5203), Legal Division, Bureau of International Aviation, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: November 26, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-37457 Filed 12-1-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from the following firms: (1) Sellner Manufacturing Company, Inc., 515 Fowler Avenue, Faribault, Minnesota 55021, a producer of amusement rides (accepted November 6, 1980); (2) Sonal Manufacturing Company, 1200 Santee Street, Los Angeles, California 90015, a producer of men's and boy's belts and neckties (accepted November 7, 1980); (3) Yorktown Manufacturing Company, 77 Park Avenue, Ephrata, Pennsylvania 17522, a producer of women's blouses and ski wear (accepted November 10, 1980); (4) Tiffany Loungewear, Inc., 152 Madison Avenue, New York, New York 10016, a producer of women's robes and loungewear (accepted November 10, 1980); (5) Quality Sportswear, Inc., 2 John Street, Haledon, New Jersey 07508, a producer of women's coats (accepted November 10, 1980); (6) Marek, Inc., 498 Seventh Avenue, New York, New York 10018, a producer of women's dresses (accepted November 10, 1980); (7) J. W. Bray Company, Inc., P.O. Box 189, Dalton, Georgia 30720, a producer of men's, women's and children's footwear (accepted November 10, 1980); (8) Coastal Steel Corporation, 411 Blair Road, Woodbridge, New Jersey 07095, a producer of steel bars and wire (accepted November 10, 1980); (9) Merry Maid, Inc., 25 Messinger Street, Bangor, Pennsylvania 18013, a producer of women's blouses and skirts (accepted November 10, 1980); (10) Wallace Leisure Products, Inc., 3100 West Jefferson Street, Philadelphia, Pennsylvania 19121, a producer of folding cots, beds, and tables (accepted November 10, 1980); (11) Road Electronics, Inc., 2107 E. 7th Street, Los Angeles, California 90021, a producer of musical instruments, amplifiers, speakers and sound systems (accepted November 13, 1980); (12) Avtex Fibers, Inc., P.O. Box 880, Valley Forge, Pennsylvania 19482, a producer of synthetic fibers and yarns (accepted November 14, 1980); (13) Snyder Tank Corporation, P.O. Box 1914, Buffalo, New York 14219, a producer of truck fuel tanks (accepted November 14, 1980); (14) Marine Optical, Inc., 700 Oak Street, Brockton, Massachusetts 02401, a producer of eyeglass frames (accepted November 17, 1980); (15) Consolidated Metals Corporation, 100 East Dickerson Street, Dover, New Jersey 07801, a producer of stainless steel pipe (accepted November 19, 1980); (16) Bristol Industries Corporation, 580 Broad Street, Bristol, Connecticut 06010, a producer of brass sheet, strip, rod and wire (accepted November 19, 1980); (17) Optisonics HEC Corporation, 1802 West Grant Road, #101, Tucson, Arizona 85705, a producer of tape recorders and other audio-visual equipment (accepted November 19, 1980); (18) Stevie Togs, Inc., 3527 Broadway, Kansas City, Missouri 64111, a producer of women's & children's slacks, shirts, jumpers, jackets and skirts (accepted November 19, 1980); (19) Victory Optical Manufacturing Company, One Victory Plaza, Newark, New Jersey 07102, a producer of eyeglass frames and sunglasses (accepted November 20, 1980); (20) York Capacitor Corporation, 450 Weaver Street, Winooski, Vermont 05404, a producer of electronic capacitors (accepted November 20, 1980); (21) Swift Zipper Corporation, 75 Varick Street, New York, New York 10013, a producer of slide fasteners (accepted November 21, 1980), and (22) Yost Manufacturing Company, 1867 Huizenga Street, Muskegon, Michigan 49442, a producer of industrial vises.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. a request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The *Catalogue of Federal Domestic Assistance* offical program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A-95 regarding review by clearinghouses do not apply.

Charles L. Smith,

Acting Chief Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 80-37331 Filed 12-1-80; 8:45 am]

BILLING CODE 3510-24-M

Office of Federal Statistical Policy and Standards

New Statistical Policy Directive on Comparability of Statistics on Business Size: 30-Day Comment Period

AGENCY: Officer of Federal Statistical Policy and Standards, Department of Commerce.

ACTION: Notice of 30-day public comment period on recommended new directive to standardize the compilation of statistical data on business size.

SUMMARY: A major recommendation of the Government-wide effort on developing a small business data base is to adopt common size of business categories to be followed by statistical agencies in their future tabulations of business size data. The purpose is to improve the comparability of business size data provided by several Federal agencies for use in economic analysis and policymaking. The proposed Directive implements this recommendation.

Introduction

With the growing awareness that inflation, recession, credit, taxes and regulations affect small and larger size businesses differently, a Government-wide effort began in November 1979 on the development of a small business data base. The data base will provide industry profiles by size of firm for analyzing trends in the relationship and sensitivity of small business to the rest of the economy. The first phase of the data base development culminated with a major recommendation for the adoption of common size of business categories to be followed by statistical agencies in their future tabulations of business size data.

The proposed common statistical measures for employment, revenues, and asset business size variables implement this recommendation. They are aimed at providing business size data which are compiled by several Federal agencies on a comparable basis to enhance their use for economic analysis and policymaking. This is the first Government-wide standardization of business size statistical data.

The Statistical Policy Coordination Committee (SPCC) recommended the adoption of these business size measures as a new Directive of the Office of Federal Statistical Policy and Standards of the Department of Commerce. The SPCC is a Cabinet level committee that makes recommendations on major statistical policy issues.

Issues in Developing Business Size Measures

In developing the proposed size measures, special attention was given to balancing the considerations of which classifications are most relevant for analysis and policymaking, easy to understand, and do not diverge in a major way from existing size categories. Also, while the interest for analyses of small business is in businesses at the lower end of the size spectrum, it is necessary to trace developments in firms of a wide range of size categories in order to better understand the relationship of "small business" to the rest of the economy.

The employment, revenues, and assets size variables are based on numerical criteria only without designating descriptive terminology such as "small," "medium" or "large." Such nomenclature is a qualitative assessment which may vary with the use of the data, and is best left to users to apply as they see fit. The proposed measures are for use in broad statistical research and analysis. They are independent of size standards used by the Small Business Administration in determining which businesses are eligible for loans under its assistance program.

Public Comment Period

A 30-day comment period on the recommended new Directive for Comparability of Statistics on Business Size commences with the date of this issue of the **Federal Register**. All comments should be sent in writing to Joseph W. Duncan, Director, Office of Federal Statistical Policy and Standards, U.S. Department of Commerce, Washington, D.C. 20230. For further information, call Norman Frumkin at (202) 673-7977.

Courtenay M. Slater,

Chief Economist for the Department of Commerce.

Directive No. 20, Comparability of Statistics on Business Size

The purpose of this Directive is to provide a standard means of comparing business size series prepared by various Federal agencies. The Statistical Business Size Categories in the table below are to be used to classify reporting businesses by employment (number of employees), revenues (sales, receipts, shipments, etc), or assets. Tabulations based on these categories shall be accompanied by precise definitions of the variables used to measure size (i.e., employment, revenues, or assets) and of the type of reporting unit tabulated (e.g., establishments, enterprises, companies, taxpaying units). Such definitions shall include adequate detail to allow comparisons with other definitions commonly used by Federal agencies.

Statistical Business Size Categories

Employment

(Number of employees)

0	(None)	
1	Under	5
5	Under	10
10	Under	20
20	Under	50
50	Under	100
100	Under	250
250	Under	500
500	Under	1,000
1,000	Under	2,500
2,500	Under	5,000
5,000	Under	10,000
10,000	Or more	

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Revenues or Assets [Dollars]		
25,000	Under	25,000
50,000	Under	50,000
100,000	Under	100,000
250,000	Under	250,000
500,000	Under	500,000
1 million	Under	1,000,000
2.5 million	Under	2,500,000
5 million	Under	10,000,000
10 million	Under	25,000,000
25 million	Under	50,000,000
50 million	Under	100,000,000
100 million	Under	250,000,000
250 million	Under	500,000,000
500 million	Under	1,000,000,000
1 billion	Under	2,500,000,000
2.5 billion	Under	5,000,000,000
5 billion	Or more	

1. *Combining or Partitioning Categories.* At the discretion of the agency which controls the data, adjacent size categories may be combined and/or the size scale may be truncated in published tabulations. Justification for such actions includes factors as the limited scope of the data, the need to assure the confidentiality of individual responses, or very large sampling variability at the recommended level of detail. For example, tabulations of small businesses often truncate the upper end of the scale of size categories. The reasons for such actions shall be noted in the affected publication.

Whenever data are published that combine size categories, the Agency which controls the data shall maintain unpublished estimates or internal documentation sufficient to allow reasonable retrospective estimates of the unpublished detail. However, if categories are combined to assure confidentiality of individual responses, the unpublished estimates or agency documentation must be maintained in a form which is consistent with the confidentiality objective and the agency's authority to protect information from disclosure.

An agency may also define additional partitions with the standard tables to meet particular analytical needs. These partitions, however, must be in addition to and not in lieu of the standard categories, i.e., they must not prevent summing to the standard categories.

The largest size categories in the standard tables were selected to accommodate current (1980) uses. If it becomes useful to define additional (larger) categories, they should be defined in a manner consistent with the pattern established in the standard tables (e.g., 10,000 under 25,000 employees or $5 billion under $10 billion revenues).

2. *Effect on Data Collection Activities.* The requirement to use Statistical Business Size Categories will often impact the planning of data collection activities. The size categories should be considered in defining stratum boundaries and in choosing cutoffs to limit reporting burden or for other purposes. Data collection plans which unnecessarily impeded or encumber analyses based on the standard size categories should be avoided.

3. *Transition to New Size Categories.* Data tabulations that are presented in the new size categories for the first time shall be accompanied by overlapping data in the old categories for the same period, or some other means of bridging the old and new categories. This will enable users to link the historical data in the transition period and thus minimize the effect on the continuity of the series.

4. *Use for Federal Nonstatistical Purposes.* The Statistical Business Size Categories shall be used in the administration of any regulatory, administrative, or tax program only if the responsible Secretary (Administrator) has first determined that the use of such size categories is appropriate to the implementation of the program's objectives.

If the term, "Statistical Business Size Categories" is to be used in the operative text of a law or regulation, language similar to the following should be used to assure sufficient flexibility: "Business size categories shall mean the Statistical Business Size Categories as defined by the Office of Federal Statistical Policy and Standards subject to such modifications with respect to individual businesses or groups of businesses as the Secretary (Administrator) may determine to be appropriate for the purpose of this Act (regulation)."

[FR Doc. 80-37332 Filed 12-1-80; 8:45 am]
BILLING CODE 3510-17-M

Foreign-Trade Zones Board

[Docket No. 17-80]

Foreign-Trade Zone No. 20, Portsmouth, Va.; Application for Relocation

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Virginia Port Authority, an agency of the Commonwealth of Virginia and grantee of Foreign-Trade Zone No. 20, requesting authority to relocate its zone from Portsmouth, Virginia to Suffolk, Virginia, adjacent to the Norfolk-Newport News Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on November 25, 1980. The applicant is authorized to make this proposal under Section 62.1–135(i) of the Code of Virginia.

Foreign-Trade Zone No. 20 was authorized by the Board on April 15, 1975 (Board Order 105) and relocated to its present site at 2400 Wesley Street, Portsmouth, Virginia, in early 1977 (Board Order 114).

The application requests authority to relocate the zone to a 22.6-acre site zoned for commercial and light industrial uses at 631 Carolina Road, Suffolk, Virginia, some 20 miles from the current site. Plans call for the immediate activation of a 5.6-acre parcel which contains two 36,000-square foot warehouses with office space. The remaining 17-acres will be used for the construction of an additional 96,000-square foot warehouse and to accommodate new activity as it develops. The zone will be operated by Atlantic Warehousing and Distributing, Inc., a division of TRI S Developers, which owns the site.

The relocation of the zone is being requested because the present site is limited and the existing facilities are needed for non-zone port-related activities. The proposed site in Suffolk has adequate space both for firms actively discussing zone use and for near-term development. An additional 167 acres are available for future expansion. A number of firms have expressed an interest in using the proposed site, including producers of electronic products, fasteners, food products, furniture, tobacco, and industrial chemicals. They plan to use the zone for export staging, storage; inspection and distribution.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The Committee consists of Hugh J. Dolan (Chairman), Administrative Law Judge, Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230; Carl W. Johnson, Program Analyst, U.S. Customs Service, Region III, 40 South Gay Street, Baltimore, Maryland 21202; and Colonel Douglas L. Haller, District Engineer, U.S. Army Engineer District Norfolk, 803 Front Street, Norfolk, Virginia 23510.

Comments concerning the proposed zone expansion are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 19, 1980.

A copy of the application is available for public inspection at each of the following locations:

U.S. Customs Service District Office, 101 E. Main Street, Norfolk, Virginia 23510

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and E Street N.W., Room 2006, Washington, D.C. 20230.

Dated November 25, 1980.

John J. Da Ponte, Jr.,

Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 80-37359 Filed 12-1-80; 8:45 am]
BILLING CODE 3510-25-M

National Bureau of Standards

Approval of Federal Information Processing Standard DES Modes of Operation

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce is authorized to establish uniform Federal automatic data processing (ADP) standards. On May 22, 1980, notice was published in the **Federal Register** (45 FR 34322–34336) that a standard for the DES Modes of Operation was being proposed for Federal use. Interested parties were invited to submit written comments concerning this proposed standard to the National Bureau of Standards (NBS).

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended to the Secretary that he approve the standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation. The purpose of this notice is to announce that the Secretary has approved the standards as a FIPS, and that the standard shall be published as FIPS Publication 81. The provisions of the standard are effective June 2, 1981.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 5317, Main Commerce Building, 14th Street between Constitution Avenue and E Street, N.W., Washington, D.C. 20230.

This standard (FIPS PUB 81) defines four alternative modes of operation for using the Data Encryption Standard (FIPS PUB 46) and will help attain compatibility between encryption equipment implementing the Data Encryption Standard (DES) by specifying a limited number of encryption modes. The four DES modes of operation described in this standard are: The electronic codebook (ECB) mode; the cipher block chaining (CBC) mode; the cipher feedback (CFB) mode; and the output feedback (OFB) mode. One of the modes will be selected for each particular application in ADP system security. The Standard specifies how data will be encrypted and decrypted in each mode of operation.

The approved FIPS contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard, and (2) a specifications portion which deals with the technical requirements of the standard.

Copies of the published standard will be available after March 1, 1981, from the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, Virginia 22161.

Persons desiring further information about this standard may contact Dr. Dennis Branstad, Operations Engineering Division, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, (301) 921-3861.

Dated: November 25, 1980.

Ernest Ambler,

Director.

[FR Doc. 80-37351 Filed 12-1-80; 8:45 am]
BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Modification

Notice is hereby given that pursuant to the provisions of Sections 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216) the Scientific Research Permit No. 184 issued to Dr. Roger Payne, New York Zoological Society, Weston Road, Lincoln, Massachusetts 01773 on May 11, 1977, is modified as follows:

1. Section B is modified by deleting Section B-8 and substituting a new B-8 as follows:

"8. This Permit is valid with respect to the taking authorized herein until December 31, 1981."

This modification is effective on November 24, 1980.

The permit as modified, and documentation pertaining to the modification is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: November 24, 1980.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 80-37462 Filed 12-1-80; 8:45 am]
BILLING CODE 3510-22-M

Pacific Fishery Management Council, and Its Scientific and Statistical Committee; Meeting Cancellation

AGENCY: National Marine Fisheries Service, NOAA.

ACTION: Notice of Pacific Fishery Management Council's (PFMC) Scientific and Statistical Committee (SSC) meeting cancellation.

SUMMARY: The scheduled public meeting on December 2–3, 1980, of the PFMC's SSC, published in the **Federal Register**, November 17, 1980 (45 FR 75732), has been cancelled. However, the scheduled public meeting (with partially closed session) of the PFMC, December 3–4, 1980, remains unchanged.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221–6352.

Dated: November 26, 1980.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 80-37459 Filed 12-1-80; 8:45 am]
BILLING CODE 3510-22-M

Pacific Fishery Management Council, Its Salmon Subpanel, and Its Scientific and Statistical Committee; Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service.

SUMMARY: The Pacific Fishery Management Council was established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), and the Council has established a Scientific and

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Statistical Committee and a Salmon Subpanel to assist the Council in carrying out its responsibilities.

DATES: January 7–8, 1981.

ADDRESS: The meetings will take place at the Holiday Inn, 2600 Sand Dunes Drive, Monterey, California.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221–6352.

Meeting Agendas follow:

Scientific and Statistical Committee (SSC)—(open meeting) January 6–7, 1981, (1 p.m. to 5 p.m., on January 6; 8 a.m. to 5 p.m. on January 7).

Agenda: Discuss the 1981 amendment to the ocean salmon plan, conduct a public comment period beginning at 3:30 p.m., on January 6, and evaluate and develop recommendations on other matters referred to the Committee by the Council.

Salmon Subpanel—(open meeting) January 6–7, 1981 (11 a.m. to 5 p.m., on January 6; 8 a.m. to 5 p.m., on January 7).

Agenda: Consideration of 1981 amendment to the Salmon Fishery Management Plan (FMP).

Council—(open meeting) January 7–8, 1981 (10 a.m. to 5 p.m., on January 7; 8 a.m., to 4 p.m., on January 8).

Agenda: Open Session—Discuss the 1981 amendment to the Ocean Salmon FMP; review National Marine Fisheries Service proposed 1981 amendment to the Washington, Oregon, and California Foreign Trawl Fishery Preliminary Management Plan; conduct a public comment period beginning at 4 p.m., on January 7; conduct other fishery management business, and consider administrative matters.

Council—(closed session) January 7, 1981 (8 a.m. to 10 a.m.)

Agenda: Closed Session—Discuss the status of current maritime boundary and resource negotiations between the U.S. and Canada and discuss personnel matters concerning appointments to the Herring Subpanel. Only those Council members, SSC members, and related staff having security clearance will be allowed to attend this closed session.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of its General Counsel, formally determined on November 12, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda items covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because items will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1), as information which will disclose matters that are (A) specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to Executive Order and 5 U.S.C. 552b(c)(6), as information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. (A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce.) All other portions of the meetings will be open to the public.

Dated: November 26, 1980.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 80-37460 Filed 12-1-80; 8:45 am]

BILLING CODE 3510-22-M

National Telecommunications and Information Administration

Grant Appeals Board of the Public Telecommunications Facilities Program; Open Meeting

AGENCY: National Telecommunications and Information Administration, U.S. Department Of Commerce.

ACTION: Notice.

SUMMARY: By this notice we announce the forthcoming meeting of the Grant Appeals Board of the Public Telecommunications Facilities Program (PTFP).

PURPOSE: To consider the petition of the Board of Regents of the University of Wisconsin System seeking reconsideration of an action of the PTFP staff declining to accept the application of the University of Wisconsin at Stevens Point for a grant under the Public Telecommunications Financing Act of 1978, Pub. L. 95–567, 92 Stat. 2405, 47 U.S.C. § 390, *et seq.*

TIME: December 23, 1980, at 10:00 a.m.

PLACE: National Telecommunications and Information Administration 1800 G Street, N.W., Room 765, Washington, D.C. 20504.

COMMENTS: Interested parties are encouraged to submit comments on the University's petition for reconsideration. (Appendix A.) An original and seven copies of any comments should be filed on or before December 16, 1980, with: Office of Chief Counsel, NTIA/DOC, 1800 G Street, N.W., Room 703, Washington, D.C. 20504. A certificate of service must be attached to the comments reflecting that copies of the comments have been served on the attorney for the Board of Regents: Michael B. Goldstein, Esq., Dow, Lohnes & Albertson, 1225 Connecticut Avenue, N.W., Washington, D.C. 20036.

Additional information may be obtained from Robert Hunter, National Telecommunications and Information Administration, Office of Chief Counsel, 1800 G Street. N.W., Room 703, Washington, D.C. 20504. Telephone (202) 377–1866.

Gregg P. Skall,

Chief Counsel.

Appendix A

June 27, 1980.

Attention Mr. Kenneth Salomon, Deputy Chief Counsel.

Re Petition for Reconsideration, In The Matter of the Application of the University of Wisconsin—Stevens Point.

Mr. Henry Geller,
Administrator, National Telecommunication and Information Administration, Department of Commerce, Room 770, Washington, D.C.

Sir: Attached herewith and filed in accordance with § 2301.33 of the regulations pertaining to the public telecommunications facilities program is a petition for the reconsideration of the denial of acceptance of the application timely filed by the above named institution for funding under the facilities program.

As special counsel to the State of Wisconsin we must make note that the state telecommunications agency, the Wisconsin Educational Communications Board, is prepared to support the instant petition. We anticipate that in accordance with subdivision c of the above referenced regulation the board will have due opportunity to so comment.

Respectfully,

Michael B. Goldstein.

In the Matter of application of University of Wisconsin (Stevens Point) for Funding Under The Provision of Public Telecommunications Facilities Program. To: Henry Geller, Administrator.

Petition for Reconsideration

Pursuant to the Provisions of 15 CFR 2301.33 the above named applicant hereby petitions for reconsideration of the determinations by the Administrator not to accept its application, timely submitted on December 1, 1979, for funds to establish facilities for first local public television service in the Stevens Point, Wisconsin area.

Applicant has been informed that its application was not accepted for filing due to the fact that the licensee of the facility to be contructed, a microwave studio to transmitter link (STL), would be the Wisconsin Educational Communications Board, rather than the University of Wisconsin. Petitioner believes that declining to accept its application on this basis is incorrect both as a matter of policy and as a matter of law. Petitioner, therefore, prays that the adverse determination be reconsidered and that the application be duly accepted for filing without prejudice to the rights of applicant to be funded out of fiscal 1980 appropriations or from funds available for obligation in the current fiscal year.

Attached hereto and made a part of this petition is a copy of the minutes of the Wisconsin Educational Communications Board (ECB), dated June 1, 1979, authorizing and instructing the University of Wisconsin (Stevens Point) to act as the agent of the ECB in the construction of the subject facility from the Stevens Point campus to the ECB-licensed transmitter at Wausau, WHRM–TV Channel 20°. Also attached hereto is correspondence signed by ECB Executive Director Anton Moe further elaborating on the intent of the aforementioned resolution.

As set forth in said resolution and the accompanying explanatory letter, the University and the ECB have acted in consort and as co-equal agencies of the State of Wisconsin to carry out this project on behalf of the people of the state. It is clearly within the right of a sovereign State to apportion among its departments and agencies, by statute or otherwise, responsibility for the conduct of the affairs of the State, for the control of its property, and for the delivery of services to its citizens. In the instant case, the State of Wisconsin has determined, as a matter of both public policy and of law, that public telecommunications facilities are to be coordinated by and licensed on behalf of the State in the name of the Educational Communications Board. The State has likewise determined that the operation and administration of certain of these facilities is to be controlled, directed, and supervised by various of its public postsecondary institutions.

Section 2301.8(b) of the regulations pertaining to the Public Telecommunications Facilities Program (PTFP) is satisfied by the fact that both the licensee and the applicant are, in effect, the State of Wisconsin. As noted above, it it irrelevant for these purposes whether the license be held in the name of one or another agency or department of the State. The governing statute, the Communications Act of 1934, as amended, provides, at § 392(a)(2), that "the operation of such public telecommunications facilities [financed under the public telecommunications facilities program] will be under the control of the applicant". Nowhere does the statute require that the facility be licensed to an applicant, but only that the applicant exercise the appropriate elements of control. In the instant case, the action of the ECB in authorizing and directing its co-agency, the University of Wisconsin, to construct and operate the facility in question clearly denotes an agreement on the part of the licensee to authorize the applicant to exercise the requisite attributes of control. For this reason, petitioner further maintains that § 2301.8(b) does not afford the Administrator a proper basis for declining to accept petitioner's application.

Petitioner also maintains that it is an abuse of discretion on the part of the Administrator to impose upon a sovereign State specific obligations regarding the devolution of state powers. The State has affirmatively acted, through the action of two of its public bodies, to provide for a common and coordinated public telecommunications system. Both agencies in question are statutory in nature and the division of responsibility between the two represents an appropriate exercise of proper sovereign powers. The instant case is readily distinguishable from the situation where a political subdivision (such as a local school district) is either an applicant or a license. While in the latter case, where the subdivision has and exercises separate and distinct political powers (most particularly the power to independently raise revenue) it might be argued that commonality of control is lacking, such is not the case in the situation at hand.

Petitioner therefore maintains that its application is in fact qualified under the statute and under the rules applicable to PTFP, and that declining to accept the application and to timely consider it for funding is improper and discriminatory.

Respectfully submitted,

The Board of Regents of the University of Wisconsin System.

By their attorney.

Michael B. Goldstein,

Dow, Lohnes & Albertson, 1225 Connecticut Avenue, N.W., Washington, D.C. 20036.

June 27, 1980.

Minutes of the Educational Communications Board

Members Present: Francis Byers, Joan Holden, Mary Kelly, William Kraus, Luke Lamb, Midge Miller, Warner Mills, Russell Mosely, Robert Sorenson, Richard Wisnewski.

Members Absent: William Bablitch, Walter John Chilsen, Barbara Holbrook, Vernon Pinkowski.

The meeting of the Educational Communications Board was called to order at 9:35 a.m. by Richard Wisnewski, Chairperson. The secretary called the roll. Mr. Wisnewski then called for approval of the minutes of the March 2, 1979, Board meeting as circulated.

On motion of Mrs. Holden, seconded by Ms. Kelly, the Board approved the minutes of the March 2, 1979, Board meeting as circulated.

Agenda Item #3, Facilities Committee Report. Ms. Kelly, Vice-Chairperson, reported the following items covered at the May 18, 1979, Committee meeting.

UW/Stevens Point/Ch. 20 Local Origination Proposal. UW-Stevens Point asked the Board for permission to install a studio to transmitter link (STL) from the Stevens Point Campus to the Board's facilities on Rib Mountain in Wausau/Channel 20. It was clearly stated at the Committee meeting that this would be a nonexclusive arrangement. That is, others in the area would have the right to utilize the STL to originate programs. Stevens Point does not have the funds to install an STL at the present time, but they did ask permission of the Board to proceed to secure funds to install the link. The current local origination policy of the Board supported the request. It was also pointed out that this was one of the facilities in the network that did not currently have local origination capability (the other being Park Falls). Staff recommended approval to the Committee, and the Committee recommended Board approval.

Ms. Kelly moved, seconded by Mrs. Holden, that the ECB accept the proposal from Stevens Point and that the UW-Stevens Point be allowed to begin local origination as soon as they have installed their STL, and that the staff request switching and monitoring equipment to the dollar amount necessary for the equipment at the Channel 20 transmitter.

Staff was to make the agreement for nonexclusive rights part of the contract between ECB and UW-Stevens Point. There was no further discussion. The motion carried.

—UW-Oshkosh Radio Expansion. UW-Oshkosh wished to expand their staff, studio and hours of operation in order to qualify as a CPB station and receive Community Service Grant funds. Their expansion would not exceed the current Board guidelines and would bring additional federal dollars into the state. Staff recommended that the Board write a letter of support for UW/

Oshkosh's grant application to CPB for the purpose of expanding their station to become qualified as a CPB station. The Board members had no objection to sending a letter of support.

—Status Report-Update: OCB Facilities, 1979–81 Budget Request. There were no changes to report.

—Reception Awareness Program for UHF. The Engineering Department has organized a clinic to demonstrate to the public how to tune-in UHF television signals. A 2-hour clinic was held in Rhinelander, with the cooperation of Dr. Richard Brown and Nicolet College. This clinic drew 69 people, 12 of which were servicemen. Another clinic is scheduled for Rice Lake on June 26, and others will be held around the state. Typical television receivers and antennas available to the public are set up and the engineers demonstrate the different connections and techniques for long distance, fringe reception. The clinics were reported to be successful and encouraging.

—ECB Handbook. A new handbook containing Board policy, legal opinions, agreements, etc., was distributed at the Committee meetings. Reverend Wisnewski commended the staff for their efforts in putting the handbook together.

—Translator Request. Originally, the Board's budget request included nine translators to complete the network and provide a signal in the unserved areas. The Building Commission recommended two at $200,000 with the ECB determining the locations. Joint Finance approved the building of two translators, but with the stipulation that half of the money be secured from the federal government. Joint Finance also specified River Falls as first priority and left the second priority up to the Board. The Board's priority would be Door County—Door County is unserved and fits the federal priorities. Staff reported that an application for funds to build the translator was being prepared for submission to the Department of Commerce for both translators for 50% of the funding. Staff requested authority from the Board to file the application.

Ms. Kelly moved, seconded by Mr. Mosely, that the Board approve the filing of a grant application to the U.S. Department of Commerce requesting federal matching funds for the purpose of constructing two television translators to serve portions of St. Croix, Pierce, and Door counties.

Costs to the Board would include land, tower cost, and maintenance costs, but no fulltime personnel. The translators will be satellite stations with limited range. A short discussion followed. The motion carried unanimously.

June 13, 1980

Dr. John Cameron,
Department of Commerce, 608 13th Street, NW., Washington, D.C. 20004.

Dear Dr. Cameron: This letter will serve to inform you that the Wisconsin Educational Communications Board has entered into an agreement with the UW-Stevens Point whereby UW-Stevens Point will act as agent for the Board in providing local program origination for WHRM–TV/Channel 20, the Board's facility in Wausau, Wisconsin. This action was approved at the Board's meeting of June 1, 1979. This relationship is common to the practice of the Board inasmuch as a similar arrangement exists with other higher education institutions within the state.

The equipment contained within the UW-Stevens Point NTIA application would be under the stewardship of the UW-Stevens Point as agent for local program origination for the Wisconsin Educational Communications Board. However, the Board as the licensee retains the license from the FCC to operate the studio-to-transmitter link.

Enclosed is a copy of the June 1, 1979, minutes of the Board which shows the action taken.

Sincerely,

Tony Moe,
Executive Director.

[FR Doc. 80-37517 Filed 12-1-80; 8:45 am]
BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Levels for Certain Wool Textile Products From Malaysia

November 25, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the consultation level for Category 446 by 2,821 dozen raising that level to 18,614 dozen during the agreement year which began on January 1, 1980

(A detailed description of the textile categories in terms of I.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463) and August 12, 1980 (45 FR 53506).)

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978, as amended, between the Governments of the United States and Malaysia, it has been agreed to increase the level of restraint for Category 446 by 2,821 dozen to 18,614 dozen during the agreement year which began on January 1, 1980 and extends through December 31, 1980.

EFFECTIVE DATE: December 3, 1980.

FOR FURTHER INFORMATION CONTACT: William Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230. (202/377–5423).

SUPPLEMENTARY INFORMATION: On December 14, 1979, there was published in the **Federal Register** (44 FR 72618) a letter dated December 11, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established ceilings for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Malaysia, which may be entered into the United States for consumption or withdrawn from warehouse for consumption during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980.

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of wool textile products in Category 446 in excess of the adjusted level of restraint of 18,614 dozen during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980.

Paul T. O'Day,
Chairman, Committee for the Implementation of Textile Agreements.

November 25, 1980.

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 11, 1979 from the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Malaysia.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978, as amended, between the Governments of the United States and Malaysia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on December 3, 1980 and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 446, produced or manufactured in Malaysia, in excess of the following level of restraint:

Category	Adjusted 12-mo level of restraint [1] (dozen)
446	18,614

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1979.

The actions taken with respect to the Government of Malaysia and with respect to imports of wool textile products from Malaysia have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,
Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-37330 Filed 12-1-80; 8:45 am]
BILLING CODE 3510-25-M

Changes in Officials of the Government of the Republic of the Philippines Authorized To Issue Export Visas and Exempt Certifications for Certain Cotton, Wool and Man-Made Fiber Products from the Philippines

November 26, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Announcing changes in the officials of the Government of the Republic of the Philippines authorized to issue export visas and certifications for exempt cotton, wool and man-made fiber textile products from the Philippines.

SUMMARY: The Government of the Republic of the Philippines has notified the United States Government that Sabino Palisoc and Ernestino Q. Jocson are authorized to issue export visas and certifications for exempt textile products exported to the United States. Rolando R. Garcia has been named to replace Honesto V. Bonnevie, who will no longer issue and sign these documents. These newly-designated officials are in addition to those named previously.

EFFECTIVE DATE: December 5, 1980

FOR FURTHER INFORMATION CONTACT: Carl Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

SUPPLEMENTARY INFORMATION: On November 28, 1979, a letter to the Commissioner of Customs from the Chairman of the Committee for the Implementation of Textile Agreements was published in the **Federal Register** (44 FR 68005), which established a new export visa requirement and certification for exemption of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported to the United States. One of the requirements is that the visas and certifications for exemption must be signed by an official authorized by the Government of the Republic of the Philippines. The Government of the Philippines has added two new officials to the list of those authorized to issue export visas and certifications for exemption. Rolando R. Garcia will replace Honesto V. Bonnevie, who will no longer issue these documents. A complete list of authorized officials is published as an enclosure to the letter to the Commissioner of Customs which follows this notice.

Paul T. O'Day,
Chairman, Committee for the Implementation of Textile Agreements.

November 26, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of November 21, 1979 which directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, of certain cotton, wool and man-made fiber textile products in designated categories for which the Government of the Republic of the Philippines had not issued an appropriate export visa or exempt certification.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 22 and 24, 1978, as amended, between the Governments of the United States and the Republic of the Philippines; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on December 5, 1980, to recognize Sabino Palisoc and Ernestino Q. Jocson as authorized to issue and sign export visas and exempt certifications. Rolando R. Garcia is also authorized, replacing Honesto V. Bonnevie, who will no longer issue these documents. A revised list of officials of the Government of the Republic of the Philippines who are currently authorized to issue export visas and certifications for exemption is enclosed.

The actions taken with respect to the Government of the Republic of the Philippines and with respect to imports of cotton, wool and man-made fiber textile products from the Philippines have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,
Chairman, Committee for the Implementation of Textile Agreements.

Officials authorized by the Government of the Republic of the Philippines to issue visas and certifications for exemption for textile and apparel products exported to the United States: Aida B. Cabardo, Rolando R. Garcia, Ernestino Q. Jocson, Sabino Palisoc, Luis R. Villafuerte.

[FR Doc. 80-37360 Filed 12-1-80; 8:45 am]
BILLING CODE 3510-25-M

Adjusting Import Restraint Levels for Certain Cotton Textile Products From the Republic of Singapore

November 26, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: (1) Increasing the consultation level for women's, girls' and infants' woven cotton blouses in Category 341 from 48,276 dozen to 58,000 dozen and (2) controlling imports of cotton twill and sateen in Category 317 at the increased consultation level of 14,564,615 square yards, produced or manufactured in the Republic of Singapore and exported during the agreement year which began on January 1, 1980.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), and August 12, 1980 (45 FR 53506).)

SUMMARY: Pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore, the consultation levels established for cotton textile products in Category 317 and 341 are being increased for the agreement year which began on January 1, 1980 and extends through December

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31, 1980. The United States Government has decided also to control imports in Category 317 at the increased level in the same manner as categories previously designated, including Category 341.

EFFECTIVE DATE: December 3, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

SUPPLEMENTARY INFORMATION: On December 20, 1979, there was published in the **Federal Register** (44 FR 75440) a letter dated December 14, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Singapore, which may be entered into the United States for consumption, or withdrawal from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In the letter published below, in accordance with the terms of the bilateral agreement, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the twelve-month level previously established for Category 341 and to establish a new restraint level for Category 317. The level of restraint for Category 317 has not been adjusted to reflect any imports after December 31, 1979. Imports during this period which began on January 1, 1980 and extends through September 30, 1980 have amounted to 10,310,040 square yards and will be charged, as will imports from October 1, 1980. The level has also been adjusted for overshipments in 1979 amounting to 62,657 square yards.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

November 26, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commisioner: On December 14, 1979, the Chairman of the Committee for the Implementation of Textile Agreements directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980 of cotton, wool and man-made fiber textile products, produced or manufactured in Singapore, in certain specified categories, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade In Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and Singapore; and in accordance with the provisions of Executive Order 11651 of march 3, 1972, as amended by Executive Order 11951 of January 6, 1977, twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 317 and 341, produced or manufactured in Singapore, and in the case of Category 317, produced or manufactured in Singapore, and in the case of Category 317, exported on and after January 1, 1980, in excess of the following adjusted levels of restraint:

Category	Adjusted 12 mo level of restraint [1]
317	14,564,615 square yards.
341	58,000 dozen.

[1] The levels of restraint have not been adjusted to reflect any imports after December 31, 1979. Imports in Category 317 have amounted to 10,310,040 square yards during the January-September 1980 period.

The actions taken with respect to the Government of Republic of Singapore and with respect to imports of cotton textile products from Singapore have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 80-37361 Filed 12-1-80; 8:45 am]

BILLING CODE 3510-25-M

[1] The Term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of September 21 and 22, 1978, as amended, between the Governments of the United States and the Republic of Singapore which provide, in part, that: (1) within the aggregate and applicable group limits, specific limits and sublimits may be exceeded by designates percentages; (2) specific levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

COMMODITY FUTURES TRADING COMMISSION

Proposed Futures Contracts; Publication of and Request for Comment on Proposed Rules Having Major Economic Significance; Terms and Conditions of the Standard and Poor's 500 Stock Price Index Futures Contract of the Chicago Mercantile Exchange

The Commodity Futures Trading Commission ("Commission") has determined that the proposed terms and conditions of a futures contract for which the Chicago Mercantile Exchange ("CME") has applied for designation as a contract market are of major economic significance and that, accordingly, publication of the proposed terms and conditions is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act, as amended by the Futures Trading Act of 1978, Pub. L. No. 95–405, 92 Stat. 871 (1978). The Standard and Poor's ("S&P") 500 Stock Price Index contract is based on a diversified, value-weighted stock price index with each contract priced at $500.00 times such index.

The terms and conditions of the S&P Stock Price Index futures contract are printed below:

Chapter 38.—Standard and Poor's 500 Stock Price Index, February 29, 1980

3800. Scope of chapter.—This chapter is limited in application to futures trading in the Standard and Poor's 500 Stock Price Index. The procedures for trading, clearing, settlement, and any other matters not specifically covered herein shall be governed by the rules of the Exchange.

3801. Commodity specifications.—Each futures contract shall be valued at $500.00 times the Standard and Poor's 500 Stock Price Index.

3802. Futures call.—A. Trading Months and Hours Futures contracts shall be scheduled for trading during such hours and for delivery in such months as may be determined by the Board of Governors.

B. Trading Unit. The unit of trading shall be $500.00 times the Standard and Poor's 500 Stock Price Index.

C. Minimum Increments. Bids and offers shall be quoted in terms of the Standard and Poor's 500 Stock Price Index. The minimum fluctuation of the futures contract shall be .05 index points, equivalent to $25.00 per contract.

D. Daily Limits. There shall be no trading at a level more than 3.00 index points, equivalent to $1,500 per contract, above or below the preceding day's settlement except as provided by Rule 3804 and during the spot month when there shall be no limit.

E. Discretionary Position Limits. The Board may in its sole and complete discretion

impose limits upon an individual or upon related accounts.

F. Termination of Trading. Futures trading shall terminate on the third Thursday of the contract month. If the closing quotation for the Standard and Poor's 500 Stock Price Index is not published on that day, futures trading shall terminate on the next business day for which a closing quotation of the Index is published.

G. Contract Modifications. Specifications shall be fixed as of the first day of trading of a contract. If any U.S. governmental agency or body issues an order, ruling, directive or law that conflicts with the requirements of these rules, such order, ruling, directive, or law shall be construed to take precedence and become part of these rules, and all open and new contracts shall be subject to such government orders.

3803. Settlement price on the last day of trading.—Settlement shall be made in accordance with Rule 814. Settlement to Settlement Price Daily, except that on the last day of trading, settlement shall be $500.00 times the closing quotation of the Standard and Poor's 500 Stock Price Index on that day.

3804. Expanded daily limits.—Whenever on two successive days any contract month closes at the normal daily limit in the same direction (not necessarily in the same contract month on both days) an expanded daily limit schedule shall go into effect as follows:

1. The third day's limit in all contract months shall be 150% of the normal daily limit.

2. If any contract month closes at its expanded daily limit on the third day in the same direction, then the fourth day's expanded daily limit shall be 200% of the normal daily limit.

3. If any contract month closes at its expanded daily limit on the fourth day in the same direction then there shall be no daily limit for said contract on the fifth day.

4. On the sixth day of the foregoing progression, the normal daily limit shall be reinstated.

5. Whenever the foregoing daily limit schedule is in effect and no contract month closes at the limit in the same direction which initiated the expanded schedule, then the normal daily limit shall be reinstated on the following day.

The Commission will also make available any other materials submitted by the CME in support of its application for contract market designation in the proposed futures contract to the extent that such materials are not entitled to confidential treatment under Part 145 of the Commission's regulations (17 CFR Parts 145 et. seq.). Copies of such materials submitted by the CME in support of its application for designation will be available at the Commission's offices in Washington, New York, Chicago, Minneapolis, Kansas City and San Francisco. The Commission's Secretary will also furnish copies of such materials upon request.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract or with respect to the other materials submitted by CME in support of its application for contract market designation should send comments by January 2, 1981 to Ms. Jane K. Stuckey, Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581.

Issued in Washington, D.C., on November 26, 1980.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 80-37386 Filed 12-1-80; 8:45 am]

BILLING CODE 6351-01-M

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. CRT 79–1]

National Association of Broadcasters Application for Stay Pending Appeal

November 25, 1980.

The Order of the Copyright Royalty Tribunal of October 24, 1980 published in the **Federal Register** of October 29, 1980 (45 FR 71641) concerning a stay of the distribution of cable royalty fees in Docket No. 79–1 pending final determination of pending appeals is rescinded, effective immediately.

The Chairman and Commissioner Brennan dissented on the adoption of this Order.

Mary Lou Burg,

Chairman.

[FR Doc. 80-37433 Filed 12-1-80; 8:45 am]

BILLING CODE 1410-03-M

[Docket No. CRT 80–5]

Declaration of Controversy Concerning Distribution of 1979 Jukebox Royalty Fees

November 25, 1980.

Pursuant to 17 U.S.C. 116(c)(3), the Copyright Royalty Tribunal finds a controversy concerning the distribution of jukebox royalty fees deposited for 1979 performances and commences a proceeding to determine the distribution of such royalty fees.

Mary Lou Burg,

Chairman.

[FR Doc. 80-37434 Filed 12-1-80; 8:45 am]

BILLING CODE 1410-03-M

DEPARTMENT OF DEFENSE

Defense Mapping Agency

B0401–02 HQHTA

SYSTEM NAME:

401–02 Statements of Employment and Financial Interest and Ethics Act Files.

SYSTEM LOCATION:

Office of the General Counsel, HQ DMA, Office of the Counsel, DMAHTC and DMAAC. See DMA Directory for complete address listing.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DD 1555 Defense Mapping Agency civilian personnel classified at GS–13 or above, and military officers serving in the grade of 0–5 or above, whose duties require the exercise of judgment in making Government decisions in regard to monitoring grants or subsidies; contracting and procurement; auditing; or other activities having a significant economic impact on the interests of any non-Federal enterprise.

Special Government Employees of the Defense Mapping Agency serving as advisors or consultants.

SF 278 DMA civilian personnel classified at GS–16 or above of the General Schedule prescribed by 5 U.S.C. Section 5332 and military officers serving in grades of 07 or above and the DMA designated Agency Ethics Official.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files include SF 278's—Executive Personnel Financial Disclosure Report and DD 1555's—Confidential Statement of Employment and Financial Interests containing information as to outside employment, financial interests and creditors. Such forms are filed by individuals upon employment and renewed annually. Copies of the individual's current position description. Signed statements of the individual concerned stating that none of the interests listed constitute a conflict of interest with respect to the duties of his present position. Correspondence indicating review and the resolution of any conflicts disclosed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Part IV, Executive Order 11222, "Prescribing Standards of Ethical Conduct for Government Officers and Employees" (as amended). Ethics in Government Act of 1978 (PL 95-521), 5 C.F.R. Section 734.603.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Individual's Supervisor (superior officer or official responsible for signing military evaluation reports or civilian performance ratings)—to determine the existence of, and, if possible, to resolve, any real or apparent conflict between the personal financial interests of the individual concerned and the performance of his services for the Government.

Agency Legal Counsel—to (1) review the individual's statement and the supervisor's evaluation thereof for legal sufficiency, (2) to assist in the resolution

Counsel Defense Mapping Agency, Hydrographic/Topographic Center, Washington, D.C. 20315, telephone 202 227–2268.

destruction of property and for personal injury or death resulting from negligence or wrongful act or omission of acts by DMA personnel and individuals against

SYSTEM MANAGER(S) AND ADDRESS:

Defense Mapping Agency, Attn: General Counsel, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, Telephone: Area Code 202 254–4421

name, and signature, classification of files concerned, information desired, and signature of an official authorizing access.

limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license,

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Agency Legal Counsel—to (1) review the individual's statement and the supervisor's evaluation thereof for legal sufficiency, (2) to assist in the resolution of any conflicts disclosed in such statements, and (3) to maintain and safeguard the confidentiality of all such statements.

Directors of Defense Mapping Agency Components and Heads of Defense Mapping Agency Headquarters Major Staff Elements—for review, comment and appropriate action with respect to resolution of any real or apparent conflicts disclosed by the statement of an individual.

The Director, Defense Mapping Agency or the Staff Director of Personnel (as designee)—to review and take action on any conflicts not previously resolved.

Department of Justice—for possible use in investigation/prosecution of fraud or other violation of conflict of interest laws.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name of employee.

SAFEGUARDS:

Buildings in which files maintained are not open to general public and are guarded on 24-hour basis. Records are maintained in combination safes and are accessible after completion of review only to Agency Counsel. Each submission and subsequent annual renewals are kept in individual, sealed manila envelopes to prevent unauthorized disclosures.

RETENTION AND DISPOSAL:

These are temporary records. DD Form 1555 of each employee is maintained until his death, retirement or separation from the Defense Mapping Agency and for six (6) years thereafter at which time it is destroyed. SF 278 is retained six years from date of submission.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, DMA Headquarters, Building 56, US Naval Observatory, Washington, D.C. 20305.

NOTIFICATION PROCEDURE:

Information may be obtained from: General Counsel, DMA Headquarters, Building 56, US Naval Observatory, Washington, D.C. 20305, telephone 202 254–4431.

Counsel Defense Mapping Agency, Hydrographic/Topographic Center, Washington, D.C. 20315, telephone 202 227–2268.

Counsel Defense Mapping Agency Aerospace Center, St. Louis Air Force Station, Missouri 63118, telephone 314 268–4501.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to: General Counsel, DMA Headquarters Building 56, U.S. Naval Observatory, Washington, D.C. 20305.

Written requests for information should contain the full name and current address and telephone number of the individual.

Visits will be arranged through the General Counsel, Headquarters DMA.

For personal visits, the individual should be able to provide some acceptable identification, such as a drivers license or an employer's identification card, and be prepared to provide some verbal information that can be verified with his file.

CONTESTING RECORD PROCEDURES:

The Defense Mapping Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Statements and related documents are obtained from the individual concerned.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

B0402-05 HQHTA

SYSTEM NAME:

402–05 Legal Claims File.

SYSTEM LOCATION:

Primary System—Office of General Counsel, DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), and DMA Aerospace Center (A)—See DMA Directory for complete address listing.

Decentralized Segments—National Washington Record Center, GSA, 4205 Suitland Road, Suitland, Maryland 20409, Department of Army, Judge Advocate General, Pentagon, Washington, D.C.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DMA personnel having a claim against the Government for loss, damage, or destruction of personal property.

Any individual filing a tort claim against DMA for damages, loss or destruction of property and for personal injury or death resulting from negligence or wrongful act or omission of acts by DMA personnel and individuals against whom the Agency has legal claim.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains individual's claims, related correspondence and processing papers, investigative reports, recommendations of the investigators and opinions of Counsel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101—Records Management by Federal Agencies.

28 U.S.C., Section 2671–2680, Federal Torts Claims Act.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Office of Counsel—Preliminary investigation and legal opinions for recommendation to high authority for further disposition of claim and in the case of Agency claims, for attempted settlement and/or litigation.

National Washington Records Center—To store and maintain inactive records; The Department of Justice in event of Litigation or designated local government representatives who have delegated authority to investigate and/or settle claims.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper record in file folders and/or Kardex book.

RETRIEVABILITY:

Filed alphabetically by last name of employee or by case name.

SAFEGUARDS:

Buildings or facilities employ security guards.

Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

RETENTION AND DISPOSAL:

Approved claims and agency claims—10 year record, COFF on final action, inactive for one year, transfer to records holding area, hold nine years and destroy. Disapproved claims and claims involving personal injury or a minor, COFF on final action, hold one year inactive, transfer to records holding area, hold one year and transfer to Washington National Records Center. Hold 23 years and destroy.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Mapping Agency, Attn: General Counsel, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, Telephone: Area Code 202/254–4431

NOTIFICATION PROCEDURE:

Information may be obtained from above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

CONTESTING RECORD PROCEDURES:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

RECORD SOURCE CATEGORIES:

Related forms, correspondence, investigative reports and information gathered in anticipation of litigation, and opinions of Counsel.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

B0502-03-2 HQHTASI

SYSTEM NAME:

502–03 Classified Material Access Files.

SYSTEM LOCATION:

Primary System—Security Offices—DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), and Inter American Geodetic Survey (I).

Decentralized Segments—Requesting offices at DMA and organizations requiring the access authorization. See DMA Directory for complete address listing.

DIA, JCS.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals authorized to have access to classified files.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents reflecting authorization to have access to classified material. They include forms containing individual's name, and signature, classification of files concerned, information desired, and signature of an official authorizing access.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12065, National Security Information, June 28, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Security Office—Check of authorized individuals for access to classified material and guard authorization.

Requesting DMA organizations—to gain approval for employees to have access to perform their duty.

Requiring DMA and other Agencies—to allow employees the right to use classified information.

DIA—to verify who has been granted authority to Special Security information.

JCS—to verify who has been granted authority to use JCS papers.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper record in file folders and/or Kardex book.

RETRIEVABILITY:

File alphabetically by last name or grade of individual requiring access.

SAFEGUARDS:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

RETENTION AND DISPOSAL:

Temporary Record—Destroy on transfer, reassignment, or separation of the individual.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Mapping Agency, Attn: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, Telephone: Area Code 202/254–4411.

NOTIFICATION PROCEDURE:

Information may be obtained from above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

CONTESTING RECORD PROCEDURES:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

RECORD SOURCE CATEGORIES:

Report of investigating agency that conducted the background investigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

B0502-15 HQHTASI

SYSTEM NAME:

502–15 Security Compromise Case Files.

SYSTEM LOCATION:

Primary System—Security Offices—DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), and Inter American Geodetic Survey (I). See DMA Directory for complete address listing Decentralized Segments—Dept. of Justice and FBI on felonies cases.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DMA personnel security violation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents relating to investigations of alleged security violations, such as missing documents, unauthorized disclosure of information, unattended open security containers, documents not properly safeguarded and matters of a similar nature.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12065, National Security Information, June 28, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Security Office—Conduct security investigations. Supervisors on a need to know basis and as a quick reference system on security violations.

Dept. of Justice and FBI—for advise on felony cases.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

B0503-02 HTASI

SYSTEM NAME:

503–02 Security Identification

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to system manager.

Written requests for information

OSD and DIA—Investigation of loss or destruction of secure area.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND

DMA Aerospace Center (A)—See DMA Directory for complete address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

individual current address and telephone number, social security number.

For personal visits the individual should be able to provide some

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POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper record in file folders and/or Kardex book.

RETRIEVABILITY:

Filed alphabetically by last name of employee.

SAFEGUARDS:

Buildings or facilities employ security guards.

Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

RETENTION AND DISPOSAL:

Temporary Record—Destroy two years after completion of final corrective or disciplinary action, except that records of violations of a sufficiently serious nature to be classed as felonies are permanent.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Mapping Agency, Attn: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, Telephone: Area Code 202/254–4411.

NOTIFICATION PROCEDURE:

Information may be obtained from System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to system manager.

Requests from individuals should be addressed to the appropriate organization as indicated in address list. Written requests for information should contain the full name of the individual, current address and telephone number and social security number. Visits are limited to normal working hours. For personal visits the individual should be able to provide some acceptable identification, that is, drivers license, employing office's identification card, and give some verbal information that could be verified.

CONTESTING RECORD PROCEDURES:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

RECORD SOURCE CATEGORIES:

Reporting organization or official.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

B0503–02 HTASI

SYSTEM NAME:

503–02 Security Identification Accountability Files.

SYSTEM LOCATION:

Security Offices—DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), and Inter American Geodetic Survey (I).—See DMA Directory for complete address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any Civilian employee.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains the application, supporting materials and the number of the identification badges.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 12065, National Security Information, June 28, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To identify persons to whom badges are issued.

Purpose—Maintain accountability for identification cards.

Users—Supervisor, Personnel and Security Offices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records kept in file folders by No. also in desk type cabinet.

RETRIEVABILITY:

Filed Alphabetically by name.

SAFEGUARDS:

Buildings, facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Temporary Record-Transfer to Records Holding Area after last card or badge number entered has been accounted for. Hold for three years and destroy.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Mapping Agency, Attn: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, Telephone: Area Code 202/254–4411.

NOTIFICATION PROCEDURE:

Information may be obtained from above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individual, current address and telephone number and the case (Control) number that appears with the office symbol, on all correspondence received from this office.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card and give some verbal information that could be verified with his 'case' folder.

CONTESTING RECORD PROCEDURES:

The agency's rules for contesting contents and appealing initial determinations may be obtained from System Manager.

RECORD SOURCE CATEGORIES:

Individual's badge request, personnel forms and investigatory findings.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

B0503–09 HQHTASI

SYSTEM NAME:

503–09 Key Accountability Files.

SYSTEM LOCATION:

Security Office, DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), and Inter-American Geodetic Survey (I).—See DMA Directory for complete address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals with keys to a secure area.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documentation relating to the issue, return and accountability for keys to secure areas.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 12065, National Security Information, June 28, 1978. Information and Material. 3/10/72.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Security Police—Periodic Inspections, reissuance of keys after locks have been changed.

Personnel—Reference checks on individuals with keys to secure areas.

Supervisors—Reference checks and daily use for information purposes.

OSD and DIA—Investigation of loss or destruction of secure area.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper Records in file folders.

RETRIEVABILITY:

Filed Alphabetically by name.

SAFEGUARDS:

Buildings, facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Temporary Record—Transfer to holding area, hold three (3) years then destroy.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Mapping Agency, Attn: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, Telephone: Area Code 202/254–4411.

NOTIFICATION PROCEDURE:

Information may be obtained from above.

RECORD ACCESS PROCEDURES:

Requests from individuals should contain the full name of the individual, current address and telephone number, social security number.

For personal visits the individual should be able to provide some acceptable identification, that is, drivers' license, employing office's identification card, and give some verbal information that could be verified.

CONTESTING RECORD PROCEDURES:

The Agencies' rules for contesting contents and appealing initial determinations may be obtained from System Manager.

RECORD SOURCE CATEGORIES:

Individual's key requests, personnel forms and investigatory findings.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

B0504–01 HQHTA

SYSTEM NAME:

504–01 Personnel Special Security Files.

SYSTEM LOCATION:

Special Security/Activities Division—DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A)—See DMA Directory for complete address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DMA Military or civilian employees who have been assigned to positions that require access to Sensitive Compartmented Information (SCI).

CATEGORIES OF RECORDS IN THE SYSTEM:

Files consist of Special Security Office (SSO) security indoctrination and termination oaths; clearance and access certification messages; SSO security violation investigative reports if applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 12065, National Security Information, June 28, 1978. 3/10/72

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide central file repository for all SSO security forms pertaining to the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name of file subject.

SAFEGUARDS:

Buildings, facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Retained in active file during period subject is assigned to or employed by DMA, retained in inactive file for one year following reassignment or termination of employment, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

See Defense Mapping Agency, Attn: Special Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, Telephone: Area Code 202/254–4603.

NOTIFICATION PROCEDURE:

Information may be obtained from above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individual current address and telephone number, social security number.

For personal visits the individual should be able to provide some acceptable identification, that is, drivers' license, employing office's identification card and give some verbal information that could be verified.

CONTESTING RECORD PROCEDURES:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

RECORD SOURCE CATEGORIES:

Information obtained from such sources as review of birth records; education records; credit and former employment records; interviews of named and developed references; check of local police and FBI files and check of subversive files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 522a (j) or (k), as applicable. For additional information, contact the Systems Manager.

B0504–01–2 HQHTASI

SYSTEM NAME:

504–01 Personnel Security Files.

SYSTEM LOCATION:

Primary System—Security Office, DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A), Defense Mapping School (S), Inter-American Geodetic Survey (I). See DMA Directory for complete address.

Decentralized Segments—Cross reference index cards (i.e., Badge Requests Cards, Identification Cards, Guard Desk Roladex Identification Cards) with extracts of information contained in primary files are maintained on file in Security Office of each DMA element.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those military, civilian, and industrial personnel who are assigned to, employed by DMA; whose official duties, responsibilities and/or contracts require that they have access to classified defense information which has been entrusted to or is under the Defense Mapping Agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains individual's certificate of clearance indicating level of access individual is cleared for, date clearance was issued, type of investigation conducted, date investigation was

completed and identification of agency that conducted the investigation. Additionally, contained in the file are; copy of Statement of Personal History

maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

B0504–01–3 HQHTA

accessible only to authorized personnel that are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former DMA civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Logistics, with data to assess the effectiveness of the program for employment of women in executive level positions; to provide data to DMA officials to facilitate the assessment of

completed and identification of agency that conducted the investigation. Additionally, contained in the file are; copy of Statement of Personal History (DD Form 398), individual's certification that he/she has read and understands both the Department of Defense and Agency security directives and instructions regarding the protection of classified defense information; individual certification that he/she understands responsibilities for protection of North Atlantic Treaty Organization (NATO), material to a lesser extent some files will contain individuals certification that he/she has been briefed for access to NATO Top Secret (COSMIC); NATO Top Secret Restricted Data (ATOMAL); Single Integrated Operational Plan (SIOP); Extremely Sensitive Information (ESI); Atomic Energy Commission, Restricted Data (RD); and Atomic Energy Commission, Critical Nuclear Weapons Design Information (CNWDI).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

EO 12065, National Security Information, June 28, 1978. Classification and Declassification of National Security Information and Material—3/10/72.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

DMA SO—This information is maintained as a means to insure that each and every individual assigned to, employed by or contracting with the HQ DMA has been cleared for the level of access to classified information that is necessary for accomplishment of his official duties. These records further insure that each individual is made aware of his responsibilities regarding the protection and safeguarding of any classified information entrusted to him.

Other Governmental Agencies—Information regarding any individual's clearance and level of access. This enables DMA personnel to conduct official business requiring security clearance, with other governmental agencies.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Alphabetically by name of individual.

SAFEGUARDS:

Buildings are located on guarded government installation with security guards and alarms. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Records are maintained in an active status only for the period of time that the individual is actually assigned to, employed by or contracting with DMA. When the individual terminates his association with DMA, the records are maintained in an inactive status for the period of one year and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Mapping Agency, Attn: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, Telephone: Area Code 202/254–4411.

NOTIFICATION PROCEDURE:

Information may be obtained from above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to System Manager.

Written requests for information should contain the full name of the individual, current address and telephone number, social security number.

For personal visits the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, and give some verbal information that could be verified.

CONTESTING RECORD PROCEDURES:

The agencies' rules for contesting contents and appealing initial determinations may be obtained from System Manager.

RECORD SOURCE CATEGORIES:

Individual's certificate of clearance originates in HQ DMA Special Security Office (SSO) based on notification of personnel investigation by either the Office of Personnel Management or the Defense Investigative Agency. Certification of clearance for military personnel will be certified by the individuals' parent service. Much of the routine information in these records such as name, date and place of birth, etc., is obtained during the individual's initial processing which is usually accomplished on his first duty day. Other information such as type of investigation, date of investigation, etc., is obtained from such investigating agencies as the OPM, Defense Investigative Service (DIS), etc. The records are updated as new information is received regarding the individual's clearance and access.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

B0504–01–3 HQHTA

SYSTEM NAME:

504–01 Personnel Security Investigative Files.

SYSTEM LOCATION:

Primary System—Security Offices, DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A)—See DMA Directory for complete address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those military and civilian personnel who are assigned to or employed by the Defense Mapping Agency and whose duties require access to classified defense information and who have therefore been investigated under the provisions of Department of Defense regulations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files consist of two parts, one part subject to exemption of 552a(K)(5) from review one part available for review. Part (1) Exempted consists of National Agency Checks with Written Inquiries (NACI); Background Investigations (BI); Special Background Investigations (SBI); Bring-up Investigations (BU). Part (2) Available for review consists of National Agency Checks (NAC).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

EO 12065, National Security Information, June 28, 1978.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Defense Mapping Agency—to determine eligibility for access to classified defense information and to conduct continuing Security Program.

Defense Intelligence Agency—to determine eligibility for access to Sensitive Compartmented Information, applicable to Special Security Office access.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by last name of file subject.

SAFEGUARDS:

Buildings, facilities employ security guards. Records are maintained in areas

accessible only to authorized personnel that are properly screened, cleared and trained.

RETENTION AND DISPOSAL:

Retained in active file during period subject is assigned to or employed by DMA, retained in inactive file for one year following termination of subject's assignment or employment, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Mapping Agency, Attn: Security Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, Telephone: Area Code 202/254–4411.

NOTIFICATION PROCEDURE:

Information may be obtained from above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to System Manager.

Written requests for information should contain the full name of the individual's current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office.

For personal visits, the individual should be able to provide some acceptable identification, that is, driver's license, employing office's identification card, and give some verbal information that could be verified.

CONTESTING RECORD PROCEDURES:

The Agencies' rules for contesting contents and appealing initial determinations may be obtained from System Manager.

RECORD SOURCE CATEGORIES:

Investigations are originated based on applicant's application for employment. Sources of information are inquiries of birth, education, local police, Federal police agency files, credit, neighborhood, personal references, etc.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this system may be exempt under 5 U.S.C. 522a (j) or (k), as applicable. For additional information, contact the Systems Manager.

B0601–03 HQHTASI

SYSTEM NAME:

601–03 Personnel Data System—Civilian (PDS–C).

SYSTEM LOCATION:

Civilian Personnel Offices—See DMA Directory for complete address listing.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former DMA civilian employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Civilian employment information including authorization for position, personnel data, suspense information; position control information; projected information and historical information; civilian education and training data; performance appraisal, ratings, evaluation of potential; civilian historical files covering job experience, training and transactions; civilian awards information, merit promotion plan work files; career programs files for such functional areas as procurement, logistics, civilian personnel, etc., civilian separation and retirement data for reports and to determine eligibility; adverse and disciplinary data for statistical analysis and employee assistance; stand-along file, as for complaints, enrollee programs; extract files from which to produce statistical reports in hard copy, or for immediate access display on remote computer terminals; miscellaneous files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S. Code 301 and 44 U.S. Code 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To provide automated system support to DMA officials at all levels from that part of the Office of Personnel Management (OPM) required personnel management and records keeping system that pertains to evaluation, authorization and position control, pay, position management, staffing skills inventory, career management, training, retirement, employee services, rights and benefits, merit promotions, demotions, reductions in force, complaints resolution, labor management relations, and the suspending and processing of personnel actions; to provide for transmission of such records between employing activities within the Defense Mapping Agency; to provide reports to the OPM; to provide reports of military reserve status to other armed services for contingency planning; to obtain statistical data on the work force to fulfill internal and external report requirements and to provide DMA offices with information needed to plan for and evaluate manpower, budget and civilian personnel programs, to provide minority group designator codes to the OPM's automated data file, to provide the Office of the Assistant Secretary of Defense, Manpower Reserve Affairs and Logistics, with data to assess the effectiveness of the program for employment of women in executive level positions; to provide data to DMA officials to facilitate the assessment of the DMA Affirmative Action Plan for minorities and women; to obtain listings of employees by function or area for locator and inventory purposes; disclosed to officials of labor organizations recognized under Executive Order 11491, as amended, when relevant and necessary to their duties of exclusive representation concerning personnel policies and practices and matters affecting working conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Maintained in visible file binders/cabinets, card files, computer magnetic tapes, disks or drums, computer paper printouts, microfiche.

RETRIEVABILITY:

Filed by name, Social Security Account Number (SSAN), other identification number or system identifier. The primary individual record identifier in APDS–C is SSAN. There is the added capability of selecting an individual's record or certain preformatted information by SSAN on an immediate basis using a teletype or cathode ray tube display device.

SAFEGUARDS:

Records are accessed by custodian(s) of the record system. Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Records are accessed by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets. Records are stored in safes. Records are stored in vaults. Records are stored in locked cabinets or rooms. Records are protected by guards. Records are controlled by computer system software.

RETENTION AND DISPOSAL:

Analog output products are retained in office files until superseded, obsolete, no longer needed for reference, or inactivated. They are then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Data stored digitally within system is retained only for the period required to satisfy recurring processing requirements and/or historical requirements. The Notification of Personnel Action, Standard Form 50, is disposed of as

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directed by the OPM, work files and records such as the employee career brief, position survey work sheet, retention register work sheet, alphabetic and social security account number locator files, and personnel and position control register are destroyed after use by tearing into pieces, shredding, macerating, or burning work sheets pertaining to qualification and retention registers are disposed of as directed by the OPM; transitory files such as pending files, and recovery files are destroyed after use by degaussing; files and records retrieved through general retrieval systems are destroyed after use by tearing into pieces, shredding, pulping, macerating, or burning. The separated employee file retains employee information at time of separation for five years after which the employee's record is destroyed by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Mapping Agency, Attn: Personnel Office, Building 56, Naval Observatory, Washington, D.C. 20305, Telephone: Area Code 202/254-4066.

NOTIFICATION PROCEDURE:

Information may be obtained from above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to above.

Written requests for information should contain the full name of the individual, Social Security Number, current address and telephone number.

For personal visits, the individual should be able to furnish personal identification containing his/her full name, Social Security Number, physical description, photograph and signature.

CONTESTING RECORD PROCEDURES:

The Agency rules for contesting contents and appealing initial determination may be obtained from System Manager.

RECORD SOURCE CATEGORIES:

Digest of information from existing Personnel Files and management/employee source documents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

B0608-06 HQHTASI

SYSTEM NAME:

608-06 Civilian Training Files.

SYSTEM LOCATION:

Civilian Personnel Offices—See DMA Directory for complete address.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any civilian employee receiving training in Government and non-Government facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Central Personnel Data Reports; Career Plans for certain Executives and Managers, GS-13 and above; Documents reflecting nominations, enrollment, registration, records of training and related material; contract training in non-Government and Government facilities.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11348—Providing for Further Training of Government Employees; 4/22/67.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Civilian Personnel Office—for reporting training.

OPM for review.

Supervisory Personnel—access to file for review.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Appropriate folder by name of individual, social security number and type of training.

SAFEGUARDS:

Buildings or facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

RETENTION AND DISPOSAL:

Training reports files are destroyed after five years; contract files are destroyed 3 years after completion of training or upon expiration of obligated service agreement; all other training records are reviewed annually and the portion pertaining to individuals no longer employed with the Agency are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Mapping Agency, Attn: Personnel Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, Telephone: Area Code 202/254-4066.

NOTIFICATION PROCEDURE:

Information may be obtained from System Manager.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office.

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers' license, employing office's identification card, and give some verbal information that could be verified.

CONTESTING RECORD PROCEDURES:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

RECORD SOURCE CATEGORIES:

Individuals, interagency-professional institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

B0615-07 HQHTASI

SYSTEM NAME:

615-07 Safety Awards Files.

SYSTEM LOCATION:

Logistic Offices. See DMA Directory for complete address listing.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any DMA Driver.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains list of the names of drivers who have received safe driver awards. All correspondence between the Safety Office and the National Safety Council.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 4503—Agency Awards

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Safety Office—used to document and present safe driver awards.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Buildings and facilities employ security guards. Records are maintained in areas accessible only to authorized personnel that are properly screened, cleared, and trained.

RETENTION AND DISPOSAL:

Temporary record, held for two years and destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Mapping Agency, Attn: Logistics Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, Telephone: Area Code 202/254-4475.

NOTIFICATION PROCEDURE:

Information may be obtained from above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to system manager.

Written requests for information should contain the full name of the individuals current address and telephone number, and the Case (Control) number that appears with the office symbol, on all correspondence received from this office.

For personal visits, the individual should be able to provide some acceptable identification, that is, drivers' license, employing office's identification card, and give some verbal information that could be verified.

CONTESTING RECORD PROCEDURES:

The Agency's rules for contesting contents and appealing initial determination may be obtained from System Manager.

RECORD SOURCE CATEGORIES:

Driver record of the individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

B1211-07 HQHTASDI

SYSTEM NAME:

1211-07 Individual Government Transportation Files.

SYSTEM LOCATION:

Primary System—Travel Office—DMA Headquarters (HQ), DMA Hydrographic/Topographic Center (HT), DMA Aerospace Center (A)—See DMA Directory for complete address listing.

Decentralized Segments—Records Management, Records Holding Areas.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

DMA employees authorized government travel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Travel orders and other pertinent correspondence and related documents, and copies of issued and canceled transportation requests, transportation certificates, MAC transportation authorizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; Records Management by Federal Agencies, 45 U.S.C. 5707—Travel and Substance Expense Regulation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used to officially designate Transportation Officer, Assistants and Agents. Used to record authorization for travel, issue orders, make travel arrangements and prepare vouchers for reimbursement.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper Records in file folders.

RETRIEVABILITY:

Alphabetical by name on individual folders or by TR number in case of group travel.

SAFEGUARDS:

Buildings, facility employ security guards. Records are maintained in locked cabinets and areas accessible only to authorized personnel that are properly screened, cleared, and trained.

RETENTION AND DISPOSAL:

Temporary Record. Travel Office holds for one year, transfers to Records Holding Area, held for three (3) years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Defense Mapping Agency, Attn: Administration Office, Building 56, U.S. Naval Observatory, Washington, D.C. 20305, Telephone: Area Code 202/254-4425.

NOTIFICATION PROCEDURE:

Information may be obtained from above.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to System Manager.

Written requests for information should contain the full name of the individual, current address, and telephone number, social security number.

Personal visits—the individual should be able to provide some acceptable identification, that is, drivers' license, employing office's identification card, and give some verbal information that could verify employment.

CONTESTING RECORD PROCEDURES:

The Agencies' rules for contesting contents and appealing initial determinations may be obtained from System Manager.

RECORD SOURCE CATEGORIES:

Folders contain various amounts of information on issued and cancelled transportation requests, transportation certificates, travel orders and related data on overseas employees, DMA employees and invitational orders.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Department of the Navy

Alteration of System of Records

AGENCY: Department of the Navy (DON).

ACTION: Notice of alteration of system of records.

SUMMARY: The Department of the Navy proposes to alter one systems notice subject to the Privacy Act of 1974.

DATES: The proposed actions shall be effective without further notice on January 2, 1981, unless comments are received on or before January 2, 1981, which would result in a contrary determination.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Rhoads, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP-09B1P), Department of the Navy, The Pentagon, Washington, D.C. 20350, telephone: 202-694-2004.

SUPPLEMENTARY INFORMATION: The Navy systems of records notices as prescribed by the Privacy Act of 1974, Title 5, U.S.C., Section 552a (Pub. L. 93-579) have been published in the Federal Register as follows:

FR Doc 79-36400 (44 FR 67703) November 27, 1979
FR Doc 79-36798 (44 FR 68947) November 30, 1979
FR Doc 79-37052 (44 FR 74553) December 17, 1979
FR Doc 80-6599 (45 FR 13794) March 3, 1980
FR Doc 80-14965 (45 FR 32037) May 15, 1980
FR Doc 80-15427 (45 FR 33679) May 20, 1980
FR Doc 80-17286 (45 FR 38099) June 6, 1980
FR Doc 80-19603 (45 FR 43841) June 30, 1980
FR Doc 80-20317 (45 FR 43938) July 8, 1980
FR Doc 80-23111 (45 FR 50851) July 31, 1980
FR Doc 80-24237 (45 FR 53508) August 12, 1980

FR Doc 80-26396 (45 FR 57514) August 28, 1980
FR Doc 80-26960 (45 FR 58651) September 4, 1980
FR Doc 80-27976 (45 FR 59939) September 11

Retention and disposal:

Delete the entry and substitute with the following: "For computerized and manual records retained on tape until the final outcome of each case, whether it be by final

RETENTION AND DISPOSAL:

For computerized and manual records

requiring republication for further comments.

ADDRESS: Office of the General Counsel, Office of the Secretary of Defense, Room

SYSTEM LOCATION:

Primary System-Office of the General Counsel, Office of the Secretary of Defense, Pentagon, Washington, D.C.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy General Counsel, Office of the Secretary of Defense, Room 3E980, Pentagon, Washington, D.C. 20301.

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FR Doc 80-26396 (45 FR 57514) August 28, 1980
FR Doc 80-26980 (45 FR 58651) September 4, 1980
FR Doc 80-27976 (45 FR 59938) September 11, 1980
FR Doc 80-29172 (45 FR 62876) September 22, 1980
FR Doc 80-29774 (45 FR 63896) September 26, 1980

The Department of the Navy has submitted an altered system report dated October 23, 1980 for this altered system under the provisions of 5 U.S.C. 552a(o) as implemented by Office of Management and Budget (OMB) Circular No. 1 and No. 3, dated September 30, 1975 and May 17, 1976, respectively. The OMB guidance was set forth in the Federal Register (40 FR 45877) on October 3, 1975.

M. S. Healy,

OSD Federal Register Liaison Officer
Washington Headquarters Services
Department of Defense.

November 25, 1980.

N6276903

System name:

International Legal Hold Files (44 FR 74633) Dec 17, 1979.

Changes:

Categories of records in the system:

Delete the first word in the entry and substitute to read: "Computer summaries and . . . ."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute with the following: "Used by foreign civilian attorneys in representing the accused; by the accused's military advisor in seeking an expeditious settlement of the case; by supervisory personnel in the performance of their official duties when monitoring the legal hold status of the involved individuals; and by authorized officials in the Department of Defense for required reports."

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Add the following phrase to the beginning of the entry: "Records are maintained on magnetic tape, ..."

Retrievability:

Delete the entire entry and substitute with the following: "Files are retrieved by name and SSN."

Retention and disposal:

Delete the entire entry and substitute with the following: "For computerized and manual records-retained on tape until the final outcome of each case, whether it be by final adjudication or out of court settlement and then destroyed."

N6276903

SYSTEM NAME:

International Legal Hold Files

SYSTEM LOCATION:

U.S. Naval Legal Offices in a foreign country.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military personnel, members of civilian component and their dependents who have had criminal charges lodged against them in a foreign country.

CATEGORIES OF RECORDS IN THE SYSTEM:

Computerized summaries and card files containing copies of legal documents received and filed relative to the case, statements, affidavits, handwritten notes, and other miscellaneous data about the particular case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by foreign civilian attorneys in representing the accused; by the accused's military advisor in seeking an expeditious settlement of the case; by supervisory personnel in the performance of their official duties when monitoring the legal hold status of the involved individuals; and by authorized officials in the Department of Defense for required reports.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records are maintained on magnetic tape, folders, and file cards.

RETRIEVABILITY:

Files are retrieved by name and SSN.

SAFEGUARDS:

Only personnel in International Law Department are authorized access. Building is kept locked when not occupied.

RETENTION AND DISPOSAL:

For computerized and manual records retained on tape until the final outcome of each case, whether it be by final adjudication or out of court settlement and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding Officer or head of the organization in question. See directory of Department of the Navy mailing addresses.

NOTIFICATION PROCEDURE:

Requester can write to the system manager giving name, rate and service number. Military ID or any standard ID showing applicant's photo shall be sufficient for personal visits.

RECORD ACCESS PROCEDURES:

The Agency's rules for access to records may be obtained from the System Manager.

CONTESTING RECORD PROCEDURES:

The Agency's rules for contesting contents and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Foreign judicial system, accused, attorneys representing accused, military legal advisor, Provost Marshal's office, subject's commanding officer, witnesses, and the complainant.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-37241 Filed 12-1-80; 8:45 am]
BILLING CODE 3810-71-M

Office of the Secretary

Notification of Amendment to a System of Records

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Notice of amendment to a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to reestablish the specific exemptions for a system of records for which the exemption was inadvertantly omitted from the present systems notice. The system is identified as DGC03, entitled: "General Administrative Files". The specific amendment is set forth below followed by a republication of the system notice in its entirety.

DATE: This amendment will be effective January 2, 1981, unless public comments result in a contrary determination

requiring republication for further comments.

ADDRESS: Office of the General Counsel, Office of the Secretary of Defense, Room 3E980, The Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT: Ms. Norma Cook; telephone (202) 695-0970.

SUPPLEMENTARY INFORMATION: The exemption for this system was established in 1977 and exemption rule for the system was last published as a final rule in the **Federal Register** at 45 FR 43409 (FR Doc. 80-19461), June 27, 1980.

The Office of the Secretary of Defense (OSD) systems of records notices have been published in the **Federal Register** as follows:

FR Doc. 79-370542 (44 FR 74088) December 17, 1979
FR Doc. 80-7517 (45 FR 15064) March 11, 1980
FR Doc. 80-8135 (45 FR 17056) March 17, 1980
FR Doc. 80-13709 (45 FR 29390) May 2, 1980
FR Doc. 80-13707 (45 FR 29390) May 5, 1980
FR Doc. 80-25479 (45 FR 34034) May 21, 1980
FR Doc. 80-19461 (45 FR 43409) June 27, 1980
FR Doc. 80-23575 (45 FR 51880) August 5, 1980
FR Doc. 80-25326 (45 FR 55516) August 20, 1980
FR Doc. 80-26399 (45 FR 57515) August 28, 1980
FR Doc. 80-29169 (45 FR 62881) September 22, 1980
FR Doc. 80-32462 (45 FR 69282) October 20, 1980

The proposed action is not within the purview of the provisions of 5 U.S.C. 552a(o) which requires the submission of an altered systems report.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington, Headquarters Services, Department of Defense.

November 25, 1980.

Amendment

DGC 03

System name:

General Administrative File (44 FR 74101) December 17, 1979.

Systems exempted from certain provisions of the act:

Delete "none" and insert "Parts of this records system may be exempt under Title 5 of the U.S. Code, sections 552a (k)(2), (k)(3) and (k)(5) as applicable. The Office of the Secretary of Defense rules setting forth these exemptions may be found at 32 CFR 286a (OSD Administrative Instruction 81)."

DGC 03

SYSTEM NAME:

General Administration File.

SYSTEM LOCATION:

Primary System-Office of the General Counsel, Office of the Secretary of Defense, Pentagon, Washington, D.C. 20301

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have had certain incidents in their lives come within the purview of the General Counsel, Office of the Secretary of Defense.

CATEGORIES OF RECORDS IN THE SYSTEM:

General adminstrative files of the Office of the General Counsel, Office of the Secretary of Defense, which are used in the performance of the function of the office. Some of the cases concern individuals and contain information about them. Such cases are filed by the individual's name as these cases relate to the legal problelms of the Department of Defense.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10, U.S. Code, section 137.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose of the files is to provide information for attorneys in the Office of the General Counsel to aid in solving the various legal problems for the Secretary of Defense.

INTERNAL USERS, USES, AND PURPOSES:

Routine use of the files is by the attorneys in the Office of the General Counsel, Office of the Secretary of Defense, and DoD Components.

EXTERNAL USERS, USES, AND PURPOSES:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of Component's published system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed by subject.

SAFEGUARDS:

Stored in metal filing cabinets and metal safes depending on classification.

RETENTION AND DISPOSAL:

Files are retained as long as there is an office interest in the case then they are destroyed or retired to the Federal Records Center, Suitland, Maryland.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy General Counsel, Office of the Secretary of Defense, Room 3E980, Pentagon, Washington, D.C. 20301.

NOTIFICATION PROCEDURE:

Written request for information should be addressed to the System Manager, Deputy General Counsel, Room 3E980, Pentagon, Washington D.C. 20301. Valid proof of identity is required as well as the pertinent dates and subject matter which caused the individual's involvement with the office.

RECORD ACCESS PROCEDURE:

Procedure for gaining access by an individual to his records may be obtained from the following:

Office of the Assistant General Counsel (Manpower, Health & PubLic Affairs), Room 3E977, Pentagon, Washington, D.C. 20301, Telephone: 202 697-9657.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to record and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR 28b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Information contained in general administrative files is obtained from various sources including correspondence, investigations performed by other agencies and general administrative records of the Department of Defense.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Parts of this records system may be exempt under Title 5 of the U.S. Code, sections 552a(k)(3) and (k)(5) as applicable. The Office of the Secretary of Defense rules are set forth at 32 CFR Part 28a (OSD Administrative instruction 81).

[FR Doc. 80-37209 Filed 12-1-70; 8:45 am]
BILLING CODE 3810-70-M

DEPARTMENT OF EDUCATION

National Advisory Council on the Education of Disadvantaged Children; Amendment of Notice of Meeting

AGENCY: National Advisory Council on the Education of Disadvantaged Children.

ACTION: Amendment of notice of meeting.

SUMMARY: This notice is to amend the Notice of the meeting of the National Advisory Council on the Education of

Disadvantaged Children which appeared in the **Federal Register** on Tuesday, November 18, 1980, on page 76223. The Council meeting scheduled to

The new closing date for noncompeting continuation applications is January 7, 1981. The closing date for new applications is hereby cancelled

§ 214.31(a)(3). This notice is issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR Part

Paul Park, Minnesota, and the Koch refinery at Pine Bend, Minnesota, second priority refineries for the June 1980 Supplemental Allocation Notice

the issuance of Canadian crude oil rights for the months of January, February, and March 1981.

Allocation of Canadian Crude Oil

On or prior to the thirtieth day preceding each allocation period, each refiner or other firm that owns or controls a first priority refinery shall file

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Disadvantaged Children which appeared in the **Federal Register** on Tuesday, November 18, 1980, on page 76223. The Council meeting scheduled to be held on December 3 and 4, 1980 will be held at the following locations:

DATES:

Wednesday, December 3, 1980, Room 283, Hall of the States, 400 N. Capitol Street, N.W., Washington, D.C.; Times—10 a.m.–4:30 p.m. (4:30 p.m. recess) 7 p.m.–9 p.m.

Thursday, December 4, 1980, Room 503a, 507a, Hubert Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C.; Times—9 a.m.–4:30 p.m. (9 a.m.–12 noon—Committee meetings)

SUPPLEMENTARY INFORMATION: The National Advisory Council on the Education of Disadvantaged Children is established under Section 148 of the Elementary and Secondary Education Act (20 U.S.C. 2852) of compensatory education to improve the educational attainment of disadvantaged children.

Signed at Washington, D.C. on November 26, 1980.

Alice S. Baum,

Executive Director, National Advisory Council on the Education of Disadvantaged Children.

[FR Doc. 80-37392 Filed 12-1-80; 8:45 am]

BILLING CODE 4000-01-M

Biomedical Sciences Program; Revision of the Application Notice for New and Noncompeting Continuation Applications for Fiscal Year 1981

The Assistant Secretary gives notice of cancellation, until further notice, of the closing date for new applications for Fiscal Year 1981 for the Biomedical Sciences Program. In addition, the Assistant Secretary gives notice of a revised closing date for noncompeting continuation applications.

The original notice for this program, published in the **Federal Register** on October 7, 1980, page 66575, indicated that applications would be accepted for both new and noncompeting continuation awards. However, since the Fiscal Year 1980 new projects were funded late, it has been impossible for these funded projects to comply with program requirements that must be met before a project is awarded the second year of funding. In addition, until the Department has a better estimate of funds needed to continue the support of these noncompeting continuation projects, it is impossible to estimate the amount of funds that will be available for new awards.

The new closing date for noncompeting continuation applications is January 7, 1981. The closing date for new applications is hereby cancelled until further notice.

Albert H. Bowker,

Assistant Secretary for Postsecondary Education.

November 26, 1980.

(Catalog of Federal Domestic Assistance Number 84.112; Biomedical Sciences Program)

[FR Doc. 80-37465 Filed 12-1-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Canadian Crude Oil Allocation Program Supplemental Notice for the October 1, 1980, through December 31, 1980 Allocation Period

In accordance with the provisions of the Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues a supplemental allocation notice to reflect an adjustment to the number of Canadian heavy crude oil rights issued for December 1980.

Murphy Oil Corporation (Murphy), a Priority I refiner under the Canadian Allocation Program, has advised the ERA that it is unable to utilize the total amount of heavy crude oil rights assigned to it in the Allocation Notice for the October through December 1980 allocation period issued on September 18, 1980. Murphy has therefore reduced its nomination for Canadian heavy crude oil in December 1980 by 2,134 B/D from 6,000 B/D to 3,866 B/D.

Pursuant to 10 CFR 214.32(c), the ERA hereby reduces the number of rights of Canadian heavy crude oil assigned to Murphy in December 1980 to 3,866 B/D.

As explained in the allocation notice for the period October–December 1980, the exportable surplus of Canadian heavy crude oil in the October–December 1980 allocation period exceeded the nominations of priority refiners by 48,381 B/D. Further, pursuant to § 214.31(b), ERA determined that this volume of crude oil was surplus for the October–December 1980 allocation period and was therefore not subject to the provisions of § 214.31(a)(3). Accordingly, ERA has determined that the 2,143 B/D of Canadian heavy crude oil rights that are being withdrawn from Murphy in December 1980, should be added to this surplus and not be subject to the allocation provisions of § 214.31(a)(3). This notice is issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before January 2, 1981.

Issued in Washington, D.C. on November 21, 1980.

Paul T. Burke,

Acting Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-37340 Filed 12-1-80; 8:45 am]

BILLING CODE 6450-01-M

Canadian Crude Oil Allocation Program Allocation Notice for the January 1 Through March 31, 1981, Allocation Period

In accordance with the provisions of the Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues the allocation notice specified in § 214.32 for the allocation period beginning January 1, 1981.

The Canadian National Energy Board (NEB) has informed ERA that, effective January 1, 1981, exports of crude oil from Canada will again be authorized on a quarterly basis. Therefore, this notice lists the export levels of Canadian light and heavy crude oil for the allocation period January 1 through March 31, 1981.

Redesignation of Priority Status

On April 17, 1980, the Department of Energy's Office of Hearings and Appeals (OHA) issued a Decision and Order with respect to appeals filed by the Mobil Oil Corporation from four allocation notices issued by ERA under the Canadian Crude Oil Allocation Program. *Mobil Oil Corporation,* Case Nos. DEA–0235, 0387, 0589, and BEA–0035. OHA concluded that ERA erred in not reclassifying Ashland and Koch's Minnesota refineries as second priority refineries for the fourth allocation quarter of 1970 and the second, third, and fourth allocation quarters of 1979.

It is ERA's belief that the legal and factual determinations made by OHA with respect to the Ashland and Koch refineries' access to non-Canadian crude oil in the allocation periods specified above are equally applicable to future allocation periods. Accordingly, on May 16, 1980, Ashland and Koch were formally advised that ERA intended to redesignate the Ashland refinery at St. Paul Park, Minnesota, and the Koch refinery at Pine Bend, Minnesota, second priority refineries for the June 1980 Supplemental Allocation Notice and, with the possible exception of the first allocation quarter in each year, in every subsequent allocation quarter. With respect to the first allocation quarter of each year, ERA intended to make a determination of the refineries' priority status at a later time.

However, in May 1980, the United States District Court for the District of Minnesota enjoined DOE from implementing reclassification of the Koch and Ashland refineries from first priority to second priority status pending a hearing and determination on the motion for a preliminary injunction. On August 18, 1980, the District Court issued a Preliminary Injunction prohibiting DOE from redesignating the Koch and Ashland refineries pending a final determination of the case. Since a final determination has not yet been reached, Ashland and Koch's Minnesota refineries will retain their first priority status for the January through March 1981 allocation period.

Allocation of Canadian Light Crude Oil

The NEB has formally advised ERA that the total volume of Canadian light crude oil authorized for export to the United States for the months of January, February, and March 1981 and, therefore, subject to allocation under Part 214, will be 50 barrels/day (B/D), all of which is operationally constrained through the Union Oil pipeline from the Reagan field in Canada to the Flying J, Inc. (formerly ICG Vista) Thunderbird refinery (second priority) at Cut Bank, Montana. Pursuant to § 214.35, ERA will give effect to the operational constraint regarding the Thunderbird refinery in the issuance of Canadian crude oil rights for the months of January, February, and March 1981.

Allocation of Canadian Crude Oil

The NEB has advised ERA that the total volumes of Canadian heavy crude oil authorized for export to the United States, and therefore subject to allocation under Part 214, for the three-month allocation period commencing January 1, 1981, will be as follows: 131,920 B/D for January, 127,525 B/D for February, and 127,525 B/D for March. For purposes of determining allocations of Canadian heavy crude oil, it has been assumed that the average export level will be 129,039 B/D for the three months. Any change in the export levels for Canadian light crude oil, including condensate, and Canadian heavy crude oil anticipated for this allocation period will be reflected in revised allocations that will be issued in a supplemental allocation notice or notices.

The January through March 1981 allocable supply of Canadian heavy crude oil is greater than the total number of rights calculated under § 214.31(a) subparagraphs (3) (i) through (vi). Accordingly the ERA has determined, pursuant to § 214.31(b), that the volume of Canadian heavy crude oil to be exported in January, February, and March in excess of the nominations of priority refiners (565 B/D) is surplus for the January 1 through March 31, 1981, allocation period and is not subject to the allocation provisions of § 214.31(a)(3).

The issuance of Canadian heavy crude oil rights, expressed in barrels/day, to refiners and other firms nominating for heavy crude oil for the January 1 through March 31, 1981, allocation period is as follows:

	Refiner/refinery	Base period volumes [1] Canadian total	Base period volumes [1] Canadian heavy crude	Nomination	Allocation
Priority:					
II	Ashland—Buffalo, NY	36,752	4,719	0	0
II	Ashland—Findley, OH	2,198	2,165	0	0
I	Ashland—St. Paul Park, MN	44,707	4,803	15,000	15,000
I	Koch—Pine Bend, MN	74,383	69,593	85,000	85,000
II	Mobil—Buffalo, NY	24,995	0	0	0
II	Mobile—Ferndale, WA	45,444	0	0	0
II	Mobile—Joliet, IL	14,606	12,474	12,474	12,474
I	Murphy—Superior, WI	25,625	5,372	6,000	6,000
Total Priority I					116,000
Total Priority II					12,474
Total I and II					128,474

[1] Base period volume for the purposes of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the base period (November 1, 1974, through October 31, 1975) on a barrels per day basis. For the base period volumes of all priority refineries, see Allocation Notice issued December 29, 1979 (45 FR 1664, January 8, 1980).

On or prior to the thirtieth day preceding each allocation period, each refiner or other firm that owns or controls a first priority refinery shall file with ERA the supplemental affidavit specified in § 214.41(b) to confirm the continued validity of the statements and representations contained in the previously filed affidavit or affidavits, upon which the designation for that priority refinery is based. Each refiner or other firm owning or controlling a first or second priority refinery shall also file the periodic report specified in § 214.41(d)(1) on or prior to the thirtieth day preceding each allocation period, provided, however, that the information as to estimated nominations specified in § 214.41(d)(1)(i) is not required to be reported.

Within 30 days following the close of each three-month allocation period, each refiner or other firm that owns or controls a priority refinery shall file the periodic report specified in §214.41(c)(2) certifying the actual volumes of Canadian crude oil and Canadian plant condensate included in the crude oil runs to stills, consumed or otherwise utilized by each such priority refinery (specifying the portion thereof that was allocated under Part 214) for the allocation period.

Please note change of address. All reports and applications made under this notice should be addressed to:

Chief, Crude Oil Allocation and Production Branch, 2000 M Street NW., Room 6318, Washington, D.C. 20461.

TWX's may be sent to 710–822–9454 (answer back EVFTJ WSH). Also note that, effective August 15, 1980, the telephone number for the Crude Oil Allocation and Production Branch is changed to 202–653–3420.

This notice is issued pursuant to Subpart G of DOE's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before January 2, 1981.

Issued in Washington, D.C., on November 24, 1980.

Paul T. Burke,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-37339 Filed 12-1-80; 8:45 am]

BILLING CODE 6450-01-M

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Federal Energy Regulatory Commission

[Project No. 3517-000]

Atlantic Power Development Corp.; Application for Preliminary Permit

November 24, 1980.

Take notice that Altantic Power Development Corporation submitted on October 1, 1980, an application for preliminary permit (pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)) for proposed Project No. 3517–000 to be known as Maxwell Locks and Dam located on the Monongahela River in Fayette County, Pennsylvania. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Thomas F. Nolan IV, Attorney at Law, 401 C Street, NE., Washington, D.C. 20002. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Maxwell Locks and Dam and would consist of: (1) a new powerhouse containing generating unit(s) having a total rated capacity of 11,200 kW (2) a transmission line; and (3) appurtenant facilities. Project energy would be transmitted to existing distribution lines located within 1½ miles of the project.

Purpose of Project—Project Energy would be sold to the local electric public utility. Applicant estimates the annual generation would average about 62,800 MWH.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time it would prepare studies of the hydraulic, construction, economic and environmental aspects of the project. Applicant states that it may be necessary to conduct test borings at the power plant and to construct a short road from the railroad tracks to the area of the test boring sites along the bank of the river. Depending upon the outcome of the studies. Applicant would prepare an application for a FERC license. Applicant estimated the cost of the studies under the permit would be $108,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 23, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 24, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 and 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 23, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3517–000. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208. 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37471 Filed 12-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. EL79-20]

Buckeye Power, Inc.; Order Granting Protests and Requiring Additional Filing

Issued November 24, 1980.

On January 7, 1980, the Commission ordered a hearing before a presiding administrative law judge to determine the appropiate rate to be charged by Cincinnati Gas and Electric Co. (CG&E) for establishing a new point of delivery to enable a member cooperative of Buckeye Power Inc. (Buckeye) to supply power to the City of Hamilton, Ohio (Hamilton). The Commission held that a Power Delivery Agreement obligating CG&E to provide interconnection facilities to customers of Buckeye was not intended by the parties to apply to Hamilton. However, CG&E expressed willingness to provide transmission service to Buckeye for sale to Hamilton for resale. Consequently, the January 7 order established the hearing to determine if there are "any non-anticompetitive reasons existing at the time of the agreement for restricting the Power Delivery Agreement *rate* to the customers originally intended to be covered by the agreement." CG&E was instructed to file a proposed rate to take effect subject to refund until a just and reasonable rate is established following the hearing.

CG&E informed the Commission on March 24, 1980 that it proposed to charge the rate set forth in the "Third Supplemental Agreement (dated September 1, 1979) to the Interconnection Agreement" between CG&E and Hamilton filed with the Commission on November 23, 1979, in Docket No. ER80–103. The filing was accepted by a letter-order issued May 13, 1980 in Docket No. ER80–103.

On May 5, 1980, Buckeye and American Municipal Power-Ohio, Inc., (AMP-Ohio) filed protests to CG&E's proposed compliance response. The objections stated in the protests have been reviewed and one is considered to be meritorious. CG&E has timely filed a proposed rate with cost justification in compliance with the Commission's January 7, 1980 order. However, the rate filing provides only for non-firm transmission service whereas the Power Delivery Agreement also comprehends firm service. In a letter to Hamilton's Director of Public Utilities dated September 27, 1979, CG&E Committed itself to provide firm transmission service but indicated that the existing interconnection precludes the establishment of firm service at the present time beyond a certain capacity. In order to assure that service to Hamilton is, as our January 7, 1980 order states, "Virtually identical transmission service" to the *firm* service described in the Power Delivery Agreement, CG&E will be required to provide firm transmission service to Hamilton at this time to the extent of the firm capacity limitation. Non-firm service to Hamilton for any amount that is needed in excess of the firm capacity limitation will be available under the non-firm transmission service accepted in Docket No. ER80–107.

The Commission orders:

(1) The protests filed by Buckeye and AMP-Ohio are granted to the extent that CG&E is ordered to file a proposed transmission service rate that provides for the delivery of firm service up to the present capacity limitation. The filing should include appropriate cost support for the proposed rate to Buckeye for firm transmission to Hamilton and shall indicate the present peak kVA deliveries to Hamilton, and the specific limits of the interconnecting facilities (delivery substation kVA, rated nominally, and rated separately, if applicable in terms of CG&E's short-time overload practice; kVA limits on any other facilities involved) which would place a limitation on the amount of firm transmission service to be provided.

(2) The filing herein required shall be submitted within 15 days of the date of issuance of this Order.

(3) A prehearing conference shall be convened by the presiding administrative law judge within 15 days after the filing ordered above has been accepted by the Commission.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37472 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3496]

City and County of Denver; Application for Preliminary Permit

November 24, 1980.

Take notice that the City and County of Denver (Applicant) filed on September 24, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3496 to be known as the North Fork Water Power Project located on the North Fork of the South Platte River in Park County, Colorado. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. William H. Miller, Manager, Denver Water Department, 1600 West 12th Avenue, Denver, Colorado 80254. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description–The proposed project would comprise the following ten developments which would utilize flows from the Applicant's Dillon Reservoir: (a) the Roberts Tunnel Development consisting of (1) an existing outlet which is closed off and adjacent to three hollow jet valves; (2) a 30-foot long penstock; (3) a powerhouse containing a single 5.4 MW turbine-generator; (4) a transmission line connecting to an existing 44-kV line; and (5) appurtenant facilities; (b) the North Fork Power Unit No. 1 would consist of: (1) a small 10-foot high diversion structure, located approximately 4,000 feet upstream from Grant; (2) a 5,200-foot long conduit; (3) a power plant located approximately 1,000 feet downstream of the Town of Grant containing of a 1.4 MW turbine-generator; (4) a transmission line connecting to an existing 44-kV line; and (5) appurtenant facilities; (c) the North Fork Power Unit No. 2 would consist of: (1) a small 10-foot high diversion structure located immediately downstream of power plant No. 1; (2) a 4,800-foot long conduit; (3) a power plant located approximately 2,400 feet upstream from the Town of Santa Maria containing a 1.4 MW turbine-generator; (4) a transmission line connecting to an existing 44-kV line; and (5) appurtenant facilities; (d) the North Fork Power Unit No. 3 would consist of: (1) a small 10-foot high diversion structure located immediately downstream of power plant No. 2; (2) a 5,500-foot long conduit; (3) a power plant located approximately 3,600 feet downstream of the Town of Santa Maria containing of a 1.3 MW turbine-generator; (4) a transmission line connecting to an existing 44-kV line; and (5) appurtenant facilities; (e) the North Fork Power Unit No. 4 would consist of: (1) a small 10-foot high diversion structure located immediately downstream of power plant No. 3; (2) a 3,600-foot long conduit; (3) a power plant located approximately 1,000 feet upstream from the Town of Singleton containing a 600 kW turbine-generator; (4) a transmission line connecting to an existing 44-kV line; and (5) appurtenant facilities; (f) the North Fork Power Unit No. 5 would consist of: (1) a small 10-foot high diversion structure located approximately 4,600 feet downstream of the Town of Singleton; (2) a 6,000-foot long conduit; (3) a power plant located approximately 5,600 feet upstream from the Town of Shawnee containing a 1.3 MW turbine-generator; (4) a transmission line connecting to an existing 44-kV line; and (5) appurtenant facilities; (g) the North Fork Power Unit No. 6 would consist of: (1) a small 10-foot high diversion structure located immediately downstream of power plant No. 5; (2) a 10,000-foot long conduit; (3) a power plant located approximately 5,000 feet downstream from the Town of Shawnee containing a 2.0 MW turbine-generator; (4) a transmission line connecting to an existing 44-kV line; and (5) appurtenant facilities; (h) the North Fork Power Unit No. 7 would consist of: (1) a small 10-foot high diversion structure located immediately downstream of power plant No. 6; (2) a 7,800-foot long conduit connecting to the power plant located approximately 4,000 feet upstream from the Town of Glenisle; (3) a power plant containing a 1.2 MW turbine-generator; (4) a transmission line connecting to an existing 44-kV line; and (5) appurtenant facilities; (i) the North Fork Power Unit No. 8 would consist of: (1) a small 10-

foot high diversion structure located immediately downstream of power plant No. 7; (2) a 14,200-foot long conduit connecting to the power plant located approximately 1,000 feet downstream of the Town of Bailey; (3) a power plant containing 2.6 MW turbine-generator; (4) a transmission line connecting to an existing 44-kV line; and (5) appurtenant facilities; (j) the North Fork Power Unit No. 9 would consist of: (1) a small 10-foot high diversion structure located immediately downstream of power plant No. 8; (2) a 7,800-foot long conduit connecting to the power plant located approximately 1,000 feet downstream of the Town of Insmont; (3) a power plant containing a 1.2 MW turbine-generator; (4) a transmission line connecting to an existing 44-kV line; and (5) appurtenant facilities

The project would generate up to 94,600,000 kWh annually saving the equivalent of 155,300 barrels of oil or 43,800 tons of coal.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. A copy of the application may be obtained directly from the Applicant. Comments should be confined to substantive permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to North Fork Hydroelectric Development Project No. 3070 filed on March 4, 1980, by Hydroelectric Constructors, Inc. under 18 CFR 4.33 (*as amended*, 44 FR 61328, Oct. 25, 1979), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 5, 1981.

Filing and Service of Responsive Documents—Any comments, protests, or petitions to intervene must bear in all capital letters the "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. *3496*. Any comments, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to : Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitl Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37473 Filed 12-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3101]

City of Winooski; Vermont; Application for Preliminary Permit

November 24, 1980.

Take notice that the City of Winooski (Applicant) filed on April 28, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)—825(r)] for proposed Project No. 3101 to be known as the American Woolen Mill Project located on the Winooski River in the Town of Winooski and the City of Burlington, Chittenden County, Vermont. Correspondence with Applicant should be directed to: Mayor James W. McCann, City Hall, 27 West Allen Street, Winooski, Vermont 05404.

Project Description—The proposed project would consist of: (1) the existing 20-foot high, 250-foot long historic timbercrib dam to be restored; (2) a mill pond with a surface area of 5 acres at a normal maximum water surface elevation of 136 feet M.S.L.; (3) the existing intake structure at the Amercian Woolen Mill; (4) a 50 or 175-foot long steel penstock; (5) a powerhouse containing two tubular turbine-generator units with a total rated capacity of 1,200 kW; and (6) appurtenant facilities. The project would use excess flow, if any, of the Winooski River not utilized by the upstream proposed Chace Mill Project FERC No. 2756 for which an application for license was filed on August 14, 1980, by the City of Burlington, Vermont.

Purpose of Project—Energy produced at the project would be either utilized by the American Woolen Mill complex or sold to the local utility.

Proposed Scope and Cost of Studies under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans and a study of enviornmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construction and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $25,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for lilcense while the permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Computing Applications—Anyone desiring to file a competing application just submit to the Commission, on or before *December 31, 1980*, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *March 2, 1981*. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), *as amended*, 44 FR 61328 (October 25, 1979). A competing application must conform with the requireemnts of 18CFR 4.33 (a) and (d), *as amended*, 44 FR 61328 (October 25, 1979).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petiiton to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petiiton to intervene must be filed on or before *December 31, 1980*. The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37474 Filed 12-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-44-000]

Columbia Gas Transmission Corp.; Application

November 24, 1980.

Take notice that on November 6, 1980, Columbia Gas Transmission Corporation (Applicant), P.O. Box 1273, Charleston, West Virginia 25325, filed in Docket No. CP81-44-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities and for permission and approval to abandon certain other natural gas facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes twenty-seven individual construction projects in order to maintain service to Applicant's existing wholesale customers at present authorized levels. It is stated that the segments of pipeline that Applicant proposes to replace generally consist of bare steel and wrought iron pipe originally installed without protection against corrosion. The lines were installed in the early 1900's, it is stated, and are becoming increasingly difficult to maintain and operate. Applicant proposes the following construction and operation projects:

(1) 24.6 miles of 20-inch transmission pipeline, in two sections, to replace like-sized pipeline located in Baltimore, Harford and Cecil Counties, Maryland, allowing increased pressure level.

(2) 12.3 miles of 12-inch transmission pipeline, in sections, replacing a like amount of 16- and 20-inch pipeline in Fairfield and Hocking Counties, Ohio, serving the markets between Ravenswood, West Virginia, and Applicant's Crawford compressor station, Fairfield County, Ohio.

(3) 0.5 miles of 16-inch transmission pipeline replacing like amount of 12-inch pipeline located in Muskingum County, Ohio, serving Utica, St. Louisville, Hanover, Frazysburg, Dresden and Coshocton, Ohio, and providing an outlet for local production.

(4) 1.3 miles of 8-inch transmission pipeline, in two sections, replacing like amount of 10- and 12-inch pipeline in Meigs County, Ohio, serving Gallipolis and Pomeroy, Ohio.

(5) 0.3 miles of 4-inch transmission pipeline replacing like amount of 6–8 inch pipeline in Meigs County, Ohio, serving Stewart and Guysville, Ohio, and providing an outlet for local production.

(6) 0.3 miles of 8-inch transmission pipeline replacing like amount of 5-inch pipeline in Fairfield County, Ohio, serving Hebron, Jacksontown, Millersport and Buckeye Lake, Ohio.

(7) 0.5 miles of 3-inch transmission pipeline, in two sections, replacing like amount of 6-inch pipeline in Licking County, Ohio, serving Newark, Ohio, and transporting local production.

(8) 1.0 miles of 6-inch transmission pipeline, in two sections, replacing like amount of 4-inch pipeline in Noble County, Ohio, serving Caldwell, Ohio, and providing an outlet for local production.

(9) 2.5 miles of 24-inch transmission pipeline replacing like amount of 16-inch pipeline in Fairfield County, Ohio, serving the area of Columbus, Ohio.

(10) 1.9 miles of 6-inch transmission pipeline, in two sections, replacing a like amount of 3-, 8- and 12-inch pipeline in Ashland County, Ohio, serving Polk, Nankin, and Ashland, Ohio.

(11) 0.7 miles of 4-inch transmission pipeline replacing a like amount of 8-inch pipeline located in Ashland County, Ohio, serving Nankin, Ohio, and providing an outlet for local production.

(12) 0.8 miles of 6-inch transmission pipeline replacing a like amount of 8- and 12-inch pipeline located in Ashland County, Ohio, serving New Pittsburg, Reedsburg, and Jefferson, Ohio, and providing an outlet for local production.

(13) 0.4 miles of 4-inch transmission pipeline replacing a like amount of 8-inch pipeline located in Medina County, Ohio, serving Spencer, Penfield and Litchfield, Ohio.

(14) 2.3 miles of 4-inch transmission pipeline replacing a like amount of 3-inch pipeline located in Stark County, Ohio, serving Beach City, Ohio.

(15) 1.4 miles of 6-inch transmission pipeline replacing two parallel 4-inch pipelines (each 1.3 miles in length) in Tuscarawas County, Ohio, servng Bolivar, Strasburg, Zoar, and Sandyville, Ohio.

(16) 1.2 miles of 3-inch transmission pipeline, in two sections, replacing a like amount of 2-inch pipeline located in Columbiana County, Ohio, serving Winona, Ohio.

(17) 0.4 mile of 4-inch transmission pipeline replacing a like amount of 6-inch pipeline located in Harrison County, Ohio, serving Jewett and New Rumley, Ohio.

(18) 2.2 miles of 8-inch transmission pipeline replacing a like amount of 10-inch pipeline located in Carroll County, Ohio, serving various markets in Carroll County, Ohio.

(19) 0.6 mile on 6-inch transmission pipeline replacing a like amount of 4-inch pipeline located in Noble Country, Ohio, serving the Carlisle-Caldwell market area and providing an outlet for local production.

(20) 2.1 miles of 6-inch transmission pipeline replacing 1.8 miles of 6- and 10-inch pipeline located in Marshall and Ohio Counties, West Virginia, serving Elm Grove, Clifton Heights, and Sherrand, West Virginia.

(21) 1.2 miles of 6-inch transmission pipeline replacing a like amount of 10-inch pipeline located in Wetzel County, West Virginia, serving the markets of Middlebourne and Reader, West Virginia.

(22) 0.4 mile of 6-inch transmission pipeline replacing a like amount of 4- and 5-inch pipeline located in Clarion

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County Pennsylvania, serving New Bethlehem, Pennsylvania, and transporting local production.

(23) 0.3 mile of 4-inch transmission pipeline replacing a like amount of 6-inch pipeline located in Washington County, Pennsylvania, serving Columbia Gas of Pennsylvania, Inc., and Columbia Gas of West Virginia, Inc.

(24) 2.2 miles of 8-inch transmission pipeline replacing a like amount of 10-inch pipeline located in Barbour County, West Virginia, serving West Virginia markets in the winter and Applicant's high pressure transmission system in the summer.

(25) 0.3 mile of 4-inch transmission pipeline replacing a like amount of 12-inch pipeline located in Mineral County, West Virginia, serving Elk Garden, West Virginia, and Kitzmiller, Maryland.

(26) 1.3 miles of 2-inch transmission pipeline replacing approximately 1.8 miles of 2- and 8-inch pipeline located in Grant County, West Virginia, serving Bayard, West Virginia.

(27) Interconnection measuring facility for new point of delivery to Columbia Gas of Ohio, Inc., in Mahoning County, Ohio; abandonment by sale to Columbia Gas of Ohio, Inc. of approximately 3.0 miles of 2-, 3- and 4-inch transmission pipeline and appurtenances, serving Westville, Beloit, Damascus and numerous mainline customers; abandonment of points of delivery and appurtenant measurement, all in Columbiana County, Ohio.

Furthermore, Applicant proposes to abandon the following projects which are no longer used or useful due to changed operational patterns:

(28) 1.6 miles of 5-inch transmission pipeline and appurtenances located in Clarke County, Ohio, by sale to Dayton Power and Light Company, resulting in termination of service to Columbia Gas of Ohio, Inc., at 20 points of delivery and the transfer of consumer accounts to buyer.

(29) 2.8 miles of 4-, 6- and 8-inch transmission pipeline and appurtenant facilities located in Clay County, Kentucky, by sale to Wiser Oil Company (Wiser) and the abandonment thereto without change in volumes of gas sold by Applicant to Wiser.

(30) 7.3 miles of 16-inch transmission pipeline located in Allegheny and Beaver Counties, Pennsylvania, and a related point of delivery of which Applicant would sell 0.1 mile of pipeline to Columbia Gas of Pennsylvania, Inc. (CPA) resulting in termination of service at four points to CPA without termination of service to ultimate consumers.

(31) 0.9 mile of 10-inch transmission pipeline located in Clarion County, Pennsylvania.

(32) 6.3 miles of 8-inch transmission pipeline located in Washington, County, Pennsylvania.

(33) 3.3 miles of 8-inch transmission pipeline located in Adams and Franklin Counties, Pennsylvania.

(34) 9.1 miles of 6-inch transmission pipeline located in Wetzel and Marion Countries, West Virginia.

(35) 2.3 miles of 8-inch transmission pipeline located in Marshall and Wetzel Counties, West Virginia.

(36) 8.7 miles of 10-inch transmission pipeline, in two sections, located in Washington County, Pennsylvania, and Ohio County, West Virginia.

(37) 0.5 mile of 4-inch transmission pipeline located in Tuscarawas County, Ohio.

(38) 1.5 miles of 20-inch transmission pipeline and Measuring Station 3256 located in Wayne County, West Virginia, to Columbia Gas of West Virginia, Inc.

Applicant states that the proposed pipeline facilities would be completed and operational no later than November 1, 1981.

It is stated that the cost of said construction of $15,190,500 would be financed with funds provided by Applicant's parent company The Columbia Gas System, Inc.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 16, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37475 Filed 12-1-80; 8:45 am]

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[Project No. 3574-000]

Continental Hydro Corp.; Application for Preliminary Permit

November 24, 1980.

Take notice that Continental Hydro Corporation (Applicant) filed on October 16, 1980, and application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3574–000 to be known as the Tiber Dam Project located at the Water and Power Resources Service, U.S. Department of the Interior Tiber Dam on the Marias River in Libert County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, Continental Hydro Corporation, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize an existing Water and Power Resources Service, U.S. Department of the Interior Tiber Dam and would consist of: (1) a proposed powerhouse with an installed generating capacity of 18 to 19 MW located on the south bank of the river; and (2) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 38,000 to 41,000 MWh.

Purpose of Project—Continental Hydro Corporation proposes to develop the hydroelectric potential of the existing dam and sell the power output to the Water and Power Resources Service.

Proposed Scope and Cost of Studies Under Permit—The applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if the findings are positive, describe the steps required for implementation. The report will be prepared so that the information presented will be useful in preparing an application for license for the project. The Applicant's estimated total cost for performing a feasibility study is $24,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 26, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 27, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 26, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37476 Filed 12-1-80; 8:45 am]

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[Docket Nos. G-13279, et al.]

Gas Producing Enterprises, Inc., Successor to Coastal States, Gas Producing Co.; Petition To Amend Certificates of Public Convenience and Necessity and To Redesignate Rate Schedules

November 24, 1980.

On May 21, 1980, Gas Producing Enterprises, Inc. (GPE), as successor to various properties and assets owned by Coastal States Gas Producing Company (CSGPC), has filed an application to amend the certificates currently held by CSGPC by substituting GPE as certificate holder thereof, and to redesignate the related rate schedules in the name of GPE.

On November 9, 1979, the name of Coastal States Gas Producing Company was changed to Valero Energy Corporation (Valero), and by assignment dated and effective December 28, 1979, Valero assigned to Coastal States Gas Corporation properties as described in the application. By assignment dated and effective December 31, 1979, Coastal State Gas Corporation, in turn assigned its previously acquired properties to Gas Producing Enterprises, Inc.

The related rate schedules and purchasers are listed on the Appendix hereto.

Any person desiring to be head or to make any protest with reference to said Application, on or before December 10, 1980, should file with the Federal Energy Regulatory Commission's Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wising to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this Application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

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unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Appendix

[Formerly Coastal States Gas Producing Co.]

Certificate docket No.	FERC gas rate schedule No.	Buyer
G–13279	49	United Gas Pipe Line Co.
G–13317	5	Natural Gas Pipe Line Co. of America.
G–14366	7	Natural Gas Pipe Line Co. of America.
G–18041	70	Columbian Fuel Corp.
G–18041	71	United Fuel Gas Co.
G–18041	69	Consolidated Gas Supply Corp.
G–18041	68	Consolidated Gas Supply Corp.
CI61–471	35	Valero Interstate Transmission Co.
CI61–472	38	Valero Interstate Transmission Co.
CI61–1008	39	Texas Eastern Transmission Corp.
CI61–1010	41	Valero Interstate Transmission Co.
CI61–1011	42	Valero Interstate Transmission Co.
CI61–1166	57	Cities Service Gas Co.
CI62–249	72	United Fuel Gas Co.
CI63–1128	73	Consolidated Gas Supply Corp.
CI64–133	48	Trunkline Gas Co.
CI64–927	50	Texas Gas Transmission Corp.
CI65–268	53	Trunline Gas Co.
CI65–1203	56	Texas Eastern Transmission Corp.
CI70–389	78	Valero Interstate Transmission Co.
CI70–427	79	Texas Eastern Transmission Corp.
CI70–907	83	Transcontinental Gas Pipe Line Corp.
CI72–280	84	El Paso Natural Gas Co.
CI72–848	85	United Gas Pipe Line Co.
CI73–152	87	Florida Gas Transmission Co.
CI73–868	90	Valero Interstate Transmission Co.
CI74–346	92	Arkansas Louisiana Gas Co.
CI76–542	96	Transcontinental Gas Pipe Line Corp.
CI76–582	94	Valero Interstate Transmission Co.
CI76–637	95	Valero Interstate Transmission Co.
CI77–311	98	Trunkline Gas Co.
CI78–530	99	Tennessee Gas Pipeline Co.
CI78–836	100	Valero Interstate Transmission Co.

[FR Doc. 80–37477 Filed 12–1–80; 8:45 am]

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[Project No. 3102]

Gaynor L. Bracewell; Application for Short-Form License (Minor)

November 25, 1980.

Take notice that Gaynor L. Bracewell (Applicant) filed on March 25, 1980 and supplemented on August 19, 1980, an application for license [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for construction and operation of a water power project to be known as the High Shoals Project No. 3102. The project would be located on Apalachee River in Walton, Morgan and Oconee Counties, in Georgia. Correspondence with the Applicant should be directed to: Mr. Gaynor L. Bracewell, P.O. Box 716, High Shoals, Georgia 30645.

Project Description—The proposed project would consist of: (1) an existing 15-foot high by 383-foot long concrete dam; (2) with 2-foot flashboards in place, an existing 40-acre reservoir with a gross storage capacity of 275 acre-feet; (3) 475-foot long by 20-foot wide canal from the dam to a 3-acre fish pond; (4) the fish pond construction would include an earthen dam approximately 350 feet long and 17 feet high; (5) a second canal to direct the water from the fish pond to a proposed 0.25-acre entry basin; (6) the 0.25 acre entry basin; (7) a 400-foot long concrete penstock; (8) a powerhouse with an installed generating capacity of 1,000 kW; and (9) appurtenant facilities. The average annual generation is estimated to be 6,000,000 kWh.

Purpose of Project—Mr. Gaynor L. Bracewell proposes to develop the hydroelectric potential project and sell the power output to Georgia Power Company.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *January 26, 1981*, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *May 26, 1981*. A notice of intent must conform with the requirements of 18 CFR § 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR § 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before *January 26, 1981*.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. *3102*. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street., N.E., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–37478 Filed 12–1–80; 8:45 am]

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[Project No. 3554–000]

Greenfields Irrigation District and Sun River Electric Cooperative, Inc.; Application for Preliminary Permit

November 25, 1980.

Take notice that Greenfields Irrigation District and Sun River Electric Cooperative, Inc. (Applicants) filed on October 9, 1980 an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3554 to be known as Turnbull Project located on the Spring Valley Canal in Teton County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Robert M. Fagerberg, Manager, Greenfields Irrigation District, P.O. Box 157, Fairfield, Montana 59436. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Department of the Interior's (Water and Power Resources Services) Spring Valley Canal and consist of two developments inline on the canal approximately 1.5 miles apart.

The proposed Upper Turnbull Development would consist of: (1) a proposed powerhouse with an installed capacity of 4.4 MW; (2) a proposed control and intake structure; (3) a proposed penstock approximately 1,300 feet long; (4) a proposed switchyard; (5) a proposed 69 kV interconnecting transmission line approximately 3 miles long; and (6) appurtenant facilities.

The proposed Lower Turnbull Development would consist of: (1) a proposed powerhouse with an installed capacity of 6.7 MW; (2) a proposed control and intake structure; (3) a proposed penstock approximately 2,450 feet long; (4) a proposed switchyard; (5) appurtenant facilities.

The Applicant estimates that the average annual energy output for both development would be 32 GWh.

Purpose of Project—The power generated from this project would be utilized by the Applicants to meet local summer pump irrigation energy demands. Energy in excess would be sold to Central Montana Electric Generation and Transmission Cooperative, Inc. or to the Montana Power Company.

Proposed Scope and Cost of Studies under Permit—The Applicant's seek issuance of a preliminary permit for a period of 36 months, during which time they propose to conduct economic and environmental studies, prepare application for necessary State and Federal permits, and to develop preliminary and final designs of the project. The Applicants estimate the cost of the proposed studies would be approximately $100,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applicqtions—Anyone desiring to file a competing application must submit to the Commission, on or before January 26, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 27, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR, § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 26, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3554. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80–37479 Filed 12–1–80; 8:45 am]

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[Docket No. GP80–114–000]

Jack D. Hodgden, Lessee and Ruth Spearman, et al., Lease Gray County, Tex.; Petition for Declaratory Order

November 24, 1980.

Take notice that on August 26, 1980, Jack D. Hodgden (Petitioner) filed with the Federal Energy Regulatory Commission (Commission) pursuant to 18 CFR 1.7(c) of the Commission's Rules of Practice and Procedure, a petition for a declaratory order.

Petitioner states that Amarex Funds of Delaware, Inc., Don V. Ingram, Champlin Exploration, Inc., and John T. Bender, Jr., sold gas from the Ruth Spearman, et al. lease to Cabot Corporation (Cabot) pursuant to an August 1, 1971 contract. Prior to July 1, 1979, the parties to the contract proposed an amendment dated October 5, 1978 stating that:

(1) The contract price, as of October 1, 1978, shall be no less than the price paid to you during the last month for which you received settlement.

(2) On March 1, 1979, and on any March 1 there after during the term of the referred contract or contracts, Cabot shall have the right (but not the obligation) to increase (but not to lower) the price to a price no higher than the price payable for new natural gas under the terms of Section 102(b)(2) of the Natural Gas Policy Act of 1978.

However, prior to the time that the proposed amendment was circulated to the parties for their signature (other than Cabot and Amarex Funds of Delaware, Inc.), the lease reverted to the lessor on July 1, 1979.

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Petitioner (the current lessee) states that because it was the intent of the parties prior to the enactment of the Natural Gas Policy Act of 1978 (NGPA) to enter into an Amendment which would allow Cabot on March 1st of each year to increase the price of gas up to the maximum allowed price under Section 102, petitioner should be allowed to enter into an agreement with Cabot Corporation which would recognize the proposed amendment dated October 5, 1978 as the intent and promise of the original parties prior to the enactment of the NGPA and that he should be allowed to collect such price as the lawful price under the Rules and Regulations implementing the NGPA.

Petitioner requests the Commission to find that (1) the proposed amendment dated October 5, 1978, meets the requirements under the Rules and Regulations as the intent and promise of the parties prior to the date of enactment of the NGPA, (2) petitioner (lessee) may enter into a successor contract with Cabot based on the terms set out in the October 5, 1978 amendment and (3) petitioner (lessee) may be allowed to collect such price as the lawful price under the Rules and Regulations implementing the NGPA.

Any person desiring to be heard or to protest this request for relief shall file a petition to intervene or protest in accordance with the provisions of § 1.8 or § 1.10 of the Commission's Rules of Practice and Procedure. All petitions to intervene of protest shall be filed with the Secretary of the Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and must be filed on or before December 17, 1980. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make the protestant a party to the proceeding. Any person desiring to become a party must file a petition to intervene. Copies of the application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37480 Filed 12-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3474]

Lake Junaluska Assembly; Application for Preliminary Permit

November 25, 1980.

Take notice that Lake Junaluska Assembly (Applicant) filed on September 15, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3474 to be known as Lake Junaluska Water Project located on the Richland Creek in Haywood County, North Carolina, near the town of Lake Junaluska. Correspondence with the Applicant should be directed to: Mr. Lawrence S. Braxton, Lake Junaluska Assembly, Post Office Box 67, Lake Junaluska, North Carolina 28745.

Project Description—The proposed project would consist of: (1) an existing concrete dam approximately 475 feet long and 35 feet high including a 225-foot long ungated overflow spillway control section; (2) an existing reservoir with a storage capacity of 6,750 acre-feet at normal pool elevation of 2,562 feet m.s.l. and an approximate area of 193 acres; (3) an existing powerhouse located on the downstream face of the dam just left of the spillway with a proposed capacity of 600 kW; a proposed one-quarter mile transmission line, along with switchgear and a substation; and (4) appurtenant facilities. The estimated annual output of the proposed project would be 2,200 kWh. No Federal lands are being utilized.

Purpose of Project—Applicant proposes to use power generated at project to supply electricity to hotels it operates for the Methodist Church.

Proposed Scope and Cost of Studies Under Permit—Applicant has requested a 36-month permit to evaluate the feasibility of installing new equipment for hydropower generation at the existing dam. Applicant needs this time to study the legal, engineering, environmental, and financial aspects of the project. The estimated cost for the aforementioned studies is $12,500.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 26, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 27, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 26, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3474. Any comments, notice of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37481 Filed 12-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-797]

New England Power Co.; Order Accepting for Filing and Suspending Proposed Transmission Tariff, Granting Intervention, Initiating Hearing, and Establishing Procedures

Issued November 24, 1980.

On September 25, 1980, New England Power Company (NEP) filed with the Commission a proposed transmission tariff which specifies rates, terms and conditions, and the form of service agreement applicable to the transmission of non-firm power and energy over the NEP system.[1] Presently, NEP transmits non-firm power and energy for a number of utilities (including municipalities) under individual contractual arrangement. By handling the transmission of all non-firm power and energy under one tariff, NEP seeks to facilitate the administration of its transmission service. The proposed tariff is intended to be applicable prospectively, and as of yet no service agreements have been executed under it. NEP has requested an effective date for the tariff of sixty days after filing, for the purpose of maintaining continuity in its transmission service. NEP's present commitments for transmission service to municipal customers [2] will expire on October 31, 1981.

The tariff provides a mechanism for NEP to transmit capacity entitlements or specified amounts of non-firm capacity and associated energy that originate outside of a customer's service area. The transmission may be over NEP's facilities designated as pool transmission facilities (PTF) [3] or its non-PTF facilities, or both; the applicable rate would depend upon which facilities are utilized. The proposed tariff specifies rates for utilization of PTF and non-PTF facilities as follows: (1) for PTF service, a monthly amount equal to 1/12 of the annual PTF transmission charge [4] times the number of kW's of the customer's entitlement; (2) for non-PTF service, $0.11 or $0.30 per kW per month, depending upon whether NEP must provide step-down service.[5]

Under the terms and conditions of the tariff, NEP would reserve the right to refuse service to any custoamer or to discontinue all or part of the service being provided to any customer, if, in the opinion of NEP, existing transmission capacity is insufficient to accommodate the transmission requirements of NEP's own system (including the delivery of power sold by NEP to other utilities), and transmission service to other electric utilities pursuant to contracts, or service agreements executed prior to a tariff customer's request for service. Further, under the tariff, NEP would not be obligated to provide service if new facilities are required, except in accordance with the provisions of sections 210, 211, and 212 of the Federal Power Act. The tariff would also require any customer wishing to initiate service to give NEP 90 days written notice of its desire to do so and to furnish information pertaining to the nature, amount and term of entitlement relating to the requested service.

Public notice of NEP's filing was issued on October 2, 1980, with comments due on or before October 24, 1980. On that date the NEPCO Customer Rate Committee and its members (Customers) filed a petition to intervene that requests a one day suspension of the proposed tariff and the initiation of a hearing.

Customers challenge the availability provisions of the proposed tariff as inconsistent with NEP's public utility obligations to prospective tariff customers. In addition, Customers contend that the proposed 90 day notice provision is ambiguous and could be interpreted in a manner which would have unfair and unjust results. With respect to the proposed rates, Customers object to the derivation of the PTF charges and argue that the tariff provides for certain unsupported changes in rate design practices which would expose some of NEP's customers to substantially higher costs.

On November 10, 1980, NEP filed a response to Customers' pleading. In its response, NEP addresses the objections and arguments of Customers, and asserts that with the exception of the 90 days notice provision, the proposed tariff does not change the terms of present tariffs or past practices. NEP maintains that the tariff is simply a compilation and codification of present tariffs and practices into one document. The company does, however, acknowledge that the new notice provision is ambiguous.

Discussion

Our analysis indicates that NEP's proposed tariff has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Accordingly, we shall accept the proposed tariff provisions for filing and suspend them as ordered below. Inasmuch as the matters raised by Customers represent questions which should be considered on the basis of an evidentiary record, we shall order a hearing to be convened in this proceeding.

In a number of suspension orders,[6] we have addressed the considerations underlying the Commission's policy regarding rate suspensions. For the reasons given there, we have concluded that rate filings should generally be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust and unreasonable or that it may run afoul of other statutory standards. We have acknowledged, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results. Such circumstances have been presented here. The Commission notes that the tariff provisions are designed to provide continuity in trasmission services. Further, the intervenors have acknowledge this fact and have expressly requested only a one day suspension. Accordingly, we shall exercise our discretion to suspend the rates for only one day permitting the rates to take effect subject to refund thereafter on November 25, 1980.

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[1] Designated as: *New England Power Company*. FERC Electric Tariff, Original Volume No. 3.

[2] Provided pursuant to FPC Electric Tariff, Original Volume No. 1

[3] PTF is defined as those facilities owned by NEP or affiliated companies of the New England Electric System (NEES), rated at 69 kV and above (except for those used to serve local loads), and which allow energy from significant power sources to move freely on the New England transmission network.

[4] This charge is computed under a formula rate that has previously been accepted for filing by the Commission and that determines the charge by dividing the prior year's annual PTF costs of the NEES operating companies by the total capability of said operating companies on the previous June 30. The PTF charge for calendar year 1979 was $8.21/kW/year.

[5] These non-PTF rates are presently on file in NEP's FPC Electric Tariff, Original Volume No. 1, for service to its partial requirements customers.

[6] *E.g., Boston Edison Co.*, Docket No. ER80-508 (August 29, 1980) (five month suspension); *Alabama Power Co.*, Docket Nos. ER80-506, *et al.* (August 29, 1980) (one day suspension); *Cleveland Electric Illuminating Co.*, Docket No. ER80-488 (August 22, 1980) (one day suspension).

The Commission orders

(A) NEP's submittal is hereby accepted for filing and suspended for one day, to become effective, subject to refund, on November 25, 1980.

(B) Customers' petition to intervene is hereby granted subject to the rules and regulations of the Commission; *Provided, however,* That participation by the intervenors shall be limited to matters set forth in their petition to intervene; and *Provided, further,* That the admission of the intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders by the Commission entered in this proceeding.

(C) Pursuant to the authority contained in, and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the DOE Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure, and the regulations under the Federal Power Act (18 CFR, Chapter I (1979)), a public hearing shall be held concerning the justness and reasonableness of NEP's proposed tariff.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within thirty (30) days of the issuance of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. This conference shall be held for purposes of expediting discovery and establishing procedural dates, including the submittal of a case-in-chief by NEP. The designated law judge is authorized to establish procedural dates, and to rule on all motions (except motions to consolidate or sever and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(E) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37482 Filed 12-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-420-001]

Panhandle Eastern Pipe Line Co.; Amendment to Application

November 24, 1980.

Take notice that on November 14, 1980, Panhandle Eastern Pipe Line Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP80-420-001 an amendment to its application pending in the instant docket so as to reflect the transportation of natural gas for Quinque Oil and Gas Production Company (Quinque) pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant, by its application filed in the instant docket on June 20, 1980, requested authorization pursuant to Section 311(a)(1) of the Natural Gas Policy Act of 1978 (NGPA) to transport natural gas for Quinque in accordance with the terms of a gas purchase and transportation agreement between the parties dated October 16, 1979, wherein Quinque was characterized as a local distribution company, it is said.

Subsequent to filing its original application in the instant docket, Applicant states that it has been advised that Quinque is a producer-gatherer of natural gas rather than a local distribution company. Applicant submits that inasmuch as Section 311(a)(1) of the NGPA is only applicable in cases involving a local distribution company or an intrastate pipeline company, Applicant proposes herein to amend its pending application in the instant docket so as to request authorization to transport natural gas for Quinque pursuant to Section 7 of the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37483 Filed 12-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3173]

Public Utility District No. 1 of Grays Harbor County; Application for Preliminary Permit

November 25, 1980.

Take notice that Public Utility District No. 1 of Grays Harbor County (Applicant) filed on May 12, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)-825(r)] for proposed Project No. 3173 to be known as Wynoochee River Project located on the Wynoochee River in Grays Harbor County, Washington, downstream of the U.S. Army Corps of Engineers Wynoochee Dam. Correspondence with the Applicant should be directed to: Ferris G. Gilkey, General Manager, Public Utility District No. 1 of Grays Harbor County, 2729 Summer Avenue at Olive Way, Aberdeen, Washington.

Project Description—The project would utilize the Corps of Engineer's Wynoochee Dam and consist of: (1) a proposed 11-foot diameter tunnel and penstock power conduit system; (2) a proposed powerhouse containing two generating units, each rated at 5 MW; and (3) a proposed transmission line and access road.

Purpose of Project—The power and energy generated by the project would be used to serve the increasing loads of the Applicant's service area.

Proposed Scope and Cost of Studies under Permit—The Applicant seeks the issuance of a preliminary permit for a period of 30 months, during which time it would conduct geotechnical investigations, subsurface exploration, topographic surveying and mapping, fish and wildlife studies and feasibility evaluation and prepare an FERC license application. No new roads are required to complete the studies.

The estimated cost of the work to be performed under the preliminary permit is $406,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 5, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 6, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c), *as amended,* 44 FR 61328 (October 25, 1979). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) *as amended,* 44 FR 61328 (October 25, 1979).

Comments, Protests or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 and 1.10 (1979). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in section 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 5, 1981. The Commission's address is: 825 North Capitol Street, NE., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37484 Filed 12-1-80; 8:45 am]

BILLING CODE 6450-85-M

[Dockets Nos. EL80-35; ER81-3-000]

Wabash Valley Power Association, Inc., et al. v. Indiana & Michigan Electric Co. and Indiana & Michigan Electric Co.; Order Accepting Assignments of Contracts for Filing, Granting Motion To Withdraw Complaint, and Terminating Proceedings

Issued November 25, 1980.

Background

In 1978, Wabash Valley Power Association, Inc. (Wabash) [1] entered into a participation agreement with Public Service Company of Indiana (PSCI) to purchase an undivided interest in the Marble Hill generating plant which is currently under construction. In order to obtain loans necessary to acquire its share of Marble Hill, Wabash, as required by its lender the Rural Electrification (REA), entered into long-term contracts with its member cooperatives under which the members will obtain all of their power and energy requirements from Wabash. These long-term contracts require the members to assign to Wabash their rights under contracts with other power suppliers. To date, power suppliers of Wabash's member cooperatives other than Indiana & Michigan Electric Company (I&M) have consented to and filed with the Commission assignments of their contracts.[2]

The Complaint

On July 24, 1980, Wabash and six of its member cooperatives [3] filed a complaint against I&M. The complainants stated that they had discussed with I&M since December 1978 the assignment of I&M's power supply contracts with the six members. The complainants also asserted that FERC tariff REC-1, which was filed by I&M in Docket No. ER78-383 on May 17, 1978, and which became effective on December 23, 1978, expressly recognizes the assignability of their contracts with I&M. Accordingly to the complainants, I&M's failure to consent to and file the assignments represented anticompetitive conduct. Wabash and its members thus requested that the Commission direct I&M to file the contract assignments.

Notice of the complaint was issued on August 6, 1980, with responses due no later than September 5, 1980. On August 27, 1980, I&M requested an extension of the comment period. The period in which to file responses was subsequently extended until October 6, 1980. On October 3, 1980, I&M elected to file with the Commission the assignments of its power supply contracts with the six Wabash members. That submittal was assigned Docket No. ER81-3-000. In light of I&M's submittal, Wabash and its members filed a motion on October 3, 1980, to withdraw their complaint.

Discussion

Under § 1.11(d)(2) of the Commission's Rules of Practice and Procedure, a formal complaint may be withdrawn only by express Commission permission. We note that the pleadings do not explain the apparent delay in tendering the requested assignments. However, we agree with Wabash's position, as stated in its motion to withdraw its complaint, that "no purpose would be served by further proceedings in this matter." I&M's submittal appears to have satisfied the complaint, and the controversy which was the subject of Docket No. EL80-5 has effectively been mooted. Accordingly, we shall grant Wabash's motion to withdraw the complaint. We also shall accept for filing in Docket No. ER81-3-000 I&M's assignment of its contract with the six Wabash member cooperatives, to be effective October 3, 1980.[4]

The Commission Orders

(A) I&M's October 3, 1980 submittals consisting of the contract assignments as described in this order are hereby accepted for filing.

(B) Wabash's motion to withdraw the complaint in Docket EL80-35 is hereby granted.

(C) Docket Nos. EL80-35 and ER81-3-000 are hereby terminated.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[1] Wabash is a non-profit membership corporation organized under the laws of the State of Indiana and representing twenty-four cooperative members.

[2] *Public Service Company of Indiana,* Docket No. ER79-454 and *Northern Indiana Public Service Company,* Docket No. ER80-91.

[3] Fruit Belt Electric Cooperative, Jay County Rural Electric Membership Corporation, Noble County Rural Electric Membership Corporation, Paulding-Putnam Electric Cooperative, Inc., United Rural Electric Membership Corporation, and Whitley County Rural Electric Membership Corporation.

[4] Similar contract assignments filed by Public Service Company of Indiana (Docket No. ER79-454) and by Northern Indiana Public Service Company (Docket No. ER80-91) were previously accepted for filing by letters issued October 29, 1979, and January 18, 1980, respectively. With respect to the instant submittal, see Attachment A for rate schedule designations.

Rate Schedule Designations

[Docket No. ER81-3-000]

Item: Assignment of Contracts to Wabash Valley Power Association, Inc.
Dated: Various (see designations).

Westlake Union Service, BRO-1196
Ben's Exxon Service, BRO-1197
Bill Wren's Shell, BRO-1198
Wallace Arco Service, BRO-1199
Lazar Super Shell, BRO-1200

firm's contention, and accordingly denied the appeal.

Holcher, Maureen, Oakland, California, BFA-0426, freedom of information

Ms. Maureen Holcher filed an Appeal from

Order, the Office of Enforcement determined that TRC had improperly certified its Davey-Royall property as a stripper well property during the period November 27, 1973 through December 31, 1974. Based on this finding, the Order issued by the Office of Hearings and Appeals on July 31, 1980 to Marathon Oil Company (Marathon). *Marathon Oil Co.*, 6 DOE ¶ ———— BMR-0042, BEA-0347 (July 31, 1980). The July 31, 1980 Decision rescinded

Rate Schedule Designations

[Docket No. ER81-3-000]

Item: Assignment of Contracts to Wabash Valley Power Association, Inc.
Dated: Various (see designations).
Filed. Oct. 3, 1980.

Indiana & Michigan Electric Co.

Designation	Assigning party
(1) Exhibit B to Rate Schedule FPC No. 44A	(1) United REMC (assignment dated 11/30/79).
(2) Exhibit B to Rate Schedule FPC No. 44B	(2) United REMC (assignment dated 11/30/79).
(3) Exhibit A to Rate Schedule FPC No. 46	(3) Fruit Belt REC (assignment dated 11/27/79).
(4) Exhibit B to Rate Schedule FPC No. 48	(4) Jay County REMC (assignments dated 12/3/79).
(5) Exhibit B to Rate Schedule FPC No. 50	(5) Noble County REMC (assignment dated 11/20/79).
(6) Exhibit B to Rate Schedule FPC No. 52	(6) Paulding-Putnam Electric Cooperative (assignment dated 12/11/79).
(7) Exhibit B to Rate Schedule FPC No. 56	(7) Whitley County REMC (assignment dated 12/3/79).

[FR Doc. 80-37485 Filed 12-1-80; 8:45 am]
BILLING CODE 6450-85-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of October 20 through October 24, 1980

During the week of October 20 through October 24, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Butler, Binion, Rice, Cook & Knapp, Washington, D.C., BRA-0474, freedom of information

Butler, Binion, Rice, Cook & Knapp filed an Appeal from a denial by a Deputy Director of the Office of Hearings and Appeals of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that certain portions of the documents which were initially withheld under exemption five of the FOIA should be released to the public because the portions were largely factual in nature.

Energy Cooperative, Inc., East Chicago, Indiana, BEA-0424, crude oil

On July 18, 1980, Energy Cooperative, Inc. filed an Appeal of a Decision and Order issued to the firm by the Economic Regulatory Administration on June 18, 1980. The ERA Order denied two applications that ECI had filed under Section 211.65(c)(2) of the DOE Crude Oil Buy/Sell Program. In the ERA proceeding, ECI sought an emergency allocation of crude oil for its East Chicago, Indiana, refinery for the months of May, June, and July 1980. In considering ECI's Appeal, the DOE found that suitable supplies of crude oil were availble to ECI at prices not significantly in excess of prices being paid for most crude oil on the world market. The DOE therefore determined that ECI's Appeal should be granted.

Energy Research Corporation, Danbury, Connecticut, BFA-0468, freedom of information

Energy Research Corporation filed an Appeal from a partial denial by the Office of Procurement Operations of a Request for Information which the firm had submitted under the Freedom of Information Act (FOIA). In considering the Appeal, the DOE found that OPO had not adequately explained why certain portions of a contract proposal were initially withheld under exemption 6(F). The DOE therefore remanded the case and ordered OPO to review the requested documents, release all responsive, non-privileged material, and adequately explain why all other documents are exempt from disclosure.

Exxon Company U.S.A., Washington, D.C., DEA-0456, motor gasoline

Exxon Company U.S.A., filed an Appeal from a Temporary Assignment Order that was issued to it by the Economic Regulatory Administration on June 6, 1979. The Order directed Exxon to supply U.S. Oil Company with 350,000 gallons of motor gasoline during the period June 6 through July 14, 1979. In considering the Appeal, the DOE found that contrary to Exxon's contentions, the Economic Regulatory Administration provided the firm with adequate notice and opportunity to comment on its intention to select Exxon as a new supplier of gasoline to U.S. Oil. The DOE also rejected Exxon's contention that the June 6 Order was invalid because it failed to conform to the requirements of Section 205.39(a) of the DOE's procedural regulations. Accordingly, Exxon's Appeal was denied.

Gulf States Oil and Refining Company, Houston, Texas, DEA-0460, crude oil

On June 15, 1979, Gulf States Oil and Refining Company appealed an Economic Regulatory Administration Order granting in part the firm's request for an emergency allocation of crude oil pursuant to 10 C.F.R. § 211.65 (The Buy/Sell Program). In its Appeal, Gulf States Oil and Refining Company asserted that a refinery which the firm no longer owned should have been considered in calculating the emergency allocation granted. The DOE rejected the firm's contention, and accordingly denied the appeal.

Holcher, Maureen, Oakland, California, BFA-0426, freedom of information

Ms. Maureen Holcher filed an Appeal from a partial denial by the DOE Office of Classification of a request for information which she had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the information was properly withheld under Exemption 3 as classified material and therefore her Appeal was denied.

Douglas L. Miller, et al., Locust Grove, Virginia, BFA-0480, freedom of information

Douglas L. Miller, Alvin L. Richardson, Paul J. McGuire and Earl M. Carstens jointly filed an Appeal of a partial denial by the DOE Director of Personnel of a request for documents concerning the filing of positions in the DOE Office of Safeguards and Security. In considering the Appeal, the DOE determined that the Director of Personnel improperly withheld certain portions of records pursuant to Exemption 6 and ordered the release of that material. The DOE also remanded the matter to the Director of Personnel so he could respond to the appellants' original request in its entirety.

True Oil Purchasing Company, Casper, Wyoming, BFA-0476, freedom of information

True Oil Purchasing Company filed an Appeal from a partial denial by the Acting Assistant Administrator for Enforcement, ERA of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that additional documents existed that are responsive to True's request but which were not identified by the Assistant Administrator, and that one of the documents which was initially withheld under Exemption 5 should be released to the public. The DOE remanded the matter to the Assistant Administrator for a further search for responsive documents and for a determination of whether portions of two documents improperly withheld under Exemption 4 should be withheld pursuant to Exemption 7(A). The DOE rejected True's contention that all of the documents withheld pursuant to Exemption 5 should be released to the public since they would be available in discovery proceedings as contemporaneous construction discovery. The DOE noted that while Exemption 5 does not exempt documents routinely available in discovery proceedings, contemporaneous construction discovery is an extraordinary step and not a routine one.

Remedial Orders

Sunset Boulevard Car Wash, BRO-1150
Weber' Chevron Service, BRO-1189
Alameda Chevron, BRO-1190
Mike's Shell Service, BRO-1191
Tenth Street Chevron, BRO-1192
Ed Gularte Chevron, BRO-1193
Ted's Arco Service, BRO-1194
Petaluma Standard Service, BRO-1195

Westlake Union Service, BRO-1196
Ben's Exxon Service, BRO-1197
Bill Wren's Shell, BRO-1198
Wallace Arco Service, BRO-1199
Lazar Super Shell, BRO-1200
Gallogher's Shell Service, BRO-1201
Regalia's Chevron, BRO-1202
Joe Berube Services, BRO-1203
Peter Marenco Exxon Service, BRO-1204
Vale Vista Chevron, BRO-1205
Bob Hutchinson, Inc., BRO-1206
Ray's Civic Center Mobil, BRO-1207
Chuck's Auto Service, BRO-1208
Berryessa Chevron,, BRO-1209
Walt's Shell Service, BRO-1210
Miraloma Shell, BRO-1211
Dhority's Union 76, BRO-1212
Millbrae Shell, BRO-1213
Steve Horner Chevron Service, BRO-1214
Ken's Chevron Service, BRO-1215
Bill Pendergast & Son Chevron, BRO-1216
Cutting Shell, BRO-1217
Grapevine Texaco, BRO-1221
Star Union Service, BRO-1222
McDowell Exxon, BRO-1228
Art's Chevron Service, BRO-1229
Richard Thompson Chevron, BRO-1230
Tom's Union, BRO-1231
Hal Abel Chevron, BRO-1232
John Delaveaga's Chevron, BRO-1233
Britton Chevron, BRO-1236
Marina Chevron, BRO-1237
Ralph Mitchell's Hilltop Ch., BRO-1238
Smith's Chevron, BRO-1239
Art Gordon Chevron, BRO-1245
Fred Hartmann's Chevron, BRO-1251
Walt's Danville Chevron, BRO-1254
Petersen and Hill, BRO-1264
Elwood Chevron Service, BRO-1286
Doug Myers Chevron Service, BRO-1288
Santa Maria Chevron, BRO-1289
Willow Pass Chevron, BRO-1290
Tom's Coffee Tree Chevron, San Francisco, California BRO-1310, motor gasoline

Sunset Boulevard Car Wash, *et al.* objected to Proposed Remedial Orders that the Office of Enforcement of the DOE issued to the firms on various dates. In the Proposed Remedial Orders, the Office of Enforcement found that the objecting firms had charged prices higher than those permitted by 10 CFR § 212.93(a)(2) and had charged a cents-per-gallon fee for services associated with the sale of motor gasoline in violation of 10 CFR § 210.62(d)(1). The Office of Enforcement also found that the firms refused to make records available for inspection upon the request of the DOE in violation of 10 CFR § 210.92(b). After considering the firms' objections, the DOE concluded that the Proposed Remedial Orders should be issued as final Remedial Orders. The important issues discussed in the Decision include: (i) whether charging a combined cents-per-gallon price for gasoline and service in excess of the maximum lawful selling price permitted by DOE regulations violates 10 CFR § 212.93(a)(2); and (ii) the procedural and substantive validity of 10 CFR § 210.62(d)(1).

Texas Recovery Company, Palestine, Texas, DRO-0267, crude oil

Texas Recovery Company (TRC) filed a Statement of Objections to a Proposed Remedial Order which the DOE Southwest Enforcement District issued to the firm on June 18, 1979. In the Proposed Remedial Order, the Office of Enforcement determined that TRC had improperly certified its Davey-Royall property as a stripper well property during the period November 27, 1973 through December 31, 1974. Based on this finding, the Office of Enforcement held that TRC had charged unlawful prices for the crude oil which it sold. TRC was therefore ordered to refund $669,512.43, plus interest. In considering the Objection, the DOE rejected TRC's claim that it should have been allowed to include injection wells in the calculation of average daily production. The DOE also rejected TRC's contention that the Office of Enforcement improperly subtracted certain amounts of down time from the property's total number of producing days used for calculating average daily production. Finally, the DOE found no merit in TRC's argument that the agency should look beyond crude oil production levels during the regulatory qualifying period in determining whether a property should be afforded stripper status.

TRC also applied for retroactive exception relief from its maximum legal selling prices during the audit period. In considering this request, the DOE determined that TRC had successfully established that: (i) the application of the DOE Price Regulations to TRC during the audit period would have produced a situation in which the firm would have incurred significant operating losses (ii) it is likely that TRC would have received exception relief during this period if it had filed a timely exception request; and (iii) the requirement that TRC refund overcharges of $669,512.42 plus interest would pose a serious threat to its continued business activities. On the basis of these findings, the DOE concluded that retroactive exception relief was warranted. However, in order to avoid ratifying TRC's violation of the DOE Regulations, the exception relief was limited to the dollar amount which would permit the firm to operate during the audit period without incurring a loss. The DOE further limited the exception relief to exclude revenues received by the royalty interest owners of the property. Accordingly, TRC's Objection to the Proposed Remedial order was denied and the firm's request for exception relief was granted in part.

Petition for Special Redress

Bell Finer Fuels, Inc. et al., Chicago, Illinois, BSG-0034, motor gasoline

Bell Finer Fuels, Inc., Bell Fuels, Inc., R. W. Troch Oil Company and Robert W. Troch, Jr. jointly filed a Petition for Special Redress of Other Relief in which they sought to quash a subpoena issued by the DOE of Special Investigations seeking their financial records. In considering the petition, the DOE found that the petitioners had not made a compelling showing that extraordinary circumstances existed which would make relief in the form of Special Redress appropriate. Accordingly, the Petition for Special Redress or Other Relief was denied.

Request for Modification and/or Rescission

Delta Petroleum Corporation, Washington, D.C., BMR-0055, motor gasoline

On August 6, 1980, the Delta Petroleum Corporation (Delta) filed a Request for Modification or Rescission of a Decision and Order issued by the Office of Hearings and Appeals on July 31, 1980 to Marathon Oil Company (Marathon). *Marathon Oil Co.*, 6 DOE ¶ ———— BMR-0042, BEA-0347 (July 31, 1980). The July 31, 1980 Decision rescinded the remaining portion of the "price disparity" exception relief which had previously been granted to Delta. In considering Delta's request, the DOE found that the firm had not overdrawn the volume of motor gasoline originally represented. Therefore it was concluded that the rescission of exception relief was improper. Accordingly, exception relief for the month of October 1980 was reinstated to Delta.

Requests for Exception

Anderson's Exxon, Baltimore, Maryland, DEE-2848; motor gasoline

Anderson's Exxon filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had not established that residents and businesses in the vicinity of Anderson's retail outlet were suffering an unfair distribution of burdens as a result of DOE regulations. Accordingly, exception relief was denied.

Chief's Gift Shop, Washington, D.C., BEO-0145. motor gasoline

Chief's Gift Shop filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that exception relief was necessary to alleviate the adverse effects of an anomalous base period for motor gasoline allocation on the firm. Accordingly, exception relief was granted.

Corn Belt F.S., Inc., Decatur, Illinois, BEE-0915, gasohol

Corn Belt F.S. Inc. filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased allocation of unleaded gasoline for use in gasohol production. In considering the request, the DOE found that the firm did not require an increased allocation to enable it to provide an incentive to maintain or expand its gasohol production and marketing operations. However, the DOE found that an exception should be granted which enables the firm to deliver 10 gallonsof gasohol to each customer for every 9 gallons of unleaded gasolone which that customer would otherwise be entitled to receive. Accordingly, exception relief was granted in part.

Environmental Protection Corporation, Bakersfield, California, BEE-1290, reporting requirements

Environmental Protection Corporation filed an Application for Exception from the provisions of 10 CFR § 212.187 in which the firm requested that it not be required to file the Crude Oil Reseller's Self Reporting Form, ERA-69. In considering the request, the DOE found that the administrative burden on the firm of completing the form outweighted the value of that information. Accordingly, exception relief was granted.

Farmers Union Oil Company, Grand Forks, North Dakota, BEE-0765, gasohol

Farmers Union Oil Company filed an Application for excetion from the provisions of 10 CFR Part 211 in which the firm sought

Rocco's Arco, Bridgeview, Illinois, BEO-0100, motor gasoline

Rocco's Arco filed an Application for Exception from the provisions of 10 C.F.R.

Star Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased allocation of unleaded gasoline for use in

purchase entitlements as required by 10 CFR 211.67 to the extent specified in a Proposed Decision and Order which was issued to the

Wallace E. Jergesen, BEO-0532, Beaverton, OR
S-K Texaco, BEO-0553, Orange, CA

commercially published loose leaf reporter system.
November 25, 1980.

Farmers Union Oil Company filed an Application for excetion from the provisions of 10 CFR Part 211 in which the firm sought an increased allocation of unleaded gasoline for use in gasohol production. In considering the request, the DOE found that exception relief was necessary to further the national policy objective of increasing the production and use of gasohol. Accordingly, exception relief was granted.

Hupp Oil Company, Norfolk, Nebraska, BEE–0905, gasohol

Hupp Oil Company filed an Application for exception from the provisions of 10 CFR Part 211 in which the firm sought an increased allocation of unleaded gasoline for the production of gasohol. In considering the request, the DOE found that the firm was not in a position to further the production and use of gasohol. Accordingly, exception relief was denied.

J. & M Machine Shop, Inc., Glencoe, Oklahoma, BEE–0793, gasohol

J & M Machine Shop, Inc. filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an allocation of unleaded gasoline to enable the firm to produce ethanol and blend gasohol. In considering the request, the DOE found that exception relief was necessary to further the important policy objective of increasing the production and use of gasohol. Accordingly, exception relief was granted.

Kern County Refinery, Inc., Bakersfield, California, DEE–3951, motor gasoline

Kern County Refinery, Inc. filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought to be relieved of its obligation to supply motor gasoline to certain customers in April and May 1979. In considering the request, the DOE found that the firm had not demonstrated that its rack sale customers in California have incurred a hardship as a result of the requirement that Kern continue to supply its bulk sales customers. Accordingly, exception relief was denied.

Leon Edwards-Exxon Distributor, Ponchatoula, Louisiana, BEO–1094, motor gasoline

Leon Edwards-Exxon Distributor filed an Application for Exception from the provisions of 10 C.F.R. § 211.102 in which the firm sought an increased allocation of motor gasoline. In considering the request, the DOE found that exception relief was necessary to allow Edwards to receive the intended benefits of its investment in an outlet which it owns but does not operate. Accordingly, exception relief was granted.

Midway Oil Company, Milwaukee, Wisconsin, DEE–4152, motor gasoline

Midway Oil Company filed an Application for Exception in which it sought to terminate its base period supplier/purchaser relationship and to be assigned a new, lower-priced supplier of motor gasoline. In considering the request, the DOE found that the financial losses the firm was incurring were the result of the firm's business practices rather than the effect of DOE regulations. Accordingly, exception relief was denied.

Rocco's Arco, Bridgeview, Illinois, BEO–0100, motor gasoline

Rocco's Arco filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was experiencing a serious financial hardship as a consequence of the application of the DOE allocation regulations. Accordingly, exception relief was denied.

South Central Bell Telephone Company, New Orleans, Louisiana, BEO–1072, motor gasoline

South Central Bell Telephone Company filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was experiencing a serious hardship or gross inequity as a result of the necessity that it purchase a portion of its motor gasoline requirements from retail outlets. The DOE noted that although the firm was a regulated utility which cannot pass through the increased costs associated with retail purchases without regulatory approval, this did not constitute grounds for exception relief since competitive factors prevent many nonregulated firms from passing increased costs on to their customers. Morever, the increased costs associated with retail purchases accounted for only one-half percent of the firm's gross revenues. Accordingly, exception relief was denied.

Southern Farmers Association, North Little Rock, Arkansas, BEE–0665, gasohol

Southern Farmers Association filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased allocation of unleaded gasoline for gasohol production. In considering the request the DOE found that the approval of an additional allocation for Southern Farmers would further the important policy objective of increasing the use of gasohol. Accordingly, exception relief was granted.

Staco Auto Service, Inc., New York, New York, BEO–1016, motor gasoline

Staco Auto Service, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that anomalous events during the base period had distorted it as an accurate indicator of a period of normal business operations for the firm. Accordingly, exception relief was granted.

Staffeldt Enterprises, Oswego, Illinois, BEO–0032, motor gasoline

Staffeldt Enterprises filed an Application for Exception from the provisions of 10 CFR 211.102 in which the firm sought an increased allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that its present allocation is unrepresentative of the current operator's business practices. Accordingly, exception relief was denied.

Star Oil Company, Eight Mile, Alabama, BEE–0950, gasohol

Star Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased allocation of unleaded gasoline for use in gasohol production. In considering the request, the DOE found that the firm had failed to make a substantial commitment of resources to the production of gasohol. Accordingly, exception relief was denied.

United Company, Overland Park, Kansas, BEE–0713, gasohol

United Company filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased allocation of unleaded gasoline for gasohol production. In considering the request, the DOE found that the approval of an additional allocation for United would further the important policy objective of increasing the use of gasohol. Accordingly, exception relief was granted.

W. G. Roberts Oil, Inc., Albuquerque, New Mexico, BEO–1128, Motor Gasoline

W. G. Roberts Oil, Inc. (Roberts) filed an Application for Exception from the provisions of 10 CFR Part 211. The firm requested increased allocations of motor gasoline for two retail outlets which it owns and operates. In considering Roberts' request, the DOE found that the firm had failed to show that it is experiencing a serious hardship, gross inequity, or unfair distribution of burdens which warrants exception relief. Accordingly, the Roberts Application for Exception was denied.

Requests for Temporary Exception

Saber Refining Company, Washington, D.C., BEL–1386, crude oil

Saber Refining Company filed an Application for Temporary Exception from the provisions of 10 CFR 211.67 in which the firm requested that it be allowed to include certain foreign residual oils which it receives under contract as crude oil receipts and runs to stills for the purposes of the Entitlements Program. In considering the request, the DOE found that the firm had failed to demonstrate that it would experience an irreparable injury in the absence of immediate relief or that public policy considerations favored the approval of relief. Accordingly, temporary exception relief was denied.

Shepard Oil, Inc., Washington, D.C., BEL–0064, crude oil

Shepard Oil, Inc. filed an Application for Temporary Exception from the provisions of 10 CFR 211.65 in which the firm sought permission to purchase the low-sulfur crude oil allocated to it under the Buy/Sell Program at a price equivalent to a refiner-seller's weighted average landed costs of all imported crude oil. In considering the request, the DOE found that the firm had failed to demonstrate that it would experience an irreparable injury in the absence of immediate relief. Accordingly, temporary exception relief was denied.

Supplemental Order

Navajo Refining Company, Dallas, Texas, BEX–0089, crude oil

On October 23, 1980, the DOE issued a Decision and Order to Navajo Refining Company staying that firm's obligation to purchase entitlements as required by 10 CFR 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on October 23, 1980.

Temporary Stay

The following Application for Temporary Stay was denied on the ground that the applicant had failed to make a compelling showing that temporary stay relief was necessary to prevent an irreparable injury:

Company Name, Case No. and Location

Eagle Refining Corporation, BST–0010, Houston, TX

Protective Orders

The following firms filed Applications for Protective Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of Energy:

Company Name, Case No. and Location

Farmers Union Central Exchange/Marathon Oil Company, BEJ–0145 and Findlay, OH

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Case No. and Location

Chevron USA, Inc., BEN–1378, San Francisco, CA
Standard Oil of Ohio, BEN–1414, Cleveland, OH

Petitions Involving the Motor Gasoline Allocation Regulations

The following firm filed an Application for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The request, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued a Decision and Order which determined that the request be granted.

Company Name, Case No. and Location

Melvin's Sunoco, DEE—4948, Risfield, MD

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Case No. and Location

Brendle Fire Equipment, BEO–0464, Montgomery, AL
Carl's Sunoco, DEE–6780, Cambridge, MA
Fred's Service Center, DEE–6975, Rockville, MD
Harris Farms, BEO–0684, Watsonville, CA
Wallace E. Jergesen, BEO–0532, Beaverton, OR
S–K Texaco, BEO–0553, Orange, CA
Southside Mobil, BEO–1074, Fairmont, MN
Tosa Car Wash, BEO–0714, Milwaukee, WI
Wald's 63 Service, BEO–0742, Cable, WI

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which finalized the Proposed Decision and Order issued to each firm.

Company Name, Case No. and Location

Bailey Bros. Bait & Tackle, DEE–8332, Alexander City, AL
Pittman Oil Distributors, DEE–7183, Nashville, IN
The Oasis, DEE–7216, Catheys Valley, CA
Porter Citgo, DEE–7425, Arlington, MA
Route 13 Amoco, DEE–7151, Dover, DE
Center Market Inc., DEE–7202, Boston, MA
Webb's Garage & Mobil, DEE–8790, Austin, TX

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name and Case No.

Atlantic Richfield, BRO–1179; BRD–1179; BRH–1179
Canadian Crude Oil Allocation Program, BES–0344
Champlin Petroleum Corporation, BEE–0321
Chiles Oil Company, Inc., BEE–0925
Dave Clark Chevron, DRD–1157
Dunn Fuels, DES–5842
Federation of American Scientists, BFA–0486
First Texarkana Company, DES–4763
H. L. Mills Petroleum Products, BXE–1482
Jim's Chevron, BXE–0068
Keller Oil Company, Inc., BEE–0753
Montgomery Mall Chevron, DEE–4808
Newmac Manufacturing Inc., BXE–1420
Petroleum Combustion International, DEE–4209
Quickfill, Inc., DXE–1473
Stephen M. Shaw, BFA–0497
Southern Union Refining Company, BEA–0159
Standard Oil of Ohio, BEL–1414
Village Standard Service Center, BRW–0069
Western Avenue Properties, DMR–0042
Wirey's Texaco Service, BEE–0803

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

November 25, 1980.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 80–37440 Filed 12–1–80; 8:45 am]

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Issuance of Decisions and Orders; Week of October 13 Through October 17, 1980

During the week of October 13 through October 17, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

November 25, 1980.

Appeals

Edward Albert Applegate, South Orange, New Jersey, DEE–0594, motor gasoline

Edward Albert Applegate filed an Appeal from an Order issued by the Director of Fuels Regulation, DOE Region II, on May 16, 1979. The effect of that Order was to approve the termination of Applegate's base period supplier/purchaser relationship with Texaco, Inc., and assign the existing supply obligation to Chevron, U.S.A. In considering the Appeal, the DOE found that the Order issued to Applegate was procedurally and substantively valid. Accordingly, Applegate's Appeal was denied.

Dobrovir, Oakes, and Gebhardt, Washington, D.C., BFA–0470, freedom of information

Dobrovir, Oakes & Gebhardt filed an Appeal from a partial denial by the Deputy Assistant Secretary for Oil and Gas Policy Evaluation of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that certain portions of the documents which were initially withheld under Exemption 5 should be released to the public. The DOE also directed the Deputy Assistant Secretary to reexamine certain material and either release it or state his reasons for finding it exempt from mandatory disclosure under the FOIA.

James H. Gungoll, Enid, Oklahoma, BFA–0459 freedom of information

V 45 / 233 DEC 2 80 UMI

James H. Gungoll filed an Appeal from a partial denial by the District Manager of the Southwest Enforcement District of the DOE's Economic Regulatory Administration of a request for information that Mr. Gungoll has submitted under the Freedom of Information Act. In considering the Appeal, the DOE determined that the District Manager had not provided sufficient justification for withholding documents pursuant to Exemption 4 and therefore remanded the proceeding for a new determination. The DOE further determined that certain documents that were initially withheld under Exemptions 2 and 5 in the initial determination should be released.

Samuel L. Hack, Washington, D.C., BFA–0472, freedom of information

Samuel L. Hack filed an Appeal from a partial denial by the Assistant to the Manager of the Oak Ridge Operations Office of the Department of Energy of a request for information which Mr. Hack submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the material requested by Mr. Hack was properly withheld by the Assistant to the Manager pursuant to Exemption 5 and that its disclosure was contrary to the public interest.

Requests for Exception

A & R Equipment Company, Inc., Rancho Cucamonga, California, BEO–0387, motor gasoline

A & R Equipment Company, Inc., a bulk purchaser of motor gasoline, filed an Application for Exception from the provisions of 10 C.F.R., Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was experiencing a gross inequity as a result of the imposition of the updated base period and the consequent limitations on its motor gasoline supply. Accordingly, exception relief was denied.

Applied Energy Technology, Los Gatos, California, BEE–0779, gasohol

Applied Energy Technology filed an Application for Exception from the provisions of 10 C.F.R., Part 211, in which the firm sought an increased allocation of unleaded gasoline for gasohol production. In considering the request, the DOE found that the firm was not currently in an advantageous position to further the production and use of gasohol. Accordingly, exception relief was denied.

Budget Oil Company, Spokane, Washington, BEO–0564, motor gasoline

Budget Oil Company filed an Application for Exception from the provisions of 10 C.F.R., Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that exception relief was necessary to prevent Budget Oil Company from experiencing a serious financial hardship that was directly attributable to the DOE Mandatory Petroleum Allocation Regulations.

Central Avenue Friendly Service, Inc., Dover, New Hampshire, DEE–6838, motor gasoline

Central Avenue Friendly Service, Inc., filed an Application for Exception from the provisions of 10 C.F.R., Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it or its customers were experiencing a serious hardship or gross inequity as a result of the DOE allocation regulations. Accordingly, exception relief was denied.

Chestertown Shorgas Co., Chestertown, Maryland, DEE–2080, propane

Chestertown Shorgas Company (Chestertown) filed an Application for Exception from the provisions of 10 CFR Section 212.93 in which the firm sought permission to increase the maximum lawful prices that it may charge for its products by $.30 per hundred cubic feet of propane and by $.10 per hundred cubic feet of propane-air mixture. In considering the request, the DOE found that the exception relief requested by Chestertown was necessary to assure the continued viability of the firm's operations. In addition, because of the substantial period of time for which Chestertown's Application had been pending, the DOE determined that exception relief should be made effective as of the filing date of the firm's initial exception submission. Accordingly, exception relief was granted with an effective date of January 16, 1979.

Darsey Oil Company, Inc., Albany, Georgia, BEE–0755, gasohol

Darsey Oil Co., Inc., filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increased allocation of unleaded gasoline for gasohol production. In considering the request, the DOE found that the approval of an additional allocation of unleaded gasoline for Darsey would further the important policy objective of increasing the use of gasohol. Accordingly, exception relief was granted.

De Sota Cab Company, San Francisco, California, BEO–0771, motor gasoline

De Sota Cab Company, a wholesale purchaser-consumer of motor gasoline, filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was experiencing a gross inequity as a result of the imposition of the updated base period and the consequent limitations on its motor gasoline supply. Accordingly, exception relief was denied.

Eagle Oil Company, Waurika, Oklahoma, BEE–0095, gasohol

Eagle Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increased allocation of unleaded motor gasoline to be used in blending gasohol. In considering the request, the DOE found that exception relief was necessary to enable Eagle to operate its new alcohol production facility and thus increase the available supplies of alcohol for use in blending gasohol. Accordingly, exception relief was granted. In establishing the proper level of exception relief, the DOE determined that it was not necessary to increase Eagle's allocation to the point where the firm could produce fully blended gasohol. Instead, the DOE granted relief sufficient to allow the firm to produce and market a blend of two parts gasoline to one part alcohol that can be upgraded by Eagle's customers to produce gasohol.

Fairless Hills Atlanta Service, Fairless Hills, Pennsylvania, BEO–1097, motor gasoline

Fairless Hills Atlanta Service filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm was not experiencing a gross inequity or an unfair distribution of burdens as a consequence of the application of the DOE Mandatory Petroleum Allocation Regulations. Accordingly, exception relief was denied.

Foley's Chevron and Drive-In Dairy, Orange, California, BEO–0605, gasoline

Foley's Chevron and Drive-In Dairy filed an Application for Exception from the provisions of 10 C.F.R., Part 211, in which the firm sought an incrase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it would experience a serious financial hardship in the absence of the requested relief. Accordingly, exception relief was denied.

General Services Agency, Alameda County, California, BEO–0682, motor gasoline

General Services Agency (GSA) filed an Application for Exception from the provisions of 10 C.F.R., Part 211, in which it requested an increase in its base period allocation of motor gasoline in order to permit it to discontinue purchasing gasoline at retail outlets. In considering the request, the DOE found that GSA had failed to establish that it required an increased allocation of motor gasoline in order to respond to emergency situations. Accordingly, the GSA request was denied.

General Telephone Co. of California, Santa Monica, California, BEO–1175, motor gasoline

General Telephone Co. of California filed an Application for Exception from the provisions of 10 C.F.R., Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that a policy objective of the Emergency Petroleum Allocation Act would be significantly frustrated in the absence of the requested relief. Accordingly, exception relief was denied.

High-Eighty Exxon, Longview, Texas, DEE–6913, motor gasoline

High-Eighty Exxon filed an Application for Exception from the provisions of 10 C.F.R., Part 211, in which the firm sought an increase in its adjusted base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that road construction in its vicinity during the period May 1977 through July 1979 resulted in the distortion of the base period for measurement purposes as a relatively normal and customary period of business activity. Accordingly, exception relief was denied.

Johnnie's 66 Service, Independence, Missouri, BEO–0047, motor gasoline

Johnnie's 66 Service filed an Application for Exception from the provisions of 10 C.F.R., Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that its customers, primarily travelers on an adjacent interstate highway, were experiencing difficulty in obtaining adequate supplies of motor gasoline. Accordingly, exception relief was denied.

Ken's Standard, Pevely, Missouri, BEO–0079, motor gasoline

Ken's Standard filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm requested an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a gross inequity as a result of the imposition of the updated base period and the consequent limitations on its motor gasoline supply. Accordingly, exception relief was denied.

Kirby Smith Groves, Inc., Orlando, Florida, BEO–0767, motor gasoline

Kirby Smith Groves, Inc., a bulk purchaser of motor gasoline, filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was experiencing a gross inequity as a result of the imposition of the updated base period and the consequent limitations on its motor gasoline supply. Accordingly, exception relief was denied.

Marcum Oil Company, Wichita, Kansas, DEE–2263, motor gasoline

Marcum Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought the assignment of new, lower-priced suppliers. In considering the request, the DOE found that the firm was unable to purchase its base period volume of motor gasoline at competitive prices and that the substantial disparity between the prices that the firm was paying its base period suppliers and the prices paid by its competitors was causing Marcum to experience a serious financial hardship. Accordingly, exception relief was granted.

Mohawk Petroleum Corporation, Los Angeles, California, DEE–2105, crude oil

Mohawk Petroleum Corporation filed an Application for Exception from the provisions of 10 CFR, Section 211.67, in which the firm requested that it be excused from fulfilling its obligations under the DOE Crude Oil Entitlements Program during the period June 1, 1979 through November 30, 1979. In considering the request, the DOE found that exception relief was necessary to enable Mohawk to achieve its historical profit margin during the period under consideration. Accordingly, exception relief was granted.

R. D. Smith Oil Company, Highland, Illinois, BEE–0910, gasohol

R. D. Smith Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 211, in which the firm sought an increased allocation of unleaded motor gasoline for gasohol production. In considering the request, the DOE found that the approval of an additional allocation for Smith would further the important policy objective of increasing the use of gasohol. Accordingly, exception relief was granted.

Redding Petroleum Inc., Concord, California, BEE–0721, Gasohol

Redding Petroleum Inc., filed an Application for Exception from the provisions of 10 C.F.R., Part 211, in which the firm sought an increased allocation of unleaded gasoline for gasohol production. In considering the request, the DOE found that the approval of an additional allocation for Redding would further the important policy objective of increasing the use of gasohol. Accordingly, exception relief was granted.

Ron's Agoura Chevron and Towing, Agoura, California, DEE–3078, Motor Gasoline

Ron's Agoura Chevron and Towing filed an Application for Exception from the provisions of 10 C.F.R., Part 211, in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm failed, despite repeated requests, to submit information necessary to process its claim. Accordingly, exception relief was denied.

Smith Brothers Petroleum Corporation, Kansas City, Kansas, DEE–2887, motor gasoline

Smith Brothers Petroleum Corporation filed an Application for Exception from the provisions of 10 C.F.R, Part 211, in which the firm sought the assignment of a new, lower-priced supplier of motor gasoline. In considering the request, the DOE found that the firm has not demonstrated that a price disparity existed between the price paid by Smith for gasoline and the prevailing price paid for that product by Smith's competitors. Accordingly, exception relief was denied.

Standard Oil Company of Ohio, Cleveland, Ohio, BEE–1123, carbon dioxide

Standard Oil Company of Ohio filed an Application for Exception from the provisions of 10 C.F.R., Section 212.83(C)(2), in which the firm sought permission to exclude the carbon dioxide which it produces and sells at its refinery at Toledo, Ohio, in computing its maximum lawful prices for price controlled refined products. In considering the request, the DOE found that exception was necessary to provide the firm an ecomonic incentive to sell carbon dioxide rather than to vent the gas into the atomosphere.

Requests for Temporary Exception

Asamera Oil (U.S.) Inc., Denver, Colorado, BEL–1491, crude oil

Asamera Oil (U.S.) Inc., filed an Application for Temporary Exception from the provisions of 10 C.F.R. Section 211.67, in which for firm sought an increase in its entitlements sales obligation by an amount sufficient to bring its post-entitlement cost of crude oil into substantial parity with that of other refiners. In considering the request, the DOE found that temporary exception relief was necessary to prevent an irreparable injury and to permit the firm to continue its refining operations. Accordingly, temporary exception relief was granted.

Supplemental Orders

Tosco Corporation, Washington, D.C., DEX–0149, crude oil

In accordance with a Decision and Order issued to Tosco Corporation that granted the firm exception relief from the provisions of 10 C.F.R., Section 211.67 (the Entitlements Program), the firm submitted actual financial data for its 1978 fiscal year. The material was submitted in order to permit the DOE to determine whether the entitlements exception relief accorded Tosco during its 1978 fiscal year was appropriate. In considering the material, the DOE found that no further adjustment to the exception relief granted to Tosco was warranted. The DOE also determined that the firm's request for an extension of the entitlements exception relief should be denied.

Vic and Lou's Union, San Francisco, California, BRX–0116, motor gasoline

On August 8, 1980, Vic and Lou's Union filed a Request for Extension of time in which to file a notice of intent to appeal a Remedial Order to the Federal Energy Regulatory Commission. In considering the request, the DOE found that section 503(b) of the Department of Energy Organization Act precludes the extension of the thirty-day limit for filing a notice of intent to appeal a Remedial Order. Accordingly, the extension of time granted in a letter on September 4, 1980 by the DOE was rescinded.

Protective Orders

The following firm filed an Application for Protective Order. The Application, if granted would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following Application and issued the requested Protective Order as an Order of the Department of Energy:

Name, Case Number, and Location

Little America Ref. Co./Mobil Oil Corp., DEJ–0139, Washington, D.C.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firm filed an Application for Exception from the provisions of the motor gasoline allocation regulations. The request, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued a Decision and Order which determined that the request be granted.

Company Name, Case Number, and Location

American Car Wash Corp., DEE–5006, Annandale, VA

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the motor gasoline allocation regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions

and Orders which determined that the requests be denied.

Company Name, Case Number, and Location

Atlantic Richfield Company filed an Appeal from a denial by the District Manager of the Economic Regulatory Administration of the Economic Regulatory Administration

Remedial Orders

Old Town Standard Truck Stop, Oklahoma City, Oklahoma, BRO–1160, motor

application for modification or rescission. Accordingly, relief was denied.

Requests for Exception

Appalachian filed a consolidated Statement of Objections to the two Decisions. In considering the Objections, the DOE determined that Appalachian had not

¶ 83,106 (1975), and related proceedings. Accordingly, exception relief was denied.

Getty Refining and Marketing Company,

and Orders which determined that the requests be denied.

Company Name, Case Number, and Location

C. D. Biggers & Son, DEO–1107, Camden, AR
Crites Oil Co., BEE–0324, Dallas, TX
Ed's Service Center, DEE–6665, Cable, WI
J.C. Corporation, DEE–6186, Bel Air, MD
John R. Walker Texaco, BEE–0388, Jackson, MS
John R. Lynn, DEE–5778, Lexington, VA

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name and Case Number

Agway Pet. Corp., DED–0099
BDP Company, BEE–1489
Bobby's Ashley Plaza Amoco, DEE–6981
Chromalloy Natural Resources Co., DEE–8309
Clarks Pet. Service, Inc., BEE–1291
Cosby Oil. Co., Inc., DRO–0179
Don's Arco, BEO–0634
Dow Chemical, U.S.A., BEE–0249
Joyce Pet. Corp., BEO–0344
Mallard Oil Co., DEE–3458
Mallard Resources, Inc., BES–0537; BST–0537
McColls' Corporation, BEO–0974
Putnam's RV Center, DEE–6393
Shawnee Skelly Service, DEE–5002; DES–5002
Sure Enterprises, Inc., DEE–3173
Thriftyman, Inc., BRS–0095
Tri-Service Drilling Co., BRO–1293; BRS–1293
Trueblood Oil Co., DEE–2282
Vickers Pet. Corp., BEA–0327; BES–0327
Zitro Energy Consultants, Inc., DST–2884
7–Eleven Food Stores, DEE–2772; DST–2722

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Issuance of Decisions and Orders; Week of October 27 through October 31, 1980

During the week of October 27 through October 31, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Appeals

Allott & Reynolds, Denver, Colorado, BFA–0461, freedom of information

Allott & Reynolds filed an Appeal from a denial by the Director of the DOE Rocky Mountain District Office of Enforcement of a Request for Information which the firm had submitted under the freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the appellant's asserted special need for the requested information is not a relevant factor in responding to the FOIA request and that the subject documents were properly withheld pursuant the Exemption 5.

Atlantic Richfield Company, Los Angeles, California, BFA–0483, freedom of information

Atlantic Richfield Company filed an Appeal from a denial by the District Manager of the Economic Regulatory Administration Chicago Regional Office of Petroleum Operations of a Request for waiver of search and copying fees in connection with a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that Atlantic Richfield had failed to meet the criteria set forth in 10 CFR 1004.9 governing the discretionary waiver of fees in FOIA requests. In particular, it was determined that Atlantic Richfield had failed to demonstrate that furnishing the information requested would be "Primarily of benefit to the public" as provided in 5 U.S.C. 552(a)(4)(A). Accordingly, Atlantic Richfield's Appeal was denied.

Duncan, Allen and Mitchell, Washington, D.C., BFA–0482, freedom of information

Duncan, Allen and Mitchell filed an Appeal from a partial denial by the Director of the Office of Power Marketing Coordination of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that, although portions of all the documents in question were properly withheld under Exemption 5, many of the documents contained segregable nonexempt factual material which must be released to the public. In addition, the DOE found that the research for documents within the agency was inadequate and remanded for further efforts to locate documents responsive to the request. An important issue considered in the decision and Order is the applicability of Exemption 5 to drafts of a documents which has been released to the public.

Gulf Oil Corporation, Houston, Texas, BEA–0004; Marathon Oil Company, Findlay, Ohio, BEA–0029; Standard Oil of Indiana (Amoco), Chicago, Illinois, DEA–0660; Texaco, Inc., White Plains, New York, DEA–0663, crude oil

Gulf Oil Corporation *et al*, filed Appeals from a decision in which the Economic Regulatory Administration designated Archer-Daniels-Midland as a producer of a petroleum substitute and granted it entitlement benefits pursuant to 10 CFR 211.67(a)(5) (the regulation). In considering the Appeals, the DOE rejected the appellants' contentions that (i) the regulation was beyond the statutory authority of the DOE, improperly promulgated, or void for vagueness, (ii) the appellants were denied their constitutional due process rights, or (iii) that the ERA erred in various aspects of its decision concerning the merits of granting entitlement benefits to ADM. Accordingly, the Appeals were denied.

Ortman, Glen L., Washington, D.C., BFA–0490, freedom of information

Mr. Glen L. Ortman of the law firm Duncan, Allen & Mitchell filed an Appeal from a partial denial by the Western Area Power Administration (WAPA) of the Department of Energy of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that WAPA correctly withheld a predecisional memorandum under Exemption 5.

Remedial Orders

Old Town Standard Truck Stop, Oklahoma City, Oklahoma, BRO–1160, motor gasoline

On April 10, 1980, Big Town Standard Truck Stop filed a Notice of Objection to a Proposed Remedial Order that the DOE Office of Enforcement had issued to the firm on March 20, 1980. In the Proposed Remedial Order, the Office of Enforcement found that the firm had committed pricing, record-keeping, and posting violations in connection with the sale of motor gasoline. Because the firm failed to submit a Statement of Objections explaining the bases for its objections to the issuance of the Proposed Remedial Order as a Remedial Order, the Notice of Objection was dismissed and the Proposed Remedial Order was issued as a Remedial Order.

John Johnson d.b.a. Johnie's Exxon, Dorchester, Massachusetts, BRO–1168, motor gasoline

On May 14, 1980, John Johnson d.b.a. Johnie's Exxon filed a Notice of Objection to a Proposed Remedial Order that the DOE Office of Enforcement had issued to the firm on April 4, 1980. In the Proposed Remedial Order, the Office of Enforcement found that the firm had committed posting violations and had engaged in discriminatory business practices in connection with the sale of motor gasoline. Because the firm failed to submit a Statement of Objections explaining the bases for its objections to the issuance of the Proposed Remedial Order as a Remedial Order, the Notice of Objection was dismissed and the Proposed Remedial Order was issued as a Remedial Order.

Kingston Oil Company, Kingston, New York, DRO–0017, heating oil

Kingston Oil Company objected to a Proposed Remedial Order which the Economic Regulatory Administration of the DOE issued to the firm on March 9, 1978. In the Proposed Remedial Order, the Economic Regulatory Administration found that Kingston had violated the Mandatory Petroleum Price Regulations by overcharging certain of its customers for heating oil. The Office of Hearings and Appeals agreed with the findings in the Proposed Remedial Order. The DOE therefore concluded that the Proposed Remedial Order should be issued as a final Order.

Requests for Modification and/or Rescission

L. S. Riggins Oil Company, Washington, D.C., BMR–0062, motor gasoline

L. S. Riggins Oil Company filed an Application for Modification of a Decision and Order which the DOE issued to the firm on July 28, 1980. That Order directed the Atlantic Richfield Company to supply Riggins with 312,739 gallons of motor gasoline within 30 days of the date the Order was issued. Riggins requested that the Order be modified to require delivery of the gallonage in June 1981. In considering the request, the DOE found that the firm had failed to establish that there had been a change in circumstances since the date on which the Order had been issued as required by 10 CFR 205.135(b)(2)(iii) for the processing of an application for modification or rescission. Accordingly, relief was denied.

Requests for Exception

Advanced Sales Corporation, St. Petersburg, Florida, DEE–8251, motor gasoline

Advanced Sales Corporation filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm requested that the DOE increase its base period allocation of motor gasoline and assign a new, lower-priced base period supplier of gasoline. The DOE issued a Proposed Decision and Order granting the request in part and directing the ERA to assign a new, lower-priced supplier to the firm. The DOE also issued an Interim Order immediately implementing that relief. Subsequently, the DOE Region IV issued an Assignment Order which directed Exxon, Chevron and Shell to supply motor gasoline to ASC. Exxon and ASC filed objections to the issuance of the Proposed Order in final form. In considering ASC's objections, the DOE found that the firm's base period allocation should not be increased to the volume of gasoline it had expected to resell when it originally made its investment in the outlet. The DOE found that ASC could operate profitably at its current allocation level. The DOE also held that due to fluctuations in market conditions it would not be appropriate to grant relief permanently assigning a new, lower-priced supplier to the firm. With regard to Exxon's objections to the relief tentatively granted to ASC, the DOE found that an eight month relief period for ASC was not excessive. The DOE also found that Exxon was an appropriate new supplier for ASC. The DOE further determined that relief which permitted to ASC to maintain retail prices comparable to those of its competitors was not excessive. In view of the fact that neither ASC's nor Exxon's objections were sustained, the Proposed Decision and Order was issued as a Final Decision and Order of the DOE.

Amendt Oil Company, San Bernardino, California, DEE–3699, motor gasoline

Amendt Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had made a substantial capital investment to build a conventional motor gasoline retail outlet and "kardlock" facility. The DOE further found that DOE regulations prevented Amendt Oil Company from realizing the intended benefits of its capital investment. Accordingly, exception relief was granted to the firm.

Appalachian Flying Service, Inc., Bountville, Tennessee, DEO–0125, DEO–0158, aviation fuels

Appalachian Flying Service, Inc. (Appalachian) filed an Application for Exception from the provisions of 10 CFR 212.93, requesting retroactive and prospective increases in its maximum permissible selling prices for aviation fuels. The Region VI Office of Hearings and Appeals issued two Proposed Decision and Orders, granting in part the request for prospective relief and denying the request for retroactive relief. Appalachian filed a consolidated Statement of Objections to the two Decisions. In considering the Objections, the DOE determined that Appalachian had not demonstrated that it was entitled to prospective exception relief greater than that granted in the Proposed Decision and Order. In addition, the DOE concluded that Appalachian had failed to demonstrate that Appalachian would suffer severe and irreparable injury in the absence of retroactive relief or that it would have been entitled to prospective relief had it sought such relief in a timely manner. Accordingly, the DOE denied Appalachian's Statement of Objections and issued the Proposed Decisions and Orders in final form.

Carr Oil Company, Franklin, Louisiana, DEE–2083, diesel fuel

On December 15, 1978, the Carr Oil Company (Carr) filed an Application for Exception with the Office of Hearings and Appeals of the Department of Energy. The exception request, if granted, would result in the issuance of orders by the DOE permitting Carr (i) to increase retroactively the price it may charge on its sales of No. 2 diesel fuel above the maximum levels permitted by the provisions of 10 CFR 212.93; (ii) to retain the revenues it has realized from such sales made during the period November 1, 1973 through March 31, 1974, when its sales price for that product exceeded the maximum levels permitted under Section 212.93; and (iii) to retain the revenues it has realized from such sales made during the period November 1, 1973 through March 31, 1974, when its sales price for that product exceeded the maximum levels permitted under Section 212.93. In considering the request, the DOE found that the firm had failed to make the requisite showing that the period involved constituted an anomalous period in the firm's operation. Accordingly exception relief was denied.

Coleman Company, Inc., Wichita, Kansas, DEE–6485, testing procedures

Coleman Co., Inc. (Coleman) filed an Application for Exception from the provisions of 10 CFR Part 230, which sets forth consumer products energy efficiency testing procedures. The request pertains to those procedures prescribed for sealed combustion furnaces such as those which Coleman manufactures. In its Decision, the DOE noted that those issues raised in the present exception proceeding were addressed in a recent rulemaking which amended the testing procedures. *See* 45 Fed. Reg. 53,717 (August 12, 1980). In view of those considerations presented in the rulemaking, the Coleman Application for Exception was denied.

Crown Central Petroleum Corporation, Baltimore, Maryland, DEE–7756, motor gasoline

Crown Central Petroleum Corporation filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an exception from its obligations during the months of August, September, and October to supply motor gasoline to seven refiners which purchased that product from Crown during the base period. In considering the request, the DOE found that Crown had failed to satify the gross inequity criteria established in *Tenneco Oil Co.*, 2 FEA ¶ 83,106 (1975), and related proceedings. Accordingly, exception relief was denied.

Getty Refining and Marketing Company, Tulsa, Oklahoma, BEE–0621 through BEE–0626, gasohol

Getty Refining and Marketing Co. filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought permission to increase the base period allocations of eleven company-operated outlets to facilitate the firm's production and marketing of gasohol. In considering the request, the DOE found that exception relief was necessary to enable the firm to test-market gasohol. Accordingly, exception relief was granted for the period June 1980 through August 1980.

Goldking Production Company, Jackson County, Texas, DEE–2177, crude oil

The Goldking Production Company (Goldking) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the Missouri Pacific Railroad Lease (Mopac Lease) located in the Lolita Field in Jackson County, Texas. In considering the Application, the DOE found that the cost of producing crude oil from the Mopac Lease had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Goldking had no economic incentive to continue to produce crude oil from the Mopac Lease, and that it was unlikely that the crude oil in the reservoir underlying the Mopac Lease could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Goldking and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Goldking to sell at upper tier ceiling price 15.94 percent of the crude oil produced from the Mopac Lease for the benefit of the working interest owners for the period April 2, 1979 through September 30, 1979.

Greenfield-Six Mile Shell, Detroit, Michigan, BEO–0672, motor gasoline

Greenfield-Six Mile Shell filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase base period allocation of motor gasoline. In considering the request, the DOE found that the firm was suffering a gross inequity and a serious hardship as a result of the implementation of the updated base period. Accordingly, exception relief was granted.

Hawn Freeway Texaco, Dallas, Texas, BEO–0716, motor gasoline

Hawn Freeway Texaco filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a gross inequity or serious hardship as a result of DOE

regulations. Accordingly, exception relief was denied.

Hollowell Oil Company, Winfall, North Carolina, DEE–7227, gasohol

presented substantial uncontradicted evidence of fraud on the part of Sanders. Accordingly, exception relief was granted severing the supplier/purchaser relationship and reassigning Sanders' customers to other firm, the DOE considered the volume of unleaded gasoline available to Start through spot market purchases and through the use of its customers' existing allocations.

Texaco Inc., White Plains, New York, BEE–

Remedial Order issued to the firm on March 14, 1980. In considering the Motion, the DOE determined that Dave Clark had not established that there were disputed issues of fact that could best be resolved at an

and Order which determined that the request be granted.

Company Name, Case No., and Location

Pellum's Amoco, BEO–0617, Walterboro, SC

applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed

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regulations. Accordingly, exception relief was denied.

Hollowell Oil Company, Winfall, North Carolina, DEE–7227, gasohol

Hollowell Oil Company filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increased allocation of unleaded gasoline for use in gasohol production. In considering the request, the DOE found that exception relief was necessary to further the important policy objective of increasing the production and use of gasohol. Accordingly, exception relief was granted.

J&B Automotive, Patchoque, New York, BXE–0828, motor gasoline

J&B Automotive filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an extension of relief, which assigned the firm a new supplier of motor gasoline. In considering the request, the DOE found that exception relief was necessary to prevent J&B Automotive from suffering severe financial hardship. Accordingly, exception relief was granted.

Karchmer Pipe and Supply Company, Centralia, Illinois, DXE–1356, crude oil

The Karchmer Pipe and Supply Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D in which the firm sought an extension of exception relief previously granted that would permit the firm to sell certain of the crude oil which it produces at upper tier ceiling prices. In considering the request, the DOE granted relief that amounted to less than the firm had originally requested. However, the Decision and Order noted that a recent regulatory change enabled the firm to sell all of the crude oil in question at market levels, thus obviating the need for exception relief.

McAlester Fuel Company, Ouachita County, Arkansas, DEE–4345, crude oil

The McAlester Fuel Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the L. L. Tidwell Lease located in Ouachita County, Arkansas, at upper tier ceiling prices. On October 29, 1980, the DOE issued a Decision and Order in which it was concluded that exception relief should be denied with respect to the applicant's exception request.

Mobil Oil Corporation, Washington, D.C., BEE–0515, motor gasoline

On December 17, 1979, the Mobil Oil Corporation filed an Application for Exception from the provisions of 10 C.F.R. § 211.9 in which the firm sought to terminate its supplier/purchaser relationship with Mr. Leonard Sanders of Hope, Arkansas. In considering the request, the DOE found that Mobil had presented substantial evidence that Mr. Sanders violated its supply agreement with Mobil by (i) obtaining motor gasoline from the Lion Oil Company; (ii) failing to account for monies owed Mobil; and (iii) selling non-Mobil gasoline under the Mobil brand. The DOE found that Mobil had presented substantial uncontradicted evidence of fraud on the part of Sanders. Accordingly, exception relief was granted severing the supplier/purchaser relationship and reassigning Sanders' customers to other suppliers.

Oil Products Company, Inc., Council Bluffs, Iowa, BEE–0258, gasohol

Oil Products Company, Inc. filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increased allocation of unleaded motor gasoline and regular leaded motor gasoline for the purpose of blending and marketing gasohol and regohol. In considering the request, the DOE found that exception relief was necessary to enable the firm to meet the strong demand for gasohol and regohol in the firm's market area. Accordingly, exception relief was granted.

Pine Crest School, Fort Lauderdale, Florida, BEO–0314, motor gasoline

The Pine Crest School filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its allocation of motor gasoline. In considering the request, the DOE found that the firm did not require an increase in its motor gasoline allocation to sustain its current level of operations. Accordingly, exception relief was denied.

Alfred M. Rousseau, Meriden, Connecticut, BEE–1365, motor gasoline

Alfred M. Rousseau filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm requested an order assigning the firm a new, lower priced supplier of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that in the absence of the requested relief, it would experience financial hardship threatening the firm's continued existence as a viable, independent marketer. Accordingly, exception relief was denied.

S&W Enterprises, Inc., Wink, Texas, BEE–1019, crude oil

S&W Enterprises, Inc. filed an Application for Exception from the provisions of 10 C.F.R., Part 212, Subpart D. The exception request, if granted, would permit the firm to sell the crude oil that it reclaims in its waste water disposal facility in Wink, Texas, at market price levels. After an analysis of the financial material submitted by S&W, it was determined that the firm was experiencing a gross inequity under the Mandatory Petroleum Price Regulations. Exception relief was therefore approved that permits the firm to sell all the crude oil that is produced as a result of its reclamation activities at upper tier price levels.

Start Oil Company, Inc., Stockton, California, BEE–0708, gasohol

Start Oil Co., Inc. (Start) filed an Application for Exception from the provisions of 10 C.F.R. Part 211 which would enable it to receive an allocation of unleaded gasoline for use in gasohol production and marketing. In its determination, the DOE found that Start has met the established standards for gasohol-related exception relief. In determining the level of relief granted to the firm, the DOE considered the volume of unleaded gasoline available to Start through spot market purchases and through the use of its customers' existing allocations.

Texaco, Inc., White Plains, New York, BEE–1246, motor gasoline

Texaco, Inc. (Texaco) filed an Application for Exception from the provisions of 10 C.F.R. § 212.83. Granting the firm's request would permit it to increase the prices that it charges for motor gasoline sold in Connecticut to reflect a gross receipts tax imposed by that state on the sale of petroleum products by refiners. The firm's request was tentatively granted in a Proposed Decision issued on August 22, 1980. An Interim Order issued on that date implemented the relief immediately. On September 29, 1980, Texaco filed a Statement of Objections to the August 22 Proposed Decision. On September 24, 1980 a determination was issued to 15 refiners, including Texaco, involving those issues considered in the August 22 *Texaco* determinations. *See Amerada Hess Corp.*, BEE–1310 (Proposed Decision issued September 24, 1980). The *Amerada Hess* determination rescinded the August 22 *Texaco* Decisions. Accordingly, the September 29 Statement of Objections filed by Texaco to the August 22 Proposed Decision was dismissed.

Request for Stay

E–Z Serve, Inc., Houston, Texas, BES–0112, BST–0112, requirements

E–Z Serve, Inc. filed an Application for Stay from the requirement that it calculate the selling prices and allocation fractions for a recently purchases refinery, the Winston Refining Company, on a consolidated basis with the remainder of its refining and marketing operations. (10 C.F.R §§ 211.51 and 212.83). In considering the Application, the DOE determined that the firm would incur an irreparable injury and would be unable to meet the requirements of the DOE price regulations in the absence of relief. E–Z Serve's stay request was therefore granted and its temporary stay request was dismissed.

Request for Temporary Stay

Alliance Oil and Refining Company, Houston, Texas, BRT–0012, crude oil

Alliance Oil and Refining Company filed an Application for Temporary Stay from the provisions of an Interim Remedial Order for Immediate Compliance which the DOE Office of Enforcement issued to the firm on October 24, 1980. In considering the Application, the DOE determined that the firm might suffer irreparable injury if it were required to certify as lower tier crude oil all crude oil obtained in exchange transactions for which it was unable to determine the regulatory category of crude oil exchanged away. Alliance's temporary stay request was therefore granted.

Motion for Evidentiary Hearing

Dave Clark Chevron, Flagstaff, Arizona, BRH–1157, motor gasoline

Dave Clark Chevron filed a Motion for Evidentiary Hearing in connection with its Statement of Objections to a Proposed Remedial Order issued to the firm on March 14, 1980. In considering the Motion, the DOE determined that Dave Clark had not established that there were disputed issues of fact that could best be resolved at an evidentiary hearing. The DOE also determined that Dave Clark could not convene an evidentiary hearing as a matter of right. Accordingly, the Motion for Evidentiary Hearing was denied.

Motion for Discovery

Chevron U.S.A. Inc./Saber Refining Company, Washington, D.C., BEJ–0137, BED–0137

Chevron U.S.A. Inc. filed a Motion for Discovery and Protective Order pursuant to the provisions of 10 C.F.R. § 205.66 in which the firm sought confidential copies of documents which Saber had filed in an exception proceeding. In considering the request, the DOE found that Chevron's motions were premature and should be dismissed.

Supplemental Orders

Belvidere Car Wash, Lowell, Massachusetts, BEX–0123, motor gasoline

On its own motion, the Office of Hearings and Appeals of the Department of Energy issued a Supplemental Order to Belvidere Car Wash (Belvidere). The Supplemental Order vacated a Decision and Order issued to Belvidere on September 26, 1980 and reissued it verbatim with a new effective date. The Order allowed Belvidere a full 30 days in which to file an Appeal of the September 26 Decision to the Federal Energy Regulatory Commission.

Ray Peppelman, Inc., Landsdowne, Pennsylvania, BEX–0119, motor gasoline

On its own motion, the Office of Hearings and Appeals of the Department of Energy issued a Supplemental order to Ray Peppelman, Inc. (Peppelman). The Supplemental Order vacated a Decision and Order issued to Peppelman on September 26, 1980 and reissued it verbatim with a new effective date. The effect of reissuing the Order is to allow Peppelman a full 30 days in which to file an Appeal of the September 26 Decision to the Federal Regulatory Commission.

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an Order issued on the same date as the Interim Order:

Company Name, Case No., and Location

Fuelgas Company, Inc., DEN–6000, Washington, DC
Saywer's General Store, DEN–7206, Raymond, CA

Petitions Involving the Motor Gasoline Allocation Regulations

The following firm filed an Application for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The request, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued a Decision and Order which determined that the request be granted.

Company Name, Case No., and Location

Pellum's Amoco, BEO–0617, Walterboro, SC

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Case No., and Location

Floyd Oil Company, Inc., BEO–0980, Kirksville, MO
Four Corner Standard, BEO–0343, Osceola, IA
Fraser Sales, Inc., DEE–2855, Lee, MA
Griffin Industries, Inc., BEO–0263, Cold Spring, KY
King City Truck Stop, DEO–0224, Pasco, WA
Lund Construction Company, BEO–0731, Sacramento, CA
Rice-Linquist, Inc., DEE–5312, Minot, ND
Santa Fe Oil Company, DEE–3247, San Bernardino, CA
Walter Short, BEO–0438, Washington, DC
Starkville Auto Mart, BEO–0752, Starkville, MS

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name and Case No.

Cities Service Company, BRD–0140; BRJ–0140
Davey Engineering Company, BFA–0495
Marathon Oil Company, BEE–1437; BEE–1439; BEE–1459
Saber Refining Company, BEE–1366
T & D Arco, DEE–6551
Thrifty Car Wash, BEE–0956
Willis Gap General Store, DEE–7493
Wisconsin's Environmental Decade, Inc., BFA–0484

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

November 25, 1980.

[FR Doc. 80–37442 Filed 12–1–80; 8:45 am]

BILLING CODE 6450–01–M

Issuance of Decisions and Orders; Week of September 22 Through September 26, 1980

During the week of September 22 through September 26, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearing and Appeals.

Appeals

Conoco, Inc., Houston, Texas, BFA–0453, freedom of information

Conoco, Inc., filed an Appeal from a partial denial by the Disclosure Officer of the Office of Special Counsel of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that certain documents or portions of documents which were initially withheld under Exemption 5 because they contained deliberative material should be released to the public because they were not predecisional or because they contained reasonably segregable factual material. Several clerical errors in this Decision and Order were corrected in an unpublished Supplemental Order, Case No. BEX–0117, issued by the Office of Hearings and Appeals.

Scripps-Howard Newspapers, Washington, D.C., BFA–0449, freedom of information

Scripps-Howard Newspapers filed an Appeal from a partial denial by the Director, Office of Management Support, Office of Environment, DOE, of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that some of the documents initially withheld under Exemption 5 contained factual material, represented final agency actions, or were not intra-agency memoranda. The Appeal was therefore granted in part.

Seattle-Post Intelligencer, Seattle, Washington, BFA–0450, freedom of information

The Seattle-Post Intelligencer filed an Appeal from a partial denial by the Freedom of Information Officer of the Bonneville Power Administration of a request for information which the firm had submitted under the Freedom of Information Act. In considering the Appeal, the DOE found that the determination issued by the Freedom of Information Officer was inadequate because it failed to provide a list of each withheld document and because it failed to state on a document-by-document basis the reasons for nondisclosure. The matter was therefore remanded to the Freedom of Information Officer.

Wisconsin's Environmental Decade, Madison, Wisconsin, BFA–0456, freedom of information

Wisconsin's Environmental Decade filed an appeal from a determination issued by the Freedom of Information Officer of the DOE's Chicago Operations and Regional Office in response to a request for information which the appellant had submitted under the Freedom of Information Act. The appellant sought production of two documents concerning the location of potential sites for the disposal of nuclear waste and spent fuel. In considering the Appeal, the DOE

determined that one of the reports which the appellant sought is not exempt from mandatory public disclosure and should be released. The DOE also remanded the matter

also concluded that exception relief was necessary in order to permit the firm to sell the propane purchased for resale separately from the propane which it produced.

incurred by the firm as a result of its converting commissioned agents to branded independent jobbers. In considering the firm's request, the DOE determined that in order to maintain comparability between Chevron's

found that the firm was selling its entire allocation of motor gasoline prior to the end of each month not because there was a gasoline shortage in the community where the firm was located but because the firm's

and that, in any event, the Commission had other means of increasing its revenues. The DOE also found that motor gasoline supplies at the Turnpike's retail outlets were sufficient to meet the needs of Turnpike motorists.

Petition for Special Redress

Texaco, Inc., Los Angeles, California, BSG–0026, motor gasoline

Texaco, Inc. filed a Petition for Special

determined that one of the reports which the appellant sought is not exempt from mandatory public disclosure and should be released. The DOE also remanded the matter to the custodian of the other report, the manager of the DOE Savannah River Operations Office, to make a prompt determination on the appellant's original request.

Remedial Orders

Power Management, Inc., Harlingen, Texas, BRO–0010, Crude oil

Power Management, Inc., (PMI) filed a Statement of Objections to a Proposed Remedial Order which the DOE Southwest Enforcement District issued to the firm on August 30, 1979. In the Proposed Remedial Order, the Office of Enforcement determined that PMI had sold certain volumes of crude oil from nine of its properties in Oklahoma and Texas at prices that exceeded its maximum lawful selling prices. In its Statement of Objections, PMI argued that the Proposed Remedial Order erroneously withheld stripper well property status from two of its properties by failing to count injection wells in computing average daily production for those properties. In considering this contention, the DOE found that its stripper well regulation, as interpreted by Ruling 1974–29, was intended to exclude injection wells from the count of producing wells used to calculate average daily production. The DOE further determined that its regulatory exclusion of injection wells was consistent with Congressional intent and was a correct construction of the underlying statute. In addition, the DOE concluded that the Proposed Remedial Order properly included a $.15 per barrel premium paid to PMI as part of the May 15, 1973 posted price for crude oil for five of the firm's properties. The DOE therefore concluded that the Proposed Remedial Order should be issued as a final Order.

In the following cases involving Proposed Remedial Orders and/or Interim Remedial Orders for Immediate Compliance, no Statements of Objections were filed. The DOE therefore issued the orders in final form.

Company Name, Location, Case No.

Damours Service Station, Springfield, MA, DRW–0056
Redman Service, Inc., Washington, D.C., DRW–0057

Requests for Exception

American Natural Gas Production Company, Washington, D.C., DEE–0730, Propane

American Natural Gas Production Company filed an Application for Exception from the provisions of 10 CFR Part 212, Subpart K, in which it sought to establish a selling price for propane purchased for resale without reference to the cost and maximum lawful selling price of the propane which the firm produced itself. In considering the request, the DOE found that exception relief was necessary to permit the firm to establish a selling price which was associated with the quality of the propane purchased for resale rather than with the inferior quality of the propane which it produced itself. The DOE also concluded that exception relief was necessary in order to permit the firm to sell the propane purchased for resale separately from the propane which it produced. Accordingly, exception relief was granted.

Belvidere Car Wash, Lowell, Massachusetts, DEE–6951, motor gasoline

Belvidere Car Wash filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had not demonstrated that its gasoline sales during the base period were unusually low. Accordingly, exception relief was denied.

Bratz oil Corporation, Centerville, Iowa, BEE–0489, motor gasoline

Bratz Oil Corporation filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an incrase in its base period allocation of unleaded motor gasoline for the purpose of blending and marketing gasohol. In considering the request, the DOE found that the firm could contribute to the national policy objectives of developing alternative energy sources and reducing the nation's dependence on foreign energy supplies. Accordingly, exception relief was granted.

C/SI Incorporated, Bonner Springs, Kansas, BEE–1381, test procedures

C/SI Incorporated filed an Application for Exception from the provisions of 10 C.F.R. Part 430 in which the firm sought relief from the reqirement that it perform the test procedures applicable to multi-fuel boilers and furnaces. In considering the request, the DOE found that the firm's furnances were designed to burn wool or coal as their primary fuel source and that oil and gas were to be used only as back-up fuels. The DOE therefore concluded that exception relief was necessary to relieve the gross inequity which the applicant would suffer if it were required to test its furnaces in accordance with the procedures in 10 C.F.R. Part 430 and the use the test results in labeling and advertising. Accordingly, exception relief was granted.

Champion Oil Service Company, Hamilton, Ohio, BEE–0619, motor gasoline

On January 4, 1980, Champion Oil Service Company filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of motor gasoline and an assignment to a new, lower priced supplier. In considering the request, the DOE found that the firm had failed to demonstrate that it was experiencing a disparity between its gasoline costs and those of its competitors, that its base period allocation was abnormally low, or that its business relationship with its base period supplier had deteriorated. Accordingly, exception relief was denied.

Chevron U.S.A. Inc., San Francisco, California, BEE–0576, motor gasoline

Chevron U.S.A. Inc. filed an Application for Exception from the provisions of 10 C.F.R. § 212.83(c)(2)(iii)(E). In its Application, Chevron sought to reduce its base period marketing costs by eliminating the May 1973 non-product marketing costs no longer incurred by the firm as a result of its converting commissioned agents to branded independent jobbers. In considering the firm's request, the DOE determined that in order to maintain comparability between Chevron's May 1973 costs and its current costs, the firm should be permitted to exclude from its base period marketing costs those direct costs associated with the marketing operations which Chevron had sold to independent jobbers. Accordingly, the firm's Application for Exception was grnated.

De Blois Oil Company, Washington, D.C., BEE–0001, gasohol

Deblois Oil Company filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which it sought an increase in its base period allocation of motor gasoline for the purpose of blending and marketing gasohol The DOE determined that the firm did not have an assured supply of domestically produced ethyl alcohol manufactured from agricultural feedstock with which to blend motor gasoline. Accordingly, the Application for Exception was denied.

E. J. Flemister & Son Oil Company, Sandersville, Georgia, BEE–0437, motor gasoline

E. J. Flemister & Son Oil Company filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increased allocation of unleaded motor gasoline for use in the production and marketing of gasohol. In considering the request, the DOE found that the petitioner had failed to provide information necessary for the DOE to perform a comprehensive analysis of the Application. Accordingly, the Application was dismissed without prejudice to a refiling at a later date.

Energy Cooperation, Inc., Phoenix, Oregon, BEE–0952, gasohol

Energy Cooperation, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211 in which it sought an increased allocation of motor gasoline for the purpose of blending and marketing gasohol. In considering the firm's request, the DOE found that Energy Cooperation did not have an assured, contractual supply of alcohol and was therefore not in an advantageous position to meet the demand for gasohol in its marketing area. Accordingly, exception relief was denied.

G & J Green, Inc., Strongsville, Ohio, BEO–0366, motor gasoline

G & J Green, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the community in which the applicant was located was not suffering a gross inequity or a disproportionate share of the burdens imposed by the nation's energy problems. Accordingly, exception relief was denied.

Harry Murray Chevron, Folkston, Georgia, BEE–1132, motor gasoline

Harry Murray Chevron filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm was selling its entire allocation of motor gasoline prior to the end of each month not because there was a gasoline shortage in the community where the firm was located but because the firm's prices were significantly lower than those of its competitors. Accordingly, exception relief was denied.

Horseshoe Exxon, Jarreau, Louisiana, BEO–0638, motor gasoline

Horseshoe Exxon filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a serious financial hardship as a result of DOE regulations or that there was a shortage of motor gasoline in its marketing area. Accordingly, exception relief was denied.

Hull Grocery, Inc., Hull, Georgia, DEE–7127, motor gasoline

Hull Grocery, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the Economic Regulatory Administration may have established incorrectly the base period volumes of a new retail outlet located near Hull. The DOE further determined that the volumes assigned to the new outlet adversely affected Hull to such a degree as to threaten Hull's continued operations. Accordingly, the DOE granted Hull exception relief increasing the firm's base period allocation of motor gasoline pending the issuance of a determination with respect to Hull's Appeal of the assignment to the new outlet.

North Valley Texaco and Tire Co., Thornton, Colorado, BEO–0415, motor gasoline

North Valley Texaco and Tire Co. filed an Application for Exception from the provisions of 10 C.F.R. § 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that a capital investment in the retail station was made too late for the firm to qualify for relief under the principles established in *Leo Anger, Inc.* The DOE also found that the firm had not made a showing that in the absence of exception relief the public would experience difficulty in obtaining gasoline. Accordingly, exception relief was denied.

Pennsylvania Turnpike Commission, Harrisburg, Pennsylvania, BEE–0394, motor gasoline

The Pennsylvania Turnpike Commission filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which it sought increases in the motor gasoline allocations of retail outlets located on the Pennsylvania Turnpike. The Commission maintained that inadequate supplies of motor gasoline on the Turnpike caused a hardship to the people of Pennsylvania and that the reduction in toll revenues which resulted from decreased traffic on the Turnpike made it impossible for the Commission to maintain the Turnpike adequately. In considering the request, the DOE found that the Commission had sufficient funds to maintain the Turnpike and that, in any event, the Commission had other means of increasing its revenues. The DOE also found that motor gasoline supplies at the Turnpike's retail outlets were sufficient to meet the needs of Turnpike motorists. Accordingly, exception relief was denied.

Ray Peppelman, Inc., Landsdowne, Pennsylvania, DEE–5584, motor gasoline

Ray Peppelman, Inc. filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought the reassignment of a portion of its base period motor gasoline entitlement to a different supplier. In considering the request, the DOE found that the slightly higher prices charged by one of Peppelman's base period suppliers were not causing Peppelman to experience serious financial and operating difficulties. Accordingly, exception relief was denied.

S. M. Schwartz Oil Company, Blytheville, Arkansas, BEE–0555, gasohol

The S. M. Schwartz Oil Company filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increased allocation of motor gasoline for the express purpose of blending and marketing gasohol. In considering the request, the DOE found that exception relief was necessary to permit the firm to continue to meet the demand for gasohol in its market area. Accordingly, exception relief was granted.

Thomsen Oil Company, Hastings, Nebraska, BEE–0664, gasohol

Thomsen Oil Company filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increased allocation of motor gasoline for the express purpose of blending and marketing gasohol. In considering the request, the DOE found that there was a strong demand for gasohol in Thomsen's market area and that exception relief was necessary to permit the firm to meet that demand. Accordingly, exception relief was granted.

U.S. Gasohol Corporation, Rector, Arkansas, BEE–0792, gasohol

U.S. Gasohol Corporation filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an allocation of motor gasoline for the purpose of blending and marketing gasohol. In considering the request, the DOE found that the firm did not have an established supply of alcohol or any equipment for blending and marketing gasohol. In addition, the DOE determined that the firm had not demonstrated that there was a demand for gasohol in its market area. Accordingly, exception relief was denied.

Webber Oil Company, Fort Walton Beach, Florida, BEE–0804, gasohol

Webber Oil Company filed an Application for Exception from the provisions of 10 C.F.R. Part 211 in which the firm sought an increase in its base period allocation of unleaded and regular motor gasoline for the purpose of blending and marketing gasohol and regohol. In considering the request, the DOE found that Webber's existing gasohol and regohol program served a significant demand in the firm's market area and that exception relief was appropriate to allow the firm to expand that program. Accordingly, exception relief was granted.

Petition for Special Redress

Texaco, Inc., Los Angeles, California, BSG–0026, motor gasoline

Texaco, Inc. filed a Petition for Special Redress in which the firm requested that the National Office of Hearings and Appeals review a Decision and Order issued to Texaco by the Western Regional Center of the Office of Hearings and Appeals on May 12, 1980 (Case No. BEA–80–0082). In that Decision, the Regional Center denied Texaco's Appeal of an Order issued to it by the Region IX Office of Petroleum Operations (OPO). In its Petition, Texaco pointed out that the wife of the Director of the Western Regional Center (the Director) is the Area Manager of OPO Region IX and had participated in the OPO determination that was the subject of its Appeal. Texaco contended that under these circumstances, the Director could not have impartially considered the merits of the Appeal. In considering the Texaco Petition, the DOE found that the Director's relationship with his wife had not affected the Western Regional Center's determination with respect to the Texaco Appeal. Nevertheless, the DOE determined that the Director's consideration of Appeals concerning proceedings in which his wife had participated created an appearance of impropriety. The DOE therefore granted Texaco's Petition and reviewed the Appeal Decision. In considering the Appeal, the DOE found that the OPO Order was seriously deficient, since it did not contain an adequate statement of the legal and factual basis upon which it was issued. Accordingly, the Texaco Appeal was granted, and the OPO Order was rescinded.

Request for Modification and/or Rescission

Richmond Texaco, San Francisco, California, BMR–0049, motor gasoline

Richmond Texaco filed an Application for Modification or Rescission of a Decision and Order which the DOE had issued to the firm on February 20, 1980. In considering the new financial material submitted by the firm, the DOE concluded that Richmond had failed to demonstrate the existence of any significantly changed circumstances which would warrant the modification or rescission of the previous exception decision. Richmond's Application for Modification or Rescission was therefore denied.

Request for Stay

Southland Corporation, Washington, D.C., BES–0452, motor gasoline

Southland Corporation filed an Application for Stay of an Assignment Order which the ERA had issued to the firm. In considering the Application, the DOE determined that Southland would not suffer irreparable financial injury as a result of the Order. Southland Corporation's stay request was therefore denied.

Motion for Discovery

Smith's Petroleum Marketing Company, Inc., West Plains, Missouri, BED–0397, motor gasoline

Smith's Petroleum Marketing Company, Inc. filed a Motion for Discovery in connection with its Appeal of a Decision and Order issued by the ERA's Region VII Office of Petroleum Operations. In its Motion for Discovery, Smith's sought an order directing Warren B. Davis, the president of Orval

Company Name and Case No.

Amerada Hess Corporation, BEN–0055
Ashland Oil, Inc., BEN–0056
Atlantic Richfield Company, BEN–0057
Coastal Petroleum Refiners, Inc., BEA–0394
Giant Industries Inc., BEA–0423
Hempstead Resources Recovery Corp., BEA–0384
Western Refining Co., BEA–0458

(Southwest) for a new commercial television station to operate on Channel 24, in Chico, California.

The Far West Broadcasting Company

Filed by: Joseph W. Waz, Jr., Deputy Director for National Citizens Telecommunications System. (BC Docket No. 78–253)

4. Accordingly, it is ordered, that grant of his application would serve the public interest, convenience and necessity.

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Order issued by the ERA's Region VII Office of Petroleum Operations. In its Motion for Discovery, Smith's sought an order directing Warren B. Davis, the president of Orval Davis Tire Company, to respond to a series of interrogatories and requests for production of documents. Davis voluntarily complied with some of the requests and either objected to the other requests or denied that he possessed sufficient information to respond to them. The Department of Energy concluded that Davis should be required to provide additional information concerning two of the interrogatories and to explain in detail why he was unable to respond to other interrogatories. Accordingly, Smith's Motion was granted in part.

Interlocutory Order

Atlantic Richfield Company, Washington, D.C.; Gulf Oil Corp.; Washington, D.C.; Marathon Oil Co.; Washington, D.C.; Standard Oil Company (Ohio), Cleveland, Ohio; Standard Oil Company of California, Washington, D.C.; Texaco Inc., Washington, D.C.; Louisiana Land & Exploration Company, Washington, D.C., BRZ–0050–0056 crude oil

In connection with six pending enforcement proceedings, the DOE issued an Interlocutory Order which resolved the sole remaining issue left open by the agency's prior determinations concerning the discovery of contemporaneous constructions of several DOE regulations. The DOE set forth a specific definition of the type of documents subject to discovery, allowing the petitioners in the enforcement proceedings to obtain documents which reflect the agency's views, as expressed by its responsible officers.

Supplemental Order

Sabre Refining, Inc., Bakersfield, California, DEX–0044, crude oil

In a Supplemental Order, the DOE reviewed the exception relief which it had granted to Sabre Refining, Inc. to relieve the firm of a portion of its entitlement purchase obligation during the period January through December 1977. The DOE determined that the previous exception relief had been excessive and ordered Sabre to purchase entitlements having a value of $81,987 per month over the twelve-month period following the issuance of the Supplemental Order.

Interim Orders

Eagle's Chevron Service, West Yellowstone, Park, Montana, BEN–0054, motor gasoline

The DOE issued a Decision and Order pursuant to an Order issued by the Federal Energy Regulatory Commission in connection with a request for interim relief filed by Eagle's Chevron Service. In the Decision and Order, the DOE increased Eagle's Chevron Service's base period allocation of motor gasoline for the month of September 1980 from 7,000 gallons to 21,000 gallons.

The following firms were granted Interim Exception Relief which implemented the relief which the DOE proposed to grant in orders issued on the same date as the Interim Orders.

Company Name and Case No.

Amerada Hess Corporation, BEN–0055
Ashland Oil, Inc., BEN–0056
Atlantic Richfield Company, BEN–0057
Chevron U.S.A. Inc., BEN–0058
Cities Service Company, BEN–0059
Exxon Company, U.S.A., BEN–0060
Getty Refining and Marketing Co., BEN–0061
Gulf Oil Corporation, BEN–0062
Mobil Oil Corporation, BEN–0063
Shell Oil Company, BEN–0064
Standard Oil Company of Indiana (Amoco), BEN–0065
Standard Oil Company of Ohio (Sohio), BEN–0067
Sun Oil Company of Pennsylvania, BEN–0068
Tenneco Oil Company, BEN–0069
Texaco Inc. BEN–0070

Protective Order

The following firms filed an Application for Protective Order. The application, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firms. The DOE granted the following application and issued the requested Protective Order as an Order of the Department of Energy:

Company Name, Location, Case No.

Commonwealth Oil Refining Co., Inc., Washington, D.C., BEJ–0134
Marathon Oil Co., Findlay, Ohio

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in increases in the firms' base period allocations of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted:

Company Name, Location, Case No.

Rancho Exxon, Thousand Oaks, California, BEO–0503
Tuscaloosa City School System, Tuscaloosa, Alabama, BXE–1200

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in increases in the firms' base period allocations of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied:

Company Name, Location, Case No.

Ben Holt Construction, Inc., Edmonds, Washington, BEO–0688
Lelly's Chevron, Tuckerton, New Jersy, DEE–3756
Les Francis Auto Rental, Leasing & Investment Corp., St. Louis, Missouri (Clayton), BEO–0673

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Company Name, Case No.

Augusta Road Exxon, DEE–7471
Coastal Petroleum Refiners, Inc., BEA–0394
Giant Industries Inc., BEA–0423
Hempstead Resources Recovery Corp., BEA–0384
Western Refining Co., BEA–0458
Firestone Test Center, DEE–6518
Kershaw County, SC, DEE–2136
King & King Enterprises, Inc., DES–2240
Moore's Gulf, BEO–0288
Northlake Chevron, BXE–0451
Point Landing Fuel Corp., DRO–0029
Tucson Fuel Co., Inc., BEE–0378, BEN–0005
Welsch Oil & LP Gas, Inc., BEE–1057
Wisconsin Electric Power Co., BEE–1395

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,
Director, Office of Hearings and Appeals.
November 25, 1980.
[FR Doc. 80–37444 Filed 12–1–80; 8:45 am]
BILLING CODE 6450–85–M

FEDERAL COMMUNICATIONS COMMISSION

[BC Docket Nos. 80–734 et al., File Nos. BPCT–781221 Li et al.]

Construction Permit for New Television Station; Designating Application for Hearing on Stated Issues

In re Applications of Jack O. Koonce and Melvin J. Querio, d/b as Superior Broadcasting of California; Chico, California, BC Docket No. 80–734, File No. BPCT–781221LI;

The Far West Broadcasting Co., Inc., Chico, California, BC Docket No. 80–735, File No. BPCT–790815KP; and

Southwest Televison, Ltd, (Eugene D. Adelstein and Edward B. Berger, General Partners), Chico, California, BC Docket No. 80–736, File No. BPCT–790815KQ.

Adopted: November 10, 1980.
Released: December 1, 1980.

By the Chief, Broadcast Bureau:

1. The Commission, by the Chief, Broadcast Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Jack O. Koonce and Melvin J. Querio d/b as Superior Broadcasting of California (Superior), The Far West Broadcasting Company, Inc. (Far West), and Southwest Television, LTD.

(Southwest) for a new commercial television station to operate on Channel 24, in Chico, California.

The Far West Broadcasting Company, Inc.

2. Analysis of the financial data submitted by Far West reveals that $1,369,032 will be required to construct and operate the proposed station for three months, itemized as follows:

Equipment payments	$895,032
Land/Building (Lease)	27,000
Other items:	
Legal	10,000
Engineering	20,000
Installation	75,000
Operating costs (3 months)	342,000
Total proposed expenditures	1,369,032

10. It is further ordered, That, the applicants herein shall pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.
Jerold L. Jacobs,
Chief Broadcast Facilities Division.
[FR Doc. 80–37327 Filed 12–1–80; 8:45 am]
BILLING CODE 6712–01–M

[Report No. 1259]

Petitions for Reconsideration of Actions in Rule Making Proceedings

November 25, 1980.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the Federal Register. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Franklin and Keene, New Hampshire and Bennington and Brattleboro, Vermont. Also Concord, Conway, Hinsdale, Littleton, Meredith, Plymouth, Rochester, and Wolfeboro, New Hampshire, Skowhegan, Maine and Lyndon, Vermont.) (Docket No. 20576, RM's 2467, 2468, 2578, 3192, 3300 & 3301)

Filed by: John D. Flanders and Mark E. Riddell on 10–27–80.

Subject: Inquiry into the future role of Low-Power Television Broadcasting and Television Translators in the National Telecommunications System. (BC Docket No. 78–253)

Filed by: Joseph W. Waz, Jr., Deputy Director for National Citizens Committee for Broadcasting on 11–6–80. Paul A. Muntion, Henry Goldbert & Michael J. Wilhelm, Attorneys for The Corporation for Public Broadcasting on 11–17–80. Erwin G. Krasnow & Valerie G. Schulte, Attorneys for National Association of Broadcasters on 11–17–80.

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 80–37329 Filed 12–1–80; 8:45 am]
BILLING CODE 6712–01–M

[PR Docket No. 80–683]

Charles F. Reed, Renewal of Amateur Radio Station License WA9FVR and Amateur Technician Class Radio Operator License

Adopted: October 27, 1980.
Released: November 6, 1980.

1. The Chief, Private Radio Bureau, pursuant to the direction of the Commission (see *Report* 79–707, Docket No. 21418, released November 20, 1979), has under consideration the application of Charles F. Reed, R.R. 1 Box 159, Whiteland, Indiana 46184, dated November 13, 1978, for renewal of his Amateur radio station license (WA9FVR) and his Technician Class Amateur radio operator licnese.[1] Both of these licenses were granted October 5, 1973, for five year terms.[2]

2. Information before the Commission indicates that in 1975 Reed actively participated with Herschel McKenzie to fraudulently obtain an Advanced Class Amateur radio operator license without examination. Although Reed was unsuccessful in obtaining this license, his conduct was in violation of Section 97.129 of the Commission's Rules, which prohibits a licensed radio operator from obtaining or attempting to obtain an operator's license by fraudulent means.

3. Section 309(e) of the Communications Act of 1934, as amended, requires the Commission to designate a application for hearing where it cannot find that grant of the application would serve the public interest, convenience and necessity. Reed's apparent conduct precludes the Commission from determining that a grant of his application would serve the public interest, convenience and necessity.

4. Accordingly, it is ordered, that Reed's application for renewal of his Amateur station license (WA9FVR) and his Technician Class operator license IS DESIGNATED FOR HEARING on the issues specified below.

5. It is further ordered, That if Reed wants a hearing on this matter, he must file a written request for a hearing within 30 days.[3, 4] If a hearing is requested, the time, place and Presiding Judge will be specified by subsequent Order. If Reed fails to request a hearing within 30 days,[4] his application will be dismissed with prejudice for failure to prosecute.

It is further ordered, That this proceeding will be resolved upon the following issues:

(a) To determine whether Charles F. Reed attempted to fraudulently obtain an Advanced Class Amateur radio operator licnese without examination, in wilful violation of Section 97.129 of the Commission's Amateur Radio Rules.

(b) To determine whether Charles F. Reed actively participated with Herschel McKenzie in an attempt to fraudulently obtain an Advanced Class Amateur radio operator license without examination.

(c) To determine whether grant of the application would serve the public interest, convenience and necessity.

7. It is further ordered, That a copy of this Order shall be sent by Certified Mail—Return Receipt Requested and by Regular Mail to the licensee at his address of record (as shown in the caption).

Chief, Private Radio Bureau.
Raymond A. Kowalski,
Acting Chief, Compliance Division.
[FR Doc. 80–37328 Filed 12–1–80; 8:45 am]
BILLING CODE 6712–01–M

[1] Commission licensing records have been changed to reflect Reed's new address as given in the application.

[2] Pursuant to § 1.926(c) of the Commission's Rules, Reed's licenses will not expire until the renewal application has been acted upon by the Commission.

[3] The attached from should be used to request or waive hearing. It should be mailed to the Federal Communications Commission, Washington, D.C. 20554.

[4] Any contrary provisions of Section 1.221 of the Rules are waived.

[Gen. Docket No. 78–391]

Improvements to UHF Television Reception

AGENCY: Federal Communications Commission.

ACTION: Place contractor report into Docket 78–391.

SUMMARY: Action taken herein places a contractor report, *Program to Improve UHF Television Reception*, by W.R.

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Free, J.A. Woody, and J.K. Daher, in Docket 78–391, and request public comment. This report is another in a continuing series of reports released by the Commission's UHF Comparability Task Force examining the reception problems that plague UHF television. This report along with the comments received on it will aid the Commission in informing viewers on the best types of television receiving antenna equipment.

DATE: Comments must be filed on or before December 31, 1980. Reply Comments must be filed on or before January 30, 1981.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Alex Felker, Office of Plans and Policy, (202) 653–5940.

SUPPLEMENTARY INFORMATION:

In the matter of Improvements to UHF Television reception, General Docket No. 78–391.

Released: November 19, 1980.

1. On September 11, 1979, the Commission approved delegated authority to the Office of Plans and Policy to file the staff reports of the UHF Comparability Task Force in Docket 78–391, and to set deadlines for filing comments and reply comments for those reports.

2. One document, *Program to Improve UHF Television Reception,* has been submitted into Docket 78–391, and released to the public.

3. The document is available for inspection in the FCC's Public Information Division, and copies of it are also available for distribution.

4. Accordingly, it is ordered that effective November 17, 1980, the deadline for comments in the above mentioned report be set for December 31, 1980, and the deadline for reply comments be set for January 30, 1981.

Action is taken pursuant to Section 4(i) of the Communications Act of 1934, as amended.

Federal Communications Commission.

Nina W. Cornell,

Chief, Office of Plans and Policy.

[FR Doc. 80-37418 Filed 12-1-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Lousiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 22, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: 10405.

Filing Party: Gerald H. Ullman, 120 Broadway, New York, New York 10005.

Summary: Agreement No. 10405, among forty licensed ocean freight forwarders at the Port of New York provides for the formation of the "New York Ocean Freight Forwarder Discussion Group." The purpose of the agreement is to provide a forum for discussion and negotiation of matters of mutual interest among the members and, as a group, with others engaged in U.S. foreign commerce including, but not limited to steamship conferences, their member lines, independent ocean carriers, terminal conferences and individual terminal operators, exporter and importer organizations, shippers councils, motor carrier rate bureaus, individual motor carriers, railroads, the Port Authority of New York and New Jersey, associations of and individual non-vessel operating common carriers by water and other groups of ocean freight forwarders authorized to act collectively. The discussions and negotiations shall relate to activities involving the receipt, processing and transportation of export shipments moving via the Port of New York. The members are not authorized to discuss, either among themselves or with third parties, the fees or practices of members with respect to their individual businesses.

Agreements Nos.: T–2260–4, T–2261–5, T–2794–2, T–3386–2, T–3513–3, T–3527–3 and T–3530–2, between City of Milwaukee and Meehan Seaway Service, Ltd. (Meehan).

Filing Party: J. L. Haskell, Deputy Port Director, Port of Milwaukee, 500 N. Harbor Drive, Milwaukee, Wisconsin 53202.

Summary: Agreement No. T–2260–4 amends the basic agreement which provides for the lease of certain facilities known as General Cargo Terminal No. 3 located on the north side of Municipal South Pier 2. The purposes of the modification are to: (1) extend the agreement for a 3-year period ending December 31, 1983, in order to have a common expiration date with six other agreements between the parties; (2) formalize the assignment of the agreement to Meehan; (3) adjust the annual base rent; (4) adjust supplemental and storage rent as set forth in the terms of the agreement; and (5) amend provisions on billing and computation of wharfage charges.

Agreement No. T–2261–5 amends the basic agreement which provides for the lease of Municipal General Cargo Terminal No. 4, located at Municipal South Pier No. 2, which is used for the receiving, shipping, storing, and handling of all general commodities. The purposes of the modification are to: (1) extend the agreement for a 3-year period ending December 31, 1983, in order to have a common expiration date with six other agreements between the parties; (2) formalize the assignment of the agreement to Meehan; (3) adjust the annual base rent; (4) adjust supplemental and storage rent as set forth in the terms of the agreement; and (5) amend provisions on billing and computation of wharfage charges.

Agreement No. T–2794–2 amends the basic agreement which provides for the lease of General Cargo Terminal No. 2. The purposes of the modification are to: (1) extend the agreement for a 3-year period ending December 31, 1983, in order to have a common expiration date with six other agreements between the parties; (2) formalize the assignment of the agreement to Meehan; (3) adjust the annual base rent; (4) adjust supplemental and storage rent as set forth in the terms of the agreement; and (5) amend provisions on billing and computation of wharfage charges.

Agreement No. T–3386–2 amends the basic agreement which grants Meehan the exclusive right to perform stevedoring services at the Heavy Lift Dock. The purposes of the modification are to: (1) extend the agreement for a 3-year period ending December 31, 1983, in order to have a common expiration date with six other agreements between the parties; (2) formalize the assignment of the agreement to Meehan; (3) adjust the annual base rent; (4) adjust supplemental rent for cargo handled at the City's Heavy Lift Dock (other than containerized cargo) and provisions for payment; and (5) amend provisions on billing and computation of wharfage charges.

Agreement No. T–3513–3 amends the basic agreement which provides for the lease to Meehan of an open dock on the north side of South Pier No. 1. The purposes of the modification are to: (1) extend the agreement for a 3-year period ending December 31, 1983, in order to have a common expiration date with six other agreements between the parties; (2) formalize the assignment of the agreement to Meehan; (3) adjust the annual base rent; (4) adjust supplemental and storage rent as set forth in the terms of the agreement; and (5) amend provisions on billing and computation of wharfage charges.

Agreement No. T–3527–3 amends the basic agreement which provides for the lease of certain premises containing 3.623 acres on the South Harbor tract known as 829 East Jones Street, to be used for the receiving, shipping, storing, and handling of all general commodities. The purposes of the modification are to: (1) extend the agreement for a 3-year period ending December 31, 1983, in order to have a common expiration date with six other agreements between the parties; (2) formalize the assignment of the agreement to Meehan; (3) adjust the annual base rent; and (4) amend provisions on billing and computation of wharfage charges.

Agreement No. T–3530–2 amends the basic agreement which provides for the lease of certain premises consisting of four acres located at South Harbor Tract, to be used for the exclusive use of the cyclone fence, the storage of containers and the service of equipment and other purposes incidental to Meehan's operations. The purposes of the modificatin are to: (1) extend the agreement for a 3-year period ending December 31, 1983, in order to have a common expiration date with six other agreements between the parties; (2) formalize the assignment of the agreement to Meehan; (3) adjust the annual base rent; and (4) amend provisions on billing and computation of wharfage charges.

Dated: November 25, 1980.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 80-37449 Filed 12-1-80; 8:45 am]

BILLING CODE 6730-01-M

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before December 12, 1980. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

AGREEMENT NO.: T–1685–8.

FILING PARTY: Peter J. Nickles, Covington & Burling, 888 Sixteenth Street, N.W., Washington, D.C. 20006.

SUMMARY: Agreement No. T–1685–8 between the Municipality of Anchorage, Alaska (Anchorage) and Sea-Land Service, Inc., (Sea-Land) modifies the parties' basic agreement providing for the preferential use of berth space and the lease of a transit shed at Anchorage. The purpose of the modification is to amend Paragraph No. 2 of the basic agreement to provide that the term commencing February 1, 1975, and ending January 31, 1980, be extended, on the same terms and conditions, until December 31, 1980. The extension is in lieu of an extension previously obtained by Sea-Land through January 31, 1980. On or before December 31, 1980, Sea-Land may exercise an option to extend the agreement for a final 5-year term starting January 1, 1981, ending December 31, 1985. Paragraph No. 2 is further amended to provide that the total term of the Agreement, including original term and any extended term, shall not exceed 20 years and 11 months.

By Order of the Federal Maritime Commission.

Dated: November 26, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-37450 Filed 12-1-80; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 10320–4]

Availability of Energy Impact Statement

Pursuant to the Energy Policy and Conservation Act of 1975, 42 U.S.C. 6362, and the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, the Office of Environmental Analysis has assessed the possible Commission actions with regard to Agreement No. 10320–4 published at 45 FR 66873 (October 8, 1980) and has determined that Commission approval of the agreement should promote greater energy efficiency, greater energy conservation and fewer environmental impacts than Commission disapproval or modification.

This Energy Impact Statement will become final within 10 days and is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 80-37448 Filed 12-1-80; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 10402]

Availability of Finding of No Significant Impact

Upon completion of an environmental assessment, the Federal Maritime Commission's Office of Environmental Analysis has determined that the Commission's decision on the Agreement No. 10402 (45 FR 66874 [October 8, 1980]) will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 *et seq.* and that preparation of an environmental impact statement is not required.

This Finding of No Significant Impact (FONSI) will become final within 20 days unless a petition for review is filed pursuant to 46 CFR 547.6(b).

The FONSI and related environmental assessment are available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523–5725.

Francis C. Hurney,

Secretary.

[FR Doc. 80-37447 Filed 12-1-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1852]

Export Services Priorities, Inc.; Order of Revocation

On November 18, 1980, Export Services Priorities, Inc., P.O. Box 161223, Memphis, TN 38116, requested the Federal Maritime Commission to revoke its Independent Ocean Freight Forwarder License No. 1852.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 1852 issued to Export Services Priorities, Inc.,

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be and is hereby revoked effective November 18, 1980, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Export Services Priorities, Inc.

Daniel J. Connors,

Director, Bureau of Certification and Licensing.

[FR Doc. 37445 Filed 12-1-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2139]

Lasco Shipping Corp.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Lasco Shipping Corp., 55-07 39 Ave., Woodside, NY 11377, FMC No. 2139 was canceled effective October 30, 1980. Cancellation was extended by the surety to November 13, 1980.

By letters dated August 22, 1980 and November 5, 1980, Lasco Shipping Corp. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2139 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Lasco Shipping Corp. failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2139 be and is hereby revoked effective November 14, 1980.

It is ordered, that Independent Ocean Freight Forwarder License No. 2139 issued to Lasco Shipping Corp. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** served upon Lasco Shipping Corp.

Daniel J. Connors,

Director, Bureau of Certification and Licensing.

[FR Doc. 80-37446 Filed 12-1-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Alpha Banco, Inc.; Formation of Bank Holding Company

Alpha Banco, Inc., Alpha, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Farmers State Bank of Alpha, Alpha, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 23, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 26, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37368 Filed 12-1-80; 8:45 am]

BILLING CODE 6210-01-M

Anadarko Bancshares, Inc.; Formation of Bank Holding Company

Anadarko Bancshares, Inc., Anadarko, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Anadarko Bank & Trust Company, Anadarko, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 22, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 26, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37369 Filed 12-1-80; 8:45 am]

BILLING CODE 6210-01-M

Anchor Bancshares; Formation of Bank Holding Company

Anchor Bancshares, Alliance, Nebraska, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring 92 percent or more of the voting shares of The Anchor Bank, Merriman, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 24, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 26, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37370 Filed 12-1-80; 8:45 am]

BILLING CODE 6210-01-M

Marion Bancshares, Inc.; Formation of Bank Holding Company

Marion Bancshares, Inc., Jasper, Tennessee, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Marion Trust and Banking Company, Jasper, Tennessee. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 24, 1980. Any comment on an application

that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 26, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37371 Filed 12-1-80; 8:45 am]

BILLING CODE 6210-01-M

First Chicago Corp.; Order Approving Retention of Real Estate Research Corporation

First Chicago Corporation, Chicago, Illinois, a bank holding company within the meaning of the Bank Holding Company Act, has applied pursuant to section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the board's Regulation Y (12 CFR 225.4(b)(2)) for the board's approval to retain the shares of its subsidiary, real Estate Research Corporation ("RERC"), Chicago, Illinois.

Applicant acquired RERC in June 1970, and has been engaged since that time[1] in the following activities: (1) providing financial advice to State and local governments; (2) providing portfolio investment advice; (3) providing branch location, financial feasibility, and specialized market studies for nonaffiliated banks; (4) providing general economic information and advice, general economic statistical forecasting services, and industry studies; (5) advising State and local governments about methods available to finance real estate development projects; (6) evaluating projected income to determine for State and local governments whether debt resulting from proposed development projects can be adequately serviced; (7) performing appraisals of all types of real estate, other than single-family residences; (8) providing energy conservation advice with respect to the financial feasibility and market acceptance of various energy alternatives for real estate; (9) providing advice with respect to the financial and market feasibility and scope of real estate development projects; (10) providing advice as to the financial consequences of pursuing different real estate strategies; (11) providing advice as to the optimum use of a parcel of real estate; (12) providing advice as to the suitability of a particular location, or the optimum location, for a facility in terms of economic return, transportation, marketability or other factors; and (13) writing reports for governmental agencies evaluating specific development projects or recommending or evaluating development options for a community.

In its Order of June 26, 1980, the board determined that there is no reasonable basis for believing that activities (8) through (13) are closely related to banking. Accordingly, the board declined to publish notice of Applicant's proposal with respect to these activities. Notice of the application with respect to activities (1) through (6), and of a proposal to all activity (7) to the list of activities permissible for bank holding companies, was given in accordance with section 4 of the Act (45 FR 44963 (1980)). In the published notice, the Board stated its belief that the real estate advisory services proposed to be provided to State and local governments (activities (5) and (6) above) may already be authorized by § 225.4(a)(5)(v) of Regulation Y as "providing financial advice to State and local governments," nevertheless, it requested comments as to whether these activities should be permissible for bank holding companies. the time for filing comments has expired, and the Board has considered the application and all comments received in light of the considerations specified in section 4(c)(8) of the Act. None of the comments received objected to the application or to performance of the proposed activities by bank holding companies.

Applicant, the second largest banking organization in Illinois, controls one bank and a number of domestic nonbank subsidiaries with assests aggregating $28 billion.[2] Through its nonbank subsidiaries, Applicant engages in such activities as real estate financing and advisory services, leasing personal property, mortgage banking, and commercial financing. RERC provides its advisory services throughout the entire United States.

In order to authorize a bank holding company to engage in a nonbank activity pursuant to section 4(c)(8) of the Act, the board must first determine whether the activity is closely related to banking or managing or controlling banks. A federal circuit court has set forth guidelines for determining whether an activity is closely related to banking,[3] and the board has previously found these guidelines useful in determining whether a proposed new nonbanking activity is closely related to banking. Under these guidelines, an activity may be found to be closely related to banking if it is demonstrated (1) that banks generally have in fact provided the proposed services; or (2) that banks generally provide services that are operationally or functionally so similar to the proposed services as to equip them particularly well to provide the proposed services; or (3) that banks generally provide services that are so integrally related to the proposed service as to require their provision in a specialized form.

In the case of performing appraisals of real estate other than single-family residences, the record reflects that banks have performed appraisals of real estate either in connection with extensions of credit involving real estate lending or as a discrete activity. In addition, it appears that the activity of appraising real estate calls upon the necessary skills and resources often possessed by banking organizations. On the basis of the record, the Board has determined that the proposed appraisal activity is closely related to banking.[4]

The Board has also determined that the proposed real estate advisory services described in (5) and (6) above have already been found to be closely related to banking in § 225.4(a)(5)(v) of Regulation Y (12 CFR 225.4(a)(5)(v)), which provides that a bank holding company may engage in the nonbanking activity of "acting as investment adviser to the extent of . . . (v) providing financial advice to State and local governments, such as with respect to the issuance of their securities." Two examples of these activities cited by Applicant are (i) analyzing the financial feasibility of converting obsolete urban buildings to new uses, and (ii) examining the impact of a proposed freeway on land use, property values, tax receipts, and public expenditures.

The Board received comments noting that aspects of the services described in these examples may be within the scope of the activity of "management

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[1] Section 4 of the Act provides, *inter alia*, that nonbanking activities acquired between June 30, 1968, and December 31, 1970, by a company which became a bank holding company as a result of the 1970 Amendments may not be retained beyond December 31, 1980, without board approval.

[2] Data are as of June 30, 1980.

[3] *National Courier Association* v. *Board of Governors of the Federal Reserve System*, 516 F.2d 1229 (D.C. Cir. 1975) (hereinafter referred to as "*National Courier*"). These guidelines are cited, for example, in *NCNB Corporation* v. *Board of Governors of the Federal Reserve System*, 599 F.2d 609, 613 (4th Cir. 1979); *Association of Bank Travel Bureaus, Inc.* v. *Board of Governors of the Federal Reserve System*, 568 F.2d 549, 551 (7th Cir. 1978); *Alabama Association of Insurance Agents* v. *Board of Governors of the Federal Reserve System*, 533 F.2d 224, 241 (5th Cir. 1976), *rehearing denied* 558 F.2d 729 (1977), *cert. denied* 435 U.S. 904 (1978).

[4] In a separate action, the Board has amended its Regulation Y to add the performance of appraisals of real estate to the list of activities in which a bank holding company may engage.

consulting," as defined in footnote two to § 225.4(a)(5) of Regulation Y (12 CFR 225.4(a)(5)(n.2)).[5] The Board has previously found that it is not permissible for bank holding companies to offer management consulting services to nonaffiliated companies,[6] with the exception of banks. The Board's action does not authorize bank holding companies to engage in such management consulting activities; however, the Board is of the opinion that, in view of the relationship that has traditionally existed between banks and State and local governments, and the net public benefits that would result from provision of advice to these governments by bank holding companies, the Board would be more flexible in determining that particular services constitute "providing financial advice" rather than "management consulting" when the services are provided solely to State and local governments rather than other nonbank organizations.

In order to approve the subject application, the Board must also find that Applicant's performance of the activities through RERC "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competitive, conflicts of interests, or unsound banking practices."

The Board notes that since acquiring RERC in 1970, Applicant has reorganized RERC to provide better and more efficient service to its customers. Retention of RERC by Applicant is expected to preserve RERC as a viable competitor in real estate advisory activities. Retention is also expected to promote innovation in providing these advisory services. Moreover, RERC's continued affiliation with Applicant is likely to preserve RERC as a source of financial advice to State and local governments.

There is no evidence in the record that approval of this proposal would result in any adverse effects such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices. Accordingly, the Board finds that the balance of public interest factors it must consider under section 4(c)(8) of the Act is favorable and that the application should be approved with respect to activities (1) through (7).

Based on the record and for reasons summarized above, the application is approved, subject to provisions of the Board's Order of June 26, 1980, requiring RERC to cease engaging in activities (8) through (13) on or before December 31, 1980. This determination is subject to the considerations set forth in § 225.4(c) of the Board's Regulation Y and to the Board's authority to require reports by and make examinations of bank holding companies and their subsidiaries, and to require such modification or termination of the activities of a bank holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's Orders and regulations issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[7] effective November 26, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-37367 Filed 12-1-80; 8:45 am]

BILLING CODE 6210-01-M

[5] The definition of "management consulting" includes the provision of analysis or advice as to the following: marketing operations, such as market testing and development; planning operations, such as demand and cost projections, plant location, program planning and determination of long-term and short-term goals; internal operations, such as budgeting systems, budget control, and efficiency evaluation; and research operations, such as product development, basic research, and product design and innovations. 12 CFR 225.4(a)(5)(n.2).

[6] *First Commerce Corporation* (W. R. Smolkin & Associates, Inc.). 58 Federal Reserve Bulletin 674 (1972); *Marine Midland Banks, Inc.* (Carter H. Colombe Associates, Inc.). 58 Federal Reserve Bulletin 676 (1972).

[7] Voting for this action: Chairman Volcker and Governors Schultz, Wallich, Partee, Teeters, Rice and Gramley.

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules; ARA Services, Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: ARA Services, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all stock of National Child Care Centers, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: November 17, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-37406 Filed 12-1-80; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Frank Consolidated Enterprises

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Frank Consolidated Enterprises is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all stock of Leaf Confectionery, Inc. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: October 17, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-37408 Filed 12-1-80; 8:45 am]

BILLING CODE 6750-01-M

consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-37407 Filed 12-1-80; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Roy M. Huffington

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Roy M. Huffington is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all stock of Earth Resources Company. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: November 12, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202–523–3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons comtemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-37404 Filed 12-1-80; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Premerger Notifications Rules; Republic Airlines, Inc.

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Republic Airlines, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all stock of Hughes Airwest. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Summa. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Naomi Licker, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A (b) (2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-37402 Filed 12-1-80; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; J.F.K. Memorial Hospital

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: J.F.K. Memorial Hospital is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assets of INA Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: November 18, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons comtemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-37405 Filed 12-1-80; 8:45 am]

BILLING CODE 6750-01-M

Early Termination of the Waiting Period of the Premerger Notification Rules; Roxboro Investments (1976) Limited

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: Roxboro Investments (1976) Limited is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of all stock of Mayer Group, Inc. from Robert L. Mayer. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by Roxboro. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: October 24, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523–3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating

certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before

Name: Agenda Planning Subcommittee of the National Council on Health Planning and Development

Date and Time: Monday, December

the Federal grants awarded under the Program.

DATES: The table indicates the allotment

Dated: November 24, 1980.

John A. Calhoun,

Commissioner for Children, Youth and Families.

Dated: November 26, 1980.

Donald G. Donahoe,

in Room 605, 1000 N. Glebe Road, Arlington, Virginia.

business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654,

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certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-37405 Filed 12-1-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80F-0122]

CIBA-Geigy Corp.; Filing of Food Additive Petition; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; correction.

SUMMARY: In FR Doc. 80-13014 appearing at page 28496 in the Federal Register of Tuesday, April 29, 1980, the following correction is made in the second column: In the fourth line of the first paragraph under "SUMMARY" and in the fifth line from the end of the third paragraph under "SUPPLEMENTARY INFORMATION", the name "*N,N'*-hexamethylbis(3,5-di*-tert*-butyl-4-hydroxyhydrocinnamamide)" is corrected to read "*N,N'*-hexamethylenebis(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamamide)".

FOR FURTHER INFORMATION CONTACT: Agnes Black, Federal Register Writer (HFC-11), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

Dated: November 20, 1980.

Richard J. Roak,

Acting Director, Bureau of Foods.

[FR Doc. 80-37158 Filed 12-1-80; 8:45 am]

BILLING CODE 4110-03-M

Health Resources Administration

National Council on Health Planning and Development, Agenda Planning Subcommittee

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of December 1980:

Name: Agenda Planning Subcommittee of the National Council on Health Planning and Development

Date and Time: Monday, December 15, 1980; 10:00 a.m.-12:00 (N).

Place: Conference Room 529A, Hubert Humphrey Building 200 Independence Avenue, S.W., Washington, D.C. 20201.

Open for entire meeting.

Purpose: The objectives of the Agenda Planning Subcommittee are to (1) assist the Chairperson in planning the order and timing of agenda topics for full Council consideration and action to assure that the Secretary will receive advice and/or recommendations on each of its three areas of functional responsibilities under section 1503(a) in an appropriate time and manner; (2) coordinate information about and among subcommittee activities and plans; and (3) provide preliminary review of proposed changes in Council operations.

Agenda: The Subcommittee will plan the agenda for the February 5-6 meeting of the National Council on Health Planning and Development, and also its Work Plans for 1981.

Anyone requiring information regarding the subject Subcommittee should contact Mrs. S. Judy Silsbee, Executive Secretary, National Council on Health Planning and Development, Room 10-27, Center Building, 3700 East-West Highway, Hayattsville, Maryland, 20782. Telephone (301) 436-7175.

Agenda items are subject to change as priorities dictate.

Dated: November 26, 1980.

Irene D. Skinner,

Advisory Committee Management Officer.

[FR Doc. 80-37455 Filed 12-1-80; 8:45 am]

BILLING CODE 4110-83-M

Office of Human Development Services

Administration for Children, Youth and Families Children's Bureau; Allotment Percentages Child Welfare Services State Grants

AGENCY: Office of Human Development Services, DHHS.

ACTION: Bi-annual publication of allotment percentages for States under the Child Welfare Services State Grants Program.

PURPOSE: Section 421(c) of the Social Security Act (42 U.S.C. 621(c)) requires that the Secretary publish the allotment percentages for each State under the Child Welfare Services State Grant Program every two years. This percentage is used in the computation of the Federal grants awarded under the Program.

DATES: The table indicates the allotment percentages to be used for fiscal years 1982 and 1983.

FOR FURTHER INFORMATION CONTACT: Mrs. Ellen Fagins, Children's Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, D.C. 20013, 202-755-7418.

SUPPLEMENTARY INFORMATION: The allotment percentage for each State is determined on the basis of the inverse of per capita income in the State and the number of children (under the age of 21) compared to all States. The allotment percentage for each State is as follows:

State	Allotment percentage
Alabama	59.95
Alaska	32.15
Arizona	52.78
Arkansas	60.67
California	43.13
Colorado	48.51
Connecticut	42.66
Delaware	48.34
District of Columbia	39.16
Florida	51.65
Georgia	56.72
Guam	70.00
Hawaii	46.40
Idaho	56.16
Illinois	43.52
Indiana	50.97
Iowa	50.20
Kansas	48.63
Kentucky	57.80
Louisiana	57.08
Maine	59.61
Maryland	48.22
Massachusetts	49.21
Michigan	46.09
Minnesota	49.55
Mississippi	64.54
Missouri	53.09
Montana	56.12
Nebraska	51.78
Nevada	40.16
New Hampshire	52.52
New Jersey	44.99
New Mexico	57.31
New York	47.76
North Carolina	57.71
North Dakota	54.12
Northern Marianas	70.00
Ohio	50.09
Oklahoma	52.81
Oregon	48.80
Pennsylvania	51.00
Puerto Rico	70.00
Rhode Island	51.57
South Carolina	59.70
South Dakota	57.96
Tennessee	58.19
Texas	50.42
Utah	58.25
Vermont	58.23
Virgin Islands	70.00
Virginia	50.96
Washington	45.65
West Virginia	57.80
Wisconsin	51.70
Wyoming	44.58

Dated: November 24, 1980.

John A. Calhoun,

Commissioner for Children, Youth and Families.

Approved: November 26, 1980.

Cesar A. Perales,

Assistant Secretary for Human Development Services.

[FR Doc. 80-37426 Filed 12-1-80; 8:45 am]

BILLING CODE 4110-92-M

Office of the Secretary

Cancellation of the Secretary's Advisory Committee on the Rights and Responsibilities of Women; Meeting

This notice is to cancel the Secretary's Advisory Committee on the Rights and Responsibilities of Women meeting on Thursday, December 11, 1980, from 10:00 a.m. to 5:00 p.m., and on Friday, December 12, 1980, from 9:30 a.m. to 3:30 p.m. as listed in the November 19 Federal Register, page 76519. The Committee does not have a quorum to meet. It will be scheduled at a later date.

Dated: November 20, 1980.

Cheryl Yamamoto,

Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.

[FR Doc. 80-37349 Filed 12-1-80; 8:45 am]

BILLING CODE 4110-12-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On September 16, 1980 a notice was published in the Federal Register (45 FR No. 61373), that an application had been filed with the Fish and Wildlife Service by the National Fish and Wildlife Laboratory for a permit to take 20 West Indian manatees (*Trichechus manatus*), attach radio transmitters, collect blood samples and other data, and release for the purpose of scientific research.

Notice is hereby given that on November 4, 1980 as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 USC 1361-1407), the Fish and Wildlife Service issued a permit (PRT 2-6983), to the National Fish and Wildlife Laboratory subject to certain conditions set forth therein.

The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in Room 605, 1000 N. Glebe Road, Arlington, Virginia.

Dated: November 26, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 80-37428 Filed 12-1-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Robert Doggett, 168 Main Street, New York Mills, New York 13417; PRT 2-7360.

The applicant requests a permit to purchase one captive-bred siberian tiger (*Panthera tigris*) from the Terry-Loo Zoo, Scotch Plaines, New Jersey for enhancement of propagation or survival.

Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-7360. Interested persons may comment on this application before December 31, 1980 by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: November 26, 1980.

Donald G. Donahoo,

Chief, Permit Branch Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-37429 Filed 12-1-80; 8:45 am]

BILLING CODE 4310-55-M

Endangered Species Permit; Receipt of Application

Applicant: Alan R. Harmata, Montana State University, Bozeman, MT 59717.

The applicant requests a permit to take small skin samples from captured adult and nestling bald eagles (*Haliaeetus leucocephalus*) to aid in the development of an ageing technique for enhancement of survival and research purposes. Samples will be taken from the crural leg region, a well protected area less subject to muscle stress. The surgically induced wounds should heal in a matter of days.

Humane care and treatment has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-4164. Interested persons may comment on this application before December 31, 1980 by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: November 20, 1980.

Donald G. Donahoo,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 80-37430 Filed 12-1-80; 8:45 am]

BILLING CODE 4310-55-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before November 21, 1980. Pursuant to § 1202.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, D.C. 20243. Written comments should be submitted by December 17, 1980.

Carol Shull,

Acting Chief, Registration Branch.

CALIFORNIA

San Joaquin County

Lockeford, Locke's Meat Market, 13480 CA 88

FLORIDA

Collier County

Naples, *Palm Cottage*, 137 12th Ave., South

Escambia County

Pensacola, *Pensacola Hospital*, North Twelfth Ave.

Pensacola, *San Carlos Hotel*, 1 N. Palafox St.

Hillsborough County

Tampa, *Anderson-Frank House*, 341 Plant Ave.

Jefferson County

Monticello, *Denham-Lacy House*, 555 Palmer Mill Rd.

Lake County

Howey-in-the-Hills, *Howey House*, Citrus St.

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Santa Rosa County

Milton, *St. Mary's Episcopal Church and Rectory*, 300–301 Oak St.

Sarasota County

Sarasota, *Caples'-Ringlings' Estates Historic District*, Roughly bounded by Sarasota Bay, US 41, Parkview and N. Shore Dr.

GEORGIA

Fulton County

Atlanta, *Omega Chapter of the Chi Phi Fraternity*, 720 Fowler St., NW

Ware County

Waycross, *Phoenix Hotel*, 201–222 Pendleton St.

MAINE

PREHISTORIC SITES IN NORTH HAVEN THEMATIC RESOURCES. Reference—see individual listings under Knox County

Androscoggin County

Auburn, *Rook Block*, 144–170 Main St.

Cumberland County

Brunswick, *Paradise Spring*, Jordan Ave.
Portland, *Leighton, Adam P., House*, 261 Western Promenade

Kennebec County

East Vassalboro, *East Vassalboro Grist and Saw Mill*, ME 32
Winslow, *Shrewsbury Round Barn*, 109 Benton Ave.

Knox County

North Haven, *Bortz-Lewis Site (Prehistoric Sites in North Haven Thematic Resources)*
North Haven vicinity, *Annie Calderwood's Site (Prehistoric Sites in North Haven Thematic Resources)*
North Haven vicinity, *Bull Rock (Prehistoric Sites in North Haven Thematic Resources)*
North Haven vicinity, *Cabot I Site (Prehistoric Sites in North Haven Thematic Resources)*
North Haven vicinity, *Crocker Site (Prehistoric Sites in North Haven Thematic Resources)*
North Haven vicinity, *Joe Amesbury Place (Prehistoric Sites in North Haven Thematic Resources)*

Knox County

North Haven vicinity, *Mullen's Cove (Prehistoric Sites in North Haven Thematic Resources)*
North Haven vicinity, *The Turner Farm (Prehistoric Sites in North Haven Thematic Resources)*
North Haven vicinity, *Turner Farm II (Prehistoric Sites in North Haven Thematic Resources)*
Rockland, *Rockland Breakwater Lighthouse*, Rockland Harbor

Oxford County

Andover, *Andover Public Library*, Church St.

Somerset County

Norridgewock, *Norridgewock Free Public Library, Sophie May Lane*

Washinton County

Dennysville, *Denysville Historic District*, The Lane, Main and King Sts.
West Pembroke, *Best, Charles, House*, *County Rd.*

York County

Saco, *Jacobs Houses and Store*, 9—17 Elm St.

MARYLAND

Harford County

Fallston vicinity, *Rockdale*, N of Fallston at 1724 Carrs Mill Rd.

MASSACHUSETTS

Middlesex County

Cambridge, ***CAMBRIDGE MULTIPLE RESOURCE AREA***. This area includes: *Ash Street Historic District*, Ash St. and Ash Street Pl. between Brattle and Mount Auburn Sts.; *Avon Hill Historic District*, Washington and Walnut Aves., Agassiz, Humboldt, Arlington and Lancaster Sts.; *Berkeley Street Historic District*, Berkeley St.; *Bigelow Street Historic District*, Bigelow St.; *Cambridge Common Historic District*, Massachusetts Ave., Garden, Waterhouse, Cambridge, and Peabody Sts. (boundary decrease); *Cambridge Gateway Historic District*, Massachuessts Ave.; *City Hall Historic District*, Massachusetts Ave., Bigelow and Temple Sts., Inman and Richard Allen Dr.; *East Cambridge Historic District*, Roughly bounded by Cambridge, 1st., Hurley and 5th Sts.; *Fresh Pond Historic District*, Fresh Pond and environs; *Garfield Street Historic District*, Garfield St. between Massachusetts Ave. and Oxford St.; *Gold Coast Historic District*, Bow, Mount Auburn, Plympton and Linden Sts.; *Hubbard Park Historic District*, Hubbard Park, Mercer Circle and Sparks St.; *Harvard Houses Historic District*, Memorial Dr., Plymouth, De Wolf, Grant, Winthrop, Holyoke and Dunster Sts.; *Harvard Square Historic District*, Massachusetts Ave., Boylston and Brattle Sts.; *Harvard Street Historic District*, Harvard St. between Ellery and Hancock Sts.; *Hastings Square Historic District*, Roughly bounded by Acorn, Rockingham, Henry, Chestnut and Brookline Sts.; *Inman Square Historic District*, Hampshire, Cambridge and Inman Sts.; *Kirkland Place Historic District*, Kirkland Pl.; *Maple Avenue Historic District*, Maple Ave. between Marie Ave. and Broadway; *Norfolk Street Historic District*, Norfolk St. between Suffolk and Austin Sts.; *Old Cambridge Historic District*, Irregular pattern along Brattle St.; *Old Cambridgeport Historic District*, Cherry, Harvard and Washington Sts.; *Old Harvard Yard*, Broadway, Massachusetts Ave. and Cambridge St. (boundary increase); *Salem-Auburn Streets Historic District*, Salem and Auburn Sts.; *Winter Street Historic District*, Winter St.; *Winthrop Square Historic District*, Winthrop, Dunster, Boylston, Eliot, Mount Auburn and Holyoke Sts.; *Upper Magazine Street Historic District*, Magazine, Cottage, William and Perry Sts.;

MASSACHUSETTS—Con't

Aborn, John, House, 41 Orchard St.; *American Net and Twine Company Factory*, 15 2nd St.; *Athenaeum Press*, 215 1st St.; *Atwood, Ephiram, House*, 110 Hancock St.; *B and B Chemical Company*, 780 Memorial Dr.; *Baker House*, 362 Memorial Dr.; *Barnes, James B., House*, 200 Msgr. O'Brien Hwy.; *Beth Israel Synagogue*, 238 Columbia St.; *Billings, Frederick, House*, 45 Orchard St.; *Boston Woven Hose and Rubber Complex*, Hampshire and Protland Sts; *Bottle House Block*, 204–214 3rd St.; *Bradbury, William F., House*, 389 Harvard St.; *Brattle Hall*, 40 Brattle St.; *Brooks, Luther, house*, 34 Kirkland St.; *Building at 42 Edward J. Lopez Avenue; Building at 10 Follen Street; Building at 104–106 Hancock Street; Building at 259 Mount Auburn Street; Building at 16 Prescott Street; Buildings at 1707–1709 Cambridge Street; Buildings at 1715–1717 Cambridge Street; Buildings at 102–104 Inman Street; Buildings at 106–108 Inman Street; Buildings at 110–112 Inman Street; Buildings at 15–17 Lee Street; Bush-Reisinger Museum*, 25 Kirkland St.; *Cambridge Almshouse*, 45 Mitignon Ave.; *Cambridge Gas Light Company Purifying Plant*, 354 3rd St.; *Cambridge Public Library*, 449 Broadway St.; *Child, Francis J., House*, 67 Kirkland St.; *Church of the New Jerusalem*, 50 Quincy St.; *Cloverden*, 29 Follen St.; *Colburn, Sara Foster, House*, 7 Dana St.; *Cook, William, House*, 71 Appleton St.; *Coolidge, josiah, House*, 24 Coolidge Hill Rd.; *Conventual Church of St. Mary and St. John*, 980 Memorial Dr.; *Cummings, E.E., House*, 104 Irving St.; *Davenport Car Works*, 708 Main St.; *Day, Anna, House*, 139 Cushing St.; *Dean-Williams House*, 21–23 Fayette St.; *Dexter, D. Gilbert, House*, 1587 Massachusetts Ave.; *Divinity Hall*, Divinity Ave.; *Dodge, Edward, House*, 70 Sparks St.; *East Cambridge Savings Bank*, 292 Cambridge St.; *Eliot, Charles W., House*, 61 Kirkland St.; *Ellis, Asa, House*, 158 Auburn St.; *Fairfax, The*, 1300–1316 Massachusetts Ave.; *Farwell, R. H., House*, 2222–2224 Massachusetts Ave.; *Fay, Isaac, House*, 123 Antrim St.; *Flentje, Ernst, House*, 129 Magazine St.; *Francis, Ebenezer, House*, 1 Francis Ave.; *Fresh Pond Hotel*, 234 Lakeview Ave.; *Frost, David, House*, 26 Gray St.; *Frost, Elizabeth, Tenanthouse*, 35 Bowdoin St.; *Frost, Robert, House*, 29–35 Brewster St.; *Frost, Walter, House*, 10 Frost St.; *Greek Revival Cottage*, 59 Rice St.; *Greenleaf, James, House*, 76 Garden St.; *Hall Tavern*, 20 Grey Gardens West; *Harugari Hall*, 154 Spring St.; *Harvard Graduate Center*, 10–26 Everett St.; *Harvard Observatory*, 60 Garden St.; *Henderson Carriage Repository*, 2067–2069 Massachusetts Ave.; *Hews Pottery Company Carriage House*, 202 Richdale Ave.; *Higginson, Col. Thomas Wentworth, House*, 29 Buckingham St.; *Holmes, Joseph, House*, 144 Coolidge Hill St.; *Hooper-Eliot House*, 25 Reservoir St.; *Howe, Lois Lilly, House*, 6 Appleton St.; *Howells, William Dean, House*, 37 Concord Ave.; *Hoyt, Benjamin, House*, 134 Otis St.; *Hyatt-Durant House*, 19 Francis Ave.; *James, William, House*, *Jones, William R., House*,

307 Harvard St.; *Keen, Alden T., House*, 1581–1583 Massachusetts Ave.; *Kennedy, The*, 430–442 Massachusetts Ave; *Kidder-Sargent-McCrehan House*, 146 Rindge Ave. *Kingsley, Chester, House*, 10 Chester St.; Lamson, Rufus, House, 72–74 Hampshire St.; *Larches, The*, 22 Larch Rd.; *Lechmere Point Corporation Houses*, 45–49 Gore St.; *Lechmere Point Corporation Houses*, 25 Third St.; *Lovell Block*, 1853 Massachusetts Ave.; *Lovering, Joseph, House*, 38 Kirkland St.; *Lowell, The*, 33 Lexington Ave.; *Lowell School*, 25 Lowell St.; *McLean, Isaac, House*, 2218 Massachusetts Ave.; *Mason, Josiah, House*, 11 Market St.; *Mason, W. A., House*, 87 Raymond St.; *Mead, Alpheus, House*, 2200 Massachusetts Ave.; *Melvin, Isaac, House*, 19 Centre St.; *Mount Auburn Hospital Main Building and Surgical Building*, 330 Mount Auburn St.; *Newman, Andrew, House*, 23 Fairmont St.; *North Avenue Congressional Church*, 183 Massachusetts Ave.; *Noyes, J. A., House*, 1 Highland St., *Odd Fellows Hall*, 536 Massachusetts Ave.; *Old Cambridge Baptist Church*, 398 Harvard St.; *Opposition House*, 2–4 Hancock Pl.; *Orne, Sarah, House*, 10 Cambridge Hill Rd.; *Palfrey House*, 42 Oxford St.; *Porcellian Club*, 1320–1324 Massachusetts Ave.; *Presidents House*, 111 Memorial Dr.; *Prospect Congressional Church*, 99 Prospect St.; *Read, Cheney, House*, 135 Western Ave.; *Reardon, Edmund, House*, 195 Erie St.; *River Street Firehouse*, 176 River St.; *Sacred Heart Church, Rectory, School and Convent*, 6th and Thorndike Sts.; *St. James Episcopal Church*, 1991 Massachusetts Ave.; *St. John's Roman Catholic Church*, 2270 Massachusetts Ave.; *Sands, Ivory, House*, 145 Elm St.; *Saunders, Charles Hicks, House*, 1627 Massachusetts Ave.; *Saunders, William, House*, 6 Prentiss St.; *Second Cambridge Savings Bank Building*, 11–21 Dunster St.; *Second Waterhouse House*, 9 Follen St.; *Slowey, Patrick, House*, 73 Bolton St.; *Snow, Daniel, House*, 2210 Massachusetts Ave.; *Soule, Lawrence, House*, 11 Russell St.; *South Row*, 452–458 Massachusetts Ave.; *Stedman, Samuel, House*, 17 South St.; *Taylor Square Firehouse*, 113 Garden St.; *Tredwell-Sparks House*, 21 Kirkland St.; *Union Railway Car Barn*, 613–621 Cambridge St.; *University Museum*, Oxford and Divinity Ave.; *Urban Rowhouse*, 30–38 Pearl St.; *Urban Rowhouse*, 40–50 Pearl St.; *Urban Rowhouse*, 26–32 River St.; *Valentine Soap Workers Cottages*, 5–7 Cottage St.; *Valentine Soap Workers Cottages*, 101 Pearl St.; *Vinal, Albert, House*, 325 Harvard St.; *Walden Street Cattle Tunnel*, Walden St.; *Ware Hall*, 383 Harvard St.; *Watson, Abraham, House*, 181–183 Sherman St.; *Willis, Stillman, House*, 1 Potter Park; *Worcester, Frederick, House*, 1734 Massachusetts Ave.; *Wyeth, Augustus, House*, 59 Dunster St.; *Wyeth Brickyard Superintendents House*, 336 Rindge Ave.; *Wyeth, John, House*, 56 Aberdeen Ave.; *Wyeth-Smith House*, 152 Vassal Lane

NEVADA

Churchill County

Fallon vicinity, *Eastgate Ranch House*, E of Fallon on NV 2

NEW MEXICO

Bernalillo County

Albuquerque, *New Mexico-Arizona Wool Warehouse*, 520 1st St., NW
Albuquerque, *Shoup Boardinghouse*, 707 1st St., SW

San Juan County

Farmington Vicinity, *Jaquez Site Ruin*, SE of Farmington

NORTH CAROLINA

Pitt County

Greenville, *Long, William H., House*, 200 E. 4th St.

OKLAHOMA

Tulsa County

Tulsa, *Moore Manor*, 228 W. 17th Pl.

RHODE ISLAND

Providence County

Woonsocket, *L'Eglise du Precieux Sang*, 94 Carrington Ave. and 61 Park Ave.

TEXAS

Smith County

Tyler, *Bonner-Whitaker-MClendon House*, 806 W. Houston St.

UTAH

Beaver County

Beaver, *Beaver Opera House*, 55 E. Center St.

Salt Lake County

Salt Lake City, *Arbuckle, George, House*, 747 E. 17th South St.
Salt Lake City, *Baldwin, Charles, House*, 229 S. 1200 East St.

Summit County

Coalville, *Allen, Thomas L., House*, 98 N. Main St.

Utah County

Springville, *Hofen, John, House*, 956 S. Main St.

WISCONSIN

Lime Kilns of Waukesha County Thematic Resources. Reference—see individual listings under Waukesha County.

Brown County

Green Bay, *Kellogg Public Library and Neville Public Museum*, 125 S. Jefferson St.

Eau Claire County

Eau Claire, *Barnes Block*, 15–21 S. Barstow St.

Outagamie County

Hortonville, *Hortonville Community Hall*, 312 W. Main St.

Waukesha County

Genesee Depot vicinity, Johnston Kiln (Lime Kilns of Waukesha County Thematic Resources) E of Genesee Depot
Menomonee Falls, Mace Kilns (Lime Kilns of Waukesha County Thematic Resouces) Off WI 175
Sussex vicinity, *Sussex Kiln (Lime Kilns of Waukesha County Thematic Resources)* E of Sussex
Waukesha vicinity, *Hadfield Kilns (Lime Kilns of Waukesha County Thematic Resources)* N of Waukesha

Winnebago County

Oshkosh, *Chief Oshkosh Brewery*, 1610 Doty St.

[FR Doc. 80-37136 Filed 12-1-80; 8:45 am]

BILLING CODE 4310-03-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: November 25, 1980.

In our recent decisions, a 13-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 13.8-percent. We are authorizing that the 13-percent surcharge for this traffic remain in effect, and that all owner-operators are to receive compensation at this level.

No change is authorized in the 2.3-percent surcharge on less-than-truckload (LTL) traffic performed by carriers not utilizing owner operators, nor the 1.3-percent surcharge for United Parcel Service. However, the surcharge authorized for the bus carriers is increased to 5.1-percent.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commission or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered:

This decision shall become effective Friday 12:01 a.m. November 28, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Alexis absent and not participating.

Agatha L. Mergenovich,
Secretary.

Appendix.—*Fuel Surcharge*

Base date and price per gallon (including tax)	
Jan. 1, 1979	68.5¢

Appendix.—*Fuel Surcharge*—Continued

Date of current price measurement and price per gallon (including tax)

Nov. 24, 1980 ..... 114.6¢

	Transportation performed by—			
	Owner operator[1]	Other[2]	Bus carriers	UPS
	(1)	(2)	(3)	(4)
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	13.6	2.3	5.1	[3]2.1
Percent surcharge allowed	13.0	2.3	5.1	[4]1.3

[1] Apply to all truckload rated traffic.
[2] Including less-than-truckload traffic.
[3] The percentage surcharge developed for UPS is calculated by applying 81 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).
[4] The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 80-37419 Filed 12-1-80; 8:45 am]
BILLING CODE 7035-01-M

Long- and Short-Haul Applications for Relief (Formerly Fourth Section Applications)

November 26, 1980.

These applications for long- and short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before December 17, 1980.

No. 43874, Southwestern Freight Bureau, Agent (No. B-96), reduced rates on Oats, in covered hopper cars, carload, from Sioux City, IA and South Sioux City, NE on the CNW to stations in Arkansas, Louisiana, Oklahoma and State Line, KS, as published in Supplement 278 to tariff ICC SWFB 4024; Supplement 87 to tariff ICC SWFB 4027 and Supplement 4 to tariff ICC SWFB 4031–A. Grounds for relief—Market competition and rate relationships.

No. 43875, Southwestern Freight Bureau, Agent (No. B–98), reduced rates on Sand, industrial, carload, from Guion, Van Buren, AR, Crystal City, Ludwig, Pacific, MO, Mill Creek, Roff, OK, Kosse and Marquez, TX to stations in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, North Carolina, Ohio, South Carolina, Tennessee and Virginia as published in Supplement 123 to tariff ICC SWFB 4319, scheduled to become effective December 21, 1980.

No. 43876, Southwestern Freight Bureau, Agent, (No. B–104), reduced rates on Cereal Food preparations, as described in the application, from, to and between points in Colorado-Utah-Wyoming Committee, Illinois Rate Committee, Southwestern Freight Bureau, and Western Trunk Line Committee territories, as published in various supplements and tariffs shown in the application. Grounds for relief—Increased rates to cover cost of service.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-37423 Filed 12-1-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Finance Applications; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-No. 44), *Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. 11344 and 11349.* These rules provides among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.240(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.240(A)(h).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed on or before January 16, 1981 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Dated: November 20, 1980.

By the Commission, Review Board Number 5, Members Krock, Taylor and Williams. (Board Member Williams not participating).

MC-F-14499, filed November 3, 1980, TAGGART SERVICE LIMITED, U.S. Division (Taggart) (2 Wilson Street, West; Perth, Ontario, Canada K7H 2M6) Purchase—DE LUXE LINES, INC. (De Luxe) P.O. Box 4921, Syracuse, NY 13221), and in turn, Joseph A. Perkins, Jr., of Perth, Ontario, Canada, seeks to acquire control of such rights through the transaction. Transferee's attorneys: Herbert M. Canter, Esq. and Benjamin D. Levine, Esq., 305 Montgomery Street, Syracuse, NY 13202. Transferor's attorneys: Edward J. Spencer, Jr., Esq. and Clayton H. Hale, Jr., Esq., 600 Onondaga Savings Bank Building, Syracuse, NY 13202. Taggart is purchasing the operating rights of De Luxe evidenced by a Certificate of Registration in MC 96939 (Sub-2) which is supported by a Certificate of Public Convenience and Necessity issued by the New York Department of Transportation as No. 1975, as last reissued April 28, 1980 in Case T-6869. Said Certificate authorizes the transportation as a motor common carrier of *general commodities* with usual exceptions, over irregular routes, between points in Cayuga, Erie, Franklin, Genesee, Jefferson, Lewis, Madison, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, St. Lawrence, Seneca and Wayne Counties, NY. Taggart is authorized to operate as a motor common carrier pursuant to Certificates in MC 136910 and sub-numbers thereunder which authorize the transportation of *general commodities,* over irregular routes between various ports of entry on the United States-Canada boundary line in New York and various points in New York; *boats* between ports of entry on the United States-Canada boundary line in New York, Vermont and Michigan and all points in New York, New Hampshire, Vermont, Maine, Massachusetts and Michigan; *fertilizer* from ports of entry in New York on the United States-Canada boundary line to points in New York within 150 miles of Rooseveltown, NY and *paper and waste paper* between the port of entry located on the United States-Canada boundary line on the Cornwall-Massena International Bridge and Norfolk, NY. (Hearing site: Syracuse, NY or Washington, DC)

Notes.—(1) Application has been filed for Temporary Authority under 49 U.S.C. 11349.

(2) A directly related application seeking a conversion of the Certificate of Registration in MC 96939 (Sub-2) into a Certificate of Public Convenience and Necessity has been filed in MC 136910 (Sub-3F), published in this same **Federal Register** issue.

Decision-Notice

The following operating rights applications, filed on or after July 3, 1980, are filed in connection with pending finance applications under 49 U.S.C. 10926, 11343 or 11344. The applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). Special Rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Persons submitting protests to applications filed in connection with pending finance applications are requested to indicate across the front page of all documents and letters submitted that the involved proceeding is directly related to a finance application and the finance docket number should be provided. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. However, the Commission may have modified the application to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements as to the finance application *or* to the following operating rights applications directly related thereto filed on or before December 17, 1980 (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except where the application involves duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. On or before February 2, 1981 an applicant may file a verified statement in rebuttal to any statement in opposition.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice by effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Dated: November 20, 1980.

MC 136910 (Sub-3R), filed November 3, 1980. Applicant: TAGGART SERVICE LIMITED, U.S. DIVISION, 2 Wilson Street, West; Perth, Ontario, Canada K7H 2M6. Attorneys: Herbert M. Canter and Benjamin D. Levine, 305 Montgomery Street, Syracuse, NY 13202—Conversion of Certificate of Registration MC 96939 (Sub-2) into a Certificate of Public Convenience and Necessity authorizing the transportation as a common carrier by motor vehicle over irregular routes of *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities of unusual value, and those requiring special equipment), between points in Cayuga, Erie, Franklin, Genesee, Jefferson, Lewis, Madison, Monroe, Niagara, Oneida, Onondaga, Ontario, Orleans, Oswego, St. Lawrence, Seneca and Wayne Counties, NY. (Hearing site: Syracuse, NY or Washington, DC).

Note.—This proceeding is a matter directly related to a proceeding pursuant to 49 U.S.C. 11343 in MC–F–14499 published in this same **Federal Register** issue. The purpose for filing this application is to convert a Certificate of Registration to be acquired in that proceeding into a Certificate of Public Convenience and Necessity.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-37421 Filed 12-1-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that application is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant"s supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common

control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed

Volume No. OP1–066

Decided: November 25, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

in the U.S. (including AL, but excluding HI).

MC 127115 (Sub-20F), filed October 14, 1980. Applicant: MILLERS TRANSPORT,

ACTION: Application accepted for consideration.

SUMMARY: The Commission is accepting

applications. Since Shelton-Davis is in a similar situation as those prospective applications who sought and obtained advance waivers, we will permit

Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of

control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted,this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verfied statements filed on or before January 16, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. On or before February 2, 1981, an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Volume No. OP1–085

Decided: November 25, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 152651F, filed November 13, 1980. Applicant: JAMES W. JAMIESON, d.b.a. SON TRANSPORTATION MANAGEMENT CO., 1419 Cherry Lane, Crystal Lake, IL 60014. Representative: James W. Jamieson (same address as applicant). As a *broker*, at Crystal Lake, IL, in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 152721F, filed November 19, 1980. Applicant: J. E. BERNARD & CO., INC., 1111 Nicholas Blvd., Elk Grove Village, IL 60007. Representative: Mark Barg (same address as applicant). As a *broker*, at Elk Grove Village, IL, in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

Volume No. OP1–086

Decided: November 25, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 135731 (Sub-3F), filed November 12, 1980. Applicant: M & S MAIL DELIVERY & MESSENGER SERVICE, INC., 512 Mamaroneck Ave., White Plains, NY 10605. Representative: Arthur J. Pikens, 95–25 Queens Blvd., Rego Park, NY 11374. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 144190 (Sub-14F), filed November 7, 1980. Applicant: STORY, INC., P.O. Box 187, Henagar, AL 35978. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 152660F, filed November 10, 1980. Applicant: EXPEDITED COURIER, INC., R.R. 1, Box 223B, Greenwood, IN 46142. Representative: Richard A. Huser, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *shipments weighing 100 pounds or less,* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP3–083

Decided: November 19, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman. Member Eaton not participating.

MC 139955 (Sub-2F), filed November 7, 1980. Applicant: RELIANCE SECURITY SERVICE, INC., 412 Lafayette Bldg., 5th and Chestnut Sts., Philadelphia, PA 19106. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *shipments weighing 100 pounds or less,* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Volume No. OP3–086

Decided: November 20, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 28905 (Sub-9F), filed November 10, 1980. Applicant: RISBERG'S TRUCK LINE, 2339 S.E. Grant Ave., Portland, OR 97215. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the U.S. Government, between points in the U.S. (including AL, but excluding HI).

MC 127115 (Sub-20F), filed October 14, 1980. Applicant: MILLERS TRANSPORT, INC., 510 West 4th North, Hyrum, UT 84319. Representative: Bruce W. Shand, 430 Judge Bldg., Salt lake City, UT 84111. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

MC 152635F, filed November 13, 1980. Applicant: COURIER EXPRESS, INC., 1533 N. Echo Park Ave., Los Angeles, CA 90026. Representative: Fred H. Mackensen, 2029 Century Park East, Suite 4150, Los Angeles, CA 90067. Transporting *shipments* weighing 100 lbs, or less if tranported in a motor vehicle in which no one package exceeds 100 lbs., between points in the U.S.

MC 152654F, filed November 11, 1980. Applicant: LaVERNE CALEF, d.b.a., CALEF TRUCKING, 2915 Sagebrush, Lawrence, KS 66044. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. Transporting *food and other edible products (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, agricultural limestone and other soil conditioners, and agricultural fertilizers,* if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S.

MC 127115 (Sub-20F), filed October 14, 1980. Applicant: MILLERS TRANSPORT, INC., 510 West 4th North, Hyrum, UT 84319. Representative: Bruce W. Shand, 430 Judge Bldg., Salt Lake City, UT 84111. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-37422 Filed 12-1-80; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29478]

Shelton-Davis Transportation Co.—Purchase (Portion)—Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) in Oklahoma

AGENCY: Interstate Commerce Commission.

ACTION: Application accepted for consideration.

SUMMARY: The Commission is accepting for consideration the application of Shelton-Davis Transportation Co. to purchase certain properties of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee), located in Oklahoma. The Commission is also setting a schedule for the application to be completed and for the filing of pleadings.

DATES: (1) By December 2, 1980 the application shall be completed. In addition, all applications to acquire the same lines sought in this application must be filed by this date.

(2) By December 22, 1980 verified statements supporting or opposing the proposal must be filed.

(3) By January 6, 1980 verified statements in reply must be filed.

ADDRESSES: An original and 10 copies of all statements should be sent to: Section of Finance, Room 5414, Interstate Commerce Commission, Washington, D.C. 20423, Attention: RITEA acquisitions.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7026.

SUPPLEMENTRY INFORMATION: Shelton-Davis Transportation Co. (Shelton-Davis) filed an application on September 15, 1980, supplemented on October 29, 1980, under section 17(b) of the Milwaukee Railroad Restructuring Act, Pub. L. No. 96–101, 93 Stat. 736 (1979), and section 112 of the Rock Island Railroad Transition and Employee Assistance Act Pub. L. No. 96–254 (1980) (RITEA), for authority to purchase approximately 134 miles of the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) (Rock Island) in Oklahoma. The application will be handled under the rules adopted in Ex Parte No. 282 (Sub-No. 4), *Acquisition Procedures for Lines of Railroads,* 360 I.C.C. 623 (1980), 45 *FR* 6107 (January 25, 1980).

Shelton-Davis seeks to purchase a segment of the Rock Island between Ponca City and North Enid, OK (55 miles) and between Anadarko and Mangum, OK (79 miles).

We have reviewed the application and found it to be in substantial compliance with the information required in our regulations. The contract for sale and the court order approving the agreement (Section 1111.21(a)(3) (ii) and (iii) were not available at the time the application was filed. Advance temporary waivers for similar information were approved in other applications. Since Shelton-Davis is in a similar situation as those prospective applications who sought and obtained advance waivers, we will permit Shelton-Davis until December 2, 1980 to file the required information.

A copy of all comments and requests for copies of the application should be addressed to: Thomas A. Lawson, 2757 Eastern SE., Suite 200, Grand Rapids, MI 49507.

It is ordered: 1. The application in Finance Docket No. 29478 is accepted for consideration.

2. The parties shall comply with all provisions stated above.

3. This decision shall be effective on the date of service.

Dated: November 24, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-37420 Filed 12-1-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier—Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier duel operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed on or before January 16, 1981 (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. On or before February 2, 1981, an applicant may file a certified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1–083

Decided: November 25, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones. Member Joyce not participating in part.

MC 531 (Sub-454F), filed November 11, 1980. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). Transporting: *petroleum and petroleum products,* from points in Caddo Parish, LA, to points in AL, FL, GA, OK, MS, and TX.

MC 531 (Sub-455F), filed November 12, 1980. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). Transporting: *chemicals,* between points in San Patricio County, TX, on the one hand, and, on the other, points in AL, AR, CO, FL, GA, IL, KS, KY, LA, MS, MO, NE, NM, OK, and TN.

MC 730 (Sub-518F), filed November 12, 1980. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, 25 North Via Monte, Walnut Creek, CA 94598. Representative: Alfred G. Krebs (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving points in San Juan

County, NM as off-route points in connection with carrier's otherwise authorized regular route operations.

MC 1990 (Sub-4F), filed November 12, 1980. Applicant: GENEVA, HENRY, HOUSTON, MOBILE, MONTGOMERY, AND PIKE COUNTIES, AL, AND ESCAMBIA AND SANTA ROSA COUNTIES, FL, 1990 Eastern Ave., Geneva, AL 36340. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 2990 (Sub-4F), filed November 12, 1980. Applicant: GENEVA, HENRY, HOUSTON, MOBILE, MONTGOMERY, AND PIKE COUNTIES, AL, AND ESCAMBIA AND SANTA ROSA COUNTIES, FL, as off-route points, in connection with routes (1) to (10) above.

Note.—Upon issuance of a certificate in this proceeding, the certificate in MC 33641 Sub 96 will be cancelled.

MC 47171 (Sub-169F) filed November 6, 1980. Applicant: COOPER MOTOR

Interstate Hwy 94 to Chicago, and return over the same route, (9) between Logansport, IN, and Milwaukee, WI, from Logansport over U.S. Hwy 24 to junction U.S. Hwy 41, then over U.S.

Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in

Galesburg, IL as an intermediate point, (7) between Peoria and Rushville, IL, over U.S. Hwy 24, serving no intermediate points, (8) between Springfield and Rushville, IL, from

County, NM as off-route points in connection with carrier's otherwise authorized regular route operations.

MC 1990 (Sub-4F), filed November 12, 1980. Applicant: BOSTON & WOONSOCKET EXPRESS CO., INC., d.b.a. B & W EXPRESS, P.O. Box 89, 1117 River St., Woonsocket, RI 02895. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in CT, on the one hand, and, on the other, points in MA and RI.

MC 6031 (Sub-61F), filed November 12, 1980. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 East National Ave., Milwaukee, WI 53204. Representative: Richard C. Alexander, 710 North Plankinton Ave., Milwaukee, WI 53203. Transporting *metal articles*, between points in the U.S., under continuing contract(s) with Joseph T. Ryerson & Son, Inc., of Milwaukee, WI.

MC 11220 (Sub-226F), filed November 17, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosive, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Birmingham, AL, and Columbus, GA, over U.S. Hwy 280, (2) between Birmingham and Mobile, AL, (a) over U.S. Hwy 31, and (b) over Interstate Hwy 65, (3) between Selma, AL, and Columbus, GA, over U.S. Hwy 80, (4) between Monroeville and Dothan, AL, from Monroeville over AL Hwy 21 to junction U.S. Hwy 84, then over U.S. Hwy 84 to Dothan, and return over the same route, (5) between Greenville and Abbeville, AL, over AL Hwy 10, (6) between Montgomery and Eufaula, AL, over U.S. Hwy 82, (7) between Eufaula and Dothan, AL, over U.S. Hwy 431, (8) between Montgomery and Dothan, AL, over U.S. Hwy 231, (9) between Calera and Clanton, AL, from Calera over AL Hwy 25 to junction AL Hwy 139, then over AL Hwy 139 to Maplesville, AL, then over AL Hwy 22 to Clanton, and return over the same route, (10) between Flomaton and Mobile, from Flomaton over U.S. Hwy 29 to Pensacola, FL, then over U.S. Hwy 90 (also Interstate Hwy 10) to Mobile, and return over the same route, serving all intermediate points and serving those in Baldwin, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Mobile, Montgomery, and Pike Counties, AL, and Escambia and Santa Rosa Counties, FL, as off-route points, in connection with routes (1) to (10) above.

Note.—Applicant intends to tack the rights sought to its existing authority.

MC 29910 (Sub-302F), filed November 6, 1980. Applicant: ABF FREIGHT SYSTEMS, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber, P.O. Box 48, Fort Smith, AR 72902. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Ponca City, OK as an off-route point in connection with carrier's otherwise authorized regular-route operations at Tulsa, OK.

MC 29910 (Sub-304F), filed November 12, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber, P.O. Box 48, Fort Smith, AR 72901. Transporting *chemicals and lubricating oils* (except in bulk), between Huntsville, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 29910 (Sub-305F), filed November 12, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). Transporting (1) *electrical transformers*, and *parts* for electrical transformers, and (1) *materials and supplies* used in the manufacture of the commodities in (1) above, between Hickory, NC, and Shreveport, LA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 29910 (Sub-306F), filed November 5, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber, P.O. Box 48, Fort Smith, AR 72902. Transporting *foodstuffs*, and *materials, equipment* and *supplies* used in the manufacture and distribution of foodstuffs between points in Cowley and Sedgwick Counties, KS, on the one hand, and, on the other, points in the U.S.

MC 33641 (Sub-153F), filed October 31, 1980. Applicant: IML FREIGHT, INC., P.O. Box 30277, Salt Lake City, UT 84130. Representative: Eldon E. Bresee (same address as applicant). Transporting (1) *general commodities* (except classes A and B explosives and household goods as defined by the Commission) in containers or trailers, and (2) *empty containers or trailers*, between points in the U.S.

Note.—Upon issuance of a certificate in this proceeding, the certificate in MC 33641 Sub 98 will be cancelled.

MC 47171 (Sub-169F) filed November 6, 1980. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting (1) *containers and container closures*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX, restricted to traffic originating at or destined to the facilities used by Crown Cork & Seal Co., Inc., its divisions and subsidiaries.

MC 52460 (Sub-293F) filed November 12, 1980. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th St., Tulsa, OK 74107. Representative: Don E. Kruizinga (same address as applicant). Transporting *containers and container accessories*, between points in AL, AR, CA, CO, FL, GA, IL, IN, IA, KS, LA, MS, MO, NE, NM, NC, OK, SC, TN, TX, WI, and WV.

MC 67111 (Sub-24F) filed October 31, 1980. Applicant: KAIN'S MOTOR SERVICE CORPORATION, West End of Bates St., Logansport, IN 46947. Representative: Frank M. Cook, 616 Circle Tower Bldg., Indianapolis, IN 46204. Over regular routes, transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), (1) between Danville, IL, and Cincinnati, OH, over Interstate Hwy 74, (2) between Muncie, IN, and Dayton, OH, over U.S. Hwy 35, (3) between Gary, IN, and Lexington, KY, from Gary over Interstate Hwy 65 to junction Interstate Hwy 64, then over Interstate Hwy 64 to Lexington, and return over the same route, (4) between Lexington, KY, and Plymouth, IN, from Lexington, over Interstate Hwy 75 to Lima, OH, then over OH Hwy 309 to junction U.S. Hwy 30, then over U.S. Hwy 30 to Plymouth, IN, and return over the same route, (5) between Logansport, IN, and Columbus, OH, from Logansport over IN Hwy 29 to junction U.S. Hwy 421, then over U.S. Hwy 421 to Indianapolis, IN, then over U.S. Hwy 40 or Interstate Hwy 70 to Columbus, and return over the same route, (6) between Louisville, KY, and junction U.S. Hwys 40 and 42, at or near Jefferson, OH, over U.S. Hwy 42, (7) between Louisville, KY, and Columbus, OH, over Interstate Hwy 71, (8) between Columbus, OH, and Chicago, IL, from Columbus over U.S. Hwy 33 to South Bend, IN, then over IN Hwy 2 to junction U.S. Hwy 20, then over U.S. Hwy 20 to junction Interstate Hwy 94, then over Interstate Hwy 94 to Chicago, and return over the same route, (9) between Logansport, IN, and Milwaukee, WI, from Logansport over U.S. Hwy 24 to junction U.S. Hwy 41, then over U.S. Hwy 41 or Interstate Hwy 94 to Milwaukee, and return over the same route, (10) between junction U.S. Hwy 41 and Interstate Hwy 294, at or near Munster, IL, and junction Interstate Hwys 294 and 94, at or near Northbrook, IL, over Interstate Hwy 294, (11) between Valparaiso, IN, and Janesville, WI, (a) from Valparaiso over U.S. Hwy 30 to junction U.S. Hwy 51, then over U.S. Hwy 51 to Janesville, and return over the same route, and (b) from Valparaiso over IN Hwy 49 to junction Interstate Hwy 90, then over Interstate Hwy 90 to Janesville, and return over the same route, serving all intermediate points and points in Boone, DeKalb, Kane, Kendall, Lee, McHenry, Ogel, Vermillion, and Winnebago Counties, IL; points in IN (except those in Crawford, Davies, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Orange, Perry, Pike, Posey, Spencer, Sullivan, Vanderburgh, and Warrick Counties); points in Anderson, Boone, Bourbon, Bullitt, Campbell, Carroll, Clark, Fayette, Franklin, Gallatin, Grant, Hardin, Harrison, Henry, Jefferson, Jessamine, Kenton, Madison, Mercer, Oldham, Owen, Pendleton, Scott, Shelby, Spencer, Trimble, and Woodford Counties, KY; points in Allen, Auglaize, Brown, Butler, Champaign, Clark, Clermont, Clinton, Darke, Delaware, Fayette, Franklin, Greene, Hamilton, Hardin, Highland, Licking, Logan, Madison, Marion, Mercer, Miami, Montgomery, Paulding, Pickaway, Preble, Shelby, Union, VanWert, and Warren, Counties, OH; and points in Kenosha, Milwaukee, Ozaukee, Racine, Rock, Walworth, Washington, and Waukesha Counties, WI as off-route points in connection with routes (1)–(11) above.

MC 70151 (Sub-63F) filed November 12, 1980. Applicant: UNITED TRUCKING SERVICE, INC., 8505 West Warren Ave., Dearborn, MI 48126. Representative: LaVergne L. Adsit (same address as applicant). Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), serving points in Marion County, IL, as off-route points in connection with applicant's otherwise authorized regular-route operations.

MC 85621 (Sub-11F), filed November 3, 1980. Applicant: VANN EXPRESS, INC., 620 Line Street, Attalla, AL 35954. Representative: R. Kent Henslee, 754 Chestnut Street, Gadsden, AL 35901. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Chattanooga, TN, and Birmingham, AL, (a) from Chattanooga over Interstate Hwy 24, to junction U.S. Hwy 72, then over U.S. Hwy 72 to junction AL Hwy 79, and then over AL Hwy 79 to Birmingham, and return over the same route, and (b) from Chattanooga over U.S. Hwy 11 to junction Interstate Hwy 59, thence over Interstate Hwy 59 to Birmingham, and return over the same route, (2) between Trenton, GA, and Birmingham, AL, from Trenton over GA Hwy 143 to the GA-AL state line, then over AL Hwy 75 to Birmingham, and return over the same route, and (3) between Guntersville and Gadsden, AL, over U.S. Hwy 431, serving in connection with routes (1) to (3) above, all intermediate points and those within ten (10) miles of the above described routes and Centre and Piedmont, AL, as off-route points.

Note.—Applicant intends to tack the rights sought to its existing authority.

MC 99680 (Sub-11F), filed October 28, 1980. Applicant: NORTH SHORE & CENTRAL ILLINOIS FREIGHT CO., a corporation, 7701 W. 95th St., Hickory Hills, IL 60457. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Jacksonville, IL, and Dubuque, IA, from Jacksonville, over U.S. Hwy 67 to junction U.S. Hwy 52, then over U.S. Hwy 52 to Dubuque, and return over the same route, serving all intermediate points and the off-route point of Rushville, IL, (2) between junction U.S. Hwys 136 and 67 at or near Macomb, IL, and Dubuque, IA, from junction U.S. Hwys 136 and 67, over U.S. Hwy 136 to junction U.S. Hwy 61, then over U.S. Hwy 61 to Dubuque, and return over the same route, serving all inntermediate points, (3) between East Dubuque, IL, and Dubuque, IA, over U.S. Hwy 20, serving no intermediate points, (4) between Fulton, IL, and Clinton, IA, over U.S. Hwy 30, serving no intermediate points, (5) between Monmouth, IL, and Burlington, IA, over U.S. Hwy 34, serving no intermediate points, (6) between Peoria and Monmouth, IL, from Peoria over Interstate Hwy 74 to junction U.S. Hwy 34, then over U.S. Hwy 34 to Monmouth, and return over the same route, serving Galesburg, IL as an intermediate point, (7) between Peoria and Rushville, IL, over U.S. Hwy 24, serving no intermediate points, (8) between Springfield and Rushville, IL, from Springfield over IL Hwy 125 junction U.S. Hwy 67, then over U.S. Hwy 67 to junction U.S. Hwy 24, then over U.S. Hwy 24 to Rushville, and return over the same route, serving no intermediate points.

Note.—Applicant intends to tack the above requested authority with its existing regular-route operations.

MC 103051 (Sub-487F), filed November 3, 1980. Applicant: FLEET TRANSPORT COMPANY, INC., 934–44th Avenue, North, Nashville, TN 37209. Representative: Russell E. Stone, P.O. Box 90408, Nashville, TN 37209. Transporting *petroleum and petroleum products*, in bulk, from points in Mobile County, AL, on the one hand, and, on the other, points in FL and MS.

MC 104430 (Sub-61F), filed November 12, 1980. Applicant: CAPITAL TRANSPORT COMPANY, INC., P.O. Box 408, McComb, MS 39648. Representative: Robert L. McArty, P.O. Box 22628, Jackson, MS 39205. Transporting *petroleum and petroleum products*, in bulk, between points in Jackson County, MS, on the one hand, and, on the other, points in LA.

MC 107841 (Sub-5F), filed November 12, 1980. Applicant: CONTAINERFREIGHT TRANSPORTATION COMPANY, a corporation, 2300 E. Sepulveda Blvd., Wilmington, CA 90744. Representative: Robert Fuller, 13215 E. Penn St., Ste. 310, Whittier, CA 90602. Transporting (1) *general commodities* (except classes A and B explosives), between points in CA, and (2) *general commodities* (except classes A and B explosives), between points in the U.S. restricted to traffic having a prior or subsequent movememt by water or rail.

Note.—The purpose of this application is to convert applicant's Certificate of Registration in No. MC-107841 Sub-No. 3 to a certificate of public convenience and necessity in part (1) and to indicate applicant's request for an extension of authority in part (2).

MC 108341 (Sub-194F), filed November 12, 1980. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Jack F. Counts (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with McLeod Trucking & Rigging Co., Inc., of Charlotte, NC.

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MC 106361 (Sub-1F), filed November 11, 1980. Applicant: J. M. BLASSBERG CORPORATION, 15 Mechanic St., Shelburne Falls, MA 01370. Representative: Gregory M. Olchowski, 488 Main St., Greenfield, MA 01302. Transporting *general commodities* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with The Kendall Company, of Boston, MA.

MC 111231 (Sub-325F), filed November 13, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: James H. Berry (same address as applicant). Over regular routes, transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), (1) between Atlanta, GA, and Chicago, IL, from Atlanta over Interstate Hwy 75 to Chattanooga, TN, then over Interstate Hwy 24 to Nashville, TN, then over Interstate Hwy 65 to Chicago, and return over the same route, (2) between Mobile, AL, and Nashville, TN, over Interstate Hwy 65, (3) between Atlanta, GA, and Dallas, TX, over Interstate Hwy 20, (4) between Mobile, AL, and San Antonio, TX, from Mobile over Interstate Hwy 10 to junction Interstate Hwy 12, then over Interstate Hwy 12 to junction Interstate Hwy 10, then over Interstate Hwy 10 to San Antonio, and return over the same route, (5) between San Antonio, TX, and Denver, CO, from San Antonio over Interstate Hwy 35 to junction Interstate Hwy 135, then over Interstate Hwy 135 to junction Interstate Hwy 70, then over Interstate Hwy 70 to Denver, and return over the same route, (6) between Denver, CO, and Chicago, IL, from Denver over Interstate Hwy 76 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Chicago, and return over the same route, (7) between Amarillo, TX, and Nashville, TN, over Interstate Hwy 40, (8) between Salina, KS, and Indianapolis, IN, over Interstate Hwy 70, (9) between Chicago, IL, and Slidell, LA, from Chicago over Interstate Hwy 55 to junction Interstate Hwy 10, then over Interstate Hwy 10 to Slidell, and return over the same route, (10) between St. Louis, MO, and Louisville, KY, over Interstate Hwy 64, (11) between Omaha, NE, and Houston, TX, from Omaha over Interstate Hwy 29 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction U.S. Hwy 59, then over U.S. Hwy 59 to Houston, and return over the same route, (12) between Oklahoma City, OK, and St. Louis, MO, over Interstate Hwy 44, (13) between Dallas, TX, and St. Louis, MO, (a) over U.S. Hwy 67, and (b) from Dallas over Interstate Hwy 30 to Little Rock, AR, then over U.S. Hwy 67 to St. Louis, and return over the same route, (14) between Denver, CO, and Dallas, TX, from Denver over U.S. Hwy 287 to junction Interstate Hwy 20, then over Interstate Hwy 20 to Dallas, and return over the same route, (15) between Dallas and Houston, TX, over Interstate Hwy 45, (16) between Texarkana, TX, and Montgomery, AL, over U.S. Hwy 82, (17) between Atlanta, GA, and Montgomery, AL, over Interstate Hwy 85, (18) between San Antonio and Amarillo, TX, over U.S. Hwy 87, (19) between Des Moines, IA, and Kansas City, MO, over Interstate Hwy 35, (20) between Kansas City, MO, and Wichita, KS, over Interstate Hwy 35, (21) between Chicago, IL, and Memphis, TN, from Chicago over Interstate Hwy 57 to junction U.S. Hwy 51, then over U.S. Hwy 51 to Memphis, and return over the same route, (22) between Little Rock, AR, and Baton Rouge, LA, from Little Rock over U.S. Hwy 65 to junction U.S. Hwy 61, then over U.S. Hwy 61 to Baton Rouge, and return over the same route, serving all intermediate points and serving those in AL, AR, CO, GA, IL, IN, KS, KY, LA, MO, MS, NE, OK, TN, and TX as off-route points in connection with routes (1) to (22) above.

Note.—Applicant intends to tack the rights sought to its existing regular-route authority.

MC 111231 (Sub-326F), filed November 18, 1980. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave., Fort Smith, AR 72902. Transporting *industrial tape, and pipe coverings and coatings*, (execpt commodities in bulk), from the facilities of The Kendall Company, at or near Franklin, KY, to those points in the U.S. in and west of WI, IL, MO, AR, and MS (except AK and HI).

MC 114241 (Sub-10F), filed November 13, 1980. Applicant: C.T. HERTZSCH, INC., Speed, IN 47172. Representative: Louis B. Hartlage, P.O. Box 35750, Louisville, KY 40232. Transporting *fly ash and botton ash*, between points in the U.S., under continuing contract(s) with Monier Resources, Inc., of San Antonio, TX.

MC 114421 (Sub-2F), filed November 12, 1980. Applicant: ZAVOTA BROS., TRANS. CO., INC., 500-502 Valley St., Providence, RI 02908. Representative: Wesley S. Chused, 15 Court Square, Boston, MA 02108. Transporting *commodities* the transportation of which, because of size or weight, require the use of special equipment (1) between points in RI, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, VT, VA, WV, and DC, and (2) between Stonington and Hampden, CT, on the one hand, and, on the other, Paterson, NJ, New York, NY, Baltimore, MD, York and Reading, PA, Strasburg, VA, and DC.

MC 114840 (Sub-15F), filed November 13, 1980. Applicant: EBY BROTHERS, INC., P.O. Box 9342, Boise, ID 83707. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Transporting *building materials*, between points in OR, ID, CA, MT, NV, UT, and WA.

MC 115841 (Sub-776F), filed November 12, 1980. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., McBride Lane, P.O. Box 22168, Knoxville, TN 37922. Representative: Richard L. Hollow (same address as applicant). Transporting *such commodities* as are dealt in by electrical manufacturers, contractors and distributors (1) between Pittsburgh, PA, on the one hand, and, on the other, Boston, MA, Carteret, NJ, Cincinnati, OH, Athens, TN, Dallas and Houston, TX, Denver, CO, Cerritos and Oakland, CA, Seattle, WA, Atlanta, GA, Broadview, IL, Goshen, IN, New Hyde Park, NY, Piqua, OH, and Sparrow Point, MD, (2) between Athens, TN, on the one hand, and, on the other, Boston, MA, Carteret, NJ, Cincinnati, OH, Dallas and Houston, TX, Denver, CO, Cerritos and Oakland, CA, Seattle, WA, Atlanta, GA, Broadview, IL, Goshen, IN, New Hyde Park, NY, Piqua, OH, Sparrow Point, MD, Johnstown, Landisville and Blossburg, PA, and (3) between Goshen, IN and Oakland, CA.

MC 124111 (Sub-66F), filed November 12, 1980. Applicant: OHIO EASTERN EXPRESS, INC., 300 W. Perkins Ave., Sandusky, OH 44870. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Transporting (1)(a) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and (b) *foodstuffs* (except those embraced in (1)(a) above, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, Division of Swift & Company, of Chicago, IL.

MC 124821 (Sub-109F), filed November 12, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. Transporting (1) *metal and metal articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in PA, on the one hand, and, on the other, points in the U.S.

MC 127820 (Sub-16F), filed November 18, 1980. Applicant: TRANS-SERVICE, INC., 1943 S. Lawn Ext., Coshocton, OH 43812. Representative: James Duvall, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. Transporting (1) *laminated plastic sheets, tubes and rods* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with General Electric Company of Schenectady, NY.

MC 128521 (Sub-12F), filed November 12, 1980. Applicant: BIRMINGHAM-NASHVILLE EXPRESS, INC., 715 Poplar Ave., Nashville, TN 37210. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW., Washington, D.C. 20004. Transporting *general commodities* (except classes A & B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Western Electric Co., Inc., of Atlanta, GA.

MC 129600 (Sub-36F (M1F)), filed November 5, 1980. Petitioner: POPLAR TRANSPORT, INC., 176 King St., Hanover, MA 02339. Representative: A. C. Gardner (same address as petitioner). Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), between points in the U.S. under continuing contract(s) with Caribou Fisheries, Inc., of Gloucester, MA, Boston Bonnie, Inc., and Colonial Provision Co., Inc., both of Boston, MA, Central Soya Company, Inc., of Fort Wayne, IN, J. H. Filbert, Inc., of Baltimore, MD, H. P. Hood, Inc., of Charlestown, MA, Iowa Beef Processors, Inc., of Dakota City, NE, Nabisco Confections, Inc., a subsidiary of Nabisco, Inc., of East Hanover, NJ, and Deran Confectionery, a division of Borden, Inc., Howard Johnson Company, and The Schrafft Candy Company, a subsidiary of Gulf & Western Industries, Inc., all of New York, NY. The purpose of this petition is to add Colonial Provision Co., Inc., of Boston, MA, as a contracting shipper.

Note.—Petitioner's authority in MC-129600 Sub 36 has been issued an effective notice served October 6, 1980, on the grant of authority published in the FR of August 13, 1980, however, the permit is pending issuance.

MC 133541 (Sub-12F), filed November 12, 1980. Applicant: McKIBBEAN MOTOR SERVICE, INC., P.O. Box 15830, Cincinnati, OH 45215. Representative: James Duvall, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. Transporting (1) *automobile parts*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of automobiles and automobile parts, between points in the U.S., under continuing contract(s) with Ford Motor Company, of Dearborn, MI.

MC 133590 (Sub-27F), filed November 17, 1980. Applicant: WESTERN CARRIERS, INC., P.O. Box 925, Worcester, MA 01613. Representative: David M. Marshall, 101 State St.—Suite 304, Springfield, MA 01103. Transporting *alcoholic beverages, malt beverages, wines, and drink mixes* (except in bulk), between points in CT, MA, MD, NJ, and NY, on the one hand, and, on the other, points in the U.S.

MC 134201 (Sub-17F), filed November 18, 1980. Applicant: JIM PALMER TRUCKING, INC., 9730 Derby Dr., Missoula, MT 59801. Representative: John T. Wirth, 717-17th St., Ste. 2600, Denver, CO 80202. Transporting *such commodities* as are used in the manufacture and assembly of motor vehicles, between points in the U.S., under continuing contract(s) with Peterbilt Motors Company, of Newark, CA.

MC 135691 (Sub-48F), filed November 12, 1980. Applicant: DALLAS CARRIERS CORP., P.O. Box 38528, Dallas, TX 75238. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. Transporting (1) *buffing, polishing and cleaning compounds, solvents, starch, bleach, lubricating oil, carbon, gum and sludge removing compounds*, (2) *disinfectants, softeners, sizing, and janitorial supplies and equipment*, (3) *insecticides and pesticides*, (4) *plastic sprayers and plastic sprayer parts, and* (5) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) through (4) above, between points in the U.S., under continuing contract(s) with Texize, Division of Morton-Norwich, of Greenville, S.C. Condition: Issuance of a permit in this proceeding is subject to prior or coincidental cancellation, at applicants written request, of its permits in MC 135691 Subs 23F, 33F and 37F.

MC 136500 (Sub-15F), filed November 10, 1980. Applicant: SERVICE EQUIPMENT & TRUCKING, INC., P.O. Box 162, Mattoon, IL 61932. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. Transporting *printed matter*, and *materials and supplies* used in the manufacture and distribution of printed matter, between points in the U.S., under continuing contract(s) with R.R. Donnelly & Sons Company, of Mattoon, IL.

MC 143031 (Sub-16F), filed November 12, 1980. Applicant: MURPHY & SONS TRUCKING COMPANY, INC., Route 2, Box 139, Spring City, TN 37381. Representative: H. Stan Guthrie, Suite 500, Dome Bldg., 736 Georgia Ave., Chattanooga, TN 37402. Transporting (1) *furniture and furniture parts*, and (2) *materials and supplies* used in the manufacture and distribution of furniture and furniture parts, between points in the U.S., under continuing contract(s) with La-Z-Boy Chair Company, of Monroe, MI.

MC 144780 (Sub-4F), filed November 12, 1980. Applicant: PAUL EVANS & SONS TRUCKING, INC., P.O. Box 185, Wilmington, OH 45177. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 45212. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, automobiles, trucks, and buses), between points in the U.S., restricted to traffic originating at or destined to the facilities used by International Paper Co.

MC 145230 (Sub-4F), filed November 6, 1980. Applicant: H & S TRUCKING, INC., P.O. Box 127, Wesson, MS 39191. Representative: Fred W. Johnson, Jr., P.O. Box 22807, Jackson, MS 39205. Transporting (1) *prefabricated steel buildings*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Ruffin PreFab Co., Inc., of Oak Grove, LA.

MC 145441 (Sub-123F), filed November 6, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as applicant). Transporting *building materials*, from points in TX to points in the U.S.

MC 146290 (Sub-6F), filed November 5, 1980. Applicant: DON THREDE d.b.a. DON THREDE TRUCKING COMPANY, 1777 Arnold Industrial Hwy., Concord, CA 94520. Representative: Eldon M. Johnson, 650 California St., Suite 2808, San Francisco, CA 94108. Transporting (1) *steel buildings and parts for steel buildings*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Butler Manufacturing Company of Visalia, CA.

MC 146891 (Sub-5F), filed November 5, 1980. Applicant: SILICA SAND TRANSPORT, INC., Box 208, Routes 47 & 71, Yorkville, IL 60560. Representative: Gables, FL 33134. Representative: Charles R. Stiller (same address as applicant). Transporting (1) *motor vehicle parts, materials, and supplies*, (b) Lowe's Companies, Inc., of N. Wilkesboro, NC, and (c) Universal-Rundle Corporation, of New Castle, PA.

MC 151760 (Sub-1F), filed October 14,

maintenance and dismantling of pipe lines, including the stringing and picking up thereof, between points in AL, AR, FL, LA, MS, OK and TX.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 74321 (Sub-158F), filed November 14, 1980. Applicant: B. F. WALKER, INC., Drive, Nashville, TN 37210. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Transporting

MC 146991 (Sub-5F), filed November 5, 1980. Applicant: SILICA SAND TRANSPORT, INC., Box 208, Routes 47 & 71, Yorkville, IL 60560. Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601. Transporting *sand,* and *materials and supplies* used in the mining and distribution of sand, between Festus, MO, Bridgman, MI, Michigan City, IN, Oregon, IL, Portage, WI, and Clayton, IA, on the one hand, and, on the other, points in the U.S.

MC 146991 (Sub-6F), filed November 12, 1980. Applicant: SILICA SAND TRANSPORT, INC., Box 208, Routes 47 and 71, Yorkville, IL 60560. Representative: Albert A. Andrin, 180 North LaSalle St., Chicago, IL 60601. Transporting *industrial sand,* between points in St. Charles, Franklin, and St. Louis Counties, MO, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 147511 (Sub-2F), filed November 12, 1980. Applicant: DELMER RAY IPOCK, d.b.a. EAST CAROLINA CARTAGE CO., P.O. Box 1245, Kingston, NC 28501. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. Transporting (1) *synthetic fiber waste,* and (2) *cores and tubes,* between points in NC and SC.

MC 148751 (Sub-9F), filed November 6, 1980. Applicant: LINCOLN FREIGHT LINES, INC., P.O. Box 427, Lapel, IN 46051. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. Transporting (1) *paper and paper articles,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between points in MO, on the one hand, and, on the other, points in IN, KY, MI, MO, and OH.

MC 148751 (Sub-10F), filed November 13, 1980. Applicant: LINCOLN FREIGHT LINES, INC., P.O. Box 427, Lapel, IN 46051. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S. Condition: Issuance of a certificate in this proceeding is conditioned upon coincidental cancellation, at applicant's written request, of its certificates in No. MC–148751 Sub Nos. 1F, 3F, and 5F, and its conversion application in No. MC–148751 Sub No. 6F.

MC 148780 (Sub-3F), filed November 17, 1980. Applicant: ENGINEERED TRANSPORT SERVICES, INC., 3001 Ponce de Leon Blvd., Suite 201, Coral Gables, FL 33134. Representative: Charles R. Stiller (same address as applicant). Transporting (1) *motor vehicle parts, materials, and supplies,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with General Motors Corporation, General Motors Parts Division, of Flint, MI.

MC 150440 (Sub-3F), filed November 12, 1980. Applicant: UNIVERSAL EXPRESS, LTD., 3820 University, West Des Moines, IA 50265. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting (1) *laundry and kitchen appliances,* (2) *parts* for laundry and kitchen appliances, and (3) *materials* used in the manufacture of the commodities in (1) and (2) above (except commodities in bulk, in tank vehicles), (a) between Fairfield and Hampton, IA, on the one hand, and, on the other, points in DE, IN, KS, KY, MD, MI, MO, NJ, NC, OH, OK, PA, SC, TX, VA, WV, and DC, and (b) between Newton, Fairfield, and Hampton, IA, on the one hand, and, on the other, points in AL, AR, VT, CO, CT, FL, GA, IL, MA, ME, MS, LA, NE, NH, NY, RI, TN, and WI.

MC 150440 (Sub-4F), filed November 14, 1980. Applicant: UNIVERSAL EXPRESS, LTD., 3820 University, West Des Moines, IA 50265. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *paper and fiberboard tubes and containers,* and *metal ends,* from New Berlin, WI, to Des Moines, IA.

MC 151401 (Sub-1F), filed November 19, 1980. Applicant: TRANSPORT RESOURCES, INC., 906 Shiloh Rd., West Chester, PA 19380. Representative: Daniel B. Johnson, 4304 East-West Highway, Washington, DC 20014. Transporting *such commodities* as are dealt in by retail, department, and discount stores, between points in NJ, those in PA in and east of York, Dauphin, Schuylkill, Carbon, Monroe, and Pike Counties, PA, those in MD in and north of Kent, Anne Arundel, and Baltimore Counties, MD, and those in Kent and New Castle Counties, DE.

MC 151431 (Sub-1F), filed November 19, 1980. Applicant: HAROLD MEADE FACTORY AGENT, INC., P.O. Box 239, Russellville, TN 37860. Representative: Carl W. Eilers, 111 East Market St., Kingsport, TN 37660. Transporting *general commodities* (except household goods as defined by the Commission, commodities in bulk, and classes A and B explosives), between points in the U.S., under continuing contract(s) with (a) Triangle Pacific Corp., of Dallas, TX, (b) Lowe's Companies, Inc., of N. Wilkesboro, NC, and (c) Universal-Rundle Corporation, of New Castle, PA.

MC 151760 (Sub-1F), filed October 14, 1980. Applicant: EDWARD T. WENDLER, d.b.a. WENDLER HAULING CO., P.O. Box 257, Rainier, WA 98576. Representative: Edward T. Wendler (same address as applicant). Transporting *poles and pilings,* from points in Thurston and Pierce Counties, WA, to Tacoma and Seattle, WA.

MC 152151 (Sub-1F), filed November 11, 1980. Applicant: UNITED PETROLEUM TRANSPORTS, INC., 4312 South Georgia Place, Oklahoma City, OK 73129. Representative: C. L. Phillips, Room 248, Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. Transporting: *petroleum, petroleum products, and chemicals,* between points in AR, AZ, CO, KS, LA, MO, NM, OK, TX, and WY.

MC 152171 (Sub-1F), filed November 19, 1980. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *tile* and *materials, equipment, and supplies* used in the manufacture, installation and distribution of tile, between points in the U.S., under continuing contract(s) with Kentile Floors, Inc., of New York, NY.

MC 152490 (Sub-1F), filed November 10, 1980. Applicant: SABINE TRUCKING, INC., 322 Freeman St., Mineola, TX 75773. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. Transporting *such commodities* as are dealt in or used by grocery and food business houses, between points in the U.S., under continuing contract(s) with Benahm & Co., Inc. and Phoenix Industries, Inc., both of Mineola, TX, Consolidated Mills, Inc., of Houston, TX, Texas Citrus Exchange, of Mission, TX, and Telsun Corporation, of Weslaco, TX.

MC 152630F, filed November 12, 1980. Applicant: KAY LEASE SERVICE, INC., P.O. Box EE, Natchez, MS 39120. Representative: John A. Crawford, 17th Floor Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting (1) *machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) *machinery, materials, equipment and supplies* used in, or in connection with the construction, operation, repair, servicing,

maintenance and dismantling of pipe lines, including the stringing and picking up thereof, between points in AL, AR, FL, LA, MS, OK and TX.

Volume No. OP1–084

Decided: November 25, 1980.

By the Commission, Review Board Number 2. Members Chandler, Eaton and Liberman.

MC 8310 (Sub-14F), filed November 13, 1980. Applicant: JEFF'S TRUCKING, INC., 208½ Main Street, Waupun, WI 53963. Representative: Allan B. Torhorst, 217 East Jefferson Street, P.O. Box 190, Burlington, WI 53105. Transporting *foodstuffs,* and *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, between the facilities used by Geo. A. Hormel & Co., at Beloit, WI, on the one hand, and, on the other, points in the upper peninsula of MI.

MC 29910 (Sub-303F), filed November 10, 1980. Applicant: ABF FREIGHT SYSTEM, INC., 301 South Eleventh St., Fort Smith, AR 72901. Representative: Joseph K. Reber (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Russellville, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 33641 (Sub-154F), filed November 12, 1980. Applicant: IML Freight, Inc., P.O. Box 30277, Salt Lake City, UT 84130. Representative: Eldon E. Bresee (same address as applicant). Over *regular routes,* transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), (1) Between Denver, CO and Minneapolis, MN, from Denver over US Hwy. 6 to junction interstate Hwy. 76, then over Interstate Hwy. 76 to junction Interstate Hwy 80, then over Interstate Hwy. 80 to junction Interstate Hwy. 35, then over Interstate Hwy. 35 to Minneapolis, MN and return over the same route, serving no intermediate points and serving junction US Hwy. 6 and Interstate Hwy. 80, and junction US Hwy. 6 and Interstate Hwy. 35, and junction Interstate Hwy. 35 and Interstate Hwy. 35–E for purpose of joinder only, (2) Between junction Interstate Hwy. 35 and Interstate Hwy.35–E and St. Paul, MN, over Interstate Hwy 35–E, serving no intermediate points, and (3) serving points in Arapahoe, Boulder, Denver, Jefferson Counties, CO, Hennepin and Ramsey Counties, MN, as off-route points in connection with routes (1) and (2) above.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

–MC 74321 (Sub-158F), filed November 14, 1980. Applicant: B. F. WALKER, INC., 1555 Tremont Place, P.O. Box 17–B, Denver, CO 80217. Representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele St., Denver, CO 80209. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in AZ, CA, CO, ID, KS, LA, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA and WY.

MC 97251 (Sub-15F), filed November 20, 1980. Applicant: TURNER TRUCKING COMPANY, INC., 1215 W. Main St., Lebanon, IN 46052. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *materials, equipment, and supplies* used in the manufacture and distribution of printing ink, from points in IL, KY, and OH, to the facilities of Sun Chemical Corporation, General Printing Ink Division, at Frankfort, IN.

MC 108531 (Sub-22F), filed November 14, 1980. Applicant: BLUE BIRD COACH LINES, INC., 502–504 N. Barry St., Olean, NY 14760. Representative: Gregory B. Fraser, Bankers Trust Bldg., 4th Fl., Jamestown, NY 14701. Transporting *passengers and their baggage,* in charter operations, between Atlanta, GA, Denver, CO, and New York, NY, on the one hand, and, on the other, points in the U.S. (including AK, but excluding HI.)

MC 113041 (Sub-15F), filed November 12, 1980. Applicant: AC-BERWICK TRANSPORTERS, INC., 155 Smith St., Keasbey, NJ 08832. Representative: Michael R. Werner, 167 Fairfield Rd., P.O. Box 1409, Fairfield, NJ 07006. Transporting *general commodities* (except classes A and B explosives), between points in the U.S., under continuing contract(s) with Koppers Company, Inc., of Pittsburgh, PA.

MC 124221 (Sub-70F), filed November 12, 1980. Applicant: HOWARD BAER, P.O. Box 27, Morton, IL 61550. Representative: Robert W. Loser, 1101 Chamber of Commerce Bldg., 320 N. Meridian St., Indianapolis, IN 46204. Transporting *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk), between points in AL, AR, DC, DE, FL, GA, IA, IL, IN, KS, KY, LA, MD, MI, MO, MN, MS, NC, ND, NE, NJ, NY, OH, OK, PA, SC, SD, TN, TX, VA, WI and WV.

MC 128720 (Sub-9F), filed November 20, 1980. Applicant: MERCHANTS FREIGHT LINES, INC., 1185 Omohundro Drive, Nashville, TN 37210. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Transporting *stoves and electrical applicances,* between Chattanooga, TN, on the one hand, and, on the other points in FL, OH, TX, IL, AR, SC, KY, NC, IN, and AL.

MC 135760 (Sub-20F), filed October 15, 1980, and previously noticed in **Federal Register** issue of October 28, 1980. Applicant: COAST REFRIGERATED TRUCKING CO., INC., P.O. Box 188, Holly Ridge, NC 28445. Representative: Herbert Alan Dubin, 818 Connecticut Ave. NW., Washington, DC 20006. Transporting *meats, meat products and meat byproducts, articles distributed by meat-packing houses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers,* as described in sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, between points in the U.S., under continuing contract(s) with (1) Frederick & Herrud, Inc., of Southfield, MI, (2) Herrud Smoked Meats, Inc., and Crown Packing Company, both of Detroit, MI, and (3) Carolina Meat Processors, of Holly Ridge, NC.

Note.—The purpose of this republication is to show the contracting shippers in (2) and (3) above.

MC 136221 (Sub-12F), filed November 13, 1980. Applicant: H. L. STANSELL, INC., 1221 U.S. Alternate Highway 19, Palm Harbor, FL 33563. Representative: David C. Venable, Suite 805, 666 Eleventh St. NW., Washington, DC 20001. Transporting (1) *furniture and fixtures,* and (2) *materials* used in the manufacture of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Atlantic Metal Industries, Inc., of Tampa, FL.

MC 143701 (Sub-28F), filed November 11, 1980. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 20247, Kansas City, MO 64079. Representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, KS 67202. Transporting (1) *foodstuffs,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, between the facilities of Anderson Clayton Foods, at (a) Fresno, CA, (b) Jacksonville, IL, (c) Sherman, TX, (d) Humboldt, TN, and (e) Mayville, WI, on the one hand, and, on the other, points in the U.S.

MC 144961 (Sub-2F), filed November 19, 1980. Applicant: REED TRANSPORTATION, a corporation, 2290 West Renvana, Mills, WY 82644. Representative: Edward A. O'Donnell,

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1004 29th St., Sioux City, IA 51104. Transporting *general commodities* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), between points in AZ, CA, CO, IS, KS, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA, and WY.

MC 145701 (Sub-14F), filed November 17, 1980. Applicant: D. C. TRANSPORT, INC., 916 S. Riverside Ave., St. Clair, MI 48079. Representative: James J. Sheehan (same address as applicant). Transporting (1) *wire, wire products, clay articles, rubber articles, plastic articles, chemicals, silicones, spools, and electrical assemblies* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., restricted to traffic originating at or destined to the facilities of Prestolite Wire Division, Allied Chemical Corporation.

MC 150211 (Sub-6F), filed November 19, 1980. Applicant: ASAP EXPRESS, INC., P.O. Box 3250, Jackson, TN 38301. Representative: Jerry Ross (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Weber Costello Company, at or near Jackson, TN, on the one hand, and, on the other, points in AL and GA.

Volume No. OP2–099

Decided: November 17, 1980.

By the Commission, Review Board Number 1, members Carleton, Joyce and Jones.

MC 98542 (Sub-10F), filed November 3, 1980. Applicant: COLLINS & SIMMONS, INC., P.O. Box 134, Wolcott, NY 14590. Representative: Raymond A. Richards, 35 Curtice Pk., Webster, NY 14580. Transporting (1) *such commodities* as are dealt in by grocery stores, and (2) *materials, equipment and supplies* used in the manufacture, sale and distribution of the commodities in (1) above, between points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, PA, RI, VT, VA, and DC.

MC 111812 (Sub-742F), filed November 3, 1980. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57117. Representative: R. H. Jinks (same address as applicant). Transporting *non-exempt food or kindred products*, as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in the U.S.

MC 145773 (Sub-6F), filed October 31, 1980. Applicant: KIRK BROS. TRANSPORTATION, INC., 800 Vandemark Rd., Sidney, OH 45365. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *Garage doors, garage door openers*, and (2) *materials, equipment, and supplies* used in the manufacture, installation and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Clopay Corp. of Russia, OH.

MC 146162 (Sub-6F), filed November 3, 1980. Applicant: TRANSPORT EQUIPMENT CORP., 240 112th Street, Hammond, IN 46320. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. Transporting (1) *metal articles*, (2) *building materials and building supplies*, (3) *such commodities as are used in mining and energy exploration and production*, and (4) *materials, equipment and supplies* used in the manufacture, and distribution of the commodities in (1), (2) and (3) above, between Chicago, IL, on the one hand, and, on the other, points in AR, AL, AZ, CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, OH, OK, PA, TN, TX, UT, WV, WI and WY.

MC 146282 (Sub-2F), filed November 3, 1980. Applicant: BILL HEAD TRUCKING, INC., P.O. Box 9632, Birmingham, AL 35215. Representative: John R. Frawley, Jr., 5506 Crestwood Blvd., Birmingham, AL 35222. Transporting *food or kindred products*, as described in Item 20 of the Standard Transportation Commodity Code Tariff, between the facilities of Bruno's, Inc., at or near Birmingham, AL, on the one hand, and, on the other, points in the U.S.

MC 148822 (Sub-6F), filed November 4, 1980. Applicant: SUPER TRUCKERS, INC., 3900 Commerce Ave., Fairfield, AL 35064. Representative: Gerald D. Colvin, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. Transporting (1) *primary metal products*, as described in Item 33 of the Standard Transportation Commodity Code Tariff, (2) *fabricated metal products*, as described in Item 34 of the Standard Transportation Commodity Code Tariff, (3) *machinery*, as described in Item 35 of the Standard Transportation Commodity Code Tariff, (4) *plastic pipe and plastic pipe fittings*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) thru (4) above, between points in the U.S., under continuing contract(s) with Consolidated Pipe & Supply Co., Inc., of Birmingham, AL.

MC 149553 (Sub-1F), filed November 7, 1980. Applicant: VALLEY TRANSPORTATION SERVICE, INC., P.O. Box 1527, Mission, TX 78572. Representative: Kenneth R. Hoffman, P.O. Box 2165, Austin, TX 78768. Transporting *food or kindred products*, as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in Lucas and Sandusky Counties, OH, Allegheny County, PA, Muscatine County, IA, Johnson County, IA, and Ottawa County, MI, on the one hand, and, on the other, points in TX.

MC 151283 (Sub-1F), filed October 21, 1980. Applicant: MOBY DICK, INC., 815 Max Avenue, Lansing, MI 48915. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), in trailers having an immediately prior or subsequent movement by rail, between Chicago, IL, on the one hand, and, on the other, Lansing and Grand Rapids, MI. Common Control: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 151403 (Sub-1F), filed October 31, 1980. Applicant: WM. L. AMMANN, 49 Cardinal Lane, Highland, IL 62249. Representative: Wm. L. Ammann (same as applicant). Transporting (1) *non-exempt food or kindred products*, as described in Item 20 of the Standard Transportation Commodity Code Tariff (2) *pulp, paper, or allied products*, as described in Item 26 of the Standard Transportation Commodity Code Tariff (3) *printed matter*, as described in Item 27 of the Standard Transportation Commodity Code Tariff (4) *chemicals or allied products*, as described in Item 28 of the Standard Transportation Commodity Code Tariff (5) *rubber or miscellaneous plastic products*, as described in Item 30 of the Standard Transportation Commodity Code Tariff (except commodities in bulk, in tank vehicles), between points in the U.S., under continuing contract(s) with Sunmark Companies (Inc), of St. Louis, MO, Hollywood Candy Co., of Centralia, IL, Switzer Candy Co., Division of Beatrice Foods Corporation, of St. Louis, MO, and Nashua-LaGrou Distribution Service, of Chicago, IL.

MC 151703 (Sub-2F), filed October 30, 1980. Applicant: NORSUB, INC., R.D. #1, Box 317, Evans City, PA 16033. Representative: John A. Pillar Esq., 1500 Bank Tower, 307 Fourth Avenue, Pittsburg, PA 15222. Transporting (1) *iron and steel articles* (2) *materials, machinery and supplies* used in the manufacture and distribution of commodities in (1) above (3) *metals, alloys and ores* (4) *refractories* (5) *chemicals* and (6) *lumber*, between Chicago, IL, Los Angeles, CA, points in Mahoning and Trumbull Counties, OH, and those in PA on and west of U.S. Hwy 219, on the one hand, and, on the other, points in the U.S.

Volume No. OP3–073

Decided: November 10, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman. Member Liberman not participating.

MC 15975 (Sub-38F), filed October 27, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). Transporting (1) *cleaning compounds, washing compounds, soap, soap products, textile softener, margarine, syrup, vegetable oils, toilet preparations, and mouthwashes*, and (2) *materials, supplies and equipment* used in the manufacture and distribution of the commodities in (1) above, between points in te U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Lever Brothers Company.

MC 30844 (Sub-70F), filed October 21, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. Transporting *food or kindred products*, as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in Mecklenburg County, NC, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, UT and AZ, restricted to traffic originating at or destined to the facilities of H. J. Heinz Co.

MC 52665 (Sub-1F), filed October 28, 1980. Applicant: GEM CITY TRANSFER LINE, INC., 1811 North 30th St., P.O. Box 1207, Quincy, IL 62301. Representative: Douglas G. Brown, The INB Center—Suite 555, One North Old State Capitol Plaza, Springfield, IL 62701. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk, in tank vehicles), between points in the U.S., under continuing contract(s) with Donaldson Company, Inc., of Minneapolis, MN.

MC 58885 (Sub-36F), filed October 23, 1980. Applicant: ATLANTA MOTOR LINES, INC., P.O. Box 345, Conley, GA 30027. Representative: Paul P. Watkins (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission and Classes A and B explosives) (1) between Andersonville, GA and Albany, GA, from Andersonville over GA Hwy 49 to Americus, GA, then over U.S. Hwy 19 to Albany, and return over the same route; (2) between Dalton, GA and Valdosta, GA over Interstate Hwy 75; (3) between Atlanta, GA and Columbus, GA, from Atlanta over Interstate Hwy 75 to junction GA Hwy 85, then over GA Hwy 85 to Columbus, and return over the same route; (4) between Columbus, GA and Macon, GA, over U.S. Hwy 80; (5) between Griffin, GA and Americus, GA, over U.S. Hwy 19; (6) between Macon, GA and Savannah, GA, over Interstate Hwy 16; (7) between Columbus, GA and junction GA Hwy 96 and Interstate Hwy 75, from Columbus over U.S. Hwy 80 to junction GA Hwy 96 at or near Geneva, GA, then over GA Hwy 96 to junction Interstate Hwy 75, and return over the same route; (8) between Atlanta, GA and Gainesville, GA, over U.S. Hwy 23; (9) between junction GA Hwy 365 and Interstate Hwy 85 at or near Suwannee, GA and Gainesville, GA, over GA Hwy 365; (10) between junction U.S. Hwy 19 and GA Hwy 369 and Gainesville, GA, over GA Hwy 369; (11) between Dahlonega, GA and Cleveland, GA, from Dahlonega over GA Hwy 52 to juncion GA Hwy 115 at or near Garland, GA, then over GA Hwy 115 to Cleveland, and return over the same route; (12) between Atlanta, GA and Columbia, SC, over Interstate Hwy 20; (13) between Asheville, NC and Greensboro, NC, over Interstate Hwy 40; (14) between Greenville, SC and Greensboro, NC, over Interstate Hwy 85; (15) between Statesville, NC and Columbia, SC, from Statesville over Interstate Hwy 77 to Rock Hill, SC, then over U.S. Hwy 21 to Columbia, and return over the same route; (16) between Asheville, NC and Charleston, SC, over Interstate Hwy. 26; (17) between Nashville, TN and Memphis, TN, over Interstate Hwy 40; (18) serving all intermediate points in (1) through (17) above; and (19) serving all points in GA, NC, SC, and TN as off-route points in connection with applicant's otherwise authorized regular-route operations.

Note.—Applicant proposes to tack this authority with its existing authority.

MC 60014 (Sub-193F), filed October 21, 1980. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *transformers* and *parts* for transformers, and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above, between points in the U.S., under continuing contract(s) with RTF Corporation, of Waukesha, WI.

MC 60014 (Sub-196F), filed October 31, 1980. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, PA 19106. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *machinery* used in the manufacture of glass containers, between the facilities of Ball Corporation, at or near (a) Asheville, NC, (b) Okmulgee, OK, and (c) El Monte, CA, on the one hand, and, on the other, points in PA, IN, and CT.

MC 73165 (Sub-533F), filed October 29, 1980. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd St., Birmingham, AL 35222. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting (1) *commodities* the transportation of which requires the use of special equipment, (2) *machinery and machinery parts*, (3) *metal articles*, and (4) *materials and supplies* used in the manufacture of the commodities in (1), (2), and (3) above, between Baltimore, MD and Winchester, VA. points in Shelby County, AL, Ventura and Santa Barbara Counties, CA, New Castle County, DE, Madison, Howard and Lake Counties, IN, Baltimore County, MD, Hennepin County, MN, St. Louis County, MO, Bergen County, NJ, Rowan County, NC, Franklin, Summit and Delaware Counties, OH, Washington, Cambria and Somerset Counties, PA, Navarro County, TX, Weber County, UT, Waukesha and Douglas Counties, WI, on the one hand, and, on the other, points, in the U.S., (except AK and HI).

MC 94265 (Sub-368F), filed October 27, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. Transporting *food or kindred products*, as described in Item 20 of the Standard Transportation Commodity Code Tariff, from points in Weakley County, TN to points in Isle of Wight County, VA.

MC 107295 (Sub-999F), filed October 21, 1980. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). Transporting (1) *roofing materials*, from Phillipsburg, KS, and Joplin, MO, to points in AZ, CA, CO, ID, MT, NV, NM, OK, OR, TX, UT, WA and WY; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction.

MC 106644 (Sub-365F), filed October 29, 1980. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Coshocton, OH 43812. Representative: John R. Hafner (same address as applicant). Transporting *storage tanks, containers, laminated products, and* commodities named in (1) above, between points in the U.S., under continuing contract(s) with Shop-Vac. Division of Craftools, Inc., of

LINES, INC., P.O. Box 337, Auburndale, FL 33823. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *drugs* and *toilet preparations*, from Lynchburg, VA, to destined to the facilities of DYKA U.S.A., Inc.

MC 150735 (Sub-2F), filed October 28, 1980. Applicant: BESTWAY TRAVELCARE, 725 West Apache Trail, Suite 41, Apache Junction, AZ 85220. Representative: Mavis A. Erdmann, 36 South Wabash Ave., Suite 1100,

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MC 108644 (Sub-365F), filed October 29, 1980. Applicant: SUPERIOR TRUCKING COMPANY, INC., P.O. Box 916, Atlanta, GA 30301. Representative: Louis C. Parker III (same address as applicant). Transporting (1) *classes A, B, and C explosives, blasting supplies, blasting materials,* and *weapons,* and (2) *materials and supplies* used in the manufacture of ammunition and explosives, between points in the U.S.

Note.—The certificate issued in this proceeding shall expire 5 years from the date of issuance.

MC 113974 (Sub-73F), filed October 31, 1980. Applicant: PITTSBURGH & NEW ENGLAND TRUCKING CO., a Corporation, 211 Washington, Ave., Dravosburg, PA 15034. Representative: James D. Porterfield (same address as applicant). Transporting (1) *talc and talc products,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above between points in Lamoille County, VT, on the one hand, and, on the other, points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VA, WV, and DC.

MC 114045 (Sub-575F), filed October 21, 1980. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, TX 75261. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Transporting *animal feed,* from the facilities of Kal Kan Foods, Inc., in (a) Franklin County, OH, and (b) Cole County, IL, to points in TX and OK.

MC 116544 (Sub-226F), filed October 20, 1980. Applicant: ALTRUK FREIGHT SYSTEMS INC., 1703 Embarcadero Road, Palo Alto, CA 94303. Representative: P.O. Box 10061, Palo Alto, CA 94303. Transporting *general commodities* (except household goods as defined by the Commission, commodities in bulk, and classes A and B explosives), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Ralston-Purina Company.

MC 117304 (Sub-43F), filed October 28, 1980. Applicant: DON PAFFILE, d.b.a., PAFFILE TRUCK LINES, 5735 North & South Hwy., Lewiston, ID 83501. Representative: Michael J. O'Neill, 2345 N.W. Nicolai St., Portland, OR 97210. Transporting (1) *such commodities* as are dealt in or used by food, grocery, and hardware business houses, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1), between points in CA, NV, UT, AZ, OR, WA, ID, MT, and CO.

MC 117565 (Sub-102F), filed October 27, 1980. Applicant: MOTOR SERVICE COMPANY, INC., P.O. Box 448, Coshocton, OH 43812. Representative: John R. Hafner (same address as applicant). Transporting *storage tanks, containers, laminated products, and coated products,* and (2) *materials, equipment, and supplies* used in the installation, maintenance, manufacture and distribution of (1) above, between points in Hamilton and Butler Counties, OH, and points in the U.S. (except AK and HI).

MC 119315 (Sub-33F), filed October 20, 1980. Applicant: FREIGHTWAY CORPORATION, 131 Matzinger Road, Toledo, OH 43612. Representative: Andrew Jay Burkholder, 275 East State Street, Columbus, OH 43215. Transporting (1) *fiberglass products, fiberglass materials, insulating materials,* and *building materials,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) (except commodities in bulk), between points in the U.S., restricted to traffic originating at or destined to the facilities of or used by Johns-Manville Corporation, Johns-Manville Sales Corporation, or Johns-Manville Forest Products.

MC 134645 (Sub-37F), filed October 28, 1980. Applicant: LAKE STATE TRANSPORT, INC., P.O. Box 944, St. Cloud, MN 56301. Representative: Robert P. Sack, P.O. box 6010, West St. Paul, MN 55118.Transporting (1) *personal flotation devices and protective clothing,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1), between those points in the U.S. in and east of MN, IA, MO, AR, and LA, on the one hand, and, on the other, points in Benton, Carlton, Lac qui Parle, and Todd Counties, MN,

MC 134755 (Sub-227F), filed October 29, 1980. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: S. Christopher Wilson (same address as applicant). Transporting *food or kindred products,* as described in Item 20 of the Standard Transportation Commodity Code Tariff, between points in Lucas and Sandusky Counties, OH, Muscatine and Johnson Counties, IA, and Ottawa County, MI, on the one hand, and, on the other, points in AR, OK, TX, AL, GA, LA, and MS.

MC 135234 (Sub-19F), filed October 27, 1980. Applicant: TRANCO, INCORPORATED, P.O. Box 697, Williamsport, PA 17701. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW. Washington, DC 20001.Transporting (1) *vacuum cleaners,* and *parts* for vaccum cleaners, and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, between points in the U.S., under continuing contract(s) with Shop-Vac. Division of Craftools, Inc., of Williamsport, PA.

MC 136104 (Sub-101F), filed October 31, 1980. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove St., Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116. Transporting (1)(a) *pellet mills,* and *conveyors,* and (b) *attachments* for the commodities in (1)(a) above, and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above, between points in Tarrant County, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 138635 (Sub-120F), filed October 27, 1980. Applicant: CAROLINA WESTERN EXPRESS, INC., P.O. Box 3995, Gastonia, NC 28052. Representative: W. C. Sutton, P.O. Box 3995, Gastonia, NC 28052. Transporting (1) *automotive parts* and (2) *materials, supplies, and equipment* used in the manufacture and distribution of automotive parts, between points in the U.S.

MC 140364 (Sub-4F), filed October 28, 1980. Applicant: ARMOUR FOOD EXPRESS COMPANY, a corporation, P.O. Box 2785, Amarillo, TX 79105. Representative: R. L. Gordon, 111 West Clarendon, Phoenix, AZ 85013. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with The Pillsbury Company, of Minneapolis, MN.

MC 141034 (Sub-8F), filed October 21, 1980. Applicant: MARGIN LEASING, INC., 21 Baltic Road, Worcester, MA 01697. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10123. Transporting *scrap cans,* and *scrap paper,* between points in the U.S., under continuing contract(s) with Container Recovery Corp., of Boston, MA.

MC 141894 (Sub-1F), filed October 27, 1980. Applicant: STEEL, INC., 1500 Coining Drive, Toledo, OH 43612. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215. Transporting *iron and steel,* between points in the U.S., under continuing contract(s) with Bleim Steel Company of Toledo, OH.

MC 142835 (Sub-11F), filed October 27, 1980. Applicant: CARSON MOTOR

LINES, INC., P.O. Box 337, Auburndale, FL 33823. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *drugs* and *toilet preparations,* from Lynchburg, VA, to points in the U.S. (except AK and HI).

MC 146074 (Sub-3F), filed October 20, 1980. Applicant: FORT TRANSFER CO., a corporation, 225 South Maple, Morton, IL 61550. Representative: Douglas G. Brown, The INB Center—Suite 555, One North Old State Capitol Plaza, Springfield, IL 62701. Transporting *fertilizer and fertilizer ingredients,* from points in IA and IL, to points in IL, IN, IA, MI, MN, MO, and WI.

MC 146465 (Sub-9F), filed October 21, 1980. Applicant: LAWRENCE PILGRIM, d.b.a. PILGRIM TRUCKING COMPANY, P.O. Box 877, Cleveland, GA 30528. Representative: Jeffrey Kohlman, Suite 508, 1447 Peachtree Street, Atlanta, GA 30309. Transporting *metal products,* (1) between points in IL, IN, MD, MI, OH, and PA, and those in Campbell and Boone Counties, KY, Ohio, Brooke and Hancock Counties, WV, and Darlington County, SC, and (2) between the points named in (1) above, on the one hand, and, on the other, points in AL, GA, KY, NC, SC, TN, and VA.

MC 149084 (Sub-1F), filed September 13, 1980, previously notice in the FR on October 15, 1980. Applicant: KALE EQUIPMENT RENTALS, INC., 4110 Church Rd., 4110 Church Rd., Mount Laurel, NJ 08054. Representative: David Kauffman (same address as applicant). Transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in VA, on the one hand, and, on the other, points in CT, NY, NJ, PA, DE, MD, and DC, and between points in CT, NY, NJ, PA, DE, MD, and DC. This republication corrects the territorial description and docket numbers of carrier's existing authorities.

Note.—Issuance of a certificate is this proceeding is subject to coincidental cancellation of carrier's existing certificate and permits in MC–47662 and MC 60387, respectively, as requested by applicant.

MC 149575 (Sub-7F), filed October 22, 1980. Applicant: ADAMS CARTAGE COMPANY, INC., P.O. Box 3043, Macon, GA 31205. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *polyvinyl chloride pipes, fittings,* and *accessories* for polyvinyl chloride pipes, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of DYKA U.S.A., Inc.

MC 150735 (Sub-2F), filed October 28, 1980. Applicant: BESTWAY TRANSPORT CO., a corporation, Route No. 2, Willard, OH 44890. Representative: Lewis S. Witherspoon, 88 E. Broad St., Columbus, OH 43215. Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, between points in Richland County, OH, and points in the U.S.

MC 150955 (Sub-1F), filed October 23, 1980. Applicant: AERONAUTICS FORWARDERS, INC., 11 Middle Neck Rd., Great Neck, NY 11021. Representative: Arthur J. Piken, 95-25 Queens Blvd., Rego Park, NY 11374. Transporting (1) *cosmetics, perfumes, toilet preparations, and notions,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between Dayton and Edison, NJ, on the one hand, and, on the other, Philadelphia, PA, points in CT, and those in Orange, Rockland, Suffolk and Westchester Counties, NY.

MC 151515 (Sub-1F), filed October 31, 1980. Applicant: PLAZA MOTORS, division of Mt. Vernon Plaza, Inc., Junction Hwy 30 and No. 1, Mt. Vernon, IA 52314. Representative: Richard P. Moore, 2720 First Ave., NE., P.O. Box 1943, Cedar Rapids, IA 52406. Tranporting *used automobiles, pick-up trucks, and vans,* in truckaway service, between points in IA, on the one hand, and, on the other, points in CO, IL, IN, MN, MO, NE, OK, WI, and WY.

MC 152064 (Sub-1F), filed October 16, 1980. Applicant: PLAIN-O-TRUCKING INCORPORATED, 537½ West Walnut, Albany, IN 47320. Representative: David O. Foreman, 104 Fred Court, Muncie, IN 47302. Transporting *floor coverings,* between points in GA, TN, IL, IN, MA, MI, MN, OH, PA, TX, and WI.

MC 152235F, filed October 15, 1980. Applicant: PFI TRANSPORT, INC., 1218 Lime Street, Fremont, OH 43420. Representative: Boyd B. Ferris, 50 W. Broad St., Columbus, OH 43215. Transporting *anchoring devices,* and *materials and supplies* used in the manufacture of anchoring devices, between Peroia, IL, and points in Huron, Sandusky and Scioto Counties, OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 152484 (Sub-1F), filed October 21, 1980. Applicant: SEMINARS INTERNATIONAL, INC., d.b.a. TRAVELCARE, 725 West Apache Trail, Suite 41, Apache Junction, AZ 85220. Representative: Mavis A. Erdmann, 36 South Wabash Ave., Suite 1100, Chicago, IL 60603. To operate as a *broker,* at Apache Junction, AZ, in arranging for the transportation of *passengers and their baggage,* between points in Pinal and Maricopa Counties, AZ, on the one hand, and, on the other, points in the U.S.

MC 152485 (Sub-1F), filed October 21, 1980. Applicant: REINVESTMENT, INC., d.b.a. MOBILE MINI-WAREHOUSING, INC. (d.b.a. in Arizona as ARIZONA STORAGE RENTAL, INC.), P.O. Box 11962, 6900 W. Buckeye Rd., Phoenix, AZ 85301. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. Transporting *such commodities* as are dealt in or used by retail department stores, between points in the U.S., under a continuing contract(s) with Diamonds Division of Dayton Hudson Corp., of Tempe, AZ.

Volume No. OP3–079

Decided: November 17, 1980.

By the Commission, Review Board Number 2, 3 members, Chandler, Eaton and Liberman. Member Eaton not participating.

MC 4815 (Sub-4F), filed October 21, 1980. Applicant: ROBERT K. ELDER, JR., INC., 525 North Main St., Butler, PA 16001. Representative: Willam A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting (1) *building and road construction materials,* and (2) *commodities in bulk,* in dump vehicles, between points in Mahoning, Trumbull, Jefferson and Columbiana Counties, OH, and Lawrence and Mercer Counties, PA, on the one hand, and, on the other, points in OH, PA, and WV.

MC 30844 (Sub-705F), filed October 31, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in the U.S.

MC 30844 (Sub-706F), filed November 3, 1980. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 21222, Tulsa, OK 74121. Representative: Larry L. Strickler, P.O. Box 5000, Waterloo, IA 50704. Transporting *food and food products,* between points in Ulster County, NY, on the one hand, and, on the other, points in OH, restricted to traffic originating at and destined to the facilities of Heinz USA.

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MC 84145 (Sub-2F), filed November 3, 1980. Applicant: CARPENTER'S MOTOR FREIGHT, INC., P.O. Box 813, 710 S. Madison St., Wilmington, DE 19899. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Philadelphia, PA, and points in DE, on the one hand, and, on the other, points in DE, MD, NJ, NY, PA, and DC.

MC 99345 (Sub-1F), filed November 5, 1980. Applicant: CRYSTAL MOTOR EXPRESS INC., 3 Melvin St., Wakefield, MA 01880. Representative: Andrew K. Powers Jr. (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in MA, CT, RI, VT, NH, and ME.

MC 107544 (Sub-154F), filed November 7, 1980. Applicant: LEMMON TRANSPORT CO., INC., P.O. Box 580, Marion, VA 24354. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transporting *petroleum* and *petroleum products,* in tank vehicles, between points in Boyd County, KY, on the one hand, and, on the other, points in OH and Va.

MC 108835 (Sub-57F), filed November 3, 1980. Applicant: HYMAN FREIGHTWAYS, INC., 2380 Wycliff, St. Paul, MN 55114. Representative: Rodney L. Trocke, 2690 N. Prior Ave., Roseville, MN 55113. Transporting *general commodities* (except household goods as defined by the Commission, commodities in bulk, and classes A and B explosives, between points in the U.S., restricted to traffic originating at or destined to the facilities used by Ralston Purina Company.

MC 110325 (Sub-166F), filed November 3, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. Transporting *general commodities* (except hosehold goods as defined by the Commission and classes A and B explosives), between points in the U.S. under continuing contract(s) with Hercules, Incorporated, of Wilmington, DE.

MC 110325 (Sub-167F), filed November 7, 1980. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S.

MC 110525 (Sub-1322F), filed November 6, 1980. Applicant: CHEMICAL LEAMAN TANK LINES, INC., P.O. Box 200, Lionville, PA 19353. Representative: Leonard A. Jaskiewicz, Suite 501, 1730 M St., NW., Washington, DC 20036. Transporting *general commodities* (except classes A and B exposives and household goods as defined by the Commission), between points in the U.S.

MC 111594 (Sub-102F), filed November 3, 1980. Applicant: CW TRANSPORT, INC., 610 High St., Wisconsin Rapids, WI 54494. Representative: Donald B. Levine, 39 South La Salle St., Chicago, IL 60603. Over regular routes, transporting *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), (1) Between Columbus, OH, and Pittsburgh, PA: From Columbus over Interstate Hwy 70 to Washington, PA, and then over U.S. Hwy 19 to Pittsburgh, and return over the same route; (2) Between Mansfield, OH, and Pittsburgh, PA, over U.S. Hwy 30; (3) Between St. Louis and Kansas City, MO, over Interstate Hwy 70; (4) Between St. Louis, MO, and Memphis, TN, over Interstate Hwy 55; (5) Between Cincinnati, OH, and Memphis, TN: From Cincinnati over Interstate Hwy 71 to Louisville, KY, then over Interstate Hwy 65 to Nashville, TN, then over Interstate Hwy 40 to Memphis, and return over the same route; (6) Between Cincinnati, OH, and Atlanta, GA, over Interstate Hwy 75; serving all intermediate points on routes (1) through (6) above.

Note.—Applicant intends to tack this authority with its existing regular-route authority.

MC 116915 (Sub-124F), filed November 10, 1980. Applicant: ECK MILLER TRANSPORTATION CORPORATION, Route 1, Box 248, Rockport, IN 47635. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting *iron and steel articles,* between the facilities of Jones & Laughlin Steel Corporation at or near Cleveland, OH, on the one hand, and, on the other, points in KY, TN, NC, SC, GA, FL, AL, MS, AR, LA, and TX.

MC 118535 (Sub-162F), filed November 7, 1980. Applicant: TIONA TRUCK LINE, INC., Inn Building, P.O. Drawer 312, Butler, MO 64730. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in AL, AR, AZ, CA, CO, GA, IA, IL, IN, KS, KY, LA, MI, MN, MO, MS, MT, NE, ND, NM, OH, OK, SD, TN, TX, UT, VA, WI, WV, and WY.

Note.—Issuance of a certificate is subject to prior or coincidental cancellation, at applicant's written request, of MC-118535 and Subs 49, 53, 55, 56, 58, 60, 62, 67, 68, 70, 73, 74, 76, 80, 81, 82, 83, 84, 88, 91, 92, 93, 94, 96, 97, 98, 100, 101, 102, 103, 104, 105, 108, 109, 110, 111, 113, 115, 117F, 118, 119, 120, 121, 122F, 125, 127F, 131F, 136F, 137F, 140F, 142F, 144F, 145F, 146F.

MC 123294 (Sub-89F), filed October 28, 1980. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). Transporting *scrap paper and waste paper,* from points in IL, PA, KY, and NJ, to points in OH, WI, MI, and IL.

MC 124964 (Sub-69F), filed November 7, 1980. Applicant: J. M. BOOTH TRUCKING, INC., P.O. Box 265, Tavares, FL 32778. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, DC 20001. Transporting *foodstuffs,* and *materials, equipment and supplies* used in the products, sale, and distribution of foodstuffs, between points in the U.S., under continuing contract(s) with Geo. A. Hormel & Co., of Austin, MN.

MC 133155 (Sub-2F), filed November 12, 1980. Applicant: CULP TRUCK LINE, INC., 511 South Coy, Kansas City, KS 66105. Representative: William R. Williams, Crown Center, Suite 672, 2400 Pershing Rd., Kansas City, MO 64108. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between junction U.S. Hwy 40 and MO Hwy 127, and Glasgow, MO: From junction U.S. Hwy 40 and MO Hwy 127 over U.S. Hwy 40 to junction U.S. Hwy 65, then over U.S. Hwy 65 to junction MO Hwy 41, then over MO Hwy 41 to junction MO Hwy 240, then over MO Hwy 240 to Glasgow, MO, and return over the same route, serving all intermediate points. NOTE: Applicant intends to tack this authority with its presently existing authority.

MC 133485 (Sub-33F), filed November 12, 1980. Applicant: INTERNATIONAL ARMORED SERVICE, INC., 34 Dike St., Providence, RI 02909. Representative: Morris J. Levin, Suite 701, 1050 Seventeenth St., NW., Washington, DC

20036. Transporting *bullion, coins, precious metals, and articles of unusual value,* between points in the U.S.

MC 135895 (Sub-115F), filed October 31, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Doughlas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting (1) *clay, floor sweeping compounds, and absorbents,* (except commodities in bulk) and (2) *materials, equipment and supplies* used in the manufacture, sale, and distribution of the commodities named in (1) above (except commodities in bulk), between the facilities of (a) Oil-Dri Corporation of America, at or near Ochlocknee, GA, and Ripley, MS; and (b) Maltan, Inc., at or near Middleton, TN, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, CO, and NM.

MC 142364 (Sub-43F), filed November 8, 1980. Applicant: KENNETH SAGELY, d.b.a. KENNETH SAGELY TRUCKING COMPANY, P.O. Box 368, Van Buren, AR 72956. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72701. Transporting *petroleum* and *petroleum products,* in containers, from Congo, Farmers Valley, and St. Marys, WV, Vicksburg, MS, and, Warren, PA, to points in AL, AR, AZ, CA, GA, IA, IL, IN, KS, LA, MD, MN, MO, MS, NC, NJ, NY, OK, PA, RI, SC, TN, TX, and WV.

MC 145154 (Sub-3F), filed November 4, 1980. Applicant: YOUNG'S TRANSPORTATION CO., a corporation, 1616 Bevis St., Houston, TX 77008. Representative: Eric Meierhoefer, Suite 423, 1511 K St. NW., Washington, DC 20005. Transporting *floor covering, and materials and supplies* used in the sale and distribution of floor covering, between points in Lancaster County, PA, on the one hand, and, on the other, points in TX.

MC 145664 (Sub-22F), filed November 3, 1980. Applicant: STALBERGER, INC., 223 S. 50th Ave., W., Duluth, MN 55807. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Transporting (1) *fabricated steel products,* and (2) *materials, supplies, and equipment* used in the manufacture, sale, and distribution of fabricated steel products, between the facilities of Dyckerhoff & Widmann, Inc., at Lemont, IL, on the one hand, and, on the other, points in the U.S.

MC 146906 (Sub-1F), filed November 10, 1980. Applicant: AERO TRUCKING, INC., P.O. Box 306, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad St., Columbus, OH 43215. Transporting *tubing,* between points in the U.S., under continuing contract(s) with Trent Tube, Division of Colt Industries, of East Troy, WI.

MC 146985 (Sub-5F), filed November 3, 1980. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731 South Main St., P.O. Box 1614, Elkhart, IN 46514. Representative: Phillip A. Renz, Suite 200, Metro Bldg., Fort Wayne, IN 46802. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Kirsch Company, of Sturgis, MI.

MC 151395 (Sub-6F) filed October 31, 1980. Applicant: SNEAKER FREIGHT LINE, INC., 4215 Thurman Rd., P.O. Box 768, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *metal containers, container ends, and container closures,* (2) *pet foods,* and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between those points in the U.S. in and east of MN, IA, OK and TX, restricted to traffic originating at or destined to the facilities of Allied Foods, Inc.

MC 152205 (Sub-1F) filed October 31, 1980. Applicant: CATARACT TRUCK & CAR RENTAL CORP., 2445 Allen Ave., Niagara Falls, NY 14303. Representative: William J. Hirsch, 1125 Convention Tower, 43 Court St., Buffalo, NY 14202. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in containers, between points in Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Monroe, Niagara, Orleans, and Wyoming Counties, NY, on the one hand, and, on the other New York, NY.

MC 152425 (Sub-1F) filed November 7, 1980. Applicant: SHIRKS FREIGHT AGENCY, INC., P.O. Box 47, Marysville, OH 43040. Representative: Gary L. Shirk (same address as applicant). Transporting *general commodities* (except those of annual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with Central Ohio Shippers Coordinated Corp., of Columbus, OH.

Volume No. OP3-084

Decided: November 18, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman, Member Eaton not participating.

MC 26825 (Sub-51F) filed November 7, 1980. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. Transporting *lumber, lumber products and wood products* (except commodities in bulk), from points in AR, CA, ID, LA, MT, OR and WA to points in IA, MN, NE and SD.

MC 106674 (Sub-511F) filed November 11, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson, (same address as applicant). Transporting (1) *vitreous china plumbingware, steel plumbingware and plumbingware accessories,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1), between points in Fulton County, GA, Kane County, IL, and Somerset County, PA, on the one hand, and, on the other, points in the U.S.

MC 116915 (Sub-125F), filed November 6, 1980. Applicant: ECK MILLER TRANSPORTATION CORPORATION, Route #1, Box 248, Rockport, IN 47635. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting (1) *iron and steel articles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of iron and steel articles, between points in Mahoning, Belmont, and Jefferson Counties, OH, Washington and Westmoreland Counties, PA, and Ohio, Marshall, and Brooke Counties, WV, on the one hand, and, on the other, points in the U.S.

MC 117644 (Sub-60F), filed November 12, 1980. Applicant: D & T TRUCKING CO., INC., 498 First Street, N.W., New Brighton, MN 55112. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Tranporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment because of size or weight), between points in the U.S. (except AK and HI), under continuing contract(s) with Northrup King Co., of Minneapolis, MN.

MC 120364 (Sub-27F), filed October 23, 1980. Applicant: A & B FREIGHT LINE, INC., 4805 Sandy Hollow Rd., Rockford, IL 61109. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (A)(1) Between Lawrenceville, IL, and Paris, IL: over IL

Hwy 1, serving all intermediate points; (2) Between Chicago, IL, and Fairfield, IL, from Chicago over Interstate Hwy 57 to junction U.S. Hwy 45, then over U.S.

intermediate points; (22) Between Taylorville, IL, and junction IL Hwy 104 and Interstate Hwy 55, over IL Hwy 104, serving all intermediate points; (23)

junction MO Hwy 115, then over MO Hwy 115 to junction MO Hwy 180, and then over MO Hwy 180 to St. Louis and return over the same route, serving all

Alternate U.S. Hwy 40 to Greenville, IL, and then over Alternate U.S. Hwy 40 to Marshall, and return over the same route, serving all intermediate points;

points in the U.S. (except AK and HI); restricted to the transportation of traffic originating at or destined to the facilities of Pabco Insulation Division, Louisiana-

MC 59264 (Sub-73F), filed November 6, 1980. Applicant: SMITH & SOLOMON TRUCKING COMPANY, P.O. Box 2015, How Lane, New Brunswick, NJ 08903.

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Hwy 1, serving all intermediate points; (2) Between Chicago, IL, and Fairfield, IL, from Chicago over Interstate Hwy 57 to junction U.S. Hwy 45, then over U.S. Hwy 45 to Fairfield, and return over the same route, serving all intermediate points (except those in Will and Kankakee Counties, IL); (3) Between Danville, IL, and Lincoln, IL, over IL Hwy 10, serving all intermediate points; (4) Between Marshall, IL, and Vandalia, IL, over U.S. Hwy 40, serving all intermediate points; (5) Between Springfield, IL, and junction U.S. Hwy 36 and IL Hwy 1, over U.S. Hwy 36, serving all intermediate points; (6) Between Lawrenceville, IL, and Sandoval, IL, over U.S. Hwy 50, serving all intermediate points; (7) Between junction IL Hwys 33 and 49, and junction IL Hwy 49 and U.S. Hwy 45, over IL Hwy 49 serving all intermediate points; (8) Between Bloomington, IL, and Ashley, IL, over U.S. Hwy 51, serving all intermediate points; (9) Between Paris, IL, and Gillespie, IL, over IL Hwy 16, serving all intermediate points; (10) Between Bloomington, IL, and Litchfield, IL, over Interstate Hwy 55, serving all intermediate points; (11) Between Olney, IL, and Charleston, IL, over IL Hwy 130, serving all intermediate points; (12) Between Palestine, IL, and junction IL Hwys 33 and 128, over IL Hwy 33, serving all intermediate points; (13) Between Mount Vernone, IL, and junction IL Hwy 37 and U.S. Hwy 45, over IL Hwy 37, serving all intermediate points; (14) Between junction IL Hwys 10 and 47, and junction IL Hwy 48 and Interstate Hwy 55, from junction IL Hwys 10 and 47, over IL Hwy 10 to junction IL Hwy 48, and then over IL Hwy 48 to junction Interstate Hwy 55, and return over the same route, serving all intermediate points; (15) Between Greenup, IL, and Lincoln, IL, over IL Hwy 121, serving all intermediate points; (16) Between Clinton, IL, and Springfield, IL, over IL Hwy 54, serving all intermediate points; (17) Between junction U.S. Hwy 40 and IL Hwy 128 and junction IL Hwys 128 and 121, over IL Hwy 128, serving all intermediate points; (18) Between Ashley, IL, and Fairfield, IL, over IL Hwy 15, serving all intermediate points; (19) Between Paris, IL, and junction IL Hwy 133 and U.S. Hwy 36, over IL Hwy 133, serving all intermediate points; (20) Between Effingham, IL, and junction IL Hwys 105 and 47, from Effingham over IL Hwy 32 to junction IL Hwy 105, and then over IL Hwy 105 to junction IL Hwy 47, and return over the same route, serving all intermediate points; (21) Between Raymond, IL, and junction IL Hwys 127 and 16, over IL Hwy 127, serving all intermediate points; (22) Between Taylorville, IL, and junction IL Hwy 104 and Interstate Hwy 55, over IL Hwy 104, serving all intermediate points; (23) Between Pana, IL, and Springfield, IL, over IL Hwy 28, serving all intermediate points; (24) Between Paris, IL, and Bloomington, IL, over U.S. Hwy 150, serving all intermediate points; (25) Between Springfield, IL, and Gillespie, IL, over IL Hwy 4, serving all intermediate points; (26) Between Dalton City, IL, and junction IL Hwy 128 and U.S. Hwy 40, over IL Hwy 128, serving all intermediate points; (27) Between Bloomington, IL, and Chicago, IL, over Interstate Hwy 55, serving all intermediate points (except those in Will County, IL); (28) Between Bloomington, IL, and Peoria, IL, over U.S. Hwy 150, serving no intermediate points; (29) Serving all plantsite of American Cyanamid Co., at or near South River, MO, as an off-route point in connection with carrier's regular-route operations authorized in (1) through (28) above; (30) Between Jacksonville, IL, and Detroit, IL, from Jacksonville over IL Hwy 104 to junction IL Hwy 100, then over IL Hwy 100 to Detroit, and return over the same route, serving all intermediate points and the off-route point of Meredosia, IL; (31) Between Pearl, IL, and Barry, IL, over unnumbered highway via Nebo and New Canton, IL, serving all intermediate points and the off-route points of Summer Hill and New Hartford, IL; (32) Between Pittsfield, IL, and Perry, IL, over IL Hwy 107, serving all intermediate points; (33) Between Detroit, IL, and Jerseyville, IL; from Detroit over IL Hwy 100 to Hardin, IL, and then over IL Hwy 16 to Jerseyville, and return over the same route, serving all intermediate points; (34) Between Quincy, IL, and St. Lous, MO; (a) from Quincy over IL Hwy 96 to junction U.S. Hwy 36, then over U.S. Hwy 36 to Jacksonville, IL, then over U.S. Hwy 67 to junction unnumbered highway (formerly portion U.S. Hwy 67), then over unnumbered highway via Woodson, IL, to junction IL Hwy 267, then over IL Hwy 267 to junction U.S. Hwy 67, then over U.S. Hwy 67 to Alton, IL, then over IL Hwy 3 to junction unnumbered highway (formerly portion Alternate U.S. Hwy 67), then over unnumbered highway to junction IL Hwy 203, then over IL Hwy 203 to junction Interstate Hwy 55, and then over Interstate Hwy 55 to St. Louis, and return over the same route, serving all intermediate points, (b) from Quincy, IL, over U.S. Hwy 24 to Taylor, MO, then over U.S. Hwy 61 to Wentzville, MO, then over Bypass U.S. Hwy 40 to junction MO Hwy 115, then over MO Hwy 115 to junction MO Hwy 180, and then over MO Hwy 180 to St. Louis and return over the same route, serving all intermediate points; (35) Serving the plantsite of the Hussmann Refrigerator Company, located at Taussing Rd. and St. Charles Rock Rd., Bridgeton, MO, as an off-route point in connection with carrier's regular-route operations authorized in (1) through (34) above; (36) Between Morton, IL, and Peoria, IL, over U.S. Hwy 150, serving no intermediate points; (37) Between St. Louis, MO, and Lawrenceville, IL, serving all intermediate points, from St. Louis over U.S. Hwy 50 via Sandoval, IL, to junction unnumbered highway (formerly Alternate U.S. Hwy 50) near Sumner, IL, then over unnumbered highway to Lawrenceville, and return over the same route, serving no intermediate points; (38) Between Sandoval, IL, and Normal, IL, from Sandoval over U.S. Hwy 50 to junction U.S. Hwy 51, and then over U.S. Hwy 51 to Normal, and return over the same route, serving all intermediate points; (39) Between St. Louis, MO, and Champaign, IL, from St. Louis over U.S. Hwy 50 to Salem, IL, then over IL Hwy 37 to junction U.S. Hwy 45, and then over U.S. Hwy 45 to Champaign, and return over the same route, serving all intermediate points; (40) Between St. Louis and Bloomington, IL, from St. Louis over Interstate Hwy 55 to junction IL Hwy 4, then over IL Hwy 4 to Staunton, IL, then over unnumbered highway to junction Interstate Hwy 55 near Mt. Olive, IL, and then over Interstate Hwy 55 to Bloomington, and return over the same route, serving all intermediate points; (41) Between Springfield and Peoria, IL, over IL Hwy 29, serving all intermediate points; (42) Between Mason City and Danville, IL, from Mason City over IL Hwy 10 to Champaign, IL, and then over U.S. Hwy 150 to Danville, and return over the same route, serving all intermediate points; (43) Between Springfield, IL, and Tuscola, IL, over U.S. Hwy 36, serving all intermediate points; (44) Between Litchfield and Paris, IL, over IL Hwy 16, serving all intermediate points; (45) Between Litchfield and Decatur, IL, from Litchfield, over Interstate Hwy 55 to junction IL Hwy 48, then over IL Hwy 48 to Decatur, and return over the same route, serving all intermediate points; (46) Between St. Louis, MO, and Marshall, IL, from St. Louis, over U.S. Hwy 40 to junction unnumbered highway, then over unnumbered highway via Troy, St. Jacob, and Highland, IL, to junction U.S. Hwy 40, then over U.S. Hwy 40 to junction Alternate U.S. Hwy 40, then over Alternate U.S. Hwy 40 to Greenville, IL, and then over Alternate U.S. Hwy 40 to Marshall, and return over the same route, serving all intermediate points; (47) Between Springfield and Pana, IL, over IL Hwy 29, serving all intermediate points; (48) Between Dalton City and St. Elmo, IL, from Dalton City over IL Hwy 128 to junction U.S. Hwy 40, then over U.S. Hwy 40 to St. Elmo, and return over the same route, serving all intermediate points; (49) Between Decatur and Greenup, IL, over IL Hwy 121, serving all intermediate points; (50) Between Decatur and Robinson, IL, from Decatur over U.S. Hwy 36 to La Place, then over IL Hwy 32 to junction IL Hwy 33, and then over IL Hwy 33 to Robinson, and return over the same route, serving all intermediate points; (51) Between Lovington and Arcola, IL, over IL Hwy 133, serving all intermediate points; (B) Alternate Route for Operating Convenience Only: (1) Between Lincoln, IL, and Morton, IL, over IL Hwy 121, serving no intermediate points, and serving Morton for purposes of joinder only; (2) Between Springfield, IL, and Springfield, IL, in connection with carrier's regular-route operations authorized herein, over U.S. Hwy 36, serving no intermediate points, and (3) Between Mendota and LaSalle, IL, over U.S. Hwy 51, serving no intermediate points; and (C) Over irregular routes, transporting *vinegar, calcium, paper boxed-* and *general commodities* (1) Between points within 50 miles of Chicago, IL, and (2) Between Chicago, IL, on the one hand, and, on the other, points in the U.S.

MC 128114 (Sub-11F), filed October 31, 1980. Applicant: SAVAGE & SONS, INC., P.O. Box 2422, Pasco, WA 99302. Representative: Boyd Hartman, P.O. Box 3641. Transporting (1) *road oils and abatement compounds*, in bulk, between points in WA, OR, and ID, (2) *building materials*, between points in WA, OR, ID, UT, NV, MT, and CA, and (3) *farm machinery, equipment, and supplies*, and *irrigation equipment and supplies*, between points in OR, WA, ID, CA, UT, and NV.

MC 135895 (Sub-117F), filed November 6, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 6534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, Wynn, Bogen & Mitchell, P.O. Box 1295, Greenville, MS 38701. Transporting (1) *insulating materials* and (2) *equipment, materials and supplies* used in the manufacture, sale and distribution of insulation materials (except commodities in bulk) and those requiring special equipment, between Fruita, CO and Grambling, LA, on the one hand, and, on the other, points in the U.S. (except AK and HI); restricted to the transportation of traffic originating at or destined to the facilities of Pabco Insulation Division, Louisiana-Pacific Corporation.

MC 141774 (Sub-8F), filed November 6, 1980. Applicant: R & L TRUCKING CO., INC., 105 Rocket Ave., Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting *pet foods*, and *materials, equipment, and supplies* used in the manufacture, sale, and distribution of pet foods, between points in Shelby County, AL, on the one hand, and, on the other, points in FL, GA, NC, SC, AL, TN, KY, MS, LA, AR, and MO.

MC 141865 (Sub-8F), filed November 10, 1980. Applicant: ACTION DELIVERY SERVICE, INC., 2401-03 West Marshall Drive, Grand Prairie, TX 75051. Representative: A. William Brackett, 1108 Continental Life Bldg., Fort Worth, TX 76102. Transporting *food and food products* (except in bulk), between points in the U.S., under continuing contract(s) with Heinz USA, a Division of H. J. Heinz Company, of Pittsburgh, PA.

MC 149575 (Sub-7F), filed October 22, 1980. Applicant: ADAMS CARTAGE COMPANY, INC., 4440 Mead Rd., P.O. Box 3043, Macon, GA 31205. Representative: Archie B. Culbreth, Suite 202, 2202 Century Parkway, Atlanta, GA 30309. Transporting (1) *polyvinyl chloride pipe* and *fittings and accessories* for polyvinyl chloride pipe, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between points in the U.S., (except AK and HI), restricted to traffic originating at or destined to the facilities of Dyka U.S.A., Inc.

MC 152544 (Sub-1F), filed November 6, 1980. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams St., Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in FL, on the one hand, and, on the other, points in the U.S., restricted to traffic originating at or destined to the facilities of Florida Wire & Cable Company, Load King Manufacturing Co., and Post-Tensioned Structures, Inc.

Volume No. OP3-088

Decided: November 19, 1980.

By the Commission, Review Board Number 3. Members Parker, Fortier and Hill.

MC 59264 (Sub-73F), filed November 6, 1980. Applicant: SMITH & SOLOMON TRUCKING COMPANY, P.O. Box 2015, How Lane, New Brunswick, NJ 08903. Representative: Herbert Burstein, One World Trade Center—Suite 2373, New York, NY 10048. Transporting *footwear*, in containers, and *accessories and supplies* used in retail shoe stores, (1) between Lebanon, NJ, on the one hand, and, on the other, points in MD, VA, and DC; and (2) from New York, NY, and Philadelphia, PA, to Lebanon, NJ.

MC 60014 (Sub-200F), filed November 6, 1980. Applicant: AERO TRUCKING, INC, Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting (1) *water pollution control equipment* and *accessories* for water pollution control equipment, from the facilities of Passavant Corp., in Jefferson County, AL, to points in the U.S. (except AK and HI); and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction.

MC 60014 (Sub-201F), filed November 6, 1980. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. Transporting *(1) metal articles*, from the facilities of Hardwick Co., Inc., at Birmingham, AL, to points in the U.S. in and east of MN, IA, MO, AR, and LA, and (2) *equipment materials and suplies* used in the manufacture of metal articles, in the reverse direction.

MC 85374 (Sub-11F), filed November 6, 1980. Applicant: FERRO TRUCKING, INC., 134 Washington Avenue, Belleville, NJ 07109. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Transporting *general commodities* (except classes A and B explosives and household goods as defined by the Commission), between points in the U.S., under continuing contract(s) with Kraft, Inc., of Chicago, IL.

MC 94265 (Sub-369F), filed November 7, 1980. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 306, Windsor, VA 23487. Representative: John J. Capo, P.O. Box 720434, Atlanta, GA 30328. Transporting *non-exempt food or kindred products*, as described in item 20 of the Standard Transportation Commodity Code, from points in Jefferson and Orleans Parishes, LA, to points in AL, AR, CO, DE, FL, GA, IL, IN, IA, KS, KY, LA, MI, MS, MN, MO, NE, NJ, NM, NC, ND, OK, PA, SC, SD, TN, TX, VA, WV, WI, and DC.

MC 100315 (Sub-1F), filed November 6, 1980. Applicant: CASSERINO'S MOVING & STORAGE COMPANY, a

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corporation, 5 Pease Avenue, Middletown, CT 06450. Representative: Sidney L. Goldstein, 109 Church St., New Haven, CT 06510. Transporting *household goods*, as defined by the Commission, between points in Middlesex, Hartford, New London and New Haven Counties, CT, on the one hand, and, on the other, points in NH, ME, CT, PA, DE, VA, WV, MD, NJ, and DC.

MC 107295 (Sub-1004F), filed November 6, 1980. Applicant: PRE-FAB TRANSIT CO., a corporation, P.O. Box 146, Farmer City, IL 61842. Representative: Duane Zehr (same address as applicant). Transporting *lumber and lumber products*, from points in CA, ID, MT, OR, and WA, to points in the U.S. (except AK and HI).

MC 113475 (Sub-38F), filed November 5, 1980. Applicant: RAWLINGS TRUCK LINE, INC., P.O. Box 831, Emporia, VA 23847. Representative: Harry J. Jordan, Suite 502, Solar Building, 1000 16th Street NW., Washington, DC 20036. Transporting *iron and steel articles*, between points in Bucks, Allegheny, Cambria, and Westmoreland Counties, PA, and Mahoning, Trumbull, Lorain, and Cuyahoga Counties, OH, on the one hand, and, on the other, points in GA.

MC 129994 (Sub-49F), filed November 12, 1980. Applicant: RAY BETHERS TRUCKING, INC., 176 West Central Ave., Salt Lake City, UT 84107. Representative: Marilyn McNeil (same address as applicant). Transporting *building materials, construction materials, and supplies, iron and steel articles, gypsum and gypsum products, and paper and paper products*, between points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY.

MC 140464 (Sub-9F), filed November 12, 1980. Applicant: D–X TRUCKING, INC., 5660 Southwyck Blvd., Toledo, OH 43614. Representative: Michael M. Briley, P.O. Box 2088, Toledo, OH 43603. Transporting (1) *new furniture and furniture parts*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1), between points in the U.S., under continuing contract(s) with La-Z-Boy Chair Company, of Monroe, MI.

MC 140165 (Sub-1F), filed November 12, 1980. Applicant: HOLMES TRANSPORTATION LIMITED, P.O. Box 1860, Station A, Montreal, Quebec, Canada. Representative: Joseph M. Klements, 84 State St., Boston, MA 02109. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between ports of entry on the international boundary line between the U.S. and Canada, at or near Highgate Springs, VT and South Burlington, VT, over U.S. Hwy 7, serving intermediate points.

Note.—Applicant states that the purpose of this application is to serve intermediate points. Applicant holds similar authority in MC 140165.

MC 140665 (Sub-116F), filed November 12, 1980. Applicant: PRIME, INC., P.O. Box 4208, Springfield, MO 65804. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting *foodstuffs* and *materials, equipment, and supplies* used in the production and distribution of foodstuffs (except commodities in bulk) between points in the U.S., restricted to traffic originating at or destined to the facilities of Ore-Ida Foods, Inc., and its affiliates, and suppliers.

MC 142795 (Sub-1F), filed November 7, 1980. Applicant: NORFOLK, BALTIMORE & CAROLINA LINE, INC., 937 East Water Street, Norfolk, VA 23510. Representative: Jack R. Turney, Jr., 2001 Massachusetts Ave. NW., Washington, DC 20036. Transporting *general commodities* (except household goods as defined by the Commission and Classes A and B explosives), in containers, or in trailers, and empty containers, trailers, chassis and bogies, (1) between Norfolk, VA and Philadelphia, PA, (a) from Norfolk over U.S. Hwy 60 to junction US Hwy 1, then over U.S. Hwy 1 to Philadelphia, and return over the same route; (b) from Norfolk over Interstate Hwy 64 to junction Interstate Hwy 95, then over Interstate Hwy 95 to Philadelphia, and return over the same route; (c) over U.S. Hwy 13; (d) from Norfolk over U.S. Hwy 460 to junction US Hwy 301, then over U.S. Hwy 301 to MD Hwy 2, then over MD Hwy 2 to junction US Hwy 40, then over U.S. Hwy 40 to junction US Hwy 13, then over U.S. Hwy 13 to Philadelphia, PA, and return over the same route; and (2) between Norfolk, VA and junction US Hwys 17 and 30 over U.S. Hwy 17; and (3) between Norfolk, VA and junction US Hwys 58 and 301, over U.S. Hwy 58, in (1), (2), and (3) above, serving all intermediate points, having a prior or subsequent movement by water.

MC 144775 (Sub-2F), filed November 12, 1980. Applicant: LELAND HAGE AND GERALD HAGE, d.b.a. HAGE TRUCKING, Halstad, MN 56548. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, NJ 58108. Transporting *fertilizer* and *materials, equipment and supplies* used in the manufacture and distribution of fertilizer, between points in Norman County, MN, on the one hand, and, on the other, points in ND and SD.

MC 151534 (Sub-2F), filed November 12, 1980. Applicant: R&D TRANSPORTATION CORPORATION, P.O. Box 1908, Des Moines, IA 50306. Representative: Craig D. Vermie, 1350 Financial Center, Des Moines, IA 50309. Transporting (1) *irrigation systems*, (2) *pipe, tubing, and poles*, (3) *iron and steel articles*, (4) *parts and accessories* for the commodities in (1), (2), and (3) and (5) *materials, equipment and supplies* used in the installation, maintenance, manufacture, and assembly of the commodities in (1) through (4), between the facilities of Valmont Industries, Inc. in Douglas County, NE, on the one hand, and, on the other, Houston and Galveston, TX, and New Orleans, LA, restricted to traffic having a prior or subsequent movement by water.

MC 150375 (Sub-1F), filed November 4, 1980. Applicant: CLARK REBER d.b.a. TRUC DISTRIBUTING, P.O. Box B, Santa Clara, UT 64765. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *non-exempt food or kindred products*, as described in Item 20 to the Standard Transportation Commodity Code, between points in Osborne County, KS and CA.

MC 151574 (Sub-1F), filed November 12, 1980. Applicant: KEVIN M. LA DUE, W165, N4866 Meadow View Rd., Menomonee Falls, WI 53051. Representative: R. G. LaDue, 8855 N. 55th St., Milwaukee, WI 53223. Transporting *petroleum products*, and *material, equipment, and supplies* used in the manufacture and distribution of petroleum products, between points in the U.S., under continuing contract(s) with Moraine Industries, Inc., of Oconomowoc, WI.

Volume No. OP3–090

Decided: November 21, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 2934 (Sub-88F), filed November 12, 1980. Applicant: AERO MAYFLOWER TRANSIT COMPANY, INC., 9998 North Michigan Rd., Carmel, IN 46032. Representative: W. G. Lowry (same address as applicant). Transporting (1) *television sets and stereos*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of commodities in (1), from Chicago, IL, Springfield, MO, Watsontown, PA, Benton Harbor, MI, McAllen, TX, Paris, IL, and Evansville, IN, to points in the U.S.

MC 59054 (Sub-6F), filed November 12, 1980. Applicant: TRI-STATE CARRIER, INC., 212 Washington Ave., Carlstadt, NJ 07072. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410. Transporting *cleaning compounds, refrigerant, and dispersant gases*, and *empty cylinders*, between Hainesport, NJ, on the one hand, and, on the other, New York, NY, and points in the Suffolk County, NY.

MC 89684 (Sub-114F), filed November 12, 1980. Applicant: WYCOFF COMPANY, INCORPORATED, P.O. Box 366, Salt Lake City, UT 84110. Representative: John J. Morrell (same address as applicant). Transporting *cereal* and *cereal products*, between Los Angeles, CA, on the one hand, and, on the other, Salt Lake City, UT, and Denver and Grand Junction, CO.

MC 95084 (Sub-262F), filed November 12, 1980. Applicant: HOVE TRUCK LINE, a corporation, Stanhope, IA 50246. Representative: Kenneth F. Dudley, Ltd., P.O. Box 297, Ottumwa, IA 52501. Transporting (1) *concrete, cement forms*, and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) between Boone, IA, on the one hand, and, on the other points in the U.S. (except AK and HI).

MC 97394 (Sub-34F), filed November 12, 1980. Applicant: BOWLING GREEN EXPRESS, INC., 4449 Orange Ave., Louisville, KY 40213. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. Transporting *general commodities* (except classes A and B explosives), (1) between Nashville, TN, and points in Warren County, KY, on the one hand, and, on the other points in the IN, (2) between Nashville, TN, and Cincinnati, OH, on the one hand, and, on the other points in KY, and (3) between Cincinnati, OH, and Louisville, KY, and points in Warren County, KY, on the one hand, and, on the other points in TN.

MC 107515 (Sub-1394F), filed November 6, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Par, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd. NE., 5th Floor-Lenox Towers South, Atlanta, GA 30326. Transporting *such commodities* as are dealt in by retail and chain grocery stores, hardware stores, variety stores, merchandising and drug stores, and (2) *materials, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S.

MC 116544 (Sub-226F), filed November 12, 1980. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. *Transporting meats, meat products, meat by-products and such commodities as are dealt in or used by meat packing houses* between points in Maricopa County, AZ, on the one hand, and, on the other, points in CA, CO, ID, KS, MT, NE, NM, NV, OK, OR, TX, UT, WA, and WY.

MC 116544 (Sub-229F), filed November 12, 1980. Applicant: ALTRUCK FREIGHT SYSTEMS, INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. Transporting *gypsum* and *gypsum products*, from ports of entry on the international boundary line between the U.S. and Canada, in WA, to points in AZ, CA, CO, ID, MT, NM, OR, TX, and UT.

MC 128205 (Sub-98F), filed November 12, 1980. Applicant: BULKMATIC TRANSPORT COMPANY, a corporation, 12000 South Doty Ave., Chicago, IL 60628. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. Transporting *foundry facings, foundry sand additives, foundry core compounds, clay*, and *ground bituminous coal*, from points in Hamilton and Wayne Counties, OH, Cook County, IL, and Jefferson County, AL, to those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 135895 (Sub-116F), filed November 12, 1980. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between those points in the U.S., in and east of ND, SD, NE, CO, and NM, restricted to the facilities of Quaker State Oil Refining Corporation, its sukbsidiaries and affiliates.

MC 138235 (Sub-19F), filed November 12, 1980. Applicant: DECKER TRANSPORT COMPANY, INCORPORATED, 96 Route 23, Riverdale, NJ 07457. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *foodstuffs, meats, meat products and meat by-products, and articles distributed by meat packinghouses;* and (2) *materials, equipment, and supplies used in the manufacture, sale, and distribution of the commodites named in (1)*, between points in the U.S., under continuing contract(s) with Swift & Company, Chicago, IL.

MC 138704 (Sub-6F), filed November 12, 1980. Applicant: GARY L. DUNPHY, Embden, ME 04958. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. Transporting *pulp, paper, or allied products*, as described in Item 26 of the Standard Transportation Commodity Code Tariff, between points in the U.S., under continuing contract(s) with Madison Paper Corporatin, of Madison, ME.

MC 140484 (Sub-82F), filed November 12, 1980. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frant T. Day (same address as applicant). Transporting *chemicals* and *materials, equipment, and supplies* used in the manufacture and distribution of chemicals (except in bulk), between the facilities of Morton Chemical and its subsidiaries, in Cook and McHenry Counties, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 144715 (Sub-13F), filed November 12, 1980. Applicant: ANDERSON & WEBB TRUCKING CO., INC., P.O. Box 1523, 542 West Independence Blvd., Mt. Airy, NC 27030. Representative: Eric Meierhoefer, Suite 423, 1511 K St. NW., Washington, DC 20005. Transporting *pork skins*, between points in Webb County, TX, on the one hand, and, on the other, points in VA, NC, SC, KY, TN, GA, FL, AL, MS, AR, MO, IN, OH, IA, KS, OK, MT, CO, and IL.

MC 145985 (Sub-1F), filed November 12, 1980. Applicant: GREEN COUNTY EXPRESS, INC., Box 475, Lena, IL 61048. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with Kraft, Inc.

MC 146985 (Sub-7F), filed November 12, 1980. Applicant: MIDWEST EASTERN TRANSPORT, INC., 731 South Main St., P.O. Box 1614, Elkhart, IN 46514. Representative: Philip A. Renz, Grotrian & Boxberger, Suite 200, Metro Bldg., Fort Wayne, IN 46802. Transporting (1) *such commodities* as are dealt in by the recreational vehicle manufacturing industry, and (2) *equipment, materials, and supplies* for the commodities in (1), between points in the U.S., under continuing contract(s) with Dometic Sales Corporation.

MC 147264 (Sub-8F), filed November 12, 1980. Applicant: JAT EXPRESS INC., 4002 Rosewood Ave., Muncie, IN 47304. Representative: Paul R. Bergant, 1113 E.

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Walnut St., Rogers, AR 72756. Transporting *non exempt food* and *kindred products*, between points in the U.S.

MC 152664F, filed November 12, 1980. Applicant: TOMBIGBEE TRANSPORT CORPORATION, P.O. Box 412, Adamsville, TN 38310. Representative: Harry A. Boosey (same address as applicant). Transporting *glass cylinders*, between points in Clarion and Fayette Counties, PA, Logan County, IL, Grant County, IN, Salem County, NJ, Fairfield County, OH, and Harrison County, WV, on the one hand, and, on the other, points in McNairy County, TN.

Volume No. OP3-091

Decided: Nov. 21, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 43685 (Sub-31F), filed October 31, 1980. Applicant: MERCER TRUCKING COMPANY, INC., P.O. Box 11585, Spokane, WA 99211. Representative: Marshall Hanning (same address as applicant). Transporting (1) *lumber, veneer, and forest products*, and (2) *building materials*, between points in Adams, Asotin, Benton, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, and Whitman Counties, WA; Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties, ID; and ports of entry on the international boundary line between the U.S. and Canada located in Washington, on the one hand, and, on the other, points in AZ, IL, IN, IA, KS, MN, MO, NE, NM, OK, TX, and WI.

MC 145994 (Sub-2F), filed October 31, 1980. Applicant: PENGUIN POINT ENTERPRISES, INC., P.O. Box 975, Warsaw, IN 46580. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *foodstuffs*, between points in FL, on the one hand, and, on the other, points in IN and KY.

MC 148844 (Sub-2F), filed November 7, 1980. Applicant: SERVICES TRANSPORT, DIVISION OF RECYCLING SERVICES, INC., 621 Skyline Drive, Sunnyside, WA 98944. Representative: Philip G. Skofstad, 1525 N.E. Weidler, Portland, OR 97232. Transporting *animal byproducts* and *salt*, between points in OR, WA, and ID.

MC 152475 (Sub-1F), filed October 28, 1980. Applicant: THE SKI HAUS, INC., 7308 N. Western, Oklahoma City, OK 73116. Representative: David B. Schneider, P.O. Box 1540, Edmond, OK 73034. To operate as a *broker* at Oklahoma City, OK, in arranging for the transportation by motor vehicle, of passengers and their baggage, in the same vehicle with passengers, in special and charter operations, between points in OK, on the one hand, and, on the other, points in CO and NM.

Volume No. OP4-131

Decided: Nov. 21, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 21866 (Sub-185F), filed November 12, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting (1) *baked goods*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of baked goods (except commodities in bulk), between points in Berks County, PA, on the one hand, and, on the other points in the U.S. (except AK, HI, and PA).

MC 42487 (Sub-1003F), filed November 13, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Over regular routes, transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), serving the facilities of Activated Metals and Chemicals, Inc., at or near Sevierville, TN, as an off-route points, in connection with carrier's otherwise authorized regular route operations.

MC 42487 (Sub-1004F), filed November 12, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Over regular routes, transporting *general commodities (except household goods as defined by the Commission, and Classes A and B explosives)*, (1) Between Memphis, TN, and Jackson, MS, serving no intermediate points and serving Jackson, MS for purpose of joinder only: From Memphis over Interstate Hwy 55 to junction Interstate Hwy 55 and Interstate Hwy 20, and return over the same route. (2) Between New Orleans, LA, and Jackson, MS, serving no intermediate points and serving Jackson, MS for purpose of joinder only: From New Orleans over Interstate Hwy 10 to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction Interstate Hwy 55 and Interstate Hwy 20, and return over the same route. (3) Between Atlanta, GA, and Jackson, MS, serving no intermediate points and serving Jackson, MS, for purpose of joinder only: From Atlanta, GA over Interstate Hwy 20 to junction Interstate Hwy 55 and Interstate Hwy 20, and return over the same route.

Note.—Applicant intends to tack the above described authorities. Applicant also intends to tack to its existing authorities and any authorities it may acquire in the future.

MC 60066 (Sub-23F), filed November 13, 1980. Applicant: BEE LINE MOTOR FREIGHT, a corporation, 1804 Paul St., Omaha, NE 68102. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. Transporting *refined beet and cane sugar*, and *materials* used in the manufacture and packaging of refined beet and cane sugar, between points in Morrill and Scotts Bluff Counties, NE, on the one hand, and, on the other, points in IL and WI.

MC 61396 (Sub-385F), filed November 11, 1980. Applicant: HERMAN BROS., INC., P.O. Box 189, 2565 St. Mary's Ave., Omaha, NE 68101. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., Omaha, NE 68102. Transporting *kiln dust*, in bulk, from Midlothian, TX, to Westlake, LA.

MC 63417 (Sub-298F), filed November 12, 1980. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Represenative: William E. Bain (Same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between points in AL, AR, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV, WI, and DC, and (2) from points in AZ, CA, CO, CT, ID, ME, MA, MN, MT, NE, NV, NH, NM, ND, OR, RI, SD, UT, VT, WA, and WY to points in (1) above.

Mc 95876 (Sub-369F), filed November 7, 1980. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Ave. No., St. Cloud, MN 56301. Representative: William L. Libby (Same address as applicant). Transporting *iron and steel articles*, between points in the U.S.

MC 97127 (Sub-16F), filed November 7, 1980. Applicant: BATESVILLE TRUCK LINE, INC., P.O. Box 2397, Batesville, AR 72501. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Little Rock and Pine Bluff, AR, over U.S. Hwy 65, serving all intermediate points; (2) between Little Rock, AR, and Memphis, TN, over U.S. Hwy 70, serving all intermediate points; (3) between Pine Bluff and West Memphis, AR, over U.S. Hwy 79, serving all intermediate points; (4) between Brinkley and Helena, AR, over U.S. Hwy 49, serving all intermediate points; between Forrest City, AR and junction U.S. Hwy 49 and AR Hwy 1, over AR Hwy 1, serving all intermediate points, and (6) in connection with the above routes (1) through (5) serving the off-route points of Arkansas, Jefferson, Lee, Lonoke, Monroe, Phillips, Prairie and Saint Francis Counties, AR.

Note.—Applicant intends to tack this authority with existing authority.

MC 110656 (Sub-18F), filed October 10, 1980, previously noticed in the **Federal Register** issue of November 6, 1980, and republished this issue. Applicant: PAKER MOTOR FREIGHT, INC., 5692 So. U.S. Hwy 131, Petoskey, MI 49770. Representative: Roland J. Mastej, 900 Guardian Bldg., Detroit, MI 48226. Transporting *general commodities* (1) between Grand Rapids and Cadillac, MI, over U.S. Hwy 131, serving no intermediate points, (2)(a) between Grand Rapids and Detroit, MI over Interstate Hwy 96, (b) between Cadillac and Detroit, MI, from Cadillac over U.S. Hwy 131 to its junction with MI Hwy 115, then over MI Hwy 115 to its junction with U.S. Hwy 10, then over U.S. Hwy 10 to Detroit, and return over the same route, (c) between the junction of U.S. Hwys 10 and 23 and the junction of U.S. Hwy 23 and Interstate Hwy 96 over U.S. Hwy 23, and (d) between the junction of Interstate Hwy 75 and U.S. Hwy 10 and Detroit over Interstate Hwy 75, service over the above routes in (2) above is authorized to all intermediate points and off-route points within 3 miles thereof and including the commercial zones of such points and the termini points, restricted to traffic which carrier either originates at or delivers to its authorized points north of Clare (not including Clare) and excluding service to such points as are on or east of Interstate Hwy 75. Conditions: Issuance of a Certificate in this proceeding is subject to the prior or coincidental cancellation, at applicant's written request, of MC 110656 (Sub-16), issued October 24, 1980. To the extent the certificate to be issued in this proceeding authorizes the transportation of classes A and B explosives, it shall be limited in point of time to a period expiring 5 years from its date of issue.

Note.—The purpose of this republication is to correctly state the commodity description.

MC 117557 (Sub-26F), filed November 6, 1980. Applicant: MATSON, INC., P.O. Box 43, Cedar Rapids, IA 52406. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting (1) *such machinery and equipment* as are generally used in construction, road building, mining, logging, farming, industrial and commercial businesses, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S. restricted to traffic originating at or destined to the facilities of or used by Harnischfeger Corp.

MC 117786 (Sub-115F), filed November 12, 1980. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. Transporting *meats and meat byproducts*, from points in Maricopa County, AZ, to points in WA, OR, CA, ID, NV, UT, AZ, WY, CO, NM, NE, KS, OK, TX, WI, IA, MO, AR, LA, IL, IN, OH, KY, TN, and NY.

MC 118537 (Sub-15F), filed November 6, 1980. Applicant: MARX TRUCK LINE, INC., 220 Lewis Blvd., Sioux City, IA 51101. Representative: Robert L. Marx (same address as applicant). Transporting (1) *such commodities* as are dealt in or used by processors of honey, and apiaries, and (2) *food and kindred products* (except commodities in bulk, in tank vehicles), between points in Woodbury County, IA, Dakota County, NE, and Union County, SD, on the one hand, and, on the other, points in AR, CO, IL, IA, IN, KS, MI, MN, MO, MT, NE, ND, OK, SD, TX, WI, and WY.

MC 118537 (Sub-24F), filed November 6, 1980. Applicant: MARX TRUCK LINE, INC., 220 Lewis Blvd., Sioux City, IA 51101. Representative: Robert L. Marx (same address as applicant). Transporting (1) *boilers, condensers, heating equipment, and refractory products*, (2) *materials, equipment, and supplies* used in the manufacture, repair and installation of the commodities in (1) above, between points in Woodbury County, IA, Dakota County, NE, and Union County, SD, on the one hand, and, on the other, points in GA, IA, IL, IN, KS, MI, MN, MO, NE, PA, SD, TX, TN, and WI.

MC 121006 (Sub-7F), filed November 6, 1980. Applicant: GADSDEN TRUCK LINE, INC., 1708 Mt. Zion Ave., Gadsden, AL 35901. Representative: George C. Hawkins, P.O. Box 1117, Gadsden, AL 35902. Transporting *general commodities*, (except classes A and B explosives and household goods as defined by the Commission), between points in AL, on the one hand, and, on the other, points in and east of ND, SD, NE, CO, and NM.

MC 123407 (Sub-654F), filed November 12, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). Transporting (1) abrasive grains from, points in Dickinson County, MI, to points in the U.S. (except AK and HI), and (2) *materials, equipment, and supplies used in the manufacture and distribution* of commodities in (1) above, in the reverse direction.

MC 123907 (Sub-4F), filed November 13, 1980. Applicant: DAHLMAN TRUCK LINES, INC., 2041 Madison St., Stevens Point, WI 54481. Representative: Joseph E. Ludden, P.O. Box 1567, 324 Exchange Bldg., LaCrosse, WI 54601. Transporting *general commodities* (except those of unusual value, classes A and B explosives, and household goods as defined by the Commission), between points in OH, IN, IL, WI, MI, MN, IA, and MO.

MC 126276 (Sub-220F), filed November 7, 1980. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Rd., Brookfield, IL 60513. Representative: Albert A. Andrin, 180 N. LaSalle St., Chicago, IL 60601. Transporting (1) *waste paper and newsprint* and (2) *materials and supplies* used in the manufacture and distribution of commodities in (1) above, between points in the U.S., under continuing contract(s) with FSC Paper Corporation of Alsip, IL.

MC 126716 (Sub-3F), filed November 13, 1980. Applicant: WESTON TRUCKING COMPANY, 111 "C" St., Encinitas, CA 92024. Representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. Transporting *shipments weighting 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 129537 (Sub-47F), filed November 13, 1980. Applicant: REEVES TRANSPORTATION CO., a Florida Corporation, Rt. 5—Dew's Pond Rd., Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602. Transporting (1) *carpeting, carpet padding, and floor covering*, and (2) *materials, equipment, and supplies* used in the manufacture and installation of the commodities in (1) above, between points in Mobile, Baldwin, and Excambia Counties, AL, on the one hand, and, on the other, points in FL, GA, MS, AR, LA, TX, OK, and NM.

MC 133037 (Sub-6F), filed November 12, 1980. Applicant: MILE-HI EXPRESS, INC., 1335 East 40th St., Denver, CO 80205. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. Transporting *foodstuffs*, from Denver, CO to points in San Juan County, NM.

MC 134477 (Sub-424F), filed October 31, 1980. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Rd., West, St. Paul, MN 55118. Representative: Thomas D. Fischbach, P.O. Box 43496, St. Paul, MN 55164. Transportation *general commodities* (except household goods as defined by the Commission, and classes A and B explosives), between points in the U.S.

MC 135306 (Sub-7F), filed November 12, 1980. Applicant: DAN'S TRANSIT, INC., 1254 Medina Rd., Medina, OH 44256. Representative: James M. Burtch, 100 E. Broad St., Columbus, OH 43215. Transporting *iron and steel articles*, and *materials, equipment, and supplies* used in the manufacture of iron and steel articles, between points in Mahoning, Belmont, and Jefferson Counties, OH, Washington and Westmoreland Counties, PA, and Ohio, Marshall, and Brooke Counties, WV, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 135797 (Sub-339F), filed October 27, 1980. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). Transporting *petroleum and petroleum products* (except in bulk) from points in St. Louis County, MO, to points in AL, AR, CO, GA, ID, IA, KS, LA, MN, MS, MT, NE, ND, OK, SD, TX, WI, and WY.

MC 136077 (Sub-24F), filed November 11, 1980. Applicant: REBER CORPORATION, 2216 Old Arch Rd., Norristown, PA 19401. Representative: Roland Morris, 1600 Land Title Bldg., 100 S. Broad St., Philadelphia, PA 19110. Transporting *limestone*, from the facilities of White Pigment Corporation, in York County, PA, to points in DE, MD, OH, NY, NJ, VA, and WV.

MC 139006 (Sub-21F), filed November 12, 1980. Applicant: RAPIER SMITH, R.R. #5, Lorretto Rd., Bardstown, KY 40004. Representative: Robert H. Kinker, 314 West Main St., P.O. Box 464, Frankfort, KY 40602. Transporting *malt beverages*, from the facilities of Stroh Brewery Company, at or near Detroit, MI, and Perrysburg, OH, to those points in the U.S., in and east of WI, IA, MO, AR, and LA.

MC 139906 (Sub-134F), filed October 29, 1980. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, P.O. Box 30303, Salt Lake City, UT 84127. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Transporting *petroleum catalysts*, between points in Salt Lake County, UT, Los Angeles County, CA, and Hinds County, MS, on the one hand, and, on the other, points in the U.S.

MC 143417 (Sub-10F), filed November 12, 1980. Applicant: FLASH INTERSTATE DELIVERY SYSTEM, INC., 4711 West 16th St., Cicero, IL 60650. Representative: Barry Roberts, 888 17th St., NW., Washington, DC 20006. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), from Chicago, IL, to points in the lower peninsula of MI and points in CT, IN, MA, MD, NJ, NY, PA, RI, WI and DC, restricted to traffic having a prior movement by rail.

MC 143636 (Sub-12F), filed November 5, 1980. Applicant: RON SMITH TRUCKING, INC., R. R. #1, Box 59, Arcola, IL 61910. Representative: Douglas G. Brown, The INB Center-Suite 555, One North Old State Capitol Plaza, Springfield, IL 62701. Transporting *feed ingredients and feed byproducts*, between points in IL, on the one hand, and, on the other, points in IL, IA, KY, MO and WI.

MC 143666 (Sub-2F), filed November 11, 1980. Applicant: NOOKSACK VALLEY TRANSPORT, INC., 1867 E. Pole Rd., Everson, WA 98247. Representative: Jim Pitzer, 15 S. Grady Way, Suite 321, Renton, WA 98055. In foreign commerce only, transporting *such commodities* as are dealt in by manufacturers of brick and brick products, and clay and clay products, between the ports of entry on the international boundary line between the U.S. and Canada in WA, and points in CA, ID, MT, NV, OR, UT, and WA.

MC 144117 (Sub-70F), filed November 12, 1980. Applicant: TLC LINES, INC., P.O. Box 1090, Fenton, MO 63026. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting *general commodities* (except household goods as defined by the Commission, classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, of Chicago, IL.

MC 144407 (Sub-21F), filed November 12, 1980. Applicant: DECKER TRANSPORT COMPANY, INCORPORATED, 96 RT. 23, Riverdale, NJ 07457. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *such commodities* as are dealt in or used by department, catalog, drug and variety stores, between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by the J. C. Penney Company.

MC 144407 (Sub-22F), filed November 12, 1980. Applicant: DECKER TRANSPORT COMPANY, INCORPORATED, 96 Route 23, Riverdale, NJ 07457. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *food and kindred products* (except commodities in bulk, in tank vehicles), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities of Lea & Perrins, Inc.

MC 146536 (Sub-11F), filed November 17, 1980. Applicant: WALTER SHORT AGENCY, INC., 5000 Wyoming, Dearborn, MI 48126. Representative: John C. Scherbarth, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. Transporting *tractors, tractor parts, and tractor implements*, (1) between points in Macomb County, MI, on the one hand, and, on the other, points in NC, SC, KY, TN, GA, FL, AL, MS, LA, AR, and TX, and (2) between points in Wayne County, MI, on the one hand, and, on the other, points in AL, NC, MD, NY, NJ, WV, FL, and GA.

MC 146646 (Sub-129F), filed November 13, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting (1) *water heaters, furnaces, air conditioners, refrigerated appliances, and metal and plastic containers*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between points in the U.S., restricted to traffic originating at or destined to the facilities of Rheem Manufacturing Company.

MC 147067 (Sub-3F), filed November 11, 1980. Applicant: MACMILLAN OIL COMPANY, INC., 4306 Second Ave., Des Moines, IA 50306. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *asphalt and asphalt products*, in bulk, in tank vehicles, from the facilities of Amoco Oil Company, at or near Linwood, IA, to points in Bureau, Carroll, Fulton, Hancock, Henderson, Henry, Jo Daviess, Knox, La Salle, Lee, Marshall, McDonough, Mercer, Ogle, Peoria, Putnam, Rock Island, Stark, Stephenson, Tazewell, Warren, Winnebago, Whiteside, and Woodford Counties, IL.

MC 148577 (Sub-2F), filed November 10, 1980. Applicant: ORVILLE HOWARD, INC., 2724 Unbrella Tree Dr., Edgewater, FL 32032. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting (1) *metals and metal products*, and (2) *equipment and supplies* used in the manufacture and distribution of the foregoing commodities, between points in the U.S., under continuing contract(s) with Nelson Steel Products, Inc., of Harleysville, PA, and Techalloy Company, Inc., and its subsidiaries, Techalloy Illinois, Inc., Reid-Avery Division, Techalloy Illinois, Inc., Techalloy Western, Inc., of Rahns, PA.

MC 150807 (Sub-1F), filed September 10, 1980, previously noted in the **Federal Register** issues of September 23, 1980 and November 4, 1980, and republished this issue.Applicant: DONALD WILKINSON d.b.a. WILCO BUS SERVICE, 2035 Delaware St., Dubuque, IA 52001. Representative: Carl E. Munson, 469 Fischer Bldg., Dubuque, IA 52001. Over regular routes, transporting *passengers*, in commuter service, (1) between Galena, IL and Dubuque, IA, over US Hwy 20, serving all intermediate points, (2) between Benton, WI and Dubuque, IA.: from Benton over WI Hwy 11 to junction U.S. Hwy 151 then over U.S. Hwy 151 to Dubuque, and return over the same route, serving all intermediate points, and (3) serving the facilities of John Deere Dubuque Works, in connection with the authority in (1) and (2) above.

Note.—The purpose of this republication is to correct the territorial description in (2) above.

MC 151247 (Sub-1F), filed November 12, 1980. Applicant: WEST–ARK REFRIGERATED CARRIERS, INC., P.O. Box 192, Paris, AR 72885. Representative: D. Paul Stafford, Suite 1125 Exchange Park, P.O. Box 44538, Dallas, TX 75245. Transporting *foodstuffs* (except in bulk), between points in Grayson County, TX, on the one hand, and, on the other, points in AL, FL, GA, KS, LA, MS, NM, TN, AR, and OK.

MC 151286 (Sub-1F), filed November 12, 1980. Applicant: CHARLES L. BUDDEMEYER, d.b.a. BUDDEMEYER TRUCKING, P.O. Box 126, Belle, MO 65013. Representative: A. J. Swanson, P.O. Box 1103, 226 No. Phillips Ave., Sioux Falls, SD 57101. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with Kingsford Company, of Louisville, KY.

MC 151847 (Sub-24F), filed November 6, 1980. Applicant: J. P. HAMILTON JR., P.O. Box 832, Denton, NC 27239. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. Transporting (1) (a) *precut houses and buildings, accessories* used in the erection of precut houses and buildings, and *lumber*, and (b) *materials, equipment, and supplies* used in the manufacture and distribution of precut houses and buildings, between points in Rowan County, NC, on the one hand, and, on the other, points in the U.S.; (2) *lumber*, between points in Davidson County, NC, on the one hand, and, on the other, points in GA, OH, SC, TN, VA, and WV; and (3)(a) *stone and stone products*, and (b) *materials, equipment, and supplies* used in the manufacture and distribution of stone and stone products, between points in Davidson County, NC, on the one hand, and, on the other, points in the U.S.

MC 152657F, filed November 10, 1980. Applicant: ERIE EXPRESS COMPANY, 690 Nickel Plate Dr., Cleveland, OH 44115. Representative: Lewis S. Witherspoon, 88 E Broad St., Columbus, OH 43215. Transporting (1) *general commodities*, (except those of unusual value, classes A and B explosives, automobiles, commodities in bulk, and those requiring special equipment), in containers or in trailers, between points in OH, restricted to the transportation of shipments having a prior or subsequent movement by rail.

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Decided: November 24, 1980.

By the Commission, Review Board Number 3, Members, Parker, Fortier and Hill.

MC 4966 (Sub-24F), filed November 10, 1980. Applicant: JONES TRANSFER COMPANY, a corporation, 300 Jones Ave., Monroe, MI 48161. Representative: Thomas M. Hummer (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Clinton and Coldwater, MI over U.S. Hwy 12; (2) between Ann Arbor, MI and junction Interstate Hwy 94 and junction Interstate Hwy 69, over Interstate Hwy 94; (3) between the junction of U.S. Hwys 20 and 127 and Jackson, MI, over U.S. Hwy 127; (4) between the junction of Interstate Hwys 94 and 69 and Coldwater, MI, over Interstate Hwy 69; and (5) between the junction of U.S. Hwy 20 and U.S. Hwy 127 and Coldwater, MI: from the junction of U.S. Hwy 20 and U.S. Hwy 127, then over U.S. Hwy 20 to junction U.S. Hwy 27, then over U.S. Hwy 27 to Coldwater, and return over the same route, serving all intermediate points and at points in that part of MI on and east of Interstate Hwy 69, on and south of Interstate Hwy 94, and on and west of a line commencing at the junction of the OH–MI state line and MI Hwy 52 over MI Hwy 52 to its junction with U.S. Hwy 12, then over U.S. Hwy 12 to its junction with U.S. Hwy 23, then over U.S. Hwy 23 to its junction with Interstate Hwy 94 as off-route points.

MC 37327 (Sub-13F), filed November 3, 1980. Applicant: PENN EMPIRE TRANSPORT, INC., P.O. Box 517, Jamestown, NY 14701. Representative: Gregory B. Fraser, Bankers Trust Bldg., Jamestown, NY 14701. Transporting *such commodities* as are dealt in or used by manufacturers of (1) *wooden and metal furniture*, and (2) *fabricated metal products* (except ordnance, machinery, or transportation equipment, commodities in bulk, and those requiring special equipment), between points in Chautauqua and Cattaraugus Counties, NY, and Clarion County, PA, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 41406 (Sub-164F), filed November 3, 1980. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 8400 Westlake Dr., Merrillville, IN 46410. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting: *Such commodities* as are dealt in or used by manufacturers of hospital equipment and supplies, between Elyria, OH, on the one hand, and, on the other, points in the United States (excluding AK and HI).

MC 42487 (Sub-1001F), filed November 6, 1980. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Transporting *general commodities* (except classes A and B explosives, and household goods as defined by the Commission), serving the facilities of Rubbermaid, Inc., at or near Greenville, TX, as an off-route point, in connection with carrier's otherwise off-route operations.

Note.—Applicant intends to tack with existing authority.

MC 44447 (Sub-34F), filed November 5, 1980. Applicant: SUBURBAN MOTOR FREIGHT, INC., 1100 King Ave., Columbus, OH 43216. Representative: James R. Stiverson, 1396 W. Fifth Ave., Columbus, OH 43212. Transporting *general commodities* (except those of

unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special

KY, from Grayling over U.S. Hwy 27 to junction U.S. Hwy 127, then over U.S. Hwy 127 to junction U.S. Hwy 27, then over U.S. Hwy 27 to Lexington, and

Clinton, IA and the OH–PA State Line over U.S. Hwy 30, serving all intermediate points (28) between Gary, IN and Louisville, KY, over Interstate

Transporting (1) *engines, parts and accessories* for engines, (2) *commodities* which because of size or weight require the use of special equipment or special handling, and (3) *materials, equipment*

Baptist Parish, LA, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, MO, NC, SC, TN, VA and WV, and (3) *tanks and materials,*

equipment: (a) between points in Jefferson County, IN, on the one hand, and, on the other, points in AL, AR, GA, IL, LA, KY, MD, MS, NC, OK, SC, TN,

unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Davenport, IA, St. Louis, MO, and points in Fayette County, WV, IL, IN, OH, those in MI on and south of a line beginning at Ludington, MI, and extending along U.S. Hwy 10 to Bay City, MI, and then along MI Hwy 25 to Lake Huron, those in NY on and west of a line beginning at the PA–NY State line and extending along U.S. Hwy 219 to junction NY Hwy 78, at or near Buffalo, NY, and then along NY Hwy 78 to the NY-Ontario boundary line, those in PA on and west of a line beginning at the NY–PA State line and extending along PA Hwy 219 to junction U.S. Hwy 281, and then along U.S. Hwy 219 to the PA–WV State line, those points in WV on and north of a line beginning at the MD–WV State line and extending along U.S. Hwy 48 to junction Interstate Hwy 79, then along Interstate Hwy 79 to junction Interstate Hwy 64, then along Interstate Hwy 64 to the WV–KY State line, and those points in KY on and north of Interstate Hwy 64.

Note.—Applicant intends to tack with existing authority.

MC 49387 (Sub-60F), filed November 12, 1980. Applicant: ORSCHELN BROS. TRUCK LINES, INC., U.S. Hwy 24 East, P.O. Box 658, Moberly, MO 65270. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Kansas City, MO 64105. Transporting *brass, bronze and copper products*, between Kenosha, WI, on the one hand, and, on the other, Trenton, Joplin and Jefferson City, MO, and Logansport, IN.

MC 59206 (Sub-35F), filed October 21, 1980. Applicant: HOLLAND MOTOR EXPRESS, INC., 750 East 40th St., Holland, MI 49423. Representative: Kenneth De Vries (same address as applicant). Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment) (1) between Mackinaw City, MI and Lexington, KY, over Interstate Hwy 75, serving all intermediate points; (2) between Mackinaw City and the junction U.S. Hwy 23 and Interstate Hwy 64, over U.S. Hwy 23, serving all intermediate points; (3) between Mackinaw City, MI and Louisville, KY, over U.S. Hwy 31, serving all intermediate points; (4) between Petoskey, MI and the junction of U.S. Hwy 31 and MI–IN State line over U.S. Hwy 131 serving all intermediate points; (5) between Grayling, MI and Lexington, KY, from Grayling over U.S. Hwy 27 to junction U.S. Hwy 127, then over U.S. Hwy 127 to junction U.S. Hwy 27, then over U.S. Hwy 27 to Lexington, and return over the same routes, serving all intermediate points; (6) between Flint, MI and Indianapolis, IN, over Interstate Hwy 69, serving all intermediate points; (7) between Muskegon and Detroit, MI, over Interstate Hwy 96, serving all intermediate points; (8) between Madison, WI and Port Huron, MI, over Interstate Hwy 94, serving all intermediate points; (9) between Madison, WI and Dubuque, IA, over U.S. Hwy 151, serving all intermediate points; (10) between Dubuque, IA and St. Louis, MO, from Dubuque over U.S. Hwy 52 to junction U.S. Hwy 67, then over U.S. Hwy 67 to junction U.S. Hwy 61, then over U.S. Hwy 61 to St. Louis, and return over the same routes, serving all intermediate points; (11) between St. Louis, MO and Huntington, WV, over Interstate Hwy 64, serving all intermediate points; (12) between St. Louis, MO and Wheeling, WV, over Interstate Hwy 70, serving all intermediate points; (13) between Madison, WI and the junction of Interstate Hwy 90 and OH–PA State line over Interstate Hwy 90, serving all intermediate points; (14) between Davenport, IA and Cincinnati, OH, over Interstate Hwy 74, serving all intermediate points; (15) between Cairo, and Chicago, IL, over Interstate Hwy 57, serving all intermediate points; (16) between Paducah, KY and the junction Interstate Hwys 57 and 24, over Interstate Hwy 24, serving all intermediate points; (17) between St. Louis, MO and Chicago, IL, over Interstate Hwy 55, serving all intermediate points; (18) between Quincy, IL and Maumee, OH, over U.S. 24, serving all intermediate points; (19) between Hammond, IN and Henderson, KY, over U.S. Hwy 41, serving all intermediate points; (20) between Louisville, KY and Cleveland, OH, over Interstate Hwy 71, serving all intermediate points; (21) between Davenport, IA and St. Louis, MO, over U.S. Hwy 67, serving all intermediate points; (22) between Bay City and Port Huron, MI, over MI Hwy 25, serving all intermediate points; (23) between Holland and Port Huron, MI, over MI Hwy 21, serving all intermediate points; (24) between Port Austin and Detroit, MI, over MI Hwy 53, serving all intermediate points; (25) between St. Louis, MO and Cincinnati, OH, over U.S. Hwy 50, serving all intermediate points; (26) between Cairo, IL and Whitewater, WI, over over U.S. Hwy 51, serving all intermediate points; (27) between Clinton, IA and the OH–PA State Line over U.S. Hwy 30, serving all intermediate points (28) between Gary, IN and Louisville, KY, over Interstate Hwy 65, serving all intermediate points (29) between Dubuque, IA and Rockford, IL, over U.S. Hwy 20, serving all intermediate points; (30) between Rock Island and Chicago, IL, over IL Hwy 5, serving all intermediate points; (31) between Elyria, OH and the junction of Interstate Hwy 80 and OH–PA State line over Interstate Hwy 80, serving all intermediate points; (32) between Canton and Cleveland, OH, from Canton over Interstate Hwy 77 to junction OH Hwy 21, then over OH Hwy 21 to Cleveland, and return over the same routes, serving all intermediate points; (33) between Hannibal, MO and Champaign, IL, from Hannibal over U.S. Hwy 36 to junction Interstate Hwy 72, then over Interstate Hwy 72 to Champaign, and return over the same route, serving all intermediate points; (34) between Decatur, IL and Urlichville, OH, over U.S. Hwy 36, serving all intermediate points; (35) between the junction Interstate Hwy 64 and KY Hwy 151 and Lexington, KY from the junction Interstate Hwy 64 and KY Hwy 151, then over KY Hwy 151 to junction U.S. Hwy 62, then over U.S. Hwy 62 to junction U.S. Hwy 60, then over U.S. Hwy to Lexington, and return over the same routes, serving all intermediate points, and (36) in connection with routes (1) through (35) above serving as off-route points in IL, IN, those in the Lower Peninsula of MI, those in OH on the north of U.S. Hwy 30, those in KY on and north of Interstate Hwy 64, those points within (2) miles of the OH River in KY and WV, those points in MO and IA within (2) miles of the MS River, and those points in WI on and south of a line formed by U.S. Hwy 151 and Interstate Hwy 94.

Note.—Applicant intends to tack this authority with its present authority, and intends to interline.

MC 66886 (Sub-84F), filed November 13, 1980. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut St., Kansas City, MO 64108. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. Transporting *air conditioning equipment, materials and supplies*, between Clay and Jackson Counties, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 66886 (Sub-85F), filed November 12, 1980. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut St., Kansas City, MO 64108. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105.

Transporting (1) *engines, parts and accessories* for engines, (2) *commodities* which because of size or weight require the use of special equipment or special handling, and (3) *materials, equipment, and supplies* used in connection with the commodities in (1) and (2) above, between points in Rock County, WI, Winnebago County, IL, Harris County, TX, Denver County, CO, and Lafayette County, LA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 66886 (Sub-86F), filed November 12, 1980. Applicant: BELGER CARTAGE SERVICE, INC., 2100 Walnut St., Kansas City, MO 64108. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105. Transporting *commodities* which because of size or weight require the use of special equipment or special handling, machinery and supplies, between points in the U.S.

MC 70557 (Sub-39F), filed November 10, 1980. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer St., Chicago, IL 60639. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting (1) *paper and paper products*, and (2) *materials and supplies* used in the manufacture and distribution of paper and paper products, between Cantonment and Jacksonville, FL, Ferguson, MD, and Sheldon and Herty, TX, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MO, MS, OK, NC, SC, TN, TX, VA, and WV.

MC 103926 (Sub-106F), filed October 31, 1980. Applicant: W. T. MAYFIELD SONS TRUCKING CO., INC., P.O. Box 947, Mableton, GA 30059. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. Transporting (1) *machinery and equipment; machinery and equipment parts, implements, attachments*, and *accessories and materials, supplies and equipment* used in the manufacture, distribution or sale of such commodities between points in AL, AR, DC, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, MI, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, WV and WI, and (2) *primary metal products;* inc. galvanized; except coating or other allied processing and *fabricated metal products;* except ordnance (a) between points in GA, on the one hand, and, on the other, points in AL, FL, GA, IL, KY, LA, MS, NC, SC, TN, VA, and WV; (b) between points in Surry County, NC, on the one hand, and, on the other, points in AL, AR, DC, FL, GA, IN, KY, LA, MD, MS, OH, SC, TN, VA and WV; (c) between points in Duval County, FL; Shelby County, TN; St. Louis County, MO; Jefferson County, KY; and John The Baptist Parish, LA, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, MO, NC, SC, TN, VA and WV, and (3) *tanks and materials, equipment and supplies* used in the manufacture, sale or distribution thereof (a) between points in GA, on the one hand, and, on the other, points in AL, AR, DC, FL, GA, KY, IL, IN, LA, MD, MO, MS, NC, SC, TN, OH, OK, PA, TX, VA and WV; (b) between points in FL, on the one hand, and, on the other points, in AL, KY, MS, and NC; (c) between points in NC, on the one hand, and, on the other, points in AL, MS, and TN; (d) between points in SC, on the one hand, and, on the other, points in AL, KY, MS and TN; (e) between points in Jefferson County, AL, on the one hand, and, on the other, points in AL, AR, DC, FL, GA, IL, IN, KY, LA, MD, MO, MS, NC, OH, OK, PA, SC, TN, TX, VA and WV, and (4) *poles and materials, accessories and supplies* incidental thereto, between points in Plaquemines Parish, LA and Harris County, TX, on the one hand, and, on the other, points in AL, AR, DC, DE, FL, GA, IA, IL, IN, KY, MO, MS, NC, NJ, OH, OK, PA, SC, TN, TX, VA and WV, and (5) *clay, concrete, glass or stone products and accessories, scaffolding, shoring, materials and supplies*, used in, or incidental to, the installation and erection thereof, (a) between points in GA, on the one hand, and, on the other points, in AL, FL, GA, KY, MS, NC, SC, TN and VA; (b) between points in Mecklenburg County, NC, on the one hand, and, on the other, points in AL, FL and TN; (c) between Polk County, GA on the one hand, and, on the other, points in AL, FL, IL, IN, KY, LA, MS, NC, OH, SC, TN, TX, VA, WV and DC, and (6) *pipe, pipe fittings, valves, hydrants, and castings and accessories and parts* for same, (a) between points in Jefferson and Talladega Counties, AL, on the one hand, and, on the other, points in AL, AR, DC, FL, GA, IL, IN, KY, LA, MD, MO, MS, NC, OH, OK, SC, TN, TX, VA and WV; (b) between points in Fulton, DeKalb, Cobb, Clayton and Gwinnett Counties, GA, on the one hand, and, on the other, points in AL, FL, NC, SC, and TN, and (7) *cooling towers and parts, accessories and supplies* incidental thereto, between points in Osage and Tulsa Counties, OK and Henry County, GA, on the one hand, and, on the other, points in AL, AR, DC, DE, FL, GA, IN, IL, KY, LA, MD, MS, NJ, NC, OH, PA, SC, TN, VA and WV, and (8) *Lumber and pallets*, between points in Randolph County, GA, on the one hand, and, on the other, points in AL, KY, SC, and TN, and (9) *commodities*, which because of size or weight, require the use of special equipment; (a) between points in Jefferson County, IN, on the one hand, and, on the other, points in AL, AR, GA, IL, LA, KY, MD, MS, NC, OK, SC, TN, TX, VA, WV and DC; (b) between points in FL, on the one hand, and, on the other, points in AL, GA, KY, NC, SC, TN and VA; (c) between points in Milwaukee County, WI, on the one hand, and, on the other, points in AL, AR, GA, FL, LA, MS, NC, OK, SC, TN, TX and VA, and (10) *self-propelled articles (except automobiles) and parts, attachments and accessories* for same, (a) between points in Baltimore, Howard and Anne Arundel Counties, MD; Hampton, Chesapeake, Newport News, Portsmouth, Norfolk and Virginia Beach, VA; Charleston, Horry, Berkeley, Richland and Greenville Counties, SC; Chatham County, GA; Duval County, FL; Mobile County, AL; Marathon County, WI; Jefferson, Orleans, Plaquemines, Bernard and St. Charles Parishes, LA; Vermillion County, IL; Montgomery County, IN; Madison County, KY; Mecklenburg and Guilford Counties, NC; Hamilton, Marion, Knox and Davison Counties, TN, on the one hand, and, on the other, points in AL, AR, DC, FL, GA, KY, LA, MD, MS, NC, SC, TX, TN, WV and VA; (b) between points in Wake County, NC, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, OK, SC, TN and TX; (c) between points in FL on the one hand, and, on the other, points in AL, GA, KY, NC, SC, TN and VA; (d) between points in Gwinnett County, GA on the one hand, and, on the other, points in AL, AR, DE, FL, IL, IN, KY, LA, MD, MS, NJ, NY, NC, OH, PA, SC, TN, TX, VA, WV and DC, and (11) *tractors* and *parts, implements, attachments, accessories and supplies* for same, between points in AL, AR, FL, GA, IL, IN, KY, LA, MS, NC, OH, OK, SC, TN, TX, VA and WV, and (12) *aircraft refueler units*, between points in Jefferson County, AL, on the one hand, and, on the other, points in AL, AR, DC, FL, GA, IL, IN, KY, LA, MD, MO, MS, NC, OH, OK, PA, SC, TN, TX, VA and WV. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written requests of all certified authority under MC 103926 (except subs 56, 77 and 105).

MC 111656 (Sub-13F), filed November 3, 1980. Applicant: FRANK LAMBIE, INC., Pier 79, North River, New York, NY 10018. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528. Transporting *computer paper*, between points in the U.S., under a continuing contract(s) with Willamette Industries of Longhorne, PA and Duplex Products, Inc. of Sycamore, IL.

MC 119777 (Sub-508F), filed November 6, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85

MC 139526 (Sub-8F), filed November 3, 1980. Applicant: HARRY LINDBERY CO., INC., 6901 Maloney Ave., Hopkins,

Communications Products, of Freehold, NJ.

MC 145457 (Sub-6F), filed November

in the U.S. in and east of WI, IL, MO, and TX, and (2) between Birmingham, AL, CA and WA.

baggage, in the same vehicle with passengers, in round-trip charter operations, between Washington, D.C. and Baltimore, MD, under continuing

used in the manufacture and distribution of automotive parts, between points in the U.S., under continuing contract(s) with Sheller Globe Corp., of Iowa City,

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MC 119777 (Sub-508F), filed November 6, 1980. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., restricted to traffic originating at or destined to the failities of PPG Industries, Inc.

MC 129537 (Sub-46F), filed October 31, 1980. Applicant: REEVES TRANSPORTATION CO., Rt. 5, Dew's Pond Rd., Calhoun, GA 30701. Representative: John C. Vogt, Jr., 406 N. Morgan St., Tampa, FL 33602. Transporting (1) *such commodities as are dealt in and distributed by grocery, hardware and drug stores*, (2) *cleaning and building maintenance materials and supplies*, (3) *swimming pool, spa and hot tub products*, (4) *chemicals*, and (5) *materials, equipment and supplies* used in the manufacture and distribution of the commodities named in (1) through (4) above, (except commodities in bulk), between points in the U.S. (except AK and HI), restricted to traffic originating at or destined to facilities used by Purex Corporation.

MC 134806 (Sub-68F), filed October 26, 1980. Applicant: B–D–R TRANSPORT, INC., P.O. Box 1277 Vernon Dr., Brattleboro, VT 05301. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. Transporting *ski boots*, between points in the U.S., under continuing contract(s) with Beconta Manufacturing Corporation, of Elmsford, NY.

MC 134806 (Sub-69F), filed September 31, 1980. Applicant: B–D–R TRANSPORT, INC., P.O. Box 1277, Vernon Dr., Brattleboro, VT 05301. Representative: Francis J. Ortman, 7101 Wisconsin Ave., Suite 605, Washington, DC 20014. Transporting (1) *baskets*, from points in Windham County, VT to points in UT, NV, and CA, under continuing contract(s) with Basketville, of Brattleboro, VT, and (2) *insulating window shades*, from Windham County, VT, to points in CO, UT, AZ, CA, NV, NM, ID, MT, OR, WA, and WY, under continuing contract(s) with Appropriate Technology Corp., of Brattleboro, VT.

MC 138627 (Sub-98F), filed November 10, 1980. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting *iron and steel articles*, from Granite City, IL, to AR, IN, IA, KS, KY, MI, MO, MN, NE, ND, OH, OK, SD, TN, TX, and WI.

MC 139526 (Sub-8F), filed November 3, 1980. Applicant: HARRY LINDBERY CO., INC., 6901 Maloney Ave., Hopkins, MN 55343. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. Transporting (1) *foodstuffs*, and (2) *such commodities* as are dealt in by grocery and discount stores, (except commodities in bulk), between points in the U.S., under continuing contract(s) with Super Value Stores, Inc., of Hopkins, MN, and its subsidiaries.

MC 139917 (Sub-15F), filed October 23, 1980. Applicant: SEARAIL, INC., P.O. Box 909, Mobile, AL 36601. Representative: George M. Boles, 727 Frank Nelson Bldg., Birmingham, AL 35203. Transporting *general commodities* (except classes A and B explosives), between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of all of its existing irregular route duplicating certificates issued under Docket No. MC 139917.

MC 143276 (Sub-36F), filed November 3, 1980. Applicant: WEAVER TRANSPORTATION COMPANY, a corporation, 5452 Oakdale Rd., Smyrna, GA 30080. Representative: James L. Brazee, Jr., P.O. Box 3261, Ft. Stewart, GA 31314. Transporting *strand steel wire*, in coils, *fabricated steel wire*, in bundles, *plastic strips*, in coils, and *grease*, in bins, (1) from the facilities of American Spring Wire Corp., in Bedford Heights, OH, and the facilities of North American Plastics, in Cleveland, OH, to the facilities of Continental Crete Structures, at points in Gwinnett County, GA, and (2) between the facilities of Continental Concrete Structures, at points in Gwinnett County, GA, and points in LA, SC, NC, and TN.

MC 144547 (Sub-14F), filed November 4, 1980. Applicant: DURA-VENT TRANSPORT CORPORATION, P.O. Box 2249, 2525 El Camino Real, Redwood City, CA 94064. Representative: Barry Roberts, 888 17th St., NW., Washington, DC 20006. Transporting *wood burning stoves*, between points in the U.S.

MC 145116 (Sub-1F), filed November 6, 1980. Applicant: EASTERN SUPPLY COMPANY, INC., Route 9, Freehold, NJ 07728. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410. Transporting (1) *television cables*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of television cables, between points in the U.S., under continuing contract(s) with Cerro Communications Products, of Freehold, NJ.

MC 145457 (Sub-6F), filed November 13, 1980. Applicant: B & M EXPRESS, INC., P.O. Box 81506, Oklahoma City, OK 73148. Representative: William P. Parker, Suite 615-East, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting (1) *tires, tire parts, inner tubes and inner tube parts*, and (2) *materials, equipment, and supplies*, used in the manufacture and distribution of the commodities, in (1) above, (except commodities in bulk), from Texarkana, AR, to points in OK, TX, and LA.

MC 145637 (Sub-5F), filed November 13, 1980. Applicant: B&B EXPRESS, INC., P.O. Box 5552, Station B, Greenville, SC 29606. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Transporting (a) *plastic film, tape and sheeting, stationary, reproduction and data storage materials*, and (b) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (a) above, (1) between Greenville and Spartanburg, SC, on the one hand, and, on the other, points in AR, CA, CO, GA, AL, and TX, and (2) between Santa Clara, CA, on the one hand, and, on the other, points in SC.

MC 146146 (Sub-10F), filed November 13, 1980. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: Edward P. Bocko, P.O. Box 496, Mineral Ridge, OH 44440. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in the U.S., under continuing contract(s) with The Steel Company, of Chicago, IL.

MC 146336 (Sub-16F), filed November 13, 1980. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 1609 109th St., Grand Prairie, TX 75050. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. Transporting *dental, hospital and surgical supplies*, between point in the U.S., under continuing contract(s) with Johnson & Johnson Products, Inc., of New Brunswick, NJ.

MC 146646 (Sub-126F), filed November 6, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting *plastic film, and materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, (1) between the facilities of St. Regis Paper Company, at Birmingham, AL, on the one hand, and, on the other, those points

in the U.S. in and east of WI, IL, MO, and TX, and (2) between Birmingham, AL, CA and WA.

MC 146646 (Sub-127F), filed November 13, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting (1) *Kitchen cabinets, vanities, shelf units and hardwood flooring*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between points in the U.S., restricted to traffic originating at or destined to the facilities of Triangle Pacific Corp., and its subsidiaries.

MC 146648 (Sub-128F), filed November 13, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). Transporting (1) *foodstuffs*, and (2) *materials and supplies* used in the manufacture and distribution of foodstuffs, from the facilities of Aunt Jane Foods, Inc., at or near Croswell, MI, to points in OK, KS, NE, IA, MO, IL, KY, IN, OH, WV, PA, NY, MD, MA, CT, RI, NH, VT, and ME.

MC 146807 (Sub-24F), filed October 31, 1980. Applicant: S-n-W ENTERPRISES, INC., P.O. Box 1131, Wilkes-Barre, PA 18702. Representative: Edward F. V. Pietrowski, 3300 Birney Ave., Moosic, PA 18507. Transporting *iron and steel wire rope*, between points in PA, OH, IN, IL, IA, NE, CO, UT, NV, CA, AZ, NM, TX, KS, AR, MO, MS, AL, TN, KY, GA, SC, NC, VA, MD, WV, FL, LA, and OK.

MC 147056 (Sub-4F), filed November 7, 1980. Applicant: ARDEN CARTAGE INC., 12201 Conway Rd., Beltsville, MD 20705. Representative: Peter A. Greene, 1920 N St. NW., Washington, D.C. 20036. Transporting *iron and steel articles*, between points in the U.S., under a continuing contract(s) with Thomsson Steel Company, Inc. of Beltsville, MD.

MC 147837 (Sub-3F), filed November 13, 1980. Applicant: LIMA, INC., 705 South Court St., Marion, IL 62959. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *building materials*, between Marion, IL, on the one hand, and, on the other, points in IN, KY, MO, TN, and OH.

MC 150597 (Sub-1F), filed November 3, 1980. Applicant: RICHARD H. MILLS d.b.a. RED LINE BUS COMPANY, 12201 Atherton Dr., Silver Springs, MD 20904. Representative: Edward N. Burton, 580 Northern Ave., Hagerstown, MD 21740. Transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, between Washington, D.C. and Baltimore, MD, under continuing contract(s) with Arundel Arena, Inc. of Baltimore, MD.

MC 150657 (Sub-1F), filed November 4, 1980. Applicant: B.L.S. LIMOUSINE SERVICE, INC., 11242 Playa Ct., Culver City, CA 90230. Representative: Fred Altman (same address as applicant). Transporting *passengers, and their baggage*, in charter operations, between Culver City, CA, on the one hand, and, on the other, Las Vegas, NV.

MC 151207 (Sub-3F), filed October 27, 1980. Applicant: P.S.T. TRANSPORT, INC., 11236 West Ave., San Antonio, TX 78213. Representative: William E. Collier, 8918 Tesoro Dr., Suite 515, San Antonio, TX 78217. Transporting (1) *malt beverages*, from the facilities of Pearl Brewing Company, Inc., at San Antonio, TX, to points in AL, AR, FL, CA, LA, MS, NC, SC, and TN, and (2) *materials and supplies* used in the manufacture of malt beverages, in the reverse direction.

MC 151326 (Sub-1F), filed November 6, 1980. Applicant: DISTRIBUTOR'S TRANSPORTATION SERVICES, INC., Cascade Dr., P.O. Box 2342, Allentown, PA 18001. Representative: Joseph A. Keating, Jr., 121 S. Main St., Taylor, PA 18517. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment or handling), between the facilities of Hadco Service Co., Inc. of Allentown, PA, on the one hand, and, on the other, points in NJ, NY, CT, MD, DE, and DC, restricted to traffic originating at the named facilities and destined to the above named destination.

MC 151696 (Sub-1F), filed November 3, 1980. Applicant: DAM-RIDGE TRANSPORTATION COMPANY, INC., 2890 Wilson Ave., Madison, IN 47250. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *automobile lifts and automobile lift parts, mass transit lifts and other special related products*, between points in the U.S., under continuing contract(s) with Rotary Lift Company of Madison, IN.

MC 151897 (Sub-1F), filed October 31, 1980. Applicant: DAVE DAVIS EXCAVATING AND TRUCKING, INC., 1236 South 11th St., Niles, MI 49120. Representative: Paul D. Borghesani, Suite 300, Communicana Bldg., 421 South 2nd St., Elkhart, IN 46516. Transporting (1) *automotive parts*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of automotive parts, between points in the U.S., under continuing contract(s) with Sheller-Globe Corp., of Iowa City, IA.

MC 151977 (Sub-1F), filed November 6, 1980. Applicant: BAY STATE CONTRACT CARRIER, INC., 183 Hooper Street, Tiverton, RI 02878. Representative: William F. Poole, 41 Bea Dr., North Kingstown, RI 02852. Transporting (1) *green lamb pelts*, and (2) *materials, equipment, and supplies, used in the production and distribution of the commodities in (1) above related accessory items*, between points in the U.S., under a continuing contract(s) with A. C. Lawerence Leather Inc. of Winchester, NH.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–37424 Filed 12–1–80; 8:45 am]

BILLING CODE 7035–01–M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in Room 4425, Department of the Treasury, 15th Street and Pennsylvania Avenue, Washington, D.C. on December 16, 1980, begginning at 9:30 a.m.

The purpose of the meeting is to review the November Joint Board examinations in actuarial mathematics and methodology, referred to in Title 29, U.S. Code, Sections 1242(a)(1) (B) and (C), and to make recommendations relative thereto including the minimum acceptable pass score. A determination as required by Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463) has been made that this meeting is for the purpose of considering matters which fall within the exceptions to the open meeting requirement set forth in Title 5 U.S. Code, Section 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: November 26, 1980.

Leslie S. Shapiro,

Advisory Committee Management Officer. Joint Board for the Enrollment of Actuaries.

[FR Doc. 80–37350 Filed 12–1–80; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF JUSTICE

Office of Justice Assistance, Research, and Statistics

Physicians, P.C. Profit Sharing Plan (the Plan) to Dr. Michael D. Papo (Dr. Papo), a party in interest. The proposed exemption, if granted, would affect Dr. participant has an individual account and is permitted to direct the investments of that account. The account of Dr. Papo had total assets of

(4) The Plan will not incur additional expenses incident to the sale of the Property;

(5) Dr. Papo is the only participant whose account will be affected by the

is subject to an administrative or statutory exemption is not dispositive of whether transaction is in fact a prohibited transaction.

[Prohibited Transaction Exemption 80–90; Exemption Application No. D–1523]

Exemption From the Prohibitions for Certain Transactions Involving

DEPARTMENT OF JUSTICE

Office of Justice Assistance, Research, and Statistics

National Minority Advisory Council on Criminal Justice; Meeting

This is to provide notice of a quarterly meeting of the National Minority Advisory Council on Criminal Justice (NMACCJ), OJARS.

The National Minority Advisory Council on Criminal Justice will hold its fourth quarterly meeting for 1980 on Friday, December 12 and Saturday, December 13, in the LEAA Conference Room located at 633 Indiana Avenue NW., 13th Floor in Washington, D.C. The meeting is scheduled to run from 9:00 a.m. to 5:00 p.m. on each day.

Discussion at the meeting will focus on finalizing the 1981 NMACCJ budget and workplan, finalizing the Council's report, *The Inequality of Justice* with recommendations, and a report to the Council on its recent national conference.

Anyone wishing additional information should contact either Ms. Peggy Triplett, LEAA–NMACCJ Coordinator, at 633 Indiana Avenue NW., Washington, D.C. 20531, (202) 724–5933; or Mr. Raymond Blanks, NMACCJ Staff Director, 1990 M Street NW., Suite 200, Washington, D.C. 20036 (202) 862–9300.

Benjamin L. Shapiro,

Acting Project Monitor, National Minority Advisory Council on Criminal Justice.

[FR Doc. 80-37352 Filed 12-1-80; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

[Application No. D–1571]

Proposed Exemption for a Certain Transaction Involving the Chelsea Emergency Physicians, P.C. Profit Sharing Plan Located in Ann Arbor, Mich.

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency beforfe the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of a certain parcel of real property by the Chelsea Emergency Physicians, P.C. Profit Sharing Plan (the Plan) to Dr. Michael D. Papo (Dr. Papo), a party in interest. The proposed exemption, if granted, would affect Dr. Papo, the Plan and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before Jan. 7, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1571. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ms. Linda Hamilton of the Department of Labor, telephone (202) 523–7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406(b) (1) and (2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of Dr. Papo and the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan, adopted in 1975, has three participants, including Dr. Papo. Each participant has an individual account and is permitted to direct the investments of that account. The account of Dr. Papo had total assets of $1,967,087 as of December 31, 1979.

2. The trustee of the Plan is the Ann Arbor Bank and Trust company (the Trustee). Each Plan participant may elect to direct the Trustee with respect to the investments of his or her individual account. In all other instances, the Trustee is responsible for investment decisions of the Plan.

3. Chelsea Emergency Physicians, P.C. (CEP), the employer maintaining the Plan, is a medical professional corporation which was incorporated in 1975. CEP is engaged in the rendering of medical services in Chelsea, Michigan.

4. On October 17, 1977, the Plan, through the account of Dr. Papo and at his direction, purchased the Salvation Army Building (the Property), located at 220 East Washington Street, Ann Arbor, Michigan. The purchase price was $115,000.

5. The Property produces no current income. The applicants represent that the best use of the Property would be as a commercial office building. The Trustee represents that for the Plan to undertake the development of the Property as a commercial office building would create liability risks to the Trustee in the form of real estate management decisions.

6. Dr. Papo wishes to purchase the Property from the Plan. Two appraisals of the Property were prepared. The first appraisal, prepared by Davis M. Somers, S.R.P.A., places the fair market value at $117,000. The second appraisal, prepared by George Kostishak, M.A.I., S.R.E.A., places fair market value at $160,000. Dr. Papo proposes to pay $160,000, the higher amount of the two appraisals.

7. The applicants represent that if the Plan were to sell the Property to an unrelated party it would realize less than the price offered by Dr. Papo. The expenses incident to such sale would be avoided by a sale to Dr. Papo, i.e., salesperson's commissions, legal fees to review and negotiate the transaction, and closing costs.

8. In summary, the applicants represent that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(1) It will be a one-time cash transaction;

(2) The Plan will be able to dispose of non-income producing real property at a profit;

(3) The Plan will not pay real estate commissions on the sale of the Property;

(4) The Plan will not incur additional expenses incident to the sale of the Property;

(5) Dr. Papo is the only participant whose account will be affected by the proposed transaction; and

(6) The Trustee of the Plan has determined that the proposed transaction is in the best interests of Dr. Papo's account.

Notice to Interested Persons

Within 10 days of the publication of the Notice of Pendency in the **Federal Register**, all present Plan participants will receive by personal delivery, a copy of the Notice of Pendency and a written statement informing them of their right to comment on the proposed exemption and the right to request that a hearing be held.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale by the Plan of certain real property located at 220 East Washington Street, Ann Arbor, Michigan, to Dr. Michael D. Papo, a party in interest with respect to the Plan, for the cash price of $160,000, provided that this amount is not less than fair market value at the time of the sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 21st day of November, 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-37271 Filed 12-1-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80–90; Exemption Application No. D–1523]

Exemption From the Prohibitions for Certain Transactions Involving Douglas County Bank & Trust Co. Profit Sharing Plan and Trust Located in Omaha, Nebr.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale for cash of a parking lot (the Parking Lot) by Douglas County Bank & Trust Co. Profit Sharing Plan and Trust (the Plan) to Great Western Securities, Inc. (Great Western), a party in interest with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. Horace C. Green of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523–8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 16, 1980, notice was published in the **Federal Register** (45 FR 61405) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (E) of the Code, for a transaction described in an application filed by Douglas County Bank & Trust Co. (the Employer). The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of notification to interested persons set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department. The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of

Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–

section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a

not less than the fair market value on the date of sale; and (2) the cash sale by the Trust of the Plans' interest in the Lorella Springs partnership to JMI for

exemption and referred interested persons to the application for a complete statement of the facts and

Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale by the Plan to Great Western for cash of the Parking Lot, provided that (1) the price is not less than the fair market value of the Parking Lot at the time of sale and (2) the Plan receives a supplemental amount from the Employer equal to the difference between the Plan's original cost for the Parking Lot and the sales proceeds.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 21st day of November 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-37274 Filed 12-1-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80–91, Exemption Application Nos. D–1615 and D–1616]

Exemption From the Prohibitions for Certain Transactions Involving International Management, Inc. Amended and Restated Profit Sharing Plan and Trust Agreement and Trans World International, Inc. Amended and Restated Profit Sharing Plan and Trust Agreement Located in Cleveland, Ohio

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale of two partnership interests by the collective trust (Trust) of the above-referenced plans (the Plans) to International Management, Inc. (IMI), a party in interest to each Plan.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Sandler of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue NW, Washington, D.C. 20216 (202) 523–8195. (This is not toll-free number.)

SUPPLEMENTARY INFORMATION: On September 16, 1980, notice was published in the **Federal Register** (45 FR 61408) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for the above-mentioned sales of two partnership interests. The notice set forth a summary of facts and representations contained in the applications for exemption and referred interested persons to the applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant's representative has stated that he was unable to provide a copy of the notice to interested persons by September 26, 1980, as required in the notice of pendency. The required notice was provided by letter dated October 2, 1980, and each recipient was specifically informed that the period within which to comment or request a hearing was extended to November 7, 1980. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under

section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to: (1) the cash sale by the Trust of the Plans' interest in the Douglasdale partnership to IMI for the higher of R2,309.20 (South African Rands) or $4,000.00, provided that this amount is not less than the fair market value on the date of sale; and (2) the cash sale by the Trust of the Plans' interest in the Lorella Springs partnership to IMI for $1,340.00, provided this amount is not less than the fair market value on the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the applications are true and complete, and that the applications accurately describe all material terms of the transactions to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 21st day of November, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-37273 Filed 12-1-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80–89, Exemption Application No. D–745]

Exemptions From the Prohibitions for Certain Transactions Involving the Liberty Mutual Insurance Company Located in Boston, Mass.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption exempts the reinsurance by the Liberty Mutual Insurance Company (the Employer) of certain health insurance contracts sold to employee benefit plans covering employees of the Employer (the Plans) by Liberty Life Assurance Company of Boston (Liberty Life), a subsidiary of the Employer.

EFFECTIVE DATE: This exemption is effective January 1, 1975.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. (202) 523–8881. (This is not a toll–free number).

SUPPLEMENTARY INFORMATION: On September 23, 1980, notice was published in the **Federal Register** (45 FR 63193) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and (b) of the Employee Retirement Income Security Act of 1974 (the Act), for transactions described in an application filed on behalf of the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested persons might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the notice to interested persons requirement as set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

This application was filed with both the Department and the Internal Revenue Service. However, the notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act.

(2) This exemption is supplemental to, and not in derogation of, any other provisions of the Act including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transactions is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471,

April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively

[Prohibited Transaction Exemption 80–93; Exemption Application No. D–1794]

Exemption From the Prohibitions for Certain Transactions Involving

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April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plans and of their participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plans.

Accordingly, effective January 1, 1975, the restrictions of section 406(a) and (b) of the Act shall not apply to the reinsurance of risks, and the receipt of premiums therefrom, by the Employer, from health insurance contracts sold by Liberty Life ot the Plans, provided the amount paid Liberty Life for the contracts is no greater than fair market value.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this exemption.

Signed at Washington, D.C., this 21st day of November, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-37269 Filed 12-1-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-92; Exemption Application No. D-1746]

Exemption From the Prohibitions for Certain Transactions Involving the R. M. Wilson Co. Pension Trust Plan Located in Wheeling, W. Va.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the prior lease by the R. M. Wilson Company Pension Trust Plan (the Plan) of certain improved real property (the Property) to the R. M. Wilson Company (the Employer), the Plan sponsor, and the proposed sale of the Property by the Plan to the Employer.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. (202) 523-8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 30, 1980, notice was published in the **Federal Register** (45 FR 64766) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1)(A) through (D) of the Code, for the above transactions. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. The applicant has represented that he has complied with the notification requirements as set forth in the notice of pendency. No public comments were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b) of the Act and section 4975(c)(1)(E) and (F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Prodcedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (D) of the Code, shall not apply to the lease, effective June 1, 1977, of the Property located in Wheeling, West Virginia, by the Plan to the Employer, for its appraised price of $24, 300, provided that this amount is not less than the fair market value of the Property on the date of sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 21st day of November, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-37272 Filed 12-1-80; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 80-93; Exemption Application No. D-1794]

Exemption From the Prohibitions for Certain Transactions Involving Southern Electric, Inc. Employees' Profit Sharing Trust Located in Fort Smith, Ark.

AGENCY: Department of Labor.

ACTION: Grant of individual exemption.

SUMMARY: This exemption permits the sale for cash of unimproved real property (the Property) by the Southern Electric, Inc. Employees' Profit Sharing Trust (the Plan) to Marvin Silmon and Dorothy Silmon, his wife and M. Douglas Silmon (the Purchasers), parties in interest with respect to the Plan because the Purchasers are officers and 10 percent or more shareholders of Southern Electric, Inc. (the Employer).

FOR FURTHER INFORMATION CONTACT: Mr. Horace C. Green of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. (202) 523-8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 30, 1980, notice was published in the **Federal Register** (45 FR 64767) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) and from the sanctions resulting from the application of section 4975 of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code, for a transaction described in an application filed by Steven F. Tiley, an employee and officer of the Employer. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held relating to this exemption. The applicant has represented that it has complied with the requirements of notification to interested persons set forth in the notice of pendency. No public comments and no requests for a hearing were received by the Department.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed cash sale by the Plan of the Property to the Purchasers provided that the Plan receives the greater of (1) the fair market value at the date of sale or (2) $36,350.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C. this 21st day of November, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-37270 Filed 12-1-80; 8:45 am]

BILLING CODE 4510-29-M

Office of the Secretary

[TA-W-10,957]

Erie Mining Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 22, 1980 in response to a worker petition received on September 15, 1980 which was filed by the United Steelworkers of America on behalf of workers and former workers producing iron ore pellets at the Erie Mining Company, Hoyt Lakes, Minnesota.

On July 3, 1980 workers of the Erie Mining Company were denied eligibility to apply for adjustment assistance (TA-W-7661). A Department of Labor survey revealed that Erie Mining Company's customers did not increase their reliance on imported iron ore pellets relative to domestically produced pellets.

The previous investigation addressed the facts and statements presented in the current petition (TA-W-10,957). No new evidence has been offered in the current petition, therefore, the findings of the previous investigation are still valid and further consideration would serve no purpose. Consequently, the investigation is terminated.

Signed at Washington, D.C. this 18th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment

separated from employment on or after July 1, 1979 (TA-W-8005).

Investigation revealed that the number of hourly employees at

Connecticut; and Romar Manufacturing Company, South Norwalk, Connecticut who became totally or partially separated from employment on or after May 27, 1979 and before February 1, 1980 are eligible to apply

subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased

TA-W-7913; 8355, & 8619; Dana Corp., Hagerstown, IN; Tipton, IN; and Richmond, IN

TA-W-8323; Wilco-U.S., Inc., Port Sanilac, MI

Investigation revealed that criterion

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Signed at Washington, D.C. this 18th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-37412 Filed 12-1-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-11,265]

Fox Point Sportswear, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 14, 1980 in response to a worker petition received on October 6, 1980 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers producing ladies' sportswear at Fox Point Sportswear, Incorporated, 603 Moore Road, Port Washington, Wisconsin.

On May 12, 1980 a petition was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of the same group of workers (TA-W-8047).

Since the identical group workers is the subject of the ongoing investigation TA-W-8047, a new investigation would serve no purpose. Consequently, the investigation for TA-W-11,265 has been terminated.

Signed at Washington, D.C. this 19th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-37413 Filed 12-1-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-8005, et al.]

Southeastern Garment Co., et al.; Amended Certification of Eligibility To Apply for Worker Adjustment Assistance

In the matter of TA-W-8005: Southeastern Garment Company, Clinton, North Carolina; TA-W-8837, 8837A, 8837B, 8837C, 8838, 8839: Zimco Industries, New York, New York and Roanoke, Virginia; Royalad Manufacturing Company, Peekskill, New York, Southeastern Garment Company, Clinton, North Carolina, Marbert Manufacturing Company, Bridgeport, Connecticut and Romar Manufacturing Company, South Norwalk, Connecticut.

In accordance with Section 223 of the Trade Act of 1974, on August 5, 1980, the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers of Southeastern Garment Corporation, Clinton, North Carolina who became totally or partially separated from employment on or after July 1, 1979 (TA-W-8005).

Investigation revealed that the number of hourly employees at Southeastern Garment Corporation declined in the last week of June 1979 compared with the previous week. In addition, sales by Southeastern Garment Corporation declined in the second quarter of 1979 compared with the second quarter of 1978. Southeastern closed at the end of 1979 and reopened in February 1980.

Therefore, the certification issued in TA-W-8005 is amended to extend coverage to all workers of Southeastern Garment Corporation, Clinton, North Carolina who became totally or partially separated from employment on or after May 27, 1979 and before February 1, 1980.

On October 17, 1980, the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers of Zimco Industries, Incorporated, New York, New York, and Roanoke, Virginia, Royalad Manufacturing Company, Peekskill, New York, Southeastern Garment Company, Clinton, North Carolina, Marbert Manufacturing Company, Bridgeport, Connecticut and Romar Manufacturing Company, South Norwalk, Connecticut who became totally or partially separated from employment on or after May 27, 1979 and before February 1, 1980 (TA-W-8837, 8837A, 8837B, 8837C, 8838, and 8839).

Since all workers of Southeastern Garment Corporation, Clinton, North Carolina, who became totally or partially separated from employment on or after May 27, 1979 and before February 1, 1980 are covered by the amended certification issued in TA-W-8005, the certification issued under TA-W-8837, 8837A, 8837B, 8837C, 8838 and 8839 is therefore amended to exclude workers of Southeastern Garment Company.

The amended certification applicable to TA-W-8005 is hereby issued as follows:

"All workers of Southeastern Garment Corporation, Clinton, North Carolina who became totally or partially separated from employment on or after May 27, 1979 and before February 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

The amended certification applicable to TA-W-8837, 8837A, 8837B, 8838 and 8839 is hereby issued as follows:

"All workers of Zimco Industries, Incorporated, New York, New York and Roanoke, Virginia; Royalad Manufacturing Company, Peekskill, New York; Marbert Manufacturing Company, Bridgeport, Connecticut; and Romar Manufacturing Company, South Norwalk, Connecticut who became totally or partially separated from employment on or after May 27, 1979 and before February 1, 1980 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

Signed at Washington, D.C. this 18th day of November 1980.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 80-37414 Filed 12-1-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,926]

Stamping Service, Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation (TA-W-10,926) was initiated on September 22, 1980 in response to a petition received on September 15, 1980 which was filed on behalf of workers at Stamping Service, Incorporated, Detroit, Michigan. The workers produce automotive and truck stampings.

On May 19, 1980 an investigation (TA-W-8064) was initiated in response to a petition received on May 12, 1980, which was filed by the United Automobile, Aerospace and Agricultural Implement workers on behalf of the same group of workers.

Since the identical group of workers is the subject of the on-going investigation TA-W-8064 a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 19th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-37415 Filed 12-1-80; 8:45 am]

BILLING CODE 4510-28-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period November 17–21, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) that a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criteria has not been met.

TA-W-9471; Weyerhaeuser Co., Longview, WA

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8328 & 8328A; Models and tools, Inc. and Ganis, Inc., Troy, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8138; Machinery Builders, Inc., Toledo, OH

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8973; Jones and Laughlin Steel Corp., Warren, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of stainless steel sheet and strip did not increase as required for certification.

TA-W-8603; Acushnet Company, New Bedford, MA

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-7913; 8355, & 8619; Dana Corp., Hagerstown, IN; Tipton, IN; and Richmond, IN

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-7722 & 7942; Midwest Foundry Co., Coldwater, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-7886; Centerline Metal Products Co., Roseville, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8097, 8179, & 10,930; Chemical Sealing Corporation; Cumberland, MD; Kansas City, MO; and Tucker, GA

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8097; Chemical Sealing Corporation, Cumberland, MD

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of knit fabric did not increase as required for certification.

TA-W-8813; Trico Products Corporation, Buffalo, NY

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-11,041; Kontz Motor Sales Inc., Howell, MI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-8323; Wilco-U.S., Inc., Port Sanilac, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8320; TRW, Inc., Cleveland, OH

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-11,067; Star Lincoln-Mercury, Inc., Southfield, MI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-8669; Brunswick Corp., Torrington, CT

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-10,936; Trafalgar Square, Ltd., New York, NY

Investigation revealed that workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-8204; Wallace Expanding Machine, Inc., Indianapolis, IN

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-7989 & 7900; Armex Corp., Troy, MI and Condamatic Co., Inc., Warren, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-10,477; AM General Corp., South Bend, IN

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated

that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-9065; Modern Lady, Inc., Philadelphia, PA

A certification was issued covering all workers of the firm separated on or after

the area of minimum wage and public assistance; Dr. Saks, discussant.

3. Conglomerate report policy recommendations.

The Committee will report periodically to the President.

Thus far the Committee has held six meetings: on May 18, 1980 in Pasadena,

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that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–8066 & 9943; Dana Corp. Lima, OH

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–8684; True Temper Corp., Dunkirk, NY

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–7482 & 8402; Uniroyal, Inc.; Warsaw, IN and Chicago, IL

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–10,949; A. Elbling and Sons, Pontiac, MI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–10,326; DMR Textile, Inc., New York, NY

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of finished fabric did not increase as required for certification.

TA–W–8954; Mendenhall Motor Co., St. Louis, MN

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of re-manufactured auto parts did not increase as required for certification.

TA–W–10,606; Ideal Industries, Inc., Uphand, CA

Investigation revealed that criterion (3) has not been met. U.S. imports of travel trailers are negligible.

TA–W–8137; Triangle Auto Spring Co., Columbia, TN

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–11,209; Power Electric Sus Co., Lapeer, MI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–7655, 7700, 7701, 9518, & 9573; United Technologies Corp., Automotive Products Division; Zanesville, OH; Roseville, MI; Peru, IN; Boyne City, MI; and Lancaster, OH

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–8078; Charles A. Eaton Company, Richmond, ME

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–8321; Bedford Products, Inc., Mt. Clemens, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–8755; Monarch Aluminum (formerly known as Club Products Co.), Cleveland, OH

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–9019; NL Industries, Inc., South Amboy (Sayreville), NJ

Investigation revealed that criterion (3) has not been met. Aggregate U.S. and company imports of titanium dioxide did not increase as required for certification.

TA–W–10,466; Industrial Fibre Products Co., Inc., Utica, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the firm.

TA–W–9096; H. Margolin Company, Inc., Fitchburg, MA

Investigation revealed that criterion (1) has not been met.

TA–W–9381; Toledo Pickling and Steel Ind., Inc. Toledo, OH

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA–W–8176; Continental Plastics Corp., Fraser, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and workers separations at the subject firm.

TA–W–8287; Drake Molding Corporation, Greenville, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA–W–11,062; John Dykstra Ford Tractor, Inc., Vassar, MI

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

Affirmative Determinations

TA–W–9311; Chrysler Corp., Amplex Division Office, Detroit, MI

A certification was issued covering all workers of the firm separated on or after May 1, 1980 and before November 29, 1980.

TA–W–9310; Chrysler Corp., Amplex-Harper Plant, Detroit, MI

A certification was issued covering all workers of the firm separated on or after September 1, 1979 and before November 29, 1980.

TA–W–9198; Jim Kraut Chevrolet, Inc., Butte, MT

A certification was issued covering all workers of the firm separated on or after January 1, 1980 and before December 1, 1980.

TA–W–8300; Lady Craft Mfg. Co., Inc., Philadelphia, PA

A certification was issued covering all workers of the firm separated on or after August 19, 1979.

TA–W–9065; Modern Lady, Inc., Philadelphia, PA

A certification was issued covering all workers of the firm separated on or after September 29, 1979.

TA–W–8746; Blackstone Corp., Jamestown, NY

A certification was issued covering all workers of the firm separated on or after May 28, 1979.

TA–W–10,683; Ford Motor Company Carribean, Inc., Canovanas, Puerto Rico

A certification was issued covering all workers of the firm separated on or after August 25, 1979 and before November 15, 1980.

TA–W–8060; Danny Leather Fashions, Inc. New York, NY

A certification was issued applicable to all workers at the subject firm separated on or after May 6, 1979.

I hereby certify that the aforementioned determinations were issued during the period November 17–21, 1980. Copies of these determinations are available for inspection in Room S–5314, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Dated: November 24, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-37411 Filed 12-1-80; 8:45 am]

BILLING CODE 4510-28-M

MINIMUM WAGE STUDY COMMISSION

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting:

Name: Minimum Wage Study Commission.
Date: Monday, Dec. 15, 1980 and Tuesday, Dec. 16, 1980.
Time: 10:30 a.m. on Dec. 15 and 9 a.m. on Dec. 16.
Place: 2261 Rayburn House Office Building.

Original notification of this meeting date appeared in the **Federal Register**, October 24, 1980.

Proposed Agenda

1. Contractor/discussant presentation of Dr. Daniel Hamermesh's work in the area of employment/unemployment effects of the minimum wage; Drs. Fleischer and Osterman, discussants.
2. Contractor/discussant presentation of Drs. Johnson and Browning's work in the area of minimum wage and public assistance; Dr. Saks, discussant.
3. Conglomerate report policy recommendations.
4. History of the FLSA—recommendations on adoption for the final report.
5. Demographic profile report—presentation and recommendation on adoption for the final report.
6. Final version of the working paper, "Time Series Estimates of the Effect of the Minimum Wage on Teenage Employment and Unemployment", a presentation.
7. Public sector exemptions—presentation and policy recommendations.
8. Retail trade exemptions—presentation and policy recommendations.

Next meeting of the Commission will be during the weeks of Jan. 6 and 12, 1981.

All communications regarding this Commission should be addressed to: Mr. Louis E. McConnell, Executive Director, 1430 K St. NW, Suite 500, Washington, DC 20005, telephone (202) 376–2450.

Louis E. McConnell,

Executive Director.

[FR Doc. 80-37410 Filed 12-1-80; 8:45 am]

BILLING CODE 4510-23-M

NUCLEAR SAFETY OVERSIGHT COMMITTEE

Open Meeting

November 26, 1980.

The Nuclear Safety Oversight Committee (NSOC) will meet from 9:30 am to 12:30 pm and 2:00 pm to 5:00 pm on Tuesday, December 16, and from 9:30 am to 12:30 pm and 2:00 pm to 4:00 pm on Wednesday, December 17. A request has been made for a closed session to be held on Wednesday, December 17 beginning at 4:00 pm. The meeting will be held in Phoenix, Arizona at the Adams Hotel, 111 N. Central (at the corner of Central and Adams) in the Gila Room.

The Committee was established by Executive Order 12202 on March 18, 1980, in response to the recommendations of the President's Commission on the Accident at Three Mile Island (the Kemeny Commission). Generally, the Committee is responsible for monitoring the progress of the utilities and their suppliers, the Nuclear Regulatory Commission, other federal agencies, and state and local authorities in implementing the Kemeny Commission's recommendations and in improving the safety of nuclear power. The Committee will report periodically to the President.

Thus far the Committee has held six meetings: on May 18, 1980 in Pasadena, California; and on July 28 and 29, August 18 and 19, September 16 and 17, October 7 and 8, and November 17 and 18, 1980 in Washington, D.C. The Committee has heard testimony and had discussion in a number of areas including:

—the nature of the Committee's responsibilities as set forth in Executive Order 12202;
—the Nuclear Regulatory Commission's (NRC) "Action Plan Developed as a Result of the TIM–2 Accident," designated NREG–0660 and available through the Document Management Branch, Division of Technical Information and Document Control, NRC, Washington, D.C. 20555;
—the procedure utilized in the federal decision-making process as it relates to nuclar safety, and public and private participation;
—FEMA's Report to the President (June 1980), and procedures for emergency planning;
—the status of generic safety issues; the analysis and evaluation of operational data;
—the NRC budget and allocation of its staff resources to implement the "Action Plan" and how that will affect other NRC functions;
—NRC's inspection and enforcement program;
—backfitting and standardization of plant design;
—the regulatory relationship between FEMA and NRC;
—nuclear safety research and training programs;
—quality control in plant design;
—labor/management problems, and the union's role in safety programs.

During the next meeting the Committee will receive testimony and, when appropriate, written materials and documents, concerning the following matters:

—Human factors;
—Nuclear safety research;
—Iodine-131 releases during a nuclear accident;
—Nuclear safety issues;
—Palo Verde Nuclear Station;
—Nuclear power plant standardization;
—Budgetary issues.

Testimony on these matters will be received from a number of individuals specifically invited by the Committee.

The meeting will be open to public observation. Written comments or statements may be submitted at anytime before or after the meeting and should be related to the substantive matters identified above. Approximately 60 seats will be available for the public on a first come, first served basis. The Committee meeting will be recorded and the transcript may be examined in the Committee's office at 1133 15th Street, N.W., Suite 307, Washington, D.C.

For further information contact Margo von Kaenel at (202) 653–8468.

Margo W. von Kaenel,

Executive Assistant.

[FR Doc. 80-37464 Filed 12-1-80; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-329 OL & 50-330 OL]

Consumers Power Co. (Midland Plant, Units 1 and 2); Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license proceeding: Richard S. Salzman, Chairman, Dr. John H. Buck, Christine N. Kohl.

Dated: November 24, 1980.

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 80-37388 Filed 12-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-409-SC, Prov. Op. Lic. DPR-45]

Dairyland Power Cooperative (La Crosse Boiling Water Reactor); Order Changing Schedule of Prehearing Conference and Evidentiary Hearing

November 25, 1980.

Reflecting information provided by telephone to the Board, notice is hereby given that, to accommodate the schedule of a witness for the NRC Staff, the prehearing conference scheduled for December 16, 1980 (see 45 FR 76557, November 19, 1980), is postponed until the conclusion of the hearing scheduled to commence on that same date. The hearing (which concerns a discrete issue separate and apart from the matters to be considered at the prehearing conference) will commence at 9:30 a.m. on December 16, 1980. (The prehearing conference is therefore not likely to commence until December 17 or 18.) To the extent it deems necessary, the NRC Staff will be permitted to present one or more witnesses at the outset of the hearing; other NRC Staff witnesses will follow the witnesses of the Licensee and the intervenors.

The schedule for oral limited appearance statements is modified to provide that such statements will be heard beginning at 9:00 a.m. on December 17, 1980. (No opportunity will be provided for statements on December 16, 1980, as previously scheduled.)

At the evidentiary hearing, the parties should address the following question (in addition to those specified in the Licensing Board's memorandum and Order dated November 12, 1980):

6. How long will it take to design a site dewatering system, have it approved by the NRC Staff, and install and make it operational?

At the prehearing conference, the parties should be prepared to discuss, in addition to matters specified in the November 12, 1980 Memorandum and Order, discovery and scheduling with respect to the issue involving the magnitude of the Safe Shutdown Earthquake (as authorized by ALAB-618, dated November 17, 1980).

In all other respects, the Memorandum and Order dated November 12, 1980, and the Notice of that same date (45 FR 76557, November 19, 1980), remain unchanged.

It is so ordered.

Dated at Bethesda, Maryland this 25th day of November 1980.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman.

[FR Doc. 80-37391 Filed 12-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-366]

Georgia Power Company, et al.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 19 to Facility Operating License No. NPF-5, issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia, which revised the license and Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant Unit No. 2 (the facility) located in Appling County, Georgia. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications for Fire Protection Systems to reflect the addition of newly installed systems at Hatch Unit No. 2 as required by prior licensing actions. This amendment also modifies the existing Fire Protection Program license condition to provide Georgia Power Company with the flexibility of making changes to the Program without prior Commission approval provided that such changes do not decrease the effectiveness of the Program.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this statement will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated May 29, 1979, (2) Amendment No. 19 to License No. NPF-5, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 12th day of November 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80-37380 Filed 12-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-466 CP]

Houston Lighting and Power Co.; (Allens Creek Nuclear Generating Station, Unit 1); Order Scheduling Hearing

November 25, 1980.

The environmental phase of the evidentiary hearing will commence on January 12, 1981 to receive evidence regarding the application of Houston Lighting and Power Company for a license to construct the Allens Creek Nuclear Generating Station, Unit 1.

Initially limited appearance statements will be taken between 9:00 AM and 5:00 PM on January 12, 1981 and between 2:00 PM and 6:00 PM on January 13, 1981 at the American Legion Hall, Post 200, 330 Legion Road, Wallis, Texas. Thereafter, limited appearance statements also will be taken between 9:00 AM and 5:00 PM on January 14 and 15, 1981 at the following location:

University of Houston, Bates College of Law (Krost Hall), 4800 Calhoun, Houston, Texas 77004.

Oral limited appearance statements will be limited to ten (10) minutes each but written sttements may be submitted without limitation on length. A limited appearance statement is not presented under oath and is not evidence—it serves to alert the Board and the parties to areas in which evidence may need to be adduced. Those individuals desiring to make limited appearance statements should promptly notify Mr. Chase Stephens, Chief, Docketing and Service Branch, Office of the Secretary of the Nuclear Regulatory Commission, Washington, D.C. 20555. Said individuals should specify whether they wish to make their limited appearances at the American Legion Hall in Wallis or at the Bates College of Law (Krost Hall) in Houston.

After the taking of the limited appearance statements, the Board will then hear evidence presented by the parties upon environmental matters in issue. These formal evidentiary sessions, which will be held at the Bates College of Law (Krost Hall) in Houston, will begin at 9:00 AM and will recess at 5:00 PM on the following days: January 16,[1] January 19–23, 1981; February 2–6, February 9–13, February 23–27, 1981; March 2–6, 1981.

The public is invited to attend the limited appearance sessions as well as the evidentiary hearing.

It is so ordered.

Dated at Bethesda, Maryland this 25th day of November, 1980.

For the Atomic Safety and Licensing Board.

Sheldon J. Wolfe,

Chairman.

[FR Doc. 80-37387 Filed 12-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-466 CP]

Houston Lighting and Power Co.; (Allens Creek Nuclear Generating Station, Unit 1); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this construction permit proceeding to consist of the following members:

Alan S. Rosenthal, Chairman; Dr. John H. Buck, Christine N. Kohl.

Dated: November 24, 1980.

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 80-37389 Filed 12-1-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee for Screening of Candidates for Licensing Board Vacancies; Meetings

Notice is hereby given in accordance with Section 10 of the Federal Advisory Committee Act that the NRC's Screening Committee for Lawyer Vacancies on the Atomic Safety and Licensing Board Panel will hold meetings on December 18 and 19, 1980, and on January 7, 1981. The meetings will begin at 9:00 a.m. each day at East West Towers, 4350 East West Highway, Room 415, Bethesda, Maryland 20014.

The Committee will meet in order to interview and consider the qualifications of candidates to permanent member legal positions on the Atomic Safety and Licensing Board Panel. All sessions will be closed.

I have determined in accordance with Subsection 10(d) of Pub. L. 92-463 that it is necessary to close these meetings in order to protect information, the release of which would represent an unwarranted invasion of personal privacy under 5 U.S.C. 552b(c)(6). Any discussion not involving personal privacy will be inextricably intertwined with discussion of Exemption 6 matters.

For further information, contact Charles J. Fitti, Assistant Executive Secretary, Atomic Safety and Licensing Board Panel, US Nuclear Regulatory Commission, Washington, DC 20555 (Telephone 301/492-7814).

Dated at Washington, DC this 25th day of November, 1980

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-37384 Filed 12-1-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee for Screening of Candidates for Licensing Board Vacancies; Meeting

Notice is hereby given in accordance with Section 10 of the Federal Advisory Committee Act that the NRC's Screening Committee for Technical Vacancies on the Atomic Safety and Licensing Board Panel will hold meetings on December 15 and 16, 1980, and on January 6, 1981. The meetings will begin at 9:00 a.m. each day at East West Towers, 4350 East West Highway, Room 415, Bethesda, Maryland 20014.

The Committee will meet in order to interview and consider the qualifications of candidates to the position of Vice Chairman—Technical and/or permanent member technical of the Atomic Safety and Licensing Board Panel. All sessions will be closed.

I have determined in accordance with Subsection 10(d) of Public Law 92-463 that it is necessary to close these meetings in order to protect information, the release of which would represent an unwarranted invasion of personal privacy under 5 U.S.C. 552b(c)(6). Any discussion not involving personal privacy will be inextricably intertwined with discussion of Exemption 6 matters.

For further information, contact Charles J. Fitti, Assistant Executive Secretary, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (Telephone 301/492-7814).

Dated in Washington, DC this 25th day of November, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-37385 Filed 12-1-80; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Combination of Dynanic Loads; Meeting

The ACRS Subcommittee on the Combination of Dynamic Loads will hold a meeting at 8:30 a.m. on December 16 and 17, 1980 in Room 1046, 1717 H Street, N.W., Washington, DC to continue its review regarding the use of dynamic load combinations as a design basis for nuclear power plants.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: *Tuesday, December 16, 1980 and Wednesday, December 17,*

[1] During any lulls in the taking of limited appearance statements on January 15, 1981, the Board will proceed to hear evidence upon environmental matters.

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1980 8:30 a.m. until the conclusion of business each day.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Elpidio Igne (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EST.

Dated: November 25, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-37381 Filed 12-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-313 and 50-368]

Arkansas Power & Light Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 48 and 18 to Facility Operating Licenses Nos. DPR–51 and NPF–6, issued to Arkansas Power & Light Company (the licensee), which revised the licenses for operation of the Arkansas Nuclear One, Units Nos. 1 and 2 (the facility), located in Pope County, Arkansas. The amendments are effective as of the date of issuance and are to be fully implemented within 30 days of Commission approval in accordance with the provisions of 10 CFR 73.40(b).

The amendments add license conditions to include the Commission-approved Safeguards Contingency Plan as part of the licenses.

The licensee's filings comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of the amendments.

The licensee's filing dated February 26, 1980, as revised April 30, 1980, is being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR 9.12.

For further details with respect to this action, see (1) Amendments Nos. 48 and 18 to Licenses Nos. DPR–51 and NPF–6 and (2) the Commission's related letter to the licensee dated November 19, 1980. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, DC and at the Arkansas Polytechnic College, Russellville, Arkansas. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 19th day of November 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80-37380 Filed 12-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-282 and 50-306]

Northern States Power Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 43 to facility operating license No. DPR–42, and Amendment No. 37 to Facility Operating License No. DPR–60 issued to Northern States Power Company (the licensee), which revised Technical Specifications for operation of Prairie Island Nuclear Generating Plant, Units Nos. 1 and 2 (the facilities) located on Goodhue County, Minnesota. The amendments are effective as of the date of issuance.

The amendments revise the Technical Specifications to replace the current inservice inspection Technical Specifications with an inservice inspection program that meets the requirements of 10 CFR 50.55a.

By letter dated November 14, 1980 as supported by the related safety evaluation, the Commission has also granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to the licensee. The relief relates to the inservice inspection program for the facilities. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The applications for the amendments and request for relief comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments, and letter and safety evaluation granting relief. Prior public notice of the amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments and the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this action.

For further details with respect to this action, see (1) the applications for amendments dated September 15, 1976 for Unit 1 and October 12, 1977 for Unit 2, the licensee's submittals dated February 1, 1978, September 15, 1978, June 8, 1979, September 19, 1979, April 17, 1980 and September 3, 1980, (2) Amendment Nos. 43 and 37 to License Nos. DPR–42 and DPR–60, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental Conservation Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland this 14th day of November, 1980.

For the Nuclear Regulatory Commission.

Robert A. Clark,

Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 80-37383 Filed 12-1-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-277 and 50-278]

Philadelphia Electric Co., et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 75 and 74 to Facility Operating Licenses Nos. DPR–44 and DPR–56, issued to Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, which revised Technical Specifications for operation of the Peach Bottom Atomic Power Station, Units Nos. 2 and 3 (the facility) located in York County, Pennsylvania. The amendments are effective as of the date of issuance.

The amendments to the Technical Specifications add operability and surveillance requirements for a new seismic monitoring instrumentation system which is being installed at the facility.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated August 8, 1980, as supplemented October 3, 1980, (2) Amendments Nos. 75 and 74 to Licenses Nos. DPR–44 and DPR–56, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 19th day of November 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4 Division of Licensing.

[FR Doc. 80-37382 Filed 12-1-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Comprehensive Medical Plans

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: OPM is seeking ways in which carriers can organize and represent a group of comprehensive medical plans under a single contract. This Notice explains the issues and invites comments from all interested persons. Interested persons should be aware that OPM may utilize the comments received in establishing criteria for consideration of subsequent carrier applications.

DATE: Comments must be received on or before February 2, 1981.

ADDRESS: Office of Personnel Management, Compensation Group Comprehensive Plans Division, P.O. Box 7544, Rm. 2H37 Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Mrs. Monti Laughnan, Telephone (202) 632–6127.

SUPPLEMENTARY INFORMATION: The number of comprehensive medical plans providing health care benefits to Federal employees is increasing by approximately 20% each year. This has caused an increased administrative burden for OPM and for Federal agencies. Because of the continued expansion anticipated, OPM is looking for alternative methods to manage a number of tasks now performed within OPM.

The Office of Personnel Management (OPM) will have over 100 comprehensive plans under contract to provide Federal Employees Health Benefits in 1981. There are approximately 867,000 Federal employees and their dependents enrolled in comprehensive plans; and approximately 11,000,000 employees and annuitants enrolled in all plans offered under the Federal Employees Health Benefits Program (FEHBP).

OPM is requesting comments from interested persons, and particularly from health benefits carriers, regarding how either existing FEHB carriers or new carriers may organize and represent a group of comprehensive medical plans under a single OPM contract. For a health benefits carrier to be eligible to participate in the Federal Employees Health Benefits Program, it must, of course, meet the requirements of the Federal Employees Health Benefit law and regulations (5 U.S.C. Ch. 89; 5 CFR 890 et seq.—excluding Section 890.204, comprehensive plan networks).

Experimental Network—Conclusions

Since January 1979, the OPM has contracted, on an experimental basis, for a network of comprehensive plans represented by the Blue Cross and Blue Shield Association, pursuant to 5 CFR 890.204 (comprehensive plan networks). This experiment will conclude in December 1981. Based upon OPM experience with this contract, we have determined there is a need for new approaches or mechanisms, other than the format set forth under 5 CFR 890.204, which will allow OPM to effectively discharge its statutory obligations. The OPM may utilize the repsonses to this Notice to publish proposed rulemaking and revise or revoke 5 CFR 890.204.

We have evaluated our experience with the network experiment and have concluded that future contracts of this type should include the following elements:

1. Member plans should be tied to a central point of management because of some common relationship to the managing organization; the central organization should act as a conduct for information flows in both directions, filtering and interpreting that information as appropriate.

2. The carrier should provide for a management executive who will devote a significant amount of time to the network and have access to the senior executives in the central organization. This official must have the authority to set policy and direct its implementation.

3. A significant degree of recognized authority must exist to effect the compliance of member plans with the requirements of the organization. The carrier should be able to control the performance of individual plans within the network.

4. The OPM should not impose uniform benefits or uniform rates upon a carrier; however, a carrier may propose to offer one or both of these.

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5. Specific policies and procedures must be written and implemented for plans to follow both in reporting data and in reporting problem areas.

agency personnel offices. Once enrolled, a member will receive a carrier's brochure from the personal office.

OPM's Open Season responsibilities

centers. The group shall include physicians representing at least three major medical specialties who receive all or a substantial part of their income from the prepaid funds.

Individual-Practice Prepayment Plans.—

participating plans and submitted to OPM. What arrangements could be made to provide reports annually required pursuant to Section 8910 of the FEHB law;

educational background must have included appropriate courses in the physical and biological sciences, behavioral and social sciences, professional sciences including food and

studies regarding the use of diet in the treatment of disease, and interpret current research related to nutritional care; and they perform consultative or

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5. Specific policies and procedures must be written and implemented for plans to follow both in reporting data and in reporting problem areas.

6. Centralized technical, managerial and marketing assistance should be made available to all member plans by the carrier.

7. An overall effective communication system should be in place.

8. Standard quality assurance/utilization review procedures should be written and implemented.

9. Periodic on-site visits to member plans should be made by carrier management, to assure plan compliance with procedures, review general progress, and deal with any problems.

10. In order to insure a sufficient Federal enrollment to generate income for contract administration, emphasis must be placed on marketing efforts.

11. The carrier should take responsibility for the majority of the initial plan application and negotiation process.

12. The carrier should, at a minimum, provide the following services to OPM:

a. orientation of the member plans to the Federal Program and the network procedures and policies;

b. initial rate review;

c. initial interpretation of OPM requirements, with the OPM as the final authority;

d. premium payment;

e. enrollment processing and reporting;

f. enrollment eligibility verifications and reconciliations;

g. benefit interpretation, with the OPM as the final authority;

h. central file maintenance.

FEHBP Responsibilities

Under the Federal Employees Health Benefits Program, OPM is responsible for an annual review of comprehensive plan applications, benefit and rate negotiations, contract preparation, disputed claims reviews, and monitoring of carriers for continued compliance with Program requirements. OPM also conducts an annual Open Season, during which enrollees may change plans from the second Monday in November through the first Friday in December (in 1980, from November 10 through December 5). During this time, enrolled Federal employees and annuitants are given the opportunity to change their health benefits plan enrollment to a new or existing carrier. This year, summary sheets giving a brief description of the plan and benefits offered by each carrier will be distributed to all employees and annuitants. Brochures describing benefits in detail will be available in agency personnel offices. Once enrolled, a member will receive a carrier's brochure from the personal office.

OPM's Open Season responsibilities include the preparation of brochures and other material describing the health benefits available and procedures for enrollment; responding to inquiries from agencies, employees and annuitants; and preparing bulletins and instructions for Federal agencies. The negotiation of rates and benefits is an integral part of the process, as these must be accurately represented in published material.

Carrier Responsibilities

Carriers participating in the Federal Employees Health Benefits Program (FEHBP) must develop and implement a marketing plan for the FEHBP that is similar to marketing plans for other large multi-location employers. They must deal with local health benefit officials at each employing office to distribute plan literature and answer questions about health benefits and employee claims. Each personnel office is associated with a payroll office; there are over 1,100 payroll offices in all. The personnel office transmits health benefits information through the payroll office before it is sent to the plan so that necessary withholdings from employees' salaries for health benefits can be made. Carriers receive regular reports from payroll offices concerning changes in enrollment, and must periodically contact these offices for enrollment reconciliations.

Basic Legal Requirements

Section 8901(7) of the FEHB law defines a "carrier" as a "voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier, including a health benefits plan duly sponsored or underwritten by an employee organization."

Comprehensive medical plans which are offered by carriers must meet the following definitions of group or individual practice plans under Section 8903(4) of the FRHB law:

Group-Practice Prepayment Plans.—Group-practice prepayment plans which offer health benefits of the types referred to by section 8904(4) of this title, in whole or in substantial part on a prepaid basis, with professional services thereunder provided by physicians practicing as a group in a common center or centers. The group shall include physicians representing at least three major medical specialties who receive all or a substantial part of their income from the prepaid funds.

Individual-Practice Prepayment Plans.—Individual-practice prepayment plans which offer health services in whole or in substantial part on a prepaid basis, with professional services thereunder provided by individual physicians who agree, under certain conditions approved by the Office, to accept the payments provided by the plans as full payment for covered services given by them including, in addition to in-hospital services, general care given in their offices and the patients' homes, out-of-hospital diagnostic procedures, and preventive care, and which plans are offered by organizations which have successfully operated similar plans before approval by the Office of the plan in which employees may enroll.

Issues for Comment

Comments should address the following issues:

1. What specific functions could the carrier propose to perform and how;

2. What incentives could be offered for comprehensive plans to participate in an association of plans represented by the carrier;

3. How could the carrier participate or assist in the Open Season process, and what functions could it perform (i.e., preparation of plan brochures, distribution of marketing materials; identification of agencies for plan marketing activities);

4. What financing mechanisms and methods of reimbursement could be proposed for carrier operations;

5. To what extent could the carrier educate Federal employees regarding health benefits;

6. Could the carrier provide technical assistance to participating comprehensive plans, if so, describe the assistance which could be provided;

7. Could the carrier provide assurances that Federal enrollees would be protected against provider claims in the event that a participating plan is unable to pay claims;

8. How could the carrier market participating plans to Federal agencies;

9. How could the carrier participate in the enrollment process, enrollment reconciliations, and the resolution of enrollment problems or disputed claims;

10. What method of rate-making could be employed;

11. What health benefits could be provided by the plans offered by the carriers; could the benefits be uniform among all plans; could supplemental benefits be offered;

12. How could participating plan performance under the contract be monitored;

13. What financial and administrative reports could be required from participating plans and submitted to OPM. What arrangements could be made to provide reports annually required pursuant to Section 8910 of the FEHB law;

14. What incentives could a carrier receive for participating in such an arrangement.

Office of Personnel Management,
Beverly M. Jones,
Issuance System Manager.

[FR Doc. 80-37249 Filed 12-1-80; 8:45 am]
BILLING CODE 6325-01-M

Establishment of Prescribed Minimum Educational Requirements; Dietitian and Nutritionist Series, GS-630

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: The Office of Personnel Management has revised the minimum educational requirements for the Dietitian and Nutritionist Series (previously titled Dietitian Series) to conform with current professional educational standards for dietitians; to establish new baccalaureate requirements for nutritionists; and to establish master's degree requirements for public health nutritionists employed within the Federal service. The prescribed requirement will assure fair and equitable recruitment and placement actions with respect to the duties of individual positions.

EFFECTIVE DATE: December 2, 1980.

FOR FURTHER INFORMATION CONTACT: Lynn C. Hashian, 202-254-8527.

SUPPLEMENTARY INFORMATION: In accordance with Section 3308 of title 5, United States Code, the Office of Personnel Management has revised the prescribed minimum educational requirement for dietitians, nutritionists, and public health nutritionists employed within the Federal service. The requirements, the duties of the positions, and the reasons for the Office of Personnel Management's decision that the requirements are necessary are set forth below:

Dietitian and Nutritionist Series, GS-630, GS-5 Through GS-15

Minimum Educational Requirement: The basic requirement for all grades is the successful completion of a full 4-year course of study in an accredited college or university creditable toward a baccalaureate or higher degree in dietetics, food, nutrition, public health nutrition, food service management, institution management, or closely related science. The undergraduate educational background must have included appropriate courses in the physical and biological sciences, behavioral and social sciences, professional sciences including food and nutrition, and the communication sciences.

Dietitian: Candidates for positions of dietitian must have a bachelor's degree from an accredited college in a curriculum which met the qualifying requirements established by The American Dietetic Association in effect at the time of graduation.

Nutritionist: No additional requirements.

Public Health Nutritionist: Candidates for positions of public health nutritionist must have successfully completed a master's degree in public health nutrition, community nutrition, or in nutrition supplemented by public health courses from an accredited college or university. Courses must have provided the applicant with a knowledge of advanced nutrition including the science of nutrition, nutritive needs in the life cycle, and special needs in disease and under varying conditions; with a knowledge of public health program administration, such as organization and administration of community health services, program planning, environmental health, statistics, epidemiology, evaluation of nutritive status of individuals and communities, and evaluation of nutrition programs; and with a knowledge of social and behavioral sciences and education.

Duties: Dietitians are members of the health care team, responsible for providing patient care services in hospitals or other treatment facilities. Dietitians manage food service systems which includes planning the food service, managing budget resources, establishing standards of sanitation and safety, developing regular and therapeutic menus, planning layout designs and determining equipment needs, and evaluating the food service for efficiency and quality of food; they assess nutritional needs and the nutritional status of individuals through dietary histories of individuals, laboratory values, and anthropometric tests, and counsel individuals and families of dietary plans, adapting plans to the individual's therapeutic needs and life style; they assess nutritional needs of community groups and evaluate nutritional care provided by nursing homes or other facilities; they participate in health team rounds and serve as the consultant on nutritional care; they develop educational materials and use them as an aid in nutrition education; they participate in research studies regarding the use of diet in the treatment of disease, and interpret current research related to nutritional care; and they perform consultative or management work in connection with the administration of a dietetic program.

Nutritionists are specialists in human nutrition who direct knowledge and competence toward the maintenance and improvement of nutritional status through services to groups or individuals, in program administration, in teaching and/or research. Work may be in welfare and social agencies, agricultural agencies, food assistance programs and educational agencies, and entails such duties as assessing nutrition needs of the target population; planning, organizing, directing, coordinating, and evaluating the nutrition component of programs and projects; interpreting food and nutrition legislation and research for other professionals and the consumer; providing consultation and training in nutrition to administrators, other dietitians and nutritionists and to other disciplines in a variety of programs such as education, social service and agriculture; developing standards and guidelines for nutrition services, and identifying research needs and developing and conducting dietary studies.

Public health nutritionists are members of the health team who are responsible for planning, developing, administering, coordinating and evaluating nutrition programs and services as a part of public health programs. Responsibilities entail such duties as assessing and analyzing nutritional needs and problems which have complications for the health of populations; recommending action or approaches, including legislation, and mobilizing resources to solve nutrition related health problems; initiating and developing nutrition standards, guidelines and criteria for health programs; providing professional consultation on nutrition to official and voluntary agencies, legislators, planners, administrators, health professionals and other staff to establish, extend, improve and maintain quality of nutrition services; conducting and participating in national and regional conferences and workshops to improve the knowledge base and competency of health care providers and health planners; stimulating nutrition research proposals and providing technical asssistance to investigators; providing leadership to other nutritionists, dietitians and health professionals in the development and improvement of nutrition services as an integral component of health care programs.

Reason for Establishing Requirement: The positions in this occupation are specialists in human nutrition who direct their knowledge and competence

and the Congress a report on national weather modification programs and policies pursuant to the National Weather Modification Policy Act of

SECURITIES AND EXCHANGE COMMISSION

(File No. 500-1)

representations contained therein, which are summarized below.

Applicant, A Delaware corporation, registered under the Act on March 5,

commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a

and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any person

Reason for Establishing Requirement: The positions in this occupation are specialists in human nutrition who direct their knowledge and competence toward the maintenance and improvement of human health. This requires a basic background in the science of food and nutrients, including their uses, processes, and balance in relation to health and disease. The scientific background necessary to provide these services can only be acquired through the successful completion of a course of study in an accredited college or university, which has thoroughly trained instructors who provide the technical and scientific course work, laboratory and library research, and the evaluation of progress necessary to the acquisition of professional competence.

Additionally, through the academic requirements established by The American Dietetic Association, the dietitian receives instruction directly applicable to the provision of nutritional services to patients in hospitals or other treatment facilities. The public health nutritionist, through post-graduate education in public health nutrition, receives training directly related to the assessment of community nutrition needs and to the direction of the nutrition component of health services.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

[FR Doc. 80-37248 Filed 12-1-80; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Advisory Committee on Weather Modification; Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), it is hereby determined that the establishment of the Advisory Committee on Weather Modification is necessary, appropriate, and in the public interest in connection with the performance of the duties imposed upon the Director, Office of Science and Technology Policy (OSTP) by the National Science and Technology Policy, Organization, and Priorities Act of 1976. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to section 9(1)(2) of the Federal Advisory Committee Act and OMB Circular No. A-63, Revised.

1. *Name of Group.* Advisory Committee on Weather Modification.

2. *Purpose.* In late 1979, the Secretary of Commerce delivered to the President and the Congress a report on national weather modification programs and policies pursuant to the National Weather Modification Policy Act of 1976. The report indicates that well-coordinated research and development programs carried out by a number of Federal agencies can contribute to advances in weather modification science and technology. A Weather Modification Subcommittee under the Committee on Atmospheres and Oceans, Federal Coordinating Council for Science, Engineering, and Technology, has been established to ensure that Federal research is carried out in the context of a coherent, long-term research plan. The Advisory Committee being established will ensure close public scrutiny and involvement in the planning and conduct of the Federal Program, including the Weather Modification Subcommittee, as it is carried forward.

3. *Effective Date of Establishment and Duration.* The establishment of the Advisory Committee on Weather Modification is effective upon filing of the charter with the Director, Office of Science and Technology Policy, and with the standing committees of Congress having legislative jurisdiction over the Office of Science and Technology Policy. The Advisory Committee on Weather Modification will continue two calendar years from the effective date.

4. *Membership.* The Advisory Committee on Weather Modification will be composed of not more than 11 members and not less than seven, appointed by the Director. The members shall possess experience or current interest in weather modification or related aspects such as: research, agriculture, water resources, public policy or environmental impact. Members shall be appointed for up to two years and will serve at the discretion of the Director. Appointments to fill vacancies shall be for the remainder of the unexpired term of the vacancy.

5. *Advisory Group Operation.* The Advisory Committee on Weather Modification will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92-463), OSTP policy and procedures, OMB Circular No. A-63, Revised, and other directives and instruction issued in implementation of the Act.

Frank Press,

Director.

[FR Doc. 80-37323 Filed 12-1-80; 8:45 am]

BILLING CODE 3170-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

Diagnostic Data, Inc.; Order of Suspension of Trading

November 21, 1980.

It appearing to the Securities and Exchange Commission that questions have been raised concerning possible undisclosed related-party transactions among certain members of Diagnostic Data, Inc.'s ("Diagnostic") management, the Board of Directors and a substantial shareholder of the Company; possible undisclosed changes in the beneficial ownership of the common stock of Diagnostic; and possible arrangements and understandings among certain members of the dissident group of shareholders of Diagnostic and certain officers of Diagnostic and a substantial shareholder of the Company, the Commission is of the opinion that the public interest and the protection of investors require a summary suspension of trading in the securities of Diagnostic Data, Inc.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 9:45 a.m. on November 21, 1980 and terminating on November 30, 1980.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37324 Filed 12-1-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11455; (811-2911)]

International Satellite Industries, Inc.; Filing of Application Pursuant to Section 8(f) of the Investment Company Act of 1940 for an Order Declaring That Applicant Has Ceased To Be an Investment Company

November 24, 1980.

Notice is hereby given that International Satellite Industries, Inc., 250 West 94th Street, New York New York 10025, ("Applicant"), registered under the Investment Company Act of 1940 ("Act") as a closed-end, diversified management investment company, filed an application on October 29, 1980, pursuant to Section 8 (f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, A Delaware corporation, registered under the Act on March 5, 1979, and filed a registration statement (File No. 2-63746) on Form N-2 under the Securities Act of 1933 ("1933 Act") to make a public offering of shares and was withdrawn pursuant to Rule 477 under the 1933 Act of January 20, 1980. Thus Applicant has never engaged in a public offering of shares of its capital stock. Furthermore, Applicant has never filed any of the periodic reports required by the Act.

The application states that Applicant does not have any assets or debts currently outstanding, has no security-holders and is not a party to any pending litigation or adminstrative proceeding. The application further states that Applicant is presently a corporation in good standing under Deleware law, but that it is not engaged in and does not propose to engage in any business activities other than those necessary for the winding-up of its affairs. Finally, Applicant states that it has not within the last eighteen months transferred any of its assets to a separate trust, the beneficiaries of which were or are securityholders of Applicant.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than December 22, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application therein will be issued as of course following said date, unless the commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37325 Filed 12-1-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11456; (811-1299)]

Second Ohio Capital Fund Inc.; Proposal To Terminate Registration Pursuant to Section 8(f) of the Investment Company Act of 1940

November 24, 1980.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion that Second Ohio Capital Fund Inc. ("Fund"), c/o The Ohio Company, 62 East Broad Street, Columbus, Ohio 43215, registered under the Act as open-end, diversified management investment company, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund was organized under the laws of the State of Ohio on January 25, 1965, and registered under the Act on February 8, 1965. The Commission files further indicate that on June 17, 1967, a notice of an application filed pursuant to Section 17(b) of the Act for an order of the Commission exempting the proposed merger of the Fund into the Ohio Capital Fund Inc. from the provisions of Section 17(a) of the Act was issued (Investment Company Act Release No. 4991), and that the requested order was issued on June 30, 1967 (Investment Company Act Release No. 5016). Furthermore, the Fund has not filed any of the periodic reports required by the Act since 1967. Thus, it appears that the Fund is not currently engaged in the business of an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order, which may be made upon appropriate conditions if necessary for the protection of investors, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any person may, not later than December 22, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Fund at the address stated aboved. Proof of such service (by affidavits or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37326 Filed 12-1-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21805; 70-6522]

American Electric Power Co., Inc.; Proposal of Holding Company to Act as Surety for Subsidiary

November 25, 1980.

In the matter of American Electric Power Company, Inc., 2 Broadway, New York, New York 10004 (70-6522).

Notice is hereby given that American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 12(b) and 12(f) of the Act and Rule 45(b)(3) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

On September 22, 1980, Wheeling filed with the Public Service Commission of West Virginia ("State Commission") new increased rates for electric services in West Virginia. By order dated October 16, 1980 the State Commission permitted the increased rates to go into effect on October 16, 1980 prior to the completion of its investigation of such increased rates, provided that Wheeling posted an appropriate bond within seven days thereafter to assure the making of refunds to its customers in the event that the State Commission's final order in the proceeding should require refunds to be made. It was determined that Wheeling post its own bond with AEP as surety in order to avoid the $5,000 per annum cost of obtaining a commercial bond. Because the State Commission's order was issued without prior notice or a hearing, AEP did not have sufficient time to seek prior approval from this Commission for the execution of the surety bond. In reliance on the provisions of Rule 45(b)(3), on October 20, 1980 AEP, as surety, and Wheeling, as principal, executed a statutory bond in the amount of $1,000,000 which was posted with the State Commission on October 21, 1980. AEP will act as surety without charging a fee. AEP and Wheeling filed a statement, dated October 29, 1980, pursuant to Rule 45(b)(3) advising this Commission of the action taken by AEP. AEP now seeks approval of that transaction.

The fees and expenses incurred by AEP in connection with this transaction are estimated not to exceed $2,500 including legal fees estimated not to exceed $500. It is stated that no State or Federal Commission other than this Commission has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 19, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37393 Filed 12-1-80; 8:45 am]

BILLING CODE 8010-01-M

Midwest Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

November 24, 1980.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of: GenRad, Incorporated, Common Stock, $1 Par Value (File No. 7-5786).

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 16, 1980 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37394 Filed 12-1-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21804; 70-5543]

New England Electric System and New England Energy Incorporated; Proposed 1981 Investments by Fuel Subsidiary in Existing Oil and Gas Exploration and Development Partnership

November 25, 1980.

In the matter of New England Electric System, New England Energy Incorporated, 25 Research Drive, Westborough, Massachusetts 05181 (70-5543).

Notice is hereby given that New England Electric System ("NEES"), a registered holding company, and New England Energy Incorporated ("NEEI"), a fuel subsidiary of NEES, have filed with this Commission a post-effective amendment to their application-declaration previously filed and amended pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), 10 and 12 of the Act and Rules 43 and 45(a) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

By order dated October 30, 1974 (HCAR No. 18635), NEES was authorized to organize NEEI, acquire its capital stock and make investments (including subordinated notes) in NEEI of up to $20,250,000 through July 31, 1976, and NEEI was authorized to enter into a partnership agreement ("Agreement") with Samedan Oil Corporation ("Samedan"), a wholly owned subsidiary of Noble Affiliates, Inc., to explore for oil and gas in the continental United States (both onshore and offshore). Said order included the granting of applicants-declarants' request for an exception from the consolidated tax allocation provisions of Rule 45(b)(6) pursuant to Rule 45(a), on terms and conditions therein set forth for the tax years 1974, 1975 and 1976, permitting NEEI to be credited with and receive the cash equivalent of reductions in consolidated tax liabilities arising from the inclusion of its tax losses in the consolidated tax returns of the NEES System; such exception has been extended for the tax years 1977 through and including 1981 by subsequent orders (HCAR Nos. 19580 and 21567, dated June 18, 1976, and May 12, 1980, respectively). By order dated June 18, 1976 (HCAR No. 19580), NEES was authorized to increase its investment in NEEI to $45,000,000 through December 31, 1979 (which date was subsequently extended to December 31, 1988), with NEEI to use such investments to finance its procurement and inventory activities and to finance fuel exploration and development activities with Samedan and/or other parties. By order dated July 19, 1978 (HCAR No. 20632), NEEI was authorized to make sales of fuel oil to New England Power Company ("NEP"), an affiliate, pursuant to a fuel purchase contract on terms and conditions therein set forth, which included, among other things, a provision that the price of fuel oil sold by NEEI to NEP would be adjusted by the difference between the proceeds from the sale of NEEI production to nonaffiliates and the costs related to such production.

By order dated July 25, 1979 (HCAR No. 21558), NEEI was authorized to enter into a loan agreement with commercial banks for an $80,000,000 revolving credit loan, upon the termination of which will become a term loan, $60,000,000 of which amount was to be available in 1980. By order dated October 28, 1980 (HCAR No. 21761), NEEI was authorized (1) to enter into an amendment to said loan agreement, which amendment increased the banks' loan commitments to $80,000,000 in 1980 and $105,000,000 in 1981, and (2) to make borrowings under the amended loan agreement of $80,000,000, jurisdiction being reserved with respect to any borrowings beyond $80,000,000. By order dated December 29, 1979 (HCAR No. 21365), NEEI was authorized (1) to enter an amendment to the Agreement with Samedan, which amendment extended the term of the Agreement through December 31, 1984, and (2) to invest in the partnership a maximum amount of $30,000,000 for exploration, development or any other purpose from January 1, 1980, through December 31, 1980, which amount for said period was increased to $60,000,000 by order dated August 7, 1980 (HCAR No. 21673).

In the instant post-effective amendment applicants-declarants request that NEEI be authorized to make investments in the partnerships with Samedan for the year ending December 31, 1981, of up to $75,000,000 for exploration and development. Such amount of proposed additional investment is separate from that being sought by NEEI in a different filing now pending before this Commission (File No. 70-6513), in which filing NEEI has requested authorization to enter into an oil and gas partnership with Dorchester Exploration Incorporated ("Dorchester") and to invest $15,000,000 therein in 1980, and the partnership agreement concerning which calls for additional expenditures by NEEI for exploration purposes in 1981 of up to $25,000,000. Both Samedan partnership program and the proposed venture with Dorchester are part of a 15-year plan for the NEES system under which NEEI has an objective of achieving production of 5.5 million equivalent barrels by 1996.

The basic features of the Agreement with Samedan include the following: (1) Samedan's acting as managing partner; (2) a limitation on the geographical scope of the partnership's activities to the continental United States (including Alaska), both onshore and offshore; (3) each partner's having a fifty percent interest in the partnership, with NEEI paying a larger share of the costs of exploration (to compensate Samedan for management and expertise in running the partnership as managing partner as well as for Samedan's accumulated geological and geophysical work in evaluating prospects); (4) each partner's sharing equally the costs of development and production of successful prospects; (5) each partner's being entitled to take in kind or sell one-half of the partnership production of oil and gas (with NEEI also having a first call to purchase Samedan's share of oil produced from any prospect); and (6) the partnership's being terminable by either partner at the end of any calendar year on sixty day's prior notice.

It is stated that NEEI had invested approximately $112,000,000 in the partnership with Samedan through July 1, 1980, and that NEEI's share of the total proved and probable reserves discovered through such date, including 1.2 million equivalent barrels of production, was 12.4 million equivalent barrels. Costs associated with these reserves, calculated in the manner approved in the order of July 19, 1978 (HCAR No. 20632), including capital costs and costs associated with production, were approximately $137,900,000, or a current average cost average cost per equivalent barrel of $11.12. The average price realized in 1980 (through June 30) was approximately $13.84 per equivalent barrel. It is estimated that NEEI production and sales will result in savings in fuel costs for the NEES system of approximately $2,800,000 in 1980, bringing to approximately $4,250,000 the total savings achieved from inception through December 31, 1980, as a result of the program.

Concerning the proposed 1981 investment by NEEI in the Samedan partnership, it is stated that NEEI estimates its share of the partnership expenses for exploration alone will be $45,000,000, and its share of development expenses will be $30,000,000. Hence NEEI requests authorization to invest up to $75,000,000 in the Samedan partnership for the year ending December 31, 1981. The financing for such proposed investment will consist of (1) additional funds from NEEI's loan agreement with commercial banks, borrowings thereunder being $54,000,000 at September 30, 1980, and 1981 borrowings, subject to Commission approval, being $105,000,000; (2) additional investments by NEES in NEEI, $45,000,000 being the total presently authorized amount, of which $23,975,000 was invested at September 30, 1980; (3) additional funds from the receipt of the cash equivalent of reduction in consolidated tax liabilities as a result of the inclusion of NEEI's losses in the consolidated tax returns to the NEES system, it being estimated that NEEI will receive approximately $24,000,000 from other NEES system companies in 1981; and (4) funds from the sale of NEEI production under the terms of the order of July 19, 1978 (HCAR No. 20632), NEEI presently expecting to recover approximately $15,000,000 of its investment in this manner in 1981.

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 22, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended by said post-effective amendment, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended by said post-effective amendment or as it may be further amended, may be granted permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant

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exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37395 Filed 12-1-80; 8:45 am]

BILLING CODE 8010-01-M

Pacific Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

November 24, 1980.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of: CSX Corporation, Common Stock, $1 Par Value (File No. 7-5787).

This security is listed and registered on one or more other national securities exchanges and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 16, 1980 written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37396 Filed 12-1-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Small Business Continuity; Meeting

Pursuant to statutory authority set forth in Section 634d of Title 15, United States Code, the Chief Counsel for Advocacy of the Small Business Administration, Milton D. Stewart, Esquire (represented by District Advocate Gene Graves) with the approval of the Administrator, A. Vernon Weaver, and the assistance of the Minnesota Family Business Council, will conduct a public meeting in St. Paul, Minnesota, on December 5, 1980 on the subject of "Small Business Continuity." The meeting will convene at the Business and Technology Center, 245 East Sixth Street, St. Paul, Minnesota from 8:30 am until 1:00 pm (CST).

The Office of the Chief Counsel for Advocacy will continue its study of the question of what changes are needed in laws, regulations or institutions in order to enhance the financing of a change of ownership on the exit or retirement of owners, or the death or disability of founders or family members.

The meeting is open to the public. Any member of the public may participate as an "Observer" and may submit written comments to the Office of the Chief Counsel for Advocacy before, during or after the meeting. All communications or inquiries regarding the meeting should be addressed to either:

Mr. Gene Graves, District Advocate, Small Business Administration, 12 S. 6th Street, Minneapolis, MN 55402, 612/725-2016.

Mr. Daniel P. Mulheran, Minnesota Family Business Council, Suite 400, 7505 Metro Boulevard, Minneapolis, MN 55435, 612/831-2710.

Dated: November 26, 1980.

Milton D. Stewart,

Chief Counsel for Advocacy.

[FR Doc. 80-37486 Filed 12-1-80; 8:45 am]

BILLING CODE 8025-01-M

Small Business Continuity; Meeting

Pursuant to statutory authority set forth in Section 634d of Title 15, United States Code, the Chief Counsel for Advocacy of the Small Business Administration, Milton D. Stewart, Esquire, (represented by Regional Advocate Gene Krause) with the approval of the Administrator, A. Vernon Weaver, and the assistance of the Chicago Family Business Council, will conduct a public meeting in Chicago, Illinois, on December 3, 1980, on the subject of "Small Business Continuity." The meeting will be held at the Midland Hotel, 172 West Adams, from 9:00 a.m. until 4:00 p.m. (CST).

The Office of the Chief Counsel for Advocacy will continue its study of the question of what changes are needed in laws, regulations or institutions in order to enhance the financing of a change of ownership on the exit or retirement of owners, or the death or disability of founders or family members.

The meeting is open to the public. Any member of the public may participate as an "Observer" and may submit written comments to the Office of the Chief Counsel for Advocacy before, during or after the meeting. All communications or inquiries regarding the meeting should be addressed to:

Mr. Gene Kraus, Regional Advocate, U.S. Small Business Administration, 219 S. Dearborn, Room 838, Chicago, ILL 60604, 312/353-2957.

Dated: November 26, 1980.

Milton D. Stewart,

Chief Counsel for Advocacy.

[FR Doc. 80-37487 Filed 12-1-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/348]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold meetings on December 15, 1980 of the Working Groups on Accounting Standards and UN/OECD Investment Undertakings of the Advisory Committee on International Investment, Technology, and Development. The Working Group on Accounting Standards will meet from 9:30 to 12:30 and the UN/OECD Investment Undertakings Group will meet from 1:30 to 4:30. The meetings will be held in Room 1105 of the State Department, 2201 C Street N.W., Washington, D.C. 20520. The meetings will be open to the public.

The accounting group will discuss the issues raised at the October 21-24, 1980, meeting of the Ad Hoc Group on Accounting Standards (of the OECD Committee on International Investment and Multinational Enterprises) and the November 3-14, 1980, meeting of the Intergovernmental Working Group of Experts on International Standards of Accounting and Reporting (of the UN Commission on Transnational Corporations).

The investment undertakings group will discuss preparations for the January 5-23, 1981, meeting of the UN Commission on Transnational Corporations Intergovernmental Working Group on a code of conduct.

Requests for further information on the meetings should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632-2728.

Members of the public wishing to attend the meetings must contact Mr. Lincoln's office in order to arrange entrace to the State Department building.

The Chairman of the Working Groups, will as time permits, entertain oral comments from members of the public attending the meetings.

Dated: November 19, 1980.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 80-37368 Filed 12-1-80; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/347]

Advisory Committee on International Investment, Technology, and Development; Meeting

The meeting of the Working Group on Transborder Data Flows of the Advisory Committee on International Investment, Technology, and Development scheduled to be held December 2, 1980 at 10:00 a.m. at the Department of State has been postponed.

The purpose of the meeting had been to discuss preparations for the meeting of the OECD Experts Group on Information, Computers and Communications Policies which it was anticipated would be convened in Paris on December 8-9. The meeting has been deferred, probably until the latter part of January, 1981. The meeting of the Working Group on Transborder Data Flows will be rescheduled as soon as the OECD announces firm dates for convening the Experts Group.

Dated: November 20, 1980.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 80-37357 Filed 12-1-80; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/349]

Study Group 2 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 2 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on December 12, 1980 in Room 521] of the National Aeronautics and Space Administration, 600 Independence Avenue, S.W., Washington, D.C. The meeting will begin at 9:30 a.m.

Study Group 2 deals with matters relating to the communications for scientific satellites, space probes, spacecraft, exploration satellites (e.g., meteorological and geodetic) and to interference problems concerning the radio astronomy and radar astronomy services. The purpose of the meeting is to review the work programs in preparation for the international meeting of Study Group 2 in October 1981, and a review of U.S. Study Group 2 contributions to the CCIR's development of a report to the 1984 World Radio Conference on Planning of Space Services.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Dated: November 20, 1980.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. Filed 80-37358 12-1-80; 8:45 am]

BILLING CODE 4710-07-M

SYNTHETIC FUELS CORPORATION

Initial Solicitation of Project Proposals

AGENCY: United States Synthetic Fuels Corporation.

ACTION: Notice.

SUMMARY: The Energy Security Act of 1980 (Pub. L. 96-294, Title 1, Part B, Subtitle C, Sec. 127) directs the Corporation to solicit proposals from time to time from concerns interested in the construction or operation, or both, of synthetic fuel projects. Notice of such solicitation was published in draft form in the Federal Register on Friday, October 31, 1980. Comments were received through November 14 on the draft solicitation. The Corporation has submitted the proposed solicitation to the Advisory Committee established under Pub. L. 96-294 and the Advisory Committee has reviewed and commented on such solicitation. In response to the comments from the public and from the Advisory Committee, the Corporation now makes its initial solicitation.

Applicants interested in applying for financial assistance should address their proposals to the Office of Project Development, United States Synthetic Fuels Corporation, 1200 New Hampshire Avenue, NW., Suite 460, Washington, D.C. 20586, (202) 653-4400.

SUPPLEMENTARY INFORMATION: Public Law 96-294 establishes a national goal of achieving from domestic resources a synthetic fuel production capability equivalent to at least 500,000 barrels per day of crude oil by 1987 and at least 2,000,000 barrels per day of crude oil by 1992. The Corporation's mandate is to assist in attaining this goal by providing financial assistance in the form of loan guarantees, price guarantees, purchase agreements; and loans and joint ventures, in that priority, in conjunction with private sources of capital. An Energy Security Reserve of $20 billion has been established in the U.S. Treasury by Congress. A portion of these funds is available for projects selected by the Corporation under this solicitation.

Public comments on the draft solicitation published in the Federal Register Friday, October 31, 1980, fell into three categories: (a) requests for more detailed definitions and guidance in preparing proposals; (b) requests for establishment of priorities for judging proposals; and (c) requests for announcements of future Corporation solicitation policies.

Comments of the Corporation Advisory Committee composed of Secretaries of Treasury, Defense, Interior and Energy, and the Administrator of the Environmental Protection Agency were: (a) that standards for selecting successful applicants include (1) the use of as much private credit and as little public credit as possible; (2) relation of projects to Corporation goals; and (b) that selections by the Corporation be coordinated with awards by the Department of Energy of up to $5 billion in assistance for construction of facilities to produce synthetic fuels.

The Corporation directors at a meeting at 2 p.m. Monday, November 17, authorized issuance of the solicitation with maximum flexibility for applicants.

The principal change in the initial solicitation from the draft solicitation requires applicants to discuss the availability of water to meet project needs and potential water quality impacts on other water users.

The text of the solicitation follows:

Initial Solicitation for Proposals for Financial Assistance for Synthetic Fuels Projects

To All Interested Parties:

The United States Synthetic Fuels Corporation invites the submission of competitive proposals for financial assistance from concerns interested in the construction and/or operation of synthetic fuel projects, in accordance

with the Energy Security Act of 1980. The Act establishes a national goal of achieving a synthetic fuels production capability from domestic resources equivalent to at least 500,000 barrels per day of crude oil by 1987 and at least 2,000,000 barrels per day of crude oil by 1992. The Corporation will provide financial assistance, in conjunction with private sources of capital, to help attain these goals.

The Corporation will carry out its reponsibilities free of rigid, detailed procedural requirements and with maximum flexibility. The Corporation encourages the submission of the broadest range of synthetic fuel projects involving a diversity of technologies. Proposals may request any one or more of the methods of financial assistance which the Corporation is authorized to provide. The highest priority of assistance are loan guarantees, price guarantees, and purchase agreements. Loans and joint ventures, in that order, are of lower priority.

Submission of Proposals. This initial solicitation consists of a two-phase process for the submission and evaluation of proposals for financial assistance to synthetic fuel projects.

In Phase One, which will open November 21, 1980 and close March 31, 1981, interested parties are invited to present proposals for all types of synthetic fuel projects for basic evaluation by the Corporation. Applicants should adequately describe their financial resources and expertise for the project; their proposed project, including the technology and plant input and output; their scheduling timetable and risks with respect to completion; the availability of water to meet project needs and water quality impacts on other users; their ability to deal with environmental considerations and regulatory requirements; socioeconomic impacts; and their financing plan.

In Phase One, the Corporation is not requiring proposals to meet detailed specifications. The Corporation wishes to have the benefit of the experience and expertise of project sponsors. The Corporation recognizes that in order to attain the goals set by Congress, even with assistance from the Corporation, private sector commitments of capital and management and technological effort of a magnitude not previously attempted in the United States are essential. To facilitate these commitments, the Corporation will be flexible and will cooperate fully with project sponsors, financial institutions, investment bankers and other private sector interests that are involved in synthetic fuel projects.

Eligible proposals submitted under the Department of Energy's interim synthetic fuels program, but not selected for assistance by the Department of Energy, will be considered by the Corporation as proposals against this solicitation.

The Corporation will select proposals for Phase Two using reasonable standards which take into account the statutory criteria. Promising proposals selected under Phase One for further evaluation will be invited to submit detailed, supplemental technical, business and financial information. On the basis of such submissions and any further materials or information the Corporation requests, the Corporation will decide which proposals it will select for financial assistance.

Forms of Available Financial Assistance. The Corporation offers, in order of priority, the following general categories of financial assistance: loan guarantees, price guarantees, and purchase commitments; and loans and joint ventures. Financial assistance awarded by the Corporation is intended to encourage and supplement, rather than to compete with or supplant, private investment capital which otherwise would be available to a proposed synthetic fuel project. In order to qualify for assistance, a party submitting a proposal must demonstrate the capability to undertake successful completion of the design, construction and/or operation of the project.

All proposals must contain a representation that the project and its proposer meet the necessary conditions and requirements of the Act before they may receive financial assistance, and interested parties should familiarize themselves with the Act in preparing their proposals. Copies of the Act are available upon request.

The Corporation has not specified the amount of financial assistance which it will provide to successful proposals made under this solicitation because that determination cannot reasonably be made until the Corporation receives and evaluates proposals. Thus, the Corporation cannot now state whether it will use all of its appropriated funds in connection with this solicitation.

Factors to be Considered. Among the factors which will be considered in awarding financial assistance to a particular proposal are the diversity of its technology from existing projects; the potential unit production cost; the long-term potential of the technology, considering the extent of the natural resources required and their geographic distribution; water availability and water quality impact; and the compliance of the technology with applicable regulatory requirements.

In addition, the Corporation is obligated to give due consideration to promoting competition in the synthetic fuels industry. In the case of projects involving companies whose rates are regulated, the Corporation may consider whether the rate-making agencies are likely to protect the financial interests of investors and the Corporation. The Corporation will give priority consideration to proposals to be sited in a state which will expedite regulatory, licensing and other governmental activities related to such project.

Address for Submission. Ten copies of each proposal should be submitted to the Corporation before March 31, 1981, addressed to:

Office of Project Development, United States Synthetic Fuels Corporation, Suite 460, 1200 New Hampshire Avenue, N.W., Washington, D.C. 20568.

Public Summary. Each proposal should contain a separate summary for public release and distribution to interested parties as well as the Governors of the affected States. A form for this purpose may be obtained from the Corporation.

Questions concerning this solicitation may be submitted to the Corporation at any time.

United States Synthetic Fuels Corporation.
For the Board of Directors.
John C. Sawhill,
Chairman.
November 21, 1980.

[FR Doc. 80-37443 Filed 12-1-80; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Performance Review Board

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Change of the members of a Senior Executive Service Performance Review Board.

DATE: Performance Review Board effective immediately.

FOR FURTHER INFORMATION CONTACT: James W. House, RM:P:X, 1111 Constitution Avenue, NW., Room 3213, Washington, DC 20224, Telephone No. 202-566-4633, (not a toll free number).

SUPPLEMENTARY INFORMATION: The members of the Internal Revenue Service's Senior Executive Service Performance Review Board which appeared in the **Federal Register** on

April 22, 1980 (45 FR 27079) have been changed. The changes are as follows:

Russell E. Dyke, Assistant Commissioner, Planning and Research, (alternate member), replaces S. Allen Winborne, Assistant Commissioner, Employee Plans and Exempt Organizations, as a regular member of the Board.

M. Eddie Heironimus, Assistant Commissioner, Taxpayer Service and Returns Processing, is appointed to serve as an alternate member of the Board.

Leon C. Green, Regional Commissioner, Central Region, (alternate member), replaces Thomas A. Cardoza, Regional Commissioner, Western Region, as a regular member of the Board.

Roger L. Plate, Regional Commissioner, Midwest Region, is appointed to serve as an alternate member of the Board.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978 (43 FR 52122).

Joseph T. Davis,
Acting Deputy Commissioner.

[FR Doc. 80-37337 Filed 12-1-80; 8:45 am]
BILLING CODE 4830-01-M

Office of the Secretary

[Dept. Circular, Public Debt Series—No. 36-80]

Treasury Notes of February 15, 1986, Series C-1986

November 25, 1980.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $3,000,000,000 of United States securities, designated Treasury Notes of February 15, 1986, Series C-1986 (CUSIP No. 912827 LH 3). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated December 8, 1980, and will bear interest from that date, payable on a semiannual basis on August 15, 1981, and each subsequent 6 months on February 15 and August 15, until the principal becomes payable. They will mature February 15, 1986, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $1,000, $5,000, $10,000, $100,000 and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, December 3, 1980. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, December 2, 1980.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commerical banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commerical banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necesary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That rate of interest will be paid on all of the securities. Based on

such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to

allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been

Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered

hereby requested to increase the fourth year restraint level applicable to nonrubber footwear imports from Taiwan entering under TSUS item 923.90 by 10 percent and to decrease the restraint level for nonrubber

such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.5., must be made or completed on or before Monday, December 8, 1980. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Friday, December 5, 1980. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 80-37553 Filed 12-1-80; 8:45 am]

BILLING CODE 4810-40-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Letter to the Commissioner of Customs Adjusting Restraint Levels on Nonrubber Footwear From Taiwan

Pursuant to the authority delegated to the United States Trade Representative under Presidential Proclamation 4510 of June 22, 1977, the following letter was sent to the Commissioner of Customs adjusting the fourth year restraint level for nonrubber footwear from Taiwan.

Reubin O'D. Askew,

U.S. Trade Representative.

The United States Trade Representative.
Washington, D.C., November 20, 1980.

Honorable Robert Chasen,
Commissioner, U.S. Customs Service, Department of the Treasury, Washington, D.C. 20229.

Dear Commissioner Chasen: A request has been received from Taiwan concerning the shift provision in paragraph 5(a) of the orderly marketing agreement on nonrubber footwear.

Accordingly, pursuant to paragraph (6) of Proclamation 4510 of June 22, 1977, you are hereby requested to increase the fourth year restraint level applicable to nonrubber footwear imports from Taiwan entering under TSUS Item 923.90 by 10 percent and to decrease the restraint level for nonrubber footwear entering under TSUS Item 923.91 by the same absolute amount.

The adjusted restraint levels, therefore, will be:

923.90—11,528,000 pairs
923.91—111,352,000 pairs

The level for Item 923.92 remains unchanged at 7,862,117 pairs.

This letter will be published in the **Federal Register.**

Sincerely,

Reubin O'D. Askew.

[FR Doc. 80-37425 Filed 12-1-80; 8:45 am]

BILLING CODE 3190-01-M

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Sunshine Act Meetings

Federal Register
Vol. 45, No. 233
Tuesday, December 2, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-300, Amdt. 3; Nov. 25, 1980]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the November 26, 1980 meeting.

TIME AND DATE: 9 a.m., November 26, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: Addition: 4a. Miami-London Service Case (Gatwick Phase), Docket 37987 (OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-2191-80 Filed 11-28-80; 9:35 am]

BILLING CODE 6320-01-M

2

[M-300, Amdt. 4; Nov. 26, 1980]

CIVIL AERONAUTICS BOARD.

Notice of addition and closure of item to the November 26, 1980 meeting.

TIME AND DATE: 9 a.m. November 26, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428

SUBJECT: Addition: 24. Negotiations with Yugoslavia (BIA).

STATUS: Closed.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-2192-80 Filed 11-28-80; 9:36 am]

BILLING CODE 6320-01-M

3

[M-300, Amdt. 5; Nov. 26, 1980]

CIVIL AERONAUTICS BOARD.

Notice of addition and deletion of items from the November 26, 1980 meeting agenda.

TIME AND DATE: 9 a.m., November 26, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

Deleted: 8. Dockets EAS-336 and 338. Appeals of Essential Air Service Determinations for Kingman and Prescott, Arizona (Memo 087, OGC, OCCR, BDA).

Deleted: 9. Dockets EAS 549, EAS-552 and 38140—Ponca City's appeal and Enid's comments on their essential air transportation determinations and Air Midwest's notice of its intention to suspend service at Enid and Ponca City, Oklahoma (Memo 080, BDA, OCCR, OGC).

Deleted: 18. Docket 36419, Texas-Alberta-Alaska Case; Docket 38757, Application of Western Air Lines, Inc. to Postpone Inauguration of Service (Memo 110, BDA).

Deleted: 18a. Docket 33220, Yucatan Service Case; Docket 38917, Application of Evergreen International Airlines, Inc. for an exemption pursuant to Section 416 (b) of the Federal Aviation Act to postpone inauguration of service Order denying exemptions (Memo 029-E, OGC).

Addition: 2a. Cancellations by World Airways (BCP).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-2193-80 Filed 11-28-80; 9:36 am]

BILLING CODE 6320-01-M

4

[M-300; Amdt 1; Nov. 21, 1980]

CIVIL AERONAUTICS BOARD.

Notice of deletion of item from the November 26, 1980 agenda.

TIME AND DATE: 9 a.m., November 26, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 15. Docket 36497. EDR-387/PSDR-68, Notice of Proposed Rulemaking to implement competitive pricing for mail transportation by establishing zones of rates within which carriers and Postal Service would be free to contract (BDA, OGC).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-2194-80 Filed 11-28-80; 9:37 am]

BILLING CODE 6320-01-M

5

[M-300, Amdt. 2, Nov. 25, 1980]

CIVIL AERONAUTICS BOARD.

Notice of addition and deletion of item's to the November 26, 1980 board meeting.

TIME AND DATE: 9 a.m., November 26, 1980.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

Added: 3a. Docket 29044, Motion by Action on Smoking and Health for an oral argument on the Board's smoking rule (Memo No. 069-A, OGC).

Added: 18a. Docket 33220, Yucatan Service Case; Docket 38917, Application of Evergreen International Airlines, Inc. for an exemption pursuant to Section 416(b) of the Federal Aviation Act to postpone inauguration of service; Order Denying Exemptions (Memo No. 029-E, OGC).

Deleted: 22. Docket 32629, Application of Saudi Arabian Airlines Corporation for renewal of its foreign air carrier permit to carry property only between Saudi Arabia and New York, Houston, Dallas/Ft. Worth (BIA, OGC, BALJ).

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

[S-2195-80 Filed 11-28-80; 9:37 am]

BILLING CODE 6320-01-M

6

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., December 4, 1980.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Monthly Report of actions taken pursuant to authority delegated to the Managing Director.
2. Universal Transcontinental Corporation and J. S. Stass Co., Division of Universal Transcontinental Corporation—Possible Violations of the Shipping Act, 1916.
3. Agreement No. 10318: United States-European Trade Carriers Cooperative Study Arrangement.

4. Agreement No. 10168-2: Modification of the "Carol Lines" Agreement to expand its scope.
5. Agreement No. 9735-13: Modification of the Steamship Operators Intermodal Committee to provide for charges and allowances for the detention of containers and related equipment.
6. Agreement No. 5660-28: Modification of the Marseilles North Atlantic U.S.A. Freight Conference Agreement to provide for the right of independent rate action.
7. Agreement No. 9548 DR-5: Modification of the North Atlantic Mediterranean Freight Conference's Dual Rate Contract to specify and limit the contract signatories who have the legal right to select the carrier.
8. Agreement No. 10380: Medafrica-Nigeria America Shipping Line Limited Joint Service.
9. Proposed rule to exempt agreements for joint cargo inspection services and/or self-policing between conferences or rate agreements from the filing and approval requirements of section 15 of the Shipping Act, 1916.
10. Docket No. 80-45: Agreement Nos. 10386, As Amended, 10388, 10382, As Amended, and 10389—Cargo Revenue Pooling/Equal Access Agreements in the United States/Argentine Trades—Consideration of Revision to Order Instituting Proceeding.
11. Interest in Reparation Proceedings.
12. Awards of interest in overcharge cases involving mismeasurement.

Portions closed to the public:

1. Section 21 Orders in the North Atlantic Trades.
2. Request of Farrell Lines Incorporated for Relief from Section 21 Order—North Europe Trades.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-2189-80 Filed 11-28-80; 9:01 am]

BILLING CODE 6730-01-M

7

FEDERAL RESERVE SYSTEM.

Board of Governors.

TIME AND DATE: 10 a.m., Monday, December 8, 1980.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed salary structure adjustments at several Federal Reserve Banks.
2. Federal Reserve Bank and Branch director appointments.
3. Request by the Government Accounting Office for Board comment on a draft report concerning examination of financial institutions.
4. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

[S-2188-80 Filed 11-28-80; 2:59 pm]

BILLING CODE 6210-01-M

8

FEDERAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: F.R. 45, November 21, 1980, Page No. 77222.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, December 3, 1980.

CHANGES IN THE AGENDA: The Federal Trade Commission has changed the date of its previously announced open meeting of Wednesday, December 3, 1980, 10 a.m. to Wednesday, December 10, 1980, 10 a.m.

[FR Doc. 2186-80 Filed 11-25-80; 11:20 am]

BILLING CODE 6750-01-M

9

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 9:30 a.m., Wednesday, December 3, 1980.

PLACE: 1776 G Street, N.W., Washington, D.C., 7th Floor Board Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility Lending Rate.
2. Consideration of a proposed rule regarding the month-end reporting forms for use by credit unions.
3. Request for the approval of procedures for cooperation between the federal financial institution regulatory agencies and the Department of Labor in the enforcement of the Employee Retirement Income Security Act of 1974.
4. Consideration of uniform interagency consumer compliance rating system for the five federal financial institutions.
5. Report on actions taken under delegations of authority.
6. Applications for charters, amendments to charters, bylaw amendments, mergers as may be pending at that time.

RECESS: 10:15 a.m.

TIME AND DATE: 10:30 a.m., Wednesday, December 3, 1980.

PLACE: 1776 G Street, N.W., Washington, D.C., 7th Floor Board Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Report of mergers approved under delegated authority. Closed pursuant to exemptions (8) and (9) (A) (ii).
2. Proposed charter amendment. Closed pursuant to exemption (8).
3. Proposed conversion. Closed pursuant to exemptions (8) and (9)(A)(ii).
4. Proposed mergers. Closed pursuant to exemptions (8) and (9)(A)(ii).
5. Administrative Action under Section 120 and 207 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A) and (10).

FOR MORE INFORMATION CONTACT: Joan O'Neill, Program Assistant, telephone (202) 357-1100.

[S-2188-80 Filed 11-26-80; 2:01 am]

BILLING CODE 7535-01-M

10

[NM-80-40]

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Tuesday, December 9, 1980.

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: The first two items will be open to the public; the third will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report*—Air Wisconsin, Inc., Swearingen Metro, N8505, Valley, Nebraska, June 12, 1980.
2. *Marine Accident Report*—Brazilian Bulk Carrier M/V FROTALESTE collision with Portuguese Freighter M/V CUNENE, Lower Mississippi River, near Bonnet Carre Point, Louisiana, January 22, 1980.
3. *Opinion and Order*—Administrator v. Kopanke, Dkt. SE-4567; disposition of Administrator's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

November 26, 1980.

[S-2197-80 Filed 11-28-80; 12:46 pm]

BILLING CODE 4910-01-M

11

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY.

Change of meeting location.

The Select Commission on Immigration and Refugee Policy will hold its sixth meeting on:

DATES: December 6 (8:30 am.-9:00 p.m.), December 7 (8:30 a.m.-5:00 p.m.).

PLACE: The Arlie House, Warrenton, Virginia.

Included on the agenda will be discussion of major policy issues before the Commission.

As some discussions will concern matters within Section 552(b)(c)(1) of Title 5, United States Code, sections of the meeting (specifically December 6) will be closed according to R. G.

V 45 / 233 DE 2 80 UMI

Freeman III, Administrator, General Services Administration.

Discussions on December 7 will be open to the public.

Written statements may be filed with the Commission before or after the meeting.

The Select Commission on Immigration and Refugee Policy was created by Pub. L. 95-412, signed October 5, 1978. The Commission is charged with a comprehensive review of U.S. immigration laws, policies, and procedures. Membership on the Commission includes four Cabinet members, four members of the House Committee on the Judiciary, four members of the Senate Judiciary Committee, and four members appointed by the President, including Reverend Theodore M. Hesburgh, President of Notre Dame, and Chairman of the Select Commission.

A summary of the December 6-7, 1980 meeting will be published in the **Federal Register**.

Address inquiries to: Select Commission on Immigration and Refugee Policy, New Executive Office Building, Room 2020, 726 Jackson Place, N.W., Washington, D.C. 20506. Telephone: (202) 395-5615.

Dr. Lawrence H. Fuchs,
Executive Director.

[S-2190-80 Filed 11-28-80; 9:01 am]
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federal register

Tuesday
December 2, 1980

Part II

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Low-Income Public Housing Development; Processing Procedures; Prototype Cost Determination

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Section 6(b) of the U.S. Housing Act of 1937 provides that the prototype costs shall become effective December 2, 1980, and this Notice is, therefore, made

North Carolina, Greensboro, 27401, 415 North Edgeworth Street.
South Carolina, Columbia, 29201, Strom Thurmond Federal Building, 1835-45

Region X
Alaska, Anchorage, 99501, 334 West 5th Avenue.
Oregon, Portland, 97204, Cascade

(3) The application of good design as an essential component of such housing for safety and security as well as other purposes,

V 45 / 233 DEC 2 80 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 841

[Docket No. N-80-1046]

Low-Income Public Housing Development, Processing Procedures; Prototype Cost Determination

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, Department of Housing and Urban Development (HUD).

ACTION: Notice of prototype cost determinations under 24 CFR Part 841.

SUMMARY: This Notice establishes prototype limits for development of low-income public housing and Indian housing new construction projects under the United States Housing Act of 1937. The prototype cost determinations stated in this Notice supersede the prototype cost schedules published on June 16, 1980, and all amendments and additions to such schedules, published prior to the date of this Notice.

EFFECTIVE DATE: December 2, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Jack R. VanNess, Director, Technical Support Division, Office of Public Housing, Room 6248, 451 7th Street SW., Washington, D.C. 20410, (202) 755-4956 (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The United States Housing Act of 1937 requires determination by HUD of the costs in different areas for construction and equipment (prototype costs) of new dwelling units suitable for occupancy by low-income families. This determination must be made at least once a year and published in the **Federal Register**. The prototype costs constitute a limit on development cost for construction and equipment of new public housing projects including Indian projects.

The schedules in this Notice represent a semi-annual update of per unit prototype cost limits for development of public housing under 24 CFR Part 841 (see § 841.204), and of Indian Housing under 24 CFR Part 805 (see §§ 805.213 and 805.214(b)).

The prototype cost determinations for the semi-annual update are based on a consensus of nationally recognized construction cost indices.

Where prototype schedules are established for special Indian prototype cost areas in accordance with 24 CFR 805.213, the prototype cost limits apply only for development of Indian Housing (these special areas are identified by an asterisk(*) on the schedules).

Section 6(b) of the U.S. Housing Act of 1937 provides that the prototype costs shall become effective December 2, 1980, and this Notice is, therefore, made effective upon publication.

Timely written comments will be considered and additional amendments will be published if the Department determines that acceptance of the comments is appropriate. Comments with respect to cost limits for a given location should be sent to the local HUD office. A list of these offices follow:

Region I

Connecticut, Hartford, 06103, One Financial Plaza.
Massachusetts, Boston, 02114, Bulfinch Bldg., 15 New Chardon Street.
New Hampshire, Manchester, 03103, Norris-Cotton Federal Bldg., 5th Floor, 275 Chestnut Street.
Rhode Island, Providence, 02903, John O. Pastore Federal Bldg. and U.S. Post Office, Room 330.

Region II

New Jersey, Newark, 07102, Raymond Plaza, Gateway 1 Bldg.
New York, Buffalo, 14202, Statler Building, Suite 800, 107 Delaware Ave.
New York, New York, 10007, 26 Federal Plaza.
Puerto Rico, San Juan, 00918, Caribbean Area Office, Federico Degetau Building and U.S. Courthouse, Room 428, Carlos E. Chardon Avenue, Hato Rey, Puerto Rico, 00918.

Region III

District of Columbia, Washington 20009, Universal North Bldg., 1875 Connecticut Avenue NW.
Maryland, Baltimore, 21201, 2 Hopkins Plaza, Mercantile Bank and Trust Building.
Pennsylvania, Philadelphia 19106, Curtis Building, 625 Walnut Street.
Pennsylvania, Pittsburgh, 15219, Fort Pitt Commons, 445 Fort Pitt Blvd.
Virginia, Richmond, 23219, 701 East Franklin Street.
West Virginia, Charleston, 25301, Kanawah Valley Bldg., Capitol and Lee Streets.

Region IV

Alabama, Birmingham, 35233, Daniel Building, 15 South 20th Street.
Florida, Jacksonville, 32204, Peninsular Plaza, 661 Riverside Avenue.
Georgia, Atlanta, 30303, Richard B. Russell Federal Building, 75 Spring Street, S.W.
Kentucky, Louisville, 40201, 539 River City Mall, P.O. Box 1044.
Mississippi, Jackson, 39201, U.S. Federal Building, 100 W. Capital Street, Suite 1016.
North Carolina, Greensboro, 27401, 415 North Edgeworth Street.
South Carolina, Columbia, 29201, Strom Thurmond Federal Building, 1835-45 Assembly Street.
Tennessee, Nashville, 37219, 1 Commerce Place.
Tennessee, Knoxville, 37919, 1 Northshore Bldg., 1111 Northshore Drive.

Region V

Illinois, Chicago, 60602, 1 North Dearborn Street.
Indiana, Indianapolis, 46207, 151 North Delaware Street, P.O. Box 7047.
Michigan, Detroit, 48226, 15th Floor, Patrick V. McNamara Building, 477 Michigan Ave.
Michigan, Grand Rapids, 49505, 2922 Fuller Avenue NE.
Minnesota, Minneapolis-St. Paul, 55435, 6400 France Avenue South.
Ohio, Columbus, 43215, New Federal Office Building, 200 North High Street.
Ohio, Cleveland, 44114, 777 Rockwell Avenue, Second Floor.
Wisconsin, Milwaukee, 53203, 744 North Fourth Street.

Region VI

Arkansas, Little Rock, 72201, Union National Bank Building, 1 Union National Plaza.
Louisiana, New Orleans, 70113, Plaza Tower, 1001 Howard Avenue.
Oklahoma, Oklahoma City, 73102, Murrah Federal Bldg., 200 NW 5th Street.
Texas, Dallas, 75201, 2001 Bryan Tower, Fourth Floor.
Texas, San Antonio, 78285, Washington Square, 800 Dolorosa, P.O. Box 9163.

Region VII

Iowa, Des Moines, 50309, 210 Walnut Street, Room 25.
Kansas, Kansas City, 64106, Professional Building, 1103 Grand Street.
Missouri, St. Louis, 63101, 210 North 12th Street.
Nebraska, Omaha, 68106, Univac Bldg., 7100 West Center Road.

Region VIII

Colorado, Denver, 80202, Executive Tower, 1405 Curtis Street.

Region IX

California, Los Angeles, 90057, 2500 Wilshire Boulevard.
California, Sacramento, 95809, 545 Downtown Plaza, P.O. Box 1978, Suite 250.
California, San Francisco, 94111, 1 Embarcadero Center, Suite 1600.
Hawaii, Honolulu, 96850, Prince Jonah Kuhio Kalanianaole Federal Bldg., 300 Ala Moana Boulevard, Suite 3318.

Region X

Alaska, Anchorage, 99501, 334 West 5th Avenue.
Oregon, Portland, 97204, Cascade Building, 520 SW Sixth Avenue.
Washington, Seattle, 98101, 403 Arcade Plaza Building, 1321 Second Ave.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(c) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, HUD, 451 7th Street, S.W., Washington, D.C. 20410.

Upon the following considerations, the prototype costs are determined to be as set forth below.

A. Unit Prototype Cost. 1. Prototype cost comprises the cost of dwelling structures, account No. 1460, and dwelling equipment, account No. 1465, as described in Handbook 7510.1, chapter 3, section 15, which includes a pro rata share of the builders' fee and overhead, insurance, social security, sales tax, and bonds.

2. Prototype cost does not include the costs of site acquisitions, site improvement, nondwelling structures or spaces (and equipment), planning (architectural-engineering fees, permit fees, inspection, and similar costs), relocation, interest or PHA administrative costs, all of which are described in Handbook 7510.1, chapter 3, section 15.

3. The determination of prototype cost shall consider:

(a) Compliance with applicable HUD Minimum Property Standards and planning and design criteria described in HUD Handbook 7417.1 REV-1, chapter 9 and with respect to Indian Housing, design criteria required by CFR 24 Part 212(a). Currently copies of HUD Handbooks are maintained and available for public inspection in the Program Information Center, Room 1104, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C. 20410, and in each of the Department's Regional, Area and Service Offices.

(b) The additional cost to provide, as required by Section 6(b) of the Act:

(1) The extra durability required for safety and security and economical maintenance of such housing,

(2) The provision of amenities designed to guarantee a safe and healthy family life and neighborhood environment,

(3) The application of good design as an essential component of such housing for safety and security as well as other purposes,

(4) The maintenance of quality in architecture to reflect the standards of the neighborhood and community,

(5) The need for maximizing the conservation of energy for heating, lighting, and other purposes,

(6) The effectiveness of existing cost limits in the area,

(7) The advice and recommendations of local housing producers, and

(8) With respect to remote areas such as may be found in connection with projects developed under the Indian and Alaskan Native housing program assisted under this Act, the extensive transportation required to provide the necessary labor, materials, and equipment to the project site and any additional conditions that the Secretary has taken into consideration under clauses (1) through (7) for such projects.

Accordingly, the prototype per unit cost schedules for all prototype cost areas, issued under 24 CFR, Part 841, Prototype Cost Limits for Low-Income Public Housing, are hereby established as shown on the tables set forth hereinafter entitled "Prototype Per Unit Cost Schedule—Regions I through X."

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d); Sec. 6(b) of the U.S. Housing Act of 1937, 42 U.S.C. 1437(d))

Issued at Washington, D.C., November 21, 1980.

Clyde McHenry,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

BILLING CODE 4210-01-M

POTAICA

PHOTOTYPE PER UNIT COST SCHEDULE

NUMBER OF BEDROOMS

	0	1	2	3	4	5	6
REGION X							
CONNECTICUT							
HARTFORD							
DETACHED AND SEMIDETACHED	26,100	31,200	34,300	41,150	49,500	55,100	57,650
ROW DWELLINGS	24,700	29,400	32,900	39,050	46,900	52,250	54,750
WALKUP	21,250	26,250	29,650	35,400	40,700	44,850	47,050
ELEVATOR-STRUCTURE	26,600	34,300	43,550	------	------	------	------
NEW MILFORD							
DETACHED AND SEMIDETACHED	25,000	29,650	33,100	39,800	47,650	53,000	55,900
ROW DWELLINGS	23,600	28,200	31,350	37,350	44,900	50,050	52,150
WALKUP	20,300	25,050	28,450	33,700	38,750	43,000	44,950
ELEVATOR-STRUCTURE	26,300	33,050	41,100	------	------	------	------
NEW HAVEN							
DETACHED AND SEMIDETACHED	25,100	30,100	33,150	39,750	47,650	53,300	55,750
ROW DWELLINGS	23,500	28,200	31,350	37,350	44,900	50,050	52,250
WALKUP	20,250	25,050	28,400	33,500	38,800	43,050	44,850
ELEVATOR-STRUCTURE	26,300	33,050	41,100	------	------	------	------
NEW LONDON							
DETACHED AND SEMIDETACHED	25,500	30,500	33,750	40,200	48,050	54,250	56,600
ROW DWELLINGS	23,950	28,750	32,100	38,300	45,950	51,350	53,650
WALKUP	21,200	25,950	29,400	34,350	39,800	43,950	46,100
ELEVATOR-STRUCTURE	26,900	34,600	44,000	------	------	------	------
NORWALK							
DETACHED AND SEMIDETACHED	25,500	30,600	33,750	40,200	48,050	54,250	56,600
ROW DWELLINGS	23,950	28,750	32,100	38,300	45,950	51,350	53,650
WALKUP	21,600	25,950	29,000	34,350	39,800	43,950	46,100
ELEVATOR-STRUCTURE	29,900	34,600	44,000	------	------	------	------
RIDGEFIELD							
DETACHED AND SEMIDETACHED	31,200	37,400	41,300	49,400	59,650	66,000	69,300
ROW DWELLINGS	29,550	35,300	39,400	46,800	56,400	62,950	65,700
WALKUP	25,450	31,650	35,000	42,200	48,900	53,850	56,600
ELEVATOR-STRUCTURE	36,750	45,250	55,700	------	------	------	------
STAMFORD							
DETACHED AND SEMIDETACHED	25,400	30,850	33,750	40,250	48,050	54,250	56,500
ROW DWELLINGS	23,850	28,350	31,650	37,500	45,050	50,400	52,400
WALKUP	20,400	25,100	28,800	33,950	39,050	43,100	45,100
ELEVATOR-STRUCTURE	29,900	36,650	44,000	------	------	------	------
STRATFORD							
DETACHED AND SEMIDETACHED	28,900	34,800	38,200	45,000	55,050	61,200	64,100
ROW DWELLINGS	------	------	------	------	------	------	------
WALKUP	------	------	------	------	------	------	------
ELEVATOR-STRUCTURE	------	------	------	------	------	------	------

POTAICA

PHOTOTYPE PER UNIT COST SCHEDULE

NUMBER OF BEDROOMS

	0	1	2	3	4	5	6
REGION I--CONTINUED							
MAINE							
BANGOR							
DETACHED AND SEMIDETACHED	26,050	31,250	34,950	39,200	47,300	52,400	54,700
ROW DWELLINGS	23,550	28,150	31,150	37,250	44,800	49,750	52,050
WALKUP	20,300	25,200	28,650	33,700	39,250	43,100	45,000
ELEVATOR-STRUCTURE	27,450	32,000	40,400	------	------	------	------
OLD TOWN							
DETACHED AND SEMIDETACHED	25,200	30,150	31,850	37,900	45,700	50,650	52,850
ROW DWELLINGS	22,350	26,650	29,550	35,200	42,400	47,150	49,300
WALKUP	20,900	25,650	29,550	34,700	40,150	44,300	46,650
ELEVATOR-STRUCTURE	30,600	35,750	45,100	------	------	------	------
AUGUSTA							
DETACHED AND SEMIDETACHED	26,900	31,850	35,400	42,550	51,000	56,750	59,200
ROW DWELLINGS	24,250	28,850	32,100	38,500	46,200	51,450	53,600
ELEVATOR-STRUCTURE	27,700	32,250	40,900	34,850	40,550	44,600	46,900
BRUNSWICK							
DETACHED AND SEMIDETACHED	26,750	31,600	35,050	42,000	50,650	56,150	58,650
ROW DWELLINGS	23,950	28,600	31,900	38,050	45,900	50,900	53,200
WALKUP	20,700	25,550	29,300	34,600	40,150	43,950	46,450
ELEVATOR-STRUCTURE	27,950	32,650	41,250	------	------	------	------
CALAIS							
DETACHED AND SEMIDETACHED	24,050	29,300	32,550	38,700	46,250	51,950	54,400
ROW DWELLINGS	22,250	27,100	30,150	36,100	43,400	48,950	50,300
WALKUP	19,150	24,000	27,600	32,150	40,750	44,900	47,200
ELEVATOR-STRUCTURE	33,550	39,100	49,200	------	------	------	------
LEWISTON							
DETACHED AND SEMIDETACHED	25,750	31,800	35,050	40,000	50,650	56,150	58,850
ROW DWELLINGS	23,950	28,600	31,900	36,950	45,900	50,900	53,200
WALKUP	20,700	25,550	29,300	34,600	40,150	43,950	46,450
ELEVATOR-STRUCTURE	26,900	31,350	39,800	------	------	------	------
PORTLAND							
DETACHED AND SEMIDETACHED	26,750	31,600	35,050	42,000	50,650	56,150	58,850
ROW DWELLINGS	23,950	28,600	31,900	38,050	45,900	50,900	53,200
WALKUP	20,700	25,550	29,300	34,600	40,150	44,700	47,150
ELEVATOR-STRUCTURE	27,950	32,650	41,250	------	------	------	------
WATERVILLE							
DETACHED AND SEMIDETACHED	25,800	30,700	33,850	40,750	49,050	54,350	56,850
ROW DWELLINGS	23,400	27,800	30,850	36,850	44,300	49,350	51,600
WALKUP	20,100	24,950	28,400	33,450	38,800	42,950	44,900
ELEVATOR-STRUCTURE	27,100	31,700	40,050	------	------	------	------
MASSACHUSETTS							
BOSTON							
DETACHED AND SEMIDETACHED	25,900	30,700	34,000	40,700	48,950	54,400	56,950
ROW DWELLINGS	23,800	28,400	31,550	37,600	45,400	50,450	52,700
WALKUP	21,050	26,150	28,900	34,550	41,650	46,200	48,450
ELEVATOR-STRUCTURE	33,950	39,400	49,950	------	------	------	------

DETACHED AND SEMIDETACHED	26,050	31,250	34,950	39,200	47,300	52,400	54,700
ROW DWELLINGS	23,550	28,150	31,150	37,250	44,800	49,750	52,050
WALKUP	20,300	25,200	28,650	33,700	39,250	43,100	45,000
ELEVATOR-STRUCTURE	27,450	32,000	40,400	------	------	------	------
NEW BEDFORD							
DETACHED AND SEMIDETACHED	25,200	30,150	31,850	37,900	45,700	50,650	52,850
ROW DWELLINGS	22,350	26,650	29,550	35,200	42,400	47,150	49,300
WALKUP	20,900	25,650	29,550	34,700	40,150	44,300	46,650
ELEVATOR-STRUCTURE	30,600	35,750	45,100	------	------	------	------
FALL RIVER							
DETACHED AND SEMIDETACHED	26,900	31,850	35,400	42,550	51,000	56,750	59,200
ROW DWELLINGS	24,250	28,850	32,100	38,500	46,200	51,450	53,600
ELEVATOR-STRUCTURE	27,700	32,250	40,900	34,850	40,550	44,600	46,900
FITCHBURG							
DETACHED AND SEMIDETACHED	26,750	31,600	35,050	42,000	50,650	56,150	58,650
ROW DWELLINGS	23,950	28,600	31,900	38,050	45,900	50,900	53,200
WALKUP	20,700	25,550	29,300	34,600	40,150	43,950	46,450
ELEVATOR-STRUCTURE	27,950	32,650	41,250	------	------	------	------
FRAMINGHAM							
DETACHED AND SEMIDETACHED	24,050	29,300	32,550	38,700	46,250	51,950	54,400
ROW DWELLINGS	22,250	27,100	30,150	36,100	43,400	48,950	50,300
WALKUP	19,150	24,000	27,600	32,150	40,750	44,900	47,200
ELEVATOR-STRUCTURE	33,550	39,100	49,200	------	------	------	------
GREENFIELD							
DETACHED AND SEMIDETACHED	25,750	31,800	35,050	40,000	50,650	56,150	58,850
ROW DWELLINGS	23,950	28,600	31,900	36,950	45,900	50,900	53,200
WALKUP	20,700	25,550	29,300	34,600	40,150	43,950	46,450
ELEVATOR-STRUCTURE	26,900	31,350	39,800	------	------	------	------
HAVERHILL							
DETACHED AND SEMIDETACHED	26,750	31,600	35,050	42,000	50,650	56,150	58,850
ROW DWELLINGS	23,950	28,600	31,900	38,050	45,900	50,900	53,200
WALKUP	20,700	25,550	29,300	34,600	40,150	44,700	47,150
ELEVATOR-STRUCTURE	27,950	32,650	41,250	------	------	------	------
HOLYOKE							
DETACHED AND SEMIDETACHED	25,800	30,700	33,850	40,750	49,050	54,350	56,850
ROW DWELLINGS	23,400	27,800	30,850	36,850	44,300	49,350	51,600
WALKUP	20,100	24,950	28,400	33,450	38,800	42,950	44,900
ELEVATOR-STRUCTURE	27,100	31,700	40,050	------	------	------	------
LAWRENCE							
DETACHED AND SEMIDETACHED	25,900	30,700	34,000	40,700	48,950	54,400	56,950
ROW DWELLINGS	23,800	28,400	31,550	37,600	45,400	50,450	52,700
WALKUP	21,050	26,150	28,900	34,550	41,650	46,200	48,450
ELEVATOR-STRUCTURE	33,950	39,400	49,950	------	------	------	------

DETACHED AND SEMIDETACHED	26,250	31,450	34,950	39,200	47,300	52,400	54,700
ROW DWELLINGS	23,750	28,150	31,150	37,250	44,800	49,750	52,050
WALKUP	20,800	25,200	28,650	33,700	39,250	43,100	45,000
ELEVATOR-STRUCTURE	------	------	------	------	------	------	------
LOWELL							
DETACHED AND SEMIDETACHED	26,750	31,600	35,050	42,000	50,650	56,150	58,850
ROW DWELLINGS	23,950	28,600	31,900	38,050	45,900	50,900	53,200
WALKUP	20,700	25,550	29,300	34,600	40,150	44,700	47,150
ELEVATOR-STRUCTURE	27,950	32,650	41,250	------	------	------	------
LYNN							
DETACHED AND SEMIDETACHED	25,800	30,700	33,850	40,750	49,050	54,350	56,850
ROW DWELLINGS	23,400	27,800	30,850	36,850	44,300	49,350	51,600
WALKUP	20,100	24,950	28,400	33,450	38,800	42,950	44,900
ELEVATOR-STRUCTURE	27,100	31,700	40,050	------	------	------	------
MALDEN							
DETACHED AND SEMIDETACHED	25,900	30,700	34,000	40,700	48,950	54,400	56,950
ROW DWELLINGS	23,800	28,400	31,550	37,600	45,400	50,450	52,700
WALKUP	21,050	26,150	28,900	34,550	41,650	46,200	48,450
ELEVATOR-STRUCTURE	33,950	39,400	49,950	------	------	------	------
MEDFORD							
DETACHED AND SEMIDETACHED	25,900	30,700	34,000	40,700	48,950	54,400	56,950
ROW DWELLINGS	23,800	28,400	31,550	37,600	45,400	50,450	52,700
WALKUP	21,050	26,150	28,900	34,550	41,650	46,200	48,450
ELEVATOR-STRUCTURE	33,950	39,400	49,950	------	------	------	------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION I--CONTINUED							
MASSACHUSETTS --CONTINUED							
WORCHESTER							
DETACHED AND SEMIDETACHED	24,700	29,400	32,650	38,900	47,000	52,150	54,650
ROW DWELLINGS	22,900	27,300	30,350	36,100	43,600	48,450	50,550
WALKUP	20,750	25,050	27,800	32,950	39,800	44,200	46,300
ELEVATOR-STRUCTURE	32,950	38,600	46,650	------	------	------	------
FALL RIVER							
DETACHED AND SEMIDETACHED	25,050	30,000	33,250	39,650	47,750	53,150	55,550
ROW DWELLINGS	23,300	27,850	30,950	36,900	44,650	49,300	51,550
WALKUP	21,350	25,200	28,350	33,700	40,750	45,350	47,400
ELEVATOR-STRUCTURE	31,700	36,900	46,700	------	------	------	------
NEW HAMPSHIRE							
MANCHESTER							
DETACHED AND SEMIDETACHED	23,600	29,350	32,400	38,650	46,550	51,850	54,500
ROW DWELLINGS	23,250	28,100	31,150	36,950	44,450	49,000	51,750
WALKUP	20,000	24,850	28,300	33,400	38,700	42,400	44,700
ELEVATOR-STRUCTURE	27,600	32,150	40,600	------	------	------	------
CONCORD							
DETACHED AND SEMIDETACHED	25,450	31,550	34,850	41,550	49,900	55,600	58,400
ROW DWELLINGS	24,800	29,900	33,250	39,400	47,650	52,950	55,200
WALKUP	20,900	25,950	29,400	34,800	40,350	44,250	46,650
ELEVATOR-STRUCTURE	27,550	32,150	40,550	------	------	------	------
DOVER							
DETACHED AND SEMIDETACHED	23,150	28,500	31,650	37,750	45,650	50,500	53,000
ROW DWELLINGS	22,550	27,100	30,150	35,750	43,000	47,850	50,000
WALKUP	19,250	23,850	27,250	32,250	40,300	44,850	46,200
ELEVATOR-STRUCTURE	28,300	32,800	41,500	------	------	------	------
KEENE							
DETACHED AND SEMIDETACHED	24,250	30,100	33,200	39,750	47,650	53,000	55,750
ROW DWELLINGS	23,800	28,650	31,850	37,850	45,600	51,000	55,000
WALKUP	20,500	25,350	28,800	34,300	39,700	43,450	45,600
ELEVATOR-STRUCTURE	25,250	30,450	38,500	------	------	------	------
NASHUA							
DETACHED AND SEMIDETACHED	23,600	29,350	32,400	38,650	46,550	51,850	54,500
ROW DWELLINGS	23,250	28,100	31,150	36,950	44,450	49,000	51,750
WALKUP	20,000	25,450	29,100	34,300	39,750	43,750	46,000
ELEVATOR-STRUCTURE	27,700	32,250	40,600	------	------	------	------
PORTSMOUTH							
DETACHED AND SEMIDETACHED	24,850	30,650	33,950	40,050	48,400	54,350	57,050
ROW DWELLINGS	24,450	29,300	32,700	38,800	46,900	51,800	54,300
WALKUP	18,800	23,350	26,650	31,500	36,350	39,950	41,950
ELEVATOR-STRUCTURE	28,200	32,750	41,450	------	------	------	------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION I--CONTINUED							
RHODE ISLAND							
PROVIDENCE							
DETACHED AND SEMIDETACHED	28,200	33,650	37,050	44,450	53,450	59,300	62,250
ROW DWELLINGS	26,700	31,750	35,550	42,150	50,000	56,450	59,150
WALKUP	22,950	28,400	32,000	38,250	44,000	48,450	50,800
ELEVATOR-STRUCTURE	29,350	34,100	43,250	------	------	------	------
VERMONT							
BURLINGTON							
DETACHED AND SEMIDETACHED	24,700	29,650	32,700	39,050	47,050	52,250	54,750
ROW DWELLINGS	23,600	27,900	31,150	37,100	44,550	49,600	51,950
WALKUP	20,150	24,750	28,400	33,550	38,750	42,800	44,950
ELEVATOR-STRUCTURE	27,700	32,250	40,900	------	------	------	------
BENNINGTON							
DETACHED AND SEMIDETACHED	24,700	29,650	32,700	39,050	47,050	52,250	54,750
ROW DWELLINGS	23,600	27,900	31,150	37,100	44,550	49,600	51,950
WALKUP	20,150	24,750	28,400	33,550	38,750	42,800	44,950
ELEVATOR-STRUCTURE	28,000	32,650	41,400	------	------	------	------
BRATTLEBORO							
DETACHED AND SEMIDETACHED	24,700	29,650	32,700	39,050	47,050	52,250	54,750
ROW DWELLINGS	23,600	27,900	31,150	37,100	44,550	49,600	51,950
WALKUP	20,150	24,750	28,400	33,550	38,750	42,800	44,950
ELEVATOR-STRUCTURE	28,000	32,650	41,400	------	------	------	------
RENTHELIEN							
DETACHED AND SEMIDETACHED	24,300	28,900	32,100	38,200	45,950	51,100	53,500
ROW DWELLINGS	22,850	27,200	30,200	35,950	43,050	48,100	50,400
WALKUP	19,600	24,150	27,450	32,600	37,450	41,500	43,500
ELEVATOR-STRUCTURE	28,000	32,650	41,400	------	------	------	------
RUTLAND							
DETACHED AND SEMIDETACHED	24,450	29,050	32,200	38,650	46,450	51,600	53,900
ROW DWELLINGS	23,200	27,550	30,600	36,400	43,600	48,650	50,900
WALKUP	19,850	24,250	27,700	33,000	38,000	42,000	44,250
ELEVATOR-STRUCTURE	28,250	32,850	41,450	------	------	------	------
REGION II							
NEW JERSEY							
CAMDEN							
DETACHED AND SEMIDETACHED	25,250	30,350	33,600	40,050	48,450	53,700	56,400
ROW DWELLINGS	23,250	27,750	30,700	36,750	43,400	49,050	51,250
WALKUP	19,800	24,500	27,950	33,100	38,450	42,200	44,600
ELEVATOR-STRUCTURE	30,400	35,400	44,850	------	------	------	------
ATLANTIC CITY							
DETACHED AND SEMIDETACHED	24,850	29,900	33,100	39,450	47,650	52,850	55,450
ROW DWELLINGS	22,650	27,100	30,150	35,750	42,450	48,050	49,950
WALKUP	19,350	24,100	27,450	32,400	37,650	41,450	43,650
ELEVATOR-STRUCTURE	29,000	33,700	42,750	------	------	------	------

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PHOTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION II--CONTINUED							
NEW JERSEY --CONTINUED							
BURLINGTON							
DETACHED AND SEMIDETACHED	25,200	30,200	33,600	39,900	48,150	53,450	56,200
ROW DWELLINGS	23,050	27,550	30,700	36,350	43,550	48,700	50,750
WALKUP	20,000	24,600	27,950	33,050	38,350	42,150	44,500
ELEVATOR-STRUCTURE	30,550	35,650	45,050	-------	-------	-------	-------
GLOUCESTER							
DETACHED AND SEMIDETACHED	24,850	29,900	33,100	39,450	47,700	52,950	55,600
ROW DWELLINGS	22,850	27,250	30,150	36,050	43,050	48,150	50,300
WALKUP	19,550	24,250	27,450	32,450	37,700	41,550	43,700
ELEVATOR-STRUCTURE	30,400	35,400	44,850	-------	-------	-------	-------
TRENTON							
DETACHED AND SEMIDETACHED	25,350	30,150	33,600	40,000	48,150	53,550	56,200
ROW DWELLINGS	23,150	27,500	30,700	36,450	43,750	48,800	51,100
WALKUP	20,050	24,750	27,950	33,300	38,500	42,250	44,550
ELEVATOR-STRUCTURE	33,500	38,850	49,250	-------	-------	-------	-------
VINELAND							
DETACHED AND SEMIDETACHED	25,300	30,300	33,600	40,000	48,350	53,700	56,300
ROW DWELLINGS	23,050	27,650	30,700	36,550	43,750	48,850	51,100
WALKUP	19,800	24,550	27,950	33,000	38,050	42,100	44,400
ELEVATOR-STRUCTURE	31,450	36,450	46,250	-------	-------	-------	-------
NEWARK							
DETACHED AND SEMIDETACHED	27,750	32,900	36,650	43,750	52,600	58,350	61,050
ROW DWELLINGS	26,550	31,550	35,050	41,600	50,150	55,950	58,500
WALKUP	22,450	27,950	31,900	37,650	43,650	47,950	50,650
ELEVATOR-STRUCTURE	31,550	36,650	46,300	-------	-------	-------	-------
ASBURY PARK							
DETACHED AND SEMIDETACHED	27,750	32,900	36,650	43,750	52,600	58,350	61,050
ROW DWELLINGS	26,550	31,550	35,050	41,600	50,150	55,950	58,500
WALKUP	22,000	27,400	31,150	36,900	42,850	47,100	49,550
ELEVATOR-STRUCTURE	30,200	35,100	44,350	-------	-------	-------	-------
NORTH BERGEN							
DETACHED AND SEMIDETACHED	27,750	32,900	36,650	43,750	52,600	58,350	61,050
ROW DWELLINGS	26,550	31,550	35,050	41,600	50,150	55,950	58,500
WALKUP	23,050	28,500	32,500	38,500	44,750	49,150	51,650
ELEVATOR-STRUCTURE	31,600	36,850	46,500	-------	-------	-------	-------
FREEHOLD							
DETACHED AND SEMIDETACHED	27,750	32,900	36,650	43,750	52,600	58,350	61,050
ROW DWELLINGS	26,550	31,550	35,050	41,600	50,150	55,950	58,500
WALKUP	21,950	27,400	31,100	36,850	42,700	47,050	49,500
ELEVATOR-STRUCTURE	30,400	35,350	44,800	-------	-------	-------	-------
NEW YORK							
ALBANY							
DETACHED AND SEMIDETACHED	23,250	27,750	30,550	36,500	44,650	48,950	51,400
ROW DWELLINGS	21,650	26,150	29,150	34,650	41,650	46,400	48,600
WALKUP	18,700	23,300	26,400	31,400	36,300	39,850	41,950
ELEVATOR-STRUCTURE	25,050	28,950	36,900	-------	-------	-------	-------

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PHOTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION II--CONTINUED							
NEW YORK --CONTINUED							
PLATTSBURGH							
DETACHED AND SEMIDETACHED	22,000	26,300	29,200	35,850	42,050	46,600	48,950
ROW DWELLINGS	21,050	25,000	27,800	33,050	39,650	44,250	46,150
WALKUP	18,000	22,000	25,250	29,800	34,600	37,900	40,000
ELEVATOR-STRUCTURE	22,450	27,750	35,050	-------	-------	-------	-------
SYRACUSE							
DETACHED AND SEMIDETACHED	23,350	27,950	30,750	36,850	44,500	49,400	51,750
ROW DWELLINGS	22,150	26,450	29,350	34,900	41,950	46,900	49,050
WALKUP	18,950	23,400	26,550	31,800	36,900	40,100	42,350
ELEVATOR-STRUCTURE	25,050	29,150	36,900	-------	-------	-------	-------
POUGHKEEPSIE							
DETACHED AND SEMIDETACHED	23,450	27,950	31,050	37,050	44,700	49,550	51,950
ROW DWELLINGS	22,400	26,400	29,550	35,100	42,200	47,100	49,200
WALKUP	19,050	23,650	26,900	31,900	36,850	40,500	42,650
ELEVATOR-STRUCTURE	23,800	27,600	35,000	-------	-------	-------	-------
BINGHAMTON							
DETACHED AND SEMIDETACHED	23,200	27,400	30,500	36,450	44,000	48,800	51,200
ROW DWELLINGS	22,400	26,800	29,700	35,350	42,500	47,300	49,550
WALKUP	18,650	23,150	26,300	31,150	36,100	39,450	41,700
ELEVATOR-STRUCTURE	25,200	29,200	36,950	-------	-------	-------	-------
BUFFALO							
DETACHED AND SEMIDETACHED	22,600	27,000	29,950	35,750	43,050	47,900	50,200
ROW DWELLINGS	20,100	23,950	26,500	31,700	38,000	42,550	44,850
WALKUP	19,000	23,300	26,450	31,300	36,250	39,900	41,950
ELEVATOR-STRUCTURE	27,550	32,250	40,550	-------	-------	-------	-------
ROCHESTER							
DETACHED AND SEMIDETACHED	22,050	26,350	29,100	34,850	42,100	46,600	48,900
ROW DWELLINGS	19,600	23,400	26,050	30,850	37,050	41,300	43,200
WALKUP	18,350	22,600	25,750	30,450	35,350	38,800	40,900
ELEVATOR-STRUCTURE	26,950	31,450	39,450	-------	-------	-------	-------
JAMESTOWN							
DETACHED AND SEMIDETACHED	21,950	26,200	29,050	34,750	41,850	46,500	48,800
ROW DWELLINGS	19,500	23,300	25,750	30,600	36,900	41,450	42,950
WALKUP	18,350	22,600	25,750	30,450	35,350	38,800	40,900
ELEVATOR-STRUCTURE	26,800	31,200	39,450	-------	-------	-------	-------
ELMIRA							
DETACHED AND SEMIDETACHED	23,450	28,000	31,250	37,250	44,850	49,800	52,200
ROW DWELLINGS	20,800	25,000	27,700	32,850	39,500	44,150	46,000
WALKUP	19,750	24,250	27,500	32,650	37,700	41,600	43,750
ELEVATOR-STRUCTURE	28,700	33,450	42,200	-------	-------	-------	-------
NEW YORK CITY (INNER)							
DETACHED AND SEMIDETACHED	26,700	32,050	35,500	42,350	51,000	56,700	59,400
ROW DWELLINGS	25,650	30,550	33,950	40,350	48,400	53,900	56,500
WALKUP	28,200	35,000	39,650	46,950	54,450	59,800	63,050
ELEVATOR-STRUCTURE	37,500	40,500	48,050	55,250	64,100	68,150	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION II--CONTINUED							
NEW YORK --CONTINUED							
NEW YORK CITY (METRO)							
DETACHED AND SEMIDETACHED	22,750	26,100	29,550	35,000	40,500	42,550	44,650
ROW DWELLINGS	21,550	24,650	28,000	33,150	38,400	40,300	42,300
WALKUP	23,950	27,400	31,150	36,850	42,650	44,750	47,000
ELEVATOR-STRUCTURE	36,750	39,700	45,100	54,150	62,800	66,750	-------
NASSAU COUNTY							
DETACHED AND SEMIDETACHED	22,750	26,100	29,550	35,000	40,500	42,550	44,650
ROW DWELLINGS	21,550	24,650	28,000	33,150	38,400	40,300	42,300
WALKUP	23,950	27,400	31,150	36,850	42,650	44,750	47,000
ELEVATOR-STRUCTURE	31,150	35,650	40,550	48,700	56,400	60,100	-------
SUFFOLK COUNTY							
DETACHED AND SEMIDETACHED	20,400	22,600	25,050	29,900	34,080	37,800	39,700
ROW DWELLINGS	19,600	21,500	23,950	28,500	34,100	35,800	37,550
WALKUP	21,400	24,450	27,850	32,900	38,050	41,950	44,150
ELEVATOR-STRUCTURE	29,000	33,300	37,800	45,350	52,600	55,950	-------
WESTCHESTER COUNTY							
DETACHED AND SEMIDETACHED	21,450	23,700	26,250	31,500	37,200	39,050	41,050
ROW DWELLINGS	20,500	22,650	25,100	30,000	35,900	37,700	39,600
WALKUP	22,650	26,000	29,400	34,800	40,400	42,400	46,550
ELEVATOR-STRUCTURE	30,850	37,500	40,200	48,050	55,750	-------	-------
ORANGE COUNTY							
DETACHED AND SEMIDETACHED	18,700	21,300	23,550	28,200	33,950	35,050	37,400
ROW DWELLINGS	17,900	20,250	22,600	26,650	32,150	33,750	35,500
WALKUP	20,450	24,200	27,450	32,550	37,900	41,450	43,650
ELEVATOR-STRUCTURE	28,150	32,450	36,800	44,200	51,350	54,850	-------
ROCKLAND COUNTY							
DETACHED AND SEMIDETACHED	19,950	22,050	24,500	29,250	35,200	37,000	38,850
ROW DWELLINGS	19,100	21,100	23,450	27,800	33,400	35,050	36,850
WALKUP	20,950	24,000	27,250	32,200	37,600	41,100	43,250
ELEVATOR-STRUCTURE	29,800	31,850	36,150	43,400	50,350	53,950	-------
PUERTO RICO							
SAN JUAN							
DETACHED AND SEMIDETACHED	19,850	23,700	26,300	31,400	37,850	41,900	44,100
ROW DWELLINGS	19,000	23,450	26,100	30,700	37,150	41,250	43,250
WALKUP	16,600	20,550	23,300	27,700	32,000	35,300	37,150
ELEVATOR-STRUCTURE	18,550	21,750	27,400	30,500	33,450	-------	-------
OLD SAN JUAN							
DETACHED AND SEMIDETACHED	23,700	28,500	31,450	37,600	45,400	50,300	52,850
ROW DWELLINGS	23,500	28,150	31,350	37,000	44,800	49,550	52,000
WALKUP	19,950	24,550	27,950	33,250	38,400	42,300	44,800
ELEVATOR-STRUCTURE	22,200	25,950	32,900	36,800	40,150	-------	-------
PONCE							
DETACHED AND SEMIDETACHED	19,900	23,850	26,350	31,550	37,900	42,000	44,150
ROW DWELLINGS	19,700	23,600	26,200	30,750	37,250	41,350	43,350
WALKUP	16,750	20,600	23,400	27,700	32,150	35,350	37,200
ELEVATOR-STRUCTURE	18,700	21,800	27,550	30,600	33,550	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION II--CONTINUED							
PUERTO RICO --CONTINUED							
MAYAGUEZ							
DETACHED AND SEMIDETACHED	19,900	23,850	26,350	31,550	37,900	42,000	44,150
ROW DWELLINGS	19,700	23,600	26,200	30,750	37,250	41,350	43,350
WALKUP	16,750	20,600	23,400	27,700	32,150	35,350	37,200
ELEVATOR-STRUCTURE	18,700	21,800	27,550	30,600	33,550	-------	-------
ARECIBO							
DETACHED AND SEMIDETACHED	19,900	23,850	26,350	31,550	37,900	42,000	44,150
ROW DWELLINGS	19,700	23,600	26,200	30,750	37,250	41,350	43,350
WALKUP	16,750	20,600	23,400	27,700	32,150	35,350	37,200
ELEVATOR-STRUCTURE	18,700	21,800	27,550	30,600	33,550	-------	-------
VIRGIN ISLANDS							
ST. THOMAS							
DETACHED AND SEMIDETACHED	28,250	29,050	32,150	38,500	46,300	51,450	53,900
ROW DWELLINGS	24,050	28,050	31,750	37,850	45,450	50,600	53,050
WALKUP	20,650	25,300	28,800	34,150	39,650	43,500	45,800
ELEVATOR-STRUCTURE	21,850	25,650	32,300	35,900	39,450	-------	-------
ST. CROIX							
DETACHED AND SEMIDETACHED	23,650	28,250	31,000	37,000	45,050	50,150	52,650
ROW DWELLINGS	23,500	28,100	31,200	37,000	44,400	49,500	51,800
WALKUP	19,900	24,500	27,850	32,950	38,300	42,150	44,300
ELEVATOR-STRUCTURE	21,350	24,850	31,450	35,000	38,450	-------	-------
REGION III							
DELAWARE							
WILMINGTON							
DETACHED AND SEMIDETACHED	24,500	29,450	32,650	38,950	46,850	52,200	54,700
ROW DWELLINGS	21,050	25,100	27,700	33,100	40,000	44,400	46,550
WALKUP	19,550	23,450	27,200	32,550	37,700	41,150	43,400
ELEVATOR-STRUCTURE	27,100	31,450	40,100	-------	-------	-------	-------
DOVER							
DETACHED AND SEMIDETACHED	24,250	29,400	32,400	38,650	46,400	51,800	54,200
ROW DWELLINGS	20,700	24,800	27,500	32,650	39,600	43,900	45,950
WALKUP	19,200	23,700	27,000	32,050	37,150	40,700	42,850
ELEVATOR-STRUCTURE	27,000	31,350	39,850	-------	-------	-------	-------
WASHINGTON, D.C.							
WASHINGTON, D.C.							
DETACHED AND SEMIDETACHED	24,650	29,550	32,650	38,950	46,950	52,300	54,650
ROW DWELLINGS	23,100	27,700	30,600	36,500	44,000	49,050	51,100
WALKUP	19,950	24,450	28,200	33,050	38,600	42,350	44,500
ELEVATOR-STRUCTURE	28,650	33,050	42,000	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION III--CONTINUED							
MARYLAND							
BALTIMORE							
DETACHED AND SEMIDETACHED	22,850	27,200	30,150	35,900	43,100	48,350	50,350
ROW DWELLINGS	19,250	23,250	25,650	30,650	36,800	40,800	42,850
WALKUP	17,850	22,100	25,100	29,750	36,550	37,850	39,900
ELEVATOR-STRUCTURE	26,300	30,550	38,800	------	------	------	------
BALTIMORE CITY MD							
DETACHED AND SEMIDETACHED	23,500	28,250	31,300	37,300	44,750	50,150	52,300
ROW DWELLINGS	20,150	24,300	26,700	31,950	38,350	42,620	44,650
WALKUP	18,650	23,000	26,150	31,050	36,000	39,500	41,650
ELEVATOR-STRUCTURE	27,450	31,900	40,450	------	------	------	------
HAGERSTOWN							
DETACHED AND SEMIDETACHED	22,550	26,950	29,950	35,800	43,000	47,950	50,050
ROW DWELLINGS	19,100	22,950	25,450	30,350	36,400	40,450	42,400
WALKUP	17,800	22,000	24,960	29,600	34,350	37,700	39,800
ELEVATOR-STRUCTURE	26,200	30,450	38,550	------	------	------	------
SALISBURY							
DETACHED AND SEMIDETACHED	22,900	27,450	30,400	36,250	43,600	48,800	50,800
ROW DWELLINGS	19,650	23,350	25,850	30,950	37,200	41,400	43,250
WALKUP	18,100	22,400	25,350	30,150	34,900	38,300	40,400
ELEVATOR-STRUCTURE	26,650	31,000	39,150	------	------	------	------
WALDORF							
DETACHED AND SEMIDETACHED	23,550	28,350	31,400	37,350	44,850	50,200	52,350
ROW DWELLINGS	20,050	24,200	26,700	31,900	38,300	42,550	44,600
WALKUP	18,650	23,100	26,150	31,050	36,050	39,000	41,650
ELEVATOR-STRUCTURE	27,150	25,800	32,750	------	------	------	------
PENNSYLVANIA							
PHILADELPHIA							
DETACHED AND SEMIDETACHED	25,650	31,050	33,600	40,850	49,000	54,750	57,100
ROW DWELLINGS	23,050	27,750	30,700	36,500	43,900	49,000	50,850
WALKUP	19,900	24,650	27,650	33,050	38,350	42,300	44,400
ELEVATOR-STRUCTURE	31,250	36,300	46,000	------	------	------	------
ALLENTOWN							
DETACHED AND SEMIDETACHED	24,350	29,200	32,200	38,600	46,300	51,650	54,050
ROW DWELLINGS	21,500	25,850	28,500	34,000	40,800	45,500	47,400
WALKUP	19,850	24,550	27,900	33,050	38,250	42,100	44,250
ELEVATOR-STRUCTURE	28,300	32,750	41,500	------	------	------	------
ALTOONA							
DETACHED AND SEMIDETACHED	24,200	29,200	32,400	38,600	46,300	51,700	54,050
ROW DWELLINGS	21,450	25,800	28,550	34,000	40,800	45,550	47,300
WALKUP	19,950	24,650	27,950	33,000	38,350	42,200	44,250
ELEVATOR-STRUCTURE	29,650	34,250	43,650	------	------	------	------
BELLEFONTE							
DETACHED AND SEMIDETACHED	24,850	29,700	33,000	39,350	47,400	52,800	55,150
ROW DWELLINGS	21,750	26,150	28,950	34,300	41,250	46,100	48,050
WALKUP	20,350	25,050	28,400	33,700	39,000	42,950	45,150
ELEVATOR-STRUCTURE	36,300	42,300	53,350	------	------	------	------

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	45,250	41,500	36,250	------			
	42,200	38,650	34,000	------			
	40,100	36,800	32,000	------			
	40,050	36,650	31,600	------			
	40,100	36,800	31,100	------			
	40,100	36,800	32,000	------			
	40,850	37,550	32,000	------			
	40,100	36,800	32,000	------			
	40,100	36,800	32,000	------			

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION III--CONTINUED							
PENNSYLVANIA --CONTINUED							
HARRISBURG							
DETACHED AND SEMIDETACHED	24,100	29,100	32,150	38,250	46,000	51,350	53,550
ROW DWELLINGS	21,300	25,550	28,250	33,550	40,450	45,050	46,950
WALKUP	19,650	24,300	27,650	32,700	38,000	41,800	43,800
ELEVATOR-STRUCTURE	28,400	33,000	41,800	------	------	------	------
LANCASTER							
DETACHED AND SEMIDETACHED	23,550	28,550	31,400	37,450	45,100	50,350	52,600
ROW DWELLINGS	20,800	25,000	27,550	32,900	39,600	44,050	45,850
WALKUP	19,250	23,700	27,050	32,100	37,450	40,950	42,950
ELEVATOR-STRUCTURE	28,000	32,650	41,150	------	------	------	------
YORK							
DETACHED AND SEMIDETACHED	23,550	28,550	31,400	37,450	45,100	50,350	52,600
ROW DWELLINGS	20,800	25,000	27,550	32,850	39,600	44,050	45,850
WALKUP	19,250	23,700	27,050	32,100	37,450	40,950	42,950
ELEVATOR-STRUCTURE	28,000	32,450	41,150	------	------	------	------
READING							
DETACHED AND SEMIDETACHED	23,900	28,950	31,850	37,950	45,750	51,100	53,350
ROW DWELLINGS	21,150	25,450	28,000	33,400	40,200	44,750	46,550
WALKUP	19,500	24,050	27,450	32,300	37,550	41,400	43,300
ELEVATOR-STRUCTURE	28,000	32,450	41,150	------	------	------	------
SCRANTON							
DETACHED AND SEMIDETACHED	24,800	30,000	33,000	39,350	47,400	52,800	55,100
ROW DWELLINGS	21,200	25,400	28,000	33,450	40,150	44,850	46,800
WALKUP	19,600	24,450	27,250	32,500	37,900	41,750	43,850
ELEVATOR-STRUCTURE	29,850	34,600	44,000	------	------	------	------
PITTSBURGH							
DETACHED AND SEMIDETACHED	25,750	30,750	34,100	40,500	48,700	54,250	56,700
ROW DWELLINGS	21,850	26,100	28,950	34,400	41,450	46,050	48,250
WALKUP	21,400	25,600	28,400	33,750	40,600	45,150	47,250
ELEVATOR-STRUCTURE	29,750	34,700	43,950	------	------	------	------
ALTOONA							
DETACHED AND SEMIDETACHED	24,850	29,600	32,850	39,050	46,800	52,200	54,550
ROW DWELLINGS	21,100	25,450	27,900	33,350	40,100	44,700	46,650
WALKUP	19,300	23,800	27,350	32,200	37,250	41,100	43,150
ELEVATOR-STRUCTURE	28,900	33,500	42,300	------	------	------	------
ERIE							
DETACHED AND SEMIDETACHED	25,200	30,150	33,350	39,750	47,800	53,250	55,600
ROW DWELLINGS	21,800	26,100	28,700	34,050	41,200	46,000	47,900
WALKUP	19,600	24,200	27,750	32,750	37,950	41,850	44,000
ELEVATOR-STRUCTURE	29,250	33,950	42,950	------	------	------	------
JOHNSTOWN							
DETACHED AND SEMIDETACHED	24,650	29,600	32,850	39,000	46,850	52,250	54,600
ROW DWELLINGS	21,150	25,350	27,900	33,200	40,200	44,800	46,550
WALKUP	19,300	23,800	27,350	32,250	37,400	41,250	43,300
ELEVATOR-STRUCTURE	28,750	33,400	42,300	------	------	------	------

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	40,250	37,000	33,150	------			
	40,250	37,000	32,550	------			
	40,850	37,200	32,550	------			
	40,850	37,200	32,550	------			
	40,450	37,100	32,650	------			
	41,750	38,250	32,600	------			
	58,350	53,600	45,550	------			
	40,250	37,000	32,250	------			
	47,050	43,100	37,850	------			

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION III--CONTINUED							
VIRGINIA							
RICHMOND							
DETACHED AND SEMIDETACHED	18,300	22,000	27,100	32,450	39,050	43,400	45,250
ROW DWELLINGS	16,750	20,250	24,900	29,750	35,850	39,800	41,500
WALKUP	14,500	18,250	22,900	27,050	31,300	34,400	36,250
ELEVATOR-STRUCTURE	30,000	34,750	44,050	-------	-------	-------	-------
NORFOLK							
DETACHED AND SEMIDETACHED	17,100	20,600	25,250	30,150	36,300	40,450	42,200
ROW DWELLINGS	15,500	18,900	23,250	27,750	33,400	37,100	38,650
WALKUP	12,900	16,000	20,350	23,950	27,850	30,000	32,000
ELEVATOR-STRUCTURE	25,350	29,650	37,400	-------	-------	-------	-------
VIRGINIA BEACH							
DETACHED AND SEMIDETACHED	18,250	19,600	23,900	28,600	34,350	38,450	40,100
ROW DWELLINGS	14,750	17,800	22,050	26,250	31,700	35,350	36,800
WALKUP	12,900	16,000	20,350	23,950	27,850	30,000	32,000
ELEVATOR-STRUCTURE	25,350	29,650	37,400	-------	-------	-------	-------
PORTSMOUTH							
DETACHED AND SEMIDETACHED	18,100	19,600	23,900	28,550	34,350	38,350	40,050
ROW DWELLINGS	14,750	17,800	22,000	26,150	31,650	35,300	36,650
WALKUP	12,700	15,750	20,000	23,550	27,250	30,100	31,600
ELEVATOR-STRUCTURE	25,350	29,650	37,400	-------	-------	-------	-------
CHESAPEAKE							
DETACHED AND SEMIDETACHED	18,250	19,600	23,900	28,600	34,350	38,450	40,100
ROW DWELLINGS	14,750	17,800	22,050	26,250	31,700	35,350	36,800
WALKUP	12,550	15,550	19,850	23,200	26,900	29,700	31,100
ELEVATOR-STRUCTURE	25,350	29,650	37,400	-------	-------	-------	-------
SUFFOLK							
DETACHED AND SEMIDETACHED	18,250	19,600	23,900	28,600	34,350	38,450	40,100
ROW DWELLINGS	14,750	17,800	22,050	26,250	31,700	35,350	36,800
WALKUP	12,900	16,000	20,350	23,950	27,850	30,000	32,000
ELEVATOR-STRUCTURE	23,200	27,100	34,200	-------	-------	-------	-------
ROANOKE							
DETACHED AND SEMIDETACHED	18,800	20,000	24,450	29,150	35,050	39,150	40,850
ROW DWELLINGS	14,950	18,350	22,450	26,850	32,300	36,000	37,550
WALKUP	12,900	16,000	20,350	23,950	27,850	30,000	32,000
ELEVATOR-STRUCTURE	23,150	26,800	33,900	-------	-------	-------	-------
LYNCHBURG							
DETACHED AND SEMIDETACHED	18,250	19,600	23,900	28,600	34,350	38,450	40,100
ROW DWELLINGS	14,750	17,800	22,050	26,250	31,700	35,350	36,800
WALKUP	12,900	16,000	20,350	23,950	27,850	30,000	32,000
ELEVATOR-STRUCTURE	23,150	26,800	33,900	-------	-------	-------	-------
DANVILLE							
DETACHED AND SEMIDETACHED	18,250	19,600	23,900	28,600	34,350	38,450	40,100
ROW DWELLINGS	14,750	17,800	22,050	26,250	31,700	35,350	36,800
WALKUP	13,000	16,200	20,600	24,200	28,000	31,050	32,600
ELEVATOR-STRUCTURE	23,150	26,800	33,900	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION III--CONTINUED							
VIRGINIA --CONTINUED							
NEWPORT NEWS							
DETACHED AND SEMIDETACHED	18,300	19,650	24,150	28,850	34,750	38,800	40,250
ROW DWELLINGS	14,800	18,050	22,150	26,500	31,900	35,500	37,000
WALKUP	13,200	16,450	20,900	24,050	28,000	31,000	33,150
ELEVATOR-STRUCTURE	25,600	29,850	37,550	-------	-------	-------	-------
HAMPTON							
DETACHED AND SEMIDETACHED	18,300	19,650	24,150	28,850	34,750	38,800	40,250
ROW DWELLINGS	14,800	18,050	22,150	26,500	31,900	35,500	37,000
WALKUP	12,950	16,150	20,450	24,150	27,950	30,950	32,550
ELEVATOR-STRUCTURE	25,600	29,850	37,550	-------	-------	-------	-------
FREDERICKSBURG							
DETACHED AND SEMIDETACHED	18,500	19,800	24,450	29,150	35,050	39,050	40,850
ROW DWELLINGS	14,850	18,250	22,350	26,700	32,250	35,750	37,200
WALKUP	13,150	16,150	20,500	24,200	28,200	31,000	32,550
ELEVATOR-STRUCTURE	25,350	29,450	37,200	-------	-------	-------	-------
WARRENTON							
DETACHED AND SEMIDETACHED	18,500	19,800	24,450	29,150	35,050	39,050	40,850
ROW DWELLINGS	14,850	18,250	22,350	26,700	32,250	35,750	37,200
WALKUP	13,150	16,150	20,500	24,200	28,200	31,000	32,550
ELEVATOR-STRUCTURE	25,350	29,450	37,200	-------	-------	-------	-------
HARRISONBURG							
DETACHED AND SEMIDETACHED	18,400	19,750	24,300	29,000	34,950	38,950	40,450
ROW DWELLINGS	14,850	18,100	22,200	26,650	32,000	35,700	37,100
WALKUP	13,000	16,200	20,600	24,200	28,200	31,050	32,650
ELEVATOR-STRUCTURE	23,400	27,250	34,500	-------	-------	-------	-------
EMPORIA							
DETACHED AND SEMIDETACHED	16,800	20,350	24,900	29,900	36,050	40,050	41,750
ROW DWELLINGS	15,400	18,650	22,850	27,300	32,950	36,850	38,250
WALKUP	13,150	16,250	20,650	24,250	28,250	31,050	32,600
ELEVATOR-STRUCTURE	24,850	28,800	36,500	-------	-------	-------	-------
KENTON							
DETACHED AND SEMIDETACHED	23,500	28,400	34,850	41,850	50,350	55,900	58,350
ROW DWELLINGS	21,550	26,100	32,000	38,300	46,100	51,250	53,600
WALKUP	18,400	22,700	28,950	33,900	39,900	43,450	45,550
ELEVATOR-STRUCTURE	40,750	47,150	59,800	-------	-------	-------	-------
EASTERN SHORE							
DETACHED AND SEMIDETACHED	18,300	19,650	24,150	28,850	34,750	38,800	40,250
ROW DWELLINGS	14,800	18,050	22,150	26,500	31,900	35,500	37,000
WALKUP	12,900	16,000	20,350	24,000	27,700	30,700	32,250
ELEVATOR-STRUCTURE	23,400	27,250	34,500	-------	-------	-------	-------
CHARLOTTESVILLE							
DETACHED AND SEMIDETACHED	19,000	22,950	28,300	33,500	40,600	45,150	47,050
ROW DWELLINGS	17,300	20,950	25,800	30,950	37,300	41,450	43,100
WALKUP	15,150	18,800	24,900	28,200	32,750	36,100	37,950
ELEVATOR-STRUCTURE	27,200	31,600	40,150	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION III--CONTINUED							
WEST VIRGINIA							
CHARLESTON							
DETACHED AND SEMIDETACHED	20,000	24,200	30,000	35,850	42,900	47,950	50,000
ROW DWELLINGS	17,500	21,100	26,000	31,050	37,200	41,450	43,250
WALKUP	15,750	19,000	24,950	29,450	34,550	37,700	39,600
ELEVATOR-STRUCTURE	26,150	30,300	38,550	------	------	------	------
BECKLEY							
DETACHED AND SEMIDETACHED	19,600	23,650	29,050	34,750	41,850	46,700	48,550
ROW DWELLINGS	16,950	20,600	25,300	30,200	36,250	40,550	42,350
WALKUP	15,400	19,100	24,400	28,700	33,200	36,750	38,500
ELEVATOR-STRUCTURE	25,450	29,650	37,500	------	------	------	------
BLUEFIELD							
DETACHED AND SEMIDETACHED	19,600	23,650	29,050	34,750	41,850	46,700	48,550
ROW DWELLINGS	16,950	20,600	25,300	30,200	36,250	40,550	42,350
WALKUP	15,400	19,100	24,400	28,700	33,200	36,750	38,500
ELEVATOR-STRUCTURE	25,450	29,650	37,500	------	------	------	------
HUNTINGTON							
DETACHED AND SEMIDETACHED	19,750	23,850	29,300	34,900	42,200	47,100	49,050
ROW DWELLINGS	17,000	20,650	25,450	30,500	36,500	40,850	42,600
WALKUP	15,600	19,300	24,500	29,050	33,600	37,150	38,900
ELEVATOR-STRUCTURE	25,750	29,900	37,950	------	------	------	------
PARKERSBURG							
DETACHED AND SEMIDETACHED	20,150	24,300	30,050	35,850	43,150	48,250	50,250
ROW DWELLINGS	17,600	21,300	26,150	31,300	37,350	41,700	43,500
WALKUP	15,600	19,300	24,500	29,050	33,600	37,150	38,900
ELEVATOR-STRUCTURE	25,750	29,900	37,950	------	------	------	------
WHEELING							
DETACHED AND SEMIDETACHED	19,600	23,650	29,050	34,750	41,850	46,700	48,550
ROW DWELLINGS	16,950	20,600	25,300	30,200	36,250	40,550	42,350
WALKUP	15,400	19,100	24,400	28,700	33,200	36,750	38,500
ELEVATOR-STRUCTURE	25,450	29,650	37,500	------	------	------	------
MARTINSBURG							
DETACHED AND SEMIDETACHED	18,200	22,100	27,250	32,450	38,950	43,450	45,400
ROW DWELLINGS	15,950	19,200	23,550	27,950	33,400	37,000	39,400
WALKUP	14,100	17,600	22,500	26,400	30,650	35,900	35,650
ELEVATOR-STRUCTURE	25,450	29,650	37,500	------	------	------	------
FAIRMONT							
DETACHED AND SEMIDETACHED	20,050	24,200	29,950	35,650	42,400	47,950	50,000
ROW DWELLINGS	17,500	21,100	26,000	31,050	37,200	41,450	43,400
WALKUP	15,250	18,900	24,000	28,450	32,800	36,250	38,150
ELEVATOR-STRUCTURE	25,400	29,650	37,350	------	------	------	------
POINT PLEASANT							
DETACHED AND SEMIDETACHED	18,750	22,750	28,100	33,450	40,250	44,850	46,850
ROW DWELLINGS	16,300	19,800	24,400	29,050	34,850	38,850	40,700
WALKUP	14,850	18,500	23,550	27,800	32,050	35,400	37,150
ELEVATOR-STRUCTURE	25,700	29,800	37,800	------	------	------	------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IV							
ALABAMA							
BIRMINGHAM							
DETACHED AND SEMIDETACHED	17,800	21,750	26,700	32,050	38,600	42,900	44,800
ROW DWELLINGS	15,650	18,850	23,100	27,500	33,150	36,850	38,650
WALKUP	13,700	16,850	21,350	25,100	29,200	32,300	33,850
ELEVATOR-STRUCTURE	24,800	29,100	36,550	------	------	------	------
DOTHAN							
DETACHED AND SEMIDETACHED	17,050	20,700	25,500	30,700	36,800	40,750	42,850
ROW DWELLINGS	14,800	17,850	22,000	26,100	31,600	35,100	36,850
WALKUP	12,850	16,150	20,400	24,200	28,000	30,800	32,500
ELEVATOR-STRUCTURE	24,150	28,200	35,300	------	------	------	------
FLORENCE							
DETACHED AND SEMIDETACHED	17,300	20,900	25,550	30,950	37,100	41,200	43,100
ROW DWELLINGS	14,850	17,900	22,050	26,650	31,950	35,450	37,100
WALKUP	12,900	16,200	20,450	24,350	28,250	31,000	32,600
ELEVATOR-STRUCTURE	24,800	28,850	36,300	------	------	------	------
HUNTSVILLE							
DETACHED AND SEMIDETACHED	16,850	20,450	25,300	30,050	36,350	40,400	42,250
ROW DWELLINGS	14,750	17,800	21,900	26,000	31,400	34,950	36,550
WALKUP	12,800	16,000	20,200	23,850	27,900	30,450	31,950
ELEVATOR-STRUCTURE	24,150	28,200	35,250	------	------	------	------
MOBILE							
DETACHED AND SEMIDETACHED	18,700	22,650	27,950	33,350	40,200	44,700	46,700
ROW DWELLINGS	16,150	19,700	24,200	28,750	34,600	38,450	40,300
WALKUP	14,100	17,550	22,250	26,300	30,600	33,750	35,550
ELEVATOR-STRUCTURE	26,050	30,300	38,150	------	------	------	------
MONTGOMERY							
DETACHED AND SEMIDETACHED	17,800	20,800	25,400	30,850	36,750	40,700	42,750
ROW DWELLINGS	14,800	17,850	22,000	26,100	31,600	35,100	36,850
WALKUP	12,850	16,100	20,350	24,100	27,900	30,600	32,300
ELEVATOR-STRUCTURE	24,400	28,600	35,850	------	------	------	------
TUSCALOOSA							
DETACHED AND SEMIDETACHED	16,850	20,450	25,300	30,050	36,350	40,400	42,250
ROW DWELLINGS	14,750	17,800	21,900	26,000	31,400	34,950	36,550
WALKUP	12,800	16,000	20,200	23,850	27,900	30,450	31,950
ELEVATOR-STRUCTURE	24,150	28,200	35,250	------	------	------	------
FLORIDA							
JACKSONVILLE							
DETACHED AND SEMIDETACHED	14,450	17,900	22,950	28,400	31,350	34,100	35,750
ROW DWELLINGS	13,850	17,100	21,850	25,700	29,850	32,050	34,250
WALKUP	13,700	16,950	21,700	25,550	29,700	32,000	34,150
ELEVATOR-STRUCTURE	22,750	26,300	33,500	------	------	------	------
PENSACOLA							
DETACHED AND SEMIDETACHED	14,450	17,800	22,700	28,500	31,050	33,900	35,550
ROW DWELLINGS	13,800	17,000	21,600	25,350	29,050	32,300	34,050
WALKUP	13,700	16,900	21,500	25,200	29,450	32,200	33,850
ELEVATOR-STRUCTURE	21,700	26,300	31,950	------	------	------	------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IV--CONTINUED							
KENTUCKY --CONTINUED							
COMBIN							
DETACHED AND SEMIDETACHED	17,050	20,350	25,100	30,150	36,450	40,200	42,200
ROW DWELLINGS	16,450	19,700	24,350	29,200	35,100	38,950	40,850
WALKUP	16,300	19,500	24,050	28,850	34,800	38,550	40,450
ELEVATOR-STRUCTURE	31,050	36,150	45,750	------	------	------	------
COVINGTON							
DETACHED AND SEMIDETACHED	17,550	21,000	25,900	31,050	37,400	41,400	43,450
ROW DWELLINGS	16,950	20,300	25,000	30,100	36,150	40,100	42,100
WALKUP	16,800	20,100	24,750	29,750	35,850	39,700	41,650
ELEVATOR-STRUCTURE	32,750	38,300	48,100	------	------	------	------
FRANKFORT							
DETACHED AND SEMIDETACHED	17,050	20,350	25,100	30,150	36,450	40,200	42,200
ROW DWELLINGS	16,450	19,700	24,350	29,200	35,100	38,950	40,850
WALKUP	16,300	19,500	24,050	28,850	34,800	38,550	40,450
ELEVATOR-STRUCTURE	28,500	33,400	42,050	------	------	------	------
HOPKINSVILLE							
DETACHED AND SEMIDETACHED	16,850	20,150	24,900	29,850	35,950	39,800	41,800
ROW DWELLINGS	16,300	19,550	24,100	28,900	34,750	38,550	40,450
WALKUP	16,100	19,300	23,850	28,550	34,450	38,200	40,050
ELEVATOR-STRUCTURE	29,400	34,400	43,400	------	------	------	------
LEXINGTON							
DETACHED AND SEMIDETACHED	17,050	20,350	25,100	30,150	36,450	40,200	42,200
ROW DWELLINGS	16,450	19,700	24,350	29,200	35,100	38,950	40,850
WALKUP	16,300	19,500	24,050	28,850	34,800	38,550	40,450
ELEVATOR-STRUCTURE	31,050	36,150	45,750	------	------	------	------
MIDDLESBORO							
DETACHED AND SEMIDETACHED	19,550	23,400	28,900	34,650	41,750	46,200	48,550
ROW DWELLINGS	18,950	22,650	27,950	33,600	40,400	44,800	47,050
WALKUP	18,750	22,400	27,650	33,200	40,000	44,350	46,500
ELEVATOR-STRUCTURE	31,050	36,150	45,750	------	------	------	------
MURRAY							
DETACHED AND SEMIDETACHED	17,200	20,550	25,400	30,400	36,600	40,600	42,650
ROW DWELLINGS	16,650	19,900	24,550	29,450	35,500	39,350	41,300
WALKUP	16,450	19,700	24,300	29,150	35,100	38,950	40,850
ELEVATOR-STRUCTURE	29,400	34,400	43,400	------	------	------	------
NEWPORT							
DETACHED AND SEMIDETACHED	17,550	21,000	25,900	31,050	37,400	41,400	43,450
ROW DWELLINGS	16,950	20,300	25,000	30,100	36,150	40,100	42,100
WALKUP	16,800	20,100	24,750	29,750	35,850	39,700	41,650
ELEVATOR-STRUCTURE	31,350	36,500	46,150	------	------	------	------
OWENSBORO							
DETACHED AND SEMIDETACHED	17,050	20,350	25,100	30,150	36,450	40,200	42,200
ROW DWELLINGS	16,450	19,700	24,350	29,200	35,100	38,950	40,850
WALKUP	16,300	19,500	24,050	28,850	34,800	38,550	40,450
ELEVATOR-STRUCTURE	31,350	36,500	46,150	------	------	------	------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IV--CONTINUED							
KENTUCKY --CONTINUED							
PADUCAH							
DETACHED AND SEMIDETACHED	17,200	20,550	25,400	30,400	36,600	40,600	42,650
ROW DWELLINGS	16,650	19,900	24,550	29,450	35,500	39,350	41,300
WALKUP	16,450	19,700	24,300	29,150	35,100	38,950	40,850
ELEVATOR-STRUCTURE	29,400	34,400	43,400	------	------	------	------
MISSISSIPPI							
JACKSON							
DETACHED AND SEMIDETACHED	15,300	18,500	22,800	27,250	32,850	36,400	38,150
ROW DWELLINGS	14,750	17,750	21,750	26,050	31,300	34,800	36,450
WALKUP	12,950	16,150	20,700	24,450	28,250	31,200	32,650
ELEVATOR-STRUCTURE	23,050	28,700	33,850	------	------	------	------
CORINTH							
DETACHED AND SEMIDETACHED	15,600	18,850	23,250	27,800	33,550	37,250	38,950
ROW DWELLINGS	14,400	17,550	21,750	25,600	31,250	34,550	36,200
WALKUP	13,500	16,750	21,350	25,100	29,250	32,000	33,600
ELEVATOR-STRUCTURE	23,500	27,200	34,350	------	------	------	------
GREENVILLE							
DETACHED AND SEMIDETACHED	15,300	18,500	22,800	27,250	32,850	36,400	38,150
ROW DWELLINGS	14,750	17,750	21,750	26,050	31,300	34,800	36,450
WALKUP	12,950	16,150	20,700	24,450	28,250	31,200	32,650
ELEVATOR-STRUCTURE	22,800	28,550	33,700	------	------	------	------
GREENWOOD							
DETACHED AND SEMIDETACHED	15,300	18,500	22,800	27,250	32,850	36,400	38,150
ROW DWELLINGS	14,750	17,750	21,750	26,050	31,300	34,800	36,450
WALKUP	13,500	16,950	21,450	25,300	29,300	32,250	33,900
ELEVATOR-STRUCTURE	23,050	28,700	33,850	------	------	------	------
GULFPORT							
DETACHED AND SEMIDETACHED	15,350	18,600	22,850	27,300	32,900	36,450	38,350
ROW DWELLINGS	14,800	17,800	21,850	26,100	31,350	34,700	36,500
WALKUP	12,750	16,000	20,350	23,850	27,650	30,400	31,800
ELEVATOR-STRUCTURE	23,200	27,100	34,250	------	------	------	------
HATTIESBURG							
DETACHED AND SEMIDETACHED	15,300	18,500	22,800	27,250	32,850	36,400	38,150
ROW DWELLINGS	14,750	17,750	21,750	26,050	31,300	34,800	36,450
WALKUP	12,950	16,150	20,700	24,450	28,250	31,200	32,650
ELEVATOR-STRUCTURE	23,050	28,700	33,850	------	------	------	------
SOUTHAVEN							
DETACHED AND SEMIDETACHED	15,150	18,100	22,550	26,750	32,250	35,750	37,600
ROW DWELLINGS	14,450	17,500	21,550	25,550	30,800	34,200	35,800
WALKUP	13,750	17,100	21,800	25,550	29,750	32,900	34,400
ELEVATOR-STRUCTURE	22,500	28,350	33,300	------	------	------	------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IV--CONTINUED							
NORTH CAROLINA							
GREENSBORO							
DETACHED AND SEMIDETACHED	18,000	19,100	23,250	27,800	33,150	38,850	38,450
ROW DWELLINGS	15,500	18,200	22,550	26,550	31,850	35,450	37,050
WALKUP	14,150	17,150	21,650	25,500	29,550	32,250	34,000
ELEVATOR-STRUCTURE	23,350	27,250	34,500	-------	-------	-------	-------
ASHEVILLE							
DETACHED AND SEMIDETACHED	16,450	19,650	24,050	28,700	34,250	37,950	34,750
ROW DWELLINGS	16,150	19,250	23,550	27,750	33,400	37,200	38,700
WALKUP	14,850	18,450	23,200	27,150	31,350	33,450	36,150
ELEVATOR-STRUCTURE	24,100	27,800	35,200	-------	-------	-------	-------
CHARLOTTE							
DETACHED AND SEMIDETACHED	16,200	19,350	23,680	28,200	33,850	37,400	34,000
ROW DWELLINGS	15,700	18,700	22,900	27,050	32,250	35,850	37,550
WALKUP	14,850	18,350	23,150	27,100	31,250	34,200	36,000
ELEVATOR-STRUCTURE	23,350	27,250	34,500	-------	-------	-------	-------
• CHEROKEE							
DETACHED AND SEMIDETACHED	18,850	21,500	26,450	31,000	37,850	41,550	43,450
ROW DWELLINGS	-------	-------	-------	-------	-------	-------	-------
WALKUP	-------	-------	-------	-------	-------	-------	-------
ELEVATOR-STRUCTURE	-------	-------	-------	-------	-------	-------	-------
DURHAM							
DETACHED AND SEMIDETACHED	15,700	18,700	22,900	27,350	32,850	36,300	37,950
ROW DWELLINGS	15,450	18,200	22,400	26,400	31,750	35,200	36,850
WALKUP	14,000	16,400	21,650	25,450	29,300	31,950	33,750
ELEVATOR-STRUCTURE	23,250	27,200	34,400	-------	-------	-------	-------
ELIZABETH CITY							
DETACHED AND SEMIDETACHED	17,200	20,650	25,050	29,900	35,750	39,800	41,450
ROW DWELLINGS	15,350	18,500	22,550	26,900	32,250	35,800	37,300
WALKUP	15,000	18,450	23,300	27,150	31,400	34,650	36,250
ELEVATOR-STRUCTURE	23,800	27,650	34,950	-------	-------	-------	-------
GREENVILLE							
DETACHED AND SEMIDETACHED	15,750	18,850	22,950	27,350	32,800	36,400	38,000
ROW DWELLINGS	15,450	18,250	22,500	26,300	31,700	35,150	36,800
WALKUP	13,800	16,800	21,350	24,850	28,850	31,450	33,050
ELEVATOR-STRUCTURE	23,000	26,100	32,450	-------	-------	-------	-------
RALEIGH							
DETACHED AND SEMIDETACHED	15,750	18,900	23,000	27,500	32,900	36,400	38,000
ROW DWELLINGS	15,450	18,450	22,400	26,400	31,750	35,200	36,850
WALKUP	13,800	17,050	21,400	25,400	29,200	32,000	33,750
ELEVATOR-STRUCTURE	23,250	27,200	34,400	-------	-------	-------	-------
WILMINGTON							
DETACHED AND SEMIDETACHED	15,400	18,500	22,700	27,350	32,900	36,450	38,050
ROW DWELLINGS	15,150	18,000	21,800	25,700	30,650	34,050	35,700
WALKUP	14,650	17,900	22,600	26,300	30,550	33,400	35,050
ELEVATOR-STRUCTURE	23,350	26,950	33,500	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IV--CONTINUED							
NORTH CAROLINA --CONTINUED							
WINSTON-SALEM							
DETACHED AND SEMIDETACHED	16,150	19,200	23,500	28,100	33,850	37,150	38,950
ROW DWELLINGS	15,250	18,150	22,150	26,150	31,450	34,850	36,400
WALKUP	14,400	17,700	22,350	26,100	30,100	32,800	34,600
ELEVATOR-STRUCTURE	23,250	27,200	34,400	-------	-------	-------	-------
FAYETTEVILLE							
DETACHED AND SEMIDETACHED	15,750	18,900	23,000	27,500	32,900	36,400	38,000
ROW DWELLINGS	15,300	18,150	22,150	26,150	31,450	34,850	36,400
WALKUP	14,400	17,700	22,400	26,150	30,300	33,050	34,700
ELEVATOR-STRUCTURE	22,800	26,100	32,400	-------	-------	-------	-------
SOUTH CAROLINA							
COLUMBIA							
DETACHED AND SEMIDETACHED	15,950	19,300	23,700	28,400	34,150	37,900	39,750
ROW DWELLINGS	15,400	18,450	22,700	27,000	32,000	36,150	37,850
WALKUP	13,550	16,900	21,450	25,700	29,250	32,100	34,000
ELEVATOR-STRUCTURE	27,700	32,200	40,550	-------	-------	-------	-------
AIKEN							
DETACHED AND SEMIDETACHED	15,950	19,300	23,700	28,400	34,100	37,950	39,800
ROW DWELLINGS	15,350	18,450	22,700	26,950	32,800	36,050	37,850
WALKUP	14,150	17,600	22,250	26,300	30,450	33,000	35,450
ELEVATOR-STRUCTURE	28,150	32,650	41,600	-------	-------	-------	-------
ANDERSON							
DETACHED AND SEMIDETACHED	15,750	19,050	23,400	28,100	33,750	37,450	39,450
ROW DWELLINGS	15,250	18,150	22,550	26,800	32,400	35,800	37,350
WALKUP	13,150	16,150	20,700	24,550	28,300	31,300	32,950
ELEVATOR-STRUCTURE	28,000	32,450	40,700	-------	-------	-------	-------
BEAUFORT							
DETACHED AND SEMIDETACHED	16,250	19,750	24,250	29,050	34,950	38,750	40,750
ROW DWELLINGS	15,750	19,100	23,250	27,800	33,150	37,000	38,800
WALKUP	13,950	17,350	21,850	25,750	30,050	33,050	34,650
ELEVATOR-STRUCTURE	28,450	32,900	41,600	-------	-------	-------	-------
CHARLESTON							
DETACHED AND SEMIDETACHED	17,500	21,250	26,150	31,350	37,850	41,750	43,900
ROW DWELLINGS	16,900	20,300	25,300	30,000	36,000	40,000	41,800
WALKUP	14,350	18,350	23,100	27,300	31,850	34,750	36,550
ELEVATOR-STRUCTURE	29,100	33,700	42,650	-------	-------	-------	-------
FLORENCE							
DETACHED AND SEMIDETACHED	15,300	18,550	22,700	27,350	32,800	36,550	38,250
ROW DWELLINGS	14,650	17,600	21,750	26,000	31,350	34,700	36,400
WALKUP	13,000	16,250	20,600	24,250	28,150	31,050	32,650
ELEVATOR-STRUCTURE	28,150	32,650	41,400	-------	-------	-------	-------
GREENVILLE							
DETACHED AND SEMIDETACHED	16,000	19,450	23,900	28,450	34,400	38,200	40,000
ROW DWELLINGS	15,450	18,550	22,800	27,200	32,750	36,400	38,050
WALKUP	13,200	16,500	20,750	24,800	28,550	31,800	33,150
ELEVATOR-STRUCTURE	28,150	32,650	41,400	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IV--CONTINUED							
SOUTH CAROLINA --CONTINUED							
GREENWOOD							
DETACHED AND SEMIDETACHED	16,000	19,450	24,000	28,800	34,350	38,200	40,050
MOM DWELLINGS	15,450	18,550	22,900	27,200	32,750	36,500	38,050
WALKUP	13,600	16,950	21,650	25,500	29,350	32,700	34,400
ELEVATOR-STRUCTURE	28,000	32,450	40,700	-------	-------	-------	-------
MYRTLE BEACH							
DETACHED AND SEMIDETACHED	16,250	19,750	24,250	29,050	34,950	38,750	40,750
MOM DWELLINGS	15,750	19,100	23,250	27,600	33,150	37,000	38,800
WALKUP	13,950	17,350	21,850	25,750	30,000	33,050	34,650
ELEVATOR-STRUCTURE	28,450	32,900	41,600	-------	-------	-------	-------
NORTH AUGUSTA							
DETACHED AND SEMIDETACHED	17,000	20,450	25,250	30,200	36,200	40,100	42,150
MOM DWELLINGS	16,100	19,550	24,100	28,500	34,650	38,250	40,000
WALKUP	14,300	17,850	22,750	26,650	30,950	34,250	36,000
ELEVATOR-STRUCTURE	29,350	34,100	43,050	-------	-------	-------	-------
ORANGEBURG							
DETACHED AND SEMIDETACHED	15,950	19,300	23,700	28,400	34,150	37,900	39,750
MOM DWELLINGS	15,400	18,450	22,700	27,000	32,600	36,150	37,850
WALKUP	13,550	16,900	21,450	25,700	29,250	32,100	34,000
ELEVATOR-STRUCTURE	27,700	32,200	40,550	-------	-------	-------	-------
ROCKHILL							
DETACHED AND SEMIDETACHED	16,050	19,600	24,050	28,900	34,600	38,550	40,400
MOM DWELLINGS	15,600	18,750	23,000	27,350	33,000	36,750	38,400
WALKUP	13,850	17,350	21,800	25,700	29,800	32,850	34,600
ELEVATOR-STRUCTURE	28,150	32,650	41,400	-------	-------	-------	-------
SPARTANBURG							
DETACHED AND SEMIDETACHED	16,450	19,850	24,300	29,200	35,200	38,950	40,800
MOM DWELLINGS	15,750	18,900	23,350	27,750	33,500	37,250	38,850
WALKUP	13,950	17,450	21,900	25,850	30,100	33,150	34,750
ELEVATOR-STRUCTURE	28,150	32,650	41,400	-------	-------	-------	-------
TENNESSEE							
KNOXVILLE							
DETACHED AND SEMIDETACHED	17,000	20,400	25,050	30,150	36,400	40,250	42,200
MOM DWELLINGS	16,350	19,700	24,350	28,950	34,650	38,600	40,550
WALKUP	14,350	17,900	22,750	26,400	31,250	34,400	36,100
ELEVATOR-STRUCTURE	24,650	28,650	36,100	-------	-------	-------	-------
CHATTANOOGA							
DETACHED AND SEMIDETACHED	16,850	19,800	24,350	29,200	35,100	38,750	40,700
MOM DWELLINGS	17,300	20,700	25,800	30,650	36,800	40,950	42,950
WALKUP	15,450	19,300	24,550	29,000	33,650	37,100	38,950
ELEVATOR-STRUCTURE	28,450	30,800	38,700	-------	-------	-------	-------
JEMASUM CITY							
DETACHED AND SEMIDETACHED	16,100	19,450	23,900	28,450	34,450	38,200	40,000
MOM DWELLINGS	15,600	18,650	23,050	27,550	33,050	36,800	38,500
WALKUP	14,350	17,900	22,750	26,900	31,150	34,300	36,100
ELEVATOR-STRUCTURE	24,650	28,650	36,100	-------	-------	-------	-------

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04,800	01,400	53,100	51,150	47,150	42,750	51,400
48,800	43,750	5d,200	47,300	43,900	5d,000	47,250
43,600	46,350	39,100	37,100	45,700	39,800	38,500
44,350	42,850	39,000	44,850	37,950	36,800	

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IV--CONTINUED							
TENNESSEE --CONTINUED							
KINGSPORT							
DETACHED AND SEMIDETACHED	16,700	20,150	24,700	29,800	35,800	39,450	41,550
MOM DWELLINGS	16,150	19,350	23,950	28,500	34,250	37,950	39,850
WALKUP	13,600	16,900	21,300	25,300	29,300	32,300	33,850
ELEVATOR-STRUCTURE	24,650	28,650	36,100	-------	-------	-------	-------
OAK RIDGE							
DETACHED AND SEMIDETACHED	16,450	19,800	24,400	29,200	35,200	39,100	40,850
MOM DWELLINGS	15,900	19,150	23,850	28,200	33,950	37,550	39,500
WALKUP	14,300	17,850	22,700	26,850	31,200	34,300	36,000
ELEVATOR-STRUCTURE	24,650	28,650	36,100	-------	-------	-------	-------
MEMPHIS							
DETACHED AND SEMIDETACHED	17,700	21,500	26,450	31,600	38,150	42,400	44,300
MOM DWELLINGS	16,950	20,600	25,800	30,300	36,400	40,550	42,500
WALKUP	15,550	19,200	24,600	28,950	33,950	38,900	38,750
ELEVATOR-STRUCTURE	28,050	30,200	38,050	-------	-------	-------	-------
JACKSON							
DETACHED AND SEMIDETACHED	19,150	23,200	28,550	34,100	41,200	45,750	47,700
MOM DWELLINGS	18,300	22,350	27,550	32,700	39,250	43,800	46,000
WALKUP	17,300	21,300	27,400	32,250	37,250	41,050	43,150
ELEVATOR-STRUCTURE	28,050	30,200	38,050	-------	-------	-------	-------
UNION CITY							
DETACHED AND SEMIDETACHED	19,200	23,350	28,700	34,300	41,500	46,000	48,150
MOM DWELLINGS	18,400	22,400	27,650	32,850	39,700	44,150	46,350
WALKUP	15,250	18,750	24,100	28,450	32,900	36,200	38,050
ELEVATOR-STRUCTURE	28,450	33,000	41,800	-------	-------	-------	-------
NASHVILLE							
DETACHED AND SEMIDETACHED	16,700	20,050	24,750	29,800	35,800	39,700	41,400
MOM DWELLINGS	16,150	19,700	24,050	28,700	34,550	38,500	40,350
WALKUP	14,300	17,850	22,700	26,750	31,150	34,250	36,000
ELEVATOR-STRUCTURE	22,950	26,800	33,900	-------	-------	-------	-------
CLARKSVILLE							
DETACHED AND SEMICETACHED	16,000	19,450	23,800	28,500	34,450	38,300	40,100
MOM DWELLINGS	15,750	18,850	23,200	27,750	33,300	37,050	38,900
WALKUP	13,150	16,400	21,000	24,850	28,900	31,500	33,050
ELEVATOR-STRUCTURE	24,000	27,950	35,450	-------	-------	-------	-------
COLUMBIA							
DETACHED AND SEMIDETACHED	16,750	20,100	24,850	29,700	35,650	39,750	41,550
MOM DWELLINGS	16,200	19,750	24,100	28,800	34,650	38,550	40,400
WALKUP	14,400	18,000	23,050	26,900	31,400	34,550	36,350
ELEVATOR-STRUCTURE	24,700	29,050	36,850	-------	-------	-------	-------

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47,000	46,050	40,350	49,500	57,000	40,350	47,600
40,000	37,950	47,900	43,900	38,700	44,150	50,100
41,600	49,750	44,950	39,650	53,450	48,450	41,100
56,000	50,450	38,750	51,450	48,500	39,350	

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION V							
ILLINOIS							
CHICAGO							
DETACHED AND SEMIDETACHED	25,900	31,650	38,750	46,150	55,550	61,900	64,800
NON DWELLINGS	24,700	29,900	36,850	43,800	52,700	58,000	61,400
WALKUP	21,350	26,400	33,400	39,700	48,850	50,500	53,100
ELEVATOR STRUCTURE	27,850	32,450	41,050	-------	-------	-------	-------
MOLINE							
DETACHED AND SEMIDETACHED	20,400	24,800	30,650	36,450	44,000	48,850	51,150
NON DWELLINGS	18,900	22,850	28,200	33,550	40,450	44,900	47,150
WALKUP	17,200	21,400	27,100	32,150	38,500	40,800	42,750
ELEVATOR STRUCTURE	27,850	32,400	41,050	-------	-------	-------	-------
SPRINGFIELD							
DETACHED AND SEMIDETACHED	20,550	24,950	30,850	36,750	44,150	49,000	51,400
NON DWELLINGS	19,550	23,700	29,100	34,400	41,950	46,550	48,800
WALKUP	17,550	21,300	26,100	31,300	37,550	41,750	43,750
ELEVATOR STRUCTURE	28,950	31,200	39,450	-------	-------	-------	-------
BELLEVILLE							
DETACHED AND SEMIDETACHED	20,900	25,200	31,250	37,200	44,700	49,750	52,200
NON DWELLINGS	19,150	22,950	28,400	33,750	40,550	45,350	47,300
WALKUP	17,450	21,750	27,600	32,600	37,750	41,800	43,900
ELEVATOR STRUCTURE	28,500	33,050	41,800	-------	-------	-------	-------
EAST ST LOUIS							
DETACHED AND SEMIDETACHED	20,800	25,100	31,250	37,250	44,800	49,700	52,000
NON DWELLINGS	19,050	22,850	28,400	33,650	40,500	45,250	47,250
WALKUP	17,500	21,700	27,600	32,600	37,550	41,600	43,600
ELEVATOR STRUCTURE	28,450	33,000	41,800	-------	-------	-------	-------
INDIANA							
INDIANAPOLIS							
DETACHED AND SEMIDETACHED	18,700	22,600	27,750	33,200	39,850	44,350	46,350
NON DWELLINGS	15,750	19,000	24,150	28,100	33,550	37,500	39,100
WALKUP	14,800	18,600	23,400	27,700	32,400	35,400	37,100
ELEVATOR STRUCTURE	27,300	31,850	40,250	-------	-------	-------	-------
BLOOMINGTON							
DETACHED AND SEMIDETACHED	18,400	22,150	27,350	32,700	39,200	43,900	45,700
NON DWELLINGS	16,100	19,350	23,950	28,400	34,200	38,000	39,800
WALKUP	15,300	19,150	24,150	28,600	33,200	36,900	38,300
ELEVATOR STRUCTURE	27,850	32,200	41,050	-------	-------	-------	-------
EVANSVILLE							
DETACHED AND SEMIDETACHED	17,800	21,900	26,500	31,750	38,000	40,850	44,350
NON DWELLINGS	17,400	20,750	25,700	30,500	36,800	41,050	42,850
WALKUP	15,550	19,550	24,650	29,150	33,750	37,150	39,000
ELEVATOR STRUCTURE	28,950	31,800	39,850	-------	-------	-------	-------
FORT WAYNE							
DETACHED AND SEMIDETACHED	18,100	21,850	26,950	32,050	38,550	43,250	44,850
NON DWELLINGS	15,350	18,500	22,700	27,100	32,550	36,350	37,950
WALKUP	14,850	18,350	23,300	27,350	31,700	34,950	36,800
ELEVATOR STRUCTURE	27,250	31,550	40,100	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION V--CONTINUED							
INDIANA --CONTINUED							
GARY							
DETACHED AND SEMIDETACHED	18,900	22,900	28,250	33,650	40,400	44,800	47,000
NON DWELLINGS	19,300	23,400	28,900	34,350	41,300	46,200	48,050
WALKUP	18,800	23,300	29,350	34,700	39,700	44,250	46,350
ELEVATOR STRUCTURE	27,250	31,650	40,100	-------	-------	-------	-------
HAMMOND							
DETACHED AND SEMIDETACHED	19,850	24,200	29,750	35,400	42,300	47,350	49,500
NON DWELLINGS	22,950	27,800	34,250	40,650	48,900	54,850	57,000
WALKUP	16,100	20,250	25,450	30,100	34,850	38,350	40,350
ELEVATOR STRUCTURE	27,800	32,200	40,800	-------	-------	-------	-------
LAFAYETTE							
DETACHED AND SEMIDETACHED	19,150	23,200	28,500	34,000	40,850	45,450	47,800
NON DWELLINGS	16,100	19,350	24,000	28,000	34,350	38,300	40,000
WALKUP	15,200	18,950	24,100	28,400	32,850	36,250	37,950
ELEVATOR STRUCTURE	28,150	32,650	41,250	-------	-------	-------	-------
SOUTH BEND							
DETACHED AND SEMIDETACHED	19,250	23,300	28,650	34,250	41,100	45,800	47,900
NON DWELLINGS	17,650	21,400	26,300	31,250	37,550	42,000	43,900
WALKUP	15,550	19,450	24,500	28,950	33,450	36,850	38,700
ELEVATOR STRUCTURE	28,350	32,950	41,650	-------	-------	-------	-------
TERRE HAUTE							
DETACHED AND SEMIDETACHED	19,850	23,950	29,600	35,200	42,200	47,000	49,150
NON DWELLINGS	20,250	24,300	30,050	35,800	42,850	47,850	50,100
WALKUP	16,750	20,850	26,200	31,150	36,000	39,800	41,600
ELEVATOR STRUCTURE	28,700	33,350	42,350	-------	-------	-------	-------
MICHIGAN							
DETROIT							
DETACHED AND SEMIDETACHED	22,900	24,250	29,750	35,550	42,750	47,050	49,750
NON DWELLINGS	16,100	21,800	26,950	32,050	38,700	43,000	44,950
WALKUP	15,900	19,650	25,000	29,800	34,150	37,700	39,650
ELEVATOR STRUCTURE	28,700	31,100	39,300	-------	-------	-------	-------
ANN ARBOR							
DETACHED AND SEMIDETACHED	24,700	28,050	31,950	38,250	46,050	51,200	53,650
NON DWELLINGS	19,450	23,450	29,000	34,450	41,650	46,200	48,450
WALKUP	16,600	20,450	25,900	30,700	35,450	39,200	41,100
ELEVATOR STRUCTURE	28,700	31,100	39,300	-------	-------	-------	-------
FLINT							
DETACHED AND SEMIDETACHED	25,000	27,100	33,300	39,800	47,750	53,250	56,000
NON DWELLINGS	20,300	24,500	30,200	35,900	43,100	48,000	50,450
WALKUP	15,550	19,350	24,400	28,950	33,600	37,800	38,750
ELEVATOR STRUCTURE	29,650	29,850	37,850	-------	-------	-------	-------
SAGINAW							
DETACHED AND SEMIDETACHED	23,650	25,050	30,750	36,550	44,050	49,050	51,450
NON DWELLINGS	18,750	22,650	27,750	33,150	39,850	44,350	46,500
WALKUP	15,700	19,600	24,750	29,450	34,150	37,500	39,350
ELEVATOR STRUCTURE	29,650	29,850	37,850	-------	-------	-------	-------

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PHOTOTYPE PER UNIT COST SCHEDULE

REGION V--CONTINUED

MICHIGAN --CONTINUED	NUMBER OF BEDROOMS 0	1	2	3	4	5	6
YPSILANTI							
DETACHED AND SEMIDETACHED	26,050	27,550	33,850	40,200	48,450	54,000	58,500
ROW DWELLINGS	20,700	24,700	30,600	36,450	44,000	48,750	51,200
WALKUP	15,900	19,750	24,850	29,600	34,150	37,700	39,700
ELEVATOR-STRUCTURE	26,350	30,800	38,900	------	------	------	------
GRAND RAPIDS							
DETACHED AND SEMIDETACHED	20,100	24,350	30,000	35,700	42,950	48,000	50,100
ROW DWELLINGS	17,550	21,200	26,250	31,150	37,350	41,700	43,550
WALKUP	15,750	19,850	25,050	29,550	34,350	37,900	39,700
ELEVATOR-STRUCTURE	27,400	31,950	40,250	------	------	------	------
MT PLEASANT							
DETACHED AND SEMIDETACHED	21,000	25,400	31,250	37,200	44,800	50,100	52,250
ROW DWELLINGS	18,350	22,050	27,350	32,450	38,400	43,450	45,500
WALKUP	16,400	20,650	26,150	30,800	35,800	39,500	41,350
ELEVATOR-STRUCTURE	28,600	33,350	41,900	------	------	------	------
BATTLE CREEK							
DETACHED AND SEMIDETACHED	20,650	24,900	30,650	36,600	44,100	49,050	51,300
ROW DWELLINGS	18,000	21,650	26,750	31,900	38,400	42,800	44,700
WALKUP	15,750	19,550	24,900	29,450	34,050	37,050	39,450
ELEVATOR-STRUCTURE	28,100	32,700	41,150	------	------	------	------
BENTON HARBOR							
DETACHED AND SEMIDETACHED	22,250	26,900	33,050	39,400	47,400	53,050	55,250
ROW DWELLINGS	19,500	23,400	28,900	34,400	41,300	46,000	48,050
WALKUP	16,800	20,950	26,500	31,450	36,200	40,100	42,100
ELEVATOR-STRUCTURE	29,400	34,350	43,300	------	------	------	------
JACKSON							
DETACHED AND SEMIDETACHED	21,400	26,050	32,050	38,050	46,050	51,300	53,550
ROW DWELLINGS	18,850	22,500	27,900	33,250	40,050	44,550	46,600
WALKUP	16,850	21,250	26,800	31,750	36,500	40,550	42,400
ELEVATOR-STRUCTURE	29,250	34,050	43,000	------	------	------	------
LANSING							
DETACHED AND SEMIDETACHED	23,950	28,850	35,650	42,350	50,400	56,450	54,550
ROW DWELLINGS	20,950	24,550	31,150	37,000	44,500	49,350	51,850
WALKUP	16,400	20,500	25,950	30,750	35,600	39,350	41,250
ELEVATOR-STRUCTURE	28,500	33,450	42,100	------	------	------	------
* MANISTIQUE							
DETACHED AND SEMIDETACHED	23,450	28,400	34,850	41,500	49,800	55,800	57,350
ROW DWELLINGS	20,450	24,750	30,450	36,200	43,400	48,050	50,050
WALKUP	19,200	23,200	28,550	34,000	40,800	45,700	46,950
ELEVATOR-STRUCTURE	31,450	36,750	46,350	------	------	------	------
MARQUETTE							
DETACHED AND SEMIDETACHED	22,200	26,900	33,000	39,300	47,450	52,950	55,300
ROW DWELLINGS	19,350	23,400	28,800	34,350	41,400	46,150	48,250
WALKUP	18,250	22,000	27,050	32,150	38,850	43,350	45,350
ELEVATOR-STRUCTURE	29,650	34,650	43,600	------	------	------	------

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PHOTOTYPE PER UNIT COST SCHEDULE

REGION V--CONTINUED

MICHIGAN --CONTINUED	NUMBER OF BEDROOMS 0	1	2	3	4	5	6
MUSKEGON							
DETACHED AND SEMIDETACHED	20,300	24,450	30,250	36,000	43,350	48,500	50,500
ROW DWELLINGS	17,750	21,350	26,400	31,350	37,550	41,950	44,100
WALKUP	14,000	17,500	22,100	26,200	30,200	33,350	35,000
ELEVATOR-STRUCTURE	27,400	31,950	40,250	------	------	------	------
TRAVERSE CITY							
DETACHED AND SEMIDETACHED	22,200	26,850	33,050	39,400	47,300	52,950	55,150
ROW DWELLINGS	19,500	23,400	28,900	34,300	41,300	46,050	48,250
WALKUP	15,350	19,100	24,200	28,700	33,150	36,600	38,300
ELEVATOR-STRUCTURE	30,100	35,050	44,150	------	------	------	------
MINNESOTA							
MINNEAPOLIS							
DETACHED AND SEMIDETACHED	22,050	26,700	33,000	39,400	47,300	52,850	55,050
ROW DWELLINGS	20,050	24,400	29,900	35,700	42,900	47,700	49,950
WALKUP	17,400	21,800	27,400	32,300	37,350	41,350	43,300
ELEVATOR-STRUCTURE	27,350	31,650	40,200	------	------	------	------
* CASS LAKE							
DETACHED AND SEMIDETACHED	28,850	34,750	42,900	51,250	61,500	68,600	71,800
ROW DWELLINGS	25,650	30,700	37,850	45,250	54,300	60,600	63,250
WALKUP	21,950	27,200	34,650	40,900	47,300	50,300	54,750
ELEVATOR-STRUCTURE	------	------	------	------	------	------	------
DULUTH							
DETACHED AND SEMIDETACHED	22,450	27,150	33,350	39,950	47,450	53,500	55,950
ROW DWELLINGS	20,500	24,650	30,450	36,250	43,500	48,550	50,750
WALKUP	18,450	22,800	29,050	34,200	39,600	43,750	45,850
ELEVATOR-STRUCTURE	27,750	32,200	40,650	------	------	------	------
MANKATO							
DETACHED AND SEMIDETACHED	20,950	25,650	31,450	37,550	45,200	50,350	52,650
ROW DWELLINGS	18,300	23,150	28,600	34,150	41,150	45,700	47,700
WALKUP	18,450	22,700	28,900	34,200	39,400	43,450	45,850
ELEVATOR-STRUCTURE	26,100	30,300	38,250	------	------	------	------
ROCHESTER							
DETACHED AND SEMIDETACHED	21,600	26,150	32,250	38,450	46,300	51,450	53,800
ROW DWELLINGS	19,750	23,700	29,300	34,950	41,900	46,550	48,850
WALKUP	16,950	21,100	26,650	31,550	36,500	40,300	42,250
ELEVATOR-STRUCTURE	25,450	29,700	37,700	------	------	------	------
* RED LAKE							
DETACHED AND SEMIDETACHED	26,350	31,750	39,400	46,450	56,150	62,500	65,350
ROW DWELLINGS	23,350	28,250	34,800	41,500	49,800	55,850	57,950
WALKUP	20,100	24,850	31,800	37,550	43,350	47,800	50,250
ELEVATOR-STRUCTURE	------	------	------	------	------	------	------
ST CLOUD							
DETACHED AND SEMIDETACHED	20,950	25,350	31,450	37,450	44,800	49,950	52,250
ROW DWELLINGS	19,250	23,200	28,600	34,150	40,850	45,700	47,650
WALKUP	17,400	21,650	27,600	32,600	37,650	41,550	43,550
ELEVATOR-STRUCTURE	25,200	29,250	37,000	------	------	------	------

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PHOTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION V--CONTINUED							
MINNESOTA --CONTINUED							
*CHTMINGTON							
DETACHED AND SEMIDETACHED	20,050	24,300	30,850	35,850	42,900	47,850	50,850
MOM DWELLINGS	18,450	22,050	27,250	32,400	39,050	43,350	45,500
WALKUP	15,950	19,850	25,200	29,750	34,300	37,000	39,850
ELEVATOR-STRUCTURE	24,950	29,100	36,900	-------	-------	-------	-------
OHIO							
CINCINNATI							
DETACHED AND SEMIDETACHED	22,250	26,950	33,250	39,800	47,550	53,100	55,650
MOM DWELLINGS	21,450	26,000	32,050	36,000	45,550	50,800	53,400
WALKUP	20,350	25,100	32,000	37,950	43,750	48,250	50,700
ELEVATOR-STRUCTURE	33,750	39,200	49,500	-------	-------	-------	-------
DAYTON							
DETACHED AND SEMIDETACHED	22,250	26,950	33,250	39,800	47,550	53,100	55,650
MOM DWELLINGS	21,900	26,550	32,850	36,000	46,800	52,150	54,700
WALKUP	20,350	25,100	32,000	37,950	43,750	48,250	50,700
ELEVATOR-STRUCTURE	33,750	39,200	49,500	-------	-------	-------	-------
CLEVELAND							
DETACHED AND SEMIDETACHED	21,800	26,700	32,650	39,050	46,900	52,200	54,750
MOM DWELLINGS	21,850	26,250	32,000	38,900	46,000	52,150	54,400
WALKUP	20,750	25,700	32,550	38,650	44,700	49,300	51,900
ELEVATOR-STRUCTURE	26,550	31,850	39,250	-------	-------	-------	-------
AKRON							
DETACHED AND SEMIDETACHED	21,550	26,200	32,150	38,450	46,200	51,400	54,900
MOM DWELLINGS	21,600	25,900	32,100	38,400	45,850	51,400	53,650
WALKUP	20,550	25,350	32,000	38,200	44,100	48,850	51,150
ELEVATOR-STRUCTURE	26,200	30,850	38,750	-------	-------	-------	-------
FINCLAY							
DETACHED AND SEMIDETACHED	20,000	24,350	29,800	35,550	42,700	47,550	49,750
MOM DWELLINGS	19,450	24,000	29,700	35,400	42,500	47,400	49,500
WALKUP	18,950	23,350	29,600	35,200	40,650	44,900	47,150
ELEVATOR-STRUCTURE	24,250	28,250	35,700	-------	-------	-------	-------
LEHAIN							
DETACHED AND SEMICETACHED	21,700	26,450	32,400	38,750	46,400	51,800	54,200
MOM DWELLINGS	21,750	25,950	32,200	38,550	46,050	51,600	53,850
WALKUP	20,650	25,500	32,150	38,300	44,250	48,850	51,300
ELEVATOR-STRUCTURE	26,300	30,750	38,900	-------	-------	-------	-------
MANSFIELD							
DETACHED AND SEMIDETACHED	20,300	24,850	30,400	36,300	43,550	48,600	50,850
MOM DWELLINGS	20,300	24,450	30,250	36,150	43,350	48,500	50,500
WALKUP	19,450	23,950	30,200	34,000	41,650	45,850	48,250
ELEVATOR-STRUCTURE	24,650	28,850	36,500	-------	-------	-------	-------
TOLEDO							
DETACHED AND SEMIDETACHED	21,800	26,700	32,650	39,050	46,900	52,200	54,750
MOM DWELLINGS	21,850	26,250	32,000	38,900	46,000	52,150	54,400
WALKUP	20,750	25,700	32,550	38,650	44,700	49,300	51,900
ELEVATOR-STRUCTURE	26,550	31,850	39,250	-------	-------	-------	-------

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PHOTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION V--CONTINUED							
OHIO --CONTINUED							
YOUNGSTOWN							
DETACHED AND SEMIDETACHED	21,050	25,750	31,300	37,500	45,000	50,150	52,600
MOM DWELLINGS	21,100	25,300	31,350	37,300	44,700	50,000	52,200
WALKUP	19,950	24,700	31,200	37,200	43,000	47,400	49,850
ELEVATOR-STRUCTURE	25,550	29,900	37,600	-------	-------	-------	-------
COLUMBUS							
DETACHED AND SEMIDETACHED	19,600	23,550	29,150	34,800	41,800	46,000	48,750
MOM DWELLINGS	19,550	23,500	29,050	34,500	41,450	46,250	48,450
WALKUP	18,550	22,950	29,000	34,500	39,750	43,900	46,150
ELEVATOR-STRUCTURE	27,400	31,750	40,250	-------	-------	-------	-------
ATHENS							
DETACHED AND SEMIDETACHED	19,850	24,000	29,650	35,100	42,500	47,550	49,350
MOM DWELLINGS	19,150	22,950	28,350	33,850	40,550	45,200	47,350
WALKUP	17,900	22,350	28,300	33,550	38,750	42,700	45,000
ELEVATOR-STRUCTURE	27,650	32,250	40,800	-------	-------	-------	-------
LIMA							
DETACHED AND SEMIDETACHED	19,600	23,550	29,150	34,800	41,800	46,000	48,750
MOM DWELLINGS	19,050	22,950	28,350	33,750	40,550	45,150	47,350
WALKUP	18,000	22,400	28,300	33,000	38,800	42,750	44,900
ELEVATOR-STRUCTURE	27,400	31,750	40,250	-------	-------	-------	-------
NEWARK							
DETACHED AND SEMIDETACHED	19,050	23,100	28,500	33,900	40,800	45,700	47,550
MOM DWELLINGS	19,050	22,950	28,300	33,650	40,450	45,050	47,200
WALKUP	17,900	22,350	28,250	33,550	38,700	42,700	44,750
ELEVATOR-STRUCTURE	26,700	31,100	39,250	-------	-------	-------	-------
SPRINGFIELD							
DETACHED AND SEMIDETACHED	19,800	23,550	29,150	34,800	41,800	46,000	48,750
MOM DWELLINGS	19,250	23,350	28,750	34,300	41,250	45,800	47,950
WALKUP	18,350	22,700	28,700	34,150	39,250	43,400	45,650
ELEVATOR-STRUCTURE	27,400	31,750	40,250	-------	-------	-------	-------
TROY							
DETACHED AND SEMIDETACHED	19,100	23,400	28,700	34,200	41,050	46,050	47,950
MOM DWELLINGS	18,550	22,400	27,600	32,900	39,350	43,950	46,000
WALKUP	17,400	21,850	27,550	32,850	37,750	41,700	43,700
ELEVATOR-STRUCTURE	26,900	31,300	39,500	-------	-------	-------	-------
ZANESVILLE							
DETACHED AND SEMIDETACHED	19,850	24,000	29,650	35,100	42,500	47,550	49,350
MOM DWELLINGS	19,800	23,850	29,450	35,000	42,050	47,050	49,200
WALKUP	18,500	22,900	28,900	34,450	39,750	43,750	46,100
ELEVATOR-STRUCTURE	27,650	32,250	40,800	-------	-------	-------	-------
WISCONSIN							
MILWAUKEE							
DETACHED AND SEMIDETACHED	24,550	29,850	36,800	43,800	52,700	58,750	61,550
MOM DWELLINGS	22,800	27,050	33,150	39,650	47,650	52,950	55,600
WALKUP	19,850	24,450	31,150	36,000	42,550	47,000	49,150
ELEVATOR-STRUCTURE	25,650	29,700	37,500	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VI--CONTINUED							
LOUISIANA --CONTINUED							
LAFAYETTE							
DETACHED AND SEMIDETACHED	18,500	22,250	27,400	32,550	39,400	43,700	45,500
NON DWELLINGS	17,050	20,700	25,700	30,550	36,850	40,700	42,750
WALKUP	14,950	18,800	23,350	27,700	32,200	35,450	37,100
ELEVATOR-STRUCTURE	27,000	31,300	39,800	------	------	------	------
LAKE CHARLES							
DETACHED AND SEMIDETACHED	19,950	24,000	29,550	35,050	42,250	47,050	49,100
NON DWELLINGS	18,400	22,200	27,800	32,950	39,400	43,750	45,950
WALKUP	15,250	19,100	24,100	28,400	32,950	36,450	38,050
ELEVATOR-STRUCTURE	27,300	31,000	40,250	------	------	------	------
SHREVEPORT							
DETACHED AND SEMIDETACHED	18,250	21,800	27,100	32,100	38,850	43,350	45,100
NON DWELLINGS	16,950	20,650	25,550	30,400	36,750	40,700	42,500
WALKUP	14,700	18,350	23,300	27,600	31,850	35,350	37,050
ELEVATOR-STRUCTURE	26,500	30,800	39,050	------	------	------	------
ALEXANDRIA							
DETACHED AND SEMIDETACHED	16,600	19,800	24,600	29,300	35,050	39,250	40,950
NON DWELLINGS	16,350	18,850	23,300	27,750	33,250	37,150	38,800
WALKUP	14,350	17,750	22,600	26,750	30,950	34,100	35,900
ELEVATOR-STRUCTURE	25,750	29,900	37,700	------	------	------	------
MARSHALL							
DETACHED AND SEMIDETACHED	16,650	19,850	24,700	29,400	35,300	39,400	41,100
NON DWELLINGS	15,750	19,200	23,600	28,250	33,950	37,800	39,400
WALKUP	14,300	17,700	22,500	26,450	30,800	34,050	35,500
ELEVATOR-STRUCTURE	24,800	28,550	36,250	------	------	------	------
MONROE							
DETACHED AND SEMIDETACHED	16,400	19,700	24,300	28,950	34,850	39,000	40,500
NON DWELLINGS	15,500	18,750	23,150	27,850	33,400	37,000	38,550
WALKUP	14,700	18,250	23,100	27,350	31,700	34,400	36,750
ELEVATOR-STRUCTURE	26,250	30,450	38,800	------	------	------	------
NEW MEXICO							
ALBUQUERQUE							
DETACHED AND SEMIDETACHED	19,150	23,000	25,650	30,500	36,750	41,100	42,800
NON DWELLINGS	17,750	21,250	23,650	28,250	33,750	37,650	39,000
WALKUP	15,350	19,000	21,600	25,500	29,700	32,550	34,200
ELEVATOR-STRUCTURE	24,800	28,950	36,650	------	------	------	------
ALAMOGORDO							
DETACHED AND SEMIDETACHED	20,150	24,000	26,850	31,900	38,500	42,950	44,750
NON DWELLINGS	18,500	22,100	24,650	29,350	35,050	39,050	41,050
WALKUP	15,950	19,850	22,400	26,450	30,850	33,850	35,600
ELEVATOR-STRUCTURE	23,300	27,150	34,250	------	------	------	------
ARTESIA							
DETACHED AND SEMIDETACHED	20,150	24,000	26,750	31,850	38,500	42,900	44,450
NON DWELLINGS	18,500	22,100	24,700	29,400	35,200	39,200	41,150
WALKUP	16,050	19,900	22,450	26,850	30,850	34,150	35,650
ELEVATOR-STRUCTURE	23,850	27,550	34,850	------	------	------	------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VI--CONTINUED							
NEW MEXICO --CONTINUED							
CARLSBAD							
DETACHED AND SEMIDETACHED	20,400	24,350	27,250	32,550	39,100	43,350	45,350
NON DWELLINGS	18,750	22,650	25,100	30,100	35,800	39,950	41,900
WALKUP	15,900	19,900	22,450	26,450	30,850	33,900	35,550
ELEVATOR-STRUCTURE	23,650	27,550	34,850	------	------	------	------
CLOVIS							
DETACHED AND SEMIDETACHED	20,150	24,000	26,750	31,850	38,500	42,900	44,450
NON DWELLINGS	18,500	22,100	24,700	29,400	35,200	39,200	41,150
WALKUP	15,900	19,750	22,150	26,450	30,550	33,700	35,300
ELEVATOR-STRULTURE	23,400	27,200	34,250	------	------	------	------
FORT SUMNER							
DETACHED AND SEMIDETACHED	20,750	25,050	27,900	33,150	40,050	44,700	46,550
NON DWELLINGS	19,250	23,150	25,700	30,000	36,800	40,800	42,900
WALKUP	16,750	20,700	23,300	27,750	32,050	35,350	37,150
ELEVATOR-STRUCTURE	24,350	28,450	35,850	------	------	------	------
GALLUP							
DETACHED AND SEMIDETACHED	21,950	26,350	29,450	34,950	42,200	47,150	49,800
NON DWELLINGS	19,950	23,800	26,550	31,000	37,800	42,050	44,100
WALKUP	17,100	21,350	24,100	28,650	33,150	36,500	38,200
ELEVATOR-STRUCTURE	24,950	29,200	36,800	------	------	------	------
HOBBS							
DETACHED AND SEMIDETACHED	20,150	24,000	26,750	31,850	38,500	42,900	44,450
NON DWELLINGS	18,500	22,100	24,700	29,000	35,204	39,200	41,150
WALKUP	16,050	19,900	22,450	26,850	30,850	34,150	35,650
ELEVATOR-STRUCTURE	23,400	27,200	34,250	------	------	------	------
LAS CRUCES							
DETACHED AND SEMICETACHED	20,150	24,000	26,750	31,850	38,500	42,900	44,450
NON DWELLINGS	18,500	22,100	24,700	29,000	35,200	39,200	41,150
WALKUP	16,300	20,350	22,800	27,200	31,450	34,650	36,350
ELEVATOR-STRUCTURE	23,400	27,200	34,250	------	------	------	------
LAS VEGAS							
DETACHED AND SEMIDETACHED	20,600	24,800	27,650	32,850	39,650	44,200	46,000
NON DWELLINGS	19,500	23,200	25,750	30,850	36,900	41,100	42,950
WALKUP	16,750	20,700	23,450	27,800	32,050	35,550	37,250
ELEVATOR-STRUCTURE	24,350	28,250	35,850	------	------	------	------
LOS ALAMOS							
DETACHED AND SEMIDETACHED	21,450	25,700	28,650	33,950	41,100	45,900	47,750
NON DWELLINGS	19,950	23,800	26,550	31,000	37,850	42,050	44,150
WALKUP	17,200	21,350	24,100	28,000	33,000	36,450	38,200
ELEVATOR-STRUCTURE	24,900	29,100	36,750	------	------	------	------
MATCH							
DETACHED AND SEMIDETACHED	20,450	24,000	27,400	32,000	39,300	43,800	45,650
NON DWELLINGS	19,500	23,200	25,750	30,850	36,900	41,100	42,950
WALKUP	16,750	20,700	23,450	27,800	32,050	35,550	37,250
ELEVATOR-STRUCTURE	24,350	28,250	35,850	------	------	------	------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VI--CONTINUED							
NEW MEXICO --CONTINUED							
SANTA FE							
DETACHED AND SEMIDETACHED	20,500	24,600	27,500	32,650	34,350	44,000	45,750
MOM DWELLINGS	19,500	23,200	25,750	30,850	36,400	41,100	42,950
WALKUP	16,750	20,700	23,450	27,800	32,050	35,550	37,250
ELEVATOR-STRUCTURE	24,350	28,250	35,850	------	------	------	------
SILVER CITY							
DETACHED AND SEMIDETACHED	21,200	25,650	28,500	33,750	40,400	45,050	47,400
MOM DWELLINGS	19,700	23,600	26,250	31,300	37,950	41,700	43,800
WALKUP	17,050	21,250	24,000	28,250	32,800	36,150	37,900
ELEVATOR-STRUCTURE	24,800	28,850	36,550	------	------	------	------
TRUTH OR CONSEQUENCES							
DETACHED AND SEMIDETACHED	19,900	23,700	26,650	31,600	36,050	42,400	44,100
MOM DWELLINGS	18,400	21,850	24,600	29,300	34,850	38,950	40,700
WALKUP	15,900	19,750	22,350	26,600	30,800	33,700	35,350
ELEVATOR-STRUCTURE	23,050	26,900	34,000	------	------	------	------
FARMINGTON							
DETACHED AND SEMIDETACHED	21,450	25,700	28,750	34,200	41,600	46,000	47,850
MOM DWELLINGS	19,950	23,800	26,550	31,600	37,800	42,050	44,100
WALKUP	17,100	21,350	24,100	28,650	33,150	36,500	38,200
ELEVATOR-STRUCTURE	24,950	29,200	36,800	------	------	------	------
TERRA AMARILLO							
DETACHED AND SEMIDETACHED	21,450	25,700	28,650	33,950	41,100	45,900	47,750
MOM DWELLINGS	19,950	23,800	26,550	31,600	37,850	42,050	44,150
WALKUP	17,200	21,350	24,100	28,600	33,000	36,450	38,200
ELEVATOR-STRUCTURE	24,900	29,100	36,750	------	------	------	------
TAOS							
DETACHED AND SEMIDETACHED	24,250	28,950	32,400	38,450	46,500	51,800	53,800
MOM DWELLINGS	22,550	27,000	30,050	35,650	42,900	47,600	49,950
WALKUP	19,100	23,600	26,850	31,650	36,750	40,400	42,400
ELEVATOR-STRUCTURE	24,750	28,950	36,500	------	------	------	------
SOCORRO							
DETACHED AND SEMIDETACHED	19,900	23,700	26,650	31,600	36,050	42,400	44,100
MOM DWELLINGS	18,400	21,850	24,600	29,300	34,850	38,950	40,700
WALKUP	15,900	19,750	22,350	26,600	30,800	33,700	35,350
ELEVATOR-STRUCTURE	23,050	26,900	34,000	------	------	------	------
RIODOSO							
DETACHED AND SEMIDETACHED	21,450	25,700	28,650	33,950	41,100	45,900	47,750
MOM DWELLINGS	19,950	23,800	26,550	31,600	37,850	42,050	44,150
WALKUP	17,200	21,350	24,100	28,600	33,000	36,450	38,200
ELEVATOR-STRUCTURE	24,900	29,100	36,750	------	------	------	------
* DULCE							
DETACHED AND SEMIDETACHED	26,650	31,950	35,800	42,500	51,000	57,100	59,400
MOM DWELLINGS	22,700	27,150	30,300	36,000	43,100	47,450	50,250
WALKUP	21,200	26,100	29,750	33,100	40,800	44,800	47,050
ELEVATOR-STRUCTURE	34,550	40,250	50,800	------	------	------	------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VI--CONTINUED							
NEW MEXICO --CONTINUED							
* ISLETA							
DETACHED AND SEMIDETACHED	24,250	28,950	32,450	38,650	46,650	52,050	54,300
MOM DWELLINGS	19,700	23,550	26,200	31,450	37,450	41,850	43,750
WALKUP	16,900	20,750	23,550	27,900	32,300	35,450	37,350
ELEVATOR-STRUCTURE	29,400	34,300	43,350	------	------	------	------
* LAGUNA							
DETACHED AND SEMIDETACHED	24,000	28,850	32,000	38,350	46,250	51,950	53,850
MOM DWELLINGS	21,850	26,050	29,100	34,750	41,800	46,250	52,900
WALKUP	18,500	22,900	26,100	30,850	35,750	39,300	41,250
ELEVATOR-STRUCTURE	31,100	36,400	45,900	------	------	------	------
* MESCALERO							
DETACHED AND SEMIDETACHED	26,600	29,750	33,050	39,400	47,500	52,950	55,050
MOM DWELLINGS	22,800	27,500	30,500	36,400	43,450	48,400	50,850
WALKUP	19,450	24,000	27,300	32,300	37,500	41,150	41,700
ELEVATOR-STRUCTURE	32,600	38,150	48,100	------	------	------	------
* PENASCO							
DETACHED AND SEMIDETACHED	25,100	30,300	35,750	40,200	48,550	54,250	56,400
MOM DWELLINGS	26,200	28,300	31,450	37,500	44,800	49,850	52,250
WALKUP	20,000	24,800	28,150	33,300	38,500	42,500	44,500
ELEVATOR-STRUCTURE	33,700	39,300	49,600	------	------	------	------
* POJOAQUE							
DETACHED AND SEMIDETACHED	24,800	29,850	33,300	39,700	47,550	53,250	55,250
MOM DWELLINGS	22,800	27,500	30,500	36,400	43,500	48,500	50,850
WALKUP	19,600	24,100	27,450	32,500	37,650	41,300	43,200
ELEVATOR-STRUCTURE	32,250	37,750	47,700	------	------	------	------
* ZUNI							
DETACHED AND SEMIDETACHED	23,500	28,250	34,950	41,650	50,150	55,800	58,450
MOM DWELLINGS	21,050	25,450	31,200	37,550	44,950	50,250	52,300
WALKUP	18,400	22,900	28,950	34,300	39,500	43,550	45,900
ELEVATOR-STRUCTURE	27,650	31,950	40,450	------	------	------	------
* STANDING ROCK							
DETACHED AND SEMIDETACHED	28,300	31,600	34,100	40,500	50,100	62,250	65,300
MOM DWELLINGS	24,850	30,100	36,450	44,950	53,100	59,400	61,900
WALKUP	21,500	26,850	33,950	40,250	46,300	51,100	53,750
ELEVATOR-STRUCTURE	27,600	31,850	40,300	------	------	------	------
* NAGEEZI							
DETACHED AND SEMIDETACHED	28,750	32,050	39,750	47,250	56,950	63,250	66,300
MOM DWELLINGS	25,250	30,550	37,950	45,050	53,900	60,400	62,900
WALKUP	21,850	27,300	34,450	40,800	47,050	51,800	54,650
ELEVATOR-STRUCTURE	28,000	32,400	40,850	------	------	------	------
* ALAMO							
DETACHED AND SEMIDETACHED	28,300	31,600	34,100	40,500	50,100	62,250	65,300
MOM DWELLINGS	24,850	30,100	36,450	44,950	53,100	59,400	61,900
WALKUP	21,500	26,850	33,950	40,250	46,300	51,100	53,750
ELEVATOR-STRUCTURE	27,600	31,850	40,300	------	------	------	------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VI--CONTINUED							
OKLAHOMA							
OKLAHOMA CITY							
DETACHED AND SEMIDETACHED	17,150	20,600	25,650	30,500	36,000	40,900	46,750
ROW DWELLINGS	15,750	18,950	23,300	27,850	33,400	37,250	38,850
WALKUP	14,400	17,900	22,700	26,850	31,250	34,350	36,050
ELEVATOR-STRUCTURE	23,300	27,100	34,350	-------	-------	-------	-------
ADA							
DETACHED AND SEMIDETACHED	18,150	21,550	26,900	31,950	38,450	43,000	48,700
ROW DWELLINGS	16,350	19,800	24,450	29,150	34,850	38,850	40,700
WALKUP	15,000	18,850	23,700	28,150	32,800	35,950	37,750
ELEVATOR-STRUCTURE	23,800	27,500	34,750	-------	-------	-------	-------
ARDMORE							
DETACHED AND SEMIDETACHED	18,450	22,050	27,550	32,750	39,350	45,950	49,800
ROW DWELLINGS	16,900	20,300	25,000	29,800	35,800	39,900	41,600
WALKUP	15,850	19,650	24,850	29,450	33,750	37,750	39,500
ELEVATOR-STRUCTURE	24,800	28,750	36,400	-------	-------	-------	-------
ENID							
DETACHED AND SEMIDETACHED	18,250	21,800	27,150	32,450	39,000	43,450	45,150
ROW DWELLINGS	16,650	20,150	24,650	29,550	35,450	39,450	41,250
WALKUP	14,550	18,150	22,800	27,200	31,650	34,750	36,400
ELEVATOR-STRUCTURE	24,650	28,350	36,000	-------	-------	-------	-------
GLYPUN							
DETACHED AND SEMIDETACHED	18,500	22,150	27,750	32,900	39,500	44,200	48,050
ROW DWELLINGS	17,050	20,400	25,100	29,950	36,050	40,150	41,850
WALKUP	15,800	19,200	24,450	28,950	33,600	37,150	38,900
ELEVATOR-STRUCTURE	24,900	29,000	36,550	-------	-------	-------	-------
LAWTON							
DETACHED AND SEMIDETACHED	17,450	21,100	26,050	31,100	37,450	41,700	45,450
ROW DWELLINGS	16,050	19,300	23,700	28,350	34,000	37,900	39,650
WALKUP	14,550	18,300	23,100	27,250	31,750	34,850	36,750
ELEVATOR-STRUCTURE	23,000	26,700	33,700	-------	-------	-------	-------
SHAWNEE							
DETACHED AND SEMIDETACHED	18,150	21,550	26,900	31,950	38,450	43,000	44,700
ROW DWELLINGS	16,350	19,800	24,450	29,150	34,850	38,850	40,700
WALKUP	15,000	18,850	23,700	28,150	32,800	35,950	37,750
ELEVATOR-STRUCTURE	23,800	27,500	34,750	-------	-------	-------	-------
STILLWATER							
DETACHED AND SEMIDETACHED	18,150	21,550	26,900	31,950	38,450	43,000	44,700
ROW DWELLINGS	16,350	19,800	24,450	29,150	34,850	38,850	40,700
WALKUP	15,000	18,850	23,700	28,150	32,800	35,950	37,750
ELEVATOR-STRUCTURE	23,800	27,500	34,750	-------	-------	-------	-------
WOODWARD							
DETACHED AND SEMIDETACHED	18,250	21,800	27,150	32,450	39,000	43,450	45,150
ROW DWELLINGS	16,650	20,150	24,650	29,550	35,450	39,450	41,250
WALKUP	15,250	19,050	24,000	28,550	33,150	36,450	38,300
ELEVATOR-STRUCTURE	24,650	28,350	36,000	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VI--CONTINUED							
OKLAHOMA --CONTINUED							
TULSA							
DETACHED AND SEMIDETACHED	17,450	21,150	26,250	31,150	37,550	41,750	43,550
ROW DWELLINGS	16,000	19,500	23,900	28,450	34,150	38,050	39,850
WALKUP	14,800	18,400	23,250	27,500	31,950	35,200	36,950
ELEVATOR-STRUCTURE	24,100	27,750	35,150	-------	-------	-------	-------
BARTLESVILLE							
DETACHED AND SEMIDETACHED	18,400	22,200	27,500	32,800	39,300	43,800	45,800
ROW DWELLINGS	16,800	20,450	25,050	30,250	35,850	39,900	41,800
WALKUP	14,850	18,600	23,300	27,700	32,300	35,500	37,200
ELEVATOR-STRUCTURE	24,100	27,750	35,150	-------	-------	-------	-------
MCALESTER							
DETACHED AND SEMIDETACHED	18,350	22,150	27,500	32,800	39,450	43,800	45,650
ROW DWELLINGS	16,800	20,250	25,050	29,900	35,850	39,900	41,750
WALKUP	14,450	18,100	22,750	26,900	31,250	34,300	36,000
ELEVATOR-STRUCTURE	23,300	27,150	34,350	-------	-------	-------	-------
MUSKOGEE							
DETACHED AND SEMIDETACHED	18,650	22,450	27,900	33,050	39,800	44,350	46,250
ROW DWELLINGS	17,350	21,050	26,150	31,050	37,150	41,550	43,350
WALKUP	14,800	18,400	23,150	27,400	31,900	35,050	36,850
ELEVATOR-STRUCTURE	24,700	28,700	36,400	-------	-------	-------	-------
TEXAS							
DALLAS							
DETACHED AND SEMIDETACHED	17,200	20,800	25,850	30,800	36,800	41,050	42,800
ROW DWELLINGS	15,700	18,700	23,300	27,800	33,500	37,300	38,950
WALKUP	14,400	18,000	22,700	26,850	31,250	34,200	35,900
ELEVATOR-STRUCTURE	23,300	27,100	34,350	-------	-------	-------	-------
SHERMAN							
DETACHED AND SEMIDETACHED	17,450	21,100	26,800	31,050	37,350	41,450	43,450
ROW DWELLINGS	15,550	18,700	23,250	27,850	33,450	37,150	38,900
WALKUP	14,400	18,000	22,650	26,850	31,250	34,100	35,850
ELEVATOR-STRUCTURE	23,700	27,650	34,900	-------	-------	-------	-------
TYLER							
DETACHED AND SEMIDETACHED	16,600	20,150	24,800	29,700	35,700	39,600	41,350
ROW DWELLINGS	15,350	18,400	22,900	27,150	32,750	36,400	38,050
WALKUP	13,600	16,900	21,450	25,250	29,250	32,100	34,000
ELEVATOR-STRUCTURE	24,150	28,200	35,700	-------	-------	-------	-------
WACO							
DETACHED AND SEMIDETACHED	16,500	20,000	24,750	29,450	35,550	39,400	41,300
ROW DWELLINGS	15,200	18,300	22,700	27,100	32,600	36,200	37,900
WALKUP	13,600	17,000	21,450	25,250	29,550	32,100	33,900
ELEVATOR-STRUCTURE	24,200	27,850	34,700	-------	-------	-------	-------
WICHITA FALLS							
DETACHED AND SEMIDETACHED	17,150	20,800	25,850	30,350	36,400	40,850	42,600
ROW DWELLINGS	15,500	18,800	23,100	27,600	33,000	36,900	38,650
WALKUP	14,300	17,750	22,500	26,850	30,850	34,050	35,500	37,250
ELEVATOR-STRUCTURE	25,000	29,050	37,050	-------	-------	-------	-------

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PHOTOTYPE NEW UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VI--CONTINUED							
TEXAS --CONTINUED							
ABILENE							
DETACHED AND SEMIDETACHED	17,750	21,300	26,400	31,500	37,850	42,300	43,800
ROW DWELLINGS	16,050	19,150	23,850	28,400	34,200	38,250	39,750
WALKUP	13,450	16,850	21,300	25,050	29,050	32,100	33,550
ELEVATOR STRUCTURE	26,500	30,650	38,900	-------	-------	-------	-------
SAN ANGELO							
DETACHED AND SEMIDETACHED	17,450	21,100	26,200	31,300	37,500	41,950	43,800
ROW DWELLINGS	16,200	19,300	24,000	28,550	34,450	38,450	40,200
WALKUP	14,050	17,400	21,950	26,150	30,400	33,350	34,900
ELEVATOR STRUCTURE	26,700	31,050	39,200	-------	-------	-------	-------
WICHITA FALLS							
DETACHED AND SEMIDETACHED	17,750	21,200	26,500	31,500	37,800	42,300	44,100
ROW DWELLINGS	16,200	19,300	24,000	28,550	34,450	38,450	40,200
WALKUP	15,000	19,550	24,650	29,200	34,050	37,400	39,050
ELEVATOR STRUCTURE	26,700	31,050	39,200	-------	-------	-------	-------
HOUSTON							
DETACHED AND SEMIDETACHED	18,050	21,750	26,750	31,800	38,350	42,850	44,600
ROW DWELLINGS	16,250	19,650	24,300	28,850	34,700	38,550	40,350
WALKUP	14,900	18,750	23,600	28,000	32,300	35,750	37,450
ELEVATOR STRUCTURE	28,350	28,450	35,800	-------	-------	-------	-------
BEAUMONT							
DETACHED AND SEMIDETACHED	18,450	22,250	27,550	32,650	39,450	43,950	45,800
ROW DWELLINGS	16,600	20,100	24,800	29,600	35,500	39,500	41,350
WALKUP	15,200	19,100	24,050	28,500	32,450	36,400	38,050
ELEVATOR STRUCTURE	25,000	29,200	36,850	-------	-------	-------	-------
BRYAN							
DETACHED AND SEMIDETACHED	21,300	25,750	31,750	37,750	45,600	50,850	52,800
ROW DWELLINGS	17,450	21,200	26,200	31,100	37,300	41,550	43,400
WALKUP	13,800	17,200	21,750	25,800	29,900	32,950	34,500
ELEVATOR STRUCTURE	24,000	28,000	35,350	-------	-------	-------	-------
EL CAMPO							
DETACHED AND SEMIDETACHED	19,750	23,700	29,150	34,650	41,900	46,800	48,800
ROW DWELLINGS	18,050	19,600	24,100	28,600	34,450	38,250	40,100
WALKUP	15,500	19,300	24,350	28,850	33,000	36,800	38,800
ELEVATOR STRUCTURE	24,200	28,200	35,600	-------	-------	-------	-------
LUFKIN							
DETACHED AND SEMIDETACHED	19,350	23,350	28,850	34,400	41,400	46,150	48,400
ROW DWELLINGS	17,450	21,200	26,550	31,150	37,400	41,600	43,550
WALKUP	14,900	18,750	23,650	28,150	32,500	35,900	37,650
ELEVATOR STRUCTURE	24,350	28,450	35,800	-------	-------	-------	-------
TEXAS CITY							
DETACHED AND SEMIDETACHED	18,050	21,750	26,750	31,800	38,350	42,850	44,600
ROW DWELLINGS	16,250	19,650	24,300	28,850	34,700	38,550	40,350
WALKUP	15,650	19,550	24,700	29,200	33,850	37,400	39,200
ELEVATOR STRUCTURE	24,350	28,450	35,800	-------	-------	-------	-------

FOTAICA

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PHOTOTYPE NEW UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VI--CONTINUED							
TEXAS --CONTINUED							
LUBBOCK							
DETACHED AND SEMIDETACHED	17,500	20,050	26,000	31,050	37,350	41,350	43,250
ROW DWELLINGS	15,650	18,750	23,450	27,800	33,300	37,200	38,950
WALKUP	13,900	17,450	21,950	26,000	30,150	33,050	34,650
ELEVATOR STRUCTURE	22,600	26,200	33,250	-------	-------	-------	-------
AMARILLO							
DETACHED AND SEMIDETACHED	17,450	21,000	26,150	31,200	37,600	41,800	43,550
ROW DWELLINGS	16,700	20,000	24,850	29,550	35,550	39,850	41,300
WALKUP	14,650	18,350	23,150	27,350	31,800	35,000	36,650
ELEVATOR STRUCTURE	23,100	26,850	34,000	-------	-------	-------	-------
EL PASO							
DETACHED AND SEMIDETACHED	17,500	20,800	25,900	30,800	37,150	41,400	43,200
ROW DWELLINGS	17,400	20,650	25,850	30,700	36,900	41,350	42,950
WALKUP	15,050	18,650	23,550	27,800	32,300	35,950	37,200
ELEVATOR STRUCTURE	22,000	25,700	32,550	-------	-------	-------	-------
MIDLAND							
DETACHED AND SEMIDETACHED	18,600	20,050	24,850	29,850	35,750	39,800	41,550
ROW DWELLINGS	15,250	18,450	22,750	27,250	32,000	36,450	38,150
WALKUP	13,800	17,400	21,900	25,850	30,100	33,000	34,600
ELEVATOR STRUCTURE	21,600	26,950	31,700	-------	-------	-------	-------
ODESSA							
DETACHED AND SEMIDETACHED	18,650	20,100	24,850	29,900	35,750	39,850	41,600
ROW DWELLINGS	15,350	18,400	22,800	27,150	32,000	36,400	38,050
WALKUP	13,900	17,300	21,900	25,950	30,050	33,000	34,650
ELEVATOR STRUCTURE	21,600	26,950	31,700	-------	-------	-------	-------
SAN ANTONIO							
DETACHED AND SEMIDETACHED	18,500	19,800	24,550	29,350	35,350	39,250	40,950
ROW DWELLINGS	19,000	18,500	22,600	27,100	32,500	36,300	37,650
WALKUP	14,250	17,900	22,550	26,650	31,050	34,100	35,700
ELEVATOR STRUCTURE	20,800	24,250	30,750	-------	-------	-------	-------
AUSTIN							
DETACHED AND SEMIDETACHED	17,200	20,600	25,450	30,350	36,000	40,700	42,400
ROW DWELLINGS	15,800	19,050	23,450	27,950	33,600	37,500	39,100
WALKUP	14,000	17,750	22,100	26,450	30,700	33,550	35,350
ELEVATOR STRUCTURE	18,250	21,150	26,800	-------	-------	-------	-------
CORPUS CHRISTI							
DETACHED AND SEMIDETACHED	17,850	21,500	26,900	31,900	38,300	42,750	44,400
ROW DWELLINGS	16,600	20,150	25,000	29,650	35,650	39,750	41,300
WALKUP	15,350	19,100	24,200	28,450	32,450	36,300	38,200
ELEVATOR STRUCTURE	17,000	19,750	25,100	-------	-------	-------	-------
DEL RIO							
DETACHED AND SEMIDETACHED	16,200	19,450	24,150	28,900	34,650	38,650	40,050
ROW DWELLINGS	15,150	18,250	22,600	26,900	32,250	35,950	37,450
WALKUP	14,250	17,850	22,550	26,650	31,050	34,100	35,800
ELEVATOR STRUCTURE	19,180	22,200	28,300	-------	-------	-------	-------

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FOTAICA

PROTOTYPE PEN UNIT COST SCHEDULE

	NUMBER OF BEDROOMS				
	0	1	2	3	4	5	6
REGION VI--CONTINUED							
TEXAS							
EAGLE PASS							
DETACHED AND SEMIDETACHED	19,050	22,750	28,250	33,700	40,000	45,050	48,850
ROW DWELLINGS	15,700	19,000	23,400	27,900	33,550	37,400	36,050
WALKUP	14,050	18,000	23,250	27,750	32,150	35,350	37,050
ELEVATOR-STRUCTURE	19,550	22,800	28,850	------	------	------	------
HARLINGEN							
DETACHED AND SEMIDETACHED	17,850	21,500	26,950	31,900	38,250	42,700	46,400
ROW DWELLINGS	15,600	19,000	23,450	28,150	33,550	37,500	39,100
WALKUP	14,050	18,000	23,350	27,750	32,200	35,450	37,250
ELEVATOR-STRUCTURE	18,200	21,000	26,850	------	------	------	------
JUNCTION							
DETACHED AND SEMIDETACHED	17,750	21,450	26,900	31,500	37,950	42,250	45,950
ROW DWELLINGS	15,600	19,200	23,700	28,250	34,050	37,900	39,450
WALKUP	14,900	18,700	23,500	28,100	32,500	35,800	37,600
ELEVATOR-STRUCTURE	19,900	23,150	29,200	------	------	------	------
LAREDO							
DETACHED AND SEMIDETACHED	17,750	21,300	26,450	31,500	37,750	42,150	45,900
ROW DWELLINGS	16,150	19,700	24,250	28,900	34,700	38,750	40,250
WALKUP	14,100	17,750	22,250	26,800	30,800	33,750	35,500
ELEVATOR-STRUCTURE	19,100	22,200	28,300	------	------	------	------
VICTORIA							
DETACHED AND SEMIDETACHED	16,700	20,200	25,450	29,850	35,750	39,800	41,400
ROW DWELLINGS	16,100	19,600	24,150	28,700	34,050	36,850	40,200
WALKUP	15,150	19,050	23,950	28,450	33,100	36,300	38,200
ELEVATOR-STRUCTURE	19,800	23,000	29,100	------	------	------	------
REGION VII							
IOWA							
DES MOINES							
DETACHED AND SEMIDETACHED	18,600	22,550	27,750	33,150	39,950	44,250	48,350
ROW DWELLINGS	17,250	20,750	25,500	30,400	36,550	40,850	42,750
WALKUP	15,500	19,450	24,550	29,150	33,700	37,000	38,450
ELEVATOR-STRUCTURE	25,300	29,250	37,150	------	------	------	------
BETTENDORF							
DETACHED AND SEMIDETACHED	19,450	23,450	28,900	34,550	41,000	46,250	48,400
ROW DWELLINGS	17,900	21,550	26,500	31,550	38,150	42,500	44,300
WALKUP	16,850	20,206	25,650	30,250	35,100	38,800	40,550
ELEVATOR-STRUCTURE	26,100	30,200	38,300	------	------	------	------
CEDAR RAPIDS							
DETACHED AND SEMIDETACHED	19,300	23,250	28,800	34,150	41,150	45,800	47,800
ROW DWELLINGS	17,800	21,450	26,300	31,350	37,750	42,100	44,000
WALKUP	15,550	19,300	24,500	30,100	34,800	38,650	38,700
ELEVATOR-STRUCTURE	25,900	30,050	38,150	------	------	------	------

FOTAICA

PROTOTYPE PEN UNIT COST SCHEDULE

	NUMBER OF BEDROOMS				
	0	1	2	3	4	5	6
REGION VII--CONTINUED							
IOWA							
ECLAREIL BLUFFS							
DETACHED AND SEMIDETACHED	18,700	22,550	27,750	33,150	40,050	44,300	48,350
ROW DWELLINGS	17,200	20,700	25,500	30,650	36,800	40,950	42,750
WALKUP	15,050	19,300	24,550	29,050	33,600	37,050	38,850
ELEVATOR-STRUCTURE	25,350	29,550	37,150	------	------	------	------
CAVENPORT							
DETACHED AND SEMIDETACHED	19,300	23,250	28,800	34,150	41,150	45,800	47,800
ROW DWELLINGS	17,750	21,050	26,350	31,400	37,700	42,100	43,950
WALKUP	16,150	20,100	25,500	31,300	36,250	38,400	40,300
ELEVATOR-STRUCTURE	26,100	30,200	38,300	------	------	------	------
DUBUQUE							
DETACHED AND SEMIDETACHED	19,300	23,250	28,800	34,150	41,150	45,800	47,800
ROW DWELLINGS	17,750	21,450	26,350	31,400	37,700	42,100	43,950
WALKUP	16,150	20,100	25,500	31,300	36,250	38,400	40,300
ELEVATOR-STRUCTURE	25,900	30,050	37,750	------	------	------	------
MASON CITY							
DETACHED AND SEMIDETACHED	19,300	23,250	28,800	34,150	41,150	45,800	47,800
ROW DWELLINGS	17,750	21,450	26,350	31,400	37,700	42,100	43,950
WALKUP	16,050	20,050	25,500	31,450	36,300	38,400	40,350
ELEVATOR-STRUCTURE	25,900	29,850	37,750	------	------	------	------
SIOUX CITY							
DETACHED AND SEMIDETACHED	19,300	23,250	28,800	34,150	41,150	45,800	47,800
ROW DWELLINGS	17,650	21,200	26,150	31,250	37,550	41,850	43,650
WALKUP	16,050	19,900	25,300	31,250	36,050	38,200	40,050
ELEVATOR-STRUCTURE	25,800	29,850	37,750	------	------	------	------
WATERLOO							
DETACHED AND SEMIDETACHED	19,300	23,250	28,800	34,150	41,150	45,800	47,800
ROW DWELLINGS	17,750	21,450	26,350	31,400	37,700	42,100	43,950
WALKUP	16,150	20,100	25,500	31,300	36,250	38,400	40,300
ELEVATOR-STRUCTURE	25,900	29,850	37,750	------	------	------	------
KANSAS							
KANSAS CITY							
DETACHED AND SEMIDETACHED	19,300	23,250	28,800	34,150	41,150	45,800	47,800
ROW DWELLINGS	17,750	21,450	26,350	31,400	37,700	42,100	43,950
WALKUP	16,150	20,100	25,500	31,300	36,250	38,400	40,300
ELEVATOR-STRUCTURE	26,100	30,200	38,300	------	------	------	------

	0	1	2	3	4	5	6
	54,900						
	49,600						
	45,750						

	44,600						
	40,450						
	37,350						

	43,800						
	39,850						
	36,600						

	44,000						
	40,050						
	36,050						

	45,200						
	41,800						
	38,500						

	46,000						
	43,450						
	40,400						

	46,700						
	40,500						
	37,650						

	46,150						
	41,700						
	38,950						

	46,150						
	41,700						
	38,950						

	0	1	2	3	4	5	6
	48,400						
	44,050						
	39,750						

	48,150						
	43,450						
	41,100						

	48,150						
	43,450						
	41,500						

	48,850						
	41,550						
	37,400						

	48,400						
	44,050						
	40,550						

	50,500						
	46,700						
	42,350						

	48,150						
	44,250						
	39,650						

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VII--CONTINUED							
KANSAS --CONTINUED							
MCLEAN							
DETACHED AND SEMIDETACHED	22,000	26,650	32,950	39,050	47,050	56,350	54,900
ROW DWELLINGS	20,150	24,050	29,850	35,500	42,800	47,750	49,800
WALKUP	18,200	22,850	28,950	34,200	39,650	43,750	45,750
ELEVATOR-STRUCTURE	23,150	28,850	34,000	------	------	------	------
GARDEN CITY							
DETACHED AND SEMIDETACHED	17,900	21,550	26,780	31,800	38,350	42,950	44,600
ROW DWELLINGS	16,400	19,650	24,250	28,900	34,750	38,900	40,450
WALKUP	14,950	18,550	23,450	27,850	32,300	35,600	37,350
ELEVATOR-STRUCTURE	24,550	28,350	35,750	------	------	------	------
PITTSBURG							
DETACHED AND SEMIDETACHED	17,600	21,250	26,250	31,300	37,650	41,850	43,800
ROW DWELLINGS	16,100	19,300	23,900	28,300	34,200	38,200	39,850
WALKUP	14,550	18,250	23,100	27,200	31,700	35,000	36,800
ELEVATOR-STRUCTURE	23,900	27,800	35,050	------	------	------	------
SALINA							
DETACHED AND SEMIDETACHED	17,600	21,250	26,250	31,400	37,850	41,900	44,000
ROW DWELLINGS	16,150	19,350	24,050	28,450	34,250	38,300	40,050
WALKUP	14,650	18,300	23,300	27,350	31,850	35,000	36,650
ELEVATOR-STRUCTURE	24,150	27,900	35,150	------	------	------	------
WICHITA							
DETACHED AND SEMIDETACHED	18,500	22,250	27,750	32,900	39,000	44,050	46,200
ROW DWELLINGS	16,850	20,200	25,100	29,700	36,000	40,100	41,800
WALKUP	15,300	19,150	24,350	28,750	33,300	36,850	38,500
ELEVATOR-STRUCTURE	23,900	27,800	35,050	------	------	------	------
MISSOURI							
KANSAS CITY							
DETACHED AND SEMIDETACHED	19,250	23,400	28,800	34,300	41,300	45,900	48,000
ROW DWELLINGS	17,600	21,100	26,150	31,100	37,400	41,850	43,450
WALKUP	16,150	20,000	25,500	30,100	34,750	38,450	40,400
ELEVATOR-STRUCTURE	26,350	30,500	38,600	------	------	------	------
JOPLIN							
DETACHED AND SEMIDETACHED	17,850	21,650	26,850	31,850	38,350	42,750	44,700
ROW DWELLINGS	16,450	19,650	24,350	29,050	34,900	38,850	40,500
WALKUP	15,150	18,850	23,800	28,000	32,500	35,750	37,650
ELEVATOR-STRUCTURE	24,550	28,550	36,050	------	------	------	------
ST. JOSEPH							
DETACHED AND SEMIDETACHED	18,650	22,250	27,550	32,800	39,600	44,150	46,150
ROW DWELLINGS	17,000	20,250	25,050	29,750	35,900	40,000	41,700
WALKUP	15,500	19,350	24,550	28,950	33,450	37,000	38,950
ELEVATOR-STRUCTURE	25,250	29,250	37,100	------	------	------	------
SEDALIA							
DETACHED AND SEMIDETACHED	18,650	22,250	27,550	32,800	39,600	44,100	46,150
ROW DWELLINGS	17,000	20,250	25,050	29,750	35,900	40,000	41,700
WALKUP	15,500	19,350	24,500	28,950	33,450	37,000	38,950
ELEVATOR-STRUCTURE	25,250	29,250	37,100	------	------	------	------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VII--CONTINUED							
MISSOURI --CONTINUED							
SPRINGFIELD							
DETACHED AND SEMIDETACHED	18,700	22,650	27,750	33,100	39,450	44,400	46,400
ROW DWELLINGS	17,050	20,350	25,250	30,050	36,200	40,300	42,000
WALKUP	14,750	18,400	23,200	27,900	31,850	35,100	36,750
ELEVATOR-STRUCTURE	25,000	29,050	36,850	------	------	------	------
ST LOUIS							
DETACHED AND SEMIDETACHED	19,700	23,700	29,200	34,800	41,950	46,850	48,850
ROW DWELLINGS	18,750	22,350	27,750	33,100	39,800	44,450	46,300
WALKUP	16,750	20,950	26,350	31,200	36,250	39,850	41,750
ELEVATOR-STRUCTURE	26,700	31,000	39,100	------	------	------	------
CAPE GIRARDEAU							
DETACHED AND SEMIDETACHED	18,500	22,450	27,850	33,150	39,950	44,800	46,800
ROW DWELLINGS	18,000	21,400	26,450	31,600	37,750	42,100	44,050
WALKUP	15,950	19,900	24,950	29,750	34,800	37,800	39,850
ELEVATOR-STRUCTURE	25,600	29,650	37,400	------	------	------	------
COLUMBIA							
DETACHED AND SEMIDETACHED	19,300	23,250	28,800	34,400	41,400	45,950	48,150
ROW DWELLINGS	18,400	22,050	27,250	32,550	39,000	43,500	45,450
WALKUP	16,600	20,600	26,000	30,850	35,850	39,200	41,100
ELEVATOR-STRUCTURE	25,800	29,650	37,500	------	------	------	------
KIRKSVILLE							
DETACHED AND SEMIDETACHED	19,300	23,250	28,800	34,400	41,400	45,950	48,150
ROW DWELLINGS	18,400	22,050	27,250	32,550	39,000	43,500	45,450
WALKUP	16,700	20,650	26,150	31,050	36,000	39,800	41,500
ELEVATOR-STRUCTURE	25,800	29,650	37,500	------	------	------	------
MOLLA							
DETACHED AND SEMIDETACHED	17,550	21,200	26,250	31,250	37,300	41,700	43,650
ROW DWELLINGS	16,800	20,100	24,900	29,550	35,050	39,000	41,550
WALKUP	15,000	18,650	23,600	27,900	32,550	35,700	37,400
ELEVATOR-STRUCTURE	23,450	27,200	34,350	------	------	------	------
NEBRASKA							
OMAHA							
DETACHED AND SEMIDETACHED	19,550	23,500	29,000	34,600	41,650	46,250	48,400
ROW DWELLINGS	17,800	21,400	26,350	31,500	38,000	42,150	44,050
WALKUP	16,250	20,300	25,650	30,300	35,100	38,700	40,550
ELEVATOR-STRUCTURE	26,400	30,650	38,850	------	------	------	------
GRAND ISLAND							
DETACHED AND SEMIDETACHED	20,450	24,550	30,150	35,950	43,400	48,150	50,500
ROW DWELLINGS	18,800	22,700	28,100	33,450	40,350	44,700	46,700
WALKUP	16,900	21,200	26,950	31,800	36,750	40,350	42,350
ELEVATOR-STRUCTURE	27,100	31,750	39,900	------	------	------	------
LINCOLN							
DETACHED AND SEMIDETACHED	19,350	23,650	28,800	34,400	41,350	45,950	48,150
ROW DWELLINGS	18,000	21,600	26,450	31,700	38,250	42,300	44,250
WALKUP	15,500	19,250	24,300	28,850	33,400	36,900	38,650
ELEVATOR-STRUCTURE	26,150	30,250	38,000	------	------	------	------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VII--CONTINUED							
NEBRASKA --CONTINUED							
MACY							
DETACHED AND SEMIDETACHED	23,300	28,000	34,650	41,400	49,850	55,750	58,150
MOM DWELLINGS	21,300	25,700	31,750	37,850	45,450	50,950	52,750
WALKUP	19,050	23,650	30,000	35,550	41,250	45,700	46,450
ELEVATOR-STRUCTURE	31,300	36,150	45,750	-------	-------	-------	-------
NORFOLK							
DETACHED AND SEMIDETACHED	19,750	23,800	29,400	35,100	42,300	47,200	49,300
MOM DWELLINGS	18,150	21,750	26,950	32,050	38,550	42,950	44,700
WALKUP	16,050	19,900	25,200	29,750	34,850	38,350	40,100
ELEVATOR-STRUCTURE	27,650	31,950	40,800	-------	-------	-------	-------
NORTH PLATTE							
DETACHED AND SEMIDETACHED	17,900	21,600	26,550	31,850	38,300	42,750	44,700
MOM DWELLINGS	16,900	20,300	25,050	29,950	35,850	39,950	41,750
WALKUP	15,800	19,550	24,900	29,450	34,100	37,750	39,650
ELEVATOR-STRUCTURE	26,650	30,850	39,150	-------	-------	-------	-------
* SANTEE							
DETACHED AND SEMIDETACHED	22,650	27,250	33,650	40,200	48,400	54,150	56,500
MOM DWELLINGS	20,600	24,800	30,700	36,600	44,000	49,000	51,000
WALKUP	18,900	23,450	29,750	35,200	40,850	45,250	47,300
ELEVATOR-STRUCTURE	31,300	36,150	45,750	-------	-------	-------	-------
SCOTTSBLUFF							
DETACHED AND SEMIDETACHED	20,200	24,350	29,800	35,600	42,850	47,850	49,750
MOM DWELLINGS	18,300	21,900	27,150	32,400	38,850	43,450	45,100
WALKUP	16,750	20,650	26,300	31,250	35,950	39,750	41,850
ELEVATOR-STRUCTURE	28,900	31,150	37,250	-------	-------	-------	-------
* WINNEBAGO							
DETACHED AND SEMIDETACHED	22,650	27,250	33,650	40,200	48,400	54,150	56,500
MOM DWELLINGS	20,600	24,800	30,700	36,600	44,000	49,000	51,000
WALKUP	18,900	23,450	29,750	35,200	40,850	45,250	47,300
ELEVATOR-STRUCTURE	31,300	36,150	45,750	-------	-------	-------	-------
REGION VIII							
COLORADO							
DENVER							
DETACHED AND SEMIDETACHED	18,950	22,850	27,950	33,300	40,150	44,800	46,900
MOM DWELLINGS	17,150	20,500	25,450	30,200	36,350	40,500	42,400
WALKUP	15,050	19,500	24,700	29,150	33,850	37,200	38,950
ELEVATOR-STRUCTURE	25,450	29,700	37,400	-------	-------	-------	-------
COLORADO SPRINGS							
DETACHED AND SEMIDETACHED	18,550	22,350	27,350	32,600	39,450	43,800	45,900
MOM DWELLINGS	16,750	20,100	24,850	29,550	35,600	39,800	41,450
WALKUP	15,300	19,000	24,150	28,500	32,900	36,300	38,050
ELEVATOR-STRUCTURE	26,850	29,000	36,550	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VIII--CONTINUED							
COLORADO --CONTINUED							
DURANGO							
DETACHED AND SEMIDETACHED	20,150	24,400	30,100	35,750	43,150	48,050	50,250
MOM DWELLINGS	18,500	22,150	27,350	32,650	39,350	43,800	45,850
WALKUP	16,800	21,000	26,550	31,300	36,400	40,050	42,100
ELEVATOR-STRUCTURE	27,250	31,700	40,200	-------	-------	-------	-------
GRAND JUNCTION							
DETACHED AND SEMIDETACHED	18,950	22,900	28,200	33,600	40,450	45,000	47,000
MOM DWELLINGS	17,400	20,750	25,650	30,700	37,050	40,900	43,050
WALKUP	15,850	19,700	24,900	29,450	34,100	37,550	39,450
ELEVATOR-STRUCTURE	25,750	29,850	37,650	-------	-------	-------	-------
GREELEY							
DETACHED AND SEMIDETACHED	19,050	23,050	28,400	33,900	40,750	45,450	47,450
MOM DWELLINGS	17,450	20,950	25,800	30,750	37,150	41,350	43,250
WALKUP	15,850	19,800	25,050	29,550	34,400	37,800	39,800
ELEVATOR-STRUCTURE	25,000	30,200	37,950	-------	-------	-------	-------
PUEBLO							
DETACHED AND SEMIDETACHED	18,750	22,500	27,950	33,300	39,900	44,500	46,500
MOM DWELLINGS	17,250	20,750	25,450	30,400	36,850	40,800	42,700
WALKUP	15,500	19,450	24,700	29,150	33,500	37,200	38,950
ELEVATOR-STRUCTURE	28,300	32,950	37,400	-------	-------	-------	-------
MONTANA							
HELENA							
DETACHED AND SEMIDETACHED	21,100	25,400	31,350	37,300	45,050	50,200	52,400
MOM DWELLINGS	19,100	22,750	28,500	33,750	40,700	45,200	47,450
WALKUP	17,300	21,800	27,700	32,650	37,700	41,700	43,500
ELEVATOR-STRUCTURE	27,400	31,800	40,400	-------	-------	-------	-------
BILLINGS							
DETACHED AND SEMIDETACHED	19,950	24,100	29,700	35,450	42,600	47,300	49,550
MOM DWELLINGS	18,300	21,850	26,950	31,950	38,550	42,950	44,900
WALKUP	16,300	20,800	26,200	30,800	35,550	39,400	41,250
ELEVATOR-STRUCTURE	26,000	30,000	38,250	-------	-------	-------	-------
BOZEMAN							
DETACHED AND SEMIDETACHED	19,050	22,950	28,350	33,850	40,850	45,250	47,350
MOM DWELLINGS	18,250	21,400	26,900	32,050	38,000	42,850	44,850
WALKUP	15,700	19,950	25,200	29,800	34,300	37,850	39,800
ELEVATOR-STRUCTURE	23,950	27,800	35,300	-------	-------	-------	-------
BUTTE							
DETACHED AND SEMIDETACHED	21,150	25,850	31,350	37,250	44,800	50,000	52,100
MOM DWELLINGS	19,300	23,050	28,500	33,950	41,100	45,400	47,600
WALKUP	17,300	22,050	27,700	32,750	37,800	41,850	43,900
ELEVATOR-STRUCTURE	27,350	31,700	40,400	-------	-------	-------	-------
GLASGOW							
DETACHED AND SEMIDETACHED	19,550	23,500	29,000	34,650	41,650	46,350	48,500
MOM DWELLINGS	18,250	21,800	26,900	32,050	38,000	42,850	44,850
WALKUP	16,000	20,350	25,700	30,400	34,950	38,850	40,550
ELEVATOR-STRUCTURE	25,350	29,400	37,350	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VIII--CONTINUED							
MONTANA --CONTINUED							
GREAT FALLS							
DETACHED AND SEMIDETACHED	21,100	25,350	31,350	37,350	44,700	49,950	52,200
MOM DWELLINGS	19,350	23,050	28,500	34,250	41,150	45,050	48,150
WALKUP	17,450	21,950	27,700	32,600	37,750	41,850	43,650
ELEVATOR-STRUCTURE	27,450	31,700	40,400	-------	-------	-------	-------
HAVRE							
DETACHED AND SEMIDETACHED	19,550	23,500	29,000	34,650	41,650	46,350	48,500
MOM DWELLINGS	18,250	21,600	26,900	32,050	38,600	42,850	44,850
WALKUP	16,000	20,350	25,700	30,400	34,950	38,650	40,550
ELEVATOR-STRUCTURE	25,350	29,400	37,350	-------	-------	-------	-------
KALISPELL							
DETACHED AND SEMIDETACHED	19,300	23,500	29,000	34,450	41,300	46,100	48,300
MOM DWELLINGS	17,750	21,400	26,350	31,500	37,950	42,100	44,100
WALKUP	16,100	20,400	25,700	30,350	34,900	38,700	40,450
ELEVATOR-STRUCTURE	25,300	29,300	37,400	-------	-------	-------	-------
MILES CITY							
DETACHED AND SEMIDETACHED	19,550	23,500	29,000	34,650	41,650	46,350	48,500
MOM DWELLINGS	18,250	21,600	26,900	32,050	38,600	42,850	44,850
WALKUP	16,000	20,350	25,700	30,400	34,950	38,650	40,550
ELEVATOR-STRUCTURE	25,350	29,400	37,350	-------	-------	-------	-------
MISSOULA							
DETACHED AND SEMIDETACHED	19,550	23,550	29,000	34,650	41,650	46,200	48,450
MOM DWELLINGS	17,850	21,150	26,350	31,300	37,700	42,000	43,950
WALKUP	15,950	20,200	25,700	30,200	34,850	38,650	40,400
ELEVATOR-STRUCTURE	25,450	29,350	37,400	-------	-------	-------	-------
* BOWAN							
DETACHED AND SEMIDETACHED	27,900	32,200	38,400	44,300	53,400	59,500	62,350
MOM DWELLINGS	25,450	29,300	34,900	40,300	48,850	54,150	56,750
WALKUP	24,800	28,600	34,050	39,300	47,400	52,800	55,300
ELEVATOR-STRUCTURE	33,150	38,350	46,800	-------	-------	-------	-------
* BROWNING							
DETACHED AND SEMIDETACHED	28,900	33,150	39,250	45,150	54,350	60,050	63,450
MOM DWELLINGS	26,200	30,050	35,650	40,950	49,300	55,000	57,800
WALKUP	25,550	29,300	34,700	39,950	48,000	53,000	56,150
ELEVATOR-STRUCTURE	30,750	35,600	45,250	-------	-------	-------	-------
* HARLEM							
DETACHED AND SEMIDETACHED	27,950	32,200	38,400	44,350	53,450	59,550	62,400
MOM DWELLINGS	25,450	29,300	34,900	40,300	48,850	54,150	56,750
WALKUP	24,800	28,600	34,050	39,300	47,400	52,800	55,300
ELEVATOR-STRUCTURE	31,700	36,600	46,000	-------	-------	-------	-------
* WOLF POINT							
DETACHED AND SEMIDETACHED	28,550	33,200	39,400	46,000	55,100	61,000	64,600
MOM DWELLINGS	25,900	30,150	35,850	41,750	50,100	55,900	58,650
WALKUP	25,250	29,350	34,900	40,650	48,750	54,450	57,100
ELEVATOR-STRUCTURE	32,800	37,900	48,250	-------	-------	-------	-------

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50,100
53,400
47,250

54,150
55,300
48,550

50,550
53,900
48,500

62,050
58,950
52,750

61,200
58,100
52,000

62,750
59,550
53,300

58,250
51,550
48,100

60,450
57,450
51,400

45,650
47,250
38,200

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VIII--CONTINUED							
MONTANA --CONTINUED							
* LODGE GRASS							
DETACHED AND SEMIDETACHED	29,350	34,900	40,350	46,550	56,150	62,550	65,200
MOM DWELLINGS	26,050	31,000	35,800	41,350	49,850	55,550	58,200
WALKUP	25,400	29,250	34,850	40,250	48,350	54,100	56,800
ELEVATOR-STRUCTURE	31,300	36,200	46,100	-------	-------	-------	-------
NORTH DAKOTA							
FARGO							
DETACHED AND SEMIDETACHED	19,900	23,800	29,400	35,400	42,600	47,050	49,450
MOM DWELLINGS	17,900	21,750	26,900	31,800	38,450	42,800	44,550
WALKUP	16,700	21,000	26,050	30,850	36,200	39,750	41,800
ELEVATOR-STRUCTURE	26,800	31,200	39,350	-------	-------	-------	-------
BISMARCK							
DETACHED AND SEMIDETACHED	21,400	25,750	31,550	37,900	45,700	50,550	53,050
MOM DWELLINGS	19,300	23,350	28,700	34,300	41,500	45,900	48,100
WALKUP	18,150	22,650	27,900	33,300	39,150	42,950	45,200
ELEVATOR-STRUCTURE	28,700	33,300	42,150	-------	-------	-------	-------
DICKINSON							
DETACHED AND SEMIDETACHED	20,750	24,950	30,850	37,000	44,450	49,350	51,800
MOM DWELLINGS	18,800	22,800	28,150	33,400	40,300	44,800	46,600
WALKUP	17,550	22,050	27,350	32,400	38,200	41,950	43,950
ELEVATOR-STRUCTURE	28,150	32,800	41,350	-------	-------	-------	-------
GRAND FORKS							
DETACHED AND SEMIDETACHED	20,550	24,700	30,450	36,600	44,100	48,750	51,200
MOM DWELLINGS	18,500	22,450	27,700	32,900	39,700	43,950	45,950
WALKUP	17,450	21,650	27,000	31,950	37,700	41,400	43,500
ELEVATOR-STRUCTURE	27,750	32,300	40,750	-------	-------	-------	-------
MINOT							
DETACHED AND SEMIDETACHED	20,650	24,700	30,450	36,550	44,100	48,900	51,250
MOM DWELLINGS	18,550	22,550	27,700	33,000	39,850	44,100	46,100
WALKUP	17,300	21,700	27,000	32,150	37,850	41,500	43,800
ELEVATOR-STRUCTURE	27,950	32,400	40,750	-------	-------	-------	-------
* FORT TUTTEN							
DETACHED AND SEMIDETACHED	32,450	36,050	41,150	46,050	53,850	58,850	61,050
MOM DWELLINGS	30,800	34,250	39,050	43,700	50,450	55,900	58,000
WALKUP	28,350	31,550	35,950	40,250	46,950	51,450	53,350
ELEVATOR-STRUCTURE	-------	-------	-------	-------	-------	-------	-------
SOUTH DAKOTA							
SIOUX FALLS							
DETACHED AND SEMIDETACHED	22,650	27,200	33,500	40,000	48,000	53,800	55,950
MOM DWELLINGS	21,250	25,700	31,850	37,950	45,800	50,400	53,150
WALKUP	18,450	22,900	29,050	34,400	39,900	44,050	46,200
ELEVATOR-STRUCTURE	26,650	31,050	39,100	-------	-------	-------	-------

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50,150
45,500
41,950

47,850
48,500
39,950

49,400
44,900
41,400

48,800
46,750
39,150

48,250
44,350
40,400

49,800
44,800
41,250

47,850
42,700
39,450

51,250
46,200
42,200

50,250
45,200
41,900

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VIII--CONTINUED							
SOUTH DAKOTA --CONTINUED							
ABERDEEN							
DETACHED AND SEMIDETACHED	22,750	27,350	33,700	40,150	48,050	54,000	58,100
ROW DWELLINGS	21,350	25,900	32,050	38,150	45,850	50,850	53,400
WALKUP	18,750	23,450	29,000	35,100	40,550	44,700	47,250
ELEVATOR-STRUCTURE	25,200	29,350	37,150	------	------	------	------
PIERRE							
DETACHED AND SEMIDETACHED	23,850	28,900	35,450	42,150	51,150	56,750	59,150
ROW DWELLINGS	22,200	26,900	33,150	39,400	47,650	52,800	55,300
WALKUP	18,550	23,250	29,150	34,650	40,200	44,200	46,550
ELEVATOR-STRUCTURE	27,150	31,500	39,900	------	------	------	------
RAPID CITY							
DETACHED AND SEMIDETACHED	22,800	27,650	34,100	40,400	48,550	54,300	58,550
ROW DWELLINGS	21,450	26,250	32,200	38,700	46,300	51,150	53,900
WALKUP	19,250	24,200	30,500	35,950	41,650	46,000	48,500
ELEVATOR-STRUCTURE	27,000	31,450	39,700	------	------	------	------
* MISSION							
DETACHED AND SEMIDETACHED	27,750	32,200	38,450	44,450	53,550	59,550	62,050
ROW DWELLINGS	26,350	30,600	36,450	42,200	50,850	56,550	58,950
WALKUP	23,600	27,800	32,650	37,750	45,550	50,650	52,750
ELEVATOR-STRUCTURE	27,750	32,300	40,800	------	------	------	------
* FORT THOMPSON							
DETACHED AND SEMIDETACHED	27,300	31,650	37,700	43,650	52,650	58,650	61,200
ROW DWELLINGS	25,950	30,050	35,850	41,500	50,000	55,700	58,100
WALKUP	23,200	26,900	32,050	37,100	44,750	49,850	52,000
ELEVATOR-STRUCTURE	27,150	31,650	39,950	------	------	------	------
* MCLAUGHLIN							
DETACHED AND SEMIDETACHED	26,200	32,600	38,700	44,750	53,750	60,050	62,750
ROW DWELLINGS	26,800	31,000	36,800	42,550	51,100	57,050	59,550
WALKUP	23,950	27,700	32,900	38,000	45,700	51,000	53,300
ELEVATOR-STRUCTURE	27,500	32,050	40,500	------	------	------	------
* WAGNER							
DETACHED AND SEMIDETACHED	22,050	28,000	33,400	38,700	46,550	51,950	54,250
ROW DWELLINGS	21,000	26,650	31,750	36,800	44,250	49,350	51,550
WALKUP	18,750	23,850	28,400	32,900	39,600	44,150	46,100
ELEVATOR-STRUCTURE	26,950	31,450	39,700	------	------	------	------
* SISSETON							
DETACHED AND SEMIDETACHED	27,250	31,500	37,350	43,150	51,800	57,900	60,450
ROW DWELLINGS	25,900	29,950	35,500	40,950	49,200	55,000	57,450
WALKUP	23,150	26,800	31,750	36,650	44,050	49,200	51,400
ELEVATOR-STRUCTURE	26,350	30,750	38,850	------	------	------	------
UTAH							
SALT LAKE CITY							
DETACHED AND SEMIDETACHED	18,250	22,050	27,200	32,600	39,200	43,450	45,650
ROW DWELLINGS	19,050	22,900	28,350	34,050	40,600	45,050	47,250
WALKUP	15,050	18,900	24,100	28,450	32,950	36,300	38,200
ELEVATOR-STRUCTURE	24,650	28,800	36,400	------	------	------	------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VIII--CONTINUED							
UTAH --CONTINUED							
CEDAR CITY							
DETACHED AND SEMIDETACHED	20,150	24,300	29,950	35,650	42,950	47,900	50,150
ROW DWELLINGS	18,350	22,150	27,250	32,750	39,100	43,050	45,500
WALKUP	16,700	20,950	26,500	31,150	36,250	39,900	41,950
ELEVATOR-STRUCTURE	27,150	31,650	40,100	------	------	------	------
LOGAN							
DETACHED AND SEMIDETACHED	19,350	23,150	28,550	34,050	41,050	45,750	47,850
ROW DWELLINGS	17,550	21,200	26,000	31,150	37,450	41,550	43,500
WALKUP	15,900	19,800	25,300	29,650	34,500	37,900	39,450
ELEVATOR-STRUCTURE	25,950	30,300	38,250	------	------	------	------
MOAB							
DETACHED AND SEMIDETACHED	19,800	23,950	29,450	35,150	42,300	47,250	49,400
ROW DWELLINGS	18,000	21,700	26,850	32,000	38,500	42,750	44,900
WALKUP	16,450	20,600	26,100	30,700	35,800	39,350	41,400
ELEVATOR-STRUCTURE	26,850	31,200	39,450	------	------	------	------
PROVO							
DETACHED AND SEMIDETACHED	18,700	22,600	27,850	33,350	40,150	44,550	46,800
ROW DWELLINGS	17,250	20,700	25,650	30,750	36,750	40,750	42,750
WALKUP	15,450	19,350	24,700	29,150	33,850	37,250	39,150
ELEVATOR-STRUCTURE	25,300	29,550	37,350	------	------	------	------
VERNAL							
DETACHED AND SEMIDETACHED	19,350	23,350	28,800	34,350	41,400	46,000	48,250
ROW DWELLINGS	17,750	21,450	26,450	31,800	37,950	42,150	44,350
WALKUP	16,050	20,100	25,500	29,950	34,900	38,400	40,400
ELEVATOR-STRUCTURE	26,100	30,450	38,550	------	------	------	------
WYOMING							
CASPER							
DETACHED AND SEMIDETACHED	19,850	24,050	29,650	35,300	42,400	47,300	49,800
ROW DWELLINGS	18,050	21,650	26,950	32,000	38,450	42,900	44,800
WALKUP	16,400	20,650	26,200	30,700	35,750	39,300	41,250
ELEVATOR-STRUCTURE	26,800	31,250	39,700	------	------	------	------
CHEYENNE							
DETACHED AND SEMIDETACHED	19,050	23,100	28,400	33,900	40,800	45,450	47,650
ROW DWELLINGS	17,150	20,750	25,800	31,950	38,850	40,850	42,700
WALKUP	15,750	19,800	25,050	29,550	34,200	37,800	39,450
ELEVATOR-STRUCTURE	25,800	30,050	37,950	------	------	------	------
ECOY							
DETACHED AND SEMIDETACHED	20,300	24,800	30,450	36,800	44,000	48,850	51,250
ROW DWELLINGS	18,650	22,250	27,700	33,050	39,650	44,000	46,200
WALKUP	16,950	21,250	26,950	31,700	36,550	40,450	42,200
ELEVATOR-STRUCTURE	27,700	32,250	40,800	------	------	------	------
GILLETTE							
DETACHED AND SEMIDETACHED	20,100	24,300	30,050	35,700	43,150	47,950	50,250
ROW DWELLINGS	18,450	21,900	27,300	32,400	38,850	43,450	45,200
WALKUP	16,850	21,100	26,550	31,300	36,350	40,050	41,900
ELEVATOR-STRUCTURE	27,350	31,700	40,250	------	------	------	------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION VIII--CONTINUED							
WYOMING --CONTINUED							
JACKSON							
DETACHED AND SEMIDETACHED	20,550	24,750	30,450	36,250	43,750	48,700	50,950
ROW DWELLINGS	18,550	22,200	27,700	32,650	39,500	44,150	45,800
WALKUP	16,850	21,050	26,950	31,500	38,750	40,350	42,200
ELEVATOR STRUCTURE	27,650	32,400	40,800	-------	-------	-------	-------
LARAMIE							
DETACHED AND SEMIDETACHED	19,100	23,150	28,000	34,050	41,200	45,750	48,000
ROW DWELLINGS	17,450	20,900	26,000	30,800	37,100	41,300	43,150
WALKUP	15,750	20,000	25,300	29,850	36,350	37,900	39,750
ELEVATOR STRUCTURE	25,900	30,250	38,300	-------	-------	-------	-------
POWELL							
DETACHED AND SEMIDETACHED	20,300	24,800	30,450	36,000	44,000	48,850	51,250
ROW DWELLINGS	18,650	22,250	27,700	33,050	39,650	44,000	46,200
WALKUP	16,950	21,250	26,950	31,700	38,550	40,450	42,200
ELEVATOR STRUCTURE	27,700	32,250	40,800	-------	-------	-------	-------
RIVERTON							
DETACHED AND SEMIDETACHED	19,850	23,900	29,400	34,950	42,150	46,950	49,150
ROW DWELLINGS	18,000	21,500	26,750	31,750	38,000	42,650	44,300
WALKUP	16,250	20,600	26,000	30,600	35,800	39,150	40,950
ELEVATOR STRUCTURE	26,800	31,050	39,400	-------	-------	-------	-------
ROCK SPRINGS							
DETACHED AND SEMIDETACHED	20,200	24,650	30,250	36,350	43,850	48,550	50,850
ROW DWELLINGS	18,500	22,100	27,500	32,800	39,300	43,650	45,850
WALKUP	16,850	21,150	26,800	31,500	38,350	40,200	41,950
ELEVATOR STRUCTURE	27,500	32,000	40,500	-------	-------	-------	-------
REGION IX							
ARIZONA							
PHOENIX							
DETACHED AND SEMIDETACHED	19,550	23,500	29,000	34,550	41,850	46,350	48,600
ROW DWELLINGS	17,700	21,450	26,450	31,350	37,850	42,350	44,200
WALKUP	16,200	20,150	25,650	30,300	34,950	38,600	40,550
ELEVATOR STRUCTURE	26,400	30,650	38,850	-------	-------	-------	-------
CASA GRANDE							
DETACHED AND SEMIDETACHED	20,400	24,600	30,250	36,100	43,550	48,350	50,750
ROW DWELLINGS	18,550	21,500	27,500	32,850	39,450	44,100	45,950
WALKUP	16,850	21,100	26,800	31,700	38,550	40,350	42,250
ELEVATOR STRUCTURE	27,500	32,000	40,550	-------	-------	-------	-------
DOUGLAS							
DETACHED AND SEMIDETACHED	20,050	24,100	29,850	35,400	42,550	47,500	49,850
ROW DWELLINGS	18,300	22,100	27,300	32,500	39,000	43,600	45,550
WALKUP	16,700	20,750	26,350	31,150	35,800	39,500	41,550
ELEVATOR STRUCTURE	27,250	31,550	40,000	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IX--CONTINUED							
ARIZONA --CONTINUED							
FLAGSTAFF							
DETACHED AND SEMIDETACHED	19,900	24,000	29,850	35,300	41,900	47,350	49,700
ROW DWELLINGS	18,300	22,100	27,300	32,500	39,000	43,600	45,550
WALKUP	16,650	20,650	26,350	31,050	35,800	39,500	41,500
ELEVATOR STRUCTURE	28,200	32,550	41,150	-------	-------	-------	-------
* HAVASU							
DETACHED AND SEMIDETACHED	24,800	29,800	36,800	43,900	52,800	58,900	61,550
ROW DWELLINGS	22,450	27,100	33,400	39,950	47,800	53,350	55,750
WALKUP	20,250	25,400	32,500	38,200	44,350	48,750	51,300
ELEVATOR STRUCTURE	31,500	36,750	46,450	-------	-------	-------	-------
KINGMAN							
DETACHED AND SEMIDETACHED	20,250	24,450	30,050	35,900	43,250	47,950	50,400
ROW DWELLINGS	18,500	21,450	27,450	32,800	39,350	44,000	45,850
WALKUP	16,750	21,000	26,550	31,500	38,250	40,050	41,950
ELEVATOR STRUCTURE	27,300	31,750	40,250	-------	-------	-------	-------
* FT. MOJAVE							
DETACHED AND SEMIDETACHED	21,750	26,050	32,400	38,350	46,200	51,450	53,900
ROW DWELLINGS	20,500	24,550	30,900	36,150	43,550	48,500	50,850
WALKUP	18,600	22,250	27,450	32,750	39,450	44,000	46,100
ELEVATOR STRUCTURE	29,650	34,800	43,800	-------	-------	-------	-------
* BACATON							
DETACHED AND SEMIDETACHED	22,050	26,750	32,800	39,200	47,200	52,400	55,000
ROW DWELLINGS	20,100	24,200	29,800	35,550	42,750	47,700	49,800
WALKUP	18,350	23,050	29,000	34,350	39,650	43,700	45,850
ELEVATOR STRUCTURE	29,900	34,650	43,950	-------	-------	-------	-------
* SAN CARLOS							
DETACHED AND SEMIDETACHED	22,400	27,050	33,450	39,700	47,850	53,300	55,850
ROW DWELLINGS	20,400	24,700	30,500	36,400	43,650	48,650	50,700
WALKUP	18,700	23,450	29,550	35,100	40,450	44,650	46,850
ELEVATOR STRUCTURE	28,700	33,250	42,200	-------	-------	-------	-------
* BELL 9							
DETACHED AND SEMIDETACHED	21,850	26,850	32,000	38,750	46,700	51,950	54,350
ROW DWELLINGS	19,950	24,150	29,650	35,350	42,500	47,400	49,450
WALKUP	18,200	22,900	28,800	34,100	39,400	43,450	45,550
ELEVATOR STRUCTURE	29,650	34,350	43,600	-------	-------	-------	-------
* WHITE RIVER							
DETACHED AND SEMIDETACHED	22,500	26,950	33,400	39,700	47,750	53,050	55,800
ROW DWELLINGS	20,650	24,900	30,700	36,600	44,000	49,200	51,200
WALKUP	18,800	23,400	29,450	35,000	40,350	44,850	46,800
ELEVATOR STRUCTURE	28,850	33,100	41,950	-------	-------	-------	-------
BAFFORD							
DETACHED AND SEMIDETACHED	20,550	24,550	30,450	36,200	45,500	48,000	50,950
ROW DWELLINGS	18,650	22,650	28,000	33,300	40,000	44,700	46,600
WALKUP	16,900	21,150	26,950	31,850	36,800	40,550	42,600
ELEVATOR STRUCTURE	27,750	32,300	40,850	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IX--CONTINUED							
ARIZONA --CONTINUED							
• CAMP VERDE							
DETACHED AND SEMIDETACHED	21,750	28,200	32,500	38,400	46,450	51,750	58,300
MOM DWELLINGS	19,850	24,200	29,750	35,400	42,600	47,550	49,800
WALKUP	18,200	22,650	28,650	34,000	39,100	43,100	45,200
ELEVATOR-STRUCTURE	28,200	32,750	41,400	-------	-------	-------	-------
• KEAMS CANYON							
DETACHED AND SEMIDETACHED	28,650	31,900	39,500	47,050	56,800	62,950	65,950
MOM DWELLINGS	25,000	30,250	37,550	45,700	53,400	59,800	61,850
WALKUP	21,000	27,050	34,150	40,400	46,550	51,350	54,050
ELEVATOR-STRUCTURE	32,400	37,450	47,300	-------	-------	-------	-------
• FORT MCDOWELL							
DETACHED AND SEMIDETACHED	20,650	24,800	30,750	36,450	43,950	48,950	51,300
MOM DWELLINGS	18,900	23,000	28,350	33,650	40,400	45,350	47,200
WALKUP	17,100	21,400	27,200	32,150	37,000	41,050	43,050
ELEVATOR-STRUCTURE	27,000	31,400	39,700	-------	-------	-------	-------
• PANACH							
DETACHED AND SEMIDETACHED	22,800	27,400	33,650	40,050	48,350	53,800	56,400
MOM DWELLINGS	20,750	24,950	30,700	36,050	44,050	49,200	51,400
WALKUP	18,850	23,550	29,800	35,100	40,800	44,950	47,050
ELEVATOR-STRUCTURE	28,900	33,550	42,550	-------	-------	-------	-------
• PEACH SPRINGS							
DETACHED AND SEMIDETACHED	25,300	30,550	37,850	44,900	54,200	60,350	63,200
MOM DWELLINGS	23,300	28,200	34,750	41,450	49,800	55,450	57,950
WALKUP	21,250	26,400	33,450	39,600	45,650	50,450	53,000
ELEVATOR-STRUCTURE	32,250	37,500	47,300	-------	-------	-------	-------
TUCSON							
DETACHED AND SEMIDETACHED	19,650	23,650	29,200	34,600	41,750	46,550	48,800
MOM DWELLINGS	18,350	22,150	27,350	32,650	39,200	43,800	45,800
WALKUP	16,350	20,400	25,850	30,500	35,150	38,900	40,700
ELEVATOR-STRUCTURE	31,200	36,200	45,750	-------	-------	-------	-------
YUMA							
DETACHED AND SEMIDETACHED	19,350	23,300	28,800	34,250	41,300	45,950	48,300
MOM DWELLINGS	17,450	21,150	26,150	31,050	37,450	41,700	43,800
WALKUP	16,200	20,000	25,450	30,200	34,800	38,400	40,200
ELEVATOR-STRUCTURE	26,150	30,550	38,600	-------	-------	-------	-------
• ROUGH ROCK							
DETACHED AND SEMIDETACHED	29,080	34,850	43,150	51,358	61,850	68,700	72,050
MOM DWELLINGS	27,350	33,000	40,950	48,800	58,350	65,208	67,900
WALKUP	23,600	29,450	37,250	44,150	50,850	56,450	59,050
ELEVATOR-STRUCTURE	32,400	37,800	47,300	-------	-------	-------	-------
MCGALLEN							
DETACHED AND SEMIDETACHED	23,850	28,650	35,350	41,950	50,600	56,450	59,150
MOM DWELLINGS	21,550	26,150	32,200	38,536	46,300	51,950	53,650
WALKUP	19,950	24,650	31,250	37,100	42,900	47,150	-------
ELEVATOR-STRUCTURE	32,050	37,300	47,300	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IX--CONTINUED							
ARIZONA --CONTINUED							
• STEAMBOAT							
DETACHED AND SEMIDETACHED	27,600	33,150	41,050	48,800	58,800	65,300	68,500
MOM DWELLINGS	26,000	31,400	38,950	46,350	55,450	61,950	64,600
WALKUP	22,450	28,100	35,450	41,950	48,400	53,250	56,150
ELEVATOR-STRUCTURE	32,800	37,850	47,850	-------	-------	-------	-------
• WAIKIKI							
DETACHED AND SEMIDETACHED	30,500	36,600	45,350	53,900	64,450	72,200	75,700
MOM DWELLINGS	28,700	34,700	43,050	51,250	61,300	68,550	71,400
WALKUP	24,800	31,000	39,150	46,350	53,450	58,850	62,000
ELEVATOR-STRUCTURE	32,800	37,850	47,850	-------	-------	-------	-------
CALIFORNIA							
LOS ANGELES							
DETACHED AND SEMIDETACHED	21,950	26,150	32,550	38,850	46,650	52,150	54,500
MOM DWELLINGS	20,550	24,450	30,650	36,500	44,050	49,000	51,100
WALKUP	19,450	24,400	30,500	36,250	41,800	46,150	48,500
ELEVATOR-STRUCTURE	34,000	39,600	49,850	-------	-------	-------	-------
BAKERSFIELD							
DETACHED AND SEMIDETACHED	21,650	25,850	32,100	38,400	46,050	51,500	53,800
MOM DWELLINGS	20,250	24,600	30,250	36,000	43,400	48,350	50,400
WALKUP	19,150	24,100	30,100	35,750	41,200	45,500	47,600
ELEVATOR-STRUCTURE	33,850	39,350	49,700	-------	-------	-------	-------
INYOKERN							
DETACHED AND SEMIDETACHED	22,750	27,050	33,600	40,000	48,250	54,000	56,450
MOM DWELLINGS	21,400	25,950	31,700	37,900	45,650	50,700	53,050
WALKUP	20,050	25,100	31,550	37,400	43,150	47,900	49,950
ELEVATOR-STRUCTURE	35,050	40,900	51,600	-------	-------	-------	-------
LANCASTER							
DETACHED AND SEMIDETACHED	22,080	26,500	32,750	39,050	47,050	52,558	55,100
MOM DWELLINGS	20,600	25,050	30,850	36,850	44,200	49,050	51,350
WALKUP	19,050	24,550	30,700	36,350	42,200	46,400	48,750
ELEVATOR-STRUCTURE	34,050	39,800	50,250	-------	-------	-------	-------
• LONE PINE							
DETACHED AND SEMIDETACHED	23,800	29,650	37,450	44,300	51,300	56,450	59,400
MOM DWELLINGS	22,700	28,300	35,750	42,250	48,950	53,900	56,700
WALKUP	21,600	26,950	34,050	40,250	46,800	51,350	54,050
ELEVATOR-STRUCTURE	37,500	43,550	55,100	-------	-------	-------	-------
MOJAVE							
DETACHED AND SEMIDETACHED	22,600	28,050	33,400	39,750	47,400	53,458	55,800
MOM DWELLINGS	21,200	25,650	31,500	37,750	45,400	50,450	52,700
WALKUP	20,000	24,950	31,350	37,000	42,850	47,600	49,450
ELEVATOR-STRUCTURE	34,800	40,550	51,300	-------	-------	-------	-------
OJAI							
DETACHED AND SEMIDETACHED	20,450	24,500	30,550	36,300	43,600	48,800	50,850
MOM DWELLINGS	19,200	23,350	28,800	34,300	41,200	45,950	48,000
WALKUP	18,150	22,750	28,650	34,100	39,350	43,150	45,550
ELEVATOR-STRUCTURE	32,250	37,350	47,250	-------	-------	-------	-------

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	53,850	50,250	47,700				
	53,500	50,150	47,200				
	50,950	48,000	45,550				
	52,400	48,900	46,300				
	53,850	50,250	47,800				
	54,750	51,600	51,400				
	54,850	51,200	48,700				
	55,850	52,700	52,300				
	54,950	51,500	48,550				

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	59,050	51,900	51,750				
	54,950	51,500	48,550				
	55,850	52,700	52,350				
	53,850	50,250	47,800				
	54,600	51,200	48,150				
	60,900	57,400	57,150				
	53,900	50,850	48,100	105,350			
	48,900	46,100	46,100				
	62,100	58,550	53,150				

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IX--CONTINUED							
CALIFORNIA --CONTINUED							
OXNARD							
DETACHED AND SEMIDETACHED	21,600	25,850	32,100	38,250	45,450	51,350	53,850
MDM DWELLINGS	20,200	24,550	30,250	36,000	43,300	48,250	50,250
WALKUP	19,100	23,950	30,100	35,600	41,150	45,800	47,700
ELEVATOR-STRUCTURE	33,850	39,350	49,700	-------	-------	-------	-------
PASO ROBLES							
DETACHED AND SEMIDETACHED	21,500	25,750	31,850	37,950	45,550	51,000	53,500
MDM DWELLINGS	20,150	24,550	30,050	36,050	43,000	48,150	50,150
WALKUP	19,050	23,800	29,900	35,300	40,850	45,000	47,200
ELEVATOR-STRUCTURE	34,750	40,500	51,250	-------	-------	-------	-------
PINU							
DETACHED AND SEMIDETACHED	20,450	24,500	30,550	36,300	43,600	48,800	50,950
MDM DWELLINGS	19,200	23,350	28,800	34,300	41,200	45,950	48,000
WALKUP	18,150	22,750	28,650	34,100	39,350	43,150	45,550
ELEVATOR-STRUCTURE	32,250	37,550	47,250	-------	-------	-------	-------
RIDGECREST							
DETACHED AND SEMIDETACHED	21,100	25,100	31,250	37,150	44,950	50,050	52,400
MDM DWELLINGS	19,750	23,950	29,400	35,000	42,100	46,950	48,900
WALKUP	18,600	23,300	29,250	34,700	40,050	44,100	46,300
ELEVATOR-STRUCTURE	34,400	40,750	51,400	-------	-------	-------	-------
SAN BERNARDINO							
DETACHED AND SEMIDETACHED	21,600	25,850	32,100	38,250	45,450	51,350	53,850
MDM DWELLINGS	20,200	24,550	30,250	36,000	43,300	48,250	50,250
WALKUP	19,150	24,100	30,100	35,750	41,200	45,500	47,800
ELEVATOR-STRUCTURE	33,850	39,350	49,700	-------	-------	-------	-------
VICTORVILLE							
DETACHED AND SEMICETACHED	22,100	26,400	32,750	39,150	47,000	52,350	54,750
MDM DWELLINGS	20,800	24,850	30,850	36,900	44,250	49,350	51,600
WALKUP	20,700	24,750	30,700	36,800	44,100	49,200	51,400
ELEVATOR-STRUCTURE	34,100	39,650	50,250	-------	-------	-------	-------
SANTA BARBARA							
DETACHED AND SEMIDETACHED	21,950	26,450	32,750	38,900	47,000	52,350	54,850
MDM DWELLINGS	20,500	25,100	30,850	36,650	44,200	49,200	51,200
WALKUP	19,550	24,400	30,700	36,150	42,100	46,250	48,700
ELEVATOR-STRUCTURE	34,050	39,800	50,250	-------	-------	-------	-------
ARROWHEAD							
DETACHED AND SEMIDETACHED	22,450	27,000	33,400	39,850	48,000	53,450	55,850
MDM DWELLINGS	21,200	25,450	31,500	37,550	45,250	50,350	52,700
WALKUP	21,050	25,300	31,350	37,400	45,000	50,150	52,350
ELEVATOR-STRUCTURE	34,350	40,400	51,300	-------	-------	-------	-------
SANTA MARIA							
DETACHED AND SEMIDETACHED	22,100	26,850	32,750	39,000	46,800	52,400	54,950
MDM DWELLINGS	20,850	25,250	30,850	37,050	44,200	49,500	51,500
WALKUP	19,800	24,450	30,700	36,250	41,800	46,300	48,550
ELEVATOR-STRUCTURE	34,750	40,500	51,250	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IX--CONTINUED							
CALIFORNIA --CONTINUED							
BARSTOW							
DETACHED AND SEMIDETACHED	22,200	26,550	32,950	39,400	47,250	52,700	55,050
MDM DWELLINGS	20,950	25,000	31,100	37,150	44,500	49,700	51,900
WALKUP	20,900	24,950	30,950	37,050	44,400	49,500	51,750
ELEVATOR-STRUCTURE	34,350	39,950	50,800	-------	-------	-------	-------
TEHACHAPI							
DETACHED AND SEMIDETACHED	22,100	26,450	32,750	39,000	46,800	52,400	54,950
MDM DWELLINGS	20,850	25,250	30,850	37,050	44,200	49,500	51,500
WALKUP	19,800	24,450	30,700	36,250	41,800	46,300	48,550
ELEVATOR-STRUCTURE	34,750	40,500	51,250	-------	-------	-------	-------
BIG BEAR							
DETACHED AND SEMIDETACHED	22,450	27,000	33,400	39,850	48,000	53,450	55,850
MDM DWELLINGS	21,200	25,450	31,500	37,550	45,250	50,350	52,700
WALKUP	21,050	25,300	31,350	37,400	45,000	50,150	52,350
ELEVATOR-STRUCTURE	34,700	40,400	51,300	-------	-------	-------	-------
VENTURA							
DETACHED AND SEMIDETACHED	21,600	25,850	32,100	38,250	45,450	51,350	53,850
MDM DWELLINGS	20,200	24,550	30,250	36,000	43,300	48,250	50,250
WALKUP	19,150	24,100	30,100	35,750	41,200	45,500	47,800
ELEVATOR-STRUCTURE	33,850	39,350	49,700	-------	-------	-------	-------
SANTA ANA							
DETACHED AND SEMIDETACHED	22,000	26,300	32,550	38,800	46,800	52,000	54,600
MDM DWELLINGS	20,850	25,000	30,650	36,650	44,150	49,150	51,200
WALKUP	19,550	24,200	30,500	36,000	41,600	46,000	48,150
ELEVATOR-STRUCTURE	34,100	39,600	49,950	-------	-------	-------	-------
DESERT CENTER							
DETACHED AND SEMIDETACHED	24,400	29,250	36,250	43,300	52,100	58,050	60,900
MDM DWELLINGS	23,000	27,550	34,200	40,800	49,100	54,750	57,400
WALKUP	22,900	27,450	34,000	40,600	48,850	54,450	57,150
ELEVATOR-STRUCTURE	37,850	44,050	55,050	-------	-------	-------	-------
NEEDLES							
DETACHED AND SEMIDETACHED	21,750	26,050	32,400	38,350	46,200	51,450	53,900
MDM DWELLINGS	20,500	24,550	30,500	36,150	43,550	48,500	50,850
WALKUP	18,600	22,250	27,650	32,750	39,450	44,000	46,100
ELEVATOR-STRUCTURE	29,650	34,600	43,800	109,350	109,350	109,350	109,350
SACRAMENTO							
DETACHED AND SEMIDETACHED	19,800	23,650	29,300	34,750	41,950	46,050	48,900
MDM DWELLINGS	18,600	22,450	27,650	33,000	39,700	44,250	46,100
WALKUP	18,000	20,050	25,450	29,900	34,850	38,250	40,100
ELEVATOR-STRUCTURE	34,350	34,850	50,350	-------	-------	-------	-------
* FT. BIDWELL							
DETACHED AND SEMIDETACHED	31,700	38,050	47,250	51,650	57,600	60,050	62,100
MDM DWELLINGS	30,100	36,150	44,900	49,100	54,300	56,400	58,550
WALKUP	27,250	32,800	40,700	44,400	49,200	51,150	53,150
ELEVATOR-STRUCTURE	38,200	44,150	55,700	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IX--CONTINUED							
CALIFORNIA --CONTINUED							
PLACERVILLE							
DETACHED AND SEMIDETACHED	19,900	23,850	29,700	35,200	42,400	47,200	49,350
ROW DWELLINGS	18,750	22,650	28,000	33,450	40,100	44,750	46,650
WALKUP	18,600	20,600	26,250	30,950	35,800	39,400	41,300
ELEVATOR-STRUCTURE	34,650	40,450	51,000	-------	-------	-------	-------
REDDING							
DETACHED AND SEMIDETACHED	19,750	23,700	29,300	34,950	42,050	46,700	48,900
ROW DWELLINGS	18,550	22,450	27,650	32,950	39,900	44,150	46,100
WALKUP	18,300	20,300	25,900	30,500	35,300	38,850	40,700
ELEVATOR-STRUCTURE	34,200	39,950	50,350	-------	-------	-------	-------
* SUSANVILLE							
DETACHED AND SEMIDETACHED	31,100	37,450	46,500	52,550	58,950	62,550	63,500
ROW DWELLINGS	28,550	35,600	44,100	50,000	55,650	59,350	62,000
WALKUP	26,700	32,250	39,900	45,200	50,350	53,750	56,300
ELEVATOR-STRUCTURE	38,050	44,050	55,750	-------	-------	-------	-------
YREKA							
DETACHED AND SEMIDETACHED	19,850	23,800	29,550	35,100	42,300	47,150	49,150
ROW DWELLINGS	18,650	22,550	27,800	33,150	39,950	44,350	46,400
WALKUP	18,450	20,450	26,050	30,650	35,550	39,150	41,100
ELEVATOR-STRUCTURE	34,450	40,100	50,600	-------	-------	-------	-------
SOUTH LAKE TAHOE							
DETACHED AND SEMIDETACHED	20,350	24,500	30,300	35,950	43,350	48,350	50,500
ROW DWELLINGS	19,100	23,050	28,600	34,050	40,950	45,900	47,850
WALKUP	18,850	21,150	26,800	31,450	36,500	40,200	42,150
ELEVATOR-STRUCTURE	36,550	42,400	53,450	-------	-------	-------	-------
SAN FRANCISCO							
DETACHED AND SEMIDETACHED	25,250	30,400	37,650	44,800	54,000	60,050	62,750
ROW DWELLINGS	24,050	28,950	35,700	42,600	51,000	56,900	59,450
WALKUP	21,300	26,550	33,550	39,700	46,000	50,850	53,050
ELEVATOR-STRUCTURE	37,400	43,400	54,800	-------	-------	-------	-------
EUREKA							
DETACHED AND SEMIDETACHED	27,700	33,200	41,100	48,950	59,000	65,700	68,700
ROW DWELLINGS	20,300	24,600	30,200	36,100	43,650	48,350	50,400
WALKUP	18,700	23,150	29,350	34,600	40,200	44,250	46,300
ELEVATOR-STRUCTURE	30,400	35,200	44,500	-------	-------	-------	-------
SANTA ROSA							
DETACHED AND SEMIDETACHED	28,500	31,750	39,250	46,800	56,350	62,850	65,700
ROW DWELLINGS	20,650	25,000	30,700	36,750	44,000	49,150	51,300
WALKUP	19,000	23,550	29,900	35,200	40,900	45,000	47,150
ELEVATOR-STRUCTURE	30,950	35,650	45,200	-------	-------	-------	-------
FRESNO							
DETACHED AND SEMIDETACHED	21,150	25,100	31,250	37,150	44,800	49,800	52,150
ROW DWELLINGS	19,050	23,100	28,500	33,950	40,750	45,450	47,500
WALKUP	17,500	21,750	27,600	32,500	37,700	41,500	43,550
ELEVATOR-STRUCTURE	32,100	37,350	47,250	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IX--CONTINUED							
CALIFORNIA --CONTINUED							
* GRINDSTONE							
DETACHED AND SEMIDETACHED	29,300	35,450	43,950	49,750	55,500	59,100	61,800
ROW DWELLINGS	28,000	33,700	41,900	47,250	52,800	56,200	58,750
WALKUP	25,300	30,550	37,900	42,800	47,600	50,850	53,300
ELEVATOR-STRUCTURE	32,900	38,000	48,000	-------	-------	-------	-------
* HOOPA							
DETACHED AND SEMIDETACHED	30,050	36,100	44,850	48,800	54,150	56,300	58,850
ROW DWELLINGS	28,450	34,300	42,500	46,350	51,500	53,300	55,450
WALKUP	25,800	31,050	38,450	41,950	46,400	48,250	50,150
ELEVATOR-STRUCTURE	32,100	37,150	46,950	-------	-------	-------	-------
* TULE RIVER							
DETACHED AND SEMIDETACHED	30,800	37,050	46,000	50,050	55,350	57,750	60,350
ROW DWELLINGS	29,150	35,150	43,550	47,550	52,000	54,050	56,850
WALKUP	26,450	31,800	39,400	43,050	47,600	49,450	51,450
ELEVATOR-STRUCTURE	32,950	38,050	48,100	-------	-------	-------	-------
MODESTO							
DETACHED AND SEMIDETACHED	21,350	25,850	31,750	37,750	45,550	50,600	53,050
ROW DWELLINGS	20,200	24,600	30,150	35,900	43,050	47,900	50,350
WALKUP	17,650	21,950	27,800	32,700	37,900	41,950	43,600
ELEVATOR-STRUCTURE	28,900	33,450	42,200	-------	-------	-------	-------
OAKLAND-MARIN							
DETACHED AND SEMIDETACHED	22,550	27,150	33,350	39,750	47,800	53,250	55,700
ROW DWELLINGS	20,650	24,700	30,500	36,450	43,750	48,800	51,100
WALKUP	18,900	23,300	29,550	34,850	40,950	44,450	46,800
ELEVATOR-STRUCTURE	30,450	35,450	44,650	-------	-------	-------	-------
SAN JOSE							
DETACHED AND SEMIDETACHED	22,750	27,300	33,750	40,300	48,500	54,100	56,450
ROW DWELLINGS	20,600	25,000	30,700	36,650	44,000	49,050	51,200
WALKUP	19,000	23,550	29,900	35,200	40,900	44,950	47,100
ELEVATOR-STRUCTURE	30,450	35,850	45,200	-------	-------	-------	-------
SAN DIEGO							
DETACHED AND SEMIDETACHED	21,350	25,650	31,750	37,700	45,400	50,800	52,850
ROW DWELLINGS	20,050	24,150	29,850	35,400	42,550	47,550	49,800
WALKUP	18,650	23,350	29,700	34,900	40,400	44,500	46,650
ELEVATOR-STRUCTURE	33,000	38,400	48,600	-------	-------	-------	-------
EL CAJON							
DETACHED AND SEMIDETACHED	21,350	25,650	31,750	37,700	45,400	50,800	52,850
ROW DWELLINGS	20,050	24,150	29,850	35,400	42,550	47,550	49,800
WALKUP	19,050	24,000	30,400	35,900	41,650	45,750	47,950
ELEVATOR-STRUCTURE	33,000	38,400	48,600	-------	-------	-------	-------
* RAMONA							
DETACHED AND SEMIDETACHED	17,200	21,500	33,000	40,550	48,700	54,450	56,850
ROW DWELLINGS	16,150	20,200	31,000	38,000	45,000	50,450	51,750
WALKUP	15,000	19,700	31,000	37,900	43,750	48,050	50,500
ELEVATOR-STRUCTURE	27,750	32,450	41,100	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IX--CONTINUED							
CALIFORNIA --CONTINUED							
• CAMPO							
DETACHED AND SEMIDETACHED	15,400	19,250	33,250	40,900	49,400	54,950	57,400
ROW DWELLINGS	14,500	18,150	31,250	38,400	46,050	51,450	52,250
WALKUP	13,500	17,750	31,400	38,400	46,450	48,750	51,300
ELEVATOR-STRUCTURE	27,950	32,700	39,400	-------	-------	-------	-------
• HORNUGU							
DETACHED AND SEMIDETACHED	16,400	20,600	31,650	39,000	46,800	52,200	54,550
ROW DWELLINGS	15,500	19,550	29,750	36,650	43,900	49,100	49,800
WALKUP	14,300	18,750	29,600	36,100	41,850	45,900	48,150
ELEVATOR-STRUCTURE	28,250	33,000	41,800	-------	-------	-------	-------
• TORRES-MARTINEZ							
DETACHED AND SEMIDETACHED	23,450	28,150	34,950	41,750	50,250	55,900	58,650
ROW DWELLINGS	22,350	26,750	32,850	39,250	47,300	52,550	54,950
WALKUP	21,050	26,000	32,850	39,050	45,150	49,500	51,900
ELEVATOR-STRUCTURE	30,450	35,600	45,050	-------	-------	-------	-------
• CHEMEHUEVI							
DETACHED AND SEMIDETACHED	24,100	29,250	36,000	42,750	51,050	57,450	60,200
ROW DWELLINGS	22,950	27,750	33,850	40,350	48,800	54,150	56,450
WALKUP	22,600	27,350	33,600	39,950	48,250	53,700	56,200
ELEVATOR-STRUCTURE	32,000	37,350	47,350	-------	-------	-------	-------
• SANTA YNEZ							
DETACHED AND SEMIDETACHED	24,050	28,900	35,600	42,250	51,000	56,850	59,500
ROW DWELLINGS	23,950	28,750	31,800	39,450	50,850	56,650	59,350
WALKUP	21,250	25,500	31,650	37,600	45,500	50,550	53,000
ELEVATOR-STRUCTURE	29,800	34,800	44,100	-------	-------	-------	-------
• WINCUP							
DETACHED AND SEMIDETACHED	17,450	21,150	32,400	39,800	47,650	53,300	55,650
ROW DWELLINGS	16,450	19,900	30,400	37,350	44,750	50,150	50,750
WALKUP	15,350	19,300	30,400	37,200	43,100	47,250	49,600
ELEVATOR-STRUCTURE	28,300	33,050	41,850	-------	-------	-------	-------
• PALA							
DETACHED AND SEMIDETACHED	16,250	20,450	31,400	38,700	46,150	51,750	54,100
ROW DWELLINGS	15,350	19,350	29,450	36,350	43,500	48,700	49,350
WALKUP	14,200	18,600	29,300	35,800	41,500	45,550	47,750
ELEVATOR-STRUCTURE	28,900	33,750	42,800	-------	-------	-------	-------
HAWAII							
HONOLULU							
DETACHED AND SEMIDETACHED	28,400	34,550	42,650	50,650	65,750	67,950	71,100
ROW DWELLINGS	27,250	32,600	40,400	47,950	57,400	64,500	67,350
WALKUP	25,450	31,700	40,200	47,000	55,000	60,700	63,650
ELEVATOR-STRUCTURE	46,800	54,300	68,800	-------	-------	-------	-------
HILO							
DETACHED AND SEMIDETACHED	31,550	37,950	46,900	55,850	67,200	74,050	78,350
ROW DWELLINGS	29,650	35,950	44,400	52,700	63,550	70,850	74,000
WALKUP	28,150	34,900	44,300	52,400	60,700	66,700	70,100
ELEVATOR-STRUCTURE	51,450	58,950	75,500	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION IX--CONTINUED							
HAWAII --CONTINUED							
KAUAI							
DETACHED AND SEMIDETACHED	32,400	40,100	49,050	58,000	70,750	78,450	82,150
ROW DWELLINGS	31,250	37,700	46,700	55,250	66,700	74,000	77,800
WALKUP	28,700	35,650	45,150	53,450	62,000	68,200	71,550
ELEVATOR-STRUCTURE	52,650	61,000	77,250	-------	-------	-------	-------
KONA							
DETACHED AND SEMIDETACHED	32,000	38,900	47,800	57,000	68,700	76,350	79,800
ROW DWELLINGS	30,400	36,650	45,400	53,750	64,450	72,500	75,600
WALKUP	28,700	35,650	45,150	53,450	62,000	68,200	71,550
ELEVATOR-STRUCTURE	52,650	61,000	77,250	-------	-------	-------	-------
MAUI							
DETACHED AND SEMIDETACHED	31,150	37,750	46,350	55,350	66,700	74,250	77,700
ROW DWELLINGS	29,600	35,750	44,250	52,350	63,200	70,580	73,700
WALKUP	27,900	34,700	44,100	51,850	60,150	66,300	69,550
ELEVATOR-STRUCTURE	51,100	59,400	75,100	-------	-------	-------	-------
OLAA							
DETACHED AND SEMIDETACHED	26,200	31,600	39,000	46,350	56,000	62,300	65,250
ROW DWELLINGS	24,850	29,900	37,000	43,950	53,250	58,900	61,650
WALKUP	23,350	28,000	36,750	43,450	50,400	55,250	58,150
ELEVATOR-STRUCTURE	42,700	49,850	63,050	-------	-------	-------	-------
NEVADA							
RENO							
DETACHED AND SEMIDETACHED	21,350	25,500	31,650	37,600	45,450	50,450	52,900
ROW DWELLINGS	19,900	24,200	29,850	35,400	42,700	47,800	49,750
WALKUP	18,800	23,250	29,700	35,000	40,600	44,850	46,800
ELEVATOR-STRUCTURE	36,050	42,050	53,100	-------	-------	-------	-------
LAS VEGAS							
DETACHED AND SEMIDETACHED	22,050	26,400	33,000	39,150	46,950	52,450	54,950
ROW DWELLINGS	21,000	25,350	31,150	37,000	44,800	50,050	52,200
WALKUP	19,700	24,350	30,950	36,500	42,400	46,700	48,900
ELEVATOR-STRUCTURE	37,250	43,200	54,550	-------	-------	-------	-------
ELKO							
DETACHED AND SEMIDETACHED	20,150	25,000	30,900	45,550	54,400	60,350	63,150
ROW DWELLINGS	27,150	33,250	30,950	43,250	51,700	57,350	60,000
WALKUP	25,400	30,500	33,950	39,700	47,400	52,050	55,050
ELEVATOR-STRUCTURE	-------	-------	-------	-------	-------	-------	-------
FALLON							
DETACHED AND SEMIDETACHED	20,150	25,000	30,900	45,550	54,400	60,350	63,150
ROW DWELLINGS	27,700	33,250	30,950	43,250	51,700	57,350	60,000
WALKUP	25,400	30,500	33,950	39,700	47,400	52,050	55,050
ELEVATOR-STRUCTURE	-------	-------	-------	-------	-------	-------	-------
GARDNERVILLE							
DETACHED AND SEMIDETACHED	20,150	25,000	30,800	42,100	50,400	55,050	58,350
ROW DWELLINGS	27,700	33,250	30,950	43,250	51,700	57,350	60,000
WALKUP	24,750	29,750	33,050	38,700	46,200	51,300	53,650
ELEVATOR-STRUCTURE	-------	-------	-------	-------	-------	-------	-------

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PHOTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION X							
ALASKA							
ANCHORAGE							
DETACHED AND SEMIDETACHED	27,850	33,850	41,800	49,950	59,900	66,000	69,850
ROW DWELLINGS	27,550	33,350	41,150	48,900	59,100	65,700	68,600
WALKUP	25,350	31,600	39,400	47,350	56,800	60,250	63,450
ELEVATOR-STRUCTURE	43,300	50,550	63,900	-------	-------	-------	-------
FAIRBANKS							
DETACHED AND SEMIDETACHED	28,850	36,050	44,400	53,200	63,900	70,950	74,450
ROW DWELLINGS	29,450	35,600	43,750	52,000	63,000	69,950	73,150
WALKUP	26,900	33,600	42,550	50,300	58,400	64,300	67,650
ELEVATOR-STRUCTURE	45,900	53,350	67,450	-------	-------	-------	-------
JUNEAU							
DETACHED AND SEMIDETACHED	27,100	32,800	40,300	48,300	57,850	64,500	67,550
ROW DWELLINGS	26,750	32,300	39,950	47,550	57,400	63,700	66,600
WALKUP	25,350	31,600	40,150	47,350	56,800	60,450	63,450
ELEVATOR-STRUCTURE	41,900	48,850	61,600	-------	-------	-------	-------
KETCHIKAN							
DETACHED AND SEMIDETACHED	26,950	32,700	40,200	48,050	57,500	64,250	67,200
ROW DWELLINGS	26,600	32,050	39,600	48,950	56,700	63,000	65,950
WALKUP	25,400	31,650	40,200	47,500	56,900	60,600	63,700
ELEVATOR-STRUCTURE	42,400	49,300	62,300	-------	-------	-------	-------
SITKA							
DETACHED AND SEMIDETACHED	27,100	32,750	40,350	48,300	57,850	64,500	67,500
ROW DWELLINGS	26,750	32,200	39,750	47,100	57,000	63,300	66,300
WALKUP	25,700	32,100	40,600	48,250	55,700	61,300	64,300
ELEVATOR-STRUCTURE	43,700	50,850	64,300	-------	-------	-------	-------
KENAI							
DETACHED AND SEMIDETACHED	31,150	37,700	46,500	55,350	66,350	74,350	77,500
ROW DWELLINGS	-------	-------	-------	-------	-------	-------	-------
WALKUP	-------	-------	-------	-------	-------	-------	-------
ELEVATOR-STRUCTURE	-------	-------	-------	-------	-------	-------	-------
* YAKUTAT							
DETACHED AND SEMIDETACHED	31,150	37,700	46,500	55,350	66,350	74,350	77,500
ROW DWELLINGS	-------	-------	-------	-------	-------	-------	-------
WALKUP	-------	-------	-------	-------	-------	-------	-------
ELEVATOR-STRUCTURE	-------	-------	-------	-------	-------	-------	-------
* FORT YUKON							
DETACHED AND SEMIDETACHED	43,450	52,700	65,150	77,550	94,550	-------	-------
ROW DWELLINGS	-------	-------	-------	-------	-------	-------	-------
WALKUP	-------	-------	-------	-------	-------	-------	-------
ELEVATOR-STRUCTURE	-------	-------	-------	-------	-------	-------	-------
* GALENA							
DETACHED AND SEMIDETACHED	48,650	58,700	70,000	83,400	101,000	-------	-------
ROW DWELLINGS	-------	-------	-------	-------	-------	-------	-------
WALKUP	-------	-------	-------	-------	-------	-------	-------
ELEVATOR-STRUCTURE	-------	-------	-------	-------	-------	-------	-------

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PHOTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION X--CONTINUED							
ALASKA --CONTINUED							
*COASTAL AREA N OF ALEUTIANS							
DETACHED AND SEMIDETACHED	52,600	63,900	78,950	93,850	114,700	-------	-------
ROW DWELLINGS	-------	-------	-------	-------	-------	-------	-------
WALKUP	-------	-------	-------	-------	-------	-------	-------
ELEVATOR-STRUCTURE	-------	-------	-------	-------	-------	-------	-------
* TOK JUNCTION							
DETACHED AND SEMIDETACHED	40,400	49,100	60,500	72,050	87,850	-------	-------
ROW DWELLINGS	-------	-------	-------	-------	-------	-------	-------
WALKUP	-------	-------	-------	-------	-------	-------	-------
ELEVATOR-STRUCTURE	-------	-------	-------	-------	-------	-------	-------
*HUNTER ISL., N. COASTAL AREA							
DETACHED AND SEMIDETACHED	54,150	65,750	81,200	96,700	118,050	-------	-------
ROW DWELLINGS	-------	-------	-------	-------	-------	-------	-------
WALKUP	-------	-------	-------	-------	-------	-------	-------
ELEVATOR-STRUCTURE	-------	-------	-------	-------	-------	-------	-------
* INLAND AREA N OF ALEUTIANS							
DETACHED AND SEMIDETACHED	59,600	72,950	90,150	107,350	130,900	-------	-------
ROW DWELLINGS	-------	-------	-------	-------	-------	-------	-------
WALKUP	-------	-------	-------	-------	-------	-------	-------
ELEVATOR-STRUCTURE	-------	-------	-------	-------	-------	-------	-------
ICAPE							
BOISE							
DETACHED AND SEMIDETACHED	22,750	27,450	33,600	40,350	48,300	53,800	56,300
ROW DWELLINGS	21,100	25,650	31,300	37,400	45,050	50,100	52,550
WALKUP	19,200	23,450	30,450	36,000	41,450	45,850	47,950
ELEVATOR-STRUCTURE	28,150	32,800	41,450	-------	-------	-------	-------
IDAHO FALLS							
DETACHED AND SEMIDETACHED	23,400	28,800	34,950	41,950	50,350	55,850	58,550
ROW DWELLINGS	21,750	26,500	32,550	38,800	46,800	52,100	55,600
WALKUP	20,100	24,450	31,550	37,400	43,000	47,700	49,950
ELEVATOR-STRUCTURE	29,300	33,900	43,050	-------	-------	-------	-------
MCCALL							
DETACHED AND SEMIDETACHED	23,700	28,800	35,150	42,250	50,650	56,350	59,150
ROW DWELLINGS	22,200	26,700	32,700	39,200	47,200	52,550	55,000
WALKUP	20,300	25,200	31,800	37,550	43,450	48,100	50,350
ELEVATOR-STRUCTURE	29,450	34,150	43,400	-------	-------	-------	-------
POCATELLO							
DETACHED AND SEMIDETACHED	26,850	30,350	37,250	44,550	53,600	59,450	62,350
ROW DWELLINGS	23,300	28,250	34,600	41,350	49,700	55,450	58,050
WALKUP	21,100	26,550	33,500	39,450	45,850	50,800	53,250
ELEVATOR-STRUCTURE	31,150	36,150	45,750	-------	-------	-------	-------
TWIN FALLS							
DETACHED AND SEMIDETACHED	26,750	30,800	36,900	44,150	53,250	59,150	62,050
ROW DWELLINGS	23,000	28,000	34,350	41,100	49,250	54,950	57,650
WALKUP	21,050	26,200	33,350	39,400	45,500	50,350	52,800
ELEVATOR-STRUCTURE	30,450	36,000	45,400	-------	-------	-------	-------

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PAGE 01

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION X--CONTINUED							
IDAHO --CONTINUED							
LEWISTON							
DETACHED AND SEMIDETACHED	28,250	29,350	38,350	43,050	52,100	57,950	60,650
ROW DWELLINGS	22,650	27,350	33,950	40,100	48,350	53,850	56,400
WALKUP	19,100	23,650	30,200	35,500	41,050	45,350	47,700
ELEVATOR-STRUCTURE	28,950	33,850	42,800	-------	-------	-------	-------
* COEUR D'ALENE							
DETACHED AND SEMIDETACHED	25,650	31,000	38,300	45,600	54,950	61,200	63,900
ROW DWELLINGS	24,450	29,700	36,500	43,300	52,550	58,150	61,050
WALKUP	21,050	26,050	33,400	39,200	45,250	50,000	52,450
ELEVATOR-STRUCTURE	30,950	36,150	45,800	-------	-------	-------	-------
OREGON							
PORTLAND							
DETACHED AND SEMIDETACHED	23,700	28,550	35,200	42,150	50,650	56,250	58,950
ROW DWELLINGS	22,200	27,000	33,350	39,400	47,650	52,900	55,200
WALKUP	20,900	26,150	33,050	39,000	45,400	49,900	52,400
ELEVATOR-STRUCTURE	29,150	33,550	42,600	-------	-------	-------	-------
PENDLETON							
DETACHED AND SEMIDETACHED	24,250	29,100	35,950	43,150	51,750	57,450	60,300
ROW DWELLINGS	24,900	30,400	37,400	44,250	53,600	59,450	62,100
WALKUP	21,350	26,850	33,950	39,950	46,550	51,200	53,750
ELEVATOR-STRUCTURE	31,800	36,800	46,000	-------	-------	-------	-------
* MISSION							
DETACHED AND SEMIDETACHED	26,850	32,300	39,800	47,750	57,350	63,050	66,700
ROW DWELLINGS	25,100	30,600	37,750	44,650	54,050	60,050	62,700
WALKUP	23,650	29,650	37,500	44,200	51,450	56,600	59,500
ELEVATOR-STRUCTURE	-------	-------	-------	-------	-------	-------	-------
ONTARIO							
DETACHED AND SEMIDETACHED	25,200	30,050	37,300	44,900	53,800	59,950	62,900
ROW DWELLINGS	24,000	28,800	35,450	42,100	51,000	56,900	59,550
WALKUP	22,450	27,950	35,200	41,850	48,100	53,350	55,850
ELEVATOR-STRUCTURE	30,450	35,400	45,050	-------	-------	-------	-------
BEND							
DETACHED AND SEMIDETACHED	23,100	27,800	34,250	41,150	49,350	54,700	57,450
ROW DWELLINGS	21,500	26,200	32,500	38,350	46,300	51,550	53,700
WALKUP	20,050	24,850	31,550	37,250	43,400	47,500	50,050
ELEVATOR-STRUCTURE	29,150	33,550	42,600	-------	-------	-------	-------
* HAMM SPRINGS							
DETACHED AND SEMIDETACHED	25,100	30,250	37,250	44,700	53,650	59,950	62,400
ROW DWELLINGS	23,400	28,500	35,150	41,550	50,300	55,900	58,400
WALKUP	22,050	27,600	34,900	41,150	47,900	52,700	55,450
ELEVATOR-STRUCTURE	-------	-------	-------	-------	-------	-------	-------
COOS BAY							
DETACHED AND SEMIDETACHED	23,150	28,100	34,450	41,550	49,700	55,250	57,800
ROW DWELLINGS	22,650	27,400	34,050	40,100	48,650	54,000	56,300
WALKUP	21,500	26,800	33,950	40,150	46,850	51,400	54,000
ELEVATOR-STRUCTURE	29,850	34,800	43,500	-------	-------	-------	-------

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PAGE 02

PROTOTYPE PER UNIT COST SCHEDULE

	NUMBER OF BEDROOMS						
	0	1	2	3	4	5	6
REGION X--CONTINUED							
OREGON --CONTINUED							
ELGENE							
DETACHED AND SEMIDETACHED	22,100	26,750	32,950	39,600	47,350	52,700	55,150
ROW DWELLINGS	20,650	25,250	31,200	36,900	44,300	49,450	51,650
WALKUP	19,200	22,850	30,600	36,000	42,000	46,150	48,600
ELEVATOR-STRUCTURE	28,550	33,000	41,850	-------	-------	-------	-------
MEDFORD							
DETACHED AND SEMIDETACHED	22,550	27,000	33,250	40,000	45,400	53,400	55,750
ROW DWELLINGS	21,800	26,300	32,600	38,600	46,650	51,900	54,050
WALKUP	20,500	25,000	32,400	37,950	44,250	48,800	51,650
ELEVATOR-STRUCTURE	28,750	33,250	42,200	-------	-------	-------	-------
WEST SALEM							
DETACHED AND SEMIDETACHED	22,700	27,550	33,750	40,650	48,800	54,150	56,700
ROW DWELLINGS	21,300	25,950	32,100	37,850	45,400	50,950	53,200
WALKUP	20,050	24,850	31,450	37,150	43,300	47,500	50,050
ELEVATOR-STRUCTURE	29,200	34,100	42,900	-------	-------	-------	-------
WASHINGTON							
SEATTLE							
DETACHED AND SEMIDETACHED	22,450	27,150	33,350	39,850	47,800	53,100	55,750
ROW DWELLINGS	22,050	26,800	32,900	39,250	47,150	52,300	54,900
WALKUP	20,550	24,950	30,700	36,600	44,000	48,800	51,250
ELEVATOR-STRUCTURE	28,900	33,450	42,150	-------	-------	-------	-------
PORT ANGELES							
DETACHED AND SEMIDETACHED	22,450	27,150	33,350	39,850	47,800	53,100	55,750
ROW DWELLINGS	22,050	26,800	32,900	39,250	47,150	52,300	54,900
WALKUP	20,550	24,950	30,700	36,600	44,000	48,800	51,250
ELEVATOR-STRUCTURE	29,450	34,300	43,000	-------	-------	-------	-------
* TACOMA							
DETACHED AND SEMIDETACHED	23,500	28,450	34,800	41,750	50,150	55,800	58,600
ROW DWELLINGS	23,150	27,950	34,400	41,150	49,350	54,950	57,700
WALKUP	21,600	26,150	31,500	38,400	46,100	51,300	53,800
ELEVATOR-STRUCTURE	30,800	35,100	39,300	-------	-------	-------	-------
LONGVIEW							
DETACHED AND SEMIDETACHED	22,250	26,950	33,100	39,600	47,500	52,750	55,350
ROW DWELLINGS	21,850	26,500	32,650	39,000	46,850	51,950	54,550
WALKUP	20,450	24,250	30,450	36,300	43,700	48,500	50,900
ELEVATOR-STRUCTURE	29,650	34,650	43,700	-------	-------	-------	-------
ABERDEEN							
DETACHED AND SEMIDETACHED	22,200	26,950	33,100	39,600	47,500	52,750	55,350
ROW DWELLINGS	21,850	26,500	32,650	39,000	46,850	51,950	54,550
WALKUP	20,450	24,250	30,450	36,300	43,700	48,500	50,900
ELEVATOR-STRUCTURE	29,000	33,000	42,050	-------	-------	-------	-------
BELLINGHAM							
DETACHED AND SEMIDETACHED	22,450	27,150	33,350	39,850	47,800	53,100	55,750
ROW DWELLINGS	22,050	26,800	32,900	39,250	47,150	52,300	54,900
WALKUP	20,550	24,950	30,700	36,600	44,000	48,800	51,250
ELEVATOR-STRUCTURE	29,000	33,000	42,050	-------	-------	-------	-------

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PROTOTYPE PER UNIT COST SCHEDULE

REGION X--CONTINUED

	NUMBER OF BEDROOMS					
	0	1	2	3	4	5	6
WASHINGTON --CONTINUED							
OLYMPIA							
DETACHED AND SEMIDETACHED	22,450	27,150	33,300	39,850	47,800	53,100	59,750
ROW DWELLING	22,050	26,800	32,900	39,250	47,150	52,300	58,900
WALKUP	20,350	24,050	30,700	36,000	44,000	48,800	55,000
ELEVATOR-STRUCTURE	24,000	33,600	42,600	49,600	58,600	64,800	71,250
YAKIMA							
DETACHED AND SEMIDETACHED	21,250	26,200	30,650	41,000	49,750	55,250	58,050
ROW DWELLING	22,950	27,750	34,100	40,750	48,950	54,350	57,200
WALKUP	21,400	25,900	31,850	38,000	45,750	50,850	53,600
ELEVATOR-STRUCTURE	30,200	35,150	40,550	[illegible]	[illegible]	[illegible]	[illegible]
* NESPELLEM							
DETACHED AND SEMIDETACHED	24,350	28,450	36,200	43,250	51,050	57,450	60,300
ROW DWELLING	23,350	26,250	34,700	41,400	49,750	55,200	58,050
WALKUP	22,450	27,150	33,300	39,800	47,750	53,050	55,850
ELEVATOR-STRUCTURE	25,650	26,800	37,850	[illegible]	[illegible]	[illegible]	[illegible]
*POMONE							
DETACHED AND SEMIDETACHED	21,450	26,000	31,900	38,150	45,800	51,400	54,150
ROW DWELLING	20,050	24,350	29,850	35,650	42,800	47,950	50,500
WALKUP	18,650	22,650	27,750	33,200	39,800	44,600	47,000
ELEVATOR-STRUCTURE	27,500	31,950	40,500	[illegible]	[illegible]	[illegible]	[illegible]
CHENEY							
DETACHED AND SEMIDETACHED	21,800	26,000	32,500	38,800	46,350	51,700	54,450
ROW DWELLING	20,350	24,350	30,400	36,250	43,300	48,350	50,950
WALKUP	18,950	22,650	28,250	33,700	40,450	44,900	47,300
ELEVATOR-STRUCTURE	27,400	31,700	41,050	[illegible]	[illegible]	[illegible]	[illegible]
KENNEWICK							
DETACHED AND SEMIDETACHED	24,100	26,400	32,600	42,750	51,400	58,950	59,800
ROW DWELLING	22,900	24,700	33,500	39,050	47,950	55,250	55,800
WALKUP	20,900	23,000	31,150	37,150	44,600	49,500	52,000
ELEVATOR-STRUCTURE	28,800	31,700	40,250	[illegible]	[illegible]	[illegible]	[illegible]
PULLMAN							
DETACHED AND SEMIDETACHED	22,400	27,100	33,250	39,750	47,700	53,000	59,650
ROW DWELLING	20,950	25,350	31,100	37,150	44,650	49,500	52,000
WALKUP	19,450	23,550	28,900	34,600	41,500	46,100	48,450
ELEVATOR-STRUCTURE	30,250	35,350	44,650	[illegible]	[illegible]	[illegible]	[illegible]

[FR Doc. 80-37078 Filed 12-1-80; 8:45 am]

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federal register

Tuesday
December 2, 1980

Part III

Department of Labor

Occupational Safety and Health Administration

Occupational Exposure to Pesticides During Manufacture and Formulation; Request for Comments and Information and Notice of Public Meetings

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V 45 / 233 DEC 80 UMI

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

[Docket No. H-115]

Occupational Exposure to Pesticides During Manufacture and Formulation

AGENCY: Occupational Safety and Health Administration (OSHA), Department of Labor.

ACTION: Request for comments and information and notice of informal public meetings.

SUMMARY: This notice requests comments and information regarding the possible regulation of occupational exposure to pesticides during the manufacturing and formulating processes. In addition, this notice announces that OSHA will hold informal public meetings, as set forth below, to permit oral presentations of additional data and information concerning the risks of pesticide exposure in these facilities, as well as the costs of and need for the regulation.

DATES: Comments and notices of intention to appear at the public meetings must be received on or before January 31, 1981.

The meetings are scheduled as follows:

1. February 24–25, 1981; Fresno, California.
2. March 10–11, 1981; Beaumont, Texas.
3. March 24–25, 1981; Charleston, South Carolina.

ADDRESSES: Written comments should be submitted, in quadruplicate, to the Docket Officer, Docket No. H–115, Room S–6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Washington, D.C. 20210, (202) 523–7894.

Send all notices of intention to appear to Mr. Tom Hall, Division of Consumer Affairs, Room N–3635, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW, Washington, D.C. 20210, (202) 523–8024.

Written comments received and notices of intention to appear will be available for inspection and copying in Room S–6212 at the above address.

The informal public meetings are scheduled as follows:

1. February 24–25, 1981; Fresno Convention Center, Wine Room, 700 M Street, Fresno, California, 93721.
2. March 10–11, 1981; Holiday Inn Beaumont, Naches-Sabine Rooms, 2095 N. 11th Street, Beaumont, Texas, 77703.
3. March 24–25, 1981, Francis Marion Hotel, Gold Room, 387 King Street, Charleston, South Carolina, 29402.

FOR FURTHER INFORMATION CONTACT:

Request for Comments and Information

Dr. Bailus Walker, Jr., Director, Directorate of Health Standards Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Room N–3718, Washington, D.C. 20210, (202) 523–7075.

Public Meetings

Mr. Tom Hall, or Mr. Rich Terry, Division of Consumer Affairs, Room N–3635, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Washington, D.C. 20210, (202) 523–8024.

SUPPLEMENTARY INFORMATION:

"Pesticide" is a generic term used to identify a group of substances which are added to the environment to kill or injure some form of life. Pesticides are further subdivided into groups by their specific intended use, for example, substances used to kill insects are called insecticides. The manufacture and formulation of *all* pesticides (including, for example, molluscicides, avaricides, and germicides) would be covered by the regulation being considered.

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136 *et seq.*) is the primary Federal regulation related to pesticides. The Environmental Protection Agency (EPA) is responsible for administering FIFRA, which requires registration of all pesticides distributed and used in the United States. The registration process includes approval of labels for containers of pesticides and determination of allowable uses for each substance. EPA is also responsible for ensuring that these pesticides are safely applied. Nearly 1,500 pesticide active ingredients have been registered—these are formulated into over 30,000 products.

OSHA has the responsibility to ensure the health and safety of workers exposed to pesticides during their manufacture and formulation. OSHA currently regulates occupational exposure to airborne concentrations of approximately 160 substances which may be used as pesticides (29 CFR 1910.1000). Employers are required to reduce employee exposure to these regulated substances to the specified permissible exposure limits by instituting engineering or work practice controls. Where such controls are not sufficient to reduce exposures, they must be supplemented by use of respirators.

Review of the literature indicates that pesticide exposure is hazardous, and that current OSHA regulations are not sufficient to ensure a safe and healthful workplace for employees in the pesticide manufacturing and formulating industries. OSHA only regulates 160 substances which are used as pesticides. There are no substance specific regulations for the over 1,300 additional registered pesticide active ingredients and the products they're used to make. For those 160 substances which are currently regulated (29 CFR 1910.1000), specific provisions are only made for controlling airborne concentrations of these substances. There are no specific requirements for other measures that are appropriate for the protection of employees exposed to pesticides, such as medical surveillance, training or hygienic practices. However, there are some general provisions in 29 CFR Part 1910 that would apply to pesticide manufacturing and formulating facilities, such as the respiratory protection requirements in 29 CFR 1910.134.

Due to the large number and broad spectrum of chemicals produced as pesticides, and the diversity of toxic effects they may cause, OSHA decided to develop a "generic" standard for the pesticide manufacturing and formulating industries. Such a standard would apply to any workplace involved in the process of manufacturing or formulating any substance intended for use as a pesticide. This would allow the Agency to establish minimum requirements for the protection of all employees in these industries. Substance-specific standards for the most hazardous pesticides might then be developed once these general requirements are promulgated.

On July 17, 1978, OSHA received a criteria document from the National Institute for Occupational Safety and Health (NIOSH), entitled "Criteria for a Recommended Standard * * * Occupational Exposure During the Manufacture and Formulation of Pesticides". This document indicated that regulation might be necessary.

On November 24, 1978, OSHA published a notice requesting comments and information on issues related to the development of a generic pesticides standard (43 FR 54955). The notice included specific questions regarding the generic approach to regulation, as well as the various NIOSH recommendations. Sixty responses were received by OSHA. These responses have been carefully reviewed and analyzed, and the information obtained

was used to develop alternatives for a generic pesticides standard. As a result of the comments received, and further inquiry by the Agency into safe production and formulation procedures, a number of new questions have been raised OSHA is inviting comments and information on the questions listed below. In addition, OSHA will hold informal public meetings at the times and places listed below to permit interested people to present their views in person.

Comments and Information Requested

OSHA will decide how to proceed after considering all of the comments and information received, written as well as oral presentations. The comments received in response to the first **Federal Register** notice should not be resubmitted; they are already part of the record, and will be considered by the Agency in making any decisions on a pesticides standard.

Written Comments

OSHA requests written comments and information on the following:

1. *Scope and application.* OSHA's regulatory alternatives apply to the manufacture and formulation of any pesticide. The following EPA definition of a peticide under FIFRA has been used by OSHA in these draft regulations: "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or dessicant.

A number of interested persons have indicated that this definition is too broad to be included in an OSHA pesticide regulation. Many substances which meet this definition are only used incidentally as pesticides. Others are relatively innocuous to exposed humans. Some of these substances may be produced in the same facility for use as a pesticide as well as for non-pesticidal uses. OSHA requests comments and information on the following:

(a) Are there specific substances which meet the EPA definition of "pesticide" that should be exempted from an OSHA generic standard? Please clearly specify which substances should be exempted and give your reasons for any suggested exemptions. In addition to specific substances, are there any specific criteria that could be used to determine that a particular substance or operation does not pose a significant risk to employees, even if they may be exposed over a working lifetime?

(b) Is there any way to limit the definition of "pesticide" for purposes of an OSHA regulation or to limit the coverage of a pesticide standard other than by exempting specific compounds, and till provide comprehensive protection for exposed employees?

(c) Are the so-called "double use" (i.e. produced for pesticidal and non-pesticidal use) substances ever produced in pesticide manufacturing and formulating facilities? If yes, give the name of the plant and substances involved, as well as any other specific information that would be useful such as plant size, number of employees involved, etc. If the standard is written to apply only when the employer is selling the product for use as a pesticide (i.e. puts an EPA approved label on it at the end of the process or exports it for use as a pesticide), will this solve the double use classification problem?

2. *Definitions.* Since the use of a generic approach precludes a specific permissible exposure limit in the pesticides standard, defining "exposure" or "exposed employee" for purpose of this standard is a concern of many interested parties. These terms are often used in standards as "triggers" for required actions; i.e. the employer must take certain actions based on some determination of exposure or potential exposure.

Many pesticides that are currently being manufactured or formulated do not have established permissible exposure limits. OSHA realizes that many employers are making evaluations of employee exposure and resulting risk and are determining the types of protective measures which are necessary.

OSHA requests comments and information on the following:

(a) How do employers determine how to protect their employees? Do small businesses use different methods of determining protective measures than large businesses? Do employers set their own employee exposure limits? What criteria are used to establish such limits? Do the adopted criteria vary by establishment size?

(b) How should "exposure" or "exposed employee" be defined in a generic standard?

3. *Hazard evaluation.* In the NIOSH recommended standard, a toxicity classification scheme was used to delineate between various regulatory provisions for pesticides. For example, the regulatory requirements for housekeeping would be more stringent for those substances classified as Group I, highly toxic, than for those in Groups II and III, of moderate or low toxicity.

In response to questions in our first notice related to the use of this scheme in the standard, OSHA received many comments indicating that the classification scheme was not appropriate for regulating occupational exposure.

A number of responses suggested that a work practices standard, or "Good Manufacturing Practices" approach should be developed. OSHA has pursued development of these ideas and has prepared a regulatory alternative utilizing what we have termed a "hazard evaluation."

This alternative is a work practices, performance-oriented approach, and is quite different from other OSHA health standards. To comply with this type of regulation, each employer with a pesticide manufacturing or formulating operation would be required to assess the hazard of the pesticides present in each workplace. This assessment would include consideration of a number of specified factors, such as the toxicity of the pesticides, route(s) of entry, and physical and chemical properties, as well as any other information available to the employer.

When all of the appropriate information has been assembled, it would be evaluated by the employer, and the pesticide would be categorized as being either a minor, moderate, or severe hazard for each route of entry (inhalation, dermal absorption and ingestion). Then the employer would prepare a written plan for compliance indicating the protective measures to be taken to safeguard employees from the identified hazards.

OSHA requests comments and information on the following:

(a) As a minimum, what factors should be considered in assessing the hazards of pesticides in the workplace? What weights should be given to the various factors being considered in determining possible employee risk? Will the weights given to the various factors differ for small establishments relative to large establishments?

(b) What methods or protocols are employers currently using to assess workplace hazards? How are the factors weighted in making a final determination? What type of professional help is necessary for an adequate evaluation? What are the costs of developing and implementing these assessment methods? Do these costs vary by establishment size?

(c) What type of documentation should be used to ensure the hazard evaluation has been adequately completed?

4. *Control measures.* The control measures required in one of OSHA's regulatory alternatives are related to the hazard evaluation described above. The control measures would be based on the

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severity of the hazard as determined by the employer. For example, if the employer determined and documented that a pesticide poses a severe inhalation hazard, the operations involving that pesticide would have to be enclosed and isolated, or appropriate respiratory protection provided to employees.

OSHA requests comments and information on the following:

(a) What types of control measures should be required for each route of entry? Should different control measures be required for small businesses? How should the control measures proposed be adjusted to account for the level of severity of the hazard? What control measures are employers currently using to protect their employees? How do they determine what measures are necessary? What are the costs of developing and implementing these control measures? Do these costs vary by establishment size?

(b) Should recirculation of exhaust air be permitted where pesticides pose moderate or minor inhalation hazards? What limitations should be placed on the use of recirculated exhaust air (i.e. filters, alarms, etc.)?

(c) Should containers of pesticides posing an inhalation hazard be equipped with closed-topped lids or sealed or equipped with one-way flow devices to prevent spillage or evaporation of pesticides into the workplace?

(d) Should containment features, such as baffles and dikes, be required to prevent the dispersion of pesticide spills?

(e) What other types of work practices would be effective in limiting the severity of the hazards? Should these work practices vary by establishment size? To which route(s) of entry would these work practices be directed? What are the costs of developing and implementing these work practices?

(f) Should mechanical ventilation systems be checked on a regular basis? What frequency of testing would be appropriate?

(g) Do employers currently have written plans indicating the protective measures to be used in the workplace? How are such plans devised? Who is involved in developing the plans? What factors must be considered in developing such a plan? Should the factors to be considered differ for small businesses? Are the plans updated on a regular basis? Are employees made aware of these plans? Are these plans implemented? How much does it cost to develop and implement such plans?

5. *Medical surveillance.* Development of a medical surveillance protocol which would apply to all pesticides in all work situations is a difficult task. OSHA has considered a number of alternatives, which basically require a preplacement examination and annual re-examination for all employees. The extent of the examination and the specific tests to be administered would be determined by the examining physician based on the substances to which the employee is exposed, and the nature and extent of the employee's exposure.

OSHA requests comments and information on the following:

(a) What medical surveillance protocols are currently being used in the pesticides manufacturing and formulating industries? Please include indications of the type and extent of the examinations (including medical tests or procedures) and their frequency. If medical exams are currently being given to employees exposed to certain pesticides, please specify which pesticides merit an employee medical exam and why. If medical exams are believed to be unnecessary for some pesticides, please specify for which pesticides and provide your reasons for their exclusion from medical surveillance requirements.

(b) As a minimum, what types of medical examinations—including medical tests, procedures, etc.—should be required? How often? Are different medical examinations provided for employees exposed to different pesticides? How do the examinations differ? How is it determined which procedures should be included in the medical examination? Are follow-up examinations performed? Under what circumstances? Are employees ever given specific treatments to prevent them from experiencing the effects of their exposures?

(c) What information should be provided to the examining physician regarding the employee's exposure and the work operations?

(d) On the average, how many times per year do employees require medical observation or treatment due to exposure to pesticides? How much do these procedures cost? Please be specific as to the costs involved in full-scale examinations, including medical tests and procedures, as well as routine visits to a nurse or doctor for treatment of specific symptoms.

(e) Are employees apprised of the signs and symptoms which may result from exposure to the pesticides in their workplace? Do employers provide medical examinations for employees experiencing these signs and symptoms? Is a determination made as to whether the signs and symptoms are due to pesticide exposure? How is the determination made? Is any action taken as a result?

(f) Are employees ever removed from exposure to pesticides on the basis of medical examination findings? What are the criteria for such removal? What are the criteria for returning an employee to the exposure situation?

6. *Guidelines.* Since a performance-oriented standard such as the one described here is very general, some employers might like to have additional information to assist them in complying with the regulation. The preparation of a series of non-mandatory guidelines to accompany the standard is being considered.

OSHA requests comments and information on the following:

(a) If a general work practices standard were proposed, which sections would need to be accompanied by guidelines? What types of information should be included in such guidelines? For example, if the extent of the medical examination is left to the physician, would guidelines concerning cholinesterase monitoring methods be helpful? Should the guidelines differ for small establishments relative to large establishments?

(b) What information sources do employers presently use when determining how to protect employees from pesticide exposure? Do the information sources utilized differ for small establishments versus large establishments? What are the costs of assessing information sources?

(c) What methods other than the preparation of guidelines could OSHA use to help employers comply with a generic, work practices type standard?

7. *Assessment of risks and benefits.* Several well-publicized incidents of adverse health effects resulting from employee exposure to pesticides in the manufacturing and formulating industry have occurred in recent years. In addition, there are a number of other cases in the scientific literature documenting the adverse effects of human exposure to pesticides. OSHA believes that a significant risk to employees exists in pesticide manufacturing and formulating facilities because substances selected for pesticidal use are biologically active, and thus capable of producing toxic effects. Furthermore, although the acute effects of pesticide exposure are often well-documented, this is not the case with chronic effects. Since employees in the manufacturing and formulating industry may be exposed for many years to substances with unknown chronic effects, the institution of safe work practices and procedures now should prevent the occurrence of such effects in the future.

OSHA requests comments and information on the following:

(a) In addition to the available scientific literature, are there other sources of information documenting incidents of adverse health effects in employees exposed to pesticides? Please submit whatever information is available or cite sources for obtaining such data. Case reports or scientific incidents based on personal knowledge should be included.

(b) California is the only state that requires incidents of pesticide exposure to be reported. Are there cases of adverse health effects occurring in the pesticides industry in other states which are thus not reflected in available statistics? Please submit any information you have concerning such cases.

(c) Are employees routinely exposed to pesticides in such a manner as to result in a risk of health impairment? What is the specific nature of the health impairment? How can the pesticides contributing to such health impairments be identified?

(d) Do employers consider the protection of employees from the unknown risks of chronic health effects when designing and implementing protective measures? How is this done? Is this protection associated with a particular pesticide? What are the specific pesticides for which the protective measures are used? How does the employer determine the appropriate protective measures to be utilized? Do the protective measures utilized differ for small establishments relative to large? What are the costs of developing and implementing such protective measures?

(e) When exposed employees develop illnesses, is any attempt made to determine if they are pesticide-related? Do you think there are cases of health problems occurring which may be attributable to pesticide exposure, but are not so designated because the symptoms are similar to those of other diseases? Please submit any information you have concerning such cases.

(f) Are the risks to employees specific to certain work operations or processes within the pesticides manufacturing and formulating industry, or are they present throughout the industry? Are the risks to employees different in the manufacturing versus the formulating process? If they are different, which process, or operations within the process, present the greatest risks?

(g) Will a generic work practices standard decrease employee exposure to pesticides? Will implementation of such a standard reduce employee risk of health impairment from pesticide exposure?

8. *Additional issues.* In addition to these major areas of concern, there are a number of other areas for which OSHA would like to have more information. Whenever the information provided is specific to a pesticide or group of pesticides, please indicate the substances to which it applies. The areas of concern are:

(a) *Material safety data sheets.* Are they currently available for most pesticides? As a minimum, what information should be included on a material safety data sheet?

(b) *Emergency situations.* Do employers currently have plans for emergency situations? What types of contingency plans are currently being prepared by employers? As a minimum, what information should be included in a comprehensive emergency plan?

(c) *Personal protective clothing and equipment.* How do employers currently select appropriate protection for employees exposed to pesticides? What factors are considered when determining appropriateness? Do employers provide clean work clothing and equipment, and cleaning or disposal of such clothing or equipment?

(d) *Respiratory protection.* How do employers select the appropriate respirators to be used in their workplaces? What factors are considered? Is fit testing performed? What criteria are used to ensure proper fit? Are there specific operations (such as packaging) where employers require the use of a respirator? How much do employers spend on respirators?

(e) *Housekeeping.* How do employers currently determine the extent and frequency of housekeeping activities? As a minimum, what housekeeping activities should be performed and what frequency is appropriate?

(f) *Training and information.* Are training and information programs currently being provided by employers? What information is included in these programs? How do employers determine what should be presented to employees? How frequently is training conducted? How long does such training take?

(g) *Hygienic practices.* Do employees eat in clean facilities, separate from the work area? Are employees required to shower daily at the worksite? How do employers determine that exposure to a certain pesticide warrants requiring employes to shower? Are employees allowed to wear street clothing on the job? Are employees allowed to leave the workplace in pesticide-contaminated clothing?

(h) *Environmental effects.* Will promulgation of a generic pesticides standard directly or indirectly result in environmental impacts, or the potential for such impacts? Specifically, is there any evidence to indicate that such a standard would significantly impact the environment outside the workplace by altering pesticide use, or by increasing or decreasing (1) ambient air emissions, (2) wastewater effluents, (3) solid waste disposal, (4) land use or (5) energy use?

9. *Other issues.* In addition to the issues discussed above, OSHA requests comments and information on any topics interested parties think are related to the development of a generic occupational exposure standard for pesticides manufacture and formulation, including recommendations for regulatory approaches other than those described herein. In addition, any information available on these issues which is specific to small businesses would be helpful to OSHA in the development of a generic standard.

Public Meetings

In order to provide an informal forum in which interested persons can orally present comments and information on the regulation of pesticide manufacture and formulation, OSHA has scheduled three public meetings as follows:

1. February 24–25, 1981; Fresno Convention Center, Wine Room, 700 M Street, Fresno, California, 93721.

2. March 10–11, 1981; Holiday Inn Beaumont Naches—Sabine Rooms, 2095 N. 11th Street, Beaumont, Texas, 77703.

3. March 24–25, 1981; Francis Marion Hotel, Gold Room, 387 King Street, Charleston, South Carolina, 29402

Each meeting will begin promptly at 9:00 a.m. and continue until 5:00 p.m. In view of the fact that these hours may conflict with the work schedules of employees who wish to appear, OSHA will consider having an evening session if requested by interested parties in their notices of intent to appear. The chairperson of each meeting will be a representative of the U.S. Department of Labor designated by the Assistant Secretary, and will have the necessary authority to regulate the conduct of the meetings.

Any person wishing to make oral presentations should notify OSHA in advance. The notice should identify the person and/or organization intending to testify, the amount of time requested for oral presentation, the subject matter, and a brief summary of the intended oral presentation.

Persons who do not submit advance notice, but still wish to testify, are requested to register at the time of the meeting. All persons who wish to be heard will be allowed to make oral presentations as long as time permits. However, priority will be given to those who submit advance written notice.

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heard will be allowed to make oral presentations as long as time permits. However, priority will be given to those who submit advance written notice. OSHA encourages all interested parties to submit advance notice, since meetings may be cancelled or the time for them reduced if it appears that there is not sufficient public interest in participating.

All persons desiring to participate in the public meetings must file a notice of intention to appear, on or before January 31, 1981, addressed to Mr. Tom Hall, Division of Consumer Affairs, Room N3635, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Washington, D.C. 20210, (202) 523-8024.

All written comments requested in this notice must be received on or before January 31, 1981, in quadruplicate, addressed to the Docket Officer, Docket No. H-115, Room S6212, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Washington, D.C. 20210. All written and oral submissions, as well as other information gathered by the agency, will be considered in any action taken. Transcripts of the meetings, notices of intention to appear, and written comments and materials submitted in response to this notice will be available for inspection and copying in the Docket Officer, Room S-6212, at the above address, between the hours of 8:15 a.m. and 4:45 p.m.

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210.

(Sec. 6, Pub. L. 91-596, 84 Stat. 1593 (29 U.S.C. 655), 29 CFR Part 1911; Secretary of Labor's Order No. 8-76 (41 FR 25059))

Signed at Washington, D.C., this 20th day of November, 1980.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 80-37285 Filed 12-1-80 8:45 am]

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federal register

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December 2, 1980

Part IV

Environmental Protection Agency

Visibility Protection for Federal Class I Areas

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

15). Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Telephone: (919) 541-5497.

I. Background

preconstruction review for prevention of significant deterioration (PSD) [Section 165] by:

• Giving Federal Land Managers "an

Statement of Basis and Purpose" which follows the regulatory language. Additionally, EPA has prepared a document, "Summary of Comments and

serving to introduce the specific regulatory language. Following the regulatory language is a "Supplemental Statement of Basis and Purpose" which

The Program

A Phased Approach to the Problem

Congress, in recognition of the need to

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[AD FRL-1671-8, Docket No. A-79-40]

Visibility Protection for Federal Class I Areas

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: Today's action promulgates regulations to assure reasonable progress toward "the prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I Federal areas which impairment results from manmade air pollution." The responsibility for developing the program and making any substantive decisions will lie with the thirty-six States which contain mandatory Class I Federal areas.

The principal effect of these regulations will be to establish long-range goals, a planning process, and implementation procedures. Preliminary analyses have identified no existing sources which will need to install additional controls under these regulations. Some large new sources will be required to analyze their potential impact on visibility in mandatory Class I Federal areas; the State will retain final authority over construction permits for those sources.

Several changes have been made to the regulations as proposed on May 22, 1980. Included among the more significant changes are requirements giving States more authority over substantive decisions and provisions that the State may consider energy and economic impacts when evaluating sources which have visibility impacts on integral vistas of mandatory Class I Federal areas.

DATE: These rules are effective January 2, 1981. Petitions for review of these regulations must be filed in the United States Court of Appeals for the District of Columbia by February 2, 1981.

ADDRESS: Docket No. A-79-40, containing material relevant to this action, is located in West Tower Lobby, Gallery 1, U.S. Environmental Protection Agency, Central Docket Section, 401 M Street, S.W., Washington, D.C. 20460. The docket may be inspected between 8:00 a.m. and 4:00 p.m. on weekdays and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Johnnie L. Pearson, Office of Air Quality Planning and Standards (MD-15), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Telephone: (919) 541-5497.

I. Background

A. The Statute

Section 169A of the Clean Air Act requires visibility protection for mandatory Class I Federal areas where it has been determined that visibility is an important value. "Mandatory Class I Federal areas" are all international parks and certain national parks and wilderness areas as described in Section 162(a) of the Clean Air Act (Act). To work toward meeting the national visibility goal set out in Section 169A(a)(1) of the prevention of any future and remedying of any existing man-made visibility impairment in such areas, Section 169A requires that the:

- Department of Interior review all mandatory Class I Federal areas and identify those where visibility is an important value [Section 169A(a)(2)].
- EPA, after consulting with the Department of Interior, promulgate a list of the mandatory Class I Federal areas in which visibility is an important value [Section 169A(a)(2)].
- EPA prepare a report to Congress on methods for achieving progress toward the visibility goal. The report must include methods to determine visibility impairment, modeling techniques, methods for preventing and remedying man-made air pollution and resulting visibility impairment, and a discussion of visibility related pollutants and sources [Section 169A(a)(3)].
- EPA promulgate regulations to assure reasonable progress toward the national visibility goal which will, among other things, (1) provide guidelines to States for including visibility protection in State Implementation Plans (SIPs); (2) require SIPs to include emission limits, schedules for compliance, and other measures as may be necessary to make reasonable progress toward meeting the national visibility goal; and (3) provide guidelines for determining emission limitations representing best available retrofit technology for fossil-fuel fired power plants in excess of 750 megawatts generating capacity [Section 169A(a)(4) and Section 169A(b)].
- EPA approve or disapprove SIP revisions submitted in response to the promulgated requirements [Section 110(a)(2)] and promulgate regulations for those States which submit inadequate regulations or fail to submit regulations in response to EPA's requirements [Section 110(c)].

In addition, Congress also included visibility protection requirements in the preconstruction review for prevention of significant deterioration (PSD) [Section 165] by:

- Giving Federal Land Managers "an affirmative responsibility" to protect the visibility values of a Federal Class I area and the right to recommend the denial of a PSD permit if an adverse impact on visibility would result, even if the Class I PSD increments would be met [Section 165(d)].

Requiring PSD permit applicants to analyze the visibility at the site of the proposed construction and any area potentially affected by the proposed construction [Section 165(e)].

B. Rulemaking

On November 30, 1979, the Agency published an Advance Notice of Proposed Rulemaking (ANPRM) (44 FR 69116), and also published its final determination under Section 169A(a)(2) of mandatory Class I Federal areas where visibility is an important value (44 FR 69122). The purpose of that ANPRM was to inform the public of the impending regulatory development effort and to solicit comment on various major issues needing resolution during regulatory development. EPA, on May 22, 1980 (45 FR 34762), published a Notice of Proposed Rulemaking (NPRM) and solicited comments on the regulatory approach presented. The Agency also announced two public hearings which were held in Washington, D.C., (June 30, 1980) and Salt Lake City, Utah, (July 2, 1980) for the purpose of receiving oral public comment on the proposed rules. The Agency subsequently announced (45 FR 49110, July 23, 1980) the availability of certain draft guideline documents, solicited comments on those guidelines, and established a public hearing for the purpose of obtaining oral public comment on these guidelines. This hearing was held on August 25, 1980 in Washington, D.C. On July 31, 1980 (45 FR 50825), EPA extended the public comment period on the regulations to August 22, 1980 in order to provide sufficient time for commenters to consider the guidelines and their effect on the proposed regulatory program. Transcripts of all public hearings and copies of the public comments received have been placed in Docket A-79-40. The Agency received a total of 383 comments from the public relating to the various aspects of the proposed programs. This promulgation is based upon the material in the docket including EPA's review and consideration of all comments received during the public comment period. Notice of the changes made from the proposal is in the "Supplemental Statement of Basis and Purpose" which follows the regulatory language. Additionally, EPA has prepared a document, "Summary of Comments and Responses on the May 22, 1980 Proposed Regulations for Visibility Protection for Federal Class I Areas," which specifically responds to the comments received. This document has been placed in Docket A-79-40 and, depending upon available supplies, a copy may be obtained from: EPA Library (MD-35), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711.

A copy of this document will be sent to all commenters on the ANPRM, NPRM, and guidelines.

C. Document Availability

The following documents were developed by EPA and should be of use to persons affected by today's promulgation. These documents are in Docket No. A-79-40 and are also available from the sources indicated below.

(1) "Protecting Visibility: An EPA Report to Congress" (EPA-450/5-79-008), National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161.

(2) "The Development of Mathematical Models for the Prediction of Anthropogenic Visibility Impairment" (EPA-450/3-78-110 a, b, c), National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161 (PB 293119, PB 293120, PB 293121).

(3) "Guidelines for Determining Best Available Retrofit Technology for Coal-Fired Power Plants and Other Existing Stationary Facilities," (EPA-450/3-80-009b), National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161.

(4) "Assessment of Economic Impacts of Visibility Regulations," National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161.

(5) "User's Manual for the Plume Visibility Model (PLUVUE)," (EPA 450/5-80-032) National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161.

(6) "Workbook for Estimating Visibility Impairment," (EPA 450/4-80-031) National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161.

(7) "Interim Guidance for Visibility Monitoring," (EPA 450/2-80-082) National Technical Information Service, 5285 Port Royal Rd., Springfield, Virginia 22161.

II. Program Overview

This preamble provides a brief description of the regulatory program,

serving to introduce the specific regulatory language. Following the regulatory language is a "Supplemental Statement of Basis and Purpose" which discusses the major changes between the final and proposed rules. In addition, we have placed in Docket No. A-79-40 a document containing EPA's response to comments.

The Problem

Congress has set aside certain international parks and national wilderness areas, national memorial parks, and national parks (mandatory Class I Federal areas) to preserve and enhance their beauty for present and future generations to enjoy. The intrinsic beauty of these areas, however, has been threatened by visibility-degrading air pollution.[1] Visibility is commonly referred to as the relative ease with which objects can be seen through the atmosphere under various conditions. Congress became aware of the need to protect visibility in these areas and directed EPA through the Clean Air Act to explore the relationship between man-caused pollution and visibility impairment.

From this research we can say there are generally two types of air pollution which reduce or impair visibility:

(1) Smoke, dust, colored gas plumes, or layered haze emitted from stacks which obscure the sky or horizon and are relatable to a single source or a small group of sources, and (2) widespread, regionally homogeneous haze from a multitude of sources which impairs visibility in every direction over a large area.

These types of pollution are caused by factories, plants, and other sources that emit particles and gases into the air. These substances either absorb or scatter the light, thus reducing the amount of light a person can receive from a viewed object. The practical effect is that impaired visibility degrades the aesthetic value of surrounding landscape by (1) discoloring the atmosphere to produce a visible plume, (2) whitening the horizon and causing objects to appear flattened so that landscape colors and textures become less discernible, or (3) in the case of a discernible plume, obscuring some portion of the landscape.

[1] The National Parks and Conservation Association, in addition to many individual commenters, stated in comments on the proposed regulations for the protection of visibility that air pollution may well be the major threat to the national parks in the 1980's.

The Program

A Phased Approach to the Problem

Congress, in recognition of the need to protect the aesthetic value of visibility in national parks and wilderness areas, established a national visibility goal. The goal specifies that existing pollution be remedied and future pollution that would interfere with visibility in mandatory Class I Federal areas be prevented. We reviewed the techniques for identifying, measuring, predicting, and controlling visibility impairment, and in November 1979, published "Protecting Visibility: An EPA Report to Congress" which discusses in detail the present scientific knowledge of visibility, including monitoring, modeling, and control of visibility impairment.

As described in that report, we determined that the present mathematical models and monitoring techniques show promise for being used in a regulatory manner. However, these techniques must be further evaluated according to standard Agency procedures before we can routinely require their use in a regulatory program for sources, either new or existing, that may impair visibility. In some instances we can identify the origin of visibility impairment caused by a single source or small group of sources without the use of sophisticated analytical techniques. Simple monitoring techniques such as visual observation (either ground based or with aircraft) can often identify sources which contribute to the impairment.

Recognizing the need to initiate protection as soon as possible, while also realizing that certain scientific and technical limitations do exist, we are today promulgating, essentially as proposed, a phased approach to visibility protection. Representatives of industry, environmental groups, States, Federal Land Managers, and the public generally supported this phased approach to regulatory development.

Phase I of this program will:

1. Require control of impairment that can be traced to a single existing stationary facility or small group of existing stationary facilities,
2. Evaluate and control new sources to prevent future impairment, and
3. Require States to adopt strategies such as review and possible control of other existing sources not meeting the more stringent source-size requirements for existing stationary facilities in order to remedy existing and prevent future visibility impairment.

Information derived from modeling and monitoring can, in some cases, aid the States in development and

implementation of the visibility program. In the first phase, the States are required to consider available modeling and monitoring information. The use of such

primary responsibility for developing an effective visibility program, the Federal Land Manager has the responsibility of characterizing the visibility of the

part of the visibility protection program promulgated today and is not part of the PSD program.

EPA is currently reviewing new

cause or contribute to visibility impairment, the pollutants of primary concern under this Phase I program are particulate matter and NO_x. Emissions of SO_2 primarily contribute to regional

would occur when the Administrator determines new technology is available which would more effectively control a pollutant which interferes with

C. Development of the Long-Term Strategy.

The regulations require each plan to include a long-term (10-15 year) strategy

implementation of the visibility program. In the first phase, the States are required to consider available modeling and monitoring information. The use of such information will be at the discretion of the State, and the States are not required to establish monitoring networks or perform modeling analyses.

Future phases will extend the visibility program by addressing more complex problems such as regional haze and urban plumes. We will propose and promulgate future phases when improvement in monitoring techniques provides more data on source-specific levels of visibility impairment, regional scale models become refined, and our scientific knowledge about the relationships between emitted air pollutants and visibility impairment improves.

The Program—In Detail

We are promulgating regulations that require the 36 States containing mandatory Class I Federal areas to submit revisions to their SIPs within 9 months.[3] These regulations require that these States (1) revise their SIPs to assure reasonable progress toward the national visibility goal of preventing future and remedying existing impairment of visibility in mandatory Class I Federal areas, (2) determine whether certain existing stationary facilities should install the Best Available Retrofit Technology (BART) for controlling those pollutants which impair visibility (3) develop, adopt, implement, and evaluate long-term strategies for making reasonable progress toward remedying existing and preventing future impairment in the mandatory Class I Federal areas, and (4) adopt certain measures regarding visibility impacts that will supplement the State's new source review program.

The assistance of the Federal Land Managers, who are intimately familiar with the mandatory Class I Federal areas because of their responsibility for managing the areas, will be important to the State during development of a program to meet these requirements. Since coordination among the States, the Federal Land Managers, and EPA will be necessary to develop and implement an effective visibility protection program, we expect the State and the Federal Land Manager to work closely during the entire SIP development process. While the State retains the primary responsibility for developing an effective visibility program, the Federal Land Manager has the responsibility of characterizing the visibility of the mandatory Class I Federal areas. Therefore, the State should consider carefully the Federal Land Manager's comments and recommendations. These two must work together to ensure that visibility in these areas is protected. EPA's responsibility is to (1) promulgate visibility regulations which would require States to revise their State Implementation Plans (SIPs), (2) provide guidance to States for implementing the program (3) continue research into visibility for use in future phases, and (4) promulgate regulations for States which submit inadequate regulations or fail to submit regulations in response to these requirements.

Part of the participation process may involve the identification of integral vistas by the Federal Land Manager. An integral vista is an important view from a point in the mandatory Class I Federal area of a scenic landmark outside the boundary of the area. The vista must be important to the visitor's visual experience of the area. This identification must be in accordance with criteria formally adopted by the Federal Land Manager and must occur on or before December 31, 1985. The State is not required to analyze impairment of a vista if it determines that the Federal Land Manager's identification of the vista was not in accordance with these criteria.

Under the authority of § 169A, the regulations require the States to consider the potential of new or existing sources to impair visibility of an integral vista. This consideration may include the costs of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, the remaining useful life of the source, and the degree of improvement in visibility anticipated to result from control. A State, in its initial SIP revision, would have to consider an integral vista only if this vista was identified at least 6 months before plan submission or plan revision. With regard to permitting new sources, integral vistas identified at least 12 months before submission of a complete permit application would have to be protected unless the Federal Land Manager provided notice of and opportunity for public comment on the integral vista in which case the impact of the new source must be reviewed if the integral vista is identified at least 6 months before submission of the complete permit application. This requirement to protect integral vistas is part of the visibility protection program promulgated today and is not part of the PSD program.

EPA is currently reviewing new sources under the PSD provisions (40 CFR Part 52.21) for many States. New sources reviewed by EPA will be required under the authority of § 169A to assess their potential visibility impacts on integral vistas if identification of the integral vista meets the above criteria prior to the submission of a complete PSD permit application to EPA.

A. BART Requirements.

1. *The State or the Federal Land Manager determines whether, in any mandatory Class I Federal area, there exists any impairment of visibility.* This impairment must be identified at least 6 months prior to SIP submission (or submission of any SIP revision) in order to allow the State enough time to develop a plan to remedy the impairment. This provides the necessary "trigger" to inform the State if it needs to be concerned with any existing impairment, or if it needs to focus only on prevention of future impairment. We are defining "impairment" as any "humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions." Impairment which is identified too late to be addressed by the initial plan revision will need to be addressed during the periodic review of the long-term strategy.

2. *The State will identify the existing stationary facilities which cause the visibility impairment.* Existing stationary facilities are certain sources which emit more that 250 tons per year, and (1) were not in operation prior to August 7, 1962, or (2) were reconstructed after that date. During Phase I of the visibility program, the State is required to determine if visibility impairment in any mandatory Class I Federal area "is reasonably attributable" to an existing stationary facility through visual observation or any other technique the State deems appropriate. The Federal Land Manager may provide the State with a list of sources suspected of causing or contributing to visibility impairment in the mandatory Class I Federal area.

3. *The State will perform a BART analysis on existing stationary facilities identified as impairing visibility.* In the BART analysis, the State identifies the pollutant of concern and what additional air pollution control technologies are to be required in order to reduce existing visibility impairment. We believe that while pollutants may cause or contribute to visibility impairment, the pollutants of primary concern under this Phase I program are particulate matter and NO_x. Emissions of SO_2 primarily contribute to regional haze which is beyond the scope of this Phase I program. Therefore, we expect very few, if any, BART analyses for SO_2 in this phase of the program. It should, however, be noted that we expect that the Phase II program will result in control of pollutants associated with regional haze and urban plumes which affect mandatory Class I Federal areas. We therefore expect that sources would be analyzed, at that time, for all pollutants causing or contributing to these types of visibility impairment.

After the State identifies the source of the pollutant causing the visibility impairment, the State then identifies those control techniques that could improve visibility. If a control technique exists that would improve visibility in the mandatory Class I Federal area, then the State proceeds with the BART analysis, but if the most stringent control available would not result in any improvement in visibility, then the State may stop the analysis at this point. For example, while control techniques exist for NO_x, the reductions achievable by the best available technology, generally defined by current new source performance standards, may not be sufficient to achieve any perceptible improvement in visibility. In such cases the State is not obligated to require controls at this time.

If control techniques do exist that would improve visibility, the State begins studying alternative control strategies. The State should consider, on a case-by-case basis, how much various alternative control techniques would cost, the energy and environmental impact of the controls, what air pollution technologies the source already has in place, the remaining useful life of the source, and to what degree the control alternatives would improve visibility. In order to assist States in the analysis of BART, the Agency has developed "Guidelines for the Determination of Best Available Retrofit Technology for Coal-fired Power Plants and Other Existing Stationary Facilities." For large power plants, BART must be determined pursuant to this guideline.

The last stage of the BART analysis is for the State to specify an emission limitation that reflects BART. The source must then install, operate, and maintain the control technology to meet the emission limitation.

4. *The State must reanalyze ceretain existing stationary facilities that emit pollutants which were not controlled in a prior BART review.* This reanalysis would occur when the Administrator determines new technology is available which would more effectively control a pollutant which interferes with visibility. This reanalysis is only required where the imposition of controls representing BART have not been previously required for the specific pollutant. In this case, based upon the BART criteria, the State must require sources to install those controls called for by the analysis.

5. *The source may apply to the Administrator for an exemption from BART on the basis that the source does not cause or contribute to significant impairment of visibility.* The source must notify the Federal Land Manager of its application and must recieve written concurrence from the State on the application. To receive an exemption, the source must demonstrate to the Administrator that it does not cause or contribute to significant impairment of visibility.

By significant impairment we mean a level of impairment that interferes with the visitor's visual experience of the area. When applying for an exemption, a source should address the frequency, extent, time, intensity and duration of the impairment. If the Administrator grants an exemption, the Federal Land Manager must concur before the exemption will become effective.

B. Monitoring of Visibility Impacts

1. *The State will develop a monitoring strategy.* The State in developing this strategy would assess the need for visibility monitoring in the development and implementation of the State's visibility protection program taking into consideration available and forthcoming monitoring techniques, current research, and guidelines.

2. *The State will provide for consideration of monitoring requirements for new sources.* The State should assess on a case-by-case basis the need for monitoring by a source, as part of the new source review process, to provide information on any potential impacts on visibility in the Federal Class I area review process. This assessment will be based upon available data and the adequacy of available monitoring techniques.

3. *The State will evaluate any available monitoring data.* Any existing monitoring data available to the State should be incorporated into the State's decision-making process for BART determinations and new source review decisions.

C. Development of the Long-Term Strategy.

The regulations require each plan to include a long-term (10–15 year) strategy for making reasonable progress toward remedying existing and preventing future visibility impairment. The requirements are summarized below.

Remedying Existing Impairment

Some of the measures the State is to consider for remedying existing impairment are:

1. *Existing land management plans to protect or enhance visibility in the mandatory Class I Federal area and other plans relating to local use around the area that may affect visibility in these areas.* This will also be useful in developing the part of the long-term strategy relating to prevention of future impairment.

2. *The effectiveness of existing air pollution control programs in reducing visibility impairment.* For example, the attainment and maintenance of National Ambient Air Quality Standards may reduce or eliminate visibility impairment in mandatory Class I Federal areas. If this is the case, the State should explain how this would contribute to reasonable progress.

3. *Additional emission limitations and schedules for compliance for uncontrolled or poorly controlled sources not covered by BART.* This recognizes that States may have to control sources not covered by BART to make reasonable progress toward the national goal.

4. *Retirement of existing sources and replacement with new, well controlled facilities.* The construction of new sources which will ensure the early or scheduled retirement of older, less well controlled sources can greatly aid progress toward the national visibility goal over the long term.

Preventing Future Impairment

The States must review all major stationary sources and major modifications as defined in EPA's Prevention of Significant Deterioration (PSD) regulations for their anticipated impacts on visibility in mandatory Class I Federal areas.

Under section 307, discussed below, and §§ 51.24 and 51.18 of EPA's existing PSD and new source regulations, a new major stationary sources must be reviewed for, among other things, its effect on visibility in Federal Class I areas. Thus, implementation of the PSD program will go a long way toward preventing future visibility impairment in mandatory Class I Federal areas.

[3] We did not identify, nor did any commenters identify any State that did not contain a mandatory Class I Federal area, but which could contain a source the emissions from which could reasonably be anticipated to cause or contribute to any impairment of visibility in any mandatory Class I Federal area.

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There are, however, source which are the State notifies the Federal Land these regulations will be (1) the

sources. This analysis used visibility PSD regulations because of geographic

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There are, however, source which are not subject to the PSD rules because the PSD rules do not call for the review of a major stationary source locating in a "nonattainment" area, even if that source would impair visibility in a mandatory Class I Federal area. Today's action requires an analysis of visibility impacts by all new sources which might impair visibility in a mandatory Class I Federal area irrespective of their proposed location. However, unlike review under the PSD provisions, the State may, for these sources, consider cost, energy, and other relevant factors in determining whether to permit construction of the new source.

The State will review its strategy in consultation with the Federal Land Manager and report its findings to the public and the Administrator at least every three years. We believe that the periodic review of the long-term strategy is an important part of assuring reasonable progress toward the national visibility goal. Since the visibility program is new and evolving, a periodic review is necessary to 1) take into account advances in technology, 2) evaluate progress toward the goal, 3) evaluate specific program effectiveness, 4) consider any recently identified integral vista, and 5) provide a reassessment of the reasonableness of measures incorporated into the long-term strategy. In this review of the long-term strategy, the regulations would require certain analyses, including: (1) an assessment of the progress achieved in remedying existing impairment, (2) an assessment of the strategy's long-term ability to prevent future impairment, and (3) identification of advances in technology and consideration of additional measures that may be necessary to make reasonable progress toward the national goal. This periodic review will require an evaluation of available human observations, photo-documentation and monitoring data.

III. New Source Review Requirements for Visibility Impacts

EPA's PSD regulations require that a proposed major stationary source or major modification evaluate its potential impact on visibility and, if the source would cause an adverse impact on visibility in a Federal Class I area, that the State deny the permit. In this action we are promulgating a definition of "adverse impact" and clarifying certain procedural relationships between the Federal Land Manager and the State in the review of new source impacts on visibility in Federal Class I areas and integral vistas.

As the first step in the review process, the State notifies the Federal Land Manager of any potential new source that may impact visibility in a Federal Class I area. The State and Federal Land Manager then initiate consultation which will continue throughout the permitting process. Early consultation in the permitting process will be valuable and the State should notify the Federal Land Manager of the source that may potentially affect the Federal Class I area. This notification should take place at the time the State reasonably believes that a source intends to make an application for a permit that would affect the area. Under EPA's PSD regulations and § 165 of the Act, the Federal Land Manager may demonstrate to the State that the source will have an adverse impact on visibility in the Federal Class I area even where the PSD Class I air quality increments are not violated. If the State agrees with the Federal Land Manager's assessment that the source will "adversely impact" visibility in the Federal Class I area, then the State will deny the permit. If the State disagrees with the Federal Land Manager's demonstration, then it will provide a written explanation of its findings to be made available to the public prior to public hearings on the permit. Where disagreements on the permitting of a source exist between the State and the Federal Land Manager, the State may desire third-party input into the decision process. In such cases, the Administrator or appropriate Regional Administrator will be available to assist the State.

In addition, under authority of § 169A of the Act, Section 307 requires an analysis of the potential visibility impacts of new sources on integral vistas identified at least 12 months before submission of a complete permit application. However, if the Federal Land Manager provides an opportunity for public comment on the potential integral vista the analysis must include the impacts of any integral vista so identified at least 6 months prior to the submission of a complete permit application. This protection for integral vistas is governed not by the "adverse impact" test of § 165 and the PSD program, but rather by consideration of the long-term strategy of § 169A including cost, energy, and other relevant factors.

Finally, Section 307 allows the State to require the source to monitor visibility at the proposed site or potentially affected area as part of the PSD permit application.

IV. Regulatory Impact

The immediate, principal benefit of these regulations will be (1) the reduction or elimination of impacts reasonably attributable to specific existing sources, and (2) further definition of procedures for the review of new sources. The focus of these regulations will be principally in the West since western areas have generally good visibility now and are extremely sensitive to degradation. Also, the majority of the mandatory Class I Federal areas are located in the western United States. We recognize that States may permit construction of new sources which may result in visibility impairment of integral vistas if, in the State's judgment, such impairment is justified by the cost of additional controls, the time necessary to install controls, the energy and non-air quality environmental impacts of additional controls, and the useful life of the source.

The phased approach of these regulations will limit the amount of resources the States will have to expend on revising their SIPs. Preliminary indications are that few, if any, existing stationary facilities will have to retrofit controls. The one major requirement applicable to all 36 States is the development of a long-term strategy for making reasonable progress toward the national visibility goal. EPA believes, however, that many of the basic elements of an acceptable strategy already exist within the framework of other air pollution programs. Therefore, the State will need to examine the feasibility and efficacy of only a few other measures to determine if they should or need to be included in the long-term strategy.

The new source review program required by these regulations takes into account the new source review programs which the States are now called on to implement under the PSD and nonattainment provisions of the Clean Air Act.

As commenters, including major industry representatives, noted, it is impossible to prepare a precise regulatory analysis since the State has substantial discretion in developing a visibility protection program. However, since there will be individual cost considerations for any source which may be covered by the BART or reasonable progress requirements, no source is prejudiced by a less than perfect regulatory analysis now.

A. Existing Source Impacts

The Agency released for comment along with the proposed visibility regulations a draft analysis of the impact of these regulations on existing sources. This analysis used visibility screening curves generated by a theoretical predictive model to identify existing stationary facilities which impair visibility in mandatory Class I Federal areas. The analysis identified a number of large power plants as potential BART candidates. In order to more realistically assess the impact of these regulations, EPA discussed with the Federal Land Managers the facilities identified in the initial screening process. We found that this initial screening overstated the potential impact of these regulations. Most of the sources which were initially identified as potential BART candidates are not now anticipated to be affected because the visibility impairment cannot be reasonably attributed to these facilities. Other sources identified in this analysis are not now believed to be affected by these regulations because either existing problems are currently being dealt with by other air quality programs or because currently available control techniques will not perceptibly improve visibility. The analysis also examined the possible economic impact on other existing stationary facilities and did not find any mandatory Class I Federal area in which visibility impairment might be reasonably attributable to any such source.

Since it is virtually impossible to perform an exhaustive analysis, there may yet be impairment of visibility in a mandatory Class I Federal area which we can reasonably attribute to an existing stationary facility.

As noted above, the State will need to examine the existing impairment in the mandatory Class I Federal areas and determine if BART is necessary for existing stationary facilities. There may also be sources which do not qualify as existing stationary facilities, but for which an impact on visibility is reasonably attributable. The need to make reasonable progress will require that the State examine these sources and determine what action, if any, is necessary to ensure progress toward the national visibility goal.

B. New Source Impacts

Most new sources that may impair visibility in the mandatory Class I Federal areas are currently subject to review under the PSD regulations. These visibility regulations would impose only a few additional procedural requirements and should therefore have little additional impact on these sources. The regulatory impact of the PSD program was addressed in that rulemaking.

These regulations do, however, ensure that certain sources exempt from the PSD regulations because of geographic criteria will be adequately reviewed for their potential impact on visibility in the mandatory Class I Federal area. Where a source could reduce visibility, several options are available to the State and the source. The State could (1) require the source to analyze alternative sites, (2) impose additional control requirements, (3) limit the source's capability to emit the pollutant which is expected to cause the impairment by limiting the source's operating conditions, or (4) deny the source permission to construct. Among the options available to the source are modifying its proposed operating conditions to reduce its potential impact and locating at other sites where the potential impact on the area is expected to be less.

While it is difficult to predict the overall marginal impact of these regulations on new sources, we can state those geographic areas where we would expect the major impact to occur. Large sources desiring to locate close to Federal Class I areas in the western U.S., particularly if they emit NO_x, may encounter difficulty due to the relative inability to control NO_x and because the visibility impact is frequently a coherent plume. In addition, dispersion conditions around many of these areas, primarily caused by their topography, will generally not enable emissions to disperse rapidly enough to prevent a coherent plume.

V. Judicial Review

Under Section 307(b)(1) of the Clean Air Act, judicial review of these regulations for the protection of visibility is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia within 60 days of today. Under Section 307(b)(2) of the Clean Air Act the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

These rules are issued under the authority granted in Sections 110, 114, 121, 160–169, 169A, and 301 of the Clean Air Act, 42 USC 7410, 7414, 7421, 7470–7479, 7491, and 7601.

Dated: November 21, 1980.

Douglas M. Costle,

Administrator.

The Administrator establishes a new Subpart P of Part 51, Title 40 of the Code of Federal Regulations to read as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

Subpart P—Protection of Visibility

Sec.

51.300 Purpose and applicability.
51.301 Definitions.
51.302 Implementation control strategies.
51.303 Exemptions from control.
51.304 Identification of integral vistas.
51.305 Monitoring.
51.306 Long-term strategy.
51.307 New source review.

Authority: Secs. 110, 114, 121, 160–169, 169A, and 301 of the Clean Air Act, (42 U.S.C. 7410, 7414, 7421, 7470–7479, and 7601).

§ 51.300 Purpose and applicability.

(a) *Purpose.* The primary purposes of this Subpart are (1) to require States to develop programs to assure reasonable progress toward meeting the national goal of preventing any future, and remedying and existing, impairment of visibility in mandatory Class I Federal areas which impairment results from man-made air pollution, and (2) to establish necessary additional procedures for new source permit applicants, States, and Federal Land Managers to use in conducting the visibility impact analysis required for new sources under § 51.24.

(b) *Applicability.* (1) The provisions of this Subpart are applicable to: (i) each State which has a mandatory Class I Federal area identified in Part 81, Subpart D, of this title, and (ii) each State in which there is any source the emissions from which may reasonably be anticipated to cause or contribute to any impairment of visibility in any such area. (2) The provisions of this Subpart are applicable to the following States:

(i) Alabama
(ii) Alaska
(iii) Arizona
(iv) Arkansas
(v) California
(vi) Colorado
(vii) Florida
(viii) Georgia
(ix) Hawaii
(x) Idaho
(xi) Kentucky
(xii) Louisiana
(xiii) Maine
(xiv) Michigan
(xv) Minnesota
(xvi) Missouri
(xvii) Montana
(xviii) Nevada
(xix) New Hampshire
(xx) New Jersey
(xxi) New Mexico
(xxii) North Carolina
(xxiii) North Dakota
(xxiv) Oklahoma

(xxv) Oregon
(xxvi) South Carolina
(xxvii) South Dakota
(xxviii) Tennessee

Government Printing Office stock numbers 4101–0066 and 003–005–00176–0 respectively).

(e) "Existing Stationary Facility" within any applicable State Implementation Plan, and any permit requirements established pursuant to § 52.21 of this Chapter or under

any other technique the State deems appropriate.

(t) "Reconstruction" will be presumed to have taken place where the fixed capital cost of the new component

where the public can inspect a summary prepared by the Federal Land Managers of their conclusions and recommendations, if any, on the proposed plan.

preventing of future or remedying of existing impairment of visibility in any mandatory Class I Federal area within the State.

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(xxv) Oregon
(xxvi) South Carolina
(xxvii) South Dakota
(xxviii) Tennessee
(xxix) Texas
(xxx) Utah
(xxxi) Vermont
(xxxii) Virginia
(xxxiii) Virgin Islands
(xxxiv) Washington
(xxxv) West Virginia
(xxxvi) Wyoming.

§ 51.301 Definitions.

For purposes of this Subpart:

(a) "Adverse impact on visibility" means, for purposes of § 307, visibility impairment which interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the Federal Class I area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with (1) times of visitor use of the Federal Class I area, and (2) the frequency and timing of natural conditions that reduce visibility. This term does not include effects on integral vistas.

(b) "Agency" means the U.S. Environmental Protection Agency.

(c) "Best Available Retrofit Technology (BART)" means an emission limitation based on the degree of reduction achievable through the application of the best system of continuous emission reduction for each pollutant which is emitted by an existing stationary facility. The emission limitation must be established, on a case-by-case basis, taking into consideration the technology available, the costs of compliance, the energy and nonair quality environmental impacts of compliance, any pollution control equipment in use or in existence at the source, the remaining useful life of the source, and the degree of improvement in visibility which may reasonably be anticipated to result from the use of such technology.

(d) "Building, structure, or facility" means all of the pollutant-emitting activities which belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities must be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., which have the same two-digit code) as described in the *Standard Industrial Classification Manual, 1972* as amended by the 1977 Supplement (U.S. Government Printing Office stock numbers 4101–0066 and 003–005–00176–0 respectively).

(e) "Existing Stationary Facility" means any of the following stationary sources of air pollutants, including any reconstructed source, which was not in operation prior to August 7, 1962, and was in existence on August 7, 1977, and has the potential to emit 250 tons per year or more of any air pollutant. In determining potential to emit, fugitive emissions, to the extent quantifiable, must be counted.

(1) Fossil-fuel fired steam electric plants of more than 250 million British thermal units per hour heat input,
(2) Coal cleaning plants (thermal dryers),
(3) Kraft pulp mills,
(4) Portland cement plants,
(5) Primary zinc smelters,
(6) Iron and steel mill plants,
(7) Primary aluminum ore reduction plants,
(8) Primary copper smelters,
(9) Municipal incinerators capable of charging more than 250 tons of refuse per day,
(10) Hydrofluoric, sulfuric, and nitric acid plants,
(11) Petroleum refineries,
(12) Lime plants,
(13) Phosphate rock processing plants,
(14) Coke oven batteries,
(15) Sulfur recovery plants,
(16) Carbon black plants (furnace process),
(17) Primary lead smelters,
(18) Fuel conversion plants,
(19) Sintering plants,
(20) Secondary metal production facilities,
(21) Chemical process plants,
(22) Fossil-fuel boilers of more than 250 million British thermal units per hour heat input,
(23) Petroleum storage and transfer facilities with a capacity exceeding 300,000 barrels,
(24) Taconite ore processing facilities,
(25) Glass fiber processing plants, and
(26) Charcoal production facilities.

(f) "Federal Class I area" means any Federal land that is classified or reclassified "Class I."

(g) "Federal Land Manager" means the Secretary of the department with authority over the Federal Class I area or, with respect to Roosevelt-Campobello International Park, the Chairman of the Roosevelt-Campobello International Park Commission.

(h) "Federally enforceable" means all limitations and conditions which are enforceable by the Administrator under the Clean Air Act including those requirements developed pursuant to Parts 60 and 61 of this title, requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to § 52.21 of this Chapter or under regulations approved pursuant to § 51, § 52, or § 60 of this title.

(i) "Fixed capital cost" means the capital needed to provide all of the depreciable components.

(j) "Fugitive Emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(k) "In existence" means that the owner or operator has obtained all necessary preconstruction approvals or permits required by Federal, State, or local air pollution emissions and air quality laws or regulations and either has (1) begun, or caused to begin, a continuous program of physical on-site construction of the facility or (2) entered into binding agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the facility to be completed in a reasonable time.

(l) "Installation" means an identifiable piece of process equipment.

(m) "In operation" means engaged in activity related to the primary design function of the source.

(n) "Integral vista" means a view perceived from within the mandatory Class I Federal area of a specific landmark or panorama located outside the boundary of the mandatory Class I Federal area.

(o) "Mandatory Class I Federal Area" means any area identified in Part 81, Subpart D of this title.

(p) "Major Stationary Source" and "major modification" mean "major stationary source" and "major modification," respectively, as defined in § 51.24.

(q) "Natural Conditions" includes naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

(r) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

(s) "Reasonably attributable" means attributable by visual observation or

any other technique the State deems appropriate.

(t) "Reconstruction" will be presumed to have taken place where the fixed capital cost of the new component exceeds 50 percent of the fixed capital cost of a comparable entirely new source. Any final decision as to whether reconstruction has occurred must be made in accordance with the provisions of § 60.15 (f) (1)–(3) of this title.

(u) "Secondary emissions" means emissions which occur as a result of the construction or operation of an existing stationary facility but do not come from the existing stationary facility. Secondary emissions may include, but are not limited to, emissions from ships or trains coming to or from the existing stationary facility.

(v) "Significant impairment" means, for purposes of § 303, visibility impairment which, in the judgment of the Administrator, interferes with the management, protection, preservation, or enjoyment of the visitor's visual experience of the mandatory Class I Federal area. This determination must be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of the visibility impairment, and how these factors correlate with (1) times of visitor use of the mandatory Class I Federal area, and (2) the frequency and timing of natural conditions that reduce visibility.

(w) "Stationary Source" means any building, structure, facility, or installation which emits or may emit any air pollutant.

(x) "Visibility impairment" means any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

(y) "Visibility in any mandatory Class I Federal area" includes any integral vista associated with that area.

§ 51.302 Implementation control strategies.

(a) *Plan Revision Procedures.*

(1) Each State identified in § 300(b)(2) must submit, no later than nine months from the date of promulgation of this regulation, an implementation plan revision meeting the requirements of this Subpart.

(2)(i) The State, prior to adoption of any implementation plan required by this Subpart, must conduct one or more public hearings on such plan in accordance with § 51.4.

(ii) In addition to the requirements in § 51.4, the State must provide written notification of such hearings to each affected Federal Land Manager, and other affected States, and must state where the public can inspect a summary prepared by the Federal Land Managers of their conclusions and recommendations, if any, on the proposed plan.

(3) Submission of plans as required by this Subpart must be conducted in accordance with the procedures in § 51.5.

(b) *State and Federal Land Manager Coordination.*

(1) The State must identify to the Federal Land Managers, in writing and within 30 days of the date of promulgation of these regulations, the title of the official to which the Federal Land Manager of any mandatory Class I Federal area can submit a recommendation on the implementation of this Subpart including, but not limited to:

(i) A list of integral vistas that are to be listed by the State for the purpose of implementing § 304,

(ii) Identification of impairment of visibility in any mandatory Class I Federal area(s), and

(iii) Identification of elements for inclusion in the visibility monitoring strategy required by § 305.

(2) The State must provide opportunity for consultation, in person and at least 60 days prior to holding any public hearing on the plan, with the Federal Land Manager on the proposed SIP revision required by this Subpart. This consultation must include the opportunity for the affected Federal Land Managers to discuss their:

(i) Assessment of impairment of visibility in any mandatory Class I Federal area, and

(ii) Recommendations on the development of the long-term strategy.

(3) The plan must provide procedures for continuing consultation between the State and Federal Land Manager on the implementation of the visibility protection program required by this Subpart.

(c) *General Plan Requirements.*

(1) The affected Federal Land Manager may certify to the State, at any time, that there exists impairment of visibility in any mandatory Class I Federal area.

(2) The plan must contain:

(i) A long-term (10–15 years) strategy, as specified in § 305 and § 306, including such emission limitations, schedules of compliance, and such other measures including schedules for the implementation of the elements of the long-term strategy as may be necessary to make reasonable progress toward the national goal specified in § 300(a).

(ii) An assessment of visibility impairment and a discussion of how each element of the plan relates to the preventing of future or remedying of existing impairment of visibility in any mandatory Class I Federal area within the State.

(iii) Emission limitations representing BART and schedules for compliance with BART for each existing stationary facility identified according to paragraph (c)(4) of this section.

(3) The plan must require each source to maintain control equipment required by this Subpart and establish procedures to ensure such control equipment is properly operated and maintained.

(4) For any existing visibility impairment the Federal Land Manager certifies to the State under paragraph (c)(1) at least 6 months prior to plan submission:

(i) The State must identify and analyze for BART each existing stationary facility which may reasonably be anticipated to cause or contribute to impairment of visibility in any mandatory Class I Federal area where the impairment in the mandatory Class I Federal area is reasonably attributable to that existing stationary facility. The State need not consider any integral vista the Federal Land Manager did not identify pursuant to § 304(b) at least 6 months before plan submission.

(ii) If the State determines that technologicial or economic limitations on the applicability of measurement methodology to a particular existing stationary facility would make the imposition of an emission standard infeasible it may instead prescribe a design, equipment, work practice, or other operational standard, or combination thereof, to require the application of BART. Such standard, to the degree possible, is to set forth the emission reduction to be achieved by implementation of such design, equipment, work practice or operation, and must provide for compliance by means which achieve equivalent results.

(iii) BART must be determined for fossil-fuel fired generating plants having a total generating capacity in excess of 750 megawatts pursuant to "Guidelines for Determining Best Available Retrofit Technology for Coal-fired Power Plants and Other Existing Stationary Facilities" (1980), which is incorporated by reference, exclusive of Appendix E, which was published in the **Federal Register** on February 6, 1980 (45 FR 8210). It is EPA publication No. 450/3–80–009b and is for sale from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. It is also available for inspection at the office of the Federal Register

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Information Center, Room 8301, 1100 I Street, NW, Washington, D.C. 20408.

This incorporation by reference was approved by the Director of the Federal Register. These materials are incorporated as they exist on the date of approval and a notice of any change will be published in the Federal Register.

(iv) The plan must require that each existing stationary facility required to install and operate BART do so as expeditiously as practicable but in no case later than five years after plan approval.

(v) The plan must provide for a BART analysis of any existing stationary facility that might cause or contribute to impairment of visibility in any mandatory Class I Federal area identified under this paragraph (4) at such times, as determined by the Administrator, as new technology for control of the pollutant becomes reasonably available if:

(A) The pollutant is emitted by that existing stationary facility,

(B) Controls representing BART for the pollutant have not previously been required under this Subpart, and

(C) The impairment of visibility in any mandatory Class I Federal area is reasonably attributable to the emissions of that pollutant.

§ 51.303 Exemptions from control.

(a)(1) Any existing stationary facility subject to the requirement under § 302 to install, operate, and maintain BART may apply to the Administrator for an exemption from that requirement.

(2) An application under this section must include all available documentation relevant to the impact of the source's emissions on visibility in any mandatory Class I Federal area and a demonstration by the existing stationary facility that it does not or will not, by itself or in combination with other sources, emit any air pollutant which may be reasonably anticipated to cause or contribute to a significant impairment of visibility in any mandatory Class I Federal area.

(b) Any fossil-fuel fired power plant with a total generating capacity of 750 megawatts or more may receive an exemption from BART only if the owner or operator of such power plant demonstrates to the satisfaction of the Administrator that such power plant is located at such a distance from all mandatory Class I Federal areas that such power plant does not or will not, by itself or in combination with other sources, emit any air pollutant which may reasonably be anticipated to cause or contribute to significant impairment of visibility in any such mandatory Class I Federal area.

(c) Application under this § 303 must be accompanied by a written concurrence from the State with regulatory authority over the source.

(d) The existing stationary facility must give prior written notice to all affected Federal Land Managers of any application for exemption under this § 303.

(e) The Federal Land Manager may provide an initial recommendation or comment on the disposition of such application. Such recommendation, where provided, must be part of the exemption application. This recommendation is not to be construed as the concurrence required under Paragraph (h) below.

(f) The Administrator, within 90 days of receipt of an application for exemption from control, will provide notice of receipt of an exemption application and notice of opportunity for public hearing on the application.

(g) After notice and opportunity for public hearing, the Administrator may grant or deny the exemption. For purposes of judicial review, final EPA action on an application for an exemption under this § 303 will not occur until EPA approves or disapproves the State Implementation Plan revision.

(h) An exemption granted by the Administrator under this § 303 will be effective only upon concurrence by all affected Federal Land Managers with the Administrator's determination.

§ 51.304 Identification of Integral Vistas.

(a) On or before December 31, 1985 the Federal Land Manager may identify any integral vista. The integral vista must be identified according to criteria the Federal Land Manager develops. These criteria must include, but are not limited to, whether the integral vista is important to the visitor's visual experience of the mandatory Class I Federal area. Adoption of criteria must be preceded by reasonable notice and opportunity for public comment on the proposed criteria.

(b) The Federal Land Manager must notify the State of any integral vistas identified under Paragraph (a) and the reasons therefor.

(c) The State must list in its implementation plan any integral vista the Federal Land Manager identifies at least six months prior to plan submission, and must list in its implementation plan at its earliest opportunity, and in no case later than at the time of the periodic review of the SIP required by § 306(c), any integral vista the Federal Land Manager identifies after that time.

(d) The State need not in its implementation plan list any integral vista the indentification of which was not made in accordance with the criteria in Paragraph (a). In making this finding, the State must carefully consider the expertise of the Federal Land Manager in making the judgments called for by the criteria for identification. Where the State and the Federal Land Manager disagree on the identification of any integral vista, the State must give the Federal Land Manager an opportunity to consult with the Governor of the State.

§ 51.305 Monitoring.

(a) The State must include in the plan a strategy for evaluating visibility in any mandatory Class I Federal area by visual observation or other appropriate monitoring techniques. Such strategy must take into account current and anticipated visibility monitoring research, the availability of appropriate monitoring techniques, and such guidance as is provided by the Agency.

(b) The plan must provide for the consideration of available visibility data and must provide a mechanism for its use in decisions required by this Subpart.

§ 51.306 Long-term strategy.

(a)(1) Each plan must include a long-term (10–15 years) strategy for making reasonable progress toward the national goal specified in § 300(a). This strategy must cover any existing impairment the Federal Land Manager certifies to the State at least 6 months prior to plan submission, and any integral vista of which the Federal Land Manager notifies the State at least 6 months prior to plan submission.

(2) A long-term strategy must be developed for each mandatory Class I Federal area located within the State and each mandatory Class I Federal area located outside the State which may be affected by sources within the State. This does not preclude the development of a single comprehensive plan for all such areas.

(3) The plan must set forth with reasonable specificity why the long-term strategy is adequate for making reasonable progress toward the national visibility goal, including remedying existing and preventing future impairment.

(b) The State must coordinate its long-term strategy for an area with existing plans and goals, including those provided by the affected Federal Land Managers, that may affect impairment of visibility in any mandatory Class I Federal area.

(c) The plan must provide for periodic review and revision, as appropriate, of the long-term strategy not less frequent than every three years. This review process must include consultation with the appropriate Federal Land Managers, and the State must provide a report to the public and the Administrator on progress toward the national goal. This report must include an assessment of:

(1) The progress achieved in remedying existing impairment of visibility in any mandatory Class I Federal area;

(2) The ability of the long-term strategy to prevent future impairment of visibility in any mandatory Class I Federal area;

(3) Any change in visibility since the last such report, or, in the case of the first report, since plan approval;

(4) Additional measures, including the need for SIP revisions, that may be necessary to assure reasonable progress toward the national visibility goal;

(5) The progress achieved in implementing BART and meeting other schedules set forth in the long-term strategy;

(6) The impact of any exemption granted under § 303;

(7) The need for BART to remedy existing visibility impairment of any integral vista listed in the plan since the last such report, or, in the case of the first report, since plan approval.

(d) The long-term strategy must provide for review of the impacts from any new major stationary source or major modifications on visibility in any mandatory Class I Federal area. This review of major stationary sources or major modifications must be in accordance with § 307, § 51.24, § 51.18 and any other binding guidance provided by the Agency insofar as these provisions pertain to protection of visibility in any mandatory Class I Federal areas.

(e) The State must consider, at a minimum, the following factors during the development of its long-term strategy:

(1) Emission reductions due to ongoing air pollution control programs,

(2) Additional emission limitations and schedules for compliance,

(3) Measures to mitigate the impacts of construction activities,

(4) Source retirement and replacement schedules,

(5) Smoke management techniques for agricultural and forestry management purposes including such plans as currently exist within the State for these purposes, and

(6) Enforceability of emission limitations and control measures.

(f) The plan must discuss the reasons why the above and other reasonable measures considered in the development of the long-term strategy were or were not adopted as part of the long-term strategy.

(g) The State, in developing the long-term strategy, must take into account the effect of new sources, and the costs of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the remaining useful life of any affected existing source and equipment therein.

§ 51.307 New source review.

(a) For purposes of new source review of any new major stationary source or major modification that would be constructed in an area that is designated attainment or unclassified under Section 107(d)(1)(D) or (E) of the Clean Air Act, the State plan must, in any review under § 51.24 with respect to visibility protection and analyses, provide for:

(1) Written notification of all affected Federal Land Managers of any proposed new major stationary source or major modification that may affect visibility in any Federal Class I area. Such notification must be made in writing and include a copy of all information relevant to the permit application within 30 days of receipt of and at least 60 days prior to public hearing by the State on the application for permit to construct. Such notification must include an analysis of the anticipated impacts on visibility in any Federal Class I area,

(2) Where the State requires or receives advance notification (e.g. early consultation with the source prior to submission of the application or notification of intent to monitor under § 51.24) of a permit application of a source that may affect visibility the State must notify all affected Federal Land Managers within 30 days of such advance notification, and

(3) Consideration of any analysis performed by the Federal Land Manager, provided within 30 days of the notification and analysis required by Paragraph (a)(1) above, that such proposed new major stationary source or major modification may have an adverse impact on visibility in any Federal Class I area. Where the State finds that such an analysis does not demonstrate to the satisfaction of the State that an adverse impact will result in the Federal Class I area, the State must, in the notice of public hearing, either explain its decision or give notice as to where the explanation can be obtained.

(b) The plan shall also provide for the review of any new major stationary source or major modification:

(1) That may have an impact on any integral vista of a mandatory Class I Federal area, if it is identified in accordance with § 304 by the Federal Land Manager at least 12 months before submission of a complete permit application, except where the Federal Land Manager has provided notice and opportunity for public comment on the integral vista in which case the review must include impacts on any integral vista identified at least 6 months prior to submission of a complete permit application, unless the State determines under § 304(d) that the identification was not in accordance with the identification criteria, or

(2) That proposes to locate in an area classified as nonattainment under section 107(d)(1)(A), (B), or (C) of the Clean Air Act that may have an impact on visibility in any mandatory Class I Federal area.

(c) Review of any major stationary source or major modification under Paragraph (b) shall be conducted in accordance with Paragraph (a) above, and § 51.24(o), (p) (1)–(2), and (q). In conducting such reviews the State must ensure that the source's emissions will be consistent with making reasonable progress toward the national visibility goal referred to in § 300(a). The State may take into account the costs of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the useful life of the source.

(d) The State may require monitoring of visibility in any Federal Class I area near the proposed new stationary source or major modification for such purposes and by such means as the State deems necessary and appropriate.

Supplemental Statement of Basis and Purpose [1]

This statement sets out briefly the changes in the final rules from the proposal, the reasons for those changes, and significant comments related to these changes. A complete response to all comments received can be found in "Summary of Comments and Responses on the May 22, 1980 Proposed Regulations on Visibility Protection for Federal Class I Areas" available in Docket A–79–40.

Comments were received from private industry, private individuals, environmental organizations, local government, State and local air pollution control agencies, and other Federal agencies, and addressed nearly every aspect of the proposal. In developing these final rules, the Administrator considered all public comments received, and believes that the final

[1] This statement will not appear in the Code of Federal Regulations.

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rules represent, as a consequence, an improvement upon the proposal. Today's promulgation is the best program that can be established considering the scientific and technical limitations that exist in measuring and predicting visibility impairment.

This supplemental statement notes the regulatory changes in each Section so the reader can determine them easily.

§ 300 Purpose and Applicability

This Section remains essentially as proposed. The major changes were: (1) Paragraph (a)(1)(iii) was made Paragraph (b)(3) for clarity; and (2) the portion of Paragraph (b)(2) which described procedures for changing the list of affected States was deleted because the Administrator has determined it would be appropriate to propose and solicit comment before promulgating any change in the States affected by these rules.

§ 301 Definitions

This Section now lists the definitions alphabetically for ease of reader reference. The following definitions were changed:

(1) Adverse impact—The phrase "of the visitor's visual experience" was added to the first sentence of the definition to clarify that, for purposes of this definition, "management, protection, and preservation" concerns are important only as they relate to the visitor's visual experience of the Federal Class I area. Additionally, a statement was added to indicate that the "adverse impact" test for a new source under the PSD program does not apply to integral vistas.

(2) Best available retrofit technology—The phrase "or in existence" was added to the requirement that the State consider "pollution control equipment in use" in determining BART. This change was made because the Administrator believes that where a source is installing controls as a result of other air pollution control programs that are not yet "in use," these controls and anticipated effects should be taken into account in the BART determinations.

(3) Building, structure, facility—This definition was changed to be consistent with the PSD regulations (45 FR 52676, August 7, 1980) ("new PSD regulations").

(4) Existing stationary facility—This term was changed from "existing major stationary source" to reduce any confusion with other definitions of "source" in 40 CFR Part 51. Additionally, as many commenters urged, EPA has harmonized with Section 169A(g)(7) of the Act the proposed provision restricting pollutants to be considered to those regulated under the Act.

(5) Federal Class I area and mandatory Class I Federal area—These definitions were added to clarify the difference between them.

(6) Federally enforceable—This definition was added to be consistent with the new PSD regulations.

(7) Fugitive emissions—This definition was changed consistent with the new PSD regulations.

(8) Installation—This definition was separated from "building, structure, or facility" to accommodate the reconstruction provisions of BART applicability, and to be consistent with the nonattainment regulations (45 FR 52676, August 7, 1980 ("new nonattainment regulations").

(9) Integral vista—This definition was changed to be consistent with changes in § 304. (See discussion on § 304, and on definition of "visibility in any mandatory Class I Federal area.")

(10) Major stationary source—The term "major emitting facility" was replaced by major stationary source to be consistent with other provisions of 40 CFR Part 51.

(11) Natural conditions—This definition was changed in response to public comments stating that the proposed definition was vague and unworkable. The definition now states that natural conditions are naturally occurring phenomena and defines the terms in which it is to be measured.

(12) Potential to emit—This definition was changed to be consistent with the new PSD regulations. The fugitive emissions inclusion statement was moved to the definition of "existing stationary facility."

(13) Reasonably attributable—This definition was changed for clarity and in response to comments that EPA should not require a State to attribute impairment solely on the basis of a monitoring technique other than visual observation. The definition now states that impairment is attributable by visual observation, and that the State in its discretion may use any other appropriate technique to attribute impairment.

(14) Reconstruction—The reference to "reconstruction" in the definition of "existing stationary facility" was changed slightly for clarification.

(15) Secondary emissions—This definition was changed to be consistent with the new PSD regulations.

(16) Significant impairment—This definition was changed in the same manner as the definition of adverse impact. The exemption procedures for sources not causing or contributing to significant impairment applies to impairment of an integral vista (see § 303).

(17) Stationary source—This definition was changed in response to comments that Section 169A(a)(7) applies to "any" pollutant, not just those "regulated under the Act."

(18) Visibility in any mandatory Class I Federal area—This definition was added because integral vistas are part of the mandatory Class I Federal area.

§ 302 Implementation Control Strategies

(1) While the basic structure of this Section remains the same, due to the various changes in this Section, paragraphs have been renumbered.

(2) Paragraph (b) was rewritten to clarify the role of the Federal Land Manager in the SIP development process.

(3) Paragraph (c)(2) was deleted because the integral vista identification procedures are all included in § 304 for clarity.

(4) Paragraph (c)(4) was rewritten to clarify the BART determination process, including the Federal Land Manager's role in the process, and to ensure exisiting stationary facilities are analyzed for their effect on integral vistas. Also, the BART reanalysis procedures have been moved to this paragraph from the section on long-term strategy.

Specifically, the State must determine whether any impairment the Federal Land Manager identifies at least 6 months before plan submission is reasonably attributable to any specific existing stationary facility. The State will subsequently establish the BART emission limitation for such sources based upon the BART guidelines. This BART emission limitation will, of course, be reviewable by the Administrator during the SIP review process.

When the Administrator determines that new technology is available for the control of a pollutant *not* previously controlled under BART requirements, he will so advise the States, provide guidance on the application of the new control technique for sources emitting that pollutant and call on the States to revise the SIPs accordingly. This is narrower than the reanalysis requirement proposed, as explained in the Response to Comment document.

§ 303 Exemptions from Control

Paragraph (c) has been rewritten to indicate that concurrence on the exemption application is needed only from the State with regulatory authority over the source. Several commenters were confused by this provision because they believed any concurrence would be an admission by the State that it had performed the BART analysis improperly. To the contrary, the exemption process is not related to the establishment of the BART emission limitation. BART emission limitations are to be set for sources which cause or contribute to *any* visibility impairment, which is reasonably attributable to the source, whereas the source may apply for an exemption on the basis that it does not cause or contribute to *significant* impairment of visibility. The State's concurrence is required on any such application for an exemption because, under Section 116 of the Act, the State may establish emission limitations more stringent than required by the Administrator. The Administrator does not intend that this exemption procedure usurp any right by the State to establish emission limitations and therefore will not grant any exemption in which the State does not concur.

§ 304 Identification of Integral Vistas

This Section has been entirely revised in response to public comments. Under these final rules, if the Federal Land Manager desires to identify integral vistas (the Federal Land Manager is not required to do so), the Federal Land Manager must first adopt specific identification criteria preceded by notice and a reasonable opportunity for public comment. If the Federal Land Manager desires visibility protection for an integral vista, the vista must be identified to the State, which will then list the integral vista in the SIP. The Federal Land Managers may, at their discretion, subject the integral vistas to public comment prior to identification to the State. The State need not list any integral vista that it determines was not identified in accordance with the criteria. Where the State disagrees with the Federal Land Manager over an integral vista, the State must provide opportunity for the Federal Land Manager to discuss the identification with the Governor of the State. It is important to note that a State may, under its own authority, identify additional integral vistas to be afforded visibility protection.

§ 305 Monitoring

The requirement for consultation with the Federal Land Manager has been deleted as duplicative of § 302(b)(1)(iii).

§ 306 Long-term Strategy

(1) Paragraph (a)(1) has been revised to indicate that the long-term strategy must cover any existing impairment, including impairment of integral vistas, identified by the Federal Land Manager at least 6 months prior to plan submission.

(2) Paragraph (a)(2) has been revised to clarify that only mandatory Class I Federal areas that may be impacted by sources in the State need be addressed. Additionally, a statement was added to permit the State to develop a single comprehensive plan for visibility protection instead of developing fragmented plans for each area.

(3) Paragraph (b) has been rewritten to ensure consideration of all plans that might affect visibility in the mandatory Class I Federal area, so that the State can coordinate its long-term strategy with them.

(4) Paragraph (d)(2) is revised to refer to the new source programs of § 307, § 51.24(PSD), and § 51.18 (nonattainment new source review). The purpose of this reference is not to add new requirements, but simply to make note of these existing requirements. It is anticipated that States will have already adopted programs consistent with § 51.18 and § 51.24.

(5) Paragraph (e) of the proposed rule requiring BART reanalysis was moved to the paragraph on BART procedures.

(6) Paragraph (f)(5) [proposed paragraph (e)(5)] has been revised to ensure adequate consideration of existing plans for the use and control of prescribed forest and agricultural burning.

(7) Proposed Paragraph (h) is deleted as the requirement is included in § 302(c)(2)(i).

§ 307 New Source Review

(1) This section has been substantially changed to make it clearer and simpler. Paragraph (a) has been changed to ensure notification of all affected Federal Land Managers at least 60 days (instead of the proposed 30 days) before the public hearing on the construction permit of any source subject to the PSD provisions that may affect visibility. This ensures that the Federal Land Manager will have adequate time before the public hearing to assess the source's potential impact. In addition, Paragraph (a) ensures that the public has access before the hearing to the State's reasons for not being satisified with any demonstration by the Federal Land Manager that an adverse impact on visibility would result. This will aid the public's ability to comment meaningfully at the hearing.

(2) Paragraph (b) requires that the review of any new major stationary source or major modifications must cover any integral vista identified at least 12 months before submission of a complete permit application unless the Federal Land Manager identifies the vista after notice and opportunity for public comment on the integral vista in which case the review must include any integral vista identified at least 6 months prior to submission of the complete permit application. Review of such vistas is governed by the requirement for making reasonable progress towards the national visibility goal. The Agency recognizes that there may be situations where, in considering the factors of reasonable progress as set out in § 169A(g)(1), some additional visibility impairment should be tolerated or accepted. The State may allow the visibility impairment recognizing it to be interim in nature such as natural resource extraction, or the State may permit a source which will impair visibility now while acknowledging there may be the opportunity in the future to remedy that impairment (as with emissions of NO_x). Provisions for future considerations of improved controls may be incorporated as a condition of a new source permit. This may be consistent with the intent of reasonable progress. The national goal was not to be achieved immediately; energy, economic, and other factors should be considered; therefore, some visibility impairment in these situations could be tolerated.

(3) The requirement in Paragraph (d) is unchanged.

(4) All other provisions of proposed Section 307 have been deleted because they merely repeat requirements of §51.24.

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.** A complete cumulative listing through Public Law 96–483 was published in the **Reader Aids** section of the issue of Wednesday, November 5, 1980.

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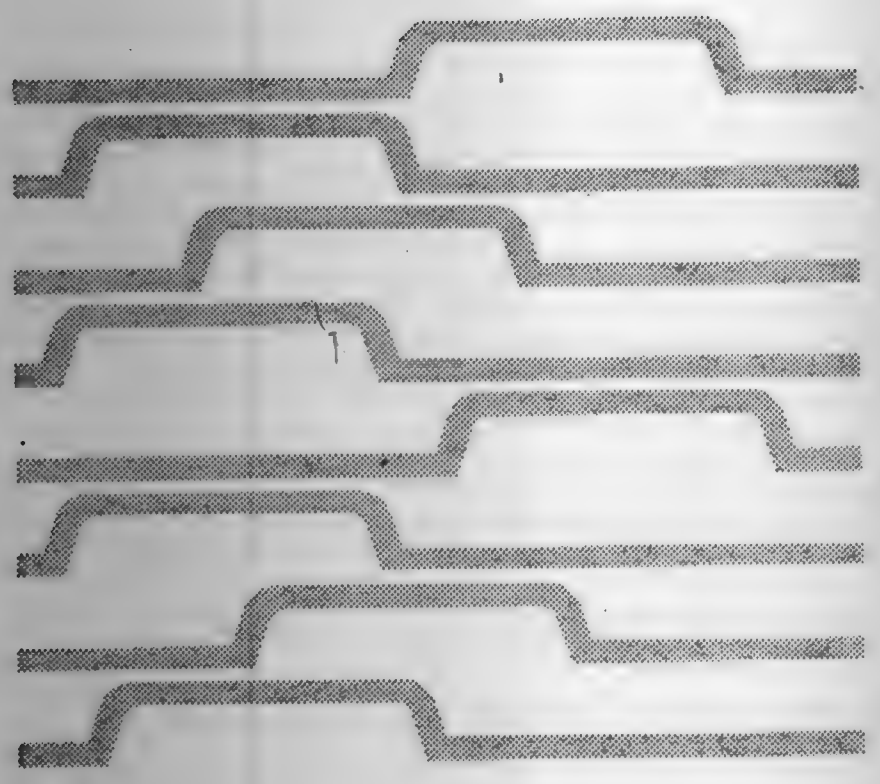

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80162 **Grant Programs—Business** Commerce/MBDA seeks applicants for 19 Dallas Region projects under the General Business Services Program; apply by 12–31–80

80258 **Continental Shelf** Interior/Sec'y establishes program to assure non-discrimination against minority and woman-owned business enterprises in all activities related to mineral leasing; effective 1–2–81 (Part II of this issue)

80240 **Energy** TVA proposes policy on dispersed power production and proposed interim program and guidelines for implementation; comments by 1–23–81; meeting on 1–19–81

80215 **Postal Service** PS changes international postal rates and fees; effective 1–1–81

80157 **Antidumping** Commerce/ITA determines that countertop microwave ovens from Japan are being sold at less than fair value; effective 12–3–80

80095 **Customs Duties and Inspection** Treasury/Customs states who shall be subject to its vessel laws; effective 1–2–81

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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80110 **Commerce** ICC issues ruling on protests against tariffs and practices governing procedures in certain suspension matters; effective 12–3–80

80150 **Railroads** ICC proposes new standards for determining adequacy of the revenues of individual railroads; comments by 1–19–81

80109 **Common Carriers** ICC releases rule governing application for operating authority; effective 12–3–80

80117 **Air Taxis** CAB proposes simple registration procedure for Canadian charter air taxi operators; comments by 2–2–81

80106 **Communications** FCC interprets ruling concerning non-licensed persons operating an amateur radio station to control model aircraft

80163 **National Voluntary Laboratory Accreditation** Commerce/Sec'y declines to take further action on requests to find that there is a need to accredit wastewater testing laboratories; effective 8–19–80

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Rules and Regulations

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Rules and Regulations

Federal Register
Vol. 45, No. 234
Wednesday, December 3, 1980

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 82

Exotic Newcastle Disease; and Psittacosis or Ornithosis in Poultry; Areas Quarantined and Released

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to quarantine a portion of Cuyahoga County in Ohio because of the existence of exotic Newcastle disease and to release a portion of Bergan County in New Jersey and a portion of Cabell County in West Virginia from the areas quarantined because of exotic Newcastle disease. Exotic Newcastle disease was confirmed in such portion of Cuyahoga County, Ohio, on November 20, 1980. Therefore, in order to prevent the dissemination of exotic Newcastle disease it is necessary to quarantine the affected area. Further surveillance activity indicates that exotic Newcastle disease no longer exists in the areas quarantined.

EFFECTIVE DATE: November 28, 1980.

FOR FURTHER INFORMATION CONTACT: C. G. Mason, Chief, National Emergency Field Operations, Emergency Programs, Veterinary Services, USDA, 6505 Belcrest Road, Federal Building, Room 751, Hyattsville, MD 20782, 301–436–8073.

SUPPLEMENTARY INFORMATION: These amendments quarantine a portion of Cuyahoga County in Ohio, because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement and their carcasses, and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined area.

These amendments also release a portion of Bergan County in New Jersey and a portion of Cabell County in West Virginia from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will no longer apply to the released areas.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

1. In § 82.3(a)(6)(i), is added to read:

§ 82.3 Areas quarantined.

(a) * * *

* * * * * *

(6) *Ohio.* (i) The premises of Greene's Aviary (Lorraine B. Greene), 1312 Richmond Road, Lyndhurst, Cuyahoga County.

* * * * * *

2. In § 82.3(a)(5), relating to the State of New Jersey, paragraph (i) relating to the premises of Tropical Bird Imports (Dave Gawronski), 9 E. Pleasant Avenue, Maywood, Bergan County is deleted.

* * * * * *

3. In § 82.3(a)(9), relating to the State of West Virginia, paragraph (i) relating to the premises of Vincent Perego, 3984 Beechwood Road, Ona, Cabell County is deleted.

* * * * * *

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141)

These amendments impose certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish their purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

The amendment releasing the quarantined areas relieves certain restrictions no longer deemed necessary to prevent the spread of exotic Newcastle disease. It should be made effective immediately in order to permit affected persons to move poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles interstate from such areas without unnecessary restrictions. It does not appear that public participation in this rulemaking proceeding would make additional relevent information available to the Department.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause if found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by E. C. Sharman, Acting Assistant Deputy Administrator, Animal Health Programs, APHIS, VS, USDA, that the emergency nature of this final rule warrants publication without opportunity for prior public comment or preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 82. It will be scheduled for review in conjunction with the periodic review of the regulations in that part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 28th day of November 1980.

R. P. Jones,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-37574 Filed 12-2-80; 8:45 am]
BILLING CODE 3410-34-M

9 CFR Part 92

Specifically Approved States To

U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final

Done at Washington, D.C., this 24th day of November 1980.

J. K. Atwell,

to Part 380, instead of Part 378, so that it reads:

§ 374a.3 Definitions.

SUPPLEMENTARY INFORMATION:

Background

The inability to apply the provisions

Accordingly, on December 17, 1979, a notice was published in the **Federal Register** (44 FR 73122) proposing to

9 CFR Part 92

Specifically Approved States To Receive Stallions Imported From CEM-Affected Countries

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document adds the State of Colorado to the list of specifically approved States authorized to receive certain stallions imported into the United States from countries affected with contagious equine metritis (CEM).

This action is being taken because the Deputy Administrator of Veterinary Services, Animal and Plant Health Inspection Service, has determined that this State has laws or regulations in effect to require the additional inspection, treatment and testing of such horses to further insure their freedom from CEM as required by the regulations.

DATES: Effective date: December 3, 1980. Comments must be received on or before February 2, 1981.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 821, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Room 815, Federal Building, Hyattsville, MD 20782, 301–436–8170.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant." The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement. A Final Impact Statement will be developed after public comments have been received.

Dr. M. J. Tillery, Director, National Program Planning Staffs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action since the State has met the criteria stated in § 92.4(a)(6) of the regulations.

This amendment relieves certain restrictions presently imposed on certain horses being imported into the United States. It should be made effective immediately in order to permit affected persons to move certain horses into the United States without undue restrictions.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action is impracticable, unnecessary and contrary to the public interest, and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Section 92.2(i)(2) of Title 9, Code of Federal Regulations (9 CFR 92.2(i)(2)), authorizes the importation of male horses (stallions over 731 days of age) into the United States from countries affected with contagious equine metritis (CEM) when specific requirements to prevent their introducing CEM into the United States are met, and the animals imported are moved into specified States for further inspection, treatment and testing by the State of destination. The amendment established minimum standards which a State must meet in order to be approved to receive stallions imported from CEM-affected countries. These standards contain treatment, testing and handling procedures believed necessary to insure that the stallions being imported into the United States are free of the contagion of CEM.

This document adds the State of Colorado to the list of specifically approved States to receive such horses, on the basis of a determination of their eligibility for such approval under § 92.4(a)(6) of the regulations.

§ 92.4 [Amended]

Accordingly, § 92.4(a)(5)(ii) of Title 9, Code of Federal Regulations, is amended by adding "The State of Colorado," before "The State of Kentucky," as States approved to receive stallions pursuant to § 92.2(i)(2)(iv) of the regulations.

(Sec. 2, 32 Stat. 792 as amended; secs. 4 and 11, 76 Stat. 130, 132 (21 U.S.C. 111, 134c, 134f); 37 FR 28464, 28477; 38 FR 19141)

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 823, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 24th day of November 1980.

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-37573 Filed 12-2-80; 8:45 am]

BILLING CODE 3410-34-M

CIVIL AERONAUTICS BOARD

14 CFR Part 374a

[Special Regulations Amendment No. 3 to Part 374a; SPR-173]

Regulations Pursuant to Section 401 of the Federal Election Campaign Act of 1971 With Respect to Extension of Credit by Air Carriers to Political Candidates

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The regulations relating to the Federal Election Campaign Act of 1971 contain a number of definitions. The requirements for approved surety bonds in the definition of "adequate security" make a cross-reference to Part 378. That part was removed in 1978, when the old charter rules were consolidated into Part 380, Public Charters. The correct cross-reference is to Part 380.

DATES: Adopted: November 25, 1980. Effective: December 21, 1980.

FOR FURTHER INFORMATION CONTACT: Mark Schwimmer, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202–673–5442.

SUPPLEMENTARY INFORMATION: Because this amendment merely corrects an outdated cross-reference, notice and public procedure are unnecessary and contrary to the public interest.

This editorial amendment is issued under the delegation of authority from the Board to the General Counsel in 14 CFR 385.19. Procedures for review of this amendment are set forth in Subpart C of Part 385 (14 CFR 385.50 through 385.54).

Accordingly, the Civil Aeronautics Board amends 14 CFR Part 374a, *Regulations Pursuant to Section 401 of the Federal Election Campaign Act of 1971 With Respect to Extension of Credit By Air Carriers to Political Candidates,* as follows:

1. The authority for Part 374a is:

(Secs. 204(a), 401, 403, 404, 407, 416, Pub. L. 85-726, as amended, 72 Stat. 743, 754, 758, 760, 766, 771; 49 U.S.C. 1324, 1371, 1373, 1374, 1377, 1386)

2. In § 374a.3, the definition of "adequate security" is amended to refer to Part 380, instead of Part 378, so that it reads:

§ 374a.3 Definitions.

"Adequate security" means (a) a bond, issued by a surety meeting the standards prescribed for sureties in Part 380 of this chapter, in an amount not less than one hundred and fifty percent (150%) of the credit limit established by the air carrier for the candidate, or the person acting on behalf of the candidate, as the case may be, by the terms of which bond the surety undertakes to pay to the air carrier any and all amounts (not exceeding the face amount of the bond) for which the assured candidate or the assured person acting on behalf of a candidate, as the case may be, is or may become legally liable to the air carrier for transportation, as defined in this part;

* * * * *

Mary McInnis,

General Counsel.

[FR Doc. 80-37569 Filed 12-2-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 6

[T.D. 80-287]

Aircraft Arriving From Foreign Territory and Persons and Merchandise, Including Baggage, Carried on Aircraft Subject to Customs Laws and Regulations

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide that aircraft arriving from *any* foreign territory and the persons and merchandise, including baggage, carried on the aircraft shall be subject to the *vessel* laws and regulations enforced and administered by Customs.

The amendment ends a difference in treatment whereby aircraft arriving from contiguous foreign territory (Canada or Mexico) were not subject to the same administrative and enforcement provisions as aircraft arriving from non-contiguous foreign territory.

EFFECTIVE DATE: January 2, 1981.

FOR FURTHER INFORMATION CONTACT: Stuart P. Siedel, Office of the Chief Counsel, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–2482).

SUPPLEMENTARY INFORMATION:

Background

The inability to apply the provisions of the Anti-Smuggling Act of 1935 (the "Act") (19 U.S.C. 1701 *et seq.*) to aircraft arriving from contiguous foreign territory has hampered Customs enforcement efforts on the United States-Mexico border.

In particular, section 3 of the Act (19 U.S.C. 1703) provides for the seizure and forfeiture of vessels built, purchased, or fitted out for the purpose of being employed to defraud the revenue or to smuggle merchandise into the United States or into the territory of a foreign government (providing the foreign government has reciprocal provisions with respect to the laws of the United States). That section further provides that the fact that the vessel has become subject to pursuit as provided in 19 U.S.C. 1581, or fails to display lights as required by law, shall be *prima facie* evidence that the vessel is being employed to defraud the revenue of the United States.

Under 49 U.S.C. 1509, the Secretary of the Treasury is authorized to apply to civil aircraft the laws and regulations relating to the administration of the Customs laws and to the entry and clearance of vessels, to such extent as the Secretary deems necessary. It is Customs position that under 49 U.S.C. 1509, the provisions of the Act relating to seizure of vessels fitted out for smuggling or not displaying lights (19 U.S.C. 1703), are applicable to aircraft, regardless of the origin of the flight. An aircraft thus could be seized under 19 U.S.C. 1703 for having been employed to defraud the revenue or to smuggle merchandise. Operating without lights would constitute a statutory presumption of such violation. However, because of the existing wording of § 6.10, Customs Regulations (19 CFR 6.10), 19 U.S.C. 1703 applies only to aircraft arriving from non-contiguous foreign territories.

Customs officers have documented an increasing number of aircraft crossing the United States-Mexico border under cover of darkness to avoid detection and apprehension. All aircraft are required to display navigation lights after sunset and before sunrise by the Federal Aviation Administration regulations (14 CFR 91.73). Numerous instances of aircraft flying without navigation lights have been detected by Customs officers along the border and many aircraft have been found with seats removed or otherwise altered or fitted out for smuggling. Customs believes that many of these "smuggler" aircraft could be detected and apprehended if the appropriate Customs laws were applied.

Accordingly, on December 17, 1979, a notice was published in the **Federal Register** (44 FR 73122) proposing to amend § 6.10 to provide for the application to aircraft arriving or having arrived from *any* foreign territory of all enforcement and administrative provisions administered by Customs which are applicable to vessels arriving or having arrived from a foreign port or place. Comments were to have been received on or before February 15, 1980.

Discussion of Comment

The only comment received in response to the proposal raised the following issues:

1. Why § 6.10 differentiated between aircraft arriving from non-contiguous and contiguous foreign territory?

2. How 19 U.S.C. 1703 could serve as the statutory basis for the proposed change because aircraft are specifically excluded by 19 U.S.C. 1401 from the term "vessel"? and

3. Whether including aircraft within the definition of "vessel" serves to alter or amend a revenue law by regulation as proscribed by *Morrill* v. *Jones,* 106 U.S. 466 (1882)?

With regard to the first issue, there is no logical or legal argument for preventing an otherwise lawful regulatory amendment merely because the existing regulatory language, written over forty years ago, can no longer accurately be explained.

As to the second issue, 49 U.S.C. 1509 states that:

* * * * *

(b) The Secretary of the Treasury is authorized * * * (3) by regulation to provide for the application to civil air navigation of the laws and regulations relating to the administration of the customs laws to such extent and upon such conditions as he deems necessary.

(c) The Secretary of the Treasury is authorized by regulation to provide for the application to civil aircraft of the laws and regulations relating to the entry and clearance of vessels to such extent and upon such conditions as he deems necessary.

* * * * *

Further, 49 U.S.C. section 1474 provides penalties for the violation of 49 U.S.C. 1509. Hence, Title 49 provides the Secretary of the Treasury with the statutory authority to treat aircraft as though they were vessels under 19 U.S.C. 1703.

Because Title 49, United States Code, clearly provides the Secretary with statutory authority to apply to aircraft by regulation certain provisions of law applicable to vessels, the third issue raised is irrelevant.

Accordingly, the amendment to § 6.10 is adopted as proposed.

Inapplicability of E.O. 12044

This document is not subject to the Treasury Department directive (43 FR 52120) implementing Executive Order

Customs Headquarters will retain authority to issue rulings in all matters brought to its attention and to review independently all ruling letters issued by the Regional Commissioner. If the existence or nonexistence of uniform and established practices. For these reasons, Customs is of the opinion that the NIS possess the legal skills and background commensurate with the Because the NIS possess expert technical knowledge, they will continue to advise Headquarters in "Internal Advice," "Protest Review," and other such cases.

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Inapplicability of E.O. 12044

This document is not subject to the Treasury Department directive (43 FR 52120) implementing Executive Order 12044, "Improving Government Regulations," because the proposal was in process before May 22, 1978, the effective date of the directive.

Drafting Information

The principal author of this document was Todd J. Schneider, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Amendment to the Regulations

Section 6.10, Customs Regulations (19 CFR 6.10), is amended to read as follows:

§ 6.10 General provision.

Except as otherwise provided for in this part, and insofar as such laws and regulations are applicable, aircraft arriving or having arrived from any foreign port or place and the persons and merchandise, including baggage, carried thereon, shall be subject to the laws and regulations applicable to vessels arriving or having arrived from any foreign port or place, to the extent that such laws and regulations are administered by the Customs Service.

(R.S. 251, as amended, section 624, 46 Stat. 759, section 644, 46 Stat. 761, section 904, 72 Stat. 787, section 1109, 72 Stat. 799, as amended (19 U.S.C. 66, 1624, 1644; 49 U.S.C. 1474, 1509))

William T. Archey,

Acting Commissioner of Customs.

Approved: November 10, 1980.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 80-37587 Filed 12-2-80; 8:45 am]

BILLING CODE 4810-22-M

19 CFR Part 177

[T.D. 80-285]

Issuance of Administrative Rulings Concerning the Tariff Classification of Imported Merchandise

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This notice amends the Customs Regulations to authorize the Regional Commissioner of Customs, New York, to issue selected tariff classification rulings. The rulings will be limited to requests for the tariff classification of imported merchandise before the transaction is considered by Customs by reason of arrival or entry of the merchandise. A right of appeal to Customs Headquarters is authorized and the rulings issued by the Regional Commissioner will be monitored closely by the Director, Classification and Value Division, Customs Headquarters, for consistency with law, regulation, and precedent cases.

EFFECTIVE DATE: January 2, 1981.

FOR FURTHER INFORMATION CONTACT: Paul G. Giguere, Deputy Director, Classification and Value Division, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (566-5868).

SUPPLEMENTARY INFORMATION:

Background

To be certain of the duty treatment merchandise will receive when imported into the United States, importers usually request binding rulings from Customs before the import transaction relating to the merchandise takes place. Currently, these rulings are issued by the Office of Regulations and Rulings ("ORR") at Customs Headquarters. While some of the requests require immediate replies in order to be meaningful, others do not require such quick responses. In the absence of advice from the party requesting the ruling, it usually is not possible for ORR to make a determination with respect to the urgency of any particular ruling request. In addition, some of these requests are routine and merely require the application of previously established precedent. On the other hand, a small percentage are more complex and may present issues not previously considered by Customs or may seek reconsideration of previously decided issues.

Because of increases in ruling requests and decreases in staffing, it has become apparent in recent months that some method must be found to modify the ruling process to provide for the expeditious issuance of rulings. A variety of management improvements have been made in ORR, but despite all these changes, it still takes an average of 100 to 110 days to process a response to an importer. A processing time of 100 to 110 days to issue a response in routine cases is not acceptable if Customs intends to provide a meaningful service to the international trade community.

A detailed examination of the ruling process was undertaken for the purpose of improving the system. Pursuant to the examination, it was concluded that present procedures should be modified to allow for a more active role by the National Import Specialists (NIS), under the authority of the Regional Commissioner of Customs, New York (Region II).

The NIS are a relatively small, skilled group of Customs professionals. They are tariff classification technicians and, unlike import specialists located in other Customs regions, are responsible for very narrow areas of the Tariff Schedules of the United States (19 U.S.C. 1202), known as product lines, and are conversant with the judicial and administrative precedent relating to these product lines.

On July 25, 1980, a notice of proposed rulemaking was published in the **Federal Register** (45 FR 49591), proposing to amend Part 177, Customs Regulations (19 CFR Part 177), to authorize the Regional Commissioner, New York, to issue selected tariff classification rulings. Interested persons were invited to submit comments regarding the proposal on or before August 27, 1980. In response, 23 comments were received from corporations, law firms, customhouse brokers, trade associations, and individuals. Following an analysis of the comments, set forth elsewhere in this document, and subject to the modifications specified therein, Customs has determined to adopt the proposed changes.

As stated in the notice of proposed rulemaking, inasmuch as the NIS are centrally located and are organizationally under the same person, it is anticipated that uniformity of decisions and the quality of rulings will be maintained after this change is made.

The NIS will issue ruling letters regarding prospective Customs transactions only. They will not prepare final decisions on "Internal Advice" requests, "Further Review of Protest" requests, requests for "Change of Practice," and Petitions under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516). Also, they will not prepare final rulings in "difference" cases.

Requests for tariff classification rulings will be forwarded to the Regional Commissioner, New York. Subject to guidelines provided by the Director, Classification and Value Division, Customs Headquarters, the Regional Commissioner will determine whether the requested ruling should be issued from the Region or whether the matter should be referred to Headquarters. Those members of the public who wish, may make requests directly to Customs Headquarters. However, the Director, Classification and Value Division, Customs Headquarters, may determine to forward requests considered to be routine to the Regional Commissioner for reply.

Customs Headquarters will retain authority to issue rulings in all matters brought to its attention and to review independently all ruling letters issued by the Regional Commissioner. If the importer or other person to whom a ruling letter is issued disagrees with the tariff classification he may petition the Director, Classification and Value Division, Customs Headquarters, for review of the ruling.

If an actual importation of merchandise occurs after receipt of a request for a ruling but before the issuance of the ruling, the Regional Commissioner will handle the matter in the same way it is currently handled by Headquarters (i.e, the party seeking the ruling must advise Customs of the fact an actual importation has occurred; assuming no material change in the facts, the request will continue to be treated by Customs as a prospective ruling request).

The rulings signed by the Regional Commissioner will be binding on Customs. They will not be withdrawn retroactively to the detriment of the party on whose behalf the ruling was requested. Further, if published, those rulings will create established and uniform practices.

Discussion of Comments

A majority of the commenters responding to the notice of proposed rulemaking endorse Customs proposal to authorize the Regional Commissioner, New York, to issue selected tariff classification rulings. They are of the opinion that implementation of the proposal is an intelligent use of Customs resources and will: benefit all parties; provide more rapid processing of ruling requests in a manner which promotes the uniformity and quality of decisions; enhance the service which Customs offers the importing community; and, enhance the responsibility of the NIS.

Other commenters believe, however, that there is no basis to support or validate the proposal and that it is generally ill-advised.

Two commenters do not believe that the NIS possess the legal skills and background to issue administrative rulings which will bind Customs. Another questions whether the NIS have the legal competence to make determinations involving uniform and established practices.

As previously noted, the NIS are conversant with the judicial and administrative precedent relating to the product lines for which they are responsible. The ruling requests handled by the NIS will be routine and will not involve any other complicating factors. The NIS will not determine the existence or nonexistence of uniform and established practices. For these reasons, Customs is of the opinion that the NIS possess the legal skills and background commensurate with the tasks which they will be assigned. In addition, to ensure consistency with law, regulation, and precedent cases, rulings issued by the Regional Commissioner will be closely monitored by the Director, Classification and Value Division, Customs Headquarters.

Although rulings issued by the Regional Commissioner will create established and uniform practices if published, all of these rulings will be reviewed by Headquarters before publication.

One commenter expresses concern that the proposal does not prescribe standards for determining when a request for tariff classification is complex or sensitive. Another states that it appears that by using the terms "complex" and "sensitive" Customs is imposing criteria or policy considerations to be applied in issuing administrative rulings. One commenter notes that the burden of determining which issues are complex or sensitive is on the requester and asks if there will be a procedure for complex requests sent to New York to be forwarded to Headquarters and for less complex requests to be sent from Headquarters to New York.

Apparently, the use of the terms "complex" and "sensitive" in the notice of proposed rulemaking caused some confusion among the commenters. The terms were used to indicate only that the administrative rulings issued by the Regional Commissioner would be routine and would not involve complicating factors. Customs did not intend to establish criteria or policy considerations to be applied to the administrative ruling process. However, to avoid further confusion, the terms have been deleted from the final amendments.

The Director, Classification and Value Division, Customs Headquarters, will develop guidelines to be followed in transferring requests between Headquarters and the New York Region.

One commenter asks which ruling would take precedence if there is a conflict between rulings issued by Headquarters and the Regional Commissioner. Another asks whether the NIS will continue to advise Headquarters in "Internal Advice" and "Protest Review" cases after the proposed amendments are implemented.

In the event of a conflict between rulings issued by Headquarters and the Regional Commissioner, the Headquarters ruling would govern. Because the NIS possess expert technical knowledge, they will continue to advise Headquarters in "Internal Advice," "Protest Review," and other such cases.

Two commenters note that, although they are essentially requests for tariff classification rulings, many ruling requests involve the application of special provisions and should be forwarded to and answered by Headquarters. One commenter suggests that rulings concerning the conditional free entry of merchandise from insular possessions, the Generalized System of Preferences (GSP), and original automotive equipment from Canada should be issued only by Customs Headquarters.

Customs agrees that these types of requests present issues which are more appropriate for Headquarters review. Accordingly, the Director, Classification and Value Division, Customs Headquarters, will develop and issue guidelines instructing the Regional Commissioner which of these requests are to be forwarded to Headquarters for reply.

Three commenters suggest that application of the prohibition in § 177.1(b), Customs Regulations, barring Customs personnel from ordinarily discussing substantive Customs questions before receiving a written request for a ruling, is too restrictive to apply to the NIS. Importers now may call the NIS for a general indication of the proper classification of merchandise or for an idea of the way in which the NIS would approach the classification of the article. They do not expect Customs to be found by this oral advice, however, the commenters note that such discussions frequently reveal that a formal ruling request is unnecessary because the classification in issue is well settled. The commenters are of the opinion that the prohibition would discourage an expeditious method of handling requests for information, that the number of requests for formal rulings would increase, and that the goal of expediting the issuance of administrative rulings would be inhibited.

Customs agrees that informal discussion is essential to the expeditious handling of requests for administrative rulings, that impediments to the exchange of information should be eliminated on all levels, and that the prohibition on discussion is unnecessary. So that both the NIS and Headquarters personnel may be free to discuss the issues involved in a specific situation, § 177.1(b) has been modified to delete the prohibition restricting Customs personnel from discussing

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substantive Customs questions before receiving a written request for a ruling. Of course, a binding ruling will be issued only after Customs has received a written request.

One commenter asks whether the failure to request a meeting to discuss the issues in a particular case at the time a ruling request is filed would bar such a request at a later date.

A request for a meeting should be made at the time a ruling request is filed. However, when it is requested after filing, a conference may be scheduled if the Customs employee considering the ruling request determines that a conference would be helpful in deciding the issues involved.

Two commenters suggest that American manufacturers, businesses, and trade asssociations with interests related to particular imports should be included as parties entitled to file ruling requests.

Section 177.1(a)(1), now, and as amended by this document, provides that upon written request with respect to a specifically described Customs transaction, Customs will issue administrative rulings setting forth a definitive interpretation of applicable law or other appropriate information to importers or other interested parties. Customs believes that American manufacturers, businesses, and trade associations with interests related to particular imports fall within the scope of the phrase "other interested parties." It should be noted, however, that although requests for administrative rulings may be issued to American manufactures by either Customs headquarters or the Regional Commissioner, all administrative proceedings under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), must be handled at Customs Headquarters.

Two commenters are of the opinion that there should be some time limit within which the Regional Commissioner must repond to requests for administrative rulings. One commenter suggests that 30 days from the receipt of the request would be appropriate.

Customs agrees that it is desirable to establish a time limit for the issuance of ruling letters by the Regional Commissioner, However, it is not posible at this time to determine whether 30 days would be appropriate. When practicable, the Director, Classification and Value Division, Customs headquarters, will issue guidelines directing the Regional Commissioner to process all requests within a specific time limit.

One commenter believes that the 30 days provided to appeal to Headquarters from a ruling letter issued by the Regional Commissioner is insufficient to analyze the initial ruling and develop information in support of a petition for review. Two other commenters suggest that rulings issued by the Regional Commissioner and appealed to Headquarters should not be put into effect, published, or disseminated to the public or to Customs field offices until the Headquarters review is complete. One commenter is of the opinion that appeals will follow all except the most perfunctory or obvious cases and that if so, the proposal would effect no change.

Customs agrees that the 30 day appeal period does not provide adequate time to analyze a ruling and to develop information in support of a petition for review. Proposed § 177.2(b)(2)(C) has been modified to delete the 30 day limitation. Customs does not agree that rulings issued by the Regional Commissioner and appealed to Headquarters should not be implemented until Headquarters review is completed. If Headquarters determines that the rate of duty applied by the NIS should be lowered, the lower rate will be applied to all pending unliquidated entries covering the same merchandise. In cases where headquarters determines that the rate of duty applied by the NIS should be increased, the higher rate will apply only to entries or withdrawals from warehouse for consumption made after the date of the ruling.

As noted, the NIS possess a thorough understanding of specific trade and product lines. They are conversant with the judicial and administrative precedent relating to these product lines. In addition, they will be dealing with routine issues solely within their areas of expertise. For these reasons, Customs believes that the NIS are capable of answering the majority of requests which they will receive to the satisfaction of all requesters. We do not believe that Headquarters will be inundated with requests for appeals from rulings issued by the Regional Commissioner as a result of this new procedure.

One commenter states that a ruling issued by the Regional Commissioner should not bind Customs to a uniform and established practice without first being reviewed by Headquarters. Another believes that all ruling letters issued by the Regional Commissioner should be reviewed (by Headquarters, it is presumed) for legal correctness. A third commenter suggests that all of the rulings issued by the Regional Commissioner should be advisory only and that headquarters alone should issue binding rulings.

As previously noted, the Regional Commissioner will not be authorized to make findings with respect to the existence or nonexistence of established and uniform practices. Administrative rulings issued by Customs Headqurters or the Regional Commissioner, which are not published, will be applied only with respect to transactions involving articles identical to those which were the subject of the ruling letter. No other person should rely on a ruling letter or assume that principles of that ruling will be applied in connection with any transaction other than the one described in the letter.

The Director, Classification and Value Division, Customs Headquarters, will institute a procedure to review all rulings issued by the Regional Commissioner before publication. Further, all findings with respect to the existence or nonexistence of uniform and established practices will be made by Headquarters. Customs does not agree that all rulings issued by the Regional Commissioner should be reviewed for legal correctness, nor that only Headquarters should issue binding rulings. As previously noted, the NIS possess the requisite expertise to issue rulings relating to the product lines within their areas of expertise.

One commenter suggests that the authority of the Regional Commissioner to modify or revoke ruling letters should be specifically set forth in the regulations and that he should not be allowed to revoke or modify rulings issued by Headquarters. Another states that no modification or revocation of a ruling letter should be allowed to take effect less than 180 days after the date of issue. A third is of the opinion that modifications and revocations of unpublished rulings should be published in the Customs Bulletin in the same manner as modifications and revocations of published rulings.

Customs agrees that the Regional Commissioner should not be allowed to modify or revoke: (1) rulings issued by Headquarters; or (2) other rulings which have been published. Proposed § 177.9(d) has been modified to reflect this change. Because unpublished rulings frequently are made available to the public as an indication of Customs position in regard to previous importations of merchandise, Customs agrees that the public should be given notice if the position is changed. Accordingly, where circumstances warrant, Customs will publish modifications and revocations of

unpublished rulings. Further, only Customs Headquarters will be authorized to revoke rulings issued by the Regional Commissioner.

Customs does not agree that there should be a 180 day grace period before the modification or revocation of a ruling letter takes effect. Customs policy in this area is well settled and the commenter did not present sufficient reason for Customs to alter it at this time.

Two commenters suggest that the authority to issue administrative rulings should not be delegated only to the Regional Commissioner, New York, but that each Region should be delegated authority to issue rulings in its area of expertise. One commenter believes that the regulations should state specifically that the authority to issue administrative rulings in the New York Region is delegated to the Assistant Area Director, Classification and Value.

Customs previously has set forth its reasons for amending Part 177 to delegate to the Regional Commissioner, New York, the authority to issue administrative rulings. Because the NIS are knowledgeable in the judicial and administrative precedent relating to their product lines, Customs is of the opinion that of all the nine Customs Regions, the New York NIS are uniquely qualified to issue administrative rulings directly to the general public.

Customs is of the opinion that the authority to issue rulings should be delegated to the Regional Commissioner, New York, as the chief Customs official in the Region. He may then redelegate this authority to the appropriate subordinate.

One commenter suggests that a procedure similar to that set forth in section 14.3(g)(1), Customs Manual, be established providing for Headquarters resolution of different cases between counterpart import specialists before issuance of a binding ruling by New York.

Customs does not believe that such a procedure is necessary. As previously stated, only Headquarters will issue rulings in "difference cases." These cases will not be referred to New York for the issuance of rulings.

Although an individual now must request at the time of filing that privileged or confidential material not be disclosed, another commenter believes that all identifying material in ruling requests should be presumed to be confidential and should not be disclosed without the permission of the requesting party. The commenter also suggests that the regulations provide that a request for nondisclosure may be made at anytime before issuance of the ruling.

Customs agrees that a request for nondisclosure should be made anytime before issuance of a ruling. Sections 177.2(b)(7) and 177.8(a)(3) have been modified accordingly. However, because it would be inconsistent with present law (5 U.S.C. 552), Customs cannot presume that all identifying matter in ruling requests is privileged or confidential.

Several comments relating to staffing and work load considerations are not being addressed at this time because they are management concerns.

Regulations Determined To Be Nonsignificant

In a directive published in the **Federal Register** on November 8, 1978 (43 FR 52120), implementing Executive Order 12044, "Improving Government Regulations," the Treasury Department stated that it considers each regulation or amendment to an existing regulation published in the **Federal Register** and codified in the Code of Federal Regulations to be "significant." However, regulations which are nonsubstantive, essentially procedural, which do not materially change existing or establish new policy, and which do not impose substantial additional requirements or costs on, or substantially alter the legal rights or obligations of, those affected, with Secretarial approval, may be determined not to be significant. Accordingly, it has been determined that this document does not meet the Treasury Department criteria in the directive for "significant" regulations.

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Adoption of the Proposed Regulations

The proposed regulations set forth in the notice published in the **Federal Register** on July 25, 1980 (45 FR 49591), are adopted subject to the revisions made below. Certain other nonsubstantive changes also have been included in the document.

Amendments to the Regulations

Part 177, Customs Regulations (19 CFR Part 177), is amended as set forth below.

William T. Archey,
Acting Commissioner of Customs.

Approved: November 17, 1980.

Richard J. Davis,
Assistant Secretary of the Treasury.

1. Section 177.0 is amended to read as follows:

§ 177.0 Scope.

This part relates to the issuance of rulings to importers and other interested persons by the Headquarters Office of the United States Customs Service or the Regional Commissioner of Customs, Region II, New York ("Regional Commissioner, Region II"). It describes the situations in which a ruling may be requested, the procedures to be followed in requesting a ruling, the conditions under which a ruling will be issued, the effect of a ruling when it is issued, and the publication of rulings in the Customs Bulletin. The rulings issued under the provisions of this part will usually be prospective in application and, consequently, will usually not relate to specific matters or situations presently or previously under consideration by any Customs Service field office. Accordingly, the rulings requested under the provisions of this part should be distinguished from the administrative rulings, determinations, or decisions which may be requested under procedures set forth elsewhere in this chapter, including, but not limited to, those set forth in Part 12 (relating to submissions of proof of admissibility of articles detained under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307)), Part 103 (relating to disclosure of information in Customs files), Part 133 (relating to disputed claims of piratical copying of copyrighted matter), Subpart C of Part 152 (relating to determinations concerning the dutiable value of merchandise by Customs field officers), Part 153 (relating to enforcement of the Antidumping Act, 1921, as amended), Part 159 (insofar as it relates to countervailing duties), Part 171 (relating to fines, penalties, and forfeitures), Part 172 (relating to liquidated damages), Part 174 (relating to protests), and Part 175 (relating to petitions filed by American manufacturers, producers, or wholesalers pursuant to section 516 of the Tariff Act of 1930, as amended). Nor do the provisions of Part 177 apply to requests for decisions of an operational, administrative, or investigative nature which are properly within the cognizance of a Customs Headquarters

Office other than the Office of Regulations and Rulings.

2. Section 177.1 (a)(1), (b), and (d) (1) and (2) are amended to read as follows:

§ 177.1 General ruling practice and definitions.

(a) *The issuance of rulings generally*—(1) *Prospective transactions.* It is in the interest of the sound administration of the Customs and related laws that persons engaging in any transaction affected by those laws fully understand the consequences of that transaction prior to its consummation. For this reason, the Headquarters Office of the United States Customs Service or the Regional Commissioner, Region II, will give full and careful consideration to written requests from importers or other interested parties for rulings or information setting forth, with respect to a specifically described Customs transaction, a definitive interpretation of applicable law, or other appropriate information. Generally, a ruling may be requested under the provisions of this part only with respect to prospective transactions—that is, transactions which are not already pending before a Customs Service office by reason of arrival, entry, or otherwise.

* * * * *

(b) *Oral advice.* The Customs Service will not issue rulings in response to oral requests. Oral opinions or advice of Customs Service personnel are not binding on the Customs Service. However, oral inquiries may be made to Customs Service offices regarding existing rulings, the scope of such rulings, the types of transactions with respect to which the Headquarters Office or the Regional Commissioner, Region II, will issue rulings, the scope of the rulings which may be issued, or the procedures to be followed in submitting ruling requests, as described in this part.

* * * * *

(d) *Definitions.* (1) A "ruling" is a written statement issued by the Headquarters Office or the Regional Commissioner, Region II, that interprets and applies the provisions of the Customs and related laws to a specific set of facts. A "ruling letter" is a ruling issued in response to a written request therefor and set forth in a letter addressed to the person making the request or his designee. A "published ruling'" is a ruling which has been published in the Customs Bulletin.

(2) An "information letter" is a written statement issued by the Headquarters Office or the Regional Commissioner, Region II, that does no more than call attention to a well-established interpretation or principle of Customs law, without applying it to a particular set of facts. An information letter may be issued in response to a request for a ruling when (i) the request suggests that general information, rather than a ruling, is actually being sought, (ii) the request is incomplete or otherwise fails to meet the requirements set forth in this part, or (iii) the ruling requested cannot be issued for any other reason, and (iv) it is believed that general information may be of some benefit to the party making the request.

* * * * *

3. Section 177.2 (a), (b)(2)(ii), (b)(7), and (d) are amended to read as follows:

§ 177.2 Submission of ruling requests.

(a) *Form.* A request for a ruling should be in the form of a letter. Requests for Valuation and Carrier rulings should be addressed to the Commissioner of Customs, Attention: Office of Regulations and Rulings, Washington, D.C. 20229. The Division and Branch in the Office of Regulations and Rulings to which the request should be directed may also be indicated, if known. Requests for Tariff Classification rulings should be addressed to the Regional Commissioner of Customs, Region II, Attn: Classification and Ruling Requests, New York, New York 10048.

(b) * * *

(1) * * *

(2) * * *

(ii) *Tariff classification rulings.*

(A) If the transaction involves the importation of an article for which a ruling as to its proper classification under the provisions of the Tariff Schedules of the United States is requested, the request for a ruling should include a full and complete description of the article and whenever germane to the proper classification of the article, information as to the article's chief use in the United States, its commercial, common, or technical designation, and, where the article is composed of two or more materials, the relative quantity (by weight and by volume) and value of each. The ruling request should also note, whenever germane, the purchase price of the article, and its approximate selling price in the United States.

(B) Ruling letters issued by the Regional Commissioner, Region II, are limited to prospective transactions. The Regional Commissioner, Region II, shall not prepare final decisions under section 177.11 (Requests for Advice by Field Offices), section 174.23 (Further Review of Protests), section 177.10 (Change of Practice), 19 U.S.C. 1516 (petitions under section 516, Tariff Act of 1930), or 14.3(g)(1) Customs Manual ("difference cases").

(C) The requesting party may send the request directly to the Director, Classification and Value Division, U.S. Customs Service, Washington, D.C. 20229. The Headquarters Office retains authority to independently review all tariff classification ruling letters issued by the Regional Commissioner, Region II. If the importer or other person to whom a ruling letter is issued disagrees with the tariff classification set forth, he may petition the Director, Classification and Value Division, U.S. Customs Service, Washington, D.C., for review of the ruling.

* * * * *

(7) *Privileged or confidential information.* Information which is claimed to constitute trade secrets or privileged or confidential commercial or financial information regarding the business transactions of private parties the disclosure of which would cause substantial harm to the competitive position of the person making the request (or of another interested party), must be identified clearly and the reasons such information should not be disclosed, including, where applicable, the reasons the disclosure of the information would prejudice the competitive position of the person making the request (or of another interested party) must be set forth.

* * * * *

(d) *Requests for immediate consideration.* The Headquarters Office and the Regional Commissioner, Region II, will normally process requests for rulings in the order they are received and as expeditiously as possible. However, a request that a particular matter be given consideration ahead of its regular order, if made in writing at the time the request is submitted, or subsequent thereto, and showing a clear need for such treatment, will be given consideration as the particular circumstances warrant and permit. Requests for special consideration made by telegram will be treated in the same manner as requests made by letter, but rulings will not ordinarily be issued by telegram. In no event can any assurance be given that a particular request for a ruling will be acted upon by the time requested. However, upon request and where a clear need is shown for such action, a collect telephone call will be made to advise that the ruling letter has been issued and is being mailed.

4. Section 177.4 (a) and (b) are amended to read as follows:

§ 177.4 Oral discussion of issues.

(a) *Generally.* A person submitting a request for a ruling and desiring an opportunity to orally discuss the issue or issues involved should indicate that desire in writing at the time the ruling request is filed. Such a discussion will only be scheduled when, in the opinion of the Customs personnel by whom the ruling request is under consideration, a conference will be helpful in deciding the issue or issues involved or when a determination or conclusion contrary to that advocated in the ruling request is contemplated. Conferences are scheduled for the purpose of affording the parties an opportunity to freely and openly discuss the matters set forth in the ruling request. Accordingly, the parties will not be bound by any argument or position advocated or agreed to, expressly or by implication, during the conference unless either party subsequently agrees to be so bound in writing. The conference will not conclude with the issuance of a ruling letter.

(b) *Time, place, and number of conferences.* If a request for a conference is granted, the person making the request will be notified of the time and place of the conference. Except under highly unusual circumstances, the conference will be held at the Headquarters Office of the Customs Service in Washington, D.C., or at Region II, New York. No more than one conference with respect to the matters set forth in a ruling request will be scheduled, unless, in the opinion of the Customs personnel by whom the ruling request is under consideration, additional conferences are necessary.

* * * * *

5. Section 177.5 is amended to read as follows:

§ 177.5 Change in status of transaction.

Each person submitting a request for a ruling in connection with a Customs transaction shall immediately advise Customs in writing of any change in the status of that transaction, as defined in § 177.1(d)(3). In particular, the Headquarters Office or the Regional Commissioner, Region II, must be advised when any transaction described in the ruling request as prospective becomes current and under the jurisdiction of any Customs Service field office. In addition, any person engaged in a Customs transaction coming under the jurisdiction of a Customs Service field office and having previously requested a ruling with respect to that transaction shall advise the field office of that fact. The field office will normally withhold action with respect to any transaction for which a ruling has previously been requested pending the disposition of the ruling request.

6. Section 177.6 is amended to read as follows:

§ 177.6 Withdrawal of ruling requests.

Any request for a ruling may be withdrawn by the person submitting it at any time before the issuance of a ruling letter or any other final disposition of the request. All correspondence, documents, and exhibits submitted in connection with the request will be retained in the Customs Service file and will not be returned. In addition, the Headquarters Office may forward to Customs Service field offices which have or may have jurisdiction over the transaction to which the ruling request relates, its views in regard to the transaction or the issues involved therein, as well as appropriate information derived from materials in the Customs Service file.

7. Section 177.8(a) (1), (2), and (3), are amended to read as follows:

§ 177.8 Issuance of rulings.

(a) *Ruling letters*—(1) *Generally.* The Headquarters Office and the Regional Commissioner, Region II, will endeavor to issue ruling letters setting forth their determinations with respect to a specifically-described Customs transaction whenever a request for such a ruling is submitted in accordance with the provisions of this part and it is in the interest of the sound administration of the Customs and related laws to do so. Otherwise, a request for a ruling will be answered by an information letter or, in those situations in which general information is likely to be of little or no value, by a letter stating that no ruling can be issued.

(2) *Submission of ruling letters to field offices.* Any person engaging in a Customs transaction with respect to which a ruling letter has been issued by the Headquarters Office or the Regional Commissioner, Region II, shall ascertain that a copy of the ruling letter is attached to the documents filed in connection with that transaction with the appropriate Customs Service field office or otherwise bring the ruling to the attention of the appropriate Customs officer. A copy of any ruling letter received after the filing of such documents shall be forwarded immediately to the appropriate Customs Service field office.

(3) *Disclosure of ruling letters.* The ruling letter shall be based on the information set forth in the ruling request. No part of the ruling letter, including names, addresses, or information relating to the business transactions of private parties, shall be deemed to constitute privileged or confidential commercial or financial information or trade secrets exempt from disclosure pursuant to the Freedom of Information Act, as amended (5 U.S.C. 552), unless, as provided in § 177.2(b)(7), the information claimed to be exempt from disclosure is clearly identified and the reasons for the exemption are set forth. Before the issuance of the ruling letter, the person submitting the ruling request, will be notified of any decision adverse to his claim for exemption from disclosure and will, upon written request to Customs within 10 working days of the date of notification, be permitted to withdraw the ruling request. All ruling letters issued by the Headquarters Office or the Regional Commissioner, Region II, will be available, upon written request, for inspection and copying by any person (with any portions determined to be exempt from disclosure deleted).

* * * * *

8. Section 177.9 (a) and (d) are amended to read as follows:

§ 177.9 Effect of ruling letters; modification or revocation.

(a) *Effect of ruling letters generally.* A ruling letter issued by the Headquarters Office or the Regional Commissioner, Region II, under the provisions of this part represents the official position of the Customs Service with respect to the particular transaction or issue described therein and is binding on all Customs Service personnel in accordance with the provisions of this section until modified or revoked. In the absence of a subsequent change of practice or other modification or revocation which affects the principle of the ruling set forth in the ruling letter, that principle may be cited as authority in the disposition of transactions involving the same circumstances.

* * * * *

(d) *Modification or revocation of ruling letters*—(1) *Generally.* Any ruling letter found to be in error or not in accordance with the current views of the Customs Service may be modified or revoked. Modification or revocation of a ruling letter shall be effected by Customs Headquarters by giving notice to the person to whom the ruling letter was addressed and, where circumstances warrant, by the

publication of a notice or other statement in the Customs Bulletin.

DEPARTMENT OF DEFENSE

National Security Agency

§ 299a.10 Specific exemptions.

* * * * *

System name: NSA/CSS Archival

The Commission *en banc* affirmed the staff's interpretation.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

amateur radio operator, should be permitted to operate an amateur radio station for the purpose of controlling a model aircraft. It is in this context that

which specifies the conditions under which third-party traffic may be sent, are all inter-related and were in no way

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publication of a notice or other statement in the Customs Bulletin.

(2) *Effect of modification or revocation of ruling letters.* The modification or revocation of a ruling letter will not be applied retroactively with respect to the person to whom the ruling was issued, or to any person directly involved in the transaction to which that ruling related, provided (i) The request for a ruling contained no misstatement or omission of material facts,

(ii) The facts subsequently developed are not materially different from the facts on which the ruling was based,

(iii) There has been no change in the applicable law,

(iv) The ruling was originally issued with respect to a prospective transaction, and

(v) All of the parties involved in the transaction acted in good faith in reliance upon the ruling and retroactive modification or revocation would be to their detriment.

Nothing in this subparagraph will prohibit the retroactive modification or revocation of a ruling with respect to a transaction which was not prospective at the time the ruling was issued, inasmuch as such a transaction was not entered into in reliance on a ruling from the Headquarters Office or the Regional Commissioner, Region II.

9. Section 177.11(b)(1) is amended to read as follows:

§ 177.11 Requests for advice by field offices.

* * * * *

(b) *Certain current transactions* (1) *When a ruling has been issued*—(i) *Requests by field offices.* If the Headquarters Office, or the Regional Commissioner, Region II, has issued a ruling letter with respect to a particular Customs transaction and the Customs Service field office having jurisdiction over that transaction feels that the ruling should be modified or revoked, the field office will forward to the Headquarters Office, pursuant to § 177.9(b)(1), a request that the ruling be reconsidered. The field office will notify the importer or other person to whom the ruling letter was issued, in writing, that it has requested the Headquarters Office to reconsider the ruling.

* * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14 (5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Headnote 11), 1624))

[FR Doc. 80-37597 Filed 12-2-80; 8:45 am]

BILLING CODE 4210-22-M

DEPARTMENT OF DEFENSE

National Security Agency

32 CFR Part 299a

[NSA/CSS Regulation 10-35]

Privacy Act Sytems of Records—Disclosure and Amendment Procedures—Specific Exemptions

AGENCY: National Security Agency.

ACTION: Final rule.

SUMMARY: This Final rule establishes specific exemptions from certain portions of the Privacy Act of 1974, Pub. L. 93-579, for a new systems records, identified as GNSA 13, NSA/CSS Archival Records Files. The National Security Agency (NSA) has established a repository pursuant to authority delegated by the National Archives and Records Service of the General Services Administration to provide secure storage, expert review for declassification and catagorization and preservation of cryptographic archives. File retrieval will be by subject matter and, in certain case, by name or other unique individual identifier. Exemptions are needed to protect properly classified material and certain data required by statute to be maintained and used solely for statistical purposes from compromise. Exemptions for these purposes are authorized by subsections 5 U.S.C. 552a(k)(1) and k(4) of the Act respectively.

DATES: This Final rule is effective December 3, 1980.

FOR FURTHER INFORMATION CONTACT: Lt. Cmdr M. E. Bowman, JAGC, USN; Office of the General Counsel, National Security Agency, Fort George C. Meade, MD 20755.

SUPPLEMENTARY INFORMATION: On October 28, 1980 at 45 FR 71373, the National Security Agency proposed an exemption rule for a new system records identified as GNSA 13, NSA/CSS Archival Records File. The notice for this system of records was published at 45 FR 71412, October 28, 1980. As no comments were received on the proposed rule and it is adopted as proposed.

November 26, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington, Headquarters Services, Department of Defense.

Accordingly, § 299a.10 of Title 32 of the Code of Federal Regulations is amended by adding paragraph (b)(13) to read as follows:

§ 299a.10 Specific exemptions.

* * * * *

System name: NSA/CSS Archival Records.

Exemption: This system is exempted from the sections of Title 5 U.S.C. 552a cited in paragraph 299a.10(a) and is subject to the statutory limitations noted in that paragraph.

Authority: 5 U.S.C. 552a(k)(1) and (k)(4).

Reasons: This system of records is exempted from all subsections cited pursuant to exemption (k)(1) to protect from unauthorized disclosure classified information which may be contained in records and files making up the system. The exemption does not limit access to that portion of the records in the system which are not classified or otherwise protected from unauthorized disclosure.

This system is exempted from all subsections cited pursuant to exemption (k)(4) where individual records and files are maintained and used solely for statistical compliance with those requirements with a minimum of administrative burden and expense.

[FR Doc. 80-37417 Filed 12-2-80; 8:45 am]

BILLING CODE 3810-70-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 97

[FCC 80-634]

Petition for Reconsideration of Academy of Model Aeronautics Concerning Interpretation of Amateur Radio Service Rules To Allow a Nonlicensed Person To Operate an Amateur Radio Station To Control Model Aircraft

AGENCY: Federal Communications Commission.

ACTION: Interpretation of rule.

SUMMARY: The Commission's staff was asked to rule on the question as to whether a person not holding an amateur radio license could operate an amateur radio station to control model aircraft. The staff ruled that § 97.79(d) did not permit an amateur radio station to be operated by an unlicensed person for the purpose of controlling model aircraft since such use constitutes one-way transmission. The basis for the ruling was an interpretation of § 97.79(d) which permits unlicensed persons to participate in two-way amateur radio communications under the supervision of a control operator, but not one-way communications. The Academy of Model Aeronautics petitioned for review of this ruling by the full Commission.

The Commission *en banc* affirmed the staff's interpretation.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, (202) 254-6884.

SUPPLEMENTARY INFORMATION:

Adopted: November 6, 1980.

Released: November 21, 1980.

By the Commission:

1. The Commission received a letter, dated April 10, 1979, from Mr. Francis E. Morris of San Diego, California, inquiring whether a person not holding an amateur radio license could operate an amateur radio station to control model aircraft. By reply letter of May 18, 1979, Mr. Morris was advised that this was not permissible under Part 97 of our rules. The basis for the ruling was an interpretation of § 97.79(d) which permits unlicensed persons to participate in two-way amateur radio communications under the supervision of a control operator. The Commission's staff ruled that § 97.79(d) did not permit an amateur radio station to be operated by an unlicensed person for the purpose of controlling model aircraft since such use constitutes one-way transmission.

2. The Academy of Model Aeronautics (AMA), the petitioner in this proceeding, learned of the staff's letter to Mr. Morris. On August 27, 1979, AMA requested the Private Radio Bureau (Bureau) to recoonsider its interpretation of Rule § 97.79(d). The staff did reconsider the ruling, and on October 15, 1979, advised AMA, through its attorney, Jack R. Smith, that the communications referred to in § 97.79(d) are meant to be two-way communications. The staff further advised AMA that the provisions of Part 97, unlike the Part 95 Radio Control Service Rules, did not extend operating privileges to non-licensed persons to control model aircraft. It is from this decision that the petitioner, AMA, now seeks review by the Commission *en banc.*

3. In its Petition for Review, filed November 14, 1979, petitioner presents three questions:

(a) Whether the Bureau erred in its construction of the term "third party"?

(b) Whether the Bureau improperly interpreted the Part 97 Rules in holding that the radio control provisions were not parallel in all respects to the Radio Control (R/C) Service Rules?

(c) Whether the Bureau's interpretation of "third party" is inconsistent with other Part 97 rules and with long-recognized Amateur practice?

4. At the outset, it will be useful to restate the principal issue in this proceeding. The question is whether or not a person, who is not a licensed amateur radio operator, should be permitted to operate an amateur radio station for the purpose of controlling a model aircraft. It is in this context that we believe that the matter should be addressed. It should also be noted that the Amateur Radio Service and the Radio Control Service are essentially different. The Amateur Radio Service is for technically-inclined persons who wish to learn about and experiment with radio communications equipment and operating techniques. On the other hand, the Radio Control Service is for anyone, whether technically inclined or not, who wishes to use radio for controlling a remote object.

5. One of the fundamental purposes of the Amateur radio service is the recognition and enhancement of the value of the service to the public as a voluntary noncommercial communication service. In furtherance of this aim, a licensed amateur operator may permit a non-licensed person, i.e., a third party, to participate in amateur radio communications from his station, provided that a control operator is present and continuously monitors and supervises the radio communication to insure compliance with the rules. An illustration of this type of third-party traffic is where United States military personnel stationed overseas, who are not amateur operators, are enabled to converse with their families back home via a two-way Amateur radio hook-up. To effect such communications, the countries involved must have assented to third-party traffic and licensed Amateur radio operators must be in control of the respective transmitting and receiving amateur radio stations. It is in this light that the the term "any third party" referred to in § 97.79(d) must be understood.[1] The resultant communications then become the "third-party traffic" which we have defined in § 97.3 (v) as:

> Amateur radio communication by or under the supervision of the control operator *at an amateur radio station to another amateur radio station* on behalf of anyone other than the control operator. (Emphasis supplied.)

Contrary to petitioner's assertion that § 97.79(d) is a broader section than § 97.3(v) and that it defines the scope of permissible participation by non-licensees in amateur communications, those two sections, as well as § 97.114[2] which specifies the conditions under which third-party traffic may be sent, are all inter-related and were in no way intended to provide for the non-licensed amateur communications which the petitioner desires. To hold that the third person referred to in § 97.79(d) includes a non-licensed person engaging in one-way communications to control a remote object is to strain for an interpretation of the rule to fit the petitioner's wish. Worse, it is yet another instance of chipping away at the basic requirement that only licensed operators be permitted to operate amateur radio stations. In our view, *bona fide* third-party communications, as described above, can be distinguished from one-way communications designed to control the movement of a remote object. Although an exception was made to the license requirement for two-way communications, we do not believe that it would be in the public interest to further extend this exception by interpretation of the rule to include one-way communications.

6. In its argument that the Bureau ignored the parallelism between the Amateur and the Radio Control Service Rules (which the petitioner insists exists) the petitioner misstates the basis and purpose of the proposed rule making in Docket No. 19572. That proceeding proposed amendment of Part 97 rules insofar as they pertain to the radio control of remote model craft and vehicles. The petitioner states that: "The purpose of the rules change, the Commission indicated, was to establish 'comparability between the rules governing like-type operations in the Amateur Radio Service and the Citizens Radio Service.'" However, a close reading of that Notice of Proposed Rule Making will reveal that it was the petitioner in that proceeding (also AMA) who "states a desire for comparability between the rules governing like-type operation in the Amateur Radio Service and the Citizens Radio Service." In fact, the objectives of the Commission's proposal allowing amateur radio stations to be used for control of remote models were simplification of station

[1] Section 97.79 Control operator requirements.

(d) The licensee of an amateur radio station may permit any third party to participate in amateur radio communication from his station, provided that a control operator is present and continuously monitors and supervises the radio communication to insure compliance with the rules.

[2] Section 97.114 Third party traffic.

(a) International third party traffic except with countries which have assented thereto.

(b) Third party traffic involving material compensation, either tangible or intangible, direct or indirect, to a third party, a station licensee, a control operator, or any other person.

(c) Except for an emergency communication as defined in this part, third party traffic consisting of business communications on behalf of any party. For the purpose of this section business communication shall mean any transmission or communication the purpose of which is to facilitate the regular business or commercial affairs of any party.

identification, logging, and portable operation; special provisions requiring the amateur transmitter to bear an

or among amateur radio stations solely with a personal aim and without pecuniary or business interest. In

equipped with "autopatch" (a way of connecting an amateur radio station to the telephone landline circuits). The

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-37578 Filed 12-2-80; 8:45 am]

For carriers, forwarders, and brokers already holding permanent operating authority, and thus already in compliance with the insurance and

regulatory and statutory requirements, and that failure to continue compliance will be cause for suspension.

The new compliance verification

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identification, logging, and portable operation; special provisions requiring the amateur transmitter to bear an identifying marker; and, provision for a maximum mean power output of one watt for transmitters qualifying for operation under these special provisions. In this connection, see *Rock Creek etc. Dist.* v. *County of Calaveras*, 29 Cal. 2d. 7, 9, 172 P.2d. 863, where the court said "the objective sought to be achieved by a statute as well as the evil to be prevented is of prime consideration in its interpretation." Nowhere is it suggested in the Commission's Notice of Proposed Rule Making in Docket No. 19572 that *all* of the rules relating to operation of a radio station in the R/C Service for control of a remote object would be carried over into the Amateur Radio Service when an amateur radio station is so used. This is an important point because much of the petitioner's argument arises from the fact that the staff's decision holds that the provisions of § 95.265(b)(6)[3] are not implicitly contained in the Part 97 rules relating to the use of an amateur radio station to control models. We turn to a fundamental rule of statutory construction to support the staff's position. In *People v. Valentine*, 28 Cal. 2d. 121, 142, 169 p.2d. 1, 14, the court held that where a statute, with reference to one subject contains a given provision, the omission of such a provision from a similar statute concerning a related subject is significant to show that a different intention existed.

The transmission or delivery of the following amateur radio-communication is prohibited:

7. Finally, petitioner alleges that the Bureau erred in adopting an interpretation of "third-party" that is inconsistent with other provisions of the Amateur Radio Service Rules and with Commission-accepted Amateur practice. Specifically, petitioner cites §§ 97.89 and 97.91 as conflicting with § 97.79(d), if § 97.79(d) is read to apply to two-way amateur ratio communications. We do not subscribe to petitioner's theory relating to those sections. The *definition* of amateur radio communications is contained in § 97.3(b). There, such communication is defined as noncommercial radio communication by or among amateur radio stations solely with a personal aim and without pecuniary or business interest. In §§ 97.89 and 97.91, the *uses* of an amateur station are set forth. It may be used to communicate with other amateur radio stations (two-way communications) or to control remote objects (one-way communication) (see § 97.89); or, to engage in certain kinds of additional one-way transmissions such as sending information bulletins, or conducting a net operation, as in a "round-robin" discussion (see § 97.91). Petitioner says that § 97.79(d) should have the term "two-way" in its provisions, and that, since it does not, a non-licensed person should be able to engage in *all* the types of communications permitted by §§ 97.89 and 97.91. We do not agree. The provisions of § 97.79(d) clearly contemplate only two-way communications. For example, that section requires a control operator to be present and continuously monitor the radio communications. Monitoring in § 97.79(d) refers to message content. It would be ludicrous to believe that the Commission would require monitoring of a steady hum or tone-signal, which is the type of signal that is used in a typical one-way communication designed to control a remote object.

8. Petitioner further states that, under the Bureau's interpretation, there must be two-way communications established between unlicensed amateur radio operators before a non-licensee may participate. Petitioner further argues that, if followed through, the Bureau's interpretation would prevent, for example, a non-licensee from sending an informational bulletin at a licensed station, addressed in general, to "all amateurs", since there is no contact with another station involved. We could not agree more. That is precisely what § 97.91 does. It requires that only licensed amateur radio operators send such general bulletins over the air. It is interesting to note that, in practice, it is the American Radio Relay League's station W1AW from which the bulk of such bulletins emanate. All of the persons at the League's headquarters who send such bulletins are duly licensed amateur radio operators. Persons sending such bulletins from any other amateur radio station are likewise expected to be licensed operators. Moreover, in the "round-robin" discussions that § 97.91 allows, it is licensed operators, with an interest in such net operations, that the rule contemplates.

9. Petitioner offers a hypothetical case where Licensee A operates a repeater equipped with "autopatch" (a way of connecting an amateur radio station to the telephone landline circuits). The station in repeater operation operates under A's call sign and A is the control operator. Given these facts, petitioner says that if A makes an autopatch call it would be unlawful under the staff's interpretation of § 97.79(d) because communications between amateur stations do not exist. Petitioner further says that another amateur station that uses the repeater to make an autopatch would be able to make the call lawfully because then two amateur radio stations would be involved. No such convoluted rationale underlies the provisions of § 97.79(d). On its face, § 97.79(d) gives discretion to an amateur operator to allow a non-licensed person (i.e. a third party) to engage in communications using his transmitter, under proper monitoring conditions and supervision by the licensee. We concur with the staff's view that this refers to two-way communications. To say that this would preclude the licensed operator himself, as control operator, from using his own station to make a phonepatch strains credulity and we reject the inference that petitioner draws from its hypothetical situation.

10. Appealing on an equity basis, petitioner avers that under our interpretation of the rule, model aircraft enthusiasts who are not yet licensed amateur operators will be deprived of exposure to amateur radio activity because they are not permitted to control the aircraft by operating the amateur radio transmitter. We reject this argument for the reason that the person who truly has an avid interest in amateur radio has a myriad number of opportunities to advance his interest and to acquire proficiency in the art and hobby of amateur radio. In fact, it is quite probable that the model airplane enthusiast's major interest is in model airplanes, not radio.

11. We believe that any need for more channels for control of model aircraft should be met in the Radio Control Radio Service. In this connection, it is noted that AMA has a petition for rulemaking (RM-3248) currently on file with the Commission which asks for such additional frequencies.

12. In summary, we believe that it would be contrary to the public interest to permit a person who is not a licensed amateur radio operator to operate an amateur radio station to control a model aircraft. For all of the foregoing reasons, the interpretation of § 97.79(d) made by the Commission's staff is hereby affirmed.

[3] Section 95.265 Operation by, or on behalf of, persons other than the licensee.

* * * * *

(b) Stations may be operated only by the following persons, except as provided in paragraph (c) of this section:

* * * * *

(6) Any person under the control or supervision of the licensee when the station is used solely for the control of remote objects or devices, other than devices used only as a means of attracting attention; and

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 80-37578 Filed 12-2-80; 8:45 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1100

[Ex Parte No. 55 (Sub-No. 43)]

Modification of Interim Rules Governing Applications for Operating Authority

AGENCY: Interstate Commerce Commission.

ACTION: Modification of interim rules.

SUMMARY: The Commission is modifying its permanent authority procedures governing the issuance of certificates, permits and licenses to motor and water carriers, freight forwarders, and brokers to speed up administrative processes. This action does not change the steps an applicant must take to effect compliance prior to the commencement of operations. Interim Rule 49 CFR 1100.251(1)(2) is revised to allow for issuance of permanent certificates, permits or licenses to existing permanent authority holders without prior verification of compliance. Interim Rule 49 CFR 1100.251 is modified by addition of a new paragraph (p), which sets forth requirements that must be met before beginning authorized operations. The new procedure is designed to speed up the issuance of these documents, and does not relieve the applicant from its statutory obligation to comply with these requirements before beginning operations.

DATES: These actions will be effective December 3, 1980.

FOR FURTHER INFORMATION CONTACT:
Ombudsman's Office, 202-275-7792,
Mark Shaffer, 202-275-7531,
Edward E. Guthrie, 202-275-7691,
Peter Metrinko, 202-275-7605.

SUPPLEMENTARY INFORMATION: The Commission is modifying its permanent authority procedures governing the issuance of certificates, permits, and licenses to motor and water carriers, freight forwarders, and brokers to speed up administrative processes. After a decision has been made to authorize a new service, operations cannot begin until the applicant has been issued an appropriate certificate, permit or license. Currently, this document is issued only after the applicant has complied with certain Commission requirements.

For carriers, forwarders, and brokers already holding permanent operating authority, and thus already in compliance with the insurance and designation of process agent requirements, an affirmative showing is not required before issuing each new certificate, permit, or license. Those receiving permanent authority for the first time will, however, still be required to provide evidence of compliance with the appropriate regulations before receiving the operating document. The new procedure is designed to speed up the issuance of these documents, and does not relieve the applicant from its statutory obligation to comply with these requirements before beginning operations.

This action does not change the steps an applicant must take to effect compliance prior to the commencement of operations.

Interim Rule 49 CFR 1100.251(1)(2)[1] is revised to allow for issuance of permanent certificates, permits, or licenses to existing permanent authority holders without prior verification of compliance. Interim Rule 49 CFR 1100.247(A) is modified by addition of a new paragraph 247(A)(p), which sets forth requirements that must be met before beginning authorized operations.

On October 29, 1980, the Commission adopted new procedures for ensuring that motor carriers, brokers, freight forwarders, and water carriers meet statutory and regulatory requirements regarding maintenance of insurance and designation of process agents. The new procedures will:

1. Withhold issuance of an initial permanent certificate, permit, or license to a new entrant until positive verification has been received that the new entrant has obtained the required insurance coverage;

2. Insure continued maintenance of required insurance coverage through investigation by the Commission's field staff;

3. Discontinue reverifying compliance with insurance and designation of process agent requirements on extension applications filed by entities that already hold permanent operating authority; and

4. Provide for a clear statement on all future certificates, permits, and licenses, that the authority granted is not effective until the authority holder is in full compliance with pertinent regulatory and statutory requirements, and that failure to continue compliance will be cause for suspension.

The new compliance verification procedures do not change an authority holder's obligation to comply with pertinent statutory and regulatory requirements before starting new or extended operations. They are designed to provide for faster issuance of certificates, permits, and licenses.

The Commission adopted the new procedures for several reasons. The Motor Carrier Act of 1980 increased minimum insurance requirements for motor carriers of property. [Section 30, Public Law No. 96-296, July 1, 1980, 94 Stat. 793]. This reflects Congress' intent that reducing economic barriers to entry should not diminish the Commission's obligation to protect the public from unfit operators. We can meet this obligation by requiring that new entrants verify that they have obtained required insurance before initial authority is released. Continued monitoring of compliance with insurance requirements can be accomplished by field investigations because insurance carriers must notify the Commission 30 days before any cancellation of a carrier's coverage. There will be sufficient time to determine whether the Commission must take appropriate legal action to assure that a carrier does not operate without insurance.

Second, the monitoring procedures also apply to entities which already hold permanent operating authority. Therefore, reverifying compliance upon every grant of permanent authority is unnecessary. This practice has led to the unjustified withholding of thousands of extended permanent authorities because of delays in reverifying compliance. This procedure will reduce substantially the Commission's costs in contracting to maintain insurance files and determine compliance on a case-by-case basis.

To reinforce the above changes which are designed to speed release of certificates, permits, and licenses and not to undermine compliance requirements, the Commission will add clear language to all issued permanent authorities which will specify compliance requirements in detail. This language will specify that authorities are not effective until all compliance requirements are met.

Finally, the Commission has determined that the designation of process agent requirement on applications for extended authority also slows down the application process. A separate rulemaking proceeding requiring the specification of agents on tariffs or schedules will be instituted.

[1] The **Federal Register** has required that the Commission redesignate 49 CFR 1100.247 (A), (B), and (C) as 49 CFR 1100.251, 252, and 253. The notice, to avoid confusion, will refer to the new designation. Publication of the rules in the Code of Federal Regulations in 1981 will use the new numbering system.

This severing of agent monitoring from the application process follows the same approach employed on tariff compliance. See Docket No. 37013 (Sub-

49 CFR Part 1100

[Ex Parte No. 398]

Protests Against Tariffs and Rules of

action, and the steps to effect compliance remain the same.

These actions do not affect significantly the quality of the human

30 days' notice. This remains unchanged for *all nonrail* rate changes as well as for rail rate changes filed on 30 days or more notice. However, to implement the

Chapter X of Title 49 of the Code of Federal Regulations is amended as set forth in the appendix below.

Notice of this decision will be given to

mailed by the protestants to the Commission at Washington.

§ 1100.40 [Amended]

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This severing of agent monitoring from the application process follows the same approach employed on tariff compliance. See Docket No. 37013 (Sub-No. 1), served September 22, 1980 (45 FR 62822, September 23, 1980).

Required Changes in Interim Rules

For extensions of authority: The new procedures outlined above will allow the Commission to issue an appropriate certificate, permit, or license for extended authority without prior compliance verification where an application for *extended* permanent authority is granted and the proceeding is administratively final. Interim Rule 49 CFR 1100.251(l)(2) is modified to provide that if no one opposes an application for extended authority, a tentative grant published in the **Federal Register** will be rendered effective by issuance of a certificate, permit, or license. *No separate notice will be sent prior to authority issuance. For new entrants:*

The new procedures still require prior compliance verification for persons holding no permanent operating authority. Interim Rule 49 CFR 1100.251(l)(2) retains the Commission *notice* of compliance requirements sent to new entrants in unopposed cases. New entrants will, as in the past, have 90 days to comply after administratively final proceedings. A motor common carrier obtaining initial motor contract carrier authority (or vice versa) is not considered a new entrant. A motor carrier obtaining initial broker, freight forwarder or water carrier authority (or vice versa) is considered a new entrant as to that type of authority.

Finally, to ensure that authorized motor carrier, freight forwarder, water carrier, or broker operations are not performed without compliance with appropriate regulatory and statutory requirements, a new paragraph (p) will be added to Interim Rule 49 CFR 1100.251. This paragraph will specify compliance requirements in detail.

Summary

We are adopting the modified interim rules set forth in the appendix and will operate under these modified rules from now until further notice.

Provisions for formal comments are unnecessary under 5 U.S.C. 553(b)(A). However, the public is welcome to comment informally on these rules by writing to the Section of Operating Rights, Room 5316, Interstate Commerce Commission, Washington, D.C. 20423. This is a change in our procedural rules which has no substantial impact on the industry or the public other than as a cost and time saving device. No persons' legal obligations are changed by this action, and the steps to effect compliance remain the same.

These actions do not affect significantly the quality of the human environment or the conservation of energy resources.

These actions are taken under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: November 19, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

Appendix

49 CFR 1100.251(l)(2) is revised to read as follows:

§ 1100.251 [Amended]

(l) * * *

(2)

If no one opposes an application for an extension of authority, the tentative grant published in the **Federal Register** will be rendered effective by issuance of a certificate, permit, or license. If no one opposes an application for initial authority, the tentative grant published in the **Federal Register** will be rendered effective by a Commission Notice outlining compliance requirements which must be met before applicant commences the proposed service.

* * * * *

49 CFR 1100.251(p) is added to read as follows:

* * * * *

(p) Before beginning operations under a certificate, permit, or license, compliance must be made with the following statutory and regulatory requirements.

(1) For Motor Common Carrier of Property: 49 CFR Parts 1043, 1044, and 1310.

(2) For Motor Contract Carrier of Property: 49 CFR Parts 1043, 1044, and 1307.

(3) For Motor Common and Contract Carriers of Passengers: 49 CFR Parts 1043, 1044, and 1306.

(4) For Brokers of Motor Vehicle Transportation: 49 CFR Parts 1043 and 1044.

(5) For Water Carriers: 49 CFR Part 1308; 49 U.S.C. section 10329.

(6) For Freight Forwarders: 49 CFR Parts 1084 and 1309; 49 U.S.C. section 10329.

[FR Doc. 80-37437 Filed 12-2-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1100

[Ex Parte No. 398]

Protests Against Tariffs and Rules of Practice Governing Procedures in Certain Suspension Matters

Decided: November 7, 1980.

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Interstate Commerce Act, as amended by the Staggers Rail Act of 1980, permits rail carriers to increase rates on 20 days' notice and to reduce rates on 10 days' notice.

Under the provisions of the act, any person may file a certified complaint requesting suspension of proposed rail rate charges. Rule 40 (49 CFR 1100.40) contains our procedures and substantive requirements for such protests. Rule 200 (49 CFR 1100.200) contains our procedures and substantive requirements for appeals in cases in which our Suspension Board has voted not to suspend a protested rate change.

These rules are being modified so that the dates by which protests and appeals must be filed reflect the 20- and 10-day rate filing requirements of the act.

EFFECTIVE DATE: December 3, 1980.

FOR FURTHER INFORMATION CONTACT: Martin E. Foley, Director, Bureau of Traffic, Interstate Commerce Commission, Washington, DC 20423, (202) 275-7348.

SUPPLEMENTARY INFORMATION: Section 10762 of Title 49, United States Code (49 U.S.C. 10762), as amended by the Staggers Rail Act of 1980, provides that railroads may publish and make effective (1) new or increased rates on 20 days' notice; and (2) reduced rates on 10 days' notice. This constitutes a change from the previous statutory notice period of 30 days. The Commission has always been empowered to allow rates to become effective on less than statutory notice (upon a showing of cause) and that power is not affected by the new rail legislation.

Rule 40 of our Rules of Practice (49 CFR 1100.40) contains the procedures and substantive requirements governing the filing of protests against proposed rate changes, Section 10707 of the act provides that such protests are a matter of right for any person, but the protest must comply with rule 40 as to filing deadline and content. Rule 40 provides that protests against rates filed on 30 days' notice must reach the Commission 12 days before the proposed effective date of the rate and 5 days before the effective date of a rate filed on less than 30 days' notice. This remains unchanged for *all nonrail* rate changes as well as for rail rate changes filed on 30 days or more notice. However, to implement the new rail legislation we have revised rule 40 by amending paragraph (g) (which concerns *rail* rate change matters) to require that protests against rail rate changes filed on 20 days' notice shall reach the Commission at least 10 days before the protested effective date and that protests against rail rate changes filed on 10 days' notice shall reach the Commission at least 5 days before the proposed effective date. These changes are procedural, reflecting the changes effected by the Staggers Rail Act of 1980. There are also several editorial changes made in a number of places throughout rule 40 in order to make it more readable.

Rule 200 of our Rules of Practice (49 CFR 1100.200) covers the procedures and deadlines for filing appeals to decisions of our Suspension Board in which the board has voted not to suspend a protested rate change. Presently, on proposed rate changes filed on 30 days' notice, the board votes on the third workday before the effective date and any appeal to a "no suspend" decision is due before 4 p.m. on the second workday before the effective date. The division votes on the appeal on the workday immediately before the effective date. At this time we see no need to change this schedule for protests against rail rate changes filed on 20 days' notice, but the existing procedures will not allow sufficient time for review in the case of 10-day notice filings. In those cases protests will be due 5 days before the effective date and the board will vote on the second workday before the effective date. Accordingly we will require any appeal to a "no suspend" decision of the board in a protested 10-day rail rate change to be in *the board's hands in Room 4336 of the ICC Building not later than 9 a.m. on the workday immediately preceding the proposed effective date of the rate change.* The board will have the entire record of the case in the hands of the division within 1 hour. The division will act on the appeal before the close of business the same day.

The Commission does not believe these revisions require a notice and comment rulemaking under section 553 of the Administrative Procedure Act (5 U.S.C. 553) because the changes are procedural in nature, necessitated by congressional action.

This decision does not affect significantly either the quality of the human environment or energy resources.

Chapter X of Title 49 of the Code of Federal Regulations is amended as set forth in the appendix below.

Notice of this decision will be given to the public by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, for public inspection, and by delivering a copy to the Director, Office of the Federal Register as notice to all interested persons.

This decision is issued under authority of section 10321 of the Interstate Commerce Act, 49 U.S.C. 10321, and under section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Clapp absent and not participating.

Agatha L. Mergenovich,

Secretary.

Appendix

(1) 49 CFR 1100.40 (b) and (g) are revised as follows:

§ 1100.40 [Amended]

* * * * *

(b) When filed: Protests against, and requests for suspension of, tariffs or schedules filed under the act will not be considered unless made in writing and filed with the Commission at Washington, D.C. Protests and requests for suspension shall reach the Commission at least 12 days (except as provided in paragraphs (c) and (g) of this section) before the effective dates of the tariffs, schedules, or parts thereof to which they refer, unless the protested publications were filed on less than 30 days' notice in which event the protests (except as provided in paragraph (g) of this section) must reach the Commission not less than 5 days before the effective dates. In an emergency, telegraphic protests will be acceptable if received within the time limits herein specified, provided they also fully comply with paragraphs (a) and (g) of this section and copies are immediately telegraphed by protestants to the proponent carriers or their publishing agents: *Provided, however,* That protests against and requests for suspension of tariffs applicable on household goods as defined in 49 CFR 1056.1(a), when published for the account of household goods carriers as defined in 49 CFR 1040.2(b) on not less than 45 days' notice, shall reach the Commission no later than 27 days before the effective dates of the tariffs, schedules, or parts thereof to which they refer. Six copies of such telegrams should immediately be mailed by the protestants to the Commission at Washington.

§ 1100.40 [Amended]

* * * * *

(g) Special Requirements for protests against revisions to rail rates and charges and replies thereto. (1) Protests against, and requests for suspension of, tariffs or schedules filed by rail carriers, or their publishing agents on 20 days' notice under the provisions of 49 U.S.C. 10762(c)(3) must reach the Commission at least 10 days before the proposed effective date of the protested matter. When the protested matter is filed on 10 days' notice under the provisions of 49 U.S.C. 10762(c)(3), the protest or requests for suspension must reach the Commission at least 5 days before the proposed effective date of the protested matter. (2) Protests against and requests for suspension of, tariffs or schedules containing proposed rates, classifications, rules, or practices filed by rail carriers or their publishing agents that result in revisions of rates or charges shall also include a verified statement containing specific facts showing: (A) it is substantially likely that the protestant will prevail on the merits pursuant to any applicable provisions of the law; (B) without suspension, the proposed rate change will cause substantial injury to the protestant or the party represented by the protestant; and (C) because of the peculiar economic circumstances of the protestant, investigation of the rate (subject to a refund by the carrier should the rate subsequently be found unlawful) will not protect the protestant. The burden is on the protestant to prove the matters described in (A), (B) and (C) immediately above. (3) Where protestants allege that a rate is unreasonably high in violation of 49 U.S.C. 10701, they must submit evidence relating to market dominance as set forth at 49 CFR 1109.1. (4) Replies to verified statements filed under this section shall be verified.

(2) 49 CFR 1100.200(c) is revised to read as follows:

§ 1100.200 [Amended]

* * * * *

(c) When the Suspension Board has declined to suspend a proposed tariff or schedule, or any part thereof, a petition in writing by any protestant or protestants may be filed with the Commission for reconsideration by the designated appellate division provided it reaches the Commission at least two work-days prior to the effective date of the tariff or schedule in question: *Provided, however,* That when the Suspension Board has declined to

suspend a protested change in rail rates filed on 10 days' notice under the provisions of 49 U.S.C. 10762(c)(3), the

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to public access, use,

Suite 106, North Kansas City, Missouri, is the primary author of these special regulations, Telephone (816) 374-6166.

upon written permission from the Refuge Manager. Use of the refuge shall be in accordance with all applicable state regulations and are subject to the

(f) Boats with toilets that flush directly into the water are not allowed on refuge waters unless such toilets are sealed from use.

operation are sunrise to sunset. Parking is permitted in designated parking areas, only. Foot travel is permitted in designated areas

suspend a protested change in rail rates filed on 10 days' notice under the provisions of 49 U.S.C. 10762(c)(3), the petition must be in the hands of the Suspension Board not later than 9 a.m., United States Standard or local Daylight Saving, whichever is in effect in the District of Columbia, on the work-day before the proposed effective date of the protested matter: *And provided further,* That when the Suspension Board has declined to suspend a proposed tariff or schedule applicable on household goods as defined in 49 CFR 1056.1(a) published for the account of a household goods carrier as defined in 49 CFR 1040.2(b) on not less than 45 days' notice, the petition shall be filed within 2 work days after the Suspension Board has acted. For the purpose of this section, a work-day shall be considered as any day except Saturday, Sunday or a legal holiday in the District of Columbia. (A legal holiday of less than one day shall be considered a work-day within the meaning of this section.) Petitions submitted under this section shall (except as provided in the case of a protested change in rail rates filed under the provisions of 49 U.S.C. 10762(c)(3) be filed with the Secretary of the Commission by 4 p.m. United States Standard Time (or by 4 p.m. local Daylight Saving Time if that time is observed in the District of Columbia). Telegraphic notice or the equivalent thereof must be given by the petitioners to the respondent or respondents. As no replies to the petitions for reconsideration are contemplated under this rule, petitioners will be expected, except in unusual circumstances, to rely wholly on the information previously filed with the Suspension and Fourth Section Board. Written or telegraphic communication in intelligible form requesting reconsideration will be sufficient. Such request shall contain the following prefatory statement: "This matter requires expedited handling under Rule 200 of the Commission's Rules of Practice." A petition not timely filed shall be rejected by the Secretary.

[FR Doc. 80-37580 Filed 12-2-80; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 26

Public Entry and Use: National Wildlife Refuges in Iowa, Illinois, Missouri and Portions of Nebraska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to public access, use, and recreation of certain National Wildlife Refuges in Iowa, Illinois, Missouri, and portions of Nebraska is compatible with the objectives for which the areas were established, and will provide additional recreational opportunity to the public. These special regulations describe the conditions under which public access, use, and recreation will be permitted on these areas during 1981.

DATES: Period Covered—January 1, 1981 through December 31, 1981.

FOR FURTHER INFORMATION CONTACT:
The Area Manager or appropriate refuge manager at the address or telephone number listed below:

Tom A. Saunders, Area Manager, U.S. Fish and Wildlife Service, 2701 Rockcreek Parkway, Suite 106, North Kansas City, Missouri 64116. Telephone (816) 374–6166

George Gage, Refuge Manager, DeSoto National Wildlife Refuge, R.R. #1, Box 114, Missouri Valley, Iowa 51555. Telephone (712) 642–4121

John Guthrie, Refuge Manager, Union Slough National Wildlife Refuge, Route 1, Box 32B, Titonka, Iowa 50480. Telephone (515) 928–2523

Wayne Adams, Refuge Manager, Crab Orchard National Wildlife Refuge, P.O. Box J, Carterville, Illinois 62918. Telephone (618) 997–3344

Gregory Wolf, Refuge Manager, Clarence Cannon National Wildlife Refuge, Box 88, Annada, Missouri 63330. Telephone (314) 847–2333

Terry Fears, Refuge Manager, Mark Twain National Wildlife Refuge (Louisa District) R.R. #1, Wapello, Iowa 52653. Telephone (319) 523–6982

Gerald L. Clawson, Refuge Manager, Mingo National Wildlife Refuge, R.R. #1, Box 9A, Puxico, Missouri 63960. Telephone (314) 222–3589

George Peyton, Refuge Manager, Mark Twain National Wildlife Refuge (Calhoun District), Box 142, Brussels, Illinois 62013. Telephone (618) 883–2524

Berlin Heck, Refuge Manager, Squaw Creek National Wildlife Refuge, P.O. Box 101, Mound City, Missouri 64470. Telephone (816) 442–3570

Alfred Manke, Refuge Manager, Swan Lake National Wildlife Refuge, P.O. Box 68, Sumner, Missouri 64681. Telephone (816) 856–3323

Thomas Sanford, Refuge Manager, Chautauqua National Wildlife Refuge, R.R. #2, Havana, Illinois 62644. Telephone (309) 535–2290

SUPPLEMENTARY INFORMATION: Donald G. Young, 2701 Rockcreek Parkway, Suite 106, North Kansas City, Missouri, is the primary author of these special regulations. Telephone (816) 374–6166.

General Conditions

1. Public access, use, and recreation are permitted on national wildlife refuges indicated below in accordance with 50 CFR Part 26, and the following special regulations:

The Refuge Recreation Act of 1962 (16 U.S.C. 460K) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: (a) That any recreational use permitted will not interfere with the primary purpose for which the area was established; and (b) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. The determination is based upon consideration of, among other things, the Service's Final Environmental Statement in the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

2. A list of conditions applying to the individual refuge and maps of the area are available at refuge headquarters and from the office of the Area Manager. Portions of refuges which are closed to public access, use, and recreation are designated by signs and/or delineated on maps.

3. Access points on certain refuges are limited to designated roads or other specific areas. Vehicle use on all refuge areas is restricted to designated roads and lanes.

§ 26.24 Special regulations; public access, use, and recreation; for individual wildlife refuge areas.

Iowa

DeSoto National Wildlife Refuge

Public recreational activities on DeSoto National Wildlife Refuge, Missouri Valley, Iowa, are permitted from April 15 through September 30, 1981, inclusive. The refuge may be open for self-guided auto tours from March 14 through March 22, 1981, inclusive, and from October 17 through November 11, 1981, inclusive. Groups may be permitted on portions of the refuge for wildlife observation throughout the year upon written permission from the Refuge Manager. Use of the refuge shall be in accordance with all applicable state regulations and are subject to the following special conditions.

(1) *Authorized Activities:* Public recreational activities are limited to picnicking, swimming, boating, water skiing, trail use, nature observation, photography, mushroom, blackberry, and grape picking.

(2) *Open Season and Hours:* The open season for general public recreational use is from April 15, 1981 through September 30, 1981. During this period, the area is open daily from 6:00 a.m. through 10:00 p.m. Admittance onto the refuge is prohibited after 9:00 p.m. The hours for the special spring and fall auto tours will be published in area newspapers. The DeSoto Visitor Center is expected to be opened on or about May 31, 1981. This facility and adjacent trails will be open throughout the year on days and at times as published in local newspapers. Between the dates of September 16 and September 30, 1981 all water-oriented recreational activities, except boat and bank fishing, are prohibited. Boat motors are limited to 25 horsepower or less during this period. Swimming will be permitted from May 23 through September 7, 1981, during the hours posted, and only in the designated beach area. Two separate mushroom picking areas are open daily to the public from April 15 through May 31, 1981, hours of use are the same as for the general use area.

(3) *Open Area:* The area open for general public use, including blackberry and grape picking, comprises approximately 2,400 acres, and the special mushroom picking areas comprise approximately 1,100 acres. Maps of the open areas are posted or available for handout at entrance points.

(4) *Access:* Entry onto the open area is permitted only at gates or points of entry specifically posted for this purpose.

(5) *Other provisions:*

(a) The use of air mattresses, beach balls and all other flotation devices, other than life preservers, is prohibited except in designated wading areas.

(b) The possession of bottles or cans is prohibited on the designated swimming beach.

(c) The use of fire is permitted, but only in grills.

(d) Access to refuge waters with air boats or house boats is prohibited.

(e) The west arm of DeSoto Lake (as designated on the refuge regulations map) is restricted to non-motorized boats, with the exception of electric fishing motors.

(f) Boats with toilets that flush directly into the water are not allowed on refuge waters unless such toilets are sealed from use.

(g) The maximum number of power boats greater than 25 horsepower that will be permitted on refuge waters at any one time is 125.

(h) Open alcoholic beverages are prohibited on any mechanically powered boat while the boat is in operation.

(i) Since DeSoto Lake is long and narrow, all boaters must keep to the right and maintain a highway type traffic pattern.

(j) Firearms are prohibited, except by permit holders participating in hunting programs and in accordance with regulations.

(k) All boats are prohibited from loading or unloading passengers within the swimming area.

(l) Operation of boats, excluding sailboats, with persons on deck or gunwales is prohibited.

(m) Domestic animals, including dogs, cats, horses and cattle, are not permitted on the refuge.

(n) Removal of all plant life, including downed timber, is prohibited. This restriction does not apply to mushrooms, blackberries, and grapes, as specified in (2) above.

(o) During the special self-guided auto tours, visitors are required to remain in their cars, except that foot traffic is permitted on nature trails and in vicinity of refuge overlooks.

(p) Violators of refuge regulations may be required to remove themselves from the area.

Mark Twain National Wildlife Refuge

(1) The Big Timber Division of the refuge is open to the public for the permitted public use activities of nut, berry and mushroom gathering, hiking, wildlife/wildlands observation, photography, sightseeing, and boating from January 1, 1981 through December 31, 1981.

(2) The Louisa Division of the refuge is open to the permitted public use activities of nut, berry and mushroom gathering, hiking, wildlife/wildlands observation, photography, sightseeing, and boating from February 1, 1981 until the start of the Iowa early waterfowl season in mid-September 1981, with the exception of certain designated areas adjacent to the Port Louisa Road which are open through December 31, 1981.

Union Slough National Wildlife Refuge

(1) Union Slough Habitat Tour Route is open for travel in motor vehicles daily from April 15 through September 30, 1981, weather permitting. Hours of operation are sunrise to sunset. Parking is permitted in designated parking areas, only. Foot travel is permitted in designated areas.

(2) Deer Meadow Picnic Area and Indian Bluff Nature Trail are open April 15 through September 30, 1981 during daylight hours, only. Parking is permitted in designated parking area, only.

(3) Vanishing Prairie Grassland Area is open from July 15 through September 30, 1981 for access by foot travel during daylight hours, only. Parking is permitted in designated parking area, only.

(4) Deer Observation Area is open from January 1, 1981 through December 31, 1981.

(5) Pets must be on a leash less than ten (10) feet in length and under control of the owner at all times.

Illinois

Crab Orchard National Wildlife Refuge

Public access, use, and recreation shall be permitted at Crab Orchard National Wildlife Refuge in accordance with the following special regulations:

(1) Swimming is prohibited in the closed portion of Crab Orchard Lake, marina areas, boatdocks, boat ramps, spillways, dams, and causeways. Swimming in Devils Kitchen Lake is prohibited. Skin diving, snorkeling, and scuba diving are prohibited on all portions of Devils Kitchen Lake.

(2) All personal floatation devices, to include innertubes, except those wearable devices approved by the U.S. Coast Guard, are prohibited on refuge waters.

(3) The area which is fenced and posted as closed below Crab Orchard Lake spillway is closed to all public entry and use.

(4) The Carterville Beach, Lookout Point, Crab Orchard Beach, Playport Boat Dock, Sailboat Basin, and designated picnic areas are subject to closure by the Refuge Manager and will be posted when closed.

(5) All refuge campgrounds are closed to visitors from 11:00 p.m. until 7:00 a.m., local time.

(6) Quiet time shall be maintained in all refuge campgrounds between 10:00 p.m. and 6:00 a.m., local time.

(7) The use of boats with motors larger than ten (10) horsepower is prohibited on Devils Kitchen Lake and Little Grassy Lake.

(8) The maximum boat speed limit on Crab Orchard Lake is 40 miles per hour, unless otherwise posted.

(9) Visitors must be appropriately attired while on the refuge. Public

nudity, including topless attire by females, is prohibited.

(10) Camping, defined as the use of

The auto tour is open on Sunday afternoons until 4:30 p.m. during October and November. Speed limit is 25 MPH.

(3) The Boardwalk Nature Trail is

and does not require regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The provisions of this special

Terry Fears, Refuge Manager, Mark Twain National Wildlife Refuge (Louisa District), R.R. No. 1, Wapello, Iowa 52653. Telephone (319) 523–6982.

are closed to fishing are designated by signs and/or delineated on maps.

3. Access points on certain refuges are limited to designated roads or other

(2) The Louisa Division is open to public fishing from February 1, 1981 until the start of the Iowa early waterfowl season in mid-September 1981, with the

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nudity, including topless attire by females, is prohibited.

(10) Camping, defined as the use of tents, bedrolls, motorized vehicles, trailers, and other shelters for overnight stays for the purpose of sleeping, is prohibited, except at Devils Kitchen, Little Grassy, Crab Orchard Lake and Crab Orchard Boat and Yacht Club campgrounds.

Mark Twain National Wildlife Refuge

(1) The Keithsburg Division of the refuge is open to the public for the permitted public use activities of nut, berry and mushroom gathering, hiking, wildlife/wildlands observation, photography, sightseeing, and boating from January 1, 1981 through October 14, 1981.

(2) The Batchtown and Calhoun Division of the refuge is open to the public for the permitted public use activities of nut, berry and mushroom gathering, hiking, photography, and wildlife observation from January 1 to October 15, 1981 and December 15 to December 31, 1981.

(3) Gilbert Lake overlook road on Illinois Highway 100 will be open to wildlife observation from January 1 through December 31, 1981. The balance of Gilbert Lake will be open to nut, berry and mushroom gathering, wildlife observation, photography, and hiking from January 1 to October 15, 1981 and December 15 to December 31, 1981.

Chautauqua National Wildlife Refuge

(1) All of the Chautauqua National Wildlife Refuge is open to wildlife observation during the periods of January 1, 1981 through October 15 and from December 15 through December 31, 1981. The land area from the observation tower at the headquarters site north to the Goofy Ridge Ditch, including the recreation area and the cross dikes, is open for wildlife observation during October 16 through December 14, 1981.

(2) Nut, berry and mushroom picking is open in areas open to wildlife observation. Public use is allowed between sunrise and sunset only.

Missouri

Mingo National Wildlife Refuge

(1) Visitors are permitted on the refuge from one hour before sunrise until one hour after sunset from March 15 through September 30, 1981. The portion of the refuge west of Ditch 6 is open all year. Hiking, photography, wildlife observation, and gathering of nuts, berries, and mushrooms is permitted.

(2) Motor vehicles are permitted on designated roads throughout the year. The auto tour is open on Sunday afternoons until 4:30 p.m. during October and November. Speed limit is 25 MPH.

(3) The Boardwalk Nature Trail is open all year from one hour before sunrise until one hour after sunset.

(4) Dogs are permitted on the refuge, but must be under owner's control at all times.

(5) Boats and canoes are permitted. The use or possession of motors is prohibited. No boats or canoes may be left overnight. A U.S. Coast Guard approved personal flotation device is required for each person.

(6) Horseback riding is permitted on roads and trails open to the public. Permits are required for groups of ten or more.

Mark Twain National Wildlife Refuge

(1) The Cannon and Delair Division of the refuge will be closed to all public use activities in 1981.

(2) The Gardner Division of the refuge will be open for public access, use, and recreation from January 1 through October 15, 1981. Permitted activities include:

(a) Wildlife observation by boat and foot

(b) Photography

(c) Nut, berry, and mushroom gathering. The Gardner Division is open to public use during daylight hours, only.

Swan Lake National Wildlife Refuge

(1) All public use activities, other than hunting, will be during daylight hours, only.

(2) The main entrance road, headquarters area, and observation tower will be open for wildlife/wildlands observation year around. All other roads not designated as closed will be opened from March 1 through September 30, 1981. Foot travel is authorized throughout the refuge for wildlife/wildlands observation activities from March 1 through September 30, 1981.

(3) The habitat trail will be open to public use, except during waterfowl season.

Squaw Creek National Wildlife Refuge

(1) The refuge tour route, nature trails, and facilities are open for public use from sunrise to sunset all year.

(2) Pets are permitted only when confined or restrained on a leash that does not exceed ten feet in length.

Nebraska

DeSoto National Wildlife Refuge

See special conditions listed under Iowa.

Note.—The Department of the Interior has determined that this is not a significant rule and does not require regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The provisions of this special regulation supplement the regulations which govern Public Entry and use on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26. The public is invited to offer suggestions and comments at any time.

Dated: November 24, 1980.

Tom A. Saunders,

Area Manager.

[FR Doc. 80-37582 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 33

Sport Fishing; National Wildlife Refuges in Illinois, Iowa, Missouri and Portions of Nebraska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fishing of certain National Wildlife Refuges in Illinois, Iowa, Missouri and portions of Nebraska is compatible with the objectives for which the areas were established, will utilize a newable natural resource, and will provide additional recreational opportunity to the public. These special regulations describe the conditions under which sport fishing will be permitted on these areas during the 1981 fishing season.

DATES: Period Covered—January 1, 1981 to December 31, 1981. See State regulations for specific fishing seasons.

FOR FURTHER INFORMATION CONTACT:

The Area Manager or appropriate refuge manager at the address or telephone number listed below:

Tom A. Saunders, Area Manager, U.S. Fish and Wildlife Service, 2701 Rockcreek Parkway, Suite 106, North Kansas City, Missouri 64116. Telephone (816) 374–6166.

George Gage, Refuge Manager, DeSoto National Wildlife Refuge, R.R. No. 1, Box 114, Missouri Valley, Iowa 51555. Telephone (712) 642–4121.

John Guthrie, Refuge Manager, Union Slough National Wildlife Refuge, Route 1, Box 32B, Titonka, Iowa 50480. Telephone (515) 928–2523.

Wayne Adams, Refuge Manager, Crab Orchard National Wildlife Refuge, P.O. Box J, Carterville, Illinois 62918. Telephone (618) 997–3344.

Gregory Wolf, Refuge Manager, Clarence Cannon National Wildlife Refuge, Box 88, Annada, Missouri 63330. Telephone (314) 847–2333.

Terry Fears, Refuge Manager, Mark Twain National Wildlife Refuge (Louisa District), R.R. No. 1, Wapello, Iowa 52653. Telephone (319) 523–6982.

Gerald L. Clawson, Refuge Manager, Mingo National Wildlife Refuge, R.R. No. 1, Box 9A, Puxico, Missouri 63960. Telephone (314) 222–3589.

George Peyton, Refuge Manager, Mark Twain National Wildlife Refuge (Calhoun District), Box 141, Brussels, Illinois 62013. Telephone (618) 883–2524.

Berlin Heck, Refuge Manager, Squaw Creek National Wildlife Refuge, P.O. Box 101, Mound City, Missouri 64470. Telephone (816) 442–3570.

Alfred Manke, Refuge Manager, Swan Lake National Wildlife Refuge, P.O. Box 68, Sumner, Missouri 64681. Telephone (816) 856–3323.

Thomas Sanford, Refuge Manager, Chautauqua National Wildlife Refuge, R.R. No. 2, Havana, Illinois 62644. Telephone (309) 535–2290.

SUPPLEMENTARY INFORMATION: Donald G. Young is the primary author of these special regulations.

General Conditions

1. Fishing is permitted on national wildlife refuges indicated below in accordance with 50 CFR Part 33, all applicable State regulations, the general conditions, and the following special regulations: The Refuge Recreation Act of 1961 (16 U.S.C. 460K) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires: (a) That any recreational use permitted will not interfere with the primary purpose for which the area was established; and (b) that the funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these refuges were established. The determination is based upon consideration of, among other things, the Service's Final Environmental Statement in the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

2. A list of conditions applying to the individual refuge and a map of the sport fishing area(s) are available at refuge headquarters. Portions of refuges which are closed to fishing are designated by signs and/or delineated on maps.

3. Access points on certain refuges are limited to designated roads or other specific areas. Vehicle use on all refuge areas is restricted to designated roads or lanes.

4. Sport fishing on portions of the following refuges shall be in accordance with all applicable State and Federal regulations and conditions as indicated.

§ 33.5 Special regulations; sport fishing for individual wildlife refuge areas.

Iowa

DeSoto National Wildlife Refuge

(1) Area open to ice fishing during daylight hours only. January 1, 1981 through February 28, 1981, provided that ice conditions are safe enough to permit this activity.

(2) Motor or wind driven conveyances are not permitted on the lake from January 1, 1981 through February 28, 1981.

(3) The use of portable ice fishing shelters will be permitted on a daily basis, January 1, 1981 through February 28, 1981.

(4) Sport fishing by pole and line, only, is permitted from April 15, 1981 through September 30, 1981, in accordance with applicable State regulations and posted refuge regulations.

(5) The following minimum length limits are in effect: Largemouth bass (*Micropterus salmoides*)—15 inches; Walleye (*Stizostedion vitreum*)—15 inches; Northern pike (*Esox lucius*)—30 inches. All undersized fish must be released.

(6) Fishing with more than two lines and with more than two hooks on each line is not permitted.

(7) Fishing is permitted only on the 750 acre DeSoto Lake and adjacent Missouri River.

(8) The use of trot lines and float lines are not permitted.

(9) West Arm of the lake (as designated on refuge map) is closed to gasoline driven motors. Electric motors are permitted.

(10) Digging or seining for bait or catching frogs is not permitted.

(11) Archery and spear fishing is permitted from April 15 to June 30, only. Only non-game fish may be taken.

(12) A sport fishing license from either Nebraska or Iowa is required when fishing on this refuge.

(13) Littering of the shoreline and water is not permitted.

Mark Twain National Wildlife Refuge

(1) The Big Timber Division is open to public fishing from January 1, 1981 through December 31, 1981.

(2) The Louisa Division is open to public fishing from February 1, 1981 until the start of the Iowa early waterfowl season in mid-September 1981, with the exception of certain designated areas adjacent to the Port Louisa Road which are open through December 31, 1981.

Union Slough National Wildlife Refuge

(1) The use of boats, canoes, or other floating devices is prohibited.

(2) Sport fishing, in designated areas, is permitted in accordance with State and Federal regulations from April 15 through September 30, 1981.

Illinois

Crab Orchard National Wildlife Refuge

(1) Areas I and III are open to sport fishing from January 1, 1981 through December 31, 1981, with the following exceptions:

(a) *Devils Kitchen Lake and Little Grassy Lake* The use of motors larger than 10 horsepower is prohibited.

(b) *Crab Orchard Lake*—Zone 1 Floating trot lines and jug fishing are not permitted west of the closed portion boundary line (Zone 1) from May 25, 1981 through September 7, 1981 between sunrise and sunset.

(2) Area II is closed to all fishing from January 1, 1981 through December 31, 1981, with the following exceptions:

(a) *Crab Orchard Lake*—Zones 2 and 3

(1) Bank fishing is permitted from Wolf Creek Road and Highway 148 causeways between sunrise and sunset.

(2) Sport and jug fishing are permitted from boats only from Wolf Creek Road causeway west to the closed portion boundary line (Zone 2).

(3) Sport and jug fishing are permitted from Wolf Creek Road causeway east (Zone 3) from March 15, 1981 through September 30, 1981 between sunrise and sunset.

(b) *A–41 Pond* Bank fishing is permitted from March 15, 1981 through September 30, 1981 between sunrise and sunset.

The minimum legal length for Largemouth black bass taken from Crab Orchard Lake is 14 inches (35.56 centimeters).

Chautauqua National Wildlife Refuge

(1) All waters of Chautauqua National Wildlife Refuge are open for sport fishing from December 15, 1980 through October 15, 1981, from a boat or through the ice. Bank fishing is permitted along the cross dike, at the Recreation Area, and at Boatyard No. 3, as posted. All other areas of the refuge are closed to bank fishing.

(2) From October 16 through December 14, 1981 sport fishing is permitted:

portion of South Lake immediately adjacent to No. 5 Levee.

(4) Travel is permitted on all roads

Dated: November 24, 19880.

Tom A. Saunders,

Area Manager.

Proposed Rules

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(2) From October 16 through December 14, 1981 sport fishing is permitted:

(a) Within the area one-eighth (⅛) mile around the Recreation Area and Boatyard No. 3, as posted

(b) On Goofy Ridge Ditch

(c) Along the cross dike

(d) On all waters within the Public Hunting Area

(3) Fishing is allowed between sunrise and sunset only.

(4) The use of boats, with motors of ten (10) horsepower or less, is permitted in the waters of Lake Chautauqua.

(5) Private boats must be removed overnight or moored at Boatyard No. 3, or the Recreation Area.

Mark Twain National Wildlife Refuge

(1) The open season for sport fishing on the Middle and Lower Pools of the Batchtown Division, Calhoun County, Illinois, extends from January 1 to December 31, 1981. The Upper Pool is open to sport fishing from January 1 to December 31, 1981.

(2) Open season for sport fishing on the southern portion of Swan Lake on the Calhoun Division, Calhoun County, Illinois, extends from January 1 to October 15, 1981 and December 15 to December 31, 1981. The upper section of Swan Lake—(man-made ditch at Six Mile Island to the northern refuge boundary) extends from January 1 to December 31, 1981.

(3) The open season for commercial fishing on the southern portion of Swan Lake, (man-made ditch at Six Mile Island to the east end of Swan Lake) extends from April 1 to October 15, 1981. Commercial fishing on Swan Lake will be limited to 50 permit holders.

(4) The Keithsburg Division of the refuge is open to sport fishing from January 1, 1981 through October 14, 1981.

(5) All fishing will be in accordance with all applicable State and Federal regulations.

Missouri

Mark Twain National Wildlife Refuge

(1) The Cannon and Delair Divisions of the refuge is closed to sport fishing.

(2) The Gardner Division will be open to sport fishing from January 1 through October 15, 1981.

(3) All fishing will be in accordance with applicable State and Federal regulations.

Swan Lake National Wildlife Refuge

(1) Sport fishing is permitted from March 1 through September 30, 1981.

(2) During daylight hours, only.

(3) Boats without motors may be used on Swan Lake, Silver Lake, and that portion of South Lake immediately adjacent to No. 5 Levee.

(4) Travel is permitted on all roads except those posted with "Road Closed" signs.

(5) No nets of any type may be used within 150 feet of water control structures.

Mingo National Wildlife Refuge

(1) Visitors are permitted on the refuge from one hour before sunrise until one hour after sunset.

(2) All waters west of Ditch #6 are open year-round. All other waters are open March 15 through September 30, 1981.

(3) Fishing in Fox Pond and May Pond is permitted: (a) From March 15 through September 30, 1981.

(b) By pole or rod and line, only.

(c) No bass less than 12 inches may be kept.

(d) Daily aggregate limit of 20 fish.

(4) The use or possession of motors on boats is prohibited. No boats may be left overnight. A U.S. Coast Guard approved personal flotation device is required for each person in a boat.

(5) Non-game fish may be taken for personal use, but not for commercial purposes, by snagging, grabbing, snaring, nets, and seines from March 15 through September 30, 1981.

(6) All nets must be plainly labeled with the name and address of the person(s) using such equipment.

(7) Trammel nets and gill nets must be attended at all times. All other nets may be left set and unattended for not more than 24 hours.

(8) Game fish may not be possessed by persons using nets or seines on the refuge.

Squaw Creek National Wildlife Refuge

(1) Sport fishing, in designated areas, is permitted in accordance with State and Federal regulations from March 15 through December 31, 1981.

Nebraska

DeSoto National Wildlife Refuge

See special conditions listed under Iowa.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Dated: November 24, 19880.

Tom A. Saunders,

Area Manager.

[FR Doc. 80-37583 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 45, No. 234
Wednesday, December 3, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Reg. 496]

Navel Oranges Grown in Arizona and Designated Part of California; Proposed Extension of Minimum Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would continue through July 16, 1981, the requirement that shipments of California-Arizona navel oranges grown in District 1, 3, or 4 be not smaller than 2.59 inches in diameter. Unless extended, this regulation would expire January 1, 1981. This action is designed to provide markets with acceptable sizes of fruit and to promote orderly marketing in the interest of producers and consumers.

DATES: Written comments must be received not later than December 18, 1980. Proposed effective dates: January 2, 1981, through July 16, 1981.

ADDRESS: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR Part 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Draft Impact Analysis relative to this proposed rule is available upon request from the above named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures in Secretary's Memorandum 1955 to implement Executive Order 12044 and classified as "not significant." The proposal is being published with less than a 60-day comment period because there is insufficient time between the date when the information upon which it is based became available and the effective date necessary to effectuate the declared policy of the act.

Currently, the regulation specifies a minimum diameter requirement of 2.45 inches for fresh shipments of California-Arizona navel oranges grown in District 1, 3, or 4 through December 25, 1980, and a minimum diameter of 2.59 inches from December 26, 1980, through January 1, 1981. The proposed amendment would continue the 2.59 inch minimum diameter requirement through July 16, 1981. This notice is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and a designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was recommended by the Navel Orange Administrative Committee, established under the order.

The 1980–81 season crop of navel oranges is currently estimated by the committee at 76,200 carlots, compared to 68,601 carlots utilized during the past season. The committee reports that demand in regulated fresh market channels is expected to require about 56 percent of this volume. The remaining 44 percent would be available for utilization in export and processing outlets. The committee indicates that volume and size composition of the crop of navel oranges are such that more than ample supplies of the more desirable larger sizes will be available to satisfy the demand in regulated channels. The committee reports that when more than ample supplies of larger sizes are available for shipment, disposition of the sizes which would be eliminated by this proposed regulation can be accomplished only at a substantial price discount and this tends to depress the market for all sizes. Navel oranges failing to meet such requirements could be shipped to fresh export markets, left on trees to attain further growth, or utilized in processing.

The proposal is that § 907.796 Navel Orange Regulation 496 (45 FR 75163; 76651; 79003) be amended to read as follows:

§ 907.796 Navel Orange Regulation 496.

(a) During the period January 2, 1981, through July 16, 1981, no handler shall handle any navel oranges grown in District 1, 3, or 4 which are of a size smaller than 2.59 inches in diameter: *Provided,* That not to exceed 5 percent, by count, of the oranges in any container may measure smaller than 2.59 inches in diameter.

(b) As used in this section, "handler," "handle," "District 1," "District 3," and "District 4" mean the same as defined in the marketing order. Diameter shall mean the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit.

Dated: November 28, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 37581 Filed 12-2-80; 8:45 am]

BILLING CODE 3410-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 124

Definition of Social Disadvantage; Minority Group Inclusion

Correction

In FR Doc. 80–37134 appearing at page 79496 in the issue of Monday, December 1, 1980, on page 79497, first column, under "DATES", "January 30, 1980" should read "January 30, 1981".

BILLING CODE 1505-01-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 211, 215, 218, 294, 380, 385, 399

[EDR–414; ODR–23; SPDR–80; PSDR–68; Docket No. 39000; Dated November 26, 1980]

Proposed Rule To Classify and Exempt Canadian Air Taxi Operators

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes a new part to provide a simple registration procedure for Canadian charter air taxi operators in place of the regular permit proceedings. The proposal is made at the Board's own initiative, to expedite procedures and lessen administrative burdens for those carriers.

DATES: Comments by: February 2, 1981. Reply comments by : February 17, 1981.

Comments and other relevant information received after this date will

of the other party, and that the carrier's homeland licenses comply with the standards established by the convention on International Civil Aviation; and

license than those proposed here for Canadian carriers seeking a U.S. license. The Board will strive to ease these burdens to the best of its ability.

Affairs Division, Bureau of International Aviation (BIA): (1) Three copies of an application for registration (CAB Form 294A); (2) a current certificate of

the application: Reject it for failure to comply with Part 294; institute a hearing or show-cause proceeding; approve the application with conditions; or approve

under section 402(c) to set reasonable terms and conditions to its grants of authority is preserved by §§ 294.10 and 294.50(g) of the proposed rule.

DATES: Comments by: February 2, 1981. Reply comments by : February 17, 1981.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List by: December 12, 1980.

The Docket Section prepares the Service List and sends it to each person listed, who then serves his comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 39000, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Ira Leibowitz, (202) 673–5035, Legal Divison, or Nancy L. Pitzer (202) 673–5134, Regulatory Affairs Division, Bureau of International Aviation, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUPPLEMENTARY INFORMATION: The Civil Aeronautics Board is proposing to exempt Canadian charter air taxi operators utilizing small aircraft from the requirements of section 402 of the Federal Aviation Act, and to replace those requirements with a simple registration procedure as the means for conferring operating authority between the United States and Canada.[1] The purpose of the rulemaking is to simplify, expedite and reduce the regulatory procedures imposed upon these carriers. It is being undertaken largely because we have good aviation relations with our Canadian neighbors.

Importantly, the operations these Canadian carriers conduct to the United States are covered by the 1974 U.S.–Canada Nonscheduled Air Services Agreement. The Agreement is unique in that its sole applicability is to nonscheduled operations. It establishes standards for grant of the rights contained in the Agreement; requires each country to license the carriers designated by the other party under the Agreement, provided that substantial ownership and control of the carrier are vested in nationals of the party designating the airline, that the carrier complies with the laws and regulations of the other party, and that the carrier's homeland licenses comply with the standards established by the convention on International Civil Aviation; and encourages expenditious processing of an application for a license. Indeed, § 399.14 of the Board's Policy Statements requires special facilitation for Canadian small charter carrier applicants seeking transborder authority.

Canadian small charter carrier applications constitute the bulk of the Canadian carrier filings under section 402 of the Act. Moreover, in the last 18 months, they comprised 20 percent of *all* filings under section 402. In recent years these applications have been processed routinely and no objections have been filed regarding requests for this authority. Considering the fact that these carriers are extremely small, both in terms of system operations and organizations, the regulatory framework historically imposed on them has been burdensome. For example, the Board's present rules state that an applicant must file a statement of ecomomic data, evidence establishing its fitness, and detailed information concerning ownership, insurance, reciprocity factors, and several other items. Since the Board's rules also require that certain procedural steps be taken, grant of a 402 permit ordinarily takes 4 to 6 months to complete, even through expedited procedures (see subpart Q of the Board Rules of Practice, 14 CFR Part 302). By contrast, Canadian processing of U.S. requests for small aircraft charter authority takes about half the time. The considerable expense and delay impose a significant barrier to entry for these small businesses and hampers competition in the relevant markets. Furthmore, we believe as a general matter that the U.S. and Canadian traveling and shipping public would benefit if the regulatory burdens on both sides could be reduced to an absolute minimum. This proposed action is a first step toward that goal.[2] We recognize that the Canadian procedures will now be somewhat more burdensome for U.S. air taxi operators seeking a Canadian license than those proposed here for Canadian carriers seeking a U.S. license. The Board will strive to ease these burdens to the best of its ability.

We also believe that the rationale for exempting Part 298 U.S. air taxi operators applies to their Canadian counterparts. The Board in its proposed rulemaking on Part 298 stated that:

> It is our opinion that the service contemplated should be encouraged, partly because it is the kind of service which can well be conducted by small carriers, and also because it affords a means of serving many small communities which would otherwise be without air connection to major terminals.[3]

The same holds true for Canadian small carriers. We see no purpose in subjecting these Canadian carriers to more onerous economic and regulatory requirements than their U.S. counterparts, unless foreign policy reasons require. As discussed above, none appear to be present. The Board therefore proposes to exempt Canadian charter air taxi operators from the requirements of section 402 of the Act and to replace those procedures with a simple filing for registration.

This action is similar to that taken in ER–1159, 44 FR 69633, December 4, 1979, where the Board adopted a new Part 297 to govern operations by foreign air freight forwarders and foreign cooperative shippers associations. That rule replaced hearing procedures under section 402 of the Act with a simple registration requirement for obtaining operating authority. Foreign air freight forwarders were exempted from other provisions of the Federal Aviation Act as well. A similar proposal with regard to foreign tour operators is pending in EDR–398, 45 FR 26084, April 17, 1980.

Until fairly recently, the Act limited exemptions to domestic air carriers and precluded the action we are taking now. The Airline Deregulation Act of 1978 (Pub. L. 95–504) expanded our exemption powers to include foreign air carriers and our initiative flows from these new provisions. The rule would reduce expense and delay for these carriers, thereby lowering their barriers to entry and increasing competition in the relevant markets. Lower costs for the traveling and shipping public may result. It may also serve as a spur toward greater competitive opportunities between the two countries in the area of aviation. The Board, therefore, tentatively concludes that this blanket exemption would be consistent with the public interest.

Under the proposed rule, registration will consist of filing with the Regulatory Affairs Division, Bureau of International Aviation (BIA): (1) Three copies of an application for registration (CAB Form 294A); (2) a current certificate of insurance; [4] and (3) the Warsaw liability limitation waiver (CAB Form 263). After the registration is approved, a stamped copy of CAB Form 294A will be sent to both the applicant and the FAA as evidence of effective registration with the Board. One copy will be retained in BIA. As evidence that the applicant has obtained FAA authority and may begin operations into the United States, the rule proposes that the FAA return CAB Form 294A to BIA indicating on the form when the applicant received its FAA operations specifications.

The registration form is an amalgam of Form 297A (Registration of Foreign Air Freight Forwarders and Foreign Cooperative Shippers Associations) and Form 298A (Registration of Air Taxis). To help implement the Agreement's requirement that substantial ownership and effetive control of an applicant must reside in Canadian nationals or in the Canadian Government, the applicant must list on the form the name, address, and citizenship of anyone with an ownership interest in the applicant of 10% or more. In addition, § 294.22 of the proposed rule provides that the Board be notified if anyone later attains the 10 percent threshold amount. The form would also extract information concerning the aircraft that the applicant proposes to fly, and the license number of each Canadian license held by the applicant. A change in name or address, or a carrier's temporary or permanent cessation of operations, would require resubmission of Form 294A within 30 days after the event has occurred. A name change also would operate to nullify a carrier's registration unless within 60 days after the name change the registrant is redesignated by Canada. This requirement parallels Canadian procedures for U.S. transborder operators of similar size. (The authority to approve or disapprove a name change is delegated to the Director of the Bureau of International Aviation, under § 385.26(g).)

Upon receipt of the applicant's Form 294A, the Board may request additional information, and after allowing 28 days for objections and 14 days for answers, will take one of the following actions in the application: Reject it for failure to comply with Part 294; institute a hearing or show-cause proceeding; approve the application with conditions; or approve it outright. The authority to request additional information, approve the application, or reject it for technical reasons would be delegated in § 385.26 to the Director, Bureau of International Aviation. If the application is to be referred by the Director to the Board, the Bureau will notify the applicant as soon as such decision is made.

The time allowed for filing objections and answers will allow interested parties ample time to register their views.

Under certain circumstances a registrant may have its Board authority revoked, canceled, suspended, or subjected to additional terms and conditions. These would include situations in which a registrant discontinues operations, fails to maintain proper insurance coverage, has been granted a 402 permit to use "large aircraft," violates the "substantial ownership" provisions of this part, has its designation withdrawn or has its FAA operations specifications suspended or terminated. Similar sanctions could follow from termination of the Agreement or a Board finding that the action is otherwise consistent with the public interest. Authority to take essentially procedural actions, such as cancellation due to a cessation of operations or due to withdrawal of designation, would be delegated to the Director, Bureau of International Aviation.

The Board has tentatively decided not to have reporting requirements for carriers covered by this rule. We have already permissively relieved these carriers of the requirement to file CAB Form 217 (see Reporting Directive No. 10, effective January 1, 1980). We also propose to eliminate the requirement that these carriers file with us Canadian Transport Commission Statement 40 and information on certain Canada-southern United States charters. The Agreement provides that these reports be filed with the Canadian Transport Commission and with the Board. We have had little occasion to use the reports, and see no reason for continuing this marginally useful practice. Therefore, we will relieve these carriers of their duty to file the reports. The filing of these reports was established by Board Order 74–5–37. We will issue an order deleting the reporting requirements upon final disposition of this rule. The Board, of course, retains its power to inspect and demand accounts and records under section 407 of the Act, and its power under section 402(c) to set reasonable terms and conditions to its grants of authority is preserved by §§ 294.10 and 294.50(g) of the proposed rule.

Sixty days will be allowed for comments on this proposal. While the rulemaking is pending, the Board will dispose of Canadian small charter air carrier applications on a case-by-case basis. We contemplate that almost all of the pending and newly filed applications will not require either oral or written hearing procedures under Subpart Q of our Procedural Regulations. Instead, we intend to use our exemption power to grant operating authority pending final disposition of this rule.

We emphasize that the foregoing are our tentative conclusions only, and we solicit the views of all interested persons to assist us in determining whether to adopt the proposed rules set forth in this notice.

Accordingly, the Board proposes to amend Chapter II of 14 CFR, as follows:

PART 294—CANADIAN CHARTER AIR TAXI OPERATORS

1. A new Part 294 would be added to read:

Subpart A—General

Sec.
294.1 Applicability and purpose.
294.2 Definitions.
294.3 General requirements for Canadian charter air taxi operators.

Subpart B—Exemption

294.10 Exemption authority.

Subpart C—Registration for Exemption

294.20 Applying for registration.
294.21 Procedure on receipt of registration form.
294.22 Notification to the Board of change in operations or identifying information.

Subpart D—General Rules for Registrants

294.30 Scope of service and equipment authorized.
294.31 Use of business name.
294.32 Security arrangements for operating Public Charters.
294.33 Compliance with the regulations of the Federal Aviation Administration.
294.34 Advance approval by the Board.

Subpart E—Insurance Requirements

294.40 Basic insurance requirements.
294.41 Minimum limits of insurance.

Subpart F—Cancellation of Registration and Presidential Review

294.50 Cancellation, revocation, or suspension of registration.
294.51 Presidential review.

Subpart G—Authorizations and Waivers

294.60 Applications for authorization to conduct individual operations or programs not otherwise permitted by this Part.

[1] Small aircraft are defined by the Nonscheduled Air Services Agreement as aircraft which are not large. Large aircraft are defined as aircraft having both (a) a maximum passenger capacity of more than 30 seats or a maximum payload capacity of more than 7,500 pounds, and (b) a maximum authorized takeoff weight on wheels greater than 35,000 pounds.

[2] Our proposed action will not reduce the regulatory oversight regarding the operational fitness of these carriers. The proposed rule requires that before an applicant can begin operations, it must hold operations specifications issued by the FAA. These specifications can only be issued after a review of the application by the FAA which contains information regarding the carrier's operations, personnel and aircraft. The proposed rules do not require the Board to review the financial fitness of these carriers. Considering the limited scope of these operations and the fact that the Board does not review the financial status of U.S. nonscheduled air taxi operators, it would not be appropriate to require such a review of their Canadian counterparts.

[3] See Draft Release No. 47, dated February 14, 1951 at 3.

[4] By EDR–395, January 28, 1980, Docket 37531, the Board proposed to adopt a new Part 205 of its Regulations to require $2,000,000 in third-party liability insurance, with $300,000 per passenger and third-party liability coverage. A registrant under this part will be subject to the insurance requdirements provided for in those regulations as they may be finally adopted.

Sec.
294.61 Waivers.

Subpart H—Violations

on a time, mileage, or trip basis where the entire planeload capacity of one or more aircraft has been engaged, or the transportation of mail by aircraft.

(b) Does not directly or indirectly utilize large aircraft in charter air services;

(c) Has and maintains in effect

registration under this part in its Weekly Summary of Filings.

(b) Any person objecting to the registration of a Canadian charter air

be received by the Board not later than 30 days after the reported event has occurred.

(a) The carrier changes its name.

exemption under section 416 of the Act. Its application for such a permit or exemption should refer to the registration under this part. Registration

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Sec.
294.61 Waivers.

Subpart H—Violations

294.70 Enforcement.

Subpart I—Terms, Conditions, and Limitations of this Part

294.80 Waiver of sovereign immunity.
294.81 Local traffic prohibited.
294.82 Third-country traffic prohibited.
294.83 Compliance with certain international agreements.
294.84 Air competency requirements.
294.85 Charterworthiness standards.
294.86 Industrial/agricultural/other non-transport air operations prohibited.
294.87 Compliance with Canadian licenses.
294.88 Northwest Ontario restriction.
294.89 Uplift ratio.

Authority: Sec. 204, 402, 416, Pub. L. 85-726, as amended, 72 Stat. 743, 757, 92 Stat. 1731; (49 U.S.C. 1324, 1372, 1386).

Subpart A—General

§ 294.1 Applicability and purpose.

This part establishes a classification of foreign air carriers known as "Canadian charter air taxi operators," and establishes registration procedures for these carriers operating or seeking to operate transborder services between Canada and the United States. This part also exempts Canadian charter air taxi operators from certain provisions of the Federal Aviation Act, and establishes rules applicable to their operations in the United States. This part does not provide exemption from the safety regulatory provisions of the Act that are administered by the U.S. Department of Transportation through the Federal Aviation Administration (FAA), and Canadian charter air taxi operators in the conduct of their operations must observe all applicable safety standards and requirements.

§ 294.2 Definitions.

As used in this part: (a) "Act" means the Federal Aviation Act of 1958, as amended.

(b) "Agreement" means the U.S.-Canada Nonscheduled Air Services Agreement signed May 8, 1974, and any amendments, supplements, reservations, or supersessions to it.

(c) "Canadian charter air taxi operator" means a foreign air carrier that is substantially owned and effectively controlled by Canadian citizens, the Government of Canada, or both, whose foreign air transportation operations are limited to charter air service between points in Canada and points in the United States, and that does not use large aircraft in those operations.

(d) "Charter air service" means nonscheduled commercial air transportation of persons and their accompanied baggage, and of property, on a time, mileage, or trip basis where the entire planeload capacity of one or more aircraft has been engaged, or the transportation of mail by aircraft.

(e) "Large aircraft" means any aircraft that are not "small aircraft" as defined in this section.

(f) "Maximum authorized take-off weight" has the meaning assigned to it in regulations of the Canadian Transport Commission.

(g) "Maximum certificated takeoff weight" means the maximum takeoff weight authorized by the terms of the aircraft airworthiness certificate. This weight may be found in the airplane operating record or in the airplane flight manual that is incorporated by regulation into the airworthiness certificate.

(h) "Maximum passenger capacity" means the maximum number of passenger seats for which an aircraft is configured.

(i) "Maximum payload capacity" means the maximum certificated takeoff weight of an aircraft less the empty weight as defined in section 03 of Part 241 of this chapter, less all justifiable aircraft equipment, and less the operating load (consisting of minimum fuel load, oil, flight crew, steward's supplies, etc.). For purposes of this part, the allowance for weight of the crew, oil and fuel is as follows: (1) Crew—200 pounds per crew member required under FAA regulations, (2) oil—350 pounds, (3) fuel—the minimum weight of fuel required under FAA regulations for a flight between domestic points 200 miles apart, assuming VFR weather conditions and flights not involving extended overwater operations. However, in the case of aircraft for which a maximum zero fuel weight is prescribed by the FAA, maximum payload capacity means the maximum zero fuel weight less the empty weight, less all justifiable aircraft equipment, and less the operating load (consisting of minimum flight crew, steward's supplies, etc., but not including disposable fuel or oil).

(j) "Small aircraft" means any aircraft designed to have both: (1) A maximum passenger capacity of not more than 30 seats or a maximum payload capacity of not more than 7,500 pounds, and (2) a maximum authorized take-off weight on wheels not greater than 35,000 pounds.

§ 294.3 General requirements for Canadian charter air taxi operators.

A Canadian charter air taxi operator shall conduct charter air service between the United States and Canada only if it—

(a) Has been registered by the Board under this part;

(b) Does not directly or indirectly utilize large aircraft in charter air services;

(c) Has and maintains in effect liability insurance coverage that complies with the requirements set forth in Subpart E of this part and has and maintains a current certificate of insurance evidencing such coverage on file with the Board;

(d) Has and maintains in effect and on file with the Board a signed counterpart of CAB Agreement 18900 (CAB Form 263);

(e) Has been designated by the Canadian Government under the Agreement;

(f) Has been granted Federal Aviation Administration operations specifications required under Part 129 of the Federal Aviation Regulations;

(g) Is substantially owned and effectively controlled by Canadian citizens, or the Government of Canada, or a combination of both; and

(h) Complies with the terms, conditions, and limitations of this part.

Subpart B—Exemption

§ 294.10 Exemption authority.

Canadian charter air taxi operators registered under this part are exempt from the following provisions of the Act to the extent necessary to perform charter air service between the United States and Canada, and as long as they comply with the terms, conditions, and limitations of this part: (a) Section 402 (permits).

(b) Subsection 404(a)(2) (carrier's duty to observe reasonable rates).

(c) Subsection 404(b) (discrimination).

Subpart C—Registration for Exemption

§ 294.20 Applying for registration.

To apply for registration under this part, a Canadian charter air taxi operator shall file with the Board's Bureau of International Aviation, Regulatory Affairs Division, the following: (a) A currently effective certificate of insurance as described in § 294.40(b); and

(b) Three copies of CAB Forms 263 and 294–A, which may be obtained from the Board's Publications Services Division, Washington, D.C. 20428. All the information required by Form 294–A shall be filled in, and it shall be certified by a responsible officer of the applicant Canadian charter air taxi operator.

§ 294.21 Procedure on receipt of registration form.

(a) The Board will list the names and addresses of all persons applying for registration under this part in its Weekly Summary of Filings.

(b) Any person objecting to the registration of a Canadian charter air taxi operator shall file an objection with the Bureau of International Aviation, Regulatory Affairs Division and serve a copy on the registrant within 28 days after the Board receives the properly completed registration application. Objections shall include any facts and arguments upon which the person relies to support its objection.

(c) Any answers to objections shall be filed within 14 days after the date that the objections were due.

(d) After receipt of CAB Form 294–A, the Board may request additional information.

(e) After the period for objections and answers has expired, the Board will take one of the following actions:

(1) Issue the registration by stamping its effective date on CAB Form 294–A and sending a copy of it to the carrier and to the FAA as evidence of registration under this part. The FAA will return its copy of Form 294–A to the Regulatory Affairs Division, Bureau of International Aviation, after the carrier has been granted FAA operations specifications under Part 129 of the Federal Aviation Regulations;

(2) Reject the application for failure to comply with this part;

(3) Issue the registration subject to such terms, conditions, or limitations as may be consistent with the public interest; or

(4) Institue evidentiary proceedings to consider whether the registration should be issued.

(f) An action described in paragraph (e) of this section will normally be taken within 60 days after the registration application is received. The Board will consider requests for faster action that include a full explanation of the need for expedited action.

(g) A registration will not become effective until the United States Government receives from the Canadian Government written designation of the registrant under the Agreement.

(h) Rejection of an application for registration will not preclude the filing of a new application by the same carrier.

§ 294.22 Notification to the Board of change in operations or identifying information.

Each Canadian charter air taxi operator shall refile three copies of CAB Form 294–A with the Board's Bureau of International Aviation, Regulatory Affairs Division, upon any of the following events. The refilings shall be mailed, or otherwise delivered, so as to be received by the Board not later than 30 days after the reported event has occurred.

(a) The carrier changes its name. When a carrier refiles Form 294–A to indicate a change of name—

(1) The registration becomes ineffective unless the Canadian Government amends the carrier's designation under the Agreement to reflect the carrier's new name within 60 days of its name change;

(2) The registrant must also refile three copies of CAB Agreement 18900 (CAB Form 263) under its new name;

(3) The registrant must also refile its certificate of insurance under its new name; and

(4) The registrant must also advise the appropriate FAA office referred to in § 294.33 of the carrier's new name;

(b) The carrier changes its designated agent.

(c) A change occurs in the carrier's ownership and control resulting in a person acquiring a beneficial or voting interest in the registrant of 10% or more. The name(s), address(es), citizenship(s), and percentages of ownership of the new owners shall be indicated on the form. Acquisition of ownership interest by persons who are not citizens of the country of citizenship of the registrant may invalidate the registration.

(d) The carrier temporarily or permanently ceases operations.

Subpart D—General Rules for Registrants

§ 294.30 Scope of service and equipment authorized.

(a) Upon fulfillment of the requirements of § 294.3 of this part, the registrant will have Board authority to engage in charter air services between any point or points in Canada and any point or points in the United States using small aircraft.

(b) Nothing in this part shall be contrued as authorizing the operation of large aircraft in charter air service, and the exemption provided by this part to Canadian charter air taxi operations that register with the Board extends only to the direct operations of charter air service in accordance with the limitations and conditions of this part using aircraft designed to have both: (1) A passenger capacity of no more than 30 seats or a payload capacity of no more than 7,500 pounds, and (2) an authorized take-off weight on wheels of no more than 35,000 pounds.

(c) A Canadian charter air taxi operator shall not use large aircraft for charter air service until it has been granted a permit by the Board under section 402 of the Act or granted an exemption under section 416 of the Act. Its application for such a permit or exemption should refer to the registration under this part. Registration under this part will be canceled when a section 402 permit has been granted by the Board for the use of large aircraft in foreign charter air service.

§ 294.31 Use of business name.

(a) A Canadian charter air taxi operator, in holding out charter air service to the public and performing its charter operations, shall do so only in the names in which its registration is issued under this part. The Board may require a Canadian charter air taxi operator to change such names where they appear to be inconsistent with the public interest.

(b) Minor variations in the use of a registered name, including abbreviations, contractions, initials, letters, or other variations of the name which are readily identifiable with it, are permitted.

§ 294.32 Security arrangements for operating Public Charters.

When a Canadian charter air taxi operator performs a Public Charter under Part 380 of this chapter, either—

(a) The Canadian charter air taxi operator shall meet the bonding or escrow requirements applicable to foreign air carriers as set forth in § 214.9c of this chapter; or

(b) The Canadian charter air taxi operator shall ensure that it does not receive any payments for the charter until after the charter has been completed. In this case, its contracts with the charter operator and the charter operator's depository bank, if any, shall state that the charter operator or bank, as applicable, shall retain control of and responsibility for all participant funds intended for payment for charter air service until after the charter has been completed, notwithstanding any provision of Part 380.

§ 294.33 Compliance with the regulations of the Federal Aviation Administration.

Registrants under this part shall obtain FAA operations specifications required under Part 129 or other applicable rules of the Federal Aviation Regulations prior to beginning operations into the United States. Registrants should write to the FAA office at one of the following addresses to obtain instructions on how to apply for FAA authority.

(a) If the registrant's business address is in Winnipeg, Manitoba, or of the same longitude as or east of that point, it should write to: Federal Aviation

Administration, General Aviation District Office No. 1, Albany, New York 12211.

Subpart F—Cancellation of Registration and Presidential Review

§ 294.50 Cancellation, revocation, or

§ 294.61 Waivers.

The Board upon application or on its own initiative may waive any of the

§ 294.83 Compliance with certain international agreements.

A registrant shall not operate any aircraft under this part unless it—

the authority and conditions contained in the registrant's applicable Canadian licenses.

(b) The computation shall be made separately for (1) "small aircraft" flights of persons; and (2) "small aircraft" flights of property.

Administration, General Aviation District Office No. 1, Albany, New York 12211.

(b) If the registrant's business address is west of Winnipeg, Manitoba, it should write to: Chief, Flight Standards, Federal Aviation Administration, District Office No. 61, FAA Building, King County International Airport, Seattle, Washington 98108.

§ 294.34 Advance approval by the Board.

The Board, by order or regulation and without hearing, may require advance approval of individual charter trips conducted by the registrant under the authority granted by this part, if it finds such action to be consistent with the public interest.

Subpart E—Insurance Requirements

§ 294.40 Basic insurance requirements.

(a) Each Canadian charter air taxi operator engaging in charter air services shall maintain in effect liability insurance coverage that complies with the requirements of this subpart or such other regulations as the Board may adopt in the public interest, and is evidenced by a currently effective policy of insurance available for inspection by the Board and the public at the registrant's principal place of business. Evidence of such insurance coverage, in the form of a certificate of insurance, shall be maintained on file with the Board's Bureau of International Aviation, Regulatory Affairs Division, at all times.

(b) A certificate of insurance includes one or more documents showing the name(s) and address(es) of the insurance carrier(s), the effective and expiration dates, and the minimum amounts and limits of liability that provide the minimum coverage prescribed in § 294.41. Upon request, the Board may authorize a Canadian charter air taxi operator to supply the name(s) and address(es) of an insurance syndicate in lieu of the name(s) and address(es) of the member insurers.

§ 294.41 Minimum limits of insurance.

The minimum limits of insurance coverage maintained by a Canadian charter air taxi operator shall be: (a) Third-party liability insurance in the amount of $1,000,000 to meet potential claims that may arise in connection with its operations under this part;

(b) Liability insurance for bodily injury to or death of passengers, including cargo handlers, in the amount of $75,000 per passenger or cargo handler. (This limitation is described in CAB Agreement 18900 approved by Board Order E–23680, May 13, 1966.)

Subpart F—Cancellation of Registration and Presidential Review

§ 294.50 Cancellation, revocation, or suspension of registration.

The registration of a carrier subject to this part may be revoked, canceled, suspended, modified, or otherwise subject to additional terms and conditions by the Board if: (a) The carrier files with the Board a written notice that it is discontinuing operations;

(b) The carrier is the holder of a section 402 permit to perform large aircraft charters under the Agreement;

(c) Substantial ownership or effective control is acquired by persons who are not (1) citizens of Canada, (2) the Government of Canada, or (3) a combination of both;

(d) The Canadian Government withdraws the registrant's designation under the Agreement;

(e) The Agreement between the two countries is terminated;

(f) The registrant fails to have proper insurance coverage, or fails to file or keep a current insurance certificate on file with the Board;

(g) The registrant fails to comply with the terms, conditions, or limitations of this part;

(h) The carrier's operations specifications issued by the FAA are suspended or terminated;

(i) The Board finds that it is in the public interest to do so.

§ 294.51 Presidential review.

A Board order under § 294.50 (e), (g) or (i) shall be subject to stay or disapproval by the President within 60 days.

Subpart G—Authorizations and Waivers

§ 294.60 Applications for authorization to conduct individual operations or programs not otherwise permitted by this part.

(a) Where the terms, conditions, or limitations of this part, particularly §§ 294.81, 294.82, 294.88, and 294.89, require prior approval of individual flights or charter programs, the registrant shall apply for such approval by filing three copies of CAB Form 433 with the Bureau of International Aviation, Regulatory Affairs Division. CAB Form 433 may be obtained from the Board's Publications Services Division, Washington, D.C. 20428.

(b) Action on the application for authorization filed under paragraph (a) of this section will normally be taken within 30 days after the application is filed. The Board will consider requests for faster action that include a full explanation of the need for expedited action.

§ 294.61 Waivers.

The Board upon application or on its own initiative may waive any of the provisions of this part if it finds such action to be in the public interest.

Subpart H—Violations

§ 294.70 Enforcement.

In case of any violation of any of the provisions of the Act, or this part, or any other rule, regulation, or order issued under the Act, the violator may be subject to a proceeding under sections 1002 and 1007 of the Act before the Board or a U.S. District Court, as the case may be, to compel compliance; or to impose civil penalties under the provisions of section 901(a) of the Act; or in the case of a willful violation, to impose criminal penalties under the provisions of section 902(a) of the Act; or to impose other lawful sanctions, including revocation of registration.

Subpart I—Terms, Conditions, and Limitations of This Part

§ 294.80 Waiver of sovereign immunity.

By accepting an approved registration under this part, a registrant waives any right it may possess to assert any defense of sovereign immunity in any action or proceeding instituted against it in any court or other tribunal in the United States based upon any claim arising out of its operations under this part.

§ 294.81 Local traffic prohibited.

(a) Except as set forth in paragraph (b) of this section or § 294.60, a registrant shall not carry passengers, cargo, or mail between two or more United States points for compensation or hire.

(b) A registrant may grant stopover privileges at any point or points in the United States to passengers and their accompanied baggage on a flight that originates in Canada, if: (1) The flight is operated under a contract for round-trip charter transportation that is to be provided solely by the registrant; and

(2) The same aircraft stays with the passengers throughout the journey.

§ 294.82 Third-country traffic prohibited.

Except as set forth in § 294.60, a registrant shall not engage in foreign air transportation between the United States and any point that is not in Canada, or transport any property or persons whose journey includes a prior, subsequent, or intervening movement by air to or from a point not in the United States or Canada. This prohibition does not apply to passengers who are not moving as part of any group.

§ 294.83 Compliance with certain international agreements.

A registrant shall not operate any aircraft under this part unless it—

(a) Complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;

(b) Complies with all applicable provisions of the Agreement; and

(c) Complies with all applicable provisions of any treaty, convention, or agreement affecting international air transportation to which the United States and Canada are parties.

§ 294.84 Air competency requirements.

Registrants shall conform to the airworthiness and airman competency requirements prescribed by the Government of Canada for Canadian international air service.

§ 294.85 Charterworthiness standards.

(a) Registrants may perform U.S.-originating charters authorized under Annex B (III)(A) of the Agreement as follows: Commercial air transportation of passengers and their accompanied baggage, and of property, on a time, mileage, or trip basis, where the entire planeload capacity of one or more aircraft has been engaged by a person for his own use or by a person for the transportation of a group of persons and/or their property, as agent or representative of such group, or other small aircraft operations as may be authorized under any amendments, supplements, reservations, or supersessions or the Agreement.

(b) Registrants may perform Canadian-originating charters authorized by Annex B (III)(B) of the Agreement and any amendments, supplements, reservations or supersessions of it. Such charters may be performed only to the extent authorized by the Air Carrier Regulations of the Canadian Transport Commission applicable to operations by small aircraft.

§ 294.86 Industrial/agricultural/other non-transport air operations prohibited.

A registrant shall not engage in flights for the purpose of industrial or agricultural operations (e.g., crop dusting, pest control, pipeline patrol, mapping, surveying, banner towing, skywriting, aerial photograph) within the United States unless it has obtained a permit from the Board under Part 375 of this chapter.

§ 294.87 Compliance with Canadian licenses.

A registrant shall not, in the performance of operations authorized by this part, use any aircraft or conduct any operations except in accordance with the authority and conditions contained in the registrant's applicable Canadian licenses.

§ 294.88 Northwest Ontario restriction.

(a) Except as set forth in § 294.60 or paragraph (b) of this section, registrants shall not engage in the carriage of persons in foreign air transportation between the United States and Canada to or from a point in Ontario, west of a line drawn due north from Blind River, Ontario (46° 11′ North Latitude, 82°58′ West Longitude) and extending to the border between Ontario and Manitoba, unless:

(1) The point is a resort, camp, or outpost operated by a person duly licensed for such purpose by the Government of the Province of Ontario, or the licensed base of a Canadian charter air carrier, or a Canadian Customs port of entry;

(2) The registrant is required on each flight out of the restricted area to make a stop at a Canadian Customs port of entry or at the licensed base of a Canadian charter air carrier where officers of the Ontario Ministry of Natural Resources may be available to make such inspection as they consider desirable; and

(3) The registrant has available on its aircraft for inspection by the U.S. authorities satisfactory evidence that it has complied with these conditions.

(b) The prohibition set forth in paragraph (a) of this section does not apply to flights performed for medical evacuation or similar emergencies.

(c) A registrant shall clearly notify in writing all persons who contract for the registrant's service, and are affected by the restrictions of this section, of the limitations set fort in paragraph (a) of this section.

§ 294.89 Uplift ratio.

Except as set forth in § 294.60, the aggregate number of all United States-originating charter flights performed by a registrant on or after may 8, 1974, shall not, at the end of any calendar quarter, exceed by more than one-third the aggregate number of all Canadian-originating charter flights performed by the registrant on or after May 8, 1974. For the purpose of making such computation the following shall apply:

(a) A charter shall be considered to originate in the United States (or Canada) if the passengers or property are first taken on board in that country, and shall be considered as one flight whether the charter is one-way, round trip, circle tour, or open jaw, even if a separate contract is entered into for a return portion of the charter trip from Canada (or the United States).

(b) The computation shall be made separately for (1) "small aircraft" flights of persons; and (2) "small aircraft" flights of property.

(c) In the case of a lease of aircraft with crew for the performance of a charter flight on behalf and under the authority of another carrier, the flight shall be included in the computation if the registrant is the lessee, and shall not be included if the registrant is the lessor.

(d) There shall be excluded from the computation:

(1) Flights with aircraft having a maximum authorized takeoff weight on wheels (as determined by Canadian Transport Commission Regulations) not greater than 18,000 pounds; and

(2) Flights originating at a United States terminal point on a route listed in the Air Transport Services Agreement between the United States and Canada, signed January 17, 1966, as amended, or any agreement which may supersede it, or any supplementary agreement thereto which establishes obligations or privileges thereunder. These flights may be excluded from the computation only if, pursuant to any such agreement, the registrant also holds a foreign air carrier permit authorizing individually ticketed or individually waybilled service over that route, and provides some scheduled service on any route pursuant to any such agreement, and such flights serve either (i) a Canadian terminal point on such route, or (ii) any Canadian intermediate point authorized for service on the route by the foreign air carrier permit.

PART 211—APPLICATIONS FOR PERMITS TO FOREIGN AIR CARRIERS

2. In Part 211, § 211.1 would be revised to read:

§ 211.1 Formal requirements.

(a) Applications for permits to engage in foreign air transportation under the terms of section 402 of the Act (called foreign air carrier permits in this part) shall meet the requirements set forth in § 302.3 of this chapter as to execution, number of copies, and formal specifications of papers. Applications shall be verified, and the verifications shall be subscribed and sworn to before a notary public or other officer authorized to administer oaths in the jurisdiction in which such application is executed. Notwithstanding the laws of the country of applicant's citizenship, an application verified before a United States consular officer will be deemed to have met the requirements of this section. All pages of an application shall be consecutively numbered, and the application shall clearly describe and identify each exhibit by a separate

number or symbol. All exhibits shall be deemed to constitute a part of the application to which they are attached.

(b) Neither foreign indirect air carriers

PART 380—PUBLIC CHARTERS

5. In Part 380 § 380.10(d) would be revised to read:

PART 399—STATEMENTS OF GENERAL POLICY

§ 399.14 [Reserved]

7. In Part 399, § 399.14 would be

comments on the proposed rule was October 30, 1980.

On October 9, the International Air Transport Association (IATA) filed a "Motion for an Extension of Time to File

extension of time in Docket 38746 is denied.

(Secs. 204, 403, 404, 416, and 1002, Pub. L. 85–726, as amended, 72 Stat. 743, 758, 760, 771,

Informal technical conference held: Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426.

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number or symbol. All exhibits shall be deemed to constitute a part of the application to which they are attached.

(b) Neither foreign indirect air carriers of property under Part 297 of this chapter nor Canadian charter air taxi operators registered under Part 294 of this chapter are required to submit applications under this part.

PART 215—NAMES OF AIR CARRIERS AND FOREIGN AIR CARRIERS

3. In Part 215, § 215.1 would be revised to read:

§ 215.1 Applicability.

This part applies to all direct air carriers and foreign air carriers except air taxi operators registered under Part 298 of this chapter, indirect foreign air carriers of property, and Canadian charter air taxi operators registered under Part 294 of this chapter.

PART 218—LEASE BY FOREIGN AIR CARRIER OR OTHER FOREIGN PERSONS OF AIRCRAFT WITH CREW

4. In Part 218, § 218.2 would be revised to read:

§ 218.2 Applicability.

This part applies to foreign air carriers and other persons not citizens of the United States which, as lessors or lessees, enter into agreements providing for the lease of aircraft with crew to a foreign air carrier for use in foreign air transportation. For purposes of section 402 of the Act and Part 294 of this chapter, the person who has operational control and safety responsibility is deemed to be the carrier, and is required to have appropriate operating authority. This part therefore provides, among other things, that where aircraft leases involve the use of the lessor's crew, it is presumed that direction, control and responsibility are in the lessor, and operations under such leases may not be conducted in the absence of the issuance to the lessor of a foreign air carrier permit under section 402 or an approved registration form under Part 294 of this chapter (as applicable), a Statement of Authorization under Part 212 or 214 of this chapter, or a disclaimer of jurisdiction. This part does not apply to charters conducted in accordance with Part 212, 214 or 294 of this chapter, (a) for the transportation of company personnel or company property, (b) in cases of emergency, of commercial traffic, or (c) by authorized foreign air freight forwarders or foreign tour operators.

PART 380—PUBLIC CHARTERS

5. In Part 380 § 380.10(d) would be revised to read:

§ 380.10 Public Charter general requirements.

Public Charters under this part shall meet the following requirements:

* * * * *

(d) The air transportation portion of the charter must be performed by direct air carriers that hold a certificate of public convenience and necessity under section 401 of the Act or a permit under section 402, or are operating under Part 294 or Part 298 of this chapter.

* * * * *

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION, NONHEARING MATTERS

6. In Part 385, § 385.26 would be amended by adding a new paragraph (w) to reads:

§ 385.26 Delegation to the Director, Bureau of International Aviation.

The Board delegates to the Director, Bureau of International Aviation, authority to:

* * * * *

(w)(1) Approve or disapprove applications for registration filed under Part 294 of this chapter, or require that an applicant under Part 294 submit additional information.

(2) Cancel, revoke, or suspend the registration of any Canadian charter air taxi operator using small aircraft registered under Part 294 of this chapter that:

(i) Files with the Board a written notice that it is discontinuing operations;

(ii) No longer is designated by its home government to operate the services contemplated by its registration;

(iii) Holds a foreign air carrier permit under section 402 to operate large aircraft charters between the United States and Canada;

(iv) Fails to keep its filed certificate of insurance current;

(v) No longer is substantially owned or effectively controlled by persons who are (A) citizens of Canada, (B) the Government of Canada, or (C) a combination of both; or

(vi) No longer holds current effective operational specifications issued by the FAA.

(3) Grant or deny requests for a waiver of Part 294 of this chapter, where grant or denial of the request is in accordance with current Board policy.

PART 399—STATEMENTS OF GENERAL POLICY

§ 399.14 [Reserved]

7. In Part 399, § 399.14 would be revoked and reserved.

(Sec. 204, 402, 416 of Pub. L. 85–726, as amended, 72 Stat. 743, 757, 92 Stat. 1731; (49 U.S.C. 1324, 1372, 1386))

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-37488 Filed 12-2-80; 8:45 am]

BILLING CODE 6320-01-M

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14 CFR Parts 221, 296, 297

[EDR–408B; Docket No. 38746; Dated: November 26, 1980]

Airlines Filing Tariffs Stating Prices As Maximum Amounts

AGENCY: Civil Aeronautics Board.

ACTION: Denial of request to further extend comment period.

SUMMARY: The CAB denies a request for additional time to comment on its proposal to allow airlines to file tariffs that state prices as maximum amounts instead of exact amounts, so that any price up to the maximum could be charged. The proposed rule would also allow the payment of commissions to air freight forwarders and foreign air freight forwarders. The extension was requested by British Airways.

DATES: Comments by: December 1, 1980. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 38746, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Mark S. Kahan, Assistant Director, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428; 202–673–5371.

SUPPLEMENTARY INFORMATION: In EDR–408 (45 FR 64864; September 30, 1980), the Board proposed to allow airlines to file tariffs that state prices as maximum amounts instead of exact amounts. The Board also proposed to allow the payment of commissions to air freight forwarders and foreign air freight forwarders. The original due date for

comments on the proposed rule was October 30, 1980.

On October 9, the International Air Transport Association (IATA) filed a "Motion for an Extension of Time to File Comments and for Coordinated Review Procedures on Parallel Issues in the Competitive Marketing Investigation" (Docket 36595). On October 17, the Association of Retail Travel Agents (ARTA) filed a motion asking for the same relief. On October 16, the American Society of Travel Agents (ASTA) filed a "Motion to Terminate Notice of Proposed Rulemaking and/or Other Relief." ASTA's suggested alternative relief would be an order explaining the relationship between this rulemaking and the *Competitive Marketing Investigation*, with 45 days after that for comments on the proposed rule and 30 days for reply comments.

In EDR–408A (45 FR 71365; October 28, 1980), the undersigned, acting under delegated authority, granted the requests of IATA and ARTA for an extension of time, and set the new comment deadline at December 1, 1980. As stated in EDR–408A, the delegation of authority to the Associate General Counsel, Rules and Legislation, does not cover the motions for coordinated review procedures on parallel issues in the *Competitive Marketing Investigation*, or ASTA's motion for termination of the rulemaking or other relief. EDR–408A announced that those motions would be considered by the Board.

On November 21, 1980, British Airways moved for a further extension of time to comment. Noting that the Board has not yet responded to the other procedural motions, British Airways argued that their nature makes it inappropriate for interested persons to expend substantial resources at this time preparing comments on EDR–408 as originally proposed. British Airways asked for 120 days for comments after the Board's response, and another 60 days after that for reply comments.

We are denying British Airways' motion. The filing of the procedural motions has not made the maximum tariffs scheme proposed in EDR–408 any less a live option or diminished the value of public comments to the Board. In fact, substantive comments at this time will be useful to the Board not only in deciding whether to adopt the scheme as proposed, but also whether to revise it, and if so, how. Moreover, if the Board should decide to refocus the rulemaking or restructure the investigation, it will invite further comments as necessary.

Accordingly, under authority delegated in 14 CFR 385.20(d), the motion of British Airways for a further extension of time in Docket 38746 is denied.

(Secs. 204, 403, 404, 416, and 1002, Pub. L. 85–726, as amended, 72 Stat. 743, 758, 760, 771, and 788; (49 U.S.C. 1324, 1373, 1374, 1386, 1482))

Richard B. Dyson,

Associate General Counsel.

[FR Doc. 80-37586 Filed 12-2-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM79–21]

Regulations Implementing Alternative Fuel Price Ceilings for Incremental Pricing Under the Natural Gas Policy Act of 1978; Extending Written Comment Period and Scheduling Informal Technical Conference

November 25, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice extending written comment period and scheduling informal technical conference.

SUMMARY: The Federal Energy Regulatory Commission is considering and requests public comment on certain revisions to its rules on incremental pricing under the Natural Gas Policy Act of 1978 (15 U.S.C. 3301–3432). The revisions relate to the designation of incremental pricing regions and to the methodology for calculating alternative fuel price ceilings in those regions. Informal technical conferences were held on November 21, 1980, in Kansas City, Missouri and on November 24, 1980, in Washington, D.C. Pursuant to public comments received at the conferences and expectation of additional data from the Energy Information Administration, a second informal technical conference is scheduled for Tuesday, January 6, 1981. The deadline for written comments, originally set for December 5, 1980, is extended to Friday, January 9, 1981. 45 FR 74505.

DATES:

Informal technical conference is scheduled on Tuesday, January 6, 1981.

Comments are due on Friday, January 9, 1981.

ADDRESS: Comments to be filed with: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426.

Informal technical conference held: Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Thomas Gross, Staff Attorney (202) 357–8077.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37669 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-01-M

SELECTIVE SERVICE SYSTEM

32 CFR Ch. XVI

Selective Service Regulations; Proposed Revisions

AGENCY: Selective Service System.

ACTION: Notice of intended rule making.

SUMMARY: The Director of Selective Service is considering initiating rule making proceedings with the view of thoroughly revising the Selective Service Regulations that appear in 32 CFR Chapter XVI other than Part 1615—Administration of Registration that became effective July 18, 1980 (45 FR 48130) and Part 1660—Alternative Service. A revision of Part 1660 will probably be considered later.

The induction of men into the armed forces is not authorized at the present time. Both the President and President-elect have stated their opposition to the resumption of inductions. Furthermore, the resumption of inductions could only occur after legislation enacted by the Congress authorized such action. Should the Congress in the future authorize the resumption of inductions the Selective Service System must be prepared promptly to implement any responsibility assigned to it by law and Presidential directive.

Draft proposal revisions in Selective Service Regulations have been prepared with the overriding objective of improving the procedures and increasing the fairness in their application in adjudicating the claims of men for deferment or exemption from military service as provided in the Military Selective Service Act (50 U.S.C. App. 451 *et. seq.*) Proposed organizational changes and administrative arrangements have been developed to facilitate fair, effective, and efficient administration of the System.

Modifications in the procedures for the System's implementation of the Freedom of Information Act (FOIA) and the Privacy Act of 1974 are proposed to facilitate the System's compliance with those acts.

DATE: Written comments received on or before January 1, 1981 will be considered.

requesting consideration for Class 1–C, 1–D, 1–W, 2–M, 4–A, 4–B, 4–C, 4–F, 4–G, 4–T or 4–W.

§ 1602.12 District appeal board.

A district appeal board or a panel thereof of the Selective Service System

§ 1602.22 Singular and plural.

Words importing the singular number shall include the plural number, and

Service System, the conduct of its officers and employees, the distribution and performance of its business, and the

present at any meeting at which a quorum is present shall decide any question. Each panel of the National

DATE: Written comments received on or before January 1, 1981 will be considered.

ADDRESS: Selective Service System, ATTN: Associate Director for Policy Development, Washington, D.C. 20435.

FOR FURTHER INFORMATION CONTACT: Edward A. Frankle, Associate Director for Policy Development, Selective Service System, Washington, D.C. 20435. Phone: (202) 724–0817.

SUPPLEMENTARY INFORMATION: The desire of the Director of Selective Service to obtain the views of all interested persons early in the process of developing changes in Selective Service procedures prompts the publication of these draft proposed revisions of Selective Service Regulations. This publication is in advance of and in addition to the publications required by section 13(b) of the Military Selective Service Act (50 U.S.C. App. 463(b)) and Executive Order 11623.

Bernard Rostker,
Director of Selective Service.
November 28, 1980.

The draft proposed regulations follow:

32 CFR Chapter XVI except Parts 1615 and 1660 is revised to read as follows:

PART 1602—DEFINITIONS

Sec.

1602.1 Definitions to govern.
1602.2 Administrative classification.
1602.3 AFEES.
1602.4 Aliens and nationals.
1602.5 Area office.
1602.6 Area office staff.
1602.7 Board.
1602.8 Classification.
1602.9 Classifying authority.
1602.10 Computation of time.
1602.11 County.
1602.12 District appeal board.
1602.13 Governor.
1602.14 Judgmental classification.
1602.15 Local board.
1602.16 Local board of jurisdiction.
1602.17 Military service.
1602.18 National Appeal Board.
1602.19 Numbers.
1602.20 Registrant.
1602.21 Selective Service law.
1602.22 Singular and plural.
1602.23 State.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 16623.

§ 1602.1 Definitions to govern.

The definitions contained in Section 16 of the Military Selective Service Act, and the definitions contained in this part shall govern in the interpretation of the regulations of this chapter.

§ 1602.2 Administrative classification.

A reclassification action taken by a classifying authority for a registrant requesting consideration for Class 1–C, 1–D, 1–W, 2–M, 4–A, 4–B, 4–C, 4–F, 4–G, 4–T or 4–W.

§ 1602.3 AFEES.

Armed Forces Examining and Entrance Station is a military installation to which registrants are ordered to report for examination only or to report for and submit to induction.

§ 1602.4 Aliens and nationals.

(a) The term "alien" means any person who is not a citizen or national of the United States.

(b) The term "national of the United States" means:

(1) A citizen of the United States, or

(2) A person, though not a citizen of the United States, who owes allegiance to the United States.

§ 1602.5 Area office.

The Selective Service Office responsible for all administrative and operational support for the one or more local boards within its jurisdiction.

§ 1602.6 Area office staff.

The compensated employees, civilian and military, of the Selective Service System employed in an area office will be referred to as the area office staff.

§ 1602.7 Board.

The word "board" when used alone, unless the context otherwise indicates, includes a local board, district appeal board, and the National Appeal Board and panels thereof.

§ 1602.8 Classification.

Classification is exercise of the power to determine claims or questions with respect to inclusion for, or exemption or deferment from training and service under Selective Service Law.

§ 1602.9 Classifying authority.

The term "classifying authority" refers to any official or board as referred to in section 1633.1 authorized to classify a registrant.

§ 1602.10 Computation of time.

Unless otherwise specified the period of days allowed a registrant or other person to perform any act or duty required of him shall be counted as beginning on the day following that on which the notice is posted or mailed.

§ 1602.11 County.

The word "county" includes, where applicable, counties, independent cities, and similar subdivisions, such as the independent cities of Virginia and the parishes of Lousiana.

§ 1602.12 District appeal board.

A district appeal board or a panel thereof of the Selective Service System is a group of not less than three civilian members appointed by the President to classify registrants in accord with the provisions of Part 1651 of this chapter.

§ 1602.13 Governor.

The word "Governor" includes, where applicable, the Governor of each of the States of the United States, the Mayor of the District of Columbia, the Governor of Puerto Rico, the Governor of the Virgin Islands, and the Governor of Guam.

§ 1602.14 Judgmental classification.

A classification action taken by a board for a registrant requesting consideration for Class 1–A–O, 1–O, 2–D, 3–A, or 4–D.

§ 1602.15 Local board.

A local board or a panel thereof of the Selective Service System is a group of not less than three civilian members appointed by the President to classify registrants in accord with the provisions of Part 1648 of this chapter.

§ 1602.16 Local board of jurisdiction.

The local board of jurisdiction is the local board to which the registrant is assigned by the Director of Selective Service.

§ 1602.17 Military service.

The term "military service" includes service in the Army, the Air Force, the Navy, the Marine Corps, and the Coast Guard.

§ 1602.18 National Appeal Board.

The National Appeal Board or a panel thereof of the Selective Service System is a group of not less than three civilian members appointed by the President to classify registrants in accord with the provisions of Part 1653 of this chapter.

§ 1602.19 Numbers.

Cardinal numbers may be expressed by Arabic or Roman symbols.

§ 1602.20 Registrant.

Except as otherwise specifically provided, a "registrant" is a person registered under the Selective Service Law.

§ 1602.21 Selective Service Law.

The term "Selective Service Law" includes the Military Selective Service Act, all rules and regulations issued thereunder, and Proclamations of the President pertaining to registration under the Act.

§ 1602.22 Singular and plural.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular, except where the context clearly indicates otherwise.

§ 1602.23 State.

The word "State" includes, where applicable, the several States of the United States, the city of New York, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

PART 1605—SELECTIVE SERVICE SYSTEM ORGANIZATION

National Administration

Sec.

1605.1 Director of Selective Service.
1605.6 National Appeal Board.

Region Administration

1605.7 Region manager.
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State Administration

1605.11 Governor.
1605.12 State Director of Selective Service.
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Area Office Administration

1605.60 Area.
1605.61 Staff of area offices for Selective Service.

Interpreters

1605.81 Interpreters.

Authority: Military Selective Service Act, 50 USC App. 451 et seq.; E.O. 11623.

National Administration

§ 1605.1 Director of Selective Service.

The Director of Selective Service shall be responsible directly to the President. The Director of Selective Service is hereby authorized and directed:

(a) To prescribe such rules and regulations as he shall deem necessary for the administration of the Selective Service System, the conduct of its officers and employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property.

(b) To issue such public notices, orders, and instructions as shall be necessary for carrying out the functions of the Selective Service System.

(c) To obligate and authorize expenditures from funds appropriated for carrying out the functions of the Selective Service System.

(d) To appoint, and to fix, in accordance with provisions of Chapter 51 and subchapter III of Chapter 53 of Title 5, United States Code, relating to classification and General Schedule pay rates, the compensation of such officers, agents, and employees as shall be necessary for carrying out the functions of the Selective Service System.

(e) To procure such space as he may deem necessary for carrying out the functions of the Selective Service System by lease pursuant to existing statutes.

(f) To obtain by purchase, loan, or gift such equipment, supplies, printing, binding, and blankbook work for the Selective Service System, as he may deem necessary to carry out the functions of the Selective Service System.

(g) To perform such other duties as shall be required of him under the Selective Service Law or which may be delegated to him by the President.

(h) To delegate any of this authority to such officers, agents, or persons as he may designate, and to provide for the subdelegation of any such authority.

§ 1605.6 National Appeal Board.

(a) There is hereby created and established within the Selective Service System a civilian agency of appeal which shall be known as the National Selective Service Appeal Board, hereafter referred to as the National Board. The President shall appoint not less than three members of the National Board from among citizens of the United States who are not members of the Armed Forces, and he shall designate one member as Chairman of the National Board. The National Board may sit en banc or, upon the request of the Director of Selective Service or as determined by the Chairman of the National Board, in panels, each panel to consist of at least three members. The Chairman of the National Board shall designate the members of each panel, and he shall designate one member of each panel as chairman. A majority of the members of a panel shall constitute a quorum for the transaction of business, and a majority of the members present at any meeting at which a quorum is present shall decide any question. Each panel of the National Board shall have full authority to act on all cases assigned to it. The National Board, or a panel thereof, shall hold meetings in Washington, D.C., and, upon request of the Director of Selective Service or as determined by the Chairman of the National Board, at any other place.

(b) The National Board, or panel thereof, shall classify each registrant who appeals to the President under Part 1653 of this Chapter.

(c) No member of the National Board shall act on the case of a registrant who is the member's first cousin or closer relation, either by blood, marriage, or adoption, or who is the member's employer, or fellow employee, or stands in the relationship of superior or subordinate of the member in connection with any employment, or is a partner or close business associate of the member, or is a fellow member or employee of the National Board. A member of the National Board must disqualify himself in any matter in which he would be restricted for any reason in making an impartial decision. Whenever a quorum of the National Board cannot act on the case of a registrant, and there is no panel of the National Board to which the case may be transferred, the decision of the District Appeal Board will be final.

(d) The National Board shall in all respects be independent of the Director of Selective Service except that the Director of Selective Service shall provide for the payment of the compensation and expenses of the members of the National Board, shall furnish that Board and its panels necessary personnel, suitable office space, necessary facilities and services. The Director of Selective Service shall establish the order, by category, in which appeals by registrants will be considered, but he shall not determine the sequence in which appeals within a given category shall be processed. The Director of Selective Service and the Chairman of the National Board shall furnish to each other such information, advice and assistance as will further the attainment of the objectives of the Military Selective Service Act and promote the effective administration of the Act.

(e) Each member of the National Board shall:

(1) Devote so much time to the affairs of the National Board as its responsibilities may require; and,

(2) Be compensated as provided in paragraph (f) of this section; and,

(3) While on the business of the National Board away from his home or regular place of business, receive actual traveling expenses and per diem in lieu of subsistence in accordance with rates established by Federal Travel Regulations.

(f) The compensation of each member of the National Board shall be governed by the following:

(1) The member shall be compensated at an hourly rate for such time as is actually spent by him in the work of the National Board or a panel thereof without limitation as to the number of hours compensable in any one day; and,

(2) The member shall be compensated at an hourly rate for travel time away from his home or regular place of business while enroute to or from any meeting of the National Board or while otherwise traveling on business of the National Board, but the compensable time for any trip to or from any such meeting or other business shall be limited to 8 hours; and,

(3) Duties performed on a Saturday, Sunday, or holiday shall be compensable as if performed or occurring on any other day of the week; and,

(4) The compensation shall be in accord with the provisions of section 5332 of Title 5, United States Code; and,

(5) The compensable hours per week, Sunday through the following Saturday, shall not exceed 40 hours and the compensation in any pay period shall not exceed one twenty-sixth (1/26) of the governing annual rate of compensation.

Region Administration

§ 1605.7 Region manager.

(a) Subject to the direction and control of the Director of Selective Service, the Region Manager of Selective Service for each Region shall be in immediate charge of the Region Headquarters and shall be responsible for carrying out the region functions of the Selective Service System in the various States assigned to the Region.

(b) The Region Manager will perform such duties as are prescribed by the Director of Selective Service.

§ 1605.8 Staff of region headquarters for Selective Service.

(a) Subject to applicable law and within the limits of available funds, the staff of each region for Selective Service shall consist of as many officers, either military or civilian, as shall be authorized by the Director of Selective Service.

(b) In accordance with limitations imposed by the Director of Selective Service, the Region Manager is authorized to appoint such civilian personnel as he considers are required in the operation of the Region Headquarters.

State Administration

§ 1605.11 Governor.

The Governor is authorized to recommend a person to be appointed by the President as State Director of Selective Service for his State, who shall represent the Governor in all Selective Service matters.

§ 1605.12 State Director of Selective Service.

(a) The State Director of Selective Service for each State, subject to the direction and control of the Director of Selective Service, shall be in immediate charge of the State Headquarters for Selective Service in his State. The State Headquarters for Selective Service shall be an office of record for Selective Service operations only, and no records other than Selective Service records shall be maintained in such office.

(b) The State Director of Selective Service will perform such duties as are prescribed by the Director of Selective Service.

§ 1605.13 Staff of State headquarters for Selective Service.

(a) Subject to applicable law and within the limits of available funds, the staff of each State Headquarters for Selective Service shall consist of as many officers, either military or civilian, as shall be authorized by the Director of Selective Service.

(b) In accordance with limitations imposed by the Director of Selective Service, the State Director of Selective Service is authorized to appoint such civilian personnel as he considers are required in the operation of the State Headquarters for Selective Service.

§ 1605.14 State Director of Selective Service for New York City.

The Governor of the State of New York is authorized to recommend a person to be appointed by the President as State Director of Selective Service for New York City, who shall represent the Governor in all Selective Service matters within the City of New York. Subject to the direction and control of the Director of Selective Service, the State Director of Selective Service for New York City shall be in immediate charge of the State Headquarters for Selective Service for New York City and shall perform such duties as are prescribed by the Director of Selective Service. The State Director of Selective Service for the State of New York shall have no jurisdiction in Selective Service matters within the City of New York. The State Headquarters of Selective Service for New York City shall be an office of record for Selective Service operations only, and no records other than Selective Service records shall be maintained in such office.

District Appeal Boards

§ 1605.21 Area.

The Director of Selective Service shall establish one or more district appeal boards in each of the federal judicial districts in the several states of the United States, the District of Columbia, Guam, Puerto Rico, and the Virgin Islands.

§ 1605.22 Composition and appointment of District Appeal Boards.

The Director of Selective Service will prescribe the number of members for the district appeal boards. The President shall appoint members of district appeal boards from among the citizens of the United States who are residents of the area for which the respective boards have jurisdiction. The Director of Selective Service shall furnish necessary personnel, suitable office space, facilities and services to support each district appeal board.

§ 1605.23 Designation.

The Director of Selective Service shall assign each district appeal board within a Judicial District a specific identification by which it shall be known. If a district appeal board consists of more than one panel, each panel shall have a specific identifying number. Such numbers shall be assigned in numerical sequence beginning with numeral 1.

§ 1605.24 Jurisdiction.

The district appeal board shall have jurisdiction to review and to affirm or change any local board decision appealed to it when:

(a) An appeal is submitted by a registrant from a local board in its area; or

(b) An appeal is submitted to it from a local board not in the appeal board area by a registrant whose principal place of employment or residence is located within the jurisdiction of the appeal board; or

(c) An appeal is submitted or transferred to it by the Director of Selective Service to assure the fair and equitable administration of the Law.

§ 1605.25 Disqualification.

(a) No member of a district appeal board shall act on the case of a registrant who is the member's first cousin or closer relation, either by blood, marriage, or adoption, or who is the member's employer, employee, or fellow employee, or stands in the relationship of superior or subordinate of the member in connection with any employment, or is a partner or close business associate of the member, or is a fellow member or employee of the board.

(b) A member of a district appeal board must disqualify himself in any matter in which he would be restricted for any reason in making an impartial decision.

(c) Whenever a quorum of the district appeal board cannot act on the case of a registrant, and there is no panel of the district appeal board to which the case may be transferred, the district appeal board shall transmit such case to the Director of Selective Service for transfer to another district appeal board.

§ 1605.26 Organization and meeting.

Each district appeal board or panel thereof shall elect a chairman and a vice-chairman at least every two years. A majority of the members of the board when present at any meeting shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question. Every member, unless disqualified, shall vote on every question or classification. In case of a tie vote on a question or classification, the board shall postpone action until the next meeting. If the question or classification remains unresolved at the next meeting, the file will be transferred for classification in accord with § 1605.25(c) of this chapter. If any member is absent so long as to hamper the work of the board, the chairman, a member of the board or panel concerned or an area office employee shall recommend to the Director of Selective Service that such member be removed and a new member appointed. If, through death, resignation, or other causes, the membership of the board falls below the prescribed number of members, the board or panel shall continue to function, provided a quorum of the prescribed membership is present at each official meeting.

§ 1605.27 Minutes of meetings.

A compensated employee will keep the minutes of each appeal board meeting. In the absence of a compensated employee the minutes will be kept by an appeal board member.

§ 1605.28 Signing official papers.

Official documents issued and minutes of meetings maintained by a district appeal board may be signed by the appeal board clerk, by any member of the board or by any compensated employee of the Selective Service System authorized to perform administrative duties for the board except when otherwise prescribed by the Director of Selective Service.

Local Boards

§ 1605.51 Areas of local boards.

(a) The Director of Selective Service shall divide each State into local board areas and establish local boards. There shall be at least one local board in each county except where the Director of Selective Service establishes an intercounty board. When more than one local board is established with the same geographical jurisdiction, registrants residing in that area will be assigned among the boards as prescribed by the Director of Selective Service. The Director of Selective Service may establish panels of local boards.

(b) There is hereby created and established a local board designated as District of Columbia Board No. 100 (Foreign) which shall consist of three or more members and which shall have its office in the District of Columbia. Such local board shall be the local board of jurisdiction for any registrant whose permanent address is not within a state, territory, or possession of the United States.

§ 1605.52 Composition of local boards.

The Director of Selective Service shall prescribe the number of members of local boards.

§ 1605.53 Designation.

The Director of Selective Service shall assign each local board within a State a specific identifying number by which it shall be known. Such identifying numbers shall be assigned in numerical sequence beginning with the numeral 1.

§ 1605.55 Disqualification.

(a) No member of a local board shall act on the case of a registrant who is the member's first cousin or closer relation, either by blood, marriage, or adoption, or who is the member's employer, employee or fellow employee, or stands in the relationship of superior or subordinate of the member in connection with any employment, or is a partner or close business associate of the member, or a fellow member or employee of the board or area office.

(b) A member of the local board must disqualify himself in any matter in which he would be restricted, for any reason, in making an impartial decision.

(c) Whenever a quorum of a local board cannot act on the case of a registrant, the area office supervisor shall cause such case to be transferred to another board within the area office, or in those instances where only one board exists in an area office, transmitted to the nearest area office, for transfer to a board under its jurisdiction.

§ 1605.56 Organization and meeting.

Each local board shall elect a chairman and vice-chairman at least every two years. A majority of the membership of the board shall constitute a quorum for the transaction of business. A majority of the members present at any meeting at which a quorum is present shall decide any question or classification. Every member present, unless disqualified, shall vote on every question or classification. In case of a tie vote on any question or classification, the board shall postpone action on the question or classification until it can be decided by a majority vote at the next meeting. If the question or classification remains unresolved at the next meeting, the file will be transferred for classification in accord with subsection 1605.55(c) of this chapter. If any member is absent so long as to hamper the work of the board, the chairman, a member of the board or an area office employee shall recommend to the Director of Selective Service that such member be removed and a new member appointed. If through death, resignation or other cause, the membership of a board falls below the prescribed number it shall continue to function provided a quorum of the prescribed membership is present at each official meeting.

§ 1605.58 Minutes of meetings.

A compensated employee of the appropriate area office will keep the minutes of each meeting of a local board. In the absence of a compensated employee the minutes will be kept by a board member.

§ 1605.59 Signing official papers.

Official papers issued by a local board may be signed by any member of the board or compensated employee of the area office, or any compensated employee of the Selective Service System whose official duties require him to perform administrative duties at the area office except when otherwise prescribed by the Director of Selective Service.

Area Office Administration

§ 1605.60 Area.

(a) The Director of Selective Service shall prescribe the number of area offices to be established and define the boundaries thereof.

(b) The area office shall be an office of record and responsible for all administrative and operational support

(3) Is a resident of the county in which the local board has jurisdiction; and

(4) Is not an active member of the armed services or any reserve

§ 1609.5 Suspension.

The Director of Selective Service may suspend from duty any uncompensated person engaged in the administration of

considered to have been filed on the date that it is received: *Provided*, That a document that is received which was transmitted by the United States Postal

relating to the postponement, deferment or exemption.

§ 1621.2 Duty to report for and submit to

random selection sequence will be conclusive as to his date of birth in all matters pertaining to his relations with the Selective Service System.

(b) The area office shall be an office of record and responsible for all administrative and operational support of the one or more local boards within its jurisdiction.

§ 1605.61 Staff of area offices for Selective Service.

Subject to applicable law and within the limits of available funds, the staff of each area office shall consist of as many compensated employees either military or civilian, as shall be authorized by the Director of Selective Service.

Interpreters

§ 1605.81 Interpreters.

(a) The local board, district appeal board and the National Selective Service Appeal Board are authorized to use interpreters when necessary.

(b) The following oath shall be administered to an interpreter each time he is used:

You swear (or affirm) that you will truly interpret in the matter now in hearing. So help you God.

PART 1609—UNCOMPENSATED PERSONNEL

Sec.
1609.1 Uncompensated positions.
1609.2 Citizenship.
1609.3 Eligibility.
1609.4 Oath of Office.
1609.5 Suspension.
1609.6 Removal.
1609.7 Use of Information.

Authority: Military Selective Service Act, 50 USC App. 451 *et seq.;* E.O. 11623.

§ 1609.1 Uncompensated positions.

Members of local boards, members of district appeal boards, and all other persons volunteering their services to assist in the administration of the Selective Service Law shall be uncompensated. No person serving without compensation shall accept remuneration from any source for services rendered in connection with Selective Service matters.

§ 1609.2 Citizenship.

No person shall be appointed to any uncompensated position in the Selective Service System who is not a citizen of the United States.

§ 1609.3 Eligibility.

(a) The President, upon the recommendation of the respective Governor, will consider for appointment as a member of a local board, any person who:

(1) Is between the ages of 18 and 65 years; and

(2) Is a citizen of the United States; and

(3) Is a resident of the county in which the local board has jurisdiction; and

(4) Is not an active member of the armed services or any reserve component thereof, or retired member; and

(5) Has not served as a member of a board for a period of more than 20 years; and

(6) Is able to perform such duties as necessary during standby status; and

(7) Is able to devote sufficient time to board affairs; and

(8) Is willing to fairly and uniformly apply Selective Service Law, regulations and procedures.

(b) The President, upon the recommendation of the Director of Selective Service, will consider for appointment as a member of a district appeal board any person who:

(1) Is between the ages of 18 and 65 years; and

(2) Is a citizen of the United States; and

(3) Is a resident of the Federal Judicial District over which the district appeal board has jurisdiction; and

(4) Is not an active member of the armed services or any reserve component thereof, or retired member; and

(5) Has not served a member of a board for a period of more than 20 years; and

(6) Is able to perform such duties as necessary during standby status; and

(7) Is able to devote sufficient time to the district appeal board affairs; and

(8) Is willing to fairly and uniformly apply Selective Service Law, regulations and procedures.

(c) The President shall appoint members of the National Board from among citizens of the United States who:

(1) Are between the ages of 18 and 65 years; and

(2) Are not active members of the armed services or any reserve component thereof, or retired members; and

(3) Have not served as a member of the National Board for a period of more than five years; and

(4) Are able to perform such duties as necessary during standby status; and

(5) Are able to devote sufficient time to board affairs; and

(6) Are willing to fairly and uniformly apply Selective Service Law, regulations and procedures.

§ 1609.4 Oath of office.

Every person who undertakes to render voluntary uncompensated service in the administration of the Selective Service Law shall execute an Oath of Office and Waiver of Pay before he enters upon his duties.

§ 1609.5 Suspension.

The Director of Selective Service may suspend from duty any uncompensated person engaged in the administration of the Selective Service Law pending his consideration of the advisability of removing such person.

§ 1609.6 Removal.

(a) The Director of Selective Service may remove any uncompensated person engaged in the administration of the Selective Service Law.

(b) The Governor may recommend to the Director of Selective Service the removal, for cause, of the State Director or any uncompensated person engaged in the administration of the Selective Service Law in his State. The Director of Selective Service shall make such investigation of the Governor's recommendation as he deems necessary, and upon completion of his investigation he shall take such action as he deems proper.

§ 1609.7 Use of information.

Any information or records obtained by compensated or uncompensated personnel during the performance of their official duties, including proceedings before the boards, shall be restricted to official use by the personnel of the Selective Service System except as specifically authorized by law.

PART 1618—NOTICE TO REGISTRANTS

Sec.
1618.1 Waiver of right or privilege.
1618.2 Effect of failure to produce documents.
1618.3 Filing of documents.
1618.4 Listing of advisors to registrants.
1618.5 Transmission of orders and other official papers to registrants.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.;* E.O. 11623.

§ 1618.1 Waiver of right or privilege.

If a registrant fails to claim and exercise any right or privilege within the required time, he shall be deemed to have waived the right or privilege unless the Director of Selective Service, for good cause, waives the time limit.

§ 1618.2 Effect of failure to produce documents.

The failure of any person to produce, within a specified period of time, written evidence of his registration furnished by the Director of Selective Service, shall be evidence of his not having registered.

§ 1618.3 Filing of documents.

A document other than a registration card received by an element of the Selective Service System will be considered to have been filed on the date that it is received: *Provided,* That a document that is received which was transmitted by the United States Postal Service (USPS) and was enclosed in a cover that bears a legible USPS postmark date will be deemed to have been received on that date.

§ 1618.4 Listing of advisors to registrants.

The Director of Selective Service will post in the area office the name, address, and telephone number of any person, upon his request, who desires to advise registrants of their rights under Selective Service Law. Posting of a name is not an indorsement by the Director concerning the competence of the person whose name is posted, nor of the assurance of the accuracy of the information that he or she will furnish. Those persons who have indicated a willingness to provide advice without monetary compensation will be identified.

§ 1618.5 Transmission of orders and other official papers to registrants.

Personnel of the Selective Service System will transmit orders or other official papers addressed to a registrant by handing them to him personally or mailing them to him to the current mailing address last reported by him in writing to the Selective Service System.

PART 1621—DUTY OF REGISTRANTS

Sec.
1621.1 Reporting by registrants of their current status.
1621.2 Duty to report for and submit to induction.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.;* E.O. 11623.

§ 1621.1 Reporting by registrants of their current status.

It is the duty of every registrant who registered after July 1, 1980:

(a) To keep the System currently informed in writing of the address where mail will reach him until otherwise notified by the Director of Selective Service; and

(b) To notify the System within 10 days, of any change in any item of information provided for on his Registration Form; and

(c) To submit to the classifying authority, information concerning his status within 10 days after the date on which the classifying authority mails him a request therefor, or within such longer period as may be fixed by the classifying authority; and

(d) Who has a postponement of induction, or has been deferred or exempted from training and service, to immediately notify the System of any changes in facts or circumstances relating to the postponement, deferment or exemption.

§ 1621.2 Duty to report for and submit to induction.

When the Director of Selective Service orders the registrant for induction it shall be the duty of the registrant to report for and submit to induction at the time and place ordered. If the time when the registrant is ordered to report for induction is postponed, it shall be the continuing duty of the registrant to report for and submit to induction at such time ahd place as may be ordered. Regardless of the time when or the circumstances under which a registrant fails to report for induction when it is his duty to do so, it shall thereafter be his continuing duty from day to day to report for and submit to induction at the place specified in the order to report for induction.

PART 1624—INDUCTIONS

Sec.
1624.1 Random selection procedures for induction.
1624.2 Issuance of induction orders.
1624.3 Age selection groups.
1624.4 Selection and/or rescheduling of registrants for induction.
1624.5 Order to report for induction.
1624.6 Postponement of induction.
1624.7 Expiration of deferment or exemption.
1624.8 Transfer for induction.
1624.9 Induction into the Armed Forces.
1624.10 Order to report for examination.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.;* E.O. 11623.

§ 1624.1 Random selection procedures for induction.

(a) The Director of Selective Service shall from time to time establish a random selection sequence for induction by a drawing to be conducted in the place and on a date the Director shall fix. The random selection method shall use 365 days, or when appropriate, 366 days to represent the birthdays (month and day only) of all registrants who, during the specified calendar year(s) attain their 18th year of birth. The drawing, commencing with the first day selected, and continuing until all 365 days or, when appropriate 366 days are drawn, shall be accomplished impartially. The random sequence number thus determined for any registrant shall apply to him so long as he remains subject to induction for military training and service by random selection.

(b) The date of birth of the registrant that appears on his Selective Service Registration Record on the day before the lottery is conducted to establish his random selection sequence will be conclusive as to his date of birth in all matters pertaining to his relations with the Selective Service System.

§ 1624.2 Issuance of induction orders.

The Director of Selective Service, upon receipt of a call from the Secretary of Defense for persons to be inducted into the Armed Forces, shall, in accord with § 1624.3 of this part, issue orders to report for induction to registrants whose registration records are in the master computer file at the beginning of any day on which orders are issued, in such numbers and at such times as will assure that such call or requisition is filled. The names contained in the Selective Service System data base on a given day will constitute the valid list of registrants from which induction orders can be issued on that day.

§ 1624.3 Age selection groups.

Age selection groups are established as follows:

(a) The age 20 selection group for each calendar year consists of registrants who have or will attain the age of 20 in that year.

(b) The age 21 selection group for each calendar year consists of registrants who have or will attain the age of 21 in that year and, in like manner, each age selection group will be so designated through age group 25.

(c) The age 19 selection group for each calendar year consists of registrants who have or will attain the age of 19 in that year.

§1624.4 Selection and/or rescheduling of registrants for induction.

A registrant in Class 1–A shall be selected and ordered or rescheduled to report for induction in the following categories and in the order indicated: *Provided,* That a registrant who has been identified in accord with the procedures prescribed by the Director of Selective Service as one who will become a member of one of the following categories on the next January 1, may, prior to January 1, be selected and ordered to report for induction on a date after January 1 as a member of such category.

(a) Volunteers for induction in the order in which they volunteered.

(b) Registrants whose postponements have expired.

(c) Registrants in the age 20 selection group for the current calendar year who have been issued orders to report for induction whose exemptions or deferments have expired, in the order of their random sequence number (RSN) established by random selection

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procedures in accord with section 1624.1 of this Part.

(d) Registrants in the age 20 selection group for the current calendar year in the order of their random sequence number (RSN) established by random selection procedures in accord with section 1624.1 of this part.

(e) Registrants in each succeeding age selection group commencing with age 21 selection group and terminating with the age 25 selection group, in turn, within the group, in the order of their random sequence number (RSN) established by random selection procedures in accord with section 1624.1 of this part.

(f) Registrants in the age 19 selection group for the current calendar year in the order of their random sequence number (RSN) established by random selection procedures in accord with § 1624.1 of this part: *Provided,* That no registrant shall be ordered for induction who has not attained the 19th anniversary of his date of birth.

§ 1624.5 Order to report for induction.

(a) Immediately upon determining which persons are to be ordered for induction, the Director of Selective Service shall issue to each person selected an order to report for induction. The date specified to report for induction shall be at least 10 days after the date on which the Order to Report for Induction is sent unless the registrant has volunteered for induction.

(b) Any person who has been ordered for induction who is distant from the address to which the order was sent must either report at the time and place specified in the order, or voluntarily submit himself for induction processing at another AFEES on or before the day that he was required to report in accordance with his induction order.

(c) The Director of Selective Service may direct the cancellation of any order to report for induction at any time.

(d) Any order to report for induction issued by the Director of Selective Service to a registrant who is an alien, who has not resided in the United States for one year will be void. Such order will be deemed only to be an order to produce evidence of his status. When an alien registrant has been within the United States for two or more periods (including periods before his registration) and the total of such periods equals one year, he shall be deemed to have resided in the United States for one year. In computing the length of such periods, any portion of one day shall be counted as a day. Upon establishing a one year residency, the alien registrant will be assigned to the age selection group corresponding to his age.

§ 1624.6 Postponement of induction.

(a) The filing of a claim in accord with section 1633.2 of this chapter postpones the date the registrant is required to report for induction until not earlier than the tenth day after the claim is finally determined in accord with the provisions of this chapter. A claim is finally determined when the registrant does not have a right to appeal the last classification action with respect to that claim or he fails to exercise his right to appeal.

(b) In the case of the death of a member of the registrant's immediate family, extreme emergency involving a member of the registrant's immediate family, serious illness of the registrant, or other emergency beyond the registrant's control, the Director of Selective Service may, after the order to report for induction has been issued, postpone for a specific time the date when such registrant shall be required to report. The period of postponement shall not exceed 60 days from the date of the induction order. When necessary the Director of Selective Service may grant one further postponement, but the total postponement shall not exceed 90 days from the date of the induction order.

(c) The Director of Selective Service shall postpone the induction of:

(1) Any registrant who is satisfactorily pursuing a full-time course of instruction at a high school or similar institution of learning and is issued an order for induction shall, upon the appropriate facts being presented to the board, have his induction postponed:

(i) Until the time of his graduation therefrom; or

(ii) Until he attains the twentieth anniversary of his birth; or

(iii) Until the end of his last academic year, after beginning that year before he attained the twentieth anniversary of his birth; or

(iv) Until he ceases satisfactorily to pursue such course of instruction, whichever is the earliest.

(2) Any registrant who while satisfactorily pursuing a full-time course of instruction at a college, university, or similar institution is ordered to report for induction shall, upon the appropriate facts being presented to the board, have his induction postponed:

(i) Until the end of the semester or term, or academic year in the case of his last academic year, or

(ii) Until he ceases to satisfactorily pursue such course of instruction, whichever is the earlier.

(3) A postponement authorized by this subsection may be terminated by the Director for cause upon no less than 10 days notice to the registrant.

(d) The Director of Selective Service may authorize a delay of induction for any registrant whose date of induction conflicts with a religious holiday historically observed by a recognized church, religious sect or religious organization of which he is a member. Any registrant so delayed shall report for induction on the next business day following the religious holiday.

(e) A postponement to expire not more than 90 days from the date the registrant files his claim for Class 3–A will be granted if a board determines that the hardship to the registrant's dependents would not likely continue for beyond that period of time. The reasons for the action taken in accord with the immediately preceding sentence will be recorded in the registrant's file and a copy thereof will be furnished the registrant.

(f) The Director of Selective Service shall issue to each registrant whose induction is postponed a written notice thereof.

(g) No registrant whose induction has been postponed shall be inducted into the Armed Forces during the period of any such postponement. A postponement of induction shall not render invalid the order to report for induction which has been issued to the registrant but shall operate only to postpone the reporting date and the registrant shall report on the new date scheduled without having issued to him a new order to report for induction.

(h) Any registrant receiving a postponement under the provisions of this section shall, after the expiration of such postponement, be rescheduled to report for induction at the place to which he was originally ordered in accordance with instructions received from Selective Service.

§ 1624.7 Expiration of deferment or exemption.

The Director of Selective Service shall issue an order to report for induction to a registrant whenever his deferment or exemption expires: *Provided,* That no registrant will be issued an order to report for induction whose age group is not currently being inducted.

§ 1624.8 Transfer for induction.

The Director of Selective Service may direct that a registrant or registrants in a specified group of registrants be transferred for induction to such AFEES as he may designate.

§ 1624.9 Induction into the Armed Forces.

At the AFEES, registrants in classes 1–A and 1–A–O, ordered for induction who have been found qualified, will be inducted into the Armed Forces.

§ 1624.10 Order to report for examination.

The Director of Selective Service may order any registrant who has filed a claim for classification in a class other than Class 1–A, or whose induction has been postponed, to report for an armed forces examination to determine his acceptability for military service; such registrant will not be inducted until his classification has been decided. The date specified to report for examination shall be at least 10 days after the date on which the order to report for examination is mailed.

PART 1627—VOLUNTEERS FOR INDUCTION

Sec.

1627.1 Who may volunteer.
1627.2 Registration of volunteers.
1627.3 Classification of volunteers.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*, E.O. 11623.

§ 1627.1 Who may volunteer.

Any registrant who has attained the age of 17 years, who has not attained the age of 26 years, and who has not completed his active duty obligation under the Military Selective Service Act may, when inductions are authorized, volunteer for induction into the armed forces unless he:

(a) Is classified in Class 4–F or is eligible for Class 4–F; or

(b) Has been found temporarily unacceptable with reexamination believed justified (RBJ) and the period of time specified for his return for reexamination has not been terminated and the basis for his temporary rejection continues to exist; or

(c) Has been examined and his acceptability is undetermined (AU); or

(d) Is an alien who has not resided in the United States for a period of at least one year; or

(e) Has not attained the age of 18 years and does not have the consent of his parent or guardian for his induction.

§ 1627.2 Registration of volunteers.

(a) If a person who is required to be registered but who has failed to register volunteers for induction, he shall be registered.

(b) In registering a volunteer, the area office shall follow the procedure set forth in § 1615.3 of this Chapter.

§ 1627.3 Classification of volunteers.

When a registrant eligible to volunteer is in a class other than 1–A or 1–A–O files an Application for Voluntary Induction he shall be classified in Class 1–A and processed for induction.

PART 1630—CLASSIFICATION RULES

Sec.

1630.2 Classes.
1630.10 Class 1–A: Available for unrestricted military service.
1630.11 Class 1–A–O: Conscientious objector available for noncombatant military service only.
1630.12 Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration or the Public Health Service.
1630.13 Class 1–D: Member of reserve component or student taking military training.
1630.15 Class 1–O: Conscientious objector available for alternative service.
1630.16 Class 1–W: Conscientious objector performing alternative service in lieu of induction.
1630.26 Class 2–D: Registrant deferred because of study preparing for the ministry.
1630.27 Class 2–M: Registrant deferred because of study preparing for a specified medical specialty.
1630.30 Class 3–A: Registrant deferred because of hardship to others.
1630.40 Class 4–A: Registrant who has completed military service.
1630.41 Class 4–B: Officials deferred by law.
1630.42 Class 4–C: Aliens or dual nationals.
1630.43 Class 4–D: Minister of religion.
1630.44 Class 4–F: Registrant not qualified for military service.
1630.45 Class 4–G: Registrant exempted from service because of the death of his father or sibling while serving in the Armed Forces or is missing in action.
1630.46 Class 4–T: Treaty alien.
1630.47 Class 4–W: Registrant who has completed alternative service in lieu of induction.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*, E.O. 11623.

§ 1630.2 Classes.

Except as otherwise prescribed by the Director of Selective Service each registrant shall be classified in one of the classes prescribed in this part.

§ 1630.10 Class 1–A: Available for unrestricted military service.

(a) All registrants available for unrestricted military service shall be in Class 1–A.

(b) All registrants in the selection groups as determined by the Director of Selective Service except those determined by classifying authority to be eligible for exemption of deferment from military service or for noncombatant or alternative service or who have random sequence numbers (RSNs) determined by the Director not to be required to fill calls by the Secretary of Defense are available for unrestricted military service.

§ 1630.11 Class 1–A–O: Conscientious objector available for noncombatant military service only.

In accord with Part 1636 of this chapter any registrant shall be placed in Class 1–A–O who has been found, by reason of religious, ethical, or moral belief, to be conscientiously opposed to participation in combatant training and service in the Armed Forces.

§ 1630.12 Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration or the Public Health Service.

In Class 1–C shall be placed:

(a) Every registrant who is, or who by enlistment, or appointment becomes a commissioned officer, a warrant officer, a pay clerk, an enlisted man or an aviation cadet of the Regular Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, the National Oceanic and Atmospheric Administration or the Public Health Service.

(b) Every registrant who is a cadet, United States Military Academy; or midshipman, United States Naval Academy; or a cadet, United States Air Force Academy; or cadet, United States Coast Guard Academy.

(c) Every registrant who by induction becomes a member of the Army of the United States, the United States Navy, the United States Marine Corps, the Air Force of the United States, or the United States Coast Guard.

(d) Exclusive of periods for training only, every registrant who is a member of a reserve component of the Armed Forces and is on active duty, and every member of the Reserve of the Public Health Service on active duty and assigned to staff the various offices and bureaus of the Public Health Service including the National Institutes of Health, or assigned to the Coast Guard or Bureau of Prisons of the Department of Justice, Environmental Protection Agency, or the Environmental Science Service Administration or who are assigned to assist Indian tribes, groups, bands, or communities pursuant to the Act of August 5, 1954 (68 Stat. 674), as amended.

§ 1630.13 Class 1–D: Member of reserve component or student taking military training.

(a) In Class 1–D shall be placed any registrant who:

(1) Has been selected for enrollment or continuance in the Senior (entire college level) Reserve Officer's Training Corps, or the Air Reserve Officer's Training Corps, or the Naval Reserve Officer's Training Corps, or the Naval and Marine Corps officer candidate program of the Navy, or the platoon leader's class of the Marine Corps, or

the officer procurement programs of the Coast Guard and the Coast Guard Reserve, or is appointed an ensign, U.S. Naval Reserve, while undergoing

Ready Reserve of any Reserve component of the Armed Forces, the Army National Guard, or the Air National Guard. Such registrant shall

§ 1630.16 Class 1–W: Conscientious objector performing alternative service in lieu of induction.

In Class 1–W shall be placed any registrant who has entered upon and is

(4) Who has been separated from active military service by reason of dependency or hardship and the hardship condition stills exists.

Selective Service System concerning the registrant's service in the armed forces of a foreign nation shall be written in the English language; or

Territory or possession, or the District of Columbia.

§ 1630.42 Class 4–C: Aliens or dual

the officer procurement programs of the Coast Guard and the Coast Guard Reserve, or is appointed an ensign, U.S. Naval Reserve, while undergoing professional training;

(2) Has agreed in writing to accept a commission, if tendered, and to serve subject to order of the Secretary of the military department having jurisdiction over him (or the Secretary of Transportation with respect to the U.S. Coast Guard), not less than 2 years on active duty after receipt of a commission; and

(3) Has agreed to remain a member of a regular or reserve component until the sixth anniversary of his receipt of a commission. Such registrant shall remain eligible for Class 1–D until completion or termination of the course of instruction and so long thereafter as he continues in a reserve status upon being commissioned except during any period he is eligible for Class 1–C under the provisions of § 1630.12.

(b) In Class 1–D shall be placed any registrant who is a fully qualified and accepted aviation cadet applicant of the Army, Navy, or Air Force, who has signed an agreement of service and is within such numbers as have been designated by the Secretary of Defense. Such registrant shall be retained in Class 1–D during the period covered by such agreement but in no case in excess of four months.

(c) In Class 1–D shall be placed any registrant who is a student enrolled in an officer procurement program at a military college the curriculum of which is approved by the Secretary of Defense.

(d) In Class 1–D shall be placed any registrant, other than a registrant referred to in paragraph (a) or (e) of this section, who:

(1) Prior to the issuance of orders for him to report for induction; or

(2) Prior to the date scheduled for his induction and pursuant to a proclamation by the Governor of a State to the effect that the authorized strength of any unit of the National Guard of that State cannot be maintained by the enlistment or appointment of persons who have not been issued orders to report for induction; or

(3) Prior to the date scheduled for his induction and pursuant to a determination by the President that the strength of the Ready Reserve of the Army, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve cannot be maintained by the enlistment or appointment of persons who have not been issued orders to report for induction;

enlist or accepts an appointment before attaining the age of 26 years, in the Ready Reserve of any Reserve component of the Armed Forces, the Army National Guard, or the Air National Guard. Such registrant shall remain eligible for Class 1–D so long as he serves satisfactorily as a member of an organized unit of such Ready Reserve or National Guard, or satisfactorily performs such other Ready Reserve service as may be prescribed by the Secretary of Defense, or serves satisfactorily as a member of the Ready Reserve of another reserve component, the Army National Guard, or the Air National Guard, as the case may be.

(e) In Class 1–D shall be placed any registrant who at any time has enlisted in the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air Force, or the Coast Guard Reserve and who thereafter has been commissioned therein upon graduation from an Officer's Candidate School of such Armed Force and has not been ordered to active duty as a commissioned officer. Such registrant shall remain eligible for Class 1–D so long he performs satisfactory service as a commissioned officer in an appropriate unit of the Ready Reserve, as determined under regulations prescribed by the Secretary of the department concerned.

(f) In Class 1–D shall be placed any registrant who is serving satisfactorily as a member of a reserve component of the armed forces and is not eligible for Class 1–D under the provisions of any other paragraph of this section: *Provided,* That, for the purpose of this paragraph, a member of a reserve component who is in the Standby Reserve or the Retired Reserve shall be deemed to be serving satisfactorily unless the armed force of which he is a member informs the Selective Service System that he is not serving satisfactorily.

§ 1630.15 Class 1–O: Conscientious objector available for alternative service.

In accord with Part 1636 of this chapter any registrant shall be placed in Class 1–O who:

(a) Has been found, by reason of religious, ethical, or moral belief to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to participation in both combatant and noncombatant training and service in the armed forces; or

(b) Has been separated from the armed forces (including their reserve components) by reason of conscientious objection to participation in both combatant and noncombatant training and service in the armed forces.

§ 1630.16 Class 1–W: Conscientious objector performing alternative service in lieu of induction.

In Class 1–W shall be placed any registrant who has entered upon and is performing alternative service contributing to the maintance of the national health, safety, or interest, in accordance with the order of the Director.

§ 1630.26 Class 2–D: Registrant deferred because of study preparing for the ministry.

In accord with Part 1639 of this chapter any registrant shall be placed in Class 2–D who has requested such deferment and:

(a) Who is preparing for the ministry under the direction of a recognized church or religious organization; and

(b) Who is satisfactorily pursuing a full-time course of instruction required for entrance into a recognized theological or divinity school in which he has been pre-enrolled; or

(c) Who is satisfactorily pursuing a full-time course of instruction in or at the direction of a recognized theological or divinity school; or

(d) Who have completed theological or divinity school is a student in a full-time graduate program or is a full-time intern. The registrant's studies must be related to and lead toward entry into service as a regular or duly ordained minister of religion and satisfactory progress in these studies, as required by the school in which the registrant is enrolled, must be maintained for qualification for the deferment.

§ 1630.27 Class 2–M: Registrant deferred because of study preparing for a specified medical specialty.

In Class 2–M shall be placed any registrant who is satisfactorily pursuing a full-time course of study leading to a professional degree in medicine, dentistry, optometry, osteopathy, podiatry, veterinary medicine, or licensure as a registered nurse.

§ 1630.30 Class 3–A: Registrant deferred because of hardship to others.

(a) In accord with Part 1642 of this chapter any registrant shall be placed in Class 3–A:

(1) Whose induction would result in extreme hardship to his wife when she alone is dependent upon him for support; or

(2) Whose deferment is advisable because his child, parent, grandparent, brother, or sister is dependent upon him for support; or

(3) Whose deferment is advisable because his wife and his child, parent, grandparent, brother, or sister are dependent upon him for support; or

(4) Who has been separated from active military service by reason of dependency or hardship and the hardship condition stills exists.

(b) The classification of each registrant in class 3–A will not be granted for a period longer than 365 days after he was last classified in Class 3–A. At expiration, eligibility for deferment must be reestablished.

§ 1630.40 Class 4–A: Registrant who has completed military service.

(a) In Class 4–A shall be placed any registrant other than a registrant eligible for classification in Class 1–C or Class 1–D who is within any of the following categories:

(1) A registrant who was discharged or transferred to a reserve component of the Armed Forces for the convenience of the Government after having served honorably on active duty for a period of not less than six months in the Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard; or

(2) A registrant who has served honorably on active duty for a period of not less than one year in the Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard; or

(3) A registrant who has served on active duty for a period of not less than twenty-four months as a commissioned officer in the National Oceanic and Atmospheric Administration or the Public Health Service, provided that such period of active duty in the Public Health Service as a commissioned Reserve Officer shall have been performed by the registrant while assigned to staff any of the various offices and bureaus of the Public Health Service including the National Institutes of Health, or while assigned to the Coast Guard, or the Bureau of Prisons of the Department of Justice, Environmental Protection Agency, or the National Oceanic and Atmospheric Administration or the Environmental Science Services Administration, or who are assigned to assist Indian tribes, groups, bands, or communities pursuant to the Act of August 5, 1954 (68 Stat. 674), as amended;

(4) A registrant who while an alien has served on active duty for a period of not less than 12 months in the armed forces of a nation determined by the Department of State to be a nation with which the United States is associated in mutual defense activities and which grants exemption from training and service in its armed forces to citizens of the United States who have served on active duty in the Armed Forces of the United States for a period of not less than 12 months; *Provided:* That all information which is submitted to the Selective Service System concerning the registrant's service in the armed forces of a foreign nation shall be written in the English language; or

(5) A registrant who has completed six years of satisfactory service as a member of one or more of the Armed Forces including the Reserve components thereof.

(b) For the purpose of computation of periods of active duty referred to in paragraph (a) (1), (2), or (3) of this section, no credit shall be allowed for:

(1) Periods of active duty training performed as a member of a reserve component pursuant to an order or call to active duty solely for training purposes; or

(2) Periods of active duty in which the service consisted solely of training under the Army specialized training program, the Army Air Force college training program, or any similar program under the jurisdiction of the Navy, Marine Corps, or Coast Guard; or

(3) Periods of active duty as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy or as a midshipman at the United States Naval Academy, or in a preparatory school after nomination as a principal, alternate, or candidate for admission to any such academies; or

(4) Periods of active duty in any of the Armed Forces while being processed for entry into or separation from any educational program or institute referred to in paragraphs (b) (2) or (3) of this section; or

(5) Periods of active duty of members of the Reserve of the Public Health Service other than when assigned to staff any of the various offices and bureaus of the Public Health Service, including the National Institute of Health, or the Coast Guard or the Bureau of Prisons of the Department of Justice, Environmental Protection Agency, or the Environmental Science Services Administration, or who are assigned to assist Indian tribes, groups, bands, communities pursuant to the Act of August 5, 1954 (68 Stat. 674), as amended.

§ 1630.41 Class 4–B: Officials deferred by law.

in Class 4–B shall be placed any registrant who is the Vice President of the United States, a governor of a State, Territory or possession, or any other official chosen by the voters of the entire State, Territory or possession; a member of a legislative body of the United States or of a State, Territory or possession; a judge of a court of record of the United States or of a State, Territory or possession, or the District of Columbia.

§ 1630.42 Class 4–C: Aliens or dual nationals.

(a) In Class 4–C shall be placed any registrant who established that he is a national of the United States and of a country with which the Untied States has a treaty or agreement that provides that such person is exempt from liability for military serve in the United States.

(b) In Class 4–C shall be placed any registrant who is an alien and who has departed from the United States prior to being issued an order to report for induction or alternative service that has not been canceled.

If any registrant who is classified in Class 4–C pursuant to this paragraph returns to the United States he shall be classified anew.

(c) In Class 4–C shall be placed an alien who has registered at a time when he was required by the Selective Service Law to present himself for and submit to registration and thereafter has acquired status within one of the groups of persons exempt from registration.

(d) In Class 4–C shall be placed any registrant who is an alien lawfully admitted for permanent residence as defined in paragraph (2) of section 101(a) of the Immigration and Nationality Act, as amended (66 Stat. 163, 8 U.S.C. 1101), and who by reason of occupational status is subject to adjustment to nonimmigrant status under paragraph (15)(A), (15)(E), or (15)(G) or such section 101(a) but who executes a waiver in accordance with section 247(b) of that Act of all rights, privileges, exemptions, and immunities which would otherwise accrue to him as a result of that occupational status. A registrant placed in Class 4–C under the authority of this paragraph shall be retained in Class 4–C only for so long as such occupational status continues.

(e) In Class 4–C shall be placed any registrant who is an alien and who has not resided in the United States for one year, including any period of time before his registration. When such a registrant has been within the United States for two or more periods and the total of such period equals one year, he shall be deemed to have resided in the United States for one year. In computing the length of such periods, any portion of one day shall be counted as a day.

§ 1630.43 Class 4–D: Minister of religion.

In accord with Part 1645 of this chapter any registrant shall be placed in Class 4–D who is a:

(a) Duly ordained minister of religion; or

(b) Regular minister of religion.

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§ 1630.44 Class 4–F: Registrant not qualified for military service.

(a) In Class 4–F shall be placed any registrant who is found by an Armed Forces Examining and Entrance Station (AFEES), under applicable physical, mental or administrative standards, to be not qualified for service in the Armed Forces; except that no such registrant whose further examination or re-examination is determined by AFEES to be justified shall be placed in Class 4–F until such further examination has been accomplished and such registrant continues to be found not qualified for military service.

(b) In Class 4–F shall be placed any registrant who is confined in a prison, mental institution, or recognized drug rehabilitation center.

§ 1630.45 Class 4–G: Registrant exempted from service because of the death of his father or sibling while serving in the Armed Forces or is missing in action.

(a) In Class 4–G shall be placed any registrant, except during a period of war or national emergency declared by Congress, who is a surviving son or brother:

(1) Whose father or sibling of the whole blood was killed in action or died in line of duty while serving in the Armed Forces of the United States after December 31, 1959 or died subsequent to such date as a result of injuries received or disease incurred in the line of duty during such service; or

(2) Whose father or sibling of the whole blood is in a captured or missing status as a result of such service in the Armed Forces during any period of time.

(b) In Class 4–G shall be placed any registrant, except during a period of war or national emergency declared by Congress, who is the sole surviving son of a family in which the father or one or more siblings were killed in action before January 1, 1960 while serving in the Armed Forces of the United States, or died after that date due to injuries received or disease incurred in the line of duty during such service before January 1, 1960.

§ 1630.46 Class 4–T: Treaty alien.

In Class 4–T shall be placed any registrant who is an alien who established that he is exempt from military service under the terms of a treaty or international agreement between the United States and the country of which he is a national, and who has made application to be exempted from liability for training and service in the Armed Forces of the United States.

§ 1630.47 Class 4–W: Registrant who has completed alternative service in lieu of induction.

In Class 4–W shall be placed any registrant who subsequent to being ordered to perform alternative service in lieu of induction has been released from such service after satisfactorily performing the work for a period of 24 months, or has been granted an early release by the Director of Selective Service after completing at least 6 months of satisfactory service as prescribed in Part 1656 of this chapter.

PART 1633—ADMINISTRATION OF CLASSIFICATION

Sec.

1633.1 Classifying authority.
1633.2 Claim for other than Class 1–A.
1633.3 Submission of claims.
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1633.6 Consideration of classes.
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1633.11 Assignment of registrant to a local board.
1633.12 Reconsideration of classification.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1633.1 Classifying authority.

The following officials are authorized to classify registrants into the indicated classes established by Part 1630 of this chapter:

(a) The Director of Selective Service may in accord with the provisions of this chapter classify a registrant into any class for which he is eligible except Classes 1–A–O, 1–O, 2–D, 3–A, and 4–D: *Provided*, That the Director may not reclassify a registrant, other than a volunteer for induction, into Class 1–A out of another class prior to the expiration of the registrant's entitlement to such classification. The Director may, before issuing an induction order to a registrant, appropriately classify him if the Secretary of Defense has certified him to be a member of an armed force or reserve component thereof.

(b) The National Selective Service Appeal Board may in accord with Part 1653 of this chapter classify a registrant into any class for which he is eligible.

(c) A district appeal board may in accord with Part 1651 of this chapter classify a registrant into any class for which he is eligible.

(d) A local board may in accord with Part 1648 of this chapter classify a registrant into Class 1–A–O, 1–O, 2–D, 3–A, or 4–D for which he is eligible.

(e) A local board may also classify a registrant into Class 1–C, 1–D, 1–W, 2–M, 4–A, 4–B, 4–C, 4–F, 4–G, 4–T or 4–W upon request by the registrant for a review of a classification action under subsection 1633.2(f) of this part.

(f) Compensated employees of an area office may in accord with Part 1648 of this chapter classify a registrant into Class 1–C, 1–D, 1–W, 2–M, 4–A, 4–B, 4–C, 4–F, 4–G, 4–T or 4–W if he is eligible.

§ 1633.2 Claim for other than class 1–A.

(a) A "claim" is a request for postponement of induction or classification into a class other than 1–A. The three types of claims are:

(1) Claim for postponement;

(2) Claim for administrative classification; and

(3) Claim for judgmental classification.

Administrative classifications are as specified in § 1633.1(f) of this part. Judgmental classifications are as specified in Part 1648.

(b) The initial determination of claims for postponement and administrative classification are made by area office compensated personnel. Aftr a denial of a claim for postponement or claim for an administrative classification the registrant may request the local board to consider the claim.

(c) The initial determination of a judgmental classification is made by a local board.

(d) A registrant may request and be granted a personal appearance whenever a local or appeal board considers his claim. Personal appearances will be held in accord with Parts 1648, 1651 and 1653.

(e) A registrant who has failed a claim for classification in Class 1–A–O or Class 1–O shall be scheduled for a personal appearance in accord with section 1648.4 before his claim is considered.

(f) If granted, the effect of a postponement is to delay the reporting date for induction specified on the original order. When a postponement expires, a registrant will be rescheduled and given a new reporting date under the original order.

(g) If granted, a deferment or exemption supersedes the original order to report. When deferment or exemption expires or ends, the registrant will be placed in the appropriate RSN order within his original age selection group. If called again, a new order to report for induction will be issued.

(h) Any registrant who has received an order to report for induction may, prior to the day he is scheduled to report, submit to the Selective Service System a claim that he is eligible to be classified into any class other than Class 1–A. The registrant may assert a claim that he is eligible for more than one class other than Class 1–A. The registrant cannot subsequently file a claim with respect to a class for which he was eligible prior to the day he was originally scheduled to report. Information and documentation in support of claims for postponement of induction shall be filed in accordance with instructions from the Selective Service System.

(i) Any registrant who has received an order to report for induction may, at any time before his induction, submit a claim that he is eligible to be classified into any class other than Class 1–A based upon events that occurred on the day he is scheduled to report, over which he has no control.

§ 1633.3 Submission of claims.

Except as otherwise expressly provided by the Director, no document relating to any registrant's claims or potential claims will be retained by the Selective Service System and no file relating to a registrant's possible classification status will be established prior to that registrant's receipt of an order to report for induction.

§ 1633.4 Information relating to claims for deferment or exemption.

The registrant shall be entitled to present all relevant written information which he believes to be necessary to assist the classifying authority in determining his proper classification; such information may include any document, affidavits, and depositions. The affidavits and depositions shall be as concise and brief as possible.

§ 1633.5 Securing information from Government agencies.

The classifying authority is authorized to request and receive information from governmental agencies whenever such information will assist it in determining the proper classification of a registrant.

§ 1633.6 Consideration of classes.

When grounds are established to place a registrant in one or more of the classes listed in the following table, the registrant shall be classified in the lowest class for which he is determined to be eligible, with Class 1–A–O considered the highest class and Class 4–F considered the lowest class, according to the following table:

Class 1–A–O: Conscientious objector available for noncombatant military service only.
Class 1–O: Conscientious objector available for alternative service.
Class 2–D: Registrant deferred because of study preparing for the ministry.
Class 2–M: Registrant deferred because of study preparing for a specified medical specialty.
Class 3–A: Registrant deferred because of dependency of others.
Class 4–B: Officials deferred by law.
Class 4–D: Minister of religion.
Class 4–G: Registrant exempted from service because of the death of his father or sibling while serving in the Armed Forces or is missing in action.
Class 1–D: Member of Reserve component or student taking military training.
Class 4–W: Conscientious objector who has completed alternative service in lieu of induction.
Class 4–A: Registrant who has completed military service.
Class 1–W: Conscientious objector performing alternative service in lieu of induction.
Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.
Class 4–C: Aliens or dual nationals.
Class 4–T: Treaty alien.
Class 4–F: Registrant not qualified for military service.

§ 1633.7 General principles of classification.

(a) Each classified registrant in a selection group is available for unrestricted military service until his eligibility for noncombatant service, alternative service, or deferment or exemption from service has been determined by a classifying authority.

(b) The classifying authority in considering a registrant's claim for eligibility for noncombatant or alternative service, or for deferment or exemption from military service, shall not discriminate for or against him because of his membership or activity in any labor, political, religious, or other organization.

(c) Any registrant whose deferment or exemption is terminated will be considered unclassified and not subject to induction until such time as he is again ordered for induction in the proper age selection group.

§ 1633.8 Basis of classification.

The registrant's classification shall be determined on the basis of the official forms of the Selective Service System and other written information in his file, oral statements, if made by the registrant at his personal appearance before the board, and oral statements, if made by the registrant's witnesses at his personal appearance. Any information in any written summary of the oral information presented at a registrant's personal appearance that was prepared by an official of the Selective Service System will be placed in the registrant's file and shall be subject to review by the registrant during normal business hours.

§ 1633.9 Explanation of classification action.

Whenever a classifying authority denies the request of a registrant for classification into a particular class or classifies a registrant in a class other than that which he requested, it shall record its reasons therefor in his file.

§ 1633.10 Notification to registrant of classification action.

The Director of Selective Service will notify the registrant of any action of a classifying authority with respect to him and when a classification has been denied, furnish him a copy of the reasons for denial.

§ 1633.11 Assignment of registrant to a local board.

The Director of Selective Service shall assign a registrant to a local board that has jurisdiction over the registrant's permanent address that he last furnished the Selective Service System prior to the issuance of his induction order. The original local board to which the registrant was assigned will remain his local board unless a board change is granted. A request to transfer from an assigned local board to another board must be made at the time a personal appearance is requested. A registrant will not otherwise be permitted to change his local board during the processing of a claim unless authorized by the Director.

§ 1633.12 Reconsideration of classification.

No classification is permanent. The Director of Selective Service may order the reconsideration of any classification action when the facts upon which the classification is based change or when he finds that the registrant made a misrepresentation of any material fact related to his claim for classification. No action may be taken under the preceding sentence of this paragraph unless the registrant is notified in writing of the impending action and the reasons thereof, and is given an opportunity to respond in writing within 10 days of the mailing of the notice. If a classification is reconsidered in accord with this paragraph, the claim will be treated in all respects as if it were the original claim for that classification.

PART 1636—CLASSIFICATION OF CONSCIENTIOUS OBJECTORS

Sec.

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1636.2 The claim of conscientious objection.

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1636.3 Basis for classification in Class 1–A–O.
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beliefs, or on personal beliefs, that are purely ethical or moral in source or content and occupy in the life of a registrant a place parallel to that filled

church or religious organization whether or not he is actually affiliated with the institution whose teachings he claims as the basis of his conscientious objection.

beliefs may influence the registrant concerning the Nation's domestic or foreign policy.

deferment to work in the development of or manufacturing of weapons of war or to serve as a member of a military reserve unit, it should be determined

§ 1636.9 Types of decisions.

The following are the types of decisions which may be made by a board when a claim for classification in

Sec.
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1636.5 Exclusion from Class 1–A–O and Class 1–O.
1636.6 Analysis of religious training and belief.
1636.7 Impartiality.
1636.8 Considerations relevant to granting or denying a claim for classification as a conscientious objector.
1636.9 Types of decisions.
1636.10 Statement of reasons for denial.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1636.1 Purpose; definitions.

(a) The provisions of this Part govern the consideration of a claim by a registrant for classification in Class 1–A–O (§ 1630.11 of this chapter), or Class 1–O (§ 1630.15 of this chapter).

(b) The definitions of this paragraph shall apply in the interpretation of the provisions of this part:

(1) Crystallization of a Registrant's Beliefs. The registrant's becoming conscious of the fact that he is opposed to participation in war in any form.

(2) Noncombatant Service. Service in any unit of the Armed Forces which is unarmed at all times; any other military assignment not requiring the bearing of arms or the use of arms in combat or training in the use of arms.

(3) Noncombatant Training. Any training which is not concerned with the study, use, or handling of arms or other implements of warfare designed to destroy human life.

§ 1636.2 The claim of conscientious objection.

A claim to classification in Class 1–A–O or Class 1–O, must be made by the registrant in writing. Claims and documents in support of claims may only be submitted after the registrant has received an order to report for induction or after the Director has made a specific request for submission of such documents. All claims or documents in support of claims received prior to a registrant's receipt of an order to report for induction or prior to the Director's specific request for such documentation will be returned to the registrant and no file or record of such submission will be established.

§ 1636.3 Basis for classification in class 1–A–O.

(a) A registrant must be conscientiously opposed to participation in war in any form and conscientiously opposed to combatant training and service in the Armed Forces.

(b) A registrant's objection may be founded on religious training and belief; it may be based on strictly religious beliefs, or on personal beliefs, that are purely ethical or moral in source or content and occupy in the life of a registrant a place parallel to that filled by belief in a Supreme Being for those holding more traditionally religious views.

(c) A registrant's objection must be sincere.

§ 1636.4 Basis for classification in class 1–O.

(a) A registrant must be conscientiously opposed to participation in war in any form and conscientiously opposed to participation in both combatant and noncombatant training and service in the Armed Forces.

(b) A registrant's objection may be founded on religious training and belief; it may be based on strictly religious beliefs, or on personal beliefs that are purely ethical or moral in source or content and occupy in the life of a registrant a place parallel to that filled by belief in a Supreme Being for those holding more traditionally religious views.

(c) A registrant's objection must be sincere.

§ 1636.5 Exclusion from class 1–A–O and class 1–O.

(a) Registrants who assert beliefs which are of a religious, moral or ethical nature, but who are not found to be sincere in thier assertions.

(b) Registrants whose stated objection to participation in war does not rest at all upon moral, ethical, or religious principle, but instead rests solely upon considerations of policy, pragmatism, expediency, or their own self-interest or well-being.

(c) Registrants whose objection to participation in war is directed against a particular war rather than against war in any form (a selective objection). If a registrant objects to war in any form, but also believes in a theocratic, spiritual war between the forces of good and evil, he may not by reason of that belief alone be considered a selective conscientious objector.

§ 1636.6 Analysis of religious training and belief.

(a) Registrant claiming conscientious objection is not required to be a member of a "peace church" or any other church, religious organization, or religious sect to qualify for a 1–A–O or 1–O classification; nor is it necessary that he be affiliated with any particular group opposed to participation in war in any form.

(b) The registrant who identifies his beliefs with those of traditional church or religious organization must show that he basically adheres to beliefs of that church or religious organization whether or not he is actually affiliated with the institution whose teachings he claims as the basis of his conscientious objection.

(c) A registrant whose beliefs are not religious in the traditional sense, but are based primarily on moral or ethical principle, should hold such beliefs with the same strength or conviction as the belief in a Supreme Being is held by a person who is religious in the traditional sense. Beliefs may be mixed; they may be a combination of traditional religious beliefs and nontraditional religious beliefs and of nontraditional religious, moral or ethical beliefs. The registrant's beliefs must play a significant role in his life but should be evaluated only insofar as they pertain to his stated objection to his participation in war.

(d) Where the registrant is or has been a member of a church, religious organization, or religious sect, and where his claim of a conscientious objection is related to such membership, the board may properly inquire as to the registrant's membership, the religious teachings of the church, religious organization, or religious sect, and the registrant's religious activity, insofar as each relates to his objection to participation in war. The fact that the registrant may disagree with or not subscribe to some of the tenets of his church or religous sect does not necessarily discredit his claim.

(e)(1) The history of the process by which the registrant acquired his beliefs, whether founded on religious, moral, or ethical principle, is relevant to the determination whether his stated opposition to participation in war in any form is sincere.

(2) The registrant must demonstrate that his religious, ethical, or moral convictions were acquired through training, study, contemplation, or other activity comparable to the processes by which traditional religious convictions are formulated. He must show that these regligious, moral, or ethical convictions, once acquired, have directed his life in the way traditional religious convictions of equal strength, depth, and duration have directed the lives of those whose beliefs are clearly founded in traditional religious conviction.

(f) The registrant need not use formal or traditional language in describing the religious, moral, or ethical nature of his beliefs. Board members are not free to reject beliefs because they find them incomprehensible or inconsistent with their own beliefs.

(g) Conscientious objection to participation in war in any form, if based on moral, ethical, or religious beliefs, may not be deemed disqualifying simply because those

beliefs may influence the registrant concerning the Nation's domestic or foreign policy.

§ 1636.7 Impartiality.

Boards may not give preferential treatment to one religion over another, and all beliefs whether of a religious, ethical, or moral nature are to be given equal consideration.

§ 1636.8 Considerations relevant to granting or denying a claim for classification as a conscientious objector.

(a) After the registrant has submitted a claim for classification as a conscientious objector and his file is complete a determination of sincerity will be made based on:

(1) All documents in the registrant's file folder; and

(2) The oral statements of the registrant at his personal appearance(s) before the local and/or appeal board; and

(3) The oral statements of the registrant's witnesses, if any, at his personal appearance(s) before the local and/or appeal board; and

(4) The registrant's general demeanor during his personal appearance(s).

(b) The registrant's stated convictions should be a matter of conscience which would give him no rest or peace should he participate in war.

(c) The board should be convinced that the registrant's personal history since the crystallization of his conscientious objection is not inconsistent with his claim and demonstrate that the registrant's objection is not solely a matter of expediency. A recent crystallization of beliefs does not necessarily indicate expediency.

(d) The information presented by the registrant should reflect a pattern of behavior in response to war and weapons which is consistent with his stated beliefs. Instances of violent acts or conviction for crimes of violence, or employment in the development or manufacturing of weapons of war may, if the claim is based upon or supported by a life of nonviolence, be indicative of inconsistent conduct.

(e) The development of a registrant's opposition to war in any form may bear on his sincerity. If the registrant claims a recent crystallization of beliefs, his claim should be supported by evidence of a religious or educational experience, a traumatic event, an historical occasion, or some other special situation which explains when and how his objection to participation in war crystallized.

(f) In the event that a registrant has previously claimed or been granted a deferment to work in the development of or manufacturing of weapons of war or to serve as a member of a military reserve unit, it should be determined whether such a deferment was claimed or granted prior to the stated crystallization of the registrant's conscientious objector beliefs. Inconsistent classifications claimed or held prior to the actual crystallization of conscientious objector beliefs are not necessarily indicative of insincerity. But, inconsistent claims or classifications claimed or held subsequent to actual crystallization may indicate that registrant's stated objection is not sincere.

(g) A registrant's behavior during his personal appearance before a board may be relevant to the sincerity of his claim.

(1) Evasive answers to questions by board members or the use of hostile, belligerent, or threatening words or actions, for example, may in proper circumstances be deemed inconsistent with a claim in which the registrant bases his objection on a belief in nonviolence. But such behavior may have less relevance to the issue of sincerity if the registrant's claim is based solely on a conscientious objection to bearing arms.

(2) Care should be exercised that nervous, frightened, or apprehensive behavior at the personal appearance is not misconstrued as a reflection of insincerity.

(h) Oral response to questions by board members should be consistent with the written statements of the registrant and should generally substantiate the submitted information in the registrant's file folder; any material inconsistent should be satisfactorily explained by the registrant. It is important to recognize that the registrant need not be eloquent in his answers. But, a clear inconsistency between the registrant's oral remarks at his personal appearance and his written submission to the board may be adequate grounds, if not satisfactorily explained, for concluding that his claim is insincere.

(i) The registrant may submit letters of reference and other supporting statements of friends, relatives and acquaintances to corroborate the sincerity of his claim, although such supplemental documentation is not essential to approval of his claim. A finding of insincerity based on these letters or supporting statements must be carefully explained in the board's decision, specific mention being made of the particular material relied upon for denial of classification in Class 1–A–O or Class 1–O.

§ 1636.9 Types of decisions.

The following are the types of decisions which may be made by a board when a claim for classification in Class 1–A–O or Class 1–O has been considered.

(a) Decision to grant a claim for classification in Class 1–A–O or Class 1–O, as requested, based on a determination that the truth or sincerity of the registrant's claim is not refuted by any information contained in the registrant's file or obtained during his personal appearance.

(b) Decision to deny a claim for classification in Class 1–A–O or Class 1–O based on all information before the board, and a finding that such information fails to meet the tests specified in sections 1636.3 or 1636.4 of this Part. If supported by information contained in the registrant's file or obtained during his personal appearance the board may find that the facts presented by the registrant in support of his claim are untrue.

(c) Decision to grant classification in Class 1–A–O to a registrant even though he requested reclassification in Class 1–O. It should be noted that the registrant who requests classification in Class 1–O should be classified in Class 1–A–O only when the information presented demonstrates clearly that the registrant is opposed only to bearing arms and that he does not object to noncombatant service.

(d) Decision to grant classification in Class 1–O to a registrant even though he requested reclassification in Class 1–A–O. It should be noted that the registrant who requests classification in Class 1–A–O should be classified in Class 1–O only when the information presented demonstrates clearly that the registrant is eligible for classification in Class 1–O.

§ 1636.10 Statement of reasons for denial.

(a) Denial of a conscientious objector claim by a board must be accompanied by a statement specifying the reason(s) for such denial as prescribed in §§ 1633.9, 1651.4 and 1651.3 of this chapter. The reason(s) must, in turn, be supported by evidence in the registrant's file.

(b) If a board's denial is based on statements by the registrant or on a determination that the claim is inconsistent or insincere, this should be fully explained in the statement of reasons accompanying the denial.

PART 1639—CLASSIFICATION FOR REGISTRANTS PREPARING FOR THE MINISTRY

Sec.
1639.1 Purpose; definitions.
1639.2 The claim for Class 2–D.

Sec.
1639.3 Basis for classification in Class 2–D.
1639.4 Exclusion from Class 2–D.
1639.5 Impartiality.

recognized church or religious organization; and

(1) Who is satisfactorily pursuing a full-time course of instruction required in a recognized theological or divinity school; or

(4) Current certification to the effect that the registrant, having completed

(b) The following definitions apply to the interpretation of the provisions of this Part.

(1) The term "dependent" shall apply to the wife, child, parent, grandparent, brother or sister is dependent upon the registrant for support. Support may be financial assistance, personal care or

persons who are serving in the Armed Forces; or

(7) The hardship to the dependent is based upon considerations that can be

Sec.
1639.3 Basis for classification in Class 2–D.
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1639.6 Considerations relevant to granting or denying claims for Class 2–D.
1639.7 Types of decisions.
1639.8 Statement of reason for denial.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1639.1 Purpose; definitions.

(a) The provisions of this part shall govern the consideration of a claim by a registrant for classification in Class 2–D (section 1630.26 of this chapter).

(b) The definitions of this paragraph shall apply to the interpretation of the provisions of this part:

(1) The term "ministry" refers to the vocation of a "duly ordained minister of religion" or "regular minister of religion" as defined in Part 1645 of this Chapter.

(2) The term "recognized church or religious organization" is a church or religious organization established on the basis of a community of faith and belief, doctrines and practices of a religious character, and it engages primarily in religious activities.

(3) The term "recognized theological or divinity school" is a theological or divinity school whose graduates are acceptable for ministerial duties either as an ordained or regular minister by the church or religious organization sponsoring a registrant as a ministerial student.

(4) The term "graduate program" must be a program where the registrant's studies are required by his church or religious organization for entry into service as a regular or duly ordained minister of religion.

(5) The term "full-time intern" applies to a program that must immediately follow the completion of the theological or divinity training and is required by a recognized church or religious organization for entry into the ministry.

(6) The term "satisfactorily pursuing a full-time course of instruction" means maintaining a satisfactory academic record as determined by the institution while receiving full-time instructions in a traditional classroom setting. A full-time course of instruction does not include instructions received pursuant to a mail order program.

§ 1639.2 The claim for class 2–D.

A claim to classification in Class 2–D must be made by the registrant in writing, such document being placed in his file folder.

§ 1639.3 Basis for classification class 2–D.

(a) In Class 2–D shall be placed any registrant who is preparing for the ministry under the direction of a recognized church or religious organization; and

(1) Who is satisfactorily pursuing a full-time course of instruction required for entrance into a recognized theological or divinity school in which he has been pre-enrolled; or

(2) Who is satisfactorily pursuing a full-time course of instruction in a recognized theological or divinity school; or

(3) Who having completed theological or divinity school is a student in a full-time graduate program or is a full-time intern, and whose studies are related to and lead toward entry into service as a regular or duly ordained minister of religion. Satisfactory progress in these studies, as required by the school in which the registrant is enrolled, must be maintained for qualification for the deferment.

(b) The registrant's classification shall be determined on the basis of the written information in his file folder; oral statement, if made by the registrant at his personal appearance before a board, and oral statements, if made by the registrant's witnesses at his personal appearance.

§ 1639.4 Exclusion from class 2–D.

A registrant shall be excluded from Class 2–D when:

(a) He has failed to establish that the theological or divinity school is a recognized school or that the church or religious organization which is sponsoring the registrant is so recognized; or

(b) He ceases to be a full-time student; or

(c) He fails to maintain satisfactory academic progress.

§ 1639.5 Impartiality.

Boards may not give precedence to any religious organization or school over another, and all are to be given equal consideration.

§ 1639.6 Considerations relevant to granting or denying claims for class 2–D.

(a) The registrant's claim for Class 2–D must include the following:

(1) A statement from a church or religious organization that the registrant is preparing for the ministry under its direction; and

(2) Current certification to the effect the registrant is satisfactorily pursuing a full-time course of instruction required for entrance into a recognized theological or divinity school in which he has been pre-enrolled; or

(3) Current certification to the effect that the registrant is satisfactorily pursuing a full-time course of instruction in a recognized theological or divinity school; or

(4) Current certification to the effect that the registrant, having completed theological or divinity school, is satisfactorily pursuing a full-time graduate program or is a full-time intern, whose studies are related to and lead toward entry into service as a regular or duly ordained minister of religion.

(b) A board may require the registrant to obtain from the church, religious organization, or school detailed information in order to determine whether or not the theological or divinity school is in fact a recognized school or whether or not the church or religious organization which is sponsoring the registrant is recognized.

§ 1639.7 Types of decisions.

(a) A board may grant a classification into Class 2–D until the end of the academic school year.

(b) Upon the expiration of a 2–D classification, a board shall review any request for extension of the classification in the same manner as the first request for Class 2–D. This section does not relieve a registrant of his duties under § 1621.1 of this chapter.

§ 1639.8 Statement of reason for denial.

(a) Denial of a claim for a ministerial student deferment by a board must be accompanied by a statement specifying the reason(s) for such denial as prescribed in §§ 1633.9, 1651.4 and 1653.3 of this chapter. The reason(s) must in turn, be supported by evidence in the registrant's file.

(b) If a board's denial is based on statements by the registrant or his witnesses at a personal appearance, this must be fully explained in the statement of reasons accompying the denial.

PART 1642—CLASSIFICATION OF REGISTRANTS DEFERRED BECAUSE OF HARDSHIP TO OTHERS

Sec.
1642.1 Purpose; definitions.
1642.2 The claim for classification in class 3–A.
1642.3 Basis for classification in class 3–A.
1642.4 Ineligibility for class 3–A.
1642.5 Impartiality.
1642.6 Considerations relevant to granting or denying claims for class 3–A.
1642.7 Types of decisions.
1642.8 Statement of reason for denial.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1642.1 Purpose; definitions.

(a) The provisions of this part govern the consideration of a claim by a registrant for classification in class 3–A (§ 1630.30 of this Chapter).

(b) The following definitions apply to the interpretation of the provisions of this Part.

(1) The term "dependent" shall apply to the wife, child, parent, grandparent, brother or sister of a registrant.

(2) The term "child" includes an unborn child, a stepchild, a foster child or a legally adopted child, who is legitimate or illegitimate, but shall not include any person 18 years of age or older unless he is physically or mentally handicapped.

(3) The term "parent" shall include any person who has stood in the place of a parent to the registrant for at least 5 years preceding the 18th anniversary of the registrant's date of birth and is now supported in good faith by the registrant.

(4) The term "brother" or "sister" shall include a person, having one or both parents in common with the registrant, who is either under 18 years of age or is physically or mentally handicapped.

(5) The term "support" includes but is not limited to financial assistance.

(6) Hardship is the unreasonable deprivation of a dependent of the financial assistance, personal care or companionship furnished by the registrant when that deprivation would be caused by the registrant's induction.

§ 1642.2 The claim for classification in class 3–A.

A claim for classification in class 3–A must be made by the registrant in writing and it shall contain supporting documentation; such documents being placed in his file folder.

§ 1642.3 Basis for classification in class 3–A.

(a) In class 3–A shall be placed any registrant:

(1) Whose induction would result in extreme hardship to his wife when she alone is dependent upon him for support; or

(2) Whose deferment is advisable because his child, parent, grandparent, brother or sister is dependent upon him for support; or

(3) Whose deferment is advisable because his wife and his child, parent, grandparent, brother or sister are dependent upon him for support; or

(4) Who has been separated from active military service by reason of dependency or hardship and the dependency or hardship conditions still exist.

(b)(1) In its consideration of a claim by a registrant not separated from the active military service by reason of dependency or hardship for classification in class 3–A, the board will first determine whether the registrant's wife, child, parent, grandparent, brother or sister is dependent upon the registrant for support. Support may be financial assistance, personal care or companionship, but no person to whom the registrant contributes less than 50% of the cost of his necessities will be deemed financially dependent upon the registrant for support. If that determination is affirmative, the board will then determine whether the registrant's induction would result in extreme hardship to his wife when she is the only dependent or whether the registrant's deferment is advisable because his child, parent, grandparent, brother or sister is dependent upon him for support or because his wife and his child, parent, grandparent, brother or sister are dependent upon him for support. A deferment is advisable whenever the registrant's induction would result in hardship to his dependents.

(2) In its consideration of a claim by a registrant separated from the active military service by reason of dependency or hardship and who is not eligible for class 4–A the board will determine whether the facts that were the basis for the registrant's separation from the military service continue substantially to exist.

(c) The registrant's classification shall be determined on the basis of the written information in his file; oral statements, if made by the registrant at his personal appearance before a board and oral statements, if made by the registrant's witnesses at his personal appearances.

(d) Any reasonable doubt in connection with a claim should be resolved in favor of the registrant.

§ 1642.4 Ineligibility for class 3–A.

(a) A registrant is ineligible for Class 3–A when:

(1) He assumed an obligation to his dependents specifically for the purpose of evading training and service; or

(2) He acquired excessive financial obligations primarily to establish his dependency claim; or

(3) His dependents would not be deprived of reasonable support if the registrant is inducted; or

(4) There are other persons willing to assume the support of his dependents; or

(5) The dependents would suffer only normal anguish of separation from the registrant if he is inducted; or

(6) The hardship to a dependent is based solely on financial conditions and can be removed by payment and allowances which are payable by the United States to the dependents of persons who are serving in the Armed Forces; or

(7) The hardship to the dependent is based upon considerations that can be eliminated by payments and allowances which are payable by the United States to the dependents of persons who are serving in the Armed Forces.

(b) A postponement to expire not more than 90 days from the date the registrant files his claim for Class 3–A will be granted if the board determines that the hardship to the registrant's dependent would not likely continue for beyond that period of time. The reason for the actions taken in accord with the immediately preceding sentence will be recorded in the registrant's file and a copy thereof will be furnished the registrant.

§ 1642.5 Impartiality.

(a) Boards shall consider all questions in a claim for classification in Class 3–A with equal consideration of race, creed, color, sex or ethnic background.

(b) Boards may not give precedence to one type of dependency hardship over another.

§ 1642.6 Considerations relevant to granting or denying claims for class 3–A.

(a) The registrant's claim for class 3–A must include the following, with documentation, as applicable:

(1) Registrant's and his dependent's marital status;

(2) Physician's statement concerning any dependent who is physically or mentally handicapped;

(3) Employment status of registrant and his dependents; and

(4) Each case must be weighed carefully and decided on its own merits.

§ 1642.7 Types of decisions.

(a) A board may, except as provided in subsection 1642.4(b) of this Part, grant a classification into Class 3–A for such period of time it deems appropriate but in no event shall the period exceed one year.

(b) Upon the expiration of a 3–A classification, a board shall review any request for extension of the classification as if it were the first request for that classification, and the fact that the registrant was placed in class 3–A under apparently similar circumstances will not be a factor in the decision of the board. This section does not relieve a registrant from his duties under § 1621.1 of this Chapter.

(c) A claim for a 3–A classification will be denied when action is taken in accord with § 1642.4(b) of this Part.

(d) A board may deny a claim for Class 3–A when the evidence fails to meet the criteria established in this Part.

§ 1642.8 Statement of reason for denial.

(a) Denial of a claim for Class 3–A by a board must be accompanied by a statement specifying the reason(s) for

church, sect, or organization as a regular minister.

(3) The term "regular or duly ordained minister of religion" does not include:

§ 1645.5 Impartiality.

Boards may not give preferential treatment to one religion or sect over another, and in like manner, no

of registrants seeking classification in Class 4–D, such classification being appropriate only for leaders of the various religious groups, not granted to

§ 1648.2 Reassignment of local board.

(a) After making a claim for a judgmental classification, but before the board of jurisdiction has undertaken the

to appear before the board if he requests that the denial of such claim be reviewed by the board.

§ 1648.4 Appointment for personal

§ 1642.8 Statement of reason for denial.

(a) Denial of a claim for Class 3–A by a board must be accompanied by a statement specifying the reason(s) for such denial as prescribed in §§ 1633.9, 1651.4 and 1653.3 of this Chapter. The reason must in turn, be supported by evidence in the registrant's file.

(b) If a board's denial is based on statements by the registrant or his witnesses at a personal appearance, this must be fully explained in the statement of reasons accompanying the denial.

PART 1645—CLASSIFICATION OF MINISTERS OF RELIGION

Sec.

1645.1 Purpose; definitions.
1645.2 The claim for minister of religion classification.
1645.3 Basis for classification in Class 4–D.
1645.4 Exclusion from Class 4–D.
1645.5 Impartiality.
1645.6 Considerations relevant to granting or denying a claim for Class 4–D.
1645.7 Evaluation of claim.
1645.8 Types of decisions.
1645.9 Statement of reason for denial.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1645.1 Purpose; definitions.

(a) The provisions of this part govern the consideration of a claim by a registrant for classification in Class 4–D (§ 1630.43 of this chapter).

(b) The definitions of this paragraph shall apply in the interpretation of the provisions of this part:

(1) The term "duly ordained minister of religion" means a person:

(i) Who has been ordained, in accordance with the ceremonial ritual, or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines and practices of a religious character; and

(ii) Who preaches and teaches the doctrines of such church, sect, or organization; and

(iii) Who administers the rites and ceremonies thereof in public worship; and

(iv) Who as his regular and customary vocation preaches and teaches the principles of religion; and

(v) Who administers the ordinances of public worship as embodied in the creed or principles of such church, sect or organization.

(2) The term "regular minister of religion" means one who as his customary vocation preaches and teaches the principles of religion of a church, a religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion, and who is recognized by such church, sect, or organization as a regular minister.

(3) The term "regular or duly ordained minister of religion" does not include:

(i) A person who irregularly or incidentally preaches and teaches the principles of religion of a church, religious sect, or organization; or

(ii) Any person who may have been duly ordained a minister in accordance with the ceremonial rite, or discipline of a church, religious sect or organization, but who does not regularly, as a bona fide vocation, teach and preach the principles of religion and administer the ordinances of public worship, as embodied in the creed or principles of his church, sect, or organization.

(4) The term "vocation" denotes one's regular calling or full-time profession.

§ 1645.2 The claim for minister of religion classification.

A claim to classification in Class 4–D must be made by the registrant in writing, such document being placed in his file folder.

§ 1645.3 Basis for classification in Class 4–D.

In accordance with Part 1630 of this chapter any registrant shall be placed in Class 4–D who is a:

(a) Duly ordained minister of religion; or

(b) Regular minister of religion.

§ 1645.4 Exclusion from Class 4–D.

A registrant is excluded from Class 4–D when his claim clearly shows that:

(a) He has not been ordained to preach and teach the principles of religion of his church, religious sect, or organization and does not administer the ordinances of public worship, as embodied in the creed or principles of his church, sect or organization.

(b) He is a duly ordained minister of religion in accordance with the ceremonial, rite, or discipline of a church, religious sect or organization, but who does not regularly as his bona fide vocation, teach and preach the principles of religion and administer the ordinances of public worship, as embodied in the creed or principles of his church, sect, or organization.

(c) He is not recognized by the church, sect, or organization as a regular minister of religion and does not administer the ordinances of public worship, as embodied in the creed of his church, sect, or organization.

(d) He does not as a regular minister of religion regularly, as his bona fide vocation, teach and preach the principles of religion and administer the ordinances of public worship, as embodied in the creed of his church, sect or organization.

§ 1645.5 Impartiality.

Boards may not give preferential treatment to one religion or sect over another, and in like manner, no preferential treatment will be given a duly ordained minister over a regular minister.

§ 1645.6 Considerations relevant to granting or denying a claim for Class 4–D.

(a) The board shall first determine whether the registrant is requesting classification in Class 4–D because he is a regular minister of religion or because he is a duly ordained minister of religion.

(b) If the registrant claims to be a duly ordained minister of religion, the board will:

(1) Determine whether the registrant has been ordained, in accordance with the ceremonial ritual or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines and practices of religious character, to preach and teach the doctrines of such church, sect, or organization and to administer the rites and ceremonies thereof in public worship; and

(2) Determine whether the registrant as his regular, customary, and bona fide vocation preaches and teaches the principles of religion and administers the ordinances of public worship as embodied in the creed of principles of the church, sect, or organization by which the registrant was ordained.

(c) If the registrant claims to be a regular minister of religion, the board will:

(1) Determine whether the registrant as his customary and regular calling or customary and regular full-time profession, preaches and teaches the principles of religion of a church, a religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion; and

(2) Determine whether the registrant is recognized by such church, sect, or organization as a regular minister.

(d) If the board determines that the registrant is a regular minister of religion or duly ordained minister of religion he shall be classified in Class 4–D.

§ 1645.7 Evaluation of claim.

(a) In evaluating a claim for classification in Class 4–D, the board will not consider:

(1) The training or abilities of the registrant for duty as a minister; or

(2) The motive or sincerity of the registrant in serving as a minister.

(b) The board should be careful to ascertain the actual duties and functions of registrants seeking classification in Class 4–D, such classification being appropriate only for leaders of the various religious groups, not granted to members of such groups generally.

(c) Preaching and teaching the principles of one sect, if performed part-time or half-time, occasionally or irregularly, are insufficient to establish eligibility for Class 4–D. These activities must be regularly performed and must comprise the registrant's regular calling or full-time profession. The mere fact of some secular employment on the part of a registrant requesting classification in Class 4–D does not in itself make him ineligible for that class.

(d) The board should request the registrant to furnish any additional information that it believes will be of assistance in the consideration of the registrant's claim for classification in Class 4–D.

§ 1645.8 Types of decisions.

(a) If the board determines that the registrant is a regular minister of religion or a duly ordained minister of religion, he shall be classified in Class 4–D.

(b) The board will deny a claim for Class 4–D when the evidence fails to meet the criterja established in this Part.

§ 1645.9 Statement of reason for denial.

(a) Denial of a 4–D claim by a board must be accompanied by a statement specifying the reason(s) for such denial as prescribed in §§ 1633.9, 1651.4 and 1653.3 of this chapter. The reason(s) must in turn, be supported by evidence in the registrant's file.

(b) If the board's denial is based on statements by the registrant or on documentation in the registrant's file, such basis will be fully explained in the statement of reasons accompanying the denial.

PART 1648—CLASSIFICATION BY LOCAL BOARD

Sec.

1648.1 Authority of local board.
1648.2 Reassignment of local board.
1648.3 Opportunity for personal appearance.
1648.4 Appointment for personal appearance.
1648.5 Procedures during personal appearance before the local board.
1648.6 Registrants transferred for classification.
1648.7 Procedures upon transfer for classification.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E. O. 11623.

§ 1648.1 Authority of local board.

The local board of jurisdiction shall consider and determine all claims for classification which it receives.

§ 1648.2 Reassignment of local board.

(a) After making a claim for a judgmental classification, but before the board of jurisdiction has undertaken the classification of a registrant, the registrant may file a request to have his assignment changed to a board having jurisdiction over the area where he currently resides: *Provided,* That, the board to which he was originally assigned is so far from his current address as to make travel to and from it unreasonable.

(b) Any registrant whose claim for an administrative classification is denied, may, before the board of jurisdiction has undertaken a review of his denial, request that his assignment be changed to a board having jurisdiction over the area where he currently resides: *Provided,* That, the board to which he was originally assigned is so far from his current address as to make travel to and from it unreasonable.

(c) Any registrant whose assignment was changed under the provisions of this section, will, if his claim is denied, be rescheduled to report to the AFEES to which he was originally ordered.

(d) A registrant whose assignment was changed under the provisions of this section will not be allowed a subsequent change of assignment until such time as any claims pending at the time of reassignment are adjudicated unless specifically authorized by the Director.

(e) Notwithstanding any other provision of this section, no registrant will be allowed to change his assignment unless he has requested a personal appearance before the board or one is required to adjudicate his claim.

(f) The Director of Selective Service may change a board assignment when he deems it necessary to assure the fair and equitable administration of the Selective Service Law.

§ 1648.3 Opportunity for personal appearance.

(a) A registrant who has filed a claim for classification in Class 1–A–O or Class 1–O shall be scheduled for a personal appearance in accord with section 1648.4 of this part before his claim is considered.

(b) A registrant who has filed a claim for classification in Class 2–D, Class 3–A, or Class 4–D, upon his written request, shall be afforded an opportunity to appear in person before the board before his claim for classification is considered.

(c) Any registrant who has filed a claim for classification in Class 1–C, 1–D, 1–W, 2–M, 4–A, 4–B, 4–C, 4–F, 4–G, 4–T or 4–W, and whose claim has been denied, shall be afforded an opportunity to appear before the board if he requests that the denial of such claim be reviewed by the board.

§ 1648.4 Appointment for personal appearance.

(a) Not less than 10 days (unless the registrant requests an earlier appointment) in advance of the meeting at which he may appear, the registrant shall be informed of the time and place of such meeting and that he may present evidence, including witnesses, bearing on his classification.

(b) Whenever a registrant who has filed a claim for a class other than Class 1–A–O or Class 1–O for whom a personal appearance has been scheduled, fails to appear in accord with such schedule, the board shall consider any written explanation of such failure that has been filed within 5 days (or extension thereof granted by the board) after such failure to appear. If the board determines that the registrant's failure to appear was for good cause it shall reschedule the registrant's personal appearance. If the board does not receive a timely written explanation of the registrant's failure to appear for his scheduled personal appearance or if the board determines that the registrant's failure to appear was not for good cause, the registrant will be deemed to have abandoned his request for personal appearance and the board will proceed to classify him on the basis of the material in his file. The board will notify the registrant in writing of its action under this paragraph.

(c) Should the registrant fail to appear at his scheduled personal appearance he may be classified in a class other than Class 1–A–O or Class 1–O on the basis of the material in his file.

(d) Should the registrant who has filed a claim for classification in Class 1–A–O or Class 1–O fail to appear at his scheduled personal appearance the board will not consider his claim for classification in Class 1–A–O or Clas 1–O and he will be rescheduled for a second personal appearance. If he fails to appear at the second personal appearance he will be deemed to have withdrawn his claim for Class 1–A–O or 1–O and will be notified that his claim will not be considered.

§ 1648.5 Procedures during personal appearance before the local board.

(a) A quorum of a board shall be present during all personal appearances. Only those members of the board before whom the registrant appeared shall classify him.

(b) At any such appearance, the registrant may; present evidence, including witnesses; discuss his

classification; direct attention to any information in his file; and present such further information as he believes will assist the board in determining his

(2) He deems such transfer to be necessary in order to assure equitable administration of the Selective Service Law.

and his request. Any notice shall be liberally construed so as to permit the appeal.

(c) The registrant may also request an

evidence, including witnesses, bearing on his classification.

(f) During the personal appearance only the registrant or his witnesses may

(k) Only persons who were witnesses for the registrant at his personal appearance before a local board may appear as witnesses for the registrant at

when he deems it necessary to assure the fair and equitable administration of the Selective Service Law: *Provided,* That no such appeal will be taken after the expiration of the appeal period

classification; direct attention to any information in his file; and present such further information as he believes will assist the board in determining his proper classification. The information furnished should be as concise as possible.

(c) The registrant may present the testimony of not more than three witnesses unless it is the judgment of the board that the testimony of additional witnesses is warranted. The registrant may summarize in writing, the all oral information that he or his witnesses presented. Such summary shall be placed in the registrant's file.

(d) A summary will be made of oral testimony given by the registrant and his witnesses at his personal appearance and a copy of such summary shall be placed in the registrant's file.

(e) If the registrant does not speak English adequately he may appear with a person to act as interpreter for him. Such interpreter will not be deemed to be a witness unless he testifies in behalf of the registrant. (Oath to be administered in accord with § 1605.81(b)).

(f) During the personal appearance only the registrant or his witnesses may address the board or respond to questions of the board and only the registrant and the board will be allowed to address questions to witnesses. A registrant may, however, be accompanied by an advisor of his choosing and may confer with the advisor before responding to an inquiry or statement by the board: *Provided,* That those conferences do not substantially interfere with or unreasonably delay the orderly process of the personal appearance.

(g) If, in the opinion of the board, the informal, administrative nature of the personal appearance is unduly disrupted by the presence of an advisor, the board chairman nay require the advisor to leave the hearing room. In such case, the board chairman shall put a statement of reasons for his action in the registrant's file.

§ 1648.6 Registrants transferred for classification.

(a) Before a board of jurisdiction has undertaken the classification of a registrant, the file may be transferred by the Director of Selective Service to another board for classification.

(b) The Director of Selective Service may transfer a registrant to another board for classification at any time when:

(1) A board cannot act on the registrant's claim because of disqualification under the provisions of § 1605.55 of this chapter; or

(2) He deems such transfer to be necessary in order to assure equitable administration of the Selective Service Law.

§ 1648.7 Procedures upon transfer for classifications.

A board to which a registrant is transferred for classification shall classify the registrant in the same manner it would classify a registrant assigned to it.

PART 1651—CLASSIFICATION BY DISTRICT APPEAL BOARD

Sec.

1651.1 Who may appeal to a district appeal board.
1651.2 Time within which registrants may appeal.
1651.3 Procedures for taking an appeal.
1651.4 Review by district appeal board.
1651.5 File to be returned after appeal to the district appeal board is decided.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1651.1 Who may appeal to a district appeal board.

(a) The Director of Selective Service may appeal from any determination of a local board when it is deemed necessary to assure the fair and equitable administration of the Selective Service Law: *Provided,* That no such appeal will be taken after the expiration of the appeal period prescribed in § 1651.2 of this part.

(b) The registrant may appeal to a district appeal board from the denial of his claim for classification by the local board.

§ 1651.2 Time within which registrants may appeal.

The registrant must file an appeal with his local board and request a personal appearance before the district appeal board within 10 days after the date the registrant is mailed a notice of classification action.

§ 1651.3 Procedures for taking an appeal.

(a) When the Director of Selective Service appeals to a district appeal board he shall place in the registrant's file a written statement of his reasons for taking such appeal. When an appeal is taken by the Director, the registrant will be notified that the appeal has been taken, the reason therefor, and that the registrant may appear in person before the appeal board in accord with § 1651.4(e).

(b) The registrant may appeal the classification action of the local board by filing with it a written notice of appeal. The registrant's notice of appeal need not be in a particular form but must include the name of the registrant and his request. Any notice shall be liberally construed so as to permit the appeal.

(c) The registrant may also request an opportunity to appear in person before the district appeal board and such appeal will be considered by the board having jurisdiction over the local board which last classified him.

(d) Whenever the registrant's principal place of employment or residence is outside the United States he may request that the appeal be considered by the district appeal board for the District of Columbia. "Principal place of employment" as used in this paragraph means the geographical location at which the registrant usually performs the duties of his employment.

(e) The registrant may attach to his appeal a statement specifying the reasons he believes the classification action that he is appealing is inappropriate, directing attention to any information in his file, and setting out any information relevant to his claim.

§ 1651.4 Review by district appeal board.

(a) Prior to the ajudication of an appeal, the clerk of the appeal board or any compensated employee authorized to perform the administrative duties of the board shall review the file to insure that no procedural errors have occurred during the history of the current claim. Files containing procedural errors will be returned to the local board that classified the registrant for any additional processing necessary to correct such errors.

(b) Files containing procedural errors that were not detected during the initial screening but which subsequently surfaced during processing by the appeal board, will be acted on and the board will take such action necessary to correct the errors and process the appeal to completion.

(c) A board shall consider appeals in the order of their having been filed unless otherwise directed by the Director of Selective Service.

(d) Upon receipt of the registrant's file, a board shall ascertain whether the registrant has requested a personal appearance before a board. If no such request has been made, a board may classify the registrant based on the material in his file.

(e) Not less than 10 days (unless the registrant requests an earlier appointment) in advance of the meeting at which his classification will be considered, a board shall inform any registrant with respect to whom the Director of Selective Service has appealed or who has requested a personal appearance that he may appear at such meeting and present

evidence, including witnesses, bearing on his classification.

(f) During the personal appearance only the registrant or his witnesses may address the board or respond to questions of the board and only the registrant and the board will be allowed to address questions to witnesses. A registrant may, however, be accompanied by an advisor of his choosing and may confer with the advisor before responding to an inquiry or statement by the board: *Provided,* That those conferences do not substantially interfere with or unreasonably delay the orderly process of the personal appearance.

(g) If, in the opinion of the board, the informal, administrative nature of the personal appearance is unduly disrupted by the presence of an advisor, the board chairman may require the advisor to leave the hearing room. In such a case, the board chairman shall put a statement of reasons for his action in the registrant's file.

(h) Whenever a registrant who has filed a claim for a class other than Class 1–A–O or Class 1–O for whom a personal appearance has been scheduled, fails to appear in accord with such schedule, a board shall consider any written explanation of such failure that has been filed within 5 days (or extension thereof granted by a board) after such failure to appear. If a board determines that the registrant's failure to appear was for good cause it shall reschedule the registrant's personal appearance. If a board does not receive a timely written explanation of the registrant's failure to appear for his scheduled personal appearance or if a board determines that the registrant's failure to appear was not for good cause, the registrant will be deemed to have abandoned his request for personal appearance and he will be classified on the basis of the material in his file. A board will notify the registrant in writing of its action under this paragraph.

(i) A quorum of a board shall be present during all personal appearances. Only those members of a board before whom the registrant appeared shall classify him.

(j) At any personal appearance, the registrant may: present oral testimony, including witnesses; point out the class or classes in which he thinks he should have been placed; and direct attention to any information in his file. The registrant may present any additional written information he believes will assist the board in determining his proper classification. The information furnished should be as concise as possible.

(k) Only persons who were witnesses for the registrant at his personal appearance before a local board may appear as witnesses for the registrant at his personal appearance before a district appeal board unless the registrant established to the satisfaction of a board that the failure of a person to be a witness for him at his personal appearance before a local board was because of reasons beyond the control of the registrant. The registrant may summarize in writing the oral information that he or his witnesses presented. Such summary shall be placed in the registrant's file.

(l) A summary will be made of all oral testimony given by the registrant and his witnesses at his personal appearance and such summary shall be placed in the registrant's file.

(m) A district appeal board shall classify a registrant who has requested a personal appearance after he:

(1) Has appeared before the board; or

(2) Has withdrawn his request to appear; or

(3) Has waived his right to an opportunity to appear; or

(4) Has failed to appear.

(n) In considering a registrant's appeal, a board shall not receive or consider any information other than the following:

(1) Information contained in the registrant's file; and

(2) Oral statements by the registrant and his witnesses; and

(3) Written evidence submitted by him to the board during his personal appearance.

(o) In the event a board classifies the registrant in a class other than that which he requested, it shall record its reasons therefore in the file.

§ 1651.5 File to be returned after appeal to the district appeal board is decided.

When the appeal to a district appeal board has been decided, the file shall be returned as prescribed by the Director of Selective Service.

PART 1653—APPEAL TO THE PRESIDENT

Sec.

1653.1 Who may appeal to the President.
1653.2 Procedures for taking an appeal to the President.
1653.3 Review by the National Selective Service Appeal Board.
1653.4 File to be returned after appeal to the President is decided.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.*; E.O. 11623.

§ 1653.1 Who may appeal to the President.

(a) The Director of Selective Service may appeal to the President from any determination of a district appeal board when he deems it necessary to assure the fair and equitable administration of the Selective Service Law: *Provided,* That no such appeal will be taken after the expiration of the appeal period prescribed in subsection (b) below.

(b) When a registrant has been classified by a district appeal board and one or more members of the board dissented from that classification, he may within 10 days after a notice thereof has been mailed, appeal to the President and may request a personal appearance before the National Selective Service Appeal Board.

§ 1653.2 Procedures for taking an appeal to the President.

(a) When the Director of Selective Service appeals to the President he shall place in the registrant's file a written statement of his reasons for taking such appeal. When an appeal is taken by the Director the registrant will be notified that the appeal has been taken, the reasons therefor, and that the registrant may appear in person before the National Board in accord with § 1653.1(b).

(b) An appeal to the President by the registrant shall be taken by filing a written notice of appeal with the local board that classified him. He may at the same time file a written request to appear before the National Selective Service Appeal Board. Such notice need not be in any particular form but must state the name of the registrant and the fact that he wishes the President to review the determination.

§ 1653.3 Review by the National Selective Service Appeal Board.

(a) An appeal to the President is determined by the National Board by its classification of the registrant in a class other than 1–A or by its refusal to take such action.

(b) The board shall proceed to classify any registrant who has not requested a personal appearance after the specified time in which to request a personal appearance has elapsed.

(c) Not less than 10 days in advance of the meeting at which his claim will be considered, the board shall inform any registrant with respect to whom the Director of Selective Service has appealed or who has requested a personal appearance that he may appear at such meeting and present evidence, including witnesses, bearing on his classification.

(d) During the personal appearance only the registrant or his witnesses may address the board or respond to questions of the board and only the registrant and the board will be allowed to address questions to witnesses. A

registrant may, however, be accompanied by an advisor of his choosing and may confer with the advisor before responding to an inquiry

for him at his personal appearance before the local board or district appeal board was because of reasons beyond the control of the registrant. The

paragraph (a) of this section shall be presented to the Director of Selective service.

(a)(1) The term "emergency medical

§ 1662.2 Procedure for requesting information.

Requests for information under the Freedom of Information Act (FOIA)

of individual pages of such materials will be made available as specified in § 1662.6; however, the right is reserved to limit to a reasonable quantity the

identify the requester in order to allow SSS to determine if there is a record pertaining to that individual in a particular system of records. In

registrant may, however, be accompanied by an advisor of his choosing and may confer with the advisor before responding to an inquiry or statement by the board: *Provided,* That those conferences do not substantially interfere with or unreasonably delay the orderly process of the personal appearance.

(e) If, in the opinion of the board, the informal administrative nature of the personal appearance is unduly disrupted by the presence of an advisor, the board chairman may require the advisor to leave the hearing room. In such a case, the board chairman shall put a statement of reasons for his action in the registrant's file.

(f) Whenever a registrant who has filed a claim for a class other than Class 1–A–O or Class 1–O for whom a personal appearance has been scheduled fails to appear in accord with such schedule, the board shall consider any written explanation of such failure that has been filed within five days (or extension thereof granted by the board) after such failure to appear. If the board determines that the registrant's failure to appear was for good cause it shall reschedule the registrant's personal appearance. If the board does not receive a timely written explanation of the registrant's failure to appear for his scheduled personal appearance or if the board determines that the registrant's failure to appear was not for good cause, the registrant will be deemed to have abandoned his request for personal appearance and the board will proceed to classify him on the basis of the material in his file. The registrant will be notified in writing of its action under this paragraph.

(g) A quorum of the board shall be present during all personal appearances. Only those members of the board before whom the registrant appeared shall classify him.

(h) At any such appearance, the registrant may: discuss his classification; point out the class or classes in which he thinks he should have been placed; and direct attention to any information in his file. The registrant may present such further information as he believes will assist the board in determining his proper classification. The information furnished should be as concise as possible.

(i) Only persons who were witnesses for the registrant at his personal appearance before the local board or district appeal board may appear as witnesses for the registrant at his personal appearance before the board unless the registrant established to the satisfaction of the National Board that the failure of a person to be a witness for him at his personal appearance before the local board or district appeal board was because of reasons beyond the control of the registrant. The registrant may summarize in writing the oral information that he or his witnesses presented and any such summary shall be placed in his file.

(j) A summary will be made of all oral testimony given by the registrant and his witnesses at his personal appearance and such summary shall be placed in the registrant's file.

(k) The board shall classify a registrant who has requested a personal appearance after he:

(1) Has appeared before the National Board; or

(2) Has withdrawn his request to appear; or

(3) Has waived his right to an opportunity to appear; or

(4) Has failed to appear.

(l) In considering a registrant's appeal, the board shall not receive or consider any information other than the following:

(1) Information contained in the registrant's file; and

(2) Oral statements by the registrant and his witnesses; and

(3) Written evidence submitted by him to the board during his personal appearance.

(m) In the event that the board classifies the registrant in a class other than that which he requested, it shall record its reasons therefor in his file.

§ 1653.4 File to be returned after appeal to the President is decided.

When the appeal to the President has been decided, the file shall be returned as prescribed by the Director of Selective Service.

PART 1659—EXTRAORDINARY EXPENSES OF REGISTRANTS

Sec.
1659.1 Claims.

Authority: Military Selective Service Act, 50 U.S.C. App. 451 *et seq.;* E.O. 11623.

§ 1659.1 Claims.

(a) Claims for payment of actual and reasonable expenses of:

(1) Emergency medical care, including hospitalization of registrants who suffer illness or injury; and

(2) The transportation and burial of the remains of registrants who suffer death;

while acting under travel orders issued by or under the authority of the Director of Selective Service will be paid in accord with the provisions of this section.

(b) Claims for payment of expenses incurred for the purposes set forth in paragraph (a) of this section shall be presented to the Director of Selective service.

(c)(1) The term "emergency medical care, including hospitalization", as used in the section shall be construed to mean such medical care or hospitalization that normally must be rendered promptly after occurrence of the illness or injury as a result of which it is required, and discharged by a physician or facility subsequent to such medical care or hospitalization shall prima facie terminate the period of emergency.

(2) The death of a registrant shall be deemed to have occurred while acting under orders issued by or under the authority of the Director of Selective Service if it results directly from an illness or injury suffered by the registrant while so acting and occurs prior to the completion of an emergency medical care, including hospitalization, occasioned by such illness or injury.

(d) No such claim shall be paid unless it is presented within the period of one year from the date on which the expenses were incurred.

(e) No such claim shall be allowed in case it is determined that the cause of injury, illness, or death was due to negligence or misconduct of the registrant.

(f) Burial expenses shall not exceed the maximum prescribed in Section II of the Military Selective Service Act in any one case.

(g) Payment of such claims when allowed shall be made only:

(1) Directly to the person or facility with which the expenses were incurred; or

(2) By reimbursement to the registrant, a relative of the registrant, or the legal representative of the registrant's estate, for original payment of such expenses.

PART 1662—FREEDOM OF INFORMATION ACT (FOIA) PROCEDURES

Sec.
1662.1 Applicability of this part.
1662.2 Procedure for requesting information.
1662.3 Identification of information requested.
1662.4 Consideration of requests for information.
1662.5 Inspection, copying, and obtaining copies.
1662.6 Fees.

Authority: 5 USC 552, as amended.

§ 1662.1 Applicability of this part.

The provisions of this part prescribe the procedures for requests for information under 5 U.S.C. 552, as amended (Freedom of Information Act).

§ 1662.2 Procedure for requesting information.

Requests for information under the Freedom of Information Act (FOIA) shall be in writing and should be addressed to the Director, Selective Service System, ATTN: Records Manager, Washington, D.C. 20435.

§ 1662.3 Identification of information requested.

Any person who requests information under FOIA shall provide a reasonably specific description of the information sought so that it may be located without undue search. If the description is not sufficient, the Records Manager will notify the requester and, to the extent possible, indicate the additional information required. Every reasonable effort shall be made to assist a requester in the identification and location of the record or records sought.

§ 1662.4 Consideration of requests for information.

(a) Upon receipt of any request for information or records, the Records Manager will determine within 10 days (excepting Saturdays, Sundays, and legal Federal holidays) whether it is appropriate to grant the request and will immediately provide written notification to the person making the request. If the request is denied, the written notification to the person making the request will include the reasons therefor and a notice that an appeal may be lodge with the Director of Selective Service.

(b) Appeals shall be in writing and addressed to the Director of Selective Service at the address specified in § 1662.2 of this part. The appeal shall include a statement explaining the basis for the appeal. Determinations of appeals will be in writing and signed by the Director, or his designee, within 20 days (excepting Saturdays, Sundays, and legal Federal holidays). If, on appeal, the denial is in whole or in part upheld, the written determination will include the reason therefor and also contain a notification of the provisions for judicial review.

§ 1662.5 Inspection, copying, and obtaining copies.

When a request for information has been approved in accord with § 1662.4, the person making the request may make an appointment to inspect or copy the materials requested during regular business hours by writing or telephoning the Records Manager at the address listed in § 1662.2. Such materials may be copied manually without charge, and reasonable facilities will be made available for that purpose. Also, copies of individual pages of such materials will be made available as specified in § 1662.6; however, the right is reserved to limit to a reasonable quantity the copies of such materials which may be made available in this manner.

§ 1662.6 Fees.

(a) Search of records is made without charge.

(b) The charge for copies of documents and records prepared on Selective Service System equipment is 25 cents per page.

(c) Copies will not be released to any requester until the required fee is paid in full by cash, check or money order. Checks and money orders should be made payable to the Selective Service System.

(d) Documents will be furnished without charge or at a reduced charge where it is determined that the waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

PART 1665—PRIVACY ACT PROCEDURES

Sec.
1665.1 Rules for determining if an individual is the subject of a record.
1665.2 Requests for access.
1665.3 Access to the accounting of disclosures from records.
1665.4 Requests to amend records.
1665.5 Request for review.
1665.6 Schedule of fees.
1665.7 Information available to the public or to former employers of registrants.

Authority: 5 USC 552a.

§ 1665.1 Rules for determining if an individual is the subject of a record.

(a) Individuals desiring to know if a specific system of records maintained by the Selective Service System (SSS) contains a record pertaining to them should address their inquiries to the Director, Selective Service System, ATTN: Records Manager, Washington, D.C. 20435. The written inquiry should contain a specific reference to the system of records maintained by Selective Service listed in the SSS Notices of Systems of Records or it should describe the type of record in sufficient detail to reasonably identify the system of records. Notice of SSS System of Records subject to the Privacy Act is in the **Federal Register** and copies of the notices will be available upon request to the Records Manager. A compilation of such notices will also be made and published by the Office of Federal Register, in accord with section 5 U.S.C. 552a(f).

(b) At a minimum, the request should also contain sufficient information to identify the requester in order to allow SSS to determine if there is a record pertaining to that individual in a particular system of records. In instances when the information is insufficient to insure that disclosure will be to the individual to whom the information pertains, in view of the sensitivity of the information, SSS reserves the right to ask the requester for additional identifying information.

(c) Ordinarily the requester will be informed whether the named system of records contains a record pertaining to the requester within 10 days of receipt of such a request (excluding Saturdays, Sundays, and legal Federal holidays). Such a response will also contain or reference the procedures which must be followed by the individual making the request in order to gain access to the record.

(d) Whenever a response cannot be made within the 10 days, the Records Manager will inform the requester of the reason for the delay and the date by which a response may be anticipated.

§ 1665.2 Requests for access.

(a) *Requirement for written requests.* Individuals desiring to gain access to a record pertaining to them in a system of records maintained by SSS must submit their request in writing in accord with the procedures set forth in paragraph b, below.

(b) *Procedures.* (1) Content of the Request. (i) The request for access to a record in a system of records shall be addressed to the Records Manager, at the address cited above, and shall name the system of records or contain a description (as concise as possible) of such system of records. The request should state that the request is pursuant to the Privacy Act of 1974. In the absence of specifying solely the Privacy Act of 1974 and, if the request may be processed under both the Freedom of Information Act and the Privacy Act and the request specifies both or neither act, the procedures under the Privacy Act of 1974 will be employed. The individual will be advised that the procedures of the Privacy Act will be utilized, of the existence and the general effect of the Freedom of Information Act, and the difference between procedures under the two acts (e.g. fees, time limits, access). The request should contain necessary information to verify the identity of the requester (see § 1665.2(b)(2)(vi). In addition, the requester should include any other information which may assist in the rapid identification of the record for which access is being requested (e.g., maiden name, dates of employment, etc.) as well as any other identifying

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information contained in and required by SSS Notice of Systems of Records.

(ii) If the request for access follows a prior request under section 1665.1, the same identifying information need not be included in the request for access if a reference is made to that prior correspondence, or a copy of the SSS response to that request is attached.

(iii) If the individual specifically desires a copy of the record, the request should so specify.

(2) SSS action on request. A request for access will ordinarily be answered within 10 days, except when the Records Manager determines that access cannot be afforded in that time, in which case the requester will be informed of the reason for the delay and an estimated date by which the request will be answered. Normally access will be granted within 30 days from the date the request was received by the Selective Service System. At a minimum, the answer to the request for access shall include the following:

(i) A statement that there is a record as requested or a statement that there is not a record in the system of records maintained by SSS;

(ii) A statement as to whether access will be granted only by providing a copy of the record through the mail; or the address of the location and the date and time at which the record may be examined. In the event the requester is unable to meet the specified date and time, alternative arrangements may be made with the official specified in § 1665.2(b)(1);

(iii) A statement, when appropriate, that examination in person will be the sole means of granting access only when the Records Manager has determined that it would not unduly impede the requester's right of access;

(iv) The amount of fees charged, if any (see § 1665.6) (Fees are applicable only to requests for copies.);

(v) The name, title, and telephone number of the SSS official having operational control over the record; and

(vi) The documentation required by SSS to verify the identity of the requester. At a minimum, SSS's verification standards include the following:

(A) Current or former SSS employees. Current or former SSS employees requesting access to a record pertaining to them in a system of records maintained by SSS may, in addition to the other requirements of this section, and at the sole discretion of the official having operational control over the record, have his or her identity verified by visual observation. If the current or former SSS employee cannot be so identified by the official having operational control over the records, identification documentation will be required. Employee identification cards, annuitant identification, drivers licenses, or the "employee copy" of any official personnel document in the record are examples of acceptable identification validation.

(B) Other than current or former SSS employees. Individuals other than current or former SSS employees requesting access to a record pertaining to them in a system of records maintained by SSS must produce identification documentation of the type described herein, prior to being granted access. The extent of the identification documentation required will depend on the type of record to be accessed. In most cases, identification verification will be accomplished by the presentation of two forms of identification. Any additional requirements are specified in the system notices published pursuant to 5 U.S.C. 552a(e)(4).

(C) Access granted by mail. For records to be accessed by mail, the Records Manager, shall, to the extent possible, establish identity by a comparison of signature in situations where the data in the record is not so sensitive that unauthorized access could cause harm or embarrassment to the individual to whom they pertain. No identification documentation will be required for the disclosure to the requester of information required to be made available to the public by 5 U.S.C. 552. When in the opinion of the Records Manager the granting of access through the mail could reasonably be expected to result in harm or embarrassment if disclosed to a person other than the individual to whom the record pertains, a notarized statement of identity or some similar assurance of identity will be required.

(D) Unavailability of identification documentation. If an individual is unable to produce adequate identification documentation the individual will be required to sign a statement asserting identity and acknowledging that knowingly or willfully seeking or obtaining access to records about another person under false pretenses may result in a fine of up to $5,000. In addition, depending upon the sensitivity of the records sought to be accessed, the official having operational control over the records may require such further reasonable assurances as may be considered appropriate; e.g., statements of other individuals who can attest to the identity of the requester. No verification of identity will be required of individuals seeking access to records which are otherwise available to any person under 5 U.S.C. 552, Freedom of Information Act.

(E) Access by the parent of a minor, or legal guardian. A parent of a minor, upon presenting suitable personal identification, may access on behalf of the minor any record pertaining to the minor maintained by SSS in a system of records. A legal guardian may similarly act on behalf of an individual declared to be incomtetent due to physical or mental incapacity or age by a court of competent jurisdiction. Absent a court order or consent, a parent or legal guardian has no absolute right to have access to a record about a child. Minors are not precluded from exercising on their own behalf rights given to them by the Privacy Act.

(F) Granting access when accompanied by another individual. When an individual requesting access to his or her record in a system of records maintained by SSS wishes to be accompanied by another individual during the course of the examination of the record, the individual making the request shall submit to the official having operational control of the record, a signed statement authorizing that person access to the record.

(G) Denial of access for inadequate identification documentation. If the official having operational control over the records in a system of records maintained by SSS determines that an individual seeking access has not provided sufficient identification documentation to permit access, the official shall consult with the Records Manager prior to finally denying the individual access.

(H) Review of decision to deny access. Whenever the Records Manager determines, in accordance with the procedures herein, that access cannot be granted, the response will also include a statement of the procedures to obtain a review of the decision to deny in accord with section 1665.5.

(vii) Exceptions. Nothing in these regulations shall be construed to entitle an individual the right to access to any information compiled in reasonable anticipation of a civil action or proceeding. The mere fact that records in a system of records are frequently the subject of litigation does not bring those systems of records within the scope of this provision. This provision is not intended to preclude access by an individual to the records which are available to that individual under the other processes such as the Freedom of Information Act or the rules of civil procedure.

§ 1665.3 Access to the accounting of disclosures from records.

Rules governing the granting of access to the accounting of disclosure are the same as those for granting access to the records (including verification of identity) outlined in § 1665.2.

§ 1665.4 Requests to amend records.

(a) Requirement for written requests. Individuals desiring to amend a record that pertains to them in a system of records maintained by SSS must submit their request in writing in accord with the procedures set forth herein. Records not subject to the Privacy Act of 1974 will not be amended in accord with these provisions. However, individuals who believes that such records are inaccurate may bring this to the attention of SSS.

(b) Procedures. (1)(i) The requests to amend a record in a system of records shall be addressed to the Records Manager. Included in the request shall be the name of the system and a brief description of the record proposed for amendment. In the event the request to amend the record is the result of the individuals having gained access to the record in accordance with the provisions concerning access to records as set forth above, copies of previous correspondence between the requester and SSS will serve in lieu of a separate description of the record.

(ii) When the individual's indentity has been previously verified pursuant to § 1665.2(b)(2)(vi), further verification of identity is not required as long as the communication does not suggest that a need for verification is present. If the individuals identity has not been previously verified, SSS may required identification validation as described in § 1665.2(b)(2)(vi). Individuals desiring assistance in the preparation of a request to amend a record should contact the Records Manager at the address cited above.

(iii) The exact portion of the record the individual seeks to have amended should be clearly indicated. If possible, the proposed alternative language should also be set forth, or at a minimum, the facts which the individual believes are not accurate, relevant, timely, or complete should be set forth with such particularity as to permit SSS not only to understand the individuals basis for the request, but also to make an appropriate amendment to the record.

(iv) The request must also set forth the reasons why the individual believes his record is not accurate, relevant, timely, or complete. In order to avoid the retention by SSS of personal information merely to permit verification of records, the burden of persuading SSS to amend a record will be upon the individual. The individual must furnish sufficient facts to persuade the official in charge of the system of the inaccuracy, irrelevancy, timeliness or imcompleteness of the record.

(v) Incomplete or inaccurate requests will not be rejected categorically. The individual will be asked to clarify the request as needed.

(2) SSS action on the request. To the extent possible, a decision upon a request to amend a record will be made within 10 days, excluding Saturdays, Sundays, and legal Federal holidays. The response reflecting the decisions upon a request for amendment will include the following:

(i) The decision of the Selective Service System whether to grant in whole, or deny any part of the request to amend the record.

(ii) The reasons for determination for any portion of the request which is denied.

(iii) The name and address of the official with whom an appeal of the denial may be lodged.

(iv) The name and address of the official designated to assist, as necessary and upon request of, the individual making the request in preparation of the appeal.

(v) A description of the review of the appeal with SSS (see section 1665.5).

(vi) A description of any other procedures which may be required of the individual in order to process the appeal.

(3) If the nature of the request for the correction of the system of records precludes a decision within 10 days, the individual making the request will be informed within 10 days of the extended date for a decision. Such a decision will be issued as soon as it is reasonably possible, normally within 30 days from the receipt of the request (excluding Saturdays, Sundays, and legal Federal holidays) unless unusual circumstances preclude completing action within that time. If the expected completion date for the decision indicated cannot be met, the individual will be advised of the delay and of a revised date when the decision may be expected to be completed.

§1665.5 Request for review.

(a) Individuals wishing to request a review of the decision by SSS with regard to any initial request to access or amend a record in accord with the provisions of §§ 1665.2 and 1665.4, should submit the request for review in writing and, to the extent possible, include the information specified in § 1665.5(b). Individuals desiring assistance in the preparation of their request for review should contact the Records Manager at the address provided herein.

(b) The request for review should contain a brief description of the record invovled or in lieu thereof, copies of the correspondence from SSS in which the request to access or to amend was denied and also the reasons why the requester believes that access should be granted or the disputed information amended. The request for review should make reference to the information furnished by the individual in support of his claim and the reasons as required by §§ 1665.2 and 1665.4 set forth by SSS in its decision denying access or amendment. Appeals filed without a complete statement by the requester setting forth the reasons for the review will, of course, be processed. However, in order to make the appellate process as meaningful as possible, the requester's disagreement should be set forth in an understandable manner. In order to avoid the unnecessary retention of personal information, SSS reserves the right to dispose of the material concerning the request to access or amend a record if no request for review in accord with this section is received by SSS within 180 days of the mailing by SSS of its decision upon an initial request. A request for review received after the 180 day period may, at the discretion of the Records Manager be treated as an initial request to access or amend a record.

(c) The request for review should be addressed to the Director of Selective Service.

(d) The Director of Selective Service will inform the requester in writing of the decision on the request for review within 20 days (excluding Saturdays, Sundays, and legal Federal holidays) from the date of receipt by SSS of the individual's request for review unless the Director extends the 20 day period for good cause. The extension and the reasons therefor will be sent by SSS to the requester within the initial 20 day period. Such extensions should not be routine and should not normally exceed an additional thirty days. If the decision does not grant in full the request for amendment, the notice of the decision will provide a description of the steps the individual may take to obtain judicial review of such a decision, a statement that the individual may file a concise statement with SSS setting forth the individual's reasons for his disagreement with the decision and the procedures for filing such a statement of disagreement. The Director of Selective Service has the authority to determine

the "conciseness" of the statement, taking into account the scope of the disagreement and the complexity of the issues. Upon the filing of a proper,

(1) Duplication of records. Records will be duplicated at a rate of $.25 per page.

(2) Fees should be paid in full prior to

Schools published in the Federal Register of November 7, 1980.

DATES: See Supplementary Information.

ADDRESSES: See Supplementary

standards for determining the adequacy of the revenues of individual railroads. The proposed new standards are intended to reflect the increased

reasonable, the Commission shall recognize the policy that rail carriers shall earn adequate revenues. The zone of rate flexibility established by Section

203 of the Staggers Act. A carrier that lacks adequate revenue may, after October 1, 1984, continue to implement rate increases each year equal to 4

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the "conciseness" of the statement, taking into account the scope of the disagreement and the complexity of the issues. Upon the filing of a proper, concise statement by the individual, any subsequent disclosure of the information in dispute will be clearly noted so that the fact that the record is disputed as apparent, a copy of the concise statement furnished and a concise statement by SSS setting forth its reasons for not making the requested changes, if SSS chooses to file such a statement. A notation of a dispute is required to be made only if an individual informs the agency of his disagreement with SSS's determination in accord with § 1665.5(a), (b) and (c). A copy of the individual's statement, and if it chooses, SSS's statement will be sent to any prior transferee of the disputed information who is listed on the accounting required by 5 U.S.C. 552a(c). If the reviewing official determines that the record should be amended in accord with the individual's request, SSS will promptly correct the record, advise the individual, and inform previous recipients if an accounting of the disclosure was made pursuant to 5 U.S.C. 552a(c). The notification of correction pertains to information actually disclosed.

§ 1665.6 Schedule of fees.

(a) Prohibitions against charging fees. Individuals will not be charged for:

(1) The search and review of the record.

(2) Any copies of the record produced as a necessary part of the process of making the record available for access, or

(3) Any copies of the requested record when it has been determined that access can only be accomplished by providing a copy of the record through the mail.

(4) Where a registrant has been charged under the Military Selective Service Act and must defend himself in a criminal prosecution, or where a registrant submits to induction and thereafter brings habeas corpus proceedings to test the validity of his induction, the Selective Service System will furnish to him, or to any person he may designate, one copy of his Selective Service file free of charge.

(b) Waiver. The Director of Selective Service may at no charge, provide copies of a record if it is determined the production of the copies is in the interest of the Government.

(c) Fee schedule and method of payment. Fees will be charged as provided below except as provided in paragraphs (a) and (b) of this section.

(1) Duplication of records. Records will be duplicated at a rate of $.25 per page.

(2) Fees should be paid in full prior to issuance of requested copies. In the event the requester is in arrears for previous requests, copies will not be provided for any subsequent request until the arrears have been paid in full.

(3) Remittance shall be in the form of cash, a personal check or bank draft drawn on a bank in the United States, or postal money order. Remittances shall be made payable to the order of the Selective Service System and mailed or delivered to the Records Manager, Selective Service System, Washington, D.C. 20435.

(4) A receipt for fees paid will be given upon request.

§ 1665.7 Information available to the public or to former employers of registrants.

(a) Each local board maintains a classification record which contains the name, selective service number, and the current and past classifications for each person assigned to that board. Information in this record may be inspected at the local board at which it is maintained.

(b) Any compensated employee of the Selective Service System may disclose to the former employer of a registrant who is serving in or who has been discharged from the Armed Forces whether the registrant has or has not been discharged and, if discharged, the date thereof, upon reasonable proof that the registrant left a position in the employ of the person requesting such information in order to serve in the Armed Forces.

(c) Whenever an office referred to in this section is closed, the request for information that otherwise would be submitted to it should be submitted to the National Headquarters, Selective Service System, Washington, D.C. 20435.

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BILLING CODE 8015-01-M

DEPARTMENT OF EDUCATION

34 CFR Part 805

Local Advisory Committees, Overseas Dependents' Schools

AGENCY: Department of Education.

ACTION: Notice of public hearings on proposed regulations.

SUMMARY: The purpose of this notice is to announce the dates, times, and locations for six hearings on the proposed regulations on local advisory committees of the Overseas Dependents' Schools published in the Federal Register of November 7, 1980.

DATES: See Supplementary Information.

ADDRESSES: See Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Dr. William L. Smith Administrator of Education for Overseas Dependents Department of Education Washington, D.C. 20202 202-245-8011.

SUPPLEMENTARY INFORMATION: Proposed regulations (34 CFR Part 805) were published in the Federal Register at 45 FR 73963 on November 7, 1980, to implement Section 1410 of Title XIV of the Education Amendments of 1978, as amended by Pub. L. 96-88. No announcement of hearings was contained in that notice.

Dates, times, and locations:

Regional Office, DoD Dependents' Schools, Karlsruhe, Federal Republic of Germany, December 5, 1980 1-4 p.m.

Regional Office, DoD Dependents' Schools, Okinawa, Japan, December 8, 1980 1-4 p.m.

Regional Office, DoD Dependents' Schools, Albrook Air Force Base, Panama, December 11, 1980 1-4 p.m.

Regional Office, DoD Dependents' Schools, Wiesbaden, Federal Republic of Germany, December 12, 1980 1-4 p.m.

Regional Office, DoD Dependents' Schools, London, England, December 17, 1980 1-4 p.m.

Regional Office, DoD Dependents' Schools, Madrid, Spain, January 16, 1980 1-4 p.m.

Dated: November 28, 1980.

William L. Smith,

Administrator of Education for Overseas Dependents.

[FR Doc. 80-37466 Filed 12-2-80; 8:45 am]
BILLING CODE 4000-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1109

[Ex Parte No. 393]

Standards for Railroad Revenue Adequacy

AGENCY: Interstate Commerce Commission.

ACTION: Proposed Repeal of Existing Rules and Notice of Proposed Standards.

SUMMARY: In this proceeding, the Commission will implement Section 205 of the Staggers Rail Act of 1980 (Rail Act). The Commission proposes new standards for determining the adequacy of the revenues of individual railroads. The proposed new standards are intended to reflect the increased importance of railroad revenue adequacy, and the impact individual revenue adequacy determinations have on our exercise of jurisdiction under the Rail Act.

DATES: Comments are due on or before January 19, 1981. Because of the short time limits imposed on this proceeding by the Rail Act, we will not grant any extension of this period.

ADDRESS: Send comments to: Room 5356, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard Felder (202) 275-7693; Bruce Stram (202) 275-7381.

SUPPLEMENTARY INFORMATION:

Background

Section 10704(a)(2) of the Interstate Commerce Act requires the Commission to establish and maintain standards and procedures for determining those revenue levels for rail carriers that are adequate to cover total operating expenses, including depreciation and obsolescence, plus a reasonable return on capital. That section of the Act also states that adequate revenue levels should:

(a) Provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and cover the effects of inflation; and

(b) Attract and retain capital in amounts adequate to provide a sound transportation system in the United States.

Section 205(b)(2) of the Stagger Rail Act of 1980 (Rail Act) amends 49 U.S.C. 10704(a) by adding a new paragraph (3) directing the Commission to conclude a proceeding under 49 U.S.C. 10704(a)(2) within 180 days afters its effective date. Section 205(b)(2) also adds a new paragraph (4) directing the Commission to determine which rail carriers are earning adequate revenues within the same 180 day period, and on an annual basis thereafter.

The concept of revenue adequacy is important throughout the Rail Act. Section 101(a) of the Rail Act states that in regulating the railroad industry, it shall be the policy of the United States to promote a safe and efficient rail transportation system by allowing rail carriers to earn adequate revenues. Section 201(a) of the Rail Act states that in determining whether a rate established by a rail carrier is reasonable, the Commission shall recognize the policy that rail carriers shall earn adequate revenues. The zone of rate flexibility established by Section 203 of the Rail Act may not be available after October 1, 1984 to carriers earning adequate revenues. Those carriers may not use the 4 percent zone above the adjusted base rate for single-line rates and, in all likelihood, joint line rates. That section also provides that complaints challenging the reasonableness of rates increased under the zone are judged differently when they involve carriers with adequate revenues. Section 217(a)(1) of the Rail Act allows carriers not earning adequate revenues to have greater freedom in applying surcharges to joint rates.

In this notice, the Commission proposes standards for determining the adequacy of the revenues earned by individual railroads. Adequate revenues should cover a railroad's costs plus an adequate rate of return on its investment base. The proposed standards separately consider the issues of (1) adequate rate of return and (2) valuation of the investment base. Comments are sought on these proposed standards. Individual railroads should also be in sound financial condition in order for their revenues to be deemed adequate. The proposed standards consider the operating ratio, the fixed charge coverage ratio and the throw off to debt ratio as means of determining whether individual railroads are in sound financial condition. Public comment is also requested as to whether any such standards regarding financial soundness are useful in assessing revenue adequacy, and whether the proposed measures are the most appropriate for this purpose.

The Commission will consider comments filed in response to this notice, and will then publish a final notice setting forth standards for determining railroad revenue adequacy. The Commission will then employ those standards to determine which railroads are earning adequate revenues.

The final notice setting forth the new standards will repeal the Commission's existing regulations on revenue adequacy at 49 CFR 1109.25, which were adopted in Ex Parte No. 338. Those existing regulations will be replaced by the new standards. The new standards for revenue adequacy will be more general and flexible than the existing regulations, and for this reason the new standards will not be published as rules in the Code of Federal Regulations.

An observation is in order concerning the relationship of revenue adequacy to the zone of rate freedom under Section 203 of the Staggers Act. A carrier that lacks adequate revenue may, after October 1, 1984, continue to implement rate increases each year equal to 4 percent of its adjusted base rate. Nonetheless, the Commission may consider the reasonableness of such increases upon the filing of a complaint by an interested party (assuming that the carrier is found to have market dominance). For this purpose, it should be understood that the computation of an adequate revenue level for the carrier does not represent a guarantee that the carrier will attain such a revenue level. It should not be expected, in other words, that a carrier with inadequate revenue under the proposed standards will have unlimited freedom to raise its rates on market dominant traffic. As we emphasized in Ex Parte No. 353, revenue need is not the only factor to be considered when the reasonableness of a rate is determined.

A Rate of Return Equal to the Cost of Capital

In Ex Parte No. 338 and Ex Parte No. 353, the Commission established standards and procedures for determining adequate railroad revenue levels. A return on investment equal to the cost of capital was only one of four standards the Commission indicated it would use in considering revenue adequacy. Financial ratios as indicators of financial structure, and flow of funds analyses were among the other standards considered in Ex Parte No. 338 and Ex Parte No. 353. along with the cost of capital, these standards established a range of revenue adequacy. The range's high value is a measure of the cost of capital. The range's low value results from the use of a funds-flow model. This low value for revenue adequacy, however, does not and was never intended to define a long term level of adequate revenue.[1] Rather, the low level calculation using funds-flow analysis is applicable only when it is necessary to assure that regulation per se does not provide carriers the current rate of return on redundant plant. Further, this measure conceptually establishes a minimum level of revenue adequacy. The 4R Act directed the Commission to help carriers achieve adequate revenues. The Ex Parte No. 353 flow of funds determinations represent minimum target levels to be achieved. Revenue

[1] We discussed this point at length several times in Ex Parte No. 353. See, for example 362 I.C.C. 223. There, we said, "That is, as unprofitable old investments are retired and new investments are made that earn a cost-of-capital return, a successful carrier's overall rate of return should gradually come to approximate the fair return level."

adequacy determinations are used differently in the Rail Act. In particular, carriers are denied additional rate flexibility if they are deemed revenue

investors will be unwilling to supply capital to it. Thus, we believe the level of adequate revenue is one that earns a rate of return equal to the cost of capital.

particularly germane given that this determination must be completed in six months. For accounts using depreciation accounting (all those other than track-related accounts), we propose using

regulation) at depreciated replacement cost, and would value redundant track structure at liquidation value. By considering the economic value of the

carrier's investment base, but also reduces its profits, we do not believe that the use of these definitions for revenue adequacy purposes will induce

other than the track structure. The track structure can be included by pricing it at current cost and depreciating such cost in a manner consistent with

adequacy determinations are used differently in the Rail Act. In particular, carriers are denied additional rate flexibility if they are deemed revenue adequate. Thus, the Commission's determination will, to some degree, hold carriers' revenues down to the adequate level. In this context, minimum standards are not appropriate.

Funds flow analyses in general are dependent upon assumptions about the economic viability of the investment base. The Borts method used in Ex Parte No. 353 is no exception. The adequate earnings level resulting from that method is one that continues the previous rate of return on existing investment and provides a return equal to the current cost of capital on new investment. The implicit assumption of such a method is either that the railroad already was earning adequate revenues or that it has the flexibility to liquidate quickly capital that is not economically viable. A troublesome aspect to this method is that if in applying this approach to a particular railroad neither of these assumptions is accurate, a railroad earning less than adequate revenues could be deemed to be revenue adequate. Since railroads are not free to liquidate quickly bad investments, this approach ignores the issues of how much of the investment base is redundant and how long it takes to rationalize it.

Future revenue adequacy determinations ought not continue to ignore these issues. Instead of using a method of revenue adequacy assessment that makes unstated assumptions regarding the asset valuation problem, we are proposing to consider separately the issues of adequate rate of return and valuation of investment plant. Neither alone will suffice since revenue adequacy is a function of both pricing and structural decisions. Focusing attention in this proceeding on determination of what is and is not used and useful plant reflects this belief and the desirability or removing from the investment base rail plant that is neither used nor useful.

As to rate of return, we believe that the current cost of capital is the minimum rate necessary to attract and maintain capital in the railroad, or any other, industry.[2] The cost of capital is the rate of return required of a firm by the holders of its securities. If a firm is unable to earn the cost of capital, investors will be unwilling to supply capital to it. Thus, we believe the level of adequate revenue is one that earns a rate of return equal to the cost of capital.

The more difficult problem is valuation of the investment base. The problems are both theoretical and empirical. However, such problems must be addressed under any fair method of estimating revenue adequacy. Our proposal, described below, identifies the problem areas associated with valuation and attempts to answer them explicitly. We believe that using the cost of capital in conjunction with an estimate of the value of the investment base is preferable to the methods employed previously.

Proposed Investment Base Variation Procedures

If we are to use the cost of capital as our standard for measuring adequate revenue, then we must be careful not to overvalue the investment base by continuing to include in it assets that are neither used nor useful. Unless we eliminate such assets for our calculation, railroads actually earning adequate revenues will be considered to be revenue inadequate. We believe the following two-step procedure will allow us to make the necessary determinations in this regard and ask for comments on it.

As an approximation of the value of the rate base, we first propose using the sum of original cost plus betterments for valuation of track structures.[3] Conceptually this corresponds to standard regulatory rate base formulations that include original cost plus capitalized improvements (less depreciation). Depreciation represents a source of funds to repay the cost of an asset over the asset's economic life. As plant and equipment age and are depreciated, the railroad's investment base decreases. However, when these long term assets require improvements the railroad is also increasing its investment base through its expenditures on maintenance. Thus depreciation approximates the asset's decreasing economic value, while the maintenance expenditures represent the renewing of the asset. Conceptually then, if plant and equipment are well maintained, capitalized maintenance and depreciation can theoretically offset one another. The advantage of using original cost plus betterments is that such numbers are readily available for railroads while capitalized maintenance and depreciation are not. This fact is particularly germane given that this determination must be completed in six months. For accounts using depreciation accounting (all those other than track-related accounts), we propose using depreciated book value since the necessary information is more readily available.

This approach does not explicitly address the question of identifying used and useful plant. That is, the question as to whether and to what extent a railroad's rate base ought to include the capital cost of plant and equipment that will not be renewed is not considered explicitly. Logically, such plant and equipment should be valued at something less than original cost plus betterments. However, given that such investments are likely to be carried on the firm's books at a low original cost and are unlikely to have been bettered, we believe that the use of this approach will result in only a minor distortion.

Thus, as a first approximation of the value of the rate base, we propose using the sum of: (1) The original cost plus betterments of track structures and (2) the depreciated book value of all other investment. We are proposing that these data be provided by all Class I railroads to be used in the Commission's initial revenue adequacy determination required by the Rail Act to be completed within 180 days of enactment. A valuation based on these data will allow us to make the required revenue adequacy determination for each railroad within the statutory time period. For this initial determination, we wish to consider only original cost data since we believe replacement cost data will be too difficult to obtain and interpret within the statutory time period. Once the investment base is valued under this method, as with any method using original costs, we believe the proper cost of capital to apply is the current nominal rate. The use of the nominal rate compensates the railroad for inflation since it is the sum of the real rate of interest and a measure reflecting expected inflation and thus obviates to some degree the need for valuing the asset base at replacement cost levels.[4]

The original cost method provides a good approximation of a railroad's profitability. Still, as we explain below, a preferable methodology in our opinion may be to estimate the current value of railroad plant and equipment to establish an investment base. Conceptually, this procedure would value used and useful plant and equipment (including that required by

[2] This is a standard principle of economics. See, for example: James M. Henderson and Richard E. Quandt, *Microeconomic Theory*, 1958, pp. 243–252, or Burton G. Malkiel, "The Debt-Equity Combination of the Firm and the Cost of Capital: An Introductory Analysis," General Learning Press, 1971.

[3] We propose using the book value of betterments as currently defined under betterment accounting procedures.

[4] See, for example: Paul A. Samuelson, *Economics*, 8th Ed., pp. 582–583.

regulation) at depreciated replacement cost, and would value redundant track structure at liquidation value. By considering the economic value of the investment base, these methods remove the need to use a funds flow approach to revenue adequacy. Determination of revenue adequacy using these approaches is unambiguous. After the necessary valuations are made, any railroad not earning the cost of capital is considered not to be earning adequate revenues.

Clearly, the most difficult task in both methodologies is a proper valuation of the investment base. As we explained above, we are proposing that original cost data be required for the original determination, because the data are more easily obtained and interpreted than replacement cost data. Furthermore, we believe that original cost valuation, when used with the nominal cost of capital, is a theoretically correct and appealing method of determining revenue adequacy.

As noted, we believe the original cost calculation is appropriate for this first, 180-day determination of revenue adequacy. For the longer term, however, we believe that a valuation method employing depreciated replacement cost may be preferable. Thus, we are proposing that if, after the original determination is made, a railroad or a shipper using that railroad believes that the asset valuation method employed by the Commission unfairly describes the revenue adequacy of that railroad, then that party may petition the Commission to conduct a proceeding that assesses revenue adequacy on a replacement cost basis.

The replacement cost valuation method we will consider for use in subsequent determinations is similar in form to the original cost method. Under the replacement cost method, the investment base is the sum of: (1) All investment that is used and useful (valued at its depreciated replacement cost); (2) all investment necessitated by regulation (valued at its depreciated replacement cost); and (3) investment that is abandonable under current rules (valued at its liquidation value). Since replacement cost valuation already accounts for inflation, we believe that the current, real cost of capital is the proper standard on which to base revenue adequacy determination.

When using the replacement cost valuation method, it is necessary to identify investment that is abandonable under current rules. One method we have considered is to treat lines shown as Class I or II on a railroad's system diagram map as abandonable. Since redundant plant not only increases a carrier's investment base, but also reduces its profits, we do not believe that the use of these definitions for revenue adequacy purposes will induce railroads to retain otherwise abandonable investment. We are considering and will continue to consider, other methods of identifying abandonable lines for revenue adequacy purposes. We ask for comments on this issue. We emphasize that identifying abandonable lines is only necessary under the replacement cost valuation method and not under the original cost method proposed for the original determination.

We believe that replacement cost valuation can be preferable to original cost valuation. While both methods produce discounted cash flows that are equal, we believe the necessarily more frequent calculation of depreciation and inflation adjustments under the replacement cost method may often better reflect the true economic costs associated with the investment. The difficulty with using the replacement cost method however, is in estimating the actual value of individual investments. Since this valuation is not based on actual transactions, the value of particular investments may be difficult to estimate. That is why our proposed method relies, in the first instance, on original cost valuation with the current nominal cost of capital. In most cases, this method should provide an acceptable approximation. However, if an affected party believes this determination is not fairly indicative of a railroad's revenue adequacy, we will consider conducting a proceeding using the replacement cost method. If we believe that replacement cost estimates submitted by the parties to such a proceeding are at least as accurate as those submitted for the original cost method then our revenue adequacy determination for that railroad will be based on the replacement cost method. Otherwise, the original cost determination will hold.

One possible alternative to this two-part proposal would be to establish a transition period after which all revenue adequacy determinations would be based on replacement cost asset valuation. This alternative would, in many instances, result in somewhat more realistic valuations. There is a method of implementing this alternative that has the benefit of being mechanized through the Commission's depreciation and life analysis systems. Using these systems, valuations based on depreciated replacement cost (original cost indexed to account for inflation), can be readily determined for all assets other than the track structure. The track structure can be included by pricing it at current cost and depreciating such cost in a manner consistent with maintenance standards. We solicit comments on these issues.

We expect that identification of which lines are used and useful and which are abandonable will prove to be one of the most difficult elements in our proposed method. We do not think, however, that it will be necessary to make this estimation on a large scale for an extended period of time. Railroads have strong financial incentives to abandon as quickly as possible investment that is neither used-and useful nor required by regulation. Once they have completed these retirements, virtually no remaining investment will be valued at liquidation value. If a railroad makes correct business decisions, its rate of return should approach the cost of capital. If it does not make correct business decisions, then it will cease earning revenue sufficient to attract capital investment. When management does not use a firm's assets in an efficient manner, management does not use a firm's assets in an efficient manner, management may become vulnerable to a takeover of the firm by investors who believe they can use the firm's assets more profitably.[5] If this occurs, then, in this case, too, its rate of return will eventually approach the cost of capital. We are asking for comments on whether the Commission should announce some transition period after which all investment will be considered to be used and useful. These comments should address both the feasibility and desirability of such action. We also ask for comment on whether, under this policy, regular monitoring by the Commission of each carrier's plant is useful after the completion of the transition period. Finally, we ask for comment on how long such a transition period should be.

Financial Ratios Indicative of a Carrier's Financial Condition

While a financially sound firm must earn at a minimum a rate of return at least equal to the cost of capital, evidence that a carrier is earning an adequate rate of return is not sufficient to determine if it is earning adequate revenues. It is possible for a firm to earn the cost of capital over a short period, even though it is not financially sound. For example, a carrier may not have sufficient liquidity to meet financial

[5] See: J. Fred Weston, Keith V. Smith, and Ronald Shrieves, "Conglomerate Performance Using the Capital Asset Pricing Model," *Review of Economics and Statistics*, November, 1972, pp. 357–382.

obligations that are soon to come due. In recognition of the need of all firms, including railroads, to maintain a sound financial structure, we propose to make

capital and the embedded cost of debt capital.The weighting was based on the capital structure of the railroads. We concluded in those proceedings that

The result is to provide railroads with more pricing flexibility during strong economic periods, when demand for rail services is generally high. This

to have inadequate revenues. That conclusion, so obviously postulated by this decision, may or may not be a fact. I am deeply distrubed, however, by the paucity of meaningful analysis in this notice.

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obligations that are soon to come due. In recognition of the need of all firms, including railroads, to maintain a sound financial structure, we propose to make a determination of sound financial condition an additional necessary condition for revenue adequacy. We further propose to base this determination on specific financial ratios. Such ratios were discussed in our decision in Ex Parte No. 353 and some continue to be appropriate. The operating ratio (operating expenses as a percentage of operating revenue) shows whether a carrier's operations are covering its current expenses. The fixed charge coverage ratio (income before fixed charges as a percentage of fixed charges) and the throw off to debt ratio (cash flow as a percentage of long-term debt due within one year) give an indication of a firm's ability to meet its existing financial obligations.

As additional standards of revenue adequacy, we propose an operating ratio of 0.85 or less, a fixed charge coverage ratio of 3.5 or greater, and a throw off to debt ratio of 3.5 or greater. The 0.85 operating ratio is about the same as the 1975–1977 average found for the "top eight carriers" in Ex Parte No. 353. The 3.5 fixed charge coverage ratio was used as a target ratio in Ex Parte No. 353 and was close to the 1977 median ratio for the better railroads in 1977. Since the throw off to debt ratio is somewhat parallel to the fixed charge coverage ratio (relating to payment of principal rather than interest), we propose to use the same 3.5 figure as a standard for it. We ask for comments on whether the use of the standard ratios is appropriate, whether the figures propose are the most suitable, and on whether these three financial ratios are the best ones to show the soundness of a carrier's financial condition.

Cost of Capital Determination

Under our proposed methods of calculating revenue adequacy, there is a need to calculate two costs of capital. One is the nominal cost of capital; the other is the real cost of capital. These rates differ in an inflationary world. The nominal cost of capital is the cost of capital stated in the ordinary way in terms of current dollars. The real cost of capital is the nominal cost of capital less the expected rate of inflation. That is, the real cost of capital shows the annual payment necessary to compensate owners of capital for use of their funds after accounting for the effects of expected inflation.

In previous revenue adequacy proceedings, we have calculated the nominal cost of capital by taking a weighted average of the cost of equity capital and the embedded cost of debt capital.The weighting was based on the capital structure of the railroads. We concluded in those proceedings that their total capitalization could be fairly characterized as being 40-percent debt and 60-percent equity. While we are asking for comments on whether these figures need to be changed, we still believe that a weighted average is the correct way of calculating the cost of capital.

We are proposing one change in the way we determine the current nominal cost of capital. In Ex Parte No. 353, we concluded that this rate should be based on the cost of embeded debt and the market value of equity. We now believe that for a revenue adequacy determination the correct cost of debt capital is the current cost of debt. We have reached this conclusion after considering what concepts a revenue adequacy determination is designed to reflect. Adequate revenues should assure retention and attraction of capital to provide a sound transportation system. A sound transportation system should return the cost of capital to investors and reflect that cost of capital in prices paid by users. These are forward-looking concepts. The year and the rate at which past debt was raised are not relevant for these purposes. The more relevant consideration is the cost to the railroad of raising (or not losing) capital for current and future investment. In periods of high and unpredictable rates of inflation, the use of embedded debt rates underestimates the cost of capital. Conversely, in periods when inflation fell below current levels, the embedded debt rate might overestimate the cost of capital. If a railroad attempts to raise capital today, while maintaining its current capitalization structure, its cost of capital is the weighted average of the current cost of debt and the market value of equity. If the flexibility granted revenue inadequate carriers is restricted in periods of high debt rates to carriers earning less than the cost of capital calculated using the embedded debt rate, some economically efficient investments (those earning at least the current cost of capital) may be foregone. The use of the current cost of debt gives carriers the opportunity to make such efficient investments. We believe that this forward-looking approach is contemplated by the Rail Act.

The use of the current debt rate has another important consequence. During periods of strong economic activity, the debt rate generally rises. When this occurs, the cost of capital and thus the revenue adequacy threshold also rise. The result is to provide railroads with more pricing flexibility during strong economic periods, when demand for rail services is generally high. This increased flexibility should help prevent service shortages and assure that scarce railroad resources are used efficiently.

As discussed earlier, the replacement cost valuation method requires the use of the real cost of capital. The real cost of capital, however, cannot be observed directly. We are proposing that the real cost of capital be calculated by subtracting some generally accepted estimate of inflation expected over the revenue adequacy determination period from our estimate of the nominal cost of capital. Such an estimate of the expected inflation rate might come from estimates already made by the Council of Economic Advisors or the Federal Reserve Board. We ask for comments on the feasibility of such a method and on sources of expected inflation estimates.

Conclusion

We seek comments on the various issues and approaches contained in this notice. In addition, while this action does not appear to affect significantly the quality of the human environment or conservation of energy resources, we invite comment on this subject.

(49 U.S.C. 10321, 10704(a); sec. 205(a)(1), Pub. L. 96–448; 5 U.S.C. 553)

Decided: November 20, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Gilliam concurring with a separate expression. Commissioner Clapp, dissenting in part, with a separate expression.

Agatha L. Mergenovich,

Secretary.

Commissioner Gilliam, Concurring

I am concerned about relying on book value in determining the investment base, because I do not believe it represents a true picture of individual railroad revenue adequacy. However, due to the time constraints of the statute, I acquiesce in the use of this methodology only on an interim basis.

It is extremely important that we make an accurate assessment of the investment base because of the far reaching implications that a determination of revenue inadequacy will have on key provisions of the Staggers Rail Act. Specifically, in the joint rate area, such a determination would allow carriers to utilize the surcharge provision, whereas carriers earning adequate revenues would be limited to surcharges on lighter-density lines. A false determination in this area might defeat the intent of Congress.

Commissioner Clapp, Dissenting in Part

A majority of the Commission has proposed a methodology likely to ensure that every rail carrier in this country will be found

to have inadequate revenues. That conclusion, so obviously postulated by this decision, may or may not be a fact. I am deeply distrubed, however, by the paucity of meaningful analysis in this notice.

A rate of return equal to the current cost of capital is valid as a primary measure only if one has confidence that the measure of the railroads' used and useful net investment base is accurate. The methodology we have used in the past may well result in overstatements. The majority's proposal to use the sum of original cost plus betterments track structures is highly questionable, however, since it rests on the unsound premise that capitalized maintenance and depreciation tend to offset each other. This could only be true if large amounts of deferred maintenance had not occurred in recent years.

I am troubled by the lack of serious staff effort to refine funds flow methodology during the past year. The problem with using this approach to determine whether individual carriers have attained adequate levels is a practical rather than theoretical one. Efforts in this direction may yet prove fruitful and should not be abandoned.

The Commission's Bureau of Accounts is exploring the derivation of approximate replacement costs for possible use in future proceedings. While this effort carries no iron-clad guarantee of success, it is an attempt to get at the heart of the revenue adequacy controversy. However, if the approach can be applied within the 180 day deadline which I understand is possible it should be done. The parties should address specific alternative interim proposals, including possible refinements to the "financial ratios" analysis of individual carrier revenue adequacy used in Ex Parte No. 353 which specifically take into account rail investment requirements.

I question the use of the current cost of debt in deriving the weighted cost of capital. Since the present approach includes an adjustment for anticipated near term borrowing, the proposal appears to overstate actual debt cost.

It would indeed be unfortunate if this Commission, in a quest for a simple answer to a complex issue, does not examine the revenue adequacy question with an open mind. As Commissioner Gilliam infers, Section 217 of the Staggers Rail Act could injure certain segments of the railroad industry itself if inaccurate findings of revenue adequacy result.

[FR Doc. 80-37572 Filed 12-2-80; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register

Vol. 45, No. 234

Wednesday, December 3, 1980

b. The expected goods and services to be produced, and the timing and flow of these outputs;

c. Resource management standards

L. 92–463, 86 Stat. 770–776), the Science and Education Administration announces the following meeting:

Name: Executive Committee of the Joint

microwave ovens" means countertop microwave ovens classifiable under item 684.2500 Tariff Schedules of the United States Annotated (1980).

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Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Agreement Regarding the In-Lieu Selection of Federal Lands by the State of Arizona

AGENCY: Advisory Council in Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to Section 800.8 of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), with the Bureau of Land Management (BLM), U.S. Department of Interior and the Arizona State Historic Preservation Officer (SHPO), providing for the protection of historic and cultural properties in connection with "in-lieu" selection by the State of Arizona of lands administered by BLM. BLM proposes to transfer some 194,000 acres of land to the State in lieu of certain lands specifice by Sec. 24 of Pub. L. 61–219 (36 Stat. 572) which could not be transferred because of prior encumbrances. The proposes Programmatic Memorandum of Agreement will establish mechanisms by which historic and cultural properties will be protected both during the selection process and thereafter in order to meet the requirements of Section 106 of the National Historic Preservation Act (16 U.S.C. 470F).

COMMENTS DUE: January 2, 1981.

ADDRESS: Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas F. King, Director, Office of Cultural Resource Preservation, Advisory Council on Historic Preservation, 1522 K Street NW, Washington, DC 20005. Telephone: 202–254–3974.

Dated: November 26, 1980.

Thomas F. King,

Acting Executive Director.

[FR Doc. 80-37495 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Forest Service

Continental Divide National Scenic Trail Advisory Council; Meeting

The Continental Divide National Scenic Trail Advisory Council will meet at 10:00 a.m. on January 14, 1981, and continue until 2:00 p.m. on January 17, 1981. The meeting will be held at the Ramada Inn, 712 Central NW in Albuquerque, New Mexico. The purpose of the meeting is to discuss matters relating to the Continental Divide National Scenic Trail. Agenda items include schedule to complete Comprehensive Management Plan (CMP), Public Involvement Plan as part of the CMP, interim management directions, outline of CMP, reports by State subgroup chairmen, statement of purpose for the Continental Divide National Scenic Trail, and proposed criteria to be used in locating, developing and managing the CDNST.

The meeting will be open to the public. For additional information, contact the Forest Service by telephone (303–234–4082) or by mail (USDA, Forest Service, Rocky Mountain Region, P.O. Box 25127, Lakewood, CO 80225).

November 24, 1980.

Craig W. Rupp,

Continental Divide National Scenic Trail Advisory Council Chairman.

[FR Doc. 80-37586 Filed 12-2-80; 8:45 am]

BILLING CODE 3410-11-M

Land and Resource Management Plan, National Forests in Alabama; Winston, Lawrence, Franklin, Hale, Perry, Chilton, Bibb, Dallas, Tuscaloosa, Calhoun, Clay, Cleburne, Talladega, Covington, Escambia, and Macon Counties; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 (Pub. L. 91–190), the Forest Service, Department of Agriculture will prepare an environmental impact statement on the Land and Resource Management Plan for the National Forests in Alabama. This Land and Resource Management Plan is being prepared in accordance with requirements of the Secretary's regulations promulgated pursuant to Section 6 of the National Forest Management Act of 1976 (Pub. L. 94–588). The resulting plan will provide for the multiple use and sustained yield of goods and services from the National Forests in Alabama.

The planning process will integrate all resource planning—timber, range, wildlife and fish, water, wilderness, minerals and recreation—together with resource protection and resource use activities; and will provide management direction for these resources for the next decade. The planning process will be issue-oriented; i.e., public issues, management concerns, and development opportunities will be analyzed continually throughout the process.

A reasonable range of alternatives will be formulated by an interdisciplinary team to provide different ways to address and respond to the major public issues, management concerns and resource opportunities identified during this planning process.

Alternatives will reflect a range of resource outputs and expenditure levels. In formulating these alternatives, the following criteria will be met:

1. Each alternative will be capable of being achieved;

2. A no-action alternative will be formulated that is the most likely condition expected to exist in the future if current management direction would continue unchanged;

3. Each alternative will provide for orderly elimination of backlogs of needed treatment for the restoration of renewable resources as necessary to achieve the multiple-use objectives of that alternative;

4. Each identified major public issue and management concern will be addressed in one or more alternatives; and

5. Each alternative will represent, to the extent practicable, the most cost efficient combination of management practices examined that can meet the objectives established in the alternative. Each alternative will state at least:

a. The expected condition and uses that will result from long-term application;

b. The expected goods and services to be produced, and the timing and flow of these outputs;

c. Resource management standards and guidelines; and

d. The purposes of the management direction proposed.

Public involvement will be sought early and often during the development of the Forest Plan. As an early step in the planning process, Federal, State, and local agencies, organizations, and individuals who may be interested in, or be affected by the decision, will be invited to participate in a scoping process which will involve a review of tentative issues identified from previous public responses to Forest proposals. To accomplish this scoping process, the National Forests in Alabama will prepare infromation packets early in 1981 to be sent to Federal, State, and local agencies, organizations and individuals who may be interested or have expressed in interest in National Forest Planning. Media releases will be prepared requesting public participation in this scoping process. Other media releases will be prepared throughout the planning process. The comment period will be from February 1981 to March 1981.

Written comments should be sent to Mr. Arthur D. Woody, National Forests in Alabama; 1765 Highland Avenue, Montgomery, Alabama, 36107 (205–832–7630).

The draft environmental impact statement and plan should be available by September 1982 for a 90 day comment period. The final environmental impact statement and plan is scheduled for completion in September 1983.

Lawrence M. Whitfield, Regional Forester, Southern Region of the Forest Service, is the responsible official for the environmental impact statement and plan.

For further information about the planning process or the environmental impact statement, contact: George S. Gibbs, Land Management Planner, National Forests in Alabama (205–832–7630).

Dated: November 21, 1980.

James S. Sabin, Jr.,

Deputy Regional Forster.

[FR Doc. 80-37521 Filed 12-2-80; 8:45 am]

BILLING CODE 3410-11-M

Science and Education Administration

Joint Council on Food and Agricultural Sciences; Executive Committee

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Science and Education Administration announces the following meeting:

Name: Executive Committee of the Joint Council on Food and Agricultural Sciences

Date: December 10, 1980

Time and Place: 8:30 a.m.–4:30 p.m., Room 3109, South Building, USDA, Washington, D.C.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: Review final draft of *Areas of Emphasis* report (Five-Year Plan); *Research Facilities Study*; and *1980 Annual Report* of the Joint Council. Discuss Joint Council Response to 1980 Report of the National Agricultural Research and Extension Users Advisory Board.

Contact Person: Susan G. Schram, Executive Secretary, Joint Council on Food and Agricultural Sciences, U.S. Department of Agriculture, Room 351–A, Administration Building, Washington, D.C. 20250, telephone (202) 447–6651.

Done at Washington, D.C., this 21st day of November 1980.

John G. Stovall,

Executive Director, Joint Council on Food and Agricultural Sciences.

[FR Doc. 80-37536 Filed 12-2-80; 8:45 am]

BILLING CODE 3410-03-M

DEPARTMENT OF COMMERCE

International Trade Administration

Countertop Microwave Ovens From Japan; Final Determination of Sales at Less Than Fair Value, and Exclusions From Final Determination of Sales at Less Than Fair Value

AGENCY: Department of Commerce, International Trade Administration.

ACTION: Determination of Sales at Less Than Fair Value.

SUMMARY: The Department of Commerce has reached a final determination, based on an antidumping investigation, that countertop microwave ovens from Japan are being sold at less than fair value within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673b). Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. This final determination excludes those microwave ovens produced by Matsushita Electric Industrial Co., Ltd., Sanyo Electric Co., Ltd., and Sharp Corporation. For purposes of this determination the term "countertop microwave ovens" means countertop microwave ovens classifiable under item 684.2500 Tariff Schedules of the United States Annotated (1980).

We have referred this case to the United States International Trade Commission for a determination concerning possible material injury to an industry in the United States.

EFFECTIVE DATE: December 3, 1980.

FOR FURTHER INFORMATION CONTACT: Leon McNeill, Miguel Pardo de Zela, or Richard Rimlinger, Office of Investigations, Import Administration, International Trade Administration, Department of Commerce, Washington, D.C. 20230 (202) 377–2438, 5050, or 3962.

SUPPLEMENTARY INFORMATION:

Procedural Background

August 29, 1979: The Department of the Treasury (Treasury) published an "Antidumping Proceeding Notice" in the **Federal Register** (44 FR 50668). Treasury initiated its investigation based on a position from counsel representing the Association of Home Appliance Manufacturers, Chicago, Illinois, and Amana Refrigeration, Inc., Amana, Iowa. The petition alleged that countertop microwave ovens from Japan were being, or were likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, (19 U.S.C. 160 *et seq.*) ("the 1921 Act").

The notice indicated that there was evidence on the record concerning injury to, or likelihood of injury to, an industry in the United States. However, the notice further indicated that there was substantial doubt that imports of such merchandise were causing, or were likely to cause, injury. Pursuant to section 201(c)(2) of the 1921 Act, Treasury so advised the United States International Trade Commission (ITC).

September 20, 1979: The ITC notified Treasury that there was a reasonable indication that an industry in the United States is being, or is likely to be, injured by the importation of this merchandise.

January 1, 1980: The law which governed this proceeding changed. Title I of the Trade Agreements Act of 1979 (93 Stat. 151, 19 U.S.C. 1671 *et seq.*) repealed the existing 1921 Act and replaced it with Subtitle B of Title VII of the Tariff Act of 1930 ("the Act"). In accordance with the new law, specifically section 733(a) of the Tariff Act of 1930, the ITC instituted a preliminary antidumping investigation to determine whether there was a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, because of imports of countertop microwave ovens from Japan.

February 14, 1980: The ITC notified the Department of Commerce, which became the Administering Authority under Title I of the Trade Agreements

Industry Profile of Japanese Exporters

At the time the Department of Commerce initiated this case it selected for investigation Sharp, Sanyo, and

commissions, warranty costs, royalties, payment terms costs, advertising, co-op advertising, promotional costs, and selling expenses.

U.S. which were transacted between Matsushita's U.S. subsidiaries and U.S. distributors. With this limitation, we made comparisons on 85 percent of U.S. sales of models exported to the United

volume discount, and mass merchandiser volume discount) which are, in fact, post sales rebates provided to various classes of customers at varying rates upon the achievement of

rather then reaching a determination whether the prices between Sharp and its related distributors represent "arms length" transactions within the meaning

February 14, 1980: The ITC notified the Department of Commerce, which became the Administering Authority under Title I of the Trade Agreements Act on January 2, 1980, that there was a reasonable indication of material injury.

May 7, 1980: The Commerce Department published a "Postponement of Preliminary Determination" notice (45 FR 30101). The postponement was required to address difficulties which arose in selecting home market microwave oven models that could be compared to those models exported to the United States. Also, there was a need for additional time to determine whether certain claims for circumstances of sale adjustments were legally valid.

July 15, 1980: The Department of Commerce published a notice of "Preliminary Determination of Sales at Less Than Fair Value, Suspension of Liquidation and Exclusions from Suspension of Liquidation" (45 Fr 47456). With this notice, the Department of Commerce advised the public that it had reached a preliminary determination that countertop microwave ovens from Japan were being, or were likely to be, sold at less than fair value, and that U.S. Customs would suspend liquidation for all entries of countertop microwave ovens which were entered or withdrawn from warehouse for consumption. It excluded entries of this merchandise produced by Matsushita Electric Industrical Co., Ltd. (Matsushita), Sanyo Electric Co., Ltd. (Sanyo), and Sharp Corporation (Sharp) from the suspension of liquidation.

The Department of Commerce also announced that it was referring this case to the ITC for an investigation to determine if an industry in the United States was being materially injured because of sales of this merchandise at less than fair value. Finally, it invited interested persons to comment on the preliminary decision.

August 13, 1980: The Department of Commerce published (45 FR 53852) a notice of Extension of Period for Final Determination. Counsel for Tokyo Shibaura Corporation (Toshiba) requested the extension and was supported by counsel for the petitioner. Accordingly, we postponed the final determination for sixty days.

September 30, 1980: The Department of Commerce held a public hearing to discuss all issues raised in the investigation and we gave interested parties an opportunity to submit briefs. We have now considered all issues raised either orally or in writing.

Industry Profile of Japanese Exporters

At the time the Department of Commerce initiated this case it selected for investigation Sharp, Sanyo, and Toshiba. Shortly after initiation Matsushita requested to be included in the investigation and voluntarily submitted data. These firms are all large multintional corporations that manufacture a wide variety of consumer electronic products. In the case of microwave ovens, these manufacturers accounted for 98 percent of the 740,000 units imported into the United States in 1979, at a value of $149 million.

We provided other manufacturers with an opportunity to submit information concerning their sales during the investigatory period, and Mitsubishi Electric Corporation of Japan (Mitsubishi) did submit sales data to us on November 12, 1980. However, we did not receive Mitsubishi's data in sufficient time to allow us to verify and analyze this data prior to ITC's injury decision. Therefore, we have decided to disregard this information for purposes of this final determination.

Analysis

Overview

We obtained data from the exporters selected for our investigation in accordance with secion 353.38(a), Commerce Regulations (19 CFR 353.38(a)) and we looked at those prices, both in Japan and the United States, which applied to "arms length" sales between manufacturer and purchaser during the period of investigation (March 1, 1979 through August 31, 1979). We then compared the prices of the same or similar microwave oven models selling in both markets to determine if any models had been sold in the U.S. market at less than fair value within the meaning of the Act.

Pricing, United States Price

We calculated two sets of prices for sales of microwave ovens in the United States—the exporter's sales price (ESP) and the purchase price.

ESP prices applied to sales made to unrelated U.S. customers through wholly owned U.S. subsidiaries of the Japanese producers, in accordance with section 772(c) of the Act (19 U.S.C. 1677a(c)). We made deductions, where applicable, to the transaction price to remove costs incurred in transferring microwave ovens from the Japanese to the American market. The above deductions included: Japanese inland freight, shipping, ocean freight, brokerage, U.S. duty, U.S. inland freight, insurance, banking charges, and wharfage. We also made deductions for discounts, rebates, commissions, warranty costs, royalties, payment terms costs, advertising, co-op advertising, promotional costs, and selling expenses.

We made an addition to ESP for the Japanese commodity tax incurred by home market sales but rebated or not collected on exported merchandise.

Purchase price applied to those sales made directly from Japan to unrelated U.S. customers, in accordance with the section 772(b) of the Act (19 U.S.C. 1677a(b)). We calculated purchase prices on the basis of the f.o.b. Japan price to unrelated U.S. customers with deductions, where applicable, for Japanese inland freight, shipping charges, and royalties.

We made an addition to purchase price to reflect the Japanese commodity tax incurred by home market sales but rebated or not collected on exported merchandise.

Pricing, Foreign Market Value

During the period under investigation, all four Japanese producers that we selected had adequate sales in their home market.

Therefore, we were able to calculate home market prices as defined in section 353.3, Commerce Regulations (19 CFR 353.3). As a general rule, we based home market prices on the price of manufacturers to Japanese distributors with deductions, where applicable, for inland freight, rebates, discounts, commissions, payment term expenses, warranty, advertising and promotion expenses. When comparing home market price to ESP prices we made an additional deduction for selling expenses to offset all, or part, of the selling expenses deducted from the U.S. price. Other important adjustment included differences in merchandise between models paired for comparison, and packing.

Specific Issues of the Investigation

In our investigation of the four Japanese companies (Matsushita, Sharp, Toshiba, and Sanyo), issues arose that were specific to each individual company regarding the appropriate levels of trade and the prices of microwave ovens sold. We have presented below the issues, by company, treating first levels of trade and then adjustments made to prices in both the home market and the U.S. market.

Matsushita

Level of Trade: In the home market, Matsushita sold only to distributors (wholesalers). To make comparisons at the same level of trade in the U.S. we examined only those export sales to the U.S. which were transacted between Matsushita's U.S. subsidiaries and U.S. distributors. With this limitation, we made comparisons on 85 percent of U.S. sales of models exported to the United States during the investigatory period of March 1, 1979, through August 31, 1979.

We concluded, then, that the levels of trade in both markets chosen for comparative purposes were justifiable.

Price adjustments: In the preliminary determination we addressed four circumstance of sale adjustments claimed by Matsushita in its home market. These claims included:

1. An incentive discount paid by Matsushita to a wholly owned finance company as a subsidy for handling installment sales.

2. General selling expenses such as non-warranty repair and servicing, salaries, overhead, etc., which are incurred by a special microwave oven department in Matsushita's organizational structure.

3. A series of volume rebates which are paid by Matsushita to home market distributors, or to home market retailers through distributors, based on purchases of a composite of products over a given period of time.

4. Interest expenses incurred on rebate funds left on deposit with Matsushita by members of a Matsushita dealers' association.

As in the preliminary determination, we have again decided to disallow the first two items and allow the remaining items. The item-by-item bases for this decision are as follows:

1. The first item involves the intracorporate transfer of funds for purposes of augmenting financial resources available to the subsidiary finance company to underwrite retail purchases of the manufacturer's product line. We have concluded that intracorporate transfers, for whatever reasons, are not "selling costs of a seller" within the meaning of § 353.15(b), Commerce Regulations (19 CFR 353.15(b)) and, accordingly, we disallowed this circumstance of sale adjustment.

2. The second item represents expenditures for internal corporate activities which are claimed by Matsushita to be in support of microwave related activities. However, we have found these expenditures to be normal corporate general and administrative expenses which are not "directly related to the sales under consideration" within the meaning of section 353.15(b) and, accordingly, we have denied the claimed adjustments.

3. The third item represents four volume discounts (volume discount, additional volume discount, big account volume discount, and mass merchandiser volume discount) which are, in fact, post sales rebates provided to various classes of customers at varying rates upon the achievement of pre-determined sales volumes. The rebates are calculated as a percentage of the gross volume of sales of all manufactured household products, including microwave ovens. The amount of the adjustment claimed was calculated on the premise that sales of microwave ovens contributed to the total discounts actually paid dealers in direct proportion to their relative volume to overall product line sales.

We tested this assumption by reviewing specific sales and volume rebate breakdowns from five selected distributors. Based upon this review, we have concluded that the amount of Matsushita's claim reasonably reflected the total rebates paid on sales of microwave ovens.

4. The fourth item represented an interest payment ("additional discount") on monies ("discounts") accrued to the accounts of various dealers as a result of their participation in a national dealers' association, but voluntarily left in the custody of the manufacturer. The adjustment claimed was the difference between the "additional discount" paid to the participating dealers and the interest received by the manufacturer on the deposit of such funds in interest bearing accounts. The Acting Assistant Secretary of the Treasury specifically approved this type of adjustment in a letter to Matsushita dated February 6, 1973.

In this case we have followed precedent. However, in connection with a comprehensive review of our rules and regulations, we are reexamining the issue involved and leaving open the question whether, in the future, we should use more stringent criteria to determine whether the claimed deduction is "directly related" to the relevant sales.

Sharp

Level of trade: Sharp sold only to related distributors (wholesalers) in the home market. In the preliminary determination we noted that prices to related distributors in the home market could be compared to prices of U.S. sales to unrelated distributors if they could be shown to be at "arm's length." At that time we stated that additional information would be requested and verified by us before making a final decision on the matter.

Since the preliminary determination we received additional information on four related distributors which was verified and examined by us. However, rather then reaching a determination whether the prices between Sharp and its related distributors represent "arms length" transactions within the meaning of § 353.22(b), Commerce Regulations, we have decided to utilize the resale prices of related distributors to unrelated dealers (retailers) in the home market for fair value comparison purposes.

To adjust these prices for differences with the comparable U.S. level of trades, we made a circumstance of sale adjustment as provided in § 353.19 Commerce Regulations (19 CFR 353.19). Specifically, we made an adjustment equal to the total amount of the weighted average expenses and profits (gross margins) experienced by the four distributors during the six month period April through September 1979. The adjustment was made only after we determined that the average gross margins that Sharp's related distributors realized were within a reasonable range of the gross margins realized by unrelated distributors of another microwave oven manufacturer. The average gross margins of Sharp's unrelated distributors were also quite close to average gross margins for distributors of consumer electrical appliances according to publicly available statistics.

In summary, we based our calculations of Sharp's home market price on the sales of four related distributors to unrelated dealers, with deductions for a level of trade adjustment, inland freight, a "friend shop" rebate (paid by Sharp to dealers through distributors and based on dealers' purchasing commitments), payment term expenses, warranty, and advertising. For comparisons involving ESP, we made an additional deduction for actual selling expenses up to the amount of the selling expenses deducted from the U.S. price.

Price Adjustments: In the home market we disallowed a circumstance of sale adjustment claim for credit rebates paid to retailers through distributors for installment purchases of all Sharp kitchen products. Sharp was not able to tie this claim directly to sales of microwave ovens as required by section 353.15(a), Commerce Regulations (19 CFR 353.15(a)).

We also disallowed portions of Sharp's circumstance of sale claim for direct advertising because they were either fixed overhead expenses which did not bear a direct relationship to the sales under consideration, or were attributable to sales of all kitchen products and could not be broken down on a product line basis.

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Finally, Sharp requested a circumstance of sale adjustment for differences in cost to process export and home market orders. We disallowed this claim because we concluded the expense item to be a fixed general selling expense which does not meet the criteria set forth in § 353.15, and is not attributable to a later sale of the merchandise by a purchaser.

Toshiba

Level of Trade: Toshiba made all of its sales in its home market to unrelated distributors (wholesalers). In the U.S. market, Toshiba sold microwave ovens mainly to unrelated U.S. dealers (retailers) and some to distributors. However, for comparative purposes we treated both levels of sales in the U.S. as being the same. Data we received from Toshiba showed that there was no strict correlation in price for sales made to U.S. dealers as opposed to U.S. distributors. In fact, dealers frequently received a better price than distributors in the purchases we compared.

Price Adjustments: Toshiba claimed several deductions to the price of its home market models. Included were:

—A "commission" given to distributors, really a level of trade discount.
—A "special sales promotion discount" given on a model-by-model basis to insure price competitiveness and revive sales of lagging models.
—A "retail sales promotion discount" granted to retailers through distributors to encourage a greater volume of purchases at this level.
—A "sales promotion discount" granted to assist distributors' local sales promotional activities.
—A "special discount" given on a month-by-month basis to promote sales at selected times of the year.

To determine what the deduction for each item (with the exception of the special sales promotion discount) should be from the home market price of a given microwave oven, we computed the percentage of total microwave oven sales revenues that these discounts constituted. The resulting percentages were then applied against the per unit nationwide sales price to calculate the exact per unit amount of each deduction.

At the time of the preliminary determination, the lack of complete data did not permit full deductions to be made. Since then we have received the necessary information and we now have made full deductions.

We followed a different procedure for the special promotion discount, since it is a model specific discount. At the time of the preliminary determination, Toshiba had supplied data showing the discounts paid on two specific home market models, the ER 547 DL and ER 557. Based on an analysis of technical and other information supplied by Toshiba, we decided that home market model ER 657 was more comparable to certain export models than ER 547 DL. Therefore, we replaced model ER 547 DL with model ER 657 for all applicable fair value comparisons. Because, at the time of the preliminary decision, Toshiba had not indicated the total amount of special promotion discount attributable to sales of model ER 657, we could not make a deduction for this item.

Since the preliminary determination Toshiba has supplied information on the total nationwide special sales promotion discounts paid on both home market models ER 557 and ER 657. We have now made the necessary deduction for this item.

At the time of the preliminary determination Toshiba had not supplied any cost information concerning differences in the microwave ovens sold in the home market and those sold in the U.S. In our preliminary determination we relied on descriptive literature and specification information supplied by Toshiba, and cost adjustment information supplied by the other respondents in this investigation, to adjust for these differences. Since then Toshiba has supplied information regarding these differences which we have verified and applied to our analysis.

Finally, in the U.S. market Toshiba calculated an adjustment for certain U.S. expenses such as office maintenance, rent, entertainment and other miscellaneous expenses by using a method of allocation based on the number of employees assigned to microwave ovens. We agree that allocation of these expenses according to the number of personnel could be appropriate. However, in this case, Toshiba's expenses in Japan were allocated according to sales volume and, since we decided it was necessary to be consistent for a proper fair value comparison, we used the same approach for the allocation of costs in the U.S.

Appropriateness of Model Comparisons: Counsel for Toshiba argued that the Commerce Department's selection of home market models was incorrect. In its initial response Toshiba selected home market model ER 547 for comparison purposes. However, a technical analyst with the Department of Commerce, after having reviewed the available technical information concerning Toshiba's export and home market models, selected home market models ER 626 and ER 657 as being more comparable to certain U.S. models. Although the Commerce Department's technical analyst had selected ER 626 as being slightly more comparable to the export models, he did indicate that the degree of difference between the ER 626 and the ER 657 was technically insignificant. The Department of Commerce decided to use the ER 657 for comparisons instead of the ER 626 because the production period of the ER 657 was more closely aligned with the production periods for the export models.

Counsel for Toshiba contended that model ER 547, or alternately model ER 626, should have been used for comparisons. It was Toshiba's position that the Department of Commerce was not permitted to consider production dates as determinative of foreign market value (fair value) and should have been guided by sales dates. Toshiba further contended that since sales of the ER 626 were more prevalent during the relevant period than sales of the ER 657, we should have selected the ER 626 for comparison purposes.

We concluded that in selecting such or similar merchandise within the meaning of section 771(16) of the Act, the Department can justifiably consider production periods as a factor in its decision. Since in this case, both models were sold in sufficient quantities during the relevant period and the technical differences between the two were insignificant, the Department felt that it was reasonable to use production periods as the determinant factor in its decision.

Sanyo

Level of Trade: Sanyo made sales in the home market to related and unrelated distributors. However, since there was no distinction in sales price between sales to related and unrelated distributors, we considered all distributor sales data in calculating Sanyo's home market price.

Price Adjustment: Sanyo claimed a deduction from home market price for salesmen's salaries and commissions. We have disallowed this claim as a circumstance of sale adjustment because Sanyo has made no attempt to differentiate between salaries paid to third parties, which are allowable, and salaries paid to Sanyo employees, which are not. However, a claim made by Sanyo for an early payment cash discount, which was disallowed at the preliminary determination due to lack of proper quantification, has now been properly quantified and allowed.

Other Issues

Petitioner raised several issues during the course of the investigation. Below is the statement of each issue and the Department's response to it.

Proper Comparison of Microwave Oven Models: Petitioner, through counsel, requested that the Department compare microprocessor models marketed in the U.S. with microprocessor models marketed in Japan. A microprocessor model is a microwave oven which is controlled electronically by microprocessors or microcomputers as opposed to an oven which is controlled mechanically. Petitioner cited a number of models as having been offered in the home market at the same time by Matsushita, Sanyo and Sharp and possibly sold during the period under investigation.

The Department of Commerce concluded, based on verified information received from the respondents, that there were no sales of microprocessor units during the investigative period which could be used for comparison purposes. The Department found that the models cited by the petitioner as home market microprocessor units were either not sold during the period, or were sold as parts of combination units which are not covered by this investigation.

Expansion of the period of investigation: Petitioner requested that the period under investigation be expanded to include a period when microprocessor units were sold in Japan, if no such models were sold in the home market during the investigative period. The Department determined that an expansion of the investigatory period at this late stage was unwarranted, and that such an expansion would constitute an unfair burden to the respondents in this case.

Appropriate level of trade analysis: Petitioner suggested that there was a "close linkage" among manufacturers and distributors in Japan, and that the Department should examine distributor sales to retailers for all the respondents. Petitioner further claimed that it was necessary to work backwards from prices to retailers in order to uncover generic information about the discount structure in the Japanese distribution system.

In choosing the level of trade in which to make fair value comparisons, we have based our decision on the language of §§ 353.19 and 353.22(b). Section 353.19 directs that the comparison of the United States price with the applicable price in the market of the country of exportation generally will be made at the same commercial level of trade if sufficient sales exist at the level. Section 353.22(b), directs that sales to a person related to the seller of the merchandise ordinarily will not be used in the determination of foreign market value unless such sales are demonstrated, to the satisfaction of the Department, to be at prices comparable to those at which such or similar merchandise is sold to persons unrelated to the seller.

In the cases of Matsushita, Sanyo, and Toshiba, we were satisfied that sales in Japan were at "arm's length". Comparisons with the same level of trade in the United States were thus possible.

With respect to Sharp, all distributors were related within the meaning of section 771(13), and as explained earlier, we did not have to decide in this investigation whether Sharp's sales were in fact at "arm's length" since we utilized prices to unrelated retailers for fair value comparisons, adjusting for differences in the level of trade.

Sales to buying groups: Petitioner expressed concern that the Department of Commerce had omitted sales to national and retail buying groups in the United States from its calculations of exporter's sales prices for the four respondents. Petitioner stated that such sales should properly be considered sales at wholesale as opposed to sales at retail.

We did not eliminate from comparison any significant sales to national and retail buying groups that might have been made during the period under investigation. The information in the record indicates that such sales were not prevalent, and minimal at best.

Verification

In accordance with section 776(a) of the Act (93 Stat. 186, 19 U.S.C. 1677e(a)) officials of both the Department of Commerce and the U.S. Customs Service verified all information used in making this determination to the extent that such information by its nature is verifiable. The officials were granted access to the books and records of the foreign producers and their U.S. subsidiaries and used traditional verification procedures. These procedures included on site inspection of randomly selected source documents such as audited financial statements, bills of materials, various accounting ledgers, and proof of payment records such as invoices and cancelled checks pertinent to this investigation, inspection of promotional materials and material advertisements, and in certain instances, inspection of specific microwave oven models.

Determination of Sales at Less Than Fair Value

Fair value comparisons were made on approximately 94 percent of the subject merchandise sold either directly from Japan, or through Japanese subsidiaries in the United States to unrelated U.S. customers by all four manufacturers subject to this investigation. Dumping margins were found on 6 percent of sales compared ranging from 0.2 to 57 percent for the sales at margin. The overall weighted-average margin we found on all sales compared was 1.1 percent.

All margins we found were on sales made by Toshiba. Toshiba had margins on approximately 73 percent of its sales. Toshiba's weighted-average margin on all sales compared was 13.1 percent. We found no margins on sales by Matsushita, Sanyo and Sharp.

Based on the foregoing, I hereby determine that microwave ovens from Japan, except those produced by Sharp, Sanyo and Matsushita, are being sold at less than fair value in the United States.

In accordance with section 735(c)(1)(A) of the Act (93 Stat. 169, 19 U.S.C. 1673d(c)(1)(A)), we are making available to the ITC the information upon which this determination is based. The Department will provide the ITC with all non-privileged and non-confidential information relating to this investigation. The Department will also make available to the ITC all privileged and confidential information in its files, provided that the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Department of Commerce.

Customs officers are being advised that the suspension of liquidation for all countertop microwave ovens from Japan, with the exception of those produced by Sanyo, Sharp and Matsushita, shall continue until further notice. Effective this date, importers will be required to post a cash deposit, bond, or other security in the amount of 13.1 percent of the f.o.b. value of all countertop microwave ovens produced by Toshiba, and 1.1 percent of the f.o.b. value of all countertop microwave ovens produced by all other Japanese manufacturers except Sharp, Sanyo and Matsushita.

(Sec. 735(d) of the Act (93 Stat. 172, 19 U.S.C. 1673d(d)).

Donald A. Furtado,
Acting Under Secretary for International Trade.

[FR Doc. 80-37546 Filed 12-3-80; 8:45 am]
BILLING CODE 7020-02-M

Minority Business Development Agency

Financial Assistance Application

McClain, Oklahoma, and Pottawatomie. Project will operate at a cost not to exceed $157,300 and the Project I.D. Number is 06-60-40102-00.

15. H—GBS Grant for a Management and Technical Performance Project to operate in El Paso, TX (SMSA) county of El Paso. Project will operate at a cost

Richard L. Greene, Grant/Cooperative Agreement Specialist.

Richard H. Sewing,
Regional Director,

Office of the Secretary

National Voluntary Laboratory Accreditation Program; Disposition of Requests To Find That There Is a Need

Army Corps of Engineers on November 22, 1976 and from Micrometrics, Inc., a private research laboratory, on February 8, 1979 concerning such a program.

After discussions between DoC and

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Minority Business Development Agency

Financial Assistance Application Announcement

November 21, 1980.

The Minority Business Development Agency announces that it is seeking applications under its program to operate 19 Dallas Region projects for 12 months beginning March 1, 1981.

Funding Instrument: It is anticipated that the funding instruments as defined by the Federal Grant and Cooperative Agreement Act of 1977 will be a grant.

Program Description: The General Business Services Program (GBS) of the Minority Business Development Agency (MBDA) provides technical assistance to minority business persons and firms for the purpose of improving their stability by increasing their management and marketing capabilities. MBDA offers competitive grants to consulting firms either "not for profit" or commercial entities. These firms must be capable of providing such services as:

—Preparation of business plans
—Financial Packaging
—Industrial Management Services
—Personnel Management Services
—Marketing Planning

Applications are invited for the following grants:

1. H—GBS Grant For a Management and Technical Performance Project to operate in Denver/Boulder, CO (SMSA) counties of Adams, Arapahoe, Boulder, Denver, Douglas, Gilpin, and Jefferson. Project will operate at a cost not to exceed $270,600 and the Project I.D. Number is 08–80–40122–00.

2. H—GBS Grant For a Management and Technical Performance Project to operate in Corpus Christi, TX (SMAS) counties of Nueices and San Patricio. Project will operate at a cost not to exceed $182,300 and the Project I.D. Number is 06–80–07327–00.

3. H—GBS Grant For a Management and Technical Performance Project to operate in Austin, TX (SMSA) counties of Hays and Travis. Project will operate at a cost not to exceed $110,000 and the Project I.D. Number is 06–10–24843–00.

4. H—GBS Grant For a Management and Technical Performance Project to operate in Baton Rouge, LA (SMSA) parishes of Ascension, East Baton Rouge, Livingston, and West Baton Rouge. Project will operate at a cost not to exceed $110,000 and the Project I.D. Number is 06–05286–00.

5. H—GBS Grant For a Management and Technical Performance Project to operate in Oklahoma City, OK (SMSA) Counties of Canadian, Cleveland, McClain, Oklahoma, and Pottawatomie. Project will operate at a cost not to exceed $157,300 and the Project I.D. Number is 06–60–40102–00.

6. H—GBS Grant For a Management and Technical Performance Project to operate in Laredo, TX (SMSA) county of Webb. Project will operate at a cost not to exceed $110,000 and the Project I.D. Number is 06–10–00115–00.

7. H—GBS Grant For a Management and Technical Performance Project to operate in Beaumont, Port Arthur, Orange (SMSA) counties of Hardin, Jefferson, and Orange. Project will operate at a cost not to exceed $110,000 and the Project I.D. Number is 06–10–24694–00.

8. H—GBS Grant For a Management and Technical Performance Project to operate in Tulsa, OK (SMSA) counties of Creek, Mayes, Osage, Rogers, Tulsa, and Wagoner. Project will operate at a cost not to exceed $110,000 and the Project I.D. Number is 06–10–00105–00.

9. H—GBS Grant For a Management and Technical Performance Project to operate in Shreveport, LA (SMSA) parishes of Bossier, Caddo, and Webster. Project will operate at a cost not to exceed $110,000 and the Project I.D. Number is 06–03696–00.

10. H—GBS Grant for a Management and Technical Performance Project to operate in Salt Lake City, UT (SMSA) counties of Davis, Salt Lake, Toole, and Weber. Project will operate at a cost not to exceed $110,000 and the Project I.D. Number is 08–10–40033–00.

11. H—GBS Grant for a Management and Technical Performance Project to operate in Little Rock-North Little Rock (SMSA) counties of Pulaski and Saline. Project will operate at a cost not to exceed $157,300 and the Project I.D. Number is 06–60–00586–00.

12. H—GBS Grant for a Management and Technical Performance Project to operate in Fort Worth-Lubbock, TX counties of Tarrant, Denton, Johnson, Wise, and Lubbock. Project will operate at a cost not to exceed $274,600 and the Project I.D. Number is 06–60–24444–00.

13. H—GBS Grant for a Management and Technical Performance Project to operate in San Antonio, TX (SMSA) counties of Bexar, Comal, and Guadalupe. Project will operate at a cost not to exceed $543,000 and the Project I.D. Number is 06–60–40112–00.

14. H—GBS Grant for a Management and Technical Performance Project to operate in New Orleans, LA (SMSA) parishes of Jefferson, Orleans, St. Bernard, and St. Tammany. Project will operate at a cost not to exceed $281,600 and the Project I.D. Number is 06–10–40202–00.

15. H—GBS Grant for a Management and Technical Performance Project to operate in El Paso, TX (SMSA) county of El Paso. Project will operate at a cost not to exceed $351,000 and the Project I.D. Number is 06–60–07315–00.

16. H—GBS Grant for a Management and Technical Performance Project to operate in McAllen-Pharr-Edinburg-Brownsville-Harlingen, and San Benito, TX (SMSA) counties of Starr, Hidalgo, Willacy, and Cameron. Project will operate at a cost not to exceed $382,000 and the Project I.D. Number is 06–10–24654–00.

17. H—GBS Grant for a Management and Technical Performance Project to operate in Albuquerque, NM (SMSA) counties of Bernalillo and Sandoval. Project will operate at a cost not to exceed $225,300 and the Project I.D. Number is 06–10–03955–00.

18. H—GBS Grant for a Management and Technical Performance Project to operate in Pueblo-Colorado Springs, counties of Pueblo, El Paso, and Teller. Project will operate at a cost not to exceed $220,000 and the Project I.D. Number is 08–10–01086–00.

19. H—GBS Grant for a Management and Technical Performance Project to operate in Houston-Galveston, TX (SMSA) counties of Brazoria, Fort Bend, Harris, Liberty, Montgomery, Waller, and Galveston. Project will operate at a cost not to exceed $733,000 and the Project I.D. Number is 06–60–04172–00.

Eligibility Requirements: Any for-profit or non-profit institution is eligible to submit an application. If an award is made, continuation awards of up to two additional years may be made to the sucessful recipient without competition, provided that: (1) funds have been appropriated for a project of this kind, (2) MBDA has determined that such funds are available, (3) there is a continuing need for a project of this kind, and (4) the receipient has performed satisfactorily.

Application Materials: An application kit for these projects may be requested by writing to the following address: U.S. Department of Commerce, Minority Business Development Agency, Grants Administration 1100 Commerce Street, Room 7B19, Dallas, TX 75242. Attn: Richard L. Greene Grant/Cooperative Agreements Specialist.

The closing date for submitting an application is December 31, 1980. An application kit is available by written request to the above address, ATTN: Richard L. Greene, Grant/Cooperative Agreement Specialist.

Richard H. Sewing,

Regional Director,

[FR Doc. 80-38998 Filed 12-2-80; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Modification of Permit

On September 26, 1980, Notice was published in the **Federal Register** (45 FR 63895) that the National Marine Mammal Laboratory, Northwest and Alaska Fisheries Center, National Marine Fisheries Service, requested a modification to scientific research Permit No. 303 to authorize the taking and import of one skin/blubber biopsy sample from each of up to 90 Southern right whales (*Eubalaena australis*) and Northern right whales (*Eubalaena glacialis*). The Permit originally authorized only the taking and import of skin/blubber biopsy samples from the bowhead whale (*Balaena mysticetus*).

Notice is hereby given that on November 19, 1980, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service granted a modification to Permit No. 303 which authorizes the taking and import of skin blubbler samples from up to 90 Southern right whale (*Eubalaena australis*). It was determined that additional information was required to evaluate the portion of the request dealing with the Northern right whale (*Eubalaena glacialis*).

1. The Permit, as modified, and documentation pertaining to the modification are available in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99802.

Dated: November 19, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-38992 Filed 12-3-80; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

National Voluntary Laboratory Accreditation Program; Disposition of Requests To Find That There Is a Need To Accredit Laboratories That Test Wastewater

AGENCY: Assistant Secretary of Commerce for Productivity, Technology, and Innovation.

ACTION: Notice.

SUMMARY: The Department of Commerce declines to take further action on two formal requests to find that there is a need to accredit wastewater testing laboratories under procedures (15 CFR Parts 7a, 7b, and 7c) of the National Voluntary Laboratory Accreditation Program (NVLAP). The Department's declination is based upon objections to the development of such a program by the U.S. Environmental Protection Agency (EPA).

EFFECTIVE DATE: August 19, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards Policy, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3221) or John W. Locke, Coordinator, NVLAP, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–2054).

SUPPLEMENTARY INFORMATION: In a letter dated July 15, 1976, the Metropolitan Sanitary District of Greater Chicago requested the U.S. Department of Commerce (DoC) to consider accrediting wastewater testing laboratories. NVLAP procedures (15 CFR 7a.4(d)) require that if a request is believed to affect an existing or developing laboratory accreditation program of a Federal regulatory agency, DoC shall ask for that agency's views relative to DoC making a preliminary finding of need for a laboratory accreditation program. As jurisdiction for national water quality programs conducted by the Federal government lies with the EPA, coordination of this request with EPA was deemed necessary.

Since DoC's receipt of the Chicago Sanitary District's request, several additional inquiries concerning possible NVLAP programs involving aqueous effluents were received. In a letter dated August 24, 1976, the Hampton Roads Sanitation District, Commonwealth of Virginia, requested DoC to find a need for a wastewater laboratory accreditation program. The City of Houston expressed interest in this type of wastewater program in a letter of December 12, 1978. In addition, DoC has received telephone inquiries from the Army Corps of Engineers on November 22, 1976 and from Micrometrics, Inc., a private research laboratory, on February 8, 1979 concerning such a program.

After discussions between DoC and EPA staff regarding the foregoing, EPA staff raised concerns regarding the applicability of the original NVLAP procedures (15 CFR Part 7a). DoC subsequently published optional NVLAP procedures (15 CFR Part 7b) for elective use by Federal agencies on March 9, 1979.

In a letter to Mr. Douglas M. Costle, EPA Administrator, April 9, 1979, Dr. Jordan J. Baruch, DoC Assistant Secretary for Science and Technology (now Productivity, Technology and Innovation), formally requested EPA's views as to whether DoC should prepare and publish in the **Federal Register** a preliminary finding of need for a laboratory accreditation program for laboratories that test wastewater. DoC deferred its written request for EPA's views until the optional NVLAP Part 7b procedures were issued so that EPA could consider the initiation of a laboratory accreditation program under the new optional procedures as an alternative to DoC initiating a proceeding under the original NVLAP Part 7a procedures. In a letter of June 15, 1979 to Dr. Baruch, Mr. Costle requested more time to respond in order to allow for an EPA Intra-Agency Quality Assurance Advisory Committee, which was being authorized and established, to consider EPA's participation in the NVLAP.

The relevant portions of a letter of August 19, 1980 to Dr. Baruch from Mr. Stephen J. Gage, EPA Assistant Administrator for Research and Development, in which EPA states its objections regarding the development of a NVLAP wastewater program, read as follows:

"After thorough review of the situation by my Quality Assurance Management Staff (QAMS), they believe, and I agree, that it is inappropriate to develop a wastewater laboratory accreditation program under Part 7a of the NVLAP procedures. There are two major objections. First, the creation of a wastewater laboratory certification program under NVLAP would be essentially equivalent to the delegation of part of my regulatory responsibilities under the Federal Water Pollution Control Act, responsibilities that legally cannot be transferred. Second, we need to retain direct control over the quality of the laboratories producing water data because we frequently use this data as the basis for initiating enforcement actions or other Agency decisions without further substantiation by Environmental Protection Agency (EPA) laboratories. To this end, we already have many aspects of an accreditation program in place, such as

requirements to use EPA methods, requirements to participate in systems audits and performance audits, and minimum quality control and quality assurance

FR Doc 79-37052 (44 FR 74145) December 17, 1979
FR Doc 80-2008 (45 FR 5514) January 23, 1980
FR Doc 80-6232 (45 FR 13181) February 28,

individuals within the DOD and other government agencies. Information is also used as research material for preparing special studies and

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

addresses inequities adversely affecting our balance of payments.

In Opinion and Order Nos. 18 and 18D, ERA authorized continued

Transmission Company is conditionally authorized to export up to approximately 3,650,000 Mcf annually to Mexico.

requirements to use EPA methods, requirements to participate in systems audits and performance audits, and minimum quality control and quality assurance requirements to be fulfilled, documented, and reported to EPA, along with the data.

I am interested, however, in exploring the possibility of initiating a Part 7b laboratory accreditation program for other program areas of the EPA. To that end, I suggest that someone from your staff contact Mr. Christopher Timm, Director, QAMS, to explore other possible areas."

Since EPA has raised material objections to DoC making a preliminary finding of need for a wastewater laboratory accreditation program, DoC is obliged, under 15 CFR 7a.4(d), to cease further action on making such a finding. Therefore, no program will be developed.

Notice: Notice is hereby given that the Department of Commerce declines to take further action on the two formal requests to find that there is a need to accredit wastewater testing laboratories.

Dated: November 26, 1980.

Jordan J. Baruch,

Assistant Secretary for Productivity, Technology and Innovation.

[FR Doc. 80-37564 Filed 12-2-80; 8:45 am]

BILLING CODE 3510-13-M

DEPARTMENT OF DEFENSE

Department of the Air Force

New Systems of Records

AGENCY: Department of the Air Force.

ACTION: Notice of a new system of records.

SUMMARY: The Air Force proposes to establish a new system of records subject to the Privacy Act of 1974. The system notice for this new system of records is published below.

DATES: This system shall be effective as proposed without further notice on, unless comments are received on or before January 2, 1981, which would result in a contrary determination.

ADDRESS: Any comments including written data, views or arguments concerning the proposed system should be addressed to the system manager identified in the notice.

FOR FURTHER INFORMATION CONTACT: Mr. Jon E. Updike, HQ USAF/DAAD, Room 4A-1088, The Pentagon, Washington, D.C. 20330, Telephone: (202) 694-3431.

SUPPLEMENTARY INFORMATION: The Air Force systems of records notices inventory subject to the Privacy Act of 1974 (5 U.S.C. 522a) Pub. L. 93-579 have been published to date in the Federal Register at:

FR Doc 79-37052 (44 FR 74145) December 17, 1979
FR Doc 80-2008 (45 FR 5514) January 23, 1980
FR Doc 80-6232 (45 FR 13181) February 28, 1980
FR Doc 80-8307 (45 FR 17627) March 19, 1980
FR Doc 80-17287 (45 FR 38098) June 6, 1980
FR Doc 80-18213 (45 FR 41049) June 17, 1980

The Department of the Air Force has submitted a new system report dated September 4, 1980 for this new system report under the provisions of 5 U.S.C. 552a(o) as implemented by Office of Management and Budget (OMB) circular A-108, Transmittal Memoranda, No. 1 and No. 3, dated September 30, 1975 and May 17, 1976 respectively. The OMB guidance was set forth in the Federal Register (40 FR 45877) on October 3, 1975.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

November 26, 1980.

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SYSTEM NAME:

Historical Research and Retrieval System (HORRS).

SYSTEM LOCATION:

Command Historical Office, Headquarters Electronic Security Command (HQ ESC), San Antonio, TX 78243.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Military and civilian members of ESC, including active, retired, and deceased personnel. Primarily, names of key personnel, such as commanders, operations officers, and other staff personnel mentioned in command histories and special studies, are filed in this system and are retrievable by name.

CATEGORIES OF RECORDS IN THE SYSTEM:

Coded abstracts of command history items or extracts from other documents retained for historical purposes. Will include name, rank unit assigned, position occupied, and any historically noteworthy achievements of individuals reflected in the document from which information was extracted.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8012, Secretary of the Air Force: powers and duties; delegation by.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Research reference file used by HQ ESC Historical Office to satisfy requests for Air Force Special Intelligence (SI) historical information received from individuals within the DOD and other government agencies. Information is also used as research material for preparing special studies and monographs, and to answer requests for information under the Freedom of Information Act.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in bound, paper copies; jacketed microfiche; and computer magnetic tapes, discs, and computer products.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers. The computer file is kept in a locked room.

RETENTION AND DISPOSAL:

Microfiche and paper copies of records, including ADP products, are retained in office files until no longer needed for reference, then destroyed by burning or pulping. Computer tapes are destroyed by overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Command Historian, HQ ESC/HO, San Antonio, TX 78243.

NOTIFICATION PROCEDURE:

Information as to whether the record system contains information on an individual may be obtained from the System Manager.

RECORD ACCESS PROCEDURES:

Individuals can obtain assistance in gaining access from the Systems Manager.

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager.

RECORD SOURCE CATEGORIES:

Information is obtained from command histories, special studies, monographs, end-of-tour reports, oral histories, and other reference material.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 37610 Filed 12-2-80; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket Nos. 80-19-NG; 80-20-NG; 81-01-NG]

Natural Gas Exports; Orders To Show Cause

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of Orders to Show Cause.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of the issuance on November 18, 1980, of several orders to show cause why certain authorizations to export natural gas from the United States into Canada or Mexico should not be amended to require that the export price charged for the natural gas be equal to prices athorized by ERA to be paid for natural gas imported into the United States from Canada or Mexico. The orders were issued pursuant to Section 3 of the Natural Gas Act. Petitions to intervene are invited.

DATES: Petitions to Intervene: To be filed on or before December 24, 1980.

FOR FURTHER INFORMATION CONTACT:

Lawrence A. DiRicco, (Division of Natural Gas), Economic Regulatory Administration, 2000 M Street, N.W., Room 7108, RG-55, Washington, D.C. 20461, Telephone (202) 653-3220

James K. White (Acting Assistant General Counsel for Natural Gas and Mineral Leasing), 1000 Independence Ave., S.W., Forrestal Bldg., Room 5E064, GC-15, Washington, D.C. 20585, Telephone (202) 252-2900

SUPPLEMENTARY INFORMATION: The ERA in its Opinion and Order Nos. 18 and 18D, issued August 18 and October 17, 1980 respectively, in ERA Docket No. 78-15-NG, *El Paso Natural Gas Company*, established a policy of equal pricing for natural gas imports from an exports to the same country on the ground that it is inequitable for the U.S. to pay more to import gas than it charges for gas exports to the same country. Natural gas is currently imported from and exported to both Canada and Mexico. The policy established in these opinions that the price of gas exported equal that of imports from the same country addresses inequities adversely affecting our balance of payments.

In Opinion and Order Nos. 18 and 18D, ERA authorized continued exportation of natural gas by El Paso Natural Gas Company (El Paso) to a mining company in Mexico, on the condition that the price charged by El Paso be raised to that which American natural gas companies are charged and authorized to pay for natural gas imported from Mexico. Currently, American pipelines are paying $4.47 per MMBtu for Mexican natural gas.

In addition the ERA recognized that raising the price of exported natural gas to the relevant international border price would result in additional revenues to the United States exporter. The authorization in Opinion and Order No. 18 was further conditioned to ensure that the revenues derived from the order export price increases would be credited to the exporter's domestic customers. El Paso has filed an application for rehearing of Opinion and Order No. 18 with respect to that condition.

The ERA has noted that it has no objection in principle to the exporter's instituting other arrangements, such as an exchange agreement at a price lower than the international border price. Furthermore, natural gas pipeline companies, including Northern Natural Gas Company, Great Lakes Gas Transmission Company, Inter-City Minnesota Pipelines Ltd., and Tennessee Gas Pipeline Company, which do not resell but merely transport or exchange exported natural gas are not considered to be within the scope of this pricing policy.

In order to ensure equitable treatment of all persons affected by the policy enunciated in Opinion and Order Nos. 18 and 18D, as well as consistency among natural gas export authorizations, the ERA in accordance with the provisions of 18 CFR 1.6(d) on November 18, 1980 issued orders to Del Norte Natural Gas Company (ERA Docket No. 80-19-NG), Montana Power Company (ERA Docket No. 80-20-NG), and Entex, Incorporated (ERA Docket No. 80-21-NG), and on November 20, 1980, to Valero Transmission Company (ERA Docket No. 81-01-NG) to show cause why their export authorizations should not be amended to conform with the above policy.

Del Norte Natual Gas Company is currently authorized to export up to 4,131,000 Mcf (thousand cubic feet) of gas annually to Mexico; Montana Power Company is authorized to export 120,000 Mcf of gas annually to Canada; Entex, Incorporated is authoried to export up to approximately 3,000,000 Mcf of gas annually to Mexico; and Valero Transmission Company is conditionally authorized to export up to approximately 3,650,000 Mcf annually to Mexico.

A company ordered to show cause must respond within 45 days and may request an opportunity for further proceedings or a hearing of the issues raised in the order.

OTHER INFORMATION: The ERA invites protests or petitions to intervene in these proceedings. Such petitions should reference the particular docket or dockets of interest and are to be filed with, Director, Division of Natural Gas, Economic Regulatory Administration, Room 7108, RG-55, 2000 M Street, N.W., Washington, D.C. 20461, In accordance with the requirements of the rules of practice and procedure (18 CFR 1.8 and 1.10). Protests or petitions to intervene will be accepted for consideration if filed no later than 4:30 p.m., on December 24, 1980.

Any person wishing to become a party to the proceeding or to participate as a party in any hearing which may be convened herein must file a petition to intervene. Any person desiring to make any protest with reference to the orders to show cause should file a protest in the same manner as indicated above for petitions to intervene. All protests filed with ERA will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding.

A hearing will not be held unless a motion for such hearing is made by any party and is granted by ERA, or the ERA on its own motion believes that such a hearing is required. A party filing a motion for a hearing must demonstrate why such a hearing will advance the proceeding, as well as identify and discuss the issues it believes should be heard. If such a hearing is required, due notice to the parties will be given.

A copy of each of the orders to show cause is available for public inspection and copying in Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, between 8:00 a.m. and 4:30 p.m., through Friday, except Federal holidays.

Issued in Washington, D.C., on November 26, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-37403 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Remedial Orders

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice that the following Proposed

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Remedial Orders have been issued. These Proposed Remedial Orders allege violations of applicable law as indicated.

A copy of the Proposed Remedial Orders, with confidential information deleted, may be obtained from Thomas M. Holleran, Program Manager for Product Retailers, 2000 M Street, NW, Washington, DC 20461, phone 202/653-3569. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, NW, Washington, DC 20461, in accordance with 10 CFR 205.193.

Issued in Washington, D.C., on the 26th day of November 1980.

Robert D. Gerring,

Director, Enforcement Program Operations Division, Economic Regulatory Administration.

Proposed Remedial Orders—Northeast District

Station	Address	Date	Violation amount	Cents per gallon in violation
Rovina Marina Ltd	134 Springville Road, Hampton Bays, N.Y. 11946.	11-10-80	$1,056.37	29.2

[FR Doc. 80-37494 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Project No. 2409]

Calaveras County Water District; Notice Setting Place and Procedures for Public Session

November 25, 1980.

The Calaveras County Water District (CCWD) has filed an appliction for a major license for the proposed North Fork Stanislaus River Project No. 2409. The proposed project would be located on the North Fork Stanislaus River, Highland Creek, Beaver Creek, Silver Creek, and Duck Creek in the Counties of Calaveras, Alpine, and Tuolumne, California. The proposed project would consist of: (1) a dam immediately below Spicer Meadow Dam on Highland Creek; (2) a powerhouse on the outlet works of the proposed Spicer Meadow Dam; (3) a diversion dam on the North Fork Stanislaus River, immediately downstream of the confluence of Silver and Duck Creeks; (4) a diversion tunnel leading to Spicer Meadow Reservoir; (5) a diversion dam on the North Fork Stanislaus River at McKays Point; (6) a diversion dam on Breaver Creek, downstream of Calaveras Big Trees State Park, diverting water through a tunnel to McKays Point Reservoir; (7) a tunnel from McKays Point Reservoir to the powerhouse at Clark Flat; (8) a powerhouse at Clark Flat on the Stanislaus River, approximatley 1 mile below the confluence of the North and Middle Fork Stanislaus Rivers; (9) an afterbay dam on the Stanislaus River; (10) access roads; (11) two transmission lines; (12) recreational facilities at Spicer Meadow Reservoir; and (13) appurtenant facilities.

In June 1980, the Commission's staff issued its final environmental impact statement on the proposed project. On August 22, 1980, a public meeting was held at the Commission's offices in Washington, D.C. The purpose of that meeting was to discuss the status of the application filed by CCWD, including any issues that may have remained following the issuance of the final environmental impact statement. Before the Commission reviews the application and the associated record to decide if a major license should be granted or denied, or in the alternative to require that an evidentiary hearing be held to address any disputed material issues of fact, it has been determined that two pulic sessions should be held. These public sessions will allow members of the general public an additional opportunity to present any information they may have which should be brought to the attention of the Commission.

On February 4, 1980, CCWD filed with the U.S. Army Corps of Engineers (Corps) an application for a permit to place in the Stanislaus River below the ordinary high water elevation, fill material associated with the construction of the proposed project. For reasons of public and administrative convenience, the public meeting sessions will be conducted jointly with representatives of the Corps. An information sheet prepared by the Corps is attached.

The public sessions will be held at Veterans Memorial Hall, Main Street, Angels Camp, California on Thursday, December 18, 1980. The first three-hour session will begin at 2 p.m. and the second session will begin at 7 p.m. Any member of the public, including parties to this proceeding, desiring to present his views or information on the proposed project may do so orally or in writing. All oral and written statements presented will be transcribed by a court reporter into the written record of the public session. These public sessions do not constitute evidentiary hearings, which have not been ordered by the Commission.

To avoid confusion and to ensure that all persons wishing to present their positions can do so, the following procedures will be observed at the public meetings:

Blank cards will be available at the entrance to the meeting hall. Prior to the convening of the session, any person desiring to be heard or wishing to submit a written statement should fill out a card by placing his name, address, and organizational affiliation, if any. The card should then be given to a member of the Commission's staff.

When his name is called, the person should come forward and state his name, address, and organizational affiliation, if any. If he has a written statement, he should give the reporter a copy. If an oral statement is to be given, the person should proceed to make the statement. In cases where a person submits a written statement and also wishes to make an oral statement, the oral remarks should only summarize the written statement, since all written statements will be copied into the record as though read. The statements made at the public session do not constitute evidence, and the persons giving statements will not be subject to cross-examination.

If a person desires to make a statement for the record but is unable to be present at the time his name is called, he may leave a copy of his statement with the reporter, and that statement will be copied into the record as though read or presented orally. If for any reason a person desiring to be heard is unable to attend the public session in person, he may submit a written statement by December 16, 1980, to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and such

statement will be made a part of the record of the public session.

Kenneth F. Plumb,

Secretary.

Joint Federal Energy Regulatory Commission/U.S. Army Corps of Engineers Public Meeting Concerning the Proposed North Fork Stanislaus River Project

Application—Received by Corps of Engineers

The Calaveras County Water District has submitted an application dated 4 February 1980 to the Corps of Engineers for a permit to place fill material below the ordinary high water elevation of the Stanislaus River associated with construction of the North Fork Stanislaus River Project.

Public Notice—Issued by Corps of Engineers

U.S. Army Public Notice No. 7107 dated 2 May 1980 outlines the plans and location of the proposed project. A copy of the public notice is available for review at the Regulatory Section Office (Room 6540), 650 Capitol Mall, Sacramento, California 95814.

EIS

A final Environmental Impact Statement (EIS) entitled "North Fork Stanislaus River Project No. 2409," was prepared by the Federal Energy Regulatory Commission, Office of Electrical Power Regulation, June 1980. A copy of the EIS is available for review at the Regulatory Section Office (Room 6540), 650 Capitol Mall, Sacramento, California, 95814.

Authority

The decision whether to issue a Section 404 permit will be based on an evaluation of the impact of this activity on the public interest under authority of Section 404 (33 USC 1344) of the Clean Water Act as amended (33 USC 1251 et seq). Evaluation will include application of guidelines set forth by Administrator EPA, under authority of the act (40 CFR Part 230.5). That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetics, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production and in general the needs and welfare of the people. No permit will be granted unless its issuance is found to be in the public interest.

[FR Doc. 80-37555 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER80-329]

Central Power & Light Co.; Order Granting Rehearing

Issued November 25, 1980.

On September 10, 1980, Central Power and Light Company (CP&L) filed an application for rehearing and stay of a Commission letter order dated August 14, 1980. The letter order was transmitted by the Secretary, by direction of the Commission, in response to CP&L's April 14, 1980 filing of an interconnection agreement between the company and the City of Brownsville, Texas (Brownsville). While the letter order accepted CP&L's submittal for filing and allowed the rate schedules to become effective as of April 4, 1980, the fuel adjustment clause embodied in the interconnection agreement was found to be inconsistent with the requirements of section 35.14 of the Commission's regulations. CP&L was therefore required to file a revised fuel adjustment clause in compliance with the regulations. CP&L has requested rehearing or in the alternative, stay, of that part of the order which directed the company to file a conforming fuel adjustment clause. For the reasons discussed below, we shall grant CP&L's application for rehearing of our August 14, 1980 order.

History of the Proceedings

By orders issued July 21, 1976 and September 17, 1976, in Docket No. E-9558, the Federal Power Commission determined that CP&L was a "public utility" within the meaning of section 201 of the Federal Power Act and was, therefore, subject to the jurisdiction of the Commission. In compliance with the requirements of those orders, CP&L tendered for filing on April 25, 1977, in Docket No. ER77-331, executed service agreements with all of its wholesale customers, including Brownsville. By order issued May 9, 1978, the agreements were accepted for filing and made effective as of May 4, 1976. The Commission also ordered CP&L to file a revised fuel clause under § 35.14 applicable to Brownsville.

On June 5, 1978, CP&L filed an application for rehearing of the May 9, 1978 order insofar as it required the company to file a revised fuel clause. On July 5, 1978, the Commission issued an order granting rehearing. The Commission determined that CP&L's purchase power agreement with Brownsville was a fixed rate contract. Since the contractual agreement had been executed on December 14, 1971, prior to the assertion of juriadiction over CP&L by the Federal Power Commission, the Commission held that section 35.14 of the regulations could not be applied retroactively to the fixed rate contract.[2] Since the fuel clause was construed as "an intergral part of fixed rate contracts," [3] the Commission determined that CP&L should not be required to file a revised fuel adjustment clause applicable to Brownsville.

On April 3, 1980, CP&L tendered for filing in this docket a revised interconnection agreement with Brownsville dated March 25, 1980. CP&L stated in its filing letter that the new interconnection agreement was intended to supersede and terminate the 1971 agreement between CP&L and Brownsville "except with respect to the rates contained therein which rates, along with the fuel adjustment clause, were previously approved by orders of this Commission. . . ." CP&L further requested waiver of the notice requirements to allow the interconnection agreement to become effective as of the date of filing, April 4, 1980.

Notice of the filing was issued on April 10, 1980, with comments due on or before May 2, 1980. On April 14, 1980, the Public Utilities Board of the City of Brownsville filed a letter in support of CP&L's request for waiver of the notice requirements and requested that the agreement be made effective, without suspension, as of the date of filing. Brownsville also filed, on April 30, 1980, a petition to intervene which affirmed its support for CP&L's request for waiver of notice.

By letter dated May 19, 1980, CP&L was notified that its filing was deficient in that its fuel clause did not conform to the requirements of section 35.14 of the regulations. CP&L responded to the deficiency letter on June 12, 1980, stating that its submittal was not intended to change either the present rate provisions or the existing fuel adjustment clause. On August 14, 1980, by direction of the Commission, the Secretary accepted CP&L's superseding interconnection

[2] *Citing, The Electric and Water Plant Board of the City of Frankfort* v. *Kentucky Utilities Co.*, Opinion No. 760, Docket No. E-8832, issued April 29, 1976; *aff'd Electric and Water Plant Board of the City of Frankfort* v. *FERC*, D.C. Cir. No. 76-1668 (1977).

[3] *Central Power & Light Company*, "Order Granting Rehearing," Docket No. ER77-331, issued July 5, 1978.

agreement with Brownsville for filing, granted waiver of notice, and required the company to file within 30 days a revised fuel adjustment clause in compliance with section 35.14, together with appropriate cost support as required by that section.

Discussion

CP&L has pointed out in its application for rehearing that the rate provisions that were included in the proposed contract were negotiated by the parties in 1971. The parties at the time entered into an agreement providing that the rates, including the fuel clause were to remain in effect until the contract expired in 1982. Similarly, the proposed contract calls for rates contained in the 1971 agreement to remain in effect until CP&L makes 138 Kv service available to Brownsville, which is to occur sometime prior to the end of the calendar year 1982. Thus, the proposed agreement has attempted to retain the same relationship between CP&L and Brownsville as was previously negotiated between the parties and accepted by the Commission calling for the company to file a new rate schedule applicable to Brownsville prior to 1982. Brownsville, in its petition to intervene, confirms the intent of the parties to maintain the 1971 rates in effect pending the availability of 138 Kv service to the City.[4]

The history of the negotiations between CP&L and Brownsville reveals the intentions of the parties to include the present rates as an integral part of the proposed contractual provisions. As in the previous filing, CP&L and Brownsville have expressed the intent to retain the previously-negotiated rate provisions in place until 1982. In light of our prior acceptance of this contractual term and in light of the relatively short duration of time that would remain for the nonconforming fuel clause to be in operation, the Commission believes that there exists good cause to waive our regulations to give effect to the negotiated agreement of the parties. In addition, we note that any overrecoveries under the fuel clause may be taken into account in our annual review of changes in CP&L's demand charge. Accordinaly, the Commission will exercise its discretion to waive CP&L's compliance with § 35.14 with the understanding that any future rate filings by the Company (other than filings of changes in CP&L's demand charge) shall include a fuel clause which is in conformance with the Commission's applicable regulations.

The Commission orders:

(A) Rehearing of the Commission's August 14, 1980 order is hereby granted.

(B) Waiver of ¶ 35.14 of the Commission's regulations is granted.

(C) CP&L's proposed fuel adjustment clause is accepted for filing, such clause to become effective as of April 4, 1980.

(D) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37556 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[4] On October 8, 1980, the Commission received a letter from Brownsville addressing issues raised in CP&L's Application for Rehearing. CP&L, on October 9, 1980, filed with the Commission a response to Brownsville's letter. Subsequent pleadings have been filed by both parties. The Commission pursuant to its regulations, does not entertain answers to petitions for rehearing. 18 CFR § 1.34(d). Consequently, Brownsville's letter and the subsequent pleadings have not been considered by the Commission in its rehearing determination.

[Project No. 3601-000]

Continental Hydro Corp.; Application for Preliminary Permit

November 26, 1980.

Take notice that Continental Hydro Corporation (Applicant) filed on October 23, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for the proposed Project No. 3601 to be known as the Fresno Dam located on the Water and Power Resources Service's Fresno Dam on the Milk River near Fresno and Havre, in Hill County, Montana. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. A Gail Staker, President, Continental Hydro Corporation, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description —The proposed project would utilize an existing Water and Power Resources Service's dam and reservoir. Project No. 3601 would consist of: (1) a proposed penstock extending from the existing outlet conduit; (2) a proposed powerhouse located on the northern bank of the river; (3) transmission lines; and (4) appurtenant facilities. Applicant estimates the capacity of the proposed project to be 2 MW and the annual energy output to be 6 to 8 GWh.

Purpose of Project—Energy produced at the above project would be sold to the Water and Power Resources Service. Alternatives, such as possible sale to nearby public institutions or industrial users will also be investigated by the Applicant.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36 month permit to prepare a definitive project report, including preliminary design and economic feasibility studies, hydrological studies, environmental and social studies, and soil and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State and local agencies is estimated by the Applicant to be $45,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant. Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—This application was filed as a competing application to Central Montana Electric G & T Cooperative, Inc. Project No. 3280 on the Fresno Dam in Fresno and Havre, Montana under 18 CFR 4.33 (1980), and, therefore, no further competing applications or notices of intent to file a competing application will be accepted for filing.

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the

Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before *January 29, 1981.*

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3601. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37557 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3550-000]

Continental Hydro Corp.; Application for Preliminary Permit

November 28, 1980.

Take notice that Continental Hydro Corporation (Applicant) filed on October 9, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3550 to be known as Bull Lake Power Project located on the Bull Lake Creek in Freemont County, Wyoming. The application is on file with the Commission and is available for public inspection. The proposed project would utilize Federal Lands and a Federal Dam under the jurisdiction of the U.S. Water and Power Resource Service. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, President, Continental Hydro Corporation, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The project would utilize the U.S. Water and Power Resource Service's existing Bull Lake Creek Dam and Reservoir. The project would consist of: (1) a penstock, approximately 500 feet long; and (2) proposed hydroelectric generating facilities, consisting of two units with a total capacity estimated to be between 2.0 and 2.5 MW.

The Applicant estimates that the average annual energy output would be 8 to 10 GWh.

Purpose of Project—Applicant proposes to sell the energy output to the Water and Power Resources Service.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would investigate all relevant aspects of the proposed project as part of the licensing process. This investigation would include study and analysis of project layout and design financial and economic examinations, and studies of the environmental, recreational and historic aspects of the proposed project. The cost of the studies under the permit is estimated to be $45,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive isssues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. if an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *February 4, 1981,* either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *April 6, 1981.* A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before *February 4, 1981.*

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3550. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street., NE., Washington, D.C. 20426. An additional copy must be sent to Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of

any notice of intent, competing application, application, or petition to intervene must also be served upon each

soils and foundation data. The study is estimated to cost $50,000.

Purpose of Preliminary Permit—A

petition to intervene must be filed on or before January 30, 1981.

Filing and Service of Responsive

Project Description—The proposed project would be run-of-the-river and would consist of: (1) an existing

allows an interested person to file the competing application no later than *April 6, 1981.* A notice of intent must

of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

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any notice of intent, competing application, application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37558 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3584-000]

Continental Hydro Corp.; Application for Preliminary Permit

November 26, 1980.

Take notice that Continental Hydro Corporation (Applicant) filed on October 17, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3584 to be known as Trenton Dam Water Project located at the Water & Power Resources Service, U.S. Department of the Interior, Trenton Dam a flood control project, on the Republican River in Hitchcock County, Nebraska. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. A. Gail Staker, President, Continental Hydro Corporation, 141 Milk Street, Suite 1143, Boston, Massachusetts 02109. Any person who wishes to file a response to this noice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a proposed 100-foot long penstock extending from the outlet works; (2) a proposed powerhouse with an estimated capacity of 1.5 to 1.8 MW to be located on the northern bank of the Republican River; (3) existing transmission lines; and (4) appurtenant facilities. The affected lands are owned by the U.S. government under the control of the Water and Power Resources Service, U.S. Department of the Interior.

The Applicant estimates that the average annual energy output would be 6.5 to 7.5 GWh.

Purpose of Project—Energy produced at proposed project would be sold to the Nebraska Public Power System.

Proposed Scope and Cost of Studies under Permit—Applicant has requested a 36-month permit to prepare a definitive report for the project, including preliminary design and economic feasibility studies, environmental and social studies, and soils and foundation data. The study is estimated to cost $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and enivronmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 30, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 31, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before January 30, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3584. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37559 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3512]

David Goodman and George R. Oliger; Application for Preliminary Permit

November 28, 1980.

Take notice that David Goodman and George R. Oliger (Applicant) filed on September 29, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3512 to be known as the Braendly Hydro Project located on Fishkill Creek in Dutchess County, New York. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: David Goodman, 1775 Broadway, Suite 2404, New York, New York 10019. Braendly-Fishkill Dam is owned by Gerlimann Finishing Company, Beacon, New York. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) an existing overflow gravity dam of concrete construction, 150-feet-long and 15-feet-high; (2) a reservoir having negligible pondage; (3) an intake structure; (4) a canal; (5) a penstock; (6) a powerhouse containing generating units having a total rated capacity between 550 kW and 1,000 kW; (7) a tailrace; (8) a new transmission line; and (9) appurtenant facilities.

The Applicant estimates that the average annual energy output would be between 2,200,000 kWh and 4,000,000 kWh.

Purpose of Project—Project energy would be sold to Central Hudson Gas and Electric Corporation.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be between $30,000 and $40,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *February 4, 1981*, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *April 6, 1981*. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before *February 4, 1981*.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No 3512. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37560 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3511]

David Goodman and George R. Oliger; Application for Preliminary Permit

November 28, 1980.

Take notice that David Goodman and George R. Oliger (Applicant) filed on September 29, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3511 to be known as the Groveville Power Project located on the Fishkill Creek in Dutchess County, New York. Groveville Mills Dam is owned by the Beacor Piece Dyeing Company. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. David Goodman, 1775 Broadway, Suite 2404, New York, N.Y. 10019. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would be run of the river and would consist of: (1) an existing ogee gravity dam of concrete construction, 285 feet long and 30 feet high; (2) a reservoir having negligible pondage; (3) an intake structure which would be rehabilitated; (4) new penstocks; (5) a new powerhouse containing generating units having a total rated capacity of 1,000 kW; (6) a tailrace; (7) an improved transmission line; and (8) appurtenant facilities. Applicant estimates the annual generation would average 5,000,000 kWh and would save approximately 8,000 barrels of oil annually.

Purpose of Project—Project energy would be sold to Central Hudson Gas and Electric Corporation.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant will prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be between $30,000 and $40,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *February 4, 1981*, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *April 6, 1981*. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before *February 4, 1981*.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3568. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37561 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3568-000]

Mitchell Energy Company, Inc.; Application for Preliminary Permit

November 26, 1980.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on September 29, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3568 to be known as the Mitchell Energy Company, Inc. Project located on the Brazos River in Young County, Texas. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Jack Mitchell, Mitchell Energy Company, Inc., 3300 North A Street, Midland, Texas 79705. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a proposed 1,000-foot long, 50-foot high, 170-foot long masonry dam; (2) a reservoir with a storage capacity of 1,000 acre-feet; (3) a new powerhouse located on the old breached, 23-foot high, 170-foot long masonry dam to be reconstructed; (2) a reservoir with no storage capacity; (3) a new powerhouse located on the old

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *February 4, 1981*, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than *April 6, 1981*. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before *February 4, 1981*.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3511. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37561 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3562-000]

Maine Hydro-Electric Development Corp.; Application for Preliminary Permit

November 26, 1980.

Take notice that Maine Hydro-Electric Development Corporation (Applicant) filed on October 14, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16, U.S.C. 791(a)–825(r)] for proposed Project No. 3562 to be known as the Barker's Mill Upper Project located on the Little Androscoggin River near the City of Auburn, Androscoggin County, Maine. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Lawrence Gleeson, President, Maine Hydro-Electric Development Corporation, P.O. Box 402, Mill Lane, Belfast, Maine 04915. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) the existing breached, 23-foot high, 170-foot long masonry dam to be reconstructed; (2) a reservoir with no storage capacity; (3) a new powerhouse located on the old powerhouse foundation immediately below the dam, containing a turbine-generator with a rated capacity of 950 KW and; (4) appurtenant facilities. The project would be capable of generating up to 4,900,000 kWh annually, saving the equivalent of 8,000 barrels of oil or 2,300 tons of coal.

Purpose of Project—Energy produced at the project would be sold to Central Maine Power Company for distribution to its customers.

Proposed Scope and Cost of Studies under Permit—The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $60,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before *February 2, 1981*, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than

April 3, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before *February 2, 1980*.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE "COMPETING APPLICATION", 'COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3562. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street., N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20456. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37562 Filed 12-2-80; 8:45 am]

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[Project No. 3568-000]

Mitchell Energy Company, Inc.; Application for Preliminary Permit

November 26, 1980.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on October 14, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3568 to be known as Starved Rock Lock and Dam located on the Illinois River in LaSalle County, Illinois. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc., 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Starved Rock Lock and Dam. The proposed project would consist of: (1) a proposed powerhouse, to be located downstream of the dam, containing five generating units with a total installed capacity of 9 MW; and (2) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 57.7 GWh.

Purpose of Project—Applicant proposes to sell energy produced to the Illinois Power Company.

Proposed Scope and Cost of Studies Under Permit—Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time Applicant would accomplish hydrological, engineering, environmental, and economic feasibiltiy studies on the project and prepare an application for FERC license. Applicant estimates cost of studies under its permit would be about $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 2, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 3, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR, 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 2, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3568. Any comments, notices

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of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulation to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street., NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37563 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3569-000]

Mitchell Energy Company, Inc.; Application for Preliminary Permit

November 28, 1980.

Take notice that Mitchell Energy Company, Inc. (Applicant) filed on October 14, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3569 to be known as Dresden Island Lock and Dam located on the Illinois River in Grundy County, Illinois. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Mitchell L. Dong, President, Mitchell Energy Company, Inc. 173 Commonwealth Avenue, Boston, Massachusetts 02116. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would utilize the existing U.S. Army Corps of Engineers' Dresden Island Lock and Dam. The proposed project would consist of: (1) a proposed powerhouse, to be located downstream of the dam, containing eight generating units with a total installed capacity of 17.6 MW; and (2) appurtenant facilities.

The Applicant estimates that the average annual energy output would be 93 GWh.

Purpose of Project—Applicant proposes to sell energy produced to Commonwealth Edison of Chicago.

Proposed Scope and Cost of Studies under Permit—Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time Applicant would accomplish hydrological, engineering, environmental, and economic feasibility studies on the project and prepare an application for FERC license. Applicant estimates cost of studies under its permit would be about $50,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for the power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before February 4, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than April 6, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33(b) and (c)(1980). A competing application must conform with the requirements of 18 CFR 4.33(a) and (d)(1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be filed on or before February 4, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3569. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street., NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37564 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ER81-119-000]

The Montana Power Co.; Filing

November 21, 1980.

The filing Company submits the following:

Take notice that The Montana Power Company ("Montana") on November 13, 1980, tendered for filing in accordance with Section 35 of the Commission's regulations, Letter Agreements with The Washington Water Power Company ("Washington"). Montana states that these Letter Agreements provide for the sale of firm energy between Montana and Washington.

Montana indicates that the proposed Letter Agreements increased revenues from jurisdictional sales by $1,362,027.24, based upon energy delivered from August 4, 1980, through August 31, 1980. Montana states that the rate for firm energy under these Letter Agreements was negotiated.

An effective date of August 4, 1980, is proposed and waiver of the Commission's requirements is therefore requested.

Montana also tendered for filing a Notice of Cancellation of Rate Schedule and all its supplements, an agreement for the sale of firm energy between Montana and The Washington Water Power Company ("Washington"). Montana states that the agreement has expired as of its own terms and has not been renewed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 12, 1980. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-38969 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. GP81-5-000]

Natural Gas Policy Act; United States Geological Survey, South Central Region; Dugan Production Corp.; Preliminary Finding

Issued November 25, 1980.

On October 14, 1980, the United States Geological Survey/South Central Region (USGS) notified the Federal Energy Regulatory Commission (Commission) of its determination that production exceeding 60 Mcf per day from Dugan Production Corporation's (Dugan) Rachel No. 2 Well (JD81-1589, USGS Docket No. NM-0005-80-ER) does not qualify as production due to the use of a recognized enhanced recovery technique pursuant to section 108 of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3301 *et seq.*, and §§ 271.805-.806 of the Commission's regulations. The Commission issued notice of this determination on October 27, 1980 (45 FR ———).

Section 271.805(a) requires, *inter alia*, that the operator and purchaser of gas from a well determined to be a stripper well file a notice of disqualification if production from such well exceeds 60 Mcf per production day for any 90-day production period. In this case, El Paso Natural Gas Company (El Paso), the purchaser of gas from the subject well, submitted such a notice of disqualification.[1] Under § 271.805(c), the filing of such notice immediately disqualifies the well as a stripper well, and the right of any seller to collect the maximum lawful price under section 108 terminates as of the last day of the 90-day production period identified in the disqualification notice. However, such disqualification does not take effect if, within 30 days of service of the notice, the operator files with the jurisdictional agency a petition, as described in § 271.805(b)(2), stating that the excess production resulted from the application of a recognized enhanced recovery technique. Dugan's petition to this effect was filed on August 8, 1980, some 10 months after El Paso's notice. The USGS denied the petition solely because it was not filed within the 30-day time period set forth in § 271.805(b).

On November 25, 1980, in Docket No. RM81-6 the Commission issued an interim rule amending §§ 271.805(b) and (c) to provide that a petition or motion, as described in § 271.805(b), may be filed at any time (rather than within 30 days) after a notice of disqualification is submitted, and also to specify that a seller's right to collect a price authorized by section 108 of the NGPA terminates on the last day of the disqualifying period unless the petition or motion is submitted within 30 days of service of the notice of disqualification. In addition, the Commission amended § 271.805(d) to provide for continued collection of the price permitted by section 108 subject to refund only if the § 271.805(b) petition or motion is filed within 30 days of the date of service. In all other cases, the price permitted by section 108 is subject to refund only from the date of filing the petition or motion.

Section 503(b)(2) of the NGPA permits the Commission to issue a preliminary finding remanding a jurisdictional agency determination if:

(A) the Commission finds that a State or Federal agency determination is not consistent with information contained in the public records of the Commission, and which is not part of the record upon which such determination was made . . .

The interim rule amending § 271.805 constitutes information contained in the Commission's public records which the USGS did not consider in making the determination disqualifying the subject well.

The Commission Finds: On the basis of the record submitted with this determination, the Commission hereby makes a preliminary finding, pursuant to section 503(b)(2)(A) of the NGPA, and § 275.202(a)(1)(ii) of the Commission's regulations, that the determination submitted by the USGS in the instant docket is not consistent with information contained in the Commission's public records which was not part of the record upon which the determination was made.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37567 Filed 12-2-80; 8:45 am]

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[1] El Paso's notice states that the well produced an average of 72 Mcf per production day during the 90-day period ending in August, 1979. The Commission received a copy of El Paso's notice on October 26, 1979.

[Project No. 3513]

Ochoco Irrigation District; Application for Preliminary Permit

November 26, 1980.

Take notice that the Ochoco Irrigation District (Applicant) filed on September 30, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)] for proposed Project No. 3513 to be known as the Prineville Dam Project located on the Crooked River in Crook County, Oregon. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. La Selle E. Coles, Manager, Ochoco Irrigation District, P.O. Box 6, 1001 N. Deere, Prineville, Oregon 97754. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: (1) a penstock constructed from the gate chamber of the Water and Power Resources Service's existing Prineville Dam, through an existing discharge tunnel to; (2) a powerhouse containing at least two generating units with a total rated capacity of 5.5 MW; and (3) a transmission line approximately three-quarters of a mile long.

The Applicant estimates that the average annual energy output would be 12,000 MWh.

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Purpose of Project—Project power would be sold to the Central Electric Cooperative for distribution to consumers.

Proposed Scope and Cost of the Studies Under Permit—Applicant would conduct a feasibility study to determine the technical, exonomic, and financial feasibility of the project. The estimated costs of the feasibility study and obtaining necessary state and local permits is $47,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for the license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 8, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 9, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protests about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 8, 1981.

Filing and Service of Responsive documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3513. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First Street, N.W., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37566 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Project No. 3524-000]

Western Water Power, Inc.; Application for Preliminary Permit

Take notice that Western Water Power, Inc. (Applicant) filed on October 3, 1980, an application for preliminary permit [pursuant to the Federal Power Act, 16 U.S.C. 791(a)–825(r)] for proposed Project No. 3524 to be known as the Yuma Main Canal Power Project located on the Water and Power Resources Service's (WPRS) Yuma Main Canal and the All American Canal in Imperial County, California. The application is on file with the Commission and is available for public inspection. Correspondence with the Applicant should be directed to: Mr. Timothy M. Ainslie, President, Western Water Power, Inc., 4384 Bechelli Land, Redding, California 96002. Any person who wishes to file a response to this notice should read the entire notice and must comply with the requirements specified for the particular kind of response that person wishes to file.

Project Description—The proposed project would consist of: 1) an intake structure in the All American Canal; 2) a 650-foot long penstock serving; 3) a powerhouse to be operated under a head of 32 feet and to contain a turbine-generator unit with a rated capacity of 1.4 MW; 4) an outlet channel to release the water into the Yuma Main Canal; 5) a switchyard adjacent to the powerhouse; and 6) approximately 500 feet of 33-kV transmission line to connect to an existing WPRS transmission line.

The Applicant estimates that the average annual energy output would be 11.3 million kWh.

Purpose of Project—It is anticipated the project energy would be sold to private or public utilities in the Southern California area under the terms of the Public Utility Regulatory Policies Act of 1978.

Proposed Scope and Cost of Studies Under Permit—The Applicant seeks issuance of a preliminary permit for a period of three years, during which it would carry out the following studies and investigations: (a) preliminary design including subsurface investigation, review of available flow records, topographic survey of the project site, selections of optimum configuration for the project, and availability of suitable turbines and generators; and (b) economic feasibility of the project, including comparative studies of cost and energy output of alternative sites, estimates of power value, and expected revenues from sale of project power. The costs of the above activities, including the preparation of an environmental report, negotiating agreements with various Federal, State, and local agencies, and preparing an FERC license application, are estimated by the Applicant to be about $125,000.

Purpose of Preliminary Permit—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are invited to submit comments on the described application for preliminary permit. (A copy of the application may be obtained directly from the Applicant.) Comments should be confined to substantive issues relevant to the issuance of a permit and consistent with the purpose of a permit as described in this notice. No other formal request for comments will be made. If an agency does not file comments within the time set below, it will be presumed to have no comments.

Competing Applications—Anyone desiring to file a competing application must submit to the Commission, on or before January 30, 1981, either the competing application itself or a notice of intent to file a competing application. Submission of a timely notice of intent allows an interested person to file the competing application no later than March 31, 1981. A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1980). A competing application must conform with the requirements of 18 CFR 4.33 (a) and (d) (1980).

Comments, Protests, or Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Commission, in accordance with the requirements of its Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1980). Comments not in the nature of a protest may also be submitted by conforming to the procedures specified in § 1.10 for protests. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but a person who merely files a protest or comments does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any comments, protest, or petition to intervene must be received on or before January 30, 1981.

Filing and Service of Responsive Documents—Any comments, notices of intent, competing applications, protests, or petitions to intervene must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", or "PETITION TO INTERVENE", as applicable. Any of these filings must also state that it is made in response to this notice of application for preliminary permit for Project No. 3524. Any comments, notices of intent, competing applications, protests, or petitions to intervene must be filed by providing the original and those copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208, 400 First St., NW., Washington, D.C. 20426. A copy of any notice of intent, competing application, or petition to intervene must also be served upon each representative of the Applicant specified in the first paragraph of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37568 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 328] **Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978**

Issued November 26, 1980.

JD NO	JA DKT	API NO	SEC T WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION						
=KERR=MCGEE CORPORATION			RECEIVED: 10/31/80 JA: LA			
8105666	A0-3579	1772620198 103	S L 2000 NO 56	BRETON SOUND BLOCK 20	12.0	SOUTHERN NATURAL GAS
OKLAHOMA CORPORATION COMMISSION						
=ANADON CORPORATION			RECEIVED: 11/17/80 JA: OK			
8105671	A6389	3501520849 102	WINSOR #1-6	WILDCAT	350.0	MICHIGAN WISCONSIN
=ARCO OIL AND GAS COMPANY			RECEIVED: 11/17/80 JA: OK			
8105670	A398	3504722041 102	CECIL COOPER #1	SOUTH DOUGLAS	37.0	
8105669	A6390	3504722081 102	DALE WEMLING #2	SOUTH DOUGLAS	110.0	
=ARKLA EXPLORATION COMPANY			RECEIVED: 11/17/80 JA: OK			
8105674	A6270	3505120853 102	BARNETT #1-14	SE NAPLES	700.0	ARKANSAS LOUISIANA G
=COTTON PETROLEUM CORPORATION			RECEIVED: 11/17/80 JA: OK			
8105668	A6354	3505120884 102	DOWEN A NO 1	WATONGA	600.0	TRANSOK PIPE LINE CO
=HARPER OIL COMPANY			RECEIVED: 11/17/80 JA: OK			
8105675	A6153	3508032133 103	SCHWANDT #1	S LUCIEN	28.0	EASON OIL CO
=JET OIL COMPANY			RECEIVED: 11/17/80 JA: OK			
8105677	A6148	3508321169 103	NIDA #1	ELKHURN	10.0	EASON OIL CO
8105678	A6147	3504721971 103	PHARES "A" #1	N ELKHURN	20.0	AMINOIL USA INC
8105679	A6146	3504721846 103	SHEDECK #1	N ELKHURN	12.0	AMINOIL USA INC
8105676	A6150	3504722027 103	STATE G #2	N ELKHURN	20.0	AMINOIL USA INC
=KAISER-FRANCIS OIL COMPANY			RECEIVED: 11/17/80 JA: OK			
8105672	A6369	3505120343 102	GILES #1	N W CHICKASHA	912.0	OKLAHOMA NATURAL GAS
=MAY PETROLEUM INC			RECEIVED: 11/17/80 JA: OK			
8105686	A6286	3501721350 102	HUBBARD NO 1 (OTC UNASSIGNED)	WATONGA TREND	730.0	CITIES SERVICE GAS C
=MAYLON ENERGY			RECEIVED: 11/17/80 JA: OK			
8105684	A5914	3503520407 108	FITZGERALD #4 OTC NO 03555804	NW WELCH	0.0	CITIES SERVICE GAS C
8105681	A5911	3503520449 108	FITZGERALD #5 OTC NO 03555804	NW WELCH	0.0	CITIES SERVICE GAS C
8105682	A5912	3503520450 108	FITZGERALD #6 OTC NO 03555804	NW WELCH	0.0	CITIES SERVICE GAS C
8105683	A5913	3503520397 108	METZEN #11 OTC NO 03553781	NW WELCH	0.0	CITIES SERVICE GAS C
=NATOMAS NORTH AMERICA INC			RECEIVED: 11/17/80 JA: OK			
8105685	A6190	3512920413 102	MERRICK #1-3		2956.0	
=PHILLIPS PETROLEUM COMPANY			RECEIVED: 11/17/80 JA: OK			
8105680	A5420	3501721241 102	SCHROEDER L #1		0.0	PANHANDLE EASTERN PI
=RICKS EXPLORATION CO			RECEIVED: 11/17/80 JA: OK			
8105693	A6941	3501721249 102	RAMMING #1	WATONGA TREND	0.0	MICHIGAN WISCONSIN P
=SAMEDAN OIL CORPORATION			RECEIVED: 11/17/80 JA: OK			
8105672	A6304	3501700000 102	OYLER #1		475.0	PHILLIPS PETROLEUM C
8105687	A6205	3501721286 102	ROYSE #1	NO NAME	300.0	DELMI GAS PIPELINE C
=SOUTHLAND ROYALTY CO			RECEIVED: 11/17/80 JA: OK			
8105673	A6303	3509321806 102	STAMBAUGH #2-32	ORION	36.0	MICHIGAN WISCONSIN P

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JD NO	JA DKT	API NO	SEC T WELL NAME	FIELD NAME	PROD	PURCHASER
=WOODS PETROLEUM CORPORATION			RECEIVED: 11/17/80 JA: OK			
8105690	06320	3512920401 102	ALBRIGHT #31-1	S W LEEDY	1314.0	DELMI GAS PIPELINE C
8105689	06319	3512920432 102	SMITH #33-1	S W LEEDY	1058.0	DELMI GAS PIPELINE C
8105691	06321	3512920313 102	SWITZER #1	S W LEEDY	1460.0	DELMI GAS PIPE LINE
8105688	06318	3512920364 102	SWITZER A #30-1	S W LEEDY	675.0	DELMI GAS PIPELINE C
** U.S. GEOLOGICAL SURVEY - ALBUQUERQUE,NM						
=AMOCO PRODUCTION CO			RECEIVED: 11/19/80 JA: NM G			
8105647	NM-1269-80	3004506798 108	GALLEGOS CANYON UNIT NO 147	BASIN-DAKOTA	16.0	EL PASO NATURAL GAS
8105650	NM-1272-80	3004523905 103	GALLEGOS CANYON UNIT WELL #110E	BASIN DAKOTA	91.0	AMOCO GAS CO
8105649	NM-1271-80	3004521054 108	J C DAVIDSON NO 2	FULCHER KUTZ-PICTURED CL	19.0	SOUTHERN UNION GATHE
8105645	NM-1267-80	3003921274 108	JICARILLA APACHE 102 NO 17	TAPACITO-PICTURED CLIFFS	21.0	GAS CO OF NEW MEXICO
8105646	NM-1268-80	3003906598 108	JICARILLA APACHE 102 NO 2	TAPACITO-PICTURED CLIFFS	15.0	GAS CO OF NEW MEXICO
8105648	NM-1270	3003921318 108	JICARILLA APACHE 102 NO 20	TAPACITO-PICTURED CLIFFS	20.0	GAS CO OF NEW MEXICO
8105588	NM-0049-80-A	3002526353 103	SOUTH MATTIX UNIT #35	FOWLER DRINKARD	12.0	EL PASO NATURAL GAS
8105587	NM-5264-79	3003921489 108	VALENCIA CANYON UNIT #14	CHOZA MESA	21.0	EL PASO NATURAL GAS
=ARCO OIL AND GAS COMPANY			RECEIVED: 11/19/80 JA: NM G			
8105594	NM-0841-80	3002526552 103	JOHNS M DE WELL #13	MALJAMAR	2.0	PHILLIPS PETROLEUM C
8105641	NM-1262-80	3004524208 103	KRAUSE NW FED 3E	BASIN DAKOTA	27.0	NORTHWEST PIPELINE C
8105597	NM-0945-80	3004524123 103	KRAUSE NW FEDERAL 6E	BASIN DAKOTA	70.0	NORTHWEST PIPELINE C
=BOLIN OIL COMPANY			RECEIVED: 11/19/80 JA: NM G			
8105585	NM-5052-79A	3003922133 103	CANDADO #2G	OTERO CHACRA	0.0	EL PASO NATURAL GAS
8105586	NM-5052-79B	3003922133 103	CANDADO #2G	BLANCO MV	0.0	EL PASO NATURAL GAS
=BRADLEY M KEYES			RECEIVED: 11/19/80 JA: NM G			
8105651	NM-1273-80	3004512031 108	LUCERNE FEDERAL #1	FULCHER KUTZ PICTURED CL	4.2	EL PASO NATURAL GAS
=COTTON PETROLEUM CORPORATION			RECEIVED: 11/19/80 JA: NM G			
8105598	NM-0947-80	3003922216 103	APACHE #132	LINDRITH GALLUP-DAKOTA W	20.0	NORTHWEST PIPELINE
=DAVE M THOMAS JR			RECEIVED: 11/19/80 JA: NM G			
8105640	NM-1287-80	3004320432 103	CHACON JICARILLA APACHE D-109	CHACON DAKOTA	41.2	EL PASO NATURAL GAS
=DUGAN PRODUCTION CORP			RECEIVED: 11/19/80 JA: NM G			
8105610	NM-1114-80	3003922167 103	ALMAGRE #1-R	GAVILAN PC	55.0	
8105602	NM-1011-80	3004524329 103	CHACO PLANT #1-J	WAW FIELD	40.8	EL PASO NATURAL GAS
8105611	NM-1115-80	3003900000 103	EUREKA #1	GALIVAN PICTURED CLIFFS	35.0	
8105602	NM-1289-80	3004523427 103	FIVE OF DIAMONDS #2	WILDCAT	10.0	EL PASO NATURAL GAS
8105612	NM-1116-80	3004524495 103	PINEY #1	WAW FRUITLAND PC	45.0	
=EL PASO NATURAL GAS COMPANY			RECEIVED: 11/19/80 JA: NM G			
8105591	NM-0388-80	3003920948 108	CANYON LARGO UNIT #277	BALLARD-PICTURED CLIFFS	22.0	EL PASO NATURAL GAS
8105632	NM-1237-80	3004500000 108	CLEVELAND #5	FULCHER KUTZ - PICTURED	18.0	EL PASO NATURAL GAS
8105594	NM-0101-80	3004521515 108	DAY #8	BLANCO-PICTURED CLIFFS G	21.0	EL PASO NATURAL GAS
8105604	NM-1038-80	3004512100 108	ROELOFS A #5	BLANCO - PICTURED CLIFFS	21.9	EL PASO NATURAL GAS
*8105593	NM-0699-80	3003906959 108	SAN JUAN 27-5 UNIT #42 MV & PC	TAPACITO-PICTURED CLIFFS	21.6	EL PASO NATURAL GAS
8105637	NM-1250-80	3003922226 103	SAN JUAN 28-6 UNIT #27A	BLANCO MESAVERDE	120.0	EL PASO NATURAL GAS
8105638	NM-1260-80-A	3003922186 103	SAN JUAN 28-6 UNIT #6A	BLANCO MESAVERDE	150.0	EL PASO NATURAL GAS
8105639	NM1260-80-B	3003922186 103	SAN JUAN 28-6 UNIT #6A	BLANCO SOUTH PICTURED CL	70.0	EL PASO NATURAL GAS
8105592	NM-0696-80	3003920860 108	SAN JUAN 28-7 UNIT #197	BLANCO SOUTH-PICTURED CL	21.0	EL PASO NATURAL GAS
8105630	NM-1193-80	3003907671 108	SAN JUAN 29-7 UNIT #101	BASIN-DAKOTA GAS	17.0	EL PASO NATURAL GAS
8105603	NM-1033-80	3003906283 108	VAUGHN #4 CH & PC	BLANCO-B PIC CLIFFS OTER	22.0	EL PASO NATURAL GAS
=GETTY OIL COMPANY			RECEIVED: 11/19/80 JA: NM G			
8105601	NM-1288-80	3002500000 108	MYERS LANGLIE MATTIX UT #118	LANGLIE MATTIX	1.8	EL PASO NATURAL GAS
=HARVEY E YATES COMPANY			RECEIVED: 11/19/80 JA: NM G			
8105615	NM-1140-80	3002526813 102	YOUNG DEEP A FEDERAL #1	WILDCAT	800.0	EL PASO NATURAL GAS

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JD NO	JA DAT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
•MILLIN PRODUCTION CO				RECEIVED: 11/19/80 JA: NM 4			
8105613	NM=1119801103	3001570324	103	DNU #4	WINCHESTER = WOLFCAMP	360,0	EL PASO NATURAL GAS
•INEXCO OIL COMPANY				RECEIVED: 11/19/80 JA: NM 4			
8105631	NM 1240=80	3002526184	103	FEDERAL COM 7 NO 2 WELL	WEST TONTO WOLFCAMP (PRO	17,0	LLANO INC
•J GREGORY MERRION				RECEIVED: 11/19/80 JA: NM 4			
8105603	NM=1290=80	3003922318	103	FEDERAL COM A #4	BALLARD PICTURED CLIFFS	380,0	EL PASO NATURAL GAS
•J GREGORY MERRION&ROBERT L BAYLESS				RECEIVED: 11/19/80 JA: NM 4			
8105644	NM=1266=80	3004506033	108	FRONTIER #1	GALLEGOS GALLUP	10,0	EL PASO NATURAL GAS
8105616	NM=1150=80	3003921851	108	MILL #1	BLANCO MESA VERDE	10,0	EL PASO NATURAL GAS
•JEROME P MCHUGH				RECEIVED: 11/19/80 JA: NM 4			
8105633	NM=1242=80	3004522161	108	CHACO PLANT #20	WAW FRUITLAND P C	14,0	EL PASO NATURAL GAS
8105636	NM=1245=80	3004512087	108	HARDIE #2	BASIN DAKOTA	14,0	EL PASO NATURAL GAS
8105635	NM 1279=80	3004520683	108	NABBAU #1	BASIN DAKOTA	20,0	EL PASO NATURAL GAS
8105634	NM=1243=80	3004520956	108	PINON #1	BASIN DAKOTA	16,0	EL PASO NATURAL GAS
•KOCH INDUSTRIES INC				RECEIVED: 11/19/80 JA: NM 4			
8105654	NM=1276=80	3004524189	103	MOORE #1	BASIN DAKOTA	91,2	EL PASO NATURAL GAS
8105655	NM=1277=80	3004524193	103	WILLIAM MANSFIELD #1	BASIN DAKOTA	182,5	EL PASO NATURAL GAS
•MESA PETROLEUM				RECEIVED: 11/19/80 JA: NM 4			
8105600	NM=0975=80	3001523194	102	ANTELOPE FEDERAL #1	UNDESIGNATED ABO	74,0	
8105601	NM=0976=80	3000560400	102	ROCK FEDERAL #1	WILDCAT ABO	179,0	
8105599	NM=0974=80	3001522987	103	WILLIS FEDERAL COM #1	WILDCAT MORROW	136,0	LLANO INC
•NORTHWEST EXPLORATION COMPANY				RECEIVED: 11/19/80 JA: NM 4			
8105590	NM=0162=80	3004523094	108	MIDDLE MESA #1	SO LOS PINOS FRUITLAND	0,0	NORTHWEST PIPELINE C
•NORTHWEST PIPELINE CORPORATION				RECEIVED: 11/19/80 JA: NM 4			
8105626	NM=1160=80	3003921393	103	SAN JUAN 29=5 #97	BLANCO PICTURED CLIFFS	120,0	NORTHWEST PIPELINE C
8105627	NM=1161=80	3003921289	108	SAN JUAN 32=7 #32	BLANCO MESAVERDE	18,0	EL PASO NATURAL GAS
8105628	NM=1163=80	3004511188	108	SAN JUAN 32=8 #25	BLANCO MESAVERDE	21,0	EL PASO NATURAL GAS
•OKLAHOMA OIL COMPANY				RECEIVED: 11/19/80 JA: NM 4			
8105589	NM=0160=80	3004523031	108	BOLACK J=1 J=26=27N=11W	WEST KUTZ	10,0	EL PASO NATURAL GAS
8105607	NM=1100=80	3004524046	103	FED WELL 1E (19=27N=11W)	BASIN DAKOTA	100,0	EL PASO NATURAL GAS
•PERRY R BASS				RECEIVED: 11/19/80 JA: NM 4			
8105665	NM=131180103	3001523004	103	BIG EDDY UNIT NO 71	UNDESIGNATED STRAWN	0,0	NATURAL GAS PIPELINE
8105608	NM 111180103	3001522859	103	BIG EDDY UNIT NO 72	SAND POINT	730,0	NATURAL GAS PIPELINE
8105609	NM111280103	3001522839	103	BIG EDDY UNIT NO 74	INDIAN FLATS ATOKA	730,0	NATURAL GAS PIPELINE
•PETROLEUM DEVELOPMENT CORP				RECEIVED: 11/19/80 JA: NM 4			
8105640	NM=1261=80	3001523159	103	LLANO=MCKAY FEDERAL #2	UNDESIGNATED MORROW	912,0	LLANO INC
•PIONEER PRODUCTION CORPORATION				RECEIVED: 11/19/80 JA: NM 4			
•8105606	NM=1084=80	3004507579	103	LUCERNE #1=E	BASIN DAKOTA	91,2	PIONEER NATURAL GAS
•8105605	NM=1083=80	3004500000	103	REDFERN #4 E	BASIN DAKOTA	182,5	PIONEER NATURAL GAS
•RALPH G ABBOTT				RECEIVED: 11/19/80 JA: NM 4			
8105584	NM=4972=80=2	3004523291	108	FEDERAL 11 #3 NM0338690	WEST KUTZ PICTURED CLIFF	14,0	SOUTHWEST GAS CORP
•SOUTHLAND ROYALTY CO				RECEIVED: 11/19/80 JA: NM 4			
8105642	NM=1263=80	3004509204	108	HOLDER #1	FULCHER KUTZ	10,9	SOUTHERN UNION GATHE
•SUPERIOR OIL CO				RECEIVED: 11/19/80 JA: NM 4			
8105614	NM=1130=80	3001522946	102	MEANDEM FEDERAL NO 1	WILDCAT	0,0	
•SUPRON ENERGY CORPORATION				RECEIVED: 11/19/80 JA: NM 4			
8105619	NM=1151=79	3003922156	103	JICARILLA L 2E	BASIN DAKOTA	73,0	EL PASO NATURAL GAS
8105652	NM=1275=80=A	3004523038	103	NAVAJO B 6=M	BLANCO MESAVERDE	230,0	SOUTHERN UNION GATHE
8105653	NM=1275=80=B	3004523038	103	NAVAJO B 6=M	BASIN DAKOTA	238,0	EL PASO NATURAL GAS
•TENNECO OIL COMPANY				RECEIVED: 11/19/80 JA: NM 4			
8105629	NM 1186=80	3004524194	103	GASSETT B #1	BLANCO MESAVERDE	1350,0	EL PASO NATURAL GAS
8105625	NM=1159=80	3004524135	103	CORNELL B #1=E	BASIN DAKOTA	500,0	EL PASO NATURAL GAS

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JD NO	JA DAT	API NO	SEC D	WELL NAME	FIELD NAME	PROD	PURCHASER
8105621	NM=1135=80	3004524283	103	CORNELL E #1=E	BASIN DAKOTA	500,0	EL PASO NATURAL GAS
8105664	NM=1295=80	3004500000	108	J C GONDON FEDERAL #1	FULCHER=KUTZ	20,1	SOUTHERN UNION GATHE
8105620	NM=1154=80	3004523950	103	NEAL #2	BASIN DAKOTA	500,0	EL PASO NATURAL GAS
8105623	NM=1157=80	3004524280	103	NEAL #20	BASIN DAKOTA	500,0	EL PASO NATURAL GAS
8105622	NM=1156=80	3004523818	103	STOREY D #2	BASIN DAKOTA	500,0	EL PASO NATURAL GAS
8105624	NM=1158=80	3004523949	103	STOREY D #3	BASIN DAKOTA	500,0	EL PASO NATURAL GAS
•YATES PETROLEUM CORPORATION				RECEIVED: 11/19/80 JA: NM 4			
8105657	NM=1280=80	3001523272	103	DIXON YATES LM FEDERAL #1	WILDCAT	0,0	
8105659	NM 1282=80	3001523328	103	IRISH HILLS=YESO NM FEDERAL NO 1	PENASCO DRAW SA YESO (AS	0,0	TRANSWESTERN PIPELIN
8105643	NM=1265=80	3000560666	103	LONG ARROYO MD FEDERAL NO 1	WILDCAT	0,0	TRANSWESTERN PIPELIN
8105658	NM=1281=80	3001523332	103	MOBIL CI FEDERAL NO 10	PENASCO DRAW SA YESO (AS	0,0	TRANSWESTERN PIPELIN
8105656	NM=1279=80	3001523331	103	MOBIL CI FEDERAL NO 9	PENASCO DRAW SA YESO (AS	0,0	TRANSWESTERN PIPELIN
8105595	NM 808=80	3001523136	102	NORTH TURKEY TRACK MU FEDERAL NO 1	UNDESIGNATED	0,0	EL PASO NATURAL GAS
•SOUTHLAND ROYALTY CO				RECEIVED: 11/19/80 JA: UT 4			
8105617	UA 1145=80	4303700000	108	GOTHIC MESA 59 #1	GOTHIC MESA	5,5	EL PASO NATURAL GAS
8105616	UA=1144=80	4303700000	108	GOTHIC MESA 68 #2	GOTHIC MESA	5,5	EL PASO NATURAL GAS
**********							
** U.S. GEOLOGICAL SURVEY = CASPER,WY							
**********							
•PACIFIC TRANSMISSION SUPPLY COMPANY		RECEIVED: 11/13/80 JA: WY 5					
8105667	W 115=0	4902305124	108	PTS 2=26 FEDERAL	FONTENELLE	20,0	PACIFIC GAS TRANSMIS

OTHER PURCHASERS VOLUME NO 1326

8105593 NORTHWEST PIPELINE
8105605 EL PASO NATURAL GAS
8105606 EL PASO NATURAL GAS

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or discription of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.04, file a protest with the Commission within fifteen (15) days after the date of publication of this notice in the **Federal Register.**

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37585 Filed 12-2-80; 8:45 am]

BILLING CODE 6450-85-M

FEDERAL COMMUNICATIONS COMMISSION

Notice of 7th Meeting, Wednesday, December 17, 1980—9:00 a.m. Conference Room 6336, Nassif (DOT)

FEDERAL HOME LOAN BANK BOARD

Senior Executive Service-Performance Review Board; Updated Membership

Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in Industrial Loan Company, in Industrial loan activities. Under the law of the State of Washington, an Industrial loan company may not accept demand

FEDERAL COMMUNICATIONS COMMISSION

[FCC 80-694]

A Closed Circuit Test of the Emergency Broadcast System During the Week of December 8, 1980

November 25, 1980.

A test of the Emergency Broadcast System (EBS) has been scheduled during the week of December 8, 1980. Only ABC, MBS, NRP, AP Radio, CBS, IMN, NBC, and UPI Audio Radio network affiliates will receive the Test Program for the Closed Circuit Test. AP and UPI wire service clients will receive activation and termination messages of the Closed Circuit Test. Television networks are not participating in the Test.

Network and press wire service affiliates will be notified of the test procedures via their network approximately 30 to 45 minutes prior to the test.

Final evaluation of the test is scheduled to be made about one month after the Test.

This is a closed circuit test and will not be broadcast over the air.

Action by the Commission November 24, 1980. Commissioners Ferris (Chairman), Lee, Quello, Washburn, Fogarty, Brown and Jones.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-37532 Filed 12-2-80; 8:45 am]

BILLING CODE 6712-01-M

Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 75, "MPS—Automatic Coordinate Conversion Systems"

Notice of 7th Meeting, Wednesday, December 17, 1980—9:00 a.m., Conference Room 6336, Nassif (DOT) Building, 400 Seventh Street, SW at D Street, Washington, DC

Agenda

1. Call to Order; Chairman's Report.
2. Administrative Matters.
3. Discussion of draft of Minimum Performance Specifications.

Mortimer Rogoff, Chairman, SC-75, 4201 Cathedral Avenue, NW, Apartment 91W, Washington, DC 20016, Phone: (202) 362-5462

Executive Committee Meeting, Notice of December Meeting, Thursday, December 18, 1980—9:30 a.m., Conference Room 8334, Nassif (DOT) Building, 400 Seventh Street, SW at D Street, Washington, DC

Agenda

1. Administrative matters and committee reports.
2. Consideration of SC-71 Report concerning "VHF Automated Radiotelephone Systems".
3. Consideration of WJG Telephone Company petition to modify RTCM By-Laws by adding a new group to those authorized for Executive Committee representation.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: (202) 632-6490).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80-37531 Filed 12-2-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

Senior Executive Service-Performance Review Board; Updated Membership

In accordance with Title IV of the Civil Service Reform Act of 1978, the Federal Home Loan Bank Board hereby gives notice of new memberships on the SES Performance Review Board. Current members are:

Rita I. Fair, Marshall Kaplan, Charles Gillum, L. David Taylor, Richard Petrocci

FOR FURTHER INFORMATION CONTACT:

Doris H. McGhee, Director of Personnel, Federal Home Loan Bank Board, (202) 377-6050.

Robert D. Linder,

Acting Secretary to the Board, Federal Home Loan Bank Board.

[FR Doc. 80-37534 Filed 12-2-80; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Agreements Nos. 9847-6 and 10027-10]

U.S. Atlantic/Brazil Pool Agreement and Brazil/U.S. Atlantic Pool Agreement; Availability of Energy Impact Statement

Pursuant to the Energy Policy and Conservation Act of 1975, 42 U.S.C. 6362, and the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, the Office of Environmental Analysis (OEA) has assessed the possible Commission actions with regard to these agreements published at 45 FR 73135 (November 4, 1980) and determined that Commission approval of Agreements Nos. 9847-6 and 10027-10 should promote greater energy efficiency, greater energy conservation and fewer environmental impacts than Commission disapproval or modification.

This Energy Impact Statement will become final within 10 days and is available for inspection on request from the Office of the Secretary, Room 11101, Federal Maritime Commission, Washington, D.C. 20573, telephone (202) 523-5725.

Francis C. Hurney,

Secretary.

[FR Doc. 80-37589 Filed 12-2-80; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed de Novo Nonbank Activities

The Bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commended *de novo*, directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than December 23, 1980.

A. *Federal Reserve Bank of Cleveland* (Harry W. Hunning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

Mellon National Corporation, Pittsburgh, Pennsylvania (financing and leasing activities; United States): to engage, through its subsidiary, Mellon Leasing and Management Company, in making or acquiring, for its own account or for the account of others, commerical or mortgage loans or other extensions of credit, secured by real or personal property; serving loans; and making leases of real or personal property or acting as agent, broker or advisor in leasing such property. These activities would be conducted from an office in Pittsburgh, Pennsylvania, serving the United States. Comments on this application must be received by December 11, 1980.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120: 1. Rainier Bancorporation, Seattle, Washington, (industrial loan activities; Washington): to engage through its subsidiary, Rainier Industrial Loan Company, in industrial loan activities. Under the law of the State of Washington, an industrial loan company may not accept demand deposits. These activities will be conducted from offices in Aberdeen, Everett, Federal Way, Mount Vernon, Opportunity, Redmond, Rickland, Spokane, Tacoma, and Vancouver, Washington, serving the State of Washington.

2. Seafirst Corporation, Seattle, Washington, (mortgage banking and insurance activities; Nevada): to engage, through its SutterTrust Company Division, in making and acquiring loans and other extensions of credit secured by real estate mortgages and deeds of trust; and acting as agent for the sale of credit life and accident and health insurance directly related to its extension of credit. These activities would be conducted from an office in Las Vegas, Nevada, serving the State of Nevada.,

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, November 24, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37528 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 255.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a

hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than December 23, 1980.

A. *Federal Reserve Bank of Cleveland* (Harry W. Hunning, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

Mellon National Corporation, Pittsburgh, Pennsylvania (financing and leasing activities; United States): to engage, through its subsidiary, Mellon Leasing and Management Company, in making or acquiring, for its own account or for the account of others, commerical or mortgage loans or other extensions of credit, secured by real or personal property; serving loans; and making leases of real or personal property or acting as agent, broker or advisor in leasing such property. These activities would be conducted from an office in Pittsburgh, Pennsylvania, serving the United States. Comments on this application must be received by December 11, 1980.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120: 1. Rainier Bancorporation, Seattle, Washington, (industrial loan activities; Washington): to engage through its subsidiary, Rainier Industrial Loan Company, in industrial loan activities. Under the law of the State of Washington, an industrial loan company may not accept demand deposits. These activities will be conducted from offices in Aberdeen, Everett, Federal Way, Mount Vernon, Opportunity, Redmond, Rickland, Spokane, Tacoma, and Vancouver, Washington, serving the State of Washington.

2. Seafirst Corporation, Seattle, Washington, (mortgage banking and insurance activities; Nevada): to engage, through its SutterTrust Company Division, in making and acquiring loans and other extensions of credit secured by real estate mortgages and deeds of trust; and acting as agent for the sale of credit life and accident and health insurance directly related to its extension of credit. These activities would be conducted from an office in Las Vegas, Nevada, serving the State of Nevada.,

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, November 24, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37528 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 255.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing. Any request for a hearing must, as to each application, be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than December 26, 1980.

A. *Federal Reserve Bank of Minneapolis* (Bruce J. Gibney, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

Norwest Corporation, Minneapolis, Minnesota (consumer finance, mortgage banking, and insurance activities; Arizona, Colorado, Iowa, Minnesota, Montana, Nebraska, New Mexico, North Dakota, South Dakota, Wisconsin, and Wyoming): to engage, through its subsidiary, Norwest Financial Arizona, Inc., in the activities of a consumer finance company; making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a consumer finance company; servicing loans and other extensions of credit; and acting as agent or broker for the sale of credit life insurance and credit accident and health insurance directly related to extensions of credit by its subsidiary bank or branches, and acting as agent or broker in the sale of any insurance sold in a connection with a consumer finance loan. These activities would be performed from Applicant's offices in Santiago, Becker and Clear Lake, Minnesota, and the application should submit views in writing to the Reserve Bank, to be received not later than December 26,

Liberty Street, New York, New York 10045: Chemical New York Corporation, New York, New York (investment

hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should indentify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than December 26, 1980.

A. *Federal Reserve Bank of Boston* (Richard E. Randall, Vice President). 30 Pearl Street, Boston, Massachusetts 02106: 1. First National Boston Corporation, Boston, Massachusetts (data processing activities; Maryland): to engage through its indirect subsidiary, First of Boston Computeristics, Inc. in data processing activities for the internal operations of an unaffiliated organization, Baltimore Federal Savings and Loan Association, Baltimore, Maryland. These activities would be performed at a new office located in Baltimore, Maryland serving the states of Maryland and Virginia and the District of Columbia.

2. Old Stone Corporation, Providence, Rhode Island (mortgage banking and insurance activities; Ohio): to engage through its subsidiary, UniMortgage Corporation of Ohio, in originating, selling, and servicing first and second mortgage loans; selling credit life and credit health and accident insurance offered in connection with extensions of credit, which insurance would be reinsured by another subsidiary, Motor Life Insurance Company of Jacksonville, Florida. These activities would be conducted from an office in Cincinnati, Ohio, serving metropolitan Cincinnati and Hamilton County, Ohio, and Boone, Kenton, and Campbell Counties, Kentucky. Comments on this application must be received by December 23, 1980.

B. *Federal Reserve Bank of Atlanta* (Robert E. Heck, Vice President), 104 Marietta Street, N.W., Atlanta, Georgia 30303: 1. Southwest Florida Banks, Inc., Fort Myers, Florida (mortgage origination and servicing activities, southwest Florida): to engage, through its subsidiary, Southwest Mortgage Services, Inc., in servicing and originating mortgage loans. These activities would be conducted from an office in Fort Myers, Florida, servicing the Florida counties of Collier, Lee, Charlotte, Manatee, Sarasota, Hillsborough and Pinellas.

2. Levy County Bancorporation, Chiefland, Florida (insurance activities, Florida): to act as agent or broker for the sale of credit life, credit accident and health directly related to extensions of credit by its subsidiary bank or branches, and acting as agent or broker in the sale of any insurance sold in a community that has a population not exceeding 5,000. These activities would be conducted from offices in Chiefland, Inglis and Bronson, Florida, serving Levy, Gilchrist, Citrus, Marion, Alachua and Dixie Counties all located in Florida.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, November 26, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37529 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c) (8) of the Bank Holding Company Act (12 U.S.C. 1843 (c) (8)) and § 225.4(b) (1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than December 26, 1980.

A. *Federal Reserve Bank of New York* (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045: Chemical New York Corporation, New York, New York (investment advisory activities; Florida, Georgia, Alabama, South Carolina and North Carolina): to engage through its indirect subsidiary, ICM of the South, Inc., in activities that may be carried on by an investment adviser, including offering portfolio investment advice to individuals, corporations, governmental entities and other institutions on both a discretionary and non-discretionary basis. These activities would be conducted from an office in Tampa, Florida, serving the states of Florida, Georgia, Alabama, South Carolina and North Carolina.

B. *Federal Reserve Bank of Boston* (Richard E. Randall, Vice President) 30 Pearl Street, Boston, Massachusetts 02106: Industrial National Corporation, Providence, Rhode Island (insurance activities; Tennessee): to engage *de novo* through its indirect subsidiary, Southern Discount Company of Tennessee, in acting as agent for the sale of credit property insurance directly related to its extensions of credit. These activities would be conducted from an office in Jasper, Tennessee, serving all of Marion County, Tennessee.

Other Federal Reserve Banks: None.

Board of Governors of the Federal Reserve System, November 28, 1980.

Barbara R. Lowrey,

Assistant Secretary of the Board.

[FR Doc. 80-37570 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

Colorado National Bankshares, Inc.; Acquisition of Bank

Colorado Bankshares, Inc., Denver, Colorado, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of Arvada State Bank, Arvada, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 24, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 24, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37523 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

Federated Bancshares, Inc.; Formation of Bank Holding Company

Federated Bancshares, Inc., Otterville, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 90.2 per cent of the voting shares of The Bank of Otterville, Otterville, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 18, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 26, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37524 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

Financial Bancshares Co.; Formation of Bank Holding Company

Financial Bancshares Company, Becker, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 93.3 per cent of more of the voting shares of Santiago State Bank, Santiago, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Financial Bancshares Company, Becker, Minnesota, has also applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the activities of a general insurance agency in a community that has a population not exceeding 5,000. These activities would be performed from Applicant's offices in Santiago, Becker and Clear Lake, Minnesota, and the geographic areas to be served are Santiago, Becker and Clear Lake, Minnesota, and surrounding areas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 26, 1980.

Board of Governors of the Federal Reserve System, November 26, 1980.

Barbara R. Lowrey,

Assistant Secretary of the Board.

[FR Doc. 80-37571 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

Golden Summit Corporation; Formation of Bank Holding Company

Golden Summit Corporation, Milton, Florida, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Santa Rosa State Bank, Milton, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 26, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37525 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

Morgan Guaranty International Bank; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Morgan Guaranty International Bank, Miami, Florida, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in Los Angeles, Califorina. Morgan guaranty International Bank operates as a subsidiary of Morgan Guaranty Trust Company of New York, New York, New York.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 26, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37530 Filed 12-3-80; 8:45 am]

BILLING CODE 6210-01-M

V 45 / 234 DEC 80 UMI

PTD Bancorp., Inc., Formation of Bank Holding Company

November 26, 1980.

PTD Bancorp, Inc., Potosi, Wisconsin, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Potosi State Bank, Potosi, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 26, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37526 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

South Georgia Bankshares Corp.; Formation of Bank Holding Company

November 26, 1980.

South Georgia Bankshares Corp., Lyons, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The Peoples Bank of Lyons, Lyons, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 26, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37522 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

Wells Fargo Bank International; Relocation of Home Office and Establishment of U.S. Branch by a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Wells Fargo Bank International, New York, New York, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(a)(2) of the Board's Regulation K (12 CFR 211.4(a)(2)), to move its home office from New York, New York, to San Francisco, California, and under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish branches in Miami, Florida, and New York, New York. Wells Fargo Bank International operates as a subsidiary of Wells Fargo Bank, N.A., San Francisco, California.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 26, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 26, 1980.

Jefferson A. Walker,

Assistant Secretary of the Board.

[FR Doc. 80-37527 Filed 12-2-80; 8:45 am]

BILLING CODE 6210-01-M

ACTION: Suspension of Maximum Allowable Cost Limits on Phenylbutazone, oral tablets, 100 mg; Phenylbutazone Alka, oral capsules, 100 mg and Oxyphenbutazone, oral tablets, 100 mg.

SUMMARY: The Pharmaceutical Reimbursement Board hereby suspends the Maximum Allowable Cost (MAC) limits on Oxyphenbutazone, oral tablets, 100 mg; Phenylbutazone, oral tablets, 100 mg and Phenylbutazone Alka, oral capsules, 100 mg. The limits for phenylbutazone tablets and phenylbutazone alka capsules were set forth at 43 FR 57972–77, December 11, 1978 and for oxyphenbutazone at 44 FR 50651–56, August 29, 1979. The suspension of these MAC limits results from a recent price increase for these products by USV Laboratories, the only approved alternate supplier for oxyphenbutazone and phenylbutazone alka and the predominant alternate supplier for phenylbutazone.

The Board will reinstitute procedures to establish new MAC limits on these three products.

DATES: The effective date of this suspension is October 1, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Spalding, Acting Executive Secretary, Pharmaceutical Reimbursement Board, 1–D–5 East Low Rise, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–5403.

Dated: October 21, 1980.

Charles Spalding,

Acting Executive Secretary, Pharmaceutical Reimbursement Board.

[FR Doc. 80-37535 Filed 12-2-80; 8:45 am]

BILLING CODE 4110-35-M

Public Health Service

Privacy Act of 1974

AGENCY: Department of Health and Human Services; Public Health Service.

ACTION: Notification of new system of records: "Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography, and Biometry Studies on Aging," DHHS/NIH/NIA, 09–25–0142.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing notice of a proposal to adopt a new system of records, "Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography, and Biometry Studies on Aging," DHHS/NIH/NIA, 09–25–0142. These records will be used to accomplish scientific research conducted by intramural scientists employed by the National Institute on Aging (NIA), and by hospitals, universities, research centers and research foundations under contract with NIA. These research activities aim at determining the health status of individuals and changes in health status over time, the incidence and prevalence of certain diseases and problems of the aged in certain populations, and changes that take place as the individuals age who are under study.

PHS invites interested persons to submit comments on the proposed routine uses on or before January 2, 1981.

DATES: PHS has sent a Report of New System to the Congress and to the Office of Management and Budget on November 19, 1980. The system of records will be effective January 19, 1981, unless PHS receives comments on the routine uses which would result in a contrary determination.

ADDRESS: Comments should be addressed to the Privacy Act Coordinator, National Institutes of Health (NIH), at the address listed below. Comments received will be available for inspection from 9 a.m. to 3 p.m. in Room 3B03, Building 31, at that address.

FOR FURTHER INFORMATION CONTACT: Dr. Kenneth Thibodeau, NIH Privacy Act Coordinator, Building 31, Room 3B07, 9000 Rockville Pike, Bethesda, MD 20205, or call 301–496–4606.

SUPPLEMENTARY INFORMATION: Congress created the National Institute on Aging in 1974 and gave NIA responsibility for "biomedical, social and behavioral research and training related to the aging process and diseases and other special problems and needs of the aged," (Pub. L. 93–296). The proposed system of records reported here will comprise records created by NIA scientists and by research institutions under contract to NIA in activities undertaken to fulfill this congressionally mandated responsibility. NIA will use the data collected under this system principally, and in most cases exclusively, for research purposes. The results of the research will be reported in aggregate and statistical form and will not disclose identifying particulars about any individual. In addition, research data may be used for program review and evaluation in order to ensure that research projects are progressing towards their goals and to determine any improvements or additional research that might be necessary.

Records collected under this system will be organized and maintained according to the particular research project of which they are a part. Records will not be entered into a general or comprehensive data base. NIA scientists will protect the confidentiality of the records according to the standards of chapter 45–13 of the HHS General Administration Manual and supplementary chapter PHS hf:45–13, and of Part 6 of the HHS ADP Systems Manual. All contracts for the maintenance of records under this system will include security requirements in accordance with the HHS Procurement Regulation, 3–1–327–5(e).

The routine uses proposed for this system are compatible with the stated purposes of the system. The first proposed routine use for disclosure to DHHS contractors and collaborating researchers provides for the accomplishment of the basic purposes of this system. The second proposed routine use will enable the Department to ensure that these research activities are conducted properly.

A routine use for research is proposed because occasionally the progress, quality or fruitfulness of a research program may be enhanced, and the public interest served, by disclosing the data to additional researchers to further the advance of medical science. The routine use disclosure to the Department of Justice for Freedom of Information Act (FOIA) determinations provides an additional protection of the privacy of subject by ensuring against unwarranted releases of personal information under FOIA.

The routine use for litigation simply reserves the right of the Government to use the records to defend itself or its employees in cases that may arise in connection with these research programs.

The proposed routine use for disclosure to a congressional office would not violate the privacy of any individual because such disclosure would be made only pursuant to a request of the individual.

Dated: November 19, 1980.

Jack N. Markowitz,

Acting Director, Office of Management.

09–25–0142

SYSTEM NAME:

Clinical Research: Records of Subjects in Intramural Research, Epidemiology, Demography and Biometry Studies on Aging, HHS/NIH/NIA.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Records included in this system will be located in hospitals and clinics, research centers and research foundations, and in facilities of the National Institute on Aging (NIA) in Bethesda, MD. They may be stored at Federal Records Centers. A list of locations is available upon request from the System Manager.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants in these studies will include: (1) individuals whose physical, genetic, social, psychological, cultural, economic, environmental, behavioral, pharmacological, or nutritional conditions or habits are studied in relationship to the normal aging process and/or diseases and other normal or abnormal physical or psychological conditions of the aged, and (2) normal volunteers who are participants in such studies.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system will consist of a variety of health, demographic, and statistical information resulting from or contained in research findings, medical histories, vital statistics, personal interviews, questionnaries, or direct observations. The system will also include records of current addresses of study participants, fingerprints where relevant as a variable in studies of senile dementia, and correspondence from or about participants in the stuides. When supplied on a voluntary basis, Social Security numbers will also be included.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority is provided by Section 301, Research Contracting, and 463–4, Research Aging Act of 1974, of the Public Health Service Act (42 U.S.C. Sections 241g, 289k–4, k–5).

Purpose(s): The National Institute on Aging will use the data collected:

1. In research projects on (a) the health status of individuals and changes in health status over time, (b) the incidence and prevalence of certain diseases and problems of the aged in certain population, and (c) the changes that take place as individuals age;

2. For program planning and evaluation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Records may be disclosed to DHHS contractors, collaborating researchers and their staffs in order to accomplish the basic research purpose of this system. The recipients will be required

to maintain Privacy Act safeguards with respect to such records.

2. Data may be disclosed to

Department or any of its components; or (c) any Department employee in his or her individual capacity where the

developed in accordance with chapter 45–13 and supplementing chapter PHS hf 45–13 of the HHS General

should also reasonably specify the record contents being sought.

2. Director, Office of Regional Administration

3. Director, Office of Regional

below, and solicits comments and information for consideration in the EIS.

Description. The project site is located

to maintain Privacy Act safeguards with respect to such records.

2. Data may be disclosed to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits or utilization review.

3. A record may be disclosed for a research purpose, when the Department:

(a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

(b) Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk, if any, to the privacy of the individual that additional exposure of the record might bring;

(c) Has required the recipient to—(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identifiable person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

(d) has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

4. In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

5. In the event of litigation where the defendant is (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided that such disclosure is compatible with the purpose for which the records were collected.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data may be stored in file folders, magnetic tapes or discs, punched cards, or bound notebooks. Stored data may include textual, photographic, X-ray, or other material.

RETRIEVABILITY:

Information will be retrieved by personal identifiers such as name, code number and/or Social Security number, when this is supplied on a voluntary basis.

SAFEGUARDS:

Measures to prevent unauthorized disclosures are implemented as appropriate for each location and for the particular records maintained in each project. Each site implements personnel, physical and procedural safeguards such as the following:

RETENTION AND DISPOSAL:

(1) *Authorized Users:* Access will be limited to principal investigators, collaborating researchers and necessary support staff.

(2) *Physical Safeguards:* Hard copy data will be maintained in locked file cabinets. Information stored in computer systems will be accessible only through proper sequencing of signal commands and access codes specifically assigned to the Project Officer or contractor.

(3) *Procedural Safeguards:* Access to the information will be controlled directly by the Project Officer or his or her representative at remote locations, and by the system manager at NIA locations. Contractors and collaborating researchers will be notified that they are subject to the provisions of the Privacy Act, and will be required to make formal, written agreements to comply with these provisions.

The particular safeguards implemented in each project are developed in accordance with chapter 45–13 and supplementing chapter PHS hf 45–13 of the HHS General Administration Manual and part 6, ADP Systems Security, of the HHS ADP Systems Manual, and the National Bureau of Standards Federal Information Processing Standards (FIPS Pub. 41 and FIPS Pub. 31).

RETENTION AND DISPOSAL:

Records at contractor facilities will be retained and disposed of under the specific terms established in each contract. Records at NIA facilities will be retained and disposed of under the authority of the NIH Records Control Schedule (HHS Records Management Manual, Appendix B–361, item 3000–G–3). Write to system manager for a copy of the authorized disposition.

SYSTEM MANAGER(S) AND ADDRESS:

Privacy Act Coordinator, National Institute on Aging, Building 31, NIH, 9000 Rockville Pike, Bethesda, MD 20205.

NOTIFICATION PROCEDURE:

To determine if a record exists, write to the System Manager at the address above and provide the following information in writing:

1. Full named at time of participation in the study,
2. Date of birth,
3. Home address at the time of study,
4. The facility where the examination was given or where information was collected,
5. Approximate date or dates of participation,
6. Name of study, if known,
7. Current name, address and telephone number.

The requestor must also verify his or her identity by providing either a notarization of the request or a written certification that the requestor is who he or she claims to be and understands that the knowing and willful request for acquisition of a record pertaining to an individual under false pretenses is a criminal offense under the Act, subject to $5,000 fine.

An individual who requests notification of or access to a medical or dental record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURES:

Contact the system manager at the above address and provide the same information as outlined under the notification procedures. Requestors should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the System Manager at the address above. The contestor must reasonably identify the record, specify in writing the information being contested, state the corrective action sought, and the reasons for the correction.

RECORD SOURCE CATEGORIES:

Information will be obtained directly from individual participants and from medical and clinical research observations, or indirectly from existing source documents such as disease registries.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 80-37355 Filed 12-2-80; 8:45 am]

BILLING CODE 4110-08-M

Social Security Administration

Contribution and Benefit Base, Quarter of Coverage Amount, Retirement Test Exempt Amounts, Average of the Total Wages, Formulas for Computing Benefits, and Extended Table of Benefit Amounts for 1981

Correction

In FR Doc. 80–36032 appearing at page 76252 in the issue of Tuesday, November 18, 1980, make the following correction: In the table on page 76254, under "(Maximum family benefits)", the 35th and 36th entries now reading "1,861.50" and "1,863.20" should have read "1,881.50" and "1,883.20".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D–80–627]

Acting Regional Administrator, Seattle Regional Office, Region X, Washington; Designation

Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator during the absence of the Regional Administrator, with all the powers, functions, and duties redelegated or assigned to the Regional Administrator; provided that no official is authorized to serve as Acting Regional Administrator unless all officials listed before him/her in this designation are unavailable to act by reason of absence or vacancy in the position:

1. Deputy Regional Administrator
2. Director, Office of Regional Administration
3. Director, Office of Regional Community Planning and Development
4. Director, Office of Regional Housing
5. Director, Office of Regional Fair Housing and Equal Opportunity
6. Regional Counsel, Office of Regional Counsel

Effective as of the 27th day of October, 1980.

Gordon N. Johnston,

Regional Administrator, Seattle Regional Office.

[FR Doc. 80-37548 Filed 12-2-80; 8:45 am]

BILLING CODE 4210-01-M

Office of Environmental Quality

[Docket No. NI–36]

Intended Environmental Impact Statement; Nueva Caparra Community, Bayamon, Puerto Rico

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following project under HUD programs as described in the appendix to this Notice: Nueva Caparra Community, Bayamon, Puerto Rico. This Notice is required by the Council on Environmental Quality under its rules (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommend mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C. November 26, 1980.

Francis G. Haas,

Deputy Director, Office of Environmental Quality.

Appendix—EIS for Nueva Caparra Community, Bayamon, Puerto Rico

The Department of Housing and Urban Development, Region II, Caribbean Area Office, intends to prepare and Environmental Impact Statement (EIS) on the project described below, and solicits comments and information for consideration in the EIS.

Description. The project site is located on State Road No. 177, at km. 14.7, Juan Sanchez Ward, Bayamon, and Frailes Ward, Guaynabo, Puerto Rico. The project may be assisted under the following Federal Programs: 203(b), 235, and Section 8. The Commonwealth of Puerto Rico is planning to develop Nueva Caparra Community, which will be an urban community for approximately 8,000 families. It includes a collection of various projects and programs which will be developed in an integrated way. The project will combine several types of structural alternatives: detached residential units, duplex, townhouses, walk-up apartments, high-rise apartments, etc. The total project area is 538.07 acres. Approximately 254.47 acres are to be allocated for residential use, and 89.36 acres for community facilities.

Need. It has been determined to prepare an Environmental Impact Statement due to the size of the development.

Alternatives. Alternatives to be considered are no project or changes to size and design.

Scoping. A scoping meeting with the participation of cooperating government agencies and the general public will be held. For further information on this meeting, contact the person listed below.

Comments. Estimated date for completion of Draft EIS: February 20, 1981. A copy of the draft will be published in Spanish, and will be available for inspection at the Area Office. All comments should address the environmental impacts of the proposed project. All such comments will be considered when preparing the Draft and shall be come part of the project's environmental file. These comments must be mailed or delivered to HUD within 21 days of the publication of this notice in the **Federal Register** to Jose R. Febres-Silva, Area Manager, U.S. Department of Housing and Urban Development, U.S. Courthouse and Federal Building, Carlos Chardon Avenue, Room 428, Hato Rey, Puerto Rico 00918.

[FR Doc. 80-37550 Filed 12-2-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Arizona; Safford District Advisory Council Meeting

Notice is hereby given, in accordance with Pub. L. 94–579 and 43 CFR Part

1780, that a meeting of the Safford District Advisory Council will be held January 15, 1981 at Safford, Arizona at

Wyoming and Montana; Intent To Hold Public Hearings and the Opening of a Comment Period on the Federal Coal

Cheyenne, Wyoming 82001, 307–778–2220, extension 2413, or FTS 328–2413.

SUPPLEMENTARY INFORMATION: The

especially for electric utilities, the range in the goals (low to high case) is substantial. The new DOE preliminary coal production goals for 1990 range

Projected Production From the Powder River Region in Wyoming—Continued

Calculation of Lease Target

	Low	Medium	High
DOE preliminary 1990 produc-			

1780, that a meeting of the Safford District Advisory Council will be held January 15, 1981 at Safford, Arizona at 10:00 a.m. at the Safford District Office, 425 East 4th Street, Safford, Arizona.

Agenda for the meeting will include:

1. Winkelman Step II Multiple Use recommendations.
2. Discussion of wilderness recommendation protests.
3. New regulations pertaining to BLM.
4. Resource programs progress and schedules.

The meeting is open to the public. Interested persons may make oral statements to the council between 1:00 p.m. and 2:00 p.m. A written copy of the oral statement must be provided at the conclusion of the presentation. Written statements may also be filed for the council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the above address by January 5, 1981. Depending upon the number of persons wishing to make an oral statement, a per-person time limit may be considered.

Summary minutes of the meeting will be maintained in the district office and will be available for public inspection and reproduction (within regular business hours) within 30 days following the meeting.

Fritz U. Rennebaum,
District Manager.
November 25, 1980.
[FR Doc. 80-37585 Filed 12-3-80; 8:45 am]
BILLING CODE 4310-84-M

Multiple Use Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Multiple Use Advisory Council; Meeting rescheduled.

Notice is hereby given, in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that the meeting of the Yuma District Multiple Use Advisory Council originally scheduled for December 11 and 12, 1980 has been rescheduled to Thursday and Friday, January 8 and 9, 1981, beginning at 8 a.m. M.S.T. at the Royal Quality Inn, 2941 South Fourth Avenue, Yuma, Arizona.

The original notice of the meeting was published in the November 6, 1980 issue of the **Federal Register** on pages 73807 and 73806. All details for the meeting remain the same except for the change of date as reported in the first paragraph of this notice.

H. M. Bruce,
District Manager.
[FR Doc. 80-37519 Filed 12-3-80; 8:45 am]
BILLING CODE 4310-84-M

Wyoming and Montana; Intent To Hold Public Hearings and the Opening of a Comment Period on the Federal Coal Leasing Target for the Powder River Coal Production Region

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Public hearings and opening of a comment period.

SUMMARY: This notice advises the public that the Powder River Regional Coal Team intends to hold public hearings to receive oral and written comments in order to assist the Secretary of the Interior in the establishment of a Federal coal leasing target for the Powder River coal production region. The hearings will be held in Gillette, Wyoming, and Billings, Montana. Individuals wishing to comment orally at the public hearings are asked to provide written copies of their remarks. Oral and written comments on the leasing target will be accepted at the public hearings. Written comments should be addressed to the BLM Wyoming State Director at the address given below.

The Secretary of the Interior, as part of his announcement of a new Federal coal management program on June 4, 1979, set a tentative regional Federal leasing target of 776 million tons of in-place coal for the Powder River region with proposed lease sales to occur beginning in April 1982. Information received since June 4, 1979, has resulted in recalculation of the preliminary lease target to allow for the additional production of up to 92 million tons of coal in 1990. The final leasing target will be set by using both the public comments that result from this notice and the final DOE production goals when they become available.

DATE: Written comments will be accepted until close of business, January 26, 1981. Public hearings will be held in Billings, Montana, on December 18, 1980, and in Gillette, Wyoming, on December 23, 1980. The hearings will start at 7:00 p.m.

ADDRESS: Written comments on the proposed lease target should be addressed to Bureau of Land Management, Wyoming State Director, P.O. Box 1828, Cheyenne, Wyoming 82001. Public hearings will be held in Gillette, Wyoming, at the Holiday Inn, 2009 S. Douglas Highway, and in Billings, Montana, at the Northern Hotel.

FOR FURTHER INFORMATION CONTACT: J. Stan McKee, Powder River Project Manager, or Ron Moore, Wyoming Coal Coordinator, Bureau of Land Management (930), P.O. Box 1828, Cheyenne, Wyoming 82001, 307-778-2220, extension 2413, or FTS 328-2413.

SUPPLEMENTARY INFORMATION: The leasing target for the Powder River Region is based upon the difference between the Department of Energy's (DOE) coal production goals and the Department of the Interior's (DOI) estimate of production from mines within the region which are not dependent upon new Federal coal leasing for production.

The leasing target can be expressed in two ways, i.e., in terms of in-*place* Federal coal and in terms of *new annual production.* The Code of Federal Regulations call for expressing the target in terms of in-place coal, however, revisions being made will allow for the use of both in-place and annual production figures. The numerical calculations needed to determine in-place Federal coal are being deemphasized in favor of presenting the lease target in terms of annual production. This should make the target process more understandable and will keep the emphasis on any needed increases in production. The tracts will also be listed in terms of expected new annual production so that a comparison of proposed tracts to the target can easily be made. In-place coal tonnage figures will still be used since they are required by regulation and are used for planning, programming, and budgeting purposes.

The preliminary leasing target announced in June 1979 for the Powder River Region designated 1987 as the first year for the new competitive leases to achieve production. In other words, the 776 million ton target was based upon the DOE medium production goal for 1987. Since that time the DOI has begun reassessing the expected length of time for a new mine to begin production. The most current estimate of required lead time is approximately 90 months, or 7½ years. Since the first lease sale in the region is scheduled for April 1982, a production date of October 1989 can be expected. Considering that the sale schedule will extend past April 1982, 1990 has been selected as the goal year for production from the proposed lease tracts. The same lead time must be used for calculating both the target and the environmental impacts analyzed for the proposed lease tracts in the regional environmental statement that is to be prepared.

The coal production goals developed by DOE are provided at three levels of energy consumption growth rates, low, medium, and high. Due to the uncertainties regarding coal consumption over the next ten years, especially for electric utilities, the range in the goals (low to high case) is substantial. The new DOE preliminary coal production goals for 1990 range from a low of 185.7 million tons, a medium level of 275.2 million tons, to 438.0 million tons at the high level for annual production. DOE recommends that the leasing target be prepared within a range of values corresponding to the range between the medium level and high level production goals. Note that DOE was scheduled to release the final coal production goals by November 6, 1980. The date has been changed to sometime in December, 1980.

Recalculation of the proposed Federal coal leasing target is as follows:

1. Production estimates from all existing mines were subtracted from the 1990 DOE goal.
2. Also subtracted were the DOI estimates of production from potential mines that do not require new or additional Federal leases. These are generally existing nonproducing leases that are expected to be in production by 1990.
3. Finally, the Department of Interior subtracted production estimates of Preference Right Lease Applications (PRLA's) and PRLA related coal from DOE goals. PRLA related coal means existing Federal leases, private, and State coal expected to be produced in 1990 in conjunction with PRLA's.

Projected Production From the Powder River Region in Wyoming

	1990 (million tons)
Campbell County	
Existing mines:	
Bell Ayr	19.0
Black Thunder	20.0
Caballo	12.0
Clovis Point	4.0
Cordero	15.0
Eagle Butte	20.0
Ft. Union	1.2
Jacobs Ranch	14.0
Rawhide	24.0
Wyodak	5.0
Total existing mines	134.2
Potential Mines:	
Antelope	10.0
Buckskin	1.5
Coal Creek	10.0
East Gillette	11.0
Pronghorn	5.0
Rojo Caballos	15.0
South Rawhide	7.0
Wildcat Creek	10.0
Total potential mines	69.5
PRLA's	12.2
PRLA Related	6.2
Subtotal	222.1
Converse County	
Existing mines: Dave Johnston	3.2
PRLA's	6.8

Projected Production From the Powder River Region in Wyoming—Continued

	1990 (million tons)
PRLA Related	2.1
Subtotal	12.1
Johnson and Sheridan Counties	
Existing mines: Big Horn	4.5
Potential mines:	
Texaco Lake DeSmet	8.8
Black Mountain Mine	8.8
Duchman Mine	2.0
PSO Mine No. 1	.5
Total potential mines	11.3
PRLA's	5.1
PRLA Related	12.0
Subtotal	31.4
Total projected 1990 coal development in Wyoming portion of Powder River Region	[1] 265.6

[1] Million tons annual production.

Projected Production From the Powder River Region in Montana

	1990 (million tons)
Big Horn County	
Existing mines:	
Decker	14.6
Spring Creek	7.0
Absaloka	10.0
Total existing mines	31.6
Potential mines:	
CX-Squirrel Creek	8.0
Crow-Young Creek	8.0
Total potential mines	16.0
Subtotal	47.6
Rosebud County	
Existing Mines:	
Rosebud	19.1
Big Sky	4.2
Total existing mines	23.3
Potential Mines: Montco	8.9
Subtotal	32.3
Powder River County	
Existing mines: Coal Creek	0.3
Subtotal	.3
Total projected 1990 coal development in Montana portion of Powder River Region	[1] 80.2

[1] Million tons annual production.

Total projected 1990 production from Powder River Region not dependent on new Federal leasing:

	Million tons [1]
Wyoming	265.6
Montana	80.2
Total	345.8

[1] Million tons annual production.

Calculation of Lease Target

	Low	Medium	High
DOE preliminary 1990 production goal (million tons of annual production)	185.7	275.2	438.0
Less projected production not dependent upon new Federal leasing	−346.0	−346.0	−346.0
Shortfall in annual production (million tons)	[1]	[1]	92.0

[1] Zero.

Subtracting the projected coal production not dependent upon new Federal leasing from the preliminary 1990 DOE low, medium, and high level production goals results in an unsatisfied annual demand that ranges from 0 to 92 million tons. This estimate of shortfall in annual production is converted to coal in place by multiplying by a 30-year mine life; multiplying by 0.8, representing the average 80 percent Federal ownership of coal within the Known Recoverable Coal Resource Areas within the Powder River Region; and dividing by 0.9, representing the 90 percent recovery of coal from surface operations. The result of this calculation is a leasing target that ranges from 0 to 2,453 million tons of in-place Federal coal reserves. Based upon the DOE's final production goals, comments received from the public, and additional analytical results from the DOI studies, a final leasing target for the Powder River Region will be developed during February 1981 and will be announced by the Secretary of the Interior.

Nyles L. Humphrey,
Acting State Director.
[FR Doc. 80-37622 Filed 12-2-80; 8:45 am]
BILLING CODE 4310-84-M

Fish and Wildlife Service

Intent To Prepare a Master Plan With Environmental Impact Statement for Grays Lake National Wildlife Refuge, Idaho

November 19, 1980.

AGENCY: United States Fish and Wildlife Service.

ACTION: Notice.

SUMMARY: This notice advises the public that the Service intends to initiate a comprehensive planning process for the purpose of developing a master plan for the Grays Lake National Wildlife Refuge. As part of the plan development an Environmental Impact Statement (EIS) will be prepared. This notice is being furnished as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from

other agencies and the public on issues to be considered in the plan development. Comments and

will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969 as

Mining Plan of Operations at Denali National Monument; Notice of Availability

Dated: November 10, 1980.

Howard R. Wagner,
Acting Director, Alaska Area Office.

National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West

seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Leo Mark Anthony has filed two plans of operations in support of proposed

V 45 / 234 DEC 80 UMI

other agencies and the public on issues to be considered in the plan development. Comments and participation in this scoping process are solicited.

The Grays Lake National Wildlife Refuge was established as a unit of the National Wildlife Refuge System in 1965 and consists of 16,175 acres located in southeastern Idaho 26 miles north of Soda Springs within Bonneville and Caribou Counties. The refuge includes wetlands and uplands in and around Grays Lake.

The refuge master plan is to be a comprehensive land use plan that will set forth long-term objectives for resource management and public use of the refuge. An interdisciplinary planning team comprised of staff from the refuge, the Area Office in Boise, Idaho, and the Regional Office in Portland, Oregon, has been established to carry out the planning process. The process will include a data inventory and resource mapping phase, an analysis of land suitability to support potential uses, and evaluation of alternative ways to allocate refuge lands to potential uses in a manner consistent with the overall objectives of the National Wildlife Refuge System and the purposes for which the refuge was established.

Public involvement will be an essential component of the planning process. As a public resource management agency, the Service will make every effort to insure that attitudes, interests and desires of local, regional and national groups are considered in the planning process.

In order to obtain public input as early as possible in the planning process, a general mailing to solicit public comments will be conducted during November and December 1980. Persons, representatives of organizations and agency representatives who have suggestions regarding problems and issues that should be considered in the planning process and/or wish to be on the mailing list are invited to contact the Service by January 15, 1981. Written comments should be addressed to: Charles S. Peck, Refuge Manager, U.S. Fish and Wildlife Service, Southeast Idaho Refuge Complex, P.O. Box R, Pocatello, Idaho 33201.

DATES: Comments should be received by January 15, 1981.

FOR FURTHER INFORMATION CONTACT: Charles S. Peck, U.S. Fish and Wildlife Service, Southeast Idaho Refuge Complex, P.O. Box R, Pocatello, Idaho 33201, telephone No. (208) 236–6833 or FTS 554–6833.

The planning process and environmental review of the master plan will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969 as amended (42 CFR, Parts 1500–1508), other appropriate Federal regulations, and Service procedures for compliance with those regulations.

It is estimated that the Draft EIS will be available to the public early 1982.

Dated: November 19, 1980.

W. D. Carter,

Acting Area Manager, U.S. Fish and Wildlife Service.

[FR Doc. 80-37584 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

Mining Plan of Operations at Cape Krusenstern National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, GCO Minerals Company has filed a plan of operations in support of proposed mining operations on lands embracing a Mining Claim Group within the Cape Krusenstern National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37516 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Louise Gallop has filed a plan of operations in support of proposed mining operations on lands embracing a Mining Claim within the Denali National Monument. These plans are available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37506 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Markay E. Hamblin has filed a plan of operations in support of proposed mining operations on lands embracing a Mining Claim Group within the Denali National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37507 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Joe D. Denson has filed a plan of operations in support of proposed mining operations on lands embracing a Mining Claim Group within the Denali National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37508 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Ohio Creek Mining Corporation has filed a plan of operations in support of proposed mining operations on lands embracing a Mining Claim Group within the Denali National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37509 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Northern Lights Exploration has filed a plan of operations in support of proposed mining operations on lands embracing Mining Claim Groups within the Denali National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37510 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, David Clark has filed a plan of operations in support of proposed mining operations on lands embracing Mining Claim Groups within the Denali National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37511 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Arthur J. Schmuck has filed a plan of operations in support of proposed mining operations on lands embracing Mining Claim Group within the Denali National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37512 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Brian Bell has filed two plans of operations in support of proposed mining operations on lands embracing two Mining Claim Groups within the Denali National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37513 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Donald E. Holt has filed a plan of operations in support of proposed mining operations on lands embracing a Mining Claim Group within the Denali National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37514 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Gates of the Arctic National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Donald J. Ferguson, Sr. has filed a plan of operations in support of proposed mining operations on lands embracing a Mining Claim Group within the Gates of the Arctic National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37503 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Gates of the Arctic National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, R.M. Vostry has filed a plan of operations in support of proposed mining operations on lands embracing Mining Claim Groups within the Gates of the Arctic National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37504 Filed 12-2-80; 8:45 am]

BILLING CODE 4310-70-M

Seismographic Program Plan of Operations at Gates of the Arctic National Monument; Notice of

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

Federal Register of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under

MC 8310 (Sub-15F), filed November 19, 1980. Applicant: JEFF'S TRUCKING, INC., 408¼ Main St., Waupun, WI 53963. Representative: Jeffrey D. Zimmerman, 121 S. Pinckney St., Madison, WI 53703. Over regular routes: Transporting: Iron and steel articles, between Menominee, Dickinson County, MI, on the one hand, and, on the other, points in Menominee, Delta, Dickinson, Marquette, Schoolcraft, Iron, and Barga Counties, MI, and points in Florence County, WI. Restriction: The authority granted herein is restricted to the transportation of traffic originating at the named origins and destined to the named destinations. Note: Applicant intends to tack with its existing authority. Applicant intends to interline at Waupun, WI. Applicant intends to operate as a common carrier. Any interested person desiring to participate may file an original and six copies of his protest with the Interstate Commerce Commission, Washington, DC 20423, within 30 days after the date of notice of the filing of the application is published in the Federal Register. Failure seasonably to protest will result in waiver of right to appear generally in opposition to the authority sought. A copy must be served on the applicant, or its authorized representative, if any, at the address shown in the application. Protests must specify the facts relied upon by protestant.

MC 150101 (Sub-5F), filed November 17, 1980. Applicant: BLAZER EXPRESS, INC., Route 2, Pelham Rd., Greenville, SC 29607. Representative: Charles W. Singer, 33 North Dearborn St., Chicago, IL 60602. Over regular routes: Transporting: Iron and steel articles, between Menominee, Dickinson County, MI, on the one hand, and, on the other, points in Menominee, Delta, Dickinson, Marquette, Schoolcraft, Iron, and Barga Counties, MI, and points in Florence County, WI. Restriction: The authority granted herein is restricted to the transportation of traffic originating at the named origins and destined to the named destinations. Note: Applicant intends to tack with its existing authority. Applicant intends to interline at Waupun, WI. Applicant intends to operate as a common carrier. Any interested person desiring to participate may file an original and six copies of his protest with the Interstate Commerce Commission, Washington, DC 20423, within 30 days after the date of notice of the filing of the application is published in the Federal Register. Failure seasonably to protest will result in waiver of right to appear generally in opposition to the authority sought. A copy must be served on the applicant, or its authorized representative, if any, at the address shown in the application. Protests must specify the facts relied upon by protestant.

Seismographic Program Plan of Operations at Gates of the Arctic National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of § 952 of 36 CFR Part 9, Subpart B, Chevron U.S.A., Inc., has filed a plan of operations in support of proposed oil and gas exploration operations on lands embracing Arctic Slope Regional Corporation subsurface estate within the Gates of the Arctic National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37505 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Noatak National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Carrie M. Ferguson has filed a plan of operations in support of proposed mining operations on lands embracing a Mining Claim Group within the Noatak National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37502 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Wrangell-St. Elias National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, James S. Marchini has filed a plan of operations in support of proposed mining operations on lands embracing a Mining Claim within the Wrangell-St. Elias National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37500 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Wrangell-St. Elias National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Geneva Pacific Corporation has filed plans of operations in support of proposed mining operations on lands embracing Mining Claim Groups within the Wrangell-St. Elias National Monument. These plans are available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37501 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Yukon-Charley National Monument; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9, Au Placer, Inc., has filed a plan of operations in support of proposed mining operations on lands embracing Mining Claim Group within the Yukon-Charley National Monument. This plan is available for inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: November 10, 1980.

Howard R. Wagner,

Acting Director, Alaska Area Office.

[FR Doc. 80-37499 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note: All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Volume No. OPI-087

Decided: November 25, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton and Liberman.

MC 8310 (Sub-15F), filed November 19, 1980. Applicant: JEFF'S TRUCKING, INC., 408¼ Main St., Waupun, WI 53963. Representative: Allan B. Torhorst, 217 East Jefferson St., P.O. Box 190, Burlington, WI 53105. Transporting (1) *prefabricated buildings* and *parts* for prefabricated buildings, (2) *fixtures*, and (3) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, between points in Dodge County, WI, on the one hand, and, on the other, points in MN, IL, MI, IA, OH, MO, and IN.

MC 11220 (Sub-228F), filed November 19, 1980. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Transporting *general commodities* (except household goods as defined by the Commission and classes A and B explosives), between points in Anoka and Hennepin Counties, MN, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic originating at or destined to the facilities used by Federal Cartridge Corporation or Hoffman Engineering Company, a division of Federal Cartridge Corporation.

MC 35831 (Sub-25F), filed November 6, 1980. Applicant: E. A. HOLDER, INC., P.O. Box 69, Kennedale, TX 76060. Reresentative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Transportating *building materials, lumber, and wood products*, (a) between points in TX, and (b) between points in TX, on the one hand, and, on the other, points in AR, OK, and LA.

MC 106920 (Sub-116F), filed November 19, 1980. Applicant: RIGGS FOOD EXPRESS, INC., West Monroe St., P.O. Box 26, New Bremen, OH 45869. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th St., NW., Washington, DC 20001. Transporting (1) *foodstuffs* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk), between Archbold, OH, on the one hand, and, on the other, those points in the U.S. in and east of MT, WY, CO, and NM, restricted to traffic originating at or destined to the facilities of Beatrice Frozen Specialties, Division of Beatrice Foods Co.

MC 114070 (Sub-6F), filed November 14, 1980. Applicant: WAGONER TRANSPORTATION CO., a corporation, 755 East Hackley Ave., Muskegon Heights, MI 49444. Representative: W. Scott Wagoner (same address as applicant). Transporting *petroleum products*, in bulk, from points in Brown County, WI, to points in Menominee, Delta, Dickinson, Marquette, Schoolcraft, Iron, and Barga Counties, MI.

MC 115771 (Sub-15F), filed November 18, 1980. Applicant: SEAWHEELS, INC., P.O. Box 610, Carlisle, PA 17013. Representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. Transporting *general commodities* (except household goods as defined by the Commission, commodities of unusual value, and classes A and B explosives), between points in AL, CA, CT, DE, FL, GA, LA, ME, MD, MA, MS, NH, NJ, NY, NC, OR, PA, RI, SC, TX, VA, and WA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 123601 (Sub-4F), filed November 19, 1980. Applicant: E & F TRUCKING, INC., R.D. 3, Denver, PA 17517. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. Transporting *confectionery*, in vehicles equipped with mechanical refrigeration, from points in Berks County, PA, to points in CA, TX, CO, UT, AZ, NV, OR and WA.

MC 124821 (Sub-110F), filed November 18, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: Daniel W. Krane, Box 628, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Transporting (1) *closures* for food containers, and (2) *materials and supplies* used in the manufacture of the commodities in (1) above, between Chicago, IL, on the one hand, and, on the other, Hazleton and North East, PA.

MC 143501 (Sub-7F), filed November 18, 1980. Applicant: R.G.C. CARGO CARRIERS, INC., 16651 S. Vincennes Rd., S. Holland, IL 60473. Representative: Dean N. Wolfe, Suite 145, 4 Professional Dr., Gaithersburg, MD 20760. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of chemicals and plastic (except commodities in bulk), between points in the U.S., under continuing contract(s) with Amoco Chemicals Corporation, of Chicago, IL.

MC 145441 (Sub-124F), filed November 20, 1980. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: Ralph E. Bradbury (same address as applicant). Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between the facilities of Dow-Corning Corporation, at points in the U.S., on the one hand, and, on the other, points in the U.S.

MC 150101 (Sub-5F), filed November 17, 1980. Applicant: BLAZER EXPRESS, INC., Route 2, Pelham Rd., Greenville, SC 29607. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting (1) *adhesives, liquid chemicals, washing compounds, and liquid latex* (except in bulk), and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract (s) with Para-Chem Southern, Inc., of Simpsonville, SC.

MC 151511 (Sub-1F), filed November 12, 1980. Applicant: TOM O'CONNOR, d.b.a. KERRY MOTOR SERVICE, 4433 South Halsted St., Chicago, IL 60609. Representative: Dennis W. Thorn, 100 No. LaSalle St., Suite 2510, Chicago, IL 60602. Transporting (1) *foodstuffs*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs (except commodities in bulk), between Chicago, IL, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, VT, VA, WV, WI, and DC.

MC 152231F, filed October 15, 1980. Applicant: EME TRANSPORT CORP., 214 Westervelt Ave., Hawthorne, NJ 07506. Representative: Harold L. Reckson, 33–28 Halsey Rd., Fair Lawn, NJ 07410. Transporting (1) *paperboard*, beween New York, NY, on the one hand, on the other, points in AR, CT, FL, GA, IL, IN, MA, MI, MO, NY, OH, PA, and VA, (2) *paper, paper products, and magnetic tape*, and (3) *materials, equipment, and supplies* used in the manufacture of the commodities in (2) above, between Austin, TX, Cincinnati, OH, High Point, NC, Hudson, NH, Lakeland, FL, Memphis, TN, Riverton, NJ, San Leandro and Santa Fe Springs, CA, and Wheeling, IL, on the one hand, and, on the other, points in the U.S.

Volume No. OPI-089

Decided: Nov. 25, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 59640 (Sub-86F), filed November 13, 1980. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, NJ 07016. Representative: Michael A. Beam (same address as applicant). Transporting *general commodities* (except those of unusual value, explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the U.S., under continuing contract(s) with American Cyanamid Company, of

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Wayne, NJ, and Shulton, Inc., of Clifton, NJ.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-37541 Filed 12-2-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Permanent Authority Decisions

The following applications, filed on or after July 3, 1980, are governed by Special Rule 247 of the Commission's Rules of Practice, see 49 CFR 1100.247. Special rule 247 was published in the **Federal Register** on July 3, 1980, at 45 FR 45539.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.247(B). Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service and to comply with the appropriate statutes and Commission regulations. A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, fitness, water carrier dual operations, or jurisdictional question) we find, preliminarily, that each applicant has demonstrated its proposed service warrants a grant of the application under the governing section of the Interstate Commerce Act. Each applicant is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests in the form of verified statements filed within 45 days of publication of this decision-notice (or, if the application later becomes unopposed) appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notice that the decision-notice is effective. Within 60 days after publication an applicant may file a verified statement in rebutal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless note otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Volume No. OP1-068

Decided: November 25, 1980.

By the Commission, Review Board Number 2. Members Chandler, Eaton, and Liberman.

MC 75840 (Sub-1F), filed November 13, 1980. Applicant: MALONE FREIGHT LINES, INC., 3400 Third Avenue, South, PO Box 11103, Birmingham, AL 35202. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., PO Box 1240, Arlington, VA 22210. As a *Broker*, in arranging for the transportation of *general commodities* (except household goods), between points in the U.S.

Volume No. OP2-102

Decided: November 20, 1980.

By the Commission, Review Board Number 2. Members Chandler, Eaton, and Liberman, Member Eaton not participating.

MC 106813 (Sub-4F), filed November 7, 1980. Applicant: D & DELIVERY SERVICE., 230 N. 10th St., Philadelphia, PA 19107. Representative: Alan Kahn, 1430 Land Title Bldg., Philadelphia, PA 19110. Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 134922 (Sub-339F), filed November 13, 1980. Applicant: B. J. McADAMS, INC., Rte. 6, Box 15, North Little Rock, AR 72118. Representative: Diane Price (same address as applicant). Transporting *shipments weighing 100 pounds or less*, if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

MC 150883 (Sub-1F), filed November 3, 1980. Applicant: WALTER BENSON, d.b.a. WALTRANS, 425 West "E" St., Ontario, CA 91762. Representative: Walt Benson (same address as applicant). Transporting *foodstuffs*, from points in Los Angeles and Orange Counties, CA, to points in AZ, OR and WA.

MC 152633F, filed November 13, 1980. Applicant: KENNETH RAY LAMINACK & DANIEL LEON LIPPINCOTT, a partnership, D.B.A. BIG "L" TRUCKING, 423 S.E. Horgan Dr., Gresham, OR 97030. Representative: Lawrence Marquette, P. O. Box 711, Pebble Beach, CA 93953. Transporting *food or other edible products* (including edible byproducts but excluding alcoholic beverages and drugs) intended for human consumption, *agricultural limestone and other soil conditioners, and agricultural fertilizers*, if such transportation is provided with the owner of the motor vehicle in such vehicle, except in emergency situations, between points in the U.S.

Volume No. OP2-104

Decided: November 20, 1980.

By the Commission, Review Board Number 2, Members Chandler, Eaton, and Liberman. Member Eaton not participating.

MC 111732 (Sub-5F), filed November 13, 1980. Applicant: GENERAL TRANSPORTATION, INC., 208 Gansett Avenue, Cranston, RI 02910. Representative: Mark D. Russell, Suite 348, Pennsylvaniva Bldg., 425 13th Street NW., Washington, DC 20004. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), for the United States Government, between points in the U.S.

MC 134922 (Sub-338F), filed November 13, 1980. Applicant: BOB McADAMS, Rte. 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). As a *broker*, to arrange for the transportation of *general commodities* (except household goods), between points in the U.S.

MC 152642F, filed November 13, 1980. Applicant: FRANK T. OSOWIECKY, JR., d.b.a. FALD LEASING, RD No. 1, Box 198, Averill Park, NY 12018. Representative: Michael A. Wargula, Esq., 2550 Main Place Tower, Buffalo, NY 14202. Transporting *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions) for the U.S. Government, between points in the U.S. (including AK and HI).

Agatha L. Mergenovich,
Secretary.

[FR DOc. 80-37538 Filed 12-2-80; 8:45 am]
BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with

the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-16

The following applications were filed in Region 3.

Send protests to ICC, Regional Authority Center, P.O. Box 7600, Atlanta, GA 30357.

MC 152185 (Sub-3-1TA), filed October 24, 1980. Republication—Originally published in **Federal Register** of November 10, 1980, page 74592, volume 45, No. 219. Applicant: MAKO MARINE, INC., 4355 NW 128th St., Miami, FL 33054. Representative: Gerard J. Donovan, 4791 SW 82nd Ave., Davie, FL 33328. *Boats*, between all points and places in the following states: AL, CT, DE, FL, GA, IN, LA, ME, MD, MA, MI, MS, NJ, NY, NC, OH, PA, RI, SC, TX, and WI. Supporting shippers: There are 20 statements of support which may be examined at the ICC Regional Office, Atlanta, GA.

MC 144069 (Sub-3-14TA), filed November 20, 1980. Applicant: FREIGHTWAYS, INC., P.O. Box 5204, Charlotte, N.C. 28225. Representative: W. T. Trowbridge (Same address as applicant). *Iron and steel articles* between York County SC on the one hand, and on the other, points in an east of MS, TN, KY, IL, and WI. Supporting shipper: Carolina Rebar Inc. P.O. Box 67, Catawba, SC 29704.

MC 152544 (Sub-3-3TA), filed November 20, 1980. Applicant: CYPRESS TRUCK LINES, INC., 1746 East Adams Street, Jacksonville, FL 32202. Representative: Sol H. Proctor, 1101 Blacksone Building, Jacksonville, FL 32202. *Rum, in bulk*, from Jacksonville, FL to Paducah, KY, having a prior movement by water. Supporting shipper: Southeast Carrier Corporation, 401 Bryan Street, Jacksonville, FL 32202.

MC 150211 (Sub-3-10TA), filed November 19, 1980. Applicant: ASAP EXPRESS, INC., P.O. Box 3250, Jackson, TN 38301. Representative: Jerry Ross (address same as applicant). *General commodities, (except Class A and B explosives, commodities in bulk, household goods, and commodities which because of size or weight require the use of special equipment)* between the facilities of Weber Costello Company at or near Jackson, TN on the one hand, and, on the other, points in AL and GA. Supporting shipper: Weber Costello Company, 1035 Bendix Drive, Jackson, TN 38301.

MC 152056 (Sub-3-2TA), filed November 19, 1980. Applicant: RHETT BUTLER TRUCKING, INC., Route 6, Box 83, Andalusia, AL 36420. Representative: Maurice F. Bishop, 603 Frank Nelson Building, Birmingham, AL 35203. *(1) Non-exempt food or kindred products and materials, supplies and ingredients used in the manufacture of non-exempt food or kindred products*, between Morgan County, IL, on the one hand, and, on the other, points in AL, FL, GA, KY, LA, MS, NC, SC, TN and TX; *(2) Non-exempt farm products*, between points in AR, GA, MS, NC, SC, IL, and FL, on the one hand, and, on the other, Houston, Geneva, Covington, Escambia, Conecuh, Butler, Coffee, Dale, Henry, Barbour, Pike, Crenshaw, Bullock, Lowndes, Montgomery, Macon, Russell, and Clarke Counties, AL. Supporting shippers; Anderson Clayton Foods, Div. of Anderson Clayton & Co., P.O. Box 226165, Dallas, TX 75266; Butler Seed & Feed Co., P.O. Box 45, Andalusia, AL 36420; Dothan Seed Supply Co., 126 Columbia Hwy, Dothan, AL 36302; Elba Feed Company, P.O. Box 503, Elba, AL 36323.

MC 2900 (Sub-3-21TA), filed October 23, 1980. Republication—originally published in **Federal Register** of November 10, 1980, page 74589, volume 45, No. 219. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, FL 32209. Representative: S. E. Somers, Jr. (same as address as applicant). (A) *Adhesives, Furniture, Foodstuffs, and Glassware* between Denver, CO; Chicago, IL; Minneapolis, MN; Kansas City, MO; Omaha, NE; Oklahoma City, OK; Dallas TX; Houston, TX; and Cheyenne, WY; on the one hand, and on the other, points in the states of AZ, CA, ID, NV, OR , UT, and WA; (B) *Cleaning Compounds, Feed or Feed Supplements, Foodstuffs, and Petroleum Products* between the states of AZ, CA, CO, ID, NV, OR, UT, and WA. Supporting shippers: Pepperidge Farm, Inc., 595 Westport Ave., Norwalk, CT 06856; Metropolitan Distribution Centers, Inc., 1340 E. Sixth St., Los Angeles, CA 90021; Wilson Foods Corp., 4545 Lincoln Blvd., Oklahoma City, OK 73105. Note: Applicant intends to tack with existing authority MC-2900.

MC 145506 (Sub-3-1TA), filed November 21, 1980. Applicant: ODOM TRUCKING CO., INC., Route 4, Box 165, Eufaula, AL 36027. Representative: William K. Martin, Capell, Howard, Knabe & Cobbs, P.A., P.O. Box 2069, Montgomery, AL 36197. *Meat, meat products, meat byproducts and articles distributed by meatpacking houses as described in Sections A and C of Appendix 1 to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and skins and commodities in bulk)*, from the facilities utilized by Duffey Foods, Inc., at or near Sylacauga, AL, to all points in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: Duffey Foods, Inc., P.O. Box 828, Sylacauga, AL 35150.

MC 109891 (Sub-3-1TA), filed November 18, 1980. Applicant: INFINGER TRANSPORTATION COMPANY, INC., P.O. Box 70698, 2811 Carner Ave., Charleston Heights, SC 29405. Representative: Frank B. Hand, Jr., 521 South Cameron Street, Winchester, VA 22601. *Malt Beverages and Commodities used in the sale and distribution of Malt Beverages*, Between Winston-Salem, NC, on the one hand, and, on the other, points in Beaufort and Berkeley Counties, SC. Supporting shipper: Henry J. Lee Distributors, Inc., 5802 N. Rhett Ave., Hanahan, SC 29410.

MC 126736 (Sub-3-6TA), filed November 20, 1980. Applicant: FLORIDA ROCK & TANK LINES, INC., 155 East 21st St., Jacksonville, Florida 32204. Representative: L. H. Blow, 155 East 21st St., Jacksonville, Florida 32201. *Lime, in bulk, in tank vehicles (pneumatic)*, from Shelby County, AL., to points in Tampa, Indiantown, and Baldwin, FL.

MC 152309 (Sub-3-1TA), filed November 18, 1980. Applicant:

CRYSTAL FREIGHT LINES, 3928 Montclair Road, Suite 218, Mountain Brook, AL. Representative: Carl McBride (same address as applicant). *Iron and steel articles* between Memphis, TN 38137. *General commodities, (except Classes A and B explosives, household goods as defined* Francisco, CA; Albuquerque, NM; Raleigh, NC; Portland, OR; Spartanburg, SC; El Paso, Houston, TX; under

371, Romulus, MI 48174. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080.

MC 112239 (Sub-4-2TA), filed Foam Products Co., 1005 McKinley Avenue, Belvidere, IL 61008.

or near Nekoosa, Port Edwards, and Stevens Point, WI to points in FL and TX. An underlying ETA seeks 120 days

CRYSTAL FREIGHT LINES, 3928 Montclair Road, Suite 218, Mountain Brook, AL. Representative: Carl McBride (address same as applicant). *Paints, stain, varnish, and materials, equipment and supplies used in the manufacture of the above named items,* between Memphis, TN on the one hand, and points in AL, AR, GA, TX, MS, LA, MO, KS, and FL on the other. Supporting shipper: United Coating, Inc., 1655 Panama, Memphis, TN 38126.

MC 31675 (Sub-3–26TA), filed November 20, 1980. Applicant: NORTHERN FREIGHT LINES, INC., P.O. Box 34303, Charlotte, NC 28234. Representative: Jay R. Hanson (same as above). *Iron or Steel Articles* between Georgetown County, SC and points and places in and east of TX, AR, MO, IA, and MN. Supporting shipper(s): Andrews Wire, Div. Georgetown Steel, P.O. Box 3, Andrews, SC 29510.

MC 126305 (Sub-3–11TA), filed November 21, 1980. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., RFD 1 Box 18, Clayton, AL 36016. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Iron and Steel,* between the facilities of Industrial Steel located at or near Niles and Youngstown, Ohio, and those points in the United States in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: Industrial Steel, P.O. Box 117, Youngstown, Ohio 44501.

MC 12855 (Sub-3–13TA) filed November 19, 1980. Applicant: MEAT DISPATCH, INC., P.O. Box 1058, Palmetto, Fl 33561. Representative: William L. Beasley (same as above). *Contract carrier:* irregular routes: *General commodities, (except those commodities of unusual value, harzardous materials or Class A and Class B explosives),* between points in the United States (except Alaska and Hawaii), under continuing contract(s) with Delaware Valley Shippers Assoc., of Bristol, Pa. Supporting shipper: Delaware Valley Shippers Assoc., Inc., 2209 E. Farragut Ave., Bristol, Pa. 19007.

MC 152752 (Sub-3–1TA), filed November 18, 1980. Applicant: GEORGIA WESTERN, INC., P.O. Box 1964, Dalton, GA 30720. Representative: M. C. Ellis, Practitioner, Chattanooga Freight Bureau, Inc., 1001 Market Street, Chattanooga, TN 37402. *Contract:* irregular, (1) *such commodities as are dealt in or used by manufacturers of floor coverings* and (2) *materials and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles),* between Chickamauga, Dalton, Fitzgerald, Resaca, Tifton, GA; Phoenix, AZ; Los Angeles, San Francisco, CA; Albuquerque, NM; Raleigh, NC; Portland, OR; Spartanburg, SC; El Paso, Houston, TX; under continuing contract(s) with (a) Colordyne, Inc., Dalton, GA; (b) Cavalier Carpets, Inc., Dalton, GA; (c) Lancer Enterprises, Inc., Dalton, GA; (d) Modern Fibers, Inc., Calhoun, GA; (e) Synthetic Industries, Inc., Chickamauga, GA; (f) Texture-Tex, Inc., Dalton, GA. Supporting shippers: There are 6 statements of support attached to this application which may be examined at the ICC Regional Office in Atlanta, GA.

MC 140389 (Sub-3–19TA) filed November 18, 1980. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 304, Conley, GA 30027. *General Commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* form the facilities of Can Go Shippers Warehouse, Seattle, WA, to points in CO, ID, MT, OR, VT, WA, and WY. Supporting shipper(s): Can Go Shippers Warehouse, 1701 First Avenue, South, Seattle, WA.

MC 109891 (Sub-3–2TA), filed November 19, 1980. Applicant: INFINGER TRANSPORTATION COMPANY, INC., P.O. Box 70698, 2811 Carner Avenue, Charleston Heights, SC 29405. Representative: Frank B. Hand, Jr., 521 South Cameron Street, Winchester, Virginnia 22601. *Ethanol (alcohol derived from agricultural products) in bulk, in tank trucks:* From Charleston, SC; North Augusta, SC; Savannah, GA and Jacksonville, FL to points in Alabama, Florida, Georgia, South Carolina, North Carolina and Virgina. Supporting shipper: Phillips Petroleum Company, 844 Adams Building, Bartlesville, OK 74004.

MC 143059 (Sub-3–26TA), filed November 21, 1980. Applicant: MERCER TRANSPORTATION CO., P.O. Box 35610, Louisville, Kentucky 40232. Representative: Janice K. Taylor (same as applicant). (1) *Primary Metal Products,* (2) *Fabricated Metal Products,* and (3) *Machinery or supplies,* between points in Clark County, NV; CA, IL, OR, PA, and TX, on the one hand, and points in and west of ND, SD, OK, KS, NE and TX, on the other. Supporting shipper: Aksarben, Inc., 3110 Westwood Drive Las Vegas, NV 39109.

MC 67866 (Sub-3–1TA), filed November 20, 1980. Applicant: FILM TRANSIT, INC., 2931 Homewood Rd., Memphis, TN 38118. Representative: Warren A. Goff, 2008 Clark Tower, Memphis, TN 38137. *General commodities, (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk),* between Lilbourn, MO, points in LA, AR, MS, those in KY, on and west of a line beginning at the IL–KY state line and extending along U.S. Hwy. 68 to junction U.S. Hwy. 641, then along U.S. Hwy. 641 to the KY–TN state line, those in TN, on and west of a line beginning at the KY–TN state line and extending along U.S. Hwy. 31W to Nashville, then along U.S. Hwy. 31 to Columbia, then along U.S. Hwy. 50 to Lewisburg, then along U.S. Hwy. 431 to the TN–AL state line, those in AL (1) on, west, and north of a line beginning at the TN–AL state line and extending along AL Hwy. 17 to Hamilton, then over U.S. Hwy. 78 to the AL–MS state line and (2) on and south of a line extending from the MS–AL state line over U.S. Hwy. 45 to Mobile, AL, then over Interstate Hwy. 10 to the AL–FL state line, those points in FL, on and south of a line beginning at the AL–FL state line, and extending over Interstate Hwy. 10 to Pensacola, FL those in MO, on and south of a line beginning at the AR–MO state line and extending along U.S. Hwy. 62 to New Madrid and the MS River, those in OK on and east of a line beginning at the OK–TX state line and extending along U.S. Hwy. 277 to junction U.S. Hwy. 81, then north along U.S. Hwy. 81 to the OK–KA state line, restricted against the transportation of (1) any package or article weighing more than 100 pounds, or exceeding 110 inches in length or 150 inches in length and girth combined, and (2) packages or articles weighing in the aggregate more than 500 pounds from one consignor to one consignee on any one day. Supporting shipper: There are 60 statements in support to this application which may be examined at the ICC Regional Office in Atlanta, GA. Applicant intends to interline at Texarkana, TX. Note: Applicant now holds authority throughout the area here sought to transport shipments which do not exceed 200 pounds a day from one consignor to one consignee, and in which no single piece exceeds 70 pounds or 96 inches in length, or 150 inches in length and girth combined. The only additional authority here sought is in the size and weight limits stated above.

The following protests were filed in Region 4. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 219 South Dearborn Street, Room 1304; Chicago, IL 60604.

MC 149052 (Sub-4–1TA), filed November 18, 1980. Applicant: FIRST FLIGHT AIR CHARTER, INC., P.O. Box

371, Romulus, MI 48174. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *General commodities* between Detroit Metropolitan Airport, Romulus, MI; Willow Run Airport, Ypsilanti, MI; Toledo Express Airport, Toledo, OH; Greater Pittsburgh Airport, Pittsburgh, PA; Cleveland Hopkins Airport, Cleveland, OH; and Detroit City Airport, Detroit, MI. There are seven shippers supporting this application

MC 143002 (Sub-4–14TA), filed November 18, 1980. Applicant: C.D.B., INC., 155 Spaulding, S.E., Grand Rapids, MI 49506. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Contract; irregular—*General Commodities* between points and places in the United States except AK and HI under contract to Replas, Inc. a subsidiary of Ferro Corp., Supporting Shipper: Replas, Inc., 5001 O'Hara Drive, Evansville, IN 47711.

MC 143032 (Sub-4–3TA), filed November 18, 1980. Applicant: WALCO TRANSPORT, 3112 Truck Center Drive, Duluth, MN 55806. Representative: William J. Gambucci, Suite M–20, 400 Marquette Ave., Minneapolis, MN 55401. *Lime, calcium chloride, salt and cement,* (1) from Douglas County, WI, to points in MN and ND, and (2) from St. Louis County, MN to points in WI and ND. An underlying ETA seeks 120 day authority. Supporting Shipper: Cutler-Magner Company, 12th Ave. West and Waterfront, Duluth, MN 55802.

MC 133189 (Sub-4–8TA), filed November 14, 1980. Applicant: VANT TRANSFER, INC., 1257 Osborne Road, Minneapolis, MN 55432. Representative: John B. Van de North, Jr., 2200 First National Bank Building, St. Paul, MN 55101. *Epoxy resins, varnishes, silicon, electrical tape, wire and electrical supplies,* between points in the U.S. Supporting shipper: The Bergquist Co., Inc., 5300 Edina Industrial Boulevard, Edina, Mn 55435.

MC 142059 (Sub-4–11TA), filed November 14, 1980. Applicant: CARDINAL TRANSPORT, INC., P.O. Box 911, Joliet, IL 60434. Representative: Jack Riley (Same address as applicant). *Brass and copper billets* from Kenosha, WI to Ansonia, Ct. Supporting shipper, Ananconda Industries, 1420 63rd Street, Kenosha, Wisconsin 53140.

MC 142059 (Sub-4–10TA), filed November 14, 1980. Applicant: CARDINAL TRANSPORT, INC., P.O. Box 911, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). *Prepared Composition roofing* from Belvidere, IL to points in the U.S. (except AK and HI). Supporting shipper: Apache Foam Products Co., 1005 McKinley Avenue, Belvidere, IL 61008.

MC 112239 (Sub-4–2TA), filed November 14, 1980. Applicant: LOGAN TRUCKING, INC, Prairie Hill Road, P.O. Box 41, South Beloit, IL 61080. Representative: Donald S. Mullins, 1033 Graceland Ave., DesPlaines, IL 60016. *Concrete products,* from South Beloit, IL, to Broken Arrow, OK. Supporting shipper: Interpace Corporation, Prairie Hill Road, South Beloit, IL 61080.

MC 112049 (Sub-4–4TA), filed November 14, 1980. Applicant: MC BRIDE'S EXPRESS, INC., East Route 316, Mattoon, IL 61938. Representative: Michael R. Solomon, 433 Thatcher Ave., St. Louis, [illegible]3147. *Common,* regular; *General commodities, with the usual exceptions,* from St. Louis, MO to IL Hwy 3, then over IL Hwy 3 to the junction of IL Hwy 13, then over IL Hwy 13 to Shawneetown IL, and return over the same route; serving all intermediate points and points in St. Clair, Monroe, Clinton, Jefferson, Wayne, Edwards, Wabash, Lawrence, White, Hamilton, Franklin, Washington, Randolph, Perry, Macoupin, Williamson, Saline, Gallatin, Union, Johnson, Pope, Hardin, Alexander, Pulaski, and Massac Counties, IL as off-route points. An underlying ETA seeks 120 days authority. Supporting shipper(s): There are 15 supporting shippers.

MC 141889 (Sub-4–4TA), filed November 14, 1980. Applicant: RONALD DEBOER d.b.a. RON DEBOER TRUCKING, Route 1, Box 82, Sherry Station, Milladore, WI 54454. Representative: Michael J. Wyngaard. 150 East Gilman Street, Madison, WI 53703. (1) *Sewing machine furniture* from Stevens Point, WI to AR, OH, KS, IL, GA, MI and MN; and (2) *particle board* from Albany, OR to Stevens Point, WI. Underlying ETA seeks 120 days authority. Supporting shipper: Sirco Manufacturing, a subsidiary of Bas Corp., 2500 Hoover Road, Route 6, Box 415, Stevens Point, WI 54421.

MC 141689 (Sub-4–3TA), filed November 14, 1980. Applicant: RONALD DEBOER d.b.a. RON DEBOER TRUCKING, Route 1, Box 82, Sherry Station, Milladore, WI 54454. Representative: Michael J. Wyngaard. 150 East Gilman Street, Madison, WI 53703. *Such commodities as are manufactured, processed, sold, used, distributed or dealt in by manufacturers, converters and printers of paper and paper products* (except commodities in bulk) (a) from the facilities of Consolidated Papers, Inc., at or near Stevens Point and Wisconsin Rapids, WI to points in FL and TX; and (b) from the facilities of Nekoosa Papers Inc. at or near Nekoosa, Port Edwards, and Stevens Point, WI to points in FL and TX. An underlying ETA seeks 120 days authority. Supporting shippers: Consolidated Papers, Inc., Wisconsin Rapids, WI 54494; and Nekoosa Papers Inc., Port Edwards, WI 54469.

MC 110420 (Sub-4–10TA), filed November 14, 1980. Applicant: QUALITY CARRIERS, INC., 100 Waukegan Road, P.O. Box 1000, Lake Bluff, IL 60044. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW, Washington, DC 20004. *Liquid Resins,* in bulk, in tank vehicles, from Burlington, IA to points in AR, IL, IN, KS, KY, LA, MI, MN, MO, MS, NE, ND, NY, OH, OK, PA, SD, TN, TX, VA, WV, and WI. An underlying ETA seeks authority for 90 days. Supporting Shipper: Freeman Chemical Corp., 222 E. Main St., Port Washington, WI 53074

MC 139667 (Sub-4–2TA), filed November 17, 1980. Applicant: CHARLES SCHMIDT, JR. d.b.a. C. SCHMIDT TRUCKING COMPANY, INC., 906 Meadow Lane, Salem, IL 62881. Representative: Brenda Schmidt (Same address as applicant). *Automotive parts and articles used in the production thereof,* between Kansas City, MO, Dallas, TX, Chicago, IL, Memphis, TN, Columbus, OH, Atlanta, GA, Piscataway, NJ, St. Louis, MO, Boaz, AL, Florence, KY, Cleveland, OH, Milwaukee, WI, Sterling Heights, MI. Supporting Shipper: Wagner Electric Corporation, 6400 Plymouth Ave., St. Louis, MO 63133.

MC 124078 (Sub-4–45TA), filed November 10, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1801, Milwaukee, WI 53201. *Juices, juice concentrates, drink concentrates, flavoring oils, D'Limonene, propylene glycol, food stuffs, fruit and vegetable products and by-products, in bulk.* Between Coweta County, GA, on the one hand, and points in the United States, on the other. Supporting Shipper: Nature's Best Food Products, Inc. 50 Amlajack Blvd., Shenandoah, GA 30265.

MC 144030 (Sub-4–4TA), filed November 11, 1980. Applicant: DRUE CHRISMAN, INC., P.O. Box 264, Lawrenceburg, IN 47025. Representative: Paul J. Snodgrass, P.O. Box 264, Lawrenceburg, IN 47025. Contract, Irregular, *Materials, Supplies, and Equipment used in the manufacture and distribution of overhead doors;* to, from or between: Covington, KY, Shelbyville, IN, Athens, GA, Grand Island, NE, Cortland, NY, Lewiston, PA, Hartford City, IN, and Cincinnati, OH. Overhead

Door Corp., 6750 LBJ, Freeway Suite 1200, P.O. Box 400150, Dallas, TX.

MC 145742 (Sub-4–1TA), filed November 13, 1980. Applicant: ROLES TRANSPORTATION, INC., 1200 Commerce Drive, Richardson, TX 75081. Representative: Jack R. Davis, 1200 Commerce Drive, Richardson, TX 75081. *Contract carrier:* irregular routes: *Such commodities as are dealt in or used by manufacturers of floor coverings* and *materials and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles),* between Chickamauga, Dalton, Fitzgerald, Resaca, Tifton, GA; Phoenix, AZ; Los Angeles, San Cucamonga, CA. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Chicago Metallic Corporation, 4849 South Austin Avenue, Chicago, IL 60638.

MC 145743 (Sub-4–1TA), filed November 13, 1980. Applicant: ROLES TRANSPORTATION, INC., 1200 Commerce Drive, Richardson, TX 75081. Representative: Jack R. Davis, 1200 Commerce Drive, Richardson, TX 75081. *Contract carrier:* irregular routes: *Such commodities as are dealt in or used by manufacturers of floor coverings* and *materials and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles),* between Chickamauga, Dalton, Fitzgerald, Resaca, Tifton, GA; Phoenix, AZ; Los Angeles, San Cucamonga, CA. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Chicago Metallic Corporation, 4849 South Austin Avenue, Chicago, IL 60638.

MC 145744 (Sub-4–1TA), filed November 13, 1980. Applicant: ROLES TRANSPORTATION, INC., 1200 Commerce Drive, Richardson, TX 75081. Representative: Jack R. Davis, 1200 Commerce Drive, Richardson, TX 75081. *Contract carrier:* irregular routes: *Such commodities as are dealt in or used by manufacturers of floor coverings* and *materials and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles),* between Chickamauga, Dalton, Fitzgerald, Resaca, Tifton, GA; Phoenix, AZ; Los Angeles, San Cucamonga, CA. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Chicago Metallic Corporation, 4849 South Austin Avenue, Chicago, IL 60638.

MC 145745 (Sub-4–1TA), filed November 13, 1980. Applicant: ROLES TRANSPORTATION, INC., 1200 Commerce Drive, Richardson, TX 75081. Representative: Jack R. Davis, 1200 Commerce Drive, Richardson, TX 75081. *Contract carrier:* irregular routes: *Such commodities as are dealt in or used by manufacturers of floor coverings* and *materials and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles),* between Chickamauga, Dalton, Fitzgerald, Resaca, Tifton, GA; Phoenix, AZ; Los Angeles, San Cucamonga, CA. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Chicago Metallic Corporation, 4849 South Austin Avenue, Chicago, IL 60638.

MC 145746 (Sub-4–1TA), filed November 13, 1980. Applicant: ROLES TRANSPORTATION, INC., 1200 Commerce Drive, Richardson, TX 75081. Representative: Jack R. Davis, 1200 Commerce Drive, Richardson, TX 75081. *Contract carrier:* irregular routes: *Such commodities as are dealt in or used by manufacturers of floor coverings* and *materials and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles),* between Chickamauga, Dalton, Fitzgerald, Resaca, Tifton, GA; Phoenix, AZ; Los Angeles, San Cucamonga, CA. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Chicago Metallic Corporation, 4849 South Austin Avenue, Chicago, IL 60638.

MC 145747 (Sub-4–1TA), filed November 13, 1980. Applicant: ROLES TRANSPORTATION, INC., 1200 Commerce Drive, Richardson, TX 75081. Representative: Jack R. Davis, 1200 Commerce Drive, Richardson, TX 75081. *Contract carrier:* irregular routes: *Such commodities as are dealt in or used by manufacturers of floor coverings* and *materials and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles),* between Chickamauga, Dalton, Fitzgerald, Resaca, Tifton, GA; Phoenix, AZ; Los Angeles, San Cucamonga, CA. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Chicago Metallic Corporation, 4849 South Austin Avenue, Chicago, IL 60638.

MC 145748 (Sub-4–1TA), filed November 13, 1980. Applicant: ROLES TRANSPORTATION, INC., 1200 Commerce Drive, Richardson, TX 75081. Representative: Jack R. Davis, 1200 Commerce Drive, Richardson, TX 75081. *Contract carrier:* irregular routes: *Such commodities as are dealt in or used by manufacturers of floor coverings* and *materials and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles),* between Chickamauga, Dalton, Fitzgerald, Resaca, Tifton, GA; Phoenix, AZ; Los Angeles, San Cucamonga, CA. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Chicago Metallic Corporation, 4849 South Austin Avenue, Chicago, IL 60638.

MC 145749 (Sub-4–1TA), filed November 13, 1980. Applicant: ROLES TRANSPORTATION, INC., 1200 Commerce Drive, Richardson, TX 75081. Representative: Jack R. Davis, 1200 Commerce Drive, Richardson, TX 75081. *Contract carrier:* irregular routes: *Such commodities as are dealt in or used by manufacturers of floor coverings* and *materials and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles),* between Chickamauga, Dalton, Fitzgerald, Resaca, Tifton, GA; Phoenix, AZ; Los Angeles, San Cucamonga, CA. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Chicago Metallic Corporation, 4849 South Austin Avenue, Chicago, IL 60638.

MC 145750 (Sub-4–1TA), filed November 13, 1980. Applicant: ROLES TRANSPORTATION, INC., 1200 Commerce Drive, Richardson, TX 75081. Representative: Jack R. Davis, 1200 Commerce Drive, Richardson, TX 75081. *Contract carrier:* irregular routes: *Such commodities as are dealt in or used by manufacturers of floor coverings* and *materials and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles),* between Chickamauga, Dalton, Fitzgerald, Resaca, Tifton, GA; Phoenix, AZ; Los Angeles, San Cucamonga, CA. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Chicago Metallic Corporation, 4849 South Austin Avenue, Chicago, IL 60638.

MC 123407 (Sub-4–50TA), filed November 17, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: [illegible] Miller, Jr. (same address as applicant). *Frozen foods,* from the facilities of Del Monte Corporation, 15th St., Rochelle, IL 61068.

MC 143471 (Sub-4–10), filed November 14, 1980. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 1500 West Bismarck Expressway, Bismarck, ND 58501. Representative: Robert Fugate, P.O. Box 1623, Bismarck, ND 58501. *Contract carrier:* irregular routes: *Such commodities as are dealt in or used by manufacturers of floor coverings* and *materials and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles),* between Chickamauga, Dalton, Fitzgerald, Resaca, Tifton, GA; Phoenix, AZ; Los Angeles, San Cucamonga, CA. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Chicago Metallic Corporation, 4849 South Austin Avenue, Chicago, IL 60638.

MC 144867 (Sub-4–2TA), filed November 14, 1980. Applicant: R & J TRANSPORT, INC., 2020 Algonquin Road, Schaumburg, IL 60195. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, DC 20036. *Contract carrier:* irregular routes: *Such commodities as are dealt in or used by manufacturers of floor coverings* and *materials and supplies used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles),* between Chickamauga, Dalton, Fitzgerald, Resaca, Tifton, GA; Phoenix, AZ; Los Angeles, San Cucamonga, CA. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Chicago Metallic Corporation, 4849 South Austin Avenue, Chicago, IL 60638.

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Door Corp., 6750 LBJ Freeway Suite 1200, P.O. Box 400150, Dallas, TX.

MC 145742 (Sub-4-1TA), filed November 13, 1980. Applicant: BOLES TRUCKING, INC., R.R. #1, Ina, IL 62846. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Contract, irregular: *Iron and steel articles,* between Carlinville, Centralia, Flora, Irvington, Sparta, IL, Louisiana, MO, Clarksville, OH and Dallas, TX on the one hand, and on the other, points in AL, AR, FL, GA, IA, IL, IN, KS, KY, LA, MO, MS, MI, OH, OK, TN, TX and WI, under continuing contracts with Valley Steel Products Company, a Div. of Valley Industries, Inc. An underlying E/T/A seeks 120 days authority. Supporting Shipper: Valley Steel Products Company, a Div. a Valley Industries, Inc., P.O. Box 429, Centralia, IL 62801.

MC 124078 (Sub-4-46TA), filed November 10, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Liquid calcium chloride,* from Sheboygan, WI and Lemont, IL to IL, WI, IA, MN. Supporting Shipper: Sicalco, Ltd., P.O. Box 415, Palos Heights, IL 60463.

MC 114632 (Sub-4-21TA), filed November 10, 1980. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David Peterson (Same address as applicant). *Such commodities as are dealt in by the manufacturers and distributors of foodstuffs,* between Evansville, IN; Mt. Vernon, IN; and Springfield, MO; on the one hand, and, on the other, points in CA, CO, FL, GA, IL, MA, MI, MN, MS, MO, NJ, NC, OR, PA, & TX. An underlying ETA seeks 90 days authority. Supporting Shipper: Mead Johnson and Company, 2404 Pennsylvania Avenue, Evansville, IN 47721.

MC 128648 (Sub-4-2TA), filed November 13, 1980. Applicant: TRANS-UNITED, INC., 425 West 152nd Street, P.O. Box 2081, East Chicago, In 46312. Representative: Joseph Winter, 29 South LaSalle Street, Chicago, IL 60603. Contract, Irregular: *such commodities as are dealt in or used by manufacturers of building materials and supplies,* from Cucamonga and Los Angeles, CA, Bridgeview and Chicago, IL, and Baltimore, MD, to points in the United States (except AK and HI), under continuing contract(s) with Chicago Metallic Corporation, of Chicago, IL, Chicago Finished Metals, Inc., of Bridgeview, IL, Chesapeake Finished Metals, Inc., of Baltimore MD, and California Finished Metals, Inc., of Cucamonga, CA. An underlying ETA seeks 120 days authority. Supporting Shipper(s): Chicago Metallic Corporation, 4849 South Austin Avenue, Chicago, IL 60638; Chicago Finished Metals, Inc., 9900 Industrial Drive, Bridgeview, IL 60455; Chesapeake Finished Metals, Inc., 6754 Santa Barbara Court, Baltimore, MD 21227; California Finished Metals, 9133 Center Avenue, P.O. Box 713, Cucamonga, CA 91730.

MC 119974 (Sub-4-3TA), filed November 14, 1980. Applicant: L.C.L. TRANSIT COMPANY, 949 Advance Street, Green Bay, WI 54304. Representative: L. F. Abel, P.O. Box 949, Green Bay, WI 54305. *General Commodities* (except household goods as defined by the Commission, and Class A & B explosives, and except in bulk, in tank vehicles), between the facilities of Eastman Kodak Company at Oak Brook, IL and all points in the State of WI and the Upper Peninsula of MI. Supporting shipper: Eastman Kodak Company, 2400 Mt. Read Blvd., Rochester, NY 14650.

MC 136774 (Sub-4-2TA), filed November 13, 1980. Applicant: MC-MOR-HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, WI 53586. Representative: Donald B. Levine, 39 S. La Salle St., Chicago, IL 60603. *Foodstuffs and materials, equipment and supplies used in the manufacture and distribution thereof,* between St. Joseph, IL, on the one hand, and, on the other, IA, IN KY, MI, MN, MO, OH, TN and WI. Supporting shipper: Lincoln Land Foods, Inc., 204 N. Main, St. Joseph, IL 61873.

MC 145804 (Sub-4-1TA), filed November 17, 1980. Applicant: WILLIAM T. SMEESTER, d.b.a. UPPER PENINSULA SPECIAL DELIVERY SERVICE, Box 207, Iron Mountain, MI 49801. Representative: William T. Smeester (same as applicant). *Materials, equipment, and supplies used in the manufacture and distribution of paper and paper products; machinery parts and machinery supplies* (except commodities in bulk and those the transportation of which because of size or weight requires the use of special equipment) between points in the Upper Peninsula of Michigan, and Marinette County, Wisconsin, on the one hand, and, on the other, points in IL, IN, MI, MN, OH, and WI. An underlying ETA seeks 90 day authority. Supporting shipper: There are 16 statements of support attached.

MC 133314 (Sub-4-3TA), filed November 14, 1980. Applicant: SILVAN TRUCKING COMPANY, INC., R.R. 2, Box 137, Pendleton, IN 46064. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, 320 North Meridian Street, Indianapolis, IN 46204. *General commodities (except household goods as defined by the Commission and Class A and B explosives)* between points in the U.S., under continuing contracts with United Freight, Inc., 1491 Mount Zion Road, Morrow, GA 30260 and Transtop, Inc., 666 Summer Street, Boston, MA 02210.

MC 140615 (Sub-4-3TA), filed November 14, 1980. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Dennis C. Brown (same as applicant). *Non Exempt Food or Kindred Products, and such Commodities as are dealt in by Grocery Stores* between points in the State of WI on the one hand and points in the U.S. on the other. Supporting shipper: American Farms Coop., Inc. P.O. Box 311, 111 E. Main St., Waupun, WI 53963.

MC 119654 (Sub-4-6TA), filed November, 14, 1980. Applicant: HI-WAY DISPATCH, INC., P.O. Box 509, Marion, IN 46952. Representative: Norman R. Garvin, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204. *Fabricated metal products* (except ordnance), *machinery and supplies* as described in items 34 and 35 of the Standard Transportation Commodity Code, between points in IL, IN, KY, MI, MO, OH, PA, and WI. Restricted to traffic originating at or destined to the facilities of Fedders Corporation. An underlying ETA seeks 120 days authority. Supporting shipper: Fedders Corporation, Woodbridge Avenue, Edison, NJ 08817.

MC 149041 (Sub-4-1TA), filed November 17, 1980. Applicant: TANK TRANSPORT, INC., 9325 North 107th St., Milwaukee, WI 53224. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Gasoline.* From Des Plaines, IL to points in Racine and Kenosha Counties, WI. A corresponding ETA seeks 120 days authority. Supporting shipper: Service Oil Company, 1404 Durand Ave., Racine, WI 53403.

MC 123407 (Sub-4-49TA), filed November 17, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Ceiling fans, exhaust fans, electric heaters, and electric motors* from Bennettsville, SC, and Independence, KS, to Nashville, TN. Supporting shipper: Emerson Electric Co., P.O. Box 42, Bennettsville, SC 29512. An underlying ETA seeks 120 days authority.

MC 123407 (Sub-4-50TA), filed November 17, 1980. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Interior building products for walls, ceilings, floors and related supplies (except commodities in bulk)* from Westlake, OH; Medina, OH; Baltimore, MD; and Red Lion, PA to points in the U.S. (except AK and HI). Supporting shipper: Donn Corporation, 1000 Crocker Road, Westlake, OH 44145. An underlying ETA seeks 120 days authority.

MC 151921 (Sub-4-1TA), filed November 14, 1980. Applicant: MC AFEE ENTERPRISES, INC., P.O. Box 2099, Clarksville, IN 47130. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Heavy machinery and equipment including road machinery, pollution control equipment, structural steel, oil field rigs and oil field equipment,* between Jefferson County, KY, Clark County, IN and Jefferson County, IN on the one hand, and, on the other, points in the U.S. An underlying ETA seeks 120 days authority. Supporting shipper(s): Vibrantics, Inc., 500 Burnett, Louisville, KY 40221; Henry Vogt Machine Co., Inc., P.O. Box 1918, Louisville, KY 40201; Ivan Ware & Son, Inc., P.O. Box 16045, 2345 Millers Lane., Louisville, KY 40216; Hicks Equipment Co., Inc., 3906 Cane Run Rd., Louisville, KY 40211; Liberty Plastics & Metals Co., Inc., P.O. Box 734.

MC 151087 (Sub-4-5TA), filed November 14, 1980. Applicant: AREA INTERSTATE TRUCKING, INC., 15224 Dixie Highway, Harvey, IL 60426. Representative: Leonard R. Kofkin, 39 South La Salle St., Chicago, IL 60603. *Contract, irregular: Building* materials, from Elk Grove, Village, IL to points in WI under continuing contract(s) with Wilson Enterprises, Inc. Supporting shipper(s): Wilson Enterprises, Inc., 1950 Pratt Boulevard, Elk Grove Village, IL 60007.

MC 145371 (Sub-4-3TA), filed November 14, 1980. Applicant: MFCH. INC., Route 1, Kings, IL 61045. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *General commodities (except bananas, those of unusual value, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurous or contaminating to other lading),* between points in the U.S. (except AK and HI) restricted to the transportation of traffic originating at or destined to the facilities of Del Monte Corporation. Supporting shipper(s): Del Monte Corporation, 15th St., Rochelle, IL 61068.

MC 143471 (Sub-4-10), filed November 14, 1980. Applicant: DAKOTA PACIFIC TRANSPORT, INC., 308 W. Blvd., Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD. Contract; irregular; *Lumber, Lumber Products, Wood Products and Plywood* from points in CA, ID, MT, OR and WA to points in the U.S. in and west of WI, IL, MO, AR and LA (except AK and HI) under contract with Intermountain Orient, Inc., Hearin Forest Industries and Lumbermens Service (Inc.). Supporting shippers: Intermountain Orient, Inc., P.O. Box 4297, Boise ID 83704; Hearin Forest Inc., P.O. Box 25387, Portland, Oregon 97225; and Lumbermens Service, (Inc.), P.O. Box 4303, Madison, WI 53711.

MC 142310 (Sub-4-4TA), filed November 13, 1980. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703. *Such commodities as are dealt in or used by wholesale, retail, or chain drugstores and food business houses,* from Chicago, IL to points in MN, ND, SD, WI, and the Upper Peninsula of MI. An underlying ETA seeks 120 days authority. Supporting shipper: Procter & Gamble Distributing Company, P.O. Box 599, Cincinnati, OH 45201.

MC 145842 (Sub-4-5TA), filed November 13, 1980. Applicant: SUNDERMAN TRANSFER, INC., P.O. Box 63, Windom, MN 56101. Representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. *Fresh and frozen meats,* from Buffalo Lake and Minneapolis-St. Paul, MN; to points in FL and GA. Supporting shipper: Iowa Pork Industries, 5736 Olson Highway, Minneapolis, MN 55422.

MC 140452 (Sub-4-1), filed November 5, 1980. Applicant: ROSE BROTHERS TRUCKING, INC., 2425 U.S. Business Hwy. 41 North; Evansville, IN 47711. Representative: Sharon Tepool, P.O. Box 6, Lynnville, IN 38401. *Contract* irregular. *Coal,* in bulk, in dump vehicles, between points in U.S., under contract with Solar Sources, Inc., Greenwood, IN.

MC 143002 (Sub-4-13TA), filed November 10, 1980. Applicant: C.D.B., INC., 155 Spauling, S.E., Grand Rapids, MI 49506. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. Contract, Irregular: *General Commodities.* Between points and places in the United States except AK and HI under contract to Shannon Industrial Corporation. Supporting shipper: Shannon Industrial Corporation, 2020 Algonquin Road, Schaumburg, IL 60195.

MC 144867 (Sub-4-2TA), filed November 14, 1980. Applicant: R & J TRANSPORT, INC., 929 North 24th Street, Manitowoc, WI 54220. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Such commodities the transportation of which require the use of special handling or special equipment, and related parts, materials, equipment and supplies* used or useful in the manufacture, sale or distribution of machines and equipment between the facilities of Lake Shore, Inc., a or near Kingsford, Marquette and Negaunee, MI, on the one hand, and, on the other, points in the U.S. (except AK and HI). Underlying ETA seeks 120 days authority. Supporting shipper: Lake Shore, Inc., P.O. Box 609, Iron Mountain, MI 49081.

MC 152441 (Sub-4-2), filed November 14, 1980. Applicant: WILSON LEASING, INC., P.O. Box 6946, Rochester, MN 55901. Representative: Grant J. Merritt, Esq., 4444 IDS Center, 80 South Eighth St., Minneapolis, MN 55402. *Dairy products, such merchandise as in handled by the wholesale-retail chain grocery business and materials, equipment and supplies used in the manufacture of both commodities* between Olmsted County, MN on the one hand ahd IA, IL, IN, MN, MO ND, NE, OH, SD and WI. An underlying ETA seeks 120 days authority. Supporting shippers: (1) Rochester Cheese Sales, Inc., 4219 North Frontage Road, Rochester, MN 55901; (2) The Kroger Co., Pace Dairy Foods Company, 2700 Valley High Drive NW., Rochester, MN 55901.

MC 135640 (Sub-4-7TA), filed November 13, 1980. Applicant: STALEY EXPRESS, INCORPORATED, 2501 North Brush College Road, Decatur, IL 62526. Representative: Charles Carnahan, Jr. (same as applicant). *Cups, Bowls, Dishes, Plates, Trays, Containers, Caps, Covers, Lids, Holders, Dispensers, Straws, Knives, Forks and Spoons, Paper or Plastic; Tooth Picks, Ice Cream Cones and Ice Cream Wafers;* From the facilities of Sweetheart Cup Corporation at Chicago, IL, to points in KY and OH. Supporting shipper: Sweetheart Cup Corporation, 7575 South Kostner, Chicago, IL 60652.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 79999 (Sub-5-1TA), filed November 19, 1980. Applicant: RANGER TRUCK LINE, INC., P.O. Box 2008,

Houston, TX 77001. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. *Machinery, equipment, materials* Box 45538, Dallas, TX 75245. *Wearing apparel and supplies necessary to operate retail clothing stores;* from *require special equipment.* (1) Between El Paso, Tx., & Hillsboro N.M., serving all intermediate points & commercial

return over the same route. (4) Between St. Louis, MO and its commercial zone on the one hand, and, on the other,

MC 152089 (Sub-5-2TA), filed November 19, 1980. Applicant: C & M TRUCKING COMPANY, 2682 Brenner

Frozen Foodstuffs, from Richmond and Clearfield, Utah, to Omaha, NE., Modesto, CA., Sumter, SC., Salisbury,

Houston, TX 77001. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. *Machinery, equipment, materials and supplies used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products,* between points in Harris County, TX, on the one hand, and, on the other, points in MS. Supporting shipper: Pipe Marketing Concepts, Inc., 11777 Katy Freeway, Suite 425N, Houston, TX 77079.

MC 99532 (Sub-5–1TA), filed November 18, 1980. Applicant: ARNIE'S MOTOR FRIEGHT, INC., 701 1st Ave. North, Altoona, IA 50009. Representative: Russell H. Wilson, 4400 Merle Hay Road, Des Moines, IA 50310. *General commodities (except liquid products in bulk, in tank vehicles.),* between Des Moines, Marshalltown, and Newton, IA. Restricted to traffic having prior or subsequent rail or motor interstate movement. Supporting shipper(s): 6.

MC 111401 (Sub-5–21TA), filed November 19, 1980. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock, Vice President, Traffic (same as applicant). *Petroleum products, in bulk, in tank vehicles,* from the facilities of Morgan Petroleum Co., in Calcasieu Parish, LA to points in TX. Supporting shipper: Morgan Petroleum Co., P.O. Box 8486, Shreveport, LA, 71108.

MC 114045 (Sub-5–8TA), filed November 18, 1980. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, TX 75261. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. *Food and kindred products,* from the facilities of Geo. A. Hormel & Co. in Beloit, WI to points in TX. Supporting shipper: Geo. A. Hormel & Co.; P.O. Box 800; Austin, MN 55912.

MC 133377 (Sub-5–1TA), filed November 19, 1980. Applicant: COMMERCIAL SERVICES, INC., 114 Memorial Road, Storm Lake, IA 50588. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. *Meat, meat products, meat by-products and articles distributed by meat packinghouses* from Storm Lake, IA, to points in MN and NE. Supporting shipper: Hygrade Food Products, Corporation, Box 4771, Detroit, MI 48219.

MC 140033 (Sub-5–12 TA), filed November 18, 1980. Applicant: COX REFRIGERATED EXPRESS, INC., 16060 Goodnight Land, Dallas, TX 75220. Representative: D. Paul Stafford, P.O. Box 45538, Dallas, TX 75245. *Wearing apparel and supplies necessary to operate retail clothing stores;* from Arlington, TX to Birmingham, AL, Des Moines, IA, Kansas City, MO, Portland, OR, Phoenix, AZ, and St. Louis, MO. Supporting shipper: Foxmoor Casuals, 393 Manley St., W., Bridgewater, MA 02324

MC 144603 (Sub-5–30 TA), filed November 18, 1980. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 63043. Representative: Laura C. Berry (same address as applicant). *Chemicals or allied products (except commodities in bulk, in tank vehicles* between Boonton, NJ; Decatur, AL; St. Paul, MN; Houma, LA; Houston, TX, and their respective commercial zones, on the one hand, and, on the other, states of AL, AR, CA, CO, CT, DE, FL, GA, IL, IA, IN, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI. Supporting shipper: Delta Safety and Supply, P.O. Box 101, Houma, LA 70361.

MC 144858 (Sub-5–8 TA), filed November 19, 1980. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. *Distilled spirits and wine and associated advertising and display materials and non-alcoholic beverage mixes (except in bulk),* from Clermont, Lawrenceburg, and Louisville, KY New Orleans, LA; Detroit, MI; and Edison, NJ, to Little Rock, AR. Supporting shipper(s): Silbernagel Company, Inc., 300 Ferry Street, P.O. Box 2581, Little Rock, AR 72203.

MC 148284 (Sub-5–1 TA), filed November 19, 1980. Applicant: DON YOUNGBLOOD TRUCKING, INC., Post Office Box 309, Mulberry, AR 72947. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72701. *Materials, Equipment and Supplies used in the processing of Poultry Products,* from points in the United States (except AK and HI) to points in AR. Supporting shipper: OK Foods, Inc., Post Office Box 286, Ft. Smith, AR 72904.

MC 148943 (Sub-5–2TA), filed November 18, 1980. Applicant: TEJAS DESTE TRUCK LINES, INC., 2209 Mills St., El Paso, TX 79901. Representative: Greg J. Evans, Vice President, Tejas Deste Truck Lines Inc., 2209 Mills St., El Paso, TX 79901. Common, Regular; *general commodities, other than bulk liquid commodities in tank vehicles, or bulk commodities requiring special equipment or commodities which either due to size, weight or value that would require special equipment.* (1) Between El Paso, Tx., & Hillsboro N.M., serving all intermediate points & commercial zones and the Quintana Copper Flat Project as an off-line intermediate point. From El Paso, Tx., over Hwy IH 10 to Las Cruces N.M., thence over Hwy IH 25 to the junction of N.M. Hwy 90 to Hillsboro, N.M., and return. Or over U.S. Hwy 85 to the Junction of N.M. Hwy 90 to Hillsboro, N.M., and return. (2) Between junction IH 25 or Hwy U.S. 85 & N.M. Hwy 90 and Truth or Consequences N.M., and return, Serving all intermediate points & commercial zones. From junction N.M. Hwy 90 & IH 25 or U.S. 85 over IH 25 or U.S. 85 to Truth or Consequences N.M. & return. Applicant intends to tack and interline. Supporting shippers: There are 17 supporting shippers.

MC 148832 (Sub-5–4TA), filed November 19, 1980. Applicant: DELTA MOTOR FREIGHT, INC., 1616 Rowe Blvd., P.O. Box 1083, Poplar Bluff, Mo. 63901. Representative: Ronald D Dodds, P.O. Box 1083, Poplar Bluff, Mo. 63901. *Common* regular *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment and those injurious to other lading),* (1) between Kansas City, MO and its commercial zone, on the one hand, and, on the other Cairo, IL and its commercial zone, serving the intermediate points of Springfield, MO to Cairo, IL, as follows: (A) from Kansas City over U.S. Hwy 71 to its junction with MO State Hwy 13 then over MO Hwy 13 to its junction with U.S. Hwy 60 then over U.S. Hwy 60 to Cairo, IL, and return over the same route. (B) From Kansas City, MO over U.S. Hwy 50 to its junction with U.S. Hwy 63 then over U.S. Hwy 63 to its junction with MO Hwy 72, then over MO Hwy 72 to its junction with MO Hwy 21 then over MO Hwy 21 to its junction with U.S. Hwy 60 to Cairo, IL, and return over the same route. (2) between St. Louis, MO and its commercial zone, on the one hand, and, on the other, Hayti, MO and its commercial zone, serving the intermediate points of Sikeston, MO to Hayti, MO as follows: (A) From St. Louis, MO over Interstate Hwy 55 to Hayti, MO, and return over the same route. (3) Between St. Louis, MO., and its commercial zone, on the one hand, and, on the other, Poplar Bluff, MO and its commercial zone, serving the intermediate points of Silva, MO to Poplar Bluff, MO as follows: (A) From St. Louis, MO over Interstate 55 to its junction with U.S. Hwy 67, then over U.S. Hwy 67 to Poplar Bluff, MO and return over the same route. (4) Between St. Louis, MO and its commercial zone on the one hand, and, on the other, Pocahontas, AR and its commercial zone, serving the intermediate points of Pilot Knob, MO to Pocahontas, AR as follows: (A) From St. Louis, MO over Interstate Hwy 55 to its junction with U.S. Hwy 67, then over U.S. Hwy 67 to its junction with MO Hwy 32, then over Hwy 32 to its junction with MO Hwy 21, then over MO Hwy 21 to its junction with AR Hwy 115 then over AR Hwy 115 to Pocahontas, AR and return over the same route. (5) Between St. Louis, MO and its commercial zone on the one hand, and, on the other hand, Hoxie, AR and its commercial zone, serving the intermediate points of Licking, MO to Hoxie, AR as follows: (A) From St. Louis, MO over Interstate Hwy 44 to its junction with U.S. Hwy 63 then over U.S. Hwy 63 to Hoxie, AR and return over the same routes. (6) Between Poplar Bluff, MO and its commercial zone on the one hand, and on the other, West Plains, MO and its commercial zone, as follows: (A) From Poplar Bluff, over U.S. Hwy 67 to its junction of U.S. Hwy 160 then over U.S. Hwy 160 to West Plains, and return over the same route. (7) Between Campbell, MO and its commercial zone, on the one hand, and, on the other, Imboden, AR and its commercial zone, as follows: (A) From Campbell, MO over U.S. Hwy 62 to Imboden, AR, and return over the same route. (8) Between Mansfield, MO and its commercial zone on the one hand, and, on the other Ava, MO and its commercial zone as follows: (A) From Mansfield, over MO Hwy 5 to Ava, and return over the same route. (9) Between Silva, MO and its commercial zone, on the one hand, and, on the other the junction of MO Hwy's 21 and 34, as follows: (A) From the junction of U.S. and MO Hwy's 67 and 34, then over MO Hwy 34 to its junction of MO Hwy 21, and return over the same route. (10) Between Piedmont, MO and its commercial zone, on the one hand, and, on the other, Glover, MO and its commercial zone, as follows: (A) From Piedmont, over MO Hwy 49 to its junction with MO Hwy 21, and return over the same route. Serving all points in Wright, Douglass, Texas, Howell, Shannon, Oregon, Reynolds, Carter, Ripley, Iron, Wayne, Butler, Stoddard, Dunklin, Pemiscot, and New Madrid counties in Missouri and Clay, Randolph, and Lawrence counties in AR as off route points in connection with regular route operations.

Note—Applicant proposes to tack and interline. Supporting shippers: 108

MC 152089 (Sub-5–2TA), filed November 19, 1980. Applicant: C & M TRUCKING COMPANY, 2682 Brenner Drive, Dallas, TX 75220. Representative: William Sheridan, 1025 Metker, P.O Drawer 5049, Irving, TX 75062.Contract: Irregular, *Cleaning, Scouring and Washing Compounds and Related Articles* from facilities of Purex Corporation, Dallas, TX to AR, LA and OK. Supporting shipper: Purex Corporation, 2829 Merrell Drive, Dallas, TX.

MC 152700 (Sub-5–1), filed November 18, 1980. Applicant: KRIEG TRUCKING, 468 Tamarak Court, Dubuque, IA 52001. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Contract, irregular; (1) *Cleaning and polishing compounds, textile softeners, lubricants, deodorants, disinfectants, hypoclorite solution, paints, stains, varnishes, plastic bags and filters,* and (2) *Materials, supplies and equipment used in the manufacture of commodities named in (1) above,* from Dubuque, IA to points in WI on and south of U.S. Highway No. 10; points in MN on and south of U.S. Highway No. 14; points in IL on and west of U.S. Highway 51 and points in IA on and east of U.S. Highway 169. Supporting shipper: Economics Laboratory, Inc., Osborn Building, St. Paul, MN 55102.

MC 152712 (Sub-5–1F), filed November 19, 1980. Applicant: NIEMEIER BROS., INC., P.O. Box 12475, El Paso, TX 79916. Representative: M. Ward Bailey, 2412 Continental Life Bldg., Fort Worth, TX 76102. Contract, irregular; *Building Materials,* from points in Caddo and Lincoln Counties, OK to points in Jefferson, Adams, Denver and Arapahoe Counties, CO; Maricopa and Pima Counties, AZ; Bernalillo, Sante Fe, and Chaves Counties, NM; El Paso, Ector, Midland, Potter, Lubbock, Tom Green, Pecos and Taylor Counties, TX. From points in El Paso County, TX to points in San Bernardino, San Diego, Orange, Riverside and Los Angeles Counties, CA; Jefferson, Adams, Denver and Arapahoe Counties, CO; Bernalillo, Santa Fe and Chaves Counties, NM, Pima and Maricopa County, AZ. From points in Clark County, NV and Salt Lake County, UT to points in San Bernardino, San Diego, Orange and Los Angeles Counties, CA. Supporting shipper: J. R. Niemeier Co., P.O. Box 12475, El Paso, TX 79916.

MC 152728 (Sub-5–1TA), filed November 19, 1980. Applicant: INDEPENDENT CARRIERS, INC., P.O. Box 37642, Omaha, NE 68137. Representative: Rick A. Rude, Esq., Suite 611, 1730 Rhode Island Ave., N. W., Washington, DC 20036. *Fresh and Frozen Foodstuffs,* from Richmond and Clearfield, Utah, to Omaha, NE., Modesto, CA., Sumter, SC., Salisbury, MD., and New York, NY. Supporting Shipper: Pepperidge Farm, Inc., Highway 91, Richmond, UT 84333.

The following application were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, P.O. Box 17150, Fort Worth, TX 76102.

42405 (Sub-5–1), filed November 21, 1980. Applicant: MISTLETOE EXPRESS SERVICE, P.O. Box 25614, Oklahoma City, OK 73125. Representative: T.M. Brown, P.O. Box 1540, Edmond, OK 73034. *Common;* regular. *General commodities (except Classes A and B explosives),* moving in express service, (1) Between Memphis, TN, and Florence, AL, over U.S. Hwy 72, (2) Between Memphis, TN, and Fulton, MS over U.S. Hwy 78, (3) Between Memphis, TN, and Winona, MS, (a) over U.S. Hwy 51, and (b) over Interstate Hwy 55, (4) Between Memphis, TN, and Leland, MS, over U.S. Hwy 61, (5) Between junction U.S. Hwys 61 and 49 and Greenville, MS; from junction U.S. Hwys 61 and 49 near Rich, MS, over U.S. Hwy 49 to junction MS Hwy 1, then over MS Hwy 1 to Greenville, MS, and return over the same route, (6) Between junction U.S. Hwy 61 and MS Hwy 3 and junction U.S. Hwys 49W and 82; from junction U.S. Hwy 61 and MS Hwy 3, over MS Hwy 3 to junction U.S. Hwy 49, then over U.S. Hwy 49 to junction U.S. Hwy 49W, then over U.S. Hwy 49W to junction U.S. Hwy 82, and return over the same route, (7) Between Clarksdale and Greenwood, MS; from Clarksdale over U.S. Hwy 49 to junction U.S. Hwy 49E, then over U.S. Hwy 49E to Greenwood, MS, and return over the same route, (8) Between Holly Springs and Greenwood, MS, over MS Hwy 7, (9) Between Junction MS Hwys 9W and 7 and Eupora, MS; from junction MS Hwys 9W and 7 over MS Hwy 9W to junction MS Hwy 9, then over MS Hwy 9 to Eupora, and return over the same route, (10) Between Walnut, MS, and junction MS Hwy 15 and the Natchez Trace Parkway, over MS Hwy 15, (11) Between Corinth and Columbus, MS, over U.S. Hwy 45, (12) Between junction Natchez Trace Parkway and U.S. Hwy 82 and junction Natchez Trace Parkway and U.S. Hwy 25, over the Natchez Trace Parkway, (13) Between junction U.S. Hwy 72 and MS Hwy 25 and junction MS Hwys 25 and 8, over MS Hwy 25, (14) Between junction U.S. Hwys 45 and Alt. 45 and junction U.S. Hwys 82 and Alt. 45, over U.S. Hwy Alt. 45, (15) Between junction MS Hwy 5 and U.S. Hwy 72 and Hickory Flat, MS, over

MS Hwy 5, (16) Between junction MS Hwys 7 and 30 and junction MS Hwy 30 and U.S. Hwy 45, over MS Hwy 30, (17) Between junction MS Hwy 4 and U.S. intermediate points. Supporting shippers: There are 78 supporting shippers.

Note—Applicant intends to tack this

Owens-Ford Company. Supporting Shipper: Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, OH 43695.

MC 126930 (Sub-5–5TA), filed

Detroit, MI; Kansas City and St. Louis, MO; Newark, NJ; Toledo, OH; Nashville, TN and Kenosha, WI, and the commercial zones of above-named

Larry C. Price (address same as applicant). *Electrical equipment; machinery; materials, equipment and supplies used in the manufacture,*

equipment, material and supplies dealt in or used by retail, variety or department stores, between points in Dallas, Denton and Tarrant Counties,

V 45 / 234 DE 3 80 UMI

MS Hwy 5, (16) Between junction MS Hwys 7 and 30 and junction MS Hwy 30 and U.S. Hwy 45, over MS Hwy 30, (17) Between junction MS Hwy 4 and U.S. Hwy 61 and junction MS Hwys 4 and 25, over MS Hwy 4, (18) Between Clarksdale and Tupelo, MS, over MS Hwy 6, (19) Between junction MS Hwys 32 and 1 and Amory, MS; from junction MS Hwys 32 and 1, over MS Hwy 32 to Okolona, then over MS Hwy 41 and U.S. Hwy 278 to Amory, and return over the same route, (20) Between Roesdale, MS, and junction MS Hwys 8 and 25, over MS Hwy 8, (21) Between El Dorado, AR, and Columbus, MS, over U.S. Hwy 82, (22) Between junction U.S. Hwy 167 and AR Hwy 4 and McGehee, AR, over AR Hwy 4, (23) Between junction AR Hwys 4 and 35 and junction AR Hwy 35 and U.S. Hwy 165, over AR Hwy 35, (24) Between Pine Bluff and Eudora, AR, over U.S. Hwy 65, (25) Between junction U.S. Hwys 65 and 165 and Parkdale, AR, over U.S. Hwy 165, (26) Between junction U.S. Hwy 65 and AR Hwy 81 and Eudora, AR; from junction U.S. Hwy 65 and AR Hwy 81 over AR Hwy 81 to Hamburg, then over AR Hwy 8 to Eudora, and return over the same route, (27) Between Pine Bluff, AR, and Memphis, TN: from Pine Bluff over U.S. Hwy 79 to junction U.S. Hwy 70, then over U.S. Hwy 70 to Memphis, and return over the same route, (28) Between Little Rock and Stuttgart, AR; from Little Rock over AR Hwy 130 to junction AR Hwy 11, then over AR Hwy 11 to Stuttgart, and return over the same route, (29) Between Forrest City and Dumas, AR; from Forrest City over AR Hwy 1 to junction AR Hwy 54, then over AR Hwy 54 to Dumas, and return over the same route, (30) Between Walnut Corner, AR and junction MS Hwy 1 and U.S. Hwy 49, over U.S. Hwy 49, (31) Between Pine Bluff and Warren, AR, over AR Hwy 15, (32) Between Fordyce and Warren, AR, over AR Hwy 3, (33) Between Stuttgart and DeWitt, AR, (a) from Stuttgart over AR Hwy 11 to junction AR Hwy 152, then over AR Hwy 152 to DeWitt, and return over the same route, and (b) frum Stuttgart over AR Hwy 11 to junction AR Hwy 130, then over AR Hwy 130 to DeWitt, and return over the same route, (34) Between Brinkley and Marvell, AR, over U.S. Hwy 49, (35) Between Batesville and Oxberry, MS, over MS Hwy 35, and (36) Between Falkner, MS, and junction MS Hwys 370 and 4, over MS Hwy 370, in (1) above serving all intermediate points between Memphis and junction U.S. Hwy 72 and the MS–AL state line, and serving Florence, AL for purposes of interline and interchange only and in (2) through (36) above serving all intermediate points. Supporting shippers: There are 78 supporting shippers.

Note.—Applicant intends to tack this authority with its existing regular route authority and to interline with other motor carriers at Florence, AL.

MC 112713 (Sub–5–21TA), filed November 21, 1980. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, KS 66207. Representative: John M. Records, P.O. Box 7270, Shawnee Mission, KS 66207. *Aluminum ingots, rods; extrusions and scrap,* between Chandler, AZ, on the one hand, and, on the other, points in AR, CA, FL, KS, MI, MS, NJ, OH, PA and TX. Supporting Shipper: Pimalco (aka Induction Billets, Inc.), Box 5050, Chandler, AZ 85204.

MC 114211 (Sub–5–21TA), filed November 21, 1980. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kurt E. Vragel, Jr., P.O. Box 420, Waterloo, Iowa 50704. *Such commodities as are dealt in or used by manufacturers and distributors of metal articles,* between the facilities of Vincent Brass & Aluminum Co. at Minneapolis, St. Paul, Afton, and Little Canada, MN, on the one hand, and, on the other, points in the U.S. Supporting Shipper: Vincent Brass & Aluminum Co., P.O. Box 360, Minneapolis, MN 55440.

MC 117568 (Sub–5–2TA), filed November 21, 1980. Applicant: WADE-TRUCK LINES, INC., Box 156, Verona, MO 65769. Representative: Charles J. Fain, Fain & Fain, 333 Madison, Jefferson City, MO 65101. Contract; irregular *fine chemicals, dental instruments and equipment, veterinary products, nutritional products for infant care, dental models for industrial purposes, beauty care instruments and products and commodities used in the manufacture of products of the food, drug, and agricultural industries except in bulk, or tank or hopper containers* between points in the U.S. under continuing contracts with Syntex Agribusiness, Inc., Springfield, Missouri. Supporting Shipper: Syntex Agribusiness, Inc., Springfield, MO 65805.

MC 126822 (Sub–5–35TA), filed November 21, 1980. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: John T. Pruitt (Same as Applicant). *Glass and glass products, and materials, equipment and supplies used in the manufacture and distribution of glass and glass products* between points in the U.S., restricted to the transportation of shipments from, to, or between the facilities of Libbey-Owens-Ford Company. Supporting Shipper: Libbey-Owens-Ford Company, 811 Madison Avenue, Toledo, OH 43695.

MC 126930 (Sub–5–5TA), filed November 21, 1980. Applicant: BRAZOS TRANSPORT CO., P.O. Box 2746, Lubbock, TX 79408. Representative: Richard Hubbert, Sims, Kidd, Hubbert & Wilson, P.O. Box 10236, Lubbock, TX 79408, (806) 763–9555. *Iron and Steel articles and materials, equipment and supplies used in the manufacture, distribution and installation of such commodities* between the facilities of Shinko Wire America, Inc., at Houston, TX, on the one hand; and on the other hand, points in OK, LA, MS, AR, MO, KS, CO, NE, SD, ND, NM, MN, WI, IA, IL, TN, AL and TX. Supporting shipper: Shinko Wire America, Inc., 11020 Tanner Road, P.O. Box 218808, Houston, TX 77218.

MC 134467 (Sub–5–15TA), filed November 21, 1980. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. *Foodstuffs (except in bulk),* from the facilities of M & M/Mars, Snack-Master Division, at or near Albany, GA to points in the U.S. (except AK and HI). Supporting shipper: M & M/Mars Snack-Master Division, P.O. Box 3289, Oak Ridge Drive, Albany, GA, 31708.

MC 134637 (Sub–5–1TA), filed November 21, 1980. Applicant: SILICA TRANSPORT, INC., West Market Street, Post Office Box 232, Guion, AR 72540. Representative: Kay L. Matthews, 401 Union Life Building, Little Rock, AR 72201. *Fly Ash,* from points in Jefferson County, AR, to points in the U.S. Supporting shipper: Chem-Ash, Inc., Redfield, Arkansas 72132.

MC 135070 (Sub–5–31TA), filed November 21, 1980. Applicant: JAY LINES, INC., Box 61467, DFW Airport, TX 75261. Representative: Gailyn L. Larsen, P.O. Box 81816, Lincoln, NE 68501. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses,* from Denver, CO, to points in NY and NJ. Supporting shipper: Midwest Meat Company, 61 Second Street, Mineola, NY.

MC 138469 (Sub–5–27TA), filed November 20, 1980. Applicant: DONCO CARRIERS, INC., P.O. Box 75367, Oklahoma City, OK 73147. Representative: Daniel O. Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Such commodities as are dealt in or used by manufacturers of automotive parts,* from the facilities of Holly Special Products Division Colt, Inc., at Sallisaw, OK to Belvidere and Chicago, IL;

Detroit, MI; Kansas City and St. Louis, MO; Newark, NJ; Toledo, OH; Nashville, TN and Kenosha, WI, and the commercial zones of above-named cities. Supporting shipper: Holly Special Products Division of Colt, Inc., 1300 S. Updyke, Sallisaw, OK 74955.

MC 144622 (Sub–5–61), filed November 21, 1980. Applicant: GENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: J. B. Stuart, P.O. Box 179, Bedford, TX 76021. (1) *Drugs, medicines, toilet preparations, chemicals, soaps, and animal feed supplements; and* (2) *Such commodities as are dealt in and sold by department stores, supermarkets, hardware, and drug stores* from Stamford, CT and Pearl River, NY to points in CA. Supporting shipper: American Cyanamid Company, Berdan Avenue, Wayne, NJ 07470.

MC 145311 (Sub–5–1TA), filed November 20, 1980. Applicant: ROADRUNNER TRANSPORTATION, INC., 8406, Mosely Road, Houston, TX 77075. Representative: William D. Lynch, 1003 West 6th Street, Austin, TX 78703. *Commodities, the transportation of which, because of size or weight, requires the use of special equipment and accessories, parts and attachments* between points in the States of TX, OK, NM, CO, LA, MS, AL, AR, AZ, KS, FL, GA, and TN. Supporting shipppers: There are seven supporting shippers.

MC 146047 (Sub–5–2TA), filed November 21, 1980. Applicant: ENNIS CORP., Clarion, IA 50525. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. *Feed and feed ingredients,* from Riverside, ND, to points in IA and IL. Supporting shipper: Ralston Purina Company, P.O. Box 700, Iowa Falls, IA 50126.

MC 147731 (Sub–5–1TA), filed November 20, 1980. Applicant: GALVESTON CONTAINER SERVICE, INC., d.b.a. Uneeda Transfer Co., P.O. Box 3363, Galveston, TX 77552. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *General commodities, having prior or subsequent movement by water,* between points in Brazoria, Galveston, Harris, Chambers, Jefferson and Orange Counties, TX, and Calcasieu Parish, LA. Supporting Shippers: Lykes Bros. Steamship Co., Inc., P.O. Box 1339, Houston, TX 77001; American President Lines, Ltd., 608 Fannin, Houston, TX 77001; and Gulf Chemical & Metallurgical Co., P.O. 2130, Texas City, TX 77590.

MC 149026 (Sub–5–15TA), filed November 21, 1980. Applicant: TRANS–STATES LINES, Inc., 633 Main Street, Van Buren, AR 72956. Representative: Larry C. Price (address same as applicant). *Electrical equipment; machinery; materials, equipment and supplies used in the manufacture, distribution and assembly of the above named articles;* Between San Antonio, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Standard Industries, P.O. 27500, San Antonio, TX 78227.

MC 149147 (Sub–5–1TA) filed November 21, 1980. Applicant: DECKERT TRANSPORT, INC., 10104 S. 197th E. Ave., Broken Arrow, OK 74012. Representative: Elaine C. Deckert (same address). Contract; Irregular. *Frozen potatoes in boxes,* between Pasco, WA and Boardman, OR, on the one hand, and, on the other, Okmulgee, OK. Supporting shipper: Randy's Frozen Meats, Inc. 706 West Sixth Street, Okmulgee, OK 74447.

MC 149199 (Sub–5–4TA), filed November 20, 1980. Applicant: O. R. Miller, d.b.a. FRONTIER EXPRESS, 905 S.W. Second, Oklahoma City, OK 73102. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036. *General Commodities, (except Class A & B explosives and household goods, as defined by the Commission),* between Oklahoma City, OK, on the one hand, and on the other, points in Grady County, OK. Applicant intends to tack the authority sought with its existing authority and proposes to interline with other motor carriers. Supporting shipper: There are 7 supporting shippers.

MC 149555 (Sub–5–31TA), filed November 21, 1980. Applicant: LONE STAR CARRIERS, INC., Rt. 1, Box 48, Tolar, TX 76476. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. Contract; Irregular; *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions of Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk),* from Moore County, TX to points in AL, CT, FL, GA, IL, IN, KY, MA, MI, MS, MD, NJ, NY, CA, NC, OH, PA, RI, SC, TN, VA, and DC, under continuing contract(s) with Swift Independent Packing Co., a division of Swift & Co. Supporting shipper: Swift Independent Packing Co., 115 W. Jackson Blvd., Chicago, IL 60604.

MC 150088 (Sub–5–12TA), filed November 21, 1980. Applicant: STERLING TRANSPORT DIVISION, INC., 801 Heinz Way, Grand Prairie, TX 75071. Representative: Robert K. Frisch, 2711 Valley View Lane, Suite 101, Dallas, TX 75234. *Commodities, equipment, material and supplies dealt in or used by retail, variety or department stores,* between points in Dallas, Denton and Tarrant Counties, TX, on the one hand, and points in OK; AR; LA; and Memphis, TN; on the other hand. Supporting shippers: General Electric Company, 2010 Great South Western Parkway, Grand Prairie, Texas 75051. H. J. Wilson Company, Inc., 1844 Commercial, Port Allen, Louisiana 70767.

MC 150249 (Sub–5–4TA), filed November 21, 1980. Applicant: RICHLAND TRUCKING, INC., Route 1, Tillar, AR 71670. Representative: Douglas W. Bonner, Jr., Laser, Sharp, Haley, Young & Huckabay, One Spring Street, Suite 300, Little Rock, AR 72201. *Containers empty and loaded with paper, paper products, woodpulp and materials, equipment and supplies used in the manufacture of paper, paper products and woodpulp:* Between the facilities of Potlatch Corporation at or near the Town of Cypress Bend, County of Desha, AR on the one hand, and, on the other (a) Railroad T.O.F.C./C.O.F.C. facilities located in the Town of McGehee, County of Desha, AR, (b) Railroad T.O.F.C./C.O.F.C. facilities located in the City of Greeville, County of Washington, MS, and (c) Mississippi River port facilities located in the City of Greenville, County of Washington, MS, and in the City of New Orleans, Parish of Orleans, LA. Restriction: Restricted to the transport of containers empty and loaded with paper, paper products, woodpulp and materials, equipment and supplies used in the manufacture thereof having immediate prior or immediate subsequent movement by rail or water carrier in interstate commerce. Supporting shipper: Potlatch Corp., P.O. Box 1016, Lewiston, ID 83501.

MC 151657 (Sub–5–6TA), filed November 20, 1980. Applicant: ARM TRANSPORTATION COPRPORATION, P.O. Drawer 9480, Amarillo, TX 79105. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. Contract; irregular transporting: *Such commodities as are dealt in by wholesale or retail sewing and fabric stores* between the facilities of Cloth World at Amarillo, TX; Albuquerque, NM; Charlotte, NC; Los Angeles, CA; and Phoenix, AZ under continuing contract(s) with Cloth World. Supporting shipper: Cloth World, P.O. Box 3639, Amarillo, TX 79106.

MC 152021 (Sub–5–6TA), filed November 20, 1980. Applicant: IMPALA TRANSPORTATION SERVICES, INC., P.O. Box 678, Irving, TX 75060. Representative: Larry P. Cardin (same as applicant). Contract: Irregular. *Iron &*

steel articles NOI, KD steel buildings, between Grapevine, TX and Chester, SC and all points and places in the continental U.S. under contract with Mesco Metal Buildings Corporation. Supporting shipper: Mesco Metal Buildings Corporation, P.O. Box "G", Grapevine, TX 76051.

MC 152674 (Sub-5–2TA), filed November 21, 1980. Applicant: MIDWEST EXPRESS, INC., P.O. Box 550, Miami, OK 74354. Representative: David Hunter (same address as applicant). *Wet Mops, Dust Mops, Brooms, Yarn, and raw materials used for the manufacture of said products,* between points in OK, NY, PA, CA, OH, IL, and TX on the one hand, and, on the other, points in the states of MA, KY, NC, SC, GA, AL, and MS. Supporting shipper: Pettett Corporation, 404 26th St., N.W., Miami, OK 74354.

MC 152742 (Sub-5–1TA), filed November 20, 1980. Applicant: M & C DISTRIBUTING COMPANY, INC., 402 East "F" Street, Lawton, OK 73502. Representative: Ray K. Babb, Jr., 1100 Classen Dr., Ste. 221, Oklahoma City, OK 73103. Contract; Irregular: *Malt Beverages,* between Wichita Falls, TX, and Fort Sill Military Base, OK. Supporting shipper: Falls Distributing Company, Inc., 3811 Tarry Road, Wichita Falls, TX 76316.

MC 152743 (Sub-5–1TA), filed November 21, 1980. Applicant: AMERICAN CLEANING AND MAINTENANCE ENTERPRISES, INC., 524 S. Union, Springfield, MO 65802. Representative: Bruce McCurry, Dickey, Allemann & McCurry, 910 Plaza Towers, Springfield, MO 65804. Contract; irregular: *Portland cement and fly ash in bulk in tank vehicles* from Linn and Neosho Counties, KS to Greene County, MO. Supporting shipper: Concrete Company of Springfield, 510 Sherman, Springfield, MO 65802.

MC 152757 (Sub-5–1TA), filed November 21, 1980. Applicant: DOYLE JOHNSON d.b.a. DOYLE & KENNY'S WRECKER SERVICE, 1017 E. Brower, Springfield, MO 65802. Representative: Bruce McCurry, Dickey, Allemann & McCurry, 910 Plaza Towers, Springfield, MO 65804. *Disabled vehicles and operational vehicles,* between points in AR, IL, IN, KS, KY, MO, OK, TN and TX. Supporting shippers: Roadway Express, Inc., P.O. Box 55, Strafford, MO 65757; Tindle Mills, Inc., 701 E. Chestnut, Springfield, MO 65802; Prime, Inc., Box 4208, Springfield, MO 65804.

MC 152758 (Sub-5–1TA), filed November 21, 1980. Applicant: STRONG TRANSPORT COMPANY, INC., 15534 W. Hardy Rd., Suite 130, Houston, TX 77060. Representative: A. William Brackett, 1108 Continental Life Building, Fort Worth, TX 76102. (1) *Irrigation systems,* (2) *parts for irrigation systems,* (3) *pipe, tubing, poles and such materials, equipment and supplies as are used in the installation and maintenance thereof,* (4) *iron and steel articles,* (5) *accessories, parts, equipment, materials and supplies used in the manufacture or assembly of commodities described in* (1) *through* (4) *above and ocean carrier owned or leased equipment loaded or empty* between the facilities of Valmont Industries, Inc., located in Douglas County, NE, on the one hand, and, on the other, the Ports of Houston and Galveston, TX, and New Orleans, LA. Supporting shipper: Valmont Industries, Inc., Highway 275 West, Valley, NE 68064.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-37540 Filed 12-2-80; 8:45 am]
BILLING CODE 7035-01-M

[Application No. MC 1518]

Motor Carriers; Released Rates

AGENCY: Interstate Commerce Commission.

ACTION: Notice released rate application MC 1518

SUMMARY: Midwest Mortor Carriers Bureau seeks to extend existing released rates authority in MC 661 to, from and between points and places in Florida on behalf of Theatres Service Company, and other carriers in transporting property, other than ordinary livestock and classes A and B explosives, moving in express service from and to points and places in the State of Florida. Authority is sought to limit the carriers' liability in the new territory for any express shipments it may lose or damage to $50.00 or 50 cents per pound, whichever be the greater, unless the shipper declares a greater value and pays an excess value charge of 25 cents for each $100 or fraction thereof.

ADDRESS: Anyone seeking copies of the application should contact: Max G. Morgan, P.O. Box 1540, Edmond, OK 73034, Telephone: (405) 348–7700.

FOR FURTHER INFORMATION CONTACT: Howard Rooney, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, Telephone: (202) 275–7390.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 USC 10730.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-37545 Filed 12-2-80; 8:45 am]
BILLING CODE 7035-01-M

[Amendment No. 3 to I.C.C. Order No. 63 Under Service Order No. 1344]

All Railroads; Rerouting Traffic

To: All Railroads—

Upon further consideration of I.C.C. Order No. 63, and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 63 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., March 31, 1981, unless otherwise modified, amended, or vacated by order of this Commission.

Effective date: This amendment will become effective at 11:59 p.m. November 30, 1980.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 21, 1980.

Interstate Commerce Commission.

Joel E. Burns,
Agent.

[FR Doc. 80-37543 Filed 12-2-80; 8:45 am]
BILLING CODE 7035-01-M

[Amendment No. 3 to I.C.C. Order No. 62 Under Service Order No. 1344]

All Railroads; Rerouting Traffic

To: All Railroads—

Upon further consideration of I.C.C. Order No. 62, and good cause appearing therefor:

It is ordered,

I.C.C. Order No. 62 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., February 28, 1981, unless otherwise modified, amended, or vacated by order of this Commission.

Effective date. This amendment will become effective at 11:59 p.m. November 30, 1980.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 21, 1980.

Interstate Commerce Commission.

Joel E. Burns,
Agent.

[FR Doc. 80-37544 Filed 12-2-80; 8:45 am]
BILLING CODE 7035-01-M

[I.C.C. Order No. 73 Under Service Order No. 1344]

Consolidated Rail Corp.; Rerouting Traffic

To: Consolidated Rail Corporation—

In the opinion of Joel E. Burns, Agent, Consolidated Rail Corporation is unable to transport promptly all traffic offered for movement between New Lexington and Zanesville, Ohio, because of a bridge destroyed in a derailment at milepost 22.61 on the Zanesville Secondary Track.

It is ordered,

(a) *Rerouting traffic.* Consolidated Rail Corporation, being unable to transport promptly all traffic offered for movement between New Lexington and Zanesville, Ohio, because of a bridge destroyed, is authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to this order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cards in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those therafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 1:00 p.m., November 24, 1980.

(g) *Expiration date.* This order shall expire at 11:59 p.m., January 15, 1981, unless otherwise modified, amended or vacated.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., November 24, 1980.

Interstate Commerce Commission.

Joel E. Burns,
Agent.

[FR Doc. 80-37542 Filed 12-2-80; 8:45 am]
BILLING CODE 7035-01-M

Award of Bonuses To Senior Executives

The ICC announces that it plans to award bonuses to Senior Executive Service members on or about December 18, 1980.

For further information contact: Gary Edles, Director, Office of Proceedings, Interstate Commerce Commission, 12th and Constitution Ave., N.W., Washington, D.C. 20423, (202) 275–7513.

By the Commission, Sanford Rederer, Managing Director

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-37539 Filed 12-2-80; 8:45 am]
BILLING CODE 7035-01-M

[Section 5b Application No. 2[1]]

Western Railroads—Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of postponement of compliance date, and request for additional comments.

SUMMARY: The November 1, 1980 compliance date in this proceeding is postponed to January 15, 1981. The interim approval of the proposed rate bureau agreements, entered October 28, 1976, in Ex Parte No. 297 (Sub-No. 1), is also extended to this date. The Commission requests comments regarding the new statutory provisions governing rate bureaus contained in the Staggers Rail Act of 1980, as they may affect the issues in this proceeding.

DATES: Comments should be filed on or before January 2, 1981.

ADDRESSES: An original and 15 copies, if possible, of any comments should be sent to: Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: In a decision served August 13, 1980, 364 I.C.C. 1, the Commission ordered the interim approval of these rate bureau agreements terminated October 14, 1980, or upon the filing by the railroads of amended agreements. The proceeding was held open for a period of 45 days to allow parties to file comments on: (1) the definitions of "practicably participate", and "broad tariff changes"; (2) the proposal to prohibit the docketing of independent rate actions; and (3) the findings with respect to general rate increases (or decreases) and broad tariff changes. On September 26, 1980, the October 14, 1980 compliance date was extended to November 1, 1980.

After these decisions were made, the Staggers Rail Act of 1980 was enacted. Our final decision in this case must be consistent with the new law. Therefore, comments are invited concerning the need for any changes in our decision required by the new law.

Interim antitrust immunity for current agreements is extended until January 15, 1981. The November 1, 1980 compliance date in this proceeding is postponed to January 15, 1981.

By separate notice, we are scheduling oral argument to be held December 11, 1980.

[1] This proceeding also embraces Section 5b Application No. 3, Eastern Railroads—Agreement, and Section 5b Application No. 6, Southern Railroads—Agreement.

V 45 / 234 DEC 80 UMI

This action does not affect the quality of the human environment or the conservation of energy resources.

(49 U.S.C. 10706)

Decided: October 17, 1980.

By the Commission, Darius W. Gaskins, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-37537 Filed 12-2-80; 8:45 am]

BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Delegation of Authority No. 138]

Assistant Administrator for the Near East; Delegation of Authority Regarding Nationality for Procurement of Vehicles

Pursuant to the authority delegated to me by Delegation of Authority Number 1 of October 1, 1979 from the Director of the United States International Development Cooperation Agency and Executive Order Number 12163 of September 29, 1979, I hereby delegate to the Assistant Administrator for Near East, notwithstanding the provisions of section IIIB of AID Delegation of Authority Number 40 of March 5, 1978, and section 5C4 of Handbook 1, Supplement B, authority to redelegate to the Director, USAID/Cairo authority to waive nationality requirements with respect to the financing of motor vehicles for AID projects in Egypt: *Provided however,* That such redelegation shall be limited to transactions in which the total cost of such vehicles does not exceed $250,000.

This Delegation of Authority shall be effective immediately.

Dated: November 18, 1980.

Douglas J. Bennet, Jr.,

Administrator.

[FR Doc. 80-37579 Filed 12-2-80; 8:45 am]

BILLING CODE 4710-02-M

International Trade Commission

[Investigation No. 337-TA-90]

Certain Airless Paint Spray Pumps and Components Thereof

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: November 25, 1980.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 80-37585 Filed 12-2-80; 8:45 am]

BILLING CODE 7020-02-M

[731-TA-37 (Preliminary)]

Certain Iron-Metal Castings From India; Institution of Preliminary Antidumping Investigation and Scheduling of Conference

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary antidumping investigation to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded, by reason of imports from India of certain iron-metal castings, provided for in item 657.09 of the Tariff Schedules of the United States (TSUS), allegedly sold or likely to be sold at less that fair value (LTFV).

EFFECTIVE DATE: November 19, 1980.

FOR FURTHER INFORMATION CONTACT: Patrick J. Magrath, Office of Investigations (202-523-0283).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted following receipt of a petition on November 19, 1980, filed by Pinkerton Foundry, Inc., Lodi, California, on behalf of domestic producers of certain iron-metal castings. The petition requested the imposition of additional duties in an amount equal to the amount by which the foreign cost of production exceeds the United States price of certain iron-metal castings imported from India.

Authority. Section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)) requires the Commission to make a determination of whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury or the establishment of an industry in the United States is materially retarded, by reason of imports alleged to be, or likely to be, sold in the United States at LTFV. Such a determination must be made within 45 days after the date on which a petition is filed under section 732(b) or on which notice is received from the Department of Commerce of an investigation commenced under section 732(a). Accordingly, the Commission, on November 20, 1980, instituted preliminary antidumping investigation No. 731-TA-37. This investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 FR 7657) and particularly, subpart B thereof.

For the purposes of this investigation, the term "certain iron-metal castings" means manhole covers and frames, catch basin grates and frames, and cleanout covers and frames, provided for in item 657.09 of the Tariff Schedules of the United States.

Written submission. Any person may submit to the Commission on or before December 15, 1980, a written statement of information pertinent to the subject matter of this investigation. A signed original and nineteen copies of such statements must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference. The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 10 a.m., e.s.t., on Wednesday, December 10, 1980, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the investigator for this investigation, Mr. Patrick J. Magrath (202-523-0283). It is anticipated that parties in support of the petition for antidumping duties and parties opposed to such petition will each be collectively allocated one hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference will be provided by the investigator.

Inspection of petition. The petition filed in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

Issued: November 26, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-37593 Filed 12-2-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-35 (Preliminary)]

Portable Electric Nibblers From Switzerland

Determination

On the basis of the record [1] developed in investigation No. 731-TA-35 (Preliminary), the Commission determined [2] that there is no reasonable indication that an industry in the United States is materially injured, or threatened with material injury,[3] By reason of the imports of portable electric nibblers from Switzerland, provided for in item 683.20 of the Tariff Schedules of the United States (TSUS), which are allegedly being sold in the United States at less than fair value (LTFV).

Background

On October 7, 1980, a petition was filed with the U.S. International Trade Commission and the U.S. Department of Commerce by the Widder Corp., Naugatuck, Conn., alleging that portable electric nibblers from Switzerland are being, or are likely to be, sold in the United States at LTFV. Accordingly, the Commission instituted a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury; or the establishment of an industry in the United States is materialy retarded, by reason of the importation into the United States of portable electric nibblers from Switzerland. The statute directs that the Commission make its determination within 45 days of its receipt of the petition or, in this case, by November 21, 1980.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on October 22, 1980 (45 FR 70160). The public conference was held in Washington, D.C., on October 29, 1980, and all persons who requested the opportunity were permitted to appear in person or by counsel.

[1] The record is defined in section 207.2(j) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(j)).

[2] Vice Chairman Michael J. Calhoun and Commissioner Catherine Bedell dissenting.

[3] The material retardation of the establishment of an industry in the United States was not an issue in this investigation.

Statement of Reasons of Chairman Bill Alberger and Commissioners George M. Moore and Paula Stern

In this investigation, No. 731-TA-35 (Preliminary), on the basis of the record, we determine that there is no reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded,[4] by reason of imports from Switzerland of portable electric nibblers,[5] allegedly sold, or likely to be sold, in the United States at less than fair value.

We base our decision on the findings of fact and conclusions of law discussed below.

Discussion

The industry: In this investigation, we consider the relevant domestic industry to consist of the producers of portable electric nibblers in the United States. Portable electric nibblers are hand-controlled power tools, with self-contained motors, used to cut sheet metal. These tools are produced in different gages for cutting different thicknesses of metal. The only portable electric nibblers being imported from Switzerland are 14 and 18 gage tools for cutting thinner gages of sheet metal. Punch and die assemblies are available at a cost of about 15 percent of the price of the nibbler to convert these tools to cut either flat or corrugated surfaces. Although thinner gage tools (14 through 18 gages) are generally used by the construction industry and manufacturers while thicker gage tools (13 gage and thicker) are used by steel fabricators, tools with different rated capacities may be and are used to cut the same gage steel (at some cost in efficiency and performance).

There are no clear lines of distinction for establishing rigid classifications of products; e.g. an 18-gage nibbler can cut 16-gage steel and a 12-gage nibbler can cut 14-gage steel. Since Section 771-(4)(A) defines the term industry as the domestic producers as a whole of the like product, or those whose collective output constitutes a substantial portion of domestic production of the like product, our determination necessarily means that we consider the "like product" to include all portable electric nibblers.[6] We believe this is consistant with past interpretations of the meaning of the term "like product" for purposes of Title VII.[7] The concept of likeness does not require exact identity, but it does require that the goods be substantially the same in uses or characteristics. A useful working definition might be that which is found in Webster's—"something similar or of the same kind". The determination must be made on the facts of each case, and depends upon the basic uses and characteristics of products which make them a substitute for the imported article. While in some cases we might establish different industry classifications for what appears to be one basic type of product, it is not appropriate here. The record before us reveals only that all nibblers are used in cutting various types of metal sheet and that there is a continuum of sizes based upon the gage of the metal to be cut. Thus, they are substantially the same, and there is no logic in segmenting them into separate industries or products. There are four producers of portable electric nibblers in the United States.[8]

Reasonable indication of material injury or threat thereof by reason of LTFV sales: On the basis of the statutory definition of material injury set forth in section 771(7) of the Tariff Act of 1930, we find no reasonable indication that the domestic industry has been materially injured by alleged LTFV sales.[9] In making a determination

[4] Since there are four domestic producers of the product in question, the question of the material retardation of the establishment of an industry in the United States was not an issue in this investigation.

[5] The product is provided for in item 683.20 of the Tariff Schedules of the United States (TSUS).

[6] Commissioner Stern finds that the imports under investigation are 14 and 18 gage portable electric nibblers. Inasmuch as the thinnest gage tools are not used to cut the thickest gage metal and vice versa, the like product is not all nibblers, but those gages used to cut the thinner gage metals. However, the best information available to the Commission concerning the profitability of domestically produced nibblers of thinner gages includes the data submitted by Black and Decker on its entire product line of nibblers. See, note 22 on page 5. Accordingly, the narrowest group or range of products which includes a like product for which necessary information is available within the meaning of subsection 771(4)(D) of the Tariff Act is all portable electric nibblers. This case is distiguishable from Plastic Animal Identification Tags from New Zealand, Inv. 303-TA-14 (Preliminary), USITC Pub. 1094 (September 1980) where in the Statement of Reasons of Chairman Alberger and myself we found, "For the purposes of our preliminary determination we are compelled to treat one- and two-piece tags as 'like products' because the best information available reveals that they are nearly identical in characteristics and end uses." The best information available in this case shows clearly that we have a distinction in end uses for thin gage and thick gage nibblers even though the line of demarcation where the two meet is somewhat blurred.

[7] Examples can be found in Certain Steel Wire Nails, Inv. 731-TA-26 (Final) USITC Pub. 1088 (August 1980), and in Plastic Animal Identification Tags from New Zealand, Inv. 303-TA-14 (Preliminary), USITC Pub. 1094 (September 1980).

[8] See Commission report (hereinafter referred to as Report), at pp. A-3; A-31.

[9] The petitioner alleged that imports of 18-gage portable electric nibblers from Switzerland were being sold at LTFV margins of 35 percent.

of material injury or threat of material injury, subsections 771(7)(B) and (C) direct the Commission to consider, among other factors: (1) the volume of trends. The Widder Corporation's average price for its 18 gage tool declined 10 percent in 1978, increased 15 percent in 1979 and declined about 3

other hand, experienced loses on net sales in 1977, 1978, and 1979. The firm, however, did not commence producing portable electric nibblers until 1977. It is

The positive trends in domestic capacity utilization, production, shipments, employment, and share of the U.S. market all belie a conclusion

(D) Product lines.—The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product if available data permit the

in January-September 1980 and at the end of that period were twice as high as inventories reported in any prior period. Counsel for the importer of these

of material injury or threat of material injury, subsections 771(7)(B) and (C) direct the Commission to consider, among other factors: (1) the volume of imports of the merchandise subject to the investigation, (2) the effect of imports of such products on prices of like products produced in the United States and, (3) the impact of the imports on the affected domestic industry. Our decision in this case is based upon our evaluation of the best information available to the Commission as it relates to these indicia.

Volume of imports: All of the U.S. imports of portable electric nibblers from Switzerland are imported by the Robert Bosch Sales Corporation. The domestic shipments of these imports increased approximately 23 percent from 1977 to 1979. A comparison of shipments in the period January–September 1980 with those for the corresponding period in 1979, however, shows a decrease of nearly 13 percent.[10]

During the period 1977 through 1979, the U.S. market for portable electric nibblers increased steadily from 6,341 units to 8,593 units, an increase of 36 percent.[11] The relative market shares for the domestically produced tools, the Swiss imports, and imports from other countries shifted slightly during this period and the Swiss tools lost some of their U.S. marketshare to other imported nibblers.[12] Although apparent U.S. consumption of these tools declined in the January–September 1980 period when compared to the January–September 1979 period, U.S. producers were able to increase their share of the market slightly.[13] The petitioner's share of the U.S. market increased each year in the 1977–1979 period and continued to increase in 1980.[14]

Effect of imports on prices: Imported portable electric nibblers from Switzerland consistently undersold comparable domestically produced tools by margins of as much as 27 percent for the 18 gage nibbler in 1978 and by an average of 19 percent for the 14 gage nibbler from January 1978 through September 1980.[15] Different quality perceptions may account for some of the price differentials.[16]

Prices of the Swiss units increased by an average of 17 percent in 1978, and increases continued through 1979 and into 1980 at lesser percentages.[17] Prices of U.S. produced units show different trends. The Widder Corporation's average price for its 18 gage tool declined 10 percent in 1978, increased 15 percent in 1979 and declined about 3 percent from the first to the second quarter of 1980.[18] The average price of the Black and Decker 16 gage nibbler, on the other hand, increased only 5 percent in 1978 but increased by 13 percent from January–March of 1979 to July–September of 1980.[19] Within the 14–18 gage models, some German and Japanese nibblers are offered for sale at prices comparable to the Widder 18 gage nibbler. Accordingly, Widder's prices appear to be competitive with imported nibblers in general rather than suppressed by Swiss imports allegedly sold at LTFV.[20]

Impact of imports on the affected domestic industry: Domestic production of portable electric nibblers increased steadily from 2,959 units in 1977 to 3,567 units in 1979.[21] The production during the period January–September 1980 was 15 percent higher than during the comparable period in 1979. Although capacity utilization, expressed as the ratio of production to capacity, declined from 1977 to 1979 as new capacity was brought on stream, it increased sharply in 1980.[22]

The domestic shipments of U.S. producers increased annually from 2,406 units in 1977 to 3,186 units in 1979. During January–September 1980, shipments increased slightly from 1,987 units to 2,005 units for the comparable period in 1979. Although precise data concerning the employment of workers in the production of nibblers is not available, reasonable inferences from the data that is available indicate that employment and man-hours worked in the production of portable electric nibblers have increased, paralleling production and shipments.[23] Only two of the four U.S. producers of portable electric nibblers submitted profit and loss data on their nibbler operations to the Commission. The larger of these firms, Black and Decker Corporation,[24] earned substantial profits from its nibbler operations for each of the periods for which it submitted information—1978, 1979, and January–September 1980.[25] The petitioner on the other hand, experienced loses on net sales in 1977, 1978, and 1979. The firm, however, did not commence producing portable electric nibblers until 1977. It is common for a company introducing a new product line to experience losses during the first years of production.[26]

Although inventories of the Swiss portable electric nibblers on September 30, 1980, were almost twice as high as on any other date for which inventories were reported during the investigation, shipments of these imports have decreased during 1980—indicating that Bosch is apparently not attempting to sell at distress prices.

[10] Report, at A–13.
[11] Report, at A–5.
[12] Report, at A–5.
[13] Report, at A–17.
[14] Report, at A–8.
[15] Report, at A–22, A–24.
[16] Report, at A–25.
[17] Report, at A–23.
[18] Report, at A–22.
[19] Report, at A–24.
[20] Report, at A–19, A–20.
[21] Report, at A–6.
[22] Report, at A–7.
[23] Report, at A–27, A–14.
[24] Black and Decker did not allege any material injury or threat thereof. Two other domestic producers—Fenway Machine Co. and Modern Manufacturing Co., made no allegations concerning material injury or the threat of material injury.
[25] This profit and loss information was based on allocations from the sales of the company's Industrial Construction Division to its nibbler operations as a whole. Report, at p. A–16. The company did not further refine its profit and loss information between thinner and thicker gaged nibblers (Transcript of staff briefing, November 19, 1980). It is believed that an attempt to make allocations on a narrower product basis would result in financial data of questionable validity.
[26] Commissioner Stern notes that arguments have been urged on the Commission that the losses on net sales experienced by the petitioner could constitute a reasonable indication of material injury because: 1) the scope of the domestic industry should be limited to 14 to 18 gage nibblers and 2) as the petitioner represents approximately 50 percent of domestic shipments of 14 to 18 gage nibblers on a volume basis, the petitioner, therefore, constitutes a major proportion of the domestic production of the "like" product within the meaning of subsection 771(4)(D) of the Tariff Act and the discussion of this provision in the Committee Report of the House Ways and Means Committee on the Trade Agreements Act of 1979 (H.R. Rep. No. 317, 96th Cong., 1st Sess. 73 (1979)).

With respect to the argument that the domestic industry consists of 14 to 18 gage nibblers, the best information available to the Commission fails to provide a distinction between 14 and 12 or 13 gage nibblers, thereby demonstrating that the "like product" is *all* thinner gage nibblers. Further, in other preliminary determinations where the information available to the Commission raised a strong inference that additional information could confirm that there was a reasonable indication of material injury or threat thereof, the Commission has indeed reached an affirmative result. *Certain Public Works Castings from India* (Investigation No. 303–TA–13 (Preliminary), USITC Publication No. 1056, April 1980), is an example of such a case. However, in that case Commission staff felt that the preliminary data actually included considerable more than 50 percent of the industry and that it was representative of the more complete data that would be collected in a final investigation. The data in *Public Works Castings* covered hundreds of firms which were similarly situated assuring the representativeness of the available data, while in this case there are only four firms and we know that the available data is not representative of the other producers.

Thus, even in the event that more information could justify a conclusion that the proper scope of the domestic industry was confined to 14 through 18 gage portable electric nibblers, the profit and loss information already available to the Commission indicates that the petitioner's loss experiences were not representative of the industry's and were not directly attributable to LTFV competition from Switzerland. The only information the Commission could use to complement this determination would be Black and Decker's profit and loss experience with 14 through 18 gage nibblers. The Commission is aware that this data cannot be accurately developed and it would not change the result here.

The positive trends in domestic capacity utilization, production, shipments, employment, and share of the U.S. market all belie a conclusion that the domestic industry is threatened with material injury by reason of imports from Switzerland.

Conclusion

We have not found a reasonable indication of material injury or threat thereof to the domestic industry producing portable electric nibblers by reason of alleged LTFV sales of imports from Switzerland. Therefore, we find that the case should be terminated.[27]

Recommendation and Supporting Statement of the Director of Operations for a Negative Preliminary Determination in Investigation No. 731–TA–35 (Preliminary), Portable Electric Nibblers From Switzerland

Recommendation

On the basis of the record developed in this investigation, I recommend that the Commission determine that there is no reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of portable electric nibblers from Switzerland, provided for in item 683.20 of the Tariff Schedules of the United States, which the petitioner alleges are being, or are likely to be, sold in the United States at less than fair value.

Supporting Statement

Procedural background. The Commission instituted this investigation on October 16, 1980, following receipt of a petition filed by the Widder Corp., Naugatuck, Conn., on behalf of the domestic industry producing portable electric corrugated nibblers. A public conference was held in Washington, D.C. on October 29, 1980, at which parties in support of the petition and those opposed to it presented testimony. The Commission's determination in the investigation is due to be transmitted to the Department of Commerce on November 21, 1980.

Domestic Industry. The impact of allegedly dumped imports is to be measured against the industry producing a "like product" (Section 771(4)(A) of the Tariff Act of 1930). However, in assessing this impact, the statute directs the Commission to isolate the affected product lines to the extent possible. Section 771(4)(D) states:

(D) Product lines.—The effect of subsidized or dumped imports shall be assessed in relation to the United States production of a like product if available data permit the separate identification of production in terms of such criteria as the production process or the producer's profits. . . .

The Senate Finance Committee Report states:

In examining the impact of imports on the domestic producers comprising the domestic industry, the ITC should examine the relevant economic factors (such as profits, productivity, employment, cash flow, capacity utilization, etc.), as they relate to the production of only the like product, *if available data permits (sic) a reasonably separate consideration of the factors with respect to production of only the like product.* (Emphasis added) S. Rep. 96–249, 95th Cong., 1st Sess., at p. 83–84.

In the current investigation, the petitioner complained of alleged LTFV sales of portable electric corrugated nibblers imported from Switzerland. The petitioner is the sole domestic producer of a *corrugated* nibbler and would appear to constitute the domestic industry producing a "like product". However, three other domestic firms produce portable electric nibblers. Staff research has determined that nibblers are hand-directed, hand-controlled power tools, with self-contained motors, used to cut corrugated or flat sheet metal by the action of a reciprocating punch. Because of the availability of reasonably priced conversion die assemblies, nibblers are essentially interchangeable for many cutting applications. Competition in the U.S. market between domestically-produced nibblers and the alleged LTFV imports occurs on the basis of cutting capacity and price rather than end-use designations such as "corrugated" or "flat surface". Further, there are separate identifiable facilities and manpower associated with the production of portable electric nibblers. As a result, examination of the impact of imports with respect to domestic producers of all portable electric nibblers is appropriate.

Findings with respect to "no reasonable indication of material injury, or threat thereof", by reason of imports subject to the investigation. a. Domestic shipments of nibblers imported from Switzerland increased steadily from 1977 to 1979, representing an increase of 23 percent. Shipments of such imports declined by 13 percent in January–September 1980 as compared to January–September 1979 (Report, pp. A–18—A–19).

b. Inventories of nibblers imported from Switzerland declined from 1977 to 1979. Such inventories increased rapidly in January–September 1980 and at the end of that period were twice as high as inventories reported in any prior period. Counsel for the importer of these nibblers reported that this high inventory level resulted from a miscalculation of demand (Report, pp. A–14—A–15).

c. The share of the nibbler market held by imports from Switzerland increased slightly from 1978 to 1979, when they accounted for more than one third of the U.S. nibbler market. In January–September 1980 the market share of Swiss nibblers remained at the same level when compared to the market share held in the corresponding period of 1979 (Report, p. A–24).

d. By quantity, total shipments by domestic producers rose annually from 2,406 units in 1977 to 3,186 units in 1979 representing an increase of 32 percent. During January–September 1980, U.S. producers' total shipments increased to an estimated 2,005 units up from 1,987 units in the comparable period in 1979, an increase of 1 percent (Report, pp. A–11—A–12).

e. Only two of the four domestic producers of portable electric nibblers reported capacity data to the Commission. Based on these data and expressed as a ratio of production to capacity, capacity utilization declined from 85 percent in 1977 to about 70 percent in 1978–79. Although production increased throughout this period it did not increase at as fast a rate as new production capacity. In January–September 1980, the capacity utilization ratio rose to 79 percent (Report, A–11).

f. U.S. producers' share of the nibbler market declined from 38 percent in 1978 to 36 percent in 1979. During January–September 1980, producers' market share increased 13 percent as compared to the comparable period of 1979 (Report, p. A–24).

g. Profit-and-loss data on U.S. portable electric nibbler operations were only available for two U.S. producers. Although the smaller firm reported losses on its nibbler operations, the larger firm earned substantial profits from its nibbler operations in all of the periods for which it provided data. On the basis of combined data, the ratio of net operating profit to net sales for these two producers was about twice that reported in 1979 for all U.S. manufacturers (approximately 8 percent) (Report, pp. A—20–A–23).

i. Complete or partial price data were obtained from 8 of the 11 firms selling nibblers in the U.S. market. 18 gage and 14 gage nibblers imported from Switzerland have undersold comparable domestically-produced nibblers by

[27] Chairman Alberger includes, for informational purposes, the Recommended Determination and Supporting Statement of the Director of Operations in this investigation. The Director's Determination is as follows:

margins ranging from 7 percent to 40 percent. (Report, pp. A–24—A–34).

j. The staff contacted 13 nibbler

injured, or is threatened with material injury, by reason of imports of portable electric nibblers from Switzerland,

corrugated metal. However, the information available to the Commission indicates that not all the imported

of 18 gage portable electric nibblers. The producers of these nibblers are Black & Decker Corp., Fenway Machine Co.,

the differences in quality would suggest.[28]

We also note a pattern of significant

of the producers of the like product are unavailable or unreliable. This is precisely the circumstance before us.

margins ranging from 7 percent to 40 percent. (Report, pp. A–24—A–34).

j. The staff contacted 13 nibbler distributors. In four instances the staff confirmed that the distributors had either recently become a distributor for Swiss nibblers, had increased sales of Swiss nibblers because of their lower prices, or had lost a large nibbler contract from a builder to a competing distributor of Swiss nibblers (Report, pp. A–34–A–35).

Conclusion

On the basis of the information developed in the investigation, I recommend that the Commission find that there is no reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of portable electric nibblers from Switzerland which are allegedly sold in the United States at less than fair value.

In support of my recommendation I cite: 1. Domestic production, capacity utilization, shipments, employment and share of the market are all stable or increasing in January–September 1980.

2. Profitability, although declining slightly, is still well above the average profitability of all U.S. manufacturers, based on the ratio of net operating profit to net sales.

3. Nibblers of comparable capacities such as 18 gage and 16 gage compete with each other in several applications. Imports from Switzerland are substantial but consist entirely of 18 and 14 gage units. Black and Decker produces a 16 gage and an 8 gage nibbler; Widder Corp. produces only an 18 gage unit; Fenway produces a 14 gage unit and a thicker gage unit as well.

4. Over 45 percent of the domestically-produced nibblers shipped in January–September 1980 consisted of 14 gage or thinner nibblers. Three of the domestic firms who supplied these units did not support the petition nor allege any sales losses because of import competition from Swiss nibblers.

5. The stable or increasing trends in the indices of material injury—production, shipments, capacity utilization, employment, profitability, etc.—would indicate the domestic industry is not suffering material injury nor is it threatened with material injury.

Statement of Reasons for the Affirmative Determination of Vice Chairman Michael J. Calhoun and Commissioner Catherine Bedell

On the basis of the record developed in investigation No. 731–TA–35 (Preliminary), we determine that there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of portable electric nibblers from Switzerland, allegedly sold or likely to be sold in the United States at less than fair value (LTFV).

Discussion

The Commission is directed by section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to make a determination as to whether there is a reasonable indication that an industry in the United States is being materially injured or is threatened with material injury by reason of imports of merchandise that has been designated by the Department of Commerce as the subject of an investigation commenced under section 732(a) or 732(b).[28] The determination must be based on the best information available to the Commission at the time of the determination. Section 771(7) defines material injury as harm which is "not inconsequential, immaterial, or unimportant" and provides specific factors to be considered among others when making a determination under section 733(a). A discussion of the factors we considered in reaching our determination follows.

Domestic Industry

In order to determine whether there is a reasonable indication of material injury or threat of material injury, the industry against which the impact of the alleged LTFV imports is to be analyzed must be defined. Section 771(4) states that—

> The term "industry" means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.

The term "like product" is defined in section 771(10) as—

> a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.

The portable electric nibblers being imported into the United States from Switzerland that are subject to this investigation are 14-gage and 18-gage nibblers produced by Scintilla, S.A., Solothurn, Switzerland, a subsidiary of Robert Bosch GmbH of West Germany. The petitioner suggests that the like product in this investigation should be portable electric nibblers that cut corrugated metal. However, the information available to the Commission indicates that not all the imported nibblers are sold as nibblers for cutting corrugated metal.[29] Moreover, the nibblers sold by Bosch as corrugated nibblers can be used to cut flat metal,[30] and there are die assemblies sold for the imported nibblers which provide a consumer with the flexibility of using these nibblers for cutting either corrugated or flat metal.[31] Thus, our view is that the like product must include nibblers that cut either corrugated or flat metal.

Portable electric nibblers produced in the United States are capable of cutting a wide range of metal gages. Whether all portable electric nibblers, regardless of size, can be considered like the imported 14- and 18-gage nibblers must be determined in light of the realities of the marketplace.

The information available suggests that there is a clear distinction between thick gage and thin gage nibblers with respect to their uses and consumer perception of their capabilities. Apparently, the thin gage nibblers are used at metal-building construction sites and are used by heating, air-conditioning, and ventilation installers and by certain industrial users such as manufacturers of mobile homes, recreation vehicles, snowmobiles, and automobiles. Thick gage nibblers are used primarily as shop tools by steel fabricators and bridge construction firms.[32] There is also information in the record that the domestically produced 16-gage nibbler is competitive with the 18-gage and 14-gage imported nibblers as it can be used to cut metal of all three thicknesses.[33] In addition, information indicates that the domestic 12- and 13-gage nibblers may also be competitive with the 14-gage imported nibbler,[34] but, in light of the information that distinguishes the uses of thin and thick gage nibblers, and considering that this is a preliminary investigation with data not fully developed, we find the most reasonable assessment of the "like product" to be the thin gage portable electric nibblers, those in the 14 to 18-gage range.

Finally, on the basis of our analysis of what constitutes the like product, the industry in the United States against which our injury analysis is focused includes the domestic producers of 14-

[28] Sec. 733(a) also provides for an alternative determination as to whether there is a reasonable indication that the establishment of an industry in the United States is materially retarded by reason of the imports. The establishment of an industry is not an issue in this investigation and will not be further discussed.

[29] Transcript of the conference, Oct. 29, 1980, p. 38.
[30] Transcript of the conference, p. 42.
[31] Staff report, p. A–1; transcript of the conference, p. 54; memorandum of Nov. 18, 1980, from the Director of Investigations to the Vice Chairman.
[32] Staff report, p. A–2.
[33] Staff report, pp. A–22 and A–24.
[34] Staff report, p. A–22.

of 18 gage portable electric nibblers. The producers of these nibblers are Black & Decker Corp., Fenway Machine Co., Modern Manufacturing Co., and Widder Corp., the petitioner.

Volume of Imports

Imports of nibblers from Switzerland, which had declined in 1978, rapidly increased in 1979. Such imports in January–September 1980 were 73 percent higher than imports in Janunary–September 1979 and represented 76 percent of total nibbler imports during that period.[35]

Domestic shipments of nibblers imported from Switzerland increased 23 percent from 1977 to 1979. But these shipments declined by 13 percent in January–September 1980 compared with those in January–September 1979.

With the large increase of imports from Switzerland during January–September 1980, a tenfold increase in importers' inventories developed between September 30, 1979, and September 30, 1980.[36] This exceptionally large inventory of Swiss nibblers may pose a serious threat to the sales of U.S. producers of the like product in the near future. Furthermore, Swiss imports are retaining, and have held since 1978, a share of approximately two-thirds of the U.S. market.

Effect of Imports on Prices

A significant pattern of underselling is revealed by price comparisons between imports and the like product. When comparing the 16-gage Black & Decker nibbler with the Swiss 14-gage, a heavier and presumably more costly machine,[37] we note a pattern of underselling of approximately 40 percent from January 1978 until September 1980. A direct comparison of the prices of the Widder 18-gage nibbler with those of the imported Swiss 18-gage nibbler shows a pattern of underselling that ranges from 7 to 27 percent in 1978, 16 to 23 percent in 1979, and 21 to 23 percent through March 1980. A direct comparison of the Swiss 14-gage to Fenway's 14-gage shows a pattern of underselling with a range of 19 to 22 percent in 1979 and 15 to 19 percent through September 1980.[38] There is some information in the record that there are quality differences between the imports from Switzerland and the domestic counterparts. However, the price differences at this point in the investigation seem more significant than the differences in quality would suggest.[39]

We also note a pattern of significant underselling of comparable imports from West Germany by the imports from Switzerland well beyond acknowledged quality differences. For example, in January–March 1980, the 18-gage Swiss nibbler was 34 percent lower in price than the 18-gage nibbler imported by Fein of West Germany.[40]

Information on price adjustments of the 18-gage Swiss imported nibbler and the 18-gage domestic nibbler manufactured by Widder suggests that there may be price suppression due to the pattern of underselling. We note that in 1978 the average price of the 18-gage Swiss nibblers increased by 20 percent. Widder followed 1979 by increasing its prices by 15 percent. However, in the face of only a 2.4-percent increase in price by the Swiss nibblers from March–June 1979 to July–September 1980, Widder's average price for its 18-gage nibbler decreased by about 3 percent between January–March and April–June 1980.[41] This occurred in spite of an increasing net operating loss from 1977 through 1979.[42]

Impact of Imports on the Domestic Producers

Section 771(4) of the Tariff Act of 1930, as noted earlier, defines industry as—

> The domestic producers as a whole of a like product, *or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product.* (Emphasis supplied.)

The House Ways and Means Committee report on the Trade Agreements Act of 1979 discusses this definition and states, in part:

> As under current practice, the "industry" can also be producers who comprise something less than the entire group of producers of like products if the total output of this group of producers constitutes a major proportion of the total domestic production of that product. The phrase "major proportion of total domestic production" cannot be defined with mathematical precision, and the application of the phrase will therefore vary from case to case.[43]

A practical application of this provision, especially with regard to preliminary investigations, is the authority it provides for reaching a determination when data from a portion of the producers of the like product are unavailable or unreliable. This is precisely the circumstance before us.

In this regard, we have considered the profitability of only Widder Corp. in reaching our determination. Neither Modern Manufacturing Co., which represented less than 2 percent of U.S. producers' domestic shipments in 1979, nor Fenway Machine Co., which represented less than 10 percent of U.S. producers' domestic shipments in 1979, provided profit-and-loss information. Black & Decker, which represented about 41 percent of U.S. producers' domestic shipments in 1979, provided profit-and-loss information on its total nibbler production, but this information includes data on nibblers larger than 14-gage. These larger nibblers account for the bulk of Black & Decker's total sales of nibblers. Furthermore, sales of all portable electric nibblers represented only a very small share of total sales of Black & Decker's Industrial Construction Division in 1979, and since profit on nibbler sales was extracted from total profit of the Division, the data are of questionable value.[44] Relying on only the information relating to the remaining producer of the like product (Widder Corp.) poses no problem under section 771(4) as Widder represents approximately 50 percent of domestic producers' shipments of 14- to 18-gage nibblers on a volume basis.[45] This constitutes a major proportion of the total domestic production of the like product.

Examination of Widder's profit-and-loss experience regarding 18-gage nibblers shows that it experienced losses in 1978 and 1979 even though it improved its net sales by 95 percent from 1977 through 1979. While Widder's gross profit increased by 71 percent from 1977 through 1979, it experienced net losses during all these years. The company's ratio of net operating loss to net sales increased from 1977 to 1978. Although it decreased in 1979, the percentage remained relatively significant.[46]

In spite of these difficulties, we did note that the employment picture has been improving. During January 1977 through September 1980, Widder Corp. reported an increase in the number of part-time production and related workers engaged in the manufacture of nibblers.[47]

We have also observed that there have been four confirmed lost sales by Widder to the Swiss imported nibblers.

[35] Staff report, p. A–13.
[36] Staff report, pp. A–10, A–11, and A–13.
[37] Staff report, p. A–22.
[38] Staff report, p. A–24.
[39] Staff report, p. A–26.
[40] Staff report, p. A–19.
[41] Staff report, p. A–23.
[42] Staff report, p. A–16.
[43] Trade Agreements Act of 1979: Report of the Committee on Ways and Means . . ., H. Rept. No. 96–317 (96th Cong., 1st sess.), 1979, p. 73.
[44] Minutes of Commission meeting, Nov. 19, 1980.
[45] Staff report, p. A–8.
[46] Staff report, p. A–16.
[47] Staff report, p. A–15.

These included sales to a distributor which had recently increased sales of Swiss nibblers because of the lower

discuss the issue of processed water disposition.

Washington and local public document rooms.

OHIO RIVER BASIN COMMISSION

Cumberland River Basin Regional

Register proposed changes in international postal rates and fees (45 FR 65750). Sixty-one comments were

basis of the weight of the mail and therefore increases in terminal dues have a more dramatic impact on heavier

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These included sales to a distributor which had recently increased sales of Swiss nibblers because of the lower price, with a corresponding decline in sales of the domestic nibblers occurring, and a distributor which lost a large nibbler contract with a builder to a competing distributor of the Swiss nibbler.[48]

Conclusion

Therefore, on the basis of the strong pattern of underselling of the imports from Switzerland, the significant increase in inventories of such imports, their strong market position, and the profit difficulties of the producer representing 50 percent of the production of the like product, we conclude that there is a reasonable indication that the domestic industry producing 14- to 18-gage portable electric nibblers is materially injured, or is threatened with material injury, by reason of imports from Switzerland allegedly sold or likely to be sold at less than fair value.

Issued: November 25, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-37594 Filed 12-2-80; 8:45 am]

BILLING CODE 7020-02-M

NUCLEAR REGULATORY COMMISSION

Advisory Panel for the Decontamination of Three Mile Island, Unit 2

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island, Unit 2, will hold two meetings during the month of December. Both meetings will be open for public observation.

The first meeting will be on December 18, 1980, from 7:00 p.m. to 10:00 p.m. in the auditorium of the William Penn Museum, Third and North Streets, Harrisburg, Pennsylvania.

Representatives of the Department of Energy and Metropolitan Edison Company will be attending this meeting to discuss radioactive waste management issues pertinent to the decontamination of TMI-2.

The second meeting will be on December 30, 1980, from 7:00 p.m. to 10:00 p.m. at the same location as listed above. At this meeting the panel will discuss the issue of processed water disposition.

Further information on the meetings may be obtained from Dr. William Travers, Three Mile Island Program Office, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301/492-7811.

Dated: November 26, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-37520 Filed 12-2-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-461A and 50-462A]

Illinois Power Co., et al.; Receipt of Antitrust Information

Note.—This document originally appeared in the Federal Register for Monday November 24, 1980. It is reprinted in this issue at the request of the agency.

Illinois Power Company, on behalf of itself and Soyland Power Cooperative, Inc. and Western Illinois Power Cooperative, Inc., has filed antitrust information for their application for operating licenses for the Clinton Power Station, Units 1 and 2. This information was filed pursuant to Part 2.101 of the Commission Rules and Regulations and is in connection with the owners' plans to operate two boiling water reactors in Dewitt County, Illinois. The application contains antitrust information for review pursuant to NRC Regulatory Guide 9.3 to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage. The remainder of the application for operating licenses was submitted previously and was docketed on September 9, 1980. (See Federal Register Notice 45 FR 64307.)

On completion of staff antitrust review of the above-named application, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Act. A copy of this finding will be published in the Federal Register and will be sent to the Washington and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, request for reevaluation may be submitted for a period of 60 days after the date of the Federal Register notice. The results of any reevaluations that are requested will also be published in the Federal Register and copies sent to the Washington and local public document rooms.

A copy of the application for operating licenses and the antitrust information submitted are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C. 20555 and in the local public document room at the Vespasian Warner Public Library, 120 West Johnson Street, Clinton, Illinois.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the applicants' activities since the construction permit antitrust reviews for the above-named plant should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C, 20555. Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before January 26, 1981.

Dated at Bethesda, Maryland, this 13th day of November 1980.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Acting Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 80-36367 Filed 11-21-80; 8:45 am]

BILLING CODE 7590-01-M

State Liaison Officers' Meeting

On December 9 and 10, 1980, the Nuclear Regulatory Commission will sponsor a meeting with State Liaison Officers to discuss mutual regulatory interests. The meeting will be conducted at the Nuclear Regulatory Commission headquarters at 1717 "H" Street, NW., Washington, DC in the Commissioners' Conference Room on the 11th floor. The meeting is open to the public for attendance and observation and will take place from 9:00 a.m. until 5:00 p.m. on Tuesday, December 9 and from 8:30 a.m. until 1:00 p.m. on Wednesday, December 10, 1980. Questions regarding this meeting should be directed to Sue Weissberg at (301) 492-7794.

Dated at Bethesda, Maryland this 1st day of December, 1980.

For the Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

[FR Doc. 80-37699 Filed 12-2-80; 8:45 am]

BILLING CODE 7590-01-M

[48] Staff report, p. A-28.

OHIO RIVER BASIN COMMISSION

Cumberland River Basin Regional Water and Related Land Resources Plan and Draft Environmental Impact Statement (Comprehensive Coordinated Joint Plan); Available for Review

Pursuant to Section 204(3) of the Water Resources Planning Act of 1965 (Pub. L. 89-80), the Ohio River Basin Commission has prepared the Cumberland River Basin Regional Water and Related Land Resources Plan (CCJP) and Draft Environmental Impact Statement. This plan constitutes the Cumberland portion of the Ohio River Region's Comprehensive Coordinated Joint Plan. The Plan/Draft EIS is under 90-day review by the governor of each state and the head of each federal and interstate agency for which a member has been appointed to the Commission.

Views, comments and recommendations are requested by February 23, 1981. Copies are available from the Ohio River Basin Commission, 36 E. 4th St., Suite 208, Cincinnati, OH 45202.

Fred J. Krumholtz,

Chairman.

[FR Doc. 80-37501 Filed 12-2-80; 8:45 am]

BILLING CODE 8410-01-M

POSTAL SERVICE

International Postal Rates and Fees

AGENCY: Postal Service.

ACTION: Final international rates and fees.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service is changing the international postal rates and fees to the levels indicated below. The levels of some of these rates and fees, marked with asterisks, depend upon the levels of certain domestic rates and fees for which increases have been proposed and are expected to become effective in March 1981. The international rates and fees marked with a single asterisk are not changed, and will remain at current levels until the proposed domestic increases take effect. Those marked with double asterisks will become effective on January 1, 1981 as interim new rates and fees, which will be revised again to reflect the domestic increases when they become effective.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Don S. Allen (202) 245-4418.

SUPPLEMENTARY INFORMATION: On October 3, 1980, the Postal Service published for comment in the Federal Register proposed changes in international postal rates and fees (45 FR 65750). Sixty-one comments were received concerning the October 3 notice. Forty-one of the comments were in regard to the increased rates for publishers' periodicals and their effect on medical and scientific publications of nonprofit organizations and associations. Twelve comments were also received from publishers concerning the increase in publishers' periodical rates. These comments are generally summarized below.

(1) The rate increase would increase the cost of circulation which could curtail the exchange of medical and scientific publications between countries.

(2) The time between the announcement of the rate increases and implementation date is too short to allow passing the increases on to subscribers.

(3) The increases will have an inflationary effect.

(4) The implementation date should be delayed until the effective date of domestic rate increases in order to avoid confusion.

(5) The percentage of the increase for certain weight categories is higher than that for other categories.

Five comments were received from import-export companies, pointing out the possible adverse effect increased rates may have on the export of American-made products. Three comments concerned the increase in letter rates and in the fee for certificates of mailing.

The Postal Service recognizes that this increase in international postage rates will be burdensome to publishers and other businesses which rely heavily upon the international mail service and may have other adverse effects as suggested in the comments summarized above. However, the Postal Service is generally required to set the postage rate for each class of mail at a level which covers the costs of providing service for that class of mail. The January 1, 1981 increase in rates is necessary in order to cover the significant increase in the amount the Postal Service will be required to pay foreign postal administrations for their handling of mail originating in the United States. The Congress of the Universal Postal Union, which establishes the rates for these "terminal dues" payments between postal administrations, met in the Fall of 1979 and adopted, over the objection of the Postal Service, a 267 percent increase in the rate for terminal dues which will become effective on January 1, 1981. Terminal dues are calculated on the basis of the weight of the mail and therefore increases in terminal dues have a more dramatic impact on heavier mail items such as publications than on letters and postcards. The Postal Service must cover this increase in terminal dues costs in its postage for each class of mail since it does not receive any congressional appropriations to subsidize the rates for any class of international mail.

Several comments suggested that the time between the announcement of the increases and the implementation date is too short and that the implementation date should be delayed. Although the specific amount of postage rate increases was not available to mailers until the October 3 notice in the Federal Register, mailers were provided with notice, in newspapers articles in the Fall of 1979 and in the January 1980 issue of the Postal Service's "Memo to Mailers", that international rates would be increased significantly because of the increase in terminal dues. Since the Postal Service must pay these increased terminal dues on all mail sent to other countries after January 1, 1981, the increase in international postage rates must become effective on that date in order to cover the costs for such mail.

The fact that the percentage increases for the various categories of printed matter appear uneven results from the creation of additional weight increments in the rate structures. This modification is authorized by a recent amendment to the Acts of the Universal Postal Union Convention and is one many mailers have been asking for to avoid paying rates which are averaged over a broader weight spectrum.

The 40 cent fee for the international certificate of mailing is the same as the proposed domestic fee for this service. It has been determined by a cost study that the attributable cost of issuing a certificate of mailing is 38 cents. A nominal markup of 2 cents has been added as contribution to other cost.

There has been a change in the proposed rates published in the October 3 notice which in effect reduced the air parcel post rates for the People's Republic of China. In addition, the rates and fees marked with a double asterisk were not published on the October 3 notice but are being adopted effective January 1, 1981. The level of the interim rates and fees is authorized by the relevant provisions of the Universal Postal Convention.

Accordingly the Postal Service hereby adopts the following rates and fees, which will be published in the Postal Service's International Mail Manual.

V 4 5 / 2 3 4
DE 3 80
UMI

V 45 / 234 DE 3 80 UMI

(39 U.S.C. 401, 403, 404(2), 407, 410(a))

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

I. International Postal Rates and Fees

A. New Rates

1. Letters and Letter packages (Surface).

Weight steps				Canada	Mexico	All other countries
Over		Through				
Pounds	Ounces	Pounds	Ounces			
		0	1	*$0.15	*$0.15	$0.30
0	1	0	2	*.28	*.28	.47
0	2	0	3	*.41	*.41	.64
0	3	0	4	*.54	*.54	.81
0	4	0	5	*.67	*.67	.98
0	5	0	6	*.80	*.80	1.15
0	6	0	7	*.93	*.93	1.32
0	7	0	8	*1.06	*1.06	1.49
0	8	0	9	*1.19	*1.19	2.76
0	9	0	10	*1.32	*1.32	2.76
0	10	0	11	*1.45	*1.45	2.76
0	11	0	12	*1.58	*1.58	2.76
0	12	1	0	*2.25	*2.25	2.76
1	0	1	8	*2.50	*2.50	3.76
1	8	2	0	*2.83	*2.83	4.80
2	0	2	8	*3.16	*3.16	5.55
2	8	3	0	*3.50	*3.50	6.30
3	0	3	8	*3.83	*3.83	7.05
3	8	4	0	*4.16	*4.16	7.80
4	0	4	8	*4.50	....	....
4	8	5	0	*4.83	....	....
Each additional pound				*.665	....	....

Maximum limit 60 pounds to Canada, 4 pounds to Mexico and all other countries.

2. Letters and Letter Packages (Air). a. Canada and Mexico; Refer to rates listed under A.1. (Surface Rates). Mail paid at this rate receives First-Class service in the United States and air service in Canada and Mexico.

b. Colombia, Venezuela, Central America, The Caribbean Islands, Bahamas, Bermuda, St. Pierre and Miquelon: 35 cents per half ounce up to and including 2 ounces; 30 cents each additional half ounce up to and including 32 ounces; 30 cents per additional ounce over 32 ounces.

c. All Other Countries: 40 cents per half ounce up to and including 2 ounces; 35 cents each additional half ounce up to and including 32 ounces; 35 cents per additional ounce over 32 ounces.

3. Post and Postal Cards. a. Surface. (1) Canada and Mexico: 10* cents each.

(2) All other countries: 19 cents each.

b. Air. (1) All countries (except Canada and Mexico): 28 cents each.

(2) Canada and Mexico: 10* cents each.

4. Aerogrammes: 30 cents each.

5. Other Articles (AO).

a. Surface. (1) Regular Printed Matter.

Weight steps		Canada and Mexico	All other countries
Over	Through		
0 oz	1 oz	*$0.20	$0.23
1 oz	2 oz	*.20	**.33
2 oz	3 oz	*.40	**.43
3 oz	4 oz	*.40	**.53
4 oz	6 oz	*.53	**.72
6 oz	8 oz	*.66	**.92
8 oz	10 oz	*.79	1.11
10 oz	12 oz	*.92	1.29
12 oz	14 oz	*1.05	1.48
14 oz	16 oz	*1.18	1.66
16 oz	18 oz	1.80	1.80
18 oz	20 oz	1.94	1.94
20 oz	22 oz	2.07	2.07
22 oz	24 oz	2.21	2.21
24 oz	26 oz	2.35	2.35
26 oz	28 oz	2.49	2.49
28 oz	30 oz	2.62	2.62
30 oz	32 oz	2.76	2.76
2 lb	3 lb	3.31	3.31
3 lb	4 lb	3.86	3.86
Each additional 1 lb		.96	.96
Direct sack to one addressee (M bag):			
Minimum 15 lb		....	....
Maximum 66 lb:			
Per pound or fraction		.88	.88

(2) Publishers Periodicals.

Weight steps		All countries
Over	Through	
0 oz	1 oz	$0.12
1 oz	2 oz	.17
2 oz	3 oz	.22
3 oz	4 oz	.27
4 oz	6 oz	[illegible]
6 oz	8 oz	.46
8 oz	10 oz	.55
10 oz	12 oz	.65
12 oz	14 oz	.74
14 oz	16 oz	.83
16 oz	18 oz	[illegible]
18 oz	20 oz	.97
20 oz	22 oz	1.04
22 oz	24 oz	1.11
24 oz	26 oz	1.17
26 oz	28 oz	1.24
28 oz	30 oz	1.31
30 oz	32 oz	[illegible]
2 lb	3 lb	[illegible]
3 lb	4 lb	1.93
Each additional 1 lb		[illegible]
Direct sack to one addressee (M bag):		
Minimum 15 lb		....
Maximum 66 lb:		
Per pound or fraction		.43

(3) Books and Sheet Music.

Weight steps		All countries
Over	Through	
0 lb	1 lb	$0.83
1 lb	2 lb	1.38
2 lb	3 lb	1.66
3 lb	4 lb	1.93
Each additional 1 lb		.48
Direct sack to one addressee (M bag):		
Minimum 15 lb		....
Maximum 66 lb:		
Per pound or fraction		.43

(4) Small Packets.

Weight steps		Canada	Mexico	All other countries
Over	Up to			
0 oz	1 oz	*0.20	*0.20	$0.23
1 oz	2 oz	*.20	*.20	**.33
2 oz	3 oz	*.40	*.40	**.43
3 oz	4 oz	*.40	*.40	**.53
4 oz	6 oz	*.53	*.53	**.72
6 oz	8 oz	*.66	*.66	**.92
8 oz	10 oz	*.79	*.79	1.11
10 oz	12 oz	*.92	*.92	[illegible]
12 oz	14 oz	*1.05	*1.05	1.48
14 oz	16 oz	*1.18	*1.18	[illegible]
16 oz	18 oz	....	1.18	1.80
18 oz	20 oz	....	1.94	[illegible]
20 oz	22 oz	....	2.07	2.07
22 oz	24 oz	....	2.21	[illegible]
24 oz	26 oz	....	2.35	[illegible]
26 oz	28 oz	....	2.49	2.49
28 oz	30 oz	....	2.62	[illegible]
30 oz	32 oz	....	2.76	[illegible]

b. Air (Encompasses all Printed Matter, Matter for the Blind and Small Packets).

Mexico, Colombia, Venezuela, Central America, the Caribbean Islands | South America (except Colombia | Estonia, Latvia, Lithuania, U.S.S.R., Asia, Pacific Ocean

Netherlands Antilles
Nevis
Panama

Libya
Macao
Madagascar

St. Thomas and Principe
Senegal
Seychelles

Limit of indemnity[1]		Fees	
Over	Up to	Canada	All other countries

Weight steps		Canada [1]	Mexico, Colombia, Venezuela, Central America, the Caribbean Islands, Bahamas, Bermuda, and St. Pierre and Miquelon (also, from American Somoa to Western Samoa, and from Guam to the Phillipines)	South America (except Colombia and Venezuela), Europe (except Estonia, Latvia, Lithuania, and U.S.S.R.), and North Africa	Estonio, Latvia, Lithuania, U.S.S.R., Asia, Pacific Ocean Islands, Africa (other than North Africa), the Indian Ocean Islands and the Middle East
Over	Through				
0 oz	1 oz		$0.50	$0.60	$0.70
1 oz	2 oz		.76	.96	1.16
2 oz	3 oz		1.02	1.32	1.62
3 oz	4 oz		1.28	1.68	2.08
4 oz	6 oz		1.54	2.14	2.74
6 oz	8 oz		1.80	2.60	3.40
8 oz	10 oz		2.06	3.06	4.06
10 oz	12 oz		2.32	3.52	4.72
12 oz	14 oz		2.58	3.98	5.38
14 oz	16 oz		2.84	4.44	6.04
16 oz	18 oz		3.10	4.90	6.70
18 oz	20 oz		3.36	5.36	7.36
20 oz	22 oz		3.62	5.82	8.02
22 oz	24 oz		3.88	6.28	8.68
24 oz	26 oz		4.14	6.74	9.34
26 oz	28 oz		4.40	7.20	10.00
28 oz	30 oz		4.66	7.66	10.66
30 oz	32 oz		4.92	8.12	11.32
2 lb	2.5 lb		5.96	9.96	13.96
2.5 lb	3.0 lb		7.00	11.80	16.60
3.0 lb	3.5 lb		8.04	13.64	19.24
3.5 lb	4.0 lb		9.08	15.48	21.88
Each additional ½ lb over 4 lb			1.04	1.84	2.64
Direct sack to one addressee (M bag):					
Minimum 15 lb					
Maximum 66 lb					
Per pound or fraction			1.87	3.31	4.75

[1] AO articles sent by air must be prepared as Letter mail. Refer to rates table for Letters and Letter Packages (Surface).

6. Parcel Post.

a. Surface:

1. Canada, Mexico, Central America, The Caribbean Islands, Bahamas, Bermuda, St. Pierre and Miquelon: $3.10 for the first 2 pounds and $1.00 for each additional pound or fraction.

2. All other countries: $3.25 for the first 2 pounds and $1.05 for each additional pound or fraction.

b. Air:

Air Parcel Post Rates

Weight steps	Country groups				
	A	B	C	D	E
First 4 oz	$3.00	$3.60	$4.60	$5.40	$6.20
Each additional 4 oz or fraction up to 5 lb	.50	.70	.90	1.10	1.30
Each additional 8 oz or fraction over 5 lb	.80	1.20	1.60	2.00	2.40

Air Parcel Post Rate Groups: See List.

Air Parcel Post Rate Groups

A

Anguilla
Antigua
Aruba
Bahamas
Barbuda
Belize
Bermuda
Bonaire
British Virgin Islands
Cayman
Costa Rica
Curacao
Dominica
Dominican Republic
El Salvador
Guadeloupe
Guatemala
Haiti
Jamaica
Martinique
Mexico
Montserrat
Netherlands Antilles
Nevis
Panama
Redonda
Saba
St. Christopher
St. Eustatius
St. Lucia
St. Pierre & Miquelon
St. Vincent & the Grenadines
Turks & Caicos Islands

B

Andorra
Austria
Barbados
Bolivia
Columbia
Denmark
Ecuador
Fiji
Gambia
Grenada
Guinea
Guinea-Bissau
Guyana
Honduras
Kiribati
Liberia
Liechtenstein
Luxembourg
Madeira
Nicaragua
Peru
Pitcairn Islands
Portugal
St. Helena
Santa Cruz Islands
Surinam
Switzerland
Tonga
Tristan da Cunha
Trinidad & Tobago
Tuvalu
Uruguay
Vanuatu
Venezuela
Western Samoa

C

Albania
Azores
Cameroon
Czechoslovakia
Egypt
Faeroe Islands
French Guiana
German Democratic Republic (East)
Germany, Federal Republic of (West)
Great Britain and Northern Ireland
Greece
Hong Kong
Hungary
Ireland
Israel
Italy
Jordan
Kuwait
Lebanon
Libya
Macao
Madagascar
Mali
Malta
Morocco
Nauru
Netherlands
Nigeria
Paraguay
Poland
Qatar
Romania
San Marino
Saudi Arabia
Sierra Leone
Solomon Islands
Spain
Syria
Taiwan
Tunisia
Turkey
Upper Volta
Vatican City State
Yugoslavia

D

Afghanistan
Algeria
Argentina
Australia
Bahrain
Benin
Brunei
Bulgaria
Burma
Cape Verde
Chad
Chile
China, People's Republic of
Congo
Cyprus
East Timor
Equatorial Guinea
Ethiopia
Falkland Islands
Finland
French Polynesia
Gabon
Ghana
Gibraltar
Greenland
Iceland
India
Iran
Iraq
Ivory Coast
Kenya
Korea, Republic of (South)
Malawi
Malaysia
Maldives
Mauritania
Nepal
New Caledonia
New Zealand
Niger
Norway
Oman
Pakistan
Papua—New Guinea
Philippines
Rwanda
St. Thomas and Principe
Senegal
Seychelles
Singapore
Somalia (Southern)
Sri Lanka
Sudan
Swaziland
Sweden
Thailand
Togo
Uganda
United Arab Emirates
Yemen Arab Republic
Yemen, People's Democratic Republic of
Zaire

E

Angola
Bangladesh
Belgium
Botswana
Brazil
Burundi
Central African Republic
Comoros
Corsica
Djibouti
Estonia
France
Indonesia
Japan
Lao
Latvia
Lesotho
Lithuania
Mauritius
Mozambique
Namibia
Reunion
South Africa
Tanzania
U.S.S.R.
Zambia
Zimbabwe

B. New Special Mail Services Fees. 1. Nonstandard Surcharge. a. Letters (weighing one ounce or less): 7¢ cents.

b. Regular Printed Matter (weighing two ounces or less): 7¢ cents.

2. Customs Clearance and Delivery Fee: $1.75.

3. Inquiry Fee: $2.10**.

4. Return receipt requested at time of mailing: 45¢ cents.

5. Registered Mail.

Limit of indemnity	Fee
1. Canada:	
$00.00 to $100	*$3.00
$100.01 to $200	*$3.30
2. All other countries:	
$15.76	*$3.00

6. Insured Mail.

Limit of indemnity [1]		Fees	
Over	Up to	Canada	All other countries
0	$15	*$0.50	$0.85
15	100	*.85	1.10
50	100	*1.10	1.85
100	150	*1.40	2.35
150	200	*1.75	2.25
200	300	*2.25	3.85
300	400	*2.75	5.10
400	500		5.40
500	600		5.70
600	700		6.00
700	800		6.30
800	900		6.60
900	1,000		6.90
1,000	1,100		7.20
1,100	1,200		7.50

[1] Limits vary by country.

7. Money Orders. a. Orders Issued on Domestic Form.

Amount of money order	Fee
$0.01 to $10	*$0.55
$10.01 to $50	*.80
$50.01 to $400	*1.10

b. Orders Issued on International Form.

Amount of money order	Fee
$0.01 to $10	$1.30
$10.01 to $50	1.50
$50.01 to $400	1.60

8. Special Handling.

Weight	Fee
Not more than 10 pounds	*$2.10
More than 10 pounds	*1.25

9. Special Delivery.

Class of Mail	Not more than 2 lbs	Over 2 lbs	Over 10 lbs
Letters, letter packages, post and postal cards, and other articles (air only)	*$2.60	*$2.75	*$2.85
Other articles (surface only)	*2.50	*2.65	*3.25

[1] But not more than 10 pounds.

10. Restricted Delivery: *$0.80.

11. Certificates of Mailing.

	Fee
Individual listed pieces: Original	*$0.15
Copy of original certificate of mailing or receipt for registered or insured mail	*.15
Identical pieces: Up to 1,000 pieces	*.75
For each additional 1,000 pieces, or fraction	*.15
Duplicate copy	*.15

[FR Doc. 80-37470 Filed 12-2-80; 8:45 am]
BILLING CODE 7715-12-M

RAILROAD RETIREMENT BOARD

Actuarial Advisory Committee With Respect to the Railroad Retirement

Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the

variable annuity contract issued in connection with the Program on or after June 14, 1973, which provide for making

loading which is over 15 per centum of the gross payments made by the certificate holder.

Contracts, and the salespeople involved in soliciting in this market will be instructed to bring this restriction

Notice is hereby given that Schenuit Industries, Inc. ("Applicant"), a Maryland corporation, filed an

RAILROAD RETIREMENT BOARD

Actuarial Advisory Committee With Respect to the Railroad Retirement Accounts; Public Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that the Actuarial Advisory Committee will hold a meeting on December 30, 1980, at the office of the Chief Actuary of the U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, on the conduct of the 15th Acturaial Valuation of the Railroad Retirement Account. The agenda for this meeting will include the results of the recently completed mortality, remarriage and family composition studies for the 15th Valuation, together with the recommendations of the Chief Actuary as to the mortality, remarriage and family composition assumptions to be used for the 15th Valuation.

The meeting will be open to the public. Persons wishing to submit written statements or make oral presentations should address their communications or notices to the RRB Actuarial Advisory Committee, c/o Chief Actuary, U.S. Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

Dated: November 24, 1980.

R. F. Butler,

Secretary of the Board.

[FR Doc. 80-37498 Filed 12-2-80; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11459; 812-4764]

MFS/NWNL Variable Account and Northwestern National Life Insurance Co.; Application

November 26, 1980.

In the matter of MFS/NWNL Variable Account and Northwestern National Life Insurance Company, 20 Washington Avenue South, Minneapolis, MN 55440 (812–4764).

Notice is hereby given that Northwestern National Life Insurance Company ("Company" or "NWNL") a stock and mutual life insurance company organized under the laws of the state of Minnesota and MFS/NWNL Variable Account (the "Variable Account"), a separate account of NWNL registered under the Investment Company Act of 1940 ("Act") as a unit investment trust (collectively "Applicants"), filed an application on November 10, 1980 pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the State of Texas. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

The Variable Account was established by resolution of the Board of Directors pursuant to Minnesota Statutes § 61A.13 to 61A.21, as amended, on September 13, 1979 for the purpose of investing contributions received under certain variable annuity contracts issued in conjunction with plans which may or may not qualify for special tax treatment. These plans include qualified plans under Sections 401(a) of the Internal Revenue Code of 1954, as amended (the "Code"), including so called "H.R. 10 plans" or "Keogh plans" or annuity purchase plans adopted pursuant to Sections 403(b) or 408 of the Code.

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available to certain employees an Optional Retirement Program (the "Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. The statute provides as the funding media for the Program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The statutory definition of the Program was amended to provide that the benefits of such annuities are to be available only upon termination of employment in Texas public institutions of higher education, retirement, death or total disability of the participant. The other amendment added a new Section 51.358 to Subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Because of uncertainty regarding the effect of these amendments, the University of Texas System (the "System") requested the opinion of the Attorney General of Texas with respect to several questions concerning such amendments. The Attorney General rendered an opinion dated February 18, 1975, in response to the System's letter. The Attorney General interpreted Section 51.358 to prohibit provisions in a variable annuity contract issued in connection with the Program on or after June 14, 1973, which provide for making available the redemption value of such contract prior to the occurrence of one of the conditions specified in the statute, i.e., termination of employment, retirement, death or total disability. Moreover, the opinion further stated that the prohibitions of Section 51.358 were impliedly in effect upon the establishment of the Program (in 1967) and that notwithstanding any language which may be contained in existing contracts, a participant in the Program has never had the right to redeem his annuity contract otherwise than in accordance with the limitations described above. The opinion did not affect the right of a participant to transfer the redemption value of his annuity contract from one carrier to another; accordingly, the granting of the relief requested in the application would not affect such right.

Sections 27(c)(1), 22(e) and 27(d)

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales

loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with Section 51.358 as it pertains to redemption values under Contracts issued to participants in the Program subsequent to the date of such exemptive order.

Applicants assert that if such exemptions are not granted, persons participating in the Program effectively will be denied an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Additionally, participants will be unable to obtain the state's matching contributions for the purchase of an equity-based retirement vehicle. In this respect, the Attorney General's opinion indicated that these matching contributions will encourage participation in the retirement plan but that unrestricted withdrawals prior to retirement might be detrimental to an effective retirement vehicle. In view of the foregoing, Applicants assert that the Commission should grant the requested exemptions because: (1) the limited restriction on redemption would be voluntarily assumed by participants, i.e., eligible employees are not required to participate in the Program; (2) the restrictions were not formulated nor suggested by Applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the state of Texas.

Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in each prospectus to the restrictions on redemption of these Contracts, as well as requiring each participant, as a part of the determination that the sale of these Contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her Contract when it is issued. In addition, all sales literature that is to be used in conjuction with the sale of these Contracts will be reviewed for the existence of material representations that are inconsistent with the restrictions to be placed on these Contracts, and the salespeople involved in soliciting in this market will be instructed to bring this restriction specifically to the attention of the potential participants.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 22, 1980 at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his/her interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following December 22, 1980, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37502 Filed 12-2-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11458; 812–4741]

Schenuit Industries, Inc.; Application

November 26, 1980.

In the matter of Schenuit Industries, Inc., 2360 West Joppa Road, Lutherville, Maryland 21093 (812–4741).

Notice is hereby given that Schenuit Industries, Inc. ("Applicant"), a Maryland corporation, filed an application on September 30, 1980, and amendments thereto on November 17, 1980, and November 20, 1980, for an order pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all provisions of the Act on a temporary basis. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the application, Applicant, operating through its wholly-owned subsidiaries, is a diversified manufacturer of home, lawn and garden products and industrial wood products. Applicant states that it has one outstanding class of equity securities, no par common stock, which is owned by approximately 1,000 shareholders of record and is listed for trading on the American Stock Exchange. Of the approximately 855,000 such shares outstanding, approximately 50% are owned by the three daughters of Applicant's founder ("Principal shareholders") and the remainder by the public. Applicant notes that its shares are registered with the Commission pursuant to the Securities Exchange Acts of 1934 ("1934 Act"), and Applicant is subject to the reporting requirements of the 1934 Act and the rules adopted thereunder. Applicant states that it has met those reporting requirements in a timely manner since the initial registration of its shares under the 1934 Act in 1967.

The application states that on July 1, 1980, Applicant entered into an agreement ("Agreement") whereby Applicant would sell substantially all of its assets and business, subject to substantially all of its liabilities, to Allegheny Ludlum Industries, Inc. and several of its subsidiaries (collectively, "ALI") in exchange for a cash price of $28,234,800, subject to a possible downward adjustment of up to $1,000,000 should Applicant fail to satisfy certain earnings performance standards for the fiscal year ended September 30, 1980. The application further states that while ALI is assuming substantially all of Applicant's liabilities, Applicant will remain exposed to unknown and uninsured contingent liabilities attributable to Applicant's discontinued tire manufacturing operations, as well as potential liability for Applicant's obligations under the Agreement. The application states that the Principal Shareholders have represented that they

will not vote to merge, liquidate or consolidate Applicant for at least two

in the opinion of counsel, it will not be entitled to the favorable tax treatment

is successful in reducing its shareholders to fewer than 100 it will be excluded

shareholders of conventional investment companies. Finally, Applicant asserts

December 19, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application

The Commission finds that the proposed rule change is consistent with

will not vote to merge, liquidate or consolidate Applicant for at least two years following the sale of assets to ALI unless the survivor corporation succeeds to all liabilities of Applicant, or other indemnification satisfactory to ALI is provided. The Agreement requires that Applicant hold ALI harmless, for a period of two years, for any losses arising out of any possible misrepresentations or breaches of warranties made by Applicant in the Agreement. Applicant further states that necessary filings were made with the Federal Trade Commission and the Antitrust Division of the Department of Justice pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, and that the time period for governmental action under that act has expired without any action having been taken. Applicant also states that on September 25, 1980, the sale of assets to ALI was approved by the Applicant's shareholders.

Applicant states that in late January, 1981, approximately 30 days after the completion of the sale of assets, it will initiate a cash tender offer to all of its shareholders to repurchase all of Applicant's outstanding shares. The tender offer will be made at a price which will be not less than the net asset value per share at the approximate time of the commencement of the tender offer and in no event less than $32.40 per share. Rule 13e–4 under the 1934 Act generally requires an issuer making a tender offer to permit tendered securities to be withdrawn at any time until expiration of ten business days from the commencement of the tender offer by the issuer. The applications states that after such ten day period, prompt payment of the tender offer price will be made by Maryland National Bank, the depository, as properly tendered share certificates are received. Applicant further states that such tender offer will expire on May 1, 1981, but may be extended (as to time only) by Applicant for a period of thirty days. According to the application, the Principal Shareholders will not accept the tender offer, and after such offer are expected to own in excess of 50 percent of Applicant's outstanding shares. It is further stated in the application that Applicant will have passive or personal holding company income, as defined by the Internal Revenue Code, for its fiscal year 1981. The application states that, in the opinion of counsel, Applicant may become a personal holding company for federal income tax purposes for its fiscal year ending September 30, 1981, and will in all likelihood become so for subsequent years. Applicant states that, in the opinion of counsel, it will not be entitled to the favorable tax treatment accorded registered investment companies under the Internal Revenue Code and will therefore be subject to federal income tax at the corporate level. In the opinion of counsel, Applicant will also be subject to the additional 70 percent penalty tax imposed on any personal holding company income which is not distributed to its shareholders and that distributed personal holding company income, other than certain dividend income, will be subject to taxation at both the corporate and shareholder level. According to the Applicant, in its opinion there is little or no incentive for its shareholders, other than the Principal Shareholders, to refuse to tender their shares pursuant to the tender offer, but it is nonetheless impossible to predict whether Applicant will have fewer than 100 benefical owners of its common shares at the conclusion of the tender offer.

In pertinent part, Sections 3(a)(1) and 3(a)(3) of the Act respecitvely define an investment company as any issuer which: (i) is or holds itself out as being engaged primarily, or proposes to engage primarily, the business of investing, reinvesting, or trading in securities; or (ii) is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 percent of the value of such issuer's total assets (exclusive of government securities and cash items) on an unconsolidated basis. Applicant states that upon receipt of the cash proceeds of the sale of its assets, Applicant expects to maintian its corporate existence as a personal holding company and to invest and reinvest the proceeds for the benefit of the continuing shareholders of Applicant and to provide a source of funds to pay shareholders who tender their shares pursuant to the tender offer. Applicant therefore states that immediately after the completion of the sale of assets it will be unable to represent that its activities would not come within the definition of investment company contained in Sections 3(a)(1) or 3(a)(3) of the Act.

Section 3(c)(1) of the Act excludes from the definition of investment company any issuer whose outstanding securities (other than short-term paper) are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities. Applicant states that if the tender offer is successful in reducing its shareholders to fewer than 100 it will be excluded from the definition of investment company by Section 3(c)(1) of the Act. However, Applicant states that from the time of the sale of its assets to ALI until such time as the number of its shareholders may be reduced to fewer than 100, Applicant will be an investment company as defined by the Act and absent the requested order of exemption will be subject to all the provisions thereof.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or apropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants requests an order, pursuant to Section 6(c) of the Act, of the Commission exempting Applicant from all provisions of the Act for a period commencing with the date of such order and expiring eight months thereafter, or 60 days after completion of the tender offer, whichever period is shorter. In support of its request Applicant asserts that it is not the type of organization intended by Congress to be subject to regulation under the Act, but rather that it will be in the nature of a transient investment company between the time of the closing of the sale of assets to ALI and the time it intends to qualify for the exclusion from the definition of investment company contained in Section 3(c)(1) of the Act. Applicant further asserts that a company which will technically be an investment company for a short period of time should not be required to register under the Act and subsequently deregister, if, within a reasonably short period, the company has resolved to take whatever action may be necessary to bring its status outside the definition of investment company contained in the Act and adequate measures are taken for the protection of its shareholders. Applicant asserts that it will submit to the conditions described below and that those conditions generally, and particularly the restraints on its investment activities and the short duration of the requested order of exemption, render it unnecessary to extend the additional protection which the Act was designed to provide to shareholders of conventional investment companies. Finally, Applicant asserts that in light of: (1) its history as an operating company; (2) the continuing jurisdiction of the Commission under the 1934 Act over Applicant's activities; (3) the temporary and conditional nature of the requested order of exemption; (4) Applicant's intention, if required to register under the Act, to register but file an application to deregister as soon as its number of shareholders is reduced below 100; and (5) its special circumstances, that the granting of the requested order of exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that any order granted by the Commission in response to this application may be subject to the following conditions: (1) Applicant will use its best efforts to cause the number of its shareholders to be reduced to fewer than 100 by means of the above described tender offer and to promptly advise the Commission's staff of the date of the termination of the tender offer;

(2) During the effectiveness of the temporary order of exemption, the entire fund owned by Applicant for the benefit of its shareholders following the sale of assets to ALI will be held by a bank as custodian and will be invested under the direction of Applicant's board of directors. At least 75 percent of the value of the funds will at all times, during the period of the effectiveness of the order of exemption, be invested in short term debt securities issued or guaranteed as to principal and interest by the United States or an agency acting as an instrumentality of the United States or in high quality commercial paper obligations rated Prime-1 by Moody's Investors Service, Inc. ("Moodys") or A–1 by Standard and Poor's Corporation ("S&P"). The remaining 25% of the fund may be invested in preferred stocks traded on a national securities exchange and rated A or better by Moody's or S&P;

(3) Upon termination of the requested order of exemption, if Applicant has 100 or more shareholders, it will: (A) apply to the Commission for a temporary or permanent extension of such order; (B) engage in a recapitalization, reorganization or such other corporate activity as may be necessary to reduce the number of its shareholders to fewer than 100; or (C) promptly register under the Act and comply with all the relevant provisions thereof.

Notice is further given that any interested person may, not later than December 19, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted; or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such requests shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–37501 Filed 12–2–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 17342; SR–DTC–80–5]

Self-Regulatory Organizations; Approval of Proposed Rule Change: Depository Trust Co.

November 26, 1980.

In the matter of The Depository Trust Company ("DTC"), 55 Water Street, New York, New York 10041 (SR–DTC–80–5).

On August 18, 1980, DTC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change establishing a new fee schedule for DTC's major services.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 34–17081, August 21, 1980) and by publication in the **Federal Register** (45 FR 57619, August 28, 1980). One written comment was received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered clearing agencies and, in particular, the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–37452 Filed 12–3–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–17339; File No. SR–NSCC–80–33]

Self-Regulatory Organizations; Proposed Rule Change by National Securities Clearing Corporation

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on November 7, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

Amend, effective with transactions includable in the November 1980 billing cycle and thereafter, Section II.C.2. of National Securities Clearing Corporation's SCC Division Consolidated Rate Structure as follows:

For each side of each bond item entered for settlement, but not compared by NSCC, [$.006] *$.24* per [$1,000 calculated on total face value per month.] *side.*

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows: Under existing rules, NSCC's fee on bond transactions originally compared by other parties, but cleared through NSCC, the "bond trade recording fee", is currently based on the par value of trades and results in more costly clearance fees as the trade size increases. The proposed rule change should encourage the submission of large bond transactions by either existing or new members. The proposed rule change is in keeping with the comments made in a letter to Mr. Jack Nelson, President of NSCC, from Bradford Securities Processing Services,

Inc., dated July 19, 1977 and is consistent with the recent change in the bond comparison fee to a per side basis, pursuant to filing No. SR–NSCC–80–24.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–37502 Filed 12–2–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–17340; File No. SR–BSPS–80–3]

Self-Regulatory Organizations; Proposed Rule Change by Boston Stock Price Service, Inc.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on November 7, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Introduction

BSPS's Proposals

On October 19, 1977, BSPS submitted,

25, 1980, BSPS filed a proposed rule change (File No. SR–BSPS–80–3) establishing a balance order service for the clearance of transactions in

operations except for the conditions to its registration.[10] Among the restrictions lifted was the prohibition against NSCC's offering new services.

NSCC's Proposed Services

NSCC's proposal would permit NSCC for the first time to include municipal

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Inc., dated July 19, 1977 and is consistent with the recent change in the bond comparison fee to a per side basis, pursuant to filing No. SR–NSCC–80–24. The twenty-four cent fee per side was derived from the Price Waterhouse audited cost study, upon which NSCC's existing fees are based.

The proposed change in NSCC's rate structure relates to NSCC's carrying out the purposes of Section 17A of the Securities Exchange Act of 1934 by equitably allocating among its participants the fees for bond trade recording based on sides entered for settlement rather than on the par value of the bond. The proposed fee will encourage the submission of large bond transactions, and therefore increase NSCC's ability to facilitate the prompt and accurate clearance and settlement of securities transactions.

Comments on the proposed rule change have been solicited. Comments received by NSCC will be forwarded to the Commission.

NSCC does not perceive that the proposed rule change would constitute a burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested parties are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by December 24, 1980.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 25, 1980.

[FR Doc. 80-37453 Filed 12-2-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17343; File Nos. SR-BSPS-77-5, etc.]

Order Approving Proposed Rule Changes Submitted by Bradford Securities Processing Services, Inc., and National Securities Clearing Corp.

November 26, 1980.

In the matter of proposed rule changes submitted by Bradford Securities Processing Services, Inc. (File Nos. SR–BSPS–77–5 and SR–BSPS–80–3) and National Securities Clearing Corporation (File No. SR–NSCC–78–2).

Bradford Securities Processing Services, Inc. ("BSPS") has submitted proposed rule changes to the Commission that would establish a trade comparison and reporting system and a balance order system for transactions in municipal and government securities. National Securities Clearing Corporation ("NSCC") has submitted a proposed rule change that would make transactions in municipal securities eligible for processing through NSCC's comparison, balance order and continuous net settlement systems. BSPS also has requested that the approval of its and NSCC's proposals be conditioned on the establishment of a "free interface" between NSCC's and BSPS's systems.

The Commission has determined to approve NSCC's and BSPS's prposals for processing transactions in municipal securities subject to certain conditions.[1] Among other things, the Commission will require NSCC and BSPS to operate their systems for processing transactions in municipal securities on a test basis for six months. During the test period, BSPS and NSCC each will have to submit reports to the Commission concerning the operation of their respective systems. Approval of BSPS's and NSCC's systems also will be conditioned on the establishment of free interfaces between NSCC's and BSPS's systems for processing transactions in municipal securities.

[1] The Commission, however, has determined not to approve that portion of BSPS's filings concerning the processing of transactions in government securities. Rather, the Commission will request that BSPS submit further information concerning its proposal for processing government securities.

Introduction

BSPS's Proposals

On October 19, 1977, BSPS submitted, pursuant to Rule 19b–4 under the Securities Exchange Act of 1934 (the "Act"), a proposed rule change (File No. SR–BSPS–77–5) that would have established a trade comparison and reporting service for transactions in all securities. The Commission published notice of that proposed rule change in the **Federal Register** on November 15, 1977, and requested comment thereon.[2] On February 2, 1978, BSPS submitted a proposed rule change (File No. SR–BSPS–78–1) that would have established a limited version of its trade comparison and reporting service pending Commission action on BSPS's previous filing. The System contemplated by that filing would have been limited to not more than fifteen participants and to transactions in "exempted securities."[3] The Commission published notice of that proposed rule change in the **Federal Register** on February 21, 1978 and requested comment thereon.[4] No comments were received on either of the two rule filings within the comment periods anounced in the **Federal Register.** A number of comment letters were received after the expiration of the respective comment periods, however.

In conjuction with its review of those proposed rule changes, the staf sent BSPS a letter dated October 19, 1978 asking a number of questions designed to provide a more detailed description of BSPS's proposed services. On December 11, 1979, the staff sent PSPS a letter asking whether BSPS still intended to offer the trade comparison and reporting service proposed in its two rule filings. By letter dated December 20, 1979, BSPS responded that it still intended to offer the proposed service and that is was finalizing its response to the questions set forth in the staff's October 19, 1978 letter. BSPS responded to those questions by letter dated December 24, 1979.

On February 25, 1980, BSPS withdrew the limited trade comparison and reporting system proposed in SR–BSPS–78–1 and submitted an amendment to SR–BSPS–77–5. In brief, that amendment replaced the trade comparison and reporting system originally proposed with an operationally different trade comparison and reporting sytem limited to transactions in municipal and government securities. Also on February

[2] Securities Exchange Act Release No. 14141 (November 11, 1977), 42 FR 59139.

[3] The term "exempted securites" is defined in Section 3(a)(12) of the Act.

[4] Securities Exchange Act Release No. 14469 (February 13, 1978), 43 FR 7277.

25, 1980, BSPS filed a proposed rule change (File No. SR–BSPS–80–3) establishing a balance order service for the clearance of transactions in municipal and government securities. In connection with its filings, BSPS requested that the proposals be considered concurrently. On March 10, 1980, BSPS submitted amendments to both proposed rule changes. The Commission published notice of the amended proposals in the **Federal Register** on March 21, 1980 and requested comments thereon.[5] A number of comment letters were received regarding those proposed rule changes.

NSCC's Proposals

In January 1978, NSCC[6] advised the Commission staff that its Board of Directors was about to consider a proposal to add municipal securities to the list of securities eligible for processing at NSCC.[6] NSCC argued that this new service would not violate a Commission restriction on NSCC's offering new services.[7] The staff concluded, however, that NSCC's proposal would abridge that restriction and so advised NSCC. NSCC nevertheless filed a proposed rule change (File No. SR–NSCC–78–2) on February 9, 1978.[8] That proposal would permit NSCC for the first time to compare and clear transactions in municipal securities. The Commission published notice of the proposed rule change in the **Federal Register** on February 22, 1978, and requested comment thereon.[9] The Commission received a number of comment letters concerning that filing.

On March 14, 1979, the Commission, with two exceptions, released NSCC from any restriction or limitation on its operations except for the conditions to its registration.[10] Among the restrictions lifted was the prohibition against NSCC's offering new services.

Description of NSCC's and BSPS's Proposed Systems

Before discussing NSCC's and BSPS's proposed systems, the Commission believes that a brief description of the current method for processing municipal securities transactions would be helpful. The processing of transactions in municipal securities is similar to the manner in which equity and corporate debt transactions were processed prior to the advent of automated systems for transactions in those securities. After execution of a transaction in muncipial securities, the parties send confirmations to each other, generally through the mail. If those confirmations do not agree, the parties contact each other, usually by telephone or mail, and attempt to resolve the terms of the trade. Once agreement has been reached, the seller customarily delivers securities to the buyer in exchange for payment. Delivery is made either by a courier, through drafting and collection services or through physical delivery services operated by clearing agencies.[11]

Because the confirmation process largely is dependent on the mail, it often is not possible for parties to reach agreement on the terms of a transaction in time to settle on the fifth business day following execution of the trade as is customary. This problem can result in a large number of fails to deliver and fails to receive.[12] Also, because transactions are settled individually on a physical delivery basis, municipal securities brokers and dealers having both purchase and sale transactions in the same issue often cannot redeliver securities received on a given day in satisfaction of their delivery obligations in the same security. This problem also results in fails to receive and fails to deliver and imposes additional financing costs on municipal securities brokers and dealers.

NSCC's Proposed Services

NSCC's proposal would permit NSCC for the first time to include municipal securities among those securities eligible for processing through NSCC's automated systems. Those systems include NSCC's comparison system, balance order system and continuous net settlement ("CNS") system. Currently, use of those systems is limited to transactions in equity and corporate debt securities. NSCC, however, does offer physical delivery services that can be used to deliver municipal securities. Those services would be available to settle deliver and receive instructions for municipal securities transactions issued by NSCC's comparison and balance order systems.

In brief, to use NSCC's comparison system, a participant would submit municipal securities transaction information to NSCC. NSCC would match that information against information submitted by other participants and report compared transactions, uncompared transactions, and "advisories"[13] to participants. After an opportunity for participants to submit corrected trade information, NSCC would compare that corrected information and would notify participants of transactions that compared as well as those that remained uncompared. Compared transactions normally would be submitted to NSCC's balance order or CNS system.[14] Participants, however, could request that NSCC issue security orders (receive and deliver instructions) for individual transactions. Settlement of those security orders would be made on a physical delivery basis through the means chosen by the participants to the transaction.

In NSCC's balance order system, NSCC would generate a daily net "buy" or "sell" position for each municipal issue in which participants have compared trades. NSCC then would issue balance orders (deliver and receive instructions) to participants. Due to the allocation procedure used for issuing balance orders, participants could be instructed to deliver securities to, or receive securities from,

[5] Securities Exchange Act Release No. 16654 (March 14, 1980), 45 FR 18528; Securities Exchange Act Release No. 16655 (March 14, 1980), 45 FR 18530.

[6] Letter dated January 12, 1978 from Robert J. Woldow, Vice President and General Counsel of NSCC, to Robert J. Millstone, Senior Special Counsel, Division of Market Regulation.

[7] In granting clearing agency registration to NSCC in January 1977, the Commission imposed several conditions on NSCC's registration. Securities Exchange Act Release No. 13163 (January 13, 1977). Subsequently, in a letter dated October 2, 1977, the Commission advised NSCC that, until it had fulfilled the conditions to its registration, it should limit the deployment of its resources to the conduct of everyday operations and to the satisfaction of the conditions to its registration, and not offer to its participants, or to any other person, service which it is not now performing.

[8] On February 27, 1978, NSCC amended the proposed rule change to indicate that its Executive Committee had approved the proposed action pursuant to delegated authority.

[9] Securities Exchange Act Release No. 14469 (February 14, 1978), 43 FR 7386. By letter dated February 1, 1980, the staff requested additional information concerning the filing. NSCC responded to that request by letter dated February 29, 1980.

[10] *See* Securities Exchange Act Release No. 15640 (March 14, 1979), 44 FR 17838 (March 23, 1979), for a discussion of the bases of the Commission's decision.

[11] Rule G–12 of the Municipal Securities Rulemaking Board ("MSRB") specified certain requirements that municipal securities brokers and dealers must follow in comparing and settling municipal securities transactions.

[12] At the same time, the parties to a municipal securities transaction often will settle that transaction on the fifth business day following execution even if the comparison process is not yet completed. In this situation, the terms of the transaction are confirmed after settlement date. *See* MSRB Rule G–12(d)(vi).

[13] If a participant submits a trade for which there is no match (that is, corresponding transaction information was not submitted by the participant named as the *contra* party to the trade), an advisory would be sent to the participant named as the *contra* party in the submitted trade. If the participant receiving the advisory agrees with the submitted trade, it acknowledges the advisory and returns it to the clearing agency which enters it into its system as a compared trade.

[14] NSCC's proposal does not envision processing transactions through interfaces.

participants with whom they did not trade. NSCC also would issue a clearance cash adjustment statement to participants.[15] The amount specified in that statement would be paid to, or received from, NSCC by participants. Settlement, however, would be made on a physical delivery basis through the means chosen by the two participants to whom balance orders were issued. Those means would include the physical delivery services currently offered by NSCC.[16] Fails to deliver and fails to receive would be resolved between the participants to whom balance orders were issued.

NSCC's CNS system would sever the link between the parties to a compared transaction and would interpose NSCC as the *contra* party to the transaction. Following that interpositioning, NSCC would generate a net "buy" or "sell" position for each issue in which participants have compared municipal securities transactions and would net that position against any outstanding unsettled net buy or sell positions remaining in the system. NSCC also would compute a net money position for all transactions that settled that day. As the *contra* side to transactions, NSCC would be the entitly obligated to deliver, or receive, securities and money and the entity with which participants would resolve fails to deliver or receive securities. NSCC would carry fails forward from day to day as open obligations, and would protect itself against financial risk by obtaining mark-to-the-market payments from participants whose failure to satisfy their obligations places the system at risk. Because the settlement of transactions processed through NSCC's system is made by book entry movement in The Depository Trust Company ("DTC"), the use of NSCC's CNS system for processing municipal securities transactions would be limited to the issues eligible for deposit at DTC.[17]

NSCC would charge the same fees for processing municpal securities transactions as it currently does for processing equity and corporate debt securities.

BSPS's Proposed Services

BSPS's primary business is the processing of transactions in fixed income securities. That activity consists largely of the delivery, and financing of, transactions in municipal and government securities.[18] BSPS's current services would be available for settling deliver and receive instructions generated by its proposed comparison and balance order systems.

BSPS's proposed trade comparison and reporting service (the "comparison service") and BSPS's proposed balance order service would be used only for transactions in municipal and government securities.[19] To use BSPS's proposed comparison service, participants would submit transaction information to BSPS. BSP's would match that information and would provide participants with a report indicating compared transactions, uncompared transactions and advisories. Next, after participants have had an opportunity to submit corrected information, BSPS would match that information and would provide participants with a report identifying compared transactions and those that had remained uncompared. At this point, compared transactions could be routed to BSPS's proposed balance order system or to an interfaced clearing agency. Alternatively, BSPS could issue receive or deliver instructions.[20] Uncompared transactions would be dropped fro the system at this time.

Transactions processed through BSPS's proposed balance order service couls be submitted to BSPS either through BSPS's comparison service, through a comparison interface with another clearing agency or through a clearing interface with another clearing agency. After netting those transactions, BSPS would issue netted deliver and receive obligations as well as a cash adjustment statement.[21] Settlement would be made on a physical delivery basis through the means chosen by the participants to whom balance orders are issued. Those means would include BSPS's current physical delivery services. Participants would pay to, or receive from, BSPS the money amount specified in the cash adjustment statement.

BSPS's proposed fee schedules for both the comparison service and the balance order service are maximum fees from which BSPS could grant discounts. BSPS, however, is unable at this time to identify the factors which it would take into account in granting discounts. Accordingly, by letter dated March 10, 1980, BSPS undertook not to grant any discounts without first submitting a proposed rule change pursuant to Section 19(b)(3)(A) of the Act describing the factors it would use in determining discounts.

Summary of Comment Letters

The Commission has received numerous comment letters concerning the proposed rule changes filed by NSCC and BSPS, including a lengthy exchange of arguments between NSCC and BSPS. Set forth below is a brief summary of those letters. Although NSCC's and BSPS's principal arguments

[15] In a balance order system, an average daily price is assigned to an issue. An average price is used in order that transactions executed at different prices may be netted against each other. The cash adjustment reflects the net difference between the actual prices at which a participant's transactions in an issue were executed and the average price assigned to that issue by the clearing agency.

[16] Those physical delivery services are NSCC's two envelope settlement services and its Correspondent Delivery and Collection Service ("CDCS"). NSCC's New York City envelope service consists of a central location where participants can drop off envelopes containing securities and have those envelopes placed in another participant's "box." Participants can come to the central location at any time to see whether they have received an envelope. NSCC's other envelope service operates between New York City and a number of regional cities. Envelopes are shipped between cities by couriers. Participants using either envelope service submit a credit slip with each envelope which informs NSCC of the amount by which the delivering particpant's account at NSCC should be credited and the amount by which the receiving participant's account at NSCC should be debited. CDCS is a drafting and collection service similar to that provided by many banks. In brief, CDCS consists of a network of facilities through which participants can deliver securities against payment. Although an NSCC participant can use CDCS to deliver to another participant, it primarily is used for deliveries to non-participants.

[17] In January 1978, the commission approved a rule change authorizing DTC to include interchangeable municipal securities issues among those issues eligible for deposit at DTC. Interchangeable municipal securities issues are those that can be issued in either bearer or registered form. To date, however, DTC has made only a small number of municipal securities issues eligible for deposit. As a result, the use of NSCC's CNS system for processing municipal securities issues would be limited at this time.

[18] In brief, BSPS picks up securities from a seller and delivers them to a buyer against payment of the purchase price. Payment is remitted to the seller upon receipt by BSPS of the proceeds of the sale from the buyer. Alternatively, BSPS acvances the full purchase price to the seller and credits the seller's account when BSPS collects the proceeds of the sale from the buyer. BSPS also acts as agent for a buyer by picking up municipal securities from the seller pursuant to the buyer's instructions. The buyer either may pay the necessary funds to BSPS or BSPS may advance to the buyer the funds necessary to pay for the securities. BSPS also redelivers securities versus payment pursuant to the buyer's instructions. For its services, BSPS charges a transaction fee, its out of pocket expenses, and a fee based on the prime interest rate for any funds advanced.

[19] For purposes of BSPS's proposed service, municipal securities are those securities defined as municipal securities by Section 3(a)(29) of the Act and which appear in BSPS's "Book of Designated Securities." Government securities have been defined by BSPS to include (i) securities which are direct obligations of, or obligations guaranteed as to principal or interest by, the United States and (ii) securities issued or guaranteed by corporations in which the United States has a direct or indirect interest and designated as exempted securities by the Secretary of the Treasury.

[20] Settlement of those receive or deliver instructions would be made on a physical delivery basis through the means chosen by the participants.

[21] BSPS also would be authorized to require participants to make mark-to-the-market payments for unsettled transactions.

are discussed later in greater detail, the Commission believes it would be useful to provide an overview of the exchange of comments between NSCC and BSPS and of the numerous other comments received on NSCC's and BSPS's proposals.

By letters dated April 6 and June 22, 1978, BSPS expressed concern about delays in Commission consideration of its proposals as well as concern that NSCC's proposal was designed to enhance NSCC's "monopoly" position and to eliminate competition. In its letter dated June 22, BSPS also argued that, because of the competitive impact of NSCC's proposal on BSPS, the Commission should disapprove NSCC's proposal. By letter dated May 12, 1978, Bradford National Corporation ("BNC"), BSPS's parent corporation, also discussed the competitive impact of NSCC's proposal and argued that it should be disapproved by the Commission.

During the Spring and Summer of 1979, the Commission received numerous comment letters urging prompt approval of NSCC's filing. Generally, those commentors stated that significant benefits would accrue from a more efficient system for processing transactions in municipal securities.

By letter dated December 14, 1979, BSPS expressed concern about the manner in which NSCC had acted in connection with the processing of certain trades in New York State Housing Finance Authority ("New York State HFA") bonds, as well as NSCC's refusal to discuss interfacing NSCC's and BSPS's proposed systems during that period.[22] BSPS also requested that, if NSCC's proposal were to be approved, approval should be conditioned on the prior establishment of a "free interface" with any requesting clearing agency.

On December 19, 1979, NSCC wrote the Commission to urge prompt approval of NSCC's proposed rule change, citing the benefits that automated comparison and clearance systems would bring to the municipal securities industry. NSCC argued that the recent problems that had arisen in connection with trading in New York State HFA bonds had created a "potential crisis" that could "either have been averted or substantially minimized if NSCC's proposed rule change had been in place."

On January 15, 1980, NSCC again wrote the Commission to express its view that the events involving the trading of New York State HFA bonds demonstrated the urgent need for approval of NSCC's rule filing. NSCC also disputed the contentions in BSPS's December 14, 1979 letter that NSCC had behaved anticompetitively in resolving the problems associated with the clearance and settlement of transactions in New York State HFA bonds. In rebuttal, NSCC argued that its refusal to discuss BSPS's demand for a free interface in the context of the HFA bond situation was not anticompetitive. Rather, NSCC believed the complexity of the free interface issue required that it be studied at length. Because of the benefits of its proposed system, NSCC continued, it would be unthinkable for the Commission to delay approving NSCC's filing while the free interface issue was being studied.

On December 21, 1979, BSPS, sent a letter to its participants urging them to write the Commission to request that the Commission condition approval of NSCC's municipal service on the prior establishment of a free interface with BSPS. The Commission received a number of letters that generally followed the model comment letter suggested by BSPS.

Over the next several months, the Commission also received a number of comment letters urging the prompt approval of NSCC's and BSPS's filings. Those commentors argued that the comparison and clearance of municipal bonds is one of the few areas of securities processing that is performed through manual systems, that such processing is costly and cumbersome, and that the need to process municipal securities transactions manually would be reduced significantly if automated systems were available.

On March 31, 1980, in response to a staff request for a more complete explanation of BSPS's concerns and for a clarification of the extent to which BSPS's earlier comments remained relevant to consideration of its proposals, BSPS submitted a memorandum discussing "the legal and policy concerns that BSPS believes compel the Commission to condition any approval [of the proposed systems] on the concurrent establishment of [comparison and clearance] interfaces between those systems."[23] BSPS argued that the absence of the interfaces would severely affect its ability to compete with NSCC in providing services for municipal securities. BSPS also argued that the interface between NSCC and BSPS should be free since the existence of interface fees would pose the same potential threat to the viability of BSPS as would the absence of interfaces. In addition, BSPS asserted that Commission approval of BSPS's and NSCC's rule changes before interfaces were established between the two systems would constitute a radical departure from the Commission's recognition of the importance of interfaces to the development of a national system as evidenced in the order approving NSCC's registration and in the Commission's proposed standards for clearing agency registration.[24]

On May 21, 1980, NSCC submitted a rebuttal to BSPS's March 31, 1980 memorandum. In its rebuttal, NSCC charged that the free interfaces proposed by BSPS were similar to a sponsored account arrangement and were "nothing more than an attempt to obtain free clearance services from NSCC." NSCC further argued that none of the policy considerations that justified the existing free interfaces between NSCC and other clearing agencies applied to BSPS. In addition, NSCC argued that "BSPS does not, in many significant respects, satisfy the standards appropriate for operation as a full-fledged clearing agency." NSCC concluded that, as a result, "the grant to [BSPS] of [free interfaces] would impose unjustifiable costs and unacceptable risks upon NSCC or any other clearing agency with which [BSPS] might deal."[25] Finally, NSCC argued that, even if free interfaces between BSPS and NSCC were warranted, there was no reason to

[22] In late November 1979, the Commission received reports concerning difficulties in the clearance and settlement of transactions in a New York State HFA bond issue. Because of the large number of fails to deliver and fails to receive that had occurred, the Commission authorized NSCC and BSPS to use their proposed systems on a one-time basis to process transactions in that issue. Although both NSCC's and BSPS's systems proved successful in comparing the transactions, NSCC and BSPS agreed that NSCC's system would be used to complete the processing. The reason only one system was used to complete the processing was that, absent an interface, the use of two systems would have reduced the number of transactions that could have been netted and thus the benefits of using the systems. NSCC subsequently informed the Commission that 493 trades totaling $70,359,530 were compared and were netted to 44 balance orders with receive and deliver obligations totaling $3,865,530.

[23] That memorandum, as well as several later submissions, was prepared by Anthony Nuland, counsel to BSPS. On June 5, 1980, NSCC filed a motion to disqualify Nuland from representing BSPS before the Commission on NSCC's and BSPS's municipal securities rule filings. NSCC's motion, which alleged a conflict of interest in Nuland's representation of BSPS, was denied by the Commission's Ethics Counsel. NSCC appealed the Ethics Counsel's decision to the Commission. On November 25, 1980, the Commission affirmed the Ethics Counsel's decision.

[24] Subsequently, the Commission decided not to adopt Commission standards but rather to publish standards that the Division of Market Regulation would use in evaluating clearing agencies' organizations, capacities and rules in accordance with the clearing agency registration provisions of Section 17A(b)(3) of the Act. Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

[25] NSCC made a similar argument in a comment letter dated June 5, 1980 concerning BSPS's application for full registration as a clearing agency.

delay approving both entities' rule filings while those interfaces were being developed.

Determinations Regarding NSCC's and BSPS's Rule Proposals

Before discussing its determinations affect the competitive posture of both BSPS and its participants.

By letter dated July 1, 1980, NSCC

mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and

NSCC's and BSPS's Proposed Systems for Processing Transactions in Municipal Securities Transactions Are Approved

delivery services. Moreover, many of the persons that could be expected to use the proposed systems are not familiar

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delay approving both entities' rule filings while those interfaces were being developed.

By letter dated June 4, 1980, BSPS replied to NSCC's letter of May 21, 1980. In brief, BSPS characterized NSCC's letter as reflecting "a serious misunderstanding of the proposals for clearing and comparison interfaces made by . . . BSPS." BSPS argued that it was not seeking a sponsored account arrangement with NSCC but rather an interface operationally similar to the interface for transactions in over-the-counter securities currently in operation between NSCC and other clearing agencies. BSPS explained that the interface "would be free only in the sense that BSPS and NSCC would charge participants the same fee for comparing and clearing inter-agency transactions through the interfaces as for comparing and clearing intra-agency transactions." In reponse to NSCC's charge that BSPS was not a "full-fledged" clearing agency, BSPS stated that it "is prepared to take any reasonable steps necessary to maintain the operational and financial integrity of the interfaces."

By letter dated June 4, 1980, BSPS responded to a request from the staff for further clarification concerning the extent to which the concerns expressed in BSPS's earlier comment letters still were relevant. In that letter, BSPS indicated that the "parallel operation of [NSCC's and BSPS's] proposed systems with the kinds of interfaces described in [BSPS's March 31, 1980 submission] would largely pull the anticompetitive sting of NSCC's entry into the processing of municipal securities." Absent the establishment of those interfaces, however, BSPS indicated that it still would be concerned about the competitive impact of NSCC's proposal.

On June 5, 1980, BSPS submitted a memorandum prepared by Professor Richard Posner of the University of Chicago Law School arguing that operation of the proposed systems without an interface would limit the utility and efficiency of both systems and would restrain competition among clearing agencies and competition among broker-dealers. In addition, BSPS submitted a copy of a letter it had sent to the Public Securities Association that, among other things, contained BSPS's analysis of the one-time use of its and NSCC's systems to process transactions in New York State HFA bonds. BSPS argued that its analysis indicated that operation of both systems without an interface would reduce the efficiency of both systems and would adversely affect the competitive posture of both BSPS and its participants.

By letter dated July 1, 1980, NSCC raised several additional concerns regarding BSPS's request for a free interface.[26] First, after indicating that BSPS's interface proposal was less like a sponsored account and more like the interfaces for over-the-counter transactions currently in existence, NSCC argued that BSPS's proposed interface nevertheless would result in "serious operational problems and high costs." Second, NSCC argued that a free interface would result in a "subisidy" and could result in participants' using economically less efficient means for processing municipal securities transactions. NSCC indicated that, for example, dual participation might be a more economical means for processing municipal securities transactions than use of an interface. Third, NSCC argued that BSPS's free interface demand would require the Commission to engage in rate-fixing for individual services, an endeavor for which it believed the Commission had neither statutory authority nor expertise.

Near that time, the Commission also received several comment letters stressing the benefits of NSCC's and BSPS's proposed systems and urging that the Commission's approval of those systems not be delayed pending study of the interface questions raised by NSCC and BSPS.

By letter dated October 23, 1980, NSCC wrote the Commission to express NSCC's concern about delays in the Commission's consideration of NSCC's proposal. NSCC also argued that granting BSPS's request for a free interface would only delay further the implementation of NSCC's proposed system and that, because of the benefits to the municipal securities industry of NSCC's proposed system, the Commission should approve NSCC's proposal as quickly as practicable without conditions.

Although most of the comment letters on NSCC's and BSPS's proposed rule changes were not received during the official comment periods for those filings, the Commission believes they are helpful to its consideration of the proposals and, accordingly, has exercised its discretion to include those letters in the public record.[27]

[26] On June 17, 1980, NSCC filed suit against BSPS in New York state court alleging that BSPS and BNC, by filing objections to NSCC's municipal rule filing, has breached a 1978 settlement agreement between BNC and NSCC. That suit is pending.

[27] Rule 23 of the Commission's Rules of Practice, 17 CFR § 201.23, allows the Commission in its discretion to accept and include in the public record comments received after the close of the comment period in any case or adjudication which is not determined on the record after notice and opportunity for hearing.

Determinations Regarding NSCC's and BSPS's Rule Proposals

Before discussing its determinations regarding NSCC's and BSPS's proposed rule changes, the Commission believes it would be helpful to provide an overview of how that discussion is organized. The discussion of the Commission's determinations is divided into six sections. First, the Commission discusses the scope of its determinations. Second, the Commission considers whether NSCC's and BSPS's proposed systems for processing transactions in municipal securities should be approved. Third, the Commission considers whether BSPS's proposed system for processing transactions in government securities should be approved. Fourth, the Commission considers whether interfaces should be established between the proposed systems. Fifth, the Commission considers whether interfaces between the proposed systems should be free as to participants. Sixth, the Commission considers when those interfaces should be established. In addition, preceding each of the three sections in which the Commission considers interface issues is a summary of the principal arguments presented by NSCC and BSPS on those issues.

Scope of the Commission's Determinations

Under Section 19(b)(2) of the Act, the Commission must approve BSPS's and NSCC's proposed rule changes if the Commission finds that they are consistent with the requirements of the Act and the rules thereunder applicable to registered clearing agencies. If the Commission is unable to make that finding, it must institute proceedings to determine whether to disapprove the proposed rule changes.

The principal provisions of the Act applicable to clearing agencies are contained in Section 17A of the Act. Paragraph (b)(3) of that section requires that the rules of a clearing agency, among other things: (i) be "designed to promote the prompt and accurate clearance and settlement of securities transactions," (ii) be "designed to assure the safeguarding of funds and securities which are in the custody or control of the clearing agency," (iii) be "designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions," (iv) be "designed to remove impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest," (v) "do not impose any burden on competition not necessary of appropriate in furtherance of the purpose of the [Act]," and (vi) "provide for the equitable allocation of reasonable dues, fees, and other charges among its participants."

The Commission's determinations regarding NSCC's and BSPS's proposals also must be made in the context of the Commission's statutory responsibility to facilitate the establishment of a national clearance and settlement system. Section 17A(a) directs the Commission to use its authority under the Act "to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of securities (other than exempted securities) in accordance with [certain Congressional findings and objectives.]" Those findings and objectives are that:

> (A) The prompt and accurate clearance and settlement of securities transactions, including the transfer of record ownership and the safeguarding of securities and funds related thereto, are necessary for the protection of investors and persons facilitating transactions by and acting on behalf of investors.
>
> (B) Inefficient procedures for clearance and settlement impose unnecessary costs on investors and persons facilitating transactions by and acting on behalf of investors.
>
> (C) New data processing and communications techniques create the opportunity for more efficient, effective, and safe procedures for clearance and settlement.
>
> (D) The linking of all clearance and settlement facilities and the development of uniform standards and procedures for clearance and settlement will reduce unnecessary costs and increase the protection of investors and persons facilitating transactions by and acting on behalf of investors.

In facilitating the development of the national clearance and settlement system, the Commission also is directed to have due regard for the public interest, the protection of investors, the safeguarding of securities and funds and the maintenance of fair competition among brokers and dealers and clearing agencies.

In addition to those findings and objectives, the Commission is directed by Section 17A(e) of the Act "to use its authority under [the Act] to end the physical movement of securities certificates in connection with the settlement among brokers and dealers of transactions in securities * * * ."

NSCC's and BSPS's Proposed Systems for Processing Transactions in Municipal Securities Transactions Are Approved

The Commission believes that automated comparison and clearance systems would provide substantial benefits to the municipal securities industry. Those systems have resulted in significant improvements in the processing of equity and corporate debt securities and should bring many of the same improvements to the processing of municipal securities transaction.[28] In particular, NSCC's and BSPS's proposed systems (i) will enable municipal securities brokers and dealers to compare transactions through a central entity rather than having to relate directly to each broker and dealer with whom they executed transactions, (ii) will increase standardization in the processing of transactions in municipal securities, (iii) will reduce the number of deliveries that otherwise would have to be made, (iv) will reduce the number of fails to receive and fails to deliver and the capital charges resulting therefrom and (v) will reduce the financing costs of settling municipal securities transactions. The large number of letters urging Commission approval of NSCC's and BSPS's proposals and the successful use of both systems on a test basis in November 1979 also attest to the benefits of automated systems for the comparison and clearance of municipal securities transactions.

At the same time, the Commission believes that both NSCC's and BSPS's systems should be tested thoroughly before beginning full-scale operations. Although BSPS's principal business currently is the settlement of municipal securities transactions, BSPS is not experienced in operating automated comparison and clearance systems.[29] In contrast, NSCC, although currently operating automated comparison and clearance systems for equity and corporate debt securities, is not experienced in processing municipal transactions except for its physical delivery services. Moreover, many of the persons that could be expected to use the proposed systems are not familiar with automated clearing systems.[30] Consequently, the Commission believes it would be prudent to require NSCC and BSPS to operate their proposed systems initially on a test basis with a limited number of participants.

More specifically, the Commission will require NSCC and BSPS to operate their systems on a test basis for six months. That test period will begin on December 15, 1980 and will run until June 15, 1981. Initially, each clearing agency will be able to offer its proposed systems to five participants; after the systems have been operating for two months, to ten additional participants; and after the systems have been operating for four months, to an additional ten participants. The Commission also will require NSCC and BSPS during the test period to provide a monthly report describing the operation of their respective systems and containing a statistical profile of the operation of their respective systems. In addition, the Commission will require NSCC and BSPS each to provide by May 15, 1981 an opinion report prepared by an independent public accountant concerning each clearing agency's system of internal accounting control for its proposed systems. Finally, the Commission will retain the authority to extend the test period for either system if at any time during the test period either system appears not to be operating in a safe or efficient manner.

The advantage of a test period is that it will provide a controlled environment in which NSCC and BSPS can gain experience in operating their proposed systems and can make whatever adjustments may be necessary to ensure safe and efficient operation before beginning full-scale operations. Also, by requiring NSCC and BSPS to provide the Commission with monitoring data and with reports on their respective systems of internal accounting control during the test period, the Commission will be better able to assess how well each system will operate during full-scale operation. Finally, by limiting the number of participants that can use the proposed systems during the test period, the Commission can ensure that both systems are expanded in an orderly manner and that participants are thoroughly familiar with the new

[28] Because municipal securities, except for the DTC program, still are not depository eligible and because many municipal securities brokers and dealers are not yet clearing agency participants, those systems initially would not result in all of the benefits that have resulted from automating the processing of transactions in equity and corporate debt securities.

[29] A BSPS affiliate, Bradford National Clearing Corporation ("BNCC"), was the facilities manager of the National Clearing Corporation ("NCC"), one of the entities that merged to form NSCC. As NCC's facilities manager, BNCC operated an automated system for processing transactions in equity and corporate debt securities. In addition, BNCC for a short time was the facilities manager of the Pacific Clearing Corporation. That system, however, also was confined to transactions in equity and corporate debt securities.

[30] Because many potential users of BSPS's and NSCC's proposed systems deal only in municipal securities and because automated systems for municipal securities transactions have not been available, many municipal securities brokers and dealers have not previously used automated processing systems.

systems. The disadvantage of a test period is that the full benefits of NSCC's and BSPS's proposed systems will be

security. Those different types of transactions also can pose varying risks and processing problems. As a result, the Commission has determined that

processing procedures for municipal securities transactions. Confronted with this choice, BSPS believes, a broker or dealer "with limited involvement in

belonging to more than one registered clearing agency."[34] In addition, BSPS argues that, to the extent underwriting dealers that are sole NSCC participants

which it belongs. In addition, BSPS states that balance orders must be with a participant in one of the two clearing agencies and must have a compatible

municipal securities trades of for trades between its participants and BSPS's participants. Again, however, NSCC argues that it should be paid for that

systems. The disadvantage of a test period is that the full benefits of NSCC's and BSPS's proposed systems will be delayed for a short period of time. On balance, however, the Commission believes that disadvantage is more than outweighed by the advantages of a test period.

Finally, in determining to approve NSCC's proposed rule change, the Commission also has determined that NSCC at this time should not use the pricing policy known as geographic price mutualization ("GPM") for the processing of transactions in municipal securities. Instead, the Commission will condition its approval of NSCC's proposal on NSCC's imposing the same surcharge on transactions in municipal securities processed through NSCC's branch network that NSCC currently imposes on transactions in securities listed on a national securities exchange and processed through NSCC's branch network.[31]

BSPS's Proposed Systems for Processing Transactions in Government Securities Is Not Approved at this Time.

Although the Commission is approving the use of BSPS's proposed systems for processing transactions in municipal securities, the Commission has determined not to approve the use of BSPS's proposed systems for processing transactions in government securities at this time. There are many different types of government securities, each of which can have significantly different characteristics. In particular, there can be significant differences in the settlement requirements for different types of government securities and in the risks posed to a clearing agency and its participants from processing different types of government securities. In addition, there also are different types of transactions that can be entered into for a specific type of government security. Those different types of transactions also can pose varying risks and processing problems. As a result, the Commission has determined that before approving BSPS's proposed systems for processing transactions in government securities, BSPS should amend its proposal to identify the specific types of government securities that BSPS intends to process and, for each specific government security that BSPS would process, the type of transactions that would be processed. Those amendments also should discuss the risks to BSPS and its participants that would arise from processing those transactions, the steps BSPS would take to counter those risks and any special procedures that BSPS would use in processing those transactions.

Approval of NSCC's and BSPS's Proposals is Conditioned on the Establishment of Interfaces Between NSCC's and BSPS's Proposed Systems

(i) *BSPS's Arguments*—BSPS makes three principal arguments why the Commission should require BSPS and NSCC to establish an interface between their proposed systems. First, BSPS argues that the absence of an interface would reduce the efficiency of both systems. BSPS explains that, absent an interface at the comparison level, only dual participants "would be able to submit the bulk of their municipal securities transactions to automated comparison systems." In contrast, sole participants would continue to have to use the current, inefficient comparison process when trading with sole participants in the other clearing agency. At the clearance level, BSPS argues that the absence of an interface would severely curtail the principal objective of the proposed systems—that is, the netting of transactions and the corresponding reduction in the number of settlements participants are required to make.

BSPS continues that the operation of two non-interfaced systems would present three choices to users, or potential users, of the systems: (i) dual participation, (ii) sole participation or (iii) non-participation in either system. Dual participation, BSPS indicates, "would require payment of two sets of clearing agency fees and maintenance of two clearing agency processing streams." In contrast, BSPS indicates that, although sole participants would pay only one set of clearing agency fees and would maintain only one clearing agency processing stream, sole participants would have to continue to process a larger proportion of their volume, than would dual participants, by means of the current inefficient processing procedures for municipal securities transactions. Confronted with this choice, BSPS believes, a broker or dealer "with limited involvement in municipal securities trading might opt for non-participation in either system." BSPS concludes that, if this were to occur, the benefits of both systems would be further reduced.[32]

Second, BSPS believes that the absence of an interface would adversely affect the competitive position of many of the municipal securities brokers and dealers that currently are BSPS's participants. In brief, BSPS argues that many of the major municipal securities underwriters already use NSCC for processing their equity and corporate debt transactions and that, because of the back-office processing advantages of dealing with the smallest number of clearing agencies possible, those underwriters probably would use NSCC to process their municipal securities transactions. In contrast, BSPS believes that "[m]any municipal securities brokers and dealers involved in purchasing municipal securities from underwriters and selling them to other municipal securities broker-dealers, banks and a wide range of end purchasers ('wholesaling dealers') are participants in BSPS and presumably would elect to use BSPS's municipal securities comparison and clearing services."

BSPS continues that, absent an interface between the proposed systems, underwriting dealers that are NSCC participants could attempt to hold down their processing costs by not joining BSPS and by insisting that sole BSPS participants either join NSCC in order to receive deliveries of underwritten securities or accept an adjustment in price reflecting the underwriters' cost of delivering securities to them.[33] BSPS argues that, if this were to occur, wholesaling dealers "would be required to belong, and incur the costs of belonging, to two clearing agencies while underwriting dealers would be able to limit their memberships to NSCC and, accordingly, avoid the costs of

[31] Under GPM, NSCC would charge the same basic fees for transactions submitted through its branch network as for those submitted to its New York City facility. NSCC's use of GPM was remanded to the Commission for "further study and explication" by the United States Court of Appeals for the District of Columbia in *Brodford National Clearing Corporation et al. v. Securities and Exchange Commission et al.*, 590 F.2d 1085 (D.C. Cir. 1978). Until it completes its consideration of that remand, the Commission has determined that NSCC should use GPM only for those services for which NSCC used GPM at the time of the remand. *See* Securities Exchange Act Release No. 15222 (October 6, 1978), note 36. That determination has resulted in NSCC's use of GPM for processing transactions in securities traded in the over-the-counter market while imposing a surcharge on securities listed on a national securities exchange and processed through NSCC's branch network. *See* Securities Exchange Act Release No. 16085 (August 3, 1979); and Securities Exchange Act Release No. 16213 (September 21, 1979).

[32] At the settlement level, BSPS indicates that, although the increased netting resulting from the establishment of an interface would reduce the number of settlements participants would be required to make, most municipal securities transactions "would [continue to] have to be settled by certificate delivery due to the limited number of municipal securities which are eligible for inclusion in DTC or in other securities depositories."

[33] BSPS also argues that, if the municipal securities broker-dealers, banks and end purchasers (presumably institutions) that currently are NSCC participants also would use NSCC's proposed municipal securities system, wholesaling dealers competing for their business would have an additional incentive to join NSCC absent an interface.

belonging to more than one registered clearing agency."[34] In addition, BSPS argues that, to the extent underwriting dealers that are sole NSCC participants engage in wholesaling municipal securities, they would have a significant competitive advantage over wholesaling dealers that are required to incur the cost of dual participation.

Third, BSPS argues that the absence of an interface would adversely affect its competitive position. BSPS begins that, because of "the disparity in the size of the BSPS and NSCC operations and the differences in their respective potential sensitivity to fluctuations in the volume of their municipal securities processing business," the absence of an interface would severely affect the ability of BSPS to compete with NSCC in providing comparison and clearance services for municipal securities transactions. BSPS adds that, because of the costs of dual participation, BSPS participants that are induced to join NSCC "would ultimately be constrained to discontinue whichever clearing agency participation the participants could easily afford to do without." BSPS continues that, because NSCC is the system favored by underwriting dealers, wholesaling dealers probably would discontinue participating in BSPS. BSPS also suggests that the "absence of an interface is more likely to draw BSPS sole participants to NSCC than to draw NSCC sole participants to BSPS." BSPS argues that, for broker-dealers that process their equity and corporate debt transactions through NSCC, it would be inefficient and uneconomical for them to process their municipal securities transactions through another clearing agency. In contrast, BSPS contends, "a decision by a sole BSPS participant to move its municipal securities processing to NSCC would simply involving [sic] changing clearing agencies."

In addition to its arguments in support of interfaces, BSPS also describes what it believes should be the operational requisites of interfaces between the two systems. Specifically, BSPS believes that both the comparison and clearing interface must permit a sole participant in either BSPS or NSCC to submit uncompared trade data, for comparison only, or for comparison and clearing; to submit compared trade data for clearing; and, in completing those functions, to relate only to the clearing agency to which it belongs. In addition, BSPS states that balance orders must be with a participant in one of the two clearing agencies and must have a compatible format so that a participant to which a deliver obligation is issued will be settling with a participant with a matching receive obligation.[35] Aside from these general requisites, however, BSPS believes that technical matters concerning the interface should be resolved between the operational personnel of NSCC and BSPS.[36]

Finally, BSPS indicates that it recognizes that the "operation of an interface may place constraints on the freedom of each interfacing clearing agency to make improvements in its system." To ameliorate this possibility, BSPS suggests that it and NSCC form a participant committee to evaluate the need for, and to recommend, systems improvements affecting the interface.

(ii) *NSCC's Arguments*—In response to BSPS's position, NSCC states that it does not dispute BSPS's characterization of the general benefits of interfaces. NSCC argues, however, that BSPS's demand is "nothing more than an attempt to obtain free clearance services from NSCC." NSCC explains that what BSPS is requesting is not an interface but rather a sponsored account arrangement, similar to that currently existing between NSCC and DTC.[37] NSCC indicates that, under this arrangement, NSCC would clear and net all trades of BSPS's participants and forward the resulting balance orders to BSPS to be passed out to BSPS's participants. NSCC continues that it has no objection to providing that service, as long as BSPS pays the same fees that any NSCC participant would be required to pay for such an arrangement. NSCC also indicates that it would be willing to act as a comparison "hub" for all municipal securities trades of for trades between its participants and BSPS's participants. Again, however, NSCC argues that it should be paid for that service. finally, NSCC concludes that, if BSPS's proposal were to be adopted, "[i]nstead of there being two systems, each offering similar services in competition with one another, the result would effectively be *one* operation, a riskless joint venture of two ostensible competitors." (Emphasis in original.)

Next, NSCC argues that BSPS's conclusions concerning the competitive impact of non-interfaced systems are "sheer sophistry." NSCC explains that BSPS's contention that clearing agency membership is a factor in an underwriter's selection of an underwriting syndicate is "fanciful." NSCC also disputes BSPS's contention that underwriting dealers that currently use both NSCC and BSPS will drop their BSPS membership if NSCC is permitted to process municipal securities transactions. Instead, NSCC suggests that underwriters probably would retain membership in both NSCC and BSPS, absent an interface, in order to take advantage of automated clearance for as many of their transactions as possible.

NSCC also disagrees with BSPS's argument that non-interfaced systems would have an adverse competitive impact on BSPS. NSCC argues that BSPS's statement that there would be an exodus of wholesaling dealers from BSDPS to NSCC, absent an interface, "has been shown to be specious." In addition, NSCC argues that, to the extent that BSPS suggests that it is more sensitive to a reduction in the volume of its municipal securities processing business than is NSCC, that argument is "little more than a plea" that BSPS be protected from normal competitive forces.

Finally, NSCC argues that BSPS's proposal "would have a highly destructive impact upon the innovation and technological progress that genuine competition is intended to foster." NSCC explains that, because for all practical purposes the two clearing agencies would be operating an enforced joint venture, each innovation that NSCC developed would be subject to a forced sharing agreement with BSPS. NSCC also argues that it would not even be able to make appropriate systems changes without BSPS's approval. NSCC concludes that no surer recipe could be found for "technological inertia and entrepreneurial paralysis.

(iii) *BSPS's Rebuttal*—In rebuttal, BSPS argues that NSCC's characterization of BSPS's interface proposal is inaccurate. BSPS explains that, rather than a sponsored account

[34] BSPS explains that the principal costs of dual participation would be (i) the costs of maintaining two internal processing streams for municipal securities transactions; (ii) the costs of whatever clearing deposit, letter of credit or bonding requirements the clearing agencies would impose; and (iii) the participation and other non-volume-based fees that participants would have to pay.

[35] BSPS also describes several operational approaches that it believes could be used as a basis for the interface. BSPS indicates that those approaches could serve as an initial framework for discussions between it and NSCC.

[36] Among the technical matters that BSPS suggests should be resolved between the two clearing agencies are: (i) whether the interface should operate on a data exchange basis, through a shared performance of interfacing functions or through an alternating performance of interfacing functions and (ii) whether each clearing agency should interpose itself between its participants and the other clearing agency.

[37] The Commission notes that because NSCC's CNS system is tied operationally to DTC's system, NSCC participants using NSCC's CNS system also must be direct or indirect participants in DTC. The sponsored account arrangement between NSCC and DTC permits NSCC members whose transaction volume does not justify incurring the expense of full membership in DTC to join indirectly through NSCC. NSCC pays fees to DTC for tranactions in the sponsored accounts and guarantees the obligations of its sponsored account participants to DTC.

arrangement, its proposal envisions that "most, or all, of the processing steps involved in comparing and clearing

participants on a nonautomated basis and the utility of BSPS's other services.[43]

In addition, BSPS has not convinced

same time, although NSCC has not been able to agree with the specific proposals offered by BSPS, NSCC has

participants would pay the same fee for comparing and clearing inter-agency transactions through an interface as

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arrangement, its proposal envisions that "most, or all, of the processing steps involved in comparing and clearing intra-agency transactions would be performed by each of the interfacing clearing agencies." BSPS also explains that, depending on the operational framework of the interface, the work involved in comparing and clearing inter-agency transactions could be: (i) divided between BSPS and NSCC; (ii) performed by either clearing agency under a cost-reimbursement arrangement; or (iii) performed by both BSPS and NSCC in duplicate. Finally, BSPS indicates that, if necessary, it would be willing to compare and clear NSCC intra-agency trades.[38]

(iv) *NSCC's Rebuttal*—In rebuttal, NSCC argues that, although BSPS's latest interface proposal seems more like the existing interfaces between NSCC and regional clearing agencies, BSPS's proposal would present "many operational difficulties and high unnecessary costs." NSCC explains that interfacing NSCC's and BSPS's proposed balance order systems would require each clearing agency to receive physical certificates from participants and to deliver those securities either to the other clearing agency or to the other clearing agency's participants, depending on the structure of the interface. NSCC indicates this processing would be time-consuming and costly. NSCC continues that, in contrast, a sponsored account arrangement, such as that which it believed BSPS seemed to have proposed originally, makes "a great deal of sense operationally and in terms of cost." NSCC concludes that BSPS's latest proposal "seems to make little sense from a cost or operational point of view, but has the advantage for [BSPS] of creating at least the appearance of [BSPS's] performing some function that would entitle it to services from NSCC at less than normal cost."

(v) *The Commission's Determinations*—The Commission believes that interfaces between NSCC's and BSPS's proposed system would increase the efficiency of both systems and would benefit participants in both systems, thereby furthering the establishment of the national clearance and settlement system envisioned by Congress in Section 17A of the Act.

The benefits of interfaces have been recognized by Congress in Section 17A of the Act and by the Commission in other contexts. Section 17A(a)(2) of the Act directs the Commission to use its authority to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities in accordance with certain Congressional findings. One of those findings set out in Section 17A(a)(1) of the Act is that:

> [t]he *linking* of all clearance and settlement facilities and the development of uniform standards and procedures for clearance and settlement will reduce unnecessary costs and increase the protection of investors and persons facilitating transactions by and acting on behalf of investors. (Emphasis added.)

In addition, the Commission, in describing what should be the characteristics of a national clearance and settlement system in the order granting NSCC registration as a clearing agency, determined that participants should be able "to compare, account for and settle through one entity all trades in securities included in the system, regardless of the location of the other party to the trade or the market in which the trade is executed."[39] The attainment of that goal is dependent on the establishment of a system of interfaces among clearing agencies. In addition, the Commission's requirement that NSCC, as a condition to its registration, establish interfaces with the Midwest Clearing Corporation, the Pacific Clearing Corporation and the Stock Clearing Corporation of Philadelphia, as well as a link with the Boston Stock Exchange Clearing Corporation, also was a recognition of the importance of interfaces to the development of a national clearance and settlement system.[40]

More recently, the Division of Market Regulation's standards for registration as a clearing agency stated that "[i]nterfaces among clearing agencies are important to the development of a national clearance and settlement system composed of autonomous clearing agencies." [41]

In addition to the importance placed on interfaces by the Securities Exchange Act and the Commission, the voluntary establishment of numerous interfaces at both the clearing corporation and depository levels attest to the benefits of interfaces to the securities industry.

In the present context, interfacing NSCC's and BSPS's proposed systems would allow persons wishing to process as large a percentage of their municipal securities transactions as possible in an automated environment to do so in a single account at one clearing agency without having to become a participant in both BSPS and NSCC. Interfacing the two systems also would result in greater netting of transactions and thus would reduce further the number of settlements that currently have to be made in the municipal securities markets. That reduction should help to minimize the number of fails to receive and fails to deliver that currently exist in the settlement of municipal securities transactions as well as the financing costs of settling municipal securities transactions. Moreover, by not having to become dual participants, participants would have to pay membership and other non-volume-related fees to only one clearing agency. Finally, because participants would have to maintain only one clearing agency processing stream for municipal securities transactions and would have to be familiar with only one set of procedures and forms for those transactions, participants' back-office operations should be simpler and less costly.

Turning to the competitive arguments raised by NSCC and BSPS, although the Commission recognizes that the events projected by BSPS could occur, BSPS has not convinced the Commission that those events inevitably would occur or that they would occur in the magnitude suggested by BSPS. More specifically, the Commission recognize that persons currently using NSCC to process their equity and corporate debt securities would have an incentive to use NSCC for their municipal securities processing.[42] By doing so, those persons would receive certain benefits. Among those benefits would be that the money settlement for municipal securities transactions would be netted with the money settlement for equity and corporate debt transactions. In addition, rather than having to relate to two clearing agencies and to use two sets of procedures, participants could use one clearing agency processing stream. Participants also would not have to pay two sets of membership and other non-volume related fees.

At the same time, the Commission cannot conclude that those persons would not use BSPS's proposed services absent an interface. That decision would depend on a number of factors, including the costs of dual participation, the cost of processing municipal securities transactions with BSPS sole

[38] BSPS also suggests that the over-the-counter interfaces between NSCC and the regional clearing agencies could serve as a model for the interface between NSCC and BSPS.

[39] Securities Exchange Act Release No. 13163 (January 13, 1977).

[40] *Id.*

[41] Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (June 23, 1980).

[42] The Commission also recognizes that NSCC processes by far the largest number of equity and corporate debt transactions and that many persons doing an equity and corporate debt business as well as a municipal securities business already are NSCC participants.

participants on a nonautomated basis and the utility of BSPS's other services.[43]

In addition, BSPS has not convinced the Commission that, absent an interface, "wholesaling" dealers that initially chose to use BSPS's proposed service would be drawn inevitably into dual participation and thereafter induced to become NSCC sole participants. The Commission recognizes that in order to reduce their costs municipal securities underwriters that are sole NSCC participants may try to require as a condition to participating in an underwriting that sole BSPS participants join NSCC or accept an adjustment in price reflecting the underwriters' additional cost of delivering securities to them. The extent to which sole BSPS participants would be induced to become dual participants, however, again would depend on a number of factors, including the fees charged by each clearing agency, the range and quality of services offered by each clearing agency and the number of transactions BSPS's participants have with NSCC's participants. Similarly, the decision by a wholesaling dealer to maintain dual participation or to become a sole participant would depend on a number of factors, including the cost of dual versus sole participation, the utility and range of services offered by each clearing agency, the cost of processing municipal securities transactions on a non-automated basis and the percentage of transactions with participants in each clearing agency.

For the reasons discussed above, the Commission has determined that interfaces should be established between NSCC's and BSPS's proposed comparision systems and between NSCC's and BSPS's proposed balance order systems. Interfaces would increase the efficiency of both systems and would increase the benefits of both systems to participants. The Commission also recognizes that, absent interfaces, there would be certain economic incentives, as discussed above, for potential users of the proposed systems to choose NSCC's system. Establishment of interfaces would significantly reduce those economic incentives. Also, as discussed below, the Commission has not been persuaded by NSCC's arguments against interfacing the proposed systems.

In arguing against BSP's proposal for interfacing NSCC's and BSPS's proposed systems, NSCC makes two principal arguments. First, NSCC argues that BSPS's proposal would result in a costly and time-consuming interface. At the same time, although NSCC has not been able to agree with the specific proposals offered by BSPS, NSCC has acknowledged that there would be benefits in linking, or interfacing, the proposed systems. For example, NSCC acknowledges that linking its and BSPS's proposed systems through a sponsored account arrangement would make sense operationally and in terms of costs.

In determining that interfaces should be established between NSCC's and BSPS's comparison and balance order systems for municipal securities, the Commission has determined not to mandate the specific operational details of those interfaces nor to endorse any of NSCC's or BSPS's specific proposals at this time. As a general matter, the Commission believes it is appropriate for operational decisions to be made by the personnel of the clearing agencies. In this instance, as discussed above, although NSCC and BSPS have not been able to agree on a specific proposal, both NSCC and BSPS have suggested different ways in which their systems could be linked or interfaced. Those proposals could serve as a basis for an agreement between the two clearing agencies. Accordingly, as is discussed subsequently, the Commission will require NSCC and BSPS to establish a coordinating committee to facilitate the resolution of the operational details of the interfaces.

Second, with regard to NSCC's concern that an interface would cause technological inertia, the Commission recognizes that enhancements to existing interfaced services may have to be coordinated if an interface is to continue to operate. That problem has not proven troublesome in other contexts, however. Moreover, as a general rule, the Commission believes that the introduction of new services need not be delayed until an interfaced clearing agency has developed a comparable service. As a result, the Commission does not believe that interfacing NSCC's and BSPS's proposed systems would be a significant factor discouraging the development of new services by either clearing agency.

Approval of NSCC's and BSPS's Proposals Is Conditioned on the Establishment of Interfaces Which Are Free as To Participants

(i) *BSPS's Arguments*—In addition to requesting the establishment of interfaces between NSCC's and BSPS's proposed systems concurrently with those systems beginning operations, BSPS requests that the interfaces be free as to participants. BSPS explains that the term "free interface" means that participants would pay the same fee for comparing and clearing inter-agency transactions through an interface as they would for comparing and clearing intra-agency transactions.

BSPS continues that the term "free interface" does not refer to the costs to interfaced clearing agencies of establishing and operating an interface. BSPS indicates that it believes those costs should be allocated between interfaced clearing agencies: (i) by each bearing their respective costs of establishing the interface, and an appropriate portion of any common costs, or (ii) by each bearing an appropriate portion of all costs of establishing the interfaces, including each clearing agency's internal costs. BSPS also envisions that either of the above cost-sharing arrangements would be used to defray the ongoing expenses of operating the interface.

Next, BSPS discusses why it believes "the existence of any interface fees poses the same potential threat to the viability of its municipal securities clearing and comparison systems as the operation of the . . . Systems without interfaces." First, BSPS explains that, if interfaces are not free to their respective participants, sole participants in each clearing agency will incur an additional expense for processing transactions with sole participants in the other clearing agency. BSPS indicates that, if those participants' aggregate interface fees exceed the cost of dual participation, sole participants could decide to become dual participants rather than to continue to use the interface. Second, BSPS argues that, although high charges would favor dual participation, even low interface fees "could impair the utility of the [interfaces] to a participant whose transactions through the [interfaces] were a high percentage of all its transactions." Third, BSPS argues that underwriting dealers could adjust transaction prices to wholesaling dealers in order to pass on the underwriting dealers' costs of using the [interfaces]." Finally, BSPS concludes that, although it "recognizes that the effects of interface fees on competition between BSPS and NSCC would vary depending on the amount of the fees and the mix of municipal securities transactions processed by BSPS participants . . . [t]he effects of interface fees are so difficult to monitor, let alone predict, that the imposition of any interface fee is likely to undermine the viability of the [interfaces]."

(ii) *NSCC's Arguments*—NSCC makes a number of arguments why it believes the Commission should not mandate the

[43] For example, BSPS offers financing and physical delivery services.

establishment of a free interface between NSCC's and BSPS's proposed systems. NSCC begins by arguing that

Second, NSCC indicates that BNC, BSPS's parent, controls several bank and broker-dealer subsidiaries that

utilize either the organizational structure or the operational safeguards of a normal clearing agency makes it

(iv) *NSCC's Rebuttal*—NSCC argues that it believes BSPS's interface proposal would be too costly to be

Commission will require NSCC and BSPS to establish a coordinating committee to facilitate the resolution by

allocated. Moreover, because the principal focus of NSCC's and BSPS's comments has been on whether

establishment of a free interface between NSCC's and BSPS's proposed systems. NSCC begins by arguing that "[f]ree interfaces are departures from cost-based pricing that can be justified, if at all, only on the basis of some overriding public policy concern." NSCC explains that Section 17A(b)(3)(D) of the Securities Exchange Act requires that "[t]he rules of the clearing agency [must] provide for the equitable allocation of reasonable dues, fees, and other charges among its participants." Given this statutory mandate, NSCC concludes that, "[a]bsent overriding [national clearance and settlement or national market system] goals, the principle governing fee allocation must be the concept that fees should be based on the cost of services provided." "Failure to adhere to this principle," NSCC believes, "leads to economic distortions as use of 'free' services expands and the use of other services that must bear the actual cost of the 'free' services contracts without economic justification."

NSCC continues that the one overriding concern identified to date, and the basis of the Free Interface Condition to its registration, was the concern that NSCC might obtain an insurmountable lead over the non-New York clearing agencies unless they were able to offer one-account processing through full, and initially free, interfaces prior to NSCC's offering similar services. NSCC indicates that "[w]ithout such an interim requirement, there was concern that 'NSCC could obtain a competitive advantage by charging interface fees . . . designed to encourage brokers and dealers located outside New York City to use the NSCC network rather than another clearing corporation.' " NSCC further indicates that the opponents of interface fees hypothesized that the loss of participants by non-New York clearing agencies might, in turn, negatively impact their affiliated market places. NSCC concludes that "[i]t was to meet this specific concern, and *not* as part of any general policy favoring subsidies to competing clearing corporations, that the Commission required NSCC to establish free interfaces with [three regional clearing corporations]." (Emphasis in original.)

Next, NSCC offers three principal reasons why the justification behind the Free Interface Condition to its registration "cannot simply be carried over into the field of municipal securities as a basis for granting a similar subsidy to BSPS." First, NSCC argues that BSPS plays no national market system role.

Second, NSCC indicates that BNC, BSPS's parent, controls several bank and broker-dealer subsidiaries that compete directly with NSCC's bank and broker-dealer participants. NSCC continues that, "[i]f BSPS's free interface demand were acceded to, those [BNC] broker-dealer and bank affiliates would gain a wholly unwarrented competitive advantage over all other broker-dealers and banks." NSCC explains that its participants currently bear the cost of interfaces on a mutualized basis as part of the fees they pay and that is would not be appropriate to require them to "subsidize the operations of BSPS and its affiliated brokers and banks, which would be their own direct competitors." NCSS also concludes that BNC "should not be allowed to take advantage of a special subsidy program merely to increase the return to its own public shareholders."

Third, NSCC argues that:

> if BSPS were deemed entitled to a free interface with NSCC, it is difficult to see a principled basis for denying a similar free interface to any other securities industry entity that performs some type of clearance function and might choose to apply for registration as a clearing agency. Correspondent brokers, banks that engage in physical delivery of municipal securities, broker-dealers that offer fully disclosed clearing to other brokers—all would be entitled to free interfaces with as much legitimacy as BSPS. The Commission can avoid future free interface demands from entities such as these only by making it clear that the policyt behind the Free Interface Condition confines its application to the non-New York exchange-affiliated clearing agencies that the condition originally covered.

NSCC concludes that because of the above considerations "any interface with BSPS should not only bear normal interface charges, but also fully reflect the additional extra costs to NSCC of handling an interface transaction (*i.e.*, the interface should not only reflect the revenue that NSCC gives up from interface transactions but also the large additional cost to NSCC of operating the interface.)"

Finally, NSCC argues that the "free interface subsidy," if ever warranted, should be available "to only those entities that are in fact clearing agencies within the generally accepted critieria of today's clearing environment." NSCC explains that, although BSPS has received temporary registration as a clearing agency, "BSPS lacks mots of the essential attributes that a clearing agency should have, and would be demonstrably unable to satisfy the Commission's own standards for permanent clearing agency registration." NSCC continues that BSPS's failure "to utilize either the organizational structure or the operational safeguards of a normal clearing agency makes it inappropriate to put a contra side clearing agency and its participants at risk by requiring it to operate a free interface with BSPS."

(iii) *BSPS's Rebuttal*—In response, BSPS states that it has never requested and does not intend to request that NSCC compare and clear BSPS intra-agency transactions. Moreover, BSPS indicates it "has offered to compare and clear * * * BSPS-NSCC inter-agency transactions and, if operationally desirable, would be prepared to compare and clear NSCC intra-agency transactions." BSPS continues that it also "is prepared to absorb its share of the marginal incremental costs incurred by it and NSCC in processing transactions through the interfaces." BSPS adds, however, that "[u]nlike NSCC, [It] does not believe that the costs of an interface properly include the revenues which the clearing agency loses by not charging a participant submitting an inter-agency transaction for the side of the transaction submitted to an interfacing clearing agency." Finally, BSPS iterates that its proposed interface "would be 'free' only in the sense that BSPS and NSCC would charge participants the same fee for comparing and clearing inter-agency tranactions through the interfaces as for comparing and clearing intra-agency transactions."

With regard to NSCC's comment that BSPS is not a true clearing agency, BSPS states that BSPS, like NSCC, is currently operating under an extension granted by the Commission of its temporary registration as a clearing agency. BSPS also indicates that it "has rules defining the services it provides, fee schedules, participation standards, and mechanisms for determining initially, and thereafter monitoring, the financial condition of its participants." BSPS further indicates that it has 276 participants that are not BSPS affiliates. BSPS continues that it is prepared to take "any reasonable steps necessary to maintain the operational and financial integrity of the interfaces, including steps to provide adequate assurances that BSPS participants would satisfy receive and deliver obligations incurred in connection with inter-agency transactions." Finally, BSPS states that it, like other clearing agencies, "will be required to adopt any safeguards, procedures and governance provisions which the Commission eventually includes in its standards for the permanent registration of clearing agencies."

(iv) *NSCC's Rebuttal*—NSCC argues that it believes BSPS's interface proposal would be too costly to be attractive to many participants although BSPS believes otherwise. NSCC continues that "neither conclusion can be validated *except* by measuring the demand for the interface when it bears normal costs, undistorted by subsidies" (emphasis in original). NSCC explains that a free interface would provide an incentive to process transactions through an interface rather than through some other method, such as dual participation, that might be more efficient. NSCC concludes that market demand, unclouded by subsidies, should determine the extent of interface use.

NSCC also argues that BSPS's proposal for a free interface "would require the Commission to engage in a complicated and guideless rate-making and subsidy-cost/benefit analysis * * *," and that "[t]he Commission has no statutory authority or experience in fixing rates for individual services."

(v) *The Commission's Determinations*—In discussing the free interface issues raised by NSCC and BSPS, the Commission has considered two principal questions. First, what are the costs of an interface and how should those costs be allocated between clearing agencies? Second, how should the costs allocated to each clearing agency be recovered from its participants?

(a) *What are the costs of an interface and how should those costs be allocated between clearing agencies?*—In general, there are two types of cost associated with an interface. The first type of cost arises from additional activities that each clearing agency has to perform as a result of the interface ("interface activities"). Among those activities are data transmission and the reconciliation of interface positions. The second type of cost arises from certain activities that will have to be performed regardless of whether there is an interface ("common activities").[**] As a practical matter, those common activities have to be performed by one entity. That entity could be either clearing agency or a third party. Among those activities are the comparison and netting of inter-agency municipal securities transactions.

As previously discussed, the Commission has determined not to specify the operational details of the interfaces at this time. Rather, the Commission will require NSCC and BSPS to establish a coordinating committee to facilitate the resolution by NSCC and BSPS of those operational details. Until those operational details are resolved, it will be unclear whether NSCC, BSPS or a third party will perform the common functions of the interface.

Also as previously discussed, both BSPS and NSCC have put forward proposals to perform the common activities of the interfaces. For example, BSPS has offered to compare inter-agency municipal securities transactions and to net, and issue balance orders for, inter-agency municipal securities transactions. BSPS also has indicated that it would be willing for NSCC to perform those functions. NSCC, in turn, has offered to act as a comparison hub for inter-agency municipal securities transactions or to process transactions on a sponsored account basis. NSCC and BSPS disagree, however, on how the entity performing the common activities of the interface should be compensated. BSPS argues that the clearing agency performing the common activities should charge only its incremental cost while NSCC argues that BSPS should pay NSCC the same fees as do other NSCC participants.

As for the cost of interface activities, BSPS suggests that (i) each clearing agency could bear its own costs or (ii) that those costs could be added to the cost of the common activities of the interface and that each clearing agency then could be assigned an appropriate portion of all the costs of the interfaces. NSCC, in turn, argues that BSPS should bear the "large additional cost to NSCC of operating the interface."

In addition to giving NSCC and BSPS an opportunity to determine the operational requisites of the interface, the Commission believes that NSCC and BSPS also should be given an opportunity to determine on what basis the entity performing the common activities of the interfaces should be compensated and how the costs of the interfaces should be allocated. As discussed above, the resolution of those issues will depend in part on the determination of which entity will perform what common activities. Also, the Commission again believes it is more appropriate that the two clearing agencies initially make these types of determinations. Accordingly, the Commission will require that the coordinating committee also consider the basis on which entities performing the common activities should be compensated and the manner in which the costs of the interface should be allocated. Moreover, because the principal focus of NSCC's and BSPS's comments has been on whether interfaces should be established and not on the cost and cost allocation aspects of the interfaces, if NSCC and BSPS are not able to resolve those issues, the reports that the coordinating committee will be required to make to the Commission should provide a better record for a Commission decision.

(b) *How should the costs allocated to each clearing agency be recovered from participants?*—The Commission also considered the basis on which clearing agencies could recover the costs of an interface from participants. In a "free interface," participants pay the same fee for comparing and clearing transactions through an interface as they do for comparing and clearing intra-agency transactions. The cost of the interface thus is mutualized by each clearing agency. In contrast, if an interface is not free, the cost of an interface is charged only to those participants that process transactions through the interface.

The Commission believes that the interfaces between NSCC's and BSPS's proposed systems should be free interfaces for three principal reasons. First, interface fees have a tendency to discourage use of an interface and, if set at a sufficiently high level, could undermine, or effectively eliminate, the benefits of an interface. Second, the Commission agrees with BSPS that the effects of interface fees are difficult to monitor, let alone predict, and there would be considerable regulatory costs associated with monitoring and evaluating those fees. Free interfaces would reduce the need for the Commission to become involved in disputes over cost allocation and would avoid the risk that undesirable effects may result from interface fees.

Third, absent overriding policy reasons, the Commission believes that all of a clearing agency's participants should contribute toward a clearing agency's participation in a national system. In discussing the free interface condition to NSCC's registration, the Commission determined that:

> Current trading practices obligate the selling side of a transaction to make delivery to the buying side of the transaction. Once interfaces are in place, a party to a transaction effected on an exchange or through use of an OTC trading mechanism will not know the location at which the other party to the transaction has elected to clear and settle securities transactions. As a result, all parties to exchange and OTC transactions would have an equal likelihood of entering

[**] This statement assumes that transactions processed through an interface would be processed by one of the two clearing agencies absent an interface.

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into sale transactions which would occasion the use of interfaces.[45]

That reasoning applies equally to the municipal securities market. More specifically, when executing a municipal securities transaction an entity will not know the location at which the other party to the transaction will process that transaction. For example, in a given transaction, an NSCC participant could deal with another NSCC participant, a BSPS participant or a dual participant. In addition, due to the allocation feature of balance order systems, a participant in one clearing agency that executes a transaction with a participant in an interfaced clearing agency could be instructed to receive securities from, or deliver securities to, a participant in its own clearing agency, while a participant that deals only with participants in its own clearing agency could be instructed to deliver securities to, or receive securities from, a participant in an interfaced clearing agency. Similarly, the netting feature of balance order systems could result in a participant "netting-out" even though it executed a transaction with a participant in another clearing agency.

The Commission also has not been persuaded by NSCC's arguments that interfaces between the two systems should bear interface charges. NSCC argues that free interfaces are departures from cost-based pricing that can be justified, if at all, only on the basis of some overriding public policy concern. The Commission does not agree with NSCC's premise. Rather, as discussed above, as a general matter, the Commission believes that all participants of a clearing agency should contribute toward a clearing agency's participation in a national system.

NSCC also makes six other arguments why it believes BSPS's request should not be granted. First, NSCC argues that the basis for the Free Interface Condition to its registration was concern that interface fees might result in the loss of participants by non-New York clearing agencies, and that loss, in turn, might negatively impact their affiliated marketplaces. NSCC adds that BSPS plays no national market system role. The Commission disagrees with NSCC's characterization of the purpose of the Free Interface Condition. While the Commission agrees that the effect of NSCC's registration on regional exchanges was a consideration in the Commission's decision to impose conditions on NSCC's registration, that effect was only one of a number of considerations that formed the basis for the Commission's determination.[46]

Second, NSCC argues that a free interface would grant BSPS's broker-dealer and bank affiliates an unwarranted competitive advantage over other broker-dealers by allowing the BSPS affiliates to clear through BSPS and avail themselves of essentially free services through the use of BSPS's interfaces. The Commission is not persuaded by this argument. Because BSPS's affiliates would have to pay the same fees and meet the same participation standards as BSPS's other participants, they would not receive preferential treatment over other BSPS participants. The Commission also does not believe that a free interface would give BSPS's affiliates an unwarranted advantage over NSCC's participants. In a free interface, each clearing agency incurs costs in operating an interface and recovers those costs in full from its participants on a mutualized basis. As a result, participants that do not process transactions through the interface, or that process only a small number of transactions, pay the same fee as participants that have a large number of interface transactions. Participants that do not use the interface or do so only occasionally thus could be characterized as "subsidizing" the heavier users of the interface. However, such a "subsidy" would result in NSCC participants "subsidizing" other NSCC participants and in BSPS participants' "subsidizing" other BSPS participants but not in NSCC participants' "subsidizing" BSPS participants. Moreover, as discussed above, the Commission believes that it is difficult to determine to what extent participants "use" an interface and that as a general matter all participants of a clearing agency should contribute toward that clearing agency's participation in the national clearance and settlement system.

Third, NSCC argues that, if the Commission grants BSPS a free interface, it would be difficult to deny free interfaces to other securities industry entities that perform some type of clearance function and that register as clearing agencies. NSCC adds that "correspondent brokers, banks that engage in physical delivery of municipal securities, broker-dealers that offer fully disclosed clearing to other brokers—all would be entitled to a free interface with as much legitimacy as BSPS." Although NSCC does not identify the basis for that concern, the Commission assumes that NSCC is concerned that free interfaces would encourage new entry and that multiplicity of interfaced clearing agencies would result in a costlier, less efficient system. In addition, NSCC may be arguing that free interfaces would make entry into the securities processing field more attractive and that, to the extent new entrants attract volume away from an existing clearing agency, that existing clearing agency's per unit costs, and thus its fees for its remaining participants, would increase significantly.

The Commission recognizes that, if there is a proliferation of linked clearing agencies, at some point the costs of interfacing those entities could outweigh the efficiencies that result from the interfaces. The Commission believes that concern is somewhat speculative in this context, however. There have been no clearing corporation registrations since NSCC was required to establish free interfaces with three regional clearing agencies. Moreover, there are significant costs to registering as a clearing agency. In addition to the monetary cost of complying with the requirements of Section 17A of the Act, compliance with those requirements limits the manner in which a clearing agency can conduct its business. Absent more persuasive evidence, the Commission does not believe that NSCC's concern about the potential for a proliferation of clearing agencies is a reason for not requiring a free interface.

Fourth, NSCC argues that a free interface with BSPS is especially inappropriate because BSPS is not a "true" clearing agency, as that term is accepted in today's clearing environment. NSCC further argues that, because BSPS is not a true clearing agency, a free interface with BSPS presents particular risks to NSCC and its participants.

The Commission does not share NSCC's concern. BSPS has been granted temporary registration as a clearing agency, as has NSCC, pursuant to Securities Exchange Act Rule 17Ab–2. In addition, pursuant to the Division of Market Regulation's standards for clearing agency registration, BSPS soon will have to file an amended application for registration as a clearing agency. Prior to granting BSPS full registration as a clearing agency, the Commission will have to determine that BSPS's rules and procedures are in compliance with the requirements of Section 17A of the Act.

With regard to NSCC's concern that BSPS presents particular risks to NSCC and its participants, the Division of Market Regulation's standards for clearing agency registration recognize the right of one clearing agency to

[45] Securities Exchange Act No. 13163 (January 13, 1977).

[46] *See generally,* Securities Exchange Act Release No. 13153 (January 13, 1977).

"require reasonable assurance of another clearing agency's ability to meet its obligations of its participants." Also as discussed, BSPS has agreed to take "any reasonable steps necessary to maintain the operational and financial integrity of the interfaces, including steps to provide adequate assurances that BSPS participants would satisfy receive and deliver obligations incurred in connection with inter-agency transactions."

Fifth, NSCC argues that BSPS's interface proposal would be costly but that, if that interface were free, there would be an economic incentive for participants to use the interface in spite of the cost rather than some other method to process transactions, such as dual participation, that might be more efficient. The Commission is not persuaded by NSCC's arguments for several reasons. The Commission at this time has not mandated any particular interface structure. More importantly, however, NSCC has not persuaded the Commission that, in light of the well recognized benefits of interfaces, dual participation would be a more efficient method of processing municipal securities transactions. As discussed, the Commission believes that interfacing NSCC's and BSPS's proposed systems would improve the efficiency of both systems and would increase the value of those systems to participants. Dual participation, on the other hand, would negate many of those benefits. For example, dual participation would reduce the number of municipal securities transactions that could be netted, and would correspondingly increase the number of settlements that would have to be made. That effect would increase fails to deliver and fails to receive between municipal securities brokers and dealers and would increase particpants' financing costs. Dual participation also would mean that municipal securities brokers and dealers would have to pay two sets of membership and other non-volume related fees and would have to maintain two clearing agency processing streams. Finally, also as discussed, the Commission believes that as a general matter all participants of the clearing agency should contribute toward its involvement in the national clearing and settlement system.

Finally, the Commission strongly disagrees with NSCC's argument that the Commission has no statutory authority to determine whether an interface should be free as to participants. Contrary to NSCC's assertion, section 17A of the Act makes plain that the Commission's responsibilities include such determinations. For example, 17A(b) of the Act requires that the Commission determine that the "rules of clearing agencies provide for the equitable allocation of dues, fees and other charges." The fees NSCC and BSPS will charge for use of interfaces clearly are within that statutory charge. Section 17A(b) of the Act also requires the Commission to determine that the "rules of the clearing agency are designed to promote the prompt and accurate clearance and settlement of securities transactions to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency, and to remove impediments to and perfect the mechanism of a national system." As discussed, the imposition of interface fees could affect significantly the efficiency and utility of NSCC's and BSPS's proposed systems.

In addition, in *Bradford National Clearing Corporation v. securities and Exchange Commission,* the United States Court of Appeals for the District of Columbia in reviewing the scope of the Commission's authority in Section 17A, held that any decision by a clearing agency is reviewable by the Commission if that decision "may affect the realization of the national clearing system envisioned by Congress—*i.e.,* one that is safe, efficient *and* competitive." [47] The Commission believes that the decision by a clearing agency to impose interface fees clearly could impair the efficiency and utility of interfaced services.

Approval of NSCC's and BSPS's Proposals Is Conditioned on the Establishment of Interfaces Concurrently With the Termination of the Operation of the Systems on a Test Basis

(i) *BSPS's Arguments*—BSPS makes two principal arguments why the Commission should require NSCC and BSPS to establish an interface at the tiem their proposed systems begin operations. First, BSPS argues that it operationally is easier and less disprutive to establish an interface prior to, rather than aftr, commencement of the proposed systems. BSPS estimates that, assuming good faith by both clearing agencies, an interface could be fully operational "within less than six months" if established prior to the systems beginning operations. In contrast, BSPS believes that, if interfacing is not initiated until after the systems are fully operational, it "would take considerably longer." BSPS indicates, for example, that, once the systems are operational, establishing an interface would require both clearing agencies to reprogram various operations and replace forms, and may entail hardware modifications and changes in fee schedules.

Second, BSPS argues that delaying an interface would have an adverse effect on both clearing agencies' participants. In brief, BSPS indicates that to the extent NSCC and BSPS have to change their systems to accommodate an interface, participants in both systems would have to modify recently established back office operations. BSPS also indicates that "decisions made by participants regarding their processing streams, the clearing organization to which they belong and their trading activities [would be] affected by the availability or unavailability of interfaces and [would be] difficult and expensive to reverse once taken." Finally, BSPS fears that because of the operational problems and costs resulting from non-interfaced systems, participants could become disenchanted with the proposed systems and could revert to exception processing "rather than make the adjustments to their back-office operation necessary to interact with interfaced systems."

In addition, BSPS argues that, without Commission action, the two systems would operate independently and inefficiently, "and that progress toward interfaces will be sufficiently delayed for both wholesaling dealers and BSPS to become victims of the competitive inequities inherent in a non-interfaced operation of the systems." BSPS argues that, despite the generally acknowledged advantages of interfaced clearing systems, "the history of interfacing in securities processing has been one of halting progress, usually achieved only at the Commission's insistence." BSPS indicates that the reason for that halting progress has been that the implementation and operation of almost every proposed interface has been of more importance to one of the two interfacing clearing agencies than to the other. BSPS indicates that, typically, the reluctant clearing agency either believed it was more appropriate to allocate its energies and resources to other areas or was concerned that the establishment of an interface would dilute a competitive advantage. BSPS concludes that in this instance, "NSCC will be the reluctant party." As support for its conclusion, BSPS argues that, although revenues from municipal securities processing are important to BSPS, they are relatively unimportant to NSCC. BSPS also argues that BSPS has

[47] 590 F.2d 1085, 1114 (D.C. Cir. 1978) (emphasis in original).

had difficulty in getting NSCC to discuss establishing an interface.

Next, BSPS argues that "the strongest

that "[f]or two years, [BSPS] was quite content to sit back, without competition from a modern balance order clearance

the same time, although this approach does not adopt BSPS's concern about the difficulty of interfacing existing

interfaces.[48] In addition, the committee should report to the Commission in writing soon after each meeting on (i)

control of NSCC or BSPS; (iii) are designed to foster cooperation and coordination with persons engaged in

order systems for municipal securities transactions. That plan shall provide for the establishment of those interfaces

had difficulty in getting NSCC to discuss establishing an interface.

Next, BSPS argues that "the strongest inducement to both it and NSCC to promptly establish the interfaces would be a Commission determination not to permit either BSPS's or NSCC's systems to be implemented unless comparison and clearing interfaces were in place." BSPS explains that both BSPS and NSCC participants are anxious to obtain automated municipal securities services and that, if one party were perceived to be dilatory in establishing the interface and delaying the availability of the proposed systems, that clearing agency would risk losing business.

BSPS also outlines two measures the Commission could take if it is concerned that either NSCC or BSPS would not work diligently toward the establishment of the interface. First, BSPS suggests requiring NSCC and BSPS to establish a schedule for implementing the interface and to report periodically whether the scheduled is being met. If one party were found to be responsible for a delay, BSPS suggests that the Commission allow the other party to implement its system while conditioning the implementation of the dilatory party's system on the completion of the interface. BSPS also suggests that the Commission could take other action against the dilatory clearing agency, including a proceeding under Section 19(h) of the Act. Second, BSPS suggests the Commission could require each clearing agency to post a bond to indemnify participants against savings that would be lost because of a failure by one or both clearing agencies to meet that schedule.

(ii) *NSCC's Arguments*—In response, NSCC argues that it is easier operationally to establish an interface between operating systems than it is to construct an interface at the outset. NSCC explains that the "testing of an interface would be easier with real transactions from existing systems." NSCC also believes that BSPS's contention that approval of both systems should be delayed until an interface is established is base less, "since interfaces of the type currently in operation are transparent to participants in interfaced clearing agencies * * *."

NSCC also argues that BSPS's demand for an interface concurrent with commencement of operations is designed to delay implementation of both proposals. NSCC believes that BSPS long has sought to delay NSCC's proposed clearance system for municipal securities and that BSPS's request for an interface concurrent with commencement of operations is the latest facet of that plan. NSCC explains that "[f]or two years, [BSPS] was quite content to sit back, without competition from a modern balance order clearance system for municipal securities, and carry on a lucrative business in trade-for-trade settlement, reaping large profits from transaction fees and interest revenues that would be reduced through the netting achieved by balance order clearance." NSCC continues that "[n]ow, when the municipal securities industry will no longer tolerate the continued absence of netting and balance order clearance, [BSPS] demands a *free* interface, knowing that this demand is unacceptable to the industry." (Emphasis in original.) NSCC concludes that BSPS hopes to create a "no lose situation for itself—either there will be no change in the *status quo*, in which case [BSPS] will happily continue to profit from transaction fees and interest charges on trade-for-trade settlement at the industry's expense, or NSCC will be forced to accept a free interface, in which case * * * NSCC will be required to grant [BSPS] free clearance services."

(iii) *The Commission's Determinations*—Because of the benefits that would result from the establishment of interfaces between NSCC's and BSPS's proposed systems, the Commission believes that the interfaces should be established at an early date. At the same time, the Commission recognizes that it will take time for NSCC and BSPS to work-out the operational details of the interfaces and to test the interfaces prior to putting them into operation. Consequently, establishing an interface concurrently with the commencement of the operation of the proposed systems on a test basis would delay the implementation of beneficial systems.

The Commission believes the best solution to those conflicting demands is to allow the test period to begin immediately but to require that an interface be established concurrently with the termination of the test period and the expansion of both systems to full-scale operation. This approach has a number of benefits. First, it would allow NSCC and BSPS to implement and begin testing their systems immediately. In addition, it would enable those participants chosen to participate in the test period to receive the benefits of automated municipal securities processing at the earliest possible date.

Second, this approach would address the operational concerns raised by both NSCC and BSPS. More specifically, this approach would address NSCC's comment that it is easier to interface systems after they are operational. At the same time, although this approach does not adopt BSPS's concern about the difficulty of interfacing existing systems, if BSPS and its participants know that interfaces are to be developed by the two clearing agencies and that those interfaces would be established at the end of the test period, they should be able to maintain sufficient flexibility in their operations to accommodate any changes necessitated by the interfaces. NSCC and its participants similarly should be able to accommodate any operational changes necessitated by the interfaces. Moreover, only the limited number of participants using the systems during the test period would be faced with the possibility of having to make operational changes to their systems.

Third, this approach would focus pressure from the securities industry on NSCC and BSPS to resolve their differences. The Commission recognizes that the relationship between NSCC and BSPS has not been a paradigm of cooperation. Rather, both clearing agencies, not only in this proceeding but also in other contexts, have had serious disagreements. The Commission is concerned that those differences may interfere with the speedy establishment of interfaces. The Commission believes that not authorizing NSCC and BSPS to operate their systems on a full-scale basis until an interface is established should result in the municipal securities industry's working with NSCC and BSPS in an effort to insure that interfaces are established as quickly as possible.

As an additional step to encourage the speedy establishment of interfaces, the Commission will require NSCC and BSPS to establish a coordinating committee whose task will be to facilitate the development by NSCC and BSPS of: (i) the operational framework of the interfaces; (ii) the method of compensation for performing the common activities of the interfaces; (iii) the method of allocating the costs of the interfaces between NSCC and BSPS; and (iv) the steps necessary to maintain the operational and financial integrity of the interfaces. That committee should consist of at leat ten persons. Two of those persons should be management personnel from NSCC; two should be management personnel from BSPS; and the remainder should be equally divided between participants or potential participants in NSCC's and BSPS's proposed systems. The committee should meet at least biweekly to resolve outstanding operational details concerning the establishment of the interfaces.[48] In addition, the committee should report to the Commission in writing soon after each meeting on (i) the progress that has been made in establishing the interfaces; (ii) the issues that remain unresolved and (iii) the position each clearing agency takes on unresolved issues.[49]

In order to encourage the speedy establishment of interfaces, the Commission also will require NSCC and BSPS to submit a joint plan for establishing interfaces no later than April 15, 1980. That plan should provide for the establishment of those interfaces concurrently with the termination of the operation of those systems on a test basis and on the expansion of those systems to full scale operation. That plan also should specify, among other things: (i) the operational framework of the interfaces, including the entity or entities that will perform the common activities of the interfaces; (ii) the method of compensation for performing the common activities of the interfaces; (iii) the method of allocating the costs of the interfaces between NSCC and BSPS; and (iv) the assurances that each clearing agency will provide to maintain the financial and operational integrity of the interfaces.

Finally, if the interfaces are not established by the time the test period is scheduled to terminate, NSCC's and BSPS's authority to operate their systems for processing municipal securities transactions shall expire absent affirmative Commission action.

Conditions and Directives

In accordance with the provisions of Section 19(b)(2) of the Act, the Commission has determined that, subject to the terms contained in this order, NSCC's proposed rule change and BSPS's proposed rule changes, insofar as they apply to municipal securities transactions, are consistent with the requirements of the Act and the rules and regulations applicable to registered clearing agencies, and in particular: (i) are designed to promote the prompt and accurate clearance and settlement of securities transactions; (ii) are designed to assure the safeguarding of funds and securities which are in the custody or control of NSCC or BSPS; (iii) are designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions; (iv) are designed to remove the impediments to and perfect the mechanism of a national system for the prompt and accurate clearance and settlement of securities transactions, and in general, to protect investors and the public interest; (v) do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act; (vi) provide for the equitable allocation of reasonable dues, fees, and other charges among their participants; and (vii) reduce the physical movement of securities certificates;

It therefore is ordered that SR–NSCC–78–2 and that SR–BSPS–77–5 and SR–BSPS–80–3, insofar as they apply to transactions in municipal securities, are approved, subject to the terms contained in this order, including the following conditions and directives:

(i) NSCC and BSPS shall operate their proposed automated systems for processing municipal securities transactions on a test basis for a six month period commencing December 15, 1980. Initially, NSCC and BSPS each shall offer their proposed systems to no more than five participants; after the systems have been operating for two months, to no more than 15 participants each; and after the systems have been operating for four months, to no more than 25 participants each; and

(ii) During the test period, NSCC and BSPS shall provide the Commission with a monthly report describing the operation of their respective systems and containing a statistical profile of the operation of their respective systems. Furthermore, NSCC and BSPS each shall provide by May 15, 1981 and opinion report prepared by an independent public accountant concerning the operation of its system of internal accounting control during the first four months of operation of its proposed systems; and

(iii) NSCC may not use the pricing policy known as geographic price mutualization for the processing of transactions in municipal securities. Rather, NSCC must impose the same surcharge on municipal securities transactions processed through its branch network that NSCC currently imposes on transactions in securities listed on a national securities exchange and processed through NSCC's branch network; and

(iv) On or before April 15, 1981, NSCC and BSPS shall submit to the Commission a joint plan for the establishment of interfaces between their comparison systems and balance order systems for municipal securities transactions. That plan shall provide for the establishment of those interfaces concurrently with the termination of the operation of those systems on a test basis; and

(v) NSCC and BSPS shall establish interfaces between their comparison systems and between their balance order systems concurrently with the termination of the operation of the systems on a test basis. In the event that those interfaces are not established, NSCC's and BSPS's authority to operate their systems shall expire absent affirmative Commission action. Also in connection with those interfaces, neither NSCC nor BSPS shall charge their participants an interface fee or any fee which would operate as an interface fee; and

Further ordered, the NSCC and BSPS shall form a coordinating committee to facilitate the determination by NSCC and BSPS of: (i) the operational framework of the interfaces, (ii) the method of compensation for performing the common activities of the interfaces, (iii) the method of allocating the costs of those interfaces between NSCC and BSPS, and (iv) the steps necessary to maintain the operational and financial integrity of the interfaces. The coordinating committee shall consist of at least ten persons: (i) two members shall be management personnel from NSCC, (ii) two members shall be management personnel from BSPS, and (iii) the remainder shall be equallly divided between participants or potential participants in NSCC's and BSPS's respective systems. The coordinating committee shall meet at least biweekly to resolve outstanding operational details concerning the establishment of the interfaces and shall report to the Commission shortly after each meeting on (i) the progress that has been made in the establishing the interfaces, (ii) the issues that remain unresolved, and (iii) each clearing agency's position on unresolved issues.

Finally, because the Commission has requested BSPS to submit additional information on its proposed systems for processing transactions in government securities, the Commission has not considered those portions of SR–BSPS–77–5 and SR–BSPS–80–3 relating to the processing of transactions in government securities.

By the Commission.

George A Fitzsimmons,

Secretary.

[FR Doc. 80-37451 Filed 12-2-80; 8:45 am]

BILLING CODE 8010-01-M

[48] The Commission believes that, in view of the importance of automated clearing to the municipal securities industry, organizations such as the Municipal Securities Rulemaking Board and the Public Securities Association could provide important assistance in this process by attending the meetings of the coordinating committee and offering their expertise to BSPS and NSCC.

[49] An additional benefit of the committee is that its written reports will help provide a record on which the Commission can rely if interfaces are not established by the end of the test period and further Commission action is required.

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TENNESSEE VALLEY AUTHORITY

Tennessee Valley Authority Act of 1933 and Public Utility Regulatory Policies Act of 1978; Proposed Policy on Dispersed Power Production and Interim Program and Guidelines for Implementation

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of proposed policy on dispersed power production and proposed interim program and guidelines for implementation.

SUMMARY: TVA has developed a proposed policy for encouraging dispersed power production in the Tennessee Valley region and an interim program and guidelines to assist TVA and its power distributors in implementation of the policy. The policy, program, and guidelines encompass cogeneration and small power production facilities included under sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95–617). That act and the Federal Energy Regulatory Commission's (FERC) regulations implementing said statutory provisions provide that TVA, for itself and its power distributors, take appropriate actions reasonably designed to encourage congeneration and small power production and further provide that TVA, after notice and opportunity for public hearing, implement the above regulations for itself and its power distributors. Comments are invited from interested person and the comments will be considered in making final determinations regarding the proposed policy, program, and guidelines.

DATES: Comments in writing must be received by 5 p.m. January 23, 1981, to be assured of being considered. An oral comment session will be conducted on January 19, 1981.

ADDRESS: Written comments should be sent to: Presiding Officer, Dispersed Power Production Hearing, Tennessee Valley Authority, 840 Power Building, Market Street, Chattanooga, Tennessee 37401.

FOR FURTHER INFORMATION CONTACT: Dawn S. Ford, Tennessee Valley Authority, 400 Commerce Avenue, EPB20, Knoxville, Tennessee 37902 (615) 632–4402.

PROCEDURES: On January 19, 1981, TVA will conduct an oral comment session on the proposed policy, interim program, and guidelines for implementation in the Provident Life and Accident Insurance Building, Room 151, Fountain Square, Chattanooga, Tennessee 37402, beginning at 9:30 a.m. Any person who wishes to offer comments on the proposed policy and interim program and guidelines during this session is requested to notify Dawn S. Ford.

After further consideration following review of public comments, including those received during the oral comment session, the TVA Board will make its final determinations as to the policy and interim program and guidelines.

SUPPLEMENTARY INFORMATION: The proposed policy and interim program and gudielines being submitted for public comment are intended to encourage the development of cogeneration and small power production facilities in the Tennessee Valley region.

Cogeneration facilities simultaneously produce two forms of useful energy, such as electric power and steam. Cogeneration facilities use significantly less fuel to produce electricity and steam (or other forms of energy) than would be needed to produce the two separately. Thus, by using fuels more efficiently, congeneration facilities can make a significant contribution to the Nation's effort to conserve its energy resources.

Small power production facilities rely mainly on biomass, waste, or renewable resources, including wind, solar and water, to produce electric power. Reliance on these sources of energy can reduce the need to consume fossil fuels to generate electric power.

In August of 1979 TVA initiated an Experimental Cogeneration Program to provide a market for electrical energy produced by cogenerators in the TVA region. The principal features of the program are: (1) Purchase prices designed to encourage cogeneration when TVA is experiencing system peak loads, (2) availability of arrangements for up to ten years, (3) standby power charges for energency and maintenance power requested by a cogenerator, (4) technical assistance to potential cogenerators, and (5) with respect to a cogenerator's firm power requirements, firm power availability under appropriate standard resale rate schedules and the customary arrangements generally applicable to commercial and industrial customers.

There is a growing opportunity for and interest in the development of small power production and cogeneration facilities within the region which suggest that additional efforts to encourage dispersed power production can be beneficial. Factors contributing to this interest include financial incentives under various State and Federal energy programs and recent Federal rulemaking under PURPA whereby TVA and its power distributors are required to interconnect with and purchase the output of qualifying facilities. TVA plans to adopt a policy with implementing guidelines and purchase price/resale rate schedules that will foster the development of cost-effective dispersed power production facilities may and provide the means by which such facilities be integrated with TVA's generation and construction activities and conservation programs.

In general this involves:

—A policy that commits TVA to the support of cost-effective dispersed power production developments in the region.

—Interim guidelines and experimental purchase/resale schedules for purchase from and service to qualified producers by TVA and the distributors as required by FERC's rules under PURPA.

—Additional interim guidelines for purchase from and service to certain small power production and cogeneration facilities that may be acquired by the distributors of TVA power.

The guidelines include uniform arrangements for the region with respect to such things as producer qualifications, responsibilities for interconnection facilities, metering equipment, and safety and system protection requirements.

Criteria under FERC's rules for determining the eligibility of production facilities for the benefits prescribed by PURPA are followed in TVA's proposed program and include the following:

Criteria for qualifying small power production facilities limit power production or capacity to 80 megawatts. The primary energy source of a facility must be biomass, waste, or renewable resources, and the use of oil, natural gas, and coal may not exceed 25 percent of the facility's total energy imput. Electric utilities or their affiliates are not permitted to have more than 50 percent equity interest in the facilities.

Cogeneration facilities must qualify on two general criteria: efficiency and ownership. Minimum efficiency standards are stated separately for topping- and bottoming-cycle facilities. The ownership criterion is the same as for small power production facilities. The only fuel use criterion for qualifying a new facility is that it may not be diesel powered.

TVA plans to adopt interim guidelines and pricing schedules. This recognizes that subsequent changes may need to be made on the basis of early experience of TVA and the distributors in this rapidly developing area.

The pricing of the power to be purchased by TVA and the distributors from qualified production facilities will be a significant factor in the proposed program. TVA recently completed the process of compiling data on the avoided costs of production or purchased power from the TVA system and for the distributors. After preliminary analysis of such costs, TVA believes that the price schedule being used in the Experimental Cogeneration Program should be applied to dispersed power production generally.

However, establishing a final pricing schedule does not appear to be feasible at this time in view of the fact that there is some likelihood of significant pricing modifications to accommodate changes in the wholesale rate that may result from pending rate change proceedings between TVA and the distributors. TVA therefore proposes that the price schedule applicable in the subject policy proposal be based on the schedule authorized for use with the Experimental Cogeneration Program as an interim measure until such time as the wholesale rate may be revised to reflect time-of-use variations in TVA's costs.

Although dispersed power production facilities owned and operated by distributors would not be qualified facilities under PURPA, TVA distributors may be able to contribute significantly to the development of dispersed power production in the Tennessee Valley. Accordingly, TVA's program includes distributor owned facilities.

To accommodate full distributor participation in the dispersed power production program, TVA is prepared to make changes in the present contractual arrangements with its distributors that require them to purchase all their power requirements from TVA.

Contract provisions limiting the use of power revenues have been used by TVA to help ensure that power is made available to consumers at the lowest possible cost, while at the same time, ensuring the viable financial operation of distributor electric systems. In light of the broadening of the scope of the distributors' activities contemplated by the dispersed power production program, TVA believes the present provisions should be modified to permit limited use of revenues for the evaluation and funding of cost-effective projects.

TVA as necessary will monitor and take appropriate measures to ensure that implementation of the interim dispersed power production program by the distributors is carried out in a manner consistent with these program guidelines. Included in this oversight activity would be the review and approval before initial application by the distributors of any additional specifications they may wish to adopt to supplement these guidelines. Also, during the period that the interim guidelines are in effect, the TVA staff would work with representatives of the distributors, the general public, and other interested parties to explore various modifications and changes in the price schedules and guidelines that might enhance their effectiveness in achieving policy objectives.

The proposed TVA policy, interim guidelines and experimental price and rate schedules for dispersed power production are printed below.

Dated: November 24, 1980.

W. F. Willis,
General Manager.

Proposed Interim Program for Dispersed Power Production

Proposed TVA Policy Statement

Consistent with the provisions of the TVA Act and the national goals of energy conservation, efficient use of resources, and fair rates to all electric consumers, TVA encourages the use of cost-effective dispersed power production projects by the region's power distributors and electric consumers and will make such changes in its wholesale and resale contract provisions and rate schedules, develop programs for dispersed power production, and take such other actions, all as TVA deems necessary to permit optimum development of such projects in an environmentally acceptable manner.

Proposed Interim Guidelines

A. Facilities Owned by all Entities Except Distributors of TVA Power

1. Criteria for Qualified Facilities

Criteria for qualification of small power production facilities and cogeneration facilities are the same as set out in FERC's rules (18 CFR Part 292).

2. Purchase of Output from Qualified Facilities

a. Owners of qualified facilities (qualified producers) will be allowed the option of either (1) using the output of their production facilities to supply their own requirements or (2) selling their surplus or entire output to the local distributor of TVA power or TVA.

b. Until October 1, 1982, owners of qualified cogeneration facilities may make arrangements to sell their output under the provisions of TVA's Experimental Cogeneration Program which was initiated on August 30, 1979.

c. The qualified producer's right to sell power to the distributor or TVA may be subject to temporary curtailments when, as a result of operational circumstances, the delivery of such power would interfere with the safe and efficient operation of TVA's and/or distributor's respective power systems.

d. All qualified producers that desire to sell power to the distributors of TVA power or TVA will be required to execute contractual agreement.

3. Purchase Price for Power from Qualified Facilities

a. Until October 1, 1982, qualified producers will have the option of (1) receiving payments for the output of their facilities billed under the experimental pricing schedule (see Experimental Price Schedule DPP–X) or (2) any alternative pricing schedule that TVA may publish for use by itself and the distributors of TVA power prior to that date.

b. Qualified producers that enter into contracts prior to October 1, 1982, for the sale of power will be entitled to continue to be paid on the basis of the contracted pricing schedule for the term of the contract but not in excess of 10 years.

c. Payments under the pricing schedule to qualified producers that elect to sell their output to other than the interconnected utility will be subject to adjustments for line losses and wheeling charges.

4. Availability of Standby Power to Qualified Facilities for Scheduled Maintenance and Emergency Backup

a. The purchase of standby power by qualified producers will be optional.

b. Qualified producers contracting for the purchase of standby power requirements will do so under the experimental pricing schedule (see Experimental Standby Power Rate Schedule SP–X).

c. When the purchase of standby power requires the distributors or TVA to provide additional interconnection or metering facilities, qualified producers will pay for the additional costs of such facilities in accordance with subsections A.6.a. and c. of the guidelines.

5. Sale of Power to Qualified Facilities

a. Qualified producers located within the area served with TVA power may

purchase their firm, supplemental, or interruptible power requirements under the standard rates for their customer class.

b. Distributors' right to sell power to TVA may be subject to temporary curtailments when, as a result of operational circumstances, the delivery of such power would interfere with the safe and efficient operation of TVA's and/or distributor's respective power systems.

c. Distributors that accept delivery of the output purchased by TVA from qualifying facilities owned by the distributor's customers will be repaid by TVA for the costs of such facilities in accordance with subsection A.6.a. of the guidelines.

causing unusual fluctuations or disturbances on the distributors' or TVA's systems.

qualifying small power production facilities as referred to in section A.

b. Permit distributors to use up to 2 percent of their annual net revenues

purchase their firm, supplemental, or interruptible power requirements under the standard rates for their customer classifications currently in effect for the portion of the area in which a particular producer is located.

b. Qualified producers will contract for their expected maximum supply requirements including, as appropriate, amounts that may be needed to compensate for scheduled or unscheduled loss of output from their own production facilities when a particular qualified producers elects not to purchase standby power.

c. Neither TVA nor the distributors of TVA power will contract or otherwise become obligated to sell power to any qualified producers that are not located within the area in which TVA power can be made available under the provisions of the TVA Act.

6. Responsibility for Interconnection and Metering Costs

a. Owners of qualified facilities will be required to pay for any additional transmission or distribution costs (including the costs of metering, system protection, and safety equipment) to the extent that such costs are in excess of those that the distributors of TVA power and TVA would have incurred if the qualified producer's output had not been purchased. For the duration of the Experimental Cogeneration Program, TVA will continue to pay the cost of cogeneration metering installations for facilities qualifying thereunder.

b. Existing customers of the distributors or TVA that subsequently install qualified facilities may also be required to compensate the distributor or TVA for the unamortized costs of any existing transmission or distribution facilities that are rendered surplus by changes in the customer's supply requirements.

c. The payment of the above interconnection, metering, and other costs may take the form of a lump-sum payment or equivalent monthly payments provided for in contracts with the owners of qualified facilities. Deferred payments for acceptabled expenses may be extended for the term of the contract but not in excess of 10 years and may be financed at a rate equivalent to purchaser's current cost of money, adjusted annually.

7. Compliance with Safety, System Protection, and System Operating Guidelines (see also section C for supplemental details)

a. Qualified producers will be required to provide and maintain suitable apparatus to prevent operation of their production facilities from causing unusual fluctuations or disturbances on the distributors' or TVA's systems.

b. Qualified producers will cooperate with the distributors and TVA in developing mutually acceptable operating procedures for delivery of the output of the qualified producers' facilities.

c. Qualified producers will be responsible for providing and maintaining all equipment they deem necessary for the protection of their own property and operations.

d. All protection, safety, and interconnecting equipment installed by qualified producers must meet standards of good utility practices and be capable of continuous parallel operation with TVA's and distributors' systems.

B. Facilities Owned by Distributors of TVA Power

1. Criteria for Authorized Facilities

a. Distributors will be permitted to develop, own, and operate facilities that meet the qualifying criteria referred to in section A.1. with the exception of criteria in FERC's rules limiting electric system participation in facility ownership; provided the distributors comply with the following additional requirements.

b. Without prior approval from TVA, distributors will not undertake the construction or acquisition of production facilities with design production capacities in excess of (1) 80 MW for any individual facility or (2) any amount that would cause the aggregate production capacity of all production facilities owned by the distributor to exceed 10 percent of the distributor's peak capacity requirements projected for the year in which the facilities become operational.

c. Without prior approval from TVA, distributors will not undertake the construction or acquisition of production facilities for which the annual cost commitment (including debt service) will cause the projected aggregate annual cost commitment for all production facilities of the distributor to exceed 10 percent of the distributor's projected annual net revenues (resale revenues less purchased power costs) during any year after the facilities become operational.

2. Purchase of Output from Distributor-Owned Facilities

a. Distributors owning authorized facilities will be allowed the option of either (1) using the output to partially supply their own power requirements or (2) selling their surplus or entire output to TVA.

b. Distributors' right to sell power to TVA may be subject to temporary curtailments when, as a result of operational circumstances, the delivery of such power will interfere with the safe and efficient operation of TVA's bulk power supply system.

3. Purchase of Output from Distributor-Owned Facilities

a. Until October 1, 1982, distributor producer will have the option of (1) receiving payments for the output of authorized facilities billed under the pricing schedule (see Experimental Price Schedule DPP–X) or (2) any alternative pricing schedule that TVA may publish for use by itself and the distributor of TVA power prior to that date.

b. Distributor producers that enter into contracts prior to October 1, 1982, for the sale of their output will be entitled to continue to be paid on the basis of the contracted pricing schedule for the term of the contract not to exceed 10 years.

c. Payments under the pricing schedule to distributor producers will be increased as appropriate to reflect any savings in TVA's transmission losses resulting from TVA's purchases from the distributor.

4. Availability of Standby Power to Distributors for Scheduled Maintenance and Emergency Backup

a. TVA will make arrangements for the supply of standby power to distributors for resale to qualified producers interconnected with their systems. Qualified producers contracting for the purchase of standby power requirements will do so under the experimental pricing schedule (see Experimental Standby Power Rate Schedule SP–X).

b. When distributors own production facilities and elect to use the output of their facilities to reduce their supply requirements from TVA or when distributors contract with qualified producers for the same purpose and the aggregate supply of a particular distributor from other than TVA sources exceeds 10 percent of the distributor's total peak supply requirements, TVA reserves the right to require the distributor to purchase reasonable amounts of standby power from TVA. In the event this level of supply is achieved through dependence upon facilities operated by customers of the distributor, TVA will work with distributor to develop an appropriate method for allocating the charges for said supply of standby power among those customers.

c. When the purchase of standby power requires TVA to provide additional interconnections or metering facilities, distributors will pay for the additional costs of such facilities in accordance with subsection B.6.a. of the guidelines.

5. Sale of Power to Distributors Owning Authorized Production Facilities or Purchasing Partial Requirements from Qualified Producers

a. Distributors obtaining part of their total supply requirements from their authorized facilities or their customers' qualified facilities may purchase the balance of their supply requirements from TVA at the then-current wholesale rate for municipal and cooperative distributors of TVA power; provided, however, as indicated in 4.b above, distributors that purchase less than 90 percent of their peak capacity requirements from TVA may be required to purchase reasonable amounts of standby power from TVA.

b. For planning purposes, distributors should anticipate that the structure of TVA's wholesale rate may be changed to track TVA production costs from time of use—peak responsibility standpoints—and that these changes could affect the economics of distributor) owned facilities. Such modifications should have little or no effects on the economics of distributor purchases from qualified facilities owned by their customers since it is contemplated that their output will be purchased under price schedules that reflect the wholesale rate.

6. Responsibility for Transmission and Metering Costs

a. Distributors that acquire production facilities for partial supply of their own requirements or for sale to TVA will be required to pay TVA for any additional transmission or distribution costs (including the costs of metering, system protection, and safety equipment) to the extent that any such additional costs are in excess of those that TVA would have incurred if the distributor did not acquire production facilities.

b. Distributors that purchase output for their own use from qualifying facilities owned by their customers will be required to pay TVA for any additional transmission or delivery costs (including the costs of metering, system protection, and safety equipment) imposed on TVA to the extent that any such additional costs are in excess of those that TVA would have incurred if the distributors did not purchase part of their requirements from qualified producers. Likewise, distributors shall require qualified producers to bear the additional distribution costs resulting from their purchase commitments to qualified producers.

c. Distributors that accept delivery of the output purchased by TVA from qualifying facilities owned by the distributor's customers will be repaid by TVA for any additional transmission, distribution, and administration costs that the distributor incurs to the extent that such additional costs are in excess of those the distributor would have incurred if TVA had not purchased output from the distributor's customers. For the duration of the present Experimental Cogeneration Program, this will take the form of 1½ percent of the sum of (1) all standby power charges (reservation, demand use, and energy use) billed to cogenerators plus (2) the total amount paid by TVA for cogenerated energy purchased from cogenerators connected to the distributor's system.

d. Distributors that operate production facilities or purchase output from their customers for their own requirements may be required to compensate TVA for the unamortized costs of any existing transmission or distribution facilities owned by TVA that are rendered surplus by any reduction in the customer's supply requirements from TVA.

7. Compliance with Safety, System Protection, and System Operating Guidelines (see also section C for supplemental details)

a. Distributor producers will be required to provide and maintain suitable apparatus to prevent operation of their production facilities from causing unusual fluctuations or disturbances on TVA's system.

b. Distributor producers will cooperate with TVA in developing mutually acceptable operating procedures for integrating the output of their production facilities with the output from TVA's production facilities.

c. Distributor producers will be responsible for providing and maintaining all equipment they deem necessary for the protection of their own property and operations.

d. All protection, safety, and interconnection equipment installed by distributor producers must meet standards of good utility practices and be capable of continuous parallel operation with TVA's system.

8. Contract Amendments for Distributors

TVA will enter into contract amendments that:

a. Recognize that there may be limited distributor ownership and operation of production facilities meeting the criteria set forth in section B.1. and that distributors may purchase power from qualifying cogeneration facilities and qualifying small power production facilities as referred to in section A.

b. Permit distributors to use up to 2 percent of their annual net revenues (resale revenue less wholesale power cost) for the evaluation of proposed dispersed power production projects. Evaluations requiring expenditures above this amount would be subject to prior review and approval by TVA.

c. Provide that TVA be given reasonable advance notice of all power production facilities that either the distributors or their customers plan to acquire, and to coordinate with TVA the development of any necessary power supply and operating arrangements.

C. Supplemental Safety and System Protection Requirements Applicable to Owners of Qualified Production Facilities

These requirements shall be applicable to assure system safety and reliability of interconnected operations. The adequacy of safety and system protection facilities for interconnection with qualified producers will be determined by TVA and, as appropriate, by the distributors but only insofar as necessary for such facilities to be determined compatible with the respective connecting system.

1. Fault Protection

a. Adequate protection facilities shall be provided by the owner to protect the line(s) connecting the production facility to the electric system from faults originating from the production facility. This includes primary fault disconnecting switchgear and secondary relaying and control circuitry.

b. It shall be the responsibility of the owner to provide adequate protection of its production facility from fault currents originating in the electric system because of a fault in the production facility.

2. Overvoltage and Undervoltage

a. It shall be the responsibility of the owner to provide adequate protection or safeguards to prevent damage to the connecting electric system caused by overvoltage originating from the operation of the production facility.

b. It shall be the responsibility of the owner to provide adequate protection of its production facility from inadvertent overvoltages originating on the connecting electric system.

c. It shall be the responsibility of the owner to provide facilities adequate to prevent the production facility from being damaged by undervoltage conditions on the connecting electric system.

3. Synchronization and Isolation

a. The owner shall provide adequate facilities for the proper synchronization of its production facility with the Distributor's distribution lines in the vicinity unless otherwise agreed.

Purchase Prices

Experimental Standby Power Rate Schedule SP–X

Availability

Single-Point Delivery

The charges under this rate schedule are based upon the supply of standby service through a single delivery and customer and emergency backup power used by customer

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BILLING CODE 8120-01-M

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3. Synchronization and Isolation

a. The owner shall provide adequate facilities for the proper synchronization of its production facility with the connecting electric system such that synchronism is accomplished without causing undesirable currents, surges, or voltage dips on the connecting electric system.

b. The owner shall provide means for properly disconnecting the production facility from the connecting electric system for system line interruptions and for the proper resynchronization of the production facility following such interruptions.

c. In order to provide safety for the connecting electric system's employees performing emergency repairs or routine maintenance to its lines, the owner must provide equipment for disconnecting and isolating the production facility during electric system interruptions. Such equipment must be capable of preventing the production facility from energizing the system's lines during such interruptions and must include a device (or devices) which the electric system's employees can operate and lock so as to isolate the production facility and all means of backfeed into the connecting electric system.

4. Grounding

The facilities (generator, connecting transformer, etc.) that connect to the electric system must be grounded in such a way that coordination is maintained with the relay protection system in use by the connecting electric system and prevents the connecting facility from being subjected to deleterious voltages during fault conditions.

5. Harmonics

a. Adequate design precautions must be taken by the owner to prevent excessive and deleterious harmonic voltages or currents caused by the production facility from occurring on the connecting electric system.

b. The production facility must be designed to operate with normal harmonic voltages and currents that originate from the connecting electric system.

6. Power Factor

The operation of the production facility shall not produce excessive reactive power during offpeak conditions nor consume excessive reactive power during onpeak conditions.

7. Voltage Regulation

The owner shall provide necessary voltage regulation equipment to prevent the production facility from causing excessive voltage variation on the connecting electric system. The voltage variation caused by the production facility must be within ranges capable of being handled by the voltage regulation facilities used by the connecting electric system.

8. Voltage Flicker

The voltage surges caused by the operation, synchronization, or isolation of the production facility shall be within the standards of frequency of occurrence and magnitude established by the connecting electric system to prevent undue voltage flicker on the connecting electric system.

9. Voltage Balance

a. The voltage produced by the production facility must be balanced if it is a three-phase installation. The waveform must be sinusoidal and compatible with the operation of the connecting electric system.

b. The owner will be responsible for protecting its production facility from the inadvertent phase unbalance in electric system's voltage.

10. Operational Oversight

a. The owner will be responsible for operating its production facility in a manner that will not cause undesirable or harmful effects to the connecting electric system or its other customers.

b. The owner will not begin initial operation of the production facility until it has received written approval from the connecting electric system.

c. The owner shall supply the connecting electric system with technical specifications and drawings upon request relating to the production facilities and related interconnection, operation, and protective equipment.

d. The connecting electric system shall have the right at any time to inspect and test the operation of any control and protective equipment owned and maintained by the owner.

Experimental Price Schedule DPP–X

Availability

The output of small power production and cogeneration facilities that qualify under TVA's Dispersed Power Production Program will be purchased by TVA or distributors of TVA power in accordance with the current guidelines for this program.

Character of Purchased Power

Unless otherwise provided by contract, the character of purchased power will be alternating current, single or three-phase, 60 hertz. Voltage shall be determined by the voltage of TVA's or Distributor's distribution lines in the vicinity unless otherwise agreed.

Purchase Prices

Energy from qualifying dispersed power production facilities will be paid for on the following basis:

A. For small power producers with production capacity of less than 100 kW, without time-of-day metering capability, payment on a monthly basis of an amount per kWh at 1.00 times the base price for all energy purchased.

B. For small power producers with production capacity of less than 100 kW with time-of-day metering capability; all small power producers with production capacity of 100 kW or greater; and all cogenerators, payment on a monthly basis of an amount per kWh determined as follows:

(1) 1.35 times the base price for energy purchased during onpeak hours, and

(2) 0.85 times the base price for energy purchased during offpeak hours.

The base price shall equal the sum of the following: (1) The demand charge of the Wholesale Power Rate (Wholesale Power Rate—Schedule WS) expressed in cents per kW, divided by 730 hours, and (2) the energy charge of said Wholesale Power Rate—Schedule WS (exclusive of any exempt or special energy charges). The demand charge and energy charge under items (1) and (2) above shall both reflect any changes in or modifications to Wholesale Power Rate—Schedule WS, including any replacement thereof, and shall both be adjusted by TVA from time to time in accordance with the adjustment provisions of TVA's Wholesale Power Contracts.

Onpeak hours shall be:

During months of January–April and October–December from 6 a.m. to 12 noon and from 4 p.m. to 10 p.m., excluding Sundays and Federal holidays. During months of May–September from 10 a.m. to 10 p.m., excluding Sundays and Federal holidays.

Offpeak hours shall be:

All hours not onpeak hours.

All hours on Sundays and Federal holidays.

The above times shall be the applicable standard times prescribed under the Uniform Time Act of 1966, as amended. The time periods are subject to change by published notice from TVA but the total number of onpeak hours will not be less than 45 per week.

Experimental Standby Power Rate Schedule SP–X

Availability

Available for small power producers and cogenerators that qualify under TVA's Dispersed Power Production Program and that elect to purchase standby service for scheduled maintenance and emergency backup power supply.

Character of Standby Service

Alternating current, single or multiphase, 60 hertz. Voltage supplied shall be at the discretion of Distributor and shall be determined by the voltage available from distribution lines in the vicinity or as otherwise agreed upon.

Standby Power Charges

Reservation charges:

30 percent of the Demand Charge per month per kilowatt of the customer's standby contract demand, plus

4 percent of the Demand Charge per month per kilowatt of the aggregate production capacity of customer's facilities.

Demand use charges*:

20 percent of the Demand Charge per week per kilowatt of maintenance power prescheduled by the customer, plus

40 percent of the Demand Charge per week per kilowatt of emergency backup power used by the customer.

Energy use charge*:

3 percent of the Demand Charge per day per kilowatt of maintenance power prescheduled by the customer and emergency backup power used by the customer.

Demand Charge as used above refers to the demand charge set out in Part B of the TVA General Power Rate Schedule, as adjusted pursuant to any then effective Adjustment Addendum, that is applicable for service to customer.

Contract Requirement

Customers to whom this rate schedule is applicable shall be required to execute contracts, and such contracts shall be for a term not to exceed 10 years.

Payment

Bills under this rate schedule will be rendered monthly. Any amount of bill unpaid after due date specified on bill may be subject to additional charges under Distributor's standard policy.

*Standby demand use charges will be prorated for periods of less than one week. The energy use charge is in addition to the energy charge under the applicable resale rate schedule which is applicable to all energy furnished to the customer.

Single-Point Delivery

The charges under this rate schedule are based upon the supply of standby service through a single delivery and metering point, and at a single voltage. If service is supplied to the same customer through more than one point of delivery or at different voltages, the supply of service at each delivery and metering point and at each different voltage shall be separately metered and billed under this rate schedule.

Service is subject to rules and regulations of the Distributor and guidelines in TVA's Dispersed Power Production Program.

Currently Effective Prices and Charges for the Purchase of Power From and the Supply of Standby Power to Small Power Production and Cogeneration Facilities

October 2, 1980*

Purchase of Power by TVA or Distributor—Schedule DPP–X

A. For small power producers with production capacity of less than 100 kW, without time-of-day metering capability

Energy price:

All kilowatthours per month at 2.792 cents per kilowatthour

B. For small power producers with production capacity of less than 100 kW with time-of-day metering; all small producers with production capacity of 100 kW or greater; and all cogenerators

Energy price:

All onpeak kilowatthours per month at 3.770 cents per kilowatthour

All offpeak kilowatthours per month at 2.374 cents per kilowatthour

Purchase of Standby Power by Customer—Schedule SP–X

Reservation charges:

$1.70 per month per kilowatt of customer's standby contract demand, plus

$0.23 per month per kilowatt of customer's aggregate production capacity

Demand use charges:

$1.13 per week per kilowatt of maintenance power prescheduled by customer, plus

$2.27 per week per kilowatt of emergency backup power used by customer

Energy use charge:

$0.17 per day per kilowatt of maintenance power prescheduled by customer and emergency backup power used by customer

*All prices and charges are subject to subsequent adjustments, changes, and other provisions as set forth in the price and rate schedules.

[FR Doc. 80-37516 Filed 12-3-80; 8:45 am]
BILLING CODE 8120-01-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 80-256]

Vessels in Foreign and Domestic Trades; Fee Schedule for Vessel Services

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: The "Customs Procedural Reform and Simplification Act of 1978" repealed several statutes under which Customs charged and collected fees for specific services provided to vessels by Customs officers. That Act authorized the Secretary of the Treasury to establish a new schedule of fees to return to the Government the approximate costs of the services provided. This document sets forth the revised schedule of fees to be charged and collected for 1981 for the specified services.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Jerry Laderberg, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5706).

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 95–410, the "Customs Procedural Reform and Simplification Act of 1978," approved October 3, 1978 (the "Act"), repealed sections 2654, 4381, 4382, and 4383 of the Revised Statutes of the United States (19 U.S.C. 58; 46 U.S.C. 329, 330, and 333), the statutory authority under which Customs had been charging and collecting fees for specific services provided to vessels by Customs officers.

Because these "Navigation Fees," which are set forth in § 4.98(a), Customs Regulations (19 CFR 4.98(a)), did not cover the costs of providing the services, section 214 of the Act authorized the Secretary of the Treasury to establish a new schedule of fees to be charged and collected for furnishing these services. The fees are to be consistent with section 501 of the Independent Officers Appropriation Act, 1952 (31 U.S.C. 483a), the so-called "User Charges Statute," which provides that the costs of specific services for private interests shall be reimbursed to the Government.

By Treasury Decision 80–25, published in the **Federal Register** on January 18, 1980 (45 FR 3570), Customs established a Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs

Sunshine Act Meetings

Federal Register
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By Treasury Decision 80–25, published in the **Federal Register** on January 18, 1980 (45 FR 3570), Customs established a fee schedule to be used for 1980, and amended § 4.98(a), Customs Regulations, to provide that a revised fee schedule will be published in the **Federal Register** and Customs Bulletin in December of each year setting forth a revised schedule of navigation fees for the specified vessel services to be performed during the following year. The revised fee schedule is to reflect changes in the rate of compensation paid to the Customs officer performing the service. The fees are to be calculated in accordance with §§ 19.5(b) and 24.17(d), Customs Regulations (19 CFR 19.5(b), 24.17(d)), and based upon the amount of time the average service requires of a Customs officer in the fifth step of GS–9.

Because of the Federal pay increase which became effective October 5, 1980, it is necessary for Customs to revise the schedule of fees for 1981 to take into account this increased cost in accordance with § 4.98(a), Customs Regulations. The hourly rate utilized is $13.88, thereby reflecting the change in the rate of compensation paid to a Customs officer in the fifth step of GS–9 performing the service. The fees have been rounded off to the nearest tenth of a dollar.

Action

The following revised schedule of navigation fees shall be effective during 1981:

Fee No. and description of services	Fee
1 Entry of vessel, including American, from foreign port:	
(a) Less than 100 net tons	$6.90
(b) 100 net tons and over	13.90
2 Clearance of vessel, including American to foreign port:	
(a) Less than 100 net tons	6.90
(b) 100 net tons and over	13.90
3 Issuing permit to foreign vessel to proceed from district to district, and receiving manifest	13.90
4 Receiving manifest of foreign vessel on arrival from another district, and granting a permit to unlade	18.90
5 Receiving post entry	6.90
6 Receiving official bond not otherwise provided for	3.50
7 Certifying payment of tonnage tax for foreign vessels only	3.50
8 Furnishing copy of official document, including certified outward foreign manifest, and others not elsewhere enumerated	13.90

Authority

R.S. 251, as amended, sec. 501, 65 Stat. 290, 92 Stat. 888 (19 U.S.C. 66, 31 U.S.C. 483(a), Pub. L. 95–410).

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: November 17, 1980.

William T. Archey,

Acting Commissioner of Customs.

[FR Doc. 80-37588 Filed 12-2-80; 8:45 am]

BILLING CODE 4810-22-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 234
Wednesday, December 3, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, December 12, 1980.

PLACE: 2033 K Street NW., Washington, D.C., eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254–5314.

[S–2204–80 Filed 12–1–80; 1:18 pm]

BILLING CODE 6351–01–M

2

EXPORT-IMPORT BANK.

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act", 5 U.S.C. 552b, notice is hereby given that the Board of Directors of the Export-Import Bank of the United States will meet in open session on Tuesday, December 16, 1980, at 2 p.m., to consider the Medium-Term Programs of the Bank.

The meeting will be held in room 1143 at 811 Vermont Avenue, N.W., Washington, D.C.

Requests for information concerning this meeting may be directed to Warren W. Glick, General Counsel, telephone 202–566–8334.

Dated: November 28, 1980.

Warren W. Glick,

General Counsel, Export-Import Bank of the United States.

[S–2199–80 Filed 12–1–80; 11:17 am]

BILLING CODE 6690–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, December 8, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552 (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii),(c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

The Bank of Northern New Mexico, a proposed new bank, to be located between 7th and 8th Streets, on the south side of Mills Avenue, Las Vegas, New Mexico

American Heritage Bank, a proposed new bank, to be located at 2409 Country Club Road, El Reno, Oklahoma

Andover Savings Bank, Andover, Massachusetts, an operating noninsured mutual savings bank

The Bank for Savings, Malden, Massachusetts, an operating noninsured mutual savings bank

Medford Savings Bank, Medford, Massachusetts, an operating noninsured mutual savings bank

Mutual Bank for Savings, Newton, Massachusetts, an operating noninsured mutual savings bank

Quincy Savings Bank, Quincy, Massachusetts, an operating noninsured mutual savings bank

Ware Savings Bank, Ware, Massachusetts, an operating noninsured mutual savings bank

Williamstown Savings Bank, Williamstown, Massachusetts, an operating noninsured mutual savings bank

Applications for consent to establish a branch:

United Bank Alaska, Anchorage, Alaska, for consent to establish a branch at NHN Ridgecrest Drive, Bethel, Unincorporated Borough, Alaska

Dauphin Deposit Bank and Trust Company, Harrisburg, Pennsylvania, for consent to establish a branch at the northeast corner of the intersection of Route 39 and Forest Hill Drive, Lower Paxton Township, Pennsylvania

Request for modification of a condition imposed in granting consent to establish a branch:

Pioneer Citizens Bank of Nevada, Reno, Nevada

Request for rescission of a condition imposed in granting consent to purchase bank premises:

First Bank, Colorado Springs, Colorado

Request for rescission of a condition imposed in granting consent to change location:

Crosby State Bank, Crosby, Texas

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,500–L—Southern National Bank, Birmingham, Alabama
Case No. 44,547–L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee
Case No. 44,550–L—First State Bank of Northern California, San Leandro, California
Case No. 44,569–L—Franklin National Bank, New York, New York
Case No. 44,574–L—The Drovers' National Bank of Chicago, Chicago, Illinois
Case No. 44,576–L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee
Case No. 44,583–L—American City Bank & Trust Company, National Association, Milwaukee, Wisconsin

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and, (c)(9)(A)(ii))

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–2202–80 Filed 12–1–80; 11:27 a.m.]

Wed., Dec. 10, 1980 at 10:30 a.m. (canceled)
Wed., Dec. 17, 1980 at 10:30 a.m. (canceled)
Wed., Dec. 24, 1980 at 10:30 a.m. (canceled)
Wed., Dec. 31, 1980 at 10:30 a.m. (canceled)

Dated at Washington, D.C. on November

Case Analyst, National Appeals Board, U.S. Parole Commission, (202) 724–3094.

[S–2200–80 Filed 12–1–80; 11:17 am]

BILLING CODE 4410–01–M

replace reheater outlet pending elements on Units 5 and 7–9 at Kingston Steam Plant.

2. Project Authorization No. 3531—Land acquisition for solid waste storage for Paradise Steam Plant.

6. Grant and conveyance of certain property in Polk County, Tennessee to Company affecting approximately 417 acres of land in Leslie County, Kentucky-Tract No. XEKCR–4M–0M.

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6))

Reports of committees and officers:

Report of actions taken by the Division of Liquidation under delegated authority—Sale of Lots

Report of actions taken by the Division of Liquidation under delegated authority—Status of Approved Committee Cases

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: December 1, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–2201–80 Filed 12–1–80; 11:20 am]

BILLING CODE 6714–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, December 8, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Memorandum and Resolution re: Uniform Policy for Classification of Consumer Installment Credit Based on Delinquency Status—Application to Mutual Savings Banks.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: December 1, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–2202–80 Filed 12–1–80; 11:27 a.m.]

BILLING CODE 6714–01–M

5

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 11 a.m., December 4, 1980.

PLACE: 1700 G Street NW., board room, sixth floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Marshall (202–377–6677).

MATTERS TO BE CONSIDERED:

Branch Office Application—Fidelity Federal Savings and Loan Association, Greenville, South Carolina

Branch Office Application—Midwest Federal Savings and Loan Association of Minot, Minot, North Dakota

Management Interlock—(Proposed) Central State Savings and Loan Association, Mount Clements, Michigan

Preliminary Application for Conversion to a Federal Mutual Charter—First Savings and Loan Association of Saginaw, Saginaw, Michigan

ONR Budget Reallocation Calendar Year 1980 Budget

Proposed 1981 Budget of the Office of Neighborhood Reinvestment

Application for Bank Membership—United Mutual Savings Bank, New York, New York

Bank Membership and Insurance of Accounts—Capitol Savings and Loan Association, Salem, Oregon

Branch Office Application—East-West Federal Savings and Loan Association, Los Angeles, California

Branch Office Application—Vermont Federal Savings and Loan Association, Baltimore, Maryland.

No. 426, December 1, 1980.

[S–2203–80 Filed 12–1–80; 12:21 pm]

BILLING CODE 6720–01–M

6

[FCSC Meeting Notice No. 1–801]

FOREIGN CLAIMS SETTLEMENT COMMISSION.

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date and Time

Wed., Dec. 3, 1980 at 10:30 a.m. (canceled)
Wed., Dec. 10, 1980 at 10:30 a.m. (canceled)
Wed., Dec. 17, 1980 at 10:30 a.m. (canceled)
Wed., Dec. 24, 1980 at 10:30 a.m. (canceled)
Wed., Dec. 31, 1980 at 10:30 a.m. (canceled)

Dated at Washington, D.C. on November 20, 1980.

Judith H. Lock,

Administrative Officer.

[S–2205–80 Filed 12–1–80; 2:17 pm]

BILLING CODE 4410–01–M

7

NATIONAL LABOR RELATIONS BOARD.

Meeting.

TIME AND DATE: 11 a.m., Monday, December 1, 1980.

PLACE: Board conference room, sixth floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. section 552b(c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: Personnel matters.

CONTACT PERSON FOR MORE INFORMATION:

Robert Volger, Acting Executive Secretary, Washington, D.C. 20570, telephone: (202) 254–9430.

Dated: Washington, D.C., December 1, 1980.

By direction of the Board.

Robert Volger,

Acting Executive Secretary, National Labor Relations Board.

[S–2207–80 Filed 12–1–80; 2:49 pm]

BILLING CODE 7545–01–M

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[1P0401]

PAROLE COMMISSION.

National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND PLACE: 9:30 a.m., Tuesday, December 2, 1980.

PLACE: Room 724, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 5 cases in which inmates of federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Case Analyst, National Appeals Board, U.S. Parole Commission, (202) 724–3094.

[S–2200–80 Filed 12–1–80; 11:17 am]

BILLING CODE 4410–01–M

9

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9 a.m., December 11, 1980.

PLACE: Board's meeting room, 8th floor, headquarters building, 844 Rush Street, Chicago, Illinois 60611.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public:

(1) Continuance of the Board's office at Springfield, Massachusetts.

(2) Mandatory payment of taxes by employers by means of the Treasury Financial Communications System.

(3) President's Reorganization Project—Report on Strengthening Federal Cash Management.

(4) Fiscal Year 1981 travel situation.

(5) Appeal on computation of supplemental annuity, Hewlett G. Skidmore.

(6) Appeal on computation of annuity involving military service, John N. Parrish.

(7) Appeal of nonwaiver of overpayment, Alberta E. Burns.

(8) Appeal from referee's denial of spouse's annuity, Ellen C. Thompson.

Portion closed to the public:

(A) Appeal from referee's denial of disabled child's insurance annuity, Donald L. Rhine.

(B) Appeal from referee's denial of disability annuity, Dolores M. Foster.

(C) Appeal from referee's denial of disability annuity, William J. Boese.

CONTACT PERSON FOR MORE INFORMATION: R. F. Butler, Secretary of the Board, COM No. 312–751–4920; FTS No. 387–4920.

[S–2206–80 Filed 12–1–80; 2:38 pm]

BILLING CODE 7905–01–M

10

[Meeting No. 1257]

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:15 a.m., EST, Monday, December 8, 1980.

PLACE: Conference room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

OLD BUSINESS ITEMS: 1. Final rate review.

ACTION ITEMS:

A—Project Authorizations

1. Project Authorization No. 3465.1—Amendment to Project Authorization to replace reheater outlet pending elements on Units 5 and 7–9 at Kingston Steam Plant.

2. Project Authorization No. 3531—Land acquisition for solid waste storage for Paradise Steam Plant.

3. Project Authorization No. 3536—Provide a 161–kV delivery point for the Warren Rural Electric Cooperative at Aberdeen, Kentucky; 161–kV Substation.

4. Project Authorization No. 3539—Convert the Water Valley, Mississippi, 46–13–fV Substation to 161–13–kV.

B—Purchase Awards

1. Req. No. 176666—Architect/Engineering services for coal gasification plant.

C—Power Items

1. Contract with the city of Lawrenceburg, Tennessee; Mineral Gas Company, Inc., of Tennessee; and James S. Russ, James J. Russ, and Richard T. Heagy covering the development and implementation of a process for the extraction of minerals from coal fly ash.

D—Personnel Actions

*1. Change of status for John T. Shields from Assistant Director to Director of Agricultural Development, Office of Agricultural and Chemical Development, Muscle Shoals, Alabama.

*2. Change of status for Orvis P. Engelsted from Chief, Soils and Fertilizer Research Branch to Assistant Director of Agricultural Development, Office of Agricultural and Chemical Development, Muscle Shoals, Alabama.

*3. Change of status for Ralph H. Brooks from assistant Director to Director of Water Resources, Office of Natural Resources, Knoxville, Tennessee.

4. Further consideration of personal service contract with GKT Gesellschaft fur Koble-Technologie mbH, Essen, West Germany, for performance of a process test program of the Koppers-Totzek gasification process at the Nitrogen Fertilizer Industries, S.A., gasification facility in Ptolemais, Greece.

E—Real Property Transactions

1. Sale of permanent easement to Trustees, Foster-Hixson Cemetery, for a drive, parking area, and landscaping affecting approximately 0.65 acre of Chickamauga Reservoir land in Hamilton County, Tennessee—Tract No. XCR–677BL

*2. Grant of permanent easement to town of Vonore, Tennessee, for municipal facilities, affecting 2.0 acres of Tellico Reservoir land—Tract No. XTTELR–10E.

3. Grant of permanent easement to Greene County, Tennessee for bridge abutment and public highway affecting 6 acres of Nolichucky River Land—Tract No. XTNOR–4H.

4. Grant of Permanent Easement to State of North Carolina Department of Crime Control and Public Safety for an access road, affecting approximately 0.21 acre of Hiwassee Reservoir land—Tract No. XTFHR–28H.

5. Grant of coal easement supplementing an existing coal easement to Shamrock Coal Company affecting approximately 417 acres of land in Leslie County, Kentucky-Tract No. XEKCR–4M–0M.

6. Grant and conveyance of certain property in Polk County, Tennessee to Louisville and Nashville Railroad Company.

7. Filing of Condemnation Suits.

F—Unclassified

1. Proposed sale of surplus property—used construction equipment at various locations.

DATED: December 1, 1980.

CONTACT PERSON FOR MORE INFORMATION: Graven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

[S–2208–80 Filed 12–1–80; 3:28 pm]

BILLING CODE 8120–01–M

*Approved by individual Board members. This would give formal ratification to the Board's action.

Wednesday
December 3, 1980

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Wednesday
December 3, 1980

Part II

Department of the Interior

Office of the Secretary

Non-Discrimination Against Minority and Women-Owned Business Enterprises in Outer Continental Shelf Leasing Activities; Final Rule

V 45 / 234 DE 3 80 UMI

DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 35

Non-Discrimination Against Minority and Women-Owned Business Enterprises in Outer Continental Shelf Leasing Activities

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: Issuance of this rule establishes a Departmental program to assure non-discrimination against minority and women-owned business enterprises in all activities related to the Department of the Interior's Outer Continental Shelf (OCS) mineral leasing activities. Section 604 (43 U.S.C. 1863) of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629), herein referred to as the Act, requires each Agency or Department having responsibility for the promulgation or enforcement of regulations relating to the OCS to take affirmative action, as deemed necessary, "to assure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from receiving or participating in any activity, sale, or employment, conducted pursuant to the provisions of that Act or the Outer Continental Shelf Lands Act." A proposed rule was published May 9, 1980 (45 FR 31040). The proposed rule described new practices and procedures under which the Director of the Geological Survey would receive, evaluate, and act upon affirmative action plans for the procurement of goods and services submitted by Federal lessees and the holders of other Federal authorizations issued under the Act. Issuance of this final rule puts those practices and procedures into effect in compliance with the Act (43 U.S.C. 1863) and other applicable laws.

EFFECTIVE DATE: January 2, 1981.

ADDRESSES: A copy of this final rule may be obtained from the following offices of the Geological Survey:

Director, Geological Survey, National Center, Mail Stop 640, 12201 Sunrise Valley Drive, Reston, Virginia 22092
Conservation Manager, Alaska OCS Region, 800 "A" Street, Suite 109, Anchorage, Alaska 99501
Conservation Manager, Atlantic OCS Region, 1725 K Street, N.W., Suite 204, Washington, D.C. 20006
Conservation Manager, Gulf of Mexico OCS Region, 151 Imperial Office Building, P.O. Box 7944, Metairie, Louisiana 70010
Conservation Manager, Pacific OCS Region, 1340 West Sixth Street, Room 160, Los Angeles, California 90017

FOR FURTHER INFORMATION CONTACT: Gerald D. Rhodes, U.S. Geological Survey, Mail Stop 640, 12201 Sunrise Valley Drive, Reston, Virginia 22092, (703) 860-6461.

SUPPLEMENTARY INFORMATION:

Background

During the process of considering amendments to the OCS Lands Act of August 7, 1953 (43 U.S.C. 1331-1343), Congress expressed concern that the several Federal programs designed primarily to assure equal opportunity in employment and Federal contracting might not be automatically applicable to activities on the OCS. In order to ensure that the requirements of those programs are applicable to the OCS, Congress enacted Section 604 (43 U.S.C. 1863) of the Act (92 Stat. 629). Section 604 requires Federal regulators of OCS activities to develop a program which ensures that minority and women-owned business enterprises (MBE's and WBE's) shall not, because of discrimination, be excluded from Federal OCS mineral leasing activities. This rule is being issued to ensure that there are opportunities for MBE's and WBE's to participate in all facets of the Department of the Interior's OCS leasing activities. The Department views such activities as being inclusive of those activities on the OCS and onshore which support OCS activities.

The Department's Notice of proposed rule published May 9, 1980 (45 FR 31040), indicated that it was particularly interested in receiving comments on:

(1) The time frame allotted for the submission of the affirmative action plan (AAP) as required by proposed § 35.5(c).

(2) Alternative but equally effective ways of obtaining significantly increased MBE and WBE participation in OCS activities short of requiring the submission of an AAP.

(3) How the Department should treat the renewal of AAP's, i.e., how should the life span of an AAP be defined?

(a) Should it be limited?

(b) How long should it be?

(4) Whether the 12 actions delineated in § 35.5(g) should constitute the makeup of a minimally acceptable AAP.

Comments

A total of 59 comments and recommendations were timely submitted in response to the invitation contained in the Notice of proposed rule. The comments varied widely as to their nature, scope, and content. Some were general in nature, while others were detailed and specific as to the recommended actions for the Department to initiate. The responses represented the views of private citizens, special interest groups, State and local government agencies, and oil and gas companies and trade organizations.

Difference Between Proposed Rule and Final Rule

For the most part, the differences between the provisions of the final rule published today and the proposed rule published May 9, 1980, are the result of the Department's efforts to bring the provisions of the final rule into closer conformance with the provisions of the Act with special attention focused on the provision and intent of Section 604 of the Act (43 U.S.C. 1863). This was accomplished through the incorporation of many of the comments and recommendations received from the public.

Discussion of Major Comments

General Comments

Alternative but equally effective ways of obtaining significantly increased MBE and WBE participation in OCS activities short of requiring the submission of an AAP.

A number of respondents expressed the view that most companies in the petroleum and petrochemical industries have affirmatively supported equal opportunity in business for socially and economically disadvantaged individuals. Those respondents recommended voluntary commitment as their preferred alternative to the program described in the proposed rule. Those respondents further maintained that the requirements of the proposed rule were not necessary since there is already ample legislation to assure that minorities and women receive maximum consideration in all business dealings involving Government. The recommendation that the present "voluntary" systems of compliance be viewed as alternative but equally effective ways of obtaining significantly increased MBE and WBE participation in OCS activities is rejected. As we indicated in the Notice of proposed rule (45 FR 31040), Congress enacted Section 604 of the Act (43 U.S.C. 1863) in order to insure that the Federal programs designed to assure equal opportunity in employment and in Federal contracting would be applicable to activities under the Act. We believe that regulations such as these are needed to make the applicability of those programs to OCS activities clear.

The search for oil and gas resources involves a variety of offshore activities such as geophysical surveying, exploratory drilling, development drilling, and production. These activities also require a considerable amount of onshore support facilities such as temporary and permanent service bases, repair and maintenance yards, steel and/or concrete platform fabrication yards, pipelines and landfalls, and other general shore activities. It is in this support services area of OCS activities that the Department believes a real potential exists for the involvement of MBE's and WBE's.

Finally, the Secretary of the Interior directed that regulations be promulgated to ensure opportunity for minority and women-owned business participation in all onshore and offshore facets of the Department's programs which involve the leasing of OCS lands after a number of minority and women-owned business concerns expressed an interest in the delivery of certain support services such as oil field pipe distribution, catering, barging, construction, and other services of a similar nature.

Lifespan of an AAP—should it be for a limited time? If so, what should be the lifespan for an AAP?

The respondents who commented on this point provided a variety of suggestions. Their recommendations varied from suggestions that AAP's be accepted on a calendar year basis with renewals and changes, if any, occurring at the beginning of each calendar year, to suggestions that AAP's be general and cover all leases and other DOI authorizations in an area. In the latter situation nothing more than a notice of the acquisition of a lease or other authorization would be required once an AAP had been submitted and approved. The Department has not fully accepted any of the suggestions that were received. Under the final rule issued today, an AAP must be submitted within 60 days following the first occurrence of any one of five triggering actions, i.e., (1) issuance of a lease; (2) approval of a lease assignment; (3) granting of a right-of-way; (4) approval of the assignment of a right-of-way; or (5) approval of a designation of operator for the conduct of OCS leasehold activities. Each year, at the beginning of the calendar year, an annual compliance report must be submitted to demonstrate progress under the AAP. The annual report must contain a justification for a failure to meet any of the established percentage goals for MBE and WBE participation in OCS activities and must also set forth new goals for the coming year.

Should the twelve elements delineated in § 35.5(g) constitute the requirements for a minimally acceptable AAP?

Responses which specifically addressed this question varied from recommendations that the twelve actions found in proposed § 35.5(g) should be deleted completely to recommendations that the minimum required contents and administrative procedures for an acceptable AAP found in proposed § 35.5(g) be retained. In between were recommendations such as (1) the scope of § 35.5(g) be changed from spelling out specific minimum requirements to providing broad guidelines that encourage flexibility in program design and operation; (2) the provisions of § 35.5(g) be condensed and reduced with several portions being completely omitted; (3) lessees and holders of other Federal authorizations be required to file AAP's describing their proposed activities and their efforts to utilize qualified minority and women-owned business enterprises; (4) the regulations be revised to provide sufficient due process protection; (5) the regulations be revised to protect sensitive information contained in an AAP from disclosure; (6) the regulation be revised to assure that no delays or work stoppages will occur prior to the time that an enforcement action goes to hearing; and (7) provisions for considering competence and competition be incorporated into the AAP process. A number of these recommendations have been incorporated in the final rule as § 35.5(e). The provisions of the final rule are more condensed, and the requirements call for less detail. The reduction in detail is designed to minimize the required recordkeeping burden and to avoid the inclusion of trade secrets or proprietary data in an AAP. The final rule combined with the civil penalties procedures in 30 CFR Part 250, and the appeal procedures of 30 CFR Part 290, provide ample due process protection to lessees and holders of other Federal authorizations. The civil penalties procedures call for a notice of an alleged violation, an opportunity to correct that alleged violation, and an opportunity for a hearing before a penalty assessment is made. An assessment under 30 CFR Part 250 is subject to appeal to the Interior Board of Land Appeals pursuant to 30 CFR Part 290 and 43 CFR Subpart E. Similarly, the proposed rule was and this final rule is designed to assure that enforcement proceedings cannot result in work stoppages at any point in the enforcement process. The only enforcement tool available to the authorized officer is the civil penalties procedures found in 30 CFR Part 250, unless a knowing and willful violation is involved that warrants the initiation of a criminal action by the Department of Justice. Neither procedure permits production delays or work stoppages due to the pendency of a case. The questions of competence and competition remain the responsibility of the lessee or holder of another Federal authorization. If, in fact, there are no qualified MBE's or WBE's offering a given service, there is no requirement that an MBE or WBE which is not qualified be given a contract to provide that service.

Time frame allotted for the submission of an AAP plan as required by proposed § 35.5(c).

A number of respondents took issue with the requirement in § 35.5(c) that an AAP be submitted within 60 days of the effective date of one of the five triggering actions. Recommended alternatives include:

(1) Lessees or holders of more than one other Federal authorization be permitted to file one encompassing AAP each calendar year.

(2) AAP not be filed with the U.S Geological Survey (USGS) in a designated office, but rather it be retained by the lessee or holder of an authorization in each designated area for review by the USGS if review is deemed necessary.

(3) Removal of the requirement that AAP's must be submitted for approval.

(4) AAP be submitted 1 year after acquisition of a lease or other Federal authorization or 30 days prior to the commencement of physical operations on the site, whichever first occurs.

(5) AAP be submitted within 120 days following the Department of the Interior's approval of the first exploration plan on a lease issued subsequent to the effective date of the regulation.

(6) AAP be submitted within 90 days following the first occurrence of one of the triggering actions.

The Department has rejected all of the proposed changes. Bidders for OCS oil and gas leases and applicants for other Federal authorizations know in advance of their acceptance of a lease or other Federal authorization that an AAP must be prepared and submitted within 60 days of the effective date of the lease or other Federal authorization. Thus they can do much, if not all, of the work involved in preparing an AAP even before they submit a lease offer or an application for another Federal authorization. Lessees or holders of other Federal authorizations who have a

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current AAP in good standing on file in the area need only submit a notice that the exploration, development, and production activities and related activities are to be conducted in accordance with the current AAP within the 60-day time frame called for in subsection 35.5(c). Since this final rule becomes effective January 2, 1981, the current applicants for OCS leases and other Federal authorizations and those who submit applications during the time between publication and January 2, 1981, will experience the minimum lead time necessary for preparation and submission of an AAP. The Department believes that those applicants will have adequate time to prepare and submit the AAP's required by this rule. The recommendation that individual companies be permitted to submit one nationwide AAP was rejected in favor of the requirement that a separate AAP be submitted for each of four major OCS areas, (1) Alaska; (2) Atlantic; (3) Gulf of Mexico; and (4) Pacific (California, Oregon, and Washington). This breakdown will require lessees and other holders of authorizations to concentrate upon each of the four identified areas of activity. Inaction in one area cannot be hidden by aggressive actions in another area. The recommendations that AAP's not be submitted for approval or that they be retained by the lessee or holder of other authorizations in each of the designated areas for review by the USGS was rejected because such an approach may be interpreted as an indication that the provisions of this rule will not be actively enforced. The Department expects the USGS to actively and effectively enforce the requirements of this rule. The USGS will be carefully reviewing the contents of the AAP's submitted for approval and the annual compliance reports on the success of lessees and the holders of other authorizations at obtaining increased involvement of MBE's and WBE's in OCS activities. Recommendations that the submission of an AAP be tied to the commencement of work under a given lease or other authorization were rejected. AAP's, as envisioned by these regulations, will normally be designed to cover work related to more than one lease or other Federal authorization. To tie the submission of an AAP to a given activity would be meaningful only if a separate AAP were required for the activities relating to each OCS lease or other Federal authorization.

Need for a Regulatory Analysis

Several respondents indicated that the implementation of the regulations, as proposed, represents a significant regulatory action that, pursuant to Executive Order 12044, requires preparation of a regulatory analysis. Prior to the publication of the proposal to promulgate new regulations on the "Involvement of Minority and Women-owned Business Enterprises in Outer Continental Shelf Leasing Activities" as a new Part 35 in Title 43 of the Code of Federal Regulations, the Department determined that the proposed rule was not a significant rule and did not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. Moreover the authors of this rule have worked to reduce the administrative burden below that called for in the proposed regulations. Specific changes will be identified in the section-by-section analysis which follows the analysis of the respondents' general comments and recommendations. The Department continues to believe that this rule is not "significant" and does not require the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Administrative burden

Several respondents objected to the increased administrative burden that the new regulations place upon lessees and holders of other Federal authorizations, MBE's and WBE's, and the USGS. The Department recognizes that, by necessity, policies of this nature do impose some administrative burdens on the regulated parties. The necessity for monitoring the performance of OCS lease holders and/or holders of other Federal authorizations, and for ensuring that only bona fide minority and women-owned business enterprises benefit from the program, requires the creation of some recordkeeping and reporting requirements. The Department also recognizes that the initial implementation of this final rule may require a considerable effort on the part of some lessees and/or holders of other Federal authorizations. In order that these administrative burdens may be held to a minimum, this rule specifically authorizes lessees and holders of other Federal authorizations to base their lists of MBE's and WBE's, see § 35.5(e)(2), upon lists of MBE's and WBE's, compiled by vendor trade organizations and by Federal, State, and local agencies, provided those lists are developed and maintained in accordance with the requirements of § 35.5(e)(3). Lessees and/or holders of other Federal authorizations may also use lists prepared by others, e.g., Federal, State, and local agencies, which do not develop and maintain their lists in accordance with the requirements of § 35.5(e)(3). However, lessees and holders of other authorizations who use such lists are required to investigate each MBE and WBE taken from such lists to assure that it qualifies as an MBE or WBE as defined in §§ 35.2 (g) or (k). The Small Business Administration's Procurement Automated Source System (PASS) contains a comprehensive list of MBE and WBE sources. Other such lists are developed by organizations such as the Houston Regional Minority Purchasing Council and the Gulf South Minority Purchasing Council, Inc.

Duplication of other Federal regulations

Respondents who point out the similarity between the Department of Commerce's regulations (41 CFR 1–1.13 as amended) which require Government contractors or subcontractors to develop and administer a program for MBE utilization and these regulations indicated that the proposed rule was redundant to those regulations. Clearly this rule is not overlapping nor duplicative of the Department of Commerce regulations issued in the implementation of Executive Order 11625. Those regulations establish procedures to increase the participation of MBE's in Government procurement activities, at the prime subcontractor level. This rule covers a different area. It establishes practices and procedures to ensure non-discrimination against MBE's and WBE's in OCS exploration, development, and production activities in compliance with Section 604 (43 U.S.C. 1863) of the Act. The OCS lessees and holders of other Federal authorizations on the OCS are not participating in Government procurement activities. The fact that one of the elements of an integrated organization such as a major oil company may participate in Government procurement activities while another element functions as a Federal OCS lessee does not serve to change the nature of the Federal regulatory activities or cause those activities to be overlapping or duplicative activities. On the other hand, to the extent that one corporate entity has experience working with MBE's under the Department of Commerce regulations, it should be less difficult for that corporate entity to comply with this final rule.

Conformance of rule with those established under Title VI and Title VII of the Civil Rights Act of 1964

Respondents questioned the legality of the proposed rule on a number of grounds which include:

(1) The use of racial and sexual "preferences" in the awarding of OCS related business is not legally supportable.

(2) The proposed regulations do not conform with Congress' decision to depart from race and sex specific business assistance programs.

(3) The proposed regulation far exceeds its statutory bases.

(4) Titles VI and VII are limited in scope—Title VI applies to race-based discrimination in Federally assisted programs while Title VII extends only to employment practices, i.e., employer-employee relationships, but not contracting, i.e., client-contractor relationships.

(5) The boundaries of the OCS Lands Act are limited to offshore and coastal facilities, whereas the proposed regulation would apply to onshore facilities.

(6) The Department's attempt to accomplish on its own what only Congress or a court of equity on an appropriate record has the constitutional power to do, represents an overreaching of administrative authority.

(7) There is no Congressional mandate that MBE's or WBE's must participate or that their participation in OCS activities must increase. The mandate is that these businesses not be denied the opportunity to participate.

(8) DOI is constitutionally prohibited from enacting racially and sexually based percentage goal enforcement programs absent specific findings of past discriminatory acts.

Comments (1) and (2) above can be answered jointly:

(1) *The use of racial and sexual "preferences" in the awarding of OCS related business is not legally supportable.*

(2) *The proposed regulations do not conform with Congress' decision to depart from race and sex specific business assistance programs.*

It is important to recognize that this rule does not require a "preference" in awarding contracts. It requires lessees and holders of other DOI authorizations to seek out qualified MBE's and WBE's.

In light of the Supreme Court opinion in *University of California Board of Regents* v. *Bakke*, 438 U.S. 625 (1978), we have revised the definition of "minority" to allow members of minority groups other than those specifically enumerated in § 35.2(i) to qualify as owners of an MBE under procedures established by the Small Business Administration.

(3) *The proposed regulation far exceeds its statutory basis.*

We feel that the final regulations are rationally related to the congressional mandate contained in Section 604 and a reasonable method amongst the myriad

that could have been chosen of assuring equal opportunity in OCS related business. Moreover, the final regulations have been written to keep the amount of paperwork required to create and the effort needed to administer an AAP for the procurement of goods and services to the minimum compatible with accomplishing the desired objectives.

(4) *Titles VI and VII are limited in scope—Title VI applies to race-based discrimination in Federally assisted programs while Title VII extends only to employment practices, i.e., employer-employee relationships, but not contracting, i.e., client-contractor relationship.*

Regulations which are published pursuant to Section 604 are to "be similar to those established and in effect under Title VI and Title VII of the Civil Rights Act of 1964." However, the limitation on the form of regulations published under Section 604 cannot be impliedly read backwards to limit the congressional mandate contained in Section 604.

Section 604 requires the Department of the Interior to take affirmative action "to prohibit all unlawful employment practices and to assure that no person shall on the grounds of race, creed, color, national origin, or sex be excluded from receiving or participating in any activity, sale, or employment, conducted pursuant to the provisions of this Act or the Outer Continental Shelf Lands Act." It is the latter congressional mandate which these regulations are primarily meant to implement. That mandate sweeps with sufficient breadth to reach more than just Federally assisted programs.

There is no legislative history which indicates exactly what Congress meant when it said that this Department's rules implementing Section 604 shall "be similar to those established and in effect under Title VI and Title VII of the Civil Rights Act of 1964." To follow Congress' directive, we have made sure that this final rule is not in any way inconsistent with any rules under Title VI and Title VII of the Civil Rights Act of 1964.

(5) *The boundaries of the OCS Lands Act are limited to offshore and coastal facilities, whereas the proposed regulation would apply to onshore facilities.*

We disagree that the scope of those regulations should be interpreted to exclude onshore facilities which support offshore related activities. Congress did not intend the 1978 Amendments to the OCS Lands Act to be so narrowly construed. This is reflected, for example, in the definition of "Development" in Section 2(1) of the Amendments which specifically includes onshore and offshore support facilities. For those respondents who believe that the provision in Part 35 should be limited to "OCS" activities, we point out that "Development" specifically includes onshore support activity while "Production" specifically includes the transfer of minerals to shore. Thus, the application of the requirements of this Part 35 to onshore support of offshore activities reflects the view of Congress regarding the scope of activities that fall within the purview of the administrators of the Act.

(6) *The Department's attempt to accomplish on its own what only Congress or a court of equity on an appropriate record has the constitutional power to do, represents an overreaching of administrative authority.*

We disagree with the above statement. We feel that the final regulations are in accord with the broad congressional mandate contained in Section 604 and with the Supreme Court decisions in the *Bakke* and *Fullilove* v. *Klutznick*, 48 LW 4979 (July 2, 1980), cases. The goals established in an AAP for the procurement of goods and services are not quotas; they are just goals. A lessee or holder of any other Federal authority who fails to achieve its goals will be deemed in compliance with these regulations if it can show that it made good faith efforts to achieve its goals, in accordance with its AAP, and that despite such efforts, it failed to meet its goals.

(7) *There is no Congressional mandate that MBE's or WBE's must participate or that their participation in OCS activities must increase. The mandate is that these businesses not be denied the opportunity to participate.*

We agree with the substance of this comment. The final regulations do not require that MBE's and WBE's must participate in OCS activities.

As noted above, the goals established in an AAP are just that: No civil penalties will be assessed if a lessee shows that it has good cause for its failure to achieve its goals.

We believe that establishment of goals will result in nondiscrimination. If lessees and holders of other authorizations must look for qualified MBE's and WBE's, they will be forced not to overlook qualified MBE's and WBE's to perform prime and subcontracts. These regulations are designed to ensure that qualified MBE's and WBE's are not overlooked.

(8) *DOI is constitutionally prohibited from enacting racially and sexually based percentage goal enforcement programs absent specified findings of past discriminatory acts.*

We disagree. Section 604 of the Act states that, "The Agency or Department shall promulgate such rules as it deems

"Exploration," "Development," and "Production" are used in Part 35. Although these terms are defined in the

"A lessee or holder of a Federal authorization who has a current AAP on file with the authorized officer may

Paragraph 35.5(e)(6) contains the substance of the provision published as proposed § 35.5(g)(10).

Paragraph 35.5(e)(7) contains the

not constitute a major Federal action significantly affecting the quality of the human environment, and therefore preparation of an Environmental Impact

(c) "Authorized Officer" means the Director, Geological Survey, or a designee of the Director.

(d) "Contract" means any business

We disagree. Section 604 of the Act states that, "The Agency or Department shall promulgate such rules as it deems necessary to carry out the purposes of this section . . . ." As noted above, we believe that the establishment of goals in an AAP and the requirement that failure to attain goals be explained in an annual compliance report will help to eliminate any discrimination in procurement activities by lessees or holders of other Federal authorizations.

Section-by-Section Discussion

The discussion in the preceding section was intended to give the reader an overview of the major comments that were received, together with a brief statement of reasons for accepting or rejecting the suggestions that were offered. In this section, specific changes in the proposed rule will be described.

§ 35.1 Purpose.

This section is unchanged from the proposed rule. The responses which contended that the requirements of Section 604, "Antidiscrimination provisions," of the Act have been misconstrued are discussed in the general comments.

§ 35.2 Definitions.

This section has been revised by:

(1) Expanding the introductory statement;

(2) Substituting "women-owned business enterprises (WBE)" for "female-owned business enterprises (FBE)," and adding the statement that State community property laws will not be taken into consideration for purposes of determining whether businesses are at least 51 percent owned, controlled and operated by women.

(3) Arranging the defined terms in alphabetical order;

(4) Deleting the definitions of "Discrimination" and "Secretary";

(5) Modifying the definition of "Minority"; and

(6) Adding definitions for "Exploration," "Development," and "Production."

These changes are designed to reduce confusion and to help clarify the meanings of the terms used in Part 35. The definition of "Discrimination" and "Secretary" were deleted because the terms do not appear in Part 35 as issued. The definition of "Minority" has been modified by striking the phrase "the Indian Subcontinent" in accordance with the suggestions of a number of respondents. It has also been modified by the addition of a new criteria incorporating procedures established by the Small Business Administration in 13 CFR 124.1–1(e)(3)(iii). The terms "Exploration," "Development," and "Production" are used in Part 35. Although these terms are defined in the Act and in 30 CFR Part 250, it seems appropriate that they also be defined in § 35.2.

§ 35.3 Applicability.

The primary difference between the final rule and the proposed rule is the deletion of the third sentence that was contained in the proposed rule. That sentence indicated that the requirements of Part 35 applied to "contractors, subcontractors, or other entities and individuals providing goods and/or services or involved in any way with exploration, development, or production of oil and gas from a lease issued for an area of the OCS." This modification was made in recognition of the fact that only lessees and the holders of other Federal authorizations are required to submit AAP's.

One respondent questioned whether or not an MBE or WBE that was an operating lessee or holder of other Federal authorization would also be required to submit an AAP. The answer to the question is yes. MBE's and WBE's are subject to the provisions of Part 35 when they are operating lessees or holders of other Federal authorizations.

§ 35.4 Policy.

The text of this section has been modified to more clearly present the Department's statement of policy. The responses which related to the provisions of this section are discussed under the General Comments. The Department of the Interior intends to enforce a positive program. Lessees and the holders of other Federal authorizations are expected to actively seek out qualified business enterprises that are owned and operated by minorities and women.

§ 35.5 Affirmative Action Plan.

The final rule has been modified by deletion of those provisions which appeared to require details that were not needed to reach the objectives of Part 35 and by presenting the remaining requirements in an order which groups related requirements together. In view of the length of § 35.5, the changes made in the section will be discussed subsection-by-subsection.

The substance of § 35.5(a) and (b) are unchanged from the substance of the proposed rule.

Paragraph 35.5(c) has been modified by: (1) deleting the phrase "of the first" from between the words "date" and "of," and (2) adding a new sentence which reads:

"A lessee or holder of a Federal authorization who has a current AAP on file with the authorized officer may comply with the requirements of this subsection by requesting that the existing approved AAP for an area also cover the activities relating to the additional lease or other Federal authorization within the area."

Paragraphs 35.5(d), (e), and (f) have been combined as a single subsection, § 35.5(d), and the provisions of the new subsection have been organized and the language modified for clearer presentation. A reference to goals submitted in subsequent years pursuant to § 35.7 has been added.

Paragraph 35.5(e) (proposed § 35.5(g)) has been revised to organize the provisions of the subsection for a clearer presentation and to delete the unnecessarily detailed reporting requirements that were contained in the proposed rule. In view of the length of this subsection, a paragraph-by-paragraph discussion of the changes follows:

The introductory paragraph for § 35.5(e) has been shortened by eliminating unnecessary verbiage from the first sentence and by substituting language designed to more clearly present the objectives of the Department.

Paragraph 35.5(e)(1) is unchanged from the language of § 35.5(g)(1) of the proposed rule.

Paragraph 35.5(e)(2) has been modified from the language of proposed § 35.5(g)(2) by adding "s" to "MBE" and "WBE," by deleting the word "sources" from between "WBE" and "including," and by deleting the last sentence of the paragraph and replacing it with a new sentence which reads:

"Lists of MBE's and WBE's compiled by vendor trade organizations and by Federal, State, and local agencies will be acceptable provided those lists are developed and maintained in accordance with the requirements of paragraph (e)(3) of this section."

Paragraph 35.5(e)(3) contains the provisions published as proposed § 35.5(g)(9). The requirements of this paragraph have been moved to this new location because they closely relate to the requirements of the preceding paragraph.

Paragraph 35.5(e)(4) contains the substance of the provisions published as proposed § 35.5(g) (3) (6), and (8).

Paragraph 35.5(e)(5) contains the provision published as proposed § 35.5(g)(5). The provision which was published as proposed § 35.5(g)(4) has been deleted.

Paragraph 35.5(e)(6) contains the substance of the provision published as proposed § 35.5(g)(10).

Paragraph 35.5(e)(7) contains the substance of the provision published as proposed § 35.5(g)(11) modified to incorporate the suggestion that goals be based upon available qualified MBE and WBE sources.

Paragraph 35.5(e)(8) contains the substance of the provision published as proposed § 35.5(g)(12).

§ 35.6 Certification of exemption.

The differences between this section and the proposed rule are editorial.

§ 35.7 Compliance reviews.

This section contains the substance of the provision published in the proposed rule as § 35.8 and proposed § 35.5(g)(7). The provisions of proposed § 35.7 were deleted as duplicative of § 35.5(c). Specific changes found in the final rule are as follows:

(1) Subsection (a) has been rewritten for a clearer presentation of the requirements of the provision. A provision has been added which requires that goals for the coming year submitted in an annual compliance report be reviewed and accepted or rejected by the authorized officer.

(2) A new subsection (b) has been added.

(3) Proposed subsection (b) has been identified as subsection (c), and the first sentence has been modified to indicate that audits will be of a periodic nature. The phrase "when requested by the OIG" has been added as an introductory phrase to the second sentence.

§ 35.8 Enforcement provisions.

The text of this section is changed from that published as proposed Section 35.9 by substituting "authorized officer" for "Secretary," by incorporating language to recognize that a civil penalty may be assessed if a lessee or holder of a Federal authorization fails without good cause to reach its goals, and by adding a reference to the regulations in 30 CFR 250.80 which implement Section 24 of the Act.

Authors

Kenneth T. Kelly, Office of Small and Disadvantaged Business Utilization (202/343–4907); Douglas Fant, Office of the Solicitor (202/343–4325); and Gerald Rhodes, Geological Survey (703/860–6461).

Environmental Impact and Regulatory Analysis Statements

The Department of the Interior has determined that the issuance of these new regulations as 43 CFR Part 35 does not constitute a major Federal action significantly affecting the quality of the human environment, and therefore preparation of an Environmental Impact Statement is not required. The Department has also determined that this Notice of final rule is not a significant action and does not require the preparation of a regulatory analysis under Executive Order 12044.

Dated: November 25, 1980.

James A. Joseph,

Under Secretary.

A new Part 35 is being added to Subtitle A of Title 43 of the Code of Federal Regulations which reads as follows:

PART 35—NON-DISCRIMINATION AGAINST MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISES IN OUTER CONTINENTAL SHELF LEASING ACTIVITIES

Sec.
35.1 Purpose.
35.2 Definitions.
35.3 Applicability.
35.4 Policy.
35.5 Affirmative action plans.
35.6 Certificate of exemption.
35.7 Compliance reviews.
35.8 Enforcement provisions.

Authority: Section 604, P.L. 95–372, 43 U.S.C. 1863 (1979 Supp.).

§ 35.1 Purpose.

The purpose of this Part is to implement the provisions of Section 604 of the Outer Continental Shelf Lands Act Amendments of 1978. Section 604 requires that each Agency or Department having responsibility for the promulgation or enforcement of regulations under the Outer Continental Shelf Lands Act, as amended, take such affirmative action as deemed necessary to assure that "no person shall on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment, conducted pursuant to the provisions of this Act."

§ 35.2 Definitions.

When used in the regulations in this Part, the following terms shall have the meaning given below:

(a) "Act" means the Outer Continental Shelf Lands Act, as amended, 43 U.S.C. 1331 et seq.

(b) "Affirmative action plan" or "AAP" means a formal written statement describing specific result-oriented procedures that will be taken to assure non-discrimination against MBE's and WBE's in procurement activities associated with the conduct of activities on the Outer Continental Shelf.

(c) "Authorized Officer" means the Director, Geological Survey, or a designee of the Director.

(d) "Contract" means any business agreement or arrangement (in which the parties do not stand in the relationship of employer and employee) between a lessee or holder of other Federal authorization and any person which creates an obligation to furnish supplies or services, or to provide real or personal property for use. The term "contract" also includes any business agreement or arrangement between two persons which is related in any way to the discharge of activities conducted under any lease or Federal authorization issued pursuant to the Act.

(e) "Development" means those activities which take place following discovery of minerals in paying quantities, including but not limited to geophysical activity, drilling, platform construction, and operation of all directly related onshore support facilities, and which are for the purpose of ultimately producing the minerals discovered.

(f) "Exploration" means the process of searching for minerals. Exploration activities include, but are not limited to: (1) geophysical surveys where magnetic, gravity, seismic, or other systems are used to detect or imply the presence of such minerals, and (2) any drilling, whether on or off a known geological structure. Exploration also includes the drilling of a well in which a discovery of oil or natural gas in paying quantities is made and the drilling of any additional delineation well, after a discovery, which is needed to delineate a reservoir and to enable the lessee to determine whether to proceed with development and production.

(g) "Lease" means (1) any form of authorization which is issued under Section 8 or maintained under Section 6 of the Act and which authorizes exploration for, and development and production of, minerals, or (2) the area covered by that authorization, whichever is required by the context.

(h) "Lessee" or "Holder of other Federal Authorizations" means the party authorized by a lease, grant of right-of-way, or an approved assignment thereof, to explore, develop, and produce the leased deposits in accordance with the regulations in 30 CFR Part 250, and 43 CFR Part 3300. The terms include all parties holding such authority by or through the lessee or holder of other Federal authorization.

(i) "Minority" includes:

(1) Black Americans (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(2) Hispanic Americans (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish Culture or origin regardless of race);

unincorporated association, joint venture, or corporation that is at least 51 percent owned, controlled, and operated by women. "Control" as used in this

there are four offshore areas: (1) the Gulf of Mexico, (2) the area offshore the Pacific coast (California, Oregon, and Washington), (3) the area offshore the

for good cause, the authorized officer grants a longer period of time for response.

(5) The authorized officer may initiate

nonessential technical requirements and procedures;

(iii) A description of specific efforts that will be made to participate in MBE

§ 35.7 Compliance reviews.

(a) An annual compliance report shall be submitted to the authorized officer by the lessee or holder of a Federal

(2) Hispanic Americans (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish Culture or origin regardless of race);

(3) Asian Pacific Americans and Pacific Islanders (all persons having origins in any of the Far East, Southeast Asia, or the Pacific Islands); and

(4) American Indians or Alaskan Natives (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

(5) Individuals other than members of the specifically enumerated minority groups who qualify for inclusion in the definition of minority pursuant to procedures established by the Small Business Administration in 13 CFR 124.1–1(e)(3)(iii).

(j) "Minority-owned business enterprise" or "MBE" means a sole proprietorship, partnership, unincorporated association, joint venture, or corporation that is at least 51 percent owned, controlled, and operated by minority individuals. "Control" as used in this context means exercising the power to make policy decisions. "Operate" as used in this context means to be actively involved in the day-to-day management.

(k) "OCS" means the Outer Continental Shelf, as that term is defined in 43 U.S.C. 1331(a).

(l) "OIG" means the Office of Inspector General within the Department of the Interior.

(m) "Person" means a person or legal entity, including but not limited to, a corporation, partnership, association, joint-stock venture, a trust or a mutual fund, and any receiver, trustee in bankruptcy, or official acting in a similar capacity for a legal entity.

(n) "Production" means those activities which take place after the successful completion of any means for the removal of minerals. Production includes removal of minerals, field operations, transfer of minerals to shore, operations monitoring, maintenance, and/or workover drilling, and depends upon the context in which the term is used.

(o) "Subcontract" means any business agreement or arrangement between a contractor, and a party other than a lessee or holder of other Federal authorization (in which the parties do not stand in the relationship of employer and employee) which in any way relates to the performance of any one or more contracts as defined above.

(p) "Women-owned business enterprise" or "WBE" means a sole proprietorship, partnership, unincorporated association, joint venture, or corporation that is at least 51 percent owned, controlled, and operated by women. "Control" as used in this context means exercising the power to make policy decisions. "Operate" as used in this context means to be actively involved in the day-to-day management. State community property laws will not be taken into consideration for purposes of determining whether businesses are at least 51 percent owned, controlled and operated by women.

§ 35.3 Applicability.

The provisions of this Part apply to oil and gas lease activities connected with the OCS including the procurement of goods and services by lessees and other holders of Federal authorizations related to the OCS. The provisions of this Part apply only to those leases, assignments, and other authorizations issued or approved by the Department of the Interior after January 2, 1981, the effective date of these regulations. Persons holding ownership interests only may be exempted in accordance with the provisions under § 35.6.

§ 35.4 Policy.

It is the policy of the Department of the Interior to assure that no person shall on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment conducted pursuant to the provisions of the OCS Lands Act, as amended. The Department views the AAP's required by this rule as a necessary device for assuring non-discrimination against WBE's and MBE's by lessees and other holders of other Federal authorizations. While it shall be the Department's policy to require completeness in the filing of AAP's and to conduct a credible and appropriate review of AAP's, the Department does not intend to substitute its judgment of business relations for that of lessees or holders of other Federal authorizations or their contractors.

§ 35.5 Affirmative action plans.

(a) A written affirmative action plan (AAP) for the procurement of goods and services must be submitted by the lessee, or holder of other Federal authorization for each offshore area in which activities will be conducted. The AAP shall provide for outreach to business enterprises owned and controlled by minorities and women as contractors, subcontractors, and/or suppliers of goods and services in activities of the lessee or holder of other Federal authorization related to the OCS. For the purpose of this section there are four offshore areas: (1) the Gulf of Mexico, (2) the area offshore the Pacific coast (California, Oregon, and Washington), (3) the area offshore the coast of Alaska, and (4) the area offshore the Atlantic coast.

(b) The AAP shall be broad enough in scope to cover all applicable activities of the lessee or holder of another Federal authorization that are expected to be undertaken during the full term of the lease or Federal authorization. An AAP may encompass one, several, or all leases and authorizations in an offshore area.

(c) The AAP shall be submitted to the Director, Geological Survey, or an appropriate designee, within 60 days of the effective date of any of the following actions:

(1) The issuance of a lease;

(2) The approval of the assignment of a lease;

(3) The approval of a grant of a right-of-way;

(4) The approval of the assignment of a right-of-way; or

(5) The approval of the designation of an operator who will conduct activities on the OCS.

A lessee or holder of a Federal authorization who has a current AAP on file with the authorized officer may comply with the requirements of this subsection by requesting that the existing approved AAP for an area also cover the activities relating to the additional lease or other Federal authorization within the area.

(d)(1) The authorized officer shall establish a specific location where AAP's will be kept on file and made available for public inspection.

(2) The authorized officer shall review and accept or reject each AAP within 60 days from the date of its receipt.

(3) In the event the authorized officer rejects an AAP, the lessee or holder of a Federal authorization who submitted the AAP shall be informed of the rejection, in writing, and given a detailed listing of all deficiencies noted in the AAP. Normally the authorized officer shall grant the lessee or holder of a Federal authorization a period of 30 days to correct the noted deficiencies. However, the authorized officer may grant a longer period of time if he/she determines that the correction of the noted deficiencies will require more than 30 days.

(4) When changes in circumstances warrant, the authorized officer shall require that additional data be submitted to support a previously submitted or approved AAP. Data requested by the authorized officer shall be submitted within 30 days of the receipt of the request therefor, unless, for good cause, the authorized officer grants a longer period of time for response.

(5) The authorized officer may initiate civil penalty procedures as provided in § 35.8 when a lessee or holder of a Federal authorization fails: (i) to timely submit an AAP; (ii) to correct the deficiencies noted in a rejected AAP; (iii) to correct deficiencies noted in goals rejected by the authorized officer pursuant to § 35.7; or (iv) to respond to a request for data within the time specified.

(e) The lessee or holder of a Federal authorization shall include in the AAP a description of the specific actions to be taken to assure non-discrimination against qualified MBE's and WBE's in OCS exploration, development, and production activities. The AAP shall contain the following:

(1) The identification of a liaison officer who will administer the lessee's affirmative action program and a brief description of the liaison officer's duties, responsibilities, and authorities. The liaison officer shall be the principal contact point for MBE's and WBE's to obtain information and present proposals for their involvement in OCS activities.

(2) The development, maintenance, and utilization of up-to-date separate listings of MBE's and WBE's including:

(i) A description of each business;

(ii) Type of organization;

(iii) The product or service offered;

(iv) Information on ownership and control; and

(v) All additional relevant data and affidavits which establish that the enterprise is owned, controlled, and managed by minorities and/or women. Lists of MBE's and WBE's compiled by vendor trade organizations, and by Federal, State, and local agencies will be acceptable provided those lists are developed and maintained in accordance with the requirements of paragraph (e)(3) of this section.

(3) Specific procedures to be adopted for the purpose of certifying and verifying ownership and control of companies identified as MBE's and WBE's. The procedures shall include the requirements that firms submit affidavits as to their status as MBE's and WBE's as defined in § 35.2 (g) and (k) of this Part.

(4) Identification of the steps that will be taken to ensure timely and full consideration of qualified MBE's and WBE's in all procurement decisions, including:

(i) A description of how such procedures will be implemented;

(ii) A description of procedures for the identification and elimination of nonessential technical requirements and procedures;

(iii) A description of specific efforts that will be made to participate in MBE and WBE technical and other assistance programs of Federal and State agencies, including the Small Business Administration, the Minority Business Development Agency, and the Economic Development Administration; and

(iv) A description of the lessee's or authorization holder's efforts to involve qualified MBE and WBE distributorships in their procurement of fabricated tubular goods, pipe fittings, valves, and other equipment.

(5) Specific procedures for the compilation and dissemination of information on procurement opportunities in OCS business practices to MBE and WBE trade organizations and associations, in sufficient detail and with sufficient advance notice to permit maximum opportunities for MBE and WBE participation.

(6) Specific practices that will be followed in explaining MBE and WBE policies and procedures to executives, managers, supervisors, employees and all procurement office personnel, stressing individual responsibilities for the effective implementation of those policies and procedures.

(7) Separately established goals, expressed as a percentage of the lessee's or the authorization holder's total annual expenditures relating to the activites covered by the AAP, for MBE and WBE participation in all identified, planned, or anticipated OCS related activities. Such goals shall be based on available qualified MBE and WBE sources.

(8) A planned MBE and WBE subcontracting program for all prime contract awards valued at $500,000 or more. The subcontracting program must include a description of the method by which potential prime contractors will be informed that plans to assure non-discrimination against MBE's and WBE's in the selection of subcontractors will be a significant consideration in the selection of prime contractors to meet the lessee's or other authority holder's requirements. It must also include details on how MBE and WBE subcontractors will be verified and reported.

§ 35.6 Certificate of exemption.

In lieu of submitting an AAP, a lessee or holder of a Federal authorization may submit a certificate of exemption in those instances where that entity has only an ownership interest in a lease or other Federal authorization and does not, in any way, intend to engage in any post-lease activities related to the OCS.

§ 35.7 Compliance reviews.

(a) An annual compliance report shall be submitted to the authorized officer by the lessee or holder of a Federal authorization within 90 days after the end of each calendar year subsequent to the first anniversary of the approval of the AAP. The compliance report shall be submitted in format and level of detail approved or prescribed by the authorized officer. The annual report shall also contain a justification for any failure to meet the goals for MBE or WBE participation established in accordance with § 35.5(e)(7) of this Part or with this subsection. The justification shall describe those good faith efforts which the lessee or holder of a Federal authorization has made to meet its goals. The annual report shall set forth goals for MBE and WBE participation for the coming year. Changes in a lessee's or other authorization holder's goals from the previous year shall be based on changes in the availability of qualified MBE and WBE sources. The goals for the coming year shall be reviewed and accepted or rejected by the authorized officer in accordance with § 35.5(d) (2) and (3), as if they were an AAP. In reviewing an annual compliance report, the authorized officer may request that changes be made in the lessee's or authorization holder's AAP. In determining subsequently, pursuant to § 35.8, whether a lessee or authorization holder failed without good cause to meet any of its goals, the authorized officer may consider whether the lessee or authorization holder made and implemented the changes in the AAP requested by the authorized officer.

(b) The authorized officer may request that lessees and the holders of other Federal authorizations participate in studies or surveys relating to the effectiveness of the efforts to assure non-discrimination against MBE's and WBE's in OCS mineral activities. When requested by the Director, lessees and holders of other Federal authorizations shall make all requested information available to the authorized officer, within 30 days of their receipt of the request for information, unless, for good cause, the authorized officer grants a longer time for compliance.

(c) The Office of Inspector General (OIG) will, on a periodic basis, verify the accuracy of the annual reports submitted in accordance with § 35.7(a). When requested by the OIG, the lessee or holder of a Federal authorization shall make all pertinent information available to the OIG in connection with such verification.

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§ 35.8 Enforcement provisions.

In the event a lessee or holder of a Federal authorization fails to comply with any of the provisions or requirements of this rule, or fails without good cause to accomplish any of its goals, the authorized officer may undertake appropriate civil penalty proceedings as provided in Section 24(b) of the Act and the implementing regulations in 30 CFR 250.80.

[FR Doc. 80-37489 Filed 12-2-80; 8:45 am]

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The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/FSQS		DOT/FAA	USDA/FSQS
DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

Deadlines for Comments On Proposed Rules for the Week of December 7 through December 13, 1980

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74521 11–10–80 / Volunteer payments and services; treatment by governmental program; comments by 12–10–80

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

77448 11–24–80 / Walnuts grown in Calif.; free and reserve percentages for 1980–81 marketing year; comments by 12–10–80

Animal and Plant Health Inspection Service—

67307 10–10–80 / Export livestock; addition to lists of ports of embarkation for animals; comments by 12–9–80

67052 10–9–80 / Veterinary Services policy and procedures in cooperative programs concerning the eradication of Exotic Newcastle Disease from populations of birds including poultry; comments by 12–8–80

Commodity Credit Corporation—

66471 10–7–80 / 1981 Crop Flaxseed Price Support Program; comments by 12–8–80

Federal Grain Inspection Service—

70425 10–23–80 / Elimination of mandatory requirements for inbound weighing of grain at export elevators; comments by 12–8–80

Food and Nutrition Service—

66447 10–7–80 / Special supplemental food program for women, infants, and children; comments by 12–8–80

74384 11–7–80 / Summer food service for children; comments by 12–7–80

Rural Electrification Administration—

66472 10–7–80 / Architectural services contract; proposed revision to REA form 220; comments by 12–8–80

CIVIL AERONAUTICS BOARD

66473 10–7–80 / Air carriers; removal of certificate restrictions; reply comments by 12–8–80

63500 9–25–80 / Charters; use of insurance policies to satisfy financial security requirements and use of letters of credit as an arrangement for protecting charter passengers' payments; reply comments by 12–9–80

67357 10–10–80 / Small communities; guidelines for increasing essential service by certified airlines; comments by 12–9–80

COMMERCE DEPARTMENT

Economic Development Administration—

67062 10–9–80 / Clarification of requirements concerning certain types of projects which EDA may fund under the Public Works and Development Facilities Program; final rule; comments by 12–8–80

National Oceanic and Atmospheric Administration—

77489 11–24–80 / Atlantic mackerel allocation, transfer of reserve to total allowable level of foreign fishing; comments by 12–10–80

66460 10–7–80 / Emergency regulations modifying threatened sea turtle resuscitation procedures; comments by 12–8–80

ENERGY DEPARTMENT

Conservation and Solar Energy Office—

66632 10–7–80 / Federal Energy Management and Planning Programs; Methodology and Procedures for Life Cycle Cost Analyses (Average Fuel Costs); comments by 12–8–80

Economic Regulatory Administration—

67355 10–10–80 / Motor gasoline; retailer price rule and fixed cents per gallon markups; comments by 12–9–80

ENVIRONMENTAL PROTECTION AGENCY

67564 10–10–80 / Air programs ambient air quality monitoring data reporting and surveillance provisions for lead; comments by 12–9–80

74518 11–10–80 / Air quality, Louisiana; volatile organic compound emissions in designated nonattainment areas; comments by 12–10–80

64985 10–1–80 / FM broadcast station's in Hays, Kans.; changes in table of assignments; reply comments by 12–10–80

63531 9–25–80 / FM broadcast station in Madras, Oreg.; changes

74488 11–10–80 / Railroad consolidation procedures, time revisions; comments by 12–10–80

NATIONAL CREDIT UNION ADMINISTRATION

COMMERCE DEPARTMENT

Foreign-Trade Zones Board—

67681 10–14–80 / Review of regulations concerning special subzones and operations detrimental to the public interest;

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74518 11–10–80 / Air quality, Louisiana; volatile organic compound emissions in designated nonattainment areas; comments by 12–10–80

74516 11–10–80 / Air quality, New Mexico; approval of implementation plan, nonattainment areas; comments by 12–10–80

74515 11–10–80 / Air quality, North Carolina; approval of implementation plan, 1979 CO revisions; comments by 12–10–80

77465 11–24–80 / Air quality, Ohio; sulfur dioxide emissions from B.F. Goodrich Co., requests for hearing by 12–9–80

73976 11–7–80 / Availability for review of Arizona's Hazardous Waste Management Program Phase I interim authorization application; comments by 12–11–80

73977 11–7–80 / Availability for review of California's application for interim authorization of Plan I of its Hazardous Waste Management Program; comments by 12–9–80

73972 11–7–80 / Consideration of Ohio State Implementation Plan for carbon monoxide and ozone; comments by 12–8–80

73969 11–7–80 / Consideration of revision to Ohio State Implementation Plan; comments by 12–8–80

74737 11–12–80 / Implementation plan revision relating to Georgia Power Plant, Harllee Branch; comments by 12–12–80

66736 10–7–80 / Pesticide Programs data call-in; initiation of pilot program; comments by 12–8–80

73975 11–7–80 / Proposed alternative Ohio State Implementation Plan compliance schedule for a power plant in Coshocton, Ohio; comments by 12–8–80

73521 11–5–80 / Standards of performance for new stationary sources; organic solvent cleaners; comments by 12–8–80

[*See also* 45 FR 39766, 6–11–80 and 45 FR 56373, 8–25–80]

68328 10–14–80 / Steam Electric Power Generating Point Source Category; pollutant discharge limitations; comments by 12–9–80

73521 11–5–80 / Vermont application for interim authorization, Phase I, Hazardous Waste Management Program; comments by 12–10–80

FEDERAL COMMUNICATIONS COMMISSION

59351 9–9–80 / AM stereophonic broadcasting; comments by 12–9–80

63011 9–23–80 / Cable television systems and postponement of divestiture requirement; comments by 12–8–80

71628 10–20–80 / Changes in the corporate structure and operations of COMSAT; comments by 12–12–80

64991 10–1–80 / FM broadcast stations in Bath and Hammondsport, N.Y.; changes in table of assignments; reply comments by 12–10–80

64993 10–1–80 / FM station in Blairsville, Pa.; changes in table of assignments; reply comments by 12–10–80

64984 10–1–80 / FM broadcast stations in Brookville and Versailles, Ind.; changes in table of assignments; reply comments by 12–10–80

63533 9–25–80 / FM broadcast station's in Casper, Wyo.; changes in table of assignments; reply comments by 12–8–80

64994 10–1–80 / FM broadcast station's in Denison, Tex.; changes in table of assignments; reply comments by 12–10–80

63532 9–25–80 / FM broadcast station's in Farmville and Appomattox, Va.; changes in table of assignments; reply comments by 12–8–80

64988 10–1–80 / FM broadcast station;s in Hastings, Nebr.; changes in table of assignments; reply comments by 12–10–80

64985 10–1–80 / FM broadcast station's in Hays, Kans.; changes in table of assignments; reply comments by 12–10–80

63531 9–25–80 / FM broadcast station in Madras, Oreg.; changes in table of assignments; reply comments by 12–8–80

63530 9–25–80 / FM broadcast station in Munising, Mich.; changes in table of assignments; reply comments by 12–8–80

64990 10–1–80 / FM broadcast station in McCook, Nebr.; changes in table of assignments; reply comments by 12–10–80

64981 10–1–80 / FM broadcast station in Visalia, Calif.; changes in table of assignments; reply comments by 12–10–80

76717 11–20–80 / FM quadraphonic broadcasting; comments period extended to 12–10–80

[Originally published at 45 FR 55491, 8–20–80]

65639 10–3–80 / Maritime radio services; public coast stations operating on frequencies below 27,500 kHz, establishment limitation removed; comments by 12–10–80

74523 11–10–80 / MTS and WATS market structure; interstate telecommunications services; Alaska submarket; comments by 12–8–80 and 12–10–80

[*See also* 45 FR 55777, 8–21–80 and 45 FR 61646, 9–17–80]

76498 11–19–80 / Overseas communications services regulations; comments by 12–12–80

65637 10–3–80 / Radio stations, table of assignments; FM broadcast station in International Falls, Minn.; reply comments by 12–8–80

64987 10–1–80 / TV broadcast station in Paintsville, Ky.; changes in table of assignments; reply comments by 12–10–80

64983 10–1–80 / TV broadcast station in Fort Pierce, Fla.; changes in table of assignments; reply comments by 12–10–80

FEDERAL MARITIME COMMISSION

75244 11–14–80 / Status of bulk commodities; comments by 12–12–80

FEDERAL RESERVE SYSTEM

71575 10–29–80 / Securities of member State banks; comments by 12–12–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

59540 9–9–80 / Establishment of conditions under which over-the-counter (OTC) anthelmintic drugs products, which destroy pinworms, are generally recognized as safe and effective and not misbranded; comments by 12–8–80

[Corrected at 45 FR 65609, 10–3–80]

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Fish and Wildlife Service—

59909 9–11–80 / Endangered and threatened wildlife and plants; proposal to determine "Isotria medealoides" (small whorled pagonia) to be an endangered species; comments from Governors of affected States by 12–10–80

Surface Mining Reclamation and Enforcement Office—

67361 10–10–80 / Oklahoma; permanent program submission under the Surface Mining Control and Reclamation Act of 1977; comments by 12–9–80

67372 10–10–80 / Tennessee, permanent program submission under the Surface Mining Control and Reclamation Act of 1977; comments by 12–9–80

INTERSTATE COMMERCE COMMISSION

70030 10–22–80 / Elimination of Annual Report Form TCS for motor carriers of property; comments by 12–8–80

76718 11–20–80 / Motor common carriers of household goods; operational rules; comments on or before 12–11–80

74488 11–10–80 / Railroad consolidation procedures, time revisions; comments by 12–10–80

NATIONAL CREDIT UNION ADMINISTRATION

75224 11–14–80 / Share accounts and share certificate accounts; comments by 12–10–80

NUCLEAR REGULATORY COMMISSION

76446 11–19–80 / Action plan developed as a result of the Three Mile Island accidents; comments by 12–12–80

74493 11–10–80 / Application review fees; comments by 12–8–80

70874 10–27–80 / Technetium-99 and low-enriched uranium as residual contamination in smelted alloys; exemption and licensing requirements; comments by 12–11–80

70166 10–22–80 / Utility Management and Technical Resources; Report NUREG/CR–1656; comments by 12–8–80

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38419 8–8–80 / Poisons and controlled substances—nonmailability; comments by 12–8–80

[*See also* 45 FR 20118, 3–27–80 and 45 FR 26983, 4–22–80]

TRANSPORTATION DEPARTMENT

Coast Guard—

70918 10–27–80 / Tankships; hatch covers on cargo tanks; comments by 12–11–80

70920 10–27–80 / Uninspected vessels of 200 gross tons or more, removal of affirmative minimum manning requirement; comments by 12–11–80

Federal Aviation Administration—

67283 10–9–80 / Flight crewmember flight and duty time limitations and rest requirements; comment period extended to 12–10–80

[*See also* 44 FR 53316, 8–11–80]

67100 10–9–80 / Petition for rulemaking of Rosenbalm Aviation, Inc. to exempt large, cargo-only aircraft from installing ozone control equipment or using ozone avoidance procedures; comments by 12–10–80

Urban Mass Transportation Administration—

60306 9–11–80 / Project management procedures for grantees; comments by 12–8–80

70412 10–23–80 / Urban initiatives program; comments by 12–8–80

TREASURY DEPARTMENT

Internal Revenue Service—

67360 10–10–80 / Income tax; definition of a private foundation; comments by 12–9–80

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70224 10–23–80 / Exportation of animals from rinderpest or foot-and-mouth Disease infected countries; comments by 12–19–80

Farmers Home Administration—

68661 10–16–80 / Discontinuation of making section 502 weatherization loans through public utilities; comments by 12–15–80

68952 10–17–80 / Relocation and real property acquisition provisions; comments by 12–16–80

CIVIL AERONAUTICS BOARD

67680 10–14–80 / Air taxi operators, elimination of requirement to reregister every 2 years; comments by 12–15–80

73085 11–4–80 / Imposition of 2-year limit for starting service or continuing service after a fitness determination; comments by 12–15–80

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Foreign-Trade Zones Board—

67681 10–14–80 / Review of regulations concerning special subzones and operations detrimental to the public interest; comments by 12–15–80

Maritime Administration—

68393 10–15–80 / Construction-differential subsidy repayment; total repayment policy (interim rule); comments by 12–15–80

77445 11–24–80 / Construction-differential subsidy repayment; total repayment policy; interest calculation; comments by 12–14–80

National Oceanic and Atmospheric Administration—

74948 11–13–80 / Foreign fishing; 1981 fee schedule; collection procedures, etc.; comments by 12–15–80

70525 10–24–80 / Proposed amendments to High Seas Salmon Fishery Management Plan; comments by 12–15–80

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77043 11–21–80 / Contract market rules and practices for imposition and maintenance of price limits; comments extended to 12–18–80

[Originally published at 45 FR 55469, 8–20–80]

DEFENSE DEPARTMENT

Army Department—

78727 11–28–80 / Privacy Act of 1974; exemptions; comments by 12–16–80

EDUCATION DEPARTMENT

69378 10–20–80 / Research in education of the handicapped; comments by 12–19–80

ENERGY DEPARTMENT

Economic Regulatory Administration—

73499 11–5–80 / Powerplant and Industrial Fuel Use Act of 1978; cogeneration exemption; comments extended from 11–7–80 to 12–15–80

[*See also* 45 FR 53368, 8–11–80]

Federal Energy Regulatory Commission—

76700 11–20–80 / Ceiling prices; high cost gas from tight formations; comments by 12–15–80

74934 11–13–80 / Eligibility, rates and exemptions for qualifying and utility-owned small power production facilities; comments by 12–15–80

78701, 78702, 78703 11–28–80 / High-cost gas produced from tight formations; ceiling prices; Colorado; comments by 12–19–80 (3 documents)

76696 11–20–80 / Public utilities, licensees, and natural gas companies; preservation of records; comments by 12–15–80

ENVIRONMENTAL PROTECTION AGENCY

75711 11–17–80 / Air pollution requirements, Administrative Order to DOE, Argonne National Laboratory to achieve compliance under the Illinois State Implementation Plan; comments by 12–17–80

68405 10–15–80 / Air quality implementation plan; Florida; variance for particulates, SO_2, visible emissions and excess emissions for Florida Power & Light Generating Plants; comments by 12–15–80

74521 11–10–80 / Hazardous waste management, Montana; application for Phase I interim authorization; comments by 12–15–80

74737 11–12–80 / Iowa application for interim authorization, phase I, Hazardous Waste Management Program; comments by 12–16–80

76210 11–18–80 / Massachusetts application for interim authorization, Phase I, Hazardous Waste Management Program, Worcester, Mass., 12–19–80

69514 10–15–80 / National Emission Standards for Hazardous Air Pollutants; test methods; revisions and addition; comments by 12–15–80

75488 11–14–80 / Pesticide Chemical Active Ingredients; proposed registration standards ranking schemes; comments by 12–15–80

76211 11–18–80 / Polyamide polymer derived from Sebacic acid; exemption from requirement of tolerance; comments by 12–18–80

74945 11–13–80 / Premanufacture notification requirements and review procedures; availability of proposed economic impact and draft regulatory analyses; comments by 12–15–80

76496 11–19–80 / Proposed revision to Virginia State Implementation Plan; comments by 12–19–80

68616 10–15–80 / Standards of performance for new stationary sources; sodium carbonate; comments by 12–15–80

EXPORT-IMPORT BANK

68963 10–17–80 / Post employment conflict of interest provisions; comments by 12–16–80

FEDERAL COMMUNICATIONS COMMISSION

69496 10–21–80 / FM broadcast stations in Farwell and Morton, Tex.; proposed changes in table of assignments; reply comments by 12–18–80

67399 10–10–80 / FM radio broadcast stations in Louisiana; changes in table of assignments; reply comments by 12–18–80

71393 10–28–80 / FM broadcast station in South Lake Tahoe, Calif.; table of assignments; comments by 12–18–80

54778 8–18–80 / Inquiry relating to radio operator licensing program; reply comments by 12–15–80

[*See also* 41 FR 22981, 6–7–76; 42 FR 40939, 8–4–77]

77093 11–21–80 / Permitting the use of 12.5 KHz offset assignments in the 450-470 MHz band in the Private Land Mobile Radio Services; reply comments extended to 12–15–80

[Originally published at 45 FR 69504, 10–21–80]

73979 11–7–80 / Provisions for one-way paging stations in the domestic public land mobile radio service; comments by 12–15–80

70920 10–27–80 / Radio broadcasting financial reporting requirements; reply comment period extended 12–17–80

[See also 45 FR 35370, 5–27–80, and 45 FR 54786, 8–18–80]

72902 11–3–80 / Television channel allotments at less than specified minimum mileage separation distances; comments by 12–15–80

[Corrected at 45 FR 78736, 11–28–80]

74946 11–13–80 / TV Broadcast Station in East St. Louis, Ill.; changes in table of assignments; comments by 12–15–80

67400 10–10–80 / TV broadcast stations in Indiana, changes in table of assignments; reply comments by 12–18–80

70921 10–27–80 / TV Broadcast Station in Victoria, Tex., change in table of assignments; comments by 12–15–80

FEDERAL EMERGENCY MANAGEMENT AGENCY

67688 10–14–80 / Environmental considerations; comments by 12–15–80

FEDERAL TRADE COMMISSION

66809 10–8–80 / Mobile home sales and service; post-record; comments by 12–15–80

[*See also* 45 FR 53839, 8–15–80]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

75194 11–14–80 / Antibiotic drugs, daunorubicin hydrochloride, comments by 12–15–80

68971 10–17–80 / Revised dissolution test for human and animal drugs tetracycline hydrochloride and oxytetracycline hydrochloride; comments by 12–15–80

Public Health Service—

68902 10–16–80 / Grants for establishment of Department of Family Medicine; comments by 12–15–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

68886 10–16–80 / Proposal to determine the Borax Lake chub to be an Endangered Species and Borax Lake, Harney Co., Oregon to be its critical habitat; comments by 12–15–80

73876 11–6–80 / United States and Foreign Country proposals to amend the Appendices to the Convention on International Trades in Endangered Species of Wild Fauna and Flora; comments by 12–15–80

Geological Survey—

68665 10–16–80 / Intent to develop requirements to be used for periodic structural inspection of fixed offshore oil and gas platforms; comments by 12–15–80

National Park Service—

66867 10–16–80 / Noise Abatement plan for Jackson Hole Airport; comments by 12–15–80

[Corrected at 45 FR 70287, 10–23–80 and 45 FR 70916, 10–27–80]

Surface Mining Reclamation and Enforcement Office—

71815 10–30–80 / Surface coal mining and reclamation operations, permanent regulatory program, performance bonding; comments by 12–15–80

69249 10–20–80 / West Virginia, permanent program submission; partial approval/partial disapproval; comments by 12–19–80

INTERSTATE COMMERCE COMMISSION

72233 10–31–80 / Motor vehicles, loading and unloading responsibility, information; required on bills and receipts; comments by 12–15–80

72665 11–3–80 / Rail carriers; joint rates; surcharge or cancellation; rail variable cost and revenue determination procedures; comments by 12–18–80

NATIONAL CREDIT UNION ADMINISTRATION

68396 10–15–80 / Flood insurance regulations; revision of; comments by 12–15–80

NUCLEAR REGULATORY COMMISSION

67673 10–14–80 / Petition to permit persons exempt from regulation to receive ionizing radiation measuring instruments which contain more than one source of byproduct material; comments by 12–15–80

PERSONNEL MANAGEMENT OFFICE

75217 11–14–80 / Retirement; current survivor benefits; comments by 12–15–80

67669 10–14–80 / Subsistence payments for training assignments lasting more than 30 days; comments by 12–15–80

SECURITIES AND EXCHANGE COMMISSION

69476 10–21–80 / Exemption from registration of interests and participations in certain H.R. 10 Plans; comments by 12–15–80

63724 9–25–80 / Reports; informal quarterly reports to stockholders and financial information requirements; form 10–Q revision; comments by 12–15–80

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

67677 10–14–80 / Type certification procedures for gliders; comments by 12–15–80

Federal Highway Administration—

68663 10–16–80 / Traffic safety in highway and street work zones; separation of opposing traffic and edge of pavement excavation requirements; comments by 12–15–80

National Highway Traffic Safety Administration—

71832 10–30–80 / Federal motor vehicle safety standards, controls and displays; comments by 12–15–80

71834 10–30–80 / Federal motor vehicle safety standards, tire selection and rims for motor vehicles other than passenger cars; comments by 12–15–80

TREASURY DEPARTMENT

Comptroller of the Currency—

68611 10–15–80 / Rules, policies, and procedures for corporate activities; comments by 12–15–80

68586 10–15–80 / Rules, policies, and procedures for corporate activities; comments by 12–15–80

68607 10–15–80 / Rules, policies, and procedures for corporate activities; change in bank control; comments by 12–15–80

68603 10–15–80 / Rules, policies, and procedures for corporate activities; charter policy; comments by 12–15–80

68612 10–15–80 / Rules, policies, and procedures for corporate activities; organization of an interim national bank; delegated authority; comments by 12–15–80

Internal Revenue Service—

68399 10–15–80 / Secretarial authority to add items to the list of items eligible for the residential energy credit; comments by 12–15–80

Newt Week's Meetings

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

76720 11–20–80 / Rulemaking and Public Information Committee, Washington, D.C. (open), 12–10–80

AGRICULTURE DEPARTMENT

Forest Service—

74739 11–12–80 / Gospel-Hump Advisory Committee, Grangeville, Idaho (open), 12–9–80

74739 11–12–80 / Lincoln National Forest Grazing Advisory Board, Alamogordo, N. Mex. (open), 12–9–80

68700 10–16–80 / Umatilla National Forest Grazing Advisory Board, Pendleton, Oregan (open), 12–10–80

Rural Electrification Administration—

73996 11–7–80 / Public scoping meetings on Basin Electric Power Cooperative draft environmental impact statement, Bulah, and Killdeer, N. Dak. (open), 12–9 and 12–10–80

ARTS AND HUMANITIES, NATIONAL FOUNDATION ON

77527 11–24–80 / Artists-in-Schools Panel, Washington, D.C. (open), 12–10 through 12–12–80

77203 11–21–80 / Humanities Panel, Washington, D.C. (open), 12–8 and 12–9–80

75368 11–14–80 / Humanities Panel, Washington, D.C. (closed), 12–8, 12–9, 12–11 and 12–12–80

76276 11–18–80 / Humanities Panel, Washington, D.C. (closed), 12–8, 12–10, 12–12 and 12–13–80

77527 11–24–80 / Visual Arts Panel (Workshops, Residencies, Crafts Apprenticeships), Washington, D.C. (closed), 12–9 through 12–11–80

CIVIL RIGHTS COMMISSION

74954 11–13–80 / Rhode Island Advisory Committee, Providence, R.I. (open), 12–10–80

COMMERCE DEPARTMENT

International Trade Administration—

77099 11–21–80 / Semiconductor Technical Advisory Committee, Arlington, Va. (partially open), 12–9–80

77499 11–24–80 / Semiconductor Technical Advisory Committee, Discrete Semiconductor Device Subcommittee, Washington, D.C. (closed), 12–10–80

78193 11–25–80 / Semiconductor Technical Advisory Committee, Microcircuit Subcommittee, Washington, D.C. (closed), 12–10–80

77500 11–24–80 / Semiconductor Technical Advisory Committee, Semiconductor Manufacturing Materials and Equipment Subcommittee, Washington, D.C. (closed), 12–10–80

National Oceanic and Atmospheric Administration—

75252 11–14–80 / Caribbean Fishery Management Council, Culebra, Commonwealth of Puerto Rico (open), 12–9 through 12–11–80

74948 11–13–80 / Foreign fishing; proposed 1981 fee schedule; collection procedures, etc., Washington, D.C., 12–8–80

74959 11–13–80 / Mid-Atlantic Fishery Management Council, Philadelphia, Penn., (open), 12–10 through 12–12–80

76217 11–18–80 / North Pacific Fishery Management Council, its Scientific and Statistical Committee and its Advisory Panel, Anchorage, Alaska, 12–8 through 12–12–80

74951 11–13–80 / Spiny Lobster Fisheries of the Western Pacific Region; draft environmental impact statement/Fishery Management Plan (DEIS/FMP) for the spiny lobster fisheries of the Western Pacific Region, Honolulu, Hawaii, 12–8–80; American Samoa, 12–11–80

74959 11–13–80 / South Atlantic Fishery Management Council, Jacksonville Beach, Fla., 12–3 and 12–4–80; Charleston, S.C., 12–9–80

74950 11–13–80 / South Atlantic Fishery Management Council, South Atlantic Scientific and Statistical Committee, and Advisory Panel (preparation of a fishery management plan for shrimp), Charleston, South Carolina (open), 12–9–80

DEFENSE DEPARTMENT

Air Force Department—

73728 11–6–80 / USAF Scientific Advisory Board, Mass. (closed), and 12–9–80

75273 11–14–80 / USAF Scientific Advisory Board, Kirtland Air Force Base, N. Mex. (closed) 12–11 and 12–12–80

Army Department—

75273 11–14–80 / Military Traffic Management Command, Military Personal Property Claims Symposium, Falls Church, Va. (open), 12–10–80

76222 11–18–80 / Shoreline Erosion Advisory Panel, Alexandria, Va., (open), 12–10–80

Navy Department—

77110 11–21–80 / Chief of Naval Operations Executive Panel Advisory Committee, Alexandria, Va. (closed), 12–10 and 12–11–80

76755 11–26–80 / Chief of Naval Operations Executive Panel Advisory Committee, Alexandria, Va. (closed), 12–10 and 12–11–80

73119 11–4–80 / Naval Postgraduate School; Board of Advisory to the Superintendent, Monterey, Calif., 12–11 and 12–12–80

Office of the Secretary—

76505 11–19–80 / Anti-Tactical Missiles Task Force of the Defense Science Board, Arlington, Va. (closed), 12–10 and 12–11–80

[Changed at 45 FR 79527, 12–1–80]

74960 11–13–80 / Defense Science Board, Anti-Submarine Warfare Review Panel, Washington, D.C. (closed), 12–10–80

74960 11–13–80 / DOD Advisory Group on Electron Devices, Arlington, Va. (closed), 12–11–80

73120 11–4–80 / Electron Devices Advisory Committee, Working Group A, Arlington, Va. (closed), 12–10 and 12–11–80

73120 11–4–80 / Electron Devices Advisory Group, Working Group B, Arlington, Va. (closed), 12–10–80

70039 10–22–80 / Wage Committee, Washington, D.C. (closed), 12–9–80

EDUCATION DEPARTMENT

77111 11–21–80 / Education Statistics Advisory Council, Hyattsville, Md. (open), 12–11 and 12–12–80

77111 11–21–80 / Vocational Education National Advisory Council, New Orleans, La. (open), 12–8–80

ENERGY DEPARTMENT

62562 9–19–80 / Clinical Cancer Program Project and Cancer Center Support Review Committee; Clinical Cancer Program Project Subcommittee, Bethesda, Md. (partially open), 12–8–80, (closed) 12–9 and 12–10–80

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

International Development Agency—

77189 11–21–80 / International Food and Agricultural Development Board, Agricultural Development Joint Committee, Wash., D.C., Rossiyn, Va., and Arlington, Va.,

STATE DEPARTMENT

Office of the Secretary—

76564 11–19–80 / International Radio Consultative Committee, Study Group 1 of the U.S. Organization, Washington, D.C. (open), 12–10–80

77111 11–21–80 / Vocational Education National Advisory Council, New Orleans, La. (open), 12–8–80

ENERGY DEPARTMENT

75740 11–17–80 / National Petroleum Council, Washington, D.C. (open), 12–10–80

76507 11–19–80 / National Petroleum Council, Subcommittee on Unconventional Gas Sources, Washington, D.C. (open), 12–9–80

Consumer Affairs Office—

76743 11–20–80 / Consumer Affairs Advisory Committee, Washington, D.C. (open), 12–8 and 12–9–80

Federal Energy Regulatory Commission—

77043 11–21–80 / Revision of annual report of gas supply for certain natural gas pipelines; Form No. 15, Washington, D.C., 12–9–80

ENVIRONMENTAL PROTECTION AGENCY

77077 11–21–80 / Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel, Arlington, Va. (open), 12–11 and 12–12–80

76790 11–20–80 / Science Advisory Board, Research Outlook Review Subcommittee, Washington, D.C. (open), 12–11 and 12–12–80

77516 11–24–80 / Science Advisory Board, Sampling Protocol Study Group, Denver, Colo. (open), 12–11–80

75757 11–17–80 / Science Advisory Board, Study Group on Environmental Measurements, Denver, Colo. (open), 12–8 through 12–10–80

71682 10–29–80 / State FIFRA Issues Research and Evaluation Group (SFIREG), Washington, D.C. (open), 12–10 and 12–11–80

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

76797 11–20–80 / Meeting, Washington, D.C. (partially open), 12–11–80

FINE ARTS COMMISSION

64863 11–8–80 / Meeting, Washington, D.C. (open), 12–9–80

75272 11–14–80 / Meeting, Washington, D.C. (open), 12–9–80

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service—

75324 11–14–80 / National Archives Advisory Council, Qualifications review panel for the position of Assistant Archivist for the National Archives Subcommittee, Washington, D.C. (partially open), 12–12–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Disease Control—

75760 11–17–80 / Intravenous Therapy-Related Infections Work Group, Atlanta, Ga. (open), 12–12–80

Food and Drug Administration—

75326 11–14–80 / Anesthetic and Life Support Drugs Advisory Committee, Rockville, Md. (open), 12–11 and 12–12–80

75325 11–14–80 / Miscellaneous Internal Drug Products Panel, Silver Spring, Md. (open), 12–13 and 12–14–80

75326 11–14–80 / Pulmonary-Allergy Drugs Advisory Committee, Rockville, Md. (open), 12–8 and 12–9–80

74062 11–7–80 / Small Business Exchange meeting, Chicago, Ill. (open), 12–10–80

National Institutes of Health—

77139 11–21–80 / Bladder and Prostatic Cancer Review Committee, Bladder Subcommittee, Arlington, Va. (open), 12–11 and 12–12–80

74062 11–7–80 / Breast Cancer Task Force Committee, Bethesda, Md. (open), 12–9 and 12–10–80

62562 9–19–80 / Clinical Cancer Program Project and Cancer Center Support Review Committee; Clinical Cancer Program Project Subcommittee, Bethesda, Md. (partially open), 12–8–80, (closed) 12–9 and 12–10–80

71864 10–30–80 / National Institute of Dental Research Programs Advisory Committee, Periodontal Diseases Subcommittee, Bethesda, Md. (open), 12–8 and 12–9–80

65319 10–2–80 / President's Cancer Panel, Bethesda, Md. (open), 12–9–80

77139 11–21–80 / Transplantation Biology and Immunology Committee, Bethesda, Md. (open), 12–8–80

Human Development Services Office—

74777 11–12–80 / White House Conference on Aging, technical meeting, Washington, D.C. (open), 12–8 and 12–9–80

73800 11–6–80 / White House Conference on Aging, Technical Committee, Washington, D.C. (open), 12–10 and 12–11–80

74776 11–12–80 / White House Conference on Aging, Technical Committee, Washington, D.C. (open), 12–7 and 12–8–80

75760 11–17–80 / White House Conference on Aging, Technical Committee on Governmental Structures, Washington, D.C. (open), 12–8 and 12–9–80

77521 11–24–80 / White House Conference on Aging, Technical Committee on Retirement Income, Washington, D.C. (open), 12–10 and 12–11–80

Public Health Service—

77146 11–21–80 / Vital and Health Statistics National Committee, Washington, D.C. (open), 12–9 and 12–10–80

Office of the Secretary—

76519 11–19–80 / Rights and Responsibilities of Women, Secretary's Advisory Committee, Washington, D.C. (open), 12–11–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Environmental Quality Office—

74996 11–13–80 / Beckett Ridge, intended environmental impact statement, Chester, Ohio (open), 12–10–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

68575 10–17–80 / Consideration of proposed endangered status and critical habitat for the Kentucky cave shrimp, Bowling Green, Ky. (open), 12–10–80

Land Management Bureau—

73806 11–6–80 / Eugene District Advisory Council, Eugene, Oreg. (open), 12–9–80

76537 11–19–80 / Grand Junction District Grazing Advisory Board, Grand Junction, Colo. (open), 12–10–80

73808 11–6–80 / Moab District Grazing Advisory Board, Moab, Utah (open), 12–12–80

73807 11–6–80 / Multiple Use Advisory Council, Yuma, Ariz. (open), 12–11 and 12–12–80

74998 11–13–80 / Outer Continental Shelf Advisory Board North Atlantic Technical Working Group, Providence, R.I. (open), 12–8–80

72296 10–31–80 / Salmon District, Grazing Advisory Board, Salmon, Idaho (open), 12–9–80

[Corrected at 45 FR 72297, 11–26–80]

75768 11–17–80 / Salmon District Multiple Use Advisory Council, Challis, Idaho (open), 12–11–80

National Park Service—

78240 11–25–80 / Delta Region Preservation, New Orleans, La. (open), 12–10–80

74074 11–7–80 / Options for the future of Crater Lake Lodge, various cities in Oregon (open), 12–9 through 12–11–80

Office of the Secretary—

76803 11–20–80 / Oil Shale Environmental Advisory Panel, Grand Junction, Colo. (open), 12–9–80

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

International Development Agency—

77189 11–21–80 / International Food and Agricultural Development Board, Agricultural Development Joint Committee, Wash., D.C., Rosslyn, Va., and Arlington, Va., 12–8–80 (open); Arlington, Va. (open), 12–9–80

77190 11–21–80 / International Food and Agricultural Development Board, Joint Research Committee, Rosslyn, Va. (open), 12–9 and 12–10–80

77189 11–21–80 / Voluntary Foreign Aid Advisory Committee, Wash., D.C. (open), 12–10–80

INTERSTATE COMMERCE COMMISSION

78140 11–25–80 / Legal assistance referral program conference, Washington, D.C. (open), 12–17–80

JUSTICE DEPARTMENT

Attorney General—

76554 11–19–80 / Immigration and Naturalization Federal Advisory Committee, New Orleans, La. (open), 12–11 and 12–12–80

Federal Bureau of Investigation—

78848 11–26–80 / National Crime Information Center, Advisory Policy Board, San Diego, Calif. (open), 12–10 and 12–11–80

Justice Statistics Bureau—

77191 11–21–80 / Advisory Board meeting, Arlington, Va. (open), 12–12 and 12–13–80

LABOR DEPARTMENT

Labor Statistics Bureau—

76268 11–18–80 / Labor Research Advisory Council Committees, Washington, D.C. (open), 12–9 through 12–11–80

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

77526 11–24–80 / NASA Advisory Council, Space and Terrestrial Applications Advisory Committee, Satellite Communications Applications Subcommittee, Washington, D.C. (open), 12–11–80

NATIONAL SCIENCE FOUNDATION

75027 11–13–80 / Engineering and Applied Science Advisory Committee, Science and Technology to Aid the Handicapped Subcommittee, Washington, D.C. (closed), 12–11 and 12–12–80

76556 11–19–80 / Materials Research Advisory Committee, Subcommittee on Metallurgy, Polymers, and Ceramics, Washington, D.C. (partially open), 12–8 and 12–9–80

NUCLEAR REGULATORY COMMISSION

78320 11–25–80 / Reactor Safeguard Advisory Committee, Reactor Radiological Effects and Site Evaluation Subcommittees, Wash., D.C. (open), 12–11–80

78849 11–26–80 / Reactor Safeguards Advisory Committee, Subcommittee on Reactor Radiological Effects, Washington, D.C. (open), 12–12–80

73836 11–6–80 / South Carolina Electric & Gas Co., et al. (Virgil C. Summer Nuclear Station, Unit 1), Columbia, S.C. (open), 12–11–80

PENSION POLICY, PRESIDENT'S COMMISSION

61058 9–15–80 / Symposium on ownership and control of pension assets, Washington, D.C. (open), 12–11–80

SCIENCE AND TECHNOLOGY POLICY OFFICE

78321 11–25–80 / Weather Modification Advisory Group, Wash., D.C. (open), 12–11 and 12–12–80

SELECT COMMISSION ON IMMIGRATION AND REFUGE POLICY

75825 11–17–80 / Meeting, Irvington, Va. (partially open), 12–7–80

SMALL BUSINESS ADMINISTRATION

76313 11–18–80 / National Advisory Council, Hollywood Beach, Florida (open), 12–9 through 12–12–80

STATE DEPARTMENT

Office of the Secretary—

76564 11–19–80 / International Radio Consultative Committee, Study Group 1 of the U.S. Organization, Washington, D.C. (open), 12–10–80

TRANSPORTATION DEPARTMENT

Coast Guard—

74523 11–10–80 / Damage stability standards for Great Lakes bulk dry cargo vessels, Cleveland, Ohio (open), 12–11–80

Federal Aviation Administration—

76834 11–20–80 / Radio Technical Commission for Aeronautics, Special Committee 136—Installation of Emergency Locator Transmitters in Aircraft, Washington, D.C. (open), 12–9 through 12–10–80

National Highway Traffic Safety Administration—

75831 11–7–80 / Innovators Seminar No. 5, Free Wheeling and Engine Cutoff Devices for Fuel Savings, Washington, D.C., 12–8–80

77532 11–24–80 / International Automotive Ratings Symposium, Lancaster, Pa. (open), 12–9 through 12–11–80

43921 6–30–80 / Symposium on Automotive Ratings, East Lancaster, Pa. (open), 12–9 through 12–11–80

59245 9–8–80 / Symposium on automotive ratings, East Lancaster, Pa., 12–9 through 12–11–80

Research and Special Programs Administration—

75046 11–13–80 / Technical Pipeline Safety Standards Committee, Wash., D.C. (open), 12–9 and 12–10–80

VETERANS ADMINISTRATION

75046 11–13–80 / Station Committee on Educational Allowances, Nashville, Tenn. (open), 12–9–80

59470 9–9–80 / Wage Committee, Washington, D.C. (closed), 12–11–80

Next Week's Public Hearings

CIVIL RIGHTS COMMISSION

71636 10–29–80 / Miami Hearing—the State of Civil Rights, Miami, Fla., 12–8–80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

78738 11–26–80 / Atlantic bluefin tuna fishery
Madiera Beach, Fla., 12–8–80
Ft. Pierce, Fla., 12–9–80
Corpus Christi, Tex., 12–10–80
Kenner, La., 12–11–80

67404 10–10–80 / North Pacific Fishery Management Council, Anchorage, Alaska, 12–9–80

77101 11–21–80 / South Atlantic Fishery Management Council
Raleigh, N.C. 12–10–80
Atlantic Beach, N.C., 12–10–80
Kill Devil Hills, N.C. 12–11–80

DEFENSE DEPARTMENT

Navy Department—

68704 10–16–80 / Navy Discharge Review Board, Albany, New York, 12–8 through 12–12–80

68704 10–16–80 / Navy Discharge Review Board, Atlanta, Ga.; New Orleans, La.; and Tampa, Fla., 12–7 through 12–15–80

60468 9–12–80 / Naval Discharge Review Board: Atlanta Ga., New Orleans, La. and Tampa, Fla. 12–1 through 12–15–80

EDUCATION DEPARTMENT

74558 11–10–80 / Education Appeal Board; appeals of the State of Arizona, Washington, D.C., 12–10 and 12–11–80

ENERGY DEPARTMENT

71498 10–28–80 / Consolidated State Grant Program, Washington, D.C., 12–9 and 12–10–80

Conservation and Solar Energy Office—

71746 10–29–80 / Price support loans for municipal waste energy projects, Washington, D.C., 12–11–80

ENVIRONMENTAL PROTECTION AGENCY

closing dates for transmittal of applications

[*See* 45 FR 66564, 10–7–80]

78965 11–26–80 / ED—Bilingual Education Support Services Projects Program; apply 2–13–81

78194 11–25–80 / ED—Regional Education Programs for Deaf and Other Handicapped Persons; Gifted and Talented Children's Education Programs; Discretionary Program for Model Education; corrections to notice published October

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Conservation and Solar Energy Office—
71746 10–29–80 / Price support loans for municipal waste energy projects, Washington, D.C., 12–11–80

ENVIRONMENTAL PROTECTION AGENCY

73976 11–7–80 / Consideration of Arizona's application for interim authorization for Phase I of its Hazardous Waste Management Program, Phoenix, Ariz., 12–11–80

73977 11–7–80 / Consideration of California's application for interim authorization of Phase I of its Hazardous Waste Management Program; San Francisco, Calif., 12–9–80

72713 11–3–80 / Steam electric power generating point source category; pretreatment regulations, Washington, D.C., 12–9–80

INTERIOR DEPARTMENT

Indian Affairs Bureau—
79094 11–28–80 / Heritage preservation; Seattle, Wash., 12–12; Tri-County Ojibwa Center, Hertel, Wis., 12–13–80

Land Management Bureau—
74074 11–7–80 / Consideration of draft environmental impact statement on Energy Transportation Systems, various cities in Kans., Colo., and Nebr., 12–8, 12–10, and 12–11–80

Surface Mining Reclamation and Enforcement Office—
74728 11–12–80 / State-Federal Cooperative Agreements; Montana, Helena, Mont., 12–10–80

TRANSPORTATION DEPARTMENT

Coast Guard—
73716 11–6–80 / Radar Observer Endorsement—Demonstration of Skills, 12–11–80

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing December 1, 1980

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

RULES GOING INTO EFFECT

79032 11–28–80 / ED—Higher education programs in modern foreign language and area studies; call 202–245–2356 for effective date

79035 11–28–80 / ED—Secretary's Discretionary Program (to solve educational problems); call 202–426–7220 for effective date

79071 11–28–80 / FEMA—State Assistance Program for the National Flood Insurance Program; effective 11–28–80

DEADLINES FOR COMMENTS ON PROPOSED RULES

78700 11–26–80 / DOE/Solar—Energy Auditor Training and Certification grants; comments period extended to 12–8–80

[*See also* 45 FR 66970, 10–8–80]

78962 11–26–80 / ED—Bilingual Education Training Projects Program; comments by 1–25–81

APPLICATIONS DEADLINES

79134 11–28–80 / Commerce/MBDA—Financial assistance for programs in San Francisco Region; apply by 1–9–81

79134 11–28–80 / Commerce/MBDA—Financial assistance; project I.D. Nos.: 09–10–50610–00, 09–10–50620–00, 09–10–50630–00, 09–10–50640–00; applications closing dates changed to 12–29–80

[*See also* 45 FR 75731, 11–17–80]

78966 11–26–80 / ED—Bilingual Education Programs and Bilingual Vocational Education Programs; revision of closing dates for transmittal of applications

[*See* 45 FR 66564, 10–7–80]

78965 11–26–80 / ED—Bilingual Education Support Services Projects Program; apply 2–13–81

78964 11–26–80 / ED—Bilingual Education Training Projects Program; apply by 2–13–81

78194 11–25–80 / ED—Ethnic Heritage Studies Program; apply by 1–8–81

79138 11–28–80 / ED—Higher education programs in modern foreign language training and area studies (Fulbright–Hays); apply by 1–15–81

78755 11–26–80 / ED—Improvement of Postsecondary Education; apply by 12–2–80 and 1–21–81

[Originally published at 45 FR 66564, 10–7–80]

77519 11–24–80 / HHS/ADAMHA—Psychobiology of depression—biological studies collaborative program; invitation of cooperative agreement applications for data analyses; apply by 1–23–81

79166 11–28–80 / HHS/HSA—Home health program; possible availability of grants for home health services and training projects; apply by 5–1–81 (service development and expansion) and 6–1–81 (training of personnel)

77526 11–24–80 / Justice/NIJ—Differential Police Response to Calls for Service Program; solicitation for competitive research cooperative agreement program to evaluate field test; papers must be received by 1–21–81

78328 11–25–80 / State—United States Joint Committee for Scientific and Technological Cooperation; Postdoctoral research and short term travel awards; apply by 2–25–81

MEETINGS

78195 11–25–80 / ED—Puerto Rico; compliance with title I, Elementary and Secondary Education Act, Hato Rey, P.R., 12–3–80

79167 11–28–80 / HHS/NIH—Arteriosclerosis Hypertension and Lipid Metabolism Advisory Committee, Bethesda, Md. (open), 1–13–81

79168 11–28–80 / HHS/NIH—Cardiology Advisory Committee, Bethesda, Md. (open), 1–12 and 1–13–81

79168 11–28–80 / HHS/NIH—High Blood Pressure Working Group, Bethesda, Md. (open), 1–12–81

79386 11–28–80 / HHS/NIH—Recombinant DNA Advisory Committee, Bethesda, Md. (partially open), 1–8–81 (and 1–9 if necessary)

77527 11–24–80 / NFAH—Artists-in-Schools Panel, Washington, D.C. (open), 12–10 through 12–12–80

78848 11–26–80 / NFAH—Correction to Humanities Panel Meeting notice, Washington, D.C (closed), 12–16–80

[*See* 45 FR 75369, 11–14–80]

78848 11–26–80 / NFAH—Humanities Panel, Washington, D.C. (closed), 12–15–80

[*See also* 45 FR 76276, 11–18–80]

79204 11–28–80 / NFAH—Humanities Panel, Washington, D.C. (closed), 12–16 and 12–17–80, and 1–8, 1–12, and 1–14–81

78848 11–26–80 / NFAH—Media Arts Panel (In Residence/Workshop), Washington, D.C. (closed), 12–15 and 12–16–80

77527 11–24–80 / NFAH—Visual Arts Panel (Workshops, Residences, Crafts Apprenticeships), Washington D.C. (closed), 12–9 through 12–11–80

78848 11–26–80 / NFAH—Visual Arts Panel (Drawing/Printmaking / Artists Books), Washington, D.C. (closed), 12–15 and 12–16–80

OTHER ITEMS OF INTEREST

78918 11–26–80 / Commerce—Semiannual Agenda of Regulations; Minority Business Development Agency

78194 11–25–80 / ED—Regional Education Programs for Deaf and Other Handicapped Persons; Gifted and Talented Children's Education Programs; Discretionary Program for Model Education; corrections to notice published October 7, 1980

78735 11–26–80 / HHS/CDC—Formula Grants to states for Preventative Health Service Programs; decision to develop regulations

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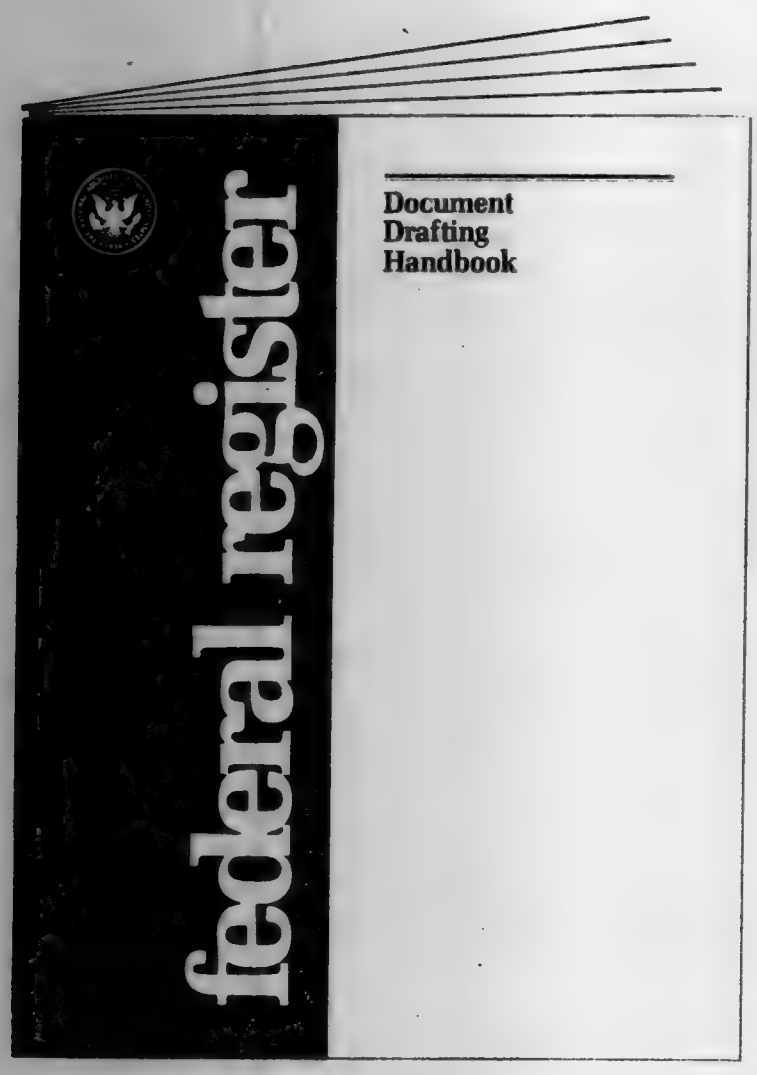

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80359 **Grant Programs—Health** HHS/PHS announces grants for traineeships for students in schools of public health for fiscal year 1981; apply by 12–12–80

80358 **Grant Programs—Health** HHS/PHS announces grants for traineeships for graduate programs in health administration for fiscal year 1981; apply by 1–9–81

80358 **Grant Programs—Health** HHS/PHS announces grants for graduate programs in health administration for fiscal year 1981; apply by 1–9–81

80309 **Taxes** Treasury/IRS proposes updating and revising regulations concerning manufacturers excise tax on tires, tubes and tread rubber; comments by 2–2–81

80460 **Commuter Flight Operations** DOT/FAA publishes regulations regarding commuter pilot-in-command operating experience requirements and extension of compliance date for instrument rating requirements; effective 12–1–80; comments by 1–5–81 (Part VI of this issue)

80438 **Petroleum** DOE/ERA publishes September 1980 Entitlements notice setting forth entitlements purchase or sale requirements of domestic refiners and eligible firms (Part III of this issue)

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 330

9 CFR Part 94

Handling of Certain Garbage Residues

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends garbage regulations concerning plant pests and livestock and poultry diseases, on an emergency basis, to allow materials extracted from residues of garbage that had been unloaded from certain means of conveyance arriving in States, Districts, Territories, or possessions of the United States and cooked at 212°F for 30 minutes, to be excepted from provisions providing for disposal by burying if such materials are determined by the Administrator of the Animal and Plant Health Inspection Service or his/her delegate to be unsuitable for use as food or as soil additives. This document also amends such regulations, on an emergency basis, to specify that such garbage residues after cooking may be disposed of by burying only if buried in a landfill. These actions are necessary as emergency measures in order to delete unnecessary requirements concerning the disposition of such garbage residues, and to provide criteria adequate to prevent the dissemination of plant pests and livestock or poultry diseases.

This document also gives notice of a request for public comments concerning these amendments.

DATES: Effective date of amendments December 4, 1980. Written comments concerning these amendments must be received on or before February 2, 1981.

ADDRESSES: Written comments concerning these amendments should be submitted to Ronald B. Caffey, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Room 664, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Ronald B. Caffey, Assistant to Deputy Administrator for Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Building, 6505 Belcrest Road, Room 64, Hyattsville, MD 20782, (301) 436–7633.

SUPPLEMENTARY INFORMATION:

Classification

This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant".

Emergency Action

The emergency nature of this action warrants publication of this final action without completion of a Final Impact Statement. A Final Impact Statement will be developed after public comments have been received.

Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, had determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this final action. Due to the finding that unnecessary restrictions are imposed concerning the disposal of residues of certain garbage, a situation exists requiring immediate action to lessen or delete such unnecessary restrictions. Also, a situation exists requiring immediate action to impose criteria necessary to prevent the introduction into the United States of plant pests and livestock or poultry diseases.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency final action are impracticable and contrary to the public interest; and good cause is found for making this emergency final action effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document, and this emergency final action will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

Written Comments

Interested persons are invited to submit written comments concerning these amendments. Comments should bear a reference to the date and page number of this issue of the **Federal Register.** All written comments made pursuant to this document will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 664, Hyattsville, MD 20782, during regular hours of business, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays, in a manner convenient to the public business (7 CFR 1.27(b)).

Background

The provisions in 7 CFR 330.400 and 9 CFR 94.5 (referred to below as the regulations) are essentially the same. They provide restrictions concerning the handling of garbage and associated material on or unloaded from certain means of conveyance arriving in States, Districts, Territories, or possessions of the United States (referred to below as the United States). These restrictions were established concerning such garbage derived from, or containing, any waste material from fruits, vegetables, meats, or other plant or animal material which originated outside of the territorial limits of the United States or Canada. Garbage derived from such plant or animal material poses a threat of the introduction into the United States of plant pests and livestock or poultry diseases which do not occur or are not widely prevalent or distributed within and throughout the United States, and which, if introduced into the United States, could have disastrous results on United States agriculture, horticulture, and livestock production. Examples of such plant pests are golden nematode, melon fly, and Mediterranean fruit fly. Examples of such livestock and poultry diseases are African swine fever, foot and mouth disease, and exotic Newcastle disease.

Under the regulations such garbage is not allowed to be unloaded from such means of conveyance unless it is removed in tight, leak-proof receptacles

under the direction of an inspector of the Animal and Plant Health Inspection Service (referred to below as APHIS) to an approved facility for handling, in accordance with the regulations. Sterilization is specified as one method of handling. Prior to the effective date of this document the regulations provided that sterilization would be accomplished by cooking garbage at 212°F for 30 minutes and disposal of the residue by burying.

A company involved in the business of recycling garbage requested that the sterilization procedures be amended to except from the burial provisions materials extracted from the residues of such garbage and found to be unsuitable for use as food. This request was based on the assertion that the burial provisions are not necessary to prevent the risk of dissemination of plant pests and livestock or poultry diseases for such materials. Materials excepted from the burial provisions could be used again.

Based on research and experience it has been determined that cooking the garbage at 212°F for 30 minutes is adequate to destroy any plant pests and livestock or poultry diseases. However, if such garbage were not adequately cooked it could be the means of disseminating plant pests if used as fertilizer or other soil additives, and could be the means of disseminating livestock or poultry diseases if used as food for livestock or poultry. The provision that the residues be disposed of by burying was added as a precautionary measure to assure that if the garbage were not adequately cooked, protection would be provided against the use of the residues of the garbage as food for livestock or poultry and against the use of such residues as fertilizer or other soil additives. In order to continue to provide such protection against the spread of plant pests or livestock or poultry diseases, it appears that it would be necessary to continue burying that portion of the residues of such garbage that would be suitable for use as food or as soil additives. However, it appears that this protection is not necessary for materials extracted from the residues after cooking and found to be unsuitable for use as food or as soil additives.

Therefore, in order to delete unnecessary restrictions, the regulations are amended by this document on an emergency basis to except from the burial provisions materials extracted from the residues of such garbage after cooking and determined by the Administrator of APHIS or his/her APHIS delegate to be unsuitable for use as food or as soil additives. These determinations are limited to the Administrator and his/her delegate for the purpose of assuring uniformity in the application of decisions concerning whether materials would be unsuitable for use as food or as soil additives.

The definition section in 9 CFR 1.1 contains a definition of the term Administrator which applies to the provisions in 9 CFR 94.5. The term Administrator is defined to include certain APHIS personnel delegated authority to act in place of the Administrator. Therefore, with respect to the provisions in 9 CFR 94.5 the use of the term Administrator in the final rule includes any such delegate of the Administrator. Prior to the effective date of this document the term Administrator was not defined for the provisions in 7 CFR 330.400. However, for informational purposes a similar definition of the term Administrator is added to the definition section of the provisions in 7 CFR 330.100 and applies to the provisions amended by this document in 7 CFR 330.400. Accordingly, the use of the term Administrator in 7 CFR 330.400 also includes certain APHIS personnel delegated authority to act in place of the Administrator.

In connection with the review of the request to amend the regulations, the Department has also determined that it is necessary to add criteria concerning the disposition of residues of garbage by burying. The regulations do not specify criteria concerning the disposition of residues of garbage by burying. As noted above, disposal of residues of garbage by burying was added as a precautionary measure to provide protection against the use of the residues of the garbage as food for livestock or poultry and against the use of such residues as fertilizer or other soil additives. Under current practices this protection is achieved by burying such garbage residues in landfills. This helps to assure that the residues of the garbage become mixed with soil and a variety of other garbage which would cause the residues to be unsuitable for use as food for livestock or poultry, or for use as soil additives. Also, it appears that a landfill is the only feasible place to accomplish such purposes for residues disposed of by burying. Accordingly, in order to provide protection against the use of the residues of the garbage as food for livestock or poultry or as soil additives, it is necessary on an emergency basis to amend the regulations to allow such residues to be buried only in landfills.

Also, in connection with enforcement of provisions affected by this document, it should be noted that the provisions in 7 CFR 330.400 and 9 CFR 94.5 contain procedures for a facility to obtain approval to conduct operations concerning the disposal of garbage residues, and contain provisions for the denial or withdrawal of such approval.

Amendment of Regulations

Under the circumstances referred to above, the regulations are amended as follows:

Title 7—Agriculture

PART 330—FEDERAL PLANT PEST REGULATIONS; GENERAL; PLANT PESTS; SOIL, STONE, AND QUARRY PRODUCTS; GARBAGE

1. In § 330.400 in 7 CFR Part 330, subparagraph (1) in paragraph (d) is revised to read as follows:

§ 330.400 Garbage; quarantine; regulations on storage and movement on certain means of conveyance.

* * * * *

(d) * * *

(1) "Sterilization" means cooking garbage at 212° F. for 30 minutes and disposal of the residue by burying in a landfill, except that the burial provisions do not apply to materials extracted from the residue after cooking and determined by the Administrator to be unsuitable for use as food or as soil additives.

* * * * *

2. In § 330.100 in 7 CFR Part 330, a new paragraph (w) is added to read as follows:

§ 330.100 Definitions.

* * * * *

(w) *Administrator.* The Administrator of the Animal and Plant Health Inspection Service of the Department, or any officer or employee of the Animal and Plant Health Inspection Service to whom authority has heretofore been delegated or may hereafter be delegated to act in his/her stead.

Title 9—Agriculture

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMONENCEPHALITIS), AFRICAN SWINE FEVER AND HOG CHOLERA; PROHIBITED AND REGISTERED IMPORTATIONS

3. In § 94.5 of 9 CFR Part 94, subparagraph (2) in paragraph (d) is revised to read as follows:

§ 94.5 Garbage; regulations on storage and movement on certain means of conveyance.

* * * * *

(d) * * *

(2) "Sterilization" means cooking garbage at 212°F. for 30 minutes and disposal of the residue by burying in a landfill, except that the burial provisions do not apply to materials extracted from the residue after cooking and determined by the Administrator to be unsuitable for use as food or as soil additives.

* * * * *

(Sec. 106, 71 Stat. 33 (7 U.S.C. 150ee); secs. 8 and 9, 37 Stat. 318, as amended (7 U.S.C. 161, 162); sec. 102, 58 Stat. 735 as amended (7 U.S.C. 147a); sec. 306, 46 Stat. 689, as amended (19 U.S.C. 1306); sec. 2, 32 Stat. 792, as amended (21 U.S.C. 111); sec. 11, 23 Stat. 32, as added at 58 Stat. 734, as amended (21 U.S.C. 114a); 76 Stat. 663 (7 U.S.C. 450); secs. 101, 102, 83 Stat. 852, 853 (42 U.S.C. 4331, 4332); 37 FR 28464, 28477 as amended; 38 FR 19141)

Done at Washington, D.C., this 1st day of December 1980.

James O. Lee, Jr.,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 80-37730 Filed 12-3-80; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 905

[Orange, Grapefruit, Tangerine, and Tangelo Regulation 4, Amdt. 3]

Oranges, Grapefruit, Tangerines, and Tangelos Grown In Florida; Amendment of Tangerine Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment allows each handler to ship a quantity of smaller size Dancy variety tangerines (2$^{9}/_{16}$ inches in diameter) during the week December 1 to December 7, 1980, equal to 45 percent of total shipments during a specified prior period. In the absence of this amendment only tangerines 2$^{9}/_{16}$ inches in diameter could be shipped. This action will allow an increase in the supply of tangerines during the period specified in recognition of market needs and the size composition of available supply in the interest of growers and consumers.

EFFECTIVE DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975. The Final Impact Analysis relative to this final rule is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's memorandum 1955 to implement Executive Order 12044, and has been classified "not significant." This regulation is issued under the marketing agreement and Order No. 905, (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendation and information submitted by the Citrus Administrative Committee, and upon other available information. It is hereby found that the regulation of Florida Dancy tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

The minimum size requirements, herein specified, for domestic shipments reflect the Department's appraisal of the need for the amendment of the current regulation to permit handling of smaller size fresh Florida Dancy tangerines during the specified period based on market needs for greater supplies of such variety. Because of the growing conditions in the production area the amount of large fruit is less than anticipated and there is a need to augment the supply by permitting shipment of a proportion of the smaller sized fruit. The Dancy variety continues to size on the tree, and as the season progresses, increased quantities of such fruit is expected to meet the larger minimum size requirement. Relaxation of the minimum size requirements for a portion of each shipper's Dancy tangerine shipments will tend to promote the orderly marketing of Florida tangerines during the overlap period, when both the Robinson and Dancy varieties are being shipped.

The Citrus Administrative Committee, at an open meeting on November 25, 1980, reported that the amendment would allow shipment of approximately 52 additional carlots of Dancy variety tangerines during the specified period. The committee indicated there is a current market demand for limited quantities of smaller size Dancy tangerines, but markets presently can absorb only a portion of the supply of the smaller fruit of such variety without disruption of the markets.

The Department's Crop Reporting Board estimates the 1980–81 season's crop of Florida tangerines at 3.9 million boxes (approximately 7.8 million cartons). Hence the volume of tangerines is slightly smaller than that of last season.

The committee projected the market demand for all varieties of fresh tangerines this season, as follows: Dancy (2,500 carlots); Robinson (1,500 carlots); Honey (2,500 carlots). Each carlot is equivalent to one-thousand cartons. The regulation, as amended, for Dancy tangerines relieves restrictions from those currently in effect, and amendment of such regulation, as hereinafter provided, will tend to avoid disruption of the orderly marketing of tangerines in the public interest.

It is concluded that the amendment of the size requirements, hereinafter set forth, is necessary to establish and maintain orderly marketing conditions and to provide acceptable size fruit in the interest of producers and consumers pursuant to the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this amendment is based and the effective date necessary to effectuate the declared policy of the act. Growers, handlers and other interested persons were given an opportunity to submit information and views on the amendment at an open meeting, and the amendment relieves restrictions on the handling of Florida tangerines. It is necessary to effectuate the declared purposes of the act to make the regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Accordingly, it is found that the provisions of § 905.304 (Orange, Grapefruit, Tangerine and Tangelo Regulation 4; (45 FR 67047; 76651)), should be and are amended by revising paragraph (d) to read as follows:

§ 905.304 Orange, Grapefruit, Tangerine, and Tangelo Regulation 4.

* * * * *

(d) *Percentage of size regulation applicable to Dancy variety tangerines.* Notwithstanding the provisions of Table I in paragraph (a) of this section, any handler may, during the period December 1 through December 7, 1980, ship Dancy variety tangerines smaller than 2$^{9}/_{16}$ inches in diameter: *Provided,* That such smaller tangerines are not smaller than 2$^{5}/_{16}$ inches in diameter *And provided further,* That the quantity

of such smaller tangerines does not exceed 45 percent of the quantity shipped in the applicable prior period, as determined by the procedure specified in § 905.152.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated: November 26, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-37709 Filed 12-3-80; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 907

[Navel Orange Reg. 499]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period December 5–December 11, 1980. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: December 5, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based upon the recommendations and information submitted by the Navel Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on October 14, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on December 2, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of navels deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges is good.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

1. Section 907.799 is added as follows:

§ 907.799 Navel Orange Regulation 499.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period December 5, 1980, through December 11, 1980, are established as follows:

(1) District 1: 1,383,708 cartons;
(2) District 2: unlimited cartons;
(3) District 3: 111,504 cartons;
(4) District 4: unlimited cartons.

(b) As used in this section, "handled," "District 1," "District 2," "District 3," "District 4," and "carton" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 3, 11:32 am.

Charles S. Brader,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-37942 Filed 12-3-80; 11:32 am]

BILLING CODE 3410-02-M

7 CFR Parts 911 and 915

[Lime Pack Reg. 9; Avocado Pack Reg. 6]

Limes Grown in Florida and Avocados Grown in South Florida; Subpart—Pack Regulation, and Subpart—Container and Pack Regulations

Correction

In FR Doc. 80–36268 appearing on page 76429 in the issue of Wednesday, November 19, 1980, make the following corrections:

(1) In § 911.311(a)(3), line 9, ". . . under § 911.45 of the marketing order" should have read ". . . under § 911.48 of the marketing order."

(2) In § 915.306(a), line 3, ". . . 2851.3000" should have read ". . . 2851.3069".

(3) In § 915.306(b), line 6, ". . . 2851.3000" should have read ". . . 2851.3069".

BILLING CODE 1505-01-M

7 CFR Part 966

Tomatoes Grown in Florida; Approval of Amendment No. 1 to Handling Regulation

Correction

In FR Doc. 80–36939, published at page 78619, in the issue of Wednesday, November 26, 1980, make the following correction:

On page 78621, § 966.319(a)(3)(iii), second column, third paragraph, seventh line, the words "4¼ inches long" should read "4½ inches long".

BILLING CODE: 1505-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 1

Title Change for Adjudicatory Panel Members

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission has revised its regulations to provide new titles for the members of the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Panel. Instead of being referred to as a panel "Member" those individuals have been given the title "Administrative Judge".

EFFECTIVE DATE: December 4, 1980.

FOR FURTHER INFORMATION CONTACT: Trip Rothschild, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (202–634–1465).

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission has amended its regulations to provide that members of the Atomic Safety and Licensing Board Panel and the Atomic Safety and Licensing Appeal Panel shall have the title "Administrative Judge." This change is part of the Commission's ongoing program to improve the quality and prestige of its adjudicatory panels. This nomenclature change also more accurately describes the work and functions of the panel members.

Since this amendment relates to internal NRC organization, good cause exists for making this rule immediately effective without seeking public comment.

Pursuant to section 2201(p) of Title 42 of the United States Code, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 1, are published as a document subject to codification, to be effective December 4, 1980.

1. Section 1.11 is revised to read:

§ 1.11 Atomic Safety and Licensing Board Panel.

The Atomic Safety and Licensing Board Panel is the organizational group from which Atomic Safety and Licensing Boards are selected. These three-member boards, named in accordance with the provisions of section 191 of the Atomic Energy Act, conduct such hearings as the Commission may authorize or direct, make such intermediate or final decisions as the Commission may authorize in proceedings to grant, suspend, revoke, or amend licenses or authorizations, and perform such other regulatory functions as the Commission may specify. The Panel develops procedures and makes recommendations to the Commission regarding activities of the hearing boards. The Panel shall be comprised of a Chief Administrative Judge who shall be Chairman and such other Administrative Judges as may be appointed members of the Panel.

2. Section 1.12 is revised to read:

§ 1.12 Atomic Safety and Licensing Appeal Panel.

The Atomic Safety and Licensing Appeal Panel is the organizational group from which Atomic Safety and Licensing Appeal Boards are selected. Under powers delegated by the Commission, these three-member Boards exercise the authority and perform the regulatory review functions which would otherwise be exercised and performed by the Commission. They perform these functions in proceedings on licenses under 10 CFR Part 50, and such other licensing proceedings as the Commission may specify, reviewing initial decisions and other issuances of Atomic Safety and Licensing Boards and other presiding officers. The Panel shall be comprised of a Chief Administrative Judge who shall be Chairman and such other Administrative Judges as may be appointed members of the Panel.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

Dated at Washington, D.C., this 28th day of November 1980.

[FR Doc. 80-37707 Filed 12-3-80; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Parts 72, 73, and 150

Licensing Requirements for the Storage of Spent Fuel in an Independent Spent Fuel Storage Installation; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule establishing Licensing Requirements for the Storage of Spent Fuel in an Independent Spent Fuel Storage Installation published in the **Federal Register** on November 12, 1980 (45 FR 74693). The action is necessary to correct typographical errors.

FOR FURTHER INFORMATION CONTACT: Dennis W. Reisenweaver, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (Phone 301–443–5910).

The following corrections are made in FR Doc. 80–34865 beginning on page 74693 on November 12, 1980.

PART 72—LICENSING REQUIREMENTS FOR THE STORAGE OF SPENT FUEL IN AN INDEPENDENT SPENT FUEL STORAGE INSTALLATION (ISFSI)

§ 72.3 [Corrected]

1. On page 74700 in column one, in § 72.3(f)(3), "Procurement of . . ." is corrected to read "Procurement or . . .".

§ 72.38 [Corrected]

2. On page 74706 in column one, in § 72.38(b), the word "the" is inserted after "decommissioning of. . ." and before "ISFSI. . .".

§ 72.53 [Corrected]

On page 74706 in column three, in § 72.53, the "m" in the word "march" is corrected by being capitalized to read "M".

§ 72.55 [Corrected]

4. On page 74707 in column one, in § 72.55(d), the word "an" is corrected to read "and".

§ 72.56 [Corrected]

5. On page 74707 in column one,§ 72.56(a), the word "effectuated" is corrected to read "effectuate".

§ 72.65 [Corrected]

6. On page 74708 in column two, in § 72.65(a), the word "usual" is corrected to read "unusual".

§ 72.66 [Corrected]

7. On page 74708 in column two, in § 72.66(a)(1), the word "achored" is corrected to read "anchored".

§ 72.66 [Corrected]

8. On page 74708 in column two, in § 72.66(a)(3), the word "instaility" is corrected to read "instability".

§ 72.73 [Corrected]

9. On page 74710 in column one, in § 72.73(a), the word "subscritical" is corrected to read "subcritical".

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

§ 73.1 [Corrected]

10. On page 74712 in colum one, in § 73.1(b), the amendatory language is corrected by inserting "(6)" after the word "paragraph". Also, in the regulatory text for that amendment to § 73.1(b), the symbol "(6)" is inserted following "(b)" and before "Scope".

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

§ 150.15 [Corrected]

11. On page 74712 in column two, in § 150.15(a), the amendatory language is corrected by replacing the symbol "(8)" with the symbol "(7)".

Dated at Washington, DC this 1st day of December 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-37708 Filed 12-3-80; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-NW-59-AD, Amdt. 39-3885]

Airworthiness Directives: Lockheed-California Co. Model L1011-385-1 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) applicable to Lockheed-California Company Model L1011–385–1 series

airplanes by providing an alternate rigging procedure for the galley door ditch latches. The amendment is needed to establish terminating action for the repetitive inspections required by paragraph (a) of AD 75–10–02.

DATES: Effective Date: December 16, 1980. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: Lockheed-California Company, P.O. Box 551, Burbank, California 91520; Attention: Commercial Support Contracts.

Also, a copy of the service information may be reviewed at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108 or 15000 Aviation Boulevard, Hawthorne, California 90261, Room 6W14.

FOR FURTHER INFORMATION, CONTACT: Harvey Chimerine, Aerospace Engineer, ANW–120L, Federal Aviation Administration, Northwest Region, Post Office Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6359.

SUPPLEMENTARY INFORMATION: This amendment further amends Amendment 39–2194 (40 FR 19193), AD 75–10–02, as amended by Amendment 39–2237 (40 FR 24996), which currently requires adjustments and repetitive inspections of galley door ditch latch engagement on Lockheed-California Company Model L1011–385–1 airplanes which incorporate below deck galley door configuration.

After issuing Amendment 39–2237, Lockheed-California Company Service Bulletin 093–52–074 Revision 3 dated April 6, 1976, was issued which contains an alternate rigging procedure for the Model L1011–385–1 series airplanes galley door ditch latches. The FAA has determined that upon accomplishment of Lockheed-California Company Service Bulletin 093–52–075 Revision 3 dated April 6, 1976, the repetitive inspections required by paragraph (a) of AD 75–10–02 may be discontinued. Therefore, the FAA is further amending Amendment 39–2194 as amended by Amendment 39–2237 by providing an alternate rigging procedure for the galley door ditch latches on the Lockheed-California Company Model L1011–385–1 airplanes which incorporate below deck galley door configuration.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.39) is amended, by further amending Amendment 39–2194 (40 FR 19193) AD 75–10–02, as amended by Amendment 39–2237 (40 FR 24996) by deleting the NOTE of paragraph (a) and adding the following new paragraph (a)(3).

(a)(3) Modification of the door actuator mechanism and switch installation per Lockheed-California Company Service Bulletin 093–52–075 Revision 3 dated April 6, 1976, constitutes terminating action for the conduct of the repetitive inspections required by paragraph (a) of this AD.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents may obtain copies upon request to Lockheed-California Company, Post Office Box 551, Burbank, California 91520, Attention: Commercial Support Contracts. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108 or 15000 Aviation Boulevard, Hawthorne, California 90261, Room 6W14.

This amendment becomes effective December 16, 1980.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.89))

Note.—The FAA has determined that this document involve.. a final regulation which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Wash., on November 26, 1980.

Note.—The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

Jonathan Howe,

Acting Director, Northwest Region.

[FR Doc. 80–37644 Filed 12–3–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 80–WE–16]

Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters a portion of the Tucson, Arizona 700-foot transition area. This action redescribes the controlled airspace required to protect instrument flight operations at Ryan Field, Tucson, Arizona.

EFFECTIVE DATE: November 27, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas W. Binczak, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone: (213) 536–6182.

SUPPLEMENTARY INFORMATION:

History

On October 2, 1980, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area for Tucson, Arizona (45 FR 65248). Redesignation of this transition area will provide controlled airspace for protection of instrument operations at the Ryan Field Airport. Interested persons were invited to participate in the rulemaking proceeding by submitting comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.181 was republished in the **Federal Register** on January 2, 1980, (45 FR 445).

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) alters the transition area at Tucson, Arizona. This transition area provides protection for instrument operations authorized for Ryan Field Airport, increases air traffic safety and improves flow control procedures.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 445) is amended, effective 0901 G.m.t., November 27, 1980, as follows:

§ 71.181 Tucson, Arizona [Amended]

Following "* * * 30 miles NW of the VORTAC: * * *" delete the ":" and add "and within a 5-mile radius of Ryan Field Airport (latitude 32°08'20"N, longitude 111°10'00"W.) and within 4 miles each side of the Ryan Field localizer course extending from the 5-mile radius area to 8 miles west of the outer marker * * *."

(Secs. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655); 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034: February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Los Angeles, Calif., on November 24, 1980.

John D. Mattson,

Director, Western Region.

[FR Doc. 80–37647 Filed 12–3–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 75

[Airspace Docket No. 80–ACE–20]

Establishment of Jet Route—Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction of final rule.

SUMMARY: An error was made in a rule published in the **Federal Register** on October 30, 1980, (45 FR 71775). New Jet Route J–182 was established between Goodland, Kans., and Razorback, Ark., via INT Wichita 115° and Razorback 285° radials. A mistake was noted in the true degree radials that describe the dogleg and this action corrects that mistake.

EFFECTIVE DATE: December 4, 1980.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations and Obstructions Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8525.

SUPPLEMENTARY INFORMATION: FR Doc. 80–33614 was published on October 30, 1980, which established new Jet Route J–182 between Goodland, Kans., and Razorback, via Wichita, Kans., that would improve Air Traffic Control efficiency by providing better traffic flow in the Wichita area, and save fuel due to the shortened route. A mistake was discovered in the true degree radials that describe the dogleg between Wichita and Razorback. This action corrects that mistake.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 80–33614 as published in the **Federal Register** on October 30, 1980, is corrected as follows:

Under § 75.100

In Jet Route No. 182, beginning on line 2: "INT Wichita 115° and Razorback 285° radials;" is deleted and "INT Wichita 124° and Razorback 291° radials;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on November 28, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80–37646 Filed 12–3–80; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 75

[Airspace Docket No. 80–ARM–5]

Establishment of Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a new jet route between Cheyenne, Wyo., and Dubois, Idaho. J–175 improves traffic flow in the Denver, Colo., terminal area. In addition, J–175 provides a direct route for aircraft departing Denver and proceeding northwest thereby saving a significant amount of fuel.

EFFECTIVE DATE: February 19, 1981.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations Branch (AAT–230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8525.

SUPPLEMENTARY INFORMATION: On August 25, 1980, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to establish new Jet Route J–175 from Cheyenne, Wyo., to Dubois, Idaho, via Laramie, Wyo. (45 FR 56353). This new jet route improves traffic flow because it is aligned with the Standard Instrument Departures (SIDs) from Denver, Colo. In addition, a significant savings in fuel consumption is realized by a direct route for aircraft departing Denver and proceeding northwest. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 75.100 of Part 75 was republished in the **Federal Register** on January 2, 1980 (45 FR 732).

The Rule

This amendment to Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) establishes new Jet Route J–175 from Cheyenne, Wyo., to Dubois, Idaho, via Laramie, Wyo. This action aligns J–175 with the SIDs from Denver, Colo. The shortened route also conserves fuel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (45 FR 732) is amended, effective 0901 G.m.t., February 19, 1981, as follows:

Under § 75.100

"Jet Route No. 175

From Cheyenne, Wyo., via Laramie, Wyo., to Dubois, Idaho." is added.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C., on November 26, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80–37645 Filed 12–3–80; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM81–6]

Maximum Lawful Price for Natural Gas From Stripper Wells

November 25, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Interim rule.

SUMMARY: The interim rule would allow a stripper well operator whose well exceeds the 60 Mcf per production day limitation to file an application for "recognized enhanced recovery technique" status more than 30 days after notice of disqualification has been filed. Currently, an enhanced recovery application must be filed within 30 days or stripper well status is lost. The amendment would allow continued collection of stripper well rates, subject to refund, only if the application is filed within the 30-day limit. In all other cases the price permitted by section 108 could be collected, subject to refund, only from the date of filing of an application for "recognized enhanced recovery." In addition, § 271.805(c) is amended to make paragraph (c) consistent with paragraph (a).

DATES: Effective date: November 25, 1980. Comments on the interim rule are due on January 23, 1981. Written requests for a public hearing are due on December 17, 1980.

ADDRESSES: Comments or requests for hearing must be filed with the Office of the Secretary, 825 North Capitol St. NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Randall S. Rich, (202) 357–8511 or Susan Tomasky, (202) 357–8461.

I. Introduction

In Subpart H of its regulations, the Federal Energy Regulatory Commission (Commission) has established rules implementing section 108 of the Natural Gas Policy Act of 1978 (NGPA), which set a maximum lawful price for natural gas from stripper wells. The NGPA defines a stripper well as one that produces no more than 60 Mcf of non-associated natural gas per day in the 90-day production period preceding the date of application. However, it permits a well previously determined to be a stripper well, that exceeds the 60 Mcf per day production rate, to continue to qualify if the well operator demonstrates that the increased production is the result of "recognized enhanced recovery techniques." The Commission is adopting an interim rule amending § 271.805 of its regulations concerning stripper well disqualification and "recognized enhanced recovery techniques."

II. Discussion

Section 108 of the NGPA provides that in order for a well to qualify as a stripper well it must produce 60 Mcf or less of nonassociated natural gas per production day during the qualifying 90-day production period. However, a well that has previously qualified as a stripper well, but subsequently exceeds the 60 Mcf limit may continue to qualify for the stripper well price if the increased production is shown to be the result of the application of "recognized enhanced recovery techniques." *See* section 108(b)(2).

Section 271.805(a) of the Commission's regulations implementing section 108 requires that the operator and purchaser give notice to the Commission and the appropriate jurisdictional agency when a stripper well exceeds the 60 Mcf limit. However, under § 271.805(b), the operator of such a well may continue to collect the stripper well price, if, within 30 days after notice is given, it files a petition with the jurisdictional agency for a determination that the increased production is the result of a "recognized enhanced recovery technique." Absent such a filing, the well ceases to be eligible for the section 108 price.

The Commission's intent in adopting the rule under § 271.805(b) was to permit a producer to continue collection of the stripper well price if the well in question exceeded the 60 Mcf limit as a result of the application of a "recognized enhanced recovery technique."

We continue to believe that this purpose is appropriate. However, the rule as presently stated does not address the circumstance of a producer that files a "recognized enhanced recovery technique" petition after the end of the 30 day period. Because the 30 day filing requirement is a condition to continued qualification for the section 108 price, the rule may be construed so as to permanently deprive an operator of the section 108 incentive price due solely to failure to make a timely filing.

This results because applying a "recognized enhanced recovery technique" may increase a stripper well's production beyond the 60 Mcf per day limit. If there is no notice to the Commission and the jurisdictional agency of the cause of the increase, stripper well status will be lost. Currently, the regulations contain no provision which would permit a well to qualify again unless production somehow drops below the limit.

We do not believe that such a result is required by the statute, nor is it necessary to effect the purpose of the 30 day filing requirement. Therefore, the Commission is adopting amendments to § 271.805 to provide that the failure to file within the prescribed 30 day period results in disqualification from section 108 eligibility only until such time as the operator complies with the filing requirement.

The Commission believes that the rationale underlying these amendments regarding the timely filing of recognized enhanced recovery technique petitions also applies to petitions to declare wells to be "seasonally affected" and motions by producers opposing purchaser notice of excessive production. We have therefore amended § 271.805(b) to effect this belief.

In addition, the Commission takes this opportunity to amend § 271.805(c) to reflect the effect of a notice of disqualification filed by either the operator or the purchaser, pursuant to § 271.805(a). This change makes § 271.805(c) consistent with the language in paragraph (a).

III. Summary of Regulation

Accordingly, § 271.805(b) is being amended to eliminate the 30-day filing requirement for petitions for recognized enhanced recovery techniques, seasonally affected wells and motions opposing excess production notices. This amendment will permit the filing of such petitions at any time.

Section 271.805(c) is being amended, consistent with § 271.805(a), to reflect the effect if a notice of disqualification filed by either the operator or the purchaser of excess production. Section 271.805(d) is being added to provide that collections of the stripper well price subsequent to the filing of a notice of excess production may continue only if a "recognized enhanced recovery technique" petition, a "seasonally affected well" petition or a motion opposing purchaser notice is filed within 30 days after the notice is filed. If a petition is filed after the 30 day period, collection subject to refund may commence on the day such filing is made.

IV. Effective Date

This interim rule relieves restrictions previously placed on applicants under the Commission's regulations. Accordingly, it is being made effective immediately for all determinations which have not become final as of the day before the date of issuance of this order. This rule shall not become final, however, until the Commission has had an opportunity to receive oral and written presentation of relevant data, views and arguments.

V. Public Procedure

A. Written Comments

Interested persons are invited to submit comments, data, views, or arguments with respect to this interim regulation. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should refer to Docket No. RM81–6. An original and 14 copies should be filed. All comments received prior to 4:30 p.m. January 23, 1981, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the public file that has been established in this docket. This file is available for public inspection in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C., during regular business hours.

B. Public Hearing

Interested persons may request the opportunity for an oral presentation of their views at a public hearing. Requests for a hearing should be submitted no later than December 17, 1980, to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, and should reference Docket No. RM81–6. If a public hearing is held in this docket, the time and place will be announced by December 22, 1980.

(Natural Gas Policy Act of 1978, (15 U.S.C. 3301–3432); Department of Energy Organization Act, (42 U.S.C. 7101, *et seq.*); E.O. 12009, 42 FR 46267)

In consideration of the foregoing, the Commission amends Subpart H, Chapter I, Title 18, Code of Federal Regulations, on an interim basis, as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 271.805 is amended in paragraph (b) by deleting the words "before 30 days" in the second sentence of the paragraph.

2. Section 271.805 is amended in paragraph (c) deleting the words "If the notice served pursuant to paragraph (a) of this section is filed by a purchaser," and inserting, in lieu thereof, the words "If notice is served pursuant to paragraph (a) of this section," and by inserting after the word "terminate" the words "subject to in paragraph (d)."

3. Section 271.805 is amended in paragraph (d) to read as follows:

§ 271.805 Continuing qualification.

* * * * *

(d) *Collection subject to refund.* An operator who files a petition or motion under paragraph (b) of this section may collect, subject to refund, the maximum lawful price set forth in § 271.802: (1) From the last day of the 90-day or the 12-month production period to which the notice applies, if such petition or motion is filed within 30 days of the date notice is served under paragraph (a) of this section, or (2) from the date such petition or motion is filed in all other cases.

[FR Doc. 80-37600 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-01-M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 201

Rules of General Application

AGENCY: U.S. International Trade Commission.

ACTION: Final rule.

SUMMARY: These rules correct and clarify the Commission's *Rules of Practice and Procedure* to reflect new legislation concerning international trade, the Commission's change of name, the closing of the New York field office, and the new statutory schemes for dumping and countervailing duty investigations.

EFFECTIVE DATE: December 4, 1980.

FOR FURTHER INFORMATION CONTACT: Warren H. Maruyama, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0143.

SUPPLEMENTARY INFORMATION: These rules amend Part 201 of the Commission's Rules of Practice and Procedure. The changes that have been made are minor and do not affect the substance of the rules involved.

Since the Commission's rules were last revised, Congress has enacted significant new legislation concerning international trade. The Commission's rules have been amended here to conform with various statutory changes.

In the Trade Act of 1974 (88 Stat. 1978), Congress changed the Commission's name from the "United States Tariff Commission" to the "United States International Trade Commission." The outdated references in § 201.3 to the "Tariff Commission" have been amended to reflect the Commission's change of name.

In the Trade Agreements Act of 1979, Congress enacted a new statutory scheme for dumping and countervailing duty investigations. The Antidumping Act, 1921, was repealed (93 Stat. 193) and replaced by a new antidumping provision (93 Stat. 162) to be codified at 19 U.S.C. 1673. Congress also enacted a new countervailing duty provision (93 Stat. 151) applicable to countries which have signed the Subsidies Code and a limited class of other countries entitled to special treatment because of agreements with the United States. The new countervailing duty provision is to be codified at 19 U.S.C. Section 1671. Congress retained the previous countervailing duty provision (19 U.S.C. 1303), but limited its application to countries which have not signed the Subsidies Code and are not entitled to special treatment. Statutory references in §§ 201.2 and 201.4 have been changed to reflect the new scheme.

In addition, the Commission has closed the Commission's New York field office located in Suite 629, 6 World Trade Center, New York, N.Y. 10048. Sections 201.3 and 201.10 refer to a Commission field office in New York City. These references have now become inaccurate, and might mislead and inconvenience members of the public. The Commission has, therefore, amended the rules by deleting any mention of a New York office.

Citations contained in certain rules have also been changed. The amendments are summarized below.

Explanation of Amended Rules

Section 201.2

The definition of the "Tariff Act" has been changed to, "'Tariff Act' means the Tariff Act of 1930, 19 U.S.C. 1202–1677." The definition of the "Trade Expansion Act" formerly contained in subsection (c) has been changed to "'Trade Expansion Act' means the Trade Expansion Act of 1962, 19 U.S.C. 1801–1991."

The definition of the "Antidumping Act" previously contained in former subsection (d) has been deleted, and former subsection (e) has been renumbered subsection (d). In addition, the definition of the "Trade Act", formerly contained in subsection (e) and now contained in subsection (d) has been changed to: "'Trade Act' means the Trade Act of 1974, 19 U.S.C. 2101–2487." Former subsections (f), (g), and (h) have been renumbered (e), (f), and (g), respectively.

Section 201.3

The references to the "Tariff Commission" in subsection (a) and (b) have been changed to the "International Trade Commission." The reference to the New York branch office has been deleted from subsection (a), and the Secretary's address has been added to subsection (b).

Section 201.4(d)

The previous citation to "Pub. L. 93–618" has been changed to "19 U.S.C. 2251" to reflect the codification of the Trade Act of 1974 in the *United States Code*. The references to the "Antidumping Act, 1921" and to "sections 303 or 337 of the Tariff Act of

1930" have been removed, and in lieu thereof, a new reference to "the antidumping provisions (19 U.S.C. 1673) or the countervailing duties provisions (19 U.S.C. 1303, 19 U.S.C. 1671 *et seq.*) of the Tariff Act of 1930" has been inserted.

Section 201.10

The reference to the Commission's previous practice of posting formal notice of Commission actions in its New York field office has been deleted in view of the closing of that office.

Section 201.12(b)

The word "transcript" has been changed to "record" in order to more accurately reflect Commission practice.

The amended rules are set forth below:

Part 201 of the Commission's Rules of Practice and Procedure (19 CFR 201) is amended by revising §§ 201.2, 201.3, 201.4(d), 201.10, and 201.12(b) to read as follows:

§ 201.2 Definitions.

As used in this chapter—

(a) "Commission" means the United States International Trade Commission;

(b) "Tariff Act" means the Tariff Act of 1930, 19 U.S.C. 1202–1677;

(c) "Trade Expansion Act" means the Trade Expansion Act of 1962, 19 U.S.C. 1801–1991;

(d) "Trade Act" means the Trade Act of 1974, 19 U.S.C. 2101–2487;

(e) "Trade Agreements Act" means the Trade Agreements Act of 1979, Pub. L. No. 96–39, 93 Stat. 144;

(f) "Rule" means a section of the Commission Rules of Practice and Procedure (19 CFR chapter II);

(g) "Secretary" means the Secretary of the Commission.

§ 201.3 Commission offices, mailing address, and hours.

(a) *Offices.* The Commission's offices are located in the United States International Trade Commission Building on E Street between 7th and 8th Streets NW., Washington, D.C.

(b) *Mailing Address.* All communications to the Commission should be addressed to the "Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436."

(c) *Hours.* The hours of the Commission are from 8:45 a.m. to 5:15 p.m., eastern standard or daylight savings time, whichever is in effect in Washington, D.C.

§ 201.4 Performance of functions.

* * * * *

(d) Presentation of matter that may come within the purview of other laws. Whenever any party or person, including the Commission staff, has reason to believe that (1) a matter under investigation pursuant to section 337 of the Tariff Act of 1930, or (2) a matter under an investigation pursuant to section 201 of the Trade Act of 1974 (19 U.S.C. 2251), which is causing increased imports may come within the purview of another remedial provision of law not the basis of such investigation, including but not limited to the antidumping provisions (19 U.S.C. 1673) or the countervailing duty provisions (19 U.S.C. 1303, 19 U.S.C. 1671 *et seq.*) of the Tariff Act of 1930, then the party or person may file a suggestion of notification with the Commission that the appropriate agency be notified of such matter or circumstances, together with such information as the party or person has available. The Commission Secretary shall promptly thereafter publish notice of the filing of such suggestion and information, and make them available for inspection and copying to the extent permitted by law. Any person may comment on the suggestion within 10 days after the publication of said notice. Thereafter, the Commission shall determine whether notification is appropriate under the law and, if so, shall notify the appropriate agency of such matters or circumstances. The Commission may at any time make such notification in the absence of a suggestion under this rule when the Commission has reason to believe, on the basis of information before it, that notification is appropriate under law.

§ 201.10 Public notices.

Formal notice of the receipt of documents properly filed, of the institution of investigations, of public hearings, and, as required or appropriate, of other formal actions of the Commission, will be given by publication in the **Federal Register**. In addition to such formal notice, a copy of each notice will be posted at the Office of the Secretary of the Commission in Washington, D.C., and copies will be sent to press associations, to trade and similar organizations of producers and importers, and to others known to the Commission to have an interest in the subject matter. An announcement regarding the notice will be furnished to the Treasury Department for publication in *Treasury Decisions* and to the Department of Commerce for publication in *International Commerce*.

§ 201.12 Conduct of nonadjudicative hearings.

* * * * *

(b) Order of the Testimony. Unless otherwise ordered by the presiding officials, witnesses will give testimony in the order designated by the Secretary of the Commission. Each witness, after being duly sworn, will be permitted to proceed with his or her testimony without interruption except by presiding officials. The Commission may permit witnesses to summarize any prepared statements orally. Prepared statements, however, will be made a part of the record.

Issued: November 25, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-37727 Filed 12-3-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 241

[Docket No. R-80-801]

Petroleum and Natural Gas Conservation; Supplementary Financing for Insured Project Mortgages

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Correction of final rule.

SUMMARY: This document corrects an editorial error in a Section number contained in the final rule published on August 29, 1980 (45 FR 57982) in Docket No. R–80–801 relating to petroleum and natural gas conservation; supplementary financing for insured project mortgages. The rule amended Part 241.

FOR FURTHER INFORMATION CONTACT: Linda Cheatham, Development Division, Office of Multifamily Housing Programs, (202) 755–9280. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The following correction is made to the final rule in FR Docket No. R–80–801 appearing at 45 FR 57982 in the issue of August 29, 1980. On page 57984, column three, second paragraph, "Section 241.530 Note and security form," is corrected to read "Section 241.530a Note and security form."

Issued at Washington, D.C. October 31, 1980.

Clyde McHenry,

Deputy Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-37540 Filed 12-3-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 700

United States Navy Regulations

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy amends its regulations to reflect internal changes issued by the Secretary in June, 1979. The intended effect of this document is to update the existing codified provisions in the Code of Federal Regulations.

EFFECTIVE DATE: The changes are effective December 4, 1980.

FOR FURTHER INFORMATION CONTACT: Commander John J. Walsh, Head, Regulations Branch, Office of the Judge Advocate General (Administrative Law Division), Department of the Navy, 200 Stovall Street, Alexandria, VA 22332, Telephone No. (202) 325–9860.

SUPPLEMENTARY INFORMATION: Part 700 is amended to eliminate inappropriate masculine personal pronouns.

Accordingly, the following changes are published:

§ 700.201 [Amended]

1. Section 700.201 is amended by deleting the word "he" in the second sentence and substituting therefor the words "the Secretary of the Navy."

§ 700.202 [Amended]

2. Section 700.202(a) is amended by deleting the words "his duties" in the second sentence and substituting therefor the words "the duties of that office."

§ 700.203 [Amended]

3. Section 700.203(a) is amended by deleting the word "and" which follows the words "The Civilian Executive Assistants to the Secretary of the Navy are the Under Secretary of the Navy" in the first sentence and substituting therefor a comma, and by inserting after the words "the Assistant Secretaries of the Navy" in the first sentence the words ", the General Counsel of the Navy,".

4. Section 700.203(b) is amended by deleting the word "Each" in the first sentence and substituting therefor the word "The".

5. Section 700.203(b) is amended by deleting the word "Assistant" following the words "Civilian Executive" in the first sentence and substituting therefor the word "Assistants" and by deleting the words "his area" in that first sentence and substituting therefor the words "their respective areas".

6. Section 700.203(b) is amended by deleting the word "is" which follows the words "area of responsibility," in the first sentence and substituting therefor the word "are", by deleting the word "adviser" and substituting therefor the word "advisers", and by deleting the word "assistant" and substituting therefor the word "assistants".

7. Section 700.203(b), is amended by deleting the words "the Civilian Executive Assistants" in the second sentence and substituting therefor the word "they".

8. Section 700.203(b) is amended by deleting the words "Each is" in the third sentence and substituting therefor the words "The Civilian Executive Assistants are" and by deleting the words "his" and "area" in that third sentence and substituting therefor the words "their" and "areas" respectively.

9. Section 700.203(d) is amended by deleting the word "his" in the second sentence and substituting therefor the word "performing", and by inserting the word "assigned" in that second sentence immediately after the word "duties".

10. Section 700.203(e) is deleted in its entirety.

11. Section 700.203(f) is amended by deleting the words "(Manpower and Reserve Affairs)" which follow the words "The Assistant Secretary of the Navy" and substituting therefor the words "(Manpower, Reserve Affairs and Logistics)".

12. Section 700.203(f) is amended by deleting the comma after the word "personnel" and substituting therefor a semicolon, and by deleting the words "and supervision of offices and organizations as assigned by the Secretary" and substituting therefor the words "all stages of the acquisition of naval ships funded by the appropriation "Ships Construction, Navy"; all Department of the Navy acquisition programs following full scale production decision (Milestone III); the business, contractual, manpower, and logistic support aspects of the Department of the Navy Acquisition programs, including policy and administration of affairs related thereto; the maintenance, alteration, supply, distribution, and disposal of material; all transportation matters; the acquisition, construction, utilization, improvement alteration, maintenance, and disposal of real estate and facilities, including capital equipment utilities, housing, and public quarters; printing and publications; labor relations with respect to contractors with the Department of the Navy; industrial security; the Mutual Defense Assistance Program, as related to the supplying of material, including Foreign Military Sales; and supervision of offices and organizations as assigned by the Secretary."

13. Section 700.203(f) is amended by deleting "(f)" and substituting therefor "(e)".

14. Section 700.203(g) is amended by deleting the words "(Research and Development)" and substituting therefor the words "(Research, Engineering and Systems)".

15. Section 700.203(g) is amended by deleting the words "matters related to research, development, engineering, test, and evaluation efforts within the Department of the Navy, including management of the appropriation, 'Research, Development, Test and Evaluation, Navy,' and for oceanography, ocean engineering and closely related matters, and supervision of offices and organizations as assigned by the Secretary" and substituting therefor the words "technical aspects of all stages of Department of the Navy acquisition programs through the full-scale production decision (Milestone III), including policy and administration of affairs related thereto, with the exception of the acquisition of naval ships funded by the appropriation 'Ships Construction, Navy'; the technical aspects of the maintenance or alteration of material; all matters related to research, development, engineering, test, and evaluation efforts within the Department of the Navy, including management of the appropriation, 'Research, Development, Test and Evaluation, Navy'; oceanography; ocean engineering and closely related matters; and supervision of offices and organizations as assigned by the Secretary".

16. Section 700.203(g) is amended by deleting "(g)" and substituting therefor "(f)".

17. Section 700.203 is amended by including a new subsection 700.203(g) as follows:

The General Counsel of the Navy is responsible for providing legal advice, counsel, and guidance to the Secretary and the other Civilian Executive Assistants on any matter that they may direct or that the General Counsel determines should be brought to their attention. The General Counsel is also responsible for providing all necessary legal advice, counsel, and guidance

to the staffs of the Secretary and the other Civilian Executive Assistants; the supervision of the Office of the General Counsel; and such other duties as the Secretary may

Secretary or one or more of the Civilian Executive Assistants in the administration of the Department of the

§ 700.316 [Amended]

26. Section 700.316 is amended by deleting the words "*Commander, Naval*

Chief of Naval Operations, for keeping the Secretary of the Navy fully informed on matters considered or acted upon by the Joint Chiefs of Staff. In this capacity,

officer or employee of the United States who is acting in the proper course of, and within the scope of, his official duties, provided that the disclosure of

comments, specifies deadlines by which the State is required to submit the material to correct the minor deficiencies, and describes EPA's final

to the staffs of the Secretary and the other Civilian Executive Assistants; the supervision of the Office of the General Counsel; and such other duties as the Secretary may assign. The responsibilities of the General Counsel are not intended to infringe upon, or interfere with, the responsibilities of the Judge Advocate General for the administration of military justice and such other matters as may be assigned to that officer by statute or by the Secretary.

18. Section 700.203(h) is amended by deleting the words "He shall maintain a general awareness of actual or potential problems and issues and take steps to prevent their development or aggravation" and substituting therefor the words "In addition, the Deputy Under Secretary is the major claimant for funds and manpower supporting the Department of the Navy Secretariat, Staff Offices, and the Department of the Navy General Gift Fund. The Deputy Under Secretary is responsible for general over-sight, policy and procedure formulation and coordination regarding environmental matters affecting the Department of the Navy, with the exception of occupational health and safety and employee working conditions".

§ 700.204 [Amended]

19. Section 700.204 is amended by deleting the words "Administrative Officer, Navy Department; the General Counsel; the Director of Civilian Manpower Management; the Chief of Information; the Chief of Legislative Affairs; the Director, Office of Management Information; the Director, Office of Naval Petroleum and Oil Shale Reserves; the Director, Office of Program Appraisal; and the heads of such other offices and boards as may be established by law or by the Secretary for the purpose of assisting the Secretary or one or more of his Civilian Executive Assistants in the administration of the Department of the Navy. Each of the foregoing shall supervise all functions and activities internal to his office and assigned shore activities, if any. Each shall be responsible to the Secretary or to one of his Civilian Executive Assistants for the utilization of resources by and the operating efficiency of all activities under his supervision. The duties of the individual Staff Assistants and their respective offices will be as provided by law or as assigned by the Secretary" and substituting therefor the words "Chief of Information; the Chief of Legislative Affairs; the Director, Office of Program Appraisal; and the heads of such other offices and boards as may be established by law or by the Secretary for the purpose of assisting the Secretary or one or more of the Civilian Executive Assistants in the administration of the Department of the Navy. The foregoing shall supervise all functions and activities internal to their offices and assigned shore activities, if any, and shall be responsible to the Secretary or to one of the Civilian Executive Assistants for the utilization of resources by and the operating efficiency of all activities under their supervision. The duties of the individual Staff Assistants and their respective offices will be as provided by law or as assigned by the Secretary".

§ 700.205 [Amended]

20. Section 700.205 is amended by deleting the word "his" in the third sentence and substituting therefor the word "the".

§ 700.206 [Amended]

21. Section 700.206(b) is amended by deleting the words "unto himself".

22. Section 700.206(b) is amended by deleting the word "him" following the words "procedures prescribed by" and substituting therefor the words "the Secretary".

§ 700.301 [Amended]

23. Section 700.301(c) is amended by inserting after the word "responsible" in the first sentence the phrase ", in coordination with the Commandant of the Marine Corps,".

§ 700.305 [Amended]

24. Section 700.305 is amended by deleting "(d)" and substituting therefor "(e)" and by adding a new subsection as follows:

Section 700.305(d). Ships and service craft designated "active status, in service," except those described by paragraph c of this article, shall be referred to by name, when assigned, classification, and hull number (e.g., "HIGHPOINT PCH–1" or "YOGN–6").

§ 700.315 [Amended]

25. Section 700.315 is amended by deleting the words "under the command of the Chief of Naval Operations, shall act as the Naval Oceanographic Program Director under the policy direction of the Secretary of the Navy. He shall be responsible for an integrated and effective Naval Oceanographic Program and the management of all national oceanographic facilities and efforts assigned to the Department of the Navy" and substituting therefor the words "within the Office of the Chief of Naval Operations, performs functions relating to external interfaces with national and international oceanographic organizations and bodies".

§ 700.316 [Amended]

26. Section 700.316 is amended by deleting the words "*Commander, Naval Weather Service Command.* The Commander, Naval Weather Service Command, under the command of the Chief of Naval Operations, shall insure that Department of the Navy meteorological requirements and Department of Defense requirements for oceanographic analyses and forecasts are met. He shall provide technical guidance in meteorological matters throughout the naval service" and substituting therefor the words "*Commander, Naval Oceanography Command.* The Commander, Naval Oceanography Command, under the command of the Chief of Naval Operations, shall be responsible for the management of assigned oceanographic, mapping, charting, geodetic and meteorological activities and efforts and shall provide technical guidance in such matters throughout the Department of the Navy".

§ 700.320 [Amended]

27. Section 700.320 is amended by deleting the words "under the Chief of Naval Reserve to command and administer such Naval Reserve activities and programs as may be assigned;".

28. Section 700.320 is amended by deleting the words "to carry out specified functions as assigned by the appropriate Sea Frontier Command;".

29. Section 700.320 is amended by inserting immediately after the words "to coordinate public affairs matters throughout the naval district" the words "and to perform such other functions as may be directed by the Chief of Naval Operations".

30. Section 700.320(b) is deleted in its entirety.

§ 700.401 [Amended]

31. Section 700.401(b) is amended by deleting the words "While matters which directly concern the Marine Corps are under consideration by the Joint Chiefs of Staff, and with respect to such matters, the Commandant has coequal status with the members of the Joint Chiefs of Staff. He is responsible for keeping the Secretary of the Navy fully informed on these matters. In this capacity as a coequal member of the Joint Chiefs of Staff, he is responsible to the President and the Secretary of Defense for duties external to the Department of the Navy as prescribed by law" and by substituting therefor the words "The Commandant of the Marine Corps is the Marine Corps member of the Joint Chiefs of Staff and is responsible, in coordination with the Chief of Naval Operations, for keeping the Secretary of the Navy fully informed on matters considered or acted upon by the Joint Chiefs of Staff. In this capacity, he is responsible, under the President and the Secretary of Defense, for duties external to the Department of the Navy, as prescribed by law".

§ 700.752 [Amended]

32. Section 700.752(a) is amended by deleting the word "his" in the second sentence and substituting therefor the word "that", and also by deleting the word "that" in the second sentence and substituting therefor the word "the".

33. Section 700.752(b) is amended by deleting the word "his" in the first sentence and substituting therefor the word "the".

34. Section 700.752(c) is amended by deleting the word "him" and substituting therefor the words "the pilot" and by adding a second sentence to this subsection which reads: "Responsibility for such actions in a private shipyard will be assigned by contract to the contractor."

35. Section 700.752 is amended by deleting "(e)" and substituting therefor "(f)" and by adding a new subsection 700.752(e) as follows:

When a naval ship is to be drydocked in a private shipyard under a contract being administered by a supervisor of shipbuilding, the responsibilities of the commanding officer are the same as in the case of drydocking in a naval shipyard. The responsibilities for the safety of the actual drydocking, normally assigned to the commanding officer of a naval shipyard through his docking officer, will be assigned by contract to the contractor. The supervisor of shipbuilding is responsible, however, for ensuring that the contractor's facilities, methods, operations, and qualifications meet the standards of efficiency and safety prescribed by Navy directives.

§ 700.753 [Amended]

36. Section 700.753 is amended by inserting the words "*and Craft*" after the word "*Ships*" in the title thereto.

37. Section 700.753 is amended by adding a new subsection 700.753(d) as follows:

When a naval ship or craft is in drydock in a private shipyard, responsibility for actions normally assigned by the commanding officer of the docking activity will be assigned by contract to the contractor.

§ 700.1116 [Amended]

38. Section 700.1116(c) is amended by deleting the words ", other than in the discharge of his official duties,".

39. Section 700.1116(c) is amended by inserting after the last sentence of this subsection the words "The prohibitions prescribed by the first sentence of this subparagraph are not applicable to an officer or employee of the United States who is acting in the proper course of, and within the scope of, his official duties, provided that the disclosure of such information is otherwise authorized to be disclosed by statute, Executive order of the President, or departmental regulation."

§ 700.1146 [Deleted]

40. Section 700.1146 is deleted in its entirety.

(Ch. 1041, Section 70A, Stat. 375 (10 U.S.C. 6011))

Dated: November 17, 1980.

P. B. Walker,

Captain, JAGC, U.S. Navy, Alternate Federal Register Liaison Officer.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-9-FRL 1691-3]

Approval and Promulgation of Implementation Plans; North Central Coast Air Basin Nonattainment Area Plan

AGENCY: Environmental Protection Agency.

ACTION: Notice of final rulemaking.

SUMMARY: On April 1, 1980 (45 FR 21266), the Environmental Protection Agency (EPA) published a notice of proposed rulemaking for the North Central Coast Air Basin nonattainment area plan (NAP) submitted on September 12, 1979. The April 1, 1980 notice proposed to disapprove the NAP because the lack of New Source Review (NSR) rules constituted a major deficiency with respect to Part D of the Clean Air Act, "Plan Requirements for Nonattainment Areas." On March 4, 1980, the State submitted NSR rules for the North Central Coast Air Basin. As a result, the NAP contains only minor deficiencies with respect to Part D. Further, the State has initiated the process to submit the material to correct the minor deficiencies. Therefore, EPA takes final action to conditionally approve the North Central Coast Air Basin NAP as a revision to the California State Implementation Plan (SIP). This action removes the prohibition on construction of certain major new or modified sources in the North Central Coast Air Basin.

This notice also provides a brief summary of the proposed rulemaking notice, describes recent revisions which supplement the NAP, discusses public comments, specifies deadlines by which the State is required to submit the material to correct the minor deficiencies, and describes EPA's final action on the NAP.

DATES: This action is effective December 4, 1980.

FOR FURTHER INFORMATION CONTACT:

Louise P. Giersch, Director, Air and Hazardous Materials Division, 215 Fremont Street, Environmental Protection Agency, Region IX, San Francisco, CA 94105, Attn: Douglas Grano (415) 556–2938

A copy of the revision is located at:

The Office of the Federal Register, 1100 "L" Street, NW., Room 8401, Washington, D.C. 20408

SUPPLEMENTARY INFORMATION:

Background

The Clean Air Act, as amended in 1977, requires states to revise their SIPs for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). On September 12, 1979, the Executive Officer of the California Air Resources Board (ARB), the Governor's official designee, submitted revisions to the California SIP consisting of a control strategy and regulations for the North Central Coast Air Basin. These revisions, submitted as the North Central Coast Air Basin NAP, are intended to provide for the attainment of the ozone NAAQS in the North Central Coast Air Basin.

On April 1, 1980 (45 FR 21266), EPA published a notice of proposed rulemaking for the North Central Coast Air Basin NAP. That notice provided a description of the NAP, summarized the applicable Clean Air Act requirements into 14 criteria, compared the NAP to those criteria, and, as described below, proposed to approve, conditionally approve or disapprove portions of the NAP. The April 1, 1980 notice should be used as a reference in reviewing today's action.

EPA proposed to approve the following portions of the NAP: emission inventory, modeling, emission reduction estimates, attainment provision, reasonable further progress, emissions growth, annual reporting, resources, public and government involvement, and public hearing. These portions of the NAP were found to be consistent with Part D of the Clean Air Act.

EPA proposed to conditionally approve the legally adopted measures portion of the NAP because the cutback asphalt rule did not reflect reasonably available control technology (RACT).

EPA also proposed to disapprove the permit program portion of the NAP because the lack of an NSR rule

constituted a major deficiency with respect to Part D.

As noted in the April 1, 1980 notice, offsets are required for any increase in emissions of a nonattainment pollutant for modifications. The LAER exemptions

Public Comments

Comments Specific to the North Central

that the emission reduction differences between "Bicycle Lanes and Storage Facilities" and "Improved Public

that the effectivenes of "Improved Public Transit" and "Improved Bicycle Facilities" should be included either in

regulations for major stationary sources of volatile organic compounds (VOC)

constituted a major deficiency with respect to Part D.

As noted in the April 1, 1980 notice, approval or conditional approval of all portions of the NAP is sufficient to lift the current prohibition on construction of certain major new or modified sources in the North Central Coast Air Basin. As a result of the lack of an NSR rule, the April 1, 1980 notice proposed to disapprove the overall North Central Coast Air Basin NAP and continue the construction prohibition.

Supplemental Revisions

Subsequent to EPA's review, which appears in the April 1, 1980 notice, the State submitted revisions which supplement portions of the NAP. These revisions are discussed below.

New Source Review

As discussed in the April 1, 1980 notice, a legally enforceable NSR rule was not included in the NAP and this constituted a major deficiency. However, the State did submit a draft NSR rule. EPA reviewed the draft NSR rule (See EPA's Evaluation Report) and concluded that it contained only minor deficiencies with respect to the Part D requirements. Thus, EPA proposed that the permit program portion of the NAP could be conditionally approved if the State submitted an adopted NSR rule similar and equivalent to the draft NSR rule.

On March 4, 1980, the Governor's designee submitted the following NSR rules for the Monterey Bay Unified Air Pollution Control District (APCD):

Rule 207—Review of New or Modified Sources (Subparagraph B.4. of this rule, which addresses significant deterioration requirements, is not reviewed here, but will be addressed in a future **Federal Register** notice.)

Rule 208—Standards for Granting Permits To Operate. Section 173 of the Act contains the requirements for approval of a permit program. EPA has established guidance based on Section 173 in: (1) EPA's Emission Offset Interpretative Ruling (January 16, 1979, 44 FR 3274) and (2) EPA's proposed amendments to regulations for NSR and the Emission Offset Interpretative Ruling (September 5, 1979, 44 FR 51924).

EPA has reviewed the Monterey Bay Unified APCD's NSR rules with respect to the draft NSR rule, the guidance based on Section 173, and EPA policy regarding rural ozone areas. The Monterey Bay Unified APCD's NSR rules differ from both the draft NSR rule and the Section 173 guidance. The only significant differences are that subparagraph B.5. of Rule 207 exempts certain categories of sources from the "lowest achievable emission rate" (LAER) requirements and LAER and offsets are required for any increase in emissions of a nonattainment pollutant for modifications. The LAER exemptions are not authorized by the Clean Air Act. An NSR permit program cannot be approved or conditionally approved with these LAER exemptions. The Monterey Bay Unified APCD's NSR rules contain additional minor deficiencies with respect to the Section 173 requirements, including a definition of "stationary source" less stringent than is required and the failure to regulate some sources as required by EPA. These and other minor deficiencies are described in EPA's Evaluation Report Addendum which is available at the Region IX office, the ARB, the Monterey Bay Unified APCD, the Association of Monterey Bay Area Governments (AMBAG), and the EPA Library in Washington, D.C. Thus, with the exception of the LAER exemptions, the Monterey Bay Unified APCD's NSR rules (1) are similar to the draft NSR rule in that the definitions and requirements are substantially the same and are equivalent to the draft NSR rule in that they are at least as effective in meeting the requirements of Section 173, and (2) contain only minor deficiencies with respect to Section 173.

It should be noted that EPA is approving certain offset provisions in the Monterey Bay Unified APCD's NSR rules which would be disapproved in an urban area. (See Evaluation Report Addendum). These provisions are being approved because EPA's rural ozone policy does not require emission offsets for rural areas.

It should also be noted that EPA recently published two final rulemaking notices on the September 5, 1979 proposed amendments to regulations for NSR and the Emission Offset Interpretative Ruling and set out EPA's requirements for NSR under Section 173. These notices, published on May 13, 1980 (45 FR 31307) and August 7, 1980 (45 FR 52676), amend EPA's NSR requirements. The State is required to comply with the August 7, 1980 requirements by May 7, 1981. In revising the Monterey Bay Unified APCD's NSR rules, the State/APCD must address (1) any new requirements in EPA's amended regulations for NSR under Section 173 of the Clean Air Act (August 7, 1980, 45 FR 52676) which the APCD rules do not satisfy and (2) those deficiencies with respect to the September 5, 1979 notice cited in EPA's Evaluation Report Addendum (contained in Document File NAP–CA–14 at the EPA Library in Washington, D.C. and the Region IX office.)

Public Comments

Comments Specific to the North Central Coast Air Basin NAP

During the public comment period, EPA received several comments. These comments and EPA's responses follow.

Comment: The Monterey Bay Unified APCD and AMBAG believe that estimating emissions for military activities in the Monterey Bay area would not be accurate or reliable.

Response: EPA feels that the emissions associated with military activities in the Monterey Bay area should be included in the annual update of the emission inventory. The emissions should be estimated for both stationary sources and motor vehicles. These estimates should be accurate and reliable since Federal government establishments are required under Section 118 of the Act to comply with the Monterey Bay Unified APCD's record keeping and reporting requirements.

Comment: The Monterey Bay Unified APCD and AMBAG stated that the methods for estimating pesticide emissions are clearly limited at this time, and will continue to be until the pesticide emission factors are refined by EPA and ARB.

Response: Eureka Laboratories, located in Sacramento, California, conducted a study of pesticide emissions in California. Based upon this study ("Air Pollution Emissions Associated with Oil Pesticide Applications in California"), new emission factors were developed for estimating pesticide emissions. These emission factors should be used to update the emissions inventory for pesticide applications.

Comment: Several commenters objected to EPA's proposed approval of the State's use of the Empirical Kinetic Modeling Approach (EKMA) to determine the allowable hydrocarbon emission level. The commenters stated that the use of EKMA in rural areas may not accurately estimate the emission reductions needed to attain the ozone standard. The ARB also commented that work plans are being developed by the Monterey Bay Unified APCD, AMBAG and ARB to provide an improved air quality analysis for the 1982 NAP.

Response: EPA agrees that the EKMA analysis in the NAP may not accurately estimate the emission reductions needed to attain the standard and that further air quality analyses should be conducted. Further, EPA encourages the State to develop an improved air quality analysis.

Comment: The Urban Mass Transportation Administration stated

that the emission reduction differences between "Bicycle Lanes and Storage Facilities" and "Improved Public Transit" were "unrealistic." The commenter also stated that there was insufficient background information and data in the NAP to support either of these estimates.

Response: EPA has accepted these estimates for initial planning purposes, recognizing that a limited amount of data exist to make such estimates. While EPA is approving this portion of the NAP, it should be noted that the Annual Reports submitted to EPA each year by the State will include verification of emission reductions by monitoring of transportation control measures and updated emission reduction estimates for the transportation control measures as new data become available.

Comment: The Monterey Bay Unified APCD and AMBAG questioned EPA's recommendation that the inspection and maintenance (I/M) emission reduction estimates be revised by July 1980 using the MOBILE–I emission factors. The two agencies stated that EPA's MOBILE–I method of calculating the I/M emission reduction estimates differs from ARB's recommended method and therefore may not be accurate.

Response: MOBILE–I is currently the only method that has been approved by EPA for estimating emission reductions for I/M. As a result, if I/M is retained as a control measure, the two agencies should revise the emission reduction estimate for I/M using MOBILE–I or other emission factors that may be approved by EPA.

Comment: The Monterey Bay Unified APCD and AMBAG disagreed with EPA's statement that the NAP does not contain a policy level commitment for an emission reduction target for the transportation sector. The two agencies stated that a policy level commitment was made by the Board of Directors of AMBAG when they adopted the NAP, and that the targets are specified in Tables 7–3 and 7–10 of the NAP.

Response: EPA agrees that the commitment and emission reduction estimates specified in Tables 7–3 and 7–10 are satisfactory, based upon the clarification provided by AMBAG and the Monterey Bay Unified APCD.

Comment: The Monterey Bay Unified APCD and AMBAG stated that the commitments for the transportation monitoring programs have been developed and are being carried out as part of the FY–80 Section 175 grant. The two agencies also stated that the emission reduction effectiveness of the "Ridesharing Program" has been included in the 1980 Annual Report, and that the effectivenes of "Improved Public Transit" and "Improved Bicycle Facilities" should be included either in the semi-annual Transportation Report or in the July 1981 Annual Report.

Response: EPA agrees and a description of the transportation monitoring activities should be provided with the 1980 and 1981 Annual Reports.

Comment: The Federal Highway Administration stated that monitoring the emission reduction effectiveness of each transportation control measure is not feasible or reasonable due to financial constraints. They also stated that a coordinated program should be developed to measure select transportation parameters which will serve as "checkpoints" for evaluating the NAP's effectiveness.

Response: EPA agrees that it may not be feasible in all cases to monitor individual transportation control measures and that a coordinated program to evaluate transportation activity can be effective if the "checkpoints" are directly related to the specific measures or groups of measures. However, to be effective, EPA believes that the transportation verification programs should be as measure specific as possible.

Comment: The Monterey Bay Unified APCD and ARB provided commitments for satisfying the proposed condition of approval for the Monterey Bay Unified APCD's cutback asphalt rule (Rule 425). The Monterey Bay Unified APCD requested that EPA amend the date for satisfying the condition of approval to 90 days after the final rulemaking is published. ARB requested that EPA amend the date for satisfying the condition of approval to at least 60 days after the final is published.

Response: EPA feels that the commitments given by the two agencies provide sufficient assurance for EPA to proceed to conditional approval. Further, in response to the agencies request, EPA has revised the deadline for satisfying the condition of approval to March 4, 1981.

Comment: The Monterey Bay Unified APCD and AMBAG objected to EPA requiring an agency to commit to adopt and implement future RACT regulations (Control Technique Guideline (CTG) Group II) without knowing the cost of the development, implementation and enforcement, and the pragmatism of the actual RACT regulations to be developed.

Response: As noted in the General Preamble (44 FR 20376, April 4, 1979), the minimum acceptable level of stationary source control for rural ozone areas, such as the Monterey Bay area, includes the adoption of RACT regulations for major stationary sources of volatile organic compounds (VOC) covered by EPA's CTG documents. This requirement stems from Section 172(b)(2) and (3) of the Act. In addition, the definition of RACT includes only those measures that are reasonable.

Comment: In the April 1, 1980 proposal notice, EPA stated that the NAP contains three adopted transportation control measures (TCMs) and that a schedule and commitment for implementation and enforcement of these measures is necessary for approval as part of the SIP. In response AMBAG commented that the three adopted measures have been implemented, and that if any additional TCMs are adopted, then commitments for implementation and enforcement would be submitted.

Response: EPA policy was not correctly stated in the April 1, 1980 notice (page 21270). The notice should have indicated that schedules and commitments for implementation and (where appropriate) enforcement of each adopted TCM, including any developed out of those currently identified *for further study*, must be submitted before the measures may be approved as part of the SIP. In today's notice EPA is taking final action to approve the three adopted TCMs.

Comment: Several commenters stated that the major deficiency noted in the April 1, 1980 notice has been corrected because ARB submitted the Monterey Bay Unified APCD's legally adopted NSR rules to EPA.

Response: EPA's evaluation of the NSR rules determined that the NSR rules submitted on March 4, 1980 contain one deficiency that is not authorized by the Clean Air Act and several minor deficiencies (See Supplemental Revisions section).

Comment: ARB commented that they are committed to satisfying the proposed condition of approval regarding the Monterey Bay Unified APCD's NSR rules. ARB, however, recommended that the date for satisfying the condition of approval be amended to be consistent with the time frame specified in EPA's final NSR regulations.

Response: EPA feels that this commitment provides sufficient assurance for EPA to proceed to conditional approval. Further, in response to ARB's request, EPA has revised the deadline for satisfying the condition of approval to May 7, 1981.

Comment: ARB stated that EPA should be more specific in its final rulemaking notice with respect to identifying the deficiencies in the Monterey Bay Unified APCD's NSR

rules and how to correct the deficiencies.

Response: EPA's review of the NSR

point-by-point check of isolated portions of the rules. WOGA also commented that EPA should consider that ARB's

the rules to meet EPA's *final* NSR regulations published on May 13, 1980 and August 7, 1980 (45 FR 52676, 31307).

the resource commitments necessary for adopting the stationary source control measures.

National Comments

One commenter submitted extensive comments and requested that they be

approved today and incorporated into the SIP because they strengthen existing requirements and thus are consistent

rules and how to correct the deficiencies.

Response: EPA's review of the NSR rules and the deficiencies found by EPA are summarized in the Supplemental Revisions section of this notice and are described in EPA's Evaluation Report Addendum.

The Western Oil and Gas Association (WOGA) submitted several comments concerning EPA's review of ARB's draft NSR rule for the Monterey Bay Unified APCD, South Coast Air Quality Management District (AQMD) and the Bay Area AQMD. Each of the points raised by WOGA and EPA's response concerning the North Central Coast Air Basin proposal are discussed below. The comments which concern the other two agencies will be addressed in the final rulemaking for those agencies.

Comment: WOGA noted that since the Monterey Bay Unified APCD's legally adopted NSR rules may differ substantially from ARB's draft NSR rule, review of any other rule is meaningless.

Response: As discussed in the Supplemental Revisions and EPA Actions sections, the Monterey Bay Unified APCD's NSR rules differ significantly only with respect to the LAER exemptions and the requirement of LAER and offsets for any increase in emissions for modifications. Otherwise, EPA has found that the rules are similar and equivalent and therefore EPA's review of the Monterey Bay Unified APCD's NSR rules is meaningful.

Comment: WOGA stated that EPA is ignoring the actual NSR rules adopted by the Monterey Bay Unified APCD and is explicitly encouraging them to merely parrot ARB, and not adopt rules adapted to the local needs of the Monterey Bay Unified APCD.

Response: Prior to the time EPA published its notice of proposed rulemaking the NSR rules had been adopted by the Monterey Bay Unified APCD. Thus, EPA's notice did not lead the Monterey Bay Unified APCD to parrot ARB's draft NSR rule. In addition, the proposal clearly stated that it is EPA's policy to approve any NSR rule that would meet the requirements of the January 16, 1979 Interpretative Ruling (44 FR 3274) or the criteria of the September 5, 1979 proposal (44 FR 51924). As a result, the Monterey Bay Unified APCD was provided the flexibility to adopt any NSR rules it shows, provided these rules were in conformity with either of the two sets of criteria above.

Comment: WOGA stated that in reviewing the Monterey Bay Unified APCD's legally adopted NSR rules, EPA should look at the overall stringency of the rules, and not be concerned with a point-by-point check of isolated portions of the rules. WOGA also commented that EPA should consider that ARB's draft NSR rule is more stringent than EPA's criteria.

Response: EPA's policy regarding NSR programs allows States to develop rules which differ in some respects from EPA's criteria (44 FR 3280, January 16, 1979 and 44 FR 51924, September 5, 1979). EPA may approve rules which differ in some respects from EPA's criteria if the State submits a demonstration that the overall impact on emissions in the areas where the rules apply is at least as stringent as EPA's criteria. Since the State did not provide such a demonstration, EPA reviewed the Monterey Bay Unified APCD's NSR rules by comparing them to both the January 16, 1979 and September 5, 1979 criteria.

Comment: WOGA argued that ARB's requirement that a new onshore source offset emissions generated by associated tankers while they are loading, unloading and operating on the outer continental shelf (OCS) constitutes regulation of such tankers and offshore facilities. This provision, according to WOGA, is beyond EPA, State and local jurisdiction. In addition, WOGA cited two recent court cases, *California* v. *Kleppe*, 13 E.R.C. 1577 (9th Cir., August 2, 1979) and *California* v. *Exxon* (U.S. District Court, Central District of California, No. 78-249 RMT, November 14, 1978), which held that neither EPA nor ARB have authority over sources on the OCS for the purpose of controlling air pollution.

Response: The ARB's draft NSR rule requires that a new *onshore* source offset emissions from tankers while they are operating on the OCS. Therefore, only the onshore facility is regulated and the cases cited by WOGA are not applicable.

Comment: WOGA noted that the recent Court decision on EPA's regulations for Prevention of Significant Deterioration (PSD) of Air Quality affect EPA's NSR requirements for NAPs as well. WOGA stated that EPA should not require APCD's to adopt either (1) the September 5, 1979 regulations until they have been finalized or (2) "de minimis" significance levels until adequate scientific studies have been conducted.

Response: In the September 5, 1979 proposal (44 FR 51924), EPA's views were presented on how the *Alabama Power* decision affects NSR requirements for NAPs. Further, EPA responded to the WOGA's concerns in the May 13, 1980 (45 FR 31307) and August 7, 1980 (45 FR 52676) **Federal Register.** Finally, EPA has conditional approval of the NSR rules on revision on the rules to meet EPA's *final* NSR regulations published on May 13, 1980 and August 7, 1980 (45 FR 52676, 31307).

Comment: WOGA stated that EPA should disapprove ARB's oxides of nitrogen (NO_x) offset requirement for ozone if EPA does not approve provisions allowing interpollutant tradeoffs.

Response: This comment is not an issue because the NSR rules adopted by the Monterey Bay Unified APCD require only hydrocarbon offsets and do not require NO_x offsets as a precursor to ozone.

Comment: Several commenters stated that the public should be given an opportunity to comment on EPA's evaluation of the Monterey Bay Unified APCD's legally adopted NSR rules. WOGA also commented that failure to allow an opportunity to comment on these rules would be a violation of the Administrative Procedure Act.

Response: Although ARB's draft NSR rule serves only as a guideline and local districts are not required to adopt rules identical to the draft NSR rule, EPA reviewed the draft rule and included a discussion of it in the proposal at the request of ARB. This was done to expedite final rulemaking on the NAP in the event the Monterey Bay Unified APCD used ARB's draft NSR rule as a guideline in adopting its own rules.

As stated in the Supplemental Revisions section, EPA has determined that the Monterey Bay Unified APCD's NSR rules are similar and equivalent to ARB's draft NSR rule and Section 173 of the Act, with the exception of the LAER exemptions in subparagraph B.5 of Rule 207. Since Subparagraph B.5 is not consistent with the requirements of Section 173, EPA must disapprove this subparagraph. As a result, the NSR rules being conditionally approved in this notice are similar and equivalent to ARB's draft NSR rule which was discussed in the April 1, 1980 notice.

Therefore, EPA feels that the public has been provided adequate opportunity to comment on the approvability of the Monterey Bay Unified APCD's NSR rules through EPA's evaluation and notice of proposed rulemaking on ARB's draft NSR rule.

Comment: The Monterey Bay Unified APCD and AMBAG questioned the legality and pragmatism of EPA requiring agencies to provide specific commitments and to identify specific resources to implement and enforce the NAP. The two agencies also stated that the resource commitments for implementing the transportation control measures were contained in the NAP and that the Monterey Bay Unified APCD has since provided evidence of the resource commitments necessary for adopting the stationary source control measures.

Response: Section 172(b)(7) of the Act states that agencies shall identify and commit the financial and manpower resources necessary to carry out the NAP. EPA agrees that the commitments have been provided for the current year.

Comment: AMBAG commented that the tasks to fulfill the requirements of Section 176 (c) and (d) of the Act will be part of the activities funded in the FY-81 Section 175 grant. As a result, the final procedures that are required to satisfy these sections should be submitted with the 1981 Annual Report rather than the 1980 Annual Report as specified in the April 1, 1980 notice.

Response: EPA agrees that this information may be submitted in the 1981 Annual Report.

Comment: Several commenters stated that the area should be redesignated to attainment for ozone because it is attaining the NAAQS based upon EPA's February 8, 1979 revision to the ozone standard. Kaiser Refractories also stated that an extension of the ozone attainment date to 1987 was unnecessary.

Response: ARB has not requested a redesignation to attainment because emissions from projected growth in population and industrial activity in the Monterey Bay area are expected to cause violations in the near future. ARB believes that a 1982 NAP should be prepared to attain and maintain the NAAQS. Thus, EPA has not taken action to redesignate this area.

Comment: WOGA stated that the NAP appears to have been reviewed under EPA's urban ozone policy.

Response: The review of the NAP was based upon EPA's rural ozone policy (See April 1, 1980, 45 FR 21266).

Comment: The April 1, 1980 notice provided a 30 day public comment period. During the comment period, the Regional Office received several requests to extend the comment period.

Response: Prior to the May 1, 1980 deadline, the Regional Office contacted these commenters and informed them that comments would be accepted until May 16, 1980. All comments made during this period have been incorporated into this notice.

Comment: ARB commented that the application of EPA's rural ozone policy in California results in EPA disregarding important elements of the NAPs.

Response: EPA's review and proposed actions included consideration of all elements of the North Central Coast Air Basin NAP.

National Comments

One commenter submitted extensive comments and requested that they be considered part of the record for each state plan. Another commenter, a national environmental group, discussed EPA's action on permit fee systems and the composition of state boards. Although some of the issues raised are not relevant to provisions in the North Central Coast Air Basin NAP, the final rulemaking for the Imperial County NAP which was recently published in the **Federal Register** should be referred to for a discussion of these comments and EPA's responses.

EPA Actions

EPA's final actions on the North Central Coast Air Basin NAP are described below and are based on the proposed rulemaking notice, supplemental revisions submitted by the State, and public comments received by EPA.

The demonstration of attainment in the North Central Coast Air Basin NAP relies upon a vehicle inspection and maintenance (I/M) program as the principal control measure. The State legislature has failed to provide the necessary legal authority to implement the I/M program. Because EPA policy has established that I/M is not a mandatory control measure in an area with a population of less than 200,000 (according to the 1970 Census), such as the North Central Coast Air Basin, the NAP is not required to include I/M. Therefore, since EPA cannot approve the I/M program without legislative authority, EPA is deferring action on this control measure. A future **Federal Register** notice will address the I/M program.

Approved Portions of the NAP

As proposed in the April 1, 1980 notice and as discussed in the Public Comments section of this notice, EPA has determined that the following portions of the NAP are consistent with the Part D requirements. Therefore, EPA is taking final action under Part D to approve the following portions of the NAP: emission inventory, modeling, emission reducing estimates, attainment provision, reasonable further progress, emission growth, annual reporting, resources, public and governmental involvement, and public hearing. No supplemental revisions were received addressing these revisions.

Also as proposed, EPA is taking final action under Section 110 to approve all the VOC rules listed in the April 1, 1980 notice. It should be noted that certain VOC rules and regulations are being approved today and incorporated into the SIP because they strengthen existing requirements and thus are consistent with Section 110 of the Clean Air Act, even though they may not completely satisfy the RACT requirements of Part D. No supplemental revisions or public comments were received addressing EPA's proposed approval of these rules.

Conditionally Approved Portions of the NAP

Although the State did not officially submit the NSR rules with the NAP in September 1979, the State did submit their draft NSR rule and requested EPA to review this rule. As described in the April 1, 1980 notice, EPA reviewed the draft NSR rule, determined that it contained only minor deficiencies with respect to Section 173, stated that the NAP could be conditionally approved upon submittal of an NSR rule similar and equivalent to the draft NSR rule, and provided an opportunity for public comment on these actions.

As stated in the Supplemental Revisions section, EPA has found that the Monterey Bay Unified APCD's NSR rules submitted on March 4, 1980 are similar and equivalent to the State's draft NSR rule and contain only minor deficiencies with respect to section 173, with the exception of the LAER exemptions in subparagraph B.5. of Rule 207. Further, EPA found that a NAP containing these exemptions cannot be approved or conditionally approved.

Therefore, EPA disapproves this subparagraph. As a result, the Monterey Bay Unified APCD's NSR rules are conditionally approvable with respect to Section 173. Further, the conditionally approvable rules are similar and equivalent to the draft NSR rule which was subject to public comment and EPA therefore finds that good cause exists for taking final action on the Monterey Bay Unified APCD's NSR rules without first taking comment on those rules. Therefore, EPA takes final action to conditionally approve the Monterey Bay Unified APCD's NSR rules (permit program portion of the NAP) with the exception of subparagraph B.5. of Rule 207 which is disapproved.

As noted in the April 1, 1980 notice and as discussed in the Public Comments section, the legally adopted measures portion of the NAP contains a minor deficiency because the cutback asphalt rule is not fully consistent with the requirements of RACT. Therefore, EPA is conditionally approving the legally adopted measures portion of the NAP.

The conditions of approval and the associated deadlines are specified below:

V 45 / 235 DEC 4 80 UMI

1. By May 7, 1980, the NSR rules must be revised and submitted as an SIP revision. The rules must satisfy Section 173 and 40 CFR 51.18, "Review of new sources and modifications." In revising the Monterey Bay Unified APCD's NSR rules, the State/APCD must address (1) any new requirements in EPA's amended regulations for NSR under Section 173 of the Clean Air Act (August 7, 1980, 45 FR 52676) which the APCD rules do not now satisfy and (2) those deficiencies with respect to the September 5, 1979 notice cited in EPA's Evaluation Report Addendum (contained in Document File NAP–CA–14 at the EPA Library in Washington, D.C. and the Region IX office).

2. By March 4, 1981, one of the following must be submitted as an SIP revision: (1) Adequate justification that the cutback asphalt rule represents RACT, (2) amendment of the cutback asphalt rule to conform with the controls recommended in the CTG document for cutback asphalt, or (3) adequate documentation that the cutback asphalt rule will result in emission reductions which are within 5 percent of the reductions achievable with the controls recommended in the cutback asphalt CTG document.

Final Action on the NAP

Since the major deficiency noted in the April 1, 1980 notice has been corrected and only minor deficiencies remain, EPA is taking final action to conditionally approve the overall North Central Coast Air Basin NAP with respect to Part D. As a result, the current prohibition on construction of certain major new or modified sources in the North Central Coast Air Basin is no longer in effect.

In those areas for which the State of California has submitted approvable or conditionally approvable NAPs in accordance with the requirements of Part D of the Clean Air Act, EPA has a responsibility to take final action as soon as possible in order to lift the construction prohibition. Since the State has submitted a conditionally approvable NAP for the North Central Coast Air Basin, EPA finds that good cause exists for making this action immediately effective.

Under Section 307(b)(1) of the Clean Air Act, judicial review of today's action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Conditional Approval Procedure

A discussion of conditional approval and its practical effect appears in two supplements to the General Preamble (44 FR 38583, July 2, 1979 and 44 FR 67192, November 23, 1979). Conditional approval of the NAP requires the State to submit additional material by the deadlines specified in today's notice. There will be no extensions granted to the condition of approval deadlines being promulgated today. EPA will follow the procedures described below when determining if the State has satisfied the conditions.

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submittal.

2. EPA will evaluate the State's submittal to determine if the conditions are fully met. After EPA's review is completed, a **Federal Register** notice will be published proposing or taking final action to either (1) find the conditions have been met and approve the NAP or (2) find the conditions have not been met, withdraw the conditional approval, and disapprove the NAP. If the NAP is disapproved, the Section 110(a)(2)(I) prohibitions on construction would be reimposed.

3. If the State fails to submit the required materials to meet a condition, EPA will publish a **Federal Register** notice shortly after the expiration of the time limit for the submittal. The notice will announce that the conditional approval is withdrawn, the NAP is disapproved, and the Section 110(a)(2)(I) prohibition on construction is in effect.

Certain deadlines for satisfying conditions have been changed from those proposed and are being promulgated today without further notice and comment. EPA finds that for good cause additional notice and comment on these deadlines are unnecessary (See 5 U.S.C. Section 553(b)(B), Administrative Procedure Act). The State is the party responsible for meeting the deadlines and the State has agreed to the deadlines. In addition the public has had an opportunity to comment generally on the concept of conditional approval and on what deadlines should apply for these conditions (44 FR 38583, July 2, 1979 and 45 FR 21286, April 1, 1980).

40 CFR Part 52 Recissions

EPA is taking final action to rescind certain Federally promulgated regulations from 40 CFR Part 52 as proposed. No supplemental revisions or public comments addressed EPA's proposed rescissions.

VOC RACT Requirements

The April 4, 1979 General Preamble (44 FR 20378) requires agencies to submit VOC RACT regulations for certain sources located in ozone nonattainment areas. The first set of RACT regulations were required for sources covered by the Group I CTG documents published before January 1978. Regulations for sources covered by the Group I documents were to have been submitted by January 1, 1979. A second set of RACT regulations are required for sources covered by the Group II CTG documents, published between January 1978 and January 1979. Regulations for sources covered by the Group II documents were to have been submitted by July 1, 1980 (44 FR 50371, August 28, 1979). Continued satisfaction of the Part D requirements for the ozone portion of the North Central Coast Air Basin NAP is contingent on the submittal of the Group II RACT regulations. Further, these requirements have been set forth in 40 CFR 52.223.

Attainment Dates

The 1979 edition of 40 CFR Part 52 lists, in the Subpart for California, the applicable deadlines for attaining the NAAQS (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a NAP provides for attainment by the deadlines required by Section 172(a) of the Act, the new deadlines are substituted on California's attainment date chart in 40 CFR Part 52. The earlier attainment dates will be referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A) prior to the 1977 Amendments remain obligated to comply with those requirements, as well as the new Section 172 requirements. Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements, and to permit previously uncontrolled sources to comply with the newly applicable emission limitations. These new deadlines were not included to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As noted by Congressman Paul Rogers in discussing the 1977 Amendments:

> Section 110(a)(2) of the Act made clear that each source had to meet its emission limits "as expeditiously as practicable," but not later than three years after approval of a plan. This provision was not changed by the 1977 Amendments. It would be a perversion of clear Congressional intent to construe Part D to authorize relaxation or delay of emission limits for particular sources. The added time for attainment of the National Ambient Air Quality Standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under Part D. (123 Cong. Rec. H 11956, daily ed. November 1, 1977)

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond the attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions, even though a NAP with a later attainment date has been approved. However, a compliance date extension beyond a pre-existing attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment (44 FR 20373–74, April 4, 1979).

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a NAP imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be made on a case-by-case basis.

Note.—EPA has determined that this action is "specialized," and therefore not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 129, 171–178, 301(a), Clean Air Act, as amended (42 U.S.C. 7410, 7429, 4501–7508, 7601(a)))

Dated: November 26, 1980.

Douglas M. Costle,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1980.

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220 is amended by adding paragraphs (c)(51)(ii), (c)(57), (c)(58), and (c)(59), as follows:

§ 52.220 Identification of plan.

* * * * * * *

(51) * * *

(ii) Monterey Bay Unified APCD.

(A) Rule 417.

* * * * * * *

(57) The *North Central Coast Air Basin Strategy* (Chapter 10 of the comprehensive revisions to the State of California Implementation Plan for the Attainment and Maintenance of Ambient Air Quality Standards) submitted on September 12, 1979 by the Governor's designee.

* * * * * * *

(58) Revised regulations for the following APCDs submitted on December 17, 1979 by the Governor's designee.

(i) Monterey Bay Unified APCD.

(A) Rules 418, 425 and 426.

* * * * * * *

(59) Revised regulations for the following APCD submitted on March 4, 1980 by the Governor's designee.

(i) Monterey Bay Unified APCD.

(A) Rules 207 (except B.4.) and 208.

* * * * * * *

2. Section 52.222 is amended by adding paragraph (d)(1) as follows:

§ 52.222 Extensions.

* * * * * * *

(d) The Administrator hereby extends to December 31, 1987 certain attainment dates for the National Standards for ozone and CO in the following nonattainment areas:

(1) North Central Coast Air Basin for ozone.

* * * * * * *

3. Section 52.223 is amended by adding paragraph (b)(2), as follows:

§ 52.223 Approval status.

* * * * * * *

(b) * * *

(2) North Central Coast Air Basin for O_3.

* * * * * * *

4. Section 52.232 is amended by adding paragraph (a)(2), as follows:

§ 52.232 Part D conditional approval.

(a) * * *

(2) The North Central Coast Air Basin portion of the California SIP is approved as satisfying Part D requirements for ozone provided the following conditions are met:

Air quality control region and nonattainment area	Pollutants						
	TSP		SO_2		NO_2	CO	O_3
	Primary	Secondary	Primary	Secondary			
North Central Coast Intrastate	(c)	(c)	(c)	(c)	(c)	May 31, 1977	May 31, 1977

[FR Doc. 80-37651 Filed 12-3-80; 8:45 am]

BILLING CODE 4560-38-M

(i) By May 7, 1981, the NSR rules must be revised and submitted as an SIP revision. The rules must satisfy Section 173 and 40 CFR 51.18, "Review of new sources and modifications." In revising the Monterey Bay Unified APCD's NSR rules, the State/APCD must address (*a*) any new requirements in EPA's amended regulations for NSR under Section 173 of the Clean Air Act (August 7, 1980, 45 FR 52676) which the APCD rules do not now satisfy and (*b*) those deficiencies with respect to the September 5, 1979 notice cited in EPA's Evaluation Report Addendum (contained in Document File NAP–CA–14 at the EPA Library in Washington, D.C. and the Region IX office).

(ii) By March 4, 1981, one of the following must be submitted as an SIP revision: (*a*) Adequate justification that the cutback asphalt rule represents RACT, (*b*) amendment of the cutback asphalt rule to conform with the controls recommended in the CTG document for cutback asphalt, or (*c*) adequate documentation that the cutback asphalt rule will result in emission reductions which are within 5 percent of the reductions achievable with the controls recommended in the cutback asphalt CTG document.

* * * * * * *

5. Section 52.233 is revised by adding paragraph (a)(2), and rescinding and reserving paragraphs (d)(3) and (g)(1)(iii) as follows:

§ 52.233 Review of new sources and modifications.

(a) * * *

(2) Monterey Bay Unified APCD.

(i) Subparagraph B.5. of Rule 207, *Standards for Permit to Construct*, submitted March 17, 1980.

* * * * * * *

(d) * * *

(1)–(3) [Reserved].

* * * * * * *

(g) * * *

(1) * * *

(i)–(iii) [Reserved].

* * * * * * *

6. In § 52.238, the "North Central Coast Intrastate" line is revised to read as follows:

§ 52.238 Attainment dates for national standards.

* * * * * * *

40 CFR Part 261

[SWH–FRL 1660–4]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: United States Environmental Protection Agency.

ACTION: Interim final amendment to rule and request for comment.

SUMMARY: The Environmental Protection Agency ("EPA") is today amending 40 CFR 261.4 to provide that a hazardous waste that is generated in a product or raw material pipeline is not subject to regulation under 40 CFR Parts 262 through 265 or Parts 122 through 124 or the requirements of Section 3010 of the Resource Conservation and Recovery Act ("RCRA") until it is removed from the pipeline in which it was generated, unless it remains in the pipeline for more than 90 days after the pipeline ceases to be operated for the purpose of transporting product or raw materials. The purpose of this amendment is to clarify that such product or raw material pipelines are not treatment or storage facilities under Section 3004 of RCRA. The effect of this amendment is to reduce the overall costs, economic impact and reporting and recordkeeping impacts of EPA's hazardous waste management regulations.

DATES: Effective date: November 19, 1980. Comment Date: This amendment is promulgated as an interim final rule. The Agency will accept comments on it until February 2, 1981.

ADDRESSES: Comments should be addressed to Docket Clerk (Docket No. 3001), Office of Solid Waste (WH–565), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Alfred Lindsey 755–9185.

SUPPLEMENTARY INFORMATION:

I. Authority

This amendment is issued under the authority of Sections 1006, 2002(a), 3001 and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6905, 6912(a), 6921 and 6924.

II. Background

On February 26 and May 19, 1980, EPA promulgated hazardous waste regulations in 40 CFR Parts 260 through 265 (45 FR 12721 et seq. and 45 FR 33066 et seq.) and on May 19, 1980, promulgated consolidated permit regulations in 40 CFR Parts 122 through 124 (45 FR 33289 et seq.). Section 261.3 provides that a solid waste becomes a hazardous waste when (1) it first meets any of the listing descriptions set forth in Part 261, Subpart D; or (2) it first becomes a mixture containing a hazardous waste listed in Part 261, Subpart D; or (3) it first exhibits one or more of the characteristics of hazardous waste identified in Part 261 Subpart C. The effect of this provision was that hazardous sludges, sediments, and other wastes accumulating in product or raw material storage tanks or transport vehicles were subject to regulation before they were removed from the tanks or vehicles in which they were generated.

EPA did not intend to regulate these tanks and vehicles as hazardous waste storage units, except in certain limited situations. On October 30, 1980, the Agency promulgated an interim final amendment to § 261.4 in order to clarify its intent. 45 FR 72024. That amendment added a new § 261.4(c), which provides that a hazardous waste generated "in a product or raw material storage tank, a product or raw material transport vehicle or vessel, or in a manufacturing process unit or an associated non-waste treatment manufacturing unit" is not subject to regulation until it leaves the unit in which it was generated, unless the unit is a surface impoundment or ceases to be used for the storage or transportation of product or raw materials. 45 FR 72028.

As EPA explained in its October 30 **Federal Register** preamble, storage tanks, transport vehicles, and similar units are typically designed to hold valuable products or raw materials. Thus, they "are capable of holding, and are typically operated to hold, the hazardous wastes which are generated in them, until the wastes are purposefully removed." 45 FR 72025. As a result, any risks to human health or the environment posed by these wastes prior to removal "are very low and are only incidental to the risks posed by the valuable product or raw material with which they are associated." Id. EPA therefore decided that these wastes should not be subject to regulation before they are removed from the unit in which they were generated.

After that amendment was promulgated, members of the regulated community have asked whether hazardous wastes accumulating in pipelines used to transport product or raw materials should be included. These people point out that major pipeline systems are used throughout the United States to transport crude oil, petroleum products, chemicals, and other valuable products and raw materials. They contend that these pipelines are just as secure as the storage tanks and transport vehicles covered by EPA's October 30 amendment, and that wastes generated in these pipelines therefore present the same low level of risk as waste generated in storage tanks.

If wastes generated in pipelines used to transport products or raw materials were subject to regulation before removal, these pipelines would technically be hazardous waste storage facilities subject to Parts 264, 265, 122 and 124. EPA believes, however, that the reasoning of the October 30, 1980, amendments concerning product storage tanks, transportation vehicles and vessels supports inclusion of pipelines used to transport products and raw materials in the amendment. Pipelines, like product storage tanks, are designed and operated in a manner to hold the material and to prevent releases to the environment. The design and operation of many of the pipelines subject to today's amendments are governed by detailed federal regulation. See, e.g., 49 CFR Part 195 (pipelines transporting liquid hazardous materials, petroleum and petroleum products). Hazardous waste sludges and sediments, while in these pipelines, generally do not present dangers to human health and the environment. The need for the tight controls of the Subtitle C regulations is at the time that hazardous wastes are removed from these product and raw material pipelines.

Based on the foregoing, EPA is today amending § 261.4(c), which was added by the October 30 amendment, to provide that a hazardous waste generated in a product or raw material pipeline is not subject to regulation until it is removed from the pipeline, unless it remains in the pipeline for more than 90 days after the pipeline ceases to be operated for the transportation of product or raw materials. For the reasons already discussed, EPA believes that this action will not diminish protection of human health and the environment.

III. Effective Date and Regulatory Impacts

The Agency is setting November 19, 1980, as the effective date for this amendment, to insure conformity with the effective date of § 261.4(c) itself. The reasons for promulgating this amendment in interim final form and setting an immediate effective date are the same as those discussed in the preamble to the October 30, 1980, amendments. The regulatory impacts are also analogous. See 45 FR 72027–28.

EPA invites comments on all aspects of this amendment to § 261.4(c) and all of the issues discussed in this preamble. The Agency is providing a 60-day comment period and will carefully consider all comments received during that period.

Dated: November 26, 1980.

Douglas M. Costle,
Administrator.

For the reasons set out in the preamble, Part 261 of Title 40 of the Code of Federal Regulations is amended by revising § 261.4(c) to read as follows:

§ 261.4 Exclusions.

* * * * *

(c) Hazardous wastes which are exempted from certain regulations. A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment-manufacturing unit, is not subject to regulation under Parts 262 through 265 and Parts 122 through 124 of this chapter or to the notification requirements of Section 3010 of RCRA until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials.

[FR Doc. 80–37680 Filed 12–3–80; 8:45 am]

BILLING CODE 6560–30–M

DEPARTMENT OF ENERGY

41 CFR Part 109–40

Property Management Regulations, Transportation and Traffic Management

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: In the July 1, 1979, revision of Title 41 (Chapter 101 to End) of the Code of Federal Regulations, Part 109–40 appearing in Subchapter G—Transportation and Motor Vehicles, was inadvertently omitted. This Part was republished without revision appearing as 45 CFR 16489 on March 14, 1980, in a CFR Correction which permitted Part 109–40 to remain in force and effect, and to appear in the 1980 revision of Title 41. Part 109–40 is herewith updated and changed to reflect the transition from U.S. Energy Research and Development Administration (ERDA) to U.S. Department of Energy (DOE) under the DOE Organization Act (Pub. L. 95–91).

Part 109–40, as updated, was published in the **Federal Register** on Friday, July 25, 1980, at 45 FR 49601 as a proposed rule with a 30 day comment period. Only one comment was received during this period.

It was suggested that the proposed rule be revised at subpart 109–40.000 to read "* * * Government in terms of economy, efficiency, service, environment, safety and security." This comment has been incorporated verbatim into the final rule. The only additional change was in referencing the Director, Transportation Operations Staff from Transportation Officer due to a change in title. These changes are found at 40.109, 40.5001, and 40.5101.

DATE: Effective December 4, 1980.

ADDRESS: Mail Station B–107, Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

Roy F. Garrison, Director, Transportation Operations Staff, Office of Transportation and Fuel Storage, Department of Energy (301) 353–5363.

Steve Miller, Office of the General Counsel, Department of Energy (202) 252–6947.

SUPPLEMENTARY INFORMATION: DOE and its contractors for the purposes of transportation and traffic management have certain exemptions from the Federal Property and Administrative Act of 1949, as amended (Pub. L. 152, 81st Congress, 63 Stat., 377) at Title II, Section 201(b) which provides "The Administrator (GSA) shall, as far as practicable provide any of the services specified * * * to any other Federal agency * * *, *upon request.*"

Title IV, Section 602(d) of the same Act provides "nothing in this act shall impair or affect any authority of * * * (13) the Atomic Energy Commission (AEC)."

Title 41 CFR Part 109–40 Transportation and Traffic Management iterates the applicability of and departure from Title 41 Parts 101 *et seq.* for the U.S. Department of Energy and its cost-type contractors in conducting transportation and traffic management type activities.

Traffic Management and Transportation Operations functions existed in AEC. These functions were transferred to ERDA by Section 104 of the Energy Reorganization Act of 1974 (Pub. L. 93–438) and then to DOE by Section 641 of the Department of Energy Organization Act of 1977 (Pub. L. 95–91).

The Department of Energy desires to continue in effect the exemption granted to it by the Congress and consequently adopts the following amended Transportation Management Regulations. Further implementation will be published in appropriate DOE Orders. The Department of Energy has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and therefore, is not significant for the purpose of Executive Order 12044.

Issued in Washington, D.C. November 14, 1980.

George W. Cunningham,
Assistant Secretary for Nuclear Energy.

41 CFR Part 109–40 is revised to read as follows:

PART 109–40—TRANSPORTATION AND TRAFFIC MANAGEMENT

Sec.

109–40.000 Scope of part.
109–40.000–50 Applicability to contractors.

Subpart 109–40.1—General Provisions

109–40.102 Representation before regulatory bodies.
109–40.103 Selection of carriers.
109–40.103–1 Domestic transportation.
109–40.103–2 Disqualification and suspension of carriers.
109–40.103–3 International transportation.
109–40.104 Use of Government owned transportation equipment.
109–40.109 Utilization of special contracts and agreements.
109–40.110 Assistance to economically disadvantaged transportation businesses.
109–40.110–1 Small business assistance.
109–40.110–2 Minority business enterprises.
109–40.112 Transportation factors in the location of Government facilities.
109–40.113 Insurance against transportation hazard.

Subpart 109–40.3—Traffic Management

Sec.
109–40.301 Traffic management functions

locations shall be confined to statements or testimony in support of a need for service and shall not extend to

(a) U.S.-flag ocean carriers. Arrangements for international ocean transportation services shall be made in

§ 109–40.112 Transportation factors in the location of Government facilities.

Transportation rate, charges, and

§ 109–40.304 Rate tenders to the Government.

Under the provisions of section 10721 (formerly section 22) of the Interstate

(b) When a rate tender is used for transportation furnished under a cost-reimbursable contract, the following

Subpart 109–40.3—Traffic Management

Sec.
109–40.301 Traffic management functions administration.
109–40.302 Standard routing principle.
109–40.303–3 Most fuel efficient carrier/mode.
109–40.304 Rate tenders to the Government.
109–40.305–50 Negotiations involving national security.
109–40.306–1 Recommended rate tender format.
109–40.306–2 Required shipping documents and annotations.
109–40.306–3 Distribution.

Subpart 109–40.50—Bills of Lading

Sec.
109–40.5000 Scope of subpart.
109–40.5001 Policy.
109–40.5002 Applicability.
109–40.5003 Commercial bills of lading.
109–40.5004 Government bills of lading.
109–40.5005 Description of property for shipment.

Subpart 109–40.51—Price-Anderson Coverage Certifications for Nuclear Shipments

109–40.5100 Scope of subpart.
109–40.5101 Policy.

Authority: Sec. 161, as amended, 8 Stat. 948; 42 U.S.C. 2201; sec. 205, as amended, 63 Stat. 390; 40 U.S.C. 486; sec. 644, 91 Stat. 585, 42 U.S.C. 7254.

§ 109–40.000 Scope of part.

This part describes DOE regulations governing transportation and traffic management activities. It also covers arrangements for transportation and related services by bill of lading. These regulations are designed to ensure that all transportation and traffic management activities will be carried out in the manner most advantageous to the Government in terms of economy, efficiency, service, environment, safety, and security.

§ 109–40.000–50 Applicability to contractors.

DOE–PMR 109–40. Transportation and Traffic Management, should be applied to cost-type contractors' transportation and traffic management activities. Departure by cost-type contractors from the provisions of these regulations may be authorized by the contracting officer provided the practices and procedures followed are consistent with the basic policy objectives in these regulations and except to the extent such departure is prohibited by statute or executive order.

Subpart 109–40.1—General Provisions

§ 109–40.102 Representation before regulatory bodies.

Participation in proceedings related to carrier applications to regulatory bodies for temporary or permanent authority to operate in specified geographical locations shall be confined to statements or testimony in support of a need for service and shall not extend to support of individual carriers or groups of carriers.

§ 109–40.103 Selection of carriers.

§ 109–40.103–1 Domestic transportation.

(a) Preferential treatment, normally, shall not be accorded to any mode of transportation (motor, rail, air, water) or to any particular carrier when arranging for domestic transportation service. However, where, for valid reasons, a particular mode of transportation or a particular carrier within that mode must be used to meet specific program requirements and/or limitations, only that mode or carrier shall be considered. Examples of valid reasons for considering only a particular mode or carrier are (1) where only a certain mode of transportation or individual carrier is able to provide the needed service or is able to meet the required delivery date; and (2) where the consignee's installation and related facilities preclude or are not conducive to service by all modes of transportation.

(b) The following factors are considered in determining whether a carrier or mode of transportation can meet DOE's transportation service requirements for each individual shipment:

(1) Availability and suitability of carrier equipment;

(2) Carrier terminal facilities at origin and destination;

(3) Pickup and delivery service, if required;

(4) Availability of required or accessorial and special services, if needed;

(5) Estimated time in transit;

(6) Record of past performance of the carrier; and

(7) Availability and suitability of transit privileges.

§ 109–40.103–2 Disqualification and suspension of carriers.

Disqualification and suspension are measures which exclude carriers from participation, for temporary periods of time, in DOE traffic. To ensure that the Government derives the benefits of full and free competition of interested carriers, disqualification and suspension shall not apply for any period of time longer than necesary to protect the interests of the Government.

§ 109–40.103–3 International transportation.

(See 4 CFR 52.2 for a certificate required in nonuse of U.S. flag vessels or U.S. flag certificated air carriers)

(a) U.S.-flag ocean carriers. Arrangements for international ocean transportation services shall be made in accordance with the provisions of section 901(b) of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1241(b) concerning the use of privately owned U.S.-flag vessels.

(b) U.S.-flag certificated air carriers. Arrangements for international air transportation services shall be made in accordance with the provisions of section 5(a) of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1517), which requires the use of U.S.-flag certificated air carriers for international travel of persons or property to the extent that service by these carriers is available.

§ 109–40.104 Use of Government owned transportation equipment.

The preferred method of transporting property for the Government is through use of the facilities and services of commercial carriers. However, Government vehicles may be used when they are available to meet emergencies, and accomplishment of program objectives which cannot be attained through use of commercial carriers.

§ 109–40.109 Utilization of special contracts and agreements.

From time to time special transportation agreements are entered into on a Government-wide or a DOE-wide basis and are applicable, generally to DOE shipments. The DOE–HQ Director, Transportation Operations Staff, will distribute information on such agreements to field offices as it becomes available.

§ 109–40.110 Assistance to economically disadvantaged transportation businesses.

§ 109–40.110–1 Small business assistance.

Consistent with the policies of the Government with respect to small businesses, DOE shall place with small business concerns a fair proportion of the total purchases and contracts for transportation and related services such as packing and crating, loading and unloading, and local drayage.

§ 109–40.110–2 Minority business enterprises.

Minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts. DOE shall identify transportation-related minority enterprises and encourage them to provide services that will support the DOE's transportation requirements.

§ 109–40.112 Transportation factors in the location of Government facilities.

Transportation rate, charges, and commercial carrier transportation services shall be considered and evaluated prior to the selection of new site locations and during the planning and construction phases in the established of leased or relocated Government installations or facilities to ensure that consideration is given to the various transportation factors that may be involved in this relocation or deactivation.

§ 109–40.113 Insurance against transportation hazards.

The policy of the Government with respect to insurance of its property while in the possession of commercial carriers is set forth in 41 CFR 1–19.107.

Subpart 109–40.3—Traffic Management

§ 109–40.301 Traffic Management functions administration.

The DOE traffic management functions are accomplished by established field traffic offices under provisions of appropriate Departmental directives and headquarters' staff traffic management supervision.

§ 109–40.302 Standard routing principle.

(a) Shipments shall be routed using the mode of transportation, or individual carriers within the mode, that can provide the required service at the lowest overall delivered cost to the Government.

(b) When more than one mode of transportation, or more than one carrier within a mode, can provide equally satisfactory service at the same overall cost the traffic shall be distributed as equitably as practicable among the modes and among the carriers within the modes.

§ 109–40.303–3 Most fuel efficient carrier/mode.

When more than one mode, or more than one carrier within a mode, can satisfy the service requirements of a specific shipment at the same lowest aggregate delivered cost, the carrier/mode determined to be the most fuel efficient will be selected. In determining the most fuel efficient carrier/mode, consideration will be given to such factors as use of the carrier's equipment in "turn around" service, proximity of carrier equipment to the shipping activity, and ability of carriers to provide the most direct service to the destination points.

§ 109–40.304 Rate tenders to the Government.

Under the provisions of section 10721 (formerly section 22) of the Interstate Commerce Act (49 U.S.C. 10721), common carriers are permitted to submit to the Government tenders which contain rates lower than published tariff rates available to the general public. In addition, rate tenders may be applied to shipments other than those made by the Government provided the total benefits accrue to the Government; that is, provided the Government pays the charges or directly and completely reimburses the party that initially bears the freight charges (323 ICC 347 and 332 ICC 161).

§ 109–40.305–50 Negotiations involving national security.

Title 49 U.S.C., section 10721(b)(2) provides that rate tenders to the Government must be filed by the carriers with the Interstate Commerce Commission unless "a carrier is advised by the U.S. Government that disclosure of a quotation or tender of a rate established . . . for transportation provided to the U.S. Government would endanger the National security." Carriers will be informed by the negotiating official if any quotation or tender to the Department of Energy involves such information.

§ 109–40.306–1 Recommended rate tender format.

Only those rate tenders which have been submitted by the carriers in writing shall be considered for use. Carriers should be encouraged to use the format "Uniform Tender of Rates and/or Charges for Transportation Services" when preparing and submitting rate tenders to the Government. Rate tenders that are ambiguous in meaning shall be resolved in favor of the Government.

§ 109–40.306–2 Required shipping documents and annotations.

(a) To qualify for transportation under section 10721 rates, property must be shipped by or for the Government on:

(1) Government bills of lading;

(2) Commercial bills of lading endorsed to show that these bills of lading are to be converted to Government bills of lading after delivery to the consignee:

(3) Commercial bills of lading showing that the Government is either the consignor or the consignee and endorsed with the following statement:

Transportation hereunder is for the U.S. Department of Energy, and the actual total transportation charges paid to the carrier(s) by the consignor or consignee are assignable to, and are to be reimbursed by, the Government.

(b) When a rate tender is used for transportation furnished under a cost-reimbursable contract, the following endorsement shall be used on covering commercial bills of lading:

Transportation hereunder is for the U.S. Department of Energy and the actual total transportation charges paid to the carrier(s) by the consignor or the consignee are to be reimbursed by the Government, pursuant to cost-reimbursable contract number ( ). This may be confirmed by contacting the agency representative at (name and telephone number). (See 332 ICC 161.)

(c) To ensure proper application of a Government rate tender on all shipments qualifying for their use, the issuing officer shall show on the bills of lading covering such shipments the applicable rate tender number and carrier identification: such as, "Section 10721 tender, ABC Transportation Company, ICC No. 374." In addition, if commercial bills of lading are used, they shall be endorsed as specified above.

§ 109–40.306–3 Distribution.

Each agency receiving rate tenders shall promptly submit one signed copy to the Transportation and Public Utilities Service (WIT), General Services Administration, Washington, DC 20407. Also, two copies (including at least one signed copy) shall be promptly submitted to the General Services Administration (TA). Chester A. Arthur Building, Washington, DC 20406.

Subpart 109–40.50—Bills of Lading

§ 109–40.5000 Scope of subpart.

This subpart sets forth the requirements under which commercial or Government bills of lading may be used.

§ 109–40.5001 Policy.

Generally DOE cost-type contractors will use commercial bills of lading in making shipments for the account of the DOE. Cost-type contractors may be authorized by the contracting officer to use Government bills of lading if such use will be advantageous to the Government. Such authorizations shall be coordinated with the DOE-HQ Director, Transportation Operations Staff.

§ 109–40.5002 Applicability.

The policy and procedures set forth in this subpart shall be applied when DOE's cost-type contractors use commercial bills of lading.

§ 109–40.5003 Commercial bills of lading.

(a) DOE's cost-type contractors using commercial bills of lading in making shipments for the account of the DOE shall include the following statement or

one substantially the same on all commercial bills of lading:

Subpart 109–40.51—Price-Anderson Coverge Certifications for Nuclear Shipments

The area described aggregates 320 acres in Caribou County.

2. The State of Idaho has waived its

Willamette Meridian

Revested Oregon and California Railroad Grant Land

Sec. 5, those portions of lot 1, SE¼NE¼, and NE¼SE¼ located within 330 feet on each side of the center line of the existing U.S. Highway No. 97 (the Dalles-

Service exchange with the State of Idaho under the General Exchange Act of March 20, 1922, 16 U.S.C. 485.

one substantially the same on all commercial bills of lading:

This shipment is for the account of the U.S. Government which will assume the freight charges and is subject to the terms and conditions set forth in the standard form of the U.S. Government bills of lading and to any available special rates or charges.

(b) The foregoing language may be varied without materially changing its substance to satisfy the needs of particular cost-type contractors for the purpose of obtaining the benefit of the lowest available rates for account of the Government.

(c) Where particable, commercial bills of lading shall provide for consignment of a shipment to the DOE c/o the cost-type contractor or by the contractor "for the DOE."

(d) Commercial bills of lading exceeding $10,000 issued by cost-type contractors shall be annotated with a typewritten, rubber stamp, or similar impression containing the following wording:

Equal Employment Opportunity. All provisions of Executive Order 11246 as amended by Executive Order 11375 and of the rules, regulations, and relevant orders of the Secretary of Labor are incorporated herein.

§ 109-40.5004 Government bills of lading.

(a) In those instances where DOE cost-type contractors are authorized to use Government bills of lading, specific employees of cost-type contractors will be authorized by the contracting officer to issue such Government bills of lading (see Title V, U.S. Government Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies).

§ 109-40.5005 Description of property for shipment.

(a) Each shipment shall be described on the bill of lading or other shipping document as specified by the governing freight classification, carrier's tariff, or rate tender. Shipments shall be described as specifically as possible. Trade names such as "Foamite" or "Formica" or general terms such as "vehicles," "furniture," or "Government supplies," shall not be used as bill of lading descriptions.

(b) A shipment containing hazardous materials, such as explosives, radioactives, flammable liquids, flammable solids, oxidizers, or poison A or poison B, shall be prepared for shipment and described on bills of lading or other shipping documents in accordance with the Department of Transportation Hazardous Materials Regulations, 49 CFR, parts 100-189.

Subpart 109-40.51—Price-Anderson Coverge Certifications for Nuclear Shipments

§ 109-40.5100 Scope of subpart.

This subpart sets forth the policy for issuance of certifications regarding Price-Anderson coverage of particular shipments of nuclear materials.

§ 109-50.5101 Policy.

Upon request of a carrier, an appropriate certification will be issued by an authorized representative of the DOE to the carrier regarding the applicability of Price-Anderson indemnity to a particular shipment. Copies of such certifications if performed by a Field Manager or a DOE cost-type contractor shall be provided to the DOE/HQ Director, Transportation Operations Staff.

[FR Doc. 80-37839 Filed 12-3-80; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 5778

[I-16254]

Idaho; Powersite Restoration No. 761; Partial Revocation of Powersite Reserve No. 241

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will partially revoke Powersite Reserve No. 241. It has been determined that these lands will not be developed for power purposes but will be restored to the operation of the public land laws.

EFFECTIVE DATE: January 3, 1981.

FOR FURTHER INFORMATION CONTACT: Larry R. Livesay, 208-334-1735.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-627-Idaho, it is ordered as follows:

1. The Executive Order of July 2, 1910, creating Powersite Reserve No. 241, is hereby revoked so far as it affects the following described lands:

Boise Meridian

T. 7 S., R. 43 E.,
Sec. 19, SE¼NW¼, and NE¼SE¼;
Sec. 29, SE¼NE¼, NE¼NW¼, and W½SE¼;
Sec. 31, NE¼NE¼;
Sec. 34, SE¼SW¼.

The area described aggregates 320 acres in Caribou County.

2. The State of Idaho has waived its right to select lands for highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, 16 U.S.C. 818.

3. At 10 a.m. on January 3, 1981, the above described lands shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable laws. All valid applications received at or prior to 10 a.m. on January 3, 1981, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The public lands in this order have been and continue to be open to applications and offers under the mineral leasing laws, and to location under the U.S. mining laws.

Inquiries concerning the lands should be addressed to the State Director, Idaho State Office, Box 042, Federal Building, 550 West Fort Street, Boise, Idaho 83724.

Guy R. Martin,
Assistant Secretary of the Interior.
November 28, 1980.
[FR Doc. 80-37640 Filed 12-3-80; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 5779

[OR 19471]

Oregon; Revocation of Timber Preservation Area Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial order which withdrew 113.05 acres of land for timber preservation. This action will restore the land to operation of the public land laws generally. The lands involved will remain open to operation of the Mining Law of 1872.

EFFECTIVE DATE: January 3, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., 503-231-6905.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Order of March 18, 1947, which withdrew the following described lands for timber preservation purposes is hereby revoked:

Willamette Meridian

Revested Oregon and California Railroad Grant Land

T. 1 S., R. 5 E.,
Sec. 1, Lots 3 and 4;
Sec. 3, Lot 1.

The areas described aggregate 113.05 acres in Multnomah County.

2. At 10 a.m., on January 3, 1981, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the lands will be open to such forms of disposition as may by law be made of revested Oregon and California Railroad Grant Lands.

3. The lands have been and continue to be open to location under the United States mining laws and to applications and offers under the mineral leasing laws.

Inquiries concerning the lands should be addressed to the State Director, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Guy R. Martin,
Assistant Secretary of the Interior.
November 28, 1980.
[FR Doc. 80-37637 Filed 12-3-80; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 5780

[ORE-06519]

Oregon; Partial Revocation of Public Land Order No. 2407

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order in part as to 30 acres of national forest land withdrawn as a Forest Service roadside zone. This action will restore the land to operation of the public land laws generally, including the mining laws.

EFFECTIVE DATE: January 3, 1981.

FOR FURTHER INFORMATION CONTACT: Champ C. Vaughan, Jr., Oregon State Office, 503-231-6905.

By virtue of the authority contained in Section 204(a) of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 2407 of June 21, 1961, which withdrew certain national forest lands for roadside zone purposes is hereby revoked so far as it affects the following described land:

Willamette Meridian

Winema National Forest

T. 28 S., R. 8 E.,
Sec. 5, those portions of lot 1, SE¼NE¼, and NE¼SE¼ located within 330 feet on each side of the center line of the existing U.S. Highway No. 97 (the Dalles-California Highway).

The area described contains approximately 30 acres in Klamath County, Oregon.

2. At 10 a.m. on January 3, 1981, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the land will be open to such forms of disposition as may by law be made of national forest land.

3. At 10 a.m. on January 3, 1981, the land will be open to location under the United States mining laws. The land has been and continues to be open to applications and offers under the mineral leasing laws.

Guy R. Martin,
Assistant Secretary of the Interior.
November 28, 1980.
[FR Doc. 80-37641 Filed 12-3-80; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 5781

[I-12900]

Powersite Restoration No. 755; Partial Revocation of Powersite Reserve No. 440

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes 80 acres of national forest lands from a Powersite Reserve to permit consummation of a pending Forest Service exchange.

EFFECTIVE DATE: December 4, 1980.

FOR FURTHER INFORMATION CONTACT: Larry Livesay, Idaho State Office, 208-334-1735.

By virtue of the authority contained in Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and pursuant to the determination by the Federal Energy Regulatory Commission in DA-620-Idaho, it is ordered as follows:

1. The Executive Order of June 6, 1914, creating Powersite Reserve No. 440, is hereby revoked so far as it affects the following described lands:

St. Joe National Forest

Boise Meridian

T. 41 N., R. 5 E.,
Sec. 2, SE¼SW¼;
Sec. 16, NW¼NW¼.

The area described contains 80 acres in Clearwater County.

2. The land described above shall immediately become available for consummation of a pending Forest Service exchange with the State of Idaho under the General Exchange Act of March 20, 1922, 16 U.S.C. 485.

Guy R. Martin,
Assistant Secretary of the Interior.
November 28, 1980.
[FR Doc. 80-37642 Filed 12-3-80; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 5782

[R-1663]

California; Withdrawal for National Forest Recreation and Administrative Sites; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This document will correct an error in the land description of Public Land Order No. 5747 of August 20, 1980, as published at 45 FR 57398 (August 28, 1980) and change a lot number as a result of a resurvey.

EFFECTIVE DATE: December 4, 1980.

FOR FURTHER INFORMATION CONTACT: Marie Getsman, California State Office, 916-484-4431.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. A description of the lands in Public Land Order No. 5747 of August 20, 1980, in FR Doc. 80-26316 appearing at page 57398 in the issue for Thursday, August 28, 1980, in the second column, second line under Rush Creek Campground reads "Sec. 33, E½SW¼SW¼, W½SE¼SE¼." It should be corrected to read "Sec. 33, E½SW¼SE¼, W½SE¼SE¼."

2. In accordance with a resurvey dated December 3, 1970, a description of the lands in the same public land order, column 3, third line under Gull Lake Campground reads "Sec. 15, E½E½ of lot 2." It should be described as "Sec. 15, E½E½ of lot 6."

Guy R. Martin,
Assistant Secretary of the Interior.
November 28, 1980.
[FR Doc. 80-37638 Filed 12-3-80; 8:45 am]
BILLING CODE 4310-84-M

43 CFR Public Land Order 5783

[I-3405]

Idaho; Partial Revocation of Veterans Administration Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order restores 9.770 acres of public land to the mineral leasing laws and to the disposal of materials.

EFFECTIVE DATE: January 3, 1981.

FOR FURTHER INFORMATION CONTACT: Larry Lievsay, Idaho State Office, 208–334–1735.

By virtue of the authority contained in Section 204(a) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. The Executive Order No. 7798 of January 26, 1938, withdrawing public lands for the Veterans Administration is hereby revoked so far as it affects the following described land:

Boise Meridian, Idaho

T. 3 N., R. 2 E.,
Sec. 2: (Tract 44) described by metes and bounds as follows: Beginning at a iron post, 2 ins. diam., firmly set, 6 ins. showing, from which the cor. of secs. 2, 3, 10 and 11, T. 3 N., R. 2 E., Boise meridian bears S. 76°57' W., 1,755.60 ft.
From corner No. 1, by metes and bounds,
N. 16°09' W., 210.94 ft., to corner No. 2;
N. 13°58' E., 518.56 ft., to corner No. 3;
N. 74°02' W., 154.31 ft., to corner No. 4;
S. 58°18' W., 284.53 ft., to corner No. 5;
N. 67°21' W., 373.03 ft., to corner No. 6;
S. 64°32' E., 795.30 ft., to corner No. 7;
N. 25°28' E., 911.46 ft., to corner No. 8;
S. 59°18' W., 534.14 ft., to corner No. 1, the place of beginning.
The tract as described contains 9.770 acres.

2. The above described tract has been classified under the Recreation and Public Purposes Act of June 14, 1926, as amended, 43 U.S.C. 869; 869–4. The land, therefore, will not be subject to other use or disposition under the public land laws, including the mining laws.

3. At 10 a.m., on January 3, 1981, the tract will be open to applications and offers under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. 181–287; and to the disposal of materials under the Act of July 31, 1947, as amended, 30 U.S.C. 601–604.

Inquiries concerning the tract should be addressed to the State Director, Bureau of Land Management, Federal Building, Box 042, 550 W. Fort Street, Boise, Idaho 83724.

Guy R. Martin,

Assistant Secretary of the Interior.

November 28, 1980.

[FR Doc. 80-37630 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1000

Definition of Special Agents, Accountants, and Examiners

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The purpose of this document is to revise the definition of special agents, accountants, and examiners in 49 CFR 1000.5(c) due to the reorganization of the Commission's Bureau of Enforcement and Bureau of Operations into the Office of Consumer Protection. Because this rule involves the internal organization of the Commission, it is issued in final form, and public comments are not being requested.

EFFECTIVE DATE: December 4, 1980.

FOR FURTHER INFORMATION CONTACT: Pat McQuie Nagle, (202) 275–7587.

SUPPLEMENTAL INFORMATION: In May 1980, the Commission reorganized the Bureau of Enforcement and the Bureau of Operations and established the Office of Consumer Protection. This reorganization resulted in new titles for various employees who are defined under 49 CFR 1000.5(c), and the regulation is revised to reflect those changes.

Accordingly, 49 CFR 1000.5(c) is amended by revising the list of employee titles which follows the introductory text:

Chairman
Vice Chairman
Commissioners
Bureau and Office Heads and Directors; Associate, Assistant and Deputy Heads and Directors; Assistants to Heads and Directors; Chiefs and Assistant Chiefs of Sections; and Branch Chiefs of all Headquarters Bureaus, Offices and Sections
Public Information Officer and Assistant
Chairpersons of Employee Boards
Regional Directors
Assistant and Associate Regional Directors
Regional Counsel
Assistant Regional Counsel
Branch Chiefs, Field Offices
Trial Attorneys
Transportation Assistants and Consumer Specialists
Transportation Industry Analysts
Railroad Car Service Agents
District Supervisors
Auditors and Financial Analysts
Economists
Investigators

(49 U.S.C. 11144(b) and 5 U.S.C. 553)

Decided: November 20, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-37723 Filed 12-3-80; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1033

[S.O. No. 1491]

Louisiana & Arkansas Railway Co. Authorized To Operate Over Tracks of the Atchison, Topeka and Santa Fe Railway Company

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1491, and Notice of Modified Hearing Procedure for extension beyond 30 days.

SUMMARY: This order authorizes the Louisiana & Arkansas Railway Company to operate over the tracks of The Atchison, Topeka and Santa Fe Railway Company, and establishes a modified hearing procedure to consider extension of the order beyond its initial 30-day period.

Under 49 U.S.C. 11123(a) the Commission may issue a service order for up to 30 days when it finds that a "failure in traffic movement exists which creates an *emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States,"* (emphasis added). Extension of the order requires that the full Commission, after a hearing, certify the continued existence of the emergency.

DATES: This order shall become effective at 12:01 a.m. on December 1, 1980, and shall remain in effect for 30 days unless otherwise modified, amended, or vacated by order of this Commission.

COMMENTS: Any interested party may file statements providing information and argument relating to the necessity and appropriateness of continuing this order in effect beyond the initial 30-day period by filing an original and 5 copies of a statement in affidavit form by December 9, 1980. Rebuttal statements in affidavit form (original and 5 copies) may be filed by December 15, 1980.

ADDRESS: All filings should be addressed to Joel E. Burns, Chairman, Railroad Service Board, Interstate Commerce Commission, Room 7115, Washington, D.C. 20423; and in the lower left hand corner in large letters, should have printed RSB–7115.

Interested parties wishing to review the docket file may do so in Room 7225 of the Commission in Washington, D.C.

FOR FURTHER INFORMATION CONTACT: M. F. Clemens, Jr. (202) 275–7840.

SUPPLEMENTARY INFORMATION:

Decision

Section 226 of the Staggers Rail Act of 1980 (Pub. L. 96–448) revised 49 U.S.C. 11123(a) by limiting the Commission's authority to act in emergency situations to those where it finds that a "failure in traffic movement exists which creates an emergency situation of such magnitude as to have substantial adverse effects on rail service in the United States or a substantial region of the United States." The initial period for the service order may not exceed 30 days and the order may be extended only after the full Commission, after a hearing, certifies the continued existence of the transportation emergency. This initial issuance contains the Notice of the modified hearing procedures (set forth in the Summary) to be followed with respect to any extension of the order.

It is the opinion of the Commission that the statutory criteria of Section 11123(a) for the issuance of a service order has been met, and more particularly that:

The Louisiana & Arkansas Railway Company (L&A) was granted temporary authority in Service Order No. 1267 to operate over tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) between milepost 53 plus 1802.2 feet and milepost 50 plus 4,100 feet in Dallas, Texas.

Pursuant to Section 226 of the Staggers Rail Act of 1980 (Pub. L. 96–448) and the Commission's Policy Statement on 49 U.S.C. 11123(a) Emergency Car Service Orders, dated October 24, 1980, temporary operating authority granted to L&A in Service Order No. 1267 must expire on November 30, 1980.

L&A has now submitted an application for an emergency service order, pursuant to 49 U.S.C. 11123(a), as amended by Section 226 of the Staggers Rail Act of 1980, to be effective December 1, 1980, to assure the shipping public of uninterrupted rail service.

L&A's lines extend from Dallas, Texas through Shreveport, Lousiana to New Orleans, Louisiana. In 1979, L&A moved 20,077 carloads of freight from, to or through the Dallas Terminal, both export and domestic traffic. An expiration of this authority will have a substantial adverse effect on rail service in the Southwestern region of the United States by the elimination of L&A's ability to handle this substantial volume of traffic through a vital gateway. ATSF has concurred with the operation of L&A trains over its tracks.

It is the opinion of the Commission that this emergency situation requires operation by the L&A over tracks of the ATSF; that prior notice of this action and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1491 Service Order No. 1491.

(a) *Louisiana & Arkansas Railway Company authorized to operate over tracks of the Atchison, Topeka and Santa Fe Railway Company—Authority.* The Louisiana & Arkansas Railway Company (L&A) is authorized to operate over the tracks of The Atchinson, Topeka and Santa Fe Railway Company (ATSF) between milepost 53 plus 1802.2 feet and milepost 50 plus 4,100 feet and ATSF connecting track sufficient to enter Cadiz yard.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) Nothing herein shall be considered as a prejudgment by the Commission to an application by L&A seeking permanent authority to operate over aforementioned tracks of ATSF.

(d) *Effective date.* This order shall be effective at 12:01 a.m., December 1, 1980.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 30, 1980, unless otherwise modified, amended, or vacated by order of this Commission.

This action is taken under authority of 49 U.S.C. 10304, 10305, and 11123(a), and 49 CFR 1011.6(c)(6).

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

Decided: November 28, 1980.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John H. O'Brien. Joel E. Burns not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-37732 Filed 12-3-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Emergency Closure of Canada Goose Season in Certain Illinois Counties

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rulemaking closes the Canada goose hunting season in the Illinois counties of Alexander, Jackson, Williamson and Union. The Canada goose season in these counties opened November 3, 1980, with a December 31, 1980, closing date, provided that the harvest quota of 27,000 birds was not filled prior to that date. It is now expected the quota will be filled by 3 p.m., Wednesday, December 3, 1980. Therefore, the season for taking Canada geese in the Illinois counties of Alexander, Jackson, Williamson and Union will close effective at 3 p.m., Wednesday, December 3, 1980, and no Canada geese shall be killed in those counties after 3 p.m. on that date. The season for taking Canada geese in the remaining counties of Illinois will close at sunset on Monday, December 22, 1980, in the north zone and at sunset on Wednesday, December 31, 1980, in the central and south zones, as previously established.

EFFECTIVE DATE: December 3, 1980.

FOR FURTHER INFORMATION CONTACT: John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240 (202–343–3207).

SUPPLEMENTARY INFORMATION: Regulations allowing the hunting of Canada geese in Illinois were published in the **Federal Register** dated September 4, 1980 (45 FR 58549) and September 16, 1980 (45 FR 61539 and 61541), and took effect immediately. The September 4, 1980, **Federal Register** established a harvest quota of 33,000 Canada geese of which 27,000 were allotted to Alexander, Jackson, Williamson and Union Counties. The September 16, 1980, **Federal Register** established a season closing date of December 31, 1980, for these four counties providing the 27,000 Canada goose quota was not filled prior to that date. The Service monitoring of the Canada goose take in the area leads it to conclude that the 27,000 quota will be filled by 3 p.m., Wednesday, December 3, 1980. Therefore, the Service gives notice as required by 50 CFR 20.26

that the season for taking Canada geese in the Illinois counties of Alexander,

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that the season for taking Canada geese in the Illinois counties of Alexander, Jackson, Williamson, and Union will be closed at 3 p.m., Wednesday, December 3, 1980, and no Canada geese shall be killed in those four counties after 3 p.m. on December 3, 1980. The season for taking Canada geese in the remaining counties of Illinois will close at sunset on Monday, December 22, 1980, in the north zone and at sunset on Wednesday, December 31, 1980, in the central and south zones, as previously established under Section 20.105(d) in the September 16, 1980, **Federal Register**.

Because of time constraints, the Service finds that publication of a proposed rule and the solicitation of comments thereon are impracticable and contrary to the public interest and provide good cause for these regulations to take effect upon publication pursuant to 5 U.S.C. 553(b) and (d).

Authorship

The primary author of this final rule is Henry M. Reeves, Office of Migratory Bird Management, working under the direction of John P. Rogers, Chief.

Exemption From Executive Order 12044 and 43 CFR Part 14

As discussed in the **Federal Register** dated February 29, 1980 (45 FR 13630) the Assistant Secretary for Fish and Wildlife and Parks has concluded that the ever decreasing time frames in the regulatory process are mandated by the statutory requirements under Section 704 of the Migratory Bird Treaty Act and the Administrative Procedure Act. The regulatory process simply has no remaining flexibility in its timetable between the accumulation of critical summer survey data and the publication of the revised sets of proposed rulemakings. Compliance with the procedures for the development of significant rules and the preparation of a regulatory analysis established under Executive Order 12044 would simply not be possible if the fall hunting season deadlines were to be achieved. Consequently, although the rules establishing the annual migratory bird hunting regulations are significant, the Assistant Secretary for Fish and Wildlife and Parks has approved the exemption of these regulations from the procedures of Executive Order 12044 and 42 CFR Part 14 which is provided for in § 14.3(f).

Dated: December 1, 1980.

Lynn A. Greenwalt,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 80-37731 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-55-M

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Thursday, December 4, 1980

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 67

[Docket No. 21130; Notice No. 80-24]

Issuance of Airman Medical Certificates for Certain Conditions; Public Hearing

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public hearing.

SUMMARY: This notice announces a public hearing for the exchange of views by interested persons on the proposed exemption procedures for the issuance of airman medical certificates to persons with certain medical conditions who do not initially qualify for certification under the medical standards in the Federal Aviation Regulations. An opportunity will be given to all participants to fully discuss all matters presented at the hearing.

DATES: The public hearing will be held on January 6 and 7, 1981.

ADDRESS: Meeting place: The public hearing will be held at: Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, Auditorium, 3rd Floor, (202) 755-8714.

Requests to be heard should identify the docket or notice number, indicate the subject of the presentation and time required, and be sent in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Airmen and Airports Branch, AGC-240, 800 Independence Avenue, SW., Washington, D.C. 20591; or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

Requests delivered must be marked "Public Hearing, Notice No. 80-24." Requests may be inspected at Room 916 between 8:30 am. and 5:00 pm.

FOR FURTHER INFORMATION CONTACT: Donald P. Byrne, Airmen and Airports Branch, Office of the Chief Counsel, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 426-3491.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register**, the FAA has published Notice of Proposed Rule Making No. 80-24, proposing to amend Part 67 of the Federal Aviation Regulations to make it clear that applicants with medical conditions that exclude them from obtaining a special issuance under § 67.19 (Special issue: operational limitations) may petition for an exemption.

Under § 67.19 an applicant for a medical certificate with a medical condition not excluded from the section may be given a special flight test, practical test, or medical evaluation to determine that, notwithstanding the applicant's failure to meet an applicable medical standard, airman duties can be performed without endangering safety in air commerce. If this determination can be made, a medical certificate is issued with appropriate limitations to ensure safety.

Applicants with certain medical conditions may not now apply for the special issuance of a medical certificate under § 67.19. However, these applicants may petition for an exemption from the specific medical standard he or she has failed to meet, in accordance with § 11.25, "Petitions for rulemaking and exemptions." If the relief requested is in the public interest and will provide a level of safety equivalent to that provided by the standard, an exemption may be issued authorizing an appropriate medical certificate.

The proposed amendment would explicitly state in Part 67 that applicants with medical conditions that exclude them from obtaining a special issuance under § 67.19 may petition for an exemption. The amendment would state what an airman with one of these initially disqualifying conditions must show to support such a petition.

The amendment would also provide for the issuance of airman medical certificates with functional limitations when they are needed to ensure a level of safety equivalent to that provided by persons who meet the certification standards in §§ 67.13, 67.15 and 67.17. However, the issuance of a functionally limited certificate would only come about after a medical determination by the Federal Air Surgeon and an operational determination by the Director, Office of Flight Operations. Appropriate delegations of authority for the issuance of these limitations would be made by the Administrator.

Revision of Cardiovascular Standard

The notice also proposes to revise the medical standard for applicants who have a history or clinical diagnosis of heart disease. This revision conforms the standard to the current medical understanding of the risks, symptoms, the findings associated with the presence of heart disease. The proposal would ensure that all individuals who may be subject to the adverse health effects of heart disease are screened during the initial application for a medical certificate, and that aviation safety is not compromised by the certification of any individual whose cardiovascular status represents an unacceptable risk.

Public Hearing

The FAA will hold a public hearing in connection with these proposals on January 6 and 7, 1981. All interested persons are invited to attend to present their views on any aspect of these proposals.

Hearing Procedures

Persons who plan to attend the hearing should be aware of the following procedures, which will be followed to facilitate the workings of the hearing:

(a) The hearing will be informal in nature and will be conducted by the designated representative of the Administrator under 14 CFR 11.33. Each participant will be given an opportunity to make a presentation. After all presentations have been made, an opportunity for rebuttal will be given.

(b) The hearing will begin at 10:00 a.m. on the morning of January 6, 1981, at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C., in the 3rd floor auditorium. There will be no admission fee or other charge to attend and participate. All hearing sessions will be open to all persons on a space-available basis. The presiding officer may accelerate the hearing agenda to enable early adjournment if the progress of the hearing is more expeditious than planned.

(c) All hearing sessions will be recorded by a court reporter. Anyone interested in purchasing the transcript should contact the court reporter. A copy of the court reporter's transcript will be filed in the docket. It is the FAA's intent to tape record the sessions.

(d) Position papers or other hand-out material may be accepted at the discretion of the presiding office.

(e) Statements made by the FAA participants at the hearing should not be taken as expressing a final FAA position.

Request To Make a Presentation

Interested persons are invited to attend the hearing and to participate by making oral or written statements. Written statements should be submitted in duplicate and will be made a part of the rules docket. Persons wishing to make oral statements at the hearing must notify the FAA on or before December 30, 1980, and indicate the amount of time requested for their initial statements. Presentations will be scheduled on a first-come first-served basis as time may permit within the hearing schedule. Requests to be heard should indicate the subject matter of the presentation and time required, and be sent to:

Federal Aviation Administration, Office of the Chief Counsel, Attn: Airmen and Airports Branch, AGC–240, 800 Independence Avenue, S.W., Washington, D.C. 20591.

Public Hearing Schedule

The following is the schedule for the hearing:

January 6, 1980

Time and Topic

10:00 to 10:30—Opening Session
10:30 to 12:00—Public Presentation and Discussion
1:30 to 4:30—Public Presentation and Discussion

January 7, 1980

10:00 to 12:00—Public Presentation and Discussion
1:30 to 4:30—Public Presentation and Discussion

(Secs. 313(a), 601, 602, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1422); sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.33)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA has determined that the expected impact of the proposed regulations is so minimal that they do not require an evaluation.

Issued in Washington, D.C., on December 1, 1980.

Jan L. Jordan,

Acting Federal Air Surgeon.

[FR Doc. 80-37736 Filed 12-3-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 67

[Docket No. 21130; Notice No. 80-24]

Medical Standards and Certification; Issuance of Airman Medical Certificates for Certain Conditions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes exemption procedures for the issuance of airman medical certificates to persons with certain medical conditions who do not initially qualify for certification under the medical standards in the Federal Aviation Regulations. This proposal will benefit the public at large by explicating the public benefits of the FAA program and it will benefit future applicants by more clearly setting forth the criteria for obtaining an exemption, as they apply to particular kinds of diseases.

This notice also proposes to revise the medical standard for applicants who have a history or clinical diagnosis of heart disease. This revision conforms the standard to the current medical understanding of the risks, symptoms, and findings associated with the presence of heart disease. The proposal would ensure that all individuals who may be subject to the adverse health effects of heart disease are screened during the initial application for a medical certificate and that aviation safety is not compromised by the certification of any individual whose cardiovascular status represents an unacceptable risk.

DATES: Comments on these proposals must be received on or before February 4, 1981.

ADDRESS: Comments on this proposal may be sent in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 21130, Washington, D.C. 20591; or delivered in duplicate to: Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

Comments delivered must be marked: Docket No. 21130 Comments may be inspected at Room 916 between 8:30 am and 5:00 pm.

FOR FURTHER INFORMATION CONTACT: William H. Hark, M.D., Aeromedical Standards Division, Office of Aviation Medicine, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone (202) 426–3802.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC–204, 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before February 4, 1981, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 21130." The postcard will be date and time stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rule Making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426–3058. Communications must identify the notice number of this NPRM. Persons interested in being placed on the mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

Background

Current Rule

Sections 67.13, 67.15, and 67.17 of Part 67 of the Federal Aviation Regulations

(14 CFR 67.13, 67.15, and 67.17) prescribe the medical standards for issuing medical certificates to airmen. An applicant who is found to meet the appropriate medical standards, based on a medical examination and an evaluation of the applicant's history and condition, is entitled to a medical certificate.

Part 67 provides for the issuance of three classes of medical certificate. A first-class medical certificate is required in order to exercise the privileges of an airline transport pilot certificate. Second and third-class medical certificates are needed for commercial and private pilot certificates, respectively.

An applicant for a medical certificate who is unable to meet the standards in §§ 67.13, 67.15, or 67.17 may nevertheless be issued an appropriate medical certificate under one of two procedures.

Under § 67.19, "Special issue: operational limitations," at the discretion of the Federal Air Surgeon, a special flight test, practical test, or medical evaluation may be conducted to determine that, notwithstanding the applicant's failure to meet the applicable medical standard, airman duties can be performed without endangering safety in air commerce. If this determination can be made, a medical certificate is issued with appropriate limitations to ensure safety.

Applicants with certain medical conditions may not now apply for the special issuance of a certificate under § 67.19. Except for applicants seeking an air traffic control tower operator certificate, a special issuance may not be made to applicants who fail to meet the requirements of §§ 67.13(d)(1)(i), (d)(2)(i), (e)(1), or (f)(1), 67.15(d)(1)(i), (d)(2)(i), (e)(1), or (f)(1), or 67.17(d)(1)(i), (d)(2)(i), (e)(1), or (f)(1). These provisions disqualify an applicant with established medical history or clinical diagnosis of any of the following: (1) A personality disorder severe enough to have repeatedly manifested itself by overt acts; (2) a psychosis; (3) alcoholism; (4) drug dependence; (5) epilepsy; (6) a disturbance of consciousness without satisfactory medical explanation of the cause; (7) myocardial infarction; (8) angina pectoris or other evidence of coronary heart disease that the Federal Air Surgeon finds may reasonably be expected to lead to myocardial infarction; or (9) diabetes mellitus that requires insulin or other hypoglycemic drug for control.

The second procedure open to an applicant is to petition for an exemption from the specific medical standard he or she has failed to meet, in accordance with § 11.25, "Petitions for rulemaking and exemptions." If the relief requested is in the public interest and will provide a level of safety equivalent to that provided by the standard, an exemption may be issued authorizing an appropriate medical certificate. Should the need exist, a certificate issued under the authority of an exemption may be limited in such a way as to ensure safety will not be compromised.

History

Physical standards for airmen have been in effect for many years. Minimum requirements as to the physical condition of an airman were published in the Code of Federal Regulations in 1938 under the authority of the Air Commerce Act (14 CFR Parts 20 and 21, 1938). The early rules did not provide for the issuance of airman medical certificates, but merely prescribed general standards and required that the appropriate physical examination be given before any test for a pilot certificate. A system for the issuance of airman medical certificates was first adopted in 1942, when a new Part 29 established the three classes of medical certificates that are issued today.

The Federal Aviation Administration and its predecessor agencies have always reserved some discretion in the application of medical standards to applicants for airman certificates. Revisions were made to this provision over the years but the basic provision continued to allow for the issuance of a medical certificate to a person who did not meet the required medical standards. However, that person had to demonstrate by operational experience, special practical or flight testing, or special medical evaluation that he or she could carry out the appropriate airman duties in a manner which would not endanger safety in air commerce during the period of validity of the medical certificate.

In 1959 a number of significant changes in Part 29 took effect. One amendment required that applicants for first class certificates take electrocardiographic examinations to demonstrate an absence of myocardial infarction. A second amendment substantially revised Part 29 to provide additional specific standards relating to the applicant's general physical condition and nervous system. The revisions were based on a study conducted by the Flight Safety Foundation, Inc. The study recommended that the certification criteria in Part 67 by expanded to cover the following specific medical conditions:

(1) An established diagnosis of diabetes requiring insulin or other hypoglycemic agents for treatment;

(2) A history of myocardial infarction or other evidence of coronary artery disease; and

(3) A history of an established diagnosis of psychosis, severe psychoneurosis, severe personality abnormality, epilepsy, chronic alcoholism or drug addiction.

The Foundation recommended, in effect, that existence of any of the conditions in these three categories be an appropriate basis for disqualification for any class of medical certificate. The recommendation was based on the medical findings available at the time indicating that none of these three areas could be so precisely studied in the individual as to provide assurance that they would not interfere with the safe piloting of aircraft. The Foundation found that the likelihood of the occurrence of partially or totally incapacitating states directly attributable to these conditions was so great, and the ability to provide acceptable medical assurance of non-occurance of such states was so inadequate, that these conditions existing in airmen constitute a definite hazard to safety in flight.

Because of this recommendation, the waiver procedure then in Part 29 (the predecessor of § 67.19) was amended to preclude the special issuance of medical certificates to applicants with these initially disqualifying conditions (the same nine conditions that are now in § 67.19).

While this amendment limited the use of waiver procedures by excluding these conditions, the preamble pointed out that, in addition to the waiver procedures, the Federal Aviation Act of 1958 provided for the granting of exemptions by the Administrator. It also noted that this process had already been implemented by the procedures in Part 405 of the regulations.

In 1960 the FAA amended Part 405 to establish specific procedures for processing petitions for exemption from the medical standards in Part 29. The procedures provided that petitions for exemption would be referred to an appropriate advisory panel of medical specialists for their consideration and recommendations.

With the rapid advancements in medical knowledge about the nine disqualifying conditions and improved techniques for predicting the risk of incapacitation, the FAA almost immediately began to issue exemptions, with appropriate limitations, to persons with these conditions. As diagnostic techniques and procedures for

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predicting improved, more applicants were certificated.

With one exception, exemptions are now available to persons with any of the conditions excluded from consideration under § 67.19, under appropriate circumstances. The exception is diabetes that is controlled by the use of insulin or another hypoglycemic drug. The FAA has not found circumstances under which an individual may be certificated without risk of impairment of his or her faculties from an insidious and undetected drop in blood sugar.

In 1971 the authority to grant or deny petitions for exemption from Part 67 was delegated to the Federal Air Surgeon (Amendment 11–11; 36 FR 3462; February 25, 1971). The amendment provided that the Federal Air Surgeon would perform this function with the assistance of consultant medical specialists where appropriate. The delegation to the Federal Air Surgeon was intended to reduce delay and cost in the issuance of exemptions. It was explained that while the service of an advisory panel of experts would no longer be required, the Federal Air Surgeon would obtain the opinions of consultant medical specialists in cases where it appeared to be appropriate, to ensure full objectivity and expertise in review of the petition for exemption.

Since 1960 the FAA has issued over 3,000 medical exemptions covering all forms of the disqualifying conditions, with the exception of diabetes. The exemption process, by promoting disease disclosure and providing the opportunity for the Federal Air Surgeon to study people with these conditions first hand, has greatly advanced the state of aviation medicine. It has also benefited the public by setting up an inducement for disclosure and treatment that has undoubtedly enhanced aviation safety. Overall, the safety record of those who have been granted exemptions has been at least as good as that of the general population of airmen holding similar medical certificates.

Need for Rule Making

This revision of Part 67 is being proposed in response to a recent Federal District Court decision in the case of *Delta Air Lines, Inc.*, v. *United States, et al.*, N.D. Ga., Civil No. 78–455A, May 16, 1980. In that case Delta Air Lines challenged the authority of the Federal Air Surgeon to place certain limitations on airman medical certificates issued under the authority of exemptions from Part 67 and questioned the propriety of issuing exemptions at all under the current regulatory structure of Part 67.

In its decision the Court found that the Federal Air Surgeon, in granting exemptions from Part 67, had acted improperly in placing functional limitations on the medical certificate. These functional limitations (such as "not valid for pilot-in-command duties") restrict the position which an airman can hold in the cockpit. The Court found that the Federal Air Surgeon had not been delegated authority to impose these limitations.

The Court distinguished these limitations from operational limitations which are properly placed on medical certificates and relate to procedures by which the applicant can be enabled to perform his or her duties (such as "pilot must wear corrective lenses" or, for pilots with defective color vision, "limited to flight during daylight hours only").

Secondly, the Court found that in issuing exemptions from the nine areas excepted from the special issuance procedures in § 67.19, the FAA had effectively amended Part 67. Although the FAA's envolving procedures were based on the advance of medical technology, the Court determined this change in policy had not been in accordance with the Administrative Procedure Act.

The FAA has represented to the Court that it will propose, through formal rule-making procedures, amendments to Part 67 to correct the deficiencies pointed out by the Court. To accomplish this purpose, the FAA is considering amending Part 67 to make it clear that applicants with medical conditions that exclude them from obtaining a special issuance under § 67.19 may petition for an exemption. The amendment would also explicitly state what applicants with one of these intitially disqualifying conditions must show to support such a petition.

In developing this proposal, the FAA considered alternative means for issuing certificates to these applicants. However, because of the need to carefully apply a broad range of medical expertise to the specific aspects of each applicant's medical condition, the FAA has determined that the current exemption procedure is the most appropriate means of accomplishing this task.

Discussion of the Proposal

It is proposed to add a new § 67.18 to Part 67 to specifically state that exemptions from §§ 67.13, 67.15 and 67.17 are issued in accordance with Part 11, and that petitions for exemption from that part are granted or denied by the Federal Air Surgeon.

Paragraph (b) of new § 67.18 would specify the limitations and conditions that the Federal Air Surgeon may place on a certificate authorized by an exemption. The rule would provide that the Federal Air Surgeon may limit the duration of the certificate, condition the continued effect of the certificate on the results of subsequent medical tests, examinations, or evaluations, and impose any operational limitation on the certificate needed for safety. Conditions and limitations such as these are currently being placed both on medical certificates issued under § 67.19 and on those issued under the authority of an exemption.

Paragraph (b) would also provide that the Federal Air Surgeon may condition the continued effect of the certificate on compliance with a statement of functional limitations issued to the applicant by the Director, Office of Flight Operations. Paragraph (c) would provide for the issuance by the Director of such a statement attesting to the ability of the applicant to provide an equivalent level of safety. Since they apply to the position which an airman can hold in the cockpit, authority for imposing them would be exercised by the Director instead of the Federal Air Surgeon under delegation from the Administrator.

New § 67.18 would specify the factors that are considered, and for which satisfactory evidence must be submitted, if the applicant has one of the medical conditions (other than diabetes) that are currently excluded from § 67.19. The factors would include, in each case, the nature and severity of the problem, and the period of satisfactory recovery since manifestation of the problem and any treatment, as well as any continuing requirements for treatment and its type. The rule would also specify the following factors appropriate to the specific condition.

Personality Disorder, Psychosis, or Drug Dependence

In the case of an applicant who has had a personality disorder, psychosis, or drug dependence, the factors would include: (1) Any current or recent psychiatric symptoms, aberrant behavior, or psychiatric or other medical findings; (2) the need for, or the use or abuse of, any chemical agents, either for therapeutic or recreational purposes; (3) any personality traits or other recognized factors involving the risk of future recurrence of the problem or the risk of other adverse events; and (4) the current psychiatric and psychological functional status and stability of the applicant, as determined by appropriate evaluative techniques.

Alcoholism

Where the applicant is an alcoholic, the factors would include: (1) The period of the applicant's abstention from alcohol; (2) the severity of the problem and how long it has existed; (3) the age of the applicant at onset and the stability and adjustment before the onset of alcoholism; (4) the number of times treatment was sought and relapse occurred; (5) the quality of the final treatment effort; (6) the presence of residual medical complications, especially neurologic manifestations; (7) progress in marital, social, vocational, and educational areas, as appropriate, since rehabilitation has begun; (8) commitment to rehabilitation by virtue of continuing contacts with social or professional agencies, or both, and their opinions and recommendations; (9) any underlying personality difficulties that would either be initially disqualifying independently or adversely affect sustained abstinence; and (10) recent psychiatric and psychologic evaluation.

Epilepsy or Disturbance of Consciousness

For an applicant with a history or diagnosis of epilepsy or disturbance of consciousness, the factors would include: (1) Any current or recent neurological symptoms or neurological or other medical findings; (2) the availability of an explanation for the cause of the problem that is acceptable in terms of risk for future recurrence; (3) any recognized factors involving the risk of future adverse neurological events or of other adverse events; and (4) the anatomic integrity and functional status of the nervous system as determined by appropriate evaluation techniques.

Cardiovascular Problems

In the case of an applicant who has had medical history or current diagnosis of an initially disqualifying cardiovascular problem, the factors would include: (1) Any current or recent cardiovascular symptoms, or cardiovascular or other medical findings; (2) the functional capacity of the heart as measured by appropriate techniques; (3) presence or absence of myocardial ischemia or of the anatomic propensity for it; (4) the presence of, or likelihood of, changes in heart rhythm that could affect the individual's level of consciousness or ability to perform in the aviation environment; and (5) any recognized factors involving the risk of future adverse cardiovascular events.

Determination by the Federal Air Surgeon

If the evidence submitted by the applicant is satisfactory, the Federal Air Surgeon will then make a finding as to whether the applicant possesses qualifications which, considering any appropriate limitation or restrictions, are equivalent to those of airmen certificated under § 67.13, § 67.15, or § 67.17, insofar as risk to safety in the performance of airman duties is concerned. In making this finding, the Federal Air Surgeon considers the factors applicable to specific medical conditions, as well as any other factor that may affect the ability of the applicant to perform airman duties without endangering safety in air commerce, including the combined effect on the applicant of failure to meet more than one requirement of Part 67. If this finding is made in the affirmative, the Federal Air Surgeon will issue a medical exemption with whatever limitations are appropriate.

Public Interest

This proposal is supported by the FAA's 20 year history with the medical exemption process. Through this experience, the FAA has determined that the public interest is best served when airmen who know, or have reason to believe, they are experiencing a medical problem, are encouraged to submit themselves as soon as possible to medical treatment and rehabilitation. These airmen include commercial and air carrier pilots who depend on their medical certificate for their livelihood and on whom, in turn, the public depends for safe air travel. They also include general aviation pilots who share the airspace with those pilots and the traveling public.

Providing means by which these airmen may subsequently apply for a medical certificate discourages the concealment of an initially disqualifying medical condition to avoid the permanent loss of employment or airman privileges. This incentive is necessary because, while there has been a marked improvement in the evaluation and treatment of many of these conditions, they cannot always be detected by a routine medical examination.

Encouraging airmen to seek medical treatment as early as possible benefits both the public and the airman. The public is protected from the risk that the airman may become incapacitated while operating an aircraft. The public also benefits because airmen who seek early treatment and voluntarily provide accurate medical information contribute to safety in air commerce. Voluntary disclosure to the FAA permits careful assessment of the condition and the opportunity for special periodic medical surveillance in the event that medical certification is considered appropriate. This contributes substantially to the fund of knowledge regarding these conditions and aviation medicine generally.

The airman's early recovery and return to flying is facilitated by disclosure, since early treatment substantially improves the prognosis for many conditions.

Years of experience with the issuance of exemptions from §§ 67.13, 67.15, and 67.17 support the FAA's position on this matter. Large numbers of these exemptions have involved alcoholism and coronary artery disease, and the following discussion of their specific aspects illustrates the public interest in granting this relief.

Alcoholism

In the 15 years prior to 1976, only 29 airline transport pilots requested exemptions from the alcoholism standard and only half of these requests were granted. Few alcoholic airmen were identified through the FAA's routine examination procedure without self-identification. In November 1976, a statement was issued confirming an evolving policy designed to encourage these airmen to recognize and voluntarily disclose their illness and to seek rehabilitation. This policy confirmation was based on several years experience with exemptions involving recovered alcoholic airline pilots.

Since the initiation of this policy, the number of airline pilots voluntarily seeking rehabilitation has increased dramatically and approximately 300 exemptions have been granted to those meeting the requirements. Most of these airmen are found to have maintained abstinence through their post-issuance follow-up periods. This experience has justified the issuance of exemptions to private pilots as well, where they meet the same or equivalent requirements.

Cardiovascular Disease

Cardiovascular disease is recognized as a leading cause of death among airmen and has been implicated as a causative factor in a number of general aviation accidents. Although the incidence of significant cardiovascular disease among active aviation personnel is unknown, available data indicate that the disease is the most frequent single medical cause of termination of flying careers and is the principal reason for the medical disqualification of airmen.

The importance of early detection and treatment of cardiovascular disease

reasonably be expected to lead to myocardial infarction." This standard,

interested persons are invited to attend to present their views on any aspect of

(2) Condition the continued effect of the certificate on the results of subsequent medical tests, examinations,

(v) The quality of the final treatment effort;

(vi) The presence of residual medical

ischemia or of the anatomic propensity for it;

(vi) The presence of, or likelihood of,

The importance of early detection and treatment of cardiovascular disease among airmen is well recognized. Significant advances in medical evaluation techniques and treatment of cardiovascular disease have substantially improved the prognosis for these disorders and have permitted a more knowledgeable assessment of the stability or progression of the disease.

Using the results of special detailed cardiovascular evaluations, including sophisticated clinical tests, the Federal Air Surgeon has been able to assess the degree and significance of coronary artery disease in a number of airmen applicants. Based upon this information and subject to special follow-up examinations, airmen with a favorable prognosis have been issued medical exemptions to allow them to return to limited aviation duties without compromising aviation safety. Since the early 1960s, over 1,300 persons with known coronary artery disease have been evaluated and determined, subject to special restrictions or follow-up examinations, to possess qualifications equivalent to those of airmen certificated under Part 67, insofar as risk to safety in the performance of airman duties is concerned. The issuance of medical certificates to these individuals has produced no ascertainable adverse impact on aviation safety.

Economic and Social Benefits

The issuance of these certificates to medically qualified airmen provides economic and social benefits for the airman, the aviation community, and the general public. The issuance of first and second-class medical certificates permits applicants to participate in commercial aviation activities without compromising safety and reduces the likelihood that the petitioner will become economically dependent upon the public. Training costs to replace individuals who would otherwise be unable to act as airmen in commercial operations or for private hire are avoided and the pool of qualified aviation personnel is maintained. The issuance of third-class medical certificates allows applicants to pursue aviation activities without compromising safety and thereby contributes to the promotion of civil aviation generally.

Revision of Cardiovascular Standard

Sections 67.13(e)(1), 67.15(e)(1), and 67.17(e)(1) specifically disqualify applicants with a medical history or clinical diagnosis of a "myocardial infarction" or "angina pectoris or other evidence of coronary heart disease that the Federal Air Surgeon finds may reasonably be expected to lead to myocardial infarction." This standard, which was adopted in 1959, has been interpreted to mean that angina pectoris is not initially disqualifying unless a finding is made that it can be expected to lead to myocardial infarction, a potentially incapacitating event. This was not the intent of the regulation, since it has been generally accepted in the medical profession that angina pectoris may be incapacitating in itself and, like myocardial infarction, is almost always caused by coronary artery disease. Moreover, all other manifestations of coronary heart disease, such as paroxysmal arrythmias, are generally regarded as potentially suddenly incapacitating, yet are not necessarily related to myocardial infarction. For this reason, it is proposed to revise §§ 67.13(e)(1)(ii), 67.15(e)(1)(ii), and 67.17(e)(1)(ii) to initially disqualify an applicant with a medical history or clinical diagnosis of angina pectoris. Persons who are disqualified as a result of this standard could be considered for an exemption under proposed § 67.18.

It is proposed to further amend paragraph (e)(1)(ii) to clarify the disqualifying nature of coronary artery disease. The current rule is based on the premises that significant coronary artery disease, even if treated, poses an increased risk of myocardial infarction or other adverse cardiac events, and that evidence of untreated disease is disqualifying in the absence of definitive evidence showing it to be insignificant.

Despite the intent of paragraph (e)(1)(ii), coronary artery disease that has been treated by surgery or medicine has occasionally been construed in adjudications of airman medical certification cases not to be disqualifying even in the presence of undisputed significant coronary artery disease. Therefore, in accordance with the Federal Air Surgeon's consistent policy to deny initial applications for unrestricted medical certificates to applicant with a known history of coronary artery disease it is proposed to amend §§ 67.13(e)(1)(ii), 67.15(e)(1)(ii), and 67.17(e)(1)(ii) to reflect this policy more clearly. As in the case of other disqualifying conditions, an airman with such a history is not precluded from petitioning for an exemption, with appropriate restrictions, requirements for medical follow-up, or other limitations.

Public Hearing

The FAA will hold a public hearing in connection with this rulemaking action on January 6 and 7, 1981. A notice of this hearing is published elsewhere in this issue of the **Federal Register**. All interested persons are invited to attend to present their views on any aspect of these proposals.

The Proposed Amendments

Accordingly, it is proposed to amend Part 67 of the Federal Aviation Regulations (14 CFR Part 67) as follows:

1. By amending § 67.13(e)(1) to read as follows:

§ 67.13 First-class medical certificate.

* * * * *

(e) Cardiovascular:

(1) No established medical history or clinical diagnosis of any of the following:

(i) Myocardial infarction.

(ii) Angina pectoris.

(iii) Coronary heart disease, treated or untreated.

* * * * *

2. By amending 67.15(e)(1) to read as follows:

§ 67.15 Second-class medical certificate.

* * * * *

(e) Cardiovascular:

(1) No established medical history or clinical diagnosis of any of the following:

(i) Myocardial infarction.

(ii) Angina pectoris.

(iii) Coronary heart disease, treated or untreated.

* * * * *

3. By amending 67.17(e)(1) to read as follows:

§ 67.17 Third-class medical certificate.

* * * * *

(e) Cardiovascular:

(1) No established medical history or clinical diagnosis of any of the following:

(i) Myocardial infarction.

(ii) Angina pectoris.

(iii) Coronary heart disease, treated or untreated.

* * * * *

4. By adding a new § 67.18 to read as follows:

§ 67.18 Exemptions.

(a) In accordance with Part 11 of this chapter, any interested person may petition for an exemption from any requirement of this part. In accordance with § 11.53 of this chapter, petitions for exemption from this part are granted or denied by the Federal Air Surgeon.

(b) In issuing an exemption from this part the Federal Air Surgeon may limit or condition the medical certificate authorized by the exemption in any of the following ways:

(1) Limit the duration of the certificate.

(2) Condition the continued effect of the certificate on the results of subsequent medical tests, examinations, or evaluations.

(3) Impose any operational limitation on the certificate needed for safety.

(4) Condition the continued effect of the certificate on compliance with a statement of functional limitations issued to the applicant by the Director, Office of Flight Operations.

(c) The Director, Office of Flight Operations, may issue a funding of equivalent level of safety setting forth functional limitations on the airman privileges for which a medical certificate authorized by an exemption from this part applies.

(d) An applicant for an exemption from § 67.13(d)(1)(i), (d)(2)(i), or (e)(i); § 67.15(d)(1)(i), (d)(2)(i), or (e)(1); or § 67.17(d)(1)(i), (d)(2)(i), (e)(1) must submit satisfactory evidence regarding the following factors which demonstrates that the applicant's medical condition has stabilized so that the exercise of the airman privileges sought will not adversely affect safety:

(1) For an applicant for an exemption from § 67.13(d)(1)(i) (*a*), (*b*) or (*d*), § 67.15(d)(1)(i) (*a*), (*b*) or (*d*), or § 67.17(d)(1)(i) (*a*), (*b*) or (*d*) [personality disorder, psychosis, or drug dependence]—

(i) The nature and severity of the problem, including its duration and natural history, and any complications;

(ii) The period of satisfactory recovery since manifestation of the problem and any treatment;

(iii) Any current or recent psychiatric symptons, aberrant behavior, or psychiatric or other medical findings;

(iv) Any continuing requirements for treatment and its nature;

(v) The need for, or the use or abuse of, any chemical agents, either for therapeutic or recreational purposes;

(vi) Any personality traits or other recognized factors involving the risk of future recurrence of the problem or the risk of other adverse events; and

(vii) The current psychiatric and psychological functional status and stability of the airman, as determined by appropriate evaluative techniques.

(2) For an applicant for an exemption from § 67.13(d)(1)(i)(*c*), § 67.15(d)(1)(i)(*c*), or § 67.17(d)(1)(i)(*c*) [alcoholism]—

(i) The period of the applicant's abstinence from alcohol;

(ii) The severity of the problem and how long it has existed;

(iii) The age of the applicant at onset and the stability and adjustment before the onset of alcoholism;

(iv) The number of times treatment was sought and relapse occurred;

(v) The quality of the final treatment effort;

(vi) The presence of residual medical complications, especially neurologic mainfestations;

(vii) Progress in marital, social, vocational, and educational areas, as appropriate, since rehabilitation has begun;

(viii) Commitment to rehabilitation by virtue of continuing contacts with social or professional agencies, or both, and their opinions and recommendations;

(ix) Any underlying personality difficulties that would either be initially disqualifying independently or adversely affect sustained abstinence; and

(x) The findings of a recent psychiatric and psychologic evaluation.

(3) For an applicant for an exemption from § 67.13(d)(2)(i) (*a*) or (*b*), § 67.15(d)(2)(i) (*a*) or (*b*), or § 67.17(d)(2)(i) (*a*) or (*b*) [epilepsy or disturbance of consciousness]—

(i) The nature and severity of the problem, including its duration and natural history, and any complications;

(ii) The period of satisfactory recovery since manifestation of the problem and any treatment;

(iii) Any current or recent neurological symptoms or neurological or other medical findings;

(iv) Any continuing requirements for treatment and its nature;

(v) The anatomic integrity and functional status of the nervous system as determined by appropriate evaluation techniques;

(vi) The acceptability in terms of risk for future recurrence and of aviation safety of the possible explanations for the cause of the problem; and

(vii) Any recognized factors involving the risk of future adverse neurological events or of other adverse events.

(4) For an applicant for an exemption from § 67.13(e)(1), § 67.15(e)(1), or § 67.17(e)(1) [myocardial infarction, angina pectoris, or coronary heart disease]—

(i) The nature and severity of the problem, including its duration and natural history, and any complications;

(ii) The period of satisfactory recovery since manifestation of the problem and any treatment;

(iii) Any current or recent cardiovascular symptoms, or cardiovascular or other medical findings;

(iv) The functional capacity of the heart as measured by appropriate techniques;

(v) Indications by any available means and under any conditions of the presence or absence of myocardial ischemia or of the anatomic propensity for it;

(vi) The presence of, or likelihood of, changes in heart rhythm that could affect the individual's level of consciousness or ability to perform in the aviation environment; and

(viii) Any recognized factors involving the risk of future adverse cardiovascular events.

(e) In granting or denying a petition for exemption from this part, the Federal Air Surgeon considers the factors described in paragraph (d) of this section, as well as any other medical factor that may affect the ability of the applicant to perform airman duties without endangering safety in air commerce, including:

(1) The combined effect on the applicant of failure to meet more than one requirement of this part.

(2) The prognosis derived from professional consideration of all available information regarding the airman.

(Secs. 313(a), 601, and 602 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1422); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.45)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA has determined that the expected impact of the proposed regulations is so minimal that they do not require an evaluation.

Issued in Washington, D.C. on December 1, 1980.

H. L. Reighard, M.D.,

Federal Air Surgeon.

[FR Doc. 80-37735 Filed 12-3-80; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 802 3032]

Boekamp, Inc., et al. and Energy Efficient Systems, Inc., et al.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, these consent orders, accepted subject to final Commission approval, would require,

among other things, a San Diego, Calif. manufacturer, and a Middleton, Conn. seller and distributor of electric space heaters, specifically, the Boekamp Quartz Heater, to cease misrepresenting the efficiency, energy consumption (and related cost savings), performance characteristics, or durability of their product. The companies will be prohibited from making any energy related claims in advertising which are not substantiated by competent and reliable scientifc tests, and, further, the firms would be prohibited from using the term "energy saver" or any similar term in the name of the product.

DATE: Comments must be received on or before February 2, 1981.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Lois G. Pines, Director, 2R, Boston Regional Office, Federal Trade Commission, 150 Causeway St., Room 1301, Boston, Mass. 02114. (617) 223–5521.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreements containing consent orders to cease and desist and explanations thereof, having been filed with and accepted, subject to final approval, by the Commission, have been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

[File No. 802 3032]

Energy Efficient Systems, Inc., and John P. White and Elaine B. Owen; Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Energy Efficient Systems, Inc., a corporation, and John P. White and Elaine B. Owen, individually and as Officers of said corporation, hereinafter sometimes referred to as proposed respondents, and it now appearing that the proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Energy Efficient Systems, Inc., by its duly authorized officer, and John P. White and Elaine B. Owen, individually and as officers of said corporation, and their attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Energy Efficient Systems, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Connecticut, with its principal office and place of business located at 330 Middle Street, Middletown, Connecticut, 06457.

Proposed respondents John P. White and Elaine B. Owen are officers of said corporation. Together they formulate, direct and control the policies, acts and practices of said corporation and their business address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

For the purposes of this Order, each of the terms listed below, as applied to the respondents named herein, is defined as follows:

1. A "competent and reliable scientific test" is one in which one or more persons, qualified by professional training, education and experience, formulate and conduct a test and evaluate its results in an objective manner using testing procedures which are generally accepted in the professions to attain valid and reliable results. The test may be conducted or approved by (a) a reputable and reliable organization that conducts such tests as one of its principal functions, (b) by an agency or department of the state or federal government, or (c) persons employed or retained by respondents if they are qualified (as defined above in this paragraph) and can conduct and evaluate the test in an objective manner.

2. An "energy related claim" is any oral or written, general or specific, representation that, directly or by implication, describes or refers to the energy cost saving capability, energy saving capability, efficiency, conservation quality or insulating property of any product, or otherwise refers to the energy consumed or generated by any product.

II

It is ordered, That respondents, Energy Efficient Systems, Inc., a corporation, its successors and assigns, and its officers, and John P. White and Elaine B. Owen, individually and as officers of the corporate respondent, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of the electric resistance heater now known as the Boekamp Quartz Energy Saver Heater ("Boekamp Heater"), or any other product for which an energy related claim is made, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Representing orally or in writing, directly or by implication, including through the use of testimonials that:

(i) The Boekamp Heater is more efficient or produces more heat than other electric resistance heaters of similar wattage;

(ii) The Boekamp Heater provides "free" heat of any kind at any time;

(iii) The Boekamp Heater is capable of heating objects which are far away from it in a short period of time;

(iv) The Boekamp Heater evenly distributes heat throughout a typical room;

(v) The quartz tubes contained in the Boekamp Heater are durable components;

(vi) The quartz tubes contained in the Boekamp Heater intensify or magnify the heat generated by the electricity sent through the resistance coils enclosed in the tubes, or that the quartz tubes in any way increase the amount of heat generated by the Boekamp Heater.

B. Making any representation, orally or in writing, directly or by implication, including through the use of testimonials, which relates to the heating capabilities, energy saving potential or other performance capabilities of the Boekamp Heater or making any energy related claim for any other product unless: (1) Such representation is true, and (2) at the time of making such representation, the representation is fully and completely substantiated in writing by competent and reliable scientific tests which remain available for inspection by the staff of the Federal Trade Commission for at least three (3) years following the final use of the representation.

C. Making any representation, orally or in writing, directly or by implication, including through the use of testimonials, respecting the energy consumption of or the cost of energy consumed by the Boekamp Heater or any other covered product (as "covered product" is defined in Sections 321(a)(2) and 322 of the Energy Policy and Conservation Act, 42 U.S.C. 6291(a)(2) and 6292 or any amendment thereto) unless: (1) Such substantiation includes tests conducted on the Boekamp Heater or other covered product in accordance with test procedures prescribed by the Secretary of the Department of Energy pursuant to Section 323 of the Energy Policy and Conservation Act, 42 U.S.C. 6293 or any amendments thereto, with complete written documentation of such tests remaining available for inspection by the staff of the Federal Trade Commission for at least three years following final use of the representation, and (2) such representation fairly discloses the results of such tests.

D. Misrepresenting orally or in writing, the purpose, content, or conclusion of any test or study pertaining to the Boekamp Heater or any product for which an energy related claim is made.

E. Using the term "energy saver", or any other words or phrases of similar import or meaning, to name or designate the Boekamp Heater.

F. Representing orally or in writing, directly or by implication, including through the use of testimonials, that use of the Boekamp Heater or any product for which an energy related claim is made will result in any energy savings or energy costs savings unless there is clear and conspicuous disclosure, in close conjunction with such representation, of all circumstances and conditions that must be met if the purchaser is to experience similar savings.

G. Making any representation, orally or in writing, directly or by implication, including through the use of testimonials, in connection with the advertisement or promotion of the Boekamp Heater or any product for which an energy related claim is made, which is inconsistent in any material respect with any representation concerning the Boekamp Heater or other said product made, directly or by implication, in post-purchase materials supplied to the purchasers of the Boekamp Heater or other said product.

H. Making any representation, orally or in writing, directly or by implication, including through the use of testimonials, regarding the durability or life span of the Boekamp Heater, including representations regarding warranties or guarantees for the Boekamp Heater, or regarding any life tests performed on the quartz tubes or resistance coils, without disclosing in close conjunction therewith, in print at least as large as the print in which the representation is made, or in an oral presentation, in speech as clear and distinct as that delivered in the rest of the presentation, that the quartz tubes are: (1) Fragile unless the quartz tubes are supported or protected in such a manner that they will not break when the Boekamp Heater is tipped over, and (2) not covered by the warranty or guarantee unless the quartz tubes are covered under the warranty or guarantee.

I. Representing, orally or in writing, directly or by implication, including through the use of testimonials, that the Boekamp Heater can heat or raise the temperature of a room, without disclosing in close conjunction therewith the following statement in print at least as large as the print in which the representation is made, or in an oral presentation, in speech as clear and distinct as that delivered in the rest of the presentation, with nothing to the contrary or in mitigation of this statement:

HEATING OR RAISING THE TEMPERATURE OF A ROOM IS ONLY POSSIBLE AFTER EXTENDED, CONTINUOUS USE OF THE BOEKAMP HEATER.

J. For the purpose of this Part II of the Order, when representations are made in television advertising which give rise to a required disclosure, such disclosure must be made simultaneously in both audio and visual without any distracting sounds and with a clear background.

III

It is further ordered, That each respondent, within twenty (20) days from the date of service of this Order, send a copy of the letter attached hereto and marked as Exhibit A via first class mail to each individual, partnership, corporation or other business entity engaged in the resale or distribution of the Boekamp Heater to whom the respondents sent advertisements or promotional materials relating or referring to the Boekamp Heater which contained a representation or testimonial prohibited by this Order or omitted a disclosure required by this Order and whom respondents are able to locate. Respondents shall use their best efforts to locate all such

individuals, partnerships and corporations.

IV

It is further ordered, That respondents forthwith deliver a copy of this Order to: (1) All present and future employees, agents and representatives engaged in any way in the advertising, promotion, offering for sale, sale or distribution of the Boekamp Heater or any other product for which an energy related claim is made; and (2) all present and future individuals, partnerships; corporations or other business entities to whom any of the respondents sell or distribute the Boekamp Heater or any other apparatus designed to provide heat or warmth and which are engaged in the resale or distribution of the Boekamp Heater or other said product; and that respondents secure a signed statement acknowledging receipt of the Order from each such person or entity referred to herein.

V

It is further ordered, That each individual respondent named herein promptly notify the Commission of the discontinuance of his/her present business or employment and of his/her affiliation with a new business or employment. In addition, for a period of ten (10) years from the date of service of this Order each individual respondent shall promptly notify the Commission of his/her affiliation with a new business or employment whose activities include the manufacture, purchase, advertising, promotion, offering for sale, sale or distribution of any product for which an energy related claim is made, or of his/her affiliation with a new business or employment in which his/her duties and responsibilities involve the manufacture, purchase, advertising, promotion, offering for sale, sale, or distribution of any product for which an energy related claim is made. Such notice shall include each respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of all duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this Order.

VI

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order.

VII

A. It is further ordered, That respondents shall maintain all records that relate to any compliance obligations arising out of this Order for a period of not less than three (3) years and shall make such records available to the staff of the Commission.

B. It is further ordered, That each respondent shall within sixty (60) days after service upon them of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Exhibit A

Date:

330 Middle Street, Middletown, Connecticut 06457, (203) 635–2800

Re Recall of Advertisements and Promotional Materials.

Dear Customer: Some time ago as the distributor for Boekamp, Inc. we distributed to you advertisements and promotional materials concerning the Bekamp Quartz Energy Saver Heater. These materials contained a number of performance claims about the Boekamp Heater. As a result of an investigation regarding these claims by the Federal Trade Commission, we have entered into the enclosed Consent Agreement and Order.

We have agreed to recall all past advertisements and promotional materials regarding the Boekamp Heater which contain claims prohibited by the Order or which omit the disclosures required by the Order. To assure that no prohibited advertisements or promotional materials continue to be utilized, it is important that you return to us whatever advertisements and promotional materials you have received from us in the past.

Thank you for your attention.

Sincerely,

John P. White,

President, Energy Efficient Systems, Inc.

[File No. 802 3032]

Boekamp, Inc. and Konrad Boekamp; Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Boekamp, Inc., a corporation, and Konrad Boekamp, individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, and it now appearing that the proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and between Boekamp, Inc., by its duly authorized officer, and Konrad Boekamp, individually and as an officer of said corporation, and their attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Boekamp, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 8221 Arjons Drive, San Diego, California, 92126.

Proposed respondent Konrad Boekamp is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation and his business address is the same as that of said corporation.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance

with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

For the purposes of this Order, each of the terms listed below, as applied to the respondents named herein, is defined as follows:

1. A "competent and reliable sicentific test" is one in which one or more persons, qualified by professional training, education and experience, formulate and conduct a test and evaluate its results in an objective manner using testing procedures which are generally accepted in the professions to attain valid and reliable results. The test may be conducted or approved by (a) a reputable and reliable organization that conducts such tests as one of its principal functions, (b) by an agency or department of the state or federal government, or (c) persons employed or retained by respondents if they are qualified (as defined above in this paragraph) and can conduct and evaluate the test in an objective manner.

2. An "energy related claim" is any oral or written, general or specific, representation that, directly or by implication, describes or refers to the energy cost saving capability, energy saving capability, efficiency, conservation quality or insulating property of any product, or otherwise refers to the energy consumed or generated by any product.

II

It is ordered, That respondents, Boekamp, Inc., a corporation, its successors and assigns, and its officers, and Konrad Boekamp, individually and as an officer of the corporate respondent, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, sale or distribution of the electric resistance heater now known as the Quartz Energy Saver Heater ("Heater"), or any other product for which an energy related claim is made, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Representing orally or in writing, directly or by implication, including through the use of testimonials that:

(i) The Heater is more efficient or produces more heat than other electric resistance heaters of similar wattage;

(ii) The Heater provides "free" heat of any kind at any time;

(iii) The Heater is capable of heating objects which are far away from it in a short period of time;

(iv) The Heater evenly distributes heat throughout a typical room;

(v) The quartz tubes contained in the Heater are durable components;

(vi) The quartz tubes contained in the Heater intensify or magnify the heat generated by the electricity sent through the resistance coils enclosed in the tubes, or that the quartz tubes in any way increase the amount of heat generated by the Heater.

B. Making any repreaentation, orally or in writing, directly or by implication, including through the use of testimonials, which relates to the heating capabilities, energy saving potential or other performance capabilities of the Heater or making any energy related claim for any other product unless: (1) Such representation is true, and (2) at the time of making such representation, the representation is fully and completely substantiated in writing by competent and reliable scientific tests which remain available for inspection by the staff of the Federal Trade Commission for at least three (3) years following the final use of the representation.

C. Making any representation, orally or in writing, directly or by implication, including through the use of testimonials, respecting the energy consumption of or the cost of energy consumed by the Heater or any other covered product (as "covered product" is defined in Sections 321(a)(2) and 322 of the Energy Policy and Conservation Act, 42 U.S.C. 6291(a)(2) and 6292 or any amendments thereto) unless: (1) Such substantiation includes tests conducted on the Heater or other covered product in accordance with test procedures prescribed by the Secretary of the Department of Energy pursuant to Section 323 of the Energy Policy and Conservation Act, 42 U.S.C. 6293 or any amendments thereto, with complete written documentation of such tests remaining available for inspection by the staff of the Federal Trade Commission for at least three years following the final use of the representation, and (2) such representation fairly discloses the results of such tests.

D. Misrepresenting orally or in writing, the purpose, content, or conclusion of any test or study pertaining to the Heater or any product for which an energy related claim is made.

E. Using the term "energy saver", or any other words or phrases of similar import or meaning, to name or designate the Heater.

F. Representing orally or in writing, directly or by implication, including through the use of testimonials, that use of the Heater or any product for which an energy related claim is made will result in any energy savings or energy cost savings unless there is clear and conspicuous disclosure, in close conjunction with such representation, of all the circumstances and conditions that must be met if the purchaser is to experience similar savings.

G. Making any representation, orally or in writing, directly or by implication, including through the use of testimonials, in connection with the advertisement or promotion of the Heater or any product for which an energy related claim is made, which is inconsistent in any material respect with any representation concerning the Heater or other said product made, directly or by implication, in post-purchase materials supplied to the purchasers of the Heater or other said product.

H. Making any representation, orally or in writing, directly or by implication, including through the use of testimonials, regarding the durability or life span of the Heater, including representations regarding warranties or guarantees for the Heater, or regarding any life tests performed on the quartz

tubes or resistance coils, without disclosing in close conjunction therewith, in print at least as large as

engaged in any way in the advertising, promotion, offering for sale, sale or distribution of the Heater or any other product for which an energy related

consummation of such transfer, sale or assignment, respondents will be deemed to have complied with this Part VI of the Order if the respondents:

persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the

that it evenly distributes heat throughout a typical room. The proposed consent orders prohibit the corporations from making any such advertising claims in the future.

Written comments, in four copies if possible, should be sent to Raymond L. Rhine, Presiding Officer, Federal Trade

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tubes or resistance coils, without disclosing in close conjunction therewith, in print at least as large as the print in which the representation is made, or in an oral presentation, in speech as clear and distinct as that delivered in the rest of the presentation, that: (1) The quartz tubes contained in the Heater are fragile, unless the representation relates to a Heater in which the tubes are supported or protected in such manner that they will not break when the Heater is tipped over; and (2) the quartz tubes contained in the Heater are not covered by the warranty or guarantee for the Heater, unless the quartz tubes are in fact covered by the warranty or guarantee.

I. Representing, orally or in writing, directly or by implication, including through the use of testimonials, that the Heater can heat or raise the temperature of a room, without disclosing in close conjunction therewith the following statement in print at least as large as the print in which the representation is made, or in an oral presentation, in speech as clear and distinct as that delivered in the rest of the presentation, with nothing to the contrary or in mitigation of this statement:

HEATING OR RAISING THE TEMPERATURE OF A ROOM IS ONLY POSSIBLE AFTER EXTENDED, CONTINUOUS USE OF THE HEATER.

J. For purposes of this Part II of the Order, when representations are made in television advertising which give rise to a required disclosure, such disclosure must be made simultaneously in both audio and visual without any distracting sounds and with a clear background.

III

It is further ordered, That respondents, within twenty (20) days from the date of service of this Order, send a copy of the letter as set forth in Exhibit A hereto via first class mail to each individual, partnership, corporation or other business entity to whom advertisements or promotional materials relating or referring to the Heater which contained a representation or testimonial prohibited by this Order or omitted a disclosure required by this Order were disseminated in the past and whom respondents are able to locate. Respondents shall use their best efforts to locate all such individuals, partnerships and corporations.

IV

It is further ordered, That respondents, forthwith deliver a copy of this Order to: (1) All present and future employees, agents and representatives engaged in any way in the advertising, promotion, offering for sale, sale or distribution of the Heater or any other product for which an energy related claim is made; and (2) all present and future individuals, partnerships or corporations to whom the respondents sell or distribute the Heater or any other product for which an energy related claim is made, and which are engaged in the resale or distribution of the Heater or other said product; and that respondents secure a signed statement acknowledging receipt of the Order from each such person or entity referred to herein.

V

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of ten (10) years from the date of service of this Order the individual respondent shall promptly notify the Commission of his affiliation with a new business or employment whose activities include the manufacture, purchase, advertising, promotion, offering for sale, sale or distribution of any product for which an energy related claim is made, or of his affiliation with a new business or employment in which his duties and responsibilities involve the manufacture, purchase, advertising, promotion, offering for sale, sale, or distribution of any product for which an energy related claim is made. Such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of all duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this Order.

VI

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of this Order: *Provided, however,* That in the event the giving of notice thirty (30) days prior to a proposed transfer, sale of assignment of all or a substantial part of the business or assets of the corporate respondent would prevent the consummation of such transfer, sale or assignment, respondents will be deemed to have complied with this Part VI of the Order if the respondents:

(a) Give the Commission as much advance notice as possible regarding the proposed transfer, sale or assignment; and

(b) Obtain a signed written agreement from the transferee, purchaser or assignee to be bound by the terms of this Order and file such agreement with the Commission prior to the consummation of the transfer, sale or assignment.

VII

A. *It is further ordered,* That respondents shall maintain all records that relate to any compliance obligations arising out of this Order for a period of not less than three (3) years and shall make records available to the staff of the Commission.

B. *It is further ordered,* That respondents herein shall within sixty (60) days after service upon them of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

Exhibit A

Date:

8221 Arjons Drive, San Diego, California 92126, (714) 578–3710

Re Recall of Advertisements and Promotional Materials

Dear Customer: Some time ago we distributed to you advertisements and promotional materials concerning the Boekamp Quartz Energy Saver Heater. These materials contained a number of performance claims about the Quartz Heater. As a result of an investigation regarding these claims by the Federal Trade Commission, we have entered into the enclosed Consent Agreement and Order.

We have agreed to recall all past advertisements and promotional materials regarding the Heater which contain claims prohibited by the Order or which omit the disclosures required by the Order. To assure that no prohibited advertisements or promotional materials continue to be utilized, it is important that you return to us whatever advertisements and promotional materials you have received from us in the past.

Thank you for your attention.

Sincerely,

Konrad Boekamp,

President, Boekamp, Inc.

Analysis of Proposed Consent Orders To Aid Public Comment

The Federal Trade Commission has accepted agreements to proposed consent orders from Boekamp, Inc. and Energy Efficient Systems, Inc.

The proposed consent orders have been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreements and the comments received and will decide whether it should withdraw from the agreements or make final the agreements' proposed orders.

The complaints in this matter concern advertising claims made by Boekamp, Inc. and Energy Efficient Systems, Inc. ("the corporations") for a product they sell called the Boekamp Quartz Heater ("Quartz Heater"). The Quartz Heater is an electric space heater designed to provide supplemental heating in the home. The complaints, which were placed on the public record by the Commission along with the proposed consent orders, allege that the corporations have distributed advertisements and promotional materials containing false, unfair and deceptive claims about the Quartz Heater. The proposed consent orders are designed to remedy the violations alleged in the complaints.

The complaints allege that the corporations have falsely advertised that the Quartz Heater is twice as efficient as other electric space heaters and that it provides two to three times as much heat as other electric space heaters. The proposed consent orders expressly prohibit the corporations from claiming that the Quartz Heater is any more efficient or that it produces any more heat than other electric space heaters.

The complaints further allege that the corporations have advertised, without a reasonable basis, that use of the Quartz Heater will result in dramatic utility bill savings and drastic reductions in fuel bills. The proposed consent orders prohibit the corporations from making such unsubstantiated claims and also require that any future advertisements by the corporations concerning energy savings or fuel savings state the conditions required for purchasers to achieve the advertised savings. In addition, the corporations are prohibited by the proposed consent orders from making claims concerning the energy consumption or cost of energy consumed by the Quartz Heater, as well as certain other consumer products, unless these claims are based on the Department of Energy tests that apply to such products under Section 323 of the Energy Policy and Conservation Act. The corporations are also prohibited by the proposed consent orders from making any performance claims about the Quartz Heater, or any energy related claims for other products they sell, unless the claims are supported by competent and reliable tests or studies at the time they are made.

The complaints allege that the corporations have advertised, without a reasonable basis, that the Quartz Heater will heat a room more quickly than other electric space heaters. The proposed consent orders require that whenever the corporations make any room heating claims for the Quartz Heater, they also state that raising the temperature of a room with a Quartz Heater is only possible after its extended, continuous use. The complaints also allege that the corporations have falsely claimed that the Quartz Heater is capable of heating objects which are far away from it in a short period of time and that it evenly distributes heat throughout a typical room. The proposed consent orders prohibit the corporations from making any such advertising claims in the future.

The complaints further allege that the corporations have misleadingly used the phrase "energy saver" in the name of the Quartz Heater to claim that it uses less electricity than other electric space heaters to provide the same amount of heat. The proposed consent orders prohibit the corporations from using the phrase "energy saver," or any other similar phrase, in the name of the Quartz Heater. The complaints also allege that the quartz tubes contained in the Quartz Heater are fragile and the corporations have falsely implied in their advertisements that the quartz tubes are durable components. The proposed consent orders prohibit the corporations from making any claims about the durability of the quartz tubes.

Boekamp, Inc. and Energy Efficient Systems, Inc. remain free under the proposed consent orders to accurately represent the features of the Quartz Heater, or features of any other product for which they make energy related claims.

Loretta Johnson,

Acting Secretary.

[FR Doc. 80-37715 Filed 12-3-80; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 441

Mobile Home Sales and Service; Extension of Comment Period

AGENCY: Federal Trade Commission.

ACTION: Extension of the time to file post-record comments.

SUMMARY: In response to several requests for reconsideration of the Commission's decision to grant 60 days additional time to submit post-record comments on the Presiding Officer's Report and the Final Staff Report, the Commission is again extending the post-record comment period for another 60 days in the rulemaking proceeding on the proposed trade regulation rule on Mobile Home Sales and Service (40 FR 23334, 1975). Comments will now be accepted if received on or before February 13, 1981.

DATE: Written comments on both the Presiding Officer's Report and the Final Staff Report must be received by the Commission no later than February 13, 1981.

ADDRESSES: Copies of the Final Staff Report and the Presiding Officer's Report are available at the Public Reference Branch, Room 130, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580; telephone: 202–523–3593.

Written comments, in four copies if possible, should be sent to Raymond L. Rhine, Presiding Officer, Federal Trade Commission, 600 E Street, NW., Room 667, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Eloise Gore or Allen Hile, Attorneys, Bureau of Consumer Protection, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580; telephone: 202–523–3500.

SUPPLEMENTARY INFORMATION: On August 13, 1980, the Director of the Bureau of Consumer Protection published in the **Federal Register** (45 FR 53839) notice of the publication of the Final Staff Report on the proposed Trade Regulation Rule on Mobile Home Sales and Service. Pursuant to § 1.13(h) of the Commission's Rules of Practice (16 CFR 1.13(h)) the publication of this report commenced the 60-day period for filing post-record comments on both the Final Staff Report and the Presiding Officer's Report (which was published on September 11, 1979; see 44 FR 53538). Therefore, the August 13, 1980 notice announced that comments would be accepted until October 14, 1980.

In response to three requests to extend the post-record comment period for from six to eleven and one-half months, the Commission, on September 26, 1980, determined that an extension of 60 days would be granted (45 FR 66809). The Commission subsequently received requests from two of the petitioners for reconsideration of their requests to extend the post-record comment period by more than 60 days. In response to these requests for reconsideration, the Commission has determined that the post-record comment period should again be extended by an additional 60 days. Therefore, comments will now be accepted if received on or before February 13, 1981.

Pursuant to § 1.13(i) of the Commission's Rules of Practice (16 CFR 1.13(i)) the Commission may allow persons who have previously participated in this rulemaking proceeding to make oral presentations to the Commission during its review of the rulemaking record. Requests to participate in such an oral presentation must be received by the Commission no later than the close of the post-record comment period. Since the Commission has extended the post-record comment period in this proceeding until February 13, 1981, requests to participate in an oral presentation will be accepted if received by the Commission on or before February 13, 1981.

By direction of the Commission. Chairman Pertschuk voted in the negative.

Carol M. Thomas,

Secretary.

[FR Doc. 80-37712 Filed 12-3-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 292

[Docket No. RM81-2]

Eligibility, Rates and Exemptions for Qualifying and Utility-Owned Geothermal Small Power Production Facilities; Correction

Issued: November 26, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document corrects a proposed rule on the implementation of section 643 of the Energy Security Act concerning geothermal energy that appeared at page 74934 in the **Federal Register** of Thursday, November 13, 1980.

FOR FURTHER INFORMATION CONTACT:
Adam Wenner, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 (202) 357-8033; or
Glenn Berger, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 (202) 357-8033

The following correction is made in FR Doc. 35391:

On page 74939, after the third line in the first full paragraph, the following language is inserted: acquisition and ownership of "qualifying" facilities or UGC's. By excluding a UGC from the definition of "electric utility company" under section 2(a)(3) of PUHCA, the FERC's proposed rules would eliminate the SEC's jurisdiction under section 9(a)(2) of PUHCA, thus rendering moot the exemption available under the SEC's proposed Rules 14 and 15, as it would pertain to geothermal facilities of 80 megawatts capacity or less.[31]

[31] This approach is similar to the exemption from PUHCA contained in section 9 of the Pacific Northwest Electric Power Planning and Conservation Act (S. 885), which would exempt a "generating company" from the definition of an electric utility company in PUHCA. The SEC has indicated its support, in principle, for that exemption.

Environmental Considerations

The Commission issued in June 1980, a draft environmental impact statement (DEIS) on rulemakings implementing sections 201 and 210 of PURPA. In the DEIS the Commission determined that PURPA-induced development of geothermal small power production facilities would not create significant environmental effects. In compliance with the National Environmental Policy Act of 1969 (NEPA), the Commission is examining the environmental effects associated with these rules.

Written Comments

Interested persons are invited to submit written comments on the proposed regulation to the Office of the Secretary.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37655 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 510

[Docket No. R-80-893]

Section 312 Rehabilitation Loan Program; Congressional Waiver Request

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of Congressional waiver request.

SUMMARY: Section 7(o)(4) of HUD rules permits the Secretary to request waiver of the review procedure in appropriate instances. This Notice lists and briefly summarizes for public information a final rule with respect to which the Secretary is presently requesting waiver.

FOR FURTHER INFORMATION CONTACT:
Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451-7th Street, SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION:
Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairman and Ranking Minority Members of both Congressional Banking Committees the final rule listed below. The purpose of the transmittal is to request waiver of the 30-day delayed effective date for the final rule under Section 7(o) of the Department of Housing and Urban Development Act. A summary of the rulemaking document for which waiver has been requested is set forth below:

Final Rule—24 CFR Part 510, Section 312 Rehabilitation Loan Program

This rule amends 24 CFR Part 510 by including only changes to the Section 312 final Rule, 24 CFR Part 510, published September 10, 1980, that are necessary to implement legislative amendments in the Housing and Community Development Act of 1980, except for a single technical correction in § 510.36. Congress has changed the maximum loan amount for residential properties from $27,000 to $33,500 per dwelling unit and has included provisions making the maximum loan amounts for congregate dwelling properties and single room occupancy properties $25,000 and $15,000 per dwelling unit respectively. In addition, this Final Rule further limits refinancing to those cases deemed by the Secretary to be necessary and appropriate, based on a provision of the 1980 Act which states that this authority may not be delegated to any agency or organization outside the Department.

(Sec. 7(o), Department of HUD Act, (42 U.S.C. 3535(o)); sec. 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C., November 26, 1980.

Victor Marrero,

Under Secretary, Department of Housing and Urban Development.

[FR Doc. 37685 Filed 12-3-80; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Part 3500

[Docket No. R-80-894]

Real Estate Settlement Procedures Act; Transmittal of Interim Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register**. This notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review. This interim rule would amend 24 CFR 3500.14, *Prohibition against kickbacks and unearned fees*, by adding a definition of the term "Referral".

FOR FURTHER INFORMATION CONTACT:
Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION:
Concurrently with issuance of this notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following interim rulemaking document:

24 CFR Part 3500—Real Estate Settlement Procedures Act

(Sec. 7(o), Department of HUD Act, (42 U.S.C. 3535(o)), sec. 324, Housing and Community Development Amendements of 1978)

Issued at Washington, D.C., November 24, 1980.

Victor Marrero,

Under Secretary, Department of Housing and Urban Development.

[FR Doc. 80-37694 Filed 12-3-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 48, 142, and 144

[LR-2114]

Manufacturers Excise Tax on Tires, Tubes, and Tread Rubber

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments which would update and revise the regulations concerning manufacturers excise tax on tires, tubes and tread rubber.

The proposed regulations include provisions concerning the imposition and rates of the excise tax on tires, the determination of the total weight of tires and tubes, the imposition of tax on tires and tubes delivered to the manufacturer's retail outlet, the imposition of tax upon original equipment tires on imported articles, exemptions for certain tires, and definitions of terms such as "tires of the type used on highway vehicles" and "manufacturers."

DATES: Written comments and requests for a public hearing must be delivered or mailed by February 2, 1981. Except as otherwise provided in this document, the amendments are proposed to be effective on the date which is 30 days after their publication as a Treasury decision. However, the fact that the regulations in this document are to be prospective would not preclude the application of prior Internal Revenue Service positions to periods prior to the effective date of the regulations.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, 1111 Constitution Ave., NW, Washington, DC 20224, Attention: CC:LR:T (LR-2114).

FOR FURTHER INFORMATION CONTACT:
John A. Tolleris of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, Attention: CC:LR:T (202-566-3294).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Manufacturers and Retailers Excise Tax Regulations (26 CFR Part 48) under sections 4071 through 4073 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to certain provisions under section (1) (a) of the Act of Aug. 1, 1966, Pub. L. No. 89-523, 80 Stat. 331; section 401(f) of the Revenue Act of 1971, 85 Stat. 533; section 502(a)(4) of the Highway Revenue Act of 1978, 92 Stat. 2756; and section 108(c)(2)(C) of the Technical Corrections Act of 1979, 94 Stat. 227. These amendments are to be issued under the authority contained in sections 4071(b), 4071(c), 4073(c), and 7805 of the Code. (80 Stat. 331, 26 U.S.C. 4071(b); 68A Stat. 482, 26 U.S.C. 4071(c); 70 Stat. 389, 26 U.S.C. 4073(c); 68A Stat. 917, 26 U.S.C. 7805).

Explanation of Provisions

The proposed regulations would update and revise the existing regulations regarding manufacturers excise tax on tires, tubes and tread rubber. If adopted, these amendments would supersede and delete §§ 48.4071-1 through 48.4073-4 of the Manufacturers and Retailers Excise Tax Regulations, § 142.3-1 of the Temporary Excise Tax Regulations under the Revenue Act of 1971, and part 144 of the Temporary Excise Tax Regulations Relating to Tax on Tires and Tubes Delivered to Manufacturer's Retail Outlet.

Proposed § 48.4071-1(b) revises the current provisions regarding the rates at which excise tax is imposed upon tires, inner tubes, and tread rubber to reflect modifications to the schedule for rate reduction made to Code section 4071(d) by section 502(a)(4) of the Highway Revenue Act of 1978.

Proposed § 48.4071-3 incorporates, with minor revisions, those rules now contained in § 144.1-1 of the Temporary Excise Tax Regulations Relating to Tax on Tires and Tubes Delivered to Manufacturer's Retail Outlet. Proposed § 48.4071-4 incorporates, with minor revisions, those rules now contained in § 142.3-1 of the Temporary Excise Tax Regulations under the Revenue Act of 1971.

Proposed § 48.4072-1 makes minor modifications to the definitions of such terms as "tread rubber" and "manufacturer". Paragraph (b) of this section would provide that tread rubber also includes a continuous rubber ribbon produced through an extrusion process for direct application in recapping or retreading a tire casing. This paragraph would also clarify the circumstances when tread rubber loses its identity for purposes of excise taxation. Paragraph (e) of this section would make clear that minibikes are among those vehicles whose tires may be taxable. Proposed paragraph (g) of this section provides the term "manufacturer" also includes producers and importers of tires, tubes, and tread rubber.

If these amendments are adopted, § 144.1-2 of the Temporary Excise Tax Regulations Relating to Tax on Tires and Tubes Delivered to Manufacturer's Retail Outlet, which concerns the 1966 floor stock tax on certain tires and inner tubes, would be deleted. Section 4226 of the Code, to which § 144.1-2 relates, was repealed effective on February 1, 1977, by section 1904(a)(4) of the Tax Reform Act of 1976.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**.

Drafting Information

The principal author of these proposed regulations is John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 48, 26 CFR Part 142, and 26 CFR Part 144 are as follows:

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

§§ 48.4071–1, 48.4071–2, 48.4072–1, 48.4073—48.4073–4 [Removed]

PART 142—TEMPORARY EXCISE TAX REGULATIONS UNDER THE REVENUE ACT OF 1971

§ 142.3–1 [Removed]

PART 144—TEMPORARY EXCISE TAX REGULATIONS RELATING TO TAX ON TIRES AND TUBES DELIVERED TO MANUFACTURER'S RETAIL OUTLET [Removed]

Paragraph 1. Sections 48.4071–1, 48.4071–2, 48.4072–1, 48.4073, 48.4073–1, 48.4073–2, 48.4073–3, and 48.4073–4 of the Manufacturers and Retailers Excise Tax Regulations, § 142.3–1 of the Temporary Excise Tax Regulations under the Revenue Act of 1971, and all of Part 144, the Temporary Excise Tax Regulations Relating to Tax on Tires and Tubes Delivered to Manufacturer's Retail Outlet, are deleted.

PART 48—MANUFACTURERS AND RETAILERS EXCISE TAXES

Par. 2. The following new sections are added immediately after § 48.4063–2 to the Manufacturers and Retailers Excise Tax Regulations. The new sections read as follows:

Tires, Tubes, and Tread Rubber

§ 48.4071–1 Imposition and rates of tax.

(a) *Imposition of tax.* Section 4071 imposes a tax upon the following articles sold by the manufacturer thereof:

(1) Tires made wholly or in part of rubber;

(2) Inner tubes (for tires) made wholly or in part of rubber, and

(3) Tread rubber.

For definitions of the terms "tires," "inner tubes," "tread rubber," "rubber," and "manufacturer," see § 48.4072–1.

(b) *Rates and computation of tax*—(1) *Rates of tax.* Tax is imposed upon each of the above-mentioned taxable articles at the rate applicable on the date on which the article is sold, as specified below:

	Cents per pound
(i) *Tires:*	
(A) Of the type used on highway vehicles:	
(1) For the period July 1, 1965, to Sept. 30, 1984, inclusive	10
(2) On or after Oct. 1, 1984	5
(B) Of the type used on other than highway vehicles. On or after July 1, 1965	5
(C) Laminated tires. On or after July 1, 1965	1
(ii) *Inner tubes:*	
(A) For the period July 1, 1965, to Sept. 30, 1984, inclusive	10
(B) On or after Oct. 1, 1984	9
(iii) *Tread rubber:* For the period July 1, 1965, to Sept. 30, 1984, inclusive	5

(2) *Computation of tax.* The tax on tires, inner tubes, and tread rubber is computed by applying to the total weight (including a fractional part of a pound) of the article the rate in effect at the time the article is sold. See § 48.4071–2, relating to determination of weight.

(c) *Liability for tax.* The tax imposed by section 4071 is payable by the manufacturer when the manufacturer makes a sale of a taxable article, or as provided in section 4071 (b) and § 48.4071–3 for a manufacturer who sells at retail, when the manufacturer delivers a taxable article to a retail store, or to a retail outlet, of the manufacturer.

(d) *Recapped or retreaded tires.* The recapping or retreading of a tire (other than from bead to bead) does not constitute manufacture of a taxable article. The tax imposed by section 4071 does not apply to the sale of a tire so recapped or retreaded, if before such sale there had been a sale of the tire in the United States and the tire was a taxable tire at the time of such previous sale in the United States as distinguished from a carcass that had lost its utility as a tire. The recapping or retreading of a tire from bead to bead (whether or not the original tire is a carcass that had lost its utility as a tire) does constitute manufacture of a taxable tire. The tax imposed by section 4071 applies to the sale or use of a tire that has been so recapped or retreaded.

§ 48.4071–2 Determination of weight.

(a) *In general*—(1) *Tires.* (i) Metal rims or rim bases are not to be included in determining the total weight of a tire. However, the wire, staples, darts, clips, and other material or fastening devices which form a part of the tire or are required for its use must be included in determining the total weight of the tire. Studs are considered to be part of a tire and are to be included when determining the weight of a tire. In the case of a tubeless tire, the total weight includes the weight of the air valve and stem or any other mechanism that functions as a part of the tire and is used in connection with inflating the tire or maintaining its air pressure.

(ii) When tires are sold with metal rims or rim bases attached, the manufacturer must maintain records that will establish what portion of the total weight of the finished product represents the tire exclusive of the metal rim or rim base.

(2) *Inner tubes.* The total weight of an inner tube includes the weight of the air valve and stem or any other mechanism attached to the inner tube that is used in connection with inflating the tube or maintaining its air pressure.

(b) *Alternative method of determining weight of tires and inner tubes.* A manufacturer who has received permission from the Commissioner may, subject to such conditions as the Commissioner may prescribe, determine total weight of tires and inner tubes manufactured and sold by the manufacturer on the basis of the average weight for each type, size grade, and classification shown in schedules published by the tire industry. The average weights must be established in accordance with the method approved by the Commissioner and apply for such periods as the Commissioner may prescribe. The Commissioner may terminate the approval granted any manufacturer. In the case of the termination of the approval granted any manufacturer, the termination becomes effective 10 days from the date of the receipt by the manufacturer of the notice of termination. A manufacturer may effect termination, as of a specified date, of the privilege to determine total weight in accordance with provisions of this paragraph by giving no less than 10 days written notice of such intention to the Commissioner. The termination of the approval given a manufacturer does not affect a manufacturer's tax liability for tires and inner tubes sold prior to the effective date of the notice of termination.

§ 48.4071–3 Imposition of tax on tires and tubes delivered to manufacturer's retail outlet.

(a) *General rule.* If, on or after October 1, 1966, a tire or inner tube is delivered by the manufacturer thereof to a retail outlet of the manufacturer, the manufacturer is liable for tax in respect of the tire or tube at the rate set forth in section 4071 in the same manner as if the tire or tube had been sold at the time it was delivered to the retail outlet. The amount of tax payable shall be computed in accordance with the provisions of paragraph (b)(2) of § 48.4071–1, and of § 48.4071–2.

(b) *Definition of retail outlet.* For purposes of this section, the term "retail outlet" includes the term "retail store." A retail outlet is a facility maintained by a manufacturer for selling tires or tubes at retail. A facility may be a retail outlet even though some sales are made at wholesale at such facility; see paragraph (d)(1) of this section. A facility may also be considered to be a retail outlet for the purposes of this section notwithstanding that its main activity is in another area than selling tires or inner tubes. For example, if a manufacturer operates a facility for both automotive repair and the selling of tires at retail, the facility is considered a retail outlet for the purposes of this section even if the primary activity of the facility is automotive repair. No facility is considered a retail outlet for the purposes of this section if it is determined that less than 15 percent of the taxable tires and inner tubes removed from such facility are sold at retail by such facility. The determination described in the preceding sentence is made on the basis of the experience of a representative period, of at least 12 consecutive calendar months during the 2-year period immediately preceding the first day included in the return period for which tax under section 4071(b) is reported. If a facility has not been in existence during such a 12-month period, the determination is made on the basis of the available experience of the manufacturer. See also paragraph (c)(3) of this section, relating to imposition of tax where a retail outlet is maintained as an adjunct to a production facility or distribution center.

(c) *Delivery*—(1) *In general.* A manufacturer of tires or inner tubes may, at its option, treat either of the following events as constituting delivery to a retail outlet:

(i) Delivery of tires or inner tubes to a common carrier (or, where the tires or tubes are transported by the manufacturer, the placing of the tires or tubes into the manufacturer's over-the-road vehicle) for shipment from the plant in which the tires or tubes are manufactured, or from a regional distribution center of tires and inner tubes, to a retail outlet or to a location in the immediate vicinity of a retail outlet primarily for future delivery to the retail outlet.

(ii) Arrival of the tires or tubes at the retail outlet, or, where shipment is to a location in the immediate vicinity of a retail outlet primarily for future delivery to the retail outlet, the arrival of the tires or tubes at such location.

In its excise tax return for the first return period beginning after September 30, 1966, a manufacturer of tires or inner tubes must elect to determine the date of delivery to retail outlets in accordance with one of the two subdivisions of this paragraph (c)(1) and must determine the dates of all deliveries made to all retail outlets in accordance with the subdivision which the manufacturer has elected to apply. The election may be made in a statement attached to the return for such period. Having elected to treat one of the events listed in subdivision (i) or (ii) of this paragraph (c)(1) as constituting delivery to a retail outlet for purposes of its return for the first return period after September 30, 1966, the manufacturer may not use a different criterion for a subsequent return period unless permission of the district director is obtained in advance.

(2) *Deliveries made in the immediate vicinity of a retail outlet primarily for future delivery to the retail outlet.* (i) For purposes of this section, any delivery which is made in the immediate vicinity of a retail outlet primarily for future delivery to the retail outlet is deemed to be a delivery to the retail outlet. For the purpose of the preceding sentence, a location is considered to be in the immediate vicinity of a retail outlet if the distance between the location and the retail outlet is sufficiently small so that it is feasible to transport tires and inner tubes between the location and the retail outlet by means of dollies, fork lift trucks, pushcarts, and similar vehicles of the type normally used around the premises of factories and similar establishments, as opposed to highway motor vehicles. For the purpose of the preceding sentence, it is immaterial that a public thorough-fare must be used in order to transport tires or inner tubes to a retail outlet from another location. Tires and inner tubes delivered to a location in the immediate vicinity of a retail outlet are considered to be delivered to the location "primarily for future delivery" to the retail outlet if it is determined that a majority (by number) of the tires and tubes removed from the location are delivered to the retail outlet. The determination described in the preceding sentence is made on the basis of the experience of a representative period of at least 12 consecutive calendar months during the 2-year period immediately preceding the first day included in the return period for which tax under section 4071(b) is reported. If a facility has not been in existence during such a 12-month period, the determination is made on the basis of the available experience of the manufacturer. If it is determined that the majority of all tires and inner tubes removed from a given location are delivered to a retail outlet of the manufacturer in the immediate vicinity of the location, tax is imposed upon all tires and tubes delivered by the manufacturer to the location, even though all or part of the tires or tubes comprising a particular shipment to the location may be intended for further transportation to a location other than the retail outlet. If it is determined that a majority of all tires and inner tubes removed from a given location are not delivered to a retail outlet of the manufacturer in the immediate vicinity of the location, tax is imposed upon the removal of a tire or inner tube from the location to the premises of the retail outlet. See also paragraph (d)(2) of this section, relating to sales by the manufacturer at facilities other than retail outlets.

(ii) The provisions of this paragraph (c)(2) may be illustrated by the following example:

Example. A manufacturer of tires and tubes whose plant is located in City X operates two facilities in City Y: Warehouse A, and Store Q. Store Q is a retail outlet within the meaning of paragraph (b) of this section, and Warehouse A is in the immediate vicinity of Store Q. During the 12-month period ending September 30, 1966, 60 percent of the tires and inner tubes removed from Warehouse A were delivered to Store Q. All tires or inner tubes delivered by the manufacturer to Warehouse A are subject to tax under section 4071(b) and this section (unless, before such delivery, tax was imposed on the same tires and tubes).

(3) *Retail outlet maintained as adjunct of production or distribution facility.* If a retail outlet is maintained as an adjunct to and in the immediate vicinity of a facility which is not a retail outlet (as, for example, a production plant or a regional distribution center), delivery to the retail outlet is deemed to occur at the earlier of—

(i) The date when a tire or inner tube is removed from the general storage facilities in the facility which is not a retail outlet for transfer to the premises of the retail outlet, or

(ii) The date when a tire or inner tube is designated to be sold by or at the retail outlet.

(d) *Special rules*—(1) *Retail outlets which also sell at wholesale.* Tax applies to all shipments of tires and inner tubes delivered to a retail outlet, as defined in paragraph (b)(2) of this section. Thus, for the purposes of section 4071(b) and this section, it is immaterial that all or part of the tires or inner tubes of a particular delivery to a retail outlet are intended for sale at wholesale. See also paragraph (d)(3) of this section.

(2) *Sales by manufacturer at facilities other than retail outlets.* Sales by the manufacturer of tires and inner tubes at facilities other than retail outlets are subject to tax under section 4071(a).

(3) *Deliveries of tires or tubes on which tax has been previously imposed.* (i) Tax is not imposed under section 4071(b) and this section on any tire or inner tube in respect of which there was previously imposed a tax under section 4071(a). Similarly, a tire or inner tube is taxed only once under section 4071(b) and this section.

(ii) The provisions of this paragraph (d)(3) may be illustrated by the following example:

Example. A manufacturer has two selling facilities, Store No. 1 and Store No. 2. Only retail sales are made at Store No. 2, which obtains its merchandise from Store No. 1. Assume that, although wholesaling and distribution activities are conducted at Store No. 1, the sale of tires and tubes at retail is conducted at Store No. 1 to the extent that Store No. 1 is a retail outlet within the meaning of paragraph (b) of this section, with the result that tax is imposed on deliveries by the manufacturer of tires and tubes to Store No. 1. Tax is not imposed on a delivery of tires or inner tubes from Store No. 1 to Store No. 2.

§ 48.4071–4 Original equipment tires on imported articles.

The tax imposed by section 4071(a) applies with respect to tires and inner tubes (other than bicycle tires and inner tubes) that are original equipment for an imported article upon which no tax is imposed under section 4061 if the article is sold on or after December 11, 1971. In such a case, the importer of the article is treated as the manufacturer and vendor of the tires and inner tubes with which the article is equipped. However, the tax imposed by section 4071(a) is not imposed with respect to tires and inner tubes if the imported article is an automobile bus chassis or an automobile bus body. Solely for purposes of this section, the provisions of section 4218 (relating to use by a manufacturer or importer considered a sale) do not apply in cases where an individual imports an article having original equipment tires and tubes and on which article no tax is imposed under section 4061 if the article is imported solely for the individual's personal use and is so used.

48.4072–1 Definitions.

For purposes of the regulations in this part, unless otherwise expressly indicated:

(a) *Rubber.* The term "rubber" includes synthetic and substitute rubber.

(b) *Tread rubber.* The term "read rubber" means any material (1) which is commonly or commercially known as tread rubber or camelback, or (2) which is a substitute for any material commonly or commercially known as tread rubber or camelback and is of a type used in recapping or retreading tires. The term includes, for example, strips of material, wholly or partially of rubber, natural or synthetic, intended to be vulcanized or otherwise affixed to a tire casing to form the outside perimeter of the tire, smooth or treaded. It also includes treading material produced by reprocessing scrap, salvage, or junk rubber and a continuous rubber ribbon produced through an extrusion process for direct application in recapping or retreading a tire casing. Tread rubber loses it identity as such when it has been used in the recapping or retreading of a tire of a type used on a highway vehicle (without regard to the actual use ultimately made of the tire) or has deteriorated in quality to the point where it is no longer suitable for use in recapping or retreading of a tire. (In the case of such deterioration, see section 6416(b) (2) and § 48.6416 (b)–2 to secure a refund or credit of the tax paid.)

(c) *Tires of the type used on highway vehicles.* (1) The term "tires of the type used on highway vehicles", for purposes of §§ 48.4071–1 through 48.4073–3 means tires of the type used on—

(i) Motor vehicles that are highway vehicles (within the meaning of § 148.4061 (a)–1(d)), or

(ii) Vehicles of the type used in connection with motor vehicles that are highway vehicles (within the meaning of § 48.408(a)–1(d)).

The term "tires of the type used on highway vehicles" does not include bicycle tires. Bicycle tires, however, are included in the term "other tires" as used in section 4071(a)(2).

(2) For purposes of paragraph (c)(1)(i) of this section, tires of the type used on motor vehicles that are highway vehicles include tires used on motor trucks, buses, passenger automobiles, motor homes, highway tractors, trolley buses or coaches, and motorcycles.

(3) For purposes of paragraph (c)(1)(ii) of this section, tires of the type used on vehicles of the type used in connection with motor vehicles that are highway vehicles include tires used on truck or bus trailers, truck semitrailers, mobile homes, housetrailers, or utitlity trailers.

(d) *Inner tubes.* The term "inner tubes" includes air containers of all types made wholly or in part of rubber and designed and manufactured for use in pneumatic tires.

(e) *Tires.* The term "tires" includes rubber casings, hoops, and strips or bands of all kinds designed and shaped or built to form the tread of or to fit a vehicle wheel. Tires of either the pneumatic or solid type which fit or form the tread for wheels of any article which is capable of use as a means of transporting a person or burden are taxable as tires. Examples of articles which may be equipped with taxable tires are motor scooters, minibikes, industrial trucks, farm tractors, wheelbarrows, and similar articles. See section 4073(a) and § 48.4073–1 with respect to the exemption of tires of certain sizes, and section 4073(b) and § 48.4073–2 with respect to the exemption for tires with internal wire fastening.

(f) *Laminated tires.* For purposes of the tax imposed by section 4071, the term "laminated tires" means tires (1) which are not "tires of the type used on highway vehicles" within the meaning of paragraph (c) of this section, and (2) which consist wholly of scrap rubber from used tire casings with an internal metal fastening agent.

(g) *Manufacturer.* The term "manufacturer" means manufacturer, producer, or importer. A person who converts, by any process, a new tire taxable under section 4071 at one rate of tax into a tire taxable under section 4071 at a different rate (as for example, an off highway-type tire converted into a highway-type tire) is considered to be a manufacturer of the converted tire. If a conversion results in a reduced rate of tax for the converted tire, see section 6416(b)(2) and § 48.6416(b)–2 to secure a credit or refund of part of the tax paid. The term "manufactured" includes "produced" and "imported".

(h) *Cross references.* For other definitions, see § 48.0–2.

§ 48.4073–1 Exemption of tires of certain sizes.

The tax does not apply to sales of tires of all-rubber construction (whether hollow center or solid) if they have no fabric or metal reinforcement and do not exceed either of these measurements: (a) 20 inches in diameter measured to the outside circumferences, and (b) 1¾ inches in cross-section. The exemption provided by section 4073(a) is to be determined solely on the measurements of the tire and not on the purpose for which it is designed or used.

§ 48.4073–2 Exemption of tires with internal wire fastening.

The tax does not apply to sales of tires of any size or dimension manufactured from extruded tiring that is fastened or held together by means of internal wire or other metallic material.

§ 48.4073–3 Exemption of tread rubber used for recapping nonhighway tires.

(a) *Sold direct by manufacturer for nontaxable use.* The tax does not apply to the sale of tread rubber by the manufacturer to any person for use by that person otherwise than in the recapping or retreading of tires of the type used on highway vehicles. In determining whether tread rubber is sold for a taxable or nontaxable use, the type of vehicle on which the recapped or retreaded tire is to be used, or the actual or intended use of the recapped or retreaded tire, is immaterial. The controlling factor is whether the tire resulting from the recapping or retreading is of a type that is used otherwise than on a highway vehicle. For definition of "tires of the type used on highway vehicles", see paragraph (c) of § 48.4072–1.

(b) *Sales for resale for nontaxable use.* No sale of tread rubber may be made tax free for resale even thought it is known at the time of the sale that the tread rubber will be resold for use otherwise than in the recapping or retreading of tires of the type used on highway vehicles. However, where the tread rubber is resold for such use, the manufacturer who paid the tax on a sale of the tread rubber may secure a refund or credit in accordance with the provisions of section 6416(b)(2) and § 48.6416(b)–2.

(c) *Evidence required to establish exemption.* (1) To establish the right to sell tread rubber tax free under section 4073(c), the manufacturer must obtain from the purchaser and retain in its possession a properly executed exemption certificate.

(2) Where only occasional sales of tread rubber for exempt use are made to a purchaser, a separate exemption certificate should be furnished for each order. However, where sales are regularly and frequently made to a purchaser for exempt use, a certificate covering all purchases during the period not to exceed 12 calendar quarters is acceptable. The certificates and proper records of invoices, orders, etc., relative to tax-free sales must be kept for inspection by the district director as provided in section 6001 and the regulations in Subpart O.

(d) *Acceptable form of exemption certificate.* The following form of exemption certificate is acceptable for the purposes of this section and must be adhered to in substance:

Exemption Certificate

(For use by persons who purchase tread rubber from the manufacturer, producer, or importer thereof for use otherwise than in recapping or retreading tires of the type used on highway vehicles (section 4073(c) of the Internal Revenue Code).)

(Date) ———————, 19—

I, the undersigned, certify that I am the purchaser, or the (Title) ———— of (Name of purchaser if other than the undersigned) ———————— who is the purchaser of:

——— The tread rubber specified in the accompanying order or contract, or ———

All tread rubber specified in contracts or orders entered into or placed with (Name of seller) ———— for the period commencing ———— and ending ————, (period not to exceed 12 calendar quarters) and that such tread rubber will not be used in the recapping or retreading of tires of the type used on highway vehicles, but will be used for the following purposes:

_____

_____

_____

The undersigned understands that if the tread rubber is used for the recapping or retreading of tires of the type used on highway vehicles, or is sold or otherwise disposed of, such fact must be promptly reported to the manufacturer. The undersigned also understands that the fraudulent use of this certificate for the purpose of securing this exemption will subject the undersigned or any other party making such fraudulent use to a fine of not more than $10,000, or to imprisonment for not more than 5 years, or both, together with costs of prosecution. The purchaser also understands that the purchaser must be prepared to establish by satisfactory evidence the purpose for which the tread rubber was used.

(Signature) —————————————

(Address) —————————————

(e) *Exemption certificate not obtained prior to filing of manufacturer's excise tax return.* If the sale is otherwise exempt but the exemption certificate is not obtained prior to the time the manufacturer files a return covering taxes due for the period during which the sale was made, the manufacturer must include the tax on the sale in its return for that period. However, if the certificate is later obtained, a claim for refund of the tax paid on the sale may be filed, or a credit for the amount may be taken upon a subsequent return, as provided by section 6416(b)(2) and § 48.6416(b)–2.

§ 48.4073–4 Other tax-free sales.

(a) *Cross references.* For provisions relating to tax-free sales of articles referred to in section 4071, see:

(1) Section 4221, relating to certain tax-free sales, and the regulations thereunder in Subpart H;

(2) Section 4222, relating to registration, and the regulations thereunder in Subpart H;

(3) Section 4223, relating to special rules pertaining to further manufacture, and the regulations thereunder in Subpart H; and

(4) 28 FR 348, January 12, 1963, relating to the authorization of an exemption from the tax imposed by section 4071 by the Secretary of the Treasury under section 4293 for sales of certain tires and inner tubes sold to the American Red Cross on or after March 1, 1963.

[jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80-37988 Filed 12-3-80; 8:45 am]

BILLING CODE 4830-01-M

PANAMA CANAL COMMISSION

35 CFR Part 103

Order of Passage of Vessels Through the Panama Canal

AGENCY: Panama Canal Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Panama Canal Commission proposes to amend its regulations relating to the general provisions governing vessels by establishing a plan for scheduling vessels passing through the Panama Canal. Studies have shown that a plan for scheduling vessel transits based upon reservations and advance notice of expected arrival time may result in a traffic pattern in which there is less variation from day to day in the number of arrivals. The intended effect of this action is to increase efficiency in the use of the Canal and to provide better service to the users.

DATES: Comments must be received on or before: January 5, 1981.

ADDRESSES: Comments may be mailed to Secretary, Panama Canal Commission, 425 Thirteenth Street, NW, Washington, D.C. 20004, or delivered to Room 312, Pennsylvania Bldg., 425 Thirteenth Street, NW, Washington, D.C., between 7:30 a.m. and 4:30 p.m.

Comments may also be submitted to the Marine Director, Panama Canal Commission, Balboa, Republic of Panama, or delivered to Room 310, Adminstration Building, Balboa Heights, between 7:15 a.m. and 4:15 p.m. Comments may also be mailed to Marine Director, Panama Canal Commission, APO Miami 34011

FOR FURTHER INFORMATION CONTACT:

Michael Rhode, Jr., Secretary, Panama Canal Commission, Room 312, Pennsylvania Bldg., 425 Thirteenth Street, NW, Washington, D.C. 20004 (202) 724–0104

Captain John D. Thurber, Marine Director, Panama Canal Commission, (Telephone: Republic of Panama 52–7917).

SUPPLEMENTARY INFORMATION: This document proposes a change in the rules

and practice governing the scheduling of vessels passing through the Panama Canal. The purpose of the proposal is to conduct a test nine weeks or longer in duration in order to determine the feasibility of adopting a system of booking and advance scheduling for vessels that transit the Panama Canal. The test would begin during the first or second week of January 1981. The present practice is to use the time of arrival of the vessel at either terminals of the Canal as the basis for fixing its order in the daily transit schedule. Deviations from that sequence generally are due to considerations of safety, the capacity of the Docks and channel, or the availability of equipment and personnel. There also is a long-standing rule that preference be given to passenger vessels. Studies have shown that a plan for scheduling vessel transits based upon reservations and advance notice of expected arrival time may result in a traffic pattern in which there is less variation from day to day in the number of arrivals. Such uniformity, if attained, should increase Canal efficiency by making possible a more nearly continuous flow of vessel traffic, which must be scheduled to take into account ship size, handling characteristics, and the need for tugboat assistance or special procedures. With respect to the vessel operators, the proposed changes in the scheduling system are expected to reduce the waiting time of vessels at the Canal and, in the case of those that are booked or prescheduled, to obviate the need for early arrival at the waterway merely to obtain a place in the transit schedule. It is the intention of the Commission to initiate this test without assessment of either a fee or financial penalty—deferring a decision with respect to such assessments until futher notice. The only penalty contemplated for the test, therefore, is the 24-hour delay period that would be established by section 103.8(b) of the proposed regulation. It would be invoked when a vessel fails to arrive at the prescribed time prior to the transit for which it had been booked or prescheduled.

For the reasons set out in the preamble, Part 103 of Title 35 of the Code of Federal Regulations is proposed to be amended as follows:

PART 103—AUTHORITY [REVISED]

1. The authority citation for Part 103 would be revised to read as follows:

Authority: Sec. 1901, Pub. L. 96.70, 93 Stat. 492 (22 U.S.C. 3811); E.O. 12173, 44 FR 69271; E.O. 12215, 45 FR 36043.

2. Section 103.8 would be revised to read as follows:

§ 103.8 Preference within transit schedule, order of transiting vessels.

(a) Except as provided in section 103.9, and subject to the limitations imposed by Article III of the 1901 Treaty to Facilitate the Construction of a Ship Canal, entered into by the United States and Great Britain, and by Articles II and VI of the 1977 Treaty between the United States and the Republic of Panama concerning the Permanent Neutrality and Operation of the Panama Canal, vessels arriving for transit of the Canal will be placed in the transit schedule in accordance with the following rules:

(1) *Definitions.* As used in this section: "Booked for transit" means that a vessel has been assigned a date on which it will be moved through the Panama Canal.

"Prescheduled for transit" means that a vessel has been assigned a date on which it will appear on the list of vessels that the Canal authorities intend to move through the waterway on that day. Such assignment does not constitute a commitment by the Panama Canal Commission to effect the transit on the date in question.

"Regular transit" means the movement through the Canal of a vessel that has not been booked or prescheduled for transit.

(2) *Transit bookings.* A limited number of vessels will be booked for transit on a date certain if written request is received by the designated Canal authorities not earlier than 30 days, and not later than 14 days, prior to such date. Preference among booked vesels will be determined by the order in which requests are received. The specific order of transit will be determined by the Canal authorities.

(3) *Prescheduled transits.* A limited number of vessels will be prescheduled for transit on a date certain if written request is received by the designated Canal authorities not earlier than 13 days, and not later than three days, prior to the vessel's estimated time of arrival. Preference among prescheduled vessels will be determined by the order in which requests are received. The number of vessels which will be prescheduled for any given date and the specific order of transit will be determined by the Canal authorities.

(4) *Regular transits.* Vessels which are neither booked nor prescheduled for transit may be dispatched through the Canal in the order determined by the Canal authorities. Priority of arrival at a terminal port does not give a vessel the right to pass through the Canal ahead of another that may arrive later; however, the order of arrival will be a consideration in fixing the sequence of passage. Generally, regular transits will amount to or exceed approximately one third of the total number of vessels moved through the Canal on any given day.

(b) The Canal authorities shall impose a penalty of 24 hours' delay in placing a vessel in the transit schedule when such vessel has been booked or prescheduled and does not arrive at a terminus of the Canal by midnight of the day prior to the intended transit. This penalty will not be applied if the late arrival is due to *force majeure* or to delay for humanitarian purposes. A prescheduled transit may be canceled without penalty if notice of the cancellation is received by the Canal authorities at least 48 hours prior to the day of the intended transit. A booked transit may be canceled without penalty if notice of the cancellation is received by the Canal authorities at least seven days prior to the day of the intended transit. Requests for booking or prescheduling may be denied in the case of vessel operators or agents who establish a record of repeated cancelations.

(c) The Canal authorities may suspend or discontinue, in whole or in part, the booking and prescheduling system established by paragraphs (a) (2) and (3) of this section if they determine that its continued use adversely affects the efficient operation of the Canal.

Michael Rhodes, Jr.,

Secretary.

[FR Doc. 80-37857 Filed 12-3-80; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL 1689-6]

Approval and Promulgation of Implementation Plans; North Carolina: Air Quality Surveillance Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency proposes to approve the air quality surveillance plan revision submitted by the State of North Carolina on August 19, 1980. The revision updates North Carolina's state implementation plan (SIP) to meet EPA requirements set forth in 40 CFR Part 58, Subpart C.

The revision includes a commitment to update the monitoring network annually and to utilize all required quality assurance methods to ensure data accuracy. The revision meets all EPA requirements, and EPA is therefore proposing to approve it. The public is invited to submit written comments on this proposal.

DATE: To be considered, comments must be received on or before January 5, 1981.

ADDRESSES: Copies of the material submitted by North Carolina may be examined during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460;

Air Programs Branch, EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365;

Air Planning & Environmental Standards Branch, Division of Environmental Management, North Carolina Department of Natural Resources and Community Development, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27611.

FOR FURTHER INFORMATION CONTACT: Walter Bishop, Air Programs Branch, EPA Region IV, 345 Courtland Street, Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

On May 10, 1979 (44 FR 27558), EPA promulgated ambient air quality monitoring and data reporting regulations. These regulations satisfy the requirements of Section 110 (a)(2)(C) of the Clean Air Act by requiring ambient air quality monitoring and data reporting for purposes of state implementation plans (SIP). At the same time, EPA published guidance to the States regarding the information which must be adopted and submitted to EPA as a SIP revision providing for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) to measure ambient concentrations of those pollutants for which standards have been established in 40 CFR Part 50.

The State of North Carolina has responded by submitting to EPA on August 19, 1980, a revised version of the air quality surveillance section of their SIP (Section VI). This now provides for the establishment of a SLAMS network such that the monitors will be properly sited and the data quality assured. The network will be reviewed annually for needed modifications and descriptions containing information such as location, operating schedule, and sampling and analysis methods will be available for public inspection.

EPA proposes to approve the air quality surveillance revision submitted by North Carolina since it meets all the requirements of 40 CFR Part 58.

The public is invited to participate in this rulemaking by submitting written comments on the proposed approval of these revisions in the North Carolina plan. After weighing all pertinent comments received together with other information available to him, the Administrator will take final action.

EPA has determined that the proposed action is "specialized" and thus not subject to the procedural requirements of Executive Order 12044.

(Sec. 110, Clean Air Act (42 U.S.C. 7410))

Dated: November 20, 1980.

John A. Little,

Acting Regional Administrator.

[FR Doc. 80-37679 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-4-FRL 1689-7]

Approval and Promulgation of Implementation Plans; North Carolina: Approval of Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: It is proposed to approve the following revisions in the North Carolina air implementation plan: (1) Revised ambient standard for ozone; (2) provision pursuant to § 126(a) of the Clean Air Act for abatement of interstate pollution; (3) changes in regulation 2D.0501, Compliance with Emission Control Standards, and 2H.0603, Applications; (4) revision of the ozone alert level from 200 to 400 ug/m³ and deletion of references to coefficient of haze (COH); (5) addition of an ambient standard for lead; (6) incorporation of changes in EPA's New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants (40 CFR Parts 60 and 61; and (7) addition of provisions intended to fulfill the requirements of section 127(a) of the Clean Air Act concerning public participation. The public is invited to comment on these proposed changes in the North Carolina plan.

DATE: To be considered, comments must be received on or before January 5, 1981.

ADDRESSES: Written comments should be addressed to Mr. Walter Bishop of EPA Region IV's Air Programs Branch (see address below). Copies of the materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460;

Air Programs Branch, EPA Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365;

Air Planning & Environmental Standards Branch, Division of Environmental Management, North Carolina Department of Natural Resources & Community Development, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27611.

FOR FURTHER INFORMATION CONTACT: Walter Bishop, Air Programs Branch, EPA Region IV, 345 Courtland Street, Atlanta, Georgia 30365, 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: To satisfy the requirements of Section 126(a) of the Clean Air Act, North Carolina has revised the intergovernmental cooperation section of its plan to provide that the State will give 60-day prior notice to adjoining states of new source construction likely to have a significant air quality impact there. The list of point sources in Appendix A of the plan has been amended by adding a list of existing sources which could have a significant impact on air quality in adjoining states. These changes were adopted by the Environmental Management Commission on May 10, 1979. On the same date, the Commission revised North Carolina's ambient ozone standard to make it consistent with the national standards for this pollutant which EPA promulgated on February 8, 1979. These revisions were submitted for EPA's approval on June 15, 1979.

On April 10, 1980, the Commission adopted a number of further revisions in the North Carolina plan. These were submitted for EPA's approval on May 2, 1980. Some of these were adopted to correct deficiencies in the State's 1979 revisions for nonattainment areas and will be dealt with in other notices. The revisions being proposed for approval today are now described.

Regulation 2D.0501, Compliance with Emission Control Standards, has been revised several times since the original North Carolina plan was approved. However, EPA has never taken approval action on these changes, which were described in a notice of proposed rulemaking which appeared in the **Federal Register** of July 17, 1978 (43 FR 30580). The State has made further changes which make previous revisions approvable: The applicability of Federal test procedures has been made more specific; in addition, paragraph (f) of the regulation has been revised to provide a mechanism for imposing controls more stringent than those provided in the plan

in cases where added controls are needed to meet ambient standards. This mechanism involves the addition of a paragraph (f) to regulation 2H.0603 providing that permits to impose such added controls must receive a public hearing in conformity with 40 CFR 51.4 and be added to the plan as an appendix. Such permits, and permits embodying alternative controls under regulation 2D.0905 of the regulations for the control of volatile organic compounds, will have to be submitted for EPA's approval following public hearing and formal adoption.

Regulation 2D.0302, Episode Criteria, has been revised by changing the term "oxidant(s)" to "ozone", by deleting all mention of coefficient of haze (COH), and by raising the alert level for ozone from 200 to 400 ug/m³, one-hour average.

An ambient standard for lead, consistent with the Federal ambient standard, has been added to the plan.

Regulation 2D.0524, New Source Performance Standards, and 2D.0525, National Emission Standards for Hazardous Air Pollutants, are amended to incorporate by reference standards added to 40 CFR Parts 60 and 61 between April 6, 1976, and January 1, 1979. Regulation 2D.0603, dealing with monitoring requirements for sources covered by national standards, is revised to reflect monitoring requirements associated with the added standards. The State also requested a delegation of authority to administer the added standards.

In response to the requirements of Section 127(a) of the Clean Air Act, the State has added to the plan a section on public awareness. This section outlines the mechanisms which will be used to acquaint the general public with issues related to air quality, to keep the public up-to-date on violations of the ambient standards in the State, to provide for public involvement in decisions affecting air quality, and to provide for cooperation in the foregoing activities between the State and the local air pollution control agencies.

The public is invited to participate in this rulemaking by submitting written comments on the proposed approval of these revisions in the North Carolina plan. After weighing all pertinent comments received together with other information available to him, the Administrator will take final action.

(Secs. 110, 128(a), 127(a), Clean Air Act as amended in 1977 (42 U.S.C. 7410, 7426(a), 7427(a)))

Dated: November 20, 1980.

John A. Little,

Acting Regional Administrator.

[FR Doc. 80-37729 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 52

[A-10-FRL 1691-4]

Intent To Promulgate a Maintenance of Pay Provision as Part of the Idaho State Implementation Plan; Opportunity for Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice for hearing opportunity.

SUMMARY: The Environmental Protection Agency (EPA), Region X invites comments on and announces an opportunity for a public hearing on EPA's intent to promulgate a maintenance of pay provision in the Idaho State Implementation Plan (SIP) pursuant to the authority of Section 110(a)(6) of the Clean Air Act, as amended.

DATES:

Hearing date: January 6, 1981, 7:00 p.m.

Comment date: Comments must be received on or before January 19, 1981.

Public hearing request: Requests for a public hearing should be sent to the further information contact person on or before January 5, 1981.

ADDRESSES: Hearing location: Washington Water Power Company, Auditorium, 120–North Hill Street, Kellogg, Idaho 83857.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 94101.

The materials relevant to this proposed action may be examined during normal business hours at the following locations:

Central Docket Section (10A–79–4), Environmental Protection Agency, West Tower Lobby, Gallery I, 401 M Streets, SW., Washington, D.C. 20460

Air Programs Branch, Environmental Protection Agency, 1200 Sixth Avenue M/S 629, Seattle, Washington 98101

FOR FURTHER INFORMATION CONTACT: Kenneth A. Lepic, Air Programs Branch M/S 625, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101; Telephone: (206) 442–1125; FTS: 399–1125.

SUPPLEMENTARY INFORMATION: Under Section 110(a) and 302(k) of the Clean Air Act as amended, (hereafter referred to the as the Act), the national ambient air quality standards (NAAQS) for sulfur dioxide (SO_2) must be attained through use of constant controls which remove oxides of sulfur from gas streams prior to release to the atmosphere. However, Section 119 of the Act allows certain nonferrous smelters that are at present unable to meet required levels of constant SO_2 control to utilize dispersion-dependent techniques, as opposed to constant controls, to attain NAAQS for SO_2 on a temporary basis under terms of a Section 119 nonferrous smelter order (NSO). Such techniques include the use of supplementary control systems (SCS).

Under an SCS, production is curtailed to avoid an NAAQS violation whenever meteorological conditions are not conducive to good dispersion of pollutants. When this occurs production is stopped, shut down or curtailed until favorable meteorological conditions are present. During periods of SCS production shutdown, smelter workers' schedules are often curtailed and worker pay reduced.

In 1977, Congress amended the Act (Pub. L. 95–95) to include Section 110(a)(6), which requires each State Implementation Plan (SIP) which contains provisions allowing a source to use supplemental control to include a requirement that reduction in production will not result in loss of pay to the worker.

On June 24, 1980, EPA published in the **Federal Register** (45 FR 42514) the minimum requirements for an initial (first) primary nonferrous smelter order (NSO) issued pursuant to Section 119 of the Act. EPA will soon propose issuance of a first NSO to the Bunker Hill Company located in Kellogg, Idaho, in accordance with the Settlement Agreement entered into by the Bunker Hill Company and EPA on June 11, 1979. EPA published a Notice describing the Settlement Agreement in the July 10, 1979 **Federal Register** (44 FR 40360). EPA then proposed on September 7, 1979 to promulgate the terms of the Settlement Agreement and promulgated the terms on December 13, 1979 (44 FR 27118) as a revision to the Idaho SIP. Before the Bunker Hill Company's first NSO can be issued, however, a provision regarding protection of the employee for loss of pay must be included in the Idaho SIP that satisfies Section 110(a)(6) of the Act.

On May 31, 1972 (37 FR 10842) the Administrator of EPA pursuant to Section 110 of the Act and 40 CFR Part 51, approved with specified exceptions the Idaho State Implementation Plan. In response to the 1977 Amendments, each State is to adopt and submit a revised plan to implement and enforce newly enacted provisions of the Act. On

January 15, 1980 the State of Idaho submitted a revised SIP for EPA consideration. Maintenance of pay provisions were not included in the revised SIP. EPA has been advised that the State does not intend to propose the SIP revision necessary to satisfy the maintenance of pay requirements of Section 110(a)(6). In view of this, EPA itself is proposing to promulgate a maintenance of pay provision for the Idaho SIP as required by Section 110(a)(6).

On September 26, 1980, a Notice of Proposed Rulemaking was published in the **Federal Register** (45 FR 63886) inviting public comment on EPA's proposed promulgation of a maintenance of pay provision to the Idaho State Implementation Plan. In response to a request, the comment period on this proposal was extended two weeks until November 7, 1980 to allow for additional comments (45 FR 71383, October 28, 1980). Subsequent to the close of the comment period, EPA received a request from the Bunker Hill Company for an opportunity to respond to any comments submitted in the proposed maintenance of pay rulemaking. EPA is interpreting this response as a request for an extension in the comment period and has decided to provide the public with additional time to comment on the proposal. In addition, EPA is providing the public with an opportunity for public hearing.

Invitation of comments—Opportunity for Hearing

Any person who desires to comment on this intended action may do so by writing to Laurie M. Kral whose address is listed above. Comments must be received within forty-five (45) days of publication of this notice (January 19, 1981). If, however, a meeting is held as scheduled, the docket will remain open for thirty (30) days after the date of the hearing.

If no timely request for a hearing is received, no hearing will be held.

A public hearing will be held *if* (and only if) a request for a public hearing is received by the further information contact person (address listed above) in the thirty (30) days following publication of this notice. The purpose of such a hearing would be to take testimony regarding EPA promulgation of a maintenance of pay provision as part of the Idaho SIP pursuant to Section 110(a)(6) of the Clean Air Act. If it is held, the hearing will be conducted at the time and place listed above.

If a request is not received, no public hearing will be held. It is suggested that any one who anticipates attending this public hearing call the further information contact person listed above to verify if a hearing is to be held.

A shorter notice period is being employed for this action (the usual period is 45 days) because there is only a short period of time allowed for issuance of an NSO, the impact of this rulemaking is limited only to the State of Idaho, and the public has had adequate notice of guidelines for preparation of State Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Secs. 110, 172 Clean Air Act (42 U.S.C 7410(a), 7502))

Dated: November 26, 1980.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 80-37823 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 123

[SW-3-FRL1691-5]

Pennsylvania Application for Interim Authorization, Phase I; Hazardous Waste Management Program; Public Hearing

AGENCY: Environmental Protection Agency, Region III.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA regulations to protect human health and the environment from the improper management of hazardous waste were published in the **Federal Register** on May 19, 1980 (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Pennsylvania application for Phase I Interim Authorization, inviting public comment, and giving notice of a Public hearing to be held on the application.

DATE: Comments on the Pennsylvania Interim Authorization application must be received by January 13, 1981.

Public hearing: EPA will conduct a Public hearing on the Pennsylvania Interim Authorization application at 7 P.M. on January 6, 1981. EPA reserves the right to cancel the Public hearing if significant public interest in a hearing is not expressed. The State of Pennsylvania will participate in any Public hearing held by EPA on this subject.

ADDRESSES: Copies of the Pennsylvania Interim Authorization application are available at the following addresses for inspection and copying by the public:

Pennsylvania Department of Environmental Resources, Bureau of Solid Waste Management, 3rd & Locust Streets (8th Floor), Harrisburg, Pa. 17120 (717) 787–7381;

Pennsylvania Department of Environmental Resources Regional Offices: 1875 New Hope Street, Norristown, Pa. 19401 (215) 631–2413;

90 E. Union Street, Wilkes Barre, Pa. 18701 (717) 826–2516;

Wernersville State Hospital, Wernesville, Pa. 19565 (215) 678–5657;

736 W. Fourth Street, Williamsport, Pa. 17701 (717) 327–3653;

1203 Kossman Building, 100 Forbes Avenue, Pittsburg, Pa. 15222 (412) 565–5017;

1012 Water Street, Meadville, Pa. 16101 (814) 724–8526;

U.S. EPA, Region III, Library, 2nd Floor, 6th & Walnut Streets, Phila., Pa. 19106 (215) 597–0580.

Written comments should be sent to: Robert L. Allen (3AH30), Air, Toxics & Hazardous Materials Division, U.S. EPA, Region III, 6th & Walnut Streets, Phila., Pa. 19106.

The Public hearing will be held at: Department of Environmental Resources, 2nd Floor—Hearing Room, Fulton Bank Building, 3rd & Locust Streets, Harrisburg, Pa. 17120.

FOR FURTHER INFORMATION CONTACT: Robert L. Allen (3AH30), U.S. EPA, Air, Toxics & Hazardous Materials Division, 6th & Walnut Streets, Philadelphia, Pa. 19106 (215) 597–0980.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted Interim Authorization. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for

issuance of Interim Authorization, the State hazardous waste program must:

copies of their statement to the hearing chairperson.

Materials Division, U.S. EPA, Region III, 6th and Walnut Streets, Phila., Pa. 19106

The public hearing will be held at: Loch

members to persons providing oral comments; however, no cross-examination by other participants will

DATE: Comments on the Maine interim authorization application must be received by January 10, 1981.

system; and the "interim status" standards applicable to existing hazardous waste management facilities

issuance of Interim Authorization, the State hazardous waste program must:

(1) Have been in existence prior to August 17, 1980, and

(2) Submit evidence to EPA showing that the existing State program is substantially equivalent to the Federal program.

A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 123 Subpart F, (45 FR 33479). As noted in the May 19, 1980 **Federal Register** copies of complete State submittals for Phase I Interim Authorization are to be made available for public inspection and comment. In addition, a Public hearing is to be held on the submittal, unless significant interest is not expressed.

Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Pennsylvania Interim Authorization for Phase I of the RCRA program. A panel of EPA employees involved in relevant aspects of the decision will be present to receive the testimony.

The hearing will be informally structured. Individuals providing oral comments will not be sworn in, nor will formal rules of evidence apply. Questions may be posed by panel members to persons providing oral comments; however, no cross-examination by other participants will be allowed.

The State will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA. As time allows, persons who did not sign up in advance, but who wish to comment on the State's application for Phase I Interim Authorization will also be given an opportunity to testify.

Each organization or individual will be allowed as much time as possible for oral presentation based on the number of requests to participate and the time available for the hearing. As a general rule, in order to ensure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to 10 minutes.

Preparation of Transcripts

A transcript of the comments received at the hearing will be prepared. To ensure accurate transcription, participants should provide written copies of their statement to the hearing chairperson.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 80-37681 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-30-M

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40 CFR Part 123

[SW-3-FRL 1691-6]

Maryland Application for Interim Authorization, Phase I; Hazardous Waste Management Program; Public Hearing

AGENCY: Environmental Protection Agency, Region III.

ACTION: Notice of Public Hearing and Public Comment Period.

SUMMARY: EPA regulations to protect human health and the environment from the improper management of hazardous waste were published in the **Federal Register** on May 19, 1980 (45 FR 33063). These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Maryland application for Phase I Interim Authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: Comments on the Maryland Interim Authorization application must be received by January 15, 1981.

PUBLIC HEARING: EPA will conduct a public hearing on the Maryland Interim Authorization application 7 P.M. on Thursday, January 8, 1981. EPA reserves the right to cancel the public hearing if significant public interest in a hearing is not expressed. The State of Maryland will participate in any public hearing held by EPA on this subject.

ADDRESSES: Copies of the Maryland Interim Authorization application are available at the following addresses for inspection and copying by the public:

Dept. of Health & Mental Hygiene, Waste Management Enforcement Program, 2nd Floor—O'Connor Building, 201 West Preston Street, Baltimore, Maryland 21201

Office of Environmental Programs, Failinger Complex, Rt. 8 & Naves Crossroad, Cumberland, Maryland 21502

Wicomico County Health Dept., 300 West Carrol Street, Salisbury, Maryland 21801

Public Information Reference Unit, Room 2922—EPA Library, U.S., Environmental Protection Agency, 401 M Street SW. (Waterside Mall), Washington, D.C. 20460

U.S. EPA, Region III, Library, 2nd Floor, 6th and Walnut Streets, Philadelphia, Pa. 19106 (215) 597-0580

Written comments should be sent to: Robert L. Allen (3AH30) Air, Toxics & Hazardous Materials Division, U.S. EPA, Region III, 6th and Walnut Streets, Phila., Pa. 19106

The public hearing will be held at: Loch Raven Senior High School Auditorium, Cromwell Bridge Road and Cowpens Road, Baltimore, Maryland 21234

FOR FURTHER INFORMATION CONTACT: Robert L. Allen (3AH30), U.S. EPA, Air, Toxics & Hazardous Materials Division, 6th and Walnut Streets, Philadelphia, Pa. 19106 (215) 597-0980.

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted Interim Authorization. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for issuance of Interim Authorization, the State hazardous waste program must:

(1) Have been in existence prior to August 17, 1980; and

(2) Submit evidence to EPA showing that the existing State program is substantially equivalent to the Federal program.

A full description of the requirements and procedures for State Interim Authorization is included in 40 CFR Part 123 Subpart F, (45 33479). As noted in the May 19, 1980 **Federal Register** copies of complete State submittals for Phase I Interim Authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal, unless significant interest is not expressed.

Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Maryland Interim Authorization for Phase I of the RCRA program. A panel of EPA employees involved in relevant aspects of the decision will be present to receive the testimony.

The hearing will be informally structured. Individuals providing oral comments will not be sworn in, nor will formal rules of evidence apply. Questions may be posed by panel

members to persons providing oral comments; however, no cross-examination by other participants will be allowed.

The State will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA. As time allows, persons who did not sign up in advance, but who wish to comment on the State's application for Phase I Interim Authorization, will also be given an opportunity to testify.

Each organization or individual will be allowed as much time as possible for oral presentation based on the number of requests to participate and the time available for the hearing. As a general rule, in order to ensure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to 10 minutes.

Preparation of Transcripts

A transcript of the comments received at the hearing will be prepared. To ensure accurate transcription, participants should provide written copies of their statement to the hearing chairperson.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 80-37686 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-30-M

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40 CRF Part 123

[SW-1-FRC 1690-1]

Maine Application for Interim Authorization, Phase I, Hazardous Waste Management Program

AGENCY: Environmental Protection Agency, Region I.

ACTION: Notice of public hearing and public comment period.

SUMMARY: EPA has promulgated regulations under Subtitle C of the Resource Conservation and Recovery Act (RCRA) (as amended) to protect human health and the environment from the improper management of hazardous waste. Phase I of the regulations were published in the **Federal Register** on May 19, 1980 (45 FR 33063).

These regulations include provisions for authorization of State programs to operate in lieu of the Federal program. Today EPA is announcing the availability for public review of the Maine application for Phase I interim authorization, inviting public comment, and giving notice of a public hearing to be held on the application.

DATE: Comments on the Maine interim authorization application must be received by January 10, 1981.

EPA will conduct a public hearing on the Maine interim authorization application at 9:00 a.m. on January 5, 1981. EPA reserves the right to cancel the public hearing if significant public interest in a hearing is not expressed.

ADDRESSES: The public hearing will be held at: Holiday Inn Downtown, 88 Spring Street, Portland, Maine 04111. Copies of the Maine interim authorization application are available at the following addresses for inspection and copying by the public:

Department of Environmental Protection, Bureau of Oil and Hazardous Material Control, Ray Building, Hospital Street, Augusta, Maine 04333 (telephone (207) 289-2251).

Department of Environmental Protection, Regional Offices at the following addresses:

634 Main Street, Presque Isle, Maine 04769 (telephone (207) 764-3737).

31 Central Street, Bangor, Maine 04401 (telephone (207) 947-6746).

17 Commercial Street, Portland, Maine 04101 (telephone (207) 773-0196).

Environmental Protection Agency, Region I Office Library, Room 2100 B, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223-5791/4017).

EPA Headquarters Library, Room 2404, 401 M Street, S.W., Washington, D.C. 20460.

Written comments and requests to speak at the hearing should be sent to: Dennis P. Gagne, Maine State Coordinator, Waste Management Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223-5775).

FOR FURTHER INFORMATION CONTACT: Dennis P. Gagne, Maine State Coordinator, Waste Management Branch, U.S. EPA, Region I, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223-5775).

SUPPLEMENTARY INFORMATION: In the May 19, 1980 **Federal Register** (45 FR 33063), the Environmental Protection Agency promulgated Phase I of its regulations pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976 (as amended), to protect human health and the environment from the improper management of hazardous waste. EPA's Phase I regulations establish, among other things: The initial identification and listing of hazardous wastes; the standards applicable to generators and transporters of hazardous waste, invluding manifest system; and the "interim status" standards applicable to existing hazardous waste management facilities before they receive permits.

The May 19 regulations also include provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect. In order to qualify for interim authorization, the State hazardous waste program must, among other things:

(1) Have had enabling legislation in existence prior to August 17, 1980, and,

(2) Be "substantially equivalent" to the Federal program.

Conduct of Hearing

The hearing is intended to provide an opportunity for interested persons to present their views and submit information for consideration by EPA in the decision whether to grant Maine interim authorization for Phase I of the RCRA program. A panel of EPA employees involved in relevant aspects of the decision will be present to receive the testimony.

The hearing will be informally structured. Individuals providing oral comments will not be sworn in, nor will formal rules of evidence apply. Questions may be posed by panel members to persons providing oral comments; however, no cross-examination by other participants will be allowed.

Representatives from the State of Maine will testify first and present a short overview of the State program. Other commenters will then be called in the order in which their requests were received by EPA. As time allows, persons who did not sign up in advance but who wish to comment on the State's application for Phase I interim authorization will also be given an opportunity to testify. Each organization or individual will be allowed as much time as possible for oral presentation based on the number of requests to participate and the time available for the hearing. As a general rule, in order to ensure maximum participation and allotment of adequate time for all speakers, participants should limit the length of their statements to 10 minutes. The public hearing will be followed, as time permits, by a question and answer session during which participants may pose questions to members to the panel.

Preparation of Transcripts

A transcript of the comments received at the hearing will be prepared. To ensure accurate transcription, participants should provide written copies of their statements to the hearing chairperson. Transcripts will be available upon request from Dennis P. Gagne, Maine State Coordinator, Waste Management Branch, Region I, U.S. Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203 (telephone (617) 223–5775) approximately three days after the hearing at cost.

Major Issues of Interest to EPA

In order for the State program to receive interim authorization, it must be substantially equivalent to the Federal program. EPA is soliciting comments on all aspects of the substantial equivalence of the Maine program to the Federal hazardous waste management program.

Dated: November 25, 1980.

Leslie Carothers,

Acting Regional Administrator, Region I.

[FR Doc. 80-37728 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-35-M

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40 CFR Part 761

[OPTS 211001; TSH-FRL 1691-1]

Polychlorinated Biphenyls (PCB's); Denial of Citizens' Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: This notice announces the Administrator's decision to deny a citizens' petition submitted under section 21 of the Toxic Substances Control Act (TSCA). The petitioners requested that the Agency amend its PCB Prohibition Rule (40 CFR Part 761) to allow PCBs in concentrations as high as 10 parts per million (ppm) in floor sweep compounds.

ADDRESS: A copy of the petition and all related information is located in Rm. E–447, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460, (202–755–6956). It is available for viewing and copying from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Pamela A. Moore, Office of Pesticides and Toxic Substances (TS–794), Environmental Protection Agency, Rm. E–516, 401 M St., SW., Washington, D.C. 20460, (202–755–1168).

I. Introduction

Regulation of PCBs under Section 6(e) of TSCA

The Toxic Substances Control Act (TSCA), 15 U.S.C. sec. 2601 *et seq.*, is a comprehensive statute lodging with the Environmental Protection Agency broad regulatory authority over chemical substances and mixtures. With the single exception of PCBs, TSCA leaves to EPA's discretion the selection of particular chemicals for regulation. Section 6(e) of TSCA, 15 U.S.C. sec. 2605(e), directs EPA to regulate PCBs and establishes specific procedures for their regulation.

At the time TSCA was enacted, Congress was aware that PCBs caused birth defects, miscarriages, and stillbirths as well as lesser effects such as skin eruption, pigmentation of skin and nails, and eye malfunction. Moreover, Congress was aware that PCBs were persistent and bioaccumulative and, therefore, that PCBs posed long-term risks to health and the environment.

Section 6(e) of TSCA establishes a sequential timetable for the regulation of PCBs. In general, the statute directs a phased end to the manufacture, processing and distribution of PCBs and to certain uses of PCBs. Section 6(e) thus dictates an end to the introduction of most new PCBs into the environment.

On May 31, 1979, EPA promulgated final regulations with respect to the manufacturing, processing, distribution in commerce of PCBs. These regulations, known as the "PCB Prohibition Rule", established a minimum PCB concentration of 50 parts per million (ppm) for most regulatory purposes. 40 CFR 761.1(b).

Waste oil (products primarily derived from petroleum) is an exception to the 50 ppm minimun concentration (40 CFR 761.30(d)). In promulgating the PCB Prohibition Rule, EPA banned the use of waste oil containing any detectable concentration of PCBs as sealants, coatings and dust control agents because these uses of PCBs "result in rapid, direct entry of PCB into the environment" (44 FR 31525). EPA noted that specific dangers of such uses warranted regulation at any concentration of PCBs; that is, direct entry of PCBs into the environment resulting from these uses could result in PCBs entering the food chain (44 FR 31525).

Floor sweep compounds containing PCBs were not the subject of a distinct risk analysis prior to promulgation of the PCB Prohibition Rule. In November, 1979, however, in response to an inquiry from the Oklahoma State Department of Health, EPA confirmed that floor sweep compounds were among the category of products included as "dust control agents" for purposes of the PCB Prohibition Rule. This conclusion flowed from similarities in exposure potential between floor sweep compounds and other dust control agents. PCBs in floor sweep compounds may become attached to clothing, shoes, and unclothed protions of the human body such as hands or face. Even more than dust control agents used outdoors, floor sweep compounds can contaminate food directly if the compounds are used in indoor areas where food may be eaten or stored.

Since floor sweep compounds are "dust control agents" for purposes of the PCB Prohibition Rule, 40 CFR 761.30(d) prohibits the use of floor sweep compounds containing any detectable concentration of PCBs. Since the manufacture of floor sweep compounds involves coating sawdust with waste oil, such manufacture also is prohibited by 40 CFR 761.30(d) if the waste oil contains PCBs.

Summary of the Scoggins-Tak-less Petition and the Agency's Reasons for Denying the Petition

Section 21(a) of TSCA provides, in pertinent part:

> In General—Any person may petition the Administrator to initiate a proceeding for the issuance, amendment, or repeal of a rule under sections 4, 6, or 8. . . .

Section 21(b) of TSCA provides, in pertinent part:

> Procedures—(1) Such petition shall be filed in the principal office of the Administrator and shall set forth the facts which it is claimed establish that it is necessary to issue, amend, or repeal a rule under sections 4, 6, or 8. . . .

On April 28, 1980, the Agency received a petition, pursuant to section 21 of TSCA, 15 U.S.C. Section 2620 from the John Scoggins Floor Sweep Company (Scoggins) and the Tak-less Floor Sweep Company (Tak-less). The petitioners, who manufacture floor sweep compounds using waste oil which often contains PCBS at detectable levels, seek an amendment to 40 CFR 761.30(d) to permit floor sweep compounds to contain PCBs in concentrations as high as 10 ppm.

Petitioners have made a number of arguments in an effort to demonstrate that EPA should permit floor sweep compounds to contain PCBs in concentrations as high as 10 ppm. Petitioners' arguments fall into three broad categories: (1) The regulation of floor sweep compounds containing PCBs is inconsistent with other regulations

applicable to PCBs; (2) The rationale supporting regulation of PCBs in dust control agents at any concentration does not apply to floor sweep compounds because the use of floor sweep compounds does not cause harmful health and environmental effects; and (3) Unacceptable economic consequences flow from the regulation of PCBs in floor sweep compounds in any detectable concentration. There are several reasons for the Agency's conclusion that the petitioners did not establish the need for the amendment to PCB Prohibition Rule. These reasons are set forth below. The petitioner's arguments and the Agency's specific responses to these arguments are set forth in detail in unit II of this Notice.

Petitioners' arguments with respect to alleged inconsistencies between the regulation of floor sweep compounds containing PCBs and the regulation of other products or effluents containing PCBs suffer from several major flaws. First, petitioners fail to acknowledge that different statutory authorities demand different regulatory standards. Second, petitioners use only a few isolated examples in order to present a picture of broad inconsistency of regulations. Third, petitioners present the examples they use in a manner that overlooks important facts.

Petitioners' arguments which attempt to demonstrate that the use of PCBs in concentrations as high as 10 ppm in floor sweep compounds presents no serious health or environmental risks are unpersuasive. The PCB Prohibition Rule was promulgated after the Agency had devoted a considerable amount of time and resources to it and had solicited extensive public comment upon it. Petitioners did not comment on the rule at any point during the rulemaking process, and the rule governing the use of PCBs in dust control agents were based upon the best information the Agency had available to it at the time of the rulemaking. In order to establish that the Agency should now amend the PCB Prohibition Rule in the manner that petitioners desire, the burden is upon petitioners to present factual information of sufficient weight to demonstrate that the Agency's original rationale was unsupported. Rather than submit such specific factual information, petitioners have presented only unsupported assertions. Thus, petitioners have failed to meet their burden.

Petitioners' economic arguments reflect a misunderstanding about the regulation of PCBs under section 6(e) of TSCA. Unlike Section 6(a) of TSCA, which directs the Agency to conduct risk/benefit analyses as part of the rulemaking process, Section 6(e) of TSCA gives the Agency little flexibility to consider economic factors when the Agency regulates PCBs.

Set forth below is a detailed analysis of petitioners' arguments and the Agency's responses to them.

II. Petitioners' Arguments and the Agency's Responses

A. The Regulation of PCBs in Floor Sweep Compounds Is Not Inconsistent With the Regulation of PCBs Generally

Petitioners allege that EPA allows the paper industry to produce finished paper products with 10 ppm of PCBs in part because the source of PCBs in the paper industry is decreasing over time. Petitioners claim that the concentration of PCBs in mineral oil transformer liquid (waste oil), too, is decreasing over time and, accordingly, that equity demands that floor sweep compounds be permitted to contain the PCBs in the same concentration as is permitted in finished paper products.

Petitioners present no facts to demonstrate that the PCB concentration in mineral oil transformer liquid (waste oil) is actually decreasing over time, and the Agency is unaware of data which would substantiate petitioners' claim.

It is true that paper products containing PCBs are regulated less stringently than floor sweep compounds containing PCBs. EPA's PCB Prohibition Rule allows paper products to contain PCBs in concentrations of up to 50 ppm, since the use of PCBs in most paper products does not result in the direct, rapid entry of PCBs into the environment. The 10 ppm PCB level petitioners referred to for paper products apparently refers to an "action level", applicable to paper products used for food packaging, established by the Food and Drug Administration (FDA), not EPA.

In 1973, FDA, recognizing that PCBs in the food chain presented a hazard, established temporary tolerances for PCBs in various human food items, animal feed, and paper packaging used for human food and animal feed. FDA granted only temporary tolerances for packaging for food and feed products to avoid disruption of the nation's food distribution; FDA may well lower these tolerances as soon as experience indicates that lower levels can be attained. In 1979, FDA did lower the tolerances for PCBs in milk, poultry and eggs. FDA has not yet established a permanent tolerance for PCBs in paper packaging. FDA has, however, announced an "action level" of 10 ppm for paper products used for food packaging. (21 CFR 109.30) This means that FDA may seize any paper products used for food packaging which contain PCBs in concentrations of 10 ppm or greater.

PCBs in food packaging can migrate into the packaged food. Therefore, FDA considers food packaging containing PCBs to fall within the definition of "food" as set forth in Section 201 of the Federal Food, Drug and Cosmetic Act. Accordingly, under section 3(2)(B)(vi) of TSCA, EPA lacks the authority to regulate paper food packaging containing PCBs under TSCA.

FDA regulates paper food packaging containing PCBs under the Federal Food, Drug and Cosmetic Act, which confers a totally different statutory mandate upon FDA than the mandate section 6(e) of TSCA confers on EPA. Thus, petitioners are making an "apples-and-oranges" comparison. Section 6(e) of TSCA embodied Congress clear intention that EPA regulate PCBs stringently. Accordingly, EPA's PCB Prohibition Rule was designed to eliminate, to the greatest degree possible, the presence of PCBs in products whose use would result in direct human exposure to PCBs. EPA has determined that the use of waste oil, containing any detectable level of PCBs, used for sealants, coatings, and dust control agents would lead to rapid and direct entry of PCBs into the environment and might introduce PCBs into the food chain. In accordance with this determination, EPA concluded that prohibiting any detectable concentrations of PCBs in dust control agents was the appropriate method of implementing section 6(e) of TSCA with respect to these products.

Petitioners' second argument with respect to alleged regulatory inconsistency relates to regulation of the paper industry under the Federal Water Pollution Control Act (the Clean Water Act). Petitioners complain that Fort Howard Paper Company, located in Muskogee, Oklahoma, is permitted to discharge approximately one pound of PCBs per day at a concentration of 4 parts per billion (ppb) in its waste water, whereas petitioners' products can contain no PCBs.

Fort Howard Paper Company (Fort Howard) has a permit to discharge PCBs under the National Pollutant Discharge Elimination System (NPDES), administered under the Clean Water Act. Small concentrations of PCBs appear in Fort Howard's discharges as a result of recycling of certain types of paper which contain PCBs. Fort Howard does not manufacture PCBs. Fort Howard's permit is subject to a number of terms and conditions, including monitoring requirements. In the near

future, EPA and the State of Oklahoma will review the monitoring data which the company is gathering to determine if

compound is used makes it very likely that there would be direct human exposure during use. Another major

sweep compounds of an acceptable color. Petitioners claim that the dye may pose a greater health risk to the workers

establish that the use of floor sweep compounds containing PCBs is safe.

C. Economic Concerns Do Not Justify

future, EPA and the State of Oklahoma will review the monitoring data which the company is gathering to determine if the PCB requirements of the permit should be made more stringent.

Even if it were logical to compare the regulation of PCBs under TSCA with their regulation under the clean Water Act, petitioners' argument would be unpersuasive. Petitioners have overlooked the fact that the Agency regulates PCBs stringently under the Clean Water Act. Regulations promulgated by the Agency pursuant to section 307(a) of the Clean Water Act provide, generally, that PCBs may not be present in any discharge from any PCB manufacturer (40 CFR 129.105).

B. Petitioners Have Not Demonstrated That the Use of PCBs in Floor Sweep Compounds Causes No Serious Health or Environmental Hazards

Several of petitioners' arguments with respect to the regulation of the paper industry may be characterized as arguments that the use of PCBs in floor sweep compounds present little or no risk to health or the environment. Petitioners' belief that they are treated inequitably in comparison with the Fort Howard Paper Company is based, in part on petitioners' contentions that Scoggins and Tak-less use only six gallons of PCBs per year and that virtually all used floor sweep is buried in city landfills after use. Petitioners claim that only one pound of PCBs used by the Scoggins and Tak-less companies would reach the environment each year whereas pollution resulting from the leaching of PCBs from contaminated litter paper would be considerable.

Much more information would be needed before the Agency could determine whether the petitioners are correct in their statement that floor sweep compounds pose no serious threat to the environment because virutally all the used floor sweep compound is buried in city landfills. The Agency would consider concrete data with respect to, for example: the quantity of floor sweep compound that actually is landfilled and the quantity that goes elsewhere; where the remaining floor sweep compound goes; whether PCBs remain bound in the floor sweep compound indefinitely or whether the PCBs are released from the sawdust or oil during use or disposal.

In addition to providing no concrete data with respect to landfilling of floor sweep compounds, petitioners have ignored a critical question: What human exposure occurs prior to disposal as a result of the use of floor sweep compounds containing PCBs? The manner in which the floor sweep compound is used makes it very likely that there would be direct human exposure during use. Another major concern of the Agency's over the use of PCBs in floor sweep compounds is that PCBs will enter the environment directly and be dispersed before the compounds can be disposed of.

Petitioners state that they estimate only one pound of PCBs would enter the environment from the floor sweep compound produced by their companies per year. The Agency is not able to rely on this statement because the petitioners did not explain how this amount was determined. The petitioners also state there would be "considerable" pollution resulting from the leaching of PCB-contaminated litter paper, but they do not state what is meant by the word "considerable". No information was supplied to support the claim that PCBs enter the environment through the leaching of contaminated litter paper, nor was any information supplied to support the implication that more PCBs would enter the environment through the leaching of littered paper than from floor sweep compounds. Even if these claims were supported, they would not justify amending the PCB Prohibition Rule to permit 10 ppm PCBs in floor sweep compounds—the petitioners have not shown that the Agency erred in its determination that waste oil used as sealants, coatings, and dust control agents leads to rapid and direct entry of PCBs into the environment.

Petitioners state that ground corrugated paper cartons may be used as the fiber base for floor sweep compounds and that these cartons may be contaminated with PCBs. According to petitioner, this proves that waste oil may not be the only source of PCBs in floor sweep compounds.

It is not clear whether corrugated paper cartons used in floor sweep compounds contain PCBs. Even if ingredients in floor sweep compounds other than waste oil do contain PCBs, this would not justify amending the PCB Prohibition Rule with respect to dust control agents. The prohibition of PCBs in waste oil was established to prevent the use of waste oil in three areas known to result in rapid and direct entry of PCBs into the environment. That waste oil may not be the only source of contamination of sealants, coatings, and dust control agents does not justify amending the PCB Prohibition Rule to permit waste oil in floor sweep compounds to contain detectable concentrations of PCBs.

Petitioners argue, in addition, that prohibiting the use of PCB contaminated waste oil will make it necessary to use five times as much dye to produce floor sweep compounds of an acceptable color. Petitioners claim that the dye may pose a greater health risk to the workers than the PCBs and, therefore, that amendment of the rule to allow manufacture of floor sweep compounds with 10 ppm PCBs is justified. Although less dye may be required to obtain the desired color of floor sweep compounds made from mineral oil contaminated with PCBs than that made from mineral oil without PCBs, this is not a sufficient basis for amending the PCB Prohibition Rule, as requested by the petitioners. As previously stated, this prohibition was established because use of waste oil for sealants, coatings, and dust control agents results in rapid and direct entry of PCBs into the environment. Petitioners adduce no convincing evidence that dyes which petitioners use when they substitute uncontaminated mineral oil for mineral oil contaminated with PCBs present greater hazards to human health than PCBs.

Another argument petitioners raise to refute the Agency's belief that PCBs in floor sweep compounds present serious health hazards is that Mr. John Scoggins has had blood tests which showed that the level of PCBs in his blood were below average. Petitioners allege that this proves that even long-term exposure to PCBs in floor sweep compounds does not lead to increased PCB levels in the human body.

Reliance on the blood tests of one individual to prove that exposure to PCB-contaminated floor sweep compounds will not lead to increased levels of PCBs in the human body is misplaced for two reasons. First, blood tests are not necessarily representative of PCB concentration in other parts of the body, such as fat tissue. Although PCBs are circulated throughout the body by the blood, they accumulate in the adipose tissue and the organs. Second, different individuals react differently to the same exposure of the same toxic substance. Therefore, that one person does not have an adverse reaction when exposed to a particular toxic substance does not indicate that other individuals will react similarly.

Another argument petitioners make is that there have been no recorded cases of harmful effects caused by PCB-contaiminated floor sweep compounds. The health hazards associated with exposure to PCBs are well established. Direct human exposure is inevitable during the use of floor sweep compounds containing PCBs. That petitioners may not be aware of any "recorded cases" of harmful effects resulting from the use of floor sweep compounds containing PCBs does not establish that the use of floor sweep compounds containing PCBs is safe.

C. Economic Concerns Do Not Justify Amending the PCB Prohibition Rule as Petitioners Request

Petitioners state that the prohibition against manufacturing floor sweep compounds containing 10 ppm PCBs or less will result in a doubling of the price of the product produced by their companies. The contention that the current prohibition will result in a doubling of the price of floor sweep compounds is unsupported in the petition. Even if what the amendment petitioners seek would relieve them of a substantial economic burden, however, the Agency would not be justified in promulgating such an amendment. Section 6(e) of TSCA was a product of Congress' determination that PCBs created such serious risks to health and the environment that the benefits of eliminating PCBs outweighed the costs to society that would be incurred by the elimination. Congress recognized and accepted that the regulation of PCBs might be costly.

III. Conclusion

The Agency made the decision to prohibit any detectable concentrations of PCBs in waste oil for use as sealants, coatings, and dust control agents because such uses would result in rapid and direct entry of PCBs into the environment. The points raised in the Scoggins-Tak-less petition do not demonstrate that the facts and reasoning underlying the Agency's decision to prohibit detectable concentrations of PCBs in waste oil used for sealants, coatings, and dust control agents is deficient. Moreover, the Scoggins-Takless petition adduced no new facts or reasoning which warrant amending the rule in the manner requested. Accordingly, the petition is denied.

Dated: November 17, 1980.

Steven D. Jellinek,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 80-37733 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-31-M

V 45 I 235 DEC 80 UMI

Notices

Federal Register
Vol. 45, No. 235
Thursday, December 4, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

New Jersey Advisory Committee Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a press conference will be held beginning at 10 a.m., and ending at 12 p.m., on December 15, 1980, at the P. J. Rodino Building, Newark, New Jersey. The purpose of the press conference is to discuss domestic violence.

Persons desiring additional information should contact the Chairperson, Mr. Clyde C. Allen, 62 Sheridan Avenue, Plainfield, New Jersey 07060, (212) 572–7577 or the Eastern Regional Office, 26 Federal Office Building, Room 1639, New York, New York 10007, (212) 264–0543.

The press conference will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 28, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-37691 Filed 12-3-80; 8:45 am]

BILLING CODE 6335-01-M

New Jersey Advisory Committee Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Jersey Advisory Committee to the Commission will convene at 6:30 p.m. and will end at 10:00 p.m., on December 18, 1980, at the P. J. Rodino Building, Newark, New Jersey. The purpose of the meeting is to discuss the coming and present projects.

Persons desiring additional information or planning a presentation to the committee, should contact the Chairperson, Mr. Clyde C. Allen, 62 Sheridan Avenue, Plainfield, New Jersey 07060, (212) 572–7577 or the Eastern Regional Office, 26 Federal Office Building, New York, New York 10007, (212) 264–0543.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 28, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-37692 Filed 12-3-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Correction of Notice of Public Hearing

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Correction of notice of public hearing.

SUMMARY: On November 14, 1980, a notice in the **Federal Register** (45 FR 75252–75253) announced a public hearing on the Draft Fishery Management Plan for the Western Alaska King Crab and amendments for 1981 to the Tanner Crab Fishery Management Plan (FMP), the Bering Sea Groundfish FMP, and the High Seas Salmon FMP. The notice is amended as follows:

DATE: The correct date for the hearing is December 6, 1980. The address given under Further Information should read:

FOR FURTHER INFORMATION CONTACT:
Mr. Robert McVey, Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. Telephone (907) 586–7221.

Dated: December 1, 1980.

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-37720 Filed 12-3-80; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Levels for Certain Cotton and Man-Made Fiber Textile Products From the People's Republic of China, Effective January 1, 1981

November 28, 1980

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Establishing import restraint levels for certain cotton and man-made fiber textile products produced or manufactured in the People's Republic of China and exported to the United States during the twelve-month period beginning on January 1, 1981. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), and August 12, 1980 (45 FR 53506)).

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 17, 1980, between the Governments of the United States and the People's Republic of China establishes specific levels of restraint for Categories 331 (cotton gloves and mittens), 339 (women's, girls', and infants' cotton knit shirts and blouses), 340 (men's and boys' woven cotton shirts), 341 (women's, girls' and infants' woven cotton blouses), 347/348 (cotton trousers), and 645/646 (man-made fiber sweaters) during the agreement year which begins on January 1, 1981 and extends through December 31, 1981.The agreement also provides a consultation mechanism for categories of textile products which are not subject to specific ceilings and for which levels may be established during the year upon agreement between the two governments. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilateral agreement, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in Categories 331, 339, 340, 341, 347/348 and 645/646, produced or manufactured in the People's Republic of China and exported during the twelve-month period beginning on January 1, 1981 and extending through December 31, 1981, in excess of the designated levels of restraint.

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT:
Carl J. Ruths, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

November 28, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury; Washington, D.C.

Dear Mr. Commissioner: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 17, 1980, between the Governments of the United States and the People's Republic of China, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on January 1, 1981 and for the twelve-month period extending through December 31, 1981, entry into the United States for consumption, and withdrawal from warehouse for consumption, of cotton and man-made fiber textile products in Categories 331, 339, 340, 341, 347/348 and 645/646 in excess of the following levels of restraint:

Category	12-mo level of restraint
331	3,310,008 doz pairs.
339	912,000 doz.
340	561,600 doz.
341	445,100 doz.
347/348	1,824,000 doz.
645/646	566,500 doz.

In carrying out this directive entries of textile products in the foregoing categories which have been exported to the United States prior to January 1, 1981, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980. In the event that the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of September 17, 1980 between the Governments of the United States and the People's Republic of China, which provide, in part, that: (1) specific limits may be exceeded by designated percentages in any agreement year; (2) specific limits may be increased for carryover and carryforward up to 11 percent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), and August 12, 1980 (45 FR 53506).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the People's Republic of China and with respect to imports of cotton and man-made fiber textile products from China have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day

Chairman, Committee for the Implementation of Textile Agreements

[FR Doc. 80-37652 Filed 12-3-80; 8:45 a.m.]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1981; Establishment; Correction

Correction

In FR Doc. 80-36369 appearing on page 77104 in the issue of Freday, November 21, 1980, make the following corrections:

In the third column of page 77104, under **Class 7210,** Bedspring (IB), the three digit numbers in the 1st, 4th, and 5th lines now reading "–528–" should have read "–582–".

BILLING CODE: 1505-01-M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 80.4]

Advance Machine Company, Inc., a Corporation Formerly Doing Business as Commercial Mechanisms, Inc., and Robert J. Pond., Individually, and as an Officer of the Corporation, and Former Officer of Commercial Mechanisms, Inc.; Prehearing Conference

On August 5, 1980, The Commission issued a Complaint with attached list and summary of documentary evidence charging that respondents in the above-entitled proceeding by January 1974 and thereafter, knew that numerous severe personal injuries had been caused by the sudden and unexpected activation of the metal arm of a baseball pitching machine which was disconnected from its power source, and that, based on such injuries, numerous claims and product liability lawsuits had been lodged against them and/or their insurance carriers; that therefore, the respondents had obtained information by January 1974 and thereafter which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard; that the respondents knew of the existence and the authority of the Consumer Product Safety Act (CPSA) prior to January 1974; that the respondents, at the time they obtained information which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard, were subject to the requirements for notification of defect pursuant to 15 U.S.C. 2064(b) and the Commission's regulations for substantial product hazard notifications then in effect, 16 CFR 1115; that the respondents failed to inform the Commission by January 1974 or at any time thereafter that they had obtained information which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard, as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2); and that by failing to inform the Commission immediately after they had obtained information which resonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard, respondents knowingly committed a prohibited act under section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4). The following relief is requested: (1) a determination that respondents had obtained information by January 1974 and thereafter which reasonably supported the conclusion

that the pitching machines described in the Complaint contained a defect which could create a substantial product hazard and which was subject to the above-described reporting requirements, (2) a determination that respondents knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), by failing to immediately report the existence of the defect described in the Complaint, as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2), and (3) pursuant to section 20(a) of the CPSA, 15 U.S.C. 2069(a), assess a civil penalty in the amount of five hundred thousand dollars ($500,000) jointly and severally against respondents for knowingly violating section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), by failing to furnish information as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2), as alledged in the Complaint.

Respondents filed an answer dated August 28, 1980. Also, they filed a motion to dismiss dated November 17, 1980.

Issue having been joined, a prehearing conference, pursuant to § 1025.21 of the Commission's Rules of Practice for adjudicative proceedings, 16 CFR 1025.21, will be held on the 16th day of December, 1980 at 9:30 a.m. local time at the Consumer Product Safety Commission, 1111 18th Street, Suite 300, Washington, D.C.

Any person desiring to participate in the forthcoming hearing should file a petition for leave to intervene in accordance with § 1025.17 of the Commission's Rules of Practice for Adjudicative Proceedings, 16 CFR 1025.17.

Dated: November 21, 1980.

John H. West,

Adminstrative Law Judge.

[FR Doc. 80-37601 Filed 12-3-80; 8:45 am]

BILLING CODE 6355-01-M

[CPSC Docket No. 80-5]

Athlone Industries, Inc., a Corporation, Also Doing Business as Dudley Sports Company, and Harold J. Miller and Charles H. Gilbert, Individually and as Officers of the Corporation; Prehearing Conference

On August 5, 1980, the Commission issued a Complaint with an attached list and summary of documentary evidence charging that respondents in the above-entitled proceeding by January 1974 and thereafter, knew that numerous severe personal injuries had been caused by the sudden and unexpected activation of the metal arm of a baseball pitching machine which was disconnected from its power source, and that, based on such injuries, numerous claims and product liability lawsuits had been lodged against them and/or their insurance carriers; that therefore, the respondents had obtained information by January 1974 and thereafter which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard; that the respondents knew of the existence and the authority of the Consumer Product Safety Act (CPSA) prior to January 1974; that the respondents, at the time they obtained information which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard, were subject to the requirements for notification of defect pursuant to 15 U.S.C. 2064(b) and the Commission's regulations for substantial product hazard notifications then in effect, 16 CFR 1115; that the respondents failed to inform the Commission by January 1974 or at any time thereafter until July 1977 that they had obtained information which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard, as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2); and that by failing to inform the Commission immediately after they had obtained information which reasonably supported the conclusion that the pitching machines contained a defect which could create a substantial product hazard, respondents knowingly committed a prohibited act under section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4). The following relief is requested: (1) a determination that respondents had obtained information by January 1974 and thereafter which reasonably supported the conclusion that the pitching machines described in the Complaint contained a defect which could create a substantial product hazard and which was subject to the above-described reporting requirements, (2) a determination that respondents knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), by failing to immediately report the existence of the defect described in the Complaint, as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2), and (3) pursuant to section 20(a) of the CPSA, 15 U.S.C. 2069(a), assess a civil penalty in the amount of five hundred thousand dollars ($500,000) jointly and severally against respondents for knowingly violating section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), by failing to furnish information as required by section 15(b)(2) of the CPSA, 15 U.S.C. 2064(b)(2), as alleged in the Complaint.

Respondents filed a motion to dismiss on August 28, 1980. The Commissin has filed opposition pleadings dated September 23, 1980, and October 22, 1980, respectively, to the motion to dismiss, and to respondent's motion for leave to file memorandum to points and authorities in support of motion to dismiss.

Issue having been joined, a prehearing conference, pursuant to § 1025.21 of the Commission's Rules of Practice for Adjudicative Proceedings, 16 CFR 1025.21 will be held on the 16th day of December, 1980 at 9:30 a.m. local time at the Consumer Product Safety Commission, 1111 18th Street, Suite 300, Washington, D.C.

Any person desiring to participate in the forthcoming hearing should file a petition for leave to intervene in accordance with § 1025.17 of the Commission's Rules of Practice for Adjudicative Proceedings, 16 CFR 1025.17.

Dated: November 21, 1980.

John H. West,

Administrative Law Judge.

[FR Doc. 80-37600 Filed 12-3-80; 8:45 am]

BILLING CODE 6355-01-M

[CPSC Docket No. 80-8]

State Fair of Texas, a Corporation, Steck and Stapf Attractions, Inc., a Corporation, Wayne Gallagher, an Individual and Officer of State Fair of Texas, Charles Noland, an Individual and Officer of Steck and Stapf Attraction, Inc.; Prehearing Conference

On August 28, 1980, the Commission issued a Complaint charging, in part, that on October 21, 1979, a fatal accident occurred at the State Fair of Texas, Fair Park, Dallas, Texas when two gondolas on the Swiss Skyride fell to the ground; that although the Skyride was equipped with a derailment switch on the roller battery, emergency stop buttons in the stations, and counterweight limit switches, none of these functioned during the accident sequence; that this lack of a functioning electrical safety system constitutes a defect in the ride within the meaning of section 15(a)(2) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2064(a)(2); that the ride was not equipped with (1) a device to measure the wind velocity and (2) cable catchers to retain the cable on the roller battery, and the lack of this equipment is a defect in the ride within the meaning of section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2); that the Skyride contains defects which because of their pattern, the seriousness of the injury that can occur, and the population exposed to the risk of injury create a substantial risk of injury within the meaning of section 15 (a)(2) and (d) of the CPSA, 15 U.S.C. 2064 (a)(2), and (d); that the Skyride creates a "substantial product hazard" to the public within the meaning of sections 15 (a)(2), and (d) of the CPSA, 15 U.S.C. 2064 (a)(2), and (d); that section 15(b) of the CPSA, 15 U.S.C. 2064(b) requires every manufacturer, distributor or retailer of a consumer product distributed in commerce to immediately notify the Commission upon receipt of information which reasonably supports the conclusion that such product contains a defect(s) which could create a substantial product hazard, unless such party has actual knowledge that the Commission is adequately informed; that violations of the requirements of section 15(b) of the CPSA are prohibited acts under sections 19(a)(3) and 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(3) and 2068(a)(4); that after the October 21, 1979, accident on the Skyride, respondents refused to permit Commission investigators complete access to the ride and to provide information concerning the ride, its operation and the accident; and that respondents knowingly failed to immediately and adequately inform the Commission upon having obtained information which reasonably supported the conclusion that the Skyride contained a defect or defects which could create a substantial product hazard, as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b). The following relief is requested: (1) that a determination be made that the Skyride is a consumer product within the meaning of section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1) as produced "for the personal use * * * or enjoyment" of consumers "in recreation", (2) that a determination be made that the product is distributed in commerce within the meaning of section 3(a) (11) and (12) of the CPSA, 15 U.S.C. 2052(a) (11) and (12) when the riders occupy Skyride cars and are exposed to whatever dangers they may present, (3) that a determination be made that the Skyride presents a "substantial product hazard" and that an action under section 15(d) of the CPSA, 15 U.S.C. 2064(d), be determined to be in the public interest, (4) that respondents be ordered to: (a) repair the Skyride to eliminate the defects in a manner satisfactory to the Commission, (b) after the ride has been repaired, conduct tests on it acceptable to the Commission that are designed to show that the hazard has been eliminated, (c) provide proof, acceptable to the Commission, of the safe operation of the ride after it has been repaired, (5) that respondents be prohibited from distributing the ride until they have complied with the provisions of paragraph 4 (a) through (c) above, (6) that respondents be ordered to (a) keep records of any and all repairs and modifications of the rides and any and all tests of the ride, (b) provide all of the records in paragraph (a) above and/or extracts of information from them to the Commission on request, (c) file reports with the Commission containing information that may be requested by the staff to determine compliance with any order issued in this proceeding at thirty (30) day intervals until the actions required in paragraph 4 above are completed and the Commission agrees that reports are no longer necessary, (d) permit inspections at respondents' ride and other places of business to verify data in reports submitted and ascertain compliance with any order issued in this proceeding, (7) order the respondents to notify the Commission at least thirty (30) days prior to any change in its business that results in the emergence of a successor corporation, the creation or dissolution of subsidiaries, the dissolution of the corporation, or any other change that might affect compliance obligations under any Commission order, and (8) assess an appropriate civil penalty pursuant to section 20 of the CPSA against State Fair and Steck & Stapf for knowingly violating sections 19(a)(3) and 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(3) and 2068(a)(4).

On September 22, 1980, respondents separately filed an answer, motions to dismiss, and a motion to stay the proceeding. On October 15, 1980, the Commission responded.

Issue having been joined, a prehearing conference, pursuant to § 1025.21 of the Commission's Rules of Practice for Adjudicative Proceedings, 16 CFR 1025.21, will be held on the 16th of December, 1980 at 1:00 p.m. local time at the Consumer Product Safety Commission, 1111 18th Street, Suite 300, Washington, D.C.

Any person desiring to participate in the forthcoming hearing should file a petition for leave to intervene in accordance with § 1025.17 of the Commission's Rules of Practice for Adjudicative Proceedings, 16 CFR 1025.17.

Dated: November 21, 1980.

John H. West,

Administrative Law Judge.

[FR Doc. 80-37599 Filed 12-3-80; 8:45 am]

BILLING CODE 6355-01-M

DELAWARE RIVER BASIN COMMISSION

Ground Water Protected Area; Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on December 10, 1980 at 10 a.m. The hearing will be in the Goddard Conference Room in the Commission's office building, 25 State Police Drive, West Trenton, New Jersey. The subject of the hearing is proposed amendments to the Commission's ground water protected area program in southeastern Pennsylvania.

On October 8, 1980, the Commission declared a ground water protected area in southeastern Pennsylvania and established a regulatory program imposing conditions and restrictions on new wells to forestall continued depletion of ground waters in the region. The action was taken pursuant to Article 10 of the Delaware River Basin Compact and set forth in Commission Resolution No. 80-18. The protected area program goes into effect on January 1, 1981.

The protected area as delineated comprises all of Montgomery County and portions of Chester, Berks and Bucks Counties in Pennsylvania. The regulation applies to all wells drawing more than 10,000 gallons per day, including those of municipalities, authorities, water companies, industries and businesses, institutions and housing developments.

The Commission now proposes to amend its ground water protected area regulation (Resolution No. 80-18) in the following respects:

1. By including Lower Milford Township in Lehigh County, and Upper Makefield Township and Tinicum Township in Bucks County, and East Bradford and West Bradford Townships in Chester County, within the boundaries of the protected area as defined in Section 3(a) of the regulation.

2. By amending the text of Section 6 of the regulation so that the first paragraph thereof shall read as follows:

"Protected Area Permits for New Withdrawals. Any person, firm, corporation or other entity who proposes to develop a new ground water withdrawal or expand an existing ground water withdrawal for any purpose within the Southeastern Pennsylvania Ground Water Protected Area shall be required to obtain a protected area permit under this regulation if the proposed new, or [expanded daily average withdrawal during any calendar month exceeds] INCREASED RATE OF WITHDRAWAL

FROM A WELL OR GROUP OF WELLS OPERATED AS A SYSTEM AVERAGES MORE THAN 10,000 GALLONS PER DAY OVER A 30-DAY PERIOD."

(Additions indicated in CAPITALIZATION; deletions indicated in [brackets]).

3. By amending Section 6(b) of the regulation to provide that government agencies shall be exempt from the $100 application fee.

Persons wishing to testify on any of these proposed amendments are requested to notify the Secretary to the Commission prior to the hearing. Written testimony will be accepted in lieu of oral presentation.

November 26, 1980.

W. Brinton Whitall,

Secretary.

[FR Doc. 80-37610 Filed 12-3-80; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF EDUCATION

Asbestos Hazards School Safety Task Force; Meeting

AGENCY: The Asbestos Hazards School Safety Task Force.

ACTION: Notice of meeting.

SUMMARY: The Deputy Assistant Secretary, Office of Educational Support announces a meeting and proposed agenda of the Asbestos Hazards School Safety Task Force. Notice of this meeting is required by the Federal Advisory Committee Act. This notice also describes the functions of the task force.

DATE: The meeting will be held on December 10, 1980, 10:00 a.m.–5:00 p.m.

ADDRESS: Federal Office Building #6, 400 Maryland Avenue, SW., Room 2189, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. Herman R. Goldberg, Deputy Assistant Secretary, Office of Educational Support, Room 2079, FOB–6, 400 Maryland Avenue, SW., Washington, D.C. 20202. (202) 245–8094.

SUPPLEMENTARY INFORMATION: The Asbestos Hazards School Safety Task Force was established under Section 3 of the Asbestos School Hazard Detention and Control Act of 1980, Pub. L. 96–270, (20 U.S.C. 3604, 3605). The task force was established to compile medical, scientific, and technical information on health and safety hazards associated with friable materials emitting asbestos fibers; to compile information on the means of identifying, sampling and testing materials suspected of emitting asbestos fibers; to distribute compiled information to State and local education agencies; to review applications for grants and loans to assist in identifying and eliminating imminent hazards associated with friable asbestos building materials in school buildings and to make recommendations to the Secretary on these applications; and to review guidelines established by the Environmental Protection Agency and the Department of Education to implement this Act.

The meeting of the task force is open to the public. The meeting will be held from 10:00 a.m. to 5:00 p.m. on Wednesday, December 10, 1980. The proposed agenda includes:

1. Continued discussion of comments received in response to the notice of proposed rulemaking.
2. Reports on interim activities of the Task Force.

Records will be kept of all task force proceedings, and will be available for public inspection in the Office of Educational Support, Room 2079, 400 Maryland Avenue, S.W., Washington, D.C., 20202 between the hours of 8:00 a.m. and 4:40 p.m. week days except Federal holidays.

Date: November 18, 1980.

Editorial Note.—Due to a processing error, this document was not published on November 21, 1980, as requested by the Department of Education.

Herman R. Goldberg,

Deputy Assistant Secretary.

[FR Doc. 80-37861 Filed 12-3-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

National Petroleum Council

Air Quality Task Group of the Committee on Environmental Conservation; Meeting

Notice is hereby given that the Air Quality Task Group of the Committee on Environmental Conservation will meet in December 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Environmental Conservation will analyze the environmental problems of the oil and gas industries and the impact of current environmental control regulations on the availability and costs of petroleum products and natural gas. Its analysis and findings will be based on information and data to be gathered by the various task groups. The time, location and agenda of the Air Quality Task Group meeting follows:

The Air Quality Task Group will hold its first meeting on Thursday, December 11, 1980, starting at 10:00 a.m., in the Conference Room of the Texaco Inc. Office, Suite 500 1050 Seventeenth Street N.W., Washington, D.C.

The tentative agenda for the meeting follows:

1. Review Task Group assignment from the NPC Committee on Environmental Conservation.
2. Discuss Task Group study approach and individual assignments.
3. Discuss Task Group Schedule.
4. Discuss any other matters pertinent to the overall assignment of the Air Quality Task Group.

The meeting is open to the public. The Chairman of the Air Quality Task Group is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Air Quality Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633–8383, prior to the meeting and resonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room IE–190, DOE, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on November 21, 1980.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development and Operations, Resource Applications.

November 21, 1980.

[FR Doc. 80-37619 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, of the Committee on Unconventional Gas Sources; Meeting

Notice is hereby given that the Committee on Unconventional Gas Sources will meet in December 1980. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Unconventional Gas Sources has analyzed the various issues bearing on expeditious resource development of this promising energy resource. its analysis and findings were based on information and data gathered by various task groups. The time,

location and agenda of the meeting follows:

The third meeting of the Committee on Unconventional Gas Sources will be held on Tuesday, December 9, 1980, starting at 1:00 p.m., Dolley Madison Room, Madison Hotel, Fifteenth and M Streets, NW., Washington, D.C.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman of the Committee.
2. Review and discuss drafts of the final two volumes of the report on Unconventional Gas Sources:
   - Executive Summary
   - Tight Gas Reservoirs.
3. Discussion of any other matters pertinent to the overall assignment of the Committee on Unconventional Gas Sources.

The meeting is open to the public. The Chairman of the Committee on Unconventional Gas Sources is empowered to conduct the meeting in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee on Unconventional Gas Sources will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform L. A. Vickers, Office of Oil and Natural Gas, Resource Applications, 202/633–8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on November 20, 1980.

R. D. Langenkamp,

Deputy Assistant Secretary, Resource Development and Operations, Resource Applications.

November 20, 1980.

[FR Doc. 80-37618 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Peaceful Uses of Atomic Energy; Proposed Subsequent Arrangement Between U.S. and International Atomic Energy Agency

Correction

In the **Federal Register** for Thursday, November 20, 1980, on page 76741, in the third column, at the bottom of the column, in the file line, the FR Doc. number should have read "FR Doc. 80–36281".

BILLING CODE 1505-01-M

Federal Energy Regulatory Commission

[Docket Nos. CI78–575–001, et al.]

Amoco Production Company, et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

November 26, 1980.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft.[3]	Pressure base
CI78–575–001, Oct. 21, 1980 [1]	Amoco Production Company, 1670 Broadway, Denver, Colorado 80202.	Mountain Fuel Supply Company, Yellow Creek Area, Uinta County, Wyoming.	([2])	PB 025
CI81–57–000, Nov. 17, 1980	Moon & Hines, *et al.*, Suite 1030 Capital Towers, Jackson, Miss. 39201.	Southern Natural Gas Company, Boyd-Tullos Unit No. 1 Well located in Sec. 22–T2N–R16W, Hub Field, Marion County, Mississippi.	Depleted to the extent that the continuance of service is unwarranted and uneconomical.	

[1] Application to change delivery point from the wellhead to the discharge side of the dehydration unit.
[2] Applicant is filing to amend its Contract under Amendatory Agreement dated 2–19–80 and FERC G.R.S. No. 772.
Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 80-37688 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before December 8, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Alaskan Northwest Natural Gas Transportation Co.; Amendment to Application

states that this revised route is essentially adjacent to the existing haul road except for certain areas where

requirements have been incorporated into revised Exhibits K (Certification Cost and Schedule Estimate), Z–9.0

hydrocarbons underlying certain specific acreage in the Desert Springs Field. In return, it is stated, Applicant

December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to

Alaskan Northwest Natural Gas Transportation Co.; Amendment to Application

[Docket No. CP80-435-001]

November 28, 1980.

Take notice that on November 17, 1980, Alaskan Northwest Natural Gas Transportation Company (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP80-435-001 pursuant to Section 7(c) of the Natural Gas Act an amendment to its application pending in the instant docket so as to reflect revisions of Exhibits K, Z-9.0 and Z-9.1 of such application, all as more fully set forth in the amendment which is on file with the Commission and open for public inspection.

By its application filed on July 1, 1980, in the instant docket, Applicant requested a certificate of public convenience and necessity authorizing the construction and operation of the Alaskan segment of the Alaska Natural Gas Transportation System (ANGTS), and, on the same day, Applicant filed a request with the Department of the Interior for issuance of a right-of-way grant over Federal lands along the pipeline route proposed by Applicant, it is said. Applicant further states that in both applications it assumed that there would be a minimum 80 foot spacing requirement between the Alaskan segment of the ANGTS and the Trans Alaska Pipeline System (TAPS) oil pipeline.

It is submitted that on August 20, 1980, the Department of the Interior notified interested Congressional Committees of its intent to issue a right-of-way to Applicant which would impose a condition that with certain exceptions there would be a 200 foot minimum spacing between the Alaskan segment of ANGTS and TAPS and that Applicant concluded that it would accept this condition provided that its certification cost estimate and center point request be appropriately modified to reflect increased costs and the variation in risk resulting from this change in spacing. Applicant further submits that at the technical conferences of September 3 and 4, 1980, it stated that it would file the necessary cost revisions to its July 1, 1980, certification cost estimate on or before October 27, 1980, and that in order to comply with said increased spacing Applicant was requied to select a new route along the total affected distance of about 300 miles. Applicant states that this revised route is essentially adjacent to the existing haul road except for certain areas where virgin routing is merited and that a completely new cost estimate of the revised route was then made in the same detail, using the same design criteria and following the same methodology as was utilized in the original estimate. It is further stated that the original estimate was then compared with the new estimate for the purpose of identifying variations in cost and that the new estimate indicates a total cost increase of $252,000,000 excluding contingency and finance charges are $30,000,000 and $32,000,000 respectively, it is said. Applicant asserts that the increase in the contingency is due solely to applying the contingency factors established in the original filing to the increased certification cost estimate before contingency and that the increase in finance charges is due to applying the original filing finance factors to the increased certification cost estimate. If these estimates of normal contingency and finance charges prove to be correct, Applicant indicates that the total increased cost would be $314,000,000.

Applicant attributes the major increase in the pipeline and civil work estimate to an increase in pipe hauling costs, an increase in the mineral material quantity by 8 million cubic yards, additional field programs (primarily borehole drilling), additional drilling and shooting, increased workpad embankment, a decrease in productivity due to both a narrower workpad necessitating shorter turns and lower travel speeds because of the proximity of the haul road, an increase in workpad culverts both in number and length, an increase in workpad crossings, an increase in restoration costs, an increase in pipe length and additional low water crossings. Applicant attributes the increase in temporary facility costs to be primarily due to an increase in the man-hours spent in the work camps which is said to result from the need to deliver more materials for the increase in the workpad embankment. Furthermore, an increase in project directorage is said to be due to an increase in taxes, insurance, permits and fees which are directly correlated to the increase in facility costs utilizing the same factors employed in the original filing.

The above revisions in the project estimates stemming from the Department of the Interior's said spacing requirements have been incorporated into revised Exhibits K (Certification Cost and Schedule Estimate), Z-9.0 (Design Summary) and Z-9.1 (Pipeline and Civil Design) which are appended to the amended application.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulators under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All person who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37683 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-58-000]

Colorado Interstate Gas Co.; Application

November 28, 1980.

Take notice that on November 17, 1980, Colorado Interstate Gas Company (Applicant), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP81-58-000 an application pursuant to Section 7 of the Natural Gas Act (1) for permission and approval to abandon certain gas reserves, (2) for a certificate of public convenience and necessity authorizing the transportation of shrinkage and fuel gas, and (3) for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities, all as necessary to implement an assignment of processing rights in the Desert Springs Field of Wyoming dated June 30, 1980, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into an agreement with Champlin Petroleum Company (Champlin) under which Applicant would convey to Champlin its rights to liquefiable hydrocarbons underlying certain specific acreage in the Desert Springs Field. In return, it is stated, Applicant would receive the option to purchase new gas supplies from Champlin to be developed on more than 46,300 acres located in the Overthrust area in Uinta County, Wyoming, and Rich, Morgan and Summit Counties, Utah, up to 1,000,000,000 Mcf of natural gas. In addition Applicant would purchase gas from a Uinta County, Wyoming, field that has known reserves that far exceed the proposed abandonment, it is asserted.

Applicant proposes to abandon certain gas reserves in the form of shrinkage as a result of Champlin removing liquefiable hydrocarbons from natural gas owned or controlled by Applicant. It is stated that the abandonment could result in an estimated loss of 11,000,000 Mcf of gas reserves in the Desert Springs Field over the assumed field life of 20 years assuming extraction operations commence October 1, 1981. The total estimated liquid recovery over the same period could be 322,000,000 gallons, it is stated. Applicant requests that the abandonment take effect October 1, 1981, or at such later date as any required facilities are placed in service. Applicant states that the abandonment is necessary to implement the agreement of assignment of processing rights.

Furthermore, Applicant proposes to transport shrinkage and fuel gas to Champlin for processing and plant fuel use pursuant to the assignment agreement. Applicant estimates the volume of fuel gas to be 326 billion Btu's or an average of 39.4 Mcf per day for the life of the Desert Springs Field. It is stated that Champlin would reimburse Applicant for the plant fuel usage and shrinkage in an amount equal to the average gas cost by Applicant for gas purchased systemwide plus Applicant's cost of service. Applicant states that currently it credits the revenue received for the field liquids to its cost of service.

In addition, Applicant proposes to construct and operate facilities, including side valves, taps, and pipe to route its Desert Springs Field gas to Champlin's proposed plant and return the processed gas to its existing system. This proposal would require the installation of four taps and six valves and a total of approximately ¼ mile of 16-inch pipeline. Said construction's estimated cost of $237,800 would be financed by funds on hand, funds from operations, short-term borrowings, or long-term financing, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37684 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Volume 327]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued November 28, 1980.

JD NO	JA DAT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION						
*ALFRED C BLASBELL JR			RECEIVED: 11/17/80 JA: TX			
8105789	20245	4236500000 108	G W BIRD #1-T	CARTHAGE	11,0	TEXAS GAS TRANSMISSI
8105788	20244	4236500000 108	J W COOKE #1-T	CANTHAGE	18,0	TEXAS GAS TRANSMISSI
*AMERADA HESS CORPORATION			RECEIVED: 11/17/80 JA: TX			
8105761	19568	4232901812 108	TEX-HARVEY SPRABERRY UNIT #162	SPRABERRY TREND	0,1	
8105822	20921	4232900000 108	TEX-HARVEY SPRABERRY UNIT #522	SPRABERRY TREND	3,2	
8105821	20920	4232900000 108	TEX-HARVEY SPRABERRY UNIT #573	SPRABERRY TREND	2,3	
8105762	19569	4232900552 108	TEX-HARVEY SPRABERRY UNIT #941	SPRABERRY TREND	0,1	
*AMOCO PRODUCTION CO			RECEIVED: 11/17/80 JA: TX			
8105793	20651	4232130400 108	BUTTER GAS UNIT WELL NO 1	PETRUCHA (12650)	8,9	AMOCO GAS CO
8105780	20003	4229530727 103	C L KING A WELL #8	BRADFORD TONKAWA	109,0	PHILLIPS PETROLEUM C
8105873	23474	4232130865 103	E J GRACEY UNIT #7	OLD OCEAN (ARMSTRONG)	27,7	AMOCO GAS CO
8105846	21974	4203900000 102	J M CROWELL NO 1	OLD OCEAN NE	730,0	AMOCO GAS CO
8105786	20133	4219500000 108	L W MATHEWS #1-T	MANSFORD	0,0	NORTHERN NATURAL GAS
8105874	23476	4217531047 103	L W OCONNOR A #73	LIVE OAK LAKE 5000	113,5	AMOCO GAS CO
8105794	20702	4203931489 103	LAURA D SHAW #23	HASTINGS WEST	4,3	TEXAS EASTERN TRANSM
8105753	19232	4203931323 103	MARTHA D LONG #5	HASTINGS WEST	8,2	TEXAS EASTERN TRANSM
8105919	24349	4240300000 108	SCRIBNER OPERATING UNIT #2	MOBEETIE	4,0	NATURAL GAS PIPELINE
8105920	24350	4242100000 108	SLOAN GAS UNIT B #1	MUGOTON	12,0	PHILLIPS PETROLEUM C
*ANADARKO PRODUCTION COMPANY			RECEIVED: 11/17/80 JA: TX			
8105781	20004	4221131153 103	ABRAHAM A NO 2026	HEMPHILL	400,0	PANHANDLE EASTERN PI
*8105855	22574	4221100000 108	ABRAHAM C NO 1026	HEMPHILL = GRANITE WASH	11,0	PANHANDLE EASTERN PI
8105718	15900	4235730867 103	MALE #1-209	PARSELL	36,5	PANHANDLE EASTERN PI
*ANDERSON PETROLEUM INC			RECEIVED: 11/17/80 JA: TX			
8105880	23590	4210532458 103	A C MILLSPAUGH A #1-32	OZONA (CANYON SAND)	35,0	ANDERSON PIPELINE CO
*ANJE CORP			RECEIVED: 11/17/80 JA: TX			
*8105782	20005	4246100000 108	ARCO-MCELROY NO 1 RRC #40936	WILSHIRE (DEVONIAN)	16,0	PECOS CO
*ARGONAUT ENERGY CORPORATION			RECEIVED: 11/17/80 JA: TX			
8105742	18155	4216531311 102	COOK UNIT #1	BRUMLEY EAST (YATES)	408,0	EL PASO NATURAL GAS
*C L GAGE JR			RECEIVED: 11/17/80 JA: TX			
8105722	16432	4249700000 103	CHARLIE MAXWELL #1	BOONSVILLE (BEND CONGLO)	104,0	NATURAL GAS PIPELINE
8105705	11098	4223700000 103	FRANCES IRENE WICKER NO 2	NEWPORT SOUTH (BEND CONG	108,0	CITIES SERVICE CO
*CANUS PETROLEUM INC			RECEIVED: 11/17/80 JA: TX			
8105792	20365	4235531508 103	#2 STATE TRACT 691	BAXET 2700 AND BAXET 420	230,0	UNITED GAS PIPELINE
*CENTEX OIL & GAS INC			RECEIVED: 11/17/80 JA: TX			
8105748	18807	4224500000 102	HIGH ISLAND BLOCK 10-L WELL NO 7	HIGH ISLAND BLOCK 10-L G	1100,0	TRANSCONTINENTAL GAS
8105748	18807	4224500000 103	HIGH ISLAND BLOCK 10-L WELL NO 7	HIGH ISLAND BLOCK 10-L G	1100,0	TRANSCONTINENTAL GAS
*CHAMPLIN PETROLEUM COMPANY			RECEIVED: 11/17/80 JA: TX			
8105760	19551	4236500000 103	CARTHAGE GAS UNIT 28-3	CARTHAGE (COTTON VALLEY)	0,0	TENNESSEE GAS PIPELI
8105869	23431	4236530862 103	CARTHAGE GAS UNIT 33 NO 2	CARTHAGE (COTTON VALLEY)	548,0	TENNESSEE GAS PIPELI
8105759	19550	4236500000 103	CARTHAGE GAS UNIT 7-2	CARTHAGE (COTTON VALLEY)	1,5	TENNESSEE GAS PIPELI

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JD NO	JA DAT	API NO	SEC D WELL NAME	FIELD NAME	PROD	PURCHASER
*8105741	18124	4227331404 103	G P WARDNER NO 144	STRATTON	25,0	TENNESSEE GAS PIPELI
*CHRISTI CO INC			RECEIVED: 11/17/80 JA: TX			
8105850	22195	4204932193 103	BURCHAM #1	BROWN CO REGULAR (MARBLE	126,0	ODESSA NATURAL CORP
*COLORADO INTERSTATE GAS CO			RECEIVED: 11/17/80 JA: TX			
8105921	24374	4237500000 108	MASTERSON F-1	WEST PANHANDLE	18,0	(1) COLORADO INTERST
*CONOCO INC			RECEIVED: 11/17/80 JA: TX			
8105955	24568	4207900000 108	CONOCO DEAN UNIT #120 ID #60106	SLAUGHTER	0,7	AMOCO PRODUCTION CO
8105952	24565	4207900000 108	CONOCO DEAN UNIT #33 ID #60106	SLAUGHTER	1,3	AMOCO PRODUCTION CO
8105953	24566	4207900000 108	CONOCO DEAN UNIT #55 ID #60106	SLAUGHTER	1,3	AMOCO PRODUCTION CO
8105954	24567	4207900000 108	CONOCO DEAN UNIT #87 ID #60106	SLAUGHTER	0,6	AMOCO PRODUCTION CO
8105948	24552	4222731201 108	G O CHALK D #18 ID #18990	HOWARD-GLASSCOCK	0,3	PHILLIPS PETROLEUM C
8105949	24554	4222700000 108	H R CLAY A #12 ID #02691	HOWARD-GLASSCOCK	0,7	PHILLIPS PETROLEUM C
8105950	24555	4222700000 108	H R CLAY E #2 ID#02692	HOWARD-GLASSCOCK	1,3	PHILLIPS PETROLEUM C
8105845	21892	4250531166 103	J G RATHMELL A NO 2	MUNDIDO (LOBO)	365,0	HOUSTON PIPE LINE CO
8105956	24569	4213502055 108	MRS L E WIGHT 4 #26 ID #23778	COWDEN NORTH	2,6	AMOCO PRODUCTION CO
8105951	24557	4210500000 108	RANCH STRAWN UNIT #9 ID #03211	RANCH STRAWN	3,6	DELHI GAS PIPELINE C
8105947	24551	4200300000 108	WEST FUHRMAN-MASCHO UNIT #57	FUHRMAN-MASCHO	0,2	PHILLIPS PETROLEUM C
8105946	24533	4213533156 108	WIGHT UNIT #132 ID #20661	COWDEN NORTH	1,1	AMOCO PRODUCTION CO
*CONVEST ENERGY CORP			RECEIVED: 11/17/80 JA: TX			
8105904	23742	4226330669 102	WAYNE WILLIAMS ET AL WELL NO B-2	POLLAN/ELLENBURGER	0,0	EL PASO NATURAL GAS
8105903	23741	4226330670 102	WAYNE WILLIAMS ET AL WELL NO 7	POLLAN/ELLENBURGER	0,0	EL PASO NATURAL GAS
*COTTON PETROLEUM CORPORATION			RECEIVED: 11/17/80 JA: TX			
8105922	24384	4235730429 108	JEWELL NO 1	FRANTZ (LOWER-MORROW)	21,0	DIAMOND SHAMROCK
*DELTA DRILLING CO			RECEIVED: 11/17/80 JA: TX			
8105885	23616	4241330767 103	DELMI-JONES #2	ELDORADO (CANYON)	194,4	NORTHERN NATURAL GAS
*DIAMOND SHAMROCK CORPORATION			RECEIVED: 11/17/80 JA: TX			
8105755	19440	4221100000 108	FRANK SMALLEY E NO 2	BIG TIMBER CREEK	3,0	NATURAL GAS PIPELINE
8105756	19441	4221100000 108	JOHN C ISAACS J NO 6	RED DEER CREEK	5,0	SOUTHWESTERN PUBLIC
8105754	19439	4229500000 108	MORRIS R MERYDITH E NO 1	LIPSCOMB	14,0	NATURAL GAS PIPELINE
*EARL R BRUNO			RECEIVED: 11/17/80 JA: TX			
8105699	09130	4247500000 108	JANE DEAN MILLER #3	MILLER BLOCK 8-29 (PENN)	12,0	WARREN PETROLEUM CO
*EBEN D WARNER JR			RECEIVED: 11/17/80 JA: TX			
8105706	11772	4217900000 108	PARKER NO 1	PANHANDLE EAST	21,2	PHILLIPS PETROLEUM C
*ECHO PRODUCTION INC			RECEIVED: 11/17/80 JA: TX			
8105875	23479	4249731584 103	HOLT #1	BOONSVILLE (BEND CONGL)	335,8	LONE STAR GAS CO
8105876	23480	4249731585 103	HOLT #2	BOONSVILLE (BEND CONGL)	328,5	LONE STAR GAS CO
*EDWIN L COX			RECEIVED: 11/17/80 JA: TX			
8105736	17185	4212330995 103	BUCHANAN #5-L	COTTONWOOD CREEK SOUTH	180,0	LONE STAR GAS CO
*EL PASO NATURAL GAS COMPANY			RECEIVED: 11/17/80 JA: TX			
8105751	18950	4240326108 108	HILTBRUNNER #1	PANHANDLE EAST-BROWN DOL	17,0	EL PASO NATURAL GAS
8105752	18954	4208726276 108	TINDALL A #1	PANHANDLE EAST BROWN DOL	19,7	EL PASO NATURAL GAS
*ERBO INC			RECEIVED: 11/17/80 JA: TX			
8105710	15245	4236500000 103	CARTHAGE UNIT WELL #31	CARTHAGE	365,0	TENNESSEE GAS PIPELI
*EXXON CORPORATION			RECEIVED: 11/17/80 JA: TX			
8105891	23666	4200332187 103	FULLERTON CLFK UNIT #2477	FULLERTON	9,0	PHILLIPS PETROLEUM C
8105889	23663	4200331903 103	FULLERTON CLFK UNIT #4319	FULLERTON	0,0	PHILLIPS PETROLEUM C
8105890	23664	4200332189 103	FULLERTON CLFK UNIT #4321	FULL	43,0	PHILLIPS PETROLEUM C
8105886	23613	4208130832 103	IAB UNIT #517	IAB (MENIELLE PENN)	39,0	SUN GAS CO
8105785	20127	4200302505 108	J E PARKER A/C 7 #58	THREE BAR (YATES)	19,0	NORTHERN NATURAL GAS
8105887	23661	4216531741 103	ROBERTSON CLFK UNIT #1062	ROBERTSON N (CLFK 7100)	80,0	PHILLIPS PETROLEUM C
8105888	23662	4216531752 103	ROBERTSON CLFK UNIT #6402	ROBERTSON N (CLFK 7100)	14,0	PHILLIPS PETROLEUM C
8105879	23561	4216531771 103	ROBERTSON CLFK UNIT #650	ROBERTSON N (CLFK 7100)	83,0	PHILLIPS PETROLEUM C

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8105828	21347	4236530864	103		W R BANKS #2 (CFEC UNIT 558)	CARTHAGE (COTTON VALLEY)	500,0	
*FEDERAL ENERGY DEVELOPMENT CO					RECEIVED: 11/17/80 JA: TX			
8105823	21042	4273136400	102		MCCALEB NO 1	ALVORD (ATOKA CONGLOMERA	1,6	NATURAL GAS PIPELINE
*FISHER-WEBB INC					RECEIVED: 11/17/80 JA: TX			
8105877	23496	4208130748	103		PRICE 309 NO 2	ARLEDGE (PENN BAND)	150,0	SUN GAS CO
8105878	23497	4208130749	103		PRICE 309 NO 3	ARLEDGE (PENN BAND)	150,0	SUN GAS CO
*FORTUNE DRILLING COMPANY INC					RECEIVED: 11/17/80 JA: TX			
8105719	16389	4223531399	103		MURPHY 1149 #2	CAL (CANYON)	18,3	NORTHERN NATURAL GAS
*FOY BOYD MANAGEMENT CORP					RECEIVED: 11/17/80 JA: TX			
8105835	21759	4247531985	103		PITZER #2	RHODA WALKER (CANYON 590	66,6	NORTHERN NATURAL GAS
*GAB PRODUCING ENTERPRISES INC					RECEIVED: 11/17/80 JA: TX			
8105899	23723	4237530710	103		BIVINS 17-20RD	PANHANDLE (RED CAVE)	8,0	COLORADO INTERSTATE
8105898	23722	4237530705	103		BIVINS 28-19RD	PANHANDLE (RED CAVE)	12,0	COLORADO INTERSTATE
8105897	23721	4237530704	103		BIVINS 28-32-RD	PANHANDLE (RED CAVE)	1,0	COLORADO INTERSTATE
8105892	23697	4237530698	103		MASTERSON 86-6RD	PANHANDLE RED CAVE	10,0	COLORADO INTERSTATE
*GETTY OIL COMPANY					RECEIVED: 11/17/80 JA: TX			
8105784	20058	4228500000	108		CORINNE BABER #1	PROVIDENT CITY	19,0	TEXAS EASTERN TRANSM
8105957	26365	4236500000	103		JEANETTE MARRELL NO 3	CARTHAGE (COTTON VALLEY)	500,0	UNITED GAS PIPELINE
8105883	23597	4237132326	103		MENDEL 24 #2	GOMEZ (WOLFCAMP)	21,0	VALERO TRANSMISSION
8105882	23596	4237100000	103		MENDEL 26 #2L	GOMEZ (WOLFCAMP)	1,0	VALERO TRANSMISSION
8105881	23595	4237132327	103		MENDEL 26 #3	GOMEZ (WOLFCAMP)	1,0	VALERO TRANSMISSION
8105944	24526	4206500000	108		SCHAFER RANCH NO 149	PANHANDLE CARBON	1,3	NORTHERN NATURAL GAS
8105943	24525	4206500000	108		SCHAFER RANCH NO 150	PANHANDLE CARBON	0,4	NORTHERN NATURAL GAS
8105942	24524	4206500000	108		SCHAFER RANCH NO 155	PANHANDLE CARBON	0,4	NORTHERN NATURAL GAS
8105941	24523	4206500000	108		SCHAFER RANCH NO 185	PANHANDLE CARBON	0,4	NORTHERN NATURAL GAS
8105940	24522	4206500000	108		SCHAFER RANCH NO 186	PANHANDLE CARBON	0,4	NORTHERN NATURAL GAS
8105939	24521	4206500000	108		SCHAFER RANCH NO 187			
8105938	24520	4206500000	108		SCHAFER RANCH NO 190	PANHANDLE CARBON	0,4	NORTHERN NATURAL GAS
8105937	24519	4206500000	108		SCHAFER RANCH NO 192	PANHANDLE CARBON	0,4	NORTHERN NATURAL GAS
8105936	24518	4206500000	108		SCHAFER RANCH NO 201	PANHANDLE CARBON	0,4	NORTHERN NATURAL GAS
8105935	24517	4206500000	108		SCHAFER RANCH NO 207	PANHANDLE CARBON	0,4	NORTHERN NATURAL GAS
8105934	24516	4206500000	108		SCHAFER RANCH NO 209	PANHANDLE CARBON	0,4	NORTHERN NATURAL GAS
8105933	24515	4206500000	108		SCHAFER RANCH NO 210	PANHANDLE CARBON	1,7	NORTHERN NATURAL GAS
8105932	24514	4206500000	108		SCHAFER RANCH NO 239	PANHANDLE CARBON	0,4	NORTHERN NATURAL GAS
8105931	24513	4206500000	108		SCHAFER RANCH NO 242	PANHANDLE CARBON	0,4	NORTHERN NATURAL GAS
8105930	24512	4206500000	108		SCHAFER RANCH NO 243	PANHANDLE CARBON	0,4	NORTHERN NATURAL GAS
8105929	24511	4206500000	108		SCHAFER RANCH NO 245	PANHANDLE CARBON	1,7	NORTHERN NATURAL GAS
8105928	24510	4206500000	108		SCHAFER RANCH NO 248	PANHANDLE CARBON	2,1	NORTHERN NATURAL GAS
8105927	24509	4206500000	108		SCHAFER RANCH NO 250	PANHANDLE CARBON	0,9	NORTHERN NATURAL GAS
8105926	24508	4206500000	108		SCHAFER RANCH NO 251	PANHANDLE CARBON	1,7	NORTHERN NATURAL GAS
8105925	24507	4206500000	108		SCHAFER RANCH NO 252	PANHANDLE CARBON	1,3	NORTHERN NATURAL GAS
8105945	24527	4206500000	108		SCHAFER RANCH NO 51	PANHANDLE CARBON	0,4	NORTHERN NATURAL GAS
8105918	24288	4207900000	108		SOUTHWEST LEVELLAND UNIT NO 29	LEVELLAND	5,7	CITIES SERVICE CO
8105783	20057	4208900000	108		W F ALBERT UNIT 1 #3	SUBLIME	16,0	TENNESSEE GAS PIPELI
*GIFFORD MITCHELL & NISENBAKER					RECEIVED: 11/17/80 JA: TX			
8105717	15807	4249530925	103		BLACK KETTLE #1-A	CHEYENNE (CAPITAN)	5,0	EL PASO NATURAL GAS
8105716	15822	4249530979	103		TWO MOUNDS WELL #1	CHEYENNE (CAPITAN)	17,0	EL PASO NATURAL GAS
*GUERNSEY PETROLEUM CORPORATION					RECEIVED: 11/17/80 JA: TX			
8105725	16471	4224931009	103		LACEY #7	ALFRED (4650)	0,0	
*GULF OIL CORPORATION					RECEIVED: 11/17/80 JA: TX			
8105871	23458	4250531111	103		ANTONIO MARTINEZ ET AL NO 2 #85340	LAREDO (LOBO)	300,0	VALERO TRANSMISSION
8105772	19715	4223300000	108		C L DIAL ET AL NO 101	PANHANDLE HUTCHINSON	3,0	PHILLIPS PETROLEUM C

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JD NO	JA DKT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8105764	19615	4223300000	108		C L DIAL ET AL NO 110	PANHANDLE HUTCHINSON	0,3	PHILLIPS PETROLEUM C
8105763	19609	4223300000	108		C L DIAL ET AL NO 118	PANHANDLE HUTCHINSON	1,5	PHILLIPS PETROLEUM C
8105767	19706	4223300000	108		C L DIAL ET AL NO 178	PANHANDLE HUTCHINSON	1,7	PHILLIPS PETROLEUM C
8105768	19707	4223300000	108		C L DIAL ET AL NO 264	PANHANDLE HUTCHINSON	2,0	PHILLIPS PETROLEUM C
8105769	19708	4223300000	108		C L DIAL ET AL NO 265	PANHANDLE HUTCHINSON	0,6	PHILLIPS PETROLEUM C
8105765	19649	4223300000	108		C L DIAL ET AL NO 270	PANHANDLE HUTCHINSON	0,3	PHILLIPS PETROLEUM C
8105771	19710	4223330103	108		C L DIAL ET AL NO 273	PANHANDLE HUTCHINSON	2,0	PHILLIPS PETROLEUM C
8105770	19709	4223330112	108		C L DIAL ET AL NO 274	PANHANDLE HUTCHINSON	1,7	PHILLIPS PETROLEUM C
8105766	19683	4223300000	108		C L DIAL ET AL NO 91	PANHANDLE HUTCHINSON	0,7	PHILLIPS PETROLEUM C
8105905	23745	4248300000	108		CHILTON W J D #1	PANHANDLE EAST	5,0	TRANSWESTERN PIPE LI
8105906	23746	4248300000	108		CHILTON W J F #1	PANHANDLE EAST	5,0	TRANSWESTERN PIPE LI
8105907	23751	4223300000	108		HODGES J T #1	PANHANDLE HUTCHINSON	0,3	PHILLIPS PETROLEUM C
8105908	23752	4223300000	108		HODGES J T #2	PANHANDLE HUTCHINSON	0,7	PHILLIPS PETROLEUM C
8105872	23470	4221130991	103		ISAACS NO 2-214	CANADIAN SW MORROW UPPER	400,0	PIONEER NATURAL GAS
8105707	12123	4204130075	103		JONES UNIT 1 WELL NO 1	KURTEN (WOODBINE)	12,0	PRODUCERS GAS CO
8105736	16966	4250531073	103		R VIDAURRI ET AL NO 5 #82818	LA PERLA (WILCOX 6800)	500,0	TENNESSEE GAS PIPELI
8105916	24114	4210332144	103		H M HADDELL ET AL TR A 1140	SAND HILLS WEST (WOLFCAM	336,0	M & T GATHERING
*M L BROWN JR					RECEIVED: 11/17/80 JA: TX			
8105858	22725	4230130225	103		RED BLUFF (DEEP) NO 1 WELL #052776	WILDCAT (WOLFCAMP)	1095,0	EL PASO NATURAL GAS
*M L MCCRACKEN CO					RECEIVED: 11/17/80 JA: TX			
*8105723	16439	4248300000	108		WARD LEASE WELL NO 1	EAST PANHANDLE	6,6	EL PASO NATURAL GAS
*8105724	16440	4248300000	108		WARD LEASE WELL NO 4	EAST PANHANDLE	6,6	EL PASO NATURAL GAS
*MARKEN OIL & GAS INCORP					RECEIVED: 11/17/80 JA: TX			
8105731	16626	4236332055	103		NICKELL UNIT #1 83515	MINERAL WELLS & (CONGLOM	182,5	TEXAS UTILITIES FUEL
*MIDLAND RESOURCES INC					RECEIVED: 11/17/80 JA: TX			
8105795	20716	4229330837	102		OATES NO 1 (84268)	OLETHA	365,0	TEXAS UTILITIES FUEL
*MMS OIL COMPANY					RECEIVED: 11/17/80 JA: TX			
8105740	17600	4243530459	108		MAYFIELD 46 #1 57732	SAWYER (STRAWN NORTH)	6,0	INTRATEX GAS CO
*MOUSTON OIL & MINERALS CORPORATION					RECEIVED: 11/17/80 JA: TX			
8105727	16589	4270330120	102		STATE TRACT 526-L SW/4 #2	CAVALLO (8200) FIELD	5840,0	VALLEY PIPE LINE
8105728	16590	4270330129	102		STATE TRACT 526-L SW/4 #3	CAVALLO (9200) FIELD	7300,0	VALLEY PIPE LINE OFF
8105726	16588	4270330171	102		STATE TRACT 526-L SW/4 #6	CAVALLO (8200) FIELD	5840,0	VALLEY PIPELINE
*J CLEO THOMPSON					RECEIVED: 11/17/80 JA: TX			
8105694	01714	4200300000	103		WEST MEANS UNIT 8-8	MEANS	3,0	PHILLIPS PETROLEUM C
*J M HUBER CORPORATION					RECEIVED: 11/17/80 JA: TX			
8105695	02601	4223330631	103		JOHNSON NO 1A	PANHANDLE WEST	55,0	PANHANDLE EASTERN PI
8105696	02603	4206530577	103		POLING C #1A	PANHANDLE WEST	200,0	COLORADO INTERSTATE
*JOHN M ADGER					RECEIVED: 11/17/80 JA: TX			
8105700	10758	4217900000	108		BREEDING #1	EAST PANHANDLE	3,0	PHILLIPS PETROLEUM C
8105701	10759	4217900000	108		BREEDING A-1	EAST PANHANDLE	20,4	PHILLIPS PETROLEUM C
8105702	10760	4208700000	108		FRANKS A	PANHANDLE EAST	3,0	WARREN PETROLEUM COR
8105703	10761	4208700000	108		FRANKS B	PANHANDLE EAST	2,0	WARREN PETROLEUM COR
8105704	10762	4248300000	108		O GORMAN (FRANK) #1	PANHANDLE EAST	4,0	WARREN PETROLEUM COR
*K S ADAMS JR					RECEIVED: 11/17/80 JA: TX			
8105739	17614	4233900080	108		JOHN MECK ET AL #1 24569	WEST PANHANDLE	10,7	PHILLIPS PETROLEUM C
*KIMBALL PRODUCTION COMPANY					RECEIVED: 11/17/80 JA: TX			
8105729	16797	4206500000	108		BURNETT A NO 1	PANHANDLE	15,6	PHILLIPS PETROLEUM C
8105730	16798	4206500000	108		BURNETT A NO 2	PANHANDLE	15,6	PHILLIPS PETROLEUM C
8105732	16799	4206500000	108		BURNETT A NO 3	PANHANDLE	15,6	PHILLIPS PETROLEUM C
8105733	16800	4206500000	108		BURNETT A NO 4	PANHANDLE	15,6	PHILLIPS PETROLEUM C
8105734	16801	4206500000	108		BURNETT A NO 5	PANHANDLE	15,6	PHILLIPS PETROLEUM C
*KIRBY EXPLORATION CO					RECEIVED: 11/17/80 JA: TX			

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JD NO	JA DAT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8105804	23941	4248131759	102		NORRIS RAUN	GOLDEN ROD (2630)	75,0	TRUNKLINE GAS CO
*LULING OIL AND GAS CO INC					RECEIVED: 11/17/80 JA: TX			
8105711	15349	4233100000	103		MARTIN NO 4-A	MILBUR	21,0	
*MCMORAN EXPLORATION CO					RECEIVED: 11/17/80 JA: TX			
8105862	22879	4221530968	102		COOK WELL #1-L	MCALLEN SO (GRIBSON 7700	700,0	TRANSCONTINENTAL GAS
8105861	22878	4221530968	102		COOK WELL #1-U	MCALLEN SOUTH (MILADEL 7	600,0	TRANSCONTINENTAL GAS
8105827	21327	4235530840	102		STATE TRACT 352 WELL NO 1	RED FISH BAY (9000-C) PR	400,0	UNITED GAS PIPE LINE
*MEMBOURNE OIL COMPANY					RECEIVED: 11/17/80 JA: TX			
8105860	22798	4229530748	103		PEERY WELL #6 ID #06432	PEERY (MARMATON)	18,0	TRANSWESTERN PIPELIN
*MGF OIL CORP					RECEIVED: 11/17/80 JA: TX			
8105863	22891	4207130958	102		STATE TRACT 72 NO 1 RRC #85636	UMBRELLA POINT NW (F-16)	200,0	UNITED TEXAS TRANSMI
8105854	22487	4232930856	103		STIMSON-BURLEY A WELL NO 2	SPRABERRY (TREND AREA)	25,2	NORTHERN NATURAL GAS
8105817	20802	4238931069	103		WORSHAM NO 1	WORSHAM	15,0	
*MGU DEVELOPMENT CO					RECEIVED: 11/17/80 JA: TX			
8105737	17048	4232130837	103		ROSENTHAL-BLONE NO 1-UP ID #81074	HAMMAN FIELD	90,0	TENNESSEE GAS PIPELI
*MILLS BENNETT ESTATE					RECEIVED: 11/17/80 JA: TX			
8105856	22627	4204700000	108		BENNETT MILLS ESTATE FEE #47	MILLS BENNETT (B SAND BE	12,0	TEXAS EASTERN TRANSM
*MITCHELL ENERGY CORPORATION					RECEIVED: 11/17/80 JA: TX			
8105713	15697	4249700000	108		ANNA WOODY #1 28859	BOONSVILLE (BEND CONGL G	0,0	NATURAL GAS PIPELINE
8105775	19802	4249700000	108		DALY - MERRING #1 30476	BOONSVILLE (BEND CONG GA	19,0	NATURAL GAS PIPELINE
8105776	19803	4249700000	108		E HOLT #1 39165	CHICO WEST (CONGL 5700)	14,0	NATURAL GAS PIPELINE
8105797	20726	4249700000	108		ETHEL CAMPBELL #2 78926	TOTO (BEND CONGL LOWER)	19,0	NATURAL GAS PIPELINE
8105714	15701	4249700000	108		GUY BROWN #1 31692	BOONSVILLE (BEND CONG GA	21,0	NATURAL GAS PIPELINE
8105829	21398	4249731645	103		M V MOUGH #3 ID #N/A	BOONSVILLE (BEND CONG)	500,0	NATURAL GAS PIPELINE
8105774	19801	4249700000	108		LEE GOMER #1 34053	BOONSVILLE (BEND CONG GA	13,0	LONE STAR GAS CO
8105749	18841	4249700000	108		MAUDE WILLIAMS #1 55857	ALVORD (ATOKA CONGL)	9,0	NATURAL GAS PIPELINE
8105886	23640	4249700000	108		PAUL R DAY #1 28620	BOONESVILLE (BEN CONGL G	13,7	NATURAL GAS PIPELINE
8105796	20721	4223700000	108		R L BOYD #2 16552	KRAMBERGER (ATOKA CONGL)	17,0	NATURAL GAS PIPELINE
8105715	15708	4249700000	108		SAM KIKER #1 28713	BOONSVILLE (BEND CONGL G	14,0	NATURAL GAS PIPELINE
8105747	18769	4249700000	108		TARRANT COUNTY WATERBOARD #6 28826	BOONSVILLE (BEND CONGL G	11,0	NATURAL GAS PIPELINE
*NUCORP ENERGY INC					RECEIVED: 11/17/80 JA: TX			
8105909	23807	4217730509	102		MCCALOP UNIT #1	MAG (AUSTIN CHALK)	88,0	INTRASTATE GATHERING
8105902	23739	4214930497	102		PRENETT HARTFORD M #1	GIDDINGS (AUSTIN CHALK)	0,0	CLAJON GAS CO
*PANHANDLE PRODUCING COMPANY					RECEIVED: 11/17/80 JA: TX			
8105923	24458	4223300000	108		CLINTON BANFORD C 2RC (27114)	PANHANDLE WEST (RED CAVE	12,5	COLORADO INTERSTATE
*PARAFFINE OIL CORP					RECEIVED: 11/17/80 JA: TX			
8105743	18170	4224930840	102		HERBERT SMITH NO 3 75049	BEN BOLT (5800)	365,0	SEAGULL PIPELINE COR
8105743	18170	4224930840	103		HERBERT SMITH NO 3 75049	BEN BOLT (5800)	365,0	SEAGULL PIPELINE COR
8105859	22758	4205730962	102		P M WELDER D NO 1-L	KATIE WELDER (N-9)	40,0	SEAGULL PIPELINE COR
8105859	22758	4205730962	103		P M WELDER D NO 1-L	KATIE WELDER (N-9)	40,0	SEAGULL PIPELINE COR
8105744	18171	4224931062	102		SMITH UNIT NO 1	BEN BOLT (5800)	365,0	SEAGULL PIPELINE COR
8105744	18171	4224931062	103		SMITH UNIT NO 1	BEN BOLT (5800)	365,0	SEAGULL PIPELINE COR
*PENNZOIL PRODUCING COMPANY					RECEIVED: 11/17/80 JA: TX			
8105833	21504	4236530980	103		BLACK NO 2	CARTHAGE/COTTON VALLEY/	650,0	UNITED GAS PIPE LINE
8105818	20842	4235500000	108		HELEN F AUSTIN NO 8-10	AGUA DULCE	6,0	UNITED GAS PIPE LINE
8105832	21472	4236531001	103		HULL UNIT NO A-21	CARTHAGE/COTTON VALLEY/	550,0	UNITED GAS PIPE LINE
8105901	23734	4200730641	103		V M TATTON NO 10-F	VIRGINIA	3,0	NATURAL GAS PIPELINE
*PETER PAUL PETROLEUM CO					RECEIVED: 11/17/80 JA: TX			
8105820	20901	4221530790	108		HELLINGER UNIT-1	SHEPHERD (ELKINS)	11,0	VALERO TRANSMISSION
*PEYTON MCKNIGHT JR					RECEIVED: 11/17/80 JA: TX			
8105852	22410	4240100000	103		J L BURTON ESTATE NO 1 (80171)	OAK HILL (COTTON VALLEY)	270,0	LONE STAR GAS COMPAN
*PHILLIPS PETROLEUM COMPANY					RECEIVED: 11/17/80 JA: TX			

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JD NO	JA DAT	API NO	SEC	D	WELL NAME	FIELD NAME	PROD	PURCHASER
8105853	22478	4213533273	103		(01567) VINA BAGLEY	FOSTER	16,0	ODESSA NATURAL CORP
8105914	24042	4200304489	108		(17015) HITLER NO 44	FULLERTON (SAN ANDRES)	0,2	EL PASO NATURAL GAS
8105913	24041	4213505834	108		(18713) GOLDSMITH ADDBE UNIT #14-04	GOLDSMITH (5600)	1,0	EL PASO NATURAL GAS
8105849	22129	4213533178	108		(19297) SOUTH COWDEN UNIT NO 6-18	COWDEN SOUTH	1,0	ODESSA NATURAL CORP
8105912	24039	4213503164	108		(21193) GOLDSMITH ANDECTOR NO K-08	GOLDSMITH (CLEARFORK)	8,0	EL PASO NATURAL GAS
8105777	19810	4249503432	108		CRUM NO 5 (57115)	KEYSTONE (DEVONIAN)	21,1	BID RICHARDSON CARBO
*PYRAMID OIL & GAS COMPANY					RECEIVED: 11/17/80 JA: TX			
8105910	23995	4210300000	108		HAMPTON ET-AL A 23398	WHITE-HORSE (CLEARFORK 2	1,0	PHILLIPS PETROLEUM C
*R C BLACK					RECEIVED: 11/17/80 JA: TX			
8105787	20169	4249500000	108		BROWN & ALTMAN "H" #1	EMPEROR	0,1	PHILLIPS PETROLEUM C
*RAY M EUBANK					RECEIVED: 11/17/80 JA: TX			
8105831	21432	4220330685	102		J M ING HEIRS G U NO 1-T	LANSING NORTH (TRAVIS-PE	547,5	TEJAS GAS CORP
*RESOURCES INVESTMENT CORPORATION					RECEIVED: 11/17/80 JA: TX			
8105698	07291	4217531016	102		E-ING #2-T	LA BAHIA E (3900)	132,0	TRUNKLINE GAS CO
*SANCHEZ-OBRIEN MINERALS CORP					RECEIVED: 11/17/80 JA: TX			
8105790	20268	4247932460	102		S J MARTIN NO 2-A	MORITAS CREEK	500,0	TENNESSEE GAS PIPELI
8105778	19811	4247932414	102		S J MARTIN WELL NO 1-A	WILDCAT	500,0	TENNESSEE GAS PIPELI
*SHELL OIL CO					RECEIVED: 11/17/80 JA: TX			
8105708	13511	4250131550	103		DENVER UNIT NO 6731	WASSON	41,0	SHELL OIL CO & CULTE
8105915	24104	4250131554	103		DENVER UNIT 5738	WASSON	23,0	SHELL OIL CO
8105848	22097	4221530930	102		DIXIE MORTGAGE-HOPKINS GU WELL NO 3	MCCOOK EAST (VICKSBURG 1	500,0	NATURAL GAS PIPELINE
8105720	16421	4210532188	103		FORRISTAL B-11	TIPPETT WEST (HUECO)	3,0	NELEM GAS & OIL CO
8105721	16422	4210532206	103		FORRISTAL B-12	TIPPETT (WOLFCAMP UPPER)	60,0	NELEM GAS AND OIL CO
8105851	22294	4242731372	102		MARTINEZ-STATE NO 5	RINCON NORTH (VICKSBURG	200,0	LONE STAR GAS CO
8105779	19943	4247531837	103		SEALY SMITH FOUNDATION #168	MONAHANS (CLEARFORK)	11,0	EL PASO NATURAL GAS
8105824	21073	4247531844	103		SEALY SMITH FOUNDATION #172	MONAHANS (CLEAR FORK)	0,2	EL PASO NATURAL GAS
*SIMPSON-MANN OIL PRODUCERS					RECEIVED: 11/17/80 JA: TX			
8105847	21994	4239931441	102		WEBB UNIT #1	MILES (CAPPS)	180,0	ODESSA NATURAL CORP
8105847	21994	4239931441	103		WEBB UNIT #1	MILES (CAPPS)	180,0	ODESSA NATURAL CORP
*SOUTHLAND ROYALTY CO					RECEIVED: 11/17/80 JA: TX			
8105758	19538	4210300000	108		EDWARDS GRAYBURG UNIT #7-23	EDWARDS	0,9	PHILLIPS PETROLEUM C
8105757	19491	4213300000	108		EDWARDS GRAYBURG UNIT #8-15	EDWARDS	0,9	PHILLIPS PETROLEUM C
8105830	21421	4210532112	103		TODD 36 #1	HOWARD DRAW	70,0	PERMIAN CORP
*SUBURBAN PROPANE GAS CORP					RECEIVED: 11/17/80 JA: TX			
8105746	18457	4216300000	108		GEORGE M WILLIAMS NO 18	WEST BIG FOOT GAS	16,1	TRANSCONTINENTAL GAS
8105745	18455	4216300000	108		ROMAN HERNANDEZ NO 1	WEST BIG FOOT GAS	3,2	TRANSCONTINENTAL GAS
*SUN OIL COMPANY (DELAWARE)					RECEIVED: 11/17/80 JA: TX			
8105816	20789	4218300000	108		C BROWN NO 2	EAST TEXAS	0,4	MOBIL OIL CORP
8105868	23119	4204730688	102		D J SULLIVAN NO 10	FLOWELLA	423,0	FLORIDA GAS TRANSMIS
8105839	21831	4213500000	108		EAST GOLDSMITH HOLT UNIT NO 25-1	EAST GOLDSMITH	0,4	PHILLIPS PETROLEUM C
8105840	21834	4213500000	108		E GOLDSMITH SAN ANDRES UT #26-1	EAST GOLDSMITH	1,0	PHILLIPS PETROLEUM C
8105750	18922	4213500000	108		FOSTER JOHNSON UNIT NO 1-15	FOSTER FIELD	0,4	ODESSA NATURAL CORP
8105893	23697	4208130837	103		H L BLOODWORTH WELL NO 8	BLOODWORTH (5700)	88,0	LONE STAR GAS CO
8105894	23705	4242330377	103		MITTS LAKE UNIT WELL NO 7-2	MITTS LAKE (PALUXY)	0,4	LONE STAR GAS CO
8105807	20755	4218300000	108		J C GRAY WELL NO 12	EAST TEXAS	0,2	UNITED GAS PIPE LINE
8105806	20754	4218300000	108		J C GRAY WELL NO 6	EAST TEXAS	0,4	UNITED GAS PIPE LINE
8105801	20744	4218300000	108	D	J C MCKINLEY NO 15	EAST TEXAS	0,4	UNITED GAS PIPE LINE
8105799	20742	4218300000	108		J C MCKINLEY NO 17	EAST TEXAS	0,4	UNITED GAS PIPE LINE
8105800	20743	4218300000	108		J C MCKINLEY NO 2	EAST TEXAS	0,4	UNITED GAS PIPE LINE
8105798	20741	4218300000	108		J C MCKINLEY NO 4	EAST TEXAS	0,5	UNITED GAS PIPE LINE
8105804	20748	4218300000	108		J B ELDER NO 7	EAST TEXAS	0,4	WARREN PETROLEUM CO
8105805	20749	4218300000	108		J B ELDER NO 9	EAST TEXAS	0,4	WARREN PETROLEUM CO
8105900	23730	4212731845	103		JOHN B BAGGETT NO 11	PEARSALL (AUSTIN CHALK)	36,0	HOUSTON PIPE LINE CO

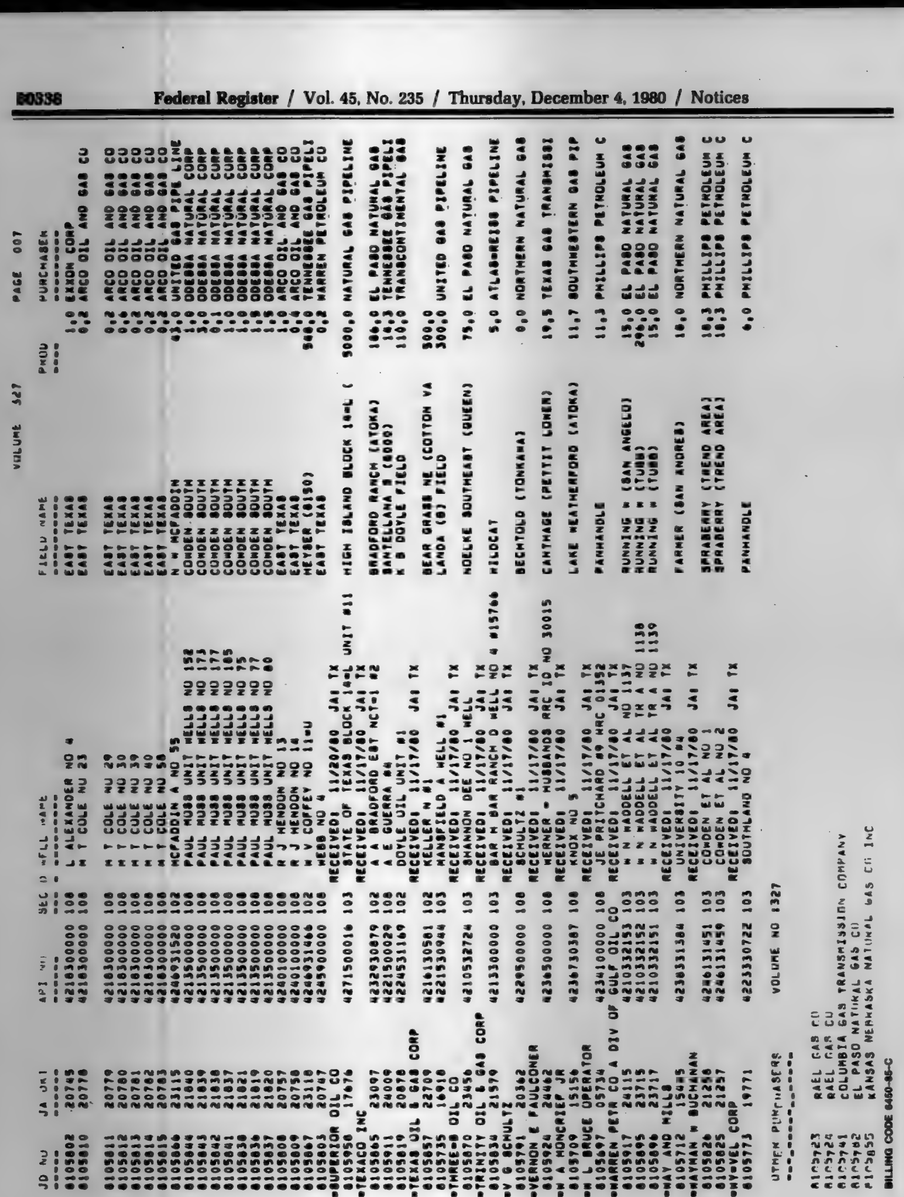

The above notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" after the section code. Estimated annual production (PROD) is in million cubic feet (MMcf). An (*) preceding the control number indicates that other purchasers are listed at the end of the notice.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before December 19, 1980.

Please reference the FERC Control Number (JD No) in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37678 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-53-000]

Houston Pipe Line Co.; Application

November 28, 1980.

Take notice that on November 3, 1980, Houston Pipe Line Company (Applicant), P.O. Box 1188, Houston, Texas 77001, filed in Docket No. CP81-53-000 an application pursuant to Part 284, Subpart C, of the regulations implementing the Natural Gas Policy Act of 1978 (NGPA) for authorization to transport and deliver natural gas, on a delayed exchanged basis, to EL Paso Natural Gas Company (El Paso) during the 1980-81 winter period in exchange for the subsequent balancing delivery by El Paso of natural gas equivalent in Btu content, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant proposes to implement the terms of an agreement between it and El Paso dated October 30, 1980, which agreement, it is asserted, is designed to assist El Paso in protecting its east-of-California (EOC) customer's peak-day Priority 1 and 2 service requirements during the 1980-81 winter period. Applicant submits that the arrangement would permit it to withdraw from its Bammel Storage Field, Harris County, Texas, certain volumes of natural gas (Houston exchange gas) and to transport and deliver such natural gas for El Paso's account during the 1980-81 winter period. Applicant further submits that Oasis Pipe Line Company (Oasis) would receive the Houston exchange gas for El Paso's account at a point on Applicant's and Oasis' systems located near Katy, Waller County, Texas, and would concurrently transport pursuant to Section 311 of the NGPA and deliver such natural gas to El Paso at an existing point of interconnection between the pipeline facilities of El Paso and Oasis near the Mobil Waha Plant in Pecos County, Texas. Applicant proposes to make available for El Paso's account such quantities of Houston exchange gas as may be required for use by El Paso in protecting EOC Priority 1 and 2 service. El Paso has advised Applicant that the withdrawal, transportation and delivery of Houston exchange gas on behalf of El Paso would be required only on those peak days during the 1980-81 winter season when El Paso's quantities of natural gas otherwise available for service to its EOC customers as augmented by the maximum volumes available through El Paso's Clay Basin Interim Storage Arrangements are not sufficient to provide service fully to El Paso's EOC customers' peak-day Priority 1 and 2 service requirements, it is said. It is anticipated that volumes up to 200,000 Mcf per day may be delivered by Applicant if requested by El Paso with accumulated net deliveries on the period not exceeding a total of 6,400,000 Mcf.

In exchange for those services proposed to be provided by Applicant for El Paso, Applicant states that El Paso has agreed to deliver between April 30, 1981, and October 1, 1981, to Applicant a pay-back volume of natural gas equivalent in Btu content to those volumes delivered to El Paso during the 1980-81 winter period. Such pay-back, it is stated, would be in such daily quantities as Applicant and El Paso would mutually determine but not in excess of 50,000 Mcf of natural gas per day except as may be agreed to or required to timely deliver natural gas equivalent to the Houston exchange gas. Applicant further states that these pay-back volumes would be made available from natural gas sources in the South Texas area where El Paso presently obtains natural gas from Oasis under various transportation arrangements performed by Applicant and Oasis for El Paso pursuant to Section 311 of the NGPA.

Contemporaneously with delivery of pay-back volumes from the South Texas area, Applicant states that El Paso would cause the sale of certain of its distributor customers, namely Arizona Public Service Company, Southern Union Company and Southwest Gas Corporation, of natural gas through El Paso's Clay Basin Interim Storage Arrangements. Under such sale, Clay Basin Storage Company would sell to such distributor customers quantities of natural gas equal to the pay-back volumes delivered for El Paso's account to Applicant with El Paso's reducing its own scheduled deliveries to such EOC distributor customers by equivalent volumes, it is asserted. It is stated that the transportation costs associated with making South Texas area volumes available to El Paso's system would, therefore, be reduced by the cost which otherwise would be attributable to volumes equivalent to the pay-back volumes.

In consideration of its efforts to assist El Paso in protecting its EOC customers' peak-day Priority 1 and 2 sevice requirements during the 1980-81 winter period, Applicant proposes to receive from El aso an amount equal to $1.00 multiplied by the amount of Houston exchange gas delivered for the account of El Paso.

Applicant represents that authorization is required to be obtained under Section 284.127 of the Regulations under the NGPA as the delay exchange feature of the contemplated arrangement and the fact that the subject gas would not be made available to all El Paso system customers are not specifically covered by Section 284.122 of the Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition

to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

operate the related transmission facilities including a compression station necessary to effectuate such

ninety days written notice by Northern to Applicants.

Similarly, it is stated that Resources has agreed to receive from Northwest

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a

1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a

to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37685 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP80-144-001]

Mountain Fuel Resources, Inc., and Mountain Fuel Supply Co.; Amendment to Application

November 28, 1980.

Take notice that on November 10, 1980,[1] Mountain Fuel Resources, Inc. (Resources), 36 South State Street, Salt Lake City, Utah 84111, and Mountain Fuel Supply Company (Mountain Fuel), 180 East First South Street, Salt Lake City, Utah 84139, filed in Docket No. CP80-144-001 an amendment to Resources' pending application filed pursuant to Section 7(c) of the Natural Gas Act in the instant docket so as to reflect the addition of Mountain Fuel as joint Applicant in this proceeding and to authorize Mountain Fuel to transport and redeliver up to 15,000 Mcf of natural gas per day for Northwest Pipeline Corporation (Northwest) and up to 35,000 Mcf of natural gas per day for Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), through existing facilities of both Resources and Mountain Fuel, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that in Resources' application filed in the instant docket on December 18, 1979, Resources proposed to transport maximum daily quantities of 800 Mcf of natural gas per day for Northwest and 5,000 Mcf of natural gas per day for Northern at a rate of 14.05 cents per Mcf under Resources' Rate Schedule T-1 and that such proposed transportation service was requested in order to make available to Northwest and Northern gas supplies which are remote from their own transmission systems. The application further stated that Resources would receive gas from Northwest at two locations in Garfield County, Colorado, and would then redeliver equivalent volumes of gas to Northwest where the lines of Resources and Northwest cross in Rio Blanco County, Colorado (Douglas Creek). In order to effectuate the proposed transportation service, Resources also requested authority to construct and operate the related transmission facilities including a compression station necessary to effectuate such services, it is said.

Subsequent to filing the original application, Applicants state that the United States Department of the Interior, Bureau of Land Management, recommended by letter dated April 23, 1980, that for various reasons the proposed site for the compressor facilities required to perform the requested transportation service not be approved.

In an effort to accommodate the recommendations of the Bureau of Land Management, it is submitted that Northwest and Northern entered into gas transportation and exchange agreements with Resources and Mountain Fuel wherein Resources and Mountain Fuel agreed to transport up to 15,000 Mcf per day for Northwest and up to 35,000 Mcf per day for Northern through their existing interstate transmission facilities and redeliver such gas at existing points of delivery where the facilities of Mountain Fuel interconnect those of Northwest and Colorado Interstate Gas Company (CIG).

Specifically, it is stated that Resources has agreed to receive for the account of Northern up to 5,000 Mcf per day at Stake Springs and to transport and deliver thermally equivalent volumes to Mountain Fuel at an existing point of interconnection between the facilities of Resources and Mountain Fuel located in Uintah County, Utah (Bonanza). Mountain Fuel, it is asserted, has agreed to receive such volumes of gas from Resources and to deliver thermally equivalent volumes of gas for the account of Northern at an existing point of delivery located in Sweetwater County, Wyoming (Northwest Crossover), or in Uintah County, Utah (Red Wash).

It is further stated that Resources has also agreed to receive for the account of Northern up to 10,000 Mcf of gas per day in Mesa County, Colorado (Divide Creek), or Rio Blanco County, Colorado (Big Hole), and to transport and deliver such gas to Mountain Fuel at Bonanza. Mountain Fuel agreed to receive such volumes of gas from Resources and to deliver thermally equivalent volumes for the account of Northern at an existing point of delivery with CIG located in Sweetwater County, Wyoming (Kanda), it is said.

Applicants assert that they and Northern have agreed that the above-stated maximum daily quantities may be revised upward to a maximum daily volume of 35,000 Mcf per day upon ninety days written notice by Northern to Applicants.

Similarly, it is stated that Resources has agreed to receive from Northwest 3,000 Mcf per day at a receipt point located at Philpott and 12,000 Mcf per day at a receipt point located at Rifle Yard and to transport and deliver thermally equivalent volumes of gas to Mountain Fuel at an existing point of interconnection between the facilities of Resources and Mountain Fuel at Bonanza. Mountain Fuel agreed to receive such volumes of gas from Resources and to deliver thermally equivalent volumes of gas to Northwest at either the Northwest Crossover or Red Wash, it is said.

Applicants propose that the term of the proposed transportation services would be fifteen years from the date of initial deliveries and from year to year thereafter.

Applicants assert that the compressor and appurtenant facilities required to effectuate the transportation service proposed in the original application would not be necessary under this amended proposal and that an estimated cost savings of $230,135 for capital expenditure and $2,600 per month lease charge can be realized by the implementation of the instant proposal.

In the instant amendment, it is proposed that Northwest and Northern would pay Resources for each Mcf of gas transported and delivered to Mountain Fuel, Resources' legally effective rate for transportation service which is currently 14.05 cents per Mcf and that for each Mcf of gas that Mountain Fuel at a rate of 17.44 cents per Mcf which is said to be Mountain Fuel's system wide transportation cost of service.

In addition, Applicants assert that Northern would pay Mountain Fuel a cost of service based compression charge of 5.0 cents per Mcf for all gas which requires compression for delivery to CIG at the Kanda exchange point for the account of Northern.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

[1] This amendment was initially tendered for filing on November 10, 1980; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until November 12, 1980; thus, the filing was not completed until the latter date.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37666 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-127]

R. Dale Norris d.b.a. One Stop Auto Shop; Filing of Petition for Review Under 42 U.S.C. 7194

November 28, 1980.

Take notice that R. Dale Norris d/b/a One Stop Auto Shop on September 22, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977) Supp. from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before December 12, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before December 12, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., N.E., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37675 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-49-000]

Texas Gas Transmission Corp.; Application

November 28, 1980.

Take notice that on November 12, 1980, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42301, filed in Docket No. CP81-49-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a transportation service for the account of Elizabethtown Gas Company (Elizabethtown), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposed herein to abandon the transportation of natural gas for Elizabethtown which service was performed pursuant to a two-year transportation agreement, dated August 12, 1977, in which Applicant transported up to 750 Mcf of natural gas per day. Deliveries commenced May 23, 1978, it is stated.

Applicant states that it received gas for Elizabethtown's account from the Wild Well in Lake Arthur Field, Jefferson Davis Parish, Louisiana, and delivered such gas to Transcontinental Gas Pipe Line Corporation for ultimate redelivery to Elizabethtown.

Applicant asserts that the last date of delivery of gas from the Wild Well was January 1, 1980. It is further asserted that during April 1980 the Wild Well was recompleted at a higher level thus abandoning gas production at the level of which Elizabethtown had a right to purchase. It is stated that by letter dated July 30, 1980, Applicant and Elizabethtown have agreed to terminate the transportation service.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules or Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37676 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-48-000]

Truckline Gas Co., Application

November 28, 1980.

Take notice that on November 12, 1980, Truckline Gas Company, P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP81-48-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Columbia Gas Transmission Corporation (Columbia Gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a gas transportation agreement dated September 15, 1980, between Applicant and Columbia Gas, Applicant proposes to transport up to 300 Mcf of natural gas per day on a firm basis purchased by Columbia Gas from The Superior Oil Company (Superior). Applicant states that it would receive the gas in Vermilion Parish, Louisiana, and transport and deliver such gas to Columbia Gulf Transmission Company (Columbia Gulf) for the account of Columbia Gas, in Centerville, Louisiana. Applicant further states that it would

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transport up to 200 Mcf of natural gas per day on a best-efforts basis.

Columbia Gas would pay Applicant $279 per month for the firm quantity of 300 Mcf in excess of said quantity, it is stated. Applicant states that it would retain 5.0 percent of the volume received for fuel usage.

Applicant states that the term of this transportation service is ten years from the date of first delivery. Applicant further states that it has sufficient available capacity to transport the subject gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37677 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. CP81-52-000]

United Gas Pipe Line Co.; Application

November 28, 1980

Take notice that on October 31, 1980, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP81-52-000 an application pursuant to Section 284.107(b) of the Regulations under the Natural Gas Policy Act of 1978 for authorization for the transportation of natural gas for Houston Pipe Line Company (Houston), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport natural gas pursuant to a transportation agreement with Houston dated October 10, 1980, whereby Applicant would transport up to 12,000 Mcf of gas per day. It is stated that said gas would be delivered by Houston to Applicant at a point near Bayside, Refugio County, Texas, and Applicant would redeliver equivalent quantities, less approximately 2.3 percent attributable to fuel and company-used gas, for Houston's account at a point near Geismar, Ascension Parish, Louisiana. Applicant states that in the event Houston has gas available for delivery in excess of the maximum daily quantity Houston may tender said gas and Applicant may accept or reject any or all of such gas.

The transportation agreement, it is stated, would become effective on December 15, 1980, and remain in effect for a primay term until December 15, 1982, remaining in effect thereafter until either party terminates with at least thrity days prior written notice. Applicant states that Houston would pay Applicant an amount equal to Applicant's transportation rate in its Southern Rate Zone which rate is at present 13.68 cents per Mcf. Applicant states that the service would be provided without harm to Applicant's existing customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37687 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. RP71-29, et al. (Phase IV)]

United Gas Pipe Line Co.; Intention Not To Initiate Review of Initial Decision

Issued : November 26, 1980.

On October 15, 1980, an initial decision was issued by the presiding administrative law judge granting a motion to terminate Phase IV in accordance with a stipulation agreed to by all parties.

No exceptions to the initial decision were filed within the 30 day period.

Based upon a review of the initial decision and the circumstances of this case, the Commission has determined not to initiate formal review proceedings. Therefore, the initial decision will become a final decision pursuant to 18 CFR 1.30(d)(3).

Kenneth F. Plumb,

Secretary

[FR Doc. 80-37680 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-24-000]

Viacom Cablevision; Extension of Time

November 26, 1980.

On November 21, 1980, Viacom Cablevision filed a request for an extension of time to file a petition for review of a proposed decision and order issued October 27, 1980, by the Department of Energy's Office of Hearings and Appeals (DOE Case No. BEO-05-0306). The motion states that additional time is needed because of a delay in the applicant's receipt of the decision and order.

Upon consideration, notice is hereby given that an extension of time for the filing of a petition for review is granted to and including December 26, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37681 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA80-120]

William Pase, Inc.; Further Extension of Time

November 26, 1980.

On November 12, 1980, William Pase, Inc. filed a request for a further extension of time to file a petition for review of a decision and order issued September 9, 1980, by the Department of Energy's Office of Hearings and Appeals (DOE Case No. 04-BEO-005). Notice is hereby given that an extension of time for the filing of a petition for review is granted to and including December 24, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37682 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-19-000]

Hawk Oil Co.; Filing of Petition for Review Under 42 U.S.C. 7194

Issued: November 28, 1980.

Take notice that Hawk Oil Company on November 6, 1980, filed a Petition for Review under 42 U.S.C. § 7194(b) (1977 Supp.) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a petition to intervene. However, any such person wishing to be a participant is requested to file a notice of participation on or before December 12, 1980, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a petition to intervene on or before December 12, 1980, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.40(e)(3)).

A notice of participation or petition to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through John McKenna, Office of General Counsel, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37669 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. RA81-14-000]

Huntway Refining Co.; Further Extension of Time

November 28, 1980.

On November 25, 1980, Huntway Regining Company filed a request for a further extension of time to file a petition for review of a decision and order issued September 30, 1980, by the Department of Energy's Office of Hearings and Appeals (DOE Case No. BEE-0392). The motion states that the applicant requires additional time to receive and analyze supporting data relative to this petition for review.

Upon consideration, notice is hereby given that an extension of time for the filing of a petition for review is granted to and including January 6, 1981.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37670 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. ST81-67-000]

Louisiana Intrastate Gas Corp.; Application for Approval of Rates

November 28, 1980.

Take notice that on November 12, 1980, Louisiana Intrastate Gas Corporation, P.O. Box 1352, Alexandria, Louisiana 71301, filed in Docket No. ST81-67-000 an application pursuant to Section 284.123(b)(2) of the Commission's Regulations under the Natural Gas Policy Act of 1978 (NGPA) for approval of rates charged for transporting natural gas pursuant to Subpart C of Part 284 of the Commission's Regulations under the NGPA for West Lake Arthur Distribution Company (WLADC), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to provide a transportation service to WLADC pursuant to an agreement dated October 15, 1980, for a maximum of two years from the date of initial deliveries. Gas deliveries would be made at contracted points of delivery between the parties, it is asserted. WLADC, it is stated, would resell the transported gas.

Applicant would charge WLADC a fee not to exceed 20.0 cents per million Btu, a fee it represents as equitable.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37671 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket No. IS80-83]

Mid-Valley Pipline Co.; Further Extension of Time

November 26, 1980.

On November 24, 1980, Mid-Valley Pipleline Company filed a request for a further extension of time to file an undertaking pursuant to Ordering Paragraph (C) of the Commission's Oil Pipeline Board "Order Accepting for Filing and Suspending Tariff and Instituting Investigation" issued September 30, 1980, in the above-docketed proceeding. The motion states that additional time is required to allow the company's Board of Directors to authorize the filing of this undertaking.

Upon consideration, notice is hereby given that an extension of time for the filing of an undertaking is granted to an including December 16, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37659 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

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[Docket Nos. CP80-275-001 and CI80-233-001]

Mountain Fuel Supply Co., Wexpro Co., and Celsius Energy Corp.; Amendment to Application

November 28, 1980.

Take notice that on October 31, 1980,[1] Mountain Fuel Supply Company (Mountain Fuel), P.O. Box 11368, Salt Lake City, Utah 84139, and Wexpro Company (Wexpro), 36 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP80-275-001 and Celsius Energy Corporation (Celsius), 36 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CI80-233-001, an amendment to their joint application in the instant docket pursuant to Section 7 of the Natural Gas Act for an authorization permitting Mountain Fuel to transfer leasehold interests to Celsius, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection

Applicants state that the purpose of their original joint application was to obtain approval for the corporate realignment of Mountain Fuel and its subsidiaries in order to draw a clear line of demarcation among the exploration and production, interstate transmission, and intrastate distribution functions. After a May 10, 1979, Utah Supreme Court ruling which held, Applicants assert, that oil revenues were to be used to subsidize Utah gas customer rates, Applicants state that Mountain Fuel believes it is not economical to provide funding to develop nonproductive leaseholds currently available to the Mountain Fuel system.

It is asserted that Mountain Fuel has therefore limited the scope of its exploration and is now faced with allowing potentially valuable leaseholds to expire or be burdened with cost penalties resulting from partners demanding participation or from U.S. Government agency requirements on Federal leases.

Mountain Fuel or Wexpro therefore propose to transfer approximately 1,200,000 net nonproductive acres on which it is required to drill, located outside the state of Utah, to Celsius. It is stated that the joint Applicants expressly agree that any resulting natural gas production would be sold by Celsius to Mountain Fuel Resources, Inc. (Resources) and on a right of first refusal basis by Resources to Mountain Fuel thereby preserving to Mountain Fuel's customers the supply potential of the drilling undertaken.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37672 Filed 12-03-80; 8:45 am]

BILLING CODE 6450-85-M

[1] The application was initially tendered for filing on October 31, 1980, however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until November 12, 1980, thus the filing was not completed until the later date.

[Docket No. CP81-50-000]

Mountain Fuel Supply Co.; Application

November 28, 1980.

Take notice that on November 12, 1980, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 34139, filed in Docket No. CP81-50-000 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction during an indefinite period commencing January 1, 1981, and operation of facilities to enable Applicant to take natural gas supplies into its certificated main pipeline system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant, and supplies of natural gas from Applicant's own production or acquired for system supply under Sections 311 or 312 of the Natural Gas Policy Act of 1978.

Applicant states that the total calendar year expenditures for the proposed facilities would not exceed $13,902,589 with no single project to exceed a cost of $2,500,000. Such costs would be financed from internally generated sources and short-term borrowing, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 1980, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed with the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37673 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-85-M

[Docket Nos. ER81-71-000]

New England Power Co., Extension of Time

November 26, 1980.

On November 25, 1980, the NEPCO Customer Rate Committee, the Unaffiliated Resale Customers of the New England Power Company (Customers) and the New England Power Company (NEP) filed a request for an extension of time to file a response to the Commission's Notice of Proposed Changes in Rates and Charges issued November 5, 1980, in the above-docketed proceeding. In support of this request, the motion states that the Customers and NEP are presently engaged in settlement discussions with regard to the issues in this proceeding and a second rate-filing which will be filed with the Commission in the near future.

Upon consideration, notice is hereby given that an extension of time for the filing of a response is granted to an including December 1, 1980.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37674 Filed 12-3-80; 8:45 am]

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Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of September 15 through September 19, 1980

During the week of September 15 through September 19, 1980, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW, Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

November 24, 1980.

Petition of Special Redress

Consumers Union of United States, Inc., Mt. Vernon, New York, DSG-0072, other

On June 29, 1979, Consumers Union of the United States, Inc., filed a Petition for Special Redress in which it requested reimbursement for $14,469.35 in attorneys' fees and expenses which it incurred in the course of representing consumer interests before the Office of Hearings and Appeals. Because Consumer Union's participation had been authorized in *Consumers Union of United States, Inc.*, 5 FEA ¶ 87,014 (1977), the Petition was granted and the Department of energy was ordered to make the requested reimbursement.

Request for Modification and or Recision

Powerine Oil Co., San Francisco, California, BMR-0044, motor gasoline

Powerine Oil Company filed an Application for Modification or Rescission of a November 8, 1979 Appeal Decision issued by the Office of Hearings and Appeals to Thomas P. Reidy, Inc. *See Thomas P. Reidy, Inc.*, 4 DOE ¶ 80,188 (1979). If Powerine's request were granted, the DOE would rescind or modify Powerine's obligation to supply Reidy with a certain amount of motor gasoline at a specified price which was imposed by the November 8 order. In considering Powerine's request, the DOE found that the firm had failed to show any significantly changed circumstances that would support the modification or rescission of the November 8 Decision. Specifically, the DOE found that the contested portion of that Decision was not a "penalty", as contended by Powerine, but was a method of returning the parties to the situation which would have existed if the erroneous Economic Regulatory Administration order at issue in Reidy's Appeal had never been issued. Accordingly, Powerine's Application was denied except that the DOE modified the pricing provision of the payback using information supplied by Powerine in this proceeding in order to make it more specific.

Requests for Exception

Atlantic Richfield Co., Dallas, Texas, BXE-1369, crude oil

Atlantic Richfield Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit ARCO to sell at market prices 100 percent of the crude oil produced from Platform Spark.

Brock Exploration Corp., Washington, D.C., BEE-0066, BES-0066, crude oil

Brock Exploration Corporation filed an Application for exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to classify the crude oil that it produces from three unitized properties that it operates as imputed newly discovered crude oil effective June 1, 1979, the date the newly discovered crude oil program was implemented. A Decision and Order was issued to the firm that determined that exception relief should be granted to Brock for the three unitized properties retroactive to June 1, 1979.

Canaan Valley Stores, Inc., Davis, West Virginia, BEO-0333, motor gasoline

Canaan Valley Stores, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm was not experiencing a serious hardship, gross inequity or unfair distribution of burdens as a result of the DOE allocation regulations. Accordingly, exception relief was denied.

Chevron U.S.A., Inc., San Francisco, California, DEE-8033, crude oil

Chevron U.S.A., Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Exception relief was granted to permit Chevron U.S.A., Inc. to sell at upper tier ceiling prices 37.64 percent of the crude oil produced from the Greeley Unit, Rio Bravo-Vedder Pool Lease.

Como Oil Co., Duluth, Minnesota, BEE-0584, gasohol

Como Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 211 in which the firm sought an increase in its allocation of unleaded gasoline for the purpose of producing and marketing gasohol. In considering the request, the DOE found that exception relief was necessary to enable the firm to meet the strong demand for gasohol in its market area. Accordingly, exception relief was granted.

Dyson's Union 76, Piqua, Ohio, BEO-0228, motor gasoline

Dyson's Union 76 filed an Application for Exception from the provisons of 10 CFR, Part 211 in which the firm sought an increased allocation of motor gasoline. In considering the request, the DOE found that the firm had not demonstrated that it is suffering a serious financial hardship as a result of DOE regulations. Accordingly, exception relief was denied.

James M. Forgotson, Sr., Acadia Parish, Louisiana, BEE-0012, crude oil

James M. Forgotson, Sr. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. Specifically, the firm sought to sell at upper tier ceiling prices the crude oil which it will produce from the Iota Nonunion Struma Sand Unit. In considering the request, the DOE found that exception relief is not necessary in order to provide the firm with sufficient incentive to undertake needed repairs at the well. Accordingly, the firm's request was denied.

Gardner, Kirk & Cowden, Inc., Oklahoma City, Oklahoma, BEE-0441, gasohol

Gardner, Kirk and Cowden, Inc. filed an Application for Exception in which it requested an increased allocation of unleaded motor gasoline for the purpose of expanding its marketing of gasohol. In considering the firm's request, the DOE found that it had a substantial base period entitlement of unleaded motor gasoline and that it was using only a very small percentage of that amount for the purpose of marketing gasohol. The DOE determined that despite an economic incentive to do so, Gardner failed to increase the amount of gasohol it markets during the time period in which its exception request was pending. The DOE therefore concluded that the DOE allocation regulations are not preventing the firm from obtaining sufficient volumes of unleaded gasoline to expand its gasohol program. The firm's Application was therefore denied.

Gulf Oil Corp., Houston, Texas, DEE-2538, crude oil

Gulf Oil Corporation filed an Application for Exception which, if granted, would permit the firm to establish the cost of transporting crude oil in two Very Large Crude Carriers (VLCCs) under the "net cost" method rather than the Average Freight Rate Assessment

(AFRA) method. The DOE found that Gulf's actual costs of operating the VLCCs exceeded the costs it was entitled to recover which it had agreed to refund under the terms of a Consent Order which it had entered into with the DOE. In considering the request, the DOE determined that Gulf's had not

Refining, Inc. staying that firm's obligation to purchase entitlements as required by 10 CFR, 211.67 to the extent specified in a Proposed Decision and Order which was issued to the

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order

205.199] that it has adopted the consent order with Sun Company. Inc. (Sun), executed on September 30, 1980 and

injection well is not a producing well to be considered in determining the eligibility of a property for treatment as

(AFRA) method. The DOE found that Gulf's actual costs of operating the VLCCs exceeded the costs it was entitled to recover under the AFRA method. The DOE determined that Gulf's inability to recover its costs frustrated the attainment of the objectives of statutory programs designed to further the development of the U.S. merchant marine. Exception relief was accordingly granted.

Hartley Co., Cambridge, Ohio, BEE–0417, gasohol

The Hartley Company filed an Application for Exception from the provisions of 10 CFR, Part 211 in which the firm sought an increase in its base period allocation of unleaded gasoline for the purpose of increasing its production and sales of gasohol. In considering the request, the DOE found that exception relief was necessary to give the firm an adequate economic incentive to increase its production of gasohol. Accordingly, exception relief was granted.

Keyport Mercantile, Keyport, Washington, BEO–1006, motor gasoline

Keyport Mercantile filed an Application for Exception from the provisions of 10 CFR, 211.102 in which the firm sought an increase in its base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to substantiate its contention that its current allocation was unrepresentative of its normal operating level or that its gasoline allocation was causing it to experience serious financial difficulties. Accordingly, exception relief was denied.

McMahon Oil Co., Cleveland, Texas, DEE–2904, motor gasoline

McMahon Oil Company filed an Application for Exception from the provisions of 10 CFR, 211.102, in which the firm sought an increase in its base period allocation for motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that its financial position as an independent distributor had been affected to a significant degree as a result of either the updating of the base period or the issuance of an assignment order to a new competitor. Accordingly, exception relief was denied.

Texaco, Inc., White Plains, New York, DEE–2039, other

Texaco, Inc. filed an Application for Exception from the provisions of 10 CFR 210.62 in which the firm sought to change certain provisions of its retail credit card agreement. In considering the request, the DOE found that a recent amendment to 10 CFR 210.62 permitted a number of types of changes in retail credit terms, and that Texaco had already proceeded on this basis to implement the changes requested in its exception application. Accordingly, the DOE found that further consideration of Texaco's request was unnecessary and dismissed its Application without prejudice to a refiling at a later date.

Wally's Oil Co., Benidji, Minnesota, DEE–1291, No. 1, No. 2 heating oils

Wally's Oil Company (Wally's) filed an Application for Exception from the provisions of 10 CFR 212.93. In its Application, the firm sought to retain a portion of the revenues which it had agreed to refund under the terms of a Consent Order which it had entered into with the DOE. In considering the request, the DOE determined that Wally's had not demonstrated that it is in any way inequitable to require the firm to make restitution as provided for by the Consent Order. In addition, the DOE found that Wally's had failed to satisfy the standards for retroactive exception relief. Accordingly, the firm's request was denied.

West Center, Inc., Omaha, Nebraska, BEO–0677, motor gasoline

West Center, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211 in which the firm sought an increased base period allocation of motor gasoline. In considering the request, the DOE found that the firm had failed to demonstrate that it was suffering a serious financial hardship as a result of DOE regulations. Accordingly, exception relief was denied.

Request for Temporary Exception

Big Muddy Oil Processors, Inc., Glenrock, Wyoming, BEL–1368, crude oil

Big Muddy Oil Processors, Inc. filed an Application for Temporary Exception from the provisions of 10 CFR, Part 212, Subpart L. The temporary exception request, if granted, would permit the firm to sell the crude oil that it reclaims at market price levels. Temporary exception relief was approved that permits the firm to sell the reclaimed crude oil at market price levels during the pendency of the firm's exception application.

Request for Stay

Guam Oil & Refining Co., Inc., Washington, D.C., BES–0093, crude oil

Guam Oil & Refining Company, Inc. filed an Application for Stay from the entitlement obligation specified in a Decision and Order of the Office of Hearings and Appeals. *Guam Oil & Refining Company, Inc.*, FEE–4105, 6 DOE ¶ ——— (July 28, 1980). In considering the Application, the DOE determined that the firm could experience difficulty in recovering the restitution required by the July 28 Order if the firm is successful on the merits of its appeal. The stay request was therefore granted on the condition that the firm place the funds in an escrow account.

Supplemental Orders

Coastal States Gas Corp.; Lo-Vaca Gathering Co., Houston, Texas, BEX–1000, propane

On August 18, 1980, the DOE issued a Supplemental Order to Coastal States Gas Corporation (Coastal) and Lo-Vaca Gathering Company which modified a Decision and Order previously issued to the two firms on June 17, 1980. In the August 18 Order, the DOE ordered the Valero Energy Corporation (Valero) to offer certain volumes of propane for sale to Coastal. Subsequently, the DOE discovered that it has used incorrect data in assigning the sales volume. Accordingly, the DOE issued a Supplemental Order in which it modified the propane sales obligation of Valero to Coastal.

Laketon Asphalt Refining, Inc., Evansville, Indiana, BEX–0090, crude oil

On September 16, 1980, the DOE issued a Decision and Order to Laketon Asphalt Refining, Inc. staying that firm's obligation to purchase entitlements as required by 10 CFR, 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on September 16, 1980.

Little America Refining Co., Casper, Wyoming, BEX–0094, refined products

On August 22, 1980, the Department of Energy issued a Proposed Decision and Order to the Little America Refining Company (LARCO) which granted in part LARCO's request for exception relief. On that date, the DOE also issued an Interim Decision and Order which immediately implemented the relief granted in the Proposed Decision and Order. The DOE issued a Supplemental Order to LARCO which adjusted the level of relief granted the firm in the Proposed Decision and Order.

Southwestern Refining Co., Inc., Washington, D.C., BEX–0091, crude oil

On September 16, 1980, the DOE issued a Decision and Order to Southwestern Refining Company, Inc. staying that firm's obligation to purchase entitlements as required by 10 CFR 211.67 to the extent specified in a Proposed Decision and Order which was issued to the firm on September 16, 1980.

The following firm filed a motion to correct a final Decision & Order before it was published. The DOE issued a Supplemental Order granting the Motion and correcting the final Decision and Order in published form.

Company Name, Case Number, and Location

Office of Special Counsel (re *Texaco, Inc.* DRO–0166), BRX–0095, Washington, D.C.

Remedial Orders

In the following cases involving Proposed Remedial Orders and/or Interim Remedial Orders for Immediate Compliance, no Statements of Objections were filed. The DOE therefore issued the orders in final form.

Company Name, Case Number, and Location

Abe's Exxon, BRW–0062, Carrizozo, New Mexico.
Cross Roads Grocery, BRW–0059, Washington, D.C.
Don's Gulf, BRW–0061, Perryton, Texas.
George Moreland General Merchandise, BRW–0064, Roland, Arizona.
Joe's Truck Stop, BRW–0060, Lake Village, Arizona.
Robertson's Mobil, BRW–0063, Oklahoma City, Oklahoma.
Triangle Texaco, BRW–0065, El Reno, Oklahoma.

Protection Orders

The following firms filed Applications for Protection Orders. The applications, if granted, would result in the issuance by the DOE of the proposed Protective Order submitted by the firm. The DOE granted the following applications and issued the requested Protective Order as an Order of the Department of the Department of Energy:

Name, Case Number, and Location

Energy Cooperative, Inc.; Marathon Oil Co., BEJ–0133, Washington, D.C.

Interim Orders

The following firms were granted Interim Exception relief which implements the relief which the DOE proposed to grant in an order issued on the same date as the Interim Order:

Company Name, Case Number, and Location

Fannon Petroleum Services, BEN–1316, Alexandria, Virginia.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception, Temporary Exception, Stay, and/or Temporary Stay from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied.

Company Name, Case Number, and Location

Beverly Hills Car Wash, BEO–0766, Los Angeles, CA.
Henry's Citgo, DEE–7099, Framingham, MA.
Hermosa Car Wash, BEO–0637, Hermosa Beach, CA.
Manor "66," DEE–6664, Rockville, MD.
Town of Shelter Island, New York, DEE–5123, Shelter Island Hgts., NY.
Twin Mini Shop, BEO–0266, Miami, FL.
West Nash Exxon, BEO–0724, Wilson, NC.
Los Feliz Co., BEO–0282, BEO–0283, Camarillo, CA.

Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

Name, and Case Number

Ashley Dairy, Inc., DEE–4235.
Auburn, Arco, DEE–7703.
Commonwealth Oil Refining Company, Inc., BEE–0691; BEL–0691.
Crystal Flash Petroleum, BEE–1195.
Davison Dawn Donuts, Inc., DES–7758; DST–7758.
Fort Pierce Tomato Growers, BEO–0147.
Freddie R. Hebert, BEE–0822.
Gillespie Oil Co., BEE–1037; BEL–0043.
Guam Oil & Refining Co., BST–0093.
Hatboro-Horsham School District, BEE–1153.
Karchmer Pipe & Supply Co., Inc., DRO–0106.
Lloyd R. Crais Oil Co., BXE–0149.
Oak Hill Shell Auto Service, DEE–6799.
Occidental Petroleum Corp., BEX–0031.
Palmer Petroleum Products, Inc., BEE–0282.
R. P. Patnode's Texaco, DEE–7793.
Texaco, Inc., DEE–4629.
Town & Country Food Markets, Inc., BXE–0647.

[FR Doc. 80–37844 Filed 12–3–80; 8:45 am]

BILLING CODE 6450–01–M

Action on Consent Order With Sun Company, Inc.

AGENCY: Department of Energy

ACTION: Adoption of proposed consent order as final.

SUMMARY: The Office of the Special Counsel for Compliance (OSC) hereby gives the notice required by 10 CFR 205.199J that it has adopted the consent order with Sun Company, Inc. (Sun), executed on September 30, 1980 and published for comment in 45 FR 66842 on October 8, 1980 as a final order of the Department of Energy (DOE). The consent order resolves all issues of compliance with the DOE Petroleum Price and Allocation Regulations for the period March 1973 through June 1980. To remedy any violations that may have occurred during the period, Sun agrees to $110,200,000 in remedies.

As required by the regulation cited above, OCS received comments on the consent order for a period of not less than 30 days following publication of the notice cited above. Four comments were received. OSC considered those comments and determined that the consent order should be made final without modification. The consent order is effective as an order of the DOE on December 4, 1980.

FOR FURTHER INFORMATION CONTACT: Leslie Wm. Adams, Deputy Solicitor to the Special Counsel for Compliance, Department of Energy, 1200 Pennsylvania Avenue, N.W., Rm. 3109, Washington, D.C. 20461; (202) 633–9165.

Copies of the consent order may be received free of charge by written request to: Sun Consent Order Request, Office of Special Counsel, Department of Energy, 1200 Pennsylvania Avenue, N.W. Mail Stop 4111, Washington, D.C. 20461.

Copies may also be obtained in person at the same address or at the Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, S.W. Washington, D.C., Room IE–190

SUPPLEMENTARY INFORMATION:

The Consent Order

On October 8, 1980, OSC published notice in the **Federal Register** at page 66842, announcing the execution of a consent order between Sun and OSC. In compliance with DOE regulations, that notice, and a press release issued on September 30, 1980 summarized the consent order and the facts behind it. The notice and press release also gave instructions for obtaining copies of the consent order.

The consent order can be summarized as follows:

1. The consent order marks the conclusion of OSC's audit of Sun's compliance with the Mandatory Petroleum Price and Allocation Regulations, including the entitlements and mandatory oil import programs, for the period March 6, 1973 through June 30, 1980. One matter in litigation concerning the DOE position that an injection well is not a producing well to be considered in determining the eligibility of a property for treatment as a stipper well property has been excepted from this settlement. An action in Delaware concerning the treatment of interaffiliate transfers of natural gas liquids is resolved for the audit period but without prejudice to the parties' positions in that suit for the subsequent period.

2. The audit issues were resolved by $105,442,995 in various remedies, exclusive of resolution of an action against Sun by payment of $4,756,086 plus interest.

3. From the $105.4 million, Sun will remit $25 million to the United States Treasury.

4. An additional $442,995 will be refunded by Sun to certain purchasers of crude oil.

5. $80 million will be subtracted by Sun from its bank of unrecouped increased costs of motor gasoline.

6. In addition to the $105,442,995, Sun will deposit with the United States Treasury $4,765,086 plus interest, in satisfaction of an action in the District of Columbia concerning the payment of supplemental oil import fees.

7. The consent order also provides details concerning the conclusion of the audit and procedures concerning enforcement of the provisions of the consent order and prospective compliance with the regulations. These matters include Sun's obligation under DOE record keeping regulations and DOE's obligation to maintain the confidentiality required by law of proprietary data received from Sun. The consent order also provides that Sun has waived it right to an administrative or judicial appeal. The consent order does not constitute an admission by Sun or a funding by OSC of a violation of any price and allocation statutes or regulations.

Comments Received

One comment sought to preserve a claim against the refund amount. This consent order does not create a claim fund, however, but rather requires Sun to pay a cash amount directly to the United States Treasury. The remaining three comments questioned this provision. One comment argued that payment to the Treasury are penalties and that DOE is not empowered to impose penalties. Two other comments argued that the Treasury should receive only public funds and Sun's payment to the Treasury represents overchanges which should be restored to consumers.

One of these comments repeated an argument made previously that Section 209 of the Economic Stabilization Act of

1970 requires the restitution of monies received in violation of an order or

marketers that includes purchasers of Sun products, objected to the failure to

that information provided by a refiner will be treated as confidential and not

Western Area Power Administration

Compliance With Title II of the Public

hereinafter called the Service), including the construction, operation, and maintenance of transmission lines and

Issued at Golden, Colorado, November 28, 1980.

1970 requires the restitution of monies received in violation of an order or regulation. This argument continues that a payment to the Treasury does not provide restoration to the rightful owner. As we noted in a notice effectuating a consent order with Phillips Petroleum Company at 45 FR 1934 (January 9, 1980):

> Contrary to the consumer organization's interpretation, section 209 does not impose a duty upon DOE to ensure restitution for consumers. Nor does § 209 "clearly indicate that full restitution of [overcharges] should be the goal of DOE enforcement actions." Section 209 simply authorizes DOE to seek injuncitve relief for violations of any order or regulation issued under the ESA. Section 209 also provides that "[i]n addition to such injunctive relief the *court* may also order restitution of moneys received in violation of any such order or regulation." (Emphasis added). The restitution provision of section 209, thus, authorizes the court to order restitution, but does not compel DOE to seek or ensure it.
>
> The comment also incorrectly asserted that "no consideration" was given by OSC to the possibility that individual consumers sustained the burden of some amount of the alleged overcharges. This possibility as well as many other factors were considered in the negotiations of the proposed consent order.
>
> DOE may fashion remedies, including restitution to individual consumers, based upon a balancing of various factors in particular cases. However, as stated is response to comments received on OSC's Cities Service consent order, 44 FR 75233, the practical impossibility of identifying the individual consumers who were overcharged and of determining the amounts by which they were each overcharged virtually rules out the full restitution remedy argued for by the consumer organization.

In this regard, the Temporary Emergency Court of Appeals recently stated:

> [T]he administrative remedies authorized by the ESA are not designed to provide a redress for a victim who has suffered an injury because of a violation of a FEA or DOE regulation; in other words, in contrast to private remedies, administrative remedies are not concerned with *punishing* a violator for his illegal conduct or with *compensating* a victim for his injuries. Rather, the purpose of administrative remedies "is to insure, on a national scale, the *enforcement* [of DOE's administrative] regulations. *Bulzan* v. *Atlantic Richfield Co.* 620 F.2d 278, 282 (1980), (emphasis in original).

In fact, OSC seeks some form of restitution in each case. However, as we have pointed out, the identification of individual injured consumers is a practical impossibility. Furthermore, contrary to assertions made in two comments, consumers are not the only parties who may have such a claim. In fact, one comment, filed by a trade group representing independent marketers that includes purchasers of Sun products, objected to the failure to provide refunds to such marketers. Sun's payment to the U.S. Treasury works to the benefit of *all* consumers and purchasers and thus, in the circumstances of this case, provides an acceptable remedy.

Statements were submitted that this type of remedy is in excess of DOE's authority because of a lack of express statutory authority either permitting payment to the Treasury, authorizing administratively imposed penalties or characterizing such cash payments as public monies which must be deposited in the Treasury. These comments all begin with the incorrect premise that the Treasury payment as a remedy is required by statute. The use of a Treasury payment reflects DOE's inability to determine a more appropriate distribution mechanism in the circumstances of this case and our belief that this payment is an appropriate enforcement remedy. The consent order provides for this payment in view of the possibility that overcharges resulted from alleged regulatory violations and recognizing that DOE is practically unable to identify any particular class of purchaser that may have been injured by such violations. Furthermore, in light of the size of the refund vis-a-vis the number of purchasers and the volume of products sold, an apportionment would lead to refund amounts so small as to be meaningless to the individual consumer.

One comment also attacked the bank reduction component as having questionable impact in light of pending decontrol and urged the conversion of this amount to a real dollar figure to be returned to consumers. The price regulations rely on cost-based calculations for the determination of maximum selling prices. These costs may be banked rather than passed on to purchasers. In virtually all cases, the allegations go to the claimed costs which make up these banks. Thus, reduction of banks is the appropriate remedy, the remedy which would probably result even if DOE fully contested these claims in litigation. Furthermore, until decontrol, a reduction in banks of controlled product translates as an inability to increase prices to recover those banked costs.

In addition to the written comments submitted in response to the **Federal Register** Notice, we received an inquiry from the staff of a committee of the House of Representatives concerning the availability of data supporting the consent orders. The inquiry was directed to the provision that indicates that information provided by a refiner will be treated as confidential and not disclosed unless required by law. In this regard, the request of the chairman of a Congressional committee or subcommittee for use in carrying out its oversight responsibility with respect to DOE is considered to be a lawful request to be honored by DOE.

Other matters pertaining to the terms of this consent order have come to our attention outside the formal comment procedure. For the sake of completeness, they are addressed below.

There has been concern expressed as to the effect of this order on the rights a purchaser may have to bring an action under Section 210 of the Economic Stabilization Act. As already noted, the consent order makes reference to the difficulty of identifying a particular purchaser who may have been overcharged. This is a result of regulations which provide for substantial pricing flexibility, including options at every level of the refining and marketing process, within certain constraints. The statement in the consent order only reflects these complexities; it does not provide a defense to a purchaser's action under § 210. Indeed, as we have pointed out before, with regard to the Standard Oil Company (Indiana) consent order, 45 FR 26748 (April 21, 1980), consent orders resolve claims solely between a refiner and DOE. They are not intended to resolve private claims or extinguish any private rights of action.

Concern was also expressed as to that portion of the consent order which deals with Sun's obligations under the regulatory record keeping requirements. Ten CFR § 210.92(d) requires the maintenance of certain records for DOE's audit, but provides for relief from that requirement when the audit is completed. The consent order merely reflects this general regulatory policy of terminating such record keeping requirements at the conclusion of an audit.

Having considered all comments submitted, DOE has determined that the proposed consent order with Sun should be made final without modification, effective upon publication of this notice.

Issued in Washington, D.C., November 25, 1980.

Paul L. Bloom,

Special Counsel For Compliance.

[FR Doc. 80-37620 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-01-M

Western Area Power Administration

Compliance With Title II of the Public Utility Regulatory Policies Act; Public Hearing

AGENCY: Western Area Power Administration, Department of Energy.

ACTION: Announcement of public hearing, compliance with Title II of the Public Utility Regulatory Policies Act.

SUMMARY: To comply with the regulations for and to consider the implementation of Section 210 under Title II of the Public Utility Regulatory Policies Act of 1978 (PURPA), the Western Area Power Administration (Western) will hold a public hearing. A brochure entitled "Preconsideration of Section 210 Public Utility Regulatory Policies Act (Cogeneration and Small Power Production Facilities)," has been prepared and is currently available from Western upon request and will be available at the public hearing.

DATE: A public hearing will be held on January 6, 1981, beginning at 10 a.m. at the Sheraton Inn, Denver Airport, 3535 Quebec Street, Denver, Colorado. Written comments should be received by February 3, 1981, in order to be assured of consideration.

ADDRESS: For further information concerning the public hearing or to request a copy of the brochure, please contact: Mr. Conrad K. Miller, Chief, Rates and Statistics Branch, Western Area Power Administration, Department of Energy, P.O. Box 3402, Golden, CO 80401, (303) 231–1535.

Written comments should also be submitted to the above address.

SUPPLEMENTARY INFORMATION: The Western Area Power Administration, as a nonregulated electric utility, is subject to Section 210, Cogeneration and Small Power Production, of the Public Utility Regulatory Policies Act of 1978 (PURPA). Regulations implementing Section 210 have been prepared by the Federal Energy Regulatory Commission (FERC) and were published in the **Federal Register** (45 FR 12214, February 25, 1980). Western, in implementing FERC's regulations under Section 210, will follow, to the extent possible, the procedures and requirements of those regulations.

Western was established on December 21, 1977, under the Department of Energy Organization Act of 1977 (DOE Act). The DOE Act transferred to the Secretary of Energy all functions of the Secretary of the Interior with respect to, among other things, the power marketing functions of the Bureau of Reclamation (now the Water and Power Resources Service and hereinafter called the Service), including the construction, operation, and maintenance of transmission lines and attendant facilities. Western was established to administer those functions transferred from the Service.

Western sells power to 464 customers consisting of cooperatives, municipalities, public utility districts, private utilities, Federal and State agencies, and irrigation districts. Electric power marketed by Western is generated by hydroelectric resources of the Service, the Corps of Engineers, and the International Boundary and Water Commission. Additionally, Western markets the United States entitlement from the large Navajo coal-fired plant near Page, Arizona, and, in northern California, markets power purchased from the most economic resources available to meet its obligations in excess of the Federal hydroelectric resources available.

Western's transmission systems, totaling almost 16,000 miles of line with over 200 substations, include five area systems, some of which are interconnected with one another. There are also numerous interconnections between Western's systems and other systems. Geographically, Western's transmission systems operate in 15 States that are generally west of the Mississippi River.

Western's obligations to its customers are contractually established and limited. Western neither claims nor accepts any utility responsibility. In all cases, customer requirements in excess of the power and energy available to that customer from Western must be obtained by the customer from other sources.

There are 10 projects from which Western markets power. These projects are the Boulder Canyon Project, Central Valley Project, Collbran Project, Colorado River Basin Project, Colorado River Storage Project, Falcon-Amistad Project, Parker-Davis Project, Pick-Sloan Missouri Basin Program, Provo River Project, and the Rio Grande Project. Each of those projects is a separate entity with its own geographic area, power marketing criteria, revenue requirements, and power and energy rates. Of necessity, implementation of Section 210 of PURPA will be on a project-by-project or system-by-system basis.

After analying any comments received, Western will complete its consideration and will make a determination of the action to be taken to implement Section 210. The final action will be in writing and will be made available to the public.

Issued at Golden, Colorado, November 28, 1980.

William H. Clagett,

Deputy Administrator.

[FR Doc. 80-37716 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-01-M

Floodplain/Wetlands Involvement Determination for the Sterling-Holyoke 69-Kilovolt Transmission Line Rehabilitation Proposal, Logan and Phillips Counties, Colorado

AGENCY: Western Area Power Administration, U.S. Department of Energy.

ACTION: Notice of floodplain/wetlands involvement and opportunity for comment.

SUMMARY: The Western Area Power Administration (Western) proposes to rehabilitate 48 miles of the Sterling-Holyoke 69-kilovolt electrical transmission line from Sterling, Colorado, in Logan County, to Holyoke, Colorado, in Phillips County. Western is proposing to replace deteriorated existing wood pole structures with new wood pole H-frame structures and to upgrade the structures and conductor.

Pursuant to the requirements of the U.S. Department of Energy's procedures for compliance with Floodplain/Wetlands Environmental Review Requirements, Part 1022 of Chapter X of Title 10 of the Code of Federal Regulations, Western has determined that the rehabilitation proposal will involve some activities within a floodplain/wetlands area near Sterling, Colorado. Based on examination of the Flood Insurance Administration's (Federal Emergency Management Agency) Flood Hazard Boundary Maps for the area, a floodplain/wetlands area will be encountered at the South Platte River east of Sterling, Colorado. Maps and further information are available from Western at the addresses given below. Public comments or suggestions on Western's activities in this particular floodplain/wetlands area are invited.

DATES: Any comments are due on or before December 19, 1980.

ADDRESS: Send comments or suggestions to: Mr. Peter Ungerman, Area Manager, Loveland-Fort Collins Area Office, Western Area Power Administration, P.O. Box 2650, Fort Collins, CO 80522.

FOR FURTHER INFORMATION CONTACT: Mr. Gary W. Frey, Environmental Manager, Western Area Power Administration, P.O. Box 3402, Golden, CO 80401, Telephone: (303) 231–1527.

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Issued at Golden, Colorado, November 28, 1980.

William H. Clagett,
Deputy Administrator.

[FR Doc. 80-37717 Filed 12-3-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. ECAO-CD-79-1; RD-FRL 1692-7]

Air Quality Criteria for Particulate Matter and Sulfur Oxides; Public Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: In the **Federal Register** of November 7, 1980 (45 FR 74047), the U.S. Environmental Protection Agency (EPA) gave notice of a number of meetings to help further its preparation of a second external review draft of a revised air quality criteria document for particulate matter and sulfur oxides ($PM-SO_x$). The November 7, 1980 notice contains general information concerning the purpose and conduct of these meetings. This notice announces the fourth in that series of meetings, and invites public attendance at the fourth meeting.

DATES: The fourth meeting is scheduled to be held on December 8 and 9, 1980, beginning at 9 a.m., concerning chapters 2 and 3 (Physical and Chemical Properties of Sulfur Oxides and Particulate Matter; and Techniques for the Collection and Analysis of Sulfur Oxides, Particulate Matter, and Acid Precipitation). Information concerning the subject matter and dates of additional meetings will be announced in subsequent **Federal Register** notices.

ADDRESS: The meeting of December 8 and 9, 1980, will be held in the auditorium of EPA's Office of Administration, Alexander Drive, Research Triangle Park, North Carolina. The location of additional meetings will be announced in subsequent **Federal Register** notices.

FOR FURTHER INFORMATION CONTACT: Robert Bauman, Deputy Director, Environmental Criteria and Assessment Office, (MD-52), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 27711, telephone (919) 541-4172.

Richard Dowd,
Acting Assistant Administrator, Office of Research and Development.

November 24, 1980.

[FR Doc. 80-37777 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-35-M

[OPTS-51178; TSH-FRL 1692-1]

Butanenitrile, 2-Methyl, 2,2'-Azobis; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of a PMN and provides a summary.

DATE: Written comments by December 29, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460, (202-755-8050).

FOR FURTHER INFORMATION CONTACT: David Dull, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-206, 401 M St. SW., Washington, DC 20460, (202-426-2601).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558—Initial) and July 29, 1980 (45 FR 50544—Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before December 28, 1980, submit to the Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Enviornmental Protection Agency, Rm. E-447, 401 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be indentified with the document control number "[OPTS-51178]" and the PMN number. Comments revceived may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90. Stat. 2012 (15 U.S.C. 2604))

Dated: November 25, 1980.

Edward A. Klein,
Director, Chemical Control Division.

PMN 80-310

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 28, 1981.

Manufacturer's Identity. E. I. du Pont de Nemours & Co., 1007 Market St., Wilmington, DE 19898.

Specific Chemical Identity. Butanenitrile, 2-methyl, 2,2'-azobis.

Use. Polymerization initiator.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. No data were submitted.

Toxicity Data.

LD_{50} (rats)—982 mg/kg
LD_{50} thermal decomposition products (rats)—1,316 mg/kg
Eye irritation test (rabbits)—No occular effect
Primary skin irritation and sensitization tests (guinea pigs)—No irritation
Skin irritation test (rabbits)—No irritation
4-Hour LD_{50} thermal decomposition products—8.72 mg/1 with 95 percent confidence limits of 6.89 to 10.53 mg/1

Site/activity and exposure route	Maximum number exposed	Maximum duration		Concentration (unit: ppm)	
		Hours/day	Days/year	Average	Peak
Manufacture: Inhalation, dermal	80	8	25	0-1	1-10

Environmental Release/Disposal. E. I. du Pont states that there will be very low environmental release of the new chemical and that waste will be disposed through the manufacturer's waste treatment facility.

[FR Doc. 80-37850 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-31-M

[TSH-FRL 1690-6; OPTS-51177]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This Notice announces receipt of two PMN's and provides a summary of each.

DATE: Written comments by December 28, 1980.

ADDRESS: Written comments to: Document Control Officer (TS-793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-447, 401 M St., SW., Washington, DC 20460, (202-755-8050).

FOR FURTHER INFORMATION CONTACT: Rachel Diamond, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-221, 401 M St., SW., Washington, DC 20460, (202-426-3980)

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA (90 Stat. 2012 (15 U.S.C. 2604)), requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558—Initial) and July 29, 1980 (45 FR 50544—Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufacture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register.**

If no generic use description or generic name is provided, EPA will

develop one and after providing due notice to the submitter, will publish an

Manufacturer's Identity. Pennwalt Corp; Lucidol Division, 1740 Military

Toxicity Data

Acute oral toxicity, LD_{50} 3,864.9 mg/kg with 95%

purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new"

behave in a similar fashion. In its review of available literature, the Agency believes that the new substance may be

exposure levels and duration of exposure should not exceed that

develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(a)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN's are published herein.

Interested persons may, on or before December 28, 1980, submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW, Washington, DC 20460, written comments regarding the notices. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51177]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: November 26, 1980.

Edward A. Klein,

Director, Chemical Control Division.

PMN 80–303.

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 27, 1981.

Manufacturer's Identity. Pennwalt Corp; Lucidol Division, 1740 Military Road, Buffalo, NY 14240.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Substituted alkyl peroxycarbonate.

Use. Polymerization initiator.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Melting point	97–100°C, 207–212°F.
Molecular weight	362.6.
Solubility in water	Insoluble.
Appearance	Fine white powder.
Bulk density	20.6 lb/ft³.

Toxicity Data

Acute oral toxicity, LD_{50} (male rates).	> 20,000 mg/kg.
Acute dermal toxicity, LD_{50} (male/female albino rabbits).	> 20,000 mg/kg.
Acute inhalation toxicity (male/female rats).	No apparent toxicity at 0.56 mg/l.
Ames test	Negative.
Eye irritation test (rabbits)	Mildly irritating.

Exposure. The manufacturer claims that because of engineering controls and required personal equipment, worker exposure to the new substance will be minimal and that exposure of workers employed by customers purchasing the product may result during the transfer of the product from containers to their process equipment.

Environmental Release. The submitter states that due to the physical characteristics and minimal toxicity of the product, it is expected that its use will result in no increased health or environmental hazard.

PMN 80–304.

The following summary is taken from data submitted by the manufacturer in the PMN.

Close of Review Period. January 27, 1981.

Manufacturer's Identity. Pennwalt Corp; Lucidol Division, 1740 Military Road, Buffalo, NY 14240.

Specific Chemical Identity. Claimed confidential business information. Generic name provided. Alkyl substituted chlorocarbonic acid.

Use. Chemical intermediate.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Molecular weight	208.62
Solubility in water	Decomposes.
Appearance and odor	Clear liquid; irritating, choking odor.

Toxicity Data

Acute oral toxicity, LD_{50} (Male rats).	3,864.9 mg/kg with 95% confidence limits of 3,055–4,889 mg/kg.
Acute dermal toxicity, LD_{50} (albino rabbits).	> 5,000 mg/kg.
Skin irritation	Mild.

Exposure. The submitter states that anticipated exposure to workers will be by inhalation and through the skin during transfer of the product from processing equipment containers, and from the containers for use. To protect workers, the manufacturer states, exhaust ventilation will be provided and the use of proper respiratory protective equipment and protective clothing will be required.

Environmental Release/Disposal. The submitter states that none of the new material is expected to leave the process equipment during manufacture. Accidental releases will be treated at the plant wastewater treatment facility. Risk to environmental quality is expected to be nil.

[FR Doc. 80–37854 Filed 12–3–80; 8:45 am]

BILLING CODE 6560–31–M

[TSH–FRL1691–2; OPTS–59037A]

1,6 Hexanediamine, Distillation Residues Amines C_{4-6} Alkyl Di and C_6 Cyclic Di-Dichloroethane-Epichlorohydrin; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On October 2, 1980 EPA received an application for a test marketing exemption (TM–80–42) from the premanufacture notification requirements of section 5 of the Toxic Substances Control Act (TSCA). The manufacturer, Monsanto Company intends to test market a new polymer.

EPA has determined that test marketing of this chemical substance will not present any unreasonable risk of injury to health or the environment. Therefore, the Agency has granted Monsanto Company an exemption from the TSCA premanufacture reporting requirements for test marketing of the substance in the manner described in the application.

FOR FURTHER INFORMATION CONTACT: Kirk Maconaughey, Chemical Control Division (TS–794), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202–426–3936).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commercial

purposes in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is one that is not on the Inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions", contains several provisions for exemptions from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b), to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of its disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

Monsanto's application was assigned test marketing exemption number TM 80–42; receipt of the application was announced in the **Federal Register** on November 3, 1980 (45 FR 64244).

Monsanto intends to manufacture a new polymer, 1,6 Hexanediamine, distillation residues amines, C_{4-6} alkyl di and C_6 cyclic di-Dichloroethane-Epichlorohydrin. The polymer provides "wet strength" (tensile or burst strength under controlled moisture conditions) for corrugating medium paper board. Sixty thousand pounds of the substance will be manufactured during a maximum test marketing period not to exceed 6 months.

EPA has established that the test marketing of TM 80–42, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment for the reasons explained below. While the company provided little test data on the new substance, Monsanto did supply test data on four similar substances they are currently manufacturing. The Agency believes that this data is representative for the new substance both in behavior and chemical composition. The existing substances do not present an acute toxicity concern. The new substance is expected to behave in a similar fashion. In its review of available literature, the Agency believes that the new substance may be a slight to mild skin and eye irritant; however, no other chronic effects are expected. In its analysis of this test market application, the Agency learned that the substance will be manufactured in a closed system. Worker exposure is expected to be extremely low. Reaction vessels are charged mechanically from the storage tanks. In view of this controlled process, it would appear that worker contact with the substance will be minimal.

The substance will be distributed to paper mills as a 35% solution in water. The substance is added to the pulp prior to forming the corrugating medium. The polymer deposits on the pulp fibers and crosslinks during drying and aging. The corrugating medium which contains the TM substance is then "sandwiched" between two pieces of liner board that are then waxed both inside and out. Consumer exposure to the substance is essentially non-existent since the substance is completely crosslinked, further coated and therefore unavailable.

Based on the facts and information obtained and reviewed, EPA grants the Monsanto Company a test marketing exemption for TM 80–42, effective immediately, but subject to all conditions set out in the exemption application, and in particular those enumerated below:

1. This exemption is granted solely to this manufacturer.

2. The applicant must maintain records of the date(s) of shipment(s) to the two customers specified in the application who will test market the substance, and the quantities shipped in each shipment, and must make these records available to EPA upon request.

3. Each bill of lading that accompanies a shipment of the substance during the test marketing period must state that the use of the substance is restricted to that described to EPA in the test marketing exemption application.

4. The production volume of the new substance may not exceed the quantity of 60,000 pounds described in the test market application.

5. The test marketing activity approved in this notice is limited to the 6-month period commencing on the date of publication of the notice in the **Federal Register**.

6. The substance will be manufactured in a closed system as specified in the application.

7. The number of workers exposed to the substance during both manufacture and processing should not exceed that specified in the application, and the exposure levels and duration of exposure should not exceed that specified.

8. The Agency reserves the right to rescind its decision to grant this exemption should any new information come to its attention which shows that such test marketing may present an unreasonable risk of injury to human health or the environment.

Dated: November 26, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80–37857 Filed 12–3–80; 8:45 am]

BILLING CODE 6560–31–M

[PH–FRL 1690–8; OPP–180507A]

Maine; Issuance of Specific Exemption for Ridomil on Potatoes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA granted a specific exemption to the Maine Department of Agriculture (hereafter referred to as the "Applicant") for the use of Ridomil to control late blight on a maximum of 10,000 acres of potatoes in Maine. The Applicant initiated a crisis exemption for this use of Ridomil on August 19, 1980, and so notified the Administrator. Notification of this crisis exemption appeared in the **Federal Register** of October 24, 1980 (45 FR 70560). The specific exemption was issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expired on October 15, 1980.

FOR FURTHER INFORMATION CONTACT: Libby Welch, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–124, 401 M St. SW., Washington, D.C. 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: According to the Applicant, sustained moisture and temperature conditions this year resulted in the development of epidemic proportions of potato late blight which is a perennial problem in Maine. The registered fungicides are preventive in nature. There are no eradicative fungicides registered for use when protective fungicide applications fail. The grower can only kill the vines in badly affected areas and attempt to save less affected areas with continued use of protective fungicides. Ridomil is a systemic fungicide with eradicative properties. The Applicant indicated that without the use of Ridomil, losses to Maine potato growers could be $7,150,000.

EPA determined that residues of the active ingredient (a.i.) N-(2,6-dimethyl-phenyl)-N-(methoxyacetyl) alamine methyl ester in or on potatoes from this use should not exceed 0.05 part per million (ppm). This residue level was determined to be adequate to protect the public health. No unreasonable threat to the environment was anticipated from this use of Riomil.

After reviewing the application and other available information, EPA determined that the criteria for an exemption had been met. Accordingly, the Applicant was granted a specific exemption for the use of the pesticide named above until October 15, 1980, to the extent and in the manner set forth in the application. The specific exemption was also subject to the following conditions:

1. Use of the product Ridomil 2E (EPA Reg. No. 100–607), manufactured by Ciga-Geigy Corp., was authorized. If an unregistered label was used in connection with this product, it was to contain the identical applicable precautions and restrictions which appear on the registered label.

2. Ridomil 2E was to be applied at rates of up to 1½ pints product (.375 lb a.i.) per acre. Applications were to be made at 7-day intervals at rates not exceeding ½ pint (.125 lb. a.i.). Applications at higher rates were to be at 14- to 17-day intervals.

3. A maximum of 10,000 acres were to be treated.

4. A maximum of 15,000 pounds a.i. were to be applied.

5. Application was to be made by ground or air in a minimum of 3 gallons of water.

6. A preharvest interval of 7 days was to be observed.

7. Applications were to be by or under the direct supervision of State-certified applicators.

8. Treated fields could be replanted to potatoes immediately, but other crops were not to be planted in treated fields for 18 months.

9. Applications were to be made only after determination of the following specific conditions in a field by a knowledgeable expert from the University of Maine Cooperative Extension Service:

a. Diffuse or widespread infection of 5 percent where up to 50 lesions per plant were found or up to 1 in 10 leaflets was infected.

b. Discrete pockets of infection of from 10–25 percent or more where nearly every leaflet was infected.

10. All applicable directions, restrictions, and precautions on the EPA-registered product label were to be followed.

11. Ridomil was not to be applied directly to any body of water, and drift reduction precautions were to be observed. Ridomil was not to be applied where excessive runoff was likely to occur. Care was to be taken to prevent contamination of water by the cleaning of equipment or disposal of wastes or excess pesticides.

12. Treatment of potatoes as proposed should not have resulted in residues of N-(2,6-dimethylphenyl)-N-(methoxyacetyl)alamine methyl ester exceeding 0.05 ppm in or on potatoes. Potatoes with residues not exceeding this level might be placed in interstate commerce. The Food and Drug Administration, U.S. Department of Health and Human Services, was advised of this action.

13. The EPA was to have been informed immediately of any adverse effect resulting from use of this pesticide in connection with this exemption.

14. The Applicant was responsible for assuring that all provisions of this specific exemption were met and must submit a report summarizing the results of this program by April 15, 1981.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: November 25, 1980.

James M. Conlon,

Acting Deputy Assistant Adminstrator for Pesticide Programs.

[FR Doc. 80–37656 Filed 12–3–80; 8:45 am]

BILLING CODE 6560–32–M

[TSH–FRL 1690–5; OPTS–51176]

Modified Polyester Based on Carbomonocyclic Anhydride and Alkanediols; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Section 5(d)(2) requires EPA to publish in the **Federal Register** certain information about each PMN within 5 working days after receipt. This notice announces receipt of a PMN and provides a summary.

DATE: Written comments by December 27, 1980.

ADDRESS: Written comments to: Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447, 401 M St., SW., Washington, DC 20460, (202–755–8050).

FOR FURTHER INFORMATION CONTACT: Mary Cushmac, Chemical Control Division (TS–794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–221, 401 M St., SW., Washington, DC 20460, (202–426–3980).

SUPPLEMENTARY INFORMATION: Section 5(a)(1) of TSCA [90 Stat. 2012 (15 U.S.C. 2604)], requires any person who intends to manufacture or import a new chemical substance to submit a PMN to EPA at least 90 days before manufacture or import commences. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. EPA first published the Initial Inventory on June 1, 1979. Notices of availability of the Inventory were published in the **Federal Register** of May 15, 1979 (44 FR 28558—Initial) and July 29, 1980 (45 FR 50544—Revised). The requirement to submit a PMN for new chemical substances manufactured or imported for commercial purposes became effective on July 1, 1979.

EPA has proposed premanufaoture notification rules and forms in the **Federal Register** issues of January 10, 1979 (44 FR 2242) and October 16, 1979 (44 FR 59764). These regulations, however, are not yet in effect. Interested persons should consult the Agency's Interim Policy published in the **Federal Register** of May 15, 1979 (44 FR 28564) for guidance concerning premanufacture notification requirements prior to the effective date of these rules and forms. In particular, see page 28567 of the Interim Policy.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2) EPA must publish in the **Federal Register** nonconfidential information on the identity and use(s) of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided to publish a description of any test data submitted with the PMN and EPA will publish the identity of the submitter unless this information is claimed confidential.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential information. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity or use(s) of the chemical, EPA encourages the submitter to provide a generic use description, a nonconfidential

description of the potential exposures from use, and a generic name for the chemical. EPA will publish the generic name, the generic use(s), and the potential exposure descriptions in the **Federal Register**.

If no generic use description or generic name is provided, EPA will develop one and after providing due notice to the submitter, will publish an amended **Federal Register** notice. EPA immediately will review confidentiality claims for chemical identity, chemical use(s), the identity of the submitter, and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, the Agency will publish an amended notice and will place the information in the public file, after notifying the submitter and complying with other applicable procedures.

After receipt, EPA has 90 days to review a PMN under section 5(d)(1). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register**.

Once the review periods ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When the submitter begins to manufacture the substance, he must report to EPA, and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, any company may manufacture it without providing EPA notice under section 5(a)(1)(A).

Therefore, under the Toxic Substances Control Act, a summary of the data taken from the PMN is published herein.

Interested persons may, on or before December 27, 1980, submit to the Document Control Officer (TS–793), Management Support Division, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–447 M St., SW, Washington, DC 20460, written comments regarding this notice. Three copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the document control number "[OPTS–51176]" and the PMN number. Comments received may be seen in the above office between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 90 Stat. 2012 (15 U.S.C. 2604))

Dated: November 25, 1980.

Edward A. Klein,

Director, Chemical Control Division.

PMN 80–302.

The following summary is taken from data submitted by the manufactuer in the PMN.

Close of Review Period. Janaury 26, 1981.

Manufacturer's Identify. Claimed confidential business information. Generic information provided:

Manufacturing site—Mid-Atlantic U.S.

Standard Industrial Classification Code-285, "Paints, Varnishes, Lacquers, Enamels, and Allied Products".

Specific Chemical Indentity. Claimed confidential business information. Generic name provided: Modified polyester based on carbomonocyclic anhydride and alkanedials.

Use. Claimed confidential business information. Generic information provided: The substance will be used in an open use that will release more than 50 but less than 5,000 (kg) of the substance to the environment per year. It will involve a very low potential for exposure to chemical employees and a potential for exposure to non-chemical industrial employees frequently during work hours.

Production Estimates

	Kilograms per year	
	Minimum	Maximum
First year	22,750	45,500
Second year	113,750	227,500
Third year	227,500	455,000

Physical/Chemical Properties.

Acid Value—20–30

Viscosity (60 percent in 2-Ethoxyethabol)—I+

Toxicity Data.

The manufacturer submitted data on the acute toxicity of thermal decomposition products of an article containing the new chemical substance. The amount of sample required to produce sufficient smoke resulting in 50 percent mortality (LD_{50}) under specified conditions was 32.1 g. According to the submitter, the results of the testing method show that the formulation using the new chemical substance is classified "as toxic as wood", under identical test conditions.

Exposure.

Activity and exposure route	Maximum number exposed	Maximum duration		Concentration (unit mg/m³)	
		Hours/day	Days-year	Average	Peak
Manufacturer (2 sites): Skin, eye, inhalation	17	3–4	5–70	0–1	0–1
Typical user (major use): Skin, eye, inhalation	50	8	250	0–1	0–1
Typical user (minor use II): Skin, eye, inhalation	50	8	250	0–1	0–1
Typical user (minor use II): Skin, eye, inhalation	150	8	200	0–1	0–1

Environmental Release/Disposal.

Media/Activity—Amount/Duration of Chemical Release (kg/yr)

Manufacture:

Air—<20

Land—10–1,000

Water—<20

Typical users (Major and Minor):

Air—30–300. 16 hr/da; 250 da/yr

Land—30–300

Water<30

[FR Doc. 80–37653 Filed 12–3–80; 8:45 am]

BILLING CODE 6560–31–M

[PH–FRL1690–7; OPP–180530]

Ohio; Crisis Exemption for Ridomil on Tobacco

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA gives notice that the Ohio Department of Agriculture (hereafter referred to as "Ohio") availed itself of a crisis exemption for the use of Ridomil to control blue mold on 3,880 acres of tobacco in southern Ohio and the Montgomery County area.

DATE: The crisis period was from August 28 to September 12, 1980.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS–767), Office of Pesticide Programs, Environmental Protection Agency, Rm. E–107, 401 M St. SW., Washington, D.C. 20460, (202–426–0223).

SUPPLEMENTARY INFORMATION: Ohio reported that a total of 485 gallons of Ridomil 2E, EPA Reg. No. 100–607, manufactured by Ciba-Geigy Co., was used in Ohio to control blue mold on tobacco. Ohio estimated that a 25 percent loss did occur due to blue mold and that if Ridomil has not been used as a topical application to control this disease, the loss would have been much greater.

Ohio stated that all applications were made by ground equipment. Ohio also reported that there were no adverse effects on the environment, applicators, or surrounding vegetation, and that control was excellent.

(Sec. 18 as amended 92 Stat. 819; (7 U.S.C. 136))

Dated: November 21, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-37655 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL RESERVE SYSTEM

Security Bancorp., Inc.; Formation of Bank Holding Company

Security Bancorporation, Inc., Newport, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 93 percent of the voting shares of Security State Bank, Ladysmith, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 29, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 28, 1980.

Barbara R. Lowrey,

Assistant Secretary of the Board.

[FR Doc. 80-37710 Filed 12-3-80; 8:45 am]

BILLING CODE 6210-01-M

Security State Holding Co.; Formation of Bank Holding Company

Security State Holding Company, Lindstrom, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 96 percent of the voting shares of Security Bank of Lindstrom, Lindstrom, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 29, 1980. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 28, 1980.

Barbara R. Lowrey,

Assistant Secretary of the Board.

[FR Doc. 80-37711 Filed 12-3-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Transmittal Rules; Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: R. Quintus Anderson is granted early termination of the waiting period provided by law and the premerger notification rules with respect to the proposed acquisition of certain assests of LTV Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by LTV. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: November 21, 1980.

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-37713 Filed 12-3-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

White House Conference on Aging, Technical Committee; Change in Meeting

Agency holding the Meeting:

Department of Health and Human Services, Office of Human Development Services, White House Conference on Aging, Technical Committee on the Social and Health Aspects of Long Term Care.

Federal Register Citation of previous announcement:

45 FR 74776

Previously Announced Time and Date of the Meeting:

Sunday, December 7, 1980 from 11:00 a.m. until 5:00 p.m. and Monday, December 8, 1980 from 9:00 a.m. until 4:00 p.m.

Changes in the Meeting:

The dates of this meeting have been changed to December 9, 1980 from 11:00 a.m. until 5:00 p.m. and December 10, 1980 from 9:00 a.m. until 4:00 p.m. The meeting will now be held in the Sheraton International Conference Center in Reston, Virginia, Conference Room G.

Dated: November 28, 1980.

Mamie Welborne,

HDS Committee Management Officer.

[FR Doc. 80-37721 Filed 12-3-80; 8:45 am]

BILLING CODE 4110-85-M

National Institutes of Health

National Advisory Child Health and Human Development Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, January 26-27, 1981, in Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on January 26 from 9:00 a.m. to 5:00 p.m. with current status reports, review of the Pregnancy and Perinatology Section of the Clinical Nutrition and Early Development Branch, and scientific presentations. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on January 27 from 9:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Council Secretary, NICHD, Landow Building, Room 7C09, National Institutes of Health, Bethesda, Maryland 20205, Area Code 301, 496-1485, will provide a summary of the meeting and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.864, Population Research, and 13.865, Research for Mothers and Children, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "program not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: November 25, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-37633 Filed 12-3-80; 8:45 am]

BILLING CODE 4110-08-M

National Advisory Neurological and Communicative Disorders and Stroke Council Planning Subcommittee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council Planning Subcommittee, January 28, 1981, at 1 p.m. in Building 31, Room 8A28, National Institutes of Health, Bethesda, Maryland 20205. The meeting will be open to the public from 1 p.m. to approximately 3 p.m. on January 28, 1981, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from approximately 3 p.m. to adjournment on January 28, 1981. The portion of the meeting being closed involves the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Chief, Office of Scientific and Health Reports, Miss Sylvia Shaffer, Building 31, Room 8A06, NIH, NINCDS, Bethesda, Maryland 20205, telephone 301/496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. John C. Dalton, Executive Secretary of the Committee, Room 1016, Federal Building NIH, NINCDS, Bethesda, Maryland 20205, telephone 301/496-9248, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.851, Communicative Disorders Program; No. 13.852, Neurological Disorders Program; No. 13.853, Stroke and Nervous System Trauma; No. 13.854, Fundamental Neurosciences Program, National Institutes of Health)

Note.—NIH Programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: November 25, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-37634 Filed 12-3-80; 8:45 am]

BILLING CODE 4110-08-M

National Advisory Neurological and Communicative Disorders and Stroke Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council, National Institutes of Health, January 29 and 30, 1981, at 9 a.m. in Building 31-C, Conference Room 6, Bethesda, Maryland 20205. The meeting will be open to the public from 9 a.m. until approximately 11:30 a.m. on January 29, 1981, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552b(c)(4), and 552b(c)(6) of Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from approximately 11:30 a.m. on January 29, 1981, until the conclusion of the meeting that day, and from 8:30 a.m. until adjournment on January 30, 1981, for review, discussion and evaluation of Research Grant applications and applications for Teacher-Investigator Awards, Research Career Development Awards, and Institutional National Research Service Awards. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would consititute a clearly unwarranted invasion of personal privacy.

The Chief, Office of Scientific and Health Reports, Miss Sylvia Shaffer, Building 31, Room 8A06, NIH, NINCDS, Bethesda, Maryland, 20205, telephone 301/496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. John C. Dalton, Executive Secretary of the Committee, Room 1016, Federal Building, NIH, NINCDS, Bethesda, Maryland 20205, telephone 301/496-9248, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.851, Communicative Disorders Program; No. 13.852, Neurological Disorders Program; No. 13.853, Stroke and Nervous System Trauma; No. 13.854, Fundamental Neurosciences Program, National Institutes of Health)

Note.—NIH Programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: November 25, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-37635 Filed 12-3-80; 8:45 am]

BILLING CODE 4110-08-M

Recombinant DNA Advisory Committee, Working Group; Meeting

Notice is hereby given of a Working Group on Toxins sponsored by the Recombinant DNA Advisory Committee at the National Institutes of Health, Conference Room 7A24, Building 31A, 9000 Rockville Pike, Bethesda, Maryland 20205 on January 7, 1981, from 11:00 a.m. to 5:00 p.m.

The Working Group will discuss guidelines for defining toxins and procedures for evaluation of recombinant DNA experiments involving the cloning of toxin genes.

Further information may be obtained from Dr. William J. Gartland, Executive Secretary, Recombinant DNA Advisory Committee, NIAID, NIH, Building 31, Room 4A52, Bethesda, Maryland—

bodies approved for such purpose by the Secretary of Education, (that is, the Accrediting Commission on Education for Health Services Administration),

Application Announcement for Grants for Traineeships for Graduate Programs in Health Administration

Dated: November 28, 1980.

Karen Davis,

Administrator.

Hyattsville, Maryland 20782, Telephone: (301) 436-6800.

This program is listed at 13.964 in the Catalog of Federal Domestic Assistance

Secretary for Public Housing and Indian Programs; Director of the Office of Multifamily Housing Management and

Secretary, Recombinant DNA Advisory Committee, NIAID, NIH, Building 31, Room 4A52, Bethesda, Maryland—telephone 301–496–6051.

The meeting will be open to the public. Attendance by the public will be limited to space available.

Dated: November 25, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-37636 Filed 12-3-80; 8:45 am]

BILLING CODE 4110-08-M

Public Health Service
Centers for Disease Control

Project Grants for Health Programs for Refugees; Delegation of Authority

Notice is hereby given that pursuant to the authorization provided in the intra-agency agreement between the Office of Refugee Resettlement (ORR), Office of the Secretary, HHS; and the Center for Disease Control (CDC), Public Health Service, HHS; which was signed by the Director, ORR, on July 24, 1980, and the Director, CDC, on July 25, 1980; the Director, CDC, has delegated to the Public Health Service Regional Health Administrators, with authority to redelegate, the authority to review and award grants in their respective jurisdictions under Section 412(c) (8 U.S.C. 1522) of the Immigration and Nationality Act, as amended, for health programs for refugees.

The above delegation became effective November 25, 1980.

John D. Millar,

Acting Director, Centers for Disease Control.

[FR Doc. 80-37687 Filed 12-3-80; 8:45 am]

BILLING CODE 4110-86-M

Health Resources Administration

Application Announcement for Grants for Graduate Programs in Health Administration

The Bureau of Health Professions, Health Resources Administration, announces that applications for fiscal year 1981, Grants for Graduate Programs in Health Administration are now being accepted under the authority of section 791 of the Public Health Service Act as amended.

Section 791 authorizes the Secretary to award grants to public or nonprofit private educational entities (excluding schools of public health) to support graduate educational programs in health administration, hospital administration, and health planning. An application may not be approved unless the program for which support is requested has been accredited by an accrediting body or bodies approved for such purpose by the Secretary of Education, (that is, the Accrediting Commission on Education for Health Services Administration).

Each application must contain assurances that at lease 25 individuals will graduate from the program for which support is requested, and that the applicant shall expend or obligate at least $100,000 from non-Federal sources for such programs.

Each applicant must assure that it will maintain a first-year enrollment of full-time students, in the program for which the application was made in the school year for which the grant is applied for, which exceeds the enrollment on September 30, 1976 by five percent, if such number was not more than 100, or by 2.5 percent, or five students, whichever is greater, if enrollment was more than 100.

Each applicant must also provide an institutional plan for activities to be pursued in developing, expanding, or enriching the program in special areas specified in the application instructions.

Approximately $3 million is expected to be available in fiscal year 1981 for grants.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (E–10), Bureau of Health Professions, Health Resources Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–7360.

To be considered for fiscal year 1981 funding, applications must be received by the Grants Management Officer, at the above address no later than January 9, 1981.

Should additional programmatic information be required, please contact: Mr. K. Paul Knott, Education Development Branch, Division of Associated Health Professions, Bureau of Health Professions, Health Resources Administration, Center Building, Room 5–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–6800.

This program is listed at 13.963 in the Catalog of Federal Domestic Assistance. Application submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in the Office of Management and Budget Circular A–95.

Dated: November 28, 1980.

Karen Davis,

Administrator.

[FR Doc. 80-37604 Filed 12-3-80; 8:45 am]

BILLING CODE 4110-83-M

Application Announcement for Grants for Traineeships for Graduate Programs in Health Administration

The Bureau of Health Professions, Health Resources Administration, announces that applications for fiscal year 1981, Grants for Traineeships for Graduate Programs in Health Administration are now being accepted under the authority of section 749 of the Public Health Service Act as amended.

Section 749 authorizes the Secretary to award grants to public or nonprofit private educational entities (excluding schools of public health) with accredited programs in health administration, hospital administration, or health policy analysis and planning. An application may not be approved unless the program for which support is requested has been accredited by an accrediting body or bodies approved for such purpose by the Secretary of Education (that is, the Accrediting Commission on Education for Health Services Administration).

Of the amount received by a grantee, at leasst 80 percent shall go to students with previous postbaccalaureate degrees or three years' work experience in health services. Traineeships may include the payment of stipends, tuition, and fees.

Approximately $2 million is expected to be available in fiscal year 1981 for grants.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (A–19), Bureau of Health Professions, Health Resources Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–7360.

To be considered for fiscal year 1981 funding, applications must be received by the Grants Management Officer, at the above address no later than January 9, 1981.

Should additional programmatic information be required, please contact: Mr. K. Paul Knott, Education Development Branch, Division of Associated Health Professions, Bureau of Health Professions, Health Resources Administration, Center Building, Room 5–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–6800.

This program is listed at 13.962 in the Catalog of Federal Domestic Assistance. Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in the Office of Management and Budget Circular A–95.

Dated: November 28, 1980.

Karen Davis,

Administrator.

[FR Doc. 80-37603 Filed 12-3-80; 8:45 am]

BILLING CODE 4110-83-M

Application Announcement for Grants for Traineeships for Students in Schools of Public Health (Formula)

The Bureau of Health Professions, Health Resources Administration, announces that applications for fiscal year 1981, Grants for Traineeships for Students in Schools of Public Health are now being accepted under the authority of section 748(a)(1) of the Public Health Service Act as amended.

Section 748 authorizes the Secretary to award grants to accredited schools of public health for traineeships for students enrolled in graduate or specialized training in public health. Traineeships may include the payment of stipends, tuition, and fees. Of the amount received by a grantee in fiscal year 1981, at least 65 percent shall go to students with previous postbaccalaureate degrees or three years' work experience in health services and who are pursuing a course of study in:

(1) Biostatistics or epidemiology,

(2) Health administration, health planning, or health policy analysis and planning,

(3) Environmental or occupational health,

(4) Dietetics or nutrition,

(5) Maternal and child health, or

(6) Specialized training in preventive medicine or dentistry.

Approximately $6.4 million is expected to be available in fiscal year 1981 for grants.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (A–03), Bureau of Health Professions, Health Resources Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–7360.

To be considered for fiscal year 1981 funding, applications must be received by the Grants Management Officer, at the above address no later than December 12, 1980.

Should additional programmatic information be required, please contact: Ms. Sallie Norcott, Education Development Branch, Division of Associated Health Professions, Bureau of Health Professions, Health Resources Administration, Center Building, Room 5–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–6800.

This program is listed at 13.964 in the Catalog of Federal Domestic Assistance. Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in the Office of Management and Budget Circular No. A–95.

Dated: November 28, 1980.

Karen Davis,

Administrator.

[FR Doc. 80-37602 Filed 12-3-80; 8:45 am]

BILLING CODE 4110-83-M

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D–80–628]

Property Disposition Committees; Redelegation of Authority

AGENCY: U.S. Department of Housing and Urban Development (HUD).

ACTION: Redelegation of authority.

SUMMARY: This redelegation of authority is issued to establish Field Office Property Disposition Committees in addition to the existing Headquarters Property Disposition Committee, to enumerate the procedures, authorities and members of these committees and to disband Regional Office Property Disposition Committees.

FOR FURTHER INFORMATION CONTACT: Marc Harris, Chief, Sales and Analysis Branch, Office of Multifamily Financing and Preservation, Office of Housing, U.S. Department of Housing and Urban Development, (202) 755–7343. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The redelegation of authority and assignment of functions with respect to the Property Disposition Committee, published at 35 FR 4022, and amended at 35 FR 16102, 36 FR 14229, 41 FR 26946, 41 FR 47985, 41 FR 52545, 42 FR 80, 42 FR 7178, 42 FR 56718, and 44 FR 2430, is hereby revoked. The redelegation will now read as follows:

Section A. Headquarters Property Disposition Committee. There is hereby established in Headquarters, a Headquarters Property Disposition Committee. The Headquarters Property Disposition Committee is comprised of the following members or their designees: Assistant Secretary for Housing-Federal Housing Commissioner (herein called the Assistant Secretary), Chairperson; Deputy Assistant Secretary for Multifamily Housing Programs; the Deputy Assistant Secretary for Public Housing and Indian Programs; Director of the Office of Multifamily Housing Management and Occupancy; Director of the Office of Multifamily Housing Development; the General Counsel; and such other members as the Assistant Secretary shall designate. The Director of the Office of Multifamily Financing and Preservation shall serve the Committee in an advisory capacity and, except in the event of a tie vote, shall be a non-voting member.

Section B. Field Office Property Disposition Committee. There is hereby established in each Area Office, Multifamily Service Office and the Denver Regional Area Office a Field Office Property Disposition Committee.

1. The Property Disposition Committee in an Area Office shall consist of the following members or their designees: Area Manager, Chairperson, Deputy Area Manager; Director, Housing Division; Deputy Director for Housing Management; Deputy Director for Development; Area Counsel; and such other members as the Area Manager shall designate in writing. The Chief, Property Disposition Branch/Chief, Loan Management and Property Disposition Branch shall serve the Committee in an advisory capacity and, except in the event of a tie vote, shall be a non-voting member.

2. The Property Disposition Committee in a Multifamily Service Office shall consist of the following members or their designees: Service Office Supervisor, Chairperson; Deputy Service Office Supervisor: Deputy Supervisor for Management; Deputy Supervisor for Development; Area Counsel; and such other members as the Service Office Supervisor shall designate in writing. The Chief, Property Disposition Branch shall serve in an advisory capacity and, except in the event of a tie vote, shall be a non-voting member.

Section C. Redelegation of Authority to the Headquarters and Field Office Property Disposition Committees. The Property Disposition Committees are hereby redelegated the following authority:

1. To pass upon and determine the action to be taken with respect to the disposition program of any property acquired by the Secretary, located within its respective jurisdiction, in connection with multifamily housing under any title of the National Housing Act (12 U.S.C. 1701, et seq.), college housing under Title IV of the Housing Act of 1950 (12 U.S.C. 1749–1749c), housing for the the elderly or handicapped under Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), and nonresidential property under

Section 312 of the Housing Act of 1964 (42 U.S.C. 1452b). The disposition programs for such properties shall include the terms of sale, manner of financing, the carrying out of appropriate advertisement for each public offering and where appropriate, the terms, amounts, interest rates, and amortization plans of mortgages taken as security, and any special provisions in connection with the sale of such properties.

2. To determine whether an expenditure in connection with any multifamily housing project is "necessary to carry out the provisions" of titles, I, II, VI, VII, VIII, IX, X and XI of the National Housing Act as such term is used in section 1 of the Act (12 U.S.C. 1702), and to approve such expenditure for and on behalf of the Assistant Secretary whenever such a determination and approval is necessary to support the legal authority of the Assistant Secretary to make such expenditure.

Section D. Procedures. The following procedures shall apply to the Property Disposition Committees:

1. The committee shall meet at the call of the Chairperson or Acting Chairperson. Any Committee action must be approved be a majority vote of all members of the Committee, whether present or not.

2. In order to carry out the functions of a Committee, the Chairperson is authorized to execute any deed, deed of release, assignment and satisfaction of mortgage, contract or purchase (installment contract of purchase), offer acceptance, or other form of contract sale, or other instrument relating to such properties or any interest therein acquired by the Secretary.

3. Any employee who has been formally designated to serve in an acting capacity for a member of the Committee in connection with his/her Departmental duties shall serve as a member of the Committee in the absence of such member.

Section E. Exercise of Redelegated Authority. Redelegations of authority made under Sections A through D shall not be construed to modify or otherwise affect the administrative and supervisory powers of the Director, Office of Multifamily Financing and Preservation, Regional Administrator, Area Manager or Service Office Supervisor. The Assistant Secretary maintains the authority to administratively determine, at his or her discretion, the appropriate Property Disposition Committee to act upon the disposition of any particular HUD-owned multifamily property.

1. The Director, Office of Multifamily Financing and Preservation, is hereby authorized to amend final Headquarters Property Disposition Committee authorizations, when required by such circumstances as estimated changes in rental rates or operating expenses, changes in the maximum FHA-insured interest rates, or other similar changes of a non-substantive nature which would otherwise seriously impact upon the sale of the project.

2. The Area Manager and the Service Office Supervisor are hereby authorized to make the same amendments for Field Office Property Disposition Committees.

All other redelegations of authority with respect to the Property Disposition Committee(s) are hereby revoked upon publication of this redelegation of authority.

(Secretary's delegation of authority to redelegate published at 36 FR 5005, March 16, 1971)

Issued at Washington, D.C., November 26, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-37603 Filed 12-3-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Computation of Royalties on Phosphate Production on Public Lands

AGENCY: Department of the Interior.

ACTION: Extension of the period in which to submit written comments.

SUMMARY: On November 7, 1980, the Geological Survey (GS) published a notice in the **Federal Register** inviting comments on the proposed adoption of a new method of computing royalty payments to the Federal Government on phosphate rock mined on public lands. Since publication of the notice, requests have been received to extend the comment period. The GS has determined that a 30-day extension, to January 7, 1981, is warranted.

DATES: Comments are now due on or before January 7, 1981.

ADDRESS: Written comments should be addressed to: Andrew V. Bailey, Chief, Branch of Solid Minerals Management, U.S. Geological Survey, National Center, MS 650, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Barney Brunelle, District Mining Supervisor, U.S. Geological Survey, 150 S. Arthur Street, P.O. Box 1610, Pocatello, Idaho 83201, Telephone: 208–236–6860.

Dated: November 28, 1980.

Eddie R. Wyatt,

Acting Deputy Division Chief—Onshore Minerals Regulation.

[FR Doc. 80-37628 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

[CA Group 747 and AZ Group 614]

California; Filing of Plat of Survey

November 26, 1980.

1. A plat of survey of the following described land, accepted October 22, 1980, will be officially filed in the California State Office, Sacramento, California, effective at 10:00 a.m. on January 20, 1981:

San Bernardino Meridian, California

Tps. 15 & 16 S., Rs 21, 22, & 23 E.

San Bernardino Meridian, Arizona

Tps. 16, S., Rs. 22 & 23 E.

2. The plat, in five sheets, represents the dependent resurvey of the exterior boundaries of the Yuma Indian Reservation, consisting of a portion of the south boundary T. 16 S., R. 21 E., a portion of the subdivisional lines of Tps. 15 S., Rs. 21, 22, and 23 E.; Tps. 16 S., Rs. 21, 22, and 23 E., San Bernardino Meridian, California; Tps 16 S., Rs. 22 and 23 E., San Bernardino Meridian, Arizona; the dependent resurvey of the fixed and limiting boundaries of the 1920 and 1954 abandoned channels of the Colorado River in Tps. 16 S., Rs. 22 and 23 E., San Bernardino Meridian, Arizona and California; the resurvey of the meanders of the Colorado River through portions of Tps. 16 S., Rs. 21, 22, and 23 E., San Bernardino Meridian, California; T. 16 S., R. 23 E., San Bernardino Meridian, Arizona, designed to restore the corners in their true original locations according to the best available evidence, and the survey of the partition line of section 14, and extension and accretion surveys of lands in sections 2, 14, and 15, T. 16 S., R. 23 E., San Bernardino Meridian, California.

3. The above described lands are withdrawn in the Yuma Indian Reservation and are not subject to disposition under the public land laws by reason of the official filing of the plat of survey.

4. The lands included in this survey are located adjacent to Yuma, Arizona, and on the west side of the Colorado River. The land is mostly undulating desert floor. The lowest elevation is 135 feet above sea level, and the highest elevation is a mountain peak which is 1,024 feet above sea level. The area in the east half of this survey is used

chiefly for agricultural purposes and the west half for recreational purposes.

November 26, 1980.

Herman J. Lyttge,

Chief, Branch of Records and Data Management.

[FR Doc. 80-37616 Filed 12-3-80; 8:45 am]

BILLING CODE 4130-84-M

Montana; Intent To Prepare a Supplement to the Colstrip Project; Environmental Impact Statement

November 26, 1980.

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of intent to prepare a supplement to the Colstrip Project Environmental Impact Statement (EIS).

SUMMARY: The Department of Interior hereby gives public notice of its intent to prepare a supplement to the Colstrip Project Environmental Impact Statement which was filed with the Environmental Protection Agency on August 3, 1979. The supplement to the EIS will address new transmission corridor segments in the vicinity of Boulder and Deer Lodge, Montana. These corridor segments are deviations from the previously approved corridor which extends from the Colstrip generating plant in southeastern Montana to the Missoula area.

BACKGROUND: The final Colstrip EIS evaluates the Western Energy Company's strip mining operation, Montana Power Company's proposed Colstrip Coal Generating Units 3 and 4, and the proposed right-of-way for two 500–kV transmission lines between Colstrip, Montana and Hot Springs, Montana. This transmission corridor extends from Colstrip through Broadview to Townsend, Boulder, Garrison and Missoula. To accommodate the construction of transmission facilities across Bureau of Land Management and Forest Service administered lands, the Townsend-Boulder Corridor was jointly approved by the USDA Forest Service Regional Forester for Region 1 and USDI Bureau of Land Management's State Director for Montana on September 21, 1979. This decision, along with the Bonneville Power Administration's decision to construct the double-circuit 500-kV transmission line in the Townsend to Hot Springs Corridor was documented in a Record of Decision on September 21, 1979.

Following the corridor decision, the Bonneville Power Administration, in cooperation with the Forest Service and Bureau of Land Management, agreed to a centerline evaluation process. Subsequently, alternate centerlines were identified within the corridor on both Federal and private lands. Public meetings were then held in the Boulder and Deer Lodge areas. A number of landowners and the general public expressed concerns regarding the corridor location and associated impacts on farmlands and landowners. Subsequently, new alternatives were identified. Several of these alternatives deviate from the Federally-approved corridor.

SCOPE: The supplement to the Colstrip EIS will be jointly prepared by Bonneville Power Administration, Forest Service, and Bureau of Land Management personnel under Bonneville Power Administration's direction. The methods utilized in the Colstrip Transmission Environmental analysis and EIS will be used to address the impact of the preferred corridor deviation and other feasible corridor alternatives. The previously approved corridor segments will be used as a comparison. The supplement will analyze the following preferred and alternative corridor segments:

1. Boulder Area—Preferred Corridor—A new 21-mile corridor segment which begins at the approved corridor near Elkhorn Creek approximately 8 miles southeast of Boulder, Montana. It proceeds from ½ to 3 miles north of the approved corridor, crossing Highway 91 approximately 6 miles north of Boulder then proceeding south of Mt. Thompson to its interconnection with the approved corridor near Basin Creek and Saul Haggerty Gulch. This corridor is preferred by Bonneville Power Administration and the Federal Land Management agencies, and is more acceptable to the Boulder area landowners than the original corridor.

2. Boulder Area—Alternative Corridors—The only practicable alternatives to the preferred corridor are the original approved corridor segment between Elkhorn Creek and Basin Creek, and a Basin corridor which runs from Elkhorn Creek to Little Cottonwood Creek.

3. Deer Lodge Area—A new 38-mile corridor segment which begins at the approved corridor southeast of Deer Lodge, proceeds westerly, passing approximately 5 miles to the east of Deer Lodge, Montana, then northwest near Rocky Ridge, crossing State Highway 12 approximately 2 miles east of Garrison. It then crosses Interstate 90 approximately 4 miles north of Garrison, proceeding west to a new Garrison Substation site in the vicinity of Gold Creek.

4. Deer Lodge Area—In addition to the new preferred corridor and the original approved corridor segment, several alternative corridors crossing the Deer Lodge Valley will be involved. These corridors begin to the west and northwest of Thunderbolt Creek, and cross the valley at several places both to the north and south of Deer Lodge, Montana, then proceed to alternative substation sites near the 230-kV Anaconda-Hot Springs transmission line corridor. The corridor would then follow existing 230-kV transmission lines along the proposed corridor to the Missoula area.

The draft supplement to the EIS is tentatively scheduled for filing and public release in January 1981. Public meetings will be announced and held in Boulder and Deer Lodge soon after release of the supplement to present study results and the draft EIS. Since public input was received in formal meetings held during the centerline location process, additional scoping meetings will not be conducted in preparation of the supplement.

Following formal public and agency review of the draft supplement, a final supplement to the EIS will be filed. A final decision will be made and documented in a supplement to the Colstrip transmission Record of Decision, which will be published in the **Federal Register.**

All interested parties are invited to comment upon the scope of the supplement. Requests for information or comments on the scope of the supplement should be addressed to Claude Roswurm, the Department of Interior Lead Agency Representative in the Bureau of Land Management State Office, Billings, Montana, phone (406) 657–6457.

Michael Penfold,

State Director.

[FR Doc. 80-37624 Filed 12-3-80; 8:45 am]

BILLING CODE 4310-84-M

[Nev-013137, Nev-014602 Nev-051790, Nev-051793 Nev-051795]

Nevada; Proposed Continuation of Withdrawal

November 25, 1980.

The Bureau of Land Management, U.S. Department of the Interior, proposes that 40 acres of Department of the Air Force withdrawal Nev-051793 made by Public Land Order 1175 be continued for a period of 20 years, pursuant to Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714. The remaining 80 acres of the withdrawal has been relinquished and is in the process of being revoked.

The purpose of this withdrawal is to use the land for military purposes in connection with Nellis Air Force Base.

Secs. 4, 5, 6, all;
Sec. 8, NE¼;
Sec. 9, N½.

Chief, Division of Technical Services, Bureau of Land Management, Department of the Interior, P.O. Box

Richfield District Office, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701, Vernal District

surface owners where the ownership of the underlying coal is reserved to the Federal Government (split estate lands)

SUPPLEMENTARY INFORMATION: *Surface Owner Consents.* Section 714(c) of the Surface Mining Control and Reclamation

The purpose of this withdrawal is to use the land for military purposes in connection with Nellis Air Force Base. The withdrawn land proposed for continuation is described as follows:

Mount Diablo Meridian, Nevada

T. 19 S., R. 62 E.,
Sec. 35, SE¼SW¼.

The area described aggregates approximately 40 acres in Clark County, Nevada.

This land is segregated from appropriation under the public land laws, including the mining, mineral leasing and disposal of materials laws. It is also proposed that the following four Department of the Army withdrawls Nev–013137 and Nev–014602 made by Public Land Order 1638, Nev–051790 made by Public Land Order 841, and Nev–051795 made by Public Land Order 877 be continued for a period of 5 years pursuant to Section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714. These Department of Army withdrawls which are withdrawn for military uses in connection with the Lake Mead Air Base (Army Air Corps base now part of Nellis Air Force Base) are being utilized by the Department of the Air Force under a memorandum of agreement with the Department of the Army.

The five year renewal period will allow the Department of the Army to relinquish the withdrawals and will allow the department of the Air Force to propose the land for withdrawal for their military uses. The withdrawn land proposed for continuation is described as follows:

Mount Diablo Meridian

(Nev–013137)

T. 19 S., R. 62 E.,
Sec. 25, S½;
Sec. 36, W½.
T. 19 S., R. 63 E.,
Sec. 30, Lots 3, 4, E½SW¼.
T. 20 S., R. 62 E.,
Sec. 1, Lots 3, 4.

(Nev–014602)

T. 19 S., R. 63 E.,
Sec. 27, SW¼.

(Nev–051790)

T. 19 S., R. 62 E.,
Sec. 36, E½.
T. 19 S., R. 63 E.,
Sec. 28, S½;
Sec. 29, S½;
Sec. 30, SE¼;
Sec. 31, Lots 1 through 4, E½, E½W½;
Secs. 32, 33, all;
Sec. 34, W½, SE¼.
T. 20 S., R. 62 E.,
Sec. 1, Lots 1, 2, S½NE¼.
T. 20 S., R. 63 E.,
Sec. 3, N½, SW¼;
Secs. 4, 5, 6, all;
Sec. 8, NE¼;
Sec. 9, N½.

(Nev–051795)

T. 20 S., R. 63 S.,
Sec. 8, SE¼;
Sec. 9, S½.

The area described aggregates approximately 7,830.79 acres in Clark County, Nevada.

This land is segregated from appropriation under the public land laws, including the mining and mineral leasing laws. In addition the lands under Nev–013137 and Nev–014602 are also segregated from disposal of materials law.

For a period of 30 days, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal continuation. All interested persons who desire to be heard on the proposal must submit a written request for a hearing to the undersigned within 30 days. Upon determination by the State Director, Bureau of Land Management, that a public hearing will be held, a notice will be published in the **Federal Register** giving the time and place of such hearing. Public hearings are scheduled and conducted in accordance with BLM Manual Sec. 2351.16B.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the Chief, Division of Technical Services, Bureau of Land Management, Department of the Interior, P.O. Box 12000, Reno, Nevada 89520.

Wm. J. Malencik,
Chief, Division of Technical Services.

[FR Doc. 80–37617 Filed 12–3–80; 8:45 a.m.]
BILLING CODE 4310–84–M

Utah; Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior, Bureau of Land Management, has prepared a Draft Environmental Impact Statement (EIS) for the proposed White River Dam Project in Uintah County, Utah.

Written comments on the Draft EIS will be accepted until February 10, 1981. Written comments should be sent to: District Manager, Vernal District Office, Bureau of Land Management, 150 South 5th East, Vernal, Utah 84078.

The Draft EIS addresses the Utah State Division of Water Resource's proposed White River Dam Project in Uintah County, Utah. The proposal involves construction of an earth dam across the White River and creation of a 13.5 mile long reservoir. Also proposed are a 5 to 8 megawatt hydroelectric plant, power transmission system, recreational facilities, and access roads. The purpose of the project would be to provide water supply for energy developments, particularly oil shale processing. Five alternatives, including the proposed project and "no action" are discussed in the EIS.

Notice also is hereby given that oral and/or written comments regarding the adequacy of the draft EIS will be received at the following locations: The Salt Palace, Room 128, Salt Lake City, Utah on January 7 at 7:00 p.m. and Uintah County Courthouse Courtroom, Vernal, Utah on January 8 at 7:00 p.m.

Requests to testify at the hearings should be directed to District Manager, Vernal District, Bureau of Land Management. Written and oral comments will receive equal consideration in preparation of the Final EIS.

Copies of the Draft EIS are available for review at the following location: Washington Office (WO–332), Bureau of Land Management, 18th and C Streets, N.W., Washington, D.C. 20240. A limited number of copies are available upon request at the following locations:

Richfield District Office, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701, Vernal District Office, Bureau of Land Management, 170 South 5th East, Vernal, Utah 84078, and Utah State Office, Bureau of Land Management, 136 East South Temple, Salt Lake City, Utah 84111.

FOR FURTHER INFORMATION CONTACT: Lynn Leishman, Richfield District Office, phone (FTS) 8–584–8011 or (commercial) 801–896–8221.

Dated: November 21, 1980.

Gary Wicks,
State Director.

[FR Doc. 80–37623 Filed 12–3–80; 8:45 am]
BILLING CODE 4310–84–M

Wyoming and Montana; Requesting Comments and of Intent To Rank Tracts and Call for Filing Surface Owner Consents in the Powder River Federal Coal Production Region

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of intent request for public comment on ranking factors and the potential lease tracts, call for filing of surface owner consent agreements, and notice of regional coal team meeting.

SUMMARY: This notice is to advise the public that the regional coal team for the Powder River Federal coal production will meet to (1) review and discuss the tract profile data for each of the identified potential lease tracts, (2) to discuss the issues that may be addressed in the regional lease sale environmental impact statement (EIS), (3) to review and discuss the comments on the potential lease tracts and on the ranking factors, (4) to rank the potential lease tracts, and (5) to select the combinations of tracts which will comprise the lease alternatives to be addressed in the regional EIS.

Comments on the tracts that have been identified and factors that may be considered by the regional coal team in the tract ranking process are requested. In addition, the Bureau of Land Management (BLM) is issuing a call for submission to the BLM of surface owner consents from qualified surface owners that would permit surface mining of Federal coal on the identified tracts where Federal coal is overlain by privately owned surface.

DATES: Comments on the potential lease tracts and the ranking factors must be received by the Powder River Project Manager by close of business January 16, 1981. Copies of all consent agreements, or evidence thereof, that have already been given by qualified surface owners where the ownership of the underlying coal is reserved to the Federal Government (split estate lands) will be accepted until at least 30 working days prior to the publication of each lease sale notice for the specific lands involved, in accordance with the announced schedule of regional lease sales set forth by Secretarial decision. However, submission by January 16, 1981, of consent documents that presently exist will provide information to the regional coal team regarding whether the public interest would be served by offering for lease Federal coal lands to which the qualified surface owner consents apply. The lack of a valid written consent at this time will not preclude consideration of Federal coal tracts during the coal activity planning process, but it is the responsibility of parties intending to file consents to be aware of pending lease sale notice dates, as set forth in an announced regional lease sale schedule.

To preclude consideration of lands that cannot be leased, we will accept written statements from qualified surface owners who firmly refuse to consent to surface coal leasing will be accepted and should be filed with the Wyoming or Montana State Offices.

The regional coal team meeting will be held January 21, 22, and 23, 1981, beginning at 8:30 a.m. each day.

ADDRESS: Comments on the potential lease tracts and ranking factors should be addressed to J. Stan McKee, Powder River Project Manager, Bureau of Land Management, Wyoming State Office (930), P.O. Box 1828, Cheyenne, WY 82001. Copies of the surface owner consent agreements or refusals to consent for the tracts located in Wyoming should be sent to the Wyoming State Office at the address given above.

Consent agreements or refusals for the tracts located in Montana should be addressed to Robert Webb, Coal Coordinator, Bureau of Land Management, Montana State Office (930), Granite Tower, 222 North 32nd Street, Billings, MT 59107.

The addresses when the preliminary tract reports will be available for review is listed in the supplementary information provided below. The Regional Coal Team Meeting will be held at Holding's Little America, Cheyenne, Wyoming, January 21, 22, and 23, beginning at 8:30 a.m. each day.

FOR FURTHER INFORMATION CONTACT: J. Stan McKee, Powder River Project Manager, or Ron Moore, Wyoming Coal Coordinator at 307–778–2220, extension 2413, or FTS 328–2413.

SUPPLEMENTARY INFORMATION: *Surface Owner Consents.* Section 714(c) of the Surface Mining Control and Reclamation Act (SMCRA) states that, "The Secretary shall not enter into any lease of Federal coal deposits until the surface owner has given valid written consent to enter and commence surface mining operations and the Secretary has obtained evidence of such consent."

The BLM is requesting that valid written consent agreements, or evidence thereof, for lands in which the surface is held by qualified surface owners and the ownership of the underlying coal is reserved to the Federal Government (split estate lands) should be filed with the Wyoming State Office or the Montana State Office at the address given above by January 16, 1981.

The information being sought by the BLM will be used in the Federal coal activity planning process by the Power River Regional Coal Team and will provide information regarding whether the public interest would be served by offering for lease the Federal coal lands to which the consents apply. Valid written consents will be accepted until at least 30 working days prior to the publication of each lease sale notice for the specific lands involved, as set forth in the Secretarial decision and the announcement of regional lease sales to be scheduled, in accordance with 43 CFR 3427.2(a) and 3420.6–2(b). However, early submission of surface owner consent documents that currently exist will aid the Regional Coal Team in considering the split estate coal tracts during the tract delineation, ranking, and scheduling. As indicated in 43 CFR 3420.6(b) and 3427.2(d), split estate tracts that would be mined by other than underground mining techniques, covered by written consents that have been filed with the appropriate BLM State Office before a decision on a pending regional coal lease schedule, will be given priority over those split estate tracts where there is no written consent from the qualified surface owner, all other factors being nearly equal. Surface owner consents may still be entered into during the activity planning stage, but parties intending to file written consents are responsible for being aware of pending lease sale notice dates. Information concerning lease sale notice dates may be obtained from the Wyoming State Office at the address given above.

As defined in the regulations (43 CFR 3400.0–5(pp)), qualified surface owner "means the natural person or persons (or corporation, the majority stock of which is held by a person or persons who:

(1) Hold legal or equitable title to the surface of split estate lands;

(2) Have their principal place of

enter and commence surface mining has been granted and that the filing fully discloses all of the terms of the written consent.

The written statement of refusal to consent by a qualified surface owner must confirm that the owner(s) has not previously given consent to mine and

considered for possible lease sale in April 1982. All acreages and tonnages are preliminary and subject to change. The acreages include all Federal, State,

Recoverable Federal Coal Reserves—Continued

Potential lease tract and description	Acres	Million tons

Recoverable Federal Coal Reserves—Continued

Potential lease tract and description	Acres	Million tons

(1) Hold legal or equitable title to the surface of split estate lands;

(2) Have their principal place of residence on that land, or personally conduct farming or ranching operations upon a farm or ranch unit to be affected by surface mining operations; or receive directly a significant portion of their income, if any, from such farming and ranching operations, and;

(3) Have met the conditions of paragraphs (1) and (2) of this subsection for a period of at least 3 years, except for persons who gave written consent less than 3 years after they met the requirements of both paragraphs (1) and (2) of this section. In computing the 3-year period the authorized officer shall include periods during which title was owned by a relative of such person by blood or marriage if during such periods, the relative would have met the requirements of this subsection."

Valid written consent is defined in the regulations (43 CFR 3400.0–5(zz)) as "the document or documents that a qualified surface owner has signed that (1) permit a coal operator to enter and commence surface mining of coal; (2) describe any financial or other consideration given or promised in return for permission, including in-kind considerations; (3) describe any consideration given in terms of type or methods of operation or reclamation for the area; (4) contain any supplemental or related contracts between the surface owner and any other person who is a party to the permission; and (5) contain a full and accurate description of the area covered by the permssion."

As required by 43 CFR 3427.2(3), it is the Bureau's responsibility to review all consents received. The Bureau will verify that the named surface owner is a qualified surface owner as defined in the regulations and that the title for all split estate lands described in the filing is held by the named qualified surface owner(s). In addition, to be considered valid, the consent must be transferable to whomever makes the successful bid in a lease sale for the tract that includes the lands to which the consent applies. A written consent shall be considered transferable only if, at a minimum, it allows that after the lease sale for the tract to which consent applies (i) payment for the consent may be made by the successful bidder or (ii) the successful bidder may reimburse, at the purchase price of the consent, the party that first obtained the consent. If a filing is from anyone other than the named qualified surface owner, the Bureau shall contact the named qualified surface owner and request confirmation, in writing, that the filed, transferable, written consent, or evidence thereof, to enter and commence surface mining has been granted and that the filing fully discloses all of the terms of the written consent.

To facilitate the filing and review of written consents from qualified surface owners, the person submitting the consent is asked to include a statement that the evidence submitted represents a true, accurate, and complete statement of information regarding the consent for the area described. Such a validation statement is required by 43 CFR 3427.3. The statement is to be signed and dated by the person submitting the consent and can be either incorporated directly into the consent document or enclosed as a separate item submitted with the consent document. The statement can be worded as follows: "I (We) hereby declare that the evidence submitted, fo the best of my (our) knowledge, represents a true, accurate, and complete statement of information regarding the surface owner consent for the area described." This validation statement does not have to be witnessed or notarized.

A qualified surface owner(s) that has not been contacted by or requested to enter into an agreement with a private party, who may wish to give consent to allow permission to enter and commence surface coal mining, may prepare, sign, and submit a consent document to the BLM Wyoming or Montana State Office. The consent document should include the information and requirements specified earlier in this notice in order to constitute a valid written consent as defined in the coal regulations (43 CFR 3400.0–5(zz)), and must indicate any specified terms the surface owner may request to allow permission to enter and commence surface coal mining. This unilateral consent document must be signed by a private party at least 30 working days prior to the publication of the lease sale notice for the area affected, or the area affected will not be offered for lease sale.

In accordance with 43 CFR 3427.2(a)(2), written statements from qualified surface owners who refuse to consent to coal leasing may be filed with the BLM Wyoming or Montana State Office at the address given above. Early submittal of a refusal to consent by a qualified surface owner who is firmly against giving consent, thereby disqualifying the specified lands from further leasing consideration, will deter pressure from persons or parties seeking to enter into a consent agreement and will prevent continued inquiries by the BLM of the status of surface owner consent for the specified lands.

The written statement of refusal to consent by a qualified surface owner must confirm that the owner(s) has not previously given consent to mine and that the owner(s) does not intend to give consent for the expected future life of the applicable land use plans in the Wyoming and Montana portion of the Powder River Federal Coal Production Region. The refusal will be binding during the life of this land use plan, in this case 10 years, or until the ownership of the surface estate changes.

Upon receipt and verification of the refusal to consent, the BLM will remove the Federal coal underlying the qualified surface owner's land from further consideration in the tract delineation, ranking, and scheduling process until such time as the land use plans are revised or until the ownership of the surface estate changes. Upon revision of the land use plans, the qualified surface owner will be notified that the prior written refusal to consent is about to expire, and the owner will be given the opportunity to submit another statement of refusal.

Written statements of refusal to consent shall be signed and dated by the owner(s) as well as witnessed and/or notarized, and shall specify: (1) the location (State and County) and legal description of the lands (2) the present legal address of the qualified surface owner; involved in the refusal to consent; (3) that the owners have held legal or equitable title to the specified land surface for a period of at least three years prior to the refusal to consent; (4) whether the lands involved are the principal place of residence of the owner(s), (5) whether the lands involved are used to conduct farming or ranching; and (6) to what degree or percentage income from farming or ranching of the specified land surface contributes to the total income of the qualified surface owner(s). The submission of personal income records or other personal information is not to be made by the owner(s).

The written statements of refusal to consent by qualified surface owners will become part of the public record since the refusal will be the principal reason for not considering a particular tract in the tract delineation, ranking, and scheduling process. The written statements will be made available for public inspection in the Wyoming and Montana State Offices.

Tract Ranking. Twenty four preliminary lease tracts have been identified in the Power River Federal Coal Production Region. The preliminary least tracts identified below have been delineated, are being analyzed on a site-specific basis, and will be ranked and

considered for possible lease sale in April 1982. All acreages and tonnages are preliminary and subject to change. The acreages include all Federal, State, and Private lands included within the delineated boundary. The tonnages represent the cumulative recoverable Federal coal reserves. Tract reports will be available for public review by December 16, 1980, at the following BLM offices:

Wyoming State Office at the address given above

Montana State Office at the address given above

Casper District Office Bureau of Land Management 951 Rancho Road Casper, WY 82601

Miles City District Office Bureau of Land Management Miles City, MT 59301

Recoverable Federal Coal Reserves

Potential lease tract and description	Acreage	Million tons
WYOMING		
Hay Creek (Option 1)		
T. 52 N., R. 72 W., 6th P.M.	5,941	[illegible]
Sec. 7: All		
Sec. 8: W½,W½E½,NE¼NE¼		
Sec. 16: W½SW¼,SE¼SW¼		
Sec. 17: All		
Sec. 18: All		
Sec. 19: All		
Sec. 20: All		
Sec. 21: All		
T. 52 N., R. 72 W., 6th P.M.		
Sec. 12: N½,SE¼,E½,SW¼		
Sec. 13: NE¼,NE¼NW¼		
Sec. 24: SE¼		
Hay Creek (Option 2)		
T. 52 N., R. 72 E., 6th P.M.	5,812	447
Sec. 7: All		
Sec. 8: W½,W½E½,NE¼NE¼		
Sec. 17: All		
Sec. 18: All		
Sec. 19: All		
Sec. 20: All		
Sec. 21: All		
T. 52 N., R. 73 W., 6th P.M.		
Sec. 12: N½,SE¼,E½SW¼		
Sec. 13: NE¼,NE¼NW¼		
Sec. 24: SE¼		
Spring Draw (Option 1)		
T. 52 N., R. 72 W., 6th P.M.	5,269	383
Sec. 27: All		
Sec. 28: All		
Sec. 29: All		
Sec. 30: All		
Sec. 31: W½,NE¼,N½SE¼		
Sec. 32: N½N½		
Sec. 33: NE¼,E½SE¼		
Sec. 34: W½W½		
T. 52 N., R. 73 W., 6th P.M.		
Sec. 25: E½		
Sec. 35: S½NE¼,N½SE¼,SE¼SE¼		
Sec. 36: All (State)		
Note: In T. 52 N., R. 72 W., 6th P.M., Sec. 29, the NW¼SE¼ is private coal and is included in the total tract acreage figure.		
Spring Draw (Option 2)		
T. 52 N., R. 72 W., 6th P.M.	4,448	376
Sec. 27: All		
Sec. 28: All		
Sec. 29: All		
Sec. 30: All		
Sec. 31: W½,NE¼,N½SE¼		
Sec. 32: N½N½		
Sec. 33: NE¼,E½SE¼		
Sec. 34: W½W½		
T. 52 N., R. 73 W., 6th P.M.		
Sec. 25: E½		
Note: In T. 52 N., R. 72 W., 6th P.M., Sec. 29, the NW¼SE¼ is private coal and is included in the total tract acreage figure.		
Little Rawhide Creek		
T. 51 N., R. 72 W., 6th P.M.	[illegible]	[illegible]
Sec. 20: All of that part of the SE¼SE¼ lying east of and parallel to the eastern right-of-way boundary of U.S. Highways 14 and 16.		
Sec. 28: All of that part of the SW¼ lying east of a line 600 feet east of and parallel to the eastern right-of-way boundary of U.S. Highways 14 and 16.		
SE¼		
Sec. 29: All of the part of the E½NE¼ lying east of a line 600 feet east of and parallel to the eastern right-of-way boundary of U.S. Highways 14 and 16.		
Fortin Draw		
T. 50, N., R. 71 W., 6th P.M.	575	72
Sec. 27: E½SW¼,SW¼SE¼		
Sec. 34: SW¼,S½NW¼,NE¼NW¼,NE¼		
Timber Creek		
T. 49 N., R. 70 W., 6th P.M.	4,739	[illegible]
Sec. 31: E½E½,SW¼SE¼		
Sec. 32: SW¼,W½NW¼,SE¼NW¼,S½SE¼		
T. 48 N., R. 70 W., 6th P.M.		
Sec. 4: W½		
Sec. 5: All		
Sec. 6: All		
Sec. 8: All		
Sec. 9: W½W½		
Sec. 17: All		
Sec. 18: SE¼		
Sec. 19: E½		
Sec. 20: W½,W½E½,E½NE¼		
Sec. 29: N½NW¼,NW¼NE¼		
Rocky Butte (Option 1)		
T. 49 N., R. 71 W., 6th P.M.	7,710	618
Sec. 25: All		
Sec. 26: All		
Sec. 32: S½NE¼,N½SE¼,SE¼SE¼		
Sec. 33: S½N½,S½		
Sec. 34: S½		
Sec. 35: All		
T. 48 N., R. 71 W., 6th P.M.		
Sec. 1: All		
Sec. 2: All		
Sec. 3: All		
Sec. 4: All		
Sec. 5: E½,SE¼NW¼,E½SW¼		
Sec. 8: E½W½,E½		
Sec. 9: All		
Sec. 10: All		
Rocky Butte (Option 2)		
T. 49 N., R. 71 W., 6th P.M.	[illegible]	[illegible]
Sec. 25: All		
Sec. 26: All		
Sec. 32: S½NE¼,N½SE¼,SE¼SE¼		
Sec. 33: S½N½,S½		
Sec. 34: S½		
Sec. 35: All		
T. 48 N., R. 71 W., 6th P.M.		
Sec. 1: All		
Sec. 2: All		
Sec. 3: All		
Sec. 4: All		
Sec. 5: E½,E½SW¼,SE¼NW¼		
Sec. 8: E½W½,E½		
Sec. 9: W½,NE¼,W½SE¼		
Duck Nest Creek		
T. 47 N., R. 71 W., 6th P.M.	3,040	316
Sec. 5: W½		
Sec. 6: All		
T. 47 N., R. 72 W., 6th P.M.		
Sec. 1: E½E½		
T. 48 N., R. 71 W., 6th P.M.		
Sec. 29: W½		
Sec. 30: All		
Sec. 31: All		
Sec. 32: NW¼,S½SW¼,SW¼SE¼		
Rattlesnake Creek		
T. 47 N., R. 71 W., 6th P.M.	5,287	483
Sec. 31: All		
Sec. 32: All		
T. 46 N., R. 72 W., 6th P.M.		
Sec. 1: Ne¼,S½SE¼		
T. 46 N., R. 71 W., 6th P.M.		
Sec. 4: All		
Sec. 5: All		
Sec. 6: All		
Sec. 7: E½,SW¼,E½NW¼		
Sec. 8: All		
Sec. 17: N½,N½SW¼		
Sec. 18: W½,NE¼,N½SE¼,SW¼SE¼		
Sec. 19: N½NW¼,SW¼NW¼,NW¼SW¼		
Maysdorf		
T. 47 N., R. 71 W., 6th P.M.	5,661	485
Sec. 19: All		
Sec. 20: All		
Sec. 21: All		
Sec. 28: All		
Sec. 29: All		
Sec. 30: All		
Sec. 33: All		
T. 47 N., R. 72 W., 6th P.M.		
Sec. 24: All		
Sec. 25: E½,E½W½,NW¼NW¼		
Mr. Logan		
T. 46 N., R. 70 W., 6th P.M.	6,200	409.8
Sec. 6: All		
Sec. 7: All		
Sec. 8: W½NW¼,SW¼		
Sec. 18: W½		
Sec. 19: W½		
T. 46 N., R. 71 W., 6th P.M.		
Sec. 1: All		
Sec. 9: SE¼NW¼,SW¼NE¼,E½SW¼,SE¼		
Sec. 10: SW¼NW¼,N½SW¼,SW¼SW¼, N½,SE¼,SE¼SE¼		
Sec. 11: All		
Sec. 12: All		
Sec. 13: All		
Sec. 14: N½NW¼,SE¼NW¼,NE¼,NE¼SE¼		
Sec. 15: NW¼		
Sec. 24: E½NW¼,E½		

Recoverable Federal Coal Reserves—Continued

Recoverable Federal Coal Reserves—Continued

Recoverable Federal Coal Reserves—Continued

Recoverable Federal Coal Reserves—Continued

Recoverable Federal Coal Reserves—Continued

A. Economic Viability.

1. Ratio of Recovered BTU's per acre

Recoverable Federal Coal Reserves—Continued

Potential lease tract and description	Acreage	Million tons
Kintz Creek (Option 1)		
T. 45 N., R. 70 W., 6th P.M.	3,382	174
Sec. 16: All (State Section)		
Sec. 20: All		
Sec. 21: All		
Sec. 22: S½,W½E½		
Sec. 27: All		
Sec. 28: E½NE¼		
Sec. 29: N½NE¼		
Sec. 34: N½NW¼,NW¼NE¼		
Kintz Creek (Option 2)		
T. 45 N., R. 70 W., 6th P.M.	2,726	174
Sec. 20: All		
Sec. 21: All		
Sec. 22: W½,W½E½		
Sec. 27: All		
Sec. 28: E½NE¼		
Sec. 29: N½NE¼		
Sec. 34: N½NW¼,NW¼NE¼		
Keeline (Option 1)		
T. 45 N., R. 70 W., 6th P.M.	4,330	204
Sec. 31: NE¼		
Sec. 32: All		
Sec. 33: NW¼,W½NE¼,SE¼NE¼, S½		
Sec. 34: S½N½,S½		
Sec. 35: SW¼NW¼,W½SW¼		
T. 44 N., R. 70 W., 6th P.M.		
Sec. 4: All		
Sec. 5: E½		
Sec. 8: NE¼,N½SE¼		
Sec. 9: N½, SW¼,W½SE¼		
Sec. 16: All (State Section)		
Sec. 17: E½NE¼		
Keeline (Option 2)		
T. 45 N., R. 70 W., 6th P.M.	3,607	200
Sec. 31: NE¼		
Sec. 32: All		
Sec. 33: NW¼,W½NE¼,SE¼NE¼, S½		
Sec. 34: S½N½,S½		
Sec. 35: SW¼NW¼,W½SW¼		
T. 44 N., R. 70 W., 6th P.M.		
Sec. 4: All		
Sec. 5: E½		
Sec. 8: NE¼,N½SE¼		
Sec. 9: N½, SW¼,W½SE¼		
Sec. 16: All (State Section)		
Sec. 17: E½NE¼		
Two Top (Option 1)		
T. 45 N., R. 70 W., 6th P.M.	7,710	378
Sec. 16: All (State Section)		
Sec. 20: All		
Sec. 21: All		
Sec. 22: W½,W½E½		
Sec. 27: All		
Sec. 28: E½NE¼,S½SW¼		
Sec. 29: N½NE¼		
Sec. 32: S½NW¼,NE¼,S½		
Sec. 33: NW¼,W½NE¼,SE¼NE¼, S½		
Sec. 34: NW¼,W½NE¼,SE¼NE¼, S½		
Sec. 35: SW¼NW¼,W½SW¼		
T. 44 N., R. 70 W., 6th P.M.		
Sec. 4: All		
Sec. 5: E½		
Sec. 8: NE¼,N½SE¼		
Sec. 9: N½, SW¼,W½SE¼		
Sec. 16: All (State Section)		
Sec. 17: E½NE¼		
Two Top (Option 2)		
T. 45 N., R. 70 W., 6th P.M.	6,335	374
Sec. 20: All		
Sec. 21: All		

Recoverable Federal Coal Reserves—Continued

Potential lease tract and description	Acreage	Million tons
Sec. 22: W½,W½E½		
Sec. 27: All		
Sec. 28: E½NE¼,S½SW¼		
Sec. 29: N½NE¼		
Sec. 32: S½NW¼,NE¼,S½		
Sec. 33: NW¼,W½NE¼,SE¼NE¼, S½		
Sec. 34: NW¼,W½NE¼,SE¼NE¼, S½		
Sec. 35: SW¼NW¼,W½SW¼		
T. 44 N., R. 70 W., 6th P.M.		
Sec. 4: All		
Sec. 5: E½		
Sec. 8: NE¼,N½SE¼		
Sec. 9: N½,SW¼,W½SE¼		
Wildcat		
T. 53 N., R. 73 W., 6th P.M.	6,422	484
Sec. 26: SW¼,W½NW¼		
Sec. 27: All		
Sec. 28: All		
Sec. 29: NE¼NE¼,S½NE¼,N½ SE¼,NE¼SW¼		
Sec. 32: SE¼NE¼,E½SE¼		
Sec. 33: All		
Sec. 34: All		
Sec. 35: W½W½,SE¼SW¼		
T. 52 N., R. 73 W., 6th P.M.		
Sec. 2: W½W½,SE¼NW¼,NE¼SW¼		
Sec. 3: All		
Sec. 4: All		
Sec. 5: E½,E½W½		
Sec. 9: N½		
Sec. 10: N½		
Sec. 11: NW¼NW¼		
The Rockpile		
T. 53 N., R. 72 W., 6th P.M.	5,545	422
Sec. 19: All		
Sec. 20: All		
Sec. 21: All		
Sec. 22: W½		
Sec. 27: NW¼		
Sec. 28: All		
Sec. 29: All		
Sec. 30: All		
T. 53 N., R. 73 W., 6th P.M.		
Sec. 24: All		
Sec. 25: All		
Calf Creek (Option 1)		
T. 52 N., R. 72 W., 6th P.M.	7,241	897
Sec. 3: All		
Sec. 4: All		
Sec. 5: All		
Sec. 6: All		
Sec. 9: NW¼,N½NE¼		
T. 52 N., R. 73 W., 6th P.M.		
Sec. 1: All		
Sec. 2: E½,NE¼NW¼		
T. 53 N., R. 72 W., 6th P.M.		
Sec. 31: W½,SE¼,W¼NE¼		
Sec. 32: All		
Sec. 33: All		
Sec. 34: S½S½,NW¼SW¼		
T. 53 N., R. 73 W., 6th P.M.		
Sec. 35: E½,E½NW¼,NE¼SW¼		
Sec. 36: All (State)		
Calf Creek (Option 2)		
T. 52 N., R. 72 W., 6th P.M.	6,587	697
Sec. 3: All		
Sec. 4: All		
Sec. 5: All		
Sec. 6: All		

Recoverable Federal Coal Reserves—Continued

Potential lease tract and description	Acreage	Million tons
Sec. 9: NW¼,N½NE¼		
Sec. 10: NW¼NW¼		
T. 52 N., R. 73 W. 6th P.M.		
Sec. 1: All		
Sec. 2: E½,NE¼NW¼		
T. 53 N., R. 72 W., 6th P.M.		
Sec. 31: W½,SE¼,W½NE¼		
Sec. 32: All		
Sec. 33: All		
Sec. 34: S½S½,NW¼SW¼		
T. 53 N., R. 73 W., 6th P.M.		
Sec. 35: E½,E½NW¼,NE¼SW¼		
MONTANA		
Ashland (Coalwood)		
T. 2 S., R. 44 E.	6,865	201.6
Sec. 25: E½SE¼NE¼,E½SE¼		
Sec. 26: E½SE¼NE¼,E½SE¼		
T. 2 S., R. 45 E.		
Sec. 29: S½		
Sec. 30: All		
Sec. 31: All		
Sec. 32: All		
T. 3 S., R. 44 E.		
Sec. 1: S½NE¼,SE¼NW¼,SE¼ ,E½SW¼		
Sec. 12: NE¼NW¼,N½NE¼		
T. 3 S., R. 45 E.		
Sec. 4: W½		
Sec. 5: All		
Sec. 6: E½,SW¼		
Sec. 7: NE¼,SE¼		
Sec. 8: All		
Sec. 9: All		
Sec. 16: N½		
Sec. 17: N½,N½S½		
Ashland (Decker-Birney)		
T. 3 S., R. 45 E., P.M.M.	6,240	108.9
Sec. 25: All		
Sec. 26: S½,NE¼,S½NW¼,NE¼ ,NW¼ (Federal)		
Sec. 27: SE¼		
Sec. 33: SE¼		
Sec. 34: S½NE¼,S½NW¼,NE¼NW¼ (Federal)		
Sec. 35: All		
Sec. 36: All		
T. 4 S., R. 45 E., P.M.M.		
Sec. 1: All		
Sec. 2: All (Federal)		
Sec. 3: All		
Sec. 4: N½NE¼,SE¼NE¼ (Federal)		
Sec. 4: SW¼NE¼,NE¼SE¼		
Northwest Otter Creek		
T. 3 S., R. 44 E., P.M.M.	5,569	138.6
Sec. 25: All		
Sec. 36: All		
T. 3S., R. 45 E., P.M.M.		
Sec. 30: SW¼NW¼,S½ (Federal)		
Sec. 31: All		
T. 4 S., R. 44 E., P.M.M.		
Sec. 1: All		
T. 4 S., R. 45 E., P.M.M.		
Sec. 4: SW¼SW¼ (Federal)		
Sec. 5: W½,SE¼,W½NE¼,SE¼NE¼		
Sec. 6: N½,N½SE¼,NE¼SW¼ (Federal)		
Sec. 7: All		
Sec. 8: N½,N½S½,S½SE¼ ,SE¼SW¼ (Federal)		
Sec. 9: W½,S½E½		

Recoverable Federal Coal Reserves—Continued

Potential lease tract and description	Acreage	Million tons
Colstrip A & B		
T. 2 N., R. 40 E.	3,460	88.2
Sec. 36: E½SE¼		
T. 2 N., R. 41 E.		
Sec. 29: S½		
Sec. 30: SE¼SW¼,NE¼SE¼,S½SE¼		
Sec. 31: All		
Sec. 32: All		
T. 1 N., R. 40 E.		
Sec. 1: N½NE¼,N½SE¼NE¼ ,SE¼SE¼NE¼		
T. 1 N., R. 41 E.		
Sec. 3: SW¼NW¼,SW½,S½SE¼		
Sec. 4: All		
Sec. 5: All		
Sec. 6: All		
Sec. 7: NE¼,E½NW¼,SW¼,SE¼		
Sec. 8: All		
Sec. 9: All		
Sec. 10: N½,N½S½		
Sec. 16: W½NE¼,E½NW¼,NW¼ ,NW¼		
Sec. 17: N½,N½SW¼		
Sec. 18: N½,N½S½		
Colstrip C		
T. 1 N., R. 40 E.	4,062	85.7
Sec. 1: SW¼NE¼,SW¼SE¼NE¼ ,NW¼,SW¼,SE¼		
Sec. 2: All		
Sec. 3: All		
Sec. 4: NE¼,S½NW¼,SW¼,SE¼		
Sec. 9: All		
Sec. 10: All		
Sec. 11: All		
Sec. 12: NW¼NW¼,S½SW¼,SE¼		
Sec. 13: N½,N½S½		
Sec. 14: N½,N½S½		
Sec. 15: All		
Sec. 16: All		
Colstrip D		
T. 2 N., R. 41 E.	2,213	44.1
Sec. 13: SW¼NE¼,SE¼NW¼,S½		
Sec. 14: NE¼SE¼,S½S½		
Sec. 15: SE¼SE¼		
Sec. 22: NE¼,E½SE¼		
Sec. 23: All		
Sec. 24: All		
Sec. 25: N½,SW¼		
Sec. 26: All		
Sec. 27: NE¼,E½NW¼,NE¼SW¼ ,N½SE¼,SE¼SE¼		
Sec. 35: NE¼,E½NW¼		
T. 2 N., R. 42 E.		
Sec. 18: W½SW¼,SE¼SW¼,SW¼ ,SE¼		
Sec. 19: N½,W½SW¼,SE¼SW¼		
Sec. 29: NW¼		
Sec. 30: N½		
West Decker		
T. 9 S., R. 40 E.	3,160	14.0
Sec. 8: SE¼NE¼,S½SW¼,SE¼		
Sec. 9: S½NE¼,NW¼,S½		
Sec. 10: S½		
Sec. 15: W½		
Sec. 16: All		
Sec. 17: N½,E½SW¼,SE¼		
Sec. 18: NE¼NE¼		
Sec. 20: N½NE¼,SE¼NE¼		
Sec. 21: All		
Sec. 22: W½		
North Decker		
T. 8 S., R. 40 E.	5,440	62.07
Sec. 21: SE¼SE¼		
Sec. 28: SW¼NE¼,S½NW¼,SW¼ ,W½SE¼		

Recoverable Federal Coal Reserves—Continued

Potential lease tract and description	Acreage	Million tons
Sec. 27: All		
Sec. 28: NE¼,E½NW¼,NW¼SW¼ ,S½SW¼,SE¼		
Sec. 29: SW¼NE¼,S½NW¼,NW ¼SW¼,SE¼NE¼,SE¼		
Sec. 32: N½,NE¼SW¼,SE¼		
Sec. 33: N½,NW¼SW¼,S½SW¼ ,SE¼		
Sec. 34: N½,SW¼		
Sec. 35: N½NW¼		
T. 9 S., R. 40 E.		
Sec. 3: SW¼NE¼,W½,SE¼		
Sec. 4: All		
Sec. 5: NE¼, N½SE¼		
Sec. 9: N½NE¼		
Sec. 10: N½		
Spring Creek		
T. 8 S., R. 39 E.	3,760	38
Sec. 22: SE¼SW¼,SE¼		
Sec. 23: S½NE¼,SE¼NW¼,S½		
Sec. 24: S½NW¼,S½		
Sec. 25: All		
Sec. 26: N½,NE¼SE¼		
Sec. 27: N½NE¼,NE¼NW¼		
Sec. 36: All		
T. 8 S., R. 40 E.		
Sec. 19: S½SW¼,SW¼SE¼		
Sec. 29: SW¼SW¼		
Sec. 30: NW¼NE¼,S½NE¼,NW¼ ,S½		
Sec. 31: N½N½,SE¼NE¼		
Southwest Otter Creek		
T. 4 S., R. 45 E., P.M.M.	7,557	135.4
Sec. 15: W½W½		
Sec. 16: All		
Sec. 17: All		
Sec. 20: NE¼NW¼,N½NE¼ (Federal)		
Sec. 21: All		
Sec. 22: W½W½,E½SW¼ (Federal)		
Sec. 27: W½,W½E½		
Sec. 28: All (Federal)		
Sec. 33: All		
Sec. 34: W½W½,SE¼NW¼,SE¼ ,SW¼ (Federal)		
T. 5 S., R. 45 E., P.M.M.		
Sec. 2: W½SW¼		
Sec. 3: W½,SE¼,W½NE¼,SE¼NE¼		
Sec. 4: All (Federal)		
Sec. 9: All		
Sec. 10: S½NE¼,N½SW¼ (Federal)		
Sec. 15: All		
Sec. 16: All		

The team will rank the tracts on the basis of high, medium, and low desirability for leasing using three categories. These categories are coal economics, impacts on the natural evironment, and social and economic impacts that could result if the tracts are leased and mined. These major categories may be further subdivided by the team into subcategories such as tons of coal that could be mined, effects on air quality, population increases, etc. For use in the ranking process, the regional coal team will determine the emphasis to be placed on, and the degree of importance of, each of the categories and subcategories.

The proposed tract ranking factors being considered for use by the regional coal team follow:

I. Coal Resource Data.

A. Economic Viability.

1. Ratio of Recovered BTU's per acre of Surface Disturbance.

2. Coal Recoverability Potential.

3. Bypass Potential.

4. Existing and Required Access to Tract.

B. Expansion of Existing Mines.

C. Land Use Pattern.

II. Environmental Resource Data.

A. Wildlife Habitat Effects.

B. Reclamation Potential.

C. Water Quality and Quantity Changes.

1. Surface.

2. Ground.

D. Conflict of Oil and Gas Development in Coal Areas.

E. Air Quality Effects.

III. Socioeconomic Data.

A. Disruption of Family Farm/Ranches.

B. Changes to Agricultural Productivity.

C. Changes in Rural Quality of Life.

D. Changes to Communities and Local Community Services.

E. Conflict with Other State/Local Development Plans/Policies.

In ranking the tracts, the regional coal team will use tract profile data (tract delineation report, social-economic profile, site specific environmental analysis report, and summary matrices). The team will also use information obtained as a result of consultations with Federal and State agencies, the views of the public as voiced at the EIS scoping meeting, comments received in response to this notice, and other considerations such as guidance provided by the Department of the Interior and the Bureau of Land Management.

The boundaries of the tracts may be modified by the regional coal team based on the analyses contained in the tract profiles. The teams may also defer the ranking of any potential lease tract if it is determined that insufficient tract information is available.

The public is invited to comment on these potential lease tracts and on the factors that may be considered by the regional coal team in ranking the tracts. The comments should be addressed to the Powder River Project Manager at the address provided above. Comments must be received by the team Project Manager by close of business January 16, 1981. At the January meeting, the regional coal team will review the comments received in response to this notice before the team ranks the identified potential lease tracts and makes a preliminary selection from those tracts for cumulative analysis and analysis as part of the regional lease

sale EIS and possible lease sale in April 1982.

Nyles L. Humphrey,

3:45–4:00—Discuss next agenda and conclude meeting, Dick Tindall

Richard W. Tindall,

Department of State Lands. The proposed production rate through 1985 is approximately three million tons of coal per year.

[Federal Lease No. C-22777]

Availability for Public Review of a Mining and Reclamation Plan for a Surface Coal Mine Proposed by Kerr

is issued to inform the public of the availability of the plan for review in the offices of the regulatory authority. The Office of Surface Mining and the State

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative Notice to the Commission of Intent To Perform

sale EIS and possible lease sale in April 1982.

Nyles L. Humphrey,
Acting State Director.

[FR Doc. 80-37625 Filed 12-3-80; 8:45 am]
BILLING CODE 4310-84-M

Anchorage District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Anchorage District Advisory Council will hold a meeting in accordance with the Federal Advisory Council Committee Act to complete recommendations on management of easements withdrawn under the Alaska Native Claims Settlement Act, and to discuss district fire management responsibilities.

DATES: The meeeting will be held January 12, 1981, 8:30 a.m. to 4:00 p.m., Anchorage, Alaska.

The public may make oral statements to the council at 1:00 p.m. Comments and requests to present oral testimony must be received before January 12, 1981.

ADDRESS: The meeting location is the Anchorage District Office, 4700 East 72nd Avenue, Anchorage, Alaska 99507.

Comments and requests to testify may be mailed to Public Affairs, Anchorage District Office, 4700 East 72nd Avenue, Anchorage, Alaska 99507.

FOR FURTHER INFORMATION CONTACT: Joette Storm, Public Information Officer (907) 344-9661

SUPPLEMENTARY INFORMATION: Proposed Agenda—

8:30–8:45—Opening remarks, Dick Tindall
8:45–9:30—Election of chairperson and vice-chairperson
9:30–10:00—Reading of minutes, chairperson
10:00–10:15—Break
10:15–11:00—Continuation of easement management topic. Presentation on Seldovia Road Easement, John Merrick
11:00–12:00—Anchorage District Fire Management Responsibilities, Kay Johnson
12:00–1:00—Lunch
1:00–1:30—Public testimony
1:30–2:30—Continue fire management topic, Kay Johnson
2:30–2:45—Break
2:45–3:45—Present recommendations to district manager, chairperson
3:45–4:00—Discuss next agenda and conclude meeting, Dick Tindall

Richard W. Tindall,
District Manager.

[FR Doc. 80-37683 Filed 12-3-80; 8:45 am]
BILLING CODE 4310-84-M

Office of Surface Mining Reclamation and Enforcement

[Federal Lease No. M-35734]

Availability for Public Review of the Environmental Assessment on the Major Modification to the Western Energy Company's Rosebud Area B Mine, Rosebud County, Mont.

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice of availability of the Environmental Assessment on the Rosebud Area B surface mine.

SUMMARY: Pursuant to § 1506.6 of Title 40, Code of Federal Regulations, notice is hereby given that the Region V, Office of Surface Mining Reclamation and Enforcement (OSM) has completed an Environmental Assessment on the major modification to the mining for the Rosebud Area B Mine, Rosebud County, Montana (See 30 CFR 741.12(b) for the definition of "mining Plan."). OSM's proposed action, approval of the major modification and permit application with stipulations, is in accordance with Sections 510 and 523 of the Surface Mining Control and Reclamation Act (SMCRA). OSM's analysis shows that no significant environmental impacts would occur if the applicant's proposal is approved with stipulations. A brief description of the location follows:

Mine Name: Rosebud Area B Mine.
State: Montana.
County: Rosebud.
Section, Township, Range: Portions of Sections 4, 5, 9, 10 and 11, Township 1 North, Range 41 East.
Office of Surface Mining Reference MT 0002.

The Rosebud Area B Mine is located about 1 mile south of the town of Colstrip, Montana. The mine is currently operating under a State permit and a mine plan approval from the Department of the Interior under the Coal Mining Operating Regulations (30 CFR 211). The Western Energy Company is presently mining on part of Federal coal lease M-35734 and State Operation Permit No. 74003-A002.

Rosebud's proposed 5-year mine application for the extension of area B on this Federal lease includes 1,366 acres, of which 711 acres have been previously permitted by the Montana Department of State Lands. The proposed production rate through 1985 is approximately three million tons of coal per year.

The purpose of this notice is to inform the public of the availability of the Environmental Assessment and that the Regional Director, Region V, OSM has made a "Finding of No Significant Impact" with respect to the Department's proposed action. Any person having an interest that may be adversely affected by OSM's environmental impact finding, should address their concerns, in writing, to the Regional Director, Region V. Comments on the environmental assessment and/or finding must be received as soon as possible.

The Assistant Secretary for Energy and Minerals will make a decision on the Department's action on this major modification after review of the environmental assessment and other technical documents. Pursuant to 30 CFR 741.17, the Director, Office of Surface Mining, will make a decision on the permit application after the Assistant Secretary's decision on the modification to the mining plan. The Secretary's decision will be based on the recommendations of OSM, the U.S. Geological Survey, the bureau of Land Management, the State of Montana, Department of State Lands and any public comments received.

Notice of Availability of the mining and reclamation plan on the Rosebud Area B Mine was published in the **Federal Register** on November 6, 1980, 45 FR No. 217, p. 73809-10.

ADDRESSES: The environmental assessment and other technical documents on the Rosebud Area B extension are available on request from the Office of Surface Mining, Region V. Any comments on thee documents should be submitted to the Regional Director, Region V, Office of Surface Mining, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Florence Munter Schaller or John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202.

Dated: November 28, 1980.

John E. Hardaway,
Acting Regional Director.

[FR Doc. 80-37615 Filed 12-3-80; 8:45 am]
BILLING CODE 4310-05-M

[Federal Lease No. C-22777]

Availability for Public Review of a Mining and Reclamation Plan for a Surface Coal Mine Proposed by Kerr Coal Company for the Marr Strip No. 1 Mine, Jackson County, Colorado.

AGENCY: Office of Surface Mining, Reclamation and Enforcement, Department of the Interior.

ACTION: Availability for public review of a coal mining and reclamation plan and permit application.

SUMMARY: Pursuant to §§ 741.17(b) and 786.11 of Title 30 and Section 1500.2 of Title 40, Code of Federal Regulations (CFR), notice is hereby given that the Office of Surface Mining (OSM) has received an application from Kerr Coal Company to mine Federal coal at the Marr Strip #1 Mine.

A brief description of the location follows:

Applicant: Kerr Coal Company.
Mine Name: Marr Strip #1.
State: Colorado.
County: Jackson.
Section, Township, Range: Portion of Section 2, T.8N., R.78W., Sections 15, 22, 23, 25, 26, 27, and 35 T.9N., R.78W and Section 28 and 29, T.9N., R.79W. (USGS 7.5 Minute Series—Johnny Moore Mountain Quadrangle, Colorado) Office of Surface Mining Reference No. CO 0002.

Name and Address of Applicant: Kerr Coal Company, P.O. Box G, Steamboat Springs, Colorado 80477.

The mine is located approximately 10 miles east of Walden on Jackson County Road 12E, and is operating under State permit #76-13. The Kerr Coal Company is presently mining on private coal leases consisting of 735 acres.

Kerr Coal Company submitted a mining and reclamation plan to the regulatory authority on July 31, 1980 pursuant to the proposed Colorado Permanent Regulatory Program and the permanent regulatory program for Federal lands. Action on the plan will be considered pursuant to Chapter VII, Subchapter D of Title 30 (30 CFR 740 et seq.). Mining on the proposed lease would maintain a production rate of 750,000 tons of coal per year through the year 1986. The total proposed mining operation would cover about 1,956 acres of which about 1,221 acres would be mined or disturbed.

The Bureau of Land Management granted the company a lease on Federal land on July 1, 1980.

The mining and reclamation plan has been determined to be sufficiently complete for public review. This notice is issued to inform the public of the availability of the plan for review in the offices of the regulatory authority. The Office of Surface Mining and the State of Colorado will prepare a technical analysis (TA) to determine whether the proposed mine plan meets the requirements of SMCRA and an environmental assessment (EA) which will evaluate the impacts of actions the Department of Interior and the Colorado Mined Land Reclamation may take on the plan. During the analytical review, it is possible that the regulatory authority will request additional information from the company. Any further information received would also be available for public review.

No action on the plan will be taken by the Regional Director for a period of 30 days after publication of this notice in the **Federal Register**. The Kerr Coal Company published a notice of filing the application with the regulatory authority in the Jackson County Star on August 14, 21, and 28 and September 4, 1980. Prior to making a final decision on this application, OSM will issue a Notice of Availability of the TA and EA pursuant to Section 1506.6 of Title 40, Code of Federal Regulations.

This plan is available for public review in the Office of Surface Mining, Region V, Brooks Towers, 1020 15th Street, Denver, Colorado 80202; the State of Colorado, Department of Natural Resources, Mined Land Reclamation, 1313 Sherman Street, Room 423, Denver, Colorado 80203; the Kerr Coal Company, 1515 Arapahoe, Suite 900, Denver, Colorado 80202 and the Jackson County library in Walden, Colorado. Comments on the proposed mine plan application may be addressed to the Regional Director, Office of Surface Mining, at the above Denver address, to the Colorado Division of Mined Land Reclamation at the indicated Denver address, or to both.

FOR FURTHER INFORMATION CONTACT: Bennett Young or John Hardaway, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, Colorado 80202 or Carol Pahlke, Colorado Mined Land Reclamation Division, 1313 Sherman Street, Room 423, Denver, Colorado 80203.

Dated: November 25, 1980.

Robert Hagen,
Acting Regional Director.

[FR Doc. 80-37614 Filed 12-3-80; 8:45 am]
BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Dated: December 1, 1980.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, non-exempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change. The name and address of the agricultural cooperative, the location of the records, and the name and address of the person to whom inquiries and correspondence should be addressed, are published here for interested persons. Submission of information that could have bearing upon the propriety of a filing should be directed to the Commission's Bureau of Investigations and Enforcement, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: B.C. Transportation, Inc.
Principal Mailing Address (Street No., City, State, and Zip Code): P.O. Box 895, Rialto, CA 92376.
Where Are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code): 2075 W. Rialto Ave., San Bernardino, CA 92410.
Person To Whom Inquiries and Correspondence Should Be Addressed (Name and Mailing Address): Jimmy A. Jenkins, 2075 W. Rialto Ave., San Bernardino, CA 92410

(2) Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: Moyer Trucking Company, Inc.
Principal Mailing Address (Street No., City, State, and Zip Code): Lot #2 Route 8 Box 32, St. Augustine, FL 32224.
Where Are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code): Lot 2 Route 8 Box 32, St Augustine, FL 32224.
Person To Whom Inquiries and Correspondence Should Be Addressed (Name and Mailing Address): Glenn Voris, Lot 2 Route 8 Box 32, St Augustine, FL 32224.

(3) Complete Legal Name of Cooperative Association or Federation of Cooperative

Associations: National Agricultural Produce Transport, Inc.
Principal Mailing Address (Street No., City,

SUPPLEMENTARY INFORMATION: By notice served May 17, 1978 (43 FR 22151, May 23, 1978), the Commission undertook to

dominance.[1] However, it appears from recent experience that findings of market dominance will not be unusual

We recognize that our proposed evidentiary standards are best suited to regular large-scale unit-train, trainload,

must be presumed unreasonable. However, there may be unusual circumstances that would rebut this pre-

directly with the level of a particular service, and can be allocated accordingly, while other costs are

Associations: National Agricultural Produce Transport, Inc.
Principal Mailing Address (Street No., City, State, and Zip Code): 7401 Assateague Drive, Room 178, Jessup, MD 20794.
Where Are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code): 7401 Assateague Drive, Room 178, Jessup, MD 20794.
Person To Whom Inquiries and Correspondence Should Be Addressed (Name and Mailing Address): Kirk A. Drury, 7580 S. Ritchie Hwy., Suite 3, Glen Burnie, MD 21061.
(4) Complete Legal Name of Cooperative Association or Federation of Cooperative Associations: T.L.C. Farm Lines, Inc.
Principal Mailing Address (Street No., City, State, and Zip Code): 1666 Fabick Drive, Fenton, MO 63026
Where Are Records of Your Motor Transportation Maintained (Street No., City, State and Zip Code): 1666 Fabick Drive, Fenton, MO 63026
Person To Whom Inquiries and Correspondence Should Be Addressed (Name and Mailing Address): Tom C. Lange, 1666 Fabick Drive, Fenton, MO 63026

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-37725 Filed 12-3-80; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 347 (Sub-1)]

Coal Rate Guidelines Nationwide

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed guidelines.

SUMMARY: The Commission proposes to expand the scope of this proceeding to coal rates nationwide. The following changes are proposed in present ratemaking standards: (1) Change from the ratio method to the ton/ton-mile method for allocating Rail Form A constant costs. (2) Eliminate the fixed plant investment additive in all but exceptional cases. (3) Eliminate locomotive and caboose investment additives in all but exceptional cases. (4) Eliminate additives above fully allocated cost in all but exceptional cases.

DATES: Comments must be received on or before January 19, 1981.

ADDRESS: An original and 15 copies of any comments should be sent to: Office of Proceedings, Interstate Commerce Commission, Room 5340, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane Mackall, Ph. (202) 275–7656.

For specific assistance on costing information contact: Barry Harris, Ph. (202) 275–0610.

SUPPLEMENTARY INFORMATION: By notice served May 17, 1978 (43 FR 22151, May 23, 1978), the Commission undertook to establish rate guidelines for movements of Western coal. Numerous public comments were received in response to this notice. In addition, our thinking on this issue has been sharpened by the experience gained in a number of individual coal rate proceedings, involving the West and other areas of the country. We seek further public comment on proposed guidelines for resolving a number of major issues encountered in coal rate cases. In view of the changes in the scope of this proceeding, as detailed below, we hereby close the lead investigation Ex Parte 347 without a final decision. The record of the lead investigation is hereby incorporated in the present new proceeding Ex Parte 347 (Sub-No. 1).

Summary

Significant changes are proposed in four areas of Commission coal rate policy. First, we propose a shift from the ratio method to the ton/ton-mile method for allocating Rail Form A constant costs. Second, we propose eliminating, the use of a fixed plant investment additive. Third, we propose to eliminate, locomotive and other equipment investment cost additives. Finally, we propose eliminating, the use of an additive above fully allocated cost.

We ask for public comment on these issues, as well as on certain other issues where we propose to continue past policies. We also ask for public comment on our revised analysis of environmental and energy impacts of our decision.

Review of Related Issues and Proceedings

A number of the issues identified in our May 17, 1978 advance notice have, in the interim, been addressed in other proceedings. These developments, reviewed briefly below, are an important part of the Commission's policy toward coal rates and toward rate regulation in general.

As contemplated in the notice of May 17, 1978, the guidelines proposed here apply only to cases in which market dominance has been established. Indeed, the Commission is without jurisdiction to regulate the maximum reasonable level of rates in the absence of market dominance. 49 U.S.C. § 10707. Section 202 of the Staggers Rail Act of 1980 (Pub. L. 96–448) provides new standards according to which we will make determinations concerning market dominance.[1] However, it appears from recent experience that findings of market dominance will not be unusual in coal rate cases.

Our May 1978 notice indicated that we might address the determination of appropriate levels for *both* minimum and maximum rates. Some parties have suggested that a minimum rate level should be incremental or marginal cost, variable cost, or a percentage of variable cost. The Department of Energy suggested that the floor of the zone of reasonableness should be what it described as a Minimum Viable Tariff, a concept closely related to incremental cost. While maximum rate cases have proliferated, there have been no cases challenging a coal rate as unreasonably low in recent years. Minimum rate issues on coal movements appear to have little or no significance at this time. Moreover, in Ex Parte No. 355, *Cost Standards for Railroad Rates* (45 FR 53846) (Served July 9, 1980), we proposed a general standard for minimum rate reasonableness labeled directly variable cost. Should we adopt those standards (subject to the changes contained in Section 201 of the Staggers Act) they would apply to coal movements. For these reasons, the guidelines proposed here relate only to the level of *maximum* reasonable rates and do not address issues of *minimum* rate reasonableness.

We requested comment "on the appropriate basis upon which a zone of reasonableness should be defined, e.g. percentage of class rates, percentage of commodity rates, distance scales, ratios of rates to variable or fully allocated costs, or some other basis or market condition." The comments of the parties, and our experience in Western coal cases, have convinced us that accurate cost computations, including an allocation of constant costs in accordance with our proposed guidelines, is the preferred basis for the determination of maximum reasonable rates on coal.

In the recent developing case law on Western coal rates, we have previously accorded little weight to evidence of rate comparisons. See, for example, *San Antonio* v. *United States*, F. 2d (D.C. Circ. 1980); *Houston Lighting and Pwr. Co.* v. *United States*, 606 F 2d. 1131 (D.C. Cir. 1979). At a time when most coal-hauling roads are earning inadequate revenues, primary reliance on rate comparisons is inappropriate without supporting evidence that rates used for comparison are themselves reasonable.

[1] In the near future, we will open a proceeding dealing with implementation of the section 202 of the Staggers Act.

We recognize that our proposed evidentiary standards are best suited to regular large-scale unit-train, trainload, or multiple car service. While simplified cost presentations may be needed in those situations where spot sales or sporadic movements are involved, we are cognizant that it is much less likely that carriers will possess market dominance over these movements.

We also asked whether our Western coal guidelines should be applied to capital incentive rates filed under 49 U.S.C. 10729. We note that section 210 of the Staggers Rail Act of 1980 repeals this section, and provides for a 5-year phase-out of existing capital incentive rates. Consequently, we find it no longer necessary to address capital incentive rates in this proceeding.

Similarly, we asked whether Western coal rate guidelines would have any effect on the existing coal rate structure in the east. One party, the Western Coal Traffic League, noted in response that

> coal traffic moving via railroad from origin mines in the west can and should be treated no differently under the Interstate Commerce Act than coal traffic moving in other territories or other general items of commerce moving in rail service.

We agree that the basic principles of maximum ratemaking should be the same for Western and Eastern coal movements, and have retitled this proceeding accordingly.

Finally, the Commission requested comment on the application of Western coal guidelines "to any contract rates on large volume coal movements, filed in accordance with the Commission's General Policy Statement on Railroad Contract Rates." That proposed policy statement, which was served with out advance notice of this investigation, was adopted by the Commission in Ex Parte No. 358–F *Change of Policy, Railroad Contract Rates* (served November 9, 1978). Consistent with the Commission's contract rate policy, the maximum rate guidelines set forth here will not apply to rates established by contract between railroads and shippers. The Commission has frequently expressed the view that such contracts are potentially an important mechanism for enhancing competition in the transportation of coal and other commodities. Section 208 of the Staggers Rail Act of 1980 affirms the legality of contracts entered into both before and after its passage.

Furthermore, as expressed in our February 21, 1980 statement, in Ex Parte No. 358–F it is our view that rate changes in excess of those established in contracts entered into after the November 9, 1978 policy statement and before the passage of the Staggers Act must be presumed unreasonable. However, there may be unusual circumstances that would rebut this presumption and warrant our upholding a rate in excess of that provided in a contract executed between November 1978 and October 1980. We expect such circumstances to be the exception.

We have further concluded that agreements negotiated before issuance of our 1978 policy statement may, under appropriate circumstances, be considered a major factor in our determination of rate reasonableness. We consider whether, or to what extent, to weigh rate agreements reached before November 9, 1978 on a case-by-case basis. Among the factors that will determine the weight we give to such an agreement are: (1) whether the parties intended to be legally bound by the agreement; (2) whether the shipper reasonably relied on the contract to its substantial detriment (for example, by making large capital investments that it would not otherwise have made); and (3) whether public interest considerations warrant holding the carrier to the agreement.

Virtually all parties to this proceeding are in agreement that the determination of the cost of moving coal should be a principal determining factor in maximum rate making.[2] There is also a general consensus that a rail rate should at least cover the full, long run cost of transporting the coal at issue. Thus, the Western Coal Traffic League developed a "coal network" approach to costing. Also, Iowa Power and Light Company expressed a concern of other shippers that the maximum rate for western coal should reflect the "total cost of the service where such cost is defined to include a return to the capital employed in providing the service."

Railroads and shippers do not agree, however, on how to compute the actual cost of service. A principal source of dispute lies in the difficulty in computing the proportion of constant costs properly allocable to the movement at issue; a second lies in the allocation of new fixed investment, a third lies in computing the cost of investment in locomotives and other equipment. With respect to these issues, we here propose significant departures from its past practices.

Allocation of Joint Costs

It is a well-known characteristic of rail transportation that some costs vary directly with the level of a particular service, and can be allocated accordingly, while other costs are shared by two or more services, and hence cannot in any precise way be allocated directly to any one service on a per unit basis. These unallocable costs are commonly known as *fixed* or *constant* costs.

By the nature of constant costs, any accounting convention devised to allocate them among particular services must be to a degree arbitrary. As a matter of policy, however, the choice of one or another allocation method can have important practical considerations. If too large a share of constant costs is allocated to services facing strong intermodal competition, the traffic may be lost to other modes. Remaining rail shippers suffer because fewer of them are left to share the constant costs, and there is a loss to the economy as a whole to the extent that some traffic moves by an inefficient mode. At the same time, underallocating constant costs can also lead to problems. If railroads are not able to cover their costs, in the long run investment, maintenance, and service ultimately will suffer to the detriment of all shippers. It is likely that carrier's would have to defer maintenance, allowing their plant to deteriorate to the detriment of service quality, or they will have to impose a burden of cross subsidies on other shippers using their systems.

To avoid the dangers of either under- or overallocation, we conclude that constant costs should be allocated among users in a way that reflects the importance of rail service to each user as well as the cost of providing service. Demand considerations have always played an important role in railroad ratemaking. In the past, demand considerations were often taken into account under the concept of "value of service pricing." [3] Although value of service pricing in the historical sense of placing the highest rates on merchandise with the highest value-to-weight ratio long ago became a casualty of truck competition, the more general concept of pricing in accordance with demand remains valid.

[2] The railroads have also taken the position, discussed *infra* that maximum reasonable rates on market dominant traffic must be set *above* the full cost of service, to compensate for traffic which returns less than full cost (although more than variable cost).

[3] A 1959 report described value of service pricing as a concept that "covers the value of service to the shipper but . . . also should be interpreted as including the question for carriers, of the point at which a rate may be fixed so as to provide the greatest amount of profit for the carrier, and the question, for carriers and regulatory authorities, of how the burden of constant costs may be apportioned among various types or sources of traffic, with due regard for what the service is reasonably worth to the shipper." See *Value of Service in Rate Making*, ICC, Bureau of Transport Economics and Statistics, Statement No. 5912, November 1959.

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We would, of course, like to be as precise as possible in implementing this policy of allocating constant costs to reflect demand for service. Under Rail Form A—the basic costing methodology used in past coal decisions—constant costs are allocated using either the ratio method or the ton/ton-mile method.[4] In recent coal cases, we have used the ratio method. On further consideration, we are concerned that a different allocation system is needed to permit the railroads to recover all system costs and expenses they incur. We believe that the ton/ton-mile method is the more reliable method for ratemaking purposes. We invite comments as to whether some other allocation device, such as use of a weighted or unweighted average of the results derived from the ratio and ton/ton-mile methods, is superior for ratemaking purposes.

Because long-haul, large-volume, heavy-loading traffic such as coal is likely to be captive to rail, and hence to have relatively low demand elasticity, whereas light-loading, short-haul, or low-volume traffic is more likely to face vigorous intermodal competition, and hence to have relatively high demand elasticity. Because the ton/ton-mile method tends to allocate a larger portion of constant costs to heavy-loading, low-rated traffic than does the ratio method, we believe it will tend to put an appropriately large share of the burden of those costs on those shippers for whom reliable, high-quality rail service is of the greatest importance.[5] We further believe that the principles discussed here are valid not only under Rail Form A costing, but also will continue to be valid under the alternative costing methodologies now being developed by the Commission.

At a minimum, any allocation method must, when applied to all traffic, produce revenues sufficient to cover all of the carrier's costs. The importance of this minimum requirement has recently been urged upon us both by Congress and by the courts in *San Antonio* v. *United States*, F. 2d (1980). Under the Interstate Commerce Act, as amended by the 4R Act and the Staggers Act our power to find a rate unreasonably high is limited to market-dominant traffic. As pointed out above, there appears to be a tendency for nonmarket-dominant and hence nonregulated traffic to be light-loading, low-density, and short-haul, and thus subject to competitive diversion to other modes. It would appear likely that for competitive reasons, such traffic would no longer move by rail if forced to bear the relatively large share of constant costs that would be allocated to it under the ratio method. For the Commission to impose the ratio method on market dominant traffic, while competitive considerations necessitate rates approximating a ton/ton-mile allocation method on nonmarket-dominant traffic would be tantamount to use by the Commission of the allocation method least favorable to railroads in each case.

Railroads party to this proceeding have argued that they can be assured of recovering their full system costs only if they are allowed to charge more than fully allocated cost on market dominant traffic, in compensation for their inability to charge as much as fully allocated cost on traffic subject to intermodal competition. Thus the Western railroads have advocated a zone of reasonableness for rates, with a center at fully allocated cost, including a fair rate of return, a minimum at 100 percent of variable cost, and a ceiling at 220 of available cost. (Verified Reply Statement of Richard J. Barber, pp. 8–9, and Verified Statement of J. Rhodes Foster.) While it might be necessary to charge some rates above fully allocated costs so long as those costs are computed according to the ratio method, we believe, for the reasons given above, that it is not true when "fully allocated costs" are computed according to the ton/ton-mile method. We invite comment on this point.

We also believe that a change in the cost allocation procedure is justified on a cost basis. There is considerable evidence that the present variable cost methodology does not account for the effects of heavy wheel-loadings upon variable costs. We feel that the ton/ton-mile apportionment offsets that bias by apportioning a larger share of fixed costs to the heavier loading traffic.

Having set forth these general principles for allocating constant costs in coal cases, we should point out that it is not always easy to specify which costs are truly constant costs and which are not. The Commission is actively pursuing methods and procedures to improve the calculation of the costs of service for coal traffic. As always, we stand ready to consider improvements in variable costing procedures that result in movement-specific costs in preference to the Rail Form A system average allocations. As such improved procedures are developed, this proceeding will be reopened to consider them.

We intend, as part of our final guidelines, to propose specific evidentiary guidelines and formatted presentation of data to aid in our determinations of maximum rate reasonableness. This will include any needed refinements of the constant costs allocation formula. We invite comments on this point.

Fixed Plant Investment Additive

In past coal cases, the Commission has sometimes allowed a fixed plant investment additive to permit railroads to recover costs, such as those of track rehabilitation, that would not have been incurred but for the need to carry the traffic at issue. In future cases, however, we will strictly limit the use of a fixed plant investment additive.

A major disadvantage of the fixed plant investment additive, as applied in past coal cases, is the difficulty of properly intergrating the movement-specific investment costs for which the additive was allowed with the Rail Form A system average costs used to assign other investment costs to coal. These methodological difficulties were explored at length by the D.C. Circuit Court of Appeals in the recent San Antonio decision. While we continue to believe that in principle, the two costing methods can be integrated without double counting, the data requirements for doing so appear to surpass the limits of the records developed in recent cases.

We recognize, however, that there may be particular circumstances in which our costing methodology will not properly reflect the investment costs attributable to coal traffic. Rail Form A allocates investment costs to all traffic on the basis of gross ton miles. In situations where a substantial incremental investment is involved, this is a poor surrogate for actual investment costs. Thus, where line rehabilitation or construction costs are a particularly large part of the total costs of a movement, we proposed the following alternative.

First, we urge both railroads and shippers to consider the advantages of long-term contracts as a mechanism for recovery of coal-specific investment costs. Such contracts can significantly reduce the risk that traffic will not be available to make use of newly constructed facilities. Given the assurance of traffic, railroads will be able to spread the costs of investment over a longer time horizon, and will consequently find it easier to raise funds in capital markets. Shippers will also benefit to the extent that contract rates diminish the risks of rate instability, including risks associated with regulatory policy. In addition, contracts offer mutually beneficial opportunites for productivity sharing, and for the introduction of performace standards. Finally, contracts can provide an attractive device for sharing the financial burdens of railroad construction and/or rehabilitation.

Second, if all other methods of cost recovery fail, we stand ready, as always, to consider movement specific costs in preference to Rail Form A (or other) system average costs in cases where parties believe the Rail Form A allocations to be inappropriate. However, we caution parties who may contemplate introducing movement specific costs to avoid the possible couble counting that can occur when some investments used for a movement are allocated according to Rail Form A averages and other movement-specific costs are tacked on in the form of a fixed plant investment additive.[6] We will strictly scrutinize cost evidence submitted in future coal cases for such possible double counting.

Locomotive and Other Equipment

Investment Costs

In recent coal cases, the method of allocating the cost of new locomotives between coal and noncoal traffic has been an important area of controversy. The main concern has been the value to be assigned to locomotives purchased or leased because of increased coal traffic. By analogy with our treatment of the fixed plant additive, we applied a locomotive additive (and sometimes other equipment investment additives) because of our concern that Rail Form A did not fully account for locomotive costs associated with coal traffic. On reflection, we believe that this approach is likely to result in double-counting equipment costs. This double-counting problem is discussed in detail in the previous section of this notice.

We propose to treat the locomotive, caboose and other equipment investment additives in the same way that we propose to treat the fixed plant investment additive. We do not believe it is practicable as a general rule to exclude locomotive and caboose investment costs from the RFA systemwide averages, as would be required if an additive were to be used without double counting. Therefore, we will not permit the use of an additive in conjunction with RFA locomotive costs. However, it may be possible in some cases to calculate movement-specific locomotive and caboose investment costs. Where such evidence is submitted and where it is presented as part of a consistent costing approach that avoids double counting, we will consider it.

Parties may wish to reopen past coal cases to offer movement-specific locomotive and caboose costs in lieu of the RFA-plus-additive method previously used. We believe, however, that this is unlikely to make a substantial difference in the actual rates allowed. To the extent that actual movement-specific locomotive or caboose investment costs are higher than the system averages, we believe our previous method, although methodologically flawed, may often have given an approximately accurate result.

Additive Over Fully Allocated Cost

In a number of past coal cases, we have applied an additive of 7 percent over and above fully allocated costs as calculated by the methods then in use. We saw two justifications for doing so.

First, we were aware that the costing methods then in use might, in certain cases, allocate an insufficient share of constant costs to coal traffic, thus depriving railroads of the opportunity to achieve revenue adequacy given the mix of market dominant and nonmarket dominant traffic actually carried by those railroads. Thus an additive above fully allocated costs as then calculated was seen as necessary in the interests of economically efficient differential pricing.

Second, we believed that an additive above fully allocated costs was justifed by the need of railroads to achieve revenue adequacy. In recent years, railroads have had a rate of return among the lowest of all U.S. industries.[7] In part we believe that the failure of railroads to achieve adequate revenue is the result of the regulatory burdens under which those railroads have operated in the past. In past cases, then, an additive was viewed as a valid device for helping railroads to achieve revenue adequacy during the transition to a less burdensome regulatory regime.

While not entirely ruling out the possible need for an additive above fully allocated costs in future coal rate cases, we believe such an additive will be less often appropriate than in the past. We believe that improvements in costing methodology and the broad program of legislative, regulatory, and industry inititatives now underway will accelerate the return of railroads to a state of economic health and will eventually eliminate altogether the need for *ad hoc* additives to guarantee revenue adequacy. However, because the necessary changes will take several years to become completely effective, we remain willing to consider the need for an additive above fully allocated costs in exceptional circumstances as necessary. We will determine whether to apply such an additive and how high an additive to apply on a case by case basis. In our final rules, we may wish to propose guidelines for the submission of evidence in cases where an additive is sought. We invite comment as to the need for and content of such evidentiary guidelines.

Other Issues

A number of issues addressed in past coal cases and the recent D.C. Circuit Court of Appeals decision in *San Antonio* require less detailed explanation here. These are issues for which we think the Commission's past policy has been correct, and has been upheld on review by various courts. However, we recognize that the resolution of these issues may have an important effect on rates. We thus restate them here for comment by the parties.

A. *Locomotive Costs—Fuel and Maintenance Expenses.*

In the absence of actual cost data, we have used the systemwide average for fuel and maintenance in calculating average costs. The railroads have argued that costs should be revised upward to reflect the heavier weight of coal locomotives. We rejected this argument, finding that "weight is not the only factor to be considered in adjusting the fuel and maintenance expenses."[8] Indeed, some characteristics of unit coal train movements may lower fuel and maintenance costs below systemwide

[4] Under both the ratio and ton/ton-mile method, the railroad's expenses are initially separated between those that can be directly related to specific movements (variable costs) and those that are related to the entire system operation (constant costs). Under the ratio method, the constant costs are then distributed among specific movements in proportion to revenue generated by those movements. Under the ton/ton-mile method, the constant costs are further divided into those associated with terminal operations, and those that are associated with line-haul service. The former are then allocated to specific movements in proportion to tons originated and terminated, and the latter are allocated to specific movements in proportion to tons times distance traveled, that is, ton-miles.

[5] Our decision in No. 34013, *Rules For Assembling and Presenting Cost Evidence*, 337 I.C.C. 298, 323 (1970), observed that "allocation of constant costs on a ton-mile basis might, in certain circumstances, result in an inordinate portion of such costs being borne by extremely heavy loading traffic, as compared to relatively light loading traffic . . .". Prior to that time, the ton-mile method was used by all modes to compute full costs. The context of the *Rules* decision shows that the Commission was concerned exclusively with a methodology for computing "costs," as opposed to a ratemaking standard. A petition to expand the findings of that decision to a ratemaking standard was considered and specifically denied. A decision in this proceeding to use a different allocation system for ratemaking purposes would not conflict with *Rules*.

[6] See *San Antonio, supra*, pp. 21–28.

[7] The rate of return for 1977 wa only 1.75 percent, as found in Ex Parte No. 353, *Adequacy of Railroad Revenue*, 362 I.C.C. 199, 215 (1980).

[8] *San Antonio II*, 359 I.C.C. at 33, App. A.

averages. In the absence of actual operating cost data, the systemwide average is the best estimate of these expenses. However, we are seeking comment on whether sufficient data are now available for the Commission to consider how these costs differ for unit coal trains. If so, we request the views of the parties as to whether requiring such data in individual coal cases would be practical and informative.

B. *Roadway Maintenance Expenses in GTM costs.*

A similar situation exists with regard to roadway maintenance expenses. In most past decisions we have allowed roadway maintenance expenses to be allocated on a tonnage basis using system averages. In the absence of data reflecting actual operating expenses, we will continue to use system averages. However, we will make every effort to obtain more specific data.[9] Frequent, heavy loading, coal unit-train service is relatively new, and it is only recently that its effect on roadway maintenance expenses can be observed. When possible, we will consider these effects in estimating cost. This cost item has comprised a substantial portion of the entire cost of unit-train service. If coal unit-train roadway maintenance expenses differ significantly from the system average, it is important that our cost estimates reflect the difference. We invite comment as to whether it would be practical and informative to require movement-specific data on roadway maintenance expenses in particular coal cases.

C. *Federal Taxes.*

In past cases we have applied the statutory tax rate in adjusting after-tax returns to the pretax level. This had the effect of raising the rate charged, since deferred taxes as well as the investment tax credit and actual taxes paid were reflected in the rate. This is, the railroads were allowed to defer some taxes while charging rates as if the higher tax had been paid. This was done to reflect Congressional intent that the railroads receive the benefits of accelerated depreciation and other tax advantages. This approach is also consistent with our policy stated in Ex Parte No. 338, *Standards and Procedures for the Establishment of Adequate Railroad Revenue Levels.* There we said that, "While there are some advantages of using the actual tax rate, use of the statutory tax rate will assure that accelerated depreciation and the investment tax credit remain an incentive to capital spending.[10] The Commission will continue to use the statutory tax rate in adjusting returns to the pretax level.

Another issue connected with the treatment of federal taxes is the propriety of deducting the deferred tax account from the net investment base before calculating the rate. In *San Antonio,* the court pointed out that our failure to make this adjustment is contrary to both certain past decisions of the court and to our own policy expressed in Ex Parte No. 338, where we wrote:

> We are cognizant of the fact that this treatment [normalization] confers a benefit on the carriers, in that they are receiving and retaining revenue which is not accounted as income. As indicated by some of the parties, the capital funds arising from deferred taxes have been contributed by the ratepayers rather than by investors in the company. Thus it is appropriate to deduct the deferred tax account from the net investment rate base prior to any calculation of rate or return.[11]

Inasmuch as we have not been entirely consistent in our treatment of deferred taxes in past coal cases, we believe that we should seek comment on the issue in this proceeding. After review of the record, we will determine whether, in future cases, to follow the line of Commission decisions (such as *San Antonio*) in which no deferred tax adjustment was made to the rate base, or the line of decisions (such as the recent I&S No. 9199) in which a deferred tax adjustment was made.

The considerations weighing in favor of a deferred tax adjustment are set forth in Ex Parte No. 338 (see especially the passage cited above). However, we now perceive certain considerations that appear to militate against exclusion of the deferred tax account from the net investment base for ratemaking purposes.

The deferred tax account can be considered a source of funds freed up for reinvestment. These funds constitute a substantial part—up to 20 percent in some cases—of the total capital available to individual railroads for this purpose. To the extent that the railroads are not allowed to earn a return on investments made with these funds, the incentive to undertake railroad investments with such funds is substantially reduced. Instead, an environment is created in which there is an incentive to take funds generated within the railroad industry and invest them elsewhere, where market-determined rates of return are available. We are concerned that this may thwart the intent of Congress in passing the Revenue Acts of 1954 and 1962, to provide business enterprise with tax benefits as a means of spurring capital spending.

During a time of price stability, the need to provide an incentive to invest might well be sufficient reason in itself to permit railroads to earn a normal return on their deferred tax account. During a period of sustained inflation such as has recently been experienced in the U.S. economy, however, the deferred tax account takes on added significance. Specifically, in addition to the considerations discussed above, we are concerned that exclusion of the deferred tax account from the investment base for ratemaking purposes may conflict with our duty under section 10704(a)(2)(A) of the Interstate Commerce Act as amended by the 4R Act to "provide a flow of net income plus depreciation adequate to support prudent capital outlays, assure the repayment of a reasonable level of debt, permit the raising of needed equity capital, and *cover the effects of inflation.*" [Emphasis added].

In a world of price stability, a flow of net income plus depreciation adequate to support prudent capital outlays can be provided through the use of straight-line depreciation of capital expenditures. Under such conditions, the total funds set aside through depreciation over the life of the asset are sufficient to replace the asset when it is finally retired. In a noninflationary world, then, each year's straight-line depreciation allowance can be considered to represent an element of cost to the firm; any accelerated depreciation could accordingly be considered a "bonus" above and beyond cost provided to the firm by the tax law.

In an inflationary world, however, the total of annual straight-line depreciation allowances based on original cost will not be sufficient to replace the asset at its inflated cost when the asset is retired. In this sense, straight-line depreciation can be said to understate the firm's annual cost of doing business. Under inflationary conditions, then, accelerated depreciation can, to a considerable extent, be considered not a "bonus" over and above cost, but an adjustment necessary to compensate for the understatement of cost inherent in the straight-line method of depreciation. It follows from this line of analysis that not to allow a railroad the full benefits of accelerated depreciation (which include the possibility of earning a return on the deferred tax account) might well, during an inflationary period, deprive the railroad of the revenues necessary to support prudent capital outlays, etc., as provided by the IC Act.

We ask for public comment on the deferred tax issue, in order to obtain an adequate record on which to base a consistent policy for future coal rate cases. Comments are invited as to the effects of alternative deferred tax policies on the incentive to undertake new investment, on the ability of railroad revenues to cover the effects of inflation, and on any other related issues the participants may consider germane to our consideration of this issue.

D. *Cost of Capital as the Allowable Rate of Return.*

In recent coal cases the Commission has used a rate of return equal to the cost of capital in prescribing maximum reasonable rates. We have used the cost of capital because that is the rate necessary to attract capital to the railroad industry. It is also the rate necessary to maintain capital in the industry.[12]

In Ex Parte No. 338 and Ex Parte No. 353 the Commission established standards and procedures for establishing adequate railroad revenue levels. A return on investment equal to the cost of capital was only one of four standards used to consider revenue adequacy. In Ex Parte No. 353 and Ex Parte No. 363 a range of adequate rates of return was established. The high value of the range is the cost of capital. The low value of the range results from the use of a funds-flow model. The low value for revenue adequacy is not a long term level of adequate revenue. Rather, the low level calculation using funds-flow analysis is applicable only when it is necessary to ensure that carriers are not being given the current rate of return on redundant plant.

As redundant plant is eliminated, the funds flow value and the cost of capital figure should converge. The reason is that the funds flow analysis itself uses the cost of capital as the proper rate of return on new investment.

We are currently reviewing the standards developed in Ex Parte No. 338 for ascertaining the adequacy of a carrier's revenue levels, but there and elsewhere, we have always recognized that a financially healthy railroad must earn the cost of capital on its investments. The other standards discussed in that proceeding were intended only for theoretical revenue adequacy purposes, and were not intended to diminish the importance of allowing rail rates that meet a rate of return standard. The proper rate of return standard for nonredundant plant is the current cost of capital. Since many coal movements require a great deal of new investment, and do not involve redundant plant, we will use the current cost of capital as the allowed rate of return.

Environmental and Energy Issues

Our decision in this proceeding constitutes a major Federal action. We are thus required to consider its impact on the human environment, and on the use of energy. Accordingly, as part of the follow up to our May 17, 1978 Notice of Proposed Guidelines in this case, we prepared a draft environmental impact statement (EIS) with the assistance of the Mitre Corporation. The draft EIS, served October 19, 1979, contemplated major areas of potential impact associated with the increased production and use of coal, the possible substitution of oil for coal and other fuels, and the possible substitution of Eastern for Western coal. On reconsideration, however, it is our determination that the focus of the draft environmental impact statement was overly broad, and that none of these issues are apposite to this proceeding as we now conceive it. It is thus now our view that this decision will have no major energy or environmental impact, for the reasons detailed below.

The major flaw with the draft EIS, as we see it, was its overly broad conception of the range of alternatives available to the Commission for consideration. Indeed, our original Notice of Proposed Rulemaking was itself so broad as to give little guidance. The draft EIS focused on three policy alternatives: one, continuation of the present rate structure; two, a rate structure 50 percent below the present one; and three, a rate structure 100 percent above the present one.

In fact, our range of discretion over coal rates is nowhere nearly that broad. No participant in this proceeding has suggested that we set maximum rates below the level that will permit railroads to cover their full cost of service. Fully allocated cost can thus be considered to be the lowest maximum rate level considered as an alternative in this proceeding. Carriers have argued that maximum rates should be set slightly above fully allocated cost, in the interests of differential pricing, as in some recent cases where we permitted a 7 percent additive above fully allocated costs. In addition, this proceeding has considered alternative methods of computing fully allocated cost, for example, the ratio and ton/ton-mile alternatives considered above. For practical purposes, then, we can consider the low end of the range of rates under consideration in this proceeding to be fully allocated costs as computed by the most conservative method, and the high end of the range to be a few percentage points above fully allocated costs as computed by the most generous method. We have not computed the upper or lower limits, that might theoretically have resulted had we decided each and every issue in favor of the railroads or the shippers, but it would not be unrealistic to say that the range of rates under consideration here runs roughly from 15 percent below the present rate structure to 15 percent above it. This range is thus a full order of magnitude narrower than the range of rates considered in the draft EIS. We anticipate that rates decided according to the proposed guidelines outlined in this notice will fall somewhere near the center of this range, although the precise outcome will clearly vary from case to CASE.

This narrowing of the ratemaking range over which we perceive the Commission to have discretion in this proceeding has a major effect on the range of issues that need to be considered in determining whether our decision will have a significant environmental impact. Consider first the down side, and then the up side.

On the down side, we believe that there would be a major impact on coal use and transportation patterns only if rates were set so low that they did not contribute to the railroads' going concern value. At such low rates, railroads would attempt, to the extent consistent with their common carrier obligations, to avoid soliciting and carrying coal traffic, thus adversely affecting coal use. At the very low alternative rates—50 percent below the present level—considered in the draft EIS, it is likely that many movements would not even cover railroad variable cost. However, we do not perceive such low rates to be an option for consideration in this proceeding. As pointed out above, no participant in this proceeding proposed setting rates below fully allocated costs, let alone below variable cost. We thus conclude that consideration of the extreme downside impact contemplated in the draft EIS was inapposite to this proceeding.

On the upside, the draft EIS considered the impact of rates as much as 100 percent above present rates, and found that such high rates would potentially have significant environmental impacts. We now

[9] This is not a new policy. For example we found such data persuasive in lowering average roadway maintenance expenses in *Increased Rates on Coal, BN, Montana to Superior, Wisconsin,* Docket No. 37128.

[10] 358 I.C.C. 893–94.

[11] 358 I.C.C. 894.

[12] This is a standard principle of economics. See for example: James M. Henderson and Richard E. Quant, *Microeconomic Theory,* 1958, pp. 243–252.

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consider this aspect of the draft EIS also to be inapposite. First, as pointed out above, even if every point at issue in this proceeding had been decided in favor of the railroads, rates would not remotely have approached 100 percent above the present level. Second, and perhaps more importantly, circumstances have materially changed since the draft EIS was in preparation, in that the world oil price has more than doubled since early 1979. The world oil price is a critical variable in estimating the potential environmental impact of coal rates. At 1979 oil price levels, the delivered price of energy-equivalent quantities of oil and coal were close enough that a doubling of freight rates could conceivably have made oil cost-competitive for at least some coal users. Today, however, the price of oil is more than double the delivered price of coal, even allowing for pollution control costs.[13] This renders it highly unlikely that any changes in rates permissible under the guidelines advanced here would have any significant impact on fuel use nationwide.

It must be understood that in formulating our proposed coal rate guidelines, we did not consider the prices of alternative fuels as such. Rather, we based our decision on considerations of costing methodology rate reasonableness, and railroad revenue adequacy. Only if we had found that the rail rates resulting from meeting those primary concerns would have been so high as to bring the delivered price of coal close to or above the delivered price of oil would we have had to consider energy policy explicitly as an element of maximum reasonableness. We are aware of no circumstances under which the guidelines proposed here would make the price of oil competitive with the delivered price of coal. We invite comments on this matter.

A final issue considered by the draft EIS was the potential impact of our decision on the use of Western as opposed to Eastern coal. We now believe there is no reason to apply different ratemaking principles to coal from different regions of the country. Accordingly, we anticipate that this decision will have no major impact on regional patterns of coal use.

[13] According to the recent report of the World Coal Study, oil at $35 per barrel is equivalent to coal at $165 per ton. Assuming a $45 average delivered price of coal, and allowing $35 per ton for complete pollution control, the cost of oil exceeds that of coal by some $85 per ton, on a BTU-equivalent basis. Under no assumptions would the rates under consideration in this proceeding remotely approach an $85 per ton increase over current rates. (See Carroll L. Wilson et al, *Coal—Bridge to the Future*, Ballinger, 1980.)

In sum, we have concluded that the issues considered in the draft EIS were overly broad, and that the alternatives contemplated there fell outside out actual range of ratemaking discretion. Accordingly, we now conclude that this decision will have no significant environmental or energy impact. We do, however, invite public comment on these issues.

(49 U.S.C. 10321, 10701a, 10704 and 5 U.S.C. 552)

Decided: November 10, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Clapp, Trantum, Alexis, and Gilliam. Commissioner Gilliam concurring with a separate expression. Chairman Gaskins did not participate in the disposition of this proceeding expression. Chairman Gaskins did not participate in the disposition of this proceeding but did submit a separate comment. Commissioner Clapp absent and not participating.

Agatha L. Mergenovich,

Secretary.

Commissioner Gilliam, concurring:

I agree to the publication of this notice for the sole purpose of eliciting comments from the parties on the efficacy of the new policies being contemplated for adoption. I believe there are too many unanswered questions to support, at this time, the content of the guidelines.

I am particularly concerned about the proposed treatment of deferred taxes. The notice suggests that a new rationale for allowing a return on deferred taxes is contained in the Staggers Rail Act of 1980. Coincidentally, such a return would provide an adjustment for inflation at the same time that various additives to achieve revenue adequacy are being disallowed. I believe that the ramifications of the Staggers Rail Act, in conjunction with the U.S. Court of Appeals decision in the *San Antonio* case, should be examined in some detail by the General Counsel. It appears that the court in *San Antonio* is requiring the Commission on remand to deduct deferred taxes from the net investment base if it elects to rely on normalization.

Chairman Gaskins, not participating:

Rule 14 of our Canons of Conduct provide that a Commissioner should disqualify himself in any proceeding where his or her "impartiality might reasonably be questioned." While I believe I would have approached the issues raised in this proceeding with an open mind, my impartiality might reasonably have been brought into question because I participated in formulating the views of a party in this proceeding, the U.S. Department of Energy. Consequently, I have refrained from voting on this matter. However, I wish to make it clear that I am in agreement with the views expressed in the proposed notice and that but for Rule 14, I would have voted for its issuance.

[FR Doc. 80-37724 Filed 12-3-80; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involve.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-44), *Rules Governing Applications Filed By Motor Carriers Under 49* U.S.C. §§ 11344 and 11349. Those rules provides among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register**. Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose a application must follow the rules under 49 CFR 1100.240(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.240(A)(h).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Decided: November 24, 1980.

By the Commission Review Board No. 5, members Krock, Taylor, and Williams.

MC–F–14502F, filed November 4, 1980. BEST-WAY TRANSPORTATION (Best-Way) (1813 E. Thomas Road Phoenix, AZ 85016) —purchase— BEST-WAY FREIGHT LINES OF ARIZONA (BWFLA) (same address). Representative: Lewis P. Ames, 111 W. Monroe, 10th Floor, Phoenix, AZ 85003. Best-Way seeks authority to purchase the interstate operating rights of BWFLA. Arrow Deliver Company, a non-carrier which controls 100% of the stock of Best-Way, seeks authority to acquire control of said rights through the transaction. John A. Pifer controls Arrow Delivery Company through the majority of stock ownership. Approval and authorization of this transaction will be conditioned upon the prior receipt by the Commission of an affidavit signed by John A. Pifer stating that he joins in this application as person in control. Best-Way is purchasing the interstate operating rights contained in BWFLA's certificates in MC 57254 (Sub-Nos. 1, 14, and 16), which authorize the transportation, as a motor common carrier, of *general commodities* (with various exceptions), (A) over irregular routes, between Mountain View, CA, and points within three miles of Mountain View, on the one hand, and, on the other, San Francisco, CA; and (B) over regular routes, [1] Between Lakeview, CA and junction unnumbered Hwy and Interstate Hwy 15, near Nipton, CA, serving all intermediate points: From Lakeview over U.S. Hwy 91 to junction U.S. Hwy 66, then over U.S. Hwy 66 to Essex, CA, then over unnumbered Hwys via Goffs, Ivanpah and Nipton, CA, to junction Interstate Hwy 15, and return over the same route. [2] Between Los Angeles and San Bernardino, Calif., serving all intermediate points: From Los Angeles over U.S. Hwy 66 to junction Interstate Hwy 15, then over Interstate Hwy 15 to San Bernardino, CA, and return over the same route. Serving as off-route points those in that part of CA and NV within 50 miles of Nipton, CA, including Nipton, and the off-route points within the Los Angeles Basin Territory as described below: Los Angeles Basin Territory includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; then northeasterly along said county line to the point it intersects California Hwy 118, approximately 2 miles west of Chatsworth; easterly along California Hwy 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the city of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along the said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway 99, northwesterly along U.S. Highway 99 to the corporate boundary of the city of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Hwy 60; southwesterly along U.S. Hwys 60 and 395 to the county road approximately 1 mile north of Perris; easterly along said county raod via Muevo and Lakeview to the corporate boundary of the city of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to California Highway 74, westerly along California Hwy 74 to the corporate boundary of the city of Hemet; southerly, westerly and northerly along said corporate boundary, to the right-of-way of the Atchison, Topeka & Santa Fe Railway Company; southwesterly along said right-of-way to Washington Avenue; southerly along Washington Avenue through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U.S. Highway 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway 395; southeasterly along U.S. Highway 395 to the Riverside County-San Diego County Boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shore line of the Pacific Ocean to the point of beginning. (3) Service is authorized at points in Riverside County, CA, as off-route points in connection with the regular-route operations authorized below; (4) between Redlands, CA, and the CA–AZ State line, serving all intermediate points: from Redlands over Interstate Hwy 10 to the CA–AZ State line, and return over the same route; (5) between Coachella and El Centro, CA, serving all intermediate points; from Coachella over CA Hwy 86 to El Centro, and return over the same route; (6) Between El Centro and Winterhaven, CA, serving all intermediate points: from El Centro over Interstate Hwy 4 to Winterhaven, and return over the same route;

(7) Between junction Interstate Hwy 10 and CA Hwy 111, near White Water, CA, and Calexico, CA, serving all intermediate points: From junction Interstate Hwy 10 and CA Hwy 111, near White Water, CA, over CA Hwy 111 to Calexico, and return over the same route. (8) Between El Centro, CA and a point 20 miles west of El Centro on Interstate Hwy 8, serving all intermediate points: From El Centro over Interstate Hwy 8 to a point 20 miles west of El Centro, and return over the same route. (9) Between Brawley, CA and Glamis, CA, serving all intermediate points: From Brawley over CA Hwy S78 to Glamis, and return over the same route. (10) Between Blythe, CA and Palo Verde, CA, serving all intermediate points: From Blythe over CA Hwy 78 to Palo Verde, and return over the same route. The authority in (B) above is restricted to the transportation of shipments moving to, from or through

Arizona. Best-Way is authorized to operate as a motor common carrier pursuant to certificates issued in MC–

concerning the three major regional agreements (No. 2—Western Railroads, No. 3—Eastern Railroads, and No. 6—

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An

with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought

Condition: As pertinent, IML also holds authority in its Certificate MC 33641 (Sub-24), which authorizes the transportation of general commodities,

the defendant to comply with the terms of its permit by August 1, 1982.

The Department of Justice will receive until January 5, 1981, written comments

Arizona. Best-Way is authorized to operate as a motor common carrier pursuant to certificates issued in MC–112123 and sub-numbers thereunder. CONDITION: So far as can be ascertained from the evidence of record in this proceeding, Best-Way's parent company, Arrow Delivery Company, is a non-carrier with its investments and functions primarily related to transportation. Accordingly, concurrently with consummation of the transaction authorized in this proceeding, Arrow Delivery Company will be considered a motor carrier within the meaning of 49 U.S.C. 11348. It will, therefore, be subject to the applicable provisions of 49 U.S.C. Subtitle IV, subchapter III of chapter 111 relating to reporting and accounting, and to 49 U.S.C. 11302 relating to the issuance of securities. CONDITION: Approval and authorization of this transaction is conditioned upon the prior receipt by the Commission of an affidavit signed by John A. Pifer stating that he is person in control of Arrow Delivery Company through stock ownership, and that he joins in this application as person in control.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-37722 Filed 12-3-80; 8:45 a.m.]

BILLING CODE 7035-01-M

Railroad Collective Ratemaking Agreements

AGENCY: Interstate Commerce Commission.

ACTION: Notice.

SUMMARY: The Commission is clarifying the extent of continuing antitrust immunity for rail rate bureau agreements.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane F. Mackall, (202) 275–7656.

SUPPLEMENTARY INFORMATION: In 1976, the Commission reopened all active rail rate bureau agreements to ensure compliance with the 4R Act (Pub. L. 95–210). Certain agreements [1] were processed to final decision. Others, including the consolidated proceeding concerning the three major regional agreements (No. 2—Western Railroads, No. 3—Eastern Railroads, and No. 6—Southern Railroads) were not.

With passage of the Staggers Rail Act of 1980, these agreements must again be reviewed. The proceeding involving Nos. 2, 3, and 6 will be the first case in which we apply the Staggers Act. We have indicated in a notice to those parties that immunity under existing agreements will continue pending final decision so long as the self-executing terms of the Staggers Act (for example, limitations on voting on single-line matters) are complied with.

There apparently is some confusion as to continuing immunity under other agreements. We wish to make clear that this same standard applies to all rail rate bureaus regardless of the status of individual applications. Thus, whether a proceeding has been completed, as in No. 4, or still pending, every rate bureau must comply with effective Staggers Act provisions, pending our review. If it does so, immunity will continue pending decision.

The National Perishable Freight Committee, a committee operating under Section 5b Application No. 5, Railroad Interterritorial agreement has filed a petition seeking to clarify the status of individual agreements vis-a-vis the Nos. 2, 3, and 6 proceeding. Following final decision in that consolidated case, we will address the other arguments. While a decision in Nos. 2, 3, and 6, may not be *res judicata* as to other governments, it will establish precedent to the extent the same issues are involved. This has been clear for some time. To the extent that bureaus or carriers believe it necessary to address these issues in the Nos. 2, 3, and 6 proceeding, they have been free to do so.

Dated: November 26, 1980.

By the Commission, Darius W. Gaskins, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-37726 Filed 12-3-80; 8:45 am]

BILLING CODE 7035-01-M

[1] E.g., No. 4, Southern Ports Foreign Freight Agreement. As to this bureau, we issued a final decision on June 9, 1980 which, among other things, defined the term "practicably participate," contained in the 4R Act. That definition is not consistent with the definition we proposed in our decision served August 13, 1980, in Nos. 2, 3, and 6. The bureau has requested that, in view of this more recent development, it not be required to amend its agreement to reflect the June 9 definition of "practicably participate" until a decision is reached in Nos. 2, 3, and 6. We agree and specifically authorize continued immunity under the present agreement pending further order.

Motor Carriers; Decision-Notice

The following applications, filed on or after July 3, 1980, seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control of motor carriers pursuant to 49 U.S.C. 11343 or 11344. Also, applications directly related to these motor finance applications (such as conversions, gateway eliminations, and securities issuances) may be involved.

The applications are governed by Special Rule 240 of the Commission's Rules of Practice (49 CFR 1100.240). An interim proposed final Rule 240 reflecting changes to comport with the Motor Carrier Act of 1980 was published in the July 3, 1980, **Federal Register** at 45 FR 45529 under Ex Parte 55 (Sub-44), Rules Governing Applications Filed By Motor Carriers Under 49 U.S.C. §§ 11344 and 11349. Those rules provide among other things, that opposition to the granting of an application must be filed with the Commission in the form of verified statements within 45 days after the date of notice of filing of the application is published in the **Federal Register.** Failure seasonably to oppose will be construed as a waiver of opposition and participation in the proceeding. If the protest includes a request for oral hearing, the request shall meet the requirements of Rule 240(C) of the special rules and shall include the certification required.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.240(B). A copy of any application, together with applicant's supporting evidence, can be obtained from any applicant upon request and payment to applicant of $10.00, in accordance with 49 CFR 1100.240(A)(h).

Amendments to the request for authority will not be accepted after the date of this publication. However, the Commission may modify the operating authority involved in the application to conform to the Commission's policy of simplifying grants of operating authority.

We find, with the exception of those applications involving impediments (e.g., jurisdictional problems, unresolved fitness questions, questions involving possible unlawful control, or improper divisions of operating rights) that each applicant has demonstrated, in accordance with the applicable provisions of 49 U.S.C. 11301, 11302, 11343, 11344, and 11349, and with the Commission's rules and regulations, that the proposed transaction should be authorized as stated below. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor does it appear to qualify as a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests as to the finance application *or* to any application directly related thereto filed within 45 days of publication (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (unless the application involves impediments) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, the duplication shall not be construed as conferring more than a single operating right.

Applicant(s) must comply with all conditions set forth in the grant or grants of authority within the time period specified in the notice of effectiveness of this decision-notice or the application of a non-complying applicant shall stand denied.

Decided: December 1, 1980.

By the Commission, Review Board No. 5, Members Krock, Taylor and Williams. (Board member Taylor dissents and would deny the application. The application can only be approved upon the condition that certain intermediate and off route point served in connection with retained regular route authority in transferors subs 24 and 37 authority be cancelled. While the transferor may not have any objection to the cancellation of such authority, the cancellation thereof is in conflict with the intent of Congress as evidenced by the Motor Carrier Act of 1980.)

MC–F–14501F, filed November 4, 1980. VEGAS TRUCKING CO. (Vegas) (2853 Cedar Street, Las Vegas, NV 89104)—Purchase (Portion)—IML FREIGHT, INC. (IML) (10 Exchange Place, Salt Lake City, UT 84111). Representative: Donald E. Fernaays, 4040 E. McDowell Rd., Suite 320, Phoenix, AZ 85008. Vegas seeks authority to purchase a portion of the interstate operating rights of IML. V. J. Hunt and Gladys J. Hunt are equal stockholders of Vegas, and, as a condition to the approval of this transaction, will be required to join in the application. Vegas is purchasing that portion of IML's Certificate MC 33641 (Sub-24), which authorizes the transportation, as a motor common carrier, over irregular routes, of *general commodities,* except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment (other than for loading and unloading), between Las Vegas, NV, on the one hand, and, on the other, points in NV within 75 miles of Las Vegas. Vegas is authorized to operate as a motor common carrier pursuant to authority issued in MC 113981 and sub-numbers thereunder. Condition: Approval and authorization of this transaction is conditioned upon the prior receipt by the Commission of an affidavit signed by V. J. Hunt and Gladys J. Hunt, stating that they are persons in control of Vegas Trucking Co. through stock ownership and that they join in this application.

Condition: As pertinent, IML also holds authority in its Certificate MC 33641 (Sub-24), which authorizes the transportation of general commodities, with various exceptions, between Los Angeles Harbor, CA, and Ogden, UT, serving all intermediate points in CA, AZ, and UT, and those in NV between Las Vegas, NV, and the NV–AZ State line, and the off-route points of the Test Site of the U.S. Atomic Energy Commission at or near Mercury, NV, Enterprise, Milford, Delta, and Heber, UT, Riverside, CA, and those in the Los Angeles Commercial Zone and the Los Angeles Harbor Commercial Zone, as defined by the Commission in Los Angeles, CA Commercial Zone, 3 M.C.C. 248, those in CA between Los Angeles Harbor, and Los Angeles, CA, within 15 miles of the route described immediately below, those in CA, AZ, and UT within 10 miles of the route described immediately below, those within 10 miles of Las Vegas, NV, those within 10 miles of Ogden, UT, and those in NV within 10 miles of the route described immediately below between Las Vegas, NV, and the NV–AZ State line unrestricted; and serving the intermediate point of Las Vegas, NV, restricted to traffic moving to or from points other than those in CA. IML states that if has no objection to the duplicating portion of its authority being cancelled to resolve the problem. In order to eliminate the retention and sale of duplicating authority by IML, approval and authorization of this transaction is conditioned upon the cancellation of that portion of IML's Sub-24 which authorizes service to all intermediate points in NV between Las Vegas, NV, and the NV–AZ State line, and the off-route points in those within 10 miles of Las Vegas, NV, and those in NV within 10 miles of the described route between Las Vegas, NV, and the NV–AZ State line.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-37771 Filed 12-3-80; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Consent Decree in Action To Enforce Compliance With Terms of NPDES Permit

In accordance with Departmental policy, 28 CFR § 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *Nevada Power Company* has been lodged with the United States District Court for the District of Nevada. The decree requires the defendant to comply with the terms of its permit by August 1, 1982.

The Department of Justice will receive until January 5, 1981, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Nevada Power Company* D.J. Ref. 90–5–1–1–1110.

The consent decree may be examined at the office of the United States Attorney, District of Nevada, United States Courthouse, 300 Las Vegas Boulevard, Las Vegas, Nevada 89101 at the Region IX office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California 94102, and the Environmental Enforcement Section., Land and Natural Resources Division of the Department of Justice, Room 1254, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

Angus MacBeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80-37627 Filed 12-3-80; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 80-49]

Reports, Recommendations and Responses; Availability

Highway Accident Report

B & J Trucking Company Truck Tractor/Coachella Valley Unified School District Schoolbus Collision, State Route 86, Near Coachella, California, April 23, 1980 (NTSB–HAR–80–6).—In its formal investigation report, released November 25, the National Transportation Safety Board establishes that the truck tractor was traveling north, about 3:25 p.m., on California State Route 86, a two-lane rural highway, when its left front tire blew out. The tractor swerved to the left, crossed the centerline, and collided head-on with a southbound schoolbus that was transporting nine teenaged students home from school. The busdriver and three students were killed; the truckdriver and six students were injured.

The Safety Board determined that the probable cause of this accident was the

failure of the truck company to properly maintain its vehicle which resulted in a blow-out of the left front tractor tire, causing the truckdriver to lose control of his vehicle. Contributing to the accident was the lack of a truck company preventive maintenance program and an inadequate California Highway Patrol inspection that should have detected the deteriorated condition of the tire before it blew out.

As a result of its investigation of this accident, the Safety Board on October 21 issued three recommendation letters containing the following corrective recommendations:

—to the *State of California:*

Revise Section 1088 of the California Administrative Code to match the minimum tread depth requirements of the Federal Motor Carrier Safety Regulations, § 343.75(b) and (c), which are more in keeping with tire standards recommended by current research. (H–80–70)

Circulate the Coachella accident report, with its finding of the inadequate inspection of the truck, among California Commercial Vehicle inspectors. (H–80–71)

Investigate the potential for limited improvements along California State Route 86 between Coachella and Westmorland, California, that will at least serve as interim safety improvements while longer term improvements are under consideration. (H–80–72)

—to the *National Highway Traffic Safety Administration:*

Take immediate action to fulfill its commitment to urge the States to adopt a schoolbus seating policy that front and rear seats be left vacant when feasible and to revise NHTSA pupil transportation safety manuals to include this policy. (H–80–73)

—to the *National School Transportation Association:*

Inform its members of the National Transportation Safety Board recommendation that front and rear seats of schoolbuses be left vacant when feasible. (H–80–74)

Each of the above recommendations, with the exception of No. H–80–70, is designated "Class I, Urgent Action." Recommendation H–80–70 is designated "Class II, Priority Action."

The report was adopted by Chairman James B. King, Vice Chairman Elwood T. Driver, and Members Francis H. McAdams and Patricia A. Goldman; Member G. H. Patrick Bursley did not participate. Member Goldman filed a separate concurring and dissenting opinion. She concurred in the analysis, conclusions, probable cause, and recommendations in the report with the following exceptions: She does not concur with recommendation H–80–72 to the State of California, since, first of all, the highway was not a causal factor in this accident, and, secondly, California is already considering major construction improvements along this route. Finally, Member Goldman does not believe it is appropriate to "second-guess the State of California based on the limited 'preliminary analysis of the accident statistics.' " Further, Member Goldman does not concur with the "urgent" recommendation to the National Highway Traffic Safety Administration. She states, "First of all, there is 'scant information' available in the accident history of schoolbuses to indicate that one is actually safer is seated in the middle of the bus. Secondly, I believe it is highly impractical to believe that a 'middle-seats-first policy' could be effectively enforced. Therefore, even though the recommendation has the 'virtues of simplicity and low cost,' I do not believe it is justified."

On November 18 the California Department of Transportation provided a response to recommendation H–80–72, noting that the report indicated that the highway was not a causal factor in the accident, but, because of the high fatality rate, there was a potential for interim safety improvements. The Department reports taking the following actions to improve safety on Route 86:

- Replacing narrow bridges with full-width bridges and shoulder widening. This effort has been under way for some time. Ten bridges are being replaced this year and the final seven bridges are scheduled for replacement in 1981.
- Installing pavement markers on centerline to provide a rumble effect when drowsy drivers stray across the centerline. This work is completed.
- Installing a "headlight test section" in which motorists are advised to turn on headlights in the daytime. This has been completed.
- Installing frequent signs warning of oncoming traffic. This is completed.

The department states that it is continuing to monitor safety conditions on this highway, as with all State highways, and will take whatever actions appear necessary within the limits of its funding capability.

Railroad Special Investigation Report

Tank Car Structural Integrity After Derailment (NTSB–SIR–80–1).—Since 1968 the Safety Board has investigated many serious accidents involving release of hazardous materials from tank cars which were either breached or ruptured following derailments. As a result of these investigations, the Safety Board recommended that Federal authorities take remedial action to reduce the likelihood of tank cars releasing their contents in the derailment environment. (Ref.: "Safety Effectiveness Evaluation: Analysis of Proceedings of the National Transportation Safety Board Into Derailments and Hazardous Materials, April 4–6, 1978" (NTSB–SEE–78–2); "Safety Report on the Progress of Safety Modification of Railroad Tank Cars Carrying Hazardous Materials" (NTSB–SR–79–2).)

During its investigation of a railroad derailment which occurred near Inwood, Ind., on November 8, 1979, the Safety Board noted unresolved questions about the dangers posed in handling severely damaged tank cars containing liquefied flammable gases at the accident site. Because of this continuing problem, the Board initiated this special investigation to identify the hazards caused by the actual reduction of the ability of damaged cars to contain their lading; to determine the ability of experts to estimate this reduced capability; and to examine the feasibility of developing practical guidelines to help determine how damaged hazardous materials tank cars should be handled. The Board is also investigating the Inwood accident to determine the probable cause, and a "Brief of Accident" will be issued when that investigation is completed.

Safety Board recommendations have resulted in the installation of additional shielding and the installation of couplers which resist vertical separation. These safety improvements have been instrumental in reducing tank car head punctures. Insulation and thermal coatings have also been applied at the Board's insistence to lessen the possibility of the rupture of tank cars in a fire. Some of these safeguards have effectively reducted the probability of tank car breach and tank car rupture during the derailment process. (Ref.: "Special Investigation Report: The Accident Performance of Tank Car Safeguards" (NTSB–HZM–80–1).)

As a result of the findings and conclusions of the subject special investigation, the Safety Board on October 21 made recommendations to the Research and Special Programs Administration of the Department of Transportation (recommendation I–80–1), to the Federal Railroad Administration (I–80–2), and to the Association of American Railroads (I–80–3) concerning safeguarding of wreck-clearing crews at derailment sites in which hazardous materials are involved. (See 45 FR 71870, October 30, 1980.)

Cooperating with the Safety Board as parties to this special investigation were the Federal Railroad Administration, the Association of American Railroads, the Compressed Gas Association, Hulcher Emergency Services, and the General American Transportation Corporation. Members of the investigative group included experts in fracture mechanics, tank car design, compressed gas shipments, and hazardous materials.

The Board's formal report, made public on November 25, concludes that currently there is no accurate method for determining the residual strength of damaged tank cars at derailment sites. The method now used for determining structural damage is based on inspection and observation and can lead to underestimating the danger involved in moving the tank cars.

Responses to Safety Recommendations

Aviation

A–78–43, from the Federal Aviation Administration, November 13, 1980.—Response is to the Safety Board's inquiry of October 8, 1980, as to FAA's progress in implementing this recommendation, issued July 7, 1978, in connection with stall spin awareness. The recommendation asked FAA to incorporate all of the essential elements of the ground and flight training increments developed in the "General Aviation Pilot Stall Awareness Training Study," or their equivalent, in FAR Parts 61 and 141. FAA's initial response was made on September 1, 1978 (43 FR 44576, September 28, 1978), indicating that a survey was expected to be completed by March 1979 and if the results of the survey indicated rulemaking to be appropriate, regulatory projects would be established.

FAA's November 13 response reports that the stall awareness training study will be included, in its entirety, into FAR Parts 61 and 141 agenda for consideration in the upgrading of pilot training standards. FAA is planning a regulatory review of FAR Parts 61 and 141 during the current fiscal year and is fully aware of the importance of this action and hopeful that work can begin during this calendar year. Meanwhile, FAA has written to all industry sponsors of FAA-approved flight instructor refresher courses to include training on stall spin awareness. Further, the FAA Examiner Standardization Section has included a unit of instruction on stall spin awareness to all pilot examiners. The intent of these actions is to inform the flight instructors and pilot examiners of the elements of stall spin awareness training. FAA will keep the Board informed of the status of upgrading FAR Parts 61 and 141.

Railroad

R–80–6 and –7, from the Federal Railroad Administration, November 14, 1980.—Response is to Safety Board's comments of October 15 concerning FRA's initial response of June 9 (45 FR 43292, June 26, 1980) to recommendations issued as a result of the Safety Board's special study, "Railroad Emergency Procedures."

The Safety Board's October 15 letter notes that the Board's study and the recommendations refer clearly to emergency response plans to guide operating employees in emergencies. The reference to the passenger train derailment at Elma, Va., on December 3, 1978, emphasized that the Board's concern was directed primarily at procedures to guide railroad operating employees in the rescue of passengers and the railroad's relationships with emergency response units. Recommendation R–80–6 deals with formulation and validation of guidelines for use by crewmembers in emergencies, and recommendation R–80–7 asks FRA to require railroads to develop and implement their respective plans and file those plans with the FRA.

Further, the Board's letter notes that FRA's response on the other hand primarily addresses wreck-clearing procedures, indicating the FRA may have misunderstood the thrust of the Board's recommendations. Although FRA says that "special attention will be given to the development of a model emergency response plan for the railroad industry," the Board finds no indication that this refers to the kind of emergency response plans the Board is recommending. Thus, the Board finds that FRA's action is not responsive to recommendations R–80–6 and –7 and offers to hold a joint NTSB/FRA staff meeting to clear up any misunderstanding of the Board's special study and recommendations. The Board also asked to receive the results of FRA's study cited in FRA's June 9 response, planned for completion in December 1981.

FRA's November 14 response notes that the subject recommendations were discussed at NTSB/FRA Quarterly Meeting on Railroad Safety Recommendations, held October 30. Also discussed at length was the intent of the Board's special study, and the following clarification of FRA's response was accepted. As a first step in the development of a model emergency response plan, FRA's Office of Research and Development is coordinating development efforts with the Bureau of Explosives of the Association of American Railroads and has awarded a support contract to Edwards Air Force Base to study wreck clearance procedures and hazards. A guideline document is scheduled for completion by December 1981. Special attention will be given to the development of a model emergency response plan for the railroad industry. Operating railroads will be encouraged to use this model in the development of individual plans for emergency response to passenger and freight train derailments.

At this time, FRA plans to rely on voluntary cooperation of the railroad industry and its employees in implementing an emergency response plan. FRA will keep the Safety Board advised of any future pertinent developments as they occur.

R–80–31 and –32, from the Federal Railroad Administration, November 14, 1980—Response is to recommendations issued August 15 as a result of investigation of the Amtrak passenger train derailment last March 15 at Glacier Park, Montana. (See 45 FR 57606, August 28, 1980.)

In response to recommendation R–80–31, which asked FRA to promulgate regulations to establish minimum safety standards for inspecting and maintaining railroad passenger cars, FRA reports that the Federal Railroad Safety Authorization Act of 1980 (Pub. L. 96–423), enacted on October 10, 1980, amends Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) regarding the inspection and maintenance of railroad passenger cars. Under these new provisions, the Secretary of Transportation shall, within two years after the date of enactment of this subsection (September 24, 1982), issue such initial rules, regulations, orders, and standards as may be necessary to insure the safe construction, maintenance, and operation of railroad passenger equipment. In issuing these rules, regulations, orders, and standards the Secretary shall concentrate on those areas which in the judgment of the Secretary present the greatest opportunity for enhancing the safety of railroad passenger equipment.

FRA notes that it currently uses informal guidelines and other crashworthiness items as a checklist or guide when discussions are held with the industry prior to the procurement of new passenger cars. As a result, many guidelines have been incorporated into the designs for new rail vehicles and in various retrofit and overhaul programs throughout the industry.

Recommendation R–80–32 called on FRA to amend track safety standard 49 CFR 213.241, Inspection Records, to require railroad inspectors to list on their inspection records the location of rails which exhibit the external conditions listed in subpart (b) of 49 CFR 213.113, Defective Rails, and the remedial action they have taken. In response, FRA notes that § 213.241 of the Federal Track Safety Standards

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already requires railroad inspectors to record the location and nature of any deviation from the requirements and the remedial action taken. FRA notes that according to the report on the Glacier Park accident (NTS–RAR–80–6), the carrier admitted that the rails should have been changed out because of the surface imperfections. The existence of a defect as defined in § 213.113(b), FRA states, should have been recorded on the carrier's inspection reports. FRA plans no further action concerning this recommendation and recommends "Closed—Acceptable Action."

Note.—Single copies of Safety Board reports are available without charge, as long as limited supplies last. Copies of Board recommendation letters, responses and related correspondence are also provided free of charge. All requests for copies must be in writing, identified by recommendation or report number. Address requests to: Public Inquires Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Safety Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

November 26, 1980.

[FR Doc. 80-37649 Filed 12-3-80; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee on Babcock & Wilcox Water Reactors; Meeting

The ACRS Subcommittee on the Babcock & Wilcox Water Reactors will hold a meeting at 8:30 a.m. on December 18, 1980 in Room 1046, 1717 H Street, N.W., Washington, DC to review the February 26, 1980 event at Crystal River, Unit 3 to determine if there are any significant features or causes that are generic to Babcock & Wilcox water reactors.

In accordance with the procedures outlined in the **Federal Register** on October 7, 1980, (45 FR 66535), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows: *Thursday, December 18, 1980, 8:30 a.m. until the conclusion of business.*

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. John C. McKinley (telephone 202/634/1414) between 8:15 a.m. and 5:00 p.m., EST.

Dated: November 26, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80-37700 Filed 12-3-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-237, 50-249, 50-254, 50-265; DD 80-32]

Commonwealth Edison Co. (Dresden Station Units 2 and 3, Quad Cities Station Units 1 and 2); Issuance of Director's Decision

By petition dated October 24, 1980, Ms. Catherine Quigg, on behalf of Pollution and Environmental Problems, Inc., requested that the Nuclear Regulatory Commission (the Commission) shut down immediately Dresden Station Units 2 and 3 and Quad Cities Stations Units 1 and 2 until "essential scram discharge volume monitoring equipment" is installed. This equipment was the subject of an October 2, 1980 "Confirmatory Order" sent to Commonwealth Edison Company (licensee) which required that the equipment be in place by December 1, 1980; in the interim period between October 2 and December 1, the licensee was ordered to increase surveillance of the scram discharge volume (SDV) water level to at least once per shift.

The Commission's Director of Nuclear Reactor Regulation has treated this request as a request for action under 10 CFR 2.206. Upon review of this matter, the Director has determined that shut down of the named facilities is not warranted and that continued operation of the facilities pending installation of the scram dischage volume monitoring equipment on December 1, 1980 will not jeopardize public health and safety. Accordingly, the request has been *denied.*

Copies of the Director's decision are available for inspection in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60451 (for the Dresden Station), and at the Moline Public Library, 504 17th Street, Moline, Illinois 61265 (for the Quad Cities Station). A copy of the decision will also be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations.

As provided in 10 CFR 2.206(c), the decision will constitute the final action of the Commission twenty (20) days after the date of issuance, unless the Commission, on its own motion, institutes a review of the decision within that time.

Dated at Bethesda, Maryland this 28th day of November, 1980.

Edson G. Case,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 80-37702 Filed 12-3-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-10, 50-237, 50-249, 50-254, 50-265, 50-295, and 50-304]

Commonwealth Edison Co.; Issuance of Amendments to Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has respectively issued Amendment Nos. 32, 51, and 45 to License Nos. DPR–2, DPR–19 and DPR–25 for Dresden Nuclear Power Station Unit, Nos. 1, 2 and 3; Amendment Nos. 60 and 55 to License Nos. DPR–29 and DPR–30 for Quad Cities Nuclear Power Station, Unit Nos. 1 and 2; and Amendment Nos. 58 and 55 to License Nos. DPR–39 and DPR–48 for Zion Station, Unit Nos. 1 and 2. Dresden Nuclear Power Station, Unit Nos. 1, 2 and 3 are located in Grundy County, Illinois; Quad Cities Nuclear Power Station, Unit Nos. 1 and 2 are located in Rock Island County, Illinois; and Zion Station, Unit Nos. 1 and 2 are located in Zion, Illinois.

The amendments add license conditions to include the Commission-approved Safeguards Contingency Plan as part of the licenses.

The licensee's filing complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of the amendments.

The licensee's filing dated March 24, 1980, and its revision dated June 27, 1980, are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR 9.12.

For further details with respect to this action, see (1) all of the amendments identified in the first paragraph of this Notice and (2) the Commission's related letter to the licensee dated November 17, 1980. The items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Morris Public Library, 604 Liberty Street, Morris, Illinois 60601 (Dresden 1, 2 and 3), at the Moline Public Library, 504 17th Street, Moline, Illinois 61265 (Quad Cities 1 and 2), and at the Zion-Benton Public Library District, 2600 Emmaus Avenue, Zion, Illinois 60099. A copy of the amendments and the Commission's related letter may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 17th day of November 1980.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 80-37703 Filed 12-3-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-302]

Florida Power Corp., et al.; Issuance of Amendment to Facility, Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 36 to Facility Operating License No. DPR–72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to authorize an increase in the capacity of the spent fuel storage pools at the facility.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the **Federal Register** on June 15, 1978 (43 FR 25885). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an Environmental Impact Appraisal for this action and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated May 1973.

For further details with respect to this action, see (1) the application for amendment dated March 17, 1978, as supplemented, (2) Amendment No. 36 to License No. DPR–72, (3) the Commission's related Safety Evaluation and (4) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Crystal River Public Library, Crystal River, Florida. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 17th day of November 1980.

For the Nuclear Regulatory Commission.

Robert W. Reid,

Chief, Operating Reactors Branch No. 4, Division of Licensing.

[FR Doc. 80-37704 Filed 12-3-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. STN 50-596 and STN 50-597]

New York State Electric & Gas Corp., Long Island Lighting Co., Withdrawal of Application for Construction Permit

By letter, dated October 16, 1980, New York State Electric and Gas Corporation and Long Island Lighting Company (Applicants) withdrew their application to construct and operate the New Haven Station, Units 1 and 2. The site was located in the Town of New Haven, Oswego County, New York, approximately 9 miles east of The City of Oswego, 30 miles north of Syracuse, and 2 miles south of Lake Ontario.

On November 6, 1980, the NRC Atomic Safety and Licensing Board granted the applicant's request to terminate the construction permit proceeding in its "Order Dismissing Application and Terminating Proceeding."

Accordingly, the Commission considers the New Haven construction permit application to be withdrawn and the corresponding licensing proceeding to be terminated.

Correspondence concerning this application will continue to be maintained at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and for the next six months at the Penfield Library, State University College at Oswego, Oswego, New York 13126.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Md., this 26th day of November 1980.

B. J. Youngblood,

Chief, Licensing Branch No. 1, Division of Licensing.

[FR Doc. 80-37705 Filed 12-3-80; 8:45 am]

BILLING CODE 7590-01-M

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Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 3.45, "Nuclear Criticality Safety for Pipe Intersections Containing Aqueous Solutions of Enriched Uranyl Nitrate," describes procedures acceptable to the NRC staff for the prevention of criticality accidents in the storage and processing of aqueous solutions of enriched uranyl nitrate in pipe intersections. The guide endorses ANSI/ANS 8.9–1978, "Nuclear Criticality Safety Guide for Pipe Intersections Containing Aqueous Solutions of Enriched Uranyl Nitrate."

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on the subscription service and current prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

For the Nuclear Regulatory Commission.

Dated at Rockville, MD., this 25th day of November 1980.

Ray G. Smith,

Acting Director, Office of Standards Development.

[FR Doc. 80-37701 Filed 12-3-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-220]

Niagara Mohawk Power Corp. (Nine Mile Point Nuclear Station); Order for Modification of License (Effective Immediately) and Order To Show Cause

I

The Niagara Mohawk Power Corporation (the Licensee) is the holder of Facility Operating License No. DPR–63 which authorizes the Licensee to operate the Nine Mile Point Nuclear Station at power levels not in excess of 1850 megawatts thermal (rated power). The facilities is a boiling water reactor located at the Licensee's site in Oswego County, New York.

II

Following the Three Mile Island Unit 2 (TMI–2) accident on March 28, 1979 a TMI–2 Lessons Learned Task Force of the Nuclear Regulatory Commission (NRC) staff conducted an intensive review of the design and operational aspects of nuclear power plants and the emergency procedures for coping with potential accidents. The task force identified measures to be taken in the short-term to reduce the likelihood of accidents and to improve emergency preparedness in responding to accidents. These measures are set forth in NUREG–0578, "TMI–2 Lessons Learned Task Force Status Report and Short-Term Recommendations." The NRC concluded that prompt implementation of those actions designated as "Category A" requirements at operating nuclear power plants was necessary to provide continued assurance of adequate protection of public health ans safety. These "Category A" requirements were transmitted to all holders of nuclear power plant operating licenses by letter dated September 13, 1979. Further clarification of these requirements was transmitted to all holders of nuclear power plant operating licenses by letter dated October 30, 1979. With respect to Category A Item 2.1.8.b, licensees were to implement procedures for estimating noble gas release rates if the existing effluent instrumentation goes off scale.

By letters dated October 18, November 26, December 19, 20, and 31, 1979, the Licensee had previously submitted commitments and documentation of actions taken at Nine Mile Point Nuclear Station to implement the requirements resulting from NUREG–0578 and subsequent NRC letters to the Licensee dated September 13 and October 30, 1979. With respect to Category A Item 2.1.8.b, the Licensee stated in its letter dated December 31, 1979 that by January 1, 1980:

> The existing in-line stack monitors are capable of detecting 50 Ci/sec. or approximately 0.55 uCi/cc (Xe–133) with normal ventilation flow of 180,000 ft.³/minute. These monitors have readout and alarm capability in the main control room. Quantification of higher level noble gas releases will be provided by means of a portable gamma survey instrument. This instrument will be installed such that it will monitor a portion of the sample line to the existing stack monitors. This line comes from isokinetic probe in the main stack.
>
> Background radiation will be shielded by means of a lead cave around the detector. The instrument has an upper limit of at least 1,000 R/hr. It will be calibrated with a Xe–133 source such that the reading can be related from R/hr. uCi/sec. stack release rate. Since all station effluents are discharged via the stack, the effluents monitored in this line are representative of the stack discharge. Until the Xe–133 calibration can be accomplished, the existing stack monitor calibration dependence data will be ulitized to establish a calibration factor.
>
> Readings on the interim monitor will be taken locally and the results verbally communicated to the main control room. This method would be used only in a case where the existing monitors were off scale (high). Communication will be by means of a headset and will be taken approximately every fifteen minutes, when required.
>
> The in-line monitors are powered from redundant AC power sources. These monitors are not presently powered from emergency sources. Power to the interim monitors will be from a DC battery source, capable of eight consecutive days of continuous readout.

An immediately effective ORDER TO SHOW CAUSE dated January 2, 1980 which incorporated by reference, the October 30, 1979 letter, required, among other things, the Licnesee to do the following:

> By January 31, 1980 implement all "Category A" requirements (except the requirement of 2.1.7.a of NUREG–0578) referred to in Part II of this Order, except those for which necessary equipment is shown by appropriate and timely documentary justification to the Director, Office of NRR, to be unavailable, or in the alternative, place and maintain its facilities in a cold shut down or refueling mode of operation. "Category A" requirements not implemented by January 31, 1980, owing to the unavailability of necessary equipment shall be implemented within 30 days of the date such equipment becomes available but no later than June 1, 1980.

In its Answer to Show Cause dated January 22, 1980 the Licensee stated under oath that the action on "Category A" Item 2.1.8.b of NUREG–0578 had been completed on December 31, 1979.

III

Inspection and investigation conducted on October 8–10, 20–31, November 1 and 18, 1980, including interviews of Niagara Mohawk Power Corporation personnel, show that actions required by the Commission's Order dated January 2, 1980 with regard to "Category A" Item 2.1.8.b were not completed by January 31, 1980 as required. Specifically, as of October 8, 1980: (a) a lead cave to provide shielding had not been constructed nor had any action been taken to do so; (b) a portable gamma survey instrument had not been installed nor had a dedicated instrument been identified; (c) there was no evidence that indicated that steps were being taken to perform calibration with a Xe–133 source to relate R/hr to stack release rates; (d) there were no specific procedures to assure that in the event the existing in line stack monitor goes off scale, a portable gamma survey instrument would be properly installed, and readings taken locally approximately every 15 minutes and communicated verbally by means of a headset to the control room; and (e) the facility continued to operate.

In addition, it was found that:

A. The mangement control system at the Nine Mile Point Nuclear Station placed reliance on oral information from subordinates without providing for adequate verification that required actions had been taken.

B. In a sworn statement dated October 31, 1980, the (then) Site Superintendent stated that he knew that the lead cave had not been installed at the time he concurred in the content of the licensee's letters to NRC dated December 31, 1979 and January 22, 1980. In a sworn statement dated November 18, 1980, he stated that he did not communicate this information to higher management.

C. In a sworn statement dated November 1, 1980, the Executive Vice President affirmed that he signed the response by the Niagara Mohawk Power Corporation dated January 22, 1980, to the Commission's Order to Show Cause, dated January 2, 1980. He stated that he is familiar with the general process by which the response was prepared but that he did not participate in the preparation of specific information contained therein nor was he aware of the basis on which lower management formulated the implementation schedule for any of the "Category A" items, including 2.1.8.b, "Increased Range of Radiation Monitors."

He stated that he did not recall reviewing the response and did not recall having any management meetings or oral communication with either corporate or site management about the preparation of the response.

He stated that he signed the response to the Order to Show Cause based on his reliance on lower management and that it was his belief that the response reflected accurate information.

D. The failure of the (then) Site Superintendent to communicate to responsible corporate officers the actual status of actions required by the Commission's Order dated January 2, 1980 and the failure of the Executive Vice President to take steps to verify the completeness and accuracy of the response prepared for his signature under oath resulted in the execution of a response to the Order which contained a false statement that the actions required by "Category A" Item 2.1.8.b were complete when in fact they were not. This false statement contributed significantly to the failure to comply with the Commission's Order dated January 2, 1980 going undetected until October 8, 1980 when it was discovered during the course of a Health Physics Appraisal inspection.

IV

As noted above, at least one responsible manager in the licensee's organization, the (then) Site Superintendent, knew that the January 22, 1980 sworn statement submitted in response to the January 2, 1980 Order was false. This statement that the requirement of Category A Item 2.1.8.b was completed by December 31, 1980 was not only false but also material since operation of Nine Mile Point Unit 1 was permitted to continue beyond January 31, 1980 in the belief by NRC that the requirements of the Commission's Order dated January 2, 1980 were satisfied. Meeting requirement 2.1.8.b was necessary to mitigate the consequences of postulate accidents by providing reliable information on which to base decisions concerning protective actions, including evacuation. The material false statement is set forth in the Notice of Violation issued this date.

V

Under Section 186 of the Atomic Energy Act of 1954, as amended, and in the Commission's regulations, in 10 CFR 50.100, an operating license may be suspended for a material false statement or a finding which would warrant the Commission to refuse to grant an operating license on initial application.

Based on the foregoing, I have concluded that in addition to the material false statement involved, if it had been known that a false statement of the character found here were going to be made, a license would not have been issued. I have also concluded that the action of management of this licensee demonstrates that there is no longer a basis to rely on its statements and commitments and that there is no longer reasonable assurance that the licensee will comply with Commission requirements. Therefore, I have determined that the public health, safety or interest requires that immediate corrective action be taken, including removal of the (then) Site Superintendent from nuclear activities and that a basis exists for questioning the continued involvement in nuclear activities of the Executive Vice President, in that he signed, under oath, the January 22, 1980 submittal.

VI

Accordingly, pursuant to Section 161(i) and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Parts 2 and 50,

It is hereby ordered that:

A. effective immediately, License DPR–63 is amended by adding thereto the following conditions:

(1) "Mr. T. J. Perkins, shall not be involved with nuclear matters for Niagara Mohawk Power Corporation";

(2) "Procedures shall be implemented by January 5, 1981 to ensure that managers at all levels of the Licensee's organization provide full, accurate and timely information to higher management and to the Nuclear Regulatory Commission, when such information is provided thereto. On or before January 5, 1981, a written report describing such procedures and steps taken to implement them shall be submitted to the Director, Office of Inspection and Enforcement."

B. the Licensee Show Cause why Mr. James Bartlett, the Executive Vice President, who signed the January 22, 1980 letter, should not be similarly removed from involvement in nuclear matters.

VII

The Licensee may, on or before January 5, 1981 show cause, as required by Section VI B, by filing a written answer under oath or affirmation setting forth the matters of fact and law upon which the Licensee relies. Upon failure of the Licensee to file an answer within the time specified, the Director, Office of Inspection and Enforcement, may issue an order taking the actions stated in Section VI B.

VIII

The Licensee, or any other person

received for review since the last list was published. The list has all the entries for one agency together and

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments

Japanese Automotive Parts Buying Mission [1]
Semiannually
Businesses or Other Institutions

Off. of Federal Statistical Policy & Standard, 202–673–7974

This survey has provided measures of production and shipments of insulates

ERA–460
On occasion
Businesses or other institutions
Petroleum refiners

VIII

The Licensee, or any other person who has an interest affected by this Order, may request a hearing no later than January 5, 1981. Any answer to this Order or any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555 with a copy to the Executive Legal Director at the same address. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which the petitioner's interest is affected by this Order and should address the criteria set forth in 10 CFR 2.714(d). If a hearing is requested by the Licensee or any person who has an interest affected by this Order, the Commission will issue an order designating the time and place of any such hearing. Any request for a hearing shall not stay the immediate effectiveness of Section VI, A(1) and A(2).

In the event a hearing is held, the issue to be considered at such hearing shall be whether, on the basis of the facts set forth in Parts II, III and IV of this Order, the actions set forth in Section VI should be sustained.

Dated at Bethesda, Maryland this 26th day of November, 1980.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Director, Office of Inspection and Enforcement.

[FR Doc. 80-37706 Filed 12-3-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

November 25, 1980.

Background

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The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
The Standard Industrial Classification (SIC) codes, referring to specific respondent groups that are affected;
Whether small businesses or organizations are affected;
A description of the Federal budget functional category that covers the information collection;
An estimate of the number of responses;
An estimate of the total number of hours needed to fill out the form;
An estimate of the cost to the Federal Government;
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Comments and Questions

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DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202-447-6201

New

• Forest Service
A Directory of Forest Tree Nurseries in the United States
Other—See SF83
Business or Other Institutions
Forest Tree Nurseries Who are State, Fed., & Private Ent.
SIC: 085
Small Businesses or Organizations
Conservation and Land Management, 300 responses, 75 hours; $2,500 Federal cost, 1 form
Charles A. Ellett, 202-395-7340

A directory of forest tree nurseries in the U.S. to enable private, State, and Federal tree planter seeking forest tree planting stock to find appropriate sources.

Extensions (Burden Change)

• Animal and Plant Health Inspection Service
Application/Certification-Purebred Animals Imported for Breeding
VS 17-338
On Occasion
Farms
Farmers Engaged in Importing Purebred Animals for Breeding
SIC: 024, 075
Agricultural Research and Services, 1,000 responses, 250 hours; $18,312 Federal cost, 1 form
Charles A. Ellett, 202-395-7340

Application for importing purebred animal for breeding purposes; also serves as certification of pure breeding to the collector of customs.

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—202-377-3627

New

• International Trade Administration
Japanese Automotive Parts Buying Mission [1]
Semiannually
Businesses or Other Institutions
Automotive Parts Manufacturers
SIC: Multiple
Small Businesses or Organizations
Other Advancement and Regulation of Commerce, 120 responses, 60 hours; $2,000 Federal cost, 1 form
William T. Adams, 202-395-4814

The government of Japan sent a trade mission to the U.S. Sept. 8-22, 1980 with the purpose of expanding Japan's imports of automotive parts from the U.S. The U.S. and Japanese Governments agreed to monitor jointly the results of the mission. The first phase of monitoring is to be completed by Jan. 1981. The U.S. commitment is to follow up with the 60 U.S. firms that met with the mission members. The proposed survey instrument is central to fulfilling this commission.

Revisions

• Bureau of the Census
Mining Machinery and Mineral Processing Equipment (Shipments)
MA-35F
Annually
Businesses or other institutions
Manufacturers of mining machinery and equipment
SIC: 353 374
Small businesses or organizations
Other advancement and regulation of commerce, 215 responses, 143 hours; $31,315.000 Federal cost; 1 form
Off. of Federal Statistical Policy & Standard, 202-673-7974

This survey was begun in 1961 to provide quantity and value of shipments for mining machinery and mineral processing equipment. Government agencies use the data for trade analysis, measurement, and forecasting. Business firms and trade associations use the data for market share analysis and long-term planning.

• Bureau of the Census
Insulated wire and cable (shipments)
MA-33L
Annually
Businesses or other institutions
Manufacturers of insulated wire & cable & apparatus wire
SIC: 335 369
Small businesses or organizations
Other advancement and regulation of commerce 330 responses, 330 hours; $3,315,000 Federal cost, 1 form
Off. of Federal Statistical Policy & Standard, 202-673-7974

This survey has provided measures of production and shipments of insulates wire and cable products on a continuous basis since its inception in 1965. The primary users of these data are Government agencies. Business firm, trade associations, and private research and consulting organizations.

• Bureau of the Census
Transformers (shipments)
MA-36G
Nonrecurring
Businesses or other institutions
Manufacturers of transformers
SIC: 361
Small businesses or organizations
Other advancement and regulation of commerce, 250 responses, 250 hours; $10,400 Federal cost, 1 form
Off. of Federal Statistical Policy & Standard, 202-673-7974

This survey was begun in 1979 to measure quantity and value of shipments for power distribution and specialty transformers. Government agencies use the data for trade analysis, measurement, and forecasting. Business firms and trade associations use the data for market analysis and long-term planning.

Reinstatements

• Bureau of the Census
Data on the number F CTI
Data on the number of active residential meters
P-2
Annually
Businesses or other institutions
Public utility companies
SIC: 491
1,800 responses, 450 hours; $30,000 Federal cost
Off. of Federal Statistical Policy & Standard, 202-673-7974

The survey provides part of the data necessary to prepare population estimates for local areas. One of the estimating techniques, the housing unit method, requires current information on active utility customers as a partial measure of change in the number of housing units. This procedure may prove to be a critical factor in developing more accurate estimates for small towns.

DEPARTMENT OF ENERGY

Agency Clearance Officer—Irene Montie-202-633-9464

New

• Federal Energy Regulatory Commission
Application for certification of refinery capacity
ERA-460
On occasion
Businesses or other institutions
Petroleum refiners
SIC: 291
Small businesses or organizations
Energy information, policy, and regulation, 50 responses, 373 hours; $25,350 Federal cost, 1 form
Jefferson B. Hill, 202-395-7340

Data will be used as the basis for refinery capacity certification of new and expanded refining capacity: As a basis for runs proration for refiners having more than one refinery: As a basis for identifying new refiners for inclusion in the DOE entitlements program: and as a basis for adjustment to capacity as a part of the DOE stand-by crude oil allocation program.

Extensions (No Change)

• Federal Energy Regulatory Commission
Licensed projects recreation report
FPC-80
On occasion
Businesses or other institutions
Electric utilities
Energy information, policy, and regulation, 80 responses, 3,680 hours, 1 form
Jefferson B. Hill, 202-395-7340

The form collects information on recreational use and development data on hydroelectric projects under major and minor license. The data are used by FERC for negotiation of voluntary license amedments for needed public recreation FCL's & need for improvements at FERC licensed projects.

• Energy Information Administration
Total gas supply of natural gas pipeline companies
Annual report FERC-15 FPC-15
Annually
Businesses or other institutions
Natural gas pipelines
Energy information, policy, and regulation, 93 responses, 113,367 hours; 1 form
Jefferson B. Hill, 202-395-7340

Used by FERC for administering responsibilities under natural gas act, particularly determining availability of gas reserves as relate to gas curtailment and allocation proceedings in periods of severe natural gas shortages.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202-245-7488

New

• National Institutes of Health
Pilot study for a national survey of epilepsy

[1] At the request of the agency the 10-day public comment period has been waived in order that the survey information may be available for a January meeting of the U.S.-Japanese Trade Facilitation Committee.

Nonrecurring
Businesses or other institutions
Pharmacies, physicians, and epileptics
cost of ADP systems, equipment, and services
OS-25-60
On occasion
Arnold Strasser, 202-395-6880

Regulations at 20 CFR 655 requires that employers requesting aliens for

Laverne V. Collins, 202-395-6880

Respondent located in a deferral jurisdiction. The purpose of the form is

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report is assigned. Comments and questions about the items on this list should be directed to the OMB reviewer

Nonrecurring
Businesses or other institutions
Pharmacies, physicians, and epileptics
SIC: 801 591
Small businesses or organizations
Health 330 responses, 132 hours; $248,799 Federal cost, 5 forms
Richard Eisinger, 202–395–6880

This methodology study explores a new case-finding approach for the epileptic population: Use of pharmacies which fill prescriptions for anticonvulsive drugs to lead to the physicians providing care and thus to the epileptics. This approach, if feasible, could then (in a project separate from this one) be the basis for a national survey of epileptics.

• Social Security Administration
Application for supplemental security income
SSA–8000–BK
On occasion
Individuals or households
Aged, blind, or disabled indiv. or couples who app. for SSI public assistance and other income supplements, 949,714 responses; 522,343 hours $262,604,967 Federal cost 1 form
Barbara F. Young

Section 1631(E) of the Social Security Act provides for information required to make a determination regarding supplemental security income (SSI) benefits. This form is used to elicit required information from all applicant's wishing to be considered for SSI benefits so that a determination on eligibility can be made.

• National Institutes of Health
Evaluation of the NIEHS Environmental Toxicology Training Program—Trainers', Trainees' and Employers' Surveys
Nonrecurring
Businesses or other institutions
Trainers, trainees and employers in environmental toxico.
SIC: Multiple
Health, 1,394 responses, 628 hours; $207,274 Federal cost, 3 forms
Richard Eisinger, 202–395–6880

NIEHS requires an accurate estimation of the current and future man power supply/demand in the field of environmental toxicology. This information will be used by NIEHS so that it can plan its training grants program to be more responsive to market needs. In evaluating manpower supply/demand, three groups will be surveyed independently trainers, trainees, & employers in the field of environmental toxicology.

• Departmental Management
State requests for HHS Approval of Federal Financial participation in the cost of ADP systems, equipment, and services
OS–25–80
On occasion
State or local governments
Single state agencies (social security grantees)
SIC: 944
Public assistance and other income supplements, 204 responses, 6,580 hours; $797,000 Federal cost, 1 form
Barbara F. Young, 202–395–6880

To receive Federal financial participation in the costs of their ADP acquisitions, states must obtain HHS prior approval of advance planning documents and related procurement instruments. This process implements the policies contained in OMB circular A–90 governing Federal assistance to states in information systems development.

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—202–633–3526

New

• Office of Justice Assistance, Research and Statistics
National Institute of Justice, a Survey of Publication Users
NIJ series 6010
Nonrecurring
State or local governments
1000 randomly selected users of 4 NIJ Documents
SIC: 922
Criminal justice assistance, 1,000 responses, 250 hours; $23,637 Federal cost, 4 forms
Andy Uscher, 202–395–4814

The National Institute of Justice's mandate includes helping State and local jurisdictions plan and develop criminal justice programs through identification and documentation of "model" projects. This survey has been designed to establish the extent to which four recent NIJ publications have been successful in meeting this goal.

DEPARTMENT OF LABOR

Agency Clearance Officer—Paul E. Larson—202–523–6341

New

• Employment and Training Administration
Prevailing Farm Labor Contractor Fee Survey Questionnaire
ETA–8548
Nonrecurring
State or local governments
State Job Service
SIC: 944
Training and employment, 250 responses, 250 hours; $6,000 Federal cost, 1 form
Arnold Strasser, 202–395–6880

Regulations at 20 CFR 655 requires that employers requesting aliens for temporary employment must offer jobs to farm labor contractors. This survey will be used to determine if a regulation is needed to assure that employers make bona fide efforts to hire contractors by offering appropiate fees for their services.

DEPARTMENT OF STATE

Agency Clearance Officer—Gail J. Cook—202–632–3536

Revisions

• Administration of Foreign Affairs
Application for Passport by Mail
DSP 82
On occasion
Individuals or households
Passport applicants
Conduct of Foreign Affairs 700,000 responses, 81,660 hours; $2,800,000 Federal Cost, 1 form
Phillip T. Balazs, 202–395–4814

DSP–82 was established to enable a person who had been previously issued a passport, to obtain a new passport by mail, under certain conditions.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—202–389–2146

Reinstatements

Application for authority to close section 1819 (Mobile home) loans on an automatic basis-nonsupervised lenders 26–8742
On occasion
Businesses or other institutions
Lenders
SIC: 612
Small Businesses or Organizations
Veterans Housing, 10 responses, 10 hours; $285 Federal cost, 1 form
Laverne V. Collins, 202–395–6880

Abstract: Instructions to mobile home lenders on information required by VA, pursuant to 38 U.S.C. (c) (1) and 38 U.S.C. 1802 lending status. Information collected necessary for approval or disapproval of application.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Clearance Officer—Thomas P. Goggin—202–634–6983

Extensions (Burden Change)

Charge of Discrimination
EEOC–5B
On occasion
Individuals or households
Individuals
Federal law enforcement activities, 38,000 responses, 95,000 hours; 1 form
Laverne V. Collins, 202–395–6880

Respondent located in a deferral jurisdiction. The purpose of the form is to assist people who believe thay have been aggrieved to file charges of employment discrimination. The data is used by EEOC in its investigation of the allegations raised in the charge.

Charge of Discrimination
EEOC–5c
On occasion
Individuals or households
Individuals
Federal law enforcement activities, 38,000 responses, 95,000 hours; 1 form
Laverne V. Collins, 202–395–6880

Used by 706 agencies to process charges in work sharing and dual filing agreements. The form is used to record charges of employment discrimination filed by charging parties with the commission. The information is used by EEOC in its investigation of the allegation raised in the charge.

SMITHSONIAN INSTITUTION

Agency Clearance Officer—Philip Stratmann—202–737–4215

Revisions

Special extended loan program
Frequency of use report
NGA–219
On occasion
State or local governments
Teachers, librarians, heads of community groups
SIC: 821 822 823 824 829, 250 responses, 65 hours; $1,000 Federal cost
David Steinhardt, 202–395–7231

C. Louis Kincannon,
Deputy Assistant Director for Reports Management.

[FR Doc. 80-37454 Filed 12-3-80; 8:45 am]
BILLING CODE 3110-01-M

Agency Forms Under Review

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DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—202–447–6201

Revisions

• Farmers Home Administration
7 CFR 1980–E, Business and Industrial Loan Program
FMHA 449–22
On Occasion
Businesses or Other Institutions
Small Local Businesses
SIC: All, 42,105 responses, 313,679 hours; $122,840 Federal costs, 1 form
Charles A. Ellett, 202–395–7340

Section 310–B of the Consolidated Farm and Rural Development Act authorizes FMHA to issue regulations to administer and to determine eligibility for guaranteed loans under the business and industrial loan program.

• Food and Nutrition Service
Model Food Stamp Forms
FNS–385, 386, 387, 393, 394, 395, 396, 397, 437, 439, 440, 441, 442
On Occasion
Individuals or Households/State or Local Governments
Food Stamp Applicants, Participants, State Agencies
SIC: 943
Public Assistance and Other Income Supplements, 105,877,760 responses, 29,386,083 hours; $273,200 Federal cost, 13 forms
Charles A. Ellett, 202–395–7340

These forms are necessary to obtain information required by the Food Stamp Act and its Amendments.

• Economics and Statistics Service
Tropical Crops Surveys—Hawaii
Monthly, Quarterly, Semiannually, Annually
Farms
Tropical Fruit & Horticultural Specialties Growers Mac. Nut

SIC: 017 018 203 209
Small Businesses or Organizations
Agricultural Research and Services, 2,743 responses, 402 hours; $10,000 Federal cost, 1 form
Charles A. Ellett, 202–395–7340

Provides data to estimate acreages of 11 tropical crops in Hawaii (avocados, banana, coffee, ginger root, guava, lot S US roots, macadamia nut, papaya, passion fruit, taro and watercress). Estimates are used in projecting future supplies plus other production and marketing decisions by State government and industry groups.

Extensions (Burden change)

• Economics and Statistics Service
Processing Vegetables
Other—See SP83
Farms/Businesses or Other Institutions
Vegetable Processors Tomato Growers
SIC: 203 016
Small Businesses or Organizations
Agricultural Research and Services, 3,880 responses, 970 hours; $54,000 Federal cost, 1 form
Charles A. Ellett, 202–395–7340

A complete enumeration of all vegetable processing firms, acreage provides acreage, production, disposition and value estimates for 13 processing vegetables in all States having significant commercial production. Report used by farmers and vegetable processing firms in production and marketing decisions.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Clearance Officer—Joseph Strnad—202–245–7488

New

• Center for Disease Control
Human Rabies Prophylaxis Surveillance
Monthly
State or Local Governments
State and Territorial Epidemiologists
Health
660 responses, 14,200 Federal cost, 250 hours; 1 form
Richard Eisinger, 202–395–6880

This report form is necessary to develop a State, regional, and national picture of the epidemiology of human rabies prophylaxis, including demography, type of exposure, and treatment. Will start as soon as cleared.

Revisions

• Human Development Services
Head Start Program Information Report (PIR) and Forms
Semiannually
Businesses or other Institutions
Head Start Programs
SIC: 835
Small Businesses or Organizations
Education, Training, Employment, and Social Services
3,900 responses, $383,000 Federal cost, 15,600 hours; 1 form
Barbara F. Young 202–395–6880

The PIR provides information on program performance for ACYF management needs and provides data on the comprehensive services which Head Start is mandated by law to provide, such as health, nutrition, social services, and parent involvement activities. The PIR serves as the principal information source for an important ACYF management initiative. The Head Start performance indicators, which is tracked by the Secretary as part of OMS.

• Center for Disease Control
National Disease Surveillance—I. Case Reports
On occasion
State or Local Governments
State and Territorial Health Departments
SIC: 943
Health
35,864 responses, $100,000 Federal cost, 15,547 hours; 16 forms
Richard Eisinger, 202–395–6880

Case reports on the nationally notifiable diseases provide information on epidemiological characteristics such as age, race/ethnicity, sex, geographic location, etc., that may produce significant contributions toward the resolution of public health problems. State and territorial health departments provide clinical and laboratory data on a number of diseases of timely interest in this national surveillance program.

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—William L. Carpenter—202–343–6191

New

• Heritage Conservation and Recreation Service
Attachment A, Annual WOR Program/FY State Objectives
FHR–8–301
Semiannually
State or Local Governments
The Nat'l Trust for Historic Preservation and the State Hist.
SIC: 951
Recreational Resources
116 responses, $32,737 Federal cost, 5,568 hours; 1 form
Erika Jones, 202–395–7340

This form had been used by the States since 1979 to apply for grant monies from the Historic Preservation Fund (HPF) and to submit progress reports on the expenditure of these monies, as required in OMB circular A–102, as well as by HCRS to competitively rate State performance for purposes of apportioning funds for the next fiscal year as required under P.L. 89–665.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—John Winsor, Acting—202–426–1887

New

• Federal Highway Administration
Final Technical Reports/Performance Reports (Federal-Aid R&D)
DOT F 1700.7
On Occasion
State or Local Governments
State Highway Agencies
SIC: 962
Ground Transportation
2,300 responses, —$0 Federal cost, 10,810 hours; 1 form
Corrinne Hayward, 202–395–7340

Performance reports and final technical reports are required by OMB circular No. A–102, uniform administrative requirements for grants-in-aid to State and local governments, attachment 1, monitoring and reporting of program performance.

• Federal Highway Administration
Property Records of Nonexpendable Equipment (Federal-Aid R&D)
On Occasion
State or Local Governments
State Highway Agencies
SIC: 902
Ground Transportation
1,840 responses, —$0 Federal cost, 920 hours; 1 form
Corrinne Hayward, 202–395–7340

Property records are required by OMB circular No. A–102, uniform administrative requirements for grants-in-aid to State and local governments, attachment N, property management standards, paragraph 6(D), property management standards for nonexpendable property.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—202–389–2146

Extensions (No change)

• Eastern Blind Rehabilitation Center (EBRC)
Patient Satisfaction Questionnaire 10–54(689)
Other—See SF83
Individuals or Households
Blinded Veterans Who Have Received Training at the EBHC
Hospital and Medical Care for Veterans
100 responses, 50 hours; 1 form
Laverne V. Collins, 202–395–6880

Used to evaluate both the services provided by the blind rehabilitation center and the effectiveness of blind rehabilitation on the veterans' life.

COMMISSION ON CIVIL RIGHTS

Agency Clearance Officer—Victoria P. Thomas—202–254–6507

New

• State and Area Agencies on Aging Surveys
Nonrecurring
State or Local Governments
State and Area Agencies on Aging
SIC: 944
Federal Law Enforcement Activities
650 responses, $195,481 Federal cost, 2,600 hours; 1 form
Laverne V. Collins, 202–395–6880

The study will seek to determine the extent of employment of minority groups at all levels of the programs whether and to what extent minorities are awarded grants and contracts under the programs and whether and to what extent minority older persons participate fully in the services provided by these programs.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Clearance Officer—Thomas P. Goggin—202–634–6983

Extensions (Burden change)

• Charge of Discrimination EEOC–5A
On Occasion
Individuals or Households
Individuals
Federal Law Enforcement Activities
20,000 responses, 50,000 hours; 1 form
Laverne V. Collins, 202–395–6880

Respondent is located in a non-federal jurisdiction. The purpose of the form is to assist people who believe they have been aggrieved to file charges of employment discrimination, The data is used by EEOC in its investigation of the allegations raised in the charge.

• Intake Questionnaire EEOC–283
On Occasion
Individuals or Households
Individuals
Federal Law Enforcement Activities
84,00 responses, 42,000 hours; 1 form
Laverne V. Collins, 202–395–6880

Information on the form is used to evaluate allegations of employment discrimination brought by potential charging parties, to screen out non-title VII matters, and to help the individual evaluate the merits of the charge and to frame the charge itself. Also used conducting compliance reviews with State, local and federal agencies.

NATIONAL CREDIT UNION ADMINISTRATION

Agency Clearance Officer—D. Lynn Gordon—202–357–1202

Extensions (No change)

• State Central Credit Union Financial Statements NCUA–5307
Annually
Businesses or Other Institutions
Federal and State Credit Unions
Small Businesses or Organizations
Mortgage Credit and Thrift Insurance
14,400 responses, 2,400 hours; 1 form
Warren Topelius, 202–395–7340

Summarizes operations of 48 State-chartered central credit unions in 26 States. These institutions, that have both individual and credit union members, furnished year-end balance sheet information permitting an assessment of operations and liquidity standing.

OFFICE OF PERSONNEL MANAGEMENT

Agency Clearance Officer—John P. Weld—202–632–7737

New

• Individual Nominee Evaluation Form OPM 1453–A
Annually
Individuals or Households
High School Counselors or Coordinators Who are Responsible for the Federal Central Personnel Management
1,500 responses, $3,900 Federal cost, 750 hours; 1 form
Robert Veeder, 202–395–4814

Form is for recommending candidates for the Federal junior fellowship program, a career related work study program. To be eligible, students must be nominated by their high school. The form is filled out by the school and is submitted to the employing agency. The information helps agencies determine which candidate to select.

RAILROAD RETIREMENT BOARD

Agency Clearance Officer—Pauline Lohens—312–751–4692

Extensions (No change)

• Application for Lump-sum Death Payment and Annuities Unpaid AA–21
On Occasion
Individuals or Households
Survivors of Deceased Railroad Employees
General Retirement and Disability insurance
18,000 responses; 9,000 hours, 1 form
Barbara F. Young, 202–395–6880

The Railroad Retirement Act provides for the payment of benefits to survivors or the estates of deceased railroad workers. The application will obtain information about the applicant, other surviviors, payment of burial expenses and administration of the estate. The information will be used for payment of benefits under the act because of the employee's death.

C. Louis Kincannon,
Deputy Assistant Director For Reports Management.

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BILLING CODE 3110–01–M

RAILROAD RETIREMENT BOARD

Privacy Act of 1974; Changes to Systems of Records

AGENCY: Railroad Retirement Board.

ACTION: Proposed Changes to Systems of Records.

SUMMARY: The Railroad Retirement Board proposes changes to two systems of records identified as follows: RRB–22, Railroad Retirement, Survivor, and Pensioner Benefit System, and RRB–39, Milwaukee Railroad Restructuring Act Benefit System. The modifications to these systems are necessitated by changes to computer equipment configurations on which these systems are operated. These changes to computer equipment configurations affect the manner of access in system RRB–22 and the medium of storage and the manner of access in system RRB–39. This document also gives notice of one new routine use and one amended routine use to system RRB–22.

DATES: These changes to systems of records will become effective as proposed without further notice on January 5, 1981, unless comments are received that would result in a contrary determination.

ADDRESS: Send comments to the Secretary of the Board, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth P. Boehne, Director of Management Control, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, Telephone 312–751–4690.

SUPPLEMENTARY INFORMATION: The U.S. Railroad Retirement Board submitted the proposed changes to the two systems of records to the Congress and the Office of Management and Budget (OMB) on October 15, 1980. This submission is in accordance with provisions of OMB Circular No. A–108, Transmittal Memorandum No. 1, dated September 30, 1975, and Transmittal Memorandum No. 3, dated May 17, 1976, which provide supplemental guidance regarding reporting requirements of a change to a system of personal records

subject to the Privacy Act of 1974, 5 U.S.C. § 552a(o). The initial OMB guidance was set forth in the **Federal Register** (40 FR 45877) on October 3, 1975.

Systems of records RRB–22, Railroad Retirement Survivor and Pensioner Benefit System, and RRB–39, Milwaukee Railroad Restructuring Act Benefit System, were last published in the **Federal Register** at 45 FR 16370–16382 (March 13, 1980). For the public convenience, we have published the entire text of each system of records, with the proposed changes indicated by italics.

In system RRB–39, a portion of the records will be stored on magnetic disk affording on-line access to authorized individuals through video display terminals. This arrangement will enable authorized individuals to obtain current information immediately—a feature not possible under a magnetic tape environment. The immediate availability of desired information will result in more efficient processing procedures. In addition, the Board will be capable of providing better service to its constituents by furnishing information more timely.

The proposed changes to both systems affecting the manner of access relate to a 1-year pilot study in which personal data from these systems will be transmitted via telecommunication lines to four field offices where authorized individuals will have immediate access through video display terminals. The purpose of the study is to ascertain the effects of such a telecommunications system on both headquarters and field office operations as a basis for evaluating the feasibility of such a system nationwide. For computerized records electronically transmitted between headquarters and field office locations, systems securities are established in accordance with National Bureau of Standards guidelines. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

The proposed new routine use in system of records RRB–22, identified as "ee," would notify the public of the board's authority to disclose to an individual from whose annuity a benefit overpayment is being recovered, information regarding the determination and recovery of the overpayment when that overpayment was made to another individual. When two or more persons are receiving benefits on the earnings record of the same individual, such as a husband and wife, and an overpayment was made to the employee which must be recovered, at least in part from the spouse, due process of law entitles the spouse to relevant information regarding the determination of the overpayment to the employee. Adoption of the proposed routine use would clarify the Board's authority to disclose the information.

A revision to routine use "u" in system of records RRB–22 would allow the Board to furnish an organization under contract to a railroad employer, information regarding the Board's payment of retirement benefits, the methods by which such benefits are calculated, entitlement data, and present address when such information is necessary to determine entitlement to, and the rates of, private supplemental pension, sickness, or unemployment benefits and to calculate estimated benefits due. Presently, the routine use allows the Board to furnish such information only to the railroad employer directly.

By Authority of the Board.

Dated: November 25, 1980.

R. F. Butler,

Secretary.

RRB–22

SYSTEM NAME:

Railroad Retirement, Survivor, and Pensioner Benefit System-RRB.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

Regional and District Offices: See Appendix I for addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for retirement and survivor benefits, their dependents (spouses, children, parents, grandchildren), individuals who filed for lump-sum death benefits and/or residual payments.

CATEGORIES OR RECORDS IN THE SYSTEM:

Information pertaining to the payment or denial of an individual's claim for benefits under the Railroad Retirement Act: Name, address, social security number, claim number, proofs of age, marriage, relationship, and military service, creditable earnings and service months (including military service), entitlement to benefits under the Social Security Act. Veterans Administration or other benefit systems, rates, effective dates, medical reports, correspondence and telephone inquiries to and about the beneficiary, record of determination and appeal by beneficiary, suspension and termination dates, health insurance effective date, option, premium rate and deduction, direct deposit data and employer pension information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 7(b)(6) of the Railroad Retirement Act of 1974 (U.S.C. 231f(b)(6)).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Beneficiary identifying information may be disclosed to third party contacts to determine if incapacity of the beneficiary or potential beneficiary to understand or use benefits exists, and to determine the suitability of a proposed representative payee.

b. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

c. Entitlement and benefit rates may be released to primary beneficiaries regarding secondary beneficiaries (or vice versa) when the addition of such beneficiary affects either the entitlement or benefit payment.

d. Identifying information such as full name, address, date of birth, social security number, employee identification number, and date last worked, may be released to any last employer to verify entitlement for benefits under the Railroad Retirement Act.

e. Beneficiary identifying information, address, check rate, number and date may be released to the Treasury Department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, to reconcile reports on non-delivery, and to insure delivery of check to the correct address of the beneficiary or representative payee.

f. Beneficiary identifying information, address, check rate, date, number and other supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of railroad retirement or social security benefit checks.

g. Beneficiary identifying information, entitlement data, medical evidence and related evaluatory data and benefit rate may be released to the Social Security Administration and the Health Care Financing Administration to correlate actions with the administration of Title II and Title XVIII of the Social Security Act, as amended.

h. Beneficiary identifying information, including social security account number, and supplemental annuity amounts may be released to the Internal Revenue Service, State and local taxing authorities for tax purposes (Form G–1099, for those annuitants receiving supplemental annuities).

i. Beneficiary identifying information, entitlement, benefit rates, medical evidence and related evaluatory data and months paid may be released to the Veterans Administration to verify continued entitlement to benefits.

j. Beneficiary identifying information, entitlement data and benefit rates may be released to the Department of State and embassy and consular officials, to the American Institute on Taiwan, and to the Veterans Administration Regional Office, Philippines, to aid in the development of applications, supporting evidence, and the continued eligibility of beneficiaries and potential beneficiaries living abroad.

k. Beneficiary identifying information, entitlement, benefit rates and months paid may be released to the Social Security Administration. Bureau of Supplemental Security Income, Health Care Financing Administration, to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

l. The last addresses and employer information may be released to the Department of Health *and Human Services* in conjunction with the Parent Locator Service.

m. Beneficiary identifying information, entitlement, rate and other pertinent data may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

n. Beneficiary identifying information and medical evidence may be released to State or local agencies required by State or local law to be informed of the existence of a legally reportable medical condition, when discovered in connection with an application for a disability annuity.

o. Medical evidence may be released to Board-appointed medical examiners to carry out their functions.

p. Information obtained in the administration of Title XVIII (Medicare) which may indicate unethical or unprofessional conduct of a physician or practitioner providing services to beneficiaries may be released to Professional Standards Review Organizations and State Licensing Boards.

q. Information necessary to study the relationship between benefits paid by the Railroad Retirement Board and civil service annuities may be released to the *Office of Personnel Management.*

r. Records may be disclosed to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title II and Title XVIII of the Social Security Act, as amended, or the Railroad Retirement Act.

s. Records may be released to contractors to fulfill contract requirements pertaining to specific activities related to the Railroad Retirement Act.

t. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

u. Pursuant to a request from an employer covered by the Railroad Retirement Act or the Railroad Unemployment Insurance Act, *or from an organization under contract to an employer or employers,* information regarding the Board's payment of retirement benefits, the methods by which such benefits are calculated, entitlement data and present address may be released to the requesting employer *or the organization under contract to an employer or employers* for the purposes of determining entitlement to and rates of private supplemental pension, sickness or unemployment benefits and to calculate estimated benefits due.

v. If a request for information pertaining to an individual is made by an official of a labor organization of which the individual is a member and the request is made on behalf of the individual, information from the record of the individual concerning his benefit or anticipated benefit and concerning the method of calculating that benefit may be disclosed to the labor organization official.

w. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under the Railroad Retirement Act, and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

x. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its functions, indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

y. Information in this system of records may be released to the attorney representing such individual in connection with the individual's claim for benefits under the Railroad Retirement Act, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

z. The amount of a residual lump sum-payment and the identity of the payee may be released to the Internal Revenue Service for tax audit purposes.

aa. The amount of any death benefit or annuities accrued but unpaid at death and the identity of such payee may be released to the appropriate state taxing authorities for tax assessment and auditing purposes.

bb. Beneficiary identifying information, including but not limited to name, address, social security account number, payroll number and occupation, the fact of entitlement and benefit rate may be released to the Pension Benefit Guaranty Corporation to enable that agency to determine and pay supplemental pensions to qualified railroad retirees.

cc. Medical records may be disclosed to vocational consultants in administrative proceedings.

dd. Date employee filed application for annuity to the last employer under the Railroad Retirement Act for use in determining entitlement to continued major medical benefits under insurance programs negotiated with labor organizations.

ee. *Information regarding the determination and recovery of an overpayment made to an individual may be released to any other individual from whom any portion of the overpayment is being recovered.*

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Paper, microforms, magnetic tape and magnetic disk.

RETRIEVABILITY:

Claim number, social security number and full name.

SAFEGUARDS:

Paper and microforms: maintained in areas not accessible to the public, offices are locked during non-business hours. Magnetic tape and magnetic disk: Computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix and an audit trail; *for computerized records*

electronically transmitted between headquarters and field office locations, systems securities are established in accordance with National Bureau of Standards guidelines. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

Paper: Individual claim folders with records of all actions pertaining to the payment of claims are transferred to the Federal Records Center, Chicago, Illinois 5 years after the date of last payment or denial activity if all benefits have been paid, no future eligibility is apparent and no erroneous payments are outstanding. The claim folder is destroyed 25 years after the date it is received in the center. Accounts receivable listings and checkwriting operations daily activity listings are transferred to the Federal Records Center 1 year after the date of issue and are destroyed 6 years and 3 months after receipt at the center. Other paper listings are destroyed 1 year after date of issue. Microforms: Originals are kept for 3 years, transferred to the Federal Records Center, and destroyed 3 years and 3 months after receipt at the center. One duplicate copy is kept 2 years and destroyed by shredding. All other duplicate copies are kept 1 year and destroyed by shredding. Magnetic tape: Magnetic tape records are used to daily update the disk file, are retained for 90 days and then written over. Magnetic disk: Continually updated and permanently retained.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Retirement Claims, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's records should be in writing addressed to the System Manager identified above, including the full name and social security number and claim number of the individual. Before information about any records will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURES:

See Notification section above.

CONTESTING RECORD PROCEDURES:

See Notification section above.

RECORD SOURCE CATEGORIES:

Individual applicants or their representatives, railroad employers, other employers, physicians, labor organizations, federal, state and local government agencies, attorneys, funeral homes, congressmen, schools, foreign government.

RRB-39

SYSTEM NAME:

Milwaukee Railroad Restructuring Act Benefit System.

SYSTEM LOCATION:

U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any employee of the Milwaukee Railroad who may be eligible for supplementary unemployment insurance, new career training assistance, or employee protection benefits under the Milwaukee Railroad Restructuring Act (45 U.S.C. 901–922).

CATEGORIES OF RECORDS IN THE SYSTEM:

Identifying information includes the name of the employee, his social security account number, his address, his date of birth, his occupation code, and employer code. For individuals eligible for supplementary unemployment insurance benefits, information as to qualifications for benefits; railroad earnings during the period from June 1977 through November 1979; monthly benefit rate; month and year of benefit claim; reason not working; amounts deducted for Railroad Unemployment Insurance Act benefits, state unemployment benefits, earnings from all employment and self-employment; amounts paid and dates of payments benefit claims; verifying information from employers and governmental agencies; amounts owed and the reasons for the indebtedness; amounts recovered and the sources of repayments. For individuals eligible for new career training assistance, information as to qualifications for benefits; schools attended and courses taken; proof of payment for tuition, room, board, fees, and educational materials; amounts paid and dates of payments; amounts owed and the reasons for the indebtedness; amounts recovered and the sources of repayments. For individuals eligible for employee protection payments, information to the amount of relocation incentive compensation, interim employee assistance, separation allowance, and moving expenses to be paid by the employer to the employee; the kind of payment due the employee and, if applicable, the period for which payment is to be made; Railroad Unemployment Insurance Act benefits, state unemployment benefits, earnings from employment; if applicable, market value of home, sale price of home, moving and related expenses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 9, 10, 11, and 12 of the Milwaukee Railroad Restructuring Act (45 U.S.C. 908–11).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

a. Information received from the employee may be released to his employer, the Social Security Administration, the Department of Labor, the Veterans Administration, state unemployment compensation agencies, and other similar governmental agencies to the extent needed to verify the employee's claim and to resolve conflicts in information.

b. Identifying information, address and check amount may be released to the Treasury Department or the Milwaukee Railroad, if applicable, to issue benefit checks, to control for reclamation and return of checks, to respond to reports of non-delivery of checks, and to ensure delivery of checks to the correct address of the beneficiary.

c. Identifying information, address, check amount, and necessary supporting evidence may be released to the U.S. Postal Service or the Treasury Department for investigation of alleged forgery or theft of benefit checks.

d. Records may be referred to the General Accounting Office for auditing purposes and for collection of debts arising under the Milwaukee Railroad Restructuring Act.

e. Records may be disclosed in a court proceeding relating to any claims for benefits under the Milwaukee Railroad Restructuring Act and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

f. Disclosure may be made to a congressional office from the individual's record in response to an inquiry from the congressional office made at the request of the individual.

g. Disclosure may be made to an official of a labor organization of which the individual is a member in response to an inquiry from the labor organization official on behalf of or at the request of the individual.

h. Disclosure may be made to the attorney representing such individual upon receipt of a letter or written declaration stating the fact of representation, subject to the same procedures and regulatory prohibitions as the subject individual.

i. A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

j. Records may be disclosed to contractors to fulfill contract requirements pertaining to specific activities related to the Milwaukee Railroad Restructuring Act.

k. The last addresses and employer information may be released to Department of Health *and Human Services* in conjunction with the Parent Locator Service.

l. Benefit rate, entitlement and periods paid may be disclosed to the Social Security Administration, Bureau of Supplemental Security Income to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

m. Beneficiary identifying information, entitlement, rate and other pertinent data may be released to the Department of Labor in conjunction with payment of benefits under the Federal Coal Mine and Safety Act.

n. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its function, indicates a violation, or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

o. Information may be released to the Department of Justice and to courts of competent jurisdiction in response to properly issued subpoenas.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, magnetic tape, *magnetic disk* and microforms.

RETRIEVABILITY:

Social security number and name.

SAFEGUARDS:

Paper and microforms: maintained in areas not accessible to the public; offices are locked during non-business hours. Magnetic tape and magnetic disk: computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix and an audit trail. For computerized records electronically transmitted between headquarters and field office locations, systems securities are established in accordance with National Bureau of Standards guidelines. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

All records will be retained until January 1990, which is 5 years after the end of the benefit programs.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Unemployment and Sickness Insurance, U.S. Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be in writing addressed to the System Manager identified above, including the full name and social security number. Before information about any record will be released, the System Manager may require the individual to provide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURE:

See Notification section above.

CONTESTING RECORD PROCEDURES:

See Notification section above.

RECORD SOURCE CATEGORIES:

Employee or his representative, employers, labor organizations, governmental agencies, real estate appraisers, and all Rail Retirement Board files.

[FR Doc. 80-37756 Filed 12-3-80; 8:45 am]
BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21806; (70-6523)]

Blackstone Valley Electric Co. et al.; Notice of Proposed Short-Term Borrowings by Subsidiaries

November 26, 1980.

In the Matter of Blackstone Valley Electric Company, Washington Highway, P.O. Box 1111, Lincoln, Rhode Island 02865; Eastern Edison Company, 36 Main Street, Brockton, Massachusetts 02403; Montaup Electric Company, P.O. Box 391, Fall River, Massachusetts 02722.

Notice is hereby given that Blackstone Valley Electric Company ("Blackstone"), Eastern Edison Company ("Eastern Edison") and Montaup Electric Company ("Montaup"), electric utility subsidiary companies of Eastern Utilities Associates, a registered holding company, have filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7 and 12(c) of the Act and Rules 42(b)(2) and 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Declarants propose to make borrowings from banks in the following maximum amounts to be outstanding at any one time during the period from December 28, 1980 to December 31, 1981: Blackstone, $7,000,000; Eastern Edison, $18,000,000; and Montaup, $42,000,000.

Blackstone has scheduled a December 17, 1980 closing on its issuance of $30,000,000 principal amount of First Mortgage Bonds (File No. 70–6477). If that closing takes place on schedule, an amendment will be filed to reduce Blackstone's requested authorization from $7,000,000 to $2,000,000.

Short-term notes will be issued to banks except to the extent that such short-term borrowings of Montaup may include commercial paper to be issued to a commercial paper dealer. Before entering into any commercial paper arrangements, Montaup will seek specific authorization from this Commission by amendment to its declaration.

The declarants have credit lines with a number of banks subject in some cases to commitment fees and/or compensating balance requirements. The bank credit lines expire at various times in 1981 and their continued availability is subject to continuing review by the banks involved. Bank

credit lines of the declarants may be changed and additional lines may be obtained from other banks.

The credit line arrangements include (1) borrowing at the prime rate with no formal compensating balances; (2) borrowing at the prime rate with compensating balances not exceeding 15%; and (2) borrowing at the prime rate together with a commitment fee based on a fraction of the prime rate not exceeding 8% of Prime. Assuming a prime rate of 16.25% and the maximum balance requirements of 15%, the effective interest rate would be 19.12%.

Proceeds are to be applied to: (1) renew outstanding notes payable to banks as they become due; (2) finance the companies' respective 1981 construction programs which are estimated to be approximately $6,800,000 in the case of Blackstone, $8,800,000 in the case of Eastern Edison, and $40,700,000 in the case of Montaup; and (3) provide funds to meet certain sinking fund requirements in the case of Eastern Edison.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $1,200 in legal fees and expenses. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 22, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37811 Filed 12-3-80; 8:45 am]

BILLING CODE 8010-01-M

Release No. 11457; (812-4648)]

MFS/NWNL Variable Account and Northwestern National Life Insurance Company; Application for an Order

November 26, 1980.

Notice is hereby given that Northwestern National Life Insurance Company ("NWNL" or "Company") 20 Washington Avenue South, Minneapolis MN 55440 and MFS/NWNL Variable Account ("Separate Account") (hereinafter collectively referred to as "Applicants"), a separate account of NWNL registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, filed an application on March 31, 1980 and amendments thereto on July 3, 1980 and November 10, 1980 for an order of the Commission pursuant to Section 11 of the Act approving certain offers of exchange and pursuant to Section 6(c) of the Act granting exemptions from sections 2(a)(32), 2(a)(35), 22(c), 26(a), 26(a)(2)(C), 26(a)(2)(D), 27(c)(1), 27(c)(2) and 27(d) of the Act and rule 22c-1 thereunder insofar as such exemptions are necessary to permit the transactions described below. All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Background

NWNL is a stock and mutual life insurance company organized under the laws of the State of Minnesota. MFS/NWNL is a separate account of the Company established for the purpose of funding variable annuity contracts issued by the Company. Purchase payments made by or on behalf of the owner of such contracts are allocated to one or more Sub-Accounts of the Separate Account, as selected by the owner (or, if not so selected, to the Sub-Account which invests in shares of Massachusetts Cash Management Trust), in the form of Accumulation Units (units of measure used to determine the value of the Contract before annuity payments start), the value of which will vary with the value of the respective Sub-Accounts of the Separate Account. The assets of each Sub-Account are to be invested in shares (at net asset value) of one of a group of mutual funds (the "Funds"): Massachusetts Cash Management Trust; Massachusetts Financial High Income Trust; Massachusetts Financial Bond Fund, Inc.; Massachusetts Income Development Fund, Inc.; Massachusetts Investors Trust; Massachusetts Financial Development Fund, Inc.; Massachusetts Investors Growth Stock Fund, Inc. and Massachusetts Capital Development Fund, Inc.

Massachusetts Financial Services Company, a limited partnership organized under the laws of the State of Massachusetts ("MFS"), is the principal underwriter and investment adviser for each of the Funds and is paid fees for its services by the Funds. The Company intends to enter into a contract with MFS under which MFS will agree to perform certain administrative functions relating to the Contracts and the Separate Account. MFS will be paid a monthly fee by the Company for such functions. Clarendon Insurance Agency, Inc., an affiliate of MFS, will act as principal underwriter of the Contracts. The Company or its agent will provide bookkeeping and other administrative services of the type normally performed by custodians of unit investment trusts.

Under the Contracts, usually a single purchase payment will be made, although subsequent purchase payments are allowed. The minimum amount the Company will accept as an initial purchase payment is $5,000. However, if the contract is purchased by or in connection with a Qualified Plan, the minimum amount the Company will accept as an initial purchase payment is $1,500.

No deduction for a sales charge will be made from purchase payments for the Contracts. However, if part of all of the Contract Value is surrendered, the Company will deduct a charge ("contingent deferred sales charge" or "surrender charge") as follows:

(1) For Contracts in force for 24 months or less, a surrender charge will be made equal to 5% of the amount of the surrender, provided that in no case will the surrender charge together with surrender charges previously made exceed 5% of total purchase payments received.

(2) For Contracts in force for more than 24 months but not more than 96 months, no surrender charge will be made if the surrender, together with prior surrenders made after the Contract has been in effect for 24 months, does not exceed 10% of the purchase payments received by the Company. A 5% surrender charge sill be applied to surrenders in excess of the foregoing, provided that in no case will the surrender charge, together with surrender charges previously made,

excess 5% of total purchase payments received.

(3) For Contracts in force for more than 96 months, no surrender charge will be made if the surrender, together with all prior surrenders make within 96 months, does not exceed the current value of purchase payments received by the Company within 96 months before the surrender plus 10% of the purchase payments received by the Company within 96 months before the surrender. A 5% surrender charge will be applied to surrenders in excess of the foregoing, provided that in no case will the surrender charge, together with surrender charges previously made, exceed 5% of total purchase payments received.

The Company will assess the Separate Account with a daily charge for mortality and expense risks equal, on an annual basis, to .9% and .4% of the daily Contract values, respectively. Also, NWNL intends to assess an adminstrative charge of $30 per year against each contract participating in the Separate Account, and to deduct premium taxes where applicable.

Contingent Deferred Sales Charge

Section 2(a)(35)

Section 2(a)(35) defines "sales load" as the difference between the price of security to the public and that portion of the proceeds from its sale which is received and invested or held for investment by the issuer less any portion of such difference deducted for trustees' or custodians' fees, insurance premiums, issue taxes or administrative expenses or fees which are not properly chargeable to sales or promotional expenses.

Applicants submit that the proposed surrender charge is consistent with the intent of the definition of sales load contained in the Act. The charge would be imposed by the Company to reimburse it for expenses related to the sale of the Contracts, which the Applicants submit is within the Section 2(a)(35) definition of sales load but for the timing of the imposition of the charge.

Nevertheless, Applicants have requested an exemption from the provisons of Section 2(a)(35) to the extent such exemption may be necessary to implement the proposed pricing of their contracts.

Section 22(c) and Rule 22c-1

Rule 22c-1, promulgated under Section 22(c) of the Act, in pertinent part, prohibits a registered investment company issuing a redeemable security from selling, redeeming or repurchasing any such security except at a price based on the current net asset value of such security. When the contract owner surrenders all or a part of the contract value, the proceeds paid on such surrender will be based on the current net asset value. The Contingent Deferred Sales Charge will be deducted at the time of surrender in arriving at the contract owner's proportinate share or account value.

While Applicants do not believe that the imposition of the contingent deferred sales charge is violative of Section 22(c) or Rule 22c-1, they have requested an exemption from the provisions of Section 22(c) and Rule 22c-1 thereunder, to the extent necessary, to offer the contracts as proposed.

Sections 26(a)(2)(C) and 27(c)(2)

Section 27(c)(2) prohibits a registered investment company or depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, on such certificates are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1) and are held by such trustee or custodian under an agreement containing substantially the provisions required by Sections 26(a)(2) and 26(a)(3) of the Act.

Section 26(a)(2)(C) of the Act, as here pertinent, provides, in substance, that no payment to the depositor or principal underwriter of a unit investment trust shall be allowed the custodian bank as an expense, except a fee, not exceeding such reasonable amounts as the Commission may prescribe, as compensation for performing bookkeeping and other administrative expenses normally performed by the custodian.

Applicants allege that the Contingent Deferred Sales Charge to be imposed (if any) upon the surrender of the Contracts issued with respect to the Separate Account is designed to recover distribution costs relating to the sales of the Contracts. The Contracts merely defer the time when the sales charge may be imposed.

Applicants further allege that since there is nothing in the Act to suggest that if Contingent Deferred Sales Charges were being used at the time the Act was promulgated, that deductions for such sales charges would not have been permitted, and, since it is in the Contract Owners' best interests that the entire amount of their purchase payments be invested at the time when made, they have requested an exemption from the provisions of Sections 26(a)(2)(C) and 27(c)(2) of the Act, to the extent necessary, in order to permit the offer and sale of the Contracts subject to the Contingent Deferred Sales Charge as described above.

Sections 2(a)(32) and 27(d)

Section 2(a)(32) of the Act, in pertinent part, defines "redeemable security" as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets or the cash equivalent thereof.

Section 27(d) of the Act, in pertinent part, requires that the holder of a periodic payment plan certificate be able to surrender the certificate under certain circumstances with the recovery of certain front-end sales charges. Applicants assert that the contracts offered are not periodic payment contracts but request exemption from such Sections, to the extent necessary, to offer the contracts. Applicants submit that the imposition of a Contingent Deferred Sales Charge does not violate Sections 2(a)(32) and 27(d).

Applicants assert that Sections 2(a)(32) and 27(d) contemplate the assessment of an initial sales load and that under the contracts the net amount invested is the gross purchase payments. Thus, the owner's proportionate share or account value would be the gross purchase payments, plus or minus any increase or decrease in value less the Charge. Applicants assert that deferring the imposition of the charge in no way restricts the contract owner from receving his proportionate share or account value upon surrender. Applicants contend that the charge is contingent upon an event which might never occur, and that the purchaser's initial amount invested is maximized, thus providing a benefit to the purchaser. Applicants have requested an exemption from the provisions of Sections 2(a)(32) and 27(d), to the extent necessary, to permit the imposition of the Surrender Charge and to offer the contracts.

Section 27(c)(1)

Section 27(c)(1) of the Act, in pertinent part, prohibits any registered investment company issuing periodic payment plan certificate, or depositor or underwriter of such company, to sell any such certificate unless it is a redeemable security. Applicants assert that the contracts issued are not periodic payment plans but nevertheless request an exemption, to the extent necessary, to offer the contracts.

Applicants submit that the Contingent Deferred Sales Charge is not a

restriction on redemption under Section 27(c)(1). Applicants assert that deferring the imposition of the sales charge in no way restricts the contract owner from receiving his proportionate share or current value on surrender and has the effect, through deferral of sales charge until contract value is withdrawn, of increasing the contract value available for redemption. However, Applicants have requested an exemption from the operation of the provisions of Section 27(c)(1), to the extent necessary, to permit the charge to be imposed only upon surrender of contract values.

Annual Administrative Charge

As previously noted, the Contracts are subject to an annual administrative charge. If the value of a contract is surrendered for its full value on other than the contract Anniversary date, the administrative charge will be deducted from the owner's redemption proceeds.

Because the provisions of the Act discussed above under the heading "Contingent Deferred Sales Charge" may be said to be equally applicable in this situation, Applicants hereby request an exemption from the provisions of Sections 2(a)(32), 2(a)(35), 22(c), 28(a)(2)(C), 27(c)(1), 27(c)(2), 27(d) and Rule 22c–1, to the extent necessary, to permit the deduction of the annual administrative charge under the circumstances described.

Performance of Custodial Functions

Sections 26(a)(1), 26(a)(2)(D) and 27(c)(2) as noted prohibit a registered investment company or depositor or underwriter for such company from selling periodic payment plan certificates unless the proceeds of all payments, other than sales loads, on such certificates are deposited with a trustee or custodian having the qualifications prescribed in Section 26(a)(1) and are held by such trustee or custodian under an agreement containing substantially the provisions required by Sections 26(a)(2) and 26(a)(3) of the Act.

Section 26(a)(1) requires the trustee or custodian to be a bank which meets certain financial standards. Applicants request an exemption from the provisions of Section 26(a)(1) of the Act in order that NWNL may hold the property and assets of the Separate Account in custody for safekeeping. NWNL will keep such assets in its vault facilities which it contends are comparable to the vaults of large commercial banks and adequate protection will thereby be afforded to owners of contracts issued with respect to the Separate Account. Also, NWNL will limit access to the vault.

Section 26(a)(2)(D) of the Act requires, in part, that the custodian shall have possession of all the securities and other property in which the funds of the unit investment trust are invested. The Applicants assert that the primary purpose of Section 26(a)(2)(D) relating to the possession of trust assests is to provide for their safekeeping. The Applicants contend that to require that shares certificates be physically issued by each of the Funds under the circumstances would not significantly add to the safety of the unit investment trust's assets and would result in unnecessary administrative expenses. As noted, the assets of the Separate Account will be invested exclusively in shares of the several Funds. Furthermore, the custodian of the several Funds will have physical possession of the portfolio securities and other assets of the Funds.

The Applicants request that the Commission enter an order of exemption for the pertinent provisions of Section 26(a)(2)(D) in order that "book shares" evidencing the investment of purchase payments may be accepted.

Section 26(a)(2)(D) of the Act also requires that the securities and other property in which the funds of the unit investment trust are invested shall be segregated and held in trust until distribution.

Applicants state that while the assets of the Separate Account will be segregated, the Company, as a life insurance company, may not properly place the assets of the Separate Account in trust because the insurance laws of the State of Minnesota require the Company to retain ownership and control of the disposition of its property. If the Company is permitted to hold in custody for safekeeping the assets of the Separate Account, and exemption from the foregoing Sections of the Act will be necessary in order that the Company shall not be required to hold such assets in trust.

In support of the requested exemptions from the foregoing provisions of the Act, the Applicants state that the Company is subject to extensive supervision and control by the Commissioner of Insurance of the State of Minnesota and the comparable official of each state in which it does business. Such supervision requires the Company to file complete and detailed periodic reports. The Applicants also state that the activities of the Company are subject to review by the Commissioner of Insurance of the State of Minnesota and his representatives at all times and are subject to comprehensive examinations peridoically. Further, the Company, under an arrangement for recordkeeping, will maintain either itself or through an agent a record of all purchases and redemptions of Fund shares with repsect to the Separate Account. Consequently, the Applicants submit that a custodianship is unnecessary under the circumstances.

In summary, the Applicants request exemption from the provisions of Sections 26(a)(1), 26(a)(2)(D) and 27(c)(2) of the Act in order that the Company may perform the safekeeping and other functions normally performed by a custodian with respect to the Separate Account; that the property and assets of the Separate Account do not have to be held in trust although segregated; and that the investments of the trust in shares of the several Funds may be held in "book share" form.

Payment of Contract Fees and Charges

Sections 26(a)(2)(D) and 27(c)(2)

Sections 26(a)(2)(D) further provides that the custodian have possession of all securities and other property in which the funds of the trust are invested subject only to the charges and collections allowed under clauses (A), (B) and (C) of Section 26(a)(2) until distribution thereof to the security holders of the trust.

The Applicants request an exemption from the provisions of Sections 26(a)(2)(D) and 27(c)(2) to the extent necessary to permit the deduction by the Company and the payment to the Company of an annual administrative charge, the Expense Risk Charge, the Mortality Risk Premium and any premium tax, as set forth above.

The Applicants consent that the foregoing requested exemptions from Sections 26(a) and 27(c)(2) may be made subject to the following conditions: (1) that the deductions under the Contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe and the Commission may reserve jurisdiction for such purpose; and (2) that the payment of sums and charges out of the assets of the Separate Account shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that the Applicants' consent to this condition shall not be determined to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets, other than the charges for administrative services, and the Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Exchanges

Section 11

Section 11(a) of the Act makes it unlawful for any registered open-end investment company or principal underwriter therefor to make an offer to the holder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to the Commission. Section 11(c) provides that the provisions of subsection (a) shall be applicable irrespective of the basis of exchange to any offer of exchange of any security of a registered open-end company for a security of a registered unit investment trust and to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

The Applicants propose to permit owners to request the transfer, subject to any conditions the Funds whose shares are involved may impose, of all or part of a Sub-Acccount's value to other Sub-Accounts. There is no charge for such a transfer, other than those that may be made by the Funds. The Applicants submit that the proposed transfer rights will afford an owner the availability of choice among shares of mutual funds having different objectives, and that the granting of such rights is in recognition of the potentially changing nature of the owner's investment objectives and retirement needs over the years.

The Applicants further assert that the proposed transfer rights involve only a change in the underlying accumulation of annuity units related to a Contract, which are merely accounting units of measure to quantify Contract Value and, thus, do not involve the exchange of a unit investment trust security for the security of any other investment company. However, to avoid any questions that might be raised as to the applicability of Section 11(c), the Applicants request an order pursuant to Section 11 to the extent necessary to permit the proposed offer of transfer rights described above.

Section 6(c)

Section 6(c) of the Act provides, in part, that the Commission may conditionally or unconditionally exempt any person, security, or transactions or any class of classes of person, securities, or transactions from any provision of the Act or any rule or regulation under the Act is, and to the extent, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, no later than December 22, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his/her interest the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he/she may request that he/she be notified if the Commission shall order a hearing thereon. Any such communications should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the Application will be issued as of course following December 22, 1980 unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered will receive any notice and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–37612 Filed 12–3–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 17344; (SR–MSRB–80–11)]

Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

November 28, 1980.

On October 29, 1980, the Municipal Securities Rulemaking Board (the "MSRB") Suite 507, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act") and Rule 19b–4 thereunder, copies of a proposed rule change which would extend from December 1, 1980, to October 1, 1981, the effective date of that part of the amendments to rule G–15 (File No. SR–MSRB–79–6, approved by the Commission in Securities Exchange Act Release No. 16707 (March 28, 1980)) which requires that confirmations of transactions in callable securities effected at a dollar price in excess of par include certain yield information. All other requirements of the March amendments to rule G–15 will continue to become effective on December 1, 1980,[1] including the requirement that confirmations of transactions in callable securities contain a legend indicating that the yield shown may be affected by the exercise of call provisions and that information concerning such call provisions will be provided upon request, and, with the exception of transactions in callable securities effected at a dollar price in excess of par, that confirmations of transactions effected on a dollar basis include yield information.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 17277 (November 7, 1980)) and by publication in the **Federal Register** (45 FR 75039 (November 13, 1980)). No comments with respect to the proposed rule change have been received by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof. The proposed rule change extends from December 1, 1980, a date prior to the thirtieth day after publication of the notice of filing, to October 1, 1981, the effective date of part of the March amendments to rule G–15. Because the intent of this extension is to relieve brokers, dealers, and municipal securities dealers of a portion of the requirements scheduled to become effective on December 1, 1980, its

[1] Notice of the approval of the extension from September 24, 1980, to December 1, 1980, of the effective date of the previous amendments to rule G–15 (File No. SR–MSRB–80–7) was published in Securities Exchange Act Release No. 17150 (September 12, 1980).

purpose would be thwarted if it were not approved prior to that date.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons

Secretary.

[FR Doc. 80-37613 Filed 12-3-80; 8:45 am]

BILLING CODE 8010-01-M

SINAI SUPPORT MISSION

[Delegation of Authority 4]

Delegation of Authority To Authorize Expenditures; Revocation of Delegation of Authority 4

Pursuant to the authority vested in me by Executive Order 11896, issued January 13, 1976, I hereby revoke Delegation of Authority 4, dated September 16, 1977, and published in the **Federal Register** on September 28, 1977, page 49869.

This revocation is effective immediately.

Dated: November 26, 1980.

Frank E. Maestrone,

Director, United States Sinai Support Mission.

[FR Doc. 80-37629 Filed 12-3-80; 8:45 am]

BILLING CODE 4710-10-M

[Delegaton of Authority 4]

Delegation of Authority To Authorize Expenditures

Pursuant to the authority vested in me by Executive Order 11896, issued January 13, 1976, I hereby delegate the following functions and authorities to the Associate Director of Policy and Coordination, United States Sinai Support Mission: Approve and authorize expenditures for all activities connected with the U.S. Sinai Support Mission up to a limit of $75,000.

The functions and authorities delegated herein may not be redelegated.

This Delegation of Authority is effective immediately.

Dated: November 26, 1980.

Frank E. Maestrone,

Director, United States Sinai Support Mission.

[FR Doc. 80-37630 Filed 12-3-80; 8:45 am]

BILLING CODE 4710-10-M

DEPARTMENT OF STATE

[Public Notice CM-8:1350]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The Working Group on Safety of Navigation of the Safety of Life at Sea Subcommittee will conduct an open meeting on December 17, 1980 at 9:30 a.m. at the U.S. Coast Guard Headquarters (Transpoint Building), Room 3201, 2100 Second Street, SW., Washington, D.C.

The purpose of the meeting is to consider matters for the forthcoming SUB NAV XXV session scheduled for January 5–9, 1981 and in particular:

—Routing of ships
—Matters related to the 1972 Collision Regulations
—Ship movement reporting systems
—Differential omega correction systems
—Shipborne navigational aids and related equipment
—Accuracy requirements and harmonization of radio navigation systems
—World-wide VHF navigational channels
—Matters related to search and rescue
—International guidelines on bridge design
—Guidance on the use of VHG at sea
—Recorder of operational data for ships.

For further information contact Captain D. B. Charter, Jr., c/o Commandant (G-WWM/11), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593. Telephone: (202) 426-1934.

Dated: November 21, 1980.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 80-37621 Filed 12-3-80; 8:45 am]

BILLING CODE 4710-07-M

TENNESSEE VALLEY AUTHORITY

Chickamauga Reservoir, Tennessee Facility; Withdrawal of Intent To Prepare Environmental Impact Statement

AGENCY: Tennessee Valley Authority.

ACTION: Proposed sale of a 20-Year easement for a coal-processing and barge terminal facility on Chickamauga Reservoir (Tennessee River) Near Dayton, Tennessee; Withdrawal of Notice of Intent to Prepare an Environmental Impact Statement.

The Tennessee Valley Authority (TVA) issued a Notice of Intent to prepare an Environmental Impact Statement (EIS) on the proposed sale of a 20-year easement for coal-processing and barge terminal facility to Tenna-Tech, Inc., of Dayton, Tennessee, on April 12, 1979 (45 FR 21925 (1979)). A public scoping meeting was held in Dayton on April 23, 1979. TVA is withdrawing that Notice at this time because, after balancing environmental and nonenvironmental considerations, TVA does not plan to make the site available as originally requested, and the preparation of an EIS is not necessary. TVA will review any future proposals involving the subject tract to ensure that the National Environmental Policy Act requirements are met.

FOR FURTHER INFORMATION CONTACT:
Dr. Mohamed T. El-Ashry, Director of Environmental Quality, Tennessee Valley Authority, Natural Resources Building, Norris, Tennessee 37828, (615) 632-6450.

Mohamed T. El-Ashry,

Director of Environmental Quality.

November 26, 1980.

[FR Doc. 80-37685 Filed 12-3-80; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-80-33]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before December 24, 1980.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:
The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on November 28, 1980.

John H. Cassady,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
21015	Ransome Airlines	14 CFR 135.63 (c) (8)	To allow petitioner to use a Part 121 operator's computer system without listing crew names or crew positions on the original of the load manifest.
20636	Bighorn Airways, Inc.	14 CFR 135.297 (b)	To allow petitioner to operate under Part 135 without first completing the instrument proficiency check using a Non-Directional Beacon (NDB) facility.
13203	Boeing	14 CFR 25.807, 25.809, and 25.813.	Amendment to Exemption No. 1879A, to allow carriage of three crewmembers plus five non-crewmembers on upper deck of Model 747-200F and 747-200C cargo airplanes.
20901	Evergreen International	14 CFR 121.291	To permit petitioner to operate a B-747-100 aircraft in a 130 passenger-seat configuration without first conducting a full seating capacity emergency evacuation demonstration.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
20517	William R. Wallace	14 CFR 65.91 (c) (1)	To allow Mr. Wallace to become eligible for an Inspection Authorization without meeting the experience requirements. *Denied 11/14/80.*
20474	Coral Air, Inc.	14 CFR 135.243 (a)	To allow Mr. Frank McGill to serve as pilot-in-command without holding an airline transport pilot certificate until Feb. 16, 1981, his 23d birthday. *Denied 11/14/80.*
18238	Flying Tiger Line	Portions of 14 CFR Parts 21, 43, 61, 63, 91, and 121.	Amendment to exemption No. 2602D to delete Seaboard World Airlines' name and to reflect changes that occur with the merger of Flying Tiger and Seaboard World. *Granted 11/25/80.*
20513	AiResearch Manufacturing Company	14 CFR 33.77 (b)	To permit compliance with 1½ pound bird ingestion requirement with a thrust loss in excess of the maximum 25% now allowed, for their ATF 3-6 turbofan engine. *Denied 11/14/80.*
20378	Beckett Aviation Corp.	14 CFR 61.58 (c)	To allow accomplishment of the entire 24-month pilot-in-command proficiency check in an FAA-approved simulator. *Granted 11/18/80*
20320	Air Tanzania Corp	Portions of 14 CFR Parts 21 and 91.	To amend exemption No. 2975 to add B-720 aircraft N62215 to be used as a backup aircraft. The present exemption permits the petitioner to operate and maintain a leased B-707-331 aircraft of U.S. Registry using an FAA-approved MMEL. *Granted 11/17/80.*
19486	Executive Air Fleet	14 CFR 135.297	To permit petitioner to make use of approved visual simulators in the required instrument proficiency check. *Withdrawn 11/19/80.*
20461	John E. Mclain Raleigh Durham Aviation	14 CFR 141.35 (c)	To allow petitioner to be designated as chief pilot of Cessna Citation type rating course without meeting recency of experience requirements. *Petition withdrawn 10/29/80.*
21069	Air Express International	14 CFR 121.360	To allow petitioner to operate a Canadair CL44D4 with an operating Collins ground proximity warning system that meets TSO-C92. Petitioner is requesting this temporary grant until January 15, 1981, while it is seeking engineering approval for the unit. *Granted 11/24/80.*

[FR Doc. 80-37605 Filed 12-3-80; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA), Special Committee 136—Installation of Emergency Locator Transmitters (ELT) in Aircraft; Cancellation of Meeting

This Notice announces the cancellation of the Radio Technical Commission for Aeronautics (RTCA) Special Committee 136 meeting which was scheduled for December 9–10, 1980, and announced in the **Federal Register** on November 20, 1980, (45 FR 76834). The meeting will be rescheduled and a Notice of Meeting will be published in the near future.

Issued in Washington, D.C. on November, 25, 1980.

Karl F. Biarach,

Designated Officer.

[FR Doc. 80-37333 Filed 12-3-80; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: King County, Washington

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in King County, Washington.

FOR FURTHER INFORMATION CONTACT:
William J. Glover, Environmental Engineer, Federal Highway Administration, Suite 501, Evergreen Plaza, 711 South Capitol Way, Olympia, Washington 98501, Telephone (206) 753-9180

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the

Washington State Department of Transportation will prepare an environmental impact statement (EIS) on providing improvements to facilitate high occupancy vehicle (HOV) usage on Interstate 405 (I–405) from and including Interstate 90 (I–90) Factoria Interchange to and including State Route 520 (SR 520) Northrup Interchange, a distance of approximately 4.5 miles. The proposed project is located in the City of Bellevue and a portion of unincorporated King County.

The proposed improvements to the corridor are considered necessary to achieve a wide range of objectives for improved public mobility and community development, including: Provide increased motoring safety, economy and convenience; reduce existing congestion at important access and egress points; meet projected person-trip demands and support community development plans; improve air quality; support and integrate with existing and proposed HOV facilities adjacent to the project area; enhance existing and planned public transit service improvements and planned carpool/vanpool programs.

Alternatives under consideration include: (1) taking no action; (2) alternative improvements to the mainline roadway of I–405, including peak hour use of existing roadway shoulder, designation of an existing traffic lane for HOV use only during peak hours, and construction of a new HOV travel lane; (3) supplement alternatives for improvements to existing interchange ramps and new HOV ramps, transit service, park and ride and park and pool lots, and surveillance, control, and driver information system improvements; and (4) supplementary local public agency and private sector actions such as parking zoning code modifications (e.g., reduction in parking space requirements for new development, provision of carpool/vanpool transit incentives for employees), other land development and redevelopment plans and controls (e.g., increased density of development), employee flex-time and staggered working hours and allied measures to reduce peak-hour travel demands. The recommended program may include a combination of one or more of the above improvement alternatives.

A scoping process is being conducted to ensure that the full range of issues related to this proposed action is addressed and all significant issues identified. A letter inviting written comments and suggestions thereon is being set to appropriate federal, state and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal or other recent proposals and plans for transportation or related improvements in the corridor area. Informal meetings are planned to be held with interested government agencies to receive their scoping input as appropriate. An evening public workshop meeting to provide additional opportunity for input from public and private agencies, groups, and individuals is also planned.

A community involvement program is being planned to consist of a series of public workshops, discussion groups, individual interviews, a random sample telephone survey, newsletters, announcements, and news releases. A combined EIS/design hearing is planned for early 1982. Public notice will be given of the time and place of the meetings and the hearing. To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program)

Issued on: November 24, 1980.

William J. Glover,

Environmental Engineer, Washington Division, Olympia, Washington.

[FR Doc. 80–37580 Filed 12–3–80; 8:45 am]

BILLING CODE 4910–22–M

Environmental Impact Statement; Citrus County, Florida

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement is being prepared for a proposed highway project in Citrus County, Florida.

FOR FURTHER INFORMATION CONTACT: Mr. R. V. Robertson, District Engineer, Federal Highway Administration, P.O. Box 1079, Tallahassee, Flordia 32302, Telephone: (904) 224–8111.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation, will prepare an environmental impact statement (EIS) for a proposal to improve State Route 44, in Citrus County, Florida. The proposed improvement would involve the reconstruction of the existing State Route 44 from County Road 581 to the intersection of State Road 44 East and U.S. Route 41/State Road 45 in the City of Inverness, for a distance of approximately two miles. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand.

Alternatives under consideration include (1) taking no action; (2) widening the existing two-lane highway to four lanes; (3) constructing a four-lane highway on new location. Design variations will be incorporated into and studied with the various build alternatives.

Letters describing the proposed action and soliciting comments have been sent to the appropriate Federal, State, and local agencies. Two public informational meetings have been conducted in the project area. Additional public meetings are also planned for the future. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. The Draft EIS will be available for public and agency review and comments. A format scoping meeting is planned for the month of December.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: November 4, 1980.

R. V. Robertson,

District Engineer, Tallahassee, Florida.

[FR Doc. 80–37628 Filed 12–3–80; 8:45 am]

BILLING CODE 4910–22–M

Federal Railroad Administration

Minority Business Resource Center Advisory Committee; Meeting

Pursuant to Section 19(a) and (2) of the Federal Advisory Committee Act (Pub.L. 92–463); 5 U.S.C. App. I), notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held December 15, 1980, at 10:00 a.m. until 12:00 p.m. in the Board Room of the Port of Oakland, 66 Jack London Square, Oakland, California 94604. The agenda for the meeting is as follows:

—Advisory Committee Annual Report Review
—Procurement Performance
—FY–81 Program Emphasis
—Open Discussion

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify the Minority Business Resource Center not later than the day before the meeting. Information pertaining to the meeting may be obtained from Ms. Betty Chandler, Advisory Committee Staff Assistant, Minority Business Resource Center, Office of the Secretary, 400 7th Street, S.W., Washington, D.C. 20590, telephone: (202) 426–2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C. on November 28, 1980.

Earl D. Proctor,

Executive Director, Minority Business Resource Center.

[FR Doc. 80–37682 Filed 12–3–80; 8:45 am]

BILLING CODE 4910–06–M

[Waiver Petition Docket Nos. LI–80–1 through LI–80–10]

Petitions of Waiver of Locomotive Safety Standards

As required by 45 U.S.C. 431(c), and in accordance with 49 CFR 211.41 and 221.9, notice is hereby given that ten waiver petitions have been submitted to the Federal Railroad Administration (FRA) requesting temporary, or permanent waivers of compliance with 49 CFR Part 229 (Locomotive Safety Standards).

These regulations prescribe minimum safety standards for all locomotives except those propelled by steam power. The regulations were recently revised. The final rule was published in the **Federal Register** on March 31, 1980 (45 FR 21092) and became effective on May 1, 1980.

Each of the railroads seeking a waiver is identified below. A brief discussion of each request for waiver is provided.

Interested persons are invited to participate in these proceedings by submitting written date, views, or comments. The FRA does not anticipate scheduling a public hearing in connection with the aforementioned petitions since the facts do not appear to warrant a hearing. However, a public hearing will be scheduled if requested by an interested person before December 30, 1980.

All communications concerning these petitions must identify the appropriate docket number (e.g., FRA Waiver Petition No. LI–80–1) and should be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S. W., Washington, DC 20590. Communications received before January 10, 1980, will be considered by the FRA before final action is taken. Comments received after that date will be considered to the extent practicable.

Detailed information concerning each petition is on file with the Docket Clerk. Any comments received will also be on file. This material is available for examination by the public during regular business hours (9 a.m. – 5 p.m.) in Room 8211, Nassif Building, 400 Seventh Street, S.W., Washington, DC 20590.

Dansville and Mount Morris Railroad Company

[FRA Waiver Petition Docket No. LI–80–1]

The Dansville and Mount Morris Railroad seeks a permanent waiver of compliance with 49 CFR 229.115. This section of the regulation mandates that locomotives be equipped with a device that provides an audible or visual alarm in the cab to warn of either slipping or sliding wheels on powered axles under power.

The Dansville and Mount Morris Railroad is a nine mile single track operation that is restricted by speed and tonnage limitations. Petitioner cities difficulty in locating necessary equipment to comply with the installation requirement. Additionally, the petitioner does not believe that such a device is needed and, therefore, request a waiver of this section for the two 44 ton General Electric locomotives built in 1949 and 1956. These units are the only locomotives operated by this railroad.

Indiana Harbor Belt Railroad Company

[FRA Waiver Petition Docket No. LI–80–2]

Indiana Habor Belt Railroad Company (IHB) seeks a temporary waiver of compliance with the provisions of 49 CFR 229.117. Section 117 requires locomotives to be equipped with speed indicators by December 31, 1980. Petitioner states that that it is not possible to complete the installations by that date because of labor and economic reasons. Petitioner requests a temporary waiver of compliance until December 31, 1981, for its IHB locomotives.

IHB also seeks a permanent waiver of compliance with the provisions of 49 CFR 229.123 for six of its locomotives. Section 123 requires that each lead locomotive be equipped with an end plate, a pilot, or a snowplow. Petitioner states that it operates six SW–15 locomotives which are equipped with non-self propelled trailer units. These locomotives are restricted to hump and yard service. Clearance problems when traversing through car retarders make it impossible for complying locomotives to remain in operation on humps. Petitioner, therefore, seeks a permanent waiver of compliance for these six specific units.

Conemaugh and Black Lick Railroad Company

[FRA Waiver Petition Docket No. LI–80–3]

The Conemaugh and Black Lick Railroad seeks a permanent waiver of compliance with 49 CFR 229.123. Section 123 requires that each lead locomotive be equipped with and end plate, a pilot or a snowplow. The railroad currently operates twenty-two switcher locomotives and two non-self propelled slug units that do not conform to this requirement. The railroad notes that it operates primarily at slow speeds within a steel plant and does not experience incidents in which vandals place objects on the tracks.

Patapsco and Black Rivers Railroad Company

[FRA Waiver Petition Docket No. LI–80–4]

The Patapsco and Black Rivers Railroad seeks a permanent waiver of compliance with 49 CFR 229.123. Section 123 requires that each lead locomotive be equipped with an end plate, a pilot or a snowplow. The railroad currently operates thrity-two switch locomotives and nine non-self propelled slug units that do not comply with this requirement. The Railroad notes that it operates primarily at slow speeds within a steel plant and does not experience incidents in which vandals place objects on the tracks.

Philadelphia, Bethlehem and New England Railroad Company

[FRA Waiver Petition Docket No. LI–80–5]

The Philadelphia, Bethlehem and New England Railroad seeks a permanent waiver of compliance with 49 CFR 229.123. Section 123 requires that each lead locomotive be equipped with an end plate, a pilot or a snowplow. The railroad currently operates twenty-five switcher locomotives and two non-self propelled slug units that do not conform to this requirement. The railroad notes that it operates primarily at slow speeds within a steel plant and does not

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experience incidents in which vandals place objects on the tracks.

South Buffalo Railway Company

[FRA Waiver Petition Docket No. LI–80–6]

The South Buffalo Railway seeks a permanent waiver of compliance with 49 CFR 229.123. Section 123 requires that each lead locomotive be equipped with an end plate, a pilot or a snowplow. The railroad currently operates thirty-one switcher locomotives and two non-self propelled slug units that do not conform to this requirement. The railroad notes that it operates primarily at slow speeds within a steel plant and does not experience incidents in which vandals place objects on the tracks.

Steelton and Highspire Railroad Company

[FRA Waiver Petition Docket No. LI–80–7]

The Steelton and Highspire Railroad seeks a permanent waiver of compliance with 49 CFR 229.123. Section 123 requires that each lead locomotive be equipped with an end plate, a pilot or a snowplow. The railroad currently operates eight switcher locomotives and two non-self propelled slug units that do not conform to this requirement. The railroad notes that it operates primarily at slow speeds within a steel plant and does not experience incidents in which vandals place objects on the tracks.

Peoria and Pekin Union Railway

[FRA Waiver Petition Docket No. LI–80–8]

The Peoria and Pekin Union Railway seeks a permanent waiver of compliance with 49 CFR 229.117. Section 117 requires that locomotives operated at speeds in excess of twenty miles per hour must be equipped with a speed indicator by December 31, 1980. Petitioner states it operates thirteen switcher locomotives which are not equipped with speed indicators. The nature of operations on this railroad precludes trains or locomotives from obtaining speeds in excess of twenty miles per hour with one exception. This one train tavels approximately seven miles and reaches twenty-five miles per hour. Equipping all locomotives with speed indicators or designating only one locomotive for this single operations impractical in the opinion of the railroad. Consequently, a waiver is sought to continue operations at speeds of up to twenty-five miles per hour with unequipped locomotives.

McKeesport Connecting Railroad

[FRA Waiver Petition Docket No. LI–80–9]

The McKeesport Connecting Railroad seeks a permanent waiver of compliance with 49 CFR 229.123. Section 123 requires that each lead locomotive be equipped with an end plate, a pilot or a snowplow. The railroad currently operates six switcher locomotives that do not conform to this requirement. The railroad notes that it operates primarily at slow speeds within a steel plant. Consequently, the railroad believes that no useful purpose would be served by installing a device to bring the locomotives into compliance.

Johnstown and Stoney Creek Railroad

[FRA Waiver Petition Docket No. LI–80–10]

The Johnstown and Stoney Creek Railroad seeks a permanent waiver of compliance with 49 CFR 229.123. Section 123 requires that each lead locomotive be equipped with an end plate, a pilot or a snowplow. The railroad currently operates three switcher locomotives that do not conform to this requirement. The railroad notes that it operates primarily at slow speeds within a steel plant. Consequently, the railroad believes that no useful purpose would be served by installing a device to bring the locomotives into compliance.

This notice issued under the authority of section 5 of the Locomotive Inspection Act, 36 Stat. 914 (45 U.S.C. 28) and § 1.49(c)(5) of the regulations of the Secretary of Transportation 49 CFR 1.49(c)(5).

Issued in Washington, D.C., on November 25, 1980.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 80-37684 Filed 12-3-80; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

Calendar of Public Meetings

This calendar consists of NHTSA-sponsored meetings in which public interest or participation is expected. It is published for planning purposes and meeting dates and places are subject to change.

December 1980—May 1981

Alcohol and Occupant Restraint Workshops; City Locations and Dates Below

Purpose: NHTSA will conduct 36 two-State workshops to present the state-of-the-art in materials and program findings for reducing alcohol-related crashes and increasing the use of safety belts. Meetings are scheduled as follows: Dec. 1–5, Kansas City, Missouri and Louisville, Kentucky; Dec. 8–12, Boise, Idaho and Oklahoma City, Oklahoma; Dec. 15–19, Montgomery, Mississippi; Jan. 5–9, Charlotte, North Carolina; Jan. 12–16, Detroit, Michigan and Worcester, Massachusetts; Jan. 12–23, Las Vegas, Nevada; Jan. 26–30, Sacramento, California and Concord, New Hampshire; Feb. 2–6, Shreveport, Louisiana; Feb. 16–20, Nashville, Indiana; Feb. 23–27, Eau Claire, Wisconsin and Hershey, Pennsylvania; Mar. 2–6, Austin, Texas and Charlottesville, Virginia; Mar. 9–13, Salt Lake City, Utah; Mar. 23–27, Rapid City, South Dakota and Dover, Maryland; Apr. 6–10, Anchorage, Alaska and San Juan, Puerto Rico; May 4–8, Honolulu, Hawaii

Coordinator: James L. Nichols, Traffic Safety Programs (NTS–14), 202–426–2180

December 1–2, 1980

Automotive Fuel Economy Contractors' Coordination Meeting

Sheraton National Hotel, Arlington, Virginia

Purpose: Progress reports on the contracts which have been funded through the Automotive Fuel Economy Research Program will be given. How individual tasks fit into the research and rulemaking program and the thrust of the Automotive Fuel Economy Research Program will be explained

Coordinator: Charles L. Gauthier, Research and Development (NRD–13), 202–426–2957

December 9–11, 1980

Symposium on Automotive Ratings

Host Farm Inn, 2300 Lincoln Highway, East Lancaster, Pennsylvania

Purpose: To exchange information on the "state-of-the-art" of automotive ratings, crashworthiness, damageability and ease of diagnosis and repair, as well as to provide an opportunity for those affected by the ratings to comment. In addition to technical data, public comment and reaction will be solicited to insure the ratings program is responsive to consumer needs

Coordinator: Ivy Baer, Office of Rulemaking (NRM–30), 202–426–1750

January 8, 1981

Biomechanics Advisory Committee Meeting

DOT Headquarters Building, Washington, D.C.

Purpose: This Committee reviews NHTSA's procedures, programs and projects requiring the use of live and deceased humans for research in order to validate the need for such use, to minimize the risk of injury to volunteers, and to assure the rights and dignity of the subjects

Coordinator: Kathy Hasse, Executive Secretariat (NOA–11), 202–426–2872

January 19–21, 1981; Tentative

National Highway Safety Advisory Committee Meeting

DOT Headquarters Building, Washington, D.C

Purpose: Progress reports of the Committee's task forces will be heard. Reports and recommendations for the Secretary of Transportation may be prepared

Coordinator: Robert Doherty, Executive Secretariat (NOA–11), 202–426–2872

January 21, 1981; and April 15, 1981

NHTSA-Public-Industry Technical Meeting

EPA Conference Room, Motor Vehicle Environmental Laboratory, Ann Arbor, Michigan

Purpose: Technical, interpretative or procedural questions from the public and industry regarding NHTSA's bumper, vehicle safety and consumer information programs will be answered. Questions may relate to the research and development, rulemaking, or enforcement (including defects) phases of these activities

Coordinator: Michael Finkelstein, Rulemaking (NRM–01), 202–426–1810

February 18, 1981; Tentative

Automotive Controls Standardization Briefing

Ann Arbor, Michigan

Purpose: This will be a contractor's interim briefing to review with representatives of industry and other interested persons the progress of a study being conducted for NHTSA by Minicars, Inc. to develop and evaluate recommendations for standardizing the location and operation of automotive controls

Coordinator: Michael Perel, Research and Development (NRD–41), 202–755–5753

Spring 1981

Problem—Behavior Workshop: 55 Non-Compliance and Other Unsafe Driving Actions

Washington, D.C.

Purpose: To bring together interested practitioners and researchers to review NHTSA program plans in order to obtain comments and suggestions for improvement

Coordinator: Monroe Snyder, Research and Development (NRD–42), 202–426–2977

June 15–17, 1981

National Highway Safety Advisory Committee Meeting

DOT Headquarters Building, Washington, D.C.

Purpose: Progress reports of the Committee's task forces will be heard. Reports and recommendations for the Secretary of Transportation will be considered

Coordinator: Robert Doherty, Executive Secretariat (NOA–11), 202–426–2872

October 12–16, 1981

Second International Automotive Fuel Economy Research Conference

Rome, Italy

Purpose: Government Status Reports on Automotive Transportation Conservation Programs and reports of research in automotive technology for improved fuel economy will be presented

Coordinator: James C. Shively, Research and Development (NRD–10), 202–426–2882

Fall 1981

National Accident Sampling System Advisory Committee Meeting

Washington, D.C.

Purpose: To review program status and make recommendations on data collection, field procedures and analysis, including plans and operations

Coordinator: Russell A. Smith, Research and Development (NRD–30) 202–472–7040

Fall 1981 and 1982

Fatal Accident Reporting System Annual Workshop

Place to be determined

Purpose: To solve interpretation and operations problems and to provide a mechanism for installing system changes and updating training. This is a regularly scheduled working meeting of FARS State Analysts and NHTSA regional and headquarters technical managers

Coordinator: John McGowan, Research and Development (NRD–32) 202–426–4820

——1982

Ninth International Technical Conference on Experimental Safety Vehicles

Japan

Purpose: The ESV Conferences are conducted to provide a forum for exchanging the results of integrated vehicle development. Various automobile manufacturers, as well as NHTSA contractors have designed and developed vehicles which incorporate advanced systems to satisfy national goals in safety, fuel economy, and vehicle emissions. This meeting will be hosted by the Government of Japan. The Governments of the Federal Republic of Germany, France, Great Britain, Italy, Japan, Sweden and the United States as well as manufacturers of these countries and others will participate

Coordinator: James C. Shively, Research and Development (NRD–10) 202–426–4862

Fall 1982

Automotive Fuel Economy Contractors' Coordination Meeting

Location undetermined

Purpose: Progress reports on the contracts which have been funded through the Automotive Fuel Economy Research Program will be given. How individual tasks fit into the research and rulemaking program and the thrust of the Automotive Fuel Economy Research Program will be explained

Coordinator: Charles L. Gauthier, Research and Development (NRD–13), 202–426–2957

Persons desiring additional information on a particular meeting may phone the coordinator listed under each meeting.

Alternatively, the coordinator can be reached by mail at the following address: U.S. Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

Issued in Washington, D.C. on November 25, 1980.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 80-37322 Filed 12-3-80; 8:45 am]

BILLING CODE 4910-59-M

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Office of the Secretary

[OST File No. 80-21]

Research and Development Policy; Request for Public Comment on Proposed Policy Statement

AGENCY: Department of Transportation/ Office of the Secretary.

ACTION: Request for public comment.

SUMMARY: The Department of Transportation seeks public comment on a proposed research and development policy statement for the Department. A key element in the health and future development of the American economy and the Nation's ability to achieve important national goals is technological innovation. Innovation contributes to building economic strength by improving the U.S. position in foreign as well as domestic markets, increasing productivity, and helping to create jobs. The need for research and development is urgent in the transportation sector where productivity declines and the inflationary pressues of rising fuel costs have hit hard. This policy statement proposes to be the guiding mechanism for developing a coordinated, balanced research and development program for the Department of Transportation.

DATE: Comments must be received by December 24, 1980.

ADDRESS: Comments should be sent to Docket Clerk, OST File No. 80-21, Office of the General Counsel, C-50, Department of Transportation, Washington, D.C. 20590. Comments will be available for public inspection and copying in the Office of the Assistant General Counsel for Regulation and Enforcement, Room 10421, Department of Transportation Building, 400 Seventh Street SW., Washington, D.C., from 9:00 a.m. to 5:30 p.m. e.t., Monday through Friday except Federal holidays.

FOR FURTHER INFORMATION CONTACT:
Jack Harman, Office of Transportation Industry Policy, Department of Transportation, Washington, D.C. 20590, Telephone No. 202-426-4220
or
Rick Yates, Office of Transportation Industry Policy, Industry Operations Division, Department of Transportation, Washington, D.C. 20590, Telephone No. 202-426-4203.

SUPPLEMENTARY INFORMATION: Public comment is invited on the points raised in the proposed policy and on any other issues relevant to the policy statement. Comments should be sent to the address above and must be received by the closing date. All comments received by the closing date will be considered in preparation of the final policy statement.

Issued at Washington, D.C., on November 28, 1980.

Donald F. Mazziotti,
Deputy Assistant Secretary for Policy and International Affairs.

Research and Development Policy Statement of the Department of Transportation

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Appendix A—The Department's R&D Programs

I. The Research and Development Policy Context

The nation is in need of greater and more inspired efforts from the R&D community to assure continued technological progress vital to real economic growth, national security, and the rebuilding of American industry. The transportation sector, as a major component of the national economy, must demonstrate greater creativity in technological innovation if the country is to regain its former place of preeminence in the global economic system. The President has recognized such a need, and has called for new efforts in both basic and applied research.

The National Need for R&D

The future economic health of the nation depends on our effectiveness in dealing with a number of interrelated, tenacious problems—inflation, dependence on imported oil, exporting of jobs, strong foreign competition in our own as well as overseas markets, stagnating productivity, and trade deficits.

One of the factors contributing to our slippage in world markets is the general decline in America's investment in research and development, a trend that must be reversed.

Government and industry research spending has in fact declined since 1968 in real dollars. Federal funding for basic research, for example, has slipped by 45 percent during the last ten years. Part of this decline can be attributed to the increased complexity of the domestic and international economic environment with its attendant burdens on industry and barriers to innovation. Inflation and the resulting credit and capital squeezes have also contributed. These factors, however, have not diminished the need for technological development and innovation in order to maintain the progress, and indeed the viability of our economy.

The importance of technological progress to economic growth has been the subject of much study. There is a common thread of agreement, summed up in the observation of Simon Kuznets, that "continuous technological progress and the underlying series of scientific advances are the necessary condition for the high rate of modern growth" (*Economic Growth and Structure*, 1965). The precise relationship between productivity and technological change/ innovation may be arguable, but there is no disagreement that it is a necessary element in economic growth. One study, conducted in 1971 by the Midwest Research Institute and based on earlier Brookings Institution research, concluded that, of the increase in private non-farm output between 1949 and 1968, 40 percent was attributable to new technology. Another, conducted by the National Science Foundation (NSF) in 1977, estimated that technological innovation was responsible for 45 percent of the nation's economic growth from 1929 to 1969. And, when NSF compared low- and high-technology industries during that period, it found that high technology had twice the productivity growth rate, triple the real growth rate, six times fewer price increases, and nine times more growth in employment.

Encouraging industrial revitalization and innovation will require tax incentives, increased Federal support of science and technology, and more effective use of patent, procurement and regulatory mechanisms.

The Transportation Sector's Need for R&D

As part of the national need for technological innovation, the need for

R&D in the transportation sector is particularly urgent. The problem of the nation's high energy consumption is a preeminent case-in-point. While transportation accounts for roughly 10 percent of the GNP and 15 percent of our exports, it accounts for roughly 50 percent of the petroleum consumed in the nation. With approximately 50 percent of our petroleum imported, the transportation sector contributes heavily to the drawdown of our balance of payments. This problem, nevertheless, is amenable to new R&D solutions, both technological and non-technological.

The cause for concern and the need for remedial action in the transportation sector are further indicated in the following examples:

- *Declining productivity* in the transportation industry requires new knowledge, new management approaches, and new investment, as well as technological and institutional change.
- *Many segments of the nation's highway system* are deteriorating, contributing to stagnating productivity. At the same time, the traditional petroleum-based products and materials required for its restoration are rapidly escalating in price.
- *The automobile industry* has suffered erosion of domestic and export sales in the face of foreign competition, with far-reaching economic dislocation throughout American industry.
- *The passenger aircraft industry* is being challenged in long- and short-haul areas. Only two U.S. companies remain in operation in the U.S. with capability to forge parts for larger aircraft.
- *The bus manufacturing industry* faces an uncertain future, despite growing needs for local and intercity surface transportation other than by automobile.
- *Railroad passenger train technology* is heavily imported from abroad, coupled with a small and decreasing U.S. capability to produce in this area.
- *The mobility needs* of the poor and the handicapped living in rural and suburban areas are not being met by conventional public transportation systems.

The Contribution of R&D to the Roles of the Department of Transportation

Research and development are essential to the Department's successful performance and of a number of its roles and missions. In the Department, R&D activities are undertaken largely to serve the following purposes:

- Stimulate Technological Advances in Transportation. This role is assigned to the Department by its organic legislation. The Department itself is not a provider of transportation, with the exception of the Alaska Railroad, the St. Lawrence Seaway, and the Metropolitan Washington Airports. R&D performed in this category stimulates innovation in non-DOT provided services and facilities, in both private industry and the public sector.
- Provide a Basis for Sound Regulations. This category may support the substance of a proposed or existing regulation, its enforcement, or a regulation's statistical effectiveness or cost-benefit results. Application areas include safety, fuel economy, and even standard time zones, among others.
- Improve the Effectiveness of Federal Grants. This category may involve studies of alternative analyses, construction standards or processes, and operation or management of transportation projects. The bulk of R&D activities in this category supports highway, urban transit, and airport grant programs. The R&D effort may be contracted directly by the Department or by the grantee agency.
- Support the Department's Operational Missions. In this category the results of the R&D are applied in a system which DOT operates, such as the Federal Aviation Administration air traffic control system or the Coast Guard's search and rescue mission.
- Support Policy and Analysis and Development. Essential to the development of public policy aimed at promoting the effectiveness and efficiency of the nation's transportation is sound, comprehensive, and up-to-date knowledge.

Because the Department of Transportation (DOT) encompasses agencies with different missions, there are necessarily different R&D objectives and activities within the DOT. This diversity is shown in Appendix A, "The Department's R&D Programs."

It should be emphasized that the concept of transportation R&D must be thought of not simply in terms of hardware development, but in terms of generating new understanding. The R&D process must involve economics and behavioral and political sciences, as well as physics and engineering. Within the Department, the stages of R&D will be defined as shown in Figure 1.

Despite the important role R&D plays in a number of DOT missions, the Department's R&D program has tended to languish in several key respects. In recent years there has been:

- *A steady decline in the availability of R&D resources.* As shown in Figure 2, over the last eight years, the DOT capacity to perform R&D support to the principle DOT mission has declined by 38% in constant dollars (1972). Moreover, DOT's R&D investment (less than 1.9% of the total budget) falls well below the Federal average of 5% and has impacted both basic and applied reseach.
- *A movement away from long-term basic reseach* to the quick payoff of applied R&D projects by all elements of the Department. This movement has resulted in an emphasis on near-term operational, regulatory, and grant-in-aid programs.
- *A sporadic and declining interest in transmodal R&D.* This is reflected in a lack of significant R&D on major issues of a multi-modal nature such as modally integrated freight, urban modal interchanges, and transmodal construction, safety, navigation, energy, and data systems research.

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Research is a systematic study directed toward gaining fuller scientific knowledge or understanding of the subject studied.

In *Basic Research* the objective of the sponsoring agency is to gain fuller knowledge or understanding of the fundamental aspects of phenomena and of observable facts without specific applications toward processes or products in mind.

In *Applied Research* the objective of the sponsoring agency is to gain knowledge or understanding necessary for determining the means by which a recognized and specific need may be met. (For the purposes of the Departmental R&D expenditure tallies, analyses and studies done in support of policy are categorized as applied research.)

Development is the systematic use of knowledge or understanding gained from research, directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes. Demonstration, the last stage of development, provides for evaluation of the products of development in the operating environment.

Figure 1.—R&D definitions used by NSF and DOT in reporting documents.

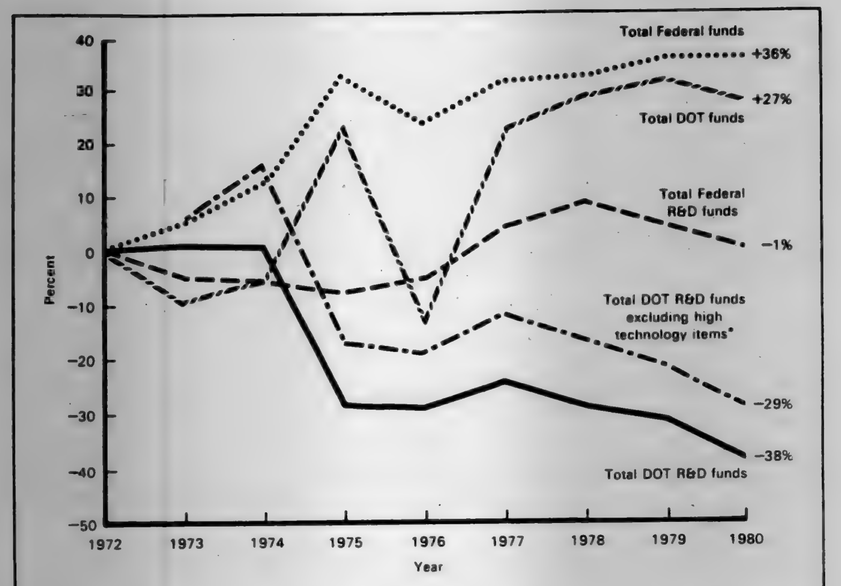

*High Technology items include the Urban Tracked Air Cushion Vehicle, Morgantown Personal Rapid Transit, Advanced Personal Rapid Transit, Linear Induction Motor, Magnetic Levitation, Tracked Air Cushion Vehicle, and Advanced Automated Transit Management System.

Source: Federal funds for R&D, National Science Foundation (NSF)

Figure 2.—Eight-year funding trends (1972 dollars).

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• *Serious attrition in DOT scientific and engineering manpower.* DOT's substantial complement of technical people, many of them with long experience in the various modes of transportation, is being diminished in the process of attrition that accompanies the continuous decline of DOT R&D funds, and the perceived loss of management support of R&D.

These trends require that the Department respond by adjusting policy, organization, and R&D management. This policy statement is proposed to respond effectively in developing the Department's overall research and development efforts.

II. Departmental R&D Policy Principles

The following principles have been established to guide the Department and its operating administrations in developing a coordinated, balanced R&D program, and a structure and process to sustain it.

(1) Needed throughout the Department is a consistent commitment to the broad role R&D must play in understanding and strengthening the nation's transportation system and its supporting industries.

Continuity of R&D is often critical to its success. Inadequate funding and start-and-stop directives waste monies, demoralize scientific talent and disrupt programs promising to contribute to improved transportation and economic development. The improvement of our transportation system per se, as well as the revitalization of our nation's transportation industry, is a long-term process that requires imaginative new approaches and solutions. These, in turn, will require major long-term investments in research and development targeted at high priority areas of national concern.

(2) Strategic direction of R&D policy and planning and coordination of R&D programs across the Department will be provided by the Secretary's Research and Technology Advisor.

To be credible and effective, the new commitment to transportation research and technology must be reflected in the Department's organization as well as in policy and resource allocation. The Office of the Secretary must have the capability to perform a comprehensive overview of all R&D activity within the Department, to provide guidance on the selection of R&D priorities, and to coordinate R&D programs agency-wide.

To carry out this strategic guidance function, the Secretary will appoint a *Research and Technology (R&T) Advisor,* who will become fully involved in the development of Departmental R&D policy and broad resource allocation decisions. The R&T Advisor will focus on translating Secretarial goals and objectives into R&D priorities; on the technical soundness and relevance of DOT R&D activities; on seeing that resources are committed to the most promising areas; and on identifying new opportunities (including opportunities for joint projects among the operating administrations). The R&T Advisor will not, however, be concerned with day-to-day monitoring of the full gamut of R&D projects; this function will continue to be the responsibility of the operating administrations which perform the R&D.

The R&T Advisor will be assisted by a small staff, organized as the newly established *Office of Research and Technology* in the Office of the Secretary, as well as by a formal *scientific advisory committee* to be established by the Secretary for the purpose of providing a detached viewpoint on the thrust and character of the Department's R&D efforts.

(3) R&D requirements and priorities for the Department as a whole will be determined by a regularized coordination process.

Throughout the Department, there needs to be created and nurtured an R&D environment in which emphasis is placed on competition among good ideas as opposed to a competition for resources. It will be the responsibility of the Research and Technology Advisor to encourage the best ideas to come forward from all R&D elements in the Department, and to coordinate their formation into a coherent, prioritized program of research and development.

The R&T Advisor, specifically, will coordinate the development of an *annual R&D priorities document* to provide guidance to all elements of the Department in the development of their own research agendas, Spring Preview and R&D budget submissions:

• Development of these research agenda documents should support and precede the budget and related processes, to assure that R&D objectives and needs are specified annually.

• The agendas should provide a basis for Departmental review of modal R&D objectives and planned initiatives to assure that the total DOT program is coordinated and prioritized.

• The agenda's annual update of research priorities will reflect changes in national needs and policy objectives within the context of a stable, developing program.

Coordination of the Departmental R&D priorities document will be a joint effort with the Assistant Secretaries for Policy and for Budget and Programs, with ongoing assistance from a Departmental advisory group composed of a representative from each operating administration. The document will be submitted to the Secretary for his approval and transmittal to the administrations in January, in ample time to be integrated into other Departmental management processes. Figure 3 indicates several sources of input to DOT R&D initiatives, which will be received through the R&T Advisor, and demonstrates how the R&D policy-planning process will tie into the Department's annual planning-budget cycle.

(4) R&D activities will be performed and managed by the operating administrations within the context of Departmental coordination and oversight.

The operating administrations will continue to be responsible for the planning, funding, management and performance of R&D in support of their missions and functions while the R&T Advisor will be responsible for overall R&D program coordination and oversight. The diverse roles and responsibilities of the operating administrations (summarized in Appendix A) include establishing their research agendas (i.e., establishing modal goals, objectives, and priorities) and providing the resources needed to accomplish their missions. The strengthened structure and process needed to effect the coordination and management of Departmental R&D will not, however, centralize R&D activity at the expense of undermining the work of the operating administrations. The operating administrations are more familiar with their relevant operational environments, in closer contact with the potential user community, and have the technical expertise to better evaluate R&D needs and priorities; they are well positioned to involve potential users in their R&D programs through their advisory committees.

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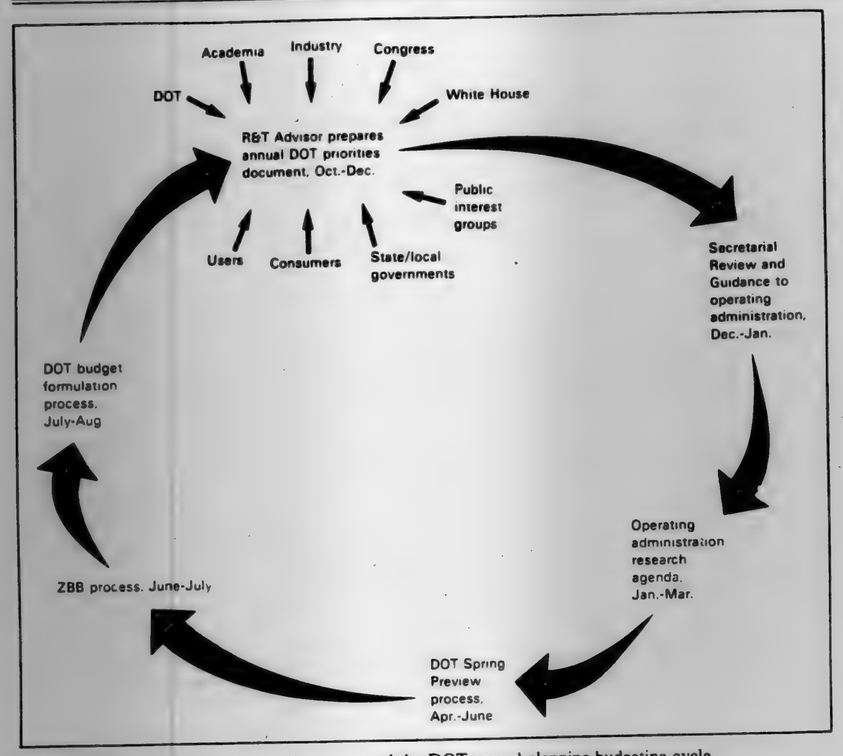

Figure 3.—The R&D prioritization document and the DOT annual planning budgeting cycle.

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Research to stimulate technological advances in transportation, especially in segments of the transportation sector for which there is no other operating administration in the Department, will be performed and managed by the Research and Special Programs Administration (RSPA), in close coordination with the R&T Advisor. There has long been a compelling need for the Department to conduct R&D in intermodal and transmodal transportation as well as R&D that relates to the transportation sector as a whole. Such research should lead to a richer understanding of and stimulate technological advances in these areas.

Research as a basis for sound regulation is typically performed by an operating administration in direct support of its missions and functions. The Department's (R & T Advisor's) role will be to review large programs, to ensure consistent standards, and to review technical aspects of regulations as a member of the DOT Regulatory Council.

Research to improve the effectiveness of Federal grants is carried out directly by several operating administrations. However, Federally sponsored research in highways, for example, is also managed by State governments and by the Transportation Research Board. These decentralized mechanisms should be encouraged where they are effective. The Research and Technology Advisor will primarily review large projects and participate in and advise the Secretary on the effectiveness of the decentralized research management mechanisms, such as the Federally Coordinated Program (FCP) of Research in Highway Transportation.

Research in support of Departmental operational missions is usually undertaken in direct response to an administration's missions and functions (e.g., in FAA or Coast Guard) and the results are also consumed by that administration. The Departmental oversight role will be at a high level, concerning itself with very large projects and with the general technical soundness of directions taken.

Policy analysis and development is also usually undertaken in direct response to the missions and functions of an administration or the Office of the Secretary and usually involves relatively small quantities of money. The Department's oversight role should concern the soundness of research chosen and undertaken, especially research on R&D policy.

(5) The Department will establish and sustain a broad-based program of basic research in order to stimulate new understanding, new techniques of analysis, new technology, and new ideas for their application.

The March, 1979 Presidential statement on science and technology emphasized the national need for basic research:

> * * * New technologies can aid in the solution of many of our nation's problems. These technologies in turn depend upon a fund of knowledge derived from basic research. The Federal Government should, therefore, increase its support both for basic research, and where appropriate, for the application of new technologies * * * Prudent planning for the future demands a deliberate and continued commitment to basic research.

This commitment to basic research is essential if the Department is to contribute new knowledge and insights into the phenomena underlying transportation research problems that the nation will face over the next decade.

The Research and Technology Advisor and the Research and Special Programs Administration will play a central role in the departmental level basic research program, drawing upon expertise throughout the Department and the transportation community. The Cooperative Automotive Research Program is the first program under the new administrative structure of Department-wide, intermodal basic research. It will serve as a model for research programs that transcend modal responsibilities and missions.

At the same time, the Research and Technology Advisor and staff must maintain an overview of the modal basic research programs being conducted by the operating administrations. With the Cooperative Automotive Research Program and other departmental research efforts, considerable emphasis will be placed on using the present as well as developing new mechanisms to assure the coordination of research projects, the timely exchange of information among R&D project staffs across the Department and their involvement in work germane to the mission of their organizational elements.

(6) R&D throughout the Department must be assigned a higher budget priority and more stable funding.

Adequate and stable funding and program continuity are essential if the full benefits of R&D activities are to be realized and wasteful expenditures curbed. Multi-year funding, with annual evaluation, should be made available to provide a stable base for long-term R&D efforts. If basic research is to survive in a cost-conscious budget process, it requires a firm long-term commitment by the Department.

With respect to *level of funding*, an annual rate of growth of at least 3% should be maintained for the Department's overall R&D effort, but especially for basic research.

The concept of "sustained level of effort" should be adopted and incorporated in the Departmental budget process for basic research. This should be stated, for example, as a minimum proportion of the total annual program levels, rather than as a proportion of R&D resources, because the latter fluctuates more severely from year to year than do the former.

At the same time, the Department must assure that in funding R&D, if finds the constructive mix of the elements of basic and applied research, development, and demonstration. Thus, rate of growth in funding should be addressed each year in the Secretary's R&D agenda.

Finally, we should establish, at the *outset* of a new R&D program, its economic, social, or regulatory basis, the primary vs. secondary R&D objectives, the desired Federal and private sector roles in both R&D and implementation, acceptable general terms and conditions for conduct of the program, and a range of acceptable outcomes, costs, risks and uncertainties. Having done so, the program manager must be allowed to proceed as long as there are no fundamental changes in these underlying premises. For large procurements, the Transportation System Acquisition and Review Council (TSARC) provides one mechanism for performing this review, but there should be others within each administration.

(7) R&D should be undertaken in close cooperation with potential users (manufacturers/owners/operators).

Each element of the Department engaged in the performance of R&D should assure that potential user groups are actively involved in the design and objectives of R&D programs. Coordination with the manufacturer/user constituency must be accomplished through the operating administration's own advisory groups. It must begin as early as the development of the research agenda and must be maintained throughout to assure that the commercialization process is accomplished.

Involvement of representatives of the clientele groups or user community expected to benefit from the R&D should provide support in maintaining continuity in R&D. It should also provide support for adaptive change in the program when underlying conditions change.

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(8) The Department recognizes the need to accept risk in research and development—though the assumption of such risk must be guided by management criteria.

Risk is an inherent element in R&D. Government must be willing to take controlled risks and to accept failures as a vital part of the learning process, and of the technology development process, especially where industry is unwilling to take such risks, or where the research is directed at public functions.

Within the Department, the basic method of managing risk is by developing a balanced program so that the possible failure of one project or one approach is unlikely to force termination of the entire effort to solve the broad transportation need or problem addressed. it may also be appropriate to reduce risk through pursuit of competitive technologies by reliance upon competing teams of development contractors with different capabilities, market orientations and management approaches.

Operating administrations will seek to contain risks and uncertainties in performance, cost, and schedule within a particular project by assigning competent program managers and by phasing expensive, complex, or technologically ambitious projects so that each successive phase or technological building block is successfully accomplished before entering into the next stage of development.

Further reduction of risk can be achieved by effective program monitoring within the Department and use of outside project review panels, including representatives of clientele groups expected ultimately to buy or use the innovations being developed and tested.

(9) Justification for Departmental involvement in advanced development or prototype development projects will be determined by different, more exacting criteria than those used to justify DOT support of research.

Cost benefit criteria, when applied to the more speculative, high-risk areas of research (e.g., magnetic levitation) will generally drive decisions away from such research and towards mundane, proven technology. On the other hand, *advanced and prototype development* work, which involves a larger commitment of fiscal and manpower resources than basic and applied research, needs to be subjected to such criteria. In the operating admininstrations, advanced and prototype development initiatives must be carefully analyzed to justify Federal involvement, even in the FAA and Coast Guard where they are almost completely mission-oriented.

The Federal role is justified in supporting advanced development where public benefits are calculated to be high and when industry chooses not to commit its resources to new and advanced transportation systems, because of high costs, high technological risks, dubious current (as opposed to long-range) market acceptance, low volume of production, or other reasons.

Awareness of the appropriate limits of DOT involvement in advanced development work, based on assessment of the potential public benefits versus the associated costs is essential to a successful R&D program.

(10) The Department must work creatively to encourage use of the results of R&D in the public and private sectors.

The Department should make effective use of existing mechanisms in promoting the innovation and commercialization process. The Department's technology transfer program currently provides many of the types of information exchange that are required by potential innovators. The Department should also compile and disseminate information on transportation problems and opportunities for innovation identified in local areas across the country. Existing technology transfer expertise should be the basis for a newly emphasized and coordinated R&D commercialization effort, employing such mechanisms as: R&D report and technical summary distribution, public information campaigns, seminars/workshops/conferences, clearinghouse functions, and opportunities for innovation identified in local areas across the country.

Departmental procurement policy offers several mechanisms for promotion of commercialization of the products of R&D. Primary methods used are: Grants to State and local governments which require performance specifications rather than design specifications, establishment of means for funding unsolicited proposals based on perceived needs in certain technical areas, broad use of incentive contracts, and efforts to remove disincentives (such as the requirement to repay R&D costs). The adoption of more flexible patent policies, including grants of exclusive licenses to developers subject to commercialization of the process or product within a given period, should also be pursued, as they have been in other Federal agencies.

Demonstration can also be an effective tool for marketing new or innovative concepts since it provides, once an innovation is technologically well in hand; i.e., thoroughly understood and well tested, the important connection between the results of R&D and the marketplace. This linkage presents an excellent opportunity to show potential users the capabilities of an R&D product and to create user confidence in the product's ability to solve a particular transportation problem.

(11) The Department will take a more active role in developing and maintaining for the nation a competitive technological posture in the international transportation products market through R&D.

U.S. transportation technology has lost ground to that of other nations. As a result, the international trade position of U.S. transportation industries has been on the decline. Innovations arising out of R&D, however, can lead to increases in productivity and consumption that result in overall economic growth. Through these mechanisms, R&D can make a significant contribution toward improving the posture of the U.S. transportation industry in the international products market. The Department will make a concerted effort to stimulate and support both technological advancement by U.S. industry and its direct sales to international markets.

(12) Jointly funded research programs with industry, including sponsorship of research in industrial laboratories, should be encouraged to help stimulate R&D in the private sector.

If the Department is to play a major role in the revitalization of America's industrial base; if energy, scarce raw materials and other complex issues that will impact the transportation sector in the 1980s are to be addressed with purpose, greater cooperation between government and industry is essential.

Joint Departmental efforts with industry in research and development should seek to:

- Stimulate technical and organizational innovation within industry,
- Define appropriate public and private research efforts,
- Increase productivity in the transportation sector,
- Promote export of transportation products, and
- Alleviate safety, energy, and environmental problems now confronting the nation's transportation systems.

The R&T Advisor, after careful study, and guided by the General Counsel, will make specific recommendations to the Secretary with respect to other mechanisms that the Department's operating administrations might employ to stimulate creative R&D by industry. Such mechanisms, successfully employed by other Federal agencies include:

- Independent Research and Development (IR&D),
- Granting of exclusive patents (Government waives its rights but retains royalty-free use),
- Unsolicited proposals—which, under control, could elicit useful new ideas.

The nation's independent research contract centers and numerous small businesses engaged in R&D represent a rich resource for contributing to the development of new transportation solutions and assessments of the alternatives. This store of talent should continue to be utilized by the Department in support of its R&D activities.

(13) Universities are a primary source for basic research for the Department, and will play a major supporting role in long-range, multimodal programs. University research must be directed to areas of priority Departmental concern.

Basic research is an integral part of the university's primary mission of education; it expands the font of knowledge that can be shared with students. Government must use that vast national resource in ways that at once strengthen the universities and extract products germane to the agency mission. Wise and patient nurturing of university relationships will yield dividends over the long term.

The Department will continue to expect of universities a professional capability to deal with research problems on an inter-disciplinary, inter-departmental, systems basis. DOT will also expect that university research supported by it will be responsive to the Department's mission. DOT will develop and use carefully drawn contractual instruments to assure relevance and reasonable timeliness of the research.

There will be greater encouragement of unsolicited proposals from university researchers under a structured program of set-aside funds. At the same time, cost-sharing by the universities should be encouraged as a means of assuring institutional commitment to the research. The objective of these programs will be to elicit creative new ideas and approaches from university research teams, and eventually from other sources as well. Mechanisms should be established so that a mutual exchange of information on R&D programs will occur among the modal administrations and the university community. On the one hand, greater knowledge of the thrust and nature of Departmental programs will encourage more responsive unsolicited proposals from universities. On the other hand, greater knowledge of the specialized capabilities and resources of universities will encourage more Departmental initiatives in seeking research support from universities.

(14) The extensive technical resources of Federal agency R&D establishments are a national resource, which should be tapped by the Department through cooperative relationships with other agencies engaged in relevant R&D.

The skills and specialized facilities of the Energy Technology Centers of the Department of Energy (DOE), the Environmental Protection Agency (EPA), National Aeronautics and Space Administration (NASA) Research Centers, the National Bureau of Standards, and numerous facilities of the Department of Defense are examples of resources which could be used effectively in support of Departmental mission objectives, along with the Transportation Systems Center and other DOT R&D facilities.

Much work germane to the DOT mission takes place in these agencies. Development of batteries for electric cars in DOE and gas mileage studies in EPA are but two outstanding examples. Much aviation work has been performed at NASA, which has the breadth of experience and disciplines among its staff and the physical facilities to contribute even more substantially to transportation R&D. What is needed to exploit these resources is the will and initiative of DOT R&D managers and formal linkages to facilitate information-sharing, joint undertakings, funding, and guidance.

DOT participation in transportation research programs conducted by other Federal agencies will include appropriate budgetary support and cooperative technical direction to assure that DOT research objectives are accomplished.

The Office of the Research and Technology Advisor will establish appropriate liaison with other Federal agencies which maintain or operate laboratories, technology research centers, test facilities, and other R&D capabilities. Each operating administration will establish and maintain linkages with other agencies as needed to assure maximum benefits through R&D program coordination and information-sharing.

(15) The Department must stimulate creative research and technology efforts among State and local entities.

State and local entities are often not only closest to transportation problems, but must ultimately solve them. The Federal grant programs in transportation should therefore be looked to as a major source of support of State and local transportation research activities. There are important precedents for so doing. For example, 1½% of the Highway Trust Fund may be used for research, development, test and evaluation (RDT&E) as well as for planning, and NHTSA 402 grants support research activities by State and local governments to develop highway safety programs. Similarly, the HUD 701(b) clause, contained within the Comprehensive Metropolitan Planning Act, allows up to 5% of the funds authorized and appropriated under 701 to be used for RDT&E. This, in principal, is a way to greatly increase the amount of RDT&E funds to be made available to improve the efficiency and effectiveness with which those Federal grant monies are being spent. With these funds, universities, local professional groups, and local commercial and not-for-profit institutions could be called upon, and supported, to study transportation problems of priority concern to communities across the nation.

(6) Formidable foreign competition in both domestic and world marketplaces makes it imperative that the Department monitor closely the progress of technology development abroad and participate to a greater extent in international R&D activities.

The Cooperative Research Program, through which the Department seeks mutually beneficial exchanges and shared projects with foreign governments and international organizations has proven effective in obtaining quicker results from R&D, as well as effecting savings in resources and avoiding the wrong turns of others. Under this program, we share research results, exchange visits and personnel, sponsor symposia, jointly sponsor research, and contract with foreign sources to supply the transportation community with needed research not available domestically.

Reviewing published documents is but one method of obtaining information on foreign R&D. Exchange of technical visits, participation in scientific conferences, and shared research are also highly effective and at times essential methods of keeping abreast of foreign technology.

We must therefore support and encourage more exchanges of technical experts and more shared research in the area of foreign transportation technology.

(17) The Department will recruit and develop the highest level professional competence and mix of skills required to address the Department's R&D agenda.

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All decisions of major consequence to DOT programs, including basic planning, technical, direction and management, are the ultimate responsibility of full-time DOT employees and cannot be delegated to outside organizations. The success of the Department's R&D programs depends to a large extent upon the ability of its employees to plan and make sound decisions on highly technical matters.

Essential to the attraction and retention of able staffs, and to the performance of good research, is the creation in DOT of an atmosphere that encourages creativity, innovation, and responsible risk-taking; an environment which does not freeze people into rigid assignments, but permits them to be flexibly matched with stimulating work assignments.

The Department places emphasis not only on the importance of first-class performance and individual competence at each level of the organization, but also on patterns of administration that foster the development of excellence in in-house research and careful and responsible judgment as an instinctive approach to R&D.

Appendix A—The Department's R&D Programs

- Coast Guard R&D efforts are directed toward its operating missions involving *search and rescue systems, aids to navigation, commercial shipping and recreational boating safety, environmental protection, port safety and security and icebreaking technology.*
- The Federal Aviation Administration's programs consist of efforts to improve the safety, performance, and productivity of the *national aviation system* and to increase the capacity of that system to meet future traffic demands. *Aviation research and development* is directed toward increased effectiveness of air traffic controllers and pilots, as well as toward environmental protection.
- The Federal Highway Administration's R&D program includes *research in highways, safety, demonstration projects, and specialized research* for the Bureau of Motor Carrier Safety to improve both safety and performance along the highways.
- The Federal Railroad Administration conducts research in the areas of *rail safety, economics, technology and policy research,* focusing on near and intermediate-term conventional rail problems.
- The National Highway Traffic Safety Administration focuses on R&D on the *safety of motor vehicles on the highway, on fuel economy, and accident and data analysis,* through its Motor Vehicle and Traffic Safety Programs.
- The Urban Mass Transportation Administration conducts R&D under Section Six of the Urban Mass Transportation Act, emphasizing, for example, *improved safety, performance and reduced life cycle costs of conventional mass transit systems, high payoff/risk automated systems, central city revitalization, and accessibility for elderly and handicapped citizens.*
- The Research and Special Programs Administration performs R&D in support of the Secretary, the operating administrations and in support of its own missions, with attention to *intermodal and transmodal issues such as intermodal terminals, transportation use of energy, and hazardous materials transport and pipeline safety.*
- The Office of the Secretary supports the Secretary with policy analysis and provides overall guidance with respect to Departmental goals and objectives for R&D.

[FR Doc. 80-37714 Filed 12-3-80; 8:45 am]
BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1980 Rev., Supp. No. 12]

Surety Companies Acceptable on Federal Bonds

A certificate of authority as an acceptable surety on Federal bonds is hereby issued to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of $387,000 has been established for the company.

Name of Company:

SENTINEL INSURANCE COMPANY, LTD.

Business Address:

P.O. Box 1140
Honolulu, Hawaii 96807

State of Incorporation:

Hawaii

Certificates of authority expire on June 30 each year, unless renewed prior to that date or sooner revoked. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1980 Revision, at page 44511 to reflect this addition. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: November 25, 1980.

W. E. Douglas,
Commissioner, Bureau of Government Financial Operations.

[FR Doc. 80-37808 Filed 12-3-80; 8:45 am]
BILLING CODE 4810-19-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 235
Thursday, December 4, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COPYRIGHT ROYALTY TRIBUNAL.

TIME AND DATE: 10 a.m., Wednesday, December 10, 1980.

PLACE: Postal Rate Commission; Room 500, 2000, L Street NW., Washington, D.C. 20036.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Possible adjustment of coin-operated phonorecord players (jukeboxes) royalty rate
2. Possible adjustment of mechanical royalty rate Contact person for further information: Clarence L. James, Jr., Chairman, Copyright Royalty Tribunal, (202) 653 5175.

Clarence L. James, Jr.,
Chairman.

[S-2215-80 Filed 12-2-80; 2:33 pm]
BILLING CODE 1410-03-M

2

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, December 9, 1980, 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Personnel. Compliance. Litigation. Audits.

* * * * * *

DATE AND TIME: Thursday, December 11, 1980, 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (Fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:
Setting of dates for future meetings
Correction and approval of minutes
Certification
Advisory opinions:
Draft AO 1980.122—Lawrence A. Mandelker, New Yorkers for Myerson, Inc.
Draft AO 1980.132—LouAnn Diamond, Secretary, Alaskans for Gruening
1980 Election and related matters
Appropriations and budget:
Budget execution report
Pending legislation
Classification actions
Routine administrative matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone: 202-523-4065.

Leona L. Stafford,
Acting Secretary to the Commission.

[S-2216-80 Filed 12-2-80; 3:30 pm]
BILLING CODE 6715-01-M

3

FEDERAL ENERGY REGULATORY COMMISSION.

December 1, 1980.

TIME AND DATE: 9:30 a.m., December 15, 1980.

PLACE: 825 North Capitol Street NW., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Staff briefing on rate of return on common equity for electric utilities.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary; telephone (202) 357-8400.

Kenneth F. Plumb,
Secretary.

[S-2211-80 Filed 12-2-80; 11:50 am]
BILLING CODE 6450-85-M

4

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., December 9, 1980.

PLACE: Hearing room one, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED: Docket No. 80-13: Licensing of Independent Ocean Freight Forwarders.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-2209-80 Filed 12-1-80; 4:40 pm]
BILLING CODE 6730-01-M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

December 1, 1980.

TIME AND DATE: 10 a.m., Wednesday, December 3, 1980.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Kerr-McGee Corporation, CENT 79-156-M (Petition for Discretionary Review; issues include interpretation and application of 30 CFR § 57.15-5).
2. Cyprus Industrial Minerals Corp., DENV 78-558-M (Issues include whether area in question is a "mine" subject to the 1977 Mine Act).
3. Co-Op Mining Company, DENV 79-1-P (Issues include whether record establishes no violation of 30 CFR § 70.250(b), and if so, whether approval of penalty assessment was in error).
4. Big Hill Coal Company, PIKE 78-28-P, etc. (Request pursuant to 29 CFR § 2700.65(c)).
5. Tazco, Inc., VA 80-121, and Goode Contractors, WEVA 80-540 (Issues include propriety of suspending payment of penalty assessment).

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on these items and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-2214-80 Filed 12-2-80; 1:51 pm]
BILLING CODE 6820-12-M

6

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE.

MEETING: Community Information and Referral Services Task Force.

DATE AND TIME:
Tuesday, December 9, 1980, 9:30 a.m.-4:30 p.m.
Wednesday, December 10, 1980, 8:30 a.m.-4:00 p.m.

PLACE: Columbia Room, Mayflower Hotel.

STATUS: Open.

MATTERS TO BE DISCUSSED: Determination of the Role that Public Libraries are to Play in Information and Referral.

December 1, 1980.

Mary Alice Hedge Reszetar,

Associate Director, NCLIS.

[S–2213–80 Filed 12–3–80; 1:51 pm]

BILLING CODE 7527–01–M

7

NATIONAL MUSEUM SERVICES BOARD.

DATE AND TIME:

December 12 and 13, 1980:

On December 12: 10 a.m.–4:30 p.m.
On December 13: 8:30 a.m.–12 p.m.

PLACE:

(December 12) First floor auditorium, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20202.
(December 13) Textile Museum, 2310 S Street NW., Washington, D.C. 20008

STATUS: Certification has been received from the Department of Education Office of General Counsel, that in the opinion of that office, the NMSB "would be authorized to close portions of its meeting on December 13, 1980, under 5 U.S.C. 552b(c)(2) and (6) and 34 CFR 64.78 for the purpose of discussing the change in Administrations and how this may require changes in the staffing and hiring practices at the Institute of Museum Services." Agenda item #9 will be closed, the rest of the agenda remains open to the public.

MATTERS TO BE CONSIDERED: December 12:

1. Introduction (10:00 to 10:10 a.m.)
2. Minutes of previous NMSB meeting (10:10 to 10:20 a.m.)
3. Speaker from Education Task Force (10:20 to 10:40 a.m.)
4. Director's Report (10:10 to 11:10 a.m.)
5. Legislation (11:10 to 11:30 a.m.)
6. Policy Issues (11:30 to 12:00 noon)
7. FY 1982 Budget (12:00 to 12:30 p.m.)
8. Report of Ad Hoc Committee studying IMS Review Procedures (1:30 to 4:30 p.m.)

December 13:

9. Executive Session (8:30 to 9:30 a.m.) Closed to the Public
10. Administration (9:30 to 10:15 a.m.)
11. Report of Committee on Renovation (10:15 to 10:30 a.m.)
12. Policy Issues (10:30 to 11:30 a.m.)
13. Report on *The Humanities in American Life* (11:30 to 11:45 a.m.)
14. Remarks by Mr. Ward Dworshak of the Textile Museum (11:45 til close)

CONTACT PERSON FOR MORE INFORMATION: Kate Merlino, Executive Secretary, NMSB; telephone 202/426–6577.

Dated: December 2, 1980.

Kate Merlino,

Executive Secretary, National Museum Services Board.

[S–2210–80 Filed 12–2–80; 11:46 am]

BILLING CODE 4000–02–M

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federal register

Thursday
December 4, 1980

Part II

Department of Transportation

Federal Aviation Administration

Airworthiness Standards: Aircraft and Products Design and Procedural Standards for Type Certificates, Type Certificate Amendments, and Supplemental Type Certificates

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21, 39, and 91

[Docket No. 20660; Notice 80-13B]

Airworthiness Standards: Aircraft and Products Design and Procedural Standards for Type Certificates, Type Certificate Amendments, and Supplemental Type Certificates

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This notice announces a second extension of the comment period for Notice of Proposed Rule Making (NPRM) No. 80-13 (45 FR 57688; August 28, 1980), which proposed to amend certain certification procedures regulations applicable to the type design approval of aircraft, aircraft engines, and propellers. It is clear that there is a great deal of misunderstanding concerning the intent of this proposal, in respect to both FAA policy and some wording in the proposed rules. In addition, the agency realizes that it may have misjudged the conceived economic impacts and other implications of the rule changes. The purpose of this extension is to allow the FAA to discuss the proposal further with concerned groups. All such meetings will be docketed. This will allow all interested parties to reconsider their views subsequent to these meetings. At the end of this comment period, a new NPRM will be issued for comment using all information received. The new NPRM will be designed to more thoroughly explore the purpose and anticipated impacts of the proposed policies and rules as was done at the public hearing.

DATE: Comments must be received on or before March 31, 1981.

ADDRESS: Comments on the subject proposals may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 20660, 800 Independence Avenue, SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments delivered must be marked: Docket No. 20660. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Marvin J. Walker, Regulatory Review Branch (AVS-22), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Telephone: (202) 755-8714.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environment, energy, or economic impact that might result from adoption of proposals contained in the notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact concerned with the proposal will be filed in the Rules Docket. Commenters wishing acknowledgment of mailed comments should enclose a stamped, self-addressed postcard on which the following statement is made: "Comments on Docket No. 20660." The postcard will be dated and time stamped and returned to the commenter.

Each proposal in the notice is numbered separately. Persons submitting comments should refer to proposals by these numbers or by the sections of the regulations to which they relate.

Availability of Additional Copies of Notice

Any person may obtain a copy of the notice of proposed rule making (NPRM) or the extension notices by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591; Telephone: (202) 426-8058. Each communication must specify the notice number desired. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

Availability of Copies of Hearing Proceedings

Transcripts of the proceedings of the public hearing held November 12 through 14, 1980, at FAA Headquarters, Washington, D.C. may be purchased from Neal Gross and Company, 1330 Vermont Avenue, NW., Washington, D.C. 20005; Telephone: (202) 234-4433. A copy of the transcript will be placed in the Rules Docket and be available for examination in Room 916, FAA Headquarters, Washington, D.C., between 8:30 a.m. and 5:00 p.m. A copy of the transcript will also be available for examination in the Regional Counsel's Office of each FAA Regional Headquarters:

Alaskan Region AAL-7, Alaskan Federal Office Building, 701 C Street, Anchorage, AL 99513, Telephone: (907) 271-5269
European Office Headquarters (Aircraft Certification Staff), 15 Rue De La Loi, 1030, Brussels, Belgium, Telephone: AUT 451-2445-574
Central Region ACE-7, Federal Building, Room 1558A, Kansas City, MO 64106, Telephone: (817) 374-5446
Eastern Region AEA-7, JFK International Airport, Federal Building, Room 109, Jamaica, NY 11430, Telephone: (212) 995-2814
Great Lakes Region AGL-7, 2300 East Devon Avenue, Room 405, Des Plaines, IL 60016, Telephone: (312) 694-4500 ext. 311
New England Region ANE-7, 12 New England Executive Park, Room 311, Burlington, MA 01803, Telephone: (617) 273-7385
Northwest Region ANW-7, FAA Building, Boeing Field, Third Floor, Seattle, WA 98108, Telephone: (206) 767-2670
Pacific Region APC-7, Federal Building, Room 7102, 300 Ala Moana Boulevard, P.O. Box 50109, Honolulu, HA 90850, Telephone: (808) 546-5621
Rocky Mountain Region ARM-7, 10455 East 25th Avenue, Aurora, CO 80010, Telephone: (303) 837-4846
Southern Region ASO-7, 3400 Whipple Street, Room 770, East Point, GA 30320, Telephone: (404) 763-7204
Southwest Region ASW-7, 440 Blue Mound Road, Room 3B, Fort Worth, TX 76101, Telephone: (817) 624-4911
Western Region AWE-7, 15000 Aviation Boulevard, Room 6W14A, Hawthorne, CA 92007, Telephone: (213) 536-6270

Explanatory Session

At the public hearing, it became clear that the subject of this proposal, while relatively simple in concept, has caused deep-seated concern among the public. In light of the fact that this is a certification reevaluation proposal of somewhat novel concept, it is important to have a full and common understanding of its implications. Accordingly, the FAA will contact interested groups and individuals who have expressed strong representative positions thus far and hold further discussions during the extended comment period. Any other person or organization wishing to participate in this process should contact the designee named above under "For Further Information Contact."

Background

NPRM No. 80-13, which was published in the **Federal Register** on Thursday, August 28, 1980, proposed amendments ot the certification procedures regulations applicable to the type design approval of aircraft, aircraft engines, and propellers, including major changes. Amendments to Parts 39 and 91 were also proposed to facilitate retroactive application of type design change requirements to aircraft, aircraft engines, and propellers in service when necessary.

Published as part of the notice was an extensive background discussion of factors leading to promulgation of the proposed rules, as well as a statement of the policy changes envisioned by the FAA which would be implemented by adoption of the proposed amendemts. A detailed explanation of each proposed regulatory change was provided. In addition to inviting comments on the substance of the proposals, the notice solicited specific information from the public regarding anticipated economic and other impacts. The comment period was initially 60 days from publication date of the notice, or until October 27, 1980.

In response to this notice, the FAA received numerous communications expressing the need for both a public hearing, at which certain important positions could be presented and discussed in open forum, and an extension to the comment period, which would provide the parties additional time in which to submit their viewpoints. Consequently, Notice 80-13A was issued and published in the **Federal Register** on Thursday, October 30, 1980. It announced a public hearing, and extended the comment period on the initial notice until November 26, 1980.

The public hearing began at 1:00 p.m. on November 12, 1980, at the Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. and carried through the business hours of November 12, 13 and 14 approximately as scheduled. Nearly 100 persons registered, representing aviation trade organizations, manufacturers, modifiers and the general public. Twenty-one oral presentations were made, and the proposed policies and positions of the FAA were further delineated, together with a detailed discussion of each proposed rule change and its anticipated impact.

Discussion and Extension of Comment Period

Many comments received at the hearing and in the docket prior to the hearing indicated misunderstandings by the commenters of the policy and regulatory changes proposed by Notice 80-13. As a result of these comments, the FAA has concluded that a new notice should be issued to more clearly explain the changes proposed. Additional comments on Notice 80-13 as written, and on the the exchange of views expressed at the hearing, would be helpful to the FAA in developing this new notice. Persons who were unable to attend the hearing will have an opportunity to review the proceedings of the hearing before they provide comments. Important information on the future issuance of special conditions and special retroactive regulations was published in the discussion of Proposal 8-2 in Airworthiness Review Program Amendment No. 8A on Thursday, September 11, 1980 (45 FR 60154). Also, an important clarification of the intent of § 21.117(a) was published in Notice 80-13A on Thursday, October 30, 1980 (45 FR 72020). Both of these documents should be reviewed by persons commenting on Notice 80-13.

Accordingly, the comment period on Notice 80-13 is extended, and closes on March 31, 1981.

At the close of this extended comment period, the FAA will review all comments received in Docket No. 20660 and the proceedings of the public hearing. Based on that review, the FAA will prepare a new notice proposing rules and a statement of associated policies.

(Secs. 313, 314 and 601 through 610 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1355 and 1421 through 1430); Sec. 6(c), Department Transportation Act (49 U.S.C. 1655(c))

Note.—The FAA has determined that this extension of comment period is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and that a regulatory evaluation is not required.

Issued in Washington, DC, on November 25, 1980.

Langhorne Bond,
Administrator.

[FR Doc. 80-37334 Filed 12-3-80; 8:45 am]
BILLING CODE 4910-13-M

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federal register

Thursday
December 4, 1980

Part III

Department of Energy

Economic Regulatory Administration

Domestic Crude Oil Allocation Program; Entitlements Notice for September 1980

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Domestic Crude Oil Allocation Program; Entitlements Notice for September 1980

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: September 1980 Entitlements Notice.

SUMMARY: Under the Department of Energy's (DOE) Domestic Crude Oil Allocation (Entitlements) Program, this is the monthly Entitlements Notice which sets forth the entitlements purchase or sale requirements of domestic refiners and eligible firms for September 1980.

DATES: Payments for entitlements required to be purchased under this notice must be made by November 30, 1980. The monthly transaction report specified in § 211.66(i) shall be filed with the DOE by December 10, 1980.

FOR FURTHER INFORMATION CONTACT:

David A. Welsh (Entitlements Program Office), Economic Regulatory Administration, 2000 M Street, N.W., Room 6212C, Washington, D.C. 20461, (202) 653–3873.

Jeffrey Stoermer (Office of General Counsel), Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Room 6A–127, Washington, D.C. 20585, (202) 252–6754.

SUPPLEMENTAL INFORMATION: In accordance with the provisions of 10 CFR 211.67 relating to the Domestic Crude Oil Allocation Program of the Department of Energy (DOE), administered by the Economic Regulatory Administration (ERA), the monthly notice specified in § 211.67(i) is hereby published.

Based on reports for September 1980 submitted to the DOE by refiners and other firms as to crude oil receipts, crude oil runs to stills, eligible product imports, eligible petroleum substitutes, and imported naphtha utilized as a petrochemical feedstock in Puerto Rico; application of the entitlements adjustment for residual fuel oil production shipped in foreign flag tankers for sale in the East Coast market and Michigan provided in § 211.67(d)(4); application of the entitlement adjustments for California lower tier and upper tier crude oil provided in § 211.67(a)(4); October 1980 deliveries of crude oil to the Strategic Petroleum Reserve; and application of the entitlement adjustment for small refiners provided in § 211.67(e), the national domestic crude oil supply ratio for September is calculated to be .135185.

In accordance with § 211.67(b)(2), to calculate the number of barrels of deemed old oil included in a refiner's adjusted crude oil receipts for the month of September 1980 each barrel of old oil is equal to one barrel of deemed old oil, each barrel of upper tier crude (excluding ANS upper tier) oil is equal to .699037 of a barrel of deemed old oil and each barrel of ANS upper tier crude oil is equal to .361614 of a barrel of deemed old oil.

The issuance of entitlements for the month of September 1980 to refiners and other firms is set forth in the Appendix to this notice. The Appendix lists the name of each refiner or other firm to which entitlements have been issued, the number of barrels of deemed old oil included in each such refiner's adjusted crude oil receipts, the number of entitlements issued to each such refiner or other firm, and the number of entitlements required to be purchased or sold by each such refiner or other firm.

Pursuant to 10 CFR 211.67(i)(4), the price at which entitlements shall be sold and purchased for the month of September 1980 is hereby fixed at $26.07, which is the exact differential as reported for the month of September between the weighted average per barrel costs to refiners of old oil and of imported and exempt domestic crude oil.

In accordance with 10 CFR 211.67(b), each refiner that has been issued fewer entitlements for the month of September 1980 than the number of barrels of deemed old oil included in its adjusted crude oil receipts is required to purchase a number of entitlements for the month of September 1980 equal to the difference between the number of barrels of deemed old oil included in those receipts and the number of entitlements issued to and retained by that refiner. Refiners which have been issued a number of entitlements for the month of September 1980 in excess of the number of barrels of deemed old oil included in their adjusted crude oil receipts for the month and other firms issued entitlements shall sell such entitlements to refiners to purchase entitlements.

The listing of refiner's old oil receipts contained in the Appendix reflects any adjustments made by ERA pursuant to § 211.67(h).

Included in the Appendix are entitlements issued pursuant to the provisions of 10 CFR 211.67(a)(5) under which ERA may approve a firm's application for designation as a producer of a petroleum substitute.

In accordance with 10 CFR 211.67(a)(7), adopted effective August 29, 1980 (45 FR 56788, August 25, 1980), the Strategic Petroleum Reserve (SPR) has been issued entitlements for crude oil purchased, delivered and accepted for delivery into the SPR in the month of October. An entry in the Appendix for the SPR has been included.

The listing contained in the Appendix identifies, in a separate column labeled "Exceptions and Corrections", additional entitlements issued to refiners pursuant to relief granted by the Office of Hearings and Appeals (prior to March 30, 1978, the Office of Administrative Review of the Economic Regulatory Administration). Also set forth in this column are adjustments for relief granted by the Office of Hearings and Appeals for 1975 and 1976, which adjustments are reflected in monthly installments. The number of installments is dependent on the magnitude of the adjustment to be made. For a full discussion of the issues involved, see *Beacon Oil Company, et al.*, 4 FEA par. 87,024 (November 5, 1976).

The listing contained in the Appendix includes the "Consolidated Sales" entry initiated in the October 1977 entitlements notice. The "Consolidated Sales" entry is equal to the September 1980 entitlements purchase requirements of Arizona Fuels. The purpose of providing for the "Consolidated Sales" entry is to ensure that Arizona Fuels is not relieved of its September entitlements purchase requirement and that no one firm will be unable to sell its entitlements by reason of a default by Arizona Fuels. For a full discussion of the issues involved, see *Entitlements Notice for October 1977* (42 FR 64401, December 23, 1977).

For the month of September 1980 imports of residual fuel oil eligible for entitlement issuances totaled 22,043,932 barrels.

In accordance with § 211.67(a)(4), the number of barrels of California lower tier and upper tier crude oil as reported by refiners to the DOE, and the weighted average gravity thereof are as follows:

	Volumes	Weighted average gravity (degrees)
California Lower Tier Crude Oil	994,626	25
California Upper Tier Crude Oil	1,808,997	27

The total number of entitlements required to be purchased and sold under this notice is 17,412,083.

Based on reports submitted to the DOE by refiners as to their adjusted crude oil receipts for September 1980 the pricing composition and weighted average costs thereof are as follows:

	Volumes in thousands of B/D	Weighted average cost	Percent of total volumes[1]
Lower tier	1,011	$7.37	7.7
Upper tier (excluding ANS)	1,462	15.21	11.1
ANS upper tier	621	24.01	4.7
Exempt domestic:			
Other ANS	581	30.37	4.4
Heavy and market tier	1,636	32.51	12.4
Naval petroleum reserve	80	33.68	0.6
Newly discovered	462	35.88	3.5
Stripper	2,046	31.92	15.6
Tertiary	65	32.09	0.5
Total domestic	7,963	25.37	60.6
Imported	5,187	34.46	39.4
Total uncontrolled (exempt domestic and imported)	10,055	33.44	76.5
Total reported crude oil receipts	13,150	28.96	
Total reported crude oil runs to stills	13,849		

[1] Volumes may not total 100% due to rounding.

Payment for entitlements required to be purchased under 10 CFR 211.67(b) for September 1980 must be made by November 30, 1980.

On or prior to December 10, 1980, each firm which is required to purchase or sell entitlements for the month of September shall file with the DOE the monthly transaction report specified in 10 CFR 211.66(i) certifying its purchases and sales of entitlements for the month of September 1980.

The monthly transaction report forms (ERA–116) for the month of September 1980 have been mailed to all reporting firms. Firms that have been unable to locate other firms for the required entitlements transactions by November 30, 1980, are requested to contact the ERA at (202) 653–3873 to expedite consummation of these transactions. For firms that have failed to consummate required entitlements transactions on or prior to November 30, 1980, the ERA may direct sales and purchases of entitlements pursuant to the provisions of 10 CFR 211.67(k).

This notice is issued pursuant to Subpart G, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed by January 5, 1981.

Issued in Washington, D.C. on November 25, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Notice of Entitlements for Domestic Crude Oil

[September 1980]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position					
		Total issued	Exceptions and corrections	Entitlements		Required to buy	Required to sell
				Product	California		
Consol'd-Sales	−23,549	0	0	0	0	0	[illegible]
A-Johnson	0	63,151	0	21,232	0	0	63,151
Adm	0	7,463	0	0	0	0	7,463
Akron-Ohio	0	1,479	0	0	0	0	1,479
Alexandria-VA	0	28	0	0	0	0	28
Allied	177	33,591	0	0	0	0	33,414
Amer-Agri-Fuels	0	156	0	0	0	0	156
Amer-Petrofina	281,577	540,989	0	0	0	0	259,412
Amerada-Hess	1,528,519	2,128,211	0	61,525	0	0	599,692
Ames-Iowa	0	526	0	0	0	0	526
Amoco	6,740,971	3,962,813	0	0	0	2,778,158	0
Anchor	0	25,426	0	0	0	0	25,426
Apex	0	46,522	0	0	0	0	46,522
Arco	2,296,869	2,567,491	0	0	97	0	270,622
Arizona	36,341	12,792	0	0	317	23,549	0
Arizona-Chem	0	191	0	0	0	0	191
Asamera	83,034	125,207	29,076	0	0	0	42,173
Ashland	879,364	1,420,234	0	4,143	0	0	740,350
Bayou	5,303	8,353	0	0	0	0	3,050
Beacon	11,295	80,298	0	0	494	0	68,509
Belcher	0	44,941	0	44,941	0	0	44,941
Beloit-Wi	0	4	0	0	0	0	4
Bergen-County	0	155	0	0	0	0	155
Bi-Petro	1,824	0	0	0	0	1,824	0
Boston-Quincy	0	896	0	0	0	0	896
Bronco	7,848	24,555	0	0	0	0	16,707
Brun	23,643	63,037	0	0	0	0	39,394
Cadenza-Chem	0	4,195	0	0	0	0	4,195
Calcasieu	−6,116	43,606	0	0	0	0	49,722
Calumet	−1,113	10,639	0	0	0	0	11,752
Canal	11,171	27,991	0	0	0	0	16,820
Carbonit	0	42,303	0	0	0	0	42,303
Caribou	71,923	35,603	4,197	0	0	36,320	0
Ceis	0	677	0	0	0	0	677
Central	0	10,100	0	10,100	0	0	10,100
Champlin	−356,959	692,455	0	0	690	0	359,414
Charter	0	339,472	0	0	0	0	339,472
Chevron	5,033,885	4,857,974	0	0	36,474	175,911	0
Cibro	0	54,525	0	13,584	0	0	68,525
Citgo	1,276,820	875,447	0	0	0	401,373	0
City-of-Wichita	0	152	0	0	0	0	152
Claiborne	32,823	40,986	0	0	0	0	8,163
Clark	353,048	440,428	0	0	0	0	187,380
Costal	66,224	723,864	0	25,643	0	0	656,630
Costal-Petro	0	22,133	0	0	0	0	22,133
Coldwater	0	89	0	0	0	0	89
Colonial	0	13,812	0	13,812	0	0	13,812
Con-Ed	0	43,278	0	43,278	0	0	43,278
Conoco	1,240,356	1,049,182	0	16,736	11,769	191,174	0
Consumers-Power	0	192,926	154,247	38,681	0	0	192,926
Copano	2,362	46,270	0	0	0	0	43,908
Coral	0	217,777	0	8,082	0	0	217,777
Corco	0	515,689	−129,619	250,076	0	0	515,689
Cra-Farmland	175,057	296,054	0	0	0	0	120,997
Cross	17,409	39,732	0	0	0	0	22,323

Notice of Entitlements for Domestic Crude Oil—Continued

[September 1980]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position					
		Total issued	Exceptions and corrections	Entitlements		Required to buy	Required to sell
				Product	California		
Crown	176,855	382,843	0	0	0	0	155,988
Crystal-Oil	52,406	60,273	0	0	0	0	7,867
Crystal-Ref	0	10,688	0	0	0	0	10,688
Cumberland	0	4	0	0	0	0	4
Delta	84,718	246,546	0	0	0	0	161,828
Demenno	0	45,054	0	0	0	0	45,054
Detroit-Ed	0	26,248	0	26,248	0	0	26,248
Diamond	276,256	204,713	0	0	0	71,543	0
Dillman	0	302	0	0	0	0	302
Dorchester	428	103,619	0	0	0	0	103,191
Dow	188,937	552,388	0	0	0	0	363,451
Downers-Grove	0	3	0	0	0	0	3
E-Seaboard	0	29,233	0	29,233	0	0	29,233
Eagle-Refining	3,267	6,834	[4] 3,239	0	0	0	3,567
East-Bay-Mud	0	130	0	0	0	0	130
Eastern-Mwd	0	11	0	0	0	0	11
Eco	0	53,715	0	0	0	0	53,715
Eddy	11,863	14,690	0	0	0	0	2,827
Elgin-IL	0	4	0	0	0	0	4
Energy-Coop	3,541	282,959	0	0	0	0	279,418
Enterprise	0	4,356	0	4,356	0	0	4,356
Ergon	39,441	124,622	0	0	0	0	85,181
Erickson	1,600	130,244	0	0	0	0	128,644
Essex-Union	0	101	0	0	0	0	101
Evangeline	0	11,461	0	0	0	0	11,461
Ewing-Lawrence	0	22	0	0	0	0	22
Exxon	7,073,571	5,655,401	0	289,581	0	1,418,170	0
EZ-Serve	20,932	14,891	0	0	0	6,041	0
Farmers-Un	162,132	114,744	0	0	0	47,388	0
Fletcher	14,822	47,317	0	0	0	0	32,495
Flint	3,802	3,586	0	0	0	216	0
Friendswood	861	44,542	0	0	0	0	43,681
Funding	44,806	20,964	0	0	0	23,842	0
Gary	36,912	40,882	0	0	0	0	3,970
Getty	746,708	644,154	0	0	6,533	104,554	0
Getty-Syn	0	777	0	0	0	0	777
Giant	11,764	36,900	0	0	0	0	25,136
Gibson	0	14,386	0	0	0	0	14,386
Glacier-Park	−8,779	0	0	0	0	0	8,779
Gladieux	7,575	57,364	0	0	0	0	49,789
Glenrock	0	8,693	0	0	0	0	8,693
Golden-Eagle	0	28,312	0	0	0	0	28,312
Goldking	5,704	84,245	0	0	0	0	78,541
Good-Hope	28,883	259,607	0	0	0	0	230,724
Guam	0	156,080	32,295	0	0	0	156,080
Gulf	4,615,989	2,727,325	0	25,899	8,481	1,888,664	0
Gulf-Energy	0	5,787	0	0	0	0	5,787
Gulf-Sts	16,020	86,639	0	0	0	0	70,619
Harrisburg-PA	0	2,737	0	0	0	0	2,737
Health-Care	0	59	0	0	0	0	59
Hiri	54,783	255,265	0	0	0	0	200,482
Howell	464,643	154,473	0	0	0	310,170	0
Hudson-Oil	0	78,189	0	0	0	0	78,189
Hunt	145,989	86,336	0	0	0	59,653	0
Huntway	0	21,966	0	0	0	0	21,966
Husky	296,577	296,577	[2] 103,092	0	0	0	0
Independent-Ref	0	57,192	0	0	0	0	57,192
Indiana-Farm	13,131	76,120	0	0	0	0	62,989
Indust-Fuel	14,852	18,376	0	0	0	0	3,524
Inter-Petro	0	10,513	0	10,513	0	0	10,513
Inter-Process	0	91,222	0	0	0	0	91,222
Kenco	34,763	19,368	0	0	0	15,395	0
Kentucky	17,713	17,521	[5] 9,438	0	0	192	0
Kern	132,991	97,749	0	0	1,273	35,242	0
Kern-McGee	841,191	39,933	0	0	0	801,258	0
Koch	274,251	483,737	0	31,830	0	0	209,486
La-County	0	2,811	0	0	0	0	2,811
La-Crosse	0	14	0	0	0	0	14
Lagloria	215,424	203,861	0	0	0	11,563	0
Lake-Charles	0	84,274	0	0	0	0	84,274
Lakeside	842	12,517	0	0	0	0	11,675
Laketon	112,627	91,955	[6] 78,103	0	0	20,672	0
Liquid-Energy	0	24,098	0	0	0	0	24,098
Little-Amer	549,810	320,486	0	0	0	229,324	0
Louisiana-Land	438,152	9,886	0	0	0	428,266	0
MacMillan	6,354	56,890	0	0	515	0	50,536
Madison-Chatham	0	7	0	0	0	0	7
Madison-City-WI	0	443	0	0	0	0	443
Madison-WI	0	208	0	0	0	0	208
Mallard	−1,896	22,415	0	0	0	0	24,311
Marathon	2,271,251	1,484,496	0	0	0	786,755	0
Marion	−2,925	93,906	0	0	0	0	96,831
Marlex	1,238	52,878	0	0	92	0	51,640
Metro-Seattle	0	176	0	0	0	0	176
Metropolitan	0	107,953	0	107,953	0	0	107,953
Mid-Amer	6,371	25,389	[10] 10,929	0	0	0	19,018
Midwest Solv	0	514	0	0	0	0	514
Milwaukee-WI	0	429	0	0	0	0	429

Notice of Entitlements for Domestic Crude Oil—Continued

[September 1980]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position					
		Total issued	Exceptions and corrections	Entitlements		Required to buy	Required to sell
				Product	California		
Mobil	4,097,570	2,790,675	0	0	7,906	1,306,895	0
Mobile-Bay	2,472	41,227	0	0	0	0	38,755
Monoco	0	7,463	[4] 2,311	5,152	0	0	7,463
Monroe-Wi	0	15	0	0	0	0	15
Monsanto	239,844	103,127	0	0	0	136,717	0
Morrison	60,320	13,455	0	0	0	46,865	0
Mountaineer	3,260	2,445	0	0	0	815	0
MSDGC	0	975	0	0	0	0	975
MT-Airy	296	58,229	0	0	0	0	57,943
Murphy	512,644	357,221	0	0	0	155,423	0
N-Amer-Petro	−600	49,866	0	0	0	0	50,466
N-Little-Rock	0	329	0	0	0	0	329
N-San-Mateo	0	13	0	0	0	0	13
Nashville-Tenn	0	2,184	0	0	0	0	2,184
Nassau-County	0	155	0	0	0	0	155
Natchez	0	19,155	0	0	0	0	19,155
Natl-Coop	48,702	172,239	0	0	0	0	123,537
Navajo	226,696	133,149	[5] 1,455	0	0	93,547	0
Neptune	0	7	0	0	0	0	7
Nevada	431	8,422	0	0	0	0	7,991
New-Edgington	2,151	105,089	0	0	192	0	102,938
New-Engl-Petro	0	164,712	0	164,712	0	0	164,712
New-Engl-Power	0	24,620	0	24,620	0	0	24,620
New-York-EP	0	4,007	0	0	0	0	4,007
Newhall	250	53,664	0	0	24	0	53,414
Northeast-Petro	0	11,669	0	11,669	0	0	11,669
Ocean-Township	0	4	0	0	0	0	4
Ocean-Utilities	0	44	0	0	0	0	44
Oconomowoc-WI	0	3	0	0	0	0	3
Oko	20,090	86,119	0	0	0	0	66,029
Okla-Ref	−5,056	65,858	0	0	0	0	70,914
Orange-County	0	862	0	0	0	0	862
Osceola-AR	0	127	0	0	0	0	127
Oxnard	0	15,751	0	0	0	0	15,751
Peerless	0	5,183	0	0	0	0	5,183
Pennzoil	151,270	202,792	0	0	0	0	51,522
Pester	118,521	112,598	0	0	0	5,923	0
Petraco-Valley	0	17,305	0	0	0	0	17,305
Petro-Heat-PA	0	8,824	0	8,824	0	0	8,824
Philadelphia-PA	0	305	0	0	0	0	305
Phillips	1,132,558	906,741	0	0	0	225,817	0
Phillips-Pr	0	159,999	0	159,999	0	0	159,999
Pioneer	21,052	26,852	0	0	0	0	5,800
Placid	180,625	169,722	0	0	0	10,903	0
Plateau	101,010	121,768	[5] 44,594	0	0	0	20,756
Port	0	32,186	0	0	0	0	32,186
Powerine	22,615	138,230	0	0	1,216	0	115,615
Pride	0	126,794	0	0	0	0	126,794
Quaker-St	9,822	111,676	0	0	0	0	101,854
Quitman	0	21,711	0	0	0	0	21,711
Racine-Waste-UI	0	37	0	0	0	0	37
Rahway	0	67	0	0	0	0	67
Resco	0	6,415	0	0	0	0	6,415
Richards	0	250	0	0	0	0	250
Road-Oil	0	−51,586	0	0	0	51,586	0
Rock-Island	13,715	165,439	0	0	0	0	151,724
Saber-TEX	12,989	73,254	0	12,600	0	0	60,265
Sabre-CAL	407	52,670	[6] −3,145	0	0	0	55,282
Sage-Creek	2,564	2,616	0	0	0	948	0
Salem-VA	0	283	0	0	0	0	283
San-Joaquin	0	78,532	0	0	0	0	78,532
San-Jose-CA	0	965	0	0	0	0	965
Santa-Cruz-CA	0	48	0	0	0	0	48
Scallop	0	154,758	0	154,758	0	0	154,758
Scanoil	0	14,880	0	14,880	0	0	14,880
Schulze	0	3,242	0	0	0	0	3,242
Seaview	0	77,654	0	0	0	0	77,654
Seminole	19,450	52,006	0	0	0	0	32,556
Sentry	0	90,696	0	0	0	0	90,696
Shell	5,823,142	3,000,890	0	0	3,000	2,822,252	0
Shepherd	1,468	7,300	0	0	0	0	5,832
Sigmor	5,242	97,121	0	0	0	0	91,879
Silver-Eagle	0	3,331	0	0	0	0	3,331
Slapco	18,983	40,476	0	0	0	0	21,493
SMRSA	0	17	0	0	0	0	17
So-Hampton	9,213	65,161	0	0	0	0	55,948
SohioOHIO	1,981,591	1,501,750	0	0	0	479,841	0
Somerset	15,191	29,927	[10] 10,462	0	0	0	14,736
Sooner	0	32,939	0	0	0	0	32,939
Sound	13,842	32,994	0	0	0	0	19,152
Southern-Union	106,396	167,344	0	0	0	0	60,948
Southland	157,275	140,931	[5] 46,619	0	0	16,344	0
Southwest-Petro	0	16,899	0	0	0	0	16,899
Southwestern	−4,059	2,619	[10] 12	0	0	0	6,678
SPR	0	3,835,022	[7] 3,835,022	0	0	0	3,835,022
Sprague	0	47,566	0	47,566	0	0	47,566
Stauart	0	21,571	0	21,571	0	0	21,571

Notice of Entitlements for Domestic Crude Oil—Continued

[September 1980]

Reporting firm short name	Deemed old oil adjusted receipts	Entitlement position: Total issued	Exceptions and corrections	Entitlements: Product	Entitlements: California	Required to buy	Required to sell
Sawyer-Pi-Wi	0	0	0	0	0	0	0
Sunland	2,157	53,109	0	0	47	0	51,952
Sunoco	2,042,602	1,837,009	0	46,830	0	205,593	0
Swann	0	29,781	0	29,781	0	0	29,781
T & S	599	8,279	0	0	0	0	7,680
Tarco	23,944	10,414	0	0	0	[5] 13,530	0
Tenneco	351,117	259,824	0	0	1,387	91,293	0
Tesoro	267,880	252,249	0	0	0	15,631	0
Texaco	4,502,276	2,958,502	0	77,798	19	1,542,774	0
Texas-American	−8,116	30,494	0	0	0	0	38,610
Texas-City	283,368	446,940	0	0	0	0	183,552
Texas-Standard	0	3,122	0	0	0	0	3,122
Thagard	3,358	40,376	0	0	248	0	37,018
Thorn-Creek	0	11	0	0	0	0	11
Thriftway	26,938	16,355	[5] 7,021	0	0	10,583	0
Thunderbird	20,567	37,762	0	0	0	0	17,195
Tipperary	1,092	37,857	0	0	0	0	36,765
Tonkawa	0	54,223	0	0	0	0	54,223
Tosco	570,042	540,684	0	0	13,338	0	70,642
Total-Petroleum	33,406	348,755	0	0	0	0	315,349
UCC-caribe	0	45,277	0	45,277	0	0	45,277
Uni-ref	0	43,198	0	0	0	0	43,198
Union-oil	1,886,954	1,567,219	0	0	2,146	319,735	0
Unid-ref	84,974	173,261	0	0	0	0	108,287
US-oil	0	73,813	0	0	0	0	73,813
USA-petrochem	3,954	90,704	0	0	−448	0	86,750
Val-verde	0	2,412	0	0	0	0	2,412
Vickers	69,778	145,833	0	0	0	0	76,055
Vicksburg	0	24,419	0	0	0	0	24,419
Warrior	5,842	24,500	[5] 10,803	0	0	0	18,658
Watson	0	425	0	0	0	0	425
West-Coast	0	99,292	0	0	0	0	99,292
West-Monmouth	0	15	0	0	0	0	15
Westchester-NY	0	140	0	0	0	0	140
Western	0	45,878	0	0	0	0	45,878
Wilmore	33,508	53,886	0	0	0	0	20,378
Wirebeck	0	206	0	0	0	0	206
Witco	1,841	88,016	0	0	1	0	86,175
Wooster	0	19	0	0	0	0	19
Wyoming	24,961	30,591	0	0	0	0	5,630
Young	27,946	32,186	[5] 13,903	0	0	0	4,240
Total	64,319,442	64,319,442	4,264,057	2,045,360	95,716	17,412,083	17,412,083

[1] See discussion in Notice.

[2] This is consistent with the court's order prohibiting any further entitlement purchase requirements by this firm pursuant to the terms of the court's judgment in *Husky Oil Co.* v. *DOE, et al.*, Civ. Action No. C77-190-B (D. Wyo., filed March 14, 1978), *remanded* 582 F.2D 644 (TECA, August 10, 1978).

[3] This does not include the purchase obligation stayed by court order in *Texas Asphalt & Refinery Co.* v. *FEA*, Civ. Action No. 4-75-268 (N.D. Tex., filed October 31, 1975).

[4] Correction of prior month.

[5] Exception from Office of Hearings and Appeals.

[6] Valued accrued from SPR deliveries. See discussion in Notice.

[FR Doc. 80-37469 Filed 12-03-80; 8:45 am]

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federal register

Thursday
December 4, 1980

Part IV

Department of the Interior

Fish and Wildlife Service

Final Findings for Export of Bobcat, Lynx, River Otter, Alaskan Gray Wolf and Alaskan Brown Bear Taken in 1980–1981 Season

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 23 and 810

Final Findings for Export of Bobcat, Lynx, River Otter, Alaskan Gray Wolf and Alaskan Brown Bear Taken in 1980–81 Season

AGENCY: U.S. Fish and Wildlife Service.

ACTION: Notice of final findings and final rule.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora is a treaty regulating the international shipment of certain wildlife and plant species. Under the Convention, exports of wildlife or plants listed in Appendix I or II may occur only if a Scientific Authority has advised a permit-issuing Management Authority that such exports will not be detrimental to the survival of the species, and if a Management Authority is satisfied that the wildlife or plants were not obtained in violation of laws for their protection.

The Service must make such decisions with respect to the bobcat, lynx, river otter, Alaskan gray wolf and Alaskan brown bear, which are all included in Appendix II. This notice announces the Scientific Authority and Management Authority decisions concerning export of specimens of these species taken in the 1980–81 season. These findings for export are made on a state-by-state basis for all specimens taken in a particular season, considering all available information on the population status, management and utilization of the species.

EFFECTIVE DATE: December 4, 1980.

ADDRESS: Please send correspondence concerning this notice to the Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection by appointment from 7:45 a.m. to 4:15 p.m., Monday through Friday, in room 536, 1717 H Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Scientific Authority findings—Dr. Richard L. Jachowski, Office of the Scientific Authority, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (202) 653–5948.

Management Authority findings—S. Ronald Singer, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235–2418.

Export permits—Mr. Robert J. Batky, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone (703) 235–1903.

SUPPLEMENTARY INFORMATION: In carrying out the responsibilities of the United States under the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), the Service is continuing the practice of developing general Scientific Authority and Management Authority findings on the export of certain species, applicable to all specimens taken in a particular season. This approach is more meaningful than the alternative of developing findings on a permit-by-permit basis for species subject to frequent international trade.

The Service published proposed findings on the export of bobcat, lynx, river otter, Alaskan gray wolf, and Alaskan brown bear in the September 29, 1980, **Federal Register** (45 FR 64520). That publication contained a summary of information supplied by state agencies on biology, management, and harvest of bobcat, lynx, and river otter, and it cited earlier references providing such information for Alaskan gray wolf and brown bear.

Criteria

The **Federal Register** notice of September 29, 1980, set forth criteria used by the Service in making Scientific Authority and Management Authority decisions on export of bobcat, lynx, and river otter. The Service adopted criteria used in previous years by the Endangered Species Scientific Authority (ESSA) in making Scientific Authority decisions on export of these species taken in the 1980–81 harvest season.

These criteria involve assessment by the Scientific Authority of the biological information and management program for each species in each state. Minimum requirements for biological information are: (1) population trend information, method of determination to be a matter of state choice; (2) information on total harvest of the species; (3) information on distribution of harvest; and (4) habitat evaluation. Minimum requirements for a management program are: (1) there should be a controlled harvest, methods and seasons to be a matter of state choice; (2) all pelts should be registered and marked; and (3) harvest level objective should be determined annually.

In its proposed export findings for this year, the Service noted that it agreed with the ESSA's view that intensive efforts to improve the state's information on populations and harvests, and other information may provide reasonable assurance that export will not be detrimental to the survival of the species, in cases where not all of the above Scientific Authority criteria are met.

Criteria listed above are for decisions on whether export of bobcat, lynx, or river otter will not be detrimental to the survival of the species. As stated in the notice of proposed findings, the Service believes that the listing of these species in Appendix II is also for the purpose of effectively controlling international trade in other species of cats or otters. Accordingly, the Service is considering the impact of trade in bobcat, lynx, and river otter on the effectiveness of the CITES in controlling trade in other related species, when determining conditions under which export may be allowed.

Management Authority criteria for export require an ongoing state tagging program as proof that pelts of bobcat, lynx, or river otter are legally taken. Under this program, tags must: (1) be made of metal or some other permanent material; (2) be permanently attached to each pelt, preferably by state personnel; (3) accompany finished products to the port where the state tags will be collected by U.S. Fish and Wildlife Service officers (tags are necessary to show source and tag number of pelts used in the manufacture of the product); (4) be applied within a specified time of taking that is set by the state; (5) show state of origin; (6) show year of taking; (7) show species; and (8) be serially unique.

Nations participating in the CITES agreed that the Alaskan gray wolf and Alaskan brown bear are included in Appendix II under the provisions of Article II.2(b) to effectively control international trade in other populations of these species that are included in Appendix I or II. Scientific Authority advice on non-detriment for export of Alaskan wolves and brown bears is, accordingly, based on the impact of that trade on the effectiveness of the CITES in controlling trade in other subspecies or geographically separate populations that they were listed to protect.

Information and Comments

The Service received a limited amount of information beyond that summarized in the proposed export findings (45 FR 64520). Each state for which the Service proposed to approve export, pending receipt and approval by the Service of 1980–81 sample tags or tagging information or both, submitted materials satisfying this requirement.

The principal new materials considered by the Service subsequent to the proposed findings are as follows: The Wyoming Game and Fish Department submitted data on 1979–80 bobcat harvest estimates and on quantities and prices of furs purchased. The California Fish and Game Commission, the Maine Department of Inland Fisheries and Wildlife, the North Carolina Wildlife Resources Commission, and the Nevada State Board of Wildlife Commissioners provided copies of revised state regulations for tagging of bobcat pelts. The Oregon Department of Fish and Wildlife pointed out that bobcat habitat includes approximately 70 percent of the state's 62 million acres, and that snow depth, national state parks, and posted private lands normally preclude human access to more than half of the habitat area. Oregon noted that while the harvest of 2,941 western Oregon bobcat was near the harvest goal of 3,000, the harvest of 753 eastern Oregon bobcat was approximately half of the harvest goal of 1,500. Oregon stated that this will result in a large carryover of the eastern bobcat population into this season.

In addition to supplying information, several state agencies commented that they supported the proposed Scientific Authority and Management Authority findings on export of bobcat, lynx, and river otter taken in accordance with state regulations.

The Defenders of Wildlife, Inc., submitted extensive comments on the proposed findings for export of bobcats. Defenders stated that the criteria used for Scientific Authority decisions were deficient, in that even if all of the types of information listed were available, there still would not be enough data for an understanding of the species' role in the ecosystem or for estimating the effects of different levels of harvest on the species' populations. Defenders argued that, at a minimum, the Scientific Authority must consider the current population levels and distribution of the bobcat, its demographic characteristics, movement patterns, food habits, total mortality, birth rate, and the relationship between the bobcat and other species.

The Service, in its capacity as Scientific Authority, believes that the present criteria are appropriate for decisions on whether export of bobcats will not be detrimental to the survival of the species. Information on population trends is more useful than information on current population levels in managing this species. Most states collect data on distribution of harvest. Other types of information are being collected in some states, but not uniformly by all states. The Service believes effective management of bobcats does not require that all of the types of information listed by Defenders be collected throughout the range of the species, considering that factors affecting bobcat populations may vary over the range. One of the intentions of the Service in adopting the present criteria was to allow the states latitude in developing and carrying out research and management programs.

Following the development of Scientific Authority findings announced in this notice, the Service plans to review criteria for Scientific Authority decisions on export of bobcat, lynx, and river otter. As a result, the Service might revise those criteria for decisions on export of the 1981–82 harvest. The Service intends to invite input from state agencies in identifying population parameters that should be studied in order to manage these species at levels consistent with the CITES export requirements. The goal of the Service is to develop realistic and appropriate standards for decisions in these matters. Opportunities for public comment on such standards will be provided.

Defenders also made detailed comments on the information supplied by individual states, identifying particular states that they believed did not meet certain of the Scientific Authority criteria. It is clear from the available records that some states are making much greater efforts than others to study and manage their bobcats, and that they are taking different approaches in doing so. It should be noted that under the Scientific Authority criteria now in use, intensive efforts to improve a state's information on populations and harvests, and other information may provide reasonable assurance that export will not be detrimental to the survival of the species, in cases where not all requirements for biological information or a management program are met. There has been a marked increase in the information available on bobcats during the last few years, due partly to state efforts to satisy the CITES export requirements, although many states instituted bobcat research and management initiatives prior to these requirements.

Defenders further commented that the proposed Scientific Authority findings did not address the status of individual subspecies or geographically separate populations of bobcats within states. The ESSA discussed this issue in detail in their **Federal Register** notices of September 1, 1978 (43 FR 39308), and September 26, 1979 (44 FR 55542). The Service agrees with the ESSA's conclusion that a state-by-state approach provides a more precise and responsive mechanism than would findings based primarily on subspecies. Bobcat subspecies distinctions generally are not clear-cut; most of them intergrade over wide boundaries, and in addition, boundaries may shift with changes in habitat over time. Descriptions of many bobcat subspecies have been based on differences between a small number of specimens rather than on statistically significant differences in characters between large samples.

Defenders commented that the Service should not allow export of bobcats unless the Management Authority establishes an adequate management program for the species (and noted that they are "* * * encouraged by the progress the Permit Office reports it has made in the past year with regard to compliance with its tagging requirements.") Defenders further stated that the Scientific Authority should not advise in favor of export for states which admit they cannot insure that pelts tagged for export were legally harvested.

The CITES provides that the Management Authority is not to issue export permits unless it is satisfied that specimens were legally taken. As stated earlier, this requirement is met through ongoing state tagging programs. The states, and not the Management Authority, actually manage the species. Scientific Authority criteria include a requirement that pelts be registered and marked. It would be very difficult for states to completely insure that only legally obtained pelts were tagged, because enforcement officers cannot accompany every trapper or hunter. States have instituted regulations and procedures for tagging, and penalties for violations, to minimize the tagging of illegally taken pelts.

The International Association of Fish and Wildlife Agencies (IAFWA) submitted a summary of state-enforced restrictions on the taking of bobcats. This summary concerned only restrictions that directly limit the hunters' or trappers' ability to take bobcats, not measures such as pelt tagging that are primarily directed toward monitoring the harvest. Each state for which export approval was proposed has restrictions on taking. The IAFWA submitted this summary as evidence that exports of bobcats from these states would not be unlimited, as claimed by Defenders.

Impact on Other Species

The Service considers the bobcat, lynx, and river otter to be included in Appendix II under the provisions of both Article II.2(a) and II.2(b) of the CITES. This means that the Scientific Authority must consider the impact of trade in these species on the effectiveness of the CITES in controlling international trade in other species of cats or otters they were listed to protect.

The ESSA published their findings on this question in the September 26, 1979, **Federal Register** (44 FR 55545). Major issues under the Scientific Authority finding relative to Article II.2(b) are identification of species in trade and possible stimulation of trade in other species. The ESSA stated that to the degree it could place confidence in the CITES system, it could be correspondingly satisfied that existing procedures are adequate to insure that specimens of one species will not be confused, intentionally or unintentionally, with specimens of other species.

The ESSA concluded that export of bobcat, lynx, and river otter would not reduce the effectiveness of the CITES in controlling trade in other listed species or populations. The ESSA reached the same conclusion on export of Alaskan gray wolf and Alaskan brown bear. They pointed out the following reasons:

(1) Tagging of pelts helps provide assurance that specimens will be identified properly;

(2) Most of the exports of these five species go to countries that are CITES Parties, and that have not taken reservation for these or related species;

(3) Evidence from annual reports of the CITES Parties indicates that few Appendix I species are now in international trade, so that opportunities for look-alike confusion are limited; and

(4) While trade in the above five species might stimulate trade in other species, it also might supplant trade in other species.

The Service concurs with the ESSA's previous findings concerning Article II.2(b) for the five species in question. There is no new evidence to contradict any of the reasons listed above.

Court Decision

In the notice of proposed findings for export of bobcat and other species (45 FR 64520), the Service reported that the U.S. District Court for the District of Columbia issued an Order (Civil Action No. 79–3060) on December 12, 1979, enjoining the export of bobcat pelts taken in the 1979–80 season from Florida, Massachusetts, New Mexico, North Dakota, Wisconsin, eastern Oregon, and the high plains ecological area of Texas. This decision has been appealed to the United States Court of Appeals for the District of Columbia Circuit.

The Order does not apply to the present findings for the 1980–81 season, although it is still in effect for the export of 1979–80 pelts from the named states. Certain of the affected states have taken steps to correct conditions that the Court considered to be deficiencies. The Service has reviewed information supplied by the states named above, and has considered the Court's concerns, in making Scientific Authority findings for this season.

Final Rule

Final Scientific Authority and Management Authority findings for the export of American alligator and American ginseng taken in the 1980–81 season were published in the October 21, 1980, **Federal Register** (45 FR 69844). As announced in that notice, the Service is incorporating the findings on the export of certain Appendix II species into Part 23 of Title 50, Code of Federal Regulations.

The Service concludes that both Scientific Authority and Management Authority criteria have been met for the export of bobcat, lynx, and river otter taken in the 1980–81 season, in those states for which the Service earlier proposed to approve export. The condition on this approval is that pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

Each of the three species occurs in certain states for which export is not approved. Scientific Authority criteria are not met for the export of lynx taken in Idaho and Washington, although the ESSA advised in previous years that such export will not be detrimental to the survival of the species. For all other states not addressed in the proposal, either the taking of these species is not allowed by the state, the species do not occur in the state, or the state did not provide the Service with information on which to base Scientific Authority and Management Authority findings.

The Service also concludes that both Scientific Authority and Management Authority criteria have been met for the export of Alaskan gray wolf and Alaskan brown bear taken in the 1980–81 season. The condition on this approval is that pelts must be tagged as required by the state of Alaska.

The findings announced in this notice are effective December 4, 1980, because the harvest season has already begun in some states, and delaying issuance of the findings could adversely impact state conservation programs for these species. The Service also considers a delay in the effective date to be unnecessary because the findings were preceded by an opportunity for comment and because they do not substantially modify an earlier procedure or practice (43 CFR 14.5(c)(4)).

An environmental assessment has been prepared in conjunction with this notice. It is on file in the Service's Office of the Scientific Authority, room 536, 1717 H Street, N.W., Washington, D.C. and may be examined during regular business hours.

This notice was prepared by Dr. Richard L. Jachowski, Office of the Scientific Authority (202) 653–5948.

Note.—The Service has determined that this document does not contain a significant proposal requiring preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Dated: November 28, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

Accordingly, Parts 23 and 810 of Title 50, Code of Federal Regulations, are amended as set forth below:

1. Amend table of Sections of Part 23 as follows:

PART 23—ENDANGERED SPECIES CONVENTION

* * * * *

Subpart E—Scientific Authority Advice [Reserved]

Subpart F—Export of Certain Species

Sec.

23.51 American ginseng (*Panax quinquefolius*)
23.52 Bobcat (*Lynx rufus*)
23.53 River otter (*Lutra canadensis*)
23.54 Lynx (*Lynx canadensis*)
23.55 Gray wolf (*Canis lupus*)
23.56 Brown bear (*Ursus arctos*)
23.57 American alligator (*Alligator mississippiensis*)

Authority: Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.; 87 Stat. 884).

2. Add new subparts E and F as follows:

Subpart E—Scientific Authority Advice [Reserved]

Subpart F—Export of Certain Species

§ 23.51 American ginseng (Panax quinquefolius).

State populations for which the export of the indicated season's harvest may be permitted under § 23.15 of this Part 23:

(a) *1978 Harvest:* Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Missouri, New York, North Carolina, Pennsylvania, Tennessee, Virginia, West Virginia, and Wisconsin.

Conditions on findings: Roots must be documented as to state of origin and season of collecting.

For further information see: 43 FR 29469, July 7, 1978; 43 FR 35013, August 7, 1978; 43 FR 36293, August 16, 1978; and 43 FR 39305, September 1, 1978.

(b) *1979 Harvest:* Arkansas, Georgia, Illinois, Iowa, Kentucky, Maryland, Minnesota, Missouri, North Carolina, Ohio, Tennessee, Virginia, West Virginia, and Wisconsin.

Conditions on findings: Roots must be documented as to state of origin and season of collecting. Wild roots must be certified by the state as legally collected. For further information see: 44 FR 25384, April 30, 1979; 44 FR 3107, June 1, 1979; and 44 FR 47912, August 15, 1979.

(c) *1980 Harvest:* Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Maryland, Minnesota, Missouri, New York, North Carolina, Ohio, Tennessee, Virginia, West Virginia, and Wisconsin.

Conditions on findings: Roots must be documented as to state or origin and season of collecting. Wild and cultivated roots must be certified by the state as legally collected, and such certification must be presented upon export.

§ 23.52 Bobcat (Lynx rufus).

States for which the export of the indicated season's harvest may be permitted under § 23.15 of this Part 23:

(a) *1977–78 Harvest:* Alabama (Quota 4,000), Arizona (Q 8,000), Arkansas (Q 3,000), California (Q 6,000), Colorado (Q 4,000), Florida (Q 3,500), Georgia (Q 4,000), Idaho (Q 1,475), Louisiana (Q 4,000), Maine (Q 500), Massachusetts (Q 50), Michigan (Q 350), Minnesota (Q 150), Mississippi (Q 4,000), Montana (Q 1,070), Nebraska (Q 400), Nevada (Q 2,225), New Mexico (Q 6,000), New York (Q 225), North Carolina (Q 800), North Dakota (Q 165), Oregon (Q 3,000), South Dakota (Q 500), Tennessee (Q 1,000), Texas (Q 10,000), Vermont (Q 200), Virginia (Q 1,500), Washington (Q 6,000), West Virginia (Q 500), Wisconsin (Q 300), Wyoming (Q 2,000), Navajo Nation (Q 500).

For further information: See 42 FR 43729, August 30, 1977; 43 FR 11061, March 16, 1978; and 43 FR 29469, July 7, 1978.

(b) *1978–79 Harvest:* Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico (Q 6,000), New York, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming (Q 2,000) and the Navajo Nation.

Condition on finding: Pelts must be clearly identified as to state of origin and season of taking.

For further information: See 43 FR 11096, March 16, 1978; 43 FR 13913, April 3, 1978; 43 FR 15097, April 10, 1978; 43 FR 29469, July 7, 1978; 43 FR 35013, August 7, 1978; 43 FR 36293, August 16, 1978; and 43 FR 39305, September 1, 1978.

(c) *1979–80 Harvest:* Alabama, Arizona, Arkansas, California, Colorado, [Florida], Georgia, Idaho, Kansas, Louisiana, Maine, [Massachusetts], Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, [New Mexico (Q 6,000)], New York, North Carolina, [North Dakota], Oklahoma, Oregon [eastern portion], South Carolina, South Dakota, Tennessee, Texas [high plains ecological area], Utah, Vermont, Virginia, Washington, West Virginia, [Wisconsin], Wyoming, Navajo Nation.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to standards and conditions established by the Service. The U.S. District Court for the District of Columbia has enjoined export of bobcat pelts harvested in 1979–80 season in those states or portions of states named above in brackets.

For further information: See 44 FR 25383, April 30, 1979; 44 FR 31583, May 31, 1979; 44 FR 40842, July 12, 1979; 44 FR 52289, September 7, 1979; and 44 FR 55540, September 26, 1979; and 45 FR 60455, September 12, 1980.

(d) *1980–81 Harvest:* Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampsire, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, Navajo Nation.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

§ 23.53 River otter (Lutra canadensis).

States for which the export of the indicated season's harvest may be permitted under § 23.15 of this Part 23:

(a) *1977–78 Harvest:* Alabama (Quota 1,500), Alaska (open), Arkansas (Q 400), Connecticut (Q 100), Delaware (Q 60), Florida (Q 6,000), Georgia (Q 4,000), Louisiana (Q 7,500), Maine (Q 600), Maryland (Q 165), Massachusetts (Q 68), Michigan (Q 810), Minnesota (Q 700), Mississippi (Q 350), Montana (Q 38), New Hampshire (Q 200), New York (Q 700), North Carolina (Q 1,200), Oregon (Q 335), Rhode Island (Q 15), South Carolina (Q 650), Vermont (Q 50), Virginia (Q 585), Washington (Q 770), Wisconsin (Q 1,200).

For further information: See 42 FR 43729, August 30, 1977; 43 FR 11061, March 16, 1978; and 43 FR 29469, July 7, 1978.

(b) *1978–79 Harvest:* Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New York, North Carolina, Oregon, Rhode Island, South Carolina, Vermont, Virginia, Washington, Wisconsin.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking.

For further information: See 43 FR 11096, March 16, 1978; 43 FR 13913, April 3, 1978; 43 FR 15097, April 10, 1978; 43 FR 29469, July 7, 1978; 43 FR 35013, August 7, 1978; 43 FR 36293, August 16, 1978; and 43 FR 39305, September 1, 1978.

(c) *1979–80 Harvest:* Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New York, North Carolina, Oregon, South Carolina, Vermont, Virginia, Washington, Wisconsin.

Conditions on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to standards and conditions established by the Service.

For further information: See 44 FR 25383, April 30, 1979; 44 FR 31583, May 31, 1979; 44 FR 40842, July 12, 1979; and 44 FR 55540, September 26, 1979.

(d) *1980–81:* Alabama, Alaska, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New Hampshire, New York, North Carolina, Oregon, South Carolina, Vermont, Virginia, Washington, Wisconsin.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

§ 23.54 Lynx (Lynx canadensis).

States for which the export of the indicated season's harvest may be permitted under § 23.15 of this Part 23:

(a) *1977–78 Harvest:* Alaska (open), Idaho (Quota 25), Minnesota (Q 25), Montana (Q 200), Washington (Q 35).

For further information: See 42 FR 43729, August 30, 1977; 43 FR 11061, March 16, 1978; and 43 FR 29469, July 7, 1978.

(b) *1978–79 Harvest:* Alaska, Idaho, Minnesota, Montana, Washington.

Condition on findings: Pelts must be clearly identified as to state of origin and season of taking.

For further information: See 43 FR 11096, March 16, 1978; 43 FR 13913, April 3, 1978, 43 FR 15097, April 10, 1978; 43 FR 29469, July 7, 1978; 43 FR 35013, August 7, 1978; 43 FR 36293, August 16, 1978, and 43 FR 39305, September 1, 1978.

(c) *1979–80 Harvest:* Alaska, Idaho, Minnesota, Montana, Washington.

Conditions on findings: Pelts must be clearly identified as to state of origin and state of taking, including tagging according to standards and conditions established by the Service.

For further information: See 44 FR 25383, April 30, 1979; 44 FR 31585, May 31, 1979; 44 FR 40842, July 12, 1979; 44 FR 52289, September 7, 1979; and 44 FR 55540, September 26, 1979.

(d) *1980–81 Harvest:* Alaska, Minnesota, Montana.

Condition on finding: Pelts must be clearly identified as to state of origin and season of taking, including tagging according to conditions established by the Service.

§ 23.55 Gray wolf (Canis lupus).

State for which the export of the indicated season's harvest may be permitted under § 23.15 of this Part 23:

(a) *1977–78 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

(b) *1978–79 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

(c) *1979–80 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

For further information: See 44 FR 25383, April 30, 1979; 44 FR 31583, May 31, 1979; 44 FR 40842, July 12, 1979; 44 FR 52289, September 7, 1979; and 44 FR 55540, September 26, 1979.

(d) *1980–81 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

§ 23.56 Brown bear (Ursus arctos).

State for which the export of the indicated season's harvest may be permitted under § 23.15 of this Part 23:

(a) *1977–78 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

(b) *1978–79 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

(c) *1979–80 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

For further information: See 44 FR 25383, April 30, 1979; 44 FR 31583, May 31, 1979; 44 FR 40842, July 12, 1979; 44 FR 52289, September 7, 1979; and 44 FR 55540, September 26, 1979.

(d) *1980–81 Harvest:* Alaska.

Condition on findings: Pelts must be tagged as required by the state of Alaska.

§23.57 American alligator (Alligator mississippiensis).

States for which the export of the indicated season's harvest may be permitted under § 23.15 of this Part 23:

(a) *1979 and Previous Harvest:* Florida, Louisiana.

(b) *1980–81 Harvest:* Florida, Louisiana.

PART 810—EXPORT OF APPENDIX II SPECIES

3. Delete Chapter 8, Part 810 entirely from Title 50, Code of Federal Regulations.

[FR Doc. 80-37048 Filed 12-3-80; 8:45 am]
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Thursday
December 4, 1980

Part V

Department of Transportation

Federal Aviation Administration

Aircraft Miscellaneous Amendments; Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION
Federal Aviation Administration
14 CFR Parts 21, 23, 25, 29, 43, 45, 61, 63, 65, 91, 121, 129, and 135
[Docket No. 21129; Notice No. 80-23]

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.
ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to amend various sections of the Federal Aviation Regulations (FAR). Most of the proposals are clarifying, editorial, or corrective in nature. Other proposals would relax current regulations. In the interest of upgrading safety, this notice proposes use of approved altimeters on all aircraft operated under instrument flight rule (IFR) conditions, notifying passengers of the definition of firearms, and requiring all transport category aircraft to have ditching emergency exits, whether or not the ditching certification is requested.

DATE: Comments must be received on or before February 4, 1981.
ADDRESS: Comments on the proposals may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, ATTN: Rules Docket (AGC-204), Docket No. 21129, 800 Independence Ave., SW., Washington, D.C. 20591, or delivered in duplicate to: Room 916, 800 Independence Ave., SW., Washington, D.C. 20591. All comments must be marked: Docket No. 21129. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Dan Keenan, Regulatory Review Branch (AVS-22), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-8714.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Communications must identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rule making will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 21129." The postcard will be date and time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rule Making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should request a copy of Advisory Circular 11-2 which describes the application procedures.

Background

A number of these proposals are brought about due to numerous requests for exemptions and extensions of compliance dates. Also several areas in the FAR require interpretation and clarification. The remaining changes may be considered minor in nature since most involve corrections to punctuation, spelling, and technical nomenclature. Most of the proposed changes concern unrelated items that have accumulated over recent years and are appropriate for consolidation in a miscellaneous amendment package.

Part 21—Certification Procedures for Products and Parts

§ 21.197 Special flight permits.

Section 21.197(c), dealing with special flight permits with a continuing authorization, presently applies only to certificate holders operating under Part 121 or 127 or air taxi operators conducting operations with large aircraft under § 135.2. To provide Part 135 operators with the same benefits as Part 121 or 127 operators, this proposal would amend § 21.197(c) to encompass additional aircraft that are required to be maintained under a continuous airworthiness maintenance program specified in § 135.411(a)(2). Further, operators who elect to maintain aircraft under a continuous airworthiness program under § 135.411(b) would also be eligible for the permits. Specific guidelines, conditions, and limitations for administering the authorization are included in the certificate holder's operations specifications and are further documented in the company manual. The purpose of the special flight permit with continuing authorization is to eliminate the unnecessary burden on the certificate holders and the FAA of individually dealing with each special flight permit needed for ferrying aircraft to bases where maintenance can be performed. By virtue of the continuous airworthiness maintenance program and specific procedures in the company manual used by these operators and their operations specifications, procedures have been established to provide for the issuance of special flight permits with continuing authorizations for such ferry flights. Such procedures afford an equivalent level of safety that would be established if the FAA were to individually issue the special flight authorizations.

Part 23—Airworthiness Standards: Normal, Utility, and Acrobatic Category Airplanes

§ 23.301 Loads.

Section 23.301(d), dealing with design loads, provides, in part, that for conventional, single-engine airplanes, with design weights of 6,000 pounds or less, the design criteria of Appendix A are an approval equivalent of §§ 23.331 through 23.399. This listing of sections is incomplete. The correct sections are listed in Appendix A, Section A23.1(a), as §§ 23.321 through 23.459. For consistency, § 23.301(d) would be amended to reflect the correct sections.

§ 23.305 Strength and deformation.

Sections 23.305(a) and 25.305(a) contain parallel requirements for structural strength and deformation; however, these include differences in wording and punctuation from the corresponding statements contained in the similar, but correctly stated, §§ 27.305(a) and 29.305(a). The requirement is that the structure be able to support limit loads without detrimental or permanent deformation. The proposal amends §§ 23.305(a) and 25.305(a) by placing the word "or" between the words "detrimental" and "permanent".

§ 23.441 Maneuvering loads.

Section 23.441(b), dealing with maneuvering loads, references paragraphs (a)(1), (a)(2), and (a)(3), respectively, in connection with Figures B6, B7, and B8 of Appendix B of Part 23. These paragraphs are listed in the wrong order. To ensure that the correct tail load distribution is imposed for the flight condition, the paragraphs should be listed as "(a)(2), (a)(1), and (a)(3), respectively, of this section." The proposal amends the paragraph accordingly.

§ 23.473 Ground load conditions and assumptions.

Section 23.473(f) requires energy absorption tests to be made by free drop tests under § 23.725. The FAA proposes to amend the requirement to reference § 23.723(a) instead. This change would permit drop tests other than the free drop tests and would make the requirement consistent with the corresponding sections of Parts 25, 27, and 29.

§ 23.1549 Powerplant instruments.

In § 23.1549(d), the adjective "red" was inadvertently omitted in describing the arcs. This proposal amends the paragraph accordingly.

§ 23.1587 Performance information.

Section 23.1587(a)(1) contains a reference to § 23.201(b). Since the requirement applies to airplanes with independent controls, the reference should be § 23.201(a). The proposal corrects this reference.

Part 23—Appendix A23.3; Special Symbols.

Appendix A to Part 23 contains errors in the equation constants noted under A23.3, Special Symbols. On August 13, 1969, Amendment 23-7 (34 FR 13078) changed all references to "miles" and "miles per hour" to "nautical miles" and "knots," respectively, whenever used in Part 23. The change to the term "knots" was inadvertently omitted from paragraph A23.3 of Appendix A of Part 23 and was corrected by Amendment 23-16 (41 FR 5290; February 5, 1976). In changing from "miles per hour" to "knots" in Amendment 23-16, a conversion factor (.869) was not applied to the constants in the equations of paragraph A23.3 to correlate with the change in terminology. The FAA proposes to amend these equations to correct the constant values.

Part 25—Airworthiness Standards: Transport Category Airplanes

§ 25.305 Strength and deformation.

The change proposed in § 25.305(a) concerning the meaning of detrimental permanent deformation is discussed under § 23.305(a).

§ 25.807 Passenger emergency exits.

The FAA has received several inquiries as to whether §§ 25.807(d) and 29.807(d) apply to all transport category aircraft or only to aircraft for which ditching approval is requested. Since their adoption, the rules have been applied to all transport category aircraft under the rationale that every aircraft will be operated at some time in an environment in which a crash landing could mean a water landing. The FAA proposes to amend the respective sections to make it clear that all transport category aircraft must have ditching emergency exits whether or not ditching certification is requested.

Part 25—Appendix F

The FAA proposes a number of minor editorial corrections to Appendix F of Part 25.

Part 29—Airworthiness Standards: Transport Category Rotorcraft

§ 29.807 Passenger emergency exits.

The changes proposed in § 29.807(d) concerning ditching emergency exits, are discussed under § 25.807(d).

Part 43—Maintenance, Preventive Maintenance, Rebuilding, and Alteration

§ 43.3 Persons authorized to perform maintenance, preventive maintenance, rebuilding, and alterations.

Section 43.3 lists the persons who may perform work on aeronautical products and sets forth the limitations under which the work is performed. The section, however, omits coverage of Canadian persons who are authorized to perform certain work under § 43.17. This proposal makes Part 43 internally consistent by amending § 43.3 to include Canadian persons authorized under § 43.17.

Part 45—Identification and Registration Marking

§ 45.15 Replacement and modification parts.

Section 45.15(a)(4) requires that parts produced under a Parts Manufacturer Approval be marked with the name and model designation of each type certificated product on which the part is eligible for installation. For parts that are too small or on which it is otherwise impractical to mark this information, the regulation allows the marking to be shown on a tag attached to the part or its container. On some parts, however, the marking required by § 45.15(a)(4) is so extensive that to mark it on a tag is impractical because of the large number of type certificated products on which the part may be used. The FAA proposes to revise the rule so that when it is impractical to do the required eligibility marking on the tag attached to the part or container, the tag may refer to a specific and readily available reference manual or catalog which contains the required information.

Part 61—Certification: Pilots and Flight Instructors

§ 61.39 Prerequisites for flight tests.

Section 61.39, as presently written, requires that an applicant for an airline transport pilot certificate or additional rating must have been continuously employed since passing the written examination and be participating in a pilot training program before being exempted from the 24-month requirement. This has been interpreted to mean that a person must have been employed by a carrier immediately (within 24 hours) after taking the written examination for the exception to apply, and that a strike or furlough constitutes a break in continuous employment and invalidates the exception.

The FAA has determined that this is too restrictive, since it is possible for a pilot to be on vacation for longer periods of time than some strikes or furloughs last, and it would be unfair to apply the exception provision to the vacationing pilot but not the striking or furloughed pilot. Accordingly, it is proposed to amend § 61.39 to provide that the applicant need only be employed within the period ending 24 calendar months after the month in which the applicant passed the written examination and at the time of the flight test. This proposal would also eliminate the continuous employment requirement and substitute a requirement to complete initial training and, when appropriate, transition or upgrade training, and to meet the recurrent training requirements. Requiring an individual's training to be current is a better means of ensuring retention of the knowledge tested by the written test than requiring continuous employment.

§ 61.51 Pilot logbooks.

Section 61.51(c)(3) provides that, for meeting the requirements for a certificate or rating, a pilot may log as second-in-command time all flight time during which that pilot acts as second in command of an aircraft on which more than one pilot is required under the type certification of the aircraft or the regulations under which the flight is conducted. When this provision was adopted by Amendment 61-60 (38 FR 3156; February 1, 1973), the FAA intended that this rule should apply to the experience requirements for each kind of pilot certificate. However, at that time no change was made in § 61.155(d) which provides that a commercial pilot may credit toward the total flight time

required for an airline transport pilot certificate any second-in-command time "in operations under Part 121." This proposal eliminates that phrase so that all second-in-command time which meets the requirements of § 61.51(c)(3) may be credited under § 61.155.

Part 63—Certification: Flight Crewmembers Other Than Pilots

§ 63.35 Knowledge requirements.

Section 63.35(d) presently requires continuous participation in a maintenance, flight engineer, or pilot training program of a Part 121 certificate holder in order for an applicant for a flight engineer certificate to be exempted from the 24-month validity period for the written examination. Similar to § 61.39, this section has been interpreted to mean that any break in employment, such as a strike or furlough, constitutes an interruption of continuous participation in a training program and prevents the exception from applying. As already noted, the FAA has reevaluated this requirement and has determined that continuous participation in a training program is not essential. Currency in a certificate holder's training program for a flight crewmember or recency of experience for a mechanic employed by a certificate holder ensures knowledge retention better than continuous participation in a training program. Therefore, the FAA proposes to amend § 63.35(d) to apply the exception provision to a flight crewmember or mechanic who is employed by a certificate holder within the period ending 24 calendar months after the month in which the applicant passed the written examination, and whose training is current or meets the recent experience requirements for a mechanic under § 65.83. It is also proposed to expand the rule to include employment by a commuter air carrier.

Part 65—Certification: Airmen Other Than Flight Crewmembers

§ 65.101 Eligibility requirements: General.

Section 65.101 does not currently recognize formal training for applicants for a repairman certificate, as an alternative to the 18 months of practical experience required for repairman certification. A formal training program established by certain FAA-certificated air agencies or pertinent aviation manufacturers or air carriers could provide an equivalent level of competency as an alternative to the prescribed 18 months. Accordingly, the FAA proposes to amend § 65.101 to allow this formal training to be substituted for the practical experience now required for repairman certificate eligibility.

§ 65.127 Facilities and equipment.

Section 65.127(b) provides that certificated parachute riggers may not exercise the privileges of their certificates unless they have available to them a compartment for hanging parachutes vertically for drying and airing. This requirement was necessary when parachute canopies were made of silk pongee and cotton materials. However, parachutes are now manufactured from nylon, dacron, and other synthetic materials. These parachutes may be hung horizontally and properly aired and dried by agitating the folds with warm air and occasionally turning them. For this reason, a vertical compartment for hanging these parachutes is unnecessary to exercise the privileges of a parachute rigger certificate. Accordingly, the FAA proposes to amend § 65.127(b) to provide that a parachute rigger need only have available suitable housing that is adequately heated, lighted, and ventilated for drying and airing parachutes.

Part 91—General Operating and Flight Rules

§ 91.28 Special flight authorization for foreign civil aircraft.

Section 91.28 authorizes FAA Regional Directors to issue special flight authorizations for the operation of foreign civil aircraft that do not pssess airworthiness certificates. When § 91.28 was adopted, the FAA considered it appropriate to limit the purposes for issuance of special flight authorizations and to require an exemption to obtain a special flight authorization for any other purpose. After reviewing the experience since adoption of the rule, the FAA has determined that the limitation for those purposes is no longer necessary. To eliminate the burden on both the public and the FAA imposed by the exemption procedures, the FAA proposes to delete the list of purposes in § 91.28(b) and to give Regional Directors the authority to issue special flight authorizations subject to any conditions and limitations deemed necessary. This flight authorization would be issued to the applicant by the FAA with the understanding that authority is also granted to the applicant by the Civil Aeronautics Board (CAB) in the form of an exemption, order, or a regulation (14 CFR 375.20). The FAA authorization in no way removes the responsibility of the applicant to obtain CAB authorization in the form specified.

§ 91.170 Altimeter system tests and inspections.

Section 91.170(c) prohibits operation of an airplane in controlled airspace under IFR at an altitude above the maximum altitude to which an altimeter of that airplane has been tested. The section was originally adopted when few, if any, aircraft other than airplanes were approved for operations under IFR. The number of IFR-approved helicopters using the airspace is growing rapidly. Safety in the national airspace system requires all aircraft including helicopters, operating under IFR to use altimeters which have been tested for the altitudes at which operations are conducted. The FAA proposes to amend § 91.170 by adding the words "or helicopters" after the word "airplanes" to ensure that altimeters on airplanes and helicopters operated under IFR meet the same certification and airworthiness standards.

Part 121—Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft

§ 121.135 Contents.

Section 121.135(b)(23) (i), (ii), and (iii) contain references to § 103.3. Part 103 was revoked effective July 1, 1976, concurrent with the Department of Transportation's adoption and consolidation of Hazardous Materials Regulations into title 49 of the Code of Federal Regulations. The FAA proposes to amend § 121.135 by deleting references to Part 103 and inserting appropriate references to Title 49 CFR and by making conforming editorial changes related to the new references.

§ 121.319 Crewmember interphone system.

Section 121.319(a) requires, in part, that airplanes with a seating capacity of more than 19 passengers must be equipped with a crewmember interphone system. Section 121.319(b)(5)(i) requires that for large turbojet-powered airplanes the interphone system must be accessible for use at enough flight attendant stations so that all floor-level emergency exists in each passenger compartment are observable from one or more of those stations. From a security and operational viewpoint, if the floor-level exit is located within a galley and the entryway to the galley is observable, this will satisfy the operational/security requirements and it is unnecessary to view the exit itself. The FAA proposes to amend § 121.319(b)(5)(i) accordingly.

Sections 121.385, 121.389, 121.695, and 121.697 contain inconsistencies in the use of the words "aircraft" and "airplanes." The FAA proposes to replace the word "aircraft" with the word "airplane" where it appears in §§ 121.385(a) and (b)(1), 121.389(a)(2), 121.695(a), and 121.697 (a)(c) and (d). These editorial corrections will make the language consistent with the applicable word definitions.

§ 121.585 Carriage of weapons.

Section 121.585 provides that a deadly or dangerous weapon may not be carried in checked baggage unless the certificate holder determines that the weapon is unloaded. On March 16, 1978, § 121.585 was further amended to require that firearms in checked baggage be carried in containers the certificate holder considers appropriate. This amendment has been successful in deterring the carriage of loaded weapons aboard aircraft or checked in baggage. A definition of a loaded firearm was added to § 121.585(b) by Amendment 121–156 (45 FR 13059; February 28, 1980). The FAA proposes to amend § 121.585(c) to require the certificate holder to notify passengers with firearms in checked baggage of the definition contained in § 121.585(b). This notification should help to eliminate uncertainty on the part of the public about what constitutes a loaded weapon for the purpose of this regulation.

Proposed paragraph (c)(6) of this section states that if the certificate holder determines that ammunition is carried, that ammunition must be carried in accordance with the Hazardous Material Regulations as defined in 49 CFR 171.8.

§ 121.703 Mechanical reliability reports.

Section 121.703(d) requires certificate holders to comply with the mechanical reliability reporting requirements of § 121.703(d) by filing a report by 9:00 a.m. of the day following the occurrence of a reportable event. This requirement is an unnecessary burden on certificate holders that do not have clerical staffs normally working holidays and weekends because the present rule requires them to assign additional staff to meet the "next workday" requirement. Accordingly, the FAA proposes to revise the section to change the reporting time to 9:00 a.m. of the second workday following the date of the reportable event for reports covering holidays and weekends.

Part 129—Operations of Foreign Air Carriers

Part 129 prescribes rules governing the operation within the United States of aircraft of foreign air carriers holding a permit issued by the Civil Aeronautics Board (CAB) under Section 402 of the Federal Aviation Act of 1958. The CAB is issuing exemptions to permit temporary foreign air carrier operations without a Section 402 permit conditioned, however, upon compliance with Part 129. Accordingly, the FAA proposes to amend § 129.1 of the FAR to make Part 129 applicable to foreign air carriers who hold either a Section 402 permit or other appropriate economic authority or exemption issued by the CAB which requires compliance with that part.

Part 135—Air Taxi Operators and Commercial Operators

§ 135.243 Pilot in command qualifications.

Section 135.243(b)(3), pilot in command qualifications, which became effective on December 1, 1978, requires that a pilot in command hold an instrument rating.

Following publication of revised Part 135, FAA received numerous petitions for exemption from the instrument rating requirement and 25 grants of extension of the compliance date of that rule were issued in response to the requests. Several inquiries regarding the requirement were received from members of Congress who were seeking information regarding constituents who wanted relief from the instrument rating requirements.

The majority of these requests for relief from the instrument rating requirements was from certificate holders who conduct on-demand charter operations in remote areas which are located in the northern United States. Almost all of the requests were from seaplane operators conducting day VFR operations to carry hunting or fishing groups to isolated locations, or providing cargo service to small, isolated settlements, which lack access to other transportation means. In virtually all instances, these operators serve areas that are so remote there are no radio navigation facilities suitable for use. Because of the absence of these facilities, and the day VFR nature of the operations, their aircraft are not equipped for instrument flight operations. Consequently, they use pilots who do not hold instrument ratings. However, these pilots are highly experienced and are thoroughly familiar with the terrain, alternate landing areas, and weather patterns in the area of operations. The FAA's review of their safety record indicates that it has been very satisfactory.

In response to the situation, Amendment No. 135–1, effective May 7, 1979, permitted operators and pilots to delay meeting the instrument rating requirement until December 1, 1980. This action was taken to provide time for FAA to restudy this requirement and possibly adopt changes regarding its scope.

The FAA has reviewed the necessity for an instrument rating in light of the above factors. It has concluded that it is appropriate to propose a limited exception to that requirement in the case of certain single reciprocating engine powered seaplane operations. A new paragraph (d) would be added to § 135.243 to implement the exception. There are several conditions. Since the certificate holders conducting the operations in the remote areas discussed above are on-demand charter operators, the proposal does not apply to certificate holders conducting scheduled operations or operations which would qualify them as a commuter air carrier. The exclusion in proposed § 135.243(d)(2) is not expressed in terms of a commuter air carrier, however, in order to exclude all operators who conduct any scheduled operation which equates with that of a commuter air carrier without regard to whether the operator meets the technical definition of a commuter air carrier in Part 298 of the regulations of the Civil Aeronautics Board. The FAA has found, for example, that there are certain operators in Alaska who, although they are not classified as commuter air carriers, nevertheless conduct scheduled operations substantially similar to the Part 298 commuter. Exclusion of commuter-like operators is consistent with the general upgrade of commuter operations achieved when Part 135 was revised effective December 1, 1978.

Paragraph (d)(3) of the proposal conditions relief from the instrument rating requirement on the absence of VOR or NDB navigation facilities within 40 nautical miles of the certificate holder's main base, the destination, or the straight-line course between the main base and destination. This part of the concept is based upon the remote nature of these seaplane operations as evidenced by the absence of radio navigational facilities.

In order to provide adequate safety levels, each flight must be conducted under day VFR with a ceiling of not less than 1,000 feet and visibility of not less than 3 miles. In addition, the pilot in command must determine from weather reports or forecasts, or in the absence of them from the observations of that pilot or those of other persons competent to supply weather observations, that the weather conditions specified in

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proposed paragraph (d)(5) will exist for the period commencing with the planned departure and ending within 30 minutes after the planned arrival.

An additional safety measure is the proposed requirement that any route to be flown by a pilot in command who does not have an instrument rating must be approved by the FAA Flight Standards District Office. That office reviews the requested route and determines that it may be safely flown by a non-instrument rated pilot.

Finally paragraph (d)(7) would impose limitations on the length of the flight. February 1, 1973, is the dividing line because that date is used in Part 61. Prior to that date, an instrument rating was not required for issuance of a commercial pilot's certificate. After that date, any commercial pilot certificate issued without an instrument rating is endorsed with a limitation prohibiting the carriage of passengers for hire in airplanes on cross-country flights of more than 50 nautical miles, or at night. This mileage limitation is contained in this proposal. In addition, although commercial pilot certificates initially issued prior to February 1, 1973, without an instrument rating are not subject to a passenger carrying for hire mileage limitation, a 250-mile limitation is contained in the proposal. This is a safeguard against a flight which is of such a length that quickly changing weather conditions might make VFR flights impossible. In addition, this 250-mile limitation is consistent with representations made by various operators that their seaplane operations by non-instrument rated pilots are of relatively short mileage.

§ 135.297 Pilot in Command: Instrument passenger check requirements.

When Part 135 was revised effective December 1, 1978, the pilot-in-command instrument proficiency check requirements were modified. Under that revision, § 135.297 requires each pilot in command to demonstrate satisfactorily at least one instrument approach procedure using an instrument landing system (ILS), a very high frequency omnirange station (VOR), and a nondirectional radio beacon (NDB). It has been contended by some air taxi certificate holders that the revised requirement is too restrictive. For example, some certificate holders state they have no need to use ILS facilities and that the nearest ILS facility is located a significant distance from the certificate holder's operations base. It is argued that the present rules requires unreasonable expenditure of aircraft and pilot operational expense to demonstrate proficiency on a facility which is not used by some certificate holders.

This notice proposes that only those procedures which the certificate holder desires to use are required to be demonstrated. Thus, each certificate holder would determine from the characteristics of its operations which procedures it needs. To ensure an adequate level of safety, the proposed revision of § 135.297(b) would allow a pilot to use only those precision approach procedures satisfactorily demonstrated. In order to use any nonprecision instrument approach procedure, a pilot would be required to demonstrate satisfactorily that procedure, or any other two nonprecision instrument approach procedures. It would also require that all instrument approach procedures to be used by the operator be included in the operator's initial and recurrent training programs. This would ensure that each pilot receives training on all procedures to be used. The letter of competency would be deleted to reduce recordkeeping. The operator would be issued operations specifications which would contain the instrument approach procedures authorized. This notice also proposes to delete § 135.297(h). The certificate holders are required by § 135.63 to maintain records showing the qualifications of their pilots and to designate operations their pilots are authorized to conduct. That recordkeeping includes types of instrument approach procedures and facilities authorized and pilot in command autopilot authorizations. Therefore, § 135.297(h) is redundant.

Economic Impact

The FAA solicits the views of interested persons with respect to the economic impact relative to costs and benefits of any of the proposals and especially the following:

(1) Section 25.807(d), ditching emergency exists for passengers.

(2) Section 29.807(d), ditching emergency exists for passengers.

(3) Section 91.170, altimeter system tests and inspections.

The proposals contained in this notice provide for safety, help to conserve aviation fuel, and reduce both aircraft and pilot operating costs incurred by certificate holders. As a part of the FAA's program to upgrade the Federal Aviation Regulations, these proposals are fully in compliance with the President's directive (Executive Order 12044) that regulations be as simple and clear as possible and impose no unnecessary burden on the public.

The Proposed Amendment

Accordingly, the Federal Aviation Administration (FAA) proposes to amend Parts 21, 23, 25, 29, 43, 45, 61, 63, 65, 91, 121, 129, and 135 of the Federal Aviation Regulations (14 CFR Parts 21, 23, 25, 29, 43, 45, 61, 63, 65, 91, 121, 129, and 135) as follows:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

1. By revising § 21.197(c) to read read as follows:

21.197 Special flight permits.

* * * * *

(c) Upon application, as prescribed in § 121.79, § 127.27, and § 135.17 of this chapter, a special flight permit with a continuing authorization may be issued for aircraft that may not meet applicable airworthiness requirements but are capable of safe flight for the purpose of flying aircraft to a base where maintenance or alterations are to be performed. The permit issued under this paragraph is an authorization, including conditions and limitations for flight, which is set forth in the certificate holder's operations specifications. The permit issued under this paragraph may be issued to—

(1) Certificate holders authorized to conduct operations under Part 121 or 127 of this chapter; or

(2) Certificate holders authorized to conduct operations under Part 135 for those aircraft they operate and maintain under a continuous airworthiness maintenance program prescribed by § 135.411(a)(2) or (b) of that part.

PART 23—AIRWORTHINESS STANDARDS: NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

§ 23.301 [Amended]

2. By amending the second sentence of § 23.301(d) by deleting the words "equivalent of §§ 23.331 through 23.399" and inserting the words "equivalent of §§ 23.321 through 23.459" in their place.

§ 23.305 [Amended]

3. By amending § 23.305(a) by deleting the comma after the word "detrimental" and inserting the word "or" in its place.

§ 23.441 [Amended]

4. By amending § 23.441(b) by deleting the phrase "(a)(1), (a)(2), and (a)(3), respectively" and by inserting the phrase "(a)(2), (a)(1), and (a)(3), respectively, of this section," in its place.

§ 23.473 [Amended]

5. By amending § 23.473(f) by deleting the reference "§ 23.725" and inserting the reference "§ 23.723(a)" in its place.

§ 23.1549 [Amended]

6. By amending § 23.1549(d) by inserting the word "red" before the word "arcs".

§ 23.1587 [Amended]

7. By amending § 23.1587(a)(1) by deleting the reference "§ 23.201(b)" and inserting "§ 23.201(a)" in its place.

Appendix A [Amended]

8. By amending Appendix A, paragraph A23.3, by deleting the numbers 12.5, 17.0, 19.5, and 27.3 appearing in the equations and inserting the numbers 11.0, 15.0, 17.0, and 24.0, respectively, in their place.

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

§ 25.305 [Amended]

9. By amending § 25.305(a) by inserting the word "or" between the words "detrimental" and "permanent".

10. By amending § 25.807(d) by amending the initial portion of the lead-in to read as follows:

§ 25.807 Passenger emergency exits.

* * * * *

(d) *Ditching emergency exits for passengers.* Whether or not ditching certification is requested, ditching emergency exits must be provided in accordance with the following requirements, unless * * *

* * * * *

Appendix F to Part 25 [Amended]

11. By amending Appendix F of Part 25 as follows:

1. By inserting a comma after "5" in paragraph (a).

2. By deleting the colon after the phrase "most critical flammability conditions" in the fourth sentence of paragraph (b) and inserting a period in its place.

3. By deleting the reference to paragraph (h) in the first sentence of paragraph (c) and inserting a reference to paragraph (g) in its place.

4. By deleting the reference to paragraph (g) in the last sentence of paragraph (d) and inserting a reference to paragraph (h) in its place.

5. By deleting the reference to paragraph (g) in the next to last sentence of paragraph (g) and inserting a reference to paragraph (h) in its place.

PART 29—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY ROTORCRAFT

12. By revising the lead-in of § 29.807(d) to read as follows:

§ 29.807 Passenger emergency exits.

* * * * *

(d) *Ditching emergency exits for passengers.* Whether or not ditching certification is requested, ditching emergency exits must be provided in accordance with the following requirements, unless emergency exits required by paragraph (b) of this section already meet them:

* * * * *

PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION

§ 43.3 [Amended]

13. By amending the first sentence of § 43.3(a) by adding the words "and in § 43.17" immediately following the word "section".

PART 45—IDENTIFICATION AND REGISTRATION MARKING

14. By amending § 45.15(b) by adding a sentence at the end to read as follows:

§ 45.15 Replacement and modification parts.

* * * * *

(b) * * * If the marking required by paragraph (a)(4) of this section is so extensive that to mark it on a tag is impractical, the tag attached to the part or container may refer to a specific readily available manual or catalog for part eligibility information.

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

15. By revising § 61.39(b) to read as follows:

§ 61.39 Prerequisites for flight tests.

* * * * *

(b) Notwithstanding the provisions of paragraph (a)(1) of this section, an applicant for an airline transport pilot certificate or rating may take the flight test for that certificate or rating if—

(1) The applicant—

(i) Within the period ending 24 calendar months after the month in which the applicant passed the first of any required written tests, was employed as a flight crewmember by a U.S. air carrier or commercial operator operating either under Part 121 or as a commuter air carrier under Part 135 (as defined in Part 298 of this title) and is employed by such a certificate holder at the time of the flight test;

(ii) Has completed initial training, and, if appropriate, transition, or upgrade training; and

(iii) Meets the recurrent training requirements of the applicable part; or

(2) Within the period ending 24 calendar months after the month in which the applicant passed the first of any required written tests, the applicant participated as a pilot in a pilot training program of a U.S. scheduled military air transportation service and is currently participating in that program.

16. By revising the introductory phrase in § 61.155(d) to read as follows:

§ 61.155 Airplane rating: Aeronautical experience.

* * * * *

(d) A commercial pilot may credit the following flight time toward the 1,500 hours total flight time requirement of paragraph (b)(2) of this section:

* * * * *

PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

17. By revising § 63.35(d) to read as follows:

§ 63.35 Knowledge requirements.

* * * * *

(d) An applicant for a flight engineer certificate or rating must have passed the written tests required by paragraphs (a) and (b) of this section since the beginning of the 24th calendar month before the month in which the flight is taken. However, this limitation does not apply to an applicant for a flight engineer certificate or rating if—

(1) The applicant—

(i) Within the period ending 24 calendar months after the month in which the applicant passed the written test, is employed as a flight crewmember or mechanic by a U.S. air carrier or commercial operator operating either under Part 121 or as a commuter air carrier under Part 135 (as defined in Part 298 of this title) and is employed by such a certificate holder at the time of the flight test;

(ii) Is employed as a flight crewmember, has completed initial training, and, if appropriate, transition or upgrade training; and

(iii) Meets the recurrent training requirements of the applicable part or, for mechanics, meets the recency of experience requirements of Part 65;

(2) Within the period ending 24 calendar months after the month in which the applicant passed the written test, the applicant participated in a flight engineer or maintenance training program of a U.S. scheduled military air

transportation service and is currently participating in that program.

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

18. By revising § 65.101(a)(5) to read as follows:

§ 65.101 Eligibility requirements: General.

* * * * *

(a) * * *

(5) Have either—

(i) At least 18 months of practical experience in the procedures, practices, inspection methods, materials, tools, machine tools, and equipment generally used in the maintenance duties of the specific job for which the person is to be employed and certificated; or

(ii) Completed formal training that is acceptable to the Administrator and is specifically designed to qualify the applicant for the job on which the applicant is to be employed; and

* * * * *

19. By revising § 65.127(b) to read as follows:

§ 65.127 Facilities and equipment.

* * * * *

(b) Suitable housing that is adequately heated, lighted, and ventilated for drying and airing parachutes.

* * * * *

PART 91—GENERAL OPERATING AND FLIGHT RULES

20. By revising § 91.28 to read as follows:

§ 91.28 Special flight authorizations for foreign civil aircraft.

(a) Foreign civil aircraft may be operated without airworthiness certificates required under § 91.27 if a special flight authorization for that operation is issued under this section. Application for a special flight authorization must be made to the Regional Director of the FAA region in which the applicant is located or to the region within which the U.S. point of entry is located.

(b) The Administrator may issue a special flight authorization for a foreign civil aircraft subject to any conditions and limitations that the Administrator considers necessary for safe operations in the U.S. airspace and under Civil Aeronautics Board (CAB) authority.

(c) The special flight authorization is conditional upon the applicant having appropriate CAB authority to conduct the flight in the form of a CAB exemption, order, or regulation.

§ 91.170 [Amended]

21. By amending § 91.170 by adding the words "or helicopter" after the word "airplane" in paragraphs (a), (a)(1), (a)(2)(iv), and (c).

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

22. By revising § 121.135(b)(23)(i), (ii), and (iii) to read as follows:

§ 121.135 Contents.

* * * * *

(b) * * *

(23) * * *

(i) Procedures for determining the proper shipper certification required by Title 49 CFR, proper packaging, marking, labeling, shipping documents, compatability of articles, and instructions on the loading, storage, and handling thereof.

(ii) Notification procedures for reporting hazardous materials incidents as required by Title 49 CFR.

(iii) Instructions and procedures for the notification of the pilot in command when there are hazardous materials aboard, as required by Title 49 CFR.

* * * * *

23. By revising § 121.319(b)(5)(i) to read as follows:

§ 121.319 Crewmember interphone system.

* * * * *

(b) * * *

(5) * * *

(i) It must be accessible for use at enough flight attendant stations so that all floor-level emergency exits (or entryways to those exits in the case of exits located within galleys) in each passenger compartment are observable from one or more of those stations so equipped;

* * * * *

§ 121.385 [Amended]

24. By amending § 121.385(a) and (b)(2) by deleting the word "aircraft" wherever it appears and substituting the word "airplane".

§ 121.389 [Amended]

25. By amending § 121.389(a)(2) by deleting the word "aircraft" and substituting the word "airplane".

26. By revising § 121.585(c) by adding the following:

§ 121.585 Carriage of weapons.

* * * * *

(c) * * *

(5) The certificate holder notifies the passenger that a firearm is considered to be loaded if it has a live round of ammunition, cartridge, detonator, or powder in the chamber or in a clip, magazine, or cylinder inserted in such firearm.

(6) The certificate holder determines that ammunition is carried in accordance with the Hazardous Material Regulations as defined in 49 CFR 171.8.

§ 121.695 [Amended]

27. By amending § 121.695(a) by deleting the word "aircraft" and inserting the word "airplane".

§ 121.697 [Amended]

28. By amending § 121.697(a), (c) and (d) by deleting the word "aircraft" and inserting the word "airplane" in its place.

§ 121.703 [Amended]

29. By amending § 121.703(d) by amending the last sentence to read as follows: "However, a report that is due on a Saturday, Sunday, or holiday must be delivered by not later than 9:00 a.m. on the second workday thereafter."

PART 129—OPERATIONS OF FOREIGN AIR CARRIERS

30. By revising § 129.1 to read as follows:

§ 129.1 Applicability.

This part prescribes rules governing the operation within the United States of each foreign air carrier holding a permit issued by the Civil Aeronautics Board under Section 402 of the Federal Aviation Act of 1958 (49 U.S.C. 1372) or other appropriate economic or exemption authority issued by the Civil Aeronautics Board conditioned upon the foreign air carrier complying with the requirements of this part.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

31. By revising § 135.243 by adding a new paragraph (d) to read as follows:

§ 135.243 Pilot in command qualifications.

* * * * *

(d) Paragraph (b)(3) of this section does not apply to a non-stop flight between the certificate holder's main base and a seaplane landing area, or the return flight, when—

(1) The aircraft used is a single reciprocating engine powered seaplane;

(2) The certificate holder does not conduct any operations pursuant to a published flight schedule which specifies five or more round trips a week between two or more points and places between which the round trips are performed, and does not transport mail by air under a contract or contracts with the United States Postal Service having a total amount estimated at the beginning of any semi-annual reporting period (January 1–June 30; July 1–December 31) to be in excess of $20,000 over the 12 months commencing with the beginning of the reporting period;

(3) There is no VOR or NDB facility within 40 nautical miles of the certificate holder's main base, the destination or the straight-line course between the main base and destination;

(4) Each flight is conducted under day VFR with a ceiling of not less than 1,000 feet and visibility not less than 3 statute miles;

(5) Weather reports or forecasts, or any combination of them, indicate that for the period commencing with the planned departure and ending 30 minutes after the planned arrival at the destination the flight may be conducted under VFR with a ceiling of not less than 1,000 feet and visibility of not less than 3 statute miles, except that if weather reports and forecasts are not available, the pilot in command may use that pilot's observations or those of other persons competent to supply weather observations if those observations indicate the flight may be conducted under VFR with the ceiling and visibility required in this paragraph;

(6) The routes to be flown, including departure point, destination point and alternate landing areas suitable for use by seaplanes in the event the weather deteriorates below VFR, 1000-foot ceiling, and 3 statute miles visibility, are approved by the certificate holding FAA Flight Standards District Office; and

(7) The distance of each flight from departure point to destination does not exceed 250 nautical miles in the case of a pilot in command who holds a commercial pilot certificate with an airplane category rating, issued prior to February 1, 1973, without an instrument rating, or 50 nautical miles in the case of a pilot in command who holds a commercial pilot certificate with an airplane category rating, initially issued after January 31, 1973, without an instrument rating.

32. By deleting § 135.297(h) and revising § 135.297(b) to read as follows:

§ 135.297 Pilot in command: Instrument proficiency check requirements.

* * * * *

(b) No pilot may use any type of precision instrument approach procedure under IFR unless, since the beginning of the sixth calendar month before that use, the pilot has satisfactorily demonstrated that type of approach procedure. No pilot may use any type of nonprecision approach procedure under IFR unless, since the beginning of the sixth calendar month before that use, the pilot has satisfactorily demonstrated either that type of approach procedure or any other two different types of nonprecision approach procedures. The instrument approach procedure or procedures must include at least one straight-in approach, one circling approach, and one missed approach. Each type of approach procedure demonstrated must be conducted to published minimums for that procedure. All instrument approach procedures to be used shall be included in the certificate holder's initial and recurrent training program.

* * * * *

(Secs. 313(a), 601 through 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1425); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.45)

Note.—The Federal Aviation Administration has determined that this document involves proposed regulations which are not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 as implemented by Department of Transportation Policies and Regulatory Procedures (44 FR 11034, February 26, 1979). A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the person identified under the caption "For Further Information Contact:".

Issued in Washington, D.C., on November 28, 1980.

Walter S. Luffsey,

Associate Administrator for Aviation Standards.

[FR Doc. 80-37698 Filed 12-3-80; 8:45 am]

BILLING CODE 4910-13-M

V 45 / 235 DE 4 80 UMI

federal register

Thursday
December 4, 1980

Part VI

Department of Transportation

Federal Aviation Administration

Commuter Pilot-in-Command Operating Experience Requirements and Extension of Compliance Date for Instrument Rating Requirement

V. 45 / 235 DEC 4 80 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 135

[Docket No. 21134; Amdt. No. 135-9]

Commuter Pilot-in-Command Operating Experience Requirements and Extension of Compliance Date for Instrument Rating Requirement

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment clarifies the commuter pilot-in-command operating experience requirement which became effective on March 1, 1980. The intent is to require commuter pilots to meet certain operating experience requirements in the make and basic model aircraft to be flown during commuter passenger-carrying operations prior to being designated as pilot in command. It became apparent, during its implementation, that clarification of the rule is necessary to ensure that the required operating experience is acquired. This amendment also extends the compliance date for the instrument rating requirement for pilots in command of aircraft operating under Part 135 to give the agency adequate time to consider alternatives and determine a course of action.

DATES: Effective date: December 1, 1980. Comments must be received on or before January 5, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. H. E. Smith, Regulatory Projects Branch (AVS-24), Safety Regulations Staff, Associate Administrator for Aviation Standards, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; telephone (202) 755-8716.

ADDRESS: Comments on this amendment may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Docket No. 21134, 800 Independence Avenue, S.W., Washington, D.C. 20591; or be delivered in duplicate to Room 916, 800 Independence Ave., S.W., Washington, D.C. 20591. All comments must be marked "Docket No. 21134." Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

SUPPLEMENTARY INFORMATION:

Background

Operating Experience for Commuter Pilots in Command

On January 30, 1980, the FAA issued Amendment Number 135-3, which contains commuter pilot-in-command operating experience requirements. These changes were necessary to upgrade pilot experience to provide a higher level of safety for commuter operations. During the implementation of these changes, which affect all passenger-carrying commuter operators, it became evident that a clarification of certain requirements is necessary.

The preamble for Amendment 135-3 cites the need for a pilot in command to obtain operating experience in commuter passenger-carrying operations while being observed by a check airman. This is similar to the Part 121 pilot-in-command operating experience requirement. The intent was to upgrade safety standards and to make passenger-carrying commuter operating experience as consistent as possible with that required by Part 121 as mandated by the Airline Deregulation Act of 1978.

Section 135.244, Operating experience, contains the increased pilot-in-command qualifications for commuter operations. Section 135.244(b)(2) states that the experience must be acquired during operations "under this Part." The intent of this requirement is to require pilots to acquire operating experience under the supervision of a check airman during commuter passenger-carrying operations prior to designation as pilot in command. However, some certificate holders interpret the phrase "under this Part" to mean that the operating experience may be flown under commuter and/or on-demand passenger or cargo air taxi operations.

Since the purpose of the commuter operating experience requirement is to give the pilot in command pilot time in the aircraft under operational conditions peculiar to commuter operations, it was not the intent to allow for experience accrued during charter or on-demand operations because of the differences in those types of operations from scheduled operations. For example, in contrast with scheduled commuter operations over predetermined routes, charter operations are not normally conducted in accordance with a schedule or established route schedules and do not require the great number of takeoffs, instrument approaches, and landings normally associated with scheduled operations. Another example is the greater exposure to adverse weather experienced in scheduled operations because of the increased frequency of flights as opposed to infrequent charter flights.

Since many of the functions of a commuter operation, such as scheduling, flight planning, weight and balance, passenger and cargo loading, and fueling are not performed by the pilots, their ability to assess these functions in the commuter operating environment is critical. This makes it necessary for a prospective pilot in command to obtain the experience in passenger-carrying commuter operations. These examples clearly show the increased safety level by having the pilot meet the commuter passenger pilot-in-command experience requirement in commuter-type operations.

The acquisition of operating experience in commuter passenger-carrying operations only is imperative. With the growth of commuter air carriers, an ever-increasing number of aircraft that can carry a higher number of passengers are being introduced into service. Many of the pilots being designated to be pilots in command on these operations have very little experience in the make and basic model of aircraft. It is important that these pilots be well acquainted with the aircraft, its operating procedures, and its limitations before acting as pilot in command. The operating experience requirement provides this exposure.

This experience, similar to that required in Part 121, provides the pilot experience flying the line with an experienced check airman on board to supervise the operation prior to the pilot being designated as a pilot in command. Such experience can only be adequately acquired on scheduled passenger operations. It provides familiarization with the aircraft in these circumstances, which includes operations at maximum gross weights and during critical performance conditions, which are important areas that need attention in accident prevention. Familiarization with the aircraft systems, operating limitations, performance characteristics and other pertinent procedures are ensured by the check airmen. When the pilot is designated as a pilot in command after the operating experience requirements are met, that pilot is better prepared to assume these duties.

To accomplish the necessary clarifying change, the phrase "operations under this Part" in § 135.244(b)(2) is amended to read "commuter passenger-carrying operations under this Part."

Section 135.244(a) requires that the pilot acquire the operating experience in each make and model aircraft to be flown by the pilot as a pilot in command in commuter passenger-carrying operations. The intent of make and model aircraft in this section is to permit the pilot to acquire the necessary experience in any make and basic model of the aircraft involved. For instance, all series models of Piper PA-31, Cessna 310, Beech 99, or DeHavilland DHC-6 aircraft can be flown to meet the operating experience in that particular make and model aircraft. Clarification of this requirement is necessary because it is interpreted by some to mean that the operating experience in that make and model is limited to one specific model, that is, a Cessna 310A. To accomplish this clarifying change, the words "basic model" are substituted for the word "model" whenever it appears in § 135.244(a).

In regard to cost factors, some operators will incur higher costs as a result of obtaining this operating experience only during commuter passenger-carrying operations. However, relaxation of the requirement to permit this experience to be obtained in the basic model of each make and model of aircraft results in a substantial cost reduction but with no derogation in safety.

The operating experience requirement needs to be met only one time for another particular make and basic model aircraft. It can be transferred by the pilot to another certificate holder provided satisfactory documentation is provided to the new certificate holder and the experience is obtained in the same make and basic model aircraft.

Compliance Date for Instrument Rating Requirements

On October 10, 1978, Part 135 was revised under the Regulatory Review Program. This revision became effective on December 1, 1978. The requirement for all pilots in command to hold an instrument rating was to be effective no later than June 1, 1979. Numerous petitions were received by the FAA requesting exemption from the instrument rating requirement. As a result, the FAA determined that additional rulemaking regarding that requirement should be initiated before compliance with the instrument rating became mandatory. In response, Amendment No. 135-1, effective May 7, 1979, changed the compliance date in § 135.10 for the instrument rating requirement to December 1, 1980.

Additional studies and rulemaking actions are being conducted at the present time. These studies disclose that additional limited exceptions to the pilot-in-command instrument rating requirement may be appropriate. To provide adequate time to determine a course of action, the FAA is issuing this amendment to extend the compliance date for the instrument rating to February 1, 1981.

Need for Immediate Adoption

When § 135.244 was issued, there was an urgent need to effect the amendment as soon as possible. At that time, notice and public procedure were determined to be impracticable and contrary to public interest. Since clarification of that rule is necessary, the same need for immediate adoption is present. The purpose of § 135.244 is to upgrade commuter pilot competency and to require operating experience to be acquired during commuter passenger-carrying operations. The acquisition of this experience in other types of operations is not adequate. Section 135.10 has a compliance date of December 1, 1980, for all pilots in command to hold an instrument rating in Part 135 operations. Studies are in progress at this time to determine the feasibility of limited exceptions and will not be completed by December 1, 1980. By extending the compliance date to February 1, 1981, the FAA will have sufficient time to determine a course of action. Therefore, I find that notice and public procedure are impracticable and contrary to the public interest and good cause exists for making the amendments to §§ 135.244 and 135.10 effective in less than 30 days.

However, interested persons are invited to submit such comments as they may desire regarding this amendment. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator, and this amendment may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this invitation to comment must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 21134." The postcard will be date/time stamped and returned to the commenter.

Adoption of the Amendment

Accordingly, Part 135 of the Federal Aviation Regulations (14 CFR Part 135) is amended effective December 1, 1980 as follows:

§ 135.244 [Amended]

1. Section 135.244(a) is amended by substituting the words "basic model" for the word "model" wherever it appears.

2. The first sentence of § 135.244(b)(2) is amended to read as follows:

§ 135.244 Operating experience.

* * * * *

(b) * * *

(2) The experience must be acquired in flight during commuter passenger-carrying operations under this Part. * * *

* * * * * *

3. Section 135.10(c) is amended to read as follows:

§ 135.10 Compliance dates for certain rules.

* * * * *

(c) A certificate holder or pilot is allowed until February 1, 1981, to comply with the instrument rating requirements of § 135.243(b)(3).

* * * * *

(Secs. 313(a) and 601 through 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1425); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The FAA has determined that this document involves regulations which are not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 as implemented by Department of Transportation Policies and Regulatory Procedures (44 FR 11034; February 26, 1979). In addition, the FAA has determined that the expected impact of these regulations is so minimal that an evaluation is not required.

This is a final order of the Administrator as defined by Section 1005 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1485). As such, it is subject to review only by the courts of appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Washington, D.C., on November 25, 1980.

Langhorne Bond,

Administrator.

[FR Doc. 80-37687 Filed 12-1-80; 4:59 pm]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

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DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
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DOT/UMTA			DOT/UMTA	
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Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator. Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

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73043 11–4–80 / Ohio; approval and promulgation of implementation plan for sulfur dioxide

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73059 11–4–80 / Amendment of television table of assignments to add new VHF stations in the top 100 markets and to assure that the new stations maximize diversity of ownership, control and programing

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58841 9–5–80 / Investigational device exemptions; effective date extended
[Originally published at 45 FR 3732, 1–16–80]

List of Public Laws

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This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 2357 / Pub. L. 96–486 Federal Question Jurisdictional Amendments Act of 1980 (Dec. 1, 1980; 94 Stat. 2369)
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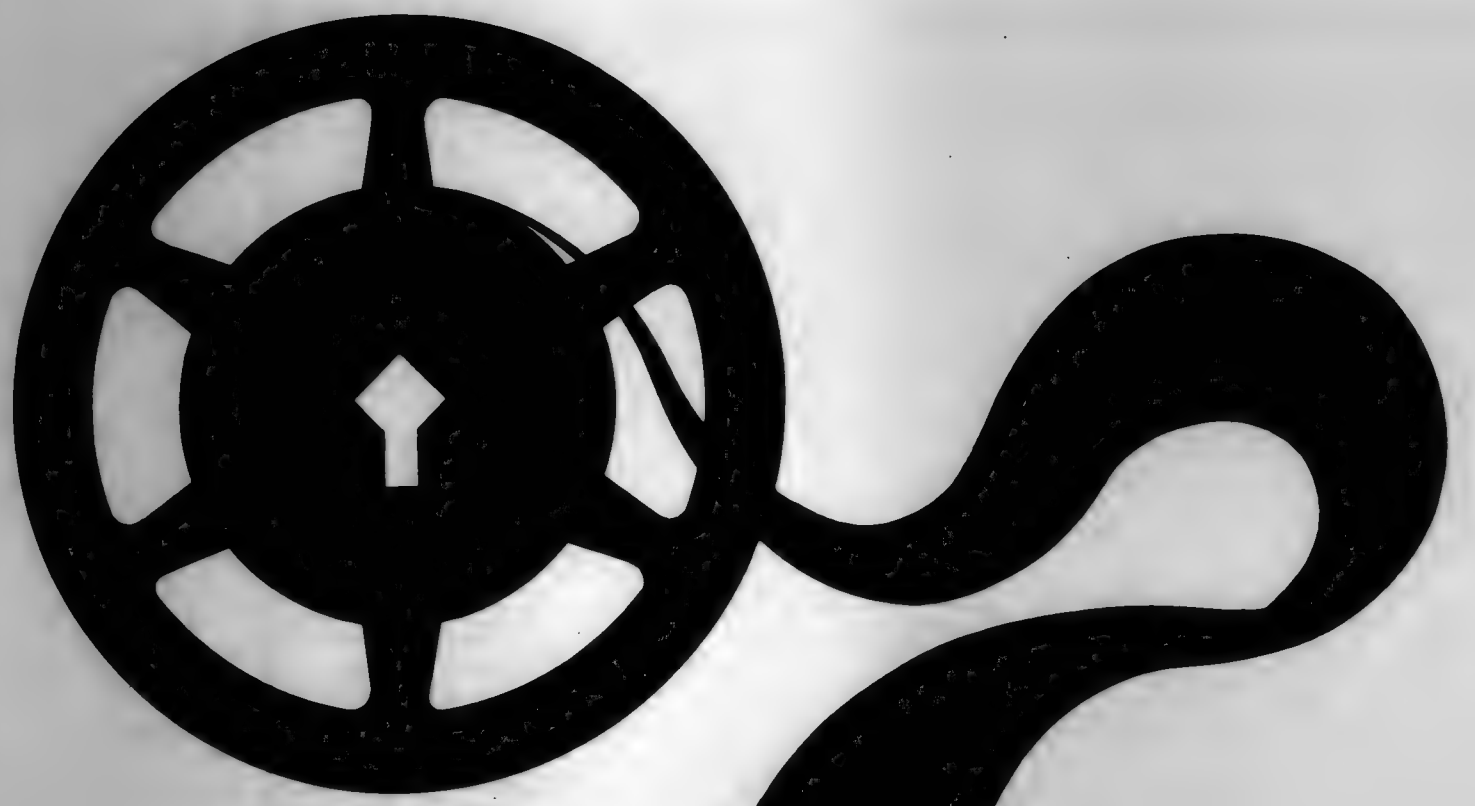

Now Available 1979 Microfilm Edition of the Federal Register

The microfilm edition of the **Federal Register** for 1979, (volume 44), is now available at a cost of $325. This volume covers 77,498 pages and the annual index, plus the quarterly index of List of CFR Sections Affected. It is microfilmed on 35mm rolls only. This microfilm publication, (M190), now comprises 361 rolls and spans the years 1936–1979. The entire publication is for sale at $4693. Further information concerning the 1979 volume or any other volume may be obtained from the Publications Sales Branch (NEPS), National Archives & Records Service, Washington, D.C. 20408. Institutional orders may be placed directly with NEPS.

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80463 **National Advisory Community Investment Board** Executive Order

80465 **Peanut Imports** Presidential memorandum delegating authority

80780 **Budget** OMB announces new deferrals and revises existing deferrals (Part VII of this issue)

80648 **Credit** FRS proposes complete revision of Regulation Z (Truth in Lending); comments by 1-19-81 (Part III of this issue)

80484 **Computers** Commerce/ITA requires technical information in support of applications for licenses to export software; effective 12-5-80; comments by 2-3-81

80483 **Loan Programs—Business** SBA provides for continued servicing of loans by private lenders both before and after purchase by SBA; effective 12-5-80

80485 **Commodities Exchanges** CFTC requires applicants for registration as associated persons be "sponsored" by a futures commission merchant; effective 7-1-81

80472 **Government Employees** OPM provides for changes in amount of basic life insurance; effective 12-0-80; comments by 2-3-81

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Highlights

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There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

80482 **Petroleum Price Regulations** DOE/ERA provides for monthly increases in lower and upper tier crude oil price ceilings to reflect impact of inflation; effective 12–1–80

80551 **Windfall Profit Tax** Treasury/IRS proposes rules relating to treatment of front-end tertiary oil; comments by 2–3–81

80594 **Grant Programs—Health** HHS/PHS/HRA accepts applications for Allied Health Traineeship Grants for Advanced Training-Training Institutes (Short-Term); apply by 2–13–81

80746, 80760 **Mine Safety and Health** Labor/MSHA revises procedures for coal mine operator sampling of respirable dust and gives miners with pneumoconiosis symptoms the right to work in low dust areas; effective 2–1–81 (2 documents) (Part V of this issue)

80501 **Mine Safety and Health** Labor/MSHA defers until 6–21–81, requirement of self-contained self-rescuers in underground coal mines; effective 12–5–81

80790 **Food Stamps** USDA/FNS proposes procedures for demonstration project using monthly reporting and retrospective accounting (2 documents) (Part VIII of this issue)

80740 **Prescription Drugs** HHS/FDA requests comments on patient package insert for combination drug containing doxylamine and vitamin B_6 for treatment of "morning sickness"; comments by 1–19–81 (Part IV of this issue)

80500 **Blood** HHS/FDA amends storage temperature requirements for Source Plasma (Human) intended for manufacture into injectable products; effective 1–5–81

80502 **Freedom of Information** DOD/Sec'y establishes and prescribes uniform procedures and requirements; effective 11–3–80

80573 **Privacy Act Document** CFTC

80627 **Sunshine Act Meetings**

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Presidential Documents

Title 3—
The President

Executive Order 12254 of December 3, 1980

National Advisory Community Investment Board

By the authority vested in me as President of the United States of America by Section 704 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2981c), and in order to establish a National Advisory Community Investment Board, in accord with the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), it is hereby ordered as follows:

1–101. There is established a National Advisory Community Investment Board which shall be composed of fifteen members in accord with Section 704 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2981c).

1–102. The Board shall perform the functions and carry out its activities as provided by Section 704 of the Economic Opportunity Act of 1964, as amended (42 U.S.C. 2981c).

1–103. The Director of the Community Services Administration shall provide the Board with such administrative services and support as may be necessary.

1–104. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act (5 U.S.C. App. I), except that of reporting annually to the Congress, which are applicable to the Board, shall be performed by the Director of the Community Services Administration in accordance with guidelines and procedures established by the Administrator of General Services.

1–105. The Board shall terminate on December 31, 1981, unless sooner extended.

Jimmy Carter

THE WHITE HOUSE,
December 3, 1980.

[FR Doc. 80–38063
Filed 12–4–80; 11:04 am]
Billing code 3195–01–M

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Presidential Documents

Memorandum of December 3, 1980

Memorandum for the United States Trade Representative

By the authority vested in me as President by the Constitution and statutes of the United States, including Section 301 of Title 3 of the United States Code, I hereby authorize you to perform on my behalf, with respect to the importation of peanuts only, all functions vested in me by Section 22 of the Agriculture Adjustment Act of 1933, as amended (7 U.S.C. 624).

This delegation of authority shall expire on January 20, 1981.

This memorandum shall be published in the **Federal Register**.

Jimmy Carter

THE WHITE HOUSE,
Washington, December 3, 1980.

[FR Doc. 80-38064
Filed 12-4-80; 11:05 am]
Billing code 3195-01-M

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL LABOR RELATIONS AUTHORITY, GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY, AND FEDERAL SERVICE IMPASSES PANEL

5 CFR Ch. XIV

Final Rules and Regulations (Listing of Sub-Regional Office Addresses)

AGENCY: Federal Labor Relations Authority (including the General Counsel of the Federal Labor Relations Authority) and Federal Service Impasses Panel.

ACTION: Final rule.

SUMMARY: This rule amends Appendix A paragraph (d)(2), (5), (7) and (8) of the final rules and regulations of the Federal Labor Relations Authority (Authority), General Counsel of the Federal Labor Relations Authority (General Counsel), and Federal Service Impasses Panel (Panel), published at 45 FR 3482, to set forth addresses and telephone numbers of the Authority's Sub-Regional Offices within the Authority's New York, NY (Philadelphia, PA); Chicago, IL (Cleveland, Ohio); Kansas City, MO (Denver, Colo.); and Los Angeles, CA (Honolulu, Hawaii), Regional Offices.

EFFECTIVE DATE: December 2, 1980.

FOR FURTHER INFORMATION CONTACT: Alvin H. Gandal, Assistant General Counsel (202) 632–6860 and D. Randall Frye, Assistant General Counsel (202) 632–6284.

SUPPLEMENTARY INFORMATION: Effective January 17, 1980, the Authority, General Counsel and Panel published, at 45 FR 3482, final rules and regulations to govern the processing of cases by the Authority, General Counsel and Panel under Chapter 71 of Title 5 of the United States Code. These rules and regulations are required by Title VII of Civil Service Reform Act of 1978.

Appendix A, paragraph (d) of the rules and regulations (45 FR 3522) sets forth the current office addresses and telephone numbers of the Regional Directors of the Authority. This amendment sets forth the addresses and telephone numbers of the Sub-Regional Offices of the Authority.

Accordingly, Appendix A, paragraph (d) is amended by adding to subparagraphs (2), (5), (7) and (8) the following:

Appendix A to 5 CFR Ch. XIV—Current Addresses and Geographic Jurisdictions

* * * * *

(d) The Office addresses of Regional Directors of the Authority are as follows:

* * * * *

(2)(a) *Philadelphia, PA Sub-Regional Office*—Room 5000, Mall Building, 325 Chestnut Street, Philadelphia, Pennsylvania 19106, Telephone: FTS—597–1527, Commercial—(215) 597–1527.

(5)(a) *Cleveland, OH Sub-Regional Office*—Room 821, Federal Office Building, 1240 E. Ninth Street, Cleveland, Ohio 44199, Telephone: FTS—293–3855, Commercial—(216) 522–3855.

(7)(a) *Denver, CO Sub-Regional Office*—Room 170, U.S. Customs House, 721 19th Street, Denver, Colorado 80202, Telephone: FTS—327–5224, Commercial—(303) 837–5224.

(8)(a) *Honolulu, Hawaii Sub-Regional Office*—Room 3206, 300 Ala Moana Blvd., Honolulu, Hawaii 96850, Telephone: FTS—556–0220, through the San Francisco FTS Operator, Commercial (808) 546–8355.

* * * * *

(5 U.S.C. 7134)

Dated: December 2, 1980.

Ronald W. Haughton,
Chairman.
Henry B. Frazier III,
Member.
Leon B. Applewhaite,
Member.
H. Stephan Gordon,
General Counsel.

[FR Doc. 80-37863 Filed 12-4-80; 8:45 am]
BILLING CODE 6737-01-M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 317 and 359

Appointment, Reassignment, Transfer and Reinstatement in the Senior Executive Service

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: These interim regulations are issued pursuant to Section 404 of Title IV of the Civil Service Reform Act of 1978. They provide for the reinstatement to the Senior Executive Service of certain former SES career appointees.

They also move the regulations on restrictions on eligibility for reinstatement which is an editorial change.

DATES: Effective Date: December 5, 1980, and until final regulations are issued. Comment Date: Written comments will be considered if received no later than February 3, 1981.

ADDRESS: Send or deliver written comments to the Associate Director, Executive Personnel and Management Development, Office of Personnel Management, Room 6R48, 1900 E Street, N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Ann Ugelow, (202) 632–6820.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C., the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to provide continuity of operations and to give immediate and timely effect to the appropriate provisions of the Civil Service Reform Act of 1978.

A new Subpart G is being added to Part 317 in Title 5, Code of Federal Regulations to cover reinstatements to the Senior Executive Service. The subpart regulates the two classes of reinstatement actions authorized under 5 U.S.C. 3593. The first is eligibility for reinstatement to an SES career appointment granted to a former SES career appointee who had completed probation and who was not separated from that former appointment for performance or misconduct. The second is entitlement to reinstatement to an SES career appointment granted to a former SES career appointee who received a Presidential appointment without a break in service and who left that appointment for reasons other than misconduct, neglect of duty or malfeasance.

Subpart I of Part 359 in Title 5, Code of Federal Regulations which was published as an interim regulation on July 31, 1979, (44 FR 44818), regulated restrictions on eligibility for

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reinstatement. These restrictions have been incorporated into Subpart G of 5 CFR Part 317.

OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is amending Title 5, CFR, as follows:

(1) Part 317, Subpart G, is added to read as follows:

PART 317—APPOINTMENT REASSIGNMENT, TRANSFER AND REINSTATEMENT IN THE SENIOR EXECUTIVE SERVICE

* * * * *

Subpart G—SES Career Appointment by Reinstatement

Sec.

317.701 Agency authority.
317.702 Reinstatement: SES career appointees.
317.703 Guaranteed reinstatement: Presidential appointees.

Authority: 5 U.S.C. 3593 and 3595.

Subpart G—SES Career Appointment by Reinstatement

§ 317.701 Agency authority.

As provided for in §§ 317.702 and 317.703, an agency may reinstate a former SES career appointee without regard to the merit staffing requirements established by the Office under 5 U.S.C. 3393(b).

§ 317.702 Reinstatement: SES career appointees.

(a) *Eligibility for reinstatement.* A former SES career appointee who meets the following conditions is eligible for reinstatement:

(1) The individual completed an SES probationary period under his/her last SES career appointment or was exempted from that requirement; and

(2) The individual's separation from his/her last SES career appointment was *not* a removal subject to Subpart E of Part 359 or Subpart F of Part 752 of this chapter, a removal subject to 5 U.S.C. 1206 or 7532, or a resignation in lieu of removal under these sections of law and regulation.

(b) *Applying for reinstatement; time limit.* Application for reinstatement under this section shall be made directly to the agency in which SES employment is sought. There is no time limit for reinstatement under this section.

(c) *Qualifications.* The individual must meet the qualification requirements of the position to which reinstated. The agency makes this determination.

(d) *Tenure upon reinstatement.* An individual who is reinstated under this section becomes an SES career appointee.

§ 317.703 Guaranteed Reinstatement: Presidential appointee.

(a) *Eligibility for reinstatement.* A former SES career appointee who was appointed by the President to a civil service position outside the Senior Executive Service without a break in service and who left the Presidential appointment for reasons other than misconduct, neglect of duty, or malfeasance, is entitled by law to be reinstated.

(b) *Applying for reinstatement; time limit.* Application for reinstatement under this section must be made to the Office of Personnel Management within 90 days after separation from the Presidential appointment.

(c) *Directing reinstatement.* (1) The Office shall use the following order of precedence in directing the reinstatement of a former Presidential appointee:

(i) The agency in which the individual last served as an SES career appointee before accepting the Presidential appointment;

(ii) The successor agency to the one in which the individual last served as an SES career appointee; or

(iii) The agency or agencies in which the individual served as a Presidential appointee.

(2) If it is not possible to place the individual in one of the above agencies, the Office shall direct reinstatement to another agency in the Executive branch with positions under the Senior Executive Service.

(3) The agency being directed to take the reinstatement action shall be responsible for assigning the individual to a position for which he/she meets the qualifications requirements.

(4) When directing the reinstatement of a Presidential appointee, the Office may, as appropriate, allocate an additional SES space authority to the agency.

(d) *Tenure upon reinstatement.* (1) An individual who is reinstated under this section becomes an SES career appointee.

(2) An individual who was serving an SES probationary period at the time of his/her Presidential appointment is required to complete the 1-year SES probationary period upon reinstatement.

(e) *Compliance.* (1) An agency must comply with an order to reinstate issued by the Office under this section as promptly as possible but not more than 30 calendar days from the date of the order.

(2) An individual who declines an offer of reinstatement ordered by the Office shall not be entitled to further placement assistance by the Office under this section.

PART 359—REMOVAL, REINSTATEMENT, AND GUARANTEED PLACEMENT IN THE SENIOR EXECUTIVE SERVICE

Subpart I—[Revoked]

(2) Subpart I of 5 CFR Part 359 is revoked.

(5 U.S.C. 3593 and 3595)

[FR Doc. 80-37806 Filed 12-4-80; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 412

Executive and Management Development

AGENCY: Office of Personnel Manangement.

ACTION: Final regulations.

SUMMARY: These final regulations require agencies to establish programs for the development of candidates for and members of the Senior Executive Service, and provide criteria for such programs, as required by the Civil Service Reform Act of 1978, and require agencies to establish management development systems and/or programs.

EFFECTIVE DATE: December 5, 1980.

FOR FURTHER INFORMATION CONTACT: Merle Junker, (202) 632–4661.

SUPPLEMENTARY INFORMATION:

Background

On May 2, 1980, OPM published proposed regulations in the **Federal Register** (45 FR 29300) that would require agencies to establish executive development programs as prescribed, and provide criteria as authorized, by Section 403 of the Civil Service Reform Act. The 60-day period for interested parties to submit written comments ended on July 1, 1980.

Discussion of Comments

Twenty-five written comments were received, twenty-four from agencies and one from an individual. In addition, there were a number of telephone inquiries concerning specific provisions of the proposed regulations.

(1) Eight respondents either expressed general agreement with the regulations as written or stated that they had no changes to suggest.

(2) One respondent, on behalf of 44 smaller agencies, stated: "Section 412.103 is particularly troublesome in that it requires each agency with SES positions to have a formal candidate development program. This section does not allow for the possibility that because of size, organizational structure, or peculiar dynamics a formal candidate development program may be quite inappropriate for a particular agency. The section seems to have been written without full consideration of small agencies, paragraph (b) of the section notwithstanding." The passage referred to says that small agencies may meet the requirements by developing programs administered by other agencies. We have reconsidered these provisions; in light of the fact that the statute makes no provision for the exemption of any agency, we believe the regulation provides more than ample flexibility for establishing sensible programs in any agency context—including programs that may be limited in scope.

(3) Two agencies recommended elimination of the requirement in § 412.107(c)(2) that participants in SES candidate development programs take part in an OPM-prescribed training experience. The training referred to is intended to be a developmental experience to be shared by candidates from different agencies and reflects the Governmentwide nature of the Senior Executive Service. Two agencies and an individual respondent question the use of OPM as the source of this training. The training at present prescribed by OPM is based on the best available research on executive competencies. OPM's policy at present permits individuals who demonstrate those competencies to be excused from the training. Furthermore, OPM is developing procedures for evaluating training programs as alternatives to the OPM course. Approval of these alternatives will, however, depend on the degree to which they address the same competencies in an interagency setting. We believe that there is a clear need for a common training experience for all SES candidates focused on the complex environment within which Federal executives work. We further believe that this common training experience should have a national as opposed to an agency focus and that it can best be provided by a single Federal agency. OPM, which has oversight over the SES, is the logical Federal agency to provide this service.

(4) Two respondents questioned the requirement, in § 412.107(c)(6) that selection for SES candidate development programs focus primarily on individuals who are just below the SES level. One felt it is too vague, the other that it is unnecessarily restrictive. The point of the provision is to tap "the primary sources from which exceptional persons with the most relevant backgrounds, experience, and skills may be found upon whom executive development efforts can focus with maximum cost-effectiveness." (Task Force on Executive Development in the SES, June 1978). The phrasing of the requirement in non-specific because some organizations have entry-level executive positions at GS–15 and for them it would be appropriate to consider individuals at GS–14; it also provides the flexibility needed to permit limited intake, under special circumstances, from other, secondary sources.

(5) One individual respondent questioned the requirement that each participant in an SES candidate development program have a mentor, but without any supporting rationale. Two pointed out that "mentor" has been replaced by the term "senior advisor" in OPM guidance and suggested that the same change be made in the regulation; this has been done.

(6) Two departments and four independent agencies (one of them on behalf of 44 smaller agencies) objected to the language in § 412.503 that "agencies shall establish dual programs for the development of candidates for the SES * * *," and another asked for clarification. The passage has been rephrased to state that two types of programs (status and non-status) are authorized. However, even in agencies which do not recruit from outside Government or from outside the agency, agency employees serving on other than career or career type appointments will have a right to apply and be considered for SES candidate development programs. This authorization will provide a flexible means for bringing such individuals into the development process if they are selected. The differences between the two programs need be no greater than what is dictated by differences in the developmental needs of the candidates.

(7) Two respondents discussed the material on veteran preference: one suggested that the provision in § 412.507(b)(3) be dropped on the ground that it is discriminatory; the other asked if its wording meant that veteran preference need not be applied if not administratively feasible. By law, veterans must be given preference for appointment to all positions in the competitive and excepted services (although not the Senior Executive Service). The language used in § 412.507(b)(3) is taken from the controlling regulation, 5 CFR 302.101(c), which governs selections for those positions in the excepted service which are exempt from the specific appointment procedures for the excepted service generally.

(8) One agency thought that the three-year limitation on appointments made under the special Schedule B authority for SES candidate development programs will provide insufficient time to prepare individuals selected from outside the Government for the SES. We believe the problem derives more from the circumstances of that agency's organizational and job structure than from inherent requirements of executive development Governmentwide. We consider that three years should suffice in the great majority of cases, and that for the integrity of the program there definitely needs to be a limit on the length of time an individual may serve in these special-purpose appointments.

(9) Three agencies objected to the goal of an eight-percent level of intake from outside an agency for its candidate development program. Eight-percent intake is not expressed as an absolute requirement, however, but as a level which will be taken as prima facie evidence of good-faith outside recruitment—which is a requirement.

(10) Another reviewer pointed out that the phrase in § 412.107(c)(4)(ii), which is taken from the Civil Service Reform Act, should read, "All groups of *qualified* individuals * * *." The complete phrase has been restored.

(11) There were three suggestions for dropping the requirement that SES members have individual development plans (IDP's) on the grounds that many members will not need development or that the requirement will not be observed in practice. We agree that where requirements for IDP's have existed in the past they frequently have not been met. We also know, however, that the IDP can be a powerful tool. In addition, the Senior Executive Service is intended to be different, and members must be concerned not only with keeping current in relation to competencies needed in their present assignments, but with preparing for the possibility of being called upon to move on to other assignments within the SES. Since the IDP is precisely what the executive and the agency make of it, it cannot be an onerous requirement in any case.

(12) There were also three suggestions that there not be a requirement for Executive Resources Board (ERB) review of the IDP's of SES members. Although it was not envisioned ERB's

would necessarily involve themselves in all details of plans for the executives in their jurisdictions, it was and continues to be the OPM view that ERB's must exercise close supervision over the IDP process. In order to avoid any misunderstanding, however, the passage is being changed, to take out the word "review" and leave stand the requirement for ERB approval.

(13) One agency suggested that the regulation provide that individuals selected to participate in SES candidate development programs should continue to serve in their regular positions. We believe that agencies should be permitted to follow a variety of practices; if experience proves that part-time programs are invariably superior to intensive full-time ones, such a requirement could be added at a later time.

(14) Another organization suggested that OPM specify, in the regulation, the respective roles of the department or agency level and the bureau or command level. But this is a matter of matching executive development program management to the agency's approach to management generally; we think that differing approaches will suit different agency cultures and find no basis for directing that they follow any one.

(15) One agency questioned the need to "formalize the executive development guidelines to this extent this early in Civil Service Reform." We share the respondent's interest in agency innovation and experimentation, but are convinced that they will not be inhibited by these regulations which do little more than establish minimum levels for complying with CSRA.

(16) One respondent states that § 412.107(d)(2) establishes OPM as the "lone determiner of executive competencies, replacing the user agencies." But this is not the case; the "prescribed by * * *" phrase at the end of the passage refers to the training experience, not the competencies.

Modification of the Proposed Regulations

As a result of the written comments we received and our own further consideration of the proposed regulations, we have made the following specific changes in the final regulations, as indicated below:

[1] § 412.103 has been rewritten to make clear the intention to require that agencies have management development programs. The title of this part has been changed to Executive and Management Development, and "management" has been added to the phrase in the text.

[2] § 412.107(c)(4)(ii) is revised to add the word "qualified," making the expression identical with the statutory provision from which it is derived.

[3] § 412.107(d)(3) is revised, to change the word "mentor" to "senior advisor."

[4] § 412.107(e)(1) is revised to eliminate the requirement for executive resources boards to review the individual development plans of SES members, leaving only the requirement for approval.

[5] § 412.107(f) is revised to require "systems and/or selective programs for the development of managers" instead of "* * * programs * * *". This reflects a distinction established by the May 1980 report of the interagency Management Advisory Committee; this change provides agencies with greater flexibility.

[6] § 412.109 has been added, to provide a regulatory basis for the previously-established requirement for agencies to submit updates on the executive development program plans under which they are establishing their programs.

[7] § 412.503 has been modified to eliminate the reference to a requirement for separate candidate development programs, one for employees serving under career or career-type appointments and the second for all others.

The Director of the Office of Personnel Management has determined that good cause exists for these regulations to become effective immediately; it is necessary to require timely submissions of the first updates of agency executive development program plans, as provided for in § 412.109.

Note.—The Office of Personnel Management has determined that this is a significant regulation for purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR Part 412 is added to read as follows:

PART 412—EXECUTIVE AND MANAGEMENT DEVELOPMENT

Subpart A—General Provisions

Sec.

412.101 Purpose.
412.103 Requirement for agency programs.
412.105 Approval of agency programs.
412.107 Criteria for agency executive and management development programs.
412.109 Submissions to OPM.

Subparts B—D—[Reserved]

Subpart E—Senior Executive Service Status and Nonstatus Candidate Development Programs

Sec.

412.501 Purpose.
412.503 Policy.
412.505 "Status" programs.
412.507 "Non-status" programs.
412.509 Competitive appointments.

Authority: 5 U.S.C. 3397.

Subpart A—General Provisions

§ 412.101 Purpose.

This subpart sets forth the requirement for agencies to establish executive and management development programs, and prescribes the criteria of the Office of Personnel Management for such programs, which implement subsections (a) and (b) of section 3396 of title 5, United States Code, and are prescribed under the authority of section 3397 of title 5, United States Code.

§ 412.103 Requirement for agency programs.

(a) Each agency shall establish and maintain an executive and management development program, to consist of the following components:

(1) A program(s) for the continuing development of senior executives.

(2) For an agency with positions in the Senior Executive Service, a program(s) for the systematic development of candidates for the Senior Executive Service; small agencies, those with 150 SES positions or fewer, may meet this requirement by developing programs jointly with other agencies or by participating in programs administered by other agencies.

(3) Either or both of the following, for the development of managers:

(i) Open management development systems offering management development opportunities to all incumbent managers and some potential managers.

(ii) Selective management development programs offering management development opportunities to competitively selected employees.

(b) Each agency's executive and management development program(s) must conform to criteria prescribed in § 412.107 of this subpart.

§ 412.105 Approval of agency programs.

The Office shall review periodically agency executive and management development programs and approve those which meet the criteria prescribed in § 412.107. Whenever approved agency programs are found to fall substantially short of meeting any of the criteria, OPM approval will be withdrawn until the agency takes the necessary corrective action to bring the program into compliance.

§ 412.107 Criteria for agency executive and management development programs.

(a) *Program management.* Overall planning and management of the agency executive and management development program(s) shall be provided by a departmental or independent agency executive resources board or a complex of executive boards at agency and subordinate levels. Executive resources boards shall ensure that executive and management development programs are efficiently and effectively implemented as indicated by systematic evaluation of the program and by the incorporation of evaluation results into planning for successive program operations. Boards shall also ensure that executive development programs and activities are integrated into and consistent with the agency's Senior Executive Service personnel system.

(b) *Funding and staffing.* Each program established under § 412.103 shall include provisions for funding and staffing needed to support the program. Each agency must be able to demonstrate that planned expenses for staff services, developmental assignments, selection procedures, formal training, program evaluation, and related matters will be met. Each agency must also be able to demonstrate that it is providing adequate numbers of competent staff to support planned executive and management development activities.

(c) *SES candidate development programs.* (1) *Selection systems.* Qualifications Review Boards (QRBs) established by OPM must, by law, certify the executive qualifications of all candidates for initial career appointment to the SES, including candidates who shall have completed approved executive development programs. However, the QRB shall presume that a candidate who successfully completes an SES candidate development program approved by OPM meets the executive qualifications for initial career appointment to the SES. Individuals certified by a QRB on the basis of completion of an executive development program are automatically in the "well qualified" group for any managerial position for which they meet the technical/professional qualifications and may be appointed to the SES without further merit competition. Therefore, selections for participation in candidate development programs are considered to be part of the process of selection for the SES, must follow the SES merit staffing procedures prescribed by OPM, must comply with the Uniform Guidelines on Employee Selection Procedures, and must provide for the removal from the program of individuals who do not make satisfactory progress as determined by the agency Executive Resources Board. In addition, selection systems for SES candidate development programs shall:

(i) Be based on the managerial and technical competencies required in the agency's SES positions;

(ii) Serve to further progress toward affirmative action goals;

(iii) Provide, in each agency with over 150 SES positions, for recruitment of candidates from all groups of qualified individuals within the civil service, or from all groups of qualified individuals, whether or not within the civil service. Programs that over a three-year period average eight per cent candidate intake from other agencies and/or outside the civil service shall automatically be considered to be in compliance with this requirement;

(iv) Be based on projections of anticipated SES vacancies, made at least biennially, with the number of candidates selected to be no greater than twice the number of projected vacancies; and

(v) Focus primarily on individuals who are just below SES level.

(2) *Development of SES candidates.* (i) Each participant in an SES candidate development program shall have an individual development plan ("IDP"), approved by the appropriate executive resources board, specifying the developmental activities (work assignments, training, education, and/or orientation) to be undertaken during the course of the program. These activities shall be tailored to provide the individual with the executive competencies needed by SES members Governmentwide and in the agency's SES positions, and must include participation in an interagency executive development training experience, prescribed by the Office, which focuses on Governmentwide executive competencies. Agencies may apply to OPM for a waiver of the interagency executive development training experience for individual SES candidates on a case by case basis.

(ii) Each participant in an SES candidate development program shall have a member of the Senior Executive Service as a senior advisor.

(d) *Development of SES members.* Systems for the continuing development of SES members shall:

(1) Include preparation, implementation, and regular updating of an individual development plan for each SES member, to be approved by the appropriate executive resources board. These plans shall be tied to the performance appraisal cycle and focus on the enhancement of existing competencies as well as the correction of deficiencies identified in performance appraisals, and on preparing SES members for future assignments; and

(2) Result in developmental experiences for SES members which, through continuing short-term opportunities and periodic involvement in longer-term programs, will:

(i) Help to meet organizational needs for managerial improvement and increased productivity;

(ii) Help SES members to keep up-to-date in professional, technical, managerial, sociological, economic and political areas; and

(iii) Meet the individual needs of SES members for growth and development—intellectually and personally; and

(3) Include provisions for executive sabbaticals for carefully selected members as provided for by subsection (c) of section 3396 of title 5, United States Code.

(e) *Management development.* Executive development programs shall be linked to more comprehensive systems and/or programs for the development of managers. Such systems and/or programs shall:

(1) Provide management training and development experiences for both incumbent managers and specialists identified as having potential at grades GS–13 through GS–15 to meet agency and individual needs;

(2) Serve to further progress toward affirmative employment goals (where appropriate to this purpose, an agency may include employees at grade GS–12);

(3) Be designed to improve accountability, productivity and performance at the mid-management level; and

(4) Provide a foundation of early management training and appropriate developmental experiences for SES candidate development programs.

§ 412.109 Submissions to OPM.

(a) Each agency making or intending to make more than five career appointments to the Senior Executive Service shall establish its executive and management development program in accordance with a program plan which has been approved by OPM.

(b) These agencies shall submit formal updates of their executive and management development program plans as of December 31, 1980, and

October 1, 1981, 1982 and 1983. Updates should be submitted by the chairperson of the departmental or independent agency executive resources board.

(c) Agencies shall also inform OPM of any significant changes as they occur during the fiscal year.

(d) Agencies whose programs are sufficiently well established during the first three years may be exempted, by the letter granting long-term OPM approval of their programs, from the later updates.

Subparts B—D—[Reserved]

Subpart E—Senior Executive Service Status and Nonstatus Candidate Development Programs

§ 412.501 Purpose.

This subpart sets forth regulations establishing two types of SES candidate development programs and prescribing their use by agencies.

§ 412.503 Policy.

Section 3393 of title 5, United States Code, requires that career appointees to the SES be recruited either from all groups of qualified individuals within the civil service, or from all groups of qualified individuals whether or not within the civil service. In order to accommodate candidates from various sources in the most flexible manner possible, two types of programs (which may be administered in close coordination with each other) are authorized:

(1) "Status" programs for the development of candidates serving in career and career-type appointments, and

(2) "Non-status" programs for the full-time development of candidates selected from outside Government and/or from among employees serving on other than career or career-type appointments within the civil service, utilizing the Schedule B appointing authority authorized by 5 CFR 213.3202(j).

§ 412.505 "Status" programs.

Only employees serving under career appointments, or under career-type appointments as defined in 5 CFR 317.304(a)(2), may participate in these programs.

§ 412.507 "Non-status" programs.

(a) *Eligibility.* For Schedule B programs, eligibility is restricted to individuals other than employees serving under career appointments, or under career-type appointments as defined in 5 CFR 317.304(a)(2).

(b) *Requirements.* (1) An appointment under the Schedule B authority may not exceed, or be extended beyond, three years.

(2) Agencies must document, as part of their executive development program plan submitted to OPM for approval, the kinds of additional developmental experiences which will be provided to individuals selected for these programs. OPM shall be notified promptly of any such changes to agency plans.

(3) Schedule B appointments must be made in the same manner as merit staffing requirements prescribed for the SES, except that each agency shall follow the principle of veteran preference as far as administratively feasible. Positions filled through this authority are excluded under 5 CFR 302.101(c)(6) as positions exempt from appointment procedures of Part 302.

(4) Assignments must be for developmental purposes connected with the SES candidate development program. Candidates serving under Schedule B appointment may not be used to fill an agency's regular positions on a continuing basis.

§ 412.509 Competitive appointments.

(a) An agency must use the Schedule B excepted appointment authority [§ 213.3202(j)] to fill positions established exclusively for the agency's non-status executive development program.

(b) An agency may not use competitive appointment authorities to fill these positions.

(c) However, an agency may use competitive appointment authorities to fill permanent vacant positions when the appointee is simultaneously being selected as a participant in the agency's status SES candidate development program.

[FR Doc. 80-37805 Filed 12-4-80; 8:45 am]

BILLING CODE 6325-01-M

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5 CFR Part 870

Basic Life Insurance; Interim Regulations

AGENCY: Office of Personnel Management.

ACTION: Interim regulations, with comments invited for consideration in final rulemaking.

SUMMARY: The Office of Personnel Management is issuing interim regulations governing the first phase of implementation of the Federal Employees' Group Life Insurance Act of 1980 (FEGLI), approved October 10, 1980, which in part provides for changes in the amount of basic insurance (formerly called "regular insurance") for younger employees and in the amount of basic life insurance available to individuals who lose basic insurance coverage as employees, but who are eligible to continue life insurance coverage while in receipt of retirement annuity or workers' compensation.

DATES:

Effective date: The interim regulations are effective on December 9, 1980, unless otherwise specified.

Comment date: Comments must be received on or before February 3, 1981.

ADDRESS: Send written comments to Mr. Craig B. Pettibone, Director, Office of Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: John Landers (202) 632-4684.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, United States Code, the Director finds that good cause exists for making this amendment effective in less than 30 days, in order to give immediate and timely effect to provisions of Pub. L. 96-427 which extend a basic life insurance benefit to individuals who become eligible to continue this coverage during retirement or receipt of workers' compensation as early as December 9, 1980.

The FEGLI Program has been amended by Pub. L. 96-427, the Federal Employees' Group Life Insurance Act of 1980, approved October 10, 1980. The Act makes four major changes in the FEGLI Program by: (1) increasing basic FEGLI protection (beginning in October 1981) for employees under age 45 with no corresponding increase in premiums, (2) requiring employees who retire or become entitled to receive workers' compensation after 1989 to continue paying premiums for unreduced basic insurance coverage to age 65, (3) permitting retiring employes to choose either the current post-retirement basic life insurance protection, which ultimately declines to 25 percent of the face value, or post-retirement coverage that, for an additional contribution, reduces at a lesser rate or not at all, and (4) adding to the existing $10,000 optional insurance two new optional insurance plans affording additional life insurance on employees in multiples of one to five times annual pay, as well as life insurance on family members.

The Act allows OPM from 60 to 180 days in which to implement the increased post-retirement basic insurance coverage and to make available the two new optional plans. OPM has decided to implement the offering of increased post-age 65 basic life insurance at the earliest date permitted under the law, December 9, 1980 (60 days after enactment). The present issuance of interim regulations in Part 870 of Title 5, Code of Federal Regulations, governing basic insurance available under FEGLI, represents the first phase of the implementation of Pub. L. 96-427. The two new optional FEGLI plans will be implemented through an open enrollment period in March 1981, with new enrollments effective on or after April 1, 1981. Interim regulations governing the optional FEGLI plans will be issued as soon as possible.

The interim regulations now being published on basic insurance provide for cancellation of all waivers of basic (regular) insurance coverage filed on or before February 28, 1981. The effective date of this cancellation of waivers will generally be April 1, 1981. Because coverage under basic insurance is, in the absence of an uncancelled waiver, automatic for non-excluded employees, those employees who waived basic insurance coverage before March 1, 1981, will have to waive the coverage during March 1981 or the coverage will automatically attach on the first day the employee enters a duty and pay status on or after April 1, 1981. This date will also be the effective date for the three optional coverages which an employee may elect during March 1981. The April 1, 1981 effective date will not apply with respect to individuals who have not turned down the coverage in the past. These individuals will continue to be covered during the open season, as will new hires during March 1981 who do not choose to file a waiver of basic insurance.

In these regulations, the language "actually enters on duty in a pay status" in § 870.204(d) should be interpreted as requiring an employee to actually return to duty at his/her workplace. See the interpretation of the indentical language in *Helland v. Metropolitan Life Insurance Co.*, 488 F. 2d 496 (9th Cir., 1973).

Under these regulations an employee who loses basic insurance coverage as an employee on or after December 9, 1980, and who is eligible to continue the life insurance during receipt of annuity or workers' compensation, will be required to file an election as to the amount of post-age 65 basic life insurance he/she desires as permanent protection.

Under previous law and regulations, an individual eligible to continue basic life insurance during receipt of annuity or compensation continued the coverage free of cost and the amount of insurance reduced in face value by 2 percent a month beginning with the second calendar month after the individual became 65 years of age or retired, whichever occurred later. The maximum reduction was 75 percent. Under the current law and interim regulations, an employee will have three choices of post-age 65 basic life insurance coverage. He/she may elect: (1) free coverage which reduces by 2 percent a month after age 65, with a maximum reduction of 75 percent, (2) immediate and continuous withholdings from annuity or compensation payments at the rate of $7.80 per year per $1,000 of face value, and the amount of coverage will reduce by 1 percent a month after age 65, with a maximum reduction of 50 percent, or (3) immediate and continuous withholdings from annuity or compensation payments at the rate of $21.00 per year per $1,000 of face value, and no reductions in value. For employees who retire or commence compensation after December 31, 1989, election (1), which is now without cost, will also require annuity or compensation withholdings. For this reason, the interim regulations list four elections, with the other election for use by those individuals who do not wish to continue any FEGLI insurance during retirement or receipt of compensation. It should be noted that OPM will require an election to be filed at the time the opportunity to continue insurance arises. The time limit for such an election is loosely defined as being prior to the time that OPM completes approval of the individual's application for retirement or request to continue insurance during receipt of compensation. Such a time limit will allow OPM to communicate with those employees who have not filed an election by the time final OPM action is to be taken. An employee who does not file a timely election to continue life insurance, will be deemed to have elected the 25 percent floor, which will be without cost to employees separating through 1989. An election for increased post-age 65 coverage and premiums may be canceled at any time. The effect of a cancellation will be to immediately reduce the amount of coverage in force to the amount that it would have been had the individual originally elected the 25 percent floor.

For employees under age 45, Pub. L. 96-427 provides increased basic life insurance effective on the first day of the first pay period beginning on or after October 1, 1981. As under existing law, basic coverage under Pub. L. 96-427 generally will be the employee's annual pay rate rounded up to the next multiple of $1,000, plus $2,000. For example, an employee whose annual pay is $17,500 will have basic coverage of $20,000.

This basic coverage is dubbed "basic insurance amount" in the law and in the interim regulations, which will make use of an acronym (BIA) for greater clarity, and to avoid confusion between the BIA and phrases such as "amount of basic insurance" or "basic insurance coverage." The increase in basic life insurance for employees under age 45 will be computed by multiplying the BIA by a factor of 2 for employees age 35 or under, by a factor of 1.9 at age 36, and so on until the factor is 1.0 for employees age 45 or over. The factors will not be applied for the purposes of the accidental death and dismemberment insurance benefit. The increase in coverage will not increase the withholdings employees pay, but rather will be financed through imposition of the requirement, delayed until 1990, that post-retirement basic coverage be subject to annuity or workers' compensation withholdings which will end when the amount of insurance coverage begins to reduce after age 65.

The cost of basic insurance will continue to be shared at the rate of ⅓ by the Government and ⅔ by the employee. However, former employees who elect post-employment withholdings for increased post-age 65 coverage will pay the entire cost of the coverage over and above the 25 percent floor.

The law and its legislative history are not specific as to whether the increase in basic life insurance should apply to retirees and compensationers under age 45. OPM has decided that this benefit will apply to these individuals, provided that they lose coverage as employees (and continue coverage during receipt of annuity or compensation) on or after the October 10, 1980 enactment date of Pub. L. 96-427. To provide otherwise would mean that an employee who suffers an on-the-job injury or who is forced to retire for disability at an early age could lose up to half of his/her basic life insurance coverage.

Pub. L. 96-427 provides that an agency which erroneously fails to withhold, or under-withholds FEGLI deductions from an individual's pay, annuity or compensation, may waive collection of the full amount due if the agency judges that the individual is without fault and recovery would be against equity and good conscience. However, if the agency waives the collection of any unpaid amount, it must still submit the uncollected FEGLI withholdings and agency contributions for deposit to the Employees' Life Insurance Fund.

Current civil service retirement regulations, 5 CFR Part 831, provide standards for waiver of overpayments from the Civil Service Retirement Fund.

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The interim regulations promulgated here provide that these standards will govern waivers of collections of withholdings in cases in which OPM fails to withhold proper FEGLI deductions from annuity. Agency standards for waivers of overpayments from salary will be those which the agency must follow under 4 CFR Chapter I, Subchapter G, which implements the provisions of 5 U.S.C. 5584 allowing agencies to waive collection of overpaid salary or allowances. Specific instructions relating to submission of amounts waived and corresponding agency contributions will be issued through the Federal Personnel Manual System, Supplement 870–1.

Under current life insurance regulations an insured annuitant who becomes reemployed in a position in which he/she is not excluded from life insurance coverage is automatically covered as an employee for basic life insurance and accidental death and dismemberment insurance, unless he/she waives all insurance coverage. Also, the amount of the basic benefit payable upon death during or after reemployment is guaranteed to be at least as great as if the individual had not been reemployed. Under these interim regulations this guarantee will operate only while the annuitant is reemployed. Following reemployment the basic life insurance benefit will not be greater than the amount actually continued following separation. This change reflects the Pub. L. 96–427 requirement that separating employees elect and pay for the amount of insurance continued after employment.

At the time OPM publishes final regulations, uniform nomenclature changes and editorial revisions will be added throughout 5 CFR 870.

Note.—OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, the Office of Personnel Management is amending Part 870 of Title 5, Code of Federal Regulations, as follows:

(1) The heading of Part 870 is revised to read as follows:

PART 870—BASIC LIFE INSURANCE

(2) In Subpart A, § 870.101 is revised to read as follows:

§ 870.101 Actions on the policy.

Life and accidental death and dismemberment benefits ("basic insurance") shall be payable in accordance with a policy or policies purchased by OPM from the Metropolitan Life Insurance Co., 1 Madison Avenue, New York, N.Y. 10010, under section 8709 of title 5, United States Code. Actions at law or in equity to recover on an insurance policy, in which there is not alleged any breach of any obligation undertaken by the United States, should be brought against the insurance company.

(3) In Subpart B, § 870.204(d) is revised to read as follows:

§ 870.204 Cancellation of waiver of insurance coverage.

* * * * *

(d) Waivers of basic insurance coverage filed on or before February 28, 1981, are automatically canceled effective on the first day an employee whose waiver is so canceled actually enters on duty in a pay status on or after April 1, 1981. Basic insurance coverage automatically attaches on the date of the cancellation unless the employee files with his/her employing office a waiver of basic insurance before the end of the pay period during which the cancellation became effective.

(4) In Subpart C, § 870.301 and § 870.302(a) are revised to read as follows:

Subpart C—Amount of Insurance

§ 870.301 Basic insurance amount (BiA).

(a) An employee's basic insurance amount (BIA) is equal to the greater of (1) his/her annual rate of basic pay, rounded to the next higher multiple of $1,000, plus $2,000, or (2) $10,000, but in no event may the BIA be more than the annual rate of pay for positions at Level II of the Executive Schedule under section 5313 of title 5, United States Code, rounded to the next higher thousand, plus $2,000. The BIA of an individual who is entitled to continue basic life insurance coverage as provided in §§ 870.601 and 870.701 is the employee's BIA in effect at the time the insurance to which he/she is entitled as an employee would stop under § 870.501.

(b) Effective on the first day of the first pay period beginning on or after October 1, 1981, the amount of an employee's basic life insurance coverage is equal to his/her BIA multiplied by the appropriate factor determined on the basis of the age of the insured individual, as follows:

Age	Factor
35 or under	2.0
36	1.9
37	1.8
38	1.7
39	1.6
40	1.5
41	1.4
42	1.3
43	1.2
44	1.1
45 or over	1.0

§ 870.302 Annual rates of pay.

(a) An insured employee's annual pay is his/her annual basic pay rate as fixed by law or regulation, except that annual pay for this purpose shall include premium pay under section 5545(c)(1) of title 5, United States Code, and, for a law enforcement officer as defined under 5 U.S.C. 8331(20) and § 831.903 of this title, premium pay under 5 U.S.C. 5545(c)(2).

* * * * *

(5) Subparts D, F, and G are revised to read as follows:

* * * * *

Subpart D—Withholdings and Contributions

870.401 Withholdings and contributions.

* * * * *

Subpart F—Retired Employees

870.601 Eligibility for life insurance.
870.602 Amount of life insurance.

Subpart G—Employees' Compensation

870.701 Eligibility for life insurance.
870.702 Amount of life insurance.

* * * * *

Subpart D—Withholdings and Contributions

§ 870.401 Withholdings and contributions.

(a) During any period in any part of which an insured employee is in pay status, $0.255 for each $1,000 of the employee's BIA shall be withheld from the biweekly pay of the employee. The amount withheld from the pay of an employee who is paid on other than a biweekly basis is determined at a proportionate rate.

(b) The amount withheld from the pay of an insured employee whose annual pay is paid during a period shorter than 52 workweeks is the sum obtained by converting the biweekly rate of $0.255 for each $1,000 of the employee's BIA to an annual rate and prorating the annual rate over the number of installments of pay regularly paid during the year.

(c) The amount withheld from the pay of an insured employee whose amount of insurance changes during a pay period is based on the last BIA in force during the pay period.

(d) For each period in which an employee is insured there shall be contributed from the respective appropriation or fund which is used for the payment of his/her pay (or, in the case of an elected official, from such appropriation or funds as may be available for payment of other pay of the same office or establishment) an amount equal to one-half the amount withheld from the employee's pay.

(e) Notwithstanding paragraphs (a), (b), (c), and (d) of this section, the United States Postal Service contributes the full cost of basic insurance, that is, the sum of the amounts otherwise to be withheld and contributed under paragraphs (a), (b), (c), and (d) of this section, for each period in which an employee of the United States Postal Service is insured.

(f)(1) Except as provided under paragraph (g) of this section, an insured person who elects continued basic life insurance coverage during receipt of annuity or compensation payments as provided under §§ 870.601(c)(2) or 870.701(c)(2) (maximum reduction of 75 percent after age 65) shall have withheld from his/her payments basic life insurance withholdings at the monthly rate (for annuitants) of $0.55 for each $1,000 of the BIA or at the weekly rate (for compensationers) of $0.128 for each $1,000 of the BIA.

(2) An insured person who elects continued basic life insurance coverage during receipt of annuity or compensation payments as provided under §§ 870.601(c)(3) or 870.701(c)(3) (maximum reduction of 50 percent after age 65) shall have withheld from his/her payments basic life insurance withholdings at the monthly rate (for annuitants) of $0.65 for each $1,000 of the BIA or at the weekly rate (for compensationers) of $0.150 for each $1,000 of the BIA.

(3) An insured person who elects continued basic life insurance coverage during receipt of annuity or compensation payments as provided under §§ 870.601(c)(4) or 870.701(c)(4) (no reductions) shall have withheld from his/her payments basic life insurance withholdings at the monthly rate (for annuitants) of $1.75 for each $1,000 of the BIA or at the weekly rate (for compensationers) of $0.404 for each $1,000 of the BIA.

(g) Basic life insurance withholdings required under paragraph (f)(1) of this section shall not apply for an individual who retires or commences compensation payments before January 1, 1990, and shall not be made for any month after the calendar month in which the individual becomes 65 years of age.

(h)(1) If OPM fails to withhold proper amounts of life insurance deductions from the annuity of a retired employee, OPM may waive the collection of the unpaid insurance deductions in accordance with section 8707(d) of title 5, United States Code. OPM shall use the standards for waiver of overpayments found under Subpart N of Part 831 of this title when determining whether a waiver of collection of the unpaid deductions may be granted, and shall follow the procedures under Subpart M of Part 831 of this title when applying the standards.

(2) If, under section 8707(d) of title 5, United States Code, an agency waives the collection of unpaid insurance deductions from an individual's pay, annuity or compensation, the agency shall submit an amount equal to the sum of the uncollected deductions and any applicable agency contributions required under section 8708 of title 5, United States Code, to OPM for deposit to the Employees' Life Insurance Fund. An agency will make its determination on the waiver of collection of an overpayment of pay in accordance with 5 U.S.C. 5584 as implemented by 4 CFR Chapter I, Subchapter G.

Subpart F—Retired Employees

§ 870.601 Eligibility for life insurance.

(a) Subject to a positive election under paragraphs (c)(2), (c)(3), or (c)(4) of this section, the basic life insurance of an insured employee who is separated from service is continued or reinstated if he/she:

(1) Is entitled to retirement on immediate annuity under a retirement system for civilian employees of the Federal or District of Columbia Governments,

(2) Has been enrolled for basic insurance for the 5 years of service immediately preceding the date of retirement or the full period(s) of service during which he/she was entitled to be insured,

(3) Has met all requirements for an immediate annuity (including filing of application where necessary), whether or not final administrative action has been taken, and

(4) Has not exercised his/her right to convert to an individual life insurance policy under § 870.501(e).

(b) An employee who meets the requirements under paragraphs (a) or (h) of this section for continuation or reinstatement of life insurance shall execute a written election on a form furnished by OPM at the time entitlement to continuation or reinstatement of the insurance arises. To be considered valid, the election form must be received in OPM before final adjudication of the employee's application for annuity or supplemental annuity. In the absence of a valid election, the insured shall be deemed to have filed a valid election under paragraph (c)(2) of this section.

(c) An individual making an election under paragraph (b) of this section shall select one of the following options:

(1) No insurance during receipt of annuity, in which case the individual's insurance shall stop upon conversion to an individual policy as provided under § 870.501, or, if the individual does not so convert, at the end of the month in which the election is received in OPM,

(2) Continuation or reinstatement of life insurance coverage subject to annuity withholdings during retirement, and the amount of basic life insurance in force will be reduced by 2 percent a month effective at the beginning of the second calendar month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later, with a maximum reduction of 75 percent,

(3) Continuation or reinstatement of life insurance coverage subject to continuous annuity withholdings during retirement, and the amount of basic life insurance in force will be reduced by 1 percent a month effective at the beginning of the second calendar month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later, with a maximum reduction of 50 percent, or

(4) Continuation or reinstatement of basic life insurance subject to continuous annuity withholdings during retirement, and the amount of basic life insurance will not be reduced after age 65.

An insured individual may cancel at any time an election under paragraphs (c)(3) or (c)(4) of this section in which case the amount of basic life insurance will automatically revert, effective at the end of the month in which the request to cancel is received in OPM, to the amount that would have been in force had the individual originally elected coverage under paragraph (c)(2) of this section, unless a waiver of insurance coverage is filed by the insured, in which case the coverage stops without a 31-day extension of coverage or right or conversion, effective at the end of the month in which the waiver is received in OPM.

(d) An immediate annuity is one which begins to accrue no later than 1 month after the date the insurance would otherwise stop.

(e) If the annuity of an insured retired employee is terminated under any applicable law or regulation, his/her basic life insurance as a retired employee stops on the date of termination of annuity.

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(f)(1) If an insured retired employee is appointed to a position in which he/she is not excluded from insurance by law or regulation, the amount of his/her basic life insurance as a retired employee, and any annuity withholdings applicable thereto, is suspended on the day preceding the first day in a pay status under the appointment unless he/she waives all insurance coverage. The benefit payable upon the death of a reemployed annuitant who has basic insurance in force as an employee shall not be less than the benefit which would have been payable had the annuitant not been reemployed.

(2) Except as provided in paragraph (g) of this section, the basic insurance acquired as an employee stops, with no 31-day extension of coverage or right of conversion, on the date reemployment terminates and any suspended basic life insurance, and any annuity withholdings applicable thereto, is reinstated on the day following termination of the reemployment.

(g) Subject to a positive election under paragraphs (c)(2), (c)(3), or (c)(4) of this section, basic life insurance acquired during reemployment may be continued after termination of the reemployment if:

(1) The retired employee qualifies for a supplemental annuity or acquires a new retirement right,

(2) He/she has had basic insurance as an employee for at least 5 years of service immediately preceding separation from reemployment or for the full period(s) during which such coverage was available to him/her, whichever is less, and

(3) He/she does not convert to nongroup insurance when his/her basic insurance as an employee would otherwise terminate. If the basic life insurance acquired during reemployment is so continued, any suspended basic life insurance stops with no 31-day extension of coverage or right of conversion.

§ 870.602 Amount of life insurance.

The amount of a retired employee's basic life insurance is his/her BIA at the date insurance would otherwise have stopped because of his/her separation from service or completion of 12 months of nonpay status, less the reductions, if any, applicable under § 870.601(c). For the purpose of the payment of benefits upon the death of an insured individual under age 45, effective October 1, 1981, the BIA shall be multiplied by the age factor under § 870.301(b) corresponding to the insured's age on the date of death, provided that his/her basic insurance as an employee terminated on or after October 10, 1980.

Subpart G—Employees' Compensation

§ 870.701 Eligibility for life insurance.

(a) Subject to a positive election under paragraphs (c)(2), (c)(3), or (c)(4) of this section, the basic life insurance of an insured employee who is separated from the service or completes 12 months of nonpay status, and who is receiving compensation for work injury under subchapter I of chapter 81 of title 5, United States Code, and is held by the Department of Labor to be unable to return to duty, shall be continued or reinstated if he/she:

(1) Has been insured for the five years of service immediately preceding the date on which basic insurance would otherwise stop, or for the full period(s) of service during which he/she was entitled to be insured, and

(2) Has not, on or after May 28, 1956, exercised the right of conversion described in § 870.501(e).

(b) An employee who meets the requirements under paragraph (a) of this section for continuation or reinstatement of life insurance shall execute a written election on a form furnished by OPM at the time entitlement to continuation or reinstatement of the insurance arises. To be considered valid, the election form must be received in OPM before final OPM action on the employee's request to continue life insurance during receipt of compensation. In the absence of a valid election, the insured shall be deemed to have filed a valid election under paragraph (c)(2) of this section.

(c) An individual making an election under paragraph (b) of this section shall select one of the following options:

(1) No insurance during receipt of compensation payments, in which case the individual's insurance coverage shall stop upon conversion to an individual policy as provided under § 870.501(e) or, if the individual does not so convert, at the end of the month in which the election is received in OPM or the employing office,

(2) Continuation or reinstatement of life insurance coverage subject to withholdings from compensation, and the amount of basic life insurance in force will be reduced by 2 percent a month effective at the beginning of the second calendar month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later, with a maximum reduction of 75 percent.

(3) Continuation or reinstatement of basic life insurance coverage subject to continuous withholdings from compensation payments, and the amount of basic life insurance in force will be reduced by 1 percent a month, effective at the beginning of the second calendar month after the date the insurance would otherwise have stopped or the date of the insured's 65th birthday, whichever is later, with a maximum reduction of 50 percent, or

(4) Continuation or reinstatement of basic life insurance coverage subject to continuous withholdings from compensation payments, and the amount of basic life insurance will not be reduced after age 65. An individual may cancel at any time an election under paragraphs (c)(3) or (c)(4) of this section, in which case the amount of basic life insurance will automatically revert, effective at the end of the month in which the request to cancel is received in OPM, to the amount that would have been in force had the individual originally elected continued coverage under paragraph (c)(2) of this section, unless a waiver of insurance coverage is filed by the insured, in which case the insurance stops without a 31-day extension of coverage or right of conversion, effective at the end of the month in which the waiver is received in OPM.

(d) Basic life insurance which is continued as provided under this section during receipt of compensation shall stop with no 31-day extension of coverage and no right of conversion, upon termination of the employee's compensation under subchapter I of chapter 81 of title 5, United States Code, or upon a finding by the Department of Labor that the insured is able to return to duty.

§ 870.702 Amount of life insurance.

The amount of basic life insurance of an employee whose insurance is continued while he/she is receiving compensation for work injury under subchapter I of chapter 81 of title 5, United States Code and is held by the Department of Labor to be unable to return to duty is his/her BIA at the date insurance would otherwise have stopped because of his/her separation from service or completion of 12 months of nonpay status, less the reductions, if any, applicable under § 870.701(c). For the purpose of the payment of benefits upon the death of an insured individual under age 45, effective October 1, 1981, the BIA shall be multiplied by the age factor under § 870.301(b) corresponding to the insured's age on the date of death, provided that his/her basic insurance as an employee terminated on or after October 10, 1980.

(5 U.S.C. 8716)

[FR Doc. 80-37781 Filed 12-4-80; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegations of Authority

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary and General Officers of the Department to specifically provide authority to purchase unlicensed veterinary biological products on the open market, test same, and disseminate the results of such tests as provided in Section 101(d) of the Act of September 21, 1944.

(7 U.S.C. 430)

EFFECTIVE DATE: December 5, 1980.

FOR FURTHER INFORMATION CONTACT: John C. Frey, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202–447–5335 or 301–436–8466).

SUPPLEMENTARY INFORMATION: The delegations of authority by the Secretary and General Officers are being amended to delegate to the Assistant Secretary for Marketing and Transportation Services and the Administrator, Animal and Plant Health Inspection Service, the authority to purchase in the open market, from applicable appropriations, samples of all tuberculin, serums, antitoxins, or analogous products of foreign or domestic manufacture which are sold in the United States, for the detection, prevention, treatment, or cure of diseases of domestic animals, test the same and disseminate the results of said tests in such manner deemed best. It is necessary to provide this delegation of authority to appropriate officers consistent with, and with due regard to, the continuing responsibility for the proper discharge of certain of the functions assigned APHIS. Delegation of this authority will provide for acquisition and dissemination of information regarding the quality of biological products available in U.S. markets. It will serve to encourage those who produce and distribute biological products which are pure, safe, potent, and efficacious.

This authority first appeared in the Agricultural Appropriation Act for fiscal year 1907, when it was inserted to discourage the production and marketing of animal biologics which were worthless, contaminated, dangerous, or harmful. After the enactment of the Virus-Serum-Toxin Act of March 4, 1913, there was less need for the retention of this language, but it was continued from year-to-year and later included in the 1944 Organic Act, since the Virus-Serum-Toxin Act applies only to transactions in interstate or foreign commerce. It has always been construed that the authority to purchase and test samples was delegated as one of the general authorities delegated by the Secretary in 7 CFR 2.7.

Provision for the procurement of these products in the open market for testing purposes is adequately covered in 41 CFR 4–4.5095. It is the authority to disseminate test results that has been the subject of concern, and accordingly, to avoid any possible questions as to the exercise of such authority, the authority vested in the Secretary by the Congress is herein specifically delegated. The Department believes this delegation conforms to the mission of APHIS, and that this specific delegation will enable the Agency to serve the public more efficiently.

This rule relates to internal agency management and, therefore, pursuant to 5 U.S.C. 553 it is found upon good cause that notice and other public procedures with respect thereto are impractical and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after its publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12044, Improving Government Regulations, and, thus, does not require the preparation of a regulatory impact analysis. Accordingly, 7 CFR Part 2 is amended as follows:

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, Assistant Secretaries and the Director of Economics, Policy Analysis and Budget

1. Section 2.17 is amended by adding a new paragraph (b)(33) to read as follows:

§ 2.17 Delegation of authority to the Assistant Secretary for Marketing and Transportation Services.

* * * * *

(b) * * *

(33) Section 101(d), Organic Act of 1944 (7 U.S.C. 430).

* * * * *

Subpart F—Delegations of authority by the Assistant Secretary for Marketing and Transportation Services

2. Section 2.51 is amended by adding a new paragraph (a)(34) to read as follows:

§ 2.51 Administrator, Animal and Plant Health Inspection Service.

(a) * * *

(34) Section 101(d), Organic Act of 1944 (7 U.S.C. 430).

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953)

For Subpart C:

Dated: December 1, 1980.

Bob Bergland,

Secretary of Agriculture.

For Subpart F:

Dated: December 1, 1980.

Jerry C. Hill,

Deputy Assistant Secretary for Marketing and Transportation Services.

[FR Doc. 80-37763 Filed 12-4-80; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Stabilization and Conservation Service

7 CFR Part 725

1981 National Marketing Quota for Flue-Cured Tobacco

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule, is the announcement by the Secretary of Agriculture of a number of determinations with respect to the 1981 crop of flue-cured tobacco in accordance with the Agricultural Adjustment Act of 1938, as amended. Along with other determinations, the Secretary has declared that the 1981 marketing quota for flue-cured tobacco shall be 1,013 million pounds, 7.5 percent below last year's quota. The Secretary is required by statute to announce the 1981 marketing quota by December 1, 1980. The Secretary has also determined that the national acreage allotment for flue-cured tobacco shall be 546,386 acres.

EFFECTIVE DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT: Robert L. Tarczy, Program Specialist, Price Support and Loan Division, ASCS, Room 3754, South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447–6733. The final impact statement describing the options considered in developing this final rule and the impact of implementing each option is available on request from Robert L. Tarczy.

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SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established to implement Executive Order 12044 and has been classified "significant." In compliance with Secretary's Memorandum No. 1955 and "Improving USDA Regulations" (43 FR 50988) initiation of review of these and related regulations contained in 7 CFR 725.2 for need, currency, clarity, and effectiveness is planned for the period August–November 1981.

The title and number of the Federal Assistance Program that this Final Rule applies to is: Title—Commodity Loan and Purchases; Number—10.051. This action will not have significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local Government are informed of this action.

The regulations at 7 CFR 725.2 are issued in accordance with the Agricultural Adjustment Act of 1938, as amended, (hereafter referred to as the "Act") in order to announce for the 1981 marketing year for flue-cured tobacco the following:

1. The amount of the reserve supply level.
2. The amount of the total supply.
3. The amount of the national marketing quota.
4. The national average yield goal.
5. The national acreage allotment.
6. The national acreage reserve.
A. For establishing acreage allotments for new farms.
B. For making corrections and adjusting inequities in old farms.
7. The national acreage factor.
8. The national yield factor.

Marketing quotas on an acreage-poundage basis were proclaimed for flue-cured tobacco for the 1980–81, 1981–82, and 1982–83 marketing years (44 FR 66804). Flue-cured tobacco farmers approved marketing quotas on an acreage-poundage basis for the 1980–81, 1981–82, and 1982–83 marketing years (45 FR 40096).

The determinations by the Secretary contained in 7 CFR 725.2 have been made on the basis of the latest available statistics of the Federal Government, and after due consideration of data, views, and recommendations received from flue-cured tobacco producers and others pursuant to a Notice of Proposed Rulemaking (45 FR 64594) which was published in accordance with the provisions of 5 U.S.C. 553 and Executive Order 12044.

Discussion of Comments

During the comment period, 12 written responses were received from farmers, members of the trade including associations, and farm groups. Nine respondents advocated no change in the present quota; two were in favor of a small reduction of the quota; and one gave no specific recommendation. The major thrust of these responses centered around a need for adequate supplies to maintain markets and for a high production level to maintain farm income.

Six meetings were held in the producing areas to give farmers and others the opportunity to express their views verbally. With respect to the quota, most respondents favored no reduction in the quota established for the previous marketing year, again noting that adequate supplies were needed to maintain markets.

However, the total supply of flue-cured tobacco is substantially in excess of the reserve supply level. Therefore, in keeping with the Secretary's obligations to make an orderly reduction of supplies toward the reserve supply level, a marketing quota of 1,013 million pounds is hereby determined and announced for the 1981–82 marketing year, 7.5 percent below last year's quota.

Section 317(a)(1) of the Act provides, in part, that for flue-cured tobacco, the "national marketing quota" for a marketing year is the amount of flue-cured tobacco produced in the United States which the Secretary of Agriculture estimates will be utilized during the marketing year in the United States and will be exported during the marketing year, adjusted upward or downward in such amount as the Secretary determines is desirable for the purpose of maintaining an adequate supply or for effecting an orderly reduction of supplies to the reserve supply level. The Act further provides that any such downward adjustment shall not exceed 15 per centum of such estimated utilization and exports.

The "reserve supply level" is defined in Section 301(b)(14)(B) of the Act as the normal supply plus 5 percent thereof, to assure a supply adequate to meet domestic consumption and export needs in years of drought, flood, or other adverse conditions, as well as in years of plenty.

The "normal supply" is defined in Section 301(b)(10)(B) of the Act as a normal year's domestic consumption and exports, plus 175 percent of a normal year's domestic consumption and 65 percent of a normal year's exports as an allowance for normal carry-over.

A "normal year's domestic consumption" is defined in Section 301(b)(11)(B) of the Act as the yearly average quantity of tobacco produced in the United States and consumed in the United States during the 10 marketing years immediately preceding the marketing year in which such consumption is determined, adjusted for current trends in such consumption.

A "normal year's exports" is defined in Section 301(b)(12) of the Act as the yearly average quantity of tobacco produced in the United States which was exported from the United States during the 10 marketing years immediately preceding the marketing year in which such exports are determined, adjusted for current trends in such exports.

The yearly average domestic consumption of flue-cured tobacco during the 10 marketing years preceding the 1980–81 marketing year was 638 million pounds, and the yearly average exports during such period amounted to 537 million pounds. Exports have fluctuated in relatively narrow bands with no predominant trend while domestic use has trended downward. Accordingly, a normal year's exports equals the 10 year average while a normal year's domestic consumption has been set at 580 million pounds. These normals result in a reserve supply level for flue-cured tobacco of 2,605 million pounds.

"Total supply" is defined in Section 301(b)(16)(B) of the Act as the carryover at the beginning of the marketing year (July 1) plus the estimated production in the United States during the calendar year in which the marketing year begins.

The carryover of flue-cured tobacco in the inventories of manufacturers and dealers (including Commodity Credit Corporation (CCC) loan stocks) on July 1, 1980, amounted to 1,965 million pounds, farm sales weight.

The 1980 crop marketings of flue-cured tobacco are currently estimated at 1,095 million pounds. The sum of the carryover of flue-cured tobacco plus the 1980 crop marketings totals 3,060 million pounds and represents the total supply of flue-cured tobacco for the 1980–81 marketing year. This amount exceeds the proposed reserve supply level by 455 million pounds.

It is estimated that 560 million pounds of flue-cured tobacco will be utilized in the United States during the 1981–82 marketing year and 500 million pounds will be exported. Because the total supply is substantially in excess of the reserve supply level, it is deemed desirable to make a downward adjustment of 74 million pounds in order to determine the 1981 flue-cured tobacco quota. Accordingly, the national marketing quota for flue-cured tobacco for the marketing year beginning July 1, 1981, is determined to be 986 million pounds.

The "national average yield goal" is defined in Section 317(a)(2) of the Act as the yield per acre which on a national average basis the Secretary determines will improve or insure the usability of the tobacco and increase the net return per pound to the growers. In making this determination, the Secretary is required to give consideration to such Federal-State production data as is deemed relevant. The national average yield goal has been determined to be 1,854 pounds per acre. It has been determined that this yield will improve or insure the usability of flue-cured tobacco and increase the net return per pound to the growers. In making his determination, the Secretary considered research data of the Science and Education Administration, formerly Agricultural Research Service of the Department, and one of the land-grant colleges in the flue-cured tobacco producing area.

The community average yields have been determined for flue-cured tobacco and were published in the **Federal Register**, (30 FR 6207, 9875, 14487).

In accordance with Section 317(a)(3) of the Act, the national acreage allotment for the 1981 crop of flue-cured tobacco is determined to be 531,823.09 acres, which is the result of dividing the national marketing quota by the national average yield goal.

In accordance with Section 317(e) of the Act, the Secretary is authorized to establish a national reserve, from the national acreage allotment, in an amount equivalent to not more than 1 percent of the national acreage allotment for the purpose of making corrections in farm acreage allotments, adjusting inequities and establishing allotments for new farms. The Secretary has determined that a national reserve for the 1981 crop of flue-cured tobacco of 300 acres in adequate for these purposes.

It has been determined that types 11, 12, 13, and 14 constitute one kind of tobacco for the 1980–81, 1981–82, and 1982–83 marketing years. It has been determined also that no substantial difference exists in the usage or market outlets for any one or more of the types of flue-cured tobacco (30 FR 6144). Therefore, no action is being taken in accordance with Section 313(i) of the Act for the 1981–82 marketing year.

Since farmers are now making their plans for 1981 production of flue-cured tobacco and need to know immediately the acreage allotments and marketing quota for their farms for the 1981–82 marketing year, it is hereby found that compliance with the 30-day effective date requirements in 5 U.S.C. 553 is impossible and contrary to the public interest. Therefore, this rule shall become effective December 1, 1980.

Final Rule

Accordingly, the regulations at 7 CFR Part 725 are amended, effective for the 1981 crop of flue-cured tobacco, by revising § 725.2 and the centerhead which precedes it to read as set forth below. The material previously appearing in this section under centerhead "DETERMINATIONS AND ANNOUNCEMENTS 1980–81 MARKETING YEAR" remains in full force and effect as to the crop to which it was applicable.

Determinations and Announcements 1981–82 Marketing Year

§ 725.2 Flue-cured tobacco.

For flue-cured tobacco for the marketing year beginning July 1, 1981:

(a) *Reserve supply level.* The reserve supply level is determined and announced to be 2,605 million pounds based upon a normal year's domestic consumption of 580 million pounds and a normal year's exports of 537 million pounds.

(b) *National marketing quota.* A national marketing quota on an acreage-poundage basis for the marketing year beginning July 1, 1981 is hereby determined and announced to be 1,013 million pounds. This quota is based on estimated utilization in the United States in such marketing year of 560 million pounds and estimated exports in such marketing year of 510 million pounds, with a 57 million pound downward adjustment in order to effect an orderly reduction of supplies toward the reserve supply level.

(c) *National average yield goal.* The national average yield goal is determined and announced to be 1,854 pounds. This goal is based on the yield per acre which, on a national average basis, will improve or insure the usability of flue-cured tobacco and increase the net return per pound to growers.

(d) *National acreage allotment.* The national acreage allotment on an acreage-poundage basis is determined and announced to be 546,386.19 acres. This allotment is determined by dividing the national marketing quota of 1,013 million pounds by the national average yield goal of 1,854 pounds.

(e) *National reserve.* The national reserve for making corrections and adjusting inequities in old farm acreage allotments and for establishing allotments for new farms is determined and announced to be 200 acres.

(f) *National acreage factor.* The national acreage factor is determined and announced to be .925.

(g) *National yield factor.* The national yield factor is determined and announced to be .9307.

(Secs. 301, 313, 317, 375, 52 Stat. 38, 47, 66, as amended, 79 Stat. 66 (7 U.S.C. 1301, 1313, 1314c, 1375))

Signed at Washington, D.C., on December 1, 1980.

Bob Bergland,
Secretary of Agriculture.

[FR Doc. 80-37716 Filed 12-1-80; 4:37 pm]
BILLING CODE 3410-05-M

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7 CFR Part 729

1981 Peanut Program; Acreage Allotments and Poundage Quotas

AGENCY: Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture.

ACTION: Final determination.

SUMMARY: The purpose of this determination is to: (a) Establish and proclaim the 1981 national acreage allotment and apportion such allotment to the states; (b) establish and proclaim the 1981 national poundage quota; and (c) establish the date or period for holding the national referendum of peanut farmers for the crops of peanuts produced in the calendar years 1981, 1982, and 1983. The need for this determination is to satisfy the statutory requirements as provided for in the Agricultural Adjustment Act of 1938, as amended (hereinafter referred to as "the Act").

EFFECTIVE DATE: December 1, 1980.

ADDRESSES: Price Support and Loan Division, ASCS, USDA, 3741-South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Gypsy Banks, (ASCS), (202) 447–6733. The final impact analysis describing options considered in developing the proposed rule and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established to implement Executive Order 12044 and has been classified "significant."

In compliance with Secretary's Memorandum No. 1955 and the final report issued by the Secretary with respect to Executive Order 12044 and entitled "Improving USDA Regulations" (45 FR 50988), initiation of review of the regulations contained in 7 CFR 729.100

through 729.104 for need, currency, clarity and effectiveness, will be made within the next five years.

The title and number of the federal assistance program that this final rule applies to is: Title—Commodity Loans and Purchases; Number—10.051, as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local Government are informed of this action.

A notice that the Secretary was preparing to make determinations with respect to the national acreage allotment and poundage quota was published in the **Federal Register** on October 7, 1980, (45 FR 66459). The comment period ended October 24.

A total of 30 comments were received. Twenty-six responses were received commenting on the national acreage allotment; of those, 18 respondents recommended a national acreage allotment of 1,614,000 acres, 8 respondents recommended an allotment above 1,614,000 acres, and 1 recommended unlimited acreage. One request was received to increase the Missouri State allotment and one recommended increasing both the allotment and poundage quotas for Valencia peanuts grown in New Mexico. Twenty-six comments were received concerning the poundage quota. Twenty-two recommended a national poundage quota of 1,516,000 tons or more. Four recommended reducing the quota to the 1981 crop statutory minimum of 1,440,000 tons. Seventeen comments were received on the period of marketing quota referendum. Seven respondents recommended the period proposed—December 8–11. Of the 10 recommendations for a different referendum period, 8 requests were received for December 8–12, and one each for December 1–5 and December 6–11.

One manufacturer has requested that the Department (1) revise proposed determinations to reflect revised supply-demand estimates, (2) give the public opportunity to comment on revised proposed determinations, and (3) extend comment period to November 14.

After consideration of the comments received, as well as the latest available data, which are set forth in the final rule, it was determined that the national poundage quota for the 1981 marketing year should be 1,440,000 tons, the minimum quota prescribed under Section 358(1) of the Act. Section 358(1) also specifies that "If the Secretary determines that the minimum national poundage quota for any marketing year is insufficient to meet total estimated requirements for domestic edible use and a reasonable carryover, the national poundage quota for the marketing year may be increased by the Secretary to the extent determined by the Secretary to be necessary to meet such requirements." It has been determined that no increase is needed since the minimum poundage quota is projected to be sufficient to meet such requirements. It has also been determined that the national acreage allotment for the 1981 crop of peanuts should be increased to 1,739,000 acres. The 125,000-acre increase in the acreage allotment should provide a supply adequate to meet potential export demand and to permit rebuilding of commercial stocks. The Secretary has determined that the increase in the acreage allotment is necessary in order to provide an adequate supply of peanuts to meet domestic use, exports, and provide a reasonable carryover. The Secretary has determined that the marketing quota referendum should be held during the referendum period December 8–11 inclusive, by mail ballot in order to comply with statutory requirements which provide that the referendum must be held by December 15. It was also determined to conduct the referendum on extra long staple cotton and peanuts in the same time period in order to minimize instructions to ASCS State and county offices. If marketing quotas are approved by two-thirds or more of the producers voting in the referendum, marketing quotas will be in effect for peanuts produced in the calendar years 1981, 1982, and 1983. The latest available statistics of the Federal Government have been used in making such determinations. It was also determined that another proposed rule would not be published to include revised data and that the comment period would not be extended. Such delay would not give the Department adequate time to make the announcement by the statutory deadline.

It is essential that these provisions be made effective as soon as possible since the proclamations of the national allotment and national poundage quota are required to be made by December 1, 1980, the statutory deadline. Accordingly, the Secretary has determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 and Executive Order 12044 is impracticable and contrary to the public interest. Therefore, this amendment to 7 CFR 729.100 through 729.104 shall become effective upon filing with the Director, Office of the Federal Register with respect to the 1981 crop of peanuts.

The material previously appearing in §§ 729.100 through 729.104 under centerhead "1980 Crop of Peanuts; Acreage Allotments and Poundage Quotas" remains in full force and effect as to the 1980 crop.

Final Determinations

Accordingly, 7 CFR 729.100 to 729.104 and the title of the subpart are amended to read as follows:

Subpart—1981 Peanut Program; Acreage Allotments and Poundage Quotas

Secs.

729.100 National poundage quota for the 1981 peanut marketing year
729.101 National acreage allotment for the 1981 crop of peanuts
729.102 Reserved
729.103 Apportionment of national acreage allotment to the States
729.104 Marketing quota referendum for peanuts produced in calendar years 1981, 1982, and 1983.

Authority: Secs. 301, 358, 375, 52 Stat. 38, as amended, 55 Stat. 88, as amended, 52 Stat. 66, as amended (7 U.S.C. 1301, 1358, 1375).

§ 729.100 National poundage quota for the 1981 peanut marketing year.

(a) The national poundage quota for the 1981 peanut marketing year is hereby determined and proclaimed to the 1,440,000 tons, the minimum quota prescribed under Section 358(1) of the Agricultural Adjustment Act of 1938, as amended, (referred to in the subpart as "the Act").

(b) The Act specifies that if the Secretary determines that the minimum national poundage quota for any marketing year is insufficient to meet total estimated requirements for domestic edible use and a reasonable carryover, the quota may be increased to the extent necessary to meet such requirements.

(c) It has been determined that the minimum national poundage quota for 1981 will be sufficient to meet such requirements based on the following data:

1981 Crop National Poundage Quota

[Projected supply and requirements for quota peanuts in 1981–82 marketing year, most likely U.S. weather]

Item	1,000 tons
Quota	1,440
Effective quota	1,592
Projected supply:	
Carryin	70
Quota marketings	1,512
Total supply	1,582
Projected requirements:	
Domestic edible, seed and crushing residual	1,255
Carryover (15 percent of requirements)	285
Total	1,540
Surplus to statutory requirement	42

§ 729.101 National acreage allotment for the 1981 crop of peanuts.

(a) The national acreage allotment for the 1981 crop of peanuts is hereby determined and proclaimed to be 1,739,000 acres, about 8 percent above the minimum allotment.

(b) Subject to the prescribed minimum, the Department is required under the Act to consider projected domestic use, exports, and a reasonable carryover in determining the national acreage allotment. It has been determined that a national allotment of 1,739,000 acres should be sufficient to meet such requirements for the 1981 crop of peanuts based on the following data:

(1) *Production potential.* Historically, actual national acreage allotments have ranged from 1,000 to 4,000 acres above the minimum national acreage allotment prescribed by statute each year from 1957 through 1977 because of short supply determinations, mainly applicable to New Mexico. In 1978 and 1979, short supply determinations were not made and the actual national acreage allotment remained at the new statutory minimum of 1,614,000 acres. The 1980-crop national acreage allotment was established at 1,614,000 acres. For the 1981 crop, each peanut producing State will have about 8 percent more acreage allotted than that in 1980.

(i) While the allotted acreage has been about the same each year since 1957, planted and harvested acres and average yields produced from those acres all have resulted in upward trends in recent years except under poor weather conditions. From 1974 through 1980, planted acres have ranged from an estimated low of 1,390,000 in 1980 to a high of 1,549,700 in 1979 and harvested acres from an estimated low of 1,390,100 in 1980 to a high of 1,524,500 in 1979. Average yields in the same period ranged from an estimated 1,652 pounds in 1980 to an estimated 2,639 pounds in 1978. Production ranged from an estimated 1,148,530 tons in 1980 to an estimated 1,994,312 tons in 1978.

Production in 1,000 Tons

Crop	
1975	1,929
1976	1,875
1977	1,863
1978	1,994
1979	1,990
1980	1,149

(ii) During the 1973-1980 period, only about 94 to 96 percent of the total acreage allotment was planted. This pattern of underutilization is expected to continue into 1981, with 1,652,000 planted acres and 1,620,009 harvested acres seen as the practicable potential for the year. Using the projected yield range of 2,300 to 2,550 pounds, 1981 crop production potential is estimated to range from 1,657,000 to 2,072,000 tons.

(2) *Projected requirements, 1981 marketing year.* (i) Based on most likely U.S. weather and a quota loan level of $455 per ton, requirements for quota peanuts for domestic edible and related use and a reasonable carryover are estimated to be 1,443,000 tons (see § 729.100) out of total estimated supply of 1,582,000 tons for the 1981 marketing year.

(ii) Requirements for peanuts for export are estimated at 400,000 tons. However, availability of additional peanuts for export will depend upon response of peanut growers to market demand. Quota peanuts which are surplus to domestic requirements will be available for export if demand exceeds the supply of additional peanuts.

(3) *Projected supply of and demand for peanuts under most likely U.S. weather conditions. 1981 marketing year.*

Item	1,000 tons
Supply	
Carryin	75
Marketings	1,925
Imports	1
Total	2,001
Requirements.	
Domestic edible, seed and commercial crushing	1,205
Exports	400
Surplus-CCC diversion	81
Total	1,686
Carryout	315

§ 729.102 [Reserved]

§ 729.103 Apportionment of national acreage allotment to the States.

The 1981-crop national acreage allotment of 1,739,000 is apportioned to the States in accordance with Section 358(c)(1) of the Act as follows:

State Acreage Allotment

State	Acres
Alabama	232,970
Arizona	820
Arkansas	4,631
California	1,002
Florida	59,777
Georgia	571,471
Louisiana	2,056
Mississippi	8,072
Missouri	266
New Mexico	10,545
North Carolina	180,871
Oklahoma	149,000
South Carolina	14,967
Tennessee	3,761
Texas	385,794
Virginia	112,956
Total	1,739,000

§ 729.104 Marketing quota referendum for peanuts produced in calendar years 1981, 1982 and 1983.

The marketing quota referendum for peanuts produced in calendar years 1981, 1982, and 1983 shall be held during the referendum period December 8–11, 1980, inclusive, by mail ballot in accordance with Part 717 of this chapter. It two-thirds or more of the peanut farmers voting in the referendum favor marketing quotas, marketing quotas will be in effect for peanuts produced in calendar years 1981, 1982 and 1983.

Signed at Washington, D.C., on December 1, 1980.

Bob Bergland,

Secretary, Department of Agriculture.

[FR Doc. 80-37718 Filed 12-1-80; 4:37 pm]
BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 282; Lemon Reg. 281, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period December 7–13, 1980, and increases the quantity of such lemons that may be so shipped during the period November 30–December 6. Such action is needed to provide for orderly marketing of fresh lemons for the period specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective December 7, 1980, and the amendment is effective for the period November 30–December 6, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation and amendment are issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action

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is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared poicy of the act.

This action is consistent with the marketing policy for 1980–81 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on July 8, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on December 2, 1980, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons has improved.

It is further found that there is insufficient time between the date when information became available upon which this regulation and amendment are based and when the actions must be taken to warrant a 60 day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective times.

1. Section 910.582 is added as follows:

§ 910.582 Lemon Regulation 282.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period December 7, 1980, through December 13, 1980, is established at 235,000 cartons.

(b) As used in this section, "handled" and "cartons" mean the same as defined in the marketing order.

2. Paragraph (a) of § 910.581 Lemon Regulation 281 (45 FR 79004) is amended to read as follows:

§ 910.581 Lemon Regulation 281.

(a) The quantity of lemons grown in California and Arizona which may be handled during the period November 30, 1980, through December 6, 1980, is established at 235,000 cartons.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: December 3, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-38067 Filed 12-4-80; 11:30 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

Adjustments to Lower and Upper Tier Crude Oil Price Ceilings To Reflect Impact of Inflation

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA), of the Department of Energy (DOE) hereby issues Crude Oil Price Schedule No. 21 which provides for monthly increases in the ceiling prices for lower tier and upper tier crude oil to take into account the impact of inflation. This action will result in estimated first sale prices for the months of December 1980 and January and February 1981 of $6.73, $6.78, and $6.83 per barrel (lower tier) and $15.02, $15.14 and $15.26 per barrel (upper tier), respectively.

EFFECTIVE DATE: December 1, 1980.

FOR FURTHER INFORMATION CONTACT:
William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street NW., Room B110, Washington, D.C. 20461, 202–653–4055
Charles P. Little (Crude Oil Pricing Branch), Economic Regulatory Administration, 2000 M Street NW., Room 6128–P, Washington, D.C. 20461, 202–653–3459
Ben McRae (Office of General Counsel), Department of Energy, 1000 Indepedence Avenue SW., Room 6A 127, Washington, D.C. 20585, 202–252–6739.

SUPPLEMENTARY INFORMATION:

A. *Introduction*
B. *Crude Oil Price Schedule No. 21*

A. Introduction

On August 29, 1980, we issued Crude Oil Price Schedule No. 20 (45 FR 59137, September 8, 1980), which continued the crude oil pricing policy of permitting the prices for lower tier and upper tier crude oil to increase to adjust for the impact of inflation. This policy will continue during the period of December 1980 through September 1981 as we gradually decontrol domestic crude oil. Accordingly, we are issuing Crude Oil Price Schedule No. 21 which provides for increases in the ceiling prices for lower tier and upper tier crude oil during the months of December 1980 and January and February 1981 to take into account the impact of inflation.

B. Crude Oil Price Schedule No. 21

Under Crude Oil Price Schedule No. 21, the November 1980 lower tier ceiling price (the May 15, 1973 posted price plus $2.99 per barrel, resulting in an average first sale price of approximately $6.68 per barrel), and the November 1980 upper tier ceiling price (the September 30, 1975 posted price plus $2.23, resulting in an average first sale price of approximately $14.90 per barrel), are adjusted for inflation for December 1980 and January and February 1981, based on the first revision of the GNP deflator published on November 19, 1980, which reflects an annual rate of inflation of 9.8 percent.

1. *Lower tier ceiling prices.* Adjustments to ceiling prices for lower tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in December 1980 and January and February 1981 are determined pursuant to the following methodology:

A. ERA has computed a monthly adjustment factor of .00782 which when applied over a twelve-month period yields an effective annual rate of adjustment of 9.8 percent.

B. December 1980 adjustment—($6.68) (.00782) per barrel = $.052 per barrel rounded to $.05 per barrel.

C. January 1981 adjustment—($6.68 + .05) (.00782) per barrel = $.053 per barrel rounded to $.05 per barrel.

D. February 1981 adjustment—($6.68 + .05 + .05) (.00782) per barrel = $.053 per barrel rounded to $.05 per barrel.

Based upon the monthly adjustments computed above, estimated average lower tier ceiling prices for the months of December 1980 and January and February 1981 are computed as follows:

December 1980—$6.68 + $.05 = $6.73
January 1981—$6.73 + $.05 = $6.78
February 1981—$6.78 + $.05 = $6.83

Using an average highest posted field price on May 15, 1973, of $3.69 per barrel and the monthly adjustments as computed above, lower tier prices for the next 3 months have been determined as follows:

Month	Ceiling price	Price [1]
December 1980	May 15, 1973, highest posted field price plus $3.04.	$6.73
January 1981	May 15, 1973, highest posted field price plus $3.09.	6.78
February 1981	May 15, 1973, highest posted field price plus $3.14.	6.83

[1] Estimated average first sale price.

Upper Tier Ceiling Prices

Adjustments to ceiling prices for upper tier crude oil and the approximate average first sale prices pursuant to those ceiling prices in December 1980 and January and February 1981 are determined pursuant to the following methodology:

A. Adjustment factor (explained above) = .00782.

B. December 1980 adjustment—($14.90) (.00782) per barrel = $.117 per barrel rounded to $.12 per barrel.

C. January 1981 adjustment—($14.90 + .12) (.00782) per barrel = $.118 per barrel rounded to $.12 per barrel.

D. February 1981 adjustment—($14.90 + .12 + .12) (.00782) per barrel = $.118 per barrel rounded to $.12 per barrel.

Based upon the monthly adjustments computed above, estimated average upper tier ceiling prices for the months of December 1980, and January and February 1981, are computed as follows:

December 1980—$14.90 + $.12 = $15.02
January 1981—$15.02 + $.12 = $15.14
February 1981—$15.14 + $.12 = $15.26

Using an average highest posted field price on September 30, 1975, of $12.67 per barrel and the monthly adjustments as computed above, upper tier prices for the next 3 months have been determined as follows:

Month	Ceiling price	Price [1]
December 1980	Sept. 30, 1975, highest posted field price plus $2.35.	$15.02
January 1981	Sept. 30, 1975, highest posted field price plus $2.47.	15.14
February 1981	Sept. 30, 1975, highest posted field price plus $2.59.	15.26

[1] Estimated average first sale price.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93–159 as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, Pub. L. 94–385; Energy Policy and Conservation Act, Pub. L. 94–163, as amended, Pub. L. 94–385; E.O. 11790, 39 FR 23185; Department of Energy Organization Act, Pub. L. 95–91; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective December 1, 1980.

Issued in Washington, D.C., November 25, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

Section 212.77 is amended in the Appendix to add Schedule No. 21 of Monthly Price Adjustments, as follows:

§ 212.77 Adjustments to ceiling prices.

* * * * *

Appendix

* * * * *

Schedule No. 21 of Monthly Price Adjustments

[Effective December 1, 1980]

Month	Lower tier May 15, 1973, posted price [1] (plus)	Upper tier Sept. 30, 1975, posted price [2] (plus)
1976:		
February	1.35	−1.32
March	1.38	−1.25
April	1.41	−1.18
May	1.45	−1.11
June	1.48	−1.05
July	1.48	−1.05
August	1.48	−1.05
September	1.48	−1.05
October	1.48	−1.05
November	1.48	−1.05
December	1.48	−1.05
1977:		
January	1.48	−1.25
February	1.48	−1.25
March	1.48	−1.70
April	1.48	−1.70
May	1.48	−1.70
June	1.48	−1.70
July	1.48	−1.70
August	1.48	−1.70
September	1.51	−1.44
October	1.54	−1.18
November	1.57	−.92
December	1.59	−.67
1978:		
January	1.61	−.82
February	1.63	−.77
March	1.66	−.71
April	1.69	−.65
May	1.72	−.59
June	1.75	−.52
July	1.78	−.45
August	1.81	−.38
September	1.86	−.28
October	1.91	−.17
November	1.96	−.06
December	1.99	.01
1979:		
January	2.02	.08
February	2.05	.15
March	2.09	.23
April	2.13	.31
May	2.17	.39
June	2.21	.48
July	2.25	.57
August	2.29	.66
September	2.33	.76
October	2.37	.86
November	2.41	.96
December	2.45	1.05
1980:		
January	2.49	1.14
February	2.53	1.23
March	2.57	1.33
April	2.61	1.43
May	2.66	1.53
June	2.71	1.64
July	2.76	1.75
August	2.81	1.86

Schedule No. 21 of Monthly Price Adjustments—Continued

[Effective December 1, 1980]

Month	Lower tier May 15, 1973, posted price [1] (plus)	Upper tier Sept. 30, 1975, posted price [2] (plus)
September	2.87	1.96
October	2.93	2.10
November	2.99	2.23
December	3.04	2.35
1981:		
January	3.09	2.47
February	3.14	2.59

[1] The price referred to in 10 CFR 212.73(b)(1) or in 212.73(c)(1), 212.73(c)(3), and 212.73(c)(4).
[2] The price referred to in 10 CFR 212.74(b)(1)

This schedule of monthly price adjustments was issued by the Economic Regulatory Administration on November 25, 1980, pursuant to 10 CFR 212.77. It restates without change the lower and upper tier price ceilings applicable to crude oil produced and sold in the months of February 1976 through November 1980, as determined under 10 CFR 212.73, 212.74, and 212.77. Both lower tier and upper tier ceiling prices, which were increased under Schedule No. 20 effective September 1, 1980, are further increased as indicated in this schedule, effective December 1, 1980.

This schedule is effective only through February 28, 1981.

[FR Doc. 80-37748 Filed 12-4-80; 8:45 am]

BILLING CODE 6450-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 122

[Rev. 3 Amdt. 15]

Servicing of Business Loans by Lenders

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: SBA policy is to encourage the continued servicing of SBA loans by the private lender to the fullest extent possible, both before and after purchase of the loan by SBA. The regulations have been at variance with this policy. This amendment changes the regulation so that the lender, with SBA's written consent, may continue to service the SBA loan until SBA makes a written request for the transfer of loan servicing to SBA.

EFFECTIVE DATE: December 5, 1980.

FOR FURTHER INFORMATION CONTACT:
Timothy F. O'Leary, Deputy Director, Office of Portfolio Management, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, (202) 653–6429.

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SUPPLEMENTARY INFORMATION: On December 21, 1979, SBA published in the **Federal Register** a notice of proposed rulemaking (44 FR 75655) to amend Part 122, relating to the servicing of business loans by lenders. A typographical error appeared in the notice listing the amended section as "122.10" but the introductory language accurately referred to "122.20." No comments were received. However, SBA believes one clarifying change in the regulation may be appropriate. Thus, after the word "completes" an explanatory parenthesis defines completion.

Pursuant to the authority contained in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, § 122.20(d) of Part 122 is amended to read as follows:

§ 122.20 Loan administration.

* * * * *

(d) When SBA completes (*i.e.* perfects paperwork necessary to process disbursement) the purchase of its share of a guaranteed loan the financial institution shall assign the note and the other loan instruments to SBA and loan servicing shall become the responsibility of SBA; *Provided, however,* That with SBA's written consent the financial institution may continue to service the loan and be the holder of the note and the other loan instruments until SBA makes a written request for the transfer of loan servicing to SBA; the financial institution shall thereupon assign and deliver to SBA all loan instruments immediately after the receipt of such a transfer request from SBA.

(Catalog of Federal Domestic Assistance Program No. 59.012, Small Business Loans)

Dated: November 25, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-37828 Filed 12-4-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 376 and 379

Export Licensing Requirements for Computer Software; Interim Rule

AGENCY: Office of Export Administration, International Trade Administration, Department of Commerce.

ACTION: Interim rule with request for comments.

SUMMARY: The Export Administration Act of 1979 ("the Act") provides for the restriction of exports of goods and "technology" (including computer software) when necessary to support U.S. national security and foreign policy objectives. This rule clarifies the Department's position on the export of computer software by amending the Export Administration Regulations to require the submission of specific technical information in support of applications for licenses to export computer software either coupled with the export of digital computer hardware or proposed for export independent of hardware. Further, applications for the export of digital computer hardware to Country Groups P, Q, W, and Y must now describe the software that will be used with the hardware.

DATES: This rule is effective December 5, 1980. Comments must be received by February 3, 1981.

ADDRESS: Written comments (six copies when possible) should be sent to: Richard J. Isadore, Acting Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Room 1617M, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Archie Andrews, Director Exporters' Service Staff, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377-5247 or 377-4811).

SUPPLEMENTARY INFORMATION:

Regulatory Revisions

Section 376.10(a) of the Export Administration Regulations outlines the requirements for filing of export license applications covering the export of digital electronic computers and related equipment to destinations in Country Groups P, Q, W, and Y. This announcement revises the provisions of § 376.10(a) by establishing requirements for the furnishing of specific technical information describing computer software proposed for export to destinations in Country Groups P, Q, W, and Y and subject to validated licensing requirements as technical data under the provisions of Part 379 of the Export Administration Regulations. Further, exporters are now required to describe software that will be used with digital computer hardware intended for export to Country Groups P, Q, W, and Y. The information to be furnished is for use by Office of Export Administration technicians in performing licensing assessments. This revision relates to national security controls imposed under the authority in Section 5 of the Export Administration Act of 1979.

Rulemaking Requirements

Section 13(a) of the Export Administration Act of 1979 (Pub. L. 96-72, to be codified at 50 U.S.C. App. 2401 et seq.) ("the Act") exempts regulations promulgated under the Act from the public participation in rulemaking procedures of the Administrative Procedure Act. Because they relate to a foreign affairs function of the United States, it has been determined that these regulations are not subject to Department of Commerce Administrative Order 218-7 (44 FR 2082, January 9, 1979) and International Trade Administration Administrative Instruction 1-6 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations."

However, because of the importance of the issues raised by these regulations and the intent of Congress set forth in section 13(b) of the Act, these regulations are issued in interim form and comments will be considered in developing final regulations.

The period for submission of comments will close February 3, 1981. All comments received before the close of the comment period will be considered by the Department in the development of final regulations. While comments received after the close of the comment period will be considered if possible, their consideration cannot be assured. Public comments which are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the final regulations.

All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received they must be followed by written memoranda which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public record concerning these regulations will be maintained in the International Trade Administration Freedom of Information Records Inspection Facility, Room 3102, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the *Code of Federal Regulations*. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the International Trade Administration Freedom of Information Officer, at the above address or by calling (202) 377-3031.

Accordingly, the Export Administration Regulations (15 CFR 376.10, 379.4(b)(1) and 379.5) are revised as follows:

PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

a. A new § 376.10(a)(1)(vii) is added as follows:

§ 376.10 Electronic computers and related equipment.

* * * * *

(a) * * *

(1) * * *

(vii) A description of all computer software (whether under validated or general license) that will be exported for use with the equipment including:

(*a*) Identification of each standard software package proposed for export, by name or other description, followed by a detailed functional description of the use of each software program.

(*b*) Means by which each software program identified by (a), above, is intended to be conveyed, *i.e.*, source or object code, supporting manuals, or other material that is intended to convey information related to such programs, with a description of the scope and content of each form.

(*c*) Information required by (a) and (b), above, as relates to non-standard, or customized software, intended for export.

(*d*) An explanation of why software proposed for export in other than object form is required.

(*e*) A description of the scope of training of persons receiving the software and/or the scope of the software maintenance that is proposed, as related to software programs identified above, or independent of actual software products intended for export.

(*f*) A statement as to whether any software intended for export has been previously exported in the same form. Differences in previously exported software, *e.g.*, source and object form, supporting material, and scope or character of training, should be explained.

(*g*) The relationship of each software program to the avowed end-use of the hardware equipment.

* * * * *

PART 379—TECHNICAL DATA

§ 379.4 [Amended]

b. A footnote is added following the word "commodity" in 379.4(b)(1)(iv) as follows:

Section 376.10(a)(1)(vii) requires exporters of digital computer equipment to describe on their license applications any software, including that shipped under General License GTDR, to be used with the equipment.

c. A new § 379.5(e)(3) is added as follows:

§ 379.5 Validated license applications.

(e) * * *

(3) *Computer Software.* Applications to export software subject to validated export licenses should provide the information detailed in § 376.10(a)(1)(vii), and in addition, should identify the location, origin, and model of the equipment with which the software will be used. For software, the applicant should indicate on the application the Commodity Control List Processing Code for the equipment with which the software will be used.

* * * * *

(Secs. 5, 13, 15, and Pub. L. 96-72, 93 Stat. 503, to be codified at 50 U.S.C. App. 2401 *et seq.*; Executive Order 12214, 45 FR 29783 (May 6, 1980); Department Organization Order 10-3, 45 FR 6141 (January 25, 1980); International Trade Administration Organization and Function Order 41-1, 45 FR 11862 (February 22, 1980); and International Trade Administration Organization and Function Order 41-4 (effective August 26, 1980))

Dated: December 2, 1980.

Kent N. Knowles,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 80-37862 Filed 12-4-80; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 3

Revision of Registration Regulations; Final Rules; Designation of New Part

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rules and designation of new Part 3.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has revised certain of its regulations which relate to the registration of futures commission merchants, floor brokers, associated persons, commodity trading advisors and commodity pool operators. The regulations require that each applicant for registration as an associated person ("AP") be "sponsored" by a futures commission merchant ("FCM") which must screen that person's application and certify that it is accurate and complete to the best of the FCM's knowledge, information, and belief. The regulation generally makes AP registration coextensive with, and conditioned upon, the registrant's association with the sponsoring FCM. The new regulations also require fingerprinting for all categories of registrants with the Commission; certain registrants and principals of registrants are, however, exempted from that requirement.

The new sponsorship requirements are necessary to establish a uniform industry-wide minimum standard for pre-employment evaluation of associated persons; to insure that all FCMs develop programs that will result in the overall upgrading of APs registered with the Commission; to implement fully the provisions of the Commodity Exchange Act that require an individual to be registered as an associated person of a particular FCM; and to reduce a regulatory burden by eliminating the present biennial renewal requirement for all APs and by substituting therefor registration for as long as the person remains associated with a specified registered FCM or its agent. The fingerprinting requirements are necessary to permit improvements in the Commission's background checking of applicants for registration, to permit positive identification of certain individuals with common names, to reduce the number of applications filed by individuals who are unfit for registration, and to facilitate fitness reviews of registrants on a spot and periodic basis.

In addition, for the sake of clarity and to facilitate their use, the Commission, in adopting these rules, has reorganized and consolidated most of its registration regulations in a new Part 3 of Title 17 of the Code of Federal Regulations.

DATES: The final rules and designation of Part 3 are effective July 1, 1981.

FOR FURTHER INFORMATION CONTACT: Robert P. Shiner, Assistant Director for Registration, or Kenneth M. Rosenzweig, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254-9703 or 254-8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

On March 20, 1980, the Commission proposed substantial revisions to its registration regulations and, in particular, to the requirements governing the registration of associated persons. 45 FR 18356. The Commission has carefully considered all of the comments received in response to that proposal and, based in part upon those comments, has determined to make certain changes in those proposed rules. The Commission indicated in its proposal that the revised Form 8–R would be published for public comment at a later date and that other related issues would be addressed at that time, and in a separate **Federal Register** notice published today, the Commission is proposing for public comment the revised Form 8–R, new Forms 8–S and 8–T, and additional regulations to implement fully the regulations it is now adopting.

In addition, the Commission has reorganized most of its registration regulations and consolidated them in Part 3 of Chapter I, Title 17 of the Code of Federal Regulations.[1] A table which correlates both existing regulations and the Commission's earlier proposal with the new section references under Part 3 is set forth at the end of this supplementary information. Unless otherwise indicated, all references in the text which follows will be to the newly adopted Part 3.

B. Major differences between proposed and final rules

As proposed, the regulations would have required the fingerprinting of all registrants and principals of registrants. The Commission has continued to evaluate this proposal in view of its regulatory objectives in revising the registration program and of the role of fingerprinting in that program. Based upon these considerations, the Commission has determined that its objectives can be met, while saving both the Commission and the industry what might otherwise be an unwarranted expenditure of time and money, by exempting, in general, existing registrants and principals from the fingerprinting requirement. In addition, the Commission has made a number of other changes in the final regulations which will reduce the costs of compliance with the fingerprinting requirements for those persons who are not so "grandfathered."

The proposed regulations would have required an FCM sponsoring the registration of an associated person to verify the applicant's entire ten-year education and employment history, as provided on the Form 8–R. Throughout this rulemaking proceeding, the Commission has sought to refine its objectives with care and to be sure that whatever burdens were imposed upon the industry were no greater than necessary to accomplish the Commission's goals. The Commission believes that an applicant's most recent employment and educational history is of greatest importance; accordingly, the objectives of FCM "screening" will be met by requiring FCMs to verify only the preceding five years of that history.

When the Form 8–R is being used as an application for AP registration, the Commission has modified its proposal to allow a sponsoring FCM to submit the certifications required by these regulations separately from the rest of that Form. Thus, the Commission will be able to proceed with its agency and Federal Bureau of Investigation ("FBI") checks on the basis of the Form 8–R and fingerprint card while the FCM proceeds with its screening of the application. The Commission believes that this "dual processing" can significantly shorten the time required for an AP to become registered without any sacrifice of the regulatory goals which have made this rulemaking necessary.

II. Summary Analysis of the Final Rules

Fingerprinting. As proposed, the regulations would have required the one-time filing of a fingerprint card by each "principal," as defined, of an FCM,[2] commodity trading advisor ("CTA")[3] and commodity pool operator ("CPO")[4] at the time the FCM, CTA or CPO first filed for renewal of registration after the effective date of the proposed regulations.[5] The proposed regulations would have similarly required the one-time filing of a fingerprint card by all floor broker applicants and registrants.[6] Finally, the proposed regulations would have required each currently registered associated person[7] to file a fingerprint card at the time his current registration expired.[8]

Thirty of the thirty-five written comments received by the Commission addressed the proposed fingerprinting requirements. Some of the commentators specifically endorsed fingerprinting as a means of deterring unfit individuals from entering the industry while others were opposed to the proposed requirements on the grounds that fingerprinting was unnecessary and would not substantially further the Commission's stated objectives. A number of commentators objected to the additional costs associated with the proposed

[1] Other regulations which set forth either further registration requirements or exemptions from registration remain unaffected. *See, e.g.*, 17 CFR 1.10 (financial reports of futures commission merchants); 17 CFR 4.13 (exemption from registration for certain commodity pool operators and commodity trading advisors). The Commission has recently proposed amendments to § 4.13 which would broaden the exemption from registration for certain commodity pool operators 45 FR 51600, 51605 (August 4, 1980).

[2] A futures commission merchant is an individual, association, partnership, corporation, or trust engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market and that, in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom. Section 2(a)(1) of the Commodity Exchange Act ("Act"), 7 U.S.C. 2.

[3] A commodity trading advisor is any person who, for compensation or profit, engages in the business of advising others, either directly or through publications or writings, as to the value of commodities or as to the advisability of trading in any commodity for future delivery on or subject to the rules of any contract market, or who for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning commodities; but does not include (i) any bank or trust company, (ii) any newspaper reporter, newspaper columnist, newspaper editor, lawyer, accountant, or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher of any bona fide newspaper, news magazine, or business or financial publication of general and regular circulation including their employees, (v) any contract market, and (vi) such other persons not within the intent of this definition as the Commission may specify by rule, regulation, or order: *Provided*, That the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession. Section 2(a)(1) of the Act, 7 U.S.C. 2. *See also* Section 4m of the Act, 7 U.S.C. 6m, *as amended by* Futures Trading Act of 1978, Pub. L. 95–405, § 8, 92 Stat. 870; 17 CFR 4.12, 4.13(b).

[4] A commodity pool operator is any person engaged in a business which is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market, but does not include such persons not within the intent of this definition as the Commission may specify by rule or regulation or by order. Section 2(a)(1) of the Act, 7 U.S.C. 2. *See also* 17 CFR 4.12, 4.13(a).

[5] Proposed §§ 1.10(a)(1)(iv), 1.10c(d), 1.10d(d).

[6] Proposed §§ 1.10a(a), (c).

[7] An associated person is any natural person who is associated with a futures commission merchant or with an agent of a futures commission merchant as a partner, officer, or employee (or a natural person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation or acceptance of customers' orders (other than in a clerical capacity) or (ii) the supervision of any person or persons so engaged. Section 1.3(aa); *see* Section 4k of the Act, 7 U.S.C. 6k, *as amended by* Futures Trading Act of 1978, Pub. L. 95–405, § 7, 92 Stat. 869–70. The Commission has recently issued an interpretative statement regarding the scope of the term "supervision" in the AP registration requirement in Section 4k of the Act. 45 FR 54032 (August 14, 1980).

[8] Proposed §§ 1.10b(c)(2), (d)(3).

fingerprinting requirements and, as described more fully below, were virtually unanimous in requesting that the Commission exempt (or "grandfather") certain individuals from those requirements as a means of reducing such costs.

The Commission has considered these comments and further analyzed its proposal. As a result of these further considerations, the Commission believes that certain amendments can be made in the fingerprinting proposal to reduce the cost of the program without at the same time so altering the program that it would not meet the regulatory objectives, set forth above, which have made fingerprinting necessary.

The first such change relates to the suggestion of several commentators that the Commission waive the fingerprinting requirement for those individuals who are registered with the Commission or who are currently affiliated with registrants as principals. The Commission believes that this suggestion has merit, that, as mentioned, the regulatory objectives of the fingerprinting program can be met, and the cost associated with fingerprinting—both to the industry and to the Commission—can be reduced by providing such a limited exemption. Accordingly, the Commission has determined not to require the fingerprinting of those principals and floor brokers[9] who have a "current"[10] Form 8–R or Form 94 on file with the Commission on July 1, 1981, the effective date of the regulations. Further, any principal or floor broker who does not qualify for the exemption described above and who is therefore required to file a fingerprint card with the Commission in accordance with §§ 3.10–3.14, in general will not be required to file another fingerprint card in connection with a later registration as a floor broker[11] or affiliation with a registrant as a principal.[12]

As noted above, proposed § 1.10b (d)(3) would have required an associated person to be fingerprinted at the time his current registration expired if he wished to remain associated with the sponsoring futures commission merchant or its agent as an associated person. For the reasons stated with respect to principals and floor brokers, the Commission has determined that the costs of such a requirement outweigh the regulatory benefits. The regulations have therefore been modified so that an associated person who is registered as such on July 1, 1981 will not be required to be fingerprinted when he must become sponsored by his firm at the expiration of his existing registration; such a person will, however, be required to file a fingerprint card if he subsequently applies for re-registration with a different sponsoring FCM or its agent.[13]

Three commentators also questioned the need to obtain a fingerprint card each time an individual applied for registration or re-registration as an associated person. The Commission, however, believes that this requirement is necessary. The CFTC routinely sends copies of Form 8–Rs to the FBI to determine if the applicant for registration or principal has a criminal record, and the FBI check reveals criminal records for a significantly greater percentage of AP applicants than for either floor broker applicants or principals. Further, based upon the Commission's experience through its administrative proceedings against registrants, the volume of complaints received, and the reparations cases which have been brought, it appears that APs are the category of registrant most likely to be involved in activities which bring into question their fitness. Moreover, such activity frequently occurs in a time frame fairly contiguous to the AP's change in firm. The Commission notes in this context, however, that any AP who, on the July 1, 1981 effective date of § 3.12, is associated with an FCM or its agent and is thereafter sponsored by that FCM will not be required to be fingerprinted as long as he remains with that FCM or its agent.

A number of commentators noted that an individual simultaneously applying for registration in both the commodity and securities industries (*e.g.*, as an AP and as a registered securities representative) might be permitted to start selling securities based on a "clean" fingerprint record with the FBI, but be precluded from registration as an AP because the fingerprints submitted with his Form 8–R were illegible and could not be checked by the FBI at the same time. The commentators suggested that in such instances, the Commission should modify the proposed rules so that an FCM/securities broker or dealer could file photocopies with the CFTC of all reports, including the fingerprint card and the criminal history sheet, if any, produced for the securities industry registration. The Commission believes this is a sensible suggestion and is therefore adding a new § 3.21 for its implementation.[14]

Some commentators urged the Commission to adopt a regulation comparable to Securities and Exchange Commission ("SEC") rule 17f–2(b),[15] which would exempt from fingerprinting those persons who are fingerprinted pursuant to any other law, rule, or regulation of any state, the Federal government, or respective agencies thereof, and submit, or cause to be submitted, such fingerprints to the Attorney General of the United States for identification and appropriate processing. In the past, the Commission has taken steps to reduce or avoid, in appropriate instances, the duplicative regulation of those Commission registrants which are also subject to regulation by the SEC.[16] In this instance, however, the Commission believes that adoption of the suggested approach is inappropriate in view of the differing statutory standards of fitness that are applied in the respective industries[17] and in view of the exemptions described above which the Commission is adopting for existing CFTC registrants and principals and for any individual who wishes to submit a photocopy of his FBI report.[18]

In the **Federal Register** release announcing the proposed regulations,

[9] A floor broker is any person who, in or surrounding any "pit," "ring," "post," or other place provided by a contract market for the meeting of persons similarly engaged, shall purchase or sell for any other person any commodity for future delivery on or subject to the rules of any contract market. Section 2(a)(1) of the Act. 7 U.S.C. 2.

[10] Section 3.1(b).

[11] Section 3.11(b).

[12] Sections 3.10(a)(2)(ii), (c)(2); 3.13(a)(2)(ii), (c)(2); 3.14(a)(2)(ii), (c)(2).

[13] Sections 3.12(c)(3), (d)(3).

[14] The exemption in § 3.21 is limited, however, and a person who is simultaneously applying for registration in the commodity and securities industries will not be permitted to submit a Form 8–R without a required fingerprint card in contemplation of later submitting photocopies of the FBI report produced for his securities industry registration.

[15] 17 CFR 240.17f–2(b).

[16] For example, the Commission amended §§ 1.10, 1.12, 1.16, 1.18 and 1.52 of its regulations to allow those FCMs, or applicants for registration therefor, which are registered with the SEC as securities brokers or dealers to comply with the Commission's financial reporting requirements by filing copies of Part II of the SEC's Financial and Operational Combined Uniform Single Report in lieu of the Commission's Form 1–FR. 45 FR 2019 (January 10, 1980).

[17] *Compare* Sections 4n (5), (6) and 8a (2), (3) of the Act, 7 U.S.C. 6n (5), (6) and 12a (2), (3) *and* 45 FR 14210 (March 5, 1980) (interpretation of factors for denial of registration for other good cause shown pursuant to Section 8a(2)(B) (ii) of the Act, 7 U.S.C. 12a(2)(B) (ii)) *with* Sections 3(a)(39) and 15(b)(4) of the Securities Exchange Act of 1934, 15 U.S.C. 78c(a)(39), 78o(b)(4).

[18] The Commission further notes that the SEC has indicated that its rule 17f–2(b) is not applicable if the fingerprints have been submitted in a connection other than employment or association with the *present employer*. Consequently, persons who were fingerprinted for induction into the Armed Forces, for governmental employment, or for employment with entities other than the present employer cannot claim that exemption. 41 FR 13594, 13595 (March 31, 1976).

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the Commission indicated that, based upon the comments received and its own further evaluation of the proposed fingerprinting program, it might adopt further provisions designed to assure the identity of the fingerprinted individual. The Commission specifically invited suggestions regarding possible further security measures and invited comments as to the need for, appropriateness of, and possible added costs of such additional measures.[19] The comments received in response to this inquiry have not convinced the Commission that such further security measures are appropriate and the Commission has not amended the regulations to provide such measures. If experience with the fingerprinting program later reveals significant abuses, the Commission will consider further steps to assure the integrity of the program at that time.[20]

"Principal." Several commentators observed that the Commission's proposed definition of the term "principal" was too broad in that it could include individuals who have no relationship to those activities of a registrant which are subject to regulation by the Commission. Two commentators further suggested that the definition should include the term "designated supervisor" because there are numerous instances in which a sales location may not have a formally designated branch office manager or in which the person responsible for supervising commodity business in accordance with Commission regulation 166.3 [21] may be someone other than the branch office manager. The Commission agrees and has included the suggested term. In addition, the Commission has reorganized § 3.1(a) to clarify the scope of its coverage.[22]

Registration of FCMs, CTAs and CPOs. Proposed §§ 1.10(a)(1), 1.10c and 1.10d would have required the existing principals of registered FCMs, CTAs, or CPOs to be fingerprinted and to complete a Form 8–R and would have required firms to file those Forms and fingerprint cards for their principals. For the reasons already stated, the Commission has decided to "grandfather" existing principals and excuse them from those requirements. In addition, the Commission has retained that portion of its proposal which exempts from those requirements any principal who has already filed a Form 8–R and a fingerprint card in accordance with the requirements of §§ 3.10–3.14.[23] Thus a principal of an applicant for initial registration as an FCM, CTA or CPO or a newly added principal of an existing FCM, CTA or CPO will, at most, be required to submit a Form 8–R and a fingerprint card only once in connection with being a principal.[24]

A number of commentators noted the lack of any registration requirement for the non-clerical employees and agents of CTAs and CPOs who are involved in advising members of the public regarding commodities and in raising capital for commodity pools and stated that this results in inadequate protection for commodity customers and that the Commission should adopt regulations requiring the registration of such individuals. The Commission is well aware of these arguments and has, in connection with a separate proposal to amend Part 4 of its regulations, given notice that it is considering adopting such rules and has invited public comment on this subject.[25]

Registration of associated persons. Beginning July 1, 1981, an individual will have to be associated with a particular, sponsoring FCM or its agent to be granted registration as an AP. With the exceptions specified in § 3.12(b), such a registration will remain in effect indefinitely; the current requirement of biennial renewal of registration will, therefore, be eliminated. Further, and except as specified in the expedited registration provisions of § 3.12(d), each application for registration as an associated person will be deemed to be an application for initial registration, subject to denial or withdrawal under Section 8a(2) of the Act [26] and § 3.20 of the Commission's regulations.[27]

While a number of commentators were supportive of the Commission's proposal, other commentators voiced concern that the regulation might be unduly burdensome to the sponsoring FCMs. The Commission has carefully considered these comments and has found, based upon the record, that the benefits enumerated above far outweigh the added costs to FCMs. Based upon its careful review of the record, however, the Commission is persuaded that certain changes, discussed below, accommodate the majority of the commentators' concerns without an unacceptable sacrifice of the Commission's regulatory objectives.

Under section 3.12(c)(1)(ii), the sponsoring FCM must verify the accuracy of the education and employment history supplied by an AP applicant while § 3.12(c)(1)(iii) requires the firm to certify that to the best of its knowledge, information, and belief, all of the publicly available information supplied on by Form 8–R is accurate and complete. As the Commission stated when it proposed these requirements, background screening is already conducted by many firms and the required screening procedures are not expected to increase significantly the costs for such firms. Moreover, the proposed sponsorship requirements do no more than make uniform what should be the ordinary and customary practice for every responsible FCM and the anticipated upgrading of quality overall among registrants should ultimately lower costs by reducing turnover of personnel, lost business due to customer dissatisfaction, and litigation arising from the acts of employees.[28]

The Commission appreciates, however, as some commentators pointed out, that an FCM may need 4–5 weeks to complete its background check of the applicant prior to the submission of the Form 8–R. Further, as was noted in the **Federal Register** notice proposing these regulations, a minimum of 8–10 weeks is required for the Commission to process an application after it is filed, and in routine cases, most of this time is necessary for the FBI to check its records.[29] In view of the comments and its own further study of this problem, the Commission believes that the overall time required can be reduced by permitting the Commission and the FCM to proceed simultaneously with their processing of the Form 8–R and the final regulation has been modified to permit this "dual processing" of applications. As adopted, the final regulations permit an FCM to file the Form 8–R, registration fee and, in appropriate cases, fingerprint card before the firm completes its required checks; the FCM is then able to submit the required certifications when it has completed its screening of the application.[30]

The Commission specifically requested comments concerning the appropriateness and desirability of retaining the current educational background question on Form 8–R.[31] Most commentators who responded favored retaining the question, but some of them noted the difficulty of verifying such information, particularly where such information dates back several years, and alluded to a similar problem with respect to the applicant's employment history. The Commission, having carefully weighed the stated objectives of the regulations against these comments and its own desire to avoid undue regulatory burdens, has concluded that FCM verification for these categories can be limited to the preceding five years. The Commission would expect to alter this requirement if its experience indicated the need to do so.

Several commentators apparently did not clearly understand the scope of the requirement that sponsoring FCMs certify the publicly available information supplied by the applicant on Form 8–R. The Commission, therefore, wishes to provide further guidance. If, for example, an AP applicant or registrant answered "Yes" in response to any of the questions in the proposed Form 8–R which relate to regulatory and judicial sanctions (questions 14–19), the sponsoring FCM would be required to make whatever inquiries were necessary to certify that the individual's representations about, and documentation of, the status or disposition of the matter were, in fact, accurate and complete. If in certain instances, however, a sanction or judgment has been sealed or expunged so that the information in question is not "publicly available," a sponsoring FCM would be unable and therefore not required to certify its accuracy. Further, while § 3.12(c)(1)(iii) requires the sponsoring FCM to investigate and document any adverse, publicly available information *which is reflected in the application,*[32] the Commission wishes to emphasize that the regulation would not, as one commentator stated, "require an FCM to search the public records in every county in every state, peruse the records of the federal courts, or * * * obtain negative information in an applicant's past when there is no indication of such on the application."

One commentator inquired as to what procedure the Commission contemplated when an FCM, consistent with § 3.12(c)(1)(i), has certified its intention to hire an applicant if he becomes registered as an AP but subsequently, the firm's business needs change or it obtains information about the applicant which calls into question his fitness for registration. In such an instance, the sponsoring FCM or its agent could simply decline to hire the individual and, consistent with § 3.31(c)(1), notify the Commission of that decision. In those instances where the decision is based upon the FCM's discovery of such information about the applicant, a decision to withdraw an offer of employment would be consistent with one of the underlying purposes of FCM sponsorship of associated persons.

The Commission specifically invited comments on whether it would be appropriate to prohibit an associated person from having more that one sponsor at a time.[33] The Commission has carefully considered the comments it received on this point, virtually all of which were in opposition to "multiple sponsorship." In view of the obvious difficulties of supervision in such a situation[34] and in view of the inherent possibilities for conflicts of interest that might arise if an AP were to have more than one sponsor, the Commission has determined that it is necessary and appropriate generally to prohibit an AP from being associated with more than one FCM or agent of an FCM at any time.[35] In making this finding, the Commission has concluded that the possible adverse effects of such a limitation on competition are outweighed by its regulatory benefits. Based upon both the Commission's past experience and upon the comments, it appears that very few persons will be adversely affected by this decision. The Commission nonetheless wishes to emphasize that the regulations provide an exemption procedure for any person who is so affected.[36]

Section 3.12(d) provides an expedited re-registration procedure for certain APs which was generally supported by the commentators. Some of those commentators were concerned, however, because the proposal would have made it necessary, as a practical matter, for the sponsoring FCM to telephone the Commission's Registration Unit to confirm that the applicant qualified for the expedited procedure, thereby causing unwarranted delays. The Commission shares this concern and has modified the regulation so that it is the applicant who must certify his eligibility for the expedited procedure.[37]

As proposed, the expedited procedure described above would have been available, *inter alia,* to any person whose registration as an AP had terminated in the preceding thirty days.[38] In response to the Commission's specific request for comments concerning the appropriateness of this 30-day period,[39] several commentators stated that the grace period was too short. The Commission has doubled the permissible interval between sponsorships so that an AP will now have 60 days after the termination of his earlier employment during which he can use the expedited procedure. The Commission believes that to go beyond this 60-day period would increase the probability that adverse factors affecting the individual's fitness may have occurred in the interim and would, therefore, jeopardize the purposes of AP sponsorship.

One commentator noted that the proposed expedited registration procedure would not be available to any associated person who, *inter alia,* was the subject of a pending administrative proceeding which sought to deny, suspend or revoke that person's registration with the Commission.[40] This commentator suggested the deletion of this qualification because it would have the effect of withholding registration from such an applicant until he completed the "regular" registration process.

One of the central objectives of registration is to insure, to the extent reasonably possible, the fitness of each individual who is granted registration by the Commission and, as noted earlier, each association with an FCM or its agent will require such a grant of registration. The Commission, however, has carefully reviewed the proposed exception to the expedited registration

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[19] 45 FR 18358, 18357 n.15 (March 20, 1980).

[20] Applicants for registration and principals should be aware that the willful misrepresentation of the identity of an individual by the submission to the Commission of a false fingerprint card or photocopy thereof would constitute a criminal offense. Section 9(b) of the Act, 7 U.S.C. 13(b); 18 U.S.C. 1001; *see* 18 U.S.C. 2. *See also* Section 13(a) of the Act, 7 U.S.C. 13c(a).

[21] 17 CFR 166.3.

[22] In the **Federal Register** release announcing the proposed regulations, the Commission indicated that proposed § 1.3(v), if adopted, would render unnecessary the separate definition of "principal" contained in 17 CFR 4.10(e). 45 FR 18356, 18358. Upon reconsideration of the differing interests to be served by registration and by the disclosure requirements of the CPO/CTA rules (of which § 4.10(e) is a part), the Commission has determined not to rescind § 4.10(e).

[23] Sections 3.10 (a)(2), (c); 3.13 (a)(2), (c); 3.14 (a)(2), (c).

[24] Those persons remain subject, however, to the provisions of § 3.12, which governs the registration of associated persons, and to the supplemental filing provisions of § 3.22.

[25] 45 FR 51600, 51601 (August 4, 1980).

[26] 7 U.S.C. 12a(2).

[27] Existing § 1.10e, 17 CFR 1.10e, has been redesignated as § 3.20, effective July 1, 1981.

[28] 45 FR 18356, 18357 (March 20, 1980).

[29] *Id.* at 18357 n.14.

[30] Section 3.12(c)(2). The Commission has also increased from thirty to sixty days the time period in which an FCM is allowed to submit those items for an AP who has used the expedited registration procedures. Section 3.12(d)(3).

[31] 45 FR 18356, 18359 n.39 (March 20, 1980).

[32] *Id.* at 18359.

[33] *Id.* at 18356 n.4.

[34] *See* Commission rule 166.3, 17 CFR 166.3.

[35] Section 3.12(f).

[36] Section 3.12(g). A petition for relief from the prohibition against dual and multiple associations should reflect the agreement of not only the affected AP(s), but also of both or all of the FCMs that would be sponsoring the AP(s).

[37] Section 3.12(d)(2); proposed Form 8–S.

[38] Proposed § 1.10b(d). Both the Commission's proposal and the regulation it is adopting today also make this procedure available to any person whose registration as an AP was *granted* within the preceding year or who, at the time of the first expiration of that person's registration as an AP subsequent to the July 1, 1981 effective date of the regulation, is associated with the sponsoring FCM or its agent as an associated person. Section 3.12(d)(1); proposed § 1.10b(d).

[39] 45 FR 18356, 18359 n.41 (March 20, 1980).

[40] Proposed § 1.10b(d)(1)(iii).

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procedure and has determined that it should be deleted.

Section 3.12(d)(1)(iv) instead requires that in those instances where the applicant is the subject of pending proceedings to deny, suspend or revoke his registration in any capacity or where the applicant has, within the preceding year, been allowed to withdraw an application for registration in any capacity, the applicant must certify that the sponsoring FCM has been given a copy of the complaint or letter issued by the Commission in connection with that proceeding or withdrawal. The sponsoring FCM is not required to certify that it has received a copy of that complaint or letter unless the applicant has indicated that he is within the scope of that provision.[41] The Commission emphasizes, however, as it did when it proposed these regulations, that the granting of registration under this expedited procedure does not, and in fact, could not constitute a finding of fitness.[42]

In the **Federal Register** notice accompanying the proposed rules, the Commission proposed to delete the registration requirement for certain foreign associated persons.[43] One commentator requested clarification of whether an AP would have to register as such if he were employed by a non-domestic agent of an FCM and neither solicited nor accepted orders from persons residing within the United States. As long as a person neither solicits nor accepts orders from within, or from any person residing within, the United States, its territories or possessions, nor supervises any person or persons so engaged, he will not have to register as an AP, irrespective of whether he is associated with an FCM or with an agent of an FCM.

Agents of FCMs. Some commentators questioned whether an FCM can be expected to certify the intent of its agent to employ an applicant for AP registration. Section 3.12(c)(1)(i) requires an FCM only to certify its *present* intention, or that of its agent, to hire the applicant as an AP. The regulation does not, however, impose an inflexible obligation; if, as noted above, the business needs of the FCM or of the agent should change, or if the FCM discovers adverse information about the applicant in the course of its screening of the Form 8–R, the FCM can simply withdraw its sponsorship of the applicant and so notify the Commission.[44]

[41] Section 3.12(d)(1)(v).
[42] 45 FR 18356, 18359 (March 20, 1980).
[43] *Id.* at 18360.
[44] *See* § 3.31(c)(1).

Certain commentators questioned generally the Commission's authority to require the sponsorship by an FCM of an AP who is associated with an agent of that FCM. The Commission's authority in this regard is clear. The Commission is empowered by the Act, and in particular, by Sections 4k (1) and (2), 4p, 8a(1), and 8a(5) thereof, to specify conditions under which a person may be registered as an AP.

Section 4k(1) of the Act makes it unlawful for any person to be associated with a futures commission merchant or its agent in any capacity which involves the solicitation or acceptance of customers' orders (other than in a clerical capacity) or the supervision of other persons so engaged unless (with exceptions not here relevant) that person is registered with the Commission. Section 4k(1) further makes it unlawful for an FCM or its agent to permit any person performing those functions to become or to remain associated with that FCM or its agent unless he has first been registered in accordance with that section. The Commission has determined that FCM sponsorship is necessary to assure that the applicant for registration will, in fact, be associated with an FCM as required by the Act. Further, in enacting Section 4k, Congress expected the Commission to grant registration only to those individuals who were fit to stand in a fiduciary relationship to the public.[45] As such, Congress authorized the Commission in Section 4k(2) to specify that all applications for registration as an associated person shall be "in the form and manner prescribed by the Commission, giving information and facts as the Commission may deem necessary," and it is axiomatic that "the width of administrative authority must be measured in part by the purposes for which it is conferred."[46] Thus, when Section 4k is read as a whole and in light of the underlying Congressional purpose, any question of the Commission's authority to require sponsorship is removed.

In addition, Section 8a(1) of the Act[47] authorizes the Commission to register APs "in accordance with rules and regulations and in [the] form and manner to be prescribed by the Commission * * * " while Section 4p provides, in pertinent part, that "[t]he Commission may specify by rules and regulations appropriate standards with respect to training, experience, and such other qualifications as the Commission finds necessary or desirable to insure the fitness of * * * those persons associated with futures commission merchants * * *." As such, it is within the Commission's discretionary authority to find, and the Commission has so found, that the sponsorship of an applicant for registration as an associated person is a "qualification" that is "necessary or desirable" to insure the applicant's fitness. This finding is consistent with the Congressional determination that the system of registration that existed prior to the 1974 amendments to the Act[48] was inadequate to control the abuses that were perpetrated by "customers' men" who had mishandled customers' accounts and who could change jobs without their new employer being aware of their derelictions. In amending the Act to require the registration of only those associated persons who were not found to be unfit, it was contemplated by the Congress that the Commission would prevent this problem from recurring in the future.[49]

The express power to promulgate regulations under Sections 4p and 8a(1) is supplemented by the Commission's broad general authority under Section 8a(5) "to make and promulgate such rules and regulations as, in the judgment of the Commission, are reasonably necessary to effectuate any of the provisions or to accomplish any of the purposes of this Act."[50] Section 8a(5) enables the Commission not only to adopt regulations to effectuate a particular statutory provision but also to impose requirements to accomplish the Act's purposes even in the absence of a specific statutory source.[51] It is the judgment of the Commission that, consistent with Section 8a(5) of the Act, the requirements that the Commission is adopting today with respect to the registration of associated persons are reasonably necessary to effectuate Sections 4k, 4p, and 8a(1) of the Act and to accomplish one of the purposes of the Act, which is to assure the fitness of

[45] 40 FR 20614, 20615 (1975); *cf.* Savage v. CFTC, 548 F. 2d 192, 196 (7th Cir. 1977); CFTC v. J. S. Love & Assocs. Options, Ltd., 422 F. Supp. 652, 659 (S.D.N.Y. 1976); Klatt v. International Trading Group, Ltd., [1977–1980 Transfer Binder] COMM. FUT. L. REP. (CCH) ¶20,636, at 22,598 (CFTC 1978).
[46] Permian Basin Area Rate Cases, 390 U.S. 747, 776 (1968).
[47] 7 U.S.C. 12a(1), *as amended by* Futures Trading Act of 1978, Pub. L. 95–405, § 17(1), 92 Stat. 874.
[48] Commodity Futures Trading Commission Act of 1974, Pub. L. 93–463, 88 Stat. 1389.
[49] *See* H.R. REP. 93–975, 93d Cong., 2d Sess. 78 (1974).
[50] 7 U.S.C. 12a(5).
[51] Ames v. Merrill Lynch, Pierce, Fenner and Smith, Inc., 567 F. 2d 1174, 1177–78 (2d Cir. 1977); Board of Trade Clearing Corp. v. United States [1977–1980 Transfer Binder] COMM. FUT. L. REP. (CCH) ¶20,534, at 22,206–07 (D.D.C. 1978), *aff'd.* No. 78–1263 (D.C. Cir. March 29, 1979).

those persons who are registered with the Commission as associated persons.

As noted above, a few of the commentators inquired as to the Commission's authority to require the sponsorship by an FCM of an AP who is associated with an agent of that FCM. A person associated with an agent of an FCM as an AP is necessarily an agent of that FCM. An FCM is, of course, responsible for the acts of its agents.[52] Thus, and for the reasons stated above with respect to the Commission's authority to require sponsorship, the Commission may similarly require the sponsorship by an FCM of those APs who are associated with an agent of an FCM.

Regulations being adopted without prior notice. The Commission is today adopting two regulations without prior notice—§ 3.1(b), which defines "current" with respect to a Form 8–R or a Form 94 that has been filed with the Commission, and § 3.21, which allows the filing in certain circumstances of a photocopy of a fingerprint card and any accompanying FBI report. Sections 3.1(b) and 3.21 are being adopted solely to enable the Commission to grant the specific exemptions discussed above from the general applicability of the fingerprinting requirements which are being adopted today. These sections impose no added obligations and, to the extent they affect substantive responsibilities, they do so in conjunction with amended fingerprinting requirements to reduce the costs of compliance. Accordingly, the Commission finds that prior notice of these regulations is unnecessary.

The Commission is also amending § 3.4 to provide notice of an AP's registration to the sponsoring FCM rather than to the AP. The Commission received comments suggesting this change and finds that it is consistent with proposed § 1.10b(c)(3). Prior notice of this change is, therefore, unnecessary.

The Commission is also making certain technical amendments to Commission regulation 1.10e (which is being renumbered as § 3.20). In general, the regulation provides streamlined procedural steps in certain enumerated circumstances either for the denial or withdrawal of a registration application or for the commencement of a hearing for the purpose of determining a person's fitness for registration. The amendments merely update the regulation in view of a recently published Commission interpretation of the grounds which constitute "other good cause" for denial of registration pursuant to Section 8a(2)(B)(ii) of the Act, 7 U.S.C. 12a(2)(B)(ii).[53] Prior notice of this change is, therefore, unnecessary.

Lastly, the Commission is amending existing § 1.15(a) of its regulations so that an individual who is registered solely as a floor broker or as an AP will not be required to re-register in the event of a change in the name of that individual. The Commission finds that the existing requirement in § 1.15(a) (and on and after July 1, 1981, § 3.32(a)) is unnecessary in its application to floor brokers and APs inasmuch as this information is already required, and would continue to be required, to be reported by floor brokers and APs to the Commission under its regulations.[54] Any person who is registered as an FCM, CTA or CPO will, however, continue to be required to apply for a new registration as such in the event of a change in name.

[52] Section 2(a)(1) of the Act, 7 U.S.C. 4; Commission rule 1.2, 17 CFR 1.2; *see* Commission rule 166.3, 17 CFR 166.3.

III. Table Cross-Indexing Existing and Proposed Regulations to New Section Numbers in 17 CFR Part 3

Existing or proposed section	Part 3 designation
§ 1.3(v)—Proposed	§ 3.1(a)
§ 1.7	§ 3.10(d)
§ 1.9	§ 3.2
§ 1.10(a)	§ 3.10(a)–(c)
§ 1.10e	§ 3.11
§ 1.10b	§ 3.12
§ 1.10c	§ 3.13
§ 1.10d	§ 3.14
§ 1.10e	§ 3.20
§ 1.10f—Proposed	§ 3.22
§ 1.11	§ 3.3
§ 1.13	§ 3.4
§ 1.14	§ 3.31(a)–(b)
§ 1.14(d)—Proposed	§ 3.31(c)(1)
§ 1.15	§ 3.32

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act, and in particular, sections 2, 4d, 4e, 4f, 4k, 4m, 4n, 4p, and 8a thereof, 7 U.S.C. 2, 4 and 4a, 6d, 6e, 6f, 6k, 6m, 6n, 6p, and 12a, *as amended*, 92 Stat. 865 *et seq.*, the Commission hereby designates the following Part 3 of Chapter I of 17 CFR. In adopting these rules, the Commission has taken into consideration the public interest to be protected by the antitrust laws and has endeavored to take the least anticompetitive means of achieving the regulatory objectives of the Commodity Exchange Act.

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.3(aa) is amended to read as follows:

§ 1.3 Definitions.

* * * * *

(aa) *Associated person.* This term means any natural person who (as provided in section 4k of the Act) is associated with a futures commission merchant or with an agent of a futures commission merchant, as a partner, officer, or employee (or any natural person occupying a similar status or performing similar functions), in any capacity which involves (1) the solicitation or acceptance of customers' orders (other than in a clerical capacity) or (2) the supervision of any person or persons so engaged.

* * * * *

Minimum Financial and Related Reporting Requirements

2. The heading "MINIMUM FINANCIAL AND RELATED REPORTING REQUIREMENTS" is inserted preceding § 1.10.

§ 1.10 [Amended]

3. In § 1.10, the section heading is amended to read "Financial reports of futures commission merchants" and paragraph (a)(1) is deleted and reserved.

§§ 1.7, 1.9, 1.10a, 1.10b, 1.10c, 1.10d, 1.10e, 1.11, 1.13, 1.14 and 1.15 [Removed]

4. Sections 1.7, 1.9, 1.10a, 1.10b, 1.10c, 1.10d, 1.10e, 1.11, 1.13, 1.14 and 1.15 are deleted and reserved and the heading "Registration" preceding § 1.7 is deleted.

5. Chapter I of 17 CFR is revised by adding a new Part 3 as follows:

PART 3—REGISTRATION

Sec.
3.1 Definitions.
3.2 Registration as one type of person not included in registration as any other type of person.
3.3 Registration fees; form of remittance.
3.4 Notification of registration.
3.5–9 [Reserved]
3.10 Registration of futures commission merchants.
3.11 Registration of floor brokers.
3.12 Registration of associated persons.
3.13 Registration of commodity trading advisors.
3.14 Registration of commodity pool operators.
3.15–19 [Reserved]
3.20 Delegation of authority to deny registration.
3.21 Exemption from fingerprinting requirement in certain cases.
3.22 Supplemental filings.
3.23–30 [Reserved]
3.31 Deficiencies, inaccuracies, and changes, to be reported.
3.32 Changes requiring new registration.

Authority: 7 U.S.C. 2, 4, 4a, 6d, 6e, 6f, 6k, 6m, 6n, 6p, and 12a.

[53] 45 FR 14210 (March 5, 1980).
[54] Commission rule 1.14(b), 17 CFR 1.14(b); *see* § 3.31(b); proposed Form 8–R.

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§ 3.1 Definitions.

For purposes of this part:

(a) *Principal.* Principal means, with respect to an applicant for registration, a registrant or a person required to be registered under the Act or these regulations: (1) any person including, but not limited to, a sole proprietor, general partner, officer, director, branch office manager or designated supervisor, or person occupying a similar status or performing similar functions, having the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over activities of that person which are subject to regulation by the Commission; (2) any holder of more than ten percent of the outstanding shares of any class of stock; or (3) any person who has contributed more than ten percent of the capital.

(b) *Current.* As used in §§ 3.10–3.14, a current Form 8–R or Form 94 is any such Form which has been filed by or on behalf of a registrant or a principal if, subsequent to the filing of that Form, that registrant or principal has been continuously registered or continuously affiliated with a registrant as a principal.

§ 3.2 Registration as one type of person not included in registration as any other type of person.

Registration as one type of person subject to regulation under the Act shall not include registration as any other type of person subject to regulation under the Act, except that a natural person who is registered as a futures commission merchant or as a floor broker (and such registration is not suspended or revoked) need not also register as an associated person.

§ 3.3 Registration fees; form of remittance.

Each application for registration, or renewal thereof, as a futures commission merchant must be accompanied by a fee of $200, plus a fee of $6 for each domestic branch office and for each correspondent or agent, operating within the United States, authorized to solicit or accept orders for the purchase or sale of any commodity for future delivery on behalf of the applicant. Each application for registration, or renewal thereof, as a floor broker must be accompanied by a fee of $20. Each Form 8–R submitted in connection with the registration of an associated person must be accompanied by a fee of $20. Each application for registration, or renewal thereof, as a commodity trading advisor or commodity pool operator must be accompanied by a fee of $50. Fees must be remitted by money order, bank draft, or check, payable to the Commodity Futures Trading Commission. All registration fees are nonrefundable, unless the applicant withdraws the application before any processing of that application has occurred.

§ 3.4 Notification of registration.

Upon receipt of an application for registration or renewal thereof the Commission will, if registration is granted, notify the registrant that he has been registered under the Act, except that with respect to an application for registration of an associated person, the Commission will notify the futures commission merchant with which the registrant is associated.

§§ 3.5–3.9 [Reserved]

§ 3.10 Registration of futures commission merchants.

(a) *Initial registration.* (1) Application for initial registration as a futures commission merchant must be on Form 7–R, completed and filed with the Commission in accordance with the instructions thereto and the provisions of § 1.10 of this chapter.

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who: (i) on July 1, 1981, has a current Form 8–R or Form 94 on file with the Commission; or (ii) has submitted or caused to be submitted a Form 8–R and a fingerprint card in accordance with the requirements of §§ 3.10, 3.11, 3.12, 3.13 or 3.14.

(b) *Renewal of registration.* Application for renewal of registration as a futures commission merchant must be on Form 7–R, completed and filed with the Commission in accordance with the instructions thereto.

(c) *Addition of principals subsequent to filing of Form 7–R.* Within twenty days after any natural person becomes a principal of the applicant or registrant subsequent to the filing of a Form 7–R in accordance with the requirements of paragraphs (a) or (b) of this section, the applicant or registrant must file a Form 8–R with the Commission. The Form 8–R must be completed by such principal in accordance with the instructions thereto and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission for that purpose. This filing need not be made for any such principal who: (1) on July 1, 1981, has a current Form 8–R or Form 94 on file with the Commission; or (2) has submitted or caused to be submitted a Form 8–R and a fingerprint card in accordance with the requirements of §§ 3.10, 3.11, 3.12, 3.13 or 3.14: *Provided,* that the futures commission merchant must notify the Commission within twenty days of the name of such added principal on Form 3–R.

(d) *Exemption from registration for certain persons.* A person trading solely for proprietary accounts, as defined in § 1.3(y) of this chapter, is not required to register as a futures commission merchant: *Provided,* that such a person remains subject to all other provisions of the Act and of the rules, regulations and orders thereunder.

§ 3.11 Registration of floor brokers.

(a) [Reserved]

(b) *Initial registration.* Application for initial registration as a floor broker must be on Form 8–R, completed and filed with the Commission in accordance with the instructions thereto. Each applicant for initial registration as a floor broker must file his fingerprints with the Form 8–R on a fingerprint card provided by the Commission for that purpose except that a fingerprint card need not be filed by any applicant who: (1) on July 1, 1981 has a current Form 8–R or Form 94 on file with the Commission; or (2) has filed a fingerprint card in accordance with the requirements of §§ 3.10, 3.11, 3.12, 3.13 or 3.14.

(c) *Renewal of registration.* Application for renewal of registration as a floor broker must be on Form 8–R, completed and filed with the Commission in accordance with the instructions thereto. A registrant applying for renewal of registration as a floor broker may incorporate by reference information furnished to the Commission by the registrant on a Form 8–R or supplement thereto previously filed with the Commission if such information remains accurate and unchanged.

§ 3.12 Registration of associated persons.

(a) *Registration required.* It is unlawful for any person to act as an associated person unless registered as such under the Act in accordance with the procedures in paragraphs (c) or (d) of this section, except that this section does not preclude any registered associated person who was so registered on July 1, 1981 from continuing to act as such until that person's current registration expires.

(b) *Duration of registration.* A person registered in accordance with paragraphs (c) or (d) of this section and whose registration has neither been suspended nor revoked will continue to be so registered until: (1) the cessation of the association of the registrant with the futures commission merchant or its agents; or (2) the revocation, suspension, lapse, or withdrawal of the registration of the futures commission merchant with which the registrant is associated.

(c) *Application for registration.* Except as otherwise provided in paragraph (d) of this section, application for registration as an associated person must be on Form 8–R, completed and filed with the Commission in accordance with the instructions thereto.

(1) No person will be registered as an associated person in accordance with this paragraph (c) unless an officer, if the registered futures commission merchant is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship, of such futures commission merchant has signed and dated a certification in writing, stating that:

(i) It is the intention of the futures commission merchant or its agent to hire or otherwise employ the applicant as an associated person and that it will do so within thirty days after the receipt of the notification provided in accordance with paragraph (c)(4) of this section and that the applicant will not be permitted to solicit or accept customers' orders (other than in a clerical capacity) or to supervise any person or persons so engaged until the applicant is registered as an associated person in accordance with this section;

(ii) The futures commission merchant has verified the information supplied by the applicant in response to the questions on Form 8–R which relate to the applicant's education and employment history during the preceding five years, except that this paragraph (c)(1)(ii) does not apply to any person who, at the time of the first expiration of that person's registration as an associated person subsequent to July 1, 1981, is associated with the certifying futures commission merchant or its agent; and

(iii) To the best of the futures commission merchant's knowledge, information, and belief, all of the publicly available information supplied by the applicant on Form 8–R is accurate and complete: *Provided,* That it is unlawful for the futures commission merchant to make the certification required by this paragraph (c)(1)(iii) if the futures commission merchant knew or should have known that any of that information is not accurate and complete.

(2) The certification required by paragraph (c)(1) of this section may be submitted with the Form 8–R or may be submitted separately at a later date.

(3) Each Form 8–R filed in accordance with the requirements of paragraph (c) of this section must be accompanied by the fingerprints of the applicant on a fingerprint card provided by the Commission for that purpose, except that this paragraph (c)(3) does not apply to any person who, at the time of the first expiration of that person's registration as an associated person subsequent to July 1, 1981, is associated with the certifying futures commission merchant or its agent as an associated person.

(4) When the Commission determines that an applicant for registration as an associated person is not unfit for such registration, it will provide notification in writing to the futures commission merchant which has made the certifications required by paragraph (c)(1) of this section that the applicant's registration as an associated person is granted contingent upon the futures commission merchant or its agent hiring or otherwise employing the applicant as such within thirty days.

(d) *Special registration procedures for certain persons.* (1) Any person whose registration as an associated person has terminated within the preceding sixty days, whose registration in accordance with this section has been granted within the preceding twelve months or who, on or prior to the first expiration of that person's registration as an associated person subsequent to July 1, 1981, is associated with the futures commission merchant making the certification permitted by paragraph (d)(1)(i) of this section or its agent will be registered as an associated person of a registered futures commission merchant or its agent upon the mailing by that futures commission merchant to the Commission of written certifications stating:

(i) That such person has been hired or is otherwise employed by that futures commission merchant or its agent;

(ii) That such person's registration as an associated person is not suspended or revoked;

(iii) That such person is eligible to be registered in accordance with this paragraph (d);

(iv) Whether there is a pending proceeding under section 6(b) of the Act or former § 1.10e or § 3.20 to deny, suspend or revoke such person's registration in any capacity or if, within the preceding twelve months, the Commission has permitted the withdrawal of an application for registration in any capacity after instituting the procedures provided in former §1.10e or § 3.20 and, if so, that the certifying futures commission merchant has been given a copy of the complaint or letter issued by the Commission in connection therewith: and

(v) That the futures commission merchant has received a copy of the complaint or letter issued by the Commission if the applicant for registration has certified, in accordance with paragraph (d)(1)(iv) of this section, that there is a proceeding pending against him as described in that paragraph or that the Commission has permitted the withdrawal of an application for registration as described in that paragraph.

(2) The certifications permitted by paragraphs (d)(1)(i) and (d)(1)(v) of this section must be signed and dated by an officer, if the registered futures commission merchant is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship. The certifications permitted by paragraphs (d)(1)(ii)–(iv) of this section must be signed and dated by the applicant for registration as an associated person.

(3) Within sixty days of mailing the certifications permitted by paragraph (d)(1) of this section, the associated person and the futures commission merchant must complete and the futures commission merchant must file with the Commission a Form 8–R in accordance with the instructions thereto. The Form 8–R must contain the certifications required by paragraphs (c)(1)(ii)–(iii) of this section and must be accompanied by the fingerprints of the applicant on a fingerprint card provided by the Commission for that purpose except that a fingerprint card does not have to be submitted for any person who, at the time of the first expiration of that person's registration as an associated person subsequent to July 1, 1981, is associated with the certifying futures commission merchant or its agent as an associated person.

(e) *Retention of records.* The futures commission merchant must retain in accordance with § 1.31 of this chapter such records as are necessary to support the certifications required by this section.

(f) *Dual and multiple associations prohibited.* No person who is associated with a futures commission merchant or with an agent of a futures commission merchant as an associated person may be simultaneously associated with any other futures commission merchant or with any other agent of a futures

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commission merchant as an associated person.

(g) *Petitions for exemption.* (1) Any person adversely affected by the operation of this § 3.12 may file a sworn petition with the Secretary of the Commission, which petition must set forth with particularity the reasons why that person believes that an applicant should be exempted from the requirements of this section and why such an exemption would not be contrary to the public interest. The petition will be granted or denied by the Commission on the basis of the papers filed. The Commission may grant such a petition if it finds that the exemption is not contrary to the public interest and the purposes of the provision from which exemption is sought. The petition may be granted subject to such terms and conditions as the Commission may find appropriate.

(2)(i) Until such time as the Commission orders otherwise, the Commission hereby delegates to the Director of the Division of Trading and Markets or his designee the authority to grant or deny petitions filed pursuant to this paragraph (g).

(ii) The Director of the Division of Trading and Markets may submit to the Commission for its consideration any matter which has been delegated to him pursuant to paragraph (g)(2)(i) of this section.

§ 3.13 Registration of commodity trading advisors.

(a) *Initial registration.* (1) Application for initial registration as a commodity trading advisor must be on Form 7–R, completed and filed with the Commission in accordance with the instructions thereto.

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who: (i) on July 1, 1981, has a current Form 8–R or Form 94 on file with the Commission; or (ii) has submitted or caused to be submitted a Form 8–R and a fingerprint card in accordance with the requirements of §§ 3.10, 3.11, 3.12, 3.13 or 3.14.

(b) *Renewal of registration.* Application for renewal of registration as a commodity trading advisor must be on Form 7–R, completed and filed with the Commission in accordance with the instructions thereto.

(c) *Addition of principals subsequent to filing of Form 7–R.* Within twenty days after any natural person becomes a principal of the applicant or registrant subsequent to the filing of a Form 7–R in accordance with the requirements of paragraphs (a) or (b) of this section, the applicant or registrant must file a Form 8–R with the Commission. The Form 8–R must be completed by such principal in accordance with the instructions thereto and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission for that purpose. This filing need not be made for any such principal who: (1) on July 1, 1981, has a current Form 8–R or Form 94 on file with the Commission; or (2) has submitted or caused to be submitted a Form 8–R and a fingerprint card in accordance with the requirements of §§ 3.10, 3.11, 3.12, 3.13 or 3.14: *Provided,* that the commodity trading advisor must notify the Commission within twenty days of the name of such added principal on Form 3–R.

§ 3.14 Registration of commodity pool operators.

(a) *Initial registration.* (1) Application for initial registration as a commodity pool operator must be on Form 7–R, completed and filed with the Commission in accordance with the instructions thereto.

(2) Each Form 7–R filed in accordance with the requirements of paragraph (a)(1) of this section must be accompanied by a Form 8–R, completed in accordance with the instructions thereto and executed by each natural person who is a principal of the applicant, and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission for that purpose. The provisions of this paragraph (a)(2) do not apply to any principal who: (i) on July 1, 1981, has a current Form 8–R or Form 94 on file with the Commission; or (ii) has submitted or caused to be submitted a Form 8–R and a fingerprint card in accordance with the requirements of §§ 3.10, 3.11, 3.12, 3.13 or 3.14.

(b) *Renewal of registration.* Application for renewal of registration as a commodity pool operator must be on Form 7–R, completed and filed with the Commission in accordance with the instructions thereto.

(c) *Addition of principals subsequent to filing of Form 7–R.* Within twenty days after any natural person becomes a principal of the applicant or registrant subsequent to the filing of a Form 7–R in accordance with the requirements of paragraphs (a) or (b) of this section, the applicant or registrant must file a Form 8–R with the Commission. The Form 8–R must be completed by such principal in accordance with the instructions thereto and must be accompanied by the fingerprints of that principal on a fingerprint card provided by the Commission for that purpose. This filing need not be made for any such principal who: (1) on July 1, 1981, has a current Form 8–R or Form 94 on file with the Commission; or (2) has submitted or caused to be submitted a Form 8–R and a fingerprint card in accordance with requirements of §§ 3.10, 3.11, 3.12, 3.13 or 3.14: *Provided,* that the commodity pool operator must notify the Commission within twenty days of the name of such added principal on Form 3–R.

§§ 3.15–3.19 [Reserved]

§ 3.20 Delegation of authority to deny registration.

(a) The Director or Deputy Director of the Division of Trading and Markets may at any time give written notice to any applicant for registration in any capacity under the Commodity Exchange Act, stating that:

(1) Information has come to his attention which tends to show that one or more of the following circumstances exist: That the applicant or any general partner, officer, director, person performing similar functions, controlling person, or holder of more than ten percent of the stock of the applicant—

(i) Was convicted of any felony in any State or Federal court, or was debarred by any agency of the United States from contracting with the United States, or the applicant willfully made a false or misleading material statement in his application or willfully omitted to state a material fact in connection with the application; or

(ii) Within ten years preceding the filing of the application has been convicted of a misdemeanor which (A) involves any transactions or advice concerning any commodity, contract for future delivery of a commodity, or security; (B) arises out of conduct of the business of a futures commission merchant, associated person, floor broker, commodity trading advisor, commodity pool operator, securities broker, securities dealer, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or employee or affiliated person of any of the foregoing; or (C) involves embezzlement, defalcation, fraudulent conversion, misappropriation of funds, securities or other property, forgery, counterfeiting, false pretenses, gambling, or similar crimes reflecting upon the ability of the applicant, if registered, faithfully to discharge the fiduciary duties imposed by the Act; or

(iii) At the time of the application, is permanently or temporarily enjoined by order, judgment or decree of any court of competent jurisdiction, or is prohibited by agreement or settlement with the Commission or the Securities and Exchange Commission, or any State agency or governmental body, (A) from acting as a commodity trading advisor, commodity pool operator, futures commission merchant, floor broker, securities broker or dealer, municipal securities dealer, transfer agent, clearing agency, securities information processor, investment adviser, investment company, or as an associated or affiliated person or employee of any of the foregoing, or (B) from engaging in or continuing any conduct or practice in connection with any such activity or involving any transaction or advice concerning commodities, contracts for future delivery of commodities, or securities; or

(iv) Within ten years preceding the filing of the application, has been found by any court of competent jurisdiction, by the Commission or the Securities and Exchange Commission, or has admitted by agreement or settlement to which the Commission or the Securities and Exchange Commission is a party, (A) to have violated any provision of the Commodity Exchange Act, the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investors Protection Act of 1970, the Foreign Corrupt Practices Act of 1977, or any similar statute of a State or foreign jurisdiction, or any rule or regulation under any such statutes; (B) to have aided, abetted, counseled, commanded, induced, or procured the violation by any other person of such statutes or rules or regulations; or (C) to have failed reasonably to supervise, with a view to preventing violations of such statutes, rules or regulations, another person who commits such a violation, if such person is subject to his supervision; or

(v) Is subject to an outstanding order of the Commission denying trading privileges on any contract market to such person, or suspending or revoking the registration of such person as a commodity trading advisor, commodity pool operator, futures commission merchant, floor broker, or associated person, or suspending or expelling such person from membership on any contract market or futures association registered under the Act, or refusing such person registration in any capacity;

(2) This information, if true, is a basis upon which the applicant may be found unfit for registration and upon which the applicant's registration may be denied;

(3) Unless the applicant voluntarily withdraws his application it may be necessary, after further investigation of these facts, to institute the public procedures for denial of registration described in paragraph (b) of this section;

(4) In these circumstances, an applicant is required to reconfirm in writing that he wishes to have his application given further consideration; and

(5) Unless the applicant files with the Director or Deputy Director of the Division of Trading and Markets a notification in writing, within thirty days of the date of the notice that the applicant wishes to have his application for registration given further consideration, his application will be deemed to have been withdrawn and will be given no further consideration.

(b) On the basis of apparently credible evidence, the Executive Director may at any time give written notice to any applicant for registration in any capacity under the Commodity Exchange Act that:

(1) The Division of Trading and Markets and the Division of Enforcement allege and are prepared to prove that one or more of the circumstances set forth in paragraph (a)(1) of this section exist;

(2) The allegations set forth in the notice, if true, constitute a basis upon which the applicant may be found unfit for registration pursuant to Section 8a(2)(B) of the Commodity Exchange Act and upon which the applicant's registration may be denied;

(3) The applicant is entitled to a hearing at which he may challenge the truth of the allegations set forth in the notice or show cause why, notwithstanding the truth of those allegations, registration should nevertheless be granted;

(4) A hearing for these purposes may be obtained by filing a written request with the Executive Director within thirty days after the date of the notice to the applicant;

(5) If the applicant does not timely request a hearing he will be deemed to have waived his right to a hearing on all issues concerning his application; and

(6) If the applicant does not timely request a hearing the Commission or the Executive Director or Chief Administrative Law Judge (acting pursuant to authority delegated under paragraph (d) of this section) may thereafter decide whether to grant or deny his registration based upon the facts stated in the notice, which will not have been disputed and which may be deemed to be true for that purpose.

(c) If an applicant should request a hearing in accordance with paragraph (b)(4) of this section, an adjudicatory proceeding on the question of the applicant's fitness for registration shall thereafter be conducted and concluded in accordance with the Commission's Rules of Practice, 17 CFR Part 10; the matter shall be referred to the Chief Administrative Law Judge who shall set a date for hearing and assign an Administrative Law Judge to conduct the proceeding. For purposes of that proceeding, the notice given in accordance with paragraph (b) of this section shall be treated as a duly authorized complaint by the Division of Enforcement seeking, as relief, denial of the application for registration, and the request for hearing shall be treated as an answer which generally denies every allegation contained in the notice upon which a hearing has been requested: *Provided, however,* That (1) the Division of Enforcement may thereafter amend the complaint to seek such other and further relief as may be appropriate in view of the matters charged and, with leave of the Commission, may allege further grounds as a basis for denial of registration; and (2) the applicant may supplement his answer to set forth any affirmative defenses he may wish to assert and the alleged facts upon which those defenses are based. The provisions of §§ 10.22 and 10.23 of the Rules of Practice, concerning a complaint and answer, shall otherwise be inapplicable.

(d) If no request for a hearing is received by the Executive Director within thirty days after a notice has been given in accordance with paragraph (b) of this section, the Executive Director may proceed as follows:

(1) In the case of an applicant for an initial registration, pursuant to authority hereby delegated by the Commission, the Executive Director may determine the applicant's fitness for registration and may issue an order, pursuant to Section 8a(2) of the Commodity Exchange Act, granting or refusing registration to the applicant based upon the application, the notice with proof of service, and an appropriate showing that a hearing has not been requested.

(2) In the case of an applicant for renewal of a registration previously

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granted, the Executive Director may transmit to the Chief Administrative Law Judge a true copy of the application, the notice with proof of service, and an appropriate showing that a hearing has not been requested, and, based thereon, the Chief Administrative Law Judge, pursuant to authority hereby delegated by the Commission, may determine the applicant's fitness for registration and may issue an order, pursuant to Section 8a(2) of the Commodity Exchange Act, granting or refusing registration to the applicant.

(e) Notwithstanding any other provision contained in this section, the Executive Director is hereby delegated authority pursuant to Section 8a(2)(A) of the Commodity Exchange Act to enter an order refusing to register any person if the prior registration of such person has been suspended (and the period of such suspension shall not have expired) or has been revoked.

(f) A copy of any order issued pursuant to paragraph (d) or (e) of this section shall promptly be served upon the applicant and the Division of Enforcement and provided to each member of the Commission. Within fifteen days after service upon an applicant of an order granting or refusing registration issued pursuant to paragraph (d) or (e) of this section, the applicant or the Division of Enforcement may file with the Commission's Secretariat a petition for reconsideration setting forth the grounds in support thereof. The petition of an applicant shall not be based upon any matter of which the applicant had notice and opportunity for hearing under paragraph (b) of this section unless it be claimed, and supported by affidavit, that notice under paragraph (b) of this section was not timely received by the applicant.

(g) An order granting or refusing registration issued pursuant to paragraph (d) or (e) of this section shall be effective as a final order of the Commission thirty days after the date it was served upon the applicant. Within that period the Commission, on its own motion, or based upon a petition filed pursuant to paragraph (f) of this section, may stay the effectiveness of the order and then or thereafter may reverse, affirm or modify the order or direct reconsideration of the order on such basis and in accordance with such procedures as it may determine.

(h)(1) The Director or Deputy Director of the Division of Trading and Markets shall give notice under paragraph (a) of this section only with the concurrence of the Director of the Division of Enforcement or his designee. The Executive Director shall give notice under paragraph (b) of this section only with the concurrence of the Director of the Division of Trading and Markets, the Director of the Division of Enforcement and the Deputy General Counsel, or their designees.

(2) For purposes of this section, notice to and service upon the applicant shall be sufficient if mailed first class properly addressed to the applicant at the address shown on his application or any amendment thereto, and shall be complete upon mailing; a record showing the date upon which a document was duly mailed, and by whom, prepared and retained in the normal course of Commission business, shall be adequate proof of service of the document. Documents submitted to the Executive Director or the Director of the Division of Trading and Markets shall be considered filed only upon actual receipt.

(i) The Commission reserves to itself the decision in any case whether to institute a proceeding to determine whether to refuse an applicant's registration for reasons other than the existence of circumstances described in paragraph (a)(1) of this section.

§ 3.21 Exemption from fingerprinting requirement in certain cases.

(a) Any person who is required by §§ 3.10, 3.11, 3.12, 3.13 or 3.14 to submit a fingerprint card may file, or cause to be filed, in lieu of such card, a legible, true, accurate and complete photocopy of:

(1) A fingerprint card which has been submitted to the Federal Bureau of Investigation for identification and appropriate processing, if such identification and processing has been completed satisfactorily by the Federal Bureau of Investigation not more than ninety days prior to the filing with the Commission of the photocopy; and

(2) Each report, record, and notation made available by the Federal Bureau of Investigation with respect to that fingerprint card.

(b) Each photocopy filed in accordance with this section must be signed and dated thereon. Such signature shall constitute a certification by that individual that the photocopy is true, accurate and complete and must be made by:

(1) *With respect to the fingerprints of an associated person:* An officer, if the futures commission merchant making the certifications required by § 3.12 is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship;

(2) *With respect to the fingerprints of a floor broker:* The applicant for registration; and

(3) *With respect to the fingerprints of a principal of a futures commission merchant, a commodity trading advisor, or a commodity pool operator:* An officer, if the futures commission merchant, commodity trading advisor or commodity pool operator is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship.

§ 3.22 Supplemental filings.

Notwithstanding any other provision of this chapter, the Commission or the Director of the Division of Trading and Markets or his designee, may, at any time, give written notice to any registrant, applicant for registration, or person required to be registered:

(a) That information has come to the attention of the Commission's staff which, if true, could constitute grounds upon which to base a determination that the person is unfit to become, or to remain, registered in accordance with the Act or the regulations thereunder and setting forth such information in the notice, or that the Commission has undertaken a routine or periodic review of the registrant's fitness to remain so registered; and

(b) That the person, or any individual who, based upon his relationship with that person is required to file a Form 8–R in accordance with the requirements of this part, as applicable, must, within five days of receipt thereof, or such shorter period of time as the Commission may specify, complete and file with the Commission a current Form 8–R, in accordance with the instructions thereto, which must be accompanied by that individual's fingerprints on fingerprint cards provided by the Commission for that purpose.

(c) Failure to provide the requested information is a violation of the Commission's regulations which itself constitutes grounds upon which to base a determination that the registrant is unfit to become or to remain so registered.

§§ 3.23–3.30 [Reserved]

§ 3.31 Deficiencies, inaccuracies, and changes, to be reported.

(a) Each applicant or registrant as a futures commission merchant, commodity trading advisor or commodity pool operator shall file promptly with the Commission a statement on Form 3–R to correct any deficiency or inaccuracy in its application for registration, or any schedule or supplemental statement thereto, and to report any change which no longer renders accurate and current the information contained in any of the items on Form 7–R of such application or supplemental statement; or contained in any of the following items on Schedules A, B or C of Form 7–R:

(1) *With respect to a futures commission merchant.* The following items on Schedule A, "Application for Registration as Futures Commission Merchant":

Item 3—Correspondents and agents (excluding employees and associated persons) operating within the United States, authorized to solicit or accept orders in the name of the registrant;

Item 4—Commodity exchanges in the United States in which the registrant has membership privileges; and

Item 5—Participation in commodity option transactions by the registrant.

New domestic branch offices and new correspondents and agents who are operating within the United States and are authorized to solicit or accept orders on behalf of the futures commission merchant shall be reported promptly and fees shall be remitted as provided in § 3.3.

(2) *With respect to a commodity trading advisor.* The following items on Schedule B, "Application for Registration as Commodity Trading Advisor":

Item 4(a)—Manner of furnishing advisory services; and

Item 6—Ownership in, control or management authority over, or reciprocal business arrangements with futures commission merchants, agents of futures commission merchants, commodity pools, commodity pool operators, floor brokers, associated persons or other commodity trading advisors by the registrant or any persons named in Item 5 of Form 7–R.

(3) *With respect to a commodity pool operator.* The following items on Schedule C, "Application for Registration as Commodity Pool Operator":

Item 3—Name and form of organization of each pool operated by the registrant; and

Item 8—Ownership in, control or management authority over, or reciprocal business arrangements with, futures commission merchants or commodity trading advisors by the registrant or any persons named in Item 5 of Form 7–R.

(b) Each applicant or registrant as a floor broker or associated person and each principal of a futures commission merchant, commodity trading advisor or commodity pool operator must, in accordance with the instructions thereto, promptly correct any deficiency or inaccuracy in the Form 8–R or supplemental statement thereto which no longer renders accurate and current the information contained in the Form 8–R or supplemental statement. Each such correction must be made on Form 3–R and must be prepared and filed in accordance with the instructions contained therein.

(c)(1) After the filing of a Form 8–R or a Certificate of Special Registration (Form 8–S) by or on behalf of any person for the purpose of permitting that person to be an associated person of a futures commission merchant or its agent, that futures commission merchant must, within ten days after the occurrence of either of the following, file a notice thereof with the Commission indicating: (i) the failure of that person to become associated with the futures commission merchant or its agent and the reasons therefor; or (ii) the termination of the association of that person with the futures commission merchant or its agent and the reasons therefor.

(2) [Reserved]

(3) Any notice required by this paragraph (c) must be filed on Form 8–T or on a Uniform Termination Notice for Securities and Commodities Industry Registration.

§ 3.32 Changes requiring new registration.

A new registration is required in the event of a change:

(a) In the name of the registrant if the registrant is a futures commission merchant, a commodity pool operator or a commodity trading advisor;

(b) In the form of organization of the registrant;

(c) In the ownership of the business of the registrant in the case of a sole proprietorship; and

(d) In the personnel of a partnership resulting from the death, withdrawal, or addition of a partner: *Provided,* That if such change does not, as a matter of law, create a new partnership, it may be reported by the registrant to the Commission on Form 3–R within 10 days of the date of such change, and if so reported a new registration shall not be required.

Appendix A to Part 1 Redesignated as Appendix A to Part 3

6. Appendix A to 17 CFR Part 1 (Interpretative Statement Regarding Good Cause Standards for Denial of Registration) is redesignated as Appendix A to 17 CFR Part 3.

Issued in Washington, D.C. On October 30, 1980 by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 102

[Docket No. 80N–0140]

Common or Usual Names for Nonstandardized Foods; Diluted Fruit or Vegetable Juice Beverages

AGENCY: Food and Drug Administration.

ACTION: Reaffirmation of label requirements and extension of effective date.

SUMMARY: The Food and Drug Administration (FDA) is reaffirming its labeling requirement for percent declaration of individual juices in certain multi-juice beverages. The National Food Processors Association's (NFPA) petition for reconsideration in which it requested the rescission of this requirement is therefore denied. The grounds upon which the petitioner now relies were adequately considered by the Commissioner of Food and Drugs in promulgating the final rule. FDA was not persuaded then, nor is it persuaded now, that eliminating the percent declaration requirement of individual juices, when the individual juices are identified on the label or in labeling, is in the best interests of the consumer. However, FDA is extending the period of time for compliance with the labeling requirements of the common or usual name established for diluted fruit or vegetable juice beverages from July 1, 1981, to July 1, 1982, as requested by NFPA in order that an orderly disposal of label inventories can be made.

EFFECTIVE DATE: Effective July 1, 1982, for all affected products initially introduced or initially delivered for introduction into interstate commerce.

FOR FURTHER INFORMATION CONTACT: Howard N. Pippin, Bureau of Foods (HFF–312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–3092.

SUPPLEMENTARY INFORMATION: NFPA submitted to FDA a petition for reconsideration, dated July 10, 1980, in which it requested rescission of the requirement for declaration of each individual juice referred to on the label or in labeling for a multi-juice beverage. NFPA also requested an extension of the effective date for the final regulation from July 1, 1981 to July 1, 1982, so that there would be sufficient time to use up their existing label inventories.

NFPA asserts that § 102.33(a)(2)(ii) (21 CFR 102.33(a)(2)(ii)), which was established by final rule published in the

Federal Register of June 10, 1980 (45 FR 39247), should be rescinded because requiring the percentage of both the total juice and each individual juice referred to on the label or in labeling is redundant and would create unnecessary label overcrowding, reduce formulation flexibility, compel disclosure of trade secrets, and result in misleading declarations of individual juice percentage, e.g., "a multi-juice beverage containing nine percent pineapple juice, eight percent grapefruit juice, and eight percent guava juice would be required to bear a declaration of twenty-five percent fruit juice on the label." However, NFPA points out that "because § 102.33(a)(2)(ii) provides for the declaration of the percent of individual juices in five percent increments, rounded to the next lowest multiple of five, the principal display panel (PDP) of this product also would be required to bear a declaration of five percent pineapple juice, five percent grapefruit juice, and five percent guava juice. The large discrepancy between the total juice declaration (i.e., 25 percent) and the sum of the individual juice declaration (i.e., 15 percent) would create substantial consumer confusion. Moreover, for multi-juice beverages containing less than five percent of several kinds of juices, the required disclosures of this fact on the PDP would be of little, if any, value to consumers." In fact, NFPA states that, "as FDA recognized in the preamble to the proposed regulation, the overriding consumer interest is in the total juice content of any diluted juice beverage" and "FDA has failed to show that there is any consumer interest in a declaration of the percentage of both total juice and of individual juices in a multi-juice beverage for which references to the individual juices are contained on the label or in labeling."

In accordance with § 10.33 (21 CFR 10.33), FDA has reviewed the administrative record in regard to the labeling requirements set forth in § 102.33(a)(2)(ii) in light of the aforementioned objections raised by NFPA in its petition for reconsideration, and concludes that the Commissioner, in promulgating the final regulation, adequately considered the grounds upon which the petitioner now relies. FDA recognized, in promulgating this regulation, that dual declaration of both the total juice content and the individual juice content when referred to on the label or in labeling could lead to possible confusion among consumers, create the possibility of some label overcrowding, reduce formulation flexibility, and, in some instances, compel declaration of trade secrets. However, it was the contention of the agency then, and still is, that when the individual juices are identified on the label in some manner other than in the ingredient statement, it would be even more confusing to the consumer not to require the dual declaration because any statement less definitive than the percent of each identified juice denies the consumer the right to comparison buying and may be misleading as to the actual content of the individual juices in the drink. The consumer has a right to know the approximate amount of each of the identified juices in the drinks. For example, a multi-juice drink label may picture several fruits but in fact contain one in a significantly larger or smaller amount than all the others. For such a product, a declaration of only the total juice content would not inform the consumer of the predominance of any one of the pictured fruits, thus leading to the assumption that all of the fruits pictured are contained in approximately equal proportions.

Because of the possibility of deception, a total juice declaration alone is not adequate to fully inform consumers of the juice content of those multi-juice beverages which make some type of identity claim, other than in the ingredient statement, for the juices contained in the multi-juice drink. Therefore, after reconsidering and reviewing the labeling requirements of § 102.33(a)(2)(ii) for multi-juice diluted beverages, FDA is reaffirming the final regulation as published in the Federal Register of June 10, 1980 (45 FR 39247).

FDA reminds manufacturers that they are not in any way required to identify individual juices on their labels other than in the ingredient statement. However, should they choose to do so, the total juice declaration may be the sum of the rounded down individual juices, thus eliminating any apparent discrepancy caused by the requirement for dual declaration of percent total and individually identified juices. Alternatively, the multi-juice producers may wish to reformulate their products to adjust the levels of individual juice content in such a manner that any discrepancy between the total amount of juice used and the sum of the rounded down individual precentages is eliminated. The resulting label declaration will not be misleading to the consumer, nor will it be deceptive since, in either case, the juice content will be at least the amount declared.

FDA advises that there is nothing in the final regulation which prevents the producer from representing on the label only one or two of the individual juices (where there are three or more) that are present in the beverages. The effect of this is to require, in addition to the total percentage, the percent declaration of only those fruits that are depicted, represented, or highlighted on the label. This would allow the producers of multi-juice products an opportunity to better protect trade secrets, lessen the problem of PDP overcrowding, and allow better formulation flexibility.

As mentioned earlier in the preamble, NFPA also requested an extension of the effective date for compliance with the regulation from July 1, 1981 to July 1, 1982. NFPA contends that, while many manufacturers already declare the total percent juice on their labels, the additional requirement of individual juice percentages for multi-juice beverages will require extensive label revisions. Further, NFPA states that many producers, especially private label producers, currently have larger than 12-month label inventories. Therefore, the extension of the effective date for 1 year would provide sufficient time for an orderly use of the current label inventories, without requiring expensive destruction of existing inventories.

FDA agrees that an extension of the effective date for 1 year is needed to avoid costly destruction of existing label inventories that would result in higher costs to the consumers and therefore would not be in their best interest.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 403, 701(a), 52 Stat. 1041 as amended, 1047–1048 as amended, 1055 (21 U.S.C. 321(n), 343, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the effective date for compliance with the labeling requirements of the common or usual name for diluted fruit or vegetable juice beverages is extended from July 1, 1981, to July 1, 1982, as follows: All affected diluted fruit or vegetable juice beverages initially introduced or initially delivered for introduction into interstate commerce after July 1, 1982, shall comply with 21 CFR 102.33 (45 FR 39247; June 10, 1980).

Elsewhere in this issue of the Federal Register, FDA is confirming the revocation of the stayed standards of identity for limeade and canned pineapple-grapefruit juice drink and announcing that the stays of the effective dates for the standards of identity for cranberry juice cocktail, artificially sweetened cranberry juice cocktail, lemonade, and colored lemonade remain in effect. Therefore, these products are nonstandardized foods and are subject to 21 CFR 102.33 (45 FR 39247; June 10, 1980) and this extension of effective date.

Dated: November 26, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-37576 Filed 12-1-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 146

[Docket No. 78N-0242]

Canned Fruit Juices; Standards of Identity for Cranberry Juice Cocktail, Artificially Sweetened Cranberry Juice Cocktail, Lemonade, Colored Lemonade, Limeade and Canned Pineapple-Grapefruit Juice Drink; Confirmation and Stay of Effective Dates of Revocation of Certain Stayed Regulations

AGENCY: Food and Drug Administration.

ACTION: Confirmation and stay of effective dates of revocation of certain stayed regulations.

SUMMARY: The Food and Drug Administration (FDA) confirms the effective date of the revocation of the stayed standards of identity for limeade and canned pineapple-grapefruit juice drink and stays the effective date for the revocation of the stayed standards of identity for cranberry juice cocktail, artificially sweetened cranberry juice cocktail, lemonade, and colored lemonade pending resolution of issues raised by objections. The stay of the standards of identity for cranberry juice cocktail, artificially sweetened cranberry juice cocktail, lemonade, and colored lemonade remains in effect pending a decision regarding the need for a hearing. A notice specifying any issues on which a hearing is justified and other pertinent information will be published in the Federal Register at a later date.

DATES: The revocation of the stayed standards of identity for limeade and canned pineapple-grapefruit juice drink became effective July 11, 1980. The stay of the effective date of the revocation of the stayed standards of identity for cranberry juice cocktail, artificially sweetened cranberry juice cocktail, lemonade, and colored lemonade is effective December 5, 1980.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-214), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: A final regulation establishing standards of identity for cranberry juice cocktail and artificially sweetened cranberry juice cocktail was published in the Federal Register of April 11, 1968 (33 FR 5617). In addition, a final regulation establishing standards of identity for lemonade, colored lemonade, limeade, and canned pineapple-grapefruit juice drink was published in the Federal Register of May 7, 1968 (33 FR 6862). Both final regulations were stayed in their entirety in response to objections. The stay of the final regulation for cranberry juice cocktail beverages was published in the Federal Register of July 13, 1968 (33 FR 10088), and the stay of the final regulation for the remaining diluted beverages was published in the Federal Register of July 27, 1968 (33 FR 10713).

FDA issued in the Federal Register of June 10, 1980 (45 FR 39247) a final regulation establishing a common or usual name for diluted fruit or vegetable juice beverages, other than diluted orange juice beverages (21 CFR 102.33). The basis for this common or usual name regulation was to enable consumers to make a value comparison among beverages at the time of purchase and thereby reduce the consumer confusion that exists in connection with diluted juice beverages. Therefore, in the Federal Register of June 10, 1980 (45 FR 39251), FDA revoked the stayed standards of identity for the following diluted fruit juice beverages: cranberry juice cocktail (21 CFR 146.110), artificially sweetened cranberry juice cocktail (21 CFR 146.111), lemonade (21 CFR 146.115), colored lemonade (21 CFR 146.125), limeade (21 CFR 146.130), and canned pineapple-grapefruit juice drink (21 CFR 146.133).

The order revoking the stayed regulations provided that any person who would be adversely affected could, on or before July 10, 1980, file written objections to the revocation and, if desired, request a hearing on the specific provisions to which there were objections. No objections or requests for a hearing were received regarding the revocation of the stayed standards of identity for limeade and canned pineapple-grapefruit juice drink.

Objections and Requests for a Hearing

Objections and requests for a hearing were filed relative to the revocation of the standards of identity for cranberry juice cocktail (§ 146.110), lemonade (§ 146.115), and colored lemonade (§ 146.125). While no specific objections were received to the revocation of the stayed standards of identity for artificially sweetened cranberry juice cocktail, FDA is of the opinion that the objections to the revocation of the stayed standard of identity for cranberry juice cocktail are applicable. The objections and requests for a hearing are as follows:

Cranberry Juice Cocktail

One letter of objection and request for a hearing objected on the grounds that the determination by FDA that establishment of a standard of identity for cranberry juice cocktail would "promote honesty and fair dealing in the interest of consumers" may not now be withdrawn on the unsupported assertion that the common or usual name regulation "reduce(s) * * * consumer confusion." The objection contended that in originally proposing the standard of identity for cranberry juice cocktail, FDA recognized that the high natural acid content of cranberries distinguished the juice drink made from cranberries from most other fruit juices and that the establishment of a standard of identity was an appropriate method to take this high natural acid content into account while still protecting the interest of consumers.

Lemonade and Colored Lemonade

One letter of objection and request for a hearing objected to the revocation of the stayed lemonade and colored lemonade standards on the grounds that the common or usual name regulation for diluted fruit or vegetable juice beverages, § 102.33, will not enable consumers to make value comparisons among the various products that would be allowed to be called lemonade. Further, the common or usual name regulation, rather than lessen consumer confusion as to what lemonade is, would increase consumer confusion, and would destroy the common understanding of lemonade that has built up over the past three decades. The objection maintains that consumers understand that lemonade is a mixture of water, lemon juice, and sugar and that nothing indicates that they expect the acidity to come from any source other than the lemon juice in the product. Further, it maintains that the consumers have come to expect the lemon taste that is achieved when 13 percent lemon juice is present. The stayed standards of identity for lemonade and colored lemonade require that the acidity be derived only from lemon juice and that the proportion of lemon juice used be sufficient to yield an acidity, calculated as anhydrous citrus acid, of not less than 0.70 gram per 100 milliliters of the finished beverage, equivalent to approximately 13 percent lemon juice. The objection maintains that the common or usual name regulation would permit citric acid and lemon flavoring, natural or artificial, to be used to produce beverages that taste

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like lemonade but do not comply with the stayed standards.

Stay of Revocation of Identity Standards

Under section 701(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)) and § 12.23 (21 CFR 12.23), FDA hereby announces a stay of the effective date of revocation of those standards to which objections and requests for a hearing were received pending further review of the objections and requests for hearing under § 12.24 (21 CFR 12.24). If a hearing is determined to be justified on any issue, a notice of hearing as required by § 12.35 (21 CFR 12.35) will be published in the **Federal Register.** If a determination is made that a hearing is not justified in whole or in part, a notice of such determination under § 12.28 (21 CFR 12.28) will be published in the **Federal Register.**

The July 13, 1968 (33 FR 10088) stay of standards of identity for cranberry juice cocktail and artificially sweetened cranberry juice cocktail and the July 27, 1968 (33 FR 10713) stay of the standards of identity for lemonade and colored lemonade remain in effect pending a determination of whether a public hearing is necessary to resolve the issues raised by objections.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), notice is given that Part 146 is amended by revoking § 146.130 *Limeade* and § 146.133 *Canned pineapple-grapefruit juice drink;* and that objections and requests for a hearing under section 701(e) of the act (21 U.S.C. 371(e)) were received and pending a determination of whether a hearing has been justified, the effective date of the revocation of § 146.110 *Cranberry juice cocktail,* § 146.111 *Artificially sweetened cranberry juice cocktail,* § 146.115 *Lemonade,* and § 146.125 *Colored lemonade* is stayed until further notice, and the stay of the effective date of these standards remains in effect. Therefore, limeade, canned pineapple-grapefruit juice drink, cranberry juice cocktail, artificially sweetened cranberry juice cocktail, lemonade, and colored lemonade are nonstandardized foods and are subject to the labeling requirements of 21 CFR 102.33 (see 45 FR 39247; June 10, 1980). A regulation extending the effective date for compliance with § 102.33 appears elsewhere in this issue of the **Federal Register.**

Effective date. The revocation of the stayed standards of identity for limeade and canned pineapple-grapefruit juice drink became effective July 11, 1980. The stay of the effective date of the revocation of the stayed standards of identity for cranberry juice cocktail, artificially sweetened cranberry juice cocktail, lemonade, and colored lemonade is effective December 5, 1980.

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: November 26, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-37577 Filed 12-1-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 176

[Docket Nos. 78F-0398 and 79F-0129]

Indirect Food Additives, Paper and Paperboard Components; Acrylamide and N-(Hydroxymethyl) Acrylamide

Correction

In FR Doc. 80-21290 appearing on page 48125 in the issue of Friday, July 18, 1980, make the following correction:

In the center column, in § 176.170(b)(2), in the fourth line of the List of Substances, ". . . 2-hydroxymethyl . . ." should have read "2-hydroxyethyl . . .".

BILLING CODE 1505-01-M

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21 CFR Part 640

[Docket No. 79N-0117]

Additional Standards for Human Blood and Blood Products, Source Plasma (Human); Amendment of Storage Temperature Requirements

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the storage temperature requirements for Source Plasma (Human) intended for manufacture into injectable products. This change permits an inadvertent exposure of the product to an episode of storage temperature fluctuation between −20° and −5° C for no more than 72 hours without requiring relabeling of the frozen product from "Source Plasma (Human)" to "Source Plasma (Human) Salvaged." Data submitted to the agency demonstrate the satisfactory recovery of clotting factor concentrates from the plasma despite the temporary elevation of storage temperature.

EFFECTIVE DATE: January 5, 1981.

FOR FURTHER INFORMATION CONTACT: Joseph Wilczek, Bureau of Biologics (HFB-620), Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20250, 301-443-1306.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of October 19, 1979 (44 FR 60332), FDA proposed to amend the storage temperature requirements for Source Plasma (Human) intended for the manufacture into injectable products (21 CFR 640.76). The proposed rule stated that if the frozen product is inadvertently exposed to a temperature range of −20° C to −5° C for no more than 72 hours and has been and remains frozen solid, the product is no longer required to be relabeled from "Source Plasma (Human)" to "Source Plasma (Human) Salvaged." Data submitted to the agency demonstrate the satisfactory recovery of clotting factor concentrates from the plasma despite the temporary elevation of storage temperature. Interested persons were given until December 18, 1979, to submit written comments regarding the proposal.

Only one comment was received, and it supported the proposed change. The comment commended the agency "for recognizing that events such as power failures or freezer malfunctions can occur, but that plasma derivatives can be satisfactorily prepared from Source Plasma (Human) exposed to temperatures between −20° C to −5° C for less than 72 hours."

As a result of FDA's consideration of the proposal, the agency has eliminated as unnecessary the proposed requirement that Source Plasma (Human) suppliers notify plasma derivative manufacturers of episodes of elevated storage temperature. The data upon which the proposal was based show that frozen plasma subjected to an episode of elevated storage temperature of −20° C and −5° C for no more than 72 hours (due to, for example, freezer malfunction or power failure), and that has been and remains frozen solid, should still yield an acceptable amount of plasma derivative products compared with the yield from frozen plasma maintained continuously at −20° C. These data show that such a temporary episode of elevated temperature does not appreciably affect the safety, purity, potency, or effectiveness of derivatives prepared from the plasma. Accordingly, just as it is unnecessary to require the relabeling that this regulation will eliminate, it is also unnecessary to require that plasma derivative manufacturers be notified of such an episode of storage temperature elevation.

Under the final regulation, plasma derivative manufacturers who are interested in obtaining data concerning the temporary storage of Source Plasma at elevated temperatures may do so. Source Plasma (Human) suppliers are required to maintain records of all such episodes of storage temperature elevation and to make the records available to the plasma derivative manufacturer or authorized FDA investigator under § 606.160 of the regulations upon request.

Accordingly, FDA is adopting the proposal with the revision described above and with additional minor editorial changes in the present regulation.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)), the Federal Food, Drug, and Cosmetic Act (secs. 501, 701(a), 52 Stat. 1041 as amended (21 U.S.C. 351, 371(a)), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 640 is amended by revising § 640.76, to read as follows:

§ 640.76 Products stored or shipped at unacceptable temperatures.

(a) *Storage temperature.* (1) Except as provided in paragraph (a)(2) of this section, Source Plasma (Human) intended for manufacture into injectable products that is inadvertently exposed (i.e., an unforeseen occurrence in spite of compliance with good manufacturing practice) to a storage temperature warmer than −20° C and colder than +10° C may be issued only if labeled as "Source Plasma (Human) Salvaged." The label shall be revised before issuance, and appropriate records shall be maintained identifying the units involved, describing their disposition, and explaining fully the conditions that caused the inadvertent temperature exposure.

(2) Source Plasma (Human) intended for manufacture into injectable products that is exposed inadvertently (i.e., an unforeseen occurrence in spite of compliance with good manufacturing practice) to one episode of storage temperature fluctuation that is warmer than −20° C and colder than −5° C for not more than 72 hours is exempt from the labeling requirements of paragraph (a)(1) of this section, provided that the plasma has been and remains frozen solid. Appropriate records shall be maintained identifying the units involved, describing their disposition, explaining fully the conditions that caused the inadvertent temperature exposure, and documenting that the episode of temperature elevation did not exceed 72 hours, that the temperature did not rise to warmer than −5° C in storage, and that the plasma remained frozen solid throughout the period of elevated temperature. When requested, copies of the records shall be provided to the plasma derivative manufacturer.

(b) *Shipping temperature.* If Source Plasma (Human) for manufacture into injectable products is exposed inadvertently (i.e., an unforeseen occurrence in spite of compliance with good manufacturing practice) to a shipping temperature warmer than −5° C and colder than +10° C, the plasma derivative manufacturer shall label it "Source Plasma (Human) Salvaged." Appropriate records shall be maintained identifying the units involved, describing their disposition, and explaining fully the conditions that caused the inadvertent temperature exposure.

(c) *Relabeling.* If Source Plasma (Human) is required to be relabeled as "Source Plasma (Human) Salvaged" under paragraph (a)(1) or (b) of this section, the person responsible for the relabeling shall cover the original label with either (1) a complete new label containing the appropriate information or (2) a partial label affixed to the original label and containing the appropriate new information, which covers the incorrect information regarding storage temperature.

Effective date. January 5, 1981.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262); secs. 501, 701(a), 52 Stat. 1047 as amended (21 U.S.C. 351, 371(a))

Dated: November 25, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-37643 Filed 12-4-80; 8:45 am]

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21 CFR Part 1030

[Docket No. 80N-0099]

Radiological Health; Performance Standards for Microwave and Radio Frequency Emitting Products; Amendments to the Microwave Oven Standard; Measurement and Test Conditions

Correction

In FR Doc. 80-36873 appearing at page 79028 in the issue for Friday, November 28, 1980, make the following correction:

On page 79031, in the middle column, toward the end of the document, in the effective date paragraph, "November 28, 1981" should have read "November 30, 1981".

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DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

Mandatory Safety Standards, Underground Coal Mines; Deferral of Date on Which Self-Contained Self-Rescuers Are Required

AGENCY: Mine Safety and Health Administration (MSHA), Department of Labor.

ACTION: Final rules.

SUMMARY: The date on which self-contained self-rescuers are required in underground coal mines under 30 CFR 75.1714-1 is deferred to June 21, 1981.

DATES: This amendment is effective on December 5, 1980. Self-contained self-rescuers must be provided to miners and visitors by June 21, 1981.

ADDRESS: Mine Safety and Health Administration, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Joseph A. Lamonica, Acting Administrator for Coal Mine Safety and Health, Room 830, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203, Telephone: (703) 235-9423.

SUPPLEMENTARY INFORMATION: On November 21, 1978, the Secretary of Labor published a final rule requiring coal mine operators to make available self-contained self-rescuers (SCSR's) to miners and visitors who go underground after December 21, 1980 (43 FR 54241).

Self-contained self-rescuers produce oxygen so that the user can escape from poisonous atmospheres during a mine emergency. They would replace or be used in conjunction with the traditional filter-type self-rescuer that is effective only against moderate concentrations of carbon monoxide. In the preamble to the rule, MSHA stated that it would undertake a program to evaluate the SCSR's in actual mine conditions during the phase-in period between the rule's publication and the deadline for compliance.

MSHA recognizes that uncertainty as to availability of approved SCSR's and as to the outcome of its evaluation of the devices has impeded the coal mining industry's ability to meet the December 21, 1980 deadline. Manufacturers have not yet produced a sufficient quantity of SCSR's because of delays in getting final approval for production models. Additionally, MSHA's program to evaluate SCSR's in actual mining conditions will not be completed in time to reasonably require the

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implementation of the new requirements by the original December 21, 1980 deadline. MSHA expects its field evaluation to be completed within the near future and upon completion, reports of the results will be made available. Therefore, coal mine operators will not be required to make SCSR's available to miners and visitors until June 21, 1981.

MSHA's evaluation will provide operators with practical information regarding effective methods for the use and storage of SCSR's. Coal mine operators should use the time before the new deadline for compliance to utilize the evaluation reports, select the type of approved SCSR's that best suits their particular needs and make these improved devices available to their miners and visitors. MSHA will proceed with its plans to equip its inspection force with SCSR's.

The current requirement to provide filter-type self-rescuers and the training, inspection, testing, maintenance and repair requirements for such devices shall remain in effect during the six month extension period for providing SCSR's.

In view of the imminence of the deadline and the circumstances stated above, it is determined that it is impracticable and contrary to the public interest to provide advance notice and opportunity for public comment on this amendment.

Note.—It has been determined that this document does not contain a major rule requiring a Regulatory Analysis under Executive Order 12044 and the Department of Labor's final guidelines implementing the Executive Order (44 FR 5570, January 23, 1979).

Dated: December 2, 1980.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

§ 75.1714–1 [Amended]

For the reasons set out in the preamble, 30 CFR 75.1714–1 is amended by substituting the date, "June 21, 1981" for the phrase "[2 years from the effective date]" in paragraphs (a) and (b).

Authority: Sec. 508, Federal Mine Safety and Health Act of 1977, Pub. L. 91–173, 83 Stat. 803 as amended by Pub. L. 95–164, 91 Stat. 1299 (30 U.S.C. 957).

[FR Doc. 80–37875 Filed 12–4–80; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 286

[DoD Directive 5400.7, DoD 5400.7–R]

DoD Freedom of Information Act Program

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule supplements the earlier published Part 286 of this title (DoD Directive 5400.7) which set forth policy regarding the DoD Freedom of Information Program; establishes and prescribes uniform procedures and requirements for DoD Components in implementing the Freedom of Information Act (5 U.S.C. 552).

EFFECTIVE DATE: November 3, 1980.

FOR FURTHER INFORMATION CONTACT: Colonel Robert I. Farris, Office of the Assistant Secretary of Defense (Public Affairs), Washington, D.C. 20301, Telephone 203–697–1180.

SUPPLEMENTARY INFORMATION: In FR Doc. 67–7604, appearing in the **Federal Register** on July 4, 1967 (32 FR 9666), the Department of Defense published Part 286 of this title, establishing the policy of the Department of Defense regarding the availability to the public of DoD information and implementing 5 U.S.C. 552. In FR Doc. 75–5181, appearing in the **Federal Register** on February 26, 1975 (40 FR 8190) and in FR Doc. 80–13043, appearing in the **Federal Register** on April 29, 1980 (45 FR 28323), the Office of the Secretary of Defense revised this Part. In FR Doc. 77–23004, appearing in the **Federal Register** on August 10, 1977 (42 FR 40552), the Department of Defense published a proposed rule to establish procedures for and to provide guidance to DoD Components handling public requests under the Freedom of Information Act (FOIA), and the public in obtaining records under the Act. Few and only minor public comments were received and considered. In the passage of time and as a result of experience gained in administering the FOIA program, the rule set forth below recasts but maintains the overall thrust of the proposed rule published in 1977. This rule shall have two purposes: (a) to revise Part 286 published April 29, 1980 (45 FR 28323) and to designate the sections 286.1 through 286.4 as Subpart A—Policy; and (b) by adding Subparts B through I which comprise the DoD regulation on the FOIA (DoD 5400.7–R).

Accordingly, 32 CFR Chapter I, Part 286, is amended by designating the sections 286.1 through 286.4 as Subpart A—Policy; by deleting section 286.5 and enclosures 1 through 6; and by adding Subparts B through I, reading as follows:

PART 286—DOD FREEDOM OF INFORMATION ACT PROGRAM

Subpart A—Policy

* * * * *

1. Remove § 286.5 and Enclosures 1 through 6.

Subpart B—General Provisions

Sec.
286.10 References.
286.11 Purpose and Applicability.
286.12 DoD Public Information.
286.13 Definitions.
286.14 Policy.

Subpart C—FOIA Reading Rooms

286.20 Requirements.
286.21 Indexes.
286.22 [Reserved].

Subpart D—Exemptions

286.30 General Provisions.
286.31 Exemptions.

Subpart E—For Official Use Only

286.40 General provisions.
286.41 Markings.
286.42 Dissemination and Transmission.
286.43 Safeguarding FOUO Information.
286.44 Termination, Disposal and Unauthorized Disclosure.

Subpart F—Release and Processing Procedures

286.50 General Provisions.
286.51 Initial Determinations.
286.52 Appeals.
286.53 Judicial Actions.
286.54 [Reserved].

Subpart G—Fee Schedule

286.60 General Provisions.
286.61 Collection of Fees and Fee Rates.
286.62 [Reserved].

Subpart H—Reports

286.70 Reports Control.
286.71 Triannual Report.
286.72 [Reserved].

Subpart I—Education and Training

286.80 Responsibility and Purpose.

Appendices

Appendix A—Unified Commands—Processing Procedures for FOI Appeals.
Appendix B—Addressing FOIA Requests.
Appendix C—Litigation Status Sheet.
Appendix D—Annual Report Format.
Appendix E—Other Reason Categories.
Appendix F—DD Form 2086, "Record of Freedom of Information (FOI) Processing Costs".
Appendix G—Format for Triannual Report.
Enclosure 1—DoD Freedom of Information Act Program Components.

Authority: 5 U.S.C. 552.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

December 2, 1980.

Subpart B—General Provisions

§ 286.10 References.

(a) Title 5, United States Code, Section 552.
(b) 32 CFR Part 286.
(c) Public Law 86–36, "National Security Information Exemption".
(d) 32 CFR Part 286a.
(e) DoD Directive 5100.3, "Support of the Headquarters of Unified, Specified and Subordinate Joint Commands," March 17, 1980.
(f) Title 5, United States Code, Section 551, "Administrative Procedures Act".
(g) 32 CFR Part 159.
(h) Title 35, United States Code, Sections 181–188, "Patent Secrecy".
(i) Title 43, United States Code, Section 2162. "Restricted Data and Formerly Restricted Data".
(j) Title 18, United States Code, Section 798, "Communication Intelligence".
(k) Title 18, United States Code, Section 3500, "The Jencks Act".
(l) DoD Directive 5200.20, "Distribution Statements on Technical Documents," September 24, 1970.
(m) DoD Directive 5400.4, "Provision of Information to Congress," January 30, 1978.
(n) DoD Directive 7650.1, "General Accounting Office Comprehensive Audits," July 9, 1958.
(o) ACP–121 (United States Supplement 1).
(p) Title 44, United States Code, Chapter 33, "Disposal of Records".
(q) 32 CFR Part 288.
(r) DoD Directive 5000.11, "Data Elements and Data Codes Standardization Program," December 7, 1964.
(s) DoD 5000.12–M, "DoD Manual for Standard Data Elements," December 1979, authorized by DoD Directive 5000.12, April 27, 1965.
(t) DoD Instruction 5000.22, "Guide to Estimating Costs of Information Requirements," October 17, 1974.
(u) DoD Handbook 7220.9–H, "DoD Accounting Guidance Handbook," February 1, 1978, authorized by DoD Instruction 7220.9, July 12, 1971.

§ 286.11 Purpose and Applicability.

(a) The purpose of this Part is to provide policies and procedures for the DoD implementation of the Freedom of Information Act, § 286.10 (a) and (b), and to promote uniformity in the DoD Freedom of Information Act (FOIA) Program.

(b) *Applicability.* (1) This Part applies to the Office of the Secretary of Defense (OSD) (which includes for the purpose of this Part the Organization of the Joint Chiefs of Staff, Unified Commands and OSD administrative support agencies), the Military Departments and the Defense Agencies (hereafter referred to as "DoD Components"), and takes precedence over all Component regulations that supplement the DoD FOIA Program. A list of DoD Components is at enclosure 1.

(2) The National Security Agency records are subject to the provisions of this Regulation, only to the extent the records are not exempt under Pub. L. 86–36 (§ 286.10(c)).

§ 286.12 DoD Public Information.

(a) *Public Information.* The public has a right to information concerning the activities of its government. DoD policy is to conduct its activities in an open manner and provide the public with a maximum amount of accurate and timely information concerning its activities, consistent always with the legitimate public and private interests of the American people. A DoD record requested by a member of the public who follows rules established by proper authority in the Department of Defense shall be withheld only when it is exempt from mandatory public disclosure under the FOIA and denial would serve a significant, legitimate government purpose. In order that the public may have timely information concerning DoD activities, records requested through public information channels by news media representatives that would not be withheld if requested under the FOIA should be released upon request. Prompt responses to requests for information from news media representatives should be encouraged to eliminate the need for these requesters to invoke the provisions of the FOIA and thereby assist in providing timely information to the public. Similarly, requests from other members of the public for information should continue to be honored through appropriate means even though the request does not qualify under FOIA requirements.

(b) *Control System.* A request for records that invoke the FOIA shall enter a formal control system designed to ensure compliance with the FOIA. A release determination must be made and the requester informed within the time limits specified in this Regulation. Any request for DoD records that either explicitly or implicitly cites the FOIA shall be processed under the provisions of this Regulation or under the Privacy Act, when the request is from the subject of the records requested.

§ 286.13 Definitions.

(a) *Definitions.* As used in this Part the following terms and meanings shall be applicable.

(b) *FOIA Request.* A written request for DoD records, made by a member of the public, that either explicitly or implicitly invokes the FOIA, § 286, this Part, or DoD Component supplementing regulations or instructions.

(c) *Agency Record.* (1) The products of data compilation, regardless of physical form or characteristics, made or received by a DoD Component in connection with the transaction of public business and preserved by a DoD Component primarily as evidence of the organization, policies, functions, decisions, or procedures of the DoD Component.

(2) The following are not included within the definition of the word "record":

(i) Library and museum material made, acquired, and preserved solely for reference or exhibition.

(ii) Objects or articles, such as structures, furniture, paintings, sculpture, three-dimensional models, vehicles and equipment, whatever their historical value, or value as evidence.

(iii) Commercially exploitable resources, including but not limited to, formulae, designs, drawings, maps and charts, map compilation manuscripts and map research materials, research data, computer programs, and technical data packages that were not created and are not utilized as primary sources of information about organizations, policies, functions, decisions, or procedures of a DoD Component.

(iv) Unaltered publications and processed documents, such as regulations, manuals, maps, charts, and related geophysical materials, that are available to the public through an established distribution system with or without charges.

(v) Anything that is not a tangible or documentary record, such as, an individual's memory or oral communication.

(vi) Personal notes of an individual not made available to other persons in an agency and not filed with agency records.

(vii) Information stored within a computer for which there is no existing computer program or printout.

(3) A record must exist and be in the possession or control of Department of Defense at the time of the request to be

considered subject to this Part. There is no obligation to create, compile, or obtain a record to satisfy an FOIA request.

(d) *DoD Component.* An element of the Department of Defense, as defined in § 286.10(b), authorized to receive and act independently on FOIA requests. A DoD Component has its own initial denial authority (IDA) or authorities and its own appellate authority.

(e) *Initial Denial Authority.* An official who has been granted authority by the head of a DoD Component to withhold records requested under the FOIA for one or more of the nine categories of records exempt from mandatory disclosure.

(f) *Appellate Authority.* The head of the DoD Component or the Component head's designee having jurisdiction for this purpose over the record.

(g) *Administrative Appeal.* A request by a member of the general public, made under the FOIA, asking the appellate authority of a DoD Component to reverse an IDA decision to withhold all or part of a requested record or to deny a request for waiver or reduction of fees.

§ 286.14 Policy.

(a) *Compliance with the Freedom of Information Act.* DoD personnel are expected to comply with the provisions of the FOIA and this Regulation in both letter and spirit. This strict adherence is necessary to provide uniformity in the implementation of the DoD FOIA Program and to create conditions that will promote public trust.

(b) *Openness with the Public.* The Department of Defense shall conduct its activities in an open manner consistent with the need for security and adherence to other requirements of law and regulation. Records not specifically exempt from disclosure under the Act shall, upon request, be made readily accessible to the public in accordance with rules promulgated by competent authority, whether or not the Act is invoked.

(c) *Avoidance of procedural Obstacles.* DoD Components shall ensure that procedural matters do not unnecessarily impede a requester from obtaining DoD records promptly. Components shall provide assistance to requesters to help them understand and comply with procedures established by this Part and any supplemental regulations published by the DoD Components.

(d) *Prompt Action on Requests.* When a member of the public complies with the procedures established in this Part for obtaining DoD records, the request shall receive prompt attention; a reply shall be dispatched within 10 working days, unless a delay is authorized. Requests by individuals for access to records about themselves shall be processed under the Privacy Act procedures, as implemented by § 286(a) outlined in this Part, provided such records are contained in a system of records and are retrievable by reference to the requester's name or other personal identifier. Even though a request that invokes the FOIA is administratively processed under Privacy Act procedures, no record shall be withheld that would be released under FOIA procedures.

(e) *Use of Exemptions.* Records that may be withheld under the exemptions outlined in § 286.30 of this Part shall be made available to the public when no significant, legitimate Government purpose is served by withholding them. Determination of significant and legitimate Government purpose is within the sole discretion of the Component, consistent with statutory requirements, security classification requirements, or other requirements of law.

(f) *Public Domain.* Nonexempt records released under the authority of this Part are considered to be in the public domain. Exempt records released pursuant to this Part or other statutory or regulatory authority however, may be considered to be in the public domain only when their release constitutes a waiver of the FOIA exemption. When the release does not constitute such a waiver, such as when disclosure is made to a properly constituted advisory committee or to a Congressional Committee, the released records do not lose their exempt status. Also, while authority may exist to disclose records to individuals in their official capacity, the provisions of this Part apply if the same individual seeks the records in a private or personal capacity.

(g) *Creating a Record.* A record must exist and be in the possession or control of the Department of Defense at the time of the request to be considered subject to this Part. There is no obligation to create, compile, or obtain a record to satisfy an FOIA request. A DoD Component, however, may compile or create a new record when so doing would result in a more useful response to the requester, or be less burdensome to the agency than providing existing records, and the requester does not object. Cost of creating or compiling such a record may not be charged to the requester unless the fee for creating the record is less than the fee which would be charged for providing the existing record. Fee assessment for direct search and duplication associated with the request shall be in accordance with § 286.60(b).

(h) *Description of Requested Record.* (1) Identification of the record desired is the responsibility of the member of the public who requests a record. The requester must provide a description of the desired record, that enables the Government to locate the record with a reasonable amount of effort. The Act does not authorize "fishing expeditions." When a DoD Component receives a request that does not "reasonably describe" the requested record, it shall notify the requester of the defect. When practicable, Components shall offer assistance to the requester in identifying the records sought and in reformulating the request to reduce the burden on the agency in complying with the Act.

(2) The following guidelines are provided to deal with "fishing expedition" requests and are based on the principle of reasonable effort. Descriptive information about a record may be divided into two broad categories.

(i) Category I is file-related and includes information such as type of record—memorandum, title, index citation, subject area, date the record was created and originator.

(ii) Category II is event-related and includes the circumstances that resulted in the record being created or the date and circumstances surrounding the event the record covers.

(3) Generally, a record is not reasonably described unless the description contains sufficient Category I information to permit the conduct of an organized, non-random search based on the Component's filing arrangements and existing retrieval systems, or unless the record contains sufficient Category II information to permit inference of the Category I elements needed to conduct such a search.

(4) The following guidelines deal with requests for personal records. Ordinarily, when personal identifiers only are provided in connection with a request for records concerning the requester, only records retrievable by personal identifiers need be searched. Search for such records may be conducted under Privacy Act procedures. No record may be denied that is releasable under the FOIA.

(5) The above guidelines notwithstanding, the decision of the DoD Component concerning reasonableness of description must be based on knowledge of its files. If the description enables DoD Component personnel to locate the record with reasonable effort, the description is adequate.

(i) *Referrals.* (1) A request received by a DoD Component having no records responsive to a request shall be referred routinely to another DoD Component, if the other Component confirms that it has the requested record, and this belief can be confirmed by the other DoD Component. If the DoD Component that is consulted determines that the existence or nonexistence of any record of the DoD Component responsive to the request is in itself classified, the requester will be so notified. Otherwise, the request shall be referred to the other DoD Component, and the requester shall be notified of any such referral. Any DoD Component receiving a request that has been misaddressed shall refer the request to the proper address and advise the requester.

(2) Whenever a record, or a portion of a record, is, after prior consultation, referred to another DoD Component or to a government agency outside of the Department of Defense for a release determination and direct response, the requester shall be given a description of the record referred, as furnished by the DoD Component that was consulted. Referred records shall only be identified to the extent consistent with security requirements.

(3) A DoD Component shall refer an FOIA request for a classified record that it holds to another DoD Component or agency outside the DoD, if the record originated in the other DoD Component or outside agency or if the classification is derivative. Telephonic coordination with the DoD Component or outside agency shall be made prior to the referral.

(4) A DoD Component may also refer a request for a record that it originated to another DoD Component or agency when the record was created for the use of the other DoD Component or agency. The DoD Component or agency for which the record was created may have as significant and as legitimate an interest in withholding the record that the DoD Component that created the record would have. An example of such a situation is a request for audit reports prepared by the Defense Contract Audit Agency. These advisory reports are prepared for the use of contracting officers and their release to the audited contractor should be at the discretion of the contracting officer. Any FOIA request shall be referred to the appropriate contracting officer and the requester shall be notified of the referral.

(5) Within DoD, a Component shall ordinarily refer an FOIA request for a record that it holds, but that was originated by another DoD Component or that contains substantial information obtained from another DoD Component, to that Component for direct response, after direct coordination and obtaining concurrence from the Component. Then, the requester shall be notified of such referral. DoD Components shall not, in any case, release or deny such records without prior consultation with the other DoD Component.

(6) DoD Components that receive referred requests shall answer them in accordance with the time limits established by the FOIA and this Part. Those time limits shall begin to run upon receipt of the referral by the official designated to respond.

(7) Agencies outside the Department of Defense that are subject to the FOIA:

(i) A Component may refer an FOIA request for any record that originated in an agency outside the Department of Defense or that is based on information obtained from an outside agency to the agency for direct response to the requester after coordination with the outside agency, if that agency is subject to FOIA and if the requester does not object. Otherwise the Component must respond to the request.

(ii) A DoD Component shall not honor any FOIA request for investigative, intelligence or any type of records that are on loan to the Department of Defense for a specific purpose, if the records are restricted from further release and so marked. Such requests shall be referred to the agency that provided the record.

(8) To the extent referrals are consistent with the policies expressed by this paragraph, referrals between offices of the same DoD Component are authorized.

(j) *Fee Assessment.* (1) Fees may not be used to discourage requests, and to this end FOIA fees are limited to standard charges for direct document search and duplication. Documents may be furnished without charge or at a reduced charge when the agency determines that waiver or reduction of the fees is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Based on this guidance, the Department of Defense has established a liberal fee schedule, that is outlined in § 286.60 of this Part.

(2) In order to be as responsive as possible to FOIA requests, while minimizing unwarranted costs to the taxpayer, DoD Components shall adhere to the following procedures:

(i) If the requester declares an unwillingness to pay fees and does not substantiate a request for waiver and if it appears that the direct search and reproduction costs associated with the request shall exceed the automatic waiver threshold, the request need not be processed and the requester shall be so informed.

(ii) If the requester declares a willingness to pay fees up to a specified amount and does not substantiate a request for waiver, then the specified amount or the automatic waiver threshold, whichever is greater, shall not be exceeded without the consent of the requester.

(iii) If the requester makes no declaration concerning fees and does not substantiate a request for waiver, and if it appears that the direct search and reproduction fees to be assessed shall exceed the automatic waiver threshold, the request shall not be processed until the requester is advised of anticipated charges and agrees to pay them.

(iv) Components may require payment of all or a portion of estimated fees before processing a request.

(v) Subsequent requests from persons who fail to discharge fee obligations need not be processed until previous obligations have been discharged or waived.

(k) *Authentication.* Records provided under this Part shall be authenticated with an appropriate seal whenever necessary to fulfill an official Government or other legal function. This service, however, is in addition to that required under FOIA and is not included in the FOIA fee schedule. DoD Components may charge for the service at a rate of $3.00 for each authentication.

(l) *Unified and Specified Commands.* (1) The Unified Commands are placed under the jurisdiction of the OSD, instead of the administering Military Department, only for the purpose of administering the DoD FOIA Program. This policy represents an exception to the policies directed in DoD Directive 5100.3 (§ 286.10(e)); it authorizes and requires the Unified Commands to process FOI requests in accordance with § 286 and this Part. The Unified Commands shall forward directly to the Office of the Assistant Secretary of Defense (Public Affairs), OASD(PA), all correspondence associated with the appeal of an initial denial for records under the provisions of the FOIA. Procedures to effect this administrative requirement are outlined in Appendix A.

(2) The Specified Commands remain under the jurisdiction of the administering Military Department. The Commands shall designate IDAs within their headquarters; however, the appellate authority shall reside with the Military Department.

(m) *Records Management.* FOIA records shall be maintained and disposed of in accordance with DoD

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Component disposition instructions and schedules.

Subpart C—FOIA Reading Rooms

§ 286.20 Requirements.

(a) *Reading Room.* Each Component shall provide an appropriate facility or facilities where the public may inspect and copy or have copied the materials described below. DoD Components may share reading room facilities if the public is not unduly inconvenienced. The cost of copying shall be imposed on the person requesting the material in accordance with the provisions of § 286.60 of this Part.

(b) *Material Availability.* The FOIA requires that so-called "(a)(2)" materials shall be made available in the FOI reading room for inspection and copying, unless such materials are published and copies are offered for sale. Identifying details that, if revealed, would create a clearly unwarranted invasion of personal privacy may be deleted from "(a)(2)" materials made available for inspection and copying. In every case, justification for the deletion must be fully explained in writing. However, a DoD Component may publish in the **Federal Register** a description of the basis upon which it will delete identifying details of particular types of documents to avoid clearly unwarranted invasions of privacy. In appropriate cases, the DoD Component may refer to this description rather than write a separate justification for each deletion. So-called "(a)(2)" materials are:

(1) Final opinions, including concurring and dissenting opinions, and orders made in the adjudication of cases, as defined in 5 U.S.C. 551, § 286.10(f), that may be cited, used, or relied upon as precedents in future adjudications.

(2) Statements of policy and interpretations that have been adopted by the agency and are not published in the **Federal Register.**

(3) Administrative staff manuals and instructions, or portions thereof, that establish DoD policy or interpretations of policy that affect a member of the public. This provision does not apply to instructions for employees on tactics and techniques to be used in performing their duties, or to instructions relating only to the internal management of the DoD Component. Examples of manuals and instructions not normally made available are:

(i) Those issued for audit, investigation, and inspection purposes, or those that prescribe operational tactics, standards of performance, or criteria for defense, prosecution, or settlement of cases.

(ii) Operations and maintenance manuals and technical information concerning munitions, equipment, systems, and foreign intelligence operations.

§ 286.21 Indexes.

(a) *"(a)(2)" Materials.* (1) Each DoD Component shall maintain in each facility prescribed in paragraph 2–100 an index of materials described in paragraph 2–101 that are issued, adopted, or promulgated, after July 4, 1967. No "(a)(2)" materials issued, promulgated, or adopted after July 4, 1967 that are not indexed and either made available or published may be relied upon, used or cited as precedent against any individual unless such individual has actual and timely notice of the contents of such materials. Such materials issued, promulgated, or adopted before July 4, 1967, need not be indexed, but must be made available upon request if not exempted under this Part.

(2) Each DoD Component shall promptly publish quarterly or more frequently, and distribute, by sale or otherwise, copies of each index of "(a)(2)" materials or supplements thereto unless it publishes in the **Federal Register** an order containing a determination that publication is unnecessary and impracticable. A copy of each index or supplement not published shall be provided to a requester at a cost not to exceed the direct cost of duplication as set forth in § 286.60 of this Part.

(3) Each index of "(a)(2)" materials or supplement thereto shall be arranged topically or by descriptive words rather than by case name or numbering system so that members of the public can readily locate material. Case name and numbering arrangements, however, may also be included for DoD Component convenience.

(b) *Other Materials.* (1) Any available index of DoD Component material published in the **Federal Register**, such as material required to be published by Section 552(a)(1) of the FOIA, shall be made available in DoD Component FOIA reading rooms.

(2) Although not required to be made available in response to FOIA requests or made available in FOIA Reading Rooms, "(a)(1)" materials shall, when feasible, be made available in FOIA reading rooms for inspection and copying. Examples of "(a)(1)" materials are: descriptions of an agency's central and field organization, and to the extent they affect the public, rules of procedures, descriptions of forms available, instruction as to the scope and contents of papers, reports, or examinations, and any amendment, revision, or report of the aforementioned.

§ 286.22 [Reserved]

Subpart D—Exemptions

§ 286.30 General Provisions.

(a) *General.* Records that meet the exemption criteria in § 286.31 of this Part may be withheld from public disclosure and need not be published in the **Federal Register**, made available in a library reading room, or provided in response to an FOIA request.

(b) *Significant and Legitimate Government Purpose.* An exempted record, other than those being withheld pursuant to Exemptions 1, 3 or 6, shall be made available upon the request of any individual when, in the judgment of the releasing DoD Component or higher authority, no significant and legitimate government purpose would be served by withholding it under an applicable exemption. If a DoD Component determines that a record requested under the FOIA meets the Exemption 4 withholding criteria set forth in this Part, the DoD Component shall not ordinarily exercise its discretionary power to release, absent circumstances in which a compelling public interest will be served by release of that record.

§ 286.31 Exemptions.

(a) *FOIA Exemptions.* The following types of records may be withheld in whole or in part from public disclosure unless otherwise prescribed by law.

Number 1. Those properly and currently classified in the interest of national defense or foreign policy, as specifically authorized under the criteria established by executive order and implemented by regulations, such as 32 CFR 159. Although material is not classified at the time of the FOIA request, a classification review may be undertaken to determine whether the information should be classified. The procedures in 32 CFR 159.21(e)(6) apply.

Number 2. Those containing or constituting rules, regulations, orders, manuals, directives, and instructions relating to the internal personnel rules or practices of a DoD Component if their release to the public would substantially hinder the effective performance of a significant function of the Department of Defense and they do not impose requirements directly on the general public. Examples include:

(1) Those operating rules, guidelines, and manuals for DoD investigators, inspectors, auditors, or examiners that must remain privileged in order for the

DoD Component to fulfill a legal requirement.

(2) Personnel and other administrative matters, such as examination questions and answers used in training courses or in the determination of the qualifications of candidates for employment, entrance on duty, advancement, or promotion.

Number 3. Those concerning matters that a statute specifically exempts from disclosure by terms that permit no discretion on the issue, or in accordance with criteria established by that statute for withholding or referring to particular types of matters to be withheld. Examples of statutes are:

(1) National Security Agency Information Exemption, Pub. L. 86–36, Section 6 (§ 286.10(c)).

(2) Patent Secrecy, 35 U.S.C. 181–188 (§ 286.10(h)). Any records containing information relating to inventions that are the subject of patent applications on which Patent Secrecy Orders have been issued.

(3) Restricted Data and Formerly Restricted Data, 42 U.S.C. 2162 (§ 286.10(i)).

(4) Communication Intelligence, 18 U.S.C. 798 (§ 286.10(j)).

Number 4. Those containing trade secrets or commercial or financial information that a DoD Component receives from a person or organization outside the government with the understanding that the information or record will be retained on a privileged or confidential basis in accordance with the customary handling of such records. Records within the exemption must contain trade secrets, or commercial or financial records the disclosure of which is likely to cause substantial harm to the competitive position of the source providing the information; impair the government's ability to obtain necessary information in the future; or impair some other legitimate government interest. Examples include records that contain:

(1) Commercial or financial information received in confidence in connection with loans, bids, contracts, or proposals, as well as other information received in confidence or privileged, such as trade secrets, inventions, discoveries, or other proprietary data.

(2) Statistical data and commercial or financial information concerning contract performance, income, profits, losses, and expenditures, if offered and received in confidence from a contractor or potential contractor.

(3) Personal statements given in the course of inspections, investigations, or audits, when such statements are received in confidence from the individual and retained in confidence because they reveal trade secrets or commercial or financial information normally considered confidential or privileged.

(4) Financial data provided in confidence by private employers in connection with locality wage surveys that are used to fix and adjust pay schedules applicable to the prevailing wage rate employees within the Department of Defense.

(5) Scientific and manufacturing processes or developments concerning technical or scientific data or other information submitted with an application for a research grant, or with a report while research is in progress.

Number 5. Except as provided in subsections b. through e., below, internal advice, recommendations, and subjective evaluations, as contrasted with factual matters, that are reflected in records pertaining to the decision-making process of an agency, whether within or among agencies as defined in 5 U.S.C. 552(e) (§ 286.10(a)) or within or among DoD Components.

(1) Examples include:

(i) The nonfactual portions of staff papers, to include after-action reports and situation reports containing staff evaluations, advice, opinions or suggestions.

(ii) Advice, suggestions, or evaluations prepared on behalf of the Department of Defense by individual consultants or by boards, committees, councils, groups, panels, conferences, commissions, task forces, or other similar groups that are formed for the purpose of obtaining advice and recommendations.

(iii) Those nonfactual portions of evaluations by DoD Component personnel of contractors and their products.

(iv) Information of a speculative, tentative, or evaluative nature or such matters as proposed plans to procure, lease or otherwise acquire and dispose of materials, real estate, facilities or functions, when such information would provide undue or unfair competitive advantage to private personal interests or would impede legitimate government functions.

(v) Trade secret or other confidential research development, or commercial information owned by the Government, where premature release is likely to affect the government's negotiating position or other commercial interests.

(vi) Records that are exchanged among agency personnel and within and among DoD Components or agencies as part of the preparation for anticipated administrative proceeding by an agency or litigation before any federal, state, or military court, as well as records that qualify for the attorney-client privilege.

(viii) Those portions of official reports of inspection, reports of the Inspector Generals, audits, investigations, or surveys pertaining to safety, security, or the internal management, administration, or operation of one or more DoD Components, when these records have traditionally been treated by the courts as privileged against disclosure in litigation.

(2) If any such intra or interagency record or reasonably segregable portion of such record hypothetically would be made available routinely through the "discovery process" in the course of litigation with the agency, i.e., the process by which litigants obtain information from each other that is relevant to the issues in a trial or hearing, then it should not be withheld from the general public even though discovery has not been sought in actual litigation. If, however, the information hypothetically would only be made available through the discovery process by special order of the court based on the particular needs of a litigant, balanced against the interests of the agency in maintaining its confidentiality, then the record or document need not be made available under this Part.

(3) Intra or interagency memoranda or letters that are factual, or those reasonably segregable portions that are factual, are routinely made available through "discovery," and shall be made available to a requester, unless the factual material is otherwise exempt from release, inextricably intertwined with the exempt information, so fragmented as to be uninformative, or so redundant of information already available to the requester as to provide no new substantive information.

(4) A direction or order from a superior to a subordinate, though contained in an internal communication, generally cannot be withheld from a requester if it constitutes policy guidance or a decision, as distinguished from a discussion of preliminary matters or a request for information or advice that would compromise the decision-making process.

(5) An internal communication concerning a decision that subsequently has been made a matter of public record must be made available to a requester when the rationale for the decision is expressly adopted or incorporated by reference in the record containing the decision.

Number 6. Information in personnel and medical files, as well as similar personal information in other files, that, if disclosed to the requester would result in a clearly unwarranted invasion of personal privacy.

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(1) Examples of other files containing personal information similar to that contained in personnel and medical files include:

(i) Those compiled to evaluate or adjudicate the suitability of candidates for civilian employment or membership in the Armed Forces, and the eligibility of individuals (civilian, military, or contractor employees) for security clearances, or for access to particularly sensitive classified information.

(ii) Files containing reports, records, and other material pertaining to personnel matters in which administrative action, including disciplinary action, may be taken.

(2) In determining whether the release of information would result in a "clearly unwarranted invasion of personal privacy," consideration shall be given to the stated or ascertained purpose of the request. When determining whether a release is "clearly unwarranted," the public interest in satisfying this purpose must be balanced against the sensitivity of the privacy interest being threatened. This exemption shall not be exercised in an attempt to protect the privacy of a deceased person, but it may be used to protect the privacy of the deceased person's family.

(3) Individuals' personnel, medical, or similar file may be withheld from them or their designated legal representative only to the extent consistent with 32 CFR 286a (§ 286.10(d)).

(4) A clearly unwarranted invasion of the privacy of the persons identified in a personnel, medical or similar record may constitute a basis for deleting those reasonably segregable portions of that record, even when providing it to the subject of the record.

Number 7. Those investigative records compiled for the purpose of enforcing civil, criminal, or military law, including the implementation of executive orders or regulations issued pursuant to law.

(1) This exemption applies, however, only to the extent that release of a record or portion of a record would:

(i) Interfere with enforcement proceedings.

(ii) Deprive a person of the right to a fair trial or to an impartial adjudication.

(iii) Constitute an unwarranted invasion of personal privacy of a living person, including surviving family members of an individual identified in such a record.

(iv) Disclose the identity of a confidential source.

(v) Disclose confidential information furnished only from a confidential source and obtained by a criminal law enforcement authority in a criminal investigation or by an agency conducting a lawful national security intelligence investigation.

(vi) Disclose investigative techniques and procedures not already in the public domain and requiring protection against public disclosure to ensure their continued effectiveness.

(vii) Endanger the life, physical safety, or well-being of law enforcement personnel or their families.

(2) Examples include:

(i) Statements of witnesses and other material developed during the course of the investigation and all materials prepared in connection with related government litigation or adjudicative proceedings.

(ii) The identity of firms or individuals being investigated for alleged irregularities involving contracting with Department of Defense when no indictment has been obtained nor any civil action filed against them by the United States.

(iii) Information obtained in confidence, expressed or implied, in the course of a criminal investigation by a criminal law enforcement agency or office within a DoD Component, or a lawful national security intelligence investigation conducted by an authorized agency or office within a DoD Component. National security intelligence investigations include background security investigations and those investigations conducted for the purpose of obtaining affirmative or counterintelligence information.

(3) The right of individual litigants to investigative records currently available by law, such as, the Jencks Act, 18 U.S.C. 3500, (§ 286.10(k)) is not diminished.

(4) When the subject of an investigative record is the requester of the record, it may be withheld only as authorized by 32 CFR Part 286a (§ 286.10(d)).

Number 8. Those contained in or related to examination, operation or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial instructions.

Number 9. Those containing geological and geophysical information and data (including maps) concerning wells.

Subpart E—For Official Use Only

§ 286.40 General Provisions.

(a) *General.* Information that has not been given a security classification pursuant to the criteria of an Executive Order, but which may be withheld from the public for one or more of the reasons cited in FOIA Exemptions 2 through 9 shall be considered as being for official use only. *No other material shall be considered or marked "For Official Use Only"* (FOUO), and FOUO is not authorized as an anemic form of classification to protect national security interests.

(b) *Prior FOUO Application.* The prior application of FOUO markings is not a conclusive basis for withholding a record that is requested under the FOIA. When such a record is requested, the information in it shall be evaluated to determine whether, under current circumstances, FOIA exemptions apply and whether a significant and legitimate government purpose is served by withholding the record or portions of it.

(c) *Historical Papers.* Records such as notes, working papers, and drafts retained as historical evidence of DoD Component actions enjoy no special status apart from the exemptions under the FOIA (§ 286.10(a)).

(d) *Time To Mark Records.* The marking of records at the time of their creation provides notice of FOUO content and facilitates review when a record is requested under the FOIA. Records requested under the FOIA that do not bear such markings, shall not be assumed to be releasable without examination for the presence of information that requires continued protection and qualifies as exempt from public release.

(e) *Distribution Statement.* Information in a technical document that requires a distribution statement pursuant to DoD Directive 5200.20 (§ 286.10(i)) shall bear that statement and shall not be marked FOUO.

§ 286.41 Markings.

(a) *Location of Markings.* (1) An unclassified document containing FOUO information shall be marked "For Official Use Only" at the bottom on the outside of the front cover (if any), on the first page, on the back page, and on the outside of the back cover (if any).

(2) Withing a classified document, an individual page that contains both FOUO and classified information shall be marked at the top and bottom with the highest security classification of information appearing on the page.

(3) Within a classified or unclassified document, an individual page that contains FOUO information but no classified information shall be marked "For Official Use Only" at the bottom of the page.

(4) Other records, such as, photographs, films, tapes, or slides, shall be marked "For Official Use Only" or "FOUO" in a manner that ensures that a recipient or viewer is aware of the status of the information therein.

(5) FOUO material transmitted outside the Department of Defense requires application of an expanded marking to explain the significance of the FOUO marking. This may be accomplished by typing or stamping the following statement on the record prior to transfer:

> This document contains information Exempt From Mandatory Disclosure under the FOIA. Exemptions . . . apply.

§ 286.42 Dissemination and Transmission.

(a) *Release and Transmission Procedures.* Until FOUO status is terminated, the release and transmission instructions that follow apply:

(1) FOUO information may be disseminated within DOD Components and between officials of DOD Components and DOD contractors, consultants, and grantees to conduct official business for the Department of Defense. Recipients shall be made aware of the status of such information, and transmission shall be by means that preclude unauthorized public disclosure. Transmittal documents shall call attention to the presence of FOUO attachments.

(2) DOD holders of FOUO information are authorized to convey such information to officials in other departments and agencies of the executive and judicial branches to fulfill a government function, except to the extent prohibited by the Privacy Act. Records thus transmitted shall be marked. "For Official Use Only", and the recipient shall be advised that the information has been exempted from public disclosure, pursuant to the FOIA, and that special handling instructions do or do not apply.

(3) Release of FOUO information to Members of Congress is governed by DOD Directive 5400.4 (§ 286.10(m)). Release to the General Accounting Office (GAO) is governed by DOD Directive 7650.1 (§ 286.10(n)). Records released to the Congress or GAO should be reviewed to determine whether the information warrants FOUO status. If not, prior FOUO markings shall be removed or effaced. If withholding criteria are met, the records shall be marked FOUO and the recipient provided an explanation for such exemption and marking. Alternatively, the recipient may be requested, without marking the record, to protect against its public disclosure for reasons that are explained.

(b) *Transporting FOUO Information.* Records containing FOUO information shall be transported in a manner that precludes disclosure of the contents. When not commingled with classified information, FOUO information may be sent via first-class mail or parcel post. Bulky shipments, such as distributions of FOUO Directives or testing materials, that otherwise qualify under postal regulations may be sent by fourth-class mail.

(c) *Electrically Transmitted Messages.* Each part of electrically transmitted messages containing FOUO information shall be marked appropriately. Unclassified messages containing FOUO information shall contain the abbreviation "FOUO" before the beginning of the text. Such messages shall be transmitted in accordance with communications security procedures in ACP–121 (U.S. Supp. 1) (§ 286.10(o)) for FOUO information.

§ 286.43 Safeguarding FOUO Information.

(a) *During Duty Hours.* During normal working hours, records determined to be FOUO shall be placed in an out-of-sight location if the work area is accessible to non-governmental personnel.

(b) *During Nonduty Hours.* At the close of business, FOUO records shall be stored so as to preclude unauthorized access. Filing such material with other unclassified records in unlocked files or desks, etc., is adequate when normal U.S. Government or government-contractor internal building security is provided during nonduty hours. When such internal security control is not exercised, locked buildings or rooms normally provide adequate after-hours protection. If such protection is not considered adequate, FOUO material shall be stored in locked receptacles such as file cabinets, desks, or bookcases. FOUO records that are subject to the provisions of Pub. L. 88–36 (§ 286.10(c)) shall meet the safeguards outlined in any system notice for that group of records.

§ 286.44 Termination, disposal and unauthorized disclosures.

(a) *Termination.* The originator or other competent authority, e.g., initial denial and appellate authorities, shall terminate "For Official Use Only" markings or status when circumstances indicate that the information no longer requires protection from public disclosure. When FOUO status is terminated, all known holders shall be notified, to the extent practical. Upon notification, holders shall efface or remove the "For Official Use Only" markings, but records in file or storage need not be retrieved solely for that purpose.

(b) *Disposal.* (1) Nonrecord copies of FOUO materials may be destroyed by tearing each copy into pieces to preclude reconstructing, and placing them in regular trash containers. When local circumstances or experience indicates that this destruction method is not sufficiently protective of FOUO information, local authorities may direct other methods but must give due consideration to the additional expense balanced against the degree of sensitivity of the type of FOUO information contained in the records.

(2) Record copies of FOUO documents shall be disposed of in accordance with disposal standards established under 44 U.S.C. CH 33 (§ 286.10(p)), as implemented by DoD Component instructions concerning records disposal.

(c) *Unauthorized Disclosure.* The unauthorized disclosure of FOUO records does not constitute an unauthorized disclosure of DoD information classified for security purposes. Appropriate administrative action shall be taken, however, to fix responsibility for unauthorized disclosure whenever feasible, and appropriate disciplinary action shall be taken against those responsible. Unauthorized disclosure of FOUO information that is protected by the Privacy Act may also result in criminal sanctions against responsible persons. The DoD Component that originated the FOUO information shall be informed of its unauthorized disclosure.

Subpart F—Release and Processing Procedures

§ 286.50 General provisions.

(a) *Public Information.* (1) Since the policy of the Department of Defense is to make the maximum amount of information available to the public consistent with its other responsibilities, written requests for a DoD record made under the FOIA may be denied only when:

(i) The record is subject to one or more of the exemptions in § 286.30 of this Part, and a significant and legitimate government purpose is served by withholding it.

(ii) The record has not been described well enough to enable the DoD Component to locate it with a reasonable amount of effort by an employee familiar with the files.

(iii) The requester has failed to comply with the procedural requirements, including the written agreement to pay or payment of any required fee imposed by the instructions of the DoD Component concerned. When personally identifiable information in a record is requested by the subject of the record or his attorney, notarization of the request may be required.

(2) Individuals seeking DoD information should address their FOI requests to one of the addresses listed in Appendix B.

(b) *Requests from Private Citizens.* The provisions of the FOIA are reserved for persons with private interests as opposed to governments seeking information. Foreign governments seeking information from DoD Components should use established official channels for obtaining information. Release of records to individuals under the FOIA is considered public release of information, except as provided for in § 286.14(f).

(c) *Requests from Government Officials.* Requests from officials of federal, state, or local governments for DoD Component records shall be honored on an expeditious basis whenever possible. For purposes of determining whether the record or records shall be provided, such officials acting in an individual capacity shall be considered the same as any other requester.

(d) *Privileged Release to Officials.* (1) Subject to the provisions of 32 CFR 159 (§ 286.10(g)), applicable to classified information, DoD Directive 5400.11 (§ 286.10(d)), applicable to personal privacy, or other applicable law, records exempt from release under § 286.30 of this Part may be authenticated and released, in accordance with DoD Component regulations, to officials requesting them on behalf of local, state or federal governmental bodies, whether legislative, executive, administrative, or judicial, as follows:

(i) To Congress, in accordance with DoD Directive 5400.4 (§ 286.10(m)).

(ii) To the federal courts, whenever ordered by officers of the court as necessary for the proper administration of justice.

(iii) To other federal agencies, both executive and administrative, as determined by the head of a DoD Component or designee.

(iv) To state and local officials, as determined by the head of a DoD Component or designee.

(2) DoD Components shall inform officials receiving records under the provisions of § 286.50(d)(2) that those records are exempt from public release under the FOIA and are privileged. DoD Components shall also advise officials of any special handling instructions.

§ 286.51 Initial Determinations.

(a) *Initial Denial Authority.*

(1) Components shall limit the number of IDAs appointed. In designating its IDAs, a DoD Component shall balance the goals of centralization of authority to promote uniform decisions and decentralization to facilitate responding to each request within the time limitations of the FOIA.

(2) The initial determination of whether to make a record available upon request may be made by any suitable official designated by the DoD Component in published regulations. The presence of the marking "For Official Use Only" does not relieve the designated official of the responsibility to review the requested record for the purpose of determining whether an exemption under this Regulation is applicable and should be invoked.

(3) The officials designated by DoD Components to make initial determinations should consult with public affairs officers (PAOs) to become familiar with subject matter that is considered to be newsworthy, and advise PAOs of all requests from news media representatives. In addition, the officials should inform PAOs in advance when they intend to withhold or partially withhold a record, if it appears that the withholding action may be challenged in the media.

(b) *Reasons for Not Releasing a Record.* There are six reasons provided by the FOIA for not complying with a request for a record. They are:

(1) The information requested is not a record within the meaning of the FOIA and this Part.

(2) A record has not been described with sufficient particularity to enable the DoD Component to locate it by conducting a reasonable search.

(3) The requester has failed unreasonably to comply with procedural requirements, including payment of fees, imposed by this Part or DoD Component supplementing regulations.

(4) The DoD Component determines through knowledge of its files and reasonable search efforts that it does not hold the requested record. (A "no record" determination is not considered a denial; therefore, an appeal is not appropriate.)

(5) The DoD Component determines that the request should be handled under the provisions of the Privacy Act.

(6) The record is denied in accordance with procedures set forth in the FOIA and this Part.

(c) *Denial Tests.* To deny a requested record that has been located, a DoD Component must determine that the denial meets the following tests:

(1) The record is included in one or more of the nine categories of records exempt from mandatory disclosure as provided by the FOIA and outlined in § 286.30 of this Part.

(2) A significant and legitimate government purpose is served by withholding the record.

(d) *Reasonably Segregable Portions.* Although portions of some records may be denied, the remaining reasonably segregable portions must be released to the requester when the meaning of these portions is not distorted by deletion of the denied portions and when it reasonably can be assumed that a skillful and knowledgeable person could not reconstruct the excised information. When a record is denied in whole, the response advising the requester of that determination will specifically state that it is not possible to reasonably segregate meaningful portions of the record for release.

(e) *Response to Requester.* (1) Initial determinations to release or deny a record normally shall be made and the decision reported to the requester within 10 workings days after receipt of the request by the official designated to respond.

(2) When a decision is made to release a record, a copy should be made available promptly to the requester once he has complied with preliminary procedural requirements.

(3) When a request for a record is denied in whole or in part, the official designated to respond shall inform the requester in writing of the name and title or position of the official who made the determination, and shall explain to the requester the basis for the determination in sufficient detail to permit the requester to make a decision concerning appeal. The requester specifically shall be informed of the exemptions on which the denial is based on the significant and legitmate government purpose served by withholding the record. When the initial denial is based in whole or in part on a security classification, the explanation should include a summary of the applicable criteria for classification, as well as an explanation, to the extent reasonably feasible, of how those criteria apply to the particular record in question. The requester shall also be advised of the opportunity and procedures for appealing an unfavorable determination to a higher final authority within the DoD Component.

(4) The response to the requester should contain information concerning the fee status of the request. Generally, the information shall reflect one or more of the following conditions:

(i) All fees due have been received.

(ii) Fees have been waived because they fall below the automatic fee waiver threshold.

(iii) A request for waiver has been denied.

(iv) Fees have been waived or reduced from a specified amount to another specified amount because the rationale provided in support of a request for waiver has been accepted.

(v) Fees due in a specified amount have not been received.

(5) The explanation of the substantive basis for a denial shall include both specific citation of the statutory exemption applied under provisions of this Regulation and a discussion of the significant and legitimate government purpose served by invoking an exemption. Merely referring to a classification or, to a "For Official Use Only" marking on the requested record does not constitute a proper citation or explanation of the basis for invoking an exemption.

(6) When the time for response becomes an issue, the official responsible for replying shall acknowledge to the requester the date of the receipt of the request.

(f) *Extension of Time.* (1) In unusual circumstances, when additional time is needed to respond, the DoD Component shall acknowledge the request in writing within the 10-day period, describe the circumstances requiring the delay, and indicate the anticipated date for substantive response that may not exceed 10 additional working days. Unusual circumstances that may justify delay are:

(i) The requested record is located in whole or in part at places other than the office processing the request.

(ii) The request requires the collection and evaluation of a substantial number of records.

(iii) Consultation is required with other DoD Components or agencies having substantial interest in the subject matter to determine whether the records requested are exempt from disclosure in whole or in part under provisions of this Part or should be released as a matter of discretion.

(2) The statutory extension of time for responding to an initial request must be approved on a case-by-case basis by the final appellate authority for the DoD Component or in accordance with regulations of the DoD Component or in accordance with regulations of the DoD Component that establish guidance governing the circumstances in which such extensions may be granted.

(3) In these unusual cases where the statutory time limits cannot be met, and no informal extension of time has been agreed to, the inability to process any part of the request within the specified time should be explained to the requester, with notification that he may treat the delay as an initial denial with a right to appeal, or that the requester may agree to await a substantive response by an anticipated date. It should be made clear that any such agreement does not prejudice the right of the requester to appeal the initial decision after it is made.

(4) As an alternative to the taking of formal extensions of time as described in § 286.51(f)(1), (2) and (3) above, the negotiation by the cognizant, FOIA coordinating office of informal extensions in time with requesters is encouraged where appropriate.

(g) *Misdirected Requests.* Misdirected requests shall be forwarded promptly to the DoD Component with the responsibility for the records requested. The period allowed for responding to the request misdirected by the requester shall not begin until the request is received by the DoD Component that manages the records requested.

(h) *Records of Non-U.S. Government Source.* When a request is received for a record that was obtained from a non-U.S. Government source, or for a record containing information, clearly identified as having been provided by a non-U.S. Government source, the source of the record or information normally shall be notified promptly of that request and afforded reasonable time to present any objections concerning the release unless it is clear that there can be no valid bases for objection. If for example, the record or information was provided with actual or presumptive knowledge of the non-U.S. Government source and that it would be made available to the public upon request, there is no obligation to notify the source. Any objections shall be evaluated. When a substantial issue has been raised, the DoD Component may seek additional information from the source of the information and afford the source and requester reasonable opportunities to present their arguments on the legal issues involved prior to making an agency determination. When the source advises it will seek a restraining order or take court action to prevent release of the record or information, the requester shall be notified, and action on the request normally shall not be taken until after the outcome of that court action is known.

(i) *File of Initial Denials.* Copies of all initial denials shall be maintained by each DoD Component in a form suitable for rapid retrieval, periodic statistical compilation, and management evaluation.

(j) *Special Mail Services.* DoD Components are authorized to use registered mail, certified mail, certificates of mailing and return receipts. However, their use should be limited to instances where it appears advisable to establish proof of dispatch or receipt of FOIA correspondence.

(k) *Receipt Accounts.* The Treasurer of the United States has established two accounts for FOIA receipts. These accounts, which are described below, shall be used for depositing all FOIA receipts except receipts for industrially funded activities. Industrially funded activity FOIA receipts shall be deposited to the applicable industrial fund.

(1) *Receipt Account 2252, Sale of Publications and Reproductions, Freedom of Information Act.* This account shall be used when depositing funds received from providing existing publications and forms, that meet the Receipt Account Series 2250 description found in Federal Account Symbols and Titles.

(2) *Receipt Account 2419.3, Fees and Other Charges for Services, Freedom of Information Act.* This account is used to deposit search fees and fees for duplicating records to satisfy requests that could not be filled with existing publications or forms.

§ 286.52 Appeals.

(a) *General.* If the official designated by the DoD Component to make initial determinations on requests for records declines to provide a record because the official considers it exempt and its withholding justified for a significant and legitimate government purpose, that decision may be appealed by the requester in writing to a designated appellate authority. The appeal should be accompanied by a copy of the letter denying the initial request. Such appeals should contain the basis for disagreement with the initial refusal. In addition, the DoD Component may impose a reasonable time limit, which may not be more than 45 days, for the requester to file an appeal. Appeal procedures also apply to the disapproval of a request for waiver or reduction of fees. A "no record" finding may not be appealed, although the requester may ask the agency to search other files or provide more detailed identification to facilitate another search of the files.

(b) *Time of Receipt.* FOI appeal has been received by a DoD Component when it reaches the office of the appellate authority having jurisdiction. Misdirected appeals should be referred expeditiously to the proper appellate authority.

(c) *Time Limits.* (1) The requester must file an appeal so that it reaches the appellate authority no later than 45 working days after the requester receives notification of an initial denial. At the conclusion of this period, the case

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may be considered closed. In cases where the requester is provided several incremental determinations for a single request, the time for the appeal shall not begin until the requester receives the last such notification. Records which are denied shall be retained during the time permitted for appeal.

(2) Final determinations on appeals normally shall be made within 20 working days after receipt.

(d) *Delay in Responding to an Appeal.* (1) If additional time is needed due to the unusual circumstances described in § 286.51(f), the final decision may be delayed for the number of working days (not to exceed 10), that were not utilized as additional time for responding to the initial request.

(2) If a determination cannot be made and the requester notified within 20 working days, the appellate authority shall acknowledge to the requester in writing the date of receipt of the appeal, the circumstances surrounding the delay, and the anticipated date for substantive response. Requesters shall be advised that, if the delay exceeds the statutory extension provision or is for reasons other than the unusual circumstances identified in § 286.51(f), they may consider their administrative remedies exhausted. They may, however, without prejudicing their right of judicial remedy, await a substantive response. The DoD Component shall continue to process the case expeditiously whether or not the requester seeks a court order for release of the records, but a copy of any response provided subsequent to filing of a complaint shall be forwarded to the Department of Justice.

(e) *Response to the Requester.* (1) When an appellate authority makes a determination to release all or a portion of records withheld by an IDA, a copy of the records so released should be forwarded promptly to the requester after compliance with any preliminary procedural requirements, such as payment of fees.

(2) Final refusal to provide a requested record or to approve a request for waiver or reduction of fees must be made in writing by the head of the DoD Component or by a designated representative. The response, as a minimum, shall include the following:

(i) The basis for the refusal shall be explained to the requester, in writing, both with regard to the applicable statutory exemption invoked under provisions of this Part and the significant and legitimate government purpose served by its withholding.

(ii) When the final refusal is based in whole or in part on a security classification, the explanation shall include a determination that the record meets the cited criteria and rationale of the governing executive order and that this determination is based on a declassification review, with the explanation of how that review confirmed the continuing validity of the security classification.

(iii) The final denial shall include the name and title or position of the official responsible for the denial.

(iv) The response shall advise the requester that the material being denied does not contain meaningful portions that are reasonably segregable.

(v) The response shall advise the requester of the right to judicial review.

(f) *Consultation.* (1) Final refusal involving issues not previously resolved or that the DoD Component knows to be inconsistent with rulings of other DoD Components ordinarily should not be made before consultation with the Office of the General Counsel of the Department of Defense.

(2) Tentative decisions to deny records that raise new or significant legal issues of potential significance to other agencies of the government shall be brought to the attention of the Freedom of Information Committee of the Department of Justice through the Office of Information Law and Policy.

§ 286.53 Judicial actions.

(a) *General.* (1) This section states current legal and procedural rules for the convenience of the reader. The statements of rules do not create rights or remedies not otherwise available, nor do they bind DoD to particular judicial interpretations or procedures.

(2) A requester may seek an order from a United States District Court to compel release of a record after administrative remedies have been exhausted; i.e., when refused a record by the head of a Component or an appellate designee or when the DoD Component has failed to respond within the time limits prescribed by the FOIA and set forth in this Part.

(b) *Jurisdiction.* The requester may bring suit in the United States District Court in the district in which the requester resides or is the requester's place of business, in the district in which the record is located, or in the District of Columbia.

(c) *Burden of Proof.* The burden of proof is on the DoD Component to justify its refusal to provide a record. The court shall evaluate the case de novo (anew) and may elect to examine any requested record in camera (in private) to determine whether the denial was justified.

(d) *Actions by the Court.* (1) When a DoD Component has failed to make a determination within the statutory time limits but can demonstrate due diligence in exceptional circumstances, the court may retain jurisdiction and allow the Component additional time to complete its review of the records.

(2) If the court determines that the requester's complaint is substantially correct, it may require the United States to pay reasonable attorney fees and other litigation costs.

(3) When the court orders the release of denied records, it may also issue a written finding that the circumstances surrounding the withholding raise questions whether DoD Component personnel acted arbitrarily and capriciously. In these cases, the special counsel of the Merit System Protection Board will conduct an investigation to determine whether or not disciplinary action is warranted. The DoD Component is obligated to take the action recommended by the special counsel.

(4) The court may punish the responsible official for contempt when a DoD Component fails to comply with the court order to produce records that it determines have been withheld improperly.

(e) *Non-United States Government Source Information.* A requester may bring suit in a U.S. District Court to compel the release of records obtained from a nongovernment source or records based on information obtained from a nongovernment source. Such source shall be notified promptly of the court action. When the source advises that it is seeking court action to prevent release, the DoD Component shall defer answering or otherwise pleading to the complainant as long as permitted by the Court or until a decision is rendered in the court action of the source, whichever is sooner.

(f) *Litigation Status Sheet.* Freedom of Information managers at DoD Component level shall be aware of litigation under the FOIA. Such information will provide management insights into the use of the nine exemptions by Component personnel. The Litigation Status Sheet at Appendix C provides a standard format for recording information concerning FOIA litigation and forwarding that information to the Office of the Secretary of Defense. Whenever a complaint under the FOIA is filed in a U.S. District Court, the DoD Component named in the complaint shall forward a Litigation Status Sheet, with items 1 through 6 completed, and a copy of the complaint to the Director for Freedom of Information and Security Review, Office of the Assistant Secretary of Defense (Public Affairs). A revised Litigation Status Sheet shall be provided at each stage of the litigation.

§ 286.54 [Reserved]

Subpart G—Fee Schedule

§ 286.60 General provisions.

(a) *Application.* The fees described in this Part apply to FOIA requests. They reflect direct search and duplication costs, collection of which are permitted by the FOIA. They are neither intended to imply that fees must be charged in connection with providing information to the public in the routine course of business nor are they meant as a substitute for any other schedule of fees, such as 32 CFR Part 288 (§ 286.10(q)).

(b) *Fee Assessment.* (1) Minimum fees shall not be charged.

(2) When direct search and duplication costs for a single FOIA request total less than $30.00, fees should be waived automatically. The DoD Components, however, may set aside the automatic waiver provision when, on the basis of good evidence, the Component can demonstrate that waiver of fees is not in the public interest. Multiple requests from a single requester or from those acting in behalf of a single requester in an effort to take advantage of the waiver may create a situation in which waiver should be denied by the Component.

(3) Decisions to waive or reduce fees that exceed the automatic waiver threshold shall be made on a case-by-case basis. The following circumstances, however, describe the most common circumstances in which waiver or reduction of fees are most likely to be warranted.

(i) No record is located or all records are denied. However, fee charges are appropriate if the requester insists upon a search and agrees to such fees after being informed that the search is likely to be nonproductive or that the records are all likely to be exempt from release.

(ii) A record is voluntarily created to preclude an otherwise burdensome effort to provide voluminous amounts of available records including additional information not requested.

(iii) The records are to be made available in response to a news media requester whose requests under this regulation are reasonable in scope and frequency.

(iv) The record is for a nonprofit public interest group and the subject of the requested record is known to be of wide public interest, and furnishing the information can be considered as primarily benefiting the general public.

(v) A previous denial is reversed in whole or in part and the search and reproduction costs involved are not substantial.

(c) *Computation of Fees.* The fee schedule contained in this Part is used to compute the search and duplication costs associated with processing a given FOIA request. Search fees shall be computed based on time actually spent. Neither time-based nor dollar-based minimum charges for search and duplication are authorized.

§ 286.61 Collection of fees and fee rates.

(a) *Collection of Fees.* Collection of charges and fees need not be made in advance of rendering the service unless the costs are expected to exceed the fee waiver threshold and the requester has not indicated a willingness in writing to pay. It frequently is more practical to collect charges and fees at the time of providing the service or property to the recipient when the requester specifically states that the cost involved shall be acceptable or acceptable up to a specified limit that covers anticipated costs. Collection of fees in advance is an appropriate requirement only when the requester has not agreed in writing to pay the anticipated fee or has not honored previous commitments to pay fees that were owed an agency or component.

(b) *Search Fees.* (1) Manual Search:

Type	Grade	Hourly rate[1]
Clerical	E9/GS8 and below	8
Professional	01-06/GS9—GS-15	16
Executive	07/GS16/ES1 and above	26

[1] Dollars.

(2) Computer search is based on direct cost of the central processing unit, input-output devices, and memory capacity of the actual computer configuration.

(3) Actual cost of transporting records or personnel to the search site may be included.

(c) *Duplication Fees.*

Type and Cost Per Page (Cents)
Printed Material—01
Office Copy—10
Microfiche—25

(d) *Audiovisual Documentary Materials.* Search costs are computed as for any other record. Duplication cost is the actual direct cost of reproducing the material, including the wage of the person doing the work. Audiovisual materials provided to a requester need not be in reproducible format or quality.

(e) *Other Records.* Direct search and duplication cost for any record not described above shall be computed in the manner described for audiovisual documentary material.

§ 286.62 [Reserved]

Subpart H—Reports

§ 286.70 Reports control.

(a) *General.* The reporting requirement outlined in this Part is assigned Report Control Symbol DD-PA(TRA&A) 1365.

Annual Report

(b) *Reporting Time.* Each DoD Component shall prepare statistics and accumulate paperwork for the preceding calendar year on those items prescribed for the annual report and submit them in duplicate to the ASD(PA) on or before each February 1. Existing DoD standards and registered data elements are to be used for all data requirements to the greatest extent possible in accordance with the provisions of DoD Directive 5000.11 (§ 286.10(r)). The standard data elements are contained in DoD 5000.12-M (§ 286.10(s)).

(c) *Annual Report Content.* (1) The annual report shall contain the following: (i) *Item 1.* Report the number of public requests (a single FOIA request) completed. Report the number of reportable requests, the number in which a statutory exemption was invoked, and the number in which some other authority resulted in the denial of the request.

Note.—A reportable request is that portion of an FOIA request resulting in a single record or group of records pertaining to one general subject area being acted upon by one IDA who concludes that a single type of determination applies. Example: A single public request that requires the action of three IDAs in determining if a record under their jurisdiction is to be released would be counted as three reportable requests, but one public request. Records released by two IDAs in response to one public request would be counted as two reportable requests.

(ii) *Item 2.* Provide statistics on the specific authorities—statutory exemptions, statutes, and categories of other reasons used in the totals above.

(A) *Item 2(a).* Show the number of times each of the nine statutory exemptions was invoked (the total may not agree with Item 1 because of situations where two or more exemptions were cited for one record).

(B) *Item 2(b).* List the statutes cited when invoking Exemption 3 and the number of times each was cited.

(C) *Item 2(c).* Show the number of times each category of other reasons was cited in response to the public. Five such reportable categories have been established in Appendix E to this Part (the total will equal the number reported in Item 1).

(iii) *Item 3.* Provide the number of IDAs authorized. Then list the names and titles or positions of persons cited

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as IDAs, followed thereafter in two subcolumns by the number of times each person cited exemptions or other authority categories (the vertical columnar totals must match Item 1).

(iv) *Item 4.* Provide the number of appeals that, upon review, were granted in part, or denied, followed by a total of those three numbers.

(v) *Item 5.* Repeat the three statistical requirements of Item 2 for the appeals that were granted in part or denied.

(vi) *Item 6.* Repeat item 3 for appellate authorities including both subcolumnar statistics.

(vii) *Item 7.* When a court determines that DoD Component records were improperly withheld and issues a finding raising questions on the actions of DoD Component personnel, provide a copy of each such court opinion or order; a copy of the Office of Personnel Management finding and recommendation on each such proceeding; and a report of any disciplinary action taken against the person who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken.

(viii) *Item 8.* List changes or revisions of DoD Component rules or regulations affecting the implementation of FOIA followed by the **Federal Register** reference (number, date, and page) that announced the change or revision to the public. Append a copy of each such change or revised rule or regulation.

(ix) *Item 9.* The amount of fees collected from the public will be reported triannually to OASD(PA); thus, duplicate annual reporting by DoD Components is not required.

(x) *Item 10.* The following subitems have been established by Congressional request as indicative of DoD Component efforts to administer FOIA.

(A) *Item 10(a).* List all new categories of records now being released in whole or in part under FOIA.

(B) *Item 10(b).* The costs of administering the FOIA Program shall be reported triannually to OASD(PA); thus, duplicate annual reporting by Components is not required. The triannual reports shall be used by the OASD(PA) to portray annual DoD Component and DoD-wide totals.

(C) *Item 10(c).* Report the number of times unusual circumstances required an extension of normal processing time limits, and break down that total by circumstances and by court action. Append a copy of each court opinion or order involving the question of time limits for processing.

(D) *Item 10(d).* Append a copy of all unpublished (not announced in the **Federal Register**) instructions to DoD Component personnel, memoranda, or other issuances that address procedures, definitions, or interpretations of the FOIA promulgated during the year at Major Command level of the DoD Component. Report the number of documents published and whether or not they are publicly available, together with the legal basis for nondisclosure, should that be the case.

(E) *Item 10(e).* Any other information, opinion, or recommendations considered pertinent by the DoD Component.

(xi) *Item 11.* Report descriptions of FOI instructional and educational efforts undertaken by the DoD Component directed toward DoD Component personnel or the public.

(xii) Statistical data required by the items listed above shall be prepared in the format shown in Appendix D.

§ 286.71 Triannual report.

(a) *General.* A portion of the annual reporting requirements has been selected for more frequent reporting to provide management data at intermediate DoD Components and DoD levels. The data selected fall into three areas: (1) costs attendant to administration of the FOIA program, (2) the amount collected from the public, and (3) the number of reportable requests and appeals.

(b) *Time of Report.* Each DoD Component shall prepare statistics triannually (Jan-Apr, May-Aug, Sept-Dec) and, using the outline provided below, report these data to the ASD(PA) on or before 30 days after the close of each 4-month period. The use of DD Form 2086, "Record of Freedom of Information (FOI) Processing Cost," to maintain a record of the cost of each FOIA case shall provide the data needed for compiling the data in this report.

(c) *Triannual Report Outline.* (1) The Triannual Report shall include the following: Reporting Activity: Period of Report:

"(i) Cost of Routine Requests Processed: No. of reportable requests × (cost factor per request) $———

(ii) Personnel Costs (Civilian and Military): (A) Direct costs of personnel assigned FOI duties based upon estimated payroll manyears by grade: ——— Cost: $———

(B) Direct costs for other personnel involved in processing requests not included above based upon accumulation of total hourly data:
Search Time Costs: ———
Review and Excising: ———
Coordination and Approval/Denial Decision Costs: ———
Correspondence and Form Preparation: ———
Other Activity Costs: ———
Total Manhour Costs: $———

(C) Application of Overhead: (Subtotal a) + (Subtotal b) × (overhead rate): $———
Total of Direct Personnel Costs and Overhead: $———

(iii) Other Case Related Costs:
(A) Computer $———
(B) Office Copy Reproduction $———
(C) Microfiche Reproduction $———
(D) Cost of Printed Records $———
Total of Other Costs: $———

(iv) Other Operating Costs:
(A) Reporting Costs [1]
Operational ———
User ———
Overhead ———
([1]) + ([2]) × (overhead rate)) ——— $———

(B) Other costs as directed or as can be reasonably ascertained. Itemize each expense category and cost. $———
(Subtotal a) + (Subtotal b) $———

(v) Summary:
(A) Total Costs of Sections 1 through 4, above $———
(B) Amount Collected from Requesters this Reporting Period: Search ——— Copy ——— Total: $———
(C) No. of Requests Processed During this Reporting Period: Reportable Requests ——— Appeals ——— Total: ———

(2) A copy of DD Form 2086, "Record of Freedom of Information (FOI) Processing Costs," is at Appendix F.

(3) Format and instructions for the Triannual report are at Appendix G.

§ 286.72 [Reserved]

Subpart I—Education and Training

§ 286.80 Responsibility and purpose.

(a) *Responsibility.* The head of each DoD Component is responsible for the establishment of educational and training programs on the provisions and requirements of this Part. The educational programs should be targeted toward all members of the DoD Component, developing a general understanding and appreciation of the DoD FOIA Program; whereas, the training programs should be focused toward those personnel who are involved in the day-to-day processing of FOI requests, developing a thorough understanding of the procedures outlined in this Part.

(b) *Purpose.* The purpose of the educational and training programs is to promote a positive attitude among DoD personnel and raise the level of understanding and appreciation of the DoD FOIA Program, thereby improving

[1] See DoD Instruction 5000.22 (§ 286.10(t)). In the report for the last 4-month period (Sept-Dec) of each year, include the costs attributable to the Annual Report.

the interaction with members of the public and improving the public trust in the Department of Defense.

(c) *Scope and Principles.* Each Component shall design its FOIA educational and training programs to fit the particular requirements of personnel dependent upon their degree of involvement in the implementation of this Part. The program should be designed to accomplish the following objectives:

(1) Familiarize personnel with the requirements of the FOIA and its implementation by this Part.

(2) Instruct personnel, who act in FOI matters, concerning the provisions of this Part, advising them of the legal hazards involved and the the strict prohibition against arbitrary and capricious withholding of information.

(3) Provide for the procedural and legal guidance and instruction, as may be required, in the discharge of the responsibilities of initial denial and appellate authorities.

(4) Advise personnel of the penalties for noncompliance with the FOIA.

(d) *Implementation.* To ensure unformity of interpretation, all major educational and training programs concerning the implementation of this Regulation should be coordinated with the Director, Freedom of Information and Security Review, OASD (Public Affairs).

(e) *Uniformity of Legal Interpretation.* In accordance with Subpart A of this Part (§ 286.10(b)), the General Counsel of the Department of Defense shall ensure uniformity in the legal position and interpretation of the DoD FOIA Program.

Appendix A—Unified Commands—Processing Procedures for FOI Appeals

1. *General.* a. In accordance with Subpart A of this Part (§ 286.10(b)), and this Part the Unified Commands are placed under the jurisdiction of the Office of the Secretary of Defense, instead of the administering Military Department, only for the purpose of administering the Freedom of Information (FOI) Program. This policy represents an exception to the policies in DoD Directive 5100.3 (§ 286.10(c)).

b. The policy change above authorizes and requires the Unified Commands to process FOI requests in accordance with Subpart A of this Part (§ 286.10(b)) and to forward directly to the Office of the Assistant Secretary of Defense (Public Affairs) all correspondence associated with the appeal of an initial denial for information under the provisions of the Freedom of Information Act (FOIA).

2. *Processing Procedures.* A request for a record under the FOIA may be denied only upon determination that:

(a) The record is subject to one or more of the exemptions set forth in § 286.30 of this Part and a significant and legitimate government purpose is served by the withholding.

(b) The record cannot be found because it has not been described with sufficient particularity to enable a responsible authority to locate it with a reasonable amount of effort.

(c) The requester has unreasonably failed to comply with the procedural requirements imposed by this Part.

3. *Responsibilities of Commands.* Unified Commanders in Chief shall: (a) Designate the officials authorized to deny initial FOI requests for records.

(b) Designate an office as the point-of-contact for FOI matters.

(c) Refer FOI cases to the ASD(PA) for review and evaluation when the issues raised are of unusual significance, precedent setting, or otherwise require special attention or guidance.

(d) Consult with other OSD and DoD Components that may have a significant interest in the requested record prior to a final determination. Coordination with agencies outside of Department of Defense, if required, is authorized.

(e) Coordinate proposed denials of records with the appropriate Unified Command's Office of the Staff Judge Advocate.

(f) Answer any request for a record within 10 working days of receipt. The requester shall be notified that his request has been granted or denied. In unusual circumstances, such notification may state that additional time, not to exceed 10 working days, is required to make a determination.

(g) Provide to the ASD(PA) when the request for a record is denied in whole or in part, a copy of the response to the requester or his representative, and any internal memoranda that provide background information or rationale for the denial.

(h) State in the response that the decision to deny the release of the requested information, in whole or in part, may be appealed to the ASD(PA) the Pentagon, Washington, D.C. 20301.

(i) Upon request, submit to ASD(PA) a copy of the records that were denied. ASD(PA) shall make such requests when adjudicating appeals.

4. *Fees for FOI Requests.* The fees charged for requested records shall be in accordance with § 286.60 of this Part.

5. *Communications.* Excellent communication capabilities currently exist between the Office of the ASD(PA) and the Public Affairs Offices of the Unified Commands. This communication capability shall be used for FOI cases that are time sensitive.

6. *Reporting Requirements.* a. The Unified Commands shall submit to the ASD(PA) triannual reports and an annual report. The instructions for these two reports are outlined in § 286.70 of this Part.

b. The annual report shall be submitted in duplicate to the ASD(PA) not later than each February 1. This reporting requirement is assigned Report Control Symbol DD-PA(TRA&A) 1365.

c. The triannual reports for the periods January-April, May-August, September-December are required within 30 days after the close of the reporting period. The first report is due for the period May-August 1980, arriving at the Office of the ASD(PA) not later than September 30, 1980. This reporting requirement is assigned Report Control Symbol DD-PA (TRA&A) 1365.

Appendix B—Addressing FOIA Requests

1. *General.* a. The Department of Defense includes the Office of the Secretary of Defense and the Organization of the Joint Chiefs of Staff, the Military Departments, the Unified and Specified Commands, and such other agencies as the Secretary of Defense establishes to meet specific requirements.

b. The Department of Defense does not have a central respository for DoD records. FOI requests, therefore, should be addressed to the DoD Component that has custody of the record desired. In answering inquiries regarding FOI requests, DoD personnel shall assist requesters in determining the correct DoD Component to address their requests. If there is uncertainty as to the ownership of the record desired, the requester shall be referred to the DoD Component that is most likely to have the record.

2. *Listing of DoD Component Addresses for FOI Requests.* a. *Office of the Secretary of Defense/Organization of the Joint Chiefs of Staff.* This Component includes the Office of the Secretary of Defense, Office of the Deputy Secretary of Defense, Organization of the Joint Chiefs of Staff, Under Secretary of Defense for Policy, Under Secretary of Defense for Research and Engineering, Assistant Secretaries of Defense, General Counsel of the Department of Defense, Deputy Under Secretary of Defense (Policy Planning), Deputy Under Secretary of Defense (Policy Review), Assistant to the Secretary of Defense (Atomic Energy), Assistant to the Secretary of Defense (Legal Affairs), Director of Defense Advanced Research Projects Agency, Director of Defense Audit Service, Director of Defense Audiovisual Agency, Director of Defense Security Assistance Agency, Director of Net Assessment, Director of Office of Civilian Health and Medical Program of the Uniformed Services, Director of Office of Dependents Schools (including Overseas Schools), Deputy Advisor on NATO Affairs, Inspector General for Defense Intelligence, President of the Uniformed Services University of the Health Sciences, President of National Defense University (including the National War College and the Industrial College of the Armed Forces), Commandant of the Defense Systems Management College, Commandant of Armed Forces Staff College. All Freedom of Information requests concerning records of these activities should be sent to: Director, Freedom of Information and Security Review, Office of the Assistant Secretary of Defense (Public Affairs), Room 2C757, Pentagon, Washington, D.C. 20301.

b. *Department of the Army.* Army records may be requested from those Army officials who are listed in 32 CFR 518.17. Send requests to HQDA (DAAG-AMR-S), Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20314, for records of the Headquarters, U.S. Army, or if there is uncertainty as to which Army activity may have the records desired.

c. *Department of the Navy.* Navy and Marine Corps records may be requested from

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any Navy or Marine Corps activity by addressing a letter to the commanding officer and clearly indicating that it is a FOI request. Send requests to Chief of Naval Records Management Division (OP–09B1), Room 5E–613, Pentagon, Washington, D.C. 20350, for records of the Headquarters, Department of the Navy, or if there is uncertainty as to which Navy or Marine Corps activity may have records sought.

d. *Department of the Air Force.* Air Force records may be requested from the Commander (ATTENTION: DADF) of any Air Force installation, major command, or separate operating agency, or from the Headquarters, United States Air Force. Requesters should send FOI requests to HQ USAF/DADF, Washington, D.C. 20330, for Air Force records of Headquarters, United States Air Force, or if there is uncertainty as to which Air Force activity may have the records desired.

e. *Defense Communications Agency (DCA).* DCA records may be requested from any DCA field activity or from its headquarters. FOI requests may be addressed to Headquarters, Defense Communications Agency (Code 105), Washington, D.C. 20305.

f. *Defense Contract Audit Agency (DCAA).* DCAA records may be requested from any of its regional offices or from its headquarters. Requesters should send FOI requests to the Defense Contract Audit Agency, Cameron Station, Alexandria, Va. 22314, for records of its headquarters or if there is uncertainty as to which DCAA region may have the records sought.

g. *Defense Intelligence Agency (DIA).* FOI requests for DIA records may be addressed to Defense Intelligence Agency (RTS–2A), Washington, D.C. 20301.

h. *Defense Investigative Service (DIS).* All FOI requests for DIS records should be sent to the Office of Information and Legal Affairs Defense Investigative Service (D0020), 1900 Half St., S.W., Washington, D.C. 20314.

i. *Defense Logistics Agency (DLA).* DLA records may be requested from its headquarters or from any of its field activities. Requesters should send FOI requests to Defense Logistics Agency (DLA–XA), Cameron Station, Alexandria, Virginia 22314, for records of its headquarters or DLA field activities if the record is known to be at the field location

j. *Defense Mapping Agency (DMA).* FOI requests for DMA records may be sent to the Defense Mapping Agency, Naval Observatory, Building 56, 34 Massachusetts Avenue, N.W., Washington, D.C. 20305.

k. *Defense Nuclear Agency (DNA).* FOI requests for DNA records may be sent to Defense Nuclear Agency, Public Affairs Office, Washington, D.C. 20305.

l. *National Security Agency (NSA).* FOI requests for NSA records may be sent to the National Security Agency, ATTN: Freedom of Information Office, Fort George G. Meade, MD 20755.

3. *Other Addresses.* a. *Office of Civilian Health and Medical Program of the Uniformed Services (CHAMPUS).* FOI requests for CHAMPUS records may be sent to the Director, OCHAMPUS, Denver, Colorado 80240.

b. *National Guard Bureau.* FOI requests for National Guard Federal records may be sent to any State Guard unit or to the National Guard Bureau (NGS–DA), Room 2C–362, Pentagon, Washington, D.C. 20301.

c. *Miscellaneous.* If there is uncertainty as to which DoD Component may have the DoD record sought, the requester may address a Freedom of Information request to the Director, Freedom of Information and Security Revenue, Office of the Assistant Secretary of Defense (Public Affairs), Room 2C757, Pentagon, Washington, D.C. 20301.

Appendix C—Litigation Status Sheet

1. Case Number [1]
2. Requester
3. Document Title or Description
4. Litigation
   a. Date Complaint Filed
   b. Court
   c. Case File Number [1]
5. Defendants (agency and individual)
6. Remarks: (brief explanation of what the case is about)
7. Court Action
   a. Court's Finding
   b. Disciplinary Action (as appropriate)
8. Appeal (as appropriate)
   a. Date Complaint Filed
   b. Court
   c. Case File Number [1]
   d. Court's Finding
   e. Disciplinary Action (as appropriate)

[1] Number used by component for reference purposes.

Appendix D.—*Annual Report Format*

Item 1

Initial Determinations Resulting in not Providing all or a Portion of Record Requested

Reporting* Activity	Total Demands: Completed Public Requests	Completed Reportable Requests	Reasons: Statutory Exemption + Other = Total

Item 2(a)

Exemptions Invoked on Initial Determinations
Exemption by Number (552(b))

Reporting* Activity	1 2 3 4 5 6 7 8 9	Total

Item 2(b)

Statutes Invoked on Initial Determinations

Reporting* Activity	Statute	Number of Times

Item 2(c)

Other Reasons

Reporting* Activity	Category* 1 2 3 4 5	Total

Item 3

Initial Denial Officials by Participation

A. Total IDAs authorized:
B. IDAs involved in adverse determinations

Name*	Title	No. of Instances of Participation: Exemptions	Other

Item 4

Number of Appeals and Results

Reporting* Activity	Number of Appeals: Granted	Granted in Part	Denied	Total

Item 5(a)

Exemptions Invoked on Appeal Determinations
Exemptions by Number (522(b))

Reporting* Activity	1 2 3 4 5 6 7 8 9	Total

Item 5(b)

Statutes Invoked on Appeal Determinations

Reporting* Activity	Statute	Number of Times

Item 5(c)

Other Reasons Cited on Appeal Determinations

Reporting* Activity	Category* 1 2 3 4 5	Total

Item 6

Participation of Appellate Authorities
(those responsible for denials in whole or in part)

Name*	Title	No. of Instances of Participation: Exemptions	Other

Item 7

Court Opinions and Action Taken

Item 8

FOIA Implementation Rules or Regulations

Reporting* Activity	Document Identification	Fed. Reg. Ref.

Item 10A

Availability of Records
(New categories of segregable portions of records now being released)

Item 10C

Time Limit Extensions by Activity

Reporting* Activity	I: Unusual Circumstances: Location	Volume	Consultation	II and III: Court Involvement	Total

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Item 10D
Internal Memoranda
(Including Directives not Published in FEDERAL REGISTER)

Reporting* Activity	No. of Memoranda	No. Available to Public

Item 10E (Optional)
Other information (opinions) or recommendations on administering FOIA
Item 11
FOIA Instructional and Educational Efforts

NOTE.—Items marked with an asterisk (*) have been registered in the DoD data element program.

Appendix E—Other Reason Categories

1. *Transferred Requests*

This category applies when responsibility for making a determination or a decision on categories 2, 3, or 4 below is shifted from one DoD Component to another.

2. *Lack of Records*

This category covers those situations wherein the requester is advised the DoD Component has no record or has no statutory obligation to create a record.

3. *Failure of Requester to Reasonably Describe Record*

This category is specifically based on Section 552(a)(3)(a) of the FOIA (§ 286.10(a)).

4. *Other Failures by Requesters to Comply with Published Rules or Directives*

This category is based on Section 552(a)(3)(b) of the FOIA (§ 286.10(a)) and includes instances of failures to follow published rules concerning time, place, fees, and procedures.

5. *Request Withdrawn by Requester*

This category covers those situations wherein the requester asks an agency to disregard the request (or appeal) or pursues the request outside FOIA channels.

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APPENDIX F

RECORD OF FREEDOM OF INFORMATION (FOI) PROCESSING COST — SEE INSTRUCTIONS ON BACK OF PAGE

1. REQUEST NO.	2. TYPE OF REQUEST ☐ INITIAL ☐ APPEAL	3. DATE COMPLETED (yr., mo., day)

4. CLERICAL HOURS (E-9/GS-8 AND BELOW)	TOTAL HOURS		HOURLY RATE		COST
SEARCH					*
REVIEW/EXCISING		X	$ 8.00	=	
CORRESPONDENCE AND FORMS PREPARATION					
OTHER ACTIVITY					

5. PROFESSIONAL HOURS	TOTAL HOURS		HOURLY RATE		COST
SEARCH					*
REVIEW/EXCISING		X	$ 16.00	=	
COORDINATION/APPROVAL/DENIAL					
OTHER ACTIVITY					

6. EXECUTIVE HOURS (O-7/GS-16 AND ABOVE)	TOTAL HOURS		HOURLY RATE		COST
REVIEW/EXCISING		X	$ 26.00	=	
COORDINATION/APPROVAL/DENIAL					

7. COMPUTER SEARCH	TOTAL HOURS		HOURLY RATE		COST
MACHINE HOURS		X		= *	

8. OFFICE COPY REPRODUCTION	NUMBER		RATE		COST
PAGES REPRODUCED		X	.10	= *	

9. MICROFICHE REPRODUCTION	NUMBER		RATE		COST
MICROFICHE REPRODUCED		X	.25	= *	

10. PRINTED RECORDS	TOTAL PAGES		RATE		COST
FORMS				*	
PUBLICATIONS		X	.01	= *	
REPORTS				*	

11. *For FOI Office Use Only*

a. SEARCH FEES PAID		c. TOTAL COLLECTABLE COSTS *	
b. COPY FEES PAID		d. TOTAL PROCESSING COSTS	
c. TOTAL PAID		e. TOTAL CHARGED	
d. DATE PAID (yr., mo., day)		h. FEES WAIVED/REDUCED	Y / N

* *Chargeable to the Requester.*

DD FORM 1 JAN 80 2086

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Instructions

Purpose: This form is used to record costs associated with the processing of a Freedom of Information request.

1. **Request Number**—First two digits will express CY followed by dash (—) and Component's request number, i.e., 79–001.

*2. **Type of Request**—Check the appropriate block to indicate initial request or appeal of a denial.

*3. **Date Completed**—Enter year, month and day, i.e., 79/06/21.

*4. **Clerical Hours**—For each applicable activity category, enter time expended to the nearest 15 minutes in the total hours column. The activity categories are:

Search—Time spent in locating from the files the requested information.

Review/Excising—Time spent reviewing the document content and determining if the entire document must retain its classification or segments could be excised thereby permitting the remainder of the document to be declassified. In reviews for other than classification, FOI exemptions 2 through 9 should be considered.

Correspondence & Forms Preparation—Time spent in preparing the necessary correspondence and forms to answer the request.

Other Activity—Time spent in activity other than above, such as, duplicating documents, hand carrying documents to other locations, restoring files, etc.

—Multiply the time in the total hours column of each category by the hourly rate and enter the cost figures for each category. Only search cost may be charged to the requester. Further discussion of chargeable fees is found in Enclosure 6, DoD Directive 5400.7.

*5. **Professional Hours**—For each applicable acitivity category, enter time expended to the nearest 15 minutes in the total hours column. The activity categories are:

Review/Excising, and Other Activity—See explanation above.

Coordination/Approval/Denial—Time spent coordinating the staff action with interested offices or agencies and obtaining the approval for the release or denial of the requested information.

—Multiply the time in the total hours column of each category by the hourly rate and enter the cost figures for each category. Only search cost may be charged to the requester.

*6. **Executive Hours**—For each applicable activity category, enter the time expended to the nearest 15 minutes in the total hours column. The activity categories are:

Review/Excising and Coordination/Approval/Denial—See explanation above.

—Multiply the time in the total hours column in each cateogry by the hourly rate and enter the cost figures for each category.

*7. **Computer Search**—Enter the time to the nearest 15 minutes in the total hours column.

—Multiply by the total hours by the computer hourly rate and enter the cost figures. Computer search will be based on direct cost only of the Central Processing Unit, input/output devices, and memory capacity of the actual computer configuration used. This amount is fully chargeable to the requester.

*8. **Office Copy Reproduction**—Enter the number of pages reproduced.

—Multiply by the rate per copy and enter cost figures. The entire cost is chargeable to the requester.

*9. **Microfiche Reproduction**—Enter the number of microfiche copies reproduced.

—Multiply by the rate per copy and enter cost figures. The entire cost is chargeable to the requester.

*10. **Printed Records**—Enter total pages in each category. The categories are:

Forms *(Include any type of printed forms).*

Publications *(Include any type of bound document, such as directives, regulations, studies, etc.)*

Reports *(Include any type of memorandum, staff action paper, etc.)*

—Multiply the total number of pages in each cateogry by the rate per page and enter cost figures. The entire cost of each category is chargeable to the requester.

11. **For FOI Office Use Only—**

a. **Search Fees Paid**—Enter total search fees paid by the requester.

b. **Copy Fees Paid**—Enter the total of copy fees paid by the requester.

c. **Total Paid**—Add search fees paid and copy fees paid. Enter total in the total paid block.

*d. **Date Paid**—Enter year, month and day, i.e., 79/10/24, the fee payment was received.

e. **Total Collectable Costs**—Add the blocks in the cost column marked with an asterisk and enter total in the total collectable cost block. Only search, reproduction and printed records are chargeable to the requester.

f. **Total Processing Costs**—Add all blocks in the cost column and enter total in the total processing cost block. The total processing cost in most cases will exceed the total collectable cost.

g. **Total Charged**—Enter the total amount that the requester was charged, taking into account the fee waiver threshold and fee waiver policy.

*h. **Fees Wavied/Reduced**—Indicate if the cost of processing the request was waived or reduced by placing an "X" in the "Y" block for Yes or an "X" in the "N" block for No.

Note.—All items marked with an asterisk (*) have been registered in the DoD Data Element Standardization Program (DoD Manual 5000.12M). Items 4, 5 and 6 were registered under data element "Type of FOI Manpower Category". The entries Search, Review/Excising, Correspondence & Forms Preparation, Coordination/Approval/Denial, and Other Activity have been registered under the data element "FOI Manpower Activity Category."

Appendix G—Format for Triannual Report

Reporting Activity:*
Period of Report:
A. Cost of Routine Requests Processed: No. of Reportable Requests × (cost factor per request) $———
B. Personnel Costs (Civilian and Military):
(1) Direct costs of personnel assigned FOI duties based upon estimated payroll manyears by grade:
Cost: $———
(2) Direct costs for other personnel involved in processing requests not included above based upon accumulation of total hourly data:
(a) Search Time Costs: ———
(b) Review and Excising: ———
(c) Coordination and Approval/Denial Decision Costs: ———
(d) Correspondence and Form Preparation Costs: ———
(e) Other Activity Costs: ———
Total Manhour Costs: $———
(3) Application of Overhead: (Sub-total A) + (Sub-total B) × (overhead rate): $———
Total of Direct Personnel Costs and Overhead: $———
C. Other Case Related Costs:
(1) Computer* $———
(2) Office Copy Reproduction* $———
(3) Microfiche Reproduction* $———
(4) Cost of Printed Records* $———
Total of Other Costs: $———
D. Other Operating Costs:
(1) Reporting Costs [1]
(a) Operational ———
(b) User ———
(c) Overhead ((a) + (b) × (overhead rate)) ———
$———
(2) Other costs as directed or as can be reasonably ascertained. Itemize each expense category and cost. $———
(Sub-total (1)) + (Sub-total (2)) $———

[1] See DoD Instruction 5000.22 (§ 286.10(t)). In the report for the last four-month period (Sept–Dec) of each year, include the costs attributable to the Annual Report.

E. Summary
(1) Total Costs of Sections A through D above $———
(2) Amount Collected from Requesters this Reporting Period: Search ——— Copy ——— Total: $———
(3) No. of Requests Processed During this Reporting Period: Reportable Requests ——— Appeals ——— Total: ———

Note.—Items marked with an asterisk (*) have been registered in the DoD Data Element Program.

Instructions for Triannual FOI Report

1. *General*

a. To accomplish FOI cost reporting, each reporting activity must, first, determine whether sufficient repetitive requests are available to develop an average cost factor for these requests; second, establish which employees devote a sufficient percentage of their time to FOI duties to calculate their involvement in manyears; third, accumulate data on time (manhours) and costs involved in each case processed; and fourth, keep track of operating costs of the FOI Program. DD Form 2086 (Appendix F) should be used to accumulate case data.

b. Only those requests processed under the FOI Act shall be costed and reported. The provision to the public of unclassified information, documents, and forms as part of normal service, in accordance with previously established criteria or the Privacy Act, is excluded from this reporting requirement.

2. *Section A*

Some reporting activities will find it economical to develop an average cost factor for processing repetitive routine requests rather than tracking costs on each request as it is processed. This section provides for that economy, but care must be exercised that costs are comprehensive, to include overhead, yet not duplicated elsewhere in the report.

3. *Section B*

a. Personnel costs are reported in two ways. Section B. (1) uses a manyear/wage type of costing by grade that relieves individuals primarily those involved in planning, program management, or administrative handling from accounting for their time by manhours.

Sample Computation [1]

[Air Force]

Grade/step	No.		½ annual wage		Percent of time		Cost
0–4	1	×	$7,697	×	25	=	$1,924
0–3	1	×	6,459	×	50	=	3,230
GS–9(5)	1	×	4,844	×	100	=	4,844
GS–4(3)	1	×	2,701	×	25(2)	=	1,350
					225		11,348

Man-years = 225 – 100 – 3 = 0.75

[1] (a) Military Grades—use DoD Accounting Guidance Handbook (DoD 7220.9–H, Sec. 252 (§ 286.10(u)).
(b) Civilian Grades—use Office of Personnel Management Salary Table.

b. Use of one-third the annual wage and dividing manyears by three is required in this triannual report. Delete the computation.

c. Section B. (2) accounts for all other personnel involvement by manhours in particular activities associated in request processing as captured on DD Form 2086 (Appendix F). At the end of the reporting period, determine the total hourly data for each activity from all forms for the 4-month period and add totals into the five areas. It is suggested that hours and fractions thereof be added rather than dollar amounts. The use of standard fee schedule rates for each activity simplifies mathematical calculations and also allows these data to be compared to amounts collected. Executive manhours will likely be restricted to (2) (b) and (c) of Section B. (2)

Example Computation:

Clerical Search hours 2071.75 × $8.00 = $16,574.00.

Professional Search hours 910.20 × $16.00 = $14,563.20.

(1) Search time costs = $31,137.20.

d. Section B. (3) applies overhead to the direct manyear/manhour costs previously totaled above. The overhead rate includes the costs of supervision, space, and administrative support. Some reporting activities may have their own overhead rate (or will choose to develop one) based on cost experience. In the event that no such rate is available, an overhead rate of 25 percent may be used to produce an estimate of overhead costs. Include the rate used in the report.

4. *Section C*

Add the dollar amounts for each type of cost as recorded on DD Form 2086 (Appendix F) for the period and enter the total for each of these costs.

5. *Section D*

Use of this section recognizes reporting costs as part of total costs. It also provides for those other costs that are easily identifiable by each reporting activity. This section allows each DOD Component, as well as other levels of command, to amplify reporting requirements for subordinate levels. Use can vary, but items such as per diem, operation of courier vehicles, training courses, printing (indexes and forms), and use of indicia apply.

6. *Section E*

The summary data provide a total best estimate cost figure for administering the FOI Program during the reporting period, a recap of fees collected, and the workload that generated these costs and collections.

Enclosure 1

DoD Freedom of Information Act Program Components

Office of the Secretary of Defense/Organization of the Joint Chiefs of Staff/Unified Commands and Other Agencies Assigned to OSD for Administrative Support. Department of the Army; Department of the Navy; Department of the Air Force; Defense Communications Agency; Defense Contract Audit Agency; Defense Intelligence Agency; Defense Investigative Service; Defense Logistics Agency; Defense Mapping Agency; Defense Nuclear Agency; National Security Agency.

[FR Doc. 80–37888 Filed 12–4–80; 8:45 am]
BILLING CODE 3810–70–M

Department of the Army

32 CFR Part 553

Arlington National Cemetery; Visitors Rules for the Arlington National Cemetery

AGENCY: Department of the Army.

ACTION: Final rule.

SUMMARY: This rule revises the visitor's rules in effect for the Arlington National Cemetery that are set out at 32 CFR 553.22. The visitors' rules define the standards of conduct required of all visitors to the Arlington National Cemetery. This revision makes available, within the rules, standards and procedures for conduct of memorial services and ceremonies within the Cemetery by members of the public. The revision also attempts to insure that the rules prohibit conduct inconsistent with Arlington National Cemetery's unique role as the Nation's foremost shrine to the honored dead of its Armed Forces.

EFFECTIVE DATE: January 5, 1981.

FOR FURTHER INFORMATION CONTACT: Major James P. King, Office of the Assistant Secretary of the Army (Civil Works), Washington, D.C. 20310 (202–695–0482).

SUPPLEMENTARY INFORMATION: On October 7, 1980, the Army published in the **Federal Register** (45 FR 66476) as a proposed rule this revision to the visitors' rules in effect for Arlington National Cemetery. The basis and purpose for the revision are contained in the supplementary information then published with the proposed rule and will not be repeated here except as necessary to respond to public comments.

When the revision was published as a proposed rule, interested persons were invited to submit comments for consideration in connection with its adoption during a 30 day comment period ending November 6, 1980. No comments were received from interested persons during this period; however, one comment was received on November 7, 1980, from an individual from San Francisco, California and another comment was received on November 10, 1980, from the Gay Activists Alliance of Washington, D.C. Although these comments were received after the close of the comment period, they have been considered in order to give all interested

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persons the maximum opportunity to participate in this rulemaking.

The individual commentor urges the Department of the Army not to adopt its proposed revision to the visitors' rules for Arlington National Cemetery because of a belief that the visitors' rules previously in effect adequately guarantee tranquility and decorum at the Cemetery and because the proposed revision appears overbroad and infringes on speech and conduct protected by the first amendment to the United States Constitution. The commentator objected to the following features of the proposed rule:

(1) The prohibition of *all* speeches which have not received the prior approval of the Superintendent or Commanding General (§ 553.22(f)(3));

(2) The prohibition of *all* demonstrations which have not received the prior approval of the Superintendent or Commanding General (§ 553.22(f)(2));

(3) The requirement of prior approval of all memorial services (§ 553.22(h)(3));

(4) The disallowal of all "partisan memorial services." * * * (§ 553.22(i)(2));

(5) The prohibition of all leafletting regardless of its impact and accompanying conduct (§ 553.22(f)(5)).

The Army has considered all the points made by the commentator and does not agree with the recommendation to maintain the current visitors' rules and not adopt its revision to the visitors' rules because: (1) the objections that are raised to the revision in the comment are equally applicable to the previous rules; (2) the restrictions in the previous rules and in the revision are necessary to preserve a number of important interests and do not violate the first amendment to the United States Constitution; and (3) the revision is needed to clarify the previous rules and to make more available to the public standards for conduct of memorial services and ceremonies in the Cemetery.

The first commentator, after making the general observation that the current visitors' rules in effect for Arlington National Cemetery are adequate, cites five "disturbing" new features of the revision; yet all five of these features are contained in the rules that were in effect prior to this revision. The comment first cites the prohibition of all speeches which have not received prior approval. First, the comment is incorrect when it states speeches require prior approval. Speeches are prohibited unless they are a part of a memorial service or ceremony authorized by the rules. It is the memorial service, not any speech at the memorial service, which requires prior approval under the rules. The revision does not require prior detailed screening of speeches given at memorial services although the rules do require services to be purely memorial in purpose and nonpartisan in nature. Second, the provision in the revision at subparagraph (f)(3) is the same as that previously contained at 32 CFR 553.22(e)(3) except "speeches" has been added after "orations." The addition of the word "speeches," as the Supplementary Information for the proposed rule in the **Federal Register** of October 7, 1980 (45 FR 66476) makes clear, was not a substantive change but was made merely to clarify existing prohibitions under the rules. Speeches have never been allowed at Arlington National Cemetery except as part of authorized memorial services or ceremonies.

The commentor next cites the prohibition of all demonstrations which have not received prior approval. The provision in the revision at subparagraph (f)(2) is the same as that previously contained at 32 CFR 553.22(e)(2) except the word "demonstrations" has been added between "picketing" and "or similar conduct." The addition of the word "demonstrations" was not a substantive change but was added only for purposes of clarity. Demonstrations have never been allowed in Arlington Cemetery except in the sense that the particular forms of memorial services and ceremonies enumerated in paragraph (c) of the revision are considered "demonstrations." Other forms of demonstrations have been considered similar to picketing and forbidden under 32 CFR 553.22(e)(2).

The revision's requirement for prior approval of memorial services and ceremonies at paragraphs (f) and h(3) is also not a change from the prior rules but merely carries forward the provisions of 32 CFR 553.22(e)(1). The only modifications made by the revision in the requirements for permission to conduct memorial services and ceremonies are that the revision: (1) makes clear that prior approval is not needed for private memorial services as defined in the revision; (2) makes clear that the Commanding General of the U.S. Army's Military District of Washington approves some memorial services or ceremonies (those that are official); and (3) sets out fully the procedures for persons to request permission to conduct memorial services or ceremonies in paragraph (i) rather than incorporating the procedures by reference to Army Technical Manual 10–287.

The provision in paragraph (i) of the revision prohibiting partisan activities during memorial services at the Cemetery is substantially similar to the provision contained in Army Technical Manual 10–287 that 32 CFR 553.22(e)(1) previously incorporated by reference. The only significant changes to the previously existing provisions that were in the Technical Manual involve: (1) an addition to the definition of partisan activities that includes activities having a primary purpose to gain publicity or engender support for any group or cause; and (2) inclusion of a more complete explanation as to the memorial purposes to which services or ceremonies may be dedicated.

The prohibition on leafletting contained in subparagraph f(5) of the revision, while new, reflects consistent practice at Arlington National Cemetery. Previously, prohibitions under 32 CFR 553.22 (e)(2) and (f) were interpreted to prohibit leafletting. No leafletting has ever been permitted on Arlington National Cemetery grounds.

The Army believes that all prohibitions contained in its revision to the visitors' rules for Arlington National Cemetery are constitutional. That Arlington National Cemetery is not a public forum, that there is a compelling interest in maintaining the dignity and decorum essential to the Cemetery's unique role as this Nation's foremost shrine to the honored dead of its Armed Forces, that there is a compelling interest in maintaining the political neutrality of the Army as a military institution, and that there is an obligation to those buried or memorialized in the Cemetery and to their families and friends to maintain an atmosphere at the Cemetery that is dignified and inoffensive for all, require a special analysis under first amendment jurisprudence. The Supreme Court has recognized that the government has no obligation to permit speech or expressional activities in areas that are not public forums when such speech or activities interfere instrumentally or symbolically with the function of the government's activities in that area. *See, e.g., Greer V. Spock,* 424 U.S. 828 (1976) (military bases need not be made available for partisan political rallies); *Pell v. Procunier,* 417 U.S. 817 (1974) (jail cells may be made off limits for press interviews); *Adderley v. Florida,* 385 U.S. 39 (1966) (assembly outside jail may be prohibited). *See also* L. Tribe, *American Constitutional Law* § 12–21 at 690–91 (1978). Further, the Supreme Court has recognized the authority to exclude speakers who intend to make partisan political

speeches from military installations when there is no discrimination based on the speaker's political viewpoint in excluding him. *Greer v. Spock, supra.* This is true even when the installation has been made available previously to civilians for some expressional activity. *See id.* at 838n.10; L. Tribe, *supra,* at 691 n. 21.

The Army believes that it is beyond question that Arlington National Cemetery is not a public forum and that it would be most inappropriate to turn it into one. Cemeteries traditionally have not been places that are open to the public for speechmaking, demonstrations, picketing or similar expressional activity. Further, Arlington National Cemetery is a military cemetery run by the Department of the Army where significant military activities take place. The Army has never allowed activities at Arlington National Cemetery such as demonstrations, picketing, leafletting, or speechmaking except for speeches, orations, or prayers at certain memorial services or ceremonies. Memorial services and ceremonies at the Cemetery have been strictly limited to those that are purely memorial in purpose and nonpartisan in nature. There are an abundance of alternative areas near the Cemetery such as parks, streets, and other public land (including areas near the Pentagon) where expressional activity such as speechmaking, picketing, demonstrations, and leafletting is more appropriate and is allowed.

That Arlington National Cemetery is not a public forum, that demonstrations, leafletting, and most speeches are inappropriate in any cemetery, let alone a military cemetery that is the foremost shrine to the honored dead of our Nation's Armed Forces, and that the applicable Supreme Court precedents discussed earlier permit the government to prohibit expressional activities when inappropriate in areas that are not public forums, dispose of the contentions by the commentor that the rules' prohibitions on speeches, demonstrations, and leafletting are unconstitutionally overbroad.

The Army believes that the Supreme Court case of *Greer v. Spock,* 424 U.S. 828 (1976) also disposes of the contention of the commentor concerning the unconstitutionality of the requirement that memorial services or ceremonies be nonpartisan in nature. (The commentor opined that the latter requirement was an impermissible content-based restriction on expression.) The Supreme Court in *Greer* explicitly recognized the legitimacy of a military policy of keeping official military activities wholly free of partisan political activities. *See Greer v. Spock, supra,* at 838–39. This was true even though the military authorities in *Greer* had allowed other civilian speakers to talk on nonpartisan subjects. *Id.* at 838n.10. One leading constitutional scholar, Professor Lawrence Tribe, notes that the implication of *Greer* is that the generally recognized rule in first amendment jurisprudence that government prohibitions be neutral regarding the content of expressional activity "may be achieved by discriminating among speakers in terms of subject matter, so long as there is no discrimination within any given subject in terms of viewpoint." L. Tribe, *American Constitutional Law* § 12–21 at 691n.21 (1978). The Army believes that the requirement in the visitors' rules that memorial services and ceremonies be purely memorial and nonpartisan in nature is exactly the same kind of objective and evenhanded policy approved by the Supreme Court in *Greer.* And in the case of Arlington National Cemetery not only are the considerations in *Greer* regarding military activities involved but also special considerations relating to Arlington's role as a cemetery.

The Army believes that *Greer* and other cases dealing with demonstrations and leafletting on military reservations dispose of the question of the propriety of prior approval of memorial services and ceremonies.

It should also be noted that restrictions similar to those contained in the prior visitors' rules for Arlington National Cemetery and in this revision were upheld in the only two cases known to the Army that deal with constitutional challenges to restrictions on expressional activity in cemeteries. In *Bennett v. McNamara,* C. A. 305–68 (D.D.C. 1968) *aff'd per curiam,* (D.C. 1969), the court upheld the Army's refusal to grant permission for a memorial service concerning the Vietnam War to be held at Arlington National Cemetery due to the partisan nature of the rally. In *Koehl v. Resor,* 296 F. Supp. 558 (E.D. Va. 1969), *aff'd,* 417 F. 2d 1338 (4th Cir.), *cert. denied,* 397 U.S. 1023 (1970), the Army's decision to refuse permission for a Nazi style ceremony during interment of George Lincoln Rockwell at Culpeper National Cemetery was upheld.

The comments provided by the Gay Activist Alliance (GAA) of Washington, D.C., involved three sections of the revision to the visitors' rules concerning: (1) the requirement that those requesting permission to engage in memorial services or ceremonies give the names of all participants and the number of persons expected to attend the service or ceremony, (2) the extension of the prohibition against services or ceremonies that are partisan in nature to include those having "a purpose to gain publicity or engender support for any group or cause;" and (3) the provision that if a service or ceremony is closely related to partisan activities being conducted outside the cemetery, it is partisan and therefore inappropriate.

The GAA's comment expressed concern that the requirements in paragraph (h) of the revision to the visitors' rules that requests to conduct memorial services and ceremonies shall describe "the names of all individuals participating in the service (and) the number of persons expected to attend the service" would be onerous and impracticable. GAA made the following recommendation:

> The requirement for names of persons participating serves no useful purpose and should be deleted.
>
> The requirement for inclusion of number of persons expected to attend, if retained at all, should be reworded to make clear that nothing more than a reasonable estimate or loose approximation is expected, *when possible,* and that departures from estimates supplied will not be disqualifying.

The Army agrees that there may be some occasions when providing this information far in advance of a ceremony is onerous or impracticable. The Army also agrees that a good faith estimate of the number of persons attending services or ceremonies satisfies the Army's administrative requirements in most cases and that departures from estimates that do not involve gross or repeated negligence should not disqualify individuals or groups from participating in future services or ceremonies at the Cemetery. However, it is desirable for the Army to obtain the names of key participants in services or ceremonies when practicable for administrative and historical purposes. Accordingly, the following changes have been made to the proposed rule published in the **Federal Register** of October 7, 1980:

(1) In the phrase "the names of all individuals participating in the service" in paragraph (h) of the revision the word "key" has been added.

(2) The word "estimated" has been added before the phrase "number expected to attend the service."

The Army believes these changes accommodate the concerns expressed while still permitting the Army to obtain information it requires for valid administrative and historical purposes.

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The GAA also expressed concern that the provision in subparagraph (i)(2) relating to prohibition of partisan services that provide that a service is partisan "if it has as a purpose to gain publicity or engender support for any group or cause" may violate the first amendment or at least cause confusion as to whether publicizing a planned service is permissible under the rules. The GAA is particularly concerned that a group, by publicizing that it will participate in or hold a memorial service or ceremony, will be making the service partisan.

The Army's intent in including this provision regarding publicity in its revision of the visitors' rules is to prevent the pretextual use of memorial services at Arlington National Cemetery as forums for espousing partisan causes. Due to its unique geographical location overlooking the National Capital and its prominence in the eyes of the Nation, Arlington National Cemetery sometimes has been sought by groups as a forum to gain publicity in order to give wide dissemination to partisan messages rather than to pay tribute to those the Cemetery is intended to honor. The Army regards this practice as clearly inappropriate for the Cemetery and entirely contrary to its policy of permitting services that are purely memorial in purpose and nonpartisan. Publicizing of participation in or holding of a ceremony at Arlington National Cemetery, when done in a manner that is appropriate to the circumstances, would not make a service or ceremony partisan under this rule although efforts at publicizing that are extraordinary under the circumstances may be an indicator that a primary purpose of the service is to gain publicity for a group or cause and that the service is therefore partisan. However, whether the purpose of a service or ceremony is partisan or not can only be determined from all the surrounding circumstances.

To alleviate any concern that merely ancillary publicizing of participation in a memorial service or ceremony will be interpreted as making a ceremony partisan, the language of the proposed rule published in the **Federal Register** of October 7, 1980, has been changed so that the word "primary" now precedes the word "purpose." The Army believes that it is necessary to prohibit services that have a primary purpose to gain publicity or engender support for any group or cause because such a purpose makes the service clearly partisan and not memorial. The Army believes this restriction does not violate the first amendment to the United States Constitution due to the validation in *Greer* v. *Spock*, 424 U.S. 828 (1976) of evenhanded policy by the military of avoiding partisan politics and due to the compelling interests there are in maintaining the dignity and decorum essential to Arlington National Cemetery and in fulfilling an obligation to those interred or memorialized in the Cemetery and to their family and friends to maintain an atmosphere at the Cemetery that is dignified and inoffensive to all.

The final point made by the GAA is that the provision in subparagraph (i)(2) of the revision that provides that "if a service is closely related to partisan activities being conducted outside the Cemetery, it is partisan and therefore inappropriate" violates the first amendment to the United States Constitution and should be deleted.

The Army believes that this concern is based, at least in part, if not in whole, on a misinterpretation of the phrase "closely related" in the provision. The phrase "closely related" requires proximity both in time and location. This provision has been invoked by the Army on a number of occasions when groups have engaged in demonstrations in the Washington, D.C. area and wanted to conduct services in Arlington National Cemetery either during the period of demonstrating or in conjunction with these demonstrations. For example, the provision has been invoked to deny permission to groups to conduct services at the same time the groups making the requests were conducting pro-Vietnam war and anti-Vietnam war rallies in Washington. As another example, the provision was recently invoked to deny a request by the American Farmer's Movement to conduct services during a period when the Farmers' Movement was demonstrating in nearby Washington. The provision follows the approach taken by Judge McGuire in *Bennett* v. *McNamara*, C.A. 305–68 (D.D.C. 1968), *aff'd per curiam*, (D.D.C. 1969), (Burger, Tamm, and Robinson, Circuit Judges) which upheld an Army refusal to permit a service in the Cemetery that was closely related to partisan activities outside the Cemetery concerning the Vietnam War.

The Army believes it is desirable to maintain this provision because of longstanding experience that shows that one of the clearest indicators of whether a memorial service or ceremony is partisan has been a close relationship in time and location to partisan activities being conducted by the same individuals or group outside the Cemetery. However paragraph (i)(2) has been reworded to clarify the provision.

The Army has determined that no other changes, other than those previously discussed, need be made to the proposed rule.

Accordingly, 32 CFR Part 553 is amended by revising Section 553.22 to read as follows:

§ 553.22 Visitors' rules for the Arlington National Cemetery.

(a) *Purpose.* The rules of this section define the standards of conduct required of all visitors to the Arlington National Cemetery, Arlington, Virginia. Applicable Army regulations and directives should be consulted for all other matters not within the scope of these rules.

(b) *Scope.* Pursuant to Title 40 United States Code, Sections 318a and 486, and based upon delegations of authority from the Administrator, General Services Administration, the Secretary of Defense, and the Secretary of the Army, this section applies to all Federal property within the charge and control of the Superintendent, Arlington National Cemetery, and to all persons entering in or on such property. Any person who violates any of the provisions of paragraphs (d), (e), (f), (g), (h), or (i) of this section shall be subject to the penalties set out in Title 40 United States Code Section 318c.

(c) *Definitions.* When used in this section;

(1) The term "memorial service or ceremony" means any formal group activity conducted within the Arlington National Cemetery grounds intended to honor the memory of a person or persons interred in the Cemetery or those dying in the military service of the United States or its allies. "Memorial service or ceremony" includes a "private memorial service," "public memorial service," "public wreath laying ceremony" and "official ceremony" as defined in this section.

(2) The term "official ceremony" means a memorial service or ceremony approved by the Commanding General, Military District of Washington, in which the primary participants are authorized representatives of the United States Government, a state government, a foreign country, or an international organization who are participating in an official capacity.

(3) The term "private memorial service" means a memorial service or ceremony, other than an official ceremony, conducted at a private gravesite within Arlington National Cemetery by a group of relatives and/or friends of the person interred or to be interred at that gravesite. Private memorial services may be closed to members of the public.

(4) The term "public memorial service" means a ceremony, other than an official ceremony, conducted by members of the public at the Arlington Memorial Amphitheater, the Confederate Memorial, the Mast of the Maine, the John F. Kennedy Grave or at an historic shrine or at a gravesite within Arlington National Cemetery designated by the Superintendent, Arlington National Cemetery. All public memorial services are open to any member of the public to observe.

(5) The term "public wreath laying ceremony" means a brief ceremony, other than an official ceremony, in which members of the public, assisted by members of the Tomb Guard, present a wreath or similar memento, approved by the Superintendent or Commanding General, at the tomb and plaza area of the Tomb of the Unknown Soldier (also known as the Tomb of the Unknowns). Participants follow the instructions of the Tomb Guards, Superintendent and Commanding General in carrying out the presentation. The ceremony is open to any member of the public to observe.

(6) The term "Superintendent" means the Superintendent, Arlington National Cemetery or his representative.

(7) The term "Commanding General," means the Commanding General, U.S. Army Military District of Washington or his representative.

(d) *Visitors hours.* Visitors' hours shall be established by the Superintendent and posted in conspicuous places. Unless otherwise posted or announced by the Superintendent, visitors will be admitted during the following hours:

October through March—8 a.m. through 5 p.m.
April through September—8 a.m. through 7 p.m.

No visitor shall enter or remain in the Cemetery beyond the time established by the applicable visitors' hours.

(e) *Destruction or Removal of Property.* No person shall willfully destroy, damage, mutilate or remove any monument, gravestone, structure, tree, shrub, plant or other property located within the Cemetery grounds.

(f) *Conduct within the Cemetery.* Because Arlington National Cemetery is a shrine to the honored dead of the Armed Forces of the United States and because certain acts, appropriate elsewhere, are not appropriate in the Cemetery, all visitors, including persons attending or taking part in memorial services and ceremonies, shall observe proper standards of decorum and decency while within the Cemetery grounds. Specifically, no person shall:

(1) Conduct any memorial service or ceremony within the Cemetery, except private memorial services, without the prior approval of the Superintendent or Commanding General. All memorial services and ceremonies shall be conducted in accordance with the rules established in paragraph (h) and, except for official ceremonies, paragraph (i) of this section. Official ceremonies shall be conducted in accordance with guidance and procedures established by the Commanding General;

(2) Engage in any picketing, demonstration or similar conduct within the Cemetery grounds;

(3) Engage in any orations, speeches, or similar conduct to assembled groups of people, unless the oration is part of a memorial service or ceremony authorized by this section;

(4) Display any placards, banners, flags or similar devices within the Cemetery grounds, unless, in the case of a flag, use of the same is approved by the Superintendent or Commanding General and is part of a memorial service or ceremony authorized by this section;

(5) Distribute any handbill, pamphlet, leaflet, or other written or printed matter within the Cemetery grounds except that a program may be distributed if approved by the Superintendent or Commanding General and such distribution is a part of a memorial service or ceremony authorized by this section;

(6) Allow any dog, cat, or other pet to run loose within the Cemetery grounds;

(7) Use the Cemetery grounds for recreational activities such as sports, athletics, or picnics;

(8) Ride a bicycle within Cemetery grounds except on Meigs Drive, Sherman Drive and Schley Drive or as otherwise authorized by the Superintendent under this subparagraph. All other bicycle traffic will be directed to the Visitors' Center where bicycle racks are provided. Exceptions for bicycle touring groups may be authorized in advance and in writing by the Superintendent. An individual visiting a relative's gravesite may be issued a temporary pass by the Superintendent to permit him to proceed directly to and from the gravesite by bicycle;

(9) Deposit or throw litter on Cemetery grounds;

(10) Play any radio, tape recorder, or musical instrument, or use any loudspeaker within the Cemetery grounds unless use of the same is approved by the Superintendent or Commanding General and is part of a memorial service or ceremony authorized by this section;

(11) Drive any motor vehicle within Arlington National Cemetery in excess of twenty miles per hour or such lesser speed limit as the Superintendent posts;

(12) Park any motor vehicle in any area on the Cemetery grounds designated by the Superintendent as a no parking area; or leave any vehicle in the Visitors' Center Parking Lot at the Cemetery beyond two hours;

(13) Engage in any disorderly conduct within the Cemetery grounds. For purposes of this section, a person shall be guilty of disorderly conduct if, with purpose to cause, or with knowledge that he is likely to cause, public inconvenience, annoyance or alarm, he:

(i) Engages in, promotes, instigates, encourages, or aids and abets fighting, or threatening, violent or tumultuous behavior;

(ii) Yells, utters loud and boisterous language or makes other unreasonably loud noise;

(iii) Interrupts or disturbs a memorial service or ceremony;

(iv) Utters to any person present abusive, insulting, profane, indecent or otherwise provocative language or gesture that by its very utterance tends to incite an immediate breach of the peace;

(v) Obstructs movement on the streets, sidewalks, or pathways of the Cemetery grounds without prior authorization by competent authority;

(vi) Disobeys a proper request or order by the Superintendent, Cemetery special police, park police, or other competent authority to disperse or to leave the Cemetery grounds; or

(vii) Otherwise creates a hazardous or physically offensive condition by any act not authorized by competent authority.

(g) *Soliciting and Vending.* No person shall display or distribute commercial advertising or solicit business while within the Cemetery grounds.

(h) *Requests to Conduct Memorial Services and Ceremonies.*

(1) Requests by members of the public to conduct memorial services or ceremonies shall be submitted to the Superintendent, Arlington National Cemetery, Arlington, Virginia 22211. Such requests shall describe the proposed memorial service or ceremony in detail to include the type of service, its proposed location, the name of the individual or organization sponsoring the service, the names of all key individuals participating in the service, the estimated number of persons expected to attend the service, the expected length of the service, the service's format and content, whether permission to use loud-speaker systems or musical instruments or flags during

the service is requested and, if so, the number, type, and how they are planned to be used, whether permission to distribute printed programs during the service is requested, and, if so, a description of the programs, and whether military support is requested. Individuals and organizations sponsoring memorial services or ceremonies shall provide written assurance that the services or ceremonies are not partisan in nature, as defined in paragraph (i) of this section, and that they and their members will obey all rules set out in this section and act in a dignified and proper manner at all times while in the Cemetery grounds.

(2) Requests to conduct official ceremonies shall be submitted to the Commanding General.

(3) Memorial services or ceremonies other than private memorial services may be conducted only after permission has been received from the Superintendent or Commanding General. Private memorial services may be conducted only at the gravesite of a relative or friend. All other memorial services and ceremonies may be conducted only at the area or areas designated by the Superintendent or Commanding General as follows:

(i) Public memorial services may be authorized to be conducted only at the Arlington Memorial Amphitheater, the Confederate Memorial, the John F. Kennedy Grave, or other sites designated by the Superintendent.

(ii) Public wreath laying ceremonies may be authorized to be conducted at the tomb and plaza area of the Tomb of the Unknown Soldier (also known as the Tomb of the Unknowns).

(iii) Official ceremonies may be authorized to be conducted at sites designated by the Superintendent or Commanding General.

(i) *Conduct of Memorial Services and Ceremonies.* All memorial services and ceremonies within Arlington National Cemetery, other than official ceremonies, shall be conducted in accordance with the following rules:

(1) Memorial services and ceremonies shall be purely memorial in purpose and dedicated only to the memory of all those interred in the Cemetery, to all those dying in the military service of the United States, to all those dying in the military service of the United States while serving during a particular conflict or while serving in a particular military unit or units, or to the memory of the individual or individuals interred or to be interred at the particular gravesite at which the service or ceremony is held.

(2) Partisan activities are inappropriate in Arlington National Cemetery, due to its role as a shrine to all the honored dead of the Armed Forces of the United States and out of respect for the men and women buried there and for their families. Services or any activities inside the Cemetery connected therewith shall not be partisan in nature. A service is partisan and therefore inappropriate if it includes commentary in support of, or in opposition to, or attempts to influence, any current policy of the Armed Forces, the Government of the United States or any state of the United States; if it espouses the cause of a political party; or if it has as a primary purpose to gain publicity or engender support for any group or cause. If a service is closely related, both in time and location, to partisan activities or demonstrations being conducted outside the Cemetery, it will be determined to be partisan and therefore inappropriate. If a service is determined to be partisan by the Superintendent or the Commanding General, permission to conduct memorial services or ceremonies at the Cemetery will be denied.

(3) Participants in public wreath laying ceremonies shall remain silent during the ceremony.

(4) Participants in public memorial services at the John F. Kennedy Grave shall remain silent during the service.

(5) Public memorial services and public wreath laying ceremonies shall be open to all members of the public to observe.

(6) Participants in public wreath laying ceremonies shall follow all instructions of the Tomb Guards, Superintendent, and Commanding General relating to their conduct of the ceremony. (40 U.S.C. 318a, 486, and delegations of authority from the Administrator, General Services Administration, Secretary of Defense, and Secretary of the Army)

Dated: November 25, 1980.

Michael Blumenfeld,

Assistant Secretary of the Army (Civil Works).

[FR Doc. 80-37743 Filed 12-4-80; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 223

National Forest Timber Sales; Export and Substitution Restrictions

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: Regulations regarding the export of timber from National Forest System Lands and the use of such timber in substitution for private timber which is exported by the purchaser are revised and clarified. New reporting requirements for purchasers who sell unprocessed timber are provided. Business entities are considered affiliates for the entire calendar year if they have an affiliation during any part of the calendar year. The definition of unprocessed western red cedar is revised to implement the "Bonker Amendment" to the Export Administration Act of 1979. Substitution is defined as an increase in export of timber from private land by more than 10 percent above historic levels in any year that a firm has National Forest timber under contract. The prior regulation defined substitution as an increase in the level of exports from private land by more than 10 percent above historic levels in any year that the purchase of National Forest timber continues.

EFFECTIVE DATE: February 3, 1981.

FOR FURTHER INFORMATION CONTACT: George M. Leonard, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, DC 20013, 202-447-4051.

SUPPLEMENTARY INFORMATION: On May 9, 1980, the Secretary of Agriculture published a proposed rule (45 FR 30652) setting forth proposed revisions of regulations providing for restrictions on the export of National Forest timber and on the use of such timber in substitution for private timber which is exported by the purchaser. These regulations implement restrictions imposed each year since 1974 by the annual Appropriations Acts for the Department of the Interior and Related Agencies. Subsequent to the publication of the proposed rule, the House Committee on Appropriations provided the following direction in their report on the fiscal year 1981 appropriations bill.

Log Exports/Third Party Substitution

In spite of the Forest Service investigation of and hearings about third party substitution, and the Forest Service's conclusion that the practice was not extensive and that further efforts at control threatened to disrupt log markets and decrease the efficient log utilization, the Committee continues to receive complaints about the growth of the practice of mills which could not bid on Forest Service sales because they were exporting private logs, buying Forest Service logs from the original purchaser of the sale.

The Committee is anxious to insure that the supply of public timber required to provide opportunities for local mills to operate is not endangered, while at the same time insuring that there is no unreasonable interference with the disposition by private owners of private timber in the manner they consider most advantageous or log sorting and exchange or sale between mills in a given locality to achieve the highest and best use of the log.

The Committee notes and approves the proposed rule, 36 CFR 223.5 and 223.10 which requires more extensive reports on log use to be filed every six months, prohibits the export of unprocessed timber from National Forests west of the 100th Meridian in the contiguous 48 States, and the substitution by the purchaser of sale or resale to anyone who does not agree to the processing requirements of the rules.

The Committee directs the Forest Service: (a) if feasible to continue to monitor this program; and (b) if feasible, to investigate and report on (1) the legal relationship of entities engaging in third party substitution to determine if purchasers of federal timber are legal or de facto agents of entities not eligible to purchase, and (2) volumes of logs purchased from or sold to third parties and substituted for exported private logs over the last year by individual buyers and sellers.

The Committee directs that a preliminary report be submitted by January 1, 1981 and that a full report, together with recommendations for change, if any, be submitted prior to the Forest Service hearings next spring.

Revisions were made in the proposed reporting requirements to reflect this additional congressional direction. Other minor changes reflected in the final rule are discussed in the following summary of comments.

Summary of Comments:

Comments received on the proposal were generally favorable although there was some concern about the failure to address the issue of third party substitution. As noted in the proposal, it has been determined that the phrase "substitution for private timber exported by the purchaser" in the annual Appropriations Acts for Interior and Related Agencies applies to the purchaser of National Forest timber and does not authorize limitations on subsequent buyers.

One commenter suggested that the reporting system should provide for a distinction between the volume of fiber material and the volume of standard grade material. Since the export and substitution provisions of § 223.10 apply only to unprocessed timber which by definition is material meeting the peeler and sawmill log grade requirements of the Official Log Scaling and Grading Rules, this addition to the Regulation was not necessary.

There was an objection to treating cedar lumber having any wane as "unprocessed." It was argued that the Commerce Department regulations under section 7(i) of the Export Administration Act are only in "interim" status and are now under review. While it is true that the Commerce Department regulations are not final, the statutory language is unequivocal in providing that the term "unprocessed western red cedar" means red cedar timber which has not been processed into lumber without wane. Since this provision applies to all Federal timber, we believe it would be improper to adopt a different processing standard in this Regulation. However, since the definition applies only to Federal and State timber, a proviso has been incorporated in the definition of unprocessed western red cedar regarding the definition of processed timber from private lands.

It was urged that § 223.3 include a provision that would require reporting items listed under paragraph (p) as a condition of timber sale award or extension of any existing contract. Additions to § 223.5 made in response to the direction in the Appropriations Committee Report effectively respond to this direction. The requirement that reporting requirements be updated at the time of sale extension will be incorporated in the Forest Service Manual.

It was suggested that the purchaser be required to report the farthest distance National Forest timber has been hauled since 1971 to determine the sale of timber from private lands. This suggestion was not adopted since it is not necessary to the interpretation or enforcement of the Regulation. It is noted, however, that since reports on log distribution by individual sale are required, it would be possible for anyone interested to make this determination.

It was suggested that § 223.10(b) be deleted since the underlying statutory authority has been repealed. This suggestion was adopted.

A commenter suggested adding language stating that violations of export and substitution requirements of a sale may also result in suspension or termination of other National Forest timber sale contracts. There is no statutory authority for imposing such penalties.

Another commenter suggested that the definition of unprocessed timber be amended to exclude standing timber or trees. It was argued that the regulation imposes an unreasonable burden on the seller of private timber to ensure that his logs do not end up in export. Adoption of this suggestion would render the substitution restrictions meaningless since substantial volumes of stumpage are routinely sold from private lands in the Northwest. Sellers of private timber, whether standing or in the form of logs, must take the steps necessary to ensure that the timber they sell does not enter the export market in volumes in excess of their historic levels, if they wish to buy Natonal Forest timber.

It was suggested that the definition of substitution in § 223.10(a)(4)(ii) be clarified to provide that substitution occurs when a firm increases exports of unprocessed timber in a tributary area while it has National Forest timber under contract in the same tributary area. This clarification was made.

It was also suggested that the definition of tributary area be expanded to include private land from which timber can logically and economically be expected to be delivered to a specific processing facility or complex. The definition in the proposal, which is unchanged from that currently in effect, uses actual delivery of logs from National Forest timber sales to define the geographic area. This has proven a workable definition. It requires no assumptions on what may be logical or economical and public records are readily available to verify the data used. The suggestion was not adopted.

One commenter noted that § 223.10(f) would permit contract cancellation for violations or false certification by a subsequent buyer or recipient of National Forest timber. It was argued that imposing penalties on the purchaser for violations of which he had no participation or knowledge is invalid. The regulation was revised to clarify this issue.

It was argued that the proposed regulations may not be applied retroactively so as to impose more stringent export and substitution restrictions on contracts for the purchase of National Forest timber entered into prior to adoption. It is agreed that these Regulations apply only to contracts entered into after the effective day of the Regulations, except where the new requirements may be imposed as a condition of contract extension.

In addition to responding to the comments as described above, there were several changes of minor editorial nature.

This action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, "Improving Government Regulations," and has been classified as "significant." An Impact Analysis Statement has been prepared and is available from the Forest Service, Timber Management Staff, Room 3207, South Agriculture Building, Washington, DC.

In light of the foregoing, 36 CFR Part 223 is amended as shown below:

V 45 / 236 DEC 80 UMI

1. The following paragraph (p) is added to 36 CFR 223.3:

§ 223.3 Contract conditions.

* * * * *

(p) Contracts for the sale of unprocessed timber from National Forest System lands located west of the 100th Meridian in the contiguous 48 States and Alaska, advertised after the effective date of this Regulation, shall include provisions implementing 36 CFR 223.10 et seq. Such contracts shall also require purchasers to (1) submit, until all unprocessed timber is accounted for, a certified report, at 6-month intervals, on the disposition of any unprocessed timber harvested from the sale, including a description of unprocessed timber which is sold, exchanged, or otherwise disposed of to another person and a description of the relationship with the other person; (2) submit, until all unprocessed timber from the sale is accounted for, a certified report, at 6-month intervals, on the sale of any unprocessed timber from private lands in the tributary area which is exported or sold for export; and (3) maintain records of all such transactions involving unprocessed timber, and to make such records available for inspection and verification by the Forest Service for up to 3 years after the sale is terminated.

(Sec. 14, Pub. L. 94–588, 90 Stat. 2956, as amended 16 U.S.C. 472a)

2. The following paragraph (i) is added to 36 CFR 223.5:

§ 223.5 Advertisement and bids.

* * * * *

(i) In order to have a bid considered for a sale of timber from National Forest System lands west of the 100th Meridian in the contiguous 48 States, a person must:

(1) Certify that purchase of the timber does not constitute substitution as defined in 36 CFR 223.10.

(2) Agree to furnish to the Forest Service, prior to sale award, the names and addresses of processing plants or other locations to which the timber is expected to be delivered; the names and advertised volumes of timber sales purchased for delivery to each such location in calendar years 1971, 1972, and 1973; and the volumes of unprocessed timber from private lands, tributary to each location listed, which was exported or sold for export in calendar years 1971, 1972, and 1973.

(3) Agree to furnish the information required by item (2) above prior to hauling to any location not previously identified.

(4) Provide a certified report showing (a) the disposition of unprocessed National Forest timber harvested in the pevious calendar year in the tributary area in which the timber from the sale will be processed, including a description of unprocessed timber which is sold, exchanged, or otherwise disposed of to another person and a description of the relationship with the other person, and (b) the volumes of unprocessed timber from private lands in the tributary area which was exported or sold for export in the previous calendar year.

(Sec. 14, Pub. L. 94–588, 90 Stat. 2958, as amended, 16 U.S.C. 472a)

3. Section 223.10 is revised as follows:

§ 223.10 Timber export and substitution restrictions.

(a) The following definitions apply to the provisions of this section:

(1) Export means either direct or indirect export to a foreign country and occurs on the date that a person enters into a contract or other binding transaction for the export of unprocessed timber or, if that date cannot be established, when unprocessed timber is found in an export yard or pond, bundled or otherwise prepared for shipment, or aboard an ocean-going vessel. An export yard or pond is an area where sorting and/or bundling of logs for shipment outside the United States is accomplished. Unprocessed timber, whether from National Forest System or private lands, is exported directly when exported by the National Forest timber purchaser. Timber is exported indirectly when export occurs as a result of a sale to another person or as a consequence of any subsequent transaction.

(2) Historic level means the average annual volume of unprocessed timber purchased or exported in calendar years 1971, 1972, and 1973.

(3) Private lands mean lands held or owned by a private person. Nonprivate lands include, but are not limited to, lands held or owned by the United States, a State or political subdivision thereof, or any other public agency, or lands held in trust by the United States for Indians.

(4) Substitution means the purchase of unprocessed timber from National Forest System lands to be used as replacement for unprocessed timber from private lands which is exported. Substitution occurs when (i) a person increases purchases of National Forest timber in any calendar year more than 10 percent above their historic level and in the same calendar year exports unprocessed timber from private land in the tributary area; or (ii) a person increases exports of more than 10 percent above their historic level in any calendar year while they have National Forest timber under contract.

(5) Tributary area means the geographic area from which unprocessed timber from National Forest System land is delivered to a specific processing facility or complex. A tributary area is expanded when National Forest timber outside an established area is hauled to the processing facility.

(6) Unprocessed timber, except western red cedar in the contiguous 48 States, means trees or portions of trees having a net scale content not less than 33⅓ percent of the gross volume, or the minimum piece specification set forth in the timber sale contract, in material meeting the peeler and sawmill log grade requirements published in the January 1, 1980—Official Log Scaling and Grading Rules used by Log Scaling and Grading Bureaus on the West Coast; cants to be subsequently remanufactured exceeding 8¾ inches in thickness; cants of any thickness reassembled into logs; and split or round bolts, except for aspen, or other roundwood not processed to standards and specifications suitable for end-product use. Unprocessed timber shall not mean pulp (utility) grade logs and Douglas-fir special cull logs or timber processed into the following:

(i) Lumber and construction timbers, regardless of size, sawn on four sides;

(ii) Chips, pulp, and pulp products;

(iii) Green veneer and plywood;

(iv) Poles, posts, or piling cut or treated for use as such;

(v) Cants cut for remanufacture, 8¾ inches in thickness or less;

(vi) Aspen bolts, not exceeding 4 feet in length.

(7) Unprocessed western red cedar timber in the contiguous 48 States means trees or portions of trees of that species which have not been processed into (1) lumber without wane; (ii) chips, pulp, and pulp products; (iii) veneer and plywood; (iv) poles, posts, or piling cut or treated with preservatives for use as such and not intended to be further processed; or (v) shakes and shingles; provided that lumber from private lands manufactured to the standards established in the lumber grading rules of the American Lumber Standards Association or the Pacific Lumber Inspection Bureau and manufactured lumber authorized to be exported under license by the Department of Commerce shall be considered processed.

(8) Person means an individual, partnership, corporation, association, or other legal entity and includes any subsidiary, subcontractor, parent company, or other affiliate. Business entities are considered affiliates for the entire calendar year when one controls or has the power to control the other or when both are controlled directly or indirectly by a third person during any part of the calendar year.

(9) Purchase occurs when a person is awarded a contract to cut National Forest timber or through the approval of a third party agreement by the Forest Service.

(10) Purchaser means a person that has purchased a National Forest timber sale.

(b) Unprocessed timber from National Forest System lands west of the 100th Meridian in the contiguous 48 States may not (1) be exported from the United States; (2) be used in substitution for unprocessed timber from private lands which is exported; or (3) be sold, traded, exchanged, or otherwise given to any person who does not agree to manufacture it to meet the processing requirements of this section and/or require such a processing agreement in any subsequent resale or other transaction. This limitation on export or substitution does not apply to species of timber previously found to be surplus to domestic needs or to any additional species, grades, or quantities of timber which may be found by the Secretary to be surplus to domestic needs.

(c) Unprocessed timber from National Forest System lands in Alaska may not be exported from the United States or shipped to other States without prior approval of the Regional Forester. This requirement is necessary to ensure the development and continued existence of adequate wood processing capacity in that State for the sustained utilization of timber from the National Forests which are geographically isolated from other processing facilities. In determining whether consent will be given for the export of timber, consideration will be given to, among other things, whether such export will (1) permit more complete utilization on areas being logged primarily for local manufacture, (2) prevent loss or serious deterioration of logs unsaleable locally because of an unforeseen loss of market, (3) permit the salvage of timber damaged by wind, insects, fire, or other catastrophe, (4) bring into use a minor species of little importance to local industrial development, or (5) provide material required to meet urgent and unusual needs of the Nation.

(d) Prior to a determination by the Secretary of Agriculture that a species, grade, or quantity of unprocessed timber is surplus to domestic needs, a public hearing shall be held to seek advice and counsel on the needs of domestic users and processors. Notice of any such determination shall be published in the **Federal Register**. Any determination of surplus timber may be withdrawn by the Secretary following a public notice which permits interested persons to comment. Public hearings will be conducted in accordance with the following procedures:

(1) Notice will be published in the **Federal Register** and in a newspaper of general circulation within the area affected by the proposed determination at least 15 days prior to the hearing and persons known to be interested will be notified directly.

(2) The time, place, and conduct of the hearing will be coordinated with the Department of the Interior and shall be at a convenient location within the area affected.

(3) The hearing record shall remain open for at least 10 calendar days following the hearing for receipt of additional written statements.

(e) For false certification of documents relating to export or substitution and/or other violations of export and substitution requirements by the purchaser of timber from National Forest System lands, the Forest Service may cancel the subject contract, debar the involved person or persons from bidding on National Forest timber, or initiate other action as may be provided by law or regulation.

(Sec. 14, Pub. L. 94–588, 90 Stat. 2958, as amended, 16 U.S.C. 472a; Sec. 301, Pub. L. 96–126, 93 Stat. 979; Sec. 1, 30 Stat. 35, as amended, 16 U.S.C. 55.1)

Bob Bergland,
Secretary.
December 1, 1980.

[FR Doc. 80-37762 Filed 12-4-80; 8:45 am]
BILLING CODE 3410-11-M

VETERANS ADMINISTRATION

38 CFR Part 17

Medical Benefits; Miscellaneous

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) has amended its "Medical Series" of regulations to correct an error concerning its authority to furnish medical care in foreign countries. Nursing home care may not be furnished in a foreign country other than the Republic of the Philippines. There has also been a change in the name of the Government hospital in Quezon City, Republic of the Philippines. It is now called Memorial Medical Center instead of Veterans Memorial Hospital.

EFFECTIVE DATE: November 24, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph F. Fleckenstein (136F), 810 Vermont Avenue NW., Washington, D.C. 20420, (202) 389–2989.

SUPPLEMENTARY INFORMATION: On pages 14071 and 14072 of the **Federal Register** of March 4, 1980, proposed amendments were published for certain sections of Title 38, Code of Federal Regulations from § 17.36 through § 17.38. Interested persons were given 30 days to submit comments, suggestions or recommendations. No comments were received regarding the proposed regulations. The proposed regulations are hereby adopted without change and are set forth below.

Approved: November 24, 1980.

By direction of the Administrator:

Rufus H. Wilson,
Deputy Administrator.

1. Section 17.36 is revised to read as follows:

§ 17.36 Hospital care and medical services in foreign countries other than the Philippines.

No person shall be entitled to receive hospital or domiciliary care or medical services in a foreign country other than the Republic of the Philippines, except as provided in paragraphs (a) and (b) of this section:

(a) Hospital care or medical services for otherwise eligible veterans who are citizens of the United States sojourning or residing abroad and in need of treatment for an adjudicated service-connected disability, or non-service-connected disability associated with and held to be aggravating a service-connected disability.

(b) Hospital care or medical services for a veteran who has been found in need of vocational rehabilitation, and for whom an objective has been selected, or who is pursuing a course of vocational rehabilitation training, and who is medically determined to be in need of care or treatment for any of the following reasons:

(1) To make possible his or her entrance into a course of training; or

(2) To prevent interruption of a course of training; or

(3) To hasten the return to a course of training when a veteran in interrupted or leave status, when cessation of instruction has become necessary because of illness, injury, or dental condition. (38 U.S.C. 624)

§ 17.37 [Amended]

2. Section 17.37 is amended by deleting the words "Veterans Memorial

Hospital" and substituting the words "Veterans Memorial Medical Center" in the title, the introductory sentence, and paragraph (b).

§ 17.38 [Amended]

3. Section 17.38 is amended by deleting the words "Veterans Memorial Hospital" and substituting the words "Veterans Memorial Medical Center" in the title, the introductory portion preceding paragraph (a), the introductory portion of paragraph (a), the introductory portion of paragraph (b), paragraph (c) (1) and (2), and paragraph (d)(2).

[FR Doc. 80-37825 Filed 12-4-80; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-3-FRL 1670-2]

Approval of Revision of the Commonwealth of Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice announces the Administrator's approval of a revision to the Commonwealth of Virginia's State Implementation Plan (SIP) which is intended to establish an Ambient Air Quality Monitoring Network under 40 CFR, Part 58 (State & Local Air Monitoring System or SLAMS).

The data will be used, for determining the status of attainment of National Ambient Air Quality Standards (NAAQS), as a basis for requiring control of source emissions of criteria pollutants, for determining and tracking air pollution episodes, for growth planning in urban areas, for determining the impact of area sources and for reporting to the public the status of Virginia's air quality.

EFFECTIVE DATE: January 5, 1981.

ADDRESSES: Copies of the revision and associated support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: Patricia Sheridan

Virginia State Air Pollution Control Board, Room 1106, Ninth Street Office Building, Richmond, Virginia, ATTN: W. R. Meyer, Executive Director

Public Information Reference Unit, Room 2922—EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W. (Waterside Mall), Washington, D.C. 20460

Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. 20005

FOR FURTHER INFORMATION CONTACT:

Joe Paparella, Air Programs Branch (3AH10), U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, telephone (215) 597-8184.

SUPPLEMENTARY INFORMATION:

I. Background

On March 24, 1980, the Commonwealth of Virginia submitted to the Regional Administrator, EPA Region III, a revision of the Virginia State Implementation Plan (SIP). This section of the SIP consists of provisions which meet the new requirements for monitoring air quality which are in 40 CFR 58.20 (Air Quality Surveillance: Plan Content). The air quality surveillance network which will be established, as provided in this SIP revision, will consist of the present network with certain modifications and additions. The provisions of this submittal are intended as a supplement to existing provisions and are not intended to revoke or suspend any previous submittals.

The network will measure ambient levels of "criteria pollutants" or those pollutants for which National Ambient Air Quality Standards (NAAQS) have been established by EPA.

The network description will include the following for each station in the air quality surveillance network: a. The SAROAD site identification form.

b. The identity of the monitoring method or analyzer.

c. The identity of any necessary method of sample analysis.

d. The sampling schedule.

e. The monitoring objective.

f. The spatial scale of representativeness.

Also, on file for public inspection will be the schedule for the following:

a. Locating and/or placing into operation any station which is not operating or located correctly on January 1, 1980.

b. Implementing quality assurance procedures for any station for which those procedures are not implemented by January 1, 1980.

c. Re-locating each station not sited according to the siting parameters of Appendix E to 40 CFR Part 58 by January 1, 1980.

Each station in the air quality surveillance network provided for by this SIP revision and described in the network description will be termed a State and Local Air Monitoring Station or a SLAMS. All stations in the Commonwealth of Virginia's SLAMS network will be operated in accordance with the criteria established by Subpart B of 40 CFR Part 58.

Each SLAMS will be sited in accordance with the siting parameters contained in Appendix E to 40 CFR Part 58.

Each continuous analyzer in a SLAMS will be operated on a continuous basis and data gathered as hourly averages. Each manual method will be operated for a full 24-hour period at six-day intervals.

Reference or equivalent methods will be used in SLAMS as defined by EPA in 40 CFR Section 50.1, or will be particulate sampler for which a site-specific relationship to the Hi-vol has been established at the site of the SLAMS.

The quality assurance procedures of Appendix A to 40 CFR Part 58 will be followed when operating the SLAMS network and processing air quality data.

The concept of episode monitoring involves daily monitoring in order to detect when ambient pollution levels reach concentrations corresponding to an air quality episode, and monitoring during episodes to maintain surveillance of the situation. The Commonwealth of Virginia will operate SLAMS for monitoring and declaring episodes for the criteria pollutant in the localities of Northern Virginia, Richmond, Norfolk and Salem (Roanoke County). At least one episode station for each of the criteria pollutants will be operated in those localities.

Each SLAMS that is designated as an episode monitoring station will be identified in the description of SLAMS network which is on file as described in the network description.

Data from all SLAMS for an entire calendar year will be summarized and submitted to EPA by July 1 of the following year. The values determined and reported will be those values indicated in Appendix F to 40 CFR Part 58. Other information as required by Appendix F will also be reported in the annual report.

The Commonwealth of Virginia will operate monitoring stations other than those in the SLAMS Network. These other stations will be termed Special Purpose Monitoring Stations (SPM) and will be used to supplement the SLAMS monitoring. The SPM stations will be used for purposes such as determining areas where permanent SLAMS need to be located, determining the effect of point sources, research, and determining acceptable growth patterns.

Data from SPM stations may be used for SIP purposes, such as support for control strategies, determination of attainment/nonattaiment, or model validation. Such data will have been collected in accordance with the criteria established by Subpart B of 40 CFR Part 58.

Beginning March 1 of each year, the Commonwealth of Virginia will review the air quality surveillance network to determine if there is a SLAMS in every location where there is a need for ambient air quality data or if all the stations in the SLAMS network are necessary. A report of the findings will be submitted to the EPA Regional Office by July 1 of each year along with a schedule to add stations to the SLAMS network, to relocate stations, or to eliminate stations as the case may be. The determination of the need to add, relocate or delete stations will be based on the network design criteria in Appendix D to 40 CFR Part 58 or references therein.

The site-specific SLAMS monitoring network description is not included in the SIP revision to allow for annual review and revision of the network without repeating the full SIP revision procedure.

II. Control Strategy Demonstration

This revision is an administrative change rather than a substantive change. Because the revision has no adverse impact on air quality, a modeling demonstration of attainment and maintenance of standards is not required.

III. Public Comments

No comments were received during the 30-day public comment period.

IV. EPA Evaluation

There are no policy issues involved with this revision other than the basis for the Administrator's approval; i.e., whether the revision submitted by the Commonwealth of Virginia meets the criteria of Section 110(a)(2) of the Clean Air Act and 40 C.F.R. 51.4, Public Hearings; 51.5, Submittal of Plans; preliminary review of plans; 51.6, Revisions; and 51.11, Legal Authority.

The revision submitted by the Commonwealth of Virginia meets the criteria of Section 110(a)(2) of the Clean Air Act and 40 C.F.R. Parts 51.4, 51.5, 51.6, and 51.11.

V. EPA Actions

In view of this evaluation, the Administrator approves the above-described revision to the Commonwealth of Virginia's SIP, which is intended to establish an Ambient Air Quality Monitoring Network as required under 40 CFR, Part 58 (State & Local Air Monitoring System or SLAMS).

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available *only* by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and, therefore, subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401-642)

Dated: November 26, 1980.

Douglas M. Costle,

Administrator.

Note.—Incorporation by reference of the State Implementation Plan for the State of Virginia was approved by the Director of the **Federal Register** on July 1, 1980.

Part 52 of Title 40, Code of Federal Regulations is amended as follows:

Subpart VV—Virginia

1. Section 52.2420 is amended by reserving paragraph (c)(37) and by adding a new paragraph (c)(38).

§ 52.2420 Identification of plan.

* * * * *

(c) The plan revision listed below was submitted on the date specified * * *

(38) A revision submitted by the Commonwealth of Virginia on March 24, 1980 which is intended to establish an Ambient Air Quality Monitoring Network.

[FR Doc. 80-37861 Filed 12-4-80; 8:45 am]
BILLING CODE 6560-38-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 110

Health Maintenance Organizations; Requirements for a Health Maintenance Organization

Correction

In FR Doc. 80-33984 appearing on page 72524 in the issue of Friday, October 31, 1980, on page 72534, first column, tenth line from the bottom, "device" should read "service".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 33

Opening of Valentine National Wildlife Refuge, Nebraska, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Valentine National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES:

Clear Lake—January 1, 1981 through December 31, 1981

Dewey Lake—January 1, 1981 through December 31, 1981

Duck Lake—January 1, 1981 through December 31, 1981

Rice Lake—January 1, 1981 through December 31, 1981

Hackberry Lake—December 1, 1980 through December 31, 1981

Watts Lake—December 1, 1980 through December 31, 1981

West Long Lake—December 1, 1980 through December 31, 1981

Willow Lake—December 1, 1980 through December 31, 1981

FOR FURTHER INFORMATION CONTACT:

Robert M. Ellis, Refuge Manager, Fort Niobrara-Valentine NWR Complex, Valentine, Nebraska 69201, Telephone Number—AC 402/376-3789.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing for individual wildlife refuge areas.

Sport fishing is permitted on the Valentine National Wildlife Refuge, Nebraska, only on the areas designated

by signs as being open to fishing. The areas comprising Clear, Dewey, Duck, Rice, Hackberry, Watts, West Long, and Willow Lakes are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Lakewood, Colorado 80225. Sport fishing shall be in accordance with all State regulations and subject to the following special conditions:

1. Sport fishing with hook-and-line, bow-and-arrow, and handspear is permitted for the taking of all species of fish.

2. Sport fishing may be closed on specific lakes by posting for emergency or special management projects.

3. All recreational use of the refuge, including fishing, is permitted during daylight hours only. Camping is prohibited.

4. The use of possession of live or dead minnows or whole fish for bait, or the possession of any seine or net for capturing live minnows is prohibited. Parts of dead fish or minnows may be used as bait.

5. Boats propelled with oars, paddles, or electric motors may be used. Internal combustion type motors are prohibited, and may not be mounted on boats used on refuge lakes.

6. Cars and other motorized vehicles are not permitted on the ice.

7. Littering is not allowed and waste receptacles are available for public use.

8. All muskellunge (*Esox masquinongy*) and largemouth bass (*Micropterus salmoides*) caught in Watts Lake must be immediately returned to the lake.

9. All largemouth bass (*Micropterus salmoides*) caught in West Long Lake must immediately be returned to the lake.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which the Valentine National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A–107.

Robert M. Ellis,

Refuge Manager.

October 7, 1980.

[FR Doc. 80-37824 Filed 12-4-80; 8:45 am]

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Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

Onions Grown in South Texas; Proposed Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed regulation would require fresh market shipments of onions grown in designated counties in South Texas to be inspected and meet minimum size and quality requirements. The regulation should promote orderly marketing of such onions and keep less desirable qualities and sizes from being shipped to consumers.

DATE: Comments due Febuary 4, 1981.

ADDRESS: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250 (202) 447–2615. The Draft Impact Analysis relating to this proposed rule is available upon request from Mr. Porter.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR Part 959) regulate the handling of onions grown in designated counties of South Texas. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Onion Committee, established under the order, is responsible for its local administration.

This proposed regulation is based upon recommendations made by the committee at its public meeting in Laredo, Texas, On October 23, 1980. The recommmendations of the committee reflect its appraisal of the expected volume and composition of the 1981 early spring crop of South Texas onions and of the marketing prospects for the shipping season which is expected to begin about March 2, 1981.

The proposed grade and size requirements are similar to last season's and are designed to prevent onions of poor quality or undesirable sizes from being distributed in fresh market channels.

Thus, only onions that contain not more than 20 percent defects of U.S. No. 1 grade and are not packed or loaded on Sunday except for export could be shipped from March 2 through May 9, 1981. Again this season in order to provide more orderly marketing from all districts, the inspection and container requirements would be extended through June 13, 1981.

The container requirements would prevent the use of off-size or deceptive containers which could adversely affect the reputation and returns of South Texas onions. However, they would not preclude the use of containers customarily packed for the retail trade. The prohibition on packaging and loading onions on Sunday is intended principally to provide more orderly marketing by tailoring shipments from the production area more closely to the ability of receiving markets to accept marketings. Again this season handlers would be permitted, with the approval of the committee, to grade, package and load onions on Sunday for export, provided that they shut down packing and loading operations on the first working day after shipment for the same length of time as they operated on Sunday. This should prevent handlers who ship on Sunday for export from gaining a competitive advantage due to longer packing hours over handlers who do not have export orders.

Exceptions would be provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Up to 110 pounds of onions could be handled, other than for resale, per day without regard to requirements of this section in order to avoid placing an unreasonable burden on persons handling noncommercial quantities of onions.

The requirements with respect to special purpose shipments would allow the shipment of onions for experimental purposes or the use of containers including bulk bins which have been the subject of test shipments during past seasons, and would encourage exports by allowing the use of containers required for such purposes. Onions for canning and freezing are exempt under the legislative authority for this part. Shipments for relief or charity would be exempt since no useful purpose would be served by regulating such shipments.

It is proposed that § 959.320 (44 FR 65379, November 13, 1979) be terminated and a new § 959.321 be added as follows:

§ 959.321 Handling regulation.

During the period March 2 through June 13, 1981, no handler may package or load onions on Sunday or handle any onions except red varieties, unless they comply with paragraphs (a) through (d) or (e) or (f) of this section. However, the requirements of paragraphs (a) and (b) and the Sunday prohibition shall terminate at 11:59 p.m. on May 9, 1981.

(a) *Grade requirements.*

Not to exceed 20 percent defects of U.S. No. 1 grade. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Application of tolerances in U.S. onion standards shall apply to in-grade lots.

(b) *Size requirements.*

(1) "Small"—1 to 2¼ inches in diameter, and limited to whites only;

(2) "Repacker"—1¾ to 3 inches in diameter, with 60 percent or more 2 inches in diameter or larger;

(3) "Medium"—2 to 3½ inches in diameter; or

(4) "Jumbo"—3 inches or larger in diameter.

(5) Tolerances for size in the U.S. onion standards shall apply except that for "repacker" and "medium" sizes not more than 20 percent, by weight, of onions in any lot may be larger than the maximum diameter specified. Application of tolerances in the U.S. onion standards shall apply.

(c) *Container requirements.* Except as provided in paragraph (f), only the following containers may be used:

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(1) 25-pound bags, with an average net weight in any lot of not more than 27½ pounds per bag, and with inside dimensions not larger than 29 inches by 31 inches; or

(2) 50-pound bags, with an average net weight in any lot of not more than 55 pounds per bag, and with inside dimensions not larger than 33 inches by 39½ inches.

(3) These container requirements shall not be applicable to onions sold to Federal agencies or for export.

(d) *Inspection.*

(1) No handler may handle any onions regulated hereunder, except pursuant to paragraphs (e) or (f)(1) of this section, unless an inspection certificate has been issued by the Texas-Federal Inspection Service covering them and the certificate is valid at the time of shipment.

(2) No handler may transport by motor vehicle or cause such transportation of any shipment of onions for which an inspection certificate is required unless each such shipment is accompanied by a copy of the inspection certificate applicable thereto or by documentary evidence on forms furnished by the committee identifying truck lots to which a valid inspection certificate is applicable and a copy of such inspection certificate or committee document is surrendered upon request to authorities designated by the committee.

(3) For purposes of operation under this part each inspection certificate or committee form required as evidence of inspection is hereby determined to be valid for a period not to exceed 72 hours following completion of inspection as shown on the certificate.

(4) Handlers shall pay assessments on all assessable onions according to the provisions of section 959.220.

(e) *Minimum quantity exemption.* Any handler may handle, other than for resale, up to, but not to exceed 110 pounds of onions per day without regard to the requirements of this section, but this exemption shall not apply to any shipment or any portion thereof of over 110 pounds of onions.

(f) *Special purpose shipments.* (1) The minimum grade, size, quality, container, and inspection requirements set forth in paragraphs (a) through (d) shall not be applicable to shipments of onions for charity, relief, canning and freezing if handled in accordance with paragraph (g) of this section.

(2) Onions may be packed in 50-pound cartons or in 2, 3 or 5 pound containers customarily used for the retail trade. Such shipments shall be exempt from paragraph (c) of this section but must meet the provisions of paragraphs (a), (b) and (d) or paragraphe (e) and be handled in accordance with paragraph (g) of this section.

(i) Shipments of such containers shall not exceed 10 percent of a handler's total weekly onion shipments.

(ii) The average gross weight per lot of onions packed in master containers shall not exceed 115 percent of the designated net contents.

(iii) The average net weight per lot of 50-pound cartons shall not exceed 55 pounds.

(3) *Experimental shipments.*

(i) Upon approval of the committee, onions may be shipped in bulk bins with inside dimensions of 47 inches × 7½ inches × 36 inches deep and having a volume of 63,450 cubic inches, or containers deemed similar by the committee. Each container shall have a new perforated polyethylene liner at least 2 mils in thickness. Also, onions may be shipped in 40-pound cartons, upon approval of the committee. Such experimental shipments shall be exempt from paragraph (c) of this section but shall not exceed ten percent of a handler's total weekly onion shipments and shall be handled in accordance with safeguard provisions of § 959.54 and paragraph (g) of this section. The receiver shall furnish the committee with a report on the arrival condition of each shipment.

(ii) Upon approval of the committee, onions may be shipped for other experimental purposes exempt from regulations issued purusant to §§ 959.42, 959.52 and 959.60, provided they are handled in accordance with safeguard provisions of § 959.54 and paragraph (g) of this section.

(4) *Export shipments.*

(i) Upon approval of the committee, the prohibition against packaging or loading onions on any Sunday may be modified or suspended to permit the handling of onions for export provided such handling complies with the procedures and safeguards specified by the committee.

(ii) Following approval, if the handler grades, packages and ships onions for export on any Sunday, such handler shall on the first weekday following shipment, cease all grading, packaging and shipping operations for the same length of time as the handler operated on Sunday. Upon completion of such shipments, the handler shall report thereon as prescribed by the committee.

(iii) Export shipments shall also be exempt form all container requirements of this section.

(5) *Onions failing to meet requirements:* Onions failing to meet the grade, size and container requirements of this section, and not exempt under paragraphs (e) or (f) of this section, may be handled only pursuant to § 959.126. Such onions not handled in accordance with paragraph (g) of this section shall be mechanically mutilated at the packing shed rendering them unsuitable for fresh market.

(g) *Safeguards.* Each handler making shipments of onions for relief, charity, or experimental purposes or onions packed in 50-pound cartons or 2, 3 or 5 pound containers customarily packed for the retail trade shall:

(1) Apply to the committee for an obtain a Certificate of Privilege to make such shipments:

(2) Furnish reports of each shipment made under the applicable Certificate of Privilege;

(3) Such reports, in accordance with § 959.80, shall be furnished to the committee in such manner, on such forms and at such times as it may prescribe. Each handler shall maintain records of such shipments pursuant to § 959.80(c), and the records shall be subject to review and audit by the committee to verify reports thereon.

In addition to the above, each handler making shipments for canning of freezing shall:

(4) Weigh or cause to be weighed each shipment prior to, or upon arrival at the canner or freezer.

(5) Attach a copy of the weight ticket to a completed copy of the Certificate of Privilege and return both promptly to the committee office.

(6) Bill each shipment directly to the applicable processor.

(7) Each canner or freezer who receives cull onions shall make available at its business office at any reasonable time during business hours, copies of all applicable purchase orders, sales contracts, or disposition documents for examination by the Department or by the committee, together with any other information which the committee or the Department may deem necessary to enable it to determine the disposition of the onions.

(h) *Definitions.* "U.S. onion standards" mean the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 2851.3195–2851.3209), or the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types) (7 CFR 2851.2830–2851.2854), whichever is applicable to the particular variety, or variations thereof specified in this section. The term "U.S. No. 1" shall have the same meaning as set forth in these standards.

All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 143, as amended, and this part.

(i) *Applicability to imports.* Onions imported during the period March 16 through May 9, 1981, will be in most direct competition with onions produced in South Texas and regulated under Marketing Order No. 959, as amended. Therefore, under Section 8e of the act and Section 980.117 "Import Regulations" such imported onions shall have not more than 20 percent defects of U.S. No. 1 grade and be at least 1 inch in diameter for white varieties and at least 1¾ inches in diameter for all other varieties. In percentage grade lots, tolerances for serious damage shall not exceed 10 percent including not more than 2 percent decay. Double the lot tolerance shall be permitted in individual packages in percentage grade lots. Applications of tolerance in the U.S. Grade Standards shall apply to in-grade lots.

Dated: December 2, 1980.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

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7 CFR Part 1280

[Docket No. WR-1]

Wheat and Wheat Foods Research and Nutrition Education; Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The proposed regulation establishes the procedure for collecting assessments from and defines the responsibilities of wheat end product manufacturers under the Wheat and Wheat Foods Research and Nutrition Education Order. The Order which was issued May 12, 1980 and published in the **Federal Register** May 16, 1980 (45 FR 32572) is authorized by the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 *et. seq.).*

DATE: Comments must be received by January 19, 1981.

ADDRESSES: Five copies of written exceptions and/or suggested changes should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: W. David Spalding, Livestock, Poultry, Grain, and Seed Division, AMS, USDA, Washington, D.C. 20250, Phone: (202) 447–2068.

SUPPLEMENTARY INFORMATION: The Wheat Industry Council has formulated and submitted to the Secretary of Agriculture for approval the following regulations which propose: (1) the policy and objectives of the Council, (2) the payment of U.S. Department of Agriculture referendum and administrative costs, (3) the designation of wheat end product manufacturers for paying and reporting, (4) a method for obtaining refunds, (5) end product manufacturer records and reports, and (6) related matters.

The regulations begin by defining terms used in the Act and Order and include terms newly used in this subpart. Newly defined terms include "scheduled for payment" and "distributor of processed wheat." These terms provide a further understanding of the assessment, collection, and remittance process.

The overall policy and objectives of the Council are stated in § 1280.306. The Council is directed to show no undue preference to any of the various industry segments.

The enabling legislation for the Wheat Industry Council provides that USDA costs incurred in conducting the referendum and in the administration of the Order will be paid from end product manufacturer assessments. Section 1280.309 directs the Council to pay these costs when determined periodically by the Secretary.

The major portion of these regulations concerns the assessment, the payment, the collection, and remittance by wheat end product manufacturers of up to 5 cents per hundredweight of processed wheat purchased. However, during the first 2 years of the program the assessment rate will not exceed 1 cent per hundredweight.

Section 1280.316 details those end product manufacturers and end products that are exempt from the payment of the assessment. Retail bakers as defined in the regulation, including any end product manufacturer who does not purchase more than 2,000 hundredweights of processed wheat per year for use in the manufacture of end products, are exempt.

The Act and the Order contain specific requirements that refund provisions be provided for those end product manufacturers who do not wish to participate in the program. The act and the Order require that a summary of the Council's annual budget be published in the **Federal Register** at least 60 days prior to the start of the budget year. Each registered end product manufacturer will be mailed a copy of the budget summary and shall have 60 days from the date of publication of the summary to reserve the right to seek refunds.

Section 1280.322 describes the method the end product manufacturer should follow when seeking a refund. All applications for refunds must be submitted with proof that an assessment has been paid to the Wheat Industry Council within 60 days after the end of the quarter in which the assessment accrued and payment of the refund must be made by the Wheat Industry Council within 60 days of the receipt of the request.

All end product manufacturers not exempt under § 1280.316 as retail bakers or otherwise are required to register with the Wheat Industry Council. Upon registration, end product manufacturers will receive an identification number to be used with required reports and official communications. Registration of end product manufacturers is covered in § 1280.325.

End product manufacturers are required to submit, for each reporting period (calendar quarter or 3-month accounting period unless otherwise approved by the Council), reports with all assessments detailing the amount of processed wheat purchased, the amount of processed wheat on which assessments have been paid, the amount of processed wheat purchased for use in exempt end products and the amount of processed wheat on which assessments are due. Additionally end product manufacturers are required to report the names and addresses of processors, distributors of processed wheat or other entities from whom processed wheat was purchased or transferred and the amount purchased or transferred from each such entity.

All end product manufacturers will maintain records for at least 2 years beyond the fiscal period of their applicability. These records are required to be available for inspection by employees of the Department of Agriculture or the Wheat Industry Council to insure compliance with the provisions of the Order.

The public is invited to submit written exceptions or recommendations regarding the proposed regulations to the Hearing Clerk, Room 1077—South Building, U.S. Department of Agriculture, Washington, D.C. 20250, no later than (45 days after publication in the **Federal Register**), to be sure of consideration. Each person submitting comments, suggestions, or objections regarding the proposed regulations shall include the person's name and address and give reasons for any suggested

changes. Copies of all written communications received will be available for examination by interested persons at the office of the Hearing Clerk during regular business hours.

In accordance with the above, it is proposed to amend 7 CFR Part 1280 by adding a new Subpart as follows:

PART 1280—WHEAT AND WHEAT FOODS RESEARCH AND NUTRITION EDUCATION ORDER

Subpart—Rules and Regulations

Definitions

Sec.
1280.300 Terms defined.

General

1280.305 Communications.
1280.306 Policy and objectives.
1280.307 Contracts.
1280.308 Procedure.
1280.309 USDA costs.

Assessments, Collections and Remittances

1280.315 Levy of assesments.
1280.316 Exemptions.
1280.317 Reporting period and payment.

Refunds

1280.320 Budget summaries, refund elections, and election periods.
1280.321 Eligibility for refunds.
1280.322 Procedure for obtaining refunds.

Registration and Reports

1280.325 Registration of end product manufacturers.
1280.326 Reports.

Records

1280.330 Retention of records.
1280.331 Availability of records.
1280.332 Confidentiality.

Miscellaneous

1280.335 Personal liability.

Authority: Wheat and Wheat Foods Research and Nutrition Education Act, Pub. L. 95–113, 95th Cong., approved September 29, 1977, 7 U.S.C. 3401–3417.

Definitions

§ 1280.300 Terms defined.

Unless otherwise defined in this subpart, definitions of terms used in this subpart shall be those definitions of terms defined in the Wheat and Wheat Foods Research and Nutrition Education Act (7 U.S.C. 3401 et seq.), hereinafter called the Act, and the Wheat Foods Research and Nutrition Education Order (7 CFR § 1280.101 et seq.), hereinafter called the Order.

(a) *Wheat.* "Wheat" means all classes of wheat grains grown in the United States.

(b) *Processed wheat.* "Processed wheat" means the wheat-derived content of any substance (such as cake mix or flour) produced for use as an ingredient of an end product by changing wheat grown within the United States in form or character by any mechanical, chemical, or other means.

(c) *End product.* "End product" means any product which contains processed wheat as an ingredient and which is intended, as produced, for consumption as human food, notwithstanding any additional incidental preparation which may be necessary by the ultimate consumer.

(d) *Processor.* "Processor" means any person who commercially produces processed wheat within the United States.

(e) *End product manufacturer.* "End product manufacturer" means any person who commercially produces an end product within the United States, but such term shall not include such persons to the extent that they produce end products on the premises where such end products are to be consumed by an ultimate consumer, including, but not limited to, hotels, restaurants, and institutions, nor shall such term include persons who produce end products for their own personal, family or household use.

(f) *Research.* "Research" means any type of research to advance the nutritional quality, marketability, production, functional quality or other qualities of wheat, processed wheat, or end products.

(g) *Nutrition education.* "Nutrition education" means any action to disseminate to the public information resulting from research concerning the economic value or nutritional benefits of wheat, processed wheat, and end products.

(h) *Wheat Industry Council or Council.* "Wheat Industry Council" or "Council" means the administrative body established pursuant to § 1280.130 of the Order.

(i) *Fiscal period.* "Fiscal period" means the calendar year or such other period as the Council may determine.

(j) *Secretary.* "Secretary" means the Secretary of Agriculture of the United States or any other officer or employee of the Department to whom there has heretofore been delegated, or to whom there may hereafter be delegated, the authority to act in the Secretary's stead.

(k) *Person.* "Person" means any individual, partnership, corporation, association or other entity.

(l) *Part and subpart.* "Part" means 7 CFR Part 1280, containing rules, regulations, orders, supplemental orders and similar matters concerning the Wheat and Wheat Foods Research and Nutrition Education Act. "Subpart" means any portion or segment of such part.

(m) *Retail baker.* "Retail baker" means an end product manufacturer who sells end products directly to the ultimate consumer: *Provided,* That such term shall not include any end product manufacturer who derives less than 10 per centum of gross end product sales revenues from sales to ultimate consumers or who derives 10 per centum or more of gross food or food product sales revenue from the sale of such products manufactured or produced by others.

(n) *Intra-company transfers.* "Intra-company transfers" means sales or transfers of processed wheat for use in the manufacture of end products to end product manufacturers from related companies or divisions of the same company.

(o) *Related companies or divisions of the same company.* "Related companies or divisions of the same company" means subsidiaries, affiliates, or divisions of an end product manufacturer which are controlled by, controlling, or under common control with, such end product manufacturer.

(p) *Control.* "Control", including the terms "controlling", "controlled by", and "under common control with", means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any person, whether through the ownership of voting securities, by contract, or otherwise.

(q) *Plans and projects.* "Plans and projects" means those research and nutrition education plans, studies or projects pursuant to § 1280.145 of the Order.

(r) *Scheduled for payment.* "Scheduled for payment" means set aside on the books and records of an end product manufacturer, so that once an end product manufacturer has scheduled for payment the assessment on processed wheat, at the point of the original purchase or intra-company transfer of such processed wheat, it will not be required to maintain further records of subsequent intra-company transfers of such processed wheat: Provided, That such end product manufacturer must maintain records of such transfers to the extent necessary to support any claim for exemption from assessments under § 1280.316(b).

(s) Distributor of processed wheat. "Distributor of processed wheat" means any person who sells processed wheat to an end product manufacturer.

General

§ 1280.305 Communications.

Communications in connection with the Order shall be addressed to the Wheat Industry Council at it business address.

§ 1280.306 Policy and objectives.

(a) It shall be the policy of the Wheat Industry Council to carry out an effective and continuous coordinated program of research and nutrition education, designed to improve and enhance the quality, and make the most efficient use, of American wheat, processed wheat, and wheat end products, and to inform the people of the United States about the nutritional benefits of wheat foods.

(b) It shall be the objective of the Wheat Industry Council to carry out plans and projects which will provide the maximum benefits to the wheat and wheat foods industry and no undue preference shall be given to any of the various industry segments.

(c) It shall be the objective of the Wheat Industry Council in carrying out this program to promote the health and well being of consumers.

§ 1280.307 Contracts.

The Council, with the approval of the Secretary, may enter into contracts with persons for the development and conduct of plans or projects authorized by the Order. Contractors shall agree to comply with the provisions of the Order, this subpart, and applicable provisions of the U.S. Code relative to contracting with the U.S. Department of Agriculture. Subcontractors who enter into contracts or agreements with a primary contractor and who receive or otherwise utilize funds allocated by the Council shall be subject to the provisions of this subpart.

§ 1280.308 Procedure.

The organization of the Wheat Industry Council and the procedure for conducting meetings of the Council shall be in accordance with the By-Laws of the Council.

§ 1280.309 USDA costs.

Pursuant to § 1280.150(b) of the Order, the Council shall reimbursement those referendum and administrative costs incurred by the U.S. Department of Agriculture for the conduct of it duties under the Act and the Order as determined periodically by the Secretary. Payment shall be due promptly after the billing for such costs.

Assessments, Collections and Remittances

§ 1280.315 Levy of assessments.

(a) An assessment of 5 cents per hundredweight of processed wheat, or such lesser amount as set by the Council and approved by the Secretary, hereinafter called the assessment, is hereby levied on each hundredweight of processed wheat purchased (including intra-company transfers of processed wheat with respect to which no assessment has been paid or scheduled for payment) on and after (the date assessments begin) by nonexempt end product manufacturers for use in the manufacture of nonexempt end products as specified in § 1280.315(b): *Provided,* That the assessment rate for the first two years during which assessments are in effect shall not exceed 1 cent per hundredweight. No person shall be required to pay more than one assessment with respect to the same processed wheat, whether or not such processed wheat is further processed by such person.

(b) The following end products in which wheat is a major or characterizing ingredient, as described in the Standard Industrial Classification (SIC) codes published by the U.S. Department of Commerce, shall be subject to the assessment levied hereunder.

SICNo.
2032—Macaroni, canned
Ravioli, canned
Spaghetti, canned
2038—Baked goods, frozen
Pies, frozen (except meat)
Pizza, frozen
Spaghetti and meat balls, frozen
Waffles, frozen
2041—Dough, biscuit: canned
Doughs, refrigerated
2043—Breakfast foods, cereal (wheat based)
Wheat flakes
2045—Dough, biscuit: Canned
Doughs, refrigerated
2051—Bagels
Bakery products, partially cooked, except frozen (frozen are included in SIC No. 2038)
Bakery products, "perishable": Bread, cakes, doughnuts, pastries, etc. (including croutons)
Biscuits, baked: Baking powder and raised
Bread, brown: Boston and other—canned
Buns (bakery products)
Charlotte Russe (bakery products)
Crullers
Knishes
Pastries: Danish, French, etc.
Pies, except meat pies
Rolls (bakery products)
Sweet yeast goods
2052—Bakery products, "dry": biscuits, crackers, pretzels, etc.
Biscuits, baked: Dry, except baking powder and raised biscuit (which are included in SIC No. 2051)
Cookies
Crackers: Graham, soda, etc.
Saltines
Zwieback, machine-made
2098—Macaroni and products, dry: Including alphabets, rings, seashells, etc.
Noodles: Egg, plain and water
Spaghetti, except canned (canned is included in SIC No. 2032)
Vermicelli
2099—Pizza, refrigerated, except frozen (frozen is included in SIC No. 2038)

§ 1280.316 Exemptions.

(a) The following persons shall be exempt from the assessment levied under § 1280.315:

(1) Retail bakers, as defined in § 1280.300(m), including any end product manufacturer who does not purchase more than 2,000 hundredweights of processed wheat per year for use in the manufacture of end products; and

(2) End product manufacturers who manufacture end products exempted under § 1280.316(b) *Provided,* That such end product manufacturers shall be exempt only to the extent of the processed wheat purchased for use in the manufacture of such exempt end products.

(b) "End products" in which wheat is not a major or characterizing ingredient and not listed in § 1280.315(b) shall be considered exempt end products for the purposes of § 1280.316(a)(2). Such end products shall include, but shall not be limited to, the following end products described in the Standard Industrial Classification (SIC) codes published by the U.S. Department of Commerce:

SICNo.
2032—Meat pies, canned
2034—Soup mixes and powders
2035—Sauces
2038—Frozen dinners
2052—Cones, ice cream
2085—Distilled, rectified, and blended liquors

§ 1280.317 Reporting period and payment.

(a) For the purpose of the payment of assessments, either a calendar quarter or a 3-month accounting period shall be considered the reporting period; however, other accounting periods may be used when approved by the Council in writing. Each end product manufacturer not exempt under § 1280.316(a) shall register his reporting period with the Council. All changes in reporting periods shall be requested in writing and subject to approval by the Council.

(b) Each end product manufacturer shall pay the required assessment pursuant to § 1280.315 directly to the Wheat Industry Council, for each reporting period, on or before the thirtieth day following the end of such period.

Thus, for example, if the initial reporting period were April 1, 1980, to June 30, 1980, on April 1, 1980, end product manufacturers not exempt under § 1280.316 would begin to calculate and set aside on their books and records the amount of the assessment that would be payable for

such period. The Council's first fiscal period would then begin on July 1, 1980, and the initial assessment would be required to be remitted on or before July 30, 1980.

Payment shall be in the form of a check, draft or money order payable to the Wheat Industry Council and shall be accompanied by a report pursuant to § 1280.326(a).

(c) In the event of an end product manufacturer's death, bankruptcy, receivership, or incapacity to act, the representative of the end product manufacturer or his estate, or the person acting on behalf of creditors, shall be considered the end product manufacturer for the purposes of this subpart.

Refunds

§ 1280.320 Budget summaries, refund elections, and election periods.

(a) Under § 1280.140(e) of the Order, the Council is required to prepare a summary of its annual budget, including a brief general description of research and nutrition education programs contemplated therein (hereafter the budget summary). Upon approval by the Secretary, the budget summary is to be published promptly in the **Federal Register**. The Council's initial budget summary, for its initial fiscal period, shall be published at least 60 days prior to the date when the initial assessments are due to be remitted under § 1280.315. In subsequent fiscal periods the budget summary shall be published at least 60 days prior to the beginning of the fiscal period.

(b) With the publication of each budget summary under § 1280.320(a) (or amended budget summary under § 1280.320(d)), the Council shall promptly mail a copy thereof to each registered end product manufacturer.

(c) Each such rigistered end product manufacturer shall have 60 days each year from the date of publication of the budget summary in the **Federal Register** (hereafter referred to as the refund election period) within which to elect to reserve the right to seek refunds under § 1280.322 of assessments paid with respect to the fiscal period covered by such budget summary, whether or not such person has personally received a copy of the budget summary.

(d) Ordinarily, one budget summary for each fiscal period will be published at least 60 days prior to the beginning of the fiscal period. However, in the event of midyear amendments to the budget so significant as to substantially change the nature of the Council's ongoing plans and projects, an amended budget summary, upon approval by the Secretary, will be published promptly in the **Federal Register**. Thereafter, all nonexempt end product manufacturers, whether or not they have a refund election then in effect, will be given 60 days from the date of such publication within which to elect to reserve the right to seek refunds under § 1280.322 of assessments paid with respect to the balance of the fiscal period then in effect including the quarter in which the amended budget summary was published.

(e) Nonexempt end product manufacturers who wish to elect to reserve the right to request refunds of assessments under § 1280.322 shall so indicate to the Council by letter, which shall be transmitted to the Council by registered or certified mail, and which must be postmarked not later than the sixtieth day of the applicable refund election period (or the next succeeding business day if such sixtieth day falls on a Saturday, Sunday or Holiday).

§ 1280.321 Eligibility for refunds.

Only those end product manufacturers who have made the described election pursuant to § 1280.320 shall be eligible for refunds of assessments paid with respect to the fiscal period, or (in the case of budget amendments under § 1280.320(d)) portion thereof, to which such refund election applies.

§ 1280.322 Procedure for obtaining refunds.

Any end product manufacturer who has been subject to and has paid an assessment, but who has elected to reserve the right to seek a refund, may obtain a refund of the assessment for any quarter or other reporting period in the following manner:

(a) Every refund request must be made by submitting to the Council a completed Wheat Industry Council refund application form. The form shall be obtained by written request to the Council and shall require the following information:

(1) The end product manufacturer's name(s), address(es), and identification number;

(2) The number of hundredweights of processed wheat on which a refund is requested and and the total amount of the refund request;

(3) The date or dates on which assessments were paid;

(4) The end product manufacturer's signature; and

(5) An affirmation that the end product manufacturer has made the necessary election to reserve the right to request refunds.

A separate refund application must be filed for assessments paid in each quarter.

(b) Every refund application must be mailed to the Wheat Industry Council within 60 days after the end of the quarter or other reporting period during which the assessement obligation accrued.

(c) Within 60 days following the date of receipt by the Council of each properly executed refund application, and proof of payment of the assessment, the Council shall remit the refund.

Registration and Reports

§ 1280.325 Registration of end product manufacturers.

(a) All end product manufacturers not exempt under § 1280.316 shall, prior to (the beginning date of assessments), register with the Wheat Industry Council by filing a registration statement. Registered end product manufacturers will receive an identification number which must appear on all required reports and official communications with the Wheat Industry Council.

(b) End product manufacturers who are exempt from assessments under § 1280.316 will not be required to register with the Council. However, any such exempt end product manufacturer receiving a registration form shall return the form to the Council indicating thereon his exempt status and the basis for it. Such exempt end product manufacturers shall not be required to submit further proof of their exempt status except upon specific written request of the Council.

(c) New businesses subject to this subpart beginning after (the beginning date of assessments) shall register with the Wheat Industry Council within 30 days following the beginning of operations.

(d) Each registration statement hereunder shall include:

(1) Name and address of the end product manufacturer;

(2) Name of individual(s) responsible for filing reports with the Wheat Industry Council;

(3) Type of reporting period desired; and

(4) For exempt end product manufacturers, spaces for indicating exempt status, the basis for such exempt status, and whether the end product manufacturer wishes to waive exempt status.

(e) Any person exempt under §1280.316 may waive such exemption, upon application to and approval by the Council, and thereafter will be treated as a nonexempt end product manufacturer under this subpart unless and until such person requests that such exemption be reinstated.

§ 1280.326 Reports.

(a) End product manufacturer reports.

(1) Each nonexempt end product manufacturer shall make reports to the Wheat Industry Council on forms made available or approved by the Council. Each such end product manufacturer shall prepare a separate report form for each reporting period, which shall be mailed to the Council within 30 days after the close of the reporting period, and which shall contain the following information:

(i) Date of report;

(ii) Reporting period covered by report;

(iii) Name and address of end product manufacturer and identification number;

(iv) Total number of hundredweights of processed wheat purchased (including intra-company transfers), total number of hundredweights of processed wheat purchased or transferred on which an assessment was previously collected, total number of hundredweights of processed wheat purchased or transferred for use in the manufacture of end products exempted under § 1280.316(b), and total number of hundredweights of processed wheat on which an assessment is due;

(v) The names and addresses of processors, distributors of processed wheat or related companies or divisions of the same company, from whom processed wheat was purchased or transferred and the amount purchased or transferred from each such entity;

(vi) The total amount of assessment due for processed wheat purchased or transferred during the reporting period and remitted with the report; and

(vii) Such other information as may be required by the Council.

(2) End product manufacturer reports shall be filed each reporting period until such time as the Wheat Industry Council is notified in writing that the end product manufacturer has ceased to do business.

(b) In order to enable end product manufacturers to calculate the amount of processed wheat they have purchased, persons selling or transferring processed wheat in combination with other ingredients to such end product manufacturers for use in the manufacture of end products shall disclose to such end product manufacturers the amount or proportion of processed wheat contained in such products, plus or minus 3 per centum. End product manufacturers shall be responsible for informing persons selling or transferring to them processed wheat in combination with other ingredients of such persons' obligations under this subpart to disclose the amount or proportion of processed wheat therein, plus or minus 3 per centum.

(c) The Wheat Industry Council may require all persons subject to section 1705(c) of the Act to make reports as needed for the enforcement and administration of this part.

Records

§ 1280.330 Retention of records.

Each person required to make reports to the Wheat Industry Council pursuant to this subpart shall maintain and retain for at least 2 years beyond the fiscal period of their applicability:

(a) One copy of each report submitted to the Council; and

(b) Such other records as are necessary to verify reports submitted to the Council.

§ 1280.331 Availability of records.

Each end product manufacturer subject to the provisions of this subpart, and all persons subject to section 1705(c) of the Act, shall make available for inspection and copying by authorized employees of the Wheat Industry Council and/or the Secretary, during regular business hours, such information as is appropriate and necessary to verify compliance with this subpart.

§ 1280.332 Confidentiality.

(a) All information obtained by the Wheat Industry Council, all employees of the Council, officers and employees of the Department of Agriculture, or any person under contract to the Council or otherwise acting on behalf of the Council, from the books, records and reports of persons subject to this subpart, and all information with respect to refunds of assessments made to individual end product manufacturers, shall be kept confidential in the manner, and to the extent, provided for in § 1280.162 of the Order.

(b) In order to protect confidential information that may reveal trade secrets or have competitive value, access to information from the books, records and reports of persons subject to this subpart shall be limited to persons within the class described in § 1280.332(a) who have a specific need for such information in order to administer the provisions of the Order and of this subpart.

Miscellaneous

§ 1280.335 Personal liability.

No member, alternate member or employee of the Council in the performance of his or her duties with the Council shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, by such member, alternate or employee, except for acts of dishonesty or willful misconduct.

Done at Washington, D.C. on December 2, 1980.

James E. Springfield,

Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-37884 Filed 12-4-80; 8:45 am]

BILLING CODE 3410-02-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 3, 145, and 147

Proposed Registration Forms and Rules

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed forms and rules.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has today adopted final rules which relate to the registration of futures commission merchants, floor brokers, associated persons, commodity trading advisors and commodity pool operators. Those rules require that each applicant for registration as an associated person ("AP") be "sponsored" by a futures commission merchant ("FCM") which must screen that person's application and certify that it is accurate and complete to the best of the FCM's knowledge, information, and belief. The new regulations also require the fingerprinting of, and the filing of a Form 8–R by, certain Commission registrants or their principals; some of these registrants and principals are, however, exempted from those requirements.

The Commission is now proposing for public comment the revised Form 8–R, new Forms 8–S and 8–T, and certain additional regulations which the Commission believes are necessary to implement fully the regulations it has adopted today.

DATES: Comments on the proposed forms and rules should be submitted by February 3, 1981.

ADDRESS: Send comments to: Commodity Futures Trading

V 45 / 236 DEC 80 UMI

Commission, 2033 K Street NW., Washington, D.C. 20581. Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Robert P. Shiner, Assistant Director for Registration, or Kenneth M. Rosenzweig, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254–9703 or 254–8955.

SUPPLEMENTARY INFORMATION:

I. Introduction

On March 20, 1980, the Commission proposed substantial revisions to its registration regulations and, in particular, to the requirements governing the registration of associated persons. 45 FR 18356. Based upon the entire record in that proceeding, the Commission has today adopted final regulations which, along with other of its registration regulations, have been consolidated in a new Part 3 of Chapter I, Title 17 of the Code of Federal Regulations.

The Commission indicated when it issued its proposal that the revised Form 8–R and other related matters would be published for public comment at a later date. The Commission is, therefore, now proposing the revised Form 8–R, new Forms 8–S and 8–T, and certain additional regulations which the Commission believes are necessary to implement fully those newly adopted regulations.

II. Proposed Rules and Forms

A. Proposed Forms 8–R, 8—S and 8–T

The revised Form 8–R would retain much of the existing Form 8–R; however, certain stylistic changes have been proposed which, the Commission believes, will simplify the Form and reduce the filing burdens for applicants and registrants and streamline its processing by the Commission.[1] In addition, a number of the questions and instructions would be modified to conform to both the newly adopted and the proposed regulations and to apprise affected individuals of their filing obligation under the regulations.

The proposed Form 8–R includes a Sponsor's Certification—*i.e.*, a certification by the futures commission merchant which is sponsoring the registration of an associated person that it has complied with the requirements of §§ 3.12(c)(1)(i)–(iii) and, where applicable, §§ 3.12(d) (1) and (3). The Sponsor's Certification also contains an acknowledgement by the officer, general partner, or sole proprietor who is signing it on behalf of the sponsoring FCM, that the information contained in the Form 8–R has been provided to allow that FCM to verify the publicly available information in the Form 8–R and that the firm will take such measures as are necessary to prevent the unwarranted dissemination of that information.[2]

Proposed Form 8–S is a Certificate of Special Registration which is designed to effect the special registration provisions for certain associated persons contained in § 3.12(d). In addition, the Commission is proposing a Notice of Termination (Form 8–T) to implement the provisions of § 3.31(c). The Commission is also proposing to require FCMs, commodity trading advisors ("CTAs") and commodity pool operators ("CPOs") to report the termination of a principal[3] to the Commission.[4] All such reports would have to be filed with the Commission on Form 8–T or on a Uniform Termination Notice for Securities and Commodity Industry Registration (Form U–5).[5]

B. The Privacy Act

In addition to the final rules being adopted today and the rules and forms that are herein being proposed for public comment, the Commission is today publishing separately a notice of its intention to alter certain of the systems of records it maintains pursuant to the Privacy Act of 1974 [6] and is proposing for public comment a new routine use [7] for those systems of records.

C. The Freedom of Information Act and the Government in the Sunshine Act

Commission regulation 145.5 [8] provides that certain of the Commission's records are generally "nonpublic" and are therefore exempt from required disclosure under the Freedom of Information Act.[9] With respect to the applications for registration and biographical supplements filed on Form 8–R by persons subject to regulation by the Commission, § 145.5(f)(2) and § 145.6(b) [10] specify that some of the information submitted in connection therewith—*e.g.*, residence address, social security number, date and place of birth and the required documentation of certain judicial or regulatory sanctions—may be treated as nonpublic. Pursuant to Commission regulation 145.9,[11] a petition for confidential treatment can be filed with respect to other information on the Form 8–R. Commission regulation 147.3(b)(6)(ii) [12] accords similar treatment to that information under the Government in the Sunshine Act [13] by allowing for the closure of normally open Commission meetings [14] where disclosure of that information would constitute a clearly unwarranted invasion of personal privacy. Consistent with the Notice which accompanies the proposed Forms, the Commission is proposing to treat the above-described information and an individual's fingerprint card as non-public in those circumstances.

D. Other proposed rules

The Commission is proposing as § 3.30 a rule which would make explicit a registrant's or principal's continuing duty to furnish the Commission with a current address for the purpose of receiving Commission communications.[15]

The Commission is also proposing to amend § 3.11 to provide that before registration can be granted, an applicant for initial or renewal registration as a floor broker must have trading privileges on a board of trade which has been designated as a contract market by the Commission.[16] The Commission believes that its proposal is consistent with long-standing practices of the industry and with the intent and understanding of Congress when it adopted relevant sections of the Act.[17]

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[1] For example, the proposed Form 8–R would eliminate the need for floor brokers to file a separate Schedule A as a supplement to the Form 8–R.

[2] Proposed § 3.12(c)(1)(iv). Nothing in the proposal, however, is intended to preclude a sponsoring FCM from following the practice commonly used for registration screening in the securities industry, which is to hire investigative agencies to perform some or all of the screening functions. *See* 45 FR 18356, 18357 (March 20, 1980).

[3] Section 3.1(a).

[4] Proposed § 3.31(c)(2).

[5] Section 3.31(c)(3).

[6] 5 U.S.C. 552a.

[7] *See* 5 U.S.C. 552a(a)(7).

[8] 17 CFR 145.5.

[9] 5 U.S.C. 552.

[10] 17 CFR 145.6(b). Section 145.6 was recently amended to reflect the establishment of the Commission's Freedom of Information, Privacy and Government in the Sunshine Acts compliance staff. 45 FR 26952, 26953–54 (April 22, 1980).

[11] 17 CFR 145.9.

[12] 17 CFR 147.3(b)(6)(ii).

[13] 5 U.S.C. 552b.

[14] 17 CFR 147.3(a).

[15] A similar rule was recently proposed as § 1.14a. 45 FR 42324, 42330 (June 24, 1980). Unlike proposed § 1.14a, but consistent with the rules adopted today, proposed § 3.30 includes a reference to principals of registrants.

[16] Proposed § 3.11(a). An applicant for floor broker registration, or for renewal thereof, whose trading privileges are pending may nonetheless apply for registration. Upon receipt by the Commission of notification of such privileges, registration may then be granted. *See* proposed Form 8–R, Item 13.

[17] *See Hearings on H.R. 6772 Before the Senate Comm. on Agriculture and Forestry*, 74th Cong., 2d Sess. 82 (1936) (testimony of James J.Coughlin, President, Brokers Association of the Chicago Board of Trade) (floor broker is a member of an exchange); *Hearings on H.R. 3009 Before the House Comm. on Agriculture*, 74th Cong., 1st Sess. 22, 27 (1935)

Footnotes continued on next page

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act, and in particular, Sections 2, 4d, 4e, 4f, 4k, 4m, 4n, and 8a thereof, 7 U.S.C. 2 and 4, 6d, 6e, 6f, 6k, 6m, 6n, and 12a, *as amended*, 92 Stat. 865 *et seq.*, and the authority contained in 5 U.S.C. 552 and 552b, the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations by amending §§ 3.11, 3.12, 3.31, 145.5, 145.6, and 147.3, and by adding § 3.30, to amend Commission Form 8–R, and to add Commission Forms 8–S and 8–T, as follows:

PART 3—REGISTRATION

1. Section 3.11 is proposed to be amended as follows:

§ 3.11 Registration of floor brokers.

(a) *Trading privileges required.* No person who applies for registration, or for renewal of registration, as a floor broker will be registered as such unless he has been granted trading privileges by a board of trade which has been designated as a contract market by the Commission.

* * * * *

2. Section 3.12 is proposed to be amended as follows:

§ 3.12 Registration of associated persons.

* * * * *

(c) * * *

(1) * * *

(ii) The futures commission merchant has verified the information supplied by the applicant in response to the questions on Form 8–R which relate to the applicant's education and employment history during the preceding five years, except that this paragraph (c)(1)(ii) does not apply to any person who, at the time of the first expiration of that person's registration as an associated person subsequent to July 1, 1981, is associated with the certifying futures commission merchant of its agent;

(iii) To the best of the futures commission merchant's knowledge, information, and belief, all of the publicly available information supplied by the applicant on Form 8–R is accurate and complete: *Provided*, That it is unlawful for the futures commission merchant to make the certification required by this paragraph (c)(1)(iii) if the futures commission merchant knew or should have known that any of that information is not accurate and complete; and

(iv) The futures commission merchant has taken, and will take, such measures as are necessary to prevent the unwarranted dissemination of any of the information contained in that Form 8–R, or in the records and documents obtained in support of the certifications required by this section.

* * * * *

(d) * * *

(3) Within sixty days of mailing the certifications permitted by paragraph (d)(1) of this section, the associated person and the futures commission merchant must complete and the futures commission merchant must file with the Commission a Form 8–R in accordance with the instructions thereto. The Form 8–R must contain the certifications required by paragraphs (c)(1)(ii)–(iv) of this section and must be accompanied by the fingerprints of the applicant on a fingerprint card provided by the Commission for the purpose except that a fingerprint card does not have to be submitted for any person who, at the time of the first expiration of that person's registration as an associated person subsequent to July 1, 1981, is associated with the certifying futures commission merchant or its agent as an associated person.

* * * * *

3. Section 3.30 is proposed to be added and, as added, would read as follows:

§ 3.30 Current address for purpose of service to be filed with the Commission.

The address of each registrant, applicant for registration and principal, as submitted on the application for registration (Form 7–R or Form 8–R) or as submitted on the biographical supplement (Form 8–R) shall be deemed to be the address for delivery to the registrant, applicant or principal of any communications from the Commission, including any summons, complaint, reparation claim, order, subpoena, special call, request for information, notice, and other written documents or correspondence, unless the registrant, applicant or principal specifies another address for this purpose. Each registrant, while registered, and each principal, while affiliated with a registrant, must keep current the address on the application for registration, biographical supplement, or other address filed with the Commission for the purpose of receiving communications from the Commission. An order of default or other appropriate relief may be entered in any proceeding, including a reparation proceeding commenced while the registrant is registered or within two years thereafter, for failure to file a required response to any communication sent to the latest address filed with the Commission.

4. Section 3.31 is proposed to be amended as follows:

§ 3.31 Deficiencies, inaccuracies, and changes, to be reported.

* * * * *

(c) * * *

(2) Each person registered as, or applying for registration as, a futures commission merchant, commodity trading advisor or commodity pool operator must, within ten days after the termination of the affiliation of a principal with the registrant or applicant, file a notice thereof with the Commission.

* * * * *

PART 145—COMMISSION RECORDS AND INFORMATION

5. Section 145.5 is proposed to be amended as follows:

§ 145.5 Nonpublic matters.

* * * * *

(f) * * *

(2) Files concerning persons subject to regulation by the Commission, including files with respect to applications for registration as a futures commission merchant, commodity pool operator or commodity trading advisor and biographical supplements submitted with such applications, and applications for registration as a floor broker or associated person. Examples of the information on the applications or biographical supplements which may be protected are an individual's home address and telephone number, social security number, date and place of birth, fingerprints and the information concerning prior arrests, indictments, criminal convictions or other judgments or sanctions imposed by state or federal courts or regulatory authorities;

* * * * *

6. Section 145.6 is proposed to be amended as follows:

§ 145.6 Commission offices to contact for assistance; registration records available at Chicago regional office.

* * * * *

(b) The Chicago regional office of the Commission will have available for public inspection and copying the publicly available portions of applications for registration as a futures commission merchant, commodity trading advisor or commodity pool operator (Form 7–R), applications for registration as an associated person or floor broker (Form 8–R), Certificates of Special Registration (Form 8–S), and

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Footnotes continued from last page
(testimony of Edwin Kuh, Jr.) (floor broker must be a member of an exchange).

Notices of Termination (Form 8–T). The Form 8–R also serves as a biographical supplement for principals of those persons filing the Form 7–R. Unless disclosure is required under the Freedom of Information Act, the fingerprint card, any supplementary attachments filed in response to items 3–7, 10, 14–19 and 21–24 on Form 8–R, and any supplementary attachments filed in response to item 2 on Form 8–S or items 2–5 on Form 8–T generally will not be available for public inspection and copying. When such fingerprint cards and supplementary attachments are on file or when a Form is subject to a petition for confidential treatment filed under § 145.9, the FOI, Privacy and Sunshine Acts compliance staff will decide any request for access in accordance with the procedures set forth in §§ 145.7 and 145.9.

PART 147—OPEN COMMISSION MEETINGS

7. Section 147.3 is proposed to be amended as follows:

§ 147.3 General requirement of open meetings; grounds upon which meetings may be closed.

* * * * *

(b) * * *

(6) * * *

(ii) Files concerning individuals subject to regulation by the Commission, including files with respect to applications for registration as a futures commission merchant, commodity pool operator or commodity trading advisor and biographical supplements submitted with such applications, and applications for registration as a floor broker or associated person. Examples of the information on the applications or biographical supplements which may be protected are an individual's home address and telephone number, social security number, date and place of birth, fingerprints and the information concerning prior arrests, indictments, criminal convictions or other judgments or sanctions imposed by state or federal courts or regulatory authorities; and

* * * * *

Issued in Washington, D.C. on October 30, 1980 by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

Registration Booklet

Commodity Futures Trading Commission—1075

This Booklet Includes:

Application for Registration and Biographical Supplement (Form 8–R)

Certificate of Special Registration (Form 8–S)

Notice of Termination (Form 8–T)

Please be advised that:

An incomplete Form will be rejected.

Fees are not refundable.

Eight to ten weeks are required to process an application for initial registration.

Willful falsification, misrepresentation, or omission of any material fact required to be stated on this form constitutes cause for the denial, suspension, or revocation of registration and prosecution under criminal statutes.

CFTC Form 8–R, 8–S, 8–T

Privacy Act Notice

The information in Forms 8–R, 8–S, 8–T and on the fingerprint card is being collected pursuant to authority granted in Sections 4f, 4k, 4n and 8a of the Commodity Exchange Act (7 U.S.C. 6f, 6k, 6n, 12a).

The information requested in Form 8–R and on the fingerprint card will be used by the Commodity Futures Trading Commission as a basis for initiating an inquiry into the individual's fitness to be an associated person or floor broker or to be a principal of a futures commission merchant, commodity trading advisor or commodity pool operator. The information requested in Form 8–S will be used by the Commission to establish the registration of certain associated persons. The information requested in Form 8–T will be used by the Commission to record the registration status of the individual and, in appropriate cases, as a basis for a further inquiry into the individual's fitness to remain in business subject to the Commission's jurisdiction.

With the exception of the social security number, all information requested in Forms 8–R, 8–S and 8–T must be furnished before the Forms will be processed. The furnishing of a social security number, however, assists the Commission in identifying individuals and therefore expedites the processing of those Forms.

Failure by an applicant, registrant, or principal to timely file or cause to be filed a properly completed Form 8–R, 8–S, or 8–T or a fingerprint card may result in the lapse, denial, suspension or revocation of registration or other enforcement action by the Commission.

With the exception of the fingerprint card and any supplementary information contained in attachments to items 3–7, 10, 14–19, and 21–24 on Form 8–R or in attachments to item 2 on Form 8–S or items 2–5 on Form 8–T, these Forms are considered by the Commission to be public records and will be available for inspection by any person. Copies will be maintained at the Commission's Central Regional Office at Sears Tower, 46th Floor, 233 S. Wacker Drive, Chicago, Illinois 60606. Further, the Commission may disclose the fingerprint card and any such supplementary information to third parties pursuant to routine uses which the Commission has published in the Federal Register or as otherwise authorized under the Privacy Act, 5 U.S.C. 552a, and the Commodity Exchange Act. A summary of the types of disclosure which the Commission may make is as follows: (1) in connection with administrative proceedings or matters in litigation; (2) in connection with Commission investigations; (3) where the information is furnished to regulatory, self-regulatory and law enforcement or other government agencies to assist them in meeting responsibilities assigned to them by law; (4) where disclosure is required under the Freedom of Information Act (5 U.S.C. 552); (5) in connection with an employer's hiring or retention of an employee; (6) in connection with the verification of information submitted for sponsorship purposes; (7) in other circumstances in which the withholding of such information appears unwarranted; and (8) in connection with legally required or authorized reports.

If an individual believes that the placing in the Commission's public files of any of the information contained in Forms 8–R, 8–S, 8–T or on the fingerprint card would constitute an unwarranted invasion of his personal privacy or would reveal sensitive business information, the individual may petition the Commission, pursuant to 17 CFR 145.9, to treat such information as non-public in response to requests under the Freedom of Information Act.

This notice is provided in accordance with the requirements of the Privacy Act, 5 U.S.C. 552a(e)(3), and summarizes some of an individual's rights under the Privacy Act, 5 U.S.C. 552a, and the Freedom of Information Act, 5 U.S.C. 552. Individuals desiring further information should consult the Commission's regulations under the Privacy Act, 17 CFR Part 146, and under the Freedom of Information Act, 17 CFR Part 145, and the Commission's annual notice, pursuant to the Privacy Act, of the existence and character of each system of records maintained by the Commission.

General Instructions

The following general instructions are intended to provide an overview of the Commission's registration application requirements. Specific instructions for completing the Form 8–R follow these general instructions. In addition, certain items within the form contain instructions to assist in their completion.

Who Must File Form 8–R

Associated Persons
Floor Brokers
Principals

Definitions

(1) *Associated Persons*

An "associated person" is any natural person who is associated with a futures commission merchant or with an agent of a futures commission merchant as a partner, officer or employee (or any natural person occupying a similar status or performing similar functions), in any capacity which involves (1) the solicitation or acceptance of customers' orders (other than in a clerical capacity) or (2) the supervision of any person or persons so engaged.

(2) *Floor Brokers*

A "floor broker" is any person who, in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged, purchases or sells for any other person any commodity for future delivery on or subject to the rules of any contract market. An

applicant for registration as a floor broker (or for renewal thereof) must be a person who has been granted floor trading privileges by a commodity exchange which has been designated by the Commission as a contract market.

(3) *Principals*

A "principal" is, with respect to an applicant for registration, a registrant or a person required to be registered under the Commodity Exchange Act or regulations thereunder: (1) any person, including, but not limited to a sole proprietor, general partner, officer, director, branch office manager or designated supervisor, or person occupying a similar status or performing similar functions, having the power, directly or indirectly, through agreement or otherwise, to exercise a controlling influence over the activities of that person which are subject to regulation by the Commission; (2) any holder of more than ten percent of the outstanding shares of any class of stock; or (3) any person who has contributed more than ten percent of the capital.

When Form 8–R and Fingerprints Must Be Filed

If you have already filed a Form 8–R or a Form 94 with the Commission, you may not have to file a fingerprint card with this application. In addition, certain principals may not be required to file a Form 8–R or a fingerprint card. You should carefully read the instructions below to determine whether you must file.

In instances when the filing of a fingerprint card is required, the Commission may accept instead a photocopy of a fingerprint card if the processing of that fingerprint card was completed by the Federal Bureau of Investigation within the last ninety days. A photocopy of the arrest record report, if any, must be attached. Photocopies must be validated on the reverse side with the signature of an officer of the corporation, if the registered firm is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship. Floor broker applicants utilizing this alternative must sign for themselves.

(1) *Associated Persons*

To be registered, you must be associated with a futures commission merchant or its agent.

The duration of an associated person registration will be until: (1) the cessation of the association of the registrant with the futures commission merchant or its agent; or (2) the revocation, suspension, lapse, or withdrawal of the registration of the futures commission merchant with which the registrant is associated. If you are registered as an associated person on July 1, 1981, you may continue to act as such until your current registration expires; you may use the special registration procedure described below to re-register as an associated person of your sponsoring futures commission merchant or its agent on or before the date your current registration expires.

Generally, a Form 8–R and a fingerprint card are required each time you apply for registration as an associated person; a fingerprint card does *not* have to be submitted the first time your registration expires after July 1, 1981 if you are going to re-register with the same futures commission merchant or its agent. The futures commission merchant must submit the Form 8–R (and a fingerprint card, if one is required) to the Commission for you. If you later change firms, you must re-register as an associated person and have the new futures commission merchant submit a Form 8–R and a fingerprint card for you.

In certain instances, associated persons who are already registered will be eligible to use a special registration procedure when they move from one firm to another. The special registration procedure and eligibility requirements are as follows:

Any associated person whose registration has been *granted* within the preceding twelve months or has *terminated* within the preceding sixty days will be registered as an associated person of a registered futures commission merchant or its agent upon the mailing to the Commission of Form 8–S by that futures commission merchant. The futures commission merchant must certify that the associated person has been hired or is otherwise employed by the futures commission merchant or its agent. The associated person must certify that he is eligible for special registration and that his registration as an associated person is not suspended or revoked. (In addition, if there is a registration proceeding pending against the associated person at the time of certification or if he has withdrawn an application for registration with the Commission within the preceding twelve months, the associated person must give the sponsoring FCM a copy of the complaint or withdrawal letter that was issued by the Commission.) The certifying futures commission merchant then has sixty days within which to complete the prescribed screening of the individual and submit an updated and complete Form 8–R and a fingerprint card.

(2) *Floor Brokers*

A Form 8–R is required each time an individual applies for registration as a floor broker. A fingerprint card is required from an individual the first time he applies for registration as a floor broker, except where (1) the individual has previously filed a fingerprint card with the Commission in accordance with the registration requirements for becoming a principal or an associated person or (2) the individual had a current Form 8–R or Form 94 on file with the Commission on July 1, 1981.

All floor broker registrations expire on December 31 of each year. An individual applying for renewal of registration as a floor broker is required to file a Form 8–R but may answer "No Change" to any question which asks for information that has previously been furnished to the Commission by the registrant on a Form 8–R or supplement thereto if such information remains accurate and unchanged. If the information provided has not changed but additional information is needed as an update, you may insert the words "Information Since Previous Filing" and then give the new information.

(3) *Principals*

A Form 8–R is required for each principal of a futures commission merchant, commodity trading advisor or commodity pool operator unless that individual has a current Form 8–R or Form 94 on file with the Commission. A fingerprint card is required from an individual the first time he becomes a principal, except where (1) the individual has previously filed a fingerprint card with the Commission in accordance with the registration requirements for becoming a floor broker or an associated person or (2) the individual had a current Form 8–R or Form 94 on file with the Commission on July 1, 1981.

If an individual becomes a principal of a firm after having previously submitted a Form 8–R or Form 94, notification on Form 3–R from the firm of which the individual is a principal is required.

Registration Fee

Each application for registration as an associated person and each application for registration, or for renewal thereof, as a floor broker must be accompanied by a fee of $20. The fee must be remitted by money order, bank draft or check, payable to the "Commodity Futures Trading Commission." No fee is required if Form 8–R is being filed solely for a principal as a biographical supplement to Form 7–R.

Where To File

Send completed Forms 8–R, 8–S and 8–T (copies will be accepted only with an original signature and date), registration fee and fingerprint card, if applicable, to: Commodity Futures Trading Commission, 233 South Wacker Drive, Suite 4600, Chicago, Illinois 60606.

When To File Sponsor's Certification

A Form 8–R which is submitted to the Commission by a sponsoring futures commission merchant as an application for registration of an associated person may be sent to the Commission by that sponsoring futures commission merchant prior to the completion of the firm's screening of the applicant. The "Sponsor's Certification" may be sent separately and after the remainder of Form 8–R, the fingerprint card and accompanying fee have been sent to the Commission. No application for registration as an associated person will be considered complete until the "Sponsor's Certification" has been received by the Commission.

If the individual has used Form 8–S to register under the special procedures available to certain associated persons, the futures commission merchant must include the "Sponsor's Certification" with the updated and complete Form 8–R, fingerprint card and fee, all of which must be received by the Commission within sixty days after Form 8–S is mailed.

If an Application Is Pending

Because of the nature of the responsibilities assumed by a person in a registered capacity, the Commission must conduct an extensive investigation of the fitness and qualifications of each person who files an Application for Registration or Biographical Supplement (Form 8–R). *Generally, eight to ten weeks are required to process a properly completed application for initial registration.* Further investigation, review or processing of the application may extend the processing

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period. If an application is incomplete or otherwise improperly submitted, its processing will be delayed. If you have an inquiry or question about a pending application and you are filing as an associated person or principal, you should contact the registration department of the firm with which you are going to be affiliated.

How To Report Changes and Corrections

Each applicant or registrant as an associated person or floor broker and all individuals who have filed Form 8–R as a biographical supplement to Form 7–R must keep the answers provided on Form 8–R current and accurate. After the filing of a Form 8–R, a change of answer to items 1, 2, 6, 14 through 19, and 7 (for associated persons only) and 8 (for floor brokers only) must be reported on Form 3–R.

How To Report Terminations And Failures To Become Associated

A futures commission merchant must file a properly completed Notice of Termination (Form 8–T) with the Commission within ten days after the occurrence of either of the following: (1) the failure of an individual after the filing of a Form 8–R on his or her behalf to become associated with the futures commission merchant or its agent; or (2) the termination of the association of an individual with the futures commission merchant or its agent.

A futures commission merchant, commodity trading advisor or commodity pool operator must file a properly completed Notice of Termination (Form 8–T) with the Commission within ten days after the termination of the affiliation of a principal with the firm.

Notice of termination as described above may be given on a Uniform Termination Notice for Securities Industry Representative and/or Agent (Form U–5) in lieu of a Form 8–T.

Effect of Acceptance of Forms

Acceptance of any of these Forms does not constitute a finding that it is accurate, current or complete or that it has otherwise been filed as required.

Specific Instructions

Responses to questions on Forms 8–R, 8–S and 8–T must be typewritten or printed in black ink. All questions should be answered completely and accurately to eliminate delay and assist in prompt handling. If you are not required to answer a particular question, enter "Not Applicable." If additional space is needed, use an attachment and refer to the corresponding item number on the Form.

The following instructions to certain questions on Form 8–R are provided for your assistance in answering them completely and acccurately. Questions not specifically explained in this set of instructions are either self-explanatory or explained on Form 8-R.

Personal History

Item 8. If Form 8–R is being used to file for more than one registration category, you may have more than one firm name and main business address to enter in Item 8. Use an attachment and refer to Item 8.

Employment

Item 11. Give complete details about any self-employment, including the name under which you did business. Give the required information for all employers even if you had more that one employer at any one time.

Education

Item 12. Give the required information for all post-high school education. If there was no post-high school education, give the required information for the last school attended.

Trading Privileges

Item 13. Include all exchange memberships (provided you have been granted floor trading privileges on the exchange you list). In addition, include all exchanges of which you are not a member, but upon which you are permitted to trade in one or more contract(s). If the grant of trading privileges is pending at the time of filing Form 8–R and is later granted, documentation must be filed with the Commission together with a change of answer report on Form 3–R.

Disciplinary History

Item 14 to Item 19. Carefully follow the instructions and notices in this section of Form 8–R. Note that copies of legal documents may be required.

Sponsor's Certification

This section of Form 8–R must be completed by the certifying futures commission merchant whenever Form 8–R is being filed for registration of an associated person.

Give the name(s) of previous employer(s) and dates of employment (and educational institution(s) attended and dates of attendance, if applicable) of the individual on whose behalf Form 8–R is being filed. Identify the person contacted and method used to verify the above information.

Carefully read the remaining portion of this section of Form 8–R and make the appropriate entries.

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COMMODITY FUTURES TRADING COMMISSION

(Check where applicable)

Application for Registration as:

[] Associated Person ($20 fee enclosed)

[] Floor Broker ($20 fee enclosed) for the year ending December 31, 19__

FOR OFFICE USE ONLY

Biographical Supplement to application for registration as a:

[] Futures Commission Merchant (no fee required)

[] Commodity Trading Advisor (no fee required)

[] Commodity Pool Operator (no fee required)

TYPE OR PRINT LEGIBLY IN BLACK INK

PERSONAL HISTORY

1. Full Name (last, first, middle)

2. Have you ever been known by any other names (including a maiden name)? [] YES [] NO If yes, give name(s).

3. Date of Birth* (day/mo./yr.)	4. Place of Birth (City and State)*	5. Social Security No.* (Voluntary submission to aid in processing)	6. Daytime Telephone No.* (Area Code and Number)

7. Present Home Address (Number, Street, City, State and Zip Code)* (A Post Office Box Number is not acceptable.)

8. Associated Persons: Name of Futures Commission Merchant and Main Business Address (Number, Street, City, State and Zip Code)
Principals: Firm Name and Main Business Address
Floor Brokers: Main Business Address only

9. Associated Persons and Principals: Branch Office Address or Agent's Name and Branch Office Address (Number, Street, City, State and Zip Code)

RESIDENTIAL HISTORY

10. Present and Prior Residences for past 10 years starting with CURRENT residence and working back. (Attach additional sheet if necessary.)

DATE (MO./YR.) FROM	TO	ADDRESS (Number, Street, City, State and Zip Code) (A Post Office Box Number is not acceptable.)
	Present	

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*You do not have to answer questions 3, 4, 5, 6, 7, and 10 on this Form. You may instead answer them on a supplementary sheet and submit it as an attachment to this Form.

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Type or Print Legibly in Black Ink

EMPLOYMENT

Present and Prior Employment for past 10 years starting with CURRENT position and working back. (All time must be accounted for including self-employment, part-time employment, unemployment and military service. Attach additional sheet if necessary.)

DATE (MO. YR.) FROM	DATE (MO. YR.) TO	NAME OF EMPLOYER AND ADDRESS WHERE EMPLOYED (Number, Street, City, State and Zip Code)	KIND OF BUSINESS	POSITION HELD	REASON FOR LEAVING
	Present				

EDUCATION

12. List educational institutions attended.

DATE (MO. YR.) FROM	DATE (MO. YR.) TO	NAME OF EMPLOYER AND ADDRESS WHERE EMPLOYED (Number, Street, City, State and Zip Code)	MAJOR FIELD OF STUDY	DEGREE (IF ANY)

EXCHANGE MEMBERS

13. Floor Broker applicants and registrants only. List all U.S. commodity exchanges on which you have been granted trading privileges. (If pending, so indicate.)

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Type or Print Legibly in Black Ink

Disciplinary History

Provide on attached sheets complete details, including dates, of any matter to which a "Yes" response is given in items 14 through 19. Also attach documents containing the judgments, decisions, verdicts or other findings made and sanctions or sentences imposed. If documents are not attached, an explanation stating why documents are not obtainable must be furnished.

No details or documents need be furnished if the details have been reported in writing to this Commission or to the Commodity Exchange Authority on a previous application or supplemental statement or if the details are already on file as a result of an action by the Commission or Commodity Exchange Authority or a reparations proceeding. You must, however, give the name of the action or proceeding next to your "Yes" response and indicate the year of the action or proceeding.

14. ARE YOU CURRENTLY, OR HAVE YOU BEEN IN THE PAST TEN YEARS, subject to an expulsion, bar, fine or civil monetary penalty, censure, denial, suspension or revocation of membership or registration, cease and desist order, temporary or permanent injunction, denial of trading privileges or other sanction or disciplinary action through an adverse determination, voluntary settlement or otherwise in an action or proceeding brought by or before:

(i) The Commodity Futures Trading Commission, the Secretary of Agriculture (including the Commodity Exchange Authority), the Securities and Exchange Commission or the attorney general, securities commission or a similar regulatory authority of any State, territory, the District of Columbia or foreign country?

Yes ☐ No ☐

(ii) Any commodity or securities exchange, clearing organization, contract market, association registered with the Commission under Section 17 of the Commodity Exchange Act, or the National Association of Securities Dealers, Inc.?

Yes ☐ No ☐

(iii) Any federal or state court, regulatory authority or governmental body (not mentioned above), or professional association in any of the following fields: accounting, banking, commodities, finance, insurance, law, real estate, or securities?

Yes ☐ No ☐

15. HAVE YOU EVER been convicted, or been found guilty of, or pleaded guilty or *nolo contendere* to, a felony or misdemeanor? (Omit traffic violations for which you were fined $300 or less.)

Yes ☐ No ☐

Note: Include every such offense regardless of whether: the record was expunged, set aside or sealed; there was a post-conviction dismissal; a state certificate of relief from disabilities or similar document was issued which relieves the holder of forfeitures, disabilities or bars that result from a conviction; or a pardon was granted. (You may, however, exclude offenses in which the charge was adjudicated in a juvenile court or under a youth offender law).

16. IN THE PAST TEN YEARS, has a complaint, counterclaim or cross complaint been filed against you in any civil proceeding or Commodity Futures Trading Commission reparation proceeding involving misrepresentation, fraud, deceit, theft, conversion, abuse of a fiduciary relationship, or the misuse of funds or property of others which resulted in a recommended, initial, or final decision or judgment against you with respect to such charge?

Yes ☐ No ☐

17. HAVE YOU EVER (not limited to the past ten years) been debarred by any agency of the United States or by any state from contracting with the United States or from contracting with that state?

Yes ☐ No ☐

18. WITHIN THE PAST TEN YEARS has any firm, corporation or other organization with which you were associated at the time as a sole proprietor, partner, officer, director, holder of more than 10% of the outstanding shares of any class of voting stock, or other controlling person: made a compromise with creditors, filed or been declared bankrupt under any bankruptcy code or act, or been in federal or state receivership?

Yes ☐ No ☐

19. Are you a party to any action, or is there any charge pending against you, or have you been informed of any action or charge, the resolution of which could result in a "Yes" answer to any of the above questions (items 14–18)?

Yes ☐ No ☐

Type or Print Legibly in Black Ink

Certification

The following should be read very carefully and signed by the applicant, registrant or principal.

I understand that I am subject to the imposition of criminal penalties under Section 9(b) of the Commodity Exchange Act and 18 U.S.C. 1001 for any false statements or omissions made in this application. I further certify that I will at all times keep the answers to the information called for herein accurate and current by filing a written notice of any change with the Commission's Registration Unit, 233 South Wacker Drive, Suite 4600, Chicago, Illinois 60606.

I certify that my answers and statements in this Form 8–R are true and that in the light of the circumstances under which I have given them, my answers and statements in this Form 8–R are not misleading in any material respect.

I understand that my address as submitted on Form 8–R will be deemed to be the address for delivery to me of any communications from the Commission, including any summons, complaint, reparation claim, order, subpoena, request for information, or any other written communication, unless I specify another address for this purpose. I further understand that I must keep current the address on Form 8–R.

I understand that I am not registered and may not act as an associated person or floor broker until approval and official notification have been rendered, unless registration as an associated person has already been granted in accordance with the special registration provisions set forth by regulations under the Commodity Exchange Act or unless this Form 8–R has been timely filed as an application for renewal of registration as a floor broker.

Signature _____

Date _____

Willful falsification, misrepresentation, or omission of any material fact required to be stated on this Form constitutes cause for the denial, suspension, or revocation of registration and prosecution under criminal statutes.

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COMMODITY FUTURES TRADING COMMISSION

SPONSOR'S CERTIFICATION

TO BE COMPLETED BY FUTURES COMMISSION MERCHANT FOR ASSOCIATED PERSON REGISTRATION ONLY

20. Applicant's Full Name (last, first, middle)

21. Date of Birth* (day/mo./yr.)	22. Place of Birth* (City and State)	23. Social Security No.* (Voluntary submission to aid in processing)	24. Daytime Telephone No.* (Area Code and Number)

*Responses to questions 21, 22, 23 or 24 may be submitted on a supplementary sheet.

VERIFICATION OF EMPLOYMENT AND EDUCATION

EMPLOYER OR EDUCATIONAL INSTITUTION	EMPLOYED OR ATTENDED FROM/TO (Past 5 Years Only)	NAME AND POSITION OF PERSON CONTACTED	CONTACTED BY LETTER, PHONE

I hereby certify that the information supplied by the applicant in response to questions contained in Form 8-R which relate to the applicant's employment and educational history for the past five years have been verified. Specifically, this firm has communicated with the applicant's previous employer(s) of the past five years and the colleges or universities attended by the applicant within the past five years (if any), as set forth above. In addition, I have made or caused to be made additional inquiries and investigations into the applicant's background to determine that this application is accurate and complete to the best of my knowledge, information and belief. Unless registration has already been granted in accordance with the special registration provisions, it is the intention of the futures commission merchant or its agent to hire or otherwise employ the applicant as an associated person and that such applicant will be hired within thirty days after receipt of notification from the Commodity Futures Trading Commission that the applicant is fit for registration as an associated person, and that further, the applicant will not be permitted to act as an associated person until registered as such pursuant to this application.

I understand that the information contained in the Form 8-R has been supplied to this firm for the sole purpose of allowing it to verify the publicly available information contained in the Form 8-R in connection with the registration of the person named herein as an associated person. I further represent that I have taken, and will take, such measures as are necessary to prevent the unwarranted dissemination of any of the information contained in the Form 8-R and the records and documents retained in support of the Form 8-R.

Print Name and Title _____ Signature _____

Print Name of Firm _____ Date _____

(Must be signed by an officer of the corporation, if the registered futures commission merchant is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship. Indicate which.)

WILLFUL FALSIFICATION, MISREPRESENTATION, OR OMISSION OF ANY MATERIAL FACT REQUIRED TO BE STATED ON THIS FORM CONSTITUTES CAUSE FOR THE DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION AND PROSECUTION UNDER CRIMINAL STATUTES OF THE INDIVIDUAL AND FIRM MAKING THE ABOVE CERTIFICATION.

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COMMODITY FUTURES TRADING COMMISSION

CERTIFICATE OF SPECIAL REGISTRATION
FOR CERTAIN ASSOCIATED PERSONS

1. Individual's Name _____ (Last) (First) (Middle)

2. Social Security Number: _____ (Voluntary submission to aid in processing)

3. Firm Name and Main Address (Number, Street, City, State and Zip Code)

4. Branch Office Address or Agent's Name and Business Address (Number, Street, City, State and Zip Code)

5. Basis of eligibility for Special Registration - Check applicable box(es)

a. ☐ Prior registration as an associated person has terminated within the preceding sixty days.

b. ☐ Prior registration as an associated person was granted within the preceding twelve months.

c. ☐ Prior registration as an associated person was granted before July 1, 1981 and has not yet expired.

6. CFTC proceedings - Check applicable box

Is there a proceeding pending to deny, suspend or revoke your registration in any capacity with the Commodity Futures Trading Commission or has the Commodity Futures Trading Commission within the past twelve months given you a notice under section 1.10e or section 3.20 of its regulations and thereafter permitted you to withdraw an application for registration?

a. ☐ No.

b. ☐ Yes. If yes, the futures commission merchant listed above has been given a copy of the complaint or letter issued by the Commodity Futures Trading Commission.

APPLICANT'S CERTIFICATION

I hereby certify that my registration as an associated person in not suspended or revoked and that my answers and statements in this Form 8-S are accurate and complete.

Signature _____ Date _____

SPONSOR'S CERTIFICATION

Effective Date: _____ (Date Form 8-S is mailed)

I hereby certify that the above individual has been hired or otherwise employed by the futures commission merchant of which I am an officer, general partner or sole proprietor or by its agent. I further certify that if that individual has answered "Yes" to Question 6, the futures commission merchant has received a copy of the complaint or letter issued by the Commodity Futures Trading Commission.

Type or Print Name and Title of Appropriate Signatory _____ Signature of Appropriate Signatory _____ Date _____

(Appropriate signatory must be either an officer of the corporation, if the registered futures commission merchant is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship. Indicate which.)

Person to contact for further information: _____
Telephone Number: _____

WILLFUL FALSIFICATION, MISREPRESENTATION, OR OMISSION OF ANY MATERIAL FACT REQUIRED TO BE STATED ON THIS FORM CONSTITUTES CAUSE FOR THE DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION AND PROSECUTION UNDER CRIMINAL STATUTES.

CFTC Form 8-S

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COMMODITY FUTURES TRADING COMMISSION

NOTICE OF TERMINATION

TO BE COMPLETED BY FUTURES COMMISSION MERCHANT, COMMODITY TRADING ADVISOR, OR COMMODITY POOL OPERATOR FOR ASSOCIATED PERSON OR PRINCIPAL

1. Full Name (last, first, middle)

2. Date of Birth* (day/mo./yr.)	3. Place of Birth* (City and State)	4. Social Security No.* (Voluntary submission to aid in processing)	5. Daytime Telephone No.* (Area Code and Number)

*Responses to questions 2, 3, 4, or 5 may be submitted on a supplementary sheet.

6. Firm Name and Main Address (Number, Street, City, State and Zip Code)

7. Branch Office Address or Agent's Name and Business Address (Number, Street, City, State and Zip Code)

8. Date of Termination: _____

9. Reason for Termination - (Check One)

☐ Voluntary ☐ Deceased ☐ Permitted to Resign* ☐ Discharged* ☐ Other*

10. While employed by or associated or affiliated with your firm or its agent, was the individual the subject of:

(a) any investigation or proceeding conducted by any governmental agency or self-regulatory body which has jurisdiction over the commodities, insurance, real estate or securities industry? Yes ☐* No ☐

(b) a refusal of registration, censure, suspension, expulsion, fine or any disciplinary action by any governmental agency or self-regulatory body, having jurisdiction over the commodities, insurance, real estate or securities industry? Yes ☐* No ☐

(c) any major complaint or any legal proceeding by a customer? Yes ☐* No ☐

(d) any conviction of a felony or misdemeanor (other than traffic violations)? Yes ☐* No ☐

11. Is there reason to believe that the individual, while employed by or associated or affiliated with your firm or its agent, may have violated any provision of any commodities or securities law or regulation or any agreement with or rule of any governmental agency or self-regulatory body, or engaged in conduct which may be inconsistent with just and equitable principles of trade under the rules or regulations of any governmental agency or self-regulatory body? Yes ☐* No ☐

*FURNISH FULL DETAILS ON SUPPLEMENTARY SHEET

Signature _____ Type or Print Name and Title _____ Date _____

(Must be signed by an officer of the corporation, if the registrant is a corporation, a general partner, if a partnership, or the sole proprietor, if a sole proprietorship. Indicate which.)

Person to contact for further information: _____ Telephone Number: _____

WILLFUL FALSIFICATION, MISREPRESENTATION, OR OMISSION OF ANY MATERIAL FACT REQUIRED TO BE STATED ON THIS FORM CONSTITUTES CAUSE FOR THE DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION AND PROSECUTION UNDER CRIMINAL STATUTES OF THE INDIVIDUAL AND FIRM MAKING THE ABOVE CERTIFICATION.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 292

[Docket No. RM81-2]

Proposed Rulemaking Regarding Eligibility, Rates and Exemptions for Qualifying and Utility-Owned Geothermal Small Power Production Facilities; Correction

Issued: November 26, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking; correction.

SUMMARY: This document corrects a proposed rule on the implementation of section 643 of the Energy Security Act concerning geothermal energy that appeared at page 74934 in the **Federal Register** of Thursday, November 13, 1980.

FOR FURTHER INFORMATION CONTACT: Adam Wenner, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8033 or Glenn Berger, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, (202) 357-8033.

The following correction is made in FR Doc. 35391:

On page 74939, after the third line in the first full paragraph, the following language is inserted: acquisition and ownership of "qualifying" facilities or UGC's. By excluding a UGC from the definition of "electric utility company" under section 2(a)(3) of PUHCA, the FERC's proposed rules would eliminate the SEC's jurisdiction under section 9(a)(2) of PUHCA, thus rendering moot the exemption available under the SEC's proposed Rules 14 and 15, as it would pertain to geothermal facilities of 80 megawatts capacity or less.[31]

Environmemtal Considerations

The Commission issued in June 1980, a draft environmental impact statement (DEIS) on rulemakings implementing sections 201 and 210 of PURPA. In the DEIS the Commission determined that PURPA-induced development of geothermal small power production facilities would not create significant environmental effects. In compliance with the National Environmental Policy Act of 1969 (NEPA), the Commission is examining the environmental effects associated with these rules.

Written Comments

Interested persons are invited to submit written comments on the proposed regulation to the Office of the Secretary.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-37744 Filed 12-4-80; 8:45 am]

BILLING CODE 6450-85-M

[31] This approach is similar to the exemption from PUHCA contained in section 9 of the Pacific Northwest Electric Power Planning and Conservation Act (S. 885), which would exempt a "generating company" from the definition of an electric utility company in PUHCA. the SEC has indicated its support, in principle, for that exemption.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 358

[Docket No. 80N-0238]

Wart Remover Drug Products for Over-the-Counter Human Use; Establishment of a Monograph

Correction

In FR Doc. 80-30789 appearing on page 65609 in the issue of Friday, October 3, 1980, make the following corrections:

1. On page 65609, center column, under "For Further Information Contact", the phone number now reading "301-443-4860" should have read "301-443-4960".

2. In the same column, three lines from the bottom of the page, ". . . § 330.10(a)92), . . ." should have read ". . . § 330.10(a)(2), . . .".

3. On pages 65612 and 65613, where ever "salicyclic acid" appears, it should be corrected to read "salicylic acid".

3. In the first column of page 65614, in the fifth line of the second complete paragraph, the formula "$(C_2H_4O_6)$" should have read "$(C_2H_4O_2)$"

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 51

[LR-68-80]

Front-End Tertiary Oil Under the Crude Oil Windfall Profit Tax Act of 1980

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the treatment of front-end tertiary oil under the Crude Oil Windfall Profit Tax Act of 1980. The regulations would provide necessary guidance to the public for compliance with the law.

DATES: Written comments and requests to speak at the public hearing must be delivered or mailed by February 3, 1981. The amendments are proposed to be effective for domestic crude oil removed after February 29, 1980, and before October 1, 1981.

ADDRESS: Send comments and requests to speak at the public hearing to: Commissioner of Internal Revenue. Attention: CC:LR:T (LR-68-80), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Douglas W. Charnas of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the proposed Excise Tax Regulations (26 CFR Part 51) under section 4994(c) of the Internal Revenue Code of 1954 which was added by section 101 of the Crude Oil Windfall Profit Tax Act of 1980 (94 Stat. 230). The proposed Excise Tax Regulations being amended were published in the **Federal Register** for April 4, 1980 (45 FR 23384). the amendments thereto (referred to hereafter as the proposed regulations) are to be issued under the authority contained in sections 4997(b) and 7805 of the Internal Revenue Code of 1954 (94 Stat. 250 and 68A Stat. 917; 26 U.S.C. 4997(b) and 7805).

In General

Under a Department of Energy rule adopted in August 1979, producers who invest in enhanced oil recovery projects were allowed to deregulate, beginning January 1, 1980, the price of specified volumes of price-controlled oil to finance those projects. This oil is also

called "front-end" oil. Under section 4994(c) of the Code, oil that DOE deregulates as front-end oil is generally exempt from the windfall profit tax if the project to be financed (referred to as a "front-end tertiary project") is on property controlled by producers who were independent producers for the fourth quarter of 1979. In cases where a tertiary project is on a property which is controlled by persons other than eligible independent producers, a tax refund is available for windfall profit tax paid on the front-end oil to the extent that certain qualified expenditures exceed the amount actually recouped under the DOE front-end financing program.

Exemption for Tertiary Projects of Independents

The proposed regulations explain the exemption from the windfall profit tax for domestic crude oil which is removed from the premises before October 1, 1981, and which is treated as front-end oil and used to finance a front-end tertiary project on one or more properties each of which is a qualified property. Front-end oil is defined as domestic crude oil that is not subject to a first-sale ceiling price under the energy regulations and that is sold for fair market value. The inclusion of the fair market value requirement in the definition eliminates the possibility that a producer could avoid paying windfall profit tax by voluntarily selling oil at the ceiling price. A qualified property is any property that is an "independent producer property", is derived from an "independent producer property", or is a combination of more than one "independent producer property". An "independent producer property" means any property if, on January 1, 1980, 50 percent or more of the aggregate of all operating mineral interests with respect to that property were held by persons who were independent producers for the entire last quarter of 1979.

Refunds for Tertiary Projects of Integrated Producers

The proposed regulations explain that in the case of any front-end tertiary project on a property that is not a qualified property, the front-end oil used to finance the project on such a property is subject to the windfall profit tax. However, the excess of allowed expenses of the taxpayer with respect to the project over the tertiary incentive revenue attributable to the taxpayer's interest in that project is treated as a payment of windfall profit tax made on September 30, 1981, and a refund can be claimed in the amount that the payment exceeds the producer's liability. The total amount of the payment deemed made by the producer cannot exceed the aggregate windfall profit tax imposed with respect to front-end oil of that producer removed after February 1980 and before October 1981.

Definitions and Special Rules

The proposed regulations define "allowed expenses" to mean 75 percent of environmental, engineering, laboratory, and certain other expenses. Such expenses must have been incurred and paid after August 21, 1979, and must be attributable to the period before October 1, 1981. The expenditures must reflect the fair market value of services and property received and reported pursuant to the energy regulations. Fuel or tertiary injectants are attributable to periods before October 1, 1981, if used or injected before that date. Expenditures paid or incurred before October 1, 1981, for items having a useful life after that date are properly allocable to periods before that date only to the extent that any income tax deductions of the taxpayer for the item are properly allocable to periods before October 1, 1981.

The proposed regulations provide that the term tertiary incentive revenue has the meaning given the term by the front-end tertiary provisions of the energy regulations, as amended to coordinate with the windfall profit tax (see Docket No. ERA–R–77–1C in the **Federal Register** for June 13, 1980, 45 FR 40106 (1980) amending 10 CFR 212.78 (1979)).

The proposed regulations provide that the term "front-end tertiary project" means any project for the recovery of crude oil, to the extent that such project involves the application of an enhanced oil recovery technique, provided that, with respect to that project, a producer has complied with the requirements of § 212.78 (d)(1) or (e)(1) of the energy regulations. The proposed regulations also provide that front-end oil is attributable first to projects to which the exemption from the windfall profit tax applies.

Comments and Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held in accordance with the notice of hearing published in this issue of the **Federal Register.**

Drafting Information

The principal author of these proposed regulations is John B. Bromell, of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

The burdens that would be imposed by the proposed regulations flow directly from the statute. The approach chosen in the proposed regulations is consistent with accepted income tax principles and, to the extent relevant, with current DOE regulations. Evaluation of the effectiveness of these regulations after issuance will be based upon comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, and the public.

Proposed Amendments to the Regulations

A new § 51.4994–2 is added to proposed 26 CFR Part 51 immediately after § 51.4994–1. This new section reads as follows:

§ 51.4994–2 Front-end oil.

(a) *Exemption of front-end oil for tertiary projects of independent producers.* For purposes of chapter 45 of the Code and this part, the term "exempt front-end oil" means any domestic crude oil which is removed from the premises before October 1, 1981, and which is released from price controls to finance a tertiary project on one or more properties each of which is a qualified property. For a definition of "qualified property" see paragraph (c) (4) of this section. For a definition of "independent producer", see section 4992 (b). Front-end oil is any domestic crude oil (1) which is not subject to a first sale ceiling price under the energy regulations (as defined in § 150.4996–1 (f)) solely by reason of the fact that the tertiary incentive revenue (as defined in paragraph (c)(2) of this section) from such sale does not exceed the allowed expenses (as defined in paragraph (c) (1) of this section) that are attributable to that producer, and (2) which is sold for fair market value. Front-end oil may be from property unrelated to the qualified property. See example (1) of paragraph (d) of this section.

(b) *Refunds for tertiary projects controlled by integrated producers*—(1) *In general.* In the case of any front-end tertiary project which does not meet the requirements of paragraph (a) of this section, the excess of (i) The allowed expenses (as defined in paragraph (c)(1) of this section) attributable to the producer with respect to that project, over

(ii) The tertiary incentive revenue (as defined in paragraph (c)(2) of this section) attributable to the producer's interest in that project,

shall be treated as a payment by the taxpayer with respect to the tax imposed by chapter 45 of the Code made on September 30, 1981. For those cases in which the producer is required to make estimated windfall profit tax payments, payments during the period ending September 30, 1981, are not affected by the payment deemed made on September 30, 1981, under this section. If this deemed payment exceeds the amount of tax owed under chapter 45 of the Code for the period ending September 30, 1981, then the taxpayer may claim a refund of the excess payment. Alternatively, the taxpayer may claim the excess payment as a credit against the first tax that accrues under chapter 45 of the Code for subsequent periods. See example (3) in paragraph (d) of this section. For purposes of this paragraph, if a taxpayer has more than one project not meeting the requirements of paragraph (a) of this section, tertiary incentive revenue is attributed, after applying the ordering rule of paragraph (c)(6) of this section, to such projects in proportion to allowed expenses for the projects. For example, assume A has 3 projects (M, N and O) not meeting the requirements of paragraph (a) of this section, and allowed expenses attributable to A from the projects are $50x, $100x and $150x, respectively. If A has $12x in tertiary incentive revenue, then tertiary incentive revenue is attributed to A's projects as follows: $20x to M, $40x to N, and $60x to O.

(2) *Limitation based on amount of tax.* The total amount of payments determined under subparagraph (1) of this paragraph with respect to any producer shall not exceed the aggregate tax imposed by section 4986 with respect to front-end oil of that producer removed after February 1980 and before October 1981.

(c) *Definitions and special rules.* For purposes of section 4994 (c) and this section (including the application of the tertiary provisions for purposes of this section)—

(1) *Allowed expenses.* (i) Except as provided in subdivision (ii) of this subparagraph, the term "allowed expenses" means 75 percent of environmental expenses, engineering and laboratory expenses, and expenses listed either in the appendix to § 212.78 of the energy regulations or in an order issued pursuant to § 212.78 (e)(2) or (3) of the energy regulations. Such "allowed expenses" must be incurred for fair market value and must have been paid and reported pursuant to § 212.78 (h) of the energy regulations.

(ii) The term "allowed expenses" shall not include any amount incurred and paid before August 22, 1979, or attributable to a period after September 30, 1981. No more than the lesser of $1 million or 25 percent of the total amount of allowed expenses with respect to a particular project may be based on engineering and laboratory expenses. The allowed expenses of a particular project shall be attributable to the qualified producers with respect to that project. Where there is more than one qualified producer, the qualified producers shall allocate these expenses among themselves in the same proportion that allowed expenses are allocated under the energy regulations. With respect to any particular property, the total amount of allowed expenses may not exceed $20 million.

(iii) For purposes of subdivision (ii) of this subparagraph—

(A) Any injectant and any fuel shall be treated as attributable to periods before October 1, 1981, if the injectant is injected, or the fuel is used, before October 1, 1981, and

(B) Any other item shall be treated as attributable to periods before October 1, 1981, only to the extent that under chapter 1 of the Code deductions for the item (including depreciation with respect to the item) are properly allocable to periods before October 1, 1981.

For purposes of paragraph (c)(1)(iii)(B) of this section, expenditures paid or incurred by a taxpayer before October 1, 1981, for items used on or after that date are properly allocable to periods before that date only if they meet the requirements of paragraph (c)(1)(i) of this section, and only to the extent that any income tax deductions (including depreciation) for the items are properly allowable to that taxpayer for periods before October 1, 1981. For example, a disbursement made before October 1, 1981, in the ordinary course of business and for a service which reasonably could be expected to be performed prior to that date is an allowed expense. For purposes of this paragraph, a reasonable expectation of performance before October 1, 1981, exists (and an act shall be treated as performed before that date), if it appears from all of the facts and circumstances that the act would have been performed before such date but for an act of God, a strike, a severe mechanical breakdown, an injunction, or a restraining order. Expenses paid for items which ordinarily would not be taken into account prior to October 1, 1981, are not allowed expenses. See example (4) in paragraph (d) of this section.

(2) *Tertiary incentive revenue.* The term "tertiary incentive revenue" has the meaning given that term by the front-end tertiary provisions of the energy regulations (see § 212.78 (c), as amended to coordinate with chapter 45 of the Code).

(3) *Front-end tertiary provisions.* The term "front-end tertiary provisions" means the provisions of § 212.78 of the energy regulations which exempt crude oil from ceiling price limitations to provide financing for tertiary projects (as such provisions took effect on October 1, 1979). The term also includes any modification of such provisions, but only to the extent that such modification is for purposes of coordinating such provisions with the tax imposed by chapter 45 of the Code.

(4) *Qualified property.* The term "qualified property" means any property that—

(i) Is an "independent producer property", or

(ii) Is derived from an "independent producer property" (as in the case where a portion of an "independent producer property" becomes a new separate property), or

(iii) Is a combination of more than one "independent producer property" (or parts thereof).

The term "independent producer property" means any property if, on January 1, 1980, 50 percent or more of the aggregate of all operating mineral interests (as defined in section 614(d)) with respect to that property was held by persons who were independent producers (within the meaning of section 4992(b)) for the entire last quarter of 1979. The 50 percent or more determination is made only with respect to rights in crude oil and without regard to any short-term arrangements relating to the working or operating rights that provide for the allocation of production to compensate a producer for bearing more than a pro rata share of the costs of development or production (such as a carried interest). Ownership of the front-end tertiary oil itself is irrelevant for this purpose. See example (5) of paragraph (d) of this section.

(5) *Front-end tertiary project.* The term "front-end tertiary project" means any project for the recovery of crude oil, to the extent that such project involves the application of an enhanced oil recovery technique, provided that, with respect to that project, a producer has complied with the requirements of § 212.78(d)(1) or (e)(1) of the energy regulations, whichever is applicable.

(6) *Ordering rule.* Front-end oil of any taxpayer shall be treated as attributable first to projects which meet the requirements of paragraph (a) of this section.

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). A, an independent producer as defined in section 4992 (b) of the Code, owns 60 percent of the aggregate operating mineral interests in a property with a front-end tertiary project in State X and is attributed $12 million of allowed expenses from that project. B, an integrated oil company as defined in § 150.4996–1 (g), owns the other 40 percent of the aggregate operating mineral interests in the property with the front-end tertiary project in State X and is attributed $8 million of allowed expenses from such project. A owns one-third of the aggregate operating mineral interests of a property in State Y which is producing tier 1 oil. A's portion of the oil on this property can be released to market price until A receives $12 million of tertiary incentive revenue. This oil is exempt from the tax imposed by chapter 45 of the code. B owns the entire operating mineral interest of a property in State Z which is producing tier 1 oil. B can release oil on this property to market price until $8 million of tertiary incentive revenue is received and this oil is exempt from the tax imposed by chapter 45 of the Code.

Example (2). Assume the same facts as in example (1) except that A owns 40 percent of the aggregate operating mineral interests in the property with the front-end tertiary project in State X and B owns the other 60 percent of the interests, and that A and B, for purposes of the energy regulations, are each to be attributed $10 million of allowed expenses (as defined in paragraph (c)(1) of this section) from that project. A's portion of the oil on the property in State Y can be released to market price until A receives $10 million of tertiary incentive revenue; however, the oil is subject to the tax imposed by chapter 45 of the Code. B can release oil on the property in State Z to market price until B receives $10 million of tertiary incentive revenue; however, the oil is subject to the tax imposed by chapter 45 of the Code. If A or B receives less than $10 million in tertiary incentive revenue, the difference is treated as a payment with respect to the tax imposed by chapter 45 of the Code made on September 30, 1981, and a refund or credit of the deemed payment can be claimed in an amount not exceeding the limitation in paragraph (b)(2) of this section.

Example (3). C is attributed $15 million in allowed expenses from a front-end tertiary project on a qualified property and is attributed $5 million in allowed expenses from a front-end tertiary project which does not meet the requirements of paragraph (a) of this section. C owns an operating mineral interest in wells producing tier 1 oil. The tier 1 oil that is removed from the premises before October 1, 1981, and that is not subject to ceiling price limitations solely by reason of the front-end tertiary provisions of the energy regulations, produces $18 million in tertiary incentive revenue. The tier 1 oil sold to produce the first $15 million in tertiary incentive revenue is not subject to the tax imposed by chapter 45 of the Code because of the ordering rule in section 4994(c)(4)(E) and paragraph (c)(6) of this section. The tax imposed by chapter 45 of the Code does apply to subsequent sales of the tier 1 oil at market price. The tertiary incentive revenue attributable to the non-qualified property is only $3 million. Under section 4994(c)(2)(A) the $5 million in allowed expenses over the $3 million in tertiary incentive revenue, or $2 million, is deemed to be a payment of tax made on September 30, 1981. However, the $2 million deemed payment cannot exceed the aggregate tax imposed on front-end oil of the taxpayer after February 1980 and before October 1981. Assuming the $2 million does not exceed the limitation in the preceding sentence, C may file a claim after September 30, 1981, for a refund of the $2 million or may apply the $2 million as a credit against the first tax accruing after September 30, 1981.

Example (4). D owns the entire operating mineral interest in a property with an unconventional steam drive tertiary project. D has elected to expense intangible drilling costs and to use the double declining balance method of depreciation. D paid $39.2 million for four coal fired steam generators, the scrubbers for the generators and one solar powered steam generator. D paid $10 million for drilling 20 steam injection wells and 50 production wells. All equipment was put into use October 1, 1980, and all payments for the equipment were made during 1980. Also in 1980 D spent $250,000 for injectant additives, $600,000 for produced fluid treatment, and $4.4 million for coal. All these are allowed expenditures under the front-end tertiary provisions of the energy regulations. The useful life of the generators and scrubbers in 14 years. Under the double-declining balance method, the depreciation allocable to the period before October 1, 1981, on the generators and scrubbers is $5.6 million (($39.2 million÷14)×2). Thus, the allowed expenses with respect to these depreciable items is $4.2 million (75 percent of $5.6 million). The $10 million spent for drilling the production wells and steam injection wells is an allowed expense meeting the requirements of paragraph (c)(1)(i) of this section which is currently deducted. Accordingly, D has $7.5 million (75 percent of $10 million) in allowed expenses from the wells. Since all of the coal purchased was used before October 1, 1981, and 80 percent of the injectant additives purchased was used before this date, the allowed expenses for these items are $3.45 million (75 percent of $4.4 million plus 75 percent of (.80×$250,000)). The allowed expenses for produced fluid treatment are $450,000 (75 percent of $600,000). Thus D has $15.6 million ($4.2 million+$7.5 million+$3.45 million+$.45 million) in allowed expenses.

Example (5). A, an integrated oil company, owns the entire operating mineral interest in a property. On November 1, 1979, A enters an agreement with B, an independent producer. A assigns all its interest in the property to B, until B recoups 150 percent of his expenses for initiating a tertiary project on the property. Thereafter, A will pay 60 percent and B will pay 40 percent of the operating expenses and A will receive 60 percent and B will receive 40 percent of the oil and gas production from the tertiary project. To determine if the property is a "qualified property" under paragraph (c)(4) of this section, the short-term arrangement whereby B recoups 150 percent of his expenses for development of the tertiary project is disregarded. The permanent operating mineral interests of A and B are determined by any contracts in effect on January 1, 1980. Since A, an integrated oil company, has a 60 percent permanent interest on January 1, 1980, the property is not a "qualified property".

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80-37850 Filed 12-2-80; 4:29 pm]

BILLING CODE 4830-01-M

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26 CFR Part 51

[LR-68-80]

Front-End Tertiary Oil Under the Crude Oil Windfall Profit Tax Act of 1980; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to exempt front-end oil under the Crude Oil Windfall Profit Tax Act of 1980.

DATES: The public hearing will be held on February 24, 1981, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by February 3, 1981.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. The outlines should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR–68–80), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202–566–3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 4994(c) of the Internal Revenue Code of 1954. The proposed regulations appear in the Proposed Rules section of this issue of the **Federal Register** (FR Doc. 80–37850).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and also desire to present oral comments at the hearing on the proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by February 3, 1981. Each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive for improving government regulations appeaing in the **Federal Register** for Wednesday, November 8, 1978.

By direction of the Commissioner of Internal Revenue.

Robert A. Bley,

Director, Legislation and Regulations Division.

[FR Doc. 80-37970 Filed 12-4-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF LABOR

Office of Labor-Management Standards Enforcement

29 CFR Part 452

Labor-Management Reporting and Disclosure Act of 1959; Election of Enforcement Provisions; Extension of Comment Period

AGENCY: Office of Labor-Management Standards Enforcement, Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the period for comments on the proposed regulations published on October 3, 1980 (45 FR 65925) regarding the procedures for enforcing alleged violations of the union officer election provisions of the Labor-Management Reporting and Disclosure Act of 1959, as Amended. The comment period, which was to expire on December 2, 1980, is extended 15 days.

DATE: Comments must be received on or before December 17, 1980.

ADDRESS: Comments should be sent to the Assistant Secretary of Labor for Labor-Management Relations, Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Herbert Raskin (202) 523–7373.

Signed at Washington, D.C., this 2nd day of December 1980.

William P. Hobgood,

Assistant Secretary of Labor for Labor-Management Relations.

[FR Doc. 80-37954 Filed 12-3-80; 12:53 pm]

BILLING CODE 4510-29-M

Wage and Hour Division

29 CFR Part 530

Employment of Homeworkers in Certain Industries

AGENCY: Wage and Hour Division, Labor.

ACTION: Notice of hearing for the purpose of obtaining information concerning employment of homeworkers.

SUMMARY: The Wage and Hour Division of the Department of Labor will be conducting hearings to determine if Regulations 29 CFR Part 530 are still appropriate to safeguard the minimum wage rate prescribed in the Act and whether there is a need to change the Regulations to more adequately reflect the current status of industrial homework.

DATES: Public hearings are to be held beginning at 9:30 a.m. on January 13, 1981 and beginning at 9:30 a.m. on February 17, 1981. Interested parties desiring to testify in person should so notify the Deputy Administrator in writing no later than December 31, 1980. Interested parties desiring to comment should submit their comments in writing to the Deputy Administrator on or before January 13, 1981.

ADDRESSES: The hearings will be held in the Raymond Contois Auditorium, City Hall, Church Street, Burlington, Vermont, on January 13, 1981 and in Conference Room N–5437 A–D, Frances Perkins Building, 200 Constitution Avenue, N.W., Washington, D.C., on February 17, 1981. Parties desiring to testify or to submit comments should submit their requests or comments in writing to the Deputy Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: James L. Valin, Director, Division of Minimum Wage and Hour Standards, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S–3506, Washington, D.C. 20210, (202) 523–7043.

SUPPLEMENTARY INFORMATION: Section 11(d) of the Fair Labor Standards Act provides that the Secretary of Labor is "authorized to make such regulations and orders regulating, restricting, or prohibiting industrial homework as are necessary or appropriate to prevent the circumvention or evasion of and to safeguard the minimum wage rate prescribed in this Act." Pursuant to this authority, the Secretary has issued regulations, published as Part 530 of Title 29 of the Code of Federal Regulations. Part 530 restricts the employment of industrial homeworkers in seven industries: women's apparel; jewelry manufacturing; knitted outerwear; gloves and mittens; button and buckle manufacturing; handkerchief manufacturing; and embroideries. These industries are defined in paragraphs (d) through (j) of Section 530.1. The restrictions provide that the production of goods in these industries cannot be carried on in or about a home, apartment, tenement, or room in a residential establishment except by a certificated homeworker. An employer may obtain a certificate for workers who are unable to adjust to factory work because of age or physical or mental disability or who are unable to leave home because their presence is required to care for an invalid there. In addition, the workers must have been engaged in industrial homework in the particular industry prior to a specified date, unless this requirement results in unusual hardship to an individual homeworker, in which case the requirement of previous employment in the industry may be waived. Individuals may also be employed as industrial homeworkers in the restricted industries under the supervision of a State vocational rehabilitation agency or a sheltered workshop without obtaining a certificate under Part 530.

The hearings are being held to obtain information on the current situation with respect to industrial homework and the extent to which it may have a bearing on the Secretary's statutory responsibility "to prevent the circumvention or evasion of and to safeguard the minimum wage rate prescribed" in the Fair Labor Standards Act. Issues on which information is being sought include:

1. Whether unrestricted homework poses a significant threat to the minimum wage.

2. Whether all the industries currently restricted should remain under restriction.

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3. Whether the list of restricted industries should be extended to include additional industries.

4. Whether the certificate requirements should be revised to recognize additional circumstances justifying certification, such as child care and other family demands that may tend to preclude factory employment.

5. Whether the certificate requirements should differentiate between urban and rural areas.

The comments should present factual information on these and other relevant issues. If, as a result of these hearings, it is determined that the present regulations should be amended, a specific proposal will be published in the Federal Register.

Copies of the Fair Labor Standards Act, Regulations Part 530 and the Homework Handbook may be obtained by contacting James L. Valin at the address in this notice.

Interested parties desiring to testify in person should notify the Deputy Administrator in writing, furnishing the following information:

(1) The name, address and telephone number of the person(s) appearing.

(2) If appearing in a representative capacity, the person(s) appearing should provide the name(s) and address(es) of the person(s) or organization(s) being represented.

(3) The location at which the person(s) desires to testify.

(4) The length of time requested for the presentation.

(5) Where written data or comments are to be provided for the record, they should be furnished in triplicate.

Interested parties who do not desire to testify in person but who wish to submit written data, proposals or other related material for the record should provide such, in triplicate, to the Deputy Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210, not later than January 13, 1981.

Persons who have not previously advised the Deputy Administrator that they wish to be heard will be heard following those who have so advised the Deputy Administrator, but they may be limited to ten minutes for their presentation.

This document was prepared under the direction and control of Herbert J. Cohen, Assistant Administrator, Office of Fair Labor Standards, Wage and Hour Division, U.S. Department of Labor.

Signed at Washington, D.C., November 28, 1980.

Henry T. White, Jr.,
Deputy Administrator, Wage and Hour Division.

[FR Doc. 80-37894 Filed 12-4-80; 8:45 am]
BILLING CODE 4510-27-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL 1692-3]

State and Federal Administrative Orders Revising the Michigan State Implementation Plan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule: Proposed approval of revision.

SUMMARY: The U.S. Environmental Protection Agency (USEPA) proposes to approve a revision to the Michigan State Implementation Plan (SIP). The revision is a Final Order issued by the Michigan Air Pollution Control Commission (Commission) to the Northern Michigan Electric Cooperative (Company). The Order extends from January 1, 1980, to January 1, 1985 the date by which the Company's Advance Steam Plant is required to comply with the sulfur dioxide emission limitations contained in the federally approved Michigan State Limitation Plan. The purpose of this notice is to invite public comment on USEPA's proposed approval of the Final Order dated December 10, 1979.

DATE: Written comments must be received by January 5, 1981.

ADDRESSES: Please send comments to: Gary Gulezian, Chief, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6029.

The State Order, supporting material and public comments received in response to this notice may be inspected and copied (for appropriate charges) during normal business hours at the above address or at: Michigan Department of Natural Resources, Air Quality Division, State Secondary Complex, General Office Building, 7150 Harris Drive, P.O. Box 30028, Lansing, Michigan 48909.

FOR FURTHER INFORMATION CONTACT: Toni Lesser, Regulatory Analysis Section, Air Programs Branch, Region V, U.S. Environmental Protection Agency, 230 South Dearborn, Chicago, Illinois 60604, (312) 886-6037.

SUPPLEMENTARY INFORMATION: The Northern Michigan Electric Cooperative (Company) Advance Steam Plant is located on the southern shore of Lake Charlevoix near Boyne City, Michigan. Charlevoix County, Michigan is located in Air Quality Control Region 126, which was designated attainment for sulfur dioxide (SO_2) on October 5, 1978 (43 FR 46010). The plant has three boilers: boilers 1 and 2 are each rated at 90,000 pounds of steam per hour and boiler 3 is rated at 250,000 pounds of steam per hour. Boilers 1 and 2 are controlled by a single electrostatic precipitator (ESP) and exhaust through a 45.7 meter stack. Boiler 3 is controlled by an ESP and exhausts through a second 45.7 meter stack. The ESP units together with mechanical collectors control particulate emissions and have a combined efficiency of 99.4 percent. The plant does not employ controls for SO_2 emissions.

Under Michigan Air Pollution Control Commission (Commission) Rule 336.49, approved as part of the Michigan SIP on May 31, 1972 and recodified as Rule 336.1401, the source is required to burn coal with a maximum sulfur content of 1.5 percent effective July 1, 1978. Under Consent Order No. 05-1977, the source was permitted to burn 2.0 percent sulfur coal until January 1, 1980, at which time the source was required to burn fuels with a maximum sulfur content of 1.5 percent, in compliance with Table 3 of Rule 336.49 (recodified as Rule 336.1401).

On January 10, 1980, the Commission entered into the record a Stipulation for Entry of Consent Order and Final Order APC No. 16-1979. Under Consent Order No. 16-1979, the source is allowed to continue burning 2.0 percent sulfur coal (maximum daily average) until January 1, 1985. The Company agrees to make regular reductions in the weekly average sulfur dioxide emissions from the source as follows:

Date and in Stack SO_2 Concentration (ppm)
January 1, 1980—1180
January 1, 1981—1122
January 1, 1982—1064
January 1, 1983—1006
January 1, 1984—948

After January 1, 1985 sulfur dioxide emission from the boilers must comply with the existing SIP limitations in Rule 336.49 (recodified as 336.1401), unless an order granting an additional extension of time to comply or setting a new emission limitation has been submitted to and approved by USEPA as a SIP revision. In addition, the Order requires that the Company provide ambient and in stack monitoring of SO_2, and perform sulfur analysis of the fuel to be burned. Data from the monitoring system and fuel analysis is required to be submitted to the Michigan Air Quality Division on a regular basis.

The Valley Model was employed in the analysis of SO_2 emissions from the Advance Steam Plant. This model was selected because the area in which the Advance Steam Plant is located is characterized as a rural complex terrain environment. The results of the modelling analysis demonstrate that the use of 2.0 percent sulfur coal at the Advance Steam Plant will not threaten attainment or maintenance of the SO_2 NAAQS in the vicinity of the source. Further, the modelling analysis demonstrates that the SO_2 Prevention of Significant Deterioration (PSD) increments will be protected during the variance. The revision is subject to the PSD regulations (45 FR 52676) since the company is located in an attainment area and the proposed SIP revision is a relaxation of the Michigan SIP.

The schedule for compliance is contained in the following paragraphs of the Order:

A. Sulfur Dioxide Emission Limitations

(1) Beginning on January 1, 1980, and continuing to January 1, 1985, fuel burned at the Advance Plant shall not:

(a) Result in sulfur dioxide emissions greater than 1,180 parts per million (by volume corrected to 50 percent excess air) averaged over a calendar day. This emission limitation is deemed equivalent to burning coal which averages on any calendar day 2.0 percent sulfur content by weight at 12,000 Btu per pound of coal.

(b) Result in sulfur dioxide emissions on a weekly average basis of: (i) 1,122 parts per million (by volume corrected to 50 percent excess air) for the period January 1, 1981, through December 31, 1981;

(ii) 1,064 parts per million (by volume corrected to 50 percent excess air) for the period January 1, 1982, through December 31, 1982;

(iii) 1,006 parts per million (by volume corrected to 50 percent excess air) for the period January 1, 1983, through December 31, 1983;

(iv) 948 parts per million (by volume corrected to 50 percent excess air) for the period January 1, 1984, through January 1, 1985.

(2) After January 1, 1985, emissions of sulfur dioxide from the Advance Plant shall not exceed 890 parts per million (by volume corrected to 50 percent excess air), unless an alternate date for compliance with that level or other levels is established by the Commission.

(3) Beginning on January 1, 1980, and continuing to January 1, 1985, if fuel burned at the Advance Plant is blended, such fuel shall be blended to provide substantially similar coal to each of the three individual coal bunkers such that sulfur dioxide emissions from all three units will correspond to that from Unit No. 3.

B. Sulfur Dioxide Control Program

(1) By January 1, 1983, the Company shall submit to the Commission an acceptable control strategy which shall provide for compliance with Section A(2) of this Order.

(2) If the Company elects to burn low sulfur coal as the method of control, the Company shall by January 1, 1984: (a) Notify the Commission that it has under control or contract option the low sulfur coal necessary to meet the requirements of Section A(2) of this Order; or

(b) Notify the Commission, with acceptable explanation, that adequate quantities of low sulfur coal are available for acquisition for use in the Advance Plant by January 1, 1985.

(3) If low sulfur coal is chosen as the method of control, the Company shall notify the Commission of the signing of any contracts for such coal within thirty (30) days of their signing.

(4) If the Company elects a control strategy other than low sulfur coal burning, a report on the method of control (including increments of progress) shall be provided to the Commission by January 1, 1983. If a control strategy other than low sulfur coal burning is submitted, it is the intent of the Company and the Commission to incorporate the elements of the control strategy into either a new or amended Order.

(5) January 1, 1983, and by January 1, 1984, the Company shall submit to the Commission a report of the Company's progress toward complying with the Order. Any developments which would preclude compliance with any provision of this Order shall be immediately reported in writing to the Commission.

C. Monitoring and Data Reporting

(1) The Company shall continue to operate and properly maintain the existing one (1) ambient sulfur dioxide monitor around the Advance Plant in such manner and at such location as reasonably specified by the Chief of the Air Quality Division of the Department of Natural Resources (hereinafter "Staff").

(2) The Company shall perform sulfur analysis of fuel purchased for burning at the Advance Plant in accordance with the procedures specified in Appendix A.

(3) The Company shall by January 1, 1980, install induct work prior to the breaching for the stack of Unit No. 3 (Stack No. 2) and place in operation and thereafter properly maintain a stack gas emission monitor for measuring sulfur dioxide that meets the performance specifications of Appendix B of 40 CFR Part 60 (1978).

(4) The Company shall demonstrate the adequacy of the stack gas sulfur dioxide monitor in accordance with the procedures specified in Appendix B of 40 CFR Part 60 (1978).

(5) For each calendar day during which the stack gas sulfur dioxide monitor has been inoperative for twelve (12) consecutive hours, the Company shall determine the daily sulfur dioxide emission rate from the Advance Plant according to the procedures specified in Appendix A of this Order. Such procedures shall be discontinued only after the stack gas sulfur dioxide monitor has operated acceptably for twelve (12) consecutive hours during a calendar day. If Staff finds the procedures referred to in this paragraph 5(C)(5) and set forth in Appendix A to be unacceptable, then the Company shall use other procedures as are acceptable to Staff.

(6) The Company shall report to the Staff sulfur dioxide emissions in terms of parts per million by volume corrected to 50 percent excess air.

(7) The Company shall submit to the Staff data from the aforementioned ambient air quality monitor, stack gas monitor, and fuel sulfur analysis in such format and at such intervals as reasonably specified.

(8) The monitoring and reporting requirements specified in or pursuant to subsections C (1) through (9) shall be, upon request of the Company, reviewed by the Commission and modified if the Commission finds such modifications are justified.

(9) Prior to July 1, 1981, and during each eighteen (18) month interval thereafter, the Company shall, upon sixty (60) days written notice from the Staff to the Company, conduct one particulate emission test. The tests shall be conducted in accordance with Commission approved procedures.

6. The Commission may modify or revoke this Order granting extension of the dates for compliance with Tables 3 and 4 if the Commission determines that: (a) The reasons that provided the basis for making the findings stated in Paragraph 4 of this Order no longer exist.

(b) The Company has not adequately complied with the terms, conditions, and requirements of this Order, including but not limited to monitoring, reporting, and fuel specifications.

(c) The public health, safety, or welfare may be adversely affected by a further compliance extension.

(d) Reductions in the sulfur dioxide emissions from the Advance Plant would allow location of a new source or

modification of an existing source and without the reduction the new source or modification of an existing source could not be permitted. However, such reductions shall not be greater than that necessary to permit the location of the new source of the modification to the existing source, and such reductions shall not be more stringent than the requirments of Tables 3 and 4 of R 336.49. (New Rule 336.1401).

(e) The original data submitted by the applicant on the application requesting an extension is materially inaccurate.

(f) Federal law or rules would prohibit or make unlawful further extension.

(g) The Company has demonstrated that a modification or revocation of the Order is justified. Agreement to and entry of this Order does not prejudice the right of the Company to petition the Commission for modification or revocation of the Order.

(h) The U.S. Environmental Protection Agency has disapproved this Order as a revision to the Michigan State Implementation Plan. If the Company has appealed that disapproval, the Commission shall consider the merits of that appeal in determining whether to take action under this subsection.

USEPA has reviewed the Order and concluded that the operation of the Advance Steam Plant under existing fuel conditions (2.0 percent sulfur coal) will not threaten or prevent the attainment and maintenance of the SO_2 NAAQS and PSD increments in the vicinity of the Advance Steam Plant. Therefore, USEPA proposes approval of the Order as a revision to the Michigan SIP. The State has indicated that it is relying on continuous emissions monitoring and fuel analysis to determine the Company's compliance with the Order. This is acceptable to USEPA.

All interested persons are invited to comment on this revision to the Michigan SIP and on USEPA's proposed action. Comments should be submitted to the address listed in the front of this notice. Public comments received on or before January 5, 1981, will be considered in USEPA's final rulemaking.

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures. USEPA labels proposed regulations as "specialized." I have reviewed these proposed regulations pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator and I have determined that they are specialized regulations not subject to the procedural requirements of Executive Order 12044.

This proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act (42 U.S.C. 7410).

Dated: October 31, 1980.

John McGuire,

Regional Administrator.

[FR Doc. 80-37780 Filed 12-4-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-10-FRL 1692-5]

State of Idaho Implementation Plan; Proposed Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This Notice is to invite public comment on EPA's proposal to approve a revision to the State of Idaho State Implementation Plan (SIP). This revision has been submitted to comply with EPA regulations contained in 40 CFR Part 58. The plan provides for the implementation of a statewide network for ambient air quality monitoring and data reporting. EPA has determined that the plan meets requirements for the monitoring, network design, instrument probe siting criteria, monitoring methods to be used, and establishing a quality assurance program.

DATE: Comments will be accepted up to January 5, 1981.

ADDRESSES: The related material in support of this revision may be examined during normal business hours at the following locations:

Central Docket Section, (10-A-80-18-), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Streets, S.W., Washington, D.C. 20460.

Air Programs Branch, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101

State of Idaho, Air Quality Bureau, Division of Environment, Fifth Floor, 450 West State, Boise, Idaho 83720

COMMENTS SHOULD BE ADDRESSED TO: Laurie M. Kral, Air Programs Branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 89101.

FOR FURTHER INFORMATION CONTACT: William B. Schmidt, Surveillance and Analysis Division, M/S 345, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442-1106, FTS: 399-1106.

SUPPLEMENTARY INFORMATION: Section 319 of the Clean Air Act as amended, requires the Environmental Protection Agency (EPA) to establish monitoring criteria to be followed uniformly across the nation. Pursuant to this requirement and the recommendations of the Standing Air Monitoring Work Group (SAMWG). EPA, on May 10, 1979 (44 FR 27558) promulgated Rules and Regulations for Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions. The regulations revoke Part 51 of Title 40 of the Code of Federal Regulations and establish a new Part 58 entitled Ambient Air Quality Surveillance.

40 CFR Part 58.20 requires that the State adopt and submit to the Administrator a revision to the plan which will:

(a) Provide for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) which measure ambient concentrations of those pollutants for which standards have been established in 40 CFR Part 50.

(b) Provide for meeting the requirements of Appendices A, C, D, and E to this part.

(c) Provide for the operation of at least one SLAMS per pollutant during any stage of an air pollution episode as defined in the contingency plan.

(d) Provide for the review of the air quailty surveillance system on an annual basis to determine if the system meets the monitoring objectives defined in Appendix D to this part. Such review must identify needed modifications to the network such as termination or relocation of unnecessary stations or establishment of new stations which are necessary.

(e) Provide for having a SLAMS network description available for public inspection and submission to the Administrator upon request. The network description must be available at the time of plan revision submittal and must contain the following information for each SLAMS:

(1) The Storage and Retrieval of Aerometric Data (SAROAD) site identification form for existing stations.

(2) The proposed location for scheduled stations.

(3) The sampling and analysis method.

(4) The operating schedule.

(5) The monitoring objective and spatial scale of representativeness as defined in Appendix D to this part.

(6) A schedule for: (i) Locating, placing into operation, and making available the SAROAD site identification form for each SLAMS which is not located and

operating at the time of plan revision submittal;

(ii) Implementing quality assurance procedures of Appendix A to this part for each SLAMS for which such procedures are not implemented at the time of plan revision submittal; and

(iii) Resisting each SLAMS which does not meet the requirements of Appendix E to this part at the time of plan revision submittal.

Idaho's Air Quality Monitoring Network

On February 14, 1980, the State of Idaho's Department of Health and Welfare (IDHW) submitted to EPA a revision to its SIP which provides for the establishment of an air quality monitoring network. The submittal includes a description of the proposed network which will cover the criteria pollutants: Total suspended particulates (TSP), sulfur dioxide (SO_2) and carbon monoxide (CO) and ozone (O_3).

The Idaho monitoring SIP commits the State to the implementation of statewide SLAMS and National Air Monitoring Stations (NAMS) monitoring system to meet the requirements of 40 CFR Part 58, The system will be derived from the existing Idaho Air Monitoring Network with adjustments and additions made where necessary.

Besides establishing the SLAMS and NAMS (a subset of SLAMS), the SIP revision provides for the establishment of Special Purpose Monitoring Stations (SPMS). These monitors may be placed and used to fill special monitoring study needs. If data are to be used for support of control strategies, determination of attainment/non-attainment, or air dispersion modeling validation, the monitors will be reference or equivalent, sited according to Appendix E to 40 CFR Part 58 and follow the quality assurance procedures of Appendix A to 40 CFR Part 58.

The SIP states that specific SLAM sites will be designated as Episode Monitoring sites (EMS). These stations will be visited daily during the work week to ascertain proper operation and to detect elevated values. In the event an episode is declared, the pollutant(s) of concern will be followed continuously until episode termination.

All SLAMS in the Idaho monitoring system will be operated in accordance with the criteria given in Subpart B of 40 CFR Part 58. Each SLAMS monitor will meet the siting criteria given in 40 CFR Part 58, Appendix E. Methods used in the SLAMS will be referencee or equivalent as defined in 40 CFR Part 58, Appendix C. The quality assurance procedures of Appendix A to 40 CFR Part 58 will be followed when operating SLAMS and processing air quality data.

The air monitoring network will be reviewed, annually to eliminate any unnecessary SLAMS, add necessary SLAMS and to correct inadequacies. All proposed changes to the network will be reported to and discussed with the EPA Regional Office before changes are made.

Included as part of the SIP revision is a description of the proposed NAMS network. This description covers the existing proposed monitoring locations, sampling and analysis methods, monitoring objectives, and implementation dates.

EPA has reviewed the submittal and has determined that it meets the requirements of Sections 110 and 319 of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 58. EPA is therefore proposing approval of the revised Idaho Air Quality Monitoring Plan.

Interested persons are invited to comment on the revised Idaho SIP revision and on EPA's proposed actions. Comments should be submitted to the address listed in the front of this Notice. Public comments received on or before January 5, 1981, will be considered in EPA's final rulemaking. All comments received will be available for inspection at the EPA offices listed above.

EPA finds that good cause exists for providing a 30-day comment period for the following reasons: (1) The public has had adequate notice of the guidelines for preparation of Part 58 plans and (2) the impact of this rulemaking is limited only to the State of Idaho. Therefore, EPA is soliciting public comments for days on its proposed approval of the Part 58 revision for the State of Idaho to Title 40 of the Code of Federal Regulations.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Section 110 and 172 of the Clean Air Act (42 U.S.C. 7410(a) and 7502))

Dated: November 26, 1980.

Donald P. Dubois,

Regional Administrator.

Title 40, Part 52 of the Code of Federal Regulations is proposed amended as follows:

Subpart N—Idaho

In § 52.670, (c)(18) is added as follows:

§ 52.670 Identification of plan.

* * * * *

(c) * * *

(18) On February 14, 1980 the State of Idaho Department of Health and Welfare submitted a plan revision to meet the requirements of Air Quality Monitoring 40 CFR Part 58, Subpart C, § 58.20.

[FR Doc. 80-37779 Filed 12-4-80; 8:45 am]

BILLING CODE 6560-38-M

40 CFR Part 52

[A-10-FRL 1692-6]

State of Oregon Implementation Plan; Proposed Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice is to invite public comment on EPA's proposal to approve a revision to the State of Oregon State Implementation Plan (SIP). This revision has been submitted to comply with EPA regulations contained in 40 CFR Part 58. The plan provides for the implementation of a statewide network for ambient air quality monitoring and data reporting. EPA has determined that the plan meets requirements for the monitoring network design, instrument probe siting criteria, monitioring methods to be used and establishing a quality assurance program.

DATE: Comments will be accepted up to January 5, 1981.

ADDRESSES: The related material in support of this revision may be examined during normal business hours at the following locations:

Central Docket Section, (10A-80-18), West Tower Lobby, Gallery I, Environmental Protection Agency, 401 M Streets, S.W., Washington, D.C. 20460.

Air Programs Branch, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

Department of Environmental Quality, Yeon Building, 522 S.W. Fifth Avenue, Portland, Oregon 97204.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 629, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: William B. Schmidt, Chief, Air Surveillance & Investigation Section, M/S 345, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442-1106, FTS: 399-1106.

SUPPLEMENTARY INFORMATION: Section 319 of the Clean Air Act as amended, requires the Environmental Protection Agency (EPA) to establish monitoring criteria to be followed uniformly across the nation. Pursuant to this requirement and the recommendations of the Standing Air Monitoring Work Group (SAMWG). EPA, on May 10, 1979 (44 FR 27558) promulgated Rules and Regulations for Ambient Air Quality Monitoring, Data Reporting, and Surveillance Provisions. The regulations revoke Part 51 of Title 40 of the Code of Federal Regulations and establish a new Part 58 entitled Ambient Air Quality Surveillance.

40 CFR Part 58.20 requires that the State adopt and submit to the Administrator a revision to the plan which will:

(a) Provide for the establishment of an air quality surveillance system that consists of a network of monitoring stations designated as State and Local Air Monitoring Stations (SLAMS) which measure ambient concentrations of those pollutants for which standards have been established in 40 CFR Part 50.

(b) Provide for meeting the requirements of Appendices A, C, D, and E to this part.

(c) Provide for the operation of at least one SLAMS per pollutant during any stage of an air pollution episode as defined in the contingency plan.

(d) Provide for the review of the air quality surveillance system on an annual basis to determine if the system meets the monitoring objectives defined in Appendix D to this part. Such review must identify needed modifications to the network such as termination or relocation of unnecessary stations or establishment of new stations which are necessary.

(e) Provide for having a SLAMS network description available for public inspection and submission to the Administrator upon request. The network description must be available at the time of plan revision submittal and must contain the following information for each SLAMS:

(1) The Storage and Retrieval of Aerometric Data (SAROAD) site identification form for existing stations.

(2) The proposed location for scheduled stations.

(3) The sampling and analysis method.

(4) The operating schedule.

(5) The monitoring objective and spatial scale of representativeness as defined in Appendix D to this part.

(6) A schedule for: (i) Locating, placing into operation, and making available the SAROAD site identification form for each SLAMS which is not located and operating at the time of plan revision submittal;

(ii) Implementing quality assurance procedures of Appendix A to this part for each SLAMS for which such procedures are not implemented at the time of plan revision submittal; and

(iii) Resiting each SLAMS which does not meet the requirements of Appendix E to this part at the time of plan revision submittal.

Oregon's Air Quality Monitoring Network

On December 27, 1979, the Oregon's Department of Environmental Quality (DEQ) submitted to EPA a revision to its SIP which provides for the establishment of an air quality monitoring network. The submittal includes a description of the proposed network which will cover the criteria pollutants: Total suspended particulates (TSP), sulfur dioxide (SO_2) and carbon monoxide (CO) and ozone (O_3).

The Orgeon monitoring SIP commits the State to the implementation of statewide SLAMS and National Air Monitoring Stations (NAMS) monitoring system to meet the requirements of 40 CFR Part 58. The system will be derived from the existing Oregon Air Monitoring Network with adjustments and additions made where necessary.

Besides establishing the SLAMS and NAMS (a subset of SLAMS), the SIP revision provides for the establishment of Special Purpose Monitoring Stations (SPMS). These monitors may be placed and used to fill special monitoring study needs. If data are to be used for support of control strategies, determination of attainment/nonattainment, or air dispersion modeling validation, the monitors will be reference or equivalent, sited according to Appendix E to 40 CFR Part 58 and follow the quality assurance procedures of Appendix A to 40 CFR Part 58.

The SIP states that specific SLAM sites will be designated as Episode Monitoring sites (EMS). These stations will be monitored on a real time basis to ascertain proper operation and to detect elevated values. In the event an episode is declared, the pollutant(s) of concern will be followed continuously until episode termination.

All SLAMS in the Oregon monitoring system will be operated in accordance with the criteria given in Subpart B of 40 CFR Part 58. Each SLAMS monitor will meet the siting criteria given in 40 CFR Part 58, Appendix E. Methods used in the SLAMS will be reference or equivalent as defined in 40 CFR Part 58, Appendix C. The quality assurance procedures of Appendix A to 40 CFR Part 58 will be followed when operating SLAMS stations and processing air quality data. The air monitoring network will be reviewed annually in early January to eliminate any unnecessary SLAMS, add necessary SLAMS, and stations or to correct inadequacies. All proposed changes to the network will be reported to and discussed with the EPA Regional Office before changes are made.

Included as part of the SIP revision is a description of the proposed NAMS network. This description covers the existing proposed monitoring locations, sampling and analysis methods, monitoring objectives, and implementation dates.

EPA has reviewed that submittal and has determined that it meets the requirements of Sections 110 and 319 of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 58. EPA is therefore proposing approval of the revised Oregon Air Quality Monitoring Plan.

Interested persons are invited to comment on the revised Oregon SIP revision and on EPA's proposed actions. Comments should be submitted to the address listed in the front of this Notice. Public comments received on or before January 5, 1981 will be considered in EPA's final rulemaking. All comments received will be available for inspection at the EPA offices listed above.

EPA finds that good cause exists for providing a 30-day comment period for the following reasons: (1) The public has had adequate notice of the guidelines for preparation of Part 58 plans and (2) the impact of this rulemaking is limited only to the State of Oregon. Therefore, EPA is soliciting public comments for 30 days on its proposed approval of the Part 58 revision for the State of Oregon to Title 40 of the Code of Federal Regulations.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA lables these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Section 110 and 172 of the Clean Air Act (42 U.S.C. 7410(a) and 7502))

Dated: November 26, 1980.

Donald P. Dubois,

Regional Administrator.

Title 40, Part 52 of the Code of Federal regulations is proposed amended as follows:

Subpart MM—Oregon

In § 52.1970, (c)(33) is added as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(33) On December 27, 1979, the State of Oregon Department of Environmental Quality submitted a plan revision to meet the requirements of Air Quality Monitoring 40 CFR Part 58, Subpart C § 52.20.

[FR Doc. 80-37778 Filed 12-4-80; 8:45 am]

BILLING CODE 6560-38-M

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40 CFR Part 266

[SWH-FRL 1690-2]

Hazardous Waste Management System; Availability of Information

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of information and request for comments.

SUMMARY: The Environmental Protection Agency is today making available to the public a draft document entitled "Used Oil Burned As A Fuel." The information in this document will be used to support the Agency's forthcoming regulations on used oil disposal and recycling pursuant to Sections 3004 and 3012 of the Resource Conservation and Recovery Act. EPA requests comments on this draft report.

DATE: Comments on the report are due no later than January 19, 1981.

ADDRESSES: Comments should be addressed to Deborah Villari, Docket Clerk (Docket No. 3004), Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Communications should identify the regulatory docket or notice number, which is Section 3004.

Copies of the report are available for reading at the EPA Public Information Reference Unit [Room 2404] and the Subtitle C Docket Room [Room 2711], both located at 401 M Street SW., Washington, D.C., and at all EPA Regional Office libraries during the hours of 9:00 a.m. to 4:30 p.m., Monday through Friday.

Copies of the report may also be ordered from Ed Cox, Solid Waste Information, U.S. Environmental Protection Agency, 26 West St. Clair Street, Cincinnati, Ohio 45268, (513) 684-5362. (Please identify the document as SW-892.) EPA plans to provide the document free of charge to all who request copies. However, the Agency may charge $0.20 per page for photocopying if the available copies run out.

FOR FURTHER INFORMATION CONTACT: Arline M. Sheehan, Technology Branch, Hazardous and Industrial Waste Division, Office of Solid Waste (WH-565), 401 M Street SW., Washington, D.C. 20460, (202) 755-9200.

SUPPLEMENTARY INFORMATION: On December 18, 1978 (43 FR 58946-59028) EPA proposed regulations implementing Sections 3001-3004 of the Solid Waste Disposal Act, as amended by RCRA. As a result of its review of public comments on these proposed regulations, EPA determined that further study was warranted on the potential hazards associated with burning used oil as a fuel. The draft document being noticed today was written to assess these hazards.

The purpose of making this document available to the public is to obtain comment on the accuracy of the data it contains, and not to reopen the comment period on either EPA's proposed Sections 3001-3004 regulations or EPA's final and interim final hazardous waste regulations issued on May 19, 1980 (45 FR 33063-33258). Commenters should limit the scope of their written submissions accordingly.

Steffen W. Plehn,

Deputy Assistant Administrator for Solid Waste.

[FR Doc. 80-37738 Filed 12-4-80; 8:45 am]

BILLING CODE 6560-30-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket No. 21474; RM-1968; RM-2810; RM-2978; BC Docket No. 80-253; RM-2898]

Broadcast Equal Employment Opportunity Rules; Applications for Renewal of License of Commercial and Non-Commercial AM, FM, and Television Licensees

AGENCY: Federal Communications Commission.

ACTION: Proposed rules; extension of reply comment period and denial of suspension of reply comment dates and other relief.

SUMMARY: Action taken herein extends the time for filing reply comments in BC Docket No. 80-253, *Revision of Applications for Renewal of License of Commercial and Noncommercial AM, FM and Television Licensees.* Action is taken in repsonse to a request by Citizens Communications Center, which states that additional time is necessary in order to fully prepare a reply to the initial comments. Action taken herein also denies a request for suspension of the reply comment dates and other relief in Docket 21474, *Amendment of Broadcast Equal Employment Opportunity Rules and FCC Form 395,* and BC Docket No. 80-253, filed by the National Association of Broadcasters ("NAB").

DATE: Reply comments in BC Docket No. 80-253 must be filed on or before December 8, 1980.

ADDRESS: Submit comments to Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steven A Bookshester, Broadcast Bureau, (202) 653-7586, or Israel Teitelbaum, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Broadcast Equal Employment Opportunity Rules and FCC Form 395. Revision of Applications for Renewal of License of Commercial and Noncommercial AM, FM and Television Licensees. Order extending time for filing reply comments in BC Docket No. 80-253 and denying suspension of reply comment dates and other relief in Docket 21474 and BC Docket No. 80-253.

Adopted: November 25, 1980.

Released: November 26, 1980.

By the Chief, Broadcast Bureau:

1. On June 4, 1980, the Commission adopted a *Second Further Notice of Proposed Rule Making* in Docket 21474, FCC 80-328, 45 FR 42729, published June 25, 1980. On the same date, the Commission also adopted a *Notice of Proposed Rule Making* in BC Docket 80-253, FCC 80-327, 45 FR 47444, published July 15, 1980.

2. The dates initially established for filing comments and reply comments in Docket 21474 were August 25, 1980, and September 25, 1980, respectively. By *Order,* 45 FR 56116, published August 22, 1980, the Commission granted the request of the National Association of Broadcasters ("NAB") and extended the filing dates for comments and reply comments to October 24, 1980, and November 24, 1980, respectively. By *Order* released October 23, 1980, BC-00759, the date for filing comments was further extended in response to an NAB request, to October 30, 1980. At that time, the Commission, on its own motion, also extended the reply comment date to December 1, 1980. In granting this additional time, the

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Commission noted that further extensions were not contemplated.

3. The dates initially established for the filing of comments and reply comments in BC Docket No. 80–253 were October 1, 1980, and November 3, 1980, respectively. By *Order*, 45 FR 65637, published October 3, 1980, the Commission, in response to a request by the Committee for Community Access ("CCA"), extended the dates for filing comments and reply comments to November 3, 1980, and December 1, 1980, respectively.

4. Presently before the Commission is a motion filed by NAB on November 20, 1980, requesting that the Commission suspend the reply comment date in both proceedings. NAB asks that the Commission take this action in order that we may conduct the "initial regulatory flexibility analysis" described in section 603 of the Regulatory Flexibility Act, Pub. L. 96–354, 5 U.S.C. § 601 *et seq.* (September 19, 1980). Section 603 requires that an agency shall describe the impact of a proposed rule on small business entities, and consider alternatives or exemptions for such entities, and shall publish this analysis at the time of publication of the notice of proposed rule making. NAB also requests that the Commission issue *Further Notices* in both proceedings, in which the initial regulatory flexibility analyses would be included. NAB further requests that comments in these proceedings be gathered in accordance with such special procedures as the conduct of public hearings, suggested in section 609 of the Regulatory Flexibility Act.

5. As NAB itself notes, the Regulatory Flexibility Act is not effective until January 1, 1981. Additionally, the provisions of Section 603 apply only to rules for which a notice of proposed rule making is published on or after that date. Thus, it is clear that Congress did not intend this new legislation to receive the retroactive implementation proposed by NAB. Numerous proceedings are presently pending before the Commission which necessarily impact on smaller business entities. The Commission has been and will continue to be sensitive to the effect of the regulatory burdens imposed upon such entities. We are presently preparing for implementation of the Regulatory Flexibility Act on its effective date. We do not believe, however, that the public interest would be served by taking the premature action requested by NAB.[1]

6. Also before the Commission is a motion for extension of time in BC Docket No. 80–253 filed by Citizens Communications Center ("Citizens"). Citizens states that its limited resources are severely strained by the need to file reply comments in both BC Docket No. 80–253 and Docket 21474 on December 1, 1980, when it must also file a pleading in another, unrelated Commission proceeding. Citizens asks, therefore, that the Commission extend the date for filing reply comments in BC Docket No. 80–253 to and including December 8, 1980. In view of the factual situation presented to us by Citizens, we believe that the public interest would be served by this brief extension so that Citizens may fully participate in this proceeding. Further extensions in BC Docket No. 80–253 are not contemplated.

7. Accordingly, it is ordered, That the motion for suspension of the reply comment dates and other relief filed by the National Association of Broadcasters in Docket 21474 and BC Docket No. 80–253 is denied.

8. It is further ordered, That the motion of Citizens Communications Center in BC Docket No. 80–253 is granted and the date for filing reply comments in BC Docket No. 80–253 is hereby extended to and including December 8, 1980.

9. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 80-37772 Filed 12-4-80; 8:45 am]

BILLING CODE 6712-01-M

[1] We note that the Regulatory Flexibility Act was signed into law on September 19, 1980, well in advance of the October 30, 1980, comment date in Docket 21474 and the November 3, 1980, comment date in BC Docket No. 80–253. The relationship, if any, of the Regulatory Flexibility Act to these proceedings might more properly have been raised by NAB in its initial filings. Should NAB have additional arguments it wishes to make regarding the impact upon smaller entities of the proceedings in question, it may, as appropriate, raise such matters in its reply comments.

Notices

Federal Register
Vol. 45, No. 236
Friday, December 5, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Donated Foods to Nutrition Programs for the Elderly; Level of Assistance—Fiscal Year 1980

Correction

In FR Doc. 80–36326, on page 77095, in the issue of Friday, November 21, 1980, the middle column, the eight line down, correct "Title II" to read "Title III".

BILLING CODE 1505-01-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1981 Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed addition to procurement list.

SUMMARY: The Committee has received a proposal to add to Procurement List 1981 commodities to be produced by workshops for the blind and other severely handicapped.

Comments must be received on or before: January 7, 1981.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed action.

If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1981, November 12, 1980 (45 FR 74836):

Class 7520

Perforator, Paper, Desk
7520–00–139–3942
7520–00–163–2563

C. W. Fletcher,

Executive Director.

[FR Doc. 80-37761 Filed 12-4-80; 8:45 am]

BILLING CODE 6820-33-M

CIVIL AERONAUTICS BOARD

[Docket No. 38435]

Aeroamerica, Inc.; Reassignment of Proceeding

This proceeding has been reassigned to Administrative Law Judge Elias C. Rodriguez. Future communications should be addressed to him.

Dated at Washington, D.C., December 1, 1980.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 80-37848 Filed 12-4-80; 8:45 am]

BILLING CODE 6320-01-M

Former Large Irregular Air Service Investigation, Phase III; Applications of Imperial International Airlines; Advancement of Hearing Date

In the matter of Former Large Irregular Air Service Investigation, Phase III (Docket 33363) and applications of Imperial Enterprises Corporation, d/b/a Imperial International Airlines (Dockets 38666, 38667).

Notice is hereby given that the hearing in the above-titled proceeding now assigned to be held on December 11, 1980 (45 FR 74002, November 6, 1980) is advanced to December 10, 1980, at 10:00 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., December 1, 1980.

William A. Kane, Jr.,

Administrative Law Judge.

[FR Doc. 80-37847 Filed 12-4-80; 8:45 am]

BILLING CODE 6320-01-M

[Order 80-11-130; Docket 38669]

Flying Tiger Line Inc. and Seaboard World Airlines, Inc.; Application for an Exemption (Pick-Up and Delivery Tariffs)

Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 26th day of November 1980.

By application filed September 3, 1980, pursuant to § 416(b)(1) of the Federal Aviation Act of 1958, as amended, The Flying Tiger Line Inc. (FTL), and Seaboard World Airlines, Inc. (SBW), request an exemption from the requirement to file air cargo pick-up and delivery (PU & D) tariffs imposed by Section 403 of the Act and 14 CFR Part 222 of the Board's Economic Regulations. The carriers request that this exemption be effective immediately and continue until the Board issues its final rule in Notice of Proposed Rulemaking EDR–403, Docket 38329, 45 FR 42318, June 24, 1980. In support of their application, FTL and SBW state as follows:

(a) In EDR–403, the Board tentatively decided to eliminate the requirement that carriers file PU & D tariffs. Such tariffs have already been abolished for domestic cargo transportation by the Board's general exemption of domestic cargo carriers from tariff filing (ER–1080. November 8, 1978). The Board in EDR–403 tentatively found that the vestigial requirement that PU & D tariffs be filed for foreign air transportation served no regulatory purpose, since

The purpose of establishing a pick-up and delivery zone was to define the area not subject to ICC jurisdiction as being "incidental to transportation by aircraft." The ICC has primary jurisdiction to define this exemption, and we believe that the extent of pick-up and delivery tariff filings is not sufficient to justify continued duplication of the ICC function (EDR–403 at 7).

(b) The carriers further state that the case for elimination of PU & D tariffs is even stronger than the Board's statement implies. The Motor Carrier Act of 1980 exempted from ICC jurisdiction transportation of property by motor vehicle which is part of a continuous movement, and which, prior or subsequent to that motor transportation, is moved by an air carrier. *See* 49 U.S.C. 10526(a)(8)(B). There is therefore no "ICC function" to duplicate. Congress has clearly

indicated that such motor transportation prior or subsequent to transportation by aircraft is to be completely deregulated, subject only to the considerations of reciprocity with foreign governments outlined in EDR–403.

(c) Since there is no public policy reason for retaining the PU & D tariff filing requirement, and substantial reasons (tentatively found by the Board to be compelling) for eliminating it, FTL and SBW submit that the basic statutory requirement for the grant of an exemption—that the exemption is consistent with the public interest—is met. Grant of this exemption would remove an outmoded regulatory requirement and carry out the Board's policy of relying upon the competitive marketplace to determine the extent and quality of air services. It would therefore clearly be in the public interest.

No responses to this application have been received.

In this case we find that the carriers have demonstrated that it will be consistent with the public interest to allow them to dispense with the requirement to file PU & D tariffs while we are considering our final rule in Docket 38329. Accordingly, we have decided to grant the requested exemption on behalf of all carriers. The exemption will continue until the conclusion of the proceeding in Docket 38329, or in Docket 36119 (EDR–384), 45 FR 41829, July 18, 1979, in which the continuation of pick-up and delivery tariffs is also being considered.

Accordingly,

1. The application for an exemption of the Flying Tiger Line Inc. and Seaboard World Airlines Inc. in Docket 38669 is granted, and we will extend it to all other U.S. and foreign air carriers, *Provided* that the carriers amend their pick-up and delivery tariffs to defer their effectiveness until a final order is issued by the Board in Docket 38329 or Docket 36119; and

2. This order shall be effective immediately, and will expire upon the issuance of a final rule in Docket 38329 or Docket 36119.

This order will be published in the **Federal Register**, and will be placed in Docket 38329 and the related Docket 36119.

By the Civil Aeronautics Board.[1]

Phyllis T. Kaylor,[1]

Secretary.

[FR Doc. 80-37846 Filed 12-4-80; 8:45 am]

BILLING CODE 6320-01-M

[1] All Members concurred.

[Docket No. 38758; Order 80-11-137]

Western Air Lines, Inc.; Proposed Increase in Prepaid Ticket Advice; Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 26th day of November, 1980.

By tariff filed August 20, 1980, Western Air Lines, Inc. (Western) proposes to increase its present $5.00 charge to $10.00 for a Prepaid Ticket Advice (PTA), effective November 1, 1980.[1] In its filing, WA stated that the current charge is not sufficient to compensate for the transaction and the new charge more adquately reflects the level of remuneration required for the performance of this service. The rule in question applies between points in the U.S., as well as from points in the U.S. to points in Canada.

By complaint filed September 26, 1980,[2] Executive Travel System (ETS), a retail travel agent, protests Western's filing and requests that the Board suspend the proposed tariff revision, or in the alternative, that the Board permit Western to impose a $10.00 service charge for PTA's except in the case when a PTA is issued and payment is made pursuant to a Miscellaneous Charge Order issued to Western by a duly appointed travel agent. To explain the lateness of its filing, ETS states that they first received notice of the publication of this revision on September 11, 1980, when it was published in the magazine "Travel Weekly", Volume 39, No. 73 dated September 11, 1980. ETS acknowledges that, although they took immediate steps (enumerated in some detail in their pleading) to obtain the essential tariff and procedural information, they were unable to file their complaint until September 25, 1980, admittedly beyond the prescribed ten day period.[3] They state that they have however, diligently pursued the preparation and filing of their complaint, promptly after receiving actual notice of the said tariff revision, and that Western is not prejudiced by their late filing of the complaint as the proposed tariff revision was due to become effective November 1, 1980.

In support of its complaints, ETS states that: the proposed service charge of $10.00 is unjust and unreasonable because it discriminates against travel agents by imposing a lower price for air transportation to passengers purchasing tickets directly from Western at their airport counter rather than from travel agents; it will have the effect of coercing the general public to purchase tickets directly from Western at its airport ticket counters rather than from travel agents; it is prejudicial and harmful to members of the general public who are consumers of air travel in that the proposed charge for PTA's is excessive and bears no reasonable relationship to Western's cost in rendering the service; it will permit Western to reap a windfall profit at the expense of the general public in that the cost incurred by Western in issuing PTA's is negligible and has not increased so as to merit either the original service charge or the increase; and that it will have anticompetitive effects and will prevent travel agents from marketing services and selling air travel in competition with Western.

In answer to ETS's complaint, Western states that the complaint is late and should be dismissed, that the work involved in issuing a PTA is not negligible that the passenger requiring a PTA will purchase it just as readily from Western—at a fee—as from ETS, and that the marketplace should decide whether passengers will continue to use PTA's when they want to fly Western.

Upon consideration of the complaint, the answer, and other relevant matters, the Board will deny the complaint and permit the tariff to become effective. Our decision is based on several considerations. The current policy of the Congress, and the Board, as reflected in the Airline Deregulation Act, is to permit airlines considerable flexibility in pricing. This is reflected in the fact that the tariff rule placing charges on this service was initiated only a year ago (by Western and Eastern), and is now participated in by virtually all carriers. Prices have risen generally, and there is no basis for concluding that Western's proposed charges are out of line with its costs. Nor is there any evidence that Western is engaging in any abuse of market power. The provision of a premium service of this sort is a marketing tool, which the carrier may or may not choose to provide. Most important, ETS may opt to use the PTA service of several competing carriers, which remain at a lower rate.

Accordingly,

1. The complaint of Executive Travel System in Docket 38758 is dismissed;

2. This order will be served on Executive Travel System and Western Airlines, Inc.; and

[1] "PTA" denotes the service function of accepting payment for an airline ticket at one city for travel commencing at another city. Such prepaid ticket is physically made available to the customer at the boarding city, usually by means of an electronic tele-ticketing device. Rule 390, Tariff C.A.B. No. 352.

[2] With respect to the U.S.-domestic application of the proposed rule, complaints were due on September 2.

[3] ETS did not apply for permission to file a late filed document. We will, on our own motion, accept the complaint as late filed.

3. This order will be published in the **Federal Register.**

By the Civil Aeronautics Board:[4]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-37849 Filed 12-4-80; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Snow Grooming Vehicles, Parts Thereof and Accessories Therefor From the Federal Republic of Germany; Initiation of Antidumping Investigation

AGENCY: U.S. Department of Commerce.

ACTION: Initiation of antidumping investigation.

SUMMARY: The Department of Commerce advises the public that on the basis of a petition filed in proper from we are initiating an antidumping investigation to determine whether snow grooming vehicles, assembled or unassembled, and parts and accessories thereof from the Federal Republic of Germany are being, or are like to be, sold at less than fair value. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the manufacturer's or exporter's home market, or other countries, or less than the constructed value.

The Department of Commerce is notifying the International Trade Commission of this action so that, in accordance with the Tariff Act of 1930, as amended, and no later than December 22, 1980 the Commission may determine whether there is a reasonable indication of material injury because of imports of this merchandise.

EFFECTIVE DATE: December 5, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Hudak, Office of Investigations, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230 (202–377–3174).

SUPPLEMENTARY INFORMATION: On November 6, 1980, the Department of Commerce ("Department") received a petition that complies with the requirements of §§ 353.36 and 353.37 of the Department Regulations (19 CFR 353.36 and 353.37). The petition was filed by the De Lorean Manufacturing Company, Logan, Utah, on behalf of the United States industry producing snow grooming vehicles. The petition alleges that snow grooming vehicles and accessories from the Federal Republic of Germany are being, or are likely to be, sold at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673)("the Act") and that the U.S. industry is likely to be materially injured by reason of imports of that merchandise.

The merchandise covered by this investigation is snow grooming vehicles, assembled or unassembled, provided for under item numbers 692.16 or 692.35, Tariff Schedules of the United States, and parts and accessories used chiefly on such vehicles, wherever provided for in the Tariff Schedules of the United States.

The petition includes sufficient evidence supporting both the allegations of sales at less than fair value on the basis of comparisons between prices in the home market and in the United States market, and of material injury, on the basis of actual or potential declines in output, sales, market share, profits, and employment in the United States industry.

In accordance with section 732(c) of the Act (19 U.S.C. 1673a(c)), I hereby decide that the Department will initiate an investigation to determine whether imports of snow grooming vehicles, assembled or unassembled, and parts and accessories thereof from the Federal Republic of Germany are being, or are likely to be, sold at less than fair value.

Pursuant to section 732(d) of the Act (19 U.S.C. 1673a(d)) the Department is notifying the U.S. International Trade Commission (ITC) and providing it with a copy of the information on which we based this determination to initiate an investigation. The International Trade Administration will make available to the ITC all nonprivileged and nonconfidential information. It will also make available all privileged and confidential information in its files, provided the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Pursuant to section 733(a) of the Act (19 U.S.C. 1673b(a)), the ITC will determine no later than December 22, 1980, whether there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of imports of snow grooming vehicles, parts thereof and accessories therefor from the Federal Republic of Germany. If that determination is negative, this investigation will be deemed terminated, and the International Trade Administration will publish no further notice. Otherwise, the investigation will proceed to its conclusion.

Section 733(b) of the Act (19 U.S.C. 167 b(b)) requires that, normally no later than 160 days after date on which the petition was filed, the International Trade Administration make a preliminary determination whether there is a reasonable basis to believe or suspect that merchandise which is the subject of this investigation is being, or likely to be, sold at less than fair value. Therefore, unless the investigation is terminated or extended, the International Trade Administration will make a preliminary determination not later than April 27, 1981.

This notice is published pursuant to section 732 of the Act (19 U.S.C. 1673a) and section 353.37(b) of the Department Regulations, (19 CFR 353.37(b)).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

November 26, 1980.

[FR Doc. 80-37740 Filed 12-4-80; 8:45 am]

BILLING CODE 3510-25-M

[4] All members concurred.

Jet Propulsion Laboratory; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket No.: 80–00286. Applicant: Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, California 91103. Article: Cooled Millimeter Wave-Length Microwave Spectrometer Receiver. Manufacturer: Millimeter Wellen Technik, West Germany. Intended use of article: The article is intended to be used for radio astronomical investigations of cosmic sources of molecular line emission to determine the physical conditions, such as temperature and density, in the gas flowing from stars in the late stages of their lives. A particular objective is the determination of the abundance of water vapor in the stellar ejecta. The experimental tecnique consists of measuring the output power from the receiver at various wavelengths when the telescope is

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pointed at the star, and making a similar measurement in a direction away from the star. The difference in output is examined for excess emission attributable to the star itself.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article provides a center frequency approximately equal to 180 gigahertz with an overall double sideband noise temperature of 830 degrees Kelvin. The National Bureau of Standards advises in its memorandum dated August 14, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-37811 Filed 12-4-80; 8:45 am]

BILLING CODE 3510-25-M

National Aeronautics and Space Administration; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No.: 80-00073. Applicant: National Aeronautics and Space Administration, Lyndon B. Johnson Space Center, R&T Procurement Branch/BC7, Houston, Texas 77058. Article: Monohud Pilots' Display Unit, Video Signals Unit, Electronic Drive Unit, Electronics Unit and Accessories. Manufacturer: Marconi Avionics Elliott Bros., Ltd., United Kingdom. Intended use of article: The article is intended to be used in the study, in-flight development, and verification of Head-up Display (HUD) symbology formats and algorithms for Space Shuttle Orbiter approach and landing. Application received by Commissioner of Customs: December 12, 1980.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: This application is a resubmission of Docket Number 79-00218 which was denied without prejudice to resubmission on August 28, 1979 for informational deficiencies. The foreign article provides a large field of view (25 degree total circular field) in conjunction with its relatively small size. The National Bureau of Standards advises in its memorandum dated August 11, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-37812 Filed 12-4-80; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80-00177. Applicant: National Oceanic and Atmospheric Administration, Climate & Garp Office, c/o Travel & Transportation Branch, AD17, 6010 Executive Blvd., Room 110, Rockville, Maryland 20852. Article: Navaid Sounding System. Manufacturer: Vaisala Oy, Finland Intended use of article: The article is intended to be used for investigations of pressure, temperature, humidity, wind speed and direction in order to provide international data set for a global weather model. Application received by Commissioner of Customs: February 4, 1980.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article will be used in a collaborative study involving distant institutions. Identical instruments and procedures will be used to avoid the possibility that subtle differences in technique might equivocate the comparability of results. The National Bureau of Standards advises in its memorandum dated June 25, 1980 that (1) the characteristic of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-37813 Filed 12-4-80; 8:45 am]

BILLING CODE 3510-25-M

National Radio Astronomy Observatory; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 80-00105. Applicant: National Radio Astronomy Observatory, Associated Universities, Inc., 2010 N. Forbes Blvd., Suite 100, Tucson, AZ 85705. Article: Replacement of Klystron, Model VRT 2124B6. Manufacturer: Varian Associates of Canada, Canada. Intended use of article: The article is intended to be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver which is used in conjunction with a microwave antenna to measure the intensity polarization, frequency and direction of cosmic radiation. Application received by Commissioner of Customs: December 26, 1979.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article operates in a frequency range of 140-170 gigahertz. The National Bureau of Standards advises in its memorandum dated September 23, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-37814 Filed 12-4-80; 8:45 am]

BILLING CODE 3510-25-M

NYS Department of Health; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80-00263. Applicant: NYS Department of Health, Division of Laboratories & Research, Empire State Plaza, Albany, N.Y. 12201. Article: Gas Chromatograph, Model 4160. Manufacturer: Carlo Erba, Italy. Intended use of article: The article is intended to be used to discriminate the toxic members of chlorinated dibensodioxins and chlorinated dibenzofurans. Glass capillary gas chromatograph columns are to be made, which are specific for separations of those two groups of compounds.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article has an on-column injection system. The National Bureau of Standards advises in its memorandum dated September 22, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Program Staff.

[FR Doc. 80-37815 Filed 12-4-80; 8:45 am]

BILLING CODE 3510-25-M

Southern Illinois University of Carbondale; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80-00230. Applicant: Southern Illinois University of Carbondale, Carbondale, Illinois 62901. Article: Specific Heat Unit for CP-C Microcalorimeter System. Manufacturer: Techneurop Inc., Canada. Intended use of article: The article is intended to be used with an existing microcalorimeter which is being used for the study of biologically important reactions including interactions of small molecules with proteins, nucleic acids, membrane components and other biological macromolecules. (Ligand or small molecule binding to macromolecules will include both aqueous solutions as well as dissolved aqueous gaseous solutions. However, primary use of the article will be for the study of denaturation of biomacromolecules by solutes and solvents). The article is also used for educational purposes in the following courses: Chemistry 598, Graduate Research and Chemistry 600, Dissertation. Application received by Commssioner of Customs: March 11, 1980.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (August 28, 1979).

Reasons: The foreign article provides a sensitivity of 0.1 microcalorie per second and a stability better than 0.001 degree Centigrade. The Department of Health and Human Services advises in its memorandum dated August 7, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

V 45 / 236 DEC 5 80 UMI

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-37816 Filed 12-4-80; 8:45 am]

BILLING CODE 3510-25-M

Tufts University; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 80-00236. Applicant: Tufts University, Department of Chemistry, 62 Talbot Avenue, Medford, MA 02115. Article: Pulsed CO_2 Laser, Model 103 and Accessories. Manufactured: Lumonics Research Limited, Canada. Intended use of article: The article is intended to be used in the research project entitled: Infrared Laser Chemistry; Intramolecular Energy Transfer and Unimolecular Isomerization in Methylisocyanide. The primary activity of this research is directed at determining the limits either to molecule specific or to mode specific energy deposition and reactions. In addition, the article will be used by graduate students working toward a Doctorate in chemistry. Application received by Commissioner of Customs: March 13, 1980. Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a nine joules energy pulse. The National Bureau of Standards advises in its memorandum dated September 11, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-37817 Filed 12-4-80; 8:45 am]

BILLING CODE 3510-25-M

University of Illinois; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80-00226. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, Urbana, Illinois 61801. Article: Submicron Mask Aligner and Accessory. Manufacturer: Karl Suess, West Germany. Intended use of article: The article is intended to be used in the processing of submicron geometry, high speed, semiconductor devices. Experiments to be conducted will include fabrication of semiconductor devices with submicron geometry using epitaxially grown III-V compound semiconductors such as GaAs, AlGaAs, etc; and the study of the properties of these devices. The article will also be used by graduate students in research in III-V compound semiconductor devices. Application received by Commissioner of Customs: March 10, 1980.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (February 29, 1980).

Reasons: The foreign article provides a line resolution as low as 0.8 microns. The National Bureau of Standards advises in its memorandum dated August 19, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use which was available at the time the foreign article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article was intended to be used, which was being manufactured in the United States at the time the foreign article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Program Staff.

[FR Doc. 80-37818 Filed 12-4-80; 8:45 am]

BILLING CODE 3510-25-M

University of Minnesota; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended. (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80-00229. Applicant: University of Minnesota, Department of Chemical Engineering & Materials Science, 151 Amundson Hall, 421 Washington, Avenue, S.E., Minneapolis MN 55455. Article: TEA CO_2 Laser, Model 10-2 with accessories. Manufacturer: Lumonics Research Limited, Canada. Intended use of Article: The article is intended to be used by postgraduate chemical engineers to do fundamental research in photochemical reaction engineering. Appropriate prototype reactions will be used to investigate: (1) Greater than thermal equilibrium yields, (2) Enhancement of reaction rates in thermal reactions, and (3) Selective reactions. In addition to gaining fundamental information about these, the data obtained in this work will be used as a guide for constructing appropriate models and design equations for infrared photochemical reactors. Application received by Commissioner of Customs: March 11, 1980.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides 10 joules energy per peak power in the multimode. The National Bureau of Standards advises in its memorandum dated August 5, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument of apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-37819 Filed 12-4-80; 8:45 am]

BILLING CODE 3510-25-M

University of Pennsylvania; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, DC. 20230.

Docket No. 80-00234. Applicant: University of Pennsylvania, Department of Psychology, 3815 Walnut Street, Philadelphia, PA 19104. ARTICLE: CRT Display Unit. Manufacturer: Peter Joyce Electronics, United Kingdom. Intended Use of article: The article is to be used in a research program on pattern vision. Application received by Commissioner of Customs: March 12, 1980.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides controlled rotation of zero to 360 degrees in its display raster with special control of contrast in the luminous patterns presented. The Department of Health and Human Services advises in its memorandum dated August 7, 1980 that (1) the capability of the foreign article decribed above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Asitance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-37820 Filed 12-4-80; 8:45 am]

BILLING CODE 3510-25-M

University of Rochester; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 3109 of the Department of Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Docket No. 80-00066. Applicant: University of Rochester, River Campus, Rochester, New York, 14627. Article: NMR Spectrometer System, Model WH-400 with Accessories. Manufacturer: Bruker Instruments, Inc., Switzerland. Intended use of article: The article is intended to be used for investigations of a broad range of chemical and biological molecules. All of the compounds will be dissolved in appropriate solvents for study on the article. The experiments to be conducted will include the recording of routine spectra under the condition of the very large magnetic field available in this instrument, and the measurement of ^1H, ^2H, ^{13}C, and ^{31}P spectra under conditions in which both homonuclear and heteronuclear decoupling will be utilized. The values of the chemical shifts, the coupling constants, and the relaxation time (T_1 and T_2) will be measured. The temperature dependence of these parameters for a variety of systems will be also investigated in order to obtain kinetic parameters. Primary research will include the following projects: Total Synthesis of Natural Products, Magnetic Resonance Studies of Drug-Nucleic Acid Complexes, and synthetic Organic Chemistry. Application received by Commissioner of Customs: December 12, 1979.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a 31-phosporus decoupling coil on its proton probe. The Department of Health and Human Services advises in its memorandum dated August 6, 1980 that (1) the capability of the foreign article described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 80-37821 Filed 12-4-80; 8:45 am]

BILLING CODE 3510-25-M

V 45 / 236 DEC 5 1980 UMI

Perchlorethylene From Belgium; Final Results of Administrative Review of Antidumping Finding

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On October 2, 1980, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on perchlorethylene from Belgium. The scope of the review was limited to the only known producer—Solvay & CIE—and to the period February 2, 1979 through March 31, 1980. Interested parties were given an opportunity to submit oral or written comments on this preliminary determination. The Department received no comments.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur N. DuBois, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3814).

SUPPLEMENTARY INFORMATION:

Procedural Background

On May 18, 1979, a dumping finding with respect to perchlorethylene from Belgium was published in the **Federal Register** as Treasury Decision 79–150 (44 FR 29045–6).

On October 2, 1980, the Department of Commerce ("the Department") published the preliminary results of its administrative review of the antidumping finding on perchlorethylene from Belgium (45 FR 65271–2).

Scope of the Review

The Department knows of only one exporter of Belgian perchlorethylene to the United States—Solvay & CIE. The review covered the period February 2, 1979 through March 31, 1980. There have been no imports of perchlorethylene from Belgium since the time of the fair value investigation and there are no known unliquidated entries. The preliminary results specified a cash deposit of estimated duty of 150 percent, based on the fair value weighted-average margin for Solvay & CIE. Interested parties were afforded an opportuanity to furnish oral or written comments. The Department received no such comments.

Results of the Review

As a result of our review, I determine that a cash deposit, as required by § 353.48(b) of Commerce Regulations, of 150 percent of the entered value, shall be required on all shipments of perchlorethylene from Belgium entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results. This requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with § 353.53 of Commerce Regulations (19 CFR 353.53, 45 FR 8205).

John D. Greenwald,

Deputy Assistant Secretary, Import Administration.

December 2, 1980.

[FR Doc. 80-37807 Filed 12-4-80; 8:45 am]

BILLING CODE 3510-25-M

Perchlorethylene From France; Final Results of Administrative Review of Antidumping Finding

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On October 2, 1980, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on perchlorethylene from France. The scope of the review was limited to the only known producer—Rhone Poulenc Petrochimie—and to the period February 2, 1979 through April 30, 1980. Interested parties were given an opportunity to submit oral or written comments on this preliminary determination. The Department received no comments.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur N. DuBois, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3814).

SUPPLEMENTARY INFORMATION:

Procedural Background

On May 18, 1979, a dumping finding with respect to perchlorethylene from France was published in the **Federal Register** as Treasury Decision 79–149 (44 FR 29045).

On October 2, 1980, the Department of Commerce ("the Department") published the preliminary results of its administrative review of the antidumping finding on perchlorethylene from France (45 FR 65271).

Scope of the Review

The Department knows of only one exporter of French perchlorethylene to the United States—Rhone Poulenc Petrochimie. The review covered the period February 2, 1979 through April 30, 1980. There have been no imports of perchlorethylene from France since the time of the fair value investigation and there are no known unliquidated entries. The preliminary results specified a cash deposit of estimated duty of 47.82 percent, based on the fair value weighted-margin for Rhone Poulenc Petrochimie. Interested parties were afforded an opportunity to furnish oral or written comments. The Department received no such comments.

Results of the Review

As a result of our review, I determine that a cash deposit, as required by § 353.48(b) of Commerce Regulations, of 47.82 percent of the entered value, shall be required on all shipments of perchlorethylene from France entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results. This requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with § 353.53 of Commerce Regulations (19 CFR 353.53, 45 FR 8205).

John D. Greenwald,

Deputy Assistant Secretary, Import Administration.

December 2, 1980.

[FR Doc. 80-37808 Filed 12-4-80; 8:45 a.m.]

BILLING CODE 3510-25-M

Perchlorethylene From Italy; Final Results of Administrative Review of Antidumping Finding

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of final results of administrative review of antidumping finding.

SUMMARY: On October 2, 1980, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on perchlorethylene from Italy. The scope of the review was limited to the only known producers—Rumianca S.p.A. and Montedison S.p.A.— and to the period February 2, 1979, through April 30, 1980. Interested parties were given an opportunity to submit oral or written comments on this preliminary determination. The Department received no comments.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur N. DuBois, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3814).

SUPPLEMENTARY INFORMATION:

Procedural Background

On May 18, 1979, a dumping finding with respect to perchlorethylene from Italy was published in the **Federal Register** as Treasury Decision 79–151 (44 FR 29046).

On October 2, 1980, the Department of Commerce ("the Department") published the preliminary results of its administrative review of the antidumping finding on perchlorethylene from Italy (45 FR 62570–1).

Scope of the Review

The Department knows of only two exporters of Italian perchlorethylene to the United States. Those firms are Rumianca S.p.A. and Montedison S.p.A. The review covered the period February 3, 1979 through April 30, 1980. There have been no imports of perchlorethylene from Italy since the time of the fair value investigation and there are no known unliquidated entries. The preliminary results specified a cash deposit of estimated duty of 37.8 percent, in the case of Rumianca, and 29 percent in the case of Montedison, based on the fair value weighted-average margins for those firms. Interested parties were afforded an opportunity to furnish oral or written comments. The Department received no such comments.

Results of the Review

As a result of our review, I determine that a cash deposit, as required by § 353.48(b) of Commerce Regulations, of 37.8 percent of the entered value in the case of Rumianca, 29 percent of the entered value in the case of Montedison, and 37.8 percent for shipments from all other exporters shall be required on all shipments of perchlorethylene from Italy entered, or withdrawn from warehouse, for consumption on or after the date of publication of these final results. This requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with § 353.53 of Commerce Regulations (19 CFR 353.53, 45 FR 8205).

John D. Greenwald,

Deputy Assistant Secretary, Import Administration.

November 21, 1980.

[FR Doc. 80-37809 Filed 12-4-80; 8:45 am]

BILLING CODE 3510-25-M

Portland Cement, Other Than White, Nonstaining Portland Cement, From Belgium; Preliminary Results of Administrative Review of Antidumping Finding and of Tentative Determination To Revoke

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Notice of preliminary results of administrative review of antidumping finding and of tentative determination to revoke.

SUMMARY: This notice is to advise the public that, as a result of an administrative review of the antidumping finding on portland cement, other than white, nonstaining portland cement, from Belgium, the Department of Commerce has tentatively determined to revoke such finding. There have been no imports of this merchandise from Belgium for a period of seventeen years. Interested parties are invited to comment on this decision.

EFFECTIVE DATE: December 5, 1980.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202–377–3814).

SUPPLEMENTARY INFORMATION:

Procedural Background

On July 20, 1961, a dumping finding with respect to portland cement, other than white, nonstaining portland cement, from Belgium, excluding importations from Cimenteries et Briqueteries Reunies, was published in the **Federal Register** as Treasury Decision 55428 (28 FR 6511). A "Notice of Tentative Determination to Modify or Revoke Dumping Finding" with respect to this merchandise was published by the Department of the Treasury in the **Federal Register** on June 18, 1979 (44 FR 35075). Reasons for the tentative determination were given in the notice and interested parties were afforded an opportunity to present written or oral views. Treasury received no written submissions or requests for oral presentation of views. However, Treasury took no final action on the proposed revocation.

On January 1, 1980, the provisions of Title I of the Trade Agreements Act of

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1979 became effective. On January 2, 1980, the authority for administering the antidumping duty law was transferred from the Department of the Treasury to the Department of Commerce ("the Department"). The Department published in the **Federal Register** of March 28, 1980 (45 FR 20511–12) a notice of intent to conduct administrative reviews of all outstanding dumping findings. As required by section 751 of the Tariff Act of 1930 ("the Act"), the Department has conducted an administrative review of the finding on portland cement, other than white, nonstaining portland cement, from Belgium.

Scope of the Review

Imports covered by this review are portland cement, other than white, nonstaining portland cement, classifiable under item 511.14 of the Tariff Schedules of the United States Annotated (TSUSA). Cimenteries et Briqueteries Reunies was excluded from the finding. Another firm, Ciments Portland Artificiels Belges d'Harmignies, was merged into Cimenteries et Briqueteries Reunies n 1963. Therefore, this review covers the only known exporter, Ciments d'Obourg, and the period July 20, 1961, the date of the finding, to June 18, 1979, the date that the "Tentative Determination to Modify or Revoke Dumping Finding" was published by the Treasury Department.

Results of the Review

There are no known unliquidated entries. There have been no known shipments for more than seventeen years.

As provided for in § 353.54(e) of the Commerce Regulations, Ciments d'Obourg has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate that the merchandise thereafter imported in to the United States is being sold at less than fair value.

Tentative Determination

As a result of our review I tentatively determine that there are no reasons why the finding on portland cement, other than white, nonstaining portland cement, from Belgium, should not be revoked.

Interested parties may submit written comments within 30 days from the date of this notice and may request disclosure and/or a hearing within 15 days of the date of this notice.

The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

This administrative review, tentative determination to revoke and notice publication are in accordance with section 751 (a)(1) and (c) of the Act (19 U.S.C. 1675 (a)(1), (c)) and § 353.54(e) of Commerce Regulations (19 CFR 353.54 (e), 45 FR 8205–6).

John D. Greenwald,

Deputy Assistant Secretary, for Import Administration.

December 2, 1980.

[FR Doc. 80-37810 Filed 12-4-80; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Modification of Marine Mammal Permit

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the regulations governing the taking and importing of marine mammals (50 CFR Part 216), and Special Condition C-f of Permit No. 188 issued to Dr. Edward Shallenberger, Kailua, Hawaii, on June 30, 1977, (42 FR 35876), said permit is modified in the following manner:

Modification No. 1: Section B–8 is deleted and substituted therefor:

"B–8. This Permit is valid with respect to the taking authorized herein until December 31, 1983."

The Permit and documents in support of the modification are available in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W. Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731

Dated: November 26, 1980.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 80-37786 Filed 12-4-80; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Pitman-Moore, Inc.; Intent To Grant Limited Exclusive Patent License

Notice is hereby given that the National Technical Information Service (NTIS) proposed to grant to Pitman-Moore, Inc. (PMI) of Washington Crossing, New Jersey a limited exclusive right in the United States and in some or all of a group of foreign countries including Argentina, Australia, Austria, Brazil, France, West Germany, Great Britain, Japan, Netherlands, South Africa, Sweden, and Switzerland for the manufacture, use and sale of the products and processes embodied in the following U.S. Government-owned invention covered by U.S. Patent 4,189,535 for "Serum Cell Growth Promoting Materials" and foreign patent application counterparts in the countries listed herein, the rights being assigned to the United States of America as represented by the Secretary of Agriculture as to the U.S. patent and as represented by the Secretary, U.S. Department of Commerce as to the foreign applications. Custody of the U.S. rights to the invention has also been transferred to the Secretary, U.S. Department of Commerce.

Copies of the U.S. patent listed herein can be purchased from the Commissioner of Patents and Trademarks, Washington, D.C. 20231 at a cost of $0.50 per copy.

With respect to the U.S. Government-owned invention identified herein a public announcement stating that the invention was available for licensing in the United States and perhaps also in foreign countries was published in the **Federal Register** (FR) shortly after the U.S. patent application was filed. These announcements were made more than six months prior to this notice. The application U.S. Serial Number 935,217 was filed on August 21, 1978 and announced in the **Federal Register** of September 19, 1979, p. 54327; in the NTIS publication *Government Inventions for Licensing* of September 25, 1979, p. 398; and in the *Official Gazette* of the Patent and Trademark Office of October 30, 1979, p. 987 OG 36. To date, these and other promotional efforts have not resulted in the request for, or granting of, any licenses under these patent applications. It has been determined by the Director, NTIS therefore, in accordance with the Federal Property Management Regulations for Licensing of Government-owned Inventions 41 CFR 101–4.103.3, that this invention is available for limited exclusive license.

The limited exlusive license proposed to be granted by NTIS to PMI will be a royalty-bearing license for a term of five years from the effective date of the license agreement. The license will be revocable in accordance with 41 CFR 101–4.104.5.

The proposed limited exclusive license granted to PMI will be subject to an irrevocable, nonexclusive, nontransferable, royalty-free right in the U.S. Government to make, use or sell the licensed invention throughout the world by or through contract on behalf of the U.S. Government or any foreign government pursuant to a treaty or agreement with the United States.

The proposed limited exclusive license will be granted by NTIS to PMI unless February 3, 1981, NTIS receives (1) an application for a nonexclusive license from a responsible U.S. applicant to practice the invention identified herein in the United States or foreign countries listed herein and NTIS determines that such applicant is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or (2) written evidence and argument which establishes that it would not be in the public interest to grant the proposed limited exclusive license to PMI.

Written data, inquiries, comments or objections concerning this proposed limited exlusive license should be submitted to the Office of Government Inventions and Patents, National Technical Information Service, Springfield, Va. 22161. NTIS shall maintain and make available for public inspection a record of all decisions made in this matter and the basis therefor. This record shall contain copies of all written data, inquiries, comments, or objections received by NTIS and pertaining to the proposed limited exclusive license.

Dated: December 1, 1980.

Melvin S. Day,

Director, National Technical Information Service.

[FR Doc. 80-37739 Filed 12-4-80; 8:45 am]

BILLING CODE 3510-04-M

COMMODITY FUTURES TRADING COMMISSION

Privacy Act of 1974; Systems Notices—Notice of Intended Revision

Pursuant to the Privacy Act of 1974,[1] the Commodity Futures Trading Commission ("Commission") has classified certain of its records into systems of records.[2] Three of those systems, CFTC–12,[3] CFTC–20 [4] and CFTC–22,[5] contain registration Forms 7–R and 8–R and related supplements and schedules that have been filed with the Commission, either by registrants or by individuals affiliated in certain specified capacities with futures commission merchants, commodity trading advisors, and commodity pool operators.[6] Consistent with the Commission's revision of its registration regulations published today in the **Federal Register**, the Commission intends to alter those systems of records so that they include completed fingerprint cards and, where appropriate, new Forms 8–S and 8–T. The Commission further contemplates the combination of two of those existing systems—CFTC–20 and CFTC–22—into one system of records. Although these measures are not subject to the notice-and-comment requirements of the Administrative Procedure Act [7] or of the Privacy Act,[8] the Commission is publishing the revised systems notices set forth below to give affected individuals prior notice of these changes.

In addition, the Commission is proposing for public comment a new "routine use" [9] for those systems of records which would permit disclosures by the Commission of information the Commission may receive in the course of its processing of applications for registration of associated persons.

CFTC–12

System name:

Fitness Investigations—CFTC.

System location:

These records are located in the Division of Trading and Markets in the Commission's principal offices at 2033 K Street, NW., Washington, D.C. 20581. Limited records are located in the Chicago regional office, 233 South Wacker Drive, 46th Floor, Chicago, Illinois 60606.

Categories of individuals covered by the system:

Persons who have applied to the Commission for registration as an associated person or as a floor broker and principals (as defined in 17 CFR 3.1) of futures commission merchants, commodity trading advisors and commodity pool operators.

Categories of records in the system:

Contains various information pertaining to the fitness of the above-described individuals to engage in business subject to the Commission's jurisdiction. The system includes copies of applications for registration (Forms 7–R and 8–R) and biographical supplements (Form 8–R) as well as fingerprint cards. It also includes correspondence, reports and memoranda reflecting information developed from various sources outside the agency. The system contains records of the CFTC investigation.

Authority for maintenance of the system:

Sections 4n(6) and 3a(2)(B) of the Commodity Exchange Act, 7 U.S.C. 6n(6) and 12a(2)(B).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "General Statement of Routine Uses." In addition, information contained in this system of records may be disclosed in connection with the certification by a futures commission merchant of an application for registration of an associated person.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Paper records in file folders and computer tapes.

Retrievability:

By the name of the firm or individual.

Safeguards:

Records are maintained in locked cabinets.

Retention and disposal:

The records are maintained on the premises for three years, then held in the Federal Records Center for seven years before being destroyed.

System manager(s) and address:

The Assistant Director for Registration, Division of Trading and Markets in the Commission's principal office and the Chief, Registration Branch, Central Region, Division of Trading and Markets, Commodity

[1] 5 U.S.C. 552a.

[2] The Privacy Act defines a "system of records" as "a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual[.]" 5 U.S.C. 552a(a)(5).

[3] Fitness Investigations—CFTC.

[4] Registration of futures commission merchants, commodity trading advisors and commodity pool operators—CFTC.

[5] Registration of associated persons and floor brokers—CFTC.

[6] These systems of records are more fully described in the Commission's publication, pursuant to 5 U.S.C. 552a(e)(4), of the notice and character of each system of records maintained by the Commission. 45 FR 28391, 28399–400, 28405–06 (April 29, 1980).

[7] 5 U.S.C. 553. The action described above relates solely to agency organization, procedure, or practice. Prior notice and an opportunity to comment are, therefore, not required. 5 U.S.C. 553(b).

[8] *See* 5 U.S.C. 552a(o); *cf.* 5 U.S.C. 552a(e)(11), (f), (j), (k).

[9] *See* 5 U.S.C. 552a(a)(7). The Commission has already adopted eight routine uses which would also apply to these systems of records. These existing routine uses are set forth in their entirety in the Commission's annual publication of the notice and character of each of its systems of records, 45 FR 28391, 28393 (April 29, 1980), and are summarized in the Privacy Act Notice to proposed Forms 8–R, 8–S and 8–T which are being published today for public comment in the **Federal Register**.

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Futures Trading Commission, 233 South Wacker Drive, 46th Floor, Chicago, Illinois 60606. Addresses of CFTC offices are set forth in the introduction to these system notices under the caption "The Location of Systems of Records."

Notification procedure:

Individuals seeking to determine whether this system of records contains information about themselves should address their inquiries to the FOI, Privacy and Sunshine Acts compliance staff, Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington D.C. 20581. Telephone: (202) 254–3382.

Record access procedures:

Individuals seeking access to records about themselves in this system of records should address their inquiries to the FOI, Privacy and Sunshine Acts compliance staff at the address listed in the notification section above.

Contesting record procedures:

Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the FOI, Privacy and Sunshine Acts compliance staff at the address listed in the notification section above.

Record source categories:

The individual on whom the record is maintained, his employer, federal, state, and local regulatory and law enforcement agencies, commodity and securities exchanges, National Association of Securities Dealers, and other miscellaneous sources.

CFTC–20

System name:

System name:
Registration of Futures Commission Merchants, Floor Brokers, Associated Persons, Commodity Trading Advisors and Commodity Pool Operators—CFTC.

System location:

The primary files are maintained in the Chicago office. All CFTC offices have summary information in the form of microfiche records. Addresses and telephone numbers of these offices are set forth in the introduction to these system notices under the caption "The Location of Systems of Records."

Categories of individuals covered by the system:

Persons who have applied to the Commission for registration as an associated person or as a floor broker and principals (as defined in 17 CFR 3.1) of futures commission merchants, commodity trading advisors and commodity pool operators.

Categories of records in the system:

Contains information pertaining to the fitness of the above-described individuals to engage in business subject to the Commission's jurisdiction. The system includes applications for registration (Forms 7–R, 8–R and 8–S) and biographical supplements (Form 8–R), schedules and supplementary attachments to those Forms, fingerprint cards, and Notices of Termination (Form 8–T). The system also includes correspondence relating to registration between the Commission and the applicant, registrant or principal as well as reports reflecting information developed from various sources outside the agency. A computerized system, consisting primarily of information taken from the Form 8–R, is maintained by the Chicago office. The computer memory includes the name, date and place of birth, social security number (optional), fitness, exchange membership (floor brokers only), firm affiliation, and the residence or business address, or both, of each associated person, floor broker, and principal. In addition to the above, the computer memory also includes information relating to education, employment and military experience. Monthly microfiche records list the name, date and place of birth, social security number (optional), business address, membership affiliation and fitness of all registered floor brokers and the name, date and place of birth, social security number (optional), residence address, firm affiliation and fitness of all associated persons and principals. These microfiche records, as well as non-confidential portions of applications for registration and biographical supplements are considered to be public records and are available to any person for inspection and copying. In addition, certain auxiliary records, such as card indices, are maintained which summarize information contained in the system regarding each associated person, floor broker and principal.

Authority for maintenance of the system:

Sections 4f(1), 4k(2), 4n(1), 8a(1) and 8a(2) of the Commodity Exchange Act, 7 U.S.C. 6f(1), 6k(2), 6n(1), 12a(1) and 12a(2).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "General Statement of Routine Uses." In addition, information contained in this system of records may be disclosed in connection with the certification by a futures commission merchant of an application for registration of an associated person.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Records are maintained in a computer memory and in manual form in file folders, on computer printouts, index cards and microfiche records.

Retrievability:

By the name of the individual or firm. Where applicable, the computer cross-indexes the individual's primary registration file to the name of the futures commission merchant, commodity trading advisor or commodity pool operator with whom the individual is associated or affiliated.

Safeguards:

Protection of non-public records is afforded by general office security measures. Records are located in secured rooms or on secured premises with access limited to those whose official duties require access. In appropriate cases, the records are maintained in lockable file cabinets.

Retention and disposal:

Applications for registration (Forms 7–R, 8–R and 8–S) and biographical supplements (Form 8–R), related documents and correspondence are maintained on the premises for three years after the individual's registration, or that of the firm with which the individual is affiliated as a principal, becomes inactive. Records are then held in the Federal Records Center for seven years before being destroyed. The computer memory is maintained permanently on the premises and updated periodically as long as the individual remains registered or affiliated with a registrant as a principal. Computer printouts are maintained on the premises for six months and then destroyed. Microfiche records are maintained permanently on the premises.

System manager(s) and address:

Chief, Registration Branch, Central Region, Division of Trading and Markets, Commodity Futures Trading Commission, 233 South Wacker Drive, 46th Floor, Chicago, Illinois 60606.

Notification procedure:

Individuals seeking to determine whether this system of records contains information about themselves should address their inquires to the FOI, Privacy and Sunshine Acts compliance staff, Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. Telephone: (202) 254–3382.

Record access procedures:

Individuals seeking access to records about themselves in this system of records should address their inquiries to the FOI, Privacy and Sunshine Acts compliance staff at the address listed in notification section above.

Contesting record procedures:

Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the FOI, Privacy and Sunshine Acts compliance Staff at the Address listed in the notification section above.

Record source categories:

The individual on whom the file is maintained, his employer, the commodity and securities exchanges, other government agencies, self-regulatory organizations and persons with relevant knowledge about the individual. The computer record is prepared from the application or biographical supplement and information developed during the fitness inquiry.

Issued in Washington, D.C. on October 30, 1980 by the Commission.

Jane K. Stuckey,
Secretary of the Commission

[FR Doc. 80–37860 Filed 12–4–80; 8:45 am]
BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Mississippi River and Tributaries, Yazoo River Basin, Bear Creek, Mississippi, Phase I Project

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. *Description of Action:* The project objectives are to reduce damages due to flooding, conserve and enhance remaining fish and wildlife resources, and make a positive contribution to the conservation, preservation, and enhancement of significant natural environmental and cultural resources within the project area. The project plan that is eventually selected for implementation will be the plan which best satisfies the project objectives.

2. *Alternatives to Be Considered:* Consideration has been given to several alternatives which address the project objectives. These alternatives include no action and nonstructural and structural alternatives. Nonstructural alternatives consist of flood plain regulation and floodproofing. The four structural alternatives considered consist of clearing and snagging, channel cleanout, and/or channel enlargement. Two structural alternatives combine clearing and snagging and channel enlargement with a diversion scheme.

3. *Description of Scoping Process:*

a. *Public involvement.* Coordination has been maintained with the general public and with interested agencies throughout formulation and development of the Bear Creek Phase I Project alternative plans. All interested parties are invited to participate in review of the various project proposals. A public meeting is scheduled in early 1981.

b. *Issues to be analyzed in the DEIS.* Impacts of the project on water quality, recreational opportunities, the aquatic ecosystem, the terrestrial ecosystem, endangered species, socioeconomic elements, and archeological sites.

c. *Assignments for input into the EIS.* No specific assignments other than Corps of Engineers as lead agency.

d. *Environmental review and consultation requirements.* Review by Federal, state, and local agencies and interested groups and individuals.

4. *Scoping Meeting Schedule:* A scoping meeting has not been scheduled at this time.

5. *Date DEIS Will Be Available to Public:* On or about 30 September 1981.

ADDRESS: Questions About DEIS Can Be Answered By: Ms. Hattie M. Taylor, U.S. Army Corps of Engineers, Vicksburg District, Environmental Analysis Branch, P.O. Box 60, Vicksburg, Mississippi 39180, Phone: FTS 542–5965, Commercial (601) 634–5965.

Dated: November 18, 1980.

Samuel P. Collins, Jr.,
Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80–37742 Filed 12–4–80; 8:45 am]
BILLING CODE 3710–GX–M

DEPARTMENT OF EDUCATION

Grants for Research on Knowledge Use and School Improvement

AGENCY: Department of Education.

ACTION: Application Notice for New Projects Under the Program of Grants for Research on Knowledge Use and School Improvement, National Institute of Education.

Applications are invited for new projects under the program of Grants for Research on Knowledge Use and School Improvement.

Authority for this program is contained in Section 405 of the General Education Provisions Act, as amended (20 U.S.C. 1221e).

This program awards grants to any institution of higher education, State or local educational agency, public or private non-profit or for-profit agency, organization, individual, or any combination of these.

The purpose of the awards is to encourage and assist research to increase or synthesize knowledge on how elementary and secondary schools go about altering their administrative and instructional practices, and how knowledge resources in the form of ideas, new programs, products, or materials can support these changes. The proposed projects will be reviewed in Fiscal Year 1981, and grant awards will be made early in Fiscal Year 1982.

Closing date for transmittal of preapplications: A preapplication for a major grant must be mailed or hand delivered by January 6, 1981.

Closing date for transmittal of application: An application for either a small grant or a major grant must be mailed or hand delivered by *May 6, 1981.*

Applications delivered by mail: An application or a preapplication sent by mail must be addressed to the Proposal Clearinghouse, Mail Stop 1, National Institute of Education, OERI, 1200 19th Street, NW, Washington, D.C., 20208.

The lower left-hand corner of the package should display the words, "Knowledge Use and School Improvement" and the type of document, i.e., an application for a "Small Grant," or a "Major Grant," or a "Preapplication."

The applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. If a preapplication or an application is late, the applicant will be notified that its preapplication or application will not be considered.

Applications delivered by hand: A hand delivered preapplication or application must be taken to the Proposal Clearinghouse, National Institute of Education, Room 813, 1200 19th Street, NW, Washington, D.C.

The Proposal Clearinghouse will accept hand delivered preapplication and application between 8:00 a.m. and 4:30 p.m. (Washington, D.C time) daily, except Saturdays, Sundays, and Federal holidays.

Preapplications and applications that are hand delivered will not be accepted after 4:30 p.m. on the appropriate closing dates.

Preapplications: An applicant for a major grant must first submit a preapplication (also referred to as a preliminary proposal), and May submit an application only after receipt of NIE comments on the preapplication. Comments made on a preapplication are intended to provide a basis for strengthening any subsequently submitted application. No applicant who has submitted a preapplication will be denied the opportunity to submit an application. An application may be submitted for review at any closing date after comments on the preapplication have been received.

Preapplications are not required for small grants.

Program Information: The program provides for (1) a small grant that is awarded for a project whose duration does not exceed 12 months and whose direct costs do not exceed $15,000, and (2) a major grant that is awarded for a projectfunded in excess of $15,000 in direct costs. A project supported by a major grant may take up to three years to complete. The initial funding period in most cases will not exceed 12 months. Multi-year projects must be justified by an explanation of the need for the extended period. The application must provide an overview of the objectives to be accomplished and activites proposed to accomplish them and an estimated budget necessary to attain the objectives in any years subsequent to the first year. Awards for small and major grants are expected to be made in October 1981.

Available funds: FY 1982 funds of approximately $500,000 will be available. NIE expects to award approximately 5–6 major grants and 4–6 small grants in this competition. The average major grant award is expected to be about $65,000 for a twelve-month period. The average small grant award is expected to be about $15,000.

These estimates, however, do not bind the department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application forms: A program announcement package, which is available to applicants, contains guidelines, a copy of the programs final regulations and instructions on how to apply for a grant. Persons who wish to receive a copy of the program announcement package may request one by sending a self-addressed mailing label to the Knowledge Use and School Improvement Studies Staff, Mail Stop 24, National Institute of Education, OERI, 1200 19th Street, NW, Washington, D.C. 20208. (A stamped envelope is not suitable.) Persons who have requested that their names be placed on the mailing list of the program need not sent a mailing label.

Applicable regulations: Regulations applicable to this program are:

(a) Regulations governing the Grants for Research on Knowledge Use and School Improvement (34 CFR Part 709) as published in the **Federal Register** on August 12, 1980, 45 FR 53788;

(b) The Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 75 and 77), as redesignated in the **Federal Register** on November 21, 1980 (45 FR 77368); and

(c) The Administration of Grants Regulations (34 CFR Part 74) as republished in the **Federal Register** on May 9, 1980 (45 FR 30856).

Further information: For further information, contact Mr. Rolf Lehming, Team Leader, Knowledge Use and School Improvement Studies, DIP, NIE, OERI, who is located in Room 619B, 1200 19th Street, NW, Washington, D.C., and whose telephone number is (202) 254–0050.

(20 U.S.C. 1221e)

Dated: December 3, 1980.

F. James Rutherford,

Assistant Secretary for Educational Research and Improvement.

(Catalog of Federal Domestic Assistance Number 84.117, Educational Research and Development: formerly 13.950)

[FR Doc. 80-38027 Filed 12-4-80; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

[Delegation Order No. 0204–77]

Delegation of Functions by The Secretary of Energy to the Administrator of the Economic Regulatory Administration

AGENCY: Department of Energy.

ACTION: Notice of delegation.

SUMMARY: Notice is hereby given of a delegation by the Secretary of Energy to the Administrator of the Economic Regulatory Administration (ERA). The delegation transfers to the ERA the Secretary's authorities concerning emergency natural gas purchases and emergency natural gas allocations under section 302 and 303 of the Natural Gas Policy Act of 1978 (NGPA) and emergency prohibitions on the burning of natural gas by electric powerplants and major fuel-burning installations under section 607 of the Public Utility Regulatory Policies Act of 1978 (PURPA). These authorities would be activated only upon a declaration by the President of a natural gas supply emergency under section 301 of the NGPA or section 607(a) of the PURPA.

EFFECTIVE DATE: November 7, 1980.

FOR FURTHER INFORMATION CONTACT: James Beste, Office of General Counsel, Department of Energy, 1000 Independence Ave., S.W., Room 5E–074, GC–15, Washington, D.C. 20461, (202) 252–2900.

SUPPLEMENTARY INFORMATION: Under sections 301 of the NGPA and 607(a) of the PURPA, the President may declare a natural gas supply emergency or extend a previously declared emergency upon a finding that (1) there exists or is imminent a severe natural gas shortage endangering the supply of natural gas for high-priority uses in the United States or any region of the United states and (2) having exhausted other alternatives to the maximum extent practicable, the exercise of authorities under sections 302 or 303 of the NGPA, and/or section 607 of the PURPA is reasonably necessary.

The authorities pursuant to sections 302 and 303 of the NGPA and section 607 of the PURPA were delegated by the President to the Secretary in Executive Order No. 12235, published in the **Federal Register** on Friday, September 5, 1980. On November 7, 1980, the Secretary further delegated the emergency authorities to the Administrator by the accompanying delegation order.

After the declaration by the President of a natural gas supply emergency, the delegation order authorizes the Administrator, under section 302 of the NGPA, to permit emergency purchase transactions by interstate pipeline companies and local distribution companies served by interstate pipeline companies to meet the natural gas requirements of high-priority users. After the emergency purchase authority is utilized to the maximum extent practicable, the Administrator may implement the authority under section 607 of the PURPA, prohibiting the burning of natural gas by major fuel-burning installations and powerplants. In the event that additional emergency effort are required to assist in meeting the natural gas needs of high-priority users, the Administrator may exercise the NGPA section 303 authority to allocate supplies to interstate pipeline companies, local distribution companies served by interstate pipeline companies and others in the following order: (1) Boiler fuel gas, the use of which has been prohibited pursuant to authority under section 607 of the PURPA, (2) the natural gas supplies of interstate pipeline companies, and (3) supplies owned by end-users and transported by an interstate pipeline.

The delegation order was effective November 7, 1980.

(Department of Energy Organization Act, Pub. L. No. 95–91; E.O. 12009, 42 FR 46267, September 15, 1977, E.O. 12235, 45 FR 58803, September 5, 1980)

Issued in Washington, D.C. on November 26, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

To the Administrator of the Economic Regulatory Administration

Pursuant to the authority delegated to me as the Secretary of Energy ("Secretary") by Executive Order No. 12235, there is hereby delegated to the Administrator of the Economic Regulatory Administration ("Administrator") on a nonexclusive basis the authority to:

1. Carry out the functions under section 302 through 304(c) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3362–3364 and section 607 of the Public Utility Regulatory Policies Act of 1978, 15 U.S.C. 717z.

2. Prescribe orders and regulations to implement sections 302 through 304(c) of the Natural Gas Policy Act of 1978 and section 607 of the Public Utility Regulatory Policies Act of 1978.

3. Consult with the heads of other Executive departments and agencies in carrying out the functions and prescribing the orders and regulations under section 302 through 304(c) of the Natural Gas Policy Act of 1978 and section 607 of the Public Utility Regulatory Policies Act of 1978.

The authority delegated to the Administrator may be further delegated, in whole or in part, as may be appropriate, provided that the Administrator shall not further delegate, in whole or in part, the authority delegated to propose or adopt rules and orders.

In exercising the authority delegated by this Order or as redelegated pursuant thereto, the delegate(s) shall be governed by the rules and regulations of DOE and the policies and procedures prescribed by the Secretary or his or her delegate(s).

All actions pursuant to any authority delegated prior to this Order or pursuant to any authority delegated by this Order taken prior to and in effect on the date of this Order are hereby confirmed and ratified, and shall remain in full force and effect as if taken under this Order, unless or until rescinded, amended or superseded.

Nothing in this Order shall preclude the Secretary from exercising any of the authority so delegated whenever in his or her judgment exercise of such authority is necessary or appropriate to administer the functions vested.

This Order is effective November 7, 1980.

Charles W. Duncan, Jr.,

Secretary of Energy.

[FR Doc. 80-37749 Filed 12-3-80; 8:45 am]

BILLING CODE 6455-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval for the sale to Atomic Energy of Canada, Ltd., of 15 grams of uranium, with 0.674% U-235 content, and 15 grams of uranium, with 0.743% U-235 content, to be used to calibrate a UF_6 mass spectrometer.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of this nuclear material under Contract Number S–CA–298 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than December 22, 1980.

For the Department of Energy.

Dated: December 1, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc.80-37752 Filed 12-4-80; 8:45 am]

BILLING CODE 6455-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Sweden Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the retransfer of 14 fuel rods containing 29.895 kilograms of uranium, enriched to 3.2% in U-235 from Sweden to the Federal Republic of Germany for factory inspection. After inspection, it is planned that the fuel rods will be retransferred back to Sweden as a part of the reload of fuel for the Ringhals 2 power reactor.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of this retransfer, designated as RTD/EU(SW)–55 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

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For the Department of Energy.

Dated: December 1, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-37753 Filed 12-4-80; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreements involves approval for the retransfer of 100 milligrams of uranium, enriched to 3% in U-235, and 0.5 milligrams of plutonium, to be used to determine the uncertainty of the analytical measurements of uranium and plutonium isotopes for safeguards purposes.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of this retransfer, designated as RTD/IAEA(EU)-13 will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than December 22, 1980.

For the Department of Energy.

Dated: December 1, 1980.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-37754 Filed 12-4-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement for Cooperation Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of contracts for the loan of the following materials:

Contract Number WC-EU-172, to the University of Liege, Belgium, 20 milligrams of Curium-248, 50 milligrams of Plutonium-242, and 100 milligrams of Neptunium-237, to be used to study the thermodynamic and magnetic properties of these materials.

Contract Number WC-CA-25, to the University of British Columbia, Canada, 50 milligrams of Uranium-236, to be used to study the Mu-minus capture in actinides.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: December 1, 1980.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 80-37755 Filed 12-4-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 80-CERT-033A]

Economic Regulatory Administration

Dow Chemical Co.; Changed Circumstances and Amendment to a Certification of the Use of Natural Gas To Displace Fuel Oil

On September 30, 1980, The Economic Regulatory Administration (ERA) issued the Louisiana Division of the Dow Chemical Company (Dow) a certification pursuant to 10 CFR Part 595 (80-CERT-033, 45 FR 66191, October 6, 1980) of an eligible use of a total volume of 1,500 million cubic feet (MMcf) of natural gas to displace 240,000 barrels of No. 6 fuel oil (.7 percent maximum sulfur) at Dow's Plaquemine Plant in Plaquemine, Louisiana. Due to the limited availability of the gas as represented by Dow in the original application, the certificate was only issued for a short term and expired on October 31, 1980.

On October 16, 1980, Dow notified ERA of changed circumstances concerning the delivery and use of the gas volumes certified and requested that the expiration date of the certification be extended until May 31, 1981, the current termination date of this fuel oil displacement program. Notice of the changed circumstances and the requested amendment was published in the **Federal Register** (45 FR 73730, November 6, 1980) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

Dow requests that its certification be extended until May 31, 1981, because it cannot utilize the volumes of gas purchased for fuel oil displacement by October 31. The application and certificate indicate that the eligible seller of the gas is the Alabama Tennessee Natural Gas Company (Alabama-Tennessee), and the gas will be transported through intrastate pipelines by the Louisiana Resources Company (Louisiana Resources), the Louisiana Intrastate Gas Corporation, the pipeline department of Dow, and by the Tennessee Gas Pipeline Company, an interstate pipeline. Dow now indicates that the seller (Alabama-Tennessee) will deliver gas to Louisiana Resources via the Tennessee Gas Transmission Company in daily quantities greater than Dow could utilize to displace fuel oil before October 31, 1980. Louisiana Resources has agreed to redeliver the natural gas to Dow at lower daily rates over a several month period. Dow has assured ERA that all of the gas certified and purchased from Alabama-Tennessee prior to October 31, 1980, will be used to displace fuel oil during the extended term of the certificate.

The ERA has carefully reviewed Dow's changed circumstances and request for amendment in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Dow's application and amendment request satisfies the criteria enumerated in 10 Part 595, and, therefore, has granted the amended certification to be effective upon issuance and transmitted that amended certification to the Federal Energy Regulatory Commission. Dow has informed the ERA that it did not expect to use the natural gas during the interim period between October 31, 1980, and the date of issuance of this amendment.

Thus, the lack of continuity with the original certificate will not result in any reduction in the amount of fuel oil displacement. More detailed information, including a copy of Dow's application, request for amendment, transmittal letter, and the actual amended certification are available for public inspection at the ERA, Division of Natural Gas Docket Room, Room 7108, RG-55, 2000 M Street, N.W., Washington, D.C. 20461, from 8:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., December 1, 1980.

F. Scott Bush,

Assistant Administrator, Office of Regulatory Policy, Economic Regulatory Administration.

[FR Doc. 80-37842 Filed 12-4-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-80-029; OFC Case Numbers 55217-9116-01 through 10-12]

Olin Corp.; Availability of Tentative Staff Analysis

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Availability of Tentative Staff Analysis.

SUMMARY: On August 25, 1980, the Olin Corporation (Olin) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order which would exempt ten leased, oil and gas-fired packaged boilers (hereafter oil/gas-fired boilers) from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*) Title II of FUA prohibits the use of petroleum or natural gas as a primary energy source in certain new major fuel burning installations (MFBI's). Pertinent procedures and criteria for petitioning for exemption from the prohibitions of FUA are contained in 10 CFR Part 500 and 501 and 10 CFR Parts 503, published on June 6, 1980, at 45 FR 38276 and 38302 respectively.

Under the provisions of 10 CFR 503.43(c), Olin has petitioned for ten separate scheduled equipment outages exemptions, one for each oil/gas-fired boiler it proposes to lease and use during each annual scheduled outage of its largest main boiler (boiler No. 8) for inspection, maintenance and repair for the years 1980 through 1989, at its Ecusta Paper and Film Group, Pisgah Forest, North Carolina facility. As stated by Olin in its petition, each of the packaged boilers will be of like size, with a maximum design heat input rate requirement of 155 million Btu's per hour and will be equipped with a combination burner for No. 2 fuel oil and natural gas. Natural gas will be the preferred fuel when it is available.

ERA accepted the petition on September 19, 1980, and published notice of its acceptance in the **Federal Register** on September 30, 1980 at 45 FR 64627. The Notice of Acceptance provided for a 45-day comment preiod during which interested persons could submit written comments and request a public hearing on the petition for exemptions. The period for submitting written comment and to request a public hearing expired on November 14, 1980. No comments were received nor was a public hearing requested.

On November 5, 1980, Olin filed a revision to its petition which stated that because market conditions are such as to allow reduction in production during the 1980 scheduled outage of main boiler No. 8, a leased boiler will not be used. Olin's revision changed the period for which the ten exemptions were requested to cover the use of leased packaged boilers during the years 1981 through 1990, and contained a revised schedule of operation reflecting the projected use of such MFBI's for those years. ERA has determined that Olin's petition, as revised on November 5, 1980, is complete, and its is accepted as filed in accordance with 10 CFR 501.3(d). In order to assure adequate notice of Olin's petition revision, which requests deferral of each of its requested exceptions for one year, ERA is providing an extended comment period of 45-days on this Notice of Availability of Tentative Staff Analysis.

Based upon ERA's review and analysis of the information presently contained in the record of this proceeding, a Tentative Staff Analysis has been completed which recommends that ERA issue an order granting a scheduled equipment outages exemption for each of the ten oil/gas-fired boilers Olin proposes to lease and operate, one each year, during the years 1981 through 1990.

ERA will issue a final order granting or denying the petition for the requested scheduled equipment outages exemptions within six months after the public comment period provided for in this notice has expired, unless ERA extends such period. Notice of any extension, together with a statement of reasons for such extension, will be published in the **Federal Register.**

As provided for in 10 CFR 501.64, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATES: Written comments on the Tentative Staff Analysis are due on or before January 19, 1981. A request for public hearing must also be made within the same 45-day comment period.

ADDRESSES: Fifteen copies of written comments or a request for public hearing should be submitted to: Ecomonic Regulatory Administration, Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461.

Docket Number ERA-FC-80-029 should be printed clearly on the outside of the envelope and on the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128, Washington, D.C. 20461, Phone (202) 653-4226.

Robert Goodie, Case Manager, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3128-J, Washington, D.C. 20461, Phone (202) 653-4257

Allan J. Stein, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6B-178, 1000 Independence Avenue, SW., Washington, D.C. 20585, Phone (202) 252-2907.

The public file containing a copy of the Tentative Staff Analysis and other documents and supporting materials on this proceeding is available for inspection upon request at: ERA, Room B-110, 2000 M Street, NW., Washington, D.C., Monday through Friday, 8:00 a.m.-4:30 p.m.

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas or petroleum as a primary energy source in new MFBI's consisting of a boiler unless an exemption for such use has been granted by ERA.

Olin proposes to use annually at its Ecusta Paper and Film Group facility, Pisgah Forest, North Carolina, a series of leased, oil and gas-fired packaged boilers, one each year, during the annual scheduled outage of its largest main boiler (boiler No. 8) for inspection, maintenance and repairs. The leased, oil/gas-fired boiler will be used to supply steam to Olin's manufacturing operation in order to avoid production losses which Olin states would occur while its largest main boiler is shut down. ERA's authority under FUA to grant an exemption is unit specific; that is, a permanent exemption may be granted by order for a single installation. Accordingly, under the provisions of 10 CFR 503.43, Olin has

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petitioned for ten separate scheduled equipment outages exemptions, one for each single oil/gas-fired boiler it proposes to lease and use each year, for the years 1981 through 1990 during the scheduled outage of its main boiler No. 8.

Under the authority of Section 212(j), of the Act, 10 CFR 503.43 sets forth eligibility criteria and evidentiary requirements for a permanent exemption for installations to meet scheduled equipment outages. To qualify a petitioner must demonstrate that his routine maintenance schedule does not permit, or could not be adjusted to permit, continuing production or other activity carried on at the site unless ERA grants this exemption; that the pertinent unit will be used only during those periods when other units are not in operation for reason of scheduled outage; and, where projected use of a unit will exceed an average of 28 days per year over a three-year period, that he cannot meet his requirements by using an alternate fuel. If the use of the unit during periods of scheduled equipment outages is not to exceed an average of 28 days per year over a three-year period, 10 CFR 503.43(c) provides for a certification alternative in lieu of the evidentiary requirements of 10 CFR 503.43(b). Olin has utilized the certification alternative, and has included in its petition the following duly executed certification for each of the ten requested exemptions:

(1) Its routine maintenance schedule does not permit, or could not be adjusted to permit continuing production or other activity carried on at its Pisgah Forest facility unless ERA grants this exemption.

(2) The use of the proposed units will not exceed an average of 28 days per year over a three-year period;

(3) The units will be used only during those periods when other units are not in operation for reason of scheduled outage in accordance with a schedule of operation submitted simultaneously which contains an estimate of the annual number of days used and fuel consumed. (Such schedule of operation was filed by Olin with its petition and was revised to reflect the change in the period for which the exemptions are requested on November 5, 1980);

(4) Use of a mixture of petroleum or natural gas and an alternate fuel is not commercially and technically feasible;

(5) Pursuant to 10 CFR 503.15(b), a duly executed certification that it will, prior to operating the units under the exemptions, secure all applicable environmental permits and approvals pursuant to, but not limited to, the following: Clean Air Act, Clean Water Act, Rivers and Harbors Act, Coastal Zone Management Act, Resource Conservation and Recovery Act; and

(6) Infomation required by the Environmental Checklist pursuant to 10 CFR 503.15(b).

The ERA staff has examined the certifications made by Olin in its petition and the revised schedule of operation covering Olin's proposed annual use of ten oil/gas-fired packaged boilers for the years 1981 through 1990. It is the ERA staff's determination that the certification in Olin's petition, as revised, fulfill the requirements of 10 CFR 503.43(c). Based upon that review, a Tentative Staff Analysis has been completed which recommends that an order be issued which would grant Olin the ten requested scheduled equipment outages exemptions for the oil/gas-fired boilers it proposes to lease and operate annually during the years 1981 through 1990 while its main boiler No. 8 is shut down for scheduled inspection, maintenance and repairs.

Terms and Conditions

Section 214(a) of FUA gives ERA the authority to attach terms and conditions to any order granting an exemption which are appropriate and consistent with the purposes of the Act. By petitioning for exemptions under the provisions of 10 CFR 503.43(c), Olin, in accordance with 10 CFR 503.43(d), must agree to the terms and conditions specified in that subsection. Such terms and conditions, as enumerated below, must accordingly be attached to any order which would grant the requested exemptions.

(1) Each exempted boiler will be operated only when necessary to meet scheduled equipment outages.

(2) Use of the exempted boilers will not exceed an average of 28 days per year over a three-year period.

(3) The quality of any petroleum to be burned in each exempted boiler as a primary energy source will be of the lowest grade available which is technically feasible, and capable of being burned consistent with applicable environmental requirements.

(4) That prior to operating each exempted boiler, Olin shall secure all applicable environmental permits and approvals pursuant to, but not limited to, the following: Clean Air Act, Clean Water Act, Rivers and Harbors Act, Coastal Zone Management Act and the Resource Conservation and Recovery Act.

Recommended Additional Terms and Conditions

Based upon an analysis of Olin's intended application of the requested scheduled equipment outages exemptions, the ERA staff recommends that in addition to the terms and conditions specified in 10 CFR 503.43(d), any order which would grant the requested exemptions should also be subject to the following terms and conditions:

(1) By this order, each of the ten oil/gas-fired boilers to be leased and operated annually during the years 1981 through 1990 is granted as exemption from the prohibitions of Title II of FUA. Upon disconnection of each boiler, the provisions of the exemption granted that specific boiler are terminated.

(2) When available, natural gas shall be used as the primary energy source in each exempted boiler.

Reporting Requirements. ERA will rely upon the revised schedule of operations filed by Olin as the permanent schedule for operation of each of the ten oil/gas-fired packaged boilers granted an exemption herein. Pursuant to 10 CFR 503.43(e), Olin shall notify ERA, in advance, of any changes to the data contained in the schedule of operation (Exhibit I).

Reports required under this order shall be sent to: Economic Regulatory Administration, Case Control Unit (Fuel Use Act), Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461.

The appropriate OFC Case Number, as listed below, shall be cited on each report filed with ERA pursuant to the above requirement.

Year and Assigned OFC Case Number

1981 55217–9116–01–12
1982 55217–9116–02–12
1983 55217–9116–03–12
1984 55217–9116–04–12
1985 55217–9116–05–12
1986 55217–9116–06–12
1987 55217–9116–07–12
1988 55217–9116–08–12
1989 55217–9116–09–12
1990 55217–9116–10–12

On August 11, 1980, DOE published in the **Federal Register** (45 FR 53199) a notice of proposed amendments to guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). The grant or denial of certain FUA permanent exemptions, including the permanent exemption by certification for scheduled equipment outages of less that 28 days per year, averaged over a three-year period, is among the classes of actions that DOE, pursuant to the guidelines, has proposed be categorically excluded from the requirement to prepare an Environmental Impact Statement pursuant to NEPA. This classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly affect the quality of the human environment. Olin has certified that it will secure all applicable permits and approvals prior to commencement of operation of each new unit under exemption. The Environmental Checklist completed and certified to by Olin pursuant to 10 CFR 503.15(b) has been reviewed by DOE's Office of Environment, with consultation from the Office of the General Counsel, and it has been determined that Olin's responses to the questions therein indicate that the operation of the oil/gas fired boilers during periods of annual scheduled outages of Olin's largest main boiler will have no impact on those areas regulated by specified laws that impose consultation requirements on DOE, and otherwise affirms the applicability of the categorical exclusion to this FUA action. Therefore, unless substantial questions regarding the categorical exclusion in this instance are raised during the proceeding on Olin's petition which would indicate oherwise, no additional environmental review is deemed to be required.

The Tentative Staff Analysis does not constitute a decision by ERA to grant the requested exemptions. Such a decision will be made in accordance with 10 CFR 501.68 on the basis of the entire record of this proceeding, including any comments received on the Tentative Staff Analysis.

Issued in Washington, D.C., on December 1, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-37841 Filed 12-4-80; 8:45 am]

BILLING CODE 6450-01-M

Union Texas Petroleum Corp.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed consent order and opportunity for comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order and provides an opportunity for public comment on the proposed Consent Order and on potential claims against the refunds deposited in an escrow account established pursuaant to the Consent Order.

DATES: November 19, 1980.
Comments by: January 5, 1981.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235 [Phone] (214) 767–7745.

SUPPLEMENTARY INFORMATION: On November 19, 1980, the Office of Enforcement of the ERA executed a proposed Consent Order with Union Texas Petroleum Corporation (UTP) of Houston, Texas, a subsidiary of Allied Chemical Corporation (Allied). Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more in the aggregate, excluding penalties and interest, becomes effective only after the DOE has received comments with respect to the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. Consent Order

Union Texas Petroleum Corporation is a firm engaged in the refining of crude oil, natural gas processor and the marketing of propane, motor gasoline and other refined petroleum products, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement, ERA as a result of its audit of sales of propane, motor gasoline and other refined petroleum products, the DOE and UTP entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the Consent Order was August 19, 1973 through June 1, 1976, and included all sales to certain propane, motor gasoline, and diesel fuel classes of purchaser which wre made during that period.

2. UTP and the DOE have determined the UTP had incorrectly calculated the May 15, 1973 selling prices which were included in the prices charged in certain propane, motor gasoline and diesel sales.

3. In order to expedite resolution of the disputes involved, the DOE and UTP, have agreed to a settlement in the amount of $1,325,000, including interest. The terms of the refund consists of a $1,325,000 cash payment to be refunded within 30 days of the effective date of the Consent Order. The negotiated settlement was determined to be in the public interest as well as the best interests of the DOE and UTP.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In the Consent Order, UTP agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the DOE, arising out of the transactions specified in I.1, the sum of $1,325,000 in the manner specified in I.3 above. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants*: Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments*: The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, TX 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling (214) 767–7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Union Texas Petroleum Corporation, Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on January 5, 1981. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 24th day of November, 1980.

Herbert F. Buchanan,

Deputy, Southwest District Manager, Economic Regulatory Administration.

[FR Doc. 80-37843 Filed 12-4-80; 8:45 am]

BILLING CODE 6450-01-M

Acceptance of Certain Petitions Filed for Approval of Electric System Compliance Plans

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Acceptance of Certain Petitions Filed for Approval of Electric System Compliance Plans.

SUMMARY: The Powerplant and Industrial Fuel Use Act of 1978 (FUA) prohibits existing electric powerplants from using natural gas as a primary energy source on or after January 1, 1990, and from using natural gas as a primary energy source before 1990 unless they burned natural gas in 1977, and then in no greater proportion than the average yearly proportion used by such powerplants in the calendar years 1974 through 1976.

The Economic Regulatory Administration (ERA) on June 12, 1979, issued an interim rule (44 FR 36002) and on August 1, 1980 the final rule (45 FR 53682) 10 CFR 504.4, implementing the electric utility system compliance option authorized by Section 501 of FUA. The final rule sets forth the criteria and procedures by which owners and operators of existing powerplants may be considered in compliance with the Title III FUA prohibitions on natural gas use by obtaining ERA approval of a system compliance plan. The regulations required a submission of certain elements of a proposed plan by January 1, 1980, and all additional submissions to complete a proposed plan by August 1, 1980.

ERA received petitions for orders for the approval of system compliance plans from 39 eligible utility systems by the August 1, 1980 deadline for submission. Upon preliminary review ERA determined that 13 of those petitions met the minimum requirements of 10 CFR 504.4(b) and published notice of acceptance of those petitions in the Federal Register on September 5, 1980 (45 FR 58948). At that time ERA also noticed its determination, pursuant to 10 CFR 501.3(f), that certain other petitions were incomplete. ERA notified those petitioners of the appropriate steps that they should take within 90 days to cure the defects in their petitions. ERA has received supplemental information from 17 of those petitioners, and has determined, upon preliminary review, that those 17 petitions now appear to meet the minimum requirements of 10 CFR 504.4(b) and is therefore accepting those petitions. In accordance with 10 CFR 501.31 and 10 CFR 501.33, interested persons are invited to submit written comments in regard to this matter. Also, any interested person may submit a written request for a public hearing.

DATE: Written comments and requests for a public hearing are due on or before February 1, 1981.

ADDRESSES: Fifteen copies of written comments or of any request for a public hearing shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 3214, 2000 M Street NW., Washington, D.C. 20461.

Docket Number ERA–FC–80–040 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B–110, Washington, D.C. 20461, (202) 653–4055

James W. Workman, Director, Powerplants Conversion Division, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 3128I, Washington, D.C. 20461, (202) 653–4268

Henry K. Garson, Acting Assistant General Counsel for Coal Regulations, Office of General Counsel, Department of Energy, 1000 Independence Avenue SW., Room 6B–178, Washington, D.C. 20585, (202) 252–2967

SUPPLEMENTARY INFORMATION: On June 12, 1979, ERA issued an interim rule (44 FR 36002) and on August 1, 1980 a final rule (45 FR 53682) implementing the authority granted to the Department of Energy by Section 501 of FUA.

The final rule (10 CFR 504.4) establishes the procedures that ERA will follow in implementing its authorities under Section 501 of FUA. Section 504.4(b) of the final rule contains a description of the requirements that petitioners must meet in order to obtain approval of their system compliance plans.

Approval of a system compliance plan will allow a utility system to comply with natural gas use prohibitions contained in FUA applicable to existing powerplants on a systemwide basis rather than on an individual powerplant basis. Through utilization of the system compliance option, utilities which are now heavily dependent upon natural gas will be allowed to develop a plan to accomplish an orderly phased reduction in natural gas use.

Upon receipt of petitions for orders for the approval of system compliance plans, ERA performed an initial review of the plans as specified in 10 CFR 501.3(c). ERA determined that petitions submitted by the owners/operators of certain utility systems did not meet the minimum requirements specified in 10 CFR 504.4(b). As of October 31, 1980, 17 of these owners/operators have submitted information supplemental to their original petitions; and, upon preliminary review, ERA has determined that the following utility systems have now submitted information sufficient to meet the minimum requirements specified in 10 CFR 504.4(b).

Name of petitioner	Location
Public Utilities Board	Brownsville, Tex.
Southern Colorado Power, a division of Central Telephone and Utilities.	Pueblo, Colo.
City of Clarksdale	Clarkedale, Miss.
Fort Pierce Utilities Authority	Fort Pierce, Fla.
Gainesville Regional Utilities	Gainesville, Fla.
City of Grand Island, Nebraska Electric Department.	Grand Island, Neb.
City of Lakeland	Lakeland, Fla.
Lake Worth Utilities Authority	Lake Worth, Fla.
Lea County Electric Cooperative, Inc.	Lovington, N. Mex.
Mississippi Power & Light Co.	Jackson, Miss.
Montana-Dakota Utilities Co.	Bismarck, N. Dak.
Nebraska Public Power District	Columbus, Neb.
The Central Nebraska Public Power & Irrigation District.	Holdrege, Neb.
St. Joseph Light & Power Co.	St. Joseph, Mo.
Southwestern Public Service Co.	Amarillo, Tex.
City of Tallahassee, Fla.	Tallahassee, Fla.
City of Vero Beach Municipal Electric System.	Vero Beach, Fla.

Pursuant to 10 CFR 501.3(d), ERA hereby accepts the petitions for orders approving system compliance plans from the above listed petitioners and is,

with this Federal Register notice, announcing the commencement, in accordance with 10 CFR 501.63, of the administrative proceeding for these petitions.

Acceptance of these petitions does not constitute approval of the plans by ERA, nor does it foreclose ERA from requesting further information during the course of its further review of the petitions and the proceedings. Failure to provide additional information as requested could result in ERA withdrawing its acceptance of the petition or may ultimately result in the denial of the request for the approval of the plan.

ERA is accepting the petitions based upon the petitioners having met the minimum requirements of 10 CFR 504.4(b). In its preliminary review of the petitions ERA has not determined the appropriateness of any recommended terms and conditions set forth in the petitions nor the accuracy of any information, data or calculations provided as a part of the petitions. Such terms and conditions, contingencies, stipulations, etc. will be reviewed and analyzed by ERA during the course of the administrative proceedings and are available for public review during the public comment period.

The public comment period regarding these matters will remain open until February 1, 1981. During this time ERA will request any necessary additional information or allow the correction of deficiencies in the petitions as originally filed.

The public file, containing all documents relating to accepted petitions is available for inspection upon request at: Economic Regulatory Administration Room B–110, 2000 M Street, N.W., Washington, D.C., Monday–Friday, 8:00 a.m.–4:30 p.m.

Issued in Washington, D.C. on November 29, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-37731 Filed 12-4-80; 8:45 a.m.]

BILLING CODE 6450-01-M

[ERA Case No. 62004-9076-27, 28-77]

Public Works Commission of the City of Fayetteville, N.C. Powerplants No. 7 and 8

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Classification of Powerplants Owned by the Public Works Commission, City of Fayetteville, North Carolina as Existing Facilities;

Powerplant and Industrial Fuel Use Act of 1978.

On June 28, 1979, the Public Works Commission, City of Fayetteville, North Carolina (PWC) requested that the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) classify two powerplants (Units No. 7 and 8) as existing facilities pursuant to 10 CFR 515.6 and the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act). Additional information was required by ERA and a revised request was submitted on November 9, 1979. On March 14, 1980, ERA published a summary of PWC's request for classification in the Federal Register (45 FR 16524) and requested comments by interested persons on or before April 4, 1980. ERA has not received any comment in response to that notice.

ERA has completed its analysis of PWC's request to classify Units No. 7 and 8 as existing facilities. PWC expended, in nonrecoverable outlays, more than 25 percent of the total projected project cost as of November 9, 1978, for Units No. 7 and 8 within the meaning of Section 515.6 of the Final Rule, and have demonstrated that a substantial financial penalty would result if the units were not classified as existing facilities.

ERA has classified PWC's Units No. 7 and 8 as existing facilities; subject to the provisions of Title III of FUA.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B–110, Washington, D.C. 20461, phone (202) 653–4055

Louis T. Krezanosky, Economic Regulatory Administration, Department of Energy, Room 3012 B, 2000 M Street NW., Washington, D.C. 20461, phone (202) 653–4208

James Renjilian, Office of General Counsel, Department of Energy, 1000 Independence Ave. SW., Room 6B–178, Washington, D.C. 20855, phone (202) 252–2967

A copy of ERA's Summary of Analysis dated September 24, 1980, is available for examination in the Office of Public Information, at the above address.

Issued in Washington, D.C.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-37750 Filed 12-4-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A–4–FRL 1692–4]

Prevention of Significant Deterioration of Air Quality; Full Delegation of Authority to the State of Alabama

AGENCY: Environmental Protection Agency.

ACTION: Information Notice.

SUMMARY: Section 301 in conjuction with Sections 101 and 110 of the Clean Air Act authorizes the Administrator to delegate his authority to implement and enforce the Prevention of Significant Deterioration of Air Quality (PSD) regulations to any State which has submitted adequate implementation and enforcement procedures. The Alabama Air Pollution Control Commission submitted to the EPA Region IV office a request that EPA relinquish to them it's responsibility for implementing and enforcing the PSD program. After a thorough review of the request and information submitted, the Regional Administrator determined that such delegation was appropriate for the source categories and with the conditions set forth in the letter reproduced below.

EFFECTIVE DATE: May 29, 1980.

FOR FURTHER INFORMATION CONTACT: Jerry Preston, Air Programs Branch, Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365, 404/881–3286 or FTS 257–3286.

SUPPLEMENTARY INFORMATION: Alabama was granted partial delegation on February 17, 1977 for the technical and administrative portions of the PSD program. On March 10, 1980, EPA Region IV office received a letter from the Alabama Air Pollution Control Commission requesting full delegation of authority for the implementation and enforcement of the PSD program. After a thorough review of the request and information submitted, the Regional Administrator determined that for the source categories set forth in the following official letter to the Director of the Alabama Division of Air Pollution Control, delegation was appropriate subject to the conditions set forth therein. Therefore, pursuant to the authority delegated to her by the Administrator, the Regional Administrator formally notified the Director of the Alabama Division of Air Pollution Control by the following letter that she relinquishes full PSD regulatory authority to the State of Alabama.

Mr. James W. Cooper,

Director, Division of Air Pollution Control, Alabama Air Pollution Control

Commission, 645 South McDonough Street, Montgomery, Alabama

Dear Mr. Cooper: This is in response to your letter of March 7, 1980 requesting delegation of Federal authority to implement and enforce all portions of the Prevention of Significant Deterioration (PSD) program.

We have reviewed the pertinent laws of the State of Alabama and the rules and regulations thereof, and have determined that they provide an adequate and effective procedure for full implementation of PSD by the State of Alabama.

On February 17, 1977, the Environmental Protection Agency (EPA) delegated to the State authority to implement only the administrative and technical portions of the PSD program. The portion not delegated on February 17, 1977, was the authority to take final action (issue PSD permit) on a PSD application, and enforce the PSD permit conditions. The letter of March 7, 1979, requests authority to make a final determination whether construction should be approved, approved with conditions or disapproved pursuant to 40 CFR 52.21 (40 CFR 52.21 (r)) and to enforce the permit requirements.

We have reviewed the procedures for new source review of the State of Alabama and have determined that they provide an adequate and effective procedure for the implementation of all the portions of the PSD program by the State of Alabama. Therefore, pursuant to 40 CFR 52.01 and 52.21 (52.21(v)), we hereby delegate our authority for all portions of the Federal PSD program, as described in 40 CFR 52.21, to the State of Alabama as follows:

A. Responsibility for all sources located in the State of Alabama subject to review for the prevention of significant air quality deterioration promulgated in 40 CFR 52.21. The categories of new sources covered by the delegation are:

Any of the following stationary sources of air pollutants which emit, or have the potential to emit, 100 tons per year or more of any air pollutant regulated under the Clean Air Act (the "Act"):

Fossil fuel-fired steam electric plants of more than 250 million British thermal units per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydro-fluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300 thousand barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants; and notwithstanding the source sizes specified above, any source which emits or has the potential to emit, 250 tons per year or more of any pollutant regulated under the Act.

B. This delegation is based upon the following conditions:

1. Quarterly reports containing pertinent information relating to the status of sources subject to 40 CFR 52.21 (or other reports as required by the Regional Administrator) will be submitted to EPA by the State of Alabama as part of the existing quarterly reports normally submitted to EPA through program planning reporting.

2. Upon approval of the Regional Administrator of Region IV, the Director of the Division of Air Pollution Control may delegate his authority to implement all or part of PSD to any local air pollution control authority in the State when such authority has demonstrated to the State's and EPA's satisfaction that it has an equivalent or more stringent program in force.

3. If at any time there is a conflict between a State regulation and a Federal regulation (40 CFR 52.01 and 52.21), the Federal regulation must be applied if it is more stringent than that of the State. If the State does not have the authority to implement a Federal regulation that is more stringent than the applicable State regulation, the pertinent portion of the authority may be revoked.

4. If the Regional Administrator determines that the State procedure for implementing all the portions of PSD program is inadequate, or is not being effectively carried out, this authority may be revoked in whole or in part. Any such revocation shall be effective as of the date specified in a Notice of Revocation to the Division of Air Pollution Control.

5. The State of Alabama will ensure, through its interstate intergovernmental cooperation procedures, that all potential source interactions along State boundaries are properly determined.

6. Enforcement of PSD in the State of Alabama will be the primary responsibility of the Division of Air Pollution Control. If the State determines that such enforcement is not feasible and so notifies EPA, or where the State acts in a manner inconsistent with the terms of this granted authority, EPA will exercise, its concurrent enforcement authority pursuant to Sections 113 and 167 or the Clean Air Act, as amended, with respect to sources within the State of Alabama subject to PSD requirements. In accordance with 40 CFR 52.21(s) and Sections 113 and 167 of the Clean Air Act, 42 U.S.C. 7413 and 7477, the Environmental Protection Agency reserves the right to commence an enforcement action against any entity in violation of Prevention of Significant Deterioration should the State of Alabama fail to take such an enforcement action or, in the opinion of EPA, fail to pursue a timely or appropriate enforcement action.

7. Acceptance of this delegation of presently promulgated PSD regulations does not commit the State of Alabama to request or enforce enforcement authority for future standards and requirements. A new request for enforcement authority will be required for any standards not included in paragraph A above.

The State and EPA will develop a system of communication sufficient to guarantee a program that includes the items described below:

A. Each agency is informed of the current compliance status of subject sources in the State of Alabama.

B. PSD reviews for which a Preliminary Determination has been submitted by the State to EPA, but a permit has not been issued, shall be completed using procedures of the partial delegation granted February 17, 1977.

C. Enforcement actions already initiated by EPA prior to this delegation of authority shall be completed by EPA.

The Division of Air Pollution Control shall send a copy of preliminary determinations and public comment notices required under paragraph (r) of 40 CFR 52.21 to the Air and Hazardous Materials Division, EPA Region IV at the same time the notice is forwarded for publication in the newspaper.

This delegation of authority should not be construed as a transfer of PSD responsibility under Section 110(a)(2)(J) of the Clean Air Act. As you are aware, such a transfer involves different procedures and considerations.

A notice announcing these actions will be published in the **Federal Register** in the near future. The notice will state, among other things, that effective immediately, all reports required pursuant to PSD by sources located in the State of Alabama will be reviewed and final permit approval action and enforcement will be taken by the Division of Air Pollution Control, Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama 36130.

Since this action is effective immediately, there is no requirement that the State notify EPA of its acceptance. Unless EPA receives from the State written notice of objections within 10 days of the date of receipt of this letter, the State will be deemed to have accepted all of the terms as stated herein.

Sincerely yours,

Rebecca W. Hanmer,

Acting Regional Administrator.

Copies of the request for delegation of authority are available for public inspection at the Environmental Protection Agency, Region IV Office, 345 Courtland Street, N.E., Atlanta, Georgia 30365.

Effective immediately, all reports required pursuant to PSD regulations should not be submitted to the EPA Region IV Office, but instead should be submitted to the State agency at the following address: Division of Air Pollution Control, Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama, 36130.

This notice is issued under the authority of Sections 101, 110, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7410, and 7601).

Dated: November 20, 1980.

John A. Littler,

Acting Regional Administrator.

[FR Doc. 80-37889 Filed 12-4-80; 8:45 am]

BILLING CODE 6560-38-M

[ER-FRL-1694-7]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Protection Agency.

PURPOSE: This notice lists the environmental impact statements (EISS) which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This notice includes EIS's filed during the week of November 24, 1980, to November 28, 1980.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this notice is calculated from December 5, 1980, and will end on January 19, 1981. The 30-day review period for final EIS's as calculated from December 5, 1980, will end on January 5, 1981.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this notice you should contact the Federal agency which prepared the EIS. This notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following source:

Information Resources Press, 1700 North Moore Street, Arlington, Virginia 22209 (703) 558-8270.

SUMMARY OF NOTICE: This notice sets forth a list of EIS's filed with EPA during the week of November 24, 1980, to November 28, 1980. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and county(ies) of the proposed action and a brief summary of the proposed federal action and the Federal agency EIS number, if available, is listed in this notice. Commenting entities on draft EIS's are listed for final EIS's. All additional information relating to EIS's such as time extensions or reductions of prescribed review periods, withdrawals, retractions, corrections or supplemental reports is also noticed under the appropriate agency.

FOR FURTHER INFORMATION CONTACT: Kathi L. Wilson, Office of Environmental Review, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (202) 245-3006.

Dated: December 3, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Director, Office of Environmental Quality, Office of the Secretary, U.S. Department of Agriculture, Room 412-A, Admin. Building, Washington, D.C. 20250 (202) 447-3965.

Forest Service

Draft

GYPSY MOTH SUPPRESSION AND REGULATORY PROGRAM: Regulatory, November 26: Proposed is a cooperative gypsy moth suppression and regulatory program. The program would affect Northeastern States that request financial assistance for the suppression of moth infestations and states where regulatory activities are implemented to eradicate existing infestations in locations isolated from the generally infested areas. The preferred alternatives involves chemical and biological insecticides and the gypsy moth pheromone. The cooperating agency is the animal and plant health inspection service (USDA-FS-DEIS-81-01). (EIS Order No. 800899.)

EXTENSION: The review period for the above EIS has been extended to January 23, 1981. (#800899)

WITHDRAWAL: Alaska national lands Withdrawal request, published FR September 5, 1980, (#800642 draft—has been officially withdrawn by the Forest Service.

Soil Conservation Service

Final

SPRING CREEK SUBWATERSHED PROTECTION: Sonoma County, Calif., November 24: Proposed is a watershed protection plan for the Spring Creek Subwatershed in Sonoma County, California. The project involves the installation of flood control measures consisting of the combination of a rectangular concrete channel, natural channel, shaped earthern channel, low profile drop structures and an underground conduit to divert peak flow. The alternatives consider: (1) No action, (2) a rectangular concrete channel, (3) underground conduit, and (4) combination of channels with underground conduit. Comments made by: USA, USDA, DOC, EPA, DOT, AHP, HHS, State, and local agencies, groups and individuals (EIS Order No. 800893.)

TEHACHAPI WATERSHED FLOOD PROTECTION PLAN: Kern County, Calif., November 24: Proposed is a flood protection plan for the Tehachapi Watershed located at the junction of the Sierra Nevada and Tehachapi mountain ranges in Kern County, California. The structural program will include: (1) Two floodwater retarding structures with diversion inlets at the mouths of antelope and blackburn canyon, (2) 0.2 miles of work on existing channels, and (3) 20.5 miles of planting and three watering facilities. The alternatives considered are: (1) No project, (2) land treatment only, (3) nonstructural flood prevention, and (4) ten alternative structural measures. Comments made by: EPA, USDA, COE, DOC, HEW, DOI, State and local agencies, individuals. (EIS Order No. 800894.)

U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of the Chief of Engineers, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

Draft

SEPULVEDA FLOOD CONTROL BASIN/ RECREATIONAL AREA: Los Angeles County, Calif., November 28: Proposed is development of a recreational area within Sepulveda Basin in Los Angeles County, California. The proposed plan would include: (1) 220 acres of informal park, (2) 20 acres for a tennis and swimming complex, (3) 50 acres of playfield area, (4) 120 acres for a recreational-rowing lake, and (5) a 60-acre arts park. Three build alternatives and no action are considered (Los Angeles District). (EIS Order No. 800905.)

SMITH ISLAND SHORE EROSION AND NAVIGATION PROJECT: Maryland and Virginia, November 26: Proposed is a shore erosion control and navigational improvement plan for Smith Island, Somerset County, Maryland. The alternatives condsider: (1) Shore erosion control for the Chesapeake Bay side of the Barrier Island west of Rhodes Point, (2) navigational access for Rhodes Point and Tylerton to the Chesapeake Bay, and (3) a combination of shore erosion control and navigation improvements (Baltimore District). (EIS Order No. 800898.)

EXTENSION: The review period for the above EIS has been extended to January 31, 1981. (No. 800898)

Revised Draft

SEQUIM BAY BOAT HAVEN, MARINA FACILITY: Clallam County, Wash., November 28: Proposed is the development of a marine facility at Pitship Point on the west shore of Sequim Bay, Clallam County, Wash. The preferred alternative would involve a wet morrage basin with 422 berths ranging in length from 24 to 50 feet, and dry storage sheds for 104 boats up to 24 feet in length. The alternatives consider options for: (1) Type of facility, (2) location, (3) design, and (4) disposal. The original draft EIS, No. 771204, filed 9-26-77 is replaced by revised draft EIS, No. 800902, filed 11-28-80 (Seattle District). (EIS Order No. 800902.)

Draft Supplement

TAYLORS BAYOU FLOOD PROTECTION (DS-1): Jefferson County, Tex., November 24: This statement supplements final EIS, No. 751246, filed 8-20-75 concerning a drainage and flood control project for Taylors Bayou in Jefferson County, Texas. Proposed is the implementation of a redesigned project using upland disposal areas, modified construction methods, incorporation of a wildlife mitigation plan and excavation by hydraulic

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pipeline dredge (Galveston District). (EIS Order No. 800890.)

CIVIL AERONAUTICS BOARD

Contact: Mr. Arnold G. Konheim, Chief, Environmental Programs Division, Civil Aeronautics Board, Mail Code B-89, 1825 Connecticut Avenue, NW., Washington, D.C. 2028, (202) 673-5205.

Draft

JOHN WAYNE AIRPORT PERMISSIVE AUTHORIZATION: Orange County, Calif., November 28: Proposed is the granting of multiple permissive authorization for additional air services at John Wayne Airport in Orange County, California. Three alternatives are considered which include: (1) No action which would involve denial of all options, (2) open option which would grant unrestricted route authority to all fit, willing and able carriers, and (3) limited entry which grants nonstop authority to all applicants but involves specific noise restrictions (Docket No. 33237). (EIS Order No. 800901.)

EXTENSION: The review period for the above EIS has been extended to January 23, 1981. (#800901)

DEPARTMENT OF COMMERCE

Contact: Dr. Robert T. Miki, Acting Deputy Assistant Secretary for Regulatory Policy, Room 7614, Department of Commerce, Washington, D.C. 20230, (202) 377-2482.

Economic Development Administration

Final

WOONSOCKET INDUSTRIAL PARK-EAST, GRANT: Providence County, R.I., November 25: Proposed is the awarding of a grant for the construction of the Woonsocket Industrial Park-East in Woonsocket, Providence County, Rhode Island. The industrial park would involve the installation of utilities and the construction of a roadway. The alternatives consider: (1) Development of other industrial sites within the city, (2) development of regional industrial parks outside the city, and (3) alternative means of developing the East Woonsocket area for industrial use. Comments made by: DOE, HHS, EPA, COE, AHP, DOI, HUD, State and local agencies, businesses. (EIS Order No. 800895.)

EXTENSION: The review period for the above EIS has been extended to January 7, 1981. (#800895)

ENVIRONMENTAL PROTECTION AGENCY

Contact: RTP Library, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-2777.

Draft

ASPHALT ROOFING MANUFACTURING INDUSTRY, STANDARDS: Regulatory, November 28: Proposed are performance standards for the asphalt roofing manufacturing (ARM) industry. The alternatives considered would apply particulate control technology to different combinations of the four major facilities which may be located in ARM plants, oil refineries, or asphalt processing plants (EPA-450/3-80-021A). (EIS Order No. 800903.)

Final

AMMONIUM SULFATE MANUFACTURE, EMISSION STANDARDS: Regulatory, November 24: Proposed are emission standards for the manufacture of ammonium sulfate ("AS") which apply to the three major segments of the "AS" industry which include: (1) Caprolactam by-product plants, (2) synthetic plants, and (3) coke oven product plants. Emission standards would restrict particulate emissions from "AS" dryers to: 0.150 kilograms per megagram of AS production (0.30 pounds per ton), and 15 percent opacity. The control systems under consideration include: (1) Venturi scrubbers, and (2) fabric filters. Comments made by: State agencies and businesses. (EIS Order No. 800892.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6300.

Final

CREEKSIDE AND RIVER HILLS VILLAGES: Montgomery County, Tex., November 3: Proposed is the issuance of HUD home mortgage insurance for the River Hills Village and Creekside Village subdivisions in Montgomery County, Texas. When completed, these subdivisions, which encompass approximately 431.51 acres, are expected to consist of approximately 1,693 single-family dwelling units (HUD-RO6-EIS-80-7F). Comments made by: EPA, AHP, DOT, DOI, HEW, FEMA, State agencies. (EIS Order No. 800838.)

CORRECTION: The above EIS should have appeared in the report published in FR November 17, 1980. The review period began on November 14, 1980, and will terminate on December 15, 1980. (#800838)

Section 104(H)

The following are community development block grant statements prepared and circulated directly by applicants pursuant to section 104(H) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local executive. Copies are not available from HUD.

Final

RINCON POINT-SOUTH BEACH REDEVELOPMENT, CDBG: San Francisco County, Calif., November 28: Proposed is a redevelopment plan for the Rincon Point-South Beach area of the city and county of San Francisco, California. The plan provides for: (1) 2,600 new mixed income units, (2) two public parks encompassing 13.5 acres, (3) a boat harbor containing spaces for up to 400 boats, (4) the rehabilitation and adaptive re-use of several structures of historic merit, and (5) a hotel complex containing up to 800 rooms. Comments made by: EPA, COE, DOI, DOT, State and local agencies, businesses. (EIS Order No. 800897.)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

Bureau of Land Management

Draft

WHITE RIVER DAM WATER DEVELOPMENT PROJECT, Uintah County, Utah, November 28: Proposed is the White River Dam Water Supply Development Project in Uintah County, Utah. The project would supply water for energy development including oil shale. The alternatives consider various water sources and no action. The cooperating agencies are the FWS, WPRS, GS, EPA, and the State of Utah (DES-80-74). (EIS Order No. 800906.)

EXTENSION: The review period for the above EIS has been extended to February 10, 1981. (#800906)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environment and Safety, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590 (202) 426-4357.

Final

REHABILITATION ACT OF 1973, SECTION 504: Regulatory, November 25: Proposed are regulations implementing section 504 of the Rehabilitation Act of 1973 (nondiscrimination on the basis of handicap). The regulation generally requires accessibility for the handicapped of transportation systems receiving Federal financial assistance. Alternatives considered include: No requirements beyond those in effect before the regulation was issued, variations in compliance schedules and in the proportions of facilities that must be accessible to those who cannot use steps, and local option for cities to provide paratransit services in lieu of accessible transit. Comments made by: EPA, DOI, HUD, ICC, State and local agencies, groups, individuals and businesses. (EIS Order No. 800896.)

Federal Highway Administration

Draft

COALBANK SLOUGH BRIDGE REPLACEMENT: Coos County, Oreg., November 28: Proposed is the replacement of the Coalbank Slough Bridge located on the Oregon Coast Highway, city of Coos Bay, Coos County, Oregon. The alternatives consider various locations and fixtures, including fixed spans and bascule spans, and no actions. The cooperating agency is the State of Oregon (FHWA-OR-EIS-80-05-D). (EIS Order No. 800904.)

Draft

VA-460 UPGRADING AND RELOCATION: Buchanan and Dickenson Counties, Va., November 24: Proposed is the upgrading and relocation of VA-460 from the Virginia-Kentucky State line to the community of Deel in Buchanan and Dickenson Counties, Virginia. The total length of the project is 19 miles. Construction would begin on existing VA-80, and in five of the seven build alternatives tie into a newly constructed four lane section of VA-40 northwest of the Grundy CBD. Other features of the project include a bridge over Levisa fork and an interchange with VA-83. The cooperating agency is the State of Virginia (FHWA-VA-EIS-80-02-D). (EIS Order No. 800891.)

Report

REPORT—I-15/I-91 4(F) EVALUATION: Jefferson County, Mont., November 28: This supplemental report provides current information concerning the use of 4(F) lands in conjunction with the improvement of I-15/I-91, in Jefferson County, Montana. The report relates to final EIS, No. 741088, filed 7-24-74 (FHWA-MT-EIS-04-F). (EIS Order No. 800900.)

[FR Doc. 80-37944 Filed 12-4-80; 8:45 am]

BILLING CODE 6560-37-M

[OPTS-59036A; TSH-FRL 1694-1]

Pesticides and Toxic Substances; Approval of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On September 23, 1980 EPA received an application for a test marketing exemption from the premanufacture notification requirements of section 5 of the Toxic Substances Control Act (TSCA) from International Minerals and Chemical Corporation. The Test Marketing Exemption (TME) number assigned to the substance was T-80-41. EPA has determined that the manufacturer's test marketing of the chemical substance will not present any unreasonable risk of injury to health or the environment. Therefore, the Agency has granted the manufacturer an exemption from the TSCA premanufacture reporting requirements for test marketing in the manner described in the application. The exemption is effective immediately.

FOR FURTHER INFORMATION CONTACT: Mary Cushmac, Chemical Control Division (TS-794), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Washington, D.C. 20460, (202-426-3980).

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, anyone who intends to manufacture or import a new chemical substance for commercial purpose in the United States must submit a notice to EPA before manufacture or import begins. A "new" chemical substance is one that is not on the Inventory of existing substance compiled by EPA under section 8(b) of TSCA. Section 5(a)(1) requires each premanufacture notice (PMN) to be submitted in accordance with section 5(d) and any applicable requirements of section 5(b). Section 5(d)(1) defines the contents of a PMN and section 5(b) contains additional reporting requirements for certain new chemical substances.

Section 5(h), "Exemptions," contains several provisions for exemption from some or all of the requirements of section 5. In particular, section 5(h)(1) authorizes EPA, upon application, to exempt persons from any requirement of section 5(a) or section 5(b), to permit them to manufacture or process chemical substances for test marketing purposes. To grant an exemption, the Agency must find that the test marketing activities will not present any unreasonable risk of injury to health or the environment. EPA must either approve or deny the application within 45 days of its receipt, and under section 5(h)(6) the Agency must publish a notice of its disposition in the **Federal Register**. If EPA grants a test marketing exemption, it may impose restrictions on the test marketing activities.

On September 23, 1980 EPA received an application from International Minerals and Chemical Corporation for an exemption from the requirements of sections 5(a) and 5(b) of TSCA, to manufacture the new chemical substance identified by the generic name, amino alkanol salt (25 percent aqueous solution), for test marketing purposes.

A **Federal Register** notice published on October 20, 1980 (45 FR 69292) announced the receipt of the exemption application and requested comment on the appropriateness of granting the exemption. The Agency received no comment concerning the application.

The company stated in the application that the substance would be used as a pigment dispersant for latex paint and also as a polyelectrolyte for industrial cooling water. The submitter provided information on the volume of the substance to be produced during test marketing, the number of persons who will come in contact with the material, and the route and duration of such exposure. The company also submitted the following test data for the substance:

Acute oral toxocity (rat) $LD_{50} < 6$ g/kg
Primary eye irritation (rabbit) Non-irritating
Primary skin irritation (rabbit) Non-irritating
Primary skin corrosion (rabbit) Non-corrosive

Considering both the toxicity and exposure, the Agency has determined that the manufacture, production, and use of the substance, in the manner described in the test market application, will not present an unreasonable risk to the people who come into contact with it during manufacture, processing, or use. In addition, there are no environmental concerns with the release or disposal of this substance. Thus, the Agency has decided to grant a test marketing exemption to this company for the limited manufacture of the substance described in the test marketing exemption application.

At least 90 days prior to manufacturing the substance listed in the application for commercial purposes other than test marketing or in small quantities solely for research and development activities, the manufacturer must submit a premanufacture notice (PMN) as required under section 5(a) of TSCA. This exemption is granted solely to the applicant of T-80-41 for use in the manner described in the test marketing exemption application.

Dated: November 26, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-37804 Filed 12-4-80; 8:45 am]

BILLING CODE 6560-31-M

[A-6-FRL 1693.7]

Approval of PSD Permit to Cameron Iron Works, Inc.

Notice is hereby given that on October 22, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-TX-233, to Cameron Iron Works for approval to expand the Cypress Plant Smelt shop with the addition of a vacuum arc degassing/vacuum oxygen decarburization (VAD/VOD) furnace located at 22501 U.S. Highway 290 in Houston, Harris County, Texas. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-TX-233 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of todays's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270

Office of the City Secretary, City Hall, 900 Brazos, P.O. Box 1562, Houston, Texas 77001

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Dated: November 18, 1980.

Fran Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-37795 Filed 12-4-80; 8:45 am]

BILLING CODE 6560-38-M

[A-6-FRL 1693-4]

Approval of PSD Permit to Coastal States Petroleum Company

Notice is hereby given that on October 14, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-TX-243, to the Coastal States Petroleum Company for approval to expand the existing petroleum refinery by 40,000 barrels per stream day located off Highway 37 at Corpus Christi, Nueces County, Texas. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-TX-243 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270

Office of the City Secretary, City Hall, P.O. Box 9277, Corpus Christi, Texas 78408

Dated: November 18, 1980.

Fran Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-37796 Filed 12-4-80; 8:45 am]

BILLING CODE 6560-38-M

[A-6-FRL 1693-2]

Approval of PSD Permit to Conoco, Incorporated

Notice is hereby given that on October 8, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-LA-291, to Conoco for approval to construct a Linear Alkyl Benzene facility located at the Conoco complex off Houston River Road in Westlake, Calcasieu Parish, Louisiana. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-LA-291 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270

Office of the Mayor, City Hall, P.O. Box 635, Westlake, Louisiana 70669.

Dated: November 18, 1980.

Fran Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-37797 Filed 12-4-80; 8:45 am]

BILLING CODE 6560-38-M

[A-6-FRC 1693-3]

Approval of PSD Permit to Hill Petroleum Company

Notice is hereby given that on October 9, 1980, the Environmental Protection Agency (EPA) issued an amended Prevention of Significant Deterioration (PSD) permit, number PSD-LA-140, to Hill Petroleum Company for approval to expand their crude topping facility located near Krotz Springs, Louisiana. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-LA-140 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Curcuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Dated: November 18, 1980.

Fran Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-37798 Filed 12-4-80; 8:45 am]

BILLING CODE 6560-38-M

[A-6-FRL 1693-0]

Approval of PSD Permit to Nederland Processing Company

Notice is hereby given that on October 31, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-TX-262, to Nederland Processing Company for approval to construct a new petroleum refinery to be located near the intersection of Highways 366 and 347 at Nederland, Jefferson County, Texas. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-TX-262 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the City Secretary, City Hall, P.O. Box 967, Nederland, Texas 77627.

Dated: November 18, 1980.

Fran Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-37799 Filed 12-4-80; 8:45 am]

BILLING CODE 6560-38-M

[A-6-FRL 1692-8]

Approval of PSD Permit to Oasis Pipeline Company

Notice is hereby given that on October 6, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-TX-334, to Oasis Pipeline for approval to modify the Winchester Compressor Station located approximately 11 miles south-southwest of Giddings of FM 448 in Fayette County, Texas. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-TX-334 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Office of the City Secretary, City Hall, P.O. Box 187, La Grange, Texas 78945.

Dated: November 18, 1980.

Fran Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-37800 Filed 12-4-80; 8:45 am]

BILLING CODE 6560-38-M

[A-6 FRL 16 93-1]

Approval of PSD Permit to Olinkraft, Incorporated

Notice is herey given that on October 8, 1980, the Environmental Protection Agency (EPA) issued an amended Prevention of Significant Deterioration (PSD) permit, number PSD-LA-37, to Olinkraft for approval to modify their pulp and paper mill located in West Monroe. Ouachita Parish, Louisiana. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-LA-37 is available *only* by the filing a petition for review on the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies if the permit are available for public inspection upon request at the following locations.

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270.

Dated: November 18, 1980.

Fran Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-37801 Filed 12-3-80; 8:45 am]

BILLING CODE 6560-38-M

[A-6-FRL 1693-5]

Approval of PSD Permit to Petraco Valley Oil and Refining Company

Notice is hereby given that on October 15, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-TX-236, to the Petraco Valley Oil and Refining Company for approval to construct a 100,000 barrel per day refinery located on Texas Highway 48, between the existing Gulf Energy and Union Carbide facilities. Brownsville, Cameron County, Texas. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-TX-236 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270

Office of the City Secretary, City Hall, P.O. Box 944, Brownsville, Texas 78520.

Dated: November 18, 1980.

Fran Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-37802 Filed 12-4-80; 8:45 am]

BILLING CODE 6560-38-M

[A-6-FRL 1693-6]

Approval of PSD Permit to Phillips Petroleum Company

Notice is hereby given that on October 23, 1980, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit, Number PSD-TX-102, to Phillips Petroleum Company for approval to modify the petroleum refinery located on State Highway 119, 3 miles northeast of Borger, Hutchinson County, Texas. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions stated in the permit.

Under Section 307(b)(1) of the Clean Air Act, judicial review of PSD-TX-102 is available *only* by the filing of a petition for review in the United States Court of Appeals for the Fifth Circuit within 60 days of today. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may *not* be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region 6, Air Enforcement Branch, 1201 Elm Street, First International Building, Dallas, Texas 75270

Office of the City Secretary, City Hall, P.O. Box 5250, Borger, Texas 79007.

Dated: November 18, 1980.

Fran Phillips,

Acting Regional Administrator, Region 6.

[FR Doc. 80-37803 Filed 12-4-80; 8:45 am]

BILLING CODE 6560-38-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. B-6]

AM Broadcast Applications Accepted for Filing and Notification of Cut-Off Date

Released: December 3, 1980.

Cut-off date: January 12, 1981.

Notice is hereby given that the following applications have been accepted for filing. Because they are in conflict with applications previously accepted for filing and listed as subject to cut-off dates for conflicting applications, no application which would be in conflict with these applications will be accepted for filing.

Petitions to deny these applications must be on file with the Commission not later than the close of business on January 12, 1981.

Minor amendments to these applications, and to the applications they are in conflict with, may be filed as a matter of right not later than the close of business on January 12, 1981. Amendments filed pursuant to this

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notice are subject to the provisions of § 73.3525(b) of the Commission's Rules.

BP–781205AG—New, Burnside, Kentucky; Glen J. Goldenberg; Req: 910 kHz, 500 W, DA, Day

BP–800627AA—KSPO, Spokane, Washington; Radio Spokane, Inc.; Has: 1230 kHz, 250 W, 1 kW–LS, U; Req: 1690 kHz, 5 kW, DA–2, U

BP–801031AF—New, Redlands, California; William Gittler, Manuel Cervantes, and Bernard J. Campbell d.b.a. G. C. and C. Enterprises; Req: 1410 kHz, 500 W, 5 kW–LS, DA–N, U (Mutually exclusive with renewal application for KCAL, Redlands)

BP–801103AG—New, San Gabriel, California; Life Broadcasting Company, Inc.; Req: 1430 kHz, 5 kW, DA–2, U (Mutually exclusive with renewal application for KALI, San Gabriel)

Federal Communications Commission.

William JH. Tricarico,

Secretary.

[FR Doc. 80-37734 Filed 12-4-80; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Establishment of FEMA Advisory Board

The following is the notice of establishment of a new FEMA Advisory Committee.

George Jett,

December 1, 1980.

General Counsel.

Establishment of FEMA Advisory Board

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. II, 1972) and Office of Management and Budget Circular A–63 of March 1974, and after consultation with the General Services Administration, the Director of FEMA has determined that the establishment of the FEMA Advisory Board is in the public interest in connection with the performance of duties imposed on the agency by law.

As the principal advisory body to the Director, the objective of the Board is to provide him with independent advice on the adequacy of FEMA plans and programs in areas of civil emergencies, such as: Natural or man-made disasters; mobilization of resources and stabilization of the economy during crisis or war; civil defense and continuity-of-government measures during conflict; essential post-conflict resources management for national reconstitution; and other civil emergency roles assigned by Acts of Congress or by Executive Order.

The Board will draw on the expertise of its members and other sources (e.g., FEMA emergency plans and programs, analyses, interrelated activities of other Agencies) to provide advice and make recommendations to the Director. Besides its evaluating role on FEMA high priority civil preparedness programs, the Board will provide advice concerning mission priorities, methodology for addressing objectives, training-education exercise programs, and new concepts related to emergency preparedness.

The Board will function solely as an advisory body, and will comply fully with the provisions of the Federal Advisory Committee Act (the "Act").

The Board shall consist of 20 members to be appointed by the Director to assure a balanced representation of experts in areas of natural disasters and national security, such as: physical scientists and engineers, sociologists, political scientists, and economic experts drawn from universities, industry, nonprofit organizations, etc. The members will be appointed for 2-year terms and serve at the discretion of the Director.

The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act, 15 days from the date of the publication of this notice.

Interested persons are invited to submit comments regarding the establishment of the FEMA Advisory Board. Such comments, as well as any inquiries, may be addressed to the Rules Docket Clerk, Room, 801, 1725—I Street, NW, Washington, DC 20472.

Dated: July 17, 1980.

John W. Macy, Jr.,

Director

[FR Doc. 80-37758 Filed 12-4-80; 8:45 am]

BILLING CODE 6718-01-M

FEMA Advisory Board Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act announcement is made of the following committee meeting.

Name: Federal Emergency Management Agency Advisory Board.

Date of Meeting: December 18, 1980.

Place: Federal Emergency Management Agency National Operations Center, 1725 I Street, NW., Washington, D.C. 20472.

Time: 9:00 a.m. to 5:00 p.m.

Purpose and proposed agenda: Reports from FEMA program heads, from officials of the National Security Council, discussions with respect to internal modus operandi of Board.

Parts of the meeting will be open to the public and parts will be closed. The Director has determined that the afternoon session and part of the morning session should be closed because disclosure is likely to disclose matters that are specifically authorized to be kept secret in the interest of the national defense or foreign policy, and are properly classified pursuant to Executive Order.

For that part of the meeting open to the public, there are approximately 20 seats available on a first come first serve basis. Members of the general public who plan to attend the meeting should contact Mr. Dalimil Kybal, Room 1022, Premier Building, 1725 I Street NW., Washington, D.C. (202) 653–7880.

Dated: December 2, 1980.

George Jett,

General Counsel.

[FR Doc. 80-37759 Filed 12-4-80; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 25, 1980. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T–639–5.

Filing party: William E. Emick, Jr., Deputy City Attorney, Office of the City Attorney of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Summary: Agreement No. T–639–5, between the City of Long Beach and Atlantic Richfield Co. (Richfield), modifies the parties' basic agreement which provides for the lease of certain lands located on Pier E in the Harbor District of the City of Long Beach for the purpose of constructing and operating a marine terminal. The purpose of the modification is to delete from the lease a portion of the premises, with a proportionate reduction in rent, and to alter Richfield's obligation to remove certain tenant-installed improvements.

Agreements Nos.: T–3934 and T–3934–1.

Filing party: Randall V. Adams, Traffic, Port of Palm Beach, P.O. Box 9935, Riviera Beach, Florida 33404.

Summary: Agreement No. T–3934, between Port of Palm Beach and Florida Molasses Exchange, Inc., provides for the exclusive use of Parcels 1 and 2 located at Riviera Beach, Florida. The lease shall continue in effect until March 31, 1993, with renewal options. The premises will be used for the operation of storage facilities for molasses and liquid cattle feed. The parties agree to an annual rental charge of $7,225.35 on Parcel 1 and $6,156.72 on Parcel 2, with an increase every three years based upon the cost of living index. The parties further agree to applicable taxes and current tariff charges, guaranteed minimum wharfage, and other terms provided therein.

Agreement No.: T–3934–1 amends the basic agreement by changing the annual rental charge on Parcel 1 from $7,225.35 to $7,326.33.

Agreement No.: T–3935.

Filing party: Marion L. Moore, Jr., Traffic Manager, South Carolina State Ports Authority, P.O. Box 817, Charleston, South Carolina 29402.

Summary: Agreement No. T–3935, between South Carolina State Ports Authority (Authority) and Puerto Rico Maritime Shipping Authority (PRMSA), provides for PRMSA's lease of 8.3 acres of land in the Authority's Remount Road Container Storage Area together with a storage area measuring 100' by 30' for two RO/RO ramps at Charleston, S.C. The term of the agreement is 10 years with options to extend for two additional consecutive 5-year terms. PRMSA will provide structures and utilities for its business purposes. PRMSA shall have an option to relocate the lease to a "Subsequent Relocation Area" of 9.5 acres in Berkley and Charleston counties, when the facilities thereon are completed. PRMSA will pay to the Authority a rental of $5,348.61 per month, and $200 for storage of the RO/RO ramp. In the event that PRMSA decides to relocate to the relocation area, compensation will be as set forth in detail in the agreement. PRMSA shall pay wharfage and dockage to the Authority as provided in the Authority's applicable tariff, subject to a guaranteed annual minimum of 150,000 short tons of wharfage.

Agreement No.: 10041–8.

Filing party: Hopewell H. Darneille, III, Esquire, Sullivan & Beauregard, 1800 M Street NW., Washington, D.C. 20036.

Summary: Agreement No. 10041–8 proposes to modify the basic U.S. Atlantic/Peru Pooling Agreement to: (1) enlarge the list of cargoes excluded from the pool to include "chemicals or fertilizers in bulk, in containers, also refrigerated cargo in containers, and liquid cargo in tank containers"; (2) increase the minimum number of annual sailings from 15 to 19 sailings; (3) add a new article which permits the parties to meet quarterly to revise the minimum sailings to meet the demands of the trade; (4) provide for annual or semiannual review meetings of pool principals; (5) change the interest rate on late settlement of pool balance from 6 percent to the prime rate of the Marine Midland Bank of New York City in effect on the 31st day after issue of pool accountant's statement; (6) add a new article which provides for a 5 percent penalty grace so that penalty payments would not be applicable unless either line's earnings exceed 55 percent of the total pool revenue; (7) delete article 9 which defines carrier's rights and duties; (8) provide for the rewriting of the article providing for arbitration for compliance with the new Constitution of the Republic of Peru as well as U.S. laws and customs; (9) extend the term to be effective through December 31, 1982; and, (10) add a new article which provides that any period of the extension of the agreement expiring December 31, 1980, will be combined for accounting purposes and computation of pool shares under this agreement for the Pool year 1981.

Agreement No.: 10407.

Filing party: Roy G. Bowman, Sullivan & Beauregard, 1800 M Street NW., Washington, D.C. 20036.

Summary: Agreement No. 10407, among Farrell Lines Incorporated, Delta Steamship Lines, Inc., and Nigerian National Shipping Line, Ltd., provides for the discussion, consideration, and exchange of data related to matters of interest to carriers in the Nigerian/U.S. trade. The agreement does not obligate any party to exchange information, or limit the right of any party to make changes in its present rates, rules, and practices. Any carrier by water operating a U.S. flag vessel, a Nigerian-flag vessel, or a third-flag vessel in commercial common carrier service between ports in Nigeria and the U.S. may become a party to the agreement. The agreement, upon Commission approval, will remain in effect for a period of 2 years.

By Order of the Federal Maritime Commission.

Dated: December 2, 1980.

Francis C. Hurney,

Secretary.

[FR Doc. 80-37845 Filed 12-4-80; 8:45 am]

BILLING CODE 6730-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposals (FCC, NRC)

The following requests for clearance of reports intended for use in collecting information from the public were received by the Regulatory Reports Review Staff, GAO, on November 28, 1980 (NRC), and December 1, 1980 (FCC). See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipts.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC and NRC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before December 23, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202–275–3532.

Federal Communications Commission

The FCC requests clearance of a new Form 572, Temporary Permit to Operate a Business Radio Station. Form 572 is required by §§ 1.922, 1.925, 2.302, 90.119, 90.159 and 90.437 of the Commission's Rules. This form will enable eligible applicants in the Business Radio Service to become temporarily licensed and begin operating qualified radio systems prior to the receipt of a permanent

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authorization from the Commission. Form 572 will be used in conjunction with FCC Form 400, Application for Radio Station Authorization in Private Radio Services. The FCC estimates that respondent burden will average 10 minutes per response and that approximately 37,000 applications will be received annually.

Nuclear Regulatory Commission

The NRC requests clearance of revisions to 10 CFR Part 50, Domestic Licensing of Production and Utilization Facilities, consisting of a new Appendix R—Fire Protection Program for Nuclear Power Facilities. The regulations in new Appendix R will require that each nuclear power plant have a manual firefighting brigade and that each brigade consist of at least five persons on each shift. Minimum levels of training for each brigade member are also prescribed. Appendix R contains reporting requirements in Section III.L3.d which require that drills shall be critiqued at three-year intervals by qualified individuals independent of the licensee's staff and a copy of the report from such individuals shall be submitted to NRC for evaluation. Section III.I.4 requires that records of training provided to each fire brigade member, including drill critiques, shall be maintained for at least three years to ensure that each member receives training in all parts of the training program. The NRC estimates that respondents will number approximately 10 and that burden will average 24 hours per respondent for Section III.I.3.d and 3 hours for recordkeeping for each brigade member's training of a firefighting unit under Section III.I.4.

John M. Lovelady,

Senior Group Director, Regulatory Reports Review.

[FR Doc. 80-37822 Filed 12-4-80; 8:45 am]

BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPR 37 Federal Procurement Supplement 9]

Companies Not in Compliance With the Voluntary Wage and Price Standards

November 20, 1980.

1. *Purpose.* This supplement provides a complete relisting of all companies that have been determined to be, and are now, in noncompliance with the Voluntary Wage and Price Standards formulated under Executive Order 12092.

2. *Expiration date.* This bulletin contains information of a continuing nature and will remain in effect until canceled.

3. *Substance.* Attachment A is the October 29, 1980, letter from the Administrator, Office of Federal Procurement Policy, to GAS and DOD. The letter includes the list of companies that are in noncompliance with the Voluntary Wage and Price Standards. Ths list supersedes the list previously published in GSA Bulletin FPR 37, Supplement 8.

4. *Cancellation.* This bulletin cancels GSA Bulletin FPR 37, Supplement 8, dated August 28, 1980.

Gerald McBride,

Assistant Administrator for Acquisition Policy.

[GSA Bulletin FPR 37, Supplement 9, Attachment A]

November 20, 1980.

Executive Office of the President, Office of Management and Budget, Washington, D.C.

Office of Federal Procurement Policy

October 29, 1980.

Memorandum to: The Secretary of Defense, the Administrator of General Services.

From: Karen Hastie Williams, Administrator, Office of Federal Procurement Policy.

Subject: Companies not in compliance with the Voluntary Wage and Price Standards.

The Council on Wage and Price Stability has determined that the following companies are not in compliance with the Voluntary Wage and Price Standards formulated pursuant to Executive Order 12092 (43 **Federal Register** 51375). The list is current as of October 15, 1980.

Company	Original date listed
Cement Division compliance unit of Ideal Basic Industries Inc., P.O. Box 8789, Denver, Colorado 80201, DUNS Number 00-706-1385.	June 15, 1979.
Northwestern Steel and Wire Co., 121 Wallace Street, Sterling, Illinois 61061, DUNS Number 00-526-3157.	July 24, 1979.
Mason Contractors of DuPage County, P.O. Box 129, Mount Prospect, Illinois 60056, DUNS Number 99-106-2472.	July 24, 1979.
American Hoechst Corporation, Route 202-206 North, Somerville, New Jersey 08876, DUNS Number 04-578-7991.	Oct. 23, 1979.
SCOA Industries, Inc. (excluding foreign subsidiaries), 155 East Broad Street, Columbus, Ohio 43215, DUNS Number 00-790-2208.	Oct. 23, 1979.
National Electrical Contractors Association (Oregon-Columbia Chapter), 201 S.W. Arthur Street, Portland, Oregon 97201, DUNS Number 99-106-2480.	Oct. 23, 1979.
The Eureka Company, 1201 East Bell Street, Bloomington, Illinois 61701, DUNS Number 00-116-3823.	Nov. 27, 1979.
Portland Association of Plumbing Heating and Cooling Contractors (two noncomplying agreements), 0612 S.W. Idaho, Portland, Oregon 97201, DUNS Number 06-509-2300.	Nov. 27, 1979.
Sheetmetal Association, Inc., c/o 3434 S.W. Water Avenue, Portland, Oregon 97201, DUNS Number 99-106-2498.	Nov. 27, 1979.
San Diego Contracting Lathers Association, 7855 Ostrow Street, San Diego, CA 92111, DUNS Number 99-106-2506.	Nov. 27, 1979.
"All other" compliance unit of Gifford-Hill & Company, Inc. (which includes all products exclusive of transportation, irrigation and metal building products), 8435 Stimmons Freeway, P.O. Box 47127, Dallas, Texas 75247, DUNS Number 00-792-5496.	Dec. 27, 1979.
Boston Distributors, a compliance unit of Cook United, Inc., 16501 Rockside Road, Cleveland, Ohio 44137, DUNS Number 09-449-7245.	Jan. 21, 1980.
National Gypsum Company, 4100 First International Building, Dallas, Texas 75270, DUNS Number 00-138-2431.	Jan. 21, 1980.
Crown Central Petroleum Corp., One North Charles, P.O. Box 1168, Baltimore, Maryland 21203, DUNS Number 00-306-2907.	Mar. 25, 1980.
Gust K. Newberg Company & Assoc. (out of compliance only in Will County and vicinity, Illinois), 2040 North Ashland Avenue, Chicago Illinois 60614, DUNS Number 00-693-1869.	Mar. 25, 1980.
Mid-America Regional Bargaining Association, 228 North LaSalle Street, Chicago, Illinois 60601, DUNS Number 99-106-2514.	Mar. 25, 1980.
Contractors Association of Will and Grundy Counties, 254½ Rusy Street, Joliet, Illinois 60435, DUNS Number 99-106-2522.	Mar. 25, 1980.
Residential Construction Employers Council, 1010 Jorie Boulevard, Suite 112, Oak Brook, Illinois 60521, DUNS Number 99-106-2530.	Mar. 25, 1980.
Koch Fuels, Inc., a compliance unit of Koch Refining Company, P.O. Box 31, Gloucester City, N.J. 08030, DUNS Number 07-057-9404.	Apr. 2, 1980.
Church's Fried Chicken, Inc., P.O. 3ox BH001, San Antonio, Texas 78284, DUNS Number 02-701-7417.	Apr. 2, 1980.
Monolith Portland Cement Co., P.O. Box 3303, Terminal Annex, Suite 201, Glendale, California 91202, DUNS Number 00-825-5580.	Apr. 18, 1980.
Dundee Cement Company, P.O. Box 122, Dundee, Michigan 48131, DUNS Number 00-503-8500.	May 2, 1980.
Santee Portland Cement Co., S.C. Highway 453, Holly Hill, South Carolina, DUNS Number 00-336-8891.	May 2, 1980.
Hyatt Hotels compliance unit of Hyatt Corporation (which includes all hotels owned or managed by the Hyatt Corporation), 9701 W. Higgins Road, Rosemont, Illinois 60018, DUNS Number 04-738-6677.	May 20, 1980.
Air Conditioning and Refrigeration Contractors Association, 870 Market Street, San Francisco, California 94102, DUNS Number 99-106-2548.	May 30, 1980.
Industrial Contractors (UMIC, Inc.), P.O. Box 1005, Tiburon, California 94920, DUNS Number 99-106-2555.	May 30, 1980.
Plumbing Heating Piping Employers Council, 36 Tiburon Blvd., Mill Valley, California 94941, DUNS Number 99-106-2563.	May 30, 1980.
Residential Plumbing and Mechanical Contractors of North California, 1545 B Palos Verdes Mall, Walnut Creek, California 94596, DUNS Number 99-106-2571.	May 30, 1980.
Santa Clara Valley Contractors Association, 400 Reed Street, Santa Clara, California 95050, DUNS Number 99-105-2589.	May 30, 1980.
Burlington Northern Air Freight, Inc., a compliance unit of Burlington Northern, Inc., 4350 Von Karman Avenue, New Port Beach, California 92660, DUNS Number 05-802-0496.	July 2, 1980.

Company	Original date listed
Hotels Division and Hotel-Casinos Division, compliance units of Hilton Hotels Corporation, 9880 Wilshire Blvd., Beverly Hills, California 90210, DUNS Number 00-693-0531 (limited to Hotels Division and Hotel-Casinos Division).	July 10, 1980.
Murphy Oil, Domestic Marketing and Refining Division, a compliance unit of Murphy Oil Corporation (excluding foreign subsidiaries), 200 Jefferson Avenue, El Dorado, Arkansas 71730, DUNS Number 00-805-3712.	July 15, 1980.
Harris-Teeter Supermarkets, Inc., a compliance unit of Ruddick Corporation, 4017 Chesapeake Drive, P.O. Box 33129, Charlotte, N.C. 28233, DUNS Number 99-106-3287.	Aug. 13, 1980.
Circle K Corporation, 4500 South 40th Street, Phoenix, Arizona, DUNS Number 00-894-5143.	Aug. 13, 1980.
Louisville Cement Company, 501 South Second Street, Louisville, Kentucky 40201, DUNS Number 00-636-6678.	Sept. 17, 1980.
Brown-Forman Distillers Corporation, 850 Dixie Highway, Louisville, Kentucky 40201, DUNS Number 00-637-9812.	Sept. 17, 1980.
Dairymen's Creamery Association, Inc., 520 Albany, Caldwell, Idaho 83605, DUNS Number 04-526-5865.	Oct. 15, 1980.
Agricultural Chemicals Group compliance unit of W.R. Grace and Company, 100 North Main Street, Memphis, Tennessee 38103, DUNS Number 04-487-7918.	Oct. 15, 1980.
American Petrofina, Inc., 8350 North Central Expressway, Dallas, Texas 75221, DUNS Number 00-132-9077 (excluding crude oil exploration and development).	Oct. 15, 1980.

This supersedes the previous list promulgated by OFPP memorandum of October 9, 1980. Changes to that list include the addition of three companies. There are no deletions.

Pursuant to the terms of Office of Federal Procurement Policy Letter 78-6 dated December 27, 1978, I request that you publish this information in a Defense Acquisition Circular and Federal Procurement Regulations Bulletin.

[FR Doc. 80-37794 Filed 12-4-80; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 76-0274; DEST 5798]

Absorbable Starch Sponges; Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Withdrawal Approval.

SUMMARY: This notice withdraws approval of the new drug application (NDA 8-655) for Solusponge Strips and Cones containing absorbable starch sponge. The basis of the withdrawal is that the products lack substantial evidence of effectiveness for their labeled indications. The products, which were previously used as hemostatic adjuncts and aids in dental and oral surgery, are no longer marketed.

EFFECTIVE DATE: December 15, 1980.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 5798 and directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David T. Read, Bureau of Drugs (HFD-32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing published in the **Federal Register** of July 12, 1977 (42 FR 35893), the Director of the Bureau of Drugs proposed to issue and order withdrawing approval of the new drug application for Solusponge Strips and Cones containing absorbable starch sponge (NDA 8-655). The proposed order was based on the lack of substantial evidence of effectiveness. In response to the notice, Ormont Drug & Chemical Co., Inc., requested a hearing.

Ormont has since withdrawn its hearing request. Approval of the new drug application for the following products is now being withdrawn.

NDA 8-655; Solusponge Strips and Cones containing absorbable starch sponge; formerly marketed by Panray Division, Ormont Drug & Chemical Co., Inc., 520 S. Dean St., Englewood, NJ 07631.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmestic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to the products, evaluated together with the evidence available to him when the application was approve, there is a lack of substantial evidence that the products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

Therefore, pursuant to the foregoing finding, approval of NDA 8-655 and all amendments and supplements applying thereto is withdrawn effective December 15, 1980. Shipment in interstate commerce of the above products will then be unlawful.

Dated November 24, 1980.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 80-37808 Filed 12-4-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F-0455]

Albany International Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces that Albany International Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 7-(2H-Naphtho[1,2-d]triazol-2-yl)-3-phenyl-coumarin as an optical brightener in polyester fiber intended to contact dry food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Bureau of Foods (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)), notice is given that a petition (FAP 1B3535) has been filed by Albany International Corp., P.O. Box 1062, Buffalo, N.Y. 14240, proposing that the food additive regulations be amended to provide for the safe use of 7-(2H-Naphtho[1,2-d]triazol-2-yl)-3-phenyl-coumarin as an optical brightener in polyester fiber intended to contact dry food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: November 20, 1980.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 80-37809 Filed 12-4-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 80F-0445]

Witco Chemical Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces that Witco Chemical Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of poly(methylene-*p-tert*-butylphenoxy) poly(oxyethylene), poly(methylene-*p*-nonylephenoxy) poly(oxyethlene), and α-tridecylhydroxy, mixture of dihydrogen phosphate and monohydrogen phosphate esters as a lubricant with incidental food-contact use.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Falci, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)), notice is given that a petition (FAP OB3528) has been filed by Witco Chemical Corp., 3230 Brookfield St., Houston, TX 77045, proposing that § 178.3570 *Lubricants with incidental food contact* (21 CFR 178.3570) be amended to provide for the safe use of poly(methylene-*p-tert* butylphenoxy) poly(oxyehtylene), poly (methylene-*p*-nonylphenoxy) poly(oxyethylene), and a -tridecylhydroxy, mixture of (dihydrogen phosphate and monohydrogen phosphate esters as a lubricant with incidental food-contact use.

The potential environmental impact statement of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: November 24, 1980.

Taylor M. Quinn,

Acting Director, Bureau of Foods.

[FR Doc. 80-37607 Filed 12-4-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 78N-0100]

Viral Vaccines and Immune Globulins; Opportunity for Hearing on Intent To Revoke Certain U.S. Licenses

Correction

In FR Doc. 80-30523 appearing on page 65675 in the issue for Friday, October 3, 1980, make the following correction:

On page 65676, center column, three lines from the top of the page the cite "21 CFR 601.7(A)" should have read "21 CFR 601.7(a)".

BILLING CODE 1505-01-M

Ophthalmic Device Section; Meeting Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The date of the meeting of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel announced by notice in the **Federal Register** of November 14, 1980 (45 FR 75325) for December 18 and 19, 1980, has been changed. The meeting will be held on December 17 and 18, 1980, at 9 a.m., in the Auditorium, 200 Independence Ave. SW., Washington DC.

FOR FURTHER INFORMATION CONTACT: Max W. Talbott, Bureau of Medical Devices (HFK–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7538.

Dated: December 2, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-37746 Filed 12-4-80; 8:45 am]

BILLING CODE 4110-03-M

Health Resources Administration

Application Announcement for Allied Health Traineeship Grants for Advanced Training–Training Institutes (Short-Term)

The Bureau of Health Professions, Health Resources Administration, announces that competitive applications for Allied Health Traineeship Grants for Advanced Training–Training Institutes (Short-Term) will be accepted under the authority of section 797 of the Public Health Service Act, as amended.

Section 797 of the Public Health Service Act, as amended, authorizes the Secretary to award grants to public or nonprofit private entities for the purpose of providing support to allied health professions personnel, who are pursuing advanced training to increase their preparedness to teach in academic and/or clinical training programs for allied health personnel, or serve in leadership and administrative or supervisory positions in the field of allied health.

Requests for application materials and questions regarding grants policy should be directed to:

Grants Management Officer (A–13), Bureau of Health Professions, Health Resources Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–7360

Questions concerning the programmatic aspects of these grants should be directed to:

Mr. Charles Munn, Division of Associated Health Professions, Bureau of Health Professions, Health Resources Administration, Center Building, Room 5–41, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone: (301) 436–6800

To be considered for fiscal year 1981 funding, applications must be received by the Grants Management Officer, Bureau of Health Professions, at the above address no later than February 13, 1981. Approximately $500,000 is expected to be available for these grants.

This program is listed at 13.966 in the Catalog of Federal Domestic Assistance. Applications submitted in response to this announcement are not subject to review by State and areawide clearinghouses under the procedures in Office of Management and Budget Circular No. A–95.

Dated: December 1, 1980.

Karen Davis,

Administrator.

[FR Doc. 80-37737 Filed 12-4-80; 8:45 am]

BILLING CODE 4110-83-M

National Institutes of Health

Recombinant DNA Research; Actions Under Guidelines

Correction

In FR Doc. 80-36315 appearing on page 77372 in the issue of Friday, November 21, 1980, the **Effective Date** in column one now reading "November 21, 1981" should read "November 21, 1980."

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

[Federal Lease No. C–078049]

Pending Decision To Approve an Underground Mining and Reclamation Plan, GEX Colorado Incorporated—Cameo No. 3 Mine, Mesa County, Colo.

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice of Pending Decision to Approve Underground Mining and Reclamation Plan with Stipulations.

SUMMARY: Pursuant to § 1506.6 of Title 40 and § 211.5 of Title 30, Code of the Federal Regulations, notice is hereby given that the Region V, Office of Surface Mining Reclamation and Enforcement (OSM) has completed a technical and environmental review of GEX Colorado Incorporated's Cameo #3 mining and reclamation plan and has recommended to the Department that the plan be approved with stipulations. Notice of availability of GEX Colorado Incorporated's application to be published in the **Federal Register** on November 20, 1980.

Location of Lands to be Affected by Mining:

Applicant—GEX Colorado Incorporated
Mine Name—Cameo #3
State—Colorado
County—Mesa
Township, Range—Southeast ¼ of Section 28, Range 28 West, Township 10 South of the 16th Prime meridian, Office of Surface Mining Reference No. CO–0020

The Cameo #3 mining complex is located 12 miles east of Grand Junction, Colorado along highway I–70 adjacent to the Colorado River. Current production at the facility is approximately 800,000 tons. The complex employs 275 people. Mining began at this site in early 1977.

The proposed mining plan modification involves construction of a coal waste rock and processing waste pile that would disturb 23.5 acres within the 117 acre permit area. The construction and reclamation of this 1.5 million cubic yard pile would take approximately 24 months.

The U.S. Bureau of Land Management evaluated the impacts of the Cameo complex in its final regional and site-specific environmental impact statement "West-Central Colorado Coal Environmental Statement" (1979). OSM has prepared a technical and environmental analysis and an environmental assessment. From its analyses, OSM has determined that no significant impacts would occur that have not already been evaluated in the previous EIS.

The purpose of this notice is to inform the public that based on OSM staff analysis of the mining and reclamation plan and the reviews of other State and Federal agencies, the Regional Director, Region V, OSM, is recommending approval with stipulations of GEX Colorado Incorporated's mining and reclamation plan for the Cameo #3 Mine. Any person having an interest that may be adversely affected by the recommended approval may request, in writing, a public meeting on the proposed decision.

Amendments to 30 CFR 701.11 and 741.11 postpone the effective date for implementation of the permanent Regulatory Program for Federal lands until the date of approval of the Colorado State program or until implementation of a Federal program for a State (See 44 FR 77440–47, December 31, 1979). Departmental action on GEX Colorado Incorporated's mining and reclamation plan at this time would not relieve the applicant of the obligation to file a permit application or appropriate changes not later than two months after the effective date of the final Colorado program approval or Federal program. Upon receipt of this application, OSM will review the application pursuant to 30 CFR Chapter VII.

The Assistant Secretary for Energy and Mineral's decision will be based on the recommendations of OSM, the U.S. Geological Survey, and any public comments received on or before December 26, 1980.

DATE: All requests for a public meeting must be made by December 26, 1980. No decision on the plan will be made by the Assistant Secretary, Energy and Minerals, prior to the expiration of the 20-day period.

ADDRESSES: The technical analysis, environmental assessment, and proposed stipulations are available on request from the Office of Surface Mining, Region V. Any comments on the proposed approval should be submitted to the Regional Director, Region V, Office of Surface Mining, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Keith Kirk or John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202.

Dated: December 1, 1980.

Walter Heine,

Director, Office of Surface Mining.

[FR Doc. 80-37757 Filed 12-4-80; 8:45 am]

BILLING CODE 4310-05-M

INTERSTATE COMMERCE COMMISSION

Notice of Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or to use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal: BASF Aktiengesellschaft, 6700 Ludwigshafen/Rhein, West Germany
2. Wholly-owned subsidiaries which will participate in the operations, and addresses of their respective principal offices: (a) BASF Wyandotte Corporation, 100 Cherry Hill Road, Parsippany, New Jersey 07054
   (b) Badische Corporation, P.O. Box Drawer D, Williamsburg, Virginia 23185
   (c) BASF Canada Incorporated, P.O. Box 430, Station St. Laurent, Quebec, Canada H4L 4V6
   (d) Fritzches, Dodge & Olcott, 76th 9th Avenue, New York 10011
1. Parent corporation and address of principal office: Border Steel Rolling Mills, Inc., P.O. Box 12843, El Paso, Texas 79912
2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal office: Metal Processing, Inc., P.O. Box 12649, El Paso, Texas 79912
1. Parent corporation and address of principal office: Dakota Bake-N-Serv, Inc., Airport Road, Box 668, Jamestown, ND 58401
2. Wholly-owned subsidiaries which will participate in the operations, and address of its principal office: Sunnydale Distributing, Inc., 450 Hart-Albin Building, Billings, Montana 59103
1. The name and address of the parent corporation is: Gelco Corporation, a Minnesota corporation, One Gelco Drive, Eden Prairie, Minnesota 55344
2. Wholly-owned subsidiaries to be served: a. AAA Truck Rental Co., a California corporation, 1500 S. Greenwood, Montebello, California 90640
   b. AAA Truck and Trailer Sales, Inc., a California corporation, 1500 S. Greenwood, Montebello, California 90640
   c. Continental Distributors, Inc., a Missouri corporation, 12115 Lackland Road, St. Louis, Missouri 63141
   d. Cralex, Inc., a Delaware corporation, One Gelco Drive, Eden Prairie, Minnesota 55344
   e. CTI International, Inc., a Delaware corporation, 445 Hamilton Avenue, White Plaines, New York 10601
   f. Dalton Equipment Company, Inc., a Califlornia corporation, 20th & Broadway, Sacramento, California 95807
   g. Eagals Equipment Company, a California corporation, 335 N. Sutter Street, P.O. Box 960, Stockton, California 95201
   h. Exportair, Inc., a New York corporation, Time & Life Building, 1271 Avenue of the Americas, New York, New York
   i. Feld Redevelopment Corporation, a Missouri corporation, 12115 Lackland Road, St. Louis, Missouri 63141
   j. Feld Truck Leasing Division, Gelco Corporation, a Minnesota corporation,

2115 Lackland Road, St. Louis, Missouri 63141
k. Feld Truck Leasing of Nebraska, Inc., a Nebraska corporation, 7850 I Street, Omaha, Nebraska 68127
l. Gelco Equipment Leasing Company of California, Inc., a California corporation, One Gelco Drive, Eden Prairie, Minnesota 55344
m. Gelco Rail Services Company, a Minnesota corporation, 130 Montgomery Street, San Francisco, California 94104
n. International Couriers Corporation, a Minnesota corporation, One Gelco Drive, Eden Prairie, Minnesota 55344
o. Leasing International, Inc., a Georgia corporation, 3242 Peachtree Road NE, Atlanta, Georgia 30305
p. Oser Leasing Company, Inc., an Indiana corporation, 5250 Old Maumee Road, Fort Wayne, Indiana 46801
q. Pacific Purchasing Agency, Inc., a Delaware corporation, 445 Hamilton Avenue, White Plaines, New York 10601
r. Transport Pool Corporation, a Delaware corporation Two Bala-Cynwyd Plaza, Bala-Cynwyd, Pennsylvania 19004
s. Travel Whirl, Inc., a Maryland corporation, Heaver Plaza Building, 1301 York Road, Lutherville, Maryland 21093
t. Traveletter Corporation, a Minnesota corporation, One Gelco Drive, Eden Prairie, Minnesota 55344
1. Parent corporation and address of principal office: Genuine Parts Company, 2999 Circle 75 Parkway, Atlanta, Georgia 30339 and Genuine Parts Company d.b.a.: NAPA Distribution Center, Albany, New York; NAPA Distribution Center, Albuquerque, New Mexico; NAPA Distribution Center, Atlanta, Georgia; NAPA Distribution Center, Birmingham, Alabama; NAPA Distribution Center, Boston, Massachusetts; NAPA Distribution Center, Buffalo, New York; NAPA Distribution Center, Carrollton, Ohio; NAPA Distribution Center, Charleston, West Virginia; NAPA Distribution Center, Charlotte, North Carolina; NAPA Distribution Center, Cincinnati, Ohio; NAPA Distribution Center, Cleveland, Ohio; NAPA Distribution Center, Columbus, Ohio; NAPA Distribution Center, Middletown, Connecticut; NAPA Distribution Center, Denver, Colorado; NAPA Distribution Center, Fresno, California; NAPA Distribution Center, High Point, North Carolina; NAPA Distribution Center, Jackson, Mississippi; NAPA Distribution Center, Jacksonville, Florida; NAPA Distribution Center, Little Rock, Arkansas; NAPA Distribution Center, Los Angeles, California; NAPA Distribution Center, Memphis, Tennessee; NAPA Distribution Center, Miami, Florida; NAPA Distribution Center, Minneapolis, Minnesota; NAPA Distribution Center, Morgan Hill, California; NAPA Distribution Center, New Orleans, Louisiana; NAPA Distribution Center, South Plainfield, New Jersey; NAPA Distribution Center, Omaha, Nebraska; NAPA Distribution Center, Owatonna, Minnesota; NAPA Distribution Center, Phoenix, Arizona; NAPA Distribution Center, Portland, Oregon; NAPA Distribution Center, Richmond, Virginia; NAPA Distribution Center, Roanoke, Virginia; NAPA Distribution Center, Sacramento, California; NAPA Distribution Center, Salt Lake City, Utah; NAPA Distribution Center, San Diego, California; NAPA Distribution Center, Seattle, Washington; NAPA Distribution Center, Spokane, Washington; NAPA Distribution Center, Sylvester, Georgia; NAPA Distribution Center, Syracuse, New York; NAPA Distribution Center, Tampa, Florida; The Automotive Parts Co., Charleston, West Virginia; The Automotive Parts Company, Cincinnati, Ohio; The Automotive Parts Company, Columbus, Ohio; Beck & Gregg Industries, Atlanta, Georgia; S. B. Hubbard, Jacksonville, Florida; Clarke Siviter, St. Petersburg, Florida; Rayloc-Atlanta, Atlanta, Georgia; Rayloc-Hancock, Hancock, Maryland; Rayloc-Memphis, Memphis, Tennessee; Rayloc-Payson, Payson, Utah; Rayloc-Portland, Portland, Oregon; Rayloc-R.M.D.S., Atlanta, Georgia; Rogers-Mustang
2. List the wholly-owned subsidiaries that will participate in the operations and the address of their respective principal offices: (a) Bearing Specialty Company, 185 Berry Street, San Francisco, CA 94107
(b) Michigan Bearing Co., 1700 East Avis Drive, Madison Heights, MI 48071
(c) Motion Industries, Inc., 741 Alton Road, Birmingham, AL 35210
(d) Odell Hardware Company, 1010 Scott Avenue, Greensboro, NC 27403
(e) S. P. Richards Company, 1130 Bankhead Avenue NW., Atlanta, GA 30318
1. Parent corporation and address of principal office: Kama Corporation, 666 Dietrich Avenue, Hazelton, PA 18201
2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices: Kola Transport, Inc., 666 Dietrich Avenue, Hazelton, PA 18201
1. Parent corporation and address of principal office: Lowe's Companies, Inc., P.O. Box 1111, Hwy. 268 East, North Wilkesboro, N.C. 28656
2. Wholly-owned subsidiaries which will participate in the operations: Lowe's of Alabama, Inc.; Pittsview Forest Products, Inc.; Lowe's of Arkansas, Inc.; Lowe's of Delaware, Inc.; Lowe's of Florida, Inc.; Lowe's of Georgia, Inc.; Lowe's of Illinois, Inc.; Lowe's of Indiana, Inc.; Lowe's of Kentucky, Inc.; Lowe's of Louisiana, Inc.; Lowe's of Maryland, Inc.; Lowe's of Mississippi, Inc.; Lowe's of Hernando, Inc.; Lowe's Companies, Inc.; Lowe's of North Carolina, Inc.; Lowe's Investment Corporation; Sterling Advertising, Ltd.; Lowe's of Ohio, Inc.; Lowe's of Pennsylvania, Inc.; Lowe's of South Carolina, Inc.; Lowe's of Texas, Inc.; Lowe's of Tennessee, Inc.; Lowe's of Virginia, Inc.; Lowe's of West Virginia, Inc.
1. The parent corporation is: Norlin Industries, Inc., Westchester One, White Plains, New York 10601
2. The wholly-owned subsidiary which will participate in the operations is: Story & Clark Piano Company, 100 Fulton Street, Grand Haven, Michigan 49417
1. Parent Corporation and address of principal office: Rhinechem Corporation, 425 Park Avenue, New York, NY 10022
2. Wholly owned subsidiaries which will participate in the operations, and addresses of their respective principal offices: (a) Cutter Laboratories, Inc., 2200 Powell Street, Emeryville, CA 94608
(b) Miles Laboratories, Inc., 1127 Myrtle Street, P.O. Box 40, Elkhart, IN 46515
(c) Mobay Chemical Corporation, Penn Lincoln Parkway West, Pittsburgh, PA 15205
(d) Harmon Colors Corporation, P.O. Box 419, Hawthorne, NJ 07507
(e) Haarmann & Reimer Corporation, U.S. Highway 22, P.O. Box 175, Springfield, NJ 07081
(f) Helena Chemical Company, 3200 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38137
1. Parent corporation and address of principal office: H. J. Scheirich Co., 250 Ottawa Avenue, Lousiville, Kentucky 40209, P.O. Box 21037, Louisville, Kentucky 40221
2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices: (a) Bluegrass Kitchens & Home Supply, Inc., 2409 Plantside Drive, Bluegrass Industrial Park, Jeffersontown, Kentucky 40299
(b) Thorn Distributing Company, Division of H. J. Scheirich Co., 209 South 13th Street, Birmingham, Alabama 35233
(c) Landmark Kitchen Distributors, Inc., 3428 Dalworth, Arlington, Texas 76011
(d) Southwest Kitchen Distributors, Inc., 4018 Westhollow Parkway, Houston, Texas 77082, P.O. Box 308, Alief, Texas 77411
1. Parent Corporation: Southeastern Steel Container Company
2. Wholly-owned subsidiaries which will participate in the operations: (a) Southeastern Plastic Container Co., P.O. Box 309, 6055 Airline Rd., Arlington, TN 38002
(b) Southeastern Steel Container Co., Box 10646, 3055 35th Ave. North, Birmingham, AL 35202
(c) Self Mfg. Co., Inc., Box 117, Mary Taylor Rd., Trussville, AL 35173
(d) Kresge & Assoc., Box 334, Trussville, AL 35173
(e) Thompson Can Company, Box 34259, 13401 Denton Drive, Dallas, TX 75234
(f) Southwestern Steel Co., Box 15687, 3301 S. Lamar Street, Dallas, TX 75215
(g) K & H Trucking, Inc., Box 15687, 3301 So. Lamar Street, Dallas, TX 75215
1. Parent corporation and address of principal office: Southern Pacific Company, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105
2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principal offices: (a) Southern Pacific Development Company; (b) Golden Empire Investment Corporation; (c) Santa Barbara-Cabrillo Corporation; (d) Southern Pacific Industrial Development Company; (e) Southern Pacific Land Company; (f) Southern Pacific Transportation Company; (g) Sunset Insurance Company; (h) Evergreen Freight Car Corporation; (i) Holton Inter-Urban Railway Company; (j) Northwestern Pacific Railroad Company; (k) Pacific Fruit Express Company; (l) Southern Pacific Warehouse Company; (m) Visalia Electric Railroad Company Southern Pacific Building One Market Plaza San Francisco, CA 94105;
(n) Southern Pacific Pipe Lines, Inc.; (o) Black Mesa Pipeline, Inc.; (p) Mescalero Pipeline, Inc.; (q) Los Angeles Union Terminal, Inc., Pacific Electric Building, 610 South Main Street, Los Angeles, CA 90014;
(r) Ticor, 6300 Wilshire Boulevard, Los Angeles, CA 90048; (s) Pacific Motor Transport Company; (t) Pacific Motor Trucking Company (u) Louis Heller, Inc.; (v) Southern Pacific Air Freight, Inc. (w) Southern Pacific Transport Company of Texas and Louisiana, 1766 El Camino Real, Burlingame, CA 94010; (x) Bankers Leasing Corporation, 2655 Campus Drive, San Mateo, CA; (y) Southern Pacific Communications Company; (z) Video Microwave, Inc.
(aa) Sunset Communications Company, One Adrian Court, Burlingame, CA 94060;
(bb) Bravo Oil Company, 913 Franklin Avenue, Houston, TX 77001
(cc) Southern Pacific International, Inc.
(dd) Southern Pacific Marine Transport, Inc., One California Street, Suite 2760, San Francisco, CA 94111
(ee) Cascade Microfilm Systems, Inc., 416 Occidental Avenue S., Seattle, WA 98104
(ff) Chas. P. Young Company Chicago, Inc., 320 South Jefferson, Chicago, IL 60606
(gg) Chas. P. Young Company, 75 Varick Street, New York, NY 10013
(hh) Fidelity Printing Company, Inc., 1801 Walker Avenue, Houston, TX 77003
(ii) Jefferies Banknote Company
(jj) Jeffries Lithograph Company
(kk) Jeffries Printing Company, 1330 West Pico, Los Angeles, CA 90015
1. Parent corporation and address of principal office: R. T. Vanderbilt Company, Inc., 30 Winfield Street, Norwalk, Connecticut 06855
2. Wholly-owned subsidiaries which will participate in the operations, and address of their respective principle offices: (a) Vanderbilt Chemical Corporation, Murray, Kentucky 42071
(b) Vanderbilt Chemical Corporation, Bethel, Connecticut 06801
(c) Vanderbilt Mineral Corporation, Norwalk, Connecticut 06851
(d) Dixie Clay Company, Bath, South Carolina 29816
(e) Gouverneur Talc Company Inc., Gouverneur, N.Y. 13642
(f) Standard Mineral Company Inc., Robbins, North Carolina 27325
(g) Western Talc Company Inc., Beatty, Nevada 89003
(h) Vanderbilt Export Corporation, Norwalk, Connecticut 06855
1. Parent corporation and address of principal office: WWG Industries Inc., P.O. Box 162, Rome, Georgia 30161
2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principle offices: (a) Commercial Broadloom Inc., P.O. Box 162, Rome, Georgia 30161
(b) Viking Carpets Inc., P.O. Box 162, Rome, Georgia 30161
(c) Robertson Carpets Inc., P.O. Box 162, Rome, Georgia 30161
(d) Commercial Affiliates, Inc., P.O. Box 162, Rome, Georgia 30161
(e) Commercial Carpet Inc., P.O. Box 162, Rome, Georgia 30161
(f) Normandy Carpets Inc., P.O. Box 162, Rome, Georgia 30161

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-37767 Filed 12-4-80; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-18 (Sub-34F)]

Chesapeake and Ohio Railway Company; Abandonment Near North Muskegon in Muskegon County, MI; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided December 1, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Chesapeake and Ohio Railway Company of its line of railroad known as: North Horn Spur, between Valuation Stations 0+00 and 53+10, at or near North Muskegon, a total distance of 1.01 miles, in Muskegon County, MI. A certificate of public convenience and necessity permitting abandonment was issued to the Chesapeake and Ohio Railway Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington DC 20423, no later than December 15, 1980. The offer, as filed shall contain information required pursuant to § 1121.38(b)(2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment

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shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich
Secretary.

[FR Doc. 80-37769 Filed 12-4-80; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 29520]

Lake Superior & Ishpeming Railroad Company—Purchase of Chicago and North Western Transportation Company; Exemption

The Lake Superior & Ishpeming Railroad Company (LS&I) has notified the Commission that it will participate in a transaction that comes within the exempt classification described at 49 CFR 1111.5(c)(1). LS&I will acquire from the Chicago and North Western Transportation Company (C&NW) its 50% ownership of the line from Coops Spur to Duncan, MI, a distance of 4.3 miles. This line is presently jointly owned, 50% by LS&I and 50% by C&NW. C&NW obtained Commission approval to abandon its 50% joint ownership of the line in AB-1 (Sub-No. 100F) which was issued September 5, 1980.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-37770 Filed 12-4-80; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-33 (Sub-19F)]

Union Pacific Railroad Company; Abandonment Near Lyman and Hartman in Scotts Bluff County, NE; Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided December 1, 1980, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Union Pacific Railroad Company of a portion of a line of railroad known as the Lyman Branch extending from railroad milepost 0.0 near Lyman to milepost 5.04 near Hartman, a distance of 5.04 miles in Scotts Bluff County, NE. A certificate of public convenience and necessity permitting the abandonment was issued to the Union Pacific Railroad Company. Since no investigation was instituted, the requirements of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed with the Commission and served concurrently on the applicant, with copies to Ms. Ellen Hanson, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than December 15, 1980. The offer, as filed, shall contain information required pursuant to Section 1121.38(a)(2)(3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 30 days from the service date of the certificate.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-37768 Filed 12-4-80; 8:45 am]
BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 364]

Permanent Authority Decisions-Notice

Correction

In FR Doc. 80-34746 appearing at page 74086 in the issue for Friday, November 7, 1980, make the following correction:

On page 74087, in the third column, in the paragraph "MC50682F", application of Kedashaw, Inc., in the first line the MC number should be corrected to read "MC150682F".

BILLING CODE 1505-01-M

BOARD FOR INTERNATIONAL BROADCASTING

Schedule for Awarding a Senior Executive Service Bonus

AGENCY: Board for International Broadcasting.
ACTION: Notice.

SUMMARY: Notice is hereby given of the schedule for awarding a Senior Executive Service (SES) bonus.

DATE: December 2, 1980.

FOR FURTHER INFORMATION CONTACT:
Dr. John A. Gronouski, Chairman, Board for International Broadcasting, 1030 15th Street, NW., Suite 430, Washington, D.C. 20005, telephone (512) 471-4962, extension 233.

Schedule for Awarding a Senior Executive Service Bonus

Office of Personnel Management guidelines require that each agency publish a notice in the **Federal Register** of the agency's schedule for awarding SES bonuses at least 14 days prior to the date on which the awards will be paid. The Board for International Broadcasting at its meeting of October 17, 1980 recommended that an SES bonus for the performance rating cycle of October 1, 1979 through September 30, 1980 be awarded. The bonus is scheduled for payment no later than December 31, 1980.

Board for International Broadcasting.

Arthur D. Levin,
Budget and Administrative Officer.

[FR Doc. 80-37765 Filed 12-4-80; 8:45 am]
BILLING CODE 6155-01-M

DEPARTMENT OF JUSTICE

Attorney General

Coordinating Council on Juvenile Justice and Delinquency Prevention; Meeting

Notice is hereby given that the Coordinating Council on Juvenile Justice and Delinquency Prevention will meet tuesday, December 16, 1980, in the 13th Floor Conference Room, 633 Indiana Avenue, NW., Washington, D.C., 20531. The meeting will be open to the public.

The meeting will begin at 9:00 a.m. Agenda items include: an update on the progress of the Annual Analysis and Evaluation comprehensive survey; and a review of past action items.

For further information contact Mr. James C. Shine, Executive Assistant and Special Counsel, Office of Juvenile Justice and Delinquency Prevention, Department of Justice 633 Indiana Avenue, NW., Washington, D.C., 20531.

Ira M. Schwartz,
Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 80-37870 Filed 12-4-80; 8:45 am]
BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same areas.
4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).
5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Administrator, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20213.

Signed at Washington, D.C. this 1st day of December 1980.

Luis Sepulveda,
Acting Director, Office of Program Services.

Applications Received During the Week Ending Dec. 5, 1980

Name of applicant and location of enterprise	Principal product or activity
Washington Mills Company, Mayodan, North Carolina.	Manufacture of sport shirts and men & boys knit underwear.
Preston Dairy Products, Burkburnett, Texas.	Processes milk and orange juice, manufactures plastic jugs, and operates convenience (Dairy and Gasoline) stores.
Wellborn Cabinet, Inc., Ashland, Alabama.	Manufacture of kitchen cabinets.
Alma Enterprises, Inc., Alma, Michigan.	Manufacture of miscellaneous plastic products, outdoor aluminum advertising and planter pottery.
Barrentine Manufacturing Company, Inc., Greenwood, Mississippi.	Manufacture of farm equipment.

[FR Doc. 80-37851 Filed 12-4-80; 8:45 am]
BILLING CODE 4510-30-M

Office of the Secretary

Business Research Advisory Council; Renewal

In accordance with the provisions of the Federal Advisory Committee Act and Office of Management and Budget Circular A-63 of March 1974, and after consultation with GSA, I have determined that the establishment of the Business Research Advisory Council is in the public interest in connection with the performance of duties imposed on the Department of Labor.

The Council will advise the Commissioner of Labor Statistics on technical economic and statistical matters, in the analysis of the Bureau's statistics, and on the broader aspects of its program from an informed business point of view; and provide a realitic and timely two-way communciations' structure between business users and reporters of basic economic statistics and a major governmental statistics-producing unit.

Council membership is selected to assure a technically competent group of economists, statisticians and industrial relations experts who represent a cross section of American business and industry. The members serve in their individual capacities, not as representatives of their companies or their organizations.

The Council will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act by December 22, 1980.

Interested persons are invited to submit comments regarding renewal of the Business Research Advisory Council. Such comments should be addressed to:

Kenneth Van Auken, Executive Secretary, Bureau of Labor Statistics, Department of Labor, Room 4844, GAO Building, Fourth and G Streets NW., Washington, D.C. 20212, phone: 202-523-1559

Dated: November 26, 1980.

Ray Marshall,
Secretary of Labor.

[FR Doc. 80-37828 Filed 12-4-80; 8:45 am]
BILLING CODE 4510-24-M

Labor Research Advisory Council; Renewal

In accordance with the provisions of the Federal Advisory Committee Act and Office of Management and Budget Circular A-63 of March 1974, and after consultation with GSA, I have determined that the establishment of the Labor Research Advisory Council is in the public interest in connection with the performance of duties imposed on the Department of Labor.

The Council will advise the Commissioner of Labor Statistics regarding the statistical and analytical work of the Bureau of Labor Statistics, providing perspectives on these programs in relation to the needs of the labor unions and their members.

Council membership and participation in the Council and its committees are broadly representative of the union organizations in the United States. These include representation from organizations of all sizes of membership, with national coverage which reflects the geographical, industrial, and occupational sectors of the economy.

The Council will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act by December 22, 1980.

Interested persons are invited to submit comments regarding renewal of the Labor Research Advisory Council. Such comments should be addressed to:

Joseph Goldberg, Executive Secretary, Bureau of Labor Statistics, Department of Labor, Room 4844, GAO Building, Fourth and G Streets NW., Washington, D.C. 20212, phone: 202-523-1247

Dated: November 26, 1980.

Ray Marshall,

Secretary of Labor.

[FR Doc. 80-37827 Filed 12-4-80; 8:45 am]

BILLING CODE 4510-24-M

[TA-W-7968]

Barry Steel Corp.; Affirmative Determination Regarding Application for Reconsideration

On October 15, 1980, a company official requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers and former workers of Barry Steel Corporation's Lyndon Avenue Plant, Detroit, Michigan. The determination was published in the Federal Register on June 13, 1980, (45 FR 40255/6).

The application for reconsideration claimed that the Department's denial of trade adjustment assistance was based on the determination that workers of Barry Steel are engaged in providing the service of slitting steel coils and do not produce an article.

The applicant states that workers at Barry Steel are involved in the manufacture of cold rolled strip steel which is a recognized manufacturing process within the steel industry. The applicant further states that the "manufacturing process begins with a purchased raw material of hot rolled steel, initial slitting, continuous pickling, cold reduction in a four-high reversing mill, annealing, temper rolling in a two- or four-high reversing mill, final slitting, packaging, and shipment and sale of the finished product to the customer".

Conclusion

After review of the application, I conclude that the applicant's claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C., this 28th day of November 1980.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 80-37836 Filed 12-4-80; 8:45 am]

BILLING CODE 4510-28-M

Columbian Chemicals Co., et al.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for worker adjustment assistance issued during the period November 24–28, 1980.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases it has been concluded that at least one of the above criterion has not been met.

TA-W-9593 & 10,725; Columbian Chemicals Co.; Elolo, LA and Cranbury, NJ

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of carbon black are negligible.

TA-W-9459; RWC, Inc., Bay City, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of automated assembly and welding equipment did not increase as required for certification.

TA-W-9226; Starfoam Products, Inc., Troy, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of automobile stamping dies are negligible.

TA-W-8658; Chicago Bridge and Iron Co., Nuclear Div., Memphis, TN

Investigation revealed that criterion (3) has not been met. U.S. imports of metal tanks and vessels are negligible.

TA-W-11,083; M & R Timber (formerly Merrill and Ring, Inc.) Port Angeles, WA

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of softwood lumber did not increase as required for certification.

TA-W-8583; Dixie Yarn, Inc., Candlewick Div., Roanoke, AL

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of yarn did not increase as required for certification.

TA-W-8425; Marsa Sportswear Corp., Brooklyn, NY

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-10,655; Wyandotte Paint Products Co., Troy, MI

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of automotive coatings are negligible.

TA-W-8364; Austin-Asta, Ltd., Middle Village, NY

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8117; Dana Corp., Perfect Circle Div., Rushville, IN

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8025; Dura Corp., Adrian, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the firm.

TA-W-10,382; W.E. Plechaty Co., Cleveland, OH

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-8606; Cadillac Malleable Iron Co., Cadillac, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-9567; General Motors Corp., Detroit Diesel Allison Div., Detroit, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-9568; General Motors Corp., Diesel Equipment Div., Grand Rapids, MI

Investigation revealed that criterion (3) has not been met. Separations of workers from the subject facility were short term in nature.

TA-W-10,653; Spinnerin Yarn Co., Inc., South Hackensack, NJ

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of yarn and craft kits are negligible.

TA-W-8059; Dana Corp., Havana Metal Casting Plant, Havana, IL

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8140; Hayes-Albion Corp., Tiffin, OH

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8879; Korelle Industries, Inc., Avenel, NJ

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-10,031; Cornelius Buick-Pontiac-GMC, Inc., Fairfield, CA

Investigation revealed that the workers do not produce an article as required for certification under Section 223 of the Act.

TA-W-9385 & 9619; Colt Industries, Inc., Holley Carburetor Div., Paris, TN and Warren, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-9209; Lewfer Drug Products, Long Island City, NY

Investigation revealed that criterion (3) has not been met. Separations of workers resulted from a fire which occurred at the plant in January 1980.

TA-W-11,031; Keystone Coke Corp., Conshohocken, PA

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of coal and coke did not increase as required for certification.

TA-W-10,401; IRC Fibers Co., Painesville, OH

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of tire cord are negligible.

TA-W-9200; Molded Fiber Glass Tray Co., Linesville, PA

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-9191; E. I. Dupont De Nemours and Co., Edgemoor, DE

Investigation revealed that criterion (3) has not been met. Aggregate U.S. imports of titanium dioxide did not increase as required for certification.

TA-W-8940; GTI, Warren, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the firm.

TA-W-8831; RCO Engineering, Inc., Roseville, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8727; The Timken Co., Bucyrus, OH

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8642; Herd Seeder Co., Inc., Logansport, IN

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and workers separations at the firm.

TA-W-8406; Stant, Corp., Connersville, IN

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8337; Jay Enn Corp., Troy, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8331; American Model and Pattern, Inc., St. Clair Shores, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-8192; H. M. Gammon Manufacturing Corp., New York, NY

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

TA-W-7862 & 7862A; RPM Products, Inc., Croswell and Roseville, MI

Investigation revealed that criterion (3) has not been met. A survey of customers of the subject firm indicated that increased imports did not contribute importantly to sales declines and worker separations at the subject firm.

Affirmative Determinations

TA-W-8890; Monroe Auto Equipment Co., Conzad, NE

A certification was issued applicable to all workers at the subject firm separated on or after June 3, 1979.

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TA–W–9177; Prairie Mfg. Co., East Prairie, MO

A certification was issued covering all workers of the firm separated on or after January 3, 1980.

TA–W–8929; P & R Shake, Forks, WA

A certification was issued covering all workers of the firm separated on or after June 2, 1979 and before January 31, 1980.

TA–W–8158; Domino Juniors, Inc., New York, NY

A certification was issued covering all workers of the firm separated on or after July 14, 1979.

TA–W–9684; Arrowhead Chrysler-Dodge, Inc., Pontiac, MI

A certification was issued covering all workers of the firm separated on or after July 10, 1979 and before October 1, 1980.

TA–W–11,260; Northwest Cedar, Inc., Sedro Wooley, WA

A certification was issued covering all workers of the firm separated on or after October 1, 1979.

TA–W–10,343; Broadway Chrysler-Plymouth Inc., Jenkintown, PA

A certification was issued covering all workers of the firm separated on or after January 1, 1980 and before October 1, 1980.

TA–W–10,550; Jules T. Garfall, Inc., Johnstown, NY

A certification was issued covering all workers of the firm separated on or after August 25, 1979.

TA–W–7876 & 7877; Ronco, Inc., Plain City and Delaware, OH

A certification was issued covering all workers of the firm separated on or after July 31, 1979.

I hereby certify that the aforementioned determinations were issued during the period November 24–28, 1980. Copies of these determinations are available for inspection in Room S–5314, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, D.C. 20210 during normal working hours or will be mailed to persons who write to the above address.

Dated: December 1, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-37836 Filed 12-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA–W–10, 186–10, 211; 10, 218; 10, 223–10, 237]

Fishermen's Marketing Association, Inc., California, Oregon, and Washington; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 18, 1980 in response to a petition received on July 18, 1980 which was filed by the Fishermen's Marketing Association, Inc. on behalf of workers at the firms listed in the attachment. The workers process fish.

The petitioner requested in a letter that the petition be withdrawn. On the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 25th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Attachment

TA–W Number, Company, and Location

10,186, California Shellfish Co., Ft. Bragg, CA.
10,187, California Shellfish Co., Cresent City, CA.
10,188, Depoe Bay Fish Co., Newport, OR.
10,189, Humbolt Seafood Co., Eureka, CA.
10,190, Meredith Fish Co., Ft. Bragg, CA.
10,191, Meredith Fish Co., Eureka, CA.
10,192, Meredith Fish Co., Bodega Bay, CA.
10,193, Point St. George Fisheries, Santa Rosa, CA.
10,194, Tide Wharfs Co., Bodega Bay, CA.
10,195, A. Puccini and Sons, Ft. Bragg, CA.
10,196, Astoria Seafoods Co., Astoria, OR.
10,197, Charter International Oil, Charleston, OR.
10,198, Grader Fish Co., Ft. Bragg, CA.
10,199, M. Alioto Seafoods, Harbor Fisheries, San Francisco, CA.
10,200, N. Beach Star, Inc., San Francisco, CA.
10,201, Ocean Foods of Astoria, Inc., Astoria, OR.
10,202, Standard Fisheries, Inc., San Francisco, CA.
10,203, Tarantino Fish Co., San Francisco, CA.
10,204, Caito Fisheries, Inc., Ft. Bragg, CA.
10,205, California Shell Fish Co., San Francisco, CA.
10,206, Cresent Fisheries, Cresent City, CA.
10,207, Hallmark Fisheries Co., Charleston, OR.
10,208, J. Griffin and Co., Coos Bay, OR.
10,209, Lucas Wharf Inc., Bodega Bay, CA.
10,210, Tom Lazio Fish, Inc., Eureka, CA.
10,211, Western California Fish Co., San Francisco, CA.
10,218, M. Alioto Fish Co., San Francisco, CA.
10,223, A. Paladini Fish Co., San Francisco, CA.
10,224, Eureka Fisheries, Inc., Ft. Bragg, CA.
10,225, Ice and Cold Storage, Eureka, CA.
10,226, Ilwaco Fish Co., Ilwaco, WA.
10,227, Meredith Fish Co., Sacramento, CA.
10,228, Meredith Fish Co., Brookings, OR.
10,229, Nor-Cal Seafoods, Eureka, CA.
10,230, Schnaubelt Fisheries Co., Ft. Bragg, CA.
10,231, Seal Rock Fish Co., Santa Rosa, CA.
10,232, Alaska Packers Assoc., Inc., Hammond, OR.
10,233, Alaska Packers Assoc., Inc., Charleston, OR.
10,234, Alaska Packers Assoc., Inc., Newport, OR.
10,235, Eureka Fisheries, Cresent City, CA.
10,236, Eureka Fisheries, Fields Landing, CA.
10,237, Eureka Fisheries, Harbor, OR.

[FR Doc. 80-37834 Filed 12-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA–W–11,551]

General Electric Co.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 31, 1980 in response to a worker petition received on October 27, 1980 which was filed on behalf of workers and former workers of the Memphis, Tennessee facility of the General Electric Company. Workers produce miniature automotive lamps.

On July 7, 1980, an investigation (TA–W–9241) was initiated on behalf of the same group of workers as TA–W–11,551.

Since the identical group of workers is the subject of the ongoing investigation TA–W–9241, a new investigation would serve no purpose. Consequently, the investigation (TA–W–11,551) has been terminated.

Signed at Washington, D.C. this 26th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-37830 Filed 12-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA–W–9026; 9246–48; 9250–51; 10,733; 10,735; 10,743–44; 10,748; 10,757; 10,761; 10,763; 10,766; 10,771–72; 10,775; 10,778; 10,781; 10,797; 10,799; 10,801–14; 10,818–44; 10,846–48]

General Motors Corp.; Amended Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued Certifications of Eligility To Apply for Adjustment Assistance on October 10, 1980, applicable to all workers of certain designated support facilities of General Motors Corporation, Detroit, Michigan. The Certifications were published in the **Federal Register** on October 21, 1980 (45 FR 69600).

On the basis of additional information from General Motors, the Office of Trade Adjustment Assistance, on its own motion reviewed the certifications. The additional information showed several layoffs occurring a few weeks prior to the June 1, 1980 impact date for the General Motors Central Office, Dayton, Ohio, TA–W–10,781, and the General Motors Central Office, Fairfax, Virginia, TA–W–10,797, and the General Motors Zone Sales Office, Carnegie, Pennsylvania, TA–W–10,839. These layoffs were not covered by the original impact date set in the instant certifications.

The intent of the certifications is to cover all workers at both the Dayton, Ohio and Fairfax, Virginia locations of General Motors Central Offices and General Motors Zone Sales Office in Carnegie, Pennsylvania, who were affected by the decline in production of import impacted GM vehicles. The Notice of Certifications, therefore, is amended to include new impact dates of May 15, 1980 and June 15, 1980 for workers at General Motors Central Offices at Dayton, Ohio, TA–W–10,781 and Fairfax, Virginia, TA–W–10,797, respectively and May 15, 1980 for workers at the General Motors Zone Sales Office, Carnegie, Pennsylvania, TA–W–10,839.

The certifications applicable to TA–W–10,781, TA–W–10,797, and TA–W–10,839 are hereby amended and issued as follows:

All workers of General Motors Central Office, Dayton, Ohio who became totally or partially separated from employment on or after May 15, 1980 and before November 1, 1980 and all workers of General Motors Central Office, Fairfax, Virginia who became totally or partially separated from employment on or after June 15, 1980 and before November 1, 1980 and all workers of the General Motors Zone Sales Office, Carnegie, Pennsylvania who became totally or partially separated from employment on or after May 15, 1980 and before November 1, 1980 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of November 1980.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 80-37835 Filed 12-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA–W–10,959]

Magda Fashions, Ltd.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation (TA–W–10,959) was initiated on September 22, 1980 in response to a worker petition which was filed on behalf of workers at Magda Fashions, Ltd., New York, New York. The workers produce leather garments.

On May 19, 1980, an investigation (TA–W–8,125) was initiated in response to a worker petition which was filed on behalf of the same group of workers.

Since the identical group of workers is the subject of the ongoing investigation (TA–W–8,125), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 25th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-37833 Filed 12-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA–W–11,288]

M&R Timber, Port Angeles, Washington; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 14, 1980 in response to a worker petition received on October 7, 1980 which was filed on behalf of workers and former workers producing lumber for M&R Timber, Port Angeles, Washington.

On September 22, 1980, a petition was filed on behalf of the same group of workers (TA–W–11,083).

Since the identical group of workers is the subject of the ongoing investigation (TA–W–11,083), a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 28th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-37837 Filed 12-4-80; 8:45 am]

BILLING CODE 4510-28-M

Mercury Marine, Plant No. 12, et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increase of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than December 15, 1980.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than 15 December 1980.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 24th day of November, 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Mercury Marine, Plant No. 12 (company)	Fond du Lac, Wis	11/17/80	11/13/80	TA–W–11,713	Outboards and stern drives.
Mercury Marine, Plant No. 14 (company)	Stillwater, Okla	11/17/80	11/13/80	TA–W–11,714	Stern drive.

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Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Mercury Marine, Plant No. 64 (company)	Oshkosh, Wis	11/17/80	11/13/80	TA-W-11,715	Outboard motor and stern drive business.
Mercury Marine, Plant No. 30 (company)	St. Cloud, Fla	11/17/80	11/13/80	TA-W-11,716	Outboard motors and stern drive business.
Mercury Marine, Plant No. 37 (company)	Placida, Fla	11/17/80	11/13/80	TA-W-11,717	Outboard motors and stern drive business.
Mercury Marine, Plant No. 38A (company)	Oshkosh, Wis	11/17/80	11/13/80	TA-W-11,718	Outboard motor and stern drive business.
Mercury Marine, Plant No. 38 (company)	Oshkosh, Wis	11/17/80	11/13/80	TA-W-11,719	Outboard motors and stern drive business.
Mercury Marine, Plant No. 33 (company)	Oshkosh, Wis	11/17/80	11/13/80	TA-W-11,720	Outboard motors and stern drive business.
Mercury Marine, Plant No. 6 (company)	Oshkosh, Wis	11/17/80	11/13/80	TA-W-11,721	Outboard motors and stern drive business.
Americap, Inc. (workers)	Seymour, Conn	11/17/80	11/13/80	TA-W-11,722	Baseball caps.
Canton Malleable Iron Co. (USWA)	Canton, Ohio	11/17/80	11/13/80	TA-W-11,723	Malleable castings frame.
Jaguar-Rover-Triumph, Inc. (workers)	Mount Clemens, Mich	11/17/80	11/4/80	TA-W-11,724	Automobiles and auto parts.
Rockwell International, Rockwell-Draper Division (company)	Spartanburg, S.C	11/17/80	11/12/80	TA-W-11,725	Manufacturing loams for textiles.
Salant & Salant Corp. (workers)	Marked Tree, Ark	11/17/80	11/14/80	TA-W-11,726	Ladies' jeans.
Victory Optical Manufacturing Co. (IRT)	Newark, N.J	11/17/80	11/4/80	TA-W-11,727	Optical frames.
Walterboro Dress Corp. (workers)	Walterboro, S.C	11/17/80	11/14/80	TA-W-11,728	Dresses, blouses, two piece pant suits, two piece dresses and jackets.
Walterboro Patent Corp. (workers)	Walterboro, Maine	11/17/80	11/14/80	TA-W-11,729	Patent leather.
Reynolds Machine Co. (workers)	Alpena, Mich	11/17/80	11/13/80	TA-W-11,730	Die springs.
Central Steel & Wire Co. (workers)	Detroit, Mich	11/14/80	11/12/80	TA-W-11,731	Wholesaler of steel and other ferrous and nonferrous metals.
Gerardi Sportswear Co., Inc. (company)	Oceanside, N.Y	11/14/80	11/11/80	TA-W-11,732	Ladies' clothing.
Inland Equipment Co., Inc. (workers)	Lewisburg, Tenn	11/14/80	11/10/80	TA-W-11,733	Replacement parts for clutches.
Kelly Park, Ltd. (workers)	Naranjito, P.R	11/14/80	11/6/80	TA-W-11,734	Ladies' knit tops.
Kelly Park, Ltd. (workers)	Orocovis, P.R	11/14/80	11/6/80	TA-W-11,735	Ladies' knit tops.
Kelly Park, Ltd. (workers)	Rio Piedras, P.R	11/14/80	11/6/80	TA-W-11,736	Ladies' knit tops.
Lydall, Inc. (workers)	Manchester, Conn	11/14/80	11/12/80	TA-W-11,737	Fiber board.
The Main Gate, Ltd. (workers)	New York, N.Y	11/14/80	11/6/80	TA-W-11,738	Ladies' knit tops.
Syntax Corp. (workers)	Bay City, Mich	11/14/80	11/10/80	TA-W-11,739	Carbon material.
A M General Corp. (UAW)	Marshall, Tex	11/13/80	11/6/80	TA-W-11,740	Finish trim on buses and manufacturing trolley buses.
ASARCO Deming Milling Unit (USWA)	Deming, N. Mex	9/30/80	9/26/80	TA-W-11,741	Lead and zinc.
Clark Precision Molding Corp. (workers)	Fall River, Mass	11/10/80	11/6/80	TA-W-11,742	Luggage.
Chrysler Corp., Supply Sales & Marketing Office, Chrysler Center (company).	Highland Park, Mich	11/13/80	11/11/80	TA-W-11,743	Marketing of Chrysler Corp. auto products.
Chrysler Products (workers)	Claremore, Okla	11/12/80	11/7/80	TA-W-11,744	Auto dealership.
D & S Auto, Trim Division, Fort Clinton Manufacturing Co. (workers).	Alma, Mich	11/13/80	11/10/80	TA-W-11,745	Sun visors.
General Motors Corp., GMC Truck & Coach Division (UAW).	Pontiac, Mich	11/12/80	11/4/80	TA-W-11,748	Coaches (buses).
Nakagawa Corp. of Puerto Rico (workers)	San Lorenzo, P.R	11/13/80	11/10/80	TA-W-11,747	Costume jewelry.
Olsonite Corp. (workers)	Troy, Mich. (South Park St.)	11/10/80	11/2/80	TA-W-11,748	Plastic injection molding.
Acme Leather Sportswear (company)	Elizabeth, N.J	11/18/80	11/12/80	TA-W-11,749	Suede leather sportswear.
Butler Furniture Industries, Inc. (workers)	Carrollton, Ky	11/18/80	11/11/80	TA-W-11,750	Painted dining and kitchen furniture.
Cole Forest Products, Inc. (workers)	Grand Rapids, Minn	11/19/80	11/11/80	TA-W-11,751	Corn cribbing rolls.
Commercial Dress Co. (ILGWU)	High Bridge, N.J	11/19/80	11/13/80	TA-W-11,752	Dresses.
Empire Knit Wear (UAW)	New York, N.Y	11/19/80	11/17/80	TA-W-11,753	Sweaters.
Florsheim Shoe Co. (ACTWA)	Chicago, Ill	11/19/80	11/17/80	TA-W-11,754	Men's cement dress shoes.
Penn Fishing Tackle Manufacturing Co. (workers).	Philadelphia, Pa	11/18/80	11/13/80	TA-W-11,755	Salt water fishing, tackle.
Rockwell International (AIW)	Kenton, Ohio	9/5/80	8/20/80	TA-W-11,756	Axles for trucks.
Smart Maid Coat & Suit (ILGWU)	New York, N.Y	11/19/80	11/14/80	TA-W-11,757	Infant's coats.
Acme Leather Sportswear (company)	Elizabeth, N.J. (Marshall St.)	11/18/80	11/12/80	TA-W-11,758	Suede leather sportswear.
Amalfi Sportswear, Inc. (company)	Fort Lauderdale, Fla	11/18/80	11/12/80	TA-W-11,759	Dresses and sportswear.
Cleveland Metal Finishing (workers)	Cleveland, Ohio	11/18/80	11/12/80	TA-W-11,760	Auto parts.
G.E. Co., Hermetic Motor Department (workers).	Tiffin, Ohio	11/18/80	11/13/80	TA-W-11,761	Rotors and Stators.
I.R.C. Fibers Co.—American Cyanamid Co. (ACTWU).	Painesville, Ohio	11/18/80	11/10/80	TA-W-11,762	Polyester tire cord for cars.
John A. Roebling Steel Corp. (company)	Roebling, N.J	11/18/80	11/12/80	TA-W-11,763	Steel billets.
Riverside Metal Products (workers)	Port Huron, Mich	11/18/80	11/10/80	TA-W-11,764	Automotive hardware.
Speidel, Division of Textron (IAM)	East Providence, R.I	11/18/80	11/10/80	TA-W-11,765	Watch bands and jewelry.
Speidel, Division of Textron (IAM)	Providence, R.I	11/18/80	11/10/80	TA-W-11,766	Watch bands and jewelry.
Speidel, Division of Textron (IAM)	Smithfield, R.I	11/18/80	11/10/80	TA-W-11,767	Watch bands and jewelry.
Transue & Williams, Division of Standard Alliance Industries, Inc., Stamping Division (AFL-CIO).	Alliance, Ohio	11/18/80	11/11/80	TA-W-11,768	Deep drawn metal stampings with many assemblies and welding.
Westinghouse, Transformer Division, Muncie	Muncie, Ind	11/18/80	11/1/80	TA-W-11,769	Cooling systems for transformers.
I.D.T. (workers)	Quincy, Mass	11/18/80	11/14/80	TA-W-11,770	Supplies supervisors and materials to General Dynamics in Quincy for shipbuilding living quarters.
Inspiration Consolidated Copper Co. (USWA)	Claypool, Ariz	11/14/80	11/5/80	TA-W-11,771	Refined copper and byproducts.
Jones Shake & Logging Co. (workers)	Rockport, Wash	11/18/80	11/4/80	TA-W-11,772	Shakes.
Modine Manufacturing Co. (workers)	La Porte, Ind	11/18/80	11/11/80	TA-W-11,773	Radiators.
Murphy Diesel Co. (IAM)	Milwaukee, Wis	11/18/80	11/13/80	TA-W-11,774	Diesel engines.
Outboard Marine Corp., Marine Engineering (workers).	Waukegan, Ill	11/18/80	11/15/80	TA-W-11,775	Marine engines and accessories.
Rexnord, Inc., (USWA)	Wocester, Mass	9/9/80	8/14/80	TA-W-11,776	Industrial chain.
Richard Callaghan, Inc. (workers)	New York, N.Y	11/19/80	11/6/80	TA-W-11,777	Designer Clothing.
Roselon Industries, Inc., Spinlon Division (company).	Spencer, Tenn	11/20/80	11/18/80	TA-W-11,778	Manufacturing and sale of textured synthetic filament yarns.
Genesco, Inc., Headquarters, (company)	Nashville, Tenn	11/20/80	11/14/80	TA-W-11,779	Footwear.
Genesco, Inc., J & M Plant (company)	Nashville, Tenn	11/20/80	11/14/80	TA-W-11,780	Footwear.
Genesco, Inc., Danville Plant (company)	Danville, Ky	11/20/80	11/14/80	TA-W-11,781	Footwear.
Genesco, Inc., Fulton Plant (company)	Fulton, Miss	11/20/80	11/14/80	TA-W-11,782	Footwear.
Genesco, Inc., Iuka Plant (company)	Iuka, Miss	11/20/80	11/14/80	TA-W-11,783	Footwear.
Genesco, Inc., Ripley Plant (company)	Ripley, Miss	11/20/80	11/14/80	TA-W-11,784	Footwear.
Genesco, Inc., McMinnville Plant (company)	McMinnville, Tenn	11/20/80	11/14/80	TA-W-11,785	Footwear.
Genesco, Inc., Lewisburg Plant (company)	Lewisburg, Tenn	11/20/80	11/14/80	TA-W-11,786	Footwear.
Genesco, Inc., Pulaski Plant (company)	Pulaski, Tenn	11/20/80	11/14/80	TA-W-11,787	Footwear.
Genesco, Inc., Waynesboro Plant (company)	Waynesboro, Tenn	11/20/80	11/14/80	TA-W-11,788	Footwear.
Genesco, Inc., Hohenwald Plant (company)	Hbhenwald, Tenn	11/20/80	11/14/80	TA-W-11,789	Footwear.
Genesco, Inc., Centerville Plant (company)	Centerville, Tenn	11/20/80	11/14/80	TA-W-11,790	Footwear.

Appendix—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Genesco, Inc., Camden Plant (company)	Camden, Tenn	11/20/80	11/14/80	TA-W-11,791	Footwear.
Genesco, Inc., Chapel Hill Terminal (company).	Chapel Hill, Tenn	11/20/80	11/14/80	TA-W-11,792	Footwear warehouse and terminal.
Genesco, Inc., Fayetteville Terminal (company).	Fayetteville, Tenn	11/20/80	11/14/80	TA-W-11,793	Footwear warehouse and terminal.
Genesco, Inc., Genstar Terminal (company)	Nashville, Tenn	11/20/80	11/14/80	TA-W-11,794	Footwear warehouse and terminal.
Genesco, Inc., Huntsville Terminal (company).	Huntsville, Ala	11/20/80	11/14/80	TA-W-11,795	Footwear warehouse and terminal.
Genesco, Inc., J & M Terminal (company)	Nashville, Tenn	11/20/80	11/14/80	TA-W-11,796	Footwear warehouse and terminal.
Genesco, Inc., Customer Service Terminal (company).	Nashville, Tenn	11/20/80	11/14/80	TA-W-11,797	Footwear warehouse and terminal.
Genesco, Inc., Fayetteville Terminal MMD (company).	Fayetteville, Tenn	11/20/80	11/14/80	TA-W-11,798	Footwear warehouse and terminal.
Genesco, Inc., 63d Ave. Warehouse (company).	Nashville, Tenn	11/20/80	11/14/80	TA-W-11,799	Footwear warehouse and terminal.
Genesco, Inc., Main St. General Maintenance & Capitol Products (company).	Nashville, Tenn	11/20/80	11/14/80	TA-W-11,800	Footwear warehouse and terminal.
Genesco, Inc., Charlotte, N.C. Dominion Shoe Co. (company).	Charlotte, N.C	11/20/80	11/14/80	TA-W-11,801	Footwear warehouse and terminal.
Genesco, Inc., Chapel Hill Sole Cutting (company).	Chapel Hill, Tenn	11/20/80	11/14/80	TA-W-11,802	Shoe components.
Genesco, Inc., General Adhesives & Chemical (company).	Nashville, Tenn	11/20/80	11/14/80	TA-W-11,803	Shoe components.
Genesco, Inc., Southern Sole (company)	Nashville, Tenn	11/20/80	11/14/80	TA-W-11,804	Shoe components.
Genesco, Inc., Tullahoma Capitol Products (company).	Tullahoma, Tenn	11/20/80	11/14/80	TA-W-11,805	Shoe components.
Facet-Glas of Michigan (workers)	Richmond, Mich	11/20/80	11/18/80	TA-W-11,806	Fiberglass bathtubs, showers.
Lou Levy & Sons Fashion (ILGWU)	Jersey City, N.J	11/20/80	11/18/80	TA-W-11,807	Ladies' coats.
Uni-bond, Inc. (workers)	Ferndale, Mich	11/20/80	11/14/80	TA-W-11,808	Brake shoes.
Trail Timber (company)	Darrington, Wash	11/18/80	11/10/80	TA-W-11,809	Hemlock & white fir logs.
Jacoby Bender, Inc. (company)	Woodside, N.Y	11/20/80	11/17/80	TA-W-11,810	Welch attachments.

[FR Doc. 80-37829 Filed 12-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,499]

Palm Beach Inc.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 2, 1980 in response to a worker petition received on August 8, 1980 which was filed on behalf of workers and former workers producing menswear at all divisions of Palm Beach Incorporated, Cincinnati, Ohio.

The Notice of Investigation was published in the **Federal Register**. No public hearing was requested and none was held.

Section 221(a) of the Trade Act of 1974 states that a petition for certification of eligibility to apply for adjustment assistance may be filed with the Secretary of Labor by a group of workers or by their certified or recognized union or other duly authorized representative. During the course of the investigation, it was established that the petitioner is neither an authorized representative of the workers of Palm Beach Incorporated, nor a company official. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 25th day of November 1980.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 80-37832 Filed 12-4-80; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-10,645]

Vamco Products; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on September 8, 1980 in response to a petition received on September 3, 1980 which was filed on behalf of workers at Vamco Products, St. Bernard, Ohio. The workers produce thinners, acids and oils.

The petitioning company official requested in a letter that the petition be withdrawn. On the basis of this request, continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 26th day of November 1980.

Marvin M. Fooks,

Director, Office Trade Adjustment Assistance.

[FR Doc. 80-37831 Filed 12-4-80; 8:45 am]

BILLING CODE 4510-28-M

Office of Pension and Welfare Benefit Programs

[Application No. D-1134]

Proposed Exemption for Certain Transactions Involving the National Reserve Life Insurance Co.; Pension and Profit Sharing Plan Located in Topeka, Kans.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed temporary exemption would exempt the purchase and holding by the National Reserve Life Insurance Company Pension and Profit Sharing Plan (the Plan) of participations in real estate mortgage loans, with the National Reserve Life Insurance Company (the Employer) for a five year period. In addition, the proposed exemption provides for the repurchase of such participations by the Employer. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer and other persons participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before January 16, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1134. The application for exemption and the comments received will be

available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMTION CONTACT: Ms. Linda Hamilton of the Department of Labor, telephone (202) 523-7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2), and 407(a) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Temporary Nature of the Exemption

The proposed exemption is temporary and, if granted, will expire five years after the date of grant. Should the applicant wish to continue the transactions beyond the five year period, the applicant may submit another application for an exemption.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a profit sharing plan with 90 participants and assets totalling $2,737,243 as of December 31, 1977. Plan investment decisions are made by five trustees, all of whom are employees of the Employer. Three of the trustees are officers of the Employer.

2. The Employer, a South Dakota corporation, has been engaged in the business of selling and issuing ordinary life insurance and annuity products since 1919. Kansas City Life Insurance Company, a Missouri corporation, owns in excess of 90% of the voting capital stock of the employer. As a part of its business operations, the Employer, through its Investment Department, regularly extends financing to various entities for real estate development and improvements.

3. The Employer is requesting an exemption to allow the Plan to participate in its real estate loans secured by first mortgages. The Employer, through its Investment Department, would arrange the loan and receive a promissory note and a first mortgage from the borrower. The Employer will assign to the Plan that portion of the borrower's promissory note and mortgage which equals the amount of cash transferred by the Plan as its participation in the loan.

4. The Plan may elect to participate in each loan which is secured by a first mortgage on real estate and which is made in the ordinary course of the Employer's business. The Plan may exercise its discretion in determining those loans in which it desires to participate, and under no circumstances will the Plan be obligated to participate in any loan which it deems to be detrimental to the best interests of the Plan and its participants and beneficiaries.

5. The Plan's participation in any single mortgage loan transaction will not exceed 10% of the entire amount of the mortgage loan. The Plan's participation will be further limited to .5% of total Plan assets as of the end of the previous calendar year per individual investment. No more than 30% of total Plan assets will be invested at any one time in all real estate mortgage loans combined, including any such loans made without the Employer's participation. These restrictions permit the Plan to invest in a mortgage loan in an amount which does not involve a substantial commitment of Plan assets. If the Plan were to invest in mortgage loans with unrelated parties, it would be required to commit much more of its capital than is required in the proposed transactions which limit the Plan investment in each individual participation to .5% of total Plan assets.

6. The Employer will guarantee that it will repurchase the Plan's interest in any mortgage in the event of a default or for whatever reason the Plan deems such repurchase necessary. The Employer will make such repurchase within 45 days after a demand is made by the Plan. A default will occur when the provisions of the note and mortgage or deed of trust or other security instrument have been breached resulting in the right of the noteholder to call the note due and payable in full and foreclose upon the securing property.

7. The repurchase price will be the balance of any principal owed to the Plan plus any accrued interest to the date of repurchase. The Employer will pay all fees, penalties or any other charges in connection with such repurchase so that the Plan will suffer no discount or any other loss.

8. The Employer intends to hold its interest in ecah mortgage loan. It is not the practice of the Employer to sell mortgage notes it has received in connection with these loans.

9. The Employer will not charge the Plan for any services rendered in making a loan available to the Plan, for investment services, or for any bookkeeping or accounting services associated therewith. Any service fees or expenses charged in servicing a loan by a party not affiliated with the Employer will be divided on a pro rata basis between the Plan and the Employer.

10. Each payment of interest and principal received from the borrower on each loan in which the Plan participates will be divided on a pro rata basis between the Plan and the Employer. The Plan's pro rata share of a particular principal and interest payment will be determined by dividing the amount which the Plan invested in such loan by the total amount invested by the Employer and the Plan. In addition, the Plan will receive its pro rata share of any commitment fees required to be paid by the borrower. Also, any prepayment penalties, which are required if a loan is paid prior to its maturity date, will be divided on a pro rata basis between the Plan and the Employer.

11. All loan participations in which the Plan will engage with the Employer will be documented with duplicate sets of IBM records, as well as manually kept records, separating the Plan's interest from that of the Employer. Annual CPA audits of the Plan's participation interests will be made.

12. The Plan and the Employer will enter a binding contract setting forth all of the above loan participation arrangements.

13. From 1971 to 1974 the Plan participated in real estate mortgage loans with the Employer and realized an average net return of 8.9% on such participations, which was in excess of most of th Plan's other investments for that period.

14. In summary, the applicant represents that the proposed transactions meet the statutory criteria of section 408(a) of the Act because:

(1) the procedures have been proven workable through past experience in similar loan participations involving the Plan and the Employer;

(2) each loan transaction will be carefully documented and thus easy to verify;

(3) the Plan will be able to invest in mortgage loans which will give it a high rate of return without committing a substantial amount of Plan assets to any one loan;

(4) the contract between the Plan and the Employer, the promissory notes, the first mortgages, and the guarantee that the Employer will repurchase any mortgage from the Plan in the event of a default or whenever the Plan deems such repurchase to be appropriate, give assurances that the Plan will not suffer a loss resulting from these loan participations; and

(5) the Plan trustees have determined that the proposed transaction is appropriate and is in the best interests of the Plan and its participants and beneficiaries.

Notice to Interested Persons

Notice will be provided to all Plan participants and beneficiaries by mailing of a copy of the Notice of Pendency as published in the Federal Register and by posting a copy of the Notice of Pendency in and about work locations in the Executive Offices of the Employer. The notice will also inform interested persons of their right to comment and request a hearing within the time period set forth in the Notice of Pendency. Such notice will be given within 10 days after publication of the Notice of Pendency in the Federal Register.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of th Act and section 4975(c)(2) of the Code does not relieve as fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of th Act and section 4975 (c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transaction rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considereing granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (2), and 407(a) of the Act and the sanctions resulting from the applications of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the purchase and holding by the Plan of participations in certain real estate first mortgage loans with the Employer for a five year period beginning with the date of granting of this exemption. In addition, the restrictions and sanctions shall not apply to the repurchase of the participants by the Employer during such five year period. Subsequent to the expiration date of the exemption, the restrictions and sanctions shall not apply to the holding by the Plan and repurchase by the Employer of such participations, provided such participations were acquired by the Plan during the period the exemption was in effect.

The exemption shall be applicable provided:

The Plan shall maintain or cause to be maintained for a period of six years from the date of each such transaction such records as are necessary to enable the Department to determine whether the conditions of this exemption have been met, except that:

1. A prohibited transaction will not be deemed to have occurred if due to curcumstances beyond the control of the plan fiduciaries, such records are lost or destroyed prior to the end of such six year period; and

2. The Employer shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if such records are not maintained, or are not available for examination as required by the paragraph below.

Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to above are unconditionally available at their customary location for examination during normal business hours by:

1. The Internal Revenue Service;
2. The Department of Labor;
3. Plan participants and beneficiaries;
4. Any employer of Plan participants;
5. Any employee organization any of whose members are covered by the Plan; or
6. Any duly authorized employee or representative of a person described in subparagraphs (1) through (5) of this paragraph.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 1st day of December, 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs; Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-37852 Filed 12-4-80; 8:45 am]

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[Prohibited Transaction Exemption 80–94; Exemption Application No. D–1788]

Exemption From the Prohibitions for Certain Transactions Involving the Christopher Commercial Corp. Retirement Plan Located in San Francisco, Calif.

AGENCY: Department of Labor.

ACTION: Grant of Individual Exemption.

SUMMARY: This exemption permits the sale of certain common stock (the Stock) by the Christopher Commercial Corp. Retirment Plan (the Plan) to Mr. George Christopher, a disqualified person with respect to the Plan.

FOR FURTHER INFORMATION CONTACT: Mr. David Stander of the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. (202) 523–8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On September 16, 1980, notice was published in the Federal Register (45 FR 61402) of the pendency before the Department of Labor (the Department) of a proposal to grant an exemption from the sanctions resulting from the application of section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(a)(1) (A) and through (E) of the Code, for the transaction described in an application filed by Mr. Christopher of the Plan pursuant to section 4975(c)(2) of the Code and in accordance with procedures set forth in ERISA procedure 75–1 (40 FR 18471, April 28, 1975). The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, D.C. No public comments and no requests for a hearing were received by the Department. Since Mr. Christopher is the only participant in the Plan and 100% stockholder of the Christopher Commercial Corp., the Plan sponsor, it was determined that there was no need to distribute the notice of pendency to interested persons.

The notice of pendency was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code does not relieve a fiduciary or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Code. These provisions include any prohibited transaction provisions to which the exemption does not apply; nor does the fact the transaction is the subject of an exemption affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) This exemption does not extend to transactions prohibited under section 4975(c)(1)(F) of the Code.

(3) This exemption is supplemental to, and not in derogation of, any other provisions of the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is, in fact, a prohibited transaction.

Exemption

In accordance with section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following determinations:

(a) The exemption is administratively feasible;

(b) It is in the interests of the Plan and of its participants and beneficiaries; and

(c) It is protective of the rights of the participants and beneficiaries of the Plan.

Accordingly, the sanctions resulting from the application of section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale, for cash, to Mr. George Christopher by the Plan of 9400 shares of the Stock for the higher of $9.75 per share or the fair market value of the Stock on the date of the sale.

The availability of this exemption is subject to the express condition that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to this exemption.

Signed at Washington, D.C., this 1st day of December 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs; Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80–37853 Filed 12–3–80; 8:45 am]

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[Application No. D–1747]

Proposed Exemption for Certain Transactions Involving the Restated Profit Sharing Trust and Plan of Fox Valley Tool & Die, Inc., Located in Kaukauna, Wisconsin

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenues Code of 1954 (the Code). The proposed exemption would exempt a loan of $125,000 by the Restated Profit Sharing Trust and Plan of Fox Valley Tool & Die, Inc. (the Plan) to Fox Valley Tool & Die, Inc. (the Employer). The proposed exemption, if granted, would affect the Plan, the Employer, and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before January 27, 1981.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1747. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Mrs. Miriam Freund, of the Department, telephone (202) 523–7901. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975 (c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the application on file with the Department for the complete representation of the applicant.

1. The Plan is a profit-sharing plan with approximately 14 participants. There are no former Plan participants with deferred vestment benefits due them from the Plan, no retirees with benefits due them from the Plan, and no beneficiaries with benefits due them from the Plan. Messrs. Richard Heiting, John Tetzlaff, and David Andres are the administrators and trustees of the Plan. They are also the shareholders of the Employer. As of June 20, 1980, the Plan had assets whose market value aggregated $336,544.

2. The Employer has constructed a major addition to its industrial building located at Route 4, Highway 96, Kaukauna, Wisconsin. At the time construction commenced, the cost of the addition was expected to be $125,000. At this location the Employer also owns the original industrial building, a single family residence, and some undeveloped land.

3. It is proposed that the plan will lend $125,000 to the Employer for the permanent financing of the addition to the Employer's industrial building. This amount represents approximately 37 percent of the Plan's total assets as of June 20, 1980. The trustees of the Plan expect that the remaining liquid assets of the Plan will be sufficient to pay all benefits and all Plan expenses arising during the term of the proposed loan.

4. The proposed loan will be evidenced by a mortgage note payable to the Plan by the Employer. The term of the note will be five years. Repayments will be made in monthly installments covering principal and interest. Except for the last installment payment, each monthly installment payment will equal the amount required to amortize the loan over a 20-year period. The last installment payment, due on the maturity date of the note, will equal the entire remaining unpaid principal and interest. The note permits the Employer to prepay the loan without penalty.

Interest on the loan will be at the rate of the higher of ten percent per annum or ½ of one percent above the commercial prime lending in effect at West Bank & Trust, Green Bay, Wisconsin (the Bank) on the execution date of the note and at the beginning of each succeeding calendar quarter. The applicant represents that the amount of interest paid on the loan that exceeds the commercial prime lending rate described in the preceding sentence will be treated as an Employer contribution to the Plan and that such excess, when added to the balance of the annual additions to the Plan, will not exceed the limitations prescribed by section 415 of the Code.

5. The note will be secured by a first mortgage executed on the same date as the note, on all of the real estate owned by the Employer at Route 4, Highway 96, Kaukauna, Wisconsin (described in item 2, above). The mortgage will be recorded with the Outagamie County, Wisconsin, Register of Deeds. An appraisal dated December 7, 1979, by Richard H. Vogels, of Appraisers, Inc. of Green Bay, Wisconsin, states that the fair market value of this property after the completion of the addition is $311,000 (i.e., $281,000 for the plant and site, including the addition, and $30,000 for the residence). The appraiser also estimates that (a) approximately $200,000 to $220,000 ($13 to $14 per square foot of plant including site) may be realized if the plant and site, including the addition, were vacant and for sale under somewhat distressed conditions, and (b) the value of the house would probably not reduce substantially.

6. On the date the note is executed, the Employer will provide the Plan with an Attorney's Opinion of Title in standard form or Title Insurance in the amount of the initial principal balance of the loan showing the Plan's mortgage as a first and paramount lien on the real estate. All expenses of preparing the loan documents and closing the loan transaction will be borne by the Employer. The Employer will keep the mortaged property insured against the fire and all other hazards, with certain specified exceptions, such as an earthquake, flood, and sewer backup. The applicant represents that insurance against the excluded risks is not normally provided in this geographic area.

7. The Bank has stated that in its opinion the proposed loan is an appropriate investment for the Plan, based on the investment policy of the Bank's Trust Department. The applicant represents that the Employer and the Bank are not related through the ownership of stock, through common directors or officers, or through any other common management or ownership relationship. The employer considers the Bank its primary commercial depository. The Employer presently has no loans from the Bank. Although the Employer may borrow from the Bank in the future, the Employer presently has no firm plans for such borrowing. The Employer has no established line of credit with the Bank. As of October 2, 1980, the ratio of Employer total deposits on hand with the Bank to total customer deposits on hand with the Bank was .001137556.

The Bank has also stated that it is willing to act as an independent fiduciary with full authority and responsibility to collect payments, sell or otherwise transfer the mortgage and note, foreclose in case of default, and otherwise supervise the loan in the best interests of the Plan participants and beneficiaries. The applicant represents that the Employer will pay the bank a reasonable fee for its services.

The Bank has also stated that it would have been willing to loan the Employer $125,000 with interest at the prime rate, adjusted annually, with no minimum rate and no prepayment penalty, amortized over at least a 20-year period, and secured by the real estate described above. The Bank believes that all, or a part, of the proposed loan by the Plan to the Employer would be marketable by the Plan to various local commercial lending institutions, including the Bank.

8. The trustees of the plan have determined that the proposed transaction is in the best interests of the Plan and its participants and beneficiaries.

9. In summary, the applicant represents that the proposed loan will satisfy the criteria of section 408(a) of the Act because (a) according to an independent appraiser, the fair market value of the real estate which will secure the proposed loan is approximately 2 to 2½ times greater than the initial principal balance of the loan; (b) the Bank, an independent party, is of the opinion that it would make a loan of the same principal amount to the Employer secured by the same real property but at a lesser rate of interest and for a longer term; (c) the Bank will serve as collection agent for

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the Plan and will fully supervise the loan in the best interests of the Plan participants and beneficiaries; (d) the proposed loan will be marketable by the Plan to various local lenders; and (e) the Bank has determined that the loan is an appropriate investment for the Plan.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Code, including sections 401(a)(4), 404 and 415.

Notice to Interested Persons

Within 30 days after publication of the proposed exemption in the **Federal Register**, notice of the proposed exemption will be provided to all present Plan participants by personal delivery or first class mail. The notice will contain a copy of the notice of pendency of the exemption published in the **Federal Register** and will inform the participant of his or her right to comment and to request a hearing.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the loan of $125,000 by the Plan to the Employer as described above provided that the terms and conditions of the loan are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated third party.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 1st day of December, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Program; Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80–37854 Filed 12–4–80; 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–970]

Proposed Exemption for Certain Transactions Involving the Simmons First National Bank Pension Plan Located in Pine Bluff, Arkansas

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the contribution of an undivided one-half interest in certain farm property to the Simmons First National Bank Pension Plan (the Plan) by the employer, Simmons First National Bank (the Bank), and the assignment by the Bank to the Plan of its undivided interest in a lease of another parcel of farmland adjacent to the contributed property. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Bank, and other persons having an interest in the farm.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before January 14, 1981.

EFFECTIVE DATE: If granted the exemption will be effective December 30, 1977.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–970. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Mr. Elliot Arditti of the Department of Labor, telephone (202) 523–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Bank, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713), October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a defined benefit pension plan with assets of $694,422.57 as of May 21, 1979. There are 196 active Plan participants. The Bank is the trustee of the Plan.

2. The Bank has, subject to obtaining an exemption from the Department, contributed to the Plan an undivided one-half fee simple interest in farmland known as the Tamo Farm or Baker-Matthews Farm (the Farm) on December 30, 1977. The Bank intends to value its contribution of the Farm at $175,000. The Bank acquired its ownership interest in the Farm by a deed of one of its mortgagors in lieu of foreclosure on June 7, 1972. The debt which gave rise to the Bank's foreclosure was unrelated to the purchase or operation of the Farm.

3. The Farm comprises 765 acres and is located west of the town of Grady in Lincoln County near Pine Bluff, Arkansas. Rice and soybeans are the principal crops raised. The Farm is, and has been since 1961, operated by a tenant pursuant to written Farm Lease Agreements. For the 1972–1978 period, the average annual net income for each of the two co-owners of the Farm was $26,927.32. During the same period, $54,741.45 was spent by the co-owners for capital improvements to the Farm.

4. The one-half interest in the Farm not owned by the Bank is owned by the Nixon Family (Nixons), who, but for a minor savings balance with the Bank as well as a very small line of credit with the Bank from Mr. Nixon's business (less than ½ of 1% of the bank's total line of credit), have no other relationship with the Bank. The Nixons have indicated that they are not interested in either purchasing the other one-half interest or selling their one-half interest.

5. Comptroller of the Currency regulations regarding property such as the Farm, obtained through default by a national bank, stipulate that the property must be divested within five years. In that the Bank acquired its one-half ownership interest in the Farm in 1972, it is faced with the alternative of selling the interest to unrelated entities or selling or donating the Farm to the Plan. The Bank has determined that the one-half interest is an excellent investment and has chosen to retain it for the benefit of its employees in the Plan.

6. The entire fee simple interest is encumbered by a $45,000, 5¾ percent mortgage with an unrelated party that matures in 1983. The Bank's tax basis in the Farm for its undivided one-half interest is $175,743.07. The C. H. Triplett Company of Pine Bluff appraised the Farm in 1977 at a value of $498,000 reduced by the principal balance of the mortgage and any accrued interest. The appraisal notes that inquiries of other real estate appraisers resulted in opinions that the discount for the sale of the undivided one-half interest ranged from 5 percent ot 30 percent. The Bank has therefore valued its one-half interest in the property at $175,000. The Bank represents that if the Plan does not realize at least $175,000 upon the sale of its interest in the Farm, the Bank will purchase the Plan's interest for $175,000 or pay the difference between the selling price and $175,000.

8. The one-half interest in the Farm is readily marketable according to H. E. Slaten, Jr. and Fred D. Shanks, Jr. independent real estate appraisers who are knowledgeable of farm real estate in the Pine Bluff, Arkansas area.

9. The Trust Department of the Bank has a history of managing farmland in the area. Presently it manages a total of 8,801 acres involving 19 farming operations including management of the subject property. The fee charged by the Bank for this farm management service is 5% of the income of the farm being managed. The Trust Department will waive this 5% fee with respect to the one-half undivided interest contributed to the Plan by the Bank.

10. On December 30, 1977, the Bank made an assignment to the Plan of its interest in 280 acres of farmland which are leased adjacent to the Farm. The lease, which is to run until December 31, 1984, was entered into between a family unrelated to the Plan, as lessor, and the Bank and the Nixons as lessees. The Bank represents that this additional land is valuable to the Plan since it allows favorable crop rotation and mix from year to year. The consideration paid to the Bank by the Plan for this assignment was $1.00.

11. In summary, the applicants represent that the proposed exemption satisfies the statutory criteria of section 408(a) of the Act in that:

(a) The proposed transactions will provide the Plan with a high quality asset that generates a high current return and which should appreciate in the future;

(b) The contribution is a one-time transaction;

(c) The Farm will continue to be managed by the Trust Department of the Bank, an entity that is experienced in farm management, yet the normal 5% pf income fee will be waived; and

(d) The Bank as Plan Trustee has considered the transaction and has concluded that it meets the financial requirements and goals of the Plan.

Notice to Interested Persons

Notice of the pending exemption will be given to all active and retired participants of the Plan within ten days of the publication of this notice in the **Federal Register**. Notice will be provided by distribution of copies of the notice published in the **Federal Register** personally to all active participants and by first class mail to all other participants and beneficiaries.

The notice will also inform interested persons of their right to comment and request a hearing with regard to the proposed exemption.

General Information

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of

the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing and Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the contribution by the Bank of a one-half interest in the Farm to the Plan, and the assignment to the Plan of the Bank's interest in a lease of farmland adjacent to the Farm, provided that the contribution of the Farm and the assignment of the lease interest are valued at their respective fair market values on the date of the transactions.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which are the subject of this exemption.

Signed at Washington, D.C., this 1st day of December 1980.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs; Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-37855 Filed 12-3-80; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1225]

Proposed Exemption for Certain Transactions Involving the David A. Levitsky, M.D. and Charles L. Miller, M.D., P.A. Profit Sharing Plan and Trust Located in Wilmington, Delaware

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and the Internal Revenue Code of 1954 (the Code). The proposed exemption would retroactively exempt the sale on June 4, 1979, for cash of real property by the David A. Levitsky, M.D. and Charles L. Miller, M.D., P.A. Profit Sharing Plan and Trust (the Plan) to David A.Levitsky and Marilyn L. Levitsky, his wife, and Charles L. Miller and Lois I. Miller, his wife (the Purchasers). The proposed exemption, if granted, would affect the participants and beneficiaries of the Plan and the Purchasers.

DATES: Written comments and requests for a public hearing must be received by the Department on or before January 20, 1981.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective June 4, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D–1225. The application for exemption and comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Horace C. Green of the Department, telephone (202) 523–8196. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and from the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the trustees (the Trustees) of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The Plan was established by David A. Levitsky, M.D. and Charles L. Miller, M.D., P.A., (the Employer) as a profit sharing plan in 1970 and had nine participants and total assets of $237,905 as of March 31 1979. Investment decisions for the Plan are made by the Trustees of the Plan who are David A. Levitsky, M.D., an employee and president of the Employer and Charles L. Miller, M.D., an employee of the Employer.

2. On September 15, 1976, the Plan purchased from an unrelated third party a parcel of unimproved real property (the Property), consisting of 4.082 acres, for $47,000. The Property is located on the West side of Route 7 in White Clay Creek Hundred, New Castle, Delaware. At the time of the purchase, the

intention of the Trustees was to negotiate a long term lease of the Property with the Purchasers who would build medical buildings on the Property. The Plan did not have the financial resources to develop the Property. The Trustees determined that this was a reasonable investment because the Wilmington Medical Center (the Center) had announced it would construct a major suburban hospital (the Hospital) in the vicinity of the Property and that the Hospital would generate a demand for medical office space. It was believed that the lease payments would have generated an annual rental of $30,000 for the Plan.

3. On November 28, 1978, the Trustees filed an application for exemption with the Department requesting that the lease of the Property by the Plan to the Purchasers be exempted. Subsequent to the purchase of the Property, community groups from the City of Wilmington, Delaware, brought a successful court action to enjoin the center from constructing the Hospital. The Trustees determined that the injunction would sufficiently delay the construction of the Hospital, thus substantially reducing the demands for medical space so as to make the proposed leasing arrangement unworkable. As a result, the Trustees abandoned their plans of leasing the Property to the Purchasers. Accordingly, on May 4, 1979, the Trustees filed an amendment to the application for exemption with the Department rescinding the request for an exemption for the leasing arrangement and in lieu thereof requested that the sale of the Property by the Plan to the Purchasers be exempted.

4. From its date of acquisition to June of 1979, the Property did not generate any income to the Plan. It was believed that if this situation continued beyond June of 1979, the result would have been a hardship to the Plan and its participants and beneficiaries. The Plan's total expenses (interest, taxes, assessment costs, etc.) for the Property amounted to $13,781 as of March 31, 1979. The Property represented 42 percent of the Plan's assets as of March 31, 1979.

5. In addition to the fact that the Property represented a substantial portion of the Plan's assets and was non-income producing, the Trustees believed that the market value of the Property would decline because of the expected rise in interest rates and the soaring land development costs in the area. The Trustees further believed that the failure to begin construction on the Hospital made the Plan's proposal to have the Property developed for medical offices inordinately risky, inasumuch as the expected demand for medical offices in that area would not be generated if the Hospital was not completed. Based on the above facts, the Trustees determined that a sale of the Property for its fair market value would be in the best interest of the Plan and its participants and beneficiaries.

6. An appraisal of the Property was performed by A. J. Matas, an independent appraiser, on April 26, 1979, who valued the Property at $100,000. In the opinion of the appraiser, the appreciation in value of the Property resulted from the fact that the Property adjoined a new shopping mall which had been constructed subsequent to the acquisition of the Property.

7. On April 27, 1979, the Trustees received from the Purchasers a conditional sales offer to purchase the Property for $100,000 cash (the Offer), provided that the sale of the Property would be consummated on or before June 4, 1979. This date was of utmost importance to the Purchasers because the Purchasers had financial commitments which would expire on that date. The Offer was accepted by the Trustees. It was believed that no unrelated party could be found who would purchase the Property for a price comparable to that offered by the Purchasers. Therefore, on June 4, 1979, the Plan sold the Property to the Purchasers for the then appraised value of $100,000. No commissions were paid in connection with the sale.

8. A second appraisal of the Property was performed by A. J. Matas on June 4, 1979. Mr. Matas valued the Property at $90,000. In the opinion of Mr. Matas, the decrease in value from the prior appraisal was due to the following reasons:

(a) the failure to begin construction of the Hospital in the area;

(b) rising interest rates and a severe scarcity of mortgage money; and

(c) undeveloped properties in the area surrounding the Property had been on the market for one to two years before a buyer could be found.

Thus, by selling the Property for $100,000, the Plan was able to dispose of the Property at a price that was $10,000 in excess of its most recent appraisal.

9. In summary, the applicant represents that the sale of the Property by the Plan meets the statutory criteria for an exemption under section 408(a) of the Act because: (a) the sale was a one time transaction for cash; (b) the sales price of the Property was in excess of its appraised value on the date of the sale; (c) the Plan was able to dispose of a non-income producing asset at a substantial profit; (d) no sales commissions were paid by the Plan; and (e) the Trustees determined that the transaction was appropriate for the Plan and in the best interests of the participants and beneficiaries.

Notice to Interested Persons

Notice of the proposed exemption will be given to all interested parties, including all Plan participants and beneficiaries, within fifteen (15) days of the publication of the notice of pendency in the **Federal Register**, by hand delivery or by mailing copies of the notice of pendency published in the **Federal Register**. Such notice shall inform the interested persons of their right to comment and right to request a hearing within the period set forth in the notice of pendency.

Tax Consequences of Transaction

The Department of the Treasury has determined that if a transaction between a qualified employee benefit plan and its sponsoring employer (or affiliate thereof) results in the plan either paying less than or receiving more than fair market value such excess may be considered to be a contribution by the sponsoring employer to the plan and therefore must be examined under applicable provisions of the Internal Revenue Code, including sections 401(a)(4), 404 and 415.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act

and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the cash sale by the Plan of the Property to the Purchasers on June 4, 1979, provided that the sales price was not less than the fair market value at the time of the sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction which is the subject of this exemption.

Signed at Washington, D.C., this 1st day of December, 1980.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs; Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 80-37856 Filed 12-4-80; 8:45 am]

BILLING CODE 4510-29-M

OFFICE OF MANAGEMENT AND BUDGET

President's Commission for a National Agenda for the Eighties; Meeting

December 2, 1980.

AGENCY: Office of Management and Budget.

ACTION: Notice of Past Meeting.

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given that a meeting of the Executive Committee of the President's Commission for a National Agenda for the Eighties, is being held on December 5, 1980 from 9:30 a.m. to 10:00 a.m. in Washington, D.C. The meeting was held at the New Executive Office Building in room 10103, 17th and Pennsylvania Avenue, N.W.

The purpose of the meeting is to discuss elements of the Commission's report.

Minutes of the meeting are available upon request.

FOR FURTHER INFORMATION CONTACT:

Ms. Loretta Marshall,
President's Commission for a National Agenda for the Eighties,
Office of Administration,
744 Jackson Place, Northwest,
Washington, D.C. 20006
(202) 275–0616.

Daniel F. Mann,

Budget and Management Officer.

[FR Doc. 80-37924 Filed 12-4-80; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 17346; File No. 4–208]

American Stock Exchange, Inc., et al., Order Approving Proposed Amendment to the Intermarket Trading System Plan

November 28, 1980.

In the matter of American Stock Exchange, Inc., Boston Stock Exchange, Inc., Midwest Stock Exchange, Inc., New York Stock Exchange, Inc., Pacific Stock Exchange, Inc., Philadelphia Stock Exchange, Inc.

On September 3, 1980, the participants in the Intermarket Trading System ("ITS")[1] filed with the Commission an amendment ("Amendment") to the "Plan for the Purpose of Creating and Operating an Intermarket Communications Linkage" ("ITS Plan").[2] The Amendment provides the ITS Operating Committee[3] with authority to implement and administer a pilot program with respect to the Pre-Opening Application created under the terms of the ITS Plan.[4] The pilot would be designed to determine the appropriateness of effecting the Pre-Opening Application based on price parameters outside the previous trading day's closing price which are other than those currently contained in the ITS Plan and shortening the period of time after which an inquiring specialist may open a stock in his market after inquiring of other specialists.

Notice of the proposed Amendment was given by issuance of a Commission release[5] and by publication in the Federal Register.[6] No comments were received with respect to the Amendment.

The Commission understands that this pilot is designed to reduce the price parameters used in the Pre-Opening Application. The Commission believes that the reduced price parameters may provide a greater opportunity for participation in primary exchange opening transactions by regional exchange broker-dealers. In addition, the shortened time period after which an inquiring specialist may open a stock in his market may promote the efficiency of the Pre-Opening Application. Therefore, the Commission, having due regard for the purposes of the Act, including the public interest, the protection of investors, the maintenance

[1] The participants include the American, Boston, Midwest, New York, Pacific and Philadelphia Stock Exchanges.

[2] The ITS Plan was first approved on an interim basis in 1976. Securities Exchange Act Release No. 14661 (April 14, 1978), 43 FR 17419. Approval on a temporary basis has been extended through January 31, 1983. Securities Exchange Act Release No. 16214 (September 21, 1979), 44 FR 56069.

[3] The ITS Operating Committee includes one member from each ITS participant.

[4] *See* Section 5(b) of the ITS Plan. The Pre-Opening Application enables a specialist on one ITS participant exchange to obtain any pre-opening interest of specialists on other participant exchanges. Currently, a specialist arranging an opening transaction is required to inquire of interest from other specialists whenever he determines that the opening transaction in his market in a stock traded in the ITS will be at a price which is more than one-quarter of a point away from the closing price on the previous trading day. The inquiring specialist is prohibited from opening the stock until not less than five minutes after inquiring of other specialists.

[5] Securities Exchange Act Release No. 17200 (October 7, 1980), 21 SEC Docket 94 (October 21, 1980).

[6] 45 FR 68618 (October 16, 1980).

of fair and orderly markets, and the need to remove impediments to, and perfect the mechanisms of, a national market system, has declared the Amendment effective as of the date of this release.

It is therefore ordered, Pursuant to Section 11A of the Act, that the above-mentioned proposed Amendment be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37782 Filed 12-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21813; 70–6388]

Arkansas-Missouri Power Co.; Proposed Issuance and Sale of Short-Term Bank Notes

December 1, 1980.

Notice is hereby given that Arkansas-Missouri Power Company ("Arkansas-Missouri"), 405 West Park Street, Blytheville, Arkansas 72315, a wholly-owned subsidiary of Middle South Utilities, Inc., a registered holding company, has filed with this Commission a post-effective amendment to the declaration in this proceeding pursuant to Sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

By order in this proceeding dated January 11, 1980 (HCAR No. 21390), Arkansas-Missouri was authorized to issue and sell to the First National Bank in Little Rock, Arkansas, for the account of participating banks, unsecured promissory notes in an amount not to exceed $5,000,000 at any one time outstanding and maturing no later than January 11, 1981.

Arkansas now proposes to issue and sell to First National Bank in Little Rock, Arkansas, for the account of participating banks, unsecured promissory notes payable not more than 270 days from the date of issuance and which may be renewed from time to time but to mature not later than one year from the effective date of the Commission's supplemental order herein. The promissory notes will bear interest, payable quarterly and at maturity, on the unpaid principal amount thereof at a rate per annum equal to the commercial loan rate of Chemical Bank, New York, New York, from time to time in effect on borrowings having a 90-day maturity by responsible and substantial corporate borrowers. Arkansas-Missouri will not be required to maintain any compensating balances with, or pay any commitment fee to, any of the participating banks in connection with the proposed transactions. The notes will, at the option of the company, be prepayable in whole or in part at any time without premium of penalty.

The proposed borrowings will be in addition to other bank borrowings by the company from (1) First National Bank in Little Rock, Arkansas, which total $5,500,000 as of the date of the post-effective amendment and may not exceed $5,500,000 at any one time outstanding, and (2) Worthen Bank & Trust Company, Little Rock, Arkansas, which total $5,500,000 as of the date of the post-effective amendment and may not exceed $5,500,000 at any one time outstanding.

It is stated that the net proceeds to be received by Arkansas-Missouri from the issuance and sale of the proposed notes will be applied to the payment at or prior to maturity of the bank borrowings previously authorized in this proceeding (estimated to total $3,000,000 in principal amount at the time of the supplemental order herein), to its construction program, and to other lawful corporate purposes. It is also stated that in connection with the proposed consolidation of the electric properties of Arkansas-Missouri with those of Arkansas Power & Light Company ("AP&L"), an associate company, AP&L, upon acquiring all the outstanding shares of the common stock of the company from Middle South Utilities, Inc., will thereafter cause Arkansas-Missouri to be liquidated and dissolved and its assets to be distributed to AP&L (File No. 70–6326). In conjunction with these transactions, and at the time of the liquidation of Arkansas-Missouri and the distribution of its assets to AP&L, AP&L will assume all the company's obligations and liabilities, including the company's then outstanding short-term indebtedness represented by notes payable to banks.

It is further stated that no special or separable fees or expenses are expected to be incurred by the company in connection with the issuance and sale of the notes. No state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested persons may, not later than December 29, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the post-effective amendment to the declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will reveive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37783 Filed 12-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21808; 70–6525]

Consolidated Natural Gas Co. et al.; Proposal To Make Loans to Residential Heating Customers To Finance Home Insulation Installment and To Acquire Promissory Notes

December 1, 1980.

In the matter of Consolidated Natural Gas Company, 30 Rockefeller Plaza, New York, New York 10020, and The East Ohio Gas Company, The River Gas Company, West Ohio Gas Company.

Notice is hereby given that Consolidated Natural Gas Company ("Consolidated"), a registered holding company, The East Ohio Gas Company, The River Gas Company and West Ohio Gas Company (collectively referred to

[7] *See* Pub. L. No. 87–592, 76 Stat. 394 (15 U.S.C. 78d–1, 78d–2); 17 CFR 200.20–3(a)(29).

as "the subsidiaries") all of which are wholly-owned subsidiaries of Consolidated, have filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 9 and 10 of the Act and Rule 40 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application for a complete statement of the proposed transaction.

The subsidiaries seek authorization to conduct, in accordance with the law of the State of Ohio, a residential insulation financing program ("Program") and to acquire unsecured installment promissory notes from residential gas space heating customers pursuant to the Program. Under the Program, each subsidiary will lend to each of their respective qualified residential heating customers amounts up to $750 for installation of insulation of the customer's single or double family gas heated residence if a financial institution listed as an institution that will finance such installations denies a loan to any such customers. Financing for the program will be derived from internally generated funds.

It is stated that the terms of the loans under the proposed Program shall not exceed 24 months. The interest charged on such loans will not exceed a rate equal to 4% in excess of the discount rate on 90-day commercial paper in effect at the Federal Reserve Bank, Fourth Federal Reserve District, at the time the loan is executed. The discount rate on 90-day commercial paper in effect on October 30, 1980 at the Federal Reserve Bank, Fourth Federal Reserve District, was quoted at 11%. At the end of the first year, the subsidiary shall set the rate of interest charged so that revenues derived therefrom will equal the costs of administering the Program. It is stated that if costs exceed 4% over the commercial paper discount rate, the excess will be assumed by the subsidiary. When costs are less than the revenues recovered from interest charges, customers who had loans outstanding during that year will be credited an amount in proportion to their respective loans and interest payments during that year. The credit will be applied against the customer's unpaid balance or bill the following year. Repayment within 90 days will be treated as cash and will incur no interest.

The maximum amount of loans outstanding at any one time from all the subsidiaries during the years 1981, 1982 and 1983 shall not exceed $9,500, $19,000 and $28,500 respectively. The maximum aggregate amounts of loans outstanding during the period 1981 through December 31, 1983 at any one time for each individual subsidiary will be as follows:

Applicants	Amount		
	1981	1982	1983
East Ohio	$5,000	$10,000	$15,000
River	2,250	4,500	6,750
West Ohio	2,250	4,500	6,750

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $1,100 including charges for services of Consolidated Natural Gas Service Company, Inc. estimated at $1,000. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 26, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shoduld be served personally or by mail upon the applicants at the above-stated address, antl proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted, as provided in Rule 23 of the general rules and regulations promulgated under the act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A Fitzsimmons,

Secretary.

[FR Doc. 80-37785 Filed 12-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11467; 812-4734]

Empire State Municipal Trust, et al.; Filing of Application for an Order To Permit an Offer of Exchange for an Exemption From the Provisions

December 1, 1980.

In the matter of Empire State Municipal Exempt Trust, Glickenhaus & Co., Lebenthal & Co., Inc., and Mosely, Hallgarten, Estabrook & Weeden Inc., c/o Glickenhaus & Co., 522 Fifth Avenue, New York, New York 10036.

Notice is hereby given that Empire State Municipal Exempt Trust, registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, and its sponsors, Glickenhaus & Co., Lebenthal & Co., Inc., and Mosely, Hallgarten, Estabrook & Weeden Inc. (collectively, "Sponsors") (hereinafter collectively referred to as "Applicants") filed an application on September 10, 1980, and amendments thereto on September 30, 1980, and November 25, 1980, requesting an order of the Commission (1) pursuant to Section 11 of the Act permitting exchange of units of series of the Trust for units of other such series at net asset value plus a fixed and reduced sales charge per unit, pursuant to an exchange option ("Plan"), and (2) for an order pursuant to Section 6(c) of the Act exempting Applicants from the provisions of Section 22(d) of the Act to the extent necessary to permit such exchanges. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Trust is comprised of Sixteen Series of similar but separate unit investment trusts organized under the laws of the State of New York. According to the application, the first series of the Trust was designated Municipal Exempt Trust, New York Exempt Series 1 and the second and third series were designated Municipal Exempt Trust, New York Series 2 and New York Series 3, respectively, and for these three series Glickenhaus & Co. acts as sole sponsor. Applicants further state that after the above three series had been created, the name of the Trust for all future series was changed to Empire State Municipal Exempt Trust and each succeeding series has been designated by a different series number commencing with Series 10. According to the application, the primary objectives of the Trust are tax-exempt income and conservation of capital through an investment in a diversified portfolio of tax-exempt bonds issued by or on behalf

of the State of New York and counties, municipalities or political subdivisions thereof or issued by certain United States territories or possessions and their public authorities so that the interest on these securities will be exempt from all Federal, New York State and New York City income tax under existing law.

Each series of the Trust is governed by the provisions of such Series' Trust Agreement and Indenture. Applicants state that, for each series of the Trust, the Sponsors acquire a portfolio of securities which is deposited with one or more trustee banks in exchange for certificates representing an undivided interest in the deposited portfolio. The units are then offered to the public at a public offering price which is based on the offering prices of the underlying portfolio securities, plus a sales charge. The application states that the sales charge is currently 4½ percent of the public offering price on sales of fewer than 500 units.

The Applicants state that, while not required to do so, the Sponsors maintain a secondary market for the units of each series of the Trust at prices based on the offering side evaluation of the underlying portfolio securities then in effect.

The sponsors propose to offer, subject of the conditions described below, the Plan to unitholders of the various series of the Trust. According to the application, the purpose of the Plan is to provide investors in each of the series of the Trust a convenient means of transferring interests as their investment requirements change. Applicants state that the Sponsors contemplate holding the Plan open at all times, although they reserve the right to modify, suspend or terminate the Plan at any time without notice to unitholders. It is intended that the Plan will operate as follows: A unitholder wishing to dispose of his units in a series for which a secondary market is being maintained will have the option to convert his units into units of any other series of the Trust for which units are available for sale in the secondary market and the Sponsors are participating in the Plan. When a unitholder notifies the Sponsors of his desire to participate in the Plan, the Sponsors will deliver a current prospectus for series of the Trust which the Sponsors have available as a result of secondary market acquisitions and in which the unitholder has indicated an interest. The unitholder may then select the series into which he desires his investment to be converted. A conversion transaction pursuant to the Plan will operate in a manner essentially identical to any secondary market transaction except that the Applicants propose to allow a reduced sales charge in a transaction under the Plan. According to the application, at the present time units of the Trust are repurchased by the Sponsors at prices based on the aggregate offering side evaluation of the underlying securities in the portfolio of the series and are resold at a public offering price based on the offering side evaluation of the underlying securities plus a sales charge of 4½% on purchases of fewer than 500 units. Applicants further state that, while it is not presently contemplated that unitholders would be permitted to exchange their units into units of other series which are available during the initial offering period, the Sponsors may at some future date permit such exchanges. Applicants also state that the Sponsors may change the repurchase price to a per unit price based on the aggregate bid side evaluation of the underlying portfolio securities of a series and resell them at that price plus a specified sales charge. Applicants further state that in the event the repurchase price is changed to a per unit price based on the aggregate bid side evaluation of the underlying portfolio securities of a series the Sponsors will not permit conversions of units pursuant to the Plan to be made into units of other series which are available during their initial offering period.

Applicants propose to sell units pursuant to the Plan at the repurchase price as paid by Sponsors, plus a fixed change of $15.00 per unit except for unitholders of a series with a sales charge less than than the sales charge of the series into which they desire to convert. In such instances, according to the application, unitholders who have held their units for a period of less than six months would have to pay a sales charge based on the greater of $15.00 or an amount which together with the sales charge paid in connection with the purchase of the units being exchanged equals the sales charge of the series into which the exchange is being made. The application further states that conversion transactions will be effected only in whole units. Under the Plan unitholders would not be permitted to make up any difference between the amount representing the units being submitted for conversion and the units of the new series being acquired. To illustrate, a holder of five units of a series in the Trust with an offering side evaluation of $1,100 may seek conversion into units of a series with an offering side evaluation of $900. The unitholders; units will yield $5,500 which amount may be invested in units of the other series. Should five units of the other series be purchased, the charge would be $4,575 ($4,500 for the units and a $75 sales charge). The remaining $925 would be retuned to the unitholder in cash.

The application states that the proposed fixed, reduced sales charge of $15 rather than the customary 4½% sales charge for regular and secondary market sales is proposed by the Sponsors as a result of certain cost savings; which reduction, in the judgment of Applicants, would be beneficial to investors. According to the application, a person desiring to dispose of units of one series and acquire units of another series may do so for a number of reasons, such as a change in investment goals or requirements. Thus, it is likely, according to Applicants, that there will be a continuing need to assess an investor's individual financial position and in all probability the account executives of the Sponsors will actively participate in counseling the investor as to the proper course of action to follow considering all of the relevant investment factors involved. However, Applicants assert that since the investor is an existing customer whose essential investment needs have previously been identified, some transactional savings will be produced. Further, Applicants contend that as a result of the fact that all the series of the Trust are very similar investment vehicles, and exchanging unitholder may require less advice than if he were acquiring an interest in an entirely different kind of investment. Applicants state that they believe that the reduced sales charge of $15 is a reasonable and justifiable expense to be allocated for the professional assistance contemplated in connection with the conversion transaction. Applicants argue that this sales charge compares favorably with the regular sales charge applicable to the sale of units in the primary and secondary market. According to the Applicants, the proposed fixed, reduced sales charge should cover reasonable costs related to the conversion of units under the Plan and yet give participants an opportunity to share in cost savings.

Section 11(c) of the Act provides, among other things, that exchange offers involving registered unit investment trusts are subject to the provisions of Section 11(a) of the Act irrespective of the basis of exchange. Section 11(a) of the Act provides, in pertinent part, that is shall be unlawful for any registered open-end company or any principal underwriter for such a company to

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make, or cause to be made, an offer to the holder of a security of such company or any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price describe in the prospectus. The sales charge described in the pospectuses of each of the Series of the Trust for effecting regular secondary market purchase and sale transactions is greater than the sales charge which will be applicable to transactions under the Plan. Rule 22d–1 under the Act permits certain variations in sales charges, none of which it is alleged will be applicable to transactions under the Plan.

Section 6(c) provides, in pertinent part, that the Commisison, by order upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of the investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 26, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements therof.

For the Commission, by the Divison of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–37786 Filed 12–4–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 21812; 70–6530]

Gulf Power Co.; Proposed Acquisition of Transmission Line

December 1, 1980.

Notice is hereby given that Gulf Power Company ("Gulf"), 75 North Pace Boulevard, P.O. Box 1151, Pensacola, Florida 32520, a public-utility subsidiary of The Southern Company, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Gulf proposes to acquire from Florida Power Corporation ("Florida"), a non-affiliated Florida corporation, a portion of a certain 230KV transmission line (115KV operated) located in Bay County, Florida. The affected portion of the transmission line, which is a facility for local distribution of electric power being located beyond the point of interconnection of the systems of Gulf and Florida, is approximately 0.91 mile long. Gulf is to pay a purchase price of $73,530 in cash for the transmission line. The depreciated value of such property is $34,284.

Such transmission line lies between an existing Gulf substation and an interconnection with Florida, and its purchase is necessary to maintain Gulf's territorial integrity. Gulf proposes to utilize such transmission line for a future 115KV loop between two of Gulf's existing substations.

It is stated that the fees and expenses to be incurred in connection with the proposed acquisition are estimated not to exceed $3,000 and that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested persons may, not later than December 29, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–37787 Filed 12–4–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 11468; 812–4752]

Monarch Life Insurance Co. et al.; Application for an Order Approving Certain Offers of Exchange

December 1, 1980.

In the matter of Monarch Life Insurance Company, and, Variable Account A of Monarch Life Insurance Company, 1250 State Street, Springfield, Massachusetts 01133.

Notice is hereby given that Monarch Life Insurance Company ("Monarch") and Variable Account A of Monarch Life Insurance Company ("Variable Account A"or "Account"), as issuers of Monarch's Variable Life Insurance Policy funded by Variable Account A ("VLI Policy"), filed an application on October 24, 1980 for an order of the Securities and Exchange Commission ("Commission") approving certain offers of exchange of Monarch and Variable Account A (collectively known as "Applicants"), pursuant to Sections 11(a) and 11(c) of the Investment Company Act of 1940 ("Act"). All interested persons are referred to the application on file with the Commission for a statement of the facts and representations contained therein which are summarized below.

Monarch is a stock life insurance company organized under the laws of the Commonwealth of Massachusetts, with its principal office located in Springfield, Massachusetts. Monarch is a wholly-owned subsidiary of Monarch Capital Corporation, a Delaware corporation organized in 1968 as a holding company.

Monarch plans to issue its VLI Policy through a separate account, Variable Account A. Pursuant to a resolution of the Monarch Board of Directors adopted on March 31, 1980, Variable Account A was established by Monarch under Section 132G of chapter 175 of the Massachusetts General Laws. Variable Account A will be maintained as a unit investment trust class of investment company within the meaning of Section 4(2) of the Act. All assets held in Variable Account A will be used to purchase shares at net asset value issued by the Merrill Lynch Investment Series Fund, Inc. ("Series Fund"). Initially, there will be five investment divisions within the Account, each of which will invest ony in the shares of a single mutual fund portfolio of the Series Fund.

The Series Fund is organized as a series company within the meaning of Section 18(f)(2) of the Act and Rule 18f–2 thereunder. The Series Fund will receive advice with respect to the investments of each of its portfolios from Merrill Lynch Asset Management, Inc. ("MLAM"), which will provide administrative services and investment advice and make all investment decisions for the Series Fund. MLAM, a subsidiary of Merrill Lynch & Co., Inc., is a registered investment adviser under the Investment Advisers Act of 1940.

The Applicants state that the VLI Policy is designed to provide lifetime insurance coverage to the insured; it also may be surrendered for its net cash value while the insured is living. The death benefits and cash values under a given Policy will vary based on investments made in Variable Account A. The death benefit may increase or decrease on each policy anniversary but it will never decrease below a guaranteed minimum amount set forth in the Policy. A Policy's cash value may increase or decrease on any day and no minimum amount of cash value is guaranteed.

In the application for a VLI Policy, the policyowner will designate how the net premium is to be allocated among the investment divisions of Variable Account A. No less than 10% of the net premium may be allocated to any division selected.

The amount allocated to Variable Account A with respect to each Policy will equal the annual premium for a standard risk Policy less deductions for "sales load," state premium taxes, annual administrative expenses, and risk charges. There will be an additional charge made in the first policy year to cover administrative expenses to issue a Policy.

As set forth in the VLI Policy, the policyowner may change the allocation of funds supporting the existing investment base of the policyowner's VLI Policy from any one or more of the investment divisions of Variable Account A investing in corresponding portfolios of the underlying Series Fund to any other of the investment divisions of Variable Account A. A policyowner may request this reallocation at any time, but not more than twice during each policy year. Such change will take effect as of the close of business on the day notice is received, provided no premiums are overdue. Each reallocation will be based upon the value of the Policy's total investment base and the net asset values of the underlying mutual fund portfolios at the close of business on the day the reallocation request is received.

Section 11(a) of the Act makes it unlawful for any registered open-end investment company or principal underwriter therefore to make an offer to the holder of a security of such company or of any other open-end investment company to exchange his or her security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless terms of the offer have first been submitted to and approved by the Commission. Section 11(c) of the Act provides that, irrespective of the basis of exchange, the provisions of subsection (a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

The Applicants argue that, although Variable Account A is a unit investment trust, they do not believe exercise of the reallocation privilege involves the exchange of securities of a unit investment trust for the securities of any other investment company. The Applicants state that in economic reality, the reallocation privilege involves an exchange at net asset value between two or more of the underlying portfolios of the Series Fund, which is a registered open-end company. The policyowner is not being offered the opportunity to make an exchange of a VLI Policy (which is the unit investment trust security) for an interest in another investment company. The Applicants state that only one unit investment trust, Variable Account A, is involved and that the Account will remain the funding vehicle for the Policies throughout these reallocations. In all events, the ownership of the Series Fund shares which are involved will always remain with Variable Account A. The Applicants further state that whatever "transaction" or "exchange" that might be said to take place between one or more of the underlying portfolios of the Series Fund will have no economic significance to the policyowner apart from the change in the underlying shares of the Series Fund used to support the Policy's total investment base.

Nevertheless, in the event Section 11(a) of the Act may be considered applicable by virtue of Section 11(c), Applicants are requesting approval of the Commission, pursuant to Sections 11(a) and 11(c) of the Act, to the extent necessary to enable Applicants to offer policyowners the opportunity to reallocate the funds supporting their Policies.

The Applicants assert that none of the dangers or any of the abuses for which Section 11 of the Act was enacted to prevent would be present in the reallocation transaction. The Applicants state that the reallocation privilege is equitable to all policyowners. It is available to all policyowners on an entirely voluntary basis. The rights of policyowners under the VLI Policy will be unaffected by the exercise of this reallocation privilege.

The Applicants state that the reallocation of funds will be at net asset value without the imposition of any charge, sales load, or other fee. No remuneration will inure to Monarch, Variable Account A, or the Series Fund upon the reallocation transaction. The Applicants further state that the reallocation provision of the VLI Policy provides policyowners with greater flexibility to adjust the underlying investment base of the VLI Policy in accordance with their perception of the changing economic climate. The Applicants assert that the reallocation privilege is consistent with, and equivalent to, the protections provided by Section 11 of the Act, and that it is appropriate in the public interest and consistent with the protection of

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investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than December 26, 1980 at 5:30 p.m., submit to the Commission in writing a request for hearing on the application, accompanied by a statement of the nature of his or her interest, the reasons for such request, and issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed to: George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following December 26, 1980, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing, if ordered, and any postponements thereof.

For the Commission by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37786 Filed 12-4-80; 8:45 am]

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[Release No. 21810; 70-6516]

Monongahela Power Co. et al.; Proposed Issuance and Sale of Short-Term Notes to Banks and Commercial Paper to Dealer; Request for Exception From Competitive Bidding

December 1, 1980.

In the matter of Monongahela Power Company, 1310 Fairmont Avenue Fairmont, West Virginia 26554; The Potomac Edison Company, Downsville Pike, Hagerstown, Maryland 21740; West Penn Power Company, 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601.

Notice is hereby given that Monongahela Power Company ("Monongahela"), The Potomac Edison Company ("Potomac"), and West Penn Power Company ("West Penn"), each a wholly-owned electric utility subsidiary of Allegheny Power System, Inc. ("Allegheny"), a registered holding company, have filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50 (a) (5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transactions.

Monongahela, Potomac, and West Penn propose to issue, reissue, sell and renew short-term notes to banks and commercial paper to provide short-term funds for the period from January 1, 1981 through June 30, 1982. The notes and commercial paper will be issued, reissued, sold and renewed from time to time as funds may be required prior to June 30, 1982, provided that no such notes or commercial paper will mature after December 31, 1982. Applicants request that, from the date of the granting of the application filed in this matter to June 30, 1982, the exemption from the provisions of Section 6(a) of the Act afforded to each by the first sentence of Section 6(b) thereof be increased to the extent necessary to permit the issuance and sale of notes to banks and commercial paper to dealers in commercial paper in an aggregate amount not to exceed $58,000,000 in the case of Monongahela, $57,000,000 in the case of Potomac, and $94,000,000 in the case of West Penn. These amounts include any notes which may remain outstanding under the Commission's order dated June 20, 1979 (HCAR No. 21110) and represent the maximum amount of notes for which authorization is presently sought. Changes may be made in the maximum amount of authorized outstanding notes after the filing of a post-effective amendment setting forth such changes and upon further order of this Commission.

As of August 31, 1980, Monongahela and Potomac had short-term debt outstanding of $7,500,000 and $9,500,000, respectively. West Penn had no short-term debt outstanding. It is stated that as of December 31, 1980, Monongahela, Potomac and West Penn will have approximately $21,500,000; $7,000,000; and $7,000,000 of short-term debt outstanding, respectively, pursuant to the Commission's order dated June 20, 1979 (HCAR No. 21110), assuming the sale of $60 million of Pollution Control Notes by West Penn and of $25 million aggregate par value of Preferred Stock by Potomac prior to December 31, 1980. No additional commercial paper or notes to banks can be issued pursuant to that order after December 31, 1980.

Each note payable to a bank will be dated as of the date of that borrowing, will mature not more than two hundred-seventy (270) days after the date of issuance or renewal thereof, will bear interest at the prime or comparable interest rate, in effect at the time of issuance at the bank from which the borrowing is made or the rate in effect at that bank from time to time, and will be prepayable at any time without premium or penalty. The words "Comparable interest rate of the bank from which the borrowing is made" shall include fixed or floating rates computed on the basis of differentials over or under nationally published rates of interest such as the rate for "federal funds" which result in an overall interest rate less than the prime rate in effect at such banks. The bank loans will be obtained from seven domestic banks pursuant to established lines of credit. The aggregate maximum principal amount of borrowings for all companies outstanding at any one time shall be $240,000,000. The maximum amount of such borrowings outstanding at any one time for Monongahela, Potomac and West Penn will not, when taken together with any commercial paper outstanding, be in excess of $58,000,000, $57,000,000, $94,000,000 respectively. These amounts include any notes or commercial paper which may be outstanding pursuant to the Commission's order of June 20, 1979 (HCAR No. 21110). Balances are maintained by one or more of such companies at all of these banks to meet regular operating requirements as well as, when necessary, in connection with these lines of credit. It is stated that compensating cash balance requirements are generally either on the basis of a percentage of the line of credit extended by such bank not to exceed 10%, or a higher percentage of notes outstanding not to exceed 20%, whichever is greater, or a percentage of the line of credit not to exceed 10% plus a percentage not to exceed 10% of notes outstanding in each case on an average annual basis. If such balances were maintained solely to fulfill compensating balance requirements for borrowings, the effective interest cost of issuing and selling the notes would be no more than 20.312% based on a prime commercial credit rate of 16.25%.

Applicants will file with the Commission by amendment (i) the names of any additional banks to which it proposes to issue and sell notes and (ii) in the event notes are to be issued and sold to any bank in amounts in excess of the amount indicated for such bank in the filing, such excess amount, and in either case, appropriate information as to compensating balances in connection therewith. No notes will be issued to such unidentified banks or in such excess amounts prior to the issuance by the Commission of a supplemental order in connection therewith.

Certain of the banks have offered to substitute fees for, or to be used in conjuction with lower compensating balances than those set forth above. The fee arrangements vary. In some cases fees equal to a specific percentage of the prime commercial rate (note to exceed 8½% of the prime commercial rate) are involved, while in another instance the arrangement provides that balances be maintained equal to 5% of the line of credit with an additional fee of 2½% of prime payable. The fee arrangements would not be utilized unless the effective cost thereof is less than the compensating balance arrangement in effect at the bank at that time. The proposed fee arrangements produce and effective interest cost of issuing and selling the notes of a maximum of 19.437% based on a prime commercial rate of 16.25% rather than the maximum effective interest cost of 20.312% resulting from meeting the compensating cash balance requirements set forth above.

The commercial paper will be in the form of promissory notes in denominations of not less that $50,000 nor more than $5,000,000; will be of varying maturities, with no maturity more than 270 days after the date of issue; and will not be prepayable prior to maturity. Each of the companies has designated A.G. Becker & Co. as its commercial paper dealer. The commercial paper notes will be sold by each of the companies directly to the dealer at a discount not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and of the particular maturity sold by issuers to dealers in commerical paper. The dealer may reoffer the commercial paper at a discount rate of ⅛ of 1% annum less than the discount rate to Monogahela, Potamac or West Penn. Commercial paper notes may be issued if (1) the interest cost thereof is equal to or less than the effective interest cost at which such company could borrow the same amount from the Banks at that time or (2) such company cannot at that time borrow the same amount for the same period of time from the Banks. The dealer will reoffer the commercial paper notes to not more than 200 of its commercial and industrial customers, identified and designated in a list for each company prepared in advance. Such customers include commercial banks, insurance companies, corporate pension funds, investment trusts, foundations, colleges and universities, financial companies and non-financial corporations which invest funds in commercial paper. It is expected that the commercial paper notes will be held by the dealer's customers to maturity, but if the customers wish to resell prior to maturity, the dealer, pursuant to a verbal repurchase agreement, will repurchase the notes and reoffer them to others on said list.

Exemption from the competitive bidding requirements of Rule 50 pursuant to paragraph (a)(5) thereof, is requested for the proposed issuance and sale of commercial paper since it is not practicable to invite competitive bids for commercial paper and current rates for commercial paper for prime borrowers such as applicants are published daily in financial publications. Applicants also request authority to file certificates under Rule 24 with respect to the issuance and sale of commercial paper on a quarterly basis.

It is stated that the proceeds from the issuance and sale of the proposed short-term borrowings will be used by each company to operate its business as an electric public utility, including the financing of its construction program and acquistion property. The estimated gross construction expenditures for 1981 and 1982 are estimated to total between $115 and $127 million in the case of Monogahela, between $118 and $129 million in the case of Potomac, and between $258 million and $275 million in the case of West Penn. Unless otherwise authorized by this Commission, any short-term debt outstanding hereunder after June 30, 1982, will be retired by each of such Companies having such short-term debt outstanding not later than December 31, 1982, from internal cash resources, or sale of permanent debt, preferred stock or common stock or such other securities as the Commission and other regulatory authorities having jurisdiction may authorize.

It is stated that the fees expenses to be incurred in connection with the proposed transactions are estimated to be approximately $24,400, including rating fees aggregating approximately $8,000 for each company. It is stated that the State Corporation Commission of Virginia has jurisdiction over the issuance and sale by Potomac of the short-term debt. It is further stated that no other state commission and no federal commission, other that this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 26, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A Copy of such request should be served personally or by mail upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37789 Filed 12-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21807; 70-6097]

System Fuels, Inc. et al. Proposal by Fuel Procurement Subsidiary to Finance Exploration for, Development, Production, and Procurement of Fuel of Various Types; Proposal by Such Subsidiary To Make Borrowings From Its Public Utility Parent Companies

November 28, 1980.

In the matter of System Fuels, Inc., Noro Plaza, 666 Poydras, New Orleans, Louisiana 70130; Arkansas Power & Light Company, First National Building, Little Rock, Arkansas 72203; Louisiana Power & Light Company, 142 Delaronde Street, New Orleans, Louisiana 70174; Mississippi Power & Light Company, Electric Building, Jackson, Mississippi 39205; New Orleans Public Service Inc.,

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317 Baronne Street, New Orleans, Louisiana 70112.

Notice is hereby given that System Fuels, Inc ("SFI"), a fuel procurement subsidiary of Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company and New Orleans Public Service, Inc. (collectively the "Operating Companies"), each a subsidiary of Middle South Utilities, Inc., a registered holding company, has filed post-effective amendments to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rules 43, 45 and 50(a)(3) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transaction.

By order dated December 28, 1979 (HCAR No. 21367) in this matter SFI was authoirzed to make long term borrowings of up to $117,000,000 through December 31, 1980 from the Operating Companies in order to finance, in part, SFI's fuel procurement, storage and transporation activities. It is estimated that pursuant to such authorization $54,500,000 will be outstanding on December 31, 1980 SFI proposes to enter into an amendment to its Loan Agreement, dated January 4, 1978 with the Operating Companies, as previously amended on January 1, 1979 and January 1, 1980. The Loan Agreement, as it is proposed to be amended, will provide for additional borrowings in 1981 of up to $207,000,000 through December 31, 1981. Any amounts outstanding as of December 31, 1980 will be converted into loans under the Loan Agreement as it is to be amended. Consequently, the amount of borrowings which have been, or are proposed to be, made under the Loan Agreement through December 31, 1981 is estimated to be $261,500,000, which amount will be adjusted to reflect the actual amount of loans outstanding at December 31, 1980.

It is presently comtemplated that additional net capital of $47,000,000 will be required for SFI's fuel procurement program during 1981, as follows:

[In thousands of dollars]

Fuel supply programs	Amount
A. Gas and oil exploration, development and production	$5,100
B. Uranium exploration	24,400
C. Nuclear fuel procurement	3,700
D. Coal Procurement	
E. Fuel oil program:	
1. Fuel oil procurement	15,200
2. Fuel oil storage and handling	1,400
Total capital requirements	52,800
Less: Depreciation and Deferred taxes	5,800
Net capital requirement	47,000

The uranium exploration program includes $5,200,000 in connection with the continuation of existing arrangements with three exploration companies and $2,900,000 for carrying costs, including interest charges and general and administrative expenses relating to the uranium exploration program to be capitalized.

The $24,400,000 budgeted for nuclear fuel procurement and processing will supplement short-term borrowings of up to $60,000,000 authorized by the Commission's order dated October 31, 1978 (HCAR No. 20753).

The $3,700,000 to be allocated to SFI's coal program will involve expenditures for carrying costs, consulting services, and overhead expenses to be capitalized in connection with the coal supply arrangement with North Antelope Coal Company.

To assure the availability to the Operating Companies of an adequate supply of fuel oil it will be necessary to have an inventory on hand at January 1, 1981 and December 31, 1981 of 6,500,000 bbls. and 6,100,000 bbls., respectively. During the ensuing twelve months, the inventory level will vary because of seasonal factors and other conditions. However, due to an increase in cost, the inventory at December 31, 1981 is expected to be worth approximately $162,500,000 compared to an estimated worth of approximately $142,100,000, at January 1, 1981. Also SFI anticipates expenditures of $1,400,000 in 1981 for the construction of an additional storage tank and to make certain improvements to the existing tanks, docking and unloading facilities. Of the total $163,900,000 to be invested in its oil procurement program during 1981, SFI expects to finance $100,000,000 through borrowings under the Loan Agreement dated as of May 28, 1980 among Clipper Oil Corporation, SFI and the Operating Companies, as authorized in the Commission's order of May 22, 1980 (HCAR No. 21584). A significant portion of the balance is expected to be financed through borrowings under SFI's proposed Loan Agreement with Citibank, N.A., (File No. 70-6519). Although the Citibank Loan Agreement may be used by SFI for its general fuel supply purposes, it has been assumed, for the purposes hereof, that $47,300,000 of borrowings thereunder will be used for SFI's fuel oil program, thereby resulting in a net capital requirement of $16,600,000.

Potential borrowing requirements of SFI during 1981 include up to $60,000,000 for payment of commercial paper and $100,000,000 for payment of borrowings from Clipper Oil Corporation and a net amount of $47,000,000 for SFI's fuel supply programs. SFI will partially finance its nuclear materials and processing services supply program during 1981 by the issuance of its commercial paper notes backed by Aetna's Bond of Indemnity and its fuel oil program in 1981 by borrowings from Clipper Oil Corporation. SFI has retained the right to cancel the program with Aetna at any time should it become economically disadvantageous. In addition, the program may be terminated upon the occurrence of certain events. SFI currently estimates that the maximum amount of notes or obligations to Aetna at any one time outstanding during 1981 will total $60,000,000. SFI seeks authority to make borrowings under the Loan Agreement, if necessary, in 1981, in an amount sufficient to effect repayment of its borrowings or reimbursement of Aetna. In addition, SFI will endeavor to extend, renew or otherwise refinance its borrowings from Clipper Oil Corporation under a loan agreement among SFI, Clipper Oil Corporation and the Operating Companies, which loan agreement, unless renewed will terminate on May 28, 1981.

If such loan agreement is not extended or renewed, or no refinancing is available, SFI will need to effect $100,000,000 of borrowings under the loan agreement in order to pay these borrowings at maturity. SFI also states that it needs the assurance that borrowing capacity is available immediately to meet contingencies which might arise in connection with leasing and other transactions previously entered into.

SFI proposes to enter into an amendment to the Loan Agreement with the Operating Companies pursuant to which SFI would be authorized to make borrowings, which will mature on December 31, 2006, from the Operating Companies, from time to time through December 31, 1981 in an aggregate amount not to exceed, at any one time, the sum of $207,000,000 and the amount to be outstanding at December 31, 1980 under the existing Loan Agreement, currently estimated to be $54,500,000, which amount will be converted into loans under the amended Loan Agreement. Such borrowings would be

in addition to the $26,500,000 of outstanding borrowings authorized by the Commission by order dated December 17, 1971 (HCAR No. 17400) and the $13,000,000 of outstanding borrowings authorized by Commission Orders dated December 17, 1973 (HCAR No. 18221) and December 24, 1975 (HCAR No. 19314) and December 30, 1976 (HCAR No. 19835).

Under the Loan Agreement, each Operating Company will agree to make loans to SFI until December 31, 1981 in aggregate principal amounts at any one time outstanding up to but not exceeding the following amounts:

[In thousands of dollars]

Operating company	Commitment
Arkansas Power & Light Co	$83,870
Louisiana Power & Light Co	111,145
Mississippi Power & Light Co	42,384
New Orleans Public Service Inc	24,100
Total	261,500

The amounts of the commitments include an assumed $54,500,000 to be outstanding under the 1980 Loan Agreement at December 31, 1980 and will vary to reflect the loans acutally outstanding at that time. Each Operating Company's commitment to make additional loans in 1981 is equal to an amount in such proportion as its kilowatt-hour sales for the twelve months ended September 30, 1980 bear to the total kilowatt-hour sales of the Operating Companies for that period, computed in both cases by including sales to rural electric cooperatives and municipalities but excluding sales to other public utilities.

The obligation of SFI to repay the loans made by each Operating Company under the Loan Agreement shall be evidenced by the promissory note ("Note") of SFI in a principal amount equal to such Operating Company's commitment and payable to the order of such Operating Company on December 31, 2006. SFI will authorize each Operating Company to endorse on the reverse side of the Note payable to such Operating Company an appropriate notation evidencing its pro rata share of the loans made to SFI under the Loan Agreement and each prepayment and payment of principal with respect to such loans. Each loan will be made pro rata according to the commitments. Simultaneously with the delivery of the Notes and their appropriate notation for borrowings outstanding at December 31, 1980 under the existing Loan Agreement, the Notes issued under the existing Loan Agreement which evidence such borrowings will be returned to SFI and cancelled. Each Note will bear interest on the unpaid principal balance thereof, adjustable monthly on the first day of each month, at an annual rate for such month equal to the annual rate of interest borne on the last day of the preceding month by the short-term bank borrowings of the Operating Company to which such Note shall have been issued. If on the last day of the month, such Operating Company shall have short-term bank borrowings bearing more than one rate of interest, the highest rate shall apply. If, on the last day of any month, such Operating Company shall not have any short-term bank borrowings, the prime commercial rate generally charged by commercial banks in New York City on such day to responsible and substantial corporate borrowers shall apply. The loans will be prepayable at any time in any amount without premium or penalty. Each prepayment on account of the unpaid principal balance of the Notes will be made by SFI to the Operating Companies pro rata in accordance with their respective percentage share of the commitments.

SFI states that it will borrow from external sources in lieu of making borrowings from the Operating Companies when effecting such external borrowings is more advantageous to SFI and the System under the circumstances at the time. Subject to the receipt of such regulatory approvals from the Commission as may be necessary at the time, it is anticipated that SFI may borrow from banks, insurance companies and other non-affiliated lenders and enter into specific arrangements for financing.

The rights and obligations of the parties under the Loan Agreement will be subject to certain restrictions set forth in the participation agreement with Aetna and the loan agreement with Clipper Oil Corporation. These restrictions relate principally to the payment or prepayment by SFI of its indebtedness to the Operating Companies during the terms of those agreements. In carrying out its financing program for 1981, SFI represents that it will at all times maintain the aggregate of its capital stock, surplus, and principal amount of its indebtedness to the Operating Companies at an amount equal to at least 35% of SFI's total capitalization.

SFI also requests that its existing authorization be extended through December 31, 1981 for the following:

(1) The Operating Companies, in connection with a transaction in the ordinary course of SFI's fuel supply business and not involving the issuance of a security, to assure any party contracting with SFI that the Operating Companies will, in accordance with their respective shares of ownership of the Common Stock of SFI, take such action as may be appropriate from time to time to keep SFI in a sound financial condition so that it may discharge its obligations under the particular contract; and

(2) To have personnel employed by the other companies in the System perform services for SFI at cost where it is more economical and efficient for such personnel to perform such services.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 22, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37705 Filed 12-4-80; 8:45 am]

BILLING CODE 8010-01-M

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[Release No. 34-17348; File No. SR-CSE-80-5]

Cincinnati Stock Exchange; Proposed Rule Change; Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 17, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Cincinnati Stock Exchange's Statement of the Terms of Substance of the Proposed Rule Change

Effective December 1, 1980, the Executive Committee of The Cincinnati Stock Exchange is revising fees charged for granting extensions of time filed by brokers pursuant to Regulation T of the Federal Reserve Act and Securities and Exchange Commission Rule 15c3-3.

Extension Fees:
(a) $1 per request (Members)
(b) [$2] *$1* per request (Non-Members)

The Cincinnati Stock Exchange's Statement of Basis and Purpose

By action of the Executive Committee on November 7, 1980, the fees charged for granting extensions of time were revised.

Section 6(b)(4) of the Act is the basis for these fees since specified charges are reasonable and equitably allocated to those who avail themselves of such Exchange services.

No comments were solicited from Members nor were any received.

Fees as set forth impose no burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number references in the caption above and should be submitted on or before December 26, 1980. For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

December 1, 1980.

[FR Doc. 80-37784 Filed 12-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release 34-17350; File No. SR-NASD-80-22]

National Association of Securities Dealers, Inc.; Proposed Rule Change; Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 25, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The NASD's Statement of the Terms of Substance of the Proposed Rule Change

Text of Proposed Rule Change

Section 37 of Article III of the Association's Rules of Fair Practice is redesignated as Section 35. Cross references within the Rules of Fair Practice are changed accordingly.

The NASD's Purpose of Proposed Rule Change

The rule change simply redesignates Section 37 of Article III of the Rules of Fair Practice as Section 35. This will permit the various sections of Article III to be presented in continuous order.

The substance of this section of the Rules of Fair Practice, entitled "Communications with the Public" was approved by the Commission on November 13, 1980, as announced in Exchange Act Release No. 17289.

The NASD's Basis under the Act for the Proposed Rule Change

The Association has authority, under Section 15A of the Act, to adopt and codify rules of fair practice.

Comments Received From Members, Participants or Others on Proposed Rule Change.

No comments were solicited or received with respect to the proposed rule change.

The NASD's Statement on Burden on Competition

Since the proposed rule change involves only an editorial change, the Association envisions no effects on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change as it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 26, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

December 1, 1980.

[FR Doc. 80-37790 Filed 12-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release 34-17349; File No. SR-PSE-80-22]

Pacific Stock Exchange Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-24, 16 (June 4, 1975), notice is hereby given that on November 17, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

The Exchange's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE") proposes to amend the forms of Agreement utilized in connection with financing of memberships (XYZ Agreements). The modifications allow use of the Agreements on the equity floors of PSE as well as the options floor and extend the period of time that may be required by PSE for the orderly transfer of business from one person to another.

The Exchange's Statement of Basis and Purpose

The proposed rule change modifies existing XYZ Agreements to allow the use of such Agreements on the Equity Floors of PSE as well as the Options Floor, to extend the period of time PSE can impose to provide for the orderly termination or transfer of business from the applicant back to the person financing the membership from 30 days to 60 days, to remove the requirement that all agreements between the applicant and the person financing the membership be submitted to and approved by PSE, and to simplify and correct certain terms and language contained in the present forms of Agreement.

The proposed rule change is consistent with Section 6(b)(2) of the Securities Exchange Act of 1934 in that it enhances the ability of a registered backer to dealer or natural person associated with a registered broker or dealer to become a member of PSE.

Comments were neither solicited or received with respect to the proposed rule change.

The proposed rule change does not impose a burden on competition.

On or before January 9, 1981, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W. Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 26, 1980.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

December 1, 1980.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-37791 Filed 12-4-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-17345; File No. SR-PCC-80-4]

Pacific Clearing Corp.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1834, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-24, 16 (June 4, 1975), notice is hereby given that on November 25, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of a redesignation of the Rules of Pacific Clearing Corporation ("PCC") to remove the Rules from their current position as Rule XX of the Rules of Pacific Stock Exchange Incorporated ("PSE") and establish them as an independent set of Rules.

Statement of Basis and Purpose

The proposed rule change removes the Rules of PCC from their current position as Rule XX of the Rules of PSE and establishes them as an independent set of Rules. This action has no substantive effect and is, in effect, merely a renumbering of existing Rules.

The proposed rule change is consistent with the purpose of Section 17A(b)(3) of the Securities Exchange Act of 1934 (the "Act") in that it concerns all of the Rules of PCC applicable to standards set out in that Section.

Comments were neither solicited or received with respect to the proposed rule change.

The proposed rule change does not impose a burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Wasington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 26, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

November 26, 1980.

[FR Doc. 80-37782 Filed 12-4-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Proposed License No. 04/04-0201]

Carolina Venture Capital Corp., Application for a License To Operate as a Small Business Investment Company

Notice is hereby given the filing of an application with the Small Business Administration (SBA), pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1980)), under the name of Carolina Venture Capital Corporation, Suite 109, Sea Pines Executive Office Building, Pope Greenwood Complex, Hilton Head Island, South Carolina 29928, for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (Act), (15 U.S.C. 661 *et seq.*).

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The proposed officers, directors and major stockholders are as follows:

Thomas H. Harvey, III, President, Chairman of the Board and 31.818 percent stockholder; P.O. Box 3110, Hilton Head Island, SC 29928

James M. Herring, Esq., Secretary, Director, and 3.78 percent stockholder; P.O. Drawer 5909, Hilton Head Island, SC 29928

Frederick W. Hohage, Vice President, Director, and 15.152 percent stockholder; 2800 S. 25th Avenue, Broadview, IL 60153

Joe Harden Builder, Inc., 15.152 percent stockholder; Pension Plan, Arrow Road, Hilton Head Island, SC 29928

Defined Benefit Trust, 10.50 percent stockholder; P.O. Box 3110, Hilton Head Island, SC 29928

Time Sharing Management Services, Inc., 16.50 percent stockholder; P.O. Box 3110, Hilton Head Island, SC 29928

Mr. Harvey is the holder of the controlling interest in both of the Time Sharing Management Services, Inc. Trust Plans.

The balance of the Applicant's stock will be owned by eight other investors, none of whom will own 10% or more of the Applicant's stock.

The Applicant will begin operations with a capitalization of $510,000 which will be a source of both equity and debt financing to qualified small business concerns in a wide range of industries for normal growth, expansion and working capital.

The Applicant does not intend to use the services of an investment adviser but will provide consulting services to its clients and other small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed management and owner, including adequate profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any person may, not later than December 22, 1980, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Hilton Head Island, South Carolina area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: November 26, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-37775 Filed 12-4-80; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1952]

Nebraska; Declaration of Disaster Loan Area

The following 63 counties and adjacent counties within the State of Nebraska constitute a disaster area as a result of physical damage caused by natural disasters as indicated:

County	Natural disaster	Date
1. Antelope	Drought	5/10 to 10/2/80.
2. Blaine	Drought	5/10 to 10/2/80.
3. Boone	Drought	5/10 to 10/2/80.
4. Brown	Drought	5/10 to 10/2/80.
5. Buffalo	Drought	5/10 to 10/2/80.
6. Burt	Drought	5/10 to 10/2/80.
7. Butler	Drought	5/10 to 10/2/80.
8. Cass	Drought	5/10 to 10/2/80.
9. Cedar	Drought	5/10 to 10/2/80.
10. Cherry	Drought	5/10 to 10/2/80.
11. Clay	Drought and insect damage.	5/10 to 10/2/80.
12. Colfax	Drought	5/10 to 10/2/80.
13. Cuming	Drought	5/10 to 10/2/80.
14. Dakota	Drought	5/10 to 10/2/80.
15. Dawes	Drought, insect and disease damage.	5/10 to 10/2/80.
16. Dawson	Drought	5/10 to 10/2/80.
17. Dixon	Drought	5/10 to 10/2/80.
18. Dundy	Drought	5/10 to 10/2/80.
19. Fillmore	Drought, insect damage.	5/10 to 10/2/80.
20. Frontier	Drought	5/10 to 10/2/80.
21. Gage	Drought	5/10 to 10/2/80.
22. Garfield	Drought	5/10 to 10/2/80.
23. Gosper	Drought	5/10 to 10/2/80.
24. Hall	Drought	5/10 to 10/2/80.
25. Hayes	Drought, insect damage.	5/10 to 10/2/80.
26. Hitchock	Drought, insect damage.	5/10 to 10/2/80.
27. Holt	Drought	5/10 to 10/2/80.
28. Hooker	Drought	5/10 to 10/2/80.
29. Jefferson	Drought	5/10 to 10/2/80.
30. Johnson	Drought, insect damage.	5/10 to 10/2/80.
31. Kearney	Drought	5/10 to 10/2/80.
32. Keya Paha	Drought	5/10 to 10/2/80.
33. Lancaster	Drought	5/10 to 10/2/80.
34. Lincoln	Drought, insect damage.	5/10 to 10/2/80.
35. Logan	Drought, insect damage.	5/10 to 10/2/80.
36. Loup	Drought	5/10 to 10/2/80.
37. McPherson	Drought, insect damage.	5/10 to 10/2/80.
38. Madison	Drought	5/10 to 10/2/80.
39. Merrick	Drought	5/10 to 10/2/80.
40. Nance	Drought	5/10 to 10/2/80.
41. Nemaha	Drought, insect damage.	5/10 to 10/2/80.
42. Nuckolls	Drought, insect damage.	5/10 to 10/2/80.
43. Otoe	Drought	5/10 to 10/2/80.
44. Pawnee	Drought, insect damage.	5/10 to 10/2/80.
45. Pierce	Drought	5/10 to 10/2/80.
46. Platt	Drought	5/10 to 10/2/80.
47. Polk	Drought	5/10 to 10/2/80.
48. Red Willow	Drought, insect damage.	5/10 to 10/2/80.
49. Richardson	Drought	5/10 to 10/2/80.
50. Rock	Drought	5/10 to 10/2/80.
51. Sarpy	Drought	5/10 to 10/2/80.
52. Saunders	Drought	5/10 to 10/2/80.
53. Seward	Drought	5/10 to 10/2/80.
54. Sheridan	Drought, insect damage.	5/10 to 10/2/80.
55. Stanton	Drought	5/10 to 10/2/80.
56. Thayer	Drought	5/10 to 10/2/80.
57. Thomas	Drought, insect damage.	5/10 to 10/2/80.
58. Thurston	Drought	5/10 to 10/2/80.
59. Valley	Drought	5/10 to 10/2/80.
60. Washington	Drought	5/10 to 10/2/80.
61. Wayne	Drought	5/10 to 10/2/80.
62. Wheeler	Drought	5/10 to 10/2/80.
63. York	Drought, insect damage.	5/10 to 10/2/80.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 25, 1981, and for economic injury until the close of business on Aug. 24, 1981 at:

Small Business Administration, District Office, 19th and Farnum Streets, 2nd Floor, Omaha, Nebraska 68102

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 24, 1980.

A. Vernon Weaver,

Administrator.

[FR Doc. 80-37776 Filed 12-4-80; 8:45 am]

BILLING CODE 8025-01-M

Sunshine Act Meetings

Federal Register

Vol. 45, No. 236

Friday, December 5, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission will consider an additional item on the subject listed below on Thursday, December 4, 1980, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, DC.

Agenda, Item Number, and Subject

Broadcast—1—Preparations for Second Session of the Region 2 Administrative Radio Conference for AM Broadcasting.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S-2218-80 Filed 12-3-80; 10:11 am]

BILLING CODE 6712-01-M

2

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Thursday, December 4, 1980, following the Open Meeting which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item Number, and Subject

Hearing—1—Petition for reconsideration filed by Walton Broadcasting, Inc. in the Tucson, Arizona, KIKX renewal proceeding (Docket No. 20287).

Hearing—2—Petition for partial reconsideration, appeals, and motions for leave to file appeals in the Joplin, Missouri/Pittsburg, Kansas Television renewal proceeding (Docket Nos. 78-81, 82, 83).

Hearing—3—Appeal of the ALJ's denial of Motion to Disqualify Counsel in the Burbank and Pasadena, California AM and FM renewal and CP proceeding (Docket Nos. 20629-30-31 and BC Docket Nos. 79-65-66-67).

Hearing—4—Two applications for review in the Gaithersburg, Maryland new standard broadcast proceeding. (Docket Nos. 21219, 21224 and 21225).

Hearing—5—Application for Review in the Robert J. Lisberger, Jr., Crystal, Minnesota, citizens band license revocation proceeding (PR Docket No. 79-28).

Hearing—6—Application for Review of a final Review Board Decision in the Columbus, Ohio comparative UHF TV proceeding. (Docket Nos. 78-395, 78-396).

Hearing—7—Motion to accept appeal from an interlocutory ruling of Administrative Law Judge in the Columbia, Pennsylvania comparative AM radio proceeding. (Dockets BC 80-99, BC 80-100).

Hearing—8—Application for Return of Texan Broadcasting Company, Inc.'s Application fro a construction permit for channel 19 in Nacogodches, Texas, to Processing Line. (Docket No. BC 80-36).

Hearing—9—Application for review of a Review Board Decision in the Enumclaw, Washington, Section 307(b) proceeding. (Docket Nos. 78-82, 79-83).

Hearing—10—Draft Decision in the KGGM-TV, Albuquerque, New Mexico, renewal proceeding (Docket No. 20540).

General—1—Transfer of Responsibility for Training of Foreign Nationals to the Office of Science and Technology.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: December 2, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[S-2219-80 Filed 12-3-80; 10:11 am]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, December 4, 1980, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street NW., Washington, D.C.

Agenda, Item Number, and Subject

General—1—*Title:* In the matter of Digital Communications Protocols (General Docket 80-) *Summary:* The Commission will consider protocol conversion issues generic to interconnection of digital communication networks including issues raised by the Commission's *Final Decision* in the Second Computer Inquiry (Docket No. 20828).

General—2—*Title:* Petitions requesting extension or waiver of the January 1, 1981 compliance date for certain categories of computing equipment. *Summary:* The Commission considers the petitions filed by the following parties requesting partial relief from the January 1, 1981 compliance date: Health Industry Manufacturers Association requests waiver of the interim label requirements for medical devices; Sega Enterprises Inc., Atari, Inc., Stern Electronics Inc., each requests stay of compliance for coin operated electronic games; Tandy Corp. requests waiver of the rules for a noncomplying interface device; Heath Co. and Apple Computer Co., Inc. requests temporary stay of the rules for their respective computers.

General—3—*Title:* Petition filed by Clairol Incorporated for a waiver of Section 2.805 of the rules to permit the marketing of an ultrasonic denture cleaner. *Summary:* The Commission considers a petition from Clairol for waiver of the Commission's marketing rules. The waiver would permit Clairol to market an ultrasonic denture cleaner which does not comply with the technical requirements of Part 18 of the rules.

Private Radio—1—Amendment of Parts 2 and 94 of the rules to provide regulations for use of radio in public utility distribution automation systems (SS Docket No. 79-18).

Common Carrier—1—*Title:* Authorization of New Domestic Satellites. *Summary:* The Commission considers applications for authority to construct and launch, and the assignment of orbital locations to, new space stations in the domestic Fixed-Satellite Service proposed by Hughes Communications, Inc., Southern Pacific Communications Company, RCA American Communications, Inc., Western Union Telegraph Company (including the related applications of Space Communications, Inc. and American Satellite Company), COMSAT General Corporation, American Telephone and Telegraph Company, Satellite Business Systems and GTE Satellite Corporation.

Common Carrier—2—*Title:* American Telephone and Telegraph Company and Associated Bell System Companies, Offer of Facilities for Use by Other Common Carriers (Docket 21499). *Summary:* The

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Commission will consider issuing a Notice of Proposed Rulemaking in the above-captioned docket.

Cable Television—1—"Motion for Declaratory Order" (CSR–1364) filed January 26, 1979, by Henson Aviation, Inc. "Petition for Special Relief" (CSR–1811) filed August 14, 1980, by Potomac Valley Cable Television Co., Inc., Henson Aviation, Inc., licensee of Station WHAG–TV (NBC, Channel 25), Hagerstown, Maryland, requests that the Commission issue a declaratory order clarifying paragraph 25 of the *Memorandum Opinion and Order in Docket No. 19995*, FCC 78–597, 68 FCC 2d 1461 (1978). Potomac Valley Cable Television Co., Inc., operator of a cable television system within WHAG–TV's 55-mile zone, requests that the Commission rescind the relief granted in *WHAG–TV, Inc.* (Hagerstown, Maryland), FCC 75–1117, 56 FCC 2d 127 (1975). WHAG–TV's motion is opposed by area cable systems; Potomac Valley's petition is opposed by WHAG–TV.

Cable Television—2—"Petition for Special Relief by Declaratory Ruling and Request for Expedited Action" (CSR–1763) filed May 13, 1980, by Northern New England Television. Northern New England Television is the licensee of Station WNNE–TV (NBC, Channel 31), Hanover, New Hampshire. WNNE–TV requests that the Commission waive Section 76.92(g) of the Commission's Rules as it affects the network programming of significantly viewed NBC affiliates carried on ten Vermont and New Hampshire cable television systems. WNNE–TV's petition is opposed by Continental Cablevision of New Hampshire, Inc., by Telesystems Corporation d/b/a Montpelier Cable TV and Rutland Cable TV, and by Vermont Television Corporation, operators of four of the ten cable systems, and by Maine Radio and Television Company, licensee of Station WCSH–TV (NBC, Channel 6), Portland, Maine.

Cable Television—3—"Petition for Special Relief" (CSR–1268) filed April 24, 1978, by Allen Communications, Inc. Allen Communications, Inc. is the licensee of Station WECA–TV (ABC, Channel 27), Tallahassee, Florida. Allen requests that the Commission waive Section 76.92(g) of the Commission's Rules as it affects the network programming of Station WJHG–TV (ABC, Channel 7), Panama City, Florida, carried on the cable television systems serving Quincy and Tallahassee, Florida, operated by Teleprompter of Quincy and by Clearview Cable TV, respectively. Allen's petition is opposed by Teleprompter of Quincy and by WJHG–TV, Inc., licensee of Station WJHG–TV.

Cable Television—4—Statement by KWTX Broadcasting Company, Inc., licensee of Television Broadcast Station KWTX–TV (ABC/CBS, Channel 10), Waco, Texas, filed in opposition to the Commission's decision in *Cablevision Investors, Inc.*, FCC 80–408, released August 6, 1980. The Commission must determine whether KWTX–TV has sufficiently shown that grant of the waiver requested in the captioned case would substantially impair the local broadcasters' ability to serve the public interest notwithstanding a *prima facie* showing to the contrary in the captioned case.

Aural—1—*Title:* Application for Review filed September 30, 1980 by Salem Media Corporation. *Summary:* This pleading is directed against the staff action of September 9, 1980 which sustained an objection to a request for change in the call sign of AM station WEVD, New York, New York, to WMNY.

Aural—2—*Title:* Applications by the Far East Broadcasting Company, Inc. to license AM Station KSAI, Susupe, Saipan and H. Scott Killgore d/b/a Micronesian Broadcasting Corporation to license Stations WSZE(AM), WSZE–FM, and WSZE–TV, Navy Hill (Rapagan), Saipan. *Summary:* The Commission will consider applications to license broadcast facilities in the Northern Mariana Islands Commonwealth.

Broadcast—1—*Title:* Clear Channel Broadcasting in the AM Broadcast Band. *Summary:* The Commission will consider petitions for reconsideration of the Report and Order in Docket No. 20642, Clear Channel Broadcasting in the AM Broadcast Band.

Broadcast—2—*Title:* Notice of Inquiry in the matter of amendment of the Rules concerning automation of the use of measurement data for AM broadcast stations. *Summary:* The Commission considers whether to issue a Notice of Inquiry looking towards the automation of the use of measurement data for AM broadcast stations.

Complaints and Compliance—1—*Title:* Petition by Washington Magazine, Inc. for order prohibiting on-air promotion of public broadcasting magazine *The Dial* on Stations WNET–TV, KCET–TV, WTTW–TV, WETA–TV and WETA–FM. *Summary:* Publisher of *The Washingtonian* has requested the Commission to prohibit four noncommercial educational stations, WNET–TV, KCET–TV, WTTW–TV, and WETA–TV (and WETA–FM), from making on-air announcements for *The Dial*. *The Dial* is a magazine published by a nonprofit corporation run by the participating stations for distribution to contributing members. Petitioner argues that on-air announcements for *The Dial* will violate Section 73.621 of the Commission's Rules prohibiting promotion of products and services over the air of noncommercial educational stations and will constitute an anticompetitive practice. The Commission must decide whether to grant or deny the petition.

Complaints and Compliance—2—*Title:* Williams County Broadcasting System, Inc., license renewal applications for Stations WBNO AM–FM, Bryan, Ohio. *Summary:* The Commission considers Stations WBNO AM–FM's license renewal applications and the results of a field investigation into the operation of these stations which disclosed consistent failures, over a considerable period of time, to comply with the station's past commercial proposals, yet the pending renewal applications recite essentially identical proposals for the next license term.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254–7674.

Issued: December 2, 1980.
Federal Communications Commission,
William J. Tricarico,
Secretary.

[S–2220–80 Filed 12–3–80; 10:12 am]
BILLING CODE 6712–01–M

4

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 79970, December 2, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., December 4, 1980.

CHANGE IN THE MEETING: Withdrawal of the following item from the open session:

8. Agreement No. 10380: Medafrica-Nigeria America Shipping Line Limited Joint Service.

[S–2217–80 Filed 12–3–80; 9:30 am]
BILLING CODE 6730–01–M

5

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 79970, December 2, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., December 4, 1980.

CHANGE IN THE MEETING: Withdrawal of the following items from the open session:

11. Interest in Reparation Proceedings.
12. Awards of interest in overcharge cases involving mismeasurement.

[S–2224–80 Filed 12–3–80; 3:52 pm]
BILLING CODE 6730–01–M

6

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, December 10, 1980.

PLACE: Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Proposed changes to the Board's rules regarding delegation of authority for certain bank supervisory functions.

Discussion Agenda:

2. Fee Schedules and Pricing Principles to implement the Monetary Control Act. (Proposed earlier for public comment; Docket No. R–0324)

3. Proposed Federal Reserve Board budget for 1981.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: December 2, 1980.
Theodore E. Allison,
Secretary of the Board.

[S–2221–80 Filed 12–3–80; 10:24 am]
BILLING CODE 6210–01–M

7

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of December 8, 1980, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Wednesday, December 10, 1980, at 10:00 a.m. An open meeting will be held on Thursday, December 11, 1980, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 522b(c)(4)(8), (9)(A) and (10) and 17 CFR 200.402(a)(8), (9)(i) and (10).

Commissioners Loomis, Evans, and Friedman, determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, December 10, 1980, at 10:00 a.m., will be:

Formal orders of investigation.
Access to investigative files by Federal, State, or Self-Regulatory authorities.
Freedom of Information Act appeals.
Settlement of administrative proceeding of an enforcement nature.
Institution of administrative proceeding of an enforcement nature.
Institution of injunctive action.
Litigation matter.
Regulatory matter bearing enforcement implications.

The subject matter of the open meeting scheduled for Thursday, December 11, 1980, at 10 a.m., will be:

1. Consideration of whether to grant the application of Glenn R. McQuiston to become associated with M. Waddell and Towne, Inc., a registered broker-dealer, in a supervised, non-supervisory retail sales capacity. For further information, please contact Adel Geffen at (202) 272–2947.

2. Consideration of whether to affirm action, taken by the Duty Officer, authorizing the Division of Corporation Finance to transmit to the Small Business Administration the Commission's report under Section 308(g)(2)(H)–(I) of the Small Business Investment Act, as amended. For further information, please contact Michael J. Eizelman at (202) 272–2644.

3. Consideration of whether to issue a release announcing the adoption of an amendment to the special instructions to Form U–4 which will increase the filing fees for SECO broker-dealers. For further information, please contact William J. Finegan at (202) 523–5545.

4. Consideration of whether to adopt the proposed revisions of Form U–4, the Uniform Application for Securities and Commodities Industry Registration. For further information, please contact Elizabeth S. York at (202) 272–2370.

5. Consideration of a proposed rule change of the National Association of Securities Dealers, ("NASD") (the "Papilsky" filing) that governs the giving and receiving of selling concessions, discounts or other allowances in connection with fixed price offerings of securities. For further information, please contact Kathleen McGann at (202) 272–2855.

At times changes in Commission Priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Bruce Mendelsohn at (202) 272–2091.

December 2, 1980.

[S–2223–80 Filed 12–3–80; 3:06 pm]
BILLING CODE 8010–01–M

8

TENNESSEE VALLEY AUTHORITY.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR December , 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:15 a.m., Monday, December 8, 1980.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: Conference Room B–32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

ADDITIONAL MATTER: The following item is added to the previously announced agenda:

B. *Purchase Awards*

2. Reg. No. 178178—Boiler Modifications for Johnsonville Steam Plant. Consideration of award for labor, tools, materials, and miscellaneous equipment for boiler modifications for Johnsonville Steam Plant Units 7–10.

CONTACT PERSON FOR MORE INFORMATION: Craven Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–245–0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting to be changed to include the additional item shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Dated: December 3, 1980.
Approved:
S. David Freeman,
Richard M. Freeman,
Robert N. Clement.

[S–2222–80 Filed 12–3–80; 11:15 am]
BILLING CODE 8120–01–M

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federal register

Friday
December 5, 1980

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

None.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arizona:	
AZ80–5123	Aug. 1, 1980.
AZ80–5124	Aug. 1, 1980.
Colorado:CO80–5140	Oct. 24, 1980.
Florida:	
FL80–1075	June 20, 1980.
FL80–1088	Aug. 1, 1980.
Kansas:KS79–4066	June 15, 1979.
Louisiana:	
LA80–4064	Nov. 7, 1980.
LA80–4069	Nov. 7, 1980.
Texas:	
TX80–4034	June 6, 1980.
TX80–4036	June 20, 1980.
TX80–4076	Oct. 10, 1980.
TX80–4077	Oct. 10, 1980.
TX80–4078	Oct. 10, 1980.
TX80–4085	Nov. 7, 1980.
TX80–4086	Nov. 7, 1980.
Washington:WA80–5136	Oct. 17, 1980.
Wisconsin:	
WI80–2014	Apr. 4, 1980.
WI80–2013	Apr. 4, 1980.
Wyoming:WY80–5129	Sept. 19, 1980.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Pennsylvania:PA79–3001 (PA80–3075)	Feb. 2, 1979.
Texas:	
TX80–4031 (TX80–4099)	June 6 , 1980.
TX80–4033 (TX80–4098)	May 16 , 1980.
TX80–4037 (TX80–4097)	May 16 , 1980.

Cancellation Of General Wage Determination Decisions

None.

Signed at Washington, D.C., this 28th day of November 1980.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

Modification Page 2

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. CO80-5140 - Mod.#2 (45 FR 70691 October 24, 1980) Las Animas, Otero and Pueblo County, Colorado					
CHANGE:					
ELECTRICIANS:					
Zone 1: 0-12 miles from Post Office:					
Electricians	$ 14.24	.75	3%+1.00		1½%
Cable Splicers	15.66	.75	3%+1.00		1½%
Zone 2: 12-20 miles from Post Office:					
Electricians	15.07	.75	3%+1.00		1½%
Cable Splicers	16.49	.75	3%+1.00		1½%
Zone 3: 20-32 miles from Post Office:					
Electricians	15.62	.75	3%+1.00		1½%
Cable Splicers	17.04	.75	3%+1.00		1½%
Zone 4: 32-50 miles from Post Office:					
Electricians	16.31	.75	3%+1.00		1½%
Cable Splicers	17.73	.75	3%+1.00		1½%
Zone 5: Over 50 miles from Post Office:					
Electricians	17.24	.75	3%+1.00		1½%
Cable splicers	18.66	.75	3%+1.00		1½%
Electrical contracts under $20,000 in Zones 4 and 5	11.00	.75	3%+1.00		1½%

Modification Page 1

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #AZ80-5123 - MOD. #2 (45 FR 51393 - August 1, 1980) Maricopa County, Arizona					
CHANGE:					
Elevator Constructors:	$14.68	1.045	.82		.035
Elevator Constructors	10.42	1.045	.82		.035
Elevator Constructors(Helpers)	10.44	1.02	1.20		.06
Mason Tenders					
Sheet Metal Workers:	14.68	1.05	1.68		.13
Zone 1	15.93	1.05	1.68		.13
Zone 2	18.68	1.05	1.68		.13
Zone 3	14.35	1.54	2.57		.11
Ironworkers					
DECISION #AZ80-5124 - MOD. #2 (45 FR 51388 - August 1, 1980) Pima County, Arizona					
Elevator Constructors:	14.68	1.045	.82		.035
Elevator Constructors	10.42	1.045	.82		.035
Elevator Constructors(Helpers)	10.44	1.02	1.20		.06
Mason Tenders	14.35	1.54	2.57		.11
Ironworkers					
Sheet Metal Workers:	13.44	1.20	1.92		.07
Zone A	14.66	1.20	1.92		.07
Zone B	17.32	1.20	1.92		.07
Zone C					

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Modification Page 3

DECISION NO. FL80-1075 MOD. #4 (45 FR 41831 - June 20,1980) Duval County, Florida	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters & Piledrivermen	$10.32	.72	.70		.06
Electricians:					
Wiremen	12.15	.60	3%+.81	.81	.10
Cable Splicer	12.50	.60	3%+.81	.81	.10
DECISION NO. FL80-1088 MOD. #2 (45 FR 51400 - August 1, 1980) Orange County, Florida					
Change:					
Asbestos Workers	13.25	.65	.65		.06
Ironworkers	11.28	.80	.90	.65	.05
Millwrights	12.17	.70	.70		.10
DECISION #KS79-4066 - Mod. #1 (44 FR 34746 - June 15,1979) Leavenworth County, Kansas					
Add:					
Soft floor layers	$10.53	.60	.85	1.00	.105

Modification Page 4

DECISION NO. LA80-4084 - MOD. #1 (45 FR 74347 - November 7, 1980) Statewide Louisiana	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Carpenters:					
Zone 8:					
Carpenters & soft floor layers	$11.00	.65	.50		.04
Millwrights	11.75	.65	.50		.04
Piledrivermen	11.25	.65	.50		.04
Electricians:					
Zone 2 - Electricians	13.30	.45	3%		.02
Cable splicers	13.80	.45	3%		.02
Elevator constructors:					
Zone 1 - Mechanics	12.14	1.195	.95	a+b	.035
Helpers	70%JR	1.195	.95	a+b	.035
Glaziers - Zone 3	11.55	.32	.30		.01
Painters:					
Zone 8 - Painters	9.90		.50		.08
Industrial	11.92		.50		.08
DECISION NO. LA80-4089 - MOD. #1 (45 FR 74361 - November 7, 1980) Bossier, Caddo & Calcasieu Parishes, Louisiana					
CHANGE:					
Carpenters:					
Bossier & Caddo Parishes:					
Carpenters	11.00	.65	.50		.04
Millwrights	11.75	.65	.50		.04
Piledrivermen	11.25	.65	.50		.04
Elevator constructors:					
Calcasieu Parish:					
Mechanics	12.14	1.195	.95	a+b	.035
Helpers	70%JR	1.195	.95	a+b	.035
Soft floor layers:					
Caddo & Bossier Parishes	11.00	.65	.50		.04

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DECISION NO. TX80-4034 - MOD. #6 (45 FR 38255 - June 6,1980) Brazos County, Texas	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians	$12.825	1.00	12%		.08
DECISION NO. TX80-4036 - MOD. #5 (45 FR 41836 - June 20, 1980) Ector & Midland Cos., Texas					
CHANGE:					
Ironworkers:					
Structural, ornamental & reinforcing	11.00	.55	1.70		.10
All ironworkers on jobs 30 miles or more from Terminal (midway Odessa-Midland)	11.125	.55	1.70		.10
DECISION NO. TX80-4076 - MOD. #2 (45 FR 67535 - October 10, 1980) Wichita County, Texas					
CHANGE:					
Ironworkers:					
Structural; Ornamental; Reinforcing	11.00	.55	1.70		.10
Ironworkers on jobs 30 miles or more from the City of Wichita Falls	11.125	.55	1.70		.10
DECISION NO. TX80-4077 - MOD. #2 (45 FR 67538 - October 10, 1980) Galveston & Harris Cos., Texas					
CHANGE:					
Electricians - Harris Co.	14.25	1.00	12%		.08

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DECISION NO. TX80-4078 - MOD. #3 (45 FR 67537 - October 10, 1980) Travis County, Texas	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
Electricians & cable splicers	$12.80	.60	8%		.8%
Line construction:					
Lineman	13.45	.60	3%		1/2%
Groundman	7.40	.60	3%		1/2%
DECISION NO. TX80-4085 - MOD. #1 (45 FR 74365 - November 7, 1980) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Cos., Texas					
CHANGE:					
Electricians:					
Zone 1 - Electricians	12.73	.60	3%+.50		1/2%
Cable splicers	14.00	.60	3%+.50		1/2%
Ironworkers - Zone 2	11.125	.55	1.70		.10
Line construction:					
Zone 2:					
Lineman	12.73	.60	3%+.50		1/2%
Cable splicers	14.00	.60	3%+.50		1/2%
Groundman	8.41	.60	3%+.50		1/2%
Operator-hole digger, line truck	9.79	.60	3%+.50		1/2%
Flat bed truck drivor	7.38	.60	3%+.50		1/2%

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DECISION NO. TX80-4086 - MOD. #1 (45 FR 74368 - November 7, 1980)	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Texas					
CHANGE:					
Electricians:					
Zone 1 - Electricians	$13.00	.60	7%		1%
Cable splicers	13.25	.60	7%		1%
Zone 2 - Electricians	13.20	.60	7%		1%
Cable splicers	14.52	.60	7%		1%
Ironworkers - Zone 2	11.125	.55	1.70		.10
Line construction:					
Linemen	14.35		3%		1/2%
Cable splicers	15.79		3%		1/2%
Groundmen	10.05		3%		1/2%
Marble, tile & terrazzo workers:					
Collin, Dallas, Denton, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos.	11.86		.30		

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DECISION NO. WA80-5136 - Mod #3 (45 FR 69151-October 17, 1980) Statewide Washington	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
BRICKLAYERS;MARBLE SETTERS:					
Area 1	$14.82	.80	2.00		.05
Area 2	15.08	.80	.40		.07
CEMENT MASONS					
Area 2:					
Cement masons Composition, Color, Mastic, Trowel Machine, Grinder, Power Tools, Gunnite Nozzleman	14.73	.95	1.50		.10
Area 3:					
Cement Masons Composition, Color, Mastic, Trowel Machine, Grinder, Power Tools, Gunnite Nozzleman	14.98	.95	1.50		.10
	14.63	.85	1.25		.10
	14.88	.85	1.25		.10
ELECTRICIANS					
Area 4:					
Electricians	18.62	.98	3% + 1.80		.10
Cable Splicers	20.48	.98	3% + 1.80		.10
Area 6:					
Electricians	17.50	.90	3% + 2.00	5%	.02
Cable Splicers	19.25	.90	3% + 2.00	5%	.02
Area 7:					
Electricians	16.42	.84	3% + 1.05	8%	.07
Cable Splicers	18.06	.84	3% + 1.05	8%	.07
Area 8:					
Electricians	18.55	.90	3% + .45		.04
Cable Splicers	20.41	.90	3% + .45		.04
GLAZIERS:					
Area 2	13.05	.53	.55	.80	
Area 3	10.91	.69	1.10	.72	
Area 6	11.98	.48	.80		
PLUMBERS:					
Area 1	16.71	.89	1.75	2.00	.12
ROOFERS:					
Area 4:					
Roofers & Waterproofers	14.63	.85	1.10		.10
Slate & Tile Roofers	14.88	.85	1.10		.10
SHEET METAL WORKERS:					
Area 1	16.74	3% + .73	1.50		.20
SOFT FLOOR LAYERS:					
Area 1	12.05	.53	.60		
TERRAZZO WORKERS;TILE SETTERS:					
Area 2	14.41	.80	.40		

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DECISION NO. WI80-2014 - MOD. #1 (45 FR 23285 - April 4, 1980) Chippewa, Eau Claire and Pepin Cos., Wisconsin	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos Workers	$14.68	.60	1.00		.15
Boilermakers	13.87	1.375	1.10		.05
Bricklayers	11.40	.85	.60		.10
Carpenters	11.72	.60	.80		.05
Residential	7.67	.60	.50		.05
Cement Masons	11.40	.85	.60		.10
Electricians	13.55	5%	3%		½of1%
Ironworkers: Structural Ornamental & Reinforcing	12.95	.85	.90		.02
Laborers: General & Mason Tenders	9.58	.55	.50		.02
Plasterer Laborer, Mortar Mixer and Air Hammer & Spade Operator	9.73	.55	.50		.02
Jack Hammer Operator	9.83	.55	.50		.02
Millwrights and Pile drivermen	12.12	.60	.80		.05
Painters:					
Brush	10.90		.15	5%	
Swing Stage & Structural Steel	11.15		.15	5%	
Spray & Sandblasting	11.40		.15	5%	
Plumbers	12.47	.75	.75	1.50	
Roofers	12.32			3%	
Sheet Metal Workers	12.99	.75	.60		.06

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DECISION NO. WI80-2013 - MOD. #4 (45 FR 32382 - April 4, 1980) Milwaukee, Ozaukee, Washington, Waukesha Counties, Wisconsin	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Glaziers	$13.21	.95	.70		
Painters:					
Brush	11.85	1.05	1.15	.65	.05
Swing Stage	12.00	1.05	1.15	.65	.05
Structural Steel	12.20	1.05	1.15	.65	.05
Spray and Sandblasting	12.45	1.06	1.15	.65	.05

DECISION NO. WY80-5129 - Mod.#3 (45 FR 62689 - September19, 1980) Converse, Goshen, Laramie, Natrona, Niobrara and Platte Counties, Wyoming					
CHANGE :					
BRICKLAYERS; STONEMASONS::					
Area 1	$ 12.63	.60	.40		.07

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SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Northampton
DECISION NO.: PA80-3075 DATE: Date of Publication
Supersedes Decision No. PA79-3001, dated February 2, 1979, in 44 FR 6868.
DESCRIPTION OF WORK: Building Construction, (does not include single family homes or garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	12.26	1.12	.90		.01
BOILERMAKERS	15.57	1.275	1.00		.02
BRICKLAYERS & STONEMASONS	12.10	.60	.75		.01
CARPENTERS	11.60	.87	.84		.05
CEMENT MASONS	12.00	.60	.75		.01
ELECTRICIANS:					
Allen, Hanover, Lehigh, Bath, Freemansburg, Hellertown and Bethlehem	12.45	.70	3%+.80		.02
Remainder of County	13.50	7%	3%+1.00		.02
GLAZIERS	9.19	.40	.40		.01
IRONWORKERS	13.45	1.34	1.36		
LABORERS:					
Laborers & Window Cleaners	8.69	.62	.59		
Operator of jackhammer, paving breaking and other pneumatic and mechanical tools coming under the jurisdiction of laborers, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe and the making of joints for the same and cofferdams (below 10')	8.94	.62	.59		
Wagon drills and men handling burning torches in the wrecking of buildings	9.44	.62	.59		
Plaster and mason tenders, scaffold builders and handling of all materials to be used by plasterers and masons, brick and block loaded on pallets, cement finisher tenders, gunniting and molded-D and sandblaster helpers, power buggies, all floor hardner and "cure" application					

DECISION NO. PA80-3075	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS CONT'D					
shall be the work of the mason tender. All pump such as the concrete, plasterer, mortar and water, installing plastic or other non-solid refactory materials in connection with the boiler work	9.19	.62	.59		
Barko Tamper Operator	9.71	.62	.59		
LATHERS	11.61	.65	.35		.01
LEAD BURNERS	10.75	.40	.25	b	.01
LINE CONSTRUCTION:					
Linemen	14.20	.60	3%		3/8 of 1%
Cable Splicer	14.20	.60	3%		3/8 of 1%
Groundmen	8.47	.60	3%		3/8 of 1%
Winch truck operator	9.90	.60	3%		3/8 of 1%
MILLWRIGHTS	12.15	.84	.72		.05
PAINTERS (Bethlehem):					
Brush	11.45	1.28	.80		.05
Structural Steel	12.65	1.28	.80		.05
Spray	12.45	1.28	.80		.05
PAINTERS, REMAINDER OF CO.:					
Brush	9.30	1.00	.60		
Structural Steel	10.05	1.00	.60		
Spray	11.01	1.00	.60		
PILEDRIVERMEN	11.97	2.63	1.40	a	.13
PLASTERERS	11.89	.60	.75		.01
PLUMBERS	13.83	.85	1.40		.14
ROOFERS, COMPOSITION, SLATE & TILE	12.28		1.55		
ROOFERS, HELPERS	7.21		1.55		
SHEET METAL WORKERS	11.66	1.44	1.18		.14
SOFT FLOOR LAYERS	10.25	.64	.72	.65	
SPRINKLER FITTERS	14.53	.85	1.20		.08
STEAMFITTERS	13.56	.80	1.45		.11
TERRAZZO WORKERS	11.00	.60	.75		.01

DECISION NO. PA80-3075	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Class I					
Helper, Stake Body Truck (single axle), Dumpster	10.32				
Class II					
Dump Trucks, Tandem & Batch Trucks, Semi-Trailers, Agitator Mixer Trucks, Ready Mix and Dumpcrete Type Vehicles Asphalt Distributors, Farm Tractor when used for transportation, Stake Body Truck (Tandem)	10.39				
Class III					
Euclid Type, Off-Highway Equipment - Back or Belly Dump Trucks and Double Hitched Equipment Straddle (Ross) Carrier, Low-Bed Trailers	10.88				

Welder - receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS (Where Applicable)

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Paid Holidays: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day; Thanksgiving Day and Christmas Day.

b. 9 paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday, and is available for work the days preceeding and following the holiday.

DECISION NO. PA80-3075 POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$13.40	7.9%	10.3%	a	1.8%
GROUP 2	13.11	7.9%	10.3%	a	1.8%
GROUP 3	12.24	7.9%	10.3%	a	1.8%
GROUP 4	11.47	7.9%	10.3%	a	1.8%
GROUP 5	11.00	7.9%	10.3%	a	1.8%
GROUP 6	10.09	7.9%	10.3%	a	1.8%
GROUP 7	13.65	7.9%	10.3%	a	1.8%
GROUP 7-A	13.90	7.9%	10.3%	a	1.8%
GROUP 7-B	14.14	7.9%	10.3%	a	1.8%

CLASSIFICATIONS DEFINITIONS

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helocopters, machines similar to the above

GROUP 2 : All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist wirh two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type bachoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt paint engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishingmachines concrete breaking machines, rollers, seaman pulverzing mixer, power broom, seeding spreader, tireman (for power equipment) machines similar to above

GROUP 5: - Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc): 100 ft. and over

GROUP 7-A: 150 ft. and over
GROUP 7-B: 200 ft. and over

FOOTNOTES:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Chrintmas Day, provided the employee works the day before and after the holiday.

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SUPERSEDEAS DECISION

STATE: TEXAS

COUNTIES: Bell, Bosque, Coryell, Falls, Hill & McLennan

DECISION NO.: TX80-4099

DATE: Date of Publication

Supersedes Decision No. TX80-4031 dated June 6, 1980 in 45 FR 38250.

DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories).

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
ZONE 1 - Bell, Coryell & Falls	$13.70	.70	.90		.08
ZONE 2 - Bosque, Hill & McLennan	12.99	.70	1.00		.03
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS	11.50	.70	.55		.03
CARPENTERS:					
ZONE 1 - Bell & Coryell Cos.					
Carpenters	10.10				
Millwrights	10.35				
ZONE 2 - Bosque, Falls, Hill & McLennan:					
Carpenters	10.91	.42			
Millwrights	12.18	.42			
CEMENT MASONS	11.29	.60	.55		
ELECTRICIANS:					
ZONE 1 - Bell (that part which is nearer to Waco than Austin but excluding that part of Ft. Hood, the boundary which presently is located approx. 2 miles inside the Bell Co. line & the City of Killeen), Bosque, Coryell (except that part of Ft. Hood south of Cowhouse Creek), Falls, Hill & McLennan Cos.					
Electricians	11.50	.60	3%		4%
Cable splicers	12.50	.60	3%		4%
ZONE 2 - Bell (that part which is nearer to Austin than Waco & not to exceed more than 2 miles into Bell Co. from the southeast boundary line of Coryell Co., Gray Field & the City of Killeen)					

DECISION NO. TX80-4099

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS ZONE 2 CONT'D: & Coryell (that part south of Cowhouse Creek) Counties					
Electricians & cable splicers	$ 12.80	.60	8%		.8%
ELEVATOR CONSTRUCTORS:					
Mechanics	11.14	1.195	.82	a+b	.035
Helpers	70%JR	1.195	.82	a+b	.035
GLAZIERS	7.50				
IRONWORKERS	11.65	.55	1.45		.12
LABORERS:					
Unskilled	3.10				
Mason tenders & mortar mixers	3.55				
LATHERS	11.10			1.00	.05
LINE CONSTRUCTION:					
ZONE 1 - Bell (that portion which is nearer to Waco than Austin but excluding that part of Ft. Hood, the boundary which presently is located approx. 2 miles inside the Bell Co. line & the City of Killeen); Bosque, Coryell (that portion except part of Ft. Hood south of Cowhouse Creek), Falls, Hill & McLennan Counties:					
Linemen	12.15		3%		1/2%
Cable splicers	13.37		3%		1/2%
Groundman	8.51		3%		1/2%
ZONE 2 - Bell (that portion which is nearer to Austin than Waco) & Coryell (that portion south of Cowhouse Creek) Cos.:					
Linemen	14.07		3%		1/2%
Cable splicers	15.48		3%		1/2%
Groundmen	9.85		3%		1/2%

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BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
GROUP 1 - Brush	$ 9.40				.04
GROUP 2 - Boiler Pipe & steel, structural steel, window jacks, roofs, stage work, smoke stack, water towers, boatswain chair	9.90				.04
GROUP 3 - Ames tools for dry wall	10.00				.04
GROUP 4 - Spray work & self-feeding rollers	10.15				.04
GROUP 5 - Steam cleaning, sandblasting & hazardous work	10.50				.04
PLASTERERS	12.24	.60	.55		.01
PLUMBERS & PIPEFITTERS:					
ZONE 1 - Area within a 35 mile radius of Waco including Temple, Marlin, Clifton, Hillsboro & Belton	10.88	.30	.55		.04
ZONE 2 - All other areas	11.28	.30	.55		.04
ROOFERS:					
GROUP 1 - Slate, tile, asbestos, roofing & siding	6.95				.03
GROUP 2 - Composition, built-up damp & waterproofing	6.80				.03
GROUP 3 - Kettlemen	5.10				.03
SHEET METAL WORKERS:					
ZONE 1 - Within a radius of 20 miles from the McLennan Co. Court House	10.40	3%+.45	.60		.09
ZONE 2 - Over 20 miles up to & including 45 miles	10.90	3%+.45	.60		.09
ZONE 3 - Over 45 miles	11.40	3%+.45	.60		.09
SPRINKLER FITTERS	13.71	.85	1.20		.08
TRUCK DRIVERS	3.10				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

FOOTNOTES FOR ELEVATOR CONSTRUCTORS:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 6% over 5 yrs. - 8% of basic hourly rate
b - Paid Holidays A thru G

BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$12.99		.55		.05
Group 2	11.22		.55		.05
Group 3	10.00		.55		.05
Group 4	9.89		.55		.05

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS
GROUP 1 - Heavy duty mechanic; Blade grader - self-propelled; Crawler dozers or loaders; Derricks, power operated (all types); Draglines; Cableway; Backhoe; Crane, power operated (all types); Elevating grader, self-propelled; Hoist, motor driven, two drums or more; Mix mobile; High-lifts and loaders, over 1/3 cu. yd. capacity; Winch truck; Locomotive; Mixer, 14 cu. ft. or over; Paving mixer (all sizes); Scraper; Trenching machine (all sizes); Gradall; Foundation boring machine; Scoopmobile; Shovel, power operated; Pump crete machine; Rock crusher operated on job; Well points including installations; Riding compactor; Forklift over 1500 lb. capacity; Flat wheel rollers (60" & over); Pneumatic rollers (10 tons & above)
GROUP 2 - Blade grader, towed; Flex plane; Form grader; Mixer, less than 14 cu. ft.; Pulsometer; Conventional truck crane driver and oiler; Combination man; Hoist, single drum; Pneumatic roller; High-lifts and loaders, 1/3 cu. yd. or less; Forklift, 1500 lb. capacity or less
GROUP 3 - Fireman
GROUP 4 - Oiler

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

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INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 3.55				
Asphalt Heaterman	4.25				
Asphalt Raker	5.00				
Asphalt Shoveler	4.25				
Batching Plant Scaleman	5.50				
Carpenter	5.60				
Carpenter Helper	4.10				
Concrete Finisher (Paving)	5.50				
Concrete Finisher Helper (Paving)	4.75				
Concrete Finisher (Structures)	6.00				
Concrete Finisher Helper (Structures)	4.00				
Concrete Rubber	4.00				
Electrician	8.90				
Electrician Helper	4.00				
Form Builder (Structures)	4.50				
Form Builder Helper (Structures)	4.00				
Form Setter (Paving & Curb)	4.65				
Form Setter Helper (Paving & Curb)	3.75				
Form Setter (Structures)	5.75				
Form Setter Helper (Structures)	4.00				
Laborer, Common	3.25				
Laborer, Utility Man	3.50				
Mechanic	5.25				
Mechanic Helper	4.10				
Oiler	4.50				
Serviceman	4.75				
Piledrivermen	4.00				
Pipelayer: Bosque, Falls, Hill & McLennan Cos.	5.50				
Pipelayer (Concrete & Clay): Bell & Coryell Cos.	5.50				
Pipelayer Helper: Bosque, Falls, Hill & McLennan Cos.	3.30				
Pipelayer Helper (Concrete & Clay): Bell & Coryell Cos.	3.30				

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INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers (Bell & Coryell Cos.):					
Zone 1 - 35 miles from Waco including towns of Temple & Belton	$10.88	.30	.55		.04
Zone 2 - all area not included in Zone 1	11.28	.30	.55		.04
Powderman	5.50				
Reinforcing Steel Setter (Structures)	5.25				
Reinforcing Steel Helper	3.75				
Sign Erector	4.65				
Sign Erector Helper	3.30				
Spreader Box Man	4.60				
Swamper	4.55				
Power Equipment Operators:					
Asphalt Distributor	4.65				
Asphalt Paving Machine	5.10				
Broom or Sweeper Op.	4.50				
Bulldozer, 150 HP & Less	4.75				
Bulldozer, over 150 HP	5.00				
Concrete Paving Curing Machine	5.00				
Concrete Paving Saw	4.75				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.50				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY & over)	6.50				
Crusher or Screening Plant Operator	4.60				
Foundation Drill Operator (Truck Mounted)	4.50				
Foundation Drill Op. Helper	4.25				
Front End Loader (2½ CY & Less)	4.65				
Front End Loader (Over 2½ CY)	5.00				
Motor Grader Op., Fine Grade	6.55				
Motor Grader Operator	5.30				

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INCIDENTAL PAVING & UTILITIES	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Ops. Cont'd: Roller, Steel Wheel (Plant-Mix Pavements)	$ 4.50				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	4.50				
Roller, Pneumatic (Self-Propelled)	3.85				
Scrapers (17 CY and Less)	4.50				
Scrapers (Over 17 CY)	5.00				
Tractor (Crawler Type) 150 HP and Less	3.30				
Tractor (Crawler Type) over 150 HP	4.60				
Tractor (Pneumatic) 80 HP & Less	3.70				
Tractor (Pneumatic) over 80 HP	4.85				
Traveling Mixer	4.10				
Trenching Machine, Light	4.00				
Trenching Machine, Heavy	4.45				
Wagon Drill, Boring Machine or Post Hole Driller Op.	4.20				
Truck Drivers: Single Axle, Light	4.00				
Single Axle, Heavy	4.00				
Tandem Axle or Semitrailer	4.00				
Lowboy-Float	4.80				
Welder	5.25				
Welder Helper	3.60				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Bowie
DECISION No. TX80-4098 DATE: Date of Publication
Supersedes Decision No. TX80-4033, dated May 16, 1980, in 45 FR 32544
DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.99	.70	1.00		.03
BOILERMAKERS	12.70	1.275	1.00		
BRICKLAYERS	8.15	.40	.35		.04
CARPENTERS:					
Carpenters	10.50				.05
Millwrights	13.10				.05
Piledrivermen	11.50				.05
CEMENT MASONS	6.82				
ELECTRICIANS	12.02	.60	3%+.50		4%
ELEVATOR CONSTRUCTORS:					
Mechanics	11.14	1.195	.82	a+b	.035
Helpers	70%JR	1.195	.82	a+b	.035
GLAZIERS	5.30				
IRONWORKERS	12.45	.45	.90		.06
LABORERS, UNSKILLED	3.70				
LINE CONSTRUCTION:					
Linemen	13.70		3%		4%
Cable Splicers	14.11		3%		4%
Hole digger op., heavy equipment ops. (or pole cat equivalent); powderman	12.46		3%		4%
Line truck driver (winch op.)	11.23		3%		4%
Jackhammer man	10.28		3%		4%
Groundman	9.18		3%		4%
Truck driver (flat bed, ton & half & under)	9.73		3%		4%
PAINTERS	5.50				
PLUMBERS & PIPEFITTERS:					
Within a 25 mile radius of Texarkana	13.85	.68	.70		.05
Outside a 25 mile radius of Texarkana	14.25	.68	.70		.05
ROOFERS	5.71				
SHEET METAL WORKERS	5.99				
SOFT FLOOR LAYERS	7.50				
SPRINKLER FITTERS	13.71	.85	1.20		.08
TRUCK DRIVERS	5.00				
WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.					

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FOOTNOTES FOR ELEVATOR CONSTRUCTORS
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 6%; over 5 yrs. - 8% basic hourly rate,
b - paid Holidays A thru G

PAID HOLIDAYS FOR ELEVATOR CONSTRUCTORS
A- New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	$7.765	.65	1.00		.15
GROUP 2	11.53	.65	1.00		.15
GROUP 3	11.93	.65	1.00		.15

GROUP 1 - Oiler-Fireman
GROUP 2 - Air Compressor, Pumps, Welding Machines, Throttle Valves, Light Plants; Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mover on rear; Mixers, less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment
GROUP 3 - Ford Tractor or like with any attachment (except blade and mower on rear); Drilling Machine (all types); Scoopmobile; Hoists, two drums or more; Forklifts (over 25 ft.); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic feet or over; Blade Graders, self-propelled; Cableways; Cranes - power operated to 100 ft.; Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixers (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu ft.; Bulldozers, Loaders, Tractovators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressors & Air Tugger; Boilers, two or more fired by one man

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Lubbock
DECISION NO: TX80-4097 DATE: Date of Publication
Supersedes Decision No. TX80-4037, dated May 16, 1980 in 45 FR 32545.
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes & apartments up to and including 4 stories). (Use current heavy and highway general wage determination for Paving & Utilities Incidental to Building Construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.95	.80	1.25		.02
BOILERMAKERS	12.70	1.275	1.00		.03
BRICKLAYERS & STONEMASONS	10.70	.57	.30		.03
CARPENTERS	10.70	.48	.60		.01
CEMENT MASONS	8.15				
ELECTRICIANS:					
Electricians	12.55	.60	3%		1/10%
Cable splicers	12.80	.60	3%		1/10%
IRONWORKERS:					
Structural; Ornamental; Reinforcing	11.00	.55	1.70		.10
All ironworkers on jobs 30 miles or more from the city of Lubbock	11.125	.55	1.70		.10
LABORERS:					
GROUP 1-Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading & unloading materials, wrecking buildings & all structures & all construction laborers except those named below	6.56	.30	.27		
GROUP 2-Air tool op. (jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric), power buggy man, pipelayer (concrete & clay & all non-metallic pipe); handling, laying & cleaning pumpcrete pipe	6.83	.30	.27		
GROUP 3-Mortar mixers, mason tenders, plasterers tenders, cement finisher tender, lather tender	6.76	.30	.27		
GROUP 4-Wagon drill	6.91	.30	.27		
GROUP 5-Blasters & Powderman	7.16	.30	.27		
LATHERS	6.75	.20			.01
LINE CONSTRUCTION:					
Linemen	12.55	.60	3%		1/10%
Operators	80%JR	.60	3%		1/10%
Groundmen	55%JR	.60	3%		1/10%
Flat bed truck driver	70%JR	.60	3%		1/10%
PAINTERS:					
Brush	9.55				
Spray; Sandblasters	10.30				
PLASTERERS	7.00				
PLUMBERS & STEAMFITTERS	12.15	.50	.55		.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS	$ 3.50				
SHEET METAL WORKERS	12.38	.50	.66		.12
TRUCK DRIVERS	3.10				
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental					
POWER EQUIPMENT OPERATORS					
GROUP 1	10.025	.65	.625		.15
GROUP 2	10.925	.65	.625		.15
GROUP 3	11.325	.65	.625		.15

GROUP 1 - Oiler-Fireman
GROUP 2 - Air Compressors, Pumps, Welding Machines, Throttle Valves, Light Plants (3 to 6 machines); Conveyor; Wagon Drill; Elevators Building; Form Graders; Hoist, Single Drum; Ford Tractor including blade and mower on rear; Mixers less than 14 cubic feet; Screening Plants; Crushing Plants; Fork Lifts (short, under 25 feet); Concrete Pumps (all types); Bobcat type equipment; Ford tractor or like with any attachments (except blade and mower on rear)

GROUP 3 - Backhoe; Drilling Machines (all types); Scoopmobiles; Hoist, two drums or more; Fork Lifts (over 25 feet); Winch Truck; Six Wheel Truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixer, 14 cubic feet or over; Blade Graders, self-propelled; Cableways; Cranes-power operated (to 100 ft. of boom); Derricks, power operated (all types); Gradall; Hy-Ho; Hop-To; Paving Mixer (all types); Pile Drivers; Mobile Concrete Mixers over 14 cu. ft.; Bulldozers, Loaders, Tractorvators; Scrapers and Pulls; Welders; Trenching Machines; Roller, ten tons or over; Air Compressors, Pumps, Welding Machines and Light Plants (7 to 12 machines); Air Compressors & Air Tugger; Boilers, two or more fired by one man; Heavy Duty Mechanic

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

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federal register

Friday
December 5, 1980

Part III

Federal Reserve System

Credit; Truth in Lending; Revision of Regulation Z

V 45 I 236 DEC 5 1980 UMI

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Docket No. R-0288]

Credit; Truth in Lending; Revision of Regulation Z

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is proposing for public comment a second complete revision of Regulation Z (Truth in Lending), to implement amendments to the Truth in Lending Act adopted by Congress in March 1980 (Title VI of the Depository Institutions Deregulation and Monetary Control Act, Pub. L. 96-221). That act becomes effective on April 1, 1982, but requires the Board to have implementing regulations in place by April 1, 1981. The Board published a first draft for comment on May 5, 1980 (45 FR 29702) and has now revised the proposal on the basis of the comments received and its own analysis.

DATE: Comments must be received by January 19, 1981.

ADDRESS: Comments may be mailed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B-2223, 20th and Constitution Avenue, NW., Washington, D.C., between 8:45 a.m. and 5:15 p.m. weekdays. Comments received should refer to docket number R-0288. To insure consideration, comments must be received by the Board by the close of the official comment period. To facilitate analysis, comments on separate sections of the regulation should be made on separate pages. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT: The following attorneys in the Division of Consumer and Community Affairs, Board of Governors, Federal Reserve System, Washington, D.C. 20551, at (202) 452-2412, (202) 452-3667, or (202) 452-3867:

Secs.
226.1, 3—Beth Morgan
226.2—Denise Rechter
226.4—Gerald Hurst
226.5-11—Ruth Amberg, Jesse Filkins, Stan Mabbitt
226.12—John Wood
226.13—Barbara Ranagan
226.14—Stan Mabbit
226.15—Ruth Amberg
226.17—Denise Rechter
226.18—Beth Morgan, Claudia Yarus
226.19, 20, 23—Susan Werthan
226.21, 22, 24—Rugenia Silver
Subpart D—Barbara Ranagan, Steve Zeisel
Subpart E—Lynn Goldfaden, Susan Werthan
Appendices—Gerald Hurst, Denise Rechter

SUPPLEMENTARY INFORMATION: In March 1980, Congress adopted the Truth in Lending Simplification and Reform Act (Title VI of the Depository Institutions Deregulation and Monetary Control Act, Pub. L. 96-221), which contained sweeping revisions to Truth in Lending. While the act does not become effective until April 1, 1982, the Board is required to adopt final rules implementing the act by April 1, 1981, and creditors may begin complying with the new regulation at that time.

One month after adoption of the revised statute, the Board published for comment a proposed revision of Regulation Z (45 FR 29702, May 5, 1980). That revision incorporated both changes mandated by the revised statute and changes under the existing act. The proposal was published with the understanding that it did not necessarily reflect all of the revisions that the Board might consider in implementing the new statute. The Board published the proposal at that time in order to encourage public involvement in the process as early as possible and to assure that the entire rulemaking procedure could be completed by April 1, 1981.

Following a three-month comment period ending on July 31, 1980, the Board received more than 500 comments on the May proposal. (Copies of these comments are available through the Office of the Secretary, Board of Governors, Federal Reserve System, Washington, D.C.) As a whole, the comments reflected strong support for the concept of simplification, but, as expected, they raised a great variety of substantive issues regarding particular aspects of the draft. In many cases, these comments form the basis for alterations in specific provisions, as noted in the section-by-section analysis of the draft. In other cases, as also noted, the position urged by comments is not reflected in the draft, because in the Board's view that position would not properly carry out the statutory goals.

The May proposal contained substantial changes in both the organization and the substance of the existing regulation. The structure of the May proposal has been retained in this draft, but this proposal reflects some major substantive changes from both the current regulation and that earlier proposal. The Board believes that the Truth in Lending Simplification and Reform Act constitutes a mandate to the Board for extensive revision in the regulation. Moreover, the Board believes that substantial consumer benefits are to be gained from meaningful simplification of the regulation.

First of all, simplification will produce disclosures that are simpler, easier to understand, and in a form more readily usable by consumers. A primary goal of the simplifying effort is disclosures that provide essential information in a straightforward, uncluttered form. To the extent that essential information has previously been accompanied by complex disclosure of less significant terms, the impact and utility of the resulting disclosure statement have been diluted.

Second, as a general matter regulatory burdens on the credit-granting process may adversely affect consumer access to credit, and certainly have a bearing on its relative costs. To the extent that these burdens can be reduced, there should be a beneficial effect on the availability and cost of credit. The Board believes that the reductions being proposed, while having the prospect of significantly reducing regulatory burden, nevertheless leave in place the provisions necessary to carry out the original purpose of the Act.

Third, by reducing the emphasis of the regulation on technical details, the Board believes that the efforts of supervisory agencies can be directed more toward matters of substance, better serving the cause of consumer protection.

Finally, no matter how vigorous the supervisory enforcement, without a spirit of committed voluntary compliance by creditors, Truth in Lending will probably never provide the full consumer benefits for which it was designed. To the extent that creditors have perceived the regulation as dealing with hypertechnical complications unrelated to any real consumer benefit, acceptance of the goals of Truth in Lending may well have been hampered. By paring back the regulatory requirements to those that have obvious consumer benefit, support for consumer regulations as a legitimate area of government activity should be increased. This, too, should increase long-range consumer benefits.

This proposal, which is based on both the comments received on the May draft and on extensive further analysis in the six months since adoption of the new act, reflects five major principles. First, the regulation substitutes, where possible, precise, easily-applied rules for principles that create ambiguity and require additional regulatory clarification. Many of the staff

interpretations of the current regulation, as well as a portion of the existing regulation itself, represent attempts to clarify and give substantive meaning to rather subjective principles that are not amenable to precise measurement. A certain amount of subjectivity in the regulation is unavoidable; not every regulatory concept can be reduced to a quantifiable standard. However, the Board believes that the concept of simplification requires further progress in that direction.

Second, tolerances in disclosures should be more widely available and creditors should be encouraged to make use of good faith estimates. The Truth in Lending Act explicitly authorizes the Board to permit tolerances in numerical disclosures and recognizes the utility of using estimates in making disclosures. While accuracy of disclosures is obviously important for informed credit shopping, absolute inflexibility is not a prerequisite to meaningful credit information. Congress has already specifically authorized a tolerance for the annual percentage rate, which is the most important credit term in the regulation, and the proposal provides similar slight tolerances for other numerical disclosures. The proposal also encourages the greater use of good faith estimates in making disclosures, on the grounds that earlier disclosure may facilitate credit shopping. The Board recognizes that early disclosure is not always consistent with absolute precision in disclosures. Indeed, disclosures are most precise when made at the time of consummation, since the creditor at that point is most likely to have all of the necessary information for total accuracy. However, at the point of consummation, the consumer has normally made the credit decision, and Truth in Lending disclosures then merely confirm the customer's understanding of the transaction. Such disclosures do not necessarily form a valid basis for comparison shopping. For this reason, the Board seeks to encourage the greater use of good faith estimates in making disclosures, in the belief that this will in turn encourage creditors to provide disclosures at an earlier time.

Third, the regulation reflects an emphasis on disclosures that are relevant to credit decisions, as opposed to disclosures related to events occurring after the initial credit choice. In the Board's view, the primary goals of the Truth in Lending Act are not particularly enhanced by regulatory provisions relating to changes in terms on outstanding obligations and on the effects of the failure to comply with the terms of the obligation.

Fourth, burdens not justified by substantial consumer benefits should be eliminated from the regulation. As in any rulemaking activity, the Board will weigh the cost of a particular provision to creditors against its potential benefit to consumers. While this cost-benefit analysis has always been a factor in implementation of the Truth in Lending Act, the Board believes that the legislative history of the Truth in Lending amendments, as well as congressional concern regarding the burden of regulations as a whole, dictates a heightened awareness of this element that must be reflected in the new Regulation Z. In carrying out the requirements of the statute, the Board will not impose any burdens on the credit-granting process that cannot be fully justified by consumer benefits. This analysis is not always amenable to precise measurement, but involves such factors as the number of transactions subject to a particular provision, the complexity of the disclosures or underlying mathematical calculations needed to comply with it, and the extent to which it is likely to further the general statutory goals of providing certain basic information to facilitate credit shopping.

Fifth, more flexibility should be incorporated into the regulation. While the basic requirements of the regulation should be set forth as clearly and simply as possible, rigid rules may be unnecessary in other cases and may in fact hamper creditors' efforts to make disclosures that accurately reflect their own credit plans. The proposal attempts, as far as possible, to permit creditors more flexibility in calculating and disclosing the terms of individual transactions.

The proposal set forth below illustrates the application of those principles. The Board recognizes, however, that the proposal remains a rather complex and lengthy regulatory document. For three reasons, the Board believes that even the most successful simplification effort cannot distill the Truth in Lending Act into a handful of simple rules.

First, the scope of the original Truth in Lending Act has been greatly expanded by statutory additions beyond mere credit disclosures. The regulation now also implements statutes governing the issuance of credit cards, liability for their loss, resolution of billing errors, and disclosures for consumer leases. There are provisions to prevent creditors from excluding required credit life insurance from the cost of credit, to protect consumers from unwisely encumbering their homes, and to ensure that consumers can withhold payment for shoddy merchandise when using a bank credit card. As a consequence, the statute now runs to over 15,000 words. Although Congress has made extensive revisions to certain disclosure requirements, much of the underlying law was unaffected by the recently enacted Truth in Lending amendments. Thus, the breadth of the legislation that Regulation Z implements remains a major impediment to brevity and simplicity.

Second, one goal of the simplification effort is to incorporate virtually the entire body of published Truth in Lending material into the regulation and an accompanying commentary. This commentary will contain much of the detail and specificity now in the existing regulation and in the more than 50 Board interpretations and 1,500 staff interpretations issued on Regulation Z since 1969. While much of this material will be reflected in the new regulation or commentary, the Board envisions that the interpretations themselves will be rescinded. The commentary will probably not be adopted at the same time as the final regulation, but should be available by the time the regulation becomes mandatory in April 1982. The Board anticipates that the commentary will have the status of an official interpretation of the regulation, and that no staff interpretations will be issued under the revised regulation. The process of incorporating the existing interpretations is at odds with the goal of simply shortening the regulation. To some extent, this conflict will be resolved by including the necessary detail in the commentary, rather than in the regulation itself. However, the regulation must incorporate some of the material previously contained in interpretations.

Third, credit itself has become very complex. It may be available on a revolving or closed-end basis; payable on demand or in equal or graduated installments; with a precomputed finance charge, on a simple interest basis, or both; secured or unsecured; and with or without credit life and property insurance, which may be voluntary or required. It may be requested in person, by mail, or by telephone, and may be refinanced, assumed, or deferred. In most cases, implementing the statute requires that these variations, and many more, be reflected in the regulation.

All of the significant changes to the proposal are discussed fully in the section-by-section analysis of the regulation. However, some of the more

important changes are highlighted here, to illustrate the thrust of the proposal:

A tolerance would be provided for finance charge disclosures, similar to that now provided in annual percentage rate calculations.

A greater annual percentage rate tolerance would be authorized for all irregular transactions.

Seller's points would be excluded from the finance charge in all cases.

The creditor definition would contain a precise numerical rule for determining whether the definition applies.

The regulation would require no redisclosure when a term is changed prior to consummation, rendering earlier disclosures inaccurate.

Refinancing would be redefined to cover only those changes in terms which extinguish an existing obligation and create an entirely new one in its place.

Consummation, the time by which disclosures must be given, would be defined as the time at which a consumer is contractually bound to a transaction, not merely when a nonrefundable fee is paid.

Disclosures would be based only on the legally enforceable obligation between the parties, not on any unenforceable understanding which is at variance with the contract.

The concept of required deposit balances would be eliminated from the regulation.

Security interest would be defined much more narrowly, to exclude a variety of incidental rights.

No disclosure of an after-acquired property clause would be required in connection with disclosure of a security interest.

The waiver of the right of rescission would be more readily available to consumers.

The Board recognizes that these changes, as well as similar revisions discussed below, may result in less information being provided to consumers. At the same time, the changes may eliminate specific guidance now provided to creditors with unusual types of transactions or credit plans. Much of the complexity in the existing regulation results from the Board's attempts over the last 12 years to provide consumers with disclosures in every possible credit transaction and to provide creditors with precise rules for every such circumstance. Any attempt to significantly reduce the regulatory burden and to decrease the complexity in the regulation will necesarily result in reduced information and reduced guidance in certain situations. The Board believes that this reduction is unavoidable if there is to be any meaningful simplification of Regulation Z, and the proposal reflects that belief.

The section-by-section analysis compares the new proposal with the first draft published in May. Many of the provisions are unchanged, or have been the subject of nonsubstantive editorial revisions, and that fact is briefly noted in the discussion. The analysis does not reiterate the same material contained in the May draft; its purpose is to highlight significant changes and discuss comments on the first proposal that the Board believes should be addressed.

Comment is solicited until January 19, 1981. In view of the rapidly-approaching April 1 deadline for completion of the rulemaking process, commenters must submit their comments within the specified time to insure adequate consideration. Since many of the issues arising from the proposal and its predecessor have already been addressed, commenters are encouraged to focus particularly on new issues not previously discussed, as well as on the impact of changes reflected in this proposal.

Subpart A—General

Section 226.1—Authority, purpose, coverage, organization, penalties and liabilities

This section restates the authority and purpose provisions now contained in § 226.1(a) of the current regulation, and describes the conditions under which persons will be subject to the credit and leasing requirements. It also explains the reorganization of the regulation into five major subparts, and directs attention to the shifting of certain material from the regulatory text into appendices. Except for the deletion of paragraph (e), relating to circumvention or evasion, and minor editorial revisions, this section is substantially unchanged from the May proposal.

Paragraphs (b)(1) and (2) of the May proposal have been merged into a single paragraph (b). The word "dwelling" has been substituted for "residence" to conform to the terminology used in the statute and the regulation as a whole, and the clause concerning the regulation of trade practices has been deleted since it added little to the substance of the section. In response to comments, the Board emphasizes that the reference to charges in paragraph (b) includes interest rates.

In paragraph (c)(1), the parenthetical explanations have been deleted as unnecessary.

Several commenters expressed concern about whether foreign branches of domestic banks are subject to Regulation Z. There is nothing in the Truth in Leading Act to indicate that the Congress intended the act to apply beyond the territorial limits of the United States. In fact, the act's declaration of purpose reflects a strong domestic orientation; Section 102 states that the Congress sought by means of the informed use of credit to strengthen competition among creditors and to enhance economic stabilization. The domestic ecomony would be the logical target for such goals. Hence, it is the Board's view that creditors (including United States branches of foreign banks) must comply with Regulation Z when consumer credit is extended to residents of the United States. A foreign branch of a United States bank need not comply with the act or regulation, on the other hand, in extending credit to a United States citizen residing or visiting abroad.

The majority of the commenters who expressed an opinion regarding the format of the May proposal favored the use of subparts, even though it results in a longer regulation. The comments also clearly favored the publication of an official commentary to facilitiate compliance by creditors. Many of them endorsed the idea of following the Uniform Commercial Code format.

Paragraph (e) of the May proposal expressly prohibited creditors from taking any action for the purpose of circumventing or evading the disclosure requirements of Regulation Z. Many of the commenters urged the Board to delete this provision because of the likelihood that it could foster litigation, particularly since it contained no reference to knowing or intentional actions. After further consideration of this matter, the Board has decided to delete the provision in order to avoid adding ambiguity regarding the application of the regulatory requirements.

A new paragraph (e) has been added to provide a reference in the regulation to the various liability provisions in the Truth in Lending Simplification and Reform Act of 1980. A number of commenters suggested such a reference.

Section 226.2—Definitions and rules of construction.

Section 226.2 has been reorganized into two paragraphs: § 226.2(a), which contains, in alphabetical order, the definitions that apply to the entire regulation, and § 226.2(b), which contains the rules of construction. Definitions that apply solely to consumer leasing are now located in § 226.25 of this regulation. Section 226.2 incorporates all of the defined terms used in the May proposal, with the exception of "required deposit balance"

and the leasing definitions, and adds three new defined terms: "downpayment." "prepaid finance charge," and "regular price."

(a) *Definitions.*

Advertisement. This definition has been revised from that in the May proposal to clarify that only commercial messages are within its purview. This revision is consistent with the staff letters and the explanatory material that accompanied the May draft. The definition continues to exclude direct personal contact such as follow-up letters or cost estimates for individual consumers, but it does not exclude messages such as point of sale displays.

Certain types of messages, such as informational material exchanged between business entities or notices required by state law, may come within the definition, depending on the facts and circumstances of each case. For example, if the distribution of the informational materials is limited to business entities, and is not made available to consumers, or if a state law mandates that a specific notice be displayed and only the information so mandated is included in that notice, these would not constitute advertisements.

Finally, it should be noted that all persons, not only creditors, must comply with the advertising provisions. For example, a real estate developer that does not finance the sale of its houses may be subject to the advertising requirements of §§ 226.16 and 226.24, even though it may not be a creditor.

Arranger of credit. This definition has been revised to parallel the new numerical standard of more than 25 times in a calendar year (or more than five times a year when the obligation is secured by a dwelling) which is proposed in the definition of "creditor," discussed below. The definition is otherwise similar to its counterpart in the May draft.

Under this definition, a person may be considered an arranger only if the primary credit extender does not meet the definition of a "creditor." Thus, the definition should substantially limit the number of persons that would be considered arrangers of credit. The most likely example is a loan broker in a real estate transaction who arranges for owner financing for the buyer.

Billing cycle or *cycle.* In response to comment, this definition has been revised regarding the permissible variance among the number of days in each cycle. The purpose of a variance is to account for weekends, holidays, and differences in the number of days in the months. The previous proposal provided that cycles could be considered equal unless the number of days in a cycle varied by more than four days. The present proposal clarifies the computation of the four-day variance by tying that variance to the regular day or date around which the creditor plans its cycles. Comment is solicited on the feasibility of this proposed approach.

The requirement of equal cycles would apply even if a creditor applies a daily periodic rate to the daily balance, as the requirement is intended both to facilitate accurate disclosure of the annual percentage rate and to assure the furnishing of statements on a regular basis.

As noted in the previous **Federal Register** material, the use of the word "cycle" in addition to "billing cycle" is intended to make clear that the provision concerning regular periodic statements applies regardless of whether the creditor "bills" in the traditional sense or merely sends a statement of account activity, as may be the case with many depository institutions that do not bill because they receive payment directly from a payroll deduction or the consumer's asset account.

Board. This definition is unchanged from the May proposal.

Business day. This definition has been significantly revised from that in the May draft. The Board now proposes to adopt a business day definition that is substantially similar to its counterpart in Regulation E, which implements the Electronic Fund Transfer Act. This revision is in response to numerous comments that favored the adoption of similar definitions for Regulation E and Regulation Z. The Board anticipates that creditors will have the same business days for all provisions of this regulation, but it recognizes that a creditor's business days may differ for purposes of the two regulations. The Board solicits comment on whether this new approach is appropriate.

The Board recognizes that transactions that are subject to rescission may be different from other transactions and may require a different business day definition. Comment is solicited on alternative definitions which might be more appropriate for rescindable transactions.

Cardholder. This definition differs from the May proposal which, like the present regulation, provided that "cardholder" includes any person to whom a credit card is issued for any purpose. The present proposal provides that "cardholder" means a natural person to whom a credit card is issued for consumer credit purposes or a natural person who is a co-obligor or guarantor for such a card. In addition, for the limited purposes of the requirements of the sections on issuance and liability of credit cards, a "cardholder" includes *any* person, including organizations, to whom a credit card is issued for any purpose, including business, agricultural, or commercial.

The definition also stipulates that issuance of the card must have been at the request or application of the person to be covered as a "cardholder." This change reflects the issuance restrictions proposed in § 226.12(a).

Certain commenters asked that the Board specify which sections of the regulation apply to "hybrid" cards used for more than one purpose and to dual card systems. When a card is issued to an individual for consumer purposes, the mere fact that an organization has guaranteed to pay the debt does not remove it from the coverage of the consumer credit sections of the regulation. On the other hand, when a card is issued for business purposes, the fact that an individual uses it for consumer purchases does not subject the card issuer to the provisions on periodic statements, billing error resolution, and other consumer protections. Some card issuers issue two cards to the same individual, one intended for business use, the other for consumer or personal use. With such a system, the same person may be a cardholder for general purposes when using the card issued for consumer use, and a cardholder only for the limited purposes of the restrictions on issuance and liability when using the card issued for business purposes.

Card issuer. This definition remains unchanged from the previous proposal. A number of commenters asked for clarification of the agency concept, which is included in the definition and reflects the language of the statute. As agency relationships are traditionally defined by state law, the Board believes that it is inappropriate to define "agent" within the regulation, although the following examples may serve as guidance. The Board believes that merely providing services relating to the production of credit cards or data processing for others does not make one an agent of a card issuer. In contrast, a financial institution may become an agent of a card issuer when the cardholder uses a line of credit with the lender to pay obligations incurred by use of a card, pursuant to an agreement between the lender and the card issuer.

Cash price. This definition is substantially similar to its counterpart in the May draft. The phrase "taxes and fees for license, title, and registration" has been added to the end of the third

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sentence to clarify that these amounts may be included in the cash price.

The Board has received numerous questions regarding the proper treatment under the regulation of seller's or manufacturer's rebates in credit sale transactions. The manner in which these rebates are handled varies widely throughout the industry and the Board does not believe that a uniform rule regarding their treatment for Truth in Lending purposes would be either desirable or possible. Therefore, the Board proposes to allow creditors complete flexibility in the way in which they treat such amounts for purposes of Regulation Z disclosures and calculations. Creditors may make disclosures without taking these amounts into account, or may reflect the rebates in the disclosures. For example, where the seller and customer agree to apply the amount of a rebate to the price of the goods, the amount may be included, at the creditor's option, in the downpayment disclosed to the customer. Under the proposal, however, the creditor is not required to reflect the rebate in the disclosures in any way.

Closed-end credit. This definition is unchanged from the May proposal.

Consumer. This definition has been revised from that in the May draft to clarify that comakers, endorsers, guarantors, sureties and similar persons must be natural persons. A number of commenters requested this change to insure that the disclosures need not be given to business entities. The Board is particularly interested in receiving comment on the impact, if any, of this change on open-end credit plans.

Consumer credit. This definition has been slightly revised from that in the May proposal. The word "extended" has been added with no change in meaning intended.

Consummation. This definition represents a significant departure from both the May proposal and longstanding staff interpretations of the current regulation. Under this proposal, consummation occurs only when the consumer becomes contractually liable on the obligation as determined by state law. The payment of a nonrefundable fee has been eliminated from the definition as a standard for determining when consummation occurs.

Credit. This definition is essentially unchanged from the definition in the May proposal, except that the phrase "granted by a creditor to a consumer" has been deleted as unnecessary.

The Board recognizes that, while the concept of credit is central to Truth in Lending, the regulatory definition may be difficult to apply in particular fact situations. Even though a precise, easy-to-apply standard cannot be devised to resolve all questions, the Board believes that some guidance can be offered on the definition's applicability to certain recurring fact situations.

A review of the numerous staff and Board interpretations in this area highlights several factors that can be used in analyzing whether a particular transaction is considered credit for Truth in Lending purposes.

For example, in the Board's view, certain transactions do not involve the voluntary incurring of debt; others do not involve the *right* to defer a debt. Tax liens, tax assessments and court judgments would come with this category. However, where the consumer obtains third-party financing for such obligations (for example, obtaining a loan from a credit union to pay off a judgment to a bank), the third-party financing would constitute credit for Truth in Lending purposes.

Where the consumer's payments generally parallel the value received from the other party, with no continuing obligation to make payments, the Board would not view this as an extension of credit. For example, certain insurance premium plans involve payment in installments; each installment represents payment for insurance for a certain future period of time. If the consumer fails to make a payment, no coverage would be provided for that period. There is in this case no obligation for the consumer to continue making payments. Similarly, in a home improvement transaction involving progress payments, the consumer simply pays the value of work completed as the work progresses, with no contractual obligation to continue payments.

Certain types of pledge transactions may be viewed as cash sales rather than credit transactions. One example is a transaction involving a pawn shop. In this situation, the consumer sells goods to another party for cash, with the understanding that the goods may be repurchased within a certain period. While staff letters have held such transactions to be credit, the Board believes they are more analogous to cash sale transactions, since the customer normally has no obligation to repay the funds acquired in the transaction.

Board Interpretation § 226.201 exempts layaway plans from the coverage of the regulation, if the consumer may cancel the purchase and receive a full refund of any amounts paid toward the cash price. This interpretation has not been incorporated into the new regulation and the Board believes that any specific reference to such transactions is unnecessary in the regulation. In the Board's view, layaway plans do not involve an extension of credit and are thus beyond the scope of the regulation.

Similarly, the creation of an option contract and the issuance of a letter of credit do not, in the Board's view, constitute extensions of credit.

Credit card. This definition is unchanged from the May proposal.

Creditor. The first paragraph of this definition has been significantly revised to create a new standard for determining what activities make a person a creditor, based on the frequency of those activities. The current regulation requires that credit extensions occur "regularly" and "in the ordinary course of business" in order to bring the credit extender within the definition. These standards have proven difficult to apply, particularly in cases in which the main activity of a credit extender is unrelated to credit.

In order to create a clearer standard for determining who has disclosure responsibilities under the regulation, the Board now proposes a test based on the frequency of the credit extensions. If a person has made more than the specified number of consumer credit extensions in the calendar year preceding the transaction in question, that person is a creditor and must make disclosures. The purpose of this test is to apply the regulation to those persons that extend credit often enough that they can be expected to be able to provide disclosures and for whom the cost of doing so is more commensurate with the benefit to consumers of receiving disclosures. The number is set at 25 for most transactions. A lower number, five, is proposed for transactions secured by a dwelling, since these generally involve larger amounts of credit and represent the most important consumer credit decision. The Board solicits comment on this approach.

This definition is also revised to require a *written* agreement to pay in more than four installments, in order for a person offering a credit extension without a finance charge to be considered a creditor. This revision is proposed in order to exclude from the regulation's coverage very informal arrangements not invoving a finance charge, such as those frequently made by doctors, dentists, and other providers of professional services. However, when a finance charge is imposed or when the agreement to repay in more than four payments is written, those arrangements would come within the definition.

Finally, a parenthetical has been added to clarify that a downpayment is not considered an installment for purposes of the four-installment rule.

A number of commenters requested an explicit statement regarding who is the creditor in a transaction in which a seller of goods assigns its customer's installment sales contract to a financial institution. It is clear that Congress, in amending the statutory definition, intended the seller in these situations to be the creditor. This would be true even when the seller routinely assigns contracts in this fashion and the financial institution had provided a prior credit approval.

Paragraphs (4) and (5) of this definition correspond to § 226.2(q)(4) of the May draft, and impose creditor responsibilities on card issuers. Paragraph (4) provides that card issuers that extend open-end credit or consumer credit that does not involve either a finance charge or an agreement to repay in more than four installments are creditors for purposes of Subpart B of the regulation. As all disclosures are to be made only as applicable, a card issuer that extends consumer credit without a finance charge, for example, would omit finance charge disclosures. The Board contemplates that other general subparts of the regulation regarding such areas as scope, definitions, finance charges, Spanish language disclosures, record retention, and use of model forms also apply. Paragraph (5) sets forth the responsibilities of a card issuer extending closed-end credit, and is analogous to § 226.8(q) of the present regulation. Again, the Board believes that the general provisions also apply to these creditors. The Board solicits comment on extending coverage to card issuers in this manner.

Credit sale. This definition is unchanged from the May proposal. Although some commenters asked that the definition be expanded to cover leases that may be terminated at any time without penalty, the Board does not believe that such transactions constitute credit sales.

Downpayment. This is a new definition, which has been added to § 226.2 for ease of reference. The term is used in §§ 226.18(b) and 226.18(j), as well as in the credit sale model form in Appendix G(1). As in the current regulation, a downpayment may include both a cash downpayment and the value of any trade-in or other property used to reduce the deferred price of the goods.

The second portion of the definition incorporates the substance of current Board Interpretation § 226.504, outlining the proper treatment of deferred portions of the downpayment, often referred to as "pick-up payments." Unlike the current rule, however, the definition would not require creditors to label the deferred portion as a pick-up payment or to reflect the payment in any manner in the payment schedule disclosure under § 226.18(g). If the deferred amount meets the test outlined in the definition, it would be treated as a downpayment for purposes of calculating the amount financed under § 226.18(b) and for purposes of disclosing the total sale price under § 226.18(j). Any amounts which do not quality for this treatment would be reflected as part of the amount financed and payment schedule and taken into account in calculating the annual percentage rate.

Dwelling. This definition has been revised from that in the May proposal to clarify the scope of its coverage. It includes all residences, which excludes structures such as recreational vehicles not used as a residence. The reference to "mobile home or trailer" has been taken out of the first sentence, because its placement there created some ambiguity. These items have been added to the second sentence as examples of dwellings. However, mobile homes and trailers are included in the definition only if they are used as residences, just as is the case with condominiums and cooperatives.

The revision of the first sentence also makes clear that the phrase "whether or not attached to real property" applies to all residential structures, not just mobile homes.

Open-end credit. This definition is substantively unchanged from the previous proposal. The proposed definition attempts to identify the difference between open-end and closed-end credit and to accommodate problems associated with particular credit plans.

Footnote 1 of the May proposal has been deleted from the present proposal because it simply offers additional guidance, rather than imposing a substantive requirement or relieving liability. That footnote provided that the creditor of an open-end credit account may verify credit information regarding the consumer from time to time without affecting the classification of the account as open-end credit. The Board intends to preserve this position in the commentary.

Paragraph (1) provides that the creditor must reasonably contemplate repeated transactions. A number of commenters asked for guidelines for determining when a creditor may reasonably contemplate multiple transactions. The proposal implements the statutory amendment intended by Congress, according to the Senate Report on S. 108, to curb the use of spurious open-end credit. In particular, the committee believed that consumers should receive essential cost disclosures, such as the finance charge and the total of payments, where a creditor makes what is likely to be a one-time credit extension; for example, when the initial transaction is the purchase of a home improvement, an automobile, or an item sold on a door-to-door basis.

The second part of the test for open-end credit is substantively unchanged from the May proposal. The present proposal has been clarified to indicate that fees imposed irrespective of a consumer's payment schedule are not penalties or additional charges for payment in full. For example, a minimum finance charge of $.50 every month is not an additional charge for full payment, because the charge is a function of the account activity rather than of payment in full. This requirement reflects, in part, the distinction that in open-end credit plans, unlike many traditional closed-end credit extensions, there is no specific payment schedule under which finance charges and the total of payments can be calculated in advance. In light of the fact that paragraph (3) requires calculation of any finance charge on the basis of the outstanding unpaid balance, in contrast to a precomputed finance charge on the basis of a payment schedule, the Board solicits comment on the necessity of also retaining the test in paragraph (2).

The May draft deleted the current regulatory rule that open-end credit be payable in installments. Some commenters were concerned that the removal of this requirement might subject traditional 30-day accounts to the regulation. Of course, if credit is not payable in four installments, the extension does not fall under the regulation, unless a finance charge may be imposed or a credit card is involved.

Paragraph (3) remains unchanged from the previous proposal. The Board solicited comment on whether it should define as open-end credit certain plans not subject to a finance charge from time to time on the outstanding unpaid balance. After considering the comments and what appears to be the congressional intent, the Board believes that when no finance charge may ever be imposed, the plan is not open-end credit. When the plan contemplates purchases from time to time, series of sales disclosures under § 226.17(g) may be appropriate.

Paragraph (4) of the definition remains unchanged from the May proposal. The Board contemplates that a line of credit may be considered self-replenishing even if the plan itself has a fixed

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termination date, if within the time the plan is in existence the consumer may use the line, repay, and reuse the credit without specific approval for each extension beyond verification of credit information such as the consumer's continued income and employment status. This factor is intended to assist creditors in distinguishing open-end credit from a series of advances made pursuant to a loan commitment. Under such a commitment, for example, a creditor might agree to lend a total of $10,000 in a series of advances as needed by the consumer. When a consumer has borrowed the full $10,000, no more money is advanced under that particular agreement even if there has been repayment of a portion of the debt.

The May proposal also provided that consumer credit extended by use of a credit card would be considered open-end credit for limited sections of the regulation. This proposal deletes that provision. All of the special rules relating to credit card issuers are now contained in the definition of "creditor." The Board solicits comment on the necessity of making credit extended by use of a credit card open-end credit for limited purposes, in order to assure that card issuers comply with all applicable open-end credit requirements.

Unlike the May proposal, the present regulation specifically excludes from the definition of open-end credit negotiated advances under open-end real estate mortgages and letters of credit. The Board solicited comment on whether these exclusions are necessary and on the impact of omitting them from the regulation. Commenters presented different programs to the Board using the terms "open-end real estate mortgages" and "letters of credit." The Board believes that each plan must be independently measured against the definitions of consumer credit, open-end credit and closed-end credit, regardless of the terminology used in the industry to describe the plan. The fact that a particular plan is called an "open-end real estate mortgage," for example, is not determinative of its coverage as open-end credit. Therefore, no special exclusion is contained in the present proposal.

A number of commenters also asked whether certain special loan programs that make available many different features may be characterized as open-end credit. Under some existing programs, for example, a creditor might offer to extend credit under ten different rate structures, depending on whether a particular extension is unsecured or secured, and the nature of any such security. Furthermore, such a plan may have transaction charges for certain types of extensions (such as cash advances) but not for others. Some of these plans may have different bases on which to calculate minimum payments for different types of credit extensions. These factors in and of themselves do not preclude a plan from being open-end credit. The Board cannot rule on each individual program, and believes that no matter how complex a plan, the test of whether it is open-end remains the four-prong test enunciated in the regulation. For example, it would be more reasonable for a thrift institution chartered for the benefit of its members to contemplate repeated transactions from a member on a single account than it would be for an automobile dealer to make the same assumption about its customers. Furthermore, balances outstanding under the plan would be payable in full at any time without penalties that would tend to inhibit such prepayment; finance charges would be computed from time to time on the outstanding unpaid balance rather than precomputed; and the line available to the extent that the consumer repays the outstanding balance.

Periodic rate. The May proposal provided that the periodic rate may be stated as the decimal equivalent of a percentage rate as well as a percentage rate. As the comments indicated no necessity for permitting disclosure of the decimal equivalent, or any difficulty in converting to a percentage rate, the present proposal deletes the alternative.

The Board specifically solicited comment on prohibiting the use of 1/360th of a year as a period for which a rate may be applied. The present proposal does not by its terms prohibit the use of such a period. However, the Board contemplates that the application of this rate to a balance would be made in such a manner as to disclose the annual percentage rate with the degree of accuracy required in the regulation. Moreover, the Board proposes to take the position that the creditor would not be permitted to identify such a sub-division as a "daily" periodic rate. The Board contemplates that the definition by its terms excludes an initial one-time transaction charge, even if the charge is computed using a percentage of the transaction amount.

Person. This definition is unchanged from the May proposal.

Personal property. This definition is unchanged from the May proposal.

Prepaid finance charge. This definition was previously defined in § 226.11(f)(2)(i)(C) of the May proposal. For ease of reference, that definition has been added to § 226.2. The concept of "prepaid finance charge" is contained in § 226.8(e)(1) of the current regulation, and the new definition is based closely on that provision. This definition has been slightly expanded to clarify that a finance charge withheld from proceeds after consummation of a transaction is still considered a prepaid finance charge. For example, in a multiple-advance construction loan, a loan fee or other finance charge withheld from each advance as it is drawn down constitutes a prepaid finance charge, despite the fact that consummation has already occurred.

Regular price. This is a new definition and has been added to § 226.2 for ease of reference. The term is used in §§ 226.4(f) and 226.12(g). It was previously defined in footnote 15 to § 226.4(f) of the May proposal. The words "advertised price" have been added, making an advertised price synonymous with "regular price." The Board does not intend for an advertised price to be regarded as the "regular price," however, if it is clearly disclosed that the advertised price is not available to credit card purchasers.

The last sentence in footnote 15, providing that payment by check, draft, or similar means that may result in the debiting of a cardholder's open-end account shall not be considered payment made by use of that account, has been deleted as explanatory material; it will be incorporated into the Board's commentary to the regulation.

Required deposit balance. This definition, as well as the concept of a required deposit balance, has been deleted from the proposed regulation. While the Board recognizes that taking deposits into account in calculating the cost of credit may make the resulting numbers marginally more precise, it questions whether the complexity that the concept has produced in the regulation, interpretations, and calculations outweighs its utility.

In the May draft, the Board proposed to limit the definition of required deposit balance, primarily by excluding deposits on which more than nominal interest or dividends are earned. Although the comments generally favored limiting the definition, many of the commenters argued that the new standard presented many of the same difficulties as the current regulatory definition.

In light of its own experience with the concept of a required deposit balance and the comments on this matter, the Board now proposes to delete this item both as a disclosure and as an amount to be taken into account in computing an annual percentage rate. If this is done, conforming changes would also be made

to Supplement I to the regulation (§ 226.40).

The Board specifically solicits comment, however, on whether the concept of required deposit balance should be retained in cases where the amount of the deposit is so large that it would have a significant effect on the cost of credit. The term, for example, could be defined to include deposits exceeding a specified percentage of the amount of credit extended.

Residential mortgage transaction. This definition is unchanged from the May draft. In response to comments on this definition, the Board wishes to emphasize that the definition is not limited to first lien transactions or to those involving a principal dwelling.

Security interest or *security.* This definition is significantly narrower than that contained in the May proposal. It explicitly excludes from coverage many incidental interests in property that have been found to be security interest by various courts in the past. The board believes that this narrow reading properly implements the congressional intent to restrict this item to a simple but meaningful concept. This intent is evidenced by the language in the report on S. 108 of the Senate Committee on Banking, Housing and Urban Development that the committee expected that a loan secured by a car:

> * * * would require a statement indicating that the loan is secured by an automobile but would not require a listing of incidental or related rights which the creditor may have such as insurance proceeds or unearned insurance premiums, rights arising under, or waived in accord with state law, accessions, accessories, or proceeds.

The proposed definition makes a distinction between disclosure and rescission rights. Interests arising by operation of law (including a right of setoff) would not need to be disclosed as security interests; however, if such an interest (e.g., a mechanic's or materialman's lien) in a consumer's principal dwelling were acquired by a creditor, the transaction could be subject to the right of rescission.

The definition continues to include the usual kinds or security interests, for example, UCC security interests, real property mortgages and deeds of trust.

State. This definition is unchanged from the May draft.

(b) *Rules of construction.*

Sections 226.2(b)(1)–(5) contain the rules of construction that were previously found in §§ 226.2(ff), (gg), (hh), and (ii), respectively, of the May draft, with one addition. Paragraph (b)(3) has been added to make clear that "the act" refers to the Truth in Lending Act, unless otherwise apparent from the context. This rule eliminates the need for a complete citation to the act each time that term is used in the regulation. Paragraph (b)(4) deletes the phrase "to the extent applicable," because it is superfluous.

Section 226.3—Exempted transactions.

Except for the addition of a new paragraph (f) creating an exemption category for home fuel budget plans, § 226.3 is substantively unchanged from the May proposal.

Section 226.3(a), dealing with the business, agricultural, and organizational credit exemption, now contains a specific reference to commercial credit. In addition, the reference in the May proposal to an extension of credit "to a person other than a natural person," meaning credit to an organization, has been replaced by a reworded, separate subparagraph; it makes direct reference to governmental credit as one of the types of credit exempted.

Footnote 1 provides that credit exempted under paragraph (a) is still subject to the provisions of § 226.12, regarding issuance of credit cards and consumer liability for their unauthorized use. In the May proposal, this material was contained in the text of the paragraph.

There is an extensive definition of "agricultural purpose" in the statutory amendments to Truth in Lending. In the May proposal, that definition was incorporated into the regulation by means of Footnote 3 to § 226.3(a). In order to streamline the regulation, the Board has decided to delete that footnote. Its substance will be incorporated into the official commentary. As noted in the May proposal, the exclusion applies to a transaction involving real property that includes a dwelling, if the transaction is for agricultural purposes.

Although business and commercial purposes are not defined in the regulation, it is contemplated that the commentary will incorporate the substance of Board Interpretation § 226.302, which establishes the rule that business or commercial credit includes credit extended in connection with a dwelling containing more than four family housing units.

Several commenters asked that the Board define the term "primarily" as used in paragraph (a). The Board believes that each transaction must be looked at as a whole and evaluated to determine whether it constitutes consumer credit requiring disclosures. The creditor itself is normally in the best position to make this subjective determination. Where some question exists as to the primary purpose for a credit extension, the Board believes the better approach would be for the creditor to make the required disclosures.

The Board's staff has given some guidance in the past for determining whether the purpose of the credit is primarily business/commercial. For example, if a consumer purchases a single family dwelling for rental purposes, the credit transaction could be either business or consumer credit. Factors to consider might include: (1) The ratio of the rental income to the total income of the consumer, (2) the size of the transaction, (3) the degree to which the borrower will personally manage the property, and (4) whether the borrower's primary occupation is closely related to the rental of the property. This list is not all-inclusive and is intended to suggest the types of factors that a creditor should consider, since each transaction will merit an individual analysis. If there is a business purpose, however, the credit is business credit and is therefore exempt even if it is secured by the borrower's personal residence.

Paragraph (b) has been revised to include a reference to "personal property" (such as a mobile home, which may be classified as personal property in some states) used as the principal dwelling of the consumer, in place of "a dwelling."

Several commenters were concerned that cable television might not be exempt under the language of paragraph (c). The Board has added the phrase "or similar" following the word "radio" to resolve the matter.

In response to comments about the exemption for securities credit, the Board has reverted in paragraph (d) to the language used in the current regulation. Paragraph (e) was also changed in response to concerns expressed by the commenters; the word "consumer" replaces "lessee" in subparagraph (2)(ii).

A new exemption appears in this proposal. Currently, home fuel budget plans may or may not be consumer credit, depending on how they are structured. The Board is proposing a specific exemption for them. Under such plans, the fuel dealer generally estimates the total cost of fuel for the season, bills the customer for an average monthly payment, and makes an adjustment in the final payment for any difference between the estimated and the actual cost of the fuel. Fuel is delivered as needed, no finance charge is assessed, and the customer may withdraw from the plan at any time. The Board believes a nominal charge to

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cover the billing costs would not disqualify a budget plan for exemption, but will reevaluate the matter if it becomes aware of abuses in this area. The Board solicits comment on this proposed new exemption and on whether any other comparable plans should be considered for exemption.

During the last comment period, the Board received several requests—all from one geographic area—for a special exemption for consumer credit extended by trusts. In support of a proposed exemption, the commenters stated that loans made by trusts are unusual in terms (for example, low interest rate, no repayment schedule, irregular payments), that disclosures are therefore difficult to make, and that trust department personnel are generally unfamiliar with the Truth in Lending disclosure requirements. The Board solicits comment on whether compliance with Regulation Z poses an undue burden for trusts, whether it is a national or an isolated problem, and whether the same rationale for exemption might apply to profit sharing plans, employee benefit trusts, pension plans, and retirement plans. The Board would welcome recommended regulatory language if such an exemption is supported. In particular, the Board seeks any industry definitions that may exist of what is encompassed by the various forms of fiduciary accounts mentioned above.

Section 226.4—Finance charge.

Section 226.4 provides rules for determining the finance charge in open-end and closed-end credit transactions. While the format of this section is similar to the May draft, the current proposal reflects several substantive changes.

(a) *Definition.* Section 226.4(a) incorporates a tolerance for calculation and disclosure of the finance charge, similar to the annual percentage rate tolerance in §§ 226.14 and 226.22. Although a general tolerance for the finance charge has never been provided before, the concept is reflected in both the act and the current regulation in several ways. The Board is authorized by section 121(d) of the act to provide a tolerance for numerical disclosures other than the annual percentage rate. For purposes of administrative enforcement, Congress specifically authorized a finance charge tolerance in section 108, regarding restitution for understatements. The current regulation and the May proposal also contain several rules (§ 226.11(d) (3) and (4) of the May draft) which allow some margin of error in finance charge disclosures. These rules, however, are of limited applicability, since they are tied to specific causes.

In view of the congressional mandate to simplify the regulation and to ease the burden of compliance, the Board is proposing a tolerance for finance charges, based on the tolerance provided in § 108 of the act. Under the proposal, a finance charge would be considered accurate if the amount disclosed did not vary from the exact finance charge by more than the dollar equivalent of a ⅛ of 1 percentage point variation in the annual percentage rate. The Board solicits comment on this proposal, particularly on the amount of the tolerance.

Several commenters requested that the Board make explicit in the definition the position reflected in several staff opinion letters, including official staff interpretation FC–0054. Those letters provide that charges absorbed by the creditor as a cost of doing business, rather than separately imposed on the consumer, are not encompassed by the definition. While the new definition is intended to reflect this concept, the Board does not believe that the regulation need explicitly state this position.

The definition also continues to reflect the Board's policy that a charge imposed uniformly in cash and credit transactions (such as sales taxes, licenses, or registration fees) is not within the scope of the finance charge definition. However, the examples given in paragraph (a) of the May proposal have been deleted as unnecessary.

(b) *Examples of finance charge.* Section 226.4(b) incorporates both editorial and substantive changes. The caption for the paragraph has been amended to emphasize that the list of charges is illustrative rather than exhaustive.

The reference to "other system" of additional charges has been deleted from paragraph (b)(1) inasmuch as the charges listed in that paragraph sufficiently identify the types of charges intended to be covered.

A number of commenters asked the Board to reconsider its longstanding position that transaction charges and account charges of the type described in paragraph (b)(2) constitute finance charges. In the Board's view, these charges are encompassed in the definition of the finance charge and should be treated as such.

Paragraph (b)(3) retains a reference to an assumption fee as an example of a finance charge. An assumption fee would constitute a finance charge only when an assumption actually occurs and a fee is imposed, not at the time of the initial transaction.

Paragraph (b)(4) has been amended by adding application fees to the list of charges included in the finance charge. If an application fee covers charges that are explicitly excluded from the finance charge, such as a credit report fee in a real property transaction, that portion of the application fee would not constitute a finance charge. As a general rule, however, the proposal takes the position that application fees represent a cost of credit and should be included in the finance charge. Comment is solicited on this matter.

Paragraph (b)(5) has been amended by deleting the reference to single interest insurance. While single interest insurance would normally be included in the finance charge, unless specifically exempted by paragraph (d), a specific reference in paragraph (b)(5) seems unnecessary. Several commenters requested that the Board reinstate § 226.4(h) of the current regulation, permitting creditors to rely on the rates and classification in effect at the time of disclosure in determining the amount, unless the creditor has reason to know of any change. In the Board's view, a special rule for determination of these amounts is unnecessary; the general requirements regarding the basis for making disclosures, as set forth in §§ 226.5 and 226.17, should be applied.

The explanatory material that was contained in footnotes 4, 5, and 7 of the May proposal (regarding the premium amount to be included in the finance charge) and in footnotes 6 and 8 (concerning the meaning of "written in connection with") has been deleted from this draft. The substance of those footnotes, which continues to represent the Board's position, will be incorporated into the official commentary on the regulation.

Paragraphs (b)(5), (7) and (8) have been amended by adding the phrase "or other charge" after the word "premium." This represents a return to the terminology used in the current regulation.

Paragraph (b)(9) is unchaged from the May proposal. As noted in the earlier draft, present § 226.8(o), which provides special treatment for discounts offered for prompt payment of a credit obligation, has been deleted since trade discounts covered by that provision are no longer considered finance charges.

(c) *Charges excluded from finance charge.* Section 226.4(c) sets forth the charges that are excludable from the finance charge. This paragraph incorporates specific exceptions now found in § 226.4(c), (d), and (e) of the current regulation and current Board Interpretation § 226.407.

Paragraph (c)(1) excludes charges that are imposed for actual, unanticipated late payment. The Board considered incorporating into this provision the concept contained in Board Interpretation § 226.401. That interpretation establishes the rule that, in certain cases, if a seller imposes a late payment charge while continuing to extend credit to the consumer, the charge imposed for late payment is a finance charge for purposes of Regulation Z.

Upon reconsideration of this matter, the Board now believes that the further extension of credit to the consumer should not be determinative. It is only one of the factors that must be taken into account in deciding whether the charge is a bona fide late payment charge. While this change in position is not reflected in the regulation, it is contemplated that this revised interpretation will be included in the official commentary.

Paragraph (c)(2), as revised, differs from both the May proposal and § 226.4(d), its counterpart in the current regulation. Previously, overdraft charges were excluded from the finance charge unless there was a written agreement regarding the payment of the checks and the imposition of the charge. Under this proposal, an overdraft charge is exempt only if it relates to an inadvertent overdraft in a checking or a similar type of account. The Board believes that a charge imposed for honoring an instrument under any agreement between the institution and the consumer is a charge imposed for a credit extension and fits the general definition of a finance charge, whether or not the charge and the honoring of the check are reflected in a written agreement. The characterization of the charge will thus depend on whether "credit" has been extended, within the meaning of the regulation.

Paragraph (c)(3), regarding participation fees, is based on current Board Interpretation § 226.407 and has been changed in three ways from its counterpart in the May draft. First, the term "membership" has been replaced by "participation," which is a broader term encompassing any fees for access to a credit plan. Second, the paragraph has been broadened to apply to any credit plan, not merely credit card plans. The exception does not depend on the nature of the credit plan, but on the fact that the fee is not tied to a specific credit extension and is a condition of access to the credit plan itself. Third, the paragraph has been revised to clarify that such fees may be assessed on either a periodic or an annual basis.

Paragraph (c)(4), exempting certain realty charges, is similar to the May draft and reflects § 226.4(e) of the current regulation. The introduction expands the statutory language regarding the types of transactions to which the exceptions apply, by the addition of the phrase "or a residential mortgage transaction." This would include mobile home transactions, and similar credit extensions which are functionally the same as real estate transactions, even if state law characterizes the property as personal. In the Board's view, this change in language carries out the congressional intent to treat mobile home transactions and similar types of credit extensions in the same manner as traditional realty transactions.

Paragraph (c)(4)(i) reflects the current regulation by reincorporating the phrase "or similar purpose." The Board believes that the May draft may have been unnecessarily narrowed by the elimination of that language.

Paragraph (c)(4)(ii) adds "reconveyance" document fees to the list of documents to which that provision applies. Under this proposal, fees charged for the termination of security interests would be treated in the same manner as fees for the creation of a security interest. The Board solicits comment on this matter.

Paragraph (c)(4)(iii) is essentially unchanged from both the May draft and the current regulation, but the Board wishes to address two issues relating to this provision. First, the Board believes that the fees described need not be paid to third parties in order to be excluded, but may be assessed by a creditor for services performed by its employees. For example, a creditor may exclude an appraisal fee from the finance charge under this paragraph, even though the appraisal is conducted by the creditor's own staff. Second, a credit report fee may include a charge for the creditor's internal verification of information from third parties such as credit bureaus.

Paragraph (c)(5), which has no counterpart in the May proposal, is based in part on current Board Interpretation § 226.406. Seller's points normally are imposed on the seller in a real estate transaction, but may be passed on indirectly to the buyer in the form of a higher sales price. Because it is extremely difficult to determine whether such charges have actually been imposed on the buyer in an individual case, the current Board interpretation allows creditors to include seller's points in the finance charge as a matter of course in all cases, even if the points were not actually passed on. For purposes of comparison among various credit sources, a uniform rule regarding these charges is desirable and the Board proposes to exclude such charges from the finance charge in all cases. Comment is solicited on this issue.

Paragraph (c)(6) has been added to incorporate the substance of proposed Board Interpretation § 226.408, which was published by the Board in August 1978. Certain federal and state laws mandate a percentage differential between the interest rates on a time deposit and a loan secured by such deposits, which may result in the forfeiture by the consumer of some of the interest that otherwise would be earned on the deposit. This paragraph provides that the lost interest need not be included in the finance charge in such transactions. The Board specifically solicits comment on this proposal, particularly with regard to the issue of whether its application should be limited to an interest reduction imposed because a rate differential is required by law.

(d) *Insurance.* This paragraph sets forth the procedures for excluding credit life and property insurance premiums from the finance charge. It has been substantially changed from both the May draft and the current regulation in several aspects, as discussed below. In addition, several questions regarding the location of the disclosures called for by this paragraph in closed-end credit transactions are now addressed in § 226.17 of this regulation.

Paragraph (d)(1) has been revised to permit disclosure of the amount of the premium on a unit cost basis. This represents a departure from the current regulation, which generally has been interpreted as prohibiting disclosure of cost on this basis; the Board specifically solicits comment on this matter. Paragraph (d)(1)(iii) has been amended by adding a second sentence, allowing any consumer, whether or not an insured party, to sign the statement indicating a desire for the insurance. The words "or initials" have been added to make clear that either a signature or initials will satisfy the requirement.

Paragraph (d)(2) revises the special rules set forth in the May proposal for single interest insurance, and eliminates the distinction between blanket vendor's single interest insurance and ordinary single interest insurance.

Footnote 2 now incorporates current Board Interpretation § 226.404, permitting vendor's single interest insurance to be excluded from the finance charge if the insurer waives all right of subrogation against the consumer. Single interest insurance, as that term is used in the proposal, refers only to the types of coverage that would

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generally be included under the term "vendor's single interest insurance." The Board is aware that certain comprehensive insurance policies may include a variety of coverages, such as repossessed vehicle insurance, holder-in-due-course insurance, and instrument non-filing insurance, as described in Public Information Letter 1075. Those types of coverages do not constitute single interest insurance for purposes of the regulation.

Footnote 3 to paragraph (d)(2) makes clear that a creditor's reservation of the right to refuse an insurer, on a reasonable basis, does not by itself make the provisions of this section inapplicable. Paragraph (d)(2)(ii) has been expanded to permit disclosure of insurance premiums on a unit cost basis. This amendment reflects the approach taken in the revision to paragraph (d)(1), regarding the cost of credit life insurance.

(e) *Certain security interest charges.* Section 226.4(e) is similar to the May draft, with the addition of the phrase "taxes and" to paragraph (e)(1) to clarify that the types of charges described in that paragraph may include taxes as well as fees. The charges described in paragraph (e)(1) may be aggregated, rather than itemized according to the specific fees and taxes imposed. For purposes of closed-end credit disclosures, § 226.17 permits creditors to itemize the charges in paragraph (e) either separately or with other disclosures.

The caption has been changed in an effort to more accurately reflect the coverage of this paragraph, which addresses only costs associated with security interest. Comment is welcome on any other phrase, such as "Filing fees; nonfiling insurance," which might describe more precisely the charges to which paragraphs (e)(1) and (e)(2) apply.

(f) *Discounts.* This section corresponds to § 226.4(i) of the current regulation, and reflects several changes from the May proposal. Most of the changes are organizational, to make the provisions clearer and easier to understand.

In paragraph (f)(1) the language has been changed to comply with the statue, which states that a discount meeting the requirements of this provision "shall not constitute" a finance charge. As written in the May proposal, the exclusion of a discount that met the requirements of paragraph (f) appeared to be optional with the creditor.

Paragraph (f)(1)(ii) of this proposal corresponds to (f)(2) of the May proposal. The word "all" has been deleted as unnecesssary because of the phrase "whether or not they are cardholders" following "prospective purchasers." This change attempts to clarify that a merchant may offer a discount that is limited to members of a specific organization or to prospective purchasers who have an account at a particular financial institution. Such a discount is not subject to treatment under this provision. The restriction imposed by this provision applies only to a discount to induce payment by a means other than by use of an open-end credit card account and requires that such discounts be available to non-cardholders as well as cardholders.

A discount offered to a subgroup of purchasers or based upon any criteria other than cash versus credit would not be considered a finance charge under Regulation Z. If a merchant further limited the availability of the discount (within such a subgroup) based on whether a person paid for a purchase by cash or credit card, the discount would not become a finance charge subject to Regulation Z since other cash customers (who do not belong to the subgroup) pay the same price in a comparable cash transaction.

The language "in the seller's place of business" (in paragraph (f)(2) of the May proposal) and paragraph (f)(3) regarding advertising and telephone solicitations have both been deleted from § 226.4(f) of this proposal. These deletions do not represent a substantive change in the Board's position, however. In the Board's view, the material that has been deleted provided clarification of what is meant by "clearly and conspicuously." It is the Board's intention to incorporate the material into the official commentary.

In the Board's view, the "clearly and conspicuously" language of paragraph (f)(1) requires that a sign or display disclosing the availability of a discount be posted in the creditor's place of business. If a creditor solicits orders for property or services by other means (mail, telephone, advertising, etc.), and states in the solicitation or offer that consumers may pay by using a credit card or its underlying account, the creditor must also disclose the availability of the discount for payment in cash. In all situations involving a discount, the availability of the discount would have to be disclosed before the transaction had been completed by means of a credit card or its underlying account.

All of the footnotes to § 226.4(f) of the May proposal have been deleted or redesignated. The text of footnote 13 of the May proposal is now paragraph (f)(2), and implements the statutory provision to the effect that a discount excluded from the finance charge by virtue of this section shall not be a finance or other credit charge under state law.

Footnote 14 of the May proposal has been deleted as unnecessary; a discount for cash payment must meet all the conditions imposed by this section in order to be excluded from the finance charge.

Footnote 15 of the May proposal, defining "regular price," has been incorporated into § 226.2, which contains the definitions. Since the definition of regular price applies to this section and to § 226.12(g), this placement seems more appropriate.

Footnote 16 of the May proposal provided that a merchant may limit the availability of cash discounts based on type of property or service, a particular location of the merchant, and other distinctions not tied to a cash-versus-credit concept. This footnote has been deleted; its substance will be included in the commentary of the regulation.

(g) *Prohibited offsets.* Section 226.4(g) corresponds to § 226.4(f) of the current regulation and is the same as the May proposal.

Subpart B—Open-End Credit

In the May proposal, the provisions relating to open-end credit were in §§ 226.5 through 226.10. Section 226.5 of the May proposal (Disclosures) has been divided and redesignated to facilitate the regulation's use; it represents § 226.5 through 226.11 of this proposal.

Section 226.6 of the May proposal (Credit card transactions; special requirements) has been retitled (Special credit card requirements) and redesignated § 226.12.

Sections 226.7 of the May proposal (Billing error resolution), 226.8 (Determination of annual percentage rate), 226.9 (Right of rescission) and 226.10 (Advertising) have been redesignated §§ 226.13, §§ 226.14, §§ 226.15, and §§ 226.16, respectively.

Section 226.5—General disclosure requirements.

As did the May proposal, this proposal assembles in one place the general housekeeping requirements relating to open-end credit.

Proposed §§ 226.5(a) (Form of disclosures) and (b) (Timing of disclosures) correspond to the May proposal's §§ 226.5(a)(3), (a)(4) and (a)(5). Proposed paragraph (a) corresponds in part to paragraph (a)(3) (Time and form; general) of the May proposal. Proposed paragraph (a)(1) corresponds to paragraph (a)(3)(i) of the May proposal. The second sentence of paragraph (a)(3)(i) of the May proposal has been deleted as unnecessary.

Language in paragraph (a)(3)(i) of the May proposal provided that appropriate identifying language may accompany required terminology, and the following examples of permissible identifying language were given: the rate applied to a balance on a daily basis may be described as the "daily periodic rate;" payments on a loan account may be described as "loan payments." This language and the examples have been deleted in this proposal as inappropriate regulatory material; the Board intends, however, to incorporate this material in the commentary. Also deleted from the May proposal was language permitting the pluralization of required terminology. This language is regarded as inappropriate regulatory material that the Board intends to include in the commentary.

In order to promote flexibility in designing forms and to reduce the incidence of technical violations, the Board specifically solicits comment on whether the required terminology of § 226.7 *Periodic Statements*, with the exception of "finance charge" and "annual percentage rate", should be deleted from the regulation.

Proposed paragraph (a)(2) corresponds to paragraph (a)(3)(ii) of the May proposal and deals with disclosing the terms "finance charge" and "annual percentage rate" more conspicuously in certain instances. Other than editorial changes and the deletion of the parenthetical listing examples of ways to satisfy the "more conspicuous" standard, the paragraph remains unchanged. The deleted parenthetical suggested the use of capitalization, asterisks, bolder type, underlining, or a contrasting color. The Board intends to incorporate these examples in the commentary.

Unlike the May proposal, the present proposal does not contain a rule governing the inclusion of additional information on the initial disclosure statement or on the periodic statement. The additional information rule appeared in the May proposal in §§ 226.5 (a)(4)(ii) and (a)(5)(i). While the Board believes that additional information may be included on the initial disclosure statement and on the periodic statement, in its view, no special provision governing inclusion of additional information on a disclosure statement is necessary in light of the general requirement that Truth in Lending disclosures be made clearly and conspicuously. As the parenthetical in paragraph (a)(4)(ii) of the May proposal indicates, additional information could include the agreement or contractual provisions, explanations, state law disclosures (that are not inconsistent) or promotional material.

Language in paragraphs (a)(4)(ii) and (a)(5)(i) of the May proposal provided that both the initial disclosure statement and the periodic statement could be more than one page, as long as the disclosures were made together. Paragraph (a)(4)(ii) also affirmed present staff position in providing that any multiple-page initial disclosure statement constitutes an integrated document. This language is not reflected in this proposal; the Board, however, believes that both initial disclosure statements and periodic statements can be more than one page, as long as the pages constitute an integrated document. The Board intends to include this position in the commentary.

The timing provisions for the initial disclosure statement and the periodic statement have been combined in proposed paragraph (b) (Timing of disclosures). It corresponds in part to paragraphs (a)(4)(i) and (a)(5) (ii) and (iii) of the May proposal.

Proposed paragraph (b)(1), like the May proposal, requires that the initial disclosure statement be provided before the first transaction is made under the plan. A commenter correctly pointed out, in the Board's view, that the initial disclosure statement must be provided to the consumer before any membership, participation, or loan application fee, or similar charge is imposed on the consumer.

Proposed paragraph (b)(2) (i) and (ii) set out the timing rules for providing periodic statements. It corresponds to paragraph (a)(5) (ii) and (iii) of the May proposal and is virtually unchanged from the prior proposal. The words "at least quarterly" have been deleted from the first sentence of paragraph (a)(5)(ii) of the May proposal as redundant; periodic statements have to be furnished for *each cycle* at the end of which the account has a debit or credit balance of more than $1 or on which a finance charge has been imposed, and a cycle can be no longer than quarterly. (See § 226.2 for the definition of "billing cycle" or "cycle.")

The last sentence of paragraph (a)(5)(ii) of the May proposal provides that a creditor's following its standard procedures for uncollectible accounts shall be evidence that the creditor has deemed the account uncollectible. That sentence has been deleted as inappropriate regulatory material; the Board intends, however, to include the position in the commentary.

Language has been added in proposed paragraph (b)(2)(ii) to parallel the current regulatory requirement that the 14-day periodic statement requirement relates only to the imposition of an *additional* finance or other charge. In response to numerous commenters, the Board wishes to clarify that charges imposed regardless of the timing of a periodic statement (for example, transaction charges or activity charges) are not affected by this prohibition. Clarifying language to this effect has been added to this provision.

The relief provision regarding the 14-day time limitation is now footnote 4 in the proposal. Numerous commenters requested that the Board add computer malfunction to this relief provision. In the Board's view, such an expansion would be inappropriate; doing so could subject the consumer to the imposition of finance charges far more frequently than would the other occurrences.

Proposed § 226.5(c) (Multiple creditors; multiple consumers) eliminates from the May proposal the general statements that a creditor must provide disclosures to a consumer. The Board believes that this material is unnecessary and has revised the paragraph to address only multiple-creditor and multiple-consumer situations, where specific guidance may still be needed.

The first sentence has been redrafted to reflect the Board's concern that a consumer receive a complete document or set of disclosures that incorporates all of the required credit disclosures for that open-end credit plan. When multiple creditors are involved in an open-end credit plan, the Board believes that creditors should have flexibility in the way in which that set of disclosures is provided. For example, the creditors may agree to designate one creditor to assume that responsibility or the creditors may join in designing a single set of disclosures. The change in the paragraph is not intended to absolve any creditor in such transactions from liability for failing to make disclosures. Regardless of the arrangements made between creditors, each creditor in the plan is legally responsible for providing the disclosures and any one of them may be subject to liability for violations. However, fewer questions are likely to arise regarding multiple-creditor situations because the revised definition of "creditor" will aid in the determination of creditor responsibilities.

As did the May proposal, this proposal in paragraph (c) implements the new statutory language which requires that the creditor make disclosures to a primarily liable consumer.

Section 226.5(a)(2) of the May proposal, summarizing what disclosures

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must be made, has been deleted from this proposal as superfluous.

Proposed § 226.5(d) (Basis of disclosures and use of estimates) corresponds to § 226.5(a) of the May proposal. The first sentence of paragraph 5(a)(6)(i) of the May proposal has been deleted as unnecessary. The remainder of paragraph (a)(6)(i) has been combined with that of paragraph (a)(6)(ii) to form the new § 226.5(d).

Unlike the May proposal, which required that the disclosures reflect the terms actually agreed upon even if they differed from the written obligation, this proposal states that the disclosures shall be based on whatever constitutes the legally enforceable obligation between the parties. Consequently, in the preferential employee rate situation, the correct periodic rate/annual percentage rate disclosure would depend on what is legally enforceable. If the higher rate were the enforceable term, however, the creditor would not be prohibited from additionally indicating any concession made in a term. In a voluntary payroll deduction plan where the contract provides for payment of a certain amount by the last day of the month but the required amount is deducted biweekly from payroll, the contract term is undoubtedly the legally enforceable term and, therefore, represents the appropriate disclosure.

Proposed § 226.5(e) deals with the effect of subsequent events on disclosures already provided and corresponds to § 226.5(a)(7) of the May proposal. Paragraphs (a)(7)(i) and (ii) of the May proposal have been combined and paragraph (a)(7)(iii), dealing with the use of inserts to reflect a new term, has been deleted as inappropriate regulatory material. The Board intends, however, to incorporate this position in the commentary.

Section 226.6—Initial disclosure statement.

Proposed § 226.6 corresponds to § 226.5(b) of the May proposal and sets forth the rules regarding the disclosures to be made to a consumer upon opening an open-end credit account. The introductory paragraph remains the same except for the deletion of unnecessary language and a cite change.

Except for relocating some language to a footnote, proposed § 226.6(a)(1) corresponds and is identical to § 226.5(b)(1)(i) of the May proposal. It requires that a creditor give a statement of when finance charges begin to accrue. It is not intended that creditors disclose a specific date when finance charges will begin to accrue; a general explanation could be provided about finance charges beginning to run. For example, a creditor may disclose that a consumer has 30 days from the closing date to pay the new balance before finance charges would begin to accrue on any new purchases made on the account.

Proposed paragraph (a)(1) also requires that where no free period exists (i.e., no time period exists within which any credit extended may be repaid without incurring a finance charge), that that fact be disclosed. The Board wishes to clarify that this in no way requires use of the phrase "no free period"; rather, the requirement may be satisfied by stating, for example, "the finance charge begins on the date of each advance."

Proposed § 226.6(a)(2) corresponds to § 226.5(b)(ii) of the May proposal, and requires disclosure of any periodic rate that may be imposed, together with the range of balances to which it is applicable and the corresponding annual percentage rate. It remains substantially the same as the May proposal except for placing some language in a footnote. The Board would point out that, where credit plans involve the application of different periodic rates for different types of transactions (for example, purchases and cash advances) or where advances are secured by different types of collateral, the different rates and their applicability must be clearly disclosed.

Footnote 7 has been added to clarify a creditor's responsibilities under this paragraph for a variable rate program. In addition to providing the information required by paragraph (a)(2), the creditor must also indicate on the initial disclosure statement: (1) That the periodic rate(s) and annual percentage rate(s) are subject to change; (2) the conditions under which such rates may change; and (3) any limitations on the rates. In the Board's view, a creditor would not have to disclose any limitations imposed by law, such as state usury laws, and need not provide a change in terms notice under § 226.9(c)(1) at the time of the rate change.

The Board would point that, as in the case of closed-end credit variable rate transactions, these disclosures *must* be made to the consumer. In light of the increased popularity of variable rate plans, these disclosures are not optional, as present Board Interpretation § 226.707 seems to imply; their disclosure does not merely serve to relieve a creditor of the responsibility to provide a change in terms notice.

Proposed § 226.6(a)(3) corresponds to § 226.5(b)(1)(iii) of the May proposal; it deals with disclosure of the method of determining the balance upon which the finance charge may be computed. Language that provided an example of what should be included in the explanation has been deleted as unnecessary in light of the model clauses contained in the appendix in this regard.

In addition, footnote 18 of the May proposal has been deleted. That footnote incorporated Board Interpretation § 226.706 and provided that a creditor need not describe the manner in which payments and other credits are allocated. The footnote, like § 226.706 of the current regulation, intends to relieve the creditor of the responsibility to disclose either: (1) That payments are applied first to finance charges, then to purchases, and then to cash advances, or (2) that payments may be applied to late charges, overdue balances, and finance charges before being applied to the principal balances. The deletion of this footnote does not represent a change in the Board's position. Rather, it is considered to be inappropriate regulatory material. The Board intends to incorporate the position of the Board Interpretation and the May proposal's footnote in the commentary. (Footnote 25 to § 226.5(c)(6) of the May proposal, now § 226.7(f), has been deleted for the same reason.)

Proposed § 226.6(a)(4) corresponds to § 226.5(b)(1)(iv) of the May proposal; it reflects editorial changes and the deletion of an example as unnecessary. It also does not reflect footnote 20 of the May proposal. That footnote identified examples of finance charges other than periodic rates; it has been deleted as unnecessary, since these examples already appear in § 226.4. (Footnote 24 to § 226.5(c)(5) of the May proposal, now § 226.7(e), has been deleted for the same reason.)

Proposed § 226.6(b) corresponds to § 226.5(b)(2) and requires disclosure of any charges (other than finance charges) that may be imposed as part of the plan. Many commenters requested that the Board further define "other charges." The purpose of requiring that other charges be disclosed is to insure that consumers are aware of all significant charges that might be incurred as the result of entering into an open-end credit plan. Therefore, to some extent it is expected that creditors will make their own determination as to whether a charge is an "other charge" based on the relationship of the charge to the plan. While the Board is unable to provide an exhaustive list of "other charges," as requested by many commenters (given the variety of credit programs), it is hoped that the following discussion will address most questions.

Footnote 21 of § 226.5(b)(2) of the May proposal listed examples of "other charges" and also listed examples of exclusions from the "other charges" category. As that footnote provided, in the Board's view, membership or participation fees in open-end credit plans are considered "other changes." Late payment charges, fees for providing documentary evidence requested under proposed § 226.13, over-the-credit-limit charges and fees listed in proposed §§ 226.4 (c) and (e) are considered "other charges." In contrast, fees charged for documentary evidence of transactions for income tax purposes (in addition to other examples discussed below) would not be considered "other charges." The deletion of the footnote is not intended as a substantive change. The Board intends to incorporate the substance of the footnote in the commentary.

Commenters expressed concern that credit life insurance has been excluded from "other charges." The Board believes that disclosing the cost of voluntary credit life insurance on the initial disclosure statement as an other charge is unnecessary since disclosure is already required by § 226.4(d). In the Board's view, the same conclusion would apply not only to all types of voluntary insurances, such as disability insurance, but it would also apply to required property insurance that is not part of the finance charge under § 226.4(d)(2). Required credit life or disability would, of course, be disclosed as a finance charge on the initial disclosure statement.

Where an open-end credit plan is secured by real property, charges imposed in connection with real property transactions, which are specifically excluded from the finance charge in § 226.4(e) of the current regulation and § 226.4(c) of this proposal, would be other charges under § 226.6(b). Similarly, the charges identified in § 226.4(e) of this proposal regarding fees for perfecting security interests would also be other charges.

Several commenters requested further guidance from the Board in distinguishing between late payment charges, which are considered "other charges," and amounts payable by consumers for collection activity after default (for example, attorney's fees, statutory interest rates, and reinstatement or reissuance fees), which are not considered "other charges." The Board believes that charges that are imposed more frequently on consumers without considering them actually in default, even though they may be technically in default, should be disclosed (for example, the consumer is often given the chance to remedy unintended and inadvertent acts such as late payments and exceeding the credit limit).

Proposed § 226.6(c) corresponds to § 226.5(b)(3) of the May proposal and deals with the security interest disclosure. The language has been redrafted to parallel the statute and to improve readability; no substantive change is intended, however.

In light of the statutory change to section 127(a)(6), this proposal, like the May proposal, eliminates the present requirement to identify the type of security interest; in other words, the creditor need not expand on the term "security interest."

The Board wishes to clarify the applicability of the security interest disclosure to plans that involve the taking of security for advances above a certain amount. Commenters pointed out that a problem exists in identifying on the initial disclosure statement the type of property in which a security interest will be taken because the collateral often is not identified until the consumer decides to get an advance above the unsecured balance limit.

In the Board's opinion, in such instances, creditors must disclose the information that is available to them at the time of providing the initial disclosures. For example, if the creditor initially disclosed the security interest as one in "household goods" but later, when an advance was going to exceed the unsecured balance limit, it was determined that a security interest in only *certain* household goods would be taken, the creditor would be required to disclose to the consumer the collateral that was actually being pledged at that time. Such disclosure would be made by providing the consumer with a change in terms notice required by § 226.9(c) of the proposal. (That section has been modified to facilitate compliance with the security interest disclosure by lifting the timing requirements in the case of a mutually agreed upon change in collateral.)

Of course, when the security interest actually taken is the same as that identified in the initial disclosures, a change in terms notice need not be given. For example, if the initial disclosures provided for a security interest to be taken in household goods and the actual security interest is eventually taken in *all* household goods, there would be no change in terms requiring additional disclosure.

In response to a request from several commenters, the Board wishes to clarify that creditors need describe only the major property securing the credit transaction, and not any incidental or related rights that the creditor may have in the property. For example, a security interest in insurance proceeds or unearned insurance premiums need not be disclosed. (See the security interest definition proposed in § 226.2.)

In the absence of a corresponding statutory provision, the minimum periodic payment requirement in § 226.7(a)(8) of the current regulation and § 226.5(b)(4) of the May proposal has been deleted from this proposal. While the Board is of the opinion that a creditor would routinely provide such information to the consumer, the Board solicits comment on whether such an area is a source of potential abuse requiring regulation.

Proposed § 226.6(d) corresponds to § 226.5(b)(5) of the May proposal and deals with the billing rights statement requirement. It has been reworded to describe more precisely the expected content of the statement. Footnote 22 of the May proposal regarding what constitutes substantially similar has been deleted; the content of that footnote is now contained in the appendix.

The Board solicited comment in the May proposal on a possible creditor identification requirement. The Board believes that to impose such a requirement would be contrary to the simplification effort, especially since the consumer is provided with an address to use for billing inquiries, and no significant need has been evidenced for such a requirement.

Section 226.7—Periodic statements.

Proposed § 226.7 corresponds to § 226.5(c) of the May proposal; it requires that consumers be provided with periodic statements and identifies the information that must be reflected on them. The language "at least quarterly" has been deleted from the introductory paragraph since the requirement for quarterly periodic statements is already addressed by the definition of "billing cycle" in § 226.2 and the timing requirements in § 226.5.

Proposed § 226.7(a) corresponds to § 226.5(c)(1) of the May proposal; it deals with the "previous balance" disclosure requirement. Numerous commenters expressed concern about the language in the May proposal regarding the disclosure requirement when a previous balance is a credit balance. Although the May proposal intended no substantive change from the current regulation, this proposal returns to the current regulatory language. (See existing § 226.7(b)(1)(i).) As has always been the case, the words "credit

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balance" need not be used; a symbol or an abbreviation will suffice as long as it is explained on or with the periodic statement.

The last sentence of the paragraph, which also appeared in the May proposal, incorporates a present staff position permitting disclosure of a separate previous balance for each type of transaction.

Proposed § 226.7(b) requires that each credit transaction be identified on the periodic statement; it is unchanged from § 226.5(c)(2) of the May proposal.

Proposed § 226.7(c) corresponds to § 226.5(c)(3) of the May proposal. The majority of comments on this paragraph, which requires that creditors disclose the amount and date of crediting any payment or other credit, were in favor of the deletion of the current regulation's requirement (see existing § 226.7(b)(1)(iii)) that the type of a credit be specifically identified. The paragraph is unchanged in the current proposal. Where a credit for correction of a billing error appears on a periodic statement, however, § 226.13 requires clear identification of that type of credit.

Proposed § 226.7(d) corresponds to § 226.5(c)(4) of the May proposal and deals with disclosure of any periodic rate used to compute finance charges and its corresponding annual percentage rate. Neither this proposal nor the May proposal reflects the parenthetical phrase in the current § 226.7(b)(1)(v) since the paragraph's language can be read to require that the periodic rate(s) used to compute the finance charge must be disclosed whether or not applied during the billing cycle.

A footnote has been added to this paragraph to clarify the disclosure requirements for variable rate programs. (See preceding discussion in § 226.6.)

The present § 226.7(b)(1)(v) and the May proposal permitted the use of the alternative terms "corresponding annual percentage rate," "corresponding nominal annual percentage rate," and "nominal annual percentage rate." While the comments did not indicate a serious need for these alternative terms, the Board does not wish to require form changes by prohibiting their use. Consequently, while they are not listed in this proposal (in light of the fact that the Board does not believe their use is widespread), the Board would not regard their use as inappropriate. This position will be preserved in the commentary.

Language from the May proposal has been retained (with some editorial changes) to indicate that, where different periodic rates are applied to different types of transactions, those periodic rates and their corresponding annual percentage rates must be disclosed, together with the types of transactions to which they apply.

Section 226.7(e) corresponds to § 226.5(c)(5) of the May proposal and requires disclosure of the amount or method of computing the amount of any other type of finance charge (other than periodic rate(s)) that may be imposed. It is unchanged from the May proposal, except for the deletion of footnote 24. (Reference should be made to the preceding discussion on the deletion of footnote 20 of the May proposal. That footnote gave examples of "other types of finance charges.")

Several commenters objected to the requirement that creditors disclose other types of finance charges *whether or not they are imposed during the billing cycle.* The Board would point out that the present regulation (see § 226.7(b)(1)(v)) already recognizes the importance of these types of finance charges in that minimum charges that may be applicable to an open-end account must be disclosed. Since the types of charges covered by this paragraph are becoming more prevalent in open-end credit plans, and because the disclosure of the periodic rate is both an actual and a prospective disclosure, the Board believes that the possibility of the imposition of these types of finance charges should also be disclosed in order to present the finance charge rules without being misleading.

Section 226.7(f) corresponds to § 226.5(c)(6) of the May proposal and deals with disclosing the dollar amount of the balance on which the finance charge is computed, together with an explanation of how that balance was determined. (See § 226.6 for an explanation on deleting the footnote on payment allocation.) Unlike the May proposal, this paragraph only requires disclosure of those balances to which a *periodic rate* was applied. To require the specific and separate identification of each balance involved in computing individual transaction charges or activity charges would significantly complicate the periodic statement. For example, if a consumer obtains a $1500 cash advance subject to both a 1% transaction fee and a 1% monthly periodic rate, the creditor would only be required to disclose the balance subject to the monthly rate. In the Board's opinion, adequate consumer protection is achieved under the disclosure requirements of §§ 226.6(a)(4), 226.7(g) and 226.8(b) in such an instance.

If portions of the balance are subject to different periodic rates, however, the Board contemplates that the creditor will separately disclose each balance. For example, if the monthly rate applied to purchases is 1½% for balances up to $500 and 1% for balances over $500, the creditor would be required to disclose two separate finance charge balances for a cycle in which both rates were applied.

With regard to existing Board Interpretation § 226.703 regarding the disclosure of the balance when one or more daily periodic rates are imposed, the Board intends to incorporate the positions in that interpretation in the commentary.

Proposed § 226.7(g) corresponds to § 226.5(c)(7) of the May proposal and requires disclosure of the amount of the finance charge debited or added to the account during the billing cycle; it is essentially unchanged from the May proposal. The language of the first sentence has been changed to read (as does the current § 226.7(b)(1)(iv)) "any" finance charge debited or added to the account during the billing cycle must be disclosed. As in the present regulation, a *total* finance charge disclosure is not required. The last sentence of this paragraph, which incorporates Board Interpretation § 226.701, has been clarified to indicate that, where there is more than one periodic rate, the finance charge attributable to *each rate* need not be separately itemized and identified. Footnote 26 to § 226.5(c)(7) of the May proposal has been deleted as inappropriate regulatory material. That footnote provided that creditors that do not debit or add on finance charges during a billing cycle, but instead reflect the amount being allocated from each payment to finance charges, need not disclose any finance charges that may have accrued between the date of the last payment and the closing date. The Board intends to incorporate this position in the commentary and to expand its applicability to both the previous balance and new balance disclosures.

Section 226.7(h) corresponds to § 226.5(c)(8) of the May proposal; it requires that the annual percentage rate be disclosed (in accordance with proposed § 226.8) whenever a finance charge is imposed during the billing cycle. As does the May proposal, this proposal provides that, where an annual percentage rate cannot be determined because there is no outstanding balance, no annual percentage rate need be disclosed. The current proposal no longer requires, as the May proposal did, that the creditor disclose the fact that no annual percentage rate can be disclosed. The majority of commenters agreed that no annual percentage rate could be determined in these circumstances; they were opposed,

however, to the requirement in the May proposal that the creditor disclose that fact, claiming that such a disclosure would be meaningless and confusing to consumers.

Proposed § 226.7(i) corresponds to § 226.5(c)(9) of the May proposal and implements a present staff position that charges other than finance charges that are imposed be reflected on the periodic statement. Except for minor editorial changes, this paragraph is unchanged from the May proposal.

Section 226.7(j) requires disclosure of the closing date of the billing cycle and of the new balance. It corresponds to § 226.5(c)(10) of the May proposal. In response to commenters' concerns, this proposal returns to the current regulatory language to describe the disclosure requirement when the new balance is a credit balance. (See discussion of proposed § 226.7(a).)

Proposed § 226.7(k) corresponds to § 226.5(c)(11) of the May proposal and deals with the disclosure of any free period permitted. Language has been added to clarify that this disclosure requirement, like that of the present § 226.7(b)(1)(ix), is related to avoiding the imposition of *additional* finance charges rather than finance charges that may have accrued in the ordinary course. Language previously included in the body of the regulation is now reflected as footnote 11.

Section 226.7(1) of the proposal corresponds to § 226.5(c)(12) of the May proposal and requires that an address be provided on the periodic statement for use in submitting billing error inquiries. The "Send inquiries to" language requirement has been deleted as unnecessary in light of the general requirement in § 226.5 that Truth in Lending disclosures be made "clearly and conspicuously."

Section 226.8—Identification of transactions.

This section of the proposal corresponds to § 226.5(d) of the May proposal and § 226.7(k) of the current regulation and deals with the requirement to identify each transaction on the periodic statement. Throughout the section, the term "document evidencing the credit transaction" has been replaced by the phrase "receipt or other credit document." The change is made for editorial reasons, no substantive change is intended.

Footnote 27 of the May proposal, which corresponds to the present proposal's footnote 12, pointed out the liability implications of a creditor's failure to disclose information required by this paragraph. Sections 226.7(k)(4) and (5) of the current regulation and §§ 226.5(d)(4) and (5) of the May proposal also contain specific provisions allowing the creditor to substitute or omit certain information when it is unavailable, so long as the creditor treats inquiries about the transactions as erroneously billed amounts and automatically provides free documentation. Except with regard to foreign transactions, a creditor may only take advantage of these provisions if it maintains procedures reasonably adapted to procure the required information. (When disclosing foreign transactions, a creditor need not even maintain such procedures to be permitted to omit information.) Since the standard in footnote 27 appears to overlap with paragraphs (d)(4) and (5) of the May proposal, the present proposal combines all of the rules for failing to disclose information. Note that under the current proposal, no substitute information is needed when required information is not disclosed. Also, it is contemplated that the creditor need no longer show that information is actually unavailable, only that the creditor has maintained reasonable procedures to procure it.

Section 226.8(a)(1) of the proposal contains identification requirements for purchase transactions; it is substantively unchanged from the May proposal. Editorial changes have been made, however.

The May proposal and the current regulation state that a facsimile draft (for example, a draft in which the required information is typed in, as opposed to a duplicate copy) is not considered an "actual copy of the document evidencing the transaction" for purposes of this section. The reference to a facsimile draft is deleted from the present proposal as being inappropriate regulatory material, but the commentary would preserve this position.

Footnote 28 of the May proposal provided that the creditor complies with the requirement to disclose the amount and date by disclosing this information as supplied by the seller. The present proposal deletes this footnote, as well as footnote 32 of the May proposal, as being unnecessary. Under footnote 12 of the present proposal, the creditor is relieved from civil liability for failure to identify transactions as required if it maintains reasonable procedures to procure the information. The Board believes that utilizing the information supplied by the seller without an independent investigation is part of a reasonable procedure. If the information is wrong, of course, the creditor would correct the account as provided in footnote 12.

The substance of § 226.8(a)(2) is also unchanged from the May proposal except for editorial changes, including placing some material in a footnote. Footnote 29 of the May proposal, which provided guidance on determining whether a creditor and seller are the same or related persons, has been deleted from the present proposal. That footnote provided, for purposes of this section, that franchised or licensed sellers of a creditor's product are related to the creditor; sellers that assign or sell open-end consumer sales accounts to a creditor or arrange for credit under an open-end credit plan that allows the consumer to use the credit only in transactions with that seller are also related to the creditor. The footnote further provided that a person is not related to the creditor simply because an agreement or contract exists under which the person is authorized to honor the creditor's credit card, or because the person and the creditor have a corporate connection if that connection is not obvious from the names used by the person and the creditor. Moreover, the footnote stated that transactions with third party sellers resulting from promotional material or solicitations mailed by the creditor may, at the creditor's option, be described as transactions in which the seller and the creditor are the same or related persons. The Board intends to preserve these positions in the commentary.

Paragraph (a)(2) requires that the creditor make a brief identification of the property or services purchased. Footnote 30 to the May proposal stated that designations such as "merchandise" and "miscellanous" are insufficient, but that identification may be made by reference to the name of a department that conveys the identification of the types of property or services available there, or by a symbol relating to an identification list printed on the statement. The present proposal deletes footnote 30 of the May proposal as being inappropriate regulatory material; however, the same position would be preserved in the commentary to the regulation. The commentary would also incorporate the present staff position which provides that designations such as "second-hand goods" or "promotional items" are insufficient property identifications under this section.

The substantive requirements of § 226.8(a)(3) are also unchanged from the prior proposal. Editorial changes have been made, however. Footnote 32, which provided that the debiting date may be substituted for the transaction

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date in a mail order transaction, has been deleted from the present proposal; however, the Board intends to preserve the same position in the commentary.

Footnote 33 of the May proposal also has been deleted from the current draft as inappropriate regulatory material, but would be included in the commentary. That footnote provided that a seller's name is sufficiently disclosed if it appears in the form used in the sales slip, or is a more complete spelling of a name that was alphabetically abbreviated on the sales slip. In addition, the Board believes that a creditor may reasonably abbreviate the seller's name on the periodic statement even if the name appears in a more complete spelling on the sales slip.

Paragraph (a)(3) requires disclosure of the city and state or foreign country where the transaction took place. This merely simplifies the May proposal, which required disclosure of the "address," but then explained that "address" meant the city, and state or foreign country.

The May proposal provides that the creditor may use understandable and generally accepted abbreviations. The present proposal deletes this explanatory material as being inappropriate regulatory material but the Board intends to include this position in the commentary. Footnote 15 of the present proposal, which corresponds to footnote 34 of the May proposal, allows the creditor to omit the address or provide some suitable designation to assist the consumer in identifying the transaction when no meaningful address is readily available in three limited circumstances. The present proposal deletes examples of suitable designations as inappropriate regulatory material, but the commentary would incorporate the following examples: first, when a transaction takes place in a location that is not fixed—for example, aboard a public conveyance such as an airplane—the flight number, or "flight from (point of departure) to (destination)" would be sufficient; second, when a transaction takes place in the consumer's home, "consumer's home" would be sufficient; and third, when a transaction is the result of a telephone or mail order, "telephone order" or "mail order" would be sufficient.

Section 226.8(b) deals with the disclosure requirements for nonsale credit transactions. The examples of nonsale credit, cash advance or overdraft loans, which were in the introductory language to paragraph (b), have been deleted as being inappropriate regulatory material; they will be listed in the commentary. The statement that a facsimile draft is not considered an "actual copy of the document evidencing the transaction" also has been deleted, but the commentary would preserve this position. In addition, the statement that a readily identifiable trade name may be used to characterize a transaction for purposes of paragraph (b)(2) has been deleted. The commentary would also preserve this position.

In order to facilitate compliance with the regulation's requirements, paragraphs (b)(1) and (2) both permit disclosure of the same date information. The Board notes one change in particular, proposed § 226.8(b)(2) permits the use of the debiting date in nonsale credit transactions in the descriptive billing situation. This alternative is already available to creditors that have overdraft checking plans and is also available to a limited extent for other nonsale credit plans. Adopting the debiting date rule eliminates the need for several different rules that contribute to complexity, and it eliminates the need for a special provision whose use is limited in application to a relatively narrow fact situation.

Section 226.5(d)(3) of the May proposal, which relates to transactions billed in precomputed installments, has been deleted. That proposal would have required all creditors to disclose the transaction date and total transaction amount (together with other identifying disclosures) on the first periodic statement on which any portion of the transaction is billed. There would have been no specific requirement for identification of the subsequent installments debited to the account on later periodic statements. Comment was solicited on whether the requirements of this paragraph would facilitate compliance, better inform the consumer, be operationally feasible, and provide consumers with sufficient information on subsequent statements to avoid confusion.

Rather than include a provision in the regulation on transactions billed in precomputed installments, the Board believes that the rule is better located in the commentary. After reviewing the comments which presented various persuasive positions, the Board believes that consumers would be adequately protected if the creditor disclosed on the first periodic statement reflecting the transaction the full amount of the transaction together with the date the transaction *actually* took place; or if the creditor reflected the amount of the first installment and the date of the transaction or the date that it was debited to the account. In either event, subsequent periodic statements should reflect each subsequent installment due, together with any other identifying information required by this section; the debiting date may be used as the date of the transaction.

Sections 226.5(d)(4) and (5) of the May proposal have been deleted, as previously noted.

Section 226.9—Subsequent disclosure requirements.

(a) *Furnishing statement of billing rights.* Section 226.9(a) of the proposal corresponds to § 226.5(e) of the previous proposal. This section implements the amended act, containing the requirement that the long form billing rights statement be sent at least once per calendar year, at intervals of not less than six months and not more than 18 months, to each consumer entitled to receive a periodic statement for that billing cycle. The Board solicited comment on whether *all* consumers should receive the billing rights statement as opposed to only those entitled to receive periodic statements for the particular cycle selected by the creditor. While some commenters believed that all consumers should receive the long form billing rights statements at least once a year, others urged the Board to retain the requirement in the May proposal. In light of the statutory language and to reduce expense, the present proposal requires that the annual billing rights statement be sent only to those consumers entitled to receive a statement for the cycle selected by the creditor.

Section 226.9(a)(2) of the present proposal retains the creditor's option of sending a summary of the consumer's billing rights with each periodic statement. The present proposal deletes the provision in the May proposal permitting the creditor to place the summary statement on a portion of the periodic statement that must be returned to the creditor (for example, the payment stub). The Board notes that the amount of information required in the summary statement has been reduced. Moreover, the present proposal allows the use of multiple-page periodic statements and deletes the specific location requirements set forth in § 226.7(c) of the current regulation. Because of this added flexibility in designing statements, and the shortening of the alternative statement, and given the importance of providing consumers with sufficient information to assert errors under the Fair Credit Billing Act, the Board believes that the alternative

statement should be in a form that the consumer may keep.

(b) *Supplemental credit devices and additional features.* Proposed paragraph (b) deals with disclosures for supplemental credit devices and additional features. It replaces, with respect to disclosures for supplemental credit devices, § 226.5(f) of the May proposal which corresponds to § 226.7(j) of the current regulation. This proposal addresses, in addition to supplemental credit devices, the disclosure requirements for additional credit features that are added to an existing open-end credit account.

The proposal eliminates the distinction, which was included in the May proposal, between solicited and unsolicited credit devices and features, and simply requires that the finance charge disclosures of proposed § 226.6(a) be furnished if the device is provided or the feature is added more than 30 days after initial disclosures. The provision also requires that, where a device is provided or a feature is added *within* 30 days, disclosures must be provided if the device or feature involves finance charge terms different from those previously disclosed. As this provision requires, the disclosures must be made before the consumer uses the device or additional feature for the first time.

In accordance with the current regulation, language has been added to exclude from the disclosure requirements credit devices sent as a renewal or resupply.

The portion of footnote 38 of the May proposal, which lists examples of credit covered by this provision (blank checks, payee-designated checks, blank drafts or orders or authorization forms for issuance of checks) has been deleted as inappropriate regulatory material. The examples will be reflected in the commentary, however. As footnote 38 of the May proposal provided, this provision does not apply to checks used in conjunction with a checking account, even though such checks may also activate a cash advance under an open-end credit plan.

This proposal provides the creditor with flexibility in determining the manner in which the disclosures will be made. Unlike the current regulation, but in accordance with the May proposal, this proposal allows the disclosures to appear with other material. In the Board's view, these disclosures, like any Truth in Lending disclosures, must be made clearly and conspicuously. This proposal no longer includes language requiring that the finance charge disclosures be highlighted.

Consequently, where the finance charge disclosures are provided with other Truth in Lending disclosures, the finance charge disclosures need not be referenced as the current regulation requires.

(c) *Change in terms.* Section 226.9(c), which corresponds to § 226.5(i) of the May proposal and § 226.7(f) of the current regulation, outlines the requirements for notifying consumers in the event a creditor makes a change in the terms of the consumer's account. The present proposal reflects a restructuring and clarification of the May proposal, and addresses problems raised by the comments.

Proposed § 226.9(c)(1) states the general rule about the types of term changes that require notice to the consumer and sets forth the timing and format requirements.

The Board solicited comment on whether the 15-day time period should be changed to 21 days to be consistent with the term change requirement in Regulation E. Comment was divided on this point; a great many commenters that are not involved in electronic fund transfers considered it unfair to increase the time requirement. Futhermore, commenters pointed out that the regulation in no way precludes a creditor from providing the notice earlier than 15 days. For these reasons, the present proposal retains the 15-day minimum requirement.

Certain commenters also were concerned at having to give prior notice to all consumers whose accounts may be affected, as proposed to those consumers to whom a periodic statement would be sent for that billing cycle. The requirement contained in the proposal is similar to that in existing § 226.7(f), which requires that prior notice of changes in the most important terms be sent to all consumers. The present proposal also reduces, from the current regulation, the term changes requiring prior notice, so no additional burden should result from the proposal's requirement.

The prior proposal had changed the timing requirement for the notice from 15 days prior to the billing cycle in which the change would be effective to 15 days prior to the effective date of the change. Commenters expressed some confusion about when a particular change goes into effect. In the Board's view, a change that clearly has no retroactive impact, such as the imposition of a transaction fee, would require notice 15 days prior to the date on which the fee will be imposed on transactions. A change in the balance computation method, in contrast, would require notice 15 days prior to the billing cycle in which the change was to be effective.

Commenters questioned whether a new initial disclosure statement could be provided in lieu of a separate change in terms notice as long as the statement was sent within the time limits. When a term is changed, it must be disclosed clearly and conspicuously as the general rule in § 226.5 requires. Consequently, in the Board's opinion an initial disclosure statement reflecting the new term would comply with the change in terms notice requirements, only as long as the change is either highlighted in some way on the initial disclosure statement or the initial disclosure statement is accompanied by a letter or some other insert that indicates or draws attention to the term change.

Paragraph (c)(1)(ii) lists those circumstances under which the creditor is still responsible for giving the change in terms notice, but is excused from the 15-day timing requirement. The first part of proposed paragraph (c)(1)(iii), which corresponds to the second part of paragraph (i)(4) of the May proposal, relieves the creditor from the timing requirements when a consumer specifically agrees to the change. This might happen, for example, when a consumer goes to the creditor to request a substitution of collateral.

The Board notes that a number of programs allow consumers to skip or reduce one or more payments during the year, or involve temporary reductions in finance charges. For example, a merchant may allow consumers to skip the December payment to encourage holiday shopping, or a teachers' credit union may not require payments during summer vacation. The Board contemplates that, if these features are explained on the initial disclosure statement (including an explanation of the terms upon resumption), no change in terms notice would be required either prior to the reduction or upon resumption of the higher rates. Otherwise, the creditor would have to give notice prior to resuming the original schedule or rate even though no notice would be required *prior* to the payment or finance charge reduction.

Paragraph (c)(2) of the present proposal describes in one place those situations in which the creditor is completely excused under this regulation from giving a change in terms notice. This paragraph corresponds to the second sentence of (i)(1); paragraph (i)(2); the first part of (i)(4); and paragraph (i)(5) of the May proposal. It deletes as unnecessary the separate provision in the May proposal that notice is not required when there is a change in the collateral requirements.

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When the change is due to the consumer's default or delinquency, the creditor is excused entirely from giving a notice of the changed term under paragraph (c)(2)(iv). When there is no default, but the consumer agrees to the change of collateral, the creditor, is excused from the *timing* requirements under paragraph (c)(1)(ii). For example, when a consumer agrees to the creditor's taking a security interest in order to obtain an advance above a certain limit on the account, the creditor need not give *prior* notice under this section.

Paragraph (c)(2)(v) of the present proposal excuses the notice requirement for a change resulting from an agreement involving a court proceeding. This differs from the May draft's requirement that a court *actually approve* the agreement.

Paragraph (i)(3) of the May proposal dealt with the rules that apply when an open-end credit plan is converted to closed-end credit and the rules that apply when closed-end credit is converted to open-end credit. That section has been deleted as inappropriate regulatory material. The Board intends, however, to incorporate in the commentary the positions indicated in the May proposal.

The Board believes that, whenever open-end credit is converted to closed-end credit under the terms of a written agreement signed by the consumer, the creditor shall provide the disclosures required by §§ 226.18 (b), (c), and (d). Whenever closed-end credit is converted to open-end credit under the terms of a written agreement signed by the consumer, the creditor shall provide the disclosures required by § 226.6. When either an individual open-end credit account or an entire open-end credit plan is terminated, but no written agreement converting a consumer's account to a closed-end transaction is involved, the creditor shall continue to provide periodic statements for those consumers entitled to receive them under § 226.5(b)(2) and to follow the error resolution procedures of § 226.13.

Finally, many of the commenters asked the Board to address the applicability of new terms to outstanding balances. Some also suggested preempting state law with regard to timing requirements on term change notices. The Board believes that as a general rule state or contract law should control in this area.

(d) *Finance charge imposed at time of transaction.* No substantive change has been made in this section, which corresponds to § 226.5(c) of the May proposal. In the present proposal the reference to "other than the creditor of the open end account" has been changed to "other that the card issuer" because a person who honors a credit card is also defined as a creditor for purposes of this section.

The Board solicits comment on whether the disclosures required by this paragraph are particularly meaningful, and on whether disclosure of just the amount of the finance charge being imposed at the time of the transaction would afford adequate consumer protection.

Section 226.10—Prompt crediting of payments.

This section corresponds to § 226.5(g) of the May proposal and § 226.7(g) of the current regulation. It has been substantially rewritten in order to reduce complexity by establishing easy-to-apply rules in this area.

Proposed § 227.10(a) and the accompanying footnote state the general rule that the creditor must credit a payment as of the "date of receipt," unless a delay in crediting does not result in the imposition of finance charges. For the purposes of this section, "date of receipt" is the date that payment is made at any location where the creditor conducts business, as long as the payment is received before the creditor's close of business.

Section 226.10(b) corresponds to §§ 226.5(g) (2), (3), and (4) of the May proposal. As in the current regulation, the term "promptly" is used instead of the phrase "as soon as possible." Numerous commenters regarded the "as soon as possible" standard as requiring a creditor to act immediately to credit a payment regardless of its operating procedures or the cost involved.

Proposed paragraph (b) rcognizes that a creditor may very well establish certain requirements as to the way in which payment should be made and that a creditor need not accept a payment that does not conform to specified requirements. The paragraph requires that, if the creditor does accept such a payment, however, the payment must be credited promptly. This rule replaces the current regulation's special "5-day-delay" rules (for payments accepted at locations other than those specified by the creditor for receipt of payments) with a general rule that will apply to acceptance of any nonconforming payment.

Section 226.10(c) corresponds to paragraph (g)(1) of the May proposal; no changes have been made.

Section 226.11—Treatment of credit balances.

Section 226.11, which establishes requirements for the treatment of credit balances, corresponds to § 226.5(h) of the May proposal and contains one timing change. A companion provision on the treatment of credit balances in closed-end credit has been added to Subpart C.

The proposed regulation provides that a creditor's duties arise under this section when the creditor receives a payment or "other credit" that exceeds the new balance by more than $1. "Other credit" is meant to implement the new statutory standard that any type of credit to the consumer's account in excess of the new balance must be refunded, not just excess payments as in the current regulation. The Board intends for "other credit" to encompass the examples given in the statute—rebates of unearned finance charges or insurance premiums, or any other amounts owed to or held for the benefit of the consumer.

In light of the above change, a number of commenters were concerned that five business days would be insufficient to investigate a consumer's claim for a refund of a credit balance, and then refund it. The concern expressed was that a credit balance created by a rebate, a refund, or a return might take longer for the creditor to investigate than an excess payment. To accommodate these concerns, the present proposal extends the time limit in §§ 226.11(a) (1) and (2) from five to seven business days. The separate promptness standard has been deleted from the present proposal, as the Board believes that action by the creditor within seven business days is sufficiently prompt to protect consumers.

Many commenters asked that this section permit them to withhold debits that have been incurred on the account between the time that the credit balance was reflected and the time the consumer requested a refund. In the current regulation the measuring point used to determine the existence and amount of a credit balance is the new balance reflected on the most recent periodic statement provided to the consumer. Even under the current regulation, consumers may request a refund whenever an interim payment creates a credit balance in relation to the new balance without regard to intervening debits. While there may be additional credit balances subject to the proposed regulation due to the statutory amendment, the Board is unaware of operational difficulties necessitating a change.

Other commenters questioned the extent of the requirement in paragraph (b), which corresponds to (h)(2) of the May proposal, that the creditor make a good faith effort to refund to the consumer any part of the balance remaining in the account for more than six months. This portion of the regulation closely follows the statute. The Board contemplates that a minimum tracing effort will include use of both the consumer's last known address and telephone number. A clarifying revision was made to the introductory language to make clear that a creditor is not required to trace a consumer when the amount of the credit balance remaining for six months is less than $1.

Another commenter asked the Board to address the proper procedure for the creditor to use regarding the disposition of the money if the consumer cannot be traced. This question is not addressed by the act and is, in the Board's view, a matter of state law. The fact that a consumer cannot be traced through the last known address or telephone number (and therefore no refund is mandated by this section) in no way sanctions the creditor's treating the balance as income, or otherwise disposing of it.

Section 226.12—Special credit card provisions.

This section sets forth a number of rules applicable to credit cards and credit card accounts. It corresponds to § 226.6 of the May proposal and § 226.13 of the existing regulation.

(a) *Issuance of credit cards.* This provision sets forth restrictions on the distribution of credit cards. To clarify what classes of transactions are covered, the word "agricultural" has been added to the introductory language. This change emphasizes that agricultural credit, even though it is now exempt from Regulation Z generally, continues to be covered by the rules on credit card issuance.

Paragraph (a)(1) and footnote 40 of the May proposal have been revised so as to change the rule about persons to whom credit cards may be sent. The May proposal would have permitted a card issuer to send a credit card *only* to the person requesting it. This proposal permits cards to be sent to either the cardholder or to an authorized user (upon the cardholder's request), or both, provided the authorized user does not become liable for unauthorized use of the card. This rule more closely resembles present staff position than did the May proposal and responds to commenters' concerns that the rule in the May proposal would have imposed severe operational problems for issuers and caused considerable inconvenience to consumers. The definition of "cardholder" in § 266.2, and the definition of "accepted credit card" in footnote 19, have been revised to reflect these changes. In addition, a definition of "authorized user" has been added as a part of footnote 18.

Note that the rule set forth in the proposal does not address the question of whether an authorized user, who receives a card at the cardholder's request, could be held liable on the account generally. The proposed rule provides only that no liability for *unauthorized use* may be imposed in these circumstances. Also not addressed by the proposal is the question of when one person may act as the agent of another for purposes of requesting a credit card. When a card is sent to a person upon the request of another acting as agent, the recipient becomes a cardholder. State law determines when agency exists.

A new footnote has been added as footnote 17 to paragraph (a)(1). It states existing staff interpretation that an issuer may send a credit card without having received a request for it, provided that (1) the card has some substantive purpose other than obtaining credit, (2) it is not capable of being used as a credit card when issued, and (3) credit capability will be added only upon the recipient's request. For example, a debit card could be issued that, at the time of issuance, could be used only in automated teller machines (ATMs) to make withdrawals or deposits affecting a checking account. Subsequently, upon the consumer's request, the magnetic stripe on the card could be re-encoded (or the ATM could be reprogrammed) so as to permit the consumer to obtain cash advances against a line of credit.

Paragraph (a)(2) provides that it is permissible to issue a credit card in renewal of, or in substitution for, an accepted credit card. The May proposal contained additional material stating existing staff position concening what constitutes a permissible renewal or substitution. Since this material is essentially interpretive rather than regulatory, it has been deleted. No change in substance is intended, however. As stated in the May proposal, a renewal or substitute card is permissible regardless of whether the card is issued by the same card issuer or a successor, and regardless of whether the card has credit or other features the same as or different from the accepted card. However, each accepted card may be replaced by no more than one renewal or substitute card. Further, a card is a permissible renewal or substitute for another card only if it is honored by at least one of the persons who honored the original card.

(b) *Liability of cardholder for unauthorized use.* This portion of the regulation deals with the circumstances in which liability for unauthorized use of a credit card may be imposed on a cardholder. As discussed above, footnote 18 provides that no liability for unauthorized use may be imposed on an authorized user.

Paragraph (b)(1) sets forth the dollar limitation on a consumer's potential liability for unauthorized use of a credit card. The text of this provision, as well as footnote 21, which defines "unauthorized use," are unchanged from the May proposal. A number of commenters discussed the definition of unauthorized use, and asked for guidance on what constitutes "actual, implied or apparent authority" for purposes of the definition. The Board believes that whether actual, implied or apparent authority exists for use of a credit card must be determined by reference to applicable state law. When use is determined under state law to be authorized, the regulation is silent as to the liability of cardholders and authorized users.

Paragraph (b)(2) states the preconditions of imposing liability on the consumer. They remain largely unchanged from the May proposal. However, paragraph (b)(2)(ii), which requires that the issuer disclose the consumer's potential liability, no longer requires the telephone number used for notification of loss or theft to be disclosed. The current regulation does not require the telephone number; it was added in the May proposal. It is dropped from this proposal because the Board wishes to avoid, to the extent possible, requiring form changes. In addition, the telephone number for notification is required to appear on or with the periodic statement by paragraph (b)(2)(iii) of the proposal. Finally, under proposed paragraph (b)(3) (and under the existing regulation), notice need not be given to a particular office or employee of the card issuer to be effective.

A sentence stating that the liability disclosure may include additional information not inconsistent with the liability provisions has been deleted from paragraph (b)(2)(ii). No substantive change is intended, however, since the Board believes that nothing prohibits the inclusion of additional information of this sort.

As in the May proposal, paragraph (b)(2)(iii) reflects a statutory amendment that replaces one of the existing conditions of liability. The new condition, as set forth in the proposal, it that the card issuer disclose, on or with the periodic statement immediately preceding the unauthorized use, the telephone number and address to be

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used for notification purposes. The Board solicited comment on whether the proposal correctly reflected the statutory amendment. Many commenters suggested that the requirement also be incorporated into paragraph (b)(2)(ii), modified, or deleted altogether. However, the Board believes that the legislative intent was to require a disclosure separate from that required by paragraph (b)(2)(ii), and that there is adequate statutory authority for the content and timing requirements as set forth in the proposal.

A technical problem was raised concerning paragraph (b)(2)(iii). It was pointed out that if, in the context of a new account, a card were lost or stolen and unauthorized use occurred before the first periodic statement was sent, the issuer would be unable to fulfill this condition of imposing liability. The Board believes that in these circumstances, the issuer would have met its burden if it fulfilled all of the other conditions stated in paragraph (b)(2).

In the May proposal, paragraph (b)(2)(iv) required that, in order to impose liability for unauthorized use, an issuer provide a means of identifying the person to whom the credit card was issued. This differs from the rule in existing Regulation Z, which requires a means of identification of the user of the card. Many commenters urged a return to the rule in the existing regulation, pointing out that the requirement in the May proposal would prohibit identification by the signature of the user, at least when the card had been issued to the cardholder and later given to a user. The reason for the rule in the May proposal was to permit a single identifier to be used by all persons who are accountholders or users on an account. For example, a combined debit/credit card could use as the identifier a PIN (i.e., a secret numerical code). However, the Board recognizes that it may be more practical for traditional credit cards to continue using the signature of an authorized user as identification. Therefore, this proposal would permit the condition to be fulfilled by providing a means of identifying either the cardholder or the authorized user, at the option of the card issuer.

Paragraph (b)(2)(iv) has also been changed by the deletion of the list of examples of means of identification. No substantive change results, since the means listed (signature, photograph, fingerprint, or electronic or mechanical confirmation) are merely examples; they would continue to satisfy this precondition of imposing liability, as would other means of identification.

Comment suggested that the regulation provide that the consumer bears no liability for unauthorized use of a credit card account when the card itself is not presented. For example, merchandise may be purchased by telephone, using a credit card account number only, by a person without authority to do so; it was urged that the cardholder should have no liability in this situation. The Board believes that to impose any liability for unauthorized use in such a situation would run afoul of the statutory intent, because the consumer's account number is widely available and the issuer has not provided a means to identify the cardholder or the authorized user. Comment is solicited, however, on the correctness of this result and on whether specific language should be inserted in the regulation to clarify the point.

Paragraph (b)(3) describes what constitutes notification to the card issuer of loss, theft, or possible unauthorized use of a card. The provision has been changed to indicate that the choice of whether to give notice in person, by telephone, or in writing may be made by whoever gives notification, not only by the cardholder.

Paragraph (b)(4) deals with liability limits imposed by state law or by agreement between the cardholder and the issuer, and is identical to the provision in the May proposal.

Paragraph (b)(5) relates to credit cards issued to businesses, and is unchanged from the May proposal except for an addition clarifying (as do the act and existing Regulation Z) that neither the card issuer nor the business may impose liability for unauthorized use on employees in excess of the Regulation Z limits.

(c) *Right of cardholder to assert claims or defenses against card issuer.* Paragraph (c)(1) sets forth the right of a cardholder to assert against the issuer any claims or defenses relating to goods or services purchased with a credit card, and states certain limitations on that right. This proposal contains various changes from the May proposal in order to improve readability.

Commenters asked for guidance on the issue of where a transaction occurs for purposes of this paragraph (for example, when goods are purchased by mail order from a merchant located in a state other than that of the consumer's designated address). The regulation remains unchanged on this point, however, because the Board believes that such determinations must be made by reference to applicable state law. The same is true with regard to the determination of what constitutes an assertable claim or defense.

Commenters also sought clarification on the relationship between the right established by this section and the right to have billing errors resolved, established by § 226.13.

Generally speaking, § 226.12 applies when a consumer has any claim or defense to payment (except tort claims) for goods or services purchased on a credit card. This would include failure to receive the goods and services, but would not typically include mistakes on the bill. Section 226.12 gives the consumer the right, in many cases, to withhold from the card issuer any portion of the balance that is still outstanding on the transaction giving rise to the claim. No particular procedures for resolution of the underlying problem are stipulated, however.

Section 226.13 sets forth procedures for resolving problems related to the bill or account statement, rather than to the goods or services charged. If a bill reflects goods or services not delivered as agreed, however, § 226.13 applies because the bill is inaccurate; that is, it reflects something that the consumer did not receive. Thus, in the case of goods or services that were not delivered as agreed, the consumer may have both a defense to payment under § 226.12 and a billing error allegation under § 226.13.

Even when both sections might apply, their provisions will operate independently. For example, to trigger the error resolution protections, a consumer must write within 60 days of the transmittal of the first periodic statement reflecting the error. The consumer may pay the full disputed amount pending resolution, however, without losing any substantive rights. In contrast, there is no time limit or specific notice requirement that a consumer needs to follow to be protected by § 226.12. A consumer could thus miss the time limit for activating the error resolution procedures, while retaining the right to assert a claim or defense to payment against the card issuer. On the other hand, once the consumer has paid the full amount of the balance on the transaction at issue, § 226.12 no longer applies. (Of course, losing rights under § 226.12 has no impact on whether the consumer has properly invoked the billing error resolution procedures of § 226.13.)

Paragraph (c)(2), dealing with exceptions to certain limitations on the right to assert claims or defenses, is virtually unchanged from the May proposal, except that a sentence, stating that honoring or indicating that a person honors a particular credit card does not

qualify as any of the exceptions, has been deleted. The Board believes that the sentence added nothing to the paragraph; no substantive change is intended by its deletion.

Paragraph (c)(3), concerning the formula for determining the maximum amount assertable by a consumer, is substantially unchanged from the May proposal.

Paragraph (c)(4) is substantively unchanged from the May proposal. Lanaguage has been added to clarify that use of a check guarantee card is excluded only when no agreement exists between the card issuer and the merchant relating to honoring the card or the checks. The Board contemplates that if an agreement exists, the card issuer would have a degree of control over the relationship with the merchant; therefore, the major rationale for excluding check guarantee cards would not apply.

The Board had solicited comment on whether language should be added to expressly exclude cash advance checks that may be used in connection with a specific credit sale. (Such checks are charged directly to a line of credit, rather than to a deposit account.) After considering the comments, the Board believes that no special rule is necessary. When a cash advance check is used without a card, the section is inapplicable. When a card is used in connection with a cash advance check, the rule regarding check guarantee cards applies; if there is no agreement between the merchant and card issuer, use of the checks is excluded, whereas if there is an agreement, use of the checks is included.

The Board also solicited comment on whether other types of transactions should be exempted from paragraph (c). Many commenters urged that use of debit cards that access an overdraft line of credit be excluded. This proposal does not reflect such an exclusion. The Board has received no evidence that the parties in debit card transactions do not have or could not develop recourse agreements. Moreover, the comments failed to raise operational problems that would justify an exclusion.

Paragraph (c)(5) prohibits the issuer from making an adverse credit report if the issuer knows or has reason to know that the consumer has asserted a claim or defense. Language has been added requiring that, if the issuer learns of a claim or defense after having made an adverse credit report, the issuer notify the credit bureau and, to the extent possible, all other persons to whom the issuer made a report, that the disputed amount is not delinquent. This change would conform this provision to comparable provisions concerning adverse credit reports in the billing error resolution section.

(d) *Offsets by card issuer prohibited.* This provision prohibits card issuers from offsetting credit card indebtedness against the cardholder's funds in a deposit account held with the card issuer.

Paragraph (d)(1) outlines the basic prohibition, and specifies that it applies either before or after termination of credit privileges. However, indebtedness *incurred* after termination of a credit card plan may be offset against deposit funds.

Note that, as stated in existing staff interpretations, this provision applies to transactions not using credit cards, but taking place under plans that do involve credit cards. For example, a consumer may write a check which accesses an overdraft line of credit, but not use an associated check guarantee or debit card. The resulting indebtedness would, nevertheless, be subject to the prohibition of offsets since it is incurred through a credit card plan.

Paragraph (d)(2), as in the May proposal, states that the prohibition on offsets does not invalidate the right of card issuers to obtain or enforce security interests in cardholders' funds held on deposit, or to employ procedures that are available to creditors generally to otherwise attach or seize such funds. The provision has been modified, however, so that it is limited to consensual security interests of a specified amount. This reflects present staff position. Many commenters argued that, without this limitation, creditors could use security interests to circumvent the prohibition on offsets. While other commenters argued that consensual security interests are different from the right of offset in that the consumer must affirmatively agree to grant the security interest, it is not clear that allowing a security interest without some limitation upon the amount would give adequate notice to consumers of the creditor's rights to their funds on deposit. In addition, commenters did not cite any operational problems that would be caused by an amount limitation. This paragraph has also been changed to indicate that the prohibition on offsets does not prevent card issuers from taking funds of cardholders in deposit accounts held with the issuer, when acting under a court order. The existing § 226.13(j) has a similar provision.

The Board believes that paragraph (d)(2) permits card issuers only to take possession of funds using procedures by which other creditors could legally get possession of the same funds. For example, if another creditor, holding a security interest in funds on deposit with the card issuer, could not enforce the security interest without notice to the cardholder, then the card issuer would not be permitted to enforce its security interest in those funds without the same notice. The Board believes that this interpretation may be required by § 169 of the act. However, comment is solicited on this matter. The Board also solicits comment on whether the regulation should contain provisions relating to the conditions under which card issuers would or would not be permitted to place holds on cardholders' deposit accounts.

Paragraph (d)(3) states that the prohibition on offsets does not invalidate plans providing for regular automatic repayment of indebtedness on credit card accounts by means of deducting payments from funds held on deposit with the card issuer. This provision is unchanged from the May proposal. In order for such plans to be permitted, the cardholder and the card issuer must agree in writing on this payment method. Existing staff interpretation also makes clear that automatic deduction of charges for participation in a program of banking services (one aspect of which may be a credit card plan) may take place without violating the prohibition on offsets, even if there is no written agreement.

Paragraph (d)(4) of the May proposal, prohibiting waivers of the prohibition on offsets, has been deleted as unnecessary. Waivers of Regulation Z rights are impermissible as a general rule, in the absence of specific provisions to the contrary.

(e) *Prompt notification of returns and crediting of refunds.* This provision requires action within certain time periods by both the merchant and the card issuer when the merchant accepts the return of property, or forgives a debt for services, purchased with a credit card. It is unchanged from the May proposal except for editorial changes and the deletion of the separate promptness standard. (See discussion in § 226.11.) The comments reflected some uncertainty as to the rule for determining the date a return is accepted; the Board believes that this determination must be made under relevant state law.

(f) *Discounts, tie-in arrangements.* The title of this provision has been changed to provide a better description of its subject matter. Paragraph (f)(1) provides that card issuers may not prohibit merchants from offering discounts for payment in cash instead of by credit card. "A consumer" has been substituted for "all consumers" to make

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clear that prohibiting discounts for customers of a particular merchant location, for example, would be as impermissible as prohibiting discounts for all customers of a merchant. Also, the phrase "of the type described in § 226.4(f)" has been deleted. Comment pointed out that this phrase limited the scope of the prohibition to discounts of up to 5%. Current Regulation Z has no such limitation. The Board perceives no reason that merchants should not be able to offer discounts for payment in cash in any amount, provided that, when the discount exceeds 5%, the appropriate disclosures are made under Regulation Z.

Paragraph (f)(2) provides that card issuers may not require merchants, as a condition of participating in credit card plans, to maintain accounts with the issuer or obtain any other service not essential to the operation of the plan. As in the May proposal, this provision permits issuers to require the maintenance of accounts for clearing purposes, but the language in question is modified to emphasize that such accounts may be required *only* if no service charges or minimum balance requirements are imposed. Commenters argued that service charges and minimum balances should be left to regulation by the marketplace. However, the Board believes that, considering the legislative history of this provision, any exception to the general provision should be narrow.

(g) *Prohibition of surcharges.* This provision prohibits the imposition of surcharges for use of a credit card, and corresponds to existing § 226.4(i)(4). The definition of "surcharge" appears in the footnote. A sentence in the May version of the footnote, providing that payment by check, draft, or other negotiable instrument, or by electronic fund transfer, that may result in the debiting of an open-end credit card account shall not be considered payment made by use of that account, has been deleted. However, it will be incorporated into the Board's commentary to the regulation.

(h) *Relation to Electronic Fund Transfer Act and Regulation E.* As did its counterpart in the May proposal, this provision explains the relationship of the Regulation Z rules on issuance of credit cards, liability for unauthorized use of credit cards, and other credit card matters to the corresponding rules concerning access devices (for example, debit cards) in Regulation E. The provision is unchanged from the May proposal except for editorial changes.

Section 226.13—Billing error resolution.

Proposed § 226.13 addresses error resolution procedures and corresponds to § 226.7 of the May proposal and §§ 226.2(j), 226.2(cc), and 226.14 of the current regulation.

This proposal, like the May proposal, reflects a complete restructuring of the regulatory provisions. The major way in which this section has been simplified is evidenced in this restructuring; in the Board's view, this arranging of these regulatory provisions (which are based on the extremely detailed statutory provisions of sections 161 and 162 of the act) will greatly aid in understanding the statutory provisions and will facilitate compliance with them. The restructuring aims to describe the consumer's rights and the creditor's responsibilities in chronological order, with related rights and responsibilities conveniently grouped together.

Changes have been made to increase creditor flexibility in complying with the section. For example, certain location requirements have been deleted; certain time limitations have been expanded; the automatic debit provision has been streamlined; and creditors have been provided with abbreviated investigation and resolution procedures in certain instances.

(a) *Definition of billing error.* Section 226.2(j) of the current regulation defines most billing errors in terms of information appearing on or with a periodic statement. The May proposal modified this requirement to parallel Regulation E, by tying a billing error to activity in the account rather than to its reflection on a periodic statement. Several commenters stated that, prior to the time that the periodic statement is assembled, they might lack documentation adequate to conduct an investigation. As a consequence, those commenters would have to make major operational changes that could work to the detriment of consumers, whose error allegations might be prematurely investigated and dismissed based on the meager information then available to the creditor. This proposal therefore reinstates the current regulatory standard tying a billing error to a periodic statement.

The specific billing error definitions contained in §§ 226.13(a)(1) through (7) correspond to §§ 226.7(a)(1) through (7) of the May proposal.

Paragraph (a)(1) of this proposal corresponds to paragraphs (a)(1) and (2) of the May proposal. Some commenters indicated that paragraph (a)(1) of the May proposal, which defined a billing error as "an extension of credit that was not made to the consumer," was too broad in that it could be read to include credit card use by persons who were in fact authorized. Commenters also felt that paragraph (a)(2) of the May proposal, which defined a billing error as "an extension of credit that results from unauthorized use (as defined in footnote 43 to § 226.6)," might be too narrow because that footnote limited the term "unauthorized use" to credit cards. Paragraph (a)(1) of this proposal accommodates these concerns by limiting the error to *unauthorized* extensions of credit not made to the consumer, and by including the unauthorized use of open-end credit plans.

Paragraph (a)(2) of this proposal, which corresponds to paragraph (a)(3) of the May proposal, is substantively unchanged. It provides that extensions of credit not identified on a periodic statement in accordance with the identification of transaction requirements of § 226.8 are billing errors. Although creditors may use certain alternative transaction identifications on their periodic statements under § 226.8, they must afford consumer inquiries regarding the permissible alternative identifications the protections of § 226.13(e)(1).

Paragraph (a)(3) of this proposal, which corresponds to paragraph (a)(4) of the May proposal, is substantively unchanged. In part, it defines a billing error as property or services "not accepted" by the consumer. The Board believes that the issue of when goods are deemed "accepted" is governed by state law.

Furthermore, paragraph (a)(3) defines a billing error as an extension of credit for property or services not delivered to the consumer or the consumer's designee as agreed. The current regulation and the May proposal clarified with a footnote the scope of non-delivery. Although the footnote has been deleted in order to simplify the regulatory text, this provision continues to include delivery of property or services different from that agreed upon, or delivery of the wrong quantity, late delivery, or delivery to the wrong location; but, it does not include any dispute relating to the quality of property or services. The Board intends to incorporate the position of the footnote in the commentary.

Paragraph (a)(4) of this proposal, which corresponds to paragraph (a)(5) of the May proposal, is substantively unchanged.

Paragraph (a)(5) of this proposal, which corresponds to paragraph (a)(6) of the May proposal, contains one modification. The May proposal provided that a billing error included computational and other accounting errors "relating to a credit extension." This limiting phrase has been deleted to clarify that computational errors involving other entries on the consumer's account, such as payments and late payment charges, may also be billing errors.

Paragraph (a)(6) of the present proposal deals with documentation requests; it corresponds to § 226.7(a)(7) of the May proposal and § 226.2(j)(1) of the current regulation. Paragraph (a)(7) of the May proposal had been drafted in conformity with the provisions in Regulation E; the language of proposed paragraph (a)(6) now tracks that of § 161(b)(2) of the act. In light of the differences between the two statutes in the provisions regarding this type of billing error and in the statutory requirements for resolution, the Board believes that requests merely for copies of receipts, sales slips or other documents evidencing credit extensions would not trigger the error resolution procedures. Any request for "additional clarification" of a credit extension (and such a request for clarification may very well include a request for a copy of a receipt or sales slip) would, however, trigger the error resolution procedures if made within the appropriate time limits. This position, in the Board's view, represents the proper interpretation of § 161(b)(2) of the act and affirms the present staff position on the issue. In addition, to include in the regulation a detailed and complex rule designed specifically for documentation requests that in no way hint or imply that a problem is reflected on a periodic statement would run afoul of the simplification effort.

Proposed paragraph (a)(7) implements § 161(b)(6) of the amended act. This paragraph provides that the creditor's failure to transmit a periodic statement to the consumer's current address is a billing error, unless the consumer mailed notice of an address change less than 20 days before the end of the billing cycle requiring the periodic statement. This specific billing error was subsumed in the general documentation request provision of § 226.7(a)(7) of the May proposal. In order to ease operational problems in this area, the regulation provides that the creditor must be notified in writing of a change in address.

(b) *Billing error notice.* Many of the changes that have been made in paragraph (b) of this proposal, which corresponds to § 226.7(b) of the May proposal and § 226.2(cc) of the current regulation, are editorial. For instance, the phrase "billing error notice" is used instead of "notice of billing error" and other variations that appeared throughout the May proposal.

Proposed footnote 25 corresponds to § 226.7(i) of the May proposal. It relieves the creditor from continuing error resolution responsibilities if the consumer subsequently concludes that no error occurred. While editorial changes have been made in the footnote, no substantive change is intended. The Board contemplates that a consumer's withdrawal of a billing error notice may be either oral or written.

The timing requirements for a consumer to submit a billing error notice have been substantively modified. Paragraph (b)(1)(ii) of the May proposal, which permitted a consumer to use another 60-day period to assert a billing error ascertained from a documentation request, has been deleted. Paragraph (b)(1) of the present proposal simply stats, in part, that a billing error notice must be received by a creditor no later than 60 days after the creditor transmitted the first periodic statement that reflects the alleged billing error. In the Board's opinion, to include a detailed rule in the regulation that will apply in only a few situations is contrary to the simplification effort. If, however, the consumer requests a periodic statement because the creditor failed to transmit a periodic statement (which would be a billing error under proposed paragraph (a)(7)), then the consumer, upon receipt of the periodic statement, would have another 60 days to assert a billing error discerned from that statement. The 60-day time period would, in the Board's opinion, begin from the appearance of the error on the first periodic statement that the consumer receives.

Comment on paragraph (b) of the May proposal suggested that creditors, who supply consumers with a telephone number in addition to a specific address for billing error inquiries, should be *required* to warn consumers that they must write if they wish to preserve their rights under the Fair Credit Billing Act. This suggested disclosure has not been incorporated in the regulatory text, in light of the fact that proposed § 226.5 requires that Truth in Lending disclosures be made clearly and conspicuously. However, language to that effect is contained in the model billing rights statement located in Appendix F.

(c) *Time for resolution; general procedures.* Paragraph (c) of this proposal, which corresponds to the same paragraph of the May proposal and §§ 226.14(a) (1) and (2) of the current regulation, is substantively unchanged.

Under paragraph (c)(2) of this proposal, the creditor must comply with specified error resolution precedures not later than the end of the second complete billing cycle, but in no event later than 90 days. Creditors that temporarily correct an alleged billing error during investigation must *finally* resolve within the time limits for error resolution; temporary correction does *not* satisfy the error resolution requirements.

Proposed paragraph (c)(3) relieves the creditor from conducting an investigation and determining whether a billing error occurred in certain instances. Since some creditors prefer to correct a billing error as alleged by a consumer rather than conduct an investigation, whether or not any mistake has in fact been made, this proposal clearly permits this practice. In the Board's opinion, if a creditor follows this procedure, no presumption is created that a billing error occurred.

(d) *Rules pending resolution.* Paragraph (d) of this proposal corresponds to paragraph (d) of the May proposal and portions of §§ 226.14 (a) through (e) of the current regulation.

Paragraph (d)(1) deals with a consumer's right to withhold disputed amounts and corresponds to paragraph (d)(1) of the May proposal. It provides that a consumer may withhold that portion of any required payment that is related to the disputed amount. If finance or other charges have accrued on the disputed amount, these charges are "related" and may be withheld. Similarly, the undisputed portion that the consumer remains obligated to pay may include finance or other charges that would accrue notwithstanding the alleged billing error. In attempting to reduce detail in the regulatory text, the May proposal's footnote 49, which defined the phrase "disputed amount," has been deleted. The Board continues to construe this phrase, however, to mean the amount of the transaction or charge that is subject to an alleged billing error, even though the allegation concerns the description of the transaction (such as the date or the seller's name) rather than a dollar amount.

Language in paragraph (d)(1) clarifies that the consumer's withholding of the disputed amount from the total bill cannot subject the undisputed portion to the imposition of additional finance or other charges. For example, on an account with a 30-day free-ride period, a consumer who disputed a $2 item out of a total bill of $300 and paid $298 within the free-ride period would not lose the free-ride as to the undisputed portion, even if the creditor determined later that no billing error occurred. The Board believes that this clarification is especially important in light of the increased use of balance computation methods that include a consumer's

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current debits when the account is not paid in full at the end of each cycle. The Board solicits comment on any operational difficulties that may arise from this interpretation.

Proposed paragraph (d)(2) (Creditor's handling of disputed amount) corresponds to paragraph (d)(2) of the May proposal and is substantively unchanged. The creditor may mail a periodic statement reflecting a disputed amount provided that the creditor indicates on or with the periodic statement that payment of the disputed amount is not required pending resolution. In order to provide creditors with increased flexibility in designing disclosure forms, the proposal deletes the current regulatory requirement that the disclosure appear "on the face" of the periodic statement. The creditor is, however, subject to the general "clear and conspicuous" requirement of proposed § 226.5 in making this disclosure. The Board, however, affirms the present staff position that the creditor does not have to specify the actual dollar amount that the consumer need not pay pending resolution.

Proposed paragraph (d)(3) (Collection action prohibited) corresponds to paragraph (d)(3) of the May proposal and has been restructured. In this paragraph, as elsewhere in this proposal, the word "promptly" replaces the phrase "as soon as possible."

Proposed paragraph (d)(3) also contains two substantive changes. It relieves operational burdens by expanding the two-business day grace period to three business days for inadvertent collection actions. This expansion, together with the revised "business day" definition in § 226.2, should ease operational difficulties and reduce inadvertent violations in this area. The remedial action provision, which in the May proposal required a creditor to take *any* action necessary to correct an inadvertent collection action, has also been modified. In this proposal, a creditor must take any "reasonable" action to correct. The Board contemplates that "reasonable" corrective action includes, for example, refunding disputed amounts and related finance charges that were inadvertently collected; removing a lien against a consumer's property; and withdrawing any court action taken.

Proposed paragraph (d)(4) (Adverse credit reports prohibited), which corresponds to the same paragraph of the May proposal, has been restructured. It was incorrectly reflected in the May proposal that a creditor was prohibited from reporting that a disputed amount or an account was in dispute. The current regulatory language has been reinserted to limit the prohibition to reports that an amount or an account is *delinquent*. As the current regulation and the May proposal provide, the Board believes that this restriction does not prohibit a creditor from reporting that the amount or account is in dispute, or from reporting that the consumer's account is delinquent if undisputed amounts remain unpaid. While this specific language is no longer included in the regulation itself, the Board intends to incorporate this position in the commentary.

The present proposal substitutes the word "persons" for the word "creditors" in the requirement that the creditor notify the recipients of inadvertent adverse reports that the amount is not delinquent. This change is consistent with the general rule in both proposals that prohibits the creditor from making an adverse report to "any person" pending compliance with error resolution procedures. Moreover, when credit reports are made before the creditor receives a billing error notice, the creditor must notify not only credit bureaus, but also all other persons to whom the creditor reported, to the extent possible. Whereas a credit bureau is any person in the business of collecting and disseminating information relating to the creditworthiness of consumers, "persons" include employers and insurance companies, as well as other creditors.

Paragraph (d)(4) of this proposal contains several other substantive changes. In order to ease operational difficulties, the grace period for inadvertent credit reports has been expanded from two to three business days. A discrepancy in the remedial provisions has been corrected from the May proposal. Under the prior proposal, a creditor that received a billing error notice after making an adverse report was required to notify the recipients in writing, whereas a creditor that inadvertently made an adverse report within two days after receiving a billing error notice was required simply to notify the recipients; the manner of notification was not specified. The Board contemplates that the creditor must take commercially reasonable steps to ensure that the adverse credit reports are corrected. In some instances, notification may be accomplished by a letter to a person responsible for receiving the corrective information; in other cases, the same result may also be accomplished by computer communication or telephone.

Several commenters to the May proposal objected to the "as soon as possible" standard to effectuate corrective action. This proposal substitutes the word "promptly" for "as soon as possible" to clarify that a creditor that reports, for example, to a credit bureau on scheduled monthly updates need not transmit corrective information immediately by a costly unscheduled computer or magnetic tape. The creditor merely has to contact the credit bureau promptly by letter or otherwise with the correct information. The creditor is in no way responsible for ensuring that the credit bureau corrects its information immediately.

Paragraph (d)(5) (Automatic debit of disputed amounts) completely revises the requirements in § 226.7(d)(5) of the May proposal and § 226.14(c) of the current regulation. This provision governs automatic payment plans in which a cardholder authorizes a card issuer to deduct periodically an agreed-upon amount from the cardholder's account in order to pay the cardholder's indebtedness. Under the current regulation and the May proposal, the card issuer must prevent or restore an automatic debit of a disputed amount, if it receives a billing error notice within 16 days after transmitting the first periodic statement that reflects the billing error.

A few commenters to the May proposal suggested that the timing requirements in this provision are not rationally related to operational considerations involved in preventing an automatic debit. For instance, if a billing error notice arrives two hours before a scheduled automatic debit, it may be difficult for a card issuer to prevent an automatic debit from occurring.

Proposed paragraph (d)(5) requires the card issuer to prevent an automatic debit of a disputed amount and related finance or other charges, only if it receives a billing error notice up to three business days before the automatic debit date. Under the proposal, the card issuer would not have to restore a debited amount if the billing error notice arrives after the three-business-day cut-off. If, however, any part of the disputed amount is still outstanding and unresolved at the time of the next automatic debit, the card issuer would have to prevent that automatic debit.

Paragraph (d)(6) of the May proposal, which dealt with acceleration of a consumer's debt or the closing of the consumer's account, has been deleted. This provision now appears as footnote 24 at the beginning of the section.

(e) *Procedures after creditor determines that a billing error occurred as asserted.* Paragraph (e) of this proposal corresponds to paragraph (e) of the May proposal and to portions of

§§ 226.14(a)(2)(i) and (b)(2) in the current regulation. Although a number of editorial changes have been made, this provision is substantively unchanged.

As in the May proposal, a creditor that determines that a billing error occurred as alleged by a consumer must correct the error and credit the consumer's account with any disputed amount and related finance or other charges. Paragraph (e)(1) of this proposal clarifies this requirement by adding the phrase "as applicable" to denote that the corrections vary with the type of billing error that occurred. For example, a misidentified transaction that results in a billing error is cured by properly identifying the transaction and crediting finance charges. The creditor does not have to cancel the amount of the underlying obligation incurred by the consumer.

Paragraph (e)(2) of this proposal clarifies ways in which a creditor could notify the consumer of billing error corrections. The notice may be sent separately, or on or with a periodic statement that is sent within the resolution time period. If the notice of the correction appears on a periodic statement, it must specifically identify the amount as a correction rather than merely identify the amount as a credit to the account. If a *separate* billing error correction notice is provided, however, the periodic statement reflecting the corrected amount may simply identify it as "credit."

(f) *Procedures after creditor determines different billing error or no billing error occurred.* Paragraph (f) corresponds to paragraph (f) in the prior proposal and to portions of §§ 226.14(a)(2) (ii) and (iii) in the current regulation. Although a number of editorial changes have been made, this provision is substantively unchanged. Footnote 27 corresponds to the material contained in § 226.7(g) of the May proposal and portions of § 226.14(a)(2)(iii) of the current regulation.

This proposal clarifies that the creditor's explanation that the consumer's allegation is either partly or wholly incorrect may be sent separately or with a periodic statement, at the creditor's option. For the reasons discussed in paragraph (e) above, the words "as applicable" have also been added to proposed paragraph (f)(3).

(g) *Creditor's rights and duties after resolution.* This paragraph corresponds to paragraph (h) of the May proposal and portions of §§ 226.14(b)(3), (e)(1), and (e)(2) in the current regulation.

Proposed paragraph (g)(1) combines the first sentence of the same paragraph in the May proposal with the third sentence of § 226.14(b)(1) of the current regulation. The latter clarifies that the creditor may require payment of any minimum periodic payments that the consumer withheld during the error resolution period because of the billing error allegation.

Paragraph (g)(2) in this proposal, which corresponds to the last sentence in paragraph (h)(1) of the May proposal, clarifies the manner of determining the number of days a consumer has for payment after resolution. The provision requires the creditor to allow a consumer any customary free-ride period or 10 days, whichever is longer, to pay a disputed amount and related finance or other charges without incurring additional finance or other charges.

The May proposal provided that the time period would begin "after delivering the notification for the consumer to pay." The present proposal deletes this phrase, as the Board contemplates that the creditor will use the same triggering event that is normally used. For example, if the creditor uses the next periodic statement to reflect the amount due, then the date the statement is mailed, or the closing date of the previous billing cycle, would probably be the triggering event.

Proposed paragraph (g)(3) corresponds to paragraph (h)(2) of the May proposal and is substantively unchanged.

Paragraph (g)(4) of this proposal corresponds to paragraph (h)(3) of the May proposal. This provision imposes certain duties on a creditor if it receives further notice from a consumer that the consumer still disputes the amount. The present proposal returns to the current requirement in § 226.14(e)(2) that the consumer's notice be in writing.

Proposed paragraphs (g)(4) (i) and (iii) also differ from the May proposal, which had required the creditor to notify in writing recipients of adverse credit reports. The present proposal requires the creditor simply to notify these parties. These changes comport with the revisions discussed in connection with paragraph (d)(4), which prohibits adverse credit reports during the error resolution period.

(h) *Reassertions of billing error.* This paragraph corresponds to paragraph (j) of the May proposal. The present proposal returns to the current regulatory standard, which relieves the creditor of further resolution duties if the consumer reasserts "substantially the same billing error," rather than the "same error" standard that appeared in the May proposal. The present proposal also clarifies the relationship between this paragraph and paragraph (g) of this section, which imposes certain post-resolution duties on the creditor.

(i) *Forfeiture penalty.* Paragraph (i) of the present proposal, which penalizes the creditor for failure to follow the error resolution procedures set forth in this section, corresponds to paragraph (k) of the May proposal and § 226.14(f) in the current regulation. Although it is substantively unchanged, it has been edited and restructured to facilitate its use. The Board contemplates that a creditor that has forfeited the right to collect a certain amount will take no steps to collect it, not even billing the consumer for the amount. Furthermore, as in the May proposal, the present proposal requires the creditor to credit or refund any forfeited amount that the consumer has already paid, rather than withheld pending resolution.

(j) *Relation to Electronic Fund Transfer Act and regulations.* This paragraph corresponds to § 226.7(m) in the May proposal, and clarifies creditor responsibilities when an extension of credit is incident to an electronic fund transfer. References to paragraphs (e), (f), (h), and (i) of this section have been inserted to parallel a similiar provision in Regulation E. In addition to Regulation E requirements, a creditor must still comply with Regulation Z paragraphs that are not cited, which include paragraph (d) (Rules pending resolution), paragraph (g) (Creditor's rights and duties after resolution), and paragraph (i) (Forfeiture penalty).

This paragraph is designed to relieve a financial institution from complying with the conflicting requirements in Regulation Z and Regulation E. In certain instances, the Regulation E error resolution procedures are not applicable operationally to credit extensions. For example, a creditor does not have to provisionally recredit a consumer's account, under Regulation E § 205.11(c)(2)(i), in an amount equal to the unpaid extension of credit. The Board contemplates that a creditor will consider the characteristics of the credit extension portion of the electronic fund transfer, and apply the Regulation Z requirements appropriately. For example, although the Regulation E corrections provision in § 205.11(e) is not specific, a financial institution must credit the consumer's account with any finance charges incurred as a result of the alleged error.

Section 226.14—Determination of annual percentage rate.

Sections 226.14 (a) and (b) correspond to §§ 226.8 (a) and (b) of the May proposal. They have not been changed.

Section 226.8(c)(2)(ii) of the May proposal has been deleted from the

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current proposal. Comments in no way indicated use of the computation method of imposing a finance charge based on specified ranges or brackets of balances. As in the May proposal, comment is again solicited as to whether any creditors use this method of imposing finance charges.

Section 226.8(c) of the May proposal, now § 226.14(c), has been renumbered for clarity.

The material in § 226.8(c) (1) and (2) of the May proposal is now in § 226.14(c)(1); the material in § 226.8(c)(2)(iii) of the May proposal is now in § 226.14(c)(2). Under proposed § 226.14(c)(2)(i), the annual percentage rate is determined by dividing the total finance charge by the amount of the balance to which it is applicable. As did the May proposal, this proposal recognizes the fact that an annual percentage rate cannot be determined where a finance charge is imposed during a billing cycle in which there is no outstanding balance. (See footnote 29 and § 226.7(h) of this proposal, which provide that creditors are not required to disclose an annual percentage rate or to state that one cannot be determined.)

In the May proposal, the Board, using an initial loan fee as an example, solicited comment on situations in which a finance charge is imposed but bears no relationship to the balance on the account. The Board believes that since initial loan or application fees are collected at application, they will be reflected on the initial disclosure statement, rather than on the periodic statement; the fee, therefore, will not enter into the annual percentage rate calculation on the periodic statement.

In situations where activity, transaction, or other minimum or fixed charges are imposed, however, such charges are more likely to be nominal in amount; therefore, significant distortions in the annual percentage rate will not result.

The Board received several comments requesting that the minimum charge referred to in present regulatory § 226.5(a)(2)(iii) (§ 226.8(c)(2)(iii)(C) in the May proposal) be increased to $1. Because of the statutory language in § 127(b)(6) of the act, the limitation stated in § 226.14(c)(2)(iii) of this proposal remains at $.50.

Proposed paragraph (d) is unchanged from the May proposal.

Proposed paragraph (e) is new; it affords creditors special protection for errors that result from the good faith use of faulty calculation tools. While the Board believes that this regulatory provision will no longer be appropriate or necessary in light of the expanded defense for such errors in § 130 of the act, several commenters expressed concern about the applicability of this defense before April 1, 1982, the effective date of the new act. They requested that some form of present § 226.5(c) remain in the regulation until that time.

Section 226.15—Right of rescission.

This section, which corresponds to § 226.9 of the May proposal, has been substantially revised.

(a) *Consumer's right to rescind.* Proposed § 226.15(a)(1) sets forth the general rule allowing the consumer to rescind at certain points during the existence of an open-credit plan that is or may be secured by the consumer's principal dwelling. The present proposal returns to the statutory language that explicitly covers security interests that "will be" retained or acquired. The Board believes that this phrase may be necessary to clarify that security interests not retained when a transaction takes place may still give rise to the right of rescission. For example, materialmen's or mechanics' liens arising by operation of law may not arise until performance has begun. The right of rescission may still be applicable in such situations, even where the security interest has not yet been created.

Footnote 31 is new and represents the material in § 226.7(f)(2) of the prior proposal. The footnote provides that the right to rescind does not apply to open-end credit plans in which a state or federal agency is the creditor. The present proposal deletes paragraphs (f)(1) and (f)(3) of the prior proposal, as being inapplicable to open-end credit plans. Paragraph (f)(1) of the prior proposal exempted residential mortgage transactions. In light of the definition of open-end credit, under which a creditor must reasonably contemplate repeated transactions, and the legislative history regarding that definition, the Board believes that residential mortgage transactions would not be made on bona fide open-end credit plans. Accordingly, paragraph (f)(3) of the prior proposal, regarding the subordination of security interests that were originally exempt, has also been eliminated.

The right to rescind is available under this section to any "consumer whose ownership interest in his or her principal dwelling is subject to the security interest." "Consumer" is defined, in relevant part, as a natural person including a comaker, endorser, guarantor, surety or similar person who may be obligated to repay the extension of credit. In the Board's judgment, this definition encompasses persons who are not parties to the credit agreement but who have signed the security agreement. Therefore, a joint owner in this situation must be given the right of rescission if the property involved is that consumer's principal dwelling.

Clarifying language has also been added to the introductory sentence to indicate that it is the creditor's option whether the consumer may rescind (1) each transaction made under the plan or (2) only the plan when the plan is opened, the security interest when added or increased, or an increase in the credit limit. Footnote 32 indicates that this second option expires on March 31, 1985, and that upon expiration a consumer would have the right to rescind each individual advance under an open-end credit plan secured by the consumer's principal dwelling. In response to comments, the present proposal has been revised to indicate clearly that the rescission right only affects advances made after the expiration date, not prior obligations.

Section 226.15(a)(2) of the present proposal contains only editorial changes from the previous proposal.

Section 226.15(a)(3) of the present proposal has been rewritten to clarify that the rescission period runs from the latest of three events—the transaction or other occurrence giving rise to the right of rescission, delivery of the required notices, and delivery of the material disclosures. The rescission notice and the material disclosures need not be delivered at the same time.

All of the listed material disclosures must be given whenever an event takes place giving rise to the right of rescission. The disclosures must contain sufficient information so as to meet the content requirements for those disclosures set forth in § 226.6. The Board contemplates that a copy of the initial disclosure statement would suffice for this requirement.

Footnote 28, which lists the material disclosures for purposes of this section, has been modified to include membership fees or other fees for participation in an open-end credit plan. Reference to the minimum periodic payment disclosure has been deleted in accordance with its deletion as an initial disclosure. Other non-finance charges such as documentation fees and late payment fees are not included as material disclosures.

The second and third sentences in paragraph (a)(3), which correspond to paragraph (a)(4) of the prior proposal, describe the rule on the expiration of the right of rescission when the required notices or disclosures are not delivered. The May proposal provided that the right expires three years from the earlier of the triggering event or upon the "date of the transfer of the property." With regard to the latter, a number of commenters asked the Board to return to the current regulatory language to assure that the right of rescission would not expire merely because some portion of the consumer's legal or equitable interest was transferred. The present proposal reflects this change. The Board reaffirms the present staff position that both voluntary and involuntary transfers, including foreclosure sales, terminate the right to rescind.

The rule in the current § 226.9(f)(1) has been added as paragraph (a)(4) to clarify that transactions in which more than one consumer's ownership interest is at risk may be rescinded by any one of the consumers involved.

(b) *Notice of right to rescind.* The present proposal returns to the current regulatory requirement that the creditor give two copies of the rescission notice. Some commenters requested this change, so that the consumer would be able to use one copy to notify the creditor and retain the other for information. The proposal also clarifies that two copies of the notice must be given to each consumer entitled to rescind. Also, a new disclosure requirement, the expiration date of the rescission period, has been added as paragraph (b)(5).

The present proposal also differs from the May proposal in allowing the notice either to be separate from the material disclosures or combined with them, even where the creditor uses an initial disclosure statement to furnish the material disclosures. This position is based in part on the fact that the proposed format requirements for open-end credit disclosures are flexible enough for a creditor to combine disclosures in a manner that is conspicuous to the consumer.

Appendix F includes model rescission notices.

(c) *Delay of creditor's performance.* The first sentence is substantively unchanged from the May proposal. A number of commenters were concerned that a card issuing creditor might unwittingly violate this section if a third party honoring the card had no knowledge of the need for delay and provided materials or services to the consumer within the rescission period. This might occur, for example, when the consumer makes a purchase below the merchant's floor limit, so that the card issuer is not contacted for authorization. The present proposal relieves the creditor of liability in this situation, so long as the creditor takes no security interest in the dwelling as a result of any debts incurred by the consumer during this period.

(d) *Effects of rescission.* The present proposal is divided into two paragraphs to address the differing effects of rescission when an individual transaction is rescinded, in contrast to when the plan, the added security interest, or the credit limit increase is rescinded. The effect of rescinding an individual transaction on an open-end credit plan, as set forth in paragraph (d)(1), is comparable to the rescission of a closed-end credit transaction; that is, the security interest is void and the creditor and consumer exhange property or money so that the parties are basically returned to the positions occupied prior to the transaction. When a consumer rescinds a transaction under this paragraph, the creditor must return all amounts of money related to the credit extension including any downpayment, payments made, and appraisal or credit report fees. These examples are not listed in the present proposal; the Board intends to incorporate them in the commentary.

Paragraph (d)(1) sets up the mechanism for the exchange of property. The present proposal substitutes the term "tender" for "offer," thus returning to the statutory language, because the words may not be synonymous under state law.

This paragraph has also been revised to clarify that the consumer's option to tender at the location of the property or at the consumer's residence applies only to the tender of goods and materials. A tender of money must be made at the creditor's place of business (for example, by mailing a check to the creditor).

The paragraph uses the term "calendar days" in describing the time periods within which the creditor must return any money or property and reflect the termination of the security interest, and subsequently take back any money or property tendered by the consumer. This reflects staff interpretation of this provision.

Commenters requested that the Board allow creditors to utilize offsets, escrow agreements, and other similar alternative methods of complying with their responsibilities under this section. However, the Board believes that, in view of the act's specificity regarding the creditor's obligations, these alternatives would be inappropriate.

Many commenters also addressed the rule that requires the creditor to return any money or property given by the consumer even if it were given to third parties. In the Board's judgment, because section 125(b) of the act requires that creditors return any money or property given as earnest money, downpayment, *or otherwise,* creditors must return all monies including downpayments, prepayments, application fees, and paid to third parties. This rule reflects existing staff interpretation.

The Board would point out that these property exchange provisions do not seem relevant to those situations not involving transactions—that is, when the consumer rescinds a plan when it is opened, a security interest when added or increased to secure an existing plan, or an increase in the credit limit. When the consumer rescinds under one of these provisions, paragraph (d)(2) specifies the effects of the rescission. As with the rescission of a transaction, any amounts related to the event rescinded must be returned to the consumer. For example, if a consumer rescinds the plan when it is opened, the creditor would be obliged to return any membership or application fee paid; a consumer who rescinds an increase in the credit limit would be refunded any fee imposed for a new credit report. These examples were included in the regulation in the May proposal but have been deleted as being inappropriate regulatory material; the Board intends, however, to incorporate them into the commentary. A sentence has been added to the paragraph to emphasize the fact that a consumer's obligation to pay for an individual advance or purchase is not affected by the fact that the consumer rescinds under this paragraph, in contrast with the effect of rescinding an individual transaction. The issue would only arise in three-party situations; in two-party credit situations, the creditor must delay performance until the rescission period has expired. Of course, even as to three-party transaction, no additional security interest would attach.

(e) *Consumer's waiver of right to rescind.* This paragraph differs significantly from that of the May draft and the provisions of the existing regulation with regard to the nature of the emergency giving rise to a waiver. The consumer need only determine that the extension of credit is needed to meet a bona fide personal financial emergency. This standard essentially mirrors that in section 125(d) of the act. The Board believes that the current regulatory implementation of that statutory provision may be unnecessarily narrow and solicits comment on this revision. While the requirements for a waiver would be eased, this provision continues to prohibit the use of preprinted forms for this purpose, in order to prevent any abuse of the waiver rule.

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Section 226.16—Advertising.

This section corresponds to provisions in § 226.10 of the present regulation and § 226.10 of the May proposal regarding the advertisement of open-end credit. Rules regarding advertisements for closed-end credit are found in § 226.24.

In accordance with present staff position and in light of the statutory language, the Board would point out that the advertising provisions, unlike the rest of Regulation Z, applies to creditors and non-creditors alike.

(a) *Actually available terms.* Section 226.14(a) corresponds to § 226.10(a)(1) of the May proposal and provides that an advertisement for open-end credit shall state only those terms that the creditor is actually prepared to offer. Commenters suggested retaining the "will arrange" language of the current § 226.10(a)(1)(i) in order to permit creditors to advertise terms for upcoming loan programs or specific credit offerings, as long as the terms will be generally available to consumers.

The general prohibition against inaccurate or misleading advertising in paragraph (a)(2) of the May proposal has been deleted from this proposal as unnecessary. It is believed that state statutes provide adequate protection for consumers. Commenters expressed serious concern that introducing such a broad and, arguably, imprecise standard would result in extensive, costly litigation.

(b) *Advertisement of terms that require additional disclosures.* Proposed § 226.14(b) corresponds to § 226.10(b) of the May proposal. It sets forth the so-called "trigger" terms which, when included in an advertisement for consumer credit, give rise to the requirement that certain additional disclosures also be included in the advertisement. While this paragraph is almost identical substantively to the May proposal, in response to commenters' suggestions, it has been restructured to parallel more closely the organization in the May proposal of the closed—end credit advertising section.

While commenters suggested that the language "or otherwise determinable" be deleted, the Board believes that its retention is proper and necessary. This is based on the belief that where § 226.5(b) terms may in fact be implicit from an advertisement, the advertising provisions should apply.

The annual membership fee has been specifically included in the paragraph (b) list of additional required disclosures. Such fees are becoming increasingly more popular in open-end credit plans; consequently, the Board Believes that such information is an important shopping consideration when selecting an open-end credit plan.

Comment is expressly solicited as to whether downpayents are commonly involved in the use of open-end credit plans; it is the Board's belief that such is not the case at the present time and, therefore, the Board sees no need to include it as a "trigger" term for purposes of open-end credit advertising.

Proposed paragraph (b)(2) requires that, where a trigger term is involved, disclosure is required of any periodic rate that could be applied, expressed as a corresponding annual percentage rate. In response to comments, the Board wishes to clarify that, in its view, this language contemplates disclosure of *just* the corresponding annual percentage rate. In the Board's opinion, however, this provision would not preclude an advertiser from also stating the periodic rate.

The Board wishes to point out that an advertisement must state a credit term as a positive number in order to trigger additional disclosures. For example, "no annual membership fee" would not trigger the required advertising disclosures.

(c) *Catalog and multiple-page advertisements.* Paragraph (c) of the proposal deals with catalog and multiple-page advertisements. It corresponds to § 226.10(c) of the May proposal and § 226.10(b) of the existing regulation.

The phrase "credit term" has been deleted from subsection (c)(1) of the May proposal; this paragraph's requirements are now tied to the terms contained in § 226.5(b).

Proposed paragraph (c)(2) is the same as the May proposal. It incorporates portions of present Board Interpretation § 226.1002. In the Board's opinion, the inclusion of the $1,000 limitation in the proposal is unnecessary; the requirement that the table or schedule include disclosures for the more commonly sold higher-priced property or services offered incorporates the concept in existing § 226.1002 that tables or schedules provide representative disclosures. Moreover, the Board considers unnecessary, and contrary to the simplification effort, the inclusion of language about the table or schedule disclosing the method of computing the appropriate disclosures for amounts in excess of those disclosed in the table or schedule.

Section 226.10(d) of the May proposal, regarding oral disclosures in open-end credit, has been combined with § 226.14(f), regarding oral disclosures in closed-end credit, into a new § 226.29 in Subpart E. Commenters claimed that including the oral disclosure provisions in the advertising section is confusing since oral disclosures are not included in the advertisement definition in § 226.2.

Subpart C—Closed-End Credit

Subpart C includes all provisions relating specifically to closed-end credit transactions. In addition to a number of substantive revisions, the subpart has been substantially restructured for ease of reference and greater clarity. Section 226.11 of the May proposal, which contained all rules regarding closed-end credit disclosures, has been divided into four separate sections, §§ 226.17 through 226.20. Section 226.21, relating to credit balances, is new and implements § 165 of the act. Sections 226.22, 226.23, and 226.24 reflect §§ 226.12, 226.13, and 226.14, respectively, of the May proposal.

The concept of alternate shopping disclosures, which represented the most dramatic proposal in the May draft, has been deleted from this proposal. The provision, contained in § 226.(11) of the earlier draft, would have permitted creditors to make early advertising-type disclosures as an alternative to providing regular transactional disclosures. The Board received approximately 230 comments on this provision, and the great majority, reflecting virtually all segments of the credit industry, consumer groups, and federal and state agencies, were negative. The comments as a whole reflected a belief that the proposal was unnecessary and, to the extent that it was used at all, would result in further customer confusion and creditor expense. In view of these comments, the Board is eliminating the concept of alternate shopping disclosures from the regulation. The Board remains committed to enhancing the credit-shopping function of the act by encouraging early disclosure of credit terms. However, the Board believes that this commitment can be carried out by several less dramatic means, which are reflected in the new proposal. Among the revisions which should encourage early disclosure are the more flexible rules regarding the timing of disclosures and the use of estimates.

Section 226.17—General disclosure requirements.

Section 226.17 sets forth the general disclosure requirements previously contained in § 226.11(a) through (e) of the May proposal, with substantial deletion of material which the Board believes is unnecessary. The general rules regarding the timing, form and basis of disclosures are contained in paragraphs (a), (b), and (c) of the

section, which correspond to §§ 226.11(c)(1), 226.11(c)(3), and 226.11(d), respectively, of the earlier proposal.

(a) *Time of disclosures.* The revisions in this paragraph, formerly § 226.11(c)(1) of the May proposal, are primarily editorial. The first sentence continues to reflect the current regulatory requirement that disclosures be provided before consummation of the transaction. However, as noted in the discussion of § 226.2 above, the definition of consummation has been substantially revised. Consummation will be the time at which the consumer becomes contractually liable on the obligation, as determined by applicable law. The payment of a nonrefundable fee prior to that time does not serve to trigger consummation, contrary to the position taken in the May proposal and in current staff interpretations of the regulation.

Paragraph (b), formerly designated as §§ 226.11(c)(3) and 226.11(c)(4) in the May draft, has been significantly expanded and reorganized for increased clarity. Paragraph (b)(1) retains the requirement in the May draft and section 128 of the act that, as a general rule, all of the disclosures required by § 226.18 (Content of disclosures) must be grouped together and segregated from all other information not directly related to the disclosures. The term "directly related," as used in this standard, is construed very narrowly in order to carry out the congressional purpose in requiring segregation of Truth in Lending disclosures. Any information beyond that specifically called for by § 226.18, even information which provides further elaboration of required disclosures, would not be directly related to the disclosures and could not normally appear with them. This would include such information as a description of the type of security interest taken in a transaction or the conditions under which a prepayment penalty would be imposed.

Paragraph (b)(1) and accompanying footnotes contain special rules and exceptions to the general requirement of segregation of required disclosures. The last sentence of the paragraph *requires* that explanation of the amount financed under § 226.18(c) always appear separate from the segregated disclosures. The footnote *permits* three disclosures required by § 226.18 to appear apart from the segregated disclosures. These disclosures are the creditor's identity under § 226.18(a), credit life or property insurance premiums under § 226.18(n), and certain charges related to a security interest which are excludable from the finance charge under § 226.18(o). Any of these disclosures may appear with the segregated disclosures, together or separately on other documents, or combined with the disclosure of the amount financed explanation. The first footnote to paragraph (b)(1) specifically permits the inclusion of three additional items of information with the segregated disclosures: an acknowledgement of receipt, the consumer's name, and the consumer's account number. Other than these three specific items of information, the segregated federal disclosures required by § 226.18 may *not* include any other information.

Paragraph (b)(2), regarding use of the terms "finance charge" and "annual percentage rate," is substantially similar to § 226.11(c)(4) in the May proposal, with minor editorial revisions to reflect suggestions made by several commenters.

(c) *Basis of disclosures and use of estimates.* Section 226.17(c), based on § 226.11(d) of the May draft, is designed to provide guidance to creditors in making disclosures, particularly when the necessary information may not be known with any certainty at the time disclosures are made. This paragraph reflects a number of editorial changes, as well as several substantive revisions.

The most important change is contained in paragraph (c)(1). This paragraph is similar to the May proposal in requiring that disclosures reflect the best information available at the time of disclosure. But the disclosures must now be based on the *enforceable* obligation between the parties. The May draft reflects the current regulatory position that disclosures should be based on the actual agreement between the parties, even though that agreement may be contrary to the terms of the parties' legally-enforceable obligation. For example, the Board's staff has stated that Truth in Lending disclosures must be based on a voluntary payroll deduction plan or an informal principal reduction agreement, regardless of the fact that those agreements do not represent the enforceable obligation between the parties. This interpretation may not be compatible with the thrust of the Truth in Lending Act as amended, which is to provide customers with an accurate picture of the obligation to which they will be legally bound. In addition, the current standard has proven difficult in application and frequently complicates both the compliance and enforcement burdens. In light of these considerations, the Board now proposes to require that disclosures be based only on the enforceable obligation between the parties, and specifically solicits comment on this provision.

Paragraph (c)(2) is virtually identical to § 226.11(d)(2) in the May proposal except that the word "clearly" is deleted from the paragraph. Since all disclosures must be made clearly and conspicuously, the repetition of the standard in this paragraph is unnecessary. As under the current regulation, estimates must be designated as such in the segregated disclosures. However, no further explanation of the basis for the estimates may be included with those disclosures, although such explanation may appear as additional information apart from the disclosures.

Paragraph (c)(3), permitting certain factors to be disregarded in calculating the required disclosures, contains only one substantive change. Paragraph (c)(3)(ii) now permits creditors to disregard the fact that payment dates fall on a "day which is not a business day," rather than on a "Saturday, Sunday, or holiday." This change has been made in response to a number of comments pointing out that many creditors' business days do not coincide with regular weekdays. "Business day" is defined in § 226.2 of the proposal as those days on which the creditor is open to the public for substantially all of its normal business functions. This definition, which coincides with that contained in Regulation E, implementing the Electronic Fund Transfer Act, allows the creditor to define its business day according to its own practice.

Paragraph (c)(4), regarding certain payment schedule variations, contains editorial revisions which are not intended to change the substance of the paragraph. The introductory language has been revised, and the definitions contained in § 226.11(d)(4)(ii) of the May proposal have been incorporated into footnotes to the paragraph.

Section 121(d) of the act authorizes the Board to establish tolerances for numerical disclosures other than the annual percentage rate and, as discussed above in § 226.4(a), the Board is proposing a tolerance for disclosures of the finance charge. At this time, the Board is not considering similar tolerances for other numerical disclosures such as the amount financed, in the absence of any evidence indicating a need for such a tolerance. However, the Board solicits comment on whether such tolerances would be appropriate, as well as on the terms for which a tolerance is necessary and the degree of tolerance which should be provided.

Paragraph (c)(5), dealing with demand obligations, is similar to § 226.11(d)(5) in

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the May draft, but the Board wishes to solicit comment on two issues not previously addressed will regard to this provision. First this paragraph reflects the concept of enforceability as the basis for disclosures, as noted in discussion of paragraph (c)(1). Disclosures for demand obligations should be based on an alternate maturity date, rather than an assumed maturity of one year, only in those cases in which the alternate maturity is reflected in an enforceable agreement between the parties. This is contrary to interpretations of the current regulation. Presently, an alternate maturity date may be inferred from an informal principal reduction agreeemnt or a similar understanding between the parties, and disclosures must be based on that alternate maturity. Under the revised paragraph, the obligation in such cases will be viewed as purely a demand obligation, unless the parties have agreed to a legally enforceable repayment schedule setting an alternate maturity date. The Board specifically requests comment on this proposal.

The alternate maturity provision of this paragraph raises a second issue which is related to a current Board interpretation. In addition to demand obligations which have a concurrent alternate maturity provision, certain obligations may call for a conversion to a demand status after a stated period. One example of this type of obligation is addressed in current Board Interpretation § 226.816. The Board proposes to eliminate that interpretation, which appears to have very limited applicability. In the Board's view, the fact that the demand feature is not immediately available to the creditor does not prevent these transactions from being considered demand obligations and the Board proposes to treat them as such under the new proposal. Thus, they would be subject to the general rule in paragraph (c)(5) and disclosures for these transactions would be based upon any enforceable alternate stated maturity. However, the Board specifically solicits comment on alternative ways of dealing with these obligations, as well as on their prevalence.

Paragraph (c)(6) is based on § 226.11(d)(6) of the May proposal but has been substantially revised. New paragraph (c)(6)(i) incorporates in its entirety the first sentence of paragraph (d)(6) of the May draft. The second sentence of that earlier proposal has been deleted. The Board believes that the separate financing of a downpayment in a credit sale transaction may be disclosed as two transactions pursuant to the general rule in that paragraph and that a specific rule for such transactions is unnecessary.

The purpose of paragraph (c)(6)(i) is to prevent creditors from artificially separating what is essentially one transaction into two or, on the other hand, consolidating two separate transactions into a single one, in order to distort and obscure the credit terms to which the consumer is agreeing. The Board is aware that the issue addressed by this rule has been the subject of numerous questions and several judicial decisions. In the Board's view, however, precise rules for determining what constitutes a single transaction are neither desirable nor possible, particularly in view of the enormous variety in credit transactions. Creditors should retain some flexibility in structuring transactions in order to meet the needs of their customers as well as their own operational requirements. Paragraph (c)(6)(i) is intended to reflect that position.

Paragraph (c)(6)(ii), relating to multiple advances under an agreement to extend credit up to a certain amount, is based on § 226.11(m) of the May draft. It would reverse the position taken in that draft and in the current regulation (§ 226.8(i)) by permitting a creditor either to treat all of the advances as a single transaction or to disclose each advance as a separate transaction. The Board believes that both approaches can provide meaningful disclosures to consumers and that mandating one method or the other is unnecessary. If these transactions are treated as one transaction and the timing or amount of advances is unknown, creditors must make disclosures based on estimates, as provided in proposed § 226.17(c)(2).

Paragraph (c)(6)(iii) provides a similarly flexible rule for disclosure of construction loans that may be permanently financed. These transactions have two distinct phases, similar to two separate transactions. The construction period usually involves several disbursements of funds at times and in amounts that are unknown at the beginning of that period and the consumer generally pays only accrued interest until construction is completed. Unless the obligation is paid at that time, the loan then converts to permanent financing in which the loan amount is amortized just as in a standard mortgage transaction. This special rule would permit the creditor to give either one combined disclosure for both the construction financing and the permanent financing, or a separate set of disclosures for the two phases. It would be available whether the consumer was initially obligated to accept construction financing only or both construction and permanent financing. If the consumer is obligated on both phases and the creditor chooses to give two sets of disclosures, both sets must be given to the consumer initially, because both transactions would be consummated at that time.

Many commenters requested that the substance of present Board Interpretation § 226.813 be incorporated into the revised regulation because it provides guidance on making disclosures and calculations for multiple-advance construction loans. That interpretation has been revised and now appears as Appendix D to this proposed regulation. Its use is limited to multiple-advance loans for construction of a dwelling.

(d) *Multiple creditors; multiple consumers.* This paragraph reflects § 226.11(a) (1) and (2) of the May proposal but eliminates the general statements that a creditor must provide disclosures to a consumer. The Board believes that this material is unnecessary and has revised the paragraph to address only multiple-consumer and multiple-creditor transactions, where specific guidance may still be needed.

The first sentence has been redrafted to reflect the Board's concern that a consumer receive a complete document incorporating all of the credit terms that must be disclosed for that transaction. In a transaction involving multiple creditors, creditors should retain some flexibility in the way in which that set of disclosures is provided. For example, the creditors may agree to designate one creditor to assume that responsibility or the creditors may join in designing a single set of disclosures.

The change in the paragraph is not intended to absolve any creditor in such transactions from liability for failure to make disclosures. Regardless of the arrangements made between creditors, each creditor in the transaction is legally responsible for providing the disclosures and any one of them may be subject to liability for violations. However, fewer questions are likely to arise regarding multiple-creditor transactions because the revised definition of "creditor" will substantially reduce the number of transactions in which more than one party will be considered a creditor.

The second sentence in paragraph (d) carries forward the position taken in the current regulation and in the May draft, which require the creditor to make disclosures to a consumer who is primarily liable on the transaction.

(e) *Effect of subsequent events.* Paragraph (e)(1), relating to changes that occur after the delivery of disclosures, remains substantially similar to its counterpart in the May draft with only a minor editorial revision.

Paragraph (e)(2) differs significantly from its counterpart in the May draft. Under this paragraph, creditors need not provide new disclosures when the previously disclosed credit terms are rendered inaccurate before consummation. In the Board's view, this revision will help effectuate the credit-shopping goals of the act by promoting early disclosures. The requirement in the current regulation that creditors provide new disclosures when a term changes before consummation may have discouraged creditors from making any effort to disclose until the point of consummation. As in the current regulation, creditors may use estimates as provided in paragraph (d)(2). The requirement that estimates be based on the best information reasonably available should prevent creditors from making disclosures so early that reasonable accuracy is impossible. The Board solicits comment on whether this new proposal would permit any abuses and whether the "good faith" standard is sufficient to avoid any abuses.

Paragraph (e)(3), regarding changes after consummation, is substantially similar to § 226.11(e)(4) in the May draft with only minor editorial changes that do not alter the substance of the provision.

Section 226.11(e)(3) of the May draft has been eliminated entirely, since it addressed only alternate shopping disclosures.

(f) *Mail or telephone orders—delay in disclosures.* This provision, previously § 226.11(k) of the May proposal, has been slightly revised. Since some commenters questioned the meaning of "personal solicitation," that phrase has been replaced with the phrase "face to face or direct telephone solicitation." This change is meant to clarify that the provision is available when creditors use letters to solicit requests for credit. The solicitation referred to in this section is that done by the creditor itself or someone acting on the creditor's behalf.

A few commenters questioned how the listed information should be made available. The regulation does not specify how that is to be done, since that is a matter to be determined by the creditor. The reference to the "public generally" has been changed to "the public" to avoid the implication that the information must be made available to the world at large in order for the provision to apply.

The list of required information in paragraph (f)(1) has been reduced to more closely follow the statutory provision section 128(c)) and to parallel the revised advertising provisions. The references to downpayments and total of payments have been eliminated and "the number, amounts, and timing of payments" has been replaced by "the terms of repayment." The explanation of what is required by this term is set forth more fully in the material accompanying proposed § 226.24(c), below. The information need be given only as applicable.

Some commenters pointed out the difficulty faced by creditors when credit insurance is written in connection with mail and phone orders, since the May proposal would have required the insurance authorization to appear with the other disclosures. Since the location requirements for the insurance disclosures have been revised to permit them to appear apart from the other disclosures, a creditor could mail an insurance authorization to the consumer and then prepare the other disclosures to reflect whether or not the authorization is completed by the consumer. Disclosing the insurance cost on a unit-cost basis further simplifies the disclosures.

(g) *Series of sales—delay in disclosures.* This paragraph was previously § 226.11(1) of the May draft. The revisions in the first paragraph are primarily editorial. Language has been added to clarify that the delay provision applies to the disclosures pertaining to the current sale. Paragraph (1)(2) from the May proposal has been deleted in light of the revised standard for what constitutes a refinancing under § 226.20(a). If the conditions listed in the first paragraph are not met, the transaction may be a refinancing; alternatively, disclosures for the current sale would be given before consummation of that sale.

Section 226.18—Content of disclosures.

Section 226.18 sets forth the disclosures required in a closed-end transaction. Although it is based closely on § 226.11(f) of the May draft, it has been the subject of a number of editorial and several substantive revisions.

The introductory paragraph deletes the second sentence from the May draft, requiring creditors to include a brief identification and the amount of each disclosure where applicable. These requirements are already mandated by both the substantive provisions of the paragraph and the general "clear and conspicuous" requirement proposed in § 226.17(b).

The disclosures required by this section need by made only as applicable, meaning that any disclosure not relevant to a particular transaction may be eliminated entirely. For example, in a loan transaction, the creditor may delete any disclosure of the total sale price. Similarly, even in a credit sale requiring disclosure of the total sale price under paragraph (j), the creditor may delete any reference to a downpayment where no downpayment is involved.

Where the amounts of several numerical disclosures are the same, the "as applicable" language would also permit creditors to combine the terms, so long as it is done in a clear and conspicuous manner. For example, if in a particular transaction the amount financed equals the total of payments, the creditor may disclose "amount financed/total of payments," together with descriptive language, followed by a single amount. However, if the terms are separated on the disclosure statement and separate space is provided for each amount, both disclosures must be completed, even though the same amount is entered in each space.

Paragraph (f)(17) of the May draft has been deleted and the substance of that provision incorporated as footnotes in § 226.18. The footnote to the introductory portion of the section restates the special rules for interim student loans previously in § 226.11(f)(17)(i). The footnote also includes a definition of interim student loans, which have not previously been defined in the regulation. The Board specifically solicits comment on this definition. Sections 226.11(f)(17)(ii) and (iii) are now reflected as footnotes to paragraphs (e) and (h), respectively.

For ease of reference, each of the 17 paragraphs in § 226.18 has been provided with its own caption, briefly identifying the credit term addressed in that paragraph.

As in the May draft, five of the disclosures required by the section must be further explained to the consumer in a manner similar to the descriptive phrases shown in the regulation. Although the new proposal changes the language "accompanied by" to "and," the Board wishes to emphasize that this change is merely editorial. Creditors may not separate the required term and its descriptive phrase in such a manner as to obscure their relationship to each other.

(a) *Creditor.* This paragraph is unchanged from § 226.11(f)(1) of the May draft. Use of the creditor's name would, in the Board's view, be sufficient to comply with this requirement, but the

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creditor may at its option include an address or telephone number.

(b) *Amount financed.* Paragraph (f)(2) of the May draft, regarding the amount financed, has been divided into paragraphs (b) and (c) of the current proposal, for greater clarity. New paragraph (b) requires disclosure of the amount financed and states the method of calculating that amount, while new paragraph (c) sets forth the rules regarding the explanation of the amount financed.

Paragraph (b) (1) through (3) corresponds to paragraph (f)(2)(i) (A) through (C) of the May proposal. Both the terminology and the calculation steps are unchanged, but the provision has been redrafted to clarify several questions raised by commenters on the May draft.

A number of commenters questioned the Board's use of the term "principal amount of the loan" as the starting point for amount financed calculations in loan transactions. They pointed out that "principal" may include finance charges such as precomputed interest which is added to the face amount of the obligation. Since such amounts normally would not be considered prepaid finance charges and thus would not be deducted from the loan amount under the regulation, the calculated amount financed might impermissibly include a portion of the finance charge. Paragraph (b)(1) has been redrafted to clarify that for purposes of calculating the amount financed, the loan principal cannot include any finance charges.

The second portion of paragraph (b)(1), relating to credit sales, has also been revised. The reference to a trade-in has been deleted as unnecessary, since "downpayment" is now defined in § 226.2 to include the value of any trade-in.

Paragraph (b)(2) reflects in an abbreviated form the substance of § 226.11(f)(2)(i)(B) of the May draft. It refers primarily to those charges which under the current regulation would be characterized as "other charges" under § 226.8 (c) and (d). These would normally include any fees which are not part of the finance charge to the extent that the customer decides to finance them rather than paying them separately at consummation of the transaction. As before, this paragraph would not encompass any charges which are part of the finance charge nor may it include any amounts already accounted for under paragraph (b)(1).

Paragraph (b)(3) requires the deduction of any prepaid finance charges from the amount financed. The parenthetical material in § 226.11(f)(2)(i)(C) of the May draft has been deleted, because "prepaid finance charge" is now defined in § 226.2 of the current proposal, for ease of reference. The basic definition of the prepaid finance charge and its role in calculation of the amount financed remain unchanged.

(c) *Explanation of amount financed.* This paragraph requires a written explanation of the amount financed, at the customer's request, and reflects § 226.11(f)(2)(ii) of the May draft. The Board believes that the term "explanation" is more appropriate than "itemization," which was used in the May proposal. No substantive change is intended.

The current proposal differs significantly from the earlier draft in four respects. First, the paragraph has been rewritten to permit creditors to provide a written explanation of the amount financed without a request from the customer. Only if the creditor does not provide an explanation as a matter of course must the creditor give the customer a statement of the customer's right to receive such explanation. This is a significant departure from the May draft, which required that the creditor inform the customer in writing of the customer's right to receive the explanation and await the customer's request before providing that information. In the Board's view, the legislative history of the act indicates that Congress intended creditors to have either alternative available to them in complying with this provision.

Second, §§ 226.11(f)(2)(ii) (B) and (C) of the May draft, relating to the timing and location of this disclosure, have been deleted. These questions are now addressed in § 226.17 of the new proposal. As in the May draft, the explanation must appear separately from the remainder of the disclosures, but it must now be provided at the same time as the other disclosures.

Third, the list of items that must be disclosed as part of the explanation has been reduced by deletion of the cash price, cash downpayment and trade-in. While these amounts may be of some assistance in providing a mathematical progression for the explanation, their inclusion is not mandated by the statute.

Fourth, paragraph (c)(1)(iv), reflecting a portion of § 226.11(f)(2)(ii)(A) of the May draft, makes clear that the creditor must identify third persons receiving amounts on the consumer's behalf. The second sentence of that paragraph provides a special exception in the case of amounts forwarded to public officials or governmental agencies. These amounts typically include such items as notary fees, fees paid to a department of motor vehicles for licenses and fees paid to public officials for filing or releasing a security interest. Creditors need not list each individual official or agency receiving these amounts, but may consolidate them under a single heading such as "government officials" or "government agencies."

To assist creditors in complying with this provision, the Board has included in Appendix G a model form for explanation of the amount financed. While the Board believes that creditors should be given a considerable amount of flexibility in complying with this requirement, some precision in this aspect of the regulation is necessary and appropriate, both to provide further guidance to creditors and to prevent unnecessary confusion to consumers. Therefore, the Board proposes to apply several specific guidelines to completion of these forms and requests comment on them. First, the categories shown in the list must be mutually exclusive. For example, any amounts included in the prepaid finance charge should not be reflected in amounts paid to third parties. A credit report fee is often paid to third parties and in a nonrealty transaction is part of the finance charge. If this amount is paid at consummation of the transaction, it consitutes a prepaid finance charge that must be included in the total disclosed under paragraph (c)(1)(i) and not reflected in the list of amounts shown under paragraph (c)(1)(iv).

Second, the model form does not require the amounts to be shown in any mathematical order or progression. In the Board's view, the categories required by the act do not, without the addition of further categories, lend themselves to an arrangement in a mathematical progression in most cases. In the interest of simplification, the Board does not believe that the inclusion of further disclosures or instructions in order to arrange the terms in an arithmetic manner would be appropriate. Third, as noted above, the Board has created one category of third party fees which need not be specifically identified beyond "payment to public officials" or similar language. This category is reflected on the model form and the Board solicits comments on any other categories which may be appropriate.

The Board also wishes to draw attention to § G(4) of Appendix G, which provides a special model form for transactions subject to the Real Estate Settlement Procedures Act (RESPA). That act requires creditors to provide a good faith estimate of closing costs which is in many respects similar to the amount financed explanation required by paragraph (c). The legislative history

of the Truth in Lending revisions indicates that Congress intended to allow creditors subject to RESPA to combine these two requirements, and § G(4) provides a special model form for this purpose. The Board solicits comment on its utility and particularly welcomes suggestions on ways to make the form more useful to creditors subject to both acts. The Board also solicits comment on whether the RESPA good faith estimates alone may be sufficient, without further change, and whether creditors subject to RESPA should therefore be exempt from paragraph (c) entirely.

(d) *Finance charge.* This paragraph corresponds to § 226.11(f)(3) of the May draft, and requires disclosure of the finance charge. However, unlike its earlier counterpart, it no longer requires creditors to use the precise descriptive phrase contained in that paragraph.

(e) *Annual percentage rate.* Unlike § 226.11(f)(4), its counterpart in the May proposal, this paragraph does not require creditors to use the exact descriptive phrase contained in the provision in describing the term.

(f) *Variable rate.* This paragraph corresponds to § 226.11(f)(5) of the May proposal and requires disclosure of a variable rate provision in a credit transaction. Although the earlier draft eliminated the current requirement for disclosure of hypothetical increases in the rate, the Board now proposes to reinstate that requirement for residential mortgage transactions. For two reasons, the Board believes that information regarding the effects of an increase in the interest rate, at least on the payment schedule, may be warranted in these transactions. First, these transactions typically involve unusually large amounts of money and thus represent the most important credit transaction entered into by a consumer. Second, variable rate provisions are becoming increasingly common in such transactions. Therefore, the Board proposes to require creditors in residential mortgage transactions to provide consumers with an example of the payment terms which could result from an increase under a variable rate provision.

No specific numerical basis for the hypothetical is required, unlike the ¼ of 1% basis required by the present regulation. In view of the enormous variety in variable rate provisions, the Board does not believe that any specific requirement in the regulation will necessarily reflect the best example for a particular creditor's plan. Therefore, the Board proposes to allow creditors to design the hypothetical disclosures, based on the terms of the individual plan. Comment is solicited on this matter.

This proposal eliminates two footnotes to the variable rate disclosure requirement, which are contained in the May proposal. These footnotes relate to the types of rate increase subject to the disclosure requirement and the types of limitation on increases not intended to be subject to this provision. In the Board's view, the material contained in those footnotes is merely intended to elaborate on the regulatory language and is more appropriate for the commentary. As stated in those footnotes, the limitations referred to in paragraph (f)(2) do not include any limits imposed by law, such as state or federal statutes or regulations, nor does paragrah (f) apply to increases resulting from delinquency (including late payment), default, assumption or transfer of the collateral.

This paragraph is also intended to address the substance of FC–0172, a recent official staff interpretation regarding renegotiable rate mortgages. That interpretation, effective September 23, 1980, permits creditors to disclose such transactions as either variable rate transactions or ballon payment mortgages, since they share the characteristics of both of those types of transactions. As emphasized in that interpretation, this alternative treatment is intended to be a temporary measure until the question can be resolved under the revised regulation. The Board now proposes to treat these mortgages as variable rate transactions subject to the disclosure requirements of § 226.18(f), in the belief that they more closely resemble true variable rate transactions. Thus, as of March 31, 1982, when the interpretation expires, the disclosures required by this paragraph, as ultimately adopted by the Board, must be made in conjunction with these transactions.

(g) *Payment schedule.* This paragraph, which requires disclosure of the payment schedule, is unchanged from § 226.11(f)(6), its counterpart in the May proposal, but the Board wishes to address several issues raised by the comments on this provision.

First, as indicated in the May proposal, "timing" has the same meaning as the language "due dates or periods" used in the current regulation. As in the May draft, the requirement in the current regulation for labelling an unusually large payment as a "balloon payment" has been eliminated.

Second, a number of comments on the footnote to this paragraph reflected some misunderstanding of the application of the footnote. As an alternative to showing each payment, the footnote allows an abbreviated disclosure of payment schedules involving varying payment amounts. If the amount of one payment in a group of payments is not more than five percent greater than the smallest payment in that series, the creditor may disclose the largest payment, together with the number of payments at that amount, labelling the disclosure as an estimate. This provision may be used for any series of payments within the payment schedule, even where the entire payment schedule contains a variation of more than five percent from the highest to the lowest payment. For example, where the first payment is 12 percent larger than the last payment, the creditor may divide the total payment schedule into three series and base its payment disclosure on the largest payment amount in each of those three series. In addition, the payment schedule variations need not be based on any particular progression. While the example used contemplates a consistent progression from a high first payment to a low final payment, this special provision may be used for different types of variations, including recurring increases and decreases.

The five percent tolerance used in the footnote appears to be adequate to encompass the most common variable payment transaction, based on the information currently available. However, the Board would consider a slightly larger tolerance if further comments indicate that a small increase in this standard would enable many more transactions to take advantage of this rule. Specific comment regarding this issue is solicited.

Third, a number of commenters asked whether the payment schedule might include amounts beyond the amount financed and finance charge. Official staff interpretation FC–0157 permits certain insurance premiums to be included in the payment schedule disclosure, even though the premiums are not part of either the amount financed or the finance charge in the transaction. Real estate escrow amounts, such as taxes added to the payment in mortgage transactions, represent another type of charge which is not part of the amount financed or the finance charge. The Board proposes to define the "payments" referred to in paragraph (g) as those which reflect only the amount financed and finance charge for the transaction, which would exclude those escrow amounts and charges of the type described in FC–0157.

Fourth, several commenters inquired about the continued applicability of official staff interpretation FC–0123

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under the proposed regulation. That interpretation makes clear that prepaid finance charges, such as interim interest collected at consummation of the transaction, are not considered "payments" within the meaning of paragraph (g) and should not be reflected in the payment schedule. That interpretation remains valid, but the Board does not believe any revision to the regulation itself is necessary to specifically incorporate that position.

Fifth, a number of commenters requested clarification of the status of Board Interpretation § 226.808 under the proposed regulation. That interpretation permits creditors to make an abbreviated payment schedule disclosure where the application of a rate to a declining balance creates irregular payment amounts. That interpretation would be eliminated but many transactions currently taking advantage of it will be able to use the special rule provided in the footnote to paragraph (g) as an alternative.

(h) *Total of payments.* This paragraph, requiring disclosure of the total of payments, contains one substantive and two editorial changes from § 226.11(f)(7) of the May proposal. First, creditors may base the total of payments on the exact payment schedule, even though they utilized the five percent tolerance in disclosing the payment schedule.

Second, the suggested descriptive language has been changed, in response to many comments regarding the tense used in the phrase.

Third, a footnote incorporates the substance of § 226.11(f)(17)(iii) of the May draft, permitting creditors to omit disclosure of the total of payments in single-payment transactions. This exception would not apply to a transaction calling for a single payment of principal combined with periodic payments of interest.

(i) *Demand feature.* This paragraph, which requires special disclosures for demand obligations, amends the language of § 226.11(f)(8) of the May draft from "obligation is payable on demand" to "obligation has a demand feature." This change is intended to clarify that the disclosure requirements of this paragraph would apply to transactions which are not payable on demand at the time of consummation but convert to a demand status after a stated period. The transaction described in Board Interpretation § 226.816 is an example of one such transaction. As discussed in § 226.17(c)(5), the transactions addressed in that interpretation would be considered demand obligations subject to paragraph (i).

The type of demand feature triggering the disclosures required by this paragraph is intended to include only those demand features contemplated by the parties as part of the agreement. For example, this provision would not apply to transactions which convert to a demand status as a result of the customer's default.

Board Interpretation § 226.815 provides a special rule for disclosure of the payment schedule and other terms in a demand obligation. This interpretation will not be incorporated into the revised regulation. Demand obligations will be subject to the same disclosure requirements as other transactions, including requirements for disclosure of the payment schedule. Thus, if a demand loan calls for periodic interest payments, the number, amounts and timing of those payments must be disclosed under paragraph (g). In the Board's view, since other demand loan disclosures (in the absence of an alternate maturity) are based on an assumed one-year maturity, the payment schedule disclosure should also be based on the same term. However, comment is solicited on this issue.

A model clause for disclosure of a demand feature is provided in § G(7) of Appendix G. The Board solicits comments on any alternative language that might be provided for this model, particularly in view of the revisions to this paragraph.

(j) *Total sale price.* This paragraph, which requires disclosure of the total sale price in a credit sale transaction, is substantially similar to § 226.11(f)(9) of the May proposal. The reference to downpayment in the descriptive language accompanying that term prompted many questions from commenters regarding the continued availability of Interpretation § 226.504, dealing with deferred downpayments. As discussed in § 26.2, a new definition of downpayment has been added to the regulation to address these questions.

Since all the disclosures required by § 226.18 need be made only "as applicable," creditors may revise the descriptive language for this paragraph to eliminate any reference to a downpayment, in transactions calling for no downpayment. For example, the descriptive explanation may state "the total price of your purchase on credit."

(k) *Prepayment.* This paragraph requires that the consumer be told whether or not a penalty will be imposed or a rebate given in the event of prepayment of the obligation in full. It has been substantially revised from both § 226.11(f)(10) of the May proposal and § 226.8(b) of the current regulation.

Paragraph (k)(1) corresponds generally to § 226.11(f)(10)(ii) of the May proposal and applies to simple interest obligations. Paragraph (k)(2) reflects § 226.11(10)(i) of the May draft and covers transactions involving precomputed finance charges. These two paragraphs, like §§ 226.8(b)(6) and 226.8(b)(7) of the present regulation, are intended to distinguish two separate types of transactions according to the nature of the finance charges imposed. The Board recognizes that this distinction has been the source of confusion, compounded by the fact that a single transaction may actually include both types of charges.

The current proposal represents an effort to provide further guidance on the distinctions between these types of transactions. Paragraph (k)(1) defines simple interest obligations very narrowly to include only those transactions in which the interest calculation takes account of each reduction in principal. Paragraph (k)(2) encompasses any finance charges which do not meet the requirements of paragraph (k)(1) and in that sense is a much more inclusive category. The Board recognizes that such an approach may exclude from the first paragraph certain types of charges, such as mortgage insurance premiums, which may be calculated on the basis of a declining principal balance but do not take into account each principal reduction. In the Board's view, while alternative approaches may also have merit, a precise and easily-applied rule is necessary to alleviate confusion regarding these disclosures. The Board specifically solicits comment on this approach.

In addition to the change described above, paragraph (k) has been revised in several other respects. Paragraph (k)(1) now states "whether or not a penalty may be imposed," rather than "if a penalty will be imposed." The substitution of "whether or not" for "if" more accurately reflects the statutory language, although the Board recognizes that this language may be interpreted as requiring a negative disclosure where no penalty is imposed. The change in tense is designed to alleviate the concerns expressed by commenters regarding the use of the phrase "will be imposed." Many credit contracts call for the imposition of prepayment penalties only if the loan is paid off within a certain period after consummation or under other special circumstances and commenters were concerned that an absolute statement regarding imposition would be misleading. Even where the contract places conditions on the

imposition of such a penalty, this paragraph requires only a simple statement of wherether or not a penalty may be imposed.

The word "penalty," as used in paragraph (k)(1), encompasses only those charges which are assessed strictly because of the prepayment in full of the obligation, as an addition to all other amounts. Charges assessed or contemplated at the outset of the transaction, such as points in a mortgage loan, would not be considered a penalty for purposes of this paragraph.

Paragraph (k)(2) eliminates any reference to "precomputed finance charges," which has been the source of some confusion, but, in a substantially revised form, continues to require the same information currently required. The focus of the disclosure has been shifted, however, from whether the consumer may receive a rebate to whether the consumer may be excused from paying the entire finance charge if the obligation is prepaid in full. Comment is solicited on this proposal.

Paragraph (k) has also been revised by the addition of the phrase "whether voluntarily or not" in response to questions regarding the type of prepayment subject to this provision. Although acceleration is no longer specifically addressed in the paragraph, the language used is designed to encompass prepayments resulting from acceleration as well as other events.

(l) *Late payment.* This paragraph, which requires disclosure of late payment charges, is unchanged from § 226.11(f)(11) of the May proposal, but the Board wishes to address several issues raised by the comments regarding this provision.

First, as noted in the May proposal, this disclosure relates only to charges imposed before maturity; unlike the current regulation, it requires no disclosure of default charges. If the creditor considers the loan as in default, any charges assessed as a result would not be disclosed under this paragraph. The only charge that must be disclosed under paragraph (1) is an additional charge incurred solely by reason of a late payment. Previous staff opinion letters such as official staff interpretation FC–0054, relating to the proper disclosure of default charges, will not be incorporated into the new regulation since the questions they address will no longer arise.

Second, the continued accrual of simple interest at the contract rate between the payment due date and the actual payment date does not constitute a late payment charge, as that term is used in this paragraph. The additional interest assessed for this period is not disclosable under this paragraph.

(m) *Security interest.* This paragraph, requiring disclosure of a security interest, has been revised from § 226.11(f)(12) of the May draft by the deletion of the second sentence, relating to after-acquired property. Disclosure of this provision is not mandated by the statute and the Board believes that its elimination is in accord with the goals of simplification.

As noted in the May proposal, this disclosure has been significantly reduced by statute from its counterpart in the current regulation. The paragraph no longer requires disclosure of the type of security interest taken. In addition, the creditor need not further describe the property to which the security interest attaches if the property purchased with the credit serves as collateral for the obligation. The Federal Register material accompanying the May proposal limited this aspect of the paragraph only to credit sale transactions. Under the new proposal, however, any transaction in which the credit is being used to purchase the collateral is considered a purchase money transaction and may use the more abbreviated property identification disclosure required for those types of transactions, even when the obligation does not meet the definition of a credit sale.

In non-purchase money transactions, the property subject to the security interest must be identified by "item or type." This disclosure would be satisfied by a general disclosure of the category of property subject to the security interest, such as "household goods." At the creditor's option, however, a more precise identification of the goods may be provided.

The question of what constitutes a security interest that must be disclosed under this paragraph is addressed in the definition of a security interest in § 226.2 of the proposal. As noted in that discussion, the definition is much narrower than that used in the current regulation. It excludes many incidental property interests, such as an interest in insurance proceeds, unearned insurance premium rebates, accessions and improvements.

(n) *Insurance charges.* This paragraph requires disclosure of the information outlined in § 226.4(d), if creditors wish to exclude credit life and property insurance premiums from the finance charge. The only revision to this paragraph is the substitution of the word "items" for the word "disclosure," with no change in meaning intended.

As noted in discussion of § 226.17(b)(1), this disclosure is one of three § 226.18 terms which may appear apart from the other disclosures. If this disclosure is made separate from the other transactional disclosures, it may appear with any other information, including the amount financed explanation, any information prescribed by state law or other supplementary material.

Several commenters asked that the Board authorize as part of this disclosure the statement that insurance coverage is based on an acceptance of the insured by the insurance carrier. This statement is not required by the regulation and, in the Board's view, its inclusion would be contrary to the goals of simplification. If the creditor wishes to make the statement, it must be treated as additional information and appear apart from the segregated disclosures.

(o) *Excludable charges.* This paragraph, § 226.11(f)(14) in the May draft, requires disclosure of certain charges associated with a security interest, if the creditor wishes to exclude those charges from the finance charge. This disclosure is identical to its counterpart in the May proposal and, like paragraphs (a) and (n) above, is one of three disclosures which may appear, at the creditor's option, apart from the other § 226.18 disclosures.

(p) *Contract reference.* This paragraph, requiring a reference to the contract documents for certain additional information, has been revised from § 226.11(f)(15) of the May proposal by the addition of a second sentence. This amendment permits the creditor to include in the statement a reference to contract information regarding a security interest and the creditor's policy regarding assumption of the obligation. While these items are not part of the information required by § 128(a)(12) of the act, the Board believes that their inclusion may be useful to consumers and solicits comment regarding this provision. Comment is also solicited on whether these references should continue to be at the creditor's option or should be made mandatory.

The Board also solicits comment on whether the language of paragraph (p) should be used precisely in complying with the regulation or whether creditors may alter this statement to provide further information. For example, several creditors asked whether a reference to the specific contract document, such as "promissory note" or "retail installment contract," could be substituted for the more general phrase "contract document." The Board is also considering whether the statement required by this paragraph may be

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divided and its component parts placed with the particular disclosures to which they relate. For example, the statement "see your contract for further information regarding prepayment" could accompany the disclosure made under paragraph (k) if this approach were adopted. Comment is specifically solicited on this aspect of paragraph (p).

(q) *Assumption policy.* This paragraph, which requires creditors in residential mortgage transactions to state their assumption policy, is based on § 226.11(f)(16) of the May proposal. It has been amended to emphasize that an absolute statement of assumability is not required. Many creditors expressed concern that the May proposal would commit them to permitting assumptions, when their assumption policy was based on a variety of circumstances which could not be foreseen at the time the disclosure is made. The language of this proposal requires only that the consumer be told whether or not a subsequent purchaser "may be permitted" to assume the obligation on its original terms. A footnote has been added to this paragraph to clarify the meaning of the phrase "original terms."

Section 226.19—Certain residential mortgage transactions.

This section, which implements § 128(b)(2) of the act, was previously reflected in § 226.11(g) of the May draft. It requires early disclosure of credit terms in residential mortgage transactions that are subject to the requirements of the Real Estate Settlement Procedures Act (RESPA). Truth in Lending disclosures must be given either within three business days after the creditor's receipt of a written application from the consumer or before consummation, whichever is earlier. The three-day requirement coincides with the time period within which creditors subject to RESPA must provide a good faith estimate of settlement costs.

While paragraph (a) is unchanged from § 226.11(g)(1) of the May proposal, many commenters requested that "application" be more precisely defined. In light of congressional intent that RESPA and Truth in Lending disclosures be coordinated, the Board proposes to use the same definition of "application" as is used in RESPA. That act provides that disclosures must be given for each "written application on an application form or forms normally used by the lender." If a lender does not use written applications, disclosures must be given within three days after any information about an applicant is committed to writing. Comments were received suggesting several different definitions of "application," and the Board solicits comment on its choice of the RESPA definition.

Several commenters asked that regardless of how "application" is defined, the regulation exempt from the disclosure requirements any applications that are rejected by a creditor within three days. In the Board's view, Truth in Lending disclosures are not necessary where the creditor knows within that period that no transaction will occur and the Board proposes to exempt creditors from making disclosures in such cases. Comment is solicited on this issue.

The change from the May draft's definition of "business day" should alleviate some of the problems raised by creditors with regard to making disclosures under this paragraph. The new definition includes only days on which a creditor's offices are open to the public for carrying on substantially all business functions and creditors may measure the three business day period according to their own business practices.

The tolerance governing whether new disclosures must be made at a later time, which is contained in paragraph (b), has been revised from its counterpart in § 226.11(g)(2) of the May draft to reflect the new proposed tolerance in § 226.22. The general tolerance continues to be ⅛ of 1 percentage point above or below the annual percentage rate originally disclosed, but irregular transactions will now be measured against a new tolerance of ¼ of 1 percentage point. This wider tolerance would be available for any transaction involving multiple advances, irregular payments or irregular periods.

Paragraph (b) has been significantly amended to require rediscloure only of changed terms, rather than a complete set of new disclosures, in the event that the annual percentage rate is determined to be beyond the tolerance. Many commenters suggested this alteration to alleviate the burden of rediscloure. They expressed concern that rediscloure would normally be required because the annual percentage rate between the time of application and the time of consummation would usually vary by more than ⅛ of 1 percentage point. Comment is requested on how frequently the problem of rediscloure would arise, particularly in light of the increased tolerance, and on whether rediscloure of only changed terms would alleviate this problem.

Section 226.19 has been changed from § 226.11(g) of the May draft to require that rediscloure be made not later than consummation, instead of not later than consummation or settlement. Commenters were confused as to whether these terms were intended to signify one event or two different events since consummation and settlement do not occur at the same time in some jurisdictions. In addition, the term "settlement" could refer to any one of a number of events occurring during the settlement process. In the Board's view, limiting rediscloure to "consummation," which is a defined term, will help to simplify and add certainty to the regulation. This approach may also best effectuate the congressional intent to coordinate Truth in Lending and RESPA disclosures.

Several commenters asked that the Board clarify the relationship between the good faith estimates of settlement costs required under RESPA and the explanation of the amount financed required under Truth in Lending. The legislative history indicates that Congress envisioned a combined disclosure which could satisfy the requirements of both statutes and a model form for that purpose has been provided in §G(4) of Appendix G.

The Board recognizes that a variety of special types of mortgage transactions have become increasingly common in the housing finance industry and are not specifically addressed in the regulation. These include so-called "wrap-around mortgages" such as that addressed in official staff interpretation FC–0146, mortgages with demand features similar to those discussed in Board Interpretation § 226.816, and "shared equity" or "shared appreciation" mortgages. This last type of transaction may involve numerous variations in individual plans, but is characterized by two types of charges. First, it bears a fixed rate of interest set below the prevailing market rate. In addition, the loan is subject to "contingent" interest, based on a specified percentage of the borrower's equity in the mortgaged property. This portion of the charge is payable at the earlier of payment in full of the obligation, or the sale or transfer of the property. For example, the monthly amortization payments on the obligation may be based on a fixed interest rate of 9%; on the subsequent sale of the property, the borrower is also obligated to pay the creditor an amount equal to 40% of the net appreciated value of the property. Several of these plans have been subject to regulation by the Federal Home Loan Bank Board. The Board solicits comment on whether these transactions warrant specific treatment in Regulation Z. Comment is particularly welcome on the special disclosure problems, if any, posed by such transactions and on whether their coverage by other regulations should affect the application of Regulation Z to them.

Section 226.20—Subsequent disclosure requirements.

(a) *Refinancings.* This paragraph substantially alters the concept of refinancing, as that term is defined in § 226.11(i) of the May proposal and § 226.8(j) of the current regulation. The two latter provisions generally define a change in the original terms as a refinancing, subject to a variety of exceptions and special rules. Under the new proposal, a refinancing which requires new Truth in Lending disclosures occurs only when an existing obligation is satisfied and replaced by a new obligation.

The focus of Truth in Lending disclosures, at least with respect to closed-end credit transactions, is on providing consumers with information about credit terms before they enter into a transaction. The act itself does not address events occurring after consummation; the concept of refinancing, as well as other post-consummation events such as an assumption, was added to the regulation by the Board. The Board's primary concern in creating this concept was to address the practice of "flipping," in which a loan involving precomputed finance charges is prepaid and replaced with a new obligation. Depending on the rebate method used in calculating unearned finance charges on the existing obligation, this practice may permit lenders to obtain a higher yield on the loan than they would have obtained had the loan been paid off according to its original terms. While the refinancing provision does not prohibit this practice, it may provide consumers with useful information regarding its effect on the cost of credit.

The standard used in the current regulation to define a refinancing requiring new disclosures has been very difficult to apply, as evidenced by the many letters, interpretations and special rules which have evolved from this provision. Particularly in view of the fact that this concept is purely a creature of the regulation, the Board believes that the current revision of the regulation presents a unique opportunity to thoroughly reexamine this approach and explore alternatives.

While the May proposal differed somewhat from the current regulation, it retained the present approach of treating any change in terms as a refinancing, subject to a number of exceptions listed in §§ 226.11(i) (2), (3) and (4) of that proposal. Many commenters criticized this approach as unnecessarily broad and suggested that the Board define refinancings in a manner similar to the way in which that term is used in the credit industry, to refer only to the extinguishing of a debt and its substitution with a new obligation.

For three reasons, the Board now proposes to adopt this substantially altered definition of refinancing. First, the Board believes that this definition most closely resembles the types of transactions intended to be covered by the original refinancing concept. Second, the proposal focuses specifically on those changes that are most analogous to new credit transactions and thus represent true credit-shopping events. Third, the proposal may provide a simpler and more precise standard for determining when a refinancing requiring a new disclosure occurs.

The Board recognizes that this standard may substantially alter the distinctions drawn in the current regulation and related interpretations between refinancings and changes not requiring new disclosures. The Board solicits comment on this proposal and particularly on how it would affect those changes in terms that were specifically exempted from the refinancing definition in the May proposal. These changes include deferrals of payments, reduction of the annual percentage rate, court-approved agreements, renewals of single-payment obligations and changes made as a result of default.

(b) *Assumptions.* This provision has been revised from § 226.11(j) of the May draft to clarify when new disclosures must be given to an assuming party. First, the provision applies only to residential mortgage transactions, which represent the type of transaction in which assumptions are most common and most important.

Second, the provision has been revised to require new disclosures only where the agreement to accept a new obligor is in writing. This is the standard used under the present regulation for determining whether disclosure responsibilities arise. Comment was solicited in May about whether the writing requirement should be retained or eliminated and the commenters overwhelmingly favored its retention.

Finally, the word "expressly" has been added to the first sentence to stress that the creditor has disclosure responsibilities only when it has specifically agreed to accept another person as an obligor.

Mere approval of creditworthiness or notification of a change in records would not constitute an assumption. The retention of the original consumer as an obligor on the transaction, however, does not prevent the change from constituting an assumption for purposes of the regulation.

Some commenters expressed concern about use of the term "subsequent consumer," particularly since it might include guarantors added after consummation of a transaction. The provision has been revised so that only those parties who become primary obligors will receive new disclosures.

The Board wishes to emphasize two additional points regarding the scope of paragraph (b). First, it applies only to consumer credit obligations that are assumed by another consumer. It does not address whether a consumer taking over the obligation of a corporation, for example, is entitled to Truth in Lending disclosures. Second, it applies only when the terms of the existing obligation are unchanged (except for the imposition of an assumption fee). If the interest rate on an obligation is increased when a new party is accepted on a mortgage loan, this would not be considered an assumption governed by this provision, but rather would be considered a different transaction altogether, to be measured against the general standard of coverage of Regulation Z.

The provision continues to require that assumption disclosures be based on the remaining obligation, which may include items such as payment arrearages, late payment charges and collection costs. If these items are part of the obligation undertaken by the subsequent customer and are not prepaid, they should be reflected in the new amount financed.

Some commenters on the May proposal requested further guidance on the content of assumption disclosures and suggested that the substance of present Board Interpretation § 226.807 be incorporated. Simple interest transactions do not appear to require special rules in the new regulation, but the Board solicits comment on whether it is necessary to provide special rules for other types of transactions. Comment is requested on what specific problems would be faced in making new disclosures on all obligations, how frequently the problems would arise, and how those problems should be handled in the final regulation.

Section 226.21—Treatment of credit balances.

This provision is new and establishes requirements for the treatment of credit balances. It implements § 165 of the act, the scope of which has been broadened to apply to any type of credit account, not merely open-end accounts.

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The act provides that a credit balance in excess of $1 created by (1) transmittal of funds in excess of the total balance due on the account, (2) rebates of unearned finance charges or insurance premiums, or (3) amounts otherwise owed to or held for the benefit of an obligor must be either credited to the consumer's account or refunded upon the consumer's request. With respect to closed-end credit, the Board believes these requirements will be applicable to such situations as the debtor paying off a loan by transmitting funds in excess of the total balance due on the account, and the early payoff of a loan entitling the debtor to a rebate of title insurance premiums and finance charges. In the Board's view, the statutory language regarding "total balance due" refers to repayment of the total outstanding balance. Thus, this provision would be inapplicable where the customer has simply paid an amount in excess of the installment payment due for that period.

The act requires the creditor to make a good faith effort to refund to the consumer any part of the credit balance remaining in the account for more than six months. When the consumer's current location is not known by the creditor, the statute contemplates that the minimum tracing requirement will include use of both the consumer's last known address and telephone number. A creditor is not required to trace the consumer when the amount of the credit balance is less than $1. If the consumer cannot be traced, the Board believes that the disposition of the money remaining in the account after six months is a matter of state law. The fact that a consumer cannot be traced through the last known address or telephone number in no way sanctions the creditor's treating the balance as income or making other disposition of it.

The Board solicits comment on its implementation of § 165 of the act and welcomes views on the application of this section to closed-end credit transactions.

Section 226.22—Determination of annual percentage rate.

This section, formerly § 226.12 of the May draft, has been significantly expanded by the incorporation of a special tolerance for irregular transactions and the temporary reinstatement of the special protection for use of faulty calculation tools. In addition, several minor editorial changes, not intended to affect the substance of the section, have been made.

Section 107(c) of the act authorizes the Board to provide a tolerance greater than ⅛ of 1 percentage point in transactions involving irregular payments. Although the regulation provides a special rule for payment irregularities, this rule is limited to several slight irregularities and has no application to the majority of complex transactions. In view of the potential difficulty of calculating an annual percentage rate in complex transactions and congressional recognition of this fact, the Board believes that a wider tolerance may be appropriate. Therefore, § 226.22(a) has been redrafted to provide a tolerance of ¼ of 1 percentage point for irregular transactions, which the Board proposes to define as those involving multiple advances, irregular payments, or irregular payment periods. The Board specifically solicits comment on the general issue of a wider tolerance for these transactions, as well as on the definition of an irregular transaction, the amount of the tolerance, and whether the allowable tolerance should vary with the size of the transaction. At this time, the Board proposes to retain the special rule in § 226.17(c)(4) along with the new tolerance, so that irregular transactions may utilize either or both of these provisions, but solicits comment on this matter as well.

The May draft would have eliminated the special protection afforded creditors for errors resulting from good faith use of faulty calculation tools, now contained in § 226.5(c) of the current regulation. The Board continues to believe that this regulatory provision will no longer be appropriate or necessary, particularly in light of the expanded defense for such errors in § 130, the civil liability provision of the act. However, several commenters expressed concern about the availability of the amended § 130 defense before April 1, 1982, and requested that a form of present § 226.5(c) remain in the regulation until that time. The Board believes that the continued availability of the special provision is appropriate and proposes to reinstate this protection by the addition of § 226.22(e) to the draft. As noted in paragraph (f)(2) of the section, the special rule would be rescinded as of April 1, 1982. The Board solicits comment on this proposal.

Section 226.23—Right of recission.

(a) *Consumer's right to rescind.* Paragraph (a), which implements § 125(a) of the act, is based on § 226.13(a) of the May proposal. It provides the right to rescind a transaction secured by the consumer's principal dwelling. As in the May draft, the right applies to any property, personal or real, used as the consumer's principal dwelling at the time the security interest is retained. However, paragraph (a)(1) differs from the earlier draft in that the statutory language "is or will be" has been reincorporated. The Board believes that this phrase may be necessary to clarify that security interests not retained at consummation of the transaction may still give rise to the right of rescission. For example, materialmen's or mechanic's liens arising by operation of law may not arise until performance has begun. The right of rescission may still be applicable in such transactions, even when the security interest has not yet been created.

Under paragraph (a)(1), any consumer whose principal dwelling is subject to a security interest may rescind. Section 226.2 defines "consumer" to include a comaker, endorser, guarantor, surety or similar person who may be obligated to repay the extension of credit. The Board believes that this definition encompasses persons who are not parties to the credit agreement but who have signed the security agreement. Therefore, a joint owner in this situation must be given the right of rescission, if the property represents that consumer's principal dwelling.

Several commenters requested further guidance regarding the effect of materialmen's liens, as well as other liens arising by operation of law, on the right of rescission. In order to give rise to the right of rescission, the security interest must be retained "in the credit transaction." A materialmen's lien obtained by a contractor who is not a party to the credit transaction, but merely receives the proceeds of the consumer's unsecured bank loan, does not create a rescindable transaction between the bank and the consumer. The security interest is in that case not a term of the *credit* transaction but is obtained by an unrelated third party. However, a security interest acquired by a contractor who is the creditor in the transaction creates a rescindable transaction, because the security interest is retained in connection with the credit extension. The same result occurs when a materialmen's lien is retained by a subcontractor of a creditor-contractor, even when the latter has waived its rights under the law. In the Board's view, the subcontractor is acting as the agent of the creditor-contractor in such cases and the security interest therefore forms part of the credit transaction. This position incorporates current Board Interpretation § 226.901.

The footnote to paragraph (a)(1), dealing with addition of a security interest to an existing obligation, has been expanded in two ways. First, only the notice required by paragraph (b), and not new material disclosures, need be delivered in such cases. Second, the footnote specifically provides that the rescission period is triggered by delivery of the rescission notice.

Paragraph (a)(2) reflects both the existing regulation and the May draft. It provides that the consumer's written notification that the transaction has been rescinded is considered given to the creditor when mailed or filed for telegraphic transmission. Although many commenters requested that notification be considered given upon receipt by the creditor, the Board believes that the existing rule best serves the purposes of this provision. Many of these comments were prompted by a misunderstanding of the effect of this rule. The Board wishes to emphasize that the 20-day limit on the obligations in paragraph (d) runs from receipt of the notice, not the time of mailing.

Paragraph (a)(3) has been revised to clarify that the rescission period runs from the last of three events: Consummation, delivery of the rescission notice required by paragraph (b) of this section, and delivery of the material disclosures. The rescission notice and material disclosures need not be delivered at the same time. The material disclosures as defined in the footnote are intended to be exhaustive. For example, they do not include an explanation of the amount financed or information regarding the security interest. Moreover, for purposes of rescission, the material disclosures need not be accompanied by descriptors.

The last portion of paragraph (a)(3) provides for termination of an unexpired right of rescission three years from consummation or upon the transfer of the property, whichever comes first. Transfer of the property means any transfer of the consumer's entire interest. Both voluntary and involuntary transfers, including a foreclosure sale, terminate the right to rescind.

The rule in § 226.9(f)(1) of the current regulation has been added as paragraph (a)(4) to clarify that transactions in which more than one consumer's ownership interest is at risk may be rescinded by any one of the consumers involved.

(b) *Notice of right to rescind.* This paragraph has been revised in four ways. First, the proposal reinstates the requirement that creditors provide two copies of the notice. Second, the phrase "to each consumer entitled to rescind" has been added to clarify that the creditor must deliver the copies to all consumers whose ownership interest in the dwelling secures the obligation. Third, a new disclosure requirement, the date of expiration of the rescission period, has been added as paragraph (b)(5). Fourth, creditors must identify the transaction to which the right applies. This may be done, for example, by giving the date of the transaction.

The notice in Appendix G provides a model for creditors to use in complying with this requirement, although that form need not be used. The creditor may provide a separate form that a consumer may use to exercise the right of rescission or that form may be combined with the other rescission disclosures, as is done in the Board's model form. Creditors may designate an agent to receive notice from consumers.

(c) *Delay of creditor's performance.* Paragraph (c) restates § 226.9(c) of the existing regulation and § 226.13(c) of the May draft, with minor editorial changes.

(d) *Effects of rescission.* This paragraph differs from § 226.13(d) of the May draft in four respects. First, it has been divided into subparagraphs in order to more clearly delineate the obligations of the creditor and the consumer. Second, in addition to the change in format, the statutory word "tender" has been reinstated in place of "offer" because the terms may not be synonymous under state law.

Third, the paragraph has been revised to clarify that the consumer's option to tender at the location of the property or at the residence, rather than at the creditor's place of business, applies only to the tender of goods and materials. A tender of money must be made at the creditor's place of business.

Fourth, the paragraph uses the term "calendar days" in describing the time periods within which the creditor must return any money or property and reflect the security interest termination, and subsequently take back any money or property tendered by the consumer. This editorial change reflects the staff's longstanding interpretation of this provision.

Many commenters requested that the Board allow creditors to utilize offsets, escrow agreements and other similar alternative methods of complying with their reponsibilities in a rescinded transaction. However, the Board believes that, in view of the act's specificity in this regard, it would not be appropriate or necessary to provide further elaboration in this area.

Many commenters also addressed the application of paragraph (d)(2), which requires that the creditor return any money or property given by the consumer as amounts paid to third parties. In the Board's judgment, because section 125(b) of the act requires that creditors return any money or property given as earnest money, downpayments, *or otherwise*, creditors must return all monies including downpayments, application fees and fees paid to third parties. This reflects the position taken in staff interpretations of the current regulation.

(e) *Consumer's waiver of right to rescind.* The paragraph differs significantly from its counterpart in both the May draft and the existing regulation with regard to the nature of the emergency giving rise to a waiver. The emergency need no longer endanger persons or property. The consumer need only determine that the extension of credit is necessary to meet a bona fide personal financial emergency. This standard essentially mirrors that in section 125(d) of the act. The Board believes that the current regulatory implementation of that statutory provision may be unnecessarily narrow and solicits comment on this revision. While the requirements for a waiver would be eased, this provision continues to prohibit the use of preprinted forms for this purpose, in order to prevent any abuse of the waiver rule.

(f) *Exempt transactions.* The changes made in this paragraph are generally editorial and are not intended to alter the substance of the May draft.

Paragraph (f)(2) incorporates in a revised format the current position taken in Board Interpretation § 226.903 concerning the right of rescission in refinancings.

Paragraph (f)(4) corresponds to the proposed § 226.11(d), covering series of advances and series of single-payment transactions. Just as new disclosures need not be made for subsequent advances, no new rescission rights arise so long as the appropriate notice was provided at the outset of the transaction. Subsequent advances for renewal premiums addressed in Board Interpretation § 226.814 would also come within this exemption.

Paragraph (f)(5) of the May draft, which concerned subsequent subordination of a security interest, has been deleted as unnecessary because the right of rescission no longer depends on the priority status of the lien.

Section 226.24—Advertising.

Section 226.24 contains rules for advertising closed-end consumer credit. It is based on § 226.14 of the May proposal but contains several substantive and editorial revisions.

(a) *Actually available terms.* This paragraph corresponds to paragraph (a)(1) of the May draft and requires that advertisements state only those terms that the creditor is actually prepared to

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offer. Several commenters suggested retaining the "will arrange" language of the current regulation so that creditors may also advertise limited or unusual credit terms. The deletion of such language is not intended to inhibit the promotion of new credit programs, but to prohibit the advertising of terms which the creditor does not actually intend to offer. For example, a creditor may not advertise a very low annual percentage rate that will not in fact be available at any time, but may advertise a rate that will be offered for only a limited period.

Section 226.14(a)(2) of the May draft, prohibiting inaccurate or misleading advertising, has been deleted as unnecessary. Many commenters expressed concern about this provision, which they believe is already adequately addressed in a variety of other laws.

(b) *Advertisement of rate of finance charge.* Paragraph (b) requires that advertised rates be stated in terms of an annual percentage rate. As in § 226.18(f), relating to disclosure of a variable rate, the rate increase disclosure requirement in this paragraph does not apply to any rate increase due to delinquency (including late payment), default, assumption, or transfer of collateral.

(c) *Advertisement of terms that trigger additional disclosures.* Paragraph (c)(1) sets forth the credit terms which, if used in an advertisement, require disclosure of the credit terms listed in paragraph (c)(2). Several commenters suggested that the phrase "or otherwise determinable from" be deleted from paragraph (c)(1) because they deemed it too vague a standard for determining when a trigger term has been stated. This phrase was included in the May draft to cover such promotional statements as "80% financing available" which is, in fact, indicating that a 20% downpayment is required. The Board believes that this phrase should be retained, to clarify that terms which are implicit from the advertisement trigger further disclosures.

The terms "no downpayment is required" and "no charge for credit" have been eliminated from the list of triggering terms in the new draft. These terms are not mandated by the statute.

The footnote to this paragraph reflects Board Interpretation § 226.1001, which deals with the advertisement of credit terms when all credit sales or loans are not made on the same basis. The advertisement of credit terms may be made by giving one or more examples of typical extensions of credit and stating all of the terms applicable to each example. The examples must be labeled as such and must reflect representative credit terms that are made available by the creditor to present and prospective customers.

A number of commenters suggested that paragraph (c)(2)(i), relating to downpayments, be clarified to indicate that it is applicable only to credit sale transaction. Since the term "credit sale" has now been incorporated into the definition of downpayment in the new draft of the regulation, a specific reference to credit sales appears unnecessary in this paragraph.

Paragraph (c)(2)(i) has been revised so that creditors may state either the amount or percentage of the downpayment. When a transaction involves no downpayment, creditors need not state that fact.

Paragraph (c)(2)(ii) has been revised to read "terms of repayment," as provided in the statute, instead of "number, amounts and timing of repayment." This change is designed to provide greater flexibility to creditors in making this disclosure. Repayment terms may be expressed in a variety of ways in addition to the exact repayment schedule. For example, a creditor may use a unit-cost approach in making the required disclosure, e.g., "48 monthly payments of $27.83 per $1,000 borrowed." As another example, in an advertisement for credit secured by a dwelling, when any series of payments varies because of a graduated payment feature or because of the inclusion of mortgage insurance premiums, a creditor may comply with paragraph (c)(2)(ii) of this section by stating the number and timing of payments, the amounts of the largest and smallest of those payments, and the fact that other payments will vary between those amounts. This example corresponds to § 226.14(d) of the May draft of the regulation and reflects Board Interpretation § 226.808 of the current regulation.

Several commenters argued that residential mortgage transactions should be completely exempted from the advertising restrictions, on the grounds that the annual percentage rate is difficult to compute for these transactions and that other information, such as simple interest rates, points and loan fees, is more crucial to consumers for comparison shopping purposes. In the Board's view, the evidence available does not support an exemption of this nature but further comment on this matter is welcome.

(d) *Catalogs and multiple-page advertisements.* Paragraph (d) corresponds to § 226.10(b) of the current regulation. It incorporates the requirement in current Board Interpretation § 226.1002 that the tables or schedules of terms in catalogs include all amounts up to the level of the more commonly sold higher priced property or services. In the Board's view, the remaining portion of that interpretation, regarding the method of computing disclosures and the $1,000 limit on the examples, is unnecessary and its inclusion would be contrary to the concept of simplification.

It should be noted that the May draft of § 226.14 included the disclosure requirements regarding oral responses to inquiries about the cost of credit. Since oral responses are advertisements within the meaning of § 226.2, this provision has been moved to Subpart E of the regulation.

Subpart D—Consumer Leasing

Section 226.25—Definitions.

This section incorporates the definitions in § 226.2 of the May draft that are applicable solely to leasing. Terms that may apply to other provisions of the regulation as well as Subpart D are still defined in § 226.2.

Arrange for a lease. This definition no longer requires that arranging for a lease be a transaction that occurs "regularly," as the definition of "lessor" makes such a requirement unnecessary. Otherwise, this definition is unchanged from the May draft.

Consumer lease. This definition is unchanged from the May draft except to add, for purposes of clarification, that leases which are defined as "credit sales" are not within the definition of a "consumer lease."

As stated in the commentary to the May draft, a month-to-month lease, with no penalty for cancelling before five months and with an obligation to pay only the rental and any accrued and unpaid charges, is not subject to either the credit or leasing provisions of Regulation Z. It is not a credit sale because the consumer does not agree to pay a sum substantially equivalent to, or in excess of, the aggregate value of the property and service involved. It is not a consumer lease because the original term does not exceed four months. This position is consistent with longstanding Board interpretations and is based on the statutory definitions of transactions subject to the Consumer Credit Protection Act.

May commenters objected on this position and urged the Board to extend the coverage of the regulation of these leases. The commenters pointed out that customers may, as a result of unscrupulous business practices, be misled about the true cost of these leases and deprived of important information. While the Board recognizes and shares these concerns, it continues

to believe that such leases are beyond the scope of the act. The act itself does not appear to provide an appropriate vehicle for eliminating abuses in this area and congressional action may be needed to address these concerns.

A month-to-month lease with a penalty for cancelling before five months or with an obligation to pay more than the total of the rental and accrued and unpaid charges may be a consumer lease. However, such a lease would not be a credit sale, because the consumer does not agree to pay a sum substantially equivalent to or in excess of the aggregate value of the property and services involved. It should be noted that requiring notice before termination is not a penalty for the purposes of either the "credit sale" or "consumer lease" definitions.

Lessor. This definition, like the definition of "creditor," has been altered to provide a more reliable guide for determining who has disclosure responsibilities. Under the proposed definition, if a person has extended or arranged for a lease more than 25 times in the calendar year preceding the transaction in question, that person is a lessor and must make disclosures. The Board solicits comment on whether the test is appropriate.

Realized value. This definition is unchanged from the May draft.

Total lease obligation. This definition is substantially unchanged from the definition in the current regulation. However, the proposed definition permits noncapitalized sales taxes on the monthly payments to be included in the scheduled periodic payments in calculating the "total lease obligation."

Value of the property at consummation. This definition is unchanged from the May draft.

Section 226.26—Disclosures.

Section 226.26 of the proposal contains the leasing disclosure provisions and corresponds to § 226.15 of the May draft and the current regulation. Although the proposal retains the organizational framework that appeared in the May draft, it substantively changes the content. New requirements in the May draft that would have altered leasing forms have been eliminated, because the Truth in Lending Simplication and Reform Act did not amend the consumer leasing provisions. Although the Board favors a simplified leasing regulation, it believes that further modifications should await Congressional action. Consequently, this proposal more closely resembles and clarifies the current regulation. The proposal has also been redrafted to mirror certain changes made in the closed-end credit provisions that do not require alteration of disclosure forms.

The leasing forms that appear in current Board Interpretations §§ 116.1501 and 226.1502 are incorporated, without change, in Appendix H of this proposal. The Board invites lessors to submit their consumer leasing forms and to suggest improvements to the forms in Appendix H.

(a) *Time and form of disclosures.* This paragraph corresponds to § 226.15(b) of the May draft. It no longer requires the disclosures to be grouped together and segregated from all other disclosures, because these requirements conflict with the more permissive requirements in section 122(b) of the act. Moreover, the deleted provisions would have required burdensome lease form alterations. The proposal, however, requires the disclosures to be written clearly and conspicuously, as mandated by § 182 of the act.

(b) *Basis of disclosures and use of estimates.* When the lessor lacks the information needed to make accurate disclosures, it must make disclosures based on the best information reasonably available. For example, when determining the estimated value of a leased vehicle at the end of the term, the lessor may use the "blue book" value as the best information reasonably available. In the alternative, the lessor may rely on its objective experience with local used motor vehicle markets and long-term price trends, if that experience better approximates the actual value of the vehicle at the end of the lease term.

Section 226.15(c)(2) in the May draft permitted a lessor to understate the estimated value of the leased property, provided it returned any excess of realized value over estimated value to the consumer at the end of the lease term. This provision has been deleted because it would have required lessors to alter their lease forms. The substance of current § 226.6(f), which provides that a lessor may understate the estimated value only in a purchase option lease, has been reinstated.

(c) *Multiple lessors multiple consumers.* This paragraph corresponds to § 226.15(a) (1) and (2) of the May draft but eliminates the general statements that a lessor must provide disclosures to a consumer. The Board believes that this material is unnecessary and has revised the paragraph to address only multiple-consumer and multiple-lessor transactions, where specific guidance may still be needed. In the first sentence, the word "need" replaces the word "shall" to indicate that more than one lessor is permitted to make disclosures when a lease involves multiple lessors. Only one complete set of disclosures need be given.

(d) *Effect of subsequent events.* This proposal eliminates the provision in the May draft that required new disclosures before consummation if the original disclosures were rendered inaccurate by an event occurring after delivery. For purposes of this paragraph, the act of mailing the disclosures to the consumer constitutes "delivery."

(e) *Content of disclosures.* As in the May draft, the lessor need make only those disclosures that apply to its leasing practices. For example, if a lessor does not secure the performance of a lease by taking a security interest in the consumer's property, the lessor is not required to disclose a security interest under paragraph (e)(12) of this section.

Paragraph (e)(1) clarifies that the consumer to whom disclosures are made is the only consumer whose identity need be disclosed.

Paragraph (e)(4) is substantially unchanged from the May draft. Some examples of payments that are disclosed under this provision are a refundable security deposit, advance payment, capitalized cost reduction, and trade-in allowance. This paragraph retains the May draft provision requiring a "brief description" of the payments. The phrase "brief description" replaces the current regulatory phrase "appropriately identified," although no substantive change is intended.

Paragraphs (e)(6) and (e)(7) are modified to permit lessors to retain their current disclosure forms. The paragraphs now permit, but do not require, the exclusion of charges that were previously disclosed. Lessors who currently include previously disclosed charges in these amounts may continue to do so.

The May draft of paragraphs (e)(10) and (e)(12) required lessors to alter their disclosure forms. This proposal modifies those paragraphs to eliminate the need for any alteration of forms. Paragraph (e)(10) no longer requires a brief description of any maintenance or service contract, while paragraph (e)(12) eliminates disclosure of a security interest in after-acquired property.

Paragraph (e)(12) requires the disclosure of a security interest as defined in § 226.2 and the accompanying explanatory material to that section. This term does not include certain incidental items such as insurance proceeds, unearned insurance premiums, or accessions to property.

The May draft of paragraph (e)(13) added excessive wear or use charges to the list of required disclosures for

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default, delinquency or late payment. Excessive wear or use charges have been deleted from the paragraph, because their disclosure might require lessors to alter their forms. The Board solicits comments on whether excessive wear or use charges are in the category of default charges and whether the inclusion of such charges would alter lease forms. As stated in official staff interpretation FC–0156, paragraph (e)(13) does not require the disclosure of accrued lease charges in a "simple interest" lease when a periodic payment is deferred. This proposal also retains the May draft exclusion of deferred extension charges from the disclosure requirements of paragraph (e)(13). The Board solicits comments on whether the exclusion of these charges is appropriate.

The remaining provisions in paragraph (e) are substantially similar to their counterparts in the May proposal.

(f) *Special disclosures concerning consumer's liability on termination of lease.* Proposed paragraph (f) corresponds to §§ 226.15(b)(13), (14), and (15) of the current regulation, and appears as a separate disclosure provision to emphasize that the disclosures relate only to open-end leases. An open-end lease imposes liability on a consumer at the end of the lease term for the difference between the realized value of the leased property determined at that time and the estimated value disclosed at consummation. The term "realized value" is defined in § 226.25 of the proposal.

Paragraph (f) eliminates two disclosure requirements that appeared in the May draft because they required a change in lessors' forms. Lessors need not disclose whether an appraisal will be based on the wholesale or retail value of the leased property, nor that an appraisal is final and binding only if obtained within a reasonable time. As proposed, this paragraph returns to the substantive requirements of the current regulation.

(g) *Renegotiations requiring new disclosures.* Proposed § 226.26(g) sets forth a new rule for determining when a renegotiation occurs. It states that new disclosures are required only when an existing consumer lease is satisfied and replaced by a new consumer lease.

Paragraph (g) substantially alters the concept of renegotiation that was proposed in the May draft. Under the earlier proposal, any change of a term originally disclosed was considered a renegotiation unless one of several exceptions applied. Commenters criticized the rule as unnecessarily broad, particularly in its coverage of deferred payments and payment schedule changes that result from the consumer's default.

The renegotiation concept is a regulatory creation; it is not addressed in the statute. The Board believes that the current revision of the regulation presents a unique opportunity to thoroughly reexamine this approach and explore alternatives.

The Board is proposing this standard as a simpler and more meaningful rule for determining when new disclosures must be given. It believes that this rule defines more precisely the situations that are analogous to new consumer lease transactions and thus require comparable treatment. Moreover, this approach parallels the revised refinancing provision in § 226.20(a) for closed-end credit. If the parties to a consumer lease agree to change the original terms by creating a new lease that replaces the old lease, new disclosures must be given reflecting the terms of the new lease. An assumption of the lease by a consumer who was not a party to the original lease is not a renegotiation. If terms are changed without extinguishing the existing lease, no disclosures are required under this proposal. For example, if the parties agree to defer one or more payments, no Regulation Z lease disclosure responsibilities arise, as long as the existing lease has not been satisfied and replaced.

The Board solicits comment on whether this standard is workable and whether it would include in and exclude from the category of renegotiations the appropriate situations. The proposal expressly retains the renegotiation exception permitting the substitution or addition of items in a multiple-item lease. The Board contemplates that the substitution of property in a single-item lease, such as an automobile lease, constitutes a renegotiation. The Board is particularly interested in knowing the impact of the proposed rule on certain common changes in terms. These changes include deferrals of payments, the addition or renewal of optional insurance, an extension of the lease term with no other changed terms, a change in collateral requirements, a change in late charges, post-default changes, agreements approved by a court, and an informal oral agreement between the lessor and consumer.

The reference to "an existing lease" includes leases subject to the present Regulation Z as well as those subject to the revised regulation.

(h) *Extensions.* Proposed § 226.26(h) is a new paragraph and corresponds to §§ 226.15(g)(2)(iv) and (g)(3) of the May draft. It requires lessors that extend a consumer lease beyond the original term to abide by the presumptions and duties in section 183(a) of the act.

The extension provisions that appear in the current regulation, the May proposal, and this proposal are regulatory creations. The act does not specifically address the effect of an extension on the lessor's section 183(a) statutory duties. The Board solicits comment on whether it is appropriate to clarify those duties when a lease is extended.

If a lease is extended for one month or less, the lessor must determine the consumer's end-of-term liability on the basis of the original estimated value of the leased property. If a lease is extended for one month or more, on a month-to-month basis or otherwise, the lessor must still comply with statutory section 183(a) duties. Moreover, to clarify the May draft, the proposal requires the lessor to redetermine the estimated value of the leased property when the extension terminates and the property is returned. The estimated value should be reduced by an amount reflecting the depreciation that occurred over the extended time period.

The lessor may use any reasonable method to determine the depreciation that results during an extension; it need not engage in complex recomputations. A new footnote provides a simplified method that the lessor may use to determine the reduced estimated value of the property. Assuming that a portion of each periodic payment reflects the depreciation of the leased property that correlates with the original estimated value, the footnote permits the lessor to subtract the depreciation portion of each periodic payment made during the extension from the original estimated value. If the leased property appreciates instead, this provision is inapplicable. Lastly, if a lessor prefers, it may treat an extension as a renegotiation requiring new disclosures.

Section 226.27—Advertising.

This section is substantially unchanged from § 226.16 in the May draft.

(a) *Actually available terms.* The May draft permitted an advertisement to state only those terms that a lessor "generally arranges or offers." A number of comments were received suggesting that the provision would prohibit lessors from advertising new terms. To prevent such misunderstanding, the paragraph has been amended. The new proposal would require that an advertisement which states specific consumer lease terms state only those terms that the lessor "actually arranges or offers." The Board believes that this language is flexible enough to permit the offering of special programs and new terms while at the same time prohibiting the "bait and switch" practices that paragraph (a) is intended to prevent.

(b) *Advertisement of terms that require additional disclosures.* This paragraph is substantively the same as § 226.16(b) in the May draft.

(c) *Multiple-item leases; merchandise tags.* This paragraph is the same as § 226.16(c) in the May draft, except that it no longer requires that the merchandise tag "clearly" refer to a sign or display, or that the sign or display be "prominently" posted. The requirements of clarity and prominence were vague and might have caused unnecessary difficulty in compliance.

(d) *Catalogs and multiple-page advertisements.* This paragraph is substantively the same as § 226.16(d) in the May draft.

Subpart E—Miscellaneous

Section 226.28—Record retention.

The general rule in paragraph (a) states that records must be retained for a period of two years from the date disclosures must be given. Editorial changes were made in order to more clearly delineate a creditor's responsibilities in this area. The time period is the same for creditors and lessors since the Board is not persuaded of any operational problems with the present rule.

The language regarding the retention of advertising materials has been deleted from paragraph (a) to reflect the fact that advertising is not covered by the record retention provisions. This is in accord with present regulatory requirements, and many commenters objected to the May proposal's coverage of advertising.

This proposal requires, as did the May proposal, that evidence of compliance, "including information sufficient to reconstruct the required disclosure," be maintained. Some commenters expressed concern about this language, but it is not intended to require more information to be retained than under the present regulation, which simply requires that evidence of compliance be maintained. For example, if a creditor normally keeps computer programs, this information would satisfy the record retention requirements; a creditor, however, is not *required* to keep them. As under the present regulation, creditors need not retain each periodic statement.

The word "relevant" has been added to paragraph (c) regarding the inspection of records. This change continues the present regulation's language and is intended to alleviate the concern of some commenters who believed that the May proposal had expanded agencies' rights to inspect information.

Section 226.29—Use of annual percentage rate in oral disclosures.

This section incorporates §§ 226.10(d) and 226.14(f) from the May proposal. It requires a statement of the annual percentage rate in responding to oral inquiries about the cost of credit.

Section 226.30—Spanish language disclosures.

The language in the May proposal remains basically unchanged. Disclosures must be made in English, except in Puerto Rico, where creditors may disclose in Spanish. If foreign language disclosures are required by state, federal, or local law, they would not be inconsistent with disclosures under this regulation and may be given in addition to English disclosures. Under the regulation, however, English disclosures must be made clearly and conspicuously.

Section 226.31—Effect on state laws.

(a) *Inconsistent disclosure requirements.* The Board has substantially revised this section and specifically solicits comment on its provisions.

Proposed paragraph (a)(1), formerly paragraph (a) of the May proposal, includes a standard for the evaluation of inconsistent state and federal disclosure requirements. Under this provision, state law is inconsistent with, and therefore preempted by, federal law if a creditor or lessor, in complying with state law, violates federal law. State law is preempted only to the extent of the inconsistency. So long as a creditor or lessor can comply with state law without violating federal law, state law is not inconsistent. This general rule applies to Subpart B (open-end credit), Subpart C (closed-end credit), and Subpart D (consumer leasing).

This provision differs from the May proposal, which contained no criteria for the determination of inconsistency. A number of commenters requested the inclusion of standards to serve as an aid to compliance with this paragraph and as a guide to the factors the Board would use in making a preemption determination. In response to these comments, the Board has revised the paragraph to include the standard outlined above. It is intended to be used by creditors and lessors before any Board determination of inconsistency is made. In addition, if such a determination is requested, the Board would use this standard in reaching its decision. The Board believes that providing this standard will facilitate creditors' making independent preemption decisions.

Paragraph (a)(2) reflects the rule for fair credit billing and consumer leasing provisions. As in the previous proposal, state law that is more protective of the consumer in these areas is not inconsistent.

The only revision made to the "more protective" provision of proposed paragraph (a)(2) was the inclusion of § 226.21 in the list of applicable paragraphs. This paragraph, dealing with the treatment of credit balances in close-end credit, is included here as an additional fair credit billing reference.

Proposed paragraph (a) prohibits the disclosure of any state requirement that is inconsistent and therefore preempted. If a creditor chooses to give a state-required disclosure that is not preempted, the disclosures required under this regulation must be made in conformance with its clear and conspicuous standard.

(b) *Equivalent disclosure requirements.* Paragraph (b) deals with state disclosure requirements that are substantially similar to federal disclosures. In the case of such equivalent requirements, the state disclosure may be made in place of the federal. As in the May proposal, the Board has provided no specific criteria for determining substantial similarity. Because of the unique circumstances and the potential for variety among the states' requirements, this paragraph proposes that standards be determined on a case-by-case basis.

This paragraph contains an exception for the finance charge and annual percentage rate disclosures. As interpreted by the Board, section 122(a) of the act requires that the specific terms "finance charge" and "annual percentage rate" be used, state law notwithstanding, and additionally, that they be disclosed more conspicuously than other required information.

(c) *Request for determination.* This paragraph establishes the procedures for seeking a Board determination on inconsistent and equivalent disclosure requirement. The procedures outlined in this provision have been revised by the addition of paragraph (c)(4). This proposal responds to several commenters that requested a transition period after a Board determination so that necessary changes in forms and procedures could be made. The effective date proposed here, October 1, provides a uniform date, while allowing at least six months in each case for complying

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with a Board determination. This is based on § 105 of the act.

Appendices A–I

Appendix A, which outlines the procedures for state exemptions, has been moved from § 226.20 of the May proposal because it primarily addresses administrative matters. The section has been revised to include a paragraph about the effective date of exemption determinations. Section II states that any determination as to the exemption of a class of transactions shall be effective on October 1. This provision is based on § 105 of the act which allows creditors at least six months to adjust their forms to comply with amendments to the regulation.

Several commenters requested that the status of current exemptions under the new regulation be clarified. The Board envisions that the existing exemptions under the current statute and regulation will be automatically revoked on April 1, 1982, when the new statute become effective. Since the new regulation must be in effect by April 1, 1981, those states currently having exemptions will have at least one year during which to amend their statutes and regulations, apply for exemptions, and receive new exemption determinations from the Board.

The standard for exemption contained in Section I is unchanged from paragraph (a) of the May proposal and provides that an exemption will be granted if state law is "substantially similar" to the requirements of federal law, or, for credit billing and leasing transaction, if state law affords greater protection to the consumer than federal law. As the supplements to the current Regulation Z indicate, the "substantially similar" standard has been interpreted as requiring state provisions to be generally the same as federal provisions. The standards for exemptions are set forth in Supplements II (credit transactions), IV (credit care issuance and liability), V (credit billing) and VI (consumer leases).

Appendix B deals with the issuance of official staff interpretations. Since it relates to administrative matters, it has been moved from § 226.21 of the May proposal.

In Section I, which replaces paragraph (a) of the May proposal, the Statement that "a creditor or lessor who acts in conformity with an official staff interpretation, whether the creditor or lessor actually knows of the interpretation or not, shall not be held liable" has been deleted. Instead, § 130(f) of the act, which affords certain protection from civil liability, has simply been cited. Because the civil liability provisions of the act have not been implemented in the regulation, the Board believes that it would be inappropriate to interpret the applicability of the civil liability provisions.

Proposed Section II, which sets forth the procedure for issuing official staff interpretations, has been substantially revised. The proposal provides that official staff interpretations be published for comment in the **Federal Register**. After the comment period has ended, official staff interpretations will be republished in the **Federal Register** and will become effective at that time. This procedure differs from that in the May proposal and in the current regulation, which provide that official staff interpretations published in the **Federal Register** will become effective 30 days after publication unless a request for public comment is received and granted. The Board hopes to expedite the official staff interpretation process by immediately publishing interpretations for comment, rather than waiting for a request for public comment, suspending the effective date, and republishing for comment. Experience indicates that a request for comment is received in most cases, necessitating suspension of the effective date.

Several commenters were concerned with paragraph (d) of the May proposal, which is now Section III. This provision exempts forms required or sanctioned by a government agency from the general prohibition of issuing staff interpretations approving creditors' forms. This treatment is available to government agencies in order to implement section 113(a) of the act which requires government agencies to consult with the Board regarding their forms.

Paragraph (c) of the May proposal, which explained the procedures for issuing unofficial staff interpretations, has been deleted. In the Board's opinion, the regulation should reflect only the procedures for issuing official staff interpretations because they are founded on the statute. While Section II establishes the procedure for issuing interpretations that are to be recognized as providing protection from civil liability under § 130(f) of the statute, the provisions on unofficial staff interpretations in the May proposal simply explained an internal Board procedure. This procedure may no longer prove necessary in light of the Truth in Lending simplification effort and the Board's intention to issue, and update periodically, a commentary to the regulation in lieu of staff letters.

Appendix C incorporates Board Interpretation § 226.709 with editorial changes that are not intended to be substantive in nature.

Appendix D incorporates the substance of current Board Interpretation § 226.813. That interpretation provides a special procedure that creditors may use at their option in calculating and disclosing the terms of multiple-advance transactions when the amounts and timing of advances may be unknown at consummation of the transaction. In a revised format, this appendix utilizes a similar mathematical basis as the interpretation, but has been redrafted for greater clarity. The format reflects the approach taken in § 226.17(c)(6) of this proposal, which permits creditors to provide separate or combined disclosures for the construction period and for the permanent financing, if any.

The appendix would now be limited specifically to construction loans. Currently, all multiple-advance transactions may take advantage of Board Interpretation § 226.813. In view of the fact that its assumptions, formulas, and examples are based only on the typical construction loan, the Board believes that its use for other types of transactions, where such assumptions may not be valid, is inappropriate. Therefore, the Board proposes to limit this appendix to those multiple-advance construction loans which are either payable in a single sum at close of the construction period or converted to permanent financing by the same creditor at that time. The Board solicts comment on this proposal.

Appendix E incorporates in its entirety Appendix B of the May proposal.

Appendices F, G, and H contain model forms and clauses for use in open-end and closed-end credit transactions and leasing transactions. Amended section 105 of the act requires the Board to publish such models to facilitate compliance by creditors and to aid consumers in understanding their transactions. Use of these models is not mandatory; however, as provided in section 105(b), creditors who use them properly will be deemed to be in compliance with the requirements of the regulation. It is intended that creditors have some flexibility in adapting the models to their own particular specifications. Creditors may delete inapplicable information in a number of ways, such as crossing out or whiting out inapplicable information, or by circling the correct information. Creditors may make deletions and rearrange the format, provided the substance, clarity and meaningful sequence of the disclosures is not affected. Any changes beyond very minor revisions such as those described may deprive creditors of the protection provided in the statute for the use of model forms.

The phrases in brackets are given as alternatives and may be changed to suit the specific terms of the transaction. For instance, the disclosure of the later charge in §§ G(1) and G(2) states that when a payment is late, "I will be charged ($) (% of the payment)." The creditor would choose which type of late charge is appropriate and would make the necessary changes. Another example is the disclosure of prepayment consequences. The word "not" in either sentence could be crossed out or circled, as appropriate.

The Board believes that the models would satisfy the requirements of state "plain-English" laws. However, comment is solicited on any potential problems which may arise in the use of the models for transactions subject to such laws.

Comment is solicited on all aspects of these model forms and clauses, including design, content, and usefulness. If additional models should be provided, suggestions will be welcome.

Appendix F sets forth the model disclosure notices and clauses for open-end credit transactions. Four areas are covered by these models: (1) Balance computation method, § F(1); (2) billing error rights, §§ F(2) and F(3); (3) liability for unauthorized use, § F(4); and (4) right to rescind, §§ F(5) through F(7). Several changes in organization and language have been made in the forms in an attempt to make the disclosures easier to read and understand.

The models for the disclosure of billing error rights, §§ F(2) and F(3), have been reorganized and the phrase "disputed amount" has been changed to "questioned amount." No substantive change is intended by these revisions.

In § F(4), the word "card" was substituted for "device" in the bracketed phrase in the first sentence. This change is to clarify that the liability provision applies only to credit cards. The words "and telephone number" have been deleted from the second bracketed phrase in the second sentence, to conform the model notice to a corresponding change in § 226.12(b)(2).

Section F(7) is new. It provides a notice of the right to rescind which may be used when the credit limit on an open-end account secured by the consumer's dwelling is being increased.

Appendix G sets forth models and samples for closed-end transactions. There are two models for the basic closed-end credit transaction, § G(1) which contains sale disclosures and § G(2) which contains loan disclosures. These sections are identical except for disclosure of the total sale price which applies only to credit sale transactions. These models were published as one form in § A(7) of the May draft. Items not generally applicable to all transactions are marked by dotted lines. The descriptive phrases that accompany the required terminology are suggested language only; alternative phrases may be used, so long as they convey the same meaning.

It is anticipated that the last category in the payment schedule disclosure, "when payments are due," could be completed at least three different ways: dates alone (Jan. 1, Feb. 10, March 20); periods alone (monthly beginning March 1); or a combination of the two (quarterly on Jan. 15, April 15, July 15, and Oct. 15).

The insurance provisions may appear with the other disclosures, as shown on the model, or they may appear elsewhere in the contract documents. The Board contemplates that the premium disclosures for the credit life, credit life and disability, and property insurance be either the cost for the entire term of the obligation or the unit cost.

The model form for the explanation of the amount financed, which appears as § G(3), differs significantly from its counterpart in § A(8) of the May draft. The Board believes that creditors should be given a considerable amount of flexibility in order to facilitate compliance with the regulation. The Board also believes that some precision is necessary and appropriate, both to provide guidance to creditors and to prevent unnecessary confusion to consumers.

The Board proposes to apply three specific guidelines and requests comment on each of them. First, the categories shown must be mutually exclusive. For example, any amounts included in the prepaid finance charge (such as a credit report fee paid to a third party in a nonrealty transaction) cannot be listed as an amount paid to a third party. Second, the model does not require the amounts to be shown in mathematical order or progression. Third, the Board proposes the creation of one category of fees which need not include an identification of an individual third-party payee. Amounts paid to government entities or public officials may be described merely as fees to "public officials" or by similar language. This is in contrast to the general requirement that the name of the party to whom amounts are being paid must be identified specifically and the amount itemized accordingly.

The model form which appears as § G(4) is new and combines certain disclosures required by the Real Estate Settlement Procedures Act (RESPA) with the explanation of the amount financed under the Truth in Lending Act. This model has been designed for creditors subject to the special early disclosure rule in § 226.19(g), which requires creditors subject to RESPA and Truth in Lending to make the disclosures required under both statutes within three business days of receiving a consumer's written application. This form has been designed to simplify these disclosures for creditors by combining in one form the good faith estimates of settlement costs required under Regulation X, which implements RESPA, and the explanation of the amount financed required under Regulation Z. Creditors should look to § 3500.7 of Regulation X to determine what settlement statement numbers and what settlement services to disclose, and to § 226.18(b) to determine whether to list a settlement service as a prepaid finance charge, a charge included in the amount financed, or a charge paid in cash. The form is only a proposal and has not been officially approved by the Department of Housing and Urban Development. The Board solicits comment on the usefulness of this model form.

The paragraph beside the asterisk describes the providers of settlement services. If a creditor requires a consumer to use a specific provider of services, the creditor must place an asterisk beside the settlement service listed at the top of the form and disclose the information required in this paragraph. A space for the description of the services has been omitted from this paragraph although it is required under RESPA. This has been done on the assumption that the creditor will fully describe the services provided at the top of the form. If the creditor does not do so, a space must be provided in the paragraph below for describing the services. For instance, if a creditor discloses attorney's fees as one of the settlement services, it must list at the top of the form what services are included, such as document preparation services or a title search. When this is not done, the creditor must list document preparation services and title search below. Sample III illustrates the proper disclosure of required services by designated providers.

The Board wishes to point out that use of this form is entirely optional and creditors may continue to provide RESPA disclosures and Truth in Lending disclosures separately. If this combined disclosure form is used, however,

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creditors may not state the cost of services in terms of ranges of amounts. Although ranges are permitted under RESPA, they are not permitted under Truth in Lending. The Board believes that in order to provide a meaningful combined disclosure statement to consumers, costs must be stated as a single estimated amount, rather than as a range of amounts.

Appendix G contains three samples which illustrate how a specific creditor might actually fill out one of the model forms. Each of the samples is based on a specific transaction and illustrates the adaptation of a model form to a particular sale or loan. The samples illustrate permissible alterations in the model forms, including deletion of information that is not applicable to the individual transaction. As long as the required Truth in Lending information for a specific transaction is disclosed consistent with § 226.17(b), creditors may adapt the model forms to their own use in the manner best suited to their procedures. The Board solicits comment on the usefulness of the samples and on suggestions for additional samples to be included with the final regulation.

Sample I is for an automobile credit sale involving precomputed interest, with credit life insurance and filing fees financed by the creditor. This example is based on the model credit sale form in § G(1), but several disclosures have been deleted. The information regarding the consumer's right to receive an explanation of the amount financed has been omitted because it is assumed that the creditor automatically furnishes the explanation in all cases. Unnecessary portions of the payment schedule and the non-filing and property insurance information have been eliminated, as well as the information regarding assumptions, which is required only in residential mortgage transactions. Where alternatives are included in the model disclosure form, such as in the late charge, security interest, and prepayment disclosures, the appropriate disclosure has been circled and the inapplicable alternative crossed out. The dots surrounding the insurance information and the acknowledgment of receipt have been deleted since their only purpose in the model disclosure form is to indicate the optional nature of these disclosures.

The explanation of the amount financed in Sample I is based on the model form in § G(3). In this example, the amount paid on the consumer's account equals $6000, while the filing fee and the credit life insurance premium represent the amounts paid to others on the consumer's behalf. Since this transaction involves no amounts given to the consumer directly or paid to another creditor, these items may be marked N/A or O on the form. The prepaid finance charge of $25 equals the amount paid for the credit form.

Sample II, which assumes a $5,000 amount financed, is based on the model loan disclosure in § G(2). No amount financed explanation is provided because the consumer has elected not to receive this information. Since this is an unsecured obligation, the security interest information has been crossed out. The inapplicable information in the late charge and prepayment disclosures has been deleted, as has the acknowledgment of receipt.

Sample III is for a mortgage transaction subject to RESPA and is based on the model loan form in § G(2). The transaction is a $50,000 loan at a 14 percent simple interest rate for 30 years. A sample form based on § G(4), combining RESPA and Truth in Lending disclosures, is also included in Sample III. When the creditor uses the combined form, the explanation of the amount financed would automatically be furnished to the consumer and the creditor may delegate the information on the disclosure statement regarding the consumer's right to receive the explanation. Since the sample is based on a simple interest rate transaction, the first sentence in the prepayment disclosure relating to rebates has been deleted. However, if the transaction called for both rebates and penalties in the event of prepayment, both sentences, reflecting the appropriate information, would be necessary.

Other inapplicable information has also been deleted, such as the property insurance disclosure and one of the late charge disclosure alternatives. In addition, clauses describing the property to which the security interest attaches have been deleted and alternative language substituted. The phrase "the property being purchased" is used, since it is more appropriate than "goods" for a mortgage transaction.

The explanation of the amount financed categorizes each settlement cost in the transaction as either a prepaid finance charge, a charge included in the amount financed, or a charge paid in cash. The categorization in the sample form is based on § 226.4 of Regulation Z. Since the settlement fee is included as a prepaid finance charge in the sample, it is assumed that this fee covers only the cost of conducting the closing, and not other services, such as document preparation, that would be excluded from the finance charge under § 226.4(b). The services grouped under attorney's fees are all excluded from the finance charge under § 226.4(b) and are categorized as charges paid in cash. If other charges were included as part of the attorney's fees, they would be prepaid finance charges, which must be listed separately in the setlement service column and included in the prepaid finance charge column. As the asterisk indicates, the attorney's services must be furnished by a designated provider. Therefore, further information is provided in the paragraph below. These services need not be described further in that place because they are listed individually above.

The sample mortgage form is based on a relatively simple transaction in order to focus attention on the use of model form § G(4). While transactions with varying payment streams may increase the complexity of the disclosures, this fact should not affect the combined amount financed explanation and RESPA disclosure contained in § G(4). The Board solicits comment, however, on whether further samples for mortgage transactions with complex payment schedules would be useful.

Appendix H contains model disclosures for leasing transactions. The leasing forms that appear in current Board interpretations to Regulation Z are reprinted, without change, in §§ H(1), H(2), and H(3). The open-end or finance vehicle lease disclosure statement that appears in present Board Interpretation § 226.1501 is redesignated § H(1) in the proposal; the closed-end or net vehicle lease and the furniture lease disclosure statements in present Board Interpretation §§ 226.1502 and 226.1503 have been redesignated §§ H(2) and H(3), respectively.

These forms are based on a monthly periodic payment. Lessors that contemplate a weekly payment schedule should modify the forms by replacing the word "monthly" with the word "weekly," as applicable.

Appendix I provides a list that indicates the appropriate federal enforcement agency to be contacted for information regarding compliance with this regulation.

In consideration of the foregoing and pursuant to the authority granted in section 105 of the Truth in Lending Act (15 U.S.C. 1604, as amended), the Board proposes to issue a revised Regulation Z (12 CFR Part 226) as follows:

PART 226—TRUTH IN LENDING

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Sec.

226.1 Authority, purpose, coverage, organization, penalties and liabilities.
226.2 Definitions and rules of construction.
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Subpart B—Open-End Credit

Sec.

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226.12 Special credit card provisions.
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Subpart C—Closed-End Credit

226.17 General disclosure requirements.
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226.19 Certain residential mortgage transactions.
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Subpart D—Consumer Leasing

226.25 Definitions.
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Subpart E—Miscellaneous

226.28 Record retention.
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Appendix A: State Exemptions
Appendix B: Issuance of Staff Interpretations
Appendix C: Provisions Applicable to Card Issuers that Bill Consumers on a Transaction-by-Transaction Basis
Appendix D: Multiple-Advance Construction Loans
Appendix E: Annual Percentage Rate Computations for Certain Open-End Credit Plans
Appendix F: Open-End Model Disclosure Forms and Clauses
Appendix G: Closed-End Model Forms and Clauses
Appendix H: Leasing Model Forms
Appendix I: Federal Enforcement Agencies

Authority: Sec. 105, Truth in Lending Act (15 U.S.C. 1604, as amended).

Subpart A—General

§ 226.1 Authority, purpose, coverage, organization, penalties and liabilities.

(a) *Authority.* This regulation, known as Regulation Z, is issued by the Board of Governors of the Federal Reserve System to implement the federal Truth in Lending, Fair Credit Billing, and Consumer Leasing Acts, which are contained in Title I of the Consumer Credit Protection Act, as amended (Title 15, sections 1601 through 1667 of the United States Code).

(b) *Purpose.* The purpose of this regulation is to promote the informed use of consumer credit and consumer leases by requiring disclosures about the terms and cost. The regulation also gives consumers the right to cancel certain credit transactions that involve a lien on a consumer's principal dwelling, regulates certain credit card practices, and provides a means for fair and timely resolution of credit billing disputes. The regulation does not govern charges for consumer credit or consumer leases.

(c) *Coverage.* (1) In general, the credit provisions contained in Subparts B and C of this regulation apply to each individual or business that offers to extend credit when four conditions are met: (i) The credit is offered to consumers; (ii) the offering of credit is done regularly; (iii) the credit is subject to a finance charge or is repayable by a written agreement in more than four installments; and (iv) the credit is primarily for personal, family, or household purposes. If a credit card is involved, however, certain provisions will apply even if the credit is not subject to a finance charge, or is not repayable under a written agreement in more than four installments, or if the credit card is to be used for business purposes.

(2) The leasing provisions of Subpart D generally apply to each individual or business that offers to lease or arranges for the lease of property when five conditions are met: (i) The leases are offered to or arranged for consumers; (ii) the offering or arranging of leases is done regularly; (iii) the leases are of personal property; (iv) the lease term is for more than four months; and (v) the leases are primarily for personal, family, or household purposes.

(d) *Organization.* The regulation is divided into five subparts and nine appendices as follows:

(1) Subpart A contains general information. It sets forth: (i) The basis, purpose, coverage, and organization of the regulation; (ii) the definitions of basic terms; (iii) the transactions that are exempted from coverage; and (iv) the method of determining the finance charge for consumer credit obligations.

(2) Subpart B contains the rules for open-end credit. It requires that initial and periodic statement disclosures be provided. It also describes special rules that apply to credit card transactions, procedures for resolving credit billing errors, annual percentage rate calculations, rescission requirements, and advertising rules.

(3) Subpart C contains closed-end credit disclosures, annual percentage rate calculations, rescission requirements, and advertising rules.

(4) Subpart D contains consumer leasing disclosure requirements and advertising rules.

(5) Subpart E contains rules on oral disclosures, Spanish language disclosure in Puerto Rico, record retention, and preemption of inconsistent state laws.

(6) There are also nine appendices. Three contain model disclosure forms and clauses for credit and lease transactions; others contain rules for computing annual percentage rates, procedures for state exemptions and staff interpretations, and special rules for certain open-end credit disclosures.

(e) *Enforcement and liability.* Section 108 of the act contains the administrative enforcement provisions. Sections 112, 130, 131, 134, and 185 contain the liability provisions for failing to comply with the requirements of the act and the regulation.

§ 226.2 Definitions and rules of construction.

(a) *Definitions.* For the purposes of this regulation, the following definitions apply:

"*Advertisement*" means a commercial message in any medium that is designed to promote, directly or indirectly, any credit or lease transaction.

"*Arranger of credit*" means a person who offers more than 25 times in a year (or more than 5 times in a year for transactions secured by a dwelling) consumer credit to be extended by another person if:

(1) A finance charge may be imposed for that credit, or the credit is payable by written agreement in more than 4 installments (not including a downpayment); and

(2) The person extending the credit is not a creditor.

"*Billing cycle*" or "*cycle*" means the interval between the days or dates of regular periodic statements. These intervals shall be no longer than a quarter of a year. They shall be equal and may be considered equal unless the number of days in a cycle varies more than 4 days from the regular day or date.

"*Board*" means the Board of Governors of the Federal Reserve System.

"*Business day*" means a day on which a creditor's offices are open to the public for carrying on substantially all of its business functions.

"*Cardholder*" means a natural person to whom a credit card is issued upon the request or application of that person for consumer credit purposes, or a natural person who has agreed with the card issuer to pay obligations arising from the issuance of a credit card to another person. For the purposes of §§ 226.12 (a) and (b) of Subpart B, "cardholder" also

includes any person to whom a credit card is issued upon the request or application of that person for any purpose, including business, commercial, or agricultural use, or a person who has agreed with the card issuer to pay obligations arising from the issuance of such a credit card to another person.

"Card issuer" means a person that issues a credit card or that person's agent with respect to the card.

"Cash price" means the price at which a creditor, in the ordinary course of business, offers to sell for cash the property or service that is the subject of the transaction. The term includes charges imposed by a creditor equally on cash and credit customers. It may include the price of optional accesories, services related to the sale, service contracts and taxes and fees for license, title, and registration. The term does not include any finance charge.

"Closed-end credit" means consumer credit other than "open-end credit" as defined later in this section.

"Consumer" means a cardholder or a natural person to whom consumer credit or a consumer lease is offered, and it includes a natural person acting as a comaker, endorser, guarantor, surety or similar person that may be obligated to repay the extension of credit or the lease obligation.

"Consumer credit" means credit extended or offered to a consumer primarily for personal, family, or household purposes.

"Consummation" means the time that a consumer becomes contractually obligated on a credit or lease transaction.

"Credit" means the right to defer payment of debt or to incur debt and defer its payment.

"Credit card" means any card, plate, coupon book, or other device that may be used from time to time to obtain credit.

"Creditor" means:

(1) A person (i) who extends consumer credit more than 25 times in a year (or more than 5 times in a year for transactions secured by a dwelling), if the credit may be subject to a finance charge or is payable by written agreement in more than 4 installments (not including a downpayment), and (ii) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is no note or contract;

(2) An arranger of credit;

(3) For purposes of §§ 226.4(f), 226.9(d), and 226.12(e) of Subpart B, a person that honors a credit card; or

(4) For purposes of Subart B, any card issuer that extends either open-end credit or credit that is not subject to a finance charge and is not payable by written agreement in more than four installments; or

(5) For purposes of Subparts B and C, any card issuer that extends closed-end credit that is subject to a finance charge or is payable by written agreement in more than four installments.

"Credit sale" means a sale in which the seller is a creditor. The term includes a bailment or lease (unless terminable without penalty at any time by the consumer) under which the consumer:

(1) Agrees to pay as compensation for use a sum substantially equivalent to, or in excess of, the aggregate value of the property and services involved; and

(2) Will become or has the option to become, for no additional consideration or for nominal consideration, the owner of the property upon compliance with the agreement.

"Downpayment" means an amount, including the value of any property used as a trade-in, paid to a seller to reduce the cash price of goods or services purchased in a credit sale transaction. A deferred portion of a downpayment may be treated as part of the downpayment and need not be reflected in the amount financed and payment schedule disclosed under § 226.18, if it is payable not later than the due date of the second otherwise regularly-scheduled payment and is not subject to a finance charge.

"Dwelling" means a residential structure that contains 1 to 4 units, whether or not that structure is attached to real property. The term includes individual condominium units, cooperative units, mobile homes, and trailers, if used as a residence.

"Open-end credit" means consumer credit extended by a creditor on an account under a plan in which:

(1) The creditor reasonably contemplates repeated transactions;

(2) The consumer has the privilege of paying the balance in full at any time, without penalty when payment is made in full;

(3) A finance charge may be imposed by the creditor from time to time on an outstanding unpaid balance; and

(4) The amount of credit that may be extended to the consumer during the term of the plan, up to any limit set by the creditor, is replenished to the extent that the consumer repays any outstanding balance.

"Periodic rate" means a percentage rate of finance charge that is or may be imposed by a creditor on a balance for a day, week, month, or other subdivision of a year.

"Person" means a natural person or an organization, including a corporation, partnership, proprietorship, association, cooperative, estate, trust, or government unit.

"Personal property" means property that is not real property under the law of the state in which it is located at the time it is offered or made available for lease.

"Prepaid finance charge" means any finance charge paid before or at consummation of a transaction or withheld from the principal amount of the credit at any time.

"Regular price" means:

(1) The tagged, posted, or advertised price; or

(2) The price charged when payment is made by use of an open-end credit card account if (i) no price is tagged, posted, or advertised, or (ii) two prices are tagged, posted or advertised, one of which is charged when payment is made by use of an open-end credit card account and the other when payment is by other means.

"Residential mortgage transaction" means a transaction in which a mortgage, deed of trust, purchase money security interest arising under an installment sales contract, or equivalent consensual security interest is created or retained in the consumer's dwelling to finance the acquisition or initial construction of that dwelling.

"Security interest" or *"security"* means an interest in property that secures performance of a consumer credit or lease obligation and that is recognized by and enforceable under state or federal law. It does not include incidental interests such as an interest in proceeds, accessions, additions, fixtures, insurance proceeds or premium rebates, nor does it include the status as loss payee or beneficiary on an insurance policy. For purposes of disclosure under §§ 226.6, 226.18, and 226.26, the term does not include any interest that arises by operation of law. However, for purposes of the right of rescission under §§ 226.15 and 226.23, the term does include interests that arise by operation of law.

"State" means any state, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

(b) *Rules of construction.* For the purposes of this regulation, the following rules of construction apply:

(1) Where appropriate, the singular form of a word includes the plural form and plural includes singular.

(2) Where the words "obligation" and "transaction" are used in this regulation, they refer to a consumer credit or a consumer lease obligation or transaction, depending upon the context. Where the words "credit" and "lease" are used in this regulation, they mean "consumer credit" and "consumer lease," respectively, unless the context clearly indicates otherwise.

(3) Where the words "the act" are used in this regulation, they refer to the Truth in Lending Act as amended, Title 15 of the United States Code §§ 1601 *et seq.*, unless the context clearly indicates otherwise.

(4) Unless defined in this regulation, the words used have the meanings given to them by state law or contract.

(5) Footnotes have the same legal effect as the next of the regulation.

§ 226.3 Exempted transactions.

This regulation does not apply to the following:

(a) *Business, commercial, agricultural, or organizational credit.* (1) An extension of credit primarily for a business, commercial or agricultural purpose.

(2) Credit extended to organizations, including credit to governmental agencies or instrumentalities.[1]

(b) *Credit over $25,000 not secured by real property or a dwelling.* An extension of credit, not secured by real property or personal property used or expected to be used as a principal dwelling of the consumer, in which the amount financed exceeds $25,000 or in which there is an express written commitment to extend credit in excess of $25,000.

(c) *Public utility credit.* An extension of credit that involves public utility services provided through pipe, wire, other connected facilities, or radio or similar transmission, if the charges for service, delayed payment, or any discounts for prompt payment are filed with or regulated by any governmental unit. The financing of durable goods or home improvements by a public utility is not exempt.

(d) *Securities or commodities accounts.* Transactions in securities or commodities accounts in which credit is extended by a broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission.

(e) *Certain leases.* (1) A lease primarily for agricultural, business, or commercial purposes, or a lease to a person other than a natural person.

(2) A lease of personal property incident to a lease of real property, if the consumer has no liability for the value of the property at the end of the lease (except for abnormal wear and tear) and has no option to purchase the leased personal property.

(3) A lease of a safe deposit box or its equivalent.

(f) *Home fuel budget plans.* An installment agreement for the purchase of home fuels in which no finance charge is imposed.

§ 226.4 Finance charge.

(a) *Definition.* The finance charge is the cost of consumer credit as a dollar amount. It includes any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or a condition of the extension of credit. It does not include any charge of a type payable in a comparable cash transaction. The finance charge shall be considered accurate if the amount disclosed does not vary from the exact finance charge by more than the dollar amount equivalent of the annual percentage rate tolerance described in §§ 226.14(a) or 226.22(a)(2), as applicable.

(b) *Examples of finance charges.* Unless specifically excluded by paragraphs (c) through (f) of this section, the finance charge include the following types of charges:

(1) Interest, time price differential, and any amount payable under an add-on or discount system of additional charges.

(2) Service, transaction, activity, or carrying charge, including any charge imposed on a checking or other transaction account to the extent that it exceeds the charge for a similar account without a credit feature.

(3) Points, loan fee, assumption fee, finder's fee, or similar charge.

(4) Application, appraisal, investigation, or credit report fees.

(5) Premiums or other charges for any guarantee or insurance protecting the creditor against the consumer's default or other credit loss.

(6) A charge imposed upon a creditor by another person for purchasing or accepting a consumer's obligation, if the consumer is required to pay the charge in cash, as an addition to the obligation or as a deduction from the proceeds of the obligation.

(7) Premiums or other charges for credit life, accident, health, or loss-of-income insurance, written in connection with a credit transaction.

(8) Premiums or other charges for insurance against loss of, or damage to property, or against liability arising out of the ownership or use of property, written in connection with a credit transaction.

(9) A discount for the purpose of inducing payment other than by use of credit.

(c) *Charges excluded from finance charge.* The following charges shall be excluded from the finance charge.

(1) A charge for actual, unanticipated late payment, for exceeding a credit limit, and for delinquency, default, or a similar occurrence.

(2) A charge imposed by a financial institution for paying an item that inadvertently overdraws an account.

(3) A fee charged for participation in a credit plan, whether assessed on an annual or other periodic basis.

(4) The following fees, in a transaction secured by real property or a residential mortgage transaction, if they are bona fide and reasonable in amount:

(i) Fees for title examination, abstract of title, title insurance, property survey, or similar purposes.

(ii) Fees for preparing a deed, mortgage, reconveyance, settlement, or similar document.

(iii) Notary, appraisal, or credit report fees.

(iv) Amounts required to be paid into escrow or trustee accounts that would not otherwise be included in the finance charge.

(5) Seller's points.

(6) An interest reduction on a time deposit used as security for an extension of credit.

(d) *Insurance.* (1) Premiums for credit life, accident, health, or loss-of-income insurance may be excluded from the finance charge if the following three conditions are met:

(i) The insurance coverage is not required by the creditor, and this fact is disclosed.

(ii) The premium for the initial term of insurance coverage or the unit cost of the premium for a stated period is disclosed. If the term of insurance is less than the other term of the transaction, the term of insurance shall be disclosed.

(iii) The consumer signs or initials an affirmative written statement requesting the insurance after receiving the disclosures specified in this paragraph. Any consumer in the transaction may sign or initial the statement.

(2) Premiums for insurance against loss of or damage to the property securing the obligation, or against liability arising out of the ownership or use of that property [2] may be excluded from the finance charge if the following two conditions are met:

(i) The insurance coverage may be obtained from a person of the

[1] Extensions of credit that are exempt under paragraphs (a) (1) and (2) remain subject to the provisions governing the issuance of credit cards and the liability for their unauthorized use, as set forth in §§ 226.12(a) and (b).

[2] This includes single interest insurance if the insurer waives all right of subrogation against the consumer.

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consumer's choice,[3] and this fact is disclosed.

(ii) If coverage may be obtained from or through the creditor, the premium for the initial term of insurance coverage or the unit cost of the premium for a stated period shall be disclosed. If the term of insurance is less than the term of the transaction, the term of insurance shall be disclosed.

(e) *Certain security interest charges.* If itemized and disclosed, the following charges may be excluded from the finance charge:

(1) Taxes and fees prescribed by law that actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest.

(2) The premium for insurance in lieu of perfecting a security interest to the extent that the premium does not exceed the fees described in paragraph (1) of this section that otherwise would be payable.

(f) *Discounts*—(1) *Limitations.* A discount offered for the purpose of inducing payment for a purchase by cash, check, or similar means rather than by the use of an open-end credit card account (whether or not a credit card is physically used) is not a finance charge under paragraphs (a) and (b) of this section if:

(i) The discount does not exceed 5 percent of the regular price of the property or service; and

(ii) The discount is available to prospective purchasers, whether or not they are cardholders, and this fact is clearly and conspicuously disclosed.

(2) *Effect of state laws.* A discount that is not a finance charge under this paragraph shall not be considered a finance charge or other charge for credit under any state law relating to usury, disclosure of information in connection with credit extensions, or permissible charges for the extension or use of credit.

(g) *Prohibited offsets.* Interest, dividends, or other income received or to be received by the consumer on deposits or investments shall not be deducted from the finance charge.

Subpart B—Open-End Credit

§ 226.5 General disclosure requirements.

(a) *Form of disclosures.* (1) The creditor shall make the disclosures required by this subpart clearly and conspicuously in writing in a form that the consumer may keep.

(2) The words "finance charge" and "annual percentage rate," when required to be disclosed with a corresponding amount or percentage rate, shall be more conspicuous than any other required terminology. This rule does not apply to § 226.7(d) and to advertisements under § 226.16.

(b) *Timing of disclosures*—(1) *Initial disclosures.* The creditor shall furnish the initial disclosure statement to the consumer before the first transaction is made under the plan.

(2) *Periodic statements.* (i) The creditor shall mail or deliver a periodic statement for each cycle at the end of which the account has a debit or credit balance of more than $1 or on which a finance charge has been imposed. A periodic statement need not be sent for an account the creditor deems to be uncollectible.

(ii) The creditor shall mail or deliver the periodic statement at least 14 days prior to any date or the end of any time period required to be disclosed by § 226.7(k) in order for the consumer to avoid the imposition of an additional finance or other charge.[4] If the creditor fails to meet this requirement, no finance or other charges that were imposed as a result of the creditor's failure may be collected.

(c) *Multiple creditors; multiple consumers.* If the open-end credit plan involves more than one creditor, only one creditor need provide the consumer with a complete set of disclosures. If there is more than one consumer, the disclosures may be made to any consumer who is primarily liable on the account. When the right of rescission under § 226.15 is applicable, however, the disclosures required by § 226.6 and § 226.15(b) shall be made to each person having the right to rescind.

(d) *Basis of disclosures and use of estimates.* Disclosures shall be based on the assumption that the consumer will comply with the terms of the legally enforceable obligation between the parties. If any information necessary to make an accurate disclosure is unknown to the creditor, it shall make the disclosure based on the best information reasonably available to it and shall state clearly that the disclosure is an estimate.

(e) *Effect of subsequent events.* If a disclosure is rendered inaccurate as a result of an event that occurs after delivery of the disclosures, the resulting inaccuracy is not a violation of this regulation, although new disclosures may be required under § 226.9(c).

§ 226.6 Initial disclosure statement.

The creditor shall disclose to the consumer, in terminology consistent with that in quotation marks in § 226.7, each of the following items, to the extent applicable:

(a) *Finance charge.* the circumstances under which a finance charge will be imposed and an explanation of the method of determining the finance charge, as follows:

(1) A statement of when finance charges begin to accrue, including an explanation of whether or not any time period exists within which any credit extended may be repaid without incurring a finance charge.[5] If no such time period is provided, that fact shall be disclosed.

(2) A disclosure of each periodic rate that may be used to compute the finance charge, the range of balances to which it is applicable [6] and the corresponding annual percentage rate (determined by multiplying the periodic rate by the number of periods in a year).[7] If different periodic rates apply to different types of transactions (such as purchases and cash advances), those periodic rates and their corresponding annual percentage rates shall be disclosed, together with the types of transactions to which they apply.

(3) An explanation of the method used to detemine the balance on which the finance charge may be computed.

(4) An explanation of how the amount of any finance charge will be determined,[8] including a description of how any other finance charge other than the periodic rate will be determined.

(b) *Other charges.* An identification of any charges other than finance charges that may be imposed as part of the plan, together with a disclosure of either the amounts of those charges or an explanation of how the amounts of those charges will be determined.

(c) *Security interests.* The fact that the creditor has or will acquire a security interest either in the property purchased as part of the plan, or in other property identified by item or type.

[3] A creditor may reserve the right to refuse to accept, for reasonable cause, an insurer offered by the consumer.

[4] This time limitation shall not apply if the creditor is unable to meet this requirement because of an act of God, war, civil disorder, natural disaster, or strike.

[5] If such a time period is provided, a creditor may, at its option and without disclosure, impose no finance charge when payment is received after the time period's termination.

[6] A creditor is not required to adjust the range of balances disclosure to reflect the balance below which only a minimum charge applies.

[7] Where a creditor is offering a variable rate plan, the creditor shall also disclose: (1) That the periodic rate(s) and corresponding annual percentage rate(s) are subject to increase; (2) the circumstances under which such rates may increase; and, if applicable, (3) the limitations on such rates.

[8] If no finance charge is imposed when the outstanding balance is less than a certain amount, no disclosure is required of that fact or of the balance below which no finance charge will be imposed.

(d) *Statement of billing rights.* A statement that outlines the consumer's rights and the creditor's responsibilities under § 226.12(c) and § 226.13 and that is substantially similar to the statement found in Appendix F.

§ 226.7 Periodic statements.

The creditor shall furnish the consumer with a periodic statement that discloses the following items, to the extent applicable:

(a) *Previous balance.* The outstanding account balance at the beginning of the billing cycle, using the term "previous balance," and in the case of a credit balance, an appropriate identification as such. Where there is more than one type of transaction (such as purchases and cash advances), the creditor may show a previous balance for each type of transaction.

(b) *Identification of transactions.* An identification of each credit transaction in accordance with § 226.8.

(c) *Payments and credits.* The amount and date of crediting any payment or other credit during the billing cycle, using the term "payment" or "credit," as applicable. The date need not be provided if a delay in crediting does not result in the imposition of any finance or other charges.

(d) *Periodic rates.* Each periodic rate, using the term "periodic rate," that may be used to compute the finance charge, the range of balances to which it is applicable,[9] and the corresponding annual percentage rate (determined by multiplying the periodic rate by the number of periods in a year), using the term "corresponding annual percentage rate." [10] When different periodic rates apply to different types of transactions to which the periodic rates apply shall also be disclosed.

(e) *Other types of finance charges.* The amount or method of computing the amount of any other type of finance charge that may be imposed.

(f) *Balance on which finance charge computed.* The amount of each balance to which a different periodic rate was applied and an explanation of how each balance was determined. When a balance is determined without first deducting all credits and payments made during the billing cycle, that fact and the amount of such credits and payments shall be disclosed.

(g) *Amount of finance charge.* The amount of any finance charge debited or added to the account during the billing cycle, using the term "finance charge." The components of the finance charge shall be individually itemized and identified to show the amounts due to the application of any periodic rates and the amount of any other type of finance charge. Where there is more than one periodic rate, the amount of the finance charge attributable to each rate need not be separately itemized and identified.

(h) *Annual percentage rate.* When a finance charge is imposed during the billing cycle, the annual percentage rate or rates determined under § 226.14, using the term "annual percentage rate." Where an annual percentage rate cannot be determined under § 226.14(c)(2)(i), no annual percentage rate need be disclosed.

(i) *Other charges.* The amounts, itemized and identified by type, of any charges other than finance charges debited to the account during the billing cycle.

(j) *Closing date of billing cycle; new balance.* The closing date of the billing cycle and the outstanding account balance on that date, using the term "new balance," and in the case of a credit balance, an appropriate identification as such. If the periodic statement reflects more than one type of transaction, the creditor may show a new balance for each type of transaction.

(k) *Free-ride period.* The date by which or the time period within which the new balance or any portion of the new balance must be paid in order to avoid the imposition of additional finance charges.[11]

(l) *Address for notice of billing errors.* The address to be used for notice of billing errors. Alternatively, the address may be provided on the billing rights statement permitted by § 226.9(a)(2).

§ 226.8 Identification of transactions.

The creditor shall identify credit transactions on or with the first periodic statement that reflects the transaction by furnishing the information required by this section, as applicable.[12]

(a) *Sale credit.* For each credit transaction involving the sale of property or services, the following rules shall apply:

(1) *Furnishing copy of credit document.* When an actual copy of the receipt or other credit document is provided with the first periodic statement reflecting the transaction, each transaction shall be sufficiently identified if the amount of the transaction, and either the date of the transaction or the date of debiting the transaction to the consumer's account are disclosed on the copy or on the periodic statement.

(2) *Not furnishing copy of credit document—creditor and seller same or related person(s).* When the creditor and the seller are the same person or related persons, and an actual copy of the receipt or other credit document is not provided with the periodic statement, the creditor shall disclose the amount and date of the transaction, and a brief identification [13] of the property or services purchased.[14]

(3) *Not furnishing copy of credit document—creditor and seller not same or related person(s).* When the creditor and seller are not the same person or related persons, and an actual copy of the receipt or other credit document is not provided with the periodic statement, the creditor shall disclose the amount and date of the transaction; the seller's name; and the city, and state or foreign country where the transaction took place.[15]

(b) *Nonsale credit.* For each nonsale credit transaction, the following rules shall apply:

[9] See footnotes 6 and 8.

[10] See footnote 7 for additional disclosures required for a variable rate plan.

[11] See footnote 5.

[12] Failure to disclose the information required by this section shall not be deemed a failure to comply with the regulation if: (1) The creditor maintains procedures reasonably adapted to procure and provide the information; and (2) the creditor responds to and treats any inquiry for clarification or documentation as a notice of a billing error, including correcting the account in accordance with § 226.13(e)(1). The creditor must also furnish the consumer with documentary evidence of the transaction, whether or not the consumer requests it, free of charge and within the time period allowed for resolution under § 226.13. This provision applies to foreign transactions even if the creditor does not maintain procedures reasonably adapted to obtain the required information.

[13] Alternatively, the creditor may disclose a number or symbol that also appears on the receipt or other credit document given to the consumer if the number or symbol reasonably identifies that transaction with that creditor. If the creditor discloses a number or symbol and the consumer submits a notice of a billing error regarding the transaction, the creditor shall comply with § 226.13, including correcting the account in accordance with § 226.13(e)(1). The creditor shall also furnish the consumer with documentary evidence of the transaction, whether or not the consumer requests it, free of charge and within the time period allowed for resolution under § 226.13.

[14] An identification of property or services may be replaced by the seller's name and the location of the transaction when: (1) The creditor and the seller are the same person; (2) the creditor's open-end plan has fewer than 15,000 accounts; (3) the creditor provides all consumers with point-of-sale transaction documentation; and (4) the creditor responds to consumers' notices of billing errors about transactions in the manner described in this paragraph. If all transactions with the seller occur at one location, the seller's name and that location need not be repeated on the periodic statement for each transaction.

[15] The creditor may omit the address or provide any suitable designation that assists the consumer in identifying the transaction when no meaningful address is readily available because the transaction (1) took place at a location that is not fixed; (2) took place in the consumer's home; or (3) was the result of a mail or telephone order.

(1) *Furnishing copy of credit document.* When an actual copy of the credit document is provided with the first periodic statement reflecting the transaction, each transaction shall be sufficiently identified if the copy reflects the amount of the transaction, and either the date of the transaction, the date of debiting the transaction to the consumer's account, or, if the consumer signed the credit document, the date appearing on that document.

(2) *Description of transaction.* When an actual copy of the receipt or other credit document containing the information described in paragraph (b)(1) of this section is not provided with the first periodic statement reflecting the transaction, the creditor shall disclose a characterization of the transaction (as a cash advance, loan, overdraft loan, or other appropriate designation); the amount of the transaction; and the date of the transaction, the date of debiting the transaction, or, if the consumer signed the credit document, the date appearing on that document.

§ 226.9 Subsequent disclosure requirements.

(a) *Furnishing statement of billing rights—(1) Annual statement.* The creditor shall mail or deliver the billing rights statement required by § 226.6(d) during at least one billing cycle per calendar year, at intervals of not less than six months nor more than 18 months, to each consumer entitled to receive a periodic statement under § 226.5(b)(2) for that billing cycle.

(2) *Alternative summary statement.* As an alternative to paragraph (a)(1) of this section, the creditor may mail or deliver, on or with each periodic statement, a statement that is substantially similar to that in Appendix F.

(b) *Disclosures for supplemental credit devices and additional features.* (1) If a creditor, more than 30 days after mailing or delivering the initial disclosures, adds a credit feature to the consumer's account or mails or delivers to a consumer (other than as a renewal or resupply) any credit device, the creditor shall make the disclosures required by § 226.6(a).

(2) If the feature is added or the device is mailed or delivered within 30 days of the mailing or delivery of the initial disclosures, and the finance charge terms for the device or feature differ from those previously disclosed, the dislosures required by § 226.6(a) shall be given.

(3) The disclosures required in paragraphs (b) (1) and (2) of this section shall be made to the consumer before the consumer uses the feature or device for the first time.

(c) *Change in terms—(1) Written notice required.* (i) Except as provided elsewhere in this subsection, whenever any term required to be disclosed under § 226.6 is changed, the creditor shall mail or deliver to the consumer written notice of the change at least 15 days prior to the effective date of the change.

(ii) The 15-day timing requirement of this section does not apply when the change has been agreed to by the consumer, or when a periodic rate or other finance charge is increased as a result of the consumer's delinquency or default.

(2) *Notice not required.* No notice under this section is required when the change:

(i) Involves late payment charges, charges for documentary evidence, or over-the-limit charges;

(ii) Reduces any component of a finance or other charge;

(iii) Suspends future credit privileges or terminates an account or plan;

(iv) Results from the consumer's default or delinquency, unless the periodic rate of other finance charge is increased; or

(v) Results from an agreement involving a court proceeding.

(d) *Finance charge imposed at time of transaction.* (1) Any person honoring a consumer's credit card, other than the card issuer, who imposes a finance charge not excepted by § 226.4(f) shall, at the time of honoring a consumer's credit card, make the disclosures required under §§ 226.18 (b), (c), and (d). The annual percentage rate to be disclosed shall be determined by dividing the finance charge by the amount financed and multiplying the quotient (expressed as a percentage) by 12.

(2) The card issuer, if other than the person honoring the consumer's credit card shall have no responsibility for disclosures required by paragraph (d)(1) of this section and shall not separately consider any charge imposed under paragraph (d)(1) of this section for purposes of §§ 226.6 and 226.7.

§ 226.10 Prompt crediting of payments.

(a) *General rule.* A creditor shall credit a payment to the consumer's account as of the date of receipt.[16]

(b) *Specific requirements for payments.* A creditor may specify (on or with the periodic statement) reasonable requirements for the consumer to follow in making payments. If the creditor does so, but accepts a payment that does not conform to the requirements, the creditor shall credit the payment promptly.

(c) *Adjustment of account.* If a creditor fails to post a payment in time to avoid the imposition of finance or other charges, the creditor shall adjust the consumer's account so that the charges imposed are credited to the consumer's account during the next billing cycle.

§ 226.11 Treatment of credit balances.

Whenever a creditor receives a payment or other credit that exceeds by more than $1 the new balance (as defined in § 226.7(j)) to which the payment or other credit is to be applied, the creditor shall:

(a)(1) Credit the consumer's account with an amount equal to the new balance, and within seven business days from receipt of the payment or other credit, refund the excess amount; or

(2) Credit the consumer's account with the total amount of the payment or other credit. If the consumer requests in writing a refund of any part of the credit balance, the creditor shall refund any such credit balance within seven business days from receipt of the consumer's request.

(b) Make a good faith effort to refund to the consumer by cash, check, or money order any part of the amount of the credit balance remaining in the account for more than six months, but no further action is required if the consumer's current location is not known by the creditor and cannot be traced through the consumer's last known address or telephone number.

§ 226.12 Special credit card provisions.

(a) *Issuance of credit cards.* Regardless of the purpose for which a credit card is to be used, including business, commercial, or agricultural use, no credit card shall be issued to any person except:

(1) In response to an oral or written request or application [17] by a cardholder; [18] or

[16] A payment need not be credited as of the date of receipt if a delay in crediting does not result in the imposition of a finance or other charge.

[17] This paragraph does not prohibit the issuance, on an unsolicited basis, of any device that may become a credit card provided that (1) the device has a substantive purpose other than obtaining credit, and (2) any credit capability is attached only upon the recipient's request.

[18] The card issuer may send cards to any cardholder(s) or authorized user(s) in accordance with the cardholder's request or application; provided, however, that an authorized user shall not be liable for unauthorized use of a credit card. The card issuer may send more than one credit card to a person if so requested, and may imprint on any card any name(s) requested. For purposes of this section, "authorized user" means a person to whom a credit card is issued upon the request or application of a

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(2) As a renewal of, or substitute for, an accepted credit card.[19]

(b) *Liability of cardholder for unauthorized use.*[20] (1) *Limitation on amount.* The liability of a cardholder for unauthorized use[21] of a credit card shall not exceed the lesser of $50 or the amount of money, property, labor, or services obtained by the unauthorized use before notification to the card issuer under paragraph (b)(3) of this section.

(2) *Conditions of liability.* A cardholder shall be liable for unauthorized use of a credit card only if:

(i) The credit card is an accepted credit card;

(ii) The card issuer has provided, on the credit card or within two years preceding the unauthorized use, adequate notice [22] of the cardholder's maximum potential liability. The notice shall state that the cardholder's liability shall not exceed $50 (or any lesser amount); that the cardholder may give oral or written notification of loss, theft, or possible unauthorized use; and the address of the person or office to receive the notification;

(iii) The card issuer has disclosed to the cardholder, on or with the periodic statement that immediately precedes the unauthorized use, the telephone number and address of the person or office to be notified of loss, theft, or possible unauthorized use; and

(iv) The card issuer has provided a means to identify the cardholder on the account or the authorized user of the card.

(3) *Notification to card issuer.* Notification to a card issuer is given when such steps have been taken as may be reasonably necessary to provide the card issuer with pertinent information about the loss, theft, or possible unauthorized use of a credit card, regardless of whether any particular officer, employee, or agent of the card issuer does, in fact, received the information. Notification may be given, at the option of the person giving it, in person, by telephone, or in writing. Notification in writing is considered given at the time of receipt or, whether or not received, at the expiration of the time ordinarily required for transmission, whichever is earlier.

(4) *Effect of other applicable law or agreement.* If applicable state law or an agreement between a cardholder and the card issuer imposes lesser liability than that provided in this paragraph, the cardholder's liability shall not exceed the lesser liability imposed under that law or agreement.

(5) *Business use of credit cards.* If 10 or more credit cards are issued by one card issuer for use by the employees of an organization, nothing in this section prohibits the card issuer and the organization from agreeing to liability for unauthorized use without regard to the provisions of this section. However, liability for unauthorized use may be imposed on any employee of the organization, by either the card issuer or the organization, only in accordance with this section.

(c) *Right of cardholder to assert claims or defenses against card issuer.* (1) *Limitations.* When a person who honors a credit card fails to resolve satisfactorily a dispute as to property or services purchased with the credit card in a consumer credit transaction, the cardholder may assert against the card issuer all claims (other than tort claims) and defenses arising out of the transaction and relating to the failure to resolve the dispute. The cardholder may withhold payment up to the amount of credit outstanding for the property or services that gave rise to the dispute and any finance or other charges imposed on that amount. These rights apply, however, only if: (i) The cardholder has made a good faith attempt to resolve the dispute with the person honoring the credit card;

(ii) The amount of credit extended to obtain the property or services that result in the assertion of the claim or defense by the cardholder exceeds $50; and

(iii) The disputed transaction occurred in the same state as the cardholder's current designated address or, if not within the same state, within 100 miles from that address.

(2) *Exceptions.* The limitations stated in paragraphs (c)(1)(ii) and (iii) of this section shall not apply when the person honoring the credit card:

(i) Is the same person as the card issuer;

(ii) Is controlled by the card issuer directly or indirectly;

(iii) Is under the direct or indirect control of a third person that also directly or indirectly controls the card issuer;

(iv) Controls the card issuer directly or indirectly;

(v) Is a franchised dealer in the card issuer's products or services; or

(vi) Has obtained the order for the disputed transaction through a mail solicitation made or by participated in by the card issuer.

(3) *Maximum amount of claims or defenses; determining credit outstanding.* The amount of the claim or defense that the cardholder may assert may not exceed the amount of credit outstanding for the disputed transaction at the time the cardholder first notifies the card issuer or the person honoring the credit card of the existence of the claim or defense. To determine the amount of credit outstanding for the purposes of this section, payments and other credits shall be applied in the following order: (i) Late charges in the order of entry to the account;

(ii) Finance charges in the order of entry to the account; and

(iii) Any other debts in the order of entry to the account. When more than one item is included in a single extension of credit, credits are to be distributed pro rata according to prices and applicable taxes.

(4) *Types of transactions excluded.* This paragraph does not apply to the use of a credit card to obtain a cash advance unrelated to any specific credit sale item not to the use of a check guarantee card in connection with a check when there is no agreement between the card issuer and the merchant relating to honoring the card or the checks.

(5) *Adverse credit reports prohibited.* If, in accordance with this paragraph, the cardholder withholds payment of the amount of credit outstanding for the disputed transaction, and if the card issuer knows or has reason to know that the claim or defense has been asserted, the card issuer shall not report that amount as delinquent until the dispute is settled or judgment is rendered. If the card issuer has reported an amount as delinquent and subsequently learns that a claim or defense has been asserted with respect to that amount, the card issuer shall, within one billing cycle after so learning, notify all credit bureaus and, to the extent possible, all other persons, to whom the card issuer has made a report, that the disputed amount is not delinquent. Nothing in this paragraph prohibits a card issuer from

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cardholder for any purpose, including business, commercial, or agricultural use.

[19] For purposes of this section, "accepted credit card" means any credit card that a cardholder or an authorized user has requested or applied for and received, or has signed, used, or authorized another person to use to obtain credit. Any credit card issued as a renewal or substitute in accordance with this paragraph becomes an accepted credit card when received by a cardholder or an authorized user.

[20] See section 133(b) of the act for rules concerning burdens of proof in actions to enforce liability for use of credit cards.

[21] "Unauthorized use" means the use of a credit card by a person, other than the cardholder, who does not have actual, implied, or apparent authority for such use, and from which the cardholder receives no benefit.

[22] "Adequate notice" means a printed notice to a cardholder that sets forth clearly the pertinent facts so that the cardholder may reasonably be expected to have noticed it and understood its meaning. (See Appendix F for model notice.)

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reporting the disputed amount or account as being in dispute.

(d) *Offsets by card issuer prohibited.* (1) A card issuer may not take any action, whether before or after termination of credit card privileges, to offset a cardholder's indebtedness arising from a consumer credit transaction under the relevant credit card plan against funds of the cardholder on deposit with the card issuer.

(2) This paragaph does not alter or affect the right of a card issuer acting under state or federal law to do any of the following with regard to funds of a cardholder held deposit with the card issuer if the same procedure is constitutionally available to creditors generally: (i) Obtain or enforce a consensual security interest (limited to an agreed-upon amount) in the funds;

(ii) Attach or otherwise levy upon the funds; or

(iii) Obtain or enforce a court order relating to the funds.

(3) This paragraph does not prohibit the cardholder and the card issuer from agreeing in writing to a plan under which the card issuer may periodically deduct all or a portion of the cardholder's credit card debt from a deposit account with the card issuer (subject to the limitations in § 226.13(d)(5)).

(e) *Prompt notification of returns and crediting of refunds.* (1) When any creditor other than the card issuer accepts the return of property or forgives a debt for services that is to be reflected as a credit to the consumer's open-end credit card account, that creditor shall, within the seven business days from accepting the return or forgiving the debt, transmit a credit statement to the card issuer through the card issuer's normal channels for credit statements.

(2) The card issuer shall, within three business days from receipt of a credit statement, credit the consumer's account with the amount of the refund.

(3) If a creditor other than a card issuer routinely gives cash refunds to consumers paying in cash, the creditor must also give credit or cash refunds to consumers using credit cards, unless it discloses at the time the transaction is consummated that credit or cash refunds for returns are not given. Nothing in this section shall be construed to require refunds for returns or to prohibit refunds in kind.

(f) *Discounts; ti-in arrangements.* No card issuer may, by contract or otherwise: (1) Prohibit any person who honors a credit card from offering a discount to a consumer to induce the consumer to pay by cash, or similar means rather than by use of a credit card or its underlying account for the purchase of property or services; or

(2) Require any person who honors the card issuer's credit card to open or maintain any account or obtain any other service not essential to the operation of the credit card plan from the card issuer, its subsidiary, agent, or any other person, as a condition of participation in a credit card plan. If maintenance of an account for clearing purposes is determined to be essential to the operation of the credit card plan, it may be required only if no service charges or minimum balance requirements are imposed.

(g) *Prohibition of surcharges.* No creditor in any sale transaction may impose a surcharge.[23] This paragraph shall cease to be effective on February 27, 1981.

(h) *Relation to Electronic Fund Transfer Act and Regulation E.*—(1) *Issuance.* The Truth in Lending Act and this regulation govern: (A) Issuance of credit cards;

(B) Addition of a credit feature to an accepted access device, as defined in 12 CFR 205.2(a), whether done when the accepted access device is renewed, or otherwise; and

(C) Issuance of credit cards that are also access devices, as defined in 12 CFR 205.2(a), except as provided in paragraph (h)(1)(ii)(C) of this section.

(ii) The Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*) and 12 CFR Part 205 (Regulation E), which restrict the unsolicited issuance of access devices, govern: (A) Issuance of access devices;

(B) Addition to an accepted credit card of the capability to initiate electronic fund transfers, whether done when the accepted credit card is renewed, or otherwise; and

(C) Issuance of access devices that permit credit extensions only under a preexisting agreement to extend credit when the consumer's deposit account is overdrawn or to maintain a specified minimum balance in the consumer's deposit account.

(2) *Liability.* (i) The Truth in Lending Act and this regulation govern a consumer's liability for unauthorized use of a credit card that is also an access device but that does not involve an electronic fund transfer.

(ii) The Electronic Fund Transfer Act and Regulation E govern a consumer's liability for an unauthorized electronic fund transfer that: (A) Is initiated by use of an access device that is also a credit card; or

(B) Involves an extension of credit under an agreement to extend credit when the consumer's deposit account is overdrawn or to maintain a specified minimum balance in the consumer's deposit account.

(3) *Other rules.* Paragraphs (c) through (g) of this section, and the corresponding provisions of the Truth in Lending Act, apply to the use of credit cards that are also access devices to the extent appropriate under the terms of those paragraphs.

§ 226.13 Billing error resolution.[24]

(a) *Definition of billing error.* For purposes of this section, the term "billing error" means: (1) A reflection on or with a periodic statement of an extension of credit that is not made to the consumer or to a person who has actual, implied, or apparent authority to use the consumer's credit card or open-end credit plan;

(2) A reflection on or with a periodic statement of an extension of credit that is not identified in accordance with the requirements of §§ 226.7(b) and 226.8;

(3) A reflection on or with a periodic statement of an extension of credit for property or services not accepted by the consumer or the consumer's designee, or not delivered to the consumer or the consumer's designee as agreed;

(4) A reflection on a periodic statement of the creditor's failure to credit properly a payment or other credit issued to the consumer's account;

(5) A reflection on a periodic statement of a computational or similar error of an accounting nature that is made by the creditor;

(6) A reflection on a periodic statement of an extension of credit for which the consumer requests additional clarification, including documentary evidence;

(7) The creditor's failure to mail or deliver a periodic statement to the consumer's last address if the current address was furnished to the creditor, in writing, at least 20 days before the end of the billing cycle for which the statement was required.

(b) *Billing error notice.*[25] A billing error notice is a written notice[26] from a consumer that: (1) Is received by a creditor at the address disclosed under § 226.7(1) no later than 60 days after the creditor transmitted the first periodic statement that reflects the alleged billing error;

(2) Enables the creditor to identify the consumer's name and account number; and

(3) To the extent possible, indicates the consumer's belief and the reasons for the belief that a billing error exists, and the type, date, and amount of the error.

(c) *Time for resolution; general procedures.* (1) Not later than 30 days after receiving a billing error notice, a creditor shall mail or deliver written acknowledgment of receipt to the consumer, unless it has complied with the appropriate resolution procedures required by paragraphs (e) and (f) of this section within the 30-day period; and

(2) Not later than the end of the second complete billing cycle (but in no event later than 90 days) after receiving a billing error notice, the creditor shall comply with the appropriate resolution procedures required by paragraphs (e) and (f) of this section.

(3) A creditor may make, without investigation, a final correction to a consumer's account in the amount or manner asserted by the consumer to be in error, but must comply with all other applicable requirements of this section.

(d) *Rules pending resolution.* Until a billing error is resolved under paragraph (e) or (f) of this section, the following rules apply: (1) *Consumer's right to withhold disputed amount.* The consumer may withhold that portion of any required payment that the consumer believes is related to the disputed amount. If the disputed amount is only part of the total amount of an item or bill, the consumer remains obligated to pay the undisputed portion and any periodic payment on the undisputed portion. No additional finance or other charges may be imposed on the undisputed portion of the amount solely because the consumer withholds payment of the disputed amount.

(2) *Creditor's handling of disputed amount.* A creditor is not prohibited from: (i) Mailing or delivering a periodic statement that reflects a disputed amount and related finance or other charges, provided the creditor indicates on or with the periodic statement that payment of the disputed amount and related finance or other charges is not required pending the creditor's compliance with this section; or

(ii) Deducting any disputed amount and related finance or other charges from the maximum amount of credit available to the consumer.

(3) *Collection action prohibited.* The creditor shall not take any action to collect any part of the disputed amount or related finance or other charges. If the creditor or its agent inadvertently takes such action within three business days after receiving a billing error notice, the collection action is not a violation of this paragraph, provided: (i) The collection action occurred despite the maintenance of procedures reasonably adapted to ensure compliance with this paragraph; and

(ii) The creditor promptly ceases any further collection activity, and takes any reasonable action necessary to correct the collection action.

(4) *Adverse credit reports prohibited.* (i) The creditory shall not (directly or indirectly) make or threaten to make an adverse report to any person regarding the consumer's credit standing, or report that an amount or account is delinquent, because the consumer failed to pay the disputed amount or related finance or other charges. If the creditor or its agent inadvertently takes such action within three business days after receiving a billing error notice, the action is not a violation of this paragraph, provided: (A) The action occurred despite the maintenance of procedures reasonably adapted to ensure compliance with this paragraph; and

(B) The creditor promptly notifies all credit bureaus and all other persons (to the extent possible), to whom the creditor has made a report, that the amount or account is not delinquent.

(ii) If the creditor receives a billing error notice after adversely reporting about an amount or account, the creditor shall notify all credit bureaus and all other persons (to the extent possible) to whom the creditor has made a report that the amount or account is not delinquent, within one billing cycle after receiving the billing error notice.

(5) *Automatic debit of disputed amounts.* If a cardholder participates in an automatic payment paln, by maintaining an account with a card issuer that is authorized to deduct periodically an agreed upon amount from the account to pay the credit card indebtedness, and the card issuer receives a billing error notice any time up to three business days before the automatic-debit date, the card issuer shall not debit any part of the disputed amount or related finance or other charges.

(e) *Procedures after creditor determines that billing error occurred as asserted.* If a creditor determines that a billing error occurred as asserted, it shall promptly but no later than the time limits in paragraph (c)(2) of this section,

(1) Correct the billing error and credit the consumer's account with any disputed amount and related finance or other charges, as applicable; and

(2) Mail or deliver to the consumer a separate notice of the correction, or specifically identify the correction on or with a periodic statement that is mailed within the time limits in paragraph (c)(2) of this section.

(f) *Procedures after creditor determines different billing error or no billing error occurred.* If, after conducting a reasonable investigation,[27] a creditor determines that no billing error occurred or that a different billing error occurred from that asserted, the creditor shall, promptly but no later than the time limits in paragraph (c)(2) of this section,

(1) Mail or deliver to the consumer an explanation (either separately or with a periodic statement) that sets forth the reasons for the creditor's belief that the billing error alleged by the consumer is incorrect in whole or in part;

(2) Furnish copies of documentary evidence of the consumer's indebtedness, if the consumer so requests; and

(3) If a different billing error occurred, correct the billing error and credit the consumer's account with any disputed amount and related finance or other charges, as applicable.

(g) *Creditor's rights and duties after resolution.* If a creditor, after complying with all of the requirements of this section, determines that a consumer still owes all or part of a disputed amount and related finance or other charges, the creditor: (1) Shall promptly notify the consumer in writing of the time when payment is due and the portion of the disputed amount that the consumer still owes, which may include minimum periodic payments that accrued during the error resolution period;

(2) Shall allow the time period disclosed under §§ 226.6(a)(1) and 226.7(k) or 10 days (whichever is longer), during which the consumer can pay the amount due under paragraph (g)(1) of this section without incurring additional finance or other charges, if the creditor customarily allows such a time period in undisputed transactions;

(3) May report an account or amount as delinquent because a disputed

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[23] "Surcharge" means any amount added at the point of sale to the regular price as a condition or consequence of payment being made by use of an open-end credit card account.

[24] A creditor shall not accelerate the consumer's entire debt or restrict or close a consumer's account solely because the consumer has exercised rights provided by this section.

[25] The creditor need not comply with the requirements of paragraphs (c) through (g) of this section if the consumer concludes that no billing error occurred and voluntarily withdraws the billing error notice.

[26] The creditor may require that the written notice not be made on the payment medium or other material accompanying the periodic statement if the creditor so stipulates in the billing rights statement required by § 226.6(d) and § 226.9(a).

[27] If a consumer submits a billing error notice alleging the non-delivery of property or services under paragraph (a)(3) of this section or that information appearing on a periodic statement is incorrect because a person honoring the consumer's credit card has made an incorrect report to the card issuer, the creditor shall not deny the assertion unless it conducts a reasonable investigation and determines that the property or services were actually delivered as agreed or that the information was correct.

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amount and related finance or other charges remain unpaid: *Provided,* The creditor has allowed the time period disclosed under §§ 226.6(a)(1) and 226.7(k) or 10 days (whichever is longer), during which the consumer can pay the amount due under paragraph (g)(1) of this section; but

(4) May not report that an amount or account is delinquent because the disputed amount and related finance or other charges remain unpaid, if the creditor receives (within the time allowed for payment in paragraph (g)(3) of this section) further written notice from the consumer that any portion of the billing error is still in dispute, unless the creditor also: (i) Promptly reports that the amount or account is in dispute;

(ii) Mails or delivers to the consumer (at the same time the report is made) a written notice of the name and address of each person to whom the creditor makes a report; and

(iii) Promptly reports the subsequent resolution of the reported delinquency to all persons to whom the creditor has made a report.

(h) *Reassertion of billing error.* A creditor that has fully complied with the requirements of this section has no further responsibilities under this section, if a consumer reasserts (other than as provided in paragraph (g)(4) of this section) substantially the same billing error.

(i) *Forfeiture penalty.*[28] (1) Any creditor that fails to comply with the requirements of this section forfeits any right to collect the disputed amount and related finance or other charges from a consumer even if no billing error occurred, however, the forfeited amount shall not exceed $50 for each asserted billing error.

(2) A creditor shall not forfeit more than once for each asserted billing error, nor shall a creditor forfeit any amount for an error in a total or subtotal figure (on a periodic statement) solely because a billing error is a component of the total or subtotal figure.

(k) *Relation to Electronic Fund Transfer Act and regulations.* If an extension of credit is incident to an electronic fund transfer, under an agreement between a consumer and a financial institution to extend credit when the consumer's account is overdrawn or to maintain a specified minimum balance in the consumer's account, the creditor shall comply with the requirements of Regulation E § 205.11 (12 CFR Part 205) governing error resolution rather than those of paragraphs (a), (b), (c), (e), (f), and (h) of this section.

[28] Nothing in this paragraph limits a consumer's right to recover under § 130 of the act.

§ 226.14 Determination of annual percentage rate.

(a) *General rule.* The annual percentage rate is a measure of the cost of credit, expressed as a yearly rate. An annual percentage rate shall be considered accurate if it is not more than 1/8th of 1 percentage point above or below the annual percentage rate determined in accordance with this section.

(b) *Annual percentage rate for initial disclosures and for advertising purposes.* Where one or more periodic rates may be used to compute the finance charge, the annual percentage rate to be disclosed for purposes of § 226.6(a)(2) before opening an account and for advertising purposes under § 226.16 shall be computed by multiplying each periodic rate by the number of periods in a year.

(c) *Annual percentage rate for periodic statements.* The annual percentage rate to be disclosed for purposes of § 226.7(d) shall be computed by multiplying each periodic rate by the number of periods in a year and, for purposes of § 226.7(h), shall be determined as follows: (1) Where the finance charge is determined solely by applying one or more periodic rates, the annual percentage rate shall be determined, at the creditor's option, either: (i) By multiplying each periodic rate by the number of periods in a year; or

(ii) By dividing the total finance charge for the billing cycle by the sum of the balances to which the periodic rates were applied and multiplying the quotient (expressed as a percentage) by the number of billing cycles in a year.

(2)(i) Except as provided in paragraphs (c)(2)(ii) and (c)(2)(iii) of this section, where the finance charge imposed during the billing cycle includes a minimum, fixed, or other charge not due to the application of a periodic rate, the annual percentage rate shall be determined by dividing the total finance charge for the billing cycle by the amount of the balance(s) to which it is applicable [29] and multiplying the quotient (expressed as a percentage) by the number of billing cycles in a year.

(ii) Where the finance charge imposed during the billing cycle includes a charge relating to a specific transaction, the annual percentage rate shall be determined by dividing the total finance charge imposed during the billing cycle by the total of all balances and other amounts on which a finance charge was imposed during the billing cycle without duplication, and by multiplying the quotient (expressed as a percentage) by the number of billing cycles in a year,[30] except that the annual percentage rate shall not be less than the largest rate determined by multiplying each periodic rate imposed during the billing cycle by the number of periods in a year.

(iii) Where the finance charge imposed during the billing cycle includes a minimum, fixed, or other charge not due to the application of a periodic rate and the total finance charge imposed during the billing cycle does not exceed 50 cents for a monthly or longer billing cycle, or the pro rata part of 50 cents for a billing cycle shorter than monthly, the annual percentage rate may be determined, at the creditor's option, by multiplying each applicable periodic rate by the number of periods in a year, notwithstanding the provisions of paragraphs (c)(2) (i) and (ii) of this section.

(d) *Calculations where daily periodic rate applied.* In any open-end credit account to which the provisions of paragraphs (c)(1)(ii) or (c)(2)(i) of this section apply where all or a portion of the finance charge is determined by the application of one or more daily periodic rates, the annual percentage rate may be determined either: (1) By dividing the total finance charge by the average of daily balances and multiplying the quotient by the number of billing cycles in a year; or (2) by dividing the total finance charge by the sum of the daily balances and multiplying the quotient by 365.

(e) *Errors in calculation tools.* (1) An error in disclosure of the annual percentage rate or finance charge shall not, in itself, be considered a violation of this regulation if: (i) The error resulted from a corresponding error in any calculation tool used in good faith by the creditor; and

(ii) Upon discovery of the error, the creditor promptly discontinues use of that calculation tool for disclosure purposes, and notifies the Board in writing of the error in the calculation tool.

(2) This paragraph shall cease to be effective on April 1, 1982.

§ 226.15 Right of rescission.

(a) *Consumer's right to rescind.*[31] (1) In an open-end credit plan in which a security interest is or will be retained or

[29] If there is no balance to which the finance charge is applicable, and annual percentage rate cannot be determined under this section. (See also § 226.7(h).)

[30] See Appendix E regarding determining the denominator of the fraction under this paragraph.

[31] The right to rescind does not apply to an open-end credit plan in which a federal or state agency is the creditor.

acquired in a consumer's principal dwelling, each consumer whose ownership interest is subject to the security interest shall have the right to rescind, at the creditor's option, Rither: (i) Each transaction made under the plan; or

(ii) The plan when the plan is opened; a security interest when added or increased to secure an existing open-end plan; and the increase when the credit limit on the plan is increased.[32]

(2) To exercise the right to rescind, the consumer shall notify the creditor of the rescission by mail, telegram, or other written means of communication. Notice is considered given when mailed, when filed for telegraphic transmission, or, if sent by other means, when delivered to the creditor's designated place of business.

(3) The consumer may exercise the right to rescind until midnight of the third business day following the occurrence described in paragraph (a)(1) of this section that gave rise to the right of rescission, delivery of the notice required by paragraph (b) of this section, or delivery of all material disclosures, [33] whichever is last. If the required notice and material disclosures are not delivered, the right to rescind shall expire three years after the occurrence giving rise to the right of rescission or upon transfer of all of the consumer's interest in the property, whichever is earlier. In the case of certain administrative proceedings, the rescission period will be extended by one year in accordance with § 125(f) of the act.

(4) When more than one consumer has the right to rescind, the exercise of the right by any one of these consumers shall be effective as to all consumers.

(b) *Notice of right to rescind.* In any transaction or occurrence subject to rescission, a creditor shall deliver two copies of the notice of the right to rescind to each consumer entitled to rescind. The notice shall identify the transaction or occurrence and clearly and conspicuously disclose the following: (1) The retention or acquisition of a security interest in the consumer's principal dwelling;

(2) the consumer's right to rescind as described in paragraph (a)(1) of this section;

(3) The way to exercise the right to rescind, with a form for that purpose, designating the address of the creditor's place of business;

(4) the effects of rescission, as described in paragraph (d) of this section; and

(5) The date the rescission period expires.

(c) *Delay of creditor's performance.* Unless a consumer waives the right to rescind under paragraph (e) of this section, no money shall be disbursed other than in escrow, no services performed, and no materials delivered until after the rescission period has expired and the creditor is reasonably satisfied that the consumer has not rescinded. A creditor does not violate this section if a third party with no knowledge of the event activating the right of rescission provides materials or services to the consumer within this period, as long as no security interest in the property subject to rescission is taken by the creditor to secure debts incurred by the consumer during the rescission period.

(d) *Effects of rescission.* (1)(i) When a consumer rescinds an individual transaction, the security interest giving rise to the right of rescission becomes void. A consumer who rescinds a transaction shall not be liable for any amounts, including any finance charge, related to the credit extension.

(ii) Within 20 calendar days after receipt of a notice of rescission, the creditor shall return any money or property given to any party by the consumer in connection with the transaction and shall take any action necessary to reflect the termination of the security interest.

(iii) If the creditor has delivered any money or property, the consumer may keep it until the creditor has met its obligations under paragraph (d)(1)(ii) of this section. When the creditor has done so, the consumer shall tender the money or property to the creditor, or, when the latter would be impracticable or inequitable, the consumer shall tender its reasonable value. At the consumer's option, tender of property may be made at the location of the property or at the consumer's residence. If the creditor does not take the money or property within 20 calendar days after the consumer's tender, the consumer may keep it without further obligation.

(iv) The prodecures outlined in paragraphs (d)(1)(ii) and (d)(1)(iii) of this section may be modified by court order.

(2) a consumer who rescinds under paragraph (a)(1)(ii) of this section shall not be liable for any amounts related to the particular occurrence activating the right of rescission, and the security interest giving rise to the right of rescission shall be void. Within 20 calendar days after receipt of a rescission notice, the creditor shall return any such amounts given to any party by the consumer and shall take any action necessary to reflect the termination of the security interest. This paragraph does not affect the validity of the consumer's underlying obligations with regard to individual transactions made on the account with third parties during the rescission period.

(e) *Consumer's waiver of right to rescind.* The consumer may modify or waive the right to rescind if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency. To modify or waive the right, the consumer shall give the creditor a dated written statement that describes the emergency, that specifically modifies or waives the right to rescind, and that bears the signatures of the consumers entitled to rescind. Printed forms are prohibited.

§ 226.16 Advertising.

(a) *Actually available terms.* If an advertisement for open-end credit states specific credit terms, it shall state only those terms that the creditor actually arranges or offers.

(b) *Advertisement of terms that require additional disclosures.* If any of the terms required to be disclosed under § 226.6 is set forth in or determinable from an advertisement, the advertisement shall also clearly and conspicuously set forth: (1) Any minimum, fixed, transaction, membership, participation, activity or similar charge that could be imposed; and

(2) Any periodic rate that could be applied, expressed as a corresponding annual percentage rate as determined under § 226.14(b).

(c) *Catalogs and multiple-page advertisements.* (1) If a catalog or other multiple-page advertisement gives information in a table or schedule in sufficient detail to permit determination of the disclosures required by paragraph (b) of this section, it shall be considered a single advertisement if: (i) The table or schedule is clearly and conspicuously set forth; and

(ii) Any statement of terms set forth in § 226.6 appearing anywhere else in the catalog or advertisement clearly refers to that page on which the table or schedule begins.

(2) A catalog or multiple-page advertisement complies with this paragraph if the table or schedule of

[32] This option shall only be available until March 31, 1985. After that time, the consumer shall have the right to rescind each subsequent advance made under an open-end credit plan secured by the consumer's principal dwelling.

[33] For purposes of this section, the term "material disclosures" means the information that must be provided to satisfy the requirements in § 226.6 with regard to the method of determining the finance charge and the balance upon which a finance charge will be imposed, the annual percentage rate, and the amount or method of determining the amount of any membership or participation fee that may be imposed as part of the plan.

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terms includes all appropriate disclosures for a representative scale of amounts up to the level of the more commonly sold higher-priced property or services offered.

Subpart C—Closed-End Credit

§ 226.17 General disclosure requirements.

(a) *Time of disclosures.* Disclosures shall be made before consummation of the transaction. In certain residential mortgage transactions, however, special timing requirements are set forth in § 226.19. In certain transactions involving mail or telephone orders or a series of sales, the timing of the disclosures may be delayed in accordance with paragraphs (f) and (g) of this section.

(b) *Form of disclosures.* (1) The disclosures shall be made clearly and conspicuously in writing in a form that the consumer may keep, either on the credit contract or on a separate document. The disclosures shall be grouped together beginning on the front of the document, shall be segregated from everything else, and shall not contain any other information not directly related [34] to the disclosures required under § 226.18.[35] The explanation of the amount financed under § 226.18(c)(1) must be separate from the other disclosures under that section.

(2) Where the words "finance charge" and "annual percentage rate" are required to be disclosed in § 226.18(d) and (e) together with a corresponding amount or percentage rate, those words shall be more conspicuous than any other disclosure required by this regulation. Information relating to the creditor's identity is not governed by this rule.

(c) *Basis of disclosures and use of estimates.* (1) The creditor shall base the disclosures on the information known to it at the time it makes the disclosures. The disclosures shall be based on the assumption that the consumer will comply with the terms of the legally enforceable obligation between the parties.

(2) When any information necessary to make an accurate disclosure is unknown to the creditor, it shall make the disclosure based on the best information reasonably available to it and shall state that the disclosure is an estimate.

(3) The creditor may disregard the effects of the following in making all calculations and required disclosures: (i) That payments must be collected in whole cents;

(ii) That dates of scheduled payments and advances may be changed because the scheduled date is not a business day;

(iii) That months have different numbers of days; and

(iv) The occurrence of leap year.

(4) The creditor may treat the following irregular first periods as if they were regular, and may disregard an irregular final payment (or portion of a final payment) that results from the irregular first period: [36]

(i) For transactions in which the term is less than 1 year, a first period not more than 6 days shorter or 13 days longer than a regular period;

(ii) For transactions in which the term is at least 1 year and less than 10 years, a first period not more than 11 days shorter or 21 days longer than a regular period; and

(iii) For transactions in which the term is at least 10 years, a first period shorter than or not more than 32 days longer than a regular period.

(5) When an obligation is payable on demand, the creditor shall make the disclosures based on an assumed maturity of 1 year. When there is a legally enforceable alternate maturity date, the disclosures shall be based on that date.

(6)(i) A single obligation shall not be disclosed as two or more transactions; two or more obligations shall not be disclosed as a single transaction.

(ii) When a series of advances may be made under an agreement to extend credit up to a certain amount, the series may be considered as one transaction.

(iii) When a multiple-advance loan to finance the construction of a dwelling may be permanently financed by the same creditor, the construction phase and the permanent phase may be treated as one transaction or as two transactions.

(d) *Multiple creditors; multiple consumers.* When a transaction involves more than one creditor, only one creditor need make all of the disclosures and only one complete set of disclosures shall be given. When there is more than one consumer, the disclosures may be made to any consumer who is primarily liable on the obligation. When a transaction is rescindable under § 226.23, however, the disclosures shall be made to each consumer who has the right to rescind.

(e) *Effect of subsequent events.* (1) When a disclosure is rendered inaccurate as a result of an event that occurs after the delivery of the disclosures, the resulting inaccuracy is not a violation of this regulation.

(2) In certain residential mortgage transactions, the creditor shall disclose the changed term, as described in § 226.19.

(3) When the event occurs after consummation, the determination of whether new disclosures are required is governed by § 226.20.

(f) *Mail or telephone orders—delay in disclosures.* (1) If a creditor receives a purchase order or a request for an extension of credit by mail, telephone, or any other written or electronic communication without face-to-face or direct telephone solicitation, the creditor may delay the disclosures until the due date of the first payment. This delay is permitted only if the following information describing representative amounts or ranges of credit is made available in written form to the consumer or to the public before the actual purchase order or request: (i) The cash price or the principal loan amount. (ii) The total sale price. (iii) The finance charge. (iv) The annual percentage rate. (v) The terms of repayment.

(2) If the information specified in paragraph (f)(1) of this section is not available in the prescribed manner, the disclosures must be made before consummation of the transaction.

(g) *Series of sales—delay in disclosures.* If a credit sale is one of a series made under an agreement providing that subsequent sales can be added to an outstanding balance, the creditor may delay the required disclosures until the due date of the first payment for the current sale. This delay is permitted only if the following two conditions are met: (1) The consumer has approved in writing the annual percentage rate or rates, the range of balances to which they apply, and the method of treating any unearned finance charge on an existing balance.

(2) The creditor retains no security interest in any property after the creditor has received payments equal to the cash price and any finance charge attributable to the sale of that property. For the purpose of this provision, in the case of items purchased on different dates, the first purchased shall be deemed the first paid for; in the case of items purchased on the same date, the lowest priced shall be deemed the first paid for.

[34] The disclosures may include an acknowledgement of receipt and the consumer's name and account number.

[35] The following disclosures may be made together or separately from any other required disclosures: The creditor's identity under § 226.18(a), insurance charges under § 226.18(n) and itemized charges under § 226.18(o).

[36] For purposes of paragraph (c)(4) of this section, the "first period" is the period from the date on which the finance charge begins to be earned to the date of the first payment; the "term" is the period from the date on which the finance charge begins to be earned to the date of the final payment, and the "regular period" is the most common interval between payments in the transaction. In transactions involving regular periods that are monthly, semimonthly, or multiples of a month, the length of the irregular and regular periods may be calculated on the basis of either the actual number of elapsed days or an assumed 30-day month. In other transactions, the length of the periods shall be based on the actual number of days.

§ 226.18 Content of disclosures.

For each transaction,[37] the creditor shall disclose the following information, as applicable: (a) *Creditor.* The identity of the creditor making the disclosures.

(b) *Amount financed.* The "amount financed," using that term, and a brief description such as "the amount of credit provided to you or on your behalf." The amount financed is calculated by: (1) Determining the principal loan amount (excluding any finance charge) or the cash price (excluding any downpayment);

(2) Adding any other amounts financed by the consumer and not part of the finance charge; and

(3) Subtracting any prepaid finance charge.

(c) *Explanation of amount financed.*[38] (1) A written explanation of the amount financed, consisting of: (i) The prepaid finance charge.

(ii) The amount of any proceeds distributed directly to the consumer.

(iii) The amount credited to the consumer's account with the creditor.

(iv) Any amounts paid to other persons by the creditor on the consumer's behalf, other than amounts included in paragraph (c)(1)(i) of this section. The creditor shall identify those persons.[39]

(2) The creditor need not comply with paragraph (c)(1) of this section if the creditor provides a statement that the consumer has the right to receive a written explanation of the amount financed, together with a space for the consumer to indicate whether it is desired, and the consumer does not request it.

(d) *Finance charge.* The "finance charge," using that term, and a brief description such as "the dollar amount the credit will cost you."

(e) *Annual percentage rate.*[40] The "annual percentage rate," using that term, and a brief description such as "the cost of your credit as a yearly rate."

(f) *Variable rate.* If the annual percentage rate may increase, the following disclosures: (1) The circumstances under which the annual percentage rate may increase (including identification of any index to which the rate is tied);

(2) The limitations, if any, on the increase, which need not be expressed as an annual percentage rate;

(3) The manner in which any increase would occur, such as an increase in the number or amount of payments; and

(4) In a residential mortgage transaction, an example of the payment terms that would result from an increase imposed in accordance with the disclosures made under this paragraph.

(g) *Payment schedule.* The number, amounts,[41] and timing of payments scheduled to repay the obligation.

(h) *Total of payments.* The "total of payments," using that term, and a descriptive explanation such as "the amount you will have paid when you have made all scheduled payments." [42]

(i) *Demand features.* When the obligation has a demand feature, that fact shall be disclosed. When the disclosures are based on an assumed maturity of 1 year as provided in § 226.17(c)(5), that assumption shall also be disclosed.

(j) *Total sale price.* In a credit sale, the "total sale price," using that term, and a descriptive explanation (including the amount of any downpayment) such as "the total price of your purchase on credit, including your downpayment of $_____." The total sale price is the sum of the cash price, the items described in paragraph (b)(2) and the finance charge disclosed under paragraph (d) of this section.

(k) *Prepayment.* (1) When an obligation involves a finance charge computed from time to time by application of a rate to the unpaid principal balance, a statement indicating whether or not a penalty may be imposed if the obligation is prepaid in full, whether voluntarily or not.

(2) A statement indicating whether or not the consumer must pay the entire finance charge if the obligation is prepaid in full, whether voluntarily or not.

(l) *Late payment.* Any dollar or percentage charge that maybe imposed before maturity due to a late payment, other than a deferral or extension charge.

(m) *Security interest.* The fact that the creditor has or will acquire a security interest either in the property purchased as part of the transaction, or in other property identified by item or type.

(n) *Insurance charges.* The items required by § 226.4(d) in order to exclude certain insurance premiums from the finance charge.

(o) *Excludable charges.* The disclosure required by § 226.4(e) in order to exclude certain charges from the finance charge.

(p) *Contract reference.* A statement that the consumer should refer to the appropriate contract document for information about nonpayment, default, the right to accelerate the maturity of the obligation, and prepayment rebates and penalties. At the creditor's option, the statement may also include a reference to the contract for further information about security interests and, in a residential mortgage transaction, about the creditor's policy regarding assumption of the obligation.

(q) *Assumption policy.* In a residential mortgage transaction, a statement whether or not a subsequent purchaser of the dwelling from the consumer may be permitted to assume the remaining obligation on its original terms.[43]

§ 226.19 Certain residential mortgage transactions.

(a) *Time of disclosure.* In a residential mortgage transaction subject to the Real Estate Settlement Procedures Act (Title 12, §§ 2601 through 2617 of the United States Code), the disclosures required by § 226.18 shall be made before consummation or shall be delivered or placed in the mail not later than 3 business days after the creditor receives the consumer's written application, whichever is earlier. The creditor shall make good faith estimates of the required disclosures.

[37] For each transaction under a student credit guarantee program involving an extension of credit without a set repayment schedule, the creditor need not disclose the finance charge under paragraph (d), the payment schedule under paragraph (g), the total of payments under paragraph (h) or the total sale price under paragraph (j) of this section. Before the final obligation or repayment schedule is agreed upon, the creditor shall make all applicable disclosures, except for the total sale price under paragraph (j) of this section.

[38] Transactions subject to the Real Estate Settlement Procedures Act (Title 12, §§ 2601 through 2617 of the United States Code) may comply with paragraph (c) of this section by combining the disclosures required by that paragraph with the good faith estimate of settlement costs required by that act. See § G(4) of Appendix G for a model form which may be used for this purpose.

[39] Public officials or governmental agencies may be described using those or similar terms and need not be further identified.

[40] For any transaction involving a finance charge of $5 or less on an amount financed of $75 or less, or a finance charge of $7.50 or less on an amount financed of more than $75, the creditor need not disclose the annual percentage rate.

[41] If the amount of any payment in a series is not more than five percent larger than the smallest payment in that series, the creditor may treat all payments in the series as equal by disclosing the largest payment amount, labeled as an estimate. This rule governs only the disclosure of payment amounts; it does not affect the disclosure of the finance charge under paragraph (d) of this section or the determination of the annual percentage rate under § 226.22.

[42] For any transaction involving a single payment, the creditor need not disclose the total of payments.

[43] If a creditor requires a subsequent purchaser to pay an assumption fee or similar charge, the assumption is not considered to be on terms differing from the original ones. However, a change in the interest rate originally imposed is considered a different term.

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(b) *Redisclosure required.* If the annual percentage rate in the consummated transaction is more than ⅛ of 1 percentage point above or below the annual percentage rate disclosed under § 226.18(e), the changed terms shall be disclosed no later than consummation. In irregular transactions, the changed terms shall be disclosed no later than consummation if the annual percentage rate in the consummated transaction is more than ¼ of 1 percentage point above or below the annual percentage rate disclosed under § 226.18(e).

§ 226.20 Subsequent disclosure requirements.

(a) *Refinancings.* A refinancing occurs when an existing obligation that was subject to this section is satisfied and replaced by a new obligation undertaken by the same consumer. A refinancing is a new transaction requiring new disclosures to the consumer. The creditor shall include in the new finance charge any unearned portion of the old finance charge that is not credited to the existing obligation.

(b) *Assumptions.* An assumption occurs when a creditor expressly agrees in writing with a subsequent consumer to accept that consumer as a primary obligor on an existing residential mortgage transaction. The creditor shall make new disclosures based on the remaining obligation to the subsequent consumer before the assumption occurs.

§ 226.21 Treatment of credit balances.

Whenever a credit balance in excess of $1 is credited in connection with a transaction through transmittal of funds to a creditor in excess of the total balance due on an account, through rebates of unearned finance charges or insurance premiums, or through amounts otherwise owed to or held for the benefit of a consumer, the creditor shall: (a) Credit the amount of the credit balance to the consumer's account;

(b) Refund any part of the amount of the remaining credit balance, upon request of the consumer; and

(c) Make a good faith effort to refund to the consumer by cash, check, or money order any part of the amount of the credit balance remaining in the account for more than 6 months, except that no further action is required if the consumer's current location is not known by the creditor and cannot be traced through the consumer's last known address or telephone number.

§ 226.22 Determination of annual percentage rate.

(a) *Accuracy of annual percentage rate.* (1) The annual percentage rate is a measure of the cost of credit, expressed as a yearly rate, which relates the amount and timing of value received by the consumer to the amount and timing of payments made. The annual percentage rate shall be determined in accordance with either the actuarial method or the United States Rule method. Explanations, equations and instructions for determining the annual percentage rate in accordance with the actuarial method are set forth in Supplement I of this regulation (§ 226.40).

(2) As a general rule, the annual percentage rate will be considered accurate if it is not more than ⅛ of 1 percentage point above or below the annual percentage rate determined in accordance with paragraph (a)(1) of this section.

(3) In an irregular transaction, the annual percentage rate shall be considered accurate if it is not more than ¼ of 1 percentage point above or below the annual percentage rate determined in accordance with paragraph (a)(1) of this section.[44]

(b) *Computation tools.* (1) The Regulation Z Annual Percentage Rate Tables produced by the Board may be used to determine the annual percentage rate, and any rate determined from those tables in accordance with the accompanying instructions complies with the requirements of this section. Volume I of the tables applies to single advance transactions involving up to 480 monthly payments or 104 weekly payments. It may be used for regular transactions and for transactions with any of the following irregularities: An irregular first period, an irregular first payment, and an irregular final payment. Volume II of the tables applies to transactions involving multiple advances and any type of payment or period irregularity.

(2) Creditors may use any other computation tool in determining the annual percentage rate if the annual percentage rate so determined equals the annual percentage rate determined in accordance with Supplement I, within the degree of accuracy set forth in paragraph (a) of this section.

(c) *Single add-on rate transactions.* If a single add-on rate is applied to all transactions with maturities up to 60 months and if all payments are equal in amount and period, a single annual percentage rate may be disclosed for all those transactions, so long as it is the highest annual percentage rate for any such transaction.

(d) *Certain transactions involving ranges of balances.* For purposes of disclosing the annual percentage rate referred to in §§ 226.17(f)(1)(iv) (Mail or telephone orders—delay in disclosures) and 226.17(g)(Series of sales—delay in disclosures), if the same finance charge is imposed on all balances within a specified range of balances, the annual percentage rate computed for the median balance may be disclosed for all the balances. However, if the annual percentage rate computed for the median balance understates the annual percentage rate computed for the lowest balance by more than 8 percent of the latter rate, the annual percentage rate shall be computed on whatever lower balance will produce an annual percentage rate that does not result in an understatement of more than 8 percent of the rate determined on the lowest balance.

(e) *Payment schedule irregularities.* [45] In determining and disclosing the annual percentage rate, a creditor may disregard an irregularity in the first period that falls within the limits described below and any payment schedule irregularity that results from the irregular first period:

(1) For transactions in which the term is less than 1 year, a first period not more than 6 days shorter or 13 days longer than a regular period.

(2) For transactions in which the term is at least 1 year and less than 10 years, a first period not more than 11 days shorter or 21 days longer than a regular period.

(3) For transactions in which the term is at least 10 years, a first period shorter than or not more than 32 days longer than a regular period.

(f) *Errors in calculation tools.* (1) An error in disclosure of the annual percentage rate or finance charge shall not by itself be considered a violation of this regulation if:

(i) The error resulted from a corresponding error in any calculation tool used in good faith by the creditor; and

[44] For purposes of paragraph (a)(3) of this section, an irregular transaction is one that includes one or more of the following features: multiple advances, irregular payment periods or irregular payment amounts.

[45] For purposes of paragraph (e) of this section, the "first period" is the period from the date on which the finance charge begins to be earned to the date of the first payment; the "term" is the period from the date on which the finance charge begins to be earned to the date of the final payment; and the "regular period" is the most common interval between payments in the transaction. In transactions involving regular periods that are monthly, semimonthly, or multiples of a month, the length of the irregular and regular periods may be calculated on the basis of either the actual number of elapsed days or an assumed 30-day month. In all other transactions, the length of the periods shall be based on the actual number of elapsed days.

(ii) Upon discovery of the error, the creditor promptly discontinues use of that calculation tool for disclosure purposes and notifies the Board in writing of the error in the calulation tool.

(2) This paragraph shall cease to be effective on April 1, 1982.

§ 226.23 Right of rescission.

(a) *Consumer's right to rescind.* (1) In a credit transaction in which a security interest is or will be retained or acquired in a consumer's principal dwelling, each consumer whose ownership interest is or will be subject to the security interest shall have the right to rescind the transaction, except the transactions described in paragraph (f) of this section.[46]

(2) To exercise the right to rescind, the consumer shall notify the creditor of the recission by mail, telegram or other written means of communication. Notice is considered given when mailed, when filed for telegraphic transmission or, if sent by other means, when deliverd to the creditor's designated place of business.

(3) The consumer may exercise the right to rescind until midnight of the third business day following consummation, delivery of the notice required by paragraph (b) of this section, or delivery of all material disclosures, whichever is last.[47] If the required notice or material disclosures are not delivered, the right to rescind will expire 3 years after consummation or upon transfer of all of the consumer's interest in the property, whichever is earlier. In the case of certain administrative proceedings, the rescission period will be extended by 1 year in accordance with section 125(f) of the act.

(4) When more than one consumer in a transaction has the right to rescind, the exercise of the right by any one of those consumers shall be effective as to all consumers.

(b) *Notice of right to rescind.* In a transaction subject to rescission, a creditor shall deliver 2 copies of the notice of the right to rescind to each consumer entitled to rescind. The notice shall be on a separate document that identifies the transaction and shall clearly and conspicuously disclose the following:

(1) The retention or acquisition of a security interest in the consumer's principal dwelling.

(2) The consumer's right to rescind the transaction.

(3) The way to exercise the right to rescind, with a form for that purpose, designating the address of the creditor's place of business.

(4) The effects of rescission as described in paragraph (d) of this section.

(5) The date of expiration of the rescission period.

(c) *Delay of creditor's performance.* Unless a consumer waives the right of recission under paragraph (e) of this section, no money shall be disbursed other than in escrow, no services shall be performed and no materials delivered until the rescission period has expired and the creditor is reasonably satisfied that the consumer has not rescinded.

(d) *Effects of rescission.* (1) When a consumer rescinds a transaction, the security interest giving rise to the right of rescission becomes void. A consumer who rescinds a transaction shall not be liable for any amount, including any finance charge.

(2) Within 20 calendar days after receipt of a notice of rescission, the creditor shall return any money or property that has been given to anyone in connection with the transaction and shall take any action necessary to reflect the termination of the security interest.

(3) If the creditor has delivered any money or property, the consumer may keep it until the creditor has met its obligations under paragraph (d)(2) of this section. When the creditor has complied with that paragraph, the consumer shall tender the money or property to the creditor or, where the latter would be impracticable or inequitable, pay its reasonable value. At the consumer's option, tender of property may be made at the location of the property or at the consumer's residence. If the creditor does not take the money or property within 20 calendar days after the consumer's tender, the consumer may keep it without further obligation.

(4) The procedures outlined in paragraphs (d)(2) and (d)(3) of this section may be modified by court order.

(3) *Consumer's waiver of right to rescind.* The consumer may modify or waive the right to rescind if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency. To modify or waive the right, the consumer shall give the creditor a dated written statement that describes the emergency, specifically modifies or waives the right to rescind and bears the signatures of all of the consumers entitled to rescind. Printed forms for this purpose are prohibited.

(f) *Exempted transactions.* The right to rescind does not apply to the following:

(1) A residential mortgage transaction.

(2) A refinancing or consolidation by the same creditor of an extension of credit already secured by the consumer's principal dwelling. If the new amount financed exceeds the unpaid principal balance plus any earned unpaid finance charge on the existing debt, this exemption applies only to the existing debt and its security interest.

(3) A transaction in which a federal or state agency is a creditor.

(4) An advance, other than an initial advance, in a series of advances or in a series of single-payment obligations that is treated as a single transaction under § 226.17(c)(6), if the notice required by paragraph (b) of this section and all material disclosures have been given to the consumer.

§ 226.24 Advertising.

(a) *Actually available terms.* If an advertisement for consumer credit states specific credit terms, it shall state only those terms that the creditor actually arranges or offers.

(b) *Advertisement of rate of finance charge.* If an advertisement states a rate of finance charge, it shall state the rate as an "annual percentage rate," using that term. If the annual percentage rate may be increased after consummation, the advertisement shall state that fact. The advertisement shall not state any other rate, except that a simple annual rate or periodic rate that is applied to an unpaid balance may be stated in conjunction with, but not more conspicouously than, the annual percentage rate.

(c) *Advertisement of terms that trigger additional disclosures.* (1) If any of the following terms is set forth in or otherwise determinable from an advertisement, the advertisement shall meet the requirements of paragraph (c)(2) of this section:

(i) The amount or percentage of any downpayment.

(ii) The number of payments or period of repayment.

(iii) The amount of any payment.

(iv) The amount of any finance charge.

(2) An advertisement stating any of the terms in paragraph (c)(1) of this

[46] For the purpose of this section, the addition to an existing obligation of a security interest in a consumer's principal dwelling is a transaction. The right of rescission applies only to the addition of the security interest and not the existing obligation. The creditor must deliver the notice required by paragraph (b) of this section but need not deliver new material disclosures. Delivery of the required notice will trigger the rescission period.

[47] "Material disclosures" means the required disclosure of the annual percentage rate, the finance charge, the amount financed, the total of payments and the number, amount and timing of payments scheduled to repay the obligation.

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section shall state the following terms,[48] as applicable:

(i) The amount or percentage of the downpayment.

(ii) The terms of repayment.

(iii) The "annual percentage rate," using that terms, and, if the rate may be increased after consummation, that fact.

(d) *Catalogs and multiple-page advertisements.* (1) If a catalog or other multiple-page advertisement gives information in a table or schedule in sufficient detail to permit determination of the disclosures required by paragrpah (c)(2) of this section, it shall be considered a single advertisement if:

(i) The table or schedule is clearly set forth; and

(ii) Any statement of the credit terms in paragraph (c)(1) of this section appearing anywhere else in the catalog or advertisement clearly refers to the page on which the table or schedule begins.

(2) A catalog or multiple-page advertisement complies with paragraph (c)(2) of this section if the table or schedule of terms includes all appropriate disclosures for a representative scale of amounts up to the level of the more commonly sold higher-priced property or services offered.

Subpart D—Consumer Leasing

§ 226.25 Definitions.

(a) Definitions that apply to the entire regulation are located in § 226.2.

(b) The following definitions apply solely to consumer leasing:

"Arrange for a lease" means to offer a consumer lease to be extended by another person if the person who offers to arrange the lease receives compensation for that service or participates in preparing the lease contract with knowledge of its terms.

"Consumer lease" means an obligation in the form of a bailment or lease for the use of personal property by a consumer primarily for personal, family, or household purposes, for an original term of more than 4 months, for a total lease obligation not exceeding $25,000, whether or not the consumer has the option to purchase or otherwise become the owner of the property at the end of the lease term. A lease that meets the definition of a "credit sale" is not a consumer lease for purposes of this definition.

"Lessor" means a person who more than 25 times in a year leases or arranges for a lease.

"Realized value" means:

(1) The price received by the lessor for the leased property at disposition;

(2) The highest offer for disposition; or

(3) The fair market wholesale or retail value at the end of the lease term if the use of wholesale or retail value is consistent with the estimated value made at consummation.

"Total lease obligation" means the sum of:

(1) The scheduled periodic payments under the lease;

(2) Any nonrefundable cash payment required of the consumer or agreed upon by the lessor and consumer or any trade-in allowance made at consummation; and

(3) The estimated value of the leased property at the end of the lease term.

"Value of property at consummation" means the cost to the lessor of the leased proerty, including, if applicable, any increase or markup by the lessor prior to consummation.

§ 226.26 Disclosures.

(a) *Time and form of disclosures.* (1) The lessor shall make the disclosures before consummation of the transaction.

(2) The disclousres shall be made clearly and conspicuously in a dated written form that the consumer may keep, either on the lease contract or on a separate document. The document may, but need not, include an acknowledgement of receipt.

(b) *Basis of disclosures and use of estimates.* (1) The lessor shall base the disclosures on the information known to it at the time disclosures are made. The disclosures shall be based on the assumption that the consumer will comply with the terms of the legally enforceable obligation between the parties.

(2)(i) When any information necessary to make an accurate disclosure is unknown to the lessor, it shall make the disclosure based on the best information reasonably available to it and shall state that the disclosure is an estimate.

(ii) In a purchase option lease, a lessor may understate the estimated value of the leased property when it computes the total lease obligation required in paragraph (f)(2)(i) of this section.

(3) The lessor may disregard the effects of the following in making all calculations and required disclosures:

(i) That payments must be collected in whole cents;

(ii) That dates of scheduled lease payments may be changed because the scheduled date is not a business day;

(iii) That months have different numbers of days; and

(iv) The occurrence of leap year.

(c) *Multiple lessors; multiple consumers.* When a lease involves more than one lessor, only one lessor need make all the disclosures, and only one complete set of disclosures need be given. When there is more than one consumer, the disclosures may be made to any consumer who is primarily liable on the lease.

(d) *Effect of subsequent events.* If a disclosure is rendered inaccurate as a result of an event that occurs after delivery of the disclosures, the resulting inaccuracy is not a violation of this regulation. When the event occurs after consummation, the lessor shall refer to paragraph (g) of this section to determine whether new disclosures are required.

(e) *Content of disclosures.* Each consumer lease shall disclose the following information, as applicable:

(1) *Consumer.* The identity of the consumer receiving the disclosures.

(2) *Lessor.* The identity of the lessor making the disclosures.

(3) *Leased property.* A brief description of the leased property that sufficiently identifies it.

(4) *Initial payments.* A brief description of every payment made or to be made by the consumer either at or prior to delivery of the leased property, and the total amount of all such payments.

(5) *Periodic payments.* The number, amounts, and timing of periodic lease payments, and the total amount of such payments.[49]

(6) *Official charges.* The total amount of charges payable by the consumer during the lease term for official fees, registration, certificate of title, licenses, or taxes. The lessor may omit the charges that are disclosed under paragraphs (e)(4) and (e)(5) of this section.

(7) *Other charges.* All other charges that are payable by the consumer to the lessor but not included in the periodic lease payments, individually itemized, and the total of such charges. The lessor may omit the charges that are disclosed under paragraphs (e)(4), (e)(5), and (e)(6) of this section.

(8) *Insurance.* A brief description of the types and amounts of insurance that are required by, paid by, or obtained from the lessor, other than insurance procured by the lessor for its own benefit. If the insurance is obtained from or paid by the lessor, the description shall include the cost to the consumer.

[48] An example of one or more typical extensions of credit with a statement of all the terms applicable to each may be used in complying with this requirement.

[49] If the amount of any payment in a series is not more than 5 percent larger than the smallest payment in that series, the lessor may treat all payments in the series as equal by disclosing the largest payment amount, labeled as an estimate.

(9) *Warranties.* A statement identifying any express warranties or guarantees that are made by the lessor or manufacturer and are available to the consumer.

(10) *Maintenance.* A statement identifying the person responsible for maintaining or servicing the leased property and a brief description of the responsibilities.

(11) *Wear and use standards.* A statement of reasonable standards for wear and use, if the lessor sets such standards.

(12) *Security interest.* A statement that the lessor has taken or will take a security interest in connection with the lease (other than a security deposit disclosed under paragraph (e)(4) of this section) and a brief description of the property to which it relates.

(13) *Default charges.* The amount (or method of determining the amount) of any penalty or other charge, other than a deferral or extension charge, for default, delinquency, or late payments.

(14) *Purchase option.* A statement of whether or not the consumer has the option to purchase the leased property and, if applicable, the option times and prices or the method of determining the prices.

(15) *Early termination.* A statement of the conditions under which the consumer or the lessor may terminate the lease prior to the end of the lease term and the amount or method of determining the amount of any penalty or other charge for early termination.

(f) *Special disclosures concerning consumer's liability on termination of lease.* (1) When the consumer's liability at early termination is affected by the realized value of the leased property, or when the consumer's liability at the end of the lease term is based on the estimated value of the leased property, in addition to the disclosures under paragraph (e) of this section, the lessor shall disclose the following information, as applicable:

(i) A statement explaining the effect of the realized value of the leased property on the consumer's liability at early termination, or a statement that the consumer shall be liable for the difference between the estimated value of the leased property and its realized value at the end of the lease term; and

(ii) A statement that the consumer may obtain, at the consumer's expense, a professional appraisal of the value which could be realized at sale of the leased property. The statement shall indicate that the appraisal must be made by an independent third party agreed to by the consumer and the lessor, and that such an appraisal is final and binding on both parties.

(2) When the consumer's liability at the end of the lease term is based on the estimated value of the leased property, the following items shall be disclosed:

(i) The value of the property at consummation of the lease, the itemized total lease obligation, and the difference between them;

(ii) A statement that the estimated value of the leased property is presumed to be unreasonable, and not in good faith, to the extent that it exceeds the realized value by more than three times the average lease payment allocable to a monthly period, and a statement that the lessor cannot collect the excess amount unless it rebuts the presumption of unreasonableness in a successful court action in which it pays the consumer's attorney's fees;

(iii) A statement that the rules concerning presumption and attorney's fees do not apply to the extent that the excess of estimated value over realized value is due to unreasonable wear or use, or to excessive use; and

(iv) A statement that the requirements of paragraph (f)2)(ii) of this section do not preclude the right of a willing consumer to enter into any mutually agreeable final adjustment regarding excess liability, provided such agreement is reached after the end of the lease term.

(g) *Renegotiation requiring new disclosures.* A renegotiation occurs when an existing lease is satisfied and replaced by a new consumer lease undertaken by the same consumer. A renegotiation is a new lease requiring new disclosures to the consumer. The subsitution or addition of one or more items in a multiple-item lease is not a renegotiation if the average lease payment allocable to a monthly period is not changed by more than 25 percent.

(h) *Extensions.* (1) A lessor that extends or permits a consumer to extend the duration of a consumer lease for one month or less shall comply with § 183(a) of the act, and calculate the consumer's liability on the basis of the estimated value of the leased property disclosed under paragraph (f) of this section.

(2) A lessor that extends or permits a consumer to extend the duration of a lease for more than one month shall:

(i) Comply with § 183(a) of the act and, when the leased property is returned, reduce the estimated value of the leased property that was disclosed under paragraph (f) by an amount that reflects the depreciation resulting from the extension;[50] or

(ii) Treat the extension as a renegotiation under paragraph (g).

§ 226.27 Advertising.

(a) *Actually available terms.* If an advertisement states specific consumer lease terms, it shall state only those terms that the lessor actually arranges or offers.

(b) *Advertisement of terms that require additional disclosures.* Except as provided in paragraph (c) of this section, if an advertisement states the amount of any payment, the number of required payments, or whether or not any payment is required to be made at consummation of the lease, it shall also state, by using one or more examples of typical consumer leases, the following information:

(1) That the transaction advertised is a lease;

(2) The total amount of any payment required to be made at or prior to delivery of the leased property, or that no such payment is required;

(3) The number, amounts, and timing of periodic lease payments and the total of such payments;

(4) Whether or not the consumer has the option to purchase the leased property; and, if applicable, the option times and prices or the method of determining the prices; and

(5) A statement of the amount or method of determining the amount of any liabilities the lease imposes on the consumer at the end of the lease term, including a statement that the consumer shall be liable for any difference between the estimated value of the property and its realized value at the end of the lease term, if such liability exists.

(c) *Multiple-item leases; merchandise tags.* A merchandise tag for an item normally included in a multiple-item lease need not comply with paragraph (b) of this section if it refers to a sign or display, posted in the lessor's showroom, that contains a table or schedule of the items required to be disclosed under paragraph (b) of this section.

(d) *Catalogs and multiple-page advertisements.* (1) If a catalog or other multiple-page advertisement provides information in a table or schedule of lease terms in sufficient detail to permit determination of the disclosures required by this section, it shall be considered a single advertisement, provided:

(i) The table or schedule is clearly set forth; and

[50] The lessor may, but need not, use the following simple method to determine the reduced estimated value. Assuming that a portion of each periodic payment reflects the depreciation of the property that correlates with the original estimated value, the lessor may subtract the depreciation portion of each periodic payment made during the extension from the original estimated value.

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(ii) Any statement of lease terms appearing elsewhere in the catalog or advertisement clearly refers to the page on which the table or schedule begins.

(2) A catalog or multiple-page advertisement complies with paragraph (b) of this section if the table or schedule of terms includes all appropriate disclosures for a representative scale of amounts up to the level of the more commonly leased higher priced property offered.

Subpart E—Miscellaneous

§ 226.28 Record retention.

(a) *General rule.* A creditor or lessor shall retain evidence of compliance with this regulation, including information sufficient to reconstruct the required disclosures, for a period of two years after the date the disclosures are required to be made. The administrative agencies responsible for enforcing the regulation may require creditors and lessors under their jurisdiction to retain records for a longer period where necessary to carry out their enforcement responsibilities under section 108 of the act.

(b) *Recordkeeping methods.* Evidence of compliance may be retained by use of microfilm, microfiche, or any other method designed to reproduce records accurately.

(c) *Inspection of records.* A creditor or lessor shall permit the agency responsible for enforcing this regulation with respect to that creditor or lessor to inspect its relevant records for compliance.

§ 226.29 Use of annual percentage rate in oral disclosures.

In an oral response to an inquiry by a consumer about the cost of credit, only the corresponding annual percentage rate or rates shall be stated for open-end transactions, except that the periodic rate or rates may also be stated. With respect to oral responses regarding closed-end credit only the annual percentage rate shall be stated, except that where a simple annual rate or periodic rate is applied to an unpaid balance, that rate may also be stated.

§ 226.30 Spanish language disclosures.

All required disclosures under this regulation shall be made in the English language, except in the Commonwealth of Puerto Rico, where, at the creditor's option, disclosures may be made in the Spanish language. If Spanish disclosures are made, English disclosures shall be provided upon the consumer's request, either in substitution for or in addition to the Spanish disclosures, except that this requirement shall not apply to advertisements of credit or lease transactions subject to this regulation.

§ 226.31 Effect on state laws.

(a) *Inconsistent disclosure requirements.* (1) A state law that is inconsistent with Subparts B (open-end credit), C (closed-end credit), and D (consumer leasing) is preempted to the extent of the inconsistency. Any state-required term or manner of disclosure determined by the Board to be inconsistent shall not be used by a creditor in making disclosures under these subparts. A state law is inconsistent, and is preempted, if the creditor or lessor cannot comply with that law without violating Subparts B, C, or D. If a creditor or lessor can comply with a state law without violating Subparts B, C, or D, the state law is not inconsistent with this regulation. A creditor, lessor, state, or other interested party may request the Board to determine whether a state law is inconsistent.

(2) A state law that is more protective than the provisions of §§ 226.6(d), 226.7(1), 226.9(a), 226.10 and 226.11, paragraphs (b)(4) and (c) through (f) of § 226.12, § 226.13, § 226.21, and Subpart D (consumer leasing) is not inconsistent with this regulation.

(b) *Equivalent disclosure requirements.* If the Board determines that a disclosure required by state law, other than a disclosure relating to the finance charge or annual percentage rate, is substantially the same in meaning as a disclosure required under the credit provisions of Subparts B and C of this regulation, creditors in that state may make the state law disclosure in lieu of the disclosure required by this regulation. A creditor, state or other interested party may request the Board to determine whether a state-required disclosure is substantially the same in meaning as a disclosure required by this regulation.

(c) *Request for determination.* (1) A request for a determination under this section shall be in writing and addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

(2) A request for a determination shall include each of the following items:

(i) The text of the state statute, regulation, or other document that is the subject of the request;

(ii) Any other statute, regulation, or judicial or administrative opinion that implements, interprets, or applies the relevant provision;

(iii) A comparison of the state law provision with the corresponding provision of this regulation, including a full discussion of the basis for the requesting party's belief that the state provision is either inconsistent or substantially the same; and

(iv) Any other information that the requesting party believes may assist the Board in its determination.

(3)(i) Any request for a determination will be published, with an opportunity for public comment, in the **Federal Register**, unless the Board finds that the time required for prior notice and opportunity for comment would be contrary to the public interest and publishes its reasons for such decision.

(ii) Subject to the Board's rules regarding availability of information (Title 12, Part 261 of the Code of Federal Regulations), all requests made under this section, including any documents and other material submitted in support of the requests, will be made available for public inspection and copying.

(4) Any determination by the Board as to the inconsistency of a state law shall become effective on October 1. If the Board's determination is published in the **Federal Register** after April 1, the effective date of such determination shall be October 1 of the following year. The Board, at its discretion, may lengthen the period of time for creditors or lessors to adjust their forms to accommodate the Board's determination. Any creditor or lessor may comply with the disclosure requirements as determined by the Board prior to the effective date of the determination.

Appendix A—State Exemptions

I. General rule

Any state may apply to the Board to exempt any class of transactions within the state from the requirements of Chapter 2 (Credit Transactions), Chapter 4 (Credit Billing), or Chapter 5 (Consumer Leases) of the act and the corresponding provisions of the regulation.

The Board will grant an exemption if it determines that the state law is substantially similar to the requirements of the act and regulation or, in the case of Chapters 4 or 5, the consumer is afforded greater protection under state law than under the federal act and regulation, and there is adequate provision for enforcement.

II. Procedures

The procedures under which a state may apply for an exemption under this section are set forth as follows:

(A) Disclosure and rescission requirements (§§ 121–131 of Chapter 2), § 226.50;

(B) Issuance of unsolicited credit cards and liability for unauthorized use §§ 132–133 of Chapter 2), § 226.60;

(C) Fair credit billing requirements (§§ 161–171 of Chapter 4), § 226.70.

(D) Fair credit billing requirements (§§ 161–166 of Chapter 5), § 226.80.

Any determination under this section shall become effective on October 1. If the Board's determination is published in the **Federal Register** after April 1, the effective date of such determination shall be October 1 of the following year. The Board, at its discretion, may lengthen the period of time permitted for creditors or lessors to adjust their forms to accommodate the Board's determination. Any creditor or lessor may comply with the disclosure requirements as determined by the Board prior to the effective date.

III. Civil liability

No exemptions granted under this section shall extend to the civil liability provisions of sections 130 and 131 of the act. To the extent that an exemption has been granted, the disclosures required under the applicable state law (except any additional requirements not imposed by this regulation) shall satisfy the disclosures required under this act.

IV. Exemptions granted

Section 226.55 lists the states that have been granted exemptions and identifies the classes of credit transactions covered by the exemptions.

Appendix B—Issuance of Staff Interpretations

I. Official staff interpretations

Each official in the Board's Division of Consumer and Community Affairs is authorized, in that official's discretion, to issue official staff interpretations of this regulation. Official staff interpretations provide the formal protection afforded under section 130(f) of the act.

II. Procedure for issuance of official staff interpretations

A request for an official staff interpretation shall be in writing and addressed to the Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The request shall contain a complete statement of all relevant facts concerning the issue, including copies of all pertinent documents.

If an official staff interpretation is appropriate, it will be published for comment in the **Federal Register.** After opportunity for public comment, an official staff interpretation will become effective upon republication in the **Federal Register.**

III. Scope of interpretations

No staff interpretations will be issued approving creditors' or lessors' forms, statements, calculation tools, or methods. This restriction does not apply to forms, statements, tools, or methods whose use is required or sanctioned by a government agency.

Appendix C—Provisions Applicable to Card Issuers That Bill Consumers on a Transaction-by-Transaction Basis

The following provisions of Subpart B apply where credit cards are issued and (1) the card issuer and the seller are the same person or related persons; (2) no finance charge is imposed; and (3) consumers are billed in full for each use of the card on a transaction-by-transaction basis, by means of an invoice or other statement reflecting each use of the card and (4) no cumulative account is maintained which reflects the transactions by each consumer during a period of time, such as a month:

(i) *Section 226.6(d), and, as applicable, §§ 226.6(b) and (c).* The disclosure required by § 226.6(b) shall be limited to those charges that are or may be imposed as a result of the deferral of payment by use of the card, such as late payment or delinquency charges.

(ii) *Sections 226.7(b) and 226.7(1).* The required disclosures may be achieved by placing the disclosures on the invoice or statement sent to the consumer for each transaction.

(iii) *Section 226.9(a).* Compliance with § 226.9(a) may be achieved by mailing or delivering the statement required by § 226.6(d) to each consumer receiving a transaction invoice during a one-month period chosen by the card issuer or by sending either the statement prescribed by § 226.6(d) or an alternative billing error rights statement substantially similar to that in Appendix F, with each invoice sent to a consumer.

(iv) *Section 226.9(c).*

(v) *Section 226.10.*

(vi) *Section 226.11.* This section would apply when a card issuer receives a payment or other credit that exceeds by more than $1 the amount due, as shown on the transaction invoice. The requirement to credit amounts to an account may be complied with by other reasonable means, such as by a credit memorandum. Since no periodic statement is provided or required for the credit card system subject to this interpretation, a notice of excess payment shall be sent to the consumer within a reasonable period of time following its occurence unless a refund of the excess payment is mailed or delivered to the consumer within five business days of its receipt by the card issuer.

(vii) *Section 226.12 including §§ 226.12(c) and (d), as applicable.* Section 226.12(e) is inapplicable.

(viii) *Section 226.13, as applicable.* All references to "periodic statement" shall be read to indicate the invoice or other statement for the relevant transaction. All actions with regard to corrections and adjusting a consumer's account may b taken by issuing a refund or a new invoice, or by other appropriate means consistent with the purposes of the section.

Appendix D—Multiple Advance Construction Loans

Section 226.17(c)(6) permits creditors to treat multiple advance loans to finance construction of a dwelling that may be permanently financed by the same creditor either as a single transaction or as two transactions. If the actual schedule of advances is not known, the following methods may be used to estimate the interest portion of the finance charge and the annual percentage rate and to make disclosures. If the creditor chooses to disclose the construction phase separately, whether interest is payable periodocially or at the end of construction, Part I may be used. If the creditor chooses to disclose the construction and the permanent financing as one transaction, Part II may be used.

Part I—Construction period disclosed separately

A. If interest is payable only on the amount actually advanced for the time it is outstanding:

1. Estimated interest—Assume that one-half of the commitment amount is outstanding at the contract rate for the entire construction period.

2. Estimated annual percentage rate—Assume a single payment loan that matures at the end of the construction period. The finance change is the sum of the estimated interest and any prepaid finance charge. The amount financed for computation purposes is determined by subtracting any prepaid finance charge from one-half of the commitment amount.

3. Repayment schedule—The number and amounts of any interest payments may be omitted in disclosing the payment schedule under § 226.18(g). The fact that interest payments are required and the timing of such payments shall be disclosed.

4. Amount financed—The amount financed for disclosure purposes is the entire commitment amount less any prepaid finance charge.

B. If interest is payable on the entire commitment amount without regard to the dates or amounts of actual disbursement:

1. Estimated interest—Assume that the entire commitment amount is outstanding at the contract interest rate for the entire construction period.

2. Estimated annual percentage rate—Assume a single payment loan that matures at the end of the construction period. The finance charge is the sum of the estimated interest and any prepaid finance charge. The amount financed for computation purposes is determined by subtracting any prepaid finance charge from one-half of the commitment amount.

3. Repayment schedule—Interest payments shall be disclosed in making the repayment schedule disclosure under § 226.18(g).

4. Amount financed—The amount financed for disclosure purposes is the entire commitment amount less any prepaid finance charge.

Example:

Assume a $50,000 loan commitment at 10.5% with a 5 month construction period and a prepaid finance charge of 2 points.

	(A)		(B)	
Estimated interest:	$25,000×.105÷12×5=$1,093.75		$50,000×.105÷12×5=$2,187.50	
Estimated APR:	$\frac{(1,093.75+\$1,000)\times 100}{(\$25,000-\$1,000)}$	$+5\times 12=$	$\frac{(\$2,187.50+\$1,000)\times 100}{(\$25,000-\$1,000)}$	$+5\times 12=$
	20.94 pct		31.88 pct	

Disclosures:			
Principal amount of loan	$50,000		$50,000
Prepaid finance charge	$1,000		$1,000
Amount financed	$49,000		$49,000
Finance charge (estimate)	$2,093.75		$3,187.50
APR (estimate) (percent)	20.94		31.88
Repayment: One payment of principal of $50,000 on 12-12-80. Interest on the amount of credit outstanding will be paid monthly.		Four monthly payments of $437.50, beginning 8-12-80, and a final payment of $50,437.50 on 12-12-80.	
Total of payments (estimate)	$51,093.75		$52,187.50

Part II—Construction and permanent financing disclosed as one transaction.

A. The creditor shall estimate the interest payable during the construction period to be included in the total finance charge as follows:

1. If interest is payable only on the amount actually advanced for the time it is outstanding, assume that one-half of the commitment amount is outstanding at the contract interest rate for the entire construction period.

2. If interest is payable on the entire commitment amount without regard to the dates or amounts of actual disbursement, assume that the entire commitment amount is outstanding at the contract rate for the entire construction period.

B. the creditor shall compute the estimated annual percentage rate as follows:

1. Estimated interest payable during the construction period shall be treated for computation purposes as a prepaid finance charge (although it shall not be treated as a prepaid finance charge for disclosure purposes).

2. The number of payments shall not include any payments of interest only that are made during the construction period.

3. The first payment period shall consist of:

a. For loans made under paragraph A.1. of Part II, one-half of the construction period plus the time between the end of the construction period and the first amortization payment.

b. For loans made under paragraph A.2. of Part II, entire construction period plus the time between the end of the construction period and the first amortization payment.

C. The creditor shall disclose the repayment schedule as follows:

1. For loans under paragraph A.1. of Part II, without reflecting the number or amounts of payments of interest only that are made during the construction period. The fact that interest payments must be made and the timing of such payments shall be disclosed.

2. For loans under paragraph A.2. of Part II, including any payments of interest only that are made during the construction period.

D. The creditor shall disclose the amount financed as the entire commitment amount less any prepaid finance charge.

Example:

Assume a $50,000 loan commitment at 10.5% with a 5 month construction period and a prepaid finance charge of 2 points, followed by 30-year permanent financing at the same rate with monthly amortization payments of $457.37.

Appendix D

[Computation of estimated APR]

	Interest on amount advanced	Interest on entire commitment
Estimated construction interest=$25,000×.105÷12×5	=$1,093.75	$50,000×.105÷12×5=$2,187.50
Estimated total finance charge=360×$457.37	=$164,653.20	$164,653.20
Principal	−$50,000.00	−$50,000.00
Interest on permanent finance	$114,653.20	$114,653.20
Construction interest	+$1,093.75	+$2,187.50
Points	+$1,000.00	$116,746.95 +$1,000.00 $117,840.70
Estimated amount financed=		
Principal	$50,000.00	$50,000.00
Construction interest	−$1,093.75	−$2,187.50
Points	−$1,000.00	$47,906.25 −$1,000.00 $46,812.50
Number of payments	360	360
Payment amount	$457.37	$457.37
First payment period ((5÷2)+1)	3½ mo	(5+1) 6 mo
Estimated APR (actuarial) (percent)	10.75	10.76
Estimated APR (volume I): $11,674,895 / $47,906.25	=$243.70=FC/$100	$11,784,070 / $46,812.50 =$251.73=FC/$100
First period adjustment=3 mo, 15 days=+5.0. Using 365 payment line, the figure closest to $243.70 is $247.00, which corresponds to an APR of 11 pct.		First period adjustment=6 mo=+10.0. Using 370 payment line, the figure closest to $251.73 is $251.17, which corresponds to an APR of 11 pct.

Disclosures		
Principal amount of credit	$50,000	$50,000
Prepaid finance charge	$1,000	$1,000
Amount financed	$49,000	$49,000
Finance charge (estimate)	$116,746.95	$117,840.70
Annual percentage rate (estimate) (percent)	10.75	10.76
Repayment: Interest on the amount of credit outstanding during the construction period will be paid monthly, followed by 360 monthly payments of $457.37, beginning 1-12-81.		Five monthly payments of $437.50 beginning 8-12-80, followed by 360 monthly payments of $457.37 beginning 1-12-81.
Total of payments (estimate)	$165,746.95	$166,840.70

Appendix E—Annual Percentage Rate Computations for Certain Open-End Credit Plans

In determining the denominator of the fraction under § 226.14(c)(2)(iii)(B), no amount will be used more than once when adding the sum of the balances[1] to which periodic rates apply to the sum of the amounts financed to which specific transaction charges apply. In every case the full amount of transactions to which specific transaction charges apply shall be included in the denominator. Other balances or parts of balances shall be included according to the manner of determining the balance to which a periodic rate is applied, as illustrated in the following examples of accounts on monthly billing cycles:

1. Previous balance—none. A specific transaction of $100 occurs at midpoint of the billing cycle. The average daily balance is $100. A specific transaction charge of 3% is applicable to the specific transaction. The periodic rate is 1½% applicable to the average daily balance. The numerator is the amount of the finance charge, which is $4.50. The denominator is the amount of the transaction (which is $100), plus the amount by which the balance to which the periodic rate applies exceeds the amount of specific transactions (such excess in this case is 0), totaling $100.

The annual percentage rate is the quotient (which is 4½%) multiplied by 12 (the number of months in a year), i.e., 54%.

2. Previous balance—$100. A specific transaction of $100 occurs at midpoint of the billing cycle. The average daily balance is $150. A specific transaction charge of 3% is applicable to the specific transaction. The periodic rate is 1½% applicable to the average daily balance. The numerator is the amount of finance charge which is $5.25. The denominator is the amount of the transaction (which is $100), plus the amount by which the balance to which the periodic rate applies exceeds the amounts of specific transactions (such excess in this case is $50), totaling $150.

As explained in example 1, the annual percentage rate is 3½% x 12=42%.

3. If, in example 2, the periodic rate applies only to the previous balance, the numerator is $4.50 and the denominator is $200 (the amount of the transaction, $100, plus the balance to which only the periodic rate is applicable, the $100 previous balance). As explained in example 1, the annual percentage rate is 2¼% x 12 = 27%.

4. If, in example 2, the periodic rate applies only to an adjusted balance (previous balance less payments and credits) and the customer made a payment of $50 at midpoint of billing cycle, the numerator is $3.75 and the deominator is $150 (the amount of the transaction $100, plus the balance to which the periodic rate is applicable, the $50 adjusted balance). As explained in example 1, the annual percentage rate is 2½% x 12=30%.

[1] Where a portion of the finance charge is determined by application of one or more daily periodic rates, the phrase "sum of the balances" shall also mean the "average of daily balances."

5. Previous balance—$100. A specific transaction (check) of $100 occurs at the midpoint of the billing cycle. The average daily balance is $150. The specific transaction charge is $.25 per check. The periodic rate is 1½% applied to the average daily balance. The numerator is the amount of the finance charge, which is $2.50 and includes the $.25 check charge and the $2.25 resulting from the application of the periodic rate. the ominator is the full amount of the specific transaction (which is $100) plus the amount by which the average daily balance exceeds the amount of the specific transaction (which in this case is $50), totaling $150. As explained in example 1, the annual percentage rate would be 1½% x 12=20%.

6. Previous balance—none. A specific transaction of $100 occurs at the midpoint of the billing cycle. The average daily balance is $50. The specific transaction charge is 3% of the transaction amount of $3.00. The periodic rate is 1½% per month applied to the average daily balance. The numerator is the amount of the finance charge, which is $3.75, including the $3.00 transaction charge and $.75 resulting from application of the periodic rate. The denominator is the full amount of the specific transaction ($100) plus the amount of the transaction ($0). Note that in this situation, where the transaction amount exceeds the balance, the resulting number is considered to be zero rather than a negative number (50−100=−50). The denominator is thus $100. The resulting annual percentage rate is 3¾% x 12=45%.

Appendix F—Open-End Model Disclosure Forms and Clauses

Section F(1)—Disclosures Regarding Balance Computation Methods
Section F(2)—Long Form Billing Error Rights Statement
Section F(3)—Alternative Billing Error Rights Statement
Section F(4)—Notice Regarding Liability for Unauthorized Use
Section F(5)—Notice of Right to Rescind (At Time of Each Transaction)
Section F(6)—Notice of Right to Rescind (At Time of Opening Account)
Section F(7)—Notice of Right to Rescind (At Time of an Increase in Credit Limit)

Section F(1)—Disclosures regarding Balance Computation methods (§§ 226.6(a)(3) and 226.(f))

(a) *Adjusted balance method.* The balance to which the periodic rate is applied in calculating the finance charges is the total amount you owe us at the end of one billing period [excluding any part of that amount that represents a finance charge], less all payments and credits we receive before the end of the next billing period.

(b) *Previous balance method.* The balance to which the periodic rate is applied in calculating the finance charges is the total amount you owe us at the end of each billing period [excluding any portion of that amount that represents a finance charge].

(c) *Average daily balance method (excluding current transactions).* The balance to which the periodic rate is applied in calculating the finance charges is the sum of the actual amounts owning each day of the billing period, not including transactions first charged to your account during the period [and not including any portion of the actual amount that is a finance charge], divided by the total number of days in the billing period.

(d) *Average daily balance method (including current transactions).* The balance to which the periodic rate is applied in calculating the finance charges is the sum of the actual amounts owning each day of the billing period, including transactions first charged to your account during the period [but not including any portion of the actual amount that is a finance charge], divided by the total number of days in the billing period.

Section F(2)—Long Form Billing Error Rights Statement (§ 226.6(d))

YOUR BILLING RIGHTS

KEEP THIS NOTICE FOR FUTURE USE.

This notice contains *important information* about your rights and our responsibilities under the Fair Credit Billing Act.

IN CASE OF ERROR OR QUESTIONS ABOUT YOUR BILL

1. *Notifying us of an error or question.* Send your question in writing (at the creditor's option: on a separate sheet) to the address listed on your bill after the words: "Send Inquiries To:" (or similar wording). (Alternate first sentence: Write to us at (address).) Write to us as soon as possible. We must hear from you no later than 60 days after we sent you the FIRST bill on which the error or problem occurred. You can telephone, but doing so *will not* preserve your rights.

In your letter give us the following information:

•Your name and account number.

•The dollar amount involved in the suspected error.

Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are not sure about.

If you have authorized automatic payment of credit card bills from your savings or checking account with us, you can stop payment on any amount you think is wrong. In order to exercise this right your letter must reach us three business days before the automatic debit is scheduled to occur.

2. *Your rights and our responsibilities after we receive your written notice.* We must acknowledge your letter within 30 days, unless we have corrected the error by then. Within 90 days we must either correct the error or explain why we believe the bill was correct.

After we have received your letter, we cannot try to collect any amount you are questioning, or report you to a credit bureau as delinquent because of the questioned amount. We can continue to bill you for the amount you are questioning, including any finance charges that would normally be imposed, and can apply any questioned amount that you have not paid against your credit limit. You do not have to pay any amount in question while we are investigating, however you do remain obligated to pay the parts of your bill not in question.

If we determine that we made a mistake on your bill, you will not have to pay any finance charges on any questioned amount. If we haven't made a mistake, you may have to pay finance charges on any amount in question and you will have to make up any missed required payments on the questioned amount. In either case we will send you a statement of the amount you owe, and when it is due.

If you fail to pay the amount that we conclude is owing, we may report you as delinquent to credit bureaus and other creditors. *However, if our explanation does not satisfy you and you write to us within ten days telling us that you still refuse to pay we must tell those credit bureaus and other creditors of your dispute and tell you specifically which credit bureaus and other creditors we have contacted.* Once the matter has been settled between us, we must inform those to whom we reported you as delinquent.

If we don't follow these rules, we can't collect the first $50 of the disputed amount including finance charges, even if your bill was correct.

SPECIAL RULE FOR CREDIT CARD PURCHASES

If you have a problem with the quality of property or services purchased with a credit card, and you have tried in good faith to correct the problem with the merchant, you may have the right not to pay the remaining amount due on them. There are two limitations on this right:

(a) You must have made the purchase in your home State or, if not within you home State, within 100 miles of your current mailing address; and

(b) The purchase price must have been more than $50.

These limitations do not apply if we own or operate the merchant, or if we mailed you the advertisement for the property or services.

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Section F(3)—Alternative Billing Error Rights Statement (§ 226.9(a))

BILLING RIGHTS SUMMARY IN CASE OF ERRORS OR QUESTIONS ABOUT YOUR BILL

Write us at [address] as soon as you can, if you think your bill is wrong or if you need more information about a transaction on your bill. We must hear from you no later than 60 days after we sent you the FIRST bill on which the error or problem occurred. You can telephone, but doing so *will not* preserve your rights.

In your letter give us the following information:

*Your name and account number.

*The dollar amount of the suspected error.

*Describe the error and explain, if you can, why you believe there is an error. If you need more information, describe the item you are unsure about.

You do not have to pay any amount in question while we are investigating, however you do remain obligated to pay the parts of your bill not in question. While investigating we cannot report questioned amounts as delinquent or take any action to collect those amounts.

SPECIAL RULE FOR CREDIT CARD PURCHASES

If you have a problem with the quality of goods or services purchased with a credit card and you have tried in good faith to correct the problem with the merchant, you may not have to pay the remaining amount due on them. You have this protection only when the purchase price was more than $50 and the purchase occurred in your home State or within 100 miles of your mailing address. (If we own or opreate the merchant, or if we mailed you the advertisement for the property or services, all purchases are covered regardless of amount or location of purchase.)

Section F(4)—Notice Regarding Liability for Unauthorized Use (§ 226.12(b)(2))

You may be liable for the unauthorized use of your credit card (or other term that describes the credit card). You will not be liable for unauthorized use that occurs after you notify (name of card issuer or its designee) orally or in writing of loss, theft, or possible unauthorized use. In any case, you liability shall not exceed (insert $50 or any lesser amount under other applicable law or under any agreement with the cardholder.)

Section F(5)—Notice of Right to Rescind (at Time of Each Transaction)(§ 226.15(a)(1)(i))

Notice of Right to Cancel

1. *Your right to cancel.* You have agreed with us on (date) to an extension of credit under your open-end credit account. This extension of credit will result in an increase in the amount of credit outstanding on your open-end credit account which is secured by a mortgage, lien, or other security interest in your home. You have a legal right under federal law to cancel this extension of credit without cost, within three business days after the above date or any later date on which you received a copy of the material Truth in Lending disclosures or this notice of your right to cancel.

If you cancel the extension of credit any additional security interest taken as a result of the extension of credit is also cancelled. Within 20 calendar days of receiving your notice, we must take the steps necessary to reflect the fact that any additional security interest in your home has been cancelled and we must return to you any money or property you have given to us or to anyone else in connection with this extension of credit. If we have given you any money or property, you may keep it until we have performed our obligations. You must then offer to return the money or property; if return of the property itself is impractical or unfair, you must offer its reasonable value. You may make the offer at your home or at the location of the property. Money must be returned to the address shown below. If we do not take possession of the money or property within 20 calendar days of your offer, you may keep it without further obligation.

2. *How to cancel.* If you decide to cancel this extension of credit, you may do so by notifying us, in writing, at (creditor's name and business address). You may use any written statement that is signed and dated to cancel this extension of credit. You may use this notice by dating and signing below. Retain one copy of this notice regardless of the method you use to cancel since it contains important information about your rights.

If you cancel by mail or telegram, the notice must be sent no later than midnight of (date). If you use any other means to deliver or transmit to us your written notice to cancel, it must be delivered to the above address no later than that time.

I hereby cancel this transaction.

(Consumer's signature) _____

(Date) _____

Name (please print) _____

Address (please print) _____

Section F(6)—Notice of Right to Rescind (At Time of Opening Account)(§ 226.15(a)(1)(ii))

Notice of Right to Cancel

1. *Your right to cancel.* You have agreed with us on (date) to establish an open-end credit account that is to be secured by your home. Opening this account will result in a mortgage, lien, or other security interest in your home. You have a legal right under federal law to cancel this account, without cost, within three business days after the above date or any later date on which you received your initial Truth in Lending disclosures or this notice of your right to cancel.

If you cancel the account, the security interest is also cancelled. Within 20 days of receiving your notice, we must take the steps necessary to reflect the fact that the security interest in your home has been cancelled and we must return to you any money or property you have given to us or to anyone else in connection with this account. If we have given you any money or property, you may keep it until we have performed our obligations. You must then offer to return the money or property; if return of the property itself is impractical or unfair, you must offer its reasonable value. You may make the offer at your home or at the location of the property. Money must be returned to the address shown below. If we do not take possession of the money or property within 20 days of your offer, you may keep it without further obligation.

2. *How to cancel.* If you decide to cancel this account, you may do so by notifying us, in writing, at (creditor's name and business address). You may use any written statement that is signed and dated to cancel this account. You may use this notice by dating and signing below. Retain one copy of this notice regardless of the method you use to cancel since it contains important information about your rights.

If you cancel by mail or telegram, the notice must be sent no later than midnight of (date). If you use any other means to deliver or transmit to us your written notice to cancel, it must be delivered to the above address no later than that time.

I hereby cancel this transaction.

(Consumer's signature) _____

(Date) _____

Name (please print) _____

Address (please print) _____

Section F(7)—Notice of Right To Rescind at Time of an Increase in Credit Limit (§ 226.15(a)(1)(ii))

Notice of Right to Cancel

1. *Your right to cancel.* You have agreed with us on (date) to increase the credit limit on your open-end credit account that is secured by your home. Increasing the credit limit will result in an increase in the amount of the mortgage, lien, or other security interest in your home. You have a legal right under federal law to cancel this increase, without cost, within three business days after the above date or any later date on which you received your material Truth in Lending disclosures or this notice of your right to cancel.

If you cancel the increase, the additional security interest is also cancelled. Within 20 calendar days of receiving your notice, we must take the steps necessary to reflect the fact that the additional security interest in your home has been cancelled and we must return to you any money or property you have given to us or to anyone else in connection with this increase. If we have given you any money or property, you may keep it until we have performed our obligations. You must then offer to return the money or property; if return of the property itself is impractical or unfair, you must offer its reasonable value. You may make the offer at your home or at the location of the property. Money must be returned to the address shown below. If we do not take possession of the money or property within 20 calendar days of your offer, you may keep it without further obligation.

2. *How to cancel.* If you decide to cancel this increase, you may do so by notifying us, in writing, at (creditor's name and business address). You may use any written statement that is signed and dated to cancel this increase. You may use this notice by dating and signing below. Retain one copy of this notice regardless of the method you use to cancel since it contains important information about your rights.

If you cancel by mail or telegram the notice must be sent no later than midnight of (date). If you use any other means to deliver or transmit to us your written notice to cancel, it must be delivered to the above address no later than that time.

I hereby cancel this transaction.

(Consumer's signature) _____

(Date) _____

Name (please print) _____

Address (please print) _____

Appendix G—Closed-End Model Forms and Clauses

Section G(1)—Model Sale Disclosure
Section G(2)—Model Loan Disclosure
Section G(3)—Model for the Explanation of the Amount Financed
Section G(4)—Model for Combined RESPA and Truth in Lending Disclosures
Section G(5)—Notice of Right to Rescind
Section G(6)—Disclosures Regarding Variable Rates
Section G(7)—Disclosures Regarding Demand Obligations
Sample I—Sale Disclosure with Explanation of Amount Financed
Sample II—Loan Disclosure
Sample III—Mortgage Disclosure with Explanation of Amount Financed

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SECTION G(1)—MODEL SALE DISCLOSURE

(Name of Creditor)

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments	Total Sale Price
The cost of my credit as a yearly rate.	The dollar amount the credit will cost me, if I pay as scheduled.	The amount of credit provided to me or on my behalf.	The amount I will have paid when I have made all payments as scheduled.	The total cost of my purchase on credit including my down payment of $_____
%	$	$	$	$

I have the right to receive at this time a written explanation of the Amount Financed.
___ I want an explanation. ___ I do not want an explanation.

My payment schedule will be

Number of Payments	Amount of Payments	When Payments Are Due

Insurance
Credit life insurance and disability insurance are not required to obtain credit, and will not be provided unless I sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life		I want credit life insurance. _____ Signature
Credit Life and Disability		I want credit life and disability insurance. _____ Signature

Property insurance may be obtained from anyone I desire that is acceptable to the creditor.
If I get the insurance from (creditor) , I will pay $_____.

[Filing fees: $_____] [Non-filing insurance $_____]

Late Charge: I will be charged [$_____] [_____% of the payment] if a payment is not received within _____ days of its due date.

Security: I am giving a security interest in [the goods being purchased.] [and] [(other property.)_____
_____
_____]

Prepayment: If I pay off early I will [not] have to pay the total finance charge. I will [not] have to pay a penalty.

Assumption: Someone buying my home [may be allowed to] [cannot] assume the remainder of the mortgage on the original terms.

I can refer to my contract documents for any additional information they may contain about nonpayment, default, any required repayment of this obligation in full before the scheduled date, and prepayment rebates and penalties.

I have a copy of this statement. _____ Signature _____ Date

_____
e means dollar amount is an estimate.

SECTION G(2)—MODEL LOAN DISCLOSURE

(Name of Creditor)

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments
The cost of my credit as a yearly rate.	The dollar amount the credit will cost me, if I pay as scheduled.	The amount of credit provided to me or on my behalf.	The amount I will have paid when I have made all payments as scheduled.
%	$	$	$

I have the right to receive at this time a written explanation of the Amount Financed.
___ I want an explanation. ___ I do not want an explanation.

My payment schedule will be

Number of Payments	Amount of Payments	When Payments Are Due

Insurance
Credit life insurance and disability insurance are not required to obtain credit, and will not be provided unless I sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life		I want credit life insurance. _____ Signature
Credit Life and Disability		I want credit life and disability insurance. _____ Signature

Property insurance may be obtained from anyone I desire that is acceptable to the creditor.
If I get the insurance from (creditor) I will pay $_____.

[Filing fees: $_____] [Non-filing insurance $_____]

Late Charge: I will be charged [$_____] [_____% of the payment] if a payment is not received within _____ days of its due date.

Security: I am giving a security interest in [the goods being purchased.] [and] [(other property.)_____
_____
_____]

Prepayment: If I pay off early I will [not] have to pay the total finance charge. I will [not] have to pay a penalty.

Assumption: Someone buying my home [may be allowed to] [cannot] assume the remainder of the mortgage on the original terms.

I can refer to my contract documents for any additional information they may contain about nonpayment, default, any required repayment of this obligation in full before the scheduled date, and prepayment rebates and penalties.

I have a copy of this statement. _____ Signature _____ Date

_____
e means dollar amount is an estimate.

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SECTION G(3)—MODEL FOR THE EXPLANATION OF THE AMOUNT FINANCED

Explanation of Amount Financed of $. _____

$ _____ Amount given to me directly.

$ _____ Amount paid on my account.

$ _____ Amount(s) paid to others on my behalf.

$ _____ to public officials

$ _____ to (name of another creditor)

$ _____ to (name of insurance company)

$ _____ Prepaid finance charge

_____ _____
Signature Date

SECTION G(4)—MODEL FOR COMBINED RESPA AND TRUTH IN LENDING DISCLOSURES

(Lender's Name) (Consumer's Name)

RESPA Good Faith Estimates of Settlement Costs and Explanation of the Amount Financed of $_____

Settlement Statement Line Number	Settlement Service	Prepaid Finance Charge	Charge Included in Amount Financed	Charge Paid in Cash
	TOTALS			

* (Lender) requires that I use the following providers of settlement services in this transaction.
The estimates of my costs are based upon each provider's charges.

Name	Address and Telephone	(Lender) has a business relationship with this provider.
_____	_____	_____
_____	_____	_____

This form includes all settlement service charges I must pay, but it may not cover all items I may have to pay in cash at settlement. I may want to ask about the cost of any items I must pay that are not shown on this form.

The Real Estate Settlement Procedures Act (RESPA) requires that I receive a booklet describing the settlement process and this estimate of costs when I apply for a mortgage loan or within three business days of applying.

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Section G(5)—Notice of Right to Rescind (§ 226.23(b))

Notice of Right to Cancel

You are entering into a transaction that may result in a security interest in your home. You have a legal right under federal law to cancel this transaction, without cost, within three business days, from whichever of the following three events occurs last.

(1) The date of the transaction, which is _____.

(2) The date you received your Truth in Lending disclosures.

(3) The date you received this notice of your right to cancel.

If you decide to cancel this transaction, you may do so by notifying us in writing, at (creditor's name and business address). You may use any written statement that is signed and dated to cancel this transaction, or you may use one copy of this notice by dating and signing below. You may want to keep the other copy because it contains important information about your rights. If you cancel by mail or telegram, the notice must be sent no later than midnight of (date). If you use any other means to cancel, it must be delivered to the above address no later than that time.

If you cancel the transaction, the security interest is also cancelled. Within 20 calendar days of receiving your notice, we must take the steps necessary to reflect the fact that the security interest in your home has been cancelled and we must return to you any money or property you have given to us or to anyone else in connection with this transaction. If we have given you any money or property, you may keep it until we have performed our obligations. You must then return the money or property; if return of the property itself is impractical or unfair, you must offer its reasonable value. At your option, you may offer to return the property at your home or at the location of the property. Money must be returned to the above address. If we do not take possession of the money or property within 20 calendar days of your offer, you may keep it without further obligation.

I hereby cancel this transaction.

(Consumer's signature) _____

(Date) _____

Section G(6)—Disclosures Regarding Variable Rates (§ 226.18(f))

The annual percentage rate may increase during the term of this transaction under the following conditions:

[An increase in the prime interest rate of this lender]

[My deposit accounts fail to maintain a balance of _____]

[I terminate my employment with _____]

An increase is limited in the following manner:

[The rate will not increase above ——%]

[The maximum increase at one time will be ——%]

Any increase will take the form of:

[Higher payment amounts]

[More payments of the same amount]

[A larger amount due at maturity]

Section G(7)—Disclosures Regarding Demand Obligations (§ 226.18(i))

This obligation [is payable on demand.] [has a demand feature.]

[All disclosures are based on an assumed maturity of one year.]

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SAMPLE 1 - SALE DISCLOSURE WITH EXPLANATION OF AMOUNT FINANCED

XYZ Auto, Inc. Glenn Jones

ANNUAL PERCENTAGE RATE The cost of my credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost me, if I pay as scheduled.	Amount Financed The amount of credit provided to me or on my behalf.	Total of Payments The amount I will have paid when I have made all payments as scheduled.	Total Sale Price The total cost of my purchase on credit including my down payment of $ 1500.00
13.18 %	$1320.38	$6107.50	$7427.88	$8952.88

My payment schedule will be

Number of Payments	Amount of Payments	When Payments Are Due
36	$206.33	Monthly beginning 6-1-81

Insurance

Credit life insurance and disability insurance are not required to obtain credit, and will not be provided unless I sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life	$120.00	I want credit life insurance. Glenn Jones (Signature)
Credit Life and Disability		I want credit life and disability insurance. (Signature)

[Filing fees: $ 12.50]

Late Charge: I will be charged [$ 10-] ~~[X %]~~ of ~~the~~ payment if a payment is not received within 10 days of its due date.

Security: I am giving a security interest in (the goods being purchased.) ~~[and] [(other property)]~~

Prepayment: If I pay off early I will (not) have to pay the total finance charge. ~~I will [not] have to pay a penalty.~~

I can refer to my contract documents for any additional information they may contain about nonpayment, default, any required repayment of this obligation in full before the scheduled date, and prepayment rebates and penalties.

I have a copy of this statement. Glenn Jones (Signature) 5-1-81 (Date)

e means dollar amount is an estimate.

Explanation of Amount Financed of $ 6107.50

$ 0 Amount given to me directly.

$ 6000.00 Amount paid on my account.

$ 132.50 Amount(s) paid to others on my behalf.

- $ 12.50 to public officials
- $ 120.00 to Acme Insurance Company
- $ N/A to

$ 25.00 Prepaid finance charge

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SAMPLE II—LOAN DISCLOSURE

FEDERAL BANK & TRUST CO.

ANNUAL PERCENTAGE RATE The cost of my credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost me, if I pay as scheduled.	Amount Financed The amount of credit provided to me or on my behalf.	Total of Payments The amount I will have paid when I have made all payments as scheduled.
10.08 %	$ 540-	$ 5000-	$ 5540-

I have the right to receive at this time a written explanation of the Amount Financed.
___ I want an explanation. X I do not want an explanation.

My payment schedule will be

Number of Payments	Amount of Payments	When Payments Are Due
1	$250-	June 1, 1981
23	$230-	Monthly beginning July 1, 1981

Insurance
Credit life insurance and disability insurance are not required to obtain credit, and will not be provided unless I sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life		I want credit life insurance. Signature
Credit Life and Disability		I want credit life and disability insurance. Signature

Property insurance may be obtained from anyone I desire that is acceptable to the creditor.
If I get the insurance from Federal B & T Co., I will pay $ _____.

Late Charge: I will be charged 5 % of the payment if a payment is not received within 15 days of its due date.

Security: I am giving a security interest in [the goods being purchased.] [and] [(other property.) _____]

Prepayment: If I pay off early ~~I will [not] have to pay the total finance charge~~. I will not have to pay a penalty.

I can refer to my contract documents for any additional information they may contain about nonpayment, default, any required repayment of this obligation in full before the scheduled date, and prepayment rebates and penalties.

e means dollar amount is an estimate.

SAMPLE III—MORTGAGE DISCLOSURE WITH EXPLANATION OF AMOUNT FINANCED

FEDERAL SAVINGS AND LOAN

Janet Smith
Account # 53-4666-69

ANNUAL PERCENTAGE RATE The cost of my credit as a yearly rate.	FINANCE CHARGE The dollar amount the credit will cost me, if I pay as scheduled.	Amount Financed The amount of credit provided to me or on my behalf	Total of Payments The amount I will have paid when I have made all payments as scheduled.
13.91 %	$161,786.74	$49,287.33	$207,836.40

My payment schedule will be

Number of Payments	Amount of Payments	When Payments Are Due
360	$583.99	Monthly beginning June 1, 1981

Insurance
Credit life insurance and disability insurance are not required to obtain credit, and will not be provided unless I sign and agree to pay the additional cost.

Type	Premium	Signature
Credit Life		I want credit life insurance. Signature
Credit Life and Disability		I want credit life and disability insurance. Signature

Late Charge: I will be charged 5 % of the payment if a payment is not received within 15 days of its due date.

Security: I am giving a security interest in the property being purchased.

Prepayment: If I pay off early ~~I will [not] have to pay the total finance charge~~. I will [X] have to pay a penalty.

Assumption: Someone buying my home cannot assume the remainder of the mortgage on the original terms.

I can refer to my contract documents for any additional information they may contain about nonpayment, default, any required repayment of this obligation in full before the scheduled date, and prepayment rebates and penalties.

I have a copy of this statement. Janet Smith (Signature) 4-15-81 (Date)

e means dollar amount is an estimate.

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SAMPLE III—CONTINUED

FEDERAL SAVINGS AND LOAN

Janet Smith
Account # 53-4666-69

RESPA Good Faith Estimates of Settlement Costs and Explanation of the Amount Financed of $ 49,287.33

Settlement Statement Line Number	Settlement Service	Prepaid Finance Charge	Charge Included in Amount Financed	Charge Paid in Cash
801.	Loan Origination Fee (1%)	$500		
803.	Appraisal Fee			$125
804.	Credit Report Fee			$ 20
901.	Interest (15 days)	$287.67		
1101.	Settlement Fee	$ 50		
1107.	Attorney's Fees* (includes 1102. Title Search and 1105. Document preparation)			$200
1108.	Title Insurance		$125	
1201.	Recording Fees			$ 22.50
1203.	State Tax			$125
1301.	Survey			$ 80
	TOTALS	$837.67	$125	$572.50

* Federal S & L requires that I use the following providers of settlement services in this transaction.
The estimates of my costs are based upon each provider's charges.

Name	Address and Telephone	Federal Savings and Loan has a business relationship with this provider?
G.L. Griffith	100 Main St., N.Y., N.Y. 10010 (212)555-1213	No

This form includes all settlement service charges I must pay, but it may not cover all items I may have to pay in cash at settlement. I may want to ask about the cost of any items I must pay that are not shown on this form.

The Real Estate Settlement Procedures Act (RESPA) requires that I receive a booklet describing the settlement process and this estimate of costs when I apply for a mortgage loan or within three business days of applying.

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Appendix H—Leasing Model Forms

Section H(1)—Model for Open-end or Finance Vehicle Lease Disclosures
Section H(2)—Model for Closed-end or Net Vehicle Lease Disclosures
Section H(3)—Model for Furniture Lease Disclosures

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SECTION H(1)--MODEL FOR OPEN-END OR FINANCE VEHICLE LEASE DISCLOSURES

Date_____

1. LESSOR(S) _____ LESSEE(S) _____

2. Description of leased property

Year	Make	Model	Body Style	Vehicle ID #

3. (a) Initial Charges, consisting of
☐ Capitalized Cost Reduction ☐ Trade-in Allowance ☐ _____ $_____

(b) Other Charges Payable at Inception, consisting of
☐ Advance Monthly Payment of _____
☐ Refundable Security Deposit ☐ Delivery Charge
☐ Registration Fees ☐ _____ $_____

Total Payment Due at Inception: $_____

4. (a) Basic Monthly Payment: $_____

(b) Other Charges Payable Monthly:
☐ Maintenance ☐ Registration Fees
☐ Insurance _____ $_____

Total Monthly Payment: $_____

5. Term of this lease: _____
The first monthly payment of $_____ is due on _____; _____ subsequent payments of $_____ on the _____ of each month thereafter.

6. Total of Basic Monthly Payments: $_____

7. Total of Other Charges Payable to Lessor:
☐ Disposition $_____ ☐ Maintenance $_____
☐ _____ $_____ $_____

8. Fees and Taxes
Total amount you will pay during the term for official fees, registration, certificate of title, license fees and taxes. $_____

9. Insurance
The following types and amounts of insurance will be acquired in connection with this lease: _____
☐ We (lessor) will provide the insurance coverage quoted above for a total premium cost of $_____.
☐ You (lessee) agree to provide insurance coverage in the amounts and types indicated above. $_____

10. Estimated _____ value of the vehicle at the end of the lease term: $_____
(Your liability for this sum may be limited. See Item 14.)

11. Total Lease Obligation: $_____
(Items 3(a), 6 and 10.)

12. Initial Value of Vehicle: $_____

13. Difference: $_____
(Item 11 less Item 12.)

14. End of Term Liability
(a) The estimated value of the vehicle stated in Item 10 is based on a reasonable, good faith estimate of the value of the vehicle at the end of the lease term. If the actual value of the vehicle at that time is *greater* than the estimated value, you will have no further liability under this lease, except for other charges already incurred (and are entitled to a credit or refund of any surplus).
If the actual value of the vehicle is *less* than the estimated value, you will be liable for any difference up to $_____(3 times Item 4(a)). For any difference in excess of that amount, you will be liable only if
1. Excessive use or damage [as described in Item 15] [representing more than normal wear and tear] resulted in an unusually low value at the end of the term.
2. You voluntarily agree with us after the end of the lease term to make a higher payment.
3. The matter is not otherwise resolved and we win a lawsuit against you seeking a higher payment.
Should we bring a lawsuit against you, we must prove that our original estimate of the value of the leased property at the end of the lease term was reasonable and was made in good faith. For example, we might prove that the actual value was less than the original estimated value, although the original estimate was reasonable, because of an unanticipated decline in value for that type of vehicle.
Unless we prove that the excess amount owed was the result of excessive use or unreasonable wear and tear, we will pay your reasonable attorney's fees.
(b) If you disagree with the value we assign to the vehicle, you may obtain, at your own expense, from an independent third party agreeable to both of us, a professional appraisal of the _____ value of the leased vehicle which could be realized at sale. The appraised value shall then be used as the actual value.

15. Standards for Wear and Use
The following standards are applicable for determining unreasonable or excessive wear and use of the leased vehicle: _____

16. Maintenance
[You are responsible for the following maintenance and servicing of the leased vehicle: _____]
[We are responsible for the following maintenance and servicing of the leased vehicle: _____]

17. Warranties
The leased vehicle is subject to the following express warranties: _____

18. Early Termination and Default
(a) You may terminate this lease before the end of the lease term under the following conditions: _____
The charge for such early termination is _____
(b) We may terminate this lease before the end of the lease term under the following conditions: _____
Upon such termination we shall be entitled to the following charge(s) for _____
(c) To the extent these charges take into account the value of the vehicle at the end of the lease term, you have the same right to a professional appraisal as that stated in Item 14(b).

19. Security Interest
We reserve a security interest of the following type in the property listed below to secure performance of your obligations under this lease: _____

20. Late Payments
The charge for late payments is _____

21. Option to Purchase
[You have an option to purchase the leased vehicle at the following times: _____
If at the end of the term, the price will be $_____.
If prior to the end of the term, the price will be $_____]
[You have no option to purchase the leased vehicle.]

SECTION H(2)--MODEL FOR CLOSED-END OR NET VEHICLE LEASE DISCLOSURES

Date_____

1. LESSOR(S) _____ LESSEE(S) _____

2. Description of leased property

Year	Make	Model	Body Style	Vehicle ID #

3. Total Payment Due at Inception:
☐ Capitalized Cost Reduction ☐ Delivery Charge
☐ Trade-in Allowance ☐ Registration Fees
☐ Advance Monthly Payment of _____
☐ Refundable Security Deposit ☐ _____ $_____

4. Term of this lease: _____
The first monthly payment of $_____ is due on _____; _____ subsequent payments of $_____ on the _____ of each month thereafter.

5. Total Monthly Payment: $_____

6. Total of Monthly Payments: $_____

7. Total of Other Charges Payable to Lessor:
☐ Disposition $_____ ☐ Maintenance $_____
☐ _____ $_____ $_____

8. Fees and Taxes
Total amount you will pay during the term for official fees, registration, certificate of title, license fees and taxes. $_____

9. Insurance
The following types and amounts of insurance will be acquired in connection with this lease: _____
☐ We (lessor) will provide the insurance coverage quoted above for a total premium cost of $_____.
☐ You (lessee) agree to provide insurance coverage in the amounts and types indicated above. $_____

10. Standards for Wear and Use
The following standards are applicable for determining unreasonable or excessive wear and use of the leased vehicle: _____

11. Maintenance
[You are responsible for the following maintenance and servicing of the leased vehicle: _____]
[We are responsible for the following maintenance and servicing of the leased vehicle: _____]

12. Warranties
The leased vehicle is subject to the following express warranties: _____

13. Early Termination and Default
(a) You may terminate this lease before the end of the lease term under the following conditions: _____
The charge for such early termination is _____
(b) We may terminate this lease before the end of the lease term under the following conditions: _____
Upon such termination we shall be entitled to the following charge(s) for _____
(c) To the extent that these charges take into account the value of the vehicle at the end of the lease term, if you disagree with the value we assign to the vehicle, you may obtain at your own expense, from an independent third party agreeable to both of us, a professional appraisal of the _____ value of the leased vehicle which could be realized at sale. The appraised value shall then be used as the actual value.

14. Security Interest
We reserve a security interest of the following type in the property listed below to secure performance of your obligations under this lease: _____

15. Late Payments
The charge for late payments is _____

16. Lessee's Option to Purchase
[You have an option to purchase the leased vehicle at the following times: _____
If at the end of the term, the price will be $_____.
If prior to the end of the term, the price will be $_____]
[You have no option to purchase the leased vehicle.]

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SECTION H(3)--MODEL FOR FURNITURE LEASE DISCLOSURES

Date_____

1. LESSOR(S) LESSEE(S)

2. Description of leased property [is attached].

Item	Color	Stock #	Mfg.	Qty.					

3. Total Payment Due at Inception: $_____
☐ Refundable Security Deposit ☐ Delivery Charge
☐ Advance Monthly Payment of _____ ☐ _____

4. Term of this lease: _____
The first monthly payment of $_____ is due on _____; _____ subsequent payments of $_____ on the _____ of each month thereafter.

5. Total Monthly Payment: $_____

6. Total of Monthly Payments: $_____

7. Total of Other Charges Payable to Lessor: $_____
☐ Pick-up Charge $_____ ☐ _____ $_____

8. Fees and Taxes
Total amount you will pay during the term for official fees and taxes. $_____

9. Insurance
☐ You (lessee) agree to provide insurance coverage of the following types in the following amounts:_____.

☐ We (lessor) will provide the following types and amounts of insurance coverage:_____.

Total premium cost: $_____
☐ You agree to pay a waiver fee of $_____ per month in lieu of insurance.
Total Waiver Fee: $_____

10. Maintenance
[You are responsible for the following maintenance of the leased property:_____.]

[We are responsible for the following maintenance of the leased property:_____.]

11. Warranties
The leased property is subject to the following express warranties:_____.

12. Standards for Wear and Use
The following standards are applicable for determining unreasonable or excessive wear and use of the leased property:_____.

13. Early Termination and Default
(a) You may terminate this lease before the end of the lease term under the following conditions:_____.

The charge for such early termination is_____.

(b) We may terminate this lease before the end of the lease term under the following conditions:_____.

Upon such termination we shall be entitled to the following charge(s):_____.

14. Security Interest
We reserve a security interest of the following type in the property listed below to secure performance of your obligations under this lease:_____.

15. Late Payments
The charge for late payments is_____.

16. Option to Purchase
[You have an option to purchase any or all items of the leased property at the following times:_____.

If at the end of the term, the price will be $_____.

If prior to the end of the term, the price will be $_____.]

[You have no option to purchase the leased property.]

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Appendix I—Federal Enforcement Agencies

The following list indicates which Federal agency enforces Regulation Z for particular classes of businesses. Any questions concerning compliance by a particular business should be directed to the appropriate enforcement agency.

National Banks

Consumer Community and Fair Lending and Examination Division, Comptroller of the Currency, Washington, D.C. 20219.

State Member Banks

Federal Reserve Bank serving the district in which the State member bank is located.

Nonmember Insured Banks

Federal Deposit Insurance Corporation Regional Director for the region in which the nonmember insured bank is located.

Savings Institutions Insured by the FSLIC and Members of the FHLB System (except for Savings Banks Insured by FDIC)

The Federal Home Loan Bank Board Supervisory Agent in the district in which the institution is located.

Federal Credit Unions

Regional office of the National Credit Union Administration serving the area in which the Federal credit union is located.

Creditors Subject to Civil Aeronautics Board

Director, Bureau of Consumer Protection, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

Creditors Subject to Packers and Stockyards Act

Nearest Packers and Stockyards Administration area supervisor.

Federal Land Banks, Federal Land Bank Associations, Federal Intermediate Credit Banks and Production Credit Associations

Farm Credit Administration, 490 L'Enfant Plaza, S.W., Washington, D.C. 20578.

Retail, Department Stores, Consumer Finance Companies, all Other Creditors, and All Nonbank Credit Card Issuers (Creditors operating on a local or regional basis should use the address of the FTC Regional Office in which they operate.) Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington. D.C. 20580.

Regulatory Analysis of Proposed Revision of Regulation Z

Summary

The draft of revised Regulation Z prepared by staff of the Division of Consumer and Community Affairs would make major changes in the currently existing regulation. These proposed changes arise from two sources: (1) revisions in the regulation necessitated by passage of the Truth-in-Lending Simplification and Reform Act; and (2) staff proposals to simplify the existing regulatory struture further within the limits of discretion granted to the Board by the Truth-in-Lending Act.

The Simplification and Reform Act has resulted in five major kinds of proposed revisions in the regulatory structure: (1) Required disclosures have been reduced in number; (2) creditor compliance has been made easier in a number of ways, especially by providing model forms guaranteeing compliance if used properly; (3) civil liability of creditors has been limited to certain important disclosures; (4) the main burden of compliance enforcement has been shifted away relatively from the kinds of private actions that have contributed to complex rules and court decisions in the past and toward relatively greater reliance on administrative enforcement; and (5) certain complex legal questions that have produced conflicting court decisions in the past have been clarified. Staff efforts to simplify the regulation further have resulted in additional significant kinds of changes designed to: (1) Provide clearer definitions and standards of applicability; (2) make good faith compliance easier by providing for small disclosure tolerances; (3) minimize necessity of disclosures unrelated to credit decisionmaking; (4) allow creditors greater flexibility in preparing disclosures to fit the nature of individual transactions; and (5) eliminate other complexities and ambiguities.

On balance, each of the major proposed changes in the regulatory structure should produce net consumer benefits by substantially reducing regulatory burden without sacrificing important consumer protections. Important consumer disclosures would be retained in the revised regulation, but the complexity of compliance and frequency of changes should be reduced. This should reduce the regulatory burden by reducing legal costs, printing expenses, employee training costs, and programming and computing expenditures. These gains would only be achieved at the expense of start-up costs. It is not possible with currently available data to estimate accurately either the long-term savings or the short-term costs associated with changing to the new requirements, but the available lead time of one year should help minimize the latter. Furthermore, it appears that long run cost reductions should outweigh the start-up costs. In this regard, possibly the most important single contribution of the new regulation is the provision of model forms that guarantee compliance if used properly.

I. Background

Truth in Lending, enacted by Congress as Title I of the Consumer Credit Protection Act of 1968 (Pub. L. 90–321, May 29, 1968), is an important element of Federal consumer protection policy in the credit area. In essence, the various Federal consumer credit protections established by Congress since 1968, including Truth in Lending, might be characterized as combining two general regulatory approaches, although in different combinations. The first approach is disclosure—requiring that certain information be disclosed to consumers in a prescribed manner. Information disclosure is an important ingredient in most Federal consumer credit protections; but it is so essential to some, including Truth in Lending, the Real Estate Settlement Procedures Act (1974), the Home Mortgage Disclosure Act (1975), the Consumer Leasing Act (1976), and the Electronic Funds Transfer Act (1978), that these acts might properly be classified as "information protections." In contrast, the second regulatory approach involves more than disclosure: it involves requiring institutions to do or not do certain things or act in certain ways in their relations with consumers in the marketplace. In these cases disclosures might also be required, but disclosures are subordinate in importance to other elements. As a result, these regulations might be classified better as "behavioral protections" or "market protections." Examples in the credit area include the Fair Credit Reporting Act (1970), the Fair Credit Billing Act (1974), the Equal Credit Opportunity Act (1974 and 1976), and the Fair Debt Collection Practices Act (1977). Each of these acts requires disclosures under certain circumstances, but their requirements governing the market conduct of institutions are more important.

On its face Truth in Lending (TIL) appears to be both a reasonable and simple idea, but in practice the problems have proven to be immense. The House, Senate, and Conference Committee *Reports* expressing the intentions of Congress reveal both the simplicity of the idea and the reason for its operational complexity. According to the Senate *Report:*[1]

The basic purpose of the Truth-in-Lending bill is to provide a full disclosure of credit charges to the American consumer. The bill does not in any way regulate the credit industry nor does it prescribe ceilings on credit charges. Instead it requires that full

[1] United States Senate, Committee of Banking and Currency. *Truth in Lending 1967, Report to Accompany S.5* (Washington: Government Printing Office, 1967), p. 1.

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disclosure of credit charges be made so that the consumer can decide for himself whether the charge is reasonable.

This passage makes it abundantly clear that Congress intended Truth in Lending to be a disclosure law and an information protection rather than a market protection. This notion is re-emphasized in many parts of the Committee *Reports*. However, this passage also reveals the genesis of many later problems with TIL exemplified by the concept of "full disclosure." Rather than concentrating on a few fundamental disclosures, Truth in Lending and Regulation Z have always required a much more extensive list. Apparently drafted under the assumption that more disclosure is necessarily better than less, TIL and Regulation Z have required disclosure of all information that conceivably might be useful to someone sometime. Together with the diversity of consumer credit transactions and the penalties for violating the law or regulation, this principle has contributed substantially to TIL's complexity.

Originally the Truth-in-Lending Act filled more than 13 printed pages in the Conference Committee *Report* and included 30 separate sections. In addition, the original Regulation Z filled 30 pages in 98 separate sections plus a supplement booklet dealing with APR calculations. Moreover, Truth in Lending was amended in 1970, 1974, twice in 1976, and in 1978; Regulation Z was amended many time between July 1, 1969, and March, 1980. By early 1980 the Act filled 20 printed pages in 52 numbered sections, many with lengthy subdivisions. The regulation measured 53 printed pages in 153 highly technical sections (many with subsections) plus the APR supplement.

However, probably most indicative of difficulties surrounding TIL is the number of times that Regulation Z has been interpreted, both administratively and by the courts. By early 1980 more than 1500 interpretations had been published by the Federal Reserve Board and staff, with varying degrees of legal authority. In addition, by June 30, 1979, more than 13,000 TIL lawsuits has been filed in Federal courts, representing 2 per cent of the Federal civil caseload (but up to 50 per cent of the cases in some districts).[2] This almost continuous stream of amendments, interpretations, and court decisions, along with interacting changes in state laws affecting such things as rate ceilings and security interests, produced a situation where total compliance was very difficult, at best. As long as 9 years after the effective date of the Act (July 1, 1969), the Federal bank regulatory agencies reported that more than 80 per cent of banks were not wholly in compliance, although most violations were judged "nonsubstantive" or "technical."[3] By the later 1970's legal situation became somewhat ironic in that much of the litation over Truth in Lending concerned aspects of disclosures apart from credit cost disclosures, the critical elements of Truth in Lending according to Congress. Notable among disputed areas in the late 1970's were identity of the creditor, security interest issues, disclosure of loan proceeds, acceleration clause issues, and issues of rescission.[4]

As a result of the difficult legal conditions surrounding Truth in Lending a movement to "simplify" the law gained support in the second half of the 1970's. "Simplification" is, of course, a concept that is relatively easy to support in principle, although strong differences may develop when the concept is defined more closely. Possibilities include: A more clearly worded statute, a less resticitive statute, fewer required disclosures, easier to read forms, less information-packed forms, reduced liability for creditors, additional defenses (for creditors or consumers), greater preemption of state laws, a shorter regulation, a clearer regulation, fewer interpretations, more but clearer interpretations, etc. Nevertheless, by mid 1977 the idea of "simplifying" Truth in Lending had gained a measure of bipartisan support in the United States Senate, even if not complete agreement on details.[5] Four bills were introduced in the 95th Congress in 1977, and after entensive hearings and markup sessions, a bill was reported out by the Senate Banking Committee and passed by the Senate on May 10, 1978. However, the House took no action in the 95th Congress and the bill was reintroduced in the 96th Congress in 1979. After another hearing the bill passed the Senate again in May, 1979, and eventually (with some amendments) the Truth in Lending Simplification and Reform Act was incorporated into the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. 96-221), which was signed by the President on March 31. Shortly afterward, on May 5, 1980, the Federal Reserve Board issued for public comment a complete redraft of Regulation Z to implement the new Act.

II. Framework for Evaluation

Regulatory anlaysis of the draft of revised Regulation Z ultimately involves answering questions in two difficult areas. The first area involves comparing the new regulatory structure to the old: In particular, does the new structure improve upon and/or simplify the old, and what, if any, are the structural benefits of the new regulatory approach? This question is examined in Section III. The second area concerns the new regulatory structure as an information protection: Specifically, is the new approach likely to affect consumers' information needs in the credit area or have other impacts on the goals of Truth in Lending? This question forms the subject matter of Section IV.

III. Regulatory Structure

1. *Changes Required by the Simplification and Reform Act.* The Truth-in-Lending Simplification and Reform Act made extensive changes in the Truth in Lending Act. According to the Senate Committee on Banking, Housing, and Urban Affairs, which drafted the Reform Act, the Committee's efforts were focused on four general areas: "providing the consumer with simpler, more understandable information; making compliance easier for creditors; limiting creditor civil liability or statutory penalities to only significant violations; and strengthening administrative restitution enforcement of the act."[6] A fifth area concerned technical changes to eliminate legal problems that had arisen from inconsistent decisions among Federal district courts. Substantive changes were made in each of the five areas.

Table I lists major kinds of changes made in each of these areas by the Simplification and Reform Act and reflected in the draft of revised Regulation Z. As can be seen, the Simplification Act made such fundamental changes in each area that the 1980 amendments might be characterized better as producing a new Truth-in-Lending Act than merely as amending the old act. For example, among the important changes the number of disclosures has been reduced

[2] Source: Administrative Office of the United States Courts.

[3] Board of Governors of the Federal Reserve System, *Annual Report to Congress on Truth in Lending for the year 1978* (January 3, 1979), pp. 10-11.

[4] For a concise review of the issues and cases in these areas see David S. Willenzik, "Truth in Lending Litigation, Specific Problem Areas," *Journal of Retail Banking*, June 1979.

[5] See United States Senate, Committee on Banking, Housing and Urban Affairs, *Simplify and Reform the Truth in Lending Act, Hearings on S. 1312, S. 1501, and S. 1653*, July 11-13, 1977 (Washington: Government Printing Office, 1977).

[6] United States Senate, Committee on Banking, Housing, and Urban Affairs, *Truth in Lending Simplification and Reform Act, Report to Accompany S. 108* (Washington: Government Printing Office, 1979), p.3.

and the format changed, model forms have been required and other changes have been made to aid compliance, civil penalties have been limited to key disclosures, and enforcement provisions have been altered. Because changes in these and other areas of the act are so substantial, major changes are also required in Regulation Z.

Table I—Areas of Change in Draft Regulation Z Arising From the Truth-in-Lending Simplification and Reform Act

1. Changes To Provide Consumers With Simpler, More Understandable Information. A. Reduction in the absolute number of disclosures, especially by reducing itemizations on closed-end credit.

B. Providing that supplemental information may not be intermingled with Truth-in-Lending disclosures.

C. Providing for short descriptive phrases to accompany numerical disclosures.

D. Providing that residential first mortgage disclosures be given at some time as Real Estate Settlement Procedures Act (RESPA) disclosures.

2. Changes To Make Compliance Easier for Creditors. A. Reduction in the absolute number of disclosures.

B. Requiring that the Federal Reserve promulgate model forms which would guarantee compliance if filled in properly.

C. Providing that all amendments or interpretations requiring forms changes become effective on October 1 of each year, with at least six months notice.

D. Providing for true tolerances of ⅛ percent for annual percentage rate disclosures and for wider tolerances on complex transactions under regulations of the Board.

3. Changes Affecting Civil Liability Provisions. A. Limiting creditors' civil liability for statutory penalties to only those disclosures regarded as being of central importance.

B. Extending the period during which a creditor can "cure" a violation and avoid civil penalties from 15 days to 60 days after discovery.

C. Providing that "discovery" of errors might be due to examination agency reports without cutting off the time period to cure.

D. Extending "bona fide error" defense to good faith calculation, computer, and printing errors as well as to clerical errors.

4. Changes To Strengthen Administrative Restitution Enforcement. A. Requiring administrative agencies to order refunds when finance charges or APR's are understated and when errors are part of a clear pattern or practice, are the result of gross negligence, or are willful.

B. Providing for some administrative discretion in ordering restitution, except for willful violations.

5. Changes To Clarify Legal Issues. A. Clarification concerning creditor responsible for disclosures on transactions involving more than one institution.

B. Clarification concerning adequate disclosure of security interests.

C. Clarification concerning disclosure of acceleration clauses.

D. Clarification concerning disclosure of right of rescission on certain transactions.

Beyond the specifics of the kinds of changes listed in Table I, the extent of the alterations in the act and regulation indicates some fundamental shifts in regulatory approach. One shift involves a movement away from the concept of full disclosure of everything as a Truth-in-Lending matter. Rather, the new act and draft regulation concentrate on requiring fewer disclosures, especially those believed to be most important to most consumers. The idea behind this change is that beyond these critical disclosures, regulatory burden increases faster than the usefulness of the disclosures to consumers. A second shift involves significant attempts at relieving the most burdensome compliance problems for creditors, especially by providing model forms that will guarantee compliance if used properly. A third shift moves enforcement efforts away relatively from private court suits for civil penalties and focuses enforcement effort on administrative actions by government agencies. This change should help slow the flow of court decisions that has required creditors constantly to be aware of potential changes in disclosure standards and which, on occasion, has produced differing disclosure standards among judicial districts.

2. *Other Changes Proposed.* Besides changes in Regulation Z mandated by the Simplification and Reform Act, the staff draft of revised Regulation Z reflects a large number of other proposed changes, which are listed in Table II. These changes are designed to provide additional simplifications in disclosure procedures so as to provide clearer standards, eliminate complexities, and provide a greater degree of flexibility in a regulation that had become quite inflexible. However, because each of the changes involves a tradeoff between full precise disclosures (which may be complex and difficult to make and understand) and simpler disclosures (that may be less complete or precise even if more understandable), some of the changes may be controversial. Nevertheless, the changes proposed appear consistent with the Congressional mandate for regulatory simplification.

Table II—Areas of Change in Draft Regulation Z Arising From Staff Attempts to Simplify the Regulatory Structure

1. Changes Designed to Provide Clearer Standards Concerning Applicability of Provisions of the Regulation. A. Definition of creditor subject to regulation is make more precise by providing a standard stated in terms of number of annual credits (25, or 5 real estate credits) rather than a standard in terms of "ordinary course of business."

B. Coverage of credit where there is no finance charge is limited to written agreements, thereby excluding informal installment agreements often offered by physicians and other professionals and tradesmen.

C. Definition of "consummation" before which disclosures must be made is made more precise by defining it as the point in time when a contractual obligation is established rather than when a vaguer "economic incentive" to go forward is established.

D. Determination that disclosures be based on legally enforceable obligation rather than on any informal agreement that may be at variance with the enforceable agreement.

E. Determination of which consumer in a joint credit is "primarily" liable and, therefore, must receive the disclosures is made unnecssary by permitting that disclosures be made to any obligor.

F. Exclusion of sellers' points from the finance charge on real estate transactions thereby obviating need to determine whether sale price of property was raised to include sellers' points.

2. Changes Designed to Make Good Faith Disclosures Easier Through Greater Availability of Small Tolerances. A. Provision for tolerance on disclosure of finance charges equal to tolerance for disclosure of annual percentage rates (⅛ of 1 per cent).

B. Provisions for wider tolerance of ¼ of 1 per cent on irregular transactions involving multiple advances or irregular payments.

C. Provision that slight changes in a transaction from good faith estimated disclosures do not necessitate f... rediscloure.

3. Changes Designed to Highlight Disclosures Relevant to Credit Decisionmaking. A. Narrowing of definition of security interest that must be disclosed to exclude items such as proceeds of insurance that typically are

unrelated to credit decisions but which have contributed to litigation and ambiguity.

B. Limiting the frequency of need for complete redisclosure when terms are changed.

C. Limiting necessity of diclosure on assumption of an obligation to the case of residential mortgages.

4. Changes Designed to Eliminate Complexities. A. Exclusion from disclosure requirements of such transactions as utility "budget plans" and "layaway" plans that have some elements of a credit transaction but which, strictly speaking, are not credit.

B. Elimination of three-day waiting period on credit secured by residence if consumer certifies in writing (preprinted forms prohibited) that a bonafide personal financial emergency exists.

C. Elimination of need to consider compensating balances in annual percentage rate calculation.

5. Changes Designed to Allow Creditor Flexibility in Preparing Disclosures to Fit the Nature of the Transaction in Question. A. Allowing the creditor in a variable rate transaction to prepare the required example in a way that fits the specific transaction.

B. Allowing the creditor in a transaction involving multiple credit advances to prepare disclosures that fit the specific transaction.

C. Allowing creditors flexibility either to include or exclude in disclosures any cash rebates offered by the creditor or a manufacturer.

D. Allowing creditors more flexibility in showing repayment schedules in credit advertising.

3. *Evaluating the New Regulatory Structure*

Ultimately, the regulatory structure associated with Truth in Lending, like the regulatory and administrative apparatus associated with other consumer-oriented legislation, should be evaluated in terms of its contributions to (or detractions from) (1) market efficiency and (2) consumer protection. However, in the case of TIL these criteria are especially closely related. Truth in Lending is largely an information protection, and the main purpose of information protections is to improve the functioning of markets. Unlike behavioral or market protections (like Equal Credit Opportunity) that involve direct governmental interventions to affect market behavior of participants (especially businesses), the impact of information protections is more indirect. Instead of directly altering behavior, information protections assist consumers by improving the quality of efficiency of markets.

Markets are, of course, mechanisms for exchanging goods, services, or resources for value; and the concept of efficiency refers, in a sense, to the smoothness of the exchange mechanism. The concept has two components. The first, operational efficiency, concerns the mechanics of the transfer process itself. In particular, operational efficiency refers to the ability of a market to facilitate the transfer of goods or resources without loss of real resources to the transfer mechanism. Viewed in this manner, Truth in Lending and Regulation Z certainly introduce a measure of operational inefficiency into consumer credit markets by raising creditors' costs that must be paid by consumers. However, this is only half of the question.

The second component of market efficiency is allocational efficiency. Allocational efficiency refers to the extent to which markets allocate resources to their best uses. It has both a supply side and a demand side. From the supply side the question for TIL is whether the regulatory structure interferes with market allocation of resources to areas of highest return for a given risk. In contrast, from the demand or consumer side (the focus of this analysis) the question is whether the TIL regulatory structure helps consumers *obtain* resources at least cost for a given level of credit risk. Stated in this manner the relationship between market efficiency and consumer protection is more apparent: The concept of efficiency means best value for expenditure; this is precisely the intent of an information protection.

Unfortunately, because of the number of different kinds of costs involved, the amount of operational inefficiency introduced by the TIL regulatory structure is very difficult to measure. As a result, little statistical information is available and no broad-based cost analyses have been prepared. Nevertheless, despite these gaps in the record, it is still possible to indicate some cost-causing aspects of the regulatory apparatus and to make some comparisons of the old regulatory environment with the new. Comment is specifically requested on (1) current costs of compliance with Truth in Lending and Regulation Z; (2) expectations concerning likely impact of the new regulation on costs; and (3) expected start-up costs associated with change over to the new regulation.

A number of kinds of costs are incurred by creditors (and ultimately by consumers) as a result of Truth in Lending. In addition, each type of costs recurs (to a greater or lesser extent depending on the situation) whenever changes are made in the act or regulation. Before passage of the Simplification Act, frequent changes and interpretations of the regulation caused major compliance problems for creditors. Since one purpose of the new act is to reduce frequency of changes in the future, it should reduce costs in the long run. Nevertheless, to achieve these long-run advantages, substantial start-up costs will be incurred as the entire regulatory structure is changed. Delaying the effective date for one year and allowing transition to the new methods at any time during the year should reduce start-up costs relative to those of a more rapid implementation schedule.

A first group of costs associated with Truth in Lending is legal expenses. Legal expenses arise from a number of sources and problems. One source is the cost of designing disclosure forms that suit the credit programs of individual creditors but which also comply with Regulation Z. On some kinds of transactions (for example, large secured credit sales) required disclosures were quite complex prior to the Simplification Act, so legal preparation had to be quite detailed. Reduced disclosure requirements and issuance of model forms should help reduce costs in this area in the future. Likewise, the new regulatory structure should reduce the legal expenses of constant re-evaluation of disclosures, to the extent the act is successful in reducing frequency of changes and interpretations.

Another source of legal costs is litigation expenses. Truth in Lending has produced a substantial number of court cases, each of which requires legal attention. Unreported are the number of cases where some accommodation or settlement is reached without the formality of filing and litigating a suit. Expenses can be sizeable in either case, especially if plaintiffs's legal expenses are awarded as well. The simplified Truth-in-Lending Act and Regulation Z should reduce legal expenses of these kinds. Because compliance with the act has been made easier, legal expenses for both analysis and litigation should eventually be reduced, possibly after a spurt associated with implementing the new requirements.

A second TIL cost is the cost of forms and printing. After design, complying forms typically are printed by a commercial printer. As a result, any change in requirements necessitates not only new legal analysis, but new printing expenditures as well. Furthermore, often overlooked, a change in forms requires that all obsolete forms be retrieved or otherwise destroyed. For a large creditor with multiple branches and possibly hundreds or thousands of employees, this requirement can involve substantial effort. Again, the new regulatory structure should reduce costs in this area. Besides minimizing the need and likelihood of rapid changes in disclosure requirements, the new rules specify that forms changes will be required no more than once per year. In 1977 the Commission on Federal Paperwork estimated this provision alone would reduce costs by $600 million annually.[7]

A third cost is the cost of employee training. If legal requirements change frequently and employees must be trained and retrained to use new forms correctly, substantial costs may result. Partially in response to this problem, but also for other reasons of management control, some creditors have instituted automated computer-processed TIL disclosure forms in recent years. Rather than relying on employees to fill in changing disclosure forms correctly, some creditors have programmed their computers to supply disclosures through terminals in branches or stores. However, computers must be purchased and programmed, so computer-related expenses constitute a fourth group of TIL costs. Actually, this category of costs should probably be expanded to encompass all kinds of calculating-disclosing aids including charts, tables, and calculators as well as computers. Since, to some extent, there is a tradeoff between sophistication of employees and extensiveness of calculation aids, training expenses and calculating-computing expenses might be added together in evaluating TIL. Nevertheless, regardless of how they are apportioned, costs associated with training and calculating should be reduced by the new regulatory structure, after an initial start-up phase.

Other TIL-related costs include the actual costs of disclosing required information and the costs of record retention. Actual costs of disclosing rates and other information are probably not very great on closed-end credit, given that terms must be negotiated or specified and contractual documents are prepared and signed anyway. Costs of disclosing on standard types of contracts consist of calculating the necessary information, placing it on the disclosure forms and handing the forms to consumers. Once the necessary legal judgments are made, forms prepared, employees trained and computers programmed (or charts and tables purchased) disclosures are not especially difficult or time consuming, as long as no changes are made in the procedures. On open-end credit finance charges must be disclosed on periodic statements (usually monthly); but, typically, the calculations would be made anyway since the disclosure statement also constitutes the periodic billing statement. The new act and regulation do not make substantive changes in the methods of actually making disclosures and so substantial cost savings are not expected from this source. Likewise, the new regulatory structure retains the earlier requirements on record retention (for compliance purposes), although retaining files can be costly. In 1977 the Commission on Federal Paperwork estimated that storage, filing, and clerical expense of maintaining files could amount to 16 cents per file. However, since creditors would be expected to keep files for a time anyway, not all of this expenditure can be attributed to TIL or other regulations. Nevertheless, Regulation Z requires that copies of disclosure statements be retained for 24 months which is beyond the closing date of many accounts. This requirement is not changed by the new regulation.

In sum, the new TIL regulatory structure should lead to lower compliance costs, thereby improving operational efficiency of credit markets. To the extent these gains can be achieved without sacrificing consumer protections, the new regulatory environment should produce a net gain for society as a whole through a more efficient market. However, before this conclusion is reached it is necessary, first, to examine TIL as an information protection. This topic forms the subject matter of Part IV.

IV. Truth in Lending as an Information Protection

1. *Potential Evaluative Criteria*

In evaluating the new Truth in Lending regulatory structure as an information protection, possibly the foremost concern is the need for an appropriate criterion or standard. The goal stated by Congress in Section 102 of the Act, avoidance of the "uninformed use of credit," is undoubtedly the Act's central purpose and a goal consistent with market efficiency, but measurement is subject to severe definitional and methodological difficulties. As a result, proxies are needed. Examination of the behavioral science literature as well as Congressional hearings and statements and the literature on Truth in Lending itself reveals that a large number of consumer-protection goals have been suggested as standards for TIL. Thirty-nine possible goals for Truth in Lending in nine separate categories are listed in Table III. There are probably also other goals that might be added to the list. However, the length of this table reveals the same difficulties in evaluating TIL as a consumer protection and the reason why simple tests are probably inadequate. Nevertheless, a few general principles might be stated.

Table III.—Goals of Truth in Lending

I. General Philosophical or Educational Goals

1. Satisfy Consumers' Right to Know
2. Enhance Consumer Education
3. Enhance Consumers' General Understanding of the Credit Process
4. Promote Long-Term Rise in Consumer Sophistication
5. Promote the Informed Use of Credit
6. Promote Wiser Credit Use

II. Goals Associated with Improving Consumer Decisionmaking

7. Reduce Credits Search Costs
8. Simplify Information Processing
9. Improving Consumers' Ability to Make Comparisons[1]
10. Enable Consumers to Match Products and Needs
11. Enable Consumers to Decide Between Using Credit and Using Liquid Assets[2]
12. Enable Consumers to Decide Between Using Credit and Delaying Consumption[2]
13. Show Consumers Where Search Can Be Beneficial

III. Cognitive Goals: Awareness and Understanding

14. Improve Awareness of Credit Costs
15. Improve Awareness of Non-Cost Credit Terms
16. Improve Awareness of Differences Among Classes of Institutions
17. Improve Consumers Understanding of the Relationships Among Credit Cost Terms

IV. Behavioral Goals

18. Encorage Credit Shopping

V. Attitudinal Goals

19. Improve Consumer Satisfaction
20. Improve Consumer Confidence

VI. Credit Market Goals

21. Enhance Competition in Consumer Credit Markets

[1] Referred to as the "Shopping Function" by the National Commission on Consumer Finance.
[2] Reffered to as the "Descriptive Function" by the National Commission on Consumer Finance.

[7] Commission on Federal Paperwork, *Consumer Credit Protection* [Washington: Government Printing Office, 1977].

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22. Drive Out High-Cost Producers
23. Encourage Industry to Reform
24. Improve Credit Market Products
25. Discourage Risk Shifting by Institutions
26. Discourage *In Terrorem* Boilerplate Clauses in Contracts
27. Provide Vehicle for Legal Reforms
28. Protect Legitimate Business from Unethical Competition

VII. Institutional Control Goals

29. Promote Control of Institutions Through Compliance Requirements
30. Improve Consumers' Bargaining Position Relative to Institutions
31. Provide Defenses for Consumers
32. Provide Leverage for Hard-Pressed Debtors

VIII. Macroeconomic Goals

33. Enhance Economic Stablization

IX. "Behavioral" or "Market Protection" Goals

34. Require Procedures for Credit Card Billing Error Resolution
35. Provide Protections for Consumer Leasing
36. Provide "Cooling Off" Period for Credit Secured By Residence
37. Provide "Cooling Off" Period for Credit Negotiated in Consumer's Home
38. Provide for Limited Liability on Lost or Stolen Credit Cards
39. Eliminate Unsolicited Credit Cards

First, TIL as a consumer protection cannot be evaluated fully be examining only a single behavioral measure like credit shopping. Behavioral goals are only one of nine categories in Table III, and encouraging shopping is only one of 39 goals listed. Consequently, evaluating TIL on shopping alone, or for that matter on any single criterion, is likely to produce an incomplete analysis of the impact of this information protection. As a corollary, if it is not appropriate to evaluate TIL on only one criterion, then it seems inappropriate to recommend wholesale changes in the protection based on a single criterion. At a minimum any proposed changes should be evaluated in terms of the likely effects on a variety of goals. Again, the shopping criterion provides a useful example; it simply may not be reasonable to make wholesale changes in the regulatory structure to encourage shopping unless either the changes simultaneously encourage other goals as well or the changes can be made at small cost. If costs are large or impacts on other goals are small, then there exists the possibility of achieving small gains in allocational efficiency at the expense of large losses of operational efficiency. This could produce a net loss for society as a whole.

Second, some goals do not suggest any measurable evaluative criteria and must be evaluated indirectly. Probably the general philosophical and educational goals in Category I of the table offer the best examples. The six goals listed there are almost universally recognized as important aspects of TIL, but they appear too general for direct analysis and invite only indirect conclusions. However, it might be noted that if two disclosure programs each appear to satisfy these general goals but one also appears to satisfy other goals as well, or to satisfy the general goals at lower cost, then this method is preferable, other things equal.

Third, while some goals do offer evaluative criteria, the criteria may differ among individuals making it difficult to draw general conclusions. Many of the goals in Category II of the table illustrate this phenomenon. For example, goal number 10, improved ability to match products and needs, might be examined by studying choices made in the marketplace. The problem is that consumers' needs differ and, consequently, so will the choices made even under conditions of perfect information. Likewise, consumers faced with deciding between using credit and paying cash (goal number 11) will not all reach the same conclusion. In a world of perfect information some people will choose cash and others credit, depending on their individual circumstances. As a result, a simple criterion related to likelihood of taking one behavioral path or the other cannot be expected to produce useful analytical results.

Fourth, some goals may be more costly than others, especially if special attempts are made to achieve them without regard to costs. Encouragement of credit shopping (number 18) has already been mentioned as a possible example, but there are others as well. One is number 17, improving consumers' understanding of the relationships among credit cost terms. Much of the complexity, litigation, and costliness of the original TIL Act and Regulation Z arose, in a sense, out of attempts to satisfy this goal with extensive, detailed TIL disclosure statements. Possibly a better approach might have been to consider whether the details were necessary to achieve the other 38 goals or whether a simpler, less costly approach might have been sufficient.

2. *Evidence on the Effects of Truth in Lending.*

Unfortunately, there is relatively little direct evidence available about the impact of TIL on most of the goals listed in Table III. Furthermore, since evidence must typically be gathered by surveys at discrete points in time, the evidence is always subject to potential methodological problems, particularly that alternative explanations of the results are available.[8] Nevertheless, it is still possible to suggest some general conclusions concerning TIL as an information protection.

While little can be said definitively about the impact of TIL on the general philosophical and educational goals listed in Group I of Table III, as a concept it seems likely that TIL disclosures have fostered the general goals of satisfying the consumer's right to know and enhancing general educational aims. Similarly, it seems that consumers' general understanding of the credit process has probably been enhanced by TIL, and the law has probably contributed to increasing consumers' general sophistication over the long term. TIL has probably also supplied the tools for informed use of credit and wiser use of credit by consumers. Although these latter goals might seem quite similar at first glance, they are actually quite different since the second involves a value judgment concerning what is wise. To use an analogy from public health, it seems likely that required disclosures of warnings by the surgeon general about smoking have contributed to informed use of tobacco, although possibly not to wiser use among those still smoking. In the tobacco case the value judgment is fairly obvious but in the credit case it may be less so. Nevertheless, it seems likely that TIL has contributed to both more informed and wiser credit use, if only because it has provided necessary tools in the form of standardized disclosures and terminology.

In terms of this first group of TIL goals, the new regulatory structure provided by the Simplification Act and revised Regulation Z should, on balance, prove beneficial. The new structure should be as effective as the old in enhancing these general TIL goals, but it seems likely it will be able to do so at lower operational cost. As a result, the net effect appears positive, since the beneficial aspects of general consumer protection have not been sacrificed, but they will be achieved at lower cost to suppliers, after an initial costly phase-in.

The second group of goals involve individual consumers' decision processes. Studying the imnpact on

[8] For discussion of methodological issues see Lynn W. Phillips and Bobby J. Calder, "Evaluating Consumer Protection Programs: Part I. Weak But Commonly Used Research Designs," *Journal of Consumer Affairs*, Winter 1979, and Lynn W. Phillips and Bobby J. Calder, "Evaluating Consumer Protection Laws II: Promising Methods," *Journal of Consumer Affairs*, Summer 1980.

these goals is especially difficult since decision making criteria vary among consumers. However, as with the first group of goals, it seems likely that the new regulatory environment is an improvement on balance over the old because consumer protections in this area have not been sacrificed, even though costs may be lowered in the future. Probably of primary importance is TIL's requirement that rates be calculated in identical fashion regardless of credit source or type, a requirement that is retained in the new structure. This should be important, for example, in satisfying goal number 10, enabling consumers to match products and needs. Likewise, decisions about using cash or delaying consumption rather than using credit should be facilitated with standardized credit cost calculations available. Although survey evidence indicates that relatively few credit users are influenced by disclosures in their decision to take on debt,[9] some unanswered questions may be as important. These include the extent to which cash buyers are dissuaded from using debt by its cost and the extent to which consumers' attention to and sensitivity to finance rates has changed over time. Regardless of answers to these questions, it seems that TIL has provided consumers with the necessary tools, for whatever purpose they want to use them.

Most research on the effects of TIL has been concentrated on the third group of goals in table I (the Cognitive Goals) and especially on awareness of credit costs (goal number 14). Research attention has probably been focused in this area for two reasons. The first is that these goals, especially awareness of credit costs, offers a convenient operational evaluative criterion for testing. As a result, it is possible to draw conclusion without some of the kinds of complications associated with evaluating other goals. The second reason is the reasonable contention that cognition logically precedes use of information for decision making, and so evidence of awareness is an important preliminary evaluation. The argument is that since cognition precedes use, there must be awareness before use of information can be expected. Although evidence of awareness does not, by itself, demonstrate that information will be used, lack of awareness probably indicates that information cannot be used. Consequently, evidence of lack of impact of TIL on awareness could be taken as an indication the law had little impact in other areas either.

Surveys of consumers have indicated increasing levels of awareness of percentage rates of charge on credit transactions since implementation of Truth in Lending in 1969. Using an operational definition of awareness established by staff of the National Commission on Consumer Finance, surveys have revealed a sharp increase in awareness in the first 15 months of Truth in Lending and continuing gains afterward.[10] By 1977 levels of rate awareness reached 54 per cent for closed-end credit and 65 per cent and 71 per cent for retail revolving credit and bank credit-card credit, up from 14 per cent, 35 per cent, and 27 percent, respectively, in 1969. Although many factors undoubtedly affect credit knowledge, including gradually higher educational levels over time, it appears reasonable to conclude that TIL has focused attention on percentage rates and contributed to the sharp increases in awareness.

In contrast, despite changes in awareness of percentage rates since 1969, available consumer surveys indicate that credit shopping by consumers is not especially common. For example, a nationwide survey in 1977 found that only about one quarter of those with outstanding closed-end credit accounts had tried to obtain information about other creditors or credit terms before obtaining the credit.[11] Furthermore, a majority of those with outstanding closed-end credit indicated that familiarity with the creditor or prior good experience was the primary reason for obtaining credit from the particular creditor they chose. However, lack of shopping does not necessarily indicate unreasonable or irrational behavior. On the contrary, failure to shop may indicate an awareness of costs on the part of the consumer and may reflect the view that further shipping is unwarranted. Consumers may be wrong in their judgments, of course, but it does not seem that, by itself, failure to shop indicates a failure of TIL. Probably more important for TIL evaluation are the questions whether the regulatory structure increases cost awareness and whether it permits effective shopping, if desired. The first of these questions has already been answered affirmatively, and the second answer seems positive as well. By establishing a consistent unit price and standards of terminology, TIL permits consumers to shop for credit to whatever extent they feel is appropriate.

The fifth group of TIL goals concerns improving consumers' confidence in and satisfaction with the credit process. It seems likely that consumers, knowing that creditors must disclose certain costs and terms accurately under the watchful eye of regulatory authorities, might increase their confidence in the integrity of an otherwise complex transaction. This confidence could produce consumer benefits beyond any immediate specific uses consumers make of the disclosed information. However, since obtaining these benefits does not require any specific uses of the information disclosed, this group of goals argues for a simple disclosure scheme. Rather than a highly technical regulation with strict requirements, this group of goals could be addressed with simple methods. Thus, on balance, the new regulatory structure should provide net benefits in this area. Since benefits in the form of improvements in confidence and satisfaction with the credit process should not be reduced under the new regulatory structure, but costs should be reduced in the long run, net benefits should result.

Limited longitudinal survey evidence indicates that consumers' attitudes toward credit have improved since passage of the original Truth in Lending Act. Furthermore, attitudes have improved more rapidly during the years 1967–77 than 1959–67.[12] Clearly, however, changes in attitudes over time cannot be attributed solely to any piece of legislation. Income growth and employment stability over time for many members of the public may partly explain improved attitudes toward credit use. Inflation, which tends to reward early purchases of goods and to penalize accumulations of savings in the form of liquid assets, may also affect attitudes toward credit. Nevertheless, there remains the possibility that consumer protection regulations have contributed to overall increases in consumers' satisfaction with the credit process. Since any gains in this area might be achieved just as well by simple rules, though, this group of goals offers arguments for regulatory simplification.

The sixth group of goals is the credit market goals, Taken together, these goals refer to improvements in credit markets that might result from a generally more competitive environment. These include, all other things equal, such things as lower market prices, discouragement of unfavorable contract devices that might

[9] See George S. Day and William K. Brandt, *A Study of Consumer Credit Decisions: Implications for Present and Prospective Legislation* (Washington, Technical Studies of the National Commission on Consumer Finance, Vol. I, Government Printing Office, 1973).

[10] See Thomas A. Durkin and Gregory E. Elliehausen, *The 1977 Survey of Consumer Credit* (Washington: Board of Governors of the Federal Reserve System, 1978).

[11] *Ibid.*, chapter 5.

[12] *Ibid.*, chapter 10.

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need to be disclosed, and protection of legitimate businesses from unethical competitors that might employ deceptive pricing in the absence of TIL. These, of course, were important original goals of Truth in Lending and were extensively discussed in Congressional hearings before passage of the Act.

As with the other groups of goals, evaluating the credit market goals is difficult because of competing explanations for any market changes and lack of specific data. Other things equal, a requirement that businesses provide pricing information calculated in a uniform manner should make markets more competitive. However, the magnitude of any effect depends on answers to a number of questions. One question concerns the importance consumers attach to the information disclosed. In the area of credit terms, available evidence suggests that consumers regard cost terms as most important.[13] As a result, requiring disclosure of cost-related terms would be consistent with improving market competitiveness. Obviously, this does not imply that disclosures need be complex or difficult to prepare. A second question concerns current competitive conditions in consumer credit markets. If markets are already fairly competitive, then the gains from implementing or changing Truth in Lending to improve competitiveness are likely to be small. Evidence on consumer credit competition before Truth in Lending is scarce, although markets were assumed to be less than perfectly competitive.[14] In contrast, limited more recent evidence suggests that consumer credit markets are fairly competitive.[15] Although the precise impact of Truth in Lending in promoting competition cannot be determined, this finding may indicate that further changes in TIL are unlikely to produce substantial additional benefits from a more competitive market. Any benefits already provided by TIL, though, are unlikely to be lost under the new regulatory structure.

The seventh group of goals in Table I, the Institutional Control Goals, is probably the group most directly affected by the new regulatory structure. As outlined previously, the Senate Banking Committee's stated purposes in drafting the Truth in Lending Simplification and Reform Act included making compliance easier for creditors and strengthening administrative restitution enforcement authority. The latter purpose encourages goal number 29, but the former may discourage the others, especially numbers 31 and 32. It appears that the goals of providing defenses for consumers and leverage for hard-pressed debtors were not part of the original plans of Congress in 1969. Instead, they arose from the complexity of the regulatory structure that made it difficult for creditors always to be in complete technical compliance. Creditors instituting collection actions were resisted occasionally by debtors alleging Truth in Lending violations. Such actions could result in settlements or judgments for the debtor that might reduce or eliminate the debt. Under the new regulatory structure such situations should develop less often. Apparently believing that private enforcement of Truth in Lending had contributed to its growing complexity, Congress de-emphasized private enforcement in the Simplification Act and increased the importance of administrative enforcement actions. This change should reduce the importance of TIL as a defense or a device to obtain leverage over creditors and re-emphasize the original goals of Truth in Lending as an information protection.

The eighth category of goals, the Macroeconomic Goals, was discussed extensively in Congressional hearings before passage of the original act, but has received little attention since. The argument made in the Congressional hearings was that disclosure of finance charges and annual percentage rates would discourage consumers from using credit during an economic boom and encourage credit use in a depression, other things equal. Taken together these effects would encourage economic stabilization by helping dampen business cycles.

The argument that availability of credit cost information over the course of the business cycle might improve economic stabilization is consistent with economic theory. The question is the magnitude of the effect which depends on the degree of fluctuation in consumer credit rates, consumers' knowledge of and sensitivity to credit cost fluctuations, and the importance of other factors such as income changes or changes in expectations. If fluctuations in rates are small, if sensitivity to costs is low, or if the impact of other factors is quantitatively larger, then disclosure of rates would not have much impact on stabilization. Answers to these difficult questions are not essential for reviewing the new Truth in Lending regulatory structure because TIL has many goals of which macroeconomic stabilization is one and clearly not the most important. Nevertheless, it is possible that regulatory rigidity in the past has limited creditors' willingness to change credit terms along with economic conditions. The new regulation should help minimize this problem by making compliance easier.

The final group of goals; the "Behavioral" or "Market Protection" Goals, do not generally concern Truth in Lending as an information protection; consequently, little will be said about them here. Furthermore, the new regulatory structure makes few changes in the market protection functions of TIL, and so potential impacts are not as great as they are in other areas.

V. Conclusion

In sum, it appears that the new regulatory structure resulting from passage of the Truth in Lending Simplification and Reform Act should result in net public benefits. Review of an extensive list of goals of TIL reveals that none of the original goals of the act will be affected adversely. However, consumer protections provided by the act ultimately should be available at less operational cost under the new structure, following start-up adjustment. An improvement in operational efficiency with no loss of allocational efficiency should lead to an improvement in the quality of the market, the goal of any information protection.

By order of the Board of Governors of the Federal Reserve System, November 28, 1980.

Barbara R. Lowrey,

Assistant Secretary of the Board.

[FR Doc. 80-37741 Filed 12-4-80; 8:45 am]

BILLING CODE 6210-01-M

[13] *Ibid., chapter 4.*

[14] See National Commission on Consumer Finance, *Consumer Credit in the United States: The Report of the National Commission on Consumer Finance* (Washington, Government Printing Office, 1972).

[15] See Gregory E. Boczar, The Evidence on Competition Between Commercial Banks and Finance Companies, *Journal of Bank Research*, Summer 1975 and Gregory E. Boczar, "Competition Between Banks and Finance Companies: A Cross Section Study of Personal Loan Debtors, "*Journal of Finance*, March 1978.

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federal register

Friday
December 5, 1980

Part IV

Department of Health and Human Services

Food and Drug Administration

Bendectin and Other Combination Drugs Containing Doxylamine and Vitamin B_6; Draft Guideline Patient Package Insert

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 80N-0370]

Draft Guideline Patient Package Insert; Bendectin and Other Combination Drugs Containing Doxylamine and Vitamin B_6

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing for comment a draft guideline patient package insert for the combination drug containing doxylamine and vitamin B_6. The drug is used to treat the nausea and vomiting of pregnancy ("morning sickness"). The drug is marketed under several brand names, the best known being Bendectin (marketed by Merrell-National Laboratories, Cincinnati, OH). Use of the final guideline patient package insert by manufacturers, distributors, and dispensers of the drug will constitute compliance with the content requirements of the agency's patient package insert regulations. FDA will add Bendectin and drop warfarin (an anti-coagulant drug) from the group of drugs to which the agency is initially applying its patient package insert regulations.

DATE: Comments by January 19, 1981.

ADDRESS: Written comments to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Stephen C. Groft, Bureau of Drugs (HFD-107), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4893.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) is asking for comments on a draft guideline patient package insert for the combination drug containing doxylamine succinate (an antihistamine) and pyridoxine hydrochloride (vitamin B_6) that is labeled for the treatment of nausea and vomiting during pregnancy (often called "morning sickness"). The drug is most commonly referred to by the brand name Bendectin, marketed by Merrell-National Laboratories, Cincinnati, OH, which has the greatest share of the market for the drug. For purposes of brevity, the agency will refer to the drug as "Bendectin" in this notice, but this notice applies to all combination drugs that contain doxylamine and vitamin B_6 and are intended to treat the nausea and vomiting of pregnancy.

In the **Federal Register** of September 12, 1980 (45 FR 60754) the agency adopted final regulations establishing requirements and procedures for the preparation and distribution of patient package inserts for prescription drugs for human use. The agency also published in that issue of the **Federal Register** 10 draft guideline patient package inserts (45 FR 60785). In the final rule the agency stated that it will limit the initial implementation of the patient package insert program to 10 drugs or drug classes for about 3 years, and will evaluate the program again before applying the requirements to other drugs. In the notice of draft guidelines the agency stated that it would publish 3 final guideline patient package inserts in November 1980, 3 in December 1980, and 4 in January 1981. In the **Federal Register** of November 25, 1980 (45 FR 78514), FDA published final guideline patient package inserts for cimetidine, clofibrate, and propoxyphene.

As discussed more fully below, FDA believes that a patient package insert would contribute to the proper use of Bendectin in treating the nausea and vomiting of pregnancy. Because the agency has not yet implemented its patient package insert requirements for all of the drugs and drug classes identified in the September 12, 1980, notice and because the agency still believes it should limit the initial implementation of the program to 10 drugs or drug classes, the agency will substitute Bendectin for one of the original 10 drugs or drug classes. Of the drugs and drug classes to which FDA intended to apply patient package insert requirements during the initial 3-year phase, FDA has decided to drop warfarin. The agency believes that other drugs in the program will provide information during the 3-year evaluation period similar to that which the agency would have obtained from the study of a warfarin patient package insert. Patient package inserts for digoxin, and phenytoin, which are both long-term care drugs that require careful dosage control and good patient compliance for their safe and effective use, will provide the kind of information the agency would have obtained from a warfarin patient package insert. In addition many physicians, pharmacists, and other health care professionals are already engaged in efforts to educate patients who use warfarin about anticoagulant therapy. Because it is used under close medical supervision, the agency believes a patient package insert for warfarin would have the least incremental improvement on patient safety of the 10 drugs or drug classes originally selected for the agency's program. Thus, both on medical grounds and taking into account the need for a balanced selection of drugs for evaluation purposes, the agency concludes that warfarin is the appropriate drug to drop in order to add Bendectin.

FDA had intended to publish a final guideline patient package insert for warfarin, as well as final guideline patient package inserts for ampicillins and phenytoin, in December 1980. The agency still intends to publish final guideline patient package inserts for ampicillins and phenytoin in December and for benzodiazepines, digoxin, methoxsalen, and thiazides in January 1981, and now intends to publish a final guideline patient package insert for Bendectin in February 1981. Under the patient package insert regulations (21 CFR 203.30(a)) the agency's patient package insert requirements will be effective for each drug or drug class 180 days after the date of publication of a notice in the **Federal Register** that issues the final guideline for a drug.

Use of any drug during pregnancy may carry potential risks to the fetus, information that FDA believes should be brought to the direct attention of users. Although Bendectin is widely used to treat the nausea and vomiting of pregnancy, alternative nondrug treatments, including eating soda crackers or dry toast or drinking hot or cold liquids, are known to relieve mild nausea and vomiting. This information should also be made known to users of the drug.

About 2 to 3 percent of children are born with a major birth defect. If the mother has taken certain drugs or other substances, such as alcohol, during pregnancy this risk may be increased. The risk of a birth defect is greater if the substance is taken during the first 8 to 12 weeks of pregnancy, when the unborn child develops basic parts of the body.

In 11 of 13 studies of pregnant women who received Bendectin, there was no evidence of an association between the drug and an increased risk of birth defects. None of the studies, however, was large enough to rule out a small increase in risk. One study suggested the possibility of an increased risk of heart defects and another study suggested the possibility of an increased risk of cleft lip and cleft palate in children born to women who took the drug during pregnancy. An association of Bendectin and these defects are not confirmed by other studies. Nevertheless, FDA believes it prudent to revise Bendectin's professional labeling

to recommend the drug for the nausea and vomiting of pregnancy only when they are severe enough to interfere with eating or daily activities and cannot be adequately treated with the nondrug measures described above.

On September 15 and 16, 1980, FDA's Fertility and Maternal Health Drugs Advisory Committee reviewed the available scientific information about Bendectin's safety, including its possible association with birth defects. The committee concluded that existing data do not show an association between the drug and an increased risk of human birth defects. Nevertheless, the committee noted a "residual uncertainty" in the sensitivity of the available studies and recommended that certain current epidemiological studies of Bendectin be continued and that certain changes be made in the drug's labeling. Among the labeling changes was a committee recommendation that the agency require a patient package insert for the drug. The agency accepts that recommendation. A transcript of the advisory committee meeting has been placed on public display in the office of the Dockets Management Branch (HFA-305), at the address given above.

The agency believes a patient package insert for Bendectin will give patients the opportunity to be informed about the benefits and risks involved in the use of any drug during pregnancy. The patient package insert includes a statement about birth defects and cautions women generally about taking drugs during pregnancy. Because of the potential risk to the unborn child, the draft guideline states that nausea and vomiting that does not interfere with normal eating habits or daily activities usually does not require treatment with drugs and that nausea and vomiting of pregnancy can often be controlled by nondrug treatments such as eating soda crackers or dry toast or drinking hot or cold liquids on rising in the morning. The agency also proposes that the guideline patient package insert contain information about side effects of the drug and general cautions for patients because of potential side effects (for example, a caution that the product may make the patient drowsy and, thus, the patient should be careful while driving a car).

The draft guideline patient package insert for Bendectin complies with the content requirements for patient package inserts in § 203.20(b), except in the following respects:

The guideline patient package insert is drafted to permit manufacturers and distributors to refer to the drug by its brand name. For this combination drug, FDA believes patients will find it easier to understand a patient package insert that uses the drug's brand name instead of using repeatedly the scientific names of its two active ingredients.

The patient package insert does not contain statements about the use of the drug during labor or delivery and use in special populations such as pediatric or geriatric patients because Bendectin does not have a recognized use in any of those situations.

The patient package insert does not contain information about the excretion of the drug in breast milk because the agency believes pregnancy and breast feeding are unlikely to occur simultaneously in Bendectin users.

The patient package insert does not contain a specific section about risks, a section that is used in other guideline patient package inserts, because the risks from taking Bendectin primarily involve birth defects and are described under a heading entitled "Pregnancy and Birth Defects."

The patient package insert does not include a statement about the drug's use "for other conditions as determined by your doctor," because there is only one recognized indication and one well-defined patient population (pregnant women).

The use of a final FDA guideline patient package insert constitutes compliance with the regulations governing the content of the inserts except that the regulations require certain items of information to be filled in by each person responsible for preparing an insert. Use of the guideline is not required, however. To facilitate comments on the draft guideline, the agency is publishing it in a format that will permit commenters to make written comments directly on their **Federal Register** copy of the guideline. After FDA receives and considers comments on the draft guideline, the agency will establish a final guideline patient package insert. FDA will also formally apply the patient package insert regulations in Part 203 (21 CFR Part 203) to the drug in the manner specified in § 203.30(a) (21 CFR 203.39(a)) by publication of a notice in the **Federal Register**.

Interested persons may submit written comments by January 19, 1981 on the draft guideline to the Dockets Management Branch (formerly the Hearing Clerk's office) (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. If comments are not written directly on the **Federal Register** copy, please identify them with the docket number found in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch office between 9 a.m. and 4 p.m., Monday through Friday.

The draft guideline patient package insert for combination drugs containing doxylamine and vitamin B_6 follows:

BILLING CODE 4110-03-M

Doxylamine and Vitamin B-6

(pronounced: dox-il'-a-meen and vye'-ta-min B-6)

(Brand Name)

Summary

(Brand Name) is used to treat the nausea and vomiting that may occur during the first few weeks of pregnancy. You should take this drug only if nausea and vomiting interfere with your eating or daily activities and if other treatments prescribed by your doctor do not relieve your symptoms. These other treatments include eating soda crackers or dry toast, or drinking hot or cold liquids as soon as you wake up in the morning.

There is no way to prove that any substance taken by pregnant women does not cause birth defects on rare occasions. For this reason, no drug, including (Brand Name), should be taken during pregnancy unless it is clearly necessary.

As a side effect (Brand Name) may make you drowsy, so use care while driving a car or using machines until you know how the drug affects you.

The rest of this leaflet gives you more information about (Brand Name). Please read it and keep it for future use.

Use of (Brand Name)

Nausea and vomiting of early pregnancy (morning sickness) is very common but usually disappears in a few weeks with no treatment. For some women, these symptoms are severe enough that they interfere with eating or daily activities. The simplest treatment for this condition is eating soda crackers or dry toast, or drinking hot or cold liquids, as soon as you wake up in the morning. If this does not work, (Brand Name) may be tried. (Brand Name) contains two drugs, an antihistamine (doxylamine) and vitamin B6.

How To Take (Brand Name)

Nausea and vomiting of pregnancy usually occur in the morning. Take two tablets at bedtime so that the drug will start working by morning. If this dosage does not relieve your nausea and vomiting, you may have to take an additional tablet in the morning or mid-afternoon. Your doctor may change your dosage schedule depending on how severe your symptoms are and when they occur. If the nausea and vomiting are severe and are not relieved by (Brand Name), contact your doctor.

If you miss a dose of (Brand Name), take it as soon as you remember. Take the day's remaining doses at the scheduled time. Do not take two doses at the same time unless your doctor specifically tells you to do so.

Pregnancy and Birth Defects

About 2 or 3 out of every 100 children born have a major birth defect. This risk may be increased if the mother takes certain drugs or other substances, such as alcohol, during pregnancy. The risk of a birth defect is increased if the substance is taken during the first 8 to 12 weeks of pregnancy, when the unborn child develops basic parts of the body. It is not possible to prove that any drug or other substance is totally free of risk, or absolutely safe, if taken during pregnancy.

In 11 of 13 studies of women who took this drug during pregnancy, there was no evidence that it increased the risk of birth defects. None of the studies, however, was large enough to rule out the possibility that there may be a small increase in risk. One of the 13 studies suggested the possibility of an increased risk of heart defects in children born to users of this drug. In another study there was an association of the use of this drug with the occurrence of mouth defects (cleft lip and cleft palate). Because other studies did not have such findings, it cannot be concluded that these defects are due to this drug.

Because it is not possible to prove that a drug taken by a pregnant woman does not, on rare occasions, cause birth defects, (Brand Name) should be taken only when clearly needed. Although this leaflet cautions about the use of (Brand Name), this drug has been the most carefully studied of all drugs which could be used to treat the nausea and vomiting of pregnancy. There is no evidence that any other drug is safer in treating the nausea and vomiting of pregnancy.

General Cautions

(Brand Name) may make you drowsy. Be careful while driving a car or using machines until you know how it affects you. Taking (Brand Name) with alcohol or other drugs—such as cough and cold remedies, antidepressants, pain killers, or tranquilizers—may increase the drowsiness.

BILLING CODE 4110-03-C

Tell your doctor if you have had a serious reaction to an antihistamine or (Brand Name) in the past. These reactions include extreme drowsiness, increased agitation, excitement, or sleeplessness.

Side Effects

In addition to drowsiness, (Brand Name) can sometimes cause vertigo (a spinning sensation), headache, confusion, irritability, nervousness and sleeplessness, and stomach pain. If any of these or other side effects bother you, call your doctor.

Other Information

For (Brand Name) to help you, take it as directed on the label. This drug has been prescribed specifically for you and your present condition. Do not give it to others even if they have similar symptoms. Also do not use it yourself for any condition other than the one for which it was prescribed.

If you think you have taken an overdose or if you think someone else has taken an overdose, contact your poison control center, doctor, pharmacist, or nearest hospital emergency room immediately. KEEP THIS DRUG AND ALL DRUGS OUT OF THE REACH OF CHILDREN.

If you want more information about (Brand Name), ask your doctor or pharmacist. They have a more technical leaflet (called the professional labeling) you may read.

Dated: November 28, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80-37747 Filed 12-4-80; 8:45 am]

BILLING CODE 4110-03-M

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federal register

Friday
December 5, 1980

Part V

Department of Labor

Mine Safety and Health Administration

Procedures for Operator Sampling of Respirable Dust; Coal Miners Who Have Evidence of Development of Pneumoconiosis

V 45 / 236 DEC 5 1980 UMI

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 71

Respirable Dust; Operator Sampling Procedures

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor's mandatory health standards for surface coal mines and surface work areas of underground coal mines are amended to revise the procedures for operator sampling of respirable dust. The final rule revisions include changes in the number of samples required, the sampling schedule and the certification requirements for persons performing sampling and equipment maintenance and calibration. This rule will result in an overall improvement of the respirable dust sampling program.

EFFECTIVE DATE: February 1, 1981.

FOR FURTHER INFORMATION CONTACT: William H. Sutherland, Chief, Division of Health, Mine Safety and Health Administration, Room 810, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203; telephone (703) 235–1358.

SUPPLEMENTARY INFORMATION:

I. Rulemaking Background

In April 1978, the Mine Safety and Health Administration (MSHA) circulated to interested persons for comment a draft proposal of revisions to 30 CFR Part 71, regarding sampling of respirable dust at surface coal mines and surface work areas of underground coal mines. Several comments on the draft were received and fully considered in developing the proposed rule.

Also considered in developing the proposed rule were relevant comments received in related rulemaking to revise 30 CFR Part 70, respirable dust sampling in underground coal mines. Several of the procedures in proposed Part 70 were virtually identical to the draft Part 71 procedures.

The proposed rule for Part 71 was published in the **Federal Register** on April 8, 1980 (45 FR 24009), and included notice of public hearings on the proposal. These hearings, set for June 3 and 5, 1980, in four locations, were scheduled to be conducted together with public hearings on related proposals to amend 30 CFR Part 70 (to include miner participation in sampling procedures) and 30 CFR Part 90 (coal miners who have evidence of pneumoconiosis).

MSHA received several requests to hold separate public hearings on the proposed amendments to Parts 70, 71 and 90 that would provide for miner participation in the sampling process. Separate public hearings on the proposals for miner participation were held on August 12 and 14, 1980 (45 FR 39310). Hearings on all other issues were held, as originally scheduled, on June 3 and 5, 1980. The final rule addresses only these other issues; a separate final rule concerning miner participation will be published at a later date.

II. Summary and Analysis of the Final Rule

A. Respirable Dust Standard

Respirable dust is defined as dust collected with a sampling device approved by the Secretary of Labor (or Secretary of the Interior) together with the Secretary of Health and Human Services (previously Health, Education, and Welfare) in accordance with Part 74 of Title 30, Code of Federal Regulations. This definition was published as a final rule on April 8, 1980 (45 FR 24008).

This final rule sets forth the standard for permissible concentrations of respirable dust at surface coal mines and surface work areas of underground coal mines. The standard, which is the same standard set forth in section 202 (b) (2) of the Act for underground coal mines, requires that the average concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings of a mine is exposed be continuously maintained at or below 2.0 milligrams of respirable dust per cubic meter of air (2.0 mg/m³). However, the respirable dust standard is lower than 2.0 mg/m³ of air where the respirable dust in the mine atmosphere of the active workings contains more than 5 percent quartz. Under these conditions the operator is required to continuously maintain respirable dust at or below an average concentration less than 2.0 mg/m³ of air, computed by dividing the percentage of quartz into the number 10. As the quartz content of respirable dust in the mine atmosphere increases over 5 percent, the respirable dust standard is correspondingly reduced. Samples for determining the quartz content of respirable dust will be analyzed by MSHA. If the quartz content exceeds 5 percent, MSHA will apply the formula set forth in the rule and notify the operator of the respirable dust standard applicable at the mine.

These respirable dust standards are based on measurement with an MRE instrument (gravimetric dust sampler with four channel horizontal elutriator). Therefore, when an approved sampling device is used for sampling, it is necessary that the concentration of respirable dust measured with the approved device be converted to an equivalent concentration of respirable dust as if measured with an MRE instrument. This conversion will be done by MSHA and accomplished by multiplying the concentration of respirable dust measured with the approved sampling device by the constant factor prescribed by the Secretary of Labor for that approved sampling device.

B. Respirable Dust Sampling

1. *Designated work positions.* To determine compliance with the respirable dust standard, each operator is required to collect respirable dust samples from "designated work positions" and submit them to MSHA for analysis. Under the rule, designated work positions will be selected by the District Manager. In determining which work positions at a mine should be sampled, the District Manager will regularly review the results of respirable dust samples taken by the operator and taken by MSHA. (Initially, MSHA will consider samples taken since January 1, 1979.) If the average concentration of respirable dust measured by one or more of the samples reviewed exceeds 1.0 mg/m³ of air, then the District Manager will designate the work position involved for further sampling under the final rule. Where the respirable dust standard is below 1.0 mg/m³ of air due to the presence of quartz, work positions will be designated for sampling if an average concentration of respirable dust exceeding the applicable standard has been measured by one or more samples.

The District Manager also is required to withdraw the designation of work positions for sampling under the final rule upon finding that the operator is able to maintain continuing compliance with the applicable respirable dust standard. In making this judgment, the District Manager is required to consider the results of sampling conducted under this rule and by MSHA over a period of at least one-year.

2. *Bimonthly sampling requirements.* After work positions have been designated for sampling, the operator is required to collect and submit one respirable dust sample for each designated work position during each of the bimonthly periods set forth in the rule. If a respirable dust sample taken from a designated work position exceeds the respirable dust standard applicable at the mine, MSHA will so notify the operator. The operator is then required under the final rule to submit five additional samples collected for that designated work position within 15 calendar days. The operator is required to begin collecting these samples on the first day on which there is a normal work shift following the day of receipt of notification.

To satisfy the sampling requirements of the final rule, operators are required to take "valid respirable dust samples." These are defined in the rule as respirable dust samples collected and submitted as required by this part, and not voided by MSHA. Samples not collected and submitted in accordance with all the procedures and requirements of the rule could be voided by MSHA. Voided or invalid samples will not satisfy the bimonthly sampling requirements. Therefore, it is advantageous for operators to collect and submit the bimonthly sample for each designated work position during the first month of each bimonthly period. This would allow the operator ample opportunity to collect and submit additional samples if necessary. Failure to take the required valid respirable dust samples within a bimonthly period constitutes a violation under the rule. Respirable dust samples received by MSHA in excess of the number required by this part will be considered invalid samples.

3. *General sampling procedures.* Under the final rule, all respirable dust samples taken by operators for purposes of the rule are required to be collected with a sampling device approved by the Secretary of Labor (or the Secretary of the Interior under the Coal Act) and the Secretary of Health and Human Services (previously Health, Education, and Welfare) under Part 74 (Coal Mine Dust Personal Sampler Units) of Title 30, Code of Federal Regulations. These sampling devices must be operated while carried directly to and from the designated work position to be sampled and during the entire shift, or for eight hours, whichever time is less. The rule also requires that all samples be taken on a "normal work shift" which is defined in two parts. First, a "normal work shift" is a shift during which the regular duties of the designated work position are performed while routine day-to-day mining activities are occurring in the rest of the mine. The purpose of this provision is to require sampling to be conducted while the dust generation sources that affect a designated work position are active. In addition, a "normal work shift" is defined as a shift during which there is no rain, or a limited amount of rain. Specifically, the rule provides that if rain occurs during a sampling shift, it is a "normal work shift" only if the rain does not suppress the respirable dust to the extent that sampling results will be measurably lower, in the judgment of the person certified to conduct sampling. Instruction in how to evaluate the effect of rainfall on dust conditions at the mine will be included in training offered by MSHA for persons certified under this rule. This restriction on rainfall requires that sampling be conducted when the dust from mining activities is not naturally controlled by rainfall. The purpose here is to determine through sampling results whether the operator is able to control respirable dust concentrations within permissible limits when it is not raining. It should be noted that this rain restriction for a "normal work shift" applies only where the designated work position being sampled, and the dust that affects it, is exposed to the rain. For example, the rain restriction would not apply for a designated work position inside of an enclosed surface installation.

The final rule also takes into account that some mines are affected by climates that are normally very wet for at least part of each year by providing for a waiver of the rain restriction for "normal work shift." Upon written request by the operator, the District Manager may waive the rain restriction for up to two months, if the District Manager determines that (1) the operator will not have reasonable opportunity to complete the sampling required by this rule without the waiver because of the frequency of rain; and (2) the operator did not already have reasonable opportunity to complete the sampling required by this rule prior to requesting the waiver.

If a "normal work shift" is not achieved because routine mining activities were not conducted for the full shift, or because of rainfall during the shift, the samples still must be transmitted to MSHA. However, the person certified to conduct sampling is required to note on the data cards for the samples that they were not taken on a normal work shift. Samples not taken on a normal work shift may be voided by MSHA. This provision of the final rule assures that respirable dust samples are collected only on "normal work shifts" as defined by the rule. However, the final rule also provides that any sample, regardless of whether a normal work shift was achieved, with a respirable dust concentration greater than 2.5 mg/m³ of air will be used to determine the average concentration for the designated work position being sampled. This provision recognizes that if a concentration greater than 2.5 mg/m³ of air is present, it is apparent that some significant dust generation source is active and this dust is affecting the designated work position.

C. Transmittal and Analysis of Samples

After the end of a sampling shift, the operator is required to transmit all samples collected to MSHA within 24 hours. Under the final rule, all respirable dust samples collected by an operator are deemed to be taken to fulfill the sampling requirements of Parts 70, 71 or 90 of Title 30, Code of Federal Regulations, unless the operator has declared in writing to the District Manager prior to the intended sampling shift that the sampling filter cassettes were to be used for other purposes. Therefore, absent such a written declaration by the operator to the District Manager, all respirable dust samples collected by an operator will be required under the rule to be submitted to MSHA within 24 hours after the end of the sampling shift.

Each sample transmitted by operators to MSHA is required to be accompanied by the appropriate completed dust data card. Data cards are provided by the filter cassette manufacturer and each card has an identification number corresponding with the filter cassette for which it is provided. All dust data cards submitted to MSHA are required to be completed and signed by a person certified under this rule to collect samples and must include that person's certification number.

Upon receipt, MSHA will analyze samples submitted by operators as quickly as practicable. Following this analysis, MSHA will provide the operator with a respirable dust sample data report. The data report will include identification of the designated work positions from which the samples were taken; the concentration of respirable dust for each valid respirable dust sample; and the reason for voiding any samples. Upon receipt, the operator is required to post this data report for at least 31 days on the mine bulletin board.

D. Enforcement of Respirable Dust Standards

MSHA will make determinations as to compliance with the applicable respirable dust standard in § 71.100 (Respirable dust standard) or § 71.101 (Respirable dust standard when quartz is present) of this rule based on the designated work position samples submitted by each operator. If a designated work position sample taken in accordance with the rule shows a respirable dust concentration in excess

of the applicable standard, the operator will be notified by MSHA to take an additional five valid respirable dust samples from that work position within 15 calendar days, beginning with the first day on which there is a normal work shift following the day of receipt of notification. If the five samples show an average concentration of respirable dust in excess of the applicable standard, the operator will be cited for a violation. Upon issuance of any citation for violation of the applicable respirable dust standard in § 71.100 or § 71.101 and until abatement of the violation is achieved, the usual bimonthly sampling requirements of the rule do not apply to the affected work position. During the time for abatement fixed in the citation, the operator is required to take corrective action to lower the concentration of respirable dust and then sample each production shift until five valid respirable dust samples are taken. Abatement of the violation will be determined on the basis of the first five valid respirable dust samples received during the abatement period.

E. Respirable Dust Control Plan

A basic objective of the final rule is to identify work positions where there are concentrations of respirable dust that exceed the standard applicable at the mine and to require the operator to achieve and continuously maintain compliance with the standard thereafter. MSHA believes that the objective of continuing compliance can best be accomplished by requiring the operator to incorporate the respirable dust control measures used to abate a violation into the mining system employed. The rule, therefore, provides that within 15 days after the termination date of any citation for a violation of the applicable respirable dust standard in § 71.100 or § 71.101, the operator is required to submit to the District Manager for approval a written respirable dust control plan for the work position identified in the citation. The dust control plan must include a detailed description of the specific respirable dust control measures used by the operator to abate the violation and how these controls will continue to be used to maintain compliance with the respirable dust standard. As to how the dust controls will continue to be used, the plan must state at least the time, place and manner that the controls will be applied.

The District Manager will approve respirable dust control plans on a mine-by-mine basis. When approving respirable dust control plans, the rule requires the District Manager to consider whether the dust control measures and their application as described in the plan are likely to maintain compliance with the respirable dust standard applicable at the mine. In this respect, the rule provides that MSHA may take additional respirable dust samples to determine whether the control measures in a dust control plan are effective in maintaining compliance with the respirable dust standard. Also when approving dust control plans, the District Manager is to consider whether the plan describes the dust controls to be used and their application in such a way that the operator's compliance with the plan can be objectively ascertained by MSHA during subsequent inspections.

Upon approval of an operator's respirable dust control plan, the operator is required to comply with all provisions of the approved plan. The operator is also required to post a copy of each approved plan on the mine bulletin board. After gaining experience under an approved plan, operators may submit revisions to the plan for approval by the District Manager.

F. Certified Persons

The maintenance, calibration and use of sampling equipment as prescribed by this rule are major improvements in the respirable dust sampling program. Accordingly, these tasks are required to be done only by "certified persons." The rule provides a certification for maintaining and calibrating sampling equipment and a certification for conducting sampling. Persons may hold one or both of these certifications. Temporary certification is provided for persons who receive basic instruction in the methods and procedures of this program from an MSHA inspector, pending their prompt completion of the certification requirements discussed below.

The certification requirements of this rule are identical to the certification requirements in the final rule for Part 70 (Respirable dust sampling in underground coal mines) and the final rule for Part 90 (Coal miners who have evidence of the development of pneumoconiosis). Therefore, persons certified under Part 70, this rule, or Part 90 are "certified persons" for purposes of any of these three rules.

1. *Maintaining and calibrating respirable dust sampling equipment.* To be certified in maintenance and calibration of sampling equipment, persons are required to pass the MSHA examination on maintenance and calibration procedures. The essential maintenance requirement of this rule is that approved sampling devices be maintained in a condition such that they will perform as approved under Part 74 of Title 30, Code of Federal Regulations. Approved sampling devices are required to be calibrated in accordance with MSHA Informational Report No. 1121, "Standard Calibration and Maintenance Procedures for Wet Test Meters and Coal Mine Respirable Dust Samplers (Supersedes IR 1073)."

2. *Collecting respirable dust samples.* To be certified under the final rule to collect respirable dust samples, persons are required to pass an MSHA examination on sampling of respirable coal mine dust. Careful examination and testing of respirable dust sampling devices are required immediately prior to the start of each shift during which samples are to be collected. This examination and testing may be done by a person holding either of the certifications provided by the rule and includes testing the battery voltage and examining all external components of the sampling devices to be used. Any necessary external maintenance to assure the sampling devices are clean and in proper working condition may be performed at this time by any certified person. The final rule also requires that each sampling device be examined at least twice during each sampling shift. These examinations are required to be made only by a person certified to collect samples. The first examination is required to be made during the second hour after the sampling devices are put into operation on a sampling shift. This examination is primarily intended to assure the sampling devices are operating correctly and at the proper flowrate. Any necessary adjustment in the flowrate is required to be made at this time by a person certified to collect samples. The second examination is required to be made during the last hour the sampling devices are operated during the shift. This examination may be made at any time during the last hour, including when the sampling devices are stopped at the end of the sampling shift. If a sampling device has not maintained the proper flowrate, the sample still must be transmitted to MSHA under the rule, but with a notation made by the person certified to collect samples indicating an improper flowrate.

G. Miner Participation

The proposal for miners to participate in the sampling procedures of this rule has not been finalized at this time and therefore is not part of this rule. In response to requests, MSHA held separate public hearings on the portion of the proposed rule providing that the representative of miners be afforded an opportunity to observe the sampling procedures of this rule while they are being carried out by the operator. MSHA also received extensive written comments on the proposal. These comments and the public testimony raised significant issues that were not directly related to the proposed amendments to respirable dust sampling procedures. Therefore, MSHA has finalized the sampling procedure amendments and will separately develop the rule for miners to participate in these procedures. When provisions for miner participation are finalized, they will be published as an amendment to Part 71.

III. Discussion of Major Issues

Section 71.2

Among the written comments received and in the testimony at the public hearings there were repeated objections that the proposal did not restrict respirable dust sampling under wet conditions. These commenters stated that under the existing rule and the proposal, respirable dust sampling can be regularly conducted when dust is being naturally controlled by rain and consequently the sampling results will not reflect the higher respirable dust concentrations that may be present under dry conditions.

Under the final rule not all work positions are sampled. Instead, respirable dust sampling is focused on selected work positions where there is potential for dust concentrations that exceed the standard. MSHA's data indicates that many of the work positions that will be designated for sampling are work positions that are protected from the weather. As a result, the dust sources that affect these work positions are not suppressed by rain. For example, work positions in enclosed surface facilities may be designated for sampling under the final rule. These work positions and the sources of dust affecting them are within the structure of the facility and consequently the dust will not be controlled by rain. Nevertheless, a significant number of the work positions that may be designated for sampling under the final rule are affected by respirable dust that can be suppressed by rain. For example, a coal driller or bulldozer operator is exposed to dust that is minimized by rain. In these instances, MSHA agrees that sampling under rainy conditions is inappropriate. A primary purpose of the respirable dust sampling program is to protect miners from exposure to respirable dust concentrations that exceed the applicable standard. To accomplish this, MSHA must be able to ascertain the higher concentrations of respirable dust that normally occur at each mine.

To restrict sampling under extremely wet conditions, the proposed definition of a "normal work shift" is revised to include a limitation on the amount of allowable rainfall during a sampling shift. Under the final rule, it is a "normal work shift" for sampling purposes if there is no rain. However, if rain does occur, it may still be a "normal work shift" so long as the rainfall during the shift does not suppress respirable dust to the extent that the sampling results will be measurably lower than if it had not rained.

The rule does not state how much rainfall is too much for sampling purposes. The duration and volume of rainfall, and how these variables combine, significantly contributes to whether sampling results are appreciably affected. A simple time limitation would not account for the volume of rainfall and therefore would not be appropriate in all circumstances. A measure of the volume of rainfall would not take into account when during the shift it occurred and this would be impractical to ascertain. Therefore, the final rule requires that the effect of rain on respirable dust sampling results be judged by a person at the mine who is certified to conduct sampling. Instruction in how to evaluate the effect of rainfall on dust conditions at the mine will be included in the training offered by MSHA for persons certified under this rule. If the rain that occurs during a sampling shift suppresses the respirable dust in a designated work position to the extent that sampling results may be appreciably lower than if no rain had occurred, then the certified person is required to note on the data card for that sample that a "normal work shift" did not occur. Samples not taken on a "normal work shift" will be voided by MSHA, unless the concentration of respirable dust measured exceeds 2.5 mg/m^3 of air.

Failure by a certified person to note that a "normal work shift" did not occur due to rainfall, or because any of the other requirements for a "normal work shift" were not satisfied, would constitute good cause for MSHA to revoke that person's certification. As will be mentioned several times in this preamble, MSHA expects persons certified under this rule to significantly contribute to improving the respirable dust sampling program. Under the rule, certified persons are relied upon to complete numerous tasks that are vital to collecting accurate and useful respirable dust samples. Therefore, MSHA will proceed to revoke the certification of any person who fails to conscientiously carry out these responsibilities.

MSHA recognizes that the rain restriction for a "normal work shift" may make it unreasonably difficult to complete the sampling requirements of the rule at mines affected by climates that are very wet for at least part of the year. Accordingly, the rule also provides for a waiver of this restriction. Upon written request by the operator, the "normal work shift" rain restriction may be waived by the District Manager for up to two months if the normal frequency of rain is such that the operator would not have a reasonable opportunity to complete the required sampling, and the operator did not forego prior reasonable opportunity to complete the required sampling. The purpose of this waiver is to enable the operator to anticipate wet weather seasons that may affect bimonthly sampling requirements and timely request a waiver of the "normal work shift" rain restriction for that bimonthly period.

Section 71.101

The National Institute for Occupational Safety and Health (NIOSH) suggested in its comments on the proposed rule a revision of the existing standard for respirable dust when quartz is present. NIOSH recommended a limit of 50 micrograms of free crystalline silica per cubic meter of air. This new standard, which was not contained in the proposal, would require the average concentration or respirable dust to be reduced below 2.0 mg/m^3 of air when the free silica present exceeded .050 milligrams per cubic meter of air. Converted to an MRE equivalent, this would be .070 milligrams per cubic meter of air.

NIOSH's recommended standard was previously proposed as a revision to 30 CFR Part 70 (Respirable dust sampling in underground coal mines) (42 FR 59294). It was not adopted, however, for the reasons discussed in the preamble to the final rule for Part 70, published in the Federal Register on April 8, 1980 (45 FR 23990). Briefly, although MSHA has placed high priority on developing a silica standard for mining, it was concluded that the existing standard for quartz should not be revised until NIOSH develops a criteria document specifically addressing the silica exposure hazard in the mining industry. NIOSH is now developing these criteria, which will provide valuable information regarding permissible exposure limits and equally important matters such as

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sampling procedures and medical examinations of exposed miners.

Section 71.201

A few commenters objected to the proposed requirement that the operator, upon request, submit to the District Manager the date on which sampling for purposes of this rule will begin. Several of the commenters said that the operator could not always state precisely when sampling will begin and that only the date they expected to begin sampling could be provided to the District Manager. MSHA recognizes that the operator is only able to state when sampling is scheduled to be conducted, and this is all that was intended under the proposal. Accordingly, this provision of the proposal is retained in the final rule. It should also be understood that the primary purpose of this requirement is to enable MSHA to observe the sampling procedures of this rule as they are being implemented at the operator's mine. By doing this, it has been MSHA's experience that sampling errors and mishandling of equipment can be readily corrected, reducing the number of samples that are voided and saving the operator time and expense.

Sections 71.202 and 71.203

A few commenters suggested that persons who have been previously certified or qualified to take respirable dust samples or to maintain and calibrate sampling equipment should not have to be certified again under this final rule.

The certification requirements adopted in this final rule are identical to the recently revised certification requirements of Part 70 (Respirable dust sampling in underground mines) and the final rule for Part 90 (Coal miners who have evidence of the development of pneumoconiosis), which is contained in today's **Federal Register**. Therefore, MSHA agrees that persons certified under Part 70, this rule or Part 90 would be "certified persons" for purposes of any of these three rules. However, MSHA does not agree that persons previously certified or qualified by MSHA under other regulations to conduct sampling, maintenance or calibration should be considered "certified persons" for purposes of these rules. The requirement that sampling, maintenance and calibration be done only by persons certified in accordance with this final rule (or the revised requirements of Parts 70 or 90) is an integral part of improving the operator respirable dust sampling program. MSHA believes that certification through these new examination requirements will assure a basic level of competency in applying the substantially revised sampling requirements and procedures. In addition, MSHA believes that certification of persons under the final rule will improve sampling results through properly maintained and calibrated equipment. Temporary certification pending completion of the certification requirements is provided to alleviate any potential problem of accommodating all persons seeking certification under the final rule.

Section 71.204

A few commenters questioned the proposed requirement that sampling devices be tested and examined "immediately" before each sampling shift. These commenters suggested this could be done at a time prior to just before the start of the sampling shift, such as the day before sampling is conducted.

The proposed pre-shift examination requirements for sampling devices, other than the battery voltage check, involve simple visual confirmation that the external components of the equipment are in place, clean and not damaged. This type of examination immediately before the sampling shift or as sampling devices are issued is, MSHA believes, good practice in order to collect accurate samples. This procedure will also reduce the incidence of voided samples. Checking the battery voltage immediately before using sampling devices will also contribute to reducing the number of voided samples since improper flow rate is a common reason for samples being voided. MSHA is not convinced that examining sampling devices and checking the battery voltage the day before a sampling shift is an equally effective procedure. Therefore, the final rule provides that testing and examination of sampling devices shall be done immediately before each sampling shift.

Section 71.205

A few commenters objected to the proposed requirement that sampling devices be examined twice each shift by a person certified to conduct sampling. Under the proposal, sampling devices must be examined during the second hour after they are put into operation, and then during the last hour they are operated on the shift. The commenters generally recognized the importance of these on-shift examinations to assure that the sampling devices are operating at the proper flowrate. However, the commenters objected to the requirement that these examinations be made only by a person certified to conduct sampling. They asserted that a person did not need to be fully certified to conduct sampling in order to competently check the flowrate of sampling devices and make any necessary adjustments. Some commenters suggested that a limited certification just to examine and adjust the flowrate of sampling devices would be appropriate.

As discussed in the proposal and elsewhere in this preamble, MSHA believes that the certification of persons under this rule and the requirement that only certified persons conduct sampling (and maintenance and calibration) are major improvements in the respirable dust sampling program. By having persons knowledgeable in the proper handling and use of sampling equipment, MSHA anticipates improvement in the accuracy of sampling results and a reduction in the number of samples voided. Part of this improvement will derive from having persons certified to conduct sampling present during sampling shifts. In addition to checking the flowrate of sampling devices, these persons will be able to observe other conditions that may affect the accuracy of sampling results. For example, how sampling equipment is being handled by miners who are wearing the devices, or the location of sampling devices in instances when they are not worn by a miner, can be observed and errors corrected. Therefore, MSHA does not believe that a limited certification for persons to check and adjust the flowrate of sampling devices would provide the full benefit of on-shift examinations being made by persons fully certified to conduct sampling. In addition, MSHA is not persuaded that requiring on-shift examinations to be made by fully certified persons is more burdensome than requiring only a limited certification. Full certification to conduct sampling will not be difficult to accomplish under the final rule, and MSHA will make the certification process as convenient as possible. Accordingly, the final rule requires on-shift examinations of sampling devices to be made by persons certified to conduct sampling.

Section 71.207

This section is reserved in the final rule. Under the proposal, § 71.207 contained the criterion for designation of work positions for sampling. These provisions, with some revisions based on the comments received, are now part of § 71.208 (Bimonthly sampling; designated work positions). This reorganization does not substantively change the rule, but is intended to emphasize how the provisions of this

part and Parts 70 and 90 of Title 30 are parallel in many respects. By organizing these parallel provisions in a similar order in each of the parts, MSHA hopes to assist operators who must conduct sampling under any two or all three of these sampling programs.

Section 71.208

A few commenters questioned whether the proposal to sample designated work positions at bimonthly intervals would increase the health protection afforded miners. The proposed sampling requirements were developed by MSHA based on more than eight years of experience with sampling at coal mine surface locations. MSHA believes that the final sampling requirements, which combine the proposed provisions with several important changes based on the comments received, significantly improve the health protection afforded miners under the existing sampling requirements. In addition, MSHA and NIOSH will be engaging in an assessment of the effectiveness of the new sampling procedures to determine if further improvements can be made.

More specifically, the old provisions of Part 71 require an operator to sample on one of two schedules, depending on sampling results. These sampling schedules are initiated by a single sample taken for each miner at the mine. If the results of this initial single sample indicate a respirable dust concentration of 1.0 mg/m³ of air or less, then one sample is required to be taken for this miner every 12 months. If the results of the initial sample indicate a respirable dust concentration greater than 1.0 mg/m₃ of air, but less than 2.0 mg/m³ of air, then one sample is required to be taken for this miner every 6 months.

The final rule greatly improves this old sampling program by requiring sampling only at work positions where there is potential for respirable dust concentrations that exceed the standard, rather than requiring samples for each miner at the mine. At work positions where at least one sample has indicated a concentration of respirable dust exceeding 1.0 mg/m³ of air, the final rule requires a single respirable dust sample to be taken on a regular bimonthly schedule. As a result, these work positions where there is evidence that dust may be a problem are sampled at least six times each year, or three times more frequently than under the old sampling program. MSHA believes that these sampling requirements greatly increase miner health protection. At the same time, the overall number of samples required to be collected is reduced, since samples are not required for all miners at the mine.

Several commenters criticized the proposed criterion by which work positions would be selected for bimonthly sampling. Under the proposal, the District Manager would designate a work position for sampling if one or more samples have measured a respirable dust concentration, exceeding 2.0 mg/m³ of air, or the standard applicable at the mine if greater than five percent quartz is present. These commenters objected that only a few samples are or will be available for a significant number of work positions and that this data is not sufficiently reliable to determine whether there is potential for dust concentrations exceeding the standard.

As discussed above, the final rule is designed to eliminate unnecessary sampling and to increase the frequency of sampling where there is potential for concentrations of respirable dust that exceed the standard. In doing this, however, MSHA is aware that great care must be taken in determining which work positions will be sampled, since this will also determine which work positions will *not* be sampled under the rule. Therefore, to fully protect the health of miners the criterion for selecting work positions for sampling must minimize the risk of not designating for sampling a work position where there is potential for concentrations of respirable dust that exceed the standard.

The risk of not designating for sampling a work position where there may be a respirable dust problem is affected by two factors. One factor, which was raised by the commenters, is the number of samples considered. When only one or two samples are available, the respirable dust hazard cannot be reliably evaluated. Consequently, there is insufficient basis for concluding that further sampling under this rule is unnecessary to assure compliance. Another significant factor is whether the sampling results are very near the respirable dust standard. Regardless of the number of samples available, sampling results at or near 2.0 mg/m³ of air do not support the conclusion that further sampling is unnecessary to assure compliance. Instead, sampling results at or near 2.0 mg/m³ of air constitute evidence that there is potential for respirable dust concentrations exceeding this standard.

In view of these considerations, the final rule provides that work positions will be designated for bimonthly sampling if one or more samples have measured a respirable dust concentration exceeding 1.0 mg/m³ of air. This criterion minimizes the risk of not designating a work position for sampling where there is potential for a respirable dust problem, even when very few samples are available. When all the samples reviewed for a work position, even if there are very few, indicate concentrations of respirable dust at or below 1.0 mg/m³ of air, MSHA belives that the work position need not be sampled under the rule to assure compliance. At mines where the respirable dust standard is below 1.0 mg/m³ of air due to the presence of quartz, work positions will be designated for sampling where a concentration of respirable dust exceeding the applicable standard has been measured by one or more samples. When sampling results from these mines indicate respirable dust concentrations at or near the applicable standard, MSHA will take additional samples to assure all appropriate work positions are designated for sampling.

A few commenters criticized the use of existing sampling results to initiate the selection of designated work positions under the rule. These commenters asserted that this data is inadequate to reveal all of the work positions at which miners may be exposed to respirable dust concentrations that exceed the standard. MSHA recognizes that previous sampling results are not determinative of all the conditions currently existing at each mine. However, MSHA believes that these sampling data do provide an appropriate basis upon which to initially designate work positions for sampling. It should be understood that existing sampling results are being used here as a guide in initiating the revised sampling program. MSHA will continue to take samples to determine where respirable dust presents a health hazard at surface locations and designate work positions for sampling accordingly.

Commenters both supported and opposed the proposal that District Managers may withdraw the designation of a work position for respirable dust sampling of bimonthly sampling results demonstrate continuing compliance with the applicable standard for at least six months. Several commenters approved the proposal of an administrative procedure through which the District Manager could determine whether to withdraw the designation of a work position for sampling. However, these commenters strongly cautioned against routinely withdrawing the designation of work positions for sampling on the basis of sampling during only six months since

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this could be based on as few as three samples. It was recommended that more substantial evidence of continuing compliance with the respirable dust standard be required before the District Manager is authorized to withdraw the designation of a work position for sampling. Other commenters maintained that the District Manager should be required by the final rule to withdraw the designation of a work position for sampling whenever sampling results indicate compliance for six months.

As discussed above, the procedures of this rule are designed to require sampling of each work position where potential exists for concentrations of respirable dust that exceed the applicable standard—until it is clearly demonstrated that respirable dust concentrations in these work positions are and will continue to be maintained within permissible limits. With this purpose in mind, it is important that sampling under the rule be discontinued only on the basis of substantial data demonstrating continuing compliance with the respirable dust standard. MSHA agrees that as few as three respirable dust samples collected at bimonthly intervals over a six month period may not provide sufficient data to reliably determine whether there will be continuing compliance. Accordingly, additional assurance of continuing compliance is needed before the District Manager discontinues the requirement of sampling a work position. To provide this additional assurance, the District Manager is authorized to withdraw the designation of a work position for sampling only after finding that the operator is able to maintain continuing compliance with the applicable respirable dust standard. In making this decision the final rule provides that the District Manager must consider the results of samples taken during at least a one-year period. The samples that must be considered by the District Manager are all of those taken under this rule for the designated work position, and samples taken by MSHA. With this revision to the proposal, the District Manager is required to consider sampling data from at least one year, rather than six months, and these sampling results must support the finding that the operator is able to continue to maintain compliance with the applicable respirable dust standard. Where sampling data supports such a finding, MSHA believes that sampling under this rule is properly discontinued.

Under the final rule, when a bimonthly sample from a designated work position indicates a respirable dust concentration exceeding 2.0 mg/m³ of air or the applicable standard, five additional samples are required to be taken to determine whether there is compliance with the respirable dust standard. A few commenters suggested that these additional samples should be required whenever a bimonthly sample from a designated work position indicates a respirable dust concentration exceeding 1.0 mg/m³ of air. They argued that this is necessary to account for the risk that a single bimonthly sample might not detect a violation when the concentration of respirable dust is very near the respirable dust standard.

This suggestion is not adopted in the final rule because it would result in more sampling than MSHA believes is necessary to assure compliance with the applicable respirable dust standard. The number of samples required to be taken under the final rule would be substantially increased if five additional samples were required for each bimonthly sample that indicated a respirable dust concentration exceeding 1.0 mg/m³ of air. This would result because work positions are designated for sampling under the final rule only if there is evidence that the dust concentration exceeds 1.0 mg/m³ of air. Consequently, five additional samples would be routinely required each bimonthly period for nearly all designated work positions. This is more sampling than MSHA believes is reasonably necessary to assure compliance with the respirable dust standard. MSHA recognizes that such a substantial increase in the number of samples for designated work positions would virtually eliminate any risk of not immediately detecting instances when the concentration of respirable dust slightly exceeds the respirable dust standard. However, this risk is present only when the dust concentration is very near the standard. Moreover, this risk decreases with each bimonthly sample taken at the designated work position where such conditions exist. As bimonthly sampling results accumulate for the designated work position, the presence of dust concentrations which slightly exceed the respirable dust standard will be detected. Five additional samples will then be required and MSHA will make a compliance determination. In addition, MSHA samples may be taken to supplement the results of operator bimonthly samples in instances where additional data is necessary to assure compliance with the respirable dust standard.

Several commenters objected to the proposal that after a bimonthly sample indicated respirable dust concentrations exceeding the applicable standard, the operator would be notified by MSHA to take five valid samples "within 15 calendar days." These samples would be used to make a compliance determination. The commenters argued that allowing the operator to take samples for compliance determinations on any shift during a 15-day period provided an opportunity for samples to be taken under conditions that minimize dust concentrations. Common examples cited here were low mining activity and rain. To resolve this, commenters asserted that samples for compliance determinations should be required to be taken on consecutive shifts, as required under the existing sampling procedures.

MSHA agrees that respirable dust sampling should be done when regular mining activities are being conducted so that dust generation sources at the mine are active. MSHA also agrees that sampling should not be done when respirable dust is controlled by rain. Accordingly, these principles have been incorporated into the final rule. However, this is accomplished through the provision that MSHA may void samples not taken on a "normal work shift." As discussed above, the definition of "normal work shift" includes regular mining activity and limited or no rainfall. MSHA believes that these provisions better resolve the concern of the commenters than would a requirement of consecutive shift sampling.

Several commenters also questioned the effect of the proposal to base compliance determinations on five samples. Under the existing respirable dust sampling requirements, which this final rule amends, compliance determinations were based on ten samples.

The effect of reducing the number of samples from ten to five was evaluated by MSHA. A statistical analysis of respirable dust sampling data showed no significant change in the confidence level for compliance decisions. The confidence level for compliance decisions decreased approximately 3.5 percent when based on five samples rather than ten samples. MSHA also considered the effect of reducing the number of samples used for compliance determinations on the overall respirable dust monitoring program. Reducing the number of samples from ten to five will significantly reduce the time necessary for MSHA to report the results to operators. Accordingly, operators will be able to more promptly abate violations, which will appreciably reduce the length of time miners may be exposed to excessive dust concentrations. MSHA believes this is a significant improvement in the health protection afforded miners under the existing respirable dust program. Therefore, the proposal to reduce the number of samples for compliance determinations from ten to five is adopted in the final rule.

A few commenters suggested that the final rule should include a provision setting forth how the potential for variability in sampling results is accounted for in MSHA's determination of compliance with the respirable dust standard. MSHA recognizes that under this rule, or any sampling program, there may be some variation between the actual concentrations of respirable dust present in the mine atmosphere and the dust concentrations determined by sampling results. MSHA, however, believes that the final rule minimizes the variability inherent in the sampling program. Compliance determinations will generally be based on the average concentration of respirable dust measured by five valid respirable dust samples taken by the operator during five normal work shifts. Therefore, the sampling results upon which compliance determinations are made will more accurately represent the dust in the mine atmosphere than would the results of only a single sample taken on a single shift. In addition, MSHA believes the revised sampling and maintenance and calibration procedures prescribed by the final rule will significantly improve the accuracy of sampling results.

A few commenters, however, argued that the remaining potential variability in sampling results should be resolved by setting an artificial respirable dust standard in the rule, as high as 2.4 mg/m³ of air. These commenters suggested that enforcement action should only be taken by MSHA when the average concentration of five valid respirable dust samples exceeds this higher standard. MSHA believes that such a method of accounting for variability in sampling results would significantly reduce the health protection of miners. Relying on an "enforcement action level" of 2.4 mg/m³ of air to determine compliance would expressly allow miners to be exposed to respirable dust concentrations that exceed the standard. In addition, this method of determining compliance would ignore the possibility that because of variability in sampling results, samples may show concentrations of respirable dust that are lower than were actually present in the mine atmosphere. While this risk is slight using the 2.0 mg/m³ of air standard to determine compliance, it would be significant if a higher "enforcement action level" was used. Therefore, the variability in sampling results remaining after averaging together multi-shift samples and using improved sampling, maintenance and calibration procedures under the rule cannot be reduced merely by implementing a higher respirable dust standard for purposes of compliance determinations. Accordingly, the final rule minimizes the potential for variability in sampling results and enforcement action will be taken by MSHA based on these sampling results.

Several commenters asserted that the respirable dust standard can only be enforced based on the results of a sampling device worn by an individual miner for an entire shift. The respirable dust standard provides that the average concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings of a mine is exposed shall not exceed 2.0 mg/m³ of air. MSHA believes that this standard applies to the atmosphere to which miners are exposed anywhere in the active workings of a mine. Therefore, the standard would be properly enforced based on the results of a sampling device worn by a miner in the active workings since the sampling device would measure the respirable dust in the atmosphere to which that miner was exposed. However, the results of a sampling device not worn by a miner, but located in the active workings and in the atmosphere to which a miner is exposed, would also provide a proper basis for enforcement of the standard since it too would measure the respirable dust in the atmosphere to which that miner was exposed. The necessary element in both of these sampling procedures, either of which may be used under the final rule, is that they measure the atmosphere to which the miner is exposed. Therefore, MSHA does not believe that enforcement of the respirable dust standard is limited to the results of a sampling device worn by an individual miner. With these considerations in mind, it was proposed and the final rule provides that designated work positions will be sampled. The miner assigned to a work position designated for sampling may either wear the sampling device while in the work position, or place it within the atmosphere of the work position as prescribed by the rule. The purpose of this requirement is to determine compliance with the respirable dust standard in locations where miners are present for a significant portion of each shift. In addition, sampling work positions at the mine rather than individuals will assist operators in identifying locations at the mine where dust is a problem. As a result, dust generating sources can be identified and the dust can be controlled.

When the miner assigned to a designated work position does not wear the sampling device, the proposal provided that the sampler may be placed at a location in the immediate environment of the miner when he or she is in the work position. More specifically, under the proposal, samples for designated work positions involving equipment operation could be taken by placing the sampling device on the miner or within 36 inches of the miner's normal work position while operating the equipment. Respirable dust samples for designated work positions not involving equipment operation could be taken by placing the sampling device on the miner assigned to the work position or at a location that represents the maximum concentration of respirable dust to which the miner is exposed.

One commenter objected that the respirable dust concentration measured by a sampling device placed within 36 inches of an equipment operator's normal work position may not be precisely the same as the dust concentration that would be measured if the miner wore the sampling device. MSHA recognizes that there may be a slight difference in the results of a sampling device worn by the miner and a sampling device placed within 36 inches of the miner. However, MSHA believes that the respirable dust standard is properly enforced based on the results of either of these samples since they both measure the respirable dust present in the mine atmosphere to which the miner is exposed while the miner is in his or her work position. If the concentration of respirable dust at a miner's work position is maintained at or below the permissible level, MSHA believes the miner is afforded the protection intended by the standard. Therefore, the proposal that sampling devices may be placed within 36 inches of the equipment operator in a designated work position is retained in the final rule. However, the final rule also adopts the proposal to allow respirable dust sampling devices to be placed on the individual miner in the work position being sampled. Therefore, mine operators may place the sampling device on the miner if they prefer.

A few commenters objected to the proposed requirement that when the miner assigned to a designated work position not involving equipment operation does not wear the sampling device the sampling device must be

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placed in a location that represents the maximum concentration of dust to which the miner is exposed. These commenters expressed concern that a sampling device placed in this manner could indicate a higher concentration of respirable dust than would be measured by a sampling device worn by the miner in the work position. The proposal by its very terms provided for the sampling device to be placed so that it will measure the mine atmosphere to which the miner is exposed while in the designated work position. Therefore, the respirable dust standard is properly enforced based on the results of a sampling device placed in this manner. Moreover, only by measuring the highest concentration of respirable dust in the atmosphere to which the miner is exposed can the miner be afforded the health protection intended by the standard.

Accordingly, the proposal that a sampling device be placed at a location that represents the maximum concentration of dust to which the miner is exposed, if the miner does not wear the sampling device, is adopted in the final rule. However, it should be understood that the purpose of this requirement is only to prohibit placing the sampling device in the work position where it would indicate a lower concentration of respirable dust than would be measured by a sampling device worn by the miner while in the work position. Also, the final rule allows the sampling device to be placed on the miner under these circumstances, if the mine operator prefers.

Section 71.209

Several of the comments received objected to the proposed requirement that samples be transmitted to MSHA within 24 hours after the end of each sampling shift. These commenters indicated that it would be more convenient in some instances to accumulate respirable dust samples from several shifts and transmit them together. Other commenters were concerned that special efforts might have to be made to transmit samples collected just prior to a weekend or holiday.

MSHA is not persuaded that these considerations outweigh the benefit to be derived from having respirable dust samples transmitted within 24 hours after they are collected. It is important that samples be transmitted to MSHA for analysis in the shortest reasonable time in a protective container made for the purpose so that the weight of the samples will not be affected. MSHA has received no information indicating that 24 hours is an unreasonable time within which to accomplish this. In addition, the efficiency of the respirable dust sampling program will be improved by having samples transmitted after each sampling shift for analysis and report back to the operator.

Section 71.210

A few commenters objected to the proposal to delete miners' social security numbers from MSHA's report of sampling results to the operator. These commenters stated that this would hinder the ability of operators to acquire evidence of the individual exposure of miners who seek black lung benefits. Although there has been no Federal black lung benefit case in which MSHA reports of sampling results have resulted in the denial of benefits, the record in this and related rulemakings is replete with statements from miners that the attempted use by operators of MSHA reports of sampling results in black lung benefit cases caused miners to be uncooperative with the sampling program.

In this rulemaking MSHA's primary objective is to amend the respirable dust sampling requirements and procedures so that the program will be most effective in protecting the health of miners. To accomplish this, it has been MSHA's experience that the full cooperation of the miners is essential. For this reason, the proposed rule included miner participation in the sampling procedures. This has been discussed above. MSHA also plans to educate miners as well as operators in the procedures and requirements of the final rule. MSHA also believes that the cooperation of miners in this program can be enhanced by deleting their social security numbers from MSHA reports of sampling results. This will not prohibit operators from establishing the concentration of respirable dust in the atmosphere to which individual miners were exposed. However, MSHA will not provide this information since it is not necessary to the primary purpose of this rule and there is evidence that it may undermine the effectiveness of the program.

Several of the comments received objected to the proposed requirement that results of MSHA's respirable dust sample analysis be posted by operators on the mine bulletin board for at least 31 days. This posting requirement is designed to provide miners ready access to current information as to respirable dust conditions in the mine. The data reported to the operator will not contain information identifying individual miners. MSHA has received no information indicating that posting this information would be contrary to the best interests of miners or burdensome for operators. Therefore, the proposed posting requirement is adopted in the final rule.

Section 71.220

A few of the comments received included objections to the proposed status change reporting requirement. These commenters anticipated that three days could, in some instances, be too short a time within which to be sure that a status change at the mine was permanent. They suggested that seven to ten days would be more appropriate.

The status change reporting requirement applies only to changes at the mine that affect the respirable dust sampling requirements. Therefore, not all status changes must be reported. However, if, for example, a work position designated for bimonthly sampling is dropped from the mining cycle, MSHA would need to know of this status change as soon as possible. Otherwise, samples from the designated work position would be expected and a citation would be issued if they were not received. While seven to ten days may in some instances be more convenient for reporting a status change, MSHA believes that notification within three days of a status change that affects the sampling requirements is necessary for MSHA to avoid unnecessary enforcement action. Therefore, the final rule provides that status changes must be reported to MSHA within three days.

Sections 71.300 and 71.301

Commenters both supported and opposed the proposal for respirable dust control plans. Under the proposal, after a citation for violation of the respirable dust standard the operator would be required to develop a written respirable dust control plan. The dust control plan would be required to specify the dust control measures used by the operator to achieve compliance with the standard and how these same dust control measures will continue to be used to maintain compliance. After MSHA approval, the operator would be required to comply with all provisions of the plan. Several commenters expressed concern that enforcement action could be taken against an operator for failure to maintain compliance with the approved dust control plan, even though there may be compliance with the respirable dust standard at the time of inspection. Other commenters approved of this result.

The purpose of the respirable dust control plan is to assure continuing compliance with the applicable respirable dust standard after abatement of a violation is achieved.

Once a violation of the standard is demonstrated by sampling results, MSHA believes that the dust control measures used to abate the violation should become an integral part of the mining system. In this way, the health of miners is protected at all times, not just when sampling is conducted to determine whether there is compliance with the standard. Therefore, the proposal that operators develop and maintain compliance with a written respirable dust control plan after violation of the respirable dust standard is retained in the final rule.

Several commenters further argued that the final rule should include a procedure for administrative appeal of a District Manager's decision to not approve an operator's respirable dust control plan. These commenters maintained that without a procedure for appeal of such a decision, the operator would be denied an opportunity to prove that the proposed respirable dust control plan was adequate.

The final rule expressly provides that MSHA may take samples to test the effectiveness of respirable dust control measures specified in the operator's respirable dust control plan. Therefore, whether the operator's plan is adequate could be readily determined without an administrative appeal procedure. However, commenters still expressed concern that a District Manager could arbitrarily determine to not approve a respirable dust control plan. These commenters maintained that an operator would have no recourse in such a case, unless appeal procedures are included in the final rule.

MSHA is not convinced at this time that a formal administrative appeal procedure should be made part of the final rule. The final rule provides specific and objective requirements for what must be contained in a respirable dust control plan. Primarily, the plan must include a description of the respirable dust control measures used to abate the violation, and how each of these control measures will continue to be used by the operator. With respect to this latter requirement, the operator is required under the rule to state at least the specific time, place and manner that the controls will be used. In addition, the final rule provides the District Manager with guidelines to follow when approving respirable dust control plans. The District Manager is required to consider whether the operator's compliance with the dust control plan can be objectively ascertained by MSHA. If the time, place and manner in which the operator's dust control measures will be used is described in the plan, as required by the rule, this consideration is satisfied. The District Manager is also directed to consider whether the respirable dust control measures described in the plan are likely to maintain compliance with the respirable dust standard. This consideration can be objectively ascertained through additional sampling conducted by MSHA.

In view of the objective requirements in the rule for what must be contained in a respirable dust control plan and the provision for additional sampling to determine the effectiveness of a plan, the final rule does not include a formal procedure for appeal of a District Manager's decision to not approve an operator's dust control plan. However, MSHA will provide additional review of an operator's dust control plan on a case-by-case basis. This review will be informal and provided as the need arises.

Under the proposed rule, operators would have been required to submit a respirable dust control plan within 15 calendar days after a citation was issued for a violation of the respirable dust standard. The final rule, however, requires the dust control plan to be submitted within 15 calendar days after the citation is terminated. The effect of this revision is to allow the operator to abate the violation and achieve compliance with the respirable dust standard, prior to writing the respirable dust control plan. MSHA believes that this procedure is more appropriate than the proposal since the purpose of the respirable dust control plan is to set forth how the operator will continue to maintain compliance with the respirable dust standard after abatement of a violation has been achieved.

A few commenters asserted that a requirement for respirable dust control plans would constitute an unnecessary paperwork burden for operators. MSHA does not anticipate that approved dust control plans will be difficult to develop. As discussed above, the plan should state clearly what dust control methods were used by the operator to abate a violation and how these will continue to be applied. Fulfilling this requirement during a 15-day period after a citation is terminated should not be unduly burdensome for large or small operators. Moreover, MSHA believes that the requirement for respirable dust control plans is a necessary one. As discussed above, compliance with these dust control plans will be required by MSHA. As a result, the control of respirable dust to within a permissible concentration will become part of the mining system, significantly contributing to the protection of miners' health.

A few commenters also objected to the proposal that operators post on the mine bulletin board a copy of each current approved respirable dust control plan and also provide a copy of each approved plan to the representative of miners. These commenters suggested that one or the other of these requirements would satisfy the purpose of informing miners of what respirable dust controls should be in use at the mine. It was also noted that miners representatives are often routinely provided this type of information without it being a requirement of the rule.

The proposed posting requirement for approved respirable dust control plans was, as the commenters observed, intended to make the plans available to all the miners so that they would be knowledgeable in the dust control measures necessary at the mine. The additional proposed requirement of providing the representative of miners with a copy of each dust control plan also served this purpose. MSHA is satisfied that both requirements are not necessary in the final rule. Also, MSHA expects that operators will make the information contained in respirable dust control plans readily available to miner representatives who request this information. Therefore, the final rule does not require operators to provide a copy of dust control plans to the representative of miners, but each approved plan must be posted on the mine bulletin board.

Drafting Information

The principal persons responsible for preparing this rule are: William H. Sutherland and Glenn R. Tinney, Division of Health, Mine Safety and Health Administration and Edward P. Clair and Edward C. Hugler, Division of Mine Safety and Health, Office of the Solicitor, Department of Labor.

Regulatory Analysis

It has been determined that this rule does not contain major provisions requiring the preparation of a regulatory analysis under Executive Order No. 12044, or the Department of Labor's final guidelines for implementation of the Executive Order (44 FR 5570, January 28, 1979).

Impact Statement

The Department of Labor has determined in accordance with the National Environmental Policy Act of 1969, as amended, and the Department's regulations implementing that statute, that this final rule is not a major Federal

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action significantly affecting the quality of the human environment that requires an Environmental Impact Statement.

Dated: December 2, 1980.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

1. Part 71 of Subchapter O, Chapter I, Title 30, Code of Federal Regulations, is amended by revising Subparts A and B, redesignating Subparts C and D as Subparts H and I, and adding new Subparts C and D as set forth below.

Note.—The table of contents for redesignated Subparts H and I are set forth for the convenience of the user.

PART 71—MANDATORY HEALTH STANDARDS—SURFACE COAL MINES AND SURFACE WORK AREAS OF UNDERGROUND COAL MINES

Subpart A—General

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71.203 Certified person; maintenance and calibration.
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71.208 Bimonthly sampling; designated work positions.
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Subpart D—Respirable Dust Control Plans
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Subpart H—Airborne Contaminants
71.700 Inhalation hazards; threshold limit values for gases, dusts, fumes, mists, and vapors.
71.701 Sampling; general requirements.
71.702 Asbestos dust standard; measurement.

Subpart I—Noise Standard
71.800 Noise standard; general requirements.
71.801 Measurement of noise levels.
71.802 Initial noise survey.
71.803 Periodic noise level survey.
71.804 Supplemental noise level survey; reports and certification.
71.805 Violation of noise standard; notice of violation; action required by operator.

Authority: Sections 101 and 103(h) of the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 and 1299 (30 U.S.C. 811 and 813(h)).

Subpart A—General

§ 71.1 Scope.

This Part 71 sets forth mandatory health standards for each surface coal mine and for the surface work areas of each underground coal mine subject to the Federal Mine Safety and Health Act of 1977.

§ 71.2 Definitions.

For the purpose of this Part 71, the term;

(a) "Act" means the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173, as amended by Pub. L. 95–164.

(b) "Active workings" means any place in a surface coal mine or the surface work area of an underground coal mine where miners are normally required to work or travel.

(c) "Certified person" means an individual certified by the Secretary in accordance with § 71.202 (Certified person; sampling) to take respirable dust samples required by this part or certified in accordance with § 71.203 (Certified person; maintenance and calibration) to perform the maintenance and calibration of respirable dust sampling equipment as required by this part.

(d) "Concentration" means a measure of the amount of a substance contained per unit volume of air.

(e) "Designated work position" means a work position designated under § 71.208 (Bimonthly sampling; designated work positions).

(f) "District Manager" means the manager of the Coal Mine Safety and Health District in which the mine is located.

(g) "MRE instrument" means the gravimetric dust sampler with a four channel horizontal elutriator developed by the Mining Research Establishment of the National Coal Board, London, England.

(h) "MSHA" means the Mine Safety and Health Administration of the Department of Labor.

(i) "Normal work shift" means (1) a shift during which the regular duties of the designated work position are performed while routine day-to-day mining activities are occurring in the rest of the mine and (2) a shift during which there is no rain, or, if rain occurs, the rain does not suppress the respirable dust to the extent that sampling results will be measurably lower, in the judgment of the person certified under this part to conduct sampling.

(j) "Quartz" means crystalline silicon dioxide (SiO_2) not chemically combined with other substances and having a distinctive physical structure.

(k) "Respirable dust" means dust collected with a sampling device approved by the Secretary and the Secretary of Health and Human Services in accordance with Part 74 (Coal Mine Dust Personal Sampler Units) of this title. Sampling device approvals issued by the Secretary of the Interior and Secretary of Health, Education and Welfare are continued in effect.

(l) "Secretary" means the Secretary of Labor or a delegate.

(m) "Surface area" means a specific physical portion of a surface coal mine or surface area of an underground coal mine. These areas are assigned a four digit identification number by MSHA.

(n) "Surface coal mine" means a surface area of land and all structures, facilities, machinery, tools, equipment, excavations, and other property, real or personal, placed upon or above the surface of such land by any person, used in, or to be used in, or resulting from, the work of extracting in such area bituminous coal, lignite, or anthracite from its natural deposits in the earth by any means or method, and the work of preparing the coal so extracted, including custom coal preparation facilities.

(o) "Surface installation" means any structure in which miners work at a surface coal mine or surface work area of an underground coal mine.

(p) "Surface work area of an underground coal mine" means the surface areas of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, excavations, and other property, real or personal, placed in, upon or above the surface of such land by any person, used in, or to be used in, or resulting from, the work of extracting bituminous coal, lignite, or anthracite from its natural deposits underground by any means or method, and the work of preparing the coal so extracted, including custom coal preparation facilities.

(q) "Surface worksite" means any area in which miners work at a surface coal mine or surface work area of an underground coal mine.

(r) "Valid respirable dust sample" means a respirable dust sample collected and submitted as required by this part, and not voided by MSHA.

(s) "Work position" means an occupation identified by an MSHA code number describing a location to which a miner is assigned in the performance of his or her normal duties.

Subpart B—Dust Standards

§ 71.100 Respirable dust standard.

Each operator shall continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which each miner in the active workings is exposed at or below 2.0 milligrams of respirable dust per cubic meter of air. Concentrations shall be measured with an approved sampling device and expressed in terms of an equivalent concentration determined in accordance with § 71.206 (Approved sampling devices; equivalent concentrations).

§ 71.101 Respirable dust standard when quartz is present.

When the respirable dust in the mine atmosphere of the active workings contains more than 5 percent quartz, the operator shall continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which each miner is exposed at or below a concentration of respirable dust computed by dividing the percent of quartz into the number 10. Concentrations shall be expressed in milligrams per cubic meter of air as measured with an approved sampling device and in terms of an equivalent concentration determined in accordance with § 71.206 (Approved sampling devices; equivalent concentrations).

Example. The respirable dust associated with a designated work position contains quartz in the amount of 20%. Therefore, the average concentration of respirable dust in the mine atmosphere associated with that designated work position shall be continuously maintained at or below 0.5 milligrams of respirable dust per cubic meter of air (10/20=0.5 mg/m³).

Subpart C—Sampling Procedures

§ 71.201 Sampling; general requirements.

(a) Each operator shall take respirable dust samples of the concentration of respirable dust in the active workings of the mine as required by this part with a sampling device approved by the Secretary and the Secretary of Health and Human Services under Part 74 (Coal Mine Dust Personal Sampler Units) of this title.

(b) Sampling devices shall be worn or carried directly to and from the designated work position to be sampled and shall remain operational during the entire shift or for 8 hours, whichever time is less.

(c) Upon request from the District Manager, the operator shall submit the date on which collecting any respirable dust samples required by this part will begin.

(d) During the time for abatement fixed in a citation for violation of § 71.100 (Respirable dust standard) or § 71.101 (Respirable dust standard when quartz is present), the operator shall take corrective action to lower the concentration of respirable dust to within the permissible concentration and then sample each normal work shift until five valid respirable dust samples are taken.

(e) Upon written request by the operator, the District Manager may waive the rain restriction for a normal work shift as defined in § 71.2 (Definitions) for a period not to exceed two months, if the District Manager determines that:

(1) The operator will not have reasonable opportunity to complete the respirable dust sampling required by this part without the waiver because of the frequency of rain; and

(2) The operator did not have reasonable opportunity to complete the respirable dust sampling required by this part prior to requesting the waiver.

§ 71.202 Certified person; sampling.

(a) The respirable dust sampling required by this part shall be done by a certified person.

(b) To be certified, a person shall pass the MSHA examination on sampling of respirable coal mine dust.

(c) A person may be temporarily certified by MSHA to take respirable dust samples if the person receives instruction from an authorized representative of the Secretary in the methods of collecting and submitting samples under this rule. The temporary certification shall be withdrawn if the person does not successfully complete the examination conducted by MSHA on sampling of respirable coal mine dust within six months from the issue date of the temporary certification.

§ 71.203 Certified person; maintenance and calibration.

(a) Approved sampling devices shall be maintained and calibrated by a certified person.

(b) To be certified, a person shall pass the MSHA examination on maintenance and calibration procedures for respirable dust sampling equipment.

(c) A person may be temporarily certified by MSHA to maintain and calibrate approved sampling devices if the person receives instruction from an authorized representative of the Secretary in the maintenance and calibration procedures for respirable dust sampling equipment under this rule. The temporary certification shall be withdrawn if the person does not successfully complete the examination conducted by MSHA on maintenance and calibration procedures within six months from the issue date of the temporary certification.

§ 71.204 Approved sampling devices; maintenance and calibration.

(a) Approved sampling devices shall be maintained as approved under Part 74 (Coal Mine Dust Personal Sampler Units) of this title and calibrated in accordance with MSHA Informational Report No. 1121, "Standard Calibration and Maintenance Procedures for Wet Test Meters and Coal Mine Respirable Dust Samplers (Supersedes IR 1073)," by a person certified in accordance with § 71.203 (Certified person; maintenance and calibration).

(b) Approved sampling devices shall be calibrated at the flowrate of 2.0 liters of air per minute, or at a different flowrate as prescribed by the Secretary and the Secretary of Health and Human Services for the particular device, before they are put into service and at intervals not to exceed 200 hours of operating time thereafter.

(c) A calibration mark shall be placed on the flowmeter of each approved sampling device to indicate the proper position of the float when the sampler is operating at a flowrate of 2.0 liters of air per minute or other flowrate prescribed by the Secretary and the Secretary of Health and Human Services for the particular device. The standard to denote proper flow is when the lowest part of the float is tangent to the top of the calibration mark.

(d) Approved sampling devices shall be tested and examined immediately before each sampling shift and necessary external maintenance shall be performed to assure that the sampling devices are clean and in proper working condition by a person certified in accordance with § 71.202 (Certified person; sampling) or § 71.203 (Certified person; maintenance and calibration). This testing and examination shall include the following:

(1) Testing the voltage of each battery while under actual load to assure the battery is fully charged. The voltage for nickel cadmium cell batteries shall not be lower than the product of the number of cells in the battery pack multiplied by 1.25. The voltage for other than nickel cadmium cell batteries shall not be lower than the product of the number of cells in the battery pack multiplied by the manufacturer's nominal voltage per cell value;

(2) Examination of all components of the cyclone to assure that they are clean and free of dust and dirt;

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(3) Examination of the inner surface of the cyclone on the approved sampling device to assure that it is free of scoring;

(4) Examination of the external tubing on the approved sampling device to assure that it is clean and free of leaks; and,

(5) Examination of the clamping and positioning of the cyclone body, vortex finder and cassette to assure that they are rigid, in alignment, and firmly in contact.

(e) In accordance with 5 U.S.C. 552(a), MSHA Informational Report No. 1121 referenced in paragraph (a) of this section is hereby incorporated by reference and made a part of this section as if it was set forth in full. The incorporated publication is available without charge at each Coal Mine Safety and Health District and Subdistrict Office of MSHA and is on file at the Office of the Federal Register Information Center. Any future amendments to MSHA Information Report No. 1121 will be announced in the Federal Register. This incorporation by reference was approved March 25, 1980, by the Director of the Office of the Federal Register.

§ 71.205 Approved sampling devices; operation; air flowrate.

(a) Sampling devices approved in accordance with Part 74 (Coal Mine Dust Personal Sampler Units) of this title shall be operated at the flowrate of 2.0 liters of air per minute, or at a different flowrate as prescribed by the Secretary and the Secretary of Health and Human Services for the particular device.

(b) Each approved sampling device shall be examined each shift by a person certified in accordance with § 71.202 (Certified person; sampling) during the second hour after being put into operation to assure that the sampling device is operating properly and at the proper flowrate. If the proper flowrate is not maintained, necessary adjustments shall be made by the certified person.

(c) Each sampling device shall be examined each shift by a person certified in accordance with § 71.202 (Certified person; sampling) during the last hour of operation to assure that the sampling device is operating properly and at the proper flowrate. If the proper flowrate is not maintained, the respirable dust sample shall be transmitted to MSHA with a notation by the certified person on the dust data card stating that the proper flowrate was not maintained.

§ 71.206 Approved sampling devices; equivalent concentrations.

The concentration of respirable dust shall be determined by dividing the weight of dust in milligrams collected on the filter of an approved sampling device by the volume of air in cubic meters passing through the filter and then converting that concentration to an equivalent concentration as measured with an MRE instrument. To convert a concentration of respirable dust as measured with an approved sampling device to an equivalent concentration of respirable dust as measured with an MRE instrument, the concentration of respirable dust measured with the approved sampling device shall be multiplied by the constant factor prescribed by the Secretary for the approved sampling device used, and the product shall be the equivalent concentration as measured with an MRE instrument.

§ 71.207 [Reserved]

§ 71.208 Bimonthly sampling; designated work positions.

(a) Each operator shall take one valid respirable dust sample from each designated work position during each biomonthly period beginning with the bimonthly period of February 1, 1981. The bimonthly periods are:
February 1–March 31
April 1–May 31
June 1–July 31
August 1–September 30
October 1–November 30
December 1–January 31

(b) When the respirable dust standard is changed in accordance with §71.101 (Respirable dust standard when quartz is present), respirable dust sampling of designated work positions shall begin on the first normal work shift during the next bimonthly period following notification of such change from MSHA.

(c) Upon notification from MSHA that any respirable dust sample taken from a designated work position to meet the requirements of paragraph (a) or (b) of this section exceeds the applicable standard in § 71.100 (Respirable dust standard) or § 71.101 (Respirable dust standard when quartz is present), the operator shall take five valid respirable dust samples from that designated work position within 15 calendar days. The operator shall begin such sampling on the first day on which there is a normal work shift following the day of receipt of notification.

(d) Upon issuance of a citation for a violation of § 71.100 (Respirable dust standard) or § 71.101 (Respirable dust standard when quartz is present) involving a designated work position, paragraphs (a), (b), and (c) of this section shall not apply to that designated work position until the violation is abated in accordance with § 71.201(d) (Sampling; general requirements).

(e) The District Manager shall designate the work positions at each surface coal mine and surface work area of an underground coal mine for respirable dust sampling under this section. The District Manager shall designate for sampling each work position at the mine where an average concentration of respirable dust exceeding 1.0 milligram per cubic meter of air has been measured by one or more samples. Where the respirable dust standard is below 1.0 milligram per cubic meter of air in accordance with § 71.101 (Respirable dust standard when quartz is present), the District Manager shall designate for sampling each work position where an average concentration of respirable dust exceeding the applicable standard has been measured by one or more samples.

(f) The District Manager shall withdraw the designation of a work position for sampling upon finding that the operator is able to maintain continuing compliance with the applicable respirable dust standard under § 71.100 (Respirable dust standard) or § 71.101 (Respirable dust standard when quartz is present). This finding shall be based on the results of samples taken during at least a one-year period under this part and by MSHA.

(g) Unless otherwise directed by the District Manager, designated work position samples shall be taken by placing the sampling device as follows:

(1) Equipment operator. On the equipment operator or on the equipment within 36 inches of the operator's normal working position;

(2) Non-equipment operators. On the miner assigned to the designated work position or at a location that represents the maximum concentration of dust to which the miner is exposed.

(h) Each designated work position sample shall be taken on a normal work shift. If a normal work shift is not achieved, the respirable dust sample shall be transmitted to MSHA with a notation by the person certified in accordance with § 71.202 (Certified person; sampling) that the sample was not taken on a normal work shift. When a normal work shift is not achieved, the sample for that shift may be voided by MSHA. However, any sample, regardless of whether a normal work shift was achieved, with a respirable dust concentration greater than 2.5 milligrams per cubic meter of air will be used to determine the average concentration for that designated work position.

§ 71.209 Respirable dust samples; transmission by operator.

(a) The operator shall transmit within 24 hours after the end of the sampling shift all samples collected to fulfill the requirements of this part in containers provided by the manufacturer of the filter cassette to: Respirable Dust Processing Laboratory, Pittsburgh Technical Support Center, 4800–D Forbes Avenue, Pittsburgh, Pennsylvania 15213, or to any other address designated by the District Manager.

(b) The operator shall not open or tamper with the seal of any filter cassette or alter the weight of any filter cassette before or after it is used to fulfill the requirements of this part.

(c) A person certified in accordance with § 71.202 (Certified person; sampling) shall properly complete the dust data card that is provided by the manufacturer for each filter cassette. The card shall have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card shall be signed by the certified person and shall include that person's certification number. Respirable dust samples with data cards not properly completed will be voided by MSHA.

(d) All respirable dust samples collected by the operator shall be considered taken to fulfill the sampling requirements of Parts 70, 71 or 90 of this title, unless the sample has been identified in writing by the operator to the District Manager, prior to the intended sampling shift, as a sample to be used for purposes other than required by Parts 70, 71 or 90 of this title.

(e) Respirable dust samples received by MSHA in excess of those required by this part shall be considered invalid samples.

§ 71.210 Respirable dust samples; report to operator; posting.

(a) The Secretary shall provide the operator with a report of the following data on respirable dust samples as soon as practicable:

(1) The mine identification number;

(2) The designated work position at the mine from which the samples were taken;

(3) The concentration of respirable dust, expressed in milligrams per cubic meter of air, for each valid sample;

(4) The average concentration of respirable dust, expressed in milligrams per cubic meter of air, for all valid samples; and

(5) The reason for voiding any samples.

(b) Upon receipt, the operator shall post this data for at least 31 days on the mine bulletin board.

§ 71.220 Status change reports.

(a) If there is a change in operational status that affects the respirable dust sampling requirements of this part, the operator shall report the change in operational status of the mine or designated work position to the MSHA District Office or to any other MSHA office designated by the District Manager. Status changes shall be reported in writing within 3 working days after the status change has occurred.

(b) Each specific operational status is defined as follows:

(1) Underground mine:

(i) Producing—has at least one mechanized mining unit producing material.

(ii) Nonproducing—no material is being produced.

(iii) Abandoned—the work of all miners has been terminated and production activity has ceased.

(2) Surface mine:

(i) Producing—normal activity is occurring and coal is being produced or processed or other material or equipment is being handled or moved.

(ii) Nonproducing—normal activity is not occurring and coal is not being produced or processed or other material or equipment is not being handled or moved.

(iii) Abandoned—the work of all miners has been terminated and all activity has ceased.

(3) Designated work position:

(i) Producing—normal activity is occurring.

(ii) Nonproducing—normal activity is not occurring.

(iii) Abandoned—the dust generating source has been withdrawn and activity has ceased.

Subpart D—Respirable Dust Control Plans

§ 71.300 Respirable dust control plan; filing requirements.

(a) Within 15 calendar days after the termination date of a citation for violation of § 71.100 (Respirable dust standard) or § 71.101 (Respirable dust standard when quartz is present), the operator shall submit to the District Manager for approval a written respirable dust control plan applicable to the work position identified in the citation. The respirable dust control plan and revisions thereof shall be suitable to the conditions and the mining system of the coal mine and shall be adequate to continuously maintain respirable dust within the permissible concentration at the surface work position identified in the citation.

(b) Each respirable dust control plan shall include at least the following:

(1) The mine identification number and designated work position number assigned by MSHA, the operator's name, mine name, mine address, and mine telephone number and the name, address, and telephone number of the principal officer in charge of health and safety at the mine;

(2) The specific designated work position at the mine to which the plan applies;

(3) A detailed description of the specific respirable dust control measures used to abate the violation of the respirable dust standard; and

(4) A detailed description of how each of the respirable dust control measures described in response to paragraph (b)(3) of this section will continue to be used by the operator, including at least the specific time, place and manner the control measures will be used.

§ 71.301 Respirable dust control plan; approval by district manager and posting.

(a) The District Manager will approve respirable dust control plans on a mine-by-mine basis. When approving respirable dust control plans, the District Manager shall consider whether:

(1) The respirable dust control measures would be likely to maintain compliance with the respirable dust standard; and

(2) The operator's compliance with all provisions of the respirable dust control plan could be objectively ascertained by MSHA.

(b) MSHA may take respirable dust samples to determine whether the respirable dust control measures in the operator's plan effectively maintain compliance with the respirable dust standard.

(c) The operator shall comply with all provisions of each respirable dust control plan upon notice from MSHA that the respirable dust control plan is approved.

(d) The operator shall post on the mine bulletin board a copy of each current respirable dust control plan approved by the District Manager.

(e) The operator may review respirable dust control plans and submit proposed revisions to such plans to the District Manager for approval.

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30 CFR Part 90

Coal Miners Who Have Evidence of the Development of Pneumoconiosis

AGENCY: Mine Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: This final rule amends the mandatory health standards at 30 CFR Part 90 to provide miners who are employed at underground coal mines or surface work areas of underground coal mines and who have evidence of the development of pneumoconiosis the right to exercise an option to work in an area of a mine with an average respirable dust concentration at or below 1.0 milligrams per cubic meter of air (1.0 mg/m³). This option includes the right to retain the same rate of pay received in the miner's previous position plus any wage increases accruing to the new work classification; and, if assigned to a different position when the respirable dust concentration exceeds 1.0 mg/m³ in the miner's job, the right to work in an existing job on the same shift as the miner worked prior to being transferred. In addition, the operator employing Part 90 miners is required to conduct a bimonthly sampling program involving each Part 90 miner in accordance with revised sampling procedures. This final rule is an improved mandatory health standard intended to prevent the progression of pneumoconiosis among miners in the nation's coal mines.

EFFECTIVE DATE: February 1, 1981.

FOR FURTHER INFORMATION CONTACT: William H. Sutherland, Chief, Division of Health, Mine Safety and Health Administration, Room 818, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203, telephone (703) 235–1358.

SUPPLEMENTARY INFORMATION:

I. Background and Related Rulemaking

Section 203(b) of the Federal Coal Mine Health and Safety Act of 1969, Pub. L. 91–173 (Coal Act), established the right of miners employed at underground coal mines who have evidence of the development of pneumoconiosis to be afforded the option of transferring to a position in the mine which would expose the miner to low concentrations of respirable dust. Section 203(b)(2) of the Coal Act set the respirable dust standard for the area to which the miner is transferred at a level of 1.0 milligrams of respirable dust per cubic meter of air (1.0 mg/m³) or, if that level was unattainable, at the lowest attainable concentration below 2.0 mg/m³. Section 203(b)(3) provided that transferred miners must receive compensation at not less than the regular rate of pay received immediately prior to transfer.

Under the terms of section 201 of the Coal Act, the standards established by section 203(b) are interim mandatory health standards which may be superceded in whole or in part by improved mandatory health standards promulgated under the provisions of section 101 of the Coal Act. The Federal Mine Safety and Health Amendments Act of 1977, Pub. L. 95–164, amended the Coal Act but did not alter the interim mandatory health standards in section 203. This final rule is an improved mandatory health standard promulgated under section 101 of the Federal Mine Safety and Health Act of 1977 (the Act) and supercedes the interim standards established by section 203(b).

In April 1978, the Mine Safety and Health Administration (MSHA) began rulemaking under section 101 of the Act to improve the mandatory standards relating to underground coal miners who have evidence of the development of pneumoconiosis by circulating to interested persons for comment a draft proposal to revise 30 CFR Part 90.

Several comments were received on the draft and have been fully considered by MSHA in developing this rule. In addition to developing Part 90, MSHA has also been engaged in rulemaking to revise 30 CFR Part 70 pertaining to respirable dust in underground coal mines and 30 CFR Part 71 pertaining to respirable dust in surface coal mines and surface work areas of underground coal mines. A proposed rule for Part 70 was published on November 16, 1977, and public hearings were conducted in July 1978. Many of the provisions contained in the proposed Part 70 were virtually identical to corresponding provisions in the drafts of Part 71 and Part 90, particularly those concerning general sampling requirements, certified persons, maintenance and calibration, sampling devices, transmission of samples and reports of status changes. Consequently, written comments and oral testimony received concerning these provisions in Parts 70 and 71 were generally considered, where appropriate, in making revisions to Part 90.

In Parts II and III of the **Federal Register** of April 8, 1980 (45 FR 23990), the final rule for Part 70 and proposed rules for Parts 71 and 90 were published. The **Federal Register** also contained a proposed amendment to Part 70 which was identical to a provision concerning miner participation in the proposed sampling program under Parts 71 and 90. Public hearings on all three proposals were scheduled to be held in early June in four locations. However, in response to a number of requests and to allow interested parties the fullest opportunity to submit meaningful testimony, MSHA determined that separate public hearings should be held on the miner participation proposals. Accordingly, four public hearings on the issue of miner participation were scheduled for August 12 and 14, 1980, and were announced in the **Federal Register** of June 10, 1980 (45 FR 39310). The rulemaking record for the miner participation proposals alone remained open until August 29, 1980. A separate final rule concerning miner participation in the sampling program will be published at a later date.

Four public hearings on the proposed rules for Parts 71 and 90 were conducted as originally scheduled on June 3 and 5, 1980. Interested persons were given until June 20, 1980, to submit written comments, suggestions and objections to the proposals for Parts 71 and 90. This deadline was later extended to July 7, 1980, by notice give in the **Federal Register** of June 24, 1980 (45 FR 42333). The final rule for Part 71 is also published in today's **Federal Register**.

II. Summary of the Rule

A. Part 90 Miners

Section 203(a) of the Act requires the operator of an underground coal mine to cooperate with the Secretary of Health and Human Services (HHS) in making available to each underground coal miner the opportunity to have chest X-rays to detect the development of pneumoconiosis. This medical screening program is administered by the National Institute for Occupational Safety and Health (NIOSH) of the Department of Health and Human Services. Once the X-rays are read and classified in a manner prescribed by the Secretary of HHS, the miner receives notification of the interpretation of the medical finding along with a letter from MSHA advising the miner of his or her rights. Under this rule, if the medical finding reported by the Secretary of HHS shows evidence of the development of pneumoconiosis, a miner employed at an underground mine or at a surface work area of an underground mine will be given the option to work in an area of a mine where the average concentration of respirable dust in the mine atmosphere during each shift to which that miner is exposed will not exceed 1.0 mg/m³ of air. A miner who exercises the option under this new rule will be referred to as a Part 90 miner.

When an eligible miner exercises the option to become a Part 90 miner for the

first time, the miner must inform MSHA by signing, dating and mailing the Exercise of Option Form provided. This requirement also applies to miners who were found eligible under the old section 203(b) program, but who never exercised the section 203(b) option, and now for the first time wish to exercise the option under this new Part 90. Once the option is exercised, the miner will receive protections with respect to lower respirable dust standards, retention of previous pay rate, future actual wage increases, and position and shift protection.

Any miner, who exercised the old section 203(b) option, then later either waived the option or stopped working at an underground coal mine and returns to work at an underground coal mine or at a surface work area of an underground coal mine, may re-exercise the option to work in a low dust area of a mine by sending a written request to MSHA. This right to re-exercise the Part 90 option also applies to Part 90 miners who in the future either waive the option or terminate employment at one mine and then return to work in an underground coal mine or at a surface work area of an underground coal mine.

A miner who is a section 203(b) miner on the date this rule becomes effective will automatically be considered by MSHA to be a Part 90 miner entitled to all rights under this part and will not have to send any notification to MSHA. Similarly, any Part 90 miner who is transferred by the operator to a position at another coal mine, even if a surface coal mine, will remain a Part 90 miner in his or her new position.

B. Respirable Dust Standards

The fundamental requirement of this new rule is that operators are required to continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which each Part 90 miner is exposed at or below 1.0 mg/m³ of air. It should be noted, however, that the presence of quartz in the mine atmosphere could result in a respirable dust standard set below 1.0 mg/m³ of air.

Under this rule, twenty days after the operator receives a letter of notification from MSHA that a Part 90 miner is employed at the underground coal mine or at a surface work area of the underground coal mine, the operator is required to continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which that miner is exposed at or below 1.0 mg/m³ of air. In instances where the miner is already working in an atmosphere which complies with the 1.0 mg/m³ standard, there will be no need to lower the dust concentration or to transfer the Part 90 miner to another position. The rule requires that the operator either implement control measures to lower the concentration of respirable dust in the position currently held by the affected miner to meet the 1.0 mg/m³ standard, or transfer the Part 90 miner to an area of a mine where that miner will not be exposed to an average concentration of respirable dust which exceeds 1.0 mg/m³ of air. If, after the 20th day after notification from MSHA that a Part 90 miner is employed at the mine, the average concentration of respirable dust in the mine atmosphere to which this miner is exposed exceeds 1.0 mg/m³ of air, the standard will be violated.

Once an operator is notified by MSHA that a Part 90 miner is employed at the mine, the operator is given 20 calendar days to notify the District Manager in writing of the job to which the Part 90 miner will be assigned on the twenty-first calendar day. This notice shall specify the occupation and, if applicable, the mechanized mining unit associated with the work assignment.

The respirable dust standards are based on measurements with an MRE instrument (gravimetric sampling device with four channel horizontal elutriator). Therefore, when an approved sampling device is used for sampling, the concentration of respirable dust measured with the approved device will be converted by MSHA to an equivalent concentration of respirable dust as if measured with an MRE instrument. This conversion is accomplished by multiplying the concentration of respirable dust measured with the approved sampling device by the constant factor prescribed by the Secretary for that approved sampling device.

C. Transfer of the Part 90 Miner

Operators may choose to comply with the applicable respirable dust standard by transferring the affected Part 90 miner to a position in a low dust area of a mine. Under this rule, a transfer is any change in the work assignment of a Part 90 miner, and includes (1) any change in occupation code of a Part 90 miner; (2) any movement of a Part 90 miner to or from a mechanized mining unit; or (3) any assignment of a Part 90 miner to the same occupation in a different location at the mine. If, at any time, a Part 90 miner is transferred because the average concentration of respirable dust has exceeded permissible levels, the operator will be restricted in the choice of jobs to which the Part 90 miner may be assigned. This includes transfers which are a result of: (1) exercising the Part 90 option, or (2) excessive respirable dust concentration in the Part 90 miner's job after initial compliance with the respirable dust standard.

Under this rule, at any time an operator transfers a Part 90 miner in order to meet the respirable dust standard, the operator is required to assign the miner to an existing job at the same coal mine on the same shift or shift rotation as the job held by the miner immediately before the transfer. If the Part 90 miner agrees in writing, however, an operator may transfer the miner to another coal mine, a newly-created position or a position on a different shift or shift rotation which meets the respirable dust standard. The operator may transfer a Part 90 miner without regard to these job and shift limitations if the respirable dust concentration in the position of the Part 90 miner complies with the dust standard, but circumstances require changes in job assignments at the mine. Reductions in workforce or changes in operational methods at the mine may be the most likely situations which would affect job assignments. Any such transferred Part 90 miner would still be protected by all other provisions under this Part.

If an operator desires to transfer a Part 90 miner after initially complying with the respirable dust standard, the operator may do so only after giving the District Manager written notice of the transfer and the date on which it is to be effective.

D. Compensation of the Part 90 Miner

When a miner has exercised the Part 90 option or when a Part 90 miner is transferred, the miner will retain at least the previous hourly rate of pay and subsequently, will receive actual pay increases applicable to the assigned work classification. For example, if a Part 90 miner is transferred from a $6.00 per hour job to a $5.00 per hour job, the operator must continue to pay the Part 90 miner at least $6.00 per hour. If the pay rate at the new work classification is increased to $5.30 per hour, the operator must pay the Part 90 miner at least $6.30 per hour.

Similarly, economic protection is afforded a miner who exercises the Part 90 option after working at a temporary assignment. A miner temporarily employed at a job which is not the miner's regular work classification for a period of two months or more before exercising the Part 90 option will be paid the higher of the two rates once the option is exercised. If the temporary assignment is for less than two months, the operator must pay the Part 90 miner at least the regular work classification

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rate regardless of the previous temporary wage rate.

A miner who is a section 203(b) miner on January 31, 1981, will retain the rate of pay which the miner is required to receive under the old section 203(b) program on the effective date of this new Part 90. Any future pay increases applicable to the miner's work classification must be paid to the miner.

There have been occasions where a miner has exercised the option to work in a low dust area of the mine but HHS discovered that due to a mistake there was not sufficient evidence of the development of pneumoconiosis to warrant the miner's eligibility to exercise the option. Under this rule, a transferred Part 90 miner who receives notification of ineligibility will remain in his or her current position at the applicable rate of pay received under Part 90 until one of two situations occurs. First, the affected miner and operator may agree in writing that the miner will be assigned to a different position or will remain in the current position. Upon assignment to the agreed-upon position, the miner will be compensated at not less than the regular rate of pay for the agreed-upon work assignment and Part 90 protections will terminate. Second, if a position at the same coal mine both in the same occupation and on the same shift in which the miner was employed immediately before exercising the Part 90 option becomes available, the operator is required to offer this position to the affected miner, unless the operator and the miner have previously agreed upon another work assignment. The miner will then have 15 days within which to accept or reject the available position. If the miner accepts the available position, the operator will be required to implement the reassignment and compensate the miner at not less than the regular rate of pay for the new work assignment. A miner's failure to act on the operator's offer of the available position within 15 days will operate as a rejection of the offer.

E. Waiver of Part 90 Rights

After the option to work in a low dust area of the mine has been exercised, a Part 90 miner may waive Part 90 rights in three ways: (1) by written notification to this effect to the Chief, Division of Health, Coal Mine Safety and Health, MSHA; (2) by the application for and acceptance of employment in an area of a mine which the miner knows exceeds the 1.0 mg/m³ respirable dust standard or the standard established by § 90.101; or (3) by refusing to accept another position at the same coal mine offered by the operator which meets both the applicable respirable dust standard and the shift requirements of § 90.102(a) after dust sampling in his or her position shows that the average respirable dust concentration has exceeded the respirable dust standard. If any doubt exists, MSHA may investigate to determine whether the miner's waiver was voluntary. Once rights are waived, the Part 90 miner's name will be removed from MSHA's active list of miners who have rights under Part 90. Any eligible miner may reactivate his or her Part 90 status by re-exercising the Part 90 option at any time and thereafter, receive full protection under this rule from the date of the re-exercise. When a waiver occurs because a Part 90 miner either accepts another position with a respirable dust concentration greater than 1.0 mg/m³ or the limit established by § 90.101, or because the miner refuses to accept another job at the same coal mine which complies with the provisions of this rule after sampling results show excessive dust levels in his or her position, the operator will be required under § 90.220 to report this waiver to MSHA.

F. Sampling of Part 90 Miners

Provisions for certified persons, maintenance, calibration, operation and air flowrate for sampling devices are identical to corresponding provisions in the final rules for Parts 70 and 71. For a complete discussion of these particular provisions, see the Supplementary Information discussion for Part 71 published in today's **Federal Register** and the Supplementary Information discussion for Part 70 published in the **Federal Register** of April 8, 1980 (45 FR 23990).

Similar to sampling provisions of Parts 70 and 71, this Part 90 requires each operator to collect respirable dust samples for each Part 90 miner at bimonthly intervals and submit the samples to MSHA for analysis to determine compliance with the applicable respirable dust standard. However, various provisions of the respirable dust sampling requirements under Part 90 differ significantly from current practices and from sampling procedures under Parts 70 and 71. Under this rule, after a miner has exercised the option to work in a low dust area, MSHA will notify the operator that a Part 90 miner is employed at the mine. The operator will then have 20 days to assure that the miner is working in an area of a mine where the average concentration of respirable dust in the mine atmosphere during each shift to which the Part 90 miner is exposed does not exceed 1.0 mg/m³. Within an additional 15-day period, the operator is required to take five valid respirable dust samples upon which MSHA will determine compliance with the respirable dust standard. If the results of these five samples show compliance with the respirable dust standard, the operator will begin a bimonthly schedule of sampling with the next bimonthly period as set forth in the rule. If the results of the five samples show noncompliance with the respirable dust standard, the operator will be cited for a violation.

Two other situations dictate collection of an additional five valid respirable dust samples within 15 calendar days after notification to the operator. When a respirable dust sample taken for a Part 90 miner during a bimonthly period exceeds the 1.0 mg/m³ respirable dust standard or the respirable dust standard established by § 90.101, the operator will be required to submit an additional five valid respirable dust samples for the affected Part 90 miner. If the results of these five samples show noncompliance with the respirable dust standard, the operator will be cited for a violation, and the abatement process must begin. After initial compliance with the respirable dust standard, if any transfer of a Part 90 miner occurs, the operator will be required to take five valid respirable dust samples upon which MSHA will determine compliance with the respirable dust standard.

Whenever a citation is issued for violation of the respirable dust standard, abatement samples will be collected on the affected Part 90 miner, but bimonthly sampling under § 90.208 for that miner will cease until the violation is abated. During the time fixed for abatement of such violation, the operator will be required to take corrective action and take an additional five valid respirable dust samples for the affected Part 90 miner. Whether the violation has been abated will be determined on the basis of the first five valid respirable dust samples submitted during the reasonable time granted to abate the violation. Upon abatement of the violation, bimonthly sampling of the Part 90 miner must resume.

The new Part 90 also specifies general sampling requirements in the collection of respirable dust samples. All respirable dust samples collected by operators are required to be collected with a sampling device approved by the Secretary of Labor and the Secretary of HHS under Part 74 of Title 30, Code of Federal Regulations. Samples are to be taken while the Part 90 miner is performing normal work duties. The sampling device may be worn by the Part 90 miner, or it may be placed at

specified locations near the miner's job. Moreover, the sampling device is required to operate while worn or carried to and from the Part 90 miner's job and to operate during the entire shift or for 8 hours, whichever time is less. If requested by the District Manager, the operator must provide the date on which collection of respirable dust samples is scheduled to begin. Any change in the sampling status of a Part 90 miner, including interruptions in or renewal of sampling, must be reported in writing by the operator to a designated MSHA district office within three working days after the change in status occurs.

To satisfy the sampling requirements of the rule, operators are required to take "valid respirable dust samples." These are defined in the rule as respirable dust samples collected and submitted as required by this part, and not voided by MSHA. Voided or invalid samples will not satisfy the sampling requirements and operators will be required to collect and submit additional samples. Failure to take the required number of valid respirable dust samples under § 90.201, § 90.207, and § 90.208 will constitute a violation. Consequently, it is advantageous for operators to collect and submit the samples required for each bimonthly period during the first month of each bimonthy period. This allows ample opportunity to collect and submit additional samples if necessary. Respirable dust samples received by MSHA in excess of the number required by this part will be considered invalid samples.

G. Transmittal and Analysis of Samples.

After the end of a sampling shift the operator is required to transmit all samples collected to MSHA within 24 hours. Under the rule all respirable dust samples collected by an operator are deemed to be taken to fulfill the sampling requirements of Parts 70, 71 or 90 of Title 30, Code of Federal Regulations, unless the operator declared in writing to the District Manager prior to the intended sampling shift that the sampling filter cassettes were to be used for other purposes. Therefore, absent such a written declaration by the operator to the District Manager, all respirable dust samples collected by an operator are required under the rule to be submitted to MSHA within 24 hours after the end of the sampling shift.

Each sample transmitted by operators to MSHA is required to be accompanied by the appropriate completed dust data card. Data cards will be provided by the filter cassette manufacturer and each card will have an identification number corresponding with the filter cassette for which is was provided. All dust data cards submitted to MSHA are required to be completed and signed by a person certified under this rule to collect samples and include that person's certification number. Persons certified under Part 70 or 71 may also perform the duties of a certified person under this part without further certification.

Upon receipt, MSHA will analyze samples submitted by operators as quickly as practicable. Following this analysis MSHA will provide the operator with a respirable dust sample data report. The data report will include identification of the mine and mechanized mining units, if any, from which the samples were taken; the concentration of respirable dust for each valid respirable dust sample; the occupation codes; the social security number of the Part 90 miner; and the reason for voiding any samples. Upon receipt, the operator is required to provide a copy of this report to the Part 90 miner, but is prohibited from posting the original or a copy of this report on the mine bulletin board.

H. Respirable Dust Control Plans

When an operator has been cited for a violation of the respirable dust standard, the operator must choose one of two courses of remedial action to abate the violation: either to transfer the affected Part 90 miner to a different position which meets the dust standard; or, to reduce the average concentration of respirable dust in the position of the Part 90 miner to meet the applicable dust standard. If the operator reduces the respirable dust level in the Part 90 miner's job to abate the violation, rather than transfer the miner, the operator must submit a written respirable dust control plan for the Part 90 miner. The plan must be submitted to the District Manager within 15 calendar days after termination of the citation. For purposes of approval, the plan must be adequate to continuously maintain compliance with the dust standard for the Part 90 miner. In addition, the rule requires that other pertinent information be contained in the respirable dust control plan. This includes a detailed description of the specific respirable dust control measures designed by the operator, and the specific time, place, and manner that the control measures will be used. Failure to follow the respirable dust control plan will constitute a violation. Each operator is required to provide each Part 90 miner with a copy of the current approved respirable dust control plan for that Part 90 miner. Neither the original nor a copy of the plan may be posted on the mine bulletin board.

III. Discussion of Major Issues

General

Pneumoconiosis is a chronic dust disease of the lung which may result in pulmonary impairment, respiratory disability, and death. Once contracted, the disease is irreversible.

In enacting section 203(b) of the Act, Congress recognized that human suffering, including individual and societal costs, result from the continued exposure of miners with pneumoconiosis to high levels of respirable dust. To protect miners who have evidence of pneumoconiosis but who may desire or find it necessary to remain working at coal mines, Congress sought to minimize the risk that further health impairment would occur. However, MSHA data show that of miners who have qualified for the option to transfer under section 203(b), only a small percentage have exercised their rights. Testimony and written comments indicated that major barriers existed under the old program, thereby discouraging miners from exercising their option. Reluctance to participate in the transfer program was attributable to significant sacrifices which miners perceived were a result of exercising their option. The 203(b) transfer program has proven to be only partially effective in carrying out the intention of Congress in enacting the provision.

Under the Federal Mine Safety and Health Act of 1977, MSHA is obligated to develop new health standards to improve the protection of the nation's miners. In this case, MSHA is achieving that objective by improving the interim mandatory health provisions of section 203(b), specifically, by providing incentives to increase participation in the Part 90 program. To remedy inadequacies in the old section 203(b) program, this rule provides eligible miners with significant additional protections against fears about job security, adverse economic consequences, undesirable working hours, wages and work assignments.

As an alternative method of improving the health protection of miners. MSHA considered the appropriateness of providing for the mandatory transfer of miners who have evidence of pneumoconiosis. However, MSHA received several comments from labor and industry representatives expressing unanimous opposition to any mandatory transfer provisions. Commenters felt that a mandatory transfer program would: create severe enforcement problems; create hostility towards the program, resulting in possible work stoppages; create distrust of MSHA; violate the confidentiality of the X-ray

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program by revealing information about a miner's medical condition; and decrease participation in the NIOSH medical surveillance program, depriving the miners of information about their health and depriving NIOSH of important epidemiological data. In view of the possible problems with a mandatory transfer provision, the rule retains the option to exercise Part 90 rights and is intended to encourage more miners to exercise the option. However, MSHA will monitor participation rates over the next three years, and if the number of miners exercising the Part 90 option does not substantially increase, MSHA will reconsider the appropriateness of a mandatory transfer program.

Section 90.3, Part 90 option; notice of eligibility; exercise of option

During the course of the comment period, several issues were raised concerning which miners should qualify for coverage under Part 90. Some commenters supported while others opposed extension of the X-ray program administered by NIOSH to include surface miners. Several requests were also made to expand medical criteria used as evidence for determining the existence of pneumoconiosis by accepting other medically-approved diagnostic tests in addition to X-ray evidence. In addition, some commenters requested that all surface coal miners who have evidence of pneumoconiosis be afforded the opportunity to exercise the Part 90 option.

Pursuant to section 203(a) of the Act and to regulations promulgated by HHS under 42 CFR Part 37, the current X-ray program is limited to coal miners who are employed at underground coal mines. The medical criteria and tests used in diagnosing pneumoconiosis are also governed by these regulations. As originally proposed, this new Part 90 was limited to miners employed at underground coal mines who have evidence of pneumoconiosis. While MSHA recognizes that under section 101, the Secretary of Labor has the authority to expand the scope of Part 90 beyond the specific provisions of section 203 of the Act, the regulation proposed by MSHA did not contain any changes involving the extension of the X-ray program or of the Part 90 option to surface coal miners or the expansion of the medical criteria. These issues are so fundamentally different than what was proposed that no changes concerning these subjects are made in this final rule. In the interests of fairness to all persons who might be affected by changes of this nature and to assure that there is a full opportunity to address the issues involved, MSHA will, in cooperation with NIOSH, develop a proposed rule which will specifically address surface miners and medical criteria.

However, this rule does make it clear that any miner employed at an underground coal mine or at a surface work area of an underground coal mine who, in the judgment of the Secretary of HHS, has evidence of the development of pneumoconiosis shall be afforded the Part 90 option and all rights accruing under this Part. In addition, any miner employed at an underground coal mine or at a surface work area of an underground coal mine who was eligible to exercise the option to transfer under the section 203(b) program may exercise the option under this new Part 90 and be entitled to all rights under this Part.

Furthermore, it has come to MSHA's attention that underground coal miners who exercised their option to transfer under the old program were sometimes moved by the operator to surface jobs at the underground mine and removed from the protections of the section 203(b) program. In addition, section 203(b) miners who were transferred by the operator to jobs at surface coal mines were not protected under the section 203(b) program. In certain cases, this may have meant that affected miners were not sampled thereafter for respirable dust exposure. MSHA believes that if a miner is identified as having a sufficient degree of pneumoconiosis to warrant respirable dust protection, periodic sampling of the miner is required to assure that permissible dust levels are maintained. Although the incidence of pneumoconiosis among miners in surface occupations is thought to be less than that of underground miners, dust levels in certain surface jobs, for example, at cleaning and preparation plants, may frequently exceed average respirable dust concentrations of 1.0 mg/m^3. Accordingly, under this rule, any Part 90 miner who is transferred by the operator to any surface position, including positions at surface coal mines, remains a Part 90 miner in the new surface job and is entitled to all Part 90 protections.

Representatives of mine operators commented that a review system should be established to allow operators to challenge the determination that a miner has evidence of the development of pneumoconiosis. It was noted that a significant percentage of results from Round Two of the NIOSH X-ray program apparently showed disease regression. NIOSH addressed this problem of false positive interpretations in the reading of X-ray results in the recent amendment to 42 CFR Part 37.7 (44 FR 23084, 23085, April 18, 1979). According to NIOSH, other revisions to Part 37, 43 FR 33713 (August 1, 1978), set forth the procedures for making, classifying, and submitting coal miners' examinations in all future rounds and includes provisions to safeguard against false positive interpretations. Under the NIOSH rule, all final interpretations for pneumoconiosis are based on agreement between two physicians. Further interpretations are available if a miner requests a reevaluation or if a coal mine operator requests NIOSH to review the medical findings of the most recent examination of a miner. NIOSH is satisified that these procedures adequately assure that X-rays are classified accurately. Accordingly, this final rule does not contain a review system for operators to challenge X-ray results.

A few commenters claimed that the letter which notifies a miner of his or her eligibility to exercise the Part 90 option should contain information concerning the level of respirable dust at the miner's current job. It was argued that, without this data, a miner will not be able to make an informed choice as to whether to exercise the option. It was also stated that to preserve confidentiality of the X-ray results of the miner, the eligible miner should not be required to exercise the option, resulting in notification to the operator of the miner's medical condition, before knowing the level of respirable dust in his or her present job. Labor representatives feared that miners already working in atmospheres of 1.0 mg/m^3 or less who exercise their rights would be subject to retaliation by their employers.

MSHA believes that an eligible miner will have access to various sources of information which will indicate the level of respirable dust at his or her job. Under Parts 70 and 71, the operator is required to post for at least 31 days on the mine bulletin board results of bimonthly respirable dust samples from designated occupations in each mechanized mining unit and from each designated area in underground coal mines, and from each designated work position at surface work areas of underground coal mines. Although this may not mean that a sample was taken at the eligible miner's job, it will indicate the respirable dust level in the dustiest areas of the mine. In addition, representatives of miners may request from the District Manager the operator's ventilation and dust control plans which have been submitted under § 75.316 and Part 71.

Moreover, a miner may bring a discrimination action under section 105(c) of the Act if any operator retaliates against a miner who is the subject of medical evaluations and potential transfer under this rule. Accordingly, this rule does not require information regarding a miner's dust exposure be provided with the letter which notifies the miner of eligibility.

Based on comments received and on existing MSHA policy, a section was added to clarify that a Part 90 miner who terminates employment at an underground coal mine or at a surface work area of an underground coal mine and begins employment at another underground coal mine or at a surface work area of another underground coal mine is not a Part 90 miner at the new mine until the Part 90 option is re-exercised. MSHA will notify the operator of a miner's status as a Part 90 miner only when the miner elects to exercise the option. In addition, this rule forbids an operator to require from a miner a copy of the medical information received from the Secretary of Labor or the Secretary of HHS. This provision is contained in the old section 203(b) program and is added to the final rule because MSHA believes that it is necessary to preserve the confidentiality of the results of a miner's medical examinations.

A few commenters urged that a miner be required to exercise the Part 90 option within a specified time after receiving the notice of eligibility. MSHA believes that limiting the time within which a miner must exercise the option is contrary to the legislative intent of the Act and to the welfare of a miner who shows evidence of pneumoconiosis. Additionally, any time restrictions placed on the exercise of the option would make it less likely that miners would participate in the program.

Section 90.100, Respirable dust standard.

The final rule retains the mandatory respirable dust standard for Part 90 miners at or below an average concentration of 1.0 mg/m^3 of air. Several commenters commended MSHA for specifying that a Part 90 miner may not be in an atmosphere in which he or she is exposed to respirable dust levels exceeding 1.0 mg/m^3 of air. In practical effect, this new Part 90 does not change the respirable dust standard established by the Act. Section 203(b) of the Act provides that an eligible miner exercising the option to transfer shall be transferred to a position in the mine where the respirable dust in the atmosphere is not more than 1.0 mg/m^3 "or if such level is not attainable in such mine, to a position in such mine where the concentration of respirable dust is the lowest attainable below 2.0 mg/m^3." The premise of this final rule is that the 1.0 mg/m^3 respirable dust standard is attainable at all mines. MSHA believes that the improved mandatory health standard of 1.0 mg/m^3 as set forth in this rule is neither burdensome nor impracticable for mine operators to meet. MSHA has no evidence suggesting that it would not be feasible for operators to comply with the respirable dust standard in Part 90.

Under this rule, 20 days after the operator receives a letter of notification from MSHA that a Part 90 miner is employed at the underground coal mine, the operator is required to continuously maintain the average concentration of respirable dust in the mine atmosphere to which that miner is exposed at or below 1.0 mg/m^3 of air. Although the proposal, which was supported by several commenters, would have required that corrective action be taken within 15 days, other commenters representing industry stated that this is an insufficient amount of time. These commenters felt that a 45-day time period is necessary to accommodate ventilation changes and respirable dust control measures. In addition, they argued that in some cases samples will have to be collected in a new position to assure compliance and new work schedules and training requirements for Part 90 miners and for miners who will replace or be replaced by the transferred Part 90 miner will have to be developed. It was also argued that 30 days additional exposure to respirable dust would subject miners to minimal adverse health effects. MSHA recognizes that in some instances, a miner who has exercised the Part 90 option will already be working in an atmosphere which complies with the 1.0 mg/m^3 standard. Thus, there will be no need to lower the dust concentration in that position or to reassign the miner. However, in cases where corrective action is required, MSHA believes that increasing the 15-day period to 20 days is reasonable and provides the operator with sufficient time within which to comply with provisions under this part. MSHA's position is that an operator should take prompt action to reduce the length of time miners are exposed to excessive dust levels and to determine what measures should be taken in order to meet obligations under Part 90. Moreover, if dust control measures in the position of the Part 90 miner are impracticable, the operator should already be familiar with positions in the mine in which compliance with the respirable dust standard is attainable.

Section 90.101, Respirable dust standard when quartz is present.

A few commenters suggested revision of the existing standard for respirable dust when quartz is present. Revision of the quartz standard was not included in the proposal and is not adopted in this final rule. NIOSH recommended a standard of 50 micrograms of free crystalline silica per cubic meter of air. This standard would require the average concentration of respirable dust to be reduced below 2.0 mg/m^3 of air when the free silica present exceeded .050 milligrams per cubic meter of air. Converted to an MRE equivalent, this would be .070 milligrams per cubic meter of air.

NIOSH's recommended standard was proposed as a revision to 30 CFR Part 70 (Respirable dust sampling in underground coal mines) (42 FR 59294). It was not adopted, however, for the reasons discussed in the preamble to the final rule for Part 70, published in the **Federal Register** of April 8, 1980 (45 FR 23990). Briefly, although MSHA has placed high priority on developing a silica standard for mining, it was concluded that the existing standard for quartz should not be revised until NIOSH develops a criteria document specifically addressing the silica exposure hazard in the mining industry. NIOSH is now developing these criteria which will provide valuable information regarding permissible exposure limits and equally important matters such as sampling procedures and medical examinations of exposed miners.

Section 90.102, Transfer; notice.

The proposal stated that whenever a Part 90 miner was transferred, the operator would be required to assign the miner to an existing position on the same shift as employed immediately before the transfer, unless written agreement to a different assignment from the miner was received. Several commenters commended MSHA for directing operators to provide job and shift protections to Part 90 miners. Testimony at the public hearings indicated that some miners were given undesirable work assignments and hours after they had exercised their option to transfer under the old section 203(b) program. However, a significant number of commenters expressed concern that this requirement was unnecessarily stringent and would diminish the feasibility of the regulations by severely limiting the job assignments to which a Part 90 miner

could be placed. MSHA is committed to increasing participation rates and assuring respirable dust protection for Part 90 miners. At the same time, MSHA is also concerned with designing a program which is practicable. Careful consideration of this proposal and related testimony has convinced MSHA that the success of the Part 90 program will not be jeopardized by giving a margin of latitude to operators who, in good faith, attempt to find suitable jobs for affected miners. In instances where operators need to reassign employees to accommodate unforeseen situations and unexpected mine and market conditions, MSHA believes that some leeway should be provided to assist operators in placement of a Part 90 miner. Accordingly, when the respirable dust standard in the Part 90 miner's position has been exceeded, and the operator chooses to comply with the applicable respirable dust standard by transferring the affected miner, the operator will be required to afford job and shift protections to this miner. In that instance, the operator will be required to assign the miner to an existing position at the same coal mine on the same shift or shift rotation as the one on which the miner was employed immediately before the transfer, unless the miner agrees in writing to be assigned elsewhere. Besides giving the operator some flexibility in placement of Part 90 miners, this revision of the proposal increases the likelihood that affected miners will continue working and not be laid off when unusual adverse circumstances affect labor requirements.

While praising job and shift protections, some commenters urged MSHA to limit reassignment of Part 90 miners only to existing jobs which are vacant. It was argued that the rule should not allow the operator to "bump" a non-Part 90 miner out of his or her job and, perhaps, his or her shift in order to assign a Part 90 miner to the same position. According to such advocates, a sacrifice on the part of non-Part 90 miners would create animosity toward the Part 90 program. One commenter also suggested that in the event that no vacant existing position was available on the same shift as previously worked, the operator should temporarily assign the affected miner to a newly-created job on the same shift until a vacancy occurs in an existing position.

The final rule does not incorporate either of these suggestions. In some cases, it is presumed that if a vacant position exists which satisfies the requirements of the respirable dust standard and this section, the operator will assign the Part 90 miner to this available job. To do otherwise may create a chain reaction, whereby the "bumped" non-Part 90 miner will have to be reassigned and trained, and so will the miner who is replaced by this non-Part 90 miner, and so on. Therefore, obvious advantages will probably encourage the operator to assign the Part 90 miner to a vacant existing position. However, there will be occasions where an operator will reassign a Part 90 miner to a position currently held by a non-Part 90 miner. Moreover, if MSHA required the position to be vacant before assignment of a Part 90 miner could occur, the potential number of positions to which an operator could move a Part 90 miner would be significantly reduced. In concluding that Part 90 miners need job and shift protections to encourage participation, MSHA believes it is important to afford the operator ample opportunity to provide these new protections to affected miners.

The proposal would have required that a transferred miner be placed on the same shift as the one on which he or she was previously employed unless the miner agreed in writing to a different shift. A few commenters objected to an omission in the proposal to accommodate a transferred Part 90 miner who regularly works at a job on a shift which periodically rotates. Under this scheme of shift rotation, for example, some miners may work two weeks on the second shift and then be rotated to the third shift for two weeks. MSHA agrees that operators who transfer Part 90 miners to another work assignment should be allowed to continue to employ the affected miner on a schedule of shift rotation. The final rule, therefore, has been changed to include this modification.

One commenter voiced an objection to the proposed requirement under this section that prior written agreement of the affected Part 90 miner be obtained before assignment to a newly-created position or different shift. This prerequisite is adopted both for the protection of the operator as well as the miner. A written agreement indicates that the miner did, in fact, consent to work at a different coal mine, in a specially-created job or on a different shift in lieu of working in an existing position at the same mine on the same shift as previously employed. If any question as to the voluntariness of the assignment were to arise, the mine operator will have evidence at hand to show the operator's intent to comply with this provision and the miner's acceptance of the assignment. MSHA believes it is advisable to retain this requirement and has done so in the final rule.

The proposed rule would have prohibited an operator from assigning a Part 90 miner as a temporary replacement on a mechanized mining unit where the previous bimonthly sample exceeded 1.0 mg/m³. Commenters objected to the rigidity of this prohibition because it assumed that the respirable dust concentration in the Part 90 miner's particular position on the mechanized mining unit would also be above 1.0 mg/m³ and because it denied the operator the chance to demonstrate compliance with the 1.0 mg/m³ standard on that particular position. MSHA has considered this objection and has revised the rule to give the operator flexibility in making temporary assignments without reducing the protection afforded Part 90 miners. Unlike the old section 203(b) program, under this new rule any assignment as a temporary replacement on a mechanized mining unit is considered a transfer, and the Part 90 miner must be sampled after each transfer. If the sample results show that the Part 90 miner was exposed to an average concentration of respirable dust exceeding 1.0 mg/m³, the operator will be issued a citation and a civil penalty assessed. If the sample results demonstrate compliance, then no violation will have occurred.

Section 90.103. Compensation.

This final rule provides that when a miner exercises the Part 90 option, the operator is required to pay the miner at least the regular rate of pay received immediately before the miner exercised the option. In addition, whenever a Part 90 miner is transferred to another position, the operator shall pay the affected miner at least the regular rate of pay which the miner received immediately before the transfer. Based on several comments received, MSHA has concluded that a Part 90 miner should not suffer any loss in pay whenever an operator transfers the miner. If eligible miners perceived that their rate of pay could be decreased upon any transfer, the incentive to exercise the Part 90 option would be reduced.

A substantial number of comments received from both industry and labor objected to other compensation provisions contained in the proposal. Some commenters requested that reassigned Part 90 miners receive wages in their new work assignment as if they had remained in their former jobs. Under this result, a miner in his or her new work classification would receive wage increases commensurate with increases received in the old work

classification. This interpretation of the wage provisions of section 203(b) is supported by the decision in *Matala* v. *Marshall and Consolidation Coal Company*, 483 F. Supp. 1332 (N.D.W.Va. 1980), *appeal docketed*, Nos. 80–1287, 80–1288 (4th Cir. April 22, 1980). Other commenters indicated that the statutory mandate of section 203(b)(3) of the Act and case law developed under this section limit the wage increases which miners can receive. This latter group of commenters cited the decision in *Higgins* v. *Marshall*, 584 F. 2d 1035 (D.C. Cir. 1978), *cert denied*, 99 S.Ct. 2051 (1979) as authority to freeze an affected miner's wages in the new work assignment until the rate of compensation in the new position reaches the amount that was paid in the old position.

These comments reflect some confusion concerning the statutory basis upon which promulgation of this rule rests. This new rule is an improved mandatory health program promulgated under section 101 of the Act and as such, supercedes provisions contained in section 203(b). Neither the *Higgins* nor *Matala* holdings are applicable to the pay provisions specified under this new Part 90 as the issue in both of these cases involves the statutory interpretation of section 203(b) of the Act.

This new Part 90 authorizes a program which, although analogous to that offered under section 203(b), differs in significant ways from the old Part 90 program. The wage protection offered miners by this rule is consistent with section 101(a)(7) of the Act and the legislative history pertaining to the enactment of that section. By adopting section 101(a)(7), Congress recognized that miners may be forced to choose between continued exposure to hazardous substances or significant wage reduction if work in cleaner environments is sought. To correct this situation, section 101(a)(7) explicitly states that a reassigned miner retain at least the previous rate of pay received, and specifically addresses the issue of subsequent wage increases. However, rather than extending the full protection of wage increases to the miner's pre-assignment job classification, Congress purposefully placed a special limit on wage increases received by miners: ". . . increases in wages of the transferred miner shall be based upon the new work classification." The Conference Committee Report reflects Congressional concern that miners who participate in programs authorized under section 101(a)(7) and are reassigned jobs should not suffer "an immediate financial disadvantage." The Conference Report leaves no doubt that any increases in a transferred miner's wages are to be governed by the dollar rate increases in the new, rather than the old work classification.

The final rule retains the requirement that operators pay the higher of the temporary or regular rates of pay to a miner who exercised the Part 90 option while working in an occupation other than his or her regular work classification for two months or more. If the affected miner has worked in the temporary occupation for less than two months before exercising the Part 90 option, the operator may pay the miner at his or her regular work classification rate regardless of the temporary wage rate. MSHA has evidence of situations in which miners, who were temporarily employed for extended periods in occupations other than their regular jobs before exercising the option under the old section 203(b) program, were paid the wage rate associated with the lower paying job. MSHA believes that such a practice discourages participation in a program designed to prevent further development of pneumoconiosis.

A few commenters requested that miners who are section 203(b) miners on the effective date of this rule receive retroactive wage increases. MSHA is not persuaded that retroactive pay is justified. There appears to be no benefit in terms of enhanced health protection to be gained from applying the rule retroactively. However, MSHA does believe that those miners who are concerned about their health should not be at an economic disadvantage indefinitely solely because they exercised their 203(b) option before the effective date of this new Part 90. Therefore, the final rule clarifies that on February 1, 1981, and thereafter, any miner who was a section 203(b) miner will automatically become a Part 90 miner and be entitled to receive any future actual wage increases accruing to the miner's new job classification.

Some commenters criticized MSHA for affording limited protection to a Part 90 miner who is informed that notice of eligibility was incorrect. They felt that under these circumstances it penalizes the mine operator to give any pay protections to the affected miner. Some of these commenters also objected to any efforts to restrict the operator's choice in assigning this miner to a new position.

It is first important to emphasize that there will be very few instances in which a Part 90 miner will subsequently be declared ineligible for the option. According to NIOSH, the quality control of the X-ray surveillance program has been improved so that the chances that an incorrect X-ray reading will occur are negligible. Yet, if this were to occur, it is apparent that neither the operator nor the miner would be responsible for the mistake. MSHA seeks to minimize the disadvantages caused to both parties. After careful consideration of alternative measures, MSHA believes that the course of action adopted in this rule is reasonable. The intent of this provision is to maintain the status quo until such time as an equitable resolution between the miner and the operator is reached. Accordingly, the rule requires the operator to retain the miner in his or her current position at the applicable rate of pay received under Part 90 until one of two situations occurs. First, if the affected miner and operator agree in writing, the miner may be assigned to a different position or may continue in his or her current job. Second, absent such agreement, if a position at the same coal mine both in the same occupation and on the same shift in which the miner was employed immediately before exercising the Part 90 option becomes available, the operator is required to offer this position to the affected miner.

Section 90.104, Waiver of rights; re-exercise of option

The right to re-exercise the option to work in a low dust area of a mine was welcomed by some commenters as a means to encourage voluntary participation in efforts to prevent further development of pneumoconiosis. However, others expressed opposition to this provision because they felt it could be a source of possible abuse creating personnel problems at a mine. In this rulemaking process, MSHA has fully considered the pros and cons both of retaining the more limited right to re-exercise the option as it existed under the old section 203(b) program and of providing miners with the broader right to re-exercise the option as adopted under this new Part 90. Under the old 203(b) program, the option could be re-exercised only when a 203(b) miner left one mine and began employment at another mine or when another X-ray taken of the miner showed evidence of the development of pneumoconiosis.

MSHA does not believe that the policy under the old section 203(b) program provided adequate health protection for affected miners. A miner who once waived the option should not have to wait, perhaps several years, before another X-ray re-establishes the miner's eligibility for the option. The subsequent X-ray does nothing more than confirm the previous diagnosis of irreversible and frequently progressive

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pulmonary impairment. MSHA believes that once a miner has been identified as having evidence of pneumoconiosis and an increased risk of sustaining progressive and permanent pulmonary impairment, that miner should be afforded the opportunity at any time to protect his or her health by re-exercising the Part 90 option.

Several commenters expressed concern that personnel problems would be increased by eligible miners re-exercising their option and moving from job to job until employed in the most desirable jobs. For several reasons, MSHA believes that it is unlikely that this practice of "jockeying" will occur. A miner who already has evidence of lung impairment should regard his or her health as an urgent priority. Increased health risks for this miner are associated with working in areas of a mine where the respirable dust levels exceed 1.0 mg/m^3 of air. The miner's concern in preventing progression of pneumoconiosis and in prolonging his or her productive life, whether at work or at home, should minimize any incentive to jockey between positions. Moreover, it may often be the case that an eligible miner is working in a high paying job before the option is exercised. Once the option is exercised, the right to retain the previous rate of pay combined with limited job and shift protections under this final rule should encourage the miner to stay in the low dust position at the mine.

One commenter criticized the proposed waiver provision for not requiring all waivers to be in writing. It was argued that without requiring a written waiver, the rule presumes that a Part 90 miner knows that the average respirable dust concentration in the position accepted exceeds 1.0 mg/m^3 of air. This commenter suggested that all waivers be accompanied by written documents containing information regarding the dust level in the job which the miner accepts and should explain the effect of the waiver and subsequent rights to re-exercise the option. MSHA does not believe that it is necessary or practical to provide the miner with the suggested information or to require that a miner give written notice of a waiver of Part 90 rights when the miner has accepted a job in which the respirable dust concentration exceeds 1.0 mg/m^3. As previously explained, miners already have access to various sources of information which indicate the dust level in many areas of a mine. Under Parts 70 and 71, bimonthly sampling results on designated occupations and areas, and designated surface work positions will be posted on the mine bulletin board for at least 31 days. In addition, a miner's representative at any mine may request and receive from a District Manager information concerning the current approved respirable dust control plan submitted under section 75.316 or Part 71. At many mines covered under a collective bargaining agreement, the available job classification is posted on the mine bulletin board and lists the concentration of respirable dust in that position. Moreover, MSHA does recognize the importance attached to a miner's waiver of Part 90 rights. Under the old section 203(b) program, when MSHA received notice of a waiver, an inspector would contact the affected miner to confirm that the miner knowingly and voluntarily terminated his or her status as a 203(b) miner. Unless a clear written waiver is received, MSHA will continue this practice under this new Part 90. Even in cases where a written waiver is submitted, an MSHA inspector may be aware of circumstances which would warrant examination of the facts surrounding a miner's waiver of Part 90 rights.

An additional paragraph has been added to the waiver provision in the final rule. Under this rule, if a Part 90 miner is assigned a position in which the concentration of respirable dust exceeds the dust standard and the miner refuses to accept another position offered by the operator which satisfies the respirable dust standard and requirements of § 90.102(a), the refusal will operate as a waiver by that miner of his or her Part 90 rights. This provision has been included because MSHA recognizes that there may be occasions where it is not feasible for the operator to attain a respirable dust concentration of 1.0 mg/m^3 in a particular position. Therefore, MSHA believes that this modification to the waiver provision is necessary.

Sections 90.201, 90.202, 90.203, 90.204, 90.205, 90.206, 90.209, 90.210, and 90.220, Sampling procedures

Comments which were received on these sections in the Part 90 proposal were virtually identical to comments received on corresponding provisions in Parts 70 and 71. For a complete discussion of these particular provisions, see the Supplementary Information discussion for Part 71 published in today's **Federal Register** and the Supplementary Information discussion for Part 70 in the **Federal Register** of April 8, 1980 (45 FR 23990).

Section 90.207, Compliance sampling

The proposal to revise the respirable dust sampling of Part 90 miners was supported by some commenters. A few commenters, however, objected to the 15-day time period prescribed in this section within which five additional samples are to be collected by the operator after: (1) the miner exercises the Part 90 option; (2) a bimonthly sample exceeds the applicable respirable dust standard; and (3) any transfer of a Part 90 miner is implemented 20 days following notification from MSHA that a Part 90 miner is employed at the mine. MSHA has concluded that the 15-day period is sufficient time because the operator is required to sample on only five shifts during which the Part 90 miner is performing normal work duties.

Section 90.208, Bimonthly sampling

Another commenter criticized the increased frequency for sampling Part 90 miners under the proposal. It was asserted that because Part 90 miners would be working in low dust areas of the mine, there was no need to sample Part 90 miners at the same bimonthly frequency as miners working in designated occupations, designated areas and designated surface work positions. This commenter urged that respirable dust sampling of Part 90 miners occur every 120 days instead of every 60 days. MSHA is not persuaded that sampling frequency should be reduced for Part 90 miners. Although Part 90 miners will be working in low dust jobs, these miners have a higher risk of suffering further permanent health impairment from continued exposure to high levels of respirable dust than do other miners. In view of potential aggravation of the disease, MSHA believes that more substantial evidence of continuing compliance with the respirable dust standard is warranted. Therefore, MSHA believes it is more appropriate to sample Part 90 miners on the more frequent schedule of once every 60 days.

Section 90.210, Respirable dust samples; report to operator

At least two commenters asserted that Part 90 miners should be notified directly of the results of their respirable dust samples. MSHA has fully considered this suggestion and has decided to supplement the method of informing Part 90 miners of their sampling results. Under this rule, operators are still required to provide a copy to each Part 90 miner of all reports of sampling results received from MSHA that apply to that miner. In addition, MSHA will notify each Part 90 miner of respirable dust sampling results whenever a bimonthly sample submitted for that miner exceeds the standard. MSHA will also notify the affected Part 90 miner of the results of compliance sampling taken by the operator.

Sections 90.300 and 90.301, Respirable dust control plans

Although the provision to require respirable dust control plans was not a part of the Part 90 proposal, a comment was received from NIOSH in support of this requirement, and MSHA received related testimony concerning respirable dust control plans under Part 71. Under Part 90, if an operator chooses to abate a violation of the respirable dust standard by lowering the concentration of respirable dust in the Part 90 miner's job rather than reassign the miner, a written respirable dust control plan will be required to be submitted within 15 calendar days after termination of the citation to the District Manager for approval. The dust control plan must specify the dust control measures to be used by the operator to maintain compliance with the respirable dust standard, and, after MSHA approval, the operator will be required to comply with all provisions of the plan. In addition, a copy of the currently approved dust control plan for each Part 90 miner must be provided to the affected miner so that any deviations from the operator's plan will be apparent to the affected miner. To prevent unwarranted disclosure of a Part 90 miner's identity, no operator may post the plan on the mine bulletin board.

It is appropriate to respond to comments which opposed the proposal for respirable dust control plans required under Part 71. Several commenters expressed concern that enforcement action could be taken for failure to maintain compliance with an approved dust control plan, even if there was compliance with the respirable dust standard at the time of inspection. Other commenters approved this result.

The purpose of the respirable dust control plan is to assure continuing compliance with the applicable respirable dust standard. Once a violation of the standard is demonstrated by sampling results, appropriate dust control measures are clearly necessary to prevent further health impairment to a miner who has evidence of the development of pneumoconiosis. Where dust controls have been shown to be necessary, MSHA believes the control measures adopted by the operator should be consistently maintained and implemented in accordance with the approved plan. In this way, the health of the Part 90 miner is protected during each shift, not just during shifts when sampling is conducted to determine whether there is compliance with the respirable dust standard. Therefore, under Part 90, operators are required to maintain compliance with their respirable dust control plans.

Drafting Information

The principal persons responsible for preparing this rule are: William A. Holgate and William H. Sutherland, Division of Health, Mine Safety and Health Administration; Susan C. Olinger and Edward P. Clair, Division of Mine Safety and Health, Office of the Solicitor, Department of Labor.

Regulatory Analysis

It has been determined that a regulatory analysis is not required for this final rule under the Department of Labor's final guidelines for implementing Executive Order 12044 (44 FR 5570, January 26, 1979). It is estimated that the annual cost of this final rule will not exceed 1 million dollars.

Impact Statement

The Department of Labor has determined in accordance with the National Environmental Policy Act of 1969, as amended, and the Department's regulations implementing that statute, that this final rule is not a major Federal action affecting the quality of the human environment that requires an Environmental Impact Statement.

Dated: December 2, 1980.

Robert B. Lagather,

Assistant Secretary of Mine Safety and Health.

1. Part 90 of Subchapter O, Chapter I, Title 30, Code of Federal Regulations is revised to read as set forth below:

PART 90—MANDATORY HEALTH STANDARDS—COAL MINERS WHO HAVE EVIDENCE OF THE DEVELOPMENT OF PNEUMOCONIOSIS

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Authority: Sections 101 and 103(h) of the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173 as amended by Pub. L. 95–164, 91 Stat. 1291 and 1299 (30 U.S.C. 811 and 813(h)).

Subpart A—General

§ 90.1 Scope.

This Part 90 establishes the option of miners who are employed at underground coal mines or at surface work areas of underground coal mines and who have evidence of the development of pneumoconiosis to work in an area of a mine where the average concentration of respirable dust in the mine atmosphere during each shift is continuously maintained at or below 1.0 milligrams per cubic meter of air. The rule sets forth procedures for miners to exercise this option, and establishes the right of miners to retain their regular rate of pay and receive wage increases. The rule also sets forth the operator's obligations, including respirable dust sampling for Part 90 miners. This Part 90 is promulgated pursuant to section 101 of the Act and supercedes section 203(b) of the Act.

§ 90.2 Definitions.

For the purpose of this Part 90, the term:

"Act" means the Federal Mine Safety and Health Act of 1977, Pub. L. 91–173, as amended by Pub. L. 95–164.

"Active workings" means any place at a coal mine where miners are normally required to work or travel.

"Certified person" means an individual certified by the Secretary in accordance with § 90.202 (Certified person; sampling) to take respirable dust samples required by this part or certified in accordance with § 90.203 (Certified person; maintenance and calibration) to

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perform the maintenance and calibration of respirable dust sampling equipment as required by this part.

"Concentration" means a measure of the amount of a substance contained per unit volume of air.

"District Manager" means the manager of the Coal Mine Safety and Health District in which the mine is located.

"Mechanized mining unit" means: (1) a unit of mining equipment including hand loading equipment used for the production of material; or (2) a specialized unit which utilizes mining equipment other than specified in § 70.207(e) (Bimonthly sampling; mechanized mining unit).

"MRE instrument" means the gravimetric dust sampler with a four channel horizontal elutriator developed by the Mining Research Establishment of the National Coal Board, London, England.

"MSHA" means the Mine Safety and Health Administration of the Department of Labor.

"Normal work duties" means duties which the Part 90 miner performs on a routine day-to-day basis in his or her job classification at a mine.

"Part 90 miner" means a miner employed at an underground coal mine or at a surface work area of an underground coal mine who has exercised the option under the old section 203(b) program (36 FR 20601, October 27, 1971), or under § 90.3 (Part 90 option; notice of eligibility; exercise of option) of this part to work in an area of a mine where the average concentration of respirable dust in the mine atmosphere during each shift to which that miner is exposed is continuously maintained at or below 1.0 milligrams per cubic meter of air, and who has not waived these rights.

"Quartz" means crystalline silicon dioxide (SiO_2) not chemically combined with other substances and having a distinctive physical structure.

"Respirable dust" means dust collected with a sampling device approved by the Secretary and the Secretary of Health and Human Services in accordance with Part 74 (Coal Mine Dust Personal Sampler Units) of this title. Sampling device approvals issued by the Secretary of the Interior and Secretary of Health, Education, and Welfare are continued in effect.

"Secretary" means the Secretary of Labor or a delegate.

"Secretary of Health and Human Services" means Secretary of Health and Human Services or Secretary of Health, Education, and Welfare.

"Surface work area of an underground coal mine" means the surface areas of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, excavations, and other property, real or personal, placed upon or above the surface of such land by any person, used in, or to be used in, or resulting from, the work of extracting bituminous coal, lignite, or anthracite from its natural deposits underground by any means or method, and the work of preparing the coal so extracted, and includes custom coal preparation facilities;

"Transfer" means any change in the work assignment of a Part 90 miner by the operator and includes (1) any change in occupation code of a Part 90 miner; (2) any movement of a Part 90 miner to or from a mechanized mining unit; or (3) any assignment of a Part 90 miner to the same occupation in a different location at a mine.

"Underground coal mine" means an area of land and all structures, facilities, machinery, tools, equipment, shafts, slopes, tunnels, excavations, and other property, real or personal, placed upon, under, or above the surface of such land by any person, used in, or to be used in, or resulting from the work of extracting in such area bituminous coal, lignite, or anthracite from its natural deposits in the earth by any means or method, and the work of preparing the coal so extracted.

"Valid respirable dust sample" means a respirable dust sample collected and submitted as required by this part, and not voided by MSHA.

§ 90.3 Part 90 option; notice of eligibility; exercise of option.

(a) Any miner employed at an underground coal mine or at a surface work area of an underground coal mine who, in the judgment of the Secretary of Health and Human Services, has evidence of the development of pneumoconiosis based on a chest X-ray, read and classified in the manner prescribed by the Secretary of Health and Human Services, or based on other medical examinations shall be afforded the option to work in an area of a mine where the average concentration of respirable dust in the mine atmosphere during each shift to which that miner is exposed during each shift is continuously maintained at or below 1.0 milligrams per cubic meter of air. Each of these miners shall be notified in writing of eligibility to exercise the option.

(b) Any miner who is a section 203(b) miner on January 31, 1981, shall be a Part 90 miner on February 1, 1981, entitled to full rights under this part to retention of pay rate, future actual wage increases, and future work assignment, shift and respirable dust protection.

(c) Any Part 90 miner who is transferred to a position at the same or another coal mine shall remain a Part 90 miner entitled to full rights under this part at the new work assignment.

(d) The option to work in a low dust area of the mine may be exercised for the first time by any miner employed at an underground coal mine or at a surface work area of an underground coal mine who was eligible for the option under the old section 203(b) program (36 FR 20601, October 27, 1971), or is eligible for the option under this part by signing and dating the Exercise of Option Form and mailing the form to the Chief, Division of Health, Coal Mine Safety and Health, MSHA, 4015 Wilson Boulevard, Arlington, Virginia 22203.

(e) The option to work in a low dust area of the mine may be reexercised by any miner employed at an underground coal mine or at a surface work area of an underground coal mine who exercised the option under the old section 203(b) program (36 FR 20601, October 27, 1971), or exercised the option under this part by sending a written request to the Chief, Division of Health, Coal Mine Safety and Health, MSHA, 4015 Wilson Boulevard, Arlington, Virginia 22203. The request should include the name and address of the mine and operator where the miner is employed.

(f) No operator shall require from a miner a copy of the medical information received from the Secretary or Secretary of Health and Human Services.

Subpart B—Dust Standards, Rights of Part 90 Miners

§ 90.100 Respirable dust standard.

After the twentieth calendar day following receipt of notification from MSHA that a Part 90 miner is employed at the mine, the operator shall continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which the Part 90 miner in the active workings of the mine is exposed at or below 1.0 milligrams per cubic meter of air. Concentrations shall be measured with an approved sampling device and expressed in terms of an equivalent concentration determined in accordance with § 90.206 (Approved sampling devices; equivalent concentrations).

§ 90.101 Respirable dust standard when quartz is present.

When the respirable dust in the mine atmosphere of the active workings to which a Part 90 miner is exposed contains more than 5 percent quartz, the operator shall continuously maintain the average concentration of respirable dust in the mine atmosphere during each shift to which a Part 90 miner is exposed at or below a concentration of respirable dust computed by dividing the percent of quartz into the number 10. The application of the formula shall not result in a respirable dust standard in excess of 1.0 milligrams per cubic meter of air. Concentrations shall be expressed in milligrams per cubic meter of air as measured with an approved sampling device and in terms of an equivalent concentration determined in accordance with § 90.206 (Approved sampling devices; equivalent concentrations).

Example: The respirable dust associated with a Part 90 miner contains quartz in the amount of 20%. Therefore, the average concentration of respirable dust in the mine atmosphere associated with that Part 90 miner shall be continuously maintained at or below 0.5 milligrams of respirable dust per cubic meter of air ($10/20=0.5$ mg/m³).

§ 90.102 Transfer; notice.

(a) Whenever a Part 90 miner is transferred in order to meet the respirable dust standard in § 90.100 (Respirable dust standard) or § 90.101 (Respirable dust standard when quartz is present), the operator shall transfer the miner to an existing position at the same coal mine on the same shift or shift rotation on which the miner was employed immediately before the transfer. The operator may transfer a Part 90 miner to a different coal mine, a newly-created position or a position on a different shift or shift rotation if the miner agrees in writing to the transfer.

(b) On or before the twentieth calendar day following receipt of notification from MSHA that a Part 90 miner is employed at the mine, the operator shall give the District Manager written notice of the occupation and, if applicable, the mechanized mining unit to which the Part 90 miner will be assigned on the twenty-first calendar day following receipt of the notification from MSHA.

(c) After the twentieth calendar day following receipt of notification from MSHA that a Part 90 miner is employed at the mine, the operator shall give the District Manager written notice before any transfer of a Part 90 miner. This notice shall include the scheduled date of the transfer.

§ 90.103 Compensation.

(a) The operator shall compensate each Part 90 miner at not less than the regular rate of pay received by that miner immediately before exercising the option under § 90.3 (Part 90 option; notice of eligibility; exercise of option).

(b) Whenever a Part 90 miner is transferred, the operator shall compensate the miner at not less than the regular rate of pay received by that miner immediately before the transfer.

(c) The operator shall compensate each miner who is a section 203(b) miner on January 31, 1981, at not less than the regular rate of pay that the miner is required to receive under section 203(b) of the Act immediately before the effective date of this part.

(d) In addition to the compensation required to be paid under paragraphs (a), (b) and (c) of this section, the operator shall pay each Part 90 miner the actual wage increases that accrue to the classification to which the miner is assigned.

(e) If a miner is temporarily employed in an occupation other than his or her regular work classification for two months or more before exercising the option under § 90.3 (Part 90 option; notice of eligibility; exercise of option), the miner's regular rate of pay for purposes of paragraph (a) and (b) of this section is the higher of the temporary or regular rates of pay. If the temporary assignment is for less than two months, the operator may pay the Part 90 miner at his or her regular work classification rate regardless of the temporary wage rate.

(f) If a Part 90 miner is transferred, and the Secretary subsequently notifies the miner that notice of the miner's eligibility to exercise the Part 90 option was incorrect, the operator shall retain the affected miner in the current position to which the miner is assigned and continue to pay the affected miner the applicable rate of pay provided in paragraphs (a), (b), (c) and (d) of this section, until:

(1) The affected miner and operator agree in writing to a position with pay at not less than the regular rate of pay for that occupation; or

(2) A position is available at the same coal mine in both the same occupation and on the same shift on which the miner was employed immediately before exercising the option under § 90.3 (Part 90 option; notice of eligibility; exercise of option) or under the old section 203(b) program (36 FR 20601, October 27, 1971).

(i) When such a position is available, the operator shall offer the available position in writing to the affected miner with pay at not less than the regular rate of pay for that occupation.

(ii) If the affected miner accepts the available position in writing, the operator shall implement the miner's reassignment upon notice of the miner's acceptance. If the miner does not accept the available position in writing, the miner may be reassigned and protections under Part 90 shall not apply. Failure by the miner to act on the written offer of the available position within 15 days after notice of the offer is received from the operator shall operate as an election not to accept the available position.

§ 90.104 Waiver of rights; re-exercise of option.

(a) A Part 90 miner may waive his or her rights and be removed from MSHA's active list of miners who have rights under Part 90 by:

(1) Giving written notification to the Chief, Division of Health, Coal Mine Safety and Health, MSHA, that the miner waives all rights under this part;

(2) Applying for and accepting a position in an area of a mine which the miner knows has an average respirable dust concentration exceeding 1.0 milligrams per cubic meter of air or the respirable dust standard established by § 90.101 (Respirable dust standard when quartz is present); or

(3) Refusing to accept another position offered by the operator at the same coal mine that meets the requirements of § 90.100, § 90.101 and § 90.102(a) after dust sampling shows that the average respirable dust concentration in his or her present position exceeds 1.0 milligrams per cubic meter of air or the respirable dust standard established by § 90.101 (Respirable dust standard when quartz is present).

(b) If rights under Part 90 are waived, the miner gives up all rights under Part 90 until the miner re-exercises the option in accordance with § 90.3(e) (Part 90 option; notice of eligibility; exercise of option).

(c) If rights under Part 90 are waived, the miner may re-exercise the option under this part in accordance with § 90.3(e) (Part 90 option; notice of eligibility; exercise of option) at any time.

Subpart C—Sampling Procedures

§ 90.201 Sampling; general requirements.

(a) Each operator shall take respirable dust samples of the concentration of respirable dust in the active workings of the mine as required by this part with a sampling device approved by the Secretary and the Secretary of Health and Human Services under part 74 (Coal Mine Dust Personal Sampler Units) of this title.

(b) Sampling devices shall be worn or carried directly to and from each Part 90 miner's position, and shall remain operational during the entire shift or for 8 hours, whichever time is less.

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(c) Upon request from the District Manager, the operator shall submit the date on which collecting any respirable dust samples required by this part will begin.

(d) During the time for abatement fixed in a citation for violation of § 90.100 (Respirable dust standard) or § 90.101 (Respirable dust standard when quartz is present), the operator shall take corrective action and then sample the affected Part 90 miner until five valid respirable dust samples are taken.

(e) The respirable dust samples required by this part shall be collected while the Part 90 miner is performing normal work duties.

(f) Unless otherwise directed by the District Manager, the respirable dust samples required under this part shall be taken by placing the sampling device as follows:

(1) On the Part 90 miner;

(2) On the piece of equipment which the Part 90 miner operates within 36 inches of the normal working position; or

(3) At a location that represents the maximum concentration of dust to which the Part 90 miner is exposed.

§ 90.202 Certified person; sampling.

(a) The respirable dust sampling required by this part shall be done by a certified person.

(b) To be certified, a person shall pass the MSHA examination on sampling of respirable coal mine dust.

(c) A person may be temporarily certified by MSHA to take respirable dust samples if the person receives instruction from an authorized representative of the Secretary in the methods of collecting and submitting samples under this rule. The temporary certification shall be withdrawn if the person does not successfully complete the examination conducted by MSHA on sampling of respirable coal mine dust within six months from the issue date of the temporary certification.

§ 90.203 Certified person; maintenance and calibration.

(a) Approved sampling devices shall be maintained and calibrated by a certified person.

(b) To be certified, a person shall pass the MSHA examination on maintenance and calibration procedures for respirable dust sampling equipment.

(c) A person may be temporarily certified by MSHA to maintain and calibrate approved sampling devices if the person receives instruction from an authorized representative of the Secretary in the maintenance and calibration procedures for respirable dust sampling equipment under this rule. The temporary certification shall be withdrawn if the person does not successfully complete the examination conducted by MSHA on maintenance and calibration procedures within six months from the issue date of the temporary certification.

§ 90.204 Approved sampling devices; maintenance and calibration.

(a) Approved sampling devices shall be maintained as approved under Part 74 (Coal Mine Dust Personal Sampler Units) of this title and calibrated in accordance with MSHA Informational Report No. 1121, "Standard Calibration and Maintenance Procedures for Wet Test Meters and Coal Mine Respirable Dust Samplers (Supersedes IR 1073)," by a person certified in accordance with § 90.203 (Certified person; maintenance and calibration).

(b) Approved sampling devices shall be calibrated at the flowrate of 2.0 liters of air per minute, or at a different flowrate as prescribed by the Secretary and the Secretary of Health and Human Services for a particular device, before they are put into service and at intervals not to exceed 200 hours of operating time thereafter.

(c) A calibration mark shall be placed on the flowmeter of each approved sampling device to indicate the proper position of the float when the sampler is operating at a flowrate of 2.0 liters of air per minute or other flowrate prescribed by the Secretary and the Secretary of Health and Human Services for the particular device. The standard to denote proper flow is when the lowest part of the float is tangent to the top of the calibration mark.

(d) Approved sampling devices shall be tested and examined immediately before each sampling shift and necessary external maintenance shall be performed to assure that the sampling devices are clean and in proper working condition by a person certified in accordance with § 90.202 (Certified person; sampling) or § 90.203 (Certified person; maintenance and calibration). This testing and examination shall include the following:

(1) Testing the voltage of each battery while under actual load to assure the battery is fully charged. The voltage for nickel cadmium cell batteries shall not be lower than the product of the number of cells in the battery pack multiplied by 1.25. The voltage for other than nickel cadmium cell batteries shall not be lower than the product of the number of cells in the battery pack multiplied by the manufacturer's nominal voltage per cell value;

(2) Examination of all components of the cyclone to assure that they are clean and free of dust and dirt;

(3) Examination of the inner surface of the cyclone on the approved sampling device to assure that it is free of scoring;

(4) Examination of the external tubing on the approved sampling device to assure that it is clean and free of leaks; and

(5) Examination of the clamping and positioning of the cyclone body, vortex finder and cassette to assure that they are rigid, in alignment, and firmly in contact.

(e) In accordance with 5 U.S.C. 552(a) MSHA Informational Report No. 1121 referenced in paragraph (a) of this section is hereby incorporated by reference and made a part of this section as if it were set forth in full. The incorporated publication is available without charge at each Coal Mine Safety and Health District and Subdistrict office of MSHA and is on file at the Office of the Federal Register Information Center. Any future amendments to MSHA Informational Report No. 1121 will be announced in the **Federal Register**. This incorporation by reference was approved March 25, 1980 by the Director of the Office of the Federal Register.

§ 90.205 Approved sampling devices; operation; air flowrate.

(a) Sampling devices approved in accordance with Part 74 (Coal Mine Dust Personal Sampler Units) of this title shall be operated at the flowrate of 2.0 liters of air per minute, or at a different flowrate as prescribed by the Secretary and the Secretary of Health and Human Services for the particular device.

(b) Except as provided in paragraph (d) of this section, each approved sampling device shall be examined each shift by a person certified in accordance with § 90.202 (Certified person; sampling) during the second hour after being put into operation to assure that the sampling device is operating properly and at the proper flowrate. If the proper flowrate is not maintained, necessary adjustments shall be made by the certified person.

(c) Each sampling device shall be examined each shift by a person certified in accordance with § 90.202 (Certified person; sampling) during the last hour of operation to assure that the sampling device is operating properly and at the proper flowrate. If the proper flowrate is not maintained, the respirable dust sample shall be transmitted to MSHA with a notation by the certified person on the dust data card stating that the proper flowrate was not maintained.

(d) Paragraph (b) of this section shall not apply if the approved sampling device is being operated in a breast or chamber of an anthracite coal mine where the full box mining method is used.

§ 90.206 Approved sampling devices; equivalent concentrations.

The concentration of respirable dust shall be determined by dividing the weight of dust in milligrams collected on the filter of an approved sampling device by the volume of air in cubic meters passing through the filter and then converting that concentration to an equivalent concentration as measured with an MRE instrument. To convert a concentration of respirable dust as measured with an approved sampling device to an equivalent concentration of respirable dust as measured with an MRE instrument, the concentration of respirable dust measured with the approved sampling device shall be multiplied by a constant factor prescribed by the Secretary for the approved sampling device used, and the product shall be the equivalent concentration as measured with an MRE instrument.

§ 90.207 Compliance sampling.

(a) The operator shall take five valid respirable dust samples for each Part 90 miner within 15 calendar days after:

(1) The 20-day period specified for each Part 90 miner in § 90.100 (Respirable dust standard);

(2) Receipt of notification from MSHA that any respirable dust sample taken in accordance with § 90.208 (Bimonthly sampling) exceeds 1.0 milligram per cubic meter of air or the respirable dust standard established by § 90.101 (Respirable dust standard when quartz is present); and

(3) Implementing any transfer after the twentieth calendar day following receipt of notification from MSHA that a Part 90 miner is employed at the mine.

§ 90.208 Bimonthly sampling.

(a) Each operator shall take one valid respirable dust sample for each Part 90 miner during each bimonthly period beginning with the bimonthly period of February 1, 1981. The bimonthly periods are:

February 1–March 31
April 1–May 31
June 1–July 31
August 1–September 30
October 1–November 30
December 1–January 31

(b) When the respirable dust standard is changed in accordance with § 90.101 (Respirable dust standard when quartz is present), respirable dust sampling of Part 90 miners shall begin on the first shift on which the miner is performing normal work duties during the next bimonthly period following notification of such change from MSHA.

(c) Upon issuance of a citation for a violation of § 90.100 (Respirable dust standard) or § 90.101 (Respirable dust standard when quartz is present), paragraphs (a) and (b) of this section shall not apply to that Part 90 miner until the violation is abated in accordance with § 90.201(d) (Sampling; general requirements).

§ 90.209 Respirable dust samples; transmission by operator.

(a) The operator shall transmit within 24 hours after the end of the sampling shift all samples collected to fulfill the requirements of this part in containers provided by the manufacturer of the filter cassette to: Respirable Dust Processing Laboratory, Pittsburgh Technical Support Center, 4800–D Forbes Avenue, Pittsburgh, Pennsylvania 15213, or to any other address designated by the District Manager.

(b) The operator shall not open or tamper with the seal of any filter cassette or alter the weight of any filter cassette before or after it is used to fulfill the requirements of this part.

(c) A person certified in accordance with § 90.202 (Certified person; sampling) shall properly complete the dust data card that is provided by the manufacturer for each filter cassette. The card shall have an identification number identical to that on the cassette used to take the sample and be submitted to MSHA with the sample. Each card shall be signed by the certified person and shall include that person's certification number. Respirable dust samples with data cards not properly completed will be voided by MSHA.

(d) All respirable dust samples collected by the operator shall be considered taken to fulfill the sampling requirements of Parts 70, 71 or 90 of this title, unless the sample has been identified in writing by the operator to the District Manager, prior to the intended sampling shift, as a sample to be used for purposes other than required by Parts 70, 71 or 90 of this title.

(e) Respirable dust samples received by MSHA in excess of those required by this part shall be considered invalid samples.

§ 90.210 Respirable dust samples; report to operator.

(a) The Secretary shall provide the operator with a report of the following data on respirable dust samples as soon as practicable:

(1) The mine identification number;

(2) The mechanized mining unit, if any, within the mine from which the samples were taken;

(3) The concentration of respirable dust, expressed in milligrams per cubic meter of air, for each valid sample;

(4) The average concentration of respirable dust, expressed in milligrams per cubic meter of air, for all valid samples;

(5) The occupation code;

(6) The reason for voiding any samples; and,

(7) The Social Security Number of the Part 90 miner.

(b) Upon receipt, the operator shall provide a copy of this report to the Part 90 miner. The operator shall not post the original or a copy of this report on the mine bulletin board.

§ 90.220 Status change reports.

If there is a change in the status of a Part 90 miner that affects the respirable dust sampling requirements of this part (such as entering a terminated, injured or ill status, or returning to work), the operator shall report the change in the status of the Part 90 miner to the MSHA District Office or to any other MSHA office designated by the District Manager. Status changes shall be reported in writing within 3 working days after the status change has occurred.

Subpart D—Respirable Dust Control Plans

§ 90.300 Respirable dust control plan; filing requirements.

(a) If an operator abates a violation of § 90.100 (Respirable dust standard) or § 90.101 (Respirable dust standard when quartz is present) by reducing the respirable dust level in the position of the Part 90 miner, the operator shall submit a written respirable dust control plan for that Part 90 miner in that position within 15 calendar days after the citation is terminated to the District Manager for approval. The respirable dust control plan and revisions thereof shall be suitable to the conditions and the mining system of the coal mine and shall be adequate to continuously maintain respirable dust within the permissible concentration for the Part 90 miner in the position identified in the citation.

(b) Each respirable dust control plan shall include at least the following:

(1) The mine identification number assigned by MSHA, the operator's name, mine name, mine address, and mine telephone number and the name,

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address and telephone number of the principal officer in charge of health and safety at the mine;

(2) The name and Social Security number of the Part 90 miner and the position at the mine to which the plan applies;

(3) A detailed description of the specific respirable dust control measures used to abate the violation of the respirable dust standard; and

(4) A detailed description of how each of the respirable dust control measures described in response to paragraph (b)(3) of this section will continue to be used by the operator, including at least the specific time, place and manner the control measures will be used.

§ 90.301 Respirable dust control plan; approval by district manager; copy to Part 90 miner.

(a) The District Manager will approve respirable dust control plans on a mine-by-mine basis. When approving respirable dust control plans, the District Manager shall consider whether:

(1) The respirable dust control measures would be likely to maintain compliance with the respirable dust standard; and

(2) The operator's compliance with all provisions of the respirable dust control plan could be objectively ascertained by MSHA.

(b) MSHA may take respirable dust samples to determine whether the respirable dust control measures in the operator's plan effectively maintain compliance with the respirable dust standard.

(c) The operator shall comply with all provisions of each respirable dust control plan upon notice from MSHA that the respirable dust control plan is approved.

(d) The operator shall provide a copy of the current respirable dust control plan required under this part to the Part 90 miner. The operator shall not post the original or a copy of the plan on the mine bulletin board.

(e) The operator may review respirable dust control plans and submit proposed revisions to such plans to the District Manager for approval.

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federal register

Friday
December 5, 1980

Part VI

Department of Agriculture

Federal Grain Inspection Service

Official Agency Geographic Area; Request for Comments on Applicants for Designations in the Toledo, Ohio, Nonexport Area

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DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service Official Agency Geographic Area

Request for Comments on Applicants for Designation in the Toledo, Ohio, Nonexport Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for designation as an official agency in the Toledo, Ohio, nonexport area.

DATE: Comments to be postmarked on or before January 5, 1981.

ADDRESS: Comments should be submitted to USDA, FGIS, Issuance and Coordination Staff, Room 1127, Auditor's Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, (202) 447-8262.

SUPPLEMENTARY INFORMATION: The April 30, 1980, issue of the **Federal Register** (45 FR 28981) contained a notice from the Federal Grain Inspection Service (FGIS) requesting applications for designation to provide official services under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), for the area formerly serviced by the Toledo Board of Trade, Toledo, Ohio, excluding export port locations. The export port locations will continue to be provided service by the FGIS Field Office in Toledo, Ohio, and currently include the following facilities: The Andersons, Toledo, Ohio, and Maumee, Ohio; Cargill, Inc. (East and West Side Elevators). Toledo, Ohio, and Cargill, Inc., Maumee, Ohio; and Mid-States Terminals, Inc., Toledo, Ohio. Applications were to be postmarked by June 30, 1980. A total of three qualified applications were received.

The names of the applicants for designation are as follows: D. L. Boltenhouse Grain Inspection, P.O. Box 96, Bellevue, Ohio 44811; Fostoria Grain Inspection, 506 Lockwood Avenue, P.O. Box 864, Fostoria, Ohio 44830; and Northern Ohio Grain Inspection, R.R. #1, Lone Oak Drive, Farmland, Indiana 47340.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their views and comments concerning the applicants. All comments must be submitted to the Issuance and Coordination Staff, specified in the address section of this notice and be postmarked not later than January 5, 1981.

A comment period of 30 days is deemed adequate. This action does not impose any undue obligations on others and, under the circumstances, provides a sufficient period of time for comments and would expedite the designation of an official agency to provide official services in the nonexport area formerly serviced by the Toledo Board of Trade.

Consideration will be given to all comments filed and to all other information available to the Administrator of the FGIS before a final decision is made with respect to this matter. Notice of the final decision will be published in the **Federal Register** and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: December 1, 1980.

J. T. Abshier,

Director Compliance Division.

[FR Doc. 80-37840 Filed 12-4-80; 8:45 am]

BILLING CODE 3410-EN-M

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federal register

Friday
November 5, 1980

Part VII

Office of Management and Budget

Budget Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report four new deferals of budget authority totalling $2,770.8 million and three revisions to previously transmitted deferrals increasing the amount deferred by $846.2 million.

The new deferrals involve programs related to International Security Assistance, Department of Defense military construction programs, and the Tennessee Valley Authority.

The revisions to existing deferrals involve programs in the Departments of Defense, Transportation, and the Treasury.

The details of the deferrals are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE,
December 2, 1980.

BILLING CODE 3110-01-M

Deferral No: D81-23

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Funds Appropriated to the President
Bureau: International Security Assistance
Appropriation title & symbol: Foreign Military Credit Sales, 1981 1111082

New budget authority (P.L. 96-369) $ 659,250,000
Other budgetary resources —
Total budgetary resources $ 659,250,000

Amount to be deferred:
Part of year $ 659,250,000
Entire year —

OMB identification code: 11-1082-0-1-152

Grant program: ☐ Yes ☒ No

Type of account or fund:
☒ Annual
☐ Multiple-year ____ (expiration date)
☐ No-year

Legal authority (in addition to sec. 1013):
☐ Antideficiency Act
☐ Other ____

Type of budget authority:
☒ Appropriation
☐ Contract authority
☐ Other ____

JUSTIFICATION

Pursuant to the Arms Export Control Act, the President is authorized to sell or finance by credit or guarantee defense articles and defense services for friendly countries to facilitate their common defense. H.J. Res. 610 (Public Law 96-369) makes continuing appropriations of $659,250,000 for fiscal year 1981 and authorizes the use of funds under this section. Under section 2 of the Arms Export Control Act, the Secretary of State, under the direction of the President, is responsible for continuous supervision and general direction of sales made under the Act, including determining whether there shall be a sale to a country and the amount thereof. Executive Order 11958 of January 18, 1977, delegated certain of the President's functions under the Arms Export Control Act to the Secretaries of State and Defense. Executive Order 11958 further requires the Secretaries of State and Defense to act jointly with respect to the establishment of credit and guaranty programs and the concurrence of the Secretaries of Defense and Treasury, respectively, regarding standards and financial policies.

These funds have been deferred pending approval of specific loans to eligible countries by the Departments of State, Defense and the Treasury. Consultation among these departments will ensure that each approved program is consistent with the foreign, national security and financial policies of the United States and will not exceed the limits of available funds.

ESTIMATED EFFECT -- This deferral will have no programmatic or budgetary impact and is not restrictive in nature.

OUTLAY EFFECT -- There is no outlay effect of this deferral because funds will be released as loans are approved.

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Deferral #	Item	Budget Authority
	Funds Appropriated to the President:	
	International Security Assistance	
D81-23	Foreign military credit sales	659,250
D81-24	Economic support fund	1,984,500
	Department of Defense--Military	
	Military Construction	
D81-25	Military construction (medical facilities)	111,300
D81-7A	Military construction, all services	607,327
	Department of Transportation:	
	Federal Aviation Administration	
	Facilities and equipment (Airport and airway trust fund)	374,426
	Department of the Treasury:	
	Office of Revenue Sharing	
	State and local government fiscal assistance trust fund	10,964 a
D81-19A	Other Independent Agencies:	
	Tennessee Valley Authority	
D81-26	Tennessee Valley Authority Fund	15,800
	Total, deferrals	3,763,567

Outlays only.

SUMMARY OF SPECIAL MESSAGES
FOR FY 1981
(in thousands of dollars)

	Rescissions	Deferrals
Second special message:		
New items	---	2,770,850
Change to amounts previously submitted	---	846,156
Effect of second special message	---	3,617,006
Previous special messages	---	619,128
Total amount proposed in special messages	---	4,236,134 a

a. This amount represents budget authority except for $10,694 thousand involving the deferral of outlays only (D81-19A).

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Deferral No: D81-24

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Funds Appropriated to the President (IDCA)	New budget authority (P.L. 96-369): $1,984,508,000
Bureau: International Security Assistance	Other budgetary resources: 80,000,000
Appropriation title & symbol: Economic Support Fund, 1981 1/ 1111037	Total budgetary resources: 2,064,508,000
	Amount to be deferred: Part of year: $1,884,500,000
	Entire year:
OMB identification code: 11-1037-0-1-151	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☒ Yes (Grants and Loans) ☐ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification: Pursuant to the Foreign Assistance Act of 1961, as amended, the President is authorized to furnish assistance to promote economic or political stability in foreign countries on such terms and conditions as he may determine. H.J. Res 610 (Public Law 96-369) makes continuing appropriations of $1,984,303,000 for fiscal year 1981 to enable the President to carry out these authorities. Also, P.L. 96-304 makes available $80,000,000 for use in Central America. Under Part II, Chapter 4, of the Foreign Assistance Act, the Secretary of State is responsible for policy decisions and justifications for such economic support programs, including the countries and amounts to be provided. Executive Order 12163 of September 29, 1979, further delegates the President's responsibilities under Chapter 4 to the Secretary of State insofar as they relate to policy decisions and justifications for economic support programs. These functions will be exercised in cooperation with the Director of the International Development Cooperation Agency (IDCA).

The funds are deferred pending approval of specific loans and grants to eligible countries by the Secretary of State. This will insure that each approved program is consistent with the foreign, national security and financial policies of the U.S. and will not exceed the limits of available funds. The $80,000,000 in funds provided for Central America have already been justified and released for use.

Estimated Effect: This deferral will have no programmatic or budgetary impact and is not restrictive in nature.

Outlay Effect: There is no outlay effect of this deferral because funds will be released as loans and grants are approved.

1/ This account was the subject of a deferral in FY 1980 (D80-1).

Deferral No: D81-25

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Military	New budget authority (P.L. 96-436): $1,633,107,000
Bureau: Military Construction	Other budgetary resources:
Appropriation title & symbol: See coverage section below	Total budgetary resources: 1,633,107,000
	Amount to be deferred: Part of year: $111,300,000
	Entire year:
OMB identification code: See coverage section below	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1985 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Coverage 1/

Appropriation	Symbol	OMB Identification Code	Amount Deferred
Military construction, Army	211/52050	21-2050-0-1-051	$ 91,300,000
Military construction, Navy	171/51205	17-1205-0-1-051	$ 20,000,000
Total			$111,300,000

Justification: These funds were appropriated in P.L. 96-436 for military construction projects in the Departments of the Army and Navy. Funds totaling $111.3 million for construction and rehabilitation of medical facilities are being deferred pending the issuance of budget guidance to departments and agencies on the use of federal funds for construction/rehabilitation of medical facilities in the health services regions where the supply of hospital beds exceeds demand. The funds are deferred until this guidance has been issued and the necessary facility studies are completed.

Estimated Effect: It is estimated that this deferral action will have minimal programmatic or budgetary effects. Slight delays to the initial construction program that may occur pending the issuance of the guidance are not expected to materially affect overall construction schedules.

Outlay Effect: This deferral action has no estimated effect on outlays.

1/ These accounts are the subject of another deferral in FY 1981 (D81-7A).

D81-7A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D81-7 transmitted to the Congress on October 1, 1980, and printed as House Document No. 96-373.

This revision to a deferral of Department of Defense military construction funds increases the amount originally reported as deferred from $6,983,414 to $607,327,000. This increase of $600,343,586 results primarily from an increase in budgetary resources made available by the Military Construction Appropriation Act, 1981 (Public Law 96-436).

Deferral No: D81-7A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense - Military	New budget authority (P.L. 96-436): $1,216,843,000
Bureau:	Other budgetary resources: 1,703,635,000
Appropriation title & symbol: See coverage section below	Total budgetary resources: 4,920,478,000
	Amount to be deferred: Part of year: $ 607,327,000
	Entire year:
OMB identification code: See coverage section below	Legal authority (in addition to sec. 1013): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual September 30, 1983 September 30, 1984 ☒ Multiple-year September 30, 1985 * (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Coverage 1/ *

Appropriation	Symbol	OMB Identification Code	Amount Deferred
Military construction, Army	211/52050	21-2050-0-1-051	$ 68,740,000
Military construction, Army	210/42050	21-2050-0-1-051	0
Military construction, Army	219/32050	21-2050-0-1-051	0
Military construction, Navy	171/51205	17-1205-0-1-051	$ 65,685,000
Military construction, Navy	170/41205	17-1205-0-1-051	0
Military construction, Navy	179/31205	17-1205-0-1-051	0
Military construction, Air Force	571/53300	57-3300-0-1-051	$145,875,000
Military construction, Air Force	570/43300	57-3300-0-1-051	0
Military construction, Air Force	579/33300	57-3300-0-1-051	0
Military construction, Defense Agencies	971/50500	97-0500-0-1-051	$150,630,000
Military construction, Defense Agencies	970/40500	97-0500-0-1-051	4,200,000
Military construction, Defense Agencies	979/30500	97-0500-0-1-051	1,218,000
North Atlantic Treaty Organization Infrastructure	97x0804	97-0804-0-1-051	$100,000,000
Military construction, Army National Guard	211/52085	21-2085-0-1-051	$ 20,115,000
Military construction, Army National Guard	210/42085	21-2085-0-1-051	0
Military construction, Army National Guard	219/32085	21-2085-0-1-051	0

1/ These accounts were the subject of a similar deferral during fiscal year 1980 (D80-98).

* Revised from previous report.

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Military construction, Air National Guard	571/53830	57-3830-0-1-051	$ 27,060,000
Military construction, Air National Guard	570/43830	57-3830-0-1-051	0
Military construction, Air National Guard	579/33830	57-3830-0-1-051	0
Military construction, Army Reserve	211/52086	21-2086-0-1-051	$ 3,944,000
Military construction, Army Reserve	210/42086	21-2086-0-1-051	0
Military construction, Army Reserve	219/32086	21-2086-0-1-051	0
Military construction, Naval Reserve	171/51235	17-1235-0-1-051	$ 12,250,000
Military construction, Naval Reserve	170/41235	17-1235-0-1-051	0
Military construction, Naval Reserve	179/31235	17-1235-0-1-051	0
Military construction, Air Force Reserve	571/53730	57-3730-0-1-051	$ 7,610,000
Military construction, Air Force Reserve	570/43730	57-3730-0-1-051	0
Military construction, Air Force Reserve	579/33730	57-3730-0-1-051	0
Military construction, Reserve Components Generally	9710805	97-0805-0-1-051	0
Total			$607,327,000

Justification:* The above amounts in the listed five-year appropriations are currently deferred under provisions of the Antideficiency Act (31 U.S.C. 665) which authorize the establishment of reserves for contingencies.

These funds are deferred for administrative reasons, such as incomplete project designs and incomplete coordination of projects with either other Federal agencies or local government agencies. In some cases, specific uses for these funds have not yet been identified. Funds will be apportioned for individual projects throughout the year upon identification of specific requirements and upon completion of project design and/or coordination.

Estimated Effect: This deferral action has no programmatic or budgetary effect because the funds would not be obligated if they were made available.

Outlay Effect: This deferral action has no effect on outlays.

* Revised from previous report.

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(e) of P.L. 93-344

This revision of a deferral for facilities and equipment (Airport and Airway Trust Fund) in the Federal Aviation Administration increases the amount previously reported as deferred from $133,822,699 to $374,426,000. This increase of $240,603,301 results from additional budgetary resources made available to this account by the enactment of the Department of Transportation and Related Agencies Appropriation Act, 1981 (P.L. 96-400).

Deferral No: D81-17A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Transportation	New budget authority (P.L. 96-400): $ 350,000,000*
Bureau: Federal Aviation Administration	Other budgetary resources: 387,426,000*
Appropriation title & symbol: Facilities and Equipment (Airport and Airway Trust Fund), FAA 1/ 69X8107 690/48107 698/28107 691/58107* 699/38107	Total budgetary resources: 737,426,000*
OMB identification code: 69-8107-0-7-402	Amount to be deferred: Part of year: $ -0- Entire year: 324,426,000*
Grant program: ☐ Yes ☒ No	Legal authority (in addition to sec. 1013): ☒ Antideficiency Act ☐ Other
Type of account or fund: ☐ Annual 698/28107 September 30, 1982 699/38107 September 30, 1983 ☒ Multiple-year 690/28107 September 30, 1984 (expiration date) ☒ No-year 691/58107 September 30, 1985*	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:* Funds from this account are used to procure specific congressionally approved facilities and equipment for the expansion and modernization of the national airway system. Projects financed from this account include construction of buildings and purchase of new equipment for new or improved air traffic control towers, automation of the en route airway control system and expansion and improvement in the navigational and landing aid systems. These funds were appropriated in the Department of Transportation and Related Agencies Appropriation Act of 1981 and prior years. The estimated total cost for each project is included in the budget submission and appropriation for the year in which it is requested. Because of the lengthy procurement and construction time for interrelated new facilities and complex equipment systems, it is not possible to obligate all funds necessary to complete each project in the year funds are appropriated. Therefore, it is necessary to apportion funds so that sufficient resources will be available in future periods to complete these projects. This deferral action is consistent with congressional intent to provide multi-year funding for the total costs of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665) which authorizes the establishment of reserves for contingencies.

Estimated Effect: This deferral action is consistent with the normal operation of this program. The amount deferred could not be economically used if made available in FY 1981 because of the planned multi-year procurement, construction, and installation cycle.

Outlay Effect: This deferral action has no effect on outlays.

1/ This account was the subject of a similar deferral in FY 1981 (D80-294).
* Revised from previous report.

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(e) of Public Law 93-344

This report updates Deferral No. D81-19, transmitted to the Congress on October 1, 1980 and printed as House Document 96-373.

This revision of the deferral for the State and Local Government Fiscal Assistance Trust Fund in the Office of Revenue Sharing increases the previously reported deferral from $5,485,075 to $10,694,198. This increase of $5,209,123 results from withholding payments from various governments for reasons of noncompliance with the requirements of the State and Local Fiscal Assistance Act, as amended.

OMB 208 5 ED 6 3 2 1 5 4 V

Deferral No: D81-19A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of the Treasury	New budget authority (P.L. _____): $ _____
Bureau: Office of Revenue Sharing	Other budgetary resources: 78,583,660*
Appropriation title & symbol: State and Local Government Fiscal Assistance Trust Fund 20X8111 1/ 2/	Total budgetary resources: 78,583,660*
	Amount to be deferred: Part of year: $ 10,694,188*
	Entire year: _____
OMB identification code: 20-8111-0-7-851	Legal authority (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [X] Yes [ ] No	[X] Other: P.L. 92-512, Sections 121 &124; P.L. 94-488
Type of account or fund: [ ] Annual; [ ] Multiple-year _____ (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other _____

Justification: The State and Local Government Fiscal Assistance Trust Fund is the vehicle for disbursement of general revenue sharing funds. This deferral represents payments withheld from various governments involved in annexations or disincorporations and for reasons of noncompliance with the requirements of the State and Local Fiscal Assistance Act, as amended.

Estimated Effect: The release of these funds is contingent upon adherence by the various governments to the compliance regulations, and determinations as to which higher level of government is eligible to receive those funds withheld because of annexations and disincorporations.

Outlay Effect: This deferral action has no effect on outlays.

1/ This account is currently the subject of another deferral in FY 1981 (D81-18) and was the subject of a similar deferral in FY 1980 (D80-23A).

2/ Deferral of outlays only.

* Revised from previous report.

BILLING CODE 3110-01-C

Deferral No: D81-20

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Tennessee Valley Authority	New budget authority (P.L. 96-367): o$ 18,000,000
Bureau:	Other budgetary resources: -0-
Appropriation title & symbol: Tennessee Valley Authority Fund (Columbia Dam & Reservoir) 1/ 64X0111	Total budgetary resources: 18,000,000
	Amount to be deferred: Part of year: $ 15,800,000
	Entire year: _____
OMB identification code: 64-4110-0-3-452	Legal authority (in addition to sec. 1013): [ ] Antideficiency Act
Grant program: [ ] Yes [ ] No	[ ] Other: _____
Type of account or fund: [ ] Annual; [ ] Multiple-year _____ (expiration date); [X] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other _____

Justification: P.L. 96-367 provided $18 million in new appropriations for continued construction of the Columbia Dam and Reservoir project. In addition, the Senate Appropriations Committee report (Sen. Rpt. 96-927) -- issued in conjunction with P.L. 96-367 -- recommended that $17 million in funds provided for this project that were deferred at the beginning of FY 1981 (D81-22) be applied to finance on-going TVA programs. These funds were released on October 31, 1980.

The Fish and Wildlife Service has issued a biological opinion that the completion of the Columbia Dam project as presently planned would jeopardize the continued existence of certain endangered mussel species -- the birdwing pearly mussel and one other. Completion of the project as originally designed requires: (1) the delisting of the affected species, (2) an exemption under the 1978 Endangered Species Act Amendments, or (3) a favorable modification in the Fish and Wildlife Service's biological opinion.

To resolve this problem, TVA has worked closely with the Department of Interior (Fish and Wildlife Service) to develop a conservation program which will allow completion of the Columbia Dam and Reservoir as planned and ensure the long term survival and growth of the endangered mussel species. No action to impound the reservoir (including placement of fill material) may be taken until the success of this mitigation program is assured to the satisfaction of the Fish and Wildlife Service.

1/ This account was the subject of similar deferrals in FY 1980 (D80-31) and earlier this year (D81-22).

Completion of the project is dependent upon issuance by the Corps of Engineers of a permit under Section 404 of the Clean Water Act for placement of fill material. The Environmental Protection Agency (EPA) has requested that the Corps delay issuing the permit pending the outcome of an administrative appeal to EPA by opponents of the project. The Corps agreed to this request and has not yet issued the permit.

As a result of these impediments, work on the project must now be confined to implementation of the conservation program, and archaeological, historical, cultural and water quality studies. Upon completion of the water quality studies, engineering design modifications to the Columbia Dam discharge structure may begin. Based upon recent estimates, $2,200,000 is needed to conduct these activities in FY 1981 and the remaining $15,800,000 is deferred pending resolution of the legal and environmental matters.

Estimated Effect: The construction of various portions of the Columbia Dam will be delayed pending resolution of the legal and environmental problems.

Outlay Effect: This deferral, by itself, has no outlay effect. However, the legal matters delaying this project, which have brought about the deferral, have the effect of postponing use of the deferred funds until those matters are resolved.

[FR Doc. 80-37984 Filed 12-4-80; 8:45 am]
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federal register

Friday
December 5, 1980

Part VIII

Department of Agriculture

Food and Nutrition Service

Food Stamp Program: Monthly Reporting/Retrospective Accounting and Demonstration Project

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7CFR Part 273

[Amendment No. 184]

Food Stamp Program: Monthly Reporting/Retrospective Accounting

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: The Department is proposing procedures for the Food Stamp Program that would enable a State agency to elect a system of Monthly Reporting/Retrospective Accounting (MR/RA). Under this system, a household would mail in reports of its monthly income, deductions, and other household circumstances. Then the State agency would use these retrospective figures, rather than prospective estimates, to compute the household's eligibility and coupon allotment. MR/RA is intended to help States to reduce error rates by using verifiable data instead of data developed through estimates and projections. In addition, these rules simplify program administration by allowing a State to utilize MR/RA for those food stamp households which are already subject to such a system for the Aid to Families With Dependent Children (AFDC) program. The Department intends to hold an open meeting to discuss these regulations. When final arrangements have been made, the Department will publish the time and location of the meeting in the **Federal Register.** All interested parties, including Program and computer personnel from those State agencies currently operating or planning to operate a MR/RA system for the AFDC program, are strongly urged to attend.

DATES: Comments must be received on or before February 3, 1981 in order to be assured consideration. After reviewing all comments, we will publish final regulations. In addition, the Department will hold an open meeting on January 5, 1981 to discuss these regulations.

ADDRESS: Comments should be submitted to: Claire Lipsman, Director, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250. Inquiries or comments about the planned open meeting to discuss these regulations should also be submitted to this address. The Department will publish the time and location of the meeting in a future issue of the **Federal Register.**

All written comments will be open to public inspection at the office of the Food and Nutrition Service, USDA, during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 500 12th Street S.W., Washington, D.C., Room 678.

FOR FURTHER INFORMATION CONTACT: Susan McAndrew, Chief, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250; 202-447-6535. A draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Background

Current procedures for computing income and allotment levels in the Food Stamp Program are based on a system of prospective budgeting. The eligibility work (EW) calculates household need by estimating future income, resources, and deductible expenses at the time of certification. The EW considers a household's past income and deductions as an indicator of what its financial circumstances will be during the certification period. However, the EW does not use only past income and deductions to predict future household circumstances for the certification period, but also considers changes that have, occurred or can be anticipated in projecting an income amount for future months so that the food stamp benefits a household would receive correspond to the income available to purchase food. There is no regularly scheduled update of these estimates to ensure a reexamination of benefit levels except at the time of recertification. If changes occur during the certification period, the household is required to report such changes to the EW so that household benefits can be adjusted. If the State agency becomes aware of a change affecting certain households, either through a third party or a general benefit change in a related program (e.g. Social Security), household benefits levels are also adjusted. Errors can result if household circumstances change in future months but are not reported by the household, or are not acted on by the State agency, in a timely fashion.

Retrospective budgeting, on the other hand, relies upon hindsight to determine a household's eligibility and benefit levels. Combined with a system of periodic status reports from participants, MR/RA provides a regular mechanism to update a household's benefit level. The household reports its actual income and deductions for a particular month; the State agency processes this information and then issues benefits to the household. Since it is not necessary to predict how much income will be available for the future, retrospective accounting may result in fewer errors than prospective accounting, although demonstration projects in other benefit programs have so far not confirmed that this is the case. The drawbacks to such a system are the administrative cost and burden of processing reports each month, the time lag in providing benefits to households, and the increased paperwork burden on large numbers of low income households, some of whom may have difficulty in completing government forms on their own. The food stamps a household receives in one month are based on a prior month's income and circumstances and may not correspond to its current need for food assistance.

With the passage of Pub. L. 96-249, 94 Stat. 357, May 26, 1980, the Food Stamp Act Amendments of 1980, Congress (in Sections 107 and 110-113) provided that a State agency which elects to implement a MR/RA system may do so, using the guidelines developed by the Secretary.

The law stipulates that all newly-applying households would be certified for the initial month of eligibility under the current prospective accounting procedures. The State would also employ prospective in subsequent month(s), as necessary, to avoid counting income received prior to the date of application. Prospective accounting during the early months for newly certified households would respond to their immediate need for food assistance. After this initial period, the household would report its actual financial circumstances using the monthly report and food stamp benefits thereafter would be calculated based on actual figures rather than projections.

The Department of Health and Human Services (HHS) has provided a State option for retrospective budgeting in its Aid to Families with Dependent Children (AFDC) program. California, Illinois, Kansas, Michigan, Oregon, and Washington have implemented the system and several additional State agencies are participating in a MR/RA demonstration project. In developing

these regulations, the Department has worked closely with the Department of Health and Human Services' (HHS) representatives, taking into consideration the results of their experience. Every attempt has been made to standardize the MR/RA system, acknowledging that the requirements of the Food Stamp and AFDC Programs will continue to vary.

Introduction

In designing a proposed system for MR/RA, the Department established four fundamental principles:

—Monthly reports should be as easy for program participants to complete as possible. The questions on the forms should be simple, should not present participants with numerous options and decisions, and should require consistent information month after month so that form completion becomes a familiar routine.

—Program participants that are in MR/RA should be in no worse position than excluded participants.

—MR/RA systems for the Food Stamp Program should be compatible with AFDC systems to the maximum extent possible, taking into account basic differences in the requirements and procedures of the two programs.

—MR/RA should endeavor to remove the uncertainty associated with attempting to anticipate income and other household circumstances, and to reduce error rates through a systematic mechanism to report changes in household circumstances.

The procedures developed for MR/RA work on a cycle of three distinct time periods: the budget month; the processing period; and the issuance month. The household fills out and mails in the monthly report, the State agency takes the necessary action, and food stamp benefits are issued.

An exception from the cycle of using income received in a previous month to calculate the benefits for a subsequent month is established for households experiencing a sudden and significant change in income or households gaining a new member. The law calls upon the Department to make modifications or exceptions to MR/RA income procedures to accommodate these households. The provision of supplemental food stamp benefits is based on the household's immediate need rather than its prior situation.

The system is designed with other flexibilities and options so that those State agencies who wish can merge food stamp MR/RA with their monthly reporting system for AFDC households or can use the system as a tool in attempting to reduce the quality control error rate. Those options are explained in the more detailed discussion of major issues below.

Administration

The Act and legislative history clearly state that State agencies are to be given the option of operating a monthly reporting/retrospective accounting system. It is equally clear, however, that the Secretary is to prescribe standards under which such systems will be operated. To ensure that MR/RA systems will operate in an efficient and effective manner, the Department is proposing five criteria which must be met before FNS gives its approval. It is envisioned that these criteria be met sequentially; FNS would be available to provde technical assistance in all phases of the process. As a first step, the State would have to demonstrate its ability to manage a MR/RA system effectively. In making this determination, FNS would consider evidence such as a sound general system design, availability of personnel and computer equipment as necessary, and ability to process MR/RA information. Second, in providing detail to the general system design, each State agency would have to verify that the requirements specified in final regulations are met. The third criterion, which is discussed in greater detail below, is that the State agency pretest the MR/RA system. Testing will give assurance that both participants and State agency personnel can adapt to the requirements of the system. The fourth requirement is the development of operating guidelines which clearly delineate the responsibilities of participants, eligibility workers, and data management workers in the system's operation. Such material would be approved, if acceptable, by FNS Regional offices as all other material is currently approved. The fifth and final criterion is that all forms developed as a result of the MR/RA procedure receive FNS approval. While FNS will develop model forms, it is anticipated that the majority of States opting to implement MR/RA will seek approval to modify such forms to accommodate existing AFDC systems or data processing needs.

Before implementing MR/RA systems, State agencies would solicit public comments on the operation and requirements of their proposed systems. A requirement for soliciting public comment is proposed in order to ensure that the needs and circumstances of the low-income population in each State are fully addressed. States would solicit public comment in accordance with public comment procedures to be prescribed in forthcoming final regulations on State Plans of Operation. These procedures provide States with a number of options for procedures to use in soliciting comment.

The most critical step in the approval process is the State agency's conduct of a pretest. It is essential that the impact of the proposed system on participants and State agency personnel be clearly assessed. The pretest would be designed to measure: (1) clients' understanding of their responsibilities under the MR/RA system and ability to complete the related forms and (2) the State agency's ability to provide appropriate forms to clients, process information received, and issue benefits and notices within the appropriate time frames. The pretest would allow the State agency to make the necessary modifications to the system. In addition, based on the pretest results, FNS would be better able to determine the ability of the State agency to effectively manage a MR/RA system. For those State agencies currently operating a MR/RA system for AFDC which wish to add the food stamp component, the pretest would be somewhat more limited in scope. Given that the State's AFDC system was functioning effectively, the goal of the pretest would be to ensure that clients were able to understand and complete the revised form.

As a final point, while MR/RA would modify the methodology used in various procedural aspects of program administration, such as the basis for determining eligibility and benefit levels and processing of information, all aspects of program administration not specifically modified by this section of the regulations would remain in effect for both State agencies and participating households.

Definitions

Because MR/RA represents a departure from FNS' normal prospective budgeting methodology, a new set of definitions specifically tailored to MR/RA has been developed.

(1) Adequate notice—Since State agencies will be taking action based on the information contained on the monthly report, the current concept of a 10 day notice of adverse action has been modified. State agencies will provide participant households with information on how benefit levels and eligibility were determined. However, based on a State agency's processing time and the date of submission of the monthly report, such information may not be able to be provided to participating households ten days prior to the normal benefit issuance date. To protect households, while still allowing the MR/

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RA system to be administratively operational, the rules provide that a household be given adequate notice of a change in benefits no later than the normal date of issuance of those benefits, and that the mailing date of the adequate notice be followed by a ten-day period in which the household could contest the action, request a fair hearing, and have benefits restored. This approach is consistent with requirements in HHS regulations governing MR/RA systems in the AFDC program.

(2) Budget month—The budget month concept is an integral part of the MR/RA system. The budget month is the period of time covered by the monthly report. Once retrospective accounting has begun, information from the budget month serves as the basis for determining household eligibility and benefit levels.

(3) Certification period—The concept of a certification period assumes a different dynamic with the introduction of MR/RA. When prospective accounting is used, certification periods cover the period of time over which future circumstances can be reasonably predicted. MR/RA gives the State agency the ability to detect and react on a monthly basis to changes in household circumstances. Thus, given the State agency's ability to adjust benefit levels and the household's requirement to regularly report its circumstances, the minimum certification period would be six months. While consideration was given to assigning households indefinite certification periods, periodic client—eligibility worker contact and review of household circumstances was determined important in ensuring program integrity.

(4) Issuance month—In a MR/RA system, the issuance month refers to the period of time for which benefits are issued. Benefit levels in the issuance month are based on information from the budget month. Depending on the State agency's system, the issuance month may follow the budget month by as little as fifteen days but will normally follow the budget month by a full month.

(5) Prospective accounting—Prospective accounting refers to the current method of determining household eligibility and benefit levels—estimates are made of future month's circumstances and households are required to report changes when those best estimates are incorrect.

(6) Retrospective accounting—Retrospective accounting is a method of calculating eligibility and benefit levels which relies on actual circumstances in a previous month rather than prospective information.

(7) Supplemental benefits—Because retrospective accounting relies on prior month information to determine issuance month benefits, the concept of supplemental benefits has been introduced. Supplemental benefits will be issued during any issuance month when the household's gross or net income has fallen significantly, its deductible expenses have risen sharply, or a new household member joins the household.

Included Households

The regulations propose to allow the State agency a wide degree of latitude in determining which portion of the food stamp caseload will be included in the MR/RA system. The State may institute MR/RA in one or all project areas in the State. The State may choose to include AFDC/FS households only, non-assistance food stamp households only, or both AFDC/FS and non-assistance households, with the exceptions noted below.

Both the law and legislative history recognize that inclusion in the MR/RA system may not be practical to the circumstances of all households. While migrant farmworker households are specifically mentioned in the House Committee Report (Report No. 96-788, 96th Cong., 2d Sess., p. 85) as a category of households which should be excluded from MR/RA, the Secretary is given discretion to determine other classes of households which would also be excluded. In reviewing the existing categories of food stamp households, the Department has determined that in addition to households that are part of the migrant stream, four other categories of households should be excluded from the MR/RA system. The first of these is households with a member on strike, provided that the household was not certified before the date the strike began. This exclusion is established due to the likelihood of such persons returning to work within a short period of time. Under a retrospective system, these households could continue to draw benefits for a period of time after returning to work. The transition to a retrospective accounting system is impractical for these households, both from an administrative and a fiscal viewpoint. Such households would continue to be certified in accordance with prospective accounting procedures.

The second type of household the Department proposes to exclude from MR/RA is one without earned income and in which all members are either elderly or disabled. Since income of such households is normally stable, generally being derived from either Retirement, Survivors and Disability Insurance (RSDI) or Supplemental Security Income (SSI) payments, the Department believes that their inclusion would serve no useful purpose. In addition, the Department believes that a requirement to complete a report each month upon penalty of having benefits cut off could result in hardships for elderly and disabled households. The House Committee Report urges that such household be excluded from MR/RA.

The third category would be those households which the State agency knows will be eligible for food stamps for only a temporary period. An example of such a household would be a person who recently was laid off and applies for the program in June and who will be starting a job in August which would make him ineligible for food stamp assistance. The Department believes that inclusion of households which would be eligible for the Program for three months or less would result in both administrative inefficiency and a potential issuance of benefits to households after their income has risen over the eligibility limits. These households would be identified on a case-by-case basis by the State agency.

The fourth category of households that the Department proposes to exclude consists of some households requiring special assistance in applying for food stamps. If households have an ongoing need for special assistance in completing a monthly report and such special assistance is not available, they would be excluded. Like the third category, these households would also be identified individually by the State agency. This determination would be made at the time of application or conversion to the MR/RA system and would be based on the State agency's perception and knowledge of household circumstances. Examples of households that may be excluded under this provision would include the disabled, non-English speaking persons in areas without bilingual services, and persons whose reading and writing skills are so limited that they cannot complete the report form on their own. Under no circumstance would the State agency require the household to obtain its own special assistance in completing a monthly report as a condition of eligibility.

Information on System Operation

Because of the impact of the MR/RA system on household benefits, it is of critical importance that applicant and participant households thoroughly understand how the system works and what their specific responsibilities are. To accomplish this, the proposed rules require the State agency to provide both oral and written information on the system's operation, including the availability of supplemental benefits, and the telephone number of a person for the household to contact if there is difficulty in completing a report or in understanding any of the system's components. In addition, it is proposed that during the normal certification interview, the State agency explain to each included household how to comply with MR/RA requirements, including how to complete and file the report, and what verification should be submitted with the report.

Determining Eligibility and Benefit Levels During the Initial Months

To alleviate hardships which would result from applying retrospective budgeting techniques to applicant households who had recently experienced a change in circumstances, the regulations provide for the use of current prospective budgeting techniques in the initial months of eligibility. For the initial months of household certification, the State agency would determine eligibility and benefit levels in accordance with current prospective accounting procedures. The actual number of months during which a household's benefit level and eligibility would be determined prospectively would be dependent upon the time it takes for the conditions discussed in *Transition to the MR/RA System* below to be met. In gathering prospective data from a household, the State agency would assume that a maximum number of months would be required to convert the household to retrospective accounting to assure that sufficient prospective data is obtained. The State agency would make every reasonable effort to obtain complete and accurate household data for the period of prospectivity. If, however, a monthly report subsequently shows that income or other household circumstance anticipated earlier was inaccurate, the State agency would not issue a claim against the household unless the household failed to provide available information or a State agency error was involved.

Transition to the MR/RA System

The proposed regulations establish four criteria for converting participating households to the MR/RA system and entering newly applying households into this system. The general principles behind this section are that: (1) income received prior to the date of application not be included in retrospective income calculations; (2) households not be required to submit monthly reports prior to receiving their initial notice of eligibility; (3) households have enough time to complete and submit the report; and (4) scheduled issuances not be delayed or interrupted.

First, to avoid the inclusion of income received prior to the date of application which may not be currently available, the regulations provide that the initial budget month would not be earlier than the first full month subsequent to the date of application. For example, if a household applies for benefits on March 15, the first budget month could be no earlier than April if the State operates on a calendar month basis. The House Committee Report directs that income received prior to the date of application not be used in retrospective accounting.

The second proposed criterion is that a household could not be required to submit a monthly report prior to receiving its notice of eligibility. This is proposed because the Department believes that it would be both confusing and unfair to expect a household to complete and file a monthly report if it is unsure whether its application has been accepted or rejected. The House Committee Report directs that such a provision be included in MR/RA systems.

The third and fourth criteria relate directly to the second. The household would have to be notified of its eligibility, receive the monthly report, and have a minimum of five days from receipt of the report to the filing due date. This is similar to the requirement in AFDC regulations. The Department believes this minimum period is necessary to allow the household to complete the report, collect the necessary verification and provide for normal mailing. The final point involves the household's issuance schedule. If the processing time for the State agency is such that the next regularly scheduled issuance of benefits would be delayed, retrospective accounting would not be initiated until the next issuance month. This is done to ensure that transition to the MR/RA system does not interfere with the processing standards nor with the household's right to receive already authorized benefits.

Monthly Reporting

Monthly reporting by participating households provides State agencies with the necessary information to make retrospective determinations of household eligibility and benefit levels. Because the system is dependent on this information, the regulations propose that the submission of such reports become a condition for continuing a household's eligibility for the program. A household's failure to submit the required monthly report would make it impossible for the State agency to make a determination of either eligibility or benefit levels. While the submission of a completed, signed monthly report would be a condition of continuing eligibility, the State agency would not be allowed to impose any additional change reporting requirements. The monthly report would then become a uniform, single method for household communication with the State agency, although the household could voluntarily inform the State agency of changes in other ways. The State agency would be required, if necessary, to contact the household in response either to the information on the report or to information which has otherwise become known to the State agency.

Because the monthly report is so vital to the system, the Department has proposed requirements for its distribution, submission, and content. To ensure continuity and avoid confusion, the regulations state that the monthly report be received by the household around the same date each month. The regulations further propose that the form be given to households sufficiently in advance of the filing date to allow at least five days for form completion and mailing time before the filing due date. As discussed above, this time period is considered sufficient for filling out the report, gathering the necessary verification and mailing. As a complementary requirement, it is proposed that the filing date for the monthly report be no earlier than five days after the end of the budget month. This requirement is intended to ensure that the household has sufficient information in hand to fully complete the report based on actual circumstances for the budget month. Because of postage costs, the regulations also would require that the State agency provide each household with a postage paid, return envelope for the form. The requirement is directed by the House Committee report, and is also required by the HHS regulations governing MR/RA systems in the AFDC program.

It is the Department's intention to design a model monthly reporting form that State agencies may elect to use. It is recognized, however, that many States which will opt to initiate a MR/RA system for food stamps may already have such a system for their AFDC caseload and will be using a joint AFDC/FS reporting form. It is also recognized that most MR/RA systems will be supported by a highly sophisticated, automated data processing system and that the MR form will be designed to accommodate system needs. Therefore, most States

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will likely design their own forms. The rules propose that specific limitations be placed on the contents of the form, except in the case of a joint AFDC/FS form where additional questions needed to determine AFDC eligibility may be posed. In any case, the monthly reporting form will have to be designed to ensure that clients understand both the questions and the actions that will be taken by the State agency on the information provided. The report also must inform clients of the actions that they must take, including what verification must be submitted and the date by which the report must be filed; and advise the household of its rights and responsibilities. With regard to verification, the Department is proposing verification requirements for monthly reporting which closely resemble the general verification requirements which the Department proposed on August 12, 1980, (45 FR 53792). In issuing final monthly reporting regulations, the Department will consider comments received on both proposed rulemakings. The Department proposes that two basic verification requirements would be stated on the form. First, all households reporting earned income would be required to submit documentation of such income with each report. Second, households wishing to claim a utility expense in excess of the standard would have to submit the bill as proof of that expense. The Department has identified these two items as being most subject to variation from month to month. The State agency would also require the household to provide verification of medical expenses. It is proposed that State agencies be given the option of requiring verification of all medical expenses every month or only when total medical expenses change by more than $25. State agencies would also require verification of additional reported items which it had either identified through the use of an error-prone profile or which it had opted to verify under the procedures contained in § 273.2(f)(9)(ii). Verification requirements could not be extended beyond those established under § 273.2(f)(9)(ii) except in the case of a joint AFDC/FS report form where broader AFDC verification requirements could be imposed, and then only on AFDC/FS cases.

It is also proposed that in areas subject to the existing bilingual requirement, the form must be provided in the appropriate foreign language. The State agency may also develop a method, subject to FNS-approval, which would include non-English speaking households in the MR/RA system in these areas that are not subject to the bilingual requirements. This provision is designed to make the system accessible to as many households as possible as well as make it fair to these households.

The form would specify a source of additional information at the State agency which the household could contact and specify how the household could apply for supplemental benefits. Other requirements would include a statement to be signed by the head of the household indicating his or her understanding that changes in benefits could result from the information provided. These specifications are designed to ensure that the household is adequately protected and informed and are in conformance with HHS regulation on AFDC MR/RA. The regulations also propose the financial and non-financial items that the households must report. These items are believed to be the most fluctuating and include the items currently required by the existing reporting regulations.

The Department requests that commenters address themselves directly to the proposed contents of the report, the verification requirements and any problems foreseen in merging such reporting requirements with existing AFDC reporting requirements.

Special attention is drawn to the fact that the proposed form requests information on infrequent or irregular income. Under porspective accounting, infrequent or irregular income of under $30 per quarter is excluded. This proposed regulation eliminates this exclusion under MR/RA. The Department is interested in comments on the desirability of this approach. Other options under consideration include providing an exclusion of infrequent or irregular income of up to $10 a month (and not requiring such amount to be reported on the monthly report form), and allowing States the option of whether to require reporting of infrequent or irregular income of under $10 a month, with a corresponding exclusion where this income is not required to be reported. The Department is interested in comments on potential difficulties involved in verifying and counting these small amounts of infrequent or irregular income, and also on potential difficulties of a $10/monthly exclusion. The Department is interested in comment on which approach would produce the fewest errors.

State Agency Action on Reports

This section of the proposed rules sets forth actions for State agencies to take subsequent to the filing due date. The State agency would be responsible for reviewing all reports to ensure their receipt, accuracy and completeness. The State agency would determine that a report was incomplete only if the household head had failed to sign the report or had omitted necessary information or verification. If a joint AFDC/FS monthly report was used, the report would only be incomplete for food stamp purposes if the household head failed to sign the report or to enter information necessary for a determination of food stamp eligibility or benefit level.

The State agency would then review the monthly report to identify missing verification. One category of missing verification would be documentation of earned income or shelter expenses resulting in a deduction. This verification must be provided by all households. A second category would be verification which is required only when unearned income changes by more than $25 from the previous month. Thirdly, State agencies would require households to verify medical expenses either every month or when total medical expenses changed by more than $25. It is proposed that each State agency would choose one of these two standards. Lastly, the State agency would require the household to verify questionable information and information which the State agency had identified as being prone to error. Information such as the work status of a new household member, the equity value of a new automobile or similar data might be identified as obtainable through personal contact with the household. The State agency would, to the extent possible, attempt to rectify problems with the monthly report through direct personal contact, such as a phone call. However, if the household had failed to submit the monthly report, the report was incomplete, verification was missing, or the report was unsigned, the State agency would send a notice to the household, informing it of any further action it was required to undertake and of the extension period due date. The Department has also proposed procedures for the State agency to follow in those instances where the necessary verification is not submitted by the end of the extension period. The Department urges the public to review these procedures closely and offer specific recommendations for any changes believed necessary.

Of particular note is the fact that State agencies would not make changes resulting in increased benefits unless verification supporting such changes is submitted. This proposed departure from the proposed verification regulation, which allows States the option of increasing benefits, is made based on the nature of retrospective accounting. Verification of a change such as increaded allowable expenses or a decrease in income would generally be available by the time the monthly report is to be submitted.

Once the reports have been received and reviewed for completeness, the State agency would be responsible for using the information contained in the reports to determine household eligibility and calculate benefit levels. Households' benefit levels would be calculated in accordance with current procedures but would be based on earned or unearned income received or averaged for the budget month, deductions as billed or averaged for the corresponding budget month, and household composition as of the last day of the budget month. Households would, as in current regulations, be provided the option of having shelter expenses which are billed less often than monthly averaged.

As a final step in processing, the State agency would be required to issue benefits in accordance with current issuance procedures.

Notices

Because the MR/RA system has the potential for causing month-to-month variations in benefit levels and/or eligibility, the State system would have to be designed to provide participating households with complete and timely information on the manner in which eligibility and benefit levels were determined. All such notices would be required to meet the definition of adequate notice as defined in this section. In the event that household benefits were being reduced or terminated, the State agency would be required to mail the adequate notice so that the household recieves it no later than the normal issuance date. By providing such adequate notice in conjunction with the reduced benefits or in lieu of the terminated benefits, the household would have sufficient information on the cause and result of the change to decide whether or not to contest the action within the ten-day reinstatements period.

In those instances where the State agency had not received a complete and signed monthly report by the filing due date, the State agency would be responsible for notifying the household within five working days of its failure to report. The notice would contain information on the penalty for failing to file a complete, signed report; and specify the reason the report is incomplete and those actions the household would be required to undertake to complete it. The notice would also be required to inform the household of the extended filing due date, which would be no earlier than ten days after the date on which the notice was mailed. As part of the notice, the State agency would be required to offer the household its assistance in the completion of the report.

If the household has failed to submit a complete, signed monthly report by the end of the extension period, the State agency would be required to send the household an additional adequate notice, informing the household that benefits would not be issued, and explaining the reason for the nonissuance. Such notice would also inform the household of those actions which it would be required to undertake if it wished to be reinstated. It is proposed that notices regarding termination reach affected households ten days before the expected benefit issuance date whenever possible. That date may be the normal issuance date or the extended issuance date. It is recognized, however, that in those States where the issuance month is the month following the budget month or in those instances where late filed reports are also incomplete, this may not be possible. In such situations, the State agency would be required to notify the household by the issuance date corresponding to the late filing date for the report.

Issuance

The proposed rules provide a schedule for State agency issuance of benefits once the completed, signed monthly report has been received. With certain exceptions, the State agency would be required to provide eligible households which file a complete, signed monthly report by the due date with an opportunity to participate within thirty days of the end of the budget month. The specific exceptions to the one month benefit provision would be for reasons such as security (the necessity of staggering mails of ATPs or coupons) or for coordination with an AFDC issuance system. Such exceptions would require FNS approval and under no circumstances would the normal issuance date be extended later than 45 days beyond the end of the budget month.

The regulations also provide that the State agency establish an extension period during which time households could file a missing report or complete an incomplete report without undue penalty. While the regulations would require a minimum 10 day extension period, the State agency could have a longer extension period under the condition that eligible households filing a complete signed report be provided an opportunity to participate no later than 45 days following the budget month. For those households submitting a completed, signed report during the extension period, the State agency could delay benefits ten days but no later than the 45th day from the end of the budget month. For those households filing after the extension period but prior to the end of the issuance month, the State agency would still issue an allotment, but would have an extended time period in which to do so.

Suspension and Conversion

Because the MR/RA system is extremely responsive to changes in income, the regulations would establish a procedure whereby households losing their eligibility due to a temporary change in income could be quickly brought back into the program. Rather than terminating such households, the State agency would be required to place them in a suspended category; sending them, at a minimum, one additional monthly report. If, on the basis of the subsequent report, the household is eligible, benefit issuance would resume in the corresponding issuance month on the household's normal issuance date. Households placed in a suspended category would also be qualified to receive supplemental benefits, if eligible. If a suspended household requests supplemental benefits and is found eligible, the State agency would be required to issue such benefits within the normal five working day timeframe.

The proposed rules also establish a conversion procedure which would be used in those instances where only a portion of the food stamp caseload was subject to the MR/RA requirements. If, for example, only the AFDC caseload was subject to MR/RA and a household lost its AFDC eligibility but still remained eligible for food stamps, the State agency would continue to issue benefits on a retrospective basis for one additional month. In notifying the household of its AFDC termination, the State agency would also provide the household with a food stamp notice of expiration. The State agency would have to issue the notice of expiration in sufficient time to allow the household to apply for recertification and receive uninterrupted benefits, if eligible, using prospective accounting procedures.

If the household were to lose its AFDC eligibility due to a temporary change in circumstances, the State agency would have the option of issuing benefits to such a household on a retrospective basis for two additional months. If this option were chosen, the

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State agency would have to send the notice of termination in sufficient time to allow the household to reapply as a non-assistance household if, based on the second report, it remained ineligible for AFDC benefits.

Termination

The proposed rules further provide for the termination of those households who fail to file a monthly report, fail to file a complete report, or fail to comply with a non-financial eligibility requirement, such as work registration. As discussed above, households failing in any of the aforementioned areas would be notified by the State agency. In the event a household did not comply with the requirement by the end of the extension period, the State agency would issue a final notice of termination. The notice would advise the household of what it would need to do to be reinstated and of its rights to request a fair hearing and to receive continued benefits until the fair hearing decision is reached. Households reapplying in the month of termination could receive benefits for that month. Their benefits and eligibility would be determined on the basis of information contained in a completed, signed monthly report for the corresponding budget month.

Supplemental Benefits

Due to the fundamental reliance of MR/RA on past month information, the proposed rules establish a procedure to provide additional benefits to those households experiencing a significant change in household circumstances after the end of the budget month. Additional, or supplemental, benefits would be available to eligible households during those months when either the actual income available to the household in the issuance month lags substantially behind the income reported for the budget month or an additional household member is added.

The Department has established three triggers for determining a household's entitlement to supplemental benefits. Two of these triggers—a decrease of more than fifty dollars in gross income between the budget and issuance months and the addition of one or more new household members—are specified in the legislation. The additional trigger proposed by the Department has been developed to respond to financial changes, such as increased expenses, which have a net effect similar to a fifty-dollar decrease in gross income. Specifically, the Department has proposed that households whose net income is fifty dollars lower in the issuance month than in the budget month also be eligible to receive supplemental benefits. As a clarification, the Department has proposed that households in the initial month of either suspension or termination also be eligible to receive supplemental benefits, if qualified. This has been proposed in recognition of the fact that household circumstances can fluctuate widely from month-to-month and households experiencing such changes should have the opportunity to easily return to program participation.

Once the State agency has determined that a household is entitled to supplemental benefits, the regulations propose a specific procedure for the calculation of such benefits. In developing the methodology for the supplemental benefit calculation, the Department has adopted the principle that the household's full level of need in the issuance month will be considered. Thus, as a first step in determining the amount of the supplemental issuance, the State agency would calculate the household's coupon allotment on a prospective basis using factors of financial and non-financial need from the issuance month. Such calculation would be based on income and deductions as received or billed or anticipated to be received or billed during the issuance month. In determining the amount of the supplemental issuance, the State agency would compare the value of the allotment received by the household during the issuance month, exclusive of any food stamp claims or retroactive benefits received, to the value of the prospectively calculated allotment for the issuance month. The difference between the two would then be the value of the supplemental issuance.

To ensure that sufficient information is available to the State agency to make a prospective benefit level determination, the Department has proposed that all requests for supplemental benefits be made in writing by the household using either the FNS form or a form designed by the State agency and approved by FNS. In designing its own supplemental benefit request form, the State agency would follow the same basic principles established for the monthly report form: that it be simple to complete and easily understood.

Under the proposed rules, the State agency would have the option of designing a form which would allow data to be gathered for two prospective months for those changes, such as an increase in household size, which are expected to continue into the subsequent month. If the State agency exercised this option, supplemental benefits could be issued in two successive months. In those States where the State agency has not exercised this option, households would have to prepare a separate supplemental benefit request form for each month in which a supplement was desired. The Department considerd proposing that requests for supplements based on changes which were permanent (such as a change in household size resulting from a birth) would trigger two months of supplements. While this appeared to be beneficial to participants (such changes would only have to be reported once), we were unsure of the ability of States' computer systems to handle such a requirement. In preparing comments, we would like to see particular attention focused on this issue. We welcome a discussion of any other options in this area.

To ensure that participating households have the ability to request supplemental benefits without delay, the proposed rules provide that each household be issued at least two supplemental request forms at either the point of application or certification. To ensure their ongoing availability, State agencies would be given the option of either sending a blank form to the household each time supplemental benefits are provided or denied, or providing the form as an enclosure to the monthly report form, or providing the form no later than the date the monthly allotment and benefit explanation sheet are provided to the household. Regardless of the manner in which supplemental request forms are provided, the State agency would be responsible for ensuring that each household is able to file a supplemental benefit request, either by mail or in person, on the same day that the household expresses a desire to request such benefits.

Under the proposed regulations, the State agency would be responsible for issuing eligible households ATPs or coupons within five working days of the date of the State agency's receipt of the form. A five working days requirement for issuance of supplemental payments also appears in AFDC regulations. The State agency would make every effort to verify changed circumstances in accordance with the requirements of § 273.2(f)(9)(ii). If the State agency is unable to complete the necessary verification within these timeframes but the household is otherwise eligible, the State agency would not delay issuance beyond the five working day issuance standard. However, if in the next month the household again requests a supplemental issuance based on the same change, the supplemental benefits would not be issued until the necessary verification was provided. These verification requirements are consistent with those proposed for expedited service cases in the August 12, 1980 rulemaking (45 FR 53792). It should be noted that a QC variance would be provided for errors in supplemental payments made without verification, as is currently done for expedited service cases. The final provision related to the circumstances under which a supplemental issuance would be provided relates directly to the concept of the need for a supplemental issuance. As discussed above, a supplemental issuance is designed to bridge the gap between the month in which a change occurs and the month in which the change is reflected in the benefit level. To receive supplemental benefits, the household would have to request the supplemental issuance in a month in which the supplemental benefit would be triggered. A household would not be able to request supplemental benefits in February based on a change which occurred only in January and did not continue into February.

Subsequent to the household requesting suppemental benefits, the proposed rules provide that the State agency would notify the household of its decision on the provision of the supplemental benefits. Such notification would take the form of a benefit explanation sheet which would inform the household if its request was accepted or denied, provide information on how the benefit was calculated, and inform the household of its right to a fair hearing if it disagrees with either the disposition of the request or the amount of the supplemental benefit. Although HHS does not have this requirement for its AFDC MR/RA system, many States operating a MR/RA may already provide such a form. Specific comments on the feasibility of this requirement are requested.

Action on Information From Sources Other Than the Reporting System

While the proposed rules provide that households would not be required to report changes outside the monthly report, information may come to the attention of the State agency in other ways. This section of the proposed regulations discusses the manner in which such information would be handled. If such information indicates that the household may be entitled to supplemental benefits, the State agency would be required to contact the household, suggesting to the household that it submit a supplemental benefit request form. This requirement is consistent with directives in the House Committee report. If the household reports information which should have been reported on the monthly report form and the corresponding issuance month has not passed, the State agency shall either adjust the allotment for the issuance month, if possible, or issue a supplemental allotment if the household is entitled to one. In those instances where the State agency becomes aware from a source other than the household of a change which would decrease the household's benefits, the State agency's initial action would hinge on when the information was received. If the monthly report covering the period in which the change occurred has not been received, no action would be taken pending receipt of the report. Once the report is received, or if the appropriate report has already been submitted, immediate action would be taken if the report does not reflect this change. Once the questionable report was in-hand, the State agency would contact the household to verify the change. If the household confirms and thereby reports the change, the State agency would either adjust future benefits or prepare a claim against the household dependent upon whether benefits based on the appropriate monthly report had or had not been issued. If the household does not confirm the change yet the State agency is sure that the third party information is correct, the State agency would issue a notice of adverse action in accordance with normal procedures. In such instances, since the change would not have been reported by the household under the MR/RA system, the household's rights to a 10 day advance notice of adverse action would remain.

Subsequent Participation

To eliminate a constant shifting from retrospective to prospective accounting, the Act states that households reapplying in the thirty day period following the end of a certification period be certified using retrospective accounting techniques. In addition to ensuring the continuity of accounting procedures, this provision avoids the possibility of a household manipulating the system by dropping out of the program during a month in which a significant income increase would be reflected in the benefit level and then returning to the program when income was lower. Thus, the rules provide that terminated households reapplying in the first issuance month in which they are not receiving benefits, and expired households applying in the month following their last month of certification, be certified using retrospective accounting techniques. As a condition of continuing eligibility, the household would be required to submit a completed, signed monthly report for the budget month corresponding to the issuance month of reapplication. Eligibility and benefits would be calculated by the State agency using information reported on the monthly report form. If the household was found ineligible based on this information, but had since experienced a change in circumstances that made it eligible again, the State agency would have the household complete a supplemental request form, calculate eligibility based on this information, and issue a supplemental allotment if appropriate to the household's circumstances. These issuances would be made no later than five working days subsequent to the date an eligible household filed either a completed, signed monthly report or a supplemental benefit request form.

At the time of reapplication, the household would also be expected to complete any other monthly reporting form which had not been filed during the period of termination. The timeframe for issuance of benefits based on this additional report would be dependent upon the filing date of the report but in any case be no later than the schedule of issuance discussed in *State Agency Action on Reports.*

Fair Hearings

Households participating in the MR/RA system would have the same rights to fair hearings and continued benefits as all other food stamp households. Such a household would, however, continue to be required to submit monthly reports. The household's benefits would be recalculated each month, in accordance with the information contained in the monthly report. Any disputed information which served as the basis for the fair hearing request would not be considered by the State agency in calculating benefits until the fair hearing decision had been rendered. For example, if the State agency believes a new household member has been added, yet the household believes the person to be a boarder, household benefits during the fair hearing decision period would be calculated without the new household member. As under normal progam rules, participating households would be liable for any overissuances incurred during the fair hearing period if the decision is in the favor of the State agency.

Recertification

While MR/RA provides State agencies with continuously updated information on which to determine household eligibility and calculate

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benefit levels, the concept of discrete certification periods has been maintained in both the law and these proposed regulations. In completing the recertification process, the State agency would maintain personal contact with the household.

As under current program rules, a household reapplying in a timely fashion would be provided with an opportunity to participate by the household's normal benefit issuance date. For the purpose of assuring uninterrupted benefits, a timely reapplication would consist of filing by the normal monthly report filing date either a recertification form, as described in the first option below, or a monthly report form and an addendum as described in the second option. As discussed in *Subsequent Participation* above, the household's eligibility and benefit level would be determined retrospectively. Those States which issue benefits during the month immediately following the budget month would be permitted, with FNS approval, to use information obtained at recertification to determine eligibility and benefits for the second month of the new certification period, rather than the first month. The State agency would be given an option in deciding on the form used to recertify the household. The first option would allow the State agency to mail the household a recertification form and notice of expiration in lieu of the normal monthly report form. The recertification form, which would be designed to obtain all necessary information about the household's circumstances for the budget month, would also be accompanied by a notice explaining the household's rights and responsibilities and the necessity of submitting the form by a specific date to assure receipt of uninterrupted benefits. If the recertification form was submitted by the household, the State agency would then be responsible for interviewing and recertifying the household. The State agency could schedule the interview for any date in the month following the last budget month of the old certification period. However, households interviewed on or before the normal due date for monthly reports would be instructed to bring the recertification form to the interview, rather than mailing the form to the State agency.

Alternatively, the State agency could provide, along with the notice of expiration, both a montly report form and an addendum covering those factors of eligibility not addressed by the monthly report. The same requirements described above relating to State agency processing of the reapplication (including the requirement for recertification interview) would be followed regardless of the form of the reapplication.

Households With Special Circumstances

This section of the proposed regulations addresses how a household with special income circumstances would have such income handled under MR/RA. As a basic principle, the Department has proposed that a household with self-employment income which is received on other than a monthly basis have such income averaged in accordance with the procedures contained in § 273.11(a); households receiving income by contract, in a period shorter than a year, would have such income averaged in accordance with § 273.10(c)(3)(ii); households receiving income from scholarships, deferred educational loans, or other education grants would have such income averaged over the period it was intended to cover.

The results of such averaging would be imputed to the corresponding retrospective budget months by the State agency. The households would not be required to report such averaged income on the monthly report form, as directed by the House Committee Report. Rather, the State agency would take the averaged income and add it on a monthly basis to all other income factors reported by the household.

When such households request supplemental issuances, except in those instances where such requests are based on a significant change in self-employment income, the averaged income amount assigned to the issuance month would be used in determining both eligibility for the supplement and the supplement level. For self-employed households which have suffered a significant decrease in income, the State agency would be required to calculate a new income average in accordance with § 273.11(a); use that average in determining the household's eligibility for a supplement and the supplement level; and replace the existing average with the new average for subsequent retrospective accounting calculations.

As a final provision, the regulations provide that in those instances when households residing in drug addict/alcoholic treatment centers are subject to MR/RA, the center as the authorized representative would be responsible for completion of the monthly reporting form.

For the reasons set out in the preamble, Part 273 of Chapter II of Title 7 of the *Code of Federal Regulations* is proposed to be amended as follows.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

1. A new § 273.21, *Monthly Reporting/Retrospective Accounting*, is added to read as follows:

§ 273.21 Monthly reporting/retrospective accounting.

(a) *Administration.*

(1) The operation of a monthly reporting/retrospective accounting [MR/RA) system shall be at the option of each State agency. However, prior to the implementation of such a system, each State agency must receive FNS approval. Such approval shall be contingent upon the following conditions being met:

(i) The State demonstrates the ability to manage a MR/RA system effectively;

(ii) The State's proposed system meets the requirements of these regulations;

(iii) A pretest, as described in paragraph (a)(3) of this section is satisfactorily conducted;

(iv) The State agency has added provisions to its operating guidelines describing operational responsibilities and has received FNS approval of the changes; and

(v) The State agency has received FNS approval of all required forms.

(2) Each State agency wishing to operate a MR/RA system shall solicit public input and comment on its proposal to operate a MR/RA system, emphasizing those areas in which the State has some discretion.

(i) Prior to the beginning of the comment period, the State agency shall publicize in the media that its proposal to operate a MR/RA system, the proposed method of operation, and the requirements of the proposed system are open to public comment. State press releases and other methods of publicity shall contain addresses for obtaining further information and shall specify the method used for soliciting public comment. The State shall use one or more of the following methods:

(A) State Administrative Procedures Act (APA) if the Act includes procedures for obtaining public comment on food stamp matters and provides at least 30 days for comment;

(B) Publication (in addition to the notice of the available components) of a summary of MR/RA operational procedures. Also, instructions on how to obtain more information shall be included. This publication shall be in sufficient media sources to ensure general coverage in all affected project areas. In addition, all outreach contacts in the State's current plan shall be notified separately. Public comment

shall be solicited for a minimum of 30 days.

(C) State-wide public hearing(s) at locations that are accessible to a significant number of interested persons.

(ii) State agencies shall review, analyze and consider all comments and prepare a summary of the major comments. The summary shall briefly outline the sources and content of the major comments and explain what was decided upon. Copies of the comments (either letters or transcripts of oral comments) and a comment summary shall be available for public inspection at the State office during its regular business hours. Copies of comment summary shall be made available free of charge upon written request. The comment letters or transcripts and the summary shall be retained for at least one year for both public and FNS review.

(iii) When soliciting comments, special emphasis shall be placed on the State options selected in the MR/RA system.

(iv) State agencies are encouraged to maintain any currently used methods and may also use other methods for obtaining public comment, in addition to the minimum requirements specified above; for example, States with APA's may also hold public hearings, or welfare or food stamp advisor councils may review the material.

(3) After a system has been designed, each State agency shall conduct a pretest of its proposed MR/RA system. The results of the pretest shall be used by the State agency in modifying the system as appropriate and shall be provided to FNS for review and determination of whether the State has met the conditions in paragraph (a)(1) (i) and (ii) of this section. The pretest shall be designed to measure:

(i) Participating households' ability to understand and complete the monthly reporting form;

(ii) Participating households' ability to understand the conditions for qualifying for supplemental assistance and the methods for requesting such assistance; and

(iii) The State agency's ability to process the information contained in the monthly report and issue benefits based on such information.

(4) Unless otherwise specified in this section, all food stamp regulations shall apply to State agencies operating MR/RA systems and households participating in MR/RA.

(b) *Defintions.* (1) "*Adequate Notice*" means a written notice that includes a statement of the action the agency has taken or intends to take; the reasons for the intended action; the household's right to appeal the agency's action or to request a fair hearing; the telephone number and, if possible, the name of the person to contact for additional information; the availability of continued benefits; and the liability of the household for any overissuances received while awaiting a fair hearing if the hearing official's decision is adverse to the household. Depending on the timing of a State's system and the timeliness of report submission by participating households, such notice may be received prior to agency action, at the time reduced benefits are received, or, if benefits are terminated, at the time benefits would have been received if they had not been terminated. In all cases, however, participants will be allowed ten days from the mailing date of the notice to contest the agency action and have benefits restored to their previous level. If the 10-day period ends on a weekend or a holiday and a request is received the day after the weekend or holiday, the State agency shall consider the request to be timely.

(2) "*Budget Month*" means the fiscal or calendar month used in computing a household's level of benefits.

(3) "*Certification Period*" means the period of time during which a household may receive program benefits. The certification period shall be continuous for all households for a minimum of six months to a maximum of twelve months or until the household voluntarily withdraws, or the household is terminated from the program for failing to meet financial or nonfinancial eligibility requirements or to comply with the reporting requirements of this section, whichever occurs earlier.

(4) "*Issuance Month*" means the fiscal or calendar month during which a State agency issues benefits. In prospective accounting, the budget month and the issuance month are the same. In retrospective accounting, the issuance month follows the budget month and shall begin no later than one month after the end of the budget month.

(5) "*Prospective Accounting*" means that benefits are computed using the best estimate of income and circumstances which will occur in a current or future month.

(6) "*Retrospective Accounting*" means that benefits are computed using actual income and circumstances which existed in a previous month, the "budget month".

(7) "*Supplemental Benefits*" means benefits issued by the State agency in a MR/RA system to maintain the household during the time it takes for the level of benefits to reflect a change in household circumstances or income.

(c) *Included households.* (1) Subject to the restrictions contained in paragraphs (c) (2) and (3) of this section, the State agency may require any household to have its allotment determined restrospectively and to report its circumstances monthly.

(2)(i) The provisions of this section may be implemented State-wide or in particular project areas within a State.

(ii) In those areas where the State agency chooses to implement a MR/RA system, all households of the same type shall either be included or excluded from it. For example, the State agency may choose to implement the system for only AFDC households, for only non-assistance households, or for all households not included in the categories set forth in paragraph (c)(3) of this section.

(3) The following households shall not be covered by MR/RA:

(i) Migrant farmworker households, while they are in the migrant stream;

(ii) Households with a member on strike, which were not certified before the date on which the strike began;

(iii) Households in which all members are either elderly or disabled and none of whom have any nonexcludable earned income;

(iv) Households which the State agency is reasonably certain will be eligible to receive benefits for three months or less; and

(v) Households which require special asistance in order to apply for food stamps if that special assistance will not be available for completing the monthly reports. Special assistance shall include authorized representatives to complete monthly reports, home visists or telephone reporting in lieu of the report form. Such households may be comprised of blind, mentally or physically disabled persons, persons whose reading and writing skills are so limited that they cannot complete monthly reports on their own, or non-English speaking persons residing in project areas where the bilingual requirement of § 272.4(c) do not apply.

(A) The State agency shall screen all applicants subject to MR/RA to identify households that require special assistance.

(B) The State agenacy shall not be required to provide any assistance beyond that required elsewhere by the regulations.

(C) The State agency shall not require a household to obtain its own special assistance for completing monthly report forms as a condition of eligibility.

(d) *Information on system operation.* The State agency shall aprovide households that will be included in MR/

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RA the following information at the time of the certification interview:

(1) An oral explanation of the purpose of MR/RA and prospective and retrospective determination of income;

(2) A copy of the monthly report and an explanation of how to complete it and file it;

(3) An explanation of the documentation the household will need to submit to verify all earned income, actual utility or medical expenses if they would result in a deduction; and any other information requiring documentation in accordance with the requirements of § 273.2(f)(9)(ii);

(4) An explanation of the household's entitlement to supplemental benefits, the information that is needed before the State agency can issue supplemental benefits, and the method and timing for issuing supplemental benefits;

(5) A toll free telephone number which the household may call to ask questions or obtain help in completing the monthly report;

(6) Written explanations of the above information.

(e) *Determining eligibility and benefit levels during the initial months.* (1) The State agency shall determine initial household eligibility and benefit levels in accordance with the prospective accounting procedures established in Part 273.

(2) The period of prospective eligibility shall be determined by the State agency based on the requirements for transition to MR/RA established in paragraph (f) of this section. Sufficient information shall be gathered to allow the extension of prospective accounting if necessitated by a delay in application processing.

(3) The State agency shall not issue retroactive benefits for the initial months based on a monthly report which shows a household's earlier anticipation of circumstances to have been inaccurate. The State agency shall neither reduce nor claim benefits for the initial months based on a monthly report unless the State agency erred in computing a household's eligibility or benefit level, or the household failed to provide correct and complete information which was available to it at the time the State agency requested the information.

(f) *Transition to the MR/RA system.* The State agency shall convert participating households to the MR/RA system as soon as the following conditions are met:

(1) The initial budget month is not earlier than the first full month subsequent to the date of application;

(2) The household has received its notice of eligibility;

(3) The State agency has mailed monthly report forms in sufficient time to provide households with a minimum of five days from receiving the forms to the filing due date; and

(4) Submission and processing of the report will not result in a delay in the next regularly scheduled issuance.

(g) *Monthly reporting.* The State agency shall require each household in the MR/RA system to report on household circumstances on a monthly basis as a condition of continuing eligibility. The State agency shall not impose any additional change reporting requirements beyond the monthly report. However, in those instances where a supplemental issuance is to be computed, the household will be required to provide the information necessary to compute the supplement.

(1) *Report distribution and submission.* (i) The State agency shall ensure that each household participating in the MR/RA system receives a monthly report form at about the same date each month.

(ii) The monthly report form shall be mailed to the head of the household in sufficient time to allow the household head at least five days from the date the household receives the form until the filing due date.

(iii) The State agency shall provide a postage paid, return envelope for the monthly report.

(iv) The filing due date for the monthly report shall be no earlier than five days after the end of the budget month.

(2) *Monthly report form.* The State agency shall either use the FNS-designed monthly reporting form or design and obtain FNS approval of its own monthly reporting form. The report form shall meet the following requirements:

(i) Be written in clear, simple language;

(ii) Meet the bilingual requirements described in § 272.4(c). With FNS approval, the State agency may establish a method to include non English-speaking households in areas not subject to the bilingual requirements in the MR/RA system. For example, the form may provide the name and telephone number of a bilingual worker to contact for assistance in form completion;

(iii) Specify the date by which the agency must recieve the form and the consequences of a late or incomplete form, including whether the State agency shall delay payment if the form is not received by the specified date;

(iv) Specify the verification which must be submitted with the form. Such verification will include, at a minimum, documentation of earned income, and actual utility and medical expenses to the extent that they would result in a deduction. Other items requiring verification may be requested by the State agency in accordance with the conditions established in § 273.2(f)(9)(ii);

(v) Identify the individual or agency unit that the household can contact to receive prompt answers related to questions on form completion. A telephone number, toll-free for households beyond the local calling area, shall also be included;

(vi) Include a statement, to be signed by the head of the household, indicating his or her understanding that the informnation provided may result in changes in the level of benefits, including reduction and termination;

(vii) Advise the household of the availability of supplemental benefits and the procedures for obtaining them;

(viii) Advise the household of its right to appeal an agency action, to request a fair hearing based on any decrease or termination of benefits or denial of supplemental benefits, or to file a complete, signed monthly report for reinstatement;

(ix) Include, in prominent and boldface lettering, an understandable description of the Act's civil and criminal penalties for fraud;

(x) Request the following information:

(A) Household name and address;

(B) Household composition as of the last day of the budget month;

(C) Nonexcludable unearned and earned income information, including income from self-employment that is not averaged, and infrequent or irregular income. Averaged income shall not be reported;

(D) Shelter costs. However, if a State agency's computer system is able to retain and use fixed shelter costs in its monthly computations the State agency may not require such costs to be reported monthly;

(E) Medical costs over $35 a month for elderly or disabled household members;

(F) Dependent care costs;

(G) Liquid resources exceeding $1500; and

(H) Acquisition of an automobile, including its make and year.

(xi) Request no other information, except that, if the form is a joint AFDC/FS monthly report form, other information necessary to determine AFDC eligibility may also be included if it is clearly indicated that non-AFDC food stamp households need not provide such information.

(h) *State agency action on reports.* (1) *Processing.* Following the due date for receipt of the monthly report, the State agency shall be responsible for taking the following actions:

(i) Reviewing the report to ensure there receipt, accuracy and completeness. The State agency shall consider a monthly report incomplete for food stamp purposes only if it is unsigned by the household head, is not accompanied by verification of reported earned income, or omits information necessary to either determine the household's food stamp eligibility or to compute the household's level of food stamp benefits.

(ii) Determining those items on the report which will require additional verification or information from the household.

(A) Items requiring additional verification shall include undocumented earned income, or utility or medical expenses which, if verified, would result in a deduction. The household shall also be required to submit documentation to support changes of more than $25 in unearned income if such documentation is not available to the State agency. The household shall also be required to submit other documentation if required by the State agency in accordance with § 273.2(f)(9)(ii), except for medical expenses.

(B) The State agency shall require verification of the household's medical expenses either monthly or only when the total medical expenses change by more than $25 from the previous month.

(C) Items requiring personal contact with the household might include such things as applicability of the work registration requirement or the addition of a new household member.

(iii) Contacting the household directly, as needed, to obtain further information on specific items.

(iv) Notifying the household, in accordance with paragraph (h)(2)(iii) of this section of the need to submit the report, correct an incomplete or inaccurate report, or submit the necessary verification within the extension period.

(A) In the event that the household has not supplied verification of its earned income or submitted its monthly report by the end of the extension period, the State agency shall take action to terminate the household in accordance with paragraph (h)(2)(v) and (vi) of this section.

(B) If the household has failed to provide verification of utility expenses by the end of the extension period, the State agency shall allow the utility standard if the household is entitled to the standard.

(C) If the household has failed to supply verification of medical expenses by the end of the extension period, no deduction shall be allowed.

(D) If the household has failed to provide documentation of other items required to be verified in accordance with § 273.2(f)(9)(ii) the State agency shall take one of the following actions. If this change would result in a decrease in benefits, the State agency shall act on the change in determining the household's eligibility and benefit level. If the change would result in an increase in household benefits, the State agency shall take no action on the change until verification is received.

(v) Determining household eligibility by considering all factors, including income, retrosepectively, i.e., from the corresponding budget month:

(vi) Determining the household's level of benefits. Benefit levels shall be calculated in accordance with the procedures set forth in § 273.10(e) but shall be based on:

(A) Earned and unearned income received or that has been averaged for the corresponding budget month. The State agency has the option of converting to a regular monthly amount the income of households that earn income weekly or biweekly;

(B) Deductions as billed or averaged from the corresponding budget month, including those shelter costs billed less often than monthly which the household has chosen to average; and

(C) Household composition as of the last day of the budget month.

(vii) Issuing benefits in accordance with Part 274 on the time schedule set forth in paragraph (h)(3) of this section. Specific information on how benefit levels were calculated shall be provided with the issuance or in a separate notification.

(2) *Notices.* (i) All notices regarding changes in household's benefits shall meet the definition of adequate notice as defined in paragraph (b)(1) of this section.

(ii) When the State agency receives a complete and signed monthly report by the date specified, the agency shall determine the household's eligibility and benefit level. The State agency shall also provide the household with adequate notice of any changes from the prior benefit level and the basis for its determination. If the benefits are being reduced or terminated, the notice must be received by the household no later than either the date the resulting benefits are to be received or in lieu of the benefits.

(iii) If a complete and signed report is not received by the specified filing date, the State agency shall send an adequate notice to the head of the household within five days of the filing due date. The notice shall inform the household head that the monthly report is either overdue or incomplete, what action is needed to complete the form, and that he or she has 10 additional days to file a complete and signed report prior to the initiation of termination action. The State agency has the option of giving households more than 10 additional days for filing complete reports provided that the due date allows the State agency sufficient time to process the report and issue benefits before the 45th day following the end of the budget month. The notice shall also offer the State agency's assistance in completing an incomplete report.

(iv) If a complete and signed monthly status report is received within the extension period, benefits need not be issued by the normal payment date. Such benefits shall be issued, however, no later than the dates specified in paragraph (h)(3) of this section.

(v) The State agency may terminate the household's benefits if it has not received a complete and signed report by the end of the extension period.

(vi) If the State agency's policy is to terminate a household's benefits if a complete and signed report is not received at the end of the extension period, the State shall send a notice of termination to the household. The notice of termination shall meet the definition of adequate notice as defined in paragraph (b)(1) of this section and inform the household of its possible reinstatement if the report is completed or filed.

(vii) The termination notice should reach the household at least 10 days before the expected issuance of benefits. However, if due to the issuance schedule or the filing date of the report this is not possible, the termination notice must reach the household on or before the extended payment date.

(3) *Benefit Issuance.* (i) The State agency shall, within 30 days of the end of the budget month, provide all eligible households who file signed and complete monthly reports by the scheduled filing date with an opportunity to participate, unless FNS determines that a longer issuance period is necessary. FNS may approve a longer issuance schedule for reasons such as coordination with an AFDC system or the staggered issuance of ATPs for security reasons. In no instance, however, shall the State agency extend the issuance period beyond 45 days following the end of the budget month.

(ii) For eligible households which file a signed and complete monthly report during the extension period, benefits shall be issued no later than 10 days after the normal issuance date, but in no

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event later than the 45th day following the end of the budget month.

(iii) Eligible households filing a complete and signed report subsequent to the extension period but prior to the end of the issuance month shall be provided an opportunity to participate no later than the extended issuance date or 10 days following receipt of the signed, complete report, whichever is later.

(iv) In no event shall a State agency reduce, terminate or suspend a household's benefits on the basis of a monthly report earlier than the appropriate issuance month.

(4) *Suspensions.* Each State agency operating a MR/RA system shall develop a procedure which will ensure that households losing their eligibility due to a temporary increase in net income are quickly brought back into the system. If, for example, a household experiences a $100 increase in income in January, making it ineligible for March benefits, the system must be able to respond to a request for a supplemental issuance in March due to a return to the normal income level.

(i) When households lose eligibility due to an increase in net income which is subject to further change, the State agency shall continue to supply such households with monthly reports for a minimum of one additional month. Households that are eligible based on the subsequent month's circumstances shall be issued benefits on their normal issuance cycle.

(ii) The State agency's system shall be structured to provide timely supplemental benefits to those households that became eligible and file a request for supplemental benefits during the initial month of ineligibility.

(5) *Conversion.* In those States where FS/AFDC households are subject to MR/RA, but some other categories of households are not subject to MR/RA, the State agency shall establish procedures to ensure the smooth transition of households from one system to the other.

(i) If the household's AFDC eligibility is terminated due to a change in a factor which affects only AFDC eligibility, the State agency shall continue to issue food stamp benefits, if the household is otherwise eligible, on a retrospective basis for one additional month. At the time the termination notice related to the AFDC payment is issued, the State agency shall also issuing a notice of expiration regarding food stamp benefits. Such notice shall be issued in time to ensure that the household will have a sufficient time to timely apply for recertification.

(ii) The State agency shall have the option of continuing to issue food stamp benefits, if the household is otherwise eligible, on a retrospective basis for a second additional month in those cases where AFDC eligibility is likely to be reinstated, such as where earned income or household composition is likely to change again.

(6) *Termination.* The State agency shall take action to terminate those households who fail to file a monthly report, fail to file a complete report, or fail to comply with a non-financial eligibility requirement, such as registering for employment. As discussed in paragraph (g)(2)(vi) of this section, the monthly report shall inform households of their potential termination for failure to file a complete, signed report. The initial notice of failure to file a complete, signed report shall continue a similar message. The notice issued after the extension period shall state the reason for the termination, explain what the household needs to do to be reinstated, and advice the household of its right to a fair hearing and its right to receive continued benefits if it requests a fair hearing within ten days.

(i) *Supplemental Benefits.* The State agency shall be responsible for providing supplemental benefits to those households which experience a significant change in household circumstances.

(1) Once the State agency has begun issuing benefits to a household based on retrospective iformation, the household is eligible to receive supplemental benefits if:

(i) The households's gross income during the issuance month is $50 lower than the gross income received in the corresponding budget month;

(ii) The household's net income during the issuance month is $50 lower than the net income in the corresponding budget month; or

(iii) The household size in the issuance month is larger than the household's size in the corresponding budget month due to the addition of one or more household members who are not members of another certified household.

(2) A household reapplying in its initial month of ineligibility shall be entitled to supplemental benefits if it is determined to be eligible and meets the conditions of paragraph (i)(1) (i), (ii), (iii), or (iv) of this section.

(3) In determining a household's entitlement to supplemental benefits and in calculating the amount of supplemental benefits, the State agency shall apply the same definitions of income, deductible expenses, and household size as would be used in calculating prospective eligibility or benefit levels. The State agency shall base the household's income and deductions on circumstances in existence at the time the State agency becomes aware of the change and on a reasonable anticipation of the household's circumstances for the remainder of the issuance month. For example, if a household has requested both AFDC and food stamp supplemental benefits and the AFDC supplement can be reasonably expected to be received during the issuance month, it would be included in income calculations.

(4) The amount of supplemental benefits shall be determined by calculating the household's entitlement for the issuance month using prospective accounting procedures, and subtracting from this amount the benefits received or scheduled to be received during the issuance month. Any food stamp claims or retroactive benefits received shall be disregarded in such calulation.

(5) Households should request supplemental benefits in writing using the FNS-designed form or a form designed by the State agency and approved by FNS. However, if the State agency becomes aware from a source outside the MR/RA system of a change in household circumstances which would result in a supplemental issuance, the State agency shall be responsible for informing the household of its potential eligibility to receive supplemental benefits and of the information the household must provide in order that the amount of supplemental benefits can be computed.

(6) The supplemental benefit request form shall be a simple, easily understood form which will allow the household to describe its reason for requesting supplemental benefits and its current month's circumstances. The State agency shall have the option of designing a form requesting prospective data for two months for those instances when the circumstances necessitating supplemental benefits are expected to extend beyond the month in which the charnge is reported. In all circumstances in which the State agency does not exercise this option, a separate supplemental benefit request shall be made for each month that supplemental benefits are desired.

(7) The State agency shall provide each participating household with at least two supplemental benefit request forms at the time of certification, and shall:

(i) Send the household a blank form each time supplemental benefits are provided or denied; or

(ii) Provide the household with a supplemental benefit request form as an enclusure to the monthly report form; or

(iii) Provide the household with a supplemental benefit request form no later than the date the monthly allotment and benefit explanation sheet are provided.

(8) A household shall be permitted to file a supplemental benefit request form with the State agency on the same day that it expresses interest in requesting supplemental benefits.

(9) The State agency shall have five working days from receipt of the supplemental benefit request form to issue eligible households either an ATP or coupon allotment.

(10) The State agency shall make every effort to ensure that the household submits the verification required in accordance with s273.2(f)(9)(ii) within the five working-day issuance standard. However, benefits for the first supplemental issuance month shall not be delayed beyond the five-day issuance standard due to the lace of verification. No other increased benefits (supplemental or regular allotment) based on the same change in circumstances will be provided until the required verification is submitted.

(11) The State agency shall not issue supplemental benefits based on a one-time change unless the change is reported in the month in which it occurs. For example, if a household experiences a $55 decrease in gross income in January but returns to its previous income level in February, the household would not be issued supplemental benefits if the decrease in January income was not reported until February.

(12) The supplemental benefit or denial thereof shall be accompanied by a benefit explanation sheet. The benefit explanation sheet shall inform the household of:

(i) The disposition of its request for supplemental benefits;

(ii) How the supplemental benefit was calculated; and

(iii) The household's right to a fair hearing if it disagrees with the disposition of the request or the amount of the supplemental benefit.

(j) *Action on information from sources other than the reporting system.* (1) Upon receipt of any information affecting eligibility or benefits, the State agency shall determine whether a household is entitled to supplemental benefits and issue them in accordance with paragraph (i) of this section.

(2) In the event a household reports information which alters a monthly report, the State agency shall adjust the allotment for the appropriate issuance month, if possible, or prepare a claim, if appropriate.

(3) If the State agency receives information from someone other than a household member which would result in decreased benefits, the State agency shall take no action until the appropriate monthly report, covering the period of the alleged change, is received. If the reported information does not appear on the monthly report, the State agency may consider the monthly report questionable and obtain verification from the household.

(i) If the household confirms the change, the State agency shall either prepare a claim, if benefits have already been issued for the appropriate budget month, or adjust the benefit level for the appropriate future issuance month.

(ii) If the household does not confirm the change yet the State agency believes the change has occurred, the State agency shall issue a notice of adverse action in accordance with s273.13. No further action shall be taken on the change until the 10 day notice period has expired.

(k) *Subsequent participation.* (1) Households reapplying in the month following the last month of certification, or terminated households reapplying during the issuance month following the last month in which they received benefits, shall have their eligibility and benefit level determined in accordance with the procedures established by the State agency in accordance with paragraph (h)(1)(iv) and (v) of this section.

(2) The determination of eligibility and benefit level shall be based on information in a monthly report that the household shall complete for the budget month which corresponds to the appropriate issuance month.

(3) If the household is ineligible based on the information contained in the monthly report, the State agency shall determine if the household is eligible to receive supplemental benefits based on circumstances in the issuance month.

(4) If the household is determined to be eligible to receive benefits under the conditions established in either paragraph (k)(2) or (3) of this section, the State agency shall provide such households with an opportunity to participate no later than 5 working days from the date the complete, signed monthly report or the request for supplemental benefits is filed. Eligibility for subsequent month's allotments shall be contingent upon the filing of complete, signed reports for the corresponding budget months.

(l) *Fair hearings.* (1) Households participating in a MR/RA system shall be entitled to fair hearings in accordance s273.15.

(2) Any household which requests a fair hearing and does not waive continuation of benefits shall have its benefits continued until the end of the certification period or the resolution of the fair hearing, whichever is first.

(3) During the fair hearing period the State agency shall adjust regular and supplemental issuances to take into account reported changes, except for the factor(s) on which the fair hearing is based.

(m) *Recertification.* (1) State agencies shall recertify an eligible household which timely reapplies and provide it with an opportunity to participate by the household's normal issuance cycle.

(2) The State agency shall recertify the household retrospectively, using the corresponding budget month for the first month of the new certification period in determining household eligibility and benefit level. However, where necessary because States issue benefits quickly and FNS approval has been obtained, information from the recertification interview may be reflected in the eligibility and benefits of the eligibility and benefits of the second month of the new certification period.

(3) The State agency shall recertify households according to one of the following options:

(i) *Recertification form.* The State agency shall provide each household with a recertification form to obtain all necessary information about the household's circumstances for the budget month.

(A) The State agency shall mail the form to the household along with a notice of the expiration, in place of the monthly report form.

(B) The household shall submit the form to the State agency in accordance with paragraph (g)(1)(iv) of this section.

(ii) *Monthly report and addendum.* The State agency shall provide each household with a monthly report form and an addendum to obtain all additional information necessary for recertification.

(A) The State agency shall mail the monthly report form to the household along with the notice of expiration in accordance with paragraph (g)(1)(iii) of this section.

(B) The household shall submit the monthly report to the State agency in accordance with paragraph (g)(1)(iv) of this section.

(C) The State agency shall deliver the recertification addendum to the household along with the monthly report form or obtain the necessary information from the household at the interview.

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(D) The household shall submit the addendum to the State agency no later than the time of the interview.

(4) Households which submit a recertification form on a monthly report and addendum by the normal filing due date shall be considered to have timely reapplied and shall not have any interruption in benefits. Other State action on timely reapplication, proper handling in the event the State agency fails to act on a timely reapplication or the household fails to submit a timely reapplication, and the definition of good cause for failure to timely reapply shall be in accordance with § 273.12(c), (d), (e), and (f) of these regulations.

(5)(i) The State agency shall conduct a complete interview with a household member or an authorized representative.

(ii) The State agency may schedule the interview at anytime during the month after the end of the last budget month of the old certification period. However, if the interview is scheduled for a date on or before the normal filing due date of the monthly report, the State agency shall permit the household member and authorized representative to bring the recertification form or monthly report addendum to the interview.

(n) *Households with special circumstances.* (1) Households receiving self-employment income on other than a monthly basis, such as farmers, shall have such income averaged in accordance with § 273.11(a).

(i) In the initial month(s), household eligibility and benefits levels shall be determined in accordance with prospective procedures as discussed in paragraph (e) of this section.

(ii) After the initial month(s), household eligibility and benefit levels shall be determined by normal retrospective budgeting methods with the exception that the averaged income amount shall be used in lieu of actual income received from the self-employment enterprise.

(iii) Households requesting supplemental benefits based on a change in household size or a change in deductible expenses or a change in income, other than self-employment income which has had no substantial decrease in income, shall have the amount of supplemental benefits calculated using the averaged income amount assigned to the issuance month, in addition to all other factors. If, however, the self-employment enterprise has experienced a substantial decrease in income, the average shall be recalculated based on anticipated earnings. The old income average shall be compared to the new averaged in determining if a supplemental issuance is appropriate. In addition, the new income average shall be used in determining the household's benefit level for subsequent months.

(2) Households which receive income by contract in a period of less than a year shall have such income averaged in accordance with the procedures discussed in § 273.10(c)(3)(ii).

(i) In the initial month(s) household eligibility and benefit level shall be determined in accordance with prospective procedures as discussed in paragraph (e) of this section.

(ii) After the initial month(s), household eligibility and benefit levels shall be determined by normal retrospective budgeting methods with the exception that the averaged contract income amount shall be used in lieu of actual contract payments.

(iii) Households requesting a supplemental issuance shall have their eligibility for supplemental benefits calculated using the averaged contract income amount assigned to the issuance month.

(3) Households receiving scholarships, deferred educational loans, or other educational grants shall have such income, after exclusions, averaged over the period for which it was provided.

(i) In the initial month(s), household eligibility shall be determined in accordance with prospective procedures discussed in paragraph (e) of this section.

(ii) After the initial month(s), household eligibility and benefit levels shall be determined by normal retrospective budgeting methods with the exception that the averaged educational payment, once received, shall be included as unearned income during the months it is intended to cover.

(iii) Households requesting supplemental benefits shall have their request evaluated based on the averaged income assigned to the issuance month in addition to all other factors.

(4) Drug addict/alcoholic treatment centers shall be responsible for completing and filing monthly reports for residents who are subject to MR/RA.

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalogue of Federal Domestic Programs No. 10.551, Food Stamps)

Dated: December 1, 1980.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 80-37745 Filed 12-4-80; 8:45 am]

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DEPARTMENT OF AGRICULTURE

7 CFR Part 282

[Amdt. No. 185]

Food Stamp Program; Monthly Reporting/Retrospective Accounting Demonstration Project

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth procedures for conducting a demonstration project under the Food Stamp Program using monthly reporting and retrospective accounting (MR/RA) in determining participating households' continuing eligibility and benefit levels. The demonstration project will test the impact of monthly reporting and retrospective accounting on administrative procedures, benefit levels, error rates and client services. Project operations are scheduled to commence on or about the beginning of January 1981, and will last for approximately eighteen months. The project will be conducted in two sites: Peoria County and the Southeast local office of Cook County, Illinois. MR/RA is intended to help States to reduce error rates by using verifiable data instead of data developed through estimates and projections.

DATE: Comments should be received on or before December 22, 1980 to be assured of consideration.

ADDRESS: Comments should be submitted to: Claire Lipsman, Director, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250. All written comments will be open to public inspection at the office of the Food and Nutrition Service, USDA, during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday) at 500 12th Street S.W., Washington, D.C., Room 678.

FOR FURTHER INFORMATION CONTACT: Marilyn Carpenter, Chief, Program Research and Analysis Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250; telephone: 202–447–8332. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above named individual.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in

Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified "not significant."

Robert Greenstein, Administrator, Food and Nutrition Service, has determined that a situation exists which warrants a public comment period of less than sixty days. This shortened comment period is necessary to permit concurrent implementation of monthly reporting/retrospective accounting for both the Food Stamp and Aid to Families with Dependent Children (AFDC) Programs in the demonstration project sites. Concurrent implementation of this joint USDA/HHS project is necessary to assure a methodologically sound analyses of the results of the demonstration. The HHS component of the joint project will also be implemented in January. It should be noted, that the Illinois State agency has discussed the operation of the demonstration project with Legal Aid groups in both Peoria and Cook Counties. In addition, letters have been sent to 20 groups representing participants in Peoria, and a general orientation session has been scheduled for early December. Plans are being made to contact similiar groups in Cook County, and a general orientation session is scheduled to take place there the first part of February.

The concept of monthly reporting and retrospective accounting has long been of interest to those concerned with the administration of both the Food Stamp Program and the Aid to Families with Dependent Children (AFDC) Program. Initial findings coming from an experimental project conducted in Colorado by the United States Department of Health and Human Services (HHS) indicated that such a system led to some reduction in payment costs and could produce a higher degree of accuracy in determining household assistance needs than was afforded through prospective accounting techniques. Based on these findings, HHS decided to undertake a series of demonstration projects to learn more about the effects that a monthly reporting/retrospective accounting (MR/RA) system has on program costs, administration, error rates, and client needs. While USDA was also interested in testing the effects of such a system on Food Stamp Program operations, there was no authority to conduct demonstration projects until regulations implementing Section 17(b) of the 1977 Food Stamp Act (P.L. 95–113) were published in September 1978.

After these regulations were issued, the Department began a series of conversations with both HHS and those State agencies which were project operators for the HHS MR/RA Demonstration Project. As a result of these conversations and the Department's continuing interest in the applicability of a MR/RA system to Food Stamp Program operations, the Department initiated two actions. First, the Administration's 1979 legislative proposals contained a provision which would have allowed States, at their option, to use a MR/RA system to determine household eligibility and benefit levels. This optional system was intended to provide administrative relief to those States who had implemented a MR/RA system for AFDC purposes, and to allow States to attempt to reduce food stamp error rates through MR/RA.

Second, the Department decided to undertake a demonstration project which would determine the effect that a MR/RA system had on Food Stamp Program administration and operations. While it was acknowledged that the HHS demonstration projects in this area would provide us with some information, it was also recognized that fundamental program differences would obscure our ability to relate such information directly to the Food Stamp Program.

The decision to undertake such a demonstration project was accompanied by the decision to use as a project grantee one of those States chosen by HHS to participate in their demonstration project. The decision was made with the knowledge that in most instances a MR/RA system must be supported by a sophisticated computer system. Since we believed that there was not sufficient time to acquire such computer equipment and design and prepare such a system for operations, our choices were narrowed to those States which had already accomplished much of the preliminary system design work. Michigan, Massachusetts, Illinois and Vermont all submitted unsolicited proposals which would have included the food stamp component in an upcoming AFDC MR/RA system. Although each State's proposal added to our knowledge about MR/RA, it was determined that the Illinois' proposal best suited the operational and evaluation goals of the Department. Hence, in September 1979, the Department and HHS entered into a joint grant agreement with the Illinois Department of Public Aid.

Since the time of the grant award, personnel from the Department, HHS, and Illinois have worked closely together on the design of both project operations and evaluation. That cooperation has produced a contract for the independent evaluation of the system's effects and contributed to the proposed regulations discussed in § 273.21 in this edition of the Federal Register.

These proposed rules would implement the proposed rules of § 273.21 for the purpose of permitting the demonstration project to begin on or about January 1, 1981, when the first monthly reports are scheduled to be mailed to participating households in Peoria County.

It should be noted that only one change has been made from the proposed rulemaking implementing the optional MR/RA system requirements. Fifty percent of the households selected to participate in the demonstration project would be assigned an open-ended certification period. While the State agency would contact such households on a continuing basis when the need arose, no standard certification period would be set. This variant in the experimental design is intended to provide data on the need for regularly schedule recertification interviews. The theory to be tested in this "sub-experiment" is that monthly reporting with ongoing caseworker contacts eliminates the need for specific certification periods. The hypothesis would then be that, in a MR/RA system, there is no significant difference in the error rates of cases which have scheduled recertification dates and cases which do not have scheduled recertification dates and that any difference in error rates that does occur is due only to chance.

Participants in the demonstration project will be limited to food stamp households headed by an AFDC caretaker relative. In Peoria County, which will serve as the basic administrative test site of the project, all such households will be converted to the MR/RA system. In the Southeast local office of Cook County, which will serve as the control/experimental site, such households will be randomly divided into participating/nonparticipating MR/RA households. In both sites, households selected to participate in the demonstration project will be informed both orally and in writing of the project's operations and their roles, rights and responsibilities.

For purposes of monitoring and evaluation, the State agency has agreed to maintain those records and reports required by the Department and the contractor which will be used for project evaluation. Such records and reports shall be maintained by the State Agency for three years from the date of submission of the final project expenditure report. Since the MR/RA

project involves significantly different treatment of elements of eligibility, FNS has determined that error rates attributable to the project will not be included in the State's overall error rate. To accomplish this, the State will select and review the quality control sample using normal procedures. The results of such reviews, however, will be reported to FNS separately and FNS will not include them in determining the State's cumulative allotment error rate.

For evaluation purposes, however, the State agency will be expected to draw a separate quality control sample from MR/RA cases. Errors discovered through this separate review will require corrective action similar to ongoing case reviews.

For the reasons set out in the preamble, it is proposed to amend Part 282 of Chapter II of Title 7 of the *Code of Federal Regulations* as follows:

PART 282—DEMONSTRATION, RESEARCH AND EVALUATION PROJECTS

1. In Part 282, § 282.14 is added to read as follows:

§ 282.14 Monthly reporting/retrospective accounting demonstration project.

(a) *Purpose.* These regulations establish procedures under which a demonstration project, hereafter referred to as the Monthly Reporting/Retrospective Accounting (MR/RA) Project, will operate. Under this project, participating households will be required to submit a monthly report as a condition of continuing eligibility. Benefit levels will be computed using prior month information.

(b) *Method.* While current legislation provides States with the option of using a MR/RA system to determine household eligibility and benefit levels, the Department is undertaking the MR/RA project to determine the effects that the system will have on staff utilization, participation rates, quality control error rates, and client services. These effects will be determined through a systematic evaluation of project administration and results as determined by an independent contractor.

(c) *Statutory requirements to be waived.* Subsection 17(b)(1) of the Food Stamp Act authorizes the Secretary to waive any requirement of the Act necessary to conduct a demonstration project, as long as the project does not lower or further restrict the income or resource standards or benefit levels of project participants. For the purposes of the MR/RA project, the following requirements of the Act shall be waived. Other requirements shall be waived as the Secretary deems necessary, consistent with the limitations on the waiver authority provided under Section 17(b)(1). Such waivers, if necessary, shall be published in the **Federal Register.**

(1) Section 5(b) *Uniform Standards.* The requirement for uniform standards shall be waived to the extent necessary to allow the MR/RA project to operate.

(2) Section 3(c) *Certification Period.* For fifty percent of the households selected to participate in the MR/RA project, the certification period will be continuous rather than for a maximum of twelve months.

(d) *Regulatory Requirements.* (1) Procedures and requirements contained in proposed regulations found at s273.21, except as noted below, shall be in effect for the purpose of this project.

(i) s273.21(b)(3) *Certification Period.* The certification period for 50 percent of the households selected to participate in the MR/RA project shall be continuous until such time as the household voluntarily withdraws, or the household is terminated from the program for failing to meet financial or non-financial eligibility requirements or to comply with the reporting requirements of s273.21, whichever occurs earlier.

(ii) 273.21(m) *Recertification.* For those fifty percent of participating households subject to continuous certification periods, s273.21(m) shall be waived in its entirety. Such households shall continue to be subject to interim household reviews as case conditions warrant, i.e., edit problems, recalculation of average income for households with special income circumstances, or fulfillment of the work registration requirement.

(e) *Areas of Operation.* The MR/RA project will be conducted in Peoria and Cook Counties, Illinios. In Peoria, all food stamp households headed by an AFDC caretaker relative will be included in the experiment. This universe will provide the necessary basis for testing the administrative feasibility of the system. In the Southeast local office of Cook County, food stamp households headed by an AFDC caretaker relative will be randomly divided into an experimental group and a control group. Such caseload division will facilitate a comparative analysis of cases within the project site. In neither office will AFDC foster care cases be included. It is anticipated that the project will be initiated in Peoria with the mailing of monthly reports on or about the first of January 1981. The Cook County system will be initiated approximately three months later than the Peoria schedule.

(f) *Records and Reports.* The State agency shall maintain all records related to project operations for a period of three years from the date of submission of the final project expenditure report, or longer if required in writing by FNS. Such records shall be available to FNS or its designee upon request.

(g) *Monitoring and Evaluation.* FNS will establish procedures for monitoring State agency compliance with the requirements of § 282.14. The evaluation of the project will be conducted by an independent contractor. The State agency shall, upon reasonable notification, provide the evaluation contractor with access to all information pertaining to project operations.

(h) *Quality Control.* The State agency shall review MR/RA cases selected for the quality control sample in accordance with normal review procedures. The results of such reviews will be reported separately to FNS and will not be included in the State's cumulative allotment error rate. For the purpose of project evaluation, FNS will require the State agency to draw a separate quality control sample from households assigned to the MR/RA project. The State agency shall be required to initiate corrective action to eliminate errors from those cases participating in the MR/RA project.

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalogue of Federal Domestic Programs No. 10.551, Food Stamps)

Dated: December 1, 1980.

Carol Tucker Foreman,

Assistant Secretary.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FHWA	USDA/REA		DOT/FHWA	USDA/REA
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/NHTSA	LABOR		DOT/NHTSA	LABOR
DOT/RSPA	HHS/FDA		DOT/RSPA	HHS/FDA
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.
Comments on this program are still invited.
Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

NOTE: As of September 2, 1980, documents from the Animal and Plant Health Inspection Service, Department of Agriculture, will no longer be assigned to the Tuesday/Friday publication schedule.

REMINDERS

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of **Rules Going Into Effect Today.**

List of Public Laws

Last Listing December 4, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 39 / Pub. L. 96–487 Alaska National Interest Lands Conservation Act (Dec. 2, 1980; 94 Stat. 2371) Price $4.50.

H.R. 8329 / Pub. L. 96–488 To allow the obsolete aircraft carrier United States ship Intrepid to be transferred to the Intrepid Museum Foundation, Incorporated, before the expiration of the otherwise applicable sixty-day congressional review period (Dec. 2, 1980; 94 Stat. 2552) Price $1.

S. 43 / Pub. L. 96–489 To promote safety and health in skiing and other outdoor winter recreational activities (Dec. 2, 1980; 94 Stat. 2553) Price $1.

H.R. 7942 / Pub. L. 96–490 To approve and implement the protocol to the trade agreement relating to customs valuation, and for other purposes (Dec. 2, 1980; 94 Stat. 2556) Price $1.

S. 1135 / Pub. L. 96–491 To provide for certain lands to be held in trust for the Moapa Band of Paiutes and to be considered to be part of the Moapa Indian Reservation (Dec. 2, 1980; 94 Stat. 2561) Price $1.

H.R. 8112 / Pub. L. 96–492 To require the Secretary of the Interior to convey a parcel of land located in Colorado and certain mineral interests to the Ute Mountain Ute Tribe and to pay an amount to such tribe for energy development (Dec. 2, 1980; 94 Stat. 2565) Price $1.

S. 2251 / Pub. L. 96–493 Gasohol Competition Act of 1980 (Dec. 2, 1980; 94 Stat. 2568) Price $1.

H.R. 3765 / Pub. L. 96–494 Agricultural Act of 1980 (Dec. 3, 1980; 94 Stat. 2570) Price $1.25.

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